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1-21-80
Vol. 45 No. 14
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federal register

Monday
January 21, 1980

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3875 **Ammonia Imports from the Soviet Union** Presidential proclamation

3904 **Income Tax** Treasury/IRS publishes temporary regulations on the disclosure of returns and return information in connection with procurement of property and services for tax administration purposes

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Presidential Documents

Title 3—
The President

Proclamation 4714 of January 18, 1980

Temporary Duty Increase on the Importation Into the United States of Certain Anhydrous Ammonia From the Union of Soviet Socialist Republics

By the President of the United States of America

A Proclamation

1. Pursuant to sections 406(c), 202, and 203 of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2436(c), 2252 and 2253), I hereby find that there are reasonable grounds to believe, with respect to imports of anhydrous ammonia from the Union of Soviet Socialist Republics (U.S.S.R.) provided for in items 417.22 and 480.65 of the Tariff Schedules of the United States (TSUS), that market disruption exists with respect to articles produced by a domestic industry and that emergency action is necessary.

2. Recent events have altered the international economic conditions under which I made my determination that it was not in the national interest to impose import relief on anhydrous ammonia from the U.S.S.R. as recommended by the United States International Trade Commission (USITC) on October 11, 1979. However, the factual basis upon which USITC made its determination of market disruption still exists.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including sections 604, 406(c), 202 and 203 of the Trade Act (19 U.S.C. 2483, 2436(c), 2252, and 2253), do proclaim that—

(1) Subpart A, part 2 of the Appendix to the TSUS is modified as set forth in the Annex to this proclamation.

(2) This proclamation shall be effective as to articles entered, or withdrawn from warehouse, for consumption on or after the third day following the date of publication of this Proclamation in the **Federal Register** and shall remain in effect for one year unless the period of its effectiveness is earlier expressly suspended, modified or terminated, but in any event not longer than authorized by section 406(c) of the Trade Act.

(3) The Commissioner of Customs shall take such action as the U.S. Trade Representative shall direct in the implementation and administration of the import relief herein proclaimed.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of January in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

ANNEX

Subpart A, part 2 of the Appendix to the TSUS is modified by inserting the following new provision in numerical sequence:

Item	Articles	Quota Quantity (in short tons)
923.10	"Whenever the aggregate quantity of anhydrous ammonia specified below for item 923.10, the product of the Union of Soviet Socialist Republics (U.S.S.R.), has been entered during the period January 24, 1980 to January 24, 1981, no anhydrous ammonia in such item, the product of such country, may be entered during the remainder of such period: Anhydrous ammonia, provided for in items 417.22 and 480.65.....	1,000,000"

[FR Doc. 80-2087
Filed 1-18-80; 2:44 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 45, No. 14
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

Raisins Produced From Grapes Grown in California; Free and Reserve Percentages for the 1979–80 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule designates final marketing percentages for Natural (sun-dried) Seedless and Dipped and Related Seedless raisins from the 1979 production. The estimated 1979 production of these raisins exceeds domestic and Western Hemisphere market needs, and the percentages are intended to tailor the supply to these needs. Excess supplies would be available primarily for export to approved countries outside of the Western Hemisphere.

EFFECTIVE DATES: August 1, 1979, through July 31, 1980.

FOR FURTHER INFORMATION CONTACT: James S. Miller, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447–5053.

SUPPLEMENTARY INFORMATION: This rule designates final free tonnage percentages for Natural (sun-dried) Seedless and Dipped and Related Seedless raisins of 71 percent and 70 percent, respectively, for the 1979–80 crop year (§ 989.110; 44 FR 64397). Also designated for that crop year are final reserve tonnage percentages for these raisins of 29 percent and 30 percent, respectively. These percentages would apply to all standard Natural (sun-dried) Seedless, and Dipped and Related Seedless raisins acquired during that crop year.

The designations would be pursuant to § 989.55 of the marketing agreement and Order No. 989, both as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California, hereinafter referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was unanimously recommended under § 989.54(b) by the Raisin Administrative Committee, established under the order as the agency to administer its terms and provisions under USDA supervision.

Preliminary percentages for Natural (Sun-dried) Seedless and Dipped and Related Seedless raisins for the 1979–80 crop year were issued November 15, 1979, and appeared in the **Federal Register** on November 20, 1979, (§ 989.233; 44 FR 66574). Subsequent to issuance of those percentages the production estimate of Dipped and Related Seedless raisins was lowered and an interim change in the preliminary percentages applicable to those raisins was made in recognition of this fact. This action was issued on December 3, 1979, and appeared in the December 6, 1979, issue of the **Federal Register** (§ 989,233 44 FR 70117.)

Under § 989.54(b) of the order, no later than February 15 of a crop year the Committee shall recommend to the Secretary a free tonnage percentage which when applied to the estimated production of a varietal type would tend to release the full free tonnage computed for that varietal type. Section 989.54(b) also provides that any difference between any free tonnage percentage designated and 100 percent shall be the reserve percentage.

On January 3, 1980, the Committee recommended final free and reserve tonnage percentages for the 1979–80 crop year, and made its final 1979 production estimates for Natural (sun-dried) Seedless and Dipped and Related Seedless raisins. The Committee estimated the 1979 production of Natural (sun-dried) Seedless raisins to be 262,025 natural condition tons (17,453 tons more than its preliminary estimate of 244,572 natural condition tons). Dividing the computed free tonnage of 185,757 natural condition tons by the estimated final production and rounding to the nearest full percent results in a final free tonnage percentage of 71 percent (and a final reserve tonnage percentage of 29 percent).

For Dipped and Related Seedless raisins, the Committee estimated the 1979 production to be 13,700 natural condition tons (up 100 tons from its interim estimate of 13,600 tons). Dividing the computed free tonnage of 9,586 natural condition tons by the estimated final production and rounding to the nearest full percent results in a final free tonnage percentage of 70 percent (and a final reserve tonnage percentage of 30 percent).

After consideration of all relevant matter presented, including that in the notice issued in connection with the designation of the preliminary free and reserve tonnage percentages for Natural (sun-dried) Seedless and Dipped and Related Seedless raisins (§ 989.233; 44 FR 62901), the interim change in percentages for Dipped and Related Seedless raisins (§ 989.233; 44 FR 70117), the information and recommendation of the Committee, and other available information, it is found that the designation, under § 989.55 of the order, of the final free and reserve tonnage percentages applicable to Natural (sun-dried) Seedless and Dipped and Related Seedless raisins, for the 1979–80 crop year, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is further found that it is impractical, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective time of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that: (1) The percentages designated herein for the 1979–80 crop year apply to all Natural (sun-dried) Seedless and Dipped and Related Seedless raisins acquired by handlers during that crop year; (2) handlers are marketing 1979 crop raisins and this action must be taken promptly to achieve its purpose of making the full free tonnage computed for these varietal types available to handlers; (3) handlers are aware of this action as recommended by the Committee at an open meeting and require no additional time to comply; and (4) this action relieves restrictions on handlers.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this action

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warrants publication without opportunity for further public comment. This regulation is not classified significant under USDA criteria for implementing the Executive Order. An impact analysis is available from James S. Miller, (202) 447–5053.

Therefore, § 989.233 to be included in Subpart—Supplementary Regulations (7 CFR 989.202–989.232; 44 FR 66574; 70117) is revised to read as follows:

§ 989.233 Free and reserve percentages for the 1979–80 crop year.

The percentages of standard Natural (sun-dried) Seedless and Dipped and Related Seedless raisins acquired by handlers during the crop year beginning August 1, 1979, which shall be free tonnage and reserve tonnage, respectively, are designated as follows:

	Free percentage	Reserve percentage
Natural (sun-dried) Seedless	71	29
Dipped and Related Seedless	70	30

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 16, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 80-1868 Filed 1-18-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1064

[Docket No. AO–23–A52]

Milk in the Greater Kansas City Marketing Area Order Amending Order

AGENCY: Agricultural Marketing Service.

ACTION: Final rule.

SUMMARY: This document amends the present order provisions based on industry proposals considered at a public hearing held October 30, 1978. The amendments permit the Director of the Dairy Division to change temporarily the pooling standards for supply plants and permit supply plant operators to divert producer milk directly from farms to nonpool plants for manufacturing. The changes, which have been approved by more than the required two-thirds of the producers in the market, are necessary to reflect current marketing conditions and to insure orderly marketing in the regulated area.

EFFECTIVE DATE: March 1, 1980.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of hearing—Issued September 29, 1978; published October 6, 1978 (43 FR 46305).

Extension of time for filing briefs—Issued January 15, 1979; published January 19, 1979 (44 FR 3989).

Recommended decision—Issued July 24, 1979; published July 30, 1979 (44 FR 44517).

Extension of time for filing exceptions—Issued August 13, 1979; published August 16, 1979 (44 FR 47950).

Final decision—Issued January 3, 1980; published January 9, 1980 (45 FR 1908).

Findings and Determinations

The following findings and determinations supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and affirmed, except where they conflict with those set forth below.

(a) *Findings.* A public hearing was held to consider certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Greater Kansas City marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Greater Kansas City marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. In § 1064.7, paragraph (d)(6) is revised by revoking the phrase "direct marketing area route disposition, except filled milk, and", and paragraph (b) is revised to read as follows:

§ 1064.7 Pool plant.

* * * * *

(b) A supply plant from which during the month 50 percent or more of the Grade A milk received at such plant from dairy farmers and handlers described in § 1064.9(c) (including milk diverted from such plant pursuant to § 1064.13(c) but excluding milk diverted to such plant pursuant to § 1064.13(c)) is shipped from such plant as fluid milk products, except filled milk, to and received at pool distributing plants, subject to the following conditions:

(1) A supply plant which is a pool plant under this paragraph during each month of September through January shall be pooled for the following months of February through August if the required percentage pursuant to this paragraph is not met, unless the plant operator files a written request with the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such request and thereafter until the plant qualifies as a pool plant on the basis of shipments;

(2) The shipping percentage specified in this paragraph may be increased or decreased temporarily for any of the months of September through January up to 20 percentage points by the Director of the Dairy Division if the Director finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. For any of the months of February through August, a minimum shipping percentage of up to 20 percent may be established by the Director for all pool supply plants that are qualified as a pool plant pursuant to paragraph (b)(1) of this section. Before making such a finding the Director shall investigate the need for revision, either at the Director's initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that revision is being considered and inviting data, views, and arguments. If a plant which would not otherwise qualify as a pool plant during the month qualifies as a pool plant because of a reduction in shipping requirements pursuant to this subparagraph, such plant shall be a nonpool plant for such month if the operator of the plant files a written request for nonpool plant status with the market administrator at the time the report is filed for such plant pursuant to § 1064.30,

* * * * *

2. In § 1064.13, paragraph (c) is revised to read as follows:

§ 1064.13 Producer milk.

* * * * *

(c) Diverted, subject to the following conditions, from a pool distributing plant to a pool supply plant or from a pool plant to a nonpool plant that is not a producer-handler plant. "Diverted milk" is milk normally received at a pool plant but which is moved directly from a dairy farm to a nonpool plant as specified in this paragraph or from a pool distributing plant to a pool supply plant for the account of a handler operating the pool distributing plant or a handler described in § 1064.9(b). Such milk shall be deemed to have been received by the diverting handler at the location of the pool plant from which diverted except that milk diverted to a plant located more than 125 miles by the shortest highway distance as determined by the market administrator from the nearest of the City Halls of Kansas City, Missouri, or Topeka, Kansas, shall be deemed to have been received at the location of the plant to which diverted in applying §§ 1064.52 and 1064.75:

(1) A handler described in § 1064.9(b) may divert for its account the milk of any member producer whose milk is received at a pool plant for at least 1 day's delivery during the month, without limit during the other days of the month. The total quantity of milk so diverted may not exceed the larger of the following amounts:

(i) The total quantity of its member producer milk received at all pool plants during the current month, or

(ii) The average daily quantity of its member producer milk received at pool plants during the previous month, multiplied by the number of days in the current month.

(2) A handler operating a pool plant may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (c)(1) of this section, whose milk is received at the handler's pool plant for at least 1 day's delivery during the month, without limit during the other days of the month. However, the total quantity of milk so diverted may not exceed the larger of the following amounts:

(i) The total quantity of milk received at such plant during the current month from producers who are not members of a cooperative association that has diverted milk pursuant to paragraph (c)(1) of this section; or

(ii) The average daily quantity of milk received at such plant during the previous month from producers who are not members of a cooperative association that has diverted milk in the current month pursuant to paragraph (c)(1) of this section, multiplied by the number of days in the current month.

(3) Diversions in excess of the applicable percentages pursuant to paragraph (c)(1) and (2) of this section shall first be assigned to diversions to nonpool plants and any excess quantity assigned to nonpool plants shall not be producer milk and shall not be deemed to have been received by the diverting handler. The diverting handler shall specify the dairy farmers whose milk shall not be included as producer milk pursuant to this subparagraph. Excess diversions to a pool supply plant shall be producer milk at the supply plant in applying §§ 1064.7, 1064.52 and 1064.75.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: March 1, 1980.

Signed at Washington, D.C., on January 15, 1980.

Jerry Hill,

Deputy Assistant Secretary for Marketing Services.

[FR Doc. 80-1828 Filed 1-18-80; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg Z; FC –0168 and –0169]

Truth in Lending; Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official Staff Interpretations.

SUMMARY: The Board is publishing the following official staff interpretations of Regulation Z (Truth in Lending): FC–0168 regarding disclosure of proper period for minimum periodic payment in open end credit transactions, and FC–0169 regarding conditions under which certain charges may be included in the "cash price." The agency is taking this action in response to requests for interpretation of this regulation.

EFFECTIVE DATE: On or after February 20, 1980.

FOR FURTHER INFORMATION CONTACT: Maureen English, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3867).

SUPPLEMENTARY INFORMATON: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(2) An opportunity for public comment on an official staff interpretation may be provided upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2)(ii). As provided by 12 CFR Part 226.1(d)(3) every request for public comment shall be made in writing, should clearly identify the number of the official staff interpretation in question, should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 and must be postmarked or received by the effective date of the interpretation. The request must also state the reasons why an opportunity for public comment would be appropriate.

(3) Authority: 15 U.S.C. 1640(b).

§ 226.7(a)—Disclosure of proper period for minimum periodic payment in open-end credit is based on payment frequency actually *required* by creditor. [Distinguishes Public Information Letter 858]

January 2, 1980.

You ask in your . . . letter for an official staff interpretation of § 226.7(a)(8) of Regulation Z. You write on behalf of your client, a credit union, regarding the appropriate minimum periodic payment disclosure that the credit union would be required to make in the following circumstances.

The credit union offers open-end credit to its members. Payments are required on a monthly basis and are calculated as a percentage of the account balance outstanding immediately after the most recent credit advance.

Also available to credit union members are voluntary payroll deduction plans that may be cancelled by the member at any time, and, we assume, without adverse consequences. Under such a plan, the member authorizes the employer to deduct amounts from the member's pay. The amount authorized to be deducted may not in fact represent the amount of the minimum periodic payment required under the open-end credit plan (for example, some of the amount deducted may be put into a savings account). Moreover, the dates of the payroll deductions often will not even coincide with the date by which the minimum periodic payment is due. (Staff assumes for purposes of this response that any payments made on an open-end account are promptly credited in accordance with § 226.7(g).)

You are concerned about the implications of Public Information Letter 858. That letter requires that the schedule of payments disclosure in a closed-end credit transaction (see § 226.8(b)(3)) must be based on the actual repayment schedule agreed to at consummation. You note, however, that § 226.7(a)(8) requires, in an open-end credit plan, disclosure of "the minimum periodic payment *required*," whereas § 226.8(b)(3) requires, in a closed-end credit transaction, disclosure of "the number, amount, and due dates or periods of payments *scheduled* to repay the indebtedness . . ." (Emphasis added.)

We believe that, pursuant to § 226.7(a)(8), a monthly minimum periodic payment should be disclosed where the credit union *requires* only a monthly remittance and the payroll deduction plan is voluntary and may be cancelled by the member without any adverse consequences.

This is an official staff interpretation of Regulation Z, issued pursuant to § 226.1(d)(2) and limited to the facts and issues discussed herein. It will become effective 30 days after publication in the **Federal Register** unless a request for public comment, made in accordance with the Board's procedures, is received and granted. We will notify you if the effective date of the interpretation is suspended because such a request is received.

Sincerely,

Janet Hart,

Director.

§ 226.2(n)—Prohibition against including § 226.4 charges in the cash price pertains to finance charges and does not apply to charges excluded pursuant to § 226.4(b). Alternatively, such charges may be shown as § 226.8(c)(4) other charges. (Modifies Public Information Letter 623.)

§ 226.4(b)—Prohibition against including § 226.4 charges in the cash price pertains to finance charges and does not apply to charges excluded pursuant to § 226.4(b). Alternatively, such charges may be shown as § 226.8(c)(4) other charges. (Modifies Public Information Letter 623.)

§ 226.8(c)—Certificate of title, registration and inspection fees may be either included in the cash price or shown as an other charge.

January 9, 1980.

In your letter of . . . you ask about the proper disclosure under Regulation Z of certain statutory fees imposed connection with the sale of motor vehicles.

You state that your client, a seller of motor vehicles, is required by state law to collect fees for the issuance of a certificate of title and for registration and inspection of the vehicle. You have been disclosing such fees as components of the cash price, but are concerned that the exclusionary language of § 226.2(n), which prohibits including "charges of the types described in § 226.4" in the cash price, requires that you discontinue this practice.

The staff believes that the prohibition in § 226.2(n) against including charges of the types described in § 226.4 pertains to finance charges and does not apply to those charges that have been excluded from the finance charge pursuant to § 226.4(b). Since you have properly excluded the certificate of title and registration fees from the finance charge, the prohibitory language does not apply and you may include them in the cash price. Alternatively, such charges may be shown as other charges pursuant to § 226.8(c)(4). To the extent that Public Information Letter 623 is inconsistent with this position, that letter is modified. Note that whichever approach is taken, the amount financed will include the fees.

The inspection fee, however, is not among the § 226.4(b) charges that must be itemized to be excluded from the finance charge. Therefore, as long as it is not "imposed directly or indirectly by the creditor as an incident to or as a condition of the extension of credit," it is not a finance charge and may either be included in the cash price as a "service[s] related to the sale" of the property pursuant to § 226.2(n), or shown as an other charge.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(2) and limited to the facts and issues discussed herein. It will become effective 30 days after publication in the **Federal Register** unless a request for public comment, made in accordance with the Board's procedures, is received and granted. We will notify you if the effective date of the interpretation is suspended because such a request is received.

Sincerely,

Nathaniel E. Butler,

Associate Director, Board of Governors of the Federal Reserve System.

January 15, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-1874 Filed 1-18-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25 and 121

[Docket No. 16854; Amdts. Nos. 25-50 and 121-154]

Airplane Cabin Ozone Contamination

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes specific airplane cabin ozone concentration standards for the issuance of type certificates for transport category airplanes. Cabin ozone standards are also adopted for the operation of large transport category airplanes by air carriers and commercial operators. The circumstances which created the need for this action where complaints of crewmembers and passengers of physical discomfort, due to ozone gas, on high-altitude flights. This action is intended to alleviate problems due to high-altitude ozone by placing limitations on acceptable levels of cabin ozone concentrations.

EFFECTIVE DATE: February 20, 1980.

FOR FURTHER INFORMATION CONTACT: Raymond E. Ramakis, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

History

This final rule is based on Notice of Proposed Rule Making (NPRM) No. 78-15, published in the **Federal Register** on October 5, 1978 (43 FR 46034). All interested persons have been given an opportunity to participate in the making of the rule, and due consideration has been given to all matters presented. As a result of comments received and further consideration by the FAA, the following changes have been made to the rule as proposed:

1. Each ozone concentration is stated in parts per million by volume (ppmv) and expressed as a sea level equivalent, i.e., the ratio of ozone to air that would exist at 760 millimeters of mercury pressure and 25° C.

2. Under Part 121, a maximum average ozone concentration is imposed only on flight segments of more than 4 hours, instead of more than 3 hours, as proposed.

3. The time for compliance by Part 121 certificate holders has been extended from 6 months to 12 months, with provision for further extension of the compliance date if noncompliance is shown to be beyond the certificate holder's control.

Discussion of the Rule

Background

Notice 78-15 proposed to amend Part 25 by adding cabin ozone concentration standards for the issuance of type certificates for transport category airplanes, and to amend Part 121 to adopt cabin ozone standards for the operation of large transport category aircraft by air carriers. The NPRM sets forth the extensive background supporting its issuance, including studies by the National Aeronautics and Space Administration and the Environmental Protection Agency, as well as responses to the FAA's Advance Notice of Proposed Rule Making No. 77-22 (42 FR 54427; October 6, 1977).

The proposed maximum ozone exposure levels were also supported by U.S. Department of Transportation Report No. FAA-AEQ-77-13 (ADA-046956), Ozone Concentration by Latitude, Altitude, and Month, Near 80° W, and Report No. FAA-EQ-78-03 (ADA-050988), Guidelines for Flight Planning During Periods of High Ozone Occurrence. These reports may be obtained from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22151.

In addition, the FAA Civil Aeromedical Institute recently conducted research in which it studied ozone effects on 83 men and women in an altitude chamber at 6000 feet with a relative humidity of 10-12% and a temperature of 68-74° F (20-23° C). No significant effects attributable to ozone were demonstrated for exercising subjects at an ozone concentration of 0.20 ppmv, sea level equivalent, for 4 hours. However, all exercising subjects at 0.3 ppmv, sea level equivalent, ozone showed some effects on the respiratory system. The most common symptom was coughing, and the most prominent physical effect was restriction of air flow in the bronchioles. The study demonstrated that the threshold for ozone tolerance, expressed as a sea level equivalent, lies between 0.2 and 0.3 ppmv, and the exercise may be an aggravating factor in ozone toxicity, since sedentary subjects were unaffected by an ozone concentration of 0.3 ppmv.

A number of methods to control ozone exposure have been examined, including various filtration and converter systems, disassociation of ozone by use of heat, monitoring of ozone levels with meters, the development of ozone forecasting methods, and avoidance of areas of high ozone concentration. Since each of these methods has certain beneficial aspects, and further technological developments are possible, the FAA does not favor any method over another. However, the method of compliance chosen by a certificate holder must be shown to be effective, and the FAA intends to conduct spot checks to ensure compliance with the standards adopted by these amendments.

Favorable Comments

The FAA received comments in response to Notice 78-15 from 266 individuals, airline organizations, labor organizations, research firms, manufacturers, universities, and physicians. Approximately 234 comments were received from individual flight attendants, a majority of which agreed with the one received from the Independent Union of Flight Attendants. All flight attendant comments attested to the adverse physical effects of ozone during and after flight. Shortness of breath, sore throat, bleeding nose, chest pain, fatigue, itching eyes, etc., were commonly cited physical results of ozone contamination and exposure. All flight attendants submitting comments urged that some method be found to alleviate ozone effects. Comments frequently contained information indicating the highest incidence of ozone irritation during flights for long durations at high altitudes.

Of the remaining 32 comments, 20 were in favor of the rule, 10 were opposed, and 2 provided information or made proposals that were outside the scope of the notice.

Included among the 20 additional commenters expressing favor were professional organizations representing flight crewmembers, governmental agencies with direct knowledge of ozone contamination, manufacturers engaged in the development of filters or converters designed to control cabin ozone levels, researchers familiar with the physiological effects of various ozone exposure levels, faculty scientists of two universities, and physicians.

Ozone Concentration

Some commenters expressed confusion as to what was meant by the proposed cabin ozone concentrations. The ratios proposed were those that would be expected at the air pressure which is normally maintained in the passenger cabins of the affected aircraft (the air pressure at about 6,000 feet). However, since most ratios of this kind, including those adopted by the Occupational Safety and Health Administration (OSHA) are expressed as sea level equivalents, the ratios in this final rule have been expressed at standard sea level pressure of 760 millimeters of mercury at 25° C.

Since there is more air in a given volume at sea level, the proposed 0.3 ppmv limit converts to 0.25 as a ppmv, sea level equivalent. With this conversion, the proposed time-weighted average of 0.1 ppmv would be reduced to 0.08 ppmv, sea level equivalent. However, it was the intent of the FAA that this average be as consistent as possible with that adopted by OSHA which is an average of 0.1 ppmv on a sea level equivalent scale. Accordingly, the time-weighted average adopted by this final rule is 0.1 ppmv, sea level equivalent.

Flight Segment

Notice 78-15 proposed to impose a time-weighted average ozone concentration of 0.1 ppmv on Part 121 certificate holders for flight segments that exceed 3 hours. As explained in the notice, only about 2 of these 3 hours of scheduled flight time would be above flight level 180. This is based on conservative times for start, taxi, takeoff, climb, descent, approach, and landing. Imposition of a time-weighted average for flights of shorter duration was considered unnecessary, since these flights would have to comply with the basic 0.3 ppmv limit to be imposed on all flights, and, therefore, could not exceed the amount of ozone exposure (i.e. dose) allowed by the OSHA time-weighted average of 0.1 ppmv which is based on an 8-hour period.

Conversion of the proposed limit from 0.3 ppmv to sea level equivalent results in a new limit of 0.25 ppmv. Virtually all of the medical data reviewed by the FAA indicate that below this level short-term exposures have no significant adverse effects, while a higher limit would be expected to result in some adverse effects. In view of this conversion to 0.25 ppmv, the FAA has concluded that the rule should be based on flight segments of 4 or more hours, since operation above flight level 180 for up to 3 hours, instead of 2 hours, could

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still not exceed the amount of exposure (i.e. dose) allowed by OSHA. In fact, use of the proposed 3-hour flight segment in the final rule would have resulted in a stricter dose standard than that used by OSHA, as well as that adopted in new § 25.832. A stricter standard is unnecessary, since the FAA has received no complaints of ozone contamination from occupants of short-range domestic flights, and its 1978 and 1979 ozone monitoring programs have indicated only minimal ozone contamination on these flights. This revision in the final rule will avoid putting ozone reduction equipment on a large number of short-range airplanes for which no complaints have been received.

For these reasons, the minimum flight segment proposed has been extended to 4 hours. Flights scheduled for longer than this time must not exceed 0.1 ppmv average ozone concentration over the entire flight segment.

Statistical Confidence Level

Two commenters recommended that the proposed 84% confidence level required for statistics used by Part 121 certificate holders to demonstrate compliance with the ozone limits imposed by the rule be raised to 95%. However, the FAA believes that 84%, which represents one standard deviation, establishes a practical level of statistical confidence. It should be noted that the statistical confidence level only pertains to the required validity of the statistical proof of the certificate holder's ability to comply, and does not indicate a number of flights during which the ozone concentration may exceed the limit. This requirement of statistical reliability has been expressly stated in the final rule.

Ozone Sensors

The mandatory use of onboard ozone sensors was recommended by a number of commenters. However, the FAA has determined that current technology is available to effectively control cabin ozone levels without the added requirement that flight crewmembers monitor ozone levels. Manufacturers and research organizations providing responses to the notice indicate that effective mechanical or electronic devices have been developed and are producing acceptable test results. The FAA knows of four manufacturers currently conducting airborne tests of control devices, and anticipates that competitive development will produce satisfactory control devices that will be proven by use of scientific test instruments. These amendments require a showing that any device proposed for use in compliance with these regulations function as intended, and the FAA will conduct spot checks to ensure their effectiveness.

Passenger Warning

Two commenters recommended that passengers be warned about the physical effects of ozone exposure. However, the FAA has determined that a warning is unnecessary, since exposure to ozone levels at or below the levels set forth in these regulations will not result in noticeable discomfort to most passengers and crewmembers. Those persons with special respiratory conditions, who may be sensitive to very low levels of ozone, can reasonably be expected to have been advised by their physicians of problems that may be encountered in high-altitude flight.

Opposing Comments

Comments objecting to the proposed rule included U.S. and foreign air carriers, airline organizations and associations, a major industrial corporation, and two physicians.

The commenters considered the proposed rule to be premature, stating that not enough information has been gathered concerning acceptable levels of ozone; that there is a lack of dependable methods to predict ozone levels on a flight-by-flight basis; that ozone attenuation factors are unknown for aircraft other than the Boeing 747; and that a compliance period of 6 months is inadequate because catalytic converter technology is not sufficiently advanced.

Ozone Research

These commenters were generally of the opinion that research on ozone exposure levels is incomplete and that control methods should not be required until physiological and technological studies in progress have been completed. However, a large number of government and industry research studies have been conducted to determine the deleterious effects of ozone exposure. All known studies have been thoroughly reviewed, and the FAA notes that with rare exception these studies are compatible with the findings of its own study conducted by the Civil Aeromedical Institute. For that reason, the FAA considers the maximum ozone exposure levels set forth in these regulations to be necessary.

FAA expects that ongoing research into the physiological effects of ozone and effective methods for its control will continue to provide a greater understanding of its effects on persons and will increasingly provide more efficient methods to eliminate excessive ozone quantities. Nevertheless, current technology is adequate to eliminate excessive levels of ozone in aircraft cabins. The FAA has determined that the available filters and catalytic converters can be installed on all affected aircraft types, and as improved filtration devices are available, they can be installed with little or no further aircraft modification.

Compliance Period

In response to recommendations that the compliance period in Part 121 be extended, that period has been changed to 12 months in the final rule. The longer period will still result in compliance prior to the 1981 ozone season, but will allow further time for compliance during the summer and fall of 1980, when the concentration of atmospheric ozone is lower.

In addition the new Part 121 requirement allows a certificate holder to obtain an authorization to deviate from these requirements by an amendment to its operations specifications, if it shows that due to circumstances beyond its control or to unreasonable economic burden it cannot comply for a specified period of time, and submits a plan acceptable to the Administrator to effect compliance to the extent possible. A deviation will be authorized in circumstances such as equipment delivery delays or short-term use of aircraft, when the certificate holder shows that through flight planning or other means it will attempt to avoid areas of high ozone concentration.

Economic Costs

Notice 75-15 solicited comments from all interested parties on the economic effect of the proposed amendments. While the FAA did not receive detailed cost information from commenters, sufficient information does exist to estimate the possible economic cost for the aircraft operated by Part 121 certificate holders that are likely to be affected by this amendment.

The aircraft most susceptible to high concentrations of ozone are those capable of operation for extended periods in over-the-pole flights and in the higher latitudes. At present, these aircraft include the B-747, B-707, DC-8, DC-10, and L-1011 aircraft. The FAA estimates that there are approximately 780 of these aircraft now being operated by Part 121 certificate holders. About 500 of these are used in operations in the high latitudes, and may need mechanical modification to effectively control cabin ozone levels. Although no detailed cost estimates were supplied by air carriers to the FAA from modification of aircraft by type, cost information supplied by two manufacturing sources indicates that the unit price for a single catalytic converter will be between $3,500 and $7,000. The FAA estimates that installation costs for each converter will run from $1,000 to $1,350 per unit. Each aircraft involved is expected to need from two to three filters, depending on the design of the pressurization distribution system. Each converter is expected to remain in service more than 3 years.

If all 500 aircraft are modified, the range of procurement cost for initial installation of catalytic converters would be between $5.2 million and $10.5 million. Since 1 year is being allowed for compliance, it is expected that installation will occur during regular aircraft maintenance, and the total cost of installation is expected to be about $2.0 million.

Editorial Changes

Proposed § 121.578 has been adopted as § 121.220 to include it as a special airworthiness requirement under Subpart J of Part 121.

Sections 25.832(c) and 121.220(d) have been changed to clarify what must be done to show compliance with the standards imposed by those sections.

The Amendment

Accordingly, Parts 25 and 121 of the Federal Aviation Regulations (14 CFR Parts 25 and 121) are amended, effective February 20, 1980, as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. By the addition of a new § 25.832 to Part 25 to read as follows:

§ 25.832 Cabin ozone concentration.

(a) The airplane cabin ozone concentration during flight above flight level 180 must be shown not to exceed—

(1) 0.25 parts per million by volume, sea level equivalent, at any point in time; and

(2) 0.1 parts per million by volume, sea level equivalent, time-weighted average during any 3-hour interval;

(b) For the purpose of this section, "sea level equivalent" refers to conditions of 25° C and 760 millimeters of mercury pressure.

(c) Compliance with this section must be shown by analysis or tests based on airplane operational procedures and performance limitations, that demonstrate that either—

(1) The airplane cannot be operated at an altitude which would result in cabin ozone concentrations exceeding the limits prescribed by paragraph (a) of this section; or

(2) The airplane ventilation system, including any ozone control equipment, will maintain cabin ozone concentrations at or below the limits prescribed by paragraph (a) of this section.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

2. By the addition of a new § 121.220 to Part 121 to read as follows:

§ 121.220 Cabin ozone concentration.

(a) For the purpose of this section, the following definitions apply:

(1) "Flight segment" means scheduled nonstop flight time between two airports.

(2) "Sea level equivalent" refers to conditions of 25° C and 760 millimeters of mercury pressure.

(b) Except as provided in paragraph (d) of this section, after February 20, 1981, no certificate holder may operate a transport category airplane above flight level 180 unless it has successfully demonstrated to the Administrator that the concentration of ozone inside the cabin will not exceed—

(1) 0.25 parts per million by volume, sea level equivalent, at any point in time; and

(2) For each flight segment that exceeds 4 hours, 0.1 parts per million by volume, sea level equivalent, time-weighted average over that flight segment.

(c) Compliance with this section must be shown by analysis or tests, based on either airplane operational procedures and performance limitations or the certificate holder's operations. The analysis or tests must show either of the following:

(1) Atmospheric ozone statistics indicate, with a statistical confidence of at least 84%, that at the altitudes and locations at which the airplane will be operated cabin ozone concentrations will not exceed the limits prescribed by paragraph (b) of this section.

(2) The airplane ventilation system, including any ozone control equipment, will maintain cabin ozone concentrations at or below the limits prescribed by paragraph (b) of this section.

(d) A certificate holder may obtain an authorization to deviate from the requirements of paragraph (b) of this section, by an amendment to its operations specifications, if—

(1) It shows that due to circumstances beyond its control or to unreasonable economic burden it cannot comply for a specified period of time; and

(2) It has submitted a plan acceptable to the Administrator to effect compliance to the extent possible.

(Secs. 313, 601, 603, 604, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1421, 1423, 1424); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a proposed regulation which is significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT:".

Issued in Washington, D.C., on January 15, 1980.

Langhorne Bond,
Administrator.

[FR Doc. 80-1823 Filed 1-18-80; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-EA-55; Amdt. 39-3671]

AVCO Lycoming; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment issues a new airworthiness directive applicable to AVCO Lycoming type aircraft engines which requires an alteration of the turbocharger oil drain flange P/N LW-14391 by replacement with P/N LW-16036. Failure of the flange could result in loss of engine oil and ultimate engine failure.

EFFECTIVE DATE: January 22, 1980. Compliance is required as set forth in the AD.

ADDRESSES: AVCO Lycoming Service Bulletins may be acquired from the manufacturer at Williamsport, Pennsylvania 17701.

FOR FURTHER INFORMATION CONTACT: E. Manzi, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2894.

SUPPLEMENTARY INFORMATION: There had been reports of failures of the oil drain tube and flange assemblies. The manufacturer has designed and installed a steel oil drain flange P/N LW-16036 as a replacement for the aluminum flange. In view of the air safety problem, notice and public procedure hereon are

impractical, and the amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by issuing a new airworthiness directive, as follows:

AVCO Lycoming: Applies to TO-360-C1A6D series engines serial numbers L-101-69A through L-264-69A except L-200-69A, L-246-69A and L-254-69A and all TO-360-C1A6D series engines overhauled (also known as remanufactured) by Lycoming prior to May 4, 1977.

Compliance required within the next 50 hours in service after the effective date of this AD, unless already accomplished.

To prevent possible loss of engine oil due to the failure of turbocharger oil drain flange P/N LW-14391, replace the turbocharger oil drain flange with oil drain flange P/N LW-16036 in accordance with AVCO Lycoming Service Bulletin No. 428 or FAA-approved equivalent.

Equivalent methods of compliance must be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration Eastern Region.

Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA Eastern Region may adjust the compliance time specified in this AD.

Effective Date: This amendment is effective January 22, 1980.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

Issued in Jamaica, New York, on January 8, 1980.

Murray E. Smith,

Director, Eastern Region.

[FR Doc. 80-1613 Filed 1-18-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 79-EA-52; Amdt. 39-3672]

DeHavilland; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment issues a new airworthiness directive, applicable to DeHavilland DHC-7 type airplanes, which requires an inspection of the main landing gear frame bolts for correct torque and replacement where necessary. This amendment is necessary because of reports of looseness in the bolts which could result in structural failure.

EFFECTIVE DATE: January 24, 1980. Compliance is required as set forth in the AD.

ADDRESSES: DeHavilland Service Bulletins may be acquired from the manufacturer at Downsview, Ontario, Canada M3K 145.

FOR FURTHER INFORMATION CONTACT: C. Birkenholz, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2875.

SUPPLEMENTARY INFORMATION: In view of the continuing air safety problem, notice and public procedure hereon are impractical, and the amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

DeHavilland: Applies to DHC-7 airplanes, S/N 1 through 13 inclusive, certificated in all categories.

Compliance required as indicated, unless already accomplished.

To prevent possible landing gear support structure failure due to looseness of the main landing gear frame attachment bolts, accomplish the following:

1. Within the next 25 hours in service after the effective date of this AD, unless previously accomplished within the last 295 hours in service, inspect the main landing gear frame bolts, P/N MS21250H10042, for evidence of improper torque.

2. If evidence of improper torque is found at any bolt location,

a. cut an access hole at all four bolt locations as detailed in DeHavilland Service Bulletin No. 7-54-4, ACCOMPLISHMENT INSTRUCTIONS, Page 2, paragraphs 1 and 2. Retorque all bolts to 1400-1650 inch-pounds and cover the access holes with snap hole plug P/N CSP80-20 or equivalent. Mark the end of the bolt, nut and adjacent structure with a red line. Visually inspect the red marking at each location for signs of movement at intervals not to exceed 320 hours in service from last inspection until the modification in paragraph 2.b. is accomplished, or

b. incorporate DeHavilland modification (Ref. S/B 7-54-4).

3. For bolts that are found to be properly torqued, mark and inspect bolts as above in paragraph 2.a. until the modification is accomplished.

4. Incorporate DeHavilland modification in accordance with S/B No. 7-54-4, ACCOMPLISHMENT INSTRUCTIONS, or equivalent within 1900 hours in service from the initial inspection in paragraph 1.

5. Equivalent parts and modification must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

EFFECTIVE DATE: This amendment is effective January 24, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

Issued in Jamaica, New York, on January 10, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-1614 Filed 1-18-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Airworthiness Docket No. 79-ASW-51; Amdt. 39-3670]

Mooney M20K Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires reinforcement of the fuselage tubular structure with a clamped split-sleeve on Mooney M20K airplanes. The AD is needed to prevent failure of the fuselage tubular structure which could result in loss of the airplane. This AD is being issued because of failures of the fuselage tubular structure of the M20K airplane during static testing.

DATES: Effective—February 1, 1980. Compliance required within the next 90 days after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service bulletins may be obtained from the Service Manager, Mooney Aircraft Corporation, P.O. Box 72, Kerrville, Texas 78028.

A copy of the service bulletin is contained in the Rules Docket of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT: Michele M. Owsley, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone number (817) 624-4911, extension 516.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring reinforcement of the fuselage tubular structure of Mooney M20K airplanes was published in the **Federal Register** at 43 FR 62907. The proposal was prompted by FAA's determination that the fuselage tubular structure on Mooney

M20K airplanes is understrength for certain gust load conditions. This condition could result in the loss of the aircraft.

Interested persons have been afforded an opportunity to participate in the making of the amendment. One commentator characterized as unjustified the statement included in the summary and supplementary information which accompanied the proposal, namely, "failure . . . which could result in loss of the airplane." This commentator referred to over 20 years of satisfactory service of the fuselage tubular structure and the static test history on this model. FAA does not intend to discredit the satisfactory service experience of the fuselage tubular structure; however, testing of the assembly has demonstrated that the failures are unpredictable in location and severity. FAA must consider all possible safety implications, including those which could result in the loss of the aircraft. The wording, therefore, remains unchanged.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Mooney Aircraft Corporation. Applies to Models M20K airplanes, Serial Numbers 25-0001 through 25-0247, certificated in all categories.

Compliance is required as indicated unless already accomplished.

To prevent possible failure of the fuselage tubular structure, accomplish the following:

1. Within the next 90 days after the effective date of the AD, reinforce the lower right fuselage tubular structure with a split-sleeve and clamps in accordance with Mooney Service Bulletin No. M20-220 dated November 16, 1979, or equivalent methods approved by the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region.

2. Aircraft may be flown in accordance with FAR 21.197(a)(1) to a location where the modification required by this AD may be accomplished.

This amendment becomes effective February 1, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

Issued in Fort Worth, Texas, on January 7, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80-1612 Filed 1-18-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-ASW-47]

Alteration of Transition Area; Canadian, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter the transition area at Canadian, Tex. The intended effect of the action is to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Hemphill County Airport. The circumstances which created the need for the action are the establishment of a new instrument approach procedure using the nondirectional radio beacon (NDB) located on the airport and a change to incorporate a more accurate airport geographical point and location of the NDB.

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT: Manuel R. Hugonnett, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On November 19, 1979, a notice of proposed rule making was published in the **Federal Register** (44 FR 66204) stating that the Federal Aviation Administration proposed to alter the Canadian, Tex., transition area. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) alters the Canadian, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing established and proposed instrument approach procedures to the Hemphill County Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) is amended, effective 0901 GMT, March 20, 1980, as follows:

In Subpart G, 71.181 (44 FR 442), the following transition area is altered as follows:

Canadian, Tex.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Hemphill County Airport, Canadian, Tex. (latitude 35°53'42"N., longitude 100°24'13"W.), and within 3 miles each side of the 056° and 218° bearings to the NDB (latitude 35°53'28"N., longitude 100°24'18"W.), extending from the NDB to 8.5 miles southwest and northeast.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Tex., on January 9, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80-1616 Filed 1-18-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-AL-20]

Designation of Transition Area St. Marys, Alaska

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a transition area at St. Marys, Alaska, to protect aircraft executing an instrument approach procedure to the St. Marys airport using approach procedures based on the St. Marys NDB or ILS. This action lowers the base of controlled airspace from 1,200 feet AGL to 700 feet AGL in that area directly beneath B-27 and V-506 and also designates controlled airspace extending upward from 700 feet above the surface in that portion of the transition area west of B-27. The need for a transition area was created when IFR approach procedures were established at St. Marys. However, the lack of a capability, prior to 1979, to communicate with aircraft on approach

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made the establishment of a transition area impractical.

EFFECTIVE DATE: 0901 GMT March 20, 1980.

FOR FURTHER INFORMATION CONTACT:
Jerry Wylie, Operations, Procedures, and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513, telephone (907) 271–5903.

SUPPLEMENTARY INFORMATION: Subpart 71.181 (45 FR 445 of the Far Part 71, last published on January 2, 1980, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting IFR flight. Designation of a transition area at St. Marys, Alaska, will necessitate an amendment to this subpart. A Notice of Proposed Rule Making (NPRM) was published in the Federal Register on October 25, 1979 (44 FR 61378) which omitted a part of the transition area description. A correction containing the omitted portion of the transition area description was published in the Federal Register on December 6, 1979 (44 FR 70181). No objections were received to the NPRM.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) is amended by designating the St. Marys, Alaska, transition area as follows:

St. Marys, Alaska

That airspace extending upward from 700 feet above the surface within 4.5 miles east and 9.5 miles west of the 196° True (180°M) bearing from the St. Marys NDB, extending from the NDB to 18.5 miles south of the NDB and within 9.5 miles west of the 351° True (333°M) bearing from the St. Marys NDB, and 9.5 miles east of the 002° True (344°M) bearing from the St. Marys NDB, including that airspace between these bearings, extending from the NDB to 21 miles north of the NDB.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 1134, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, and anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Anchorage, Alaska, on January 10, 1980.

Robert L. Faith,
Director, Alaskan Region.

[FR Doc. 80-1615 Filed 1-18-80; 8:45 am]
BILLING CODE 4910-13

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14 CFR Part 71

[Airspace Docket No. 79-ASW-52]

Alteration of Transition Area: Follett, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter the transition area at Follett, Tex. The intended effect of the action is to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Follett-Lipscomb County Airport. The circumstance which created the need for the action is the establishment of a nondirectional radio beacon (NDB) on the airport.

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT:
Manuel R. Hugonnett, Airspace and Procedures Branch (ASW–536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817–624–4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On November 19, 1979, a notice of proposed rule making was published in the Federal Register (44 FR 66205) stating that the Federal Aviation Administration proposed to alter the Follett, Tex., transition area. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) alters the Follett, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing established and proposed instrument approach procedures to the Follett-Lipscomb County Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) is amended, effective 0901 GMT, March 20, 1980, as follows:

In Subpart G, 71.181 (44 FR 442), the following transition area is altered as follows:

Follett, Tex.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Follett-Libscomb County Airport (latitude 36°28'26"N., longitude 100°07'24"W., and within 4 miles each side of the 189° bearing from the NDB (latitude 36°20'37"N., longitude 100°07'16.8"W.), extending from the 7-mile radius area to 8.5 miles south of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Tex., on January 9, 1980.

F. E. Whitfield,
Acting Director, Southwest Region.

[FR Doc. 80-1601 Filed 1-18-80; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-ASW-50]

Alteration of Transition Area: Hope, Ark.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter the transition area at Hope, Ark. The intended effect of the action is to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Hope Municipal Airport. The circumstance which created the need for the action is the establishment of a nondirectional radio beacon (NDB) located on the airport.

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT:
Kenneth L. Stephenson, Airspace and Procedures Branch (ASW–535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817–624–4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On November 15, 1979, a notice of proposed rule making was published in the Federal Register (44 FR 65768) stating that the Federal Aviation Administration proposed to alter the Hope, Ark., transition area. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

The Rule

This amendment to subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) alters the Hope, Ark., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing established and proposed instrument approach procedures to the Hope Municipal Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) is amended, effective 0901 GMT, March 20, 1980, as follows.

In Subpart G, 71.181 (44 FR 442), the following transition area is altered by adding the following:

Hope, Ark.

* * * and within 3 miles each side of the 355° bearing from the NDB (latitude 33°43'06"N., longitude 93°39'26"N.) extending from the 6-mile radius area to 8.5 miles north of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c).)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Tex., on January 9, 1980.

F. E. Whitfield,
Acting Director, Southwest Region.

[FR Doc. 80-1602 Filed 1-18-80; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-ASW-67]

Alteration of Transition Area: Patterson, Louisiana

AGENCY: Federal Aviation Adminsitration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter the transition area at Patterson, LA. The intended effect of the action is to provide controlled airspace for aircraft executing instrument approach procedures to the Harry P. Williams Memorial Airport. The circumstance which created the need for the action is the review of the current transition area revealed the controlled airspace is not properly described and a reduction of controlled airspace will adequately serve the airport.

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT:
Kenneth L. Stephenson, Airspace and Procedures Branch (ASW–535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817–624–4911, extension 302.

SUPPLEMENTARY INFORMATION: The review of the transition area at Patterson, LA., revealed that the final approach course for the nondirectional radio beacon (NDB) instrument approach to Runway 05 was incorrect and that the transition area radius is in excess of that needed for the type of aircraft using the airport. This requires amendment to the designated airspace for the protection of aircraft executing instrument approach procedures to the airport. Since this action reduces the airspace required for aircraft executing instrument approach procedures, circulation and public notice of this action is not considered necessary.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) alters the Patterson, LA., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing established and proposed instrument approach procedures to the Harry P. Williams Memorial Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) is amended, effective 0901 GMT, March 20, 1980, as follows.

In Subpart G, 71.181 (44 FR 442), the following transition area is altered by deleting the present description and substituting the following:

Patterson, La.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Harry P. Williams Memorial Airport (latitude 29°42'40"N., longitude 91°20'18"W.) and within 3 miles each side of the 233° bearing from the NDB (latitude 29°42'53"N., longitude 91°20'12"W.) extending from the 6.5-mile radius area to 8.5 miles southwest of the NDB; and within 2.5 miles each side 276° radial of the Tibby VORTAC (latitude 29°39'51"N., longitude 90°49'44"W.) extending from the 6.5-mile radius area to 7.5 miles east of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Tex., on January 9, 1980.

F. E. Whitfield,
Acting Director, Southwest Region.

[FR Doc. 80-1603 Filed 1-18-80; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 79-GL-23]

Alteration of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment increases the time of designation of the Jefferson Proving Ground, Ind., Restricted Area R–3403A to permit additional testing of munitions that require photographic coverage for evaluation. This action helps to provide for the safe and efficient use of the navigable airspace in this area.

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Everett L. McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–3715.

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SUPPLEMENTARY INFORMATION:

History

On November 15, 1979, the FAA proposed to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to slightly increase the time of designation of R-3403A (44 FR 65770). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The only comment received expressed no objection. The Department of Army has stated that the requirements of the National Environmental Policy Act (NEPA) have been met. Section 73.34 of Part 73 was republished January 2, 1980, (45 FR 700). This amendment is the same as proposed in the notice.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) changes the time of designation of R-3403A from "Daily, 0800 to 2300 local time." to "Daily, 0630 to 2400 local time." This action permits maximum utilization of daylight hours for testing programs which require photographic coverage for evaluation.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 73.34 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (45 FR 700) is amended, effective 0901 GMT, March 20, 1980, as follows:

Under R-3403A Jefferson Proving Ground, Ind., in time of designation, "Daily, 0800 to 2300 local time." is deleted and "Daily, 0630 to 2400 local time." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on January 15, 1980.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-1806 Filed 1-18-80; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1203

Information Security Program

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This amendment revises the guidelines for classifying, declassifying, and downgrading information and material under the NASA Information Security Program in 44 FR 34913–34922, June 18, 1979. This amendment makes editorial changes related to those procedures.

EFFECTIVE DATE: January 21, 1980.

ADDRESS: Chief, NASA Security Office, National Aeronautics and Space Administration, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Arnold K. Daue, Telephone (202) 755–3400.

14 CFR Part 1203 is amended by revising § 1203.202 and § 1203.604 as follows:

§ 1203.202 [Amended]

1. § 1203.202 (e) is revised to read as follows:

* * * * *

(e) Directors of Field Installations are responsible for:

(1) Developing proposed Security Classification Guides.

(2) Ensuring that classified information or material prepared in their respective installations is appropriately marked.

(3) Ensuring that material proposed for public release is reviewed to eliminate classified information.

(4) Designating Security Classification Officers at their respective installations, to whom responsibilities listed in paragraphs (e) (1), (2), and (3) of this section may be reassigned.

2. § 1203.202(f) is revised to read as follows:

(f) The NASA Security Classification Manager, NASA Security Office, NASA Headquarters, who serves as a member of the NASA Information Security Program Committee, is responsible for the NASA-wide coordination of security classification matters and for the development of proposed Security Classification Guides for Headquarters.

3. § 1203.202(g) is revised to read as follows:

(g) The Chief, NASA Security Office, is responsible for:

(1) Conducting an active oversight program to ensure effective implementation of the Order.

(2) Establishing procedures for the safeguarding of classified information or material (e.g., accountability, control, access, storage, transmission, marking, etc.) and for ensuring that such procedures are systematically reviewed and those which are duplicative or unnecessary are eliminated.

(3) Appointing the Headquarters Security Classification Officer.

§ 1203.604 [Amended]

4. Section 1203.604(d)(2)(i) is revised to read as follows:

(i) The request is in writing and reasonably describes the information sought with sufficient particularity to enable the installation to identify it.

(42 U.S.C. 2451 et seq and E.O. 12065)

Margaret M. Herring,

Alternate Federal Liaison Officer.

[FR Doc. 80-1795 Filed 1-18-80; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 35 and 154

[Docket No. RM77-22]

Rate of Interest on Amounts Held Subject To Refund; Order Clarifying Orders Nos. 47 and 47–A

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Clarifying Order Nos. 47 and 47–A.

SUMMARY: This Order contains corrections to Order No. 47 (RM77–22, 44 FR 53538, September 14, 1979) and Order No. 47–A (RM77–22, 44 FR 65740, November 15, 1979). Calculations of the applicable average prime rate are to be based on the prime rate values published in the *Federal Reserve Bulletin*, or in the Federal Reserve's "Selected Interest Rates" (Statistical Release G. 13), for the fourth, third, and second months preceding the first month of each calendar quarter. The rates of interest prescribed by Order No. 47 (Docket No. RM77–22, 44 FR 65740, November 15, 1979) will not apply where a different rate of interest has been established by court order or by a Commission order, which was final and non-appealable on or before September 10, 1979, approving a settlement agreement.

EFFECTIVE DATE: October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Clarence C. Burris, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8106–A, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8161.

December 26, 1979.

On September 10, 1979, the Federal Energy Regulatory Commission issued Order No. 47 in the above-referenced docket which established (1) a new, self-adjusting compounded interest rate on refunds, (2) a new, self-adjusting compounded carrying charge rate on deferred purchased gas costs, and (3) a reduction in the number of required refund reports, all to become effective October 1, 1979. By Order No. 47–A, issued November 8, 1979, the Commission denied rehearing of Order No. 47, and clarified the Commission's position that compounding is intended to apply after October 1, 1979, to all interest, regardless of when it accumulated.

Motions for reconsideration and clarification of Order Nos. 47 and 47–A were filed by Cities Service Gas Company (Cities Service) and Tennessee Gas Pipeline Company, Midwestern Gas Transmission Company, and East Tennessee Natural Gas Company (Companies), on November 27, 1979.

Companies noted a mechanical problem concerning operation of the Commission's new refund interest regulations. The Commission's interest rates for a given calendar quarter now reflect the arithmetic mean of the prime rate values for the second, third, and fourth months preceding the quarter, which values are published in the monthly *Federal Reserve Bulletin (FRB)*.[1] Companies state that it is not possible to calculate the applicable interest rate for a quarter at the very beginning of that quarter, however, because the monthly issue of the *FRB* necessary to perform the calculation is not available until sometime in the middle of the first month of the quarter. Specifically, they state that it is the prime rate value for the second month preceding a calendar quarter that will not be known until the *FRB* becomes available. Therefore, Companies suggest that we revise our regulations to provide that interest calculations reflect the prime rate values for the third, fourth, and fifth months preceding the calendar quarter.

It is true that the prime rate value for November, for instance, will not generally be available from the December *FRB* until sometime in mid-January.[2] That November value is nevertheless available from the Federal Reserve shortly after the end of November, albeit from sources less well-known than the *FRB*. For example, a monthly Federal Reserve statistical release entitled "Selected Interest Rates" (Statistical Release G.13) includes the prime rate value for the immediately preceding month, and is available within ten days after the end of the month. Thus, the prime rate value for November will be available in December's Statistical Release G.13 by December 10, in sufficient time to permit calculation of the applicable interest rate beginning January 1, the start of the next calendar quarter.

In light of the foregoing discussion, it is not necessary to revise our refund regulations so as to require refund interest rates to reflect the prime rate values for the third, fourth, and fifth months preceding the calendar quarter, as suggested by Companies. The currentness inherent in the refund regulations as presently structured may be preserved simply by reference to another source for prime rate information. However, in order to eliminate any uncertainty that the present regulations may have caused, and keep the refund interest rate as current as possible, we will amend the regulations to reflect Statistical Release G.13 as an acceptable alternate source of prime rate information.

Some companies may, however, continue to have difficulty in obtaining the data necessary to make calculations so as to enable them to make refunds during the first few weeks of a calendar quarter. Under those limited circumstances, we will authorize the Director of the Office of Electric Power and the Director of the Office of Pipeline and Producer Regulation, as appropriate, to assist the company in obtaining the necessary data upon reasonable request.

Cities Service and Companies also request the Commission to state clearly that, consistent with prior Commission practice, the rates of interest prescribed by Order No. 47 will not apply where a different stipulated rate of interest has been established by court order or by Commission order approving a settlement agreement. This policy is in line with that followed both by this Commission and its predecessor, the Federal Power Commission. *Cities Service Gas Company*, Docket No. RP74–4, Opinion No. 24–A, issued October 31, 1978; *Tennessee Gas Pipeline Company*, Docket Nos. RP71–16, RP71–57, and RP72–1, order issued April 15, 1977; *Northern Natural Gas Company*, Docket No. RP74–80, order issued November 5, 1976; *Columbia Gas Transmission Corp., et al.*, Docket No. RP74–81, *et al.*, order issued November 5, 1976. The following language from Order No. 513–A, which established the refund interest rates that preceded those now effective, is equally applicable here:

> Where there is a final, non-appealable Commission order directing the disbursement of refunds of amounts collected or held during the time periods which are the subject of this order, the Commission does not intend to reconsider or modify those individual orders. The orders will stand as issued. However, where such orders have been issued but are not final and non-appealable on the date of this order, the natural gas company or public utility should, without further motion by the parties in the individual dockets, be required to comply with this order.

Thus, the rates of interest prescribed by Order No. 47 will not apply where a different stipulated rate of interest has been established by court order, or by a Commission order approving a settlement agreement which became final and non-appealable by September 10, 1979.

Order No. 47 made the revised interest rate rule effective as of October 1, 1979. These amendments merely clarify the intent of the regulations adopted in Order No. 47. Therefore, the amendments are hereby made effective as of October 1, 1979.

(Sec. 16, Natural Gas Act, 15 U.S.C. 7170; sec. 309, Federal Power Act, 16 U.S.C. 825h; Department of Energy Organization Act, Pub. L. 95–91; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Parts 35 and 154, of Chapter 1, Title 18, of the Code of Federal Regulations are amended as set forth below, effective October 1, 1979.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 35—FILING OF RATE SCHEDULES

1. Section 35.19a is amended in paragraph (a)(2)(iii)(A) to read as follows:

§ 35.19a Refund requirements under suspension orders.

(a) *Refunds.* * * *

(2) * * *

(iii)(A) at an average prime rate for each calendar quarter on all excessive rates or charges held (including all interest applicable to such rates or

[1] These values are generally found at page A–26, Table 1–34 in the *FRB*.

[2] In view of this recognition, we would change preamble statements about data availability which appear in Order No. 47 (Page 19 and Appendix A's Footnote ** at Page 36). Both references should now simply allude to the *FRB* that is published during the first month of a quarter.

charges) on or after October 1, 1979. The applicable average prime rate for each calendar quarter shall be the arithmetic mean, to the nearest one-hundredth of one percent, of the prime rate values published in the *Federal Reserve Bulletin*, or in the Federal Reserve's "Selected Interest Rates" (Statistical Release G. 13), for the fourth, third, and second months preceding the first month of the calendar quarter. * * *

* * * * *

PART 154—RATE SCHEDULES AND TARIFFS

2. Section 154.67 is amended in paragraph (d)(2)(iii)(A) to read as follows:

§ 154.67 Suspended changes in rate schedules; motions to make effective at end of period of suspension; procedure.

* * * * *

(d) *Refunds.* * * *

(2) * * *

(iii)(A) At an average prime rate for each calendar quarter on all excessive rates or charges held (including all interest applicable to such rates and charges) on or after October 1, 1979. The applicable average prime rate for each calendar quarter shall be the arithmetic mean, to the nearest one-hundredth of one percent, of the prime rate values published in the *Federal Reserve Bulletin*, or in the Federal Reserve's "Selected Interest Rates" (Statistical Release G. 13), for the fourth, third, and second months preceding the first month of the calendar quarter. * * *

3. Section 154.102 is amended in paragraph (d)(2)(iii)(A) to read as follows:

§ 154.102 Suspended changes in rate schedules; motions to make effective at end of period of suspension; procedure.

* * * * *

(d) *Refunds.* * * *

(2) * * *

(iii)(A) At an average prime rate for each calendar quarter on all excessive rates or charges held (including all interest applicable to such rates or charges) on or after October 1, 1979. The applicable average prime rate for each calendar quarter shall be the arithmetic mean, to the nearest one-hundredth of one percent, of the prime rate values published in the *Federal Reserve Bulletin*, or in the Federal Reserve's "Selected Interest Rates" (Statistical Release G. 13), for the fourth, third and second months preceding the first month of the calendar quarter. * * *

[FR Doc. 80-1645 Filed 1-18-80; 8:45 am]
BILLING CODE 6450-01-M

18 CFR Part 274

[Docket No. RM80-15; Order No. 65]

Final Regulations Implementing Filing Requirements of the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: On December 1, 1978, the Commission issued interim regulations to implement the provisions of the Natural Gas Policy Act of 1978 (NGPA) 44 FR 56448 *et seq.* Among those regulations was Subpart B of Part 274 which set forth filing requirements for applicants seeking well category determinations from jurisdictional agencies. On consideration of comments received since the issuance of December 1, 1978, and in light of subsequent amendments, the Commission is now amending Subpart B of Part 274. In addition, and except for those sections which deal with certain determinations for high cost natural gas priced under section 107 of the NGPA (§§ 274.205(b) through (d)), Subpart B is being issued as final regulations.

EFFECTIVE DATE: February 4, 1980.

FOR FURTHER INFORMATION CONTACT: Thomas P. Gross, Office of the General Counsel, Federal Energy Regulatory Commission, Room 4102–B, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8026, or Clarence Burris, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8106–A, 825 North Capitol Street, NE, Washington, D.C. 20426, (202) 357–8161.

January 4, 1980.

I. Background

On December 1, 1978, the Federal Energy Regulatory Commission (Commission) issued interim regulations implementing the Natural Gas Policy Act of 1978 (NGPA) (43 FR 56448). Part 274, Subpart B of the interim regulations set forth the minimum filing requirements for applications to jurisdictional agencies for determinations of eligibility for various categories of natural gas. These categories are new natural gas and certain Outer Continental Shelf (OCS) gas (as defined in section 102 of the NGPA), natural gas from new onshore production wells (section 103), high-cost natural gas (section 107), and stripper well natural gas (section 108).

Comments were invited from interested parties on or before February 1, 1979. Timely comments were received from a number of parties representing gas producers, gas and oil pipelines, distributors of gas (including municipalities and cooperatives), oil shippers, and public interest groups. The Commission has taken into consideration these questions and comments in developing this final regulation.

Since its original issuance on December 1, 1978, Part 271 has been amended by Order No. 42 (Docket No. RM79–68, 44 FR 48180, August 17, 1979), Order No. 42–A (Docket No. RM79–68, 44 FR 69642, December 4, 1979), Order No. 43 (Docket No. RM79–72, 44 FR 49651, August 24, 1979), Order No. 43–A (Docket No. RM79–72, 44 FR 67108, Nov. 23, 1979), Order No. 44 (Docket No. RM79–73, 44 FR 49656, August 24, 1979) and Order No. 44–A (Docket No. RM79–73, 44 FR 66783, November 11, 1979). The present order reflects these prior amendments.

II. Summary of Comments and Revisions to Part 274, Subpart B

Section 274.201 sets forth general requirements for filing applications for determinations of eligibility with jurisdictional agencies. Among other things, §§ 274.201(b) and 274.201(c) specify who may file an application for determination and who is required to sign the application. The Commission believes that any person designated by the jurisdictional agency as eligible to make filings under this subpart may also be the person who signs the application. Accordingly, § 274.201 is being amended by deleting paragraph (c) and amending § 274.201(b) to allow the person who is filing the application to sign the application.

Section 274.202 establishes filing requirements with jurisdictional agencies for applications for determinations for new natural gas (section 102). Among other things, this section requires the applicant to file an oath statement as to certain relevant facts, depending on whether the application for determination is for a new onshore well or a new onshore reservoir. Several comments stated that the oath requirements were confusing and too stringent.

After reviewing these comments, the Commission believes that the oath and filing requirements of this section are necessary and should not be modified. Although this section requires several different oath statements, this is necessary to verify the different facts associated with different categories of natural gas. One change has been made in § 274.202. Since several of the oath statements which accompany applications for determination of new onshore wells and new onshore reservoirs are the same, these statements have been consolidated into a new paragraph (e) in § 274.202. However, these statements are still required to be filed with the application.

Several comments suggested that the filing requirements in §§ 274.202 and 274.203 (new natural gas and certain OCS gas) and § 274.204 (new onshore production wells) be shortened, or that Form 121 be modified to expressly list the information required to be filed. These suggestions are not being adopted. Sections 102 and 103 of the NGPA impose certain statutory conditions which must be satisfied before a well qualifies for these categories. Sections 274.202 through 274.204 implement these sections of the NGPA by requiring that certain minimum information needed to make these determinations be submitted to the jurisdictional agency. In view of the stringent requirements imposed by the NGPA which must be met before a well qualifies under section 102 or 103, the Commission believes that the information required to be filed is necessary to satisfy the statutory mandate of the NGPA.

Furthermore, the Commission has considered revising Form 121 to list the filing requirements for each different category of gas and believes such revisions are unnecessary. The substantive information which must be filed with the jurisdictional agency is specifically listed in Part 274, Subpart B. Form 121 is intended to provide only general information concerning the application for determination of eligibility. This permits jurisdictional agencies to prescribe the specific format in which the information specified in Subpart B is to be submitted to the jurisdictional agency. The Commission is of the opinion that the flexibility of this approach will allow jurisdictional agencies to prescribe a format most useful for their purposes.

Section 274.202(c)(1)(iv) requires the applicant to submit a location plat which identifies the well for which the determination is sought and any other well which is producing, or produced after January 1, 1970, natural gas and which is within a 2.5 mile radius from the well for which a determination is sought. Since only wells which produced natural gas between January 1, 1970, and April 20, 1977, are relevant, § 274.202(c)(1)(iv) has been amended to require that only wells which produced natural gas during that period be identified on the location plat. A similar change is being made in § 274.202(c)(2)(iii).

Section 274.202(c)(2)(iii) (1,000 feet deeper test) requires applicants to file a location plat which includes specific identification of all marker wells within a 2.5 mile radius drawn from the well for which a determination is sought. One comment suggested that the applicant should not be required to identify marker wells if it can be shown that the completion locations for all wells within 2.5 miles are at least 1,000 feet shallower than the completion location for the subject well. This suggestion will not be adopted. If the applicant is claiming that the completion location of a new onshore well is 1,000 feet deeper than that for any marker well within a 2.5 mile radius, the record should illustrate those marker wells.

One comment suggested that marker wells which were not drilled to a depth sufficient to penetrate the reservoir into which the subject well is drilled should not be identified under the filing requirements of § 274.202. The comment misconstrues the significance of marker wells and the 1,000 feet deeper test. If the applicant is seeking a new onshore well determination pursuant to the 1,000 feet deeper test, then the applicant must show that the completion location of the new well is at least 1,000 feet deeper than the deepest completion location of each marker well within a 2.5 mile radius. Whether the marker well penetrates the reservoir into which the subject well is drilled is irrelevant. Accordingly, a marker well within the 2.5 mile radius which does not penetrate the reservoir in which the new well is completed but which is within 1,000 vertical feet of such completion location would still disqualify the new well as a new onshore well under section 102.

Section 274.202(d) establishes filing requirements for applications for determinations regarding new onshore reservoirs. One comment suggested an amendment to this section which would allow any subsequent application for determination of eligibility for wells in the same reservoir to refer to the previous application, thereby avoiding unnecessary, repetitious filings of the same information.

The Commission recognizes that unnecessary duplication of reports should be avoided. Accordingly, §§ 274.202(d)(1)(B) and 274.203(c)(2) are being added to allow an applicant to make reference to a previously filed application for determination of eligibility which contains the same information required to be filed in his current application. The applicant may refer to applications previously filed by either himself or any other applicant. However, such previously filed applications must have been filed with the jurisdictional agency with which the current application is filed. Reference may be made only to those applications upon which the jurisdictional agency has made a determination of eligibility and which are on file with the Commission. This restriction is necessary to insure that the information to which the applicant refers is available to the Commission and the jurisdictional agency during the review period. The applicant should refer to the previously filed application by the jurisdictional agency docket number, the FERC docket or control number and the API well number.

Although the Commission expects this change to eliminate the filing of repetitious information, it should be noted that any information not contained in the previously filed application must be submitted with the current application and that each individual application must meet the substantial evidence test.

Section 274.202(d)(1)(v) requires the applicant to state under oath that he has made or caused to be made a diligent search of all records, including production, State severance tax, and royalty payment records, which are reasonably available and relevant to the determination of eligibility. Several comments suggested that applicants should not be required to search royalty payment and State severance tax records because they do not contain information material to the determination of eligibility. It was further suggested that if such a search is required, it should be limited to such records only where applicable.

The Commission believes that a search of these records is necessary because the records may contain evidence relevant to determining whether natural gas was produced in commercial quantities. However, the regulation states, and the Commission intends, that the search may be limited to records which contain information relevant to the determination of eligibility.

Sections 274.202(d)(2)(ii) (A) through (D) require the applicant to answer certain questions under oath concerning the production of natural gas in commercial quantities, and the existence of suitable facilities for the production and delivery of natural gas to a pipeline. This section was amended in Order No. 42–A (Docket No. RM79–68, 44 FR 69642, December 4, 1979). The information is designed to determine whether the natural gas from the new onshore reservoir is subject to the behind-the-pipe exclusion or the withheld gas exclusion of sections 102(c)(1)(C) (ii) or (iii) of the NGPA, respectively. This order retains the above mentioned tests issued in Order

No. 42–A, but renumbers the sections so that the behind-the-pipe test is contained in § 274.202(d)(2)(ii) and the withheld-gas exclusion is contained in § 274.202(d)(2)(iii). Section 274.202(d)(2)(ii)(D) has been eliminated since the above tests will determine whether the gas qualifies as new natural gas.

Section 274.203 established the filing requirements for new reservoirs on old OCS leases. Section 274.203(e) (1) through (4), now § 274.203(e)(1) (i) through (iii) and § 274.203(e)(2), established additional filing requirements for new reservoirs on old OCS leases if the reservoir was penetrated prior to July 27, 1976. In particular, §§ 274.203(e) (1) through (3) (now renumbered as §§ 274.203(e)(1) (i) through (iii)) require the applicant to submit the results of certain production tests and evidence which demonstrate as of the time of such tests or as of the time such evidence was obtained, that the reservoir was not capable of producing in paying or commercial quantities. Several comments stated that the filing requirements of this section changed the burden of proof in section 102(d)(4) of the NGPA with respect to the tests set forth in section 102(d)(2)(2)(B) (i) through (iii).

The Commission believes that if any of the tests or evidence set forth in section 102(d)(2)(B) (i) through (iii) of the NGPA were performed on or before July 27, 1976, the results of such tests or evidence should be submitted by the applicant. However, if no such tests were performed and no other evidence concerning the reservoir's capability to produce in paying quantities exists on or before July 27, 1976, then the applicant should submit an oath statement to that effect. Accordingly, and in response to the above comments, §§ 274.203(e)(1) (i) through (iii) are changed to require the applicant to submit the test results and evidence listed in §§ 274.203(e)(1) (i) through (iii), to the extent such tests were performed on or before July 27, 1976. If such data is not available because such tests were not performed and no other evidence showing the well was capable of producing in paying quantities was in existence on or before July 27, 1976, the applicant must submit an oath statement to such effect.

One comment stated that this oath statement had no statutory basis. The Commission believes that this statement is necessary in order to insure that none of the tests which would have generated the information listed in §§ 274.203(e)(1) (i) through (iii) have been performed. Since the applicant has the burden of showing that the reservoir is a new reservoir on an old OCS lease, he must submit such a statement in order to meet this burden.

Another comment requested that the filing requirements in §§ 274.202, 274.204 and 274.205 be expanded to include certain additional information which would be helpful to the jurisdictional agency in making determinations of eligibility. The Commission declines to expand the filing requirements in these sections beyond that which is necessary for jurisdictional agencies to make a determination of eligibility. If jurisdictional agencies desire additional information for purposes of making such determinations, § 274.201(c) permits the jurisdictional agency to require the additional information if it deems appropriate.

Section 274.204 establishes the filing requirements for applications for determination of eligibility for new onshore production wells. One comment stated that the filing of a completion report as required by § 274.204(b) is unnecessary because, in some states, the drilling permit already contains the information needed for this determination.

The Commission notes that this report contains, among other things, the date on which surface drilling began, and it is needed to establish whether drilling began on or after February 19, 1977. Therefore, the Commission believes that all applicants should file this report. However, if jurisdictional agencies find that the filing of this report is unnecessary and that another reliable document providing the same information is available, they may submit an application for alternative filing and notice requirements under § 274.207. The Commission notes, however, that it is desirable to establish uniform filing requirements for all jurisdictional agencies. Accordingly, requests for alternative filing and notice requirements will be reviewed with care and granted only where circumstances warrant a change.

In applying for a determination for a new onshore production well, the applicant is required by § 274.204(c) to submit a location plat which identifies the well for which a determination is sought and all other wells within the state law proration unit (as defined in § 271.305(a)(2)) in which the well for which a determination is sought is located. This section is being amended to require the applicant to also identify the state law proration unit.

Section 274.205 sets forth the filing requirements for high-cost natural gas. Included in this section are the revisions made in Docket No. RM79–44 (44 FR 61950, October 27, 1979). Section 274.205 paragraphs (b), (c) and (d) will remain as interim rules until there is further action by the Commission.

Section 274.206 establishes the filing requirements for applicants seeking to establish stripper well status. Order No. 44 (Docket No. RM79–73, 44 FR 49656, August 24, 1979) amended § 274.206 by requiring the applicant to submit certain records and test results if the maximum efficient rate of flow for the well had not previously been established. The present order further amends this section by adding subparagraph (a)(3) to require the applicant to submit a copy of the results of any tests which establish a maximum efficient rate of flow.

Sections 274.206(a)(2), 274.206(a)(4)(i), 274.206(b)(3), and 274.206(d)(3) require the applicant to submit production records, tax records, or verified billing statements upon which the average production for the 90-day production period is based. The Commission believes that, in many cases, the filing of the actual records or billing statements is unnecessary and that a summary of such records or billing statements will serve the same purpose. These sections are therefore being amended to allow the applicant to submit a summary of the contents of such records or billing statements in lieu of the actual documents, but only if permitted by the jurisdictional agency's filing requirements.

Order No. 44 clarified § 271.804(a) of the interim regulations concerning the methodology for determining the rate of production from a well for which a stripper well determination is sought. Section 271.804(a) requires an applicant to determine a well's rate of production by using the total volume of natural gas produced from the well regardless of whether the well is completed in more than one interval. In order to emphasize that production from a stripper well is based on the total volume from the well and not the production from each interval, § 274.206(a)(9) has been added to the filing requirements to require the applicant to submit production records for each completion location penetrated by the well bore.

Section 274.206(a)(7) (now renumbered as § 274.206(a)(8)) requires the applicant to submit production records for crude oil produced from the well for the 90-day production period on which the application is based. In those cases where no crude oil was produced from the well, the regulation is being amended to require an oath statement to that effect.

Section 274.206(a)(8) requires the producer to file "an inventory of the lease and production equipment." Several comments suggested that this filing should not be required until the producer submits a request for continued stripper well classification following the use of enhanced recovery techniques. It was further suggested that the Commission define the inventory of equipment essential for the filing.

The Commission agrees that the filing of this information is more relevant if the applicant claims an increase in production due to the use of enhanced recovery techniques. Accordingly, this filing requirement is being deleted from § 274.206(a). Section 274.206(c), pertaining to enhanced recovery techniques, is being amended to require the applicant to file a description of all processes and equipment which constitute enhanced recovery techniques. The applicant is also required to submit a list of the lease and production equipment used prior to the installation of the enhanced recovery techniques. The Commission intends such lists to include equipment which directly affects the production of natural gas, such as compression facilities, pumps, chokes, and intermittors, rather than a detailed inventory of all equipment used at the wellhead. The Commission anticipates that this information will provide a basis for the jurisdictional agency to determine whether increased production from the well has resulted from the implementation of recognized enhanced recovery techniques.

The Commission amended § 271.803(a) in Order No. 44 to specify that normal completion operations performed within two years of the initial completion do not qualify as recognized enhanced recovery techniques. In view of this, § 274.206(c) is now amended to require the well completion report to be filed when an applicant seeks a determination that increased production resulted from use of recognized enhanced recovery techniques.

Other comments were submitted regarding "production days" and certain other requirements which must be satisfied to qualify for stripper well status. These requirements are discussed in Order No. 44, and in Order No. 44–A (Docket No. RM79–73). Producers should refer to these orders for further explanation of these issues.

Section 274.207 permits jurisdictional agencies to submit an application to the Commission to establish alternative filing and notice requirements. One comment suggested that this section be amended to allow for a special filing procedure for small producers. The Commission believes that this suggestion should not be adopted. First, we note that the NGPA does not exempt small producers from applying for jurisdictional agency determinations for eligibility. The filing requirements imposed by this subpart are intended to provide the jurisdictional agency with the minimum information which is needed for the jurisdictional agency to make a reliable determination of a well's eligibility for certain categories and to provide the Commission with sufficient information to determine whether the jurisdictional agency's determination of eligibility meets the substantial evidence test of section 503 of the NGPA. This information is necessary regardless of a producer's production capability. Accordingly, no special filing procedure is being established for small producers. However, if a jurisdictional agency believes that small producers with natural gas wells within its jurisdictional region are capable of submitting the necessary information in some abbreviated fashion, it may submit an application to the Commission for such filing and notice requirements under § 274.207.

Another comment suggested that the oath statements in §§ 274.202 through 274.206 be amended to allow the applicant to file a one-time blanket affidavit with the Commission in lieu of the oath statement which must accompany each application. This suggestion is not being adopted. The Commission believes that the statement under oath is necessary for each application because it indicates that the applicant has carefully considered the application and all information contained therein.

The oath statements in §§ 274.202 through 274.206 require the applicant to state that he has no knowledge of any other information not described in the application which is inconsistent with his conclusion. One comment suggested that this be amended to require the applicant to submit all information relevant to the determination, not only information favorable to the applicant's conclusion.

The Commission believes that the regulations already require submission of all relevant information. The Commission intends this part of the oath statement to require the applicant to present not only all evidence which supports the applicant's conclusion, but also all relevant evidence which does not support his conclusion. The regulations require the applicant to submit a statement under oath that he has no knowledge of any other information not described in the application which is inconsistent with his conclusion. An important purpose of this oath statement is to insure that the applicant has searched and reported to the jurisdictional agency all information which is reasonably available and which does not support his conclusion.

Sections 274.202, 274.203, and 274.206 require the applicant to state under oath that he has searched or caused to be searched all records relevant to the determination of eligibility which are reasonably available. One comment questioned whether this search was limited to company records, state production records, or both. Other comments stated that the search should be limited to the producer's records since state records are usually not helpful and are not in good condition, or that the search should be limited to records which the producer believes might contain information relevant to the determination.

The Commission intends that all records, including company records and state records, should be searched for information which is reasonably related to the determination of eligibility. This search is needed to assure that the application for determination of eligibility is accurate and complete and that all information which is both favorable and unfavorable to the applicant is submitted to the jurisdictional agency and is available to the Commission upon review of the jurisdictional agency determination.

One comment was submitted which suggested that Form 121 be amended to provide the FERC rate schedule designation, if applicable. This suggestion will not be adopted. The rate schedule number has no bearing on a determination for eligibility. Form 121 contains the contract date which should assist interested persons in locating the rate schedule.

Form 121, item No. 6, requires the applicant to report the estimated annual production from the well for which a determination of eligibility is sought. One comment suggested eliminating this information. The Commission believes that this information should be reported because it assists purchasers and third parties in determining which applications should be protested.

III. Public Procedures and Effective Date

The regulations in Part 274 were originally proposed for comment in November of 1978 and issued as interim regulations on December 1, 1978 (43 FR 56448, December 1, 1978). For a period of sixty (60) days thereafter, the Commission received comments and held public hearings on the regulations. By this process the Commission complied with the provisions of section 502(b) of the NGPA. The amendments that appear in this final rule are based

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on the consideration given to the information received during the above described notice, comment, and hearing process.

Therefore, the provisions of this part shall be effective thirty (30) days after issuance.

(Natural Gas Policy Act of 1978, (15 U.S.C. 3301 *et seq.*,) Department of Energy Organization Act, (42 U.S.C. 7101 *et seq*); E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Subpart B of Part 274, Chapter I, of Title 18, Code of Federal Regulations, is amended as set forth below, effective 30 days from the date of issuance. These rules, as amended, are final regulations with the exception of paragraphs (b), (c) and (d) of § 274.205 which will remain as interim rules until further notice.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Subpart B of Part 274 is revised to read as follows:

Subpart B—Requirements for Filings With Jurisdictional Agencies

Sec.

274.201 General requirements.
274.202 New natural gas.
274.203 New reservoirs on old OCS leases.
274.204 New onshore production wells.
274.205 High-cost natural gas.
274.206 Stripper well natural gas.
274.207 Alternative filing and notice requirements.

Authority: Natural Gas Policy Act of 1978 (15 U.S.C. 3301 et. seq.); Department of Energy Organization Act (42 U.S.C. 7101 et. seq.); E.O. 12009, 42 FR 46267.

Subpart B—Requirements for Filings With Jurisdictional Agencies

§ 274.201 General requirements.

(a) *Filing requirements applicable if alternative requirements are not adopted.* The provisions of §§ 274.201 through 274.206 of this subpart apply to the extent not superseded by alternative filing requirements which have taken effect under §§ 274.207 and 274.208.

(b) *Who may file.* An application to which this subpart applies may be filed with the jurisdictional agency and signed by any person the jurisdictional agency designates as eligible to make filings with respect to the well for which the application is made.

(c) *Additional information.* The documents required by this subpart are the minimum required in support of a request for a determination. The jurisdictional agency may require additional support as it deems appropriate, and may more specifically identify the documents indicated as the minimum required.

(d) *Notice to purchasers.* Where an application for a determination is sought for natural gas for which the applicant has an identified purchaser, the application shall include a statement that the applicant has delivered or mailed a copy of the completed FERC Form No. 121 to the purchaser.

§ 274.202 New natural gas.

(a) *Applications for determination.* A person seeking a determination for purposes of Subpart B of Part 271 that production from a well qualifies as new natural gas shall file an application with the jurisdictional agency for a determination that:

(1) Such production is from a new OCS lease, in accordance with paragraph (b) of this section;

(2) Such production is from a new onshore well, in accordance with paragraph (c) of this section; or

(3) Such production is from a new onshore reservoir, in accordance with paragraph (d) of this section.

(b) *New OCS lease.* For purposes of demonstrating that natural gas is, or is to be, produced from a new OCS lease, the applicant shall file:

(1) FERC Form No. 121;

(2) A statement by the applicant under oath that the natural gas is, or is to be, produced from a new OCS lease which is a lease of submerged acreage entered into with the Secretary of the Interior on or after April 20, 1977; and

(3) A copy of the OCS lease or such other identification of the lease as the jurisdictional agency may permit.

(c) *New onshore wells.* An application for a determination that a well is a new onshore well may be filed under subparagraph (1) or (2) of this paragraph, or both.

(1) *2.5 mile test.* For purposes of demonstrating that a new onshore well is not within 2.5 miles of any marker well, the applicant shall file:

(i) FERC Form No. 121; [1]

(ii) The well completion report;

(iii) The directional drilling survey, if the jurisdictional agency requires such a survey to be conducted;

(iv) A location plat which locates and identifies the well for which the determination is sought and any other well which produced natural gas after January 1, 1970, and before April 20, 1977, and is within the 2.5 mile radius drawn from the well for which a determination is sought;

(v) A statement by the applicant under oath, that on the basis of the results of the search and examination required by § 274.202(e), he has concluded that to the best of his information, knowledge and belief, there is no marker well within 2.5 miles of the well for which he seeks a determination;

(vi) The oath statements set forth in § 274.202(e); and

(vii) If the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files.

(2) *1,000 feet deeper test.* For purposes of demonstrating that the completion location of a new onshore well is at least 1,000 feet deeper than the deepest completion location of each marker well within a 2.5 mile radius of the well for which a determination is sought, the applicant shall file:

(i) FERC Form No. 121;

(ii) The well completion report;

(iii) A location plat which locates and identifies the well for which the determination is sought and all wells which produced natural gas after January 1, 1970, and before April 20, 1977, within the 2.5 mile radius drawn from the well for which a determination is sought; including specific identification of all marker wells within the 2.5 mile radius drawn from the well for which a determination is sought;

(iv) A list of the deepest completion locations for all marker wells identified on the location plat;

(v) The directional drilling survey, if the jurisdictional agency requires such survey to be conducted;

(vi) A statement by the applicant, under oath, that on the basis of the results of the search and examination required by § 274.202(e), he has concluded that to the best of his information, knowledge and belief, there is no marker well within 2.5 miles of the well for which he seeks a determination which has a completion location less than 1,000 feet above the completion location of the new well; and

(vii) The oath statements set forth in § 274.202(e); and

(viii) If the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files.

(d) *New onshore reservoir.* (1) For purposes of demonstrating that production is from a new onshore reservoir, the applicant shall file:

(i) FERC Form No. 121;[1]

(ii) Geological information sufficient to support a determination that the reservoir is a new onshore reservoir.

(A) Such information shall include to the extent reasonably available to the applicant at the time the application is filed:

(1) Well logs;

[1] Filed as part of the original document.

[1] Filed as part of the original document.

(2) Bottom hole or surface pressure surveys;

(3) Well potential tests;

(4) Formation structure maps;

(5) Subsurface cross-section charts; and

(6) Gas analyses;

(B) If any of the information specified in paragraph (d)(1)(ii)(A)*(1)* through *(6)* of this section has already been filed in a previous application for determination with the same jurisdictional agency, and such application and determination of eligibility for such application are on file with the Commission, the applicant may submit, in lieu of such information, a statement identifying such information and the application by jurisdictional agency docket number, FERC docket or control number, and the API well number.

(iii) The well completion report;

(iv) The directional drilling survey if the jurisdictional agency requires such a survey to be conducted; and

(v) A statement by the applicant under oath that on the basis of the results of the search and examination required in § 272.202(e), he has concluded that to the best of his information, knowledge and belief, the natural gas to be produced and for which he seeks a determination is from a new onshore reservoir;

(vi) The oath statement set forth in paragraphs (d)(2) and (e) of this section; and

(vii) If the jurisdictional agency so requires, certified copies of records relied on by the applicant, including copies of the agency's official files.

(2) The applicant, in his statement under oath required under paragraph (e) of this section, shall also answer, to the best of his information, knowledge and belief, and on the basis of the results of his search and examination, the following questions:

(i) Was natural gas produced in commercial quantities from the reservoir prior to April 20, 1977?

(ii)(A) If the question in paragraph (d)(1)(i) of this section is answered in the negative, was the reservoir penetrated before April 20, 1977, by an old well from which natural gas or crude oil was produced in commercial quantities from any reservoir?

(B) If the question in paragraph (d)(1)(ii)(A) of this section is answered in the affirmative, could natural gas have been produced in commercial quantities from the reservoir before April 20, 1977, from any old well described in paragraph (d)(1)(ii)(A) of this section?

(C) If the question in paragraph (d)(1)(ii)(B) of this section is answered in the negative, were any sales and deliveries of natural gas made from any other reservoir through any old well described in paragraph (d)(1)(ii)(A) of this section prior to April 20, 1977, and were any sales and deliveries of natural gas made from the subject reservoir through such old well on or after April 20, 1977, and before November 9, 1978?

(D) If the applicant is unable to answer both questions in paragraph (d)(1)(ii)(C) of this section in the negative, he must demonstrate that the Behind-the-Pipe Exclusion in section 102(c)(1)(C)(ii) of the NGPA does not apply by submitting the following:

(1) Proof that a final eligibility determination has been made that the subject reservoir is a new onshore reservoir by identifying such determination by the jurisdictional agency and FERC Docket number and the API well numbers, or,

(2) Evidence clearly demonstrating that the sale of production from the subject reservoir (net of royalty) through any well described in paragraph (d)(2)(ii)(A) of this section at the market price reasonably available as of April 20, 1977 could not have generated revenues sufficient to equal or exceed the sum of *(i)* 1.6 times the minimum incremental costs properly allocable to such production of installing cost-efficient facilities not in existence as of April 20, 1977, reasonably required to market such production, plus *(ii)* the minimum incremental expenses properly allocable to such production reasonably required to operate such facilities. All costs, expenses and revenues shall be determined as of April 20, 1977. The applicant shall also provide an explanation of the basis of all estimates accompanied by substantiating workpapers and such other evidence necessary to substantiate fully the conclusion that the Behind-the-Pipe Exclusion does not apply.

(iii)(A) If the natural gas is to be produced through an old well, were suitable facilities for the production and delivery to a pipeline of such natural gas in existence on April 20, 1977?

(B) If the question in paragraph (d)(2)(iii)(A) of this section is answered in the affirmative, were such suitable facilities installed to carry out sales and deliveries of natural gas under section 6 of the Emergency Natural Gas Act of 1977 or under the emergency sale authority pursuant to Opinion 699–B issued by the Federal Power Commission?

(e) *Oath statements by the applicant.* With each application for determination submitted under this section, the applicant shall submit a statement under oath:

(1) That the applicant has made, or has caused to be made pursuant to his instructions, a diligent search of all records (including but not limited to production, State severance tax, and royalty payment records and records of jurisdictional agency determinations) which are reasonably available and contain information relevant to the determination of eligibility;

(2) Describing the search made, the records reviewed, the location of such records, and a description of any records which the applicant believes may contain information relevant to the determination but which he has determined are not reasonably available to him;

(3) That the applicant has no knowledge of any other information not described in the application which is inconsistent with his conclusion that the well qualifies for the well category determination sought.

§ 274.203 New reservoirs on old OCS leases.

A person seeking a determination for purposes of Subpart B of Part 271 that natural gas is produced from a new reservoir on an old OCS lease (as defined in § 271.203(b)), shall file an application with the jurisdictional agency which contains the following items:

(a) FERC Form No. 121;

(b) The date the reservoir was penetrated;

(c) Geological information sufficient to support a determination that the reservoir is a new reservoir on an old OCS lease.

(1) Such information shall include to the extent reasonably available to the applicant at the time of the determination:

(i) Well logs;

(ii) Bottom hole or surface pressure surveys;

(iii) Well potential tests;

(iv) Formation structure maps;

(v) Subsurface cross-section charts;

(vi) Gas analyses.

(2) If any of the information specified in subparagraph (1) of this paragraph has already been filed in a previous application for determination with the same jurisdictional agency, and such application and a determination of eligibility for such application are on file with the Commission, the applicant may submit, in lieu of such information, a statement identifying such information and the application by jurisdictional agency docket number, FERC docket or control number, and the API well number.

(d) The well completion report;

(e) If the date of penetration of the reservoir is prior to July 27, 1976:

(1) Then to the extent such tests were performed on or before July 27, 1976,

(i) The results of any production test meeting the requirements of OCS Order No. 4 with respect to such reservoir; and

(ii) Any production capability evidence meeting the requirements of OCS Order No. 4 with respect to such reservoir; and

(iii) Any induction-electric logs, sidewall cores and core analyses, or wire line formation tests with respect to such reservoir; or

(2) A statement by the applicant, under oath, that no such production tests were performed and that no evidence existed on or before July 27, 1976 that the reservoir was capable of producing in paying quantities;

(f) A statement by the applicant, under oath:

(1) That the applicant has made, or has caused to be made pursuant to his instructions, a diligent search of all records (including but not limited to production and royalty payment records) which are reasonably available and contain information relevant to the determination of eligibility;

(2) Describing the search made, the records reviewed, the location of the records, and a description of any records which the applicant believes may contain information relevant to the determination but which he has determined are not reasonably available to him;

(3) That on the basis of the results of this search and examination, the applicant has concluded that to the best of his information, knowledge and belief, the natural gas for which the applicant seeks a determination is produced from an old lease on the OCS from a reservoir which was not discovered before July 27, 1978; and

(4) That he has no knowledge of any other information not described in the application which is inconsistent with his conclusion;

(g) If the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files.

§ 274.204 New, onshore production wells.

A person seeking a determination for purposes of Subpart C of Part 271 that a well is a new, onshore production well shall file an application with the jurisdictional agency which contains the following items:

(a) FERC Form No. 121;

(b) The well completion report;

(c) A location plat which locates and identifies the State law proration unit (as defined in § 271.305(a)(2)) and the well for which a determination is sought and all other wells within the State law proration unit in which the well for which a determination is sought is located;

(d) A statement by the applicant, under oath:

(1) That the surface drilling of the well for which he seeks a determination was begun on or after February 19, 1977;

(2) That the well satisfies any applicable Federal or State well spacing requirements;

(3) That, except as provided in paragraphs (f) and (g) of this section, the well is not within a State law proration unit (as defined in § 271.305(a)(2)):

(i) Which was in existence at the time the surface drilling of the well began;

(ii) Which was applicable to the reservoir from which such natural gas is produced; and

(iii) Which applied to any other well which either produced natural gas in commercial quantities or the surface drilling of which was begun before February 19, 1977, and which was thereafter capable of producing natural gas in commercial quantities;

(4) That on the basis of the documents submitted in the application, the applicant has concluded that to the best of his information, knowledge and belief, the natural gas for which the applicant seeks a determination is produced from a new, onshore production well; and

(5) That the applicant has no knowledge of any other information not described in the application which is inconsistent with his conclusion;

(e) If the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files; and

(f) If the applicant is seeking a determination with respect to a new well drilled into an existing State law proration unit pursuant to § 271.305, the applicant must file all items required in paragraphs (a) through (e) of this section, except for the portion of the oath statement described in paragraph (d)(3) of this section and demonstrate by appropriate geological evidence and engineering data that the new well is necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which cannot be effectively and efficiently drained by any existing well within the proration unit.

(g) For the purposes of paragraph (d)(3)(iii) of this section, the applicant may rely on the rebuttable presumption created in § 271.305(d) unless the applicant knew that a well in the proration unit, which was plugged and abandoned prior to January 1, 1970 and has not produced natural gas on or after that date, produced natural gas in commercial quantities or, after February 19, 1977, was capable of producing natural gas in commercial quantities.

§ 274.205 High-cost natural gas.

(a) *Deep, high-cost natural gas.* A person seeking a determination for purposes of Subpart G of Part 271 that natural gas is produced from a well which is a deep, high-cost well shall file an application with the jurisdictional agency which contains the following items:

(1) FERC Form No. 121;

(2) All well completion reports for the well for which a determination is sought;

(3) The log heading together with the relevant portion of the well log or well servicing company reports or such other information which will corroborate the depth of the completion location reported in the well completion report;

(4) Directional drilling surveys if available;

(5) A statement by the applicant, under oath, that the surface drilling of the well for which the applicant seeks a determination began on or after February 19, 1977, and that the well completion location is below a true vertical depth of 15,000 feet; and that the applicant has no knowledge of any information not described in the application which is inconsistent with his conclusions; and

(6) If the jurisdictional agency so requires, certified copies of records relied on by the applicant, including copies of the agency's official files.

(b) *Natural gas produced from geopressured brine.* A person seeking a determination for purposes of Part 272 that natural gas is produced from geopressured brine shall file an application with the jurisdictional agency which contains the following items:

(1) FERC Form No. 121;

(2) The well completion report;

(3) A bottom-hole pressure test report and other information establishing the initial reservoir pressure gradient;

(4) Evidence to establish that, before production, the gas from the well was in solution in a brine aquifer with at least 10,000 parts of Sodium Chloride per million parts of water; and

(5) If the jurisdictional agency so requires, certified copies of records relied upon by the applicant including copies of the agency's official files.

(c) *Occluded natural gas produced from coal seams.* A person seeking a determination for purposes of Part 272 that natural gas is occluded natural gas produced from coal seams shall file an application with the jurisdictional agency which contains the following items:

(1) FERC Form No. 121;

(2) The well completion report;

(3) A gamma ray log;

(4) Evidence to establish that the natural gas was produced from a coal seam; and

(5) If the jurisdictional agency so requires, certified copies of records relied upon by the applicant including copies of the agency's official files.

(d) *Natural gas produced from Devonian shale.* A person seeking a determination for purposes of Part 272 that natural gas is produced from Devonian shale shall file an application with the jurisdictional agency which contains the following items:

(1) FERC Form No. 121;

(2) The well completion report;

(3) A gamma ray log;

(4) A reference to a standard stratigraphic chart or text establishing that the producing interval is a Devonian shale; and

(5) If the jurisdictional agency so requires, certified copies of the agency's official files.

§ 274.206 Stripper well natural gas.

A person seeking a determination for purposes of Subpart H of Part 271 that a well either qualifies or continues to qualify as a stripper well shall file an application with the jurisdictional agency which contains the following items:

(a) *Application for determination.* For purposes of initially qualifying a stripper well, the applicant shall file;

(1) FERC Form No. 121;

(2) Production records, if available, and if not, tax records, if available, or verified copies of billing statements upon which the average production for the 90-day production period is based; or, if so permitted by the jurisdictional agency's filing requirements, summaries of such records or billing statements;

(3) A copy of the results of any tests which establish a maximum efficient rate of flow under § 271.807(a);

(4) Where the maximum efficient rate of flow for the well has not been established under § 271.807(a):

(i) Production records, if available, and if not, tax records, if available, or verified copies of billing statements for the 12 months ending on the last day of the 90-day production period upon which the application is based, or if so permitted by the jurisdictional agency's filing requirements, summaries of such records or billing statements; or

(ii) A copy of the results of any tests which measure the production capability of the well, or any other evidence upon which the jurisdictional agency could establish maximum efficient rate of flow.

(5) Where the determination is deferred pursuant to § 271.807(b)(1)(ii) or (b)(2), within 90 days after the last day of the deferred period, production data for the deferred period, including the 90-day production period upon which the application is based.

(6) The number of days natural gas was produced during the 90-day production period described in § 271.803(c)(2).

(7) The number of days natural gas was not produced during the 90-day production period described in § 271.803(c)(2), and

(i) A description of the state law or conservation practice, as set forth in § 271.803(d)(2), pursuant to which the well did not produce on any such day or days, or

(ii) An explanation of any other reason the well did not produce on any such day or days.

(8) The production records for crude oil produced from the well for the 90-day production period upon which the application is based, or if no crude oil was produced from the well, a statement under oath to that effect.

(9) If the well is a multiple completion well, production records for each completion location penetrated by the well bore;

(10) A statement under oath, (i) that the applicant has made, or has caused to be made pursuant to his instructions, a diligent search of all records which are reasonably available and contain information relevant to the determination;

(ii) Describing the search made, the records reviewed, and the results of this search and examination upon which he has concluded that to the best of his information, knowledge and belief, the well qualifies as a stripper well;

(iii) That the production records, tax records, billing statements, or summaries of such records or billing statements relied upon in the application are correct; and

(iv) A statement that the applicant has no knowledge of any other information which is inconsistent with his conclusion that the well qualifies as a stripper well;

(11) If the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files.

(b) *Notice by an operator or purchaser of an increase in production.* For purpose of the notices required under § 271.805, the person filing shall include:

(1) The names and addresses of the operator and purchaser(s) with a designation of who is filing the notice;

(2) Identification of the subject well and accurate record reference to the original determination qualifying the well as a stripper well;

(3) The monthly production reports, tax records or billing statements upon which the notice is based for the period of production in question or, if so permitted by the jurisdictional agency's filing requirements, summaries of such records or billing statements;

(4) A statement of the average production per production day for the period in question;

(5) A statement that all of the information contained in the notice is true to the best of his information, knowledge and belief, and that the notice has been served on the appropriate entities specified in § 271.805(a)(3); and

(6) If the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files.

(c) *Determination of increased production resulting from recognized enhanced recovery techniques.* For purposes of a determination under § 271.805(e) that increased production resulted from the use of recognized enhanced recovery techniques, the applicant shall file:

(1) The names and addresses of the applicant and purchaser(s);

(2) An identification of the well and accurate reference to the original determination qualifying the well as a stripper well and the notice, if any, filed by a purchaser pursuant to § 271.805;

(3) The well completion report;

(4) A description of all processes used and equipment installed together with all dates of use or installation which constitute enhanced recovery techniques;

(5) An inventory of the lease and production equipment used such as compression facilities, pumps, chokes and intermittors for the well for the past 24 months or, if less, the period the well has been in production prior to the institution of recovery techniques;

(6) A statement, under oath, that to the best of his information, knowledge and belief, the information supplied and the conclusions drawn are true, that the operator has no knowledge of any information not described in the application which is inconsistent with any of his conclusions; and that the petition for recognized enhanced recovery techniques has been served on the jurisdictional agency, the Commission, and any purchaser; and

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(7) If the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files.

(d) *Designation that a well is seasonally affected.* For purposes of a determination under § 271.804(d) that a well is seasonally affected, the applicant shall file:

(1) The names and addresses of the applicant and purchaser(s);

(2) An identification of the well and accurate record reference, if applicable, to the orginal determination qualifying the well as a stripper well and any notice filed by a purchaser pursuant to § 271.805;

(3) Production records, tax records or billing statements for a period of 24 months, including the 90-day production period which is the subject of the notice by the operator or the purchaser or, if so permitted by the jurisdictional agency's requirements, summaries of such records or billing statements;

(4) A description of the nature of the seasonal fluctuations as inferred from the date supplied;

(5) A statement, under oath, that the production records, tax records or billing statements, or summaries of such records or billing statements, if so permitted by the jurisdictional agency's filing requirements, relied upon in the application for the designation are correct; that the operator has no knowledge of any information not described in the application which is inconsistent with any of his conclusions; and that the petition for seasonally affected designation has been served on the jurisdictional agency, the Commission, and any purchaser; and

(6) If the jurisdictional agency so requires, certified copies of the records relied on by the applicant including copies of the agency's official files.

§ 274.207 Alternative filing and notice requirements.

(a) *General.* Upon written application by a jurisdictional agency pursuant to this section, the Commission may approve:

(1) Filing requirements which differ from those in §§ 274.201 through 274.206; and

(2) Notice requirements which differ from those in § 274.104;

(b) *Contents of applications.* Applications for approval of alternative filing or notice requirements shall include:

(1) Each requirement of this part for which an alternative is proposed;

(2) A description of the specific requirements which will replace the requirements in subparagraph (1) of this paragraph, including copies of any forms to be used by the agency;

(3) The reasons for requesting approval of each alternative requirement, which may include the fact that such information is not available; and

(4) The basis for the belief that filings under the alternative filing requirements will provide substantial evidence on which the jurisdictional agency may base a determination or that notice under the alternative notice requirements will provide the Commission with an adequate basis upon which to review the determination.

(c) *Commission review of applications.* Upon receipt of an application pursuant to this section, the Commission shall give public notice of such application and after review of any written comments, may issue an order approving the alternative requirements. The Commission will publish the order in the **Federal Register.**

(d) *Effective date of alternative filing and notice requirements.* (1) With respect to applications received by a jurisdictional agency after the effective date of approval of alternative filing requirements, such alternate requirements as are specified and approved in § 274.208 shall apply in lieu of the provisions of §§ 274.201 through 274.206.

(2) With respect to determinations made by a jurisdictional agency after the effective date of approved alternative notice requirements, the alternative notice requirements as are specified and approved in section 274.208 shall apply in lieu of the provisions of § 274.104 of this subpart.

(e) *Termination of alternative filing and notice requirements.* (1) A jurisdictional agency may, upon notice to the Commission, discontinue the use of any alternative filing or notice requirements approved under this subpart.

(2) The Commission may, after a public comment period of no less than 30 days, give notice to a jurisdictional agency that the Commission has terminated its approval of alternative filing or notice requirements, if it finds that the alternative filing or notice requirements:

(i) Are not sufficient to carry out the purpose of the NGPA; or

(ii) After notice and opportunity for hearing, the jurisdictional agency has not complied, or required compliance, with the alternative provisions.

(3) Applications for determinations received by jurisdictional agencies after notice of termination of the applicability of alternative filing requirements pursuant to this section and § 274.208 shall be subject to the filing requirements set forth in §§ 274.201 through 274.206.

(4) Notice of determinations made by jurisdictional agencies after notice of termination of the applicability of alternative notice requirements pursuant to this section and § 274.208 shall be subject to the notice requirements set forth in § 274.104.

2. FERC Form No. 121. The information to be supplied under Subpart B of Part 274 is to be submitted on FERC Form 121, an example of which appears as an appendix to this Order.[1]

[FR Doc. 80-1641 Filed 1-18-80; 8:45 am]

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18 CFR Part 274

[Docket No. RM79-3; Order 66]

Determinations by Jurisdictional Agencies; New Mexico Application for Alternative Filing Requirements

Issued: January 4, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: This rule adds § 274.208(a) to the Federal Energy Regulatory Commission's regulations implementing the Natural Gas Policy Act of 1978. The new section provides alternative filing requirements for certain well determination applications to the New Mexico Oil Conservation Division.

EFFECTIVE DATE: January 4, 1980.

FOR FURTHER INFORMATION CONTACT: Mark Magnuson, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8511.

Order Issuing Alternative Filing Requirements

On September 10, 1979, the New Mexico Oil Conservation Division, Energy and Minerals Department (New Mexico) filed an application with the Federal Energy Regulatory Commission (Commission) for approval of alternative requirements pursuant to § 274.207 of the Commission's regulations. The proposed alternative filing requirements would apply to determinations that certain wells drilled in existing proration units in New Mexico are new, onshore production wells. Notice of the New Mexico application was issued on October 10, 1979.[2] The comment period expired on October 31, 1979, without any comments being submitted by the public.

[1] Filed as part of the original document.

[2] 44 FR 59803, October 16, 1979.

Section 103 of the Natural Gas Policy Act of 1978 (NGPA) establishes ceiling prices for new, onshore production wells. Applicants seeking a section 103 determination of eligibility are required to file with the jurisdictional agency the information specified in § 274.204 of the Commission's interim regulations, unless the Commission has approved alternative filing requirements pursuant to § 274.207. In its application, New Mexico requests that the filing requirements of § 274.204(d), (e) and (f) be modified for applications seeking a section 103 determination for infill wells [3] drilled in accordance with New Mexico Order Nos. R-1670-T (regarding the Blanco Mazaverde pool) and R-1670-V (regarding the Basin-Dakota pool). New Mexico states that these two orders provide for the optional drilling of an additional well on each proration unit in the Blanco-Mesaverde and Basin-Dakota pools and constitute a finding by New Mexico that the proration units within these two pools cannot be effectively and efficiently drained by the existing wells.[3] Accordingly, New Mexico requests alternative filing requirements for applicants seeking section 103 determinations for infill wells within the subject pools because New Mexico has already made the explicit finding required by § 271.305 of the Commission's regulations that a second well in each existing proration unit in the subject pools is necessary to effectively and efficiently drain the portion of the reservoir covered by that proration unit.

The Commission concludes based upon the facts set forth in the New Mexico application that alternative filing requirements are appropriate for wells drilled in accordance with the above-identified orders. Therefore, Part 274, Subpart B is amended by adding § 274.208(a) to provide separate filing requirements for applications requesting section 103 determinations of infill wells in the Blanco-Mesaverde and Basin-Dakota pools which are drilled in accordance with New Mexico Order Nos. R-1670-T and R-1670-V. In approving the New Mexico application, the Commission finds that an infill drilling program is necessary to effectively and efficiently drain the proration units in the Blanco-Mesaverde and Basin-Dakota pools in New Mexico and that the determinations made by New Mexico in this respect in Order Nos. R-1670-T and R-1670-V are supported by substantial evidence. This finding is based on Order Nos. R-1670-T and R-1670-V, and the data submitted with the New Mexico application.

The primary difference between the filing requirements of § 274.204 regarding new, onshore production wells, and the alternative plan set forth in the New Mexico application involves the requirements of § 274.204(f). Subsection (f) requires, in part, that the applicant, who is seeking a section 103 determination for a new well which is drilled into an existing proration unit, submit "appropriate geological evidence and engineering data [to demonstrate] that the new well is necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which cannot be effectively and efficiently drained by any existing well within the proration unit." The New Mexico alternative plan proposes that the applicant satisfy the above requirement by merely specifying the appropriate New Mexico order authorizing an infill well drilling program. New Mexico asserts that the proposed alternative filing requirements will provide substantial evidence on which a determination of a new, onshore production well can by made. The New Mexico orders verify that the pertinent geological and engineering data showing the necessity for second wells in existing proration units within the subject pools has already been accumulated under oath at hearing before New Mexico.[4]

The Commission agrees that it is unnecessary for each applicant to present, on a well-by-well basis, the data required by subsection (f). Because New Mexico has already collected the pertinent geological and engineering data, issued effective and efficient drainage findings in Order Nos. R-1670-T and R-1670-V with regard to this data, and filed this data with the Commission, further documentation on a well-by-well basis by the applicant is unnecessary. Accordingly, the Commission concludes that an applicant requesting a section 103 determination for well(s) subject to those orders should reference the appropriate New Mexico order rather than submit geological and engineering data already on file with New Mexico and the Commission.

In view of the above discussion, the Commission further concludes that to eliminate unnecessary duplication, the requirement of § 271.305(b) that such data be included in the notice of determination is deemed satisfied as Order Nos. R-1670-T and R-1670-V constitute the explicit effective and efficient drainage finding required by § 271.305(b). The Commission also concludes the requirement of § 271.305(c) that the jurisdictional agency notify the Commission of its finding is deemed satisfied under the alternative plan approved by this order.

New Mexico also requested several other changes in the requirements of § 274.204. The New Mexico alternative plan proposes to modify the oath statement required by § 274.204(d) in three respects. First, the proposed plan would omit the statement required by § 274.204(d)(2) that "the well satisfies any applicable federal or state well spacing requirements." This portion of the oath statement tracks the language in section 103(c)(2) of the NGPA.[5] Because the controlling statute explicitly requires that wells must satisfy applicable well spacing requirements, the Commission believes that this oath statement is necessary and should be retained in the alternative filing requirements approved by today's order.

The New Mexico alternative plan also proposes to modify that portion of the oath statement contained in § 274.204(d)(3). Subsection (d)(3) requires the applicant to submit an oath statement that the subject well is *not* within a proration unit:

(i) Which was in existence at the time the surface drilling of the well began;

(ii) Which was applicable to the reservoir from which such natural gas is produced; and

[3] An infill well is a well which, for geological reasons, is necessary to drain a portion of a reservoir which is not being effectively and efficiently drained by any existing wells in the reservoir.

[3] In Order No. R-1670-T, New Mexico found, inter alia:

(12) That the producing formation of the Blanco Mesaverde Pool is comprised of various overlapping, interconnecting, and lenticular sands of relatively low permeability, many of which are not being efficiently drained by existing wells in the pool but which could be more efficiently and economically drained and developed by the drilling of additional wells pursuant to the rule changes proposed by the applicant.

In Order No. R-1670-V, New Mexico found, inter alia:

(13) That the producing formation of the Basin-Dakota Gas Pool is comprised of various bands of low permeability and porosity which are not being efficiently and effectively drained by existing wells in the various proration units in the pool, and which can be more efficiently and effectively drained by the drilling of additional wells pursuant to the rule changes proposed by the applicant.

(14) That the infill drilling of a second well on an established proration unit in the Basin-Dakota Gas Pool is necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which cannot be effectively and efficiently drained by any existing wells within the proration unit.

[4] Certified copies of records relied on by New Mexico in adopting its poolwide infill well orders were included with its application for alternative filing requirements.

[5] The NGPA defines a section 103 new, onshore production well, in part, as a new well "which satisfies applicable Federal or State well-spacing requirements, if any."

(iii) Which applied to any other well which either produced natural gas in commercial quantities or the surface drilling of which was begun before February 19, 1977, and was thereafter capable of producing natural gas in commercial quantities.

The New Mexico plan proposes to require the applicant to submit an oath statement that the new well *is* (rather than is *not*) in a proration unit which satisfies the requirements of subsection (d)(3).

Under § 274.204(f) the applicant is not required to file the oath statement under § 274.204(d)(3) if the applicant is seeking a determination under the Commission's special rule in § 271.305 respecting a new well drilled in an existing proration unit. All wells for which applicants will seek section 103 determinations pursuant to this alternative plan will be subject to § 271.305 and § 274.204(f) as second wells within existing proration units covered by two New Mexico Orders Nos. R–1670–T and R–1670–V. These wells may qualify as new, onshore production wells *only* under the special rule of § 271.305. Since § 274.204(f) excuses applicants subject to the special rule of § 271.305 from submitting the oath statement required by § 274.204(d)(3), the Commission concludes that the oath statement proposed in the New Mexico alternative plan is neither necessary nor useful. Accordingly, this part of the oath statement is not included in the alternative filing requirements approved by this order.

Finally, the New Mexico alternative plan proposes to modify the oath statement required by § 274.204(d)(4). This section requires the applicant to state under oath that *"on the basis of the documents submitted in the application,* the applicant has concluded that to the best of his information, knowledge and belief, the natural gas for which he seeks a determination is produced from a new, onshore production well" (emphasis added). Under the alternative plan approved by this order, the applicant will not submit the record for Order Nos. R–1670–T and R–1670–V with the application. Accordingly, the oath statement required by § 274.204(d)(4) is modified for the purposes of the New Mexico alternative plan approved by this order to omit the requirement that the applicant's conclusion be based on "documents submitted in the application."

The New Mexico alternative plan also proposes to delete the requirement of § 274.204(e) that the applicant submit, "if the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files." Since the material required by § 274.204(e) must be submitted only "if the jurisdictional agency so requires," and since the Commission believes that the jurisdictional agency should be permitted to exercise its discretion in requiring certified copies, this provision is retained in the alternative plan approved by this order.

The alternative plan approved by this order also modifies the requirements of § 274.204(c) by requiring the applicant to locate and identify the subject proration unit.[6] Since the applicant must submit a location plat which locates and identifies the subject well and all other wells in the proration unit, the Commission believes it is appropriate that the location plat also locate and identify the subject proration unit.

Public Procedures and Effective Date

A notice regarding the New Mexico application was issued on October 10, 1979. The Commission stated that comments on the proposed plan would be accepted if received on or before October 31, 1979. No comments were received. In view of the above discussion, the Commission approves the New Mexico alternative plan set forth in its application with modifications noted above. The Commission believes that good cause exists to make the alternative plan effective immediately for all determinations which have not yet become final under § 275.202 as of the day before the date of issuance of this order.

(Natural Gas Act, as amended, 15 U.S.C. 717 *et seq.;* Department of Energy Organization Act, 42 U.S.C. 7107, *et seq.;* Exec. Order No. 12009, 42 FR 46267; Natural Gas Policy Act of 1978, 15 U.S.C. 3301, *et seq.)*

In consideration of the foregoing, Part 274 of Subchapter H, Chapter I, title 18, Code of Federal Regulations is amended as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 274—DETERMINATIONS BY JURISDICTIONAL AGENCIES

1. Part 274 is amended in the table of contents under Subpart B by adding after § 274.207 the following:

274.208 Alternative filing and notice requirements accepted by the Commission.

2. Part 274 is further amended by adding, after § 274.207, § 274.208 to read as follows:

§ 274.208 Alternative filing and notice requirements accepted by the Commission.

(a) New Mexico Oil Conservation Division, Energy and Minerals Department.

(1) A person seeking a determination for purposes of Subpart C of Part 271 that an infill well, drilled in accordance with New Mexico Oil Conservation Division Order No. R–1670–T in the Blanco Mesaverde pool or Order No. R–1670–V in the Basin-Dakota pool, is a new, onshore production well, shall file with the New Mexico jurisdictional agency an application which contains, in lieu of the information specified in § 274.204, the following items:

(i) FERC Form No. 121;

(ii) The well completion report;

(iii) A location plat which locates and identifies the State law proration unit (as defined in § 271.305(a)(2)) and the well for which a determination is sought and all other wells within the State law proration unit in which the well for which a determination is sought is located;

(iv) A statement by the applicant, under oath:

(A) That the surface drilling of the well for which he seeks a determination was begun on or after February 19, 1977;

(B) That the well satisfies any applicable Federal or State well spacing requirements;

(C) That the applicant has concluded that to the best of his information, knowledge and belief, the natural gas for which he seeks a determination is produced from a new, onshore production well; and

(D) That the applicant has no knowledge of any other information not described in the application which is inconsistent with his conclusion;

(v) If the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files; and

(vi) A statement referencing New Mexico Oil Conservation Division Order No. R–1670–T if the well is located in the Blanco-Mesaverde pool or New Mexico Oil Conservation Division Order No. R–1670–V if the well is located in the Basin-Dakota pool.

(2) With respect to wells to which this section applies, receipt by the Commission of a notice of determination pursuant to § 274.104 shall be deemed to satisfy:

[6] Section 274.204(c) requires an applicant to submit "a location plat which locates and identifies the well for which a determination is sought and all other wells within the proration unit in which the well for which a determination is sought is located."

(i) The requirement of notice to the Commission under § 271.305(c); and

(ii) The requirement of § 271.305(b)(1) that appropriate geological and engineering data be included in the notice of determination.

[FR Doc. 80–1840 Filed 1–18–80; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 11, 24, 127, 132, 141, 142, 143, 144, 151, 158, 159, 172 and 173

[T.D. 80–26]

Customs Regulations Relating to the Entry of Merchandise, Liquidation of Entries, Warehousing Periods, and Marking of Bulk Containers of Alcoholic Beverages, Amended; Correction

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule—correction

SUMMARY: This document corrects several errors in T.D. 79–221, which amended the Customs Regulations to implement various aspects of Pub. L. 95–410, the "Customs Procedural Reform and Simplification Act of 1978", relating to the entry of imported merchandise, the liquidation of entries, warehousing periods, and the marking of bulk containers of alcoholic beverages.

EFFECTIVE DATE: January 21, 1980.

FOR FURTHER INFORMATION CONTACT: Benjamin H. Mahoney, Entry Procedures and Penalties Division, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202–566–5778).

SUPPLEMENTARY INFORMATION:

Background

Pub. L. 95–410, the "Customs Procedural Reform and Simplification Act of 1978", approved October 3, 1978, made singificant changes in the Customs laws relating to the entry of imported merchandise, the liquidation of entries, warehousing periods, and the marking of bulk containers of alcoholic beverages. Final amendments to the Customs Regulations implementing these changes were published as T.D. 79–221 in the **Federal Register** on August 9, 1979 (44 FR 46794).

This document corrects several errors in T.D. 79–221 as discussed below.

Inapplicability of Notice and Delayed Effective Date Procedures

Because this document is designed merely to correct errors in a previously published document amending the Customs Regulations, good cause is found for dispensing with the notice and delayed effective date provisions of 5 U.S.C. 552.

Inapplicability of Executive Order 12044

This document is not subject to the provisions of the Treasury Department directive (43 FR 52120) implementing Executive Order 12044, "Improving Government Regulations", because the document to which these corrections relate was in process before May 22, 1978, the effective date of the directive.

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations and Research Division, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Corrections

In FR Doc. 79–24494 appearing as T.D. 79–221 in Volume 44 of the **Federal Register** at page 46794 in the issue of Thursday, August 9, 1979:

§ 10.31 [Corrected]

1. On page 46813, in the first column, the first cross-reference in the second sentence of § 10.31(a)(1) should read "10.36", rather than "10.35."

§ 11.6 [Corrected]

2. On page 46813, in the second column, the reference to the footnote at the end of § 11.6(a) should read "19 U.S.C. 467.[3]" rather than "19 U.S.C. 467.[2]".

3. On page 46813, in the third column, item 2. should read:

"2. Footnote 3 to Part 11 is amended to read as follows:

[3] The Secretary * * *"

§ 132.13 [Amended]

4. On page 46815, in the first column, the first sentence of section 132.13(a)(1)(ii) should read:

"(ii) *Absolute.* Absolute quota merchandise shall not be released under the immediate delivery procedure if the quota is nearing fulfillment." * * *

§ 141.61 [Amended]

5. On page 46817, in the third column, the cross-reference in the last sentence of section § 141.61(e)(1)(i) should read: "* * * prescribed in paragraph (f)(2) of this section * * *".

6. On page 46821, in the second column, below "Part 142—ENTRY PROCESS", the introductory language should read: "Part 142 is revised to read as follows: * * *".

§ 142.6 [Amended]

7. On page 46823, in the first line of the third column, the word "delivered" should be substituted for the word "presented" in § 142.6(b).

§ 142.16 [Amended]

8. On page 46824, in the third column, the cross-reference in the second sentence of § 142.16(a) relating to the time period to file documentation with the entry summary should read: "142.12(b)" rather than "142.3".

§ 142.23 [Amended]

9. On page 46826, in the third column, in § 142.23, delete the period, and add "* * * or, for quota class merchandise, within the quota period, whichever expires first.".

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624.); Pub. L. 95–410 (October 3, 1978))

Approved: January 7, 1980.

William T. Archey,

Acting Commissioner of Customs.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 80–1873 Filed 1–18–80; 8:45 am]

BILLING CODE 4810–22–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203, 220, 222, 226, and 234

[Docket No. R–80–763]

Mutual Mortgage Insurance and Insured Home Improvement Loans; Changes in Maximum Mortgage Amounts

AGENCY: Department of Housing and Urban Development (HUD), Office of the Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Final rule.

SUMMARY: The Housing and Community Development Amendments of 1979 amended the National Housing Act to permit increased mortgage amounts under HUD's single family mortgage insurance programs. In addition, Section 203(i) was amended to reduce the minimum lot size and relax the road access requirement for farm housing. This rule implements those statutory changes.

V 45 / 14 JA 21 80 UMI

EFFECTIVE DATE: January 21, 1980

FOR FURTHER INFORMATION CONTACT:
William L. Halpern, Director, Single Family Development Division, Department of Housing and Urban Development, Room 9270, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755–6720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Housing and Community Development Amendments of 1979 was signed into law on December 21, 1979. The following changes are being made to Chapter II of 24 CFR to increase the maximum mortgage amounts under the following single family programs: Sections 203(b), 213, 220(d)(3)(A)(i), 222, 234(c) and 809 of the National Housing Act. For a one-unit dwelling under Section 203, the new mortgage amount is $67,500, two-unit is $76,000, three-unit is $92,000 and four-unit is $107,000. Section 203(i) was amended to reduce the minimum lot size and relax the road access requirement for farm housing.

The Secretary has determined that, in light of the current economic situation, it is urgent that the benefits afforded by these amendments be made available as soon as possible. Publishing a notice of proposed rulemaking and giving the public an opportunity to comment on these amendments would cause a substantial delay in making the benefits available. Therefore, the Secretary finds that notice and public procedure on these amendments would be contrary to the public interest. Since these amendments relieve restrictions contained in the present regulations, it is not necessary to delay the effective date of these amendments for the 30-day period provided in 5 U.S.C. § 553(d). In addition, the Chairmen and Ranking Minority Members of the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives have waived the delay of effective date required by Section 7(o)(3) of the Department of Housing and Urban Development Act. Accordingly, these amendments will become effective upon publication of this rule in the **Federal Register**, on the date set forth above.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Accordingly, the Secretary of Housing and Urban Development amends Chapter II of 24 CFR as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME MORTGAGE IMPROVEMENT LOANS

Subpart A—Eligibility Requirements

1. In § 203.18, subparagraphs (a)(1)(i), (ii), (iii) and (iv), and the introductory language of paragraph (d) are amended to read as follows:

§ 203.18 Maximum mortgage amounts.

(a) * * *
(1) * * *
(i) $67,500 for a one-family residence.
(ii) $76,000 for a two-family residence.
(iii) $92,000 for a three-family residence.
(iv) $107,000 for a four-family residence.
* * * * * *

(d) *Outlying area properties.* A mortgage covering a single-family residence located in an area where the Commissioner finds it is not practicable to obtain conformity with many of the requirements essential to insurance of mortgages in built-up urban areas, or to be used as a farm home on a plot of land, two and one-half or more acres in size adjacent to an all-weather public road, shall not exceed:
* * * * * *

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

Subpart A—Eligibility Requirements—Homes

2. In § 220.25, paragraphs (a), (b), (c), (d) and (e) are amended as follows:

§ 220.25 Maximum mortgage amounts—dollar limitation.
* * * * * *

(a) $67,500 for a one-family residence.
(b) $76,000 for a two-family residence.
(c) $92,000 for a three-family residence.
(d) $107,000 for a four-family residence.
(e) $107,000 plus not to exceed $8,250 for each additional family unit in excess of four.

PART 222—SERVICEMEN'S MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

3. Section 222.3 is amended to read as follows:

§ 222.3 Maximum mortgage amount; dollar limitation.

The mortgage shall involve a principal obligation in an amount not in excess of $67,500, except that a mortgage meeting the requirements of §§ 203.18(d), 221.10, or 221.11 of this chapter shall not exceed the dollar limitation provided in the applicable section.

PART 226—ARMED SERVICES HOUSING—CIVILIAN EMPLOYEES (SEC. 809)

Subpart A—Eligibility Requirements

4. In § 226.4, paragraphs (a), (b), (c) and (d) are amended to read as follows:

§ 226.4 Maximum mortgage amount; dollar limitation.
* * * * * *

(a) $67,500 in the case of a dwelling designed principally for a one-family residence.
(b) $76,000 in the case of a two-family residence.
(c) $92,000 in the case of a three-family residence.
(d) $107,000 in the case of a four-family residence. In addition to the dollar limitation prescribed in this section, the mortgage amount is subject to a loan-to-value limitation as provided in § 226.5.

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Individually Owned

5. In § 234.27, subparagraph (a)(1) is amended to read as follows:

§ 234.27 Maximum mortgage amounts.

(a) * * *
(1) $67,500.
* * * * * *

(Authority: (Sec. 211, National Housing Act, as amended, 12 U.S.C. 1715b). Issued at Washington, D.C., January 15, 1980.

Lawrence B. Simons,
Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-1972 Filed 1-18-80; 8:45 am]
BILLING CODE 4210-01-M

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24 CFR Parts 207, 213, 220, 221, 231, 234 and 236

[Docket No. R-80-764]

Mortgage and Loan Insurance Programs Under the National Housing Act

AGENCY: Department of Housing and Urban Development/Office of the Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Final rule.

SUMMARY: This final rule amends 24 CFR §§ 207.04, 207.32a, 213.7, 220.507, 221.514, 231.6, 234.530 and 236.12 to increase from 50 percent to 75 percent the maximum percentage by which mortgage amount limitations may be increased in high cost areas. In addition, this rule adds a provision to each of those sections permitting the Commissioner, on a case-by-case basis, to increase the mortgage amount limitations by up to 90 percent.

EFFECTIVE DATE: January 21, 1980.

FOR FURTHER INFORMATION CONTACT:
Frank D. Brown, Office of Housing, Multifamily Housing Development, Development Division, Room 6116, 451 7th Street SW., Washington, D.C. 20410. (202) 755–9280. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Section 314 of the Housing and Community Development Amendments of 1979 amended Sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), 221(d)(3)(ii), 221(d)(4)(ii), 231(c)(2), and 234(e)(3) of the National Housing Act. The amendment did two things. First, it raised from 50 percent to 75 percent the maximum percentage by which the Secretary may, in high cost geographical areas, increase the dollar amount limitations for mortgages insured under those sections. Second, it provided that the Secretary may increase those mortgage amount limitations, on a project-by-project basis, but not to exceed 90 percent.

This final rule implements the statutory change by making parallel revisions in the regulations governing the affected mortgage insurance programs.

The Secretary has determined that, in light of the current economic situation, it is urgent that the benefits afforded by these amendments be made available as soon as possible. Publishing a notice of proposed rulemaking and giving the public an opportunity to comment on these amendments would cause a substantial delay in making the benefits available. Therefore, the Secretary finds that notice and public procedure on these amendments would be contrary to the public interest. Since these amendments relieve restrictions contained in the present regulations, it is not necessary to delay the effective date of these amendments for the 30-day period provided in 5 U.S.C. 553(d). In addition, the Chairmen and Ranking Minority Members of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives have waived the delay of effective date required by Section 7(o)(3) of the Department of Housing and Urban Development Act. Accordingly, these amendments will become effective upon publication of this rule in the **Federal Register**, on the date set forth above.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of HUD, 451 7th Street SW., Washington, D.C. 20410.

Accordingly, Subchapter B of Chapter II of Title 24, Code of Federal Regulations, is amended as follows:

§ 207.4 [Amended]

1. By revising § 207.4(c)(1) to read as follows;
* * * * * *

(c) *Increased mortgage amount*—high cost areas.

(1) In any geographical area where the Commissioner finds that cost levels so require, the Commissioner may increase, by not to exceed 75 percent, the dollar amount limitations set forth in paragraphs (a)(2) and (b) of this section. In such high cost areas, where the Commissioner determines it necessary on a project-by-project basis, the Commissioner may increase these dollar amount limitations by not to exceed 90 percent.
* * * * * *

§ 207.32a [Amended]

2. By revising § 207.32a(b)(2)(ii)(A) to read as follows:
* * * * * *

(b) * * *
(2) * * *
(ii) *Increased mortgage amount—high cost areas.* (A) In any geographical area where the Commissioner finds that high cost levels so require, the Commissioner may increase, by not to exceed 75 percent, the dollar amount limitations set forth in paragraphs (b)(2) and (b)(2)(i) of this section. In such high cost areas, where the Commissioner determines it necessary on a project-by-project basis, the Commissioner may increase these dollar amount limitations by not to exceed 90 percent.
* * * * * *

§ 213.7 [Amended]

3. By revising § 213.7(d)(1) to read as follows:
* * * * * *

(d) *Increased mortgage amounts—high cost areas.* (1) In any geographical area where the Commissioner finds that cost levels so require, the Commissioner may increase, by not to exceed 75 percent, the dollar amount limitations set forth in paragraphs (a)(2) and (g) of this section. In such high cost areas, where the Commissioner determines it necessary on a project-by-project basis, the Commissioner may increase these dollar amount limitations by not to exceed 90 percent.
* * * * * *

§ 220.507 [Amended]

4. By revising § 220.507(c)(1) to read as follows:
* * * * * *

(c) *Increased mortgage amount—high cost areas.* (1) In any geographical area where the Commissioner finds that cost levels so require, the Commissioner may increase, by not to exceed 75 percent, the dollar amount limitations set forth in paragraphs (a) and (b) of this section. In such high cost areas, where the Commissioner determines it necessary on a project-by-project basis, the Commissioner may increase these dollar amount limitations by not to exceed 90 percent.
* * * * * *

§ 221.514 [Amended]

5. By revising § 221.514(c)(1) to read as follows:
* * * * * *

(c) *Increased mortgage amount—high cost areas.* (1) In any geographical area where the Commissioner finds that cost levels so require, the Commissioner may increase, by not to exceed 75 percent, the dollar amount limitations set forth in paragraphs (a)(1) and (b) of this section. In such high cost areas, where the Commissioner determines it necessary on a project-by-project basis, the Commissioner may increase these dollar amount limitations by not to exceed 90 percent.
* * * * * *

6. By revising § 231.6(a) to read as follows:

§ 231.6 Increased mortgage amount—high cost areas.

(a) In any geographical area where the Commissioner finds that cost levels so require, the Commissioner may increase, by not to exceed 75 percent, the dollar amount limitations set forth in §§ 231.3(a) and 231.5. In such high cost areas, where the Commissioner determines it necessary on a project-by-project basis, the Commissioner may

increase these dollar amount limitations by not to exceed 90 percent.

* * * * *

§ 234.530 [Amended]

7. By revising § 234.530(b)(1) to read as follows:

* * * * *

(b) *High cost areas.* (1) In any geographical area where the Commissioner finds that cost levels so require, the Commissioner may increase, by not to exceed 75 percent, the dollar amount limitations set forth in paragraph (a) of this section and in § 234.525(b). In such high cost areas, where the Commissioner determines it necessary on a project-by-project basis, the Commissioner may increase these dollar amount limitations by not to exceed 90 percent.

* * * * *

§ 236.12 [Amended]

8. By revising § 236.12(c)(1) to read as follows:

* * * * *

(c) *Increased mortgage amount—high cost areas.* (1) In any geographical area where the Commissioner finds that cost levels so require, the Commissioner may increase, by not to exceed 75 percent, the dollar amount limitations set forth in paragraphs (a)(1) and (b) of this section. In such high cost areas, where the Commissioner determines it necessary on a project-by-project basis, the Commissioner may increase these dollar amount limitations by not to exceed 90 percent.

* * * * *

(Sec. 314, Pub. L. 96–153; Section 211, National Housing Act, as amended; 12 U.S.C. 1715b)

Issued at Washington, D.C., on January 15, 1980.

Morton A. Baruch,

Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-1973 Filed 1-18-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 404

[T. D. 7666]

Disclosure of Returns and Return Information in Connection With Procurement of Property and Services for Tax Administration Purposes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary Regulations.

SUMMARY: This document contains amendments to the temporary regulations relating to the disclosure under section 6103 (n) of the Internal Revenue Code of 1954 of returns and return information in connection with the processing, storage, transmission, and reproduction of the returns and return information, and the programming, maintenance, repair, testing, and procurement of equipment, for purposes of tax administration. These amendments extend to other bureaus and offices of the Treasury Department and to State tax agencies, bodies and commissions described in section 6103 (d) of the Code the authority to make these disclosures under section 6103 (n) for Federal and State tax administration purposes, respectively. They affect all disclosures by the Treasury Department and State tax agencies, bodies, or commissions to persons described in section 6103 (n).

DATE: The regulations apply to disclosures of returns and return information after December 31, 1976.

FOR FURTHER INFORMATION CONTACT: David E. Dickinson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3218).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the temporary regulations relating to disclosure of returns and return information under section 6103 (n) of the Internal Revenue Code of 1954 as added by section 1202 of the Tax Reform Act of 1976 (Pub. L. 94–455, 90 Stat. 1681).

Section 6103 (n) of the Code authorizes the disclosure, pursuant to Treasury regulations, of returns and return information to the extent necessary in connection with the processing, storage, transmission, and reproduction of the returns and return information, and the programming, maintenance, repair, testing, and procurement of equipment, for purposes of tax administration. Section 6103 (b)(4) defines "tax administration" to include the administration of the internal revenue laws and statutes of a State.

Existing § 404.6103 (n)–1 of the temporary regulations authorizes disclosures under section 6103 (n) only by the Internal Revenue Service and its Chief Counsel's office for Federal tax administration purposes. Because section 6103 (n) authorizes disclosures of returns and return information by other bureaus and offices of the Treasury Department and by State tax agencies, bodies, and commissions for Federal and State tax administration purposes as well, these amendments to § 404.6103 (n)–1 would so extend this disclosure authority.

Waiver of Procedural Requirement of Treasury Directive

There is need for expeditious adoption of the regulations contained in this document in order to prevent impairment of the present ability of the Treasury Department and State tax agencies, bodies, and commissions to satisfactorily administer Federal and State tax laws. For this reason, Jerome Kurtz, Commissioner of Internal Revenue, has determined that the provisions of paragraphs 8 through 14 of the Treasury Directive implementing Executive Order 12044 must be waived.

Drafting Information

The principal author of this regulation was David E. Dickinson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

In order to amend the Temporary Regulations on Procedure and Administration (26 CFR Part 404) to allow for certain disclosures by bureaus and offices of the Treasury Department and by an agency, body, or commission described in section 6103 (d) of the Internal Revenue Code of 1954 for purposes described in section 6103 (n) of the Code, paragraphs (a), (b), and (d) of § 404.6103 (n)–1 of such regulations are amended, and a new paragraph (e) is added immediately after paragraph (d). These amended paragraphs and the added paragraph read as follows:

§ 404.6103 (n)–1 Disclosure of returns and return information in connection with procurement of property and services for tax administration purposes.

(a) *General rule.* Pursuant to the provisions of section 6103(n) of the Internal Revenue Code of 1954 and subject to the requirements of paragraphs (b), (c), and (d) of this section, officers or employees of the Treasury Department or a State tax agency are authorized to disclose returns and return information (as defined in section 6103 (b)) to any person (including, in the case of the Treasury Department, any person described in section 7513(a)), or to an officer or employee of such person, to the extent necessary in connection with contractual procurement of—

(1) Equipment or other property, or

(2) Services relating to the processing, storage, transmission, or reproduction of such returns or return information, or to the programming, maintenance, repair, or testing of equipment or other property,

for purposes of tax administration (as defined in section 6103(b)(4)). No person, or officer or employee of such person, to whom a return or return information is disclosed by an officer or employee of the Treasury Department or the State tax agency under the authority of this paragraph shall in turn disclose such return or return information for any purpose other than as described in this paragraph, and no such further disclosure for any such described purpose shall be made by such person, officer, or employee to anyone, other than another officer or employee of such person whose duties or responsibilities require such disclosure for a purpose described in this paragraph, without written approval by the Internal Revenue Service.

(b) *Limitations.* For purposes of paragraph (a) of this section, disclosure of returns or return information in connection with contractual procurement of property or services described in such paragraph will be treated as necessary only if such procurement or the performance of such services cannot otherwise be reasonably, properly, or economically carried out or performed without such disclosure. Thus, for example, disclosures of returns or return information to employees of a contractor for purposes of programming, maintaining, repairing, or testing computer equipment used by the Internal Revenue Service or a State tax agency should be made only if such services cannot be reasonably, properly or economically performed by use of information or other data in a form which does not identify a particular taxpayer. If, however, disclosure of returns or return information is in fact necessary in order for such employees to reasonably, properly, or economically perform the computer related services, such disclosures should be restricted to returns or return information selected or appearing at random. Further, for purposes of paragraph (a) disclosure of returns or return information in connection with the contractual procurement of property or services described in such paragraph should be made only to the extent necessary to reasonably, properly, or economically conduct such procurement activity. Thus, for example, if an activity described in paragraph (a) can be reasonably, properly, and economically conducted by disclosure of only parts or portions of a return or if deletion of taxpayer identity information (as defined in section 6103(b)(6)) reflected on a return would not seriously impair the ability of the contractor or his officers or employees to conduct the activity, then only such parts or portions of the return, or only the return with taxpayer identity information deleted, should be disclosed.

* * * * *

(d) *Safeguards.* Any person to whom a return or return information is disclosed as authorized by paragraph (a) of this section shall comply with all applicable conditions and requirements which may be prescribed by the Internal Revenue Service for the purposes of protecting the confidentiality of returns and return information and preventing disclosures of returns or return information in a manner unauthorized by paragraph (a). The terms of any contract between the Treasury Department or a State tax agency and a person pursuant to which a return or return information is or may be disclosed for a purpose described in paragraph (a) shall provide, or shall be amended to provide, that such person, and officers and employees of the person, shall comply with all such applicable conditions and restrictions as may be prescribed by the Internal Revenue Service by regulation, published rules or procedures, or written communication to such person. If the Service determines that any person, or an officer or employee of any such person, to whom returns or return information has been disclosed as provided in paragraph (a) has failed to, or does not, satisfy such prescribed conditions or requirements, the Service may take such actions as are deemed necessary to ensure that such conditions or requirements are or will be satisifed, including—

(1) Suspension or termination of any duty or obligation arising under a contract with the Treasury Department referred to in this paragraph or suspension of disclosures by the Treasury Department otherwise authorized by paragraph (a) of this section, or

(2) Suspension of further disclosures of returns or return information by the Service to the State tax agency,

until the Service determines that such conditions and requirements have been or will be satisfied.

(e) *Definition.* For purposes of this section—

(1) The term "Treasury Department" includes the Internal Revenue Service and the Office of the Chief Counsel for the Internal Revenue Service, and

(2) The term "State tax agency" means an agency, body, or commission described in section 6103(d).

Because there is need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitations of subsection (b) of that section.

This Treasury decision is issued under the authority contained in sections 6103 (n) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1681, 68A Stat. 917; 26 U.S.C. 6103(n), 7805).

Approved: January 8, 1980.

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: January 8, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 80-1875 Filed 1-18-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 65

[DoD Directive 1304.19] [1]

Nomination of Chaplains for the Armed Forces

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule provides for selection of chaplains in the Armed Forces of the United States and sets forth a definition using a set of criteria to determine a religious faith groups' eligibility to provide chaplains to the Armed Forces. Education requirements are clearly stated. It is the responsibility of the Armed Forces Chaplains Board to recognize a religious faith group, and the Military Services to select the nominated chaplains.

EFFECTIVE DATE: January 9, 1980.

FOR FURTHER INFORMATION CONTACT: Chaplain Samuel G. Powell, Colonel USAF, OASD (MRA&L), Room 3B936, Pentagon, Washington, D.C. 20301, Telephone 697–9015.

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Ave., Philadelphia, PA 19120, Attn: Code 301

SUPPLEMENTARY INFORMATION: In FR Doc. 78–2339 appearing in the **Federal Register** on February 6, 1978 (43 FR 4856), the Office of the Secretary published Part 65. In 44 FR 50616, August 29, 1979, the Office of the Secretary of Defense published a revised Part 65 as a proposed rule to solicit comments from interested persons. This revision establishes criteria to determine a religious group's eligibility for the chaplaincy of the Military Services and to define clearly educational requirements. No substantive comments from the public were received.

Accordingly, we are adopting the proposed rule, revising Chapter I, 32 CFR Part 65, reading as follows:

PART 65—NOMINATION OF CHAPLAINS FOR THE ARMED FORCES

Sec.
65.1 Reissuance and purpose.
65.2 Applicability.
65.3 Policy.
65.4 Criteria.
65.5 Responsibilities.

Authority: Secs. 3293, 5576, and 8293 of 10 U.S.C. and Executive Order 11390.

§ 65.1 Reissuance and purpose.

This part is reissued to establish (a) criteria to determine a religious group's eligibility for the chaplaincy of the Military Services; and (b) the minimum educational and ecclesiastical endorsement requirements for appointment in the chaplaincy of the Military Services.

§ 65.2 Applicability.

The provisions of this part apply to the Office of the Secretary of Defense, the Military Departments, and the Organization of the Joint Chiefs of Staff (hereafter referred to as "DoD Components"). As used herein, the term "Military Services" refers to the Army, Navy, Air Force, and Marine Corps.

§ 65.3 Policy.

It is DoD policy that military personnel receive direction and guidance in matters of spiritual, moral, religious, and personal well-being in ways and on occasions appropriate to their respective, chosen religious groups. Whenever possible, such guidance should be provided by a chaplain of the military person's religious group. When a chaplain of a religious group cannot be provided, this guidance should be met through the cooperative efforts of other chaplains, civilian clergy, or lay leaders.

§ 65.4 Criteria.

(a) Religious groups of the United States that seek to become ecclesiastical agencies in order to endorse candidates for the chaplaincy must obtain recognition from the Armed Forces Chaplains Board. As a prerequisite to receiving such recognition, each religious group must:

(1) Have ecclesiastical authority to prepare and designate clergy for the chaplaincy.

(2) Have enough adherents to warrant the effective use of chaplains.

(3) Provide ecclesiastical validation, support, and supervision of its chaplains.

(4) Provide chaplains who are willing to respect the integrity of and work in cooperation with other religious groups.

(5) Abide by the regulations and policies of the Armed Forces Chaplains Board and the Military Services.

(b) The Armed Forces Chaplains Board may revoke its recognition of an approved ecclesiastical endorsing agency that fails to comply with any provisions of this part by providing the agency with a notice of the reasons for the revocation and a reasonable opportunity to respond in writing.

(c) The following are the educational requirements for chaplain appointments. The applicant shall:

(1) Possess 120 semester hours of undergraduate credits (or the equivalent) from a college or university that is in the *Education Directory—Colleges and Universities* (hereafter referred to as the "Directory"); or have completed 120 semester hours of credit (or the equivalent) from a school not in the Directory but from which credits could be transferred to a school listed in the Directory; and

(2) Possess a Master of Divinity (or an equivalent theological degree) or have completed 3 resident years of graduate-level study in theology or related subjects that lead to ordination and ecclesiastical endorsement and that qualify the applicant to perform professional functions as a chaplain. The applicant must complete professional educational work at a graduate school:

(i) That is (A) a member of the American Association of Theological Schools; (B) listed in the Official Catholic Directory; or (C) independent of a college or university but accredited by a regional accrediting agency or association listed in the Directory; or

(ii) If the graduate school is not included in § 65.4(c)(2)(i), the applicant may be accepted if all other educational requirements are met and if a statement is submitted by a school referred to in § 65.4(c)(2)(i) that the applicant's credits are transferable to the school issuing the statement.

(d) *Ecclesiastical Endorsement of Chaplains.* As a prerequisite to appointment as a chaplain, an applicant must receive endorsement from an ecclesiastical endorsing agency recognized by the Armed Forces Chaplains Board. In granting ecclesiastical endorsement, ecclesiastical endorsing agents are requested to use DD Form 2088, Ecclesiastical Endorsement Approval.[2] Additional copies of this form may be obtained from the Executive Director, Armed Forces Chaplains Board. This endorsement shall certify that the applicant is:

(1) A fully ordained or qualified priest, rabbi, or minister of religion;

(2) Actively engaged in a denominationally approved vocation; and

(3) Recommended as being spiritually, morally, intellectually, and emotionally qualified to represent the applicant's religious body in the chaplaincy of the Armed Forces.

§ 65.5 Responsibilities.

The Chief of Chaplains of each Military Service shall implement this Part.

H. E. Lofdahl,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.
January 16, 1980.
[FR Doc. 80–1629 Filed 1–18–80; 8:45 am]
BILLING CODE 3810–70–M

[2] May be obtained by writing to the Executive Director, Armed Forces Chaplain Board, OASD(MRA&L), The Pentagon, Washington, D.C. 20301.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1396–5]

Approval and Promulgation of Ohio State Implementation Plans for Sulfur Dioxide; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction to final rule.

SUMMARY: This action is to correct two errors in the amendment to the Ohio State Implementation Plan for sulfur dioxide published on August 15, 1979 (44 FR 47769).

EFFECTIVE DATE: January 21, 1980.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, U.S. Environmental Protection Agency, Air Programs Branch Region V, 230 South Dearborn Street, Chicago, Illinois, 60604, (312) 886–6039.

SUPPLEMENTARY INFORMATION: On August 15, 1979, U.S. Environmental Protection Agency (USEPA) promulgated an amendment to the Ohio State Implementation Plan for sulfur dioxide (44 FR 47769). This action corrects two errors which appeared in the **Federal Register.**

The **Federal Register** listed the regulation as under Part 52 of Chapter I, Title 40, Subpart KKK—Ohio. The correct subpart is Subpart KK—Ohio.

On September 20, 1979 the Republic Steel Company notified the U.S. Environmental Protection Agency that the final rule contained an error in regards to hydrogen sulfide emissions from Republic Steel's coke battery number 4 in Warren, Ohio.

These errors are being corrected today.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart KK—Ohio

Section 52.1881 is amended by revising paragraph (b)(60)(iii)(C) as follows:

§ 52.1881 Control strategy: Sulfur oxides: (sulfur dioxide).

* * * * *

(b) Regulations for the control of sulfur dioxide in the State of Ohio.

* * * * *

(60) Air Trumbull County

* * * * *

(iii) * * *

(C) 0.00 grains of hydrogen sulfide per 100 dry standard cubic feet of coke oven gas from coke ovens number 1 and 2. Coke battery number 4 is subject to the prevention of significant deterioration regulation with an emission limitation prohibiting the combustion of coke oven gas unless it contains a concentration of sulfur compounds, expressed as H_2S, of less than 35 grains per 100 dry standard cubic feet of coke oven gas produced.

* * * * *

Dated: January 11, 1980.

John McGuire,
Regional Administrator.

[FR Doc. 80–1659 Filed 1–18–80; 8:45 am]
BILLING CODE 6560–01–M

40 CFR Part 180

[FRL 1395–6; PP 6F1860/R228]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Thiabendazole

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the fungicide thiabendazole on sugar beets at 6 parts per million (ppm) and in eggs and the meat, fat, and meat byproducts of poultry at 0.1 ppm. The amendment was requested by Merck & Co. This rule establishes maximum permissible levels for residues of thiabendazole in or on sugar beets, eggs, and the meat, fat, and meat byproducts of poultry.

EFFECTIVE DATE: Effective on January 21, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Henry Jacoby, Product Manager (PM) 21, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SE, Washington, DC 20460 (202/755–2562).

SUPPLEMENTARY INFORMATION: On November 19, 1979, the EPA published a notice of proposed rulemaking in the **Federal Register** (44 FR 66216) in response to a pesticide petition (PP 6F1860) submitted to the Agency by Merck & Co., Inc., Rahway, NJ 97965. This petition proposed that 40 CFR 180.242 be amended by increasing the established tolerance for residues of the fungicide thiabendazole (2-(4-thiazoyl)benzimidazole) in or on the raw agricultural commodity sugar beets without tops (preharvest) from 0.25 ppm to 6 ppm (pre- and postharvest) and by including tolerances for combined residues of thiabendazole and its metabolite 5-hydroxythiabendazole in eggs and the meat, fat, and meat byproducts of poultry at 0.1 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.242 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before February 20, 1980, file written objections with the Hearing Clerk, EPA, Rm. M–3708 (A–110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on January 21, 1980, Part 180, Subpart C, § 180.242 is amended by alphabetically inserting sugar beets at 6 ppm in paragraph (a) and eggs and the meat, fat, and meat byproducts of poultry at 0.1 ppm in paragraph (b) as follows:

Dated: January 11, 1980.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)))

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, § 180.242 is amended by alphabetically inserting sugar beets at 6 ppm in paragraph (a) and eggs and the meat, fat, and meat byproducts of poultry at 0.1 ppm in paragraph (b), as follows:

§ 180.242 Thiabendazole; tolerances for residues.

(a) * * *

Commodity:	Parts per million
* * * * * *	
Beets, sugar, without tops (pre- and post-t)	6
* * * * * *	

(b) * * *

Commodity:	Parts per million
* * * * * *	
Eggs	0.1
Poultry	0.1
Poultry, mbyp	0.1
Poultry, meat	0.1

[FR Doc. 80–1839 Filed 1–18–80; 8:45 am]
BILLING CODE 6560–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Do. No. BC 21504; RM–2929, RM–3065 and RM–3066]

FM assignment to Blytheville, Ark., Henderson, Ky., and Wickliffe, Ky.

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: FCC assigns Channel 240A to both Wickliffe, Kentucky, and Henderson, Tennessee. In assigning the channel to these two communities, the Commission modified the license of Station KHLS–FM to specify operation on Channel 242 in lieu of its present

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channel, 241. This action is expected to bring a first FM radio station to both Wickliffe and Henderson. These channel assignments resulted from counterproposals filed by Usher Broadcasting Company and Purchase Sound, Inc.

DATE: Effective: June 1, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Freda Lippert Thyden, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION: Report and Order (Proceeding Terminated).

Adopted: January 9, 1980.

Released. January 16, 1980.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Notice of Proposed Rule Making and Order to Show Cause*, 43 FR 1515, released December 23, 1977, which proposed a second FM assignment, Channel 240A, to Mayfield, Kentucky, with a substitution of Channel 242 for Channel 241 at Blytheville, Arkansas. Comments were filed in response to the *Notice* by Usher Broadcasting Company, Purchase Sound, Inc., Sudbury Services, Inc., and West Kentucky Broadcasting Co., Inc.

2. As a consequence of the *Notice*, Usher Broadcasting submitted a counterproposal requesting the assignment of Channel 240A to Wickliffe, Kentucky, as its first FM allocation. A second counterproposal, filed by Purchase Sound, Inc., the original petitioner in this proceeding, requested the assignment of Channel 240A to Henderson, Tennessee. All three communities, however, could not be assigned Channel 240A. Allocation of that frequency could be made to Henderson and, because of spacing requirements, either to Mayfield or Wickliffe. A decision as to which community, Mayfield or Wickliffe, better deserves the assignment, however, is no longer required since Purchase Sound has recently withdrawn its petition to allocate Channel 240A to Mayfield, Kentucky.[1] Thus, the only question remaining is whether Wickliffe and Henderson warrant the assignment of an FM channel.

3. Before proceeding to resolve the above issue, we note that in order to allocate Channel 240A to either of the communities in question, Channel 242 must be substituted for Channel 241 at Blytheville, Arkansas. Channel 241 is occupied by Station KHLS, licensed to Sudbury Services ("Sudbury"). If its license is modified, Sudbury is entitled to reimbursement from the ultimate licensee(s) of Channel 240A at Wickliffe or Henderson for all necessary and reasonable expenses incurred in the channel change. If both communities receive a Channel 240A allocation, the ultimate licensees will be obligated to share in the reimbursement cost.

4. Purchase Sound ("Purchase"), recognized the reimbursement requirement in regard to its Mayfield proposal. In its Henderson proposal, however, Purchase failed to furnish a statement as to its intention to assume either in whole or in part the financial cost involved in the channel change required for Station KHLS. Usher Broadcasting ("Usher") also failed to make a reimbursement statement in regard to its Wickliffe proposal. Without such a statement an FM allocation cannot be made. Consequently, we requested information to this effect in a *Request for Supplemental Information*, 43 FR 47985, released October 18, 1978. In response to this inquiry,[2] both Usher and Purchase advised the Commission that they will provide reasonable reimbursement to Station KHLS with respect to the allocation of Channel 240A to Wickliffe and Henderson.

5. Sudbury Services, licensee of the station (KHLS) required to change its FM channel if Channel 240A is assigned to either or both Wickliffe and Henderson, also filed comments objecting to a Channel 240A allocation to either community. Sudbury submits that channels other than 240A, which would not require it to change channel, are available for assignment to these communities. In addition, Sudbury argues that a channel change would require the replacement of its antenna. It asserts that "a minor field tuning" would not return the antenna to its original total electrical characteristics. Sudbury estimates that it would cost $38,750 to replace the station's antenna, make required transmitter adjustments and promote the station's channel change. It is also contended that a change in dial position would result in a loss of listeners which would affect Sudbury's business.

6. Purchase questions the necessity for such an antenna replacement. It argues, instead, that the change in frequencies is so small (from Channel 241 to 242) that retuning of the antenna system can satisfactorily be made without removal from the supporting structure and should not cost more than $2,500. Further, it contends that recalibration of KHLS's monitor should cost about $250. With reference to KHLS's concern about losing listeners, Purchase argues that any modern FM radio with an automatic frequency control ("AFC") circuit will automatically "pull in" the KHLS signal, that other sets without AFC would require small retuning and there will be no loss of listeners because they will soon learn the new dial position.

7. In response to the above allegations, we note that the available information does not support Sudbury's contention that the retuning of the antenna would jeopardize its service coverage because it would alter the antenna electrical characteristics. It appears that the antenna system Sudbury employs is designed with tuning stubs so that the radiators can be fine-trimmed after installation and the wishbone feedarms can be adjusted to move the resonant frequency up or down one channel, as is the case here. Thus, Sudbury's estimate of reimbursement cost appears inflated. In regard to the alleged loss of listeners which is said to attend such a change in the dial location, we do not believe it is substantial enough to affect listening habits. In most instances, AFC would tune-in the station or a small retuning would correct any poor reception. In any event, such a temporary inconvenience is not a proper basis for rejecting a needed assignment.

8. As to channels other than 240A being available for allocation to the communities involved, Channel 252A, although available to the Wickliffe area, cannot be used as the Wickliffe assignment because it would have to be located about 15 kilometers from the community. As to Channel 292A's being assigned to Wickliffe, such an allocation would be dependent not only upon a denial of a petition to assign Channel 293 to Blytheville, Arkansas, in Rule Making 2762, but also upon changing the channel assignment at Portageville, Missouri, which would require further rule making procedures. With reference to Henderson, Channel 288A could be assigned there if the transmitter site were to be located some four miles southwest of the community. Because this possibility was not raised in a timely fashion, none of the parties had a chance to present their views regarding such an assignment.[3]

[1] Since Purchase has withdrawn its Mayfield proposal, the submission filed by West Kentucky Broadcasting Company, licensee of Stations WNGO(AM) and WXID(FM), Mayfield, Kentucky, opposing the assignment of Channel 240A to Mayfield has become moot.

[2] Submissions in response to the *Request for Supplemental Information* were also filed by Chester County Broadcasting, Inc. and Sudbury Services.

[3] A petition was filed on May 19, 1978, by Chester County Broadcasting Co., Inc., requesting the allocation of Channel 288A to Henderson, Tenn. Since this petition was submitted too late to be

Footnotes continued on next page

9. In view of the above facts and for the following reasons, we believe that the public interest will be served by assigning Channel 240A to both Wickliffe, Kentucky, and Henderson, Tennessee. Wickliffe, with a population of 1,211,[4] is the seat of Ballard County (pop. 8,276), in far western Kentucky. The community serves as a portal for access to a four state area. It is directly linked with the States of Illinois and Missouri. Tennessee lies approximately 40 miles south of Wickliffe. The city has experienced a 32.1 percent growth in population since 1960. Wickliffe's economic growth has been significant with several of the city's forty-five businesses recently being established, including a multi-million dollar paper mill. Ballard County retail sales totaled over 11.5 million dollars in 1972 and 17.5 million dollars in 1977. There is one high school and six elementary facilities in the county.

10. Henderson, with a population of 3,581, is the seat of Chester County (pop. 9,927), in southwest Tennessee, and is located 130 kilometers (80 miles) northeast of Memphis, Tennessee. The county's per capita income for 1974 was $3,329. The annual county income from agriculture is over 4 million dollars and in 1975, county retail sales were over 19 million dollars. There are new plants located in the Magic Valley Industrial Park, near Henderson, in Chester County, which will probably cause a significant population growth. There are several churches in Henderson, as well as many service and fraternal organizations. The county has one high school, a new vocational school, a new junior high school and three elementary facilities.

11. In view of the above information, we are persuaded that Wickliffe and Henderson are growing communities. Yet, Wickliffe has no local aural service and Henderson has only one daytime AM station (WHHM). These areas are in need of radio service. Further, a demand has been shown for use of the proposed frequency in both communities. Thus, the Commission believes it would be in the public interest to assign Channel 240A to Wickliffe and Henderson. We note that these allocations would be meeting a key Commission priority, which is, as far as possible, to provide each community with at least one FM broadcast station.[5] Allocating Channel 240A to Wickliffe also fulfills the Commission's policy of providing a choice of at least two FM services to as much of the population as possible in that the Wickliffe assignment would provide second FM service to East Prairie, Missouri, a community with a population of 3,275.

12. In making the Channel 240A assignment to Wickliffe, Kentucky, and Henderson, Tennessee, a change in the Blytheville, Arkansas, Channel 241 assignment to Channel 242 and in the operating frequency of Sudbury's Blytheville station (KHLS) from Channel 241 to Channel 242 is also required. Sudbury was ordered in the *Notice of Proposed Rule Making* in this proceeding to show cause why its license for Station KHLS should not be modified to specify this change in operating frequency should the proposal be adopted, with the understanding that it would receive reasonable reimbursement for the change. In respose to the *Notice* and order to show cause *Order*, Sudbury objected to the proposed assignment as discussed above and stated that it was not waiving its rights to a hearing on the proposed modification of its license.

13. As previously mentioned, both Usher and Purchase have indicated their intention to provide reasonable reimbursement to Sudbury with respect to a Channel 240A assignment to either or both Wickliffe and Henderson. It is Commission policy to call for reimbursement of the reasonable costs of a channel change in a station's frequency if required by a change in the FM Table of Assignments to be paid by the party or parties ultimately benefitting from the new or changed assignments thereby permitted.[6] Equitable considerations dictate generally, and here specifically, that such reimbursement be made. The appropriate costs making up the "reasonable" reimbursement figure are usually left to the good faith judgment of the parties eventually involved subject to Commission approval in the event of disagreement. We believe this is the desirable method in this situation as well.

14. Since Sudbury has made no showing that the public interest warrants a hearing on the modification of its license, no hearing shall be given. Instead, the modification shall take effect at the expiration of its current license term. This is in accordance with *Transcontinent Television Corp. v. F.C.C.*, 113 U.S. App. D.C. 384, 308 F. 2d 339 (1962), and our practice in similar circumstances in other FM assignment cases[7] making amendments to the FM Table of Assignments.

15. In view of the foregoing, IT IS ORDERED, That effective June 1, 1982, or earlier as indicated in the footnote below, pursuant to authority contained in Sections 4(i), 303 and 307(b) of the Communications Act of 1934, as amended, the FM Table of Assignments, Section 73.202(b) of the Rules IS AMENDED, insofar as the communities named are concerned, to read as follows:

City	Channel No.
Blytheville, Arkansas	242 [1]
Henderson, Tennessee	240A [1]
Wickliffe, Kentucky	240A [1]

[1] Effective 3 a.m. local time, June 1, 1982 (concurrently with the expiration of the outstanding license for FM Station KHLS on Channel 241 at blytheville, Ark.), or such earlier date as FM Station KHLS MAY, UPON ITS REQUEST, cease operation on Channel 241 at Blytheville.

16. IT IS FURTHER ORDERED, That effective 3:00 a.m. local time, June 1, 1982, the date of expiration of the license for Station KHLS–FM on Channel 241 at Blytheville, Arkansas, or such earlier date as the Commission may authorize interim operation on Channel 242 at Blytheville, the license of FM Station KHLS is modified to specify operation on channel 242 and its application for license renewal for the term beginning June 1, 1982, shall specify operation on channel 242 instead of Channel 241. Station KHLS–FM may continue to operate on channel 241 until June 1, 1982, or it may obtain modification of its license to operate on Channel 242 prior to June 1, 1982, subject to the following conditions:

(a) The licensee shall inform the Commission in writing by no later than February 25, 1980, of its acceptance of this modification;

(b) At least 30 days before operation on Channel 242, the licensee of FM Station KHLS shall submit to the commission the technical information normally required of an applicant for a construction permit;

(c) At least 10 days prior to commencing operation on Channel 242, the licensee of FM Station KHLS shall submit the measurement data required of an applicant for an FM broadcast station license; and

(d) The licensee of FM Station KHLS shall not commence operation on

Footnotes continued from last page
considered as a counter-proposal in the instant proceeding, it will be acted upon in a later separate proceeding.

[4] All population figures are taken from the 1970 U.S. Census.

[5] The Commission's priorities in regard to FM assignments were listed in a *Further Notice of Proposed Rule Making* in the FM proceeding in docket No. 14185, FCC 62-867 (1962), as well as in *Anamosa and Iowa City, Iowa*, 46 F.C.C. 2d 520 (1974).

[6] See *Mitchell, South Dakota*, 62 F.C.C. 2d 70 (1976).

[7] See, for example, *Lake City and Kingstree, South Carolina*, 47 F.C.C. 2d 1067 (1974); and *Wisconsin Dells, Wisconsin*, 35 F.C.C. 2d 473 (1972).

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Channel 242 without prior Commission authorization.

If FM Station KHLS requests and is granted authorization to operate on Channel 242 prior to termination of its present license authorization, the Commission will view such request as a relinquishment of Channel 241 and a waiver of any rights it may have with regard to that channel.

17. IT IS FURTHER ORDERED, That the request of Sudbury Services, Inc., for a hearing under Section 1.87 of the Commission's Rules and Regulations IS DENIED.

18. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-1870 Filed 1-18-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[Docket No. 20966; RM-2719]

Noncommercial Educational FM Assignment to Avalon, Calif.; Radio Broadcast Services

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns noncommercial educational FM Channel 204A to Avalon, California, in response to a petition filed by the California State University, Long Beach, California. The channel could bring noncommercial educational FM broadcast service to Avalon.

EFFECTIVE DATE: February 25, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: Report and Order (Proceeding Terminated).

Adopted: January 10, 1980.

Released: January 16, 1980.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration its *Notice of Proposed Rule Making*, 41 Fed. Reg. 47076, inviting comments on a proposal filed on behalf of the California State University, Long Beach, California ("petitioner"), which seeks the assignment of noncommercial educational Channel 204A to provide a Class A service to Avalon. Petitioner stated it will apply for the channel, if assigned. No oppositions to the proposal were received.

2. Avalon (pop. 1,520) [1] is located on Santa Catalina Island, in Los Angeles County (pop. 7,032,075) approximately 40 kilometers (25 miles) off the California coast.

3. Petitioner asserts that Avalon is the principal community on Santa Catalina Island and, although its permanent population is about 1,500, the population increases to over 3,500 during the summer tourist season. It notes that Santa Catalina Island is located within the Long Beach School District and is part of the prime service area for California State University, Long Beach. Petitioner contends that due to the Island's geographical separation from the mainland, residents of the Island are limited in their participation in the educational, cultural and public affairs of the school district. It states that the establishment of an educational broadcast facility would help alleviate this situation as well as provide a forum for problems unique to the residents of the Island.

4. The *Notice* indicated that the Avalon proposal was consistent with applicable criteria called for by the United States-Mexico FM Broadcast Agreement.[2] However, concurrence of the Mexican Government was required and has since been obtained.

5. The Commission believes that the public interest would be served by assigning Channel 204A to Avalon, California. An interest has been shown for the assignment which could bring a first noncommercial educational FM service to Avalon and Santa Catalina Island.

6. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

7. In view of the foregoing, IT IS ORDERED, That effective February 25, 1980, Section 73.504(a) of the Commission's Rules, the noncommercial educational FM Table of Assignments, IS AMENDED for the listed community to read as follows:

City	Channel No.
Avalon, California	204A

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

[1] Population figures are taken from the 1970 U.S. Census.

[2] The Agreement and the Commission's Rules implementing it apply to the area within 320 kilometers (199 miles) of the United States-Mexico border.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat. as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 80-1879 Filed 1-18-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[Docket No. BC 79-90; RM-3142]

TV Assignment to Orange Park, Fla.

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns UHF television Channel 25 to Orange Park Florida, at the request of Clay Television, Inc. This assignment will enable Orange Park to have its first local television broadcast service.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

DATE: Effective: February 25, 1980.

FOR FURTHER INFORMATION CONTACT: Ira H. Smart or Mark N. Lipp, Broadcast Bureau, (202) 632-9660 or (202) 632-7792.

SUPPLEMENTARY INFORMATION: *Report and order* (Proceeding Terminated).

Adopted: January 10, 1980.

Released: January 16, 1980.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, adopted April 17, 1979, 44 FR 24589, which invited comments on a proposal to assign UHF television Channel 25 to Orange Park, Florida, in response to a petition filed by Clay Television, Inc. ("Clay"). Supporting comments were filed in letters from citizens of Clay County and from petitioner in which it reaffirmed its intention to file for the channel, if assigned. Oppositions were filed by TeLeVision 12 of Jacksonville, Inc. ("WTLV"), licensee of VHF-TV Station WTLV (Channel 12), Jacksonville, Florida, and the Crown Broadcasting Corporation ("Crown"), permittee to construct a new UHF television station on Channel 30 in Jacksonville. Petitioner and Crown filed reply comments.[1]

[1] Petitioner submitted a Motion to Strike Crown's reply comments alleging that the pleading was not served on it or on other parties despite the accompaniment of a "Certificate of Service." In addition, petitioner rebutted an assertion made in

Footnotes continued on next page

2. Orange Park (pop. 7,619),[2] in Clay County (pop. 32,059) is located in northeast Florida approximately 19 kilometers (12 miles) south of Jacksonville, Florida. The *Notice* proposed to assign Channel 25 in order to provide a first local commercial television service to Orange Park and Clay County. However, in view of the fact that service is received from one noncommercial educational and three commercial television stations in Jacksonville, Florida (which also has construction permits for two more commercial stations), a showing of need was requested for a local service to Orange Park and Clay County.

3. Petitioner argues in its comments that Orange Park and Clay County have a separate identity and distinct needs from Jacksonville. It cites newspaper readership in Clay County which shows a preference for a local county newspaper over the competing Jacksonville paper by 2½ to 1. It also cites greater growth rates in Clay County and Orange Park in contrast with Jacksonville where the population has declined since 1970. Although Orange Park abuts Jacksonville's city limits on the southwest, petitioner asserts that this area is relatively sparse in population and became a part of the city when the voters decided to annex all of Duval County. The employment and residential character of Clay County is said to differ by its predominantly rural nature. Petitioner cites the case of *Manassas, Va.* (Docket 20208), 40 FR 49339, 35 R.R. 2d 277 (1957), as a similar situation in which a small community overshadowed by the Washington, D.C. metropolitan area was assigned a television channel to provide an outlet for local needs. Retitioner notes that if it wished to operate a Jacksonville station, there are several UHF channels it could have requested for assignment there. Instead it chose Channel 25 which requires a site south of Orange Park (away from Jacksonville) to serve the residents of Clay County. Petitioner also cites several cases which are said to provide support to an assignment of a television channel to communities of less than 25,000 persons. Lastly, petitioner indicates that it proposes to make time available on its station for educational programming to be provided by the Clay County School Board and the St. Johns River Community College.

4. In opposition, WTLV and Crown contend that Orange Park and Clay County could not support a local television service since their economy is heavily dependent upon Jacksonville and Duval County. As a result, WTLV believes that an assignment to Orange Park will become a *de facto* assignment to Jacksonville. The opponents also contend that since there are now construction permits outstanding for UHF Channels 30 and 47 in Jacksonville which would also provide coverage to the Clay County area, the allocation of another UHF channel to Orange Park, a suburb of Jacksonville, is a waste of the scarce television spectrum. WTLV argues that employment has declined in Clay County and that most businesses are local outlets of national or regional chains whose advertising is placed by agencies outside Clay County. Local businesses are said to advertise on Jacksonville stations which provide Grade A coverage to 90% of Clay County. Crown has cited several cases, including *Baytown, Texas*, 11 F.C.C. 2d 941 (1968), and *Denton, Texas*, 10 F.C.C. 2d 1630 (1967), in which the Commission denied the assignment of a UHF television assignment to the suburban community because of the concern that it would depend too heavily on the larger community for advertising. WTLV asserts that the suburban station would eventually seek to identify with the larger central city in order to compete.

Crown raises questions about Clay's educational program proposal, arguing that not enough details are set forth to allow for adequate consideration of the proposal's desirability and no showing of need for educational service was shown. Separately, Crown has accused Clay of committing a serious breach of the Commission's *ex parte* rules in this proceeding by soliciting comments from concerned citizens. Clay insists that there was nothing improper in its efforts to have the Commission presented with the full facts of the case.

5. In reply comments, petitioner asserts that WTLV failed to address the central questions of Orange Park's needs and the extent to which Jacksonville stations serve these needs. It points to the numerous letters of Clay County residents which complain that the needs of their communities are ignored by Jacksonville stations. As to Orange Park's geographic location abounding Jacksonville, it notes that Jacksonville covers 761 square miles and insists that it would be more accurate to say that Orange Park merely abuts Jacksonville's greater metropolitan area. The competitive aspects which underlie WTLV's arguments should be raised in a petition to deny, according to petitioner. As for local businesses, petitioner asserts that Clay County is the location for over 200 retail establishments (as of 1970), and since then has seen the opening of a new mall with over 80 stores. Clay asserts that the proposed assignment is an efficient use of spectrum space because if Channel 25 is not assigned to Orange Park, it is unlikely that the channel will be used elsewhere in northern Florida.

6. We have carefully considered the record in this proceeding and conclude that it would be in the public interest to make the requested assignment so as to provide Orange Park, Florida, with an opportunity for its first local television service. Over the last decade, Clay County has grown more rapidly than Duval County (Jacksonville). Although Orange Park receives the signals of Jacksonville stations, it is also clear that they do not fully cover the separate needs of this fast growning suburban/rural area. Since Clay County is predominantly rural, coverage of the agricultural problems and needs in Clay County are of more importance to it than Jacksonville. This, too, enables us to conclude that there are distinct local television needs in Orange Park, and on that basis, that a local television outlet is warranted.

7. The arguments in opposition which characterize the assignment of Channel 25 to Orange Park as an eventual Jacksonville station are unpersuasive when the proposed location of the transmitter is considered. Because the Channel 25 transmitter site must be located at least 14.5 kilometers (9 miles) southwest of Orange Park, people in Jacksonville will receive an appreciably inferior signal from it than from existing and authorized Jacksonville UHF stations. It appears that the opposition comments are really concerned with the competitive impact of another station in the market, but that is not an issue we need to consider here. Any such issue can more adequately be resolved within the context of the application processing, and further consideration shall be deferred until that stage. Likewise, any issue in connection with the "educational programming" aspect of its application can more appropriately be considered at the application stage.

8. Lastly, we would like to point out that it is not a violation of the Commission's *ex parte* rules for a petitioner to solicit community residents to comment in support of its petition in the context of a rule making proceeding.

Footnotes continued from last page

Crown's reply that the Commission's *ex parte* rule, Section 1.1225(a), was violated when it solicited area residents to file comments. We address this comment at para. 8, *infra*. As to the alleged failure of service of its comments, Crown responded by saying that it could only explain the non-receipt of its comments as a failure of the postal service. Clay accepted this explanation and withdrew its Motion to Strike to that extent.

[2] Population figures are taken from the 1970 U.S. Census.

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On the contrary, community participation in our rule making proceedings is encouraged. The record provides no support for the view that Clay did anything more than urge others to participate in the rule making process *on the record*. The rule section cited by WTLV, Section 1.1225(a), provides essentially that if the person wishing to make a presentation would be prohibited from doing so, he may not solicit another person to do so. Here petitioner is not prohibited from submitting timely written comments in letter form or by formal pleading. Accordingly, petitioner may encourage others to similarly file. As to the failure of these letters to be served on all parties to the proceeding, Section 1.420(a) requires only that the petitioner be served with comments.

9. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, IT IS ORDERED, That effective February 25, 1980, the Television Table of Assignments (Section 73.606(b) of the Rules) IS AMENDED with respect to the community listed below:

City	Channel No.
Orange Park, Florida	25-

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

11. For further information concerning this proceeding, contact Ira H. Smart or Mark N. Lipp, Broadcast Bureau, (202) 632–9660 or (202) 632–7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

Federal Communications Commission,

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 80-1860 Filed 1-18-80; 8:45 am]

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INTERSTATE COMMERCE COMMISSION

49 CFR Part 1064

[Ex Parte MC 95 (Sub-No. 2)]

Practices of Motor Common Carriers of Passengers-Checked Baggage Liability Provisions

AGENCY: Interstate Commerce Commission.

ACTION: Reopening of Rulemaking; stay of effective date.

SUMMARY: The Commission's decision in this proceeding (served September 25, 1979), published at 44 FR 65987, November 16, 1979, adopted a final regulation requiring motor common carriers of passengers (buses) to provide excess value insurance coverage to passengers up to at least $2,000. The proceeding is being reopened for the limited purpose of receiving additional evidence on the amount of excess value insurance that should be required to be offered.

DATES: The January 1, 1980 effective date is stayed until further notice.

Additional comments by any interested party must be received on or before February 20, 1980. Replies must be received on or before March 11, 1980.

ADDRESS: Send comments to: Office of Proceedings, Room 5356, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard Felder, (202) 275–7693.

SUPPLEMENTARY INFORMATION: In a decision served September 25, 1979, the Commission adopted a final regulation which, among other things, required that motor common carriers of passengers (buses) make available to passengers excess value insurance coverage up to at least $2,000 (see 43 Fed. Reg. 44558). That regulation, amending the current regulation at 49 CFR 1064.1, was to become effective January 1, 1980.

On October 18, 1979, the National Bus Traffic Association ("NBTA") filed a petition for Administrative Review. In that petition, NBTA challenged the Commission's findings that the existing baggage excess value rule is ambiguous and that carriers of baggage are liable for full value or required to maintain varying levels of liability for loss and damage. NBTA also contended that the Notice of Proposed Rulemaking initiating the proceeding did not give notice that an actual level of excess value insurance would be required by the Commission and that the $2,000 figure adopted was not based on evidence of record.

NBTA requested that the existing rules be retained or that the record in this proceeding be reopened to receive evidence on the maximum amount of excess value insurance coverage which carriers must offer. Subsequently, in a letter-petition filed November 8, 1979, NBTA requested that it be allowed to supplement its petition with various data which might demonstrate that the $2,000 figure is excessive.

The Commission finds merit in NBTA's petition insofar as it challenges the basis for the $2,000 maximum liability figure established by the decision of September 25, 1979. It is therefore appropriate that the alternative relief requested by NBTA should be granted and that this proceeding should be reopened for the consideration of additional evidence on that issue.

The January 1, 1980 effective date of the regulation is postponed until further notice.

This decision does not significantly affect either the quality of the human environment or the conservation of energy.

Copies of this notice will be served on participants of record in this proceeding.

Notification to the general public will be provided by the mailing of a copy of this notice to the Governor of every State, to the public utilities Commissions or Boards of each State having jurisdiction over passenger bus transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission for public inspection, and by delivering a copy to the Director, Office of the Federal Register.

Decided: January 14, 1980.

Issued under the authority in 49 U.S.C. 101–119 and 5 U.S.C. 553.

By the Commission. Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins and Alexis.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-1850 Filed 1-18-80; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 45, No. 14
Monday, January 21, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Emergency Planning: Draft Negative Declaration For Proposed Rule Changes

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Draft Negative Declaration; Finding of No Significant Impact.

SUMMARY: On December 19, 1979, the Nuclear Regulatory Commission published proposed changes to 10 CFR Part 50, §§ 50.33, 50.47, 50.54 and Appendix E, which deal with emergency planning requirements for nuclear power plants. (44 FR 75167, December 19, 1979). An environmental assessment has been prepared for the proposed rule changes (See Supplemental Information). A preliminary determination based on this assessment has been made by the Director, Office of Standards Development, that an environmental impact statement need not be prepared for the proposed rule changes.

The environmental assessment deals with the Commission's decision to upgrade emergency planning provisions and to make adequate emergency planning a condition for license issuance and continuance of operation for nuclear power plants. The proposed rule changes would preclude license issuance or continuation of plant operation unless the NRC concurred in the emergency plans of appropriate State and local governments for the nuclear power plant in question.

The impacts of the proposed rule are assessed with available information. Both the costs of compliance (preparation of emergency plans and demonstration of preparedness to implement the plans) and the costs of failure to comply (shut down of individual plants on a case-by-case basis and substitution of other forms of power generation) were considered. The draft assessment indicates that the expected impacts on the human environment of the proposed rule changes are not significant.

DATES: Comments should be submitted on or before February 18, 1980.

ADDRESSES: Interested persons are invited to submit written comments and suggestions on the proposed "Draft Negative Declaration; Finding of No Significant Impact" to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of the proposed rule changes, value/impact analysis, comments received by the Commission on the rule changes, negative declaration and environmental assessment and comments received by the Commission on the negative declaration and environmental assessment may be examined in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and at local Public Document Rooms. Single copies of this Draft Negative Declaration and Environmental Assessment may be obtained on request.

FOR FURTHER INFORMATION CONTACT: Dr. William R. Ott, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: (301) 443–5966.

SUPPLEMENTARY INFORMATION: The following is a Draft Environmental Assessment for the proposed changes to 10 CFR Part 50, §§ 50.33, 50.47, and 50.54, and Appendix E.

Introduction

The Commission recently published in the Federal Register proposed amendments to 10 CFR Part 50, Sections 50.33, 50.47 and 50.54 and Appendix E (44 FR 75167, December 19, 1979). Since these amendments to the regulations governing the licensing of production and utilization facilities are substantive and may have a significant impact on the human environment, the Commission has directed that an environmental assessment should be prepared to determine whether an environmental impact statement be developed for the rule changes. The discussion which follows has been developed to satisfy the Commission's directive.

Need for the Proposed Amendments; Rejection of the No Action Alternative

Present regulations concerning emergency planning require the applicant for a nuclear power plant operating license to be prepared to take protective measures within the site boundary in the event of an accident. The applicant is also required to develop plans which among other things incorporate agreements and arrangements for the taking of protective measures by State and local government authorities when the consequence of an accident might extend beyond the site boundary. Offsite participation of State and local authorities is on a voluntary basis.

Several recent studies [1, 2, 3, 4, 5] have criticized the state of preparedness for radiological emergencies in the vicinity of operating nuclear power plant. The events which occurred at Three Mile Island confirmed some of the criticisms contained in these reports. Due to the accident at Three Mile Island, the various reports, and its own assessment of the health and safety significance of emergency planning, the Commission saw a need to act to upgrade those portions of its regulations concerning emergency planning and preparedness. This decision to upgrade the regulations is a rejection of the alternatives of taking no action or of taking more drastic action which could have an immediate, detrimental impact on the nation's energy supply (i.e., immediate shut down).

In order to rectify shortcomings in emergency preparedness the Commission decided that it was necessary to develop proposed rule changes to the emergency planning requirements in 10 CFR Part 50.

[1] *EPA/NRC Task Force Report*—"Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants" (NUREG–0396, December 1978)

[2] *GAO Report*—"Areas Around Nuclear Facilities Should be Better Prepared for Radiological Emergencies (EMD–78–110, March 30, 1979)

[3] *"Report of the Siting Policy Task Force"*—(NUREG–0625, August 1979)

[4] *Senate Bill S. 562*—involves concurrence and adequacy of State and Local Emergency Plans. (See Congressional Record—Senate, Vol. 125, No. 95, July 10, 1979, pages S9461–S9508.)

[5] *Congressional Report*—"Emergency Planning Around U.S. Nuclear Power Plants: Nuclear Regulatory Commission Oversight" (House Report 96–413, August 8, 1979).

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The Proposed Action

In its deliberations leading to issuance of the proposed Amendments, the Commission determined that emergency planning should not only be upgraded but that adequate emergency planning should be made a condition of license issuance and of continuation of operation. The proposed changes will make issuance of an operating license for and the continuation of operation of a nuclear power plant dependent on NRC concurrence in State and local governmental emergency plans. The proposed changes will also introduce into the regulations the use of "Emergency Planning Zones" (EPZs) as the area within which local and State authorities must have plans which have received NRC concurrence.[6] The proposed rule includes special consideration of those plants already licensed for operation. The content of the proposed rule is constrained by the need for prompt action and the determination that it is appropriate to allow a reasonable time for licensees to come into compliance. The proposed rule identifies January 1, 1981, or 180 days after publication of the final rule, whichever comes sooner, as the reasonable time period to allow plants now in operation to come into compliance.

The licensability requirement is stated as a requirement for NRC concurrence in State and local emergency response plans or a determination by the Commission that (1) the deficiencies in the plans are not significant for the plant in question, (2) alternative compensating actions have been or will be taken promptly, or (3) that there are other compelling reasons for continued operation. Two alternatives are presented for the way in which nonconcurrence could be handled. Under the first alternative, the Commission, after determining nonconcurrence, must decide whether the plant in question should be shut down or allowed to continue to operate. Under the second alternative, nonconcurrence after the date specified in the final rule would result in immediate shut down. In the absence of any Commission action, nonconcurrence under the second alternative would result in immediate impact from use of alternative power generation sources. However, the notice of proposed nonconcurrence will come with sufficient warning in either case to allow an applicant or licensee to seek relief under the criteria listed above. Therefore, for the purpose of this environmental assessment, these two alternatives do not differ materially.

The requirements for concurrence apply only to proposed emergency plans for governmental entities wholly or partially within the Emergency Planning Zones. State and local authorities have, in common with the NRC, the responsibility to protect public health and safety. To that end the Commission is seeking the active cooperation of State and local governments in the development and implementation of upgraded plans for the protection of the public health and safety.

Impact of the Proposed Action

The proposed rule changes state that where nonconcurrence persists, when the deficiencies in the plan are significant for the plant in question, when compensating actions have not or will not be taken, and when there are no other compelling reasons for license issuance or continued operation, a new plant will not be allowed to begin operating or an operating plant will be required to shut down. While this is not a requirement on State and local governments, the States are concerned with meeting the energy need of their residents. In the opinion of the NRC staff, in order to meet this need as well as that of protecting public health and safety, it is likely that the States will cooperate to assure the continued safe operation or timely commencement of safe operation of nuclear generation capability within their jurisdiction. The NRC's Office of State Programs recently published a staff study entitled "Beyond Defense in Depth: Cost and Funding of State and Local Government Radiological Emergency Response Plans and Preparedness in Support of Commercial Nuclear Power Stations," NUREG–0553, October 1979.[7] This study sampled emergency plans and preparedness in several States which had been developed under existing regulations, some of which had NRC concurrence. The study identified a range of costs per plant to State and local governments which the data indicate depends largely on the relative differences in population distribution and radiological transport characteristics of the plant locations. Some important considerations that were found to affect cost include: exercises, communications, radiation monitoring, warning systems, emergency planning zones and local technical directors.

Typical costs for State and local government programs to achieve concurrence in radiological emergency response plans for a ten mile Emergency Planning Zone are presented in Table 1. For a State, the initial costs of planning, exercises, training and resources (communications and radiation monitoring instrumentation) typically total about $240,000, with associated annual updating costs of about $444,000. For local governments, the initial costs typically total about $120,000 (four jurisdictions) with annual updating costs of about $30,000. Thus the typical total costs to State and local governments to achieve NRC concurrence in their emergency response plans would be about $360,000 initial cost, plus $74,000 in annual updating costs.

For sites in areas of high population density, additional costs may be associated with such items as dynamic evacuation analyses and shelter surveys, and communications and warning systems. Areas experiencing high population growth rates may also experience additional costs. A likely cost to achieve NRC concurrence in radiological emergency response plans for a typical nuclear power plant is therefore around $400,000 and is unlikely to exceed $1,000,000 for sites with the highest population densities.

Table 1.—Typical Costs to State and Local Governments To Develop Emergency Response Programs Within a 10-mile Emergency Planning Zone.[1] (State With One Plant)

	Four jurisdictions		
	State	Local	Total
Plan:			
Initial	$100,000	[2]$40,000	$140,000
Update	[3] 10,000	[3]4,000	14,000
Preparedness:			
Exercises	[3]20,000	[3]20,000	[3]40,000
Training:			
Initial	20,000	None	20,000
Update	[3]4,000	None	[3]4,000
Resources:			
Initial	$100,000	[4]60,000	160,000
Update	[3]10,000	[3]6,000	[3]16,000
Total:			
Initial	240,000	120,000	360,000
Update	[3]44,000	[3]30,000	[3]74,000

[1] Information taken from NUREG—0533, "Beyond Defense-In-Depth," October 1979.
[2] $10,000 per year.
[3] Per year.
[4] Communications.

These costs of implementation may be compared to other costs incurred in the construction of a typical 1000 MWe nuclear power plant or to the tax and fee burden usual for such an installation. The capital investment in plant and equipment is on the order of $1 billion at the present time and the State and local tax and fee structure, although quite variable, amounts to an average of about two and one-half percent of that capital investment per year or about $25 million per year for a $1 billion investment.[8] A particular exception would be publicly owned utilities such as TVA which make payments to State and local governments in lieu of taxes and also have a much lower rate structure. When compared to these investment and tax burden figures, even for the case of publicly owned utilities, the costs of implementation of the requirement for NRC concurrence in State and local emergency plans within the EPZ do not seem unreasonable.

Another potential major impact is that associated with shutting down those plants for which NRC does not concur or withdraws concurrence in the State and local governmental radiological emergency response plans. An estimate for these costs is presented in the Appendix for plants which are forecast to be in operation in 1981. The estimate is based on the cost of replacement power for one month, taking into consideration the fuel mix associated with the replacement power for the State in which each plant is located. For a typical 1000 MWe power plant, these costs range from $1.3 million/month for replacement by all coal fired capacity (Prairie Island) to $20.6 million/month for replacement by all oil fired capacity (San Onofre).

While the variation in replacement power cost is significant, even those plants with low replacement power costs will exceed the projected costs for implementation of adequate emergency plans if a shutdown lasts beyond a month.

Also associated with replacement power generated by coal or oil burning power plants will be the health effects attributable to gaseous and particulate emissions from those power plants. While it is difficult to quantify these health effects due to variability in fuel composition, the variation in efficiency and pollution control equipment of the older units usually pressed into service for replacement power, and the lack of accurate epidemiological and other data connecting these emissions with health effects, there are definite indications that these emissions could have a significantly greater impact on public health than the emissions of the nuclear power plants which they would be replacing.[9] [10] It should be said, however, that the health effects from the coal or oil units represent a very small incremental risk to the average individual in the public. Thus, even if extended periods of shutdown occurred, the impact would be small in an absolute sense. But the proposed rule allows a reasonble opportunity to achieve compliance and the health impacts of these rule changes should therefore be insignificant.

It should be noted that the time periods and deadlines quoted in the proposed rule, i.e., 180 days after publication of the final rule or January 1, 1981, whichever comes sooner, have been chosen to allow reasonable time to achieve compliance or justify exemption. As a result the Commission anticipates that shut downs will be few and of short duration.

Summary

The Commission has decided that a need exists for a change in the rules governing consideration of emergency planning in the licensing of nuclear power plants. The changes proposed in 44 FR 75167 (December 19, 1979) and described here meet the requirements for the upgrading of emergency planning with respect to siting and design features as determinants of license issuance or continuation. The impacts of compliance are within a reasonable range when compared to capital investment costs and the State and local tax and fee burdens associated with the construction and operation of nuclear power plants. It is expected that nuclear power plant shut downs under this rule will be infrequent and of short duration and that the impacts on the human environment of the proposed rule will be insignificant. It is therefore unnecessary to prepare an environmental impact statement for the proposed rule changes.

Appendix—Replacement Power Costs of Shutting Down Operating Nuclear Power Plants, 1981

If a nuclear plant is ordered shut down, the power which would have been generated by the plant will be generated by another plant, if capacity is available. A cost estimate was prepared and is shown in the accompanying Table for replacement power for one month. The list of operating plants for 1981 was taken from the forecast in NUREG–0380 Oct. 19, 1979, excluding Indian Point 1 and TMI #2. It was assumed that each utility would replace the power with coal and oil fired capacity in the ratio which the state where the plant is located currently uses these fuels for steam-electric plants. It was assumed that no replacement hydro-generating capacity would be available because it would already be fully used. In addition, the availability of hydro is highly weather dependent. Supplies of coal and oil, particularly oil, are highly uncertain looking ahead to 1981, thus these fuel mixes may be altered considerably. Likewise, coal supplies could be changed substantially by strikes and severe weather.

Coal and oil costs were based on January 1979 prices from DOE. Coal costs for 1981 were increased by 15%. Oil costs (residual) were doubled over January 1979 prices. This estimate is conservative since the present price (January 1980) has already exceeded twice the January 1979 price. Neither of these assumptions are likely to be near the prices actually prevailing in 1981. Oil prices in particular are highly uncertain. It does seem reasonable however, to assume that oil prices in January 1981 will be no lower than current levels. Also, if oil prices continue rising, past experience indicates that coal prices will follow.

The weighted cost of fuel for each plant was adjusted downward by 6 mills/kWh which is the approximate savings of nuclear fuel costs by not operating the nuclear plant. No adjustment for non-fuel operating and maintenance costs was made, although average O&M costs for nuclear plants are lower than those for fossil fuel plants, especially those which would be brought into operation to replace the nuclear capacity.

[6] Emergency Planning Zones (EPZs) are discussed in the EPA/NRC Task Force Report (see footnote 1). In most cases they will be a circle of radius about ten miles for the plume inhalation exposure pathway and about fifty miles for the ingestion exposure pathway. The exact size and configuration of the EPZs surrounding a particular nuclear power reactor shall be determined in relation to the emergency response needs and capabilities as they are affected by such local conditions as demography, topography, land characteristics, access routes, and local jurisdictional boundaries.

[7] This document had been issued by the NRC's staff and is used here only as a source for technical data on costs.

[8] *"Coal and Nuclear: A Comparison of the Cost of Generating Baseload Electricity by Region"*—(NUREG–0480, December 1978).

[9] "Health Evaluation of Energy Generating Sources," AMA Council on Scientific Affair, Journal of the America Medical Association, November 10, 1978, Vol. 240, No. 20, 2193.

[10] *"Health Effects Attributable to Coal and Nuclear Fuel Cycle Alternatives"*—(NUREG–0332, September 1977).

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It was assumed that the nuclear plants operate at an annual average 65 percent capacity factor. This will likely be higher in the early months of 1981 as utilities will be experiencing their winter peak demand for electricity. The average capacity factor will likely be lower in the spring when nuclear plants are typically shut down for refueling.

The above patterns will be repeated for the summer and fall.

Given these uncertainties, especially in fuel prices, the monthly replacement costs shown in the Table should be taken only as indicators. What is clearly shown is that oil dependent areas are quite vulnerable to substantial cost increases. These are California, the entire Northeast Power Coordinating Council plus New Jersey, Florida, and Arkansas.

Dated at Bethesda, Maryland, this eleventh day of January 1980.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standards Development, U.S. Nuclear Regulatory Commission.

Short Term Replacement Power Costs for Nuclear Utilities

Reliability council—plant	MWe (DER)*	Ratio of coal to oil use: Coal	Ratio of coal to oil use: Oil	Fuel cost,[2] cents per 10^6 Btu: Coal	Fuel cost,[2] cents per 10^6 Btu: Oil	Weighted[4] average fuel cost, mills per kWh	Net fuel costs,[5] mills per kWh	Replacement power costs, dollars 1×10^6 per month[6]
MPOOL:								
N.Y.—Fitzpatrick	821	1	4	134	218	35.7	29.7	11.6
N.Y.—Ginna	470	1	4	134	218	35.7	29.7	6.6
Conn.—Haddam Neck	575	—	Oil	—	245	46.1	40.1	11.0
N.Y.—Indian Point 2	873	1	4	134	218	35.7	29.7	12.3
N.Y.—Indian Point 3	965	1	4	134	218	35.7	29.7	13.6
Maine—Maine Yankee	825	—	Oil	—	162	34.2	28.2	11.0
Conn.—Millstone 1	660	—	Oil	—	245	46.1	40.1	12.6
Conn.—Millstone 2	870	—	Oil	—	245	46.1	40.1	16.6
N.Y.—Nine Mile Point 1	620	1	4	134	218	35.7	29.7	8.7
Mass.—Pilgrim 1	655	—	Oil	—	201	37.8	31.8	9.9
Vt.—Vermont Yankee 1	514	—	Oil	—	201	37.8	31.8	7.8
Mass.—Yankee-Rowe	175	—	Oil	—	201	37.8	31.8	2.8
N.Y.—Shoreham	854	1	4	134	218	35.7	24.7	12.0
SERC:								
Ala.—Browns Ferry 1	1,065	Coal	—	146	—	15.8	9.8	5.0
Ala.—Browns Ferry 2	1,065	Coal	—	146	—	15.8	9.8	5.0
Ala.—Browns Ferry 3	1,065	Coal	—	146	—	15.8	9.8	5.0
N.C.—Brunswick 1A	821	Coal	—	143	—	15.5	9.5	3.7
N.C.—Brunswick 2A	821	Coal	—	143	—	15.5	9.5	3.7
Fla.—Crystal River 3	825	1	3	132	336	50.9	44.9	17.6
Ala.—Farley 1	829	Coal	—	146	—	15.8	9.8	3.9
Ga.—Hatch 1	786	Coal	—	132	—	14.3	8.3	3.1
Ga.—Hatch 2	756	Coal	—	132	—	14.3	8.3	3.1
Va.—North Anna 1	907	2	3	161	203	29.9	23.9	10.3
S.C.—Oconee 1	887	4	1	147	186	19.7	13.7	5.6
S.C.—Oconee 2	887	4	1	147	186	19.7	13.7	5.8
S.C.—Oconee 3	887	4	1	147	186	19.7	13.7	5.8
S.C.—Robinson 2	700	4	1	147	186	19.7	13.7	4.6
Fla.—St. Lucie 1	802	1	3	132	336	50.9	44.9	17.1
Va.—Surry 1	822	2	3	161	203	29.9	23.9	9.3
Va.—Surry 2	822	2	3	161	203	29.9	23.9	9.3
Fla.—Turkey Point 3	693	1	3	132	336	50.9	44.9	14.8
Fla.—Turkey Point 4	693	1	3	132	336	50.9	44.9	14.8
Ala.—Farley 2	829	Coal	—	146	—	15.8	9.8	3.9
N.C.—McGuire 1	1,180	Coal	—	143	—	15.5	9.5	5.3
Tenn.—Sequoyah 1	1,140	Coal	—	147	—	15.8	9.8	5.3
Va.—North Anna 2	907	2	3	161	203	29.9	23.9	10.3
S.C.—Summer 1	900	4	1	147	186	19.7	13.7	5.9
ECAR:								
Pa.—Beaver Valley[1]	852	Coal	—	137	—	14.9	8.9	3.6
Mich.—Big Rock Point	72	4	1	130	258	20.9	14.9	.5
Mich.—Cook 1	1,054	4	1	130	258	20.9	14.9	7.5
Mich.—Cook 2	1,100	4	1	130	258	20.9	14.9	7.8
Ohio—Davis-Besse 1	906	Coal	—	137	—	14.9	8.9	3.6
Mich.—Palisades	805	4	1	130	258	20.9	14.9	5.7
MAAC:								
Md.—Calvert Cliffs 1	845	1	1	150	225	29.3	23.2	9.3
Md.—Calvert Cliffs 2	845	1	1	150	225	29.3	23.3	9.3
N.J.—Oyster Creek	650	1	3	161	255	40.4	34.4	10.6
Pa.—Peach Bottom 2	1,065	5	1	118	247	18.4	12.4	6.3
Pa.—Peach Bottom 3	1,065	5	1	118	247	18.4	12.4	6.3
N.J.—Salem 1	1,090	1	3	163	255	40.4	34.4	17.8
Pa.—Three Mile Island 1	819	5	1	118	247	18.4	12.4	4.8
Pa.—Susquehanna 1	1,052	5	1	118	247	18.4	12.4	6.2
N.J.—Salem 2	1,115	1	5	163	255	40.4	34.4	18.2
MAIN:								
Ill.—Dresden 1	200	5	1	124	335	18.9	12.9	1.2
Ill.—Dresden 2	794	5	1	124	335	18.9	12.9	4.9
Ill.—Dresden 3	794	5	1	124	335	18.9	12.9	4.9
Wis.—Kewaunee1.5	535	Coal	—	111	—	12.0	6.0	1.5
Wis.—Point Beach 1	497	Coal	—	111	—	12.0	6.0	1.4
Wis.—Point Beach 2	497	Coal	—	111	—	12.0	6.0	1.4
Ill.—Quad Cities 1	789	5	1	124	335	18.9	12.9	4.8
Ill.—Quad cities 2	789	5	1	124	335	18.9	12.9	4.8
Ill.—Zion 1	1,040	5	1	124	335	18.9	12.9	6.4
Ill.—Zion 2	1,040	5	1	124	335	18.9	12.9	6.4
MARCA:								
Nebr.—Cooper Station	778	Coal	—	100	—	10.8	4.8	1.8
Iowa—Duane Arnold	538	Coal	—	109	—	11.8	5.8	1.5
Nebr.—Fort Calhoun	457	Coal	—	100	—	10.8	4.8	1.0
Wis.—LaCrosse	50	Coal	—	111	—	12.0	6.0	.1
Minn.—Monticello	545	Coal	—	111	—	8.6	2.6	.7
Minn.—Prairie Island 1	530	Coal	—	111	—	8.6	2.6	.7
Minn.—Prairie Island 2	530	Coal	—	111	—	8.6	2.6	.7
SWPP:								
Ark.—Arkansas 1	850	1	5	112	202	33.7	27.7	11.1
Ark.—Arkansas 2	912	1	5	112	202	33.7	27.7	12.0

Short Term Replacement Power Costs for Nuclear Utilities—Continued

Reliability council—plant	MWe (DER)*	Ratio of coal to oil use: Coal	Ratio of coal to oil use: Oil	Fuel cost,[2] cents per 10^6 Btu: Coal	Fuel cost,[2] cents per 10^6 Btu: Oil	Weighted[4] average fuel cost, mills per kWh	Net fuel costs,[5] mills per kWh	Replacement power costs, dollars 1×10^6 per month[6]
WSSC:								
Colo.—Fort St. Vrain	330	Coal	—	69	—	7.5	1.5	.2
Calif.—Humboldt Bay	65	—	Oil	—	263	49.4	43.4	1.3
Calif.—Rancho Seco	918	—	Oil	—	263	49.4	43.4	18.9
Calif.—San Onofre 1	436	—	Oil	—	263	49.4	43.4	9.0
Oreg.—Trojan[1]	1,130	—	Oil	—	263	49.4	43.4	23.3
Calif.—Diablo Canyon 1	1,084	—	Oil	—	263	49.4	43.4	22.5
Calif.—San Onofre 2	1,140	—	Oil	—	263	49.5	43.4	23.5

[1] Assumed 100% oil because intertied with all oil utilities.
[2] Used Ohio fuel and prices as plant is in ECAR.
[3] From U.S. DOE/EIA-0075/1-(79), Monthly Report, Cost and Quality of Fuels for Electric Utility Plants, Data for January 1979, Tables 2 and 5.
[4] Prices escalated to January 1981, coal increased by 15%, fuel doubled from January 1979, net plant heat rate 9,400 Btu/kWh.
[5] Fossil fuel prices less nuclear fuel price of 6 mills/kWh.
[6] 65% plant capacity factor.
*Design Electrical Rating.

[FR Doc. 80-1705 Filed 1-18-80; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

Maximum Annual Cost of Money to Small Concerns

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would eliminate the present 15 percent ceiling imposed by SBA on the cost of Small Business Investment Company (SBIC) debt financings to Small Concerns, and substitute a ceiling that rises and falls with a certain rate charge by the Federal Financing Bank (FFB). However, this regulation does not supersede or preempt any local law that may fix an interest ceiling below the level authorized by this regulation.

DATE: Comments must be received on or before February 20, 1980.

ADDRESS: Written comments, in duplicate, are to be addressed to the Director, Office of the Investment Division, Small Business Administration, 1441 L Street, NW., Washington, DC 20416.

FURTHER INFORMATION CONTACT: Patsy Wilkinson, Office of Investment, Small Business Administration, 1441 L Street, NW., Washington, DC 20416, 202-653-6790.

SUPPLEMENTARY INFORMATION: Section 107.301(c) of Part 107 of the SBA Regulations provides that, subject to any applicable local law prescribing a lower limit, the maximum annual cost of money to a Small Concern may not exceed 15 percent. Analysis of the history of the SBIC industry shows that an SBIC Licensee cannot break even unless it is able to obtain interest income at a rate that is 6 to 7 percentage points higher than the interest it pays for borrowed money.

Almost all the funds borrowed by SBICs licensed under section 301(c) of the Small Business Investment Act (Act) come from the FFB, and as older debentures mature, the FFB will, with few exceptions, become the sole source of leverage for section 301(c) Licensees. Sec. 301(d) Licensees sell their debentures to the Small Business Administration at an interest rate that is, for the first five years of the debenture's term, three percentage points below a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States. Although the rates charged by the FFB are lower than the commercial prime rate, FFB rates rise and fall as commercial interest rates rise and fall. Interest rates, including interest rates established by the FFB, are at their all-time highs. In December 1979, the annual rate of interest on Licensee debentures with a ten-year maturity (which is the maturity option most commonly chosen by Licensees) was 10.595 percent. For any Licensee whose cost of money approaches that level, the margin between its own cost of money and the maximum cost that may be lawfully imposed upon a portfolio Small Concern is inadequate.

SBA therefore proposes to allow all Licensees to charge interest at a rate not in excess of a variable ceiling based on the interest rate fixed by the FFB for 10-year debentures at its monthly purchase of SBIC debentures. If the FFB rate on such debentures were 8 percent, or lower, the maximum cost of money allowable on any debt financing made while such rate was in effect would be 15 percent per annum. If the FFB rate on such debentures were greater than 8 percent, the maximum allowable cost of money to the Small Concern on any debt financing made while such rate was in effect would be equal to the FFB rate plus 7 percentage points, rounded off to the next lower one-eigth of a point. SBA would publish a notice of the FFB rate in effect.

SBA is aware that its proposed formula would allow a spread in excess of 7 percentage points for SBICs that obtained leverage while lower rates were in effect, and for sec. 301(d) SBICs that had obtained leverage by the sale of debentures enjoying a subsidized interest rate or by the sale of Preferred Stock to SBA, or by a combination of both sources of leverage. However, promulgation of an interest ceiling based on the cost of leverage of each individual SBIC would impose upon them, and upon SBA in its capacity as the regulator of the industry, an administrative burden out of proportion to any transitory benefit that might be realized by prospective borrowers. Even under the present 15 percent ceiling, the actual median rate charged by the SBIC industry has never reached the maximum approved rate. The median rate for September 1979 SBIC financings was 13.3 percent, with only about 42 percent of the business being between 14 percent and 15 percent.

While this proposed rule permits a higher annual cost of money to small concerns, it would make no change with respect to discounts and other fees and charges that must be included in the cost of money.

Accordingly, pursuant to the authority of section 308 of the Small Business Investment Act, as amended, 15 U.S.C. 687, it is proposed to amend Part 107 of

Chapter I, Title 13 of the Code of Federal Regulations by revising paragraph (c) to read as follows:

§ 107.301 General.

* * * * *

(c) *Maximum annual cost of money.* Subject to lower rates prescribed by local law, the maximum annual cost for Financing based on the average amount outstanding shall not exceed a rate computed according to one of the following formulas:

(1) If the current interest rate for 10-year debentures sold by Licensees to the Federal Financing Bank (FFB) is 8 percent per annum, or lower, the maximum cost of money for any such Financing made during the period that such rate is in effect shall not exceed 15 percent per annum; or

(2) If the current interest rate for 10-year debentures sold by Licensees to the FFB is in excess of 8 percent, the maximum cost of money for any such Financing made during the period that such rate is in effect shall not exceed a rate equal to the sum of the FFB rate plus .7 percentage points, but rounded off to the next lower eighth of one percent. Cost shall include all interest, discount, and all fees, commissions, and similar charges imposed, directly, or indirectly, by the Licensee on the Small Concern; only charges for Management Services pursuant to § 107.601 and charges pursuant to § 107.1004(d) shall not be included.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: January 10, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-1642 Filed 1-18-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 79-ANW-6]

Proposed Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This notice proposes to alter the McCall, Idaho, Transition Area. This proposal is necessary to provide controlled airspace for aircraft holding northwest of McCall, Idaho, VORTAC. Recent changes to holding procedures at McCall VORTAC lowered the holding pattern from 10,000 feet to 9,500 feet MSL, which necessitates lowering the floor of controlled airspace by 300 feet. For ease of charting and to reduce chart clutter, it is proposed to designate this transition area at 1,200 feet rather than as an MSL altitude.

DATES: Comments must be received on or before February 21, 1980.

ADDRESS: Send comments on the proposal to: Chief, Operations, Procedures and Airspace Branch, Federal Aviation Administration, Northwest Region; FAA Building, Boeing Field, Seattle, Washington 98108.

The official docket may be examined at the following location: Office of the Regional Counsel, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace Specialist, Operations, Procedures and Airspace Branch, (ANW-534), Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108; telephone (206) 767-2610.

SUPPLEMENTARY INFORMATION:

Comment Invited

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted to the Chief, Operations, Procedures and Airspace Branch, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108. All communications received on or before February 21, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available, before and after the closing dates for comments, in the official docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rule Making by submitting a request to the Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, ANW-530, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108 or by calling (206) 767-2610. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The Federal Aviation Administration is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 9,500 foot McCall, Idaho, Transition Area. This proposal is necessary to provide controlled airspace for IFR holding aircraft, necessitated by lowering the holding pattern from 10,000 feet to 9,500 feet. Accordingly, the FAA proposes to amend Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by amending § 71.181 as follows:

McCall, Idaho

Is amended as follows: Delete ". . . 9,500 feet MSL", on line one and replace with ". . . 1,200 feet above the surface".

Drafting Information

The principal authors of this document are Robert L. Brown, Air Traffic Division, and Hays V. Hettinger, Regional Counsel, Northwest Region, Federal Aviation Administration.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of sec. 6(c) of the Department of Transportation Act, (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation, and a comment period of less than 45 days is appropriate.

Issued in Seattle, Washington, January 10, 1980.

C. B. Walk, Jr.,

Director.

[FR Doc. 80-1617 Filed 1-18-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-ASW-66]

Proposed Designation of Transition Area; Mullin, Tex.

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The nature of the action being taken is to propose designation of a transition area at Mullin, Tex. The intended effect of the proposed action is to provide controlled airspace for aircraft executing a new private instrument approach procedure to the Smokey Bend Ranch Airport. The circumstance which created the need for the action is the proposed establishment of a nondirectional radio beacon (NDB) on the airport.

DATES: Comments must be received on or before February 20, 1980.

ADDRESSES: Send Comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G 71.181 (44 FR 442) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting Instrument Flight Rules (IFR) activity. Designation of a transition area at Mullin, Tex., will necessitate an amendment to this subpart.

Comments Invited

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before February 20, 1980 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Mullin, Tex. The FAA believes this action will enhance IFR operations at the Smokey bend Ranch by providing controlled airspace for aircraft executing proposed instrument approach procedures using the proposed NDB on the airport. Subpart G of Part 71 was republished in the **Federal Register** on January 2, 1979. (44 FR 442).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) by adding the Mullin, Tex., transition area as follows:

Mullin, Tex.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Smokey Bend Ranch Airport (latitude 31°28'15"N., longitude 98°42'03.5"W.), and within 3.5 miles each side of the 163° bearing from the NDB (latitude 31°28'24.01"N., longitude 98°41'58.8"W.) extending from the 6.5-mile radius area to 8.5 miles south of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Fort Worth, Texas on January 9, 1980.

F.E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 80-1618 Filed 1-18-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-ASW-63]

Proposed Alteration of Transition Area; Houma, La.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The nature of the action being taken is to propose alteration of the transition area at Houma, La. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing instrument approach procedures to the Houma-Terrebonne Airport. The circumstance which created a need for the action is that a review of the current transition area revealed the controlled airspace is not properly described and inadequate for the protection of aircraft executing instrument approach procedures. In addition, higher performance aircraft are utilizing the airport which requires additional controlled airspace.

DATES: Comments must be received on or before February 20, 1980.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G 71.181 (44 FR 442) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft

V 45/14 JA 21 80 UMI

conducting Instrument Flight Rules (IFR) activity. Alteration of the transition area at Houma, La., will necessitate an amendment to this subpart.

Comments Invited

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before February 20, 1980 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling (817) 624–4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area at Houma, La. The FAA believes this action will enhance IFR operations at the Houma-Terrebonne Airport by providing controlled airspace for aircraft executing instrument approach procedures to the airport. Subpart G of Part 71 was republished in the **Federal Register** on January 2, 1979 (44 FR 442).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) by altering the Houma, La., transition area by deleting the present description and substituting the following:

Houma, La.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Houma-Terrebonne Airport (latitude 29°34'03"N, longitude 90°39'37"W) and within 2 miles each side of the 123° radial of the Tibby VORTAC (latitude 29°39'51"N, longitude 90°49'44"W) extending from the 6.5-mile radius area to the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Fort Worth, Texas on January 9, 1980.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 80-1619 Filed 1-18-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79–EA–65]

Proposed Alteration of Transition Area; Martinsville, Va.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This notice proposes to alter the Martinsville, Va., Transition Area over Blue Ridge Airport, Martinsville, Va. This alteration will provide protection to aircraft executing an amended VOR–B and a new VOR/DME Runway 30 instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aricraft utilizing the instrument approach.

DATES: Comments must be received on or before March 20, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA–530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA–7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Charles J. Bell, Airspace & Procedures Branch, AEA–530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995–3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before March 20, 1980, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA–530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995–3391.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Martinsville, Va., Transition Area. The airport is at present overlaid by a 700-foot area to which will be added a portion of airspace approximately three miles long and nine miles wide to the southeast side of the area and a portion approximately one mile wide by six miles long to the westerly side of the southern extension.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Section 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

§ 71.181 [Amended]

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Martinsville, Virginia, 700-foot floor transition area as follows:

In the text delete all after, "extended from the 6.5-mile radius area to 14 miles northeast of the end of the runway;" and substitute therefor, "within 4.5 miles each side of the Martinsville, Va. VOR 178° radial extending from the 6.5-mile radius area to 12 miles south of the airport; within 4.5 miles each side of the Martinsville, Va. VOR 115° radial extending from the 6.5-mile radius area to 11 miles southeast of the airport."

(Section 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348(a)] and of Section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)]; and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on January 7, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-1798 Filed 1-18-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79–EA–64]

Proposed Alteration of Transition Area: Pittsburgh, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This notice proposes to alter the Pittsburgh, Pa., transition area over Greater Pittsburgh International Airport, Pittsburgh, Pa. This alteration will provide protection to aircraft executing an amended approach procedure, ILS RWY 10L, which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before March 20, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA–530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA–7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Charles J. Bell, Airspace & Procedures Branch, AEA–530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995–3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before March 20, 1980, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA–530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995–3391. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area over Greater Pittsburgh International Airport. The airport is at present overlaid by a 700-foot area which will be extended in an area generally west of the airport to a total distance of about 6.5 miles west of the outer mark.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Section 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

§ 71.101 [Amended]

1. Amend § 71.101 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Pittsburgh, Pa. 700-foot floor transition area by amending the description to read:

following; "long. 80°13'54" W.", insert the following, "; and within 3.5 miles each side of the runway 10L localizer course extending from the 12-mile radius area to 6.5 miles west of the OM of Greater Pittsburgh International Airport, Pittsburgh, Pa.;"

Section 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348(a)] and of Section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)]; and 14 CFR 11.65.

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on January 7, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-1797 Filed 1-18-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79–EA–49]

Proposed Designation of Transition Area: Durhamville, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This notice proposes to designate a Durhamville, N.Y., transition area over Kamp Airport, Durhamville, N.Y. This designation will provide protection to aircraft executing the new VOR RWY 26 instrument approach

which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before March 20, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA–530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA–7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Charles J. Bell, Airspace & Procedures Branch, AEA–530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995–3391,

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before March 20, 1980, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA–530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995–3391.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA in considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area over Kamp Airport. The airport will be overlaid by a 700-foot area and controlled in an area generally northeast out to 13 miles, to the east out to 32 miles and around to the south and southwest out to 24 miles of the airport.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Section 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

§ 71.181 [Amended]

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a 700-foot floor transition area at Durhamville, N.Y. as follows:

Durhamville, N.Y.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center 43°08'07"N., 75°38'54"W. of Kamp Airport within 2.5 miles each side of 059° bearing of Kamp Airport, extending from the 6.5-mile radius area to 7 miles northeast of the airport; within 5 miles each side of the 107° bearing of Kamp Airport extending from the 6.5-mile radius area to 26 miles east of the airport; within an 18.5-mile radius of the center of the Airport extending from the 6.5-mile radius area extending clockwise from a 122° bearing from the center of the airport to a 235° bearing from the center of the airport.

Section 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348(a)] and of Section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)]; and 14 CFR 11.65.

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operation, the anticipated impact is so minimal that this action does not wafrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on January 7, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-1796 Filed 1-18-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Doc. No. 79–EA–57]

Proposed Alteration of Transition Area: Wrightstown, N.J.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This notice proposes to alter the Wrightstown, N.J., Transition Area over Monmouth County Airport, Belmar-Farmingdale, N.J. This alteration will provide protection to aircraft executing the proposed Runway 14 simplified directional facility (SDF) instrument approach which is being developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before March 20, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, AEA–530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA–7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Charles J. Bell, Airspace & Procedurers Branch AEA–530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995–3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Comunications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before March 20, 1980, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief Airspace & Procedures Branch, AEA–530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995–3391.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Wrightstown, N.J., Transition Area. The airport is at present overlaid by a 700-foot area to which will be added a portion of airspace approximately eight miles deep and eight miles wide to the northwest.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Section 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

§ 71.181 [Amended]

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Wrightstown, N.J., 700-foot floor transition area by amending the description to read:

Wrightstown, N.J.

Following, "within a 5-mile radius of Monmouth County Airport (40°11'05" N., 74°07'20" W.); within 2 miles each side of the Colts Neck VORTAC 167° radial extending from the Monmouth County Airport 5-mile radius area to the VOR;" add the following: "within 4 miles each side of the Belmar (BLM), N.J., localizer (40°10'57" N., 74°07'14" W.) 315° bearing extending from the Monmouth County Airport 5-mile radius area to 7-miles northwest of the approach end of Runway 14."

(Section 3907(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348(a)] and of Section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)]; and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on January 8, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-1799 Filed 1-18-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Denial of Petitions To Control Dextropropoxyphene in Schedule II; Classification of Dextropropoxyphene as a Narcotic

AGENCY: Drug Enforcement Administration, Justice Department.

ACTION: Final Rule—Denial of Petition. Notice of Proposed Rulemaking—Classification as Narcotic.

SUMMARY: This is a denial of two petitions, one filed by Dr. Sidney M. Wolfe and on behalf of the Public Citizen Health Research Group, and a second filed by Dr. Edward Press, a public health officer for Oregon, to reschedule dextropropoxyphene and all dextropropoxyphene-containing products into Schedule II.

This denial is by the Administrator of the Drug Enforcement Administration, and based upon his receipt of a scientific and medical evaluation and recommendation to that effect by the Assistant Secretary for Health, Department of Health, Education and Welfare, and in accordance with section 201 and 202(b) of the Controlled Substances Act, 21 U.S.C. 811, 812(b), the Administrator of the Drug Enforcement Administration has determined that dextropropoxyphene should remain in Schedule IV of the Controlled Substances Act, and therefore declines to initiate proceedings to transfer or remove it from Schedule IV. The Secretary further recommended that the Administrator classify dextropropoxyphene as a narcotic, and the Administrator issues this Notice of Proposed Rulemaking to initiate that action.

DATE: Comments are due on or before February 20, 1980.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Chief, Regulatory Control Division, Telephone (202) 633–1366.

SUPPLEMENTARY INFORMATION: On November 7, 1978, Dr. Edward Press, State Public Health Officer, Oregon, filed a petition with the Administrator of the Drug Enforcement Administration to transfer dextropropoxyphene from Schedule IV to Schedule II of the Controlled Substances Act. He supplemented his request with additional correspondence to the Administrator dated November 28, 1979, which included some six summarized cases concerning overdoses, toxicity and death from dextropropoxyphene.

On November 21, 1978, the Public Citizen Health Research Group and Dr. Sidney M. Wolfe, jointly, also filed a petition with the Drug Enforcement Administration to transfer dextropropoxyphene (Darvon), and its salts, from Schedule IV to Schedule II of Act.

On February 12, 1979 and again on March 20, 1979, after initial data gathering and analysis and reviewed by DEA, the Drug Enforcement Administration transmitted the petitions and materials related to the issue of dextropropoxyphene control to the Food and Drug Administration, Department of Health, Education and Welfare, for further analysis and review by the Secretary as to the medical and scientific aspects of the petitions, and for subsequent receipt by the Administrator of the Secretary's scientific and medical evaluations and recommendation. These evaluations and recommendation were provided by the Assistant Secretary for Health in his letter dated September 7, 1979 to the Administrator; the September 7, 1979 letter is set forth here in its entirety:

September 7, 1979.

Mr. Peter B. Bensinger, Administrator, Drug Enforcement Administration, 1405 "Eye" Street, N.W., Washington, D.C. 20537.

Dear Mr. Bensinger: On November 21, 1978, a petition was received by the Department of Health, Education, and Welfare and the Department of Justice from the Health Research Group requesting that all propoxyphene containing products be place in Schedule II of the Controlled Substances Act.

The Bureau of Drugs within the Food and Drug Administration has reviewed the relevant data on porpoxyphene pursuant to Section 201 of the CSA and recommends that propoxyphene (including all drug products containing propoxyphene and its salts) remain in Schedule IV of the CSA but should be classified as "narcotics".

I concur with the FDA's recommendation that propoxyphene be classified as a "narcotic". I have also concluded that there is insufficient evidence at this time to justify our recommending to you any change in the current scheduling of propoxyphene.

However, I am now conducting a thorough study of the issues underlying the criteria for scheduling propoxyphene. If that study suggests further action, I will contact you.

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A summary of the basis for this recommendation is enclosed.

Sincerely yours,
Julius B. Richmond,
Assistant Secretary for Health and Surgeon General.

Enclosure.

In essence and in effect, this recommendation from the Assistant Secretary is not to control dextropropoxyphene as the petitioners have requested.

Therefore, this recommendation of the Assistant Secretary is binding on the Administrator of the Drug Enforcement Administration, and in view thereof and in accordance with the provisions of section 201(b) of the Act, the Administrator shall not institute proceedings to transfer dextropropoxyphene to Schedule II, and in lieu thereof, dextropropoxyphene shall remain in Schedule IV as currently listed.

In the Assistant Secretary's evaluation and recommendation letter of September 7, 1979, he further recommended that dextropropoxyphene be classified as a "narcotic". The above-referenced enclosure to his letter set forth analysis of dextropropoxyphene as a narcotic; and to supplement that analysis, Dr. J. Richard Crout, Director, Bureau of Drugs, Food and Drug Administration, sent a letter dated November 13, 1979, to Mr. Kenneth A. Durrin, Director, Office of Compliance and Regulatory Affairs, DEA, setting forth additional evidence in support of and concluding that dextropropoxyphene is an opiate, and hence, a narcotic drug, as defined in Sections 102(17) and (16) of the Controlled Substances Act [21 U.S.C. 801 (17), (16)].

Accordingly, the Administrator of the Drug Enforcement Administration, under the authority of the Act and regulations of the Department of Justice and the Drug Enforcement Administration, hereby proposes that § 1308.14 of Title 21, Code of Federal Regulations (CFR), be amended:

§ 1308.14 [Amended]

(1) By removing dextropropoxyphene as item (1) of subsection (f) thereof and renumbering item (2) pentazocine as item (1); and

(2) By re-listing dextropropoxyphene as item (2) of subsection (b) *Narcotic Drugs* of § 1308.14.

All interested persons are invited to submit their comments in writing regarding this proposal on or before February 20, 1980. These comments should state with particularity the issues concerning which the person desires to be heard. Comments should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative.

Dated: January 11, 1980.

Frederick A. Rody, Jr.,
Acting Administrator, Drug Enforcement Administration.

[FR Doc. 80-1818 Filed 1-18-80; 8:45 am]
BILLING CODE 4410-09-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 7

[LR-2-78]

Requirements Relating to Certain Exchanges Involving a Foreign Corporation; Public Hearing on Proposed Regualtions

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regualtions.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to (1) ruling requests in respect to certain transfers involving a foreign corporation and (2) the extent which a foreign corporation shall be considered to be a corporation in connection with certain exchanges.

DATES: The public hearing will be held on February 27, 1980, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by February 13, 1980.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-2-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Jason Felton or George Bradley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3289, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 367 of the Internal Revenue Code of 1954. These proposed regulations were published in the **Federal Register** for Friday, December 30, 1977, at page 65152 (42 FR 65152), and Friday, October 5, 1979, at page 57390 (44 FR 57390); and as temporary regulations (T.D. 7530 and T.D. 7646, respectively) at the same citations.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by February 13, 1980. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

Robert A. Bley,
Director, Legislation and Regulations Divisions.

[FR Doc. 80-1876 Filed 1-18-80; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

36 CFR Part 1227

Recreation Fees

AGENCY: Heritage Conservation and Recreation Service, Interior.

ACTION: Proposed Rule.

SUMMARY: The Heritage Conservation and Recreation Service, with the consent of all Federal agencies involved, is proposing to amend 36 CFR Part 1227.9, Federal Recreation Fee Program. The Proposed amendment will allow the Department of Interior land-managing agencies to establish recreation fees, primarily emphasizing that such fees be comparable with other Federal and non-Federal public agencies providing similar services and facilities.

Other factors that will be considered, as provided by law, are the direct and indirect cost to the government, the benefits to the recipient, the public policy or interest served, the economic and administrative feasibility of collection and other pertinent factors.

Agencies not within the Department of the Interior, who are also participating in this Federal Recreation Fee Program, will amend their Departmental regulations to set forth similar provisions. These agencies are, the Corps of Engineers, the Tennessee Valley Authority, and the U.S. Forest Service.

DATE: Comments must be received on or before February 20, 1980.

ADDRESS: Written comments should be addressed to the Chief, Federal Lands Planning, Heritage Conservation and Recreation Service, DOI, 440 G Street NW, Room 236, Washington D.C. 20243 (202) 343-7665. For Further Information Contact: Jim Cook, Heritage Conservation and Recreation Service, 440 G Street NW, Room 236, Washington D.C. 20243 (202) 343-7665.

SUPPLEMENTARY INFORMATION: The Federal Recreation Fee Program is a coordinated effort by the following land-managing agencies to uniformly establish and collect recreation fees as provided 16 U.S.C. 460 1-6a.

1. National Park Service.
2. Fish and Wildlife Service.
3. Bureau of Land Management.
4. Water and Power Resources Service.
5. Corps of Engineers.
6. Tennessee Valley Authority.
7. U.S. Forest Service.

The Federal Interagency Fee Task Force is composed of representatives from each of the seven agencies, with the Heritage Conservation and Recreation Service as the coordinating agency. Early in 1974, this Task Force was formed with the primary task of writing rules and regulations to implement provisions of 16 U.S.C. 460 1-6a.

Presently, the Federal Recreation Fee structure provided in the Department of Interior regulations sets forth fee ceilings for specific types of recreation facilities and services. At the time the regulations were written, it seemed reasonable to set such ceilings. Recent concern has been expressed by the seven land-managing agencies regarding the ceilings.

They have indicated that unless the ceilings are deleted from the regulations, charging fees comparable with Federal and non-Federal *public* agencies, as allowed by law, will not be possible in some areas of the United States. On July 20, 1979, a meeting of the Federal Recreation Fee Task Force was held in an attempt to resolve this problem. Consensus on amending the regulations, allowing consideration of comparability instead of the fee ceilings, was achieved.

It is important to note, that the deletion of fee ceilings will not of itself result in increased fees and charges. It does permit establishment of comparable fees as allowed by law. Fees may increase or decrease in some areas of the United States to the extent that comparability will be achieved with Federal and non-Federal public agencies. Fees and charges will vary throughout the country depending on the local governmental units providing recreation services.

No major national or region-wide impact on local governments is expected or intended. Interstate relations are anticipated to improve as a result of this amended rule. For example, where Federal lands are bisected by State lines, comparable fees will be established according to other nearby Federal and non-Federal *public* agency recreation fees for similar opportunities. The present fee ceiling structure does not provide the flexibility needed to adjust fees and achieve comparability.

The intent of this amendment is to authorize the establishment of comparable fees, both locally and region-wide, for recreation services.

In January of 1973, and Environmental Assessment was prepared by the Bureau of Outdoor Recreation. In this report, the potential environmental impacts resulting from the issuance of recreation for Federal Recreation Fees was considered and found to be insignificant, therefore no Environmental Impact Statement is required for these proposed regulations under the National Environmental Policy Act 42 U.S.C. SS 4321 et. seq.

Inflationary impacts have also been considered. The Council on Wage and Price Stability has indicated that Federal agencies charging recreation fees would have the potential to be excepted from the voluntary price control standard. The reason for this is that the Land and Water Conservation Fund Act, as amended, precedes the voluntary price control standards. In addition, the fees collected by the Federal land-managing agencies amounts to less than 10% of the total cost of providing recreation services funded out of general tax receipts and, therefore, are excepted from the standards. It should be understood that revenues derived by the seven participating agencies in accordance with 16 U.S.C. 460 1-6a are utilized within those agencies to offset appropriations granted out of general tax revenues.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The primary author of this document is Mr. Brian Romanek, Division of Federal Lands Planning, Heritage Conservation and Recreation Service, 440 G Street NW., Washington, D.C. 20243, (202) 343-7665.

In consideration of the foregoing, it is proposed to amend 36 CFR 12 Part 1227 by revising § 1227.9 as follows:

§ 1227.9 Establishment of recreation use fees.

(a) Recreation use fees shall be established by all outdoor recreation administering bureau of the Department of the Interior in accordance with the following criteria:

(1) The direct and indirect cost of the government.

(2) The benefit to the recipient.

(3) The public policy or interest served.

(4) The comparable recreation fees charged by other Federal and non-Federal public agencies within the service area of the management unit at which the fee is charged.

(5) The economic and administrative feasibility of fee collection.

(6) The pertinent factors.

(b) With the approval of the Secretary of the Interior recreation use fees may be established for other types of facilities in addition to those which are listed below.

(c) Types of recreation facilities for which use fees may be charged:

Camp and trailer sites [1]
Group camping sites [1] [2]
Specialized boat launching facilities and services

[1] Provided that in no event shall there be a charge for the use of any campsite and adjacent related facilities unless the campground in which the site is located has all of the following: Tent or trailer spaces, drinking water, access road, refuse containers, toilet facilities, personal collection of the fee by an employee or agent of the bureau operating the facility, reasonable visitor protection, and simple devices for containing a campfire (where campfires are permitted).

[2] The administering bureau may establish a group use rate in lieu of the above "Group Camping Sites" recreation use fee in accordance with the criteria set our in this section provided such rate is not less than $3.00 per day per group. Such a group use rate may constitute either a special recreation permit fee or a recreation use fee as determined by the administering bureau.

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amendment to § 36.4303(f) is proposed to delete an obsolete proviso.

The amendments are proposed under authority of sections 210(c), 1803(c)(1), 1810(a)(1), (4), and (7) of title 38, United States Code.

ADDITIONAL COMMENT INFORMATION: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans' Administration, 810 Vermont Avenue, NW, Washington, DC 20420. All written comments received will be available for public inspection at the above address only between 8 a.m. and 4:30 p.m., Monday thru Friday (except holidays) until March 3, 1980. Any persons visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: January 14, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

1. In § 36.4301, paragraph (c) is added and paragraph (n) is revised so that the added and revised material reads as follows:

§ 36.4301 Definitions.

* * * * *

(c) "Acquisition and improvement loan." A loan to purchase an existing property which includes additional funds for the purpose of installing energy conservation improvements or making other alterations, improvements, or repairs. (38 U.S.C. 1803(c)(1), 1810(a)(1), (4), and (7))

* * * * *

(n) "Full disbursement." Payment by a lender of the entire proceeds of a loan for the purposes described in the report of the lender in respect of such loan to the Administrator either—

(1) By payment to those contracting with the borrower for such purposes, or

(2) By payment to the borrower, or

(3) By transfer to an account against which the borrower can draw at will, or

(4) By transfer to an escrow account, or

(5) By transfer to an earmarked account if

(i) The amount thereof is not in excess of 10 percent of the loan, or

(ii) The loan is an Acquisition and Improvement loan pursuant to § 36.4301(c), or

(iii) The loan is one submitted by a lender of the class specified in 38 U.S.C. 1802(d) or 1815(a). (38 U.S.C. 1803(c)(1))

* * * * *

2. Section 36.4303 is amended as follows:

(a) By deleting "if the application of the veteran to a lender for such loan was made on or after September 15, 1956," in the last sentence of paragraph (f).

(b) By revising paragraphs (a). (b) and (d) to read as follows:

§ 36.4303 Reporting requirements.

(a) With respect to loans automatically guaranteed under 38 U.S.C. 1803(a)(1) evidence of the guaranty will be issuable to a lender of a class described under 38 U.S.C. 1802(d) if the loan is reported to the Administrator within 60 days following full disbursement, and upon the certification of the lender that:

(1) No default exists thereunder which has continued for more than 30 days;

(2) Except for acquisition and improvement loans as defined in § 36.4301(c), any construction, repairs, alterations, or improvements effected subsequent to the appraisal of reasonable value, and paid for out of the proceeds of the loan, which have not been inspected and approved upon completion by a compliance inspector designated by the Administrator have been completed properly in full accordance with the plans and specifications upon which the original appraisal was based, and any deviations or changes of identity in said property have been approved as required in § 36.4304 concerning guaranty or insurance of loans to veterans;

(3) The loan conforms otherwise with the applicable provisions of 38 U.S.C. ch. 37 and of the regulations concerning guaranty or insurance of loans to veterans. (38 U.S.C. 1803(c)(1))

(b) Loans made pursuant to 38 U.S.C. 1815 although not entitled to automatic insurance thereunder may, when made by a lender of a class described in 38 U.S.C. 1802(d)(1), be reported for issuance of an insurance credit or a certificate of commitment as provided in paragraph (a) of this section. (38 U.S.C. 1802(d), 1815)

* * * * *

(d) A certificate of commitment shall entitle the holder to the issuance of the evidence of guaranty or insurance upon the ultimate actual payment of the full proceeds of the loan for the purposes described in the original report and upon the submission within 60 days thereafter of a supplemental report showing that fact and—

(1) The identity of any property purchased therewith,

(2) That all property purchased or acquired with the proceeds of the loan has been encumbered as required by the regulations concerning guaranty or insurance of loans to veterans,

(3) Except for acquisition and improvement loans as defined in § 36.4301(c), any construction, repairs, alterations, or improvements paid for out of the proceeds of the loan which have not been inspected and approved subsequent to completion by a compliance inspector designated by the Administrator have been completed properly in full accordance with the plans and specifications upon which the original appraisal was based and that any deviations or changes of identity in said property have been approved as required by § 36.4304, and

(4) That the loan conforms otherwise with the applicable provisions of 38 U.S.C. ch. 37 and the regulations concerning guaranty or insurance of loans to veterans. (38 U.S.C. 1803(c)(1))

* * * * *

3. In § 36.4312, paragraph (d)(6)(i)(B) and (iii) is revised and paragraph (d)(8)(iv) is added so that the added and revised material reads as follows:

§ 36.4312 Charges and fees.

* * * * *

(d) The following schedule of permissible fees and charges shall be applicable to all Veterans Administration-guaranteed or insured loans:

* * * * *

(6) Allowable discounts.

(i) The veteran borrower subject to the limitations set forth in this paragraph, may pay a discount required by a lender when the proceeds of the loan will be used for any of the following purposes:

* * * * *

(B) To repair, alter or improve a dwelling owned by the veteran pursuant to 38 U.S.C. 1810(a)(4) or (7);

* * * * *

(iii) A veteran may pay the discount on an Acquisition and Improvement loan (as defined in § 36.4301(c)) provided:

(A) The veteran pays no discount on the acquisition portion of the loan except in accordance with paragraph (d)(6)(i)(D) of this section; and

(B) The discount paid on the improvements portion of the loan does not exceed the percentage of discount paid on the acquisition portion of the loan.

Lockers [3]
Boat storage and handling
Elevators
Ferries and other means of transportation
Bathhouses
Swimming pools
Overnight shelters
Guided tours
Electrical hook-ups
Vehicle and trailer storage
Rental of nonmotorized boats
Rental of motorized boats
Rental of hunting blinds
Reservation services
Specialized sited (highly developed).

Dated: January 14, 1980.

Chris Therral Delaporte,

Director, Heritage Conservation and Recreation Service.

[FR Doc. 80-1704 Filed 1-12-80; 8:45 am]

BILLING CODE 4310-03-M

VETERANS ADMINISTRATION

38 CFR Part 36

Loan Guaranty; Acquisition and Improvement Loans

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The VA (Veterans Administration) is proposing to amend its regulations to authorize veterans purchasing an existing home with a VA guaranteed loan to secure additional funds at the time of home acquisition for energy saving home improvements or other alterations, improvements, or repairs. These regulations are proposed to assist veterans in making their homes more energy efficient, to save valuable fossil fuel resources, and to protect the veteran's investment in his or her home by lowering monthly utility bills.

The VA also is proposing to amend its regulations to authorize lenders to report closed loans for guaranty at any time within 60 days following full disbursement of the loan. These amendments are proposed to liberalize loan reporting requirements by extending from 30 to 60 days the time within which a loan must be reported to the VA for loan guaranty. It is expected that the adoption of these amendments will reduce paperwork for program participants and the VA by eliminating the majority of late reported loans.

DATES: Comments must be received on or before February 20, 1980. It is proposed to make this amendment effective on the date of final approval.

Comments will be available for public inspection at the address shown below until March 3, 1980.

ADDRESSES: Send written comments to: Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Assistant Director for Loan Policy (264), Loan Guaranty Service, Veterans Administration, Washington, DC 20420 (202-389-3042).

SUPPLEMENTARY INFORMATION: The VA is proposing to amend the home loan (§ 36.4300 series) regulations to authorize the guaranteeing of loans which will include funds for simultaneous acquisition and improvement of existing homes. The amendments will make it possible for a veteran purchasing an existing home to finance the installation of energy conserving improvements at the time of home acquisition. For example, improvements could include insulation, storm windows, a heat pump, solar energy water heating equipment, or solar heating and/or cooling equipment. A veteran also could make other desired alterations, improvements, or repairs such as the addition of a bathroom or the modernization of a kitchen.

The proposed amendment to § 36.4301(c) adds a new definition entitled "Acquisition and Improvement Loan". The proposed amendment to § 36.4301(n) authorizes lenders to place the portion of the loan funds for improvements in an escrowed or earmarked account pending completion of the home improvements. The proposed amendments to § 36.4303(a) delete the requirement that home loans processed on the automatic basis may not be guaranteed until the home improvements have been completed. The amendments to §§ 36.4301(n) and 36.4303(a), therefore, will allow acquisition and improvement loans to be guaranteed once the loan has been closed, title to the property has been properly acquired, and the improvement funds satisfactorily escrowed or earmarked. Similarly, the amendments to §§ 36.4301(n) and 36.4303(d) will authorize loans closed on the prior approval basis to be guaranteed after the loan has been properly closed, title to the property properly acquired, and the improvement funds placed in an escrowed or earmarked account. In addition, amendments are proposed to § 36.4312(d)(6) to authorize the veteran to pay the discount on that portion of the loan which is for energy conservation improvements or other alterations, improvements, or repairs. Since a majority of VA guaranteed loans are sold to secondary market investors, VA lenders often require discounts in order to sell the loan on the secondary market. A lender making a VA loan and selling it on the secondary market will require discounts on the entire loan amount. However, the seller of an existing property probably will be unwilling to pay the loan discount on the improvements portion of the loan. Thus, the amendment to § 36.4312(d)(6) will authorize the veteran to pay the discount on the improvement portion of the loan provided it does not exceed the percentage of discount paid by the seller on the acquisition portion of the loan.

The VA is proposing these amendments to assist veterans to obtain the home of their choice and to make energy conservation improvements (or other alterations, improvements, or repairs) to the property. It is expected that if these amendments are adopted, veterans will be able to secure the lower interest rate and longer loan terms afforded by VA guaranteed acquisition loans to finance energy conserving improvements or other improvements. These improvements should help to conserve fossil fuels and at the same time lower the veteran's utility bills.

Amendments also are proposed to §§ 36.4303(a), (d), and 36.4335 to allow lenders to report either automatic or prior approval loans for guaranty within 60 days following full loan disbursement. Presently, loans must be reported to the VA within 30 days of full disbursement in order to be eligible for loan guaranty. A substantial number of loans are reported "late" or over 30 days after full loan disbursement, but are otherwise eligible for guaranty. Lenders reporting loans late must request a waiver which must be accepted by VA, and the waiver appropriately documented in the VA loan file. A very large number of these late reporting loans are reported within 60 days of full loan disbursement. Waivers of such late reported loans generally are granted, but these waiver actions are time-consuming. We believe that allowing lenders up to 60 days to report a home or condominium loan for guaranty will have no significant adverse impact upon the veteran's interest in his or her home or the government's interest in the protection of the guaranteed loan revolving fund. The proposed amendments should have a beneficial effect by reducing paperwork for both program participants and the VA.

A technical clarifying amendment also is proposed to § 36.4303(b). An

[3] Use fees for boat ramps are prohibited. However, in the case of boat launching facilities with specialized facilities or services, such as mechanical or hydraulic lifts, reasonable fees may be assessed in accordance with the criteria set out in a paragraph (a) of this section.

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Acquisition and Improvement loans may be closed either on the automatic or prior approval basis.

(iv) All powers of the Administrator under paragraph (d)(6) of this section are hereby delegated to those officials designated by § 36.4342(b). (38 U.S.C. 1803(c)(1), 1810(a))

4. In § 36.4335, paragraphs (a) and (b) are revised to read as follows:

§ 36.4335 Supplementary administrative action.

* * * * *

(a) The requirement in § 36.4303(a) that a lender of a class described under 38 U.S.C. 1802(d) originating a loan under the automatic (nonprior approval) procedure report such loan for issuance of guaranty or insurance evidence within 60 days following full disbursement. Waiver of the lender's failure to report the loan within the 60-day period shall be confined to cases where the loan is not in default. (38 U.S.C. 1803(c)(1))

(b) The requirement in § 36.4303(d) that a lender originating a loan under a certificate of commitment report the loan for issuance of guaranty or insurance evidence within 60 days following actual payment of the full proceeds of the loan. In such cases it is not necessary that a finding be made that the loan is not in default. (38 U.S.C. 1803(c)(1))

* * * * *

[FR Doc. 80-1783 Filed 1-18-80; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1396-3]

Notice of Proposed Rulemaking: Miscellaneous Revisions to Massachusetts Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve three revisions to the Massachusetts State Implementation Plan (SIP). Amendments to the Sulfur-in-Fuel regulation would allow use of higher sulfur fuel oil at two sources in Fitchburg on a year-round basis. Amendments to the Open Burning regulation would allow brush burning in certain areas of the State from January 15 to May 1 of each year. Finally, the provisions of the Fuel Oil Viscosity regulation, which requires installation of automatic viscosity controllers, would be varied for the Cambridge Electric Light Company.

DATES: Comments must be received on or before February 20, 1980.

ADDRESSES: Copies of the Massachusetts submittals and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; and the Division of Air and Hazardous Materials, Department of Environmental Quality Engineering, Room 320, 600 Washington Street, Boston, Massachusetts 02111.

Comments should be submitted to the Regional Administrator, Region I, Environmental Protection Agency, Room 2203, JFK Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT: Deborah Ikehara, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617)/223-5609.

SUPPLEMENTARY INFORMATION: The Commissioner of the Massachusetts Department of Environmental Quality Engineering (the DEQE) has submitted several revisions to the Massachusetts State Implementation Plan (SIP), which are not part of an attainment plan under Part D of the Clean Air Act as amended (the Act). The SIP revisions amend Regulations 310 CMR 7.05(1) and 7.07, and vary the provisions of Regulation 7.04(5).

Amendments to Regulation 310 CMR 7.05(1), Sulfur Content of Fuels and Control Thereof, were submitted on September 28, 1979. This regulation presently allows the use of 2.2% sulfur residual fuel oil at sources in the Central Massachusetts Air Pollution Control District (CMAPCD) which are larger than 100 million Btu/hour heat input, except those located in Worcester. Sources smaller than 100 million Btu/hour heat input and all sources in Worcester are limited to 1.0% sulfur fuel. However, a special provision limits the use of 2.2% sulfur fuel at the large sources in Fitchburg to seven months of the year, April through October; during the rest of the year, November through March, these sources must burn 1.0% sulfur fuel. The proposed revision would remove the seasonal restrictions in Fitchburg.

The original SIP called for all sources in the CMAPCD to use fuel with a maximum sulfur content of 1.0%. The present SIP regulation was approved by EPA on a temporary basis on May 19, 1977, extended on June 21, 1978, and approved permanently on July 16, 1979. Although the DEQE's previous submittals proposed a seasonal strategy for the Fitchburg sources, EPA reviewed the four eligible sources as if they were burning 2.2% sulfur fuel on a year-round basis. Only those sources were approved which could burn the higher sulfur fuel year-round without causing NAAQS violations, consistent with EPA's policy that supplemental or intermittent control measures are illegal.

The DEQE's present submittal requests approval for only two of the four sources in Fitchburg which are larger than 100 million Btu/hour. These two sources, Fitchburg Paper Company (55 meter stacks only) and James River-Massachusetts, have been approved by EPA to burn 2.2% sulfur fuel in accordance with the present SIP regulation, but the other two sources, General Electric and Fitchburg Gas and Electric, and the 23 meter stacks at Fitchburg Paper are limited by EPA to 1.0% sulfur fuel at all times.

Technical support for the proposed revision includes an evaluation of compliance with the National Ambient Air Quality Standards (NAAQS) and Prevention of Significant Deterioration (PSD) increments for sulfur dioxide (SO_2).

Dispersion modeling results from EPA's 1976 evaluation of the air quality impact of the first SIP revision were cited by DEQE. Annual SO_2 concentrations were estimated with EPA's Valley (BURT) model. No violations of the annual NAAQS of 80 $\mu g/m^3$ (0.03 ppm) will occur if all four sources were to burn 2.2% sulfur oil year-round. Twenty-four hour concentrations were estimated by EPA using two methods: the Valley model with short-term (worst case) option and the PTMTP model. General Electric, Fitchburg Gas and Electric, and the 23 meter stacks of Fitchburg Paper Company were shown to cause or contribute to violations of the 24-hour NAAQS of 365 $\mu g/m^3$ (0.14 ppm).

The PSD short-term increments (3-hour and 24-hour) are not consumed by the proposed revision, since short-term air quality levels reflecting emissions from 2.2% sulfur fuel combustion are included in the August 7, 1977 baseline concentration. However, increases over the baseline concentration will occur on an annual basis as a result of 2.2% sulfur fuel combustion during an additional five months of the year; thus, DEQE evaluated the impact of this SIP revision on the annual increment. The results show a maximum increment consumption of 7 $\mu g/m^3$ at a point 1 km SSW of the James River plant, compared to the annual allowable increment of 20 $\mu g/m^3$.

EPA is proposing to approve the revision to Regulation 310 CMR 7.05(1) to allow the year-round use of 2.2% sulfur residual fuel oil at James River-Massachusetts, Fitchburg, and in the boilers vented by the 55 meter stacks at Fitchburg Paper Company, Fitchburg. Approval of the revision should not result in violations of the NAAQS or the PSD annual increment. All other sources in Fitchburg must continue to burn 1.0% sulfur oil, including the 23 meter stacks at Fitchburg Paper.

Amendments to Regulation 310 CMR 7.07, Open Burning were submitted on September 28, 1979. The present regulation permits open burning for cooking; for training or research in fire protection or prevention; for combating or backfiring an existing fire; for agricultural purposes, agricultural land clearing, and disposal of fungus-infested elm wood; for operation of blowtorches and welding torches; for disposal of combustible material for which no suitable alternative is available; and for reduction of brush, cane, driftwood, and forestry debris under certain conditions during two months of each year.

The SIP revision extends the time period allowed for open burning of brush, cane, driftwood, and forestry debris. The months during which brush burning presently is permitted are March 1 to May 1 in the Berkshire APCD and January 15 to March 15 in the other APCD's. The proposed revision would allow a uniform period throughout the State, from January 15 to May 1 or each year. The conditions under which brush burning is allowed remain unchanged, and include the following:

Open burning of grass, hay, leaves and stumps is not permitted;

Open burning is not to be conducted in the cities and towns listed, which show recorded or potential violations of the National Ambient Air Quality Standards (NAAQS) for total suspended particles (TSP);

Open burning must be conducted during periods of good atmospheric ventilation;

Smoke minimizing starters must be used if starting aids are needed;

A fire permit must be obtained per Section 13, Ch. 48, Massachusetts General Laws;

Creation of nuisance conditions is prohibited;

Open burning must be conducted on land proximate to the place of generation;

Open burning must be 75 feet from any occupied dwelling;

Open burning must take place between 10:00 AM and 4:00 PM; and

Open burning is prohibited at all refuse disposal facilities other than incinerators.

Two cities, Fitchburg and Pittsfield, are removed from the list of cities and towns where brush burning is prohibited. A new provision is added which allows DEQE to prohibit bursh burning in other cities and towns in addition to those listed, where the DEQE has notified the city or town that open burning of brush may cause or contribute to NAAQS violations or to a condition of air pollution, or where a city or town has failed to take action to prevent continued violations of the provisions of the regulation after being notified by the DEQE of such violations.

Finally, a footnote is added to explain the reference is subsection (3)(g)4 of the regulation to Section 13 of Chapter 48 of the General Laws of Massachusetts, concerning fire permits.

The SIP revision submittal does not contain a quantitative air quality impact evaluation or estimates of emissions increases. The DEQE's approach minimizes potential impacts of open burning emissions on TSP levels by prohibiting brush burning in those cities and towns where particulate NAAQS had been or were likely to be exceeded, and by setting conditions on brush burning which are designed to ensure that the dispersive capacity of the atmosphere is fully utilized. The impact of the revision on air quality levels is expected to be minimal.

EPA is proposing to approve the revision to Regulation 310 CMR 7.07, which will allow open burning of brush from January 15 to May 1 of each year. Emissions resulting from the revision are not expected to impact TSP levels in non-attainment areas, and any impacts elsewhere will be minimized by the safeguards contained in the regulation.

A SIP revision to vary the provisions of Regulation 310 CMR 7.04(5), Fuel Oil Viscosity, was submitted on December 28, 1978. The regulation requires the installation and use of automatic viscosity controllers at fossil fuel utilization facilities of over 250 million Btu/hour heat input, effective July 1, 1978. The proposed revision would vary the provisions of Regulation 7.04(5) as it applies to two plants owned and operated by the Cambridge Electric Light Company, Kendall Station, First Street, Cambridge, and Blackstone Station, Blackstone Street, Cambridge. Both plants utilize residual fuel oil of not more than 0.5% sulfur content.

Cambridge Electric's request to continue to operate without installing automatic viscosity controllers was supported by fuel and operational data submitted to the DEQE and presented at the public hearing. Cambridge Electric's main assertion is that automatic viscosity controllers are not necessary because of the consistent characteristics of their fuel oil and because their present mode of operation is smooth and reliable.

No improvement in performance or emissions is expected to result from use of automatic viscosity controllers. In fact, Cambridge Electric feels that such equipment could possibly disrupt their operations, especially during changes in load, because the controller portion of these systems is not perfected. Two potentially adverse situations were described: the lag time between signal recognition/interpretation and adjustment of steam flows to the oil heater could cause viscosity problems during load changes; and malfunctions of the control equipment would affect the viscosity.

EPA is proposing to approve the variance to Regulation 310 CMR 7.04(5) for Cambridge Electric's Kendall and Blackstone Stations in Cambridge, which will allow these two plants to operate without installing automatic viscosity controllers. Cambridge Electric has shown that compliance with the particulate emission limitation and opacity requirements has not been a problem at the plants in question, and in this particular case, continued compliance is not dependent on installation and use of automatic viscosity controllers. Instead, use of low sulfur residual oil which consistently meets tight specifications is an effective particulate control measure. Approval of this SIP revision is not expected to result in increased particulate emissions and should therefore have no impact on ambient air quality standards or on the PSD increments.

The Administrator's decision to approve or disapprove the plan revisions will be based on whether they meet the requirements of Section 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. These revisions are being proposed pursuant to Sections 110(a) and 301 of the Clean Air Act, as amended, (42 U.S.C. 7401 and 7601).

Dated: January 9, 1980.

William R. Adams, Jr.,
Regional Administrator.

[FR Doc. 80-1835 Filed 1-18-80; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1396-2]

Approval of Oregon State Implementation Plan; Proposed Rulemaking

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking addresses State Implementation Plan (SIP) revisions submitted by the State of Oregon pursuant to requirements of Part D of the Clean Air Act. Subjects being addressed here include general regulations under Part D (new source review, automobile inspection and maintenance, industrial sources of hydrocarbon emissions, etc.), and area specific control strategies for carbon monoxide (CO), ozone, (O_3), and total suspended particulates (TSP).

EPA is proposing to approve these SIP revisions contingent upon correction of certain deficiencies. Those two areas which represent our greatest concern are stationary source hydrocarbon regulations and automobile inspection and maintenance (I/M) for Portland. In the stationary source hydrocarbon regulations, gasoline marketing rules need clarification and revision to ensure that they represent reasonable available control technology (RACT); degreaser regulations also need additional requirements to make them equivalent to RACT. Further, compliance schedules are needed for sources subject to these hydrocarbon regulations. The Portland I/M program must be assessed to determine if the present biennial inspection is consistent with the requirements for an approvable ozone control strategy. If the present (biennial) program does not meet the minimum effectiveness requirement of 25 percent reduction in hydrocarbon emissions, or if further reductions in hydrocarbons are shown to be needed to attain ambient ozone standards, measures will have to be adopted to increase the effectiveness of the current program; i.e., requiring inspection on an annual basis.

It should be kept in mind that some of the deficiencies listed herein may in fact be the result of differing opinions or interpretations between EPA and the State as to the nature of the State's proposed action or of the potential impact of such action. For that reason, the public, and especially the State, are urged to comment upon both the correctness and the appropriateness of the deficiencies identified by EPA. Final action will be based on a careful review of all comments received during the comment period initiated by this notice.

DATE: Comments are due by February 20, 1980.

ADDRESSES: The Oregon submittal may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library System Branch, Environmental Protection Agency, 401 M Street S.W., Rm 2922, Washington, D.C. 20460.

Environmental Protection Agency, Library, Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 629, Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Michael J. Schultz, Coordination and Planning Section, M/S 625, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, WA 98101, Telephone No. (206) 442-1226, FTS 399-1226.

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I. Introduction

The information in this notice is divided into two sections entitled "Background" and "Plan Review". The first section outlines the background leading to the development of the Oregon SIP in relation to the Clean Air Act as amended in 1977 (hereafter referred to as the Act). The "Plan Review" portion is divided into two major sub-sections. The first, "General Regulations," discusses regulatory portions of the plan applicable to more than one non-attainment area; e.g., Volatile Organic Compounds (VOC), New Source Review (NSR), Inspection and Maintenance (I/M), etc. The second sub-section, "NON-ATTAINMENT AREA PLANS," provides a description of each pollutant specific plan. Deficiencies, together with proposed corrective actions, are summarized at the end of each topical discussion.

II. Background

A. Revision Process

The 1977 amendments to the Act require States to make extensive revisions to their State Implementation Plans (SIPs). These revisions fall into three major areas:

(1) Provisions for attainment and maintenance of National Ambient Air Quality Standards (NAAQS) in those areas where air quality standards are being violated (required in Part D of the Act);

(2) Prevention of Significant Deterioration (PSD) plans for protecting those areas with clean air (required in Part C of the Act); and

(3) Certain other general requirements of a statewide SIP (e.g. Section 128—State Boards).

This notice presents the results of EPA's review of plans developed by the State of Oregon Department of Environmental Quality (DEQ) to comply with the requirements of Part D of the Act. A PSD plan, requirements for which may be found in 40 CFR Part 51.24, and general requirements of a SIP having statewide application were also developed by the State and submitted for approval. Proposed rulemaking for these plan revisions will be treated in separate actions at a later date.

The Oregon Part D SIP revision was developed and submitted to EPA to satisfy the requirements of the Act as amended in 1977 and is intended to update the presently approved SIP. Specific requirements for an approvable Part D SIP are described in a General Preamble published in the April 4, 1979, **Federal Register** (44 FR 20372); supplemented on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182). These requirements will not be restated here. Additional requirements were published in the "EPA/DOT Transportation Planning Guidelines" and the "Transportation SIP Checklist." (These documents are available at the address noted above). General requirements for all SIPs are contained in 40 CFR Part 51.

In accordance with Section 174 of the Act, primary responsibility for preparing carbon monoxide (CO) and ozone (O_3) control plans was delegated by the Governor to organizations of local elected officials. The designated organizations are the Metropolitan Service District (MSD) for the Portland non-attainment area, (responsibilities for this area resided with the Columbia Regional Association of Governments until December 31, 1978 when it was abolished and its responsibilities assumed by the MSD); the Mid-Willamette Valley Council of Governments (MWVCG) for the Salem non-attainment area; the Lane Council of Governments (LCOG) for the Eugene-Springfield non-attainment area; and the Jackson County Board of Commissioners for the Medford-Ashland non-attainment area. As a result of these designations, a description of responsibilities between the various State and local agencies involved in the planning process was developed. Designated lead agencies were generally responsible for the transportation control plan development, while the State in general retained responsibility for stationary source control efforts.

The locally prepared plans were submitted to DEQ and combined with the State-developed portions of the SIP revisions.

One of the more notable aspects of this SIP revision process in Oregon has been the extremely active public participation program. The thrust of this program has centered on three, local, broad-based advisory committees. These committees were jointly appointed by DEQ and local governments in the Portland, Eugene, and Medford area, and served to advise DEQ as well as the local lead agencies on SIP revisions. Because of the relatively non-complex SIP revision requirements for Salem, public participation in this area was handled through advisory groups of the MWVCG.

Activities common to the advisory committees include participation in a clean air workshop sponsored by the Oregon Environmental Council; testifying before the 1979 Oregon Legislature on bills affecting open burning, indirect sources, inspection and maintenance and banking and offsets; preparing citizen involvement brochures; advising and reviewing rules and strategies relating to the 1979 SIP revisions; and testifying before the EQC on the actual proposed SIP revisions.

The 23-member Portland area advisory committee was formed in June 1978, and held 22 major meetings and numerous other sub-committee meetings by June 1, 1979. Accomplishments included development of an interstate working agreement with the Clark County Regional Planning Council (Washington) and evaluation and recommendations on appropriate control levels for particulate sources.

The 25-member Eugene area advisory committee was formed in February 1978, and held 23 meetings through June 1979. Accomplishments included recommendations for appropriate particulate emission standards for industrial sources and indepth studies of road dust sources and control measures.

The 23-member Medford area advisory committee was formed in September 1977 and held over 100 hours of public meetings. Accomplishments included recommendations on a particulate control strategy; modification of local slash burning mixing height criteria; establishment of a daily telephone advisory of air quality data; establishment of voluntary inspection and maintenance program; and adoption of a stringent offset program.

After working closely with EPA Region 10, draft SIP revisions were completed and public hearings held in May 1979. Based on comments received, modifications were made and SIP revisions were adopted by the Oregon EQC on June 8 and June 29. The SIP was officially submitted to EPA on June 20 and 29, 1979. Circumstances surrounding this two-part submission were discussed in two **Federal Register** notices of plan availability: June 6, 1979 **Federal Register** (44 FR 39485) and July 26, 1979 **Federal Register** (44 FR 43756).

B. Review/Approval Process

It is important for reviewers of this proposal to understand the overall nature of SIPs and of EPA's review and approval role, with special focus on the Part D requirements of the Act. First, non-attainment designations were specific to pollutants and areas. Therefore, it is possible for the Part D SIP revisions to be adequate for one situation but inadequate for another. It is EPA's policy to treat the separate revisions as severable to the maximum extent possible. As a result, this notice contains a series of proposed actions rather than a single proposal. Thus the review of this proposal and any comments submitted should be equally specific.

EPA's review of Part D SIP revisions may lead to three results:

1. Approval, outright, where the SIP or the portion under consideration meets all requirements;

2. Disapproval where deficiencies are of such magnitude as to significantly interfere with the basic objective; or

3. Approval with conditions, where deficiencies exist, but where the effect of the deficiency is not judged to be significant and where the State is taking steps to correct the deficiency.

In the case of conditional approval, it is EPA's intent that the State proceed expeditiously to correct the noted deficiency. This notice addresses that prospect, and comment is sought on the approach being proposed. First, there is the possibility that the State can complete its corrective actions during this comment period, and in those cases EPA would prefer in its final rulemaking to approve that aspect of the SIP without conditions and without having to repropose. To serve that purpose, this notice defines the deficiences and appropriate corrective action with sufficient detail to facilitate comments now. The second possibility is that the State may require further time to complete its corrective actions; this is more likely where the change is of such substance as to warrant a State public hearing. A third possibility is that the State may not agree to correct a deficiency, in which case that portion of the SIP would be disapproved. Therefore, EPA in its final rulemaking following this comment period will treat noted SIP deficiencies in one of three ways: (1) approval, without condition if the corrective action is complete, or (2) approval with condition where the State is proceeding with the correction but needs additional time, or (3) disapproval.

To ensure the integrity of this approach, EPA is proposing July 1, 1980 (unless otherwise specified), as the outside date by which time all corrections should be adopted by the State and submitted to EPA. Comment is sought on the appropriateness of this date and of the basic approach. Further, it is important for the reviewer to understand the intended purpose of conditional approval. A conditional approval means that the restrictions on new major source construction (June 28, 1979 **Federal Register**—44 FR 37679) are removed. However, if the State fails to submit the necessary SIP revisions by the scheduled dates, or the revisions are disapproved by EPA, the new source growth restrictions would again go into effect. This reapplication of sanctions would not impact permits granted during the period of conditional approval.

The reader of this document should keep in mind that the Act presented a very complicated set of requirements which had to be met in a relatively short period of time. The Act also specified that many decisions regarding the selection of air pollution control strategies were made at the local governmental level and required considerable public participation. Establishing a process to generate the necessary local governmental and public input to major air quality decisions has been a difficult and time consuming task. Thus while this notice tends to focus on deficiencies in the proposed SIP, EPA feels the State of Oregon and the participating local agencies should be commended for their efforts to date.

III. Plan Review

This section is divided into two major sub-sections. The first, "General Regulations" briefly describes the regulatory portions of the plan

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applicable to more than one non-attainment area; e.g., Volatile Organic Compounds, New Source Review, Inspection and Maintenance, etc., and discusses the deficiencies and specifically states which category of action EPA is proposing to take. The second sub-section, "Non-Attainment Area Plans" discusses each area pollutant-specific plan in terms of plan development, emission reduction required, control strategy proposed, deficiencies identified and corrective actions required, and EPA's proposed action. Except for noted conditions on approval, the Oregon Part D SIP revision was found to comply with all requirements, including those contained in Section 172 of the CAA.

A. General Regulations

1. *New Source Review (NSR).* OAR 340–20–190 through –197 are new regulations intended to fulfill the New Source Review requirements contained in Part D of the Act. Rules –190 through –195 are the "Special Permit Requirements for Sources Locating in or Near Non-Attainment Areas." Rules –196 and –197 provide DEQ with the option of requiring plant site emission limits on sources located anywhere in the State to ensure that emissions are, in fact, consistent with the control strategies and overall airshed carrying capacity.

These rules have, in general, been found to satisfy the NSR requirements of Part D. However, EPA is requesting that the State revise its regulations to correct certain identified deficiencies. EPA, therefore, proposes to conditionally approve Oregon's NSR regulations contingent upon the State correcting the following deficiencies:

a. *Emission Offsets.* OAR 340–20–192(1) contains an offset requirement but no offset program was adopted by the DEQ. Such a program is needed if offsets are to be employed.

b. *Multiple Sources Under Single Ownership.* OAR 340–20–192(3) must be modified to satisfy the requirement of Section 178(3) of the Act in that a permit to construct or operate a new source in a non-attainment area can be issued if the other sources owned by the same company in that State are in compliance with the Act, not just "with applicable requirements of the adopted State Plan."

2. *Volatile Organic Compounds (VOC).* Section 172(a)(2) and (b)(3) of the Act requires sources of volatile organic compounds (VOC) to install, at a minimum, reasonably available control technology (RACT) in order to reduce emissions of this pollutant. EPA has defined RACT as the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

EPA has developed Control Technology Guidelines (CTG) for the purpose of informing state and local air pollution control agencies of air pollution control techniques available for reducing emissions of VOC from various categories of sources. This information is designed to be useful to both control agencies and industry in defining appropriate RACT requirements for sources within the State.

Along with information, each CTG contains recommendations to the states of what EPA calls the "presumptive norm" for RACT. This general statement of agency policy is based on EPA's current evaluation of the capabilities and problems general to the industry. Where the State finds the presumptive norm applicable to an individual source or group of sources, EPA recommends that the State adopt requirements consistent with the presumptive norm level. The State may, if it chooses, require controls different from those identified in the CTG as long as: (1) documentation is provided that the regulations do, in fact, represent RACT for that source(s); or (2) the emission reduction is not significantly different than (within 5 percent of) the reduction achievable by implementing the presumptive norm.

Ozone attainment strategies, as discussed in the April 4, 1979, General Preamble, must include control of specified VOC sources (i.e., those for which CTGs have been published, prior to January 1, 1978), to the RACT levels. Where simplistic modeling techniques (rollback, the Empirical Kinetic Modeling Approach (EKMA), or other methods less sophisticated than atmospheric dispersion modeling) are employed to demonstrate adequacy of the attainment strategy, control of all sources covered by the CTGs to RACT levels is required. The State of Oregon used EKMA to determine emission reductions needed and is thus required to adopt RACT regulations for the eleven source categories for which CTGs have been published to date. The State is also required to commit to the adoption of additional regulations as future CTGs are published. The next group of sources is presently scheduled to be covered by July 1980.

The Oregon VOC Regulations OAR 340–22–100 through -150, however, fall short of requiring sources to comply with RACT regulations. EPA, therefore, proposes to conditionally approve the VOC regulations contingent upon the State taking corrective action in terms of the preceeding discussion and as implied by the nature of each deficiency:

A. *Gasoline Marketing:* OAR 340–22–100(9) and –110 through –122 needs clarification and revision in several areas.

(1) The definition of delivery vessel –100(9)] must be modified to include the transport of gasoline from terminals to bulk plants.

(2) The 90 percent vapor capture requirement [–110 and –115] must be shown to be equivalent to a vapor tight balancing system. Replacement of the 90 percent rule with an equipment specification rule is recommended.

(3) Conflicting exemptions from requirements for vapor capture contained in –110(20)(c) and –115(5) need to be resolved. Further, exemptions of delivery vessels and storage tanks at gasoline dispensing facilities from vapor capture requirements during filling cannot be approved unless the gasoline dispensing facility involved: (1) receives less than 10,000 gallons of gasoline per month, or (2) the State demonstrates that exempting gasoline facilities receiving up to 240,000 gallons per year represents RACT.

(4) Specific conditions must be identified under which stated exemptions would be granted from capture of vapors during tank truck gasoline loading operations at gasoline terminals (–122(1)). It is EPA's understanding that the State's intent was to restrict this exemption to delivery vessels switching from gasoline to diesel oil.

B. *Cutback Asphalt:* OAR 340–22–125 must contain provisions which prohibit the unrestricted use of solvents in emulsified asphalt. EPA has published a list of emulsified asphalt uses with corresponding maximum solvent contents. This guidance should be used in establishing limits on the addition of solvents to emulsified asphalt.

C. *Surface Coating:* OAR 340–22–140 must clearly indicate that the term "coating line" includes the coater, flash-off area, and dryer. Further, the less restrictive emission requirements permitted for "inert gas process paper coating" must be documented as being RACT.

D. *Degreasers:* OAR 340–22 –145 through –147.

(1) *Cold Cleaners* (–145). The rules need to provide specific requirements for agitated solvents, heated solvents, and solvents with higher vapor pressures.

(2) *Open Top Vapor Degreasers* (–146). An option for powered cover or specific freeboard ratio is not adequate; both must be required as RACT.

(3) *Conveyorized Degreasers* (–147). A major control device must be required for those degreasers with an air/vapor interface greater than two square meters.

E. *Exemption of Methyl Chloroform and Methylene Chloride.* The Oregon regulations include exemptions for methyl chloroform and methylene chloride. The exemption is based on the fact that these compounds are photochemically unreactive and therefore do not play a significant rule in ozone formation. Thus, the Oregon VOC regulation is approvable insofar as this exemption is concerned. However, both compounds may be subject to future regulation, not to meet the O_3 national ambient air quality standard (NAAQS), but because of evidence that they may be a direct health hazard. This possibility is stated here to put persons who may desire to take advantage of these exemptions on notice regarding the possibility of future control requirements for these compounds before conversion decisions are made.

(3) *Inspection and Maintenance (I/M).* Inspection and maintenance (I/M) refers to a program whereby motor vehicles receive periodic inspections to assess the efficiency of fuel combustion and functioning of their exhaust emission control systems. Vehicles which have excessive emissions must then undergo mandatory maintenance.

A continuation of the present vehicle I/M program is a key element in both the O_3 and CO emission strategies for Portland; I/M is also a high priority alternative for other O_3 and CO attainment strategies in Oregon.

I/M for Portland was authorized by the State legislature in 1973. The program was initiated in January 1974 on a voluntary basis and continued as such for 18 months. A centralized, state-operated biennial program became mandatory in mid-1975. With few exceptions, all gasoline powered vehicles must be inspected and meet emission standards if they are to be licensed. No waivers are provided for those automobiles requiring expensive repairs to meet the emission standards.

A key factor in evaluating the adequacy of the Portland I/M program is whether minimum emission reduction requirements will be met. As set forth in a July 17, 1978 memorandum (from Dave Hawkins to Regional Administrators) containing specific criteria for I/M SIP approval, and I/M program must achieve a 25 percent reduction in passenger car emission of both hydrocarbons and CO. This reduction is measured by comparing the levels of emissions projected to December 31, 1987 with and without the I/M program. The basis for this policy is the Act's requirement that a Part D SIP provide for implementation of all reasonably available control measures as expeditiously as practical. At the time of passage of the Clean Air Act Amendments of 1977, several I/M programs were in operation, including mandatory programs in New Jersey and Arizona. Studies of the effectiveness of the maintenance and repairs resulting from I/M showed that programs patterned after those operating in New Jersey and Arizona, when implemented by 1982, will result in emission levels in 1987 that are at least 25% lower than if there were no I/M program. This demonstration of practical operation and effectiveness of I/M forms the basis for the 25% emission reduction as the criterion to determine compliance of the I/M portion with Section 172(b)(2).

The Portland I/M program requires inspection once every two years. Preliminary results from EPA's study of the Portland program indicates biennial inspection frequency provides less emission reduction than an annual program. This finding casts doubts on the ability of the Portland I/M program to achieve a 25 percent emission reduction by 1987. EPA is currently working with the Oregon DEQ to assess the ability of the program to meet this criterion.

EPA therefore is proposing to approve Portland's I/M program on the conditions that the assessment of program effectiveness shows compliance with the 25 percent emission reduction requirement.

Finally, although Oregon has an on-going I/M program it has never formally submitted the authorizing legislation or operating regulations to EPA as required by the Clean Air Act. Therefore, before final action conditionally approving the I/M portion of the Oregon SIP can be taken, the State will have to submit this legal authority to EPA.

4. *Other Regulations.*—a. *Source Test Procedures:* To maintain SIP enforceability, source test procedures for each emission limitation must be included in the SIP, or the SIP must contain specific reference to a properly identified source test method which is submitted for the record along with the SIP. The reference would normally include the title, number (if the method is coded), and the date of the appropriate version of the method(s).

Oregon's SIP does not contain source test procedures but does refer to specific methods on file. Many of these procedures have been approved by EPA. However, the VOC test methods have not been submitted. Thus, EPA is proposing an additional condition on the approval of Oregon VOC rules. Such approval is contingent upon the State submitting approvable VOC source test methods.

Further, the SIP references to specific source test procedures include dates for the methods (as required above). However, EPA feels that once approved, the approval date of this Part D revision will be the date of these sources test procedures. Any significant modification to the procedures, if they are to be federally enforceable, will have to be adopted and submitted to EPA for approval.

b. *Compliance Schedules:* All sources subject to the new Part D emission regulations must have compliance schedules. These schedules are to meet the requirements of 40 CFR Section 51.15 and Section 51.1(q), and should be submitted for approval along with the Part D revisions.

Although the subject SIP revisions contain final compliance dates for sources subject to the Oregon VOC rules (OAR 340–22–100 through –150), required increments of progress were omitted. As a result of this omission, EPA proposes to impose a final condition upon the approval of the Oregon VOC rules (340–22–100 through 340–22–150). Such approval is contingent upon the State submitting compliance schedules for all sources covered by the VOC rules by July 1, 1980. These compliance schedules must contain the necessary increments of progress as required by 40 CFR, Section 51.15. The public participation requirements found in 40 CFR, Section 51.4 are also applicable and must be satisfied prior to adoption of the subject schedules by the State.

c. *Continuity of Regulations:* This proposal would replace measures in the current SIP with the new measures submitted by the State to EPA for approval. Under this proposal, the current emission control regulations applicable to any source would remain in effect until such time as the newly revised regulation becomes effective and the source achieves full compliance with its provisions. This provision applies to all revised SIP regulations, not merely those that are subjected to judicial challenge. Failure of the source to satisfy the requirements of the former regulation would result in appropriate enforcement actions.

d. *Ambient Air Quality Monitoring:* EPA has several concerns with respect to monitoring for ozone and its precursors in the non-attainment areas. However, it is felt that the ongoing formal revisions to ambient air quality monitoring networks and further EPA guidance/requirements on data collection for the 1982 ozone SIP

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submittals will adequately address these issues.

B. Non-Attainment Area Plans

The non-attainment area plans will be discussed in groups by pollutant. Each discussion will provide a brief description of the area, predicted attainment dates, extensions requested, control measures proposed, and any problems that would interfere with SIP approval.

1. *Extension Requests.*—Under Section 172(a)(2) of the Act, the State has requested an extension of the attainment date for CO and/or O_3 in the following areas: Portland (CO and O_3, Eugene (CO) and Medford (CO). To document the need for these extensions, the State submitted a demonstration that attainment by 1982 cannot be achieved for these areas despite implementation of all reasonably available control measures. Thus, EPA is proposing to approve these post-1982 attainment date extension requests.

2. *Carbon Monoxide.*—a. *Portland*—(1) *Background.* The Portland CO non-attainment area is the Oregon portion of the Portland, Oregon-Vancouver, Washington AQMA non-attainment area. Population of Portland is in excess of 200,000. Four different monitoring sites have shown numerous violations during each year of operation (earliest site dates back to 1970). A screenline computer modeling technique indicates that much of the central business district, adjacent areas on the east side of the Willamette River, and additional heavily trafficked corridors are now in violation of the standard. Although violations are widespread throughout the area, the frequency of exceeding the 8-hour standard has been reduced significantly since 1971. The one-hour standard has not been exceeded at any site since 1971.

This problem has been attributed almost entirely to emissions from transportation sources. The emission inventory for 1977 shows a total of 779,000 tons per year (tpy) of CO being emitted, of which 97 percent originates from motor vehicles.

The designated lead agency for development of a CO plan is the Metropolitan Service District (MSD). Former Governor Straub originally designated the Columbia Regional Association of Governments as lead agency. However, redesignation to a reorganized MSD was made after a voter approved May 23, 1978 ballot measure abolished the Columbia Regional Association of Governments. The MSD has been working in close cooperation with DEQ on the CO plan revision.

(2) *Emission Reduction Required.* Computer modeling predicts that by the end of 1982, only a few streets in the central business district and one street in a suburb southwest of Portland will be violating the 8-hour standard. By the end of 1987, all streets are predicted to be in compliance.

Since attainment by the statutory December 31, 1982 date is not projected, a formal request for a post-1982 attainment date has been made by Oregon pursuant to Section 172(a)(2) of the Act.

A design value of 17.4 mg/m³ was used to determine the emission reduction required. This value was derived from measured ambient air quality data.

(3) *Control Strategy.* In light of the dominant motor vehicle contribution to the CO non-attainment problem, the control strategy focuses on transportation measures. It should be noted that measures designed to reduce vehicle emissions work in one of two ways: (a) by reducing vehicle trips and miles traveled; i.e., improved mass transit carpooling, etc., or (b) by reducing the emissions from individual vehicles; i.e., inspection and maintenance, traffic flow improvements, etc. The Federal Motor Vehicle Control Program (FMVCP) falls into the latter category. Other control measures identified in the Portland CO plan fall into both of the above categories.

Measures already implemented, and, in some cases scheduled for further improvements over the near term, include:

a. Inspection and maintenance (see preceding discussion on this topic).
b. Improve public transit.
c. Exclusive bus and carpool lanes.
d. Areawide carpool programs.
e. Long range transit improvements.
f. Parking controls.
g. Park and ride lots.
h. Pedestrian malls.
i. Employer programs to encourage carpooling and vanpooling.
j. Traffic flow improvements.
k. Bicycle program.
l. Urban development policies to reduce vehicle miles travel (VMT).

Additional measures considered high priority for obtaining further emission reductions are listed below:

(1) Inspection and maintenance on annual basis.
(2) Additional public transit improvements.
(3) Expanded carpool programs.
(4) Additional long-range transit improvements.
(5) Parking restrictions.
(6) Additional park and ride lots.
(7) Additional employer programs to encourage carpooling, vanpooling, mass transit, etc.
(8) Traffic flow improvements.

(4) *Deficiencies/Conditions.* The commitments to implement the following measures are inadequate. EPA is proposing to approve the Portland CO attainment plan on the condition that the following measures are taken:

1. Beaverton Park and Ride: The inclusion of a project in the Annual Element of the Transportation Improvement Program is not an adequate commitment. Before the final approval of the SIP, EPA needs a letter from Oregon Department of Transportation (ODOT) indicating a commitment to fund the project and a schedule for start of construction.

2. Expanded Bus Service on I–5 Corridor: The submission does not contain an adequate description of this project. Before the final approval of the SIP, EPA needs a letter from the transit authority describing the project, a schedule for implementation, and a funding commitment.

3. Traffic Flow Improvements: The SIP does not contain a detailed list of traffic flow improvements which will improve air quality. Before final approval of the SIP, ODOT must identify specific projects and commit to their implementation.

4. Carpool Project: The SIP does not contain a commitment to fund this project after June, 1980. Before final approval, a letter containing a commitment to fund this project from the appropriate agency is necessary.

The emissions inventory should be revised to include emissions from parking activities (parking lots and on-street parking). EPA expects that this will be completed by July 1980 along with the alternatives analysis.

b. *Eugene-Springfield AQMA*— (1) *Background.* The non-attainment area boundaries are the same as those for the air qualty program in Eugene-Springfield as it relates to both stationary source and transportation planning. Population of the area is substantially less than 200,000.

The lead agency responsible for development of a CO plan is the Lane Council of Governments, designated by former Governor Straub in accordance with requirements of Section 174 of the Act.

Violations of the 8-hour CO standard have been recorded every year since the only monitor in the area was installed in Eugene in mid-1975. Two (2) violations were measured in 1975, eleven (11) in 1976, seven (7) in 1977 and two (2) in 1978.

This air quality problem can be attributed almost solely to motor vehicle emissions. The 1977 emissions inventory (EI) shows that motor vehicles account for 58,000 tpy of CO emissions or approximately 95 percent of the total EI. Other sources of CO were calculated to have a negligible impact on air quality.

(2) *Emission Reduction Required.* A CO forecast model was used to determine the extent of the non-attainment problem assuming "worst case" meteorological conditions. Approximately 10 kilometers of roadway, located primarily in the Eugene Central Business District, were identifed as having had the potential to violate NAAQS in 1977. This is predicted to be reduced to two kilometers of roadway by 1983 and attainment by 1985. Thus, only marginal non-attainment is predicted by the end of 1982. By taking credit for emission reductions from the FMVCP and emission reduction strategies already implemented, total CO emissions in the metropolitan area are expected to decrease 18 percent between 1977 and 1983. Reductions between 1977 and 1987 are predicted to be 32 percent. Although vehicle miles traveled will be increasing during this period, these increases will be more than offset by the control measures so that attainment 1985 is likely.

Because of this projected attainment date, a formal request for an extension (attainment later than 1982) was made pursuant to Section 172(a)(2) of the Act.

A design value of 12.7 mg/m³ was used to determine the emission reductions required. This value was derived from measured ambient air quality data.

(3) *Control Strategy.* As the non-attainment problem is almost entirely motor vehicular in origin, the control strategy is restricted to transportation measures. It should be noted that measures designed to reduce motor vehicle CO emission work in one of two ways: (a) by reducing vehicle usage; i.e., improved mass transit, carpooling, etc., or (b) by reducing the emissions from individual vehicles; i.e., inspection and maintenance, traffic flow improvements, etc. The FMVCP, an integral part of the control strategy, falls in the latter category of measures. Additional improvements are expected from measures which encompass both of the above categories.

Emission reduction strategies already implemented include the following:

(1) Traffic engineering improvements.
(2) Bikeways.
(3) Transit development and improvement.
(4) Pedestrian mall.
(5) Staggered work hours.
(6) Traffic flow improvement.

If the July 1980 alternatives analysis does not result in predicted attainment by the end of 1982, additional measures will be assessed so as to attain the NAAQS as expeditiously as practicable.

(4) *Deficiencies/Conditions.* No deficiencies serious enough to warrant conditioning the approval of the CO control strategy were identified. However, the emissions inventory should be revised to include emissions from parking activities (parking lots and on-street parking). EPA expects that this will be completed by July 1980 along with the alternatives analysis.

c. *Salem.* (1) *Background.* The official CO non-attainment designation for Salem included that area within the city limits. However, MWVCOG, the designated lead agency, expanded the "official" non-attainment area to include that area described by the Salem Area Transportation Study (SATS) boundaries. This larger area, 124 square miles versus 32 square miles for the "official non-attainment area," provides more appropriate coverage of the demographic and geographic Salem urban area and thus represents a more reasonable study area. Neither area, however, exceeds the 200,000 population cutoff used to define the difference between urban and rural non-attainment areas.

As defined by air quality data, the non-attainment problem is relatively marginal. A single monitor located in downtown Salem annually recorded no more than six violations of the 10 mg/m³ 8-hour standard during the four year period of 1974 through 1977.

For all practical purposes, the entire contribution to the CO non-attainment problem is from motor vehicle emissions. The emission inventory shows that 52,250 tpy of CO originated from mobile sources (over 99 percent) while only 196 tons per year were attributed to stationary (area) sources.

(2) *Emissions Reduction Required.* Computer modeling shows that as of base year 1977, 2.2 miles of roadway in the urban area were violating the 8-hour CO standard. By the end of 1982, marginal compliance is predicted from emission reductions to be obtained from the FMVCP. This reduction is expected to be 12,000 tpy.

A design value of 11.4 mg/m³ was used to determine the emission reductions required. This value was derived from measured ambient air quality data.

(3) *Control Strategy.* Because of the dominant role of motor vehicular emissions, the CO control strategy is limited to transportation measures. In fact, the attainment plan takes credit for only the FMVCP in demonstrating attainment by the end of 1982.

However, 9 of the 14 EPA recommended reasonably available control measures (RACMs) are either already implemented or committed for implementation. These measures, listed below, have not been accounted for in the control strategy and should result in measurable further improvement in CO levels:

(1) Carpool program.
(2) Express bus/park and ride program.
(3) Bicycle plan.
(4) Transit fleet expansion.
(5) Private car restrictions.
(6) On-street parking limitations.
(7) Staggered work hours.
(8) Pedestrian malls.
(9) Traffic flow improvements.

(4) *Deficiencies/Conditions.* (1) The model needs to be adjusted for apparent errors in the VMT growth rate curve. Vehicle miles travelled (VMT) growth rate was derived from population projections. However, the 1977 baseline population figures were found to be in error (too high). This resulted in identifying an emission reduction less than that actually needed. Consequences of these errors have not been fully assessed by EPA, but it appears that projected concentrations for the end of 1982 are now over the standard. If unaccounted for transportation control planning (TCP) measures will not show attainment, a reqest for an extension of the 1982 attainment deadline may be needed.

Therefore, EPA is proposing to approve this Salem CO plan on the condition that appropriate modeling corrections are made.

(2) The emission inventory should be revised to include emissions from parking activities (parking lots and on-street parking). EPA does not consider the omission of these activities from the emission inventory serious enough to warrant a condition on the approval of this SIP revision. Howeves, we do expect that these additions to the emission inventory will be completed by July 1980 along with the alternative analysis.

d. *Medford-Ashland.* (1) *Background.* The non-attainment area is defined by the AQMA boundaries which encompass the towns of Medford, Ashland, White City, and Eagle Point. Ambient air quality data from this area is limited but, nonetheless, conclusive. A single CO monitor located in downtown Medford has provided data only since 1977. However, numerous violations of the 8-hour standard have been recorded each year with 8-hour concentrations as

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high as 22 mg/m³. The one-hour standard has never been exceeded. Modeling has shown that an estimated 20 miles of roadway violated the 8-hour standard in 1977.

The base year 1977 Co emission inventory for the AQMA shows that approximately 83 percent of the 59,500 tpy inventoried originated from motor vehicles.

Lead agency for development of CO attainment plan is the Jackson County Board of Commissioners. This group has worked closely with the DEQ and the very active citizens advisory committee to develop attainment plans for this area.

(2) *Emission Reduction Required.* Modeling has shown that an estimated 72 percent decrease in CO emission would be required to attain the 8-hour standard. However, due largely to the low population of this area (Medford, the largest town, has a 1970 census population of 28,500) there has been no mechanism established by which this reduction can be achieved. Presently, there is no transportation plan and no traditional transportation planning process. Consequently, given the present set of conditions, the 20 miles of non-attainment roadway estimated for 1977 is predicted to only decrease to 16 miles by 1982 with 12 miles still violating standards by 1987.

A design value of 19.8 mg/m³ was used to determine the emission reductions required. This value was derived from measured ambient air quality data.

(3) *Control Strategy.* Since motor vehicle emissions are the prime culprit for the non-attainment problem, the control strategy needs to focus on transportation measures. However, the only existing control measure for this area is the FMVCP, thus accounting for the above predictions of continued non-attainment. As a result, an attainment date extension request was submitted pursuant to Section 172(a)(2) of the Act. In light of this air quality problem, Jackson County has committed to evaluate reasonably available control measures by July 30, 1980, and develop and officially submit to EPA a control strategy under the Governor's signature by June 30, 1982. This strategy is to contain those measures necessary to attain the CO standard as expeditiously as practicable but no later than December 31, 1987. Those measures which appear most likely to be adopted are:

(a) I/M.

(b) Parking and traffic circulation plan.

(c) Improved bicycle and transportation networks.

(d) Disincentives to private auto use.

(e) Ban on open burning.

(4) *Deficiencies/Conditions.* No deficiencies serious enough to warrant conditioning the approval of the control strategy were identified. However, the emissions inventory should be revised to include emissions from parking activities (parking lots and on-street parking). EPA expects that this will be completed by July 1980 along with the alternatives analysis.

2. *Ozone.*—Each of the ozone (O_3) non-attainment areas is also non-attainment for CO. However, unlike CO, ambient O_3 concentrations are generally not related to direct emissions to the atmosphere but are formed by complex reactions between VOC and oxides of nitrogen in the presence of sunlight. Attainment strategies focus primarily on reducing hydrocarbon emissions and rely on both mobile source control programs and emissions reductions from stationary sources. Mobile source plans were discussed in the CO presentation and stationary source hydrocarbon controls were outlined in the VOC section. Further, the non-attainment area boundaries and designated lead agencies for O_3 are the same as for each corresponding CO plan. Thus, the following discussion of area specific O_3 plan will be brief.

a. *Portland*—(1) *Background.* Four monitors in the area, installed between 1974 and 1976, have shown the 0.12 ppm O_3 standard to be exceeded each year, with the highest concentration for any year being 0.23 ppm (451 μg/m³) in 1977. The 1977 base year emission inventory shows a total of 111,000 tons of VOC being emitted of which 65 percent are attributed to mobile sources.

(2) *Emissions Reduction Required.* The EPA city specific isopleth version of EKMA was used to identify needed emission reductions. In order to attain the 0.12 ppm standard, a 50 percent reduction in 1977 VOC emissions must be obtained. However, through implementation of all RACMs, only a 37 percent reduction is projected by the end of 1982. Thus, the State has requested, pursuant to Section 172(a)(2) of the Act, a post-1982 attainment date for O_3.

A design value of 0.183 ppm (365μg/m³) was used to determine the emission reductions required. This value was derived from measured ambient air quality data.

(3) *Control Strategy*

See the VOC discussion under *General Regulations* and the Portland CO control strategy.

(4) *Deficiencies/Conditions.* (a) I/M Program—As discussed earlier, EPA is proposing to approve Portland's I/M program on the conditions that the assessment of program effectiveness shows compliance with the 25 percent emission reduction requirement.

(b) Ambient Air Quality Monitoring—No deficiencies serious enough to warrant conditioning the approval of the O_3 control strategy were identified (subject discussed in greater detail under *"other regulations"*).

(c) The comments regarding commitments to implementation of specific measures for Portland CO apply to the ozone portion of the plan.

b. *Eugene-Springfield AQMA.* A reassessment of air quality data after the federal standard was raised from 160 μg/m³ (0.08 ppm) to 235 μg/m³ (0.12 ppm) revealed no recorded violations of the new standard in the Eugene-Springfield AQMA. Thus, on March 2, 1979, the State requested that the area be redesignated from "non-attainment" to "attainment." EPA redesignated this area to "attainment/unclassifiable" in the January 10, 1980 **Federal Register** 45 FR 2044.

c. *Salem.*— (1) *Background.* A single monitor operating in the area since 1975 has revealed a marginal non-attainment problem. No more than three days with violations of the standard have been noted for each of the past four years (1975 through 1978). During this four year period, the highest value recorded was 0.167 ppm (328 μg/m³ versus 0.12 ppm or 235 μg/m³ for the standard), occurring in 1977. The 1977 base year emission inventory shows a total of 8,210 tons of VOC being emitted of which 89 percent are attributed to mobile sources.

Salem's O_3 concentrations appear to be significantly impacted by emissions from Portland, a major urban area located approximately 40 miles north of Salem. Since Salem is technically defined as a "rural" (less than 200,000 population) O_3 non-attainment area and is impacted by emissions from an urban area, EPA's rural O_3 policy may be applied. Rather than requiring a specific control strategy for each rural non-attainment area, this rural policy requires RACT on VOC sources, lowest achievable emission rate (LAER) for new major stationary sources, and an approvable control strategy for major urban areas (Portland). These requirements are met for Salem in the subject Part D SIP revision except as noted in Deficiencies-Conditions on the VOC rules.

(2) *Emission Reduction Required.* The EPA standard ispleth EKMA model was used and predicted that a 12 percent or 965 tpy reduction in VOC emissions is needed to reduce base year design concentrations to under the 0.12 ppm standard.

A design value of 0.151 ppm (305 μg/m³ was used to determine the emission reductions required. This value was derived from measured ambient air quality data.

(3) *Control Strategy.* Stationary source VOC regulations and the FMVCP are predicted to result in 27 percent or 2,243 tpy reduction by the end of 1982. Since only a 985 tpy reduction has been shown as being necessary for attaining the standard, the projected reduction is more than that needed to bring the area into attainment.

(4) *Deficiencies/Conditions.* No deficiencies serious enough to warrant conditioning the approval of the O_3 control strategy were noted. However, it is recommended that the control strategy identify reliance on the rural O_3 policy. The alternative involves revising the present modeling approach to adequately account for the influence of emissions from sources in Portland. EPA anticipates that this revision will be completed along with the alternatives analysis which is due to be submitted in July 1980.

d. *Medford AQMA*—(1) *Background.* A single monitor installed in 1976 has shown up to seven days with violations of the federal standard for each of three consecutive years (1976 through 1978). The highest one hour concentration recorded during this period was 0.18 ppm (384 μg/m³). Base year (1977) emissions inventory figures show a total of 13,100 tons of VOC per year being emitted with approximately 44 percent attributed to motor vehicles.

(2) *Emission Reductions Required.* The EPA approved EKMA model identifies the need for a 13 percent or 1700 tpy reduction in total VOC emissions in order to meet the Federal standard.

A design value of 0.15 ppm (294 μg/m³) was used to determine the emission reductions required. This value was derived from measured ambient air quality data.

(3) *Control Strategy.* Modeling efforts predict reductions in VOC emissions between 1977–1982 from the FMVCP, the stationary source VOC rules, and the particulate control strategy will total approximately 2200 tpy. This amounts to a 17 percent decrease, of which 12 percent originates from the FMVCP, 4 percent from stationary source VOC control, and 1 percent from special particulate rules. This projected decrease is substantially more than that shown to be needed for attainment.

Although Meford qualified, technically, as a "rural" O_3 non-attainment area (concept discussed under Salem, *Background*), EPA is strongly supportive of the ongoing development of a specific attainment strategy for this area. Unlike Salem, whose O_3 problem appears to be significantly influenced by emissions from Portland, Medford's O_3 concentrations do not appear to be measurably impacted by emissions from a major urban area. Thus, reliance on EPA's rural O_3 policy, as is recommended for Salem, is inappropriate for Medford.

(4) *Deficiencies/Conditions.* No deficiencies serious enough to warrant conditioning the approval of the O_3 control strategy were noted. However, as discussed earlier under "other regulations," further guidance and requirements relating to oxides of nitrogen (NO_x) and hydrocarbon monitoring is forthcoming.

4. *Total Suspended Particulate (TSP).*—Although Portland, Eugene-Springfield, and Medford were designated non-attainment for TSP, no Part D plans are due at this time. This is attributable to (a) recent redesignations of the Medford and Eugene-Springfield areas and (b) 18-month extensions for submittal of secondary standard attainment plans. Extensions until July 1980 were formally requested by the State on March 2, 1979, and were granted in the July 30, 1979 **Federal Register** (44 FR 44497) pursuant to 40 CFR, Section 51.31.

In addition, EPA is proposing action at this time on revised rules for stationary sources of TSP in Medford.

a. *Portland.* The Portland portion of the Portland, Oregon—Vancouver, Washington AQMA was designated non-attainment for secondary standards only. Thus, with the above 18-month extension, no plan is due until July 1, 1980.

b. *Eugene-Springfield.* The area was initially designated non-attainment for both primary and secondary standards. However, only one monitor in the network (Springfield City Shops site) showed non-attainment of the primary standards. The representativeness of data from this monitor has been a subject of controversy for several years. It has been the State's recommendation that data from this monitor should not be considered in making attainment/non-attainment determinations because its location is such that measured TSP levels reflect the air quality of only a very small area surrounding the monitor. Justification provided by the State for discounting this data has recently been accepted by EPA Region 10. A notice of proposed rulemaking to redesignate the area from non-attainment for primary standards to non-attainment for secondary standards only was published in the **Federal Register** on October 19, 1979 (44 FR 60341); additional details surrounding the redesignation can also be found in that publication. The above redesignation would postpone the due date for the SIP revision until July 1, 1980.

c. *Medford-Ashland.* The Medford-Ashland AQMA was initially designated non-attainment for secondary standards only. However, subsequent TSP data revealed an air quality problem which was found to be much worse than at first recognized; more recent concentrations well above the primary standard have been recorded. As a result, the area was proposed for redesignation to non-attainment of primary standards in the October 19, 1979 **Federal Register** (44 FR 60341). Since the redesignation involves changing to a more restrictive mode, EPA has proposed that the State be given nine months from the date of final action of this proposal to submit a primary standard non-attainment strategy. Additional details surrounding the redesignation can be found in October 19, 1979 **Federal Register** notice.

In addition, EPA is proposing to conditionally approve revised TSP rules for stationary sources. These rules were submitted by Oregon, as representing at least RACT.

Conditions. These regulations are being proposed for approval on the condition that the following deficiencies are corrected:

(1) Rule 340–30–035: Specific conditions under which the Director may lift the ban on operation of wigwam waste burners must be provided.

(2) Rules 340–30–015, –030, and –040: Annual averaging times for emissions regulations make compliance determinations must be and enforcement extremely difficult. Compliance determinations must be based on the results of individual source tests conducted over a period not to exceed one week.

Note.—Interested parties are invited to comment on all aspects of the approvability of the Oregon SIP. In particular, comments are requested on the appropriateness of the findings on issues discussed above, the suggested corrective actions, and the approvability of the SIP with respect to the applicable requirements.

Comments should be submitted, preferably in triplicate, to the address listed in the front of this notice. Public comments received by (30 days following publication) will be considered in EPA's final decision in the SIP.

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As further described in two earlier notices published in 44 FR 39485 (July 6, 1979), EPA is providing a second comment period extending for thirty (30) days after publication of this Notice of Proposed Rulemaking. The common due date established for the first period of public comment on the Oregon Implementation Plan submittals was August 28, 1979. In light of the length of this first comment period and the impact of the stationary source growth sanctions imposed on the State since July 1, 1979 pursuant to Section 110(a)(2)(I) of the Act, EPA feels that provision for a second comment period of thirty (30) days rather than the usual sixty (60) days is justified.

All comments received will be available for inspection at the Region 10 Office, 1200 Sixth Avenue, Seattle, Washington, 98101.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. I have reviewed this notice and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Act, as amended.

(Sections 110(a) and 172 of the Act (42 U.S.C. 7410(a) and 7502))

Dated: January 7, 1980.

Donald P. Dubois,

Regional Administrator.

[FR Doc. 80-1838 Filed 1-18-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

[PP 5F1616/P121; FRL 1395-5]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Proposed Tolerances for the Pesticide Chemical Methomyl (FRL 1395-5)

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the insecticide methomyl on tomatoes at 1 part per million (ppm) and peppers at 2 ppm. The proposal was submitted by E.I. du Pont de Nemours & Co., Inc. This amendment would establish maximum permissible levels for residues of methomyl on tomatoes and peppers.

EFFECTIVE DATE: Comments must be received on or before February 20, 1980.

ADDRESS: Address comments to: Mr. Frank Sanders, Product Manager (PM) 12, Room E-335, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460 (202/426-2635).

FOR FURTHER INFORMATION CONTACT: Mr. Frank Sanders at the above address (202/426-2635).

SUPPLEMENTARY INFORMATION: On May 8, 1975, notice was given (40 FR 20129) that E.I. du Pont de Nemours & Co., Wilmington, DE 19898, had filed pesticide petition (PP 5F1616) with the EPA. This petition proposed that 40 CFR 180.253 be amended to establish tolerances for residues of the insecticide methomyl (*S*-methyl *N*-[(methylcarbamoyl)oxy] thioacetimidate) in or on the raw agricultural commodities tomatoes and peppers at 1 ppm. No comments were received in response to this notice of filing.

Subsequently, the petitioner amended the petition by increasing the proposed tolerance on peppers from 1 ppm to 2 ppm. Because of the potential increase in exposure of humans to residues as a result of the higher tolerance, the tolerance is being proposed at this time to provide an opportunity for public comment.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included a two-year rat and a two-year dog feeding study with a no-observed-effect level (NOEL) of 100 ppm each (5.0 milligrams (mg)/kilogram (kg) of body weight (bw)/day and 2.5 mg/kg bw/day, respectively); a three-generation rat reproduction study with an NOEL of 100 ppm (5.0 mg/kg bw/day); a hen delayed neurotoxicity study (with atropine), which was negative at 200 mg/kg bw; a hen delayed neurotoxicity study (without atropine), which was negative at 28 mg/kg bw; a rat study which was negative for teratogenicity at 400 ppm (highest level tested) and negative for fetotoxicity at 100 ppm; a 79-day rat feeding study which was negative for cholinesterase-inhibition at 20 mg/kg bw/day; and mutagenicity studies (negative) for four microbial assay systems.

Based on the two-year dog feeding study with a 2.5 mg/kg bw/day NOEL and using a safety factor of 100, the acceptable daily intake (ADI) for man is 0.025 mg/kg bw/day. The theoretical maximum residue contribution (TMRC) in the human diet from the previously established tolerances and the proposed tolerances does not exceed the ADI.

Desirable data that are lacking from the petitions are a (second) mouse oncogenicity study and a lactating goat metabolism study. In letters of April 11, 1978, and April 20, 1979, the petitioner indicated that these studies are underway and is expected to be completed in late 1980. The requirement for further mutagenicity studies is deferred until the Agency determines the kinds and amounts of data needed.

The metabolism of methomyl in rats and plants is adequately understood, and an adequate analytical method (gas chromatography using a microcoulometric detector) is available for enforcement purposes. No actions are currently pending against continued registration of methomyl, nor are there any other relevant considerations involved in establishing the proposed tolerances.

The pesticide is considered useful for the purpose for which tolerances are sought, and it is concluded that the tolerances of 1 ppm on tomatoes and 2 ppm on peppers established by amending 40 CFR 180.253 will protect the public health. It is proposed therefore, that tolerances be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before February 20, 1980 that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP 5F1616/P121". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of PM 12, Room 335, East Tower, from 8:30 a.m. to 4 p.m. Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e)])

Dated: January 9, 1980.

Douglas D. Campt,

Director, Registration Division.

It is proposed that Part 180, subpart C, section 180.253 be amended by alphabetically inserting peppers at 2 ppm and tomatoes at 1 ppm in the table to read as follows:

§ 180.253 Methomyl; tolerances for residues.

* * * * *

Commodity:	Parts per million
* * *	* * *
Peppers	2
* * *	* * *
Tomatoes	1
* * *	* * *

[FR Doc. 80-1842 Filed 1-18-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Docket No. BC 80-5; RM-3449]

TV Assignment to LaGrande, Oreg.

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the reservation of television Channel 13 (KTVR) for noncommercial educational use and the deletion of the reservation on Channel *16, LaGrande, Oregon. The proposed reservation would reflect the use of the channel by the Oregon State Board of Higher Education for its satellite station, KTVR-TV, and preserve its availability for noncommercial educational use.

DATES: Comments must be filed on or before March 7, 1980, and reply comments must be filed on or before March 27, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Ira H. Smart, or Mark N. Lipp, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: January 9, 1980.

Released: January 16, 1980.

By the Chief, Policy and Rules Division.

1. The Commission has before it a petition [1] filed on June 18, 1979, by the Oregon State Board of Higher Education ("petitioner") acting on behalf of the Oregon Educational and Public Broadcasting Service, requesting the reservation of Channel 13, LaGrande, Oregon, for non-commercial educational use. No comments were filed in response to the petition.

2. LaGrande, Oregon, is a community of 9,645 [2] population. It is located in Union County, Oregon, in the northeastern part of the State, and it is the home of Eastern Oregon College. Television Channels 13 and *16 are assigned to LaGrande, Oregon. At present Channel 13 is operated primarily as a satellite of the affiliated Portland, Oregon, noncommercial station, KOAP-TV. Petitioner states that KTVR also carries programming from its Corvallis and Salem educational stations, KOAC-TV and KVDO-TV, respectively.

3. Petitioner states that the reservation of Channel 13 for non-commercial educational use would reflect its current use as well as provide the necessary assurances to warrant the investment of time and resources to make KTVR-TV the full fledged educational operation envisioned by the 1965 State plan. This plan calls for a La Grande facility with studio and production facilities operating in conjunction with Eastern Oregon College; the facility would also provide material for broadcast over the Portland and Corvallis stations.

4. Petitioner has made a showing from which we can conclude that the consideration of this proposed reservation would be in the public interest. Since the reservation of Channel 13 would leave LaGrande without a commercial channel, we also shall propose removing the reservation on Channel 16 and we seek comments on both proposals. Accordingly, we propose to consider the following revision of the Television Table of Assignments (§ 73.606(b) of the Rules) with respect to the community listed below:

City	Channel No.	
	Present	Proposed
LaGrande, Oregon	13+, *16	*13+, 16

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before March 7, 1980, and reply comments on or before March 27, 1980.

7. For further information concerning this proceeding, contact Ira H. Smart (202) 632-9660 or Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Section 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before

[1] Public Notice of the filing of the petition was given on August 17, 1979, Report No. 1188.

[2] All population data are taken from the 1970 U.S. Census.

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the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-1873 Filed 1-18-80; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-2; RM 3515]

FM Assignment to Bloomfield, Iowa

AGENCY: Federal Communications Commision.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a first Class A FM channel to Bloomfield, Iowa, in response to a petition filed by Robert L. McDavid. The proposed channel could provide a first local aural broadcast service to Bloomfield.

DATES: Comments must be filed on or before March 7, 1980, and reply comments must be filed on or before March 27, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 8, 1980.

Released: January 16, 1980.

By the Chief, Policy and Rules Division.

1. *Petitioner, Proposal, Comments.* (a) A petition for rulemaking [1] was filed by Robert L. McDavid ("petitioner"), proposing the assignment of FM Channel 292A to Bloomfield, Iowa, as that community's first FM assignment.

(b) The channel assignment can be made in conformity with the minimum distance separation requirements.

(c) Petitioner states he will apply for the channel, if assigned.

2. *Community Data.* (a) *Location.* Bloomfield, seat of Davis County, is located approximately 74 kilometers (46 miles) north of Kirksville, Missouri, and approximately 32 kilometers (20 miles) south of Ottumwa, Iowa.

(b) *Population.* Bloomfield—2,617;[2] Davis County—8,207.

(c) *Local Aural Broadcast Service.* None.

3. *Economic Considerations.* Petitioner states that the economy of Bloomfield and Davis County is based on agriculture and industry. He adds that Bloomfield is the business hub of Davis County with some 150 different businesses.

4. In view of the apparent need for a first local aural broadcast service in Bloomfield, the Commission proposes to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, as it pertains to Bloomfield, Iowa:

City	Channel No.	
	Present	Proposed
Bloomfield, Iowa		292A

5. Authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before March 7, 1980, and reply comments on or before March 27, 1980.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rulemaking is issued until it is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rulemaking other than comments officially filed at the Commission or oral presentation required by the Commission.

[1] Public Notice of the petition was given on October 31, 1979, Report No. 1198.

[2] Population figures are taken from the 1970 U.S. Census.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-1871 Filed 1-18-80; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Doc. No. 80-3; RM-3517]

FM Assignment to Paxton, Ill.

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a first Class A FM channel to Paxton, Illinois, in response to a petition filed by Roger C. Elliott. The proposed channel could provide for a first local aural broadcast service in the community.

DATES: Comments must be filed on or before March 7, 1980, and reply comments must be filed on or before March 27, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 8, 1980.

Released: January 16, 1980.

By the Chief, Policy and Rules Division.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by Roger C. Elliott ("petitioner"), proposing the assignment of FM Channel 285A to Paxton, Illinois. No responses to the petition have been received.

(b) The channel can be assigned in conformity with the minimum distance separation requirements.

(c) Petitioner states he will apply for the channel, if assigned.

2. *Community Date.* (a) *Location.* Paxton, in Ford County, is located approximately 116 kilometers (72 miles) east of Peoria, Illinois.

(b) *Population.* Paxton—4,373; [2] Ford County—16,382.

(c) *Local Aural Broadcast Service.* None.

3. *Economic Considerations.* Petitioner states that Paxton is an agricultural area with substantial industry. He notes that some of the major industries include the manufacture of electronics components, regional sales and service of heavy equipment, manufacture of heat exchangers, and shipment of farm products. Petitioner's demographic data is sufficient to warrant consideration of the need for an FM assignment in Paxton.

4. In view of the foregoing and the fact that the proposed channel could provide the community with a first local aural broadcast service, the Commission proposes to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, with respect to Paxton, Illinois, as follows:

City	Channel No.	
	Present	Proposed
Paxton, Illinois		285A

5. Authority to institute rule making proceedings, showings required, cut-off procedures and filing requirements is contained in the attached Appendix and are incorporated by reference herein. *NOTE:* A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before March 7, 1980, and reply comments on or before March 27, 1980.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer what ever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-1872 Filed 1-18-80; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Doc. No. 80-4; RM-3519]

Noncommercial Educational FM Assignment to Lake Havasu City, Ariz.

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

[1] Public Notice of the petition was given on October 31, 1979, Report No. 1198.

[2] Population figures are taken from the 1970 U.S. Census.

SUMMARY: Action taken herein proposes the assignment of a first noncommercial educational FM channel to Lake Havasu City, Arizona, in response to a petition filed by New Life Christian School. The proposed channel could provide for a first local noncommercial educational FM broadcast service to the community.

DATES: Comments must be filed on or before March 7, 1980. Reply comments must be filed on or before March 27, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 10, 1980.

Released: January 16, 1980.

By the Chief, Policy and Rules Division.

1. *Petition, Proposal, Comments.* (a) A petition for rule making[1] was filed by the New Life Christian School ("petitioner"), proposing the assignment of FM Channel 216A to Lake Havasu City, Arizona, for noncommercial educational FM use. No responses to the petition have been received.

(b) The channel can be assigned in compliance with the minimum distance separation requirements.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Community Data.* (a) *Location:* Lake Havasu City, in Mohave County, is situated on the shores of Lake Havasu near the California border and approximately 241 kilometers (150 miles) west of Phoenix, Arizona.

(b) *Population.* Lake Havasu City—13,524;[2] Mohave County—25,857.

(c) *Local Aural Broadcast Service:* Lake Havasu City is served locally by daytime-only Station KFWJ and FM Station KRFM (Channel 240A). There are no local noncommercial educational FM channels assigned to Lake Havasu City.

3. *Economic Considerations:* Petitioner asserts that the tourist activities provide a base for the local economy, as does Black and Decker, which employs over 1,000 persons.

4. Since Lake Havasu City is located within 320 kilometers (199 miles) of the U.S.-Mexico border, the proposed assignment requires the concurrence of the Mexican Government.

5. In view of the foregoing, and the fact that the proposed channel could provide a first local noncommercial educational FM service to Lake Havasu City, it is proposed to amend the Noncommercial Educational FM Table of Assignments, Section 73.504(a) of the Commission's Rules, as it pertains to the listed city:

City	Channel No.	
	Present	Proposed
Lake Havasu City, Arizona		216A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before March 7, 1980, and reply comments on or before March 27, 1980.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until it is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.504(a) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-1877 Filed 1-18-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Public Notice of the petition was given on October 31, 1979, Report No. 1198.

[2] There is no population figure listed for Lake Havasu City in the 1970 U.S. Census. Petitioner claims that, according to a special federal census count made in January 1979, the population of Lake Havasu City was 13,524.

Notices

Federal Register

Vol. 45, No. 14

Monday, January 21, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

World Food and Agricultural Outlook and Situation Board; Organization, Functions, and Availability of Information

Notice is hereby given for the guidance of the general public as to the organization, functions, and availability of information for the World Food and Agricultural Outlook and Situation Board (WFAOSB).

Part I—Organization and Functions

Section 1—General. The WFAOSB was established in the U.S. Department of Agriculture pursuant to Secretary's Memorandum No. 1920, dated June 3, 1977. This Memorandum abolished the Outlook and Situation Board (OSB) in the former Economic Research Service, and transferred all OSB functions to the new Board. Subsequent Secretary's Memoranda have assigned further responsibilities to the Board in the areas of interagency commodity estimates (Secretary's Memorandum No. 1769, Revised, dated February 16, 1978), weather and climate activities (Secretary's Memorandum No. 1937, dated February 17, 1978), and remote sensing (Secretary's Memorandum No. 1951, dated August 1, 1978). The specific delegations of authority from the Director of Economics, Policy Analysis and Budget to the Chairman, WFAOSB, are contained in 7 CFR 2.86.

Section 2—Organization. The WFAOSB consists of a small staff of career professionals located in Washington, D.C. The principal officers of the Board are the Chairman, Deputy Chairman for Economic Research, Weather, and Remote Sensing, Deputy Chairman for Economic Intelligence, Clearance Review Officer, Weather and Climate Coordinator, Remote Sensing Coordinator, and Senior Macroeconomic Analyst. Commodity and Regional Analysts on the Board have independent authority to coordinate and review all crop and commodity data used to develop outlook and situation material in their assigned area.

Section 3—Authority to Act for the Chairman. In the absence of the Chairman, the following officials are authorized to act for him in the order indicated:

Deputy Chairman for Economic Research, Weather, and Remote Sensing.

Deputy Chairman for Economic Intelligence.

Section 4—Functions. The WFAOSB has four major areas of responsibility:

(a) *Food and Agricultural Outlook and Situation.*

(1) Coordinate and review all crop and commodity data used to develop outlook and situation material within the Department of Agriculture.

(2) Oversee and clear for consistency of analytical assumptions and results, all estimates and analyses which significantly relate to international and domestic commodity supply and demand. This includes such estimates and analyses prepared for public distribution by the Foreign Agricultural Service, the Economics, Statistics, and Cooperatives Service, or by any other agency or office of the Department.

(3) Participate in planning and developing research programs relating to improving the Department's forecasting and estimating capabilities.

(4) Provide liaison between the Department and Commodity Futures Trading Commission to assure that the futures market serves the best interest of agriculture and the public.

(5) Plan and participate in Departmental, interdepartmental, regional and international outlook conferences and briefings, in order to maintain an awareness of current and upcoming economic issues significant to the food and agricultural system.

(b) *Interagency Commodity Estimates.*

(1) Establish Interagency Commodity Estimates Committees to bring together estimates and analyses from supporting agencies and to develop official estimates of supply, utilization, and prices for commodities.

(2) Review for consistency of analytical assumptions and results, all proposed decisions made by Commodity Estimates Committees prior to any release outside the Department.

(c) *Weather and Climate.* Serve as a focal point within the Department for coordination of weather, climate, and related crop monitoring activities.

(d) *Remote Sensing.*

(1) Provide technical assistance, coordination, and guidance to Department agencies in planning, developing, and carrying out satellite remote sensing activities to assure full consideration and evaluation of advanced technology.

(2) Coordinate administrative, management, and budget information relating to Department's remote sensing activities.

Part II—Availability of Information

Section 5—General. This part is issued in accordance with the regulations of the Secretary of Agriculture in Part I, Subpart A, of Subtitle A of Title 7, CFR (7 CFR 1.1-1.16), and Appendix A thereto, implementing the Freedom of Information Act (5 USC 552). The Secretary's regulations, as implemented by this part, govern the availability of records of WFAOSB to the public.

Section 6—Indexes. 5 U.S.C. 552(a)(2) requires that certain materials be made available for public inspection and copying and that a current index of these materials likewise be made available. WFAOSB does not maintain any materials within the scope of these requirements.

Section 7—Requests for Records. Requests for records under 5 U.S.C. 552(a)(3) shall be made in accordance with 7 CFR 1.3(a) and addressed to: Chief, Records, Systems, and Analysis Branch, Administrative Services Division, Economics, Statistics, and Cooperatives Service, U.S. Department of Agriculture, Washington, D.C. 20250. Authority is hereby delegated to this official to make determination regarding such requests in accordance with 7 CFR 1.4(c).

Section 8—Appeals. Any person whose request for records is denied shall have the right to appeal that denial in accordance with 7 CFR 1.3(e) and 1.7. All appeals shall be addressed to: Chairman, World Food and Agricultural Outlook and Situation Board, U.S. Department of Agriculture, Washington, D.C. 20250.

Section 9—Requests for Published Data and Related Information. Published data and related information

on all WFAOSB programs may be obtained from the Chairman, Room 3509 South Building, WFAOSB, U.S. Department of Agriculture, Washington, D.C. 20250.

This rule relates to internal agency management and, therefore, pursuant to 5 U.S.C. 553 it is found upon good cause that notice and other public procedure with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management it is exempt from the provisions of Executive Order 12044, "Improving Government Regulations," and Secretary's Memorandum No. 1955.

Dated: January 16, 1980.

J. Dawson Ahalt,

Chairman, World Food and Agricultural Outlook and Situation Board.

[FR Doc. 80-1656 Filed 1-18-80; 8:45 am]

BILLING CODE 3410-01-M

CIVIL AERONAUTICS BOARD

[Docket 31029; Agreements CAB 23870 and CAB 18923]

Air Traffic Conference of America; Automated Services Provided to Travel Agents and Customers; Final Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 15th day of January, 1980.

Agreements among members of Air Traffic Conference of America concerning automated services provided to travel agents and customers.

By Order 79-8-187, adopted August 31, 1979, we directed all interested persons to show cause why we should not disapprove the existing Air Traffic Conference of America (ATC) off-premises automated service rules contained in Agreements CAB 18923 and CAB 23870, as previously amended by ATC and approved by the Board.[1] We tentatively concluded that Agreement CAB 23870 substantially reduces competition by fixing the transmission fees charged by competing air carriers providing automated services to travel agents and customers; that Agreements CAB 23870 and CAB 18923 substantially reduce competition by establishing standardized terms and conditions for the off-premises placement of automated reservations and ticketing equipment by participating ATC carriers; and that neither of the agreements were necessary to meet a serious transportation need or to secure important public benefits which could not be met by reasonably available, less anticompetitive alternatives.

Comments in response to our show cause order were received from ITT Electronic Travel Services, Inc. (ITTETS).[2] While it does not object to our disapproval of the agreements, ITTETS is concerned that our action may create the potential for an environment in which air carriers with their own computerized reservations systems may make them accessible to travel agents at a price less than the carriers' costs of providing the service, through cross-subsidy from their passenger transportation revenues. It contends that such cross-subsidization would permit those carriers to underprice, and ultimately drive out of the market the services of competing entities which cannot cross-subsidize their services. In order to ensure a competitive environment for agency automation, ITTETS requests that we institute appropriate safeguards against air carrier cross-subsidization of their off-premises automated services.

We have decided to make final our tentative findings and conclusions as set forth in Order 79-8-187. ITTETS has not demonstrated that our disapproval of these agreements will result in anticompetitive behavior by the air carrier participants. Concomitantly, it has not convincingly supported its request for Board-imposed safeguards against below-cost pricing of carriers' off-premises automated services. As discussed in Order 79-8-187, we believe that the unfettered operations of market forces and the antitrust laws are sufficient to ensure competition and to protect against predatory pricing in the agency automation market.

Accordingly: 1. We make final the tentative findings and conclusions contained in Order 79-8-187, dated August 31, 1979;

2. We disapprove Agreements CAB 18923 and CAB 23870, as amended by the Air Traffic Conference of America and previously approved by the Board; and

3. We will serve this order upon all holders of certificates of public convenience and necessity, Air Transport Association of America, American Automobile Association, American Express Company, American Society of Travel Agents, Inc., Association of Retail Travel Agents, Ltd., Honeywell Corporation, International Telephone & Telegraph Corporation, ITT Electronic Travel Services, Inc., Association of Bank Travel Bureaus, National Passenger Traffic Association, Tymshare, Inc., and the U.S. Departments of Justice and Transportation.

This order shall be published in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor

Secretary

[FR Doc. 80-1849 Filed 1-18-80; 8:45 am]

BILLING CODE 6320-01-M

[1] Agreement CAB 18923 provides for the placement by ATC carriers of reservations equipment, provided that the agent or customer pays all equipment installation and maintenance expenses; that the carrier may pay communications costs (other than installation costs) associated with the equipment; that the carrier must recover the amortized cost of the equipment in monthly installments from the agent or customer over a maximum five-year period; and that any carrier-agent/customer arrangement under the rule must be terminated or converted to the industrywide automated system when the latter system is operative. Agreement CAB 23870 permits the off-premises placement of ticketing devices under the same non-price terms and conditions, as well as requiring the carrier to charge a prescribed fee for transmitting ticketing data.

[2] ITTETS, a subsidiary of International Telephone & Telegraph Corporation, has recently begun marketing a computerized reservations access service to travel agencies.

[Docket 34171]

Enforcement Proceeding; Allegheny Airlines, Inc. v. United Air Lines, Inc.; Notice of Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge William H. Dapper. Future communications should be addressed to Judge Dapper.

Dated at Washington, D.C., January 15, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-1854 Filed 1-18-80; 8:45 am]

BILLING CODE 6320-01-M

[Dockets 33362, 33525, and 35526]

Former Large Irregular Air Service Investigation, Phase II and Applications of Intercontinental Airways, Inc.; Notice of Postponement of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding now assigned to be held on January 23, 1980 at 9:30 a.m. (45 FR 2074) is postponed until February 19, 1980 at 9:30 a.m. (local time) in room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C. before the undersigned.

Dated at Washington, D.C., January 15, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-1853 Filed 1-18-80; 8:45 am]

BILLING CODE 6320-01-M

[Order 80-1-95]

Pan American World Airways, Inc.; Amendment to Certificate

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 80-1-95.

SUMMARY: The Board proposes to approve the following application:

Applicant: Pan American World Airways, Inc.
Application Date: October 9, 1979.
Docket: 15019.
Authority Sought: Amendment to its certificate for Route 133 to add Abidjan, Ivory Coast, as an intermediate point.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, NO LATER THAN February 4, 1980, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of the Ivory Coast. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed certificate.

ADDRESSES FOR OBJECTIONS:

Docket 10519, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.
Applicant: Pan American World Airways, c/o Verner, Liipfert, Bernhard and McPherson, Suite 1100, 1660 L Street, N.W. Washington, D.C. 20036.

TO GET A COPY OF THE COMPLETE ORDER: Request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia L. DePuy, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board; (202) 673-5092.

By the Civil Aeronautics Board: January 14, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-1851 Filed 1-18-80; 8:45 am]

BILLING CODE 6320-01-M

[Order 80-1-19]

Swift Aire Lines; Notice of Order

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause and Fitness Investigation of Swift Aire Lines (Order 80-1-19).

SUMMARY: The Board is issuing an order in which it tentatively finds and concludes that it is in the public convenience and necessity to grant the application of Swift Aire Lines, Inc., for a certificate authorizing the air transportation of persons, property, and mail between the terminal point San Francisco, the intermediate points San Jose, San Louis Obispo, and Santa Maria, and the terminal point Los Angeles, and between the terminal point San Francisco, the intermediate point Bakersfield, and the terminal point Los Angeles. Certification is subject to a favorable determination of the applicant's fitness in the *Swift Aire Lines, Inc., Fitness Investigation* (Docket 37391), instituted concurrently.

DATES: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file by February 21, 1980, a statement of objections together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings shall be served upon all parties listed below.

ADDRESSES: Objections to issuance of a final order should be filed in the Dockets Section, Civil Aeronautics Board, Washington, D.C., 20428, in Docket 36694, application of Swift Aire Lines, Inc., for a certificate amendment.

In addition copies of such filings should be served on Air California, Air Pacific, American Airlines, Apollo Airways, Braniff International Airways, Continental Airlines, Delta Airlines, Eastern Airlines, Golden West Air, Hughes Airwest, National Airlines, Northwest Airlines, Pacific Southwest Airlines, Sun Aire Lines, Trans World Airlines, United Air Lines, Western Airlines, World Airways, the Mayors of San Francisco, Los Angeles, San Jose, San Louis Obispo, Santa Maria, Bakersfield, Calif., the Managers of Los Angeles International Airport, Bakersfield Airport, San Jose Municipal Airport, San Francisco International Airport, Santa Maria Airport, San Louis Obispo Airport, and the Public Utilities Commission of California.

FOR FURTHER INFORMATION CONTACT: Laurie Schaffer, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673-5009.

SUPPLEMENTARY INFORMATION: The complete text of Order is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: January 4, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-1852 Filed 1-18-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Maritime Administration

Presidential Oil Pollution Insurance Study; Request for Comments

Notice is hereby given that, pursuant to the requirement to conduct a study of oil pollution liability insurance under section 305(d) of the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372), the public is invited to submit comments on the availability, affordability, and competition in the market for oil pollution liability insurance for vessels, onshore facilities, and offshore facilities. Comments received will be taken into consideration when recommendations for action are drafted for the President to submit to Congress as part of the Presidential Oil Pollution Insurance Study. Comments may address, but need not be limited to, the following topics:

1. Insurability of present or proposed oil pollution liability.
2. Desirability of a Federal Fund as the exclusive device for risk and claims management.
3. Difficulties of insurance pricing and price adjustment in the short run as a substantial reason for not insuring pollution liability.
4. Considerations other than risk and claims cost that prevent insurers from participating in oil pollution liability insurance.
5. Federal preemption of state laws.
6. Oil pollution liability indemnity agreements, existence and significance.
7. Definition of claims and eligible claimants.
8. Need for mutual loss or risk plans.

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9. Capacity of insurance market for oil pollution risks.

10. Other factors affecting insurability of oil pollution liability.

Comments should be related to vessel risks, offshore facility risks, and onshore facility risks separately.

This notice of request for comments is separate from the notice published on January 7, 1980, (**Federal Register**, Vol. 45, No. 4, Document No. 80–431), by the Office of Management and Budget (OMB) in connection with a survey, in which comments are requested on questionnaires prepared to elicit specific statistical data from insureds, insurers, and agents/brokers on oil pollution liability insurance.

This separate notice is intended to allow the public a forum to express its attitudes, perceptions, and positions on the current problems of oil pollution insurance in broad terms. Responses will supplement and provide a background for the specific statistical data collected in the questionnaires.

Comments should be sent to the Secretary, Maritime Subsidy Board, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230, by February 15, 1980.

All comments will be open to public inspection in Room 3099–B, Department of Commerce Building, Washington, D.C., during normal working hours.

Dated: January 16, 1980.

Robert J. Patton, Jr.,

Secretary, Maritime Subsidy Board.

[FR Doc. 80–1891 Filed 1–1–80; 8:45 am]

BILLING CODE 3510–15–M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), will meet to review status reports on development of fishery management plans; consider foreign fishing applications, if any; and conduct other fishery management business.

DATES: The meeting will convene on Tuesday, February 5, 1980, at 1:30 p.m., and adjourn at 5 p.m.; reconvene on Wednesday, Feruary 6, 1980, at 8:30 a.m., and adjourn at 5 p.m., and on Thursday, February 7, 1980, reconvene at 8:30 a.m., and adjourn at approximately 12 noon. The meeting is open to the public.

ADDRESS: The meeting will take place in the southern Pine Room, Holiday Inn Downtown, 200 East Amite Street, Jackson, Mississippi.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609. Telephone: (813) 228–2815.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

January 16, 1980.

[FR Doc. 80–1867 Filed 1–18–80; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Proposed Addition

Correction

In FR Doc. 80–1215, appearing on page 2880 in the issue of Tuesday, January 15, 1980, the last set of figures in the third column under the heading *"Class 7350"* should read, "7350–01–145–6127".

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Department of the Navy

Availability of Draft Environmental Impact Statement on the Continued Use of the Atlantic Fleet Weapons Training Facility Inner Range (Vieques)

The Department of the Navy, on December 28, 1979, filed a Draft Environmental Impact Statement (DEIS) covering the Continued Use of the Atlantic Fleet Weapons Training Facility Inner Range (Vieques) with the Environmental Protection Agency (EPA).

The DEIS describes the continuation of naval activities on the Island of Vieques, Commonwealth of Puerto Rico. These naval activities include air-to-ground and naval gunfire support training in the Inner Range of the Atlantic Fleet Weapons Training Facility (AFWTF) on eastern Vieques, marine landing, maneuver and artillery training operations in the Eastern Maneuver Area (EMA) on east-central Vieques, and storage of ammunition at the Naval Ammunition Facility (NAF) on western Vieques. These activities have been occurring on Navy-owned land on Vieques for a number of years, and it is proposed that they continue at a level equal to or greater than current levels.

Copies of the DEIS are available for public inspection at the following locations:

Commander, Naval Facilities Engineering Command, 200 Stoval Street, Alexandria, VA

Operational Archives Branch, Naval Historical Center (Op-09BH), Room 410, Building 210, Washington Navy Yard, Washington, DC

Commander, Atlantic Division, Naval Facilities Engineering Command, Naval Station, Norfolk, VA

Library of the Senate of Puerto Rico, Capital Building, San Juan, PR

Library of the College of Agricultural and Mechanical Arts, University of Puerto Rico, Mayaguez Campus, College Station, Mayaguez, PR

General Library, University of Puerto Rico, University Station, Rio Piedras, PR

High School Library, Isabella Segunda, Vieques, PR

Director, Puerto Rico Branch, Atlantic Division, Naval Facilities Engineering Command, U.S. Naval Station, Roosevelt Roads, PR

Ponce Public Library, Mayor y Christina, Ponce, PR

Vieques Minicipal Library, Vieques, PR

The Department of the Navy is soliciting public comments on this document. Comments, or requests for further information, should be addressed to:

Director, Puerto Rico Branch, Atlantic Division, Naval Facilities Engineering Command, U.S. Naval Station (Roosevelt Roads, PR), FPO Miami 34051, Telephone No. (809) 863–4204/4083

or

Commander, Atlantic Division, Naval Facilities Engineering Command, Naval Station, Norfolk, VA 23511, Telephone No. (804) 444–7131

Because the Navy does not presently intend to hold public hearings on this DEIS, the public is encouraged to take this opportunity to comment. The Navy will hold the comment period open on this document until April 15, 1980, to ensure all interested persons have ample opportunity to comment.

Dated: January 14, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 80–1830 Filed 1–18–80; 8:45 am]

BILLING CODE 3810–71–M

Office of the Secretary

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92–463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, March 4, 1980; Tuesday, March 11, 1980; Tuesday, March 18, 1980; and Tuesday, March 25, 1980 at 10:00 a.m. in Room 3D–325, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Public Law 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92–463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b. of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b. (c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b. (c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b. (c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chair concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chair, Department of Defense Wage Committee, Room 3D–281, The Pentagon, Washington, D.C.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

January 15, 1980.

[FR Doc. 80–1808 Filed 1–17–80; 8:45 am]

BILLING CODE 3810–70–M

DEPARTMENT OF ENERGY

Requests for Interpretation Filed With the Office of General Counsel; Months of October and November 1979

Notice is hereby given that during the months of October and November 1979, the requests for interpretation listed in the Appendix to this notice were filed pursuant to 10 CFR Part 205, Subpart F with the Office of General Counsel, Department of Energy (DOE). Notice of subsequently received requests will be published at the end of each calendar month. Copies of the requests for interpretation listed herein are on file in and should be obtained from the DOE Public Reading Room, Information Access Office, Room GA–142, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–5969.

The statement of issue that follows each request for interpretation listed in the Appendix is not intended to be definitive or final. Rather, the issue statement should be regarded as the initial restatement by the DOE of the question that appears to have been presented for resolution. The issue may, of course, be refined and modified during the interpretive process.

Interested parties may submit written comments on the listed interpretation requests on or before February 20, 1980. Comments should be identified on the outside envelope and on documents submitted with the file number of the interpretation request and all comments should be filed with the Assistant General Counsel for Interpretations and Rulings, Office of General Counsel, Department of Energy, Room 5E052, 1000 Independence Avenue, SW., Washington, D.C. 20585. Any comments submitted should be served on the requesting parties as identified in the Appendix below. When appropriate, aggrieved parties, as defined in 10 CFR 205.2, will continue to receive actual notice of pending interpretation requests in accordance with the current practice of the Office of General Counsel.

For further information contact Diane Stubbs, Office of General Counsel, 1000 Independence Avenue, SW., Room 5E052, Washington, D.C. 20585, (202) 252–2948.

Edward A. Marseglia, Jr.,

Assistant General Counsel for Interpretations and Rulings.

January 14, 1980.

Appendix.—*Lists of Requests for Interpretation Received by the Office of General Counsel*

[Months of October and November 1979]

Date received	Name and location of requestor	File No.
Oct. 1, 1979	Norwegian Oil Co., Byron Thomas, Esq., Butler, Binion, Rice, Cook & Knapp, 818 Connecticut Avenue, NW., Washington, D.C. 20006. Issue: May Norwegian receive reimbursement from the purchaser of its crude oil for a fee charged by a refiner for separating condensate under 10 CFR 212.74?	A–484
Oct. 1, 1979	Chevron Agents Association, Inc., Otis D. Phillips, Regulatory Consultant, Chevron Agents Association, Inc., P.O. Box 970, Norcross, Ga. 30091. Issue: Are certain Chevron consignee-agents wholesale purchaser-resellers and suppliers as those terms are defined in 10 CFR 211.51?	A–485
Oct. 10, 1979	CLEMCO, Noel D. Iechy, CLEMCO, 120 South College, Tyler, Tex. 75702. Issue: If heavy crude oil is produced by injecting into the formation high-gravity hydrocarbons, so that a blend of 25° crude oil is created in the ground and pumped to the surface, may the heavy crude oil portion of the blend be sold at market prices by virtue of Executive Order No. 12153, Decontrol of Heavy Oil?	A–486
Oct. 10, 1979	Mitchell Energy Corp., John E. Watson, Senior Vice President, Mitchell Energy Corp., 3900 One Shell Plaza, Houston, Tex. 77002. Issue: Does the computation of "tertiary incentive revenues," as that term is defined in 10 CFR 212.78(c), include payments passed through by qualified producers to royalty owners who are not participants in a particular enhanced oil recovery project?	A–487
Oct. 12, 1979	Shell Oil Co., Kim Jensen Clifford, Esq., Shell Oil Co., One Shell Plaza, P.O. Box 2463, Houston, Tex. 77001. Issue: (1) Do the tertiary incentive pricing amendments permit utilizing enhanced oil recovery techniques, as defined in 10 CFR 212.78(c), regardless of the status of that project on October 1, 1979? (2) On what basis are royalty owners of a property from which tertiary incentive crude oil is sold to be paid?	A–488
Oct. 15, 1979	Bigheart Pipe Line Co., J. Kevin Hayes, Esq., Hall, Estill, Hardwick, Gable, Collingsworth & Nelson, 4100 Bank of Oklahoma Tower, One Williams Center, Tulsa, Okla. 74172. Issue: In determining "acquisition cost" under Subpart L of the Mandatory Petroleum Price Regulations, may a reseller of crude oil use the LIFO method of inventory in valuing its sales from inventory?	A–489
Oct. 24, 1979	Standard Oil Co. (Indiana), Matthew J. Gallo, Esq., Standard Oil Co. (Indiana), 200 East Randolph Dr., P.O. Box 5910–A, Chicago, Ill. 60680. Issue: If motor gasoline is released from the state set-aside program to a prime supplier pursuant to 10 CFR 211.17(h)(1) and subsequently supplied to a wholesale purchaser-reseller during the updated base period, is that gasoline included in the purchaser's base period volume notwithstanding 10 CFR 211.105(f)?	A–490
Oct. 30, 1979	Whirlpool Corp., Robert L. Judd, Whirlpool Corp., 2000 U.S. 33 North, Benton Harbor, Mich. 49022. Issue: Is a clothes washer in which water temperature is selected by means of the timer within the definition of "automatic clothes washer" as set forth in 10 CFR 430.2(10), and is such clothes washer a "three temperature selection machine" as defined in § 430, Subpart B, Appendix J?	A–491

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Appendix.—Lists of Requests for Interpretation Received by the Office of General Counsel—Continued

[Months of October and November 1979]

Date received	Name and location of requestor	File No.
Oct. 30, 1979	Honeymon Drilling Co., Ltd., A. T. Sindel, President, Honeymon Drilling Co., Ltd., 531 North Portland, P.O. Box 74506, Oklahoma City, Okla. 73147. Issue: Where crude oil was recovered from a property in 1978 in the course of testing, was crude oil "produced" from that property for purposes of the "newly discovered crude oil" provisions of 10 CFR 212.79(b)?.	A–492
Oct. 23, 1979	United States Steel Corp., Kenneth R. Stiles, Esq., United States Steel Corp., 600 Grant Street, Pittsburgh, Pa. 15230. Issue: Does the sale of an ethylene plant that uses propane result in the transfer of the allocation entitlement to that propane to the new owner of the plant under 10 CFR 211.11, where the former owner continues to own and operate other ethylene plants?.	A–493
Nov. 7, 1979	The Paul Smith Co., Gary L. Denton, Esq., Obenshain, Hinnant, Dolbeare & Beale, One North Fifth St., Richmond, Va. 23219. Issue: May a reseller that sold motor gasoline to a retailer on May 15, 1973, while supplying it related equipment at the reseller's expense, increase the sales price for the gasoline as a means of imposing a fee for the use of the equipment?.	A–494
Nov. 13, 1979	Barber Oil Corp., Thomas B. Hudson, Jr., Esq., Baker & Botts, 3000 One Shell Plaza, Houston, Tex. 77002. Issue: Under the provisions of 10 CFR 212.78, must the leases which produce the crude oil that a producer sells to raise tertiary incentive revenue have been entered into by such producer prior to the adoption of the tertiary program, or may the leases be acquired by assignments which were negotiated and executed after adoption of the tertiary program for the specific purpose of transferring reserves of crude oil to the producer for use in financing a tertiary project?.	A–495
Nov. 14, 1979	State of New Mexico, J. Scott Hall, Esq., State of New Mexico, Commissioner of Public Lands, P.O. Box 1148, Sante Fe, N. Mex. 87501. Issue: Does 10 CFR 210.62 prohibit a producer of crude oil from requiring purchasers to pay for this crude oil more promptly?.	A–496
Nov. 14, 1979	Knox Industries, Inc., L. E. Sawyer, Jr., Esq., Cotton, Bledsoe, Tighe, Morrow & Dawson, Suite 2000, First National Bank Bldg., Midland, Tex. 79701. Issue: Under 10 CFR 210.62, Part 211, and Part 212, may a producer enter into a processing agreement with a refiner whereby the refiner would refine crude oil on the producer's behalf for a fee?.	A–497
Nov. 14, 1979	W. C. Hancock Products, Inc. & Harris Oil Co., Archibald M. Mull, III, Esq., Mull & Mull, 715 Crocker Bank Bldg., 1007 Seventh St., Sacramento, Calif. 95814. Issue: Under the provisions of 10 CFR 210.62, 211.11(d) and 211.106(e), is the right to an allocation of motor gasoline deemed to be transferred to the successor in the interest of the retail sales outlet when the prior operator has gone out of business?.	A–498
Nov. 20, 1979	North Central Oil Corp., Thomas B. Hudson, Jr., Esq., Baker & Botts, 3000 One Shell Plaza, Houston, Tex. 77002. Issue: Where crude oil was recovered from a property in 1978 in the course of testing, was crude oil "produced" from that property for purposes of the "newly discovered crude oil" provisions of 10 CFR 212.79(b)?.	A–499
Nov. 28, 1979	Juli Enterprises, Inc., W. G. Tyler, Juli Enterprises Inc., 2544 Charlebois Drive Northwest, Calgary, Alberta T2LOT6. Issue: Where a unit that had qualified as a stripper well property was terminated, may crude oil produced from a lease that was formerly a part of the unit qualify as crude oil produced and sold from a stripper well property in accordance with 10 CFR 212.54?.	A–500
Nov. 14, 1979	National Cooperative Refinery Association, Gordon L. Allott, Jr., Esq., 1104 United Bank Center, 1700 Broadway, Denver, Colo. 80290. Issue: Does the sale of a limited amount of crude oil by a producer to a purchaser immediately after completion of a well establish a supplier-purchaser relationship between the parties in accordance with 10 CFR 211.63?.	A–501
Nov. 21, 1979	Mobil Chemical Co., Daniel Joseph, Esq., Akin, Gump, Hauer & Feld, 1333 New Hampshire Avenue, NW., Washington, D.C. 20036. Issue: In accordance with the Fuel Use Act and 10 CFR 500.2 or 507.4(e) does the residue off-gas produced by an ethylene plant qualify as an "alternate fuel" which may be used as a boiler fuel in a proposed energy-efficient system?.	A–502
Nov. 27, 1979	Gerald Dupont Enterprises, Inc., Gerald W. DuPont, Gerald Dupont Enterprises, Inc., 315 Houston Natural Gas Bldg., Houston, Tex. 77002. Issue: Where crude oil was recovered from a property in 1978 in the course of testing, was crude oil "produced" from that property for purposes of the "newly discovered crude oil" provisions of 10 CFR 212.79(b)?.	A–503
Nov. 27, 1979	McMoRan Exploration Co., Kenneth R. Hahn, McMoRan Exploration Co., McMoRan Tower, 3421 N. Causeway Blvd., P.O. Box 6800, Metairie, La. 70009. Issue: Where crude oil was recovered from a property in 1978 in the course of testing, was crude oil "produced" from that property for purposes of the "newly discovered crude oil" provisions of 10 CFR 212.79(b)?.	A–504

[FR Doc. 80–1881 Filed 1–18–80; 8:45 am]

BILLING CODE 6450–01–M

Uranium Hexafluoride; Separative Work Charges, and Base Charges for Natural Uranium

The Department of Energy (DOE) hereby announced changes in the base charges for uranium in the form of uranium hexafluoride (UF_6). Accordingly, the notice entitled, "Uranium Hexafluoride: Separative Work Charges, and Base Charges for Natural Uranium," as published in the **Federal Register** on September 29, 1977, (42 FR 51636) and amended by notice published on November 6, 1978 (43 FR 51700) is further amended by deleting paragraph 2 and inserting the following paragraph in lieu thereof:

2. *Base Charges for Natural Uranium.*

(a) The base charge for natural uranium furnished on other than a short notice, one time basis, is $21.60 per pound of contained U_3O_8 in the form of concentrate and $60.46 per kg of contained uranium in the form of UF_6.

(b) The base charge for natural uranium furnished on a short notice, one time basis, is $43.74 per pound of contained U_3O_8 in the form of concentrate and $118.58 per kg of contained uranium in the form of UF_6.

Effective date: This notice is effective January 21, 1980.

Ruth M. Davis,

Assistant Secretary Resource Applications.

January 14, 1980.

[FR Doc. 80–1863 Filed 1–18–80; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95–621), signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the surcharge placed on the ultimate cost of gas to the industrial facility does not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA of 1978, Section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) alternative fuel price ceilings and a high cost gas incremental pricing threshold. These data are effective February 1, 1980, and are to be used by natural gas suppliers to determine the maximum surcharges applicable to the passthrough of certain portions of natural gas acquisition costs.[1]

For further information contact: Frank A. Petrosino or Kenneth Levine, Energy Information Administration, Federal Building, 12th and Pa. Ave., NW., Rm 4121, Washington, D.C. 20461, (202) 633–8558.

Section I. Alternative Fuel Price Ceilings

As required by FERC Order No. 50, prices are shown for the 48 contiguous states. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section IV.

State	Dollars per million Btu's
Alabama	[illegible]
Arizona	[1] 2.71
Arkansas	[1] 2.73
California	2.75
Colorado	[1] 2.44
Connecticut	[1] 3.25
Delaware	[illegible]
Florida	2.74
Georgia	[1] 2.75
Idaho	[1] 2.44
Illinois	[1] 2.80
Indiana	[1] 2.80
Iowa	[1] 2.80
Kansas	[1] 2.80
Kentucky	[1] 2.80
Louisiana	[1] 2.72
Maine	[illegible]
Maryland	[1] 2.98
Massachusetts	3.13
Michigan	[illegible]
Minnesota	3.12
Mississippi	[1] 2.75
Missouri	[1] 2.49
Montana	[1] 2.44
Nebraska	[1] 2.80
New Hampshire	3.43
New Jersey	[1] 2.97
New Mexico	[1] 2.72
New York	[illegible]
Nevada	[1] 2.71
North Carolina	2.93
North Dakota	[1] 2.80
Ohio	[1] 2.80
Oklahoma	[1] 2.72
Oregon	2.55
Pennsylvania	2.93
Rhode Island	[1] 3.25
South Carolina	[1] 2.75
South Dakota	[1] 2.80
Tennessee	[1] 2.75
Texas	2.73
Utah	[1] 2.44
Vermont	[illegible]
Virginia	2.85
Washington	2.51
West Virginia	[1] 2.80
Wisconsin	2.85
Wyoming	[1] 2.44

[1] Region-based price.

Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during November 1979 was $32.37 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, Section 203 (a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective February 1, 1980, is $7.26 per million BTU's.

Section III. Data Collection

The FERC, by Order No. 50, issued September 28, 1979, in Docket No. RM79–21, established the basis for

[1] FERC Order No. 49, September 28, 1979; Docket No. RM 79–14.

determining the price ceilings required by the NGPA. FERC also, by Order No. 51, issued in the same docket on the same date, established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings until November 1, 1980.

The EIA required the following data from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: For the month of November 1979, for each selling price the number of gallons sold to a large industrial user.[3] All reports of volume sold and price were identified by the State into which the oil was sold.

Section IV. Method Used To Compute Price Ceilings

A description of the method used to calculate price ceilings accompanied the first publication of prices **Federal Register**, Part VIII, December 20, 1979, pp. 75612–75613). To calculate the prices which will become effective February 1, 1980, (shown in Section I), the adjusted volume-weighed average price of No. 6 high sulfur content residual fuel oil was determined for the reference month, November 1979. For each of the eight FERC regions the percent change of that price from the October, 1979 volume-weighted average price was calculated. The alternative fuel price ceiling for each state published in the **Federal Register**, Part VIII, December 20, 1979, pp. 75612–75613 was increased or decreased by the percent change of the region in which the state is located to determine the price ceiling shown in Section I of this notice.

Section V. Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

Regions A: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.
Region B: Delaware, Maryland, New Jersey, New York, and Pennsylvania.
Region C: Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.
Region D: Illinois, Indiana, Kentucky, Michigan, Ohio, West Virginia, and Wisconsin.
Region E: Iowa, Kansas, Missouri, Minnesota, Nebraska, North Dakota, and South Dakota.
Region F: Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.
Region G: Colorado, Idaho, Montana, Utah, and Wyoming.
Region H: Arizona, California, Nevada, Oregon, and Washington.

Issued in Washington, D.C., on January 17, 1980.

Albert H. Linden Jr.,
Deputy Administrator, Energy Information Administration.

[FR Doc. 80-1899 Filed 1-18-80; 8:45 am]
BILLING CODE 6450-01-M

[3] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State or local) and the military are excluded.

Economic Regulatory Administration

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of agreements.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA and the firms listed below during the month of November 1979. These Consent Orders represent agreements between the DOE and the retail firms listed which involve a reduction of the selling prices for gasoline and/or the posting of the Maximum Lawful Selling Price (MLSP) to be in compliance with the Federal Energy pricing regulations. These Consent Orders are concerned exclusively with the consenting firm's current compliance with the Mandatory Petroleum Allocation and Price Regulations and do not address the possible noncompliance with these regulations prior to the period of the audit. These Consent Orders require consenting firms to come into compliance with legal requirements by reducing selling prices to established lawful level for each grade of gasoline sold, to properly post maximum lawful selling prices, and to properly maintain required records.

For further information regarding these Consent Orders, please contact James C. Easterday, District Manager of Enforcement, 1655 Peachtree Street, NE, Atlanta, Georgia 30309, telephone number 404–881–2661.

Firm name and address	Violation: Pricing	Violation: Posting	Date
Woodford Plaza Ashland, Versailles, Ky.	Yes		11-1-79
Kenneth F. Renfrow, Micro, N.C.	Yes	Yes	11-1-79
Billy H. Godwin, Selma, N.C.		Yes	11-1-79
Douglas C. Parrish, Selma, N.C.		Yes	11-1-79
James Thornsberry, Lexington, Ky.	Yes		11-2-79
Hubert Fain, Lexington, Ky.		Yes	11-2-79
Frank Jordan, Nashville, N.C.		Yes	11-2-79
Lanter's Ashland Service, Crestwood, Ky.	Yes		11-5-79
Dick's Gulf Service, St. Petersburg, Fla.	Yes	Yes	11-5-79
Kenneth E. Wells, Versailles, Ky.	Yes		11-5-79
Vincent Oerther, Frankfort, Ky.	Yes		11-5-79
Addison's Grocery, Surry, Va.		Yes	11-8-79
Oak Hill Exxon, Madison, Va.		Yes	11-8-79
Edgehill Exxon Station, King George, Va.	Yes	Yes	11-6-79
Beltline Exxon, Lexington, Ky.	Yes		11-6-79
Reed's Phillips 66, Lexington, Ky.	Yes		11-6-79
The Country Store, Madison, Va.		Yes	11-6-79
Ruckersville Amoco, Ruckersville, Va.		Yes	11-8-79
Julian W. Moody, Gainesville, Va.	Yes	Yes	11-7-79
John A. Feriazzo, Warrenton, Va.	Yes	Yes	11-7-79
Avan A. Edwards, Warrenton, Va.	Yes	Yes	11-7-79
David L. Foster, Warrenton, Va.	Yes	Yes	11-7-79
Airway Texaco, Franklin, Va.	Yes		11-7-79
E. J. Woodward, Fredericksburg, Va.	Yes		11-7-79
Spark's Union 76, Jacksonville, Ala.	Yes	Yes	11-7-79
Roy D. Boyd, Henderson, N.C.		Yes	11-7-79
Morris Service Station, Monrose, Va.	Yes	Yes	11-7-79
Landon Sherwood Hayes, South Hill, Va.	Yes	Yes	11-7-79
Hilltop Mart, Cropwell, Ala.		Yes	11-7-79
Sak's Union 76, Anniston, Ala.	Yes	Yes	11-7-79
Eugene Beale & P. Griffith, Warrenton, Va.		Yes	11-7-79
Vernon L. Barron, Warrenton, Va.		Yes	11-7-79
Bobby Burgess, Fredericksburg, Va.	Yes		11-7-79
Colleen Exxon, Lovingston, Va.	Yes	Yes	11-7-79
Bradley's Amoco, Lovington, Va.	Yes		11-7-79
Cavalier Auto Service, Franklin, Va	Yes		11-7-79
Roberts Standard, LaGrange, Ky.	Yes		11-7-79
Rio Road Gulf, Charlottesville, Va.	Yes	Yes	11-7-79
Goffey's Standard, Fairdale, Ky.	Yes		11-8-79
Stapp's Mobil Oil, Holly Hill, Fla.		Yes	11-8-79
Ralph W. Watts, Chance, Va.	Yes	Yes	11-8-79
Jimmy's Interstate Exxon, Chelbyville, Ky.	Yes		11-8-79
Linwood Hollowell, Norfolk, Va.	Yes		11-8-79
James Amuda, Fredericksburg, Va.	Yes		11-8-79
Herbert A. Pearce, South Hill, Va.		Yes	11-8-79
Pasquale Cappabianca, Orlando, Fla.	Yes	Yes	11-8-79
Hamilton Quick Stop, Athens, Ala.		Yes	11-8-79
William Poniatowski, Daytona Beach Shores, Fla.		Yes	11-8-79
Bobby R. Baltzegar, West Columbia, S.C.	Yes		11-8-79
Casey's 76, Columbia, S.C.	Yes	Yes	11-8-79
Smith's Grocery, Prospect, Tenn.		Yes	11-8-79
Lewis G. Richardson, Norlina, N.C.	Yes		11-8-79
Anthony L. Scogno, Fairfax, Va.	Yes	Yes	11-8-79
Billy B. Juornall, Middleburg, Va.	Yes	Yes	11-8-79
Elinor Village Chevron, Ormond Beach, Fla.	Yes	Yes	11-8-79
Bruce Sharpe, Ladysmith, Va.	Yes		11-9-79
Ronald R. Evans, Aldie, Va.	Yes	Yes	11-9-79
Huguenot Exxon Serv., Richmond, Va.	Yes	Yes	11-14-79
Central Part Standard, Birmingham, Ala.		Yes	11-14-79
Dabkowski Minit Mart, Campbells-burg, Ky.	Yes		11-14-79
Rich Service Station, Bessemer, Ala.		Yes	11-14-79
Tidwell Country Store, Norge, Va.	Yes	Yes	11-14-79
Valley Road Standard, Bessemer, Ala.	Yes	Yes	11-14-79
J. P. Andrews, Durham, N.C.		Yes	11-15-79
Roy E. Dobbins, Atlanta, Ga.		Yes	11-15-79
Ronald Whitley, Durham, N.C.		Yes	11-15-79
Franklin 66, Franklin, Va.		Yes	11-15-79
Hillandale Mobil, Durham, N.C.	Yes	Yes	11-15-79
John Cook, Atlanta, Ga.		Yes	11-15-79
Cutchons Amoco Serv., Franklin, Va.		Yes	11-15-79
Union 76 Truck Plaza, Glencoe, Ky.			11-15-79
Redd Garvin Gulf, Cayce, S.C.	Yes	Yes	11-15-79
Benjamin G. Fuller, Durham, N.C.		Yes	11-15-79
Guess Rd. Amoco, Durham, N.C.		Yes	11-15-79
Commander's Exxon, Norfolk, Va.	Yes		11-16-79
Speed Car Wash, Inc., Birmingham, Ala.	Yes	Yes	11-16-79
McLelland Service Sta., Bessemer, Ala.	Yes	Yes	11-16-79
Mike Welchel, Atlanta, Ga.	Yes		11-16-79
B. W. Walker, Henerson, N.C.		Yes	11-16-79
R. E. Knight, Smyrna, Ga.	Yes		11-16-79
Pocahontas Amoco Service, Hampton, Va.	Yes		11-18-79
Wilson Harrison, Hampton, Va.	Yes		11-18-79
6th Ave. Service Station, Birmingham, Ala.		Yes	11-19-79

Firm name and address	Violation: Pricing	Violation: Posting	Date
Melvin Trammell, Richmond, Va.	Yes		11-19-79
Harrison's Service Center, Hampton, Va.	Yes		11-19-79
Harbison Standard Station, Birmingham, Ala.	Yes	Yes	11-19-79
Joe Hyche Chevron, Bessemer, Ala.	Yes	Yes	11-19-79
Central Park Chevron, Birmingham, Ala.	Yes	Yes	11-19-79
Jeraco, Richmond, Va.		Yes	11-20-79
Jim's Exxon, Daytona Beach, Fla.	Yes	Yes	11-21-79
Keith Chevron, Fultondale, Ala.		Yes	11-21-79
Highland Park Exxon, Richmond, Va.	Yes		11-21-79
Royal Service, Birmingham, Ala.	Yes		11-21-79
Bailey Service Station, Gardendale, Ala.	Yes		11-21-79
James W. Head, Pensacola, Fla.	Yes		11-21-79
Ray C. Keith, Pensacola, Fla.	Yes		11-21-79
Green's Standard Station, Birmingham, Ala.	Yes		11-21-79
Yoo's Exxon, Norfolk, Va.	Yes	Yes	11-21-79
Chevron Subservice, Birmingham, Ala.		Yes	11-23-79
Cumberland Standard, Atlanta.	Yes	Yes	11-26-79
Dale Wiechman, Okeechobee, Fla.	Yes	Yes	11-26-79
6th Avenue Amoco, North Miami, Fla.	Yes	Yes	11-27-79
New Interama Service Sta., N. Miami Beach, Fla.	Yes	Yes	11-27-79
Alan's Shell Service, South Miami, Fla.	Yes	Yes	11-27-79
Isis Airport Gulf Ser., Miami, Fla.	Yes	Yes	11-27-79
Daniel Simpson, St. Petersburg, Fla.	Yes	Yes	11-27-79
Curtis Partway 66, Miami, Fla.	Yes	Yes	11-27-79
J. C. Penney Store #1004-1, Tampa, Fla.	Yes		11-27-79
Walk's Exxon, Lake City, Fla.	Yes		11-28-79
Airport Chevron, Tampa, Fla.	Yes	Yes	11-28-79
Norwood Shell Service, Miami, Fla.	Yes	Yes	11-28-79
Robin Shiver, Mayo, Fla.	Yes		11-28-79
Fike's Amoco, Lake City, Fla.	Yes		11-28-79
Placeres Texaco, Miami, Fla.	Yes	Yes	11-28-79
Batallia's Chevron, Opa Locka, Fla.	Yes	Yes	11-28-79
Petes Quality Amoco, St. Petersburg, Fla.	Yes	Yes	11-28-79
Gibson's Exxon, St. Petersburg, Fla.	Yes	Yes	11-29-79
Raley's Exxon, Tampa, Fla.	Yes		11-29-79
Paul Durden's Chevron, Lake City, Fla.	Yes		11-29-79
Dan's Standard Service, Clearwater, Fla.	Yes		11-29-79
B & D Shell, Clearwater, Fla.	Yes	Yes	11-29-79
Flippen Exxon, McDonough, Ga.	Yes		11-30-79

Issued in Atlanta, Ga., on the 8th day of January, 1980.

James C. Easterday,
District Manager.

Approved for signature.

Leonard F. Bittner,
Chief Enforcement Counsel.

[FR Doc. 80-1864 Filed 1-18-80; 8:45 am]
BILLING CODE 6450-01-M

[ERA Docket No. 79-24-NG]

Northern Natural Gas Co.; Application To Import Natural Gas Into the United States From Canada

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Receipt of Application and Invitation To Submit Comments and Petitions to Intervene in the Proceeding.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of an application under Section 3 of the Natural Gas Act from Northern Natural Gas Company (Northern) to import natural gas from Consolidated Natural Gas Limited (Consolidated), of Alberta, Canada.

DATES: Petitions to intervene, comments, and requests for hearing: February 10, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Finn K. Neilsen, Director, Import/Export Division, 2000 M Street, NW., Room 4201, Washington, D.C. 20461. Telephone (202) 254–8202.

Mr. Martin S. Kaufman, Deputy Assistant General Counsel for International Trade and Emergency Preparedness, 1000 Independence Avenue, SW., Forrestal Building, Room 5E064, Washington, D.C. 20585, telephone (202) 252–2918.

Background

On October 11, 1979, Northern Natural Gas Company, 2223 Dodge Street, Omaha, Nebraska 68102 filed an application (ERA Docket No. 106) pursuant to Section 3 of the Natural Gas Act for authorization to import up to 200,000 thousand cubic feet (Mcf) of natural gas per day and 73,000,000 Mcf per year, with additional daily volumes delivered, if available, on a best efforts basis. Under this proposal, gas deliveries will commence November 1, 1980, and continue through October 31, 1994. Such gas will be purchased by Northern from Consolidated. The details of the proposal are more fully set forth in the application on file with the ERA. The application is open to public inspection in ERA Public Docket Room at 2000 M Street, NW., Washington, D.C., Room No. B–120, between the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, except for Federal holidays.

The price of the gas will be the international border price as set from time to time by the National Energy Board (NEB) of Canada, which price currently is $3.45 (U.S.) per MMBtu.

Northern proposes that the imported natural gas will be delivered by TransCanada Pipe Lines Limited (TransCanada) to Great Lakes Gas Transmission (Great Lakes) at an existing point of interconnection on the International Boundary near Emerson, Manitoba. Great Lakes will transport and redeliver such gas to Northern at a point of interconnection between Great Lakes' system and Northern's systems near Carlton, Minnesota and/or by mutual agreement of the parties at the points of interconnection between the facilities of Great Lakes and Michigan Wisconsin Pipeline Company near Fortune Lake and Farwell, Michigan.

The ERA hereby invites petitions for intervention, comments on the application in ERA Docket No. 79–24–NG and requests for hearing to be filed with the Economic Regulatory Administration, Room 4201, 2000 M Street, NW., Washington, D.C. 20461, in accordance with the requirements of the rules of practice and procedure (18 CFR 1.8) and the Regulations under the Natural Gas Act (18 CFR 157.10). Such petitions for intervention, comments, or requests for hearing should be marked "ERA Docket No. 79–24–NG" on the first page and envelope, and will be accepted for consideration if filed no later than 4:30 p.m., February 10, 1980.

Any person wishing to become a party to the proceeding or to participate as a party in any hearing which may be convened therein must file a petition to intervene in accordance with the above-mentioned rules.

Pursuant to the authority contained in, and subject to the jurisdiction conferred upon the ERA by Section 3 of the Natural Gas Act and the rules of practice and procedure, a formal hearing will not be held on this application if no petition to intervene is filed within the required time, or if the ERA on its own review of the matter finds that a grant of the approval is in the public interest. However, if during the appropriate comment period a request for such hearing is timely filed by an intervener and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required, further notice of such hearing will be duly given.

Issued in Washington, D.C., on January 16, 1980.

Doris J. Dewton,
Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-1860 Filed 1-18-80; 8:45 am]
BILLING CODE 6450-01-M

Refiners Crude Oil Allocation Program; Supplemental Notice for Allocation Period of October 1, 1979, Through March 31, 1980, and Notice of Issuance of Emergency Allocations

The notice specified in 10 CFR 211.65(g) of the refiners' crude oil allocation (buy/sell) program for the allocation period of October 1, 1979, through March 31, 1980, was issued September 21, 1979 (44 FR 55943, September 28, 1979). Subsequent to the publication of that Notice, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) assigned emergency allocations pursuant to 10 CFR 211.65(c)(2) to a number of small refiners and issued supplemental buy/

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sell lists on October 17, 1979 (44 FR 60786, October 22, 1979), November 6, 1979 (44 FR 65825, November 14, 1979), December 7, 1979 (44 FR 72625, December 14, 1979), and December 28, 1979 (45 FR 1439, January 7, 1980). The ERA hereby issues a fifth supplemental buy/sell list for the allocation period of October 1, 1979, through March 31, 1980, which sets forth an allocation for expanded refining capacity assigned pursuant to 10 CFR 211.65(a)(1)(iii) and a new emergency allocation assigned pursuant to 10 CFR 211.65(c)(2), as amended on April 27, 1979 (44 FR 26060, May 4, 1979).

The supplemental buy/sell list for the allocation period October 1, 1979, through March 31, 1980, is set forth as an appendix to this notice. The list includes the names of the small refiners granted allocations and their eligible refineries; the quantity of crude oil each refiner is eligible to purchase; the fixed percentage share for each refiner-seller; and the additional sales obligation of each refiner-seller, which reflects each refiner-seller's sales obligation for the allocations listed herein.

The allocations for the small refiners on the supplemental buy/sell list were determined in accordance with 10 CFR 211.65(a)(1)(iii) and 10 CFR 211.65(c)(2). Sales obligations for refiner-sellers were determined in accordance with 10 CFR 211.65 (e) and (f).

The buy/sell list covers PAD Districts I through V, and amounts shown are in barrels of 42 gallons each, for the specified period. Pursuant to 10 CFR 211.65(f), each refiner-seller shall offer for sale during an allocation period, directly or through exchanges to refiner-buyers, a quantity of crude oil equal to that refiner-seller's sales obligation plus any volume that the ERA directs the refiner-seller to sell pursuant to 10 CFR 211.65(j).

Pursuant to 10 CFR 211.65(h), each refiner-buyer and refiner-seller is required to report to ERA in writing or by telegram the details of each transaction under the buy/sell list within forty-eight hours of the completion of arrangements therefore. Each report must identify the refiner-seller, the refiner-buyer, the refineries to which the crude oil is to be delivered, the volumes of crude oil sold or purchased, and the period over which the delivery is expected to take place.

The procedures of 10 CFR 211.65(j) provide that if a sale is not agreed upon subsequent to the date of publication of this notice, a refiner-buyer that has not been able to negotiate a contract to purchase crude oil may request that the ERA direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner-buyer. Such request must be received by the ERA no later than 20 days after the publication date of this supplemental buy/sell notice. Upon such request, the ERA may direct one or more refiner-sellers that have not completed their required sales to sell crude oil to the refiner-buyer.

In directing refiner-sellers to make such sales, ERA will consider the percentage of each refiner-seller's sales obligation for the allocation period that has been sold as reported pursuant to § 211.65(h), as well as the refiner-seller or sellers that can best be expected to consummate a particular directed sale. If, in ERA's opinion, a valid directed sale request cannot reasonably be expected to be consummated by a refiner-seller that has not completed all or substantially all of its sales obligation for the allocation period, the ERA may issue one or more directed sales orders that would result in one or more refiner-sellers selling more than their published sales obligations for that allocation period. In such cases, the refiner-seller or sellers will receive a barrel-for-barrel reduction in their sales obligations for the next allocation period pursuant to 10 CFR 211.65(f)(3)(ii).

If the refiner-buyer declines to purchase the crude oil specified by ERA, the rights of that refiner-buyer to purchase that volume of crude oil are forfeited during this allocation period, provided that the refiner-buyer or refiner-sellers have fully complied with the provision of 10 CFR 211.65.

Refiner-buyers making requests for directed sales must document their inability to purchase crude oil from refiner-sellers by supplying the following information to ERA:

(i) Name of the refiner-buyer and of the person authorized to act for the refiner-buyer in buy/sell program transactions.

(ii) Name and location of the refineries for which crude oil has been sought, the amount of crude oil sought for each refinery, and the technical specifications of crude oils that have historically been processed in each refinery.

(iii) Statement of any restrictions, limitations, or constraints on the refiner-buyer's purchases of crude oil, particularly concerning the manner of time of deliveries.

(iv) Names and locations of all refiner-sellers from which crude oil has been sought under the buy/sell notice, the refineries for which crude oil has been sought, and the volume and specifications of the crude oil sought from each refiner-seller.

(v) The response of each refiner-seller to which a request to purchase crude oil has been made, and the name and telephone number of the individual contacted at each such refiner-seller.

(vi) Such other pertinent information as ERA may request.

All reports and applications made under this notice should be addressed to: Chief, Crude Oil Allocation Branch, 20th Street Postal Station, P.O. Box 19028, Washington, D.C. 20036.

Section 211.65(c)(2)(ii) states in part that applications for emergency allocations "must be submitted by the fifteenth day of the month prior to the month(s) for which an allocation is sought." This provision was intended to permit ERA to receive applications and issue emergency allocations in a timely fashion. Recently, ERA has had difficulty meeting this goal because of the manner in which some applications for emergency allocations have been filed. Therefore, ERA believes it appropriate to offer the following comments on the emergency crude oil application process in the hope that they will clarify the application process for those applying for emergency allocations.

First, most applications have not been received in the Crude Oil Allocation Branch until the fifteenth of the month. The fifteenth of the month is meant as a deadline not a filing date. It is desirable for refiners to file their applications earlier than the fifteenth of the month, which would permit ERA to begin processing applications sooner. Except in unusual circumstances, ERA would expect applications to be filed by the tenth of the month. It should be noted that ERA would generally consider applications filed earlier than the fifth of a month to have been filed too early to present an accurate picture of a refiner's crude oil supply for succeeding months.

Second, applications should be completed by the fifteenth of the month in which they are filed. Applications that are not substantially complete by the fifteenth of the month will be dismissed with prejudice.

Third, ERA requires all applicants for emergency allocations to serve copies of their applications on refiner-sellers. Comments regarding an application will be accepted if received within eight days of receipt of the application. Applicants are required to serve copies of their application (and any amendments thereto) on refiner-sellers simultaneously with the filing of the application with ERA; that is, *refiner-sellers must receive their copies of emergency applications on the same date the application is filed with ERA.* Refiner-sellers must submit their comments on the applications to the Crude Oil Allocation Branch within eight days of the refiner-sellers' receipt of the application, or no later than the twenty-third of the month in which the application is filed. If the fifteenth or the twenty-third of the month falls on a weekend or holiday, the deadline would be the next working day. (The name and address of the contact for each refiner-seller is listed in the appendix.)

As has been stated in previous notices, if an applicant claims confidentiality for any of the information contained in its application, the basis for the claim must be clearly stated. ERA does not consider the names of potential suppliers contacted in unsuccessful attempts to obtain crude oil or offers of crude oil that the applicant has rejected to be proprietary.

Finally, ERA emphasizes that an application for an emergency allocation must contain a *detailed* statement as to why the applicant believes it has exhausted all supply possibilities. Applications which fail to make this statement will be dismissed with prejudice.

Copies of the decisions and orders assigning the emergency allocations listed herein may be obtained from: Economic Regulatory Administration, Public Information Office, 2000 M Street, NW., Rm. B110, Washington, D.C. 20461 (202) 634–2170.

This notice is issued pursuant to Subpart G of DOE's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before February 20, 1980.

Issued in Washington, D.C., January 14, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Appendix

The Buy/Sell list for the period October 1, 1979, through March 31, 1980, is hereby amended to reflect an allocation for a refinery expansion and an emergency allocation for the month of Janaury 1980. The amended list sets forth the name of each refiner-seller, the additional volumes of crude oil that each such refiner-seller is required to offer for sale to small refiners, a refinery expansion allocation, and an emergency allocation for January 1980. Also included in the appendix is a list of names and addresses of the persons designated by refiner-sellers to receive service of copies of applications for emergency crude oil allocations.

Crude Oil Allocation Program Additional Sales Obligations for Expanded Capacity and Emergency Allocation October 1, 1979–March 31, 1980

Refiner-sellers	Share [1]	Additional sales obligation
Amoco Oil Co.	.105	19,147
Atlantic Richfield Co.	.077	14,060
Chevron U.S.A., Inc.	.101	18,508
Cities Service Co.	.025	4,496
Continental Oil Co.	.004	731
Exxon Co., U.S.A.	.089	16,269
Getty Refining & Marketing Co.	.021	3,878
Gulf Refining & Marketing Co.	.091	16,625
Marathon Oil Co.	.023	4,179
Mobil Oil Corp.	.094	17,196
Phillips Petroleum Co.	.041	7,563
Shell Oil Co.	.113	20,769
Sun Co.	.055	10,145
Texaco Inc.	.114	20,786
Union Oil Co. of California	.046	8,356
Total additional sales obligation		182,797

[1] All Refiner-Sellers' percentage shares have been changed to reflect the Continental Oil Company and Exxon Company, U.S.A. Decision and Order dated March 20, 1979. Case numbers are FEX–0184 and FEX–0185.

Allocation for Refinery Expansion

An allocation for expanded capacity of 80,280 barrels has been granted to Giant Industries, Inc., for its Bloomfield, New Mexico, refinery for the October 1, 1979, through March 31, 1980, allocation period.

Emergency Allocation for January 1980

Refiner	Refinery location	January 1980 allocation (barrels)
Allied Materials	Stroud, Okla.	102,517

Additional Allocations For the October 1, 1979–March 31, 1980, Allocation Period

Emergency Allocation (January)	102,517
Refinery Expansion (October 1979—March 1980)	80,280
Total allocations	182,797

Contact List for Refiner-Sellers

Matthew J. Gallo, Esq., Amoco Oil Co., 200 E. Randolph Drive, P.O. Box 5910–A, Chicago, Ill. 60680.
H. L. Hayes, Atlantic Richfield Co., 515 South Flower St., P.O. Box 2679 TA, Los Angeles, CA 90071.
K. L. Roberts, Chevron U.S.A., Inc. 575 Market St., San Francisco, CA 94105.
W. C. McCollough, Cities Service Oil Company, P.O. Box 300 Tulsa, OK 74102.
John W. Mills, Conoco, P.O. Box 2197, Houston, TX 77001.
Barbara Finney, Exxon, U.S. A., P.O. Box 2180, Houston, TX 77001.
Eugene F. Gervino, Esq., Getty Refining & Marketing Co., P.O. Box 1650, Tulsa, OK 74102.
L. G. Armel, Gulf Oil Corp., Gulf Bldg., P.O. Box 2001, Houston, TX 77001.
Victor Beghini, Vice President, Marathon Oil Company, 539 South Main Street, Findlay, Ohio 45840.
W. L. Fanning, Jr., Mobil Oil Corp., 150 East 42nd St., New York, N.Y. 10017.
R. D. Gooley, Phillips Petroleum Co., Phillips Bldg., Bartlesville, OK 74004.
G. E. Carnahan, Shell Oil Co., P.O. Box 2463, Houston, TX 77001.
Tom J. Collins, Sun Oil Company, Mgr., Coordination Crude Oil, 1608 Walnut St., Philadelphia, Pa. 19103.
Paul D. McNaughton, Texaco, Inc., P.O. Box 52332, Houston, TX 77052.
Howard Johnson, Texaco, Inc., c/o Legal Department, 2000 Westchester Ave., White Plains, N.Y. 10650.
Gus Williams, Union Oil Company of Calif., 1650 East Golf Road, Schaumburg, Ill. 60195.

[FR Doc. 80–1862 Filed 1–18–80; 8:45 am]

BILLING CODE 6450–01–M

Extension of Time for Issuance of Final Orders Granting or Denying Petitions for Temporary Public Interest Exemptions Pursuant to the Powerplant and Industrial Fuel Use Act of 1978; Correction

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Correction.

SUMMARY: This notice will serve to correct 45 FR 78 published on January 2, 1980. The correct date for submittal of written comments to ERA is no later than January 31, 1980. Therefore, ERA has extended the period for issuance of final orders until February 27, 1980.

Issued in Washington, D.C. on January 15, 1980.

Robert L. Davies,

Assistant Administator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80–1886 Filed 1–18–80; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. GP80–19]

Panhandle Eastern Pipeline Co.; Notice of Third Party Protest [1]

Issued: January 10, 1980.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23–B,[2] and "Order on Rehearing of Order No. 23–

[1] The term "third party protest" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and establishing Protest Procedure," Docket No. RM79–22, issued June 21, 1979.

V 45 / 14 / JA 21 80 UMI

B," [3] the staff of the Commission protested on November 5, 1979, the assertion by the Panhandle Eastern Pipeline Company (Panhandle) and certain producers that the contracts identified in its protest constitute contractual authority for the producers to charge and collect any applicable maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA).

Staff stated that the language of the contracts contained in Appendix A does not constitue authority for the producer to increase prices to the extent claimed by Panhandle in its evidentiary submission.

Take further notice that the State of Michigan and the Michigan Public Service Commission (hereinafter jointly referred to as Michigan) jointly filed a third-party protest on November 5, 1979. Michigan protests that the contracts listed in Appendix B (all the contracts contained in Panhandle's evidentiary submission) do not constitute contractual authority for the producers to charge and collect NGPA prices for gas sold to Panhandle. Michigan's position has been adopted and incorporated in protest filed November 5, 1979, by associated Gas Distributors (AGD), the Kansas State Corporation Commission (Kansas).

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to those protests should file with the Commission, on or before January 24, 1980, a petition to intervene in accordance with 18 CFR 1.8; after that date these protests will be forwarded to the Commission's Chief Administrative Law Judge, for disposition in accordance with Order No. 23–B. The seller need not file for intervention because under 18 CFR 154.94(j)(4)(ii), the seller in the first sale is automatically jointed as a party.

Kenneth F. Plumb,
Secretary.

Appendix A

Producer	Rate schedule No. or contract date
Max E. Banks	4–30–71
Beaver Mesa Exploration Co.	11–4–70
William Gruenerwald Assoc. *et al.*	4–30–71
Wilham Gruenerwald Assoc. *et al.*	1–31–72
Macey & Mershon Oil Inc.	11–4–70
Colorado Energy Corp.	3–13–75
Husky Oil Co.	2–13–78
Macey & Mershon Oil Inc.	10–11–71
Martin Oil Co.	10–11–71
Martin Oil Services, Inc.	10–11–71
Martin Oil Services, Inc.	3–13–75
Martin Oil Services, Inc.	7–15–71
Nelson Enterprises Inc. *et al.*	10–11–71
Nelson Enterprises Inc. *et al.*	10–11–77
Petroleum Inc.	11–11–65
Vessels Oil & Gas Co.	7–15–71

[3] Docket No. RM79–22, issued August 6, 1979.

Appendix A—Continued

Producer	Rate schedule No. or contract date
Worldwide Energy Corp.	5–20–72
Appleton Oil Co. *et al.*	5–19–70
Beren Corp.	4–23–71
Graham Michaelis Drilling Co.	5–25–70
Inexco Oil Co.	5–30–72
Inexco Oil Co.	2–24–75
F. W. Mallonee	2–25–70
Okmar Oil Co. *et al.*	4–23–71
A. C. Richards	4–16–69
A. C. Richards	4–24–69
Teal Petroleum Co.	11–14–75
Beaver Mesa Exploration Co.	7–30–71
Beaver Mesa Exploration Co.	8–1–71
Davis Oil Co. *et al.*	3–2–72
Universal Resources Corp.	3–2–72
Yale Oil Association	2–5–69
Montgomery Exploration Co.	12–15–77
Montgomery Exploration Co.	4–3–67
Bob F. Allee	2–1–78
Argonant Energy, Inc., *et al.*	6–22–77
Argonant Energy, Inc., *et al.*	7–20–76
Argonant Energy, Inc., *et al.*	7–24–78
Argonant Energy, Inc., *et al.*	8–23–78
Barnett Oil Company	12–1–76
Clyde Beymer, Jr. & C. E. Beyme	10–30–78
Blair Oil Company	12–1–76
John P. Castlemen, Jr.	5–19–77
Blair Oil Co.	7–3–78
Blair Oil Co.	8–7–78
Gail B. Gore	5–25–78
Herman Geo Kaiser *et al.*	4–25–65
Russell v. Johnson Jr. *et al.*	10–4–62
Russell v. Johnson Jr. *et al.*	5–26–64
Maguire Oil Co. Opr. *et al.*	5–30–78
Western Gas Processors	1–1–78
R. J. Patrick	12–30–66
Edwin L. Cox	9–15–60
Thomas K. Hendrick *et al.*	9–15–60
Okmar Oil Co. *et al.*	10–13–75
Sierra Petroleum Co. Inc.	9–11–61
Tomlinson Oil Co. Inc. *et al.*	9–12–60
D. R. Lauck Oil Co. Inc.	11–25–59
Mountain Petroleum Corp.	1–30–74
Argonaut Energy Inc. *et al.*	10–12–73

[FR Doc. 80–1414 Filed 1–18–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. GP80–19]

Panhandle Eastern Pipeline Co.; Notice of Third-Party Protests [1]

Issued: January 10, 1980.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23–B [2], and "Order on Rehearing of Order No. 23–B," [3] the staff of the Commission protested on October 15, 1979, the assertion by the Panhandle Eastern Pipeline Company (Panhandle) and certain producers that the contracts identified in its protest constitute contractual authority for the producers to charge and collect any applicable maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA).

Staff stated that the language of the contracts contained in Appendix A of this notice does not constitute authority for the producer to increase prices to the extent claimed by Panhandle in its evidentiary submission.

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the Commission, on or before January 24, 1980, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Kenneth F. Plumb,
Secretary.

Appendix A

Producer	Rate schedule No. or contract date
Cabot Corp	33/7–25–56
Gulf Oil Corp	167/4–21–59
Diamond Shamrock Corp	30/11–19–53
Helmerich & Payne, Inc	8/9–1–59
Sohio Natural Resources	61/11–13–67
J. M. Huber Corp	70/3–3–66
Texaco Inc	558/4–10–63
Pan Eastern Exploration Co	1/3–24–71
Do	3/3–24–71
Do	7/3–24–71
Do	5/3–24–71
Anadarko Production Co	44/5–22–61
Do	41/4–5–61
Do	39/42–1–60
Do	25/9–22–59
Do	109/5–17–65
Do	114/9–9–65
Do	137/7–21–78
Do	167/12–6–60
Do	197/5–3–60
Do	195/1–27–61
Do	209/12–15–59
Do	222/1–1–75
Do	107/6–25–64
Texaco, Inc	164/8–1–77
Anadarko Production Co	238/8–26–77
Cabot Corporation	47/1–19–60
Southland Royalty Co.	9–21–78
Gulf Oil Corp.	1–30–57
Ashland Exploration, Inc. *et al*	141/5–25–60
Ashland Exploration, Inc. *et al*	125/4–16–56
Anadarko Production Co	216/9–1–59
Anadarko Production Co	244/4–25–78
Anadarko Production Co	240/10–31–77
Anadarko Production Co	234/4–11–77
J. M. Huber Corp	4/9–21–35
Anadarko Production Co	36/8–15–60
Amoco Production Co	743/4–1–77
Amoco Production Co	743/4–1–77
Amoco Production Co	829/11–13–57
Amoco Production Co	194/1–18–57
Texaco, Inc	351/3–1–65
Texaco, Inc	289/2–7–62
Texaco, Inc	142/11–1–55
Southland Royalty Co	41/11–3–77
Mesa Petroleum Co. *et al*	84/5–9–77
Gulf Oil Corp	523/7–28–77
Diamond Shamrock Corp	86/11–7–77
Getty Oil Co	419/1–2–78
Cities Service Co	456/6–22–77
Cities Service Co	438/10–11–76
Diamond Shamrock Corp	81/7–18–77
Anadarko Production Co	239/9–12–77
J. M. Huber Corp	9/6–29–51
Anadarko Production Co	178/1–31–72
Anadarko Production Co	201/9–5–74
Texas Pacific Oil Co., Inc	102/3–2–72
M. B. Armer	3/12–18–53
Gulf Oil Corp	513/1–31–72
Gulf Oil Corp	100/6–14–57

[1] The term "third-party protest" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79–22, issued June 21, 1979.

[3] Docket No. RM79–22, issued August 6, 1979.

Appendix A—Continued

Producer	Rate schedule No. or contract date
Champlin Petroleum Co	105/11–11–69
Anadarko Production Co	65
Anadarko Production Co	61
Anadarko Production Co	22
Cities Service Co	460
Cities Service Co	471
Southland Royalty Co	32
Sun Gas Co	444
Texaco, Inc	472
Gulf Oil Corp	409
Carl M. Archer	19–7–69
Argonaut Energy Inc. *et al*	12–23–74
T. D. and E. J. Bailey	12–22–70
Barnett Oil Co	5–22–74
Beaver Mesa Exploration Co	5–8–75
Burnett Corp. *et al*	10–8–71
Chamberlain Family Group	12–15–59
Calpetco III 1976	9–14–77
Dore Corp. *et al*	3–16–76
John B. Elder	10–24–73
Do	10–25–79
Nelson B. Escue	4–27–73
Francis Oil & Gas Inc	4–5–65
Do	5–1–67
Graham Michaelis Drilling Co	3–13–74
Haseda Industries	9–12–60
R. L. Hatcher	10–7–67
Herman Geo Kaiser *et al*	4–8–65
Do	6–6–66
Do	5–16–66
Do	5–16–66
Do	7–20–66
Do	8–5–66
Do	8–5–66
Do	5–24–66
Do	7–20–66
Jack Hodgden	10–1–73
Imperial Oil Co	1–28–72
David Jackman, Jr	8–29–72
Kennedy & Mitchell Inc	1–5–66
Do	8–1–77
Leben Oil Corp	5–25–72
Do	8–18–75
Nelle Son De Regger *et al*	9–1–59
W. B. Osborn Jr. *et al*	7–1–67
R. J. Patrick	9–1–60
Do	4–5–78
Petroleum inc	1–19–59
Do	5–24–60
Do	4–22–73
Phoenix Resources Co	5–1–67
Premier Resources Ltd	6–14–74
Samson Resources Co	4–29–60
Sarkeys Inc	5–10–72
Guy M. Steele Jr. *et al*	5–25–67
Stevens Co. Oil & Gas Co. *et al*	9–1–59
Sidwell Oil & Gas Inc. *et al*	3–15–71
Jack H. Vaughn	9–1–60

Appendix B

Fixed Rate Contracts

Seller	Rate schedule No.	Date
Volume I		
M. B. Armer	003	12/18/53
Volume II		
Champlin Petroleum Company	105	11/11/69
Gulf Oil Corporation	100	6/14/57
Gulf Oil Corporation	513	1/31/72
Small Producer Contracts Volume II		
Edwin L. Cox	SPC	9/15/60

Fixed Rate Contracts—Continued

Seller	Rate schedule No.	Date
Edwin L. Cox	SPC	8/1/60
Small Producer Contracts Volume III		
Thomas K. Hendrick	SPC	9/15/60
Small Producer Contracts Volume IV		
D.R. Lauck Oil Co. Inc.	SPC	11/25/59
D.R. Lauck Oil Co., Inc.	SPC	11/25/59
Small Producer Contracts Volume VI		
Petrodynamics Inc.	SPC	8/1/71
Small Producer Contracts Volume VII		
Sierra Petroleum Co. Inc.	SPC	1/31/63
Sierra Petroleum Co. Inc.	SPC	9/11/61
R. J. Stillings	SPC	4/4/60
Price Redetermination Contracts Small Producer Contracts Volume I		
Argonaut Energy Inc. et al.	SPC	10/12/73
Argonaut Energy Inc. et al.	SPC	10/12/73
Small Producer Contracts Volume V		
Mountain Petroleum Corp.	SPC	1/30/74
Small Producer Contracts Volume VIII		
Tomlinson Oil Company, et al.	SPC	9/12/60
Type "A" Area Rate Contracts Volume I		
American Petrofina Co.	061	12–7–67
American Petrofina Co.	062	12–8–67
American Petrofina Co.	101	12–8–67
Amoco Production Co.	668	10–16–70
Amoco Production Co.	789	6–8–78
Amoco Production Co.	795	8–25–78
Anadarko Production Co.	041	4–5–61
Anadarko Production Co.	042	4–21–61
Anadarko Production Co.	043	5–8–61
Anadarko Production Co.	044	5–22–61
Anadarko Production Co.	046	1–1–61
Anadarko Production Co.	047	12–19–60
Anadarko Production Co.	054	10–11–61
Anadarko Production Co.	059	11–17–61
Anadarko Production Co.	060	1–19–62
Anadarko Production Co.	061	3–29–62
Anadarko Production Co.	062	5–10–62
Anadarko Production Co.	063	5–24–62
Anadarko Production Co.	065	6–14–62
Anadarko Production Co.	067	8–15–62
Anadarko Production Co.	077	1–9–64
Anadarko Production Co.	080	5–5–64
Anadarko Production Co.	082	5–7–64
Anadarko Production Co.	083	5–11–64
Anadarko Production Co.	100	8–24–60
Anadarko Production Co.	101	11–29–60
Anadarko Production Co.	105	9–11–63
Anadarko Production Co.	107	6–25–74
Anadarko Production Co.	109	5–17–65
Anadarko Production Co.	112	7–30–65
Anadarko Production Co.	114	9–8–65
Anadarko Production Co.	120	5–28–66
Anadarko Production Co.	122	1–5–66
Anadarko Production Co.	127	5–30–66
Anadarko Production Co.	134	7–12–67
Anadarko Production Co.	137	7–21–67
Anadarko Production Co.	142	4–14–66
Anadarko Production Co.	143	5–16–66
Anadarko Production Co.	145	11–17–69
Anadarko Production Co.	146	11–18–69
Anadarko Production Co.	147	11–4–69
Anadarko Production Co.	148	11–5–69
Anadarko Production Co.	154	7–27–70
Anadarko Production Co.	155	7–7–71
Anadarko Production Co.	157	12–6–60
Anadarko Production Co.	169	8–1–58

Fixed Rate Contracts—Continued

Seller	Rate schedule No.	Date
Anadarko Production Co.	174	8–1–69
Anadarko Production Co.	183	7–7–72
Anadarko Production Co.	185	8–11–60
Anadarko Production Co.	196	1–27–61
Anadarko Production Co.	197	5–3–60
Anadarko Production Co.	208	12–15–59
Anadarko Production Co.	209	12–15–59
Anadarko Production Co.	210	12–19–60
Anadarko Production Co.	212	2–5–75
Anadarko Production Co.	220	8–1–60
Anadarko Production Co.	221	8–1–60
Anadarko Production Co.	222	1–1–75
Anadarko Production Co.	224	8–20–60
Anadarko Production Co.	225	1–16–61
Anadarko Production Co.	247	7–21–76
Anadarko Production Co.	248	7–24–76
Atlantic Richfield Co.	507	12–11–67
Atlantic Richfield Co.	508	7–17–67
Ashland Exploration Inc.	258	4–8–76
Volume II		
Aminoil U.S.A. Inc.	025	3–28–66
Aminoil U.S.A. Inc.	027	8–11–60
Aminoil U.S.A. Inc.	026	8–11–60
Cabot Corporation	033	7–25–56
Cabot Corporation	060	4–24–62
CIG Exploration Inc.	007	7–25–56
CIG Exploration Inc.	010	8–30–74
Champlin Petroleum Company	104	4–15–69
Cities Service Company	084	3–21–56
Cities Service Company	050	10–1–57
Cities Service Company	104	10–9–57
Cities Service Company	139	8–21–60
Cities Service Company	154	8–21–60
Cities Service Company	155	3–24–60
Cities Service Company	221	12–7–67
Cities Service Company	198	4–8–65
Cities Service Company	423	4–15–75
Cities Service Company	284	2–15–63
Cities Service Company	303	12–6–67
Cities Service Company	307	8–10–69
Cities Service Company	365	5–15–72
Cities Service Company	406	3–22–74
Cities Service Company	416	1–20–75
Cities Service Company	421	8–6–75
CIG Exploration Inc.	007	7–25–56
CIG Exploration Inc.	010	8–30–74
Continental Oil Company	202	5–5–60
Continental Oil Company	381	3–24–72
Edwin L. Cox	005	4–26–55
Dorchester Gas Producing Co.	004	1–1–61
Energy Reserves Group Inc.	045	4–7–71
Enserch Exploration Inc.	001	7–1–75
Enserch Exploration Inc.	065	10–9–67
Enserch Exploration Inc.	119	7–1–75
Exxon Company U.S.A.	196	8–20–54
Getty Oil Company	073	8–19–56
Getty Oil Company	306	7–24–56
Gulf Oil Corporation	167	4–21–59
Gulf Oil Corporation	171	8–10–69
Gulf Oil Corporation	200	5–19–60
Gulf Oil Corporation	371	8–5–66
HNG Oil Company	038	7–19–73
Helmerich & Payne Inc.	028	9–1–59
JM Huber Corporation	062	8–2–66
Marathon Oil Company	043	7–25–58
Marathon Oil Company	061	9–16–60
McCulloch Oil & Gas Corp.	009	2–2–71
McCulloch Oil & Gas Corp.	019	2–2–71
Mobil Oil Corporation	430	12–4–67
Paneastern Exploration Co.	001	3–24–71
Paneastern Exploration Co.	002	3–24–71
Paneastern Exploration Co.	003	3–24–71
Paneastern Exploration Co.	004	3–24–71
Paneastern Exploration Co.	005	3–24–71
Paneastern Exploration Co.	006	3–24–71
Paneastern Exploration Co.	007	3–24–71
Panhandle Western Gas Co.	001	10–16–73
POI Inc.	002	11–13–57
Volume III		
Petroleum Inc.	005	11–2–73
Phillips Petroleum Co.	053	8–22–59
Pioneer Production Corp.	048	5–19–69
Sabine Production Co.	006	7–7–78
Diamond Shamrock Corp.	029	11–19–59

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Fixed Rate Contracts—Continued

Seller	Rate schedule No.	Date
Diamond Shamrock Corp.	030	11-19-53
Diamond Shamrock Corp.	031	12-6-60
Diamond Shamrock Corp.	032	4-17-61
Diamond Shamrock Corp.	046	8-8-68
Schio Natural Resources Co.	061	11-13-57
Schio Natural Resources Co.	188	10-15-70
Southland Royalty Co.	041	11-3-77
Sun Gas Co.	078	8-23-56
Sun Gas Co.	101	7-29-65
Sun Gas Co.	172	2-14-64
Sun Gas Co.	197	1-8-66
Sun Gas Co.	204	7-29-66
Sun Gas Co.	207	7-22-66
Sun Gas Co.	208	7-21-66
Sun Gas Co.	227	5-2-67
Sun Gas Co.	234	3-12-64
Sun Gas Co.	235	6-13-66
Sun Gas Co.	255	2-8-63
Sun Gas Co.	325	6-11-56
Sun Gas Co.	357	11-25-57
Sun Gas Co.	372	7-21-59
Sun Gas Co.	387	6-15-60
Sun Gas Co.	400	5-1-61
Sun Gas Co.	414	6-25-63
Sun Gas Co.	427	3-3-65
Sun Gas Co.	444	5-13-68
Sun Gas Co.	454	9-12-67
Sun Gas Co.	457	12-4-67
Sun Gas Co.	525	7-13-64
Sun Gas Co.	561	9-26-61
Sun Gas Co.	577	4-5-61
Tenneco Oil Co.	220	11-28-67
Terra Resources Inc.	031	3-27-63
Texaco Inc.	142	11-1-55
Texaco Inc.	418	4-1-66
Texaco Inc.	478	4-24-72
*Texas Pacific Oil Co.	152	3-3-72
Tankawa Gas Processing Co.	009	8-30-71
Union Texas Petroleum	093	7-3-65
Union Texas Petroleum	101	1-12-70

* Refers to FPC only.

Small Producer Contracts Volume I

Seller	Rate schedule No.	Date
Mark H. Adams	SPC	9-1-59
Adobe Oil Corporation	SPC	8-9-70
Aegis Corp.	SPC	8-18-71
Allied Materials Corp., et al.	SPC	4-22-74
Allied Materials Corp., et al.	SPC	9-3-74
An-Son Corporation	SPC	5-26-72
An-Son Corporation	SPC	5-26-72
Ascot Oils Inc.	SPC	10-4-72
Ascot Oils Inc.	SPC	12-12-72
Aspen Drilling Co. et al.	SPC	9-23-76
TD and EJ Bailey	SPC	12-22-70
TD and EJ Bailey	SPC	12-22-70
Lee Bank	SPC	2-21-72
Max E. Banks	SPC	4-30-71
Max E. Banks	SPC	4-30-71
Barnett Oil Company	SPC	5-22-74
Barnett Oil Company	SPC	5-22-74
Barnett Oil Company	SPC	5-22-74
Barnett Oil Company	SPC	5-22-74
Barnett Oil Company	SPC	5-22-74
R. H. Bauman	SPC	7-29-74
Beard Oil Company et al.	SPC	8/28/52
Beaver Mesa Exploration Co.	SPC	9-14-71
Beaver Mesa Exploration Co.	SPC	5-6-75
Beaver Mesa Exploration Co.	SPC	5-8-75
Beaver Mesa Exploration Co.	SPC	5/6/75
John L. Bedwell Inc.	SPC	7-5-66
Bellwether, Ltd.	SPC	3-5-58
Beren Corp.	SPC	4-23-71
Beren Corp.	SPC	4-23-71
Biaik Oil Company	SPC	8-29-72
Biaik Oil Company	SPC	2-28-73
Biaik Oil Company	SPC	3-18-74
Bonnay Oil Company	SPC	7-31-72
Bonnay Oil Company	SPC	4-16-73
Bonnay Oil Company	SPC	6-1-74
Bonnay Oil Company	SPC	6-1-74
Estate of Louise W. Bradley	SPC	6-24-52
Estate of Louise W. Bradley	SPC	10-4-56
Estate of Louise W. Bradley	SPC	5-5-58
Estate of Louise W. Bradley	SPC	7-3-58
C. F. Brown & Company	SPC	2-4-72
Burnett Corporation et al.	SPC	10-8-71
Burnett Corporation et al.	SPC	10-8-71

Fixed Rate Contracts—Continued

Seller	Rate schedule No.	Date
Burnett Corporation et al.	SPC	10-8-71
H. N. Burnett et al.	SPC	10-8-71
H. N. Burnett et al.	SPC	10-8-71
Burnett Corporation, et al.	SPC	10-8-71

Small Producer Contracts Volume II

Seller	Rate schedule No.	Date
Calpetco-KMI-1975	SPC	11-8-76
Calpetco-KMI-1975	SPC	11-8-76
Calpetco III 1976	SPC	9-14-77
Calpetco III 1976	SPC	9-14-77
Rodney P. Calvin, et al.	SPC	10-1-71
Calvin Petroleum Corp.	SPC	10-1-71
Chamberlain Family Group	SPC	12-15-59
Chamberlain Family Group	SPC	12-15-59
Chamberlain Family Group	SPC	12-15-59
Chamberlain Family Group	SPC	8-4-71
Chamberlain Family Group	SPC	12-15-59
Chamberlain Family Group	SPC	12-15-59
Chamberlain Family Group	SPC	12-15-59
Champlin Exploration Inc.	SPC	1-21-74
Champlin Exploration Inc.	SPC	8-1-77
Cherokee Ltd.	SPC	4-25-74
Classen Oil & Gas Company	SPC	10-8-72
GM Close et al.	SPC	3-19-70
GM Close et al.	SPC	4-22-70
Colorado Energy Corporation	SPC	3-13-75
Colorado Energy Corporation	SPC	3-13-75
Colorado Energy Corporation	SPC	3-13-75
Colorado Energy Corporation	SPC	3-13-75
Colorado Energy Corporation	SPC	3-13-75
Colorado Energy Corporation	SPC	3-13-75
Corpening Companies 1973 Ltd	SPC	9-25-74
Cotton Petroleum Corp.	SPC	1-20-75
Cotton Petroleum Corp.	SPC	3-1-74
Cotton Petroleum Corp.	SPC	1-23-75
Cotton Petroleum Corp.	SPC	8-27-75
Cotton Petroleum Corp.	SPC	4-27-73
Edwin L. Cox	SPC	4-26-55
Edwin L. Cox	SPC	4-26-55
Edwin L. Cox	SPC	4-16-60
Edwin L. Cox	SPC	3-21-56
Edwin L. Cox	SPC	7-10-58
Edwin L. Cox	SPC	8-6-80
Crystal Expl. & Prod. Co.	SPC	9-24-73
Curran Oil Company, et al.	SPC	10-23-69
*Davis Oil Company, et al.	SPC	3-2-72
Davis Oil Company, et al.	SPC	1-2-74
Decalta International Corp.	SPC	3-15-66
Decalta International Corp.	SPC	12-8-67
DeRegger et al.	SPC	9-1-59
DeRegger et al.	SPC	9-1-59
DsRegger et al.	SPC	9-1-59
Dare Corporation, et al.	SPC	5-16-76
Dunn & Kinbserlin	SPC	12-1-49
Earlsboro Oil & Gas Co.	SPC	8-6-70
Earlsboro Oil & Gas Co.	SPC	12-19-72
Earlsboro Oil & Gas Co.	SPC	12-19-72
Earlsboro Oil & Gas Co.	SPC	8-12-68
EK Admiston Operator	SPC	2-25-69
John B. Elder	SPC	10-25-73
John B. Elder	SPC	10-25-73
John B. Elder	SPC	10-24-73
John B. Elder	SPC	10-24-73
John B. Elder	SPC	10-24-73
Escor Inc., et al.	SPC	2-8-74
Nelson B. Escue	SPC	4-27-73
Etcheason & Watkins	SPC	4-10-74
Exter Drilling & Exploration	SPC	2-6-74

*Relers to FPC only.

Small Producer Contracts Volume III

Seller	Rate schedule No.	Date
Ferguson Oil Co. Inc. et al.	SPC	9-15-61
Ferguson Oil Co. Inc. et al.	SPC	7-26-67
First National Oil Inc.	SPC	12-13-73
First National Oil Inc.	SPC	12-13-73
Flag-Redjern Oil Company	SPC	3-21-58
Flynn Gregy Corp.	SPC	6-17-74
Fort Worth Nat'l Bank	SPC	6-26-75
Foster Petroleum	SPC	2-11-74
Freeport Oil	SPC	12-7-67
Freeport Oil	SPC	12-7-67
Funk Petroleum	SPC	6-25-64
Glenwood Inc.	SPC	12-29-75
Global Oils	SPC	4-10-63
Good & Phillips	SPC	11/16/72

Fixed Rate Contracts—Continued

Seller	Rate schedule No.	Date
Grave Petroleum	SPC	11/3/72
Grave Petroleum	SPC	5/15/72
Grave Petroleum	SPC	3/14/67
Grave Petroleum	SPC	3/31/70
Grave Petroleum	SPC	3/31/70
Grave Petroleum	SPC	4/20/70
Graham Michaelis Drill. Co.	SPC	2/4/58
Graham Michaelis Drill. Co.	SPC	11/13/57
Graham Michaelis Drill. Co.	SPC	4/16/58
Graham Michaelis Drill. Co.	SPC	7/1/58
Graham Michaelis Drill. Co.	SPC	7/1/58
Graham Michaelis Drill. Co.	SPC	7/1/58
Graham Michaelis Drill. Co.	SPC	4/16/68
Graham Michaelis Drill. Co.	SPC	5/25/70
Graham Michaelis Drill. Co.	SPC	3/13/74
William Gruenerwald	SPC	1/31/72
William Gruenerwald	SPC	4/30/71
William Gruenerwald	SPC	4/30/71
William Gruenerwald	SPC	4/30/71
William Gruenerwald	SPC	4/30/71
William Gruenerwald	SPC	12/28/68
H-30 Inc.	SPC	419/72
Robert L. Hadwiger	SPC	11/23/77
Hamilton Bros. Petro. Inc.	SPC	5/23/80
Ralph L. Harvey	SPC	9/25/74
Hasada Inc.	SPC	9/12/80
R. L. Hatcher	SPC	10/7/57
James R. Hazelwood	SPC	6/28/66
James R. Hazelwood	SPC	6/28/66
James R. Hazelwood	SPC	6/28/66
James R. Hazelwood	SPC	8/28/66
H & L Operating Company	SPC	4/2/73
H & L Operating Company	SPC	10/11/73
H & L Operating Company	SPC	1/17/74
H & L Operating Company	SPC	8/1/77
H & L Operating Company	SPC	4/5/77
Hilliard Oil & Gas	SPC	12/23/74
John H. Hill, et al.	SPC	6/1/70
John H. Hill, et al.	SPC	2/28/70
John H. Hill, et al.	SPC	12/5/71
Jack Hodgden	SPC	10/1/75
Jack Hodgden	SPC	10/1/73
Hoover & Bracken	SPC	3/7/77
Hoover & Bracken	SPC	2/11/77

Small Producer Contracts Volume IV

Seller	Rate schedule No.	Date
Imperial Oil Co.	SPC	10/8/71
Imperial Oil Co.	SPC	1/28/72
Imperial Oil Co.	SPC	2/17/72
Inexco Oil Co.	SPC	5/30/72
Inexco Oil Co.	SPC	5/30/72
Inexco Oil Co.	SPC	5/30/72
Investors Drilling & Exploration Co.	SPC	11/7/73
David Jackman, Jr.	SPC	8/29/72
David Jackman, Jr.	SPC	8/29/72
David Jackman, Jr.	SPC	8/29/72
David Jackman, Jr.	SPC	8/29/72
W. S. Jernigan	SPC	12/14/61
W. S. & Charlotte Jernigan	SPC	12/14/61
E. Lyle Johnson, et al.	SPC	8/8/72
Jones & Pellow Oil Co.	SPC	10/2/70
Jones & Pellow Oil Co.	SPC	11/30/70
Jones & Pellow Oil Co.	SPC	1/2/73
Joseph Oil Corp.	SPC	12/12/74
Joseph Oil Corp.	SPC	12/12/74
G. S. Joslin	SPC	4/25/74
Herman Geo. Kaiser et al.	SPC	1/19/59
Herman Geo. Kaiser et al.	SPC	8/1/72
Herman Geo. Kaiser et al.	SPC	8/8/62
Herman Geo. Kaiser et al.	SPC	8/5/66
Herman Geo. Kaiser et al.	SPC	8/5/66
Herman Geo. Kaiser et al.	SPC	3/21/75
Herman Geo. Kaiser et al.	SPC	7/20/66
Herman Geo. Kaiser et al.	SPC	8/16/66
Herman Geo. Kaiser et al.	SPC	8/15/66
Kansas Shallow Ltd.	SPC	12/23/74
Kennedy & Mitchell Inc.	SPC	1/8/66
Kennedy & Mitchell Inc.	SPC	8/1/77
Wayne L. Kirkman	SPC	12/23/74
Kirkpatrick Oil & Gas Co.	SPC	9/27/72
Kirkpatrick Oil & Gas Co.	SPC	9/27/72
Kirkpatrick Oil & Gas Co.	SPC	2/19/73
Kritzman Enterprises	SPC	4/25/74
Kritzman Enterprises	SPC	4/25/74
Ladd Petroleum Corp.	SPC	11/29/66
Ladd Petroleum Corp.	SPC	8/10/73
Ladd Petroleum Corp.	SPC	4/25/74
Cecil L. Lanier et al.	SPC	8/24/70
D. R. Lauck Oil Co. Inc.	SPC	4/24/69

Fixed Rate Contracts—Continued

Seller	Rate schedule No.	Date
D. R. Lauck Oil Co. Inc.	SPC	1/24/74
Lear Petroleum Corp.	SPC	4/1/66
Lear Petroleum Corp.	SPC	4/26/66
Lear Petroleum Corp.	SPC	5/4/66
Lear Petroleum Corp.	SPC	5/6/74
Leben Oil Corp.	SPC	9/16/70
Leben Oil Corp.	SPC	10/14/71
Leben Oil Corp.	SPC	2/14/72
Leben Oil Corp.	SPC	8/14/72
Leben Oil Corp.	SPC	8/14/72
Leben Oil Corp.	SPC	6/30/72
Leben Oil Corp.	SPC	6/29/72
Leben Oil Corp.	SPC	11/20/69
L & M Gas Co.	SPC	3/11/71

Small Producer Contracts Volume V

Seller	Rate schedule No.	Date
Macey & Mershon Oil Inc.	SPC	10/11/71
Mahaska Gas Company Inc.	SPC	8/1/59
Mahaska Gas Company Inc.	SPC	9/1/59
F. W. Mallones	SPC	2/25/70
Martin Oil Company	SPC	10/11/71
Martin Oil Company	SPC	10/11/71
Martin Oil Company	SPC	10/11/71
Martin Oil Company	SPC	9/25/74
Robert W. Marriot	SPC	8/13/66
T. F. Marsh	SPC	3/24/60
T. F. Marsh	SPC	9/24/60
Martin Oil Services, Inc.	SPC	3/13/75
Martin Oil Services, Inc.	SPC	3/13/75
Martin Oil Services, Inc.	SPC	3/13/75
Martin Oil Services, Inc.	SPC	3/13/75
Martin Oil Services, Inc.	SPC	3/13/75
Martin Oil Services, Inc.	SPC	3/13/75
Martin Oil Services, Inc.	SPC	3/13/75
Martin Oil Services, Inc.	SPC	3/13/75
Martin Oil Services, Inc.	SPC	3/18/75
Martin Oil Services, Inc.	SPC	7/15/71
May Exploration Ventures Inc.	SPC	6/19/72
May Petroleum Inc.	SPC	7/12/74
Mesa Petroleum Co., et al	SPC	11/24/70
Mesa Petroleum Co., et al	SPC	11/24/70
Mesa Petroleum Co., et al	SPC	11/24/70
Mesa Petroleum Co., et al	SPC	11/24/70
Messman Rinehart Oil Co.	SPC	10/7/59
Messman Rinehart Oil Co.	SPC	3/18/71
Messman Rinehart Oil Co.	SPC	3/1/57
Messman Rinehart Oil Co.	SPC	8/15/57
Messman Rinehart Oil Co.	SPC	8/15/57
Messman Rinehart Oil Co.	SPC	12/15/58
Messman Rinehart Oil Co.	SPC	8/1/68
Mae Weeks Mueller	SPC	4/25/74
Mae Weeks Mueller	SPC	5/30/72
Mae Weeks Mueller	SPC	4/25/74
Moll Drilling Co., Inc.	SPC	10/15/68
Multistate Oil Properties	SPC	1/2/62
Multistate Oil Properties	SPC	8/19/74
Multistate Oil Properties	SPC	8/19/74
Multistate Oil Properties	SPC	8/19/74
Multistate Oil Properties	SPC	8/18/74
Multistate Oil Properties	SPC	8/18/74
Multistate Oil Properties	SPC	8/18/74
David L. Murphy	SPC	5/15/72
National Coop Ref Assoc.	SPC	3/28/58
National Oil Company	SPC	4/2/74
Natural Gas Anadarko Inc.	SPC	12/3/73
Nelson Petroleum Company	SPC	8/10/73
Nielson Enterprises, Inc.	SPC	10/11/71
Nielson Enterprises, Inc.	SPC	10/11/71
Nielson Enterprises, Inc.	SPC	10/11/71
Nielson Enterprises, Inc.	SPC	10/11/71
Nielson Enterprises, Inc.	SPC	10/11/71
Nielson Enterprises, Inc.	SPC	10/11/71
Nielson Enterprises, Inc.	SPC	10/11/71
Nielson Enterprises, Inc.	SPC	10/11/71
Nielson Enterprises, Inc.	SPC	10-11/71
Nielson Enterprises, Inc.	SPC	10/11/71
Carl A. Nilsen	SPC	4/19/73
Northern Pump Co., et al.	SPC	3/31/66
Northern Oil & Gas, Inc.	SPC	6/12/74
Northern Oil & Gas, Inc.	SPC	6/12/74
Oleum Inc., et al.	SPC	9/22/69
Olympia Exploration Co.	SPC	11/30/72
Olympia Exploration Co.	SPC	11/30/72
Olympia Exploration Co.	SPC	7/31/72
Olympia Exploration Co.	SPC	7/31/72
Joseph T. O'Neill	SPC	4/24/75
Joseph T. O'Neill	SPC	4/25/75
Joseph T. O'Neill	SPC	5/1/75
Joseph T. O'Neill	SPC	6/2/75
Joseph T. O'Neill	SPC	6/3/75

Fixed Rate Contracts—Continued

Seller	Rate schedule No.	Date
Joseph T. O'Neill	SPC	7/3/75
W. B. Osborn Jr., et al.	SPC	7/1/67
W. B. Osborn Jr., et al.	SPC	7/1/67
W. B. Osborn Jr., et al.	SPC	7/1/67
W. B. Osborn Jr., et al.	SPC	7/23/70
Oxoco	SPC	2/2/71
Oxoco	SPC	2/2/71
Oxoco	SPC	8/21/73

Small Producer Contracts Volume VI

Seller	Rate schedule No.	Date
Page Petroleum, Inc.	SPC	11/11/65
Paradox Petroleum Co.	SPC	5/24/60
Paradox Petroleum Co.	SPC	5/24/60
R. J. Patrick	SPC	8/1/60
R. J. Patrick	SPC	8/1/60
R. J. Patrick	SPC	4/5/78
WC Payne & Joe M. Coleman	SPC	11/28/69
WC Payne & Joe M. Coleman	SPC	2/16/70
WC Payne & Joe M. Coleman	SPC	5/15/72
WC Payne & Joe M. Coleman	SPC	5/15/74
Paradox Petroleum Company	SPC	5/24/60
Petroleum Inc.	SPC	4/22/65
Petroleum Inc.	SPC	11/2/73
Petroleum Inc.	SPC	11/2/73
Petroleum Inc.	SPC	11/2/73
Petroleum Inc.	SPC	4/22/73
Petroleum Inc.	SPC	8/15/61
Petroleum Inc.	SPC	8/2/59
Petroleum Inc.	SPC	8/24/60
Petroleum Inc.	SPC	1/19/59
Petroleum Inc.	SPC	1/19/59
Petroleum Inc.	SPC	1/19/59
Petroleum Inc.	SPC	1/19/59
Petroleum Inc.	SPC	11/11/65
Petroleum Invest. Ltd. 1972	SPC	1/2/73
Petro/Lewis Funds Inc.	SPC	6/8/78
Pinon Petroleum Corp.	SPC	12/14/61
Pinon Petroleum Corp.	SPC	4/25/74
Pinon Petroleum Corp.	SPC	4/25/74
Pip Petroleum Corp.	SPC	4/25/74
Pip Petroleum Corp.	SPC	4/25/74
Post Petroleum Co.	SPC	8/2/68
Powell & Stone	SPC	2/10/71
Premier Resources Ltd.	SPC	3/11/74
Premier Resources Ltd.	SPC	6/14/74
Premier Resources Ltd.	SPC	8/14/73
Premier Resources Ltd.	SPC	9/16/74
Premier Resources Ltd.	SPC	9/17/74
Premier Resources Ltd.	SPC	11/13/74
Premier Resources Ltd.	SPC	12/17/74
Premier Resources Ltd.	SPC	12/16/74
Premier Resources Ltd.	SPC	7/7/75
Premier Resources Ltd.	SPC	11/20/75
Presido Exploration Inc.	SPC	2/25/70
Virginia K. Price Trust	SPC	8/8/76
Producers Gas Company	SPC	2/28/72
Producers Gas Company	SPC	1/28/72
Producers Gas Company	SPC	12/18/72
Prudential Funds Inc.	SPC	4/24/70
Raine & Williamson Oil Co.	SPC	8/8/74
Ratliff Drilling Company	SPC	6/28/66
Ratliff Drilling Company	SPC	6/28/66
A. C. Richards	SPC	4/16/69
A. C. Richards	SPC	4/24/69
Jl Roberts & BM Roberts	SPC	4/25/74
Rocket Oil Company	SPC	10/13/72
Rocket Oil Company	SPC	10/13/72
Rope Oil Company	SPC	10/23/73
Rope Oil Company	SPC	10/23/73
Rope Oil Company	SPC	3/7/74
Rye 73 Ltd.	SPC	9/9/74

Small Producer Contracts Volume VII

Seller	Rate schedule No.	Date
Samedan Oil	SPC	8/20/70
Samson Resources	SPC	8/6/62
Samson Resources	SPC	4/29/65
Samson Resources	SPC	6/30/66
Samson Resources	SPC	7/5/66
Samson Resources	SPC	3/2/72
Samson Resources	SPC	7/1/66
Sandlin Oil	SPC	11/4/40
Sandlin Oil	SPC	5/1/78
Sarkeys, Inc.	SPC	8/11/69
Sarkeys, Inc.	SPC	8/11/69
Sarkeys, Inc.	SPC	5/10/72
Sarkeys, Inc.	SPC	10/1/62

Fixed Rate Contracts—Continued

Seller	Rate schedule No.	Date
Sarkeys, Inc.	SPC	5/7/76
Charles Serratt	SPC	9/25/74
Schusterman Development	SPC	10/10/72
Schusterman Development	SPC	10/10/72
Service Drilling	SPC	11/4/76
Service Drilling	SPC	10/4/76
George B. Shaw	SPC	7/3/56
Sidewell Oil & Gas, Inc.	SPC	3/15/71
Sidewell Oil & Gas, Inc.	SPC	10/22/73
Sidewell Oil & Gas, Inc.	SPC	10/25/74
Sidewell Oil & Gas, Inc.	SPC	12/12/74
SOC Gas Systems, Inc.	SPC	6/16/74
SOC Gas Systems, Inc.	SPC	6/16/74
SOC Gas Systems, Inc.	SPC	6/16/74
Southland Royalty Company	SPC	11/1/56
Special Alden Drilling	SPC	4/21/75
Spicknall Enterprisee	SPC	10/4/56
Star Petroleum Company	SPC	9/17/73
Statex Petroleum	SPC	2/2/71
Guy M. Steele, Jr.	SPC	6/22/67
Guy M. Steele, Jr.	SPC	6/22/67
Charles C. Stephenson	SPC	10/10/72
Charles C. Stephenson	SPC	10/10/72
Stevens Oil & Gas Company	SPC	9/1/59
Stevens Oil & Gas Company	SPC	9/1/57
Stevens Oil & Gas Company	SPC	9/1/59
Stevens Oil & Gas Company	SPC	9/1/69
Stevens Oil & Gas Company	SPC	9/1/59
Stevens Oil & Gas Company	SPC	9/1/69
Stevens Oil & Gas Company	SPC	11/1/57
Suco Oil Corp.	SPC	8/23/66
Suburban Propane Gas Corp.	SPC	11/28/67
Suburban Propane Gas Corp.	SPC	11/28/67
Suburban Propane Gas Corp.	SPC	11/29/67
Suburban Propane Gas Corp.	SPC	11/28/67

Small Producer Contracts Volume VIII

Seller	Rate schedule No.	Date
Tacldon Inc., et al.	SPC	10/17/57
Tacldon Inc., et al.	SPC	10/17/57
Texas Oil & Gas Company	SPC	5/2/67
C. H. Todd, Inc.	SPC	4/25/74
Triton Oil & Gas Corp. et al	SPC	8/16/69
Tuthill & Barbee	SPC	3/10/75
Rip C. Underwood, et al.	SPC	1/2/62
Union Nat'l Bank of Wichita	SPC	9/1/58
Union Nat'l Bank of Wichita	SPC	12/6/60
Union Nat'l Bank of Wichita	SPC	12/6/60
*Universal Reeources Corp.	SPC	3/2/72
*Universal Reeources Corp.	SPC	3/2/72
U.S. Energy Incorporated	SPC	3/2/72
Jack H. Vaughn	SPC	12/16/74
Jack H. Vaughn	SPC	8/1/60
Vessels Oil & Gas Co.	SPC	7/15/71
Vessels Oil & Gas Co.	SPC	7/15/71
Vessels Oil & Gas Co.	SPC	7/15/71
Vessels Oil & Gas Co.	SPC	7/15/71
Vessels Oil & Gas Co.	SPC	7/15/71
Vessels Oil & Gas Co.	SPC	7/15/71
Vessels Oil & Gas Co.	SPC	7/15/71
Vessels Oil & Gas Co.	SPC	7/15/71
Vessels Oil & Gas Co.	SPC	7/15/71
Vessels Oil & Gas Co.	SPC	3/3/75
Vessels Oil & Gas Co.	SPC	3/3/75
Vessels Oil & Gas Co.	SPC	3/3/75
Robert L. Weller	SPC	12/7/72
L.O. Ward Oil Company	SPC	8/27/75
Webb Resources	SPC	8/6/71
Webb Resources	SPC	5/6/71
Webb Resources	SPC	8/6/71
Bill Weems	SPC	8/13/66
N. H. Wheless Agent, et al.	SPC	5/1/60
N. H. Wheless Agent, et al.	SPC	5/1/60
Robert F. White, et al.	SPC	4/27/64
Robert F. White, et al.	SPC	8/21/60
Whiteman Indus. Inc. et al.	SPC	2/25/75
Whiteman Investment Co.	SPC	2/25/75
Robert R. Wilson, et al.	SPC	12/15/59
Robert R. Wilson, et al.	SPC	12/15/59
Robert R. Wilson, et al.	SPC	12/15/59
Robert R. Wilson, et al.	SPC	12/15/59
Robert R. Wilson, et al.	SPC	12/31/63
Robert R. Wilson, et al.	SPC	12/31/63
Robert R. Wilson, et al.	SPC	3/2/64
Robert R. Wilson, et al.	SPC	3/2/64
Robert R. Wilson, et al.	SPC	3/9/64
Robert R. Wilson, et al.	SPC	3/9/64
James W. Wise	SPC	8/13/66

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Fixed Rate Contracts—Continued

Seller	Rate schedule No.	Date
Worldwide Energy Corp.	SPC	6/20/72
Worldwide Energy Corp.	SPC	6/20/72
Worldwide Energy Corp.	SPC	6/20/72
Woods Petroleum Corp.	SPC	12/3/65
Woods Petroleum Corp.	SPC	7/7/70
W. R. Vinger, et al.	SPC	e11/12/70
W. R. Vinger, et al.	SPC	3/24/72
Yucca Petroleum Company	IIPC	5/19/69
Serkeys, Inc.	SPC	5/7/76

*Refers to FPC only.

Type "B" Area Rate Contracts Volume I

Amoco Production Co.	587	11/4/70
Anadarko Production Co.	201	9/5/74
Anadarko Production Co.	202	8/20/74
Anadarko Production Co.	176	1/31/72
Ashland Exploration, Inc.	142	4/5/60
Amerada Hess	136	8/16/68

Volume II

*Gulf Oil Corporation	409	2/26/69
J. M. Huber Corporation	009	8/29/51
King Resources Company	010	5/1/67
Pennzoil Company	032	4/30/71

*Refers to FPC only.

Small Producer Contracts Volume I

Appleton Oil Co. et al.	SPC	8/19/70
Carl M. Archer	SPC	10/7/69
Carl M. Archer	SPC	10/7/69
Carl M. Archer	SPC	10/7/69
Argonaut Energy Inc. et al.	SPC	12/23/74
An-Son Corporation	SPC	3/10/75
Beaver Mesa Exploration Co.	SPC	8/1/71
Beaver Mesa Exploration Co.	SPC	7/30/71
Beaver Mesa Exploration Co.	SPC	7/30/71
Beaver Mesa Exploration Co.	SPC	8/1/71
Beaver Mesa Exploration Co.	SPC	8/1/71
Beaver Mesa Exploration Co.	SPC	7/30/71
Beaver Mesa Exploration Co.	SPC	8/1/71
Beaver Mesa Exploration Co.	SPC	11/4/70
Beaver Mesa Exploration Co.	SPC	7/30/71
Beaver Mesa Exploration Co.	SPC	8/1/71
Beaver Mesa Exploration Co.	SPC	8/1/71
An-Son Corporation	SPC	7/12/66

Small Producer Contracts Volume II

H. A. Chapman, et al.	SPC	4/8/60

Small Producer Contracts Volume III

General Crude	SPC	7/6/76
Francis Oil & Gas Inc.	SPC	4/8/65
Francis Oil & Gas Inc.	SPC	5/1/67

Small Producer Contracts Volume IV

Laben Oil Corp.	SPC	8/16/75
Herman Geo. Kaiser et al.	SPC	4/8/65
Inexco Oil Co.	SPC	2/24/75
Inexco Oil Co.	SPC	2/24/75
Inexco Oil Co.	SPC	2/24/75
Inexco Oil Co.	SPC	2/24/75
Herman Geo. Kaiser et al.	SPC	8/5/66
Herman Geo. Kaiser et al.	SPC	7/20/66
Herman Geo. Kaiser et al.	SPC	8/5/66
Herman Geo. Kaiser et al.	SPC	8/24/66
Herman Geo. Kaiser et al.	SPC	8/16/66
Herman Geo. Kaiser et al.	SPC	8/16/66
Laben Oil Corp.	SPC	8/8/65

Fixed Rate Contracts—Continued

Seller	Rate schedule No.	Date
Laben Oil Corp.	SPC	8/10/66

Small Producer Contracts Volume V

Macey & Mershon Oil Inc.	SPC	11/4/70

Small Producer Contracts Volume VII

Sabine Producer Company	SPC	7/12/66

Small Producer Contracts Volume VIII

*Yale Oil Association	SPC	2/5/69
Teal Petroleum Company	SPC	11/14/75
Teal Petroleum Company	SPC	11/14/75
Teal Petroleum Company	SPC	11/14/75

*Refers to FPC only.

Type "C" Area Rate Contracts Volume I

Anadarko Production Co.	243	5/15/78
Cities Service Company	097	1/1/57
Cities Service Company	460	5/16/77
Cities Service Company	471	9/24/76
Cotton Petroleum Corporation	030	7/20/78
Cotton Petroleum Corporation	031	8/11/78
Energy Reserves Group Inc	157	8/30/76
Energy Reserves Group Inc	166	7/19/78
Exxon Company U.S.A	202	10/4/56
Exxon Company U.S.A	204	1/7/57
Exxon Company U.S.A	205	1/23/57
Exxon Company U.S.A	211	11/13/57
Exxon Company U.S.A	248	4/29
Exxon Company U.S.A	254	10/17/60
Exxon Company U.S.A	303	2/12/62
Exxon Company U.S.A	322	10/17/62
Exxon Company U.S.A	356	6/17/64
Exxon Company U.S.A	364	8/19/64
Exxon Company U.S.A	402	6/9/66
Exxon Company U.S.A	425	5/1/67
Exxon Company U.S.A	439	11/1/67
JM Huber Corporation	070	3/3/66
JM Huber Corporation	073	4/20/66
JM Huber Corporation	078	4/3/67
Mobile Oil Corporation	011	10/1/56
Panhandle Western Gas Co	002	10/16/77
Panhandle Western Gas Co	003	3/15/78
Panhandle Western Gas Co	004	5/2/78
Panhandle Western Gas Co	005	5/27/76
Panhandle Western Gas Co	006	3/13/76
Panhandle Western Gas Co	007	3/14/78
Panhandle Western Gas Co	008	10/14/77
Panhandle Western Gas Co	009	10/13/77
Panhandle Western Gas Co	010	10/14/77
Panhandle Western Gas Co	011	7/7/78
Panhandle Western Gas Co	012	7/6/78
Panhandle Western Gas Co	013	8/31/78

Volume III

Diamond Shamrock Corp	095	8/21/78
Sohio Natural Resources Co	036	6/24/57
Southland Royalty Co	022	9/24/76
Southland Royalty Co	035	2/24/77
Southland Royalty Co	039	7/25/77
Southland Royalty Co	085	5/24/78
Southland Royalty Co	087	8/5/78
Southland Royalty Co	088	5/5/78
Southland Royalty Co	094	3/27/78

Small Producer Contracts Volume I

AL Abercrombie et al	SPC	4/25/78
Connie McGill Allen	SPC	5/24/78
American Public Energy Co	SPC	9/22/59
An-Son Corporation	SPC	11/17/78
An-Son Corporation	SPC	10/16/78
Antares Oil Corp. et al.	SPC	12/18/78
Apache Corporation et al	SPC	11/3/78
Argonaut Energy Inc. et al	SPC	3/31/78
Argonaut Energy Inc. et al	SPC	3/31/78
Argonaut Energy Inc. et al	SPC	3/31/78

Fixed Rate Contracts—Continued

Seller	Rate schedule No.	Date
Glenn B. & Mildred Babcock	SPC	7/24/78
B&B Farm Industries Inc	SPC	11/29/78
Pauline A. & Leroy Beckwith	SPC	7/11/78
Phillip F. Beeler	SPC	1/16/78
Phillip F. Beeler	SPC	10/5/78
Bellwether Ltd	SPC	8/17/78
Benson Mineral Group Inc	SPC	2/15/78
F. E. Bernsen	SPC	5/8/58
Brandt Oil Company	SPC	3/15/78
Brandt Oil Company	SPC	3/15/78
Bridger Pet Corp	SPC	2/23/78
B. M. Britain	SPC	7/10/58
Broughton Oil Co	SPC	11/13/78
The Maurice L. Brown Co	SPC	4/1/78
Butter Resources Co	SPC	12/11/75
Butter Resources Co	SPC	9/27/78

Small Producer Contracts Volume II

Calvin Petroleum Corp	SPC	10/10/78
Calvin Petroleum Corp	SPC	1/3/79
John P. Castleman, Jr	SPC	9/14/78
John P. Castleman, Jr	SPC	10/4/78
Champlin Exploration Inc	SPC	10/25/78
Cherokee Resources Inc	SPC	5/30/78
Clercy, Inc.	SPC	5/16/79
Clifford Resources, Inc	SPC	8/7/78
Colonial Royalty Co	SPC	5/6/58
Continental Gas Trans. Co	SPC	9/28/78
Roy E. Cooper	SPC	8/10/78
Cotton Petroleum Corp	SPC	10/5/78
Cotton Petroleum Corp	SPC	1/3/79
Cotton Petroleum Corp	SPC	7/26/78
Cotton Petroleum Corp	SPC	8/11/78
Dalco Oil Company	SPC	5/6/58
Damson Oil Corp	SPC	12/1/78
Darnell Drilling Inc	SPC	7/11/78
Davis Oil Company, et al	SPC	7/4/77
Davis Oil Company, et al	SPC	7/8/77
Davis Oil Company, et al	SPC	3/14/78
Davis Oil Company, et al	SPC	3/14/78
Davis Oil Company, et al	SPC	3/15/78
Davis Oil Company, et al	SPC	3/15/78
Davis Oil Company, et al	SPC	3/16/78
Davis Oil Company, et al	SPC	3/16/78
Davis Oil Company, et al	SPC	3/17/78
Davis Oil Company, et al	SPC	3/17/78
Decalta International Corp	SPC	10/23/78
Devon Corporation	SPC	7/7/78
Cub Dillard, Jr	SPC	9/5/78
Eagle Exploration Co. Inc	SPC	8/8/78
Eason Oil Company	SPC	10/5/78
ENI Exploration Program/1975	SPC	1/7/77
ENI Oil & Gas	SPC	11/16/78
Exploration Associates	SPC	9/21/78

Small Producer Contracts Volume III

Husky Oil	SPC	2/13/78
Falcon Petroleum	SPC	6/20/78
Farmer's Royalty Pool	SPC	6/28/78
Filon Exploration Corp	SPC	11/17/78
First National Oil, Inc	SPC	4/2/78
First National Oil, Inc	SPC	5/13/78
Flag-Redfern Oil Company	SPC	4/27/59
Funk Petroleum	SPC	7/20/78
Gomaro Inc	SPC	11/1/78
Gungoll & Gungoll	SPC	8/9/78
Gungoll & Gungoll	SPC	7/11/78
Henry H. Gungoll Assoc	SPC	5/8/78
Henry H. Gungoll Assoc	SPC	7/19/78
Hudson Ohio Oil	SPC	5/18/72
Robert L. Hadwiger	SPC	3/1/78
Robert L. Hadwiger	SPC	4/20/78
Robert L. Hadwiger	SPC	5/15/78
Hasada Inc.	SPC	7/3/78
Hasada Inc.	SPC	7/24/78
Hasada Inc.	SPC	7/24/78
H & L Operating Company	SPC	5/19/78
H & L Operating Company	SPC	7/26/78
F. M. Holker	SPC	3/23/60
Houston Domestic Oil	SPC	9/29/78
Owen Hulsey	SPC	7/5/78
Husky Oil	SPC	3/1/78

Fixed Rate Contracts—Continued

Seller	Rate schedule No.	Date
Husky Oil	SPC	3/1/78

Small Producer Contracts Volume IV

Jico, Inc	SPC	3/15/78
Kennedy & Mitchell, Inc	SPC	9/18/78
Kirby Petroleum Co. et al	SPC	5/6/58
Roland Kiefer	SPC	5/22/78
Laclede Gas Co	SPC	9/1/78
Laclede Gas Co	SPC	9/1/78
Ladd Petroleum Corp	SPC	11/30/78
Leede Exploration	SPC	8/7/78
Don Leeman	SPC	10/24/78
Lowrys Lease Management	SPC	4/17/78

Small Producer Contracts Volume V

Magnatex Corp	SPC	7/5/78
Maguire Oil Co. Opr. et al	SPC	5/30/78
Dorothy McGill	SPC	5/24/78
Gene McGill	SPC	5/24/78
Gene McGill	SPC	5/23/78
Gene McGill	SPC	8/21/78
Menbourne Oil Company	SPC	10/30/78
Menbourne Oil Company	SPC	10/30/78
Menbourne Oil Company	SPC	10/30/78
Mowhawk Energy Corp	SPC	10/6/78
Multistate Oil Properties	SPC	7/10/78
Murfin Drilling	SPC	10/26/77
National Coop Ref, Assoc	SPC	6/12/77
Natomas	SPC	8/28/78
Natomas	SPC	10/16/78
Nielson Enterprises Inc	SPC	3/16/79
Nielson Enterprises Inc	SPC	11/10/78
North Am Exploration Co	SPC	8/13/75
Nova Energy Corp. et al	SPC	5/24/78
Okmar Oil Company et al	SPC	12/15/78

Small Producer Contracts Volume VI

P & O Oil Corporation	SPC	8/25/78
Pacific Oil & Gas Co	SPC	7/5/78
Panhandle Western Gas Co	SPC	3/13/79
Petrodynamics Inc	SPC	1/17/66
Petrodynamics Inc	SPC	4/16/65
Petrodynamics Inc	SPC	11/15/61
Petro-Lewis Corporation	SPC	1/15/79
Picknell Drilling Company	SPC	2/16/78
Rope Oil Company	SPC	5/17/78

Small Producer Contracts Volume VII

Sandlin Oil	SPC	8/17/78
Viersen & Sant	SPC	8/12/78
Scarten Petroleum Inc	SPC	8/21/78
Phoebe Schermerhen	SPC	5/6/58
SB & KW Schuster	SPC	7/20/78
Singer Fleischaker Royalty	SPC	8/6/78
Sovereign Exploration Co	SPC	10/23/78
Swela Oil & Gas	SPC	11/27/78

Small Producer Contracts Volume VIII

Texas Oil & Gas Corp	SPC	8/6/78
Texas Oil & Gas Corp	SPC	8/6/78
Texas Oil & Gas Corp	SPC	7/19/78
Texas Oil & Gas Corp	SPC	11/10/78
Texas Oil & Gas Corp	SPC	11/10/78
Texas Oil & Gas Corp	SPC	11/10/78
Texas Oil & Gas Corp	SPC	11/10/78
Texas Oil & Gas Corp	SPC	11/10/78
Tuthill & Barbee	SPC	11/9/78
Tuthill & Barbee	SPC	11/9/78
Tuthill & Barbee	SPC	11/9/78
Tuthill & Barbee	SPC	11/9/78
Tuthill & Barbee	SPC	6/6/78
Tuthill & Barbee	SPC	8/21/78
Tuthill & Barbee	SPC	7/26/78
L.O. Ward Oil Co.	SPC	9/22/78
Wessely Energy Corporation	SPC	7/28/78
Western Gas Systems, Ltd	SPC	8/15/78
Whiteman Indus. Inc. et al	SPC	5/18/78
H. L. Willett	SPC	6/20/78
H. L. Willett	SPC	6/20/78
H. L. Willett	SPC	6/20/78
Woods Petroleum Corp	SPC	7/27/78

Fixed Rate Contracts—Continued

Seller	Rate schedule No.	Date
XO Exploration Inc	SPC	3/31/78

Large Producers Supplement

Panhandle Western Gas	Pending	10/26/78
Terra Resources, Inc	Pending	9/25/78
Texaco, Inc	Pending	9/29/78
Texaco, Inc	Pending	11/6/78

Type "D" Area Rate Contracts Volume I

Anadarko Production Co.	230	4/21/77
Anadarko Production Co.	231	2/14/77
Anadarko Production Co.	239	9/12/77
Anadarko Production Co.	244	8/25/78
American Natural Gas Prod.	031	5/25/77
Amoco Production Co.	194	1/16/57
Amoco Production Co.	221	3/20/58
Amoco Production Co.	223	3/5/58
Amoco Production Co.	629	11/13/57
Amoco Production Co.	690	4/25/75
Amoco Production Co.	743	4/1/77
Anadarko Production Co.	166	9/1/59
Anadarko Production Co.	177	4/8/73
Anadarko Production Co.	186	3/1/61
Anadarko Production Co.	213	5/13/75
Anadarko Production Co.	215	8/1/75
Anadarko Production Co.	216	8/1/59
Anadarko Production Co.	217	7/11/75
Anadarko Production Co.	218	11/26/75
Anadarko Production Co.	219	1/2/76
Anadarko Production Co.	226	8/26/76
Anadarko Production Co.	227	8/24/76
Anadarko Production Co.	228	12/13/76
Anadarko Production Co.	229	1/10/77
Anadarko Production Co.	233	3/11/77
Anadarko Production Co.	234	4/11/77
Anadarko Production Co.	236	4/25/77
Anadarko Production Co.	238	6/26/77
Anadarko Production Co.	240	10/31/77
Ashland Exploration Co.	125	4/16/56
Ashland Exploration Co.	078	4/27/60
Ashland Exploration Co.	126	11/1/58
Ashland Exploration Co.	141	5/25/60
Ashland Exploration Co.	145	2/3/61
Ashland Exploration Co.	148	10/20/61
Ashland Exploration Co.	153	5/6/63
Ashland Exploration Co.	172	12/16/64
Atlantic Richfield Co.	454	4/10/61
Atlantic Richfield Co.	822	6/29/59
Atlantic Richfield Co.	807	9/27/57
Atlantic Richfield Co.	273	4/17/63
Ashland Exploration Co.	177	5/19/66

Volume II

Dorchester Gas Producing Co.	002	10/4/56
Mobil Oil Corporation	054	5/13/47
Mobil Oil Corporation	223	12/22/59
Mobil Oil Corporation	246	7/13/60
Mobil Oil Corporation	248	8/15/60
Mobil Oil Corporation	299	7/21/60
Mobil Oil Corporation	301	1/22/60
Mobil Oil Corporation	303	12/19/60
Mobil Oil Corporation	325	10/25/60
Mobil Oil Corporation	369	10/9/64
Mobil Oil Corporation	392	12/9/66
Mobil Oil Corporation	394	12/30/66
Northern Natural Gas Production Co.	031,	5/10/63
Cabot Corporation	035	10/15/56
Cabot Corporation	066	4/2/62
Champlin Petroleum Co.	148	10/1/76
Cities Service Company	252	2/2/59
Cities Service Company	256	2/2/59
Cities Service Company	432	1/5/76
Cities Service Company	435	10/11/76
Cities Service Company	452	6/27/77
Cities Service Company	456	9/22/77
Cities Service Company	465	5/5/77
Cities Service Company	259	3/17/61
Enserch Exploration Inc.	132	5/15/78
Exxon Company U.S.A.	502	8/29/77
Vernon E. Faulconer et al.	013	4/2/62
Getty Oil Company	321	4/2/62
Getty Oil Company	419	1/2/78
Gulf Oil Corporation	051	6/29/56
Gulf Oil Corporation	254	9/25/63
Gulf Oil Corporation	297	5/10/65

Fixed Rate Contracts—Continued

Seller	Rate schedule No.	Date
Gulf Oil Corporation	360	11/11/66
Gulf Oil Corporation	496	10/2/57
Gulf Oil Corporation	523	7/26/77
Gulf Oil Corporation	526	12/12/77
Gulf Oil Corporation	535	3/16/78
J. M. Huber Corporation	004	9/21/59
Liquid Energy Corporation	001	10/25/77
McCulloch Oil & Gas Corp.	013	11/20/75
McCulloch Oil & Gas Corp.	032	11/20/78
Mesa Petroleum Co. et al.	074	8/14/75
Mesa Petroleum Co. et al.	084	5/9/77
Mobil Oil Corporation	434	8/16/66
Monsanto Company et al.	060	8/25/66
Palm Petroleum Corp.	002	10/4/56

Volume III

Diamond Shamrock Corp.	086	11/7/77
Texaco Inc.	316	7/3/63
Texaco Inc.	444	4/10/70
Texaco Inc.	516	6/1/75
Petroleum Inc.	107	9/27/76
Petroleum Inc.	112	4/27/77
Diamond Shamrock Corp.	081	7/16/77
Shell Oil Co.	291	11/23/64
Southland Royalty Co.	033	9/2/77
Sun Gas Co.	582	12/3/76
Superior Oil Co.	126	8/22/67
Texaco Inc.	136	3/3/77
Texaco Inc.	152	11/15/76
Texaco Inc.	164	8/1/77
Texaco Inc.	171	12/19/77
Texaco Inc.	172	1/1/78
Texaco Inc.	173	3/24/77
Texaco Inc.	289	2/7/62
Texaco Inc.	351	3/1/65
Texaco Inc.	353	3/18/65
Texaco Inc.	658	4/10/63
Texaco Oil & Gas Corp.	099	3/3/72

Small Producer Contract Volume I

Aegis Corp.	SPC	11/8/78
Bob F. Allie	SPC	2/1/78
Allied Materials Corp. et al.	SPC	1/20/77
Alpine Drilling Company	SPC	7/5/76
E. T. Anderson	SPC	12/30/76
Robt. G. Anderson	SPC	1/1/78
Argonaut Energy Inc. et al.	SPC	4/8/76
Argonaut Energy Inc. et al.	SPC	10/8/76
Argonaut Energy Inc. et al.	SPC	8/25/77
Argonaut Energy Inc. et al.	SPC	7/29/77
Argonaut Energy Inc. et al.	SPC	7/24/78
Argonaut Energy Inc. et al.	SPC	7/20/78
Argonaut Energy Inc. et al.	SPC	8/23/76
Argonaut Energy Inc. et al.	SPC	8/22/77
Jerry D. Armstrong	SPC	3/1/76
Jerry D. Armstrong	SPC	2/7/77
Donald L. Bagwell	SPC	4/20/76
B&B Farm Industries, Inc.	SPC	11/10/77
J. H. Bander	SPC	2/7/77
J. H. Bander	SPC	3/1/76
Banta & Haich	SPC	3/1/76
Banta & Haich	SPC	3/1/76
Barnett Oil Company	SPC	12/1/76
Barnett Oil Company	SPC	12/1/76
Charles Barr et al.	SPC	9/20/77
Charles Barr et al.	SPC	9/29/77
BCS Natural Resources Corp.	SPC	8/5/75
Beard & Leeman	SPC	3/7/77
Phillip F. Beeler	SPC	3/11/76
Bellwether, Ltd.	SPC	7/1/77
Bellwether, Ltd.	SPC	6/7/77
Clyde Beymer, Jr. & C. E. Beymer	SPC	10/20/76
Dallas C. Biggers	SPC	2/16/76
Dallas C. Biggers	SPC	8/19/76
Blair Oil Company	SPC	12/1/76
Blair Oil Company	SPC	12/1/76
Blair Oil Company	SPC	12/1/76
Blair Oil Company	SPC	7/3/76
Blair Oil Company	SPC	8/7/76
Bluewater Oil & Gas et al.	SPC	3/21/77
Borelli & Brown	SPC	3/3/76
C. F. Brown & Company	SPC	11/25/74
C. F. Brown & Company	SPC	5/15/72
G. W. Brever	SPC	12/22/75
Bridger Petroleum Corp.	SPC	12/3/76
Brook Hall Oil Corp.	SPC	5/1/67
Tom Brown Inc.	SPC	3/1/76
Ray O. Brownlie	SPC	3/1/76
Ray O. Brownlie	SPC	2/7/77
Ray O. Brownlie	SPC	8/26/77
M. Peyton Bucy	SPC	9/8/77

Fixed Rate Contracts—Continued

Seller	Rate schedule	No.	Date
R. L. Burns Corp.	SPC		10/29/76
B&W Oil & Gas	SPC		8/1/77

Small Producer Contracts Volume II

John P. Castleman, Jr.	SPC		5/19/77
John P. Castleman, Jr.	SPC		5/19/77
John P. Castleman, Jr.	SPC		5/19/77
John P. Castleman, Jr.	SPC		5/19/77
Central Leduc Oils Inc.	SPC		8/2/66
Chamberlain Family Group	SPC		1/29/76
Jerry Chambers	SPC		6/29/77
Champlin Exploration Inc.	SPC		7/21/75
Champlin Exploration Inc.	SPC		2/28/76
Champlin Exploration Inc.	SPC		1/19/76
H. A. Chapman et al.	SPC		5/21/76
Cherokee, Ltd.	SPC		2/24/76
Cheyenne Petroleum Company	SPC		7/21/75
Cimarron Petroleum Corp.	SPC		7/27/76
Col. Gas Compression Co.	SPC		2/1/77
Col. Gas Compression Co.	SPC		2/1/77
CoR Oil Inc.	SPC		12/30/75
Con Petro	SPC		8/25/75
Continental Gas Tran. Co.	SPC		9/23/75
Continental Gas Tran. Co.	SPC		5/20/77
Continental Gas Tran. Co.	SPC		5/20/77
Continental Gas Tran. Co.	SPC		10/26/77
Consolidated Oil & Gas Inc., et al.	SPC		3/31/77
D. L. Cook	SPC		9/26/77
Cordillera Corporation	SPC		8/7/77
Coronal Inc.	SPC		8/24/64
Cotton Petroleum Corp.	SPC		9/5/75
Cotton Petroleum Corp.	SPC		1/23/78
Cotton Petroleum Corp.	SPC		9/5/75
Cotton Petroleum Corp.	SPC		3/13/78
Edwin L. Cox	SPC		8/2/66
Edwin L. Cox	SPC		5/28/57
John L. Crawford	SPC		4/15/75
Maude P. Crawford	SPC		4/19/76
Maude P. Crawford	SPC		4/19/76
Douglas R. Cummings	SPC		1/27/78
Davis Oil Company, et al.	SPC		8/19/77
Davis Oil Company, et al.	SPC		8/19/77
Davis Oil Company, et al.	SPC		8/19/77
Decalta International Corp.	SPC		9/24/64
Decalta International Corp.	SPC		7/1/75
Dol Resources	SPC		2/14/77
Dorchester Exploration Inc.	SPC		2/25/76
Raymond T. Duncan	SPC		12/30/75
Dyco	SPC		5/1/75
Earleboro Oil & Gas Co.	SPC		9/1/75
Earleboro Oil & Gas Co.	SPC		9/16/77
Energy Minerals Corp.	SPC		1/2/76
Energy Minerals Corp.	SPC		1/2/76
Energy Minerals Corp.	SPC		1/2/76

Small Producer Contracts Volume III

Vernon E. Faulconer et al.	SPC		4/2/60
Vernon E. Faulconer et al.	SPC		4/2/62
Ferguson Oil Co. Inc. et al.	SPC		2/9/70
Ferguson Oil Co. Inc. et al.	SPC		3/20/58
Ferguson Oil Co. Inc. et al.	SPC		11/19/76
Ferguson Oil Co. Inc. et al.	SPC		11/19/76
Ferguson Oil Co. Inc. et al.	SPC		5/10/77
First National Oil, Inc.	SPC		10/29/76
Follet Operating Corp.	SPC		8/1/77
Follet Operating Corp.	SPC		1/13/78
Follet Operating Corp.	SPC		8/12/78
Follet Operating Corp.	SPC		7/26/78
R. L. Force, et al.	SPC		2/12/78
Foster Petroleum	SPC		1/24/68
Fraley Oil Co.	SPC		4/17/78
French & Walker, Inc.	SPC		8/5/75
Fuel Resources Development	SPC		1/5/65
GMC Oil & Gas Corp.	SPC		3/31/66
Gail B. Gore	SPC		3/25/67
Grave Petroleum Inc.	SPC		1/19/68
Graham Michaelis Drill. Co.	SPC		2/4/58
Graham Michaelis Drill. Co.	SPC		10/4/56
Graham Michaelis Drill. Co.	SPC		11/1/56
Graham Michaelis Drill. Co.	SPC		8/19/68
Graham Michaelis Drill. Co.	SPC		4/27/77
Graycock Corp.	SPC		5/10/77
Graycock Corp.	SPC		7/31/77
Graycock Corp.	SPC		10/31/77
William Gruenerwald	SPC		1/13/78
William Gruenerwald	SPC		1/8/78
Hamilton Bros. Petro. Inc.	SPC		5/9/80
Hamilton Bros. Petro. Inc.	SPC		8/17/77
W.V. Harlow, et al.	SPC		8/14/75
Robert L. Haynie	SPC		5/24/76
Robert L. Haynie	SPC		5/24/76
H & L Operating Company	SPC		3/30/61
Holly Energy	SPC		5/24/76
Holly Energy	SPC		5/24/76

Fixed Rate Contracts—Continued

Seller	Rate schedule	No.	Date
Holly Energy	SPC		5/5/77
Hugo Oils	SPC		6/10/77
Own Hulsey	SPC		3/3/76

Small Producer Contracts Volume IV

Herman Geo. Kaiser et al.	SPC		4/29/60
Herman Geo. Kaiser et al.	SPC		4/29/60
Imperial Oil Co.	SPC		4/5/72
Imperial Oil Co.	SPC		5/7/75
Imperial Oil Co.	SPC		5/7/75
Imperial Oil Co.	SPC		5/7/75
Imperial Oil Co.	SPC		5/3/76
Imperial Oil Co.	SPC		5/7/76
Inca Oil Co.	SPC		10/25/77
Industrial Gas Services	SPC		4/12/76
Inca Oil Co.	SPC		10/1/76
Inca Oil Co.	SPC		8/1/77
Russel V. Johnson, et al.	SPC		5/25/64
Russel V. Johnson, et al.	SPC		10/4/62
Jones & Pellow Oil Co.	SPC		8/7/75
G. S. Joslin	SPC		5/3/76
G. S. Joslin	SPC		4/25/74
Kaiser-Francis Oper. Acct.	SPC		10/1/77
Herman Geo. Kaiser et al.	SPC		8/15/60
Herman Geo. Kaiser et al.	SPC		8/15/60
Herman Geo. Kaiser et al.	SPC		10/27/66
Herman Geo. Kaiser et al.	SPC		10/8/65
Herman Geo. Kaiser et al.	SPC		10/19/60
Herman Geo. Kaiser et al.	SPC		7/11/60
Herman Geo. Kaiser et al.	SPC		8/5/66
Herman Geo. Kaiser et al.	SPC		8/28/75
Herman Geo. Kaiser et al.	SPC		8/28/75
Herman Geo. Kaiser et al.	SPC		4/26/65
Herman Geo. Kaiser et al.	SPC		4/26/65
Herman Geo. Kaiser et al.	SPC		7/31/77
Kennedy & Mitchell Inc.	SPC		3/25/58
Wayne L. Kirkman	SPC		7/9/75
Koch Industries, Inc.	SPC		1/12/76
Krizman Enterprises	SPC		4/13/76
KRM Petroleum Corp.	SPC		9/22/77
Ladd Petroleum Corp.	SPC		2/23/76
Ladd Petroleum Corp.	SPC		2/23/76
Ladd Petroleum Corp.	SPC		2/23/76
Ladd Petroleum Corp.	SPC		2/23/76
Ladd Petroleum Corp.	SPC		2/23/76
Ladd Petroleum Corp.	SPC		2/23/76
Ladd Petroleum Corp.	SPC		7/15/76
Ladd Petroleum Corp.	SPC		7/15/76
D.R. Lauck Oil Co. Inc.	SPC		10/17/77
Lear Petroleum Corp.	SPC		9/15/65
Lear Petroleum Corp.	SPC		8/2/66
C.V. Lyman	SPC		3/1/76

Small Producer Contracts Volume V

Macey & Mershon Oil Inc.	SPC		3/19/76
Macey & Mershon Oil Inc.	SPC		3/10/76
Macey & Mershon Oil Inc.	SPC		4/1/76
Macey & Mershon Oil Inc.	SPC		4/1/76
Macey & Mershon Oil Inc.	SPC		7/1/76
Macey & Mershon Oil Inc.	SPC		7/1/76
Macey & Mershon Oil Inc.	SPC		8/25/76
Macey & Mershon Oil Inc.	SPC		8/25/76
Macey & Mershon Oil Inc.	SPC		8/25/76
Macey & Mershon Oil Inc.	SPC		8/25/76
Magnatex Corp.	SPC		7/21/75
Maguire Oil Co. Opr. et al.	SPC		5/30/78
Maguire Oil Co. Opr. et al.	SPC		5/30/78
Robert L. Manning	SPC		12/30/75
T. Kieth Marks	SPC		12/30/76
Martin Oil Services Inc.	SPC		5/27/77
Martin Oil Services Inc.	SPC		5/27/77
Len Mayer	SPC		5/24/76
Len Mayer	SPC		5/24/76
Mesa Petroleum Co. et al.	SPC		7/14/72
Mesa Petroleum Co. et al.	SPC		12/18/72
Mesa Petroleum Co. et al.	SPC		7/14/72
Midland PRC Petro. Ptnship	SPC		4/30/76
Molz Oil Co.	SPC		11/4/76
Molz Oil Co.	SPC		11/4/76
Molz Oil Co.	SPC		11/4/76
W.A. Moncrief, Jr.	SPC		8/29/78
Montgomery Exploration Co.	SPC		4/3/67
Montgomery Exploration Co.	SPC		12/15/77
Mae Weeks Mueller	SPC		4/12/76
Multistate Oil Properties	SPC		5/1/67
Multistate Oil Properties	SPC		1/10/77
National Oil Co.	SPC		8/22/76
Natomas	SPC		2/1/60
Natomas	SPC		4/6/60
Natomas	SPC		4/6/60
Natomas	SPC		4/6/60

Fixed Rate Contracts—Continued

Seller	Rate schedule	No.	Date
Natural Gas Anaderko Inc.	SPC		7/27/76
Nelson Petroleum Company	SPC		3/8/76
Nelson Petroleum Company	SPC		3/8/76
Nielson Enterprises Inc.	SPC		3/15/76
Nielson Enterprises Inc.	SPC		3/15/76
Nielson Enterprises Inc.	SPC		3/15/76
Nielson Enterprises Inc.	SPC		3/15/76
North American Royal, Inc.	SPC		12/19/77
North Central Oil Corp.	SPC		5/1/76
Northern Pump Co., et al.	SPC		3/23/60
Joseph T. O'Neill	SPC		6/13/76
Joseph T. O'Neill	SPC		12/30/76
W.B. Osborn Jr., et al.	SPC		11/17/77
W.B. Osborn Jr., et al.	SPC		11/17/77
W.B. Osborn Jr., et al.	SPC		6/8/76
W.B. Osborn Jr., et al.	SPC		9/23/76
W.B. Osborn Jr., et al.	SPC		11/17/77
Oxoco	SPC		5/10/77

Small Producer Contracts Volume VI

R. J. Patrick	SPC		12/30/66
Phoenix Resources Company	SPC		5/1/67
Phoenix Resources Company	SPC		5/1/67
Phoenix Resources Company	SPC		5/1/67
Phoenix Resources Company	SPC		5/1/67
Phoenix Resources Company	SPC		5/1/67
Pacific Oil & Gas Company	SPC		1/18/76
Panhandle Investors	SPC		8/19/75
Panhandle Producing Co. et al.	SPC		3/8/76
Panahandle Properties, Inc.	SPC		6/16/76
Par Petroleum Inc.	SPC		1/31/76
Partnership Properties	SPC		10/1/76
R. J. Patrick	SPC		7/6/66
Patrick Petroleum Co.	SPC		1/17/77
Payne Inc.	SPC		12/6/76
WC Payne & Joe M. Coleman	SPC		8/1/77
WC Payne & Joe M. Coleman	SPC		8/1/77
WC Payne & Joe M. Coleman	SPC		8/8/77
WC Payne & Joe M. Coleman	SPC		1/28/76
WC Payne & Joe M. Coleman	SPC		1/28/76
WC Payne & Joe M. Coleman	SPC		9/21/76
WC Payne & Joe M. Coleman	SPC		9/22/76
Richard Pearson	SPC		4/14/76
Petroleum Inc.	SPC		9/27/76
Petroleum Inc.	SPC		4/27/77
Petrorep Inc.	SPC		9/24/64
Petro-Search, Inc.	SPC		3/23/60
Phoenix Resources Company	SPC		5/1/67
Pinon Petroleum Corp.	SPC		5/19/76
Powell & Stone	SPC		3/1/76
Powell & Stone	SPC		12/2/76
Proctor Inc.	SPC		10/1/76
John F. Ranchoo	SPC		3/1/76
Read & Stevens, Inc.	SPC		7/21/77
Reserve Oil Inc.	SPC		12/11/75
Resources Development Corp.	SPC		5/10/76
J. Mark Richardson	SPC		11/10/77
J. Mark Richardson	SPC		11/10/77
Richome Oil & Gas Co.	SPC		5/31/76
Ran Ricks, Jr.	SPC		10/1/76
Ran Ricks, Jr.	SPC		8/1/77
Ran Ricks, Jr.	SPC		8/1/77
Ran Ricks, Jr.	SPC		11/14/77
Ran Ricks, Jr.	SPC		1/28/76
Ran Ricks, Jr.	SPC		4/6/76
JI & BM Roberts	SPC		2/25/76
JI & BM Roberts	SPC		2/25/76
Dale Robinson, et al.	SPC		2/15/77
Romano & Romano Oil Property & Mgmt.	SPC		3/2/76

Small Producer Contracts Volume VII

Samson Resources	SPC		8/30/67
Samson Resources	SPC		10/8/65
Samson Resources	SPC		4/17/69
Samson Resources	SPC		2/1/78
Samson Resources	SPC		2/1/78
Scandlin Oil	SPC		5/31/76
Scarlen Petroleum, Inc.	SPC		8/19/76
Scarlen Petroleum, Inc.	SPC		10/1/76
Scarlen Petroleum, Inc.	SPC		6/10/77
Scarlen Petroleum, Inc.	SPC		6/10/77
Scarlen Petroleum, Inc.	SPC		6/10/77
Scarlen Petroleum, Inc.	SPC		8/1/77
Seneca Oil	SPC		8/1/77
Seneca Oil	SPC		11/14/77
Seneca Oil	SPC		1/29/78
Seneca Oil	SPC		8/15/78
Serban	SPC		8/30/78
Serban	SPC		8/1/78
Ethelyn Shadid	SPC		3/23/60
George B. Shaw	SPC		4/21/65
George B. Shaw	SPC		9/15/65

Fixed Rate Contracts—Continued

Seller	Rate schedule	No.	Date
J. D. Simmons Inc.	SPC		2/4/76
V.I. Smith	SPC		12/30/75
Spradling Drilling Co.	SPC		8/27/76
States Petroleum	SPC		12/31/77
St. Joe Petroleum Corp.	SPC		5/9/77
Suco Oil Corp.	SPC		11/19/76
Suco Oil Corp.	SPC		11/19/76
David R. Sylvan	SPC		12/3/76

Small Producer Contracts Volume VIII

The Termo Company	SPC		10/27/77
R. L. Taylor	SPC		2/12/76
R. L. Taylor	SPC		2/12/76
John A. Taylor	SPC		4/8/79
John A. Taylor	SPC		4/28/78
R. Clark Taylor	SPC		6/19/75
Texas Energies Inc. et al.	SPC		1/25/78
Texas Oil & Gas Company	SPC		1/22/76
Texas Oil & Gas Company	SPC		6/2/77
Texas Oil & Gas Corp.	SPC		8/31/77
Texas Oil & Gas Corp.	SPC		9/1/77
Texas Oil & Gas Corp.	SPC		9/1/77
Texas Oil & Gas Corp.	SPC		9/29/77
Texas Oil & Gas Corp.	SPC		1/25/78
C. H. Todd Inc.	SPC		4/12/62
Tumbleweed Production Co.	SPC		6/6/77
Tuthill & Barbee	SPC		7/21/75
Unit Drilling Co., et al.	SPC		5/12/77
Venture 1200	SPC		7/8/76
Voiles, et al.	SPC		4/2/59
James B. Wallace	SPC		3/1/76
James B. Wallace	SPC		2/7/77
Ruby I. Webb	SPC		3/23/60
West Plains Royalty Co. Inc.	SPC		1/27/78
Western Gas Processors	SPC		1/1/78
Western Gas Processors	SPC		1/1/78
Western Gas Processors	SPC		1/1/78
H. L. Willett	SPC		2/2/76
H. L. Willett	SPC		2/2/76
H. L. Willett	SPC		7/19/77
H. L. Willett	SPC		3/17/78
Winter Drilling Inc.	SPC		7/20/76
Robert R. Wilson, et al.	SPC		3/4/61
R. O. Wilkin	SPC		3/23/60
Wolf Energy Co.	SPC		1/7/76
Woods Petroleum Corporation	SPC		10/26/76
Woods Petroleum Corporation	SPC		2/14/77
Woods Petroleum Corporation	SPC		2/14/77
Zenith Drilling Corporation	SPC		12/12/75
Zenith Drilling Corporation	SPC		2/7/76
Yucca Petroleum Company	SPC		8/23/56
Yucca Petroleum Company	SPC		4/25/60

Large Producers Supplement

Gulf Oil Corporation	Pending		1/30/57
Gulf Oil Corporation	Pending		1/30/57
Southland Royalty Company	Pending		9/21/78

Contracts Which, On Their Face, Appear To Authorize Collection Of NGPA Ceiling Prices
Volume I

Ashland Exploration Inc.	108		11/19/53
Ashland Exploration Inc.	109		11/19/53
Ashland Exploration Inc.	120		11/19/53
Ashland Exploration Inc.	121		11/19/53
Atlantic Richfield Co.	339		8/30/51
Ashland Exploration Inc.	347		3/23/60

Volume II

Kerr McGee Corporation	096		8/15/60
Cabot Corporation	122		6/28/76
Cities Service Company	107		1/22/65
Cities Service Company	148		3/3/61
Colteco Corporation	002		11/19/53
Continental Oil Company	234		3/23/60
Cabot Corporation	047		1/19/60
Gulf Oil Corporation	293		2/1/66

Volume III

Diamond Shamrock Corp.	053		8/1/76
Diamond Shamrock Corp.	064		8/7/76
Shell Oil Co.	021		8/30/51
Shell Oil Co.	250		2/14/61
Shell Oil Co.	262		8/6/51
Shell Oil Co.	267		8/23/60
Shell Oil Co.	276		5/31/62
Shell Oil Co.	317		12/28/64
Shell Oil Co.	332		1/20/66
Shell Oil Co.	335		4/15/66
Shell Oil Co.	353		11/17/67
Shell Oil Co.	360		3/12/68
Shell Oil Co.	380		4/1/70
Superior Oil Co.	151		1/23/57
Phillips Petroleum Co.	005		9/22/59
Phillips Petroleum Co.	053		7/2/52
Phillips Petroleum Co.	290		8/24/56
Phillips Petroleum Co.	296		8/20/57
Phillips Petroleum Co.	327		9/2/58
Phillips Petroleum Co.	353		9/22/59
Phillips Petroleum Co.	399		4/18/63
Phillips Petroleum Co.	409		12/2/64
Phillips Petroleum Co.	412		5/11/65
Phillips Petroleum Co.	414		9/16/63
Phillips Petroleum Co.	418		11/11/65
Phillips Petroleum Co.	419		11/23/65
Phillips Petroleum Co.	421		10/25/65
Phillips Petroleum Co.	432		11/30/66
Phillips Petroleum Co.	446		3/18/68
Phillips Petroleum Co.	447		3/25/66
Phillips Petroleum Co.	449		5/18/58
Phillips Petroleum Co.	476		2/6/70
Phillips Petroleum Co.	476		4/15/70
Phillips Petroleum Co.	479		3/1/70
Phillips Petroleum Co.	526		7/12/73
Phillips Petroleum Co.	561		10/1/73
Phillips Petroleum Co.	565		3/1/70
Phillips Petroleum Co.	567		4/5/72
Phillips Petroleum Co.	589		2/12/76
Phillips Petroleum Co.	605		3/11/77
Phillips Petroleum Co.	620		7/15/63

Small Producer Contracts Volume I

Alpar Resources Inc.	SPC		5/3/76
Andover Oil Company	SPC		4/23/79
ASA Energy Corp.	SPC		4/4/79
James P. Biddick	SPC		4/16/79
Blaik Oil Company	SPC		3/1/79
Milton Blakemore	SPC		1/29/79
Veldo H. Brewer Co., Ltd	SPC		4/17/79
Richard E. Brunsterer	SPC		4/16/79
Blair Oil Company	SPC		2/26/79
B&W Oil & Gas Co.	SPC		2/26/79
B&W Oil & Gas Co.	SPC		2/26/79

Small Producer Contracts Volume II

John P. Castleman, Jr.	SPC		4/3/79
Continental Gas Tran. Co.	SPC		1/4/79
Douglas R. Cummings	SPC		4/4/79
Davis Oil Company, et al.	SPC		12/16/78
Davis Oil Company, et al.	SPC		12/16/78
Davis Oil Company, et al.	SPC		4/16/79
Cub F. Dillard, Jr.	SPC		5/5/79
Dyco	SPC		4/20/79
Dyco	SPC		4/20/79

Small Producer Contracts Volume III

Ferguson Oil Co. Inc. et al.	SPC		8/31/62
Flag-Redjern Oil Company	SPC		7/10/78
Funk Petroleum	SPC		12/14/78
Gasanaderko, Ltd.	SPC		4/6/79
GHK Company	SPC		2/5/79
Joseph Gould	SPC		2/26/79
Gulf Energy	SPC		12/6/78
Robert L. Hadwiger	SPC		1/24/79
Harper Oil	SPC		1/29/79
J. D. Helms	SPC		4/10/79
Holly Energy	SPC		3/30/79

Small Producer Contracts Volume IV

Herman Geo. Kaiser et al.	SPC		1/23/57
Imperial Oil Co.	SPC		4/14/78
Imperial Oil Co.	SPC		7/7/78
Imperial Oil Co.	SPC		7/10/78
Herman Geo. Kaiser et al.	SPC		4/20/79
Kansas K-Tex Joint Venture	SPC		1/12/79

Small Producer Contracts Volume V

Dorothy McGill	SPC		4/30/79
Gene McGill	SPC		4/2/79
Mesa Petroleum Co., et al.	SPC		8/1/79
Mesa Petroleum Co., et al.	SPC		5/1/76
Monexco	SPC		1/19/79
Moody Energy Company	SPC		1/29/79
Natomas	SPC		4/20/79
Natomas	SPC		4/20/79
Frank G. & Patricia J. Oller	SPC		5/2/79

Small Producer Contracts Volume VI

Panhandle Coop Royal. Co.	SPC		4/4/79
Panhandle Coop Royal. Co.	SPC		4/4/79
Panhandle Western Gas Co.	SPC		12/13/78
Petroleum Associates Fund	SPC		12/12/63
Page Petroleum Inc.	SPC		11/11/65
Payne Petroleum Corp.	SPC		2/12/79
Petroleum Investments Ltd.	SPC		3/23/79
Petroleum Investments Ltd.	SPC		3/23/79
Ricks Exploration Corp.	SPC		2/7/79
Ran Ricks, Jr.	SPC		2/26/79
Rocket Oil Company	SPC		4/6/79

Small Producer Contracts Volume VII

Santa Fe Energy	SPC		10/13/65
Santa Fe Energy	SPC		10/13/65
Santa Fe Energy	SPC		10/13/65
Sarkeys, Inc.	SPC		11/7/78
Sandlin Oil	SPC		4/30/79
Sands SPGS Oil & Gas	SPC		11/19/79
Sands SPGS Oil & Gas	SPC		11/19/79
Viersen & Sant	SPC		4/17/79
Seneca Resources	SPC		12/13/78
Service Drilling	SPC		2/20/79
1776 Inc.	SPC		5/3/79
Singer Brothers	SPC		4/4/79
Southland Royalty Company	SPC		4/27/79
Spaertex Gran Co.	SPC		4/30/79
C. Dale Stomquist	SPC		1/29/79

Small Producer Contracts Volume VIII

Texas American Oil Corp.	SPC		1/15/79
Texas Oil & Gas Corp.	SPC		4/9/79
Trigg Drilling Company	SPC		4/30/79
Wessely Energy Corp.	SPC		2/28/79
E.B. Yale	SPC		3/23/60

Large Producers Supplement

Shell Oil Company & Atlantic Richfield	Pending		8/30/51

Miscellaneous
Volume I

Amerada Hess Corporation	188		5-16-66

Volume II

Cities Service Company	252		2-2-59
Cities Service Company	256		2-2-59
Enserch Exploration, Inc.	001		7-1-75
Enserch Exploration, Inc.	119		7-1-75
Gulf Oil Corporation	371		8-5-66
Helmerich & Payne, Inc.	028		9-1-59

Volume III

Sun Gas Co.	204		7-20-65
Texaco, Inc.	963		9-18-65
Texaco, Inc.	656		8-10-63

Small Producer Contracts Volume I

An-Son Corporation	SPC		7-12-66

Small Producer Contracts Volume IV

Herman Geo. Kaiser, et al.	SPC		4-8-65

Fixed Rate Contracts—Continued

Seller	Rate schedule No.	Date
Small Producer Contracts Volume VI		
Ratliff Drilling Co.	SPC	6-29-66
Small Producer Contracts Volume VII		
Sabine Production Co.	SPC	7-12-66
Small Producer Contracts Volume VIII		
The Termo Company	SPC	10-27-77

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[Docket No. GP80-24]

Texas Eastern Transmission Corp.; Notice of Third-Party Protests [1]

Issued: January 10, 1980.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23–B [2], and "Order on Rehearing of Order No. 23–B," [3] the staff of the Commission protested on December 14, 1979, the assertion by the Texas Eastern Transmission Corporation (Texas Eastern) and certain producers that the contracts identified in its protest constitute contractual authority for the producer to charge and collect applicable maximum lawful prices under the Natural Gas Policy Act of 1978 (NGPA).

Staff stated that the language of the contracts contained in Appendix A of this notice does not constitute authority for the producer to increase prices to the extent claimed by Texas Eastern in its evidentiary submission.

Take further notice that on December 10, 1979 the Associated Gas Distributors (AGD) filed a Supplemental Third-Party Protest to their protest of October 15, 1979. AGD protests that the contracts listed in Appendix B do not constitute contractual authority for the producers to increase prices to the applicable NGPA maximum lawful price.

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the Commission on or before January 24, 1980, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR § 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Kenneth F. Plumb,
Secretary.

Appendix A

Seller	Rate schedule No. or contract date
American Petrofina Co. of Texas	63
McAlester Fuel Company	12-01-77
Mobil Oil Corporation	62
Monsanto Company	2
Owl Petroleum Company	10-27-70
Tenneco Oil Company	72

Appendix B

Producer	Rate schedule No. or contract date
Louisiana Land Offshore Exploration Co.	5-20-79
Texas Eastern Exploration Co.	8-8-79
Sun Oil Co.	617/10-3-79
Union Texas Petroleum	20/7-31-79
Davis Oil Co.	7-20-79
Hanson Production Co.	SPC
McCormick 1971 Oil and Gas Program	5-16-79
Paramount Petroleum	7-6-79
Union Oil Co. of Ca.	139/8-13-79
Union Texas Petroleum	14/7-31-79
Union Texas Petroleum	16/7-31/79
Continental Oil Co.	461/9-7-79
Exxon Corp.	15/10-1-79
General American Oil Co.	18/8-14-79
Gulf Oil Corp.	108/10-4-79
Mobil Oil Corp.	418/6-29-79
Atlantic Richfield Co.	365/9-11-79

[FR Doc. 80-1421 Filed 1-18-80; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. GP80-21]

Texas Eastern Transmission Corp.; Notice of Third-Party Protests [1]

Issued January 10, 1980.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23–B [2], and "Order on Rehearing of Order No. 23–B," [3] the staff of the Commission protested on October 15, 1979, the assertion by the Texas Eastern Transmission Corporation (Texas Eastern) and certain producers that the contracts identified in its protest constitute contractual authority for the producers to charge and collect any applicable maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA).

Staff stated that the language of the contracts contained in Appendix A of this notice does not constitute authority for the producer to increase prices to the extent claimed by Texas Eastern in its evidentiary submission.

Take further notice that the Public Service Commission of the State of New York (New York) also filed a third-party protest on October 15, 1979. New York protests that the contracts in Appendix B do not constitute contractual authority for the producer to increase prices to the applicable NGPA maximum lawful price. New York's position has been adopted and incorporated in protests filed by Associated Gas Distributors (AGD), the Arizona Corporation Commission, the Florida Cities, the Gas Consumers Group, the Kansas State Corporation Commission, Congressman Andrew Maguire, joint protests by Connecticut Public Utilities Control Authority, Maine Public Utilities Commission, Massachusetts Department of Public Utilities, New Hampshire Public Utilities Commission, Rhode Island Division of Public Utilities and Carriers, and Dennis J. Roberts II, the Cities of Mangum, Oklahoma and Winfield, Kansas, the Memphis Light, Gas and Water Division, the South Dakota Public Service Commission and the Minnesota Public Service Commission.

Take further notice that on October 15, 1979, Associated Gas Distributors (AGD) filed separate protests with respect to producer assertions of contractual authority to collect NGPA ceiling prices. The contracts separately protested by AGD are listed in Appendix C. AGD's position has been adopted and incorporated in protests by Memphis Light, Gas and Water Division; Connecticut Public Utilities Control Authority, Maine Public Utilities Commission, Massachusetts Department of Public Utilities, New Hampshire Public Utilities Commission, Rhode Island Division of Public Utilities and Carriers, and Dennis J. Roberts, II.

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the Commission, on or before January 24, 1980, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR § 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Kenneth F. Plumb,
Secretary.

[1] The term "third-party protest" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79–22, issued June 21, 1979.

[3] Docket No. RM79–22, issued August 6, 1979.

[1] The term "third party protest" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79–22, issued June 21, 1979.

[3] Docket No. RM79–22, issued August 6, 1979.

Appendix A

Producer	Rate schedule No. or contract date
Hassie Hunt Exploration Co.	37/1-8-69
Sun Oil Co.	35/9-1-73
Texaco Inc.	273
Atlantic Richfield Co.	160
Barth Energy Corp.	6-7-77
Belco Petro. Corp.	8-9-74
Mills Bennett Estate	7-5-77
C & K Petro. Inc.	8-15-74
CEJA Corp.	4-7-75
Continental Oil Co.	435
Enserch Explor., Inc.	67
Enserch Explor., Inc.	90
Exxon Corp.	490
Highland Resources, Inc.	6
HNG Oil Co.	17
Jones-O'Brien, Inc.	10-27-75
La. Land & Explor. Co.	6
Marathon Oil Co.	143
A. Nelson McCarter	7-1-77
Mobil Oil Corp.	543
Paramount Petroleum Corp.	1-5-77
Pennzoil Producing Co.	251
Placid Oil Co.	26
Lamar Hunt	9
Lamar Hunt Trust Estate	8
Nelson Bunker Hunt Trust Estate	7
William Herbert Hunt Trust Estate	10
Sun Gas Co.	424
Sun Oil Co.	28
Texas Eastern Explor. Co.	13, 16, 18
Texas Oil & Gas Corp.	93
Union Oil Co. of California	235
Atlantic Richfield Co.	606
J.M. Huber Corp.	77
Kerr-McGee Corp.	93
Amoco Prod. Co.	8
Amoco Prod. Co./Cities Service Co.	283/375
Atlantic Richfield Co.	268
George L. Blohm	5-28-62
Chevron USA, Inc.	42
Cities Service Co.	377
Claiborne Gas Co.	8-14-59
Getty Oil Co.	191
LA Coastal Petro. Corp.	8-12-69
Tri-State Gas Group	8-5-63
Union Oil of California	201/10-7-68

Appendix B

Type A—Pricing Clause

Name of seller	R.S. No. or contract date	Date of type B	Date of earlier clause
American Petrofina	7	10/01/77	11/28/55
American Petrofina	33	10/01/77	12/01/55
Coastal States	39	10/01/77	12/01/55
American Petrofina	40	4/05/77	2/05/63
American Petrofina	44	12/01/77	2/18/56
Getty Oil	7	6/20/79	5/01/73
Wm. Herbert Hunt	2	12/01/76	11/01/76
IBHK Operators	4/04/74	11/01/77	4/01/74
MF McCain	6/01/79	6/01/79	4/01/55
			8/01/64
			12/23/75
Mitchell Energy Corp	9	5/24/79	11/01/73
Mitchell Energy Corp	10	4/28/79	11/14/73
Mitchell Energy Corp	35	5/16/79	10/01/76

Type C—*Pricing Clause*

Name of Seller	R. S. No. or contract date	Date of contract
Amerada Hess	163	1/28/74
Amerada Hess	165	8/01/76
American Petrofina Co. of Texas.	40	2/05/63
American Petrofina Co. of Texas.	63	8/05/76
American Petrofina Co. of Texas.	88	8/01/76
Aminoil USA Inc	39	1/28/74
Aminoil USA Inc	43	1/25/77
Amoco Production Co	58	1/01/75
Amoco Production Co	87	1/01/75
Amoco Production Co	150	8/01/75
Atlantic Richfield	141	11/01/72
Atlantic Richfield	142	11/01/72
Atlantic Richfield	459	7/01/61
Atlantic Richfield	554	3/20/76
Atlantic Richfield	659	10/20/72
Atlantic Richfield	150	9/10/76
Atlantic Richfield	244	12/01/73
Atlantic Richfield	359	10/01/73
Atlantic Richfield	360	10/01/73
Atlantic Richfield	365	12/01/73
Atlantic Richfield	507	1/05/77
Barth Energy Corp.		6/07/77
Belco Petroleum Corp.		8/09/74
Benedvon-Trees		3/29/78
Mills Bennett		1/01/77
Mills Bennett		1/05/77
Mills Bennett		3/04/77
Mills Bennett		7/05/77
Robert M. Beren		6/27/74
Big "6" Drilling		6/14/71
Bock & Bacon	11/1/72	10/01/73
Bradco Oil & Gas		5/01/75
Brammer		2/01/58
Brammer Engineering		11/01/76
George R. Brown	55	11/18/66
Glen D. Buie		12/16/69
Terra Resources	37	12/16/69
Burk Royalty Co.		2/04/58
J. D. Burke		10/23/58
J. D. Burke		12/01/74
C & K Petroleum		8/15/74
Cabot Corp.	116	9/01/75
Morris Cannan		8/01/71
Morris Cannan		12/26/74
Morris Cannan		12/26/74
F. William Carr		9/10/73
Carter-Jones Drilling		7/18/75
Kerr-McGee	157	7/18/75
Case-Pomeroy Oil	6	9/01/75
Ceja Corp.		4/07/75
Champlin Petroleum	2	8/15/53
Champlin Petroleum	27	9/14/56
Chevron U.S.A	29	5/01/62
Chevron U.S.A	38	11/01/65

Type A—Pricing Clause—Continued

Name of seller	R.S. No. or contract date	Date of contract
H. L. Hawkins and H. L. Hawkins, Jr.	11/10/65	11/10/65

[1] Amend B.
[2] Amend.
[3] Amend.

Type B—Pricing Clause

Producer name	R.S. No. or contract date	Date of type B	Date of earlier clause
American Petrofina	7	10/01/77	11/28/55
American Petrofina	33	10/01/77	12/01/55
Coastal States	39	10/01/77	12/01/55
American Petrofina	40	4/05/77	2/05/63
American Petrofina	44	12/01/77	2/18/56
Getty Oil	7	6/20/79	5/01/73
Wm. Herbert Hunt	2	12/01/76	11/01/76
IBHK Operators	4/04/74	11/01/77	4/01/74
MF McCain	6/01/79	6/01/79	4/01/55
			8/01/64
			12/23/75
Mitchell Energy Corp	9	5/24/79	11/01/73
Mitchell Energy Corp	10	4/28/79	11/14/73
Mitchell Energy Corp	35	5/16/79	10/01/76

Type C—*Pricing Clause*

Name of Seller	R. S. No. or contract date	Date of contract
Amerada Hess	163	1/28/74
Amerada Hess	165	8/01/76
American Petrofina Co. of Texas.	40	2/05/63
American Petrofina Co. of Texas.	63	8/05/76
American Petrofina Co. of Texas.	88	8/01/76
Aminoil USA Inc	39	1/28/74
Aminoil USA Inc	43	1/25/77
Amoco Production Co	58	1/01/75
Amoco Production Co	87	1/01/75
Amoco Production Co	150	8/01/75
Atlantic Richfield	141	11/01/72
Atlantic Richfield	142	11/01/72
Atlantic Richfield	459	7/01/61
Atlantic Richfield	554	3/20/76
Atlantic Richfield	659	10/20/72
Atlantic Richfield	150	9/10/76
Atlantic Richfield	244	12/01/73
Atlantic Richfield	359	10/01/73
Atlantic Richfield	360	10/01/73
Atlantic Richfield	365	12/01/73
Atlantic Richfield	507	1/05/77
Barth Energy Corp.		6/07/77
Belco Petroleum Corp.		8/09/74
Benedvon-Trees		3/29/78
Mills Bennett		1/01/77
Mills Bennett		1/05/77
Mills Bennett		3/04/77
Mills Bennett		7/05/77
Robert M. Beren		6/27/74
Big "6" Drilling	6/14/71	11/26/74
Bock & Bacon	11/1/72	10/01/73
Bradco Oil & Gas		5/01/75
Brammer		2/01/58
Brammer Engineering		11/01/76
George R. Brown	55	11/18/66
Glen D. Buie		12/16/69
Terra Resources	37	12/16/69
Burk Royalty Co.		2/04/58
J. D. Burke		10/23/58
J. D. Burke		12/01/74
C & K Petroleum		8/15/74
Cabot Corp.	116	9/01/75
Morris Cannan		8/01/71
Morris Cannan		12/26/74
Morris Cannan		12/26/74
F. William Carr		9/10/73
Carter-Jones Drilling		7/18/75
Kerr-McGee	157	7/18/75
Case-Pomeroy Oil	6	9/01/75
Ceja Corp.		4/07/75
Champlin Petroleum	2	8/15/53
Champlin Petroleum	27	9/14/56
Chevron U.S.A	29	5/01/62
Chevron U.S.A	38	11/01/65

Type C—*Pricing Clause*—Continued

Name of Seller	R. S. No. or contract date	Date of contract
Chevron U.S.A	42	8/8/67
Chevron U.S.A	47	2/15/69
Chevron U.S.A	54	7/01/72
Cities Service	2	4/27/53
Cities Service	228	9/01/67
Cities Service	314	8/16/69
Cities Service	330	8/27/70
Cities Service	348	8/21/71
Cities Service	350	4/27/53
Cities Service	368	8/01/75
Cities Service	368	3/01/76
Cities Service	370	8/03/77
Continental Oil Co	84	1/05/77
Continental Oil Co	139	1/01/77
Atlantic Richfield Co	161	1/01/77
Sun Oil Co.	74	4/01/77
Continental Oil Co	248	3/01/75
Continental Oil Co	435	3/02/77
Edwin L. Cox	8/15/48	8/01/73
Edwin L. Cox	5/01/50	2/05/76
Edwin L. Cox	3/11/68	2/10/76
Cremer Oil Co	10/29/73	10/29/73
Daniel Oil Co	8/01/76	8/01/76
Davis Oil Co.	11/29/76	11/29/76
Davis Oil Co.	7/25/74	7/25/74
Ladd Petroleum Corp	72	7/25/74
Devon Corp	42	7/23/74
Louie Dorfman	12/20/50	9/24/74
Energy Reserves Group, Inc	48	3/01/74
Energy Reserves Group, Inc	76	10/27/74
Enserch Exploration, Inc	84	10/27/74
Enserch Exploration, Inc	87	10/27/74
Enserch Exploration, Inc	90	5/01/68
Amoco Production Co	541	5/01/68
Exxon Corp	12	10/01/53
Exxon Corp	15	1/01/73
Exxon Corp	19	5/01/66
Sun Oil Co.	23	5/01/68
Exxon Corp	401	1/12/72
Exxon Corp	433	5/01/76
Exxon Corp	496	4/29/71
Exxon Corp	505	2/17/72
Tetco No. 1890 (Exxon)	8/01/76	5/01/76
Fairmont Oil Corp.	23	9/01/75
Finley Co.	7/20/77	7/20/77
Forced Gas Co.	12/01/74	12/01/74
Forest Oil Corp.	11	8/01/72
Fortune Gas and Oil, Inc	8/03/76	8/03/76
General American Oil Co. of Texas.	16	7/01/74
General Crude Oil Co	9/06/74	9/06/74
Getty Oil Co	55	11/20/75
Getty Oil Co	111	10/26/75
A. G. Hill	4	1/24/61
Getty Oil Co	269	8/01/75
Getty Oil Co	372	10/01/75
Getty Oil Co	394	4/01/75
Getty Oil Co	342	9/01/67
Getty Oil Co	372	8/16/68
Getty Oil Co	374	5/26/70
Getty Oil Co	378	6/01/71
Hugh Goodrich	8/01/74	8/01/74
Gulf Oil Corp.	108	12/05/73
Gulf Oil Corp.	425	5/19/71
Gulf Oil Corp.	537	9/08/77
HNG Oil Co	4	6/24/74
HNG Oil Co	17	8/08/76
Lois H. Hering, Jr	11/26/74	11/26/74
H. L. Hawkins and H. L. Hawkins, Jr.	11/10/65	11/15/74
Herman F. Heep Trust	6/03/77	6/03/77
Tenneco Oil Co	11	6/03/77
Transocean Oil, Inc	8	6/03/77
Highland Resources, Inc	6	2/05/76
Houston Petroleum Co	10/07/77	10/07/77
J. M. Huber Corp	77	12/01/74
Atlantic Richfield Co	606	12/01/74
Hassie Hunt, Inc	4	9/20/77
Hassie Hunt Exploration Co	37	1/08/58
Hunt Oil Co.	32	1/24/77
Hunt Oil Co.	78	2/26/76
Atlantic Richfield	544	2/26/76
Marathon Oil Co.	69	2/26/76
Sun Oil Co.	526	2/26/76
Hurley Oil and Gas Co	4/15/48	8/01/72
Hurley Oil and Gas Co	4/15/75	4/15/74
C. A. Hurst	11/18/60	1/31/77
Kerr-McGee Corp	97	8/03/76
Devon Corp.	85	8/03/76
Industrial Electronic Engineering Corp.	12/10/56	1/15/75
Inexo Oil co	10/01/74	10/01/74

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Type C—*Pricing Clause*—Continued

Name of Seller	R. S. No. or contract date	Date of contract
Inexo Oil Co.	5/01/76	8/01/76
Joanaco Projects of Texas	7/15/75	7/15/75
Jones-O'Brien, Inc	10/27/75	10/27/75
Amoco Production Co	720	10/27/75
Exxon Corp	201	10/27/75
Placid Oil Co	36	10/27/75
Tenneco Oil Co	101, 113	10/27/75
Edwin M. Jones Oil Co	11/20/75	11/20/75
Kerr-McGee Corp	133	9/01/75
Kerr-McGee Corp	93	5/01/76
S. H. Killingsworth	6/01/73	6/01/73
Kilroy Properties Inc	9/29/75	9/29/75
La Coastal Petroleum Corp	3/20/70	3/20/70
Largo Drilling Company, Inc	8/20/75	8/20/75
The Louisiana Land and Exploration Co.	6	7/30/70
The Louisiana Land and Exploration Co.	19	1/28/74
The Louisiana Land and Exploration Co.	20	4/12/77
Louisiana Land Offshore Exploration Co., Inc.	2	4/18/75
Louisiana Land Offshore Exploration Co., Inc.	3	8/02/77
Louisiana Land Offshore Exploration Co., Inc.	4	7/18/77
Lyons Petroleum, Inc	3/01/63	2/09/73
M–K Oil and Gas, Inc	8/01/73	8/01/73
MPS Production Co	11/11/66	4/01/75
M & V Oil, Inc	11/30/77	11/30/76
Maguire Oil Co	6/01/75	8/01/76
Marathon Oil Co	128	1/28/74
Marathon Oil Co	132	4/21/75
Marathon Oil Co	139	9/01/76
Marathon Oil Co	143	6/21/77
M. H. Marr	4/15/48	11/01/74
McAlester Fuel Co	12/01/77	12/01/77
A. Nelson McCarter	7/01/77	7/01/77
McCormick Properties, Inc	6/21/74	6/21/74
Mesa Petroleum Co	76	3/01/76
Mobil Oil Corp	43	5/01/79
Mobil Oil Corp	72	12/12/78
Mobil Oil Corp	82	5/13/75
Mobil Oil Corp	397	9/19/78
Mobil Oil Corp	407	9/19/78
Mobil Oil Corp	414	9/01/73
Mobil Oil Exploration & Producing SE.	418	5/13/78
Mobil Oil Corp	420	10/09/78
Mobil Oil Corp	441	5/13/75
Mobil Oil Corp	454	9/19/78
Mobil Oil Corp	456	9/19/78
Mobil Oil Corp	467	9/19/78
Mobil Oil Corp	476	9/19/78
Mobil Oil Corp	486	2/18/72
Mobil Oil Corp	526	2/25/75
Mobil Oil Corp	527	2/25/75
Mobil Oil Corp	528	2/25/75
Mobil Oil Corp	556	8/21/78
Mobil Oil Corp	543	5/17/77
Monroe Producers, Inc	1/08/76	1/08/76
Monsanto Co	2	9/01/73
Monsanto Co	135	7/01/77
Monsanto Co	1	9/01/73
Robert Mosbacher	11/01/72	5/20/76
	10/01/73	
Robert Mosbacher	10/05/73	10/05/73
Murphy Oil Corp	1	11/01/74
Murphy Oil Corp	13	1/25/74
Murphy Oil Corp	14	12/03/76
George A. Musselman, et al	7/15/75	7/15/75
Occidental Petroleum Corp	11/20/64	8/13/73
Paramount Petroleum Corp	106	1/05/77
Paramount Petroleum Corp	12/05/73	12/05/73
Patrick Petroleum Corp	2/25/66	11/01/73
Patrick Petroleum Corp	8/01/77	8/01/77
Petro-Lewis Funds, Inc	3/25/66	5/01/75
Ashland Oil, Inc	246	5/01/75
Energy Reserves Corp., Inc	148	5/01/75
Pennzoil Producing Co	202	7/26/74
Pennzoil Producing Co	251	7/01/73
Pennzoil Producing Co	300	8/15/74
Petrofunds, Inc	2/22/72	2/22/72
Petroleum Corp. of Texas	4/27/53	5/01/66
Petroleum Production Engineers	7/28/61	5/16/77
A. O. Phillips	6/10/75	1/14/77
Phillips Petroleum Co	201	11/20/75
Phillips Petroleum Co	270	5/01/76
Placid Oil Co	25	10/14/74
Lamar Hunt	9	10/14/74

Type C—*Pricing Clause*—Continued

Name of Seller	R. S. No. or contract date	Date of contract
Lamar Hunt Trust Estate	5	10/14/74
Nelson Bunker Hunt Trust Estate	7	10/14/74
William Herbert Hunt Trust Estate	10	10/14/74
W. L. Puls	5/19/48	1/05/74
Reserve Oil and Gas Co	1/01/74	1/01/74
Reserve Oil and Gas Co	7/15/75	7/15/75
Monsanto Co	133	7/15/75
Reserve Oil, Inc	11/18/75	11/18/75
J. I. Roberts	4/15/48	8/01/72
Sabine Production Co	4/22/63	2/01/75
Sanchez-O'Brien Petroleum Corp.	9/01/77	9/01/77
Santa Fe Energy Co	11/05/71	11/05/71
Shell Oil Co	10	10/27/70
Owl Petroleum Co	10/27/70	10/27/70
Shell Oil Co	257	12/13/73
Shell Oil Co	379	8/12/76
Shell Oil Co	400	1/01/77
Shell Oil Co	369	8/27/68
Sohio Petroleum Co	11	2/01/76
Sohio Petroleum Co	28	9/01/75
Southland Drilling Co., Inc	11/01/72	11/01/72
	10/01/73	
J. G. Stone	1/15/75	1/15/75
Stream, Inc	10/01/75	10/01/75
H. A. Stuart	12/18/61	4/25/75
Sun Gas Co	205	6/03/77
Sun Gas Co	282	11/20/73
Sun Gas Co	330	10/26/76
Sun Gas Co	405	5/01/76
Sun Gas Co	424	12/15/72
Sun Oil Co	35	9/01/73
Texaco	273	9/01/73
Sun Oil Co	152	6/01/76
Sun Oil Co	34	11/01/73
Sun Oil Co	28	11/01/76
Sun Oil Co	161	1/29/73
Sun Oil Co	474	10/08/73
Superior Oil Co	167	12/10/73
Tenneco Oil Co	72	11/01/74
Terra Resources	37	9/01/74
Texaco, Inc	97	12/05/73
Texaco, Inc	160	11/01/74
Texaco, Inc	458	4/01/71
Texaco, Inc	272	11/13/76
Texaco, Inc	416	1/04/68
Texaco, Inc	479	6/22/72
Texas Eastern Exploration Co	10	8/27/74
Texas Eastern Exploration Co	12	4/22/75
Texas Eastern Exploration Co	13	5/31/77
Texas Eastern Exploration Co	15	6/15/77
Texas Eastern Exploration Co	16	8/05/77
Texas Eastern Exploration Co	17	7/13/77
Texas Eastern Exploration Co	18	7/12/77
Texas Eastern Exploration Co	6	8/24/73
Texas Eastern Exploration Co	7	8/24/73
Texas Eastern Exploration Co	8	8/24/73
Texas Eastern Exploration Co	9	8/24/73
Texasgulf, Inc	2/13/76	2/13/76
Texas Oil and Gas Corp	58	9/08/69
Texas Oil and Gas Corp	93	8/05/71
Triton Oil and Gas Corp	4/27/53	5/01/66
Union Co. of California	190	10/07/68
Union Co. of California	201	4/01/75
Union Co. of California	235	5/09/77
Union Co. of California	242	5/09/77
Union Co. of California	139	7/01/74
Union Co. of California	178	8/24/67
Union Co. of California	215	1/06/75
Union Co. of California	219	1/06/75
Union Co. of California	220	1/06/75
Union Co. of California	221	1/06/75
Union Texas Petroleum	14	1/01/74
Union Texas Petroleum	15	1/01/74
Union Texas Petroleum	20	1/01/74
Vaughey and Vaughey	4/15/48	7/01/73
Warren Petroleum Co	18–A, 18–B	1/14/72

[1] Amendment.

Appendix C

Texas Eastern Transmission Corporation

Seller	Rate schedule No.	Contract date
American Petrofina Co. of Texas	63	8/15/75
American Petrofina Co. of Texas	66	6/1/76
Amoco Prod. Co.	57	6/1/76
Mills Bennett Estate		1/1/77
Mills Bennett Estate		1/6/77
Mills Bennett Estate		3/4/77
Carter-Jones Drilling Co., Inc.		7/18/75
Kerr-McGee Corp.	157	
Chevron USA Inc.	56	6/3/77
Cities Service Co.	386	8/1/75
Cities Service Co.	358	3/1/76
Dixel Resources, Inc.		7/19/78
Getty Oil Co.	55	11/20/75
Getty Oil Co.	289	8/1/75
Getty Oil Co.	272	10/1/75
Gulf Oil Corp.	537	9/8/77
Joanaco Projects of Texas	SPC	7/15/75
Edwin M. Jones Oil Co.	SPC	11/20/75
Larco Drilling Co., Inc.	SPC	8/20/75
M&V Oil, Inc.	SPC	11/30/76
Maguire Oil Co.	SPC	8/1/76
Monroe Producers, Inc.	SPC	1/8/76
Murphy Oil Corp.	14	1/13/76
George A. Musselman	SPC	7/15/75
Patrick Petroleum Corp.	SPC	8/1/77
Phillips Petroleum Co.	261	11/20/75
Reserve Oil & Gas Co.	SPC	7/15/75
Reserve Oil Inc.	SPC	11/18/75
Stream Inc.	SPC	10/1/75
Sun Oil Co.	24	1/1/76
Monsanto Co.	122	
Aminoil USA	46	9/18/76
Case-Pomeroy Oil Corp.	11	3/20/79
Felmont Oil Corp.	33	8/16/79
Louisiana Land & Explor. Co.		5/30/79
Marathon Oil Co.		8/30/78
Marathon Oil Co.		1/17/79
Aminoil USA	47	9/12/76
Louisiana Land & Explor. Co.	26	6/26/76
Louisiana Land & Explor. Co.	3	8/2/77
Louisiana Land & Explor. Co.	4	7/18/77
Marathon Oil Co.	126	1/28/74
Marathon Oil Co.	139	9/1/76
Robert Mosbacher	SPC	11/1/72, 10/1/73
Southland Drilling Co. Inc.	SPC	11/1/72, 10/1/73
Sun Gas Co.	152	8/1/76
Sun Gas Co.	405	8/1/76
Texas Eastern Explor. Co.	12	4/22/75
Texas Eastern Explor. Co.	17	7/13/77
Texas Eastern Explor. Co.	18	7/12/77
American Petrofina Co. of Texas	7	10/1/77
American Petrofina Co. of Texas	33	10/1/77
Coastal States Gas Producing Co.	49	
American Petrofina Co. of Texas	44	12/1/77
Enserch Explor. Inc.	126	11/27/77
A.G. Hill	6	9/16/77
Hassie Hunt, Inc.	4	9/20/77
Texaco Inc.	170	10/17/77
Texaco Inc.	274	7/15/77
Amerada Hess	163	1/28/74
Amerada Hess	165	9/1/76
American Petrofina	40	2/5/63
American Petrofina	44	3/15/77
Aminoil USA	39	1/28/74
Aminoil USA	48	1/25/77
Bock & Bacon		11/1/72
Bock & Bacoh		10/1/73
Brammer Engr. Inc., et al		1/30/76
George R. Brown	22	2/19/76
Cabot Corp.	116	9/1/75
Case-Pomeroy Oil Corp.	8	10/1/75
Edwin L. Cox		6/1/60
Edwin L. Cox		2/10/76
Felmont Oil Corp.	23	9/1/75
HNG Oil Co.	17	8/6/76
Kerr-McGee Corp.	133	9/1/75
Louisiana Land & Explor. Co.	15	1/28/74
Louisiana Land & Explor. Co.	20	4/12/77
Louisiana Land & Explor. Co.	2	4/18/75
Amoco Production Co.	8	6/17/71
Amoco Production Co.	58	1/1/75
Amoco Production Co.	97	1/1/75
Atlantic Richfield Co.	144	12/1/73
Atlantic Richfield Co.	365	10/1/73
Beloo Petroleum Corp.-Sml. Prod. Contract		8/8/74

Texas Eastern Transmission Corporation—Continued

Seller	Rate schedule No.	Contract date
Mills Bennett Estate		7/5/77
Robert M. Beren		8/27/74
Big "6" Drilling Co.		6/14/71
Bradco Oil & Gas Co.		5/1/75
Glen D. Bule		11/1/75
Terra Resources	37	
Burk Royalty Co.		2/4/53
J.D. Burke		10/22/58
J.D. Burke		12/1/74
C&K Petroleum, Inc.		8/15/74
Morris Cannan		8/1/71
Morris Cannan		12/26/74
Morris Cannan		12/26/74
F. William Carr		9/10/73
Ceja Corp.		4/7/75
Champlin Petroleum Co.	2	3/1/72
Champlin Petroleum Co.	87	6/21/72
Chevron USA, Inc.	29	4/1/70
Chevron USA, Inc.	42	9/20/71
Chevron USA, Inc.	54	7/1/72
Cities Service Co.	220	9/1/67
Cities Service Co.	370	8/3/77
Continental Oil Co.	248	3/1/75
Continental Oil Co.	435	3/2/77
Cremer Oil Co.		10/29/73
Davis Oil Co.		7/25/74
Ladd Petroleum Corp.	72	
Devon Corp.		7/23/74
Energy Reserves Group	46	3/1/74
Energy Reserves Group	78	8/8/73
Enserch Explor., Inc.	84	10/27/74
Enserch Explor., Inc.	87	10/27/74
Enserch Explor., Inc.	90	5/1/69
Amoco Prod. Co.	541	
Exxon Corp.	15	1/1/73
Exxon Corp.	401	1/13/72
Finley Co.		7/20/77
Forced Gas Co.		12/1/74
Forest Oil Corp.	11	8/1/72
General American Oil Co of Texas	18	7/1/74
General Crude Oil Co	SPC	9–6–74
Getty Oil Co	111	
A. G. Hill	4	
Northern Pump Co	SPC	1/24/61, 10/26/75
Getty Oil Co	284	4/1/75
Getty Oil Co	362	9/1/67
Gulf Oil Corp.	42	6/16/77
Gulf Oil Corp.	108	12/5/73
Gulf Oil Corp.	425	5/19/71
Louis H. Haring, Jr.	SPC	11/26/75
H. L. Hawkins & H. L. Hawkins, Jr.	SPC	11/10/65
Highland Resources, Inc	6	2/5/76
Alvin C. Hope	SPC	9/30/73
William Herbert Hunt Trust Estate	2	11/1/73
Hurley Oil & Gas Co	SPC	4/15/75
IBEX Inc	SPC	1/15/74
Industrial Electronic Engineering Corp	SPC	12/10/56, 1/15/75
INEXO Oil Co.	SPC	10/1/74
S. H. Killingsworth	SPC	8/1/73
Lyons Petroleum Inc	SPC	3/1/63
M–K Oil & Gas Co	SPC	8/1/73
MPS Production Co	SPC	11/11/66
M. F. McCain	SPC	4/1/58, 12/23/75
McCormick Properties, Inc	SPC	6/21/74
Mitchell Energy	10	11/14/73
Mitchell Energy	35	10/1/76
Monsanto Co	1	9/1/73
Murphy Oil Corp	13	1/25/74
Occidental Petroleum Corp	SPC	11/20/64, 8/13/73
Paramount Petroleum Corp	SPC	12/5/73
W. L. Puls	SPC	5/19/48, 1/5/74
Reserve Oil & Gas Co	SPC	1/1/74
Sabine Production Co	SPC	4/22/63, 2/1/75
Santa Fe Energy Co	SPC	11/5/71
Shell Oil Co	369	8/27/68
Energy Reserves Corp., Inc	148	
Pennzoil Producing Co	202	7/26/74
Pennzoil Producing Co	251	7/1/73
Petrofunds Inc	SPC	2/22/75
Petroleum Production Engineers	SPC	7/28/61, 5/16/77
A. O. Phillips	SPC	6/10/75
Phillips Petroleum Co	270	5/1/76
J. G. Stone	SPC	1/15/75

Texas Eastern Transmission Corporation—Continued

Seller	Rate schedule No.	Contract date
H. A. Stuart	SPC	12/18/61, 4/25/75
Sun Oil Co.	24	11/1/73
Sun Gas Co	181	1/29/73
Sun Gas Co	205	6/3/77
Sun Gas Co	282	11/20/73
Sun Gas Co	474	10/8/73
Terra Resources	37	9/1/74
Texaco	416	1/4/68
Texaco	479	6/22/72
Texas Eastern Exploration Co	6	8/24/73
Texas Eastern Exploration Co	7	8/24/73
Texas Eastern Exploration Co	8	8/24/73
Texas Eastern Exploration Co	9	8/24/73
Texas Eastern Exploration Co	10	8/24/73
Texas Gulf Inc	SPC	2/13/76
Texas Oil & Gas Corp	93	8/5/71
Union Oil Co. of Calif	139	7/1/74
Union Oil Co. of Calif	179	8/24/67
Union Oil Co. of Calif	218	1/6/75
Union Oil Co. of Calif	219	1/6/75
Union Oil Co. of Calif	220	1/6/75
Union Texas Petroleum	14	1/1/74
Union Texas Petroleum	16	1/1/74
Union Texas Petroleum	20	1/1/74
Amoco Production Co	636	4/24/78
Amoco Production Co	172	4/24/78
Amoco Prod. Co.	763	1/17/78
Amoco Prod. Co.	764	1/17/78
Amoco Prod. Co.	765	1/17/78
Amoco Prod. Co.	766	1/17/78
Cavalla Energy Exploration Co		8/5/74
Highland Resources, Inc	18	11/22/77
Highland Resources, Inc	19	11/21/77
John N. Loflin	SPC	1/24/78
Marathon Oil Co.	156	7/16/78
Sanchez-O'Brien Petroleum Corp	SPC	2/8/78
Sun Gas Co	91	10/17/77
Sun Gas Co	337	10/20/77
Texas Eastern Exploration Co	19	5/10/78
Union Texas Petroleum	148	9/2/78
Atlantic Richfield Co	34	3/1/71
Atlantic Richfield Co	34	4/14/72
Atlantic Richfield Co	36	1/17/79
Atlantic Richfield Co	36	10/1/73
Patrick Petroleum	SPC	2/25/66, 11/1/73
Atlantic Richfield Co	141	11/1/72
Atlantic Richfield Co	142	11/1/72
Atlantic Richfield Co	459	10/20/72
Atlantic Richfield Co	160	9/10/76
Colorado County Gas Gathering	94	1/5/77
Hunt Oil Co.	32	1/24/77
A. Nelson McCarter	SPC	7/1/77
Paramount Petroleum Corp	SPC	1/5/77
Atlantic Richfield Co	359	10/1/73
Atlantic Richfield Co	360	10/1/73
Atlantic Richfield Co	507	1/5/77
Atlantic Richfield Co	554	9/20/78
Benedum-Trees Oil Co. Sml. Prod. Contract		9/25/78
HNG Oil Co.	4	6/24/74
Sun Gas Co	580	5/5/78
Barth Energy Corp.—Sml. Prod. Cont.		6/7/77
Brahmer Engineering, Inc.	1	11/1/76
George R. Brown	3	10/20/76
Morris Cannan		4/18/78
Morris Cannan		6/1/78
Morris Cannan		7/31/78
Centrus, Inc.		7/12/78
Cobra Oil & Gas Co.		10/3/78
Davis Oil Co.		8/15/78
Estate of Genevieve Tarlton Dougherty		5/26/78
Crystal Oil Co.		10/1/78
Hassie Hunt Exploration Co	39	10/1/78
Esenjay Petroleum Corp.		9/23/78
Expando Oil Co.		12/1/78
Field Drilling Co.		9/1/78
Roy R. Gardner		9/10/78
Getty Oil Co.	7	5/26/78
Getty Oil Co.	226	11/1/78
H–M Oil Co.	SPC	7/26/78
Harkins & Co.	SPC	6/7/78
William Herbert Hunt Trust Estate	2	12/1/78
IBEX	SPC	4/23/79
Kamlok, Inc.	SPC	7/5/79
Lightning Production, Inc.	SPC	12/23/77
Louisiana Land and Explor. Co.	29	8/9/78
Marathon Oil Co.	142	8/17/78

Texas Eastern Transmission Corporation—Continued

Seller	Rate schedule No.	Contract date
M. F. McCain	SPC	8/1/79
Mitchell Energy Corp.	9	5/24/79
Mitchell Energy Corp.	10	4/28/79
Mitchell Energy Corp.	35	5/16/76
Robert Mosbacher	SPC	10/13/78
Texas Oil & Gas Corp.	107	
Southeastern Pipeline Co.	SPC	9/24/78
Southland Minerals Co.	SPC	8/18/78
Sun Gas Co.	277	10/14/78
Texas Oil & Gas Corp.	44	11/1/78
Texas Oil & Gas Corp.	SPC	5/8/78
Texas Oil & Gas Corp.	SPC	7/25/78
Texas Oil & Gas Corp.	SPC	8/14/78
Vega Petroleum Corp.	SPC	3/31/78
Chevron USA, Inc.	36	1/2/75
Chevron USA, Inc.	53	2/15/69
Chevron USA, Inc.	87	11/25/70
Cities Service Co.	314	5/16/69
Cities Service Co.	330	8/27/70
Getty Oil Co.	372	8/16/69
Getty Oil Co.	374	8/26/70
La Coastal Petroleum Corp.	SPC	3/20/70
Atlantic Richfield Co.	669	10/20/72
Cities Service Co.	2	5/1/68
Cities Service Co.	355	5/1/68
Edwin L. Cox		8/15/48
Exxon Corp.	19	5/1/68
Sun Oil Co.	23	
Hurley Oil & Gas Co.	SPC	4/15/78, 8/1/72
M. H. Marr	4/15/48	11/1/74
Monsanto Co.	2	9/1/73
Murphy Oil Corp.	1	11/1/74
Petroleum Corp. of Texas	SPC	2/27/53, 5/1/66
J. I. Roberts	SPC	4/15/48
Sun Oil Co.	35	9/1/73
Tenneco Oil Co.	72	11/1/74
Triton Oil & Gas Corp.	SPC	4/27/53
Vaughey & Vaughey	SPC	4/15/48, 7/1/73
Sohio Petroleum Co.	11	2/1/76
Cities Service Co.	346	8/21/71
Exxon Corp.	490	8/25/71
Exxon Corp.	505	2/17/72
Getty Oil Corp.	378	6/1/71
Mobil Oil Corp.	486	2/18/72
Mobil Oil Corp.	543	5/17/77
Amoco Production Co.		9/4/74
Cities Service Co.	373	9/25/78
Cities Service Co.		9/21/70
Continental Oil Co.	170	1/1/77
Atlantic Richfield Co.	161	1/1/77
Sun Oil Co.	74	1/1/77
Dameron Petroleum Corp.		7/3/73
Daniel Oil Co.		9/1/76
Davis Oil Co.		11/28/76
Louis Dorfman		12/20/60
Exxon Corp.	12	
Exxon Corp.	18	5/1/76
Exxon Corp.	133	5/1/76
Kerr-McGee Corp.	93	
Shell Oil Co.	376	5/12/76
J. M. Huber Corp.	77	12/1/74
Bert Fields, Jr.		1/24/77
Fortune Gas & Oil, Inc.		8/3/76
Hewitt B. Fox, Inc.		8/27/68
Mobil Oil Corp.	477	
Union Oil Co. of Calif.	190	10/7/68
Union Oil Co. of Calif.	201	10/7/68
Getty Oil Co.	51	8/1/75
Sohio Petroleum Co.	28	9/1/75
Texaco, Inc.	97	12/5/73
Texaco, Inc.	272	11/13/75
Hugh Goodrich	SPC	6/1/74
Kilroy Properties, Inc.	SPC	8/29/75
Gulf Oil Corp.	276	9/2/71
Gulf Oil Corp.	391	7/1/67
Herman F. Heep Trust	SPC	6/3/77
TransOcean Oil, Inc.	8	
Tenneco Oil Co.	11	
Houston Petroleum Co.	SPC	10/7/77
Sanchez-O'Brien Petroleum Corp.	SPC	9/1/77
Hassie Hunt, Inc.	87	1/5/69
Hunt Oil Co.	28	2/26/76
Atlantic Richfield Co.	544	
Marathon Oil Co.	69	
Sun Oil Co.	328	
C. A. Hurst	SPC	11/18/60, 1/31/77
Texas Eastern Explor. Co.	13	5/31/77
Texas Eastern Explor. Co.	15	6/15/77

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Texas Eastern Transmission Corporation—Continued

Seller	Rate schedule No.	Contract date
Texas Eastern Explor. Co.	16	8/8/77
Union Oil Co. of Calif.	235	5/9/77
Union Oil Co. of Calif.	242	5/9/77
Hytech Energy Corp.	SPC	11/30/77
ISHK Operators	SPC	4/1/74, 11/1/77
INEXO Oil Co.	SPC	11/21/77
INEXO Oil Co.	SPC	11/22/77
INEXO Oil Co.	SPC	8/1/76
Shell Oil Co.	400	1/1/77
Jones-O'Brien, Inc.	SPC	10/27/75
Amoco Prod. Co.	720	
Tenneco Oil Co.	101, 113	
Exxon Corp.	201	
Placid Oil Co.	96	
Sun Gas Co.	320	10/28/76
Kerr McGee Corp.	97	8/3/76
Devon Corp.	25	
Esson Oil Co.	52	
Louisiana Land & Explor. Co.	6	7/3/70
Marathon Oil Co.	132	4/21/75
Marathon Oil Co.	143	6/21/71
McAlester Fuel Co.	SPC	12/1/77
Mesa Petroleum Co.	76	3/1/76
Mitchell Energy Corp.	9	11/1/73
Mobil Oil Corp.	43	5/1/70
Mobil Oil Corp.	72	12/12/78
Mobil Oil Corp.	387	9/19/78
Mobil Oil Corp.	407	9/19/78
Mobil Oil Corp.	420	10/9/78
Mobil Oil Corp.	454	9/19/78
Mobil Oil Corp.	456	9/19/78
Mobil Oil Corp.	467	9/19/78
Mobil Oil Corp.	476	9/19/78
Mobil Oil Corp.	556	8/31/78
Mobil Oil Corp.	43	8/22/73
Mobil Oil Corp.	72	5/13/75
Mobil Oil Corp.	82	5/13/75
Mobil Oil Explor. & Producing S.E., Inc.	418	5/13/75
Mobil Oil Corp.	441	5/13/75
Mobil Oil Corp.	414	9/1/73
Mobil Oil Corp.	526	2/25/75
Mobil Oil Corp.	527	2/15/75
Mobil Oil Corp.	528	2/25/75
Monsanto Co.	135	7/1/77
Robert Mashbacher	SPC	10/5/73
Placid Oil	26	10/14/74
Lamar Hunt Trust Estate	8	10/14/74
Lillian Herbert Hunt Trust Estate	10	10/14/74
Lamar Hunt	9	10/14/74
Nelson Bunker Hunt Trust Estate	7	10/14/74
Owl Petroleum	SPC	10/27/70
Shell Oil Co.	10	
Shell Oil Co.	257	12/13/73
Sun Gas Co.	434	12/15/72
Sun Gas Co.	614	8/14/76
Superior Oil Co.	167	12/10/73
Texaco, Inc.	97	11/1/74
Texaco, Inc.	458	4/1/71
Texas Eastern Exploration Co.		1/31/79
Texas Oil & Gas Corp.	66	9/8/69
Union Oil Co. of Calif.	247	8/14/79
La Coastal Petroleum Corp.	SPC	6/12/79
American Petrofina	40	2/5/63
Amoco Production Co.	203	4/12/57
Amoco Production Co.		4/28/67
Amoco Production Co.	283	8/14/50
Cities Service Co.	375	
Atlantic Richfield Co.	34	3/25/52
Atlantic Richfield Co.	34	3/1/62
Atlantic Richfield Co.	266	7/25/62
Atlantic Richfield Co.	409	6/1/71
George L. Blohm		5/28/62
Brammer Engr. Inc., et al.		2/1/62
Champlin Petroleum Co.	27	9/14/56
Chevron USA, Inc.	20	5/1/62
Cities Service Co.	377	11/8/60
Claiborne Gasoline Co.		8/14/59
Continental Oil Co.	114	2/16/62
Exxon Corp.	10	2/20/64
Exxon Corp.	256	
Exxon Corp.	40	5/1/52
Exxon Corp.	391	10/1/62
Getty Oil Co.	191	10/26/72
Getty Oil Co.	241	6/1/68
Sun Oil Co.	88	11/28/56
Sun Oil Co.	88	1/20/60
Tenneco Oil Co.	112	6/15/64
Tri-State Gas Group	SPC	6/6/63, 6/11/75, 6/1/72

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ENVIRONMENTAL PROTECTION AGENCY

[OPP-180392 FRL 1395-2]

Department of Agriculture; Issuance of Specific Exemption To Use Permethrin-Coated Bags To Protect Processed Grain Products for Export Shipment

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture (hereafter referred to as the "Applicant"), to use permethrin in the treatment of multiwall paper bags used for shipment and storage of processed grain products destined for export. The specific exemption expires on October 26, 1980.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: In the past, the Applicant has used pyrethrin-treated multiwall paper bags for the storage and shipment of processed grain products overseas. Pyrethrin is registered for this use; however, due to a shortage of pyrethrin, treated bags were not available during the 1979 shipping season and the Applicant anticipates the shortage will continue through the 1980 season. There is no registered alternative pesticide-treated bag for the protection of grain products during shipment and storage. According to the Applicant, millions of dollars in processed grain products will be lost to insect damage without the use of an effective alternative to the pyrethrin-treated bags. The processed grain products include: whey drink mix, corn soy blend, wheat soy blend, corn soy milk, instant corn soy milk, soy-fortified corn meal, soy-fortified sorghum grits, soy-fortified rolled oats, and flour.

The Applicant has requested authorization for shipment of the products Permethrin Coating Powder (B) or Permanone 40 EC, from the Fairfield American Corporation in New York to the three companies that produce the bags. Permethrin will be applied as an aqueous slurry by surface coating or by emulsion at a rate of 5 milligrams active ingredient (a.i.) per square foot of paper. Reams of the coated paper will then be shipped to the manufacturers of the finished bags. A total of 3,220 pounds a.i. will be used to produce 30,000,000 bags. Each bag will be constructed of a 3-mil food grade polyethylene film liner, three plies of 50-pound basic weight kraft paper, one 33-pound grease-proof barrier paper, and one outer ply of 60-pound wet strength natural kraft paper treated with permethrin.

Based on available information, EPA has determined that a residue level of 0.5 part per million (ppm) in the grain products listed above is adequate to protect the health of those for whom the grain products are intended and that the proposed use should not exceed this level.

Although the proposed use of permethrin-treated bags is not expected to pose a hazard to the environment, there is a potential hazard involved with the disposal of waste material from the permethrin coating process. Therefore, EPA is requiring that the permethrin slurry and washings be collected and disposed of in an approved landfill or incinerator.

After reviewing the application and other available information, EPA has determined that (a) there is a shortage of the only pesticide registered to protect paper bags used for shipping and storing of processed grains; (b) there are no alternative means of control, taking into account the efficacy and hazard; (c) significant economic and health problems may result if the grain products are not protected; and (d) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until October 26, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The products Permethrin Coating Powder (B) and Permanone 40 EC are authorized for shipment from the Fairfield American Corporation in Middleport, New York, to the St. Regis Paper Company in Cantonment, Florida; Bemis Company in Peoria, Illinois; and Great Plains Bag Corporation, in Hodge, Louisiana;

2. A maximum of 3,220 pounds a.i. permethrin is authorized for shipment and use in the production of coated paper;

3. Permethrin will be applied as an aqueous slurry by surface coating or by emulsion at a rate of 5 milligrams per square foot of paper;

4. A total of no more than 3,000 tons of permethrin-coated paper may be produced by the three companies listed in item 1 above and shipped to the manufacturers listed in item 5 below for conversion to permethrin-coated multiwall bags for the Applicant's export program;

5. The companies which will produce the multiwall bags include:

a. Bancroft Bag Inc.
b. Bemis Co., Inc.
c. Chase Bag Co.
d. Gilman Paper Co.
e. Great Plains Bag Corp.
f. Greif Brothers Corp.
g. St. Regis Paper Co.

6. Up to 30,000,000 permethrin-coated bags may be produced and shipped to millers where the processed grain products will be packaged for export shipment;

7. The bag construction, from the inside outward, shall consist of a 3-mil low density polyethylene liner next to the product, three plies of 50-pound natural kraft paper, one ply of a 33-pound grease-proof barrier paper and an outermost ply of 60-pound wet strength kraft paper treated with permethrin;

8. Copies of the product labels must be submitted to EPA prior to the shipment of Permethrin Coating Powder (B) or Permanone 40 EC, the reams of permethrin-coated paper, and the palletloads of finished bags. All permethrin-coated bags must be labeled with the words "For Export Only";

9. All label restrictions and precautions on the product labels shall be followed;

10. This use of permethrin-coated bags is not expected to result in residues of permethrin in processed grain products in excess of 0.5 ppm;

According to the Federal Food, Drug, and Cosmetic Act, a food intended for export shall not be adulterated or misbranded if it (a) accords to the specifications of the foreign purchaser, (b) is not in conflict with the laws of the country to which it is intended for export, and (c) is labeled on the outside of the shipping package to show that it is intended for export;

12. This exemption is not a modification of any NPDES permits which may be issued and does not constitute a waiver of State or Federal discharge limitations;

13. The paper-treating companies named in item 1 must take precautions to insure that permethrin is not discharged with the plant's effluent. Excess permethrin slurry and washings derived from the cleaning of equipment must be disposed of in an approved landfill or incinerator. These companies should contact the EPA Regional Office for their area to determine appropriate disposal sites; and

14. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by December 31, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated January 11, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-1823 Filed 1-18-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP-00111; FRL 1395-3]

State FIFRA Issues Research and Evaluation Group (SFIREG); Open Meeting

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notice of Open Meeting.

SUMMARY: There will be a one-day meeting of the State FIFRA Issues Research and Evaluation Group (SFIREG) on Monday, March 3, 1980, beginning at 8:30 a.m. and ending at 4:30 p.m. The meeting will be held at the Holiday Inn—Thomas Circle, Washington, D.C. and will be open to the public.

FOR FURTHER INFORMATION CONTACT: Mr. P. H. Gray, Jr., Operations Division (TS-770-M), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460, Telephone: 202/472-9400.

SUPPLEMENTARY INFORMATION: This is the fifth meeting of the full Group. The tentative agenda thus far includes the following topics:

1. Action items from the December, 1979 meeting of SFIREG;
2. Regional reports;
3. Working Committee reports; and
4. Other topics which may arise.

Dated: January 11, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-1824 Filed 1-18-80; 8:45 am]

BILLING CODE 6560-01-M

[OPTS-51016; FRL 1395-4]

Office of Pesticides and Toxic Substances; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA, or the Agency).

ACTION: Receipt of Premanufacture Notices.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. Section 5(d)(2) requires EPA to publish a summary of each PMN in the **Federal Register.** This Notice announces receipt of PMN's and provides a summary of each.

DATE: Persons who wish to file written comments on a PMN should submit their comments no later than 30 days before the applicable notice review period ends.

ADDRESS: Written comments should bear the PMMN number of the particular chemical substance, and should be submitted in triplicate to the Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, EPA, 401 M Street, S.W., Washington, D.C. 20460.

Nonconfidential portions of the PMN's and other documents in the public record are available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Room E-447 at the address above.

FOR FURTHER INFORMATION CONTACT:

Notice manager, PMN No., and telephone

Mr. Scott Flamm, 5AHQ-1279-0088, 202/426-3890.

Mr. Steve Atkinson, 5AHQ-0180-0096, 202/426-3930.

Mail Address: Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, EPA, Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under § 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. (Notice of availability of the Initial Inventory was published in the **Federal Register** on May 15, 1979 (44 FR 28558)). The requirement to submit a PMN for new chemical substances manufactured or

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imported for a commercial purpose became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms (44 FR 2242, January 10, 1979). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy (44 FR 28564, May 15, 1979) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see the section entitled "Notice in the **Federal Register**" on p. 28567 of the Interim Policy. (44 FR 28564, May 15, 1979)

A PMN must include the information listed in § 5(d)(1) of TSCA. Under § 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under §5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the § 5(d)(2) notice is subject to § 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a non-confidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, and the generic use and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

EPA normally has 90 days to review a PMN once the Agency receives it (§ 5(a)(1)). The § 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under § 5(c), EPA may for good cause extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under § 5(a)(1)(A).

(Section 5 of the Toxic Substances Control Act (90 Stat. 2012; 15 U.S.C. 2604))

Dated: January 14, 1980.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

PMN No.: 5AHQ–1279–0088.

Close of Review Period: April 1, 1980.

Manufacturer's Identity: Manufacturer's identity is claimed confidential.

Specific Chemical Identity: Generic name—ring halogenated cyclic dicarboxylic salt.

Use: Claimed confidential.

Data: The following test data were submitted on a precursor substance: Acute oral toxicity, acute dermal toxicity, acute skin irritation, acute eye irritation, acute inhalation toxicity, subacute dermal toxicity, subacute inhalation toxicity, a mutagenicity study, a teratogenicity study, a patch test, and fish acute toxicity tests.

PMN No.: 5AHQ–0180–0096.

Close of Review Period: April 1, 1980.

Manufacturer's Identity: FarBest Corp., 6715 McKinley Ave., Los Angeles, CA 90001.

Specific Chemical Identity: Generic name—3-Alkoxy(C_{10}-C_{14})-2-hydroxypropyl ester of dimer/trimer acids (fatty ester).

Use: The substance is used in lubricants sold to producers of ferrous or non-ferrous rolled metal. Customers include major steel and aluminum firms.

Data

Physical/Chemical Properties

Physical appearance: Clear, viscous liquid.
Color, Gardner: 8–10.
Odor: Mild fatty oil.
Flash point, Cleveland open cup: 495°F.
Viscosity, Ubbelohde, centistokes: 1600–1750.
Specific gravity at 24°C: 0.920.
Acid value, mg KOH/g: 30 maximum.
Saponification value, mg KOH/g: 117±13.

Test Data

The manufacturer submitted results from two tests.

1. Primary skin irritation: Irritation index = 0.6, on a scale in which 1 = barely perceptible irritation, 4 = severe irritation. Submitter claims that under the conditions of the test, the substance meets Consumer Products Safety Commission requirements for classification as non-irritant.

2. Oral toxicity (one dose): LD_{50} exceeds lg/kg of body weight. No lethal effects were produced at this level.

Related Substances: Manufacturer indicated that the precursor substances are classified as non-hazardous according to Occupational Safety and Health Administration criteria.

Occupational Exposure: The manufacturer claims that: (1) The fatty ester is non-volatile and there are no vapor concentrations encountered in the work area; (2) The physical state of the fatty ester is a viscous fluid, having a typical viscosity of 1670 centistokes, Ubbelohde at 100°F; and (3) the only direct exposure would be accidental skin contact.

Environmental Release/Disposal: The manufacturer states that due to the non-volatile nature of the precursors and their reaction product (fatty ester) there are no chemicals released during handling or preparation. The manufacturer states further that the reactor, a closed system, is facilitated with a total reflux condenser.

[FR Doc. 80-1828 Filed 1-18-80; 8:45 am]
BILLING CODE 6560-01-M

[OPP-180408; FRL 1394-8]

Florida Department of Agriculture and Consumer Services; Issuance of Specific Exemption To Use Permethrin on Green Beans To Control Vegetable Leafminer

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the Florida Department of Agriculture and Consumer Services (hereafter referred to as the ("Applicant") to use permethrin to control the vegetable leafminer on 40,000 acres of green beans in five counties in Florida. The specific exemption expires on June 30, 1980.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E–124, Washington, D.C. 20460, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting the EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, the vegetable leafminer (*Liriomyza sativae*) destroys the leaf tissue of green beans. In large numbers the leafminer will defoliate bean plants and cause plant death, or delay growth and maturity, and reduce yield. The Applicant reports that the vegetable leafminer has become the most important insect pest of green beans due to the susceptibility of green beans to the pest and the practice of intense cultivation of green beans in the same areas. The Applicant states that populations that build up on a maturing crop often move to adjacent or other nearby fields of green beans, tomatoes, or other susceptible crops and cause devastating losses in short periods of time. The Applicant claims that in most areas control of the vegetable leafminer on green beans would be beneficial not only to the bean grower but also to other vegetable growers in the area, since migration of uncontrolled populations causes additional pesticide usage on these other crops. Population explosions may be aided by the use of currently labeled materials which fail to control the vegetable leafminer but nearly eliminate their predators and parasites, according to the Applicant. Data indicate that permethrin will control the pest. The Applicant estimates a loss of $10 million for 40,000 acres of green beans without a control program.

The Applicant proposed to treat an area in that portion of the State that lies south of a line formed by and including the counties of Brevard, Citrus, Lake, Seminole, and Sumter. The products Ambush and Pounce, which contain the active ingredient (a.i.) permethrin, will be used.

EPA has determined that residues of permethrin in or on green beans from the proposed plan should not exceed 0.3 part per million (ppm). This residue level has been judged adequate to protect the public health. Since there are no data with respect to residues for bean vines and bean straw, EPA has prohibited the feeding of these items to livestock.

EPA has considered the possibility of an impact on an endangered species found in this area, the Everglade kite, through possible reduction of the apple snail. While it is possible, it is highly unlikely that the number of apple snails will be reduced sufficiently to cause a problem. Green bean fields are not prime habitat for the snail. If permethrin does enter the aquatic environment near the fields, it could affect the snails in the immediate vicinity. EPA has established buffer zones to prevent unreasonable hazard to aquatic organisms and the Applicant has been warned of the possible consequences of ignoring them.

After reviewing the application and other available information, EPA had determined that (a) a pest outbreak of vegetable leafminers has occurred; (b) there is no effective pesticide presently registered and available for use to control the vegetable leafminer in Florida; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic problems may result if the vegetable leafminer is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until June 30, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The products, Ambush (EPA Reg. No. 10182–18) manufactured by ICI Americas, Inc., and Pounce 3.2 EC (EPA Reg. No. 279–3014) manufactured by FMC Corp., are authorized;

2. Applications may be made to green bean fields in the areas named above;

3. Total acreage treated may not exceed 40,000 acres;

4. Permethrin will be used at a rate of 0.05 to 0.10 pound a.i. per acre per application. A maximum of three applications will be made;

5. Applications may be made as required. A seven-day pre-harvest interval is imposed;

6. A maximum of 12,000 pounds a.i. may be applied;

7. Applications of permethrin may be made by ground or air equipment;

8. Applications may be made with ground equipment using a rate of 40 to 60 gallons of water per acre, or by aerial equipment using a rate of 3 to 8 gallons of water per acre;

9. All applications will be made by State-certified applicators, or persons under their direct supervision. A 60-day crop rotation restriction is imposed;

10. Application may take place only after a determination has been made that 20 percent or more defoliation of plants has occurred prebloom or 10 percent or more defoliation has occurred post-bloom;

11. Permethrin should not be applied any closer to fishbearing waters than indicated in the chart below:

Application method	Aerial			Ground		
Application height (feet)	10			2		
Application rate (lbs. A.I.)	.05	0.1	0.2	0.05	0.1	0.2
Fresh water (distance in feet)	585	990	1,600	117	198	320
Salt water (distance in feet)	1,847	2,779	2,950	369	556	790

The Applicant is warned that applications closer than those allowed in the above chart may result in aquatic organism kills;

12. Precautions must be taken to avoid or minimize spray drift to non-target areas;

13. These products are highly toxic to bees exposed to direct treatment or to residues on crops or weeds. They may not be applied, or allowed to drift, to weeds in bloom on which economically significant numbers of bees are actively foraging. Protective information may be obtained from the State Cooperative Agricultural Extension Service;

14. Permethrin is extremely toxic to fish and aquatic invertebrates. It must be kept out of lakes, streams, ponds, tidal marshes and estuaries. Care must be taken to prevent contamination of water by the cleaning of equipment or disposing of waste;

15. Green beans treated according to the above provisions are not expected to have residues of permethrin in excess of 0.3 ppm. Green beans with residues of permethrin not exceeding this level may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

16. All applicable directions, restrictions, and precautions on the product labels must be followed;

17. Bean vines and straw from treated fields may not be grazed or fed to livestock;

18. The Florida Everglade kite, an endangered species, is endemic to regions in the treatment area. Applications of the pesticide according to the above instructions and restrictions is expected to minimize the risk to this bird. Permethrin should not be applied in areas where spray drift could possible have an impact on aquatic ecosystems containing federally designated endangered and threatened species. Liaison should be established between the Applicant and the Florida Fresh water Fish and Game Commission in order to protect fish and wildlife;

19. The EPA shall be informed immediately of any adverse effects resulting from this use of permethrin; and

20. The Applicant shall be responsible for assuring that all the provisions of this specific exemption are met and must submit a final report summarizing the results of this program by September 1, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as

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amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: January 11, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-1821 Filed 1-18-80; 8:45 am]

BILLING CODE 5580-01-M

[OPP-180402; FRL 1395-1]

Texas Department of Agriculture; Crisis Exemption To Use DDT To Control Bats

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notice of temporary crisis exemption.

SUMMARY: EPA gives notice that the Texas Department of Agriculture (hereafter referred to as "Texas") availed itself of a crisis exemption to use DDT to control bats. Since treatment was expected to exceed 15 days, Texas requested a specific exemption for continuation of the program.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-124, Washington, D.C. 20460, Telephone: 426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available.

SUPPLEMENTARY INFORMATION: Texas notified EPA on October 25, 1979 that it had declared a crisis to permit the use of DDT to control bats within the City of Yoakum. According to Texas, the Texas Health Department had confirmed two cases of rabies in Yoakum in an area where bat populations were very high. No chemical pesticide is registered for bat control, Texas reported, and there is no other method available to reduce bat populations.

Old buildings with unoccupied second stories and in poor state of repair were treated. A State-licensed pest control operator applied 50 percent DDT tracking powder at rates recommended by the State Health Department as being safe and effective. Precautions were taken by the applicator to prevent any material from coming in contact with people in the area. The State Health Department monitored the program. Texas has requested a specific exemption for continuation of this program since treatment of buildings with high bat populations will require more than 15 days.

Statutory Authority: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C 136).

Dated: January 11, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-1822 Filed 1-18-80; 8:45 am]

BILLING CODE 6560-01-M

FARM CREDIT ADMINISTRATION

[Farm Credit Administration Order No. 825]

Authority of the Deputy Governor, Office of Supervision, and Order of Precedence of Certain Officers To Act as Deputy Governor, Office of Supervision (Revocation of FCA Order No. 809)

AGENCY: Farm Credit Administration.

ACTION: Notice.

The Governor of the Farm Credit Administration issued Order No. 825 authorizing in the event the Deputy Governor, Office of Supervision is absent or unable to perform the duties of his office, certain officers are authorized to perform the necessary functions of the office. The text of the Order is as follows:

1. The Deputy Governor, Office of Supervision, shall, subject to the jurisdiction and control of the Governor of the Farm Credit Administration, execute and perform all power, authority, and duties relative to supervision of the credit, finance, and operation functions of the institutions of the Farm Credit System and to all matters incidental thereto, and to administration of all provisions of law pertinent to such supervision.

2. In the event the Deputy Governor, Office of Supervision, Farm Credit Administration, is absent or is not able to perform the duties of his office for any other reason, the officer who is highest on the following list and who is available to act is hereby authorized to exercise and perform all functions, power, authority, and duties of the Deputy Governor, Office of Supervision, pertaining to the credit, finance, and operation functions:

(a) Associate Deputy Governor, Office of Supervision.

(b) Assistant Deputy Governor, Office of Supervision.

(c) Director, Western Division, Office of Supervision.

(d) Director Central Division, Office of Supervision.

(e) Director, Eastern Division, Office of Supervision.

3. This order shall be effective on January 16, 1980, and revokes Farm Credit Administration Order No. 809, dated February 8, 1978, 43 FR 6840.

Donald E. Wilkinson,

Governor of Farm Credit Administration.

[FR Doc. 80-1832 Filed 1-18-80; 8:45 am]

BILLING CODE 6705-01-M

FEDERAL COMMUNICATIONS COMMISSION

[FCC 80-8]

A Closed Circuit Test of Emergency Broadcast System During the Week of January 21, 1980.

January 15, 1980

A test of the Emergency Broadcast System (EBS) has been scheduled during the week of January 21, 1980. Only ABC, MBS, NPR, AP Radio, CBS, IMN, NBC, and UPI Audio Radio network affiliates will receive the Test Program for the Closed Circuit Test. AP and UPI wire service clients will receive activation and termination messages of the Closed Circuit Test. Television networks are not participating in the Test.

Network and press wire service affiliates will be notified of the test procedures via their network approximately 30 to 45 minutes prior to the test.

Final evaluation of the test is scheduled to be made about one month after the Test.

This is a closed circuit test and will not be broadcast over the air.

Action by the Commission January 14, 1980. Commissioners Ferris (Chairman), Lee, Quello, Washburn, Fogarty, Brown and Jones.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-1801 Filed 1-18-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-69]

Citizens Federal Savings & Loan Association of Matteson, Matteson, Ill.; Notice of Final Action, Approval of Conversion Application

Notice is hereby given that on December 13, 1979, the Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation, by Board Resolution No. 79-636 approved the application of Citizens Federal Savings and Loan Association of Matteson, Matteson, Illinois for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Board, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Board at the Federal Home Loan Bank of Chicago, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601.

Dated: January 8, 1980.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80-1818 Filed 1-18-80; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-70]

Naples Federal Savings & Loan Association, Naples, Fla.; Notice of Post Approval Amendment of Conversion Application, Notice of Final Action

Notice is hereby given that on December 21, 1979, the Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 79-707, approved the amendment to the application of Naples Federal Savings and Loan Association, Naples, Florida, for permission to convert to the stock form of organization. The application to convert was approved on November 8, 1979, by Resolution No. 79-548. Copies of the application are available for inspection at the Office of the Secretary of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, Coastal States Building, 250 Peachtree Center, N.W. Atlanta, Georgia.

Dated: January 9, 1980.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80-1817 Filed 1-18-80; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Dublin Bancshares, Inc.; Formation of Bank Holding Company

Dublin Bancshares, Inc., Hawkinsville, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The Morris State Bank, Dublin, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 14, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 14, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-1791 Filed 1-18-80; 8:45 am]

BILLING CODE 6210-01-M

Peoples Equity Corp.; Acquisition of Bank

Peoples Equity Corporation, Wells, Minnesota, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire more than 98 per cent of the voting shares of Peoples State Bank of Wells, Wells, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 14, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 14, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-1792 Filed 1-18-80; 8:45 am]

BILLING CODE 6210-01-M

Woodfield Bancorp, Inc., Formation of Bank Holding Company

Woodfield Bancorp, Inc., Schaumburg, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Suburban National Bank of Woodfield, Schaumburg, Illinois. The factors that are considered in acting on the application are set forth in section 3 (c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than February 14, 1908. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 14, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-1793 Filed 1-18-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a

hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than February 15, 1980.

A. *Federal Reserve Bank of Richmond* (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

UNION TRUST BANCORP, Baltimore, Maryland (insurance activities; Florida): to expand the activities of the Jacksonville, Florida, office of its subsidiary, Landmark Financial Services, Inc., to include acting as agent in the sale of insurance protecting collateral held against extensions of credit. The area to be served is Jacksonville, Florida.

B. *Federal Reserve Bank of Chicago* (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. MILLIKIN BANCSHARES, INC., Decatur, Illinois (financing activities; Illinois): to engage through its subsidiary, Millikin Financial Services, Inc., in making loans to consumers. This activity would be conducted from an office in Decatur, Illinois, serving Christian, Sangamon, Logan, DeWitt, Piatt, Moultrie, Shelby, and Macon Counties, Illinois.

2. CENTRAL NATIONAL BANCSHARES, INC., Des Moines, Iowa (real property leasing, financing and insurance; Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota and Wisconsin): to engage through its subsidiary, CNB Leasing Corporation in leasing real property, sale of credit life and credit accident and health insurance that is directly related to the provision of financial services (leasing of real and personal property) by the subsidiary, and the making of loans and extensions of credit (including issuing letters of credit) with respect to the purchase of real and personal property which is, or will become, subject to a lease on which the subsidiary will be the lessor. These activities will be conducted at an office in Des Moines, Iowa, serving the States listed above.

c. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, January 15, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-1844 Filed 1-18-80; 8:45 am]

BILLING CODE 6210-01-M

Elk Grove Bancorp, Inc.; Formation of Bank Holding Company

Elk Grove Bancorp, Inc., Elk Grove Village, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Suburban National Bank of Elk Grove Village, Elk Grove Village, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than February 15, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 15, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-1845 Filed 1-18-80; 8:45 am]

BILLING CODE 6210-01-M

Fidelity Corp.; Acquisition of Bank

Fidelity Corporation, Burke, South Dakota, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 78.32 per cent or more of the voting shares of First Fidelity Bank, Colome, South Dakota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 15, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 15, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-1846 Filed 1-18-80; 8:45 am]

BILLING CODE 6210-01-M

Fidelity Corp.; Acquisition of Bank

Fidelity Corporation, Burke, South Dakota, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 97 percent or more of the voting shares of First Fidelity Bank, Murdo, South Dakota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 15, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 15, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-1847 Filed 1-18-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

Pharmaceutical Reimbursement Board; Proposed MAC's and Announcement of Public Hearing

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice.

SUMMARY: The Pharmaceutical Reimbursement Board proposes maximum allowable cost (MAC) limits on the drugs specified below and announces a public hearing with regard to these proposed MAC limits.

DATES: Hearing—March 12, 1980 (9 a.m.–5 p.m.) and March 13, 1980

(9 a.m.–5 p.m.). End of comment period; February 25, 1980. End of period for submission of requests to appear at the hearing; February 25, 1980.

Interested persons and organizations are invited to submit in writing comments on the proposed MACs. All comments received by February 25, 1980, will be considered and will be maintained for public inspection in the office of the Pharmaceutical and Medical Services Reimbursement Branch.

A public hearing on the proposed MACs will be held March 12 and 13, 1980. Persons or organizations wishing to make presentations must submit to the Board's Executive Secretary by February 25, 1980, at least 20 copies of the proposed oral presentation in its entirety together with all supporting studies and materials and the names and addresses of proposed participants. The Board will grant every request to appear if the presentation is relevant to the proposed MAC.

PLACE OF HEARING: Multi-Purpose Room, 1st Floor, Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

FOR FURTHER INFORMATION CONTACT: Charles Spalding, Acting Executive Secretary, Pharmaceutical Reimbursement Board, 1–C–5 East Low Rise, 6401 Security Boulevard, Baltimore, Maryland 21235 (301) 594–5403.

SUPPLEMENTARY INFORMATION: The Pharmaceutical Reimbursement Board has been established within the Health Care Financing Administration for the purpose of setting MAC limits on certain multiple source drugs for which reimbursement is provided under Medicaid, Medicare and other programs administered by the Department. Pursuant to 45 CFR 19.5 the Pharmaceutical Reimbursement Board proposes the following MAC limits:

Drug and MAC Limit

Potassium chloride, oral liquid, 10%—$0.0030 per ml.
Fluocinolone acetonide, topical solution, .01%—$0.1043 per ml.
Fluocinolone acetonide, topical cream .01%—$0.0712 per Gm.
Fluocinolone acetonide, topical cream .025%—$0.2087per Gm.
Griseofulvin, microcrystalline, oral tablet, 500 mg—$0.2818 per tab.
Methenamine hippurate, oral tablet, 1 Gm—$0.1453 per tab.
Dicloxacillin sodium, oral capsule, 250 mg—$0.2215 per cap.
Dicloxacillin sodium, oral suspension, 62.5 mg/5 ml.—$0.0236 per ml.
Quinidine sulfate, oral tablet, 200 mg—$0.0645 per tab.
Hydrochlorothiazide, oral tablet, 25 mg—$0.0152 per tab.
Hydrochlorothiazide, oral tablet, 50 mg—$0.0194 per tab.

The Board originally identified these multiple source drugs as drugs for which significant amounts of Federal funds are expended and for which there are significantly different prices. The Food and Drug Administration has advised the Board that there is no regulatory action, either pending or under consideration, that would be a reason for delaying or withholding the establishment of MACs on the drugs listed above. In making the initial determination of the lowest unit price at which each of the drugs is widely and consistently available from any formulator or labeler, the Board relied on two sources: *Drug Topics Red Book* and a HCFA survey. *Drug Topics Red Book*, published annually and updated monthly, is an authoritative and recognized listing of advertised prices. The HCFA survey is a summary, updated monthly, of pharmacy invoice prices obtained by HCFA under contract with IMS America. The HCFA survey price is based on the 70th percentile of invoice prices from a panel of 1,000 pharmacies nationwide.

1. Potassium Chloride, Oral Liquid, 10%

The Board proposes a MAC limit of $0.0030 per ml based on a selling price of $1.45 per 480 ml package size.

The *Red Book* lists 18 suppliers who advertise this product at $1.45 or less per 480 ml package size. In addition, according to the HCFA survey, 50 percent of the invoices and 70 percent of the units of "the all other brands" are sold at or below the $0.0030 level. For this drug, "all other brands"; represents 14 percent of the invoice orders in the survey and 32 percent of the units. Small and medium size independents purchased the "all other brands" at or below the $0.0030 level.

2. Fluocinolone Acetonide, Topical Solution, .01%

The Board proposes a MAC level of $0.1043 per ml based on a selling price of $6.26 per 60 ml package size. This is the wholesale price of the only alternative source of supply, Marion Laboratories, (the 27th largest ethical drug firm). Marion currently supplies 13 percent of this market, by dollar volume, and their product is purchased by both small and medium size independent pharmacies at the $0.1043 level.

3. Fluocinolone Acetonide, Topical Cream .01%

The Board proposes a MAC level of $0.0712 per Gm based on a selling price of $4.27 per 60 Gm package size. This is the wholesale price of the only alternative source of supply, Marion Laboratories. Marion currently supplies 5 percent of this market, by dollar volume, and their product is purchased by both small and medium size independent pharmacies at the $0.0712 level.

4. Fluocinolone Acetonide, Topical Cream .025%

The Board proposes a MAC level of $0.2087 per Gm based on a selling price of $3.13 per 15 Gm package size. This is the wholesale price of the only alternative source of supply, Marion Laboratories. Marion currently supplies 3 percent of this market, by dollar volume, and their product is purchased by medium size pharmacies at the $0.2087 level.

5. Griseofulvin, Microcrystalline, Oral Tablet, 500 mg

The Board proposes a MAC level of $0.2818 per tablet based on a selling price of $16.91 per 60 tablet package size. This is the wholesale price for Ayerst (subsidiary of the 2nd largest ethical drug firm, American Home Products). Ayerst currently supplies 18 percent of this market, by dollar volume, and their product is purchased by both small and medium size independent pharmacies at or below the $0.2818 level.

6. Methenamine Hippurate, Oral Tablet, 1 Gm

The Board proposes a MAC level of $0.1453 per tablet based on a selling price of $14.53 per 100 tablet package size. This is the price at the 70th percentile of the only alternative supplier, Riker (the 33rd largest ethical drug firm, 3M). Riker currently supplies 28 percent of this market, by dollar volume, and their product is purchased by both small and medium size independent pharmacies at or below the $0.1453 level.

7. Dicloxacillin Sodium, Oral Capsule, 250 mg

The Board proposes a MAC level of $0.2215 per capsule based on a selling price of $22.15 per 100 capsule package size. This is the wholesale price of Beecham (a subsidiary of the 29th largest ethical drug firm, Beecham-Massengill). Beecham supplies approximately 5 percent of this market, by dollar volume, and their product is purchased by both small and medium independent pharmacies at or below the proposed MAC level.

V 45 / 14 JA 21 80 UMI

8. Dicloxacillin Sodium, Oral Suspension, 62.5 mg/5 ml

The Board proposes a MAC level of $0.0236 per ml based on a selling price of $1.89 per 80 ml package size. This is the wholesale price of the only alternative supplier, Wyeth (subsidiary of the 2nd largest ethical drug firm). Wyeth currently supplies 9 percent of this market, by dollar volume, and their product is purchased by medium size independent pharmacies at the $0.0236 level.

9. Quinidine Sulfate, Oral Tablet, 200 mg

The Board proposes a MAC level of $0.0645 per tablet based on a selling price of $6.45 per 100 tablet package size. This is the price at the 80th percentile of the largest supplier of this product, Parke Davis (a subsidiary of the 7th largest ethical drug firm, Warner Lambert). Parke Davis currently supplies 59 percent of this market, by dollar volume, and their product is purchased by small and medium size pharmacies at the $0.0645 level.

10. Hydrochlorothiazide, oral tablets, 25 and 50 mg.—Final MAC limits on hydrochlorothiazide 25 and 50 mg tablets were effective on June 28, 1979 (see 44 FR 28104). Since that time, a number of lower prices have appeared in the marketplace, and in response, the Board has decided to consider new lower MAC limits on hydrochlorothiazide 25 and 50 mg tablets:

Hydrochlorothiazide, oral tablet, 25 mg.—The Board proposes a MAC level of $0.0152 per tablet based on a selling price of $1.52 per 100 tablet package size. This is the wholesale price of Smithkline (the 5th largest ethical drug firm). The *Red Book* lists an additional 23 suppliers below the $1.52 price. Smaller independent pharmacies have purchased this product at or below the $0.0152 level.

Hydrochlorothiazide, oral tablet, 50 mg.—The Board proposes a MAC level of $0.0194 per tablet based on a selling price of $1.94 per 100 tablet package size. This is the wholesale price of Smithkline. The *Red Book* lists 29 additional suppliers below the $1.94 price. Medium independent pharmacies have purchased this product at or below the proposed level.

The Board has been assured by Smithkline that they will be able to adequately supply those who wish to purchase these products from them.

The FDA advice and the economic data listed above are available for inspection in the office of Pharmaceutical and Medical Services Reimbursement Branch and a limited number of copies are available upon request.

Dated: January 8, 1980.

Charles S. Spalding,

Acting Executive Secretary, Pharmaceutical Reimbursement Board.

[FR Doc. 80-1809 Filed 1-18-80; 8:45 am]

BILLING CODE 4110-35-M

National Institutes of Health

Clinical Cancer Program Project Review Subcommittee; Amended Notice of Meeting, Change in Agenda

Notice is hereby given of a change in the agenda for the meeting of the Clinical Cancer Program Project Review Subcommittee, which will be held at the National Institutes of Health, Building 31C, Conference Room 6, Bethesda, Maryland, March 24–26, 1980. Notice of this meeting was published in the **Federal Register** on December 17, 1979 (44 FR 73163).

The meeting will be open to the public on March 24 from 8:30 a.m. to 10:00 a.m. to review administrative details, and again on March 24 from 4:00 p.m. to 5:00 p.m. to hold a seminar on research in hyperthermia. Attendance by the public will be limited to space available.

The meeting will be closed to the public on March 24 from 10:00 a.m. to 4:00 p.m. and on March 25–26 from 8:30 a.m. to adjournment each day, to review research grant applications as stated in the original notice.

For further information please contact Dr. Louise G. Thomson, Westwood Building, Room 809, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7924).

Dated: January 11, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80-1810 Filed 1-18-80; 8:45 am]

BILLING CODE 4110-08-M

National Advisory Allergy and Infectious Diseases Council; Amended Notice of Meeting

Notice is hereby given of a changes in the "open" and "closed" portions of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, which was published in the **Federal Register** on December 26, 1979 (44 FR 76407).

On February 1, 1980 discussions will be open from 8:30 a.m. until 12:30 p.m. The meeting will be closed to the public from 12:30 p.m. until adjournment.

Dated: January 11, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, 13.856, 13.857, National Institutes of Health)

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80-1811 Filed 1-18-80; 8:45 am]

BILLING CODE 4110-08-M

Endocrinology Study Section; Notice of Workshop

Notice is hereby given of a Workshop on Cell Biology and Endocrinology by the Endocrinology Study Section at the Vacation Village Hotel, San Diego, CA, March 20, 1980, from 1:00 p.m. to adjournment and March 21, 1980, from 9:00 a.m. to adjournment.

Further information may be obtained from Mr. Morris M. Graff, Executive Secretary, Endocrinology Study Section, Westwood Building, Room 333, telephone 301–496–7346.

This workshop will be open to the public. Attendance by the public will be limited to space available.

Dated: January 11, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80-1812 Filed 1-18-80; 8:45 am]

BILLING CODE 4110-08-M

Office of Education

AGENCY: Office of Education, HEW:

ACTION: Closing Date for Transmittal of Applications.

SUMMARY: The closing date of January 28, 1980 for the transmittal of applications for grants under the Arts in Education program is withdrawn. The new closing date will be announced when the final regulations for that program are published in the **Federal Register.**

SUPPLEMENTARY INFORMATION: A proposed regulation for the Arts in Education Program was published in the **Federal Register** on June 18, 1979 (44 FR 35186). The **Federal Register** of August 23, 1979 (44 FR 49574) announced December 14, 1979 as the closing date for applications. A notice of extension of the closing date to January 28, 1980 was published in the **Federal Register** on November 7, 1979 (44 FR 64570).

While the Commissioner anticipates that the final regulations will be published in the near future, retention of the January 28 closing date is no longer reasonable. As a result, that closing date is withdrawn. A new notice of closing date will be published at the time the final regulations appear in the **Federal Register.** That notice will include instructions for submitting applications and program information.

The Commissioner expects that some changes will be made in the final regulations, including points allocated to the selection criteria in the area of program content (§ 161c.32(b)). Copies of the final regulations will be sent to all recipients of the application packet.

FURTHER INFORMATION: For further information contact Dr. Harold Arberg, Director, Arts and Humanities Staff, U.S. Office of Education, Room 3728, Donohoe Building, 400 Maryland Avenue, SW., Washington, D.C. 20202, Telephone: (202) 472–7793.

(20 US.C. 2961)

(Catalog of Federal Domestic Assistance Program No. 13.566, Arts Education Program)

Dated: January 14, 1980.

William L. Smith,

U.S. Commissioner of Education.

[FR Doc. 80-1786 Filed 1-18-80; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[INT FES 80-3]

Proposed 5-Year Outer Continental Shelf Oil and Gas Lease Sale Schedule; Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has completed a final environmental statement relating to a proposed Five-Year Outer Continental Shelf Oil and Gas Lease Sale Schedule, prepared in accordance with Section 18 of the Outer Continental Shelf Lands Act, as amended (92 Stat. 632).

Single copies of the final environmental statement can be obtained from the Office of the Manager, New York Outer Continental Shelf Office, Bureau of Land Management, 26 Federal Plaza, Suite 32–120, New York, New York 10007; Office of the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Hale Boggs Federal Building, Suite 841, 500 Camp Street, New Orleans, Louisiana 70130; Office of the Manager, Pacific Outer Continental Shelf Office, Bureau of Land Management, 1340 W. Sixth Street, Room 200, Los Angeles, California 90017; Office of Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, P.O. Box 1159, Anchorage, Alaska 99510, and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the final environmental statement will also be available for review in public libraries located throughout the coastal States. Information regarding the location of libraries where copies of the statement will be available may be obtained from the OCS Offices listed above.

Ed Hastey,

Associate Director, Bureau of Land Management.

Approved:

Heather L. Ross,

Deputy Assistant Secretary of the Interior.

[FR Doc. 80-1819 Filed 1-18-80; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Availability of a Draft Environmental Impact Statement on a Proposed National Wildlife Refuge on the Currituck Outer Banks, Currituck County, N.C.

Correction

In FR Doc. 80–38 appearing on page 845, in the issue of January 3, 1980, make the following correction.

On page 846, column 1, the third line from the bottom should have read: "would be $100,100,000."

On page 846, column 2, line 17 should have read: "benefits to the biological resource".

BILLING CODE 1505-01-M

Geological Survey

National Earthquake Prediction Evaluation Council

Pursuant to Pub. L. 92–463, effective January 5, 1973, notice is hereby given that a meeting of the National Earthquake Prediction Evaluation Council (Prediction Council) will be held February 4 and 5, 1980 beginning at 8:30 a.m. each day. The Prediction Council will meet in Rm. BA102, U.S. Geological Survey (USGS), National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

(1) *Purpose.* The Prediction Council was established to advise the Directors, USGS, in deciding when and/or whether to issue predictions or other information pertinent to the potential for the occurrence of a future significant earthquake (e.g., negative evaluations or advisories).

(2) *Membership.* The Prediction Council is chaired by Dr. Clarence R. Allen and is composed of persons who are experts in scientific disciplines related to the field of earthquake prediction. Half of the membership is drawn primarily from the academic community; the other half from the rolls of the USGS.

(3) *Agenda.* (a) Discussion of operating procedures as contained in the committee charter and consideration of need for any additional rules to assure objectivity in issuing predictions.

(b) Review of information concerning potential for large earthquakes in California and Alaska.

H. William Menard,

Director, U.S. Geological Survey.

[FR Doc. 80-1831 Filed 1-18-80; 8:45 am]

BILLING CODE 4310-31-M

Office of the Secretary

Fair Market Value for Federal Coal Leases

AGENCY: Office of the Assistant Secretary—Land and Water Resources, Interior.

ACTION: Notice of Availability of the *Final Report and Recommendations for the Secretary on Fair Market Value and Minimum Acceptable Bids for Federal Coal Leases.*

SUMMARY: Notice is hereby given of the availability for public review of the *Final Report and Recommendations for the Secretary on Fair Market Value and Minimum Acceptable Bids for Federal Coal Leases.* Copies of this report can be obtained from the Office of Coal Leasing, Planning and Coordination in Washington, D.C., through February 29, 1980, at the address shown below. On that date the report in its current or amended form will undergo final policy review in the Department of the Interior prior to final Secretarial action on a new policy that will govern the Department's evaluation of Federal coal tracts for leasing, exchange, or other related purposes.

The major recommendations to the Secretary include:

1. Small Federal coal tracts (application tracts) and large, competitive tracts should be evaluated under different systems, principally in order to maximize net return to the Federal Government.

2. Large Federal coal tracts should continue to be evaluated using discounted cash flow (DCF) analysis; however, the DCF analysis should be used more conservatively in order to account for uncertainties attendant to coal development and projections of future markets. The major change to ensure a conservative DCF estimate of value should be the use of a coal price in the model representative of that expected from long-term, competitive

coal contracts. Adjustments for inflation in the tax accounting portion of the DCF model and the use of varying discount rates in the evaluation are also recommended. Comparable sales analyses should also be prepared for large tract evaluations by persons trained in mineral appraisals. The minimum acceptable bid should be set at the higher of the DCF or the comparable sales estimate of value, and used for the acceptance of bids as long as statutory and policy minimums on royalty and bonus bids are also realized.

3. Minimum acceptable bids for small tracts should be set at regional minimum levels to ensure receipt of fair market value. Initially, minimum statutory and policy levels would be used. A continuing region-wide appraisal of coal fair market value must be maintained to ensure the Secretary of receipt of fair market value.

4. The task force made five specific recommendations aimed at improving competition in Federal coal lease sales. These were (1) to study the use of a profit sharing system that would lessen the need to collect Federal revenues from coal lease sales via the use of high pre-sale minimum acceptable bids; (2) to proceed with a trial effort at pre-sale tract unitization of a mixed Federal and other ownership logical mining unit; (3) to consider changes in the manner in which sales are conducted to increase bidder participation; (4) to consider means to reduce the size of initial lessee payments; and (5) to release information on evaluation procedures, the data used in evaluation, and minimum acceptable bids in order to increase the bidders' knowledge of the physical and economic conditions of the tract.

The task force also amplified on the draft recommendations on fair market value considered by the Secretary in forming his decisions on the Federal coal management program in June 1979.

ADDRESS: Copies of this report will be available for review from: Director, Office of Coal Leasing, Planning and Coordination, Room 3411, Main Interior Building, 18th & C Streets, N.W., Washington, D.C. 20240. Phone (202) 343–4191.

FOR FURTHER INFORMATION CONTACT: Charles Rech or Pat Geehan, Office of Coal Leasing, Planning and Coordination, (202) 343–4191.

Dated: January 15, 1980.

Guy R. Martin,

Assistant Secretary—Land and Water Resources.

[FR Doc. 80-1820 Filed 1-18-80; 8:45 am]

BILLING CODE 4310-01-M

METRIC BOARD

Public Forum

Notice is hereby given that the United States Metric Board will hold a Public Forum on Thursday, February 14, 1980, from 9 a.m. to 12:30 p.m. The Forum will be held in conjunction with the Metric Board's regular February meeting. Notice of the regular meeting appears in the Sunshine Meeting section of this issue. The Forum will be held at the Del Webb's Townehouse, Phoenix, Arizona 85013 in the Kino Room.

The purpose of the Forum will be to allow Board Members to receive comments about increased metric usage and voluntary metric conversion from individuals and from representatives of groups or organizations. The public is invited and encouraged to provide oral or written comments and ask questions of the Board from 11 a.m. to 12:30 p.m. Those who wish to participate may also submit comments or questions in advance to Mr. William DeReuter, Office of Public Awareness and Education, United States Metric Board, The Magazine Building, 1815 North Lynn Street, Suite 600, Arlington, Virginia 22209.

Louis Polk,

Chairman, United States Metric Board.

[FR Doc. 80-2007 Filed 1-16-80; 8:45 am]

BILLING CODE 6820-94-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Advisory Committee; Meetings

January 14, 1980.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

1. Date: February 4, 1980. (Formerly February 4 and 5, 1980.)
Time: 9 a.m. to 5:30 p.m.
Room: 807.
Purpose: To review the applications submitted to the Research Tools Program of the National Endowment for the Humanities, for projects in music, theater, and film beginning June 1, 1980.

2. Date: February 20, 1980.
Time: 9 a.m. to 5:30 p.m.
Room: 1134.
Purpose: To review Research Collections applications for National Archival projects submitted to the National Endowment for the Humanities for projects beginning after July 1, 1980.

3. Date: February 25 and 26, 1980.
Time: 9 a.m. to 5:30 p.m.
Room: 807.
Purpose: To review the applications submitted to the Research Tools Program of the National Endowment for the Humanities, for projects in Lexicography and Linguistics beginning June 1, 1980.

4. Date: February 27, 1980.
Time: 9 a.m. to 5:30 p.m.
Room: 1134.
Purpose: To review Research Collections applications for Regional Archival projects submitted to the National Endowment for the Humanities for projects beginning after July 1, 1980.

5. Date: February 28 and 29, 1980.
Time: 9 a.m. to 5:30 p.m.
Room: 807.
Purpose: To review the applications submitted to the Research Tools Program of the National Endowment for the Humanities, for projects in Social Science and Philosophy beginning June 1, 1980.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1979, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close these meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

If you desire more specific information, contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, N.W., Washington, D.C. 20506, or call 202–724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 80-1841 Filed 1-18-80; 8:45 am]

BILLING CODE 7536-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

January 16, 1980.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and group into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the forms; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the item on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for future improvements to this notice, please send them to Stanley F. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377–3627

Revisions

National Oceanic and Atmospheric Administration
Public Weather Requirements Survey Plan
Single time
Households in the SMSA's, 2,000 responses; 600 hours
Richard Sheppard, 395–3211.

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—633–9118

New Forms

Plant Reporting Form
CS–189–P (Formerly FEA–0524–P–O)
Annually
Plants of corporation that used over 1 trillion Btu's, 14,456 responses; 607,152 hours
Jefferson B. Hill, 395–5867.

Sponsor Reporting Form
CS–189–S (Formerly FEA–0524–P–O)
Annually
Sponsors of corps. that used over 1 trillion Btu's of energy, 75 responses; 12,750 hours
Jefferson B. Hill, 395–5867.

Corporate Reporting Form
CS–189–C (Formerly FEA–0524–P–O)
Annually
Corps. that used over 1 trillion Btu's energy, 1,111 responses; 122,210 hours
Jefferson B. Hill, 395–5867.

Revisions

Distribution of Bituminous, Subbituminous, and Lignite Coal
EIA–6
Quarterly
Distributors of over 50,000 tons of bit., subbit., and lig., 5,600 responses; 14,000 hours
Jefferson B. Hill, 395–5867.

Data Gathering Provisions for Final Regulations for Transitional Facilities
ERA–300F, 300B, 300C, and 300R
On occasion
Transitional MFBI's and powerplants, 30 responses; 960 hours
Jefferson B. Hill, 395–5867.

Survey of Fuel Oil Dealers—Retail/Wholesale
FIA–B1156, 1157, 1158, and 1159
Monthly
Retail/wholesale fuel oil dealers, 60,000 responses; 34,980 hours
Jefferson B. Hill, 395–5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Office—William Riley—245–6511

New Forms

Center for Disease Control
Sex Education Projects
Single time
Description not furnished by agency
Richard Eisinger, 395–3214.

Public Health Service
National Blood Data Center Annual Census
Annually
All blood banks in the U.S., 7,000 responses; 5,250 hours
Off. of Federal Statistical Policy & Standard, 673–7974

Revisions

Health Resources Administration
Record of Capital Expenditure Reviews
HRA–5 (Revised), HRA–47
Other (see SF–83)
State health planning and development agencies, 6,000 responses; 2,400 hours
Richard Eisinger, 395–3214.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755–5184

New Forms

Housing Production and Mortgage Credit
Mortgagee Approval Forms
92001, A, B, C, D, E & K
Single time
Mortgage companies, 18,000 responses; 6,000 hours
Arnold Strasser, 395–5080.

Extensions

Policy Development and Research
Survey Questionnaire for HUD Residential Solar Heating and Cooling Demonstration Program

Other (see SF–83)
HUD demo participants, 900 responses; 950 hours
Arnold Strasser, 395–5080.

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. Lafue—633–3526

Reinstatements

Drug Enforcement Administration
Registrant Inventory of Drugs Surrendered
Lass of Controled Substances
DEA 41
On Occasion
Registrants under the controlled substance Act, 20,000 responses, 10,000 hours
Laverne V. Collins, 395–3214.

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523–6341

New Forms

Employment and Training Administration
Research on the Food Stamp Workfare Demonstration project
MT–303
Single time
Food stamp work registrants, 2,000 responses; 1,500 hours
Charles A. Filett, 395–5080.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Clearance Officer—Linda Shiley—254–9515

New Forms

Payment Activities Under the Disaster Relief Act of 1974
90–2
Weekley
State employment security agencies in disaster States, 600 responses; 600 hours
Edward H. Clarke, 395–5867.

TENNESSEE VALLEY AUTHORITY

Agency Clearance Officer—Eugene E. Mynatt—854–2596

New Forms

Senior Citizens Counseling Program Information Form
On occasion
Senior Citizens in Nashville/Davidson County, TN; 1,050 responses; 490 hours
Charles A. Filett, 395–5080.

U.S. METRIC BOARD

Agency Clearance Officer—Stanley R. Parent—235–2583

New Forms

U.S. Metric Board Survey of Small Businesses
Single time
Chief executive of selected firm, 2,500 responsees; 950 hours
Laverne V. Collins, 395–3214.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Agency Clearance Officer—Charles Ervin—523–0267

New Forms

Importers' Questionnaire Valves and Parts From Japan [1] and Italy (Inv. 701–TA–4 & 5)
Single time
Importers, 32 responses; 320 hours
Marsha D. Traynham, 395–6140.

Producers' Questionnaire Valves and Parts From Japan [1] and Italy (Inv. 701–TA–4 & 5)
Single time
Producers of valves and parts, 38 responses; 380 hours
Marsha D. Traynham, 395–6140.

Stanley E. Morris,

Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc 80–1865 Filed 1–18–80; 8:45 am]

BILLING CODE 3110–01–M

Cumulative Report on Rescissions and Deferrals

January 1, 1980.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Public law 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of January 1, 1980 of one rescission proposal and 40 deferrals contained in the first three special messages of fiscal year 1980. These message were transmitted to the Congress on October 1, November 15, and December 26, 1979.

Rescission (Attachment A)

As of January 1, 1980, no rescission proposals were pending before the Congress.

Deferrals (Table A and Attachment B)

As of January 1, 1980, $671.6 million in 1980 budget authority was being deferred from obligation and another $44 thousand in 1980 obligations was being deferred from expenditure. Table A summarizes the status of deferrals reported by the President, and Attachment B shows the history and status of each deferral reported during fiscal year 1980.

Information From Special Messages

The special messages containing information on the rescission and the deferrals covered by the cumulative report are printed in the **Federal Registers** of:

Friday, October 5, 1979 (Vol. 44, No. 195, Part IX).
Tuesday, November 20, 1979 (Vol. 44, No. 225, Part III).
Monday. December 31, 1979 (Vol. 44, No. 251, Part VII).

Table A—Status of 1980 Deferrals

(In millions of dollars) [1]

	Amount
Deferrals proposed by the President	$1,592.3
Routine Executive release (−$533.2 million) and adjustment (−$387.5 million) through January 1, 1980	−920.7
Overturned by the Congress	
Currently before the Congress	[2]671.1

[1] Detail does not add due to rounding.
[2] This amount includes $44 thousand in outlays for a Department of the Treasury deferral (D80–23).

BILLING CODE 3110–01–M

[1] These reports will be acted on before normal 10-day period. The clearance of these questionnaires on an expedited basis is necessary in order for the International Trade Commission to complete its investigation concerning valves and parts from Japan and Italy within the statutory time limits.

PAGE 1 ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1980 AS OF 12/26/79 13:40

AS OF JAN. 1, 1980

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
OTHER INDEPENDENT AGENCIES						
International Communication Agency						
Special International exhibitions						
BA	R80- 1	114		10 1 79	114	11 15 79

END OF REPORT

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PAGE 1 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 01/05/80 16:33

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 01-01-80
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund	BA	D80- 1	100,000		10 1 79				100,000
DEPARTMENT OF AGRICULTURE									
Forest Service									
Timber salvage sales	BA	D80- 2	9,298		10 1 79				9,298
Expenses, brush disposal	BA	D80- 3	32,060		10 1 79				32,060
Restoration of forest lands	BA	D80- 4	38		10 1 79				38
DEPARTMENT OF AGRICULTURE TOTAL	BA		41,396						41,396
DEPARTMENT OF COMMERCE									
National Oceanic and Atmospheric Administration									
Construction	BA	D80- 5	7,000		10 1 79				7,000
Coastal zone management	BA	D80- 6	20,000		10 1 79				
	BA	D80- 6A		a	11 15 79				20,000
Promote and develop fishery products and research	BA	D80- 7	2,400		10 1 79	-2,400			
Fisheries loan fund	BA	D80- 8	5,300		10 1 79	-93			5,207

PAGE 2 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 01/05/80 16:33

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 01-01-80
DEPARTMENT OF COMMERCE TOTAL	BA		34,700			-2,493			32,207
DEPARTMENT OF DEFENSE-MILITARY									
Military Construction									
Military construction, all services	BA	D80- 9	31,386		10 1 79	-18,270			13,116
DEPARTMENT OF DEFENSE-CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, all services	BA	D80-10	595		10 1 79				
	BA	D80-10A		114	12 26 79				709
DEPARTMENT OF ENERGY									
Energy Programs									
Fossil energy construction	BA	D80-11	50,000		10 1 79				50,000
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE									
Alcohol, Drug Abuse & Mental Health Administration									
Construction & renovation, St. Elizabeths Hospital	BA	D80-12	23,314		10 1 79				23,314
Human Development Services									
White House Conferences on Aging and Families	BA	D80-13	4,649		10 1 79				4,649
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE TOTAL	BA		27,963						27,963

PAGE 3 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 01/05/80 16:33

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 01-01-80
DEPARTMENT OF THE INTERIOR									
Heritage Conservation and Recreation Service									
Land and water conservation fund	BA	D80-14	30,000		10 1 79				30,000
Geological Survey									
Payments from proceeds, sale of water	BA	D80-15	39		10 1 79				39
Bureau of Mines									
Drainage of anthracite mines	BA	D80-16	1,137		10 1 79				1,137
DEPARTMENT OF THE INTERIOR TOTAL	BA		31,176						31,176
DEPARTMENT OF JUSTICE									
Federal Prison System									
Buildings and facilities	BA	D80-17	22,853		10 1 79				
	BA	D80-17A		14,888	11 15 79				37,741
DEPARTMENT OF STATE									
International Organizations and Conferences									
Contributions to intl peacekeeping activities	BA	D80-32	10,000		11 15 79				10,000
Other									
Emergency refugee and migration assistance fund	BA	D80-18	5,650		10 1 79	-8,000		5,582	3,232
DEPARTMENT OF STATE TOTAL	BA		15,650			-8,000		5,582	13,232

PAGE 4 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 01/05/80 16:33

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 01-01-80
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Civil supersonic aircraft development termination	BA	D80-19	5,004		10 1 79	-5,000			4
Facilities & equip. (Airport & airway trust fund)	BA	D80-20	138,211		10 1 79				138,211
Federal Highway Administration									
Federal aid highways	BA	D80-33	495,789		11 15 79	-495,789			
Urban Mass Transportation Administration									
Urban mass transportation fund	BA	D80-21	393,076		10 1 79			-393,076b	
DEPARTMENT OF TRANSPORTATION TOTAL	BA		1,032,080			-500,789		-393,076	138,215
DEPARTMENT OF THE TREASURY									
Office of the Secretary									
Investment in national consumer cooperative bank	BA	D80-38	12,550		12 26 79				12,550
Office of Revenue Sharing									
State and local government fiscal assistance fund	BA	D80-22	79,548		10 1 79				
	BA	D80-22A		34,245	12 26 79				113,793
	O	D80-23	2,735		10 1 79	-2,691			44
Bureau of the Mint									
Construction of mint facilities	BA	D80-24	3,200		10 1 79				3,200

PAGE 5 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 01/05/80 16:33

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 01-01-80
DEPARTMENT OF THE TREASURY									
TOTAL BA			95,328	34,245					129,573
TOTAL O			2,735			-2,691			44
OTHER INDEPENDENT AGENCIES									
District of Columbia									
Loans for capital outlay	BA	D80-39	8,130		12 26 79				8,130
Federal Emergency Management Agency									
Emergency planning, preparedness, and mobilization	BA	D80-25	80		10 1 79				80
Foreign Claims Settlement Commission									
Payment of Vietnam prisoner of war claims	BA	D80-26	1,800		10 1 79	-940			860
International Communication Agency									
Salaries & expenses	BA	D80-34	2,000		11 15 79				2,000
Special foreign currency program	BA	D80-35	1,600		11 15 79				1,600
Acquisition & construction of radio facilities	BA	D80-27	10,973		10 1 79				10,973
National Consumer Cooperative Bank									
Self-help development fund	BA	D80-40	8,000		12 26 79				8,000
Railroad Retirement Board									
Regional rail transportation protective account	BA	D80-36	1,000		11 15 79				1,000
National Alcohol Fuels Commission									
Salaries and expenses	BA	D80-28	250		10 1 79				250

PAGE 6 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 01/05/80 16:33

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 01-01-80
National Commission on Social Security									
Salaries and expenses	BA	D80-29	250		10 1 79				
	BA	D80-29A		145	12 26 79				395
Navajo & Hopi Indian Relocation Commission									
Salaries and expenses	BA	D80-30	5,300		10 1 79				5,300
President s Commission on Pension Policy									
Salaries and expenses	BA	D80-37	700		11 15 79				700
Tennessee Valley Authority									
Tennessee Valley Authority fund	BA	D80-31	17,000		10 1 79				17,000
OTHER INDEPENDENT AGENCIES TOTAL BA			57,083	145		-940			56,288
TOTAL BA			1,540,210	49,392		-530,492		-387,494	671,616
TOTAL O			2,735			-2,691			44

FOOTNOTES

a. This supplemental report was transmitted solely to expand the application of this deferral to include funds appropriated in FY 1980 as well as balances carried forward from previous years.

b. Congressional action on the 1980 Transportation and Related Agencies Appropriation Bill (P.L.96-131) rescinded these funds.

[FR Doc. 80-1435 Filed 1-18-80; 8:45 am]
BILLING CODE 3110-01-C

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 16483; SR-Amex-79-19]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

January 11, 1980.

On November 1, 1979, the American Stock Exchange, Inc., 86 Trinity Place, New York, New York 10006, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change which amends Amex Rule 959, Commentary .01, to delete a requirement that closing sell orders in options which have been placed in the cabinet and which cannot be immediately executed must be filed in time sequence with any order to sell at ⅛s in the regular-way auction market.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 16334, November 9, 1979) and by publication in the **Federal Register** (44 FR 65844, November 15, 1979). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-1777 Filed 1-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 16484; SR-CBOE-78-4]

Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

January 11, 1980.

On February 16, 1978, the Chicago Board Options Exchange, Incorporated ("CBOE"), 141 West Jackson Street, Chicago, Illinois 60604, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change to: (1) amend CBOE Rule 6.2 to require a Board Broker or Order Book Official to alternate the opening of put and call series on the same underlying security unless otherwise permitted by approval of Floor Officials or directed by the Floor Procedure Committee; (2) to amend CBOE Rule 6.54, Interpretations and Policies .01 to revise the procedures applicable to accommodation liquidations; and (3) to amend CBOE Rule 7.7, Interpretations and Policies .01 to require Board Brokers and Order Book Officials to display the full size of a bid or offer up to 999 contracts.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34–14518, March 2, 1978), and by publication in the **Federal Register** (43 FR 9670, March 9, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-1778 Filed 1-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21388, 70-6391, 70-6391]

Consolidated Natural Gas Co. and CNG Producing Co. Notice of Proposal To Acquire Oil and Gas Leaseholds and Mineral Rights From Non-Affiliate

January 11, 1980.

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated"), Four Gateway Center, Pittsburgh, Pennsylvania 15222, a registered holding company, and CNG Producing Company ("CNG Producing"), 1800 Bank of New Orleans Building, 1010 Common Street, New Orleans, Louisiana 70112, a wholly owned gas exploration and development subsidiary of Consolidated, have filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6, 7, 9 (a), 10, 12(f) and 12(g) of the Act and Rules 43 and 50(a)(3) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Consolidated is engaged solely in the business of owning and holding all of the outstanding securities, with the exception of minor long-term debt, of eleven subsidiary companies including eight in the natural gas business, plus subsidiary service, coal and research companies. The said eight subidiaries are engaged in natural gas exploration, production, purchasing, gathering, transmission, storage, distribution, by-product operations and importation of LGN. CNG Producing conducts exploration and development operations onshore and offshore, primarily in the southern United States but also in Canada. It sells natural gas, in the United States, to Consolidated Gas Supply Corporation, an affiliate, minor quantities at wholesale to non-affiliates in Louisiana, and to non-affliates in the Province of Alberta, Canada. Hidalgo-Willacy Oil Company ("Hidalgo"), a non-affiliated Texas corporation, having its principal place of business in McAllen, Texas, engages primarily in leasing mineral properties to and from others from which it obtains production revenue, collects royalties, bonus payments, and delay rentals. It has

leasehold and mineral interests in some 4,000 separate tracts situated in Texas with a minimal interest in Oklahoma. (Collectively, the "Properties.") The Properties constitute over 90% of the market value of all of Hildalgo's net assets.

Consolidated, CNG Producing and Hidalgo propose to enter into an Agreement and Plan of Reorganization ("Agreement"), which will be executed by the respective parties and each of Hidalgo's stockholders, consisting of individuals, corporations and trusts, thereby evidencing their unanimous approval of the transactions contemplated by the Agreement. Pursuant to the Agreement, Consolidated will deliver to CNG Producing such number of shares of its authorized but unissued common stock as shall, in the aggregate, equal $7,000,000. CNG Producing, in turn, will: (i) deliver such shares to Hidalgo for distribution to the shareholders of Hidalgo, in exchange for the Properties and (ii) deliver to Consolidated in consideration for the Consolidated stock 70,000 shares of its own common stock, $100 par value, at the par value thereof.

The number of shares of Consolidated common stock to be delivered will be determined by the per share closing price of said stock on The New York Stock Exchange Consolidated Tape five (5) New York business days immediately preceding the closing date or at a mutually acceptable earlier date. Based on a price of $40 per share, Consolidated would be required to deliver 175,000 shares of its common stock. Fractional shares will be rounded to the nearest whole share.

It is proposed that the cost of the Hidalgo Properties to be acquired be recorded on CNG Producing's books of account at the fair value of Consolidated's common stock issued to consumate the tax-free exchange, because fair value of the common stock is more clearly evident than fair value of the Properties. Some 4,000 tracts are involved in the transaction, and an appraisal of each of these would be not only time consuming but also cost-prohibitive. Economic justification for the proposed acquisition was based upon projected royalty revenues that will be forthcoming from the production of gas and liquid reserves estimated by Peppart-Souders & Associates, independent petroleum consultants.

It is stated that CNG Producing's entry into on-shore Texas through the proposed property acquisition would be a natural extension of its existing Southern producing operations. Most of CNG Producing's exploration and development activities have been heretofore concentrated off-shore Louisiana and Texas. Since December 1972, CNG Producing has participated in eleven offshore lease sales and has expended some $63 million on winning bids for about 48,000 net acres, excluding the November 1979 sale in which CNG Producing is an apparent winner of a tract covering 3,000 net acres at a cost of $5 million. On-shore exploration has been pursued to a limited degree in a number of states in the Gulf of Mexico region. The Hidalgo Properties are situated principally in three counties in Southern Texas. The acquisition of these Properties is viewed no differently from successful bids on the federal off-shore acreage. There are, however, noticeable advantages to the Hidalgo Properties: there is current production on and in the area of the Properties, on-shore wells are less expensive to drill than off-shore and fewer difficulties are encountered in drilling wells and gathering producion. While the Hidalgo Properties are being purchased for an exploration and development program, revenues and cash flow will be forthcoming immediately in the form of royalties. The contribution of royalty income serves to minimize the financial risk of an exploration and development program. CNG Producing's gas production from the Gulf area was 50.4 billion cubic feet in 1978. The proposed acquisition of the Hidalgo Properties is a part of Consolidated's program to increase its supply capability.

The fees, commissions and expenses to be incurred by Consolidated and CNG Producing in connection with the proposed transaction are estimated at $152,600, including consultant's fee of $80,000 and a $20,000 charge of Consolidated Natural Gas Service Company, Inc. for services performed at cost. It is stated that no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than February 4, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-1774 Filed 1-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 16491; SR-NASD-79-10]

National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

January 14, 1980.

On October 22, 1979, the National Association of Securities Dealers, Inc. ("NASD") 1735 K Street, N.W., Washington, DC 20006, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change which would amend the NASD's Code for Procedure for Handling Trade Practice Complaints ("Code") to provide that a mailing to any participant, member, or associated person, directed to the latest address carried on the NASD's records for that person, constitutes a proper service under the Code. In addition, the proposed amendment would provide that, for purposes of computing the time for required action under the Code, three days shall be added to the prescribed period if service is effected by mail. The NASD states that the purpose of the proposed amendment is to prevent the possibility of an open-ended period for appeals where an aggrieved person has not received timely notice under the Code.[1]

Notice of the proposed rule change together with the terms of substance of

[1] In connection with its adoption of Rule 19d–3 under the Act, the Commission advised all self-regulatory organizations to review their rules to make sure this problem was dealt with. Securities Exchange Act Release No. 13726 (July 8, 1977), 42 FR 36401 (July 14, 1977).

the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34–16366, November 27, 1979) and by publication in the **Federal Register** (44 FR 70250, December 6, 1979). No comments were received.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered securities associations, and in particular, the requirements of sections 15A(b)(6), (b)(8), (h)(1), and (h)(2), concerning fair procedures for the disciplining of members and persons associated with members, especially due process notice requirements, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-1775 Filed 1-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21391; 70–6399]

Appiachian Power Co.; Notice of Proposed Issue and Sale of First Mortgage Bonds

January 11, 1980.

Notice is hereby given that Appalachian Power Company ("Appalachian"), 40 Franklin Road, Roahoke, Virginia 24009, an electric utility subsidiary company of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed with this Commission a declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6, 7 and 12 of the Act and Rules 42 and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Appalachian proposes to issue and sell two new series of its first mortgage bonds, one such series in a private placement with Metropolitan Life Insurance Company ("Metropolitan") in an aggregate principal amount of $23,800,000 (the "First Series"), and the second such series to be sold to underwriters at competitive bidding in an aggregate principal amount of up to $40,000,000 (the "Second Series"). The sale of one series will not be dependent upon the sale of the other.

The First Series will bear interest at the rate of 12½% per annum and will mature and become payable on February 1, 1990. The price to be paid by Metropolitan will be 100% of the principal amount of the First Series. The terms of the First Serjes will preclude Appalachian from redeeming any bonds of such series at a regular redemption price before the expiration of five years from the first day of the month in which bonds of the First Series are first authenticated and delivered, if such redemption is for the purpose of refunding any such bond through the use, directly or indirectly, of borrowed funds at an effective interest cost less than the effective cost to Appalachian of the First Series. The terms of the bonds also will include a cumulative sinking fund pursuant to which Appalachian will be required to retire annually, commencing on February 1, 1985, $1,190,000 principal amount of the bonds of such series. It is stated that no finder's or other fee, commission or remuneration will be paid to any third person in connection with the sale. Appalachian further claims that the terms of the First Series compare favorably with the terms of similarly rated bonds of other electric utility companies which have been sold recently.

Appalachian proposes to issue and sell the Second Series to underwriters at competitive bidding. The interest rate (which will be expressed in a multiple of ⅛ of 1%) and the price to be paid to Appalachian for the bonds (which will not be less than 100% of principal amount, unless Appalachian shall authorize a lower percentage not less than 99%, nor more than 102¾% of principal amount) will be determined by competitive bidding. The terms of the bonds of the Second Series will also preclude Appalachian from redeeming any bonds of such series at a regular redemption price for five years after the first day of the month in which bonds of such series are first authenticated and delivered, if such redemption is for the purpose of refunding any bonds of such series through the use, directly or indirectly, of borrowed funds at an effective interest cost of less than the effective interest cost to Appalachian of such series of bonds. It is expected that the successful bidders for the bonds of the Second Series will make a public offering of the same.

Appalachian proposes to issue and sell up to $40,000,000 principal amount of bonds of the Second Series. The actual principal amount to be issued and sold will depend upon the net earnings of Appalachian (computed as provided in the Mortgage) for the twelve months ended December 31, 1979 (or the twelve months ended January 31, 1980, if practicable) and the level of interest rates on comparably rated debt securities prevailing shortly before the submission of bids for the bonds of the Second Series. It is stated that it is difficult to determine, under present bond market conditions, whether it would be more advantageous to Appalachian to sell the Second Series with a 30-year or some shorter maturity. It is proposed, therefore, that Appalachian decide at a later time, prior to the submission of bids for the bonds of the Second Series, on the maturity of the bonds of such series.

Each new series of bonds will be issued under and secured by Appalachian's Mortgage and Deed of Trust, dated as of December 1, 1940, as it has been and is proposed to be amended and supplemented.

The proceeds from the sale of the bonds of the First Series, together with other funds available to Appalachian, will be used to pay at maturity $23,874,000 principal amount of First Mortgage Bonds, 2⅞% Series due 1980, which will become payable on March 1, 1980. The proceeds from the sale of the bonds of the Second Series will be used to repay unsecured short-term debt of Appalachian. As of December 19, 1979, Appalachian had approximately $164,625,000 aggregate principal amount of such unsecured short-term debt outstanding, and it is anticipated that, at the time of the issuance and delivery of the bonds of the Second Series, approximately $160,000,000 aggregate principal amount of such short-term debt will be outstanding.

The fees and expenses to be incurred in connection with the proposed transactions will be supplied by amendment. The fees and expenses of counsel for the successful bidder or bidders for the bonds of the Second Series, to be paid by such bidder or bidders (except as otherwise provided in the purchase contract), will also be supplied by amendment. It is stated that the proposed transactions are subject to authorization by the State Corporation Commission of Virginia, and by the Tennessee Public Service Commission, and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may not later than February 6, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-1708 Filed 1-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11015; 812-4416]

Fidelity Cash Reserves; Notice of Filing of an Application for an Order of the Commission Amending a Previous Order Pursuant to Section 6(c) of the Act Granting Exemption From the Provisions of Rules 2a–4 and 22c–1 Under the Act

January 9, 1980.

Notice is hereby given that Fidelity Cash Reserves ("Applicant"), 82 Devonshire Street, Boston, Massachusetts 02109, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on December 3, 1979, requesting an order of the Commission amending in the manner described below an earlier order of the Commission dated April 5, 1979 (Investment Company Act Release No. 10654). This earlier order, pursuant to section 6(c) of the Act, exempted Applicant from the provisions of Rules 2a–4 and 22c–1 under the Act to the extent necessary to permit Applicant to compute its net asset value per share, for purposes of effecting sales, redemptions and repurchases of its shares, to the nearest one cent on a share value of one dollar. All interested persons are referred to the application on file with the Commission for a statement of representations contained therein, which are summarized below.

Applicant states that it is a "money market fund" offering to indivdiuals, corporations, fiduciaries and institutions a means of investment in a professionally managed portfolio of money market instruments with the objective of obtaining as high a level of current income as is consistent with the preservation of capital and liquidity. Applicant further states that its shares are sold without a sales charge.

Applicant states that it invests exclusively in various high-grade money market instruments including U.S. government and federal agency obligations; U.S. dollar-denominated obligations of the largest banks, including United States banks and their branches located outside of the United States and United States branches of foreign banks; prime commercial paper; high-grade corporate obligations which are rated AAA or AA by Standard & Poor's Corporation or Aaa or Aa by Moody's Investor Services, Inc.; and certain repurchase agreements with respect to obligations which, without regard to maturity, it is authorized to invest.

According to the application, all of Applicant's assets are invested in money market instruments maturing in less than one year, and the dollar-weighted average portfolio maturity of its portfolio may not exceed 120 days. The minimum initial investment in shares of the Applicant is $1,000 with additional investments accepted in amounts of $100 or more. Applicant further represents that at the close of business on October 31, 1979, its aggregate net assets were approximately $240,228,461. Fidelity Management and Research Company serves as investment adviser to Applicant.

Applicant represents that pursuant to the earlier order of the Commission dated April 5, 1979, Applicant presently computes its net asset value per share to the nearest one cent on a share value of one dollar utilizing the "penny rounding" valuation method. Applicant now seeks an order of the Commission, pursuant to section 6(c) of the Act, amending this earlier order, which amended order would exempt Applicant from the provisions of section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant's assets to be valued according to the amortized cost valuation method. Applicant further states that under the amortized cost valuation method, portfolio instruments are valued at their cost as of the date of acquisition assuming a constant rate of amortization to maturity of any discount or premium, regardless of the impact of fluctuating interest rates on the market value of such instruments.

As here pertinent, section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (ii) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things, (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be, inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate

in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

According to the application, Applicant's Trustees have determined in good faith that in light of its characteristics as described above, including the conditions to which Applicant must adhere as set forth in the earlier order of the Commission dated October 19, 1979, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and in Applicant's best interests and reflects the fair value of such securities. Applicant further represents that under the amortized cost method its shareholders would continue to have all the conveniences and advantages of a stable purchase and redemption price of $1.00 per share as described in its previous application to support the exemptive relief granted in such earlier order of the Commission.

Applicant has agreed that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested:

(1) In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Trustees undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase at $1.00 per share.

(2) Included within the procedures to be adopted by the Board of Trustees shall be the following:

(a) Review by the Board of Trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of Applicant's net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1%, a requirement that the Board of Trustees will promptly consider what action, if any should be initiated.

(c) Where the Board of Trustees believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; the sale of portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

(3) Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days.[2]

(4) Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

(5) Applicant will limit its portfolio investments, including repurchase agreements, to those U.S. dollar-denominated instruments which the Board of Trustees determines present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not so rated, of comparable quality as determined by the Board of Trustees.

(6) Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any action was taken will describe the nature and circumstances of such action.

Applicant submits that use of the amortized cost method of valuing its portfolio securities, subject to the conditions enumerated above, will benefit its shareholders by enabling the Applicant to more effectively maintain the $1.00 per share purchase and redemption price in a manner which is substantially similar to that permitted under the Commission's earlier order. The Applicant further believes that granting of the requested exemptions by the Commission is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 31, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

[1] Applicant states that to fulfill this condition, it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board of Trustees in the exercise of its discretion to be appropriate indicators of value. In addition, Applicant states that the quotations or estimates utilized may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce its dollar weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-1787 Filed 1-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21392; 70-6170]

Lowell Gas Co. and Cape Cod Gas Co.; Notice of Post-Effective Amendment Relating to Short-Term Financing

January 14, 1980.

Notice is hereby given that Lowell Company ("Lowell"), 95 East Merrimack Street, Lowell, Massachusetts 01853, and Cape Cod Gas Company ("Cape Cod"), P.O. Box 1360, Hyannis, Massachusetts 02601, public utility subsidiaries of Colonial Gas Energy System ("Colonial"), a registered holding company, have filed with this Commission a post-effective amendment to the joint declaration in this proceeding pursuant to Sections 6 and 7 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transaction. All interested persons are referred to the amended declaration for a complete statement of the proposed transaction.

By order dated December 26, 1979 (HCAR No. 21359), this Commission authorized Lowell to increase the maximum loan amount under its credit agreements from $11,800,000 to $12,500,000 through March 31, 1980. Such increase was occasioned by the additional working capital requirements of Lowell and Cape Cod due to increased cost of natural gas supplied by pipeline. By post-effective amendment Lowell hereby requests that the increased maximum loan amount heretofore requested by it be extended through June 30, 1980.

The fees, commissions and expenses to be incurred in connection with the proposed transaction are estimated to total $2,000, comprised of legal fees. It is stated that no state commission, and no federal commission, other than this Commission has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than February 11, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-1789 Filed 1-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11015; 812-4499]

Narragansett Capital Corp. and Photo Systems, Inc.; Notice of Filing of Application for Order Pursuant to Section 17(b) of the Act Exempting Proposed Transaction From Section 17(a) of the Act and Pursuant to Section 17(d) of the Act and Rule 17d-1 Thereunder Permitting Joint Transaction

January 14, 1980.

Notice is hereby given that Narragansett Capital Corporation ("Narragansett"), 40 Westminster Street, Providence, Rhode Island 02903, a non-diversified, closed-end, management investment company registered under the Investment Company Act of 1940 ("Act") and a licensed small business investment company under the Small Business Investment Act of 1958, and Photo Systems, Inc. ("Photo Systems"), 7200 West Huron River Drive, Dexter, Michigan 48130, a company presumed to be controlled by Narragansett (hereinafter Narragansett and Photo Systems are collectively referred to as "Applicants"), filed an application on June 26, 1979, and an amendment thereto on November 27, 1979, for an order of the Commission pursuant to section 17(b) of the Act exempting from the provisions of section 17(a) of the Act and, pursuant to section 17(d) of the Act and Rule 17d–1 thereunder, permitting certain proposed transactions which are to be made in connection with the restructuring of Narragansett's investment in Photo Systems. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, Photo Systems, a Michigan corporation which manufactures and sells darkroom equipment and photographic supplies and operates a film processing laboratory, has a total of 1,030,000 shares of Common Stock which are issued and outstanding, all of which carry voting rights and have a par value of $0.10 per share. The application states that 230,000 of such shares are Class A Common Stock and are held by six persons who were employees or spouses of employees when Photo Systems were organized in 1973. The application further states that the remaining 800,000 shares, or 77.7% of Photo Systems' outstanding shares, are Class B Common Stock held by Narragansett. Applicants state that in addition to an equity investment in Photo Systems, Narragansett holds a note issued by Photo Systems which has a currently outstanding principal balance of $1,172,430. Three of Photo Systems' five directors (Messrs. Sarles, Little and Considine) are directors and present or former officers of Narragansett.

Applicants state that when Photo Systems was organized in July, 1973, Narragansett purchased 250,000 shares of Class B Common Stock at an aggregate purchase price of $250,000 and loaned the company $1,750,000, evidenced by a Photo Systems note in that amount ("1973 Note"). Such loan, Applicants state, was subordinate in right of payment to Photo Systems' indebtedness to the Industrial National Bank of Rhode Island ("INBank") in the amount of $2,750,000. Applicants further state that because of financial difficulties experienced by Photo Systems, Applicants took certain steps during the period from 1974 through 1975 to refinance and restructure Narragansett's investment. On September 5, 1974, Narragansett loaned Photo Systems an additional $100,000, evidenced by a demand note for such amount which carried an interest rate of fifteen percent per annum ("Demand Note"). In 1975 Photo Systems underwent an internal reorganization ("1975 Refinancing") under the supervision of Narragansett which included: (a) the refinancing of the principal amount of the Demand Note

through (i) the conversion of $50,000 of principal to 36,000 shares of Class 3 Common Stock at an agreed price of $1.00 per share and (ii) the execution and delivery to Narragansett of Photo Systems' subordinated promissory note in the amount of $50,000, payable on June 30, 1977, together with interest at 5% above INBank's prime rate with a maximum of 15% and a minimum of 12% ("Interim Note"); (b) all accrued interest on the Demand Note was paid in full; (c) conversion of the 1973 Note for $1,750,000 into: (i) 500,000 shares of Class B Common Stock at an agreed value of $1.00 per share and (ii) a subordinated promissory note in the amount of $1,250,000 payable on August 1, 1983, with an interest rate of 5% above the floating prime rate of INBank, not to exceed 15% nor to be less than 12% ("Substituted Note"); (d) interest due on the 1973 Note, which amounted to $127,388.69, was converted into a subordinated promissory note ("Interest Note") due August 1, 1980, without interest through the maturity date; (e) the election of a third nominee of Narragansett to Photo Systems' Board of Directors; and (f) an amendment to Photo Systems' Articles of Incorporation to provide for Class B Common Stock to receive a 10% cumulative dividend (if permitted by INBank).

Applicants state that these steps, increasing Narragansett's equity ownership from 250,000 shares to 800,000 shares, increased Narragansett's percentage of ownership from 50% to 76.2%, while the principal amount of Photo System's indebtedness to Narragansett was decreased. Additionally, the application states that as a part of the 1975 Refinancing Agreement, Photo Systems was given the option to redeem and purchase 500,000 shares of its stock from Narragansett at a price specified in a schedule included in the agreement. The application further states that following the 1975 Refinancing, William Considine (a director of Narragansett) was elected as chairman of the Board of Directors and chief executive officer of Photo Systems. Additionally, Applicants state that Mr. Considine's actual annual compensation as chief executive officer has ranged from $30,000 to $60,000.

Thereafter, according to Applicants, Photo Systems continued to experience financial difficulties which led to the refinancing of Photo Systems' indebtedness to Narragansett ("1976 Refinancing") through a cancellation of all prior debts in exchange for a subordinated promissory note due June 30, 1981, in the amount of $1,500,000, with interest of 10% ("1976 Note"). As stated in the application (which included the $50,000 Interim Note, the $1,250,000 Substituted Note and the $127,388.69 Interest Note) by changing the maturity date on the individual notes from June 1977, August 1983, and August 1980, respectively, to June 1981 and by reducing the interest rate to 10% and (2) added all but $66,482.55 of the accrued and unpaid interest on the Interim and Substituted Notes due Narragansett to the principal amount of Photo Systems' indebtedness. Applicants state that part of the interest due was forgiven because Photo Systems was still struggling financially. Applicants further state that as a result of the 1976 Refinancing, the principal amount of Narragansett's investment was increased to $2,300,000, consisting of equity of $800,000 and subordinated debt in the principal amount of $1,500,000.

According to the application, during 1977 and 1978, Photo Systems' financial picture was affected by the following events: (1) On January 13, 1977, Narragansett agreed to permanently waive its right to dividend arrearages on Photo Systems stock in the amount of $94,572; (2) in January 1978, Photo Systems disposed of one of its divisions to an unrelated third party for net cash proceeds of $1,450,000, all of which were used to reduce its then outstanding indebtedness to INBank from $2,400,000 to approximately $950,000; (3) on June 12, 1978, with the approval of the Commission, Photo Systems disposed of another division to Sound Color Corporation (a company created for such purpose and in which Narragansett invested $75,000 for 50% of the voting stock) and used $625,000 of the proceeds to reduce its indebtedness to INBank to approximately $325,000 and used $300,000 of the proceeds to reduce the principal amount of its indebtedness to Narragansett from $1,500,000 to $1,200,000; and (4) during 1978 Photo Systems redeemed 20,000 shares of Class A Common Stock.

Applicants state that on June 15, 1979, they entered into a Redemption and Refinancing Agreement ("Agreement") pursuant to which Photo Systems will be restructured and refinanced in the following manner. Photo Systems will purchase 550,000 of the 800,000 shares of Class B Common Stock held by Narragansett for an aggregate purchase price of $550,000. The purchase price is payable by delivery to Narragansett of a cash payment of $5,000 and a promissory note of Photo Systems for the remaining $545,000, plus the outstanding balance of the 1976 Note (amounting to $1,172,430 as of the date of the application) which is being refinanced ("Redemption Note"). Applicants state that the Redemption Note will be due August 1, 1984, will carry an interest rate of 12% per annum, will be payable during each fiscal year in an amount equal to 20% of Photo Systems' after-tax earnings for the preceding fiscal year, and will be subordinated, with respect to principal and interest, to Photo Systems' indebtedness to InBank.

Section 2(a)(3) of the Act includes within the definition of "affiliated person" of another person: (1) any person owning five percent or more of the outstanding voting securities of such other person; (2) any person five percent or more of whose outstanding voting securities are owned by such other person; (3) any officer, director or employee of such other person; and (4) any person controlled by such other person. Section 2(a)(9) of the Act provides, in part, that any person owning, directly or indirectly, more than 25 percent of the voting securities of a company shall be presumed to control such company. Accordingly, Applicants state that: (1) Photo Systems is an affiliate of and, by virtue of Narragansett's ownership of 77.7% of Photo Systems' outstanding voting securities, presumed to be controlled by Narragansett; (2) Narragansett is an affiliate of Photo Systems; and (3) Messrs. Sarles, Little and Considine, by virtue of their positions as directors of Narragansett, are affiliates of Narragansett and, similarly, by virtue of thier positions as directors of Photo Systems, are also affiliates of Photo Systems.

Section 17(a) of the Act provides, in pertinent part, that it is unlawful for any affiliated person of a registered investment company or any affiliated person of such person, acting as principal, knowingly to purchase from or sell to such registered company or any company controlled by such registered company, any security or other property except securities of which the seller is the issuer. Section 17(b) of the Act generally provides that, upon application, the Commission shall exempt a proposed transaction from the provisions of section 17(a) of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act.

Although Rule 17a–6 under the Act provides an exemption for transactions with certain affiliated persons, Applicants acknowledge that because Mr. Considine receives a salary from Photo Systems, he may be deemed to have an "indirect financial interest" in Photo Systems, thus rendering the exemption unavailable. Consequently, Applicants request an order pursuant to section 17(b) of the Act, exempting from the provisions of section 17(a) of the Act, the redemption and refinancing arrangement described above.

Section 17(d) of the Act and Rule >17d–1 thereunder, taken together, provide, in part, that it is unlawful for an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, to effect any transaction in which such investment company is principal, to effect any transaction in which such investment company is a joint participant, without the permission of the Commission. Rule 17d–1 provides, in part, that in passing upon applications for orders granting such permission, the Commission will consider (i) whether the participation of the investment company in such transaction on the basis proposed is consistent with the provisions, policies and purposes of the Act, and (ii) the extent to which such participation is on a basis different from or less advantageous than of other participants. Applicants state that the proposed transaction may be said to involve a joint arrangement, in which Narragansett and Photo Systems are participants, and thus could be deemed to be prohibited under Rule 17d–1 unless the Commission issues an exemptive order or the transaction is otherwise exempt under the provisions of Rule 17d–1. Although Rule 17d–1(d)(5) under the Act provides that no application need be filed with respect to certain joint transactions, Applicants acknowledge that because of Mr. Considine's salary from Photo Systems, he may be deemed to have an "indirect financial interest" in the joint enterprise, and because Photo Systems might be said to be committing in excess of 5% of its assets to the joint enterprise, the exemption is not clearly available. Therefore, Applicants request an order of the Commission, pursuant to section 17(d) of the Act and Rule 17d–1 thereunder, permitting the proposed redemption and refinancing arrangement.

Applicants assert that the proposed transaction is reasonable and fair to Narragansett and Photo Systems and does not involve overreaching on the part of either party. Applicants state that in their judgment the $1.00 per share is a fair and reasonable price for the stock of Photo Systems for the following reasons: (1) the book value of the Photo Systems stock, which is one objective measure of value, was approximately $.92 per share on September 27, 1978, the date on which Narragansett agreed in principal to sell a portion of its Class B Stock back to Photo Systems at $1.00 per share, and, as of March 31, 1979, after final terms of the transaction were agreed to on or about March 8, 1979, and prior to approval of the transaction by Narragansett's Board of Directors on May 3, 1979, Photo Systems' stock had a book value of $1.02 per share; (2) the management of Photo Systems elected not to exercise the option to purchase its shares based on their judgment that, among other things, the applicable option price under the terms of the 1975 Refinancing Agreement exceeded the present fair value and that Photo Systems could not afford to repurchase its shares at the option price even if such price were reasonable; and (3) all the purchases of such shares by Photo Systems and the management-stockholders occurring between April 1, 1978, and December 28, 1978, amounting to 143,000 shares, were consummated at $1.00 per share, payable in cash, except for 5,000 shares redeemed from an employee whose employment was terminated, and whose shares were redeemed at $.50 per share payable in cash at which time Photo Systems also forgave $2,500 of indebtedness owed by such employee. Applicants noted that as a part of the refinancing, the interest rate on all of Photo Systems' outstanding indebtedness to Narragansett will be raised from 10% to 12% and the maturity date extended by three years. Applicants submit that such terms are fair to both parties for the following reasons: (1) the increased yield on Photo Systems' indebtedness and the enhanced potential for gain on its equity ownership which Narragansett will derive by providing management stockholders meaningful equity participation adequately compensates Narragansett for the extension of the maturity date; (2) the rate of interest to be charged on the Redemption Note is fair to Photo Systems given present money market conditions, the extension of the maturity date and the subordinated nature of the loan; (3) it is evident that Photo Systems will be unable to meet its obligation under the 1976 Note to repay Narragansett in 1981; (4) the refinancing is structured in a way which Photo Systems believes will permit it to meet its obligations without unduly burdening it; and (5) Photo Systems believes that the increased equity participation of the management stockholders will assure their continued employment which Narragansett considers essential to the continued profitability and growth of Photo Systems. Additionally, it is noted that Narragansett will continue to control Photo Systems through the ownership of 52.1% of Photo Systems' voting stock.

Applicants also assert that the proposed transaction is consistent with the policy of Narragansett as reflected in its registration statement and reports filed under the Act; that the proposed transaction is consistent with the general purposes of the Act; and participation of both Narragansett and Photo Systems in the joint enterprise is not on a basis less advantageous than that of the other participant. Specifically, Applicants submit that neither participant is advantaged or benefited at the expense of the other in the proposed transaction.

Notice is further given that any interested person may, not later than February 7, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–1790 Filed 1–17–80; 8:45 am]
BILLING CODE 8010–01–M

V 45 / 14 JA 21 80 UMI

DEPARTMENT OF TRANSPORTATION
Federal Railroad Administration

[Docket No. RFA 511-79-3]

Guarantee of Obligations; Receipt of Application

Project: Notice is hereby given that the Chicago and North Western Transportation Company ("applicant"), 400 West Madison Street, Chicago, Illinois 60606, has filed an application with the Federal Railroad Administration ("FRA") under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, 45 U.S.C. 831, to secure a commitment by the United States to guarantee obligations or other evidence of indebtedness to be issued by the applicant in the principal amount of $28,300,000. Loan arrangements have not been completed at this time.

The proceeds of the loan are to be used by the applicant to refurbish and improve 2,604 freight train cars. More specifically, the following types of freight cars will be refurbished and improved.

Car type	Number of cars
Box, XM, 50 ft. WD	673
Box, XF, 50 ft	27
Box, 60 ft., Equipped	58
Box, 86 ft., Equipped	24
Box, 40 ft. & 50 ft. DF	179
Box, Insulated	156
Open Top Hopper	132
Covered Hopper-Small-G	182
Covered Hopper-Medium-G	18
Covered Hopper-Small-GP	31
Covered Hopper-Large	936
Ore Hopper-Large	103
Ore Hopper-Small	150
Gondola, 53 ft., Equipped	18
Gondola, 53 ft., Covered	26
Gondola, 53 ft., Plain	42
Gondola, 41 ft., Equipped	21
Gondola, 41 ft., Plain	221
Gondola, 65 ft., Equipped	5
Gondola, 65 ft., Plain	18
Coil Stud Flat	14
Total	2,804

Justification for Project: The applicant states that the refurbishment and improvement project will permit more efficient service and additional traffic by increasing the supply of freight cars to present and potential customers because of improved freight car availability and utilization. In addition, the applicant states that the project will reduce its dependence on foreign cars, thereby reducing car rental expense.

Comments: Interested persons may submit written comments on the application to the Acting Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, not later than February 20, 1980. Such submission shall indicate the docket number shown on this notice and state whether the commenter supports or opposes the application and the reasons therefor.

The comments will be taken into consideration by the Federal Railroad Administration in evaluating the application. However, formal acknowledgement of the comments will not be provided.

Dated: January 11, 1980.

William E. Loftus,

Acting Associate Administrator for Federal Assistance.

[FR Doc. 80-1580 Filed 1-18-80; 8:45 am]

BILLING CODE 4910-06-M

Federal Aviation Administration
[Summary Notice No. PE-80-2]

Petitions for Exemptions; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: February 11, 1980.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-24), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW, Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on January 11, 1980.

Edward P. Faberman,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
19943	Airline Training Institute	14 CFR §§ 61.157(d)(1) and 61.63(d)(2).	To allow their trainees to complete a practical test for the issuance of a type rating to be added to any grade of pilot certificate, in an airplane simulator as set forth in Appendix A of Part 61 in lieu of a flight test.
19944	Tracy A. Barnett	14 CFR § 63.61	To allow the petitioner to be certified as a flight engineer prior to his twenty-first birthday.
19947	Eastern Air Lines, Inc	14 CFR § 121.417(c)	To allow a 12-month extension of the September 29, 1980, compliance date for completion of crewmember recurrent training involving the actual operation of each type emergency exit in the normal and emergency modes.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
12738	Union de Transports Aeriens	14 CFR Parts 21, 61, 63, and 91	To amend Exemption No. 1775B, as amended, to include additional airmen in the appendix so that they may serve as flight crewmembers on leased, U.S.-registered aircraft. *Granted 12/31/79.*
19167	Rockwell International	CAR 4b.362(f)	To permit certification of the Model NA-265-65 with a 9-inch aisle width up to 25 inches from the floor and a 12-inch aisle width above 25 inches from the floor, instead of the required 12 and 16-inch widths, respectively. *Withdrawn 12/17/79.*
AP-CE-79-2	The City of Columbia, Missouri	14 CFR § 139.49(b)(2)	To defer compliance with the requirement to have available during air carrier user operations the specified fire-fighting and rescue equipment. *Granted 12/19/79.*

[FR Doc. 80-1579 Filed 1-18-80; 8:45 am]

BILLING CODE 4910-13-M

Research and Special Programs Administration

Applications for Exemptions

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: List of Applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulations of the Materials Transportation Bureau has received the applications described herein.

DATES: Comment period closes February 20, 1980.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the application are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 Seventh Street, S.W., Washington, D.C.

Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

New Exemptions

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8345-N	International Minerals & Chemical Corp., Allentown, Pa.	49 CFR 173.184	To authorize shipment of nitrostarch, wet, with not less than 20% water in DOT Specification 12H fibre boxes with a 2 or 3 mil gusset type anti-static seamless polyethylene liner. (Mode 1.)
8346-N	Mobay Chemcial Corp., Pittsburgh, Pa	49 CFR 173.247, 173.271	To authorize shipment of thionyl chloride, sulfur chloride, sulfuryl chloride and phosphorus trichloride in non-DOT specification portable tanks. (Modes 1, 2, 3.)
8347-N	Fabricated Metals Inc., San Leandro, Calif	49 CFR 173.118a, 173.119	To manufacture, mark and sell DOT Specification 57 steel portable tank for shipment of various flammable and combustable liquids. (Mode 2.)
8348-N	Frell Inc., Corpus Christi, Tex	49 CFR 173.119(a)(17), 173.245(a) (30), (31), 178.342-5, 178.343-5.	To manufacture, mark and sell non-DOT specification cargo tanks complying generally with DOT Specification MC-312 except for bottom outlet valve variation for the transport of flammable or corrosive waste liquids or semi solids. (Mode 1.)
8350-N	Sherex Chemcial Co. Inc., Dublin, Ohio	49 CFR 173.245(a)(31), 173.249(a)(1).	To authorize shipment of corrosive liquids and alkaline corrosive liquids, n.o.s., in DOT Specification MC-306 cargo tanks. (Mode 1.)
8351-N	DuBois Chemical Co., Cincinnati, Ohio	49 CFR 173.128, 173.245, 173.249.	To authorize shipment of various corrosive, and flammable liquids in a DOT Specification 57 steel portable tank. (Mode 1.)
8352-N	Degussa Corp., Frankfurt, Germany	49 CFR 173.154	To authorize shipment of Ammonium persulfate and sodium persulfate in non-DOT specification plastic bags similar to DOT Specification 44P. (Modes 1, 2, 3.)
8353-N	Thiokol Corporation, Huntsville, Ala	49 CFR 173.252-2(b)	To authorize shipment of ammonium perchlorate as a DOT Specification 56 portable tank equipped with an alternate closure device. (Mode 2.)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued at Washington, D.C., on January 11, 1980.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80-1610 Filed 1-18-80; 8:45 am]

BILLING CODE 4910-60-M

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: List of Applications for Renewal or Modification of Exemptions or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice.

V 45 / 14 JA 21 80 UMI

Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes February 11, 1980.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, D.C.

Application No.	Applicant	Renewal of exemption
6464-X	Fall River Gas Company, Fall River, Mass	6464
6464-X	South Jersey Gas Company, Folsom, New Jersey	6464
6464-X	L. P. Transportation, Inc., Chester, New York	6464
6700-X	Container Corporation of America, Wilmington, Delaware	6700
6765-X	Gardner Cryogenics, Division of Carpenter Technology Corp., Bethlehem, Penn	6765
6800-X	Plasti-Drum Corp., Lockport, Illinois	6800
6883-X	Hedwin Corporation, Baltimore, Maryland [1]	6883
6964-X	Union Carbide Corporation, Bound Brook, New Jersey	6964
7060-X	Sajen Air, Inc., Chesterfield, Mo	7060
7062-X	Bennett Industries, Pacoima, California	7062
7072-X	Container Corporation of America, Wilmington, Delaware	7072
7227-X	Lox Equipment Company, Livermore, California [1]	7227
7257-X	Brewer Chemical Corp., Honolulu, Hawaii	7257
7409-X	Puerto Rico Marine Management, Inc., Elizabeth, New Jersey	7409
7465-X	State of Alaska, Juneau, Alaska	7465
7502-X	Synder Industries, Inc., Lincoln, Nebraska	7502
7526-X	Schering AG, Berlin, Germany	7526
7528-X	Central Steel Drum Company, Newark, New Jersey	7528
7549-X	Stauffer Chemical Company, Westport, Connecticut	7549
7578-X	Department of the Army, Washington, D.C	7578
7584-X	Orval Tank Containers, Paris, France	7584
7584-X	Intael Corporation, New York, New York	7584
7584-X	Compagnie Des Container Reservoirs, Paris, France	7584
7584-X	Eastern Mediterranean (Containers) Co. Ltd., London, England	7584
7616-X	Missouri Pacific Railorad Co., St. Louis, Missouri	7616
7835-X	Scientific Gas Products Inc., South Plainfield, New Jersey	7835
7891-X	United Parcel Service, Greenwich, Connecticut	7891
7897-X	Sea Containers Atlantic Limited, Hamilton, Bermuda	7897
7897-X	Compagnie Des Containers Reservoirs, Paris, France	7897
7897-X	Hugonnet, S.A., Paris, France	7897
7897-X	T.I.C., S.A., Paris, France	7897
7907-X	Hercules, Incorporated, Wilmington, Delaware	7907
7938-X	Bignier Schmid-Laurent, Paris, France [5]	7938
8035-X	NL Industries, Inc., Houston, Texas [6]	8025
8067-X	Union Carbide Corporation, Bound Brook, New Jersey [7]	8067
2582-X	Union Carbide Corporation, Tarrytown, New York	2582
2582-X	Matheson Gas Products, Lyndhuest, New Jersey	2582
2582-X	Air Products and Chemicals, Inc. Allentown, Pennsylvania	2582
2973-X	PPG Industries, Inc., Pittsburgh, Pennsylvania	2973
3737-X	Department of the Army, Washington, D.C	3737
3992-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Delaware	3992
3992-X	Dow Chemical Company, Plaquemine, La	3992
5112-X	Department of the Army, Washington, D.C	5112
5188-X	Department of Energy, Washington, D.C [1]	5188
5454-X	Allied Chemical Corp., Morristown, New Jersey [2]	5454
5454-X	Union Carbide Corporation, Tarrytown, New York	5454
6113-X	San Diego Gas & Electric Company, San Diego, California	6113
6299-X	Minnesota Valley Engineering, New Prague, Minnesota	6299
6333-X	Allied Chemical Corp., Morristown, New Jersey	6333
6464-X	Bay State Gas Company, Canton, Mass	6464
6464-X	New Bedford Gas and Edison Light Co., New Bedford, Mass	6464
6464-X	Philadelphia Gas Works, Philadelphia, Penn	6464
6464-X	Public Service Electric and Gas Company, Newark, New Jersey	6464
6464-X	New Jersey Natural Gas Company, Asbury Park, New Jersey	6464
2805-P	Northern Petrochemical Company, Des Plaines, Illinois	2805
4108-P	Purity Cylinder Gases, Inc. Grand Rapids, Michigan	4100
6526-P	Coastal Chemical Corporation. Greenville, N.C.	6526
6954-P	Deupree Distributing Co., Inc., Oklahoma City, Oklahoma	6954
7005-P	Hoyer, S.A.G.L., Chiasso, Switzerland	7005
7052-P	Environmental Devices Corp., Marion, Mass	7052
7052-P	Ocean Research Equipment, Inc., Falmouth, Mass	7052
7584-P	Sea Containers Atlantic Ltd., Hamilton, Bermuda	7584
7607-P	Clayton Environmental Consultants, Inc., Southfield, Michigan	7607
7952-P	Filo Chemical Corporation, New York, New York	7952
8005-P	Toy Armory, Inc., Florence, Italy	8005
8182-P	Societe Parieler, Paris, France	8182
8229-P	E. I. du Pont de Nemours & Co., Inc., Wilmington, Delaware	8229
8304-P	Associated Couriers, Inc., St. Louis, Mo	8304

[1] Request authorization to add a similar pressure vessel to the terms of the exemption.

[2] Request renewal and to add water as an additional mode of transportation.

[3] To renew and to specifically identify certain commodities, to provide for top head design modifications, and to make editorial changes.

[4] To convert exemption to manufacture, mark, and sell type and to provide for certain tank design modifications.

[5] To authorize an additional portable tank model similar to those presently authorized except for compartments and certain appurtenances.

[6] Request to add a new explosive unit and a new packaging configuration to exemption.

[7] To authorize silver oxide, an oxidizing material, as an additional commodity to be shipped in DOT Specification 56 portable tank.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(3)).

Issued in Washington, D.C., on January 11, 1980.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80-1611 Filed 1-18-80; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Commissioner's Advisory Group, Open Meeting

There will be a meeting of the Commissioner's Advisory Group on January 31 and February 1, 1980, in Room 3313 of the Internal Revenue Service Building. The building is located at 1111 Constitution Avenue, N.W., Washington, D.C. The meeting will begin at 10:00 A.M. on January 31 and 9:00 A.M. on February 1. The agenda will include the following topics:

Thursday, January 31, 1980

Information to Practitioners (no ruling areas; prime issue list).
Audit Techniques and Related Issues, Including TCMP Audits and Use of Compliance Specialists.
Taxpayer Assistance and Information, Aid to Small Taxpayers.
Withholding as a Compliance Mechanism.
Relations Between Treasury and IRS (Report of the ABA Section on Taxation, Special Committee on Governmental Relationships of the Internal Revenue Service, *Tax Lawyer*, Fall, 1979).

Friday, February 1, 1980

IRS and Congress—Changes in IRS Practice and the Phenomenon of Legislative Proscription/of Administrative Action. Oversight by IRS of its Litigation Positions. Discussion of Future Meetings.

The meeting, which will be open to the public, will be in a room that accommodates approximately 50 people. After the Committee members finish discussing the items on the agenda, there may be time for statements by non-members. If you want to make a statement at the meeting, or if you would like the committee to consider a written statement, please call or write to Lauralee A. Matthews, Assistant to the Commissioner, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

William E. Williams,

Acting Commissioner.

January 15, 1980.

[FR Doc. 80-1655 Filed 1-18-80; 8:45 am]

BILLING CODE 4830-01-M

Art Advisory Panel; Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Closed Meeting of Art Advisory Panel.

SUMMARY: A closed meeting of the Art Advisory Panel will be held in Washington, D.C.

DATE: The meeting will be held February 20 and 21, 1980.

FOR FURTHER INFORMATION CONTACT: Tom Hartnett, T:C:E:V, 1111 Constitution Avenue, N.W., Room 5547, Washington, D.C., 20224, Telephone No. 202–566–4427, (not a toll free number).

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. (1976), that a closed meeting of the Art Advisory Panel will be held on February 20 and 21, 1980, beginning at 10:00 a.m. in Room 3313, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

The agenda will consist of the review and evaluation of the acceptability of market value appraisals of works of art involved in Federal Income, Estate, or Gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of section 6103 of Title 26 of the United States Code.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that these meetings are concerned with matters listed in section 552b(c) (3), (4), (6), and (7) of Title 5 of the United States Code, and that the meetings will not be open to the public.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978. (43 FR 52122.)

William E. Williams,

Acting Commissioner.

[FR Doc. 80-1585 Filed 1-17-80; 10:03 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

Cooperative Studies Evaluation Committee; Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92–463 that a meeting of the Cooperative Studies Evaluation Committee, authorized by 38 U.S.C. 4101, will be held at the Holiday Inn—Airport Lakes, 1101 N.W. 57th Avenue, Miami, FL on February 4, 5, and 6, 1980. The meeting will be for the purpose of reviewing proposed cooperative studies and advising the Veterans Administration on the relevance and feasibility of the studies, the adequacy of the protocols, the scientific validity and the propriety of technical details, including involvement of human subjects. The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program, on its findings.

The meeting will be open to the public up to the seating capacity of the room from 8 to 8:30 a.m., February 4, 5, and 6, to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. James A. Hagans, Coordinator of the Committee, Veterans Administration Central Office, Washington, DC. (202–389–3702) prior to January 25.

The meeting will be closed from 8:30 a.m. to 6:25 p.m., February 4, and February 5, from 8:30 a.m. to 6:15 p.m., and 8:30 a.m. to 2:15 p.m., February 6, for consideration of specific proposals in accordance with provisions set forth in Subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, and Subsection 552b(c)(6) of Title 5, United States Code. During this portion of the meeting, discussion and decisions will deal with qualifications of personnel conducting the studies and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: January 15, 1980.

Max Cleland,

Administrator.

[FR Doc. 80-1674 Filed 1-18-80; 8:45 am]

BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. 234

MC 28396 (Sub-315TA), filed November 27, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. THE WAGGONERS, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE

68501. (1) *Animal traps* and (2) *parts and materials used in the manufacture of animal traps* between Mahaffey, PA, on the one hand, and, on the other, points in CO, ID, IL, IN, LA, KS, KY, MI, MN, MO, MT, NE, NY, ND, OH, OR, SD, TN, WA, WI and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Montgomery Steel Trap, Inc., Box 121, Mahaffey, PA 15757. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 26396 (Sub-316TA), filed November 30, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. THE WAGGONERS, P.O. Box 31357, Billings, MT 59107. Representative: Barbara S. George (same address as applicant). (1) *Agricultural chemicals* (except in bulk) from Muscatine and Des Moines, IA, to points in IN; and (2) *raw materials and supplies utilized in the manufacture and sale of agricultural chemicals* from points in OH to Luling, LA and Houston, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Monsanto Co., 800 North Lindbergh Blvd., St. Louis, MO 63166. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 28956 (Sub-23TA), filed December 4, 1979. Applicant: McKAY'S TRUCK LINE, INC., 908 North Pacific Highway, P.O. Box 634, Albany, Oregon 97321. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, Oregon 97210, 503–226–3755. RADIOACTIVE WASTE MATERIAL from Millersburg and Portland, OR to the Hanford Works, U.S. Atomic Energy Commission Reservation near Richland, WA, for 180 days. Supporting shipper(s): Teledyne Wah Chang, P.O. Box 460, Albany, OR 97321. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S. W. Yamhill Street, Portland, Oregon 97204.

MC 41136 (Sub-28TA), filed November 1, 1979. Applicant: FLEET CARRIER CORP., 526 South Boulevard East, Pontiac, MI 48053. Representative: Richard P. Kuney (same address as applicant). *Motor vehicles*, from Ft. Wayne, IN and Springfield, OH to: Points and places in the United States (Excluding AK and HI) for 180 days. Supporting shipper(s): International Harvester, 401 N. Michigan Ave., Chicago, IL 60604. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 42266 (Sub-3TA), filed November 5, 1979. Applicant: LANCASTER & NEW YORK MOTOR FREIGHT SERVICE, INC., R.D. #2, Box 208, Elizabethtown, PA 17022. Representative: James W. Hagar, Esq., 100 Pine St., Harrisburg, PA 17022. (1) *Cocoa beans, cocoa butter, cocoa press cake, chocolate liquor, in blocks and in bags, and cocoa crumb in bags*, from Philadelphia, PA and its commerical zone, Camp Hill, PA and its commercial zone, and Mechanicsburg, PA and its commercial zone; and (2) *Confectionary (except in bulk) in mechanically refrigerated equipment*, from, Elizabethtown, PA to points in MD, NJ, VA, Philadelphia, PA and DC, and from Hackettstown, NJ to points in MD, NJ, PA, VA, and DC, restricted to traffic originating at or destined to the facilities of M & M Mars, Inc. at Hackettstown, NJ, Elizabethtown, PA and its commercial zone, Camp Hill, PA and its commercial zone, and Mechanicsburg, PA and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): M & M Mars, Division of Mars, Inc., High St., Hackettstown, NJ 07840. Send protests to: I.C.C., 101 N. 7 St., Philadephia, PA 19106.

MC 42487 (Sub-949TA), filed October 9, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORP. OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment). Serving the facilities of Consolidated Metco, Inc., at Monroe, NC, as an off-route point in connection with carrier's presently authorized regular route operations. Applicant intends to tack to its existing authority and any authority it may acquire in the future. The facilities of Consolidated Metco, Inc., at Monroe, NC, will be off-route to the following service routes of Applicant. MC 42487 (Sub-744) (A) *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between Asheville, NC and Winston-Salem, NC, serving all intermediate points: From Asheville over U.S. Hwy 74 to Charlotte, NC thence over U.S. Hwy 29 to Lexington, NC, thence over U.S. Hwy 52 to Winston-Salem, NC and return over the same route. (The Commission authorized Applicant to acquire and merge Burris Express, Inc., under Docket No. MC–F–12497. The transaction was consummated January 14, 1976. A Certificate has not yet been issued in the name of Applicant by the Commission. When the Certificate is issued, it will be identified as Docket No. MC 42487 Sub 835). *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment. Route 1. Between Charlotte and Carthage over NC Hwy 27. (a) Serving following off-route points: (1) Midland on NC Hwy 601, (2) Oakboro on NC Hwy 205, (3) Badin on NC Hwy 740, (4) Mount Gilead over NC Hwy 73 and 109. Service authorized to all intermediate points in connection with Routes (1) through (23). Route 32. From Charlotte to Greensboro over U.S. Hwy 29 and 29–A. Return over the above routes (32 through 45) serving all intermediate points. Route 52. From Charlotte to North Wilkesboro over NC Hwy 27 from Charlotte to Lincolnton, via Mount Holly, thence over U.S. Hwy 321 from Lincolnton to Conover, via Newton, thence over NC Hwy 16 to intersection U.S. Hwy 421, thence over U.S. Hwy 421 to intersection with NC Hwy 18, thence over NC Hwy 18 to North Wilkesboro. Route 53. From Charlotte to the Virginia Line over NC Hwy 115 (formerly U.S. Hwy 21) to intersection with U.S. Hwy 21 north of Mooresville, thence over U.S. Hwy 21 via Statesville, Brooks Cross Roads, Elkin, Roaring Gap and Sparta; from Statesville to Taylorsville over NC Hwy 90 via Stoney Point. Return over the aforesaid routes (52 through 56) serving all intermediate points. The authority granted herein (routes 52 through 56) to extend that it duplicates any authority heretofore granted to or held by carrier shall not be construed as conferring more than one operating right. Route 73. Transportation of general commodities, (except those requiring special equipment, over the following route: From Charlotte, NC, over NC Hwy No. 49 to junction of NC Hwy No. 160, thence over NC Hwy 160 to junction of U.S. Hwy 29 (at or near Charlotte), and return over the same route, serving all intermediate points for 180 days. The proposed authority will be tacked or joined with our authority in Docket No. MC 42487 Sub 744 and authority acquired from Burris Express, Inc., as an off-route point. We will in turn tack our Sub 744 authority and the authority acquired from Burris Express, Inc., with other present authority of Applicant at such points as Charlotte, NC, Winston-Salem, NC, Cincinnati, OH, Louisville, KY, and Atlanta, GA to permit service to and from points throughout Applicant's system. Under Docket No. MC–F–12497, the Commission authorized Applicant to acquire and merge the authority of Burris Express, Inc. The transaction was consummated January 14, 1976. A Certificate covering this authority has not yet been issued in the name of Applicant by the Commission. When the Certificate is issued it will be identified as Docket No. MC 42487 Sub 835. The facilities here involved are off-route to Routes 1, 32, 52, 53, and 73 of the Burris Express, Inc., authority and our Sub 744. Applicant proposes to interline traffic with its present connecting carriers at authorized interline points throughout the United States as provided in tariffs on file with the Interstate Commerce Commission. Supporting shipper(s): Consolidated Metco, Inc., 780 Patton Avenue—P.O. Box 907, Monroe, NC 56069. Send protests to: D/S Neil C. Foster, 211 Main, Suite 500, San Francisco, CA 94105

MC 42487 (Sub-952TA), filed September 21, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORP. OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Common carrier; regular routes: *General commodities*, (except those of unusual value, livestock, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading). Serving the facilities of United Steel Products at Montgomery, MN, as an off-route point in connection with carrier's otherwise authorized regular route operations. Supporting Shippers: United Steel Products Company, P.O. Box 80, Hickory and 4th N.E., Montgomery, MN 56069. Send protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

Note.—Applicant intends to tack to its existing authority and any authority it may acquire in the future.

MC 42487 (Sub-954TA), filed October 25, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORP. OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Common carrier; regular routes: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment). (1) Between Wilmington, DE and Salisbury, MD: From Wilmington over U.S. Hwy 13 to Salisbury, and return over the same route. (2) Between Washington, DC and Salisbury, MD: From Washington over U.S. Hwy 50 to Salisbury, and return over the same route. (3) Between Baltimore, MD and junction MD 2 and U.S. Hwy 50: From Baltimore over MD Hwy 2 to junction MD Hwy 2 and U.S. Hwy 50, and return over the same route. (4) Between junction U.S. Hwy 113 and U.S. Hwy 13 (near Dover, DE) and Salisbury, MD: From junction U.S. Hwy 113 and U.S. Hwy 13 (near Dover, DE) over U.S. Hwy 113 to junction U.S. Hwy 13 (at or near Pocomoke City, MD), then over U.S. Hwy 13 to Salisbury, and return over the same route. (5) Between junction U.S. Hwy 50 and U.S. Hwy 301 (at or near Queenstown, MD) and junction DE Hwy 299 and U.S. Hwy 13 (at or near Odessa, DE): From junction U.S. Hwy 50 and U.S. Hwy 301 (at or near Queenstown, MD), over U.S. Hwy 301 to junction DE Hwy 299 (at or near Middletown, DE), then over DE Hwy 299 to junction DE Hwy 299 and U.S. Hwy 13 (at or near Odessa, DE), and return over the same route. (6) Between Ocean City, MD and junction MD Hwy 1 and U.S. Hwy 113 (near Milford, DE): From Ocean City over MD Hwy 528 to the MD-DE state line, then over MD Hwy 1 to junction MD Hwy 1 and U.S. Hwy 113, (near Milford, DE), and return over the same route. (7) Between Ocean City, MD and junction U.S. Hwy 50 and U.S. Hwy 113 (near Berlin, MD): From Ocean City over U.S. Hwy 50 to junction U.S. Hwy 50 and U.S. Hwy 113 (near Berlin, MD), and return over the same route. Serving all intermediate points in connection with the routes described above and all points in Kent, New Castle, and Sussex Counties, DE and Caroline, Cecil, Dorchester, Kent, Queen Annes, Somerset, Talbot, Wicomico, and Worcester Counties, MD as either intermediate or off-route points for 180 days. Applicant seeks to serve all points in the commercial zones of points of authority sought above. Applicant also intends to tack the authorities here sought with present authorities at Wilmington, DE, Baltimore, MD, and Washington, DC. Authority at Wilmington, DE, Baltimore, MD, and Washington, DC, is found in MC 42487 Sub 578. Also, authority at Baltimore, MD is found in MC 42487 Sub 843. Applicant proposes to interline traffic with its present connecting carriers at authorized points throughout the United States as provided in tariffs on file with the Interstate Commerce Commission. Supporting shippers: There are 81 statements in support attached to this application which may be examined at the ICC in Washington, DC., or copies of which may be examined in the field office named below. Send protests to: D/S N. C. Foster, 211 Main—Suite 500, San Francisco, CA 94105.

Note.—Applicant intends to tack the authorities described above. Also, applicant intends to tack to its existing authority and any authority it may acquire in the future.

MC 51146 (Sub-789TA), filed November 19, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil DuJardin (same address as applicant). *Chemicals, plastics, plastic products, magnesium alloy engraving plates and coated mill products* between facilities of Dow Chemical Corp. at Findlay, OH and points in the US in and east of ND, SD, NE, KS, OK & TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dow Chemical USA, 3441 N. Main St., Findlay, OH 45840. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 51146 (Sub-790TA), filed November 29, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil DuJardin (same address as applicant). *Containers and container closures* (1) from facilities of The Continental Group, Inc., at or near Perry & Atlanta, GA to Austin, IN; Cincinnati, OH; Memphis, TN; & Houston, TX; and (2) from Houston & Longview, TX to St. Louis, MO; Quincy, IL; Cincinnati, Columbus & Worthington, OH; Austin & Indianapolis, IN; St. Joseph, Benton Harbor, Shoreham & Holland, MI; and Memphis, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Continental Can Co., 5401 W. 65th St., Chicago, IL 60638. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 55896 (Sub-128TA), filed October 30, 1979. Applicant: R–W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: George E. Batty (same address as applicant). *Plastic containers and plastic articles*, from Florence, KY to OH, IN and IL; Cincinnati, to Buckner, KY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 91306 (Sub-22TA), filed December 3, 1979. Applicant: JOHNSON BROS., TRUCKERS, INC., 1858 9th Ave., NE, Hickory, NC 28601. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW, Washington, DC 20005. *(1) Electrical wiring plugs, receptacles, rosettes, sockets, or screw type fuse plugs, extension cords, power supply cords, insulated and noninsulated*

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copper wire, and materials and supplies used in the manufacture thereof, between points in RI and South Attleboro, MA, on the one hand, and, on the other, Morgantown and West Jefferson, NC; and *(2) plastic materials* (other than expanded), from North Tonawanda and Buffalo, NY to points in RI; South Attleboro, MA; and Morgantown and West Jefferson, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Levition Manufacturing Company, Inc., 5925 Little Neck Parkway, Little Neck, NY 11362. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd–Rm CC516, Charlotte, NC 28205.

MC 102616 (Sub-1018), filed October 24, 1979. Applicant: COASTAL TANK LINES, INC., 250 North Cleveland-Massillon Road, Akron, OH 44313. Representative: Wendell M. Kiefaber (same address as applicant). *Methanol, in bulk, in tank vehicles,* from Plaquemine, LA to Norwood, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): MCB Manufacturing Chemists, Inc., 2909 Highland Avenue, Norwood, OH 45212. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 102616 (Sub-1019TA) filed November 5, 1979. Applicant: COASTAL TANK LINES, INC., 250 North Cleveland-Massillon Rd., Akron, OH 44313. Representative: Wendell M. Kiefaber (same address as applicant). *Petroleum and petroleum products,* in bulk, in tank vehicles, from (1) Warren, PA to points in OH (except Cleveland, Geneva, Strongville, Ashtabula, Kent, Ravenna, Girard, Warren, Hubbard, Canton, Columbus, Marion, and Sandusky); and (2) from Niles, OH to Venango County, PA (except Barkeyville, PA), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United Refining Co., P.O. Box 780, Warren, PA 16365. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7 St., Philadelphia, PA 19106.

MC 102616 (Sub-1020TA) filed November 19, 1979. Applicant: COASTAL TANK LINES, INC., 250 North Cleveland-Massillon Rd., Akron, OH 44313. Representative: Wendell M. Kiefaber (same as applicant). *Petroleum and petroleum products, in bulk, in tank vehicles,* from Niles, OH to Clarion County, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Boron Oil Company, Div. Standard Oil Company of Ohio, 313 Midland Bldg., Cleveland, OH 44115. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 102616 (Sub-1021TA) filed November 21, 1979. Applicant: COASTAL TANK LINES, INC., 250 North Cleveland-Massillon Rd., Akron, OH 44313. Representative: Wendell M. Kiefaber (same address as applicant). *Butane Mix (hydrocarbons), in bulk, in tank vehicles,* from Wayne City, IL to E. Mount Carmel, IN and from E. Mount Carmel, IN to Kilgore, TX and Pana, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Crystal Oil Co., 1515 Arapahoe St., Denver, CO 80202. Martin Gas Sales, Inc., P.O. Box Drawer 191, Kilgore, TX 75662. Send protests to: I.C.C., 101 N. 7 St., Philadelphia, PA 19106.

MC 107006 (Sub-5TA) filed November 9, 1979. Applicant: THOMAS KAPPEL, INC., P.O. Box 1408, Springfield, OH 45501. Representative: John L. Alden, 1396 W. 5th Ave., Columbus, OH 43212. Contract carrier-irregular routes: *wood and wood products,* between the facilities of Buckeye Wood Products Inc. and its subsidiaries Union Cabinet Co. and Paint Valley Pallet Co. at or near South Charleston, Milford Center and Bainbridge, OH on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MO, NY, PA, TN, WI, and WV, under a continuing contract or contracts with Buckeye Wood Products, Inc., Union Cabinet Co. and Paint Valley Pallet Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Buckeye Wood Products Inc., 9005 Columbus-Cincinnati Rd., S. Charleston, OH 45368. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Philadephia, PA 19106.

MC 107496 (Sub-1258TA) filed November 6, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: Kenneth L. Kessler (same address as applicant) *residual fuel oil, in bulk, in tank vehicles,* from St. Joseph, MI, to Burns Harbor, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Enterprise Oil & Gas Co., 14445 Lynwood Ave., Detroit, MI 48238. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 107496 (Sub-1259TA) filed November 6, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: Ken Kessler (same address as applicant) *liquid argon, liquid nitrogen, liquid oxygen, liquid hydrogen, and compressed gases, in bulk, in tank vehicles,* from Michoud, Plaquemine, and Donaldsonville, LA; Theodore, AL; Yazoo City, MS; and Freeport, LaPorte, Beaumont, Victoria, and Houston, TX, and its commercial zone to points in the United States (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Airco Industrial Gases, 7950 Blankenship Dr., Houston, TX 77055. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 109376 (Sub-20TA) filed November 29, 1979. Applicant: SKINNER TRANSFER CORP, P.O. Box 284, Reedsburg, WI 53959. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Agricultural limestone* from Sussex, WI and points in its Commercial Zones, as defined by the Commission, to points in the Upper Peninsula of MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vulcan Materials Co., N52 W23098 Lisbon Rd., Sussex, WI 53089. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 112696 (Sub-66TA) filed October 9, 1979. Applicant: HARTMANS, INCORPORATED, P.O. Box 898, Harrisonburg, VA 22801. Representative: Lawrence E. Lindeman, 425 13th St., NW., Suite 1032, Washington, DC 20004. *Malt beverages and wine,* from Pabst, GA and Secaucus and Newark, NJ, to points in Rockingham County, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gamby Distributing Company, Inc., Route 1, Box 85G, Mt. Crawford, VA 22841. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 113106 (Sub-86TA) filed October 17, 1979. Applicant: THE BLUE DIAMOND COMPANY, 4401 East Fairmount Ave., Baltimore, MD 21224. Representative: Chester A. Zyblut, 1030 Fifteenth St., NW., Suite 366, Washington, DC 20005. *Paper and paper products,* from Union Camp Corporation's plantsites at or near Lancaster, PA; Clifton, NJ; Eighty-Four, PA; New Hope, PA; and Solon, OH, to points in VA, WV, PA, DE, DC, MD, NY, NJ and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Union Camp Corporation, 1600 Valley Road, Wayne, NJ 07470. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 113406 (Sub-16TA) filed October 9, 1979. Applicant: DOT LINES, INC., 1000 Findlay Rd., P.O. Box 1526, Lima, OH 45802. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. *Fiberboard or paperboard fillers or partitions,* from the plantsite of

Clevepak Corporation at or near Eaton, IN to points in OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Clevepak Corporation, 925 Westchester Ave., White Plains, NY 10604. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 118776 (Sub-43TA) filed October 15, 1979. Applicant: GULLY TRANSPORTATION, INC., 3820 Wisman Road, Quincy, IL 62301. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. *Printing paper other than newsprint, not printed or imprinted,* from Burlington, IA, to Little Rock, AR; Memphis, TN; and Gulfport, MS for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Georgia-Pacific Corporation, 3355 Agency, Burlington, IA 52601. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 124236 (Sub-104TA) filed November 29, 1979. Applicant: CHEMICAL EXPRESS CARRIERS, INC., 4645 North Central Expressway, Dallas, TX 75205. Representative: J. F. Leisering, Jr. (address same as above). *Motor fuel, in tank trucks,* from Mt. Pleasant, TX to points in OK for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Dilries Oil Inc., Box 426, 8–12th NE., Ardmore, OK 73401. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 124236 (Sub-105TA) filed November 29, 1979. Applicant: CHEMICAL EXPRESS CARRIERS, INC., 4645 North Central Expressway, Dallas, TX 75205. Representative: J. F. Leisering, Jr. (address same as above). *Gasoline* from Tyler, TX to Bossier City and Monroe, LA for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): The Southland Corporation, 411 Colonial Dr., Baton Rouge, LA 70806. Send protests to: Opal M. Jones, TCS, ICC, 819 Taylor St., 9A27 Federal Bldg., Fort Worth, TX 76102.

MC 124306 (Sub-76TA) filed December 3, 1979. Applicant: KENAN TRANSPORT COMPANY, INCORPORATED, PO Box 2729, Chapel Hill, NC 27514. Representative: W. David Fesperman (same as above). *Polyester chips, in bulk, in tank vehicles,* from Rohm and Haas Company at Cedar Creek, NC near Fayetteville, NC to Painesville, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rhom and Haas Company, PO Box 630, Fayetteville, NC 28302. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd–Rm CC516, Charlotte, NC 28205.

MC 128746 (Sub-59TA) filed November 28, 1979. Applicant: D'AGATA NATIONAL TRUCKING COMPANY, 3240 South 61 St., Philadelphia, PA 19153. Representative: Edward J. Kiley, 1730 M. St., NW, Suite 501, Washington, D.C. 20036. *Malt beverages,* in containers, from the plansite and facilities of Miller Brewing Company, at or near Fulton, NY and Eden, NC to points in OH and MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Miller Brewing Company, 3939 W. Highland Blvd., Milwaukee, WI 53201. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 129526 (Sub-8TA) filed October 19, 1979. Applicant: FACTOR TRUCK SERVICE, INC., 2607 Old Rodgers Road, Bristol, PA 19007. Representative: Robert B. Einhorn, 3220 PSFS Bldg., 12 South 12th Street, Philadelphia, PA 19107. *Contract carrier*-irregular route: *Printed matter and catalogs,* from Salem Effingham, and Mt. Vernon, IL to points in PA, DE, MD, NY, NJ, CT and DC, for 180 days. Supporting shipper(s): World Color Press, Inc., P.O. Box 1248, Effingham, IL 62401. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phia., PA 19106.

MC 129526 (Sub-9TA) filed October 19, 1979. Applicant: FACTOR TRUCK SERVICE, INC., 2607 Old Rodgers Rd., Bristol, PA 19007. Representative: Robert B. Einhorn, Esq., 3220 P.S.F.S. Bldg., 12 S. 12 St. Philadelphia, PA 19107. Contract carrier-irregular routes: *Grinding wheels and materials used in the manufacture of grinding wheels,* between Philadelphia, PA and Salem, IL, for 180 days. Supporting shipper(s): Universal Grinding Wheel Co., 8301 Torresdale Ave., Philadelphia, PA 19136. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7 St., Philadelphia, PA 19106.

MC 134286 (Sub-135TA) filed November 19, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as applicant). *(1) Laboratory equipment and supplies, vis. laboratory chemicals, glassware, plastic products, instrumentation, electrical appliances, and similar apparatus normally used in the laboratory trade; and (2) empty pallets* from Los Angeles, CA and Denver, CO to the facilities of Fisher Scientific Company at Indiana, PA and Somerville, NJ for 180 days. Restricted to traffic destined to Fisher Scientific Company. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fisher Scientific Company, Alan F. Sabol, Director of Distribution, 711 Forbes Avenue, Pittsburgh, PA 15219. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 134286 (Sub-136TA) filed November 19, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as applicant). (1) Diagnostic chemicals (except in bulk) in vehicles equipped with mechanical refrigeration from the facilities of Fisher Scientific Company at Orangeburg, NY to points in all states in the U.S. (except AK, CT, DE, HI, MD, ME, NJ, NY, PA, RI, VT and D.C.; (2) Laboratory chemicals and laboratory equipment and supplies (except in bulk) from the facilities of Fisher Scientific Company at or near Bridgewater Township, NJ to Rochester, NY; and (3) Damaged and refused laboratory chemicals, laboratory equipment and supplies and pallets from Atlanta, GA; Chicago, IL; Cincinnati and Cleveland, OH; Houston, TX; Los Angeles, CA; Orlando, FL; Pittsburgh, PA; St. Louis, MO; Raleigh, NC; and Rochester, NY to the facilities of Fisher Scientific Company in or near Bridgewater Township, NJ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fisher Scientific Company, Alan F. Sabol, Director of Distribution, 711 Forbes Avenue, Pittsburgh, PA 15219. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 134286 (Sub-137TA) filed November 19, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as applicant). *Laboratory furniture, vis. tables, sinks, stools, cabinets, fume hoods, etc.* from the facilities of Labconco at Kansas City, MO to the facilities of Fisher Scientific Company at Indiana, PA; Somerville, NJ; and Springfield, NJ for 180 days. Restricted to traffic destined to Fisher Scientific Company. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fisher Scientific Company, Alan F. Sabol, Director of Distribution, 711 Forbes Avenue, Pittsburgh, PA 15219. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 134286 (Sub-138TA), filed November 21, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as applicant). *(1) Chemicals, plastics and plastic materials; and (2) materials and supplies used in the marketing or*

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production of these commodities (except in bulk) (a) from Houston and Deer Park, TX to points in AL, AR, IL, IN, OH, OK, KS, NE, MN, GA, FL, SC, NC, TN, ME, NH, NY, VT, MA, CT and RI; (b) from Tuscola, IL to points in IA, MI, IN, OH, PA, NY, NE, NH, NJ, CT, RI, MA, VT, ME, KY, WV, VA, MD, DE, D.C.; (c) from Indianapolis, IN to points in IA, MI, OH, PA, NY, NE, NJ, CT, RI, MA, VT, NH, ME, KY, WV, VA, MD, DE, and D.C.; and (d) from points in OH to points in MT, WY, CO, MN, NE, IA, IL, ID, UT, AZ, WA, OR, NV and CA for 180 days. Restricted to the transportation of traffic originating at or destined to the facilities of U.S. Industrial Chemicals Co., Division of National Distillers & Chemical Corporation. An underlying ETA seeks 90 days authority. Supporting shipper: U.S. Industrial Chemicals Co., Division of National Distillers & Chemical Corp., Ronald Gubernot, 99 Park Avenue, New York, NY 10016. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 134286 (Sub-139TA), filed November 29, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as above). *Frozen bagels (except in bulk)* from the facilities of Lender's Bagel Bakery at or near Buffalo, NY to IL (except Chicago), MO (except Kansas City and St. Louis), CO (except Denver), WI (except Milwaukee), NE (except Omaha), MN (except Minneapolis), IA, KS, MD, DE, NC, SC, VA, GA, FL, OK and D.C. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Lender's Bagel Bakery, Inc., Sam Solodky, Chief Executive Officer, 75 Empire Drive, Buffalo, NY 14224. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 134716 (Sub-12TA), filed December 5, 1979. Applicant: RUSH TRUCKING, INC., 200 Southwest 19th St., Ft. Lauderdale, FL 33315. Representative: Kim G. Meyer, P.O. Box 56387, Atlanta, GA 30343. Contract Carrier—Irregular Route: *Merchandise, equipment and supplies sold, used or distributed by a manufacturer of cosmetics and toilet preparations* from points in Orange County, FL to Brevard, Citrus, Flagler, Hernando, Indian River, Lake, Okeechobee, Osceola, Orange, Polk, Seminole, St. Lucie, Sumter and Volusa counties, FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Avon Products, Inc., 2200 Cotillion Drive, Atlanta, GA 30302. Send protests to: Donna M. Jones, Monterey Building, Suite 101, Miami, FL 33166.

MC 135046 (Sub-19TA), filed November 19, 1979. Applicant: ARLINGTON J. WILLIAMS, INC., 1398 South DuPont Highway, Smyrna, DE 19977. Representative: S. W. Earnshaw, 833 Washington Bg., Washington, DC 20005. *Plastic containers (palletized, shrink-wrapped),* from Yorkville, IL and LeCenter, MN to Milford, DE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: L. D. Caulk Co., Lakeview & Clarke Ave., Milford, DE 19963. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 136786 (Sub-189TA), filed November 9, 1979. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd St., Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Suite 411, 7400 Metro Blvd., Edina, MN 55435. *Foodstuffs (other than frozen)* from the facilities of Chicago Candy Association in the Chicago, IL, commercial zone to points in OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Chicago Candy Association, 2535 North 25th Avenue, Franklin Park, IL 60131. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 136786 (Sub-190TA), filed November 9, 1979. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd St., Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Suite 411, 7400 Metro Blvd., Edina, MN 55435. *Foodstuffs (except in bulk, in tank vehicles)* from the facilities of Aunt Jane's Foods, Inc. at or near Croswell, MI, to points in IA, KS, MO, NE, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Aunt Jane's Foods, Inc., 55 East Sanborn, Croswell, MI 48422. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 138206 (Sub-13TA), filed December 3, 1979. Applicant: TRULINE CORPORATION, 4455 South Cameron Avenue, Las Vegas, NV 89103. Representative: Robert G. Harrison, 4299 James Drive, Carson, City, NV 89701. *Exterior Building Materials and Supplies,* including bagged cement, brick, rock, flue liners, and fireplace equipment between Clark County, NV on the one hand, and points in CA, CO, UT, NM, and NE on the other hand, for 180 days. Supporting shipper: Advance Brick Company, 2400 South Highland Avenue, Las Vegas, NV 89102. Send protests to: DS W. J. Huetig, I.C.C., 705 N. Plaza Street, Carson City, NV 89701.

MC 139336 (Sub-19TA), filed November 28, 1979. Applicant: TRANSTATES, INC., 3216 East Westminster, Santa Ana, CA 92703. Representative: David P. Christianson, Knapp, Grossman & Marsh, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. *Contract;* Irregular; *Fiberglass reinforcement, roving, chopped and continuous strand mat, and woven roving,* from Anderson County, SC, Madison County, TN, Randall County, TX, Huntingdon County, PA, and Licking County, OH, to points in California, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper: Thalco, Division of United Merchants & Manufacturers, Inc., Marketing Manager, 6131 Flotilla Street, Los Angeles, CA 90040. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 140016 (Sub-6TA), filed November 27, 1979. Applicant: TRANSPORTATION SERVICES, INC., 1320 East Glendale Avenue, Sparks, NV 89431. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. (1) *Such merchandise as is dealt in by wholesale, retail, and chain grocery and feed business houses and agricultural feed business houses* and; (2) *Materials, ingredients, equipment, and supplies used in the development, manufacture, distribution and sale of the products listed in (1)* above between points in WA, OR, ID, NV, UT, CO, AZ, and CA restricted to traffic originating at or terminating at facilities used by the Ralston Purina Company, for 180 days. Supporting shipper: Ralston Purina Company, Sparks, NV 89431. Send protests to: DS W. J. Huetig, I.C.C., 705 North Plaza Street, Carson City, NV 89701.

MC 141436 (Sub-5TA), filed November 27, 1979. Applicant: HARKER'S TRANSPORTATION, INC., P.O. Box 1308, LeMars, IA 51031. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Contract carrier, irregular routes: *Froze meat* from the facilities of Harker's Wholesale Meat, Inc. at LeMars, IA to Altoona, PA and its commercial zone under a continuing contract(s) with Harker's Wholesale Meat, Inc. of LeMars, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Harker's Wholesale Meat, Inc., Jerry Moeller, Traffic Manager, P.O. Box 1308, LeMars, IA 51031. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 143236 (Sub-47TA), filed December 6, 1979. Applicant: WHITE TIGER TRANSPORTATION CO., INC., 40 Hackensack Avenue, Kearny, NJ 07032. Representative: Elizabeth Eleanor Murphy, 40 Hackensack Avenue, Kearny, NJ 07032. Lawn and garden accessories and equipment and materials used in the manufacture of lawn and garden accessories except in bulk between the facilities of Melnor Industries located at or near Moonachie, NJ and points in 48 continental U.S. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Melnor Industries, 1 Canal Place, Moonachie, NJ 07074. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 144186 (Sub-6TA), filed November 19, 1979. Applicant: SUPERIOR TRANSFER, INC., 2669 Merchant Drive, Baltimore, MD 21230. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, NW, Washington, DC 20036. *General commodities,* except household goods as defined by the Commission, commodities in bulk, Classes A and B explosives and commodities requiring special equipment between the facilities used by Streamline Shippers Association, Inc., at Baltimore, MD on the one hand, and on the other, Atlanta, GA and points in FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Streamline Shippers Association, Inc., P.O. Box 3606 Terminal Annex, Los Angeles, CA 90051. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 145256 (Sub-5TA), filed September 27, 1979. Applicant: L. K. M. COMPANY, 16637 Sylvester Road SW., Seattle, WA 98166. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. *Industrial fork trucks,* from Carson, Los Angeles and Oakland, CA to Billings, MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): A. C. Industrial Equip. Inc., 1145 Hiway 10 East, Billings, MT 59103. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 146536 (Sub-5TA), filed October 23, 1979. Applicant: WALTER SHORT AGENCY, INC., 5000 Wyoming, Dearborn, MI 48126. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Air pollution devices,* from the facilities of Tri-Mer Corporation located at or near Owosso, MI to points in TX, CA, OR, WA, KY, NC, SC, AL, GA, CT, MS, FL, TN, IN, IL, WI, MN, AR, CO, OH, PA, NY, NJ, RI, VT, NH, MA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tri-Mar Corporation, 1400 Monroe Street, P.O. Box 739, Owosso, MI 48269. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 146646 (Sub-63TA), filed October 26, 1979. Applicant: BRISTOW TRUCKING CO., P.O. Box 6355–A, Birmingham, AL 35217. Representative: Henry Bristow, Jr. (same address as above). *Household liquid bleaches and dish detergents* (Restricted against commodities in bulk) From the facilities of National Marketing Associates, Inc. located at or near New Orleans, LA to Montgomery, Birmingham, Geneva and Mobile, AL, for 180 days. Supporting shipper(s): National Marketing Associates, Inc., 1501 S. Louis Ave., New Orleans, LA 70112. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 146886 (Sub-1TA), filed November 29, 1979. Applicant: CONLAN TRUCK LINES, INC., 6160 S. 116th St., Hales Corner, WI 53130. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Laundry care products, home care products, beauty care toiletry products, stainless steel cookware, cutlery and food supplements (except commodities in bulk)* (1) from facilities of Amway Corp. at or near Ada, MI to points in ND and SD and (2) from Aberdeen, SD to points in ND and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Amway Corp., 7575 E. Fulton Rd., Ada, MI 49355. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 147136 (Sub-3TA), filed November 23, 1979. Applicant: TOMORROW TRANSPORT, INC., 1257 Central Ave., Hamilton, OH 45011. Representative: Jerry B. Sellman, 50 West Broad St., Columbus, OH 43215. *Overhead garage doors and accessories,* from Russia, OH to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Clopay Corporation, 101 Miller Road, Russia, OH 45363. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 147536 (Sub-20TA), filed November 7, 1979. Applicant: D. L. SITTON MOTOR LINES, INC., 3305 Range Line, Joplin, MO 64801. Representative: David L. Sitton (same as applicant). (A) *Containers, container ends and closures,* (B) *Commodities manufactured or distributed by manufacturers and distributors of containers when moving in mixed loads with containers, and* (C) *Materials, equipment and supplies used in the manufacture and distribution of containers, container ends and closures (except in bulk in tank vehicles).* Between Ada and Muskogee, OK and points in AZ, CA, KY, NE, NM and OH. (Restricted to shipments originating at or destined to the facilities of Brockway Glass Company, Inc.) Supporting shipper(s): Brockway Glass Company, Inc., P.O. Box 8, Muskogee, OK 74401. Send protests to: Vernon Coble D/S, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 147896 (Sub-6TA), filed December 5, 1979. Applicant: WESTERN SONTEX, INC., P.O. Box 667, Seal Beach, CA 90740. Representative: Miles L. Kavaller, Mandel & Kavaller, 315 S. Beverly Drive, Suite 315, Beverly Hills, CA 90212. *Contract;* Irregular; *Abrasive and refractory grains,* from the facilities of General Abrasive, Division of Dresser Industries, Inc. at Niagara Falls, NY to points in AZ, CA, IL, IN, MO, OH, OK and TX, for 180 days. Supporting shipper(s): General Abrasive Division of Dresser Industries, Inc., Purchasing Agent, 2000 College Avenue, Niagara Falls, NY 14305. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 148016 (Sub-4TA), filed November 23, 1979. Applicant: McWHORTER-GRAY ENTERPRISES, INC., 1010 Highway 15 North, Ripley, MS 38663. Representative: Robert H. Taylor, P.O. Box 1726, Jackson, MS 39205. *New manufactured furniture,* from Dumas, MS, to points in the United States except AL, AR, CA, CO, HI, MT, NE, NM, OR, UT, WA and WY under a continuing contract with Henry Reno Manufacturing, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jerry Reno Manufacturing Co., Rt. 1, Dumas, MS 38625. Send protests to: Floyd A. Johnson, Suite 2006, 100 N. Main St., Memphis, TN 38103.

MC 148436 (Sub-1TA), filed October 22, 1979. Applicant: JOHNSON MOBILE HOME MOVERS, Route 4, White Pines, Box 7, N. Tazewell, VA 24630. Representative: Connie Johnson (same address as applicant). *Mobile homes,* from points in VA to points in WV; from points in WV to points in VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): O'Quinn Mobile Homes, Inc., P.O. Box 583, Tazewell, VA 24651. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Philadelphia, PA 19106.

MC 148706 (Sub-1TA), filed November 26, 1979. Applicant: AKIN BARNES TRUCKING, Rt. 2, Halls, TN 38040. Representative: Akin Barnes, Rt. 2, Halls, TN 38040. *Pallets, plywood, lumber,* between Halls, TN on the one

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hand, and, on the other, Louisville and Murry, KY; Kansas City and Portsville, MO and Blythville, AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are two supporting shippers. Send protests to: Floyd A. Johnson, 2006, 100 N. Main St., Memphis, TN 38103.

MC 148766 (Sub-1TA), filed November 27, 1979. Applicant: SMITH MOTOR FREIGHT, INC., 9112 S. Willa, Oklahoma City, OK 73159. Representative: Alfred Smith (same address as applicant). *Common Carrier: Regular Route: General Commodities,* (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), from Oklahoma City, OK via U.S. Hwy 61 and H. E. Bailey Turnpike to Richards Spur near Lawton; U.S. Hwy 62 from Richards Spur to Chickasha; State Hwy 8 from Anadarko to Cyril; U.S. Hwy 81 from Chickasha to its intersection with U.S. Hwy 277, thence along U.S. Hwy 277 to its intersection with U.S. Hwy 62 north of Richards Spur; State Hwy 19 from Cyril to Apache. Restricted against service to Cement, Cyril and Chickasha, OK. Supporting shipper(s): Home Furniture, Inc., 102 E. Broadway, Anadarko, OK 73005. Hollytex Carpet Mills, 505 N.E. 7th, Anadarko, OK 73005. Sexton & Sexton School Supply, Inc., Box 346, Apache, OK 73006. Public Service Co. of Okla., Box 1, Washita, OK 73094. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

Note.—The above authority shall constitute the right to transport freight in all directions along routes described, to, from and between all points and places on the routes described, except no freight shall be picked up or delivered to Cyril, Cement or Chickasha, OK; said authority shall include the right to serve all points and places on the routes described and the right to serve customers along the routes or adjacent to the communities or routes served or traversed where the same are within a reasonable distance from the described routes or points on said route and may be normally served without going through a city or town that carrier is not authorized to serve.

Note.—Applicant intends to interline freight in Oklahoma City, OK, for 180 days. An underlying ETA seeks 90 days authority.

MC 148776 (Sub-1TA), filed November 15, 1979. Applicant: MICHAEL C. McNULTY d.b.a. M. C. McNULTY TRUCKING, Lincoln & Pulaski Avenues, Riverside, NJ 08075. Representative: H. Neil Garson, 3251 Old Lee Highway, Fairfax, VA 22030. *Automotive parts and automotive accessories.* From Cornwells Heights, PA to points in ND, SC, VA, DC, MD, DE, OH, NJ, NY, MA, CT, Philadelphia, PA and VT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Autoac, Inc., 1356 Adams Road, Cornwell Heights, PA. Send protests to: District Supervisor, ICC, 744 Broad Street, Rm. 522, Newark, NJ 07102.

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MC 136343 (Sub-199TA), filed October 1, 1979. Applicant: MILTON TRANSPORTATION INC., P.O. Box 355, Milton, PA 17847. Representative: Herbert R. Nurick, P.O. Box 1166, 100 Pine St., Harrisburg, PA 17108. *Paper, paper products, and paper and pulpboard combined with aluminum and copper foil* (except in bulk): (1) From Attleboro, MA to Shreveport, LA; Houston, Dialville, Rusk, Dallas, and Fort Worth, TX; Ocala, FL; Decatur, AL; and pts. in the state of TN. (2) From Memphis, TN to Columbus, OH; Peabody, MA; Brooklyn, NY; Chicago, IL; Atlanta, GA; Tampa, FL; Lancaster, PA; and Attleboro, MA, for 180 days. Supporting shipper(s): Fortifibre Corp., 55 Starkey Ave., Attleboro, MA 02703. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 136602 (Sub-9TA), filed October 4, 1979. Applicant: ARIZONA WESTERN TRANSPORT, INC., P.O. Box "F", Chandler, AZ 85224. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Ground copper slag,* from Phoenix, AZ to the jobsite of the Energy Fuel Nuclear White Mesa Uranium Project located approximately 5 miles South of Blanding, UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: G. W. Smith Distributor, 2830 N. 81st Way, Scottsdale, AZ. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 136773 (Sub-7TA), filed November 23, 1979. Applicant: S.T.S. MOTOR FREIGHT, INC., 107 Evergreen Road, Stratford, NJ 08084. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. *General commodities* except those of unusual value, and except Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment. Between the carrier's terminals in Pennsauken NJ and Philadelphia, PA on the one hand and on the other, points in DE, Baltimore, MD and points in Baltimore, Carroll, Cecil, Frederick and Harford Counties, MD, those in New Jersey north of the northern boundaries of Burlington and Ocean Counties, NJ, those in the New York, NY commercial zone as defined by the Commission, and those in Pennsylvania on and east of US Hwy 15 from the MD-PA State line to Harrisburg, PA and on and south of US Hwy 22 from Harrisburg, PA to Easton, PA. Restriction: The service authorized above is restricted to the transportation of shipments delivered to or received from carrier's terminals by for-hire or private carriage, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: E. F. Houghton & Co., Madison and Van Buren Avenues, PO Box 930, Valley Forge, PA 19482; Co-operative Shippers, Inc., 3200 South 20th Street, Philadelphia, PA 19145; Milton Bradley Company, 443 Shaker Road, East Longmeadow, PA 01028. Send protests to: District Supervisor, ICC, 744 Broad Street, Rm. 522, Newark, NJ 07102.

MC 136803 (Sub-13TA), filed November 14, 1979. Applicant: SIOUX CITY BULK FEED SERVICE, INC., 3200 Highway 75 North, Sioux City, IA 51105. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. *Feed and feed ingredients* between points in IL, IA, MN, NE (points on and east of US Highway 81 and on and north of Interstate 80), SD and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: (1) Commodity Traders, Inc., Edward S. Hahn, President, 800 Omaha Grain Exchange, 19th & Harney, Omaha, NE 68102. (2) Beerman Bros. Dehy, Richard P. Beerman, Partner, 15th & Broadway, Dakota City, NE 68731. (3) Zip Feed Mills, Inc., John McDowell, Direct Purchasing, 304 E. 6th St., Sioux Falls, SD 57101. (4) The Pillsbury Co., Feed Ingredient Division, Andy Lorence, 7900 Xerxes Ave., South, Bloomington, MN 55431. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 138322 (Sub-18TA), filed November 13, 1979. Applicant: BHY TRUCKING, INC., 9231 Whitmore Street, El Monte, CA 91733. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602. *Unfabricated structural steel,* from the facilities of All States Steel Corporation in Houston, TX to points in AZ, OK, CO, LA and NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): All States Steel Corporation, P.O. Box 9818, Houston, TX 77013. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, CA 90012.

MC 138322 (Sub-19TA), filed November 26, 1979. Applicant: BHY TRUCKING, INC., 9231 Whitmore Street, El Monte, CA 91733. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602. *Iron or steel pipe or tubing,* from the facilities of Torrance Tubing and Conduit Corporation in Torrance, CA to points and places in AR, CO, KS, LA, NM, OK and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Torrance Tubing and Conduit Corporation, 1739 W. 213th Street, Torrance, CA 90509. Send protests to: Irene Carlos, T/A, I.C.C., 300 North Los Angeles St., Rm. 1321, Los Angeles, CA 90012.

MC 138493 (Sub-5TA), filed November 19, 1979. Applicant: JAKUM TRUCKING, INC., R.R. 2, Miley Road, Sheboygan Falls, WI 53085. Representative: Michael Wyngaard, 150 E. Gilman St., Madison, WI 53703. Contract carrier; irregular routes; *Foodstuff* from Plymouth, WI to points in AZ, CA, CO and TX under a continuing contract(s) with Sargento Cheese Co., Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sargento Cheese Co., Inc., Plymouth, WI 53073. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 138543 (Sub-3TA), filed December 6, 1979. Applicant: GARY A. SCANNOVINO d.b.a. CHEROKEE FREIGHT LINES, 5463 Cherokee Road, Stockton, CA 95205. Representative: Thomas M. Loughran, 100 Bush Street, 21st Floor, San Francisco, CA 94104. *Contract carrier,* irregular routes: *foodstuffs, except frozen, and such products as are dealt in by wholesale and retail grocers,* from facilities of Amstar Corporation, Spreckels Sugar Division, at Manteca, Mendota, Spreckels and Woodland, CA to points in ID, UT and AZ, under continuing contract with Amstar Corporation, Spreckels Sugar Division, of San Francisco, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Amstar Corporation, 50 California Street, San Francisco, CA 94111. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 138762 (Sub-49TA), filed September 20, 1979. Applicant: MUNICIPAL TANK LINES LIMITED, P.O. Box 3500, Calgary, AB, Canada T2P 2P9. Representative: D. S. Vincent (same address as applicant). *Liquid asphalt,* in bulk, in tank vehicles, from Warren, PA to ports of entry on the U.S.-Canada International Boundary line located in NY, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Graham Bros. Construction Limited, 290 Clarence St., Brampton, ON, Canada L6W 1T4. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 138882 (Sub-329TA), filed November 6, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). *Malt beverages* From Laredo, TX; to points in NY, MN, and WI, for 180 days. Supporting shipper(s): All Brand Importers, Inc., P.O. Box 67, Roslyn Heights, NY 11577. Send protests to: Mabel E. Holston, T/A, ICC, room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-330TA), filed November 9, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representive: James W. Segrest (same address as above). *Lead, lead scrap and lead slag.* From Jacksonville, FL to the facilities of Refined Metals, Inc. located at Memphis, TN, for 180 days. Supporting shipper(s): Refined Metals, Inc., P.O. Box 9006, Memphis, TN 38109. Send Protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-331TA), filed October 5, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladston, NJ 07934. *Paper, paper products, and materials, equipment, and supplies used in the manufacture and distribution of paper and paper products (except commodities in bulk),* between the facilities of Scott Paper Company, on the one hand, and on the other, points in the U.S. (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Scott Paper Company, 1 Scott Plaza, Philadelphia, PA 19113. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 139482 (Sub-164TA), filed November 20, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *General commodities (except commodities in bulk),* between Chicago, Niles, Bensenville, and Elk Grove Village, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 180 days. Restricted to the transportation of traffic originating at or destined to the facilities of W. W. Grainger, Inc. An underlying ETA seeks 90 days authority. Supporting shipper(s): W. W. Grainger, Inc., Transportation Operations Mgr., 5959 W. Howard Street, Chicago, IL 60648. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 139482 (Sub-165TA), filed November 29, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: Samuel Rubenstein, P.O. box 5, Minneapolis, MN 55440. *Frozen Boxed Meats,* from Worthington and St. Paul, MN, to points in TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Agri-Energy Enterprises, Pres., 8918 Tesoro Suite #320, San Antonio, TX 78217. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 139982 (Sub-4TA), filed November 9, 1979. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 127, Mountaintop, PA 18707. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. Contract carrier-irregular routes: *General commodities* (except household goods, commodities in bulk, commodities which because of their size or weight require special equipment and Classes A and B explosives, between points in the United States, under continuing contract(s) with Gould, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gould, Inc., 2568 Industry Lane, Norristown, PA 19403. Send protests to: ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 139822 (Sub-7TA), filed September 20, 1979. Applicant: FOOD CARRIER, INC., P.O. Box 2287, Savannah, GA 31402. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue & 13th St., NW., Washington, DC 20004. (1) malt beverages and related advertising materials, from the facilities of Miller Brewing Company at Albany, GA, to point in AL, AR, FL, GA, KY, LA, MS, SC, and TN, and (2) equipment, materials and supplies used in the manufacture of malt beverages, from points in AL, FL, IN, LA, MO, OK, SC, TX, VA, and WV, to the facilities of Miller Brewing Company and its suppliers in GA, for 180 days. Supporting shipper(s): Miller Brewing Company, 3939 W. Highland Blvd., Milwaukee, WI 53208. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay St., Jacksonville, FL 32202.

MC 14012 (Sub-76TA), filed October 29, 1979. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour (same address as applicant). (1) *stove pipe, chimneys, ducts, flashings, and metal products and* (2) *equipment, materials, and supplies used in the manufacture, sale, and distribution of* (1) *above (except*

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commodities in bulk, in tank vehicles) between Redwood City, CA, and Cincinnati, OH, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to traffic originating at or destined to the facilities used by Dura-Vent Corp., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dura-Vent Corporation, P.O. Box 2249, Redwood City, CA 94064. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 141012 (Sub-4TA), filed November 19, 1979. Applicant: BINGHAM TRANSPORTATION, INC., Box 728, Baxter Springs, KS 66713. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. *Contract carrier: Coal* from Craig County, OK to Riverton and Fredonia, KS & Asbury, MO; irregular routes, for 180 days. Supporting shipper: Leon's Coal Co., Route 1, Blue Jacket, OK 74333. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 141033 (Sub–60TA), filed October 5, 1979. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 E. Salt Lake Ave., P.O. Box 1257, City of Industry, CA 91749. Representative: James I. Mendenhall, (same address as applicant). *General commodities (except those of unusual value, Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), which are at the time moving on bills of lading of freight forwarders under part IV of the Interstate Commerce Act,* from points in Alabama and Tennessee (except Memphis and Nashville, TN), to points in California, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shipper(s): Western Carloading Company, Ass't Vice-President-Traffic, 960 East 3rd Street, Los Angeles, CA 90013. Send protests to: Irene Carlos, TA, ICC, 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 141133 (Sub–3TA), filed November 2, 1979. Applicant: STANLEY KNAPPENBERGER, 217 New St., Walnutport, PA 18088. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. *Non-ferrous metals and residue, in bulk, in dump and open-top trailers,* from the facilities of Nimco Shredding Co. at Newark, NJ to Belleville, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nimco Shredding Co., 252 Doremus Ave., Newark, NJ 07105. Send protests to: I.C.C., 101 N. 7 St., Philadelphia, PA 19106.

MC 141382 (Sub–5TA), filed November 19, 1979. Applicant: DON'S MOVING & DELIVERY SYSTEM, INC., 527 S. Fremont, Janesville, WI 53545. Representative: James Spiegel, 6425 Odana Rd., Madison, WI 53719. *Insulation & insulation products, and materials, equipment and supplies used in the manufacture and distribution of insulation and insulation products* between Janesville, WI on the one hand, and, on the other hand, points in IL, IA, IN, MI, MN & MO, restricted to transportation to or from facilities of Design Insulation Systems, Inc., Janesville, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Design Insulation Systems, Inc., Box 1146, Janesville, WI 53545. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Room 619, Milwaukee, WI 53202.

MC 141402 (Sub–46TA), filed October 23, 1979. Applicant: LINCOLN FREIGHT LINES, INC., P.O. Box 427, Lapel, IN 46051. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Contract Carrier: Irregular Routes: *Plastic articles* from Dawson Springs, KY to points in ME, VT, NH, MD, DC, LA, AR, MO, IA, MN, TX, OK, KS, NE, SD, ND, NM, CO, WY, MT, AZ, UT, ID, CA, NV, OR, and WA for 180 days under a contract or continuing contracts with Midland-Ross Corporation. An underlying ETA seeks 90 days authority. Supporting shipper: Midland-Ross Corporation, 1450 South 10th Street, P.O. Box 6101, Louisville, KY 40206. Send protests to: Beverly J. Williams, ICC, 429 Federal Bldg., 46 East Ohio Street, Indianapolis, IN 46204.

MC 141443 (Sub-49TA), filed October 29, 1979. Applicant: JOHN LONG TRUCKING, INC., 1030 East Denton, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615–East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. (1) *Alcoholic beverages,* (except in bulk), from Tulsa, OK, to CA; and (2) *Wine,* (Except in bulk), from CA, to Tulsa, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jarboe Sales Company, 6924 E. Reading Place, Tulsa, OK 74115. Send protests to: Connie Stanley, ICC, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 141743 (Sub-3TA), filed November 19, 1979. Applicant: MARK IV / CHARTER LINES, INC., 24500 South Vermont Avenue, P.O. Box 697, Harbor City, CA 90710. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. *Passengers and their baggage, in the same vehicle with passengers, in round-trip charter operations,* from points in Orange County, California north and west of a line formed as follows: Commencing at the intersection of California Highway 91 and the Orange County/Riverside County boundary, moving westerly along California Highway 91 to its intersection with California Highway 55; southerly along California Highway 55 to its intersection with Chapman Avenue; westerly along Chapman Avenue to its intersection with Brookhurst; southerly along Brookhurst to its intersection with California Highway 1; and from points in Los Angeles County, California south and east of the line described as follows: Commencing at the point where the Ventura County-Los Angeles County boundaries meet the Pacific Ocean, and extending along said county boundary line to the point where said county boundary meets the city boundary line of the City of Los Angeles in Chatsworth; continuing north and east along said city boundary line to the point where said city boundary line meets the southern boundary of the Angeles National Forest; and continuing along the southern boundary of the Angeles National Forest to the San Bernardino County line, to points in the States of Colorado, Idaho, Utah, and Wyoming, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sports America Tours, Inc., President, 15 Pamaron Way, Suite A, Novata, CA 94947. Send protests to: Irene Carlos, TA, ICC, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 141823 (Sub-10TA), filed December 3, 1979. Applicant: GLASS CONTAINER TRANSPORT, INC., Rt. 1, Box 271, Ridgeway, SC 29103. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Contract carrier,* irregular routes: *(a) Containers and container closures, (b) such commodities as are dealt in by manufacturers and distributors of containers (except containers and container closures) when moving in mixed loads with containers, and (c) materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) above,* between those points in the United States in and east of MN, IA, MO, OK and TX, restricted against the transportation of commodities in bulk, in tank vehicles; under continuing contracts with Kerr Glass Manufacturing Corporation of Sand Springs, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kerr Glass Manufacturing Corp., P.O. Box 97, Sand Springs, OK 74063. Send protests to: E. E. Strotheid, D/S, ICC, 866 Strom Thurmond Fed. Bldg., 1835 Assembly St., Columbia, SC 29201.

MC 142062 (Sub-34TA), filed November 19, 1979. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Box P, Sellersburg, IN 47172. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *Contract carrier,* irregular routes: *Such commodities as are dealt in, used by or manufactured by a furniture manufacturer (except in bulk),* (1) from facilities of or utilized by Bal Harbour Manufacturing, Inc, at or near Santa Ana, CA and Denver, CO, to points in the U.S. in and east of WI, IL, KY, TN, and MS, and (2) from facilities of or utilized by Bal Harbour Manufacturing, Inc., at or near Santa Ana, CA. to facilities of or utilized by Bal Harbour Manufacturing, Inc. at or near Denver, CO for 180 days. Restricted to transportation of shipments under a continuing contract or contracts with Bal Harbour Manufacturing, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: Bal Harbour Manufacturing, Inc., 1900 S. Susan, Santa Ana, CA 92704. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg. 46 E. Ohio Street, Indianapolis, IN 46204.

MC 142113 (Sub-3TA), filed October 31, 1979. Applicant: CHESTER A. RICHMOND, SR., dba RICHMOND CARTAGE, P.O. Box 377, Craigsville, WV 26205. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those which because of size or weight require the use of special equipment,* (1) from Sutton over Interstate Highway 79 to junction U.S. Highway 50, then over U.S. Highway 50 to junction U.S. Highway 21, then over U.S. Highway 21 to Marietta, and return over the same route; and (2) from Lewisburg over Interstate Highway 64 to junction U.S. Highway 220, then over U.S. Highway 220 to Roanoke, and return over the same route, for 180 days. Supporting shipper(s): There are 8 supporting shippers. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7 St., Philadelphia, PA 19106.

MC 142393 (Sub-1TA), filed November 20, 1979. Applicant: ROBBIE D. WOOD, INC., P.O. Box 125, Dolomite, AL 35061. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. *Coal* From points in AL to points in the states of MO, AR, TX and LA, for 180 days. Supporting shipper(s): Holland Coal Co., 708 28th Ct. NW., Birmingham, AL 35203. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 142803 (Sub-21TA), filed December 7, 1979. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, MA 01101. Representative: S. Michael Richards, P.O. Box 225, 44 North Avenue, Webster, NY 14580. Contract carrier: irregular routes: *(1) Automotive parts, accessories, components and equipment (2) publications, advertising material and packaging and shipping supplies utilized in connection with the commodities named in (1) above,* between Marysville, Warren, and Center Line, MI; Boston, MA; Newark, DE; and Tappen, NY, restricted to traffic originating at or destined to the facilities of the Chrysler Corporation, Service & Parts Division, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Service & Parts Division, Chrysler Corporation, 26311 Lawrence Avenue, Center Line, MI 48015. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 142672 (Sub-97TA), filed November 14, 1979. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. *Petroleum, petroleum products and sound deadening compounds* (except in bulk) from the facilities of Pennzoil Corporation, at or near Maryland Heights, MO to points in AR, CO, LA, MS, OK, and TX, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Pennzoil Corporation, Drake Bldg., Oil City, PA 16301. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 142872 (Sub-98TA), filed November 14, 1979. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix 1 to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 706 (except hides and commodities in bulk) from the facilities of Vernon Calhoun Packing Company, at or near Palestine, TX to points in AL, CT, DE, FL, GA, LA, IN, KS, KY, LA, MA, MD, ME, MI, MS, NC, NE, NH, NJ, PA, RI, SC, TN, VA, VT, WI and WV, restricted to the transportation of traffic originating at the named origin, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Vernon Calhoun Packing Company, P.O. Box 709, Palestine, TX 75801. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 142872 (Sub-98TA), filed November 9, 1979. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. *Clothing, NOI,* from the facilities of Sidney Bernstein & Son, at or near Lancaster, PA, to points in AZ, CA, MO, NM, NV, OK, OR, TX and WA, for 180 days. Supporting shipper(s): Sidney Bernstein & Son, 701 E. Ross St., Lancaster, PA 17602. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 142703 (Sub-20TA), filed October 18, 1979. Applicant: INTERMODAL TRANSPORTATION SERVICES, INC., 750 West 3rd St., P.O. Box 14072, Cincinnati, OH 45214. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. *General commodities,* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between points in Cincinnati, OH (and its commercial zone); Columbus, OH (and its commercial zone); and Danville, KY (and its commercial zone); on the one hand, and, on the other, points in WV, for 180 days. An underlying ETA seeks 90 days authority. Restricted to transportation of shipments having a prior or subsequent rail or water movement. Supporting shipper(s): There are nine (9) supporting shippers supporting this application. Their statements may be examined at the office listed below or Headquarters. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 142703 (Sub-21TA), filed October 18, 1979. Applicant: INTERMODAL TRANSPORTATION SERVICES, INC., 750 W. 3rd St., P.O. Box 14072, Cincinnati, OH 45214. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Danville, KY (and its commercial zone), on the one hand, and, on the other, points in KY, for 180 days. Restricted to the transportation of

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shipments having a prior or subsequent rail or water movement. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are six (6) shippers supporting this application. Their statements can be examined in the office listed below or Headquarters. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 143002 (Sub-15TA), filed November 21, 1979. Applicant: C. D. B., Incorporated, 155 Spaulding, SE, Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *Contract Carrier:* Irregular routes; Materials and supplies used in the manufacture and distribution of household and personal care products, from Pine Brook, NJ to Ada, MI under continuing contract with Amway Corporation. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Amway Corporation, 7575 East Fulton Road, Ada, MI 49355. Send protests to: C. R. Flemming, D/S, I.C.C., 300 East Michigan Avenue, Lansing, MI 48933.

MC 143002 (Sub-16TA), filed November 27, 1979. Applicant: C.D.B., INCORPORATED, 155 Spaulding, SE, Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *Contract Carrier:* irregular routes; *Drugs and toilet articles, materials and supplies* used in the manufacture, sale and distribution thereof; between Allegan, MI and its commercial zone, on the one hand and on the other, Atlanta and Newman, GA; Fort Lauderdale, Orlando and Largo, FL; North Augusta, SC; Henderson, NC; North Little Rock, AR; Knoxville, TN; Sparks, NV; Salt Lake City, UT; Oklahoma City, OK; Dallas and Houston, TX; Phoenix, AZ and their respective Commercial zones under continuing contract or contracts with L. Perrigo Company. For 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): L. Perrigo Company, 117 Water Street, Allegan, MI 49010. Send Protests To: C. R. Flemming, D/S, I.C.C., 300 East Michigan Avenue, Lansing, MI 48933.

MC 143133 (Sub-3TA), filed October 31, 1979. Applicant: SHEPPARD ENTERPRISES, INC., 101 Philadelphia St., Hanover, PA 17331. Representative: Daniel M. Frey, 31 York St., Hanover, PA 17331. *Contract Carrier:* irregular routes; *Carbonizing compound and bronze bearings* from Detroit, MI to Hanover, PA; *castings* from Hanover, PA to Pittsburgh, PA, Wilmerding, PA, Detroit, MI, Chicago, IL, and Cleveland, OH; *sodium bicarbonate* from Wynndotte, MI to Lancaster, PA; *phosphates* from Joliet, IL to Lancaster, PA; *drummed chemicals,* from Louisville, KY to Lancaster, PA, for 180 days. Supporting Shipper(s): R. H. Sheppard Co., Inc., 101 Philadelphia St., Hanover, PA 17331. Conestoga Fuels, Inc., 403 Juliette Ave., Lancaster, PA 17604. Send Protests To: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 143482 (Sub-3TA), filed October 26, 1979. Applicant: THOMAS D. SHOUP, R. D. #1, Strattanville, PA 16258. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. *Coal,* in bulk, in dump vehicles, from points in Clarion County, PA to Watkins Glen, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Zacherl Coal Co., Lucinda, PA 16235. Send Protests To: I.C.C., Fed. Res. Bank Bldg., 101 N. 7 St., Philadelphia, PA 19106.

MC 143553 (Sub-3TA), filed November 19, 1979. Applicant: WY TRUCKING, INC., P.O. Box 236, Versailles, CT 06383. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10001. *Contract Carrier:* irregular routes; *kraft linerboard, materials, equipment and supplies used in the manufacture of kraft linerboard,* between Riceboro, Georgia, on the one hand, and, on the other, Edison, New Jersey; Reading, Pennsylvania; New Haven, Connecticut; and Lowell, Massachusetts, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Interstate Container Corporation, 1175 State Street, New Haven, CT 06511. Send Protests To: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 135 High Street, Hartford, CT 06103.

MC 143693 (Sub-89TA), filed November 29, 1979. Applicant: DFC TRUCKING COMPANY, 17872 Cartwright Road, Irvine, CA 92705. Representative: Floyd L. Farano, 2555 Chapman Ave., Suite 705, Fullerton, CA 92631. *Contract:* Irregular: *Frozen meat, frozen and fresh fish, poultry, pork; frozen and chilled foodstuffs; canned and packaged foodstuffs; restaurant supplies restricted to table items only, i.e., napkins, china, flatware, glassware, silverware and cloth products; paper products; restaurant maintenance and janitorial supplies; restaurant and kitchen supplies and utensils used in kitchens for the preparation and service of food; new and used furniture, fixtures and equipment used in the establishment and operation of a restaurant,* for the account of Delly Food Co. and Denny's Restaurants from Arlington, TX and Orlando, FL to Denny's Restaurants, new and existing, at various points and places in the states of AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, TN, TX, UT, VT, VA, WV, WI, WY and return shipments of the same for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Delly Food Company, 17872 Cartwright Road, Irvine, CA 92714. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, CA 90012.

MC 143812 (Sub-19TA), filed November 19, 1979. Applicant: MARVIN E. VAN DIEST, d.b.a., M. VAN DIEST COMPANY, 8087 Victoria Avenue, Riverside, CA 92504. Representative: William J. Monheim, P.O. Box 1758, Whittier, CA 90609. *Grape juice concentrate and grape wine,* in bulk, from points in Kern County, CA to the ports of entry on the International Boundary Line between the United States and Canada located in Maine, New Hampshire, New York, and Vermont, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): LaMont Winery, Inc., Distribution Manager, P.O. Box 428, Di Georgio, CA 93217. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 144323 (Sub-4TA), filed October 29, 1979. Applicant: RICHARD P. CHARAPATA, d.b.a., CHARAPATA TRUCKING, N 30 W 26466 Peterson Drive, Pewaukee, WI 53072. Representative: Daniel Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203.Contract carrier; irregular routes; *Meats, meat products and meat byproducts, and articles distributed by meat-packing houses as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk)* from facilities of Peck Meat Packing Corp., Milwaukee, WI to points in PA, NY, NJ, CT, MA, RI, VT, NH, ME, MD, DE, VA, TN, NC, SC, GA & FL under a continuing contract with Peck Meat Packing Corp. of Milwaukee, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Peck Meat Packing Corp., 231 S. Muskego Ave., Milwaukee, WI 53202. Send protests to: Gail Dougherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 144442 (Sub-8TA), filed November 20, 1979. Applicant: ESSEX EXPRESS, INC., 1200 Hammondville Rd., Pompano Beach, FL 33060. Representative: Don A. Allen, 2550 M St., N.W., Washington, D.C. 20037. Contract Carrier—Irregular Route: *Frozen berries for use in dairy products* from the facilities of Theresa Friedman & Sons, Inc., Philadelphia, PA to Jacksonville and Miami, FL for 180 days. Supporting shipper(s): Theresa Friedman & Sons, Inc., Tomlinson Rd. & Jamison Ave., Philadelphia, PA 19116. Send protests to: Donna M. Jones, T/A, ICC—BOp, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 144503 (Sub-25TA), filed December 10, 1979. Applicant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box F, Forest Park, GA 30050. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. *Meat, meat products, and meat by-products (except hides and commodities in bulk)* from the facilities of the Rath Packing Co. at Columbus Junction, IA, Waterloo, IA and Indianapolis, IN to AL, GA, LA, MS, NC, SC, and points in TN on and east of Hwy 65 for 180 days. Supporting shipper(s): The Rath Packing Company, P.O. Box 330, Waterloo, IA 50704. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 144522 (Sub-7TA), filed August 6, 1979. Applicant: PETERSEN & FOGO, INC., P.O. Box 484, Superior, NE 68978. Representative: Lavern R. Holdeman, 521 S. 14th St., Suite 500, Lincoln, NE 68501. *Graindrying, storage, handling, conditioning and aeration equipment, attachments, accessories and parts,* from the facilities of Superior Equipment Manufacturing Company at or near Mattoon, IL to points in CA, ID, LA, NV, OR, UT and WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Superior Equipment Manufacturing Company, a division of Tiffany Industries, 19th & Olive Streets, Mattoon, IL 61938. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 144522 (Sub-8TA), filed September 20, 1979. Applicant: PETERSEN & FOGO, INC., Box 484, Superior, NE 68978. Representative: Lavern R. Holdeman, 521 South 14th Street, Suite 500; P.O. Box 81849, Lincoln, NE 68501. (1) *Livestock handling equipment* from the facilities of Lambert Manufacturing Inc. in Smith County, KS to points in that part of the U.S. in and west of ND, SD, IA, MO, OK and LA (except points in KS; (2) *Iron and Steel articles* from Chicago, IL and St. Louis, MO to the facilities of Lambert Manufacturing Inc. in Smith County, KS for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lambert Manufacturing, Inc., Jerry L. Lambert, Vice-President, Route 2, Box 109, Smith Center, KS 66967. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 144622 (Sub-121TA), filed November 16, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Flooring, hardwood, and mastic floor cement* from the facilities of Sykes Flooring, Division of Masonite, Inc., located at Warren, AR, to all points in the United States (except HI and AK), for 180 days. Supporting shipper(s): Masonite Division of Sykes Flooring Products, P.O. Box 999, Warren, AR 71671. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 144622 (Sub-122TA), filed October 30, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phillip G. Glenn, (same address as applicant). (1) *Gift wrapped and packaged foods and food products (except frozen), and commodities dealt in by retail gift shops, and* (2) *plants and bulbs* when moving at the same time and in the same vehicle with the commodities in (1) above, from the facilities of Harry and David at or near Medford, OR, to points in the United States (except AK and HI) for 180 days. Supporting shipper(s): Harry and David, P.O. Box 712, Medford, OR 97501. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 144622 (Sub-123TA), filed October 26, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Robert D. Gisvold, 1000 First National Bldg., Minneapolis, MN 55402. *Foodstuffs,* (except commodities in bulk), from the facilities of Green Giant at or near Belvedere, IL to points in MO, MS and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Green Giant Company, 1100 N. 4 St., Le Sueur, MN 56058. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 144682 (Sub-34TA), filed September 20, 1979. Applicant: R. R. STANLEY, 1738 Empire Central, Dallas, TX 75235. Representative: D. Paul Stafford, P.O. Box 45538, Suite 1125 Exchange Park, Dallas, TX 75245. *Foodstuffs* (except commodities in bulk) from the facilities of Anderson Clayton Foods at Sherman, TX to points in AR, CA, CO, FL, GA, IL, KS, LA, MN, MS, MO, NE, NJ, NM, NY, NC, OH, OK, OR, PA, TN, and UT, for 180 days. Supporting shipper(s): Anderson Clayton Foods, Box 226165, Dallas, TX 75266. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 144682 (Sub-35TA), filed October 10, 1979. Applicant: R. R. STANLEY, 1738 Empire Central, Dallas, TX 75235. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Prepared foodstuff (except commodities in bulk) in vehicles equipped with mechanical refrigeration* from the facilities of The Pillsbury Company at Denison, TX to points in the States of AL, AR, OK, MS, MO, NE, LA, and KS for 180 days. An underlying ETA for 90 days filed. Supporting shipper(s): The Pillsbury Company, 608 Second Avenue South, Minneapolis, MN 55402. Send protests to: Opal M. Jones, TCS, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 145102 (Sub-42TA), filed November 27, 1979. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Foodstuffs and specialty gift items* from Monroe, WI to AZ, CA, CO, MT, NV, NM, OR, UT & WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Swiss Colony Stores, Inc., Swiss Colony, Inc., 112 7th Ave., Monroe, WI 53566. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 145133 (Sub-1TA), filed November 20, 1979. Applicant: KALLAM TRANSFER CO., INC., 801 Pressley Rd., Suite 103, Charlotte, NC 28210. Representative: George H. Kallam, III, (same address as applicant). *Household goods as defined by the Commission* between points in Mecklenburg County, NC, on the one hand, and, on the other, points in the States of NY, OH, IN, IL, GA, FL, AL, TN, DE, MD, PA, VA, NJ and SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Collins & Aikman Corp., P.O. Box 580, Albemarle, NC 28061. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd–Rm CC516, Charlotte, NC 28205.

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MC 145152 (Sub-131TA), filed November 14, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. (1) *Frozen vegetables* from the facilities of Marshburn Farms, Inc., at or near Norwalk, CA to points in FL, IA, IL, IN, MA, MD, MI, MN, MO, NE, NJ, NY, OH, OR, PA, TX, WA and WI; and (2) *frozen foods* from the facilities of or used by

Valley Packing Service, at or near Castroville and Watsonville, CA; Salem, OR; and Bellingham, Ellensburg, Kent, Pasco and Stanwood, WA, to points in AL, FL, GA, IL, IN, KY, LA, MA, MI, MO, MS, NC, NJ, NY, OH, PA, SC, TN and VA; and (3) *frozen foods* from the facilities of Oxnard Frozen Foods Cooperative, at or near Oxnard, CA, to points in the U.S. (except AK and HI); and (4) *frozen juices* from the facilities of Ventura Coastal Corporation, at or near Ventura, CA, to points in CO, OR and WA, for 180 days. Supporting shipper(s): Marshburn Farms, Inc., P.O. Box 529, Norwalk, CA 90650; Oxnard Frozen Foods Cooperative, P.O. Box 1427, Oxnard, CA 93032; Valley Packing Service, P.O. Box 106, Watsonville, CA 95076; Ventura Coastal Corporation, 2325 Vista Del Mar Drive, Ventura, CA 93001. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145152 (Sub-132TA), filed November 14, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. *Candy* from the facilities of Ce De Candy Company, at or near Union, NJ to St. Louis, MO, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Ce De Candy Company, Inc., 1091 Lousons Rd., Union, NJ 07083. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145152 (Sub-140TA), filed October 25, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Inedible fatty acid of animal oil, fatty acid of vegetable oil, stearic acid, azelaic acid, pelargonic acid, chemicals, organic ammonia compounds, esters, glycerines, lubricating oils, petroleum oil, flakes (plastic, pellets or solid), liquid plastic, candle tar, wax, resin plasticizer and cleaning compounds* (except in bulk), from Los Angeles, CA and Cincinnati, OH to points in the U.S. (except AK and HI), restricted to the transportation of traffic originating at the facilities of Emery Industries, Inc., for 180 days. Supporting shipper(s): Emery Industries, Inc., 1300 Carew Tower, Cincinnati, OH 45202. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145152 (Sub-141TA), filed October 24, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Candy* from the facilities of Ce De Candy Company, Inc. at or near Union, NJ to Vernon, CA; Farrington, TX; and Salt Lake City, UT, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Ce De Candy Company, Inc., 1091 Lousons Rd., Union, NJ 07083. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145152 (Sub-142TA), filed October 22, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Kent L. Tharel, P.O. Box 334, Fayetteville, AR 72701. *Petroleum and petroleum products,* except in bulk, from St. Louis, MO; Memphis, TN; Dallas, TX to Fayetteville, AR, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Mitchell Oil Company, Inc., 500 W. 6, Fayetteville, AR 72701. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145152 (Sub-143TA), filed October 22, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Kent L. Tharel, P.O. Box 334, Fayetteville, AR 72701. *Such commodities as are dealt in or used by wholesale and retail discount and variety stores,* from points in NJ and NY to facilities of Hart Stores, Inc. at or near Columbus, OH, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Hart Stores, Inc., 770 West Goodale Blvd., Columbus, OH 43212. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145152 (Sub-144TA), filed October 22, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Kent L. Tharel, P.O. Box 334, Fayetteville, AR 72701. *Steel shelving and metal shelving, assembled and unassembled; members, component parts, and accessories,* from points in OH to facilities of Metal Products Co., Inc., dba Austin Material Handling Co. at or near Austin, TX, for 180 days. Supporting shipper(s): Metal Products Co., Inc., dba Austin Material Handling Co., 2307 Kramer Lane, Austin, TX 78758. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145152 (Sub-145TA), filed October 31, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Kent L. Tharel, 103 North College, P.O. Box 334, Fayetteville, AR 72701. *Meat products, meat by-products and articles distributed by meat packing houses, except hides and commodities in bulk* from facilities of or used by Del Pero-Mondon Meat Co. of Arkansas, at or near Booneville, AR to points in U.S.; from points in U.S. to facilities of or used by Del Pero-Mondon Meat Co. at or near Booneville, AR for 180 days. Supporting shipper(s): Del Pero-Mondon Meat Co. of Arkansas, P.O. box 8183, Munger Station, Wichita, KS 67219. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145152 (Sub-146TA), filed November 19, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. *Frozen fruits and vegetables and canned fruits and vegetables,* between points in the U.S. (except CT, DE, ID, MA, ME, MT, NH, NV, OR, RI, VT, WA and WY), restricted to the transportation of the traffic of San Antonio Foreign Trading Company, for 180 days. Supporting shipper(s): San Antonio Foreign Trading Company, 306 West Rhapsody, San Antonio, TX 78216. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145152 (Sub-147TA), filed November 21, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. *Plastic film or sheeting in rolls and brattice cloth in rolls or bales* (except in bulk) between points in AL, AR, GA, NC, PA and SC, restricted to the transportation of traffic of D. C. Humphrys Company, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Humphry's Textile Products, Inc., 1241 Carpenter St., Philadelphia, PA 19147. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145152 (Sub-148TA), filed November 21, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. *Meat, meat products and meat by-products and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* except hides and commodities in bulk), from the facilities of Vernon Calhoun Packing Company, Inc. at or near Palestine, TX to points in the U.S. (except AK and HI), for 180 days. Supporting shipper(s): Vernon Calhoun Packing Company, P.O. Box 709, Palestine, TX 75801. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145152 (Sub-149TA), filed November 21, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. *Ethylene Glycol base anti-freeze* in plastic containers (except in bulk) from the facilities of Hy-Port Industries, Inc., at or near Houston, TX to points in the United States (except AK and HI), for 180 days. Supporting shipper(s): Hy-Port Industries, Inc., P.O. Box 755, Highlands, TX 77562. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145152 (Sub-150TA), filed November 21, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. *Frozen, inedible meats and meat by-products,* from the facilities of Consolidated Pet Foods, Inc., at or near Amarillo, TX, to points in the U.S. (except AK and HI), for 180 days. Supporting shipper(s): Consolidated Pet Foods, Inc., P.O. Box 30488, Amarillo, TX 79120. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145152 (Sub-151TA), filed November 26, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. *Paper and paper articles; fibreboard; plastic and metal containers; fittings; and materials, equipment and supplies* used in the manufacture thereof, between points in the U.S. and the facilities of Container Corporation of America, at or near Cincinnati, OH; St. Louis, MO; Dallas, Ft. Worth and Houston, TX; Rock Island, IL; Sioux City, IA; Muskogee, OK; and Memphis, TN, restricted to the transportation of traffic originating at or destined to the facilities of Container Corporation of America, for 180 days. Supporting shipper(s): Container Corporation of America, P.O. Box 1441, Ft. Worth, TX 76101. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 14163 (Sub-5TA), filed November 16, 1979. Applicant: DONALD MULDER d.b.a. DON MULDER TRUCKING, 1735 North 50th Street, Lincoln, NE 68504. Representative: Lavern R. Holderman, 521 S. 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. *Printed matter (except in bulk)* from the facilities of or utilized by Tace Press, Inc. at or near New York, NY; Gateway Press, Inc. at or near Louisville, KY; Lienett Printing Co. at or near San Bernadino, CA; L.B.I. Trade Bindery, at or near Garden Grove, CA; Rogers Bindery at or near San Bernardino, CA; Messenger Graphics at or near Phoenix, AZ; and Western Publishing Co. at or near Racine, WI and points in their respective commercial zones, to Berea, OH; Marceline, MO; New Orleans, LA; Jeffersonville, IN; Laguna Niguel, CA; and Lincoln, NE, and points in their respective commercial zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): U.S. Government Printing Office, George L. Postle, Chief, Traffic Division, North Capitol & "H" Streets N.W., Washington, D.C. 20401. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 145203 (Sub-5TA), filed September 24, 1979. Applicant: REITZEL TRUCKING CO., INC., 7401 Fremont Pike, Perrysburg, OH 43551. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. *Auto parts, and equipment, materials and supplies used in the manufacture of auto parts* (except commodities in bulk), between the plantsite of the Chrysler Corporation in Perrysburg Township, Lucas County, OH, on the one hand, and on the other, points in WI, MO, DE, IN, MI, and IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chrysler Corporation, 8000 Chrysler Drive, Perrysburg, OH 43551. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 145363 (Sub-6TA), filed November 23, 1979. Applicant: BREWTON EXPRESS, INC., P.O. Box 508, Winnfield, LA 71483. Representative: Brian E. Brewton (same address as applicant). Applicant is applying for authority to operate as a contract carrier over irregular routes transporting *building materials, except bulk in tank vehicles,* between points in the United States in and east of ND, SD, NE, CO, and NM, for 180 days, under a continuing contract or contracts with American Paneling of Nederland, TX. Applicant has filed an underlying ETA seeking 90 days. Supporting shippers: American Paneling, P.O. Box 177, Nederland, TX 77627. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 145593 (Sub-5TA), filed November 20, 1979. Applicant: HAROLD SHULL TRUCKING, INCORPORATED, P.O. Box 1533, Hickory, NC 28601. Representative: Harold D. Shull, Curley Fish Camp Rd., Hildebran, NC 28637. *(1) plastic bottles and (2) petroleum products* (1) from Port Clinton, Columbus, and Elyria, OH to Elizabethton, TN and points in NC and (2) from Bradford, PA to Charlotte, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: There are four supporting shippers in this application. Their statements may be examined at the office listed below and Headquarters. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd.—Rm. CC516, Charlotte, NC 28205.

MC 145622 (Sub-3TA), filed November 30, 1979. Applicant: S & H TRANSPORTATION, Jerry G. Harris d.b.a., P.O. Box 137, Wright City, MO 64105. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, MO 64105. *Dry grocery products* between the facilities of Aldi, Inc., at or near Wright City, MO, on the one hand, and, on the other, points in MO, KS, IL, IN, IA, AR, TN and KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: Aldi, Inc., 3400 Mt. Pleasant St., Burlington, IA 52601. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 145802 (Sub-4TA), filed November 5, 1979. Applicant: RONALD E. REED, d.b.a., TRIPLE R TRUCKING, RFD, Laurens, IA 50554. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Frozen bakery products* from Nashville, TN, to points in AR, IA, IL, KS, MI, MN, MO, NE, OK, OR, TX, WA, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: Tennessee Doughnut Corp., 2975 Armory Drive, Nashville, TN 37204. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146213 (Sub-6TA), filed November 20, 1979. Applicant: JAMES P. DOYLE, d.b.a. J. DOYLE TRUCKING, P.O. Box 76, Wisconsin Dells, WI 53965. Representative: Jack Meyer, 111 E. Wisconsin Ave., Milwaukee, WI 53202. *Paper and paper products, cleaning compounds and plastic containers and dispensers of cleaning compounds* (except commodities in bulk) from facilities of Bay West Paper Co. at Green Bay, WI to points in OK & TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Bay West Paper Co., 1100 W. Mason St., Green Bay, WI 54303. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 146293 (Sub-38TA), filed September 28, 1979. Applicant: REGAL TRUCKING CO., INC., 85 Lawrenceville Industrial Park Circle, N.E., Lawrenceville, GA 30245. Representative: Richard M. Tettlebaum,

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Fifth Floor, Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, GA 30326. *(1) Carpet strips, molding, staples, nails, adhesives, sealants, solvents, stains, wood preservations; and (2) materials, equipment and supplies used in the manufacture, distribution and sale of the commodities named in (1) above,* between points in Los Angeles County, CA and Calexico, CA; and from Calexico, CA to points in the U.S. on and east of U.S. Highway 85. Restriction: Restricted against the transportation of commodities in bulk, in tank vehicles, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Roberts Consolidated Industries, Inc., 601 N. Baldwin Park Blvd., City of Industry, CA 91749. Send protests to: Sara K. Davis T/A, ICC, 1252 W. Peachtree St., NW., Room 300, Atlanta, GA 30309.

MC 146423 (Sub-8TA), filed November 8, 1979. Applicant: Stephen Hrobuchak d.b.a., TRANS-CONTINENTAL REFRIGERATED LINES, P.O. Box 1456, Scranton, PA 18503. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Paint, roofing cement, masonry, cleaning compounds, and glazing and caulking compounds, adhesives and advertising materials,* from Dunmore, PA to Visalia, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): United Gilsonite Laboratories, Jefferson Ave. & New York St., Dunmore, PA 18512. Send protests to: ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 146453 (Sub-1TA), filed November 30, 1979. Applicant: TOM ROWE SERVICES, 107 Roberts Lane, Bakersfield, CA 93308. Representative: Earl N. Miles, 3704 Candlewood Drive, Bakersfield, CA 93306. Clay, in bulk and in packages, from the facility of Industrial Minerals Ventures located at Imvite, Nye County, Nevada to points in Kern, Los Angeles, Monterey, Santa Barbara and Ventura Counties, California, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting Shipper(s): Industrial Minerals Ventures, Inc., Sale Manager, 240 Columbus, Bakersfield, CA 93305. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA. 90012.

MC 146643 (Sub-23TA), filed October 1, 1979. Applicant: DAVID CREECH TRANSPORTATION SYSTEMS, INCORPORATED, 3202 South State Street, South Chicago Heights, IL 60411. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. *Contract carrier:* irregular routes: *Such commodities as are dealt in by wholesale and retail hardware stores,* from Chicago, Cary and Rosemont, IL to Belton, MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cotter & Company, 2740 Clybourn Avenue, Chicago, IL 60614. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 146672 (Sub-1TA), filed October 3, 1979. Applicant: SOUTH PARK MOTOR LINES INC., d.b.a. COLORADO ALL STATE TRANSPORTATION INC., 1420 38th Street, Denver, CO 80205. Representative: Richard A. Eshe or Lois Mae Eshe (same address as above). *Irregular/contract—Building materials, cement, reinforcing steel and packaged landscape rock,* from Denver, CO to job sites in WY and return with ornamental rock in sacks from job sites in WY, for 180 days. Supporting shipper(s): Rio Grande Co., 123 Santa Fe Dr., Denver, CO 80223. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 146722 (Sub-2TA), filed November 14, 1979. Applicant: JOE PRYOR d.b.a. JOE TRANSPORT, 1616 E. 78th Ave., Space 72, Denver, CO 80229. Representative: Joe Pryor (same address as applicant). *Iron and steel articles and parts, scrap metal, scrap aluminum and brick* (1) from Denver, CO and its commercial zone to CA, NV and UT; (2) from Los Angeles, CA and its commercial zone to Denver, CO for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): Anaheim Builders Supply, Inc., 1635 South State College Blvd., Anaheim, CA 92806; Engbar Pipe & Steel Co., 4755 Washington St., Denver, CO 80216; and Sun Valley Extrusion, 4525 Ironton St., Denver, CO 80239. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 146736 (Sub-4TA), filed October 3, 1979. Applicant: JOHN LAUBENTHAL, d.b.a. LAUBENTHAL REFRIGERATED TRANSPORT, 1461 Garford Ave., Elyria, OH 44035. Representative: Richard H. Brandon, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. *Edible flour compounds (except in bulk)* between Brook Park, OH, on the one hand, and, on the other, points in MA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Gorton Group Div., General Mills, Inc., 327 Main St., Gloucester, MA 01930. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 146743 (Sub-2TA), filed October 30, 1979. Applicant: YAGER TRUCKING, INC., 1116 Gum Avenue, Woodland, CA 95695. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. *Frozen potatoes, in vehicles equipped with mechanical refrigeration,* from Pasco, WA to: (a) facilities of Santa Rosa Frozen Foods, Inc., Santa Rosa, CA and (b) facilities of Marin Produce, Inc., San Rafael, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Santa Rosa Frozen Foods, Inc., 120 Foley Street, Santa Rosa, CA 95401; and Marin Produce, Inc., 700 "A" Street, San Rafael, CA 94901. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 146782 (Sub-24TA), filed November 14, 1979. Applicant: ROBERTS CONTRACT CARRIER CORP., 300 First Ave. South, Nashville, TN 37201. Representative: Stephen L. Edwards, 806 Nashville Bank and Trust Bldg., Nashville, TN 37201. *Iron and steel articles,* from the facilities of Georgetown Steel Corp., at or near Georgetown, SC, to points in AL, AR, CT, DE, DC, FL, MN, GA, IL, IN, KY, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, TN, VT, VA, WV, and WI, for 180 days. Supporting shipper(s): Georgetown Steel Corp., P.O. Box 619, Georgetown, SC 29440. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 147223 (Sub-2TA), filed December 3, 1979. Applicant: AMERICAN PRIORITY ENTERPRISES, INC., 408 East Elizabeth Avenue, Linden, NJ 07601. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Contract carrier, irregular routes for 180 days. Drugs, medicine, pharmaceuticals, stomahesive products, toothbrushes, store display, printed matter and returned merchandise, (1) between facility of E. R. Squbb, Somerset, NJ, on the one hand, and, on the other, Somerville, MA. (2) from the facility of Surgicare (Squibb Division) Greensboro, NC to New Brunswick, NJ. (3) between the airport facilities in the New York, NY and the NJ area, on the one hand, and, on the other, Kenly, NC. Under a continuing contract with E. R. Squibb & Sons, Inc. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. R. Squibb & Sons, Inc., P.O. Box 191, New Brunswick, NJ 08903. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 147743 (Sub-1TA), filed November 20, 1979. Applicant: GEMINI TRANSPORT, INC.; P.O. Box 10565, Jefferson, LA 70121. Representative: Harold R. Ainsworth, 2307 American Bank Bldg., New Orleans, LA 70130. Applicant is seeking authority as a common carrier over *regular routes*

transporting *Intermodal containers (containing freight):* (1) From New Orleans, LA over Interstate Hwy. 10 to Port Allen, LA thence over LA Hwy. 1 to Plaquemine, LA and return over the same route, serving all intermediate points and; (2) Between New Orleans, LA and Mobile, AL from New Orleans, LA over interstate Hwy. 10 to its junction with U.S. Hwy. 49 thence over U.S. Hwy. 49 to Gulfport, MS, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): H. E. Schurig & Co. of LA, 1810 ITM Bldg., New Orleans, LA 70130; and Hansen & Tidemann, Inc., 442 Canal St., Suite 310, New Orleans, LA 70130. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 148183 (Sub-8TA), filed November 16, 1979. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30501. Representative: Pauline E. Meyers, Suite 348, Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *Frozen fruit juices, frozen fruit juice concentrate, fresh canned and fresh fruit and vegetable juices, fruit sections and fruit salads, (in refrigerated vehicles, except in bulk),* from the facilities of Citrus Central, Inc., Bartow, Winter Haven, Haines City, Lakeland, Howey-in-the-Hills, Plymouth, and Umatilla, FL to points in KY, TN, OH, IN, MI, IL, WI, and MN for 180 days. Supporting shipper(s): Citrus Central, Inc., P.O. Box 17774, Orlando, FL 32860. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 148183 (Sub-9TA), filed December 7, 1979. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30501. Representative: Pauline E. Meyers, Suite 348, Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *Frozen foods, (in refrigerated vehicles, except in bulk)* from the facilities of Roman Meal Frozen Foods Company, Decatur, IN to points in FL, GA, NC, and SC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Roman Meal Frozen Frozen Company, 2101 South Tacoma Way, Tacoma, WA 98409. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 148322 (Sub-1TA), filed October 1, 1979. Applicant: RONALD A. NEVEU, d.b.a. MIDWEST ENTERPRISES, Rural Route No. 1, P.O. Box 725, Clifton, IL 60927. Representative: Edward D. McNamara, jr., 907 South Fourth Street, Springfield, IL 62703. *Pickles and pickle products in brine and sauerkraut requiring protective service,* from Chicago, IL commercial zone to points in the states of OK, TX, CA, FL, GA, NC, SC, OR, WA, TN, KY, AZ, NV, UT and ID for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Schwartz Pickle Company, 160 N. Loomis St., Chicago, IL 60607. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148323 (Sub-3TA), filed October 9, 1979. Applicant: A. B. & K. TRUCKING, INC., 5535 Walter Avenue, Hammond, IN 46420. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. (1) *Void Fillers,* from the facilities of Down River Forest Products, subsidiary of Greif Bros. Corporation at or near Dixmoor, IL, to points in IN, KY, OH, MI, WI, MN, IA, and MO, (2) *Materials and equipment used in the manufacture and distribution of void fillers,* from the points named in (1) above to the facilities of Down River Products Division of Greif Bros. Corporation at or near Dixmoor, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Down River Forest Products, 14153 S. Western Avenue, Dixmoor, IL 60406. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148343 (Sub-1TA), filed November 13, 1979. Applicant: W. C. FORE TRUCKING, INC., P.O. Box 3058, Gulfport, MS 39503. Representative: Wallace C. Fore (same as applicant). *Contract carrier;* irregular routes; *Posts, poles and pilings,* from Gulfport, MS and Mobile, AL, to points in TX, OK, KS, CO, NE, IA, and SD, for the account of Crown Zellerbach Corp., for 180 days. Supporting shipper: Crown Zellerbach Corp., P.O. Box 1060, Bogalusa, LA 70427. Send protests to: Alan Tarrant, D/S, ICC, Fed. Bldg., Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 148353 (Sub-1TA), filed October 10, 1979. Applicant: PORTER LINES, INCORPORATED, 609 W. Rillito St., Tucson, AZ 85705. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. *(1) Epoxy compounds, liquid plastic materials, ink materials, paint, paint thinning compounds and chemicals (except commodities in bulk), in vehicles equipped with mechanical refrigeration, (2) printing advertising matter and cable splicing kits when transported in the same vehicles with commodities in (1) above,* from the facilities of Hysol Division, The Dexter Corporation, located at Olean, NY, to Lees Summit and Kansas City, MO and Los Angeles Harbor and City of Industry, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Hysol Division, The Dexter Corporation, 211 Franklin St., Olean, NY 14760. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 148362 (Sub-2TA), filed September 27, 1979. Applicant: HAR-BET, INC., 4772 South Expressway, Suite 123, Forest Park, GA 30050. Representative: Bruce E. Mitchell, 3390 Peachtree Road, N.E., Atlanta, GA 30326. *Contract carrier:* Irregular routes *such merchandise as is dealt in or used by retail, wholesale or chain grocery, drug and food business houses* (except commodities in bulk, in tank vehicles) between the facilities of Gulf Atlantic Distribution Services at or near Forest Park, GA, on the one hand, and, on the other, points in NC, SC, TN, AL, MS and LA, under contract or continuing contracts with Gulf Atlantic Distribution Services, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Gulf Atlantic Distribution Services, P.O. Box 2588, Houston, TX 77001. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Room 300, Atlanta, GA 30309.

MC 148393 (Sub-2TA), filed October 26, 1979. Applicant: ABLE EXPRESS CO., INC., 2170 Buck St., Cincinnati, OH 45214. Representative: Jerry B. Sellman, 50 W. Broad St., Columbus, OH 43215. *General commodities* (except those of unusual value, Class A or B explosives, household goods as defined by the Commisison, commodities in bulk, and those requiring special equipment) between the facilities of Nationwide Shippers Cooperative Association, Inc., located at or near Cincinnati, OH, on the one hand, and, on the other, points in Baltimore, MD, Philadelphia, PA and New York, NY and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Nationwide Shippers Cooperative Assoc, Inc., 1400 Gest St., Cincinnati, OH 45203. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St, Rm. 620, Phila, PA 19106.

MC 148413 (Sub-1TA), filed September 25, 1979. Applicant: ERICK W. BEUTE & DAUGHTERS, INC., 3901 Bell St., Lawrence Park, PA 16511. Representative: Joseph F. MacKrell, 120 West 10 Street, Erie, PA 16501. *Contract carrier;* irregular routes: (1) *Scrap iron and pig iron,* from the facilities of General Electric Company, Erie, PA, and from the dock facilities of the Port of Erie, Erie, PA to the facilities of General Electric Company, Elmira, NY; and (2) *Iron castings,* from the facilities of

General Electric Company, Elmira, NY, to the facilities of General Electric Company, Erie, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Electric Company, 100 Woodlawn Ave., Elmira, NY 14902, and General Electric Company, 2901 East Lake Rd., Erie, PA 16511. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 148422, filed September 28, 1979. Applicant: TWOWAY SUPPLY, INC., Box 347, Pond Creek, OK 73766. Representative: John T. Farmer (same address as applicant). *Iron and/or steel articles, including pipe,* from TX, to OK and KS, for 180 days. Supporting shipper: Crescent Pipe & Supply Co., 2601 N.W. Exp.—Oil Center East, Oklahoma City, OK 73112. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 148432 (Sub-1TA), filed October 31, 1979. Applicant: MARGO TRANSPORT, INC., 1317 East Scott, Olney, IL 62450. Representative: MICHAEL W. O'HARA, 300 Reisch Building, Springfield, IL 62701. *Contract carrier:* irregular routes: *Paper, paper products and materials and supplies used in the manufacture and distribution of paper products (except in bulk) for the account of Inland Container Corporation,* between Fenton, MO on the one hand, and on the other, points in AR, IL, IN, IA, KY, KS and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Inland Container Corporation, 151 North Deleware, Indianapolis, IN 46206. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148433 (Sub-1TA), filed September 27, 1979. Applicant: GENERAL PARTS EXPRESS, INC., P.O. Box 243, Hanover, MD 21076. Representative: Frank B. Hand, Jr., P.O. Drawer "C", Berryville, VA 22611. *Contract; Irregular: Automotive parts and automotive accessories and such commodities as are dealt in or used by distributors of automotive parts* (except commodities in bulk), between the facilities of General Motors Corporation (General Motors Parts Division), Parkway Industrial Center, Hanover, MD, on the one hand, and, on the other, points in Kent, New Castle, and Sussex Counties, DE; York, Adams, Franklin, Fulton, Cumberland, Huntingdon, Mifflin, Juniata, Perry, Dauphin, Northumberland, Snyder, Union, Montour, Lycoming, Clinton, and Centre Counties, PA; Frederick, Shenandoah, Clarke, Warren, Page, Madison, Rappahannock, Fauquier, Loudoun, Culpeper, Prince William, Arlington, Fairfax, Accomac, and Northampton Counties, VA; Berkeley, Morgan, Hampshire, Jefferson, Mineral, Hardy, Grant, Tucker, Randolph, and Pendleton Counties, WV; and the District of Columbia, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: General Motor Corporation, (General Motors Parts Division), 6060 W. Bristol Road, Flint, MI 48554. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th Street—Rm. 620, Phila., PA 19106.

MC 148443 (Sub-1TA), filed November 16, 1979. Applicant: SOUTH SHORE EQUIPMENT CORP., 1284 Millet Road, Avon, OH 44011. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. *Iron and steel, and iron and steel articles,* between Sheffield, OH, on the one hand, and on the other, points in MI, IL, IN, KS, MO, PA, FL, GA, MS, CO, ND, SD, TN, WY, NE, WI, MN, IA, TX, NJ, CA, WA, WV, OR, NY, MT, LA, AL and UT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Servisteel Corporation, 4920 French Creek Rd., Lorain, OH 44054. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 148443 (Sub-2TA), filed November 8, 1979. Applicant: SOUTH SHORE EQUIPMENT CORP., 1284 Miller Rd., Avon, OH 44011. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Castings* from the plant site of Abex Corporation, Engineering Products Division, at or near Elyria, OH to points in the Continental U.S., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Abex Corp., Taylor St. and Abby Rd., Elyria, OH 44035. Send protests to: ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 148443 (Sub-3TA), filed October 25, 1979. Applicant: SOUTH SHORE EQUIPMENT CORP., 1284 Miller Rd., Avon, OH 44011. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Dredging equipment, pipe; and supplies, equipment and materials used in the construction, dredging, and operation of ports and waterways,* between (a) Monroe, MI, on the one hand, and, on the other points in OH, NY, FL, IL, WI, MN, MT, WV, TN, GA, WA, CA, OR, NY SD, and CO and (b) between Lorain, Avon, and Cleveland, OH on the one hand, and, on the other, points in MI, WI, IL, MN, NY, FL, MT, WV, TN, KY, GA, WA, CA, OR, ND, SD, CO, AL, IA, NE, and WY, for 180 days. Supporting shipper: Ajax Corp., 1294 Miller Rd., Avon, OH 44011. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Phila., PA 19106.

MC 148473 (Sub-1TA), filed November 9, 1979. Applicant: JOHN F. MUNN, d.b.a. JOHN F. MUNN TRUCKING, 408 Vine Street, Euless, Texas 76039. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, Texas 76103. *Used, salvage and inoperable fork lifts* between Dallas, Harris and Tarrant Counties, TX, on the one hand, and on the other, points in the United States (except AK and HI) for 180 days. An underlying ETA for 90 days has been filed. Supporting shipper: Fork Lift City, Inc., 2100 East Airport Freeway, Irving, TX 75062 Southline Equipment Co., 700 West Cavalcade, Houston, TX 77009. Send protests to: Marianne Minnich, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 148512 (Sub-1TA), filed November 21, 1979. Applicant: WESTERN TANK LINE, INC., 2222 North 11th Street, Omaha, NE 68110. Representative: Greg A. Dickinson, Suite 610; 7171 Mercy Road, Omaha, NE 68106. *Liquefied petroleum gases, in bulk, in tank vehicles* from points in IA to points in MN and SD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Farmers Union Central Exchange (CENEX), Elmer Brenna, Traffic Supervisor-Petroleum Division, P.O. Box 43089, St. Paul, MN 55164. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 148532, filed September 27, 1979. Applicant: GREEN THUMB COMMODITIES, INC., Box J, Oldham, SD 57051. Representative: Linus Eykamp (same address as applicant), *Contract carrier:* irregular routes: *Feed and feed ingredients and health products* from Sioux City, IA to Huron, Lake Preston, Elkton, Brookings, Flandreau and Colman, SD for the account of Ralston Purina Co. for 180 days. Supporting shipper: Ralston Purina Co. Sioux City, IA. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 148682 (Sub-1TA), filed November 2, 1979. Applicant: TRAN COM, LTD., P.O. Box 542, Hillsboro, ND 58045. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Contract carrier:* irregular routes: *Limerock,* from Duluth, MN to the facilities of American Crystal Sugar Company located near Hillsboro, ND, for the account of American Crystal Sugar Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: American Crystal Sugar Company, 101 North Third Street, Moorhead, MN 56560. Send protests to: H. E. Farsdale, DS, ICC, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 148692 (Sub-1TA), filed November 6, 1979. Applicant: EMPIRE DELIVERY, INC., 3930 Blake Street, Denver, CO 80203. Representative: Raymond M. Kelly, 450 Capitol Life Center, Denver, CO 80203. *Beverages in containers and empty containers on return,* from points in KY, IL, OH, and MI to points in Denver, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: McKesson Wine and Spirits, Inc., 1800 Bassett Street, Unit B, Denver, CO 80202. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 148702 (Sub-1TA), filed October 10, 1979. Applicant: A. PREWITT SAMS, dba Sams Carpet Service, 100 Talbott St. Winchester, KY 40391. Representative: Harry Ross, 58 So. Main St., Winchester, KY 40391. Floor coverings and articles used in installation of floor coverings, from points in GA, north of Interstate Hwy. 20, to points in Clark and Fayette Counties, KY, for 180 days. Supporting shipper(s): (4) Hisle Carpets, Inc., 142 Burt Rd., Lexington, KY. 40503; Holland Floor Coverings, Inc., 1805 N. Limestone, Lexington, KY. 40503. Sams floor coverings (same as applicant) Dickens floor Covering, 187 Moore Drive, Lexington, KY, 40503. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY, 40202.

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MC 488 (Sub-14TA) filed October 19, 1979. Applicant: BREMAN'S EXPRESS COMPANY, 318 Haymaker Rd., Monroeville, PA 15146. Representative: Leslie S. Breman (same as applicant). *Vegetable tanning extract,* from Marion, OH to Curwensville, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Howes Leather Co., P.O. Box 57, Curwensville, PA 16833. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 488 (Sub-15TA) filed November 13, 1979. Applicant: BREMAN'S EXPRESS COMPANY, 318 Haymaker Road, Monroeville, PA 15146. Representative: Leslie S. Breman (same as applicant). *Vegetable tanning extract,* from Marion, OH to Frank, WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Howes Leather Co., Inc., Box 97, Frank, WV 24937. Send protests to: I.C.C., Fed. Res. Bank. Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 808 (Sub-64TA) filed October 29, 1979. Applicant: ANCHOR MOTOR FREIGHT, INC., 29201 Telegraph Rd., Suite 522, Southfield, MI 48034. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. *Contract carrier:* irregular routes: *Motor vehicles, in truckaway movements,* from Wilimington, DE to points in IA, MN, MO and WI, under continuing contract of contracts with General Motors Corporation for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Motors Corporation, GM Logistics Operations, 30007 Van Dyke Avenue, Warren, MI 48090. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 2229 (Sub-232TA) filed November 26, 1979. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247. Representative: Jackie Hill (address as above), Common carrier, regular routes, *general commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment* serving the plantside of International Paper Company near Mansfield, LA in De Soto Parish, LA, as an off-route point in conjunction with carrier's regular routes for 180 days. Carrier intends to tack its authority and intends to interline with other carriers. Underlying ETA filed for 90 days. Supporting shipper(s): International Paper Company, P.O. Box 160707, Mobile, AL 36616. Send protests to: Opal M. Jones, TCS, ICC, 819 Taylor St., 9A27 Federal Bldg., Fort Worth, TX 76102.

MC 2229 (Sub-233TA), filed November 21, 1979. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, Texas 75247. Representative: Jackie Hill (address same as carrier). *Cement, in bags* from Dallas, TX to points in the states of Utah, Colorado, Oklahoma and Kansas for 180 days. Underlying ETA for 90 days has been filed. Supporting shipper(s): Gifford Hill Chemical, 4930 River Oaks Road, Dallas, TX 75216. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 22509 (Sub-25TA), filed November 15, 1979. Applicant: MISSOURI-NEBRASKA EXPRESS, INC., 5310 St. Joseph Ave., St. Joseph, MO 64502. Representative: E. Wayne Farmer, P.O. Box 26010, Kansas City, MO 64196. *General commodities,* between the facilities of Geeco, Inc. in St. Joseph, MO and the facilities of Acoustics Development Corporation in Northbrook, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Geeco, Inc., 3800 South 48th Terrace, St. Joseph, MO 64503. Send protests to: Vernon Coble, D/S, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 22509 (Sub-26TA), filed November 19, 1979. Applicant: MISSOURI-NEBRASKA EXPRESS, INC., 5310 St. Joseph Avenue, P.O. Box 939, St. Joseph, MO. 64505. Representative: E. Wayne Farmer, 27th Floor, City Center Square, P.O. Box 26010, Kansas City, MO 64196. *General commodities,* between the facilities of Quaker Oats Company in St. Joseph, MO and the facilities of Quaker Oats Company in Pekin, Peoria and East Peoria, IL, for 180 days. Supporting shipper(s): The Quaker Oats Company, 2811 S. Eleventh Street, P.O. Box 28, St. Joseph, MO 64502. Send protests to: Vernon V. Coble, DS, ICC, 600 Federal Building, 911 Walnut St., Kansas City, MO 64106.

MC 30089 (Sub-10TA), filed November 8, 1979. Applicant: FRANK W. LILLY, INC., P.O. Box 111, Turtle Creek, PA 15145. Representative: Christian V. Graf, Esq., 407 N. Front St., Harrisburg, PA 17101. Contract carrier-irregular routes: *Materials, equipment and supplies used or useful in the preparation of foodstuffs,* from the facilities of Dewey and Almy Chemical Division at Woodbury, NJ to the facilities of Heinz USA, Division of H. J. Heinz Company at or near Weirton, WV, restricted to traffic originating at and destined to the named origin and destination, under continuing contract(s) with Heinz USA, Division of H. J. Heinz Company, Pittsburgh, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15239. Send protests to: ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 31389 (Sub-288TA), filed November 13, 1979. Applicant: McLEAN TRUCKING COMPANY, 1920 West First St., Winston-Salem, NC 27104. Representative: David F. Eshelman, P.O. Box 213, Winston-Salem, NC 27102. *Common* carrier-*Regular* routes; *General commodities (except those of unusual value; Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* serving points in Sheboygan, Manitowoc, Ozaukee, Washington, Dodge, Columbia, Dane, Jefferson, Rock, Waukesha, Racine, Kenosha, and Walworth Counties, WI and South Beloit, IL, as off-route points in connection with Applicant's regular-route operations, for 180 days. An underlying ETA seeks 90 days authority. Applicant does intend to tack the authority here applied for to its MC-31389. Applicant also intends to interline with other carriers at all points.

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Supporting shipper(s): There are 65 supporting shipper statements. Their statements may be examined at the office listed below or Headquarters. Send protests to: Sheila Reece, T/A, 600 Briar Creek Rd., Room CC516, Charlotte, NC 28205.

MC 35358 (Sub-49TA) filed November 15, 1979. Applicant: BERGER TRANSFER & STORAGE, INC., 3720 Malacaster Drive N.E., Minneapolis, MN 55421. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Furniture and fixtures* between Grand Rapids, MI on the one hand, and on the other, points in the United States in and east of WI, the Upper Peninsula of MI, IL, MO, AR, and LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 5 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 35358 (Sub-50TA) filed November 20, 1979. Applicant: BERGER TRANSFER & STORAGE, INC., 3720 Macalaster Dr. N.E., Minneapolis, MN 55421. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Furniture and fixtures*, between Holland, MI, on the one hand, and on the other, points in the U.S. in and east of WI, the Upper Peninsula of MI, IL, MO, AR, and LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Baker, Knapp, & Tubbs, Holland, MI 49423. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Mpls., MN 55401.

MC 41098 (Sub-51TA) filed November 28, 1979. Applicant: GLOBAL VAN LINES, INC., Number One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, Denning & Wohlstetter, 1700 K Street, N.W., Suite 301, Washington, DC 20006. *Air distribution equipment terminal devices*, from Huntsville, AL, to points in the United States (except AK and HI), for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Barber-Colman Company, Vice-President & Division Manager, 4910 Moores Mill Road, Huntsville, AL 35811. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 41098 (Sub-52TA) filed November 15, 1979. Applicant: GLOBAL VAN LINES, INC., Number One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, Dennis & Wohlstetter, 1700 K Street, N.W., Washington, DC 20006. *Golf carts, industrial vehicles and related articles*, from the facilities of Nordco Electric Vehicle Division/Nordco Products, Nordskog Industries; Inc., Redlands, CA to points in the United States (except AK, HI and CA), for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Nordco Electric Vehicle Division, Nordco Products, Nordskog Industries, Inc., 26701, Redlands Blvd., Redlands, CA 92373. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Bldg., 300 No. Los Angeles St., Los Angeles, CA 90012.

MC 41098 (Sub-53TA), filed November 9, 1979. Applicant: GLOBAL VAN LINES, INC., Number One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, Denning & Wohlstetter, 1700 K Street, N.W., Washington, DC 20006. *Golf carts, industrial vehicles and related articles*, from the facilities of Taylor-Dunn Manufacturing Co., Anaheim, CA to points in the United States (except AK, HI and CA), for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper: Taylor-Dunn Manufacturing Co., 2114 West Ball Road, Anaheim, CA 92803. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Bldg., 300 No. Los Angeles St., Los Angeles, CA 90012.

MC 46829 (Sub-14TA) filed November 9, 1979. Applicant: ALLARD EXPRESS, INC., 806 Elm Street, Watertown, WI 53094. Representative: Wayne W. Wilson, 150 E. Gilman Street, Madison, WI 53703. *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment*, Between Two Rivers, WI, and North Chicago, IL, as follows: From Two Rivers over Wisconsin Highway 42 to Manitowoc, WI, thence over U.S. Hwy 141 to junction Milwaukee County Hwy B, thence over Milwaukee County Hwy B to Milwaukee, WI, thence over Wisconsin Hwy 42 via Racine, WI, to the WI-IL State line, and thence over IL Hwy 42 to North Chicago; From Two Rivers to Milwaukee as specified above, thence over Milwaukee County Hwy H to junction Wisconsin Hwy 38, thence over Wisconsin Hwy 38 to Racine, WI and thence to North Chicago as specified above; From Two Rivers to Milwaukee as specified above, thence over Milwaukee County Hwy AA to junction Milwaukee County Hwy Z, thence over Milwaukee County Hwy Z to junction Wisconsin Hwy 42, and thence to North Chicago as specified above; and Return over these routes to Two Rivers. Service is authorized to and from the off-route points in Milwaukee County, WI. Between points and places in Wisconsin as follows: From Sheboygan over Wisconsin Hwy 32 to Kiel, WI, thence over WI Hwy 57 to Chilton; From Sheboygan over Wisconsin Hwy 23 to Plymouth; From Sheboygan over Wisconsin Hwy 28 to Sheboygan Falls; From Milwaukee over Wisconsin Hwy 19 to Sun Prairie, WI, thence over U.S. Hwy 151 to Madison; From Milwaukee over Wisconsin Hwy 15 to Beloit, WI, and thence over U.S. Hwy 51 South Beloit; IL; From Milwaukee over U.S. Hwy 41 to junction Wisconsin Hwy 36, thence over Wisconsin Hwy 36 to Lake Geneva, WI, and thence over U.S. Hwy 12 to Genoa City; From Racine over Wisconsin Hwy 11 to Janesville; Service is authorized to and from the off-route point of Williams Bay, WI. From Racine over Wisconsin Hwy 20 to Rochester; From Milwaukee over U.S. Hwy 18 to Waukesha, WI, (also from Milwaukee over Wisconsin Hwy 59 to Waukesha) thence over Wisconsin Hwy 59 to Milton, WI, and thence over Wisconsin Hwy 26 to Janesville; Service is authorized to and from the off-route point of Genessee Depot, WI. From Watertown over U.S. Hwy 16 to Portage; Service is authorized to and from the off-route points of Clyman, Reeseville, Fall River, and Pardeeville, WI; From Watertown over Wisconsin Hwy 26 to junction Wisconsin Hwy 33, thence over Wisconsin Hwy 33 to Beaver Dam, WI, thence over U.S. Hwy 151 to Columbus, WI and thence over U.S. Hwy 16 to Portage; From Watertown over Wisconsin Hwy 26 to Fort Atkinson, WI, thence over U.S. Hwy 12 to Whitewater; From Watertown over County Hwy A to Lake Mills, WI, thence over Wisconsin Hwy 30 to junction Wisconsin Hwy 26; From Lake Geneva over Wisconsin 36 to Williams Bay, WI, thence over County Hwy H to junction Wisconsin Hwy 50, and thence over Wisconsin Hwy 50 to Delavan; and Return over these routes to the above-specified origin points. Service is authorized to and from all intermediate points on the above-specified routes. Between points and places in Racine, Kenosha, Burlington, Waukesha, Watertown, Port Washington, Sheboygan, and East Troy, WI, and those in Milwaukee County, WI. Between points in Wisconsin, as follows: From Milwaukee over unnumbered highways via Hales Corners, Muskego, Beg Bend, Caldwell, and Lake Beulah, WI, to junction Wisconsin Hwy 15 near East Troy, Wisconsin; From Hales Corners over unnumbered highway to St. Martin; From junction unnumbered highway and Wisconsin Hwy 83 near Lake Beulah over Wisconsin Hwy 83 to Mukwonago; From Burlington over Wisconsin Hwy 83 to junction unnumbered highway south of Salem; From Genoa City over unnumbered highways to junction unnumbered highway north of Twin Lakes; From junction Wisconsin Hwy 83 and unnumbered Highway south of Salem over unnumbered highway to Wilmot; From Wilmot over unnumbered highway to junction Wisconsin Hwy 83 south of New Munster; From junction Wisconsin Hwy 83 and unnumbered highway northeast of Silver Lake over unnumbered highway to junction unnumbered highway north of Twin Lakes; From Kenosha over Wisconsin Hwy 50 to junction Wisconsin Hwy 83; From junction Wisconsin Hwy 50 and unnumbered highway over unnumbered highway to Pleasant Prairie; From junction Wisconsin Hwy 50 and U.S. Hwy 45 over U.S. Hwy 45 to Bristol; From junction unnumbered highways north of Lake Elizabeth over unnumbered highway to Lake Elizabeth; and Return over these routes to the above-specified Wisconsin points. All intermediate points. Between Gibbsville, WI, and Milwaukee, WI From Gibbsville over Wisconsin Hwy 42 to junction Milwaukee County Hwy "B", thence over Milwaukee County Hwy "B" to Milwaukee and return over the same route. Intermediate point: Cedar Grove, WI, Off-route point: Oostburg, WI Between junction Wisconsin Hwy 30 and Wisconsin Hwy 19, and Madison, WI From junction Wisconsin Hwy 30 and Wisconsin Hwy 19, over Wisconsin Hwy 30 to Madison, and return over the same route. Service is authorized to and from the intermediate point of Delafield, WI. Between junction U.S. Hwy 141 and Wisconsin Hwy 57 and junction Wisconsin Hwy 144 and U.S. Hwy 141, From junction U.S. Hwy 141 and Wisconsin Hwy 57 over Wisconsin Hwy 57 to junction Wisconsin Hwy 144, thence over Wisconsin Hwy 144 to junction U.S. Hwy 141, and return over the same route. Service is not authorized to or from the intermediate points. Between junction Racine County Hwy K and Wisconsin Hwy 38, east of Franksville, WI and junction U.S. Hwy 41 and Wisconsin Hwy 36, southwest of Milwaukee, WI, and all intermediate points: From junction Racine County Hwy K and Wisconsin Hwy 38 over Racine County Hwy K to Thompsonville, WI, thence over U.S. Hwy 41 to junction Wisconsin Hwy 36, and return over the same route. Between Beaver Dam, WI, and Markesan, WI, and the off-route points of Manchester and Kinston, WI: From Beaver Dam over Wisconsin Hwy 33 to junction County Hwy A at Randolph, WI, thence over County Hwy A to Markesan (also from junction Wisconsin Hwy 33 and County Hwy A westward over Wisconsin Hwy 33 to junction Wisconsin Hwy 73, thence over Wisconsin Hwy 73 to junction Wisconsin Hwy 44, east of Manchester, WI, and thence over Wisconsin Hwy 44 to Markesan), and return over the same route. Between Minnesota Jct., Wisconsin, on the one hand, and, on the other, Port Washington, WI: From Minnesota Jct. over Wisconsin Hwy 33 to Port Washington, and return over the same route. Between Oconomowoc, WI, on the one hand, and, on the other, Horicon, WI, with service at Horicon for the purpose of joinder only: From Oconomowoc over Wisconsin Hwy 67 via Iron Ridge, WI, to Mayville, WI, thence over Wisconsin Hwy 28 to Horicon, and return over the same route. Between junction Wisconsin Hwys 33 and 73, on the one hand, and, on the other, Portage, WI, with service at junction Wisconsin Hwys 33 and 73 for the purpose of joinder only: From junction Wisconsin Hwys 33 and 73 over Wisconsin Hwy 33 to Portage, and return over the same route. Between junction Wisconsin Hwys 33 and 44, on the one hand, and, on the other, Wyocena, with service at junction Wisconsin Hwys 33 and 44 for the purpose of joinder only: From junction Wisconsin Hwys 33 and 44 over Wisconsin Hwy 44 to Wyocena, and return over the same route. Between junction Wisconsin Hwy 44 and County Hwy P, northeast of Pardeeville, WI, on the one hand, and, on the other, junction Wisconsin Hwys 33 and 73 north of Randolph, WI, with service at the termini for the purpose of joinder only: From junction Wisconsin Hwy 44 and County Hwy P over County Hwy P to Randolph, thence over Wisconsin Hwy 73 to junction Wisconsin Hwy 33, and return over the same route. Between junction Wisconsin Hwys 33 and 146, on the one hand, and, on the other, Cambria, with service at the termini for the purpose of joinder only: From junction Wisconsin Hwys 33 and 146 over Wisconsin Hwy 146 to Cambria, and return over the same route. Alternate route for operating convenience only: Between Juneau, Wisconsin, on the one hand, on the other, Hartford, WI, with service at Hartford for the purpose of joinder only: From Juneau over Wisconsin Hwy 115 to junction Wisconsin Hwys 115, 67, and 60, north of Neosho, WI, thence over Wisconsin Hwy 60 to Hartford, and return over the same route. Between Beloit, WI and Rockford, IL, serving no intermediate points: From Beloit over U.S. Highway 51 to Rockford, and return over the same route. From Beloit over Interstate Hwy 90 to junction U.S. Hwy 20, and thence over U.S. Hwy 20 (also over U.S. Hwy 20 BR) to Rockford, and return over the same route, for 180 days. Restriction: The authority granted above is restricted to the transportation of shipments received from or delivered to connecting carriers at Rockford, IL. An underlying ETA seeks 90 days authority. Supporting shipper: There are 17 supporting shippers. Send protests to: John E. Ryden, DS, ICC, 17 E. Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 52579 (Sub-198TA), filed November 29, 1979. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, NJ 07094. Representative: Julius Saltzman, One Gilbert Drive, Secaucus, NJ 07094. Wearing apparel on hangers and in cartons between Murray, KY and New York, NY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cacharel, 16 West 56th Street, New York, NY 10019. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 52579 (Sub-199TA), filed November 15, 1979. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, NJ 07094. Representative: Lawrence Burstein, Esq., One World Trade Center, Suite 2373, New York, NY 10048. Such merchandise as is dealt in by retail department stores from New York, NY commercial zone to the facilities of Rich's Inc., a division of Federated Stores, Inc., located at Stone Mountain, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Rich's, A Division of Federated Stores, Inc., P.O. Box 4539, Atlanta, GA 30302. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 52709 (Sub-379TA), filed November 9, 1979. Applicant: RINGSBY TRUCK LINES, INC., P.O. Box 7240, 3980 Quebec St., Denver, CO 80207. Representative: Rick Barker, same address as applicant. *Explosives, classes A and B, and materials, equipment and supplies for the distribution and use of explosives* from Sweetgrass, MT to all points in and West of MN, MO, AR and LA for 180 days. ETA filed seeking 90 days authority. Supporting shipper(s): Explosives Sales Corp, 410 17th St. Suite 450, Denver, CO 80202. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 64808 (Sub-43TA), filed December 7, 1979. Applicant: W. S. THOMAS TRANSFER, INC., 1654 Morgantown Ave., Fairmont, WV 26554. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. *Cullet*, from the facilities of AFG Industries, Inc., at Kingsport and Greenland, TN, to the facilities of AFG Industries, Inc., at Clarksburg and Jerry's Run at or near Flemington, Taylor County, WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: AFG Industries, Inc., P.O. Box 929, Kingsport, TN 37662. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 65429 (Sub-9TA) filed November 30, 1979. Applicant: J & T TRANSPORT, INC., 7980 National Highway, Pennsauken, NJ 08110. Representative: Joseph T. Bambrick, Jr., Esq., P.O. Box 216, Douglassville, PA 19518. *Engraved or etched rolls or rollers excluding rolling machines.* To, from and between Norwich, CT, points in NJ, and those points in PA on and east of the Susquehanna River, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Roto Cylinders, Inc., 701 Public Road, Palmyra, NJ 08065. Send protests to: District Supervisor, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 72069 (Sub-27TA) filed November 8, 1979. Applicant: BLUE HEN LINES, INC., P.O. Box 280, Milford, DE 19963. Representative: Chester A. Zyblut, 1030–15th St. NW., Suite 366, Washington, DC 20005. *Canned goods*, from Vineland, NJ to points in LA, FL, GA, AL, NC and SC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Progresso Quality Foods, Vineland, NJ 08360. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 78228 (Sub-153TA) filed November 14, 1979. Applicant: J MILLER EXPRESS, INC., 962 Greentree Rd., Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., Esq., 2310 Grant Bldg., Pittsburgh, PA 15219. *Activated carbon*, in bulk, in dump vehicles, from Pryor, OK to Davenport, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Carborundum Company, P.O. Box 337, Niagara Falls, NY 14302. Send protests to: I.C.C., Fed, Res. Bank Bldg., 101 N. 7th St., Philadelphia, PA 19106.

MC 88368 (Sub-42TA) filed November 15, 1979. Applicant: CARTWRIGHT VAN LINES, INC., 11901 Cartwright Ave., Grandview, MO 64030. Representative: C. Max Stewart, same as applicant. *Bar, kitchen and food service furniture, fixtures, furnishings, equipment and supplies (except foodstuffs), and accessories, materials and parts thereto.* From Bellwood, IL, Peru, IN, Kansas City and St. Louis, MO, Cleves, Dayton, Eaton, and Miamisburg, OH, Hudson and Oshkosh, WI to points in AZ, CA, FL, IA, IN, KS, MN, MO, NM, ND, OH, TN, TX, WV and WI. 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Fixtures Co., 22 Mead St., Dayton, OH 45402. Send protests to: Vernon Coble D/S, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 106398 (Sub-1031TA), filed November 13, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Iron or steel forms, 3/16' thick or thicker*, from the facilities of Southern Fabricators, Inc., located at Memphis, TN, to points in AL, FL, and IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southern Fabricators, Inc., 4768 Hungerford Rd., Memphis, TN 38118. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-1032TA), filed November 13, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Fabricated structural steel, steel pipe, pipe fittings and fabricated pipe, paper pulp and sawmill machinery and parts*, from the facilities of Arkansas Oregon Pneumatics, located at Crossett, AR, to the states of GA, LA, MN, MS, NC, VA, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Arkansas-Oregon Pneumatics, Inc., P.O. Box 578, 800 Wood Street, Crossett, AR 71635. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-1033TA), filed November 14, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Insulation*, from the facilities of Celotex Corporation, located at Elizabethtown, KY, to Baltimore, MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Celotex Corporation, A Subsidiary of Jim Walter Corp., P.O. Box 22601, Tampa, FL 33622. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-1034TA), filed November 14, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Fabricated steel parts*, from the facilities of Production Products, Inc., located at Connersville, IN, to points in AR, KY, IA, IL, MI, OH, NV, NC, TN, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Production Products, Inc., 2230 Ohio Avenue, Connersville, IN 47331. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-1035TA), filed November 19, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *General commodities*, in containers, (except those of unusual value, classes A and B explosives), from the Port of Seattle, WA, to points in UT, NY, NJ, IL, MA, PA, LA, MT, CA, and TX, restricted to shipments for the account of B. R. Anderson & Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): B. R. Anderson & Co., 1000 Second Avenue, Seattle, WA 98104. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-1036TA), filed November 19, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). (1) *ferrous and non-ferrous metals*, from the facilities of Tabor Metals at Russellville, AR, to points in AZ, CA, WA, MO, IL, IN, OH, KY, MA, and CT; and (2) *materials and supplies used in the manufacture, distribution and transportation of the commodities listed in (1) above*, from points in AZ, CA, WA, MO, IL, IN, OH, KY, MA, and CT, to the facilities of Tabor Metals, located at Russellville, AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Tabor Metals, (Tand Industries, Inc.), 2525 Arthur Avenue, Elk Grove Village, IL 60007. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-1037TA), filed November 28, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson, (same address as applicant). *Lumber and wood products*, from all points in AZ, NM, and UT, to all points in AZ, UT, CO, NM, WY, MT, NE; and from Fredonia, AZ and Panguitch and Escalante, UT, to points in OK, TX, AR, MO, IA, IL, IN, OH, MI, MN, KY, and TN, restricted to

shipments for the account of Southwestern Sales, Inc., for 180 days. Supporting shipper(s): Southwestern Sales, Inc., P.O. Box 25783, Albuquerque, NM 87125. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-1038TA), filed November 28, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Aluminum, aluminum articles and accessories*, from the facilities of Kaiser Aluminum and Chemicals Corporation at Elkhart County, IN, to points in AL, FL, GA, IL, KY, MA, MI, MD, NJ, NY, OH, PA, NC, SC, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kaiser Aluminum and Chemical Corp., 9700 Harlem Ave., Bridgeview, IL 60455. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W., 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-1039TA), filed November 28, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson, (same address as applicant). (1) *Concrete barriers, precast forms, wooden and metal forms*, from points in the state of NY, to points within the states of CT, MA, NJ, PA, VT, & NH; and (2) *materials, and supplies used in the manufacture and distribution of the commodities listed in (1) above*, from points within the states of CT, MA, NH, PA, VT, & NJ, to points within the state of NY, Restricted to shipments for the account of I. & O.A. Slutzky, Inc., for 180 days. Supporting shipper(s): I. & O. A. Slutzky, Inc., Route 296, Hunter, NY 12442. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W., 3rd, Oklahoma City, OK 73102.

MC 106589 (Sub-24TA), filed November 5, 1979. Applicant: EAGLE EXPRESS CO., 11425 Williamson Rd., Cincinnati, OH 45241. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Monticello, KY as an intermediate point in connection with applicant's regular route between Burnside, KY and Albany, KY over KY Highway 90 and KY Highway 350 and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Monticello Mfg., Inc., P.O. Box 436, Monticello, KY 42633; Union Camp Corp, Hwy 25E, Morristown, IN; Larand, Inc., Airport Rd., Monticello, KY 42633. Send protests to: ICC, 101 N. 7 Sts., Phildadelphia, PA 19106.

MC 106589 (Sub-25TA), filed November 15, 1979. Applicant: EAGLE EXPRESS COMPANY, 11425 Williamson Road, Cincinnati, OH 45241. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. Common carrier, regular route: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Cincinnati, OH, and its commercial zone and Louisville, KY and its commercial zone, serving no intermediate points; from Cincinnati, OH over Interstate Hwy 7 to Louisville, KY and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 12 statements in support attached this application which may be examined at the office listed below and Headquarters. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 106859 (Sub-79TA), filed November 13, 1979. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Avenue, North, Escanaba, MI 49829. Representative: Elmer J. Wery, P.O. Box 3548, Green Bay, WI 54303. *Paper and paper products*, serving the facilities of Container Corporation of America at or near Louisville, KY to Mt. Vernon (Posey County), IN and points in its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Container Corporation of America, 12200 Westport Road, Louisville, KY 40222. Send protests to: C. R. Flemming, D/S, ICC, Room 201 Corr Building, 300 E. Michigan, Lansing, 48933.

MC 109478 (Sub-156TA), filed November 7, 1979. Applicant: WORSTER MOTOR LINES, INC., P.O. Box 110, Gay Rd., Northeast, PA 18428. Representative: Robert D. Gunderman, Esq., 710 Statler Bldg., Buffalo, NY 14202. *Frozen foods (except in bulk)*, from South Bend, IN and Benton Harbor, MI to points in IA, KS, and MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pet, Inc., Frozen Foods Division, 400 S. 4 St., St. Louis, MO 63102. Send protests to: I.C.C., 101 N. 7 St., Philadelphia, PA 19106.

MC 109538 (Sub-37TA), filed November 14, 1979. Applicant: CHIPPEWA MOTOR FREIGHT, INC., 1000 E. 41st Street, P.O. Box 850, Sioux Falls, SD 57101. Representative: Dennis Riswold (same address as applicant). *General commodities, (except those of unusual value, Class A explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment).* (1) Between Ft. Wayne, IN, and Hartford City, IN; from Ft. Wayne over IN Hwy 1 to Fiat, IN, then over IN Hwy 18 to junction IN Hwy 3, then over IN Hwy 3 to Hartford City, IN and return over the same route; and (2) Between Ft. Wayne, IN and Peru, IN, with service at Peru for joinder purposes only; from Ft. Wayne over U.S. Hwy 24 to Peru and return over the same route for 180 days. Supporting shipper(s): There are 64 statements attached in support which may be examined at the Interstate Commerce Commission in Washington, D.C. or copies examined in the field office named below. Send protests to: J. L. Hammond, DS, ICC, Room 322, Federal Bldg., Pierre, SD 57501.

Note.—Applicant proposes to Tack the authority sought here at Points of Chicago and Rock Island, IL, Cincinnati, OH; St. Paul, MN; Fargo, ND; Sioux Falls, SD; Des Moines, IA; Indianapolis, IN with its existing operating authority.

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MC 110659 (Sub-30TA), filed October 15, 1979. Applicant: COMMERCIAL CARRIERS, INC., 975 Virginia St., W., Charleston, WV 25302. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. *Glass containers and accessories* from Huntington, WV to Detroit, MI, for 180 days. Supporting shipper(s): Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 111289 (Sub-15TA), filed October 23, 1979. Applicant: RICHARD D. FOLTZ, P.O. Box 161, Orwigsburg, PA 17961. Representative: S. Berne Smith, Esq., P.O. Box 1166, 100 Pine St., Harrisburg, PA 17108. *Contract carrier:* Irregular routes: *Such merchandise as is dealt in by wholesale, retail, and chain grocery food houses*, from the facilities of Dauphin Distribution Services, Co. in Hampden Township, Cumberland County, and at or near Camp Hill, PA, to Baltimore, MD, Washington, DC, points in New Castle County, DE, those in Montgomery and Howard Counties, MD, on and east of MD Hwy 97, those in Anne Arundel and Prince Counties, MD, on, west, and north of MD Hwys 3 and 4, those in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean, and Salem Counties, NJ, and those in NY on and west of Interstate Hwy 87, under contract with Nabisco, Inc. of East

Hanover, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nabisco, Inc., E. Hanover, NJ 07936; Dauphin Distribution Services, Co., 5023 E. Trindle Rd., Mechanicsburg, PA 17055. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 112989 (Sub-117TA), filed November 13, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr., 85647 Highway 99 South, Eugene, OR 97405. *Clay, ground crude or other than crude* (except in bulk) from the facilities of Oil-Dri Corp of America at or near Christmas Valley, OR to points in WA, OR, CA, NV, ID, MT, UT, CO, WY, AZ, NM, and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Oil-Dri Corporation of America, 520 N. Michigan Avenue, Chicago, IL 60611. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S.W. Yamhill Street, Portland, Oregon 97204.

MC 113089 (Sub-14TA), filed November 5, 1979. Applicant: ED GALIGHER, P.O. Box 163, Bowerston, OH 44695. Representative: Richard H. Brandon, P.O. Box 97, 220 West Bridge St., Dublin, OH 43017. *Contract carrier,* irregular routes, *Clay products,* from Bowerston, OH to Waukesha, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Bowerston Shale Company, 515 Main Street, Bowerston, OH 44695. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 113158 (Sub-44TA), filed November 7, 1979. Applicant: TODD TRANSPORT CO., INC., Box 158, Secretary, MD 21664. Representative: James W. Patterson, Esq., 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. *Foodstuffs* (except in bulk) from Parkesburg, PA and Fruitland, MD, to points in VA, NC, SC, GA, and FL, restricted to traffic originating at the named origins and destined to the named destination states, for 180 days. Supporting shippers(s): Green Giant Co., Le Sueur, MN 56058. Send protests to: I.C.C., 101 N. 7 St., Philadelphia, PA 19106.

MC 113658 (Sub-22TA), filed November 7, 1979. Applicant: SCOTT TRUCK LINE, INC., 5280 Newport St., Commerce City, CO. Representative: Richard J. Loose (same address as applicant). *Margarine, shortening, peanut butter and promotional materials,* from facilities of Sunnyland Refining Co. at or near Birmingham, AL to points in CO, CT, IA, IL, IN, KS, MA, MO, NE, NJ, NY, OH, PA and RI for 180 days. Supporting shippers(s): Sunnyland Refining Company, Inc., 3330 10th Ave. N., Birmingham, AL 35234. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 113678 (Sub-854TA), filed November 9, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Malt beverages,* from Philadelphia, PA to Denver, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Rocky Mountain High Unlimited, 5758 Lamar Street, Arvada, CO. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 113678 (Sub-855TA), filed November 9, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO. Representative: Roger M. Shaner (same address as above). *Foodstuffs,* (1) from the facilities of Seneca Foods Corp., at or near Prosser, WA, to points in CA, and (2) from Connell and Othello, WA, to Santa Fe Springs, CA, for 180 days. Supporting shippers(s): Seneca Foods Corporation, P.O. Box 71, Prosser, WA 99350. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 113678 (Sub-856TA), filed November 29, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner, (same address as above). *Chemicals and chemical compounds* (except commodities in bulk) from points in CA and OR to Salt Lake City, UT (see attachment A for representative points) for 180 days. Supporting shipper(s): Van Waters & Rogers Chemical Co., 4300 Holly Street, Denver, CO. Send protests to: H. Ruoff, 492 U. S. Customs House, Denver, Colorado 80202.

MC 113908 (Sub-487TA), filed November 29, 1979. Applicant: ERICKSON TRANSPORT CORP., 2255 N. Packer Road, P.O. Box 10068 G.S., Springfield, MO 65804. Representative: Jim G. Erickson, (same as above). *Lecithin,* in bulk, from Helena, AR, and the commercial zone thereof, to Chicago, IL and its commercial zone, and New Albany, IN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): P. G. Consultants, Inc., P.O. Box 903, Arlington Heights, IL 60006. Send protests to: Vernon V. Coble, DS, I.C.C. Room 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 114569 (Sub-354TA), filed November 2, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins, (same as applicant). *Confectionery and confectionery products,* from Montrose, CO to Los Angeles and Sacramento, CA; Portland, OR and Seattle, WA and their commercial zones, for 180 days. Supporting shipper(s): Russell Stover Candies, Inc., 1004 Baltimore Avenue, Kansas City, MO 64105. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 114869 (Sub-91TA), filed September 19, 1979. Applicant: PROPANE TRANSPORT, INC., 1734 State Route 131, P.O. Box 232, Milford, OH 45150. Representative: James R. Stiverson, 1396 W. Fifth Ave., Columbus, OH 43212. *Liquid fertilizer and fertilizer ingredients, liquid feed and feed ingredients,* from Adrian, MI to pts. in IN, OH and IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Michigan Mineral Materials, P.O. Box 868, 1510 E. Maumee St., Adrian, MI 49221. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 114969 (Sub-92TA), filed October 1, 1979. Applicant: PROPANE TRANSPORT, INC., 1734 State Route 131, P.O. Box 232, Milford, OH 45150. Representative: James R. Stiverson, 1396 W. Fifth Ave., Columbus, OH 43212. *Liquefied petroleum gas,* (1) from Blue Island, IL to pts. in IN, and (2) from Painesville, OH to pts. in NY, PA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): 1. Getty Refining and Marketing Co., P.O. Box 1650, Tulsa, OK 74102; 2. Petrolane Inc., Rt. 64 W. P.O. Box 410, St. Charles, IL 60174; 3. Commonwealth Propane Co., 1008 Tri-State Bldg., Cincinnati, OH 45202; 4. Pyrofax Gas Corp., P.O. Box 2521, Houston, TX 77001. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 114989 (Sub-24TA), filed November 5, 1979. Applicant: KENTUCKY WESTERN TRUCK LINES, INC., P.O. Box 623, Hopkinsville, KY 42240. Representative: Richard D. Gleaves, Atty., 631 Stahlman Bldg., Nashville, TN 37201. *Contract;* Irregular, *milk cartons,* in truckload lots, maximum weight 44,000 lbs per load, from Sikeston, MO, to Ardmore, OK, including the commercial zones of each under a continuing contract with Colvert Dairy Products Co., Ardmore, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Raymond Colvert, President, Colvert Dairy Products Company, P.O. Box 158, Ardmore, OK 73401. Send protests to: (Ms.) Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 115648 (Sub-35TA), filed November 14, 1979. Applicant: LOCK TRUCKING, INC., P.O. Box 276, Wheatland, WY 82201. Representative: Ward A. White, P.O. Box 568, Cheyenne, WY 82001. *Limestone, in bulk,* from points in Larimer County, CO to points in Albany, Carbon, Goshen and Platte Counties, WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Holly Sugar Corp., P.O. Box 1952, Colorado Springs, CO 80901. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Rm. 105 Federal Bldg. & Crt. House, 111 South Wolcott, Casper, WY 82601.

MC 117119 (Sub-790TA), filed November 19, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Chemicals* (except in bulk in tank vehicles) including but not limited to acids, NOS, Chemicals, NOS, Synthetic Latex, Synthetic Plastics, Cleaning Compounds, Chelating Compounds, and Battery Insulating Partitions, from (1) Waterloo, NY, Nashua, NH, and Owensboro, KY to points in CA, ID, NV, OR UT, WA and WY, and (b) from Acton and Cambridge, MA to points in OR and WA, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): W. R. Grace & Co., Organic Chemical Division, 55 Hayden Ave., Lexington, MA 02173. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-791TA), filed November 28, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Chemicals* (except in bulk) from Murray, KY to points in CA, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): R. T. Vanderbilt Co., Inc., 30 Winfield St., Norwalk, CT 06855. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-792TA), filed November 29, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Martin M. Geffon, P.O. Box 156, Mt. Laurel, NJ 08054. (1) *Foodstuffs* (except in bulk), (2) *pet foods* (except in bulk), and (3) *materials, supplies, and equipment* used in the manufacture, distribution and sale of the items in (1) and (2) above between points in the U.S., restricted to the transportation of traffic moving for the account of Campbell Soup Company and its subsidiaries, for 180 days. Supporting shipper(s): Campbell Soup Company, Campbell Place, Camden, NJ 08101. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-793TA), filed November 8, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Martin M. Geffon, P.O. Box 156, Mt. Laurel, NJ 08054. *Chemicals* (except in bulb) from Moss Point, MS to Indianapolis, IN, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Thiokol Corporation, 930 Lower Ferry Rd., Trenton, NJ 08650. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-794TA), filed November 13, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Fresh and frozen meat* (except in bulk) from the facilities of Peppertree Beef Co. at Denver, CO to points in ME and NH, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Peppertree Beef Company, P.O. Box 16331, Stockyards Station, Denver, CO 80261. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-795TA), filed November 13, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Pulpboard, fibreboard, and boxes* (except in bulk) from the facilities used by Container Corp. of America, in Kent, Renton, and Tacoma, WA to Ontario, OR; Caldwell, Boise, Burley, Heyburn, and Twin Falls, ID and Richmond, UT, restricted to traffic originating at and destined to the named points, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Container Corp. of America, 2800 DeLa Cruz Blvd., Santa Clara, CA 95050. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-796TA), filed November 16, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Pulpboard, fibreboard, and boxes* (except commodities in bulk), from the facilities used by Container Corp. of America, at or near Los Angeles, CA and Santa Clara, CA to Caldwell, Boise, Twin Falls, Burley, and Heyburn, ID, restricted to traffic originating at and destined to the named points, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Container Corporation of America, 2800 DeLa Cruz Blvd., Santa Clara, CA 95050. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-797TA), filed November 19, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Chemicals, plastics and other commodities* manufactured or sold by manufacturers of chemicals and plastics, in packages from the facilities of or used by Dow Chemical U.S.A. at or near Baton Rouge and Port Allen, LA to points in CA, CO, ID, IL, IN, IA, KY, MI, MN, MO, MT, NV, OH, OR, UT, WA, WI, and WY, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Dow Chemical, U.S.A., P.O. Box 150—Bldg. 3302, Plaquemine, LA 70764. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117589 (Sub-68TA), filed November 7, 1979. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 7th Ave., South, Seattle, WA 98108. Representative: Michael D. Duppenthaler, 211 South Washington St., Seattle, WA 98104. *Meat, meat products and meat by-products and articles distributed by meat packinghouses, as described in Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766,* from Grand Island, NE to points in ID, MT, OR, UT and WA, for 180 days. Supporting shipper(s): Boxed Meats of America, Inc., 620 South Andover Street, Seattle, WA 98108. Send protests to: Shirley M. Holmes, T/A ICC, 858 Federal Building, Seattle, WA 98174.

MC 118089 (Sub-37TA), filed November 13, 1979. Applicant: ROBERT HEATH TRUCKING, INC., 2909 Avenue C, P.O. Box 2501, Lubbock, TX 79408. Representative: Charles M. Williams, Kimball, Williams & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Hides* from points in ID, WA, CA, UT, and Phoenix, AZ and Clovis, NM and points in their repective commercial zones to Phoenix, AZ; Clovis, NM; Houston and Laredo, TX; and points in their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Southwest Hide Company Hide Company, P.O. Box 7553, Boise, ID 83707. Send protests to: Marianne Minnich, TCS, ICC, Rm. 9A27

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Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 118159 (Sub-367TA), filed November 19, 1979. Applicant: NATIONAL REFIRGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, WI 54306. *Paint and sundry products,* from Somerset, MA, to points in TN, MS, AL, GA, FL, NC, SC, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s):Parks Coproration, 1 Main Street, Box 5, Somerset, MA 02726. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 118178 (Sub-28TA), filed November 19, 1979. Applicant: BILL MEEKER, 1632 No. Mosley, Wichita, KS 67214, Representative: Bill Meeker (same as above). *Packinghouse products, meat by-products and articles distributed by packinghouses* as described in Sec. A&C of Appendix I to the Report in Descriptions in M.C.C. 61 MCC 209 and 766, except hides and commodities in bulk; from Dodge City, KS to MO, OK, and TX; for 180 days, common, irregular. An underlying ETA seeks 90 days authority. Supporting shipper: Hy Plains Dressed Beef, Inc., Dodge City, KS; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 118318 (Sub-45TA), filed November 29, 1979. Applicant: IDA-CAL FREIGHT LINES, INC., P.O. Drawer M, Nampa, ID 83651. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *Such commodities as are dealt in by grocery and food business houses,* from points in CA to points in ID on and south of the southern boundaries of Ada s, Lemhi and Valley Counties, ID and points in Box Elder, Cache, Davis, Morgan, Salt Lake, Tooele, Utah and Weber Counties, UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): International Paper Company, P.O. Box 3448, Portland, OR 97208. Send protests to: Barney L. Hardin, D/S, ICC Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 118989 (Sub-232TA), filed November 1, 1979. Applicant: CONTAINER TRANSIT, INC., 5223 S. 9th St., Milwaukee, WI 53221. Representative: Rolland Draves (same address as applicant). *Aluminum or steel container and component parts thereof,* from facilities of American Can Co. at San Antonio, TX to Madisonville, KY, for 180 days. An underlying ETA seeks 90 days autority. Supporting shipper(s): American Can Co., 915 Harger Rd., Oak Brook, IL 60521. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 118989 (Sub-233TA), filed November 13, 1979. Applicant: CONTAINER TRANSIT, INC., 5223 S. 9th St., Milwaukee, WI 53221. Representative: Rolland K. Draves (same address as applicant). *Aluminum or steel container and component parts thereof,* from San Antonio, TX to St. Louis, MO, for 180 days. An underlying ETA seeks 90 days autority. Supporting shipper(s): American Can Co., 915 Harger Rd., Oak Brook, IL 60521. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 119399 (Sub-118TA), filed November 13, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Blvd., Joplin, MO 64801. Representative: Thomas P. O'Hara (same as applicant). *Furniture parts, materials, and supplies,* from the facilities of Leggett & Platt, Incorporated, Carthage, MO to points in CO, IA, IL and MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Leggett & Platt, Incorporated, P.O. Box 757, Carthage, MO 64836. Send protests to: Vernon Coble D/S, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 119399 (Sub-119TA), filed November 14, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Blvd., Joplin, MO 64801. Representative: Don D. Lacy (same as applicant). *Flat glass, uncrated, and crated flat glass when moving in mixed shipments with uncrated flat glass,* from the facilities of PPG Industries, Inc. at or near Crystal City, MO., Cumberland, MD., Kebert Park and Mt. Holly, PA., Mt. Zion, IL., and Wichita Falls, TX to points in the United States (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): PPG Industries, Inc., One Gateway Center—17 East, Pittsburgh, PA 15222. Send protests to: Vernon Coble D/S, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 119689 (Sub-26TA), filed November 5, 1979. Applicant: PEERLESS TRANSPORT CORP., 2701 Railroad St., Pittsburgh, PA 15222. Representative: Robert T. Hefferin (address same as applicant). *Chemicals,* other than in bulk, (1) between Chester, PA, on the one hand, and on the other, points in IL, IN, KY, MI, MN, MO, OH, WV and WI and (2) between Lasalle, IL and Anderson, IN, on the one hand, and on the other, points in PA, for 180 days. Supporting shipper(s): PQ Corporation, Valley Forge Executive Mall, P.O. Box 840, Valley Forge, PA 19482. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 119789 (Sub-649TA), filed November 28, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., address same as above. *Malt beverages,* from Laredo and San Antonio, TX to Atlanta, GA for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): All State Beer, Inc., 2060 Defoor Hills Road, NW, Atlanta, GA. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 119789 (Sub-650TA), filed November 29, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., address same as above. *Non-frozen foodstuffs* from Suffield, CT and Northboro and North Billerica, MA to points in AZ, CA, CO, KS, LA, MO, NM, OK, and TX for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Wilco Trading Company, P.O. Box 804, Lakewood, NJ 08701. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 119789 (Sub-651TA), filed November 19, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, Texas 75266. Representative: James K. Newbold, Jr., same address as carrier. *Such merchandise as is dealt in by wholesale and retail gift item stores (except foodstuffs, furniture and precious jewelry)* between Addison, Texas and points in the United States (except Alaska and Hawaii). Restricted to the transportation of shipments originating at or destined to the facilities of Tuesday Morning, Inc. at Addison, Texas, for 180 days. Underlying ETA for 90 days has been filed. Supporting shipper(s): Tuesday Morning, Inc., 14621 Inwood Road, Dallas, TX 75234. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 119789 (Sub-652TA), filed November 14, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, Texas 75266. Representative: James K. Newbold, Jr., same address as carrier. *Cooking oil, in containers* from Opelousas, LA to Worcester, MA for 180 days. Underlying ETA for 90 days has been filed. Supporting shipper(s): Louana Foods, Inc., P.O. Box 591, Opelousas, LA 70570. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 119988 (Sub-229TA), filed November 27, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. *(1) Plumbing fixtures and plumbing supplies, and (2) materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above between the facilities of Kohler Company at or near Spartanburg, SC, on the one hand, and on the other, points in MI, WI, OH, IN, IL, MO, AR, KS; OK, TX, LA, and IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kohler Company, P.O. Box A, Kohler, WI 53044. Send protests to: John F. Mensing, DS, I.C.C., 515 Rusk Ave., No. 8610, Houston, TX 77002.

MC 119988 (Sub-230TA), filed November 14, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. *Power equipment and parts thereof,* from the facilities of McCulloch Corp. at Lake Havasu City, AZ to Columbus, OH; Southfield, MI; Elmhurst, IL; St. Louis, MO; Kansas City, MO; St. Paul, MN; Plover, WI; Charleston, WV; Shelby, NC; Decatur, GA; Marshall, TX; Baton Rouge, LA; Memphis, TN; Pensacola, FL, and Birmingham, AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McCulloch Corp., 900 Lake Havasu Ave., Lake Havasu City, AZ. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave., No. 8610, Houston, TX 77002.

MC 123189 (Sub-2TA), filed November 13, 1979. Applicant: FRANKLIN EXPRESS, INCORPORATED, U.S. 31 W North, Franklin, KY 42134. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. General Commodities (with the usual 'exceptions') between points in Simpson County, KY, on the one hand, and, on the other, Bowling Green, KY, and its commercial zone. Restricted to traffic having a prior or subsequent movement by rail for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. V. Garrison, Gen. T/M, The Kendall Co., 1 Federal St., Boston, MA 02101. Send protests to: (Ms.) Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 123279 (Sub-4TA), filed November 13, 1979. Applicant: CHARTER EXPRESS, INC., 595 East Tallmadge St., Akron, OH 44310. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *Such commodities as are used, manufactured or distributed by a manufacturer of siding,* between the facilities of Alside, Inc. at or near Northampton, Wadsworth and West Salem, OH, on the one hand, and on the other, points in PA, NY, NJ, MD, DE, CT, RI, MA and ME, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alside, Inc., P.O. Box 2010 Akron, OH 44309. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

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December 19, 1979.

MC 124078 (Sub-1004TA), filed November 19, 1979. Applicant: SCHWERMAN TRUCKING CO., 611 S. 28 St., Milwaukee, WI 53215. Representative: Richard Prevette (same address as applicant). *Cement, in bulk and bags,* from Amarillo and Maryneal, TX to all points in CO, KS, LA, NM and OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lone Star Industries, P.O. Box 12449, Dallas, TX 75225. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124078 (Sub-1005TA), filed November 28, 1979. Applicant: SCHWERMAN TRUCKING CO., 611 S. 28th St., Milwaukee, WI 53215. Representative: Richard Prevette (same address as applicant). *Liquid foundry coring compound* from Muse, PA to Birmingham, AL; Atlanta, GA; Waggamann, LA; Chattanooga, TN and Fort Worth, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): C. E. Cast Industrial Products, P.O. Box 11105, Birmingham, AL 35202. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124078 (Sub-1006TA), filed November 29, 1979. Applicant: SCHWERMAN TRUCKING CO., 611 S. 28th St., Milwaukee, WI 53215. Representative: Richard Prevette (same address as applicant). *Fly ash,* from Mt. Pleasant and Fairfield, TX too AR, KS, LA, MN, NM, and OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Portland, Inc., P.O. Box 324, Dallas, TX 75221. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124078 (Sub-1007TA), filed November 14, 1979. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th St., Milwaukee, WI 53215. Representative: Richard H. Prevette (same address as applicant). *Portland cement* from Orange, TX to all points in LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alpha Portland Cement Company, P.O. Drawer 1148, Orange, TX 77630. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm 619, Milwaukee, WI, 53202.

MC 124078 (Sub-1008TA), filed November 8, 1979. Applicant: SCHWERMAN TRUCKING CO., 611 S. 28 St., Milwaukee, WI 53215. Representative: Richard Prevette. (same address as applicant). *Fly ash, in bulk,* from Fairfield and Mt. Pleasant, TX to LA and MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Halliburton Services, Drawer 1431, Duncan, OK 73533. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124679 (Sub-112TA), filed November 7, 1979. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Daniel E. England (same address as applicant). *Edible flour compound* from the facilities of the Gorton Group, Division of General Mills, Inc. at Brook Park, OH to points in MA, for 180 days. Supporting shipper(s): The Gorton Group Division of General Mills, Inc., 327 Main Street, Gloucester, MA 01930. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Building, Salt Lake City, UT 84138.

MC 124679 (Sub-113TA), filed November 15, 1979. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Robert H. Cannon (same address as applicant). *Flavorings* from the facilities of Universal Flavors at Indianapolis, IN to the facilities of Universal Flavors at Irvine, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Universal Flavor Corporation, 5600 West Raymond Street, Indianapolis, IN 46241. Send protests to: L. D. Helfer, DS, ICC, 5501 Federal Bldg., Salt Lake City, UT 84138.

MC 124679 (Sub-114TA), filed November 15, 1979. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Robert H. Cannon (same as applicant). *Lamps, lanterns, lighting fixtures, intercoms, fans and parts thereof* from points in New York State: Miami, FL, Newport, AR, and Langford, PA, to points in SD, MT, WA, OR, ID, WY, CO, UT, NV, CA, NM, and AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s):

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Hansen and Holt Company, 712 South 400 East, Salt Lake City, UT 84121. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 125368 (Sub-100TA), filed November 20, 1979. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher (same as above). *Flat glass, uncrated and crated flat glass when moving in mixed shipments with uncrated flat glass* from the facilities of PPG, Industries, located at or near Crystal City, MO, Kebert Park, PA, Mt. Holly Springs, PA, Mt. Zion, IL and Wichita Falls, TX to points in the U.S. except AK and HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): PPG Industries, Inc., One Gateway Center-17 East, Pittsburgh, PA 15222. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd, Rm. CC516, Charlotte, NC 28205.

MC 125368 (Sub-101TA), filed November 20, 1979. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher (same as applicant). *Glass and glass products* from its facilities at or near Laurinburg, NC to points in OH, IN, IL and MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Libbey-Owens-Ford Company, 811 Madison, Toledo, OH 43695. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd, Rm. CC516, Charlotte, NC 28205.

MC 125368 (Sub-102TA), filed November 20, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher (same as applicant). *Flat glass and glass products* from Toledo, OH to points in NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Libbey-Owens-Ford Company, 811 Madison, Toledo, OH 43695. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd, Rm. CC516, Charlotte, NC 28205.

MC 125708 (Sub-186TA), filed October 31, 1979. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 W. 152nd Street, East Chicago, IN 46312. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. *Iron and steel articles*, from East Jordan, MI, to points in the United States (except AK and HI) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): East Jordan Iron Works, Inc., P.O. Box 439, East Jordan, MI 49727. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 126118 (Sub-205TA), filed November 15, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). *Cigarettes and tobacco products (except in bulk)* from Durham, NC to Dallas, Houston and San Antonio, TX and their commercial zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Liggett & Meyers Tobacco Company, Inc., George G. Outlaw, Traffic Manager, P.O. Box 1572, Durham, NC 27702. Send protests to: D/S Carrol Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68012.

MC 126118 (Sub-206TA), filed November 20, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). *Animal food (except in bulk), materials, supplies and ingredients used in the manufacture, distribution and sale of animal food (except in bulk), and pet supplies (except in bulk)* between Lincoln, NE and its commercial zone on the one hand, and on the other, points in AZ, AR, CO, KS, LA, MN, MO, NM, OK and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): International Foods Company, Inc., Jerry K. Houghlan, Director, 766 NBC Center, Lincoln, NE 68508. Send protests to: D/S Carrol Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68012.

MC 127579 (Sub-34TA), filed October 22, 1979. Applicant: HAULMARK TRANSFER, INC., 1100 N. Macon St., Baltimore, MD 21205. Representative: Glenn M. Heagerty (same as applicant). (1) *Candy and confectionery* (except in bulk), (2) *Advertising and display paraphernalia* from the facilities of The Schrafft Candy Co., boston and Woburn, MA, and W. Reading, PA to CA, IL, IN, MD, MI, MO, OH, OR, TX, and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): The Schrafft Candy Company, Sullivan Square, Boston, MA 02129. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St, Rm. 620, Phila, PA 19106.

MC 129759 (Sub-37TA), filed November 2, 1979. Applicant: TRIANGLE TRUCKING CO., P.O. Box 490, McKees Rocks, PA 15136. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Contract carrier-irregular routes: (1) *Pipe and tubing*, from the facilities of Trent Tube, Division of Colt Industries at East Troy, WI to points in and east of MN, IA, MO, AR, and LA, and (2) *equipment, materials and supplies used in the manufacture of pipe and tubing* from points in the destination territory specified in (1) above, to the facilities of Trent Tube, Division of Colt Industries at East Troy, WI, under continuing contract(s) with Trent Tube, Division of Colt Industries, for 180 days. Supporting shippers(s): Trent Tube, Division of Colt Industries, 2188 Church St., East Troy, WI 53120. Send protests to: I.C.C., 101 N. 7 St., Philadelphia, PA 19106.

MC 133189 (Sub-36TA), filed November 29, 1979. Applicant: VANT TRANSFER, INC., 1257 Osborne Road, Minneapolis, MN 55432. Representative: John B. Van de North, Jr., c/o Briggs and Morgan, 2200 First National Bank Building, St. Paul, MN 55102. *Lumber*, from Marcell, MN to points in IA, for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): Tri-State Lumber Co., General Mgr., 217 Lake Ave. S., Duluth, MN 55802. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Mpls., MN 55104.

MC 133689 (Sub-319TA), filed November 26, 1979. Applicant: OVERLAND EXPRESS, INC., 8651 Naples Street Northeast, Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Foodstuffs*, from the facilities of Holsum Foods at or near Albert Lea, MN to points in AL & FL, 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Holsum Foods, Traffic Mgr., 919 14th St., Albert Lea, MN 56007. Send protests to: Judith L. Olson, TA, ICC 414 Fed. Bldg., 110 S. 4th St., Mpls., MN 55401.

MC 133689 (Sub-320TA), filed November 23, 1979. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St., NE, Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, W. St. Paul, MN 55118. *Tools, jacks and related articles, advertising material, equipment, materials and supplies (except in bulk) used in the manufacturing and distribution of commodities described above* between Searcy, AR and Owatonna, MN on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX, for 180 days. Supporting shipper(s): Tri-State Tool Co., Owatonna, MN 55060. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 133689 (Sub-321TA), filed November 6, 1979. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE, Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Edible flour, bakery mixes and bases for bakery mixes (except commodities in bulk)* from facilities of Peavey Company at or near Alton, IL to points in the United States in and east of ND, SD, NE, KS, OK, AR, and LA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Peavey Co., 145 W. Broadway, Alton, IL 62002. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 135069 (Sub-5TA), filed November 13, 1979. Applicant: ROCKAWAY TRUCKING, INC., Route 46, Rockaway, NJ 07866. Representative: Dixie C. Newhouse, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Contract, irregular. *Trichloromonofluoromethane, dichlorodifluoromethane and monochlorodifluoromethane gases, in containers.* Between Wichita, KS on the one hand and on the other, points in CT, DE, ME, MA, NH, NJ, NY, OH, PA, RI, VA, VT, WV and the District of Columbia, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Racon, Incorporated, 6040 South Ridge Road, Wichita, KS 67201. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 135678 (Sub-10TA), filed November 21, 1979. Applicant: MIDWESTERN TRANSPORTATION, INC., 20 S.W. 10th, Oklahoma City, OK 73125. Representative: C. L. Phillips, Classen Terrace Bldg., Room 248, 1411 N. Classen, Oklahoma City, OK 73106. *Wood, built up or combined, or plywood; composition board and accessories, K.D. in vans*, from Azusa, Anaheim and Hawthorne, CA and Bend, OR, to Oklahoma City, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Altec Lansing Sound Products, 10500 West Reno, Oklahoma City, OK 73128. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 135678 (Sub-11TA), filed November 13, 1979. Applicant: MIDWESTERN TRANSPORTATION, INC., 20 S.W. 10th, Oklahoma City, OK 73125. Representative: C. L. Phillips, Rm. 248, 1411 N. Classen, Oklahoma City, OK 73106. *Castings, N.O.I.*, from Los Angeles, CA, to Oklahoma City, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tribonetics Company, 108 N.E. 48th, P.O. Box 18365, Oklahoma City, OK 73105. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 135678 (Sub-12TA), filed November 19, 1979. Applicant: MIDWESTERN TRANSPORTATION, INC., 20 S.W. 10th, Oklahoma City, OK 73125. Representative: C. L. Phillips, Room 248, 1411 N. Classen, Oklahoma City, OK 73106. *Common* Carrier: *Regular* Route: *General commodities*, except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Oklahoma City, OK and Fort Smith, AR, serving no intermediate points: From Oklahoma City over Interstate Hwy 40 to junction U.S. Hwy 64, then over U.S. Hwy 64 to Fort Smith, and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rheem Manufacturing Company, 5600 Old Greenwood Road, Ft. Smith, AR 72903. TRW Replacement Div., 10 N.E. 19th St., Oklahoma City, OK 73105. Carpenter Paper Co., 3316 Towson Ave., Ft. Smith, AR 72901. Midwest Bolt and Supply, 297 N. Harvard Ave., Oklahoma City, OK 73127. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 135989 (Sub-13TA), filed November 28, 1979. Applicant: COAST EXPRESS, INC., 14280 Monte Vista Avenue, Chino, California 91710. Representative: William J. Lippman, 50 South Steele Street, Suite 330, Denver, Colorado 80209. *Contract;* Irregular; *Canned seafoods and pet foods*, from Los Angeles, CA to Seattle and Spokane, WA, Portland and Salem, OR, Phoenix, AZ, Salt Lake City, UT and Oklahoma City, OK, for 180 days. Supporting shipper(s): Star-Kist Foods, Inc., Traffic Manager, 582 Tuna Street, Terminal Island, CA 90731. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 136818 (Sub-100TA), filed November 13, 1979. Applicant: SWIFT TRANSPORTATION CO. INC., 335 W. Elwood Rd., Phoenix, AZ 85030. Representative: Donald Fernaays, 4040 E. McDowell Rd., Phoenix, AZ. *Insulating materials*, from the facilities of Pabco Insulation Division of Louisiana-Pacific Corp. at or near Fruita, CO to points in AR, AZ, CA, KS, LA, MO, OK, TX, for 180 days. Supporting shipper: Pabco Insulation Division, 1110 16 Road, Fruita, CO 81521. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 136818 (Sub-101TA), filed November 13, 1979. Applicant: SWIFT TRANSPORTATION CO. INC., 335 W. Elwood Rd., Phoenix, AZ 85030. Representative: Donald Fernaays, 4040 E. McDowell Rd., Phoenix, AZ. *Iron and steel articles*, from points in CA to points in TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Ramsey Steel Co., Inc., 4137 Rosa, El Paso, TX. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 138308 (Sub-96TA), filed November 19, 1979. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39205. Representative: Donald B. Morrison, P.O. Box 22828, Jackson, MS 39205. *Telephones, telephone parts and housings and electrical cable or wire* from the facilities of GTE Automatic Electric, Incorporated, Huntsville, AL to the facilities of GTE Telecommunications Systems in Salt Lake City, UT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): GTE Automatic Electric, Inc., 13000 Memorial Parkway South, Huntsville, AL 35803. Send protests to: Alan Tarrant, D/S, ICC, Fed. Bldg., Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 138328 (Sub-106TA), filed November 15, 1979. Applicant: CLARENCE L. WERNER d.b.a. WERNER ENTERPRISES, I–80 and Highway 50, P. O. Box 37306, Omaha, NE 68137. Representative: J. F. Crosby, I–80 and Highway 50, P.O. Box 37205, Omaha, NE 68137. *Iron and steel articles* from the facilities of Nucor Corporation at or near Norfolk, NE to points in WA, OR, NV, CA, ID, UT, AZ, MT, WY, CO, NM, ND, SD, KS, OK, TX, MN, IA, MO, AR, WI, IL, IN, MI, OH and KY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nucor Corporation, DeLane Pate, Manager, Cold Drawn Operations, P.O. Box 59, Norfolk, NE 68701. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 138328 (Sub-107TA), filed November 8, 1979. Applicant: CLARENCE L. WERNER d.b.a. WERNER ENTERPRISES, I–80 and Highway 50, P.O. Box 37308, Omaha, NE 68137. Representative: J. F. Crosby, I–80 and Highway 50, P.O. Box 37205, Omaha, NE 68137. *General commodities (except commodities in bulk, in tank vehicles; commodities which because of size or weight require the use of special equipment; and explosives)* between Houston and Pasadena, TX; Kansas City, KS; Seneca, Spartanburg and Startex, SC, on the one hand, and on the other, points in the United States (except AK and HI). Restricted to the transportation of shipments originating at or destined to the facilities of Phillips Petroleum Company, Phillips Fibers Corporation, Phillips Chemical Company and Phillips Products Company, Inc. An

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underlying ETA seeks 90 days authority. Supporting shipper(s): Phillips Petroleum Company, J. M. Roberts, Director, Chemical Products Distribution, 148 Phillips Building Annex, Bartlesville, OK 74004. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 138388 (Sub-9TA), filed November 21, 1979. Applicant: CHESTER CAINE, JR. d.b.a. CAINE TRANSFER, Box 376, Lowell, WI 53571. Representative: James Spiegel, 6425 Odana Road, Madison, WI 53719. (a) *Cheese and cheese products, synthetic cheese and synthetic cheese products, and* (b) *materials, equipment and supplies used in the manufacture or distribution of commodities listed in (a) above,* (1) between Clayton County, IA on the one hand, and, on the other hand, points in WI and (2) between Clayton County, IA on the one hand, and on the other hand, Van Wert, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Borden Foods, 802 S. St., Plymouth, WI 53073. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 139349 (Sub-22TA), filed November 27, 1979. Applicant: E Z FREIGHT LINES, Gould and E. 46th Street, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Contract carrier, irregular routes for 180 days. Candy, confectionery and supplies, except in bulk (1) from Covington, TN to points in the United States except AK and HI and (2) from Cataragus, NY to Covington, TN. An underlying ETA seeks 90 days authority. Supporting shipper(s): Charms Company, Halls Mill Road, Freehold, NJ 07728. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 140768 (Sub-45TA), filed December 6, 1979. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. (1) *Lawn mowers, grass catchers and accessories* from the facilities of Fall Products, Inc. at or near Genoa, IL, to points in GA, IN, KY, NJ, OH, PA, VA and WV and (2) *equipment, materials and supplies* (except commodities in bulk and those which, because of size or weight, require the use of special equipment) used in the manufacture and distribution of the commodities above, in the reverse direction for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Falls Products, Inc., 415 Railroad Avenue, Genoa, IL 60135. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 141489 (Sub-8TA), filed November 15, 1979. Applicant: HUNTER TRUCKING, INC., 805, 32nd Avenue, Council Bluffs, IA 51501. Representative: Greg A. Dickinson, Stern & Becker, P.C., Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Feed and feed ingredients, in bulk and in bags* from points in IL, IA, MN, MO, and NE to the ports of entry on the U.S. Canadian border at Pembina, ND and Noyes, MN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): (1) L. V. Patteson, Ltd., Jack R. Scott, Traffic & Transportation Manager, 360 Dawson Road, Winnipeg, Manitoba, Canada R2JOS7. (2) The Pillsbury Company, Dan Fields, Soybean Meal Merchandiser, 7900 Xerxes Avenue, South, Suite 700, Bloomington, MN 55431. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 141849 (Sub-8TA), filed November 12, 1979. Applicant: REGAL TRUCKING CO., INC., 95 Lawrenceville Industrial Park Circle, N.E. Lawrenceville, GA 30245. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers South, 3390 Peachtree Rd., N.E., Atlanta, GA 30326. *Contract* carrier: Irregular routes: *Carpet tack strips* from Asheville, NC to points in the US in and east of US Hwy 85, under continuing contract or contracts with Taylor Manufacturing, Inc. of Conyers, GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Taylor Manufacturing, Inc., 1900 Rockdale Industrial Blvd., Conyers, GA 30207. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 142506 (Sub-129TA), filed November 8, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Prune Juice Concentrate* (except in bulk) from Yuba City, CA to Macedon, NY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Diamond Sunsweet, Inc., Charles C. Parris, Traffic Manager, 1050 South Diamond Street, Stockton, CA 95201. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 142539 (Sub-6TA), filed November 16, 1979. Applicant: B.W.T. TRANSPORT, INC., 757 River Drive, Passaic, NJ 07055. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ. 08904. Contract, Irregular. *Titanium Dioxide,* except in bulk. From Baltimore, MD, Elizabethport and Kearny, NJ and Houston, TX to points in the US except AK and HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Laporte (North America) Ltd., 411 Hackensack Avenue, Hackensack, NJ 07601.Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 142779 (Sub-2TA), filed November 27, 1979. Applicant: WEIER AIR FREIGHT, INC., 4938 S. Second St., Milwaukee, WI 53207. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *General commodities, except those of unusual value, household goods as defined by the Commission, Classes A & B explosives, commodities in bulk, and those requiring special equipment,* between points in Brown, Calumet, Dodge, Fond du Lac, Manitowoc, Outagamie, Ozaukee, Sheboygan, Washington, and Winnebago Counties, WI on the one hand, and, on the other, Milwaukee, WI and Chicago, IL, restricted to transportation having a prior or subsequent movement by air, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Associated Air Freight, Inc., 5633 N. Pearl St., Rosemount, IL 60018. WTC Air Freight, 4849 N. Scott St., Suite 108, Shiller Park, IL 60176. and Air Express International, 4903 S. Howell Ave., Milwaukee, WI 53207. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 142999 (Sub-24TA), filed November 13, 1979. Applicant: TRANSPORT MANAGEMENT SERVICE CORPORATION, Post Office Box 39, Burlington, NJ 08016. Representative: Ronald N. Cobert, Esquire, 1730 M Street, NW., Suite 501, Washington, DC 20036. Contract, Irregular. *Starch and chemicals* from the facilities of National Starch and Chemical Corporation at or near Chicago and Meredosia, IL and Indianapolis, IN to points in CT, DE, MD, MA, NJ, NY, PA, RI and VA. Restriction: The authority requested is to be limited to a transportation service to be performed under a continuing contract or contracts with National Starch and Chemical Corporation, Bridgewater, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Starch and Chemical Corporation, 10 Finderne Avenue, Bridgewater, NJ 08807. Send protests to: Irwin Rosen, T/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 143328 (Sub-31TA), filed November 26, 1979. Applicant: EUGENE

TRIPP TRUCKING, P.O. Box 2730, Missoula, MT 59806. Representative: David A. Sutherland, Fulbright & Jaworski, Suite 400, 1150 Connecticut Ave NW., Washington, DC 20036. (1) *Malt beverages* and *related advertising materials, equipment and supplies* from the port of entry at Blaine, WA to points in AZ, CA, CO, MT, WA, WY and ID; and (2) *empty containers* and *materials and supplies used and dealt in by breweries* from points in AZ, CA, CO, MT, WA, WY and ID to the port of entry at Blaine, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rocky Mountain Importers, 1405 Sunflower Drive, Missoula, MT 59801. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 143988 (Sub-10TA), filed November 14, 1979. Applicant: JAMES W. TATE d.b.a. Jamar Trucking, 2995Sandbrook, P.O. Box 18970, Memphis, TN 38118. Representative: Thomas A. Stroud, 2008, 5100 Poplar, Memphis, TN 38137. *Bananas, in refrigerated containers furnished by the shipper,* from Gulfport, MS, to points in AR, IN, KY, MI, MN, OH, TN, TX and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Chiquita Brands, Inc., 212 Veterans Blvd., Suite 100, Metairie, LA 70005. Send protests to: Floyd A. Johnson, Suite 2006, 100 N. Main St., Memphis, TN 38103.

MC 144029 (Sub-5TA), filed November 23, 1979. Applicant: CUMBERLAND TRANSPORTATION CORP., 5950 Fisher Road, P.O. Box 487, East Syracuse, NY 13057. Representative: Michael R. Werner, Esq., P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Contract carrier—irregular routes. *Such commodities as are used in or dealt by a manufacturer and distributor of paper and plastic products, and materials, supplies and equipment used in the manufacture of paper and plastic products (except commodities in bulk),* (1) Between Buffalo, NY and Bradford, PA, and (2) Ypsilanti, MI and Toledo, OH and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): St. Regis Paper Company, Inc., 150 East 42nd Street, New York, NY. Send protests to: Anne Siler, TA, IC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 144188 (Sub-13TA), filed September 20, 1979. Applicant: P. L. LAWTON, P.O. Box 325, Berwick, PA 18603. Representative: J. Bruce Walter, 410 N. Third St., P.O. Box 1146, Harrisburg, PA 17108. *Fiberboard, paper, paperboard, plastic containers, and plastic wax,* from the facilities of Bercon Packaging, Inc., at Berwick, PA to pts. in IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Bercon Packaging Inc., 1800 N. Market St., Berwick, PA 18603. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 144989 (Sub-18TA), filed November 21, 1979. Applicant: BLUE RIDGE MOUNTAIN CONTRACT CARRIER, INC., P.O. Box 1965, Dalton, GA 30720. Representative: S. H. Rich, 1600 Cromwell Ct., Charlotte, NC 28205. *Contract carrier:* irregular rottes: *Papaer and paper products, plastic and plastic products, and commodities used in the distribution of the foregoing commodities (except in bulk),* between Florence, KY, Greensburg, IN, Hazelwood, MO, St. Louis, MO and points in CA, IL, IA, KS, MN, MO, NE, OR, TX, and WA for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Crown Zellerbach Corp., One River Street, South Glens Falls, NY 12801. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 145189 (Sub-1TA), filed November 15, 1979. Applicant: RONALD E. MacFARLANE, 716 Woodstock Rd., Fredericton, New Brunswick. Representative: Verrill & Dana, Two Canal Plaza, Portland, ME 04112. Contract: Irregular: *Untreated rock salt* in bulk, by dump truck, from the International Boundary Line between the U.S. and Canada at or near Houlton, ME to points in Aroostook, Penobscot, Washington and Hancock Counties, ME, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Moore Chemicals, Inc., Box 216, Houlton, ME 04730. Send protests to: Donald G. Weiler, District Supervisor, ICC, 76 Pearl St., Rm. 303, Portland, ME. 04101.

MC 145219 (Sub-7TA), filed November 16, 1979. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 2728, Savannah, GA 31402. Representative: B. M. Shirley, (address same as applicant). *Fire sprinkler systems and materials, equipment and supplies used in the distribution, installation or manufacture of fire sprinkler systems except commodities in bulk,* between Cleveland, NC and Dallas, TX, on the one hand, and on the other points in AL, AR, DE, FL, GA, LA, MD, MS, NJ, NC, PA, SC, TX, VA, WV, and DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Grinnell Fire Protection Systems Co., Inc., 10 Dorrance Street, Providence, RI 02903. Send Protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 145219 (Sub-8TA), filed December 7, 1979. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 2728, Savannah, GA 31402. Representative: B. M. Shirley (address same as applicant). *Insulating, building and roofing panels, and equipment, materials and supplies used in the distribution, installation or manufacture of insulating, building and roofing panels,* between points in Greenville County, SC and Dallas County, TX, on the one hand, and, on the other points in the United States in and east of MN, IA, NE, KS, OK, and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rmax, Inc., 13524 Welch Road, Dallas, TX 75234. Send Protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 145359 (Sub-20TA), filed November 1, 1979. Applicant: THERMO TRANSPORT, INC., P.O. Box 41587, Indianapolis, IN 46241. Representative: Donald W. Smith, 9000 Keystone Crossing, Indianapolis, IN 46240. *Laminated plastic sheets, and materials and supplies used in the manufacture and distribution of laminated plastic sheets* from Coshocton, OH to Phoenix, AZ, Calexico, San Diego, Los Angeles, Costa Mesa, Mountainview, and Emeryville, CA, Aurora, CO, Dallas and Houston, TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: General Electric Laminated & Insulation Materials Business Dept., 1350 South Street, Coshocton, OH 43812. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 East Ohio Street, Indianapolis, IN 46204.

MC 145359 (Sub-21TA), filed November 7, 1979. Applicant: THERMO TRANSPORT, INC., P.O. Box 41587, Indianapolis, IN 46241. Representative: Donald W. Smith, 9000 Keystone Crossing, Indianapolis, IN 46240. *Foil containers* from Shelbyville, KY to Marshall and Carrollton, MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Revere Foil Containers, Inc., P.O. Box 168, Shelbyville, KY 40065. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 145939 (Sub-3TA), filed November 20, 1979. Applicant: ATLANTIC CARRIERS, INC., P.O. Box 284, Atlantic, IA 50022. Representative: James P. Crosby, P.O. Box 37205, Omaha, NE 68137. *Dicalcium phosphate, monocalcium phosphate, and limestone* from Weeping Water, NE to points in IL, IA, MN and to Janesville and

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Monticello, WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Texas Gulf, Inc., Jerry Brim, Sales Manager, Weeping Water, NE 68463. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 146309 (Sub-3TA), filed November 29, 1979. Applicant: Irvin D. Blair d.b.a., D & T TRUCKING CO., 4300 Curtis Ave., Baltimore, MD 21226. Representative: Walter T. Evans, 7961 Eastern Ave., Silver Springs, MD 20910. *Contract, irregular; Steel,* (1) from Baltimore, MD, to DC and points in PA, VA, and WV and (2) from NJ, PA, and VA to Baltimore, MD, under a continuing contract with Alexandria Steel Corp., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alexandria Steel Corp., 4501 Curtis Ave., Baltimore, MD 21225. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 146309 (Sub-4TA), filed November 16, 1979. Applicant: Irvin D. Blair d.b.a., D & T TRUCKING CO., 4300 Curtis Ave., Baltimore, MD 21226. Representative: Walter T. Evans, 7961 Eastern Ave., Silver Springs, MD 20910. Contract carrier-irregular routes: *Steel and steel products* (1) from Baltimore, MD to DC and points in VA, under a continuing contract with Stone Steel Corporation, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stone Steel Corp., 4501 Curtis Ave., Baltimore, MD 21225. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Philadelphia, PA 19106.

MC 146349 (Sub-2TA), filed November 6, 1979. Applicant: D. D. & B. TRUCKING, INC., R.R. 1, Shoals, IN 47581. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, IN 46204. *Contract carrier:* Irregular routes: *Lumber* between points in IN, OH, MI, IL, TN, KY, MO and PA for 180 days. Supporting shipperi L. B. Foster, Company, 1111 E. Touhy Ave., Des Plaines, IL 60016. Send protests to: Beverly J. Williams, Transportation Asst., ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 146448 (Sub-10TA), filed November 9, 1979. Applicant: C & L TRUCKING, INC., P.O. Box 409, Judsonia, AR 72081. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. *Such commodities as are dealt in by retail and department stores* (except commodities in bulk) from points in CT, MD, MA, NJ NY, PA and RI to the facilities of or used by Wal-Mart Stores, Inc., in AL, AR, IL, KS, KY, LA, MS, MO, OK, TN and TX, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 146518 (Sub-7TA), filed November 19, 1979. Applicant: OWEN MOTOR FREIGHT LINE, INC., P.O. Box 7516, Alexandria, LA 71306. Representative: Bruce E. Mitchell, Suite 520, 3390 Peachtree Road, N.E., Atlanta, GA 30326. *Iron and steel articles* from Woodside, NY; New Britain, CT; Butler, PA, Chicago, IL; and Crawsfordville, IN to points in AL, AR, MS, TN, TX, FL, MO, KY, KS, GA, LA, NM, and OK, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Delta Strapping Industries, Inc., 5850 52nd Ave., Woodside, NY 11377. Delta Strapping Corporation, P.O. Box 5070. Longview, TX 75604. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 146758 (Sub-3TA), filed November 19, 1979. Applicant: LADLIE TRANSPORTATION, INC., 103 East Main Street, Albert Lea, MN 56007. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. *Such commodities dealt in or used by manufacturers and converters of paper and paper products (except commodities in bulk),* from the facilities of Nekoosa Papers, Inc., in Portage and Wood Counties, WI, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nekoosa Papers, Inc., Asst. to Mgr. of Transportation, Port Edward, WI 54469. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 146898 (Sub-3TA), filed November 2, 1979. Applicant: MICKS SERVICE, INC., 2146 Camanche Ave., Clinton, IA 52732. Representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, IA 52001. *Contract carrier*—irregular routes; *Corn products, in packages,* from Clinton, IA, to points in IL, IN, OH, and WI, under contract with Clinton Corn Processing Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Clinton Corn Processing Company, P.O. Box 340, Clinton, IA 52732. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146949 (Sub-11TA), filed November 20, 1979. Applicant: MCINVALE TRUCK LINES, INC., 5965 Hwy. 18 W, Jackson, MS 39209. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. (1) *Plastic dinnerware* from the facilities of National Home Products, Inc., at or near Port Gibson, MS to points in CA, CT, FL, MA, NY, and NC and (2) *plastic materials,* other than expanded (except in bulk, in tank vehicles) from Wallingford, CT, Florence, MA, and Midland, MI to the facilities of National Home Products, Inc., at or near Port Gibson, MS for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Home Products, Inc., P.O. Box 568, Port Gibson, MS 39150. Send protests to: Alan Tarrant, D/S, ICC, Fed. Bldg., Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 146989 (Sub-6TA), filed November 27, 1979. Applicant: GOLDEN-HAMMONS CARTAGE CO., INC., d.b.a. G & H CARTAGE, 1749 Florida St., Memphis, TN 38109. Representative: A. Doyle Cloud, 2008 Clark Tower, 5100 Poplar, Memphis, TN 38137. (1) *Wood burning stoves and accessories* and *gas tanks and accessories,* from the facilities of Skyline Industries located at Como, MS, to Pleasant Grove, UT; New York, NY; Thompson Ridge, NY; Bullville, NY; Dover, NJ; and (2) *wood burning stoves and accessories* and *gas tanks and accessories,* from the facilities of Skyline Industries located at Pleasant Grove, UT, to New York, NY. (3) *materials, equipment and supplies* used in the manufacture and distribution of commodities described in (1) and (2) from Dover, OH, Bessemer, AL, and West Memphis, AR to the facilities of Skyline Industries at Como, MS and Pleasant Grove, UT, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack this authority to his authority held in MC 146989 Sub 1TA. Supporting shipper(s): Skyline Products, Ole Mill St., Como, MS. Send protests to: Floyd A. Johnson, Suite 2006, 100 N. Main St., Memphis, TN 38103.

MC 147249 (Sub-1TA), filed November 14, 1979. Applicant: MELVIN C. BRENAMAN, R.F.D. #1, Box 78, Grendell Rd., Mapleton, ME 04757. Representative: Same as applicant. *Contract:* Irregular: *Coal,* in bulk, in dump type vehicles, from Kittery, Westbrook and Winslow, ME to the port of entry on the International Boundary Line between the U.S./Canada at or near Jackman, ME. An underlying ETA seeks 90 days authority. Supporting shipper(s): Zielinski Brothers, 218 Shoemaker Lane, Agawam, MA 01001. Send protests to: Donald G. Weiler, District Supervisor, ICC, 76 Pearl St., Rm. 303, Portland, ME 04101.

MC 147948 (Sub-8TA), filed November 28, 1979. Applicant: A. J. ROSS ENTERPRISES, INC., 225 Smith Street, Keasbey, NJ 08832. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. *Structural steel* from the facilities of Standard Erecting Company, in Newington, CT to Chicopee, MA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Standard Erecting Company, Inc., 86 Day Street, Newington, CT 06111. Send protests to: Irvin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 148186 (Sub-6TA), filed September 28, 1979. Applicant: RETAIL LEASING CORP., d.b.a. RETAIL TRANSPORTATION COMPANY, 11301 Rockville Pike, Kensington, MD 20795. Representative: Edward F. Schiff, 1333 New Hampshire Ave., NW., Washington, DC 20036. *Contract carrier:* Irregular routes: *Shoes, soles, heels and raw materials* used in the manufacturer of boots, shoes, and soles, (1) from Laredo, TX to Columbus, OH; (2) Between Conway, AK and Columbus, OH; (3) between Columbus, OH and New York, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): R. G. Barry Corp., 13405 Yarmouth Rd. NW., Pickerington, OH 43147. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 148188 (Sub-9TA), filed October 24, 1979. Applicant: RETAIL LEASING CORP., d.b.a. RETAIL TRANSPORTATION COMPANY, 11301 Rockville Pike, Kensington, MD 20795. Representative: Edward F. Schiff, 1333 New Hampshire Ave., NW., Washington, DC 20036. *Contract carrier:* Irregular routes: *Such fashion merchandise as is dealt in by retail department stores* (except commodities in bulk, in tank vehicles) from Greenville, AL to Woburn, MA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mast Industries, Inc., 270 W. Cummings Park, Woburn, MA 01801. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 148188 (Sub-10TA), filed November 8, 1979. Applicant: RETAIL LEASING CORP., d.b.a. RETAIL TRANSPORTATION COMPANY, 11301 Rockville Pike, Kensington, MD 20795. Representative: Edward F. Schiff, 1333 New Hampshire Ave., NW., Washington, DC 20036. *Contract carrier:* Irregular routes: *Computer Addressed forms,* from Marion, OH to Marceline, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fulfillment Corporation of America, 205 W. Center, Marion, OH 44302. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 148189 (Sub-2TA), filed November 19, 1979. Applicant: THE OVERLAND COURIER CORPORATION, 238 West Street, Annapolis, MD 21401. Representative: Edward F. Schiff, 1333 New Hampshire Ave., NW., Washington, DC 20036. *General commodities,* (except commodities in bulk, in tank vehicles, commodities of unusual value, Class A and B explosives and household goods, as that term is defined by the Commission) having a prior or subsequent movement by air, between points in the counties of Anne Arundel, Baltimore, Calvert, Charles, Howard, Montgomery, Prince George's and Saint Mary's and the City of Baltimore, MD, on the one hand, and, on the other (1) points in the following counties: Arlington, Fairfax and Loudoun and the City of Alexandria, all in the Commonwealth of VA; and (2) Washington, DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): WTC Air Freight, Annapolis, MD. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 148299 (Sub-1TA), filed November 26, 1979. Applicant: CHAMY TRANSPORT LTD., 3080 Bernard Pilon Street, St Mathieu de Beloeil, Quebec, CD J3G 4S5. Representative: W. Norman Charles, P.O. Box 724, Glens Falls, NY 12801. *Steel wire, rods and coils,* from ports of entry on the United States-Canada Boundary Line at or Near Alexandria Bay, Champlain, Niagara Falls and Ogdensburg, NY and Highgate Springs, VT to Branford and Georgetown, CT; Wilmington, DE; Baltimore, and Bladensburg, MD; Medford, Oxford, Taunton, Westfield and Worcester, MA; Jaffrey, NH; Hasbrouck Heights, Paterson and Somerville, NJ; Brooklyn and Tonawanda, NY; Erie, Philadelphia and York, PA; and Warrenton, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): IVACO Rolling Mills, a Division of IVACO, Ltd., 800 Quelette Street, Marieville, Quebec, CD G0l 1G0. Send protests: Carol A. Perry, ICC, PO Box 548, Montpelier, VT 05602.

MC 148359 (Sub-2TA), filed November 5, 1979. Applicant: JOHN FURA & SON, INC., R.D. #2, Verona, New York 13478. Representative: Herbert M. Canter and Benjamin D. Levine, Esqs. 305 Montgomery Street, Syracuse, NY 13202. *Scrap metal, in dump vehicles,* from the facilities of Oneida Limited Silversmiths at Sherrill, NY to Canton, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Oneida Limited Silversmiths, Oneida, NY 13421. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 148449 (Sub-1TA), filed November 1, 1979. Applicant: DARRELL G. Chavis, 20 Contact Ct., Baltimore, MD 21220. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. Contract carrier-irregular routes: *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials and supplies used in the conduct of such business,* between points in the territory bounded by a line beginning at Cape Charles, VA, and extending in a southerly direction along the Chesapeake Bay to the Atlantic Ocean, then in a northerly direction along the Chesapeake Bay to the Atlantic Ocean, then in a northerly direction along the Atlantic Coast to the Delaware Bay, then along the west shore of the Delaware Bay and Delaware River to Delaware City, DE, then in a northwesterly direction through Newark, DE, to the point of intersection of the MD-DE-PA State lines, then in a westerly direction along the MD-PA State line to the Susquehanna River, then in a northwesterly direction along the Susquehanna River to Columbia, PA, then in a easterly direction to Lancaster, PA, then in a northwesterly direction to Lebanon, PA, then in a westerly direction to Newport, PA, then in a southweaterly direction to Markleysburg, PA, then in a southeasterly direction through Winchester, Va and Fredericksburg, VA, to Cape Charles, VA, including points on the above-described boundary line under a continuing contract(s) with Acme Markets, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Acme Markets, Inc., 124 N. 15th St., Philadelphia, PA 19101. Send protests to; I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Philadelphia, PA 19106.

MC 148458 (Sub-1TA), filed November 6, 1979. Applicant: MOTOR TRUCK TRANSPORT, 695 E. 27th St., Long Beach, CA 90806. Representative: Richard V. Stanton, 695 E. 27th St., Long Beach, CA 90806. *Paper and paper products as defined in NMFC,* from Crown Zellerbach facility located at 3416 S. Garfield, Commerce, CA, to the State of Arizona, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Crown Zellerbach, 3416 So. Garfield, Commerce, CA 90040. Send protests to: Irene Carlos, T/A, I.C.C., 300

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N. Los Angeles St., Rm. 1321, Los Angeles, CA 90012.

MC 148459 (Sub-1TA), filed October 19, 1979. Applicant: ACME VAN SERVICE, INC., 1337 S. Hanover St., Baltimore, MD 21230. Representative: William D. Dailey, 7774 Woodbine Rd., Woodbine, MD 21797. *Used household goods restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pick-up and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic,* between Baltimore City, Anne Arundel County, Howard County, Prince Georges County, Baltimore County, Carroll County, Montgomery County, Harford County, Cecil County, Kent County, all within the State of Maryland, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): DIO Contracting Div., Fort Meade, MD 20755. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St, Rm. 620, Phila, PA 19106.

MC 148489 (Sub-1TA), filed November 9, 1979. Applicant: GAN-TRANS, LTD., 14276 Wicks Blvd., San Leandro, CA 94577. Representative: G. A. Naman, same address as above. (1) *Insulation, insulation materials and materials and supplies* used in the installation of insulating materials; (2) *Chemicals, and cleaning compounds,* (1) from Willows, CA to all points in OR, WA, ID, UT, NV, AZ, (2) from Union City, CA to all points in OR, WA, UT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Western Omega Chemical Company, Inc., 201 Daggett St., Union City, CA 94587. Johns-Manville Sales Corp., 2600 Campus Dr., San Mateo, CA 94403. Send protests to: D/S A. J. Rodriguez, 211 Main, Suite 500, San Francisco, CA 94105.

MC 148478 (Sub-1TA), filed October 22, 1979. Applicant: TIMBER EXPRESS, INC., 4601 N. High St., Columbus, OH 43214. Representative: Jerry B. Sellman, 50 W. Broad St., Columbus, OH 43215. *Lumber and plywood* from Greenville, GA to points in the U.S. in and east of MN, NE, KS, OK and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Woodkraft, Wood Products Div of Georgia Kraft, P.O. Box 2489, Peachtree City, GA 30269. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 148519 (Sub-1TA), filed November 23, 1979. Applicant: DiVERONICA BROS. INC., 127 Spencer Street, Canastota, NY 13032. Representative: Robert D. Gunderman, Esq., 710 Statler Building, Buffalo, NY 14202. *Stainless steel scrap, in bulk, in dump vehicles,* from Sherrill, NY to Canton, OH, restricted to traffic transported under a continuing contract with Oneida Limited Silversmiths, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Oneida Limited Silversmiths, Oneida, NY. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 148638 (Sub-2TA), filed November 5, 1979. Applicant: ELMO W. & GARY D. CARLSON, d.b.a. CARLSON LEASING CO., 1229 Clarke Street, Clay Center, KS 67432. Representative: William E. Barker, 641 Harrison, P.O. Box 1979, Topeka, KS 66603. *Feed and feed ingredients,* between points in Clay, Cloud and Riley Counties, KS on the one hand, and points in MO, NE, and OK on the other; for 180 days, common, irregular; Supporting shippers: Farmers Union Coop, 314 Lincoln, Clay Center, KS 67432 and Longford Mill Products, Inc., 2420 7th Street, Clay Center, KS 67432 and Key Milling Co., Inc., Clay Center, KS 67432; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 148658TA, filed November 16, 1979. Applicant: HOWARD EATON, d.b.a. HOWARD EATON TRUCKING, 4985 Pineaire Lane, West Palm Beach, FL 33409. Representative: R. Gregory Plimpton, Esq., P.O. Box 14366, North Palm Beach, FL 33408. Contract Carrier—Irregular Route: *Aqueous extract of seaweed, a liquid in plastic containers,* from West Palm Beach and Riviera Beach, FL to Hondo, TX, Nogales, AZ, Five Points, Modesto, Sacramento, and Salinas, CA, and Boise, ID for 180 days. Supporting shipper(s): Atlantic & Pacific Research, Inc., P.O. Box 14366, North Palm Beach, FL 33408. Send protests to: Donna M. Jones, T/A, ICC—BOp, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 148678 (Sub-1TA), filed November 19, 1979. Applicant: McGRATH TRUCKING INC., 229 Old Elm Street, Mansfield, MA 02048. Representative: Ronald McGrath (same address as applicant). Contract-irregular, *Such commodities as are dealt in by retail department stores,* between points in MA, on the one hand, and, on the other, points in FL and GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Zayre Corp., Framingham, MA 01701. Send protests to: Gerald H. Curry, DS, ICC, 24 Weybosset St., Room 102, Providence, RI 02903.

MC 148709 (Sub-1TA), filed November 21, 1979. Applicant: D & H TRUCKING CO., Route 2, Box 2161, Nampa, ID 83651. Representative: Stephen L. Beer, 207 W. Washington, Boise, ID 83702. *Oil drilling mud compounds,* to and from points in Rock Springs, WY, Soda Springs, ID, and Battle Mountain, NV and their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Milchem, Inc., P.O. Box 1369, Rock Springs, WY; Petro Chem, Box 2023, Rock Springs, WY; Steven Suthers, P.O. Box 579, Rock Springs, WY 82901; Drilling Mud, Inc., P.O. Box 2229, Rock Springs, WY. Send protests to: Barney L. Hardin, D/S, ICC Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 148719 (Sub-1TA), filed November 16, 1979. Applicant: LOREN LARSON, d.b.a. FAIRMONT BODY SHOP, 1013 Winnebago Ave., Fairmont, MN 56031. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. (1) *Wrecked or disabled motor vehicles and trailers, and (2) replacement vehicles for wrecked and disabled motor vehicles and trailers* between points in IA, MN, ND, SD, and WI, restricted to the transportation of traffic requiring the use of wrecker equipment in towaway service, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 8 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 148738 (Sub-1TA), filed November 14, 1979. Applicant: JOE MORRIS TRUCKING, 201 Cush St., Jackson, MN 56143. Representative: Stanley C. Olsen, Jr., 7400 Metro Blvd., Suite 411, Edina, MN 55435. *Feed, feed ingredients, and health aids and materials, equipment and supplies used in the manufacture and sale thereof* between the facilities of the Ralson Purina Co. at or near Sioux City, IA on the one hand, and on the other, points in MN, NE, and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ray's Feed Service, P.O. Box 186, Windom, MN 56101, Ralston Purina Co., 4600 Stone Ave., Sioux City, IA 51106, Lyle's Farm Store, Box 356, Jackson, MN 56143. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 148739TA, filed November 15, 1979. Applicant: DOORN'S TRUCKING, I–90 & Betts Rd., Mitchell, SD 57301. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Contract carrier:* irregular routes: *Fertilizer and fertilizer materials* from Sioux City, IA, Pine Bend and Winona, MN to Armour, Canistota, Emery and Mitchell, SD for the accounts of Farmers Union Coop Assoc and Shanard, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Shanard, Inc., N. Riverside Rd., Mitchell, SD 57301; Farmers Union Coop Assoc., 1510 W. Havens, P.O. Box 1286, Mitchell, SD 57301. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 148938TA, filed November 14, 1979. Applicant: H. YORK d.b.a. RELIABLE PRODUCT TRANSPORT, 119 Maresco Dr., N.E., Dalton, GA 30720. Representative: M. C. Ellis, c/o Chattanooga Freight Bureau, Inc., 1001 Market St., Chattanooga, TN 37402. *Contract carrier:* Irregular routes: (1) *Floor covering and related articles;* (2) *materials and supplies used in the manufacture and distribution of floor coverings and related articles; except commodities in bulk, in tank vehicles,* (A) between the facilities of Carpet Shippers Association, Inc., at or near Dalton, GA, on the one hand, and, on the other hand, points and places in the states of IL, IN, MI, and OH; (B) between the facilities of Carpet Shippers' Association, Inc., at or near Dalton, GA, on the one hand, and, on the other hand, points and places in the counties of Bartow, Catoosa, Chatooga, Dade, Floyd, Gilmer, Gordon, Murray, Walker, and Whitfield, GA, restricted to transportation having prior or subsequent transportation; transportation performed under a continuing contract or contracts, with Carpet Shippers' Association, Inc., for 180 days. Supporting shipper(s): Carpet Shippers' Association, Inc., 119 Maresco Dr., N.E., Dalton, GA 30720. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Room 300, Atlanta, GA 30309.

MC 148939TA, filed November 13, 1979. Applicant: AREA WHOLESALE TIRE CO., INC., P.O. Box 2723, Baton Rouge, LA 70821. Representative: C. R. Potter (same address as applicant). Applicant is seeking authority to operate as a *contract carrier* over regular routes, transporting *crude synthetic rubber* from Baton Rouge, LA to Huntsville, AL via Interstate Hwys. 12, I–59, and I–65 to Huntsville, AL, for 180 days. Supporting shipper(s): Dunlop Tire & Rubber Corporation, Box 1109, Buffalo, NY 14240. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

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MC 1515 (Sub-282TA), filed November 14, 1979. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: Lat J. Celmins (same address as applicant). *Common,* Regular, *Passengers and their baggage, and express and newspapers in the same vehicle with passengers,* between Lincoln, NE and Grand Island, NE, serving no intermediate points: from Lincoln, NE over Interstate Hwy 80 to junction U.S. Hwy 281, then over U.S. Hwy 281 to Grand Island, NE, and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: There are 5 supporting shippers. Their statements may be reviewed at the below listed field office or at Washington, D.C. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025. Applicant does intend to tack this authority with authority it presently holds in MC–1515.

MC 2605 (Sub-12TA), filed November 1, 1979. Applicant: COMMERCIAL TRANSPORTATION INC., 2300 E. Adams Ave., Phila., PA 19124. Representative: Anthony N. Coppola (same as applicant). *Chemicals and chemical products, except in bulk,* from the facilities of FMC Corporation at Carteret, NJ and Lyndhurst, NJ, to points in OH, Chicago, IL and Detroit, MI and points within their commercial zones, for 180 days. Supporting shipper(s): FMC Corporation, 2000 Market St., Phila., PA 19103. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 8535 (Sub-104TA), filed October 25, 1979. Applicant: GEORGE TRANSFER & RIGGING CO, INC., P.O. Box 500, Parkton, MD 21120. Representative: James B. Nestor (same as applicant). *Iron or steel articles* (except in dump vehicles) from Cumberland, MD to points in IL and IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cumberland Steel Co., P.O. Box 28, 101 Winston St., Cumberland, MD 21502. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 19945 (Sub-73TA), filed October 3, 1979. Applicant: BEHNKEN TRUCK SERVICE, INC., Route 13, New Athens, IL 62264. Representative: Joseph R. Behnken (same address as applicant). *Coal, in bulk,* from Mount Sterling, IL, to St. Louis, MO for 180 days. An underlying ETA seeks 30 days authority. Supporting shipper(s): Great American Energy Corporation, 8820 Ladue Road, St. Louis, MO. Send Protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 30844 (Sub-670TA), filed November 7, 1979. Applicant: KROBLIN REFRIGERATED EXPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same address as applicant). *Such materials, equipment, ingredients, and supplies as are used in the manufacturing and distribution of veterinary supplies, animal drugs and medicines, feeds, and supplemental powders, when moving in vehicles equipped for protective service,* from points in MA, NY, NJ, MD, PA, VA, WV, and Charleston, SC, to Charles City, IA, restricted to shipments destined to the facilities of Salsbury Labratories at Charles City, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Salsbury Laboratories, 2000 Rockford Rd., Charles City, IA 50616. Send protests: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 61825 (Sub-121TA), filed November 23, 1979. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone (same address as applicant). *Furnaces, solar collectors, and air conditioners and parts and accessories,* from Columbus, OH to Decatur, GA, Jackson, MS, Memphis, TN and Orlando, FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lennox Industries, Inc., P.O. Box 400450, Dallas, TX 75240. Send protests: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 65475 (Sub-32TA), filed November 20, 1979. Applicant: JETCO, INC., 4701 Eisenhower Ave., Alexandria, VA 22304. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Iron and steel articles and materials, equipment, and supplies* used in the manufacturing of iron and steel articles, between Marietta, OH, and Marion, IL, on the one hadn, and, on the other, points in DE, IL, KY, MD, NJ, NY, NC, OH, PA, TN, VA, WV, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pattin Manufacturing Company, P.O. Box 659, Marietta, OH 45750. Send protests: to ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 82965 (Sub-6TA), filed October 22, 1979. Applicant: AMADOR STAGE LINES, INC., 213 13th Street, Sacramento, CA 95813. Representative: Raymond A. Greene, Jr., 100 Pine Street, Suite 2550, San Francisco, CA 94111. *Passengers and their baggage, in the same vehicle with passengers, in special operations* beginning and ending at points in Sacramento, San Joaquin, Yolo, El Dorado and Placer Counties, CA to points in Washoe, Douglas, Storey and Carson City Counties, NV, for 180 days. An underlying ETA seeks 90 days

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authority. Supporting shipper(s): Arden Fairs Ticket, 1797 Arden Way, Sacramento, CA. Patterson Travel, 352 College Street, Woodland, CA 95695. Send protests: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 95084 (Sub-154TA), filed November 6, 1979. Applicant: HOVE TRUCK LINE, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA. 52501. *Household washers and dryers* from Webster City and Fort Dodge, IA, to points in CA, MO, OH, PA, TN, TX, and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Webster City Products Company, 600 Stockdale St., Webster City, IA 50595. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 105045 (Sub-131TA), filed October 18, 1979. Applicant: R. L. JEFFRIES TRUCKING CO, INC., 1020 Pennsylvania, Evansville, IN 47731. Representative: George H. Veech (same address as applicant). *Automotive wreckers and car carriers, KD and parts thereof not mounted* from the facilities of Dover Corp./Ernest Holmes Div. at or near Newbern, TN and Chattanooga, TN to all points in the United States (except Alaska and Hawaii) for 180 days. An underlying ETA seeking 90 days authority. Supporting shipper(s): Dover Corp./Ernest Homes Div., 2505 E. 43rd St., Chattanooga, TN 37407. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 107515 (Sub-1299TA), filed November 21, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., Fifth Floor, Lenox Towers South, Atlanta, GA 30326. *Frozen potatoes and potato products* from Clark, SD to points in GA, AL, and MS for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chef Reddy Foods Corp., Clark, SD 57225. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1303TA), filed November 21, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., Fifth Floor, Lenox Towers Atlanta, GA 30326. *Microwave ovens* from Compton, CA to Eau Claire, LaCrosse and Wausau, WI; Rochester, St. Cloud, Belgrade and the Minneapolis commercial zone, MN; and Cedar Rapids, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Menard, Inc., Rt. 2, Eau Claire, WI 54701. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1304TA), filed November 30, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., NE, 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Magazines, parts and sections thereof,* from the facilities of U.S. News and World Report at or near Nashville, TN to Atlanta, GA; Jacksonville, FL; Houston, TX; and Dallas, TX, and points in their respective commercial zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): U.S. News and World Report, P.O. Box 2500, Boulder, CO 80302. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1305TA), filed November 14, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., NE, Fifth Floor, Lenox Towers South, Atlanta, GA 30326. *Plastic dispensing bottles and parts therefor* from Washington Courthouse, OH and Winona, MN to the facilities of Minnetonka, Inc. at or near San Jose, CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Minnetonka, Inc., Jonathan Industrial Park, Chaska, MN 55318. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1306TA), filed November 15, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., NE, Fifth Floor, Lenox Towers South, Atlanta, GA 30326. *Intravenous solutions and administration sets* from Charlotte, NC to Morrow, GA; Mansfield, MA; Edison, NJ; Jessup, MD; and McKees Rocks, PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Travenol Laboratories, Inc., 1 Baxter Parkway, Deerfield, IL 60015. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 109154 (Sub-21TA), filed November 20, 1979. Applicant: BAYLOR TRUCKING, INC., RR #1, Milan, IN 47031. Representative: Robert W. Loser, II, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. *Commodities as are dealt in by retail department stores* from Jersey City, NJ to Cincinnati, OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Shillito S, 5121 Fishwick Drive, Cincinnati, OH 45216. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 109584 (Sub-203TA), filed November 13, 1979. Applicant: ARIZONA PACIFIC TANK LINES, 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker, same address as applicant. *Liquid fertilizer solutions, in bulk, in tank vehicles,* from points in Maricopa County, AZ to points in Dona Ana and Luna Counties, NM for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): Kerley Chemical Co., 2801 W. Osborn, Phoenix, AZ 85017. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 111045 (Sub-181TA), filed November 14, 1979. Applicant: REDWING CARRIERS, INC., 8515 Palm River Road, P.O. Box 426, Tampa, FL 33601. Representative: L. W. Fincher, same address as applicant. *Sand,* in bulk, in tank vehicles, from Bridgman, MI to Marion, AL for 180 days. Supporting shipper(s): Cast South, Inc., Hwy 45 South, Marion, AL 36756. Send protests to: Donna M. Jones, T/A, ICC-BOp, Monterey Bldg., Room 101, 8410 N.W. 53rd Ter., Miami, FL 33157.

MC 111375 (Sub-119TA), filed November 8, 1979. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, WI 53704. Representative: Elaine Conway, 10 S. LaSalle St., Chicago, IL 60603. *Inedible beef and offal products,* from Boise, ID to Jefferson, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. R. Nylen, Ltd., Sioux City, IA. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 114015 (Sub-27TA), filed October 11, 1979. Applicant: HUSS, INCORPORATED, Highway 47 West, P.O. Box 666, Chase City, VA 23924. Representative: Morton E. Kiel, 2 World Trade Center, New York, NY 10048. Contract carrier-irregular routes: *Wall board, building board, insulation board, fibreboard and pulpboard,* from the facilities of United States Gypsum Company at Auburn, ME to points in AL, FL, GA, MS, NC, SC, TN, VA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Gypsum Co., 101 S. Wacker Dr., Chicago, IL 60606.

Send protests to: ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 11343 (Sub-151TA), filed October 26, 1979. Applicant: GRA-BELL TRUCK LINE, INC., A–5253 144th Avenue, Holland, MI 49423. Representative: Roger Van Wyk, A–5253 144th Avenue, Holland, MI 49423. (1) *Aluminum and/or zinc alloy ingots,* (2) *Materials, equipment and supplies* used in the manufacture, sale and distribution of commodities named in (1); from Maple Heights, OH to IL, IN, MI, and WI. Restricted to traffic originating at the named origin and destined to the named destination. For 180 days. Supporting shipper(s): Aluminum Smelting & Refining Co., Inc. Certified Alloys Company, 5483 Dunham road, Maple Heights, OH 44137. Send protests to: C. R. Flemming, D/S, I.C.C., 300 E. Michigan Avenue, Lansing, MI 48933.

MC 114284 (Sub-85TA), filed November 5, 1979. Applicant: FOX-SMYTHE TRANSPORTATION CO., P.O. Box 82307, 1700 S. Portland, Oklahoma City, OK 73148. Representative: M. W. Thompson (same address as applicant). *Meats, meat products, meat by-products and articles distributed by meat packinghouses, as described in Sections A, B, and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* (except hides and commodities in bulk), from the facilities utilized by Wilson Foods Corp., at Cedar Rapids, IA, to points in NM, OK, & TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Connie Stanley, ICC, Rm. 240, 215 NW. 3rd, Oklahoma City, OK 73102.

MC 115654 (Sub-177TA), filed November 20, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry Seaton, 929 Pennsylvania Bldg., 425 Thirteenth St., N.W., Washington, D.C. 20004. *Such commodities as are dealt in by wholesale and retail food chains, drug stores, hospitals, and cosmetic dealers, discount and variety stores, and grocery houses (except in bulk),* from the facilities utilized by Bristol-Myers at Atlanta, GA to points in AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bristol-Myers Company, 5655 Fulton Industrial Blvd., Atlanta, GA 30336. Send protests to: Glenda Kuss, TA, ICC, A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 117765 (Sub-277TA), filed November 1, 1979. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, P.O., Box 75216, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). *Pitch, lignin, dry, in bags,* from Appleton, WI, to LA and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Baker Chemicals, Inc., 2801 Soute Post Oak Road, Suite 258, Houston, TX 77056. Send protests to: Connie Stanley, ICC, Rm. 240, 215 NW 3rd, Oklahoma City, OK 73102.

MC 118745 (Sub-25TA), filed November 2, 1979. Applicant: JOHN PFROMMER, INC., P.O. Box 307, Douglassville, PA 19518. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. *Contract carrier:* Irregular routes: (1) *Petroleum coke,* in bulk, in dump vehicles, from Paulsboro, NJ to Hagerstown, MD, under a continuing contract with International Minerals & Chemical Corp., and (2) *steel turnings,* from Hagerstown, MD, to Pottstown, PA, under a continuing contract with Meyer Pollock Steel Corporation, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Meyer Pollock Steel Corporation, P.O. Box 759, Pottstown, PA 19464; International Minerals & Chemical Corp., 421 E. Hawley St., Mundelein, IL 60060. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 127524 (Sub-24TA), filed November 23, 1979. Applicant: QUADREL BROS. TRUCKING CO., INC., 1603 Hart Street, Rahway, NJ 07065. Representative: David L. Middleton, 1603 Hart Street, Rahway, NJ 07065. Petrolatum in bulk from Petrolia, PA to Elizabeth, NJ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Block Drug Company, 257 Cornelison Avenue, Jersey City, NJ 07302. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 129994 (Sub-41TA), filed November 2, 1979. Applicant: RAY BETHERS TRUCKING, INC., 176 West Central Avenue, Murray, UT 84107. Representative: Marilyn McNeil (same address as applicant). *Gypsum board paper* from Denver, CO to Empire, NV and Santa Fe Springs, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Gypsum Co., Glendale, CA. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 133095 (Sub-285TA), filed November 21, 1979. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, Texas 76039. Representative: Ron Duncan (address same as carrier). *Meat, meat products, meat by-products, and articles distributed by meat packing houses (except hides and commodities in bulk)* from the plantsite of Vernon Calhoun Packing Company, at or near Palestine, TX to points in the United States (except Alaska, Hawaii, Idaho, Montana, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming) for 180 days. Supporting shipper(s): Vernon Calhoun Packing Co., P.O. Box 709, Palestine, TX 75801. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 134775 (Sub-16TA), filed September 4, 1979. Applicant: GUNTER BROTHERS, INC., 19060 Frager Road, Kent, WA 98055. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. *Contract carrier:* irregular routes: *Building materials and supplies,* from City of Industry, Huntington Park, La Mirada, Milpitas, Montebello, Monrovia, Oakland, and Santa Fe Springs, CA to Kennewick, Seattle and Yakima, WA, for the account of T & A Supply Company of Seattle, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): T & A Supply Company, 1105 Westlake Avenue N., Seattle, WA 98109. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 135185 (Sub-42TA), filed November 14, 1979. Applicant: COLUMBINE CARRIERS, INC., P.O. Box 15246, 1720 East Garry Ave., Santa Ana, CA 92705. Representative: Charles J. Kimball, 350 Capitol; Life Center, 1600 Sherman Street, Denver, Colorado 80203. *Contract;* Irregular; *Razors and razor blades, toilet articles and toilet preparations, pens and markers, shaving cream, stationery and products, cigarette lighters, cleaning compounds and pads, hair curlers, hair spray, shampoo, sponges, fire extinguishers, electrical appliances, deodorants, dispensers, sound warning devices, other commodities manufactured by manufacturers of the above described commodities, display racks, stands and cabinets, and materials, equipment and supplies (except in bulk) used in the manufacture and distribution of the commodities named above,* (1) from the facilities of the Gillette Company at or near Andover, Massachusetts to points in Indiana and (2) from the facilities of the Gillette Company, at or near St. Paul, MN, to points in IN, points in IL located on and north of U.S. Highway 6, and Atlanta, GA and points in its

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commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Gillette Company, Manager—Corporate Transportation, 43rd Floor, Prudential Tower, Boston, MA 02199. Send protests to: Irene Carlos, TA, ICC, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 135195 (Sub-4TA), filed October 23, 1979. Applicant: STOVER AIR CARGO, INCORPORATED, 3830 Wisman Lane, Quincy, IL 62301. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. *General Commodities (except commodities in bulk, those of unusual value, Classes A and B Explosives, Household Goods as defined by the Commission),* between points in Cedar, Clinton, Des Moines, Henry, Jefferson, Johnson, Lee, Linn, Louisa, Muscantine, Scott, Wapello and Washington counties, IA; Adams, Cook, DuPage, Hancock, Henderson, Henry, Knox, McDonough, Mercer, Peoria, Pike, Rock Island, Tazewell, Warren, Whiteside and Woodford counties, IL; Adair, Clark, Knox, Lincoln, Lewis, Marion, Monroe, Pike, Ralls, St. Louis and Shelby counties, MO; and St. Louis, MO. Restricted to the transportation of shipments having an immediately prior or subsequent movement by air for 180 days. An underlying ETA seeks 30 days authority. Supporting shipper(s): There are 36 supporting shippers. Their applications can be reviewed at the address below or headquarters. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 135705 (Sub-13TA), filed October 30, 1979. Applicant: MELROSE TRUCKING CO., INC., 2671 So. Robertson Road, Casper, WY 82601. Representative: Kim Milrose (same address as applicant). *Cement,* from Pennington County, SD to points in CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Flatiron Materials Company, 1005 Riverside Drive, Fort Collins, CO 80521; Loveland Ready Mix, Inc., Box 299, Loveland, CO 80537. Send protests to: District Supervisor Paul A. Naughton, Rm. 105 Federal Bldg. & Crt. House, 111 South Wolcott, Casper, WY 82601.

MC 135725 (Sub-21TA), filed November 5, 1979. Applicant: FRY TRUCKING, INC., 507 W. 5th St., Wilton, IA 52778. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Feed ingredients* from Cedar Rapids, IA, to points in CA, KY, NC, SC, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Diamond V Mills, Inc., 428 G Avenue, N.W., Cedar Rapids, IA 52405. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 136054 (Sub-35TA), filed September 24, 1979. Applicant: CONDOR CONTRACT CARRIERS, INC., 656 Wooster Street, Lodi, OH 44254. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Contract; Irregular: Materials, equipment and supplies* used in the installation of floor coverings (except commodities in bulk), from the facilities of Adhesive Industries Mfg. Company at or near Dallas, TX, to points in the United States located in and east of NM, CO, WY and MT, under a continuing contract(s) with Adhesive Industries Mfg. Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Adhesive Industries Mfg. Company, 13927 East 166th Street, Cerritos, CA 90701. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Phila., PA 19106, Room 620.

MC 138875 (Sub-253TA), filed November 19, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same as above). *Cans,* from Walla Walla, WA to Mason, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Continental Can Co., 10200 No. Burgard St., Portland, OR 97203. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 139555 (Sub-12TA), filed November 7, 1979. Applicant: MODULAR TRANSPORTATION CO., P.O. Box 1822, Grand Rapids, MI 49501. Representative: William D. Parsley, 1200 Bank of Lansing Building, Lansing, MI 48933. *Gypsum, gypsum products, plaster board joint systems and building materials, and materials, equipment and supplies* used in the manufacture, distribution and installation of gypsum, gypsum products, plasterboard joint systems and building materials, except commodities in bulk in tank vehicles; between the facilities of ProKo Industries at or near Cambridge City, IN, on the one hand, and on the other, points in IN, OH, IL and MI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Grand Rapids Gypsum, P.O. Box 2475, Grand Rapids, MI 49502. Send protests to: C. R. Flemming, D/S, I.C.C., 300 E. Michigan Avenue, Lansing, MI 48933.

MC 141675 (Sub-7TA), filed November 19, 1979. Applicant: ECONOMY TRUCKING SERVICE CORP., 1079 West Side Avenue, Jersey City, NJ 07306. Representative: Arthur Liberstein, 888 Seventh Avenue, New York, NY 10019. Contract carrier, irregular routes for 180 days. Such commodities as are dealt in by department stores, and supplies and equipment used in the conduct of such business, except commodities in bulk, between points in the New York, NY commercial zone, on the one hand, and on the other, Shreveport and Baton Rouge, LA, under continuing contracts with Selber Brothers, Inc. and Goudchaux's, Inc. An underlying ETA seeks 90 days authority. Supporting shipper(s): Goudchaux's, 1500 Main Street, Baton Rouge, LA 70821, Selber Bros. Inc., 601 Milam, Shreveport, LA 71101. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 142545 (Sub-4TA), filed August 27, 1979. Applicant: DICK TAZER TRUCKING, INC., 1635 N.W. Mall, Issaquah, WA 98027. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. *Contract carrier:* irregular routes: *Frozen foods,* from points in CA, OR and WA to points in Phoenix, AZ commercial zone under contract with Miss Muffet Foods, Inc., of Seattle, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Miss Muffet Foods, Inc., 500 Wall Street, Suite 410, Seattle, WA 98121. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 142715 (Sub-76TA), filed November 8, 1979. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K. O. Petrick (Same as Applicant). *Meats, meat products and meat by-products and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 777 (except hides and commodities in bulk, in tank vehicles),* from Spencer, Iowa, to points in AL, CT, DE, DC, GA, MD, MA, ME, FL, NH, NJ, NY, NC, PA, RI, SC, VT, VA, and WV for 180 days. Restricted to traffic originating at the facilities of Spencer Foods, Inc., Spencer, IA, and destined to points in the named states. An underlying ETA seeks 90 days authority. Supporting shipper(s): Spencer Foods, Inc., Corp., Traffic Mgr., Box 544, Schuyler, NE 68661. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 143775 (Sub-124TA), filed November 14, 1979. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke, (Same Address as Applicant). *Wheat germ meal and grain flour,* from Monticello, IL, Michigan City, IN and Carthage, MO to New York City, NY, Philadelphia, PA and Portland, OR and points in their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Nabisco, Inc., E. Hanover, NJ 07936. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 144315 (Sub-6TA), filed August 21, 1979. Applicant: FORT CITY LEASING, INC., 602 20th Street North, Lewiston, ID 83501. Representative: Boyd Hartman, 10655 N.E. 4th St., P.O. Box 3641, Bellevue, WA 98009. *Lumber and lumber products,* from points in Benneway, Bonner, Boundary, ID; Kootenia, Latah, Lewis and Nex Perce Counties, ID; and Asotin, Spokane and Stevens Counties, WA to points in WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bennett Lumber Company, P.O. Box 49, Princeton, ID 83857 Clearwater Forest Industries, P.O. Box 96, Kooskia, ID 83539 Wholesale Industries Inc., Rt #1, Box 250B, Portland, OR 97231. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 144765 (Sub-2TA), filed October 11, 1979. Applicant: WATERVILLE-CASCADE TRUCKING, INC., P.O. Box 1686, Wenatchee, WA 98801. Representative: Robert G. Gleason, 1127 10th East, Seattle, WA 98102. *Contract carrier;* irregular routes; *Packaged petroleum products (lubricating oils and greases in barrels, cans, pails, etc.),* from St. Louis, MO to Twin Falls, ID, Portland, OR, Moses Lake, WA and Fresno, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Schaeffer Mfg. Co., 102 Barton Street, St. Louis, MO 63104. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 145015 (Sub-2TA), filed November 2, 1979. Applicant: P.M.E., ltd., Box 181, Group 261, R.R. 2, Winnipeg, Manitoba, Canada R3C 2E6. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Contract carrier:* irregular routes: *Used railroad ties,* from the ports of entry on the International Boundary Line between the United States and Canada located in MN and ND, to points in AZ and CA, for the account of Altacon Traders, Ltd., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Altacon Traders, Ltd., 8720 101st Street, Edmonton, Alberta, Canada. Send protests to: H. E. Farsdale, DS, ICC, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 145465 (Sub-4TA), filed October 24, 1979. Applicant: GURN ENTERPRISES, INC., Route 6, Box 8, Allegan, MI 49010. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave, P.O. Box 1417, Hagerstown, MD 21740. *Contract Carrier:* Irregular Routes: (1) *Clothing and wearing apparel and component parts thereof,* and (2) *materials, supplies, equipment, machinery and mahinery parts and accessories* used in the manufacture, distribution, packaging and sale of the commodities set forth in (1) above; between points in SD, MN, WI, IN, IL, MI, PA, KY, MO, AR, GA, FL, NC, SC, LA, TN, VA, WV, DC, DE, ME, MD, NH, RI, VT, CT, OH, IA, AL, MS, NY, NJ and MA. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): H. L. Friedlen & Company, 2711 West Howard Street, Chicago, IL 60606. Send protests to: C. R. Flemming, D/S, I.C.C., 300 E. Michigan Ave., Lansing, MI 48933.

MC 145825 (Sub-1TA), filed November 19, 1979. Applicant: MILLER TRANSPORTS, INC., P.O. Box 161, Pryor, OK 75361. Representative: Larry D. Henry, 1606 First National Bank Building, Tulsa, OK 74103. *Contract Carrier: Irregular routes: Anhydrous ammonia and solution fertilizers,* (in bulk), and *dry fertilizers,* (in bulk and in containers), from the facilities of Oklahoma-Kansas Grain Corp., located at or near Port of Catoosa, OK, to points in TX, KS, CO, MO, & AR, for 180 days. Supporting shipper(s): Oklahoma Kansas Grain Corp., Box N, Catoosa, OK 74015. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 145895 (Sub-5TA), filed November 5, 1979. Applicant: STATE TRANSPORTATION, INC., P.O. Box 1349, Portsmouth, NH 03301. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181. *Contract carrier:* irregular routes: *(a) Paper and paper products, and (2) equipment, material and supplies used in the manufacturer and distribution of the commodities named in (1) above,* between the facilities of Scott Paper Company in ME, MA, and NY, on the one hand, and, on the other, points in CT, ME, NH, NY, RI, and VT, for 180 days. Supporting shipper(s): Scott Paper Company, Walter E. Eichler, Transportation Project Manager, Scott Plaza, Philadelphia, PA 19113. Send protests to: Ross J. Seymour, DS, ICC, Rm. 3, 6 Loudon Rd., Concord, NH 03301.

MC 145904 (Sub-24TA), filed October 11, 1979. Applicant: SOUTHWEST LEASING, INC., P.O. Box 152, Waterloo, IA 50704. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. *Such commodities as are dealt in by wholesale and retail grocery stores (except commodities in bulk)* from the facilities of Hunt-Wesson Foods, Inc. at Chicago, IL, and points in its commercial zone to Cedar Falls, Cedar Rapids, Clinton, Davenport, and Marshalltown, IA, and points in their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporing shipper(s): Hunt-Wesson Foods, Inc., P.O. Box 127, Rossford, OH, 43460. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 145955 (Sub 1TA), filed November 1, 1979. Applicant: CENTRAL TRUCK SERVICE, INC., 4440 Buckingham Avenue, Omaha, NE 68107. Representative: Arlyn L. Westergren, Westergren & Hauptman, Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Electrical appliances and accessories* from Franklin Park, IL to Sioux City, Des Moines, and Davenport, IA; Omaha, NE; Topeka, Wichita, and Kansas City, KS; Kansas City, MO and their commercial zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Quasar Company, Mike Pytel, Manager of Domestic Traffic Service, 9401 West Grand Avenue, Franklin Park IL 60131. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 146465 (Sub-6TA), filed November 15, 1979. Applicant: LAWRENCE PILGRIM, d.b.a. PILGRIM TRUCKING CO., P.O. Box 77, Cleveland, GA 30528. Representative: Jeffrey Kohlman, Suite 508, 1447 Peachtree St., N.E., Atlanta, GA 30309. *Lumber* from the facilities of Woodkraft, Wood Products Division of Georgia Kraft Co. at or near Madison, GA to points in the US in and east of TX, OK, KS, MI, IA, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Woodkraft, Wood Products Division of Georgia Kraft Co., P.O. Box 2487, Peachtree City, GA 30269. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 146595 (Sub-3TA), filed November 8, 1979. Applicant: SELCO CORPORATION, P.O. Box 628, Provo, UT 84601. Representative: Daniel O. Hands, Attorney at Law, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Such commodities as are dealt in by agricultural supply houses* (except commodities in bulk), from the facilities of Custom Services, Inc. at Carson City, NV to points in the United States

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(except AK and HI), restricted to the transportation of traffic originating at the named origin, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Custom Services, Inc., 6373 Highway 50 East, Carson City, NV 89701. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 146724 (Sub-4TA), filed October 22, 1979. Applicant: DEAN RAPPLEYE, INC., P.O. Box 204, West Jordan, UT 84084. Representative: Jack H. Blanshan, Attorney at Law, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Paper, paper products and plastic bags* (except in bulk), from ports of entry located on the International Boundary between Canada and the United States located in ID, MT and WA to Bakersfield, Los Angeles, San Francisco, San Jose, and Stockton, CA, Portland, OR and Seattle and Vancouver, WA and points in the Commercial Zones of the respectively named cities, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bonar & Bemis, Ltd., 5615 44th Street S.E., Calgary, Alberta, Canada T2H2J1. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 147315 (Sub-1TA), filed November 13, 1979. Applicant: TRIWAYS, INC., 2455 E. 27th Street, Los Angeles, CA 90058. Representative: William Davidson, 2455 East 27th St., Los Angeles, CA 90058. *CONTRACT:* Irregular: *Cartoned kitchen cabinets and related hardware* from Longview, Washington on the one hand and on the other hand points in California, Nevada and Arizona, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Sears, Roebuck & Co., P.O. Box 3021, Terminal Annex, Los Angeles, CA 90051. Send protests to: Irene Carlos, T/A I.C.C., 300 N. Los Angeles St., Rm. 1321, Los Angeles, CA 90012.

MC 147585 (Sub-3TA), filed November 14, 1979. Applicant: DICK WELLER, INC., Shoham Road, Post Office Box 313, Warehouse Point, CT 06088. Representative: Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06117. *Common carrier:* irregular routes: *steel coils*, from Pittsburgh, Allentown and McKeesport, Pennsylvania and Canfield and Masay, Ohio, to the facilities of the Wiremold Company in Rocky Hill and West Hartford, Connecticut, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wiremold Company, Woodlawn Street, West Hartford, CT 06110. Send protests to: J. E. Perry, Jr., District Supervisor, Interstate Commerce Commission, 135 High Street, Hartford, CT 06103.

MC 148235 (Sub-1TA), filed November 9, 1979. Applicant: TAYLOR AND SONS TRUCKING, 101 48th Street, SE, Kentwood, MI 49508. Representative: Norman A. Cooper, 145 W. Wisconsin Avenue, Neenah, WI 54956. *Contract Carrier;* Irregular Routes: *New Bedroom furniture;* from the Facilities of Glen Traditional, Inc. at Glen Rock, PA to points in AL, AZ, CA, CO, FL, GA, IL, IN, KS, KY, LA, MD, MI, MO, NE, NJ, NM, NV, OH, OK, TN, TX, UT, VA, WI and WY; under continuing contracts with Glen Traditional, Inc., Glen Rock, PA 17327. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Glen Traditional, Inc., P.O. Box 30, Glen Rock, PA 17327. Send protests to: C. R. Flemming, D/S, I.C.C., Room 201 Federal Building, 300 E. Michigan Avenue, Lansing, MI 48933.

MC 148645 (Sub-1TA), filed November 6, 1979. Applicant: R & R TRUCKING COMPANY, Route 1, Box 101B, Summerton, SC 29148. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW, Washington, DC 20005. *Lumber, forest products, wood chips, and bark*, from Georgetown, SC to Johnson City, TN and points in SC, NC, VA and GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pat Brown Lumber Company, P.O. Box 1103, Lexington, NC 27292. Send protests to: E. E. Strotheid, D/S, ICC, 866 Strom Thurmond Fed. Bldg., 1835 Assembly St., Columbia, SC 29201.

MC 148675 (Sub-1TA), filed November 13, 1979. Applicant: ED KIMBALL & SONS, 27815 E. Main Drive, Waterford, WI 53185. Representative: Stephen H. Loeb, Suite 2027, 33 N. LaSalle St., Chicago, IL 60602. *Sauerkraut products,* from Union Grove, WI to Bridgeview and Woodstock, IL, Evansville and Hammond, IN, Phoenix, AZ and Los Angeles and San Francisco, CA and points in their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Meeter Bros. & Co., Union Grove, WI 53182. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 148705 (Sub-1TA), filed November 29, 1979. Applicant: TWIN CONTINENTAL TRANSPORT CORPORATION, 5738 Olson Highway, Minneapolis, MN 55422. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, from points in IA and Omaha, NE, Chicago, IL, and South St. Paul, Newport, and Buffalo Lake, MN, to Jacksonville, Tampa, Riviera Reach, and Miami, FL, (Restricted to export traffic only), for 180 days. Supporting shipper(s): Weinstein International Corp., Pres., 5738 Olson Hwy, Mpls., MN 55422. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Mpls, MN 55401.

MC 148715 (Sub-2TA), filed October 16, 1979. Applicant: DANIEL E. HAYNES, d.b.a. HAYNES TRUCKING CO., Route 2, Box 102, Section, AL 35771. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. *Contract, irregular: Store fixtures and materials, equipment, and supplies used in manufacture and distribution thereof* (except commodities in bulk in tank vehicles), between the facilities of Lozier Corp., at or near Scottsboro, AL, On the one hand, and, on the other, all points in and east of the states of TX, OK, KS, NE, SD, and ND, under continuing contract with Lozier Corp., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lozier Corp., 401 Taylor Street, Scottsboro, AL 35768. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 148724 (Sub-1TA), filed November 8, 1979. Applicant: BROWN EXPRESS, INC., 700 Briarwood Drive, Lake Charles, LA 70605. Representative: Charles J. Ballay, 513 Belle Chasse Hwy. North, Belle Chasse, LA 70037. *Floor covering commodities consisting of but not limited to vinyl floor covering, title flooring, carpets, hardwood floor materials* from Houston, TX to points located in the following parishes in LA: Acadia, Allen, Avoyelles, Beauregard, Evangeline, Iberia, Jefferson Davis, Lafayette, Rapides, St. Landry, St. Martin, St. Mary and Vermillion, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Reader's Wholesale Distributors, Inc., 1201 Naylor Street, Houston, TX 77002. Send protests to: Robert J. Kirspel, DS, ICC, T-9038, Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 148735 (Sub-1TA), filed November 14, 1979. Applicant: DONALD J. SWICEGOOD, Rt. 1, Box 292, Statesville, NC 28677. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. *Dry fertilizer and dry fertilizer materials in bag and in bulk (except in pneumatic tanks)* from Wilmington and Statesville, NC and Charleston and Chester, SC to points in NC, SC, VA, WV and that part of TN on and east of Interstate 75, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): W. R. Grace & Co., Agricultural Chemicals Group, P.O. Box 368, Wilmington, NC. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-1613 Filed 1-18-80; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29217]

Atchison, Topeka & Santa Fe Railway Co.—Control—Toledo, Peoria & Western Railroad Co.

Atchison, Topeka and Santa Fe Railway Company (Santa Fe), 80 East Jackson Boulevard, Chicago, IL 60604, represented by Milton E. Nelson, Jr. Assistant General Counsel, The Atchison, Topeka and Santa Fe Railway Company, 80 East Jackson Boulevard, Chicago, IL 60604, hereby give notice that on the 20th day of December, 1979, it filed with the Interstate Commerce Commission at Washington, DC, an application for authority under 49 U.S.C. 11343 for approval of acquisition of stock and control of the Toledo, Peoria and Western Railroad Company (TP&W).

Santa Fe seeks approval of its acquisition of the Pennsylvania Company's one-half interest, 45,000 shares of stock, in the TP&W, currently held in a voting trust with the Illinois National Bank of Springfield pending approval of this acquisition. Since Santa Fe already held 50 percent of the stock in TP&W prior to its agreement with Pennsylvania Company for acquisition of these shares, approval of this application would result in Santa Fe acquiring full control of the TP&W.

Santa Fe seeks approval of the ownership of all stock in the TP&W, and resulting complete control. The TP&W presently operates approximately 300 miles of trackage from Keokuk and Fort Madison, IA, on the west to Logansport, IN, on the east. TP&W is an important originating and terminating carrier in the Peoria and north central Illinois areas, as well as a bridge carrier interchanging traffic with numerous other midwestern and eastern railroads. Under Santa Fe control, TP&W would remain under its own management as a separate operating railroad continuing its own internally generated plans for operation and maintenance, working closely and cooperating with Santa Fe in a number of areas to implement efficiencies in TP&W operations and procedures.

In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act 1969*, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra*, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 29217 and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20424, on or before March 6, 1980. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, and Alexis. Chairman Gaskins did not participate.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-1628 Filed 1-18-80; 8:45 am]
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Sunshine Act Meetings

Federal Register
Vol. 45, No. 14
Monday, January 21, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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[M–265; Jan. 16, 1980]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10:30 a.m., January 21, 1980.

PLACE: Room 1011, 1825 Connectieut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: International fare increases proposed by Pan American, Braniff and TWA. (BIA)

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

SUPPLEMENTARY INFORMATION: The Board wishes to act as soon as possible so as to allow expedited effectiveness of fare increases deemed acceptable. Staff work on the matter will not be completed before January 17, 1980. Accordingly, the following Members have voted that agency business requires that the Board meet on this item on less than seven days' notice and that no earlier annoucement of this meeting was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Public disclosure, particularly to foreign governments of opinions, evaluations, and strategies discussed could seriously compromise the ability of the United States Government to achieve understanding in future rate negotiations which would be in the best interests of the United States. Accordingly, we believe that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate future action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9) and 14 CFR section 310b.5(9)(B) and that any meeting on this item should be closed:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member Gloria Schaffer.
Assistants to Board Members.—Mr. David Kirstein, Mr. James L. Deegan, Mr. Daniel M. Kasper, and Mr. Stephen H. Lachter.
Managing Director.—Mr. Cressworth Lander.
Executive Assistant to the Managing Director.—Mr. John R. Hancock.
Bureau of International Aviation.—Mr. Sanford Rederner, Mr. Douglas V. Leister, Mr. Ivars V. Mellups, Mr. Herbert P. Aswall, Mr. Vance Fort, Mr. James S. Horneman, Mr. John H. Kiser, Ms. Carolyn K. Coldren, Mr. Francis S. Murphy, and Mr. Joseph Di Bella, Jr.
Office of the General Counsel.—Mary McInnis Schuman, Mr. Peter B. Schwarzkopf, and Mr. Michael Schopf.
Bureau of Domestic Aviation.—Mr. Mark S. Kahan, Mr. Albert Halprin, Mr. Robert I. Stein, and Mr. Julien R. Schrenk.
Office of Economic Analysis.—Mr. Robert H. Frank and Mr. Robert Preece.
Bureau of Consumer Protection.—Mr. Reuben B. Robertson and Mr. John T. Golden.
Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9) and 14 CFR section 310b.5(9)(B) and that the meeting may be closed to public observation.

Mary McInnis Schuman,
General Counsel.

[S–112–80 Filed 1–17–80; 3:02 pm]
BILLING CODE 6320–01–M

2

COUNCIL ON ENVIRONMENTAL QUALITY.

TIME AND DATE: 11:30 a.m., Thursday, January 24, 1980.

PLACE: Conference Room, 722 Jackson Place, N.W., Washington, D.C. 20006.

STATUS: Open Meeting.

MATTERS TO BE CONSIDERED:

1. Old Business.
2. Briefing on status of agencies' NEPA procedures.
3. Briefing on status of the interagency task force study on Davis Power project.

CONTACT PERSON FOR MORE INFORMATION: John F. Shea III, (202) 395–4616.

January 15, 1980.

[S–109–80 Filed 1–16–80; 4:51 pm]
BILLING CODE 3125–01–M

3

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 2:00 p.m., January 17, 1980.

PLACE: 825 North Capitol Street, N.E., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: The commission will meet in public session to be briefed by the Staff on proposed amendments to filing requirements in 18 CFR 35.13 (Package A—Docket No. RM79–64). There will be no proposals submitted to the Commission for action at this meeting.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone (202) 357–8400.

January 16, 1980.

[S–108–80 Filed 1–16–80; 4:35 pm]
BILLING CODE 6450–01–M

4

[USITC SE–80–6]

INTERNATIONAL TRADE COMMISSION.

AGENCY:

TIME AND DATE: 10:00 a.m., Thursday, January 31, 1980.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary).
5. Awards ceremonies.
6. Rulemaking on steel wire rope (Docket No. 583).
7. Post-Employment Conflict of Interest Regulations.
8. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0616.

[S–113–80 Filed 1–17–80; 3:10 p.m.]
BILLING CODE 7020–02–M

5

METRIC BOARD.

TIME AND DATE: 2 p.m., February 14, 1980; 8:30 a.m., February 15, 1980.

PLACE: The meeting on February 14 and 15 will be held in the Kino Room of the Del Webb's Townehouse, 100 West Clarendon Avenue, Phoenix, Arizona 85013.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

February 14

Approval of agenda.
Review/Approval of Minutes—December, 1979 meeting.
State presentation of Issues. A panel of 3 State officials will bring the state views of metric coordinating activity and relationships directly to the Board.
United States Metric Board Administrative Regulations. This regulation describes the organization and functions of the agency.

February 15

Summary and analysis of Board Research Activity. A report by the Research Coordinating Committee that serves to inform the Board on the current activities in the Board's research program.
ICMP Policy and Relationship between the ICMP and the USMB. A discussion of policy matters that bear on the relationship between the Metric Board and the Interagency Committee for Metric Policy.
Resolution on SI usage. A request for approval of a resolution by the Standards Liaison Committee to encourage consistent usage of the SI system in the United States.
Reports. Each committee chairperson and senior staff will give a status report of activities within their jurisdiction.
Agenda items for future Board meetings.

SUPPLEMENTARY INFORMATION: Notice of a public forum to be held by the U.S. Metric Board on February 14, 1980 which will provide individuals and groups the opportunity to comment on metric conversion appears elsewhere in this issue.

CONTACT PERSON FOR MORE INFORMATION: Joan Phillips, 703–235–1933.

Louis Polk,
Chairman, United States Metric Board.

[S–102–80 filed 1–16–80; 3:01 pm]
BILLING CODE 6820–64–M

6

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 9:30 a.m., January 24, 1980.

PLACE: 1776 G Street NW., Washington, D.C., Seventh floor, board room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rates.
2. Central Liquidity Facility issues, including: special share accounts; definition of gross income; liquid assets for on-call subscription.
3. Applications for charters, amendments to charters, bylaw amendments, mergers, conversions and insurance as may be pending at that time.

RECESS: 10:15 a.m.

TIME AND DATE: 10:30 January 24, 1980.

PLACE: 1776 G Street NW., Washington, D.C., Seventh floor, board room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Requests from federally insured credit unions for special assistance under Section 208 of the Federal Credit Union Act in order to prevent their closing. Closed pursuant to exemption (8) and (9)(A)(ii).
2. Administrative Actions under Section 120 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (10).
3. Consideration of merger applications. Closed pursuant to exemptions (8), (9)(A)(ii), and (10).
4. State chartered credit union insurance applications. Closed pursuant to exemption (9)(A)(ii).
5. Monthly review of the 1980 Budget. Closed pursuant to exemption (9)(B).
6. Personnel Actions. Closed pursuant to exemptions (2) and (6).

CONTACT PERSON FOR MORE INFORMATION:
Rosemary Brady, Secretary of the Board, telephone (202) 357–1100.

[S–110–80 Filed 1–17–80; 11:41 am]
BILLING CODE 7535–01–M

7

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: January 22, 1980.

PLACE: Commissioners conference room, 1717 H Street N.W., Washington, DC.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

Tuesday, January 22

9:30 a.m.

1. Affirmation Session (approximately 10 minutes, public meeting) (items are tentative).
a. Export of Minor Quantities of Nuclear Material.
b. Boston Edison Petition.
c. Revision to Part 20.
d. Immediate Reporting of Significant Events at Operating Reactors.
e. Sheffield.
f. Fialka FOIA.
g. Appointment of Part-Time ASLBP Member.
h. Appointment of Part-Time ASLBP Member.
2. Discussion of Management-Organization & Internal Personnel Matters (approximately 2 hours, closed—Ex. 2 & 6).

1:30 p.m.

Discussion of Philippines Export License Applications (approximately 2 hours, public meeting).

ADDITIONAL INFORMATION: By vote of 4–0 (Commissioner Gilinsky not present) on January 15, the Commission determined pursuant to 5 U.S.C. 552b(e) (1) and § 9.107(a) of the Commission's rules that Commission business required that the affirmation of ALAB–559, held that day, be held on less than one week's notice to the public.

CONTACT PERSON FOR MORE INFORMATION:
Walter Magee (202) 634–1410.

Roger M. Tweed,
Office of the Secretary.

January 15, 1980.

[S–111–80 Filed 1–17–80; 2:09 pm]
BILLING CODE 7590–01–M

V 45 / 14 JA 21 80 UMI

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federal register

Monday
January 21, 1980

Part II

Environmental Protection Agency

Gaseous Emission Regulations for 1984 and Later Model Year Heavy-Duty Engines

V 4 5 / 1 4
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UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL 1377-2]

Control of Air Pollution From New Motor Vehicles and Motor Vehicle Engines; Gaseous Emission Regulations for 1984 and Later Model Year Heavy-Duty Engines

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule sets forth new regulations for the control of hydrocarbon (HC), carbon monoxide (CO), and oxides of nitrogen (NO_x) emissions from heavy-duty gasoline-fueled and diesel engines. Certification and testing procedures have been revised, and new more stringent emission standards for hydrocarbons and carbon monoxide are prescribed. These regulations are a response to the mandate of the Clean Air Act Amendments of 1977 that HC and CO be reduced by 90 percent from unregulated (1969) gasoline engine emission levels.

The continuing failure of a number of air quality control regions to meet the ambient air quality standards prompted Congress to legislate control of several sources of urban air pollution, among them heavy-duty engines. Contributing a significant percentage of total HC, CO, and NO_x emissions, heavy-duty engines provide an effective route to the control of urban emissions. We estimate that the implementation of these regulations will reduce the lifelong HC emissions from the average heavy-duty gasoline-fueled engine by one ton and CO emissions by 29 tons. Similarly, the average heavy-duty diesel engine will experience a reduction of 0.8 tons in HC. These gains translate into average urban mobile source HC and CO reductions of 17 percent and 30 percent, respectively, by the late 1990's. As a result, the average urban ambient air quality will improve some 2 percent in ozone and 7 percent in carbon monoxide.

EFFECTIVE DATE: January 1, 1984.

ADDRESSES: Material relevant to this final rule are contained in Public Docket No. OMSAPC-78-4 at the U.S. Environmental Protection Agency, Central Docket Section, Waterside Mall, Room 2903B (EPA Library), 401 M Street, S.W., Washington, D.C. 20460, (202) 755-0308. Single copies of both EPA's regulatory analysis containing environmental and economic analysis and the Summary and Analysis of Comments document can be obtained (free of charge) by request from the Director, Emission Control Technology Division, 2565 Plymouth Rd., Ann Arbor, MI 48105.

FOR FURTHER INFORMATION CONTACT: Mr. Chester J. France, Standards Development and Support Branch, Emission Control Technology Division, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, Telephone: (313) 668-4338.

SUPPLEMENTARY INFORMATION:

I. Background

In enacting the 1977 amendments to the Clean Air Act (CAA), Congress directed EPA to prescribe regulations for heavy-duty vehicles and engines. The Act states that, for model year 1983 and beyond, the regulations "shall contain standards which require a reduction of at least 90 percent" in hydrocarbon (HC) and carbon monoxide (CO) emissions, as measured against "baseline" emission levels from gasoline-fueled heavy-duty engines. The "baseline model year" was defined as "the model year immediately preceding the model year in which Federal standards" first applied to such a vehicle or engine; in the case of HC and CO emissions from heavy-duty engines, the baseline year is 1969.

EPA responded to this mandate by beginning in late 1977 to design and conduct a program of procurement and emission testing of 1969 engines. Simultaneously, we prepared a Notice of Proposed Rulemaking (NPRM) which appeared in the Federal Register on February 13, 1979 (44 FR 9464). The NPRM contained the proposed regulations in their entirety, with the exception that the precise numerical values representing the 90 percent reductions were not finalized. Only estimated emission values could be provided since the baseline testing was not yet complete.

The first of two related public hearings was held in Ann Arbor on May 14-15, 1979, at which time the final baseline numbers and final test report were available. The final numerical values representing the standards were very close to those estimated in the February 13, 1979 NPRM. The record remained open for comment until June 29, 1979. Because the baseline data had not been available for public comment, a second hearing was held July 16-17, 1979, again in Ann Arbor. Testimony and comments were primarily limited in this instance to the baseline testing program and its results and those portions of the February 13, 1979 proposal directly affected by the final standards. Development data and other information relating to alternative test cycles to the transient test cycle were also solicited. The second comment period ended August 17, 1979.

EPA received a large amount of input from interested parties during the two comment periods. The EPA staff has summarized and responded to the comments in a document called "Summary and Analysis of Comments", that is now available through the Central Docket Section, Public Docket No. OMSAPC-78-4 (See ADDRESSES, above). In addition, a presentation of those aspects of the NPRM which were changed in response to the comments appears later in this Preamble, under Public Participation.

II. Components of the Package and Major Issues

This rulemaking package is a composite of a number of interrelated components which combine to form a consolidated regulatory approach. In this "comprehensive strategy", EPA is simultaneously establishing many of the requirements that are likely to be necessary for effective control of emissions from heavy-duty engines and vehicles in the near term. Thus, the package is somewhat complex. Yet EPA believes that it is far more efficient and cost effective to put into place initially all the significant requirements affecting heavy-duty vehicles and engines rather than to introduce them in a piecemeal fashion over the next few years. By providing the manufacturers with the entire regulatory scheme well in advance of the model year in which these requirements will take effect, the manufacturers can develop a comprehensive compliance strategy without concern that the rules are going to keep changing—a criticism that has been expressed with regard to regulations governing light-duty vehicles.

A. Emission Standards

The new, more stringent HC and CO standards introduced here are accompanied by a NO_x standard which requires a level of control approximately equal to that required currently (1979). The introduction of the NO_x standard is linked to the changing of the heavy-duty test procedure, as described below under "Test Procedures." The new test procedure will be used not only for HC and CO measurements, but for NO_x as well. Therefore, even though no additional NO_x control is required by these regulations,[1] it was necessary to derive a NO_x standard based on the transient test that approximates equivalent stringency to that currently in place using the existing steady-state test.

The correlation between the current steady-state test procedure and the new transient procedure is very poor; direct conversion of the present "steady-state" NO_x standard to a "transient" standard is not possible. We were able, however, to observe the NO_x emissions from twelve 1979 heavy-duty gasoline engines and several diesels on the new test procedures. Their mean NO_x level was adjusted upward by two standard deviations as a way of assuring that very few, if any, engines will have difficulty meeting the standard with 1979 NO_x control technology.

The HC and CO standards were derived from a "baseline" test program. Twenty-three 1969 model year gasoline heavy-duty engines, chosen in numbers proportional to their sales fractions in the 1969 market, made up the sample; engines representing 81.5 percent of the sales were tested. Once these uncontrolled emissions had been measured on the transient test procedure, it was a straightforward matter to reduce the HC and CO numbers by 90 percent and arrive at the final standards.

The units of the standards are in the form of grams per brake horsepower-hour (g/BHP-hr). As in the case of the current heavy-duty regulations, emissions are regulated with respect to the amount of work the engine does. This practice has the effect of avoiding the penalizing of a larger, harder-working engine. The transient test emission standards prescribed by these regulations are as follows: HC:1.3 g/BHP-hr, CO:15.5 g/BHP-hr, NO_x:10.7 g/BHP-hr.

In conjunction with the transient standards is established an idle-test standard for gasoline engine CO emissions. A description of the idle test procedure and an explanation for its introduction may be found below in the section headed "Test Procedures". Here we will present the idle standard, which, like the transient standards, is derived from the 1969 baseline engine tests (idle emissions were measured on 19 of the 23 baseline engines). In terms of raw exhaust gas concentrations, the idle standard is 0.47 percent CO.

These regulations also require that diesel crankcase emissions be eliminated from naturally-aspirated heavy-duty diesel engines. Statutory authority for these requirements is found in § 202(a) of the amended CAA. On naturally-aspirated diesel engines, recent EPA analysis [2] shows that closing the crankcase is a cost-effective means of controlling three of the designated "criteria pollutants"—HC, NO_x, and particulates. Turbocharged heavy-duty diesel engines would require more expensive systems in order to protect the turbocharger from the oily and potentially harmful crankcase emissions; hence, the cost effectiveness for this type of engine is not attractive (compared to other available emission control strategies) at this time.

However, EPA anticipates that current research on the presence of nitrosamines in diesel crankcase emissions may require a reassessment of the necessity of controls on turbocharged engines. Nitrosamines are a very strong carcinogen in animals and strongly suspected to be carcinogenic in humans. Staff technical analysis [3] indicates that a control system employing a pump to bypass the turbocharger is feasible and would eliminate the loss of efficiency associated with direct ducting of emissions into the turbocharger inlet. Accordingly, EPA is postponing the finalization of crankcase control requirements for turbocharged heavy-duty diesel engines. The provisions, though, will remain in proposal status pending the completion of the nitrosamine research. Should EPA decide to pursue a final rulemaking on turbocharged engine controls, the record will be reopened and if requested, a public hearing will be held.

Finally, EPA is allowing the diesel engine manufacturers the option of delaying certification on the transient test until 1985. For the 1984 model year, certification can be accomplished either by carrying-over 1983 certification or, for new testing, by using the 13-mode steady-state procedures. If this option is exercised, the manufacturer will be required to demonstrate compliance with the applicable portions of the regulations and the following emission standards: HC:0.5 g/BHP-hr, CO:15.5 g/BHP-hr, NO_x:9.0 g/BHP-hr.

Formulation of these standards was based on the following considerations. Diesel carbon monoxide will be low no matter where the standard is set, so the transient test standard of 15.5 g/BHP-hr is sufficiently stringent. The NO_x fraction of the current steady-state HC-plus-NO_x standard is generally accepted to amount to about 9 g/BHP-hr, which will assure no significant loss of NO_x control. Clearly, it is with HC control that we have the most concern. There are two reasons for the choice of California's 1983 steady-state HC standard of 0.5 g/BHP-hr. First, the manufacturers are already moving toward this goal in their engine development. Second, although we are unable to establish an acceptable correlation between the transient and 13-mode tests, we chose the California standard to minimize the loss of benefits from this one model year's production.

As discussed in more detail under Section III, "Leadtime," the option of delaying utilization of the transient test for one model year is being made available to give the diesel manufacturers the time to investigate the feasibility of modifying their present eddy-current dynamometers for transient control. (The gasoline engine manufacturers are already equipped with electric engine dynamometers, which are readily converted to transient control.) If a diesel manufacturer decides to attempt to convert its eddy-current dynamometers under the option above, it will have sufficient leadtime to establish transient control capability. This is true even if the manufacturer finds that eddy-current dynamometers are not convertible and that electric dynamometers have to be procured.

There is a real possibility that the diesel option discussed above will result in some loss in air quality benefit. This is because the replacement of the 13-mode test by the transient diesel test will be postponed. Offering this option is appropriate because the optional use of the 13-mode is limited to one year (1984); the loss of control, if any, will probably be restricted to HC emissions and providing this option may result in considerable savings to diesel manufacturers if they can convert eddy-current dynamometers to transient control.

B. Test Procedures

Perhaps the most prominent feature of this rulemaking is the new transient test procedure. The culmination of five years' development by EPA (and, in part, by the heavy-duty manufacturing industry), the transient test exercises the engine through a continually changing series of speed/torque conditions as emissions are sampled. The new testing and sampling requirements differ so greatly from those currently in place that the development of an entirely new set of regulations has been necessary. Another change in the nature of the test

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[1] NO_x regulations for the 1985 model year will be proposed soon, including a standard representing a 75 percent reduction from 1973 baseline levels.

[2] See Public Participation Section, "Diesel Crankcase Emissions Controls."

[3] See "Summary and Analysis of Comments" document, Diesel Crankcase Emissions Control Issue.

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procedure is the addition of an idle test to measure CO emissions separately during idle operation.

While the transient test procedure as outlined below is a completely new procedure, requiring for the most part new test equipment, for diesels it does not represent the final test procedure expected to be used in 1985 model year testing. EPA plans to soon propose and promulgate regulations governing particulate emissions from heavy-duty diesel engines. In fact, the development of these particulate regulations has been delayed until a transient test protocdure became available.

These particulate regulations will require some new equipment in addition to that required by the test procedures being promulgated today. A detailed explanation of the test procedure under consideration for particulate emissions can be found in the EPA Technical Report SDSB–79–18, "Draft Recommended Practice for Measurement of Gaseous and Particulate Emissions from Heavy-Duty Diesel Engines Under Transient Conditions." To ensure that no one would purchase equipment that could not be used after promulgation of the particulate regulation, EPA has modified the test procedure being promulgated today to be completely compatible with particulate testing. With this advance notification, all interested parties can begin to purchase transient testing equipment and use all of this equipment when particulate testing is required in the future. The promulgation of particulate regulations will only require the addition of some new equipment and no replacement of newly-purchased equipment.

The heavy-duty test procedure serves as the standard way of measuring emissions for a variety of purposes. Beyond the initial certification of prototype engines, the test procedure is used at each test point during the service accumulation program. Also, when a selective enforcement audit is conducted at a manufacturing facility, the same test will be performed on the sample engines. Production compliance audits to determine the margin by which an engine family has failed to comply with the standards is yet another application of the test procedure. Any in-use enforcement testing or emission factors testing which the Agency might direct at heavy-duty engines would make use of the standard test procedure as well. And finally, the idle-test portion of the test procedure is likely to be adopted for heavy-duty inspection and maintenance programs, and could be used to trigger the 207(b) emission performance warranty at such time as performance warranty regulations are promulgated (Warranty Regulations were proposed on April 20, 1979 (44 FR 23784)).

EPA is convinced that the new transient test procedure will greatly improve the quality of emissions measurements for heavy-duty engines. It would be desirable to test heavy-duty engines in their chassis using a chassis dynamometer test similar to that currently used for light-duty vehicles. However, due to the size and variety of heavy-duty vehicles, such a test procedure could be quite complex and expensive. Hence, EPA has pursued the engine-only test procedures.

The engine alone will be exercised, and in a manner which as nearly as possible matches on-the-road exercise. Currently, modal engine tests are used which subject the engine to a sequence of steady-state (i.e., unchanging) speed and torque combinations which have little relationship to actual patterns of use. The inaccuracies of a steady-state test become even more serious as stricter standards are applied to heavy-duty engines. It has been shown that emission results from catalyst-equipped gasoline engines, for example, are appreciably different when measured on the two procedures, with the steady-state test giving the impression of more efficient emission control. In fact, EPA has demonstrated in its own testing that it is possible to design a catalyst system that appears to reduce engine emissions to negligible levels on the steady-state test and at the same time provide little or no emission reductions on the transient test. Since the modal tests sample only selected operating modes, they are easier to defeat than the transient test; the motivation to design toward clean test results rather than clean real-world operation increases as the standards become stiffer. EPA sees the transient test as a logical remedy to each of these concerns because of its close approximation of in-use emission performance.

Separate transient test procedures exist for gasoline-fueled engines and for diesel engines. Since the required reductions in HC and CO are so large for gaoline engines, we believe the transient test will clearly be necessary to assure that the 90 percent reductions will actually be achieved by the engines on the road. For diesels, the need for a transient test is based primarily on HC control; their CO levels are already near the 90 percent-reduction standards. Nevertheless, the lifetime reduction in HC emissions from the average heavy-duty diesel that will result from using the transient test will be nearly as great as that from the average gasoline engine and therefore use of the transient test for diesel engines is certainly appropriate (see Effect on the Environment). Additionally, transient testing will be required to control heavy-duty diesel particulate emissions. These regulations are currently being prepared by EPA in response to Congressional mandate and are expected to be proposed in mid-1980 applicable for model year 1985. Similarly, regulations are planned which would require NO_x reductions in heavy-duty engines beginning in 1985. The mandated 75 percent reduction will be difficult for the manufacturers of diesels, and the incentive to design around the test procedure will be great. Transient testing will be needed to assure that the reductions mandated by Congress are actually achieved. Early conversion to transient systems will facilitate the manufacturers' development work toward the NO_x regulations.

Unlike the gasoline engine manufacturers, which already have much of the equipment necessary for transient testing, diesel manufacturers may have to completely replace their present equipment. Primarily for this reason EPA is providing the option for the diesel manufacturers to delay certification on the transient procedure until the 1985 model year. If manufacturers do use this option, some 1984 engines may have higher emissions since the steady-state test is easier to pass. But more time would be available to get the transient systems operating and/or to evaluate whether the present "absorption" eddy-current dynamometers can be used for accurate transient control. For the 1985 model year, however, diesels will have to meet the HC, CO, and new NO_x standards on a transient test.

Transient engine tests are performed in the laboratory using a dynamometer, a computer-based controller, and an emissions sampling apparatus. The dynamometer is simply an electric motor which is linked to the drive shaft of the engine (with the transmission removed) to either absorb the engine's energy and apply a load or to drive the engine. ("Absorption" eddy-current dynamometers, which do not have the capability for driving the engine, cannot simulate engine braking, or "motoring." However, one manufacturer has suggested a way of modifying these dynamometers so that they might be used for transient testing. (See Public Participation, Test Procedures.)) By properly controlling the dynamometer, the engine can be subjected to

conditions which simulate the operation of an engine in a vehicle on the road. Thus, engine speed and torque behavior which was actually measured on in-use trucks has been translated into the sequence of computer commands which in turn controls the engine.

It is the transient-control computer that "drives" the dynamometer through the cycle in a repeatable manner. By sensing and recording the behavior of the engine, the computer allows the operator to determine the actual work done during the run (in brake horsepower-hours (BHP-hrs)) and how closely the engine followed the cycle.

The exhaust flow of an engine is ducted through a machine called a constant-volume sampler (CVS), from which a small proportional sample is withdrawn. This method of sampling is dictated by the varying exhaust flow which accompanies transient operation. (Under the current steady-state procedures, the total mass of the emissions can be determined from direct exhaust gas analysis). To compute mass emissions during transient testing, the total volume of sample, diluted in the CVS, must be measured. In diesel testing, the analysis of the sample to determine the pollutant concentrations may be performed in the following ways. To avoid the condensation of the heavy hydrocarbons, HC is measured by conducting a separate sample in a heated line to the analyzer where it is measured continuously. For NO_x emissions, two sampling options exist. The method proposed in the NPRM is the collection of the sample in a plastic bag for analysis. If this option is chosen, CO and CO_2 are sampled in the same manner. However, it appears that continuous dilute analysis of a heated sample may result in more accurate NO_x measurement as well. As EPA investigates this method (with an eye to possibly requiring it in the 1985 NO_x regulations), we are offering the option of pursuing such a continuous dilute NO_x measurement approach. In this case, CO and CO_2 may be sampled using either method. In gasoline testing, on the other hand, continuous sampling yields little additional accuracy; the regulations specify bag analysis of all pollutants.

Hydrocarbon emissions are measured using a flame ionization detector (FID); CO and CO_2 using a non-dispersive infrared analyzer; and NO_x using a chemiluminescence analyzer. The resulting pollutant concentrations found in the sample are applied to the total diluted flow to yield, after conversion, the mass emissions during the test.

The gasoline and diesel test cycles (Appendix I) are composed of second-by-second sequences of engine speed/torque pairs, with values given in normalized (percent of maximum) form. These cycles were computer-generated from a large data base of urban heavy-duty engine operation. Using as a sample 88 trucks and buses in Los Angeles and New York, EPA gathered actual in-use operational data. The information was separated by fuel type, city, and road type and reduced by computer to 5-minute schedules. EPA linked the short cycles together, arriving at the two published test cycles.

The normalized torque values in the test cycles appear in terms of a percentage of the engine's maximum torque at the current speed. The first step in conducting a test is to determine the maximum torque at each speed, a process called "mapping"; actual speed and torque numbers can then be substituted for the normalized values. Once the engine has been mapped, the computer is ready to run the engine. However, the test is conducted in two halves, a cold-start portion and a hot-start portion. The engine oil must have returned to ambient temperatures for the cold-start portion to begin. This means that the engine must be cooled, either through resting (soaking) for several hours or through a "forced cool-down" process allowed by the regulations to accelerate engine cooling.

Gasoline engine and diesel test runs are conducted in the same way. The standard-equipment starter is used to start the "cold" engine, which is then allowed to idle freely for approximately 15 seconds until the actual cycle begins. Approximately twenty minutes of transient operation follows. Separating this cold-start segment from its identical hot-start counterpart is a twenty-minute soak period.

Emissions during the transient test are directly analyzed (diesels) or bagged and analyzed (gasoline engines) separately for the cold-start and the hot-start segments. It is possible then to weigh the emissions according to the number of cold-starts vs. hot-starts that are found to occur in the field (a cold-start to hot-start ratio of 1:7 is used for both gasoline and diesel tests). Accordingly, the mass of a pollutant emitted over each of the two cycle segments and the work done by the engine during the two segments are calculated; the hot/cold weighting is applied to the resulting grams and the BHP-hrs; and a final calculation yields a weighted g/BHP-hr emission result for that pollutant.

If an idle test is to be performed, it occurs after the cold-start/hot soak/hot-start transient test sequence. The detailed procedure for conducting an idle test may be found in Subpart P of the regulations; a brief description appears here.

The idle test procedure is much less complex than the transient procedure and requires considerably less specialized sampling and analytical equipment. The test is conducted at normal operating temperatures and emission measurements can be made directly without dilution. These distinct aspects of the design of idle test will allow its straightforward application to in-use testing programs. Section 207(b) of the Act requires the development of a short test that is correlatable with the certification test to precede the promulgation of heavy-duty emission warranty regulations. Since a short idle test is now incorporated into the standard emission test sequence, an application of the idle test in the field correlates by definition. This facilitating of the promulgation of prescribed warranty regulations and associated air quality benefits provide a primary justification for the introduction of the idle test. Basing I/M tests on an established certification test will allow tighter "cutpoints" and hence will increase the number of deficient and failed catalysts which are caught. And if heavy-duty inspection and maintenance programs become widespread, one would expect some degree of air-quality benefit to accrue from the correcting of inservice emissions failures.

Additionally, though we have not quantified a decrease in CO emissions as a direct result of the idle test, the very small cost will make even a minimal CO reduction cost effective. And such a reduction in idle CO emissions would be most apparent in such places as crosswalks and loading docks where there is fairly direct exposure to people. Finally, idle operation was shown to be the single most common mode of urban heavy-duty operation; the separate idle test and standard will discourage a trading off of idle emissions control.

The transient test procedures are organized in Subpart N of the regulations so as to follow the structure of the light-duty regulations. The reader will find many sections to be in common.

C. Redefinition of "Useful Life"

These new heavy-duty engine regulations incorporate a revised definition for the "useful life" of an engine. Currently defined as 10 years, 100,000 miles or 3,000 hours of operation (whichever occurs first) for diesel engines and 5 years, 50,000 miles, or 1,500 hours of operation for gasoline engines, the useful life approximates

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only half or less of the expected lifetime of the respective engine types. The new concept of useful life, in contrast, focuses on the actual total lifetime. Congress has provided EPA with wide latitude to define useful life when the Administrator determines that a duration of mileage greater than the useful life Congress prescribed for light-duty vehicles is appropriate. It is certainly appropriate in the case of heavy-duty engines and vehicles to extend the useful life beyond the 5-year or 50,000-mile limit applicable to light-duty vehicles to the extent provided by this rulemaking.

The revised useful life definition will create a strong incentive to manufacturers to produce emission controls as durable as the engines themselves. Heavy-duty engines, particularly diesel engines, tend to last longer than light-duty vehicles. The useful life definition will result in significant air quality benefits as is discussed below. Also, the 50,000-mile five-year useful life definition established by Congress for light-duty vehicles was adopted at a time when mobile source emission control technology and mobile source emission regulation were both in their infancy. Congress did not know in 1970 what control systems or engine designs manufacturers would employ to meet the standards; the technology simply had not been developed and Congress was seeking to "force" its development by setting very stringent standards. Relatively little was known regarding the impact of emission control warranties on the manufacturers. Consequently, Congress followed a very cautious approach by limiting warranty liability of light-duty manufacturers through the adoption of the 50,000-mile/five-year definition of useful life.

Today we know a great deal more about emission control technology and about the attendant implications of emission control warranties. In considering the technological feasibility of the emission standards for heavy-duty engines, the revised definition of useful life was factored in. The precise emission control technology that will (or can be) utilized to meet these standards is known and will be available. The warranty implications of the standards have been considered (see discussion in Part I of the Summary of Comments Section) and should not prove problematic to the manufacturers.

These regulations alter the manner in which the useful life is determined for heavy-duty engines. Instead of simply using a standard EPA-defined value, manufacturers will *themselves* establish for each engine family two indicators of engine life. The first of these is the average period of use up to engine retirement or rebuild. The average period of use cannot be shorter than the engine's basic mechanical warranty or 50,000-miles, whichever is greater. The manufacturers are to base their useful life values on survey information of in-service engines or durability testing of prototype engines.

Secondly, in addition to establishing an average period of use, these regulations will also require that the manufacturers submit information to define the circumstances under which an engine can be considered to need rebuilding. That is, a manufacturer will determine for each engine family what numerical results from a compression test and a measure of oil consumption and of bearing failure indicate that the engine has reached the end of its specific useful life (the manufacturer may add additional criteria). Thus, for each individual engine, an objective, measurable limit will exist to its use in durability testing or, in the field, to its coverage under the emission warranties. Finally, these rebuild criteria—as well as the average period of use—will be mentioned to the owner on an engine label and further explained in the owner's manual.

The end of the useful life of a given heavy-duty engine, then, is defined by one of two limits, whichever is reached first. Either the engine exceeds the average amount of service seen by its engine family or it deteriorates to the point of needing to be rebuilt. In no instance, however, may this actual useful life be less than the current legal minimum useful life of 50,000 miles for heavy-duty engines specified in Section 202(d) of the Clean Air Act.

The ramifications of these changes in the useful life definitions are broad. When EPA finalizes in-use durability testing, the useful life concept will delineate the durability testing program during certification. Thus, each durability engine will be run until it reaches the end of its actual useful life. Similarly, the useful life provides an endpoint to the manufacturer's warranty on emission control systems.

D. Revisions to Certification Procedures

In addition to the new concept of a full-life useful life, EPA is in these regulations making other changes in the design of the certification process. Significantly different approaches both to durability testing and to the engine maintenance which may be performed during that testing emphasize EPA's desire to encourage longevity in the design of emission control systems. The same underlying goal, to keep emission controls functioning properly on the road, has also led to "parameter adjustment" provisions which should encourage the design of more tamper-proof controls. How these three components will fit into the certification process is discussed next.

1. Revised Durability Testing requirements. EPA is postponing the finalizing of the new durability testing requirements, which like the revised useful life definition, will shift more of the responsiblity for EPA's emission control program to the manufacturer. Since the NPRM indicated that we would waive in-use durability requirements for the 1983 and 1984 model years anyway, delaying its finalization simply deletes the waived provisions. We plan to further analyze the design of the durability program and finalize regulations on a time line consistent with the finalization of the statutory NO_x standards. Therefore, until the new provisions are finalized, manufacturers will design their own testing procedures for determining emission deterioration factors. The manufacturers are required to comply with the allowable maintenance provisions, as applicable. A description of these procedures must be submitted to EPA, but we will not approve or disapprove them.

On the other hand, the multiplicative deterioration-factor provisions *are* being finalized. They have no relationship to the in-use durability requirements and need not be postponed.

2. Allowable Maintenance Regulations The new durability requirements when they are promulgated will improve the quality of durability testing in order to better assess the deterioration of emission controls; the allowable maintenance provisions will put restrictions on the maintenance which may be done during that testing (as well as the testing used to measure emissions deterioration under these 1984 regulations) to encourage the design of long-lived emission control components. Thus, both of these sets of provisions have the central purpose of making the durability of emission systems a major design goal.

Emission-related maintenance (as defined in Subpart A, Section 86.084–2) on engines, subsystems, or components used to determine the deterioration of emission controls will be limited to that which is technologically necessary. EPA has established minimum technologically necessary intervals for a number of emission-related components. This maintenance is also that which will be recommended to the owner in the operator's manual. The manufacturer may recommend more frequent maintenance, as long as the instructions for such additional maintenance are clearly differentiated (in a format approved by the Administrator) from the emission-related maintenance approved under Section 86.084–25(c). Performance of this additional maintenance may not be made a prerequisite to emission warranty coverage. It may be appropriate for a manufacturer to require additional maintenance as a precondition to warranty coverage if such maintenance is necessary to offset the effect of severe and abnormal operating conditions. These issues are a proper subject to be considered in the course of developing performance warranty regulations under Section 207(b) of the Act.

The basis for defining the "technologically necessary" maintenance intervals for most of the components addressed was the longest interval that any manufacturer recommended for that item. With proper emphasis placed on durable, low-maintenance designs, it is reasoned, manufacturers will opt for the best available technology (from a maintenance perspective) for their emission related components. Thus, the minimum level of maintenance currently required for an item should be a lower limit for the 1984 maintenance interval.

The case of the catalyst replacement interval is unique in that experience does not exist with properly-sized, properly-loaded, heavy-duty catalysts. EPA has had to rely on light-duty experience, a knowledge of the physical phenomena associated with loss of catalyst efficiency, and limited testing to arrive at a best judgment regarding the durability of 1984 model year heavy-duty converters. The EPA analysis (see Summary and Analysis of Comments, Allowable Maintenance issue) concludes that such catalysts can be expected to be functional for about 114,000 miles (the estimated life expectancy for gasoline heavy-duty engines). Information shows that if they are protected against high temperatures, current-technology catalysts do not fail catastrophically and that they actually degrade less rapidly with time. Proper sizing, loading, and placement of the catalyst, as well as special motoring-mode protection, remove the threat of physical failure in heavy-duty applications. However, the provisions allow the manufacturer to recommend a catalyst replacement at 100,000 miles.

EPA has decided to postpone the provisions of the second criterion regarding a prospective maintenance interval—that there is a "reasonable likelihood" that the owners will actually perform the maintenance at that interval. The requirement for meeting this second criterion is being removed from these regulations, but it will probably be reproposed with the forthcoming NO_x regulations.

We believe the manufacturer will be able to show that proper maintenance is being done in the field with respect to such maintenance as spark plug and ignition wire replacement. Therefore, it is not so necessary that in-use performance be demonstrated. However, when NO_x control regulations are promulgated, oxygen sensors may be employed to control closed-loop catalyst systems. Oxygen sensor maintenance is an item for which EPA is likely to need assurance that owners are properly performing it. Consequently, such requirements may be reproposed in the future.

The regulations distinguish between emission-related maintenance and non-emission related maintenance. This distinction is solely for the purposes of engine certification. The Agency recognizes that an owner's failure to perform "nonemission related maintenance" could result in an in-use vehicle's failure to comply with emission standards and could in some instances relieve a vehicle manufacturer from emission warranty liability. For this reason, some of these maintenance items could be subject to regulation in future maintenance instruction regulations.

3. Parameter Adjustment Regulations. The final major change in the current certification process is directed at the emission testing itself. EPA will be allowed during a test to adjust (or require the manufacturer to adjust) certain emission-related parameters to any setting within the physically adjustable range. To make sure that the tests can be passed, the manufacturers are expected to restrict the adjustability of the parameters.

The incidence of in-use maladjustment of heavy-duty engines should decrease as a result of these regulations. Maladjustment is a serious problem in the light-duty vehicle fleet; heavy-duty inspection/maintenance data from Oregon and New Jersey indicate that the heavy-duty population is afflicted by maladjustment as well. These parameter adjustment regulations are patterned very closely after those recently promulgated for light-duty vehicles and are authorized under Sections 202, 206, and 301 of the amended Clean Air Act.

For diesel engines, parameter adjustment provisions are being established, but as yet no specific parameters fall under the requirements. Thus, diesels are effectively exempt for, the time being. The Administrator may at any time require that a specific parameter be adjusted during testing provided that he/she makes the following determinations: (1) the parameter is being maladjusted in the field, (2) such maladjustment has a significant effect on emissions, and (3) due consideration has been given to leadtime. These provisions are identical to those currently in place for light-duty diesel-powered vehicles.

On the other hand, four parameters are subject to adjustment during the testing of gasoline engines: idle fuel-air mixture, idle speed, idle spark timing, and choke valve action. In the same manner as with diesels, the Administrator may determine that additional emission-related parameters should be added to this list.

Since these provisions affect engine emission tests, their applicability reaches into all aspects of EPA's emission control program that require standard heavy-duty testing. Thus, parameters may be adjusted during the testing of emission-data and durability-data engines and during Selective Enforcement auditing (indeed, separate parameter adjustment regulations exist within the auditing rules).

E. Selective Enforcement Auditing

Background: Selective Enforcement Auditing (SEA) is an emission testing program authorized by Section 206(b) of the Clean Air Act for new production engines as they leave the assembly line. Similarly, Section 206(g) requires testing as necessary, according to promulgated regulations, to determine the extent that vehicles are not in compliance with the requirements of the Act for the purpose of assessing non-conformance penalties (see Paragraph G, Public Participation Section "Production Compliance Auditing and Nonconformance Penalties").

EPA has determined that the Clean Air Act requires that eventually, every car coming off the assembly line should meet the emission standards established under Section 202. The SEA program is used to determine compliance with emission standards, after adjustment for deterioration, as production engines leave the assembly line. The program employs a 10 percent Acceptable Quality Level (AQL), which imposes a significant risk of loss (5 percent or greater) of certification if 10 percent of an engine configuration is out of compliance. The 10 percent AQL allows for emissions measurement error and quality control aberrations which cannot be totally eliminated at the

assembly line. Therefore, a 10 percent AQL in effect requires every heavy-duty production engine to meet applicable emission standards.

An "every source" approach was also adopted by EPA in its SEA programs to determine compliance of portable air compressors and medium and heavy trucks with applicable noise emission standards under the Noise Act, which also contemplates that every source meets the standards. See 41 FR 2162 (January 14, 1976) and 41 FR 15538 (April 13, 1976). A 10 percent AQL SEA program was promulgated in both cases. In addressing comments on the AQL in the compressor regulation, EPA stated:

> * * * the basic requirements still remain that a manufacturer is prohibited from distributing into commerce any products which do not conform with the standard. The basic intent is that all products being distributed in commerce must conform to the standard. Any product that is tested and which is known not to conform to the standards may not be distributed into commerce until the nonconformity is remedied. Furthermore, every compressor is warranted to conform to the standard at the time of sale * * * (41 FR 2167).

In promulgating a 10 percent AQL for truck noise emissions, EPA stated:

> An AQL of 10 percent was chosen to take into account some test variability and random production errors. (41 FR 15539).

A 10 percent AQL also was proposed for the SEA program for light-duty vehicles (39 FR 45360 (1974)). However, the manufacturers claimed that the 10 percent AQL would be economically disastrous. As stated in the preamble to those final regulations (41 FR 31474, July 28, 1976), the manufacturers

> claimed that, if implemented, it [10 percent AQL] would result in loss of certification for a majority of their engine families, with consequent repercussions on employment and profitability, and that, even if it could be met, could only be done by adding more emission control equipment, thus decreasing fuel economy and increasing sulfate emissions and price.

EPA recognized that in order to bring noncomplying engine families into compliance, manufacturers would have to make significant improvements in quality control and in some cases lower the engineering design targets for these families. The agency acknowledged that:

> these kinds of changes could not be made on short notice and would require some reasonable period of time to institute. (41 FR 31473)

A 40 percent AQL was adopted for the light-duty vehicle SEA regulations to implement SEA in a manner not unreasonably burdensome to the auto companies. EPA explained that:

> The approach taken here, then, of not setting the AQL at 10 percent will provide manufacturers the time and flexibility to bring all their vehicles into conformance with the standards on a reasonable schedule. Such a schedule can be compatible with their parallel efforts to improve fuel economy and which does not expose them unduly to the risk of loss of certification while they are learning to bring their production vehicles into compliance with the law. (41 FR 31475)

In contrast to the SEA for new light-duty vehicles, which would have required significant quality control upgrading on short notice if the 10 percent AQL was adopted, the SEA for heavy-duty engines is not scheduled for implementation until the 1984 model year. Engine manufacturers will have sufficient lead time to acquire the necessary test equipment, develop and apply the necessary emission control technology, and certify their engines. Heavy-duty gasoline engine manufacturers will be able to utilize catalyst control technology currently used on light duty vehicles and trucks, and diesel engine manufacturers should not have significant developmental needs as their engines are already close to compliance. It is EPA's judgment, as expressed in its technological feasibility and cost analyses, that both heavy-duty gasoline and diesel engines, using the new testing procedures, can comply with the emission levels associated with a 10 percent AQL. Thus, the severe effects anticipated by light-duty vehicle manufacturers due to immediate imposition of a 10 percent AQL (adverse employment and profitability repercussions and the loss of certification) are not likely to be manifested in the heavy-duty engine industry as a result of this rulemaking.

In addition, no data or analyses were submitted which demonstrated that going from a 40 percent AQL to a 10 percent AQL would adversely impact fuel economy, increase non-regulated pollutants such as sulfates or require additional emission control equipment. Further, an EPA cost-effectiveness study which analyzed the difference between a 40 and 10 percent AQL concluded that the 10 percent AQL has a favorable cost-effectiveness ratio.

Finally, EPA has determined that a nonconformance penalty (NCP) should be made available to heavy duty engine manufacturers who are unable to obtain a certificate of conformity or whose engines fail to comply with the emission requirements during an SEA. The noncompliance penalty provisions are discussed further in Paragraph F of the Public Participation section (Production Compliance Auditing and Nonconformance Penalties). A manufacturer who elects to pay such a penalty upon failure of an SEA may continue to produce noncomplying engines in lieu of bringing the engines into compliance.

SEA Audit Procedures: The process of conducting an SEA audit begins with a test order issued by EPA to a manufacturer. The test order is issued either for purposes of general surveillance or in response to evidence indicating noncompliance. If a manufacturer conducts its own assembly-line testing program, the data will help EPA determine compliance with the standards. The manufacturer is required to report these test results to EPA as authorized in Section 208(a) of the Clean Air Act.

Each manufacturer will be assigned a limit on the number of test orders which EPA may issue during a model year, based on its projected annual sales. Every test order will count against a manufacturer's annual limit, with two qualifications. Test orders that indicate a manufacturer's engine configuration has not passed and SEA will not count against the limit. Also, in cases where the annual limit has been met, additional test orders may be issued in response to evidence indicating noncompliance.

The test order will instruct the manufacturer to test the specified engines or to make them available for Agency testing. EPA Enforcement Officers are authorized to enter the production and test facilities, upon manufacturer consent, to monitor SEA-related activities; a court order or warrant may be issued if entry is denied.

Test orders will specify the manner and location of the selection of engines. The "sequential" design of the sampling plans provides sufficient flexibility in sample selection so as not to unduly impact a manufacturer's normal production activities.

The manufacturer may "break-in" engines before testing, up to a maximum of 125 hours. After break-in, transient and idle tests (and, in the case of diesel engines, smoke tests) are performed to determine engine emissions. The emission test procedures are identical to the test procedures used in certification. After the emission levels are adjusted to account for deterioration, they are compared to the standards and a determination of "pass" or "fail" is made for each engine for each pollutant. The manufacturer is expected to complete at least two tests per day. "Low volume" manufacturers (predicted sales of less than 30,000 per year) are required to complete one test per day. This requirement provides the obvious benefits for both EPA and the manufacturer of expediting the completion of the audit.

An audit decision is reached using the "sample inspection criteria" tables found in the regulations. Engines are sequentially tested until the number of passed engines corresponds to a "pass" number on the table or the number of failed engines corresponds to a "fail" number. Classifying engines as either passing or failing rather than examining their numerical emission levels reflects an "attributes" rather than a "variables" decision-making approach. (The "variables" approach was not practical because of the uncertainty in defining the distribution of emissions among heavy-duty production engines.)

Failure of a SEA audit may result in suspension or revocation of the certificate of conformity for that configuration. To have the certificate reinstated subsequent to a suspension, or reissued subsequent to a revocation, the manufacturer must demonstrate, by passing a follow-up SEA audit, that improvements, modifications, or replacement have brought the original engine configuration, the modified engine configuration, or its replacement into compliance. The regulations include hearing provisions which allow the manufacturer to challenge EPA's suspension or revocation decision based on application of the sampling plans or the manner in which the tests were conducted.

F. Production Compliance Auditing and Nonconformance Penalties

EPA believes that both diesel and gasoline heavy-duty engine manufacturers will be able to meet the requirements prescribed in these regulations by 1984. In the NPRM, we had proposed setting the "upper limit" for noncompliance equal to the standard, which would have made nonconformance penalties unavailable. However, to provide for isolated instances when compliance may not be achieved, EPA plans to propose a program to allow certification of engines which exceed the standards, but which do not exceed a designated "upper limit," if a "nonconformance penalty" (NCP) is paid by the manufacturer. The size of the penalty will depend, in part, on the extent by which the emissions exceed the standards, as determined by Production Compliance Auditing (PCA).

As part of the separate rulemaking providing for the nonconformance penalties, EPA will propose the "upper limit" on certification and the marginal cost component of the general penalty formula. EPA plans to propose PCA/NCP similar to the form in which it was originally proposed as part of Subpart K (see 44 FR 9469, 9470, 9490, and 9492, §§ 86.1011–83 and 86.1013–83). The rulemaking will allow for public comment on the proposed upper limit and marginal cost numbers; as well as all other aspects of the PCA/NCP methodology. EPA anticipates publication of its NPRM for the NCP by early 1980.

The Agency has determined that proposal and promulgation of nonconformance penalties does not affect leadtime requirements for compliance with statutory emission standards. With the promulgation of standards in this rulemaking, the manufacturers are expected to begin making good faith efforts towards complying with all aspects of the final regulation. The future availability of nonconformance penalties should not be viewed as a mechanism allowing a manufacturer to design to higher emission levels. EPA intends to structure the penalty, as required by law, to remove any competitive disadvantage to complying manufacturers.

III. Leadtime

EPA has determined that both the gasoline and diesel engine manufacturers will be able to comply with these regulations by the 1984 model year. Our analysis, based substantially on information submitted by the manufacturers, shows that certification should be complete several months in advance of the beginning of the production of 1984 engines.

Looking first at the gasoline engine manufacturers, EPA estimates that the entire pre-certification process can be completed by all 4 manufacturers before the end of 1982. The conversion of dynamometers to transient-control is the limiting factor in the projected timetable. If the first one or two test cells that become operational are utilized for preliminary technology assessment, development research can begin before the end of 1980 and expand as the further cells are completed. Eighteen months of development work and 7 months of certification will cause the manufacturers to overshoot the beginning of 1983 production. While it appears feasible to compress the schedule with an all-out effort to meet the 1983 model year, EPA has concluded that there is too high a risk associated with such a program and has decided to promulgate for 1984. This risk is associated with the uncertainty that all pre-certification work would be completed in time for 1983 certification. Thus, when the effective model year is rolled back to 1984, the EPA projection provide some 10 months of "cushion" for 1984 certification; we expect this timetable to cover unforeseen delays. Though this schedule is more compressed than those submitted by some of the manufacturers, each of the companies will be able to certify their engines for 1984 in a properly-managed program.

The design of a pre-certification timetable for diesel manufacturers clearly differs from that of the gasoline engine makers, primarily because of equipment requirements. Currently, diesel development work is done on eddy-current dynamometers (which absorb energy but lack the capability of driving (motoring) the engine). Conversion to transient control will require the replacement of these machines with electric motoring dynamometers (unless the option described later in this section is pursued). All of the major manufacturers have begun procurement of at least one advance cell, but they disagree on the time required for additional development dynamometers. Caterpillar expected that construction of a new facility alone would last three years, and IH desires to postpone the acquisition of new equipment until EPA finalizes particulate standards. Yet both of these obstacles can be avoided—Caterpillar's by making efficient use of existing facilities during construction and IH's by a simple corporate decision to pursue 1984 certification. By September 1981, all manufacturers should have transient test cells operating and development will have begun.

EPA has carefully studied the various company estimates of the time required for development work. The differing amounts of work required among diesel engine families to bring them into compliance will facilitate the efficient use of cells as they become available (engines needing the most work would be placed in the earliest cells). Also, most engine families that will require work are reasonably close to the target levels already. With such factors acting in favor of the industry, 14 to 16 months of engine development work should be sufficient. Durability testing and certification stretch the process into 1983, leaving about 7 additional months before 1984 production. However, it might be possible for the diesel manufacturers to comply by 1983, especially if development efforts were accelerated.

There is a possible alternative route available to the diesel manufacturers. It arises because it may be possible that an eddy-current dynamometer could be

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converted to transient control and adequately run a modified transient test. While eliminating the cost of dynamometer replacement, this option suffers from the uncertainty that the operation of such a system would sufficiently mirror that of an electric dynamometer. Thus, a system would have to be built up and proven before a manufacturer could commit to further procurement. The resulting effect on the total precertification process is a 4-month extension of the schedule outlined above. Because of this delay, we expect that few, if any, manufacturers will use this option. To remove some of the risk, however, EPA will allow the option of certification on the current 13-mode procedure for one additional year (the 1984 model year). A standard which "roughly" corresponds to the transient HC standard and a separate NO_x standard have been developed to minimize the loss of air quality benefits.

Congress intended (and EPA originally proposed) that the statutorily-inposed HC and CO standard would become effective with the 1983 model year. However, Congress also anticipated that standards representing a 90 percent reduction or, if appropriate, revised standards would be in place no later than December 31, 1978. What neither Congress nor EPA anticipated at the time the 1977 Amendments were enacted was the additional time necessary to develop a test procedure designed to ensure that the significant reductions in HC and CO emissions that Congress sought would actually be achieved. The Agency is running about a year behind the schedule for implementation that Congress had expected. Delaying the effective date one additional year until the 1984 model year to ensure that manufacturers will have adequate leadtime to meet the requirements is also consistent with the leadtime requirements identified by Congress by Section 202. However, it should be noted that it is the Agency's view that had it been clearly evident that sufficient leadtime existed to permit the manufacturers to comply with the statutory standards in 1983, Congress' desire to have the standards take effect in the 1983 model year would have taken precedent over any expressions concerning leadtime to which the manufacturers might otherwise have been entitled to under Section 202.

IV. Feasibility of Compliance

The foregoing assertion that the 1984 model year deadline can be met by both gasoline and diesel engine manufacturers necessarily carries the implication that meeting the requirements of the regulations is feasible. Indeed, a detailed EPA analysis shows that widespread compliance is attainable by the manufacturers.

Based upon a rough correlation between the 13-mode test procedure and the transient test results, EPA projects that 36 percent of the diesel engine families already will emit at or below target emission levels (as derived from expected deterioration factors, 10 percent Acceptable Quality Level, and manufacturers' engine-to-engine emissions variability with little or no modification). Among the remaining families, most will require only modest improvements. The approaches that EPA anticipates for achieving the targets are not new; such things as injector spray pattern and sac volume, after-cooling of turbocharged intake flows, and turbocharging of naturally-aspirated engines are available paths to compliance. The demonstrated ability on the part of manufacturers to improve the emissions characteristics of some of their engines (particularly Cummins and Caterpillar) strongly supports EPA's conclusions.

The feasibility of the gasoline manufacturers' reaching their target emission levels actually depends primarily on the use of properly-sized and loaded catalytic converters. Additional air injection to increase catalyst oxidation will further improve HC and CO emission levels. EPA has recently demonstrated that gasoline engines equipped with properly-sized and loaded catalysts and appropriate air injection can achieve emission levels well below the projected target levels needed to meet the standards at a 10 percent AQL. Finally, the essentially decontrolled level of NO_x which the standard in these regulations represents for most engines should allow considerable flexibility in achieving design goal emission performance.

V. Effect on the Environment

By reducing the amount of hydrocarbons (HC) and carbon monoxide (CO) emitted into the atmosphere by heavy-duty gasoline and diesel engines, this rulemaking package will contribute significantly to improving the average ambient air quality in the U.S. An extensive EPA air quality analysis is presented in the Regulatory Analysis. This work shows that if the regulations are implemented, the average heavy-duty gasoline engine will emit over its lifetime one ton less HC and 29 tons less CO. Similarly, the HC reduction from the average heavy-duty diesel will be 0.8 tons. When translated into air quality improvement, this means that the average urban level of ozone will be 2 percent lower by the late 1990's. Likewise, CO air quality will improve 7 percent. Because of inaccuracies in the modeling techniques, conclusions about the effect of these reductions on the ability of specific regions to meet the ozone and CO ambient air quality standards cannot be reached with statistical confidence. However, the reductions are of sufficient magnitude that if certain regions are within a few percent of the standards in the 1990's, the control of heavy-duty engine emissions could bring them into compliance.

EPA's analysis indicates that because of the introduction of catalysts into the heavy-duty gasoline vehicle fleet urban mass emissions of sulfuric acid will rise, but only slightly. Lead emissions will be practically eliminated because of the shift to lead-free gasoline. Finally, complying with the regulations should not adversely impact water quality, the ability of manufacturers to meet future noise standards, or energy consumption (see Fuel Economy below).

VI. Economic Impact

The implementation of these regulations will require each manufacturer of heavy-duty engines to direct additional capital toward facility modifications, equipment purchases, emission control hardware, and expanded testing and research. These costs will, for the most part, be passed along to the engine buyers, who will see the effect as an increase in the first cost of the engines. Additionally, owners of gasoline engines will experience some increase in their operating costs due to the need for leadfree fuel.

The increased costs felt initially by the manufacturers will vary widely primarily because of differing equipment requirements. Accordingly, EPA has performed careful, detailed analyses of the costs for each individual company. The first-cost-increases which appear below, however, are averages for the gasoline and diesel industries.

The higher prices expected for gasoline engines are attributable mainly to the additional hardware requirements inherent in the use of oxidation catalyst technology (catalysts, improved air pumps, stainless steel exhaust system, etc.); incidental costs for test facilities and research/development are small on a per-engine basis. EPA estimates that compliance with this rulemaking will result in a purchase price increase of the average gasoline heavy-duty engine by as much as $394, or about 3 percent of the total purchase price.

As suggested above, an additional economic burden will fall to the users of gasoline engines. The standards are such that oxidation catalyst systems will be necessary in 1984. The tetraethyl lead in regular gasolines quickly poisons catalysts, so, like light-duty vehicles, heavy-duty gasoline engines will need to run on unleaded fuel. However, the use of lead-free fuel will extend the lives of the spark plugs and exhaust system. When the additional cost of using more expensive unleaded fuel is offset by these equipment replacement savings, a *net* increase of about $83 results in the lifetime operating costs of a gasoline-powered heavy-duty vehicle.[4]

Diesel manufacturers are expected to bring most of the engines which need work into compliance with relatively minor adjustments to the engine itself. Add-on hardware such as aftercoolers, exhaust gas recirculation, and diesel crankcase controls, will be required on engines representing roughly 12 percent of expected sales. The non-hardware changes will be in such things as injector design and timing, and additional hardware will be in the form of aftercoolers and exhaust gas recirculation (EGR) systems. An average diesel engine retail price increase of $195 will be borne by the buyer (about one-half of 1 percent of the total price) if all costs are assumed to be passed along.

In summary, the aggregate 5-year cost of these regulations (1984–88) is estimated to be $948 million (present value at the start of 1984 assuming 10 percent discount rate). The aggregate 5-year cost for gasoline-fueled vehicles above is estimated at $705 million and for diesel vehicles, $243 million. Of the total cost, $122 million is attributable to the increased cost of unleaded fuel for gasoline-fueled vehicles (including offsetting savings).

Because of the anticipated improvement in gasoline engine fuel economy (see Fuel Economy, below), the operating costs for gasoline engines—and hence the total cost of the package—are expected to be reduced. Savings in fuel costs that will be seen by the operator of a gasoline engine are projected to amount to at least $788 over the life of the engine, based on the *low* end of the anticipated range of fuel economy improvements. The effect of this benefit on the aggregate cost of the rulemaking is to reduce it by $1.26 billion, yielding an aggregate cost of *negative* $313 million (−$557 million for gasoline engines and $243 million for diesels).

[4] For simplicity, the savings in this calculation actually include a small component which is not attributable to the introduction of unleaded fuel—a stainless steel exhaust system.

VII. Cost Effectiveness

Cost effectiveness is a measure of the "economic efficiency" of a regulatory action, in this case expressed as dollars of cost per ton of pollutant reduced. We have pursued two distinctly separate approaches to the cost effectiveness of this rulemaking, an incremental analysis and an integrated approach. The incremental analysis has been performed as a measure of the effect of removing each of the several individual elements which make up the package. The second approach is that of determining the cost effectiveness of the entire package as an integrated strategy. Because of the interrelationships among the various components of the package, the benefits of components can overlap and enhance one another. Thus, it would be improper to total the incremental costs and benefits to obtain an overall figure for the package since there would be a considerable amount of double counting. The integrated cost effectiveness analysis must be used to evaluate overall costs and benefits.

The results of the incremental analyses for gasoline and diesel engines appear in the following tables, reprinted from the Regulatory Analysis. Because each component is treated separately, the incremental analysis in effect represents an analysis of various alternative regulation packages. For example, the cost effectiveness of a package which excludes parameter adjustment is found by subtracting the parameter adjustment cost and the benefit from those for the overall package. Thus, in this example, $472 in cost, divided among a 0.92 ton HC benefit and a 25.0 ton CO benefit, yields HC and CO cost-effectiveness numbers of $256/ton and $8.3/ton, respectively. (The transient test was evaluated in relation to achieving a 90 percent reduction using the steady-state test.) The reader is encouraged to examine the careful, detailed cost-effectiveness analysis of these individual components in the Regulatory Analysis, Cost Effectiveness chapter.

Table 1.—*Incremental Lifetime Cost Effectiveness Gasoline-Fueled Engines*

Option	Cost	Benefit (tons)		Cost effectiveness ($/ton)	
		HC	CO	HC	CO
90 pct on 9-mode [1]	$425	0.61	18	$349	$13
Transient test	51	.39	12.6	65	2
Useful life	56	.13	3.5	223	8
Parameter adjustment	8	.08	3.6	21	1
Allowable maintenance	88	.13	3.6	223	9
10 pct AQL	17	.04	.3	213	17
Overall package	477	1.0	25.6	236	8
a. Transient test.					
b. Useful life.					
c. Parameter adjustment.					
d. Allowable maintenance.					
e. 10 pct AQL.					
I/M	29	.07	2.3	207	6

[1] Includes all other aspects of the rulemaking except the transient test.

Table 2.—*Incremental Lifetime Cost Effectiveness Diesel Engines*

Option	Cost	Benefit (tons HC)	Cost effectiveness ($/ton)
Steady-State test	$85	0.28	$304
Transient test	110	.49	224
Useful life	2	.05	40
Allowable maintenance	5	.05	100
10 pct AQL	7	.24	29
Crankcase control [1]	10	[2]19.50	342
Overall package	195	.77	253
a. Transient test			
b. Useful life			
c. 10 pct AQL			
d. Crankcase control			

[1] Naturally-aspirated engines only. Cost allocated over 3 pollutants. See diesel crankcase emission control, summary and analysis of comments.
[2] Pounds.

The table below presents the cost effectiveness of the integrated package with respect to both gasoline-fueled engines and diesels. The costs used in calculating these values represent the present worth on January 1, 1984 using a discount rate of 10 percent.

	Cost effectiveness ($/ton) pollutant		
	HC	CO	NO_x
Gasoline-fueled engines	$273	$10	
Diesel engines	308		

When these cost-effectiveness numbers are compared to those of other HC and CO control programs, it is clear that this regulation package is indeed cost effective.

Note.—The analysis which led to these numbers does not include the savings associated with fuel economy gains. If these savings are included, the cost effectiveness for gasoline engines becomes negative (−$150/ton for HC and −$5/ton for CO). The case for diesels is unchanged. Since the fuel economy gains are associated with catalyst technology and the base case for the

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incremental analysis assumes catalyst technology, the incremental cost effectiveness numbers are not affected.

VIII. Role of Inspection and Maintenance (I/M)

While this rulemaking contains no specific reliance on I/M programs and thus claims no related costs or benefits, there are ways in which I/M would enhance the effectiveness of the rulemaking. When it is viewed as an "insurance policy," I/M can be seen to protect against the loss of air quality benefits to such problems as misfueling or tampering. Up to 8 percent of light-duty vehicles are currently misfueled with leaded gasoline, largely in response to economic incentive to do so—the same incentive that will undoubtedly cause a degree of misfueling in heavy-duty gasoline engines. Tampering (e.g., removal of the catalyst) would also be discouraged by heavy-duty I/M programs. Thus, the establishment of heavy-duty I/M can help realize the full potential of these regulations.

It could be argued that I/M might secure the same benefit as certain other provisions of this rulemaking which exist, in part, to improve in-use emission control. The extension of the useful life definition and the introduction of parameter adjustment and allowable maintenance regulations, however, differ in concept from I/M in that they require the manufacturers to build more durable and tamper-resistant emission control systems. It is considerably less expensive to the consumer to pay for long-lived designs than to pay for replacement in the field. (We have calculated the incremental cost of a full-life catalyst over a half-life design to be $58; this compares to a $461 aftermarket replacement.) Thus, these components of the package have a clear place in the emission control program independent of the establishment of heavy-duty I/M.

We see I/M as a necessary provision to assure that the program will not be subverted due to misfueling and tampering. However, I/M is more cost effective as an insurance policy to back up a program based on durable control system designs than as a program to force repeated in-field maintenance on non-durable equipment.

IX. Fuel Economy

EPA believes that no increase in fuel consumption in either gasoline engines or diesels will accompany the enactment of these regulations. We do expect some manufacturers will use emission-control hardware that will cause a slight fuel economy penalty, for example, larger air pumps on gasoline engines and exhaust gas recirculation on diesels. Yet the beneficial effects of other control systems will offset these losses and are expected to result in net fuel economy gain, particularly in gasoline engines.

The shift in the gasoline engine industry to oxidation catalysts will permit freer adjustment of the carburetor to maximize fuel economy. Similarly such approaches to diesel HC and CO reduction as after cooling, injector design, and combustion chamber changes can improve fuel efficiency.

Thus, despite the common criticism of EPA that emission controls reduce fuel efficiency, the EPA staff has performed an analysis (see Summary and Analysis of Comments, Fuel Economy issue) which concludes that the introduction of catalysts will allow gasoline engine manufacturers to realize a gain in fuel economy of 4 to 9 percent over 1979 engines. This estimate was calculated from measured heavy-duty performance parameters and actually observed increases in light-duty vehicle fuel economy after the introduction of catalyst technology. While we expect a parallel improvement in diesel fuel economy (though probably smaller than that in gasoline engines) the magnitude is difficult to accurately determine because of the numerous combinations of adjustments, redesigns, and hardware changes that will be pursued.

X. Public Participation

The structure and content of this Final Rulemaking, which was presented in detail in the preceding portion of the Preamble, was shaped considerably by the public response to the Notice of Proposed Rulemaking (NPRM). This response took the form of a large body of oral and written comment. More than twenty organizations submitted comments on the proposal to EPA, the majority of which represented the heavy-duty engine manufacturing industry. In addition, trade organizations representing the trucking industry and the independent parts manufacturers, three governmental agencies, and two trucking companies made submissions. Finally, EPA received comments from a University of Waterloo professor and the Connecticut Construction Industries Association. We sincerely regret that no environmental, consumer, or citizens' advocacy groups of any kind were involved in the public participation process.

It is the purpose of this section of the Preamble to highlight those major areas of comment which resulted in significant alterations to the Proposed Rulemaking package as well as those which did not. The reader will be able to see from these paragraphs how the Final Rule differs from the NPRM and why EPA did not follow the suggestions of some commenters. The reader is encouraged to consult the separate document entitled "Summary and Analysis of Comments," which summarizes the comments received along with the comprehensive EPA staff analysis (see AVAILABILITY OF DOCUMENTS below). All of the detailed comments are assembled in the public docket.

A. Test Procedures

Of the components of the proposed regulations, the gasoline and diesel test procedures have probably been modified the most in response to the comments. Still, EPA has largely retained the test procedures in their proposed form (i.e., requiring transient testing).

The complications introduced by the 12-hour soak period drew a large amount of comment. We have been able to directly answer this criticism—while keeping the benefits of a cold-start procedure—by allowing a forced cool-down approach. Rather than requiring a test engine to naturally cool off for 12 hours before each test, the new provisions will allow accelerated cooling. Engine oil temperatures can be returned to ambient levels in 2–4 hours. So it will still be possible to sample cold start emissions and at the same time greatly reduce wasted dynamometer time.

In another major change from the proposed regulations, diesel engine manufacturers will be allowed to delay certification on the transient test procedure for one year, 1984. This option is offered specifically to provide interested manufacturers with enough time to explore the conversion of their eddy-current dynamometer to transient control. Caterpillar Tractor Company suggested that such a conversion might be desirable and strongly urged EPA to allow it. Certification for an additional year on the current 13-mode steady-state procedure will allow time for motoring dynamometers to still be installed if it happens that correlation cannot be established on a transient-control eddy-current dynamometer. It is important to stress, however, that we do believe that any diesel manufacturer will be able to certify for 1984 on the transient test if they proceed with replacing (rather than converting) their eddy-current machines. To be conservative, our cost analysis assumes that the manufacturers make the conversion to electric motoring dynamometers.

Finally, idle testing requirements have been removed from these regulations for diesel engines. Also the requirement for

gasoline engines has been reduced; only compliance with the CO standard is necessary.

EPA has further responded to the commenters by making numerous minor technical adjustments to both the gasoline and diesel test procedures. A thorough discussion of these points may be found in Part II of the Summary and Analysis of Comments document.

Transient testing requirements were roundly criticized by both gasoline and diesel engine manufacturers (and others). EPA's retaining of the transient test provisions in nearly their proposed form comes as a result of an extensive evaluation of the comments, in which we concluded that the proposed transient procedures are both necessary and appropriate. Comments primarily centered around the justification for the tests, their representation of real life operation, their validation, their repeatability, and the lack of current knowledge upon which to base comments.

EPA is convinced that transient testing is necessary to assure that engines will indeed demonstrate a 90 percent reduction in emissions. The current steady-state tests have been shown to become progressively less reliable as indicators of in-use emissions as stiffer standards are imposed on heavy-duty engines. Furthermore, the reductions in diesel HC emissions available through transient testing requirements are very cost effective relative to other means of HC control.

Additionally, the background of and recent experience with the transient tests support the Agency position that the tests are representative and of reasonably high quality. The origin of the operating cycles was an extensive program of actual in-use operational data collection, and we are confident that the emphasis placed on quality during the subsequent cycle development program assures real world operating characteristics are well represented in the laboratory. It will not be possible to "validate" the cycle through time-consuming comparisons between on-the-road vehicle emissions and laboratory emissions. But the pains taken to assure the representativeness of the cycles, in our view, would make such a validation superfluous anyway.

The gasoline and diesel test procedures have evolved since 1972 in an atmosphere of open intent and free sharing of information; EPA's tests data has always been readily available to manufacturers to enable them to comment and participate in the development of the procedures. The failure of some manufacturers to build up experimental test sites and hence the difficulty in commenting is largely self-imposed. On the other hand, this evolution process has been a learning experience for EPA, and we have been able to streamline the procedures to improve their quality (many minor improvements appear in the final regulations). At this stage, all labs for which transient test data are available show a degree of correlation.

The EPA analysis of the numerous comments criticizing the transient test requirements is very extensive and complete. We encourage the reader who is interested in pursuing this issue in more detail than the brief summary above to see the Summary and Analysis of Comments document.

B. Redefinition of Useful Life

The arguments of many commenters that the useful life of heavy-duty engines should not be changed from the current half-life concept were not sufficiently convincing to warrant a retraction of those provisions. On the other hand, several useful suggestions were offered and have been incorporated into the rulemaking.

Several commenters were concerned that shifting to a full-life useful life concept will violate the intent of Congress. However, EPA has been unable to find support for such a change in both the latter and the record of the Clean Air Act as amended. Nowhere does Congress place a half-life restriction on EPA with regard to heavy-duty engines.

Another issue brought up in the comments was the increased stringency of the standard as a result of the useful life revision. EPA agrees that in order to assure full-life emissions compliance the zero-mile emissions will have to be lower. Yet this really represents not an increase in the stringency of the standards so much as a necessary aspect of applying the full-life concept to certification.

EPA believes that the proposed change in the definition of useful life is appropriate and basically sound. However, we have been able to make some improvements in the application of the concept, as summarized in the following paragraphs.

Commenters were concerned that the general definition of "useful life" as the "average period of use up to engine retirement or rebuild" was not specific enough to be applied to individual engines. We agree and have linked the average period of use seen among engines in the field with a set of mechanical criteria which signal the need for a rebuild. The end of an engine's useful life (as it applies to durability testing and warranty provisions) will now be marked in one of two ways. Either the engine will reach the *average* lifetime specified for its entire engine family or tests will show that its *individual* mechanical integrity has deteriorated to the point of requiring a rebuild (whichever occurs first). The manufacturer is responsible for defining both the family-wide average useful life and the engine-specific rebuild criteria.

Another change in the regulations responds to the criticism that owners might misconstrue the meaning of the average useful life as it applies to their engine. A clarifying statement on the label will state that the actual life of the specific engine will vary according to the nature of its application. This addition should relieve manufacturers' fears that warranty conflicts will arise out of confusion among the owners about the useful life concept.

C. Revised Durability Testing Requirements

The finalizing of comprehensive in-use durability testing requirements has been postponed—even as proposed, in-use durability testing would not have to begin until 1985. This delay will allow EPA to improve upon the design of such a program in response to the broad range of comments. Further comment may be solicited and the final regulations are expected to be promulgated in the same time frame as the 1985 heavy-duty NO_x emissions rulemaking. Staff analysis of all comments will be published at that time.

D. Allowable Maintenance

Most of the comments challenged EPA's authority and justification to establish minimum "technologically necessary" maintenance intervals. At issue as well were the actual intervals that EPA proposed.

Our analysis finds adequate legal authority for EPA to make such an addition to the certification process. We were also not convinced that proper heavy-duty emission-related maintenance is widely performed; that market pressures work to improve the durability of emission-related components; and that future heavy-duty inspection and maintenance will remove the need for allowable maintenance provisions.

The comments claiming that the proposed maintenance intervals for injectors and turbochargers are improper were not based on technological arguments. Having concluded in our analysis that the concept itself of limiting maintenance is sound, we retained the proposed intervals (the technology for which

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exists today). We reduced slightly the proposed spark plug change interval. Further analysis of heavy-duty catalyst technology, however, led to the retaining of the 100,000-mile interval.

The proposed requirements regarding what maintenance a manufacturer can do on durability engines have been relaxed. These regulations do not require that in-use performance of the maintenance be demonstrated. The critical maintenance item for 1984 technology is the replacement, if required, of the catalyst. However, the minimum maintenance interval of 100,000 miles is so close to the average useful life of a heavy-duty gasoline engine that our concerns that maintenance will not be performed in the field at 100,000 miles are minimal. This may not be the case with future technology. For example, when the anticipated tighter NO_x standards are implemented, three-way catalyst systems are expected to be used. Unless the oxygen sensor for such systems can be designed to last for nearly the full useful life, this issue of the "likelihood that maintenance will be performed in-use" will need to be raised again.

Several commenters challenged the demonstration of in-use performance maintenance as being unwarranted. Yet the removal of these provisions comes not so much in response to specific comments as to an Agency decision that such requirements are not necessary at the present time. We believe that the provisions being delayed today are sound and expect that the need will arise for reproposal of the requirements as control technology changes.

E. Parameter Adjustment

The primary issue brought by the commenters against the parameter adjustment regulations was that no in-use evidence exists to indicate that heavy-duty engines are maladjusted in the field. Such information is not extensive, but it does exist; inspection/maintenance data from both Oregon and New Jersey points toward significant maladjustment of heavy-duty engines. The similarity between the parameters of light-duty gasoline engines and heavy-duty gasoline engines also supports the conclusions reached regarding the maladjustment of heavy-duty engines.

We have made only slight changes to the regulations; they are in response to comments directed at the light-duty provisions, comments which have led to several technical amendments. These regulations have been adjusted to match the amended light-duty regulations.

F. Selective Enforcement Auditing

EPA had proposed a more stringent "follow-up" sampling plan for testing after suspension or revocation of a certificate of conformity. This plan imposed a greater testing burden than the proposed initial plan in order to reduce the probability that a manufacturer will pass the audit even though the true failure rate is greater than the AQL. EPA justified the increased burden of the follow-up plan on the basis of its expectation that engines are no longer in compliance, as evidenced by the initial SEA failure, and therefore the "consumer's risk" must be reduced. Several manufacturers commented that the need for this increased stringency was unjustified and would actually serve as a disincentive to bringing nonconforming engines into compliance, since, in certain cases, a manufacturer may, because of economic considerations, choose to pay nonconformance penalties rather than bring these engines into compliance. Although EPA believes that its justification for the follow-up plan is valid, the agency is concerned about any potential disincentive to the election by manufacturers to remedy nonconforming engines. Since EPA believes that the manufacturer and consumer are still adequately protected by the initial 10% AQL sampling plan, the agency has deleted all references to the follow-up sampling plans in this final rule and will retain only the initial plans, as proposed.

EPA had also proposed that the annual limit on SEA test orders for heavy-duty gasoline engines be determined by dividing the manufacturer's projected sales by 30,000. For heavy-duty diesel manufacturers, the proposed divisor was 10,000. Future sales projections for the heavy-duty engine industry indicate that sales of heavy-duty gasoline engines and heavy-duty diesels will tend to equalize during the 1984–88 period. EPA has therefore set the annual limit divisor at 30,000 for both classes of engines in the final rule, in order not to discriminate between the two classes. In addition, EPA will count test orders issued on the basis of evidence of noncompliance against this annual limit, until such time as the limit is reached.

Some other changes of a minor nature have been made in response to comments, and discussion of these changes can be found in the Summary and Analysis of Comments document (Part II: Analysis of Minor Issues).

G. Nonconformance Penalties/Production Compliance Auditing

In the February 13, 1979 proposal, EPA stated that "* * * the proposed standards are practical and achievable by all manufacturers and that consequently no technological laggards need accommodating, no upper limit need be set and the nonconformance penalty would not be available to the manufacturers." EPA has not changed its basic position after analyzing the comments. In spite of this basic position, EPA has decided to repropose the nonconformance penalties and production compliance auditing provisions at a later date. The express purpose of making this option available would be to provide relief in those rare cases when compliance may not be achieved because of some unforeseen circumstance(s). Included in this reproposal will be "upper limits" and the marginal cost component of the general formula. EPA plans on issuing a NPRM in early 1980.

H. Diesel Crankcase Emissions Control

Several commenters were concerned that closing the crankcase of turbocharged diesels would foul the turbocharger and aftercooler, hurting their efficiency. We agree that this will happen if the oily crankcase emissions are ducted directly into the turbocharger; but a turbocharger/aftercooler bypassing control system is feasible. Such a system is currently not a very cost effective means of HC, CO, NO_x, or particulate control. For this reason we are postponing—for turbocharged diesels only—crankcase control requirements until they are shown to be cost effective (This may occur soon when a current crankcase nitrosamines research program is completed.).

I. Leadtime

We were able to combine the leadtime information submitted by some of the manufacturers to arrive at a detailed timetable for the gasoline and diesel manufacturers. The timetables showed that most manufacturers would have difficulty meeting the 1983 target date. Certification for the 1984 model year, however, allows a cushion, and accordingly we have chosen to implement these regulations on January 1, 1984, one model year later than we originally proposed.

J. Feasibility

Using information supplied by the commenters, generated by the Agency, and obtained through follow-up contacts with manufacturers, EPA has been able to conclude that each major manufacturer of gasoline and diesel heavy-duty engines will be able to meet the emissions standards for all their engines by 1984. Our analysis was carried out on an engine-by-engine basis and shows that currently available approaches to emission control will be sufficient, even when the effects of a 10 percent AQL and a full-life useful life are considered.

K. Economic Impact

Again, information from the manufacturers allowed a more accurate analysis of the proposal, in this case the associated costs. Only a few commenters itemized the individual costs of equipment, testing, self auditing, etc. But such breakdowns were immensely helpful in accurately estimating the costs which would be expected for the rest of the manufacturers. We did not agree in each instance with the projected cost of an item, but a basis was provided for analysis. Of course, for the manufacturers which offered no cost estimates or breakdowns, the staff was obliged to make the estimates.

It is useful to describe the reasons why the aggregate cost has changed significantly from the NPRM. Primarily, a more accurate calculation of the costs due the use of unleaded fuel has resulted in a lower total cost. Three aspects of the analysis were improved: (1) we reduced the cost differential between leaded and unleaded gasoline from 5 cents/gallon to 3 cents/gallon (See the Regulatory Analysis); (2) a more accurate average useful life value for heavy-duty gasoline engines was used; and (3) we substituted a more realistic average vehicle fuel economy value.

On the other hand, the projected individual engine costs are greater now than in the proposal. This increase, primarily due to hardware costs, results largely from the improved analysis made possible by the comments.

ANTICOMPETITIVE EFFECTS: EPA does not anticipate that this regulation will result in any significant anticompetitive effects. Among the domestic engine manufacturers, the first price increases of their engines will be very similar. Some foreign manufacturers will need slightly larger increases because of their low U.S. sales, but even for them the price increases are not a large fraction of the new vehicle cost. Finally, independent parts manufacturers should not be adversely affected; their portion of the aftermarket parts market is not expected to decrease.

ADMINISTRATIVE DESIGNATION AND REGULATORY ANALYSIS: The Administrator has determined that this action is a "significant" regulation. We have prepared a comprehensive document entitled "Gaseous Emission Regulations for 1983 and Later Model Year Heavy-Duty Engines: Regulatory Analysis" to support the rulemaking and fulfill the requirements of Executive Order 12044 and Section 317 of the amended Clean Air Act. Anyone may review and reproduce this document in the EPA Central Docket Section (See "AVAILABILITY OF DOCUMENTS" below).

AVAILABILITY OF DOCUMENTS AND THE PUBLIC DOCKET: Materials relevant to this rulemaking have been assembled in Public Docket No. OMSAPC–78–4, U.S. Environmental Protection Agency, Central Docket Section, Room 2903B (EPA Library), Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. Such materials as regulatory support documents, comments, hearing transcripts, correspondence, the Summary and Analysis of Comments, and the Regulatory Analysis may be obtained by anyone from the docket. As provided in 40 CFR Part 2, the Agency may charge a reasonable fee for copying services. Additionally, single copies of the Summary and Analysis of Comments and the Regulatory Analysis are available from the Director, Emission Control Technology Division, 2565 Plymouth Road, Ann Arbor, MI 48105.

EVALUATION PLAN: EPA intends to review the effectiveness and need for continuation of the provisions contained in this action no more than five years after initial implementation of the final regulation. In particular, EPA will solicit comments from affected parties with regard to cost and other burdens associated with compliance and will also review data on the gaseous emissions from heavy-duty vehicles built before and after implementation of the regulations to determine how effective this measure has been.

REPORTING AND RECORDKEEPING REQUIREMENTS: This rulemaking will not impose significant additional reporting requirements or keeping of records. The SEA regulations do increase reporting requirements somewhat, but not greatly. Conversely, the requirements of the current durability testing will be removed.

Under EPA's recently established "sunset" policy, the reporting requirements of a regulation normally expire after five years unless action is taken to extend them. However, the leadtime required for these regulations will allow for only one year of actual implementation. Also, within the next five years the Agency will undertake a review of *all* of the reporting requirements associated with mobile source emission regulation, including those of this package. An additional review of the new reporting requirements of these regulations may not be necessary or useful.

Nevertheless, the need for future review cannot be determined at this time. Therefore, we establish in these regulations provisions for the automatic expiration of these requirements. But because of the four-year leadtime associated with these regulations, the five-year period will begin not at promulgation but at implementation (January 1, 1984). Thus, if the Agency does not establish the need for continuation, the new reporting and recordkeeping requirements of this rulemaking will expire after the 1988 model year.

Dated: December 21, 1979.

Douglas M. Costle,

Administrator.

Part 86 of Chapter I, Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

Note.—This Final Rulemaking concerns only provisions of Part 86 applicable to heavy-duty engines. Certain of the amendments listed here, if read literally, might indicate that provisions currently in effect for light-duty trucks are to be retained. This is not the case. Another independent Notice of Proposed Rulemaking concerning only provisions of Part 86 applicable to light-duty trucks has been published at 44 FR 40784, July 12, 1979. Interested persons should consult that Notice regarding the light-duty truck amendments proposed to take effect January 1, 1983.

1. Paragraph (a) of § 86.077–2 is revised to read as follows:

§ 86.077–2 Definitions.

(a) The definitions in this section apply to this subpart and also to Subparts B, D, H, I, J, N, O, and P of this part.

* * * * *

2. Paragraph (a) of § 86.078–3 is revised to read as follows:

§ 86.078–3 Abbreviations.

(a) The abbreviations in this section apply to this subpart and also to Subparts B, D, H, I, J, N, O and P of this part and have the following meanings:

* * * * *

2a. The following sections are added to the table of contents under Subpart A:

Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light Duty Vehicles, 1977 and Later Model Year New Light-Duty Trucks, and for 1977 and Later Model Year New Heavy-Duty Engines

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Sec.

86.084–2 Definitions.
86.084–4 Section numbering; construction.
86.084–5 General standards; increase in emissions; unsafe conditions.
86.084–10 Emissions standards for 1984 and later model year gasoline-fueled heavy-duty engines.
86.084–11 Emission standards for 1984 diesel heavy-duty engines.
86.084–21 Application for certification.
86.084–22 Approval of application for certification; test fleet selections; determinations of parameters subject to adjustment for certification and Selective Enforcement Audit and Production Compliance Audit, adequacy of limits, and physically adjustable ranges.
86.084–23 Required data.
86.084–24 Test vehicles and engines.
86.084–25 Maintenance.
86.084–26 Mileage and service accumulation; emission measurements.
86.084–27 Special test procedures.
86.084–28 Compliance with emission standards.
86.084–29 Testing by the Administrator.
86.084–30 Certification.
86.084–35 Labeling.
86.084–38 Maintenance instructions.
86.084–39 Automatic expiration of reporting and recordkeeping requirements.
86.085–11 Emission standards for 1985 and later model year diesel heavy-duty engines.

3. A new § 86.084–2 is added and reads as follows:

§ 86.084–2 Definitions.

The following definitions apply beginning with the 1984 model year. Section 86.080–2 remains effective excepting those definitions which are hereby superseded.

A "maximum torque curve" is a plot of maximum engine torque versus engine speed, also known as an "engine map."

The "measured rated rpm" is the highest engine speed at which the maximum horsepower occurs as derived from the maximum torque curve, or an engine speed specified by the manufacturer. This specified rated speed must be more than 100 rpm higher than the highest engine speed at which maximum horsepower is observed to occur and the horsepower observed at this specified speed must be at least 50 percent of the maximum observed during the engine map.

The "high idle speed" for a diesel engine means the governed speed at no load.

"Curb idle transmission torque" is the torque observed at the flywheel of a heavy-duty engine coupled with an automatic transmission, with the engine running at the manufacturer's specified curb idle speed, the transmission in gear, and the output shaft stalled.

"Integrated brake horsepower" is the total work done by an engine during a transient test, calculated by the incremental summing of brake horsepower-hour segments.

"Scheduled maintenance" means any adjustment, repair, removal, disassembly, cleaning, or replacement of vehicle components or systems which is performed on a periodic basis to prevent part failure or vehicle (if the engine were installed in a vehicle) malfunction, or anticipated as necessary to correct an overt indication of vehicle malfunction or failure for which periodic maintenance is not appropriate.

"Unscheduled maintenance" means any adjustment, repair, removal, disassembly, cleaning, or replacement of vehicle components or systems which is performed to correct a part failure or vehicle (if the engine were installed in a vehicle) malfunction which was not anticipated.

"Useful life" means:

(a) For light-duty vehicles and light-duty trucks a period of use of 5 years or 50,000 miles, whichever first occurs.

(b)(1) For a heavy-duty engine family, the average period of use up to engine retirement or rebuild, whichever occurs first, as determined by the manufacturer under Section 86.084–21(b)(4)(ii)(B).

(2) For a specific heavy-duty engine, the period of use represented by the first occurring of the following:

(i) The engine reaches the point of needing to be rebuilt, according to the criteria established by the manufacturer under § 86.084–21(b)(4)(ii)(C), or

(ii) The engine reaches its engine family's useful life.

(3) If the useful life of a specific heavy-duty engine is found to be less than 5 years or 50,000 miles (or the equivalent), the useful life shall be a period of use of 5 years or 50,000 miles (or the equivalent), whichever occurs first, as required by section 202(d)(2) of the Act.

"Non-emission related maintenance" means that maintenance which does not substantially affect emissions or which does not have a lasting effect on the deterioration of the vehicle or engine with respect to emissions once the maintenance is performed at any particular date.

"Emission-related maintenance" means that maintenance which does substantially affect emissions or which is likely to have a lasting effect on the deterioration of the vehicle or engine with respect to emissions, even if the maintenance is performed at some time other than that which is recommended.

4. A new 86.084–4 is added and reads as follows:

§ 86.084–4 Section numbering; construction.

(a)(1) *Section numbering.* (1) The model year of initial applicability is indicated by the last two digits of the 5-digit group. A section remains in effect for subsequent model years until it is superseded. The number following the hypen designates what previous section is replaced by a future regulation.

Examples: Section 86.077–6 applies to the 1977 and subsequent model years until superseded. If a § 86.080–6 is promulgated it would take effect with the 1980 model year; § 86.077–6 would not apply after the 1979 model year. Section 86.077–10 would be replaced by § 86.078–10 beginning with the 1978 model year.

(2) Where a section still in effect references a section that has been superseded, the reference shall be interpreted to mean the superseding section.

(b) *Construction.* Except where indicated, the language in this subpart applies to both vehicles and engines. In many instances language referring to engines is enclosed in parentheses and immediately follows the language discussing vehicles.

5. A new 86.084–5 is added and reads as follows:

§ 86.084–5 General standards; increase in emissions; unsafe conditions.

(a)(1) Every new motor vehicle (or new motor vehicle engine) manufactured for sale, sold, offered for sale, introduced, or delivered for introduction to commerce, or imported into the United States for sale or resale which is subject to any of the standards prescribed in this subpart shall be covered by a certificate of conformity issued pursuant to §§86.081–21, 86.081–22, 86.079–23, and §§ 86.079–29 through 86.079–34.

(2) No heavy-duty vehicle manufacturer shall take any of the actions specified in section 203(a)(1) of the Act with respect to any gasoline-fueled or Diesel heavy-duty vehicle which uses an engine which has not been certified as meeting applicable standards. Each heavy-duty vehicle manufacturer shall provide to the Administrator prior to the beginning of each model year a statement signed by an authorized representative which includes the following information:

(i) A description of the vehicles which will be produced subject to this section;

(ii) Identification of the engines used in the vehicles;

(iii) Projected sales data on each vehicle-engine combination;

(iv) A statement that the engines will not be modified by the vehicle manufacturer or a detailed specification of any changes which will be made. Changes made solely for the purpose of mounting an engine in a vehicle need not be included.

(v) A statement that the engine maintenance instruction supplied by the engine manufacturer, in compliance with § 86.079–38, will be furnished to the ultimate purchaser. If these maintenance instructions are modified, a detailed description of the modifications and a justification for each must be provided to the Administrator for review. The Administrator will notify the manufacturer of the determination whether the modified instructions are reasonable and necessary to assure proper functioning of the emission control system.

(b)(1) Any system installed on or incorporated in a new motor vehicle (or new motor vehicle engine) to enable such vehicle (or engine) to conform to standards imposed by this subpart

(i) Shall not in its operation or function cause the emission into the ambient air or any noxious or toxic substance that would not be emitted in the operation of such vehicle (or engine) without such system, except as specifically permitted by regulation; and

(ii) Shall not in its operation, function, or malfunction result in any unsafe condition endangering the motor vehicle, its occupants, or persons or property in close proximity to the vehicle.

(2) In establishing the physically adjustable range of each adjustable parameter on a new motor vehicle (or new motor vehicle engine), the manufacturer shall ensure that, taking into consideration the production tolerances, safe vehicle driveability characteristics are available within that range, as required by section 202(a)(4) of the Clean Air Act.

(3) Every manufacturer of new motor vehicles (or new motor vehicle engines) subject to any of the standards imposed by this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicles (or motor vehicle engines) in accordance with good engineering practice to ascertain that such test vehicles (or test engines) will meet the requirements of this section for the useful life of the vehicle (or engine).

6. A new § 86.084–10 is added and reads as follows:

§ 86.084–10 Emission standards for 1984 and later model year gasoline-fueled heavy-duty engines.

(a)(1) Exhaust emissions from new 1984 and later model year gasoline-fueled heavy-duty engines shall not exceed the following:

(i) *Hydrocarbons.* 1.3 grams per brake horsepower hour, as measured under transient operating conditions.

(ii) *Carbon monoxide.* (a) 15.5 grams per brake horsepower hour, as measured under transient operating conditions.

(B) 0.47 percent of the exhaust gas flow at curb idle.

(iii) *Oxides of nitrogen.* 10.7 grams per brake horsepower hour, as measured under transient operating conditions.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over operating schedules set forth in Subparts N or P and measured and calculated in accordance with those procedures.

(b) [Reserved]

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1984 model year gasoline-fueled heavy-duty engine.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in Subparts N or P of this part to ascertain that such test engines meet the requirements of paragraphs (a) and (c) of this section.

7. A new § 86.084–11 is added and reads as follows:

§ 86.084–11 Emission standards for 1984 diesel heavy-duty engines.

(a)(1) Exhaust emissions from new 1984 model year diesel heavy-duty engines shall not exceed the following:

(i) *Hydrocarbons.* (A) 1.3 grams per brake horsepower hour, as measured under transient operating conditions (Subpart N), or

(B) 0.5 grams per brake horsepower hour, as measured under steady-state operating conditions (Subpart D).

(ii) *Carbon monoxide.* (A) 15.5 grams per brake horsepower hour, as measured under either transient operating conditions (Subpart N) or under steady-state operating conditions (Subpart D).

(iii) *Oxides of nitrogen.* (A) 10.7 grams per brake horsepower hour, as measured under transient operating conditions (Subpart N) or

(B) 9.0 grams per brake horsepower-hour as measured steady-state operating conditions (Subpart D).

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust over operating schedules as set forth in Subparts N, D, or P and measured and calculated in accordance with those procedures.

(b)(1) The opacity of smoke emissions from new 1984 and later model year diesel heavy-duty engines shall not exceed:

(i) 20 percent during the engine acceleration mode,

(ii) 15 percent during the engine lugging mode.

(iii) 50 percent during the peaks in either mode.

(2) The standards set forth in paragraph (b)(1) of this section refer to the exhaust smoke emissions generated under the conditions set forth in Subpart I of this part and measured and calculated in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1984 model year naturally-aspirated diesel heavy-duty engine. This provision does not apply to turbocharged engines.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in Subparts I, N, D, or P of this part to ascertain that such test engines meet the requirements of paragraphs (a), (b) and (c) of this section.

8. A new § 86.084–21 is added and reads as follows:

§ 86.084–21 Application for certification.

(a) A separate application for a certificate of conformity shall be made for each set of standards and each class of new motor vehicles or new motor vehicle engines. Such application shall be made to the Administrator by the manufacturer and shall be updated and corrected by amendment.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1)(i) Identification and description of the vehicles (or engines) covered by the application and a description of their engine (vehicles only), emission control system and fuel system components. This shall include a detailed description of each auxiliary emission control device (AECD) to be installed in or on any certification test vehicle (or certification test engine).

(ii)(A) The manufacturer shall provide to the Administrator in the preliminary application for certification:

(1) A list of those parameters which are physically capable of being adjusted (including those adjustable parameters to which access is difficult); which are present on any device, system or assembly described in the application; and which may affect emissions.

(2) A specification of the manufacturer's intended physically adjustable range of each such parameter, and the production tolerances of the limits or stops used to establish the physically adjustable range;

(3) A description of the limits or stops used to establish the manufacturer's intended physically adjustable range of each adjustable parameter, or any other means used to inhibit adjustment;

(4) The nominal or recommended setting, and the associated production tolerances, for each such parameter.

(B) The manufacturer may provide, in the preliminary application for certification, information relating to why certain parameters are not expected to be adjusted in actual use and to why the physical limits or stops used to establish the physically adjustable range of each parameter, or any other means used to inhibit adjustment, are expected to be effective in preventing adjustment of parameters on in-use vehicles to settings outside the manufacturer's intended physically adjustable ranges. This may include results of any tests to determine the difficulty of gaining access to an adjustment or exceeding a limit as intended or recommended by the manufacturer.

(C) The Administrator may require to be provided detailed drawings and descriptions of the various emission related components, and/or hardware samples of such components, for the purpose of making his determination of which vehicle or engine parameters will be subject to adjustment for certification and Selective Enforcement Audit (and Production Compliance Audit for heavy-duty engines) and of the physically adjustable range for each such vehicle or engine parameter.

(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the vehicles (or engines) for which certification is requested.

(3) A description of the test equipment and fuel proposed to be used.

(4)(i) A description of the test procedures to be used to establish the evaporative emission deterioration factors required to be determined and supplied in § 86.084–23(b)(2).

(ii)(A) A description of the test procedures to be used to establish the exhaust emission deterioration factors for heavy-duty engines required to be determined and supplied in § 86.084–23(1)(ii).

(B)(1) A statement of the useful life of each heavy-duty engine family up to engine retirement or rebuild (whichever occurs first) as determined by the manufacturer on the basis of the following:

(i) For existing engine families, survey information on in-service engines or

(ii) For new engine families, durability testing of prototype engines or a combination of bench-type component life evaluations and survey information on similar previous engines.

(2) The manufacturer shall not determine an engine family's useful life to be less than the basic period of the mechanical warranty on the engine assembly. This useful life shall be expressed as a period of engine or vehicle operation or as an equivalent vehicle mileage (or both) and shall be consistent with the rebuild criteria specified in paragraph (b)(4)(ii)(C) of this paragraph. The manufacturer shall include in the application the data or information on which it based its determination of the useful life.

(C) For each heavy-duty engine family, a statement of the criteria which are to be used in determining the need for engine rebuild and their critical values, including the following:

(1) The minimum cylinder compression for any one cylinder and for any two cylinders, in pounds per square inch. Compression shall be measured without the addition of oil or another fluid into the cylinder.

(2) The maximum rate of engine lubricant oil usage by the engine, in quarts per 1,000 miles (or quarts per 30 hours).

(3) The maximum mass of foreign metal in the crankcase, in grams per quart of crankcase oil.

(4) Any other measurable indicator(s) of engine condition approved by the Administrator and the critical value(s) which signal(s) the need for a rebuild.

(5) A statement of recommended maintenance and procedures necessary to assure that the vehicles (or engines) covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(6) At the option of the manufacturer, the proposed composition of the emission-data or durability-data test fleet.

(c) Complete copies of the application and of any amendments thereto, and all notifications under §§ 86.078–32, 86.079–33, and 86.079–34 shall be submitted in such multiple copies as the Administrator may require.

(d) Incomplete light-duty trucks shall have a maximum completed curb weight and maximum completed frontal area specified by the manufacturer.

9. A new § 86.084–22 is added and reads as follows:

§ 86.084–22 Approval of application for certification; test fleet selections; determinations of parameters subject to adjustment for certification and Selective Enforcement Audit and Production Compliance Audit, adequacy of limits, and physically adjustable ranges.

(a) After a review of the application for certification and any other information which the Administrator may require, the Administrator may approve the application and select a test fleet in accordance with § 86.080–24.

(b) The Administrator may disapprove in whole or in part an application for certification for reasons including incompleteness, inaccuracy, inappropriate proposed mileage (or service) accumulation procedures, test equipment, or fuel, and incorporation of defeat devices in vehicles (or on engines) described by the application.

(c) Where any part of an application is rejected, the Administrator shall notify the manufacturer in writing and set forth the reasons for such rejection. Within 30 days following receipt of such notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determinations, and data in support of such objections. If, after the review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078–6 with respect to such issue.

(d)(1) The Administrator does not approve the test procedures for establishing the evaporative emission deterioration factors. The manufacturer shall submit the procedures as required in § 86.084–21(b)(4)(i) prior to the Administrator's selection of the test fleet under § 86.084–24(b)(1) and if such procedures will involve testing of durability-data vehicles selected by the Administrator or elected by the manufacturer under § 86.084–24(c)(1), prior to initiation of such testing.

(2) The Administrator does not approve the test procedures for establishing exhaust emission deterioration factors for heavy-duty engines, the manufacturer's determination of the useful life of its heavy-duty engines, nor the manufacturer's determination of the values of the rebuild criteria. The manufacturer shall submit these procedures and determinations as required in § 86.084–21(b)(4)(ii) prior to the initiation of durability testing.

(e) When the Administrator selects emission-data vehicles (engines) for the test fleet, he will at the same time determine those vehicle or engine parameters which will be subject to adjustment for certification, Selective Enforcement Audit and Production Compliance Audit testing, the adequacy of the limits, stops, seals, or other means used to inhibit adjustment, and the resulting physically adjustable ranges for each such parameter and notify the manufacturer of his determinations.

(1)(i) The Administrator may determine to be subject to adjustment the idle fuel-air mixture, idle speed, and initial spark timing parameters on gasoline-fueled vehicles (engines) (carbureted or fuel injected); the choke valve action parameter(s) on carbureted, gasoline-fueled vehicles (engines); or any parameter on any vehicle (engine) (diesel or gasoline-fueled) which is physically capable of being adjusted, may significantly affect emissions, and was not present on the manufacturer's vehicles (engines) in the previous model year in the same form and function.

(ii) The Administrator may, in addition, determine to be subject to adjustment any other parameters on any vehicle or engine which is physically capable of being adjusted and which may significantly affect emissions. However, the Administrator may do so only if he has previously notified the manufacturer that he might do so and has found, at the time he gave this notice, that the intervening period would be adequate to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period. In no event will this notification be given later than September 1 of the calendar year two years prior to the model year.

(iii) In determining the parameters subject to adjustment the Administrator will consider the likelihood that, for each of the parameters listed in paragraphs (e)(1)(i) and (e)(1)(ii) of this section, settings other than the manufacturer's recommended setting will occur on in-use vehicles (engines). In determining likelihood, the Administrator may consider such factors as, but not limited to, information contained in the preliminary application, surveillance information from similar in-use vehicles (engines), the difficulty and cost of gaining access to an adjustment, damage to the vehicle (engine) if an attempt is made to gain such access and the need to replace parts following such attempt, and the effect of settings other than the manufacturer's recommended setting on vehicle (engine) performance characteristics including emission characteristics.

(2)(i) The Administrator shall determine a parameter to be adequately inaccessible or sealed if:

(A) In the case of an idle mixture screw, the screw is recessed within the carburetor casting and sealed with lead, thermosetting plastic, or an inverted elliptical spacer or sheared off after adjustment at the factory, and the inaccessibility is such that the screw cannot be accessed and/or adjusted with simple tools in one-half hour.

(B) In the case of a choke bimetal spring, the plate covering the bimetal spring is riveted or welded in place, or held in place with nonreversible screws.

(C) In the case of a parameter which may be adjusted elongating or bending adjustable members (e.g., the choke vacum break), the elongation of the adjustable member is limited by design or, in the case of a bendable member, the member is constructed of a material which when bent would return to its original shape after the force is removed (plastic or spring steel materials).

(D) In the case of any parameter, the manufacturer demonstrates that adjusting the parameter, to settings other than the manufacturer's recommended setting takes more than one-half hour or costs more than $20 (1978 dollars).

(ii) The Administrator shall determine a physical limit or stop to be an adequate restraint on adjustability if:

(A) In the case of a threaded adjustment, the threads are terminated, pinned or crimped so as to prevent additional travel without breakage or need for costly repairs.

(B) The adjustment is ineffective at the end of the limits of travel regardless of additional forces or torques applied to the adjustment.

(C) The manufacturer demonstrates that travel or rotation limits cannot be exceeded with the use of simple and inexpensive tools (screwdriver, pliers, open-end or box wrenches, etc.) without incurring significant and costly damage to the vehicle (engine) or control system or without taking more than one-half hour or costing more than $20 (1978 dollars).

(iii) If manufacturer service manuals or bulletins describe routine procedures for gaining access to a parameter or for removing or exceeding a physical limit, stop, seal or other means used to inhibit adjustment, or if surveillance data indicate that gaining access, removing or exceeding is likely, paragraphs (e)(2)(i) and (e)(2)(ii) of this section shall not apply for that parameter.

(iv) In determining the adequacy of a physical limit, stop, seal, or other means used to inhibit adjustment of a parameter not covered by paragraph (e)(2)(i) or (e)(2)(ii) of this section, the Administrator will consider the likelihood that it will be circumvented, removed, or exceeded on in-use vehicles. In determining likelihood, the Administrator may consider such factors as, but not limited to, information contained in the preliminary application; surveillance information from similar in-use vehicles (engines); the difficulty and cost of circumventing, removing, or exceeding the limit, stop, seal, or other means; damage to the vehicle (engine) if an attempt is made to circumvent, remove, or exceed it and the need to replace parts following such attempt; and the effect of settings beyond the limit, stop, seal, or other means on vehicle (engine) performance characteristics other than emission characteristics.

(3) The Administrator shall determine two physically adjustable ranges for each parameter subject to adjustment:

(i)(A) In the case of a parameter determined to be adequately inaccessible or sealed, the Administrator may include within the physically adjustable range applicable to testing under this subpart (certification testing) all settings within the production tolerance associated with the nominal setting for that parameter, as specified by the manufacturer in the preliminary application for certification.

(B) In the case of other parameters, the Administrator shall include within this range all settings within physical limits or stops determined to be adequate restraints on adjustability. The Administrator may also include the production tolerances on the location of these limits or stops when determining the physically adjustable range.

(ii)(A) In the case of a parameter determined to be adequately inaccessible or sealed, the Administrator shall include within the physically adjustable range applicable to testing under Subpart G or K (Selective Enforcement Audit and Production Compliance Audit for heavy-duty engines) only the actual settings to which the parameter is adjusted during production.

(B) In the case of other parameters, the Administrator shall include within this range all settings within physical

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limits or stops determined to be adequate restraints on adjustability, as they are actually located on the test vehicle (engine).

(f)(1) If the manufacturer submits the information specified in § 86.084–21(b)(1)(ii) in advance of its full preliminary application for certification, the Administrator shall review the information and make the determinations required in paragraph (e) of this section within 90 days of the manufacturer's submittal.

(2) The 90-day decision period is exclusive of the elapsed time during which EPA may request additional information from manufacturers regarding an adjustable parameter and the receipt of the manufacturers' response(s).

(g) Within 30 days following receipt of notification of the Administrator's determinations made under paragraph (e) of this section, the manufacturer may request a hearing on the Administrator's determinations. The request shall be in writing, signed by an authorized representative of the manufacturer, and shall include a statement specifying the manufacturer's objections to the Administrator's determinations, and data in support of such objections. If, after review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078–6 with respect to such issue.

10. A new § 86.084–23 is added and reads as follows:

§ 86.084–23 Required data.

(a) The manufacturer shall perform the tests required by the applicable test precedures, and submit to the Administrator the following information: *Provided, however,* That:

(1) If requested by the manufacturer, the Administrator may waive any requirement of this section for testing of vehicles (or engines) for which emission data are available, or will be made available, under the provisions of § 86.079–29, or

(2) If requested by the manufacturer, the Administrator may waive any requirement of this section for testing of vehicles at zero kilometers of operation.

(b)(1)(i) Exhaust emission durability data on such light-duty vehicles and light-duty trucks tested in accordance with applicable test procedures and in such numbers as specified, which will show the performance of the systems installed on or incorporated in the vehicle for extended mileage, as well as a record of all pertinent maintenance performed on the test vehicles.

(ii) Exhaust emission deterioration factors for heavy-duty engines and all test data that are derived from the testing described under § 86.084–21(b)(4)(ii)(A) as well as a record of all pertinent maintenance. Such testing shall be designed and conducted in accordance with good engineering practice to assure that the engines covered by a certificate issued under § 86.084–30 will meet the emission standards in § 86.084–10 or § 86.084–11, as appropriate, in actual use for the useful life of the engine.

(2) Evaporative emission deterioration factors for each evaporative emission family-evaporative emission control system combination and all test data that are derived from testing described under § 86.084–21(b)(4)(i) designed and conducted in accordance with good engineering practice to assure that the vehicles covered by a certificate issued under § 86.079–30 will meet the evaporative emission standards in § 86.081–8 or § 86.081–9, as appropriate, for the useful life of the vehicle.

(c) *Emission data.*—(1) *Certification vehicles.* (i) Emission data on such vehicles tested in accordance with the applicable test procedures and in such numbers as specified, which will show their emissions after zero kilometers (zero miles) and 6,436 kilometers (4,000 miles) operation.

(ii) Emission data on those vehicles selected under § 86.079–24(b)(1)(v) and § 86.079–24(b)(1)(vii)(D) and tested in accordance with the applicable test procedures of this subpart and in such numbers as therein specified, which shall be tested at zero kilometers (zero miles) at any altitude, and under high-altitude conditions after 6,436 kilometers (4,000 miles) of operation at any altitude.

(2) *Certification engines.* Emission data on such engines tested in accordance with applicable emission test procedures and in such numbers as specified, which will show their emissions after 125 hours of operation. A zero-hour test may be performed after the engine has been approved by the Administrator to begin service accumulation.

(d) A statement that the vehicles (or engines) for which certification is requested conform to the requirements in § 86.078–5(b), and that the descriptions of tests performed to ascertain compliance with the general standards in § 86.078–5(b), and the data derived from such tests, are available to the Administrator upon request.

(e)(1) A statement that the test vehicles (or test engines) with respect to which data are submitted to demonstrate compliance with §§ 86.078–8, 86.079–9, 86.079–10, 86.079–11, 86.080–10, or 86.080–11, as applicable, are in all material respects as described in the manufacturer's application for certification, have been tested in accordance with the applicable test procedures utilizing the fuels and equipment described in the application for certification and that on the basis of such tests the vehicles (or engines) conform to the requirements of this part. If such statements cannot be made with respect to any vehicle (or engine) tested, the vehicle (or engine) shall be identified, and all pertinent data relating thereto shall be supplied to the Administrator. If, on the basis of the data supplied and any additional data as required by the Administrator, the Administrator determines that the test vehicle (or test engine) was not as described in the application for certification or was not tested in accordance with the applicable test procedures utilizing the fuels and equipment as described in the application for certification, the Administrator may make the determination that the vehicle (or engine) does not meet the applicable standards. The provisions of § 86.079–30(b) shall then be followed.

(2) For evaporative emission durability and heavy-duty engine exhaust emission durability, the statement of compliance with paragraph (b)(1) or (b)(2) of this section.

11. A new § 86.084–24 added and reads as follows:

§ 86.084–24 Test vehicles and engines.

(a)(1) The vehicles or engines covered by an application for certification will be divided into groupings of engines which are expected to have similar emission characteristics throughout their useful life. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) To be classed in the same engine family, engines must be identical in all the following respects:

(i) The cylinder bore center-to-center dimensions.

(ii) The dimension from the centerline of the crankshaft to the centerline of the camshaft.

(iii) The dimension from the centerline of the crankshaft to the top of the cylinder block head face.

(iv) The cylinder block configuration (air cooled or water cooled; L–6, 90°, V–8, etc.).

(v) The location of the intake and exhaust valves (or ports) and the valve (or port) sizes (within a ⅛-inch range on the valve head diameter or within 10 percent on the port area.)

(vi) The method of air aspiration.

(vii) The combustion cycle.

(viii) Catalytic converter characteristics.

(ix) Thermal reactor characteristics.

(x) Type of air inlet cooler (e.g., intercoolers and after-coolers) for diesel heavy-duty engines.

(3)(i) Engines identical in all the respects listed in paragraph (a)(2) of this section may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine:

(A) The bore and stroke.

(B) The surface-to-volume ratio of the nominally dimensioned cylinder at the top dead center positions.

(C) The intake manifold induction port size and configuration.

(D) The exhaust manifold port size and configuration.

(E) The intake and exhaust valve sizes.

(F) The fuel system.

(G) The camshaft timing and ignition or injection timing characteristics.

(ii) Heavy-duty engines produced in different model years and distinguishable in the respects listed in paragraph (a)(2) of this section shall be treated as belonging to a single engine family if the Administrator requires it, after determining that the engines may be expected to have similar emission deterioration characteristics.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in paragraphs (a) (2) and (3) of this section, the Administrator will establish families for those engines based upon those features most related to their emission characteristics.

(5) The gasoline-fueled vehicles covered by an application for certification will be divided into groupings which are expected to have similar evaporative emission characteristics throughout their useful life. Each group of vehicles with similar evaporative emission characteristics shall be defined as a separate evaporative emission family.

(6) To be classed in the same evaporative emission family, vehicles must be similar with respect to:

(i) Type of vapor storage device (e.g., canister, air cleaner, crankcase).

(ii) Basic canister design.

(iii) Fuel system.

(7) Where vehicles are of a type which cannot be divided into evaporative emission families based on the criteria listed above, the Administrator will establish families for those vehicles based upon the features most related to their evaporative emission characteristics.

(b) *Emission data.*—(1) *Emission-data vehicles.* Paragraph (b)(1) of this section applies to light-duty vehicle and light-duty truck emission-data vehicles.

(i) Vehicles will be chosen to be operated and tested for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Vehicles for each engine family will be divided into engine displacement-exhaust emission control system combinations as applicable. A projected sales volume will be established for each combination for the model year for which certification is sought. One vehicle of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of vehicles of that engine family is represented, or until a maximum of four vehicles is selected. If any single combination represents over 70 percent, then two vehicles of that combination may be selected. The vehicle selected for each combination will be specified by the Administrator as to such features as engine code, transmission type, fuel system, and inertia weight class.

(iii) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Administrator will consider such features as the emission control system combination, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, compression ratio, inertia weight class, transmission options, and axle ratio.

(iv) If the vehicles selected in accordance with paragraphs (b)(1) (ii) and (iii) of this section do not represent each engine-system combination, then one vehicle of each engine-system combination not represented will be selected by the Administrator. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with the control system combination in the engine family and will be designated by the Administrator as to such features as engine code, transmission type, fuel system, and inertia weight class.

(v) Within an engine family the Administrator may select one additional vehicle for each engine-system combination with which a manufacturer chooses to demonstrate compliance with applicable emission standards at high altitude.

(vi) The Administrator may combine testing requirements for any vehicle selected under paragraph (b)(1)(v) or (b)(1)(vii)(D) of this section with the testing requirements for any similar vehicle in the same engine-system combination selected under paragraph (b)(1) (ii), (iii) or (iv) of this section or any similar vehicle in the same engine-system, evaporative emission family, evaporative emission control system combination selected under paragraph (b)(1)(vii) (A) or (B) of this section. The testing requirements may be combined by the Administrator by requiring a vehicle selected for testing under paragraphs (b)(1) (ii), (iii), (iv), (vii)(A) or (vii)(B) of this section to be modifed (if necessary) after mileage accumulation and emission testing for the purpose of demonstrating compliance with § 86.078–23 (c)(1)(ii).

(vii)(A) Vehicles of each evaporative emission family will be divided into evaporative emission control systems. One vehicle of each evaporative emission control system within the evaporative emission family will be selected.

(B) The Administrator may select a maximum of four additional vehicles within each evaporative emission family based upon features indicating that they may have the highest evaporative emission levels of vehicles in that family.

(C) The Administrator may determine that the vehicles selected under paragraphs (b)(1) (ii) through (iv) of this section may be used to satisfy the requirements of paragraph (b)(1)(vii) (A) and (B) of this section.

(D) The Administrator may also select one additional vehicle for each evaporative emission control system within each evaporative family for those vehicles with which the manufacturer chooses to demonstrate compliance with applicable emission standards at high altitude.

(E) Vehicles selected under paragraph (b)(1)(v) of this section may be used to satisfy the requirements of paragraph (b)(1)(vii)(D) of this section.

(2) *Gasoline-fueled heavy-duty emission-data engines.* Paragraph (b)(2) of this section applies to gasoline-fueled heavy-duty engines.

(i) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into engine displacement-exhaust emission control system combinations. A projected sales volume

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will be established for each combination for the applicable model year. One engine of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of engines of that family is represented, or until a maximum of four engines is selected. The engines selected for each combination will be specified by the Administrator as to fuel system.

(iii) The Administrator may select a maximum of two additional engines within each engine family based upon features indicating that they may have the highest emission levels of the engines in that engine family. In selecting these engines, the Administrator will consider such features as the exhaust emission control system, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, and compression ratio.

(iv) If the engines selected in accordance with paragraphs (b)(2) (ii) and (iii) of this section do not represent each engine displacement-exhaust emission control system combination, then one engine of each engine displacement-exhaust emission control system combination not represented shall be selected by the Administrator.

(3) *Diesel heavy-duty emission-data engines.* Paragraph (b)(3) of this section applies to diesel heavy-duty emission-data vehicles.

(i) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into groups based upon their exhaust emission control systems. One engine of each engine system combination shall be run for smoke emission data and gaseous emission data. Either the complete gaseous emission test or the complete smoke test may be conducted first. Within each combination, the engine that features the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed, will usually be selected. If there are military engines with higher fuel rates than other engines in the same engine system combinations, then one military engine shall also be selected. The engine with the highest fuel feed per stroke will usually be selected.

(iii) The Administrator may select a maximum of one additional engine within each engine-system combination based upon features indicating that it may have the highest emission levels of the engines of that combination. In selecting this engine, the Administrator will consider such features as the injection system fuel system, compression ratio, rated speed, rated horsepower, peak torque speed, and peak torque.

(c) *Durability data.*—(1) *Durability-data vehicles.* Paragraph (c)(1) of this section applies to light-duty vehicle and light-duty truck durability-data vehicles.

(i) A durability-data vehicle will be selected by the Administrator to represent each engine-system combination. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with that control-system combination in that engine family and will be designated by the Administrator as to transmission type, fuel system, inertia weight class, and test weight.

(ii) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same engine displacement, transmission type, fuel system and inertia weight class as the vehicle selected for that engine-system combination in accordance with the provisions of paragraph (c)(1)(i) of this section. Notice of an intent to operate and test additional vehicles shall be given to the Administrator not later than 30 days following notification of the test fleet selection.

(2) *Heavy-duty durability-data engines.* Paragraph (c)(2) of this section applies to engines, subsystems, or components used to establish deterioration factors for heavy-duty engines.

(i) The manufacturer shall select the engines, subsystems, or components to be used to determine exhaust emission deterioration factors for each engine-family control system combination. Whether engines, subsystems, or components are used, they shall be selected so that their emissions deterioration characteristics may be expected to represent those of in-use engines, based on good engineering judgment.

(ii) [Reserved]

(d) For purposes of testing under § 86.078–26 (a)(9), (b)(9) or (c)(11), the Administrator may require additional emission-data vehicles (or emission-data engines) and durability-data vehicles (or durability-data engines) identical in all material respects to vehicles (or engines) selected in accordance with paragraphs (b) and (c) of this section: *Provided,* That the number of vehicles selected shall not increase the size of either the emission-data fleet or the durability-data fleet by more than 20 percent or one vehicle, whichever is greater.

(e) Any manufacturer whose projected sales for the model year in which certification is sought is less than

(1) 2,000 gasoline-fueled light-duty vehicles, or

(2) 2,000 Diesel light-duty vehicles, or

(3) 2,000 gasoline-fueled light-duty trucks, or

(4) 2,000 Diesel light-duty trucks, or

(5) 2,000 gasoline-fueled heavy-duty engines, or

(6) 2,000 Diesel heavy-duty engines,

may request a reduction in the number of test vehicles (or engines) determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines would meet the objectives of this procedures.

(f) In lieu of testing an emission-data or durability data vehicle (or engine) selected under paragraph (b) or (c) of this section, and submitting data therefor, a manufacturer may, with the prior written approval of the Administrator, submit exhaust emission data and/or fuel evaporative emission data, as applicable on a similar vehicle (or engine) for which certification has previously been obtained or for which all applicable data required under § 86.084–23 has previously been submitted.

(g)(1) This paragraph applies to light-duty vehicles and light-duty trucks.

(2) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with an optional item, the full estimated weight of that item shall be included, if required by the Administrator, in the curb weight computation for each vehicle available with that option in the engine family. Where it is expected that 33 percent or less of the vehicles in an engine family will be equipped with an item of optional equipment, no weight for that item will be added in computing curb weight. In the case of mutually exclusive options, only the weight of the heavier option will be added in computing curb weight. Optional equipment weighing less than 3 pounds per item need not be considered.

(3) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with an item of optional equipment that can reasonably be expected to influence emissions, then such items of optional equipment shall actually be installed, unless specifically excluded by the Administrator, on all emission-data and durability-data vehicles in the engine family on which the option is intended to be offered in production. Optional equipment that can reasonably be expected to influence emissions are the air conditioner, power steering, power brakes and other items determined by the Administrator.

(4) Optional equipment that can reasonably be expected to influence emissions which is utilized on 33 percent or less of the vehicles in the engine family shall not be installed on any vehicle in that engine family unless specifically required under this section.

12. A new § 86.084–25 is added and reads as follows:

§ 86.084–25 Maintenance.

(a) *Light-duty vehicles and light-duty trucks.* Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(1) Scheduled maintenance on the engine, emission control system, and fuel system of durability-data vehicles, selected by the Administrator or elected by the manufacturer under § 86.079–24(c)(1), shall be scheduled for performance during durability testing at the same mileage intervals that will be specified in the manufacturer's maintenance instructions furnished to the ultimate purchaser of the motor vehicle. Such maintenance shall be performed, except as provided in paragraph (a)(5)(iii) of this section, only under the following provisions:

(i) Schedules major engine tuneups to manufacturer's specifications may be performed no more frequently than every 12,500 miles of scheduled driving: *Provided,* That no tuneup may be performed after 45,000 miles of scheduled driving. A scheduled major engine tuneup shall be restricted to paragraph (a)(1)(i) (A) or (B) of this section, and shall be conducted in a manner consistent with service instructions and specifications provided by the manufacturer for use by customer service personnel.

(A) *For gasoline-fueled vehicles,* the following items may be inspected, replaced, cleaned, adjusted, and/or serviced as required:

(*1*) Ignition system.

(*2*) Cold starting enrichment system (includes fast idle speed setting).

(*3*) Curb idle speed and air/fuel mixture.

(*4*) Drive belt tension on engine accessories.

(*5*) Valve lash.

(*6*) Inlet air and exhaust gas control valves.

(*7*) Engine bolt torque.

(*8*) Spark plugs.

(*9*) Fuel filter and air filter.

(*10*) Crankcase emission control system.

(*11*) Fuel evaporative emission control system.

(B) *For Diesel vehicles,* a major engine tuneup shall be restricted to the following:

(*1*) Adjust low idle speed.

(*2*) Adjust valve lash if required.

(*3*) Adjust injector timing.

(*4*) Adjust governor.

(*5*) Clean and service injector tips.

(*6*) Adjust drive belt tension on engine accessories.

(*7*) Check engine bolt torque and tighten as required.

(ii) Change of engine and transmission oil, and change or service of oil filter will be allowed at the same mileage intervals that will be specified in the manufacturer's maintenance instructions.

(iii) Readjustment of the engine idle speed (curb idle and fast idle) may be performed, in addition to adjustment during scheduled major engine tuneups, once during the first 5,000 miles of vehicle operation.

(2)(i) *For gasoline-fueled vehicles,* unscheduled maintenance on the engine, emission control system, and fuel system of durability vehicles may be performed, except as provided in paragraph (a)(5)(i) of this section, only under the following provisions:

(A) Any persistently misfiring spark plug may be replaced, in addition to replacement at scheduled major engine tuneup points.

(B) Readjustment of the engine cold starting enrichment system may be performed if there is a problem of stalling or if there is visible black smoke.

(C) Readjustment of the engine idle-speed (curb idle and fast idle) may be performed, in addition to that performed as scheduled maintenance under paragraph (a)(1) of this section, if the idle speed exceeds the manufacturer's recommended idle speed by 300 r.p.m. or more, or if there is a problem of stalling.

(D) The idle mixture may be reset, other than during scheduled major engine tuneups, only with the advance approval of the Administrator.

(ii) *For Diesel vehicles,* unscheduled maintenance on the engine emission control system, and fuel system of durability-data vehicles may be performed except as provided in paragraph (a)(5)(i) of this section, only under the following provisions:

(A) Injectors may be changed if a persistent misfire is detected.

(B) Readjustment of the engine idle speed (curb idle and fast idle) may be performed in addition to that performed as scheduled maintenance under paragraph (a)(1) of this section, if the idle speed exceeds the manufacturer's recommended idle speed by 300 r.p.m. or more, or if there is a problem of stalling.

(3) An exhaust gas recirculation (EGR) system may be serviced during durability testing only under one of the following provisions:

(i) Manufacturers may schedule service to the EGR system at the scheduled major engine tuneup, if an audible and/or visual signal approved by the Administrator alerts the vehicle operator to the need for EGR system maintenance at each of those mileage points. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(ii) Manufacturers may service the EGR system as unscheduled maintenance a maximum of three times during the 50,000 miles if failure of the EGR system activates an audible and/or visual signal approved by the Administrator which alerts the vehicle operator to the need for EGR system maintenance. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(iii) Manufacturers may service the EGR system a maximum of three times during the 50,000 miles either at a scheduled major engine tuneup point or as unscheduled maintenance, if an audible and/or visual signal approved by the Administrator alerts the vehicle operator to the need for EGR system maintenance. The signal may be activated either by EGR system failure (unscheduled maintenance) or need for scheduled periodic maintenance. If maintenance is performed, the signal for scheduled periodic maintenance shall be reset. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(iv) Manufacturers may schedule service to the EGR system at the scheduled major engine tuneup(s) if failure to perform EGR system maintenance is not likely, as determined by the Administrator, to result in an improvement in vehicle performance. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

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(4) The catalytic converter may be serviced once during 50,000 miles if an audible and/or visual signal approved by the Administrator alerts the vehicle operator to the need for maintenance. The signal may be activated either by component failure or need for maintenance at a scheduled point.

(5) Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on durability-data vehicles shall be performed only with the advance approval of the Administrator.

(i) In the case of unscheduled maintenance, such approval will be given if the Administrator:

(A) Has made a preliminary determination that part failure or system malfunction, or the repair of such failure or malfunction, does not render the vehicle unrepresentative of vehicles in use, and does not require direct access to the combustion chamber, except for spark plug, fuel injection component, or removable prechamber removal or replacement; and

(B) Has made a determination that the need for maintenance or repairs is indicated by an overt indication of malfunction such as persistent misfiring, vehicle stalling, overheating, fluid leakage, loss of oil pressure, or charge indicator warning. For the evaporative emission control system this overt indication may be indicated by such items as fuel odor or fluid leakage.

(ii) Emission measurements may not be used as a means of determining the need for unscheduled maintenance under paragraph (a)(5)(i)(A) of this section.

(iii) Requests for authorization of scheduled maintenance of emission control-related components not specifically authorized to be maintained by these regulations must be made prior to the beginning of durability testing. The Administrator will approve the performance of such maintenance if the manufacturers makes a satisfactory showing that the maintenance will be performed on vehicles in use.

(6) If the Administrator determines that part failure or system malfunction occurrence and/or repair rendered the vehicle unrepresentative of vehicles in use, the vehicle shall not be used as a durability-data vehicle.

(7) Where the Administrator agrees under § 86.079–26 to a mileage accumulation of less than 50,000 miles for durability testing, he may modify the requirements of this paragraph.

(8)(i) Adjustment of engine idle speed on emission-data vehicles may be performed once before the 6,436-kilometer (4,000-mile) test point. Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on emission-data vehicles shall be performed only with the advance approval of the Administrator.

(ii) Maintenance on emission-data vehicles selected under § 86.079–24 (b)(1)(v) or (b)(1)(vii)(D) and permitted to be tested for purposes of § 86.079–23 (b)(1)(ii) under the provisions of § 86.079–24 (b)(1)(vi) may be performed in conjunction with emission control system modifications at the 6,436-kilometer (4,000-mile) test point, and shall be performed in accordance with the maintenance instructions to be provided to the ultimate purchaser required under § 86.079–38.

(iii) Maintenance on those emission-data vehicles selected under § 86.079–24 (b)(1)(v) which are not capable of being modified in the field for the purpose of complying with emission standards at an altitude other than intended by the original design may be performed in conjunction with the emission control system modifications at the 6,436-kilometer (4,000-mile) test point, and shall be approved in advance by the Administrator.

(9) Repairs to vehicle components of the durability-data or emission-data vehicle, other than the engine, emission control system, or fuel system, shall be performed only as a result of part failure, vehicle system malfunction, or with the advance approval of the Administrator.

(10) Complete emission tests (see §§ 86.106 through 86.145) are required, unless waived by the Administrator, before and after any vehicle maintenance which may reasonably be expected to affect emissions. These test data shall be air posted to the Administrator within 24 hours (or delivered within 3 working days), after the tests, along with a complete record of all pertinent maintenance, including a preliminary engineering report of any malfunction diagnosis and the corrective action taken. A complete engineering report shall be delivered or air posted to the Administrator within 10 working days after the tests. In addition, all test data and maintenance reports shall be compiled and provided to the Administrator in accordance with § 86.079–23.

(11) The Administrator shall be given the opportunity to verify the existence of an overt indication of part failure and/or vehicle malfunction (e.g., misfiring, stalling, black smoke), or an activation of an audible and/or visual signal, prior to the performance of any maintenance to which such overt indication or signal is relevant under the provisions of this section.

(12) Equipment, instruments, or tools may not be used to identify malfunctioning, maladjusted, or defective engine components unless the same or equivalent equipment, instruments, or tools will be available to dealerships and other service outlets and

(i) Are used in conjunction with scheduled maintenance on such components,

(ii) Are used subsequent to the identification of a vehicle or engine malfunction, as provided in paragraph (a)(5)(i) of this section for durability-data vehicles or paragraph (a)(8)(i) of this section for emission-data vehicles, or

(iii) Unless specifically authorized by the Administrator.

(b) [Reserved]

(c) *Heavy-duty engines.* Paragraph (c) of this section applies to heavy-duty engines.

(1) All emission-related scheduled maintenance which is necessary for compliance with the standards in actual use must be technologically necessary. The emission-related maintenance which is performed on engines, subsystems, or components used to determine exhaust emission deterioration factors must be compatible with the requirements of the previous sentence.

(i) The manufacturer must submit data to the Administrator which demonstrates that all of the emission-related maintenance which is to be performed on the engines is technologically necessary. EPA has determined that emissions-related maintenance at shorter intervals than that outlined in paragraphs (c)(1)(ii) and (c)(1)(iii) is not technologically necessary. The Administrator may determine that even maintenance more restrictive (e.g., longer intervals) than that listed in paragraphs (c)(1)(ii) and (c)(1)(iii) is not technologically necessary.

(ii) For gasoline-fueled engines, emission-related maintenance in addition to, or at shorter intervals, than that listed below will not be accepted as technologically necessary, except as provided in paragraph (c)(1)(iv).

(A) The cleaning or replacement of spark plugs at 25,000 miles and at 25,000-mile intervals thereafter.

(B) The inspecting, cleaning, adjustment, or replacement of the following at 50,000 miles of use and at 50,000-mile intervals thereafter:

(*1*) Postive crankcase ventilation and exhaust gas recirculation valves:

(*2*) Emission-related hose and tubes;

(*3*) Ignition wires;

(*4*) Oxygen sensor;

(*5*) Injector tips (inspecting and cleaning only);

(*6*) Idle mixture.

(C) The replacement of the catalytic converter at 100,000 miles of use and at 100,000-mile (or longer) intervals thereafter.

(iii) For diesel engines, emission-related maintenance in addition to or at shorter intervals than that listed below will not be accepted as technologically necessary, except as provided in paragraph (c)(1)(iv).

(A) The following maintenance at 50,000 miles of use and at 50,000-mile intervals thereafter.

(*1*) Cleaning or replacement of the exhaust gas recirculation and positive crankcase ventilation valves;

(*2*) Cleaning of injector tips.

(B) The cleaning, rebuilding, or replacement of the following at 200,000 miles of use and at 200,000 mile intervals thereafter:

(*1*) Turbocharger;

(*2*) Injectors.

(iv) Requests for authorization of scheduled maintenance of emission control related components in addition to those items of maintenance covered under paragraphs (c)(1)(ii) and (c)(1)(iii) will be considered if the maintenance is a direct result of the implementation of new technology. New technology means any technology not found in production on any motor vehicle prior to the 1980 model year.

(v) [Reserved]

(vi) Non-emission related engine maintenance which is reasonable and necessary (e.g., oil change, oil filter change, fuel filter change, air filter change, cooling system maintenance, accessory belt inspection, adjustment of idle speed, governor, engine bolt torque, valve lash, injector lash, timing, etc.) may be performed on durability-data engines at the intervals recommended by the manufacturer to the utlitmate purchaser.

(vii) Unscheduled maintenance may be performed on durability-data engines, except as provided in paragraph (c)(1)(viii)(A) of this section, only under the following provisions:

(A) An injector or spark plug may be changed if a persistent misfire is detected.

(B) Readjustment of a gasoline-fueled engine cold-start enrichment system may be performed if there is a problem of stalling.

(C) Readjustment of the engine idle speed (curb idle and fast idle) may be performed, if the idle speed exceeds the manufacturer's recommended idle speed by 300 rpm or more, if there is a problem of stalling.

(viii) Any other unscheduled engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on durability-data engines shall be performed only with the advance approval of the Administrator.

(A) Such approval will be given if the Administrator:

(*1*) Has made a preliminary determination that the part failure or system malfunction, or the repair of such failure or malfunction, does not render the engine unrepresentative of engines in use, and does not require direct access to the combustion chamber, except for spark plug, fuel injection component, or removable prechamber removal or replacement; and,

(*2*) Has made a determination that the need for maintenance or repairs is indicated by an overt indication of malfunction such as persistent misfiring, engine stalling, overheating, fluid leakage, loss of oil pressure, excessive fuel consumption or excessive power loss.

(B) Emission measurements may not be used as a means of determining the need for unscheduled maintenance under paragraph (c)(1)(vii) of this section.

(ix) If the Administrator determines the part failure or system malfunction occurrence and/or repair rendered the engine unrepresentative of engines in use, the engine shall not continue to be used as a durability-data engine. The emission data from an engine that is discontinued as a durability-data engine shall not be included in the evaluation of the deterioration factor for the family-system combination if its calculated deterioration factor is less than the average deterioration factor for the remaining durability-data engines in the combination, unless the manufacturer's engineering analysis demonstrates, to the satisfaction of the Administrator, that the data is representative.

(2) [Reserved]

(3)(i) Scheduled maintenance on emission-data engines is limited to the adjustment of idle speed once before the 125-hour test point, provided the idle speed is outside the manufacturer's specifications.

(ii) Any other engine, emission control system, or fuel system, adjustment, repair, removal, disassembly, cleaning, servicing, or replacement shall be performed only with the advance approval of the Administrator.

(4) [Reserved]

(5)(i) [Reserved]

(ii) [Reserved]

(iii) [Reserved]

(iv) Test data required by this paragraph shall be air posted to the Administrator within 72 hours of test completion (or delivered within 5 working days), along with a complete record of all pertinent maintenance.

(v) When unscheduled maintenance is approved, a preliminary engineering report, unless waived by the Administrator, shall be air posted within 72 hours (or delivered within 5 working days). A final engineering report shall be delivered or air posted within 10 working days after the completion of the emissions tests. The Administrator may approve an extension of the time requirements for the final engineering report.

(vi) All test data, maintenance reports, and required engineering reports shall be compiled and provided to the Administrator in accordance with § 86.079–23.

(6) The Administrator shall be given the opportunity to verify the existence of an overt indication of part failure and/or engine malfunction (e.g., misfiring, stalling.)

(7) Equipment, instruments, or tools may not be used to identify malfunctioning, maladjusted, or defective engine components unless the same or equivalent equipment, instruments, or tools will be available to dealerships and other service outlets, and:

(i) Are used in conjunction with scheduled maintenance on such components;

(ii) Are used subsequent to the identification of an engine failure or malfunction, as provided in paragraph (c)(2)(v)(A) of this section for durability-data engines or paragraph (c)(3) of this section for emission-data engines; or

(iii) Unless specifically authorized by the Administrator.

13. A new § 86.084–26 is added and reads as follows:

§ 86.084–26 Mileage and service accumulation; emission measurements.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The procedure for mileage accumulation will be the Durability Driving Schedule as specified in Appendix IV to this part. A modified procedure may also be used if approved in advance by the Administrator. Except with the advance approval of the Administrator, all vehicles will accumulate mileage at a measured curb weight which is within 100 pounds of the estimated curb weight. If the loaded vehicle weight is within 100 pounds of being included in the next higher inertia weight class as specified in § 86.125, the

manufacturer may elect to conduct the respective emission tests at higher loaded vehicle weight. Mileage will be accumulated on four wheel drive vehicles in their normal on-highway mode of operation.

(3) *Emission-data vehicles.*—(i) *Gasoline-fueled.* (A) Each gasoline-fueled emission-data vehicle shall be driven 4000 miles with all emission control systems installed and operating. Complete exhaust emission tests shall be conducted at zero miles and 4000 miles on those vehicles selected under § 86.079–24 (b)(1)(ii) through (b)(1)(v). Complete exhaust and evaporative emission tests shall be conducted at zero miles and 4000 miles on those vehicles selected under § 86.079–24(b)(1)(vii). The manufacturer may at his option test the vehicles selected under § 86.079–29(b)(1)(vii) up to three times at the 4000-mile test point as long as the ±250 mile test tolerance is adhered to. The Administrator may determine under § 86.079–24(f) that no testing is required.

(B) The emission-data vehicle(s) selected for testing under § 86.079–24 (b)(1)(v) or (b)(1)(vii)(D) shall be driven 6,436 kilometers (4,000 miles) at any altitude. Emission tests shall be conducted at zero kilometers (zero miles) at any altitude and 6,436 kilometers (4,000 miles) under high-altitude conditions.

(C) The emission-data vehicle(s) selected for testing under § 86.079–24 (b)(1)(v) or (b)(1)(vii)(D) and permitted to be tested for purposes of § 86.079–23(b)(1)(ii) under the provisions of § 86.079–24(b)(1)(vi) shall be driven 6,436 kilometers (4,000 miles) at low altitude. Emission tests shall be conducted at zero kilometers (zero miles) at low altitude and 6,436 kilometers (4,000 miles) under both low- and high-altitude conditions. For the purposes of this subparagraph, "low altitude" means any elevation less than 549 meters (1,800 feet).

(ii) *Diesel.* (A) Each Diesel emission-data vehicle shall be driven 6,436 kilometers (4,000 miles) with all emission control systems installed and operating. Emission tests shall be conducted at zero kilometers (zero miles) and 6,436 kilometers (4,000 miles).

(B) The emission-data vehicle(s) selected for testing under § 86.079–24(b)(1)(v) shall be driven 6,436 kilometers (4,000 miles) at any altitude. Emission tests shall be conducted at zero kilometers (zero miles) at any altitude and 6,436 kilometers (4,000 miles) under high-altitude conditions.

(C) The emission-data vehicle(s) selected for testing under § 86.079–24(b)(1)(v) and permitted to be tested for purposes of § 86.079–23(b)(1)(ii) under the provisions of § 86.079–24(b)(1)(vi) shall be driven 6,436 kilometers (4,000 miles) at low altitude. Emission tests shall be conducted at zero kilometers (zero miles) at low altitude and 6,436 kilometers (4,000 miles) under both low- and high-altitude conditions. For the purpose of this subparagraph "low altitude" means any elevation less than 549 meters (1,800 feet).

(4) *Durability-data vehicles.*—(i) *Gasoline-fueled.* Each gasoline-fueled durability-data vehicle selected by the Administrator or elected by the manufacturer under § 86.079–24(c)(1) shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objective of this procedure. Complete exhaust emission tests shall be made on all durability-data vehicles selected by the Administrator or elected by the manufacturer under § 86.079–24(c) at the following mileage points: 0; 5,000; 10,000; 15,000; 20,000; 25,000; 30,000; 35,000; 40,000; 45,000; 50,000. The Administrator may determine under § 86.079–24(f) that no testing is required.

(ii) *Diesel.* Each Diesel durability-data vehicle shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objectives of the procedure. Complete emission tests (see §§ 86.106 through 86.145) shall be made at the following mileage points: 0; 5,000; 10,000; 15,000; 20,000; 25,000; 30,000; 35,000; 40,000; 45,000; and 50,000.

(5) All tests required by this subpart to be conducted after every 5,000 miles of driving for durability-data vehicles and 4,000 miles for emission-data vehicles must be conducted at any accumulated mileage within 250 miles of each of those test points.

(6)(i) The results of each emission test shall be supplied to the Administrator immediately after the test. The manufacturer shall furnish to the Administrator explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. If a manufacturer conducts multiple tests at any test point at which the data are intended to be used in the calculation of the deterioration factor, the number of tests must be the same at each point and may not exceed three valid tests. Tests between test points may be conducted as required by the Administrator. Data from all tests (including voided tests) shall be air posted to the Administrator within 24 hours (or delivered within 3 working days). In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.070–23. Where the Administrator conducts a test on a durability-data vehicle at a prescribed test point, the results of that test will be used on the calculation of the deterioration factor.

(ii) The results of all emission tests shall be rounded, using the "Rounding Off Method" specified in ASTM E29–67, to the number of places to the right of the decimal point indicated by expressing the applicable emission standards of this subpart to three significant figures.

(7) Whenever the manufacturer proposes to operate and test a vehicle which may be used for emission or durability data, he shall provide the zero-mile test data to the Administrator and make the vehicle available for such testing under § 86.079–29 as the Administrator may require before beginning to accumulate mileage on the vehicle. Failure to comply with this requirement will invalidate all test data submitted for this vehicle.

(8) Once a manufacturer begins to operate an emission-data or durability-data vehicle, as indicated by compliance with paragraph (a)(7) of this section, he shall continue to run the vehicle to 4,000 miles or 50,000 miles, respectively, and the data from the vehicle will be used in the calculations under § 86.079–28. Discontinuation of a vehicle shall be allowed only with the written consent of the Administrator.

(9)(i) The Administrator may elect to operate and test any test vehicle during all or any part of the mileage accumulation and testing procedure. In such cases, the manufacturer shall provide the vehicle(s) to the Administrator with all information necessary to conduct this testing.

(ii) The test procedures in §§ 86.106 through 86.145 will be followed by the Administrator. The Administrator will test the vehicles at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(iii) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other vehicles of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(10) Emission testing of any type with respect to any certification vehicle other than that specified in this part is not allowed except as such testing may be specifically authorized by the Administrator.

(11) This section does not apply to testing conducted to meet the requirements of § 86.079–23(b)(2).

(b)(1) Paragraph (b) of this section applies to heavy-duty engines.

(2) There are two types of service accumulation applicable to heavy-duty engines:

(i) Service accumulation on engines, subsystems, or components selected by the manufacturer under § 86.084–24(c)(2)(i). The manufacturer determines the form and extent of this service accumulation, consistent with good-engineering practice, and describes it in the application for certification.

(ii) Dynamometer service accumulation on emission-data engines selected under § 86.084–24(b)(2) or § 86.084–24(b)(3). The manufacturer determines the engine operating schedule to be used for dynamometer service accumulation, consistent with good engineering practice. A single engine operating schedule shall be used for all engines in an engine family-control system combination. Operating schedules may be different for different combinations.

(3) Exhaust emission deterioration factors will be determined on the basis of the service accumulation described in paragraph (b)(2)(i) of this section and related testing, according to the manufacturer's procedures.

(4) Each emission-data engine shall be operated on a dynamometer for 125 hours plus or minus eight hours with all emission control systems installed and operating. An emission test shall be conducted at the end of this dynamometer service accumulation. A zero-hour emission test may be performed after the engine has been approved by the Administrator to begin service accumulation. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system. If a break-in procedure is used the procedure must be the same as recommended to the ultimate purchaser. The hours accumulated during the break-in procedure will not be counted as part of the service accumulation.

(5) [Reserved]

(6) [Reserved]

(7) [Reserved]

(8) [Reserved]

(9)(i) Data from all emission tests (including voided tests) shall be air posted to the Administrator within 72 hours (or delivered within 5 working days). The manufacturer shall furnish to the Administrator an explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. The Administrator may require emission tests at points in addition to those specified in this subpart. In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.084–23.

(ii) The results of all emission tests shall be recorded and reported to the Administrator using two places to the right of the decimal point. These numbers shall be rounded in accordance with the "Rounding Off Method" specified in ASTM E29–67.

(10) Whenever the manufacturer proposes to operate and test an engine which may be used for emission data, it shall provide such information concerning components used on the engine as the Administrator may require and make the engine available for such testing under § 86.084–29 as the Administrator may require, before beginning to accumulate hours on the engine. Failure to comply with this requirement will invalidate all test data submitted for this engine.

(11) Once the manufacturer begins to operate an emission-data engine, as indicated by compliance with paragraph (b)(10) of this section, it shall continue to run that engine to 125 hours plus or minus eight hours.

(12) [Reserved]

(13) Emission testing of any type with respect to any certification engine other than that specified in this subpart is not allowed except as such testing may be specifically authorized by the Administrator.

(14) A new § 86.084–27 is added and reads as follows:

§ 86.084–27 Special test procedures.

(a) For light-duty vehicles and light-duty trucks the Administrator may, on the basis of a written application therefore by a manufacturer, prescribe test procedures, other than those set forth in this part, for any motor vehicle which he determines is not susceptible to satisfactory testing by the procedures set forth herein or in Subpart B of this part.

(b) For heavy-duty engines:

(1) The Administrator may, on the basis of a written application by a manufacturer, prescribe test procedures, other than those set forth in this subpart, for any motor-vehicle engine, which he determines is not susceptible to satisfactory testing by the procedures set forth herein or in Subparts N, I, and P of this part.

(2) If the manufacturer does not submit a written application for use of special test procedures but the Administrator determines that a motor-vehicle engine is not susceptible to satisfactory testing by the procedures set forth herein, the Administrator will reject the applicable portions of the application. The Administrator shall notify the manufacturer in writing and set forth the reasons for such rejection in accordance with the provisions of § 86.084–22(c).

15. A new § 86.084–28 is added and reads as follows:

§ 86.084–28 Compliance with emission standards.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The applicable exhaust and fuel evaporative emission standards of this subpart apply to the emissions of vehicles for their useful life.

(3) Since it is expected that emission control efficiency will change with mileage accumulation on the vehicle, the emission level of a vehicle which has accumulated 50,000 miles will be used as the basis for determining compliance with the standards.

(4) The procedure for determining compliance of a new motor vehicle with exhaust emission standards is as follows:

(i) Separate emission deterioration factors shall be determined from the exhaust emission results of the durability-data vehicle(s) for each engine-system combination. A separate factor shall be established for exhaust HC, exhaust CO, and exhaust NO_x for each engine-system combination. A separate evaporative emission deterioration factor shall be determined for each evaporative emission family-evaporative emission control system combination from the testing conducted by the manufacturer.

(A) The applicable results to be used in determining the exhaust emission deterioration factors for each engine-system combination shall be:

(*1*) All valid exhaust emission data from the tests required under § 86.079–26(a)(4) except the zero-mile tests. These shall include the official test results, as determined in § 86.079–29 for all tests conducted on all durability-data vehicles of the combination selected under § 86.079–24(c) (including all vehicles elected to be operated by the manufacturer under § 86.079–24(c)(1)(ii)).

(*2*) All exhaust emission data from the tests conducted before and after the scheduled maintenance provided in § 86.079–25.,

(*3*) All exhaust emission data from tests required by maintenance approved under § 86.079–25, in those cases where

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the Administrator conditioned his approval for the performance of such maintenance on the inclusion of such data in the deterioration factor calculation.

(B) All applicable exhaust emission results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through all these data points. The interpolated 4,000- and 50,000-mile points on this line must be within the standards provided in § 86.078–8 or § 86.079–9, as applicable, or the data will not be acceptable for use in calculation of a deterioration factor, unless no applicable data point exceeded the standard. An exhaust emission deterioration factor shall be calculated for each engine-system combination as follows:

Factor-Exhaust emissions interpolated to 50,000 miles ÷ exhaust emissions interpolated to 4,000 miles.

These interpolated values shall be carried out to a minimum of four places to the right of the decimal point before dividing one by the other to determine the deterioration factor. The results shall be rounded to three places to the right of the decimal point in accordance with ASTM E 29–67.

(C) An evaporative emissions deterioration factor shall be determined from the testing conducted as described in § 86.079–21(b)(4)(ii), for each evaporative emission family-evaporative emission control system combination to indicate the evaporative emission level at 50,000 miles relative to the evaporative emission level at 4,000 miles as follows:

Factor-Evaporative emission level at 50,000 miles minus the evaporative emission level at 4,000 miles.

The factor shall be established to a minimum of two places to the right of the decimal.

(ii)(A) The official exhaust emission test results for each emission-data vehicle at the 4,000-mile test point shall be multiplied by the appropriate deterioration factor: *Provided,* That if a deterioration factor as computed in paragraph (a)(4)(i)(B) of this section is less than one, that deterioration factor shall be one for the purposes of this paragraph.

(B) The official evaporative emission test results for each evaporative emission-data vehicle at the 4,000-mile test point shall be adjusted by addition of the appropriate deterioration factor: *Provided,* That if a deterioration factor as computed in paragraph (a)(4)(i)(C) of this section is less than zero, that deterioration factor shall be zero for the purposes of this paragraph.

(iii) The emissions to compare with the standard shall be the adjusted emissions of paragraph (a)(4)(ii) (A) and (B) of this section for each emission-data vehicle. Before any emission value is compared with the standard, it shall be rounded, in accordance with ASTM E 29–67, to two significant figures. The rounded emission values may not exceed the standard.

(iv) Every test vehicle of an engine family must comply with the exhaust emission standards, as determined in paragraph (a)(4)(iii) of this section, before any vehicle in that family may be certified.

(v) Every test vehicle of an evaporative emission family must comply with the evaporative emission standards, as determined in paragraph (a)(4)(iii) of this section, before any vehicle in that family may be certified.

(b)(1) Paragraph (b) of this section applies to heavy-duty engines.

(2) The exhaust emission standards for gasoline-fueled engines in § 86.084–10 or for diesel engines in § 86.084–11 apply to the emissions of engines for their useful life.

(3) Since emission control efficiency generally decreases with the accumulation of service on the engine, deterioration factors will be used in combination with emission-data engine test results as the basis for determining compliance with the standards.

(4)(i) Paragraph (b)(4) of this section describes the procedure for determining compliance of an engine with emission standards, based on deterioration factors supplied by the manufacturer.

(ii) Separate exhaust emission deterioration factors, determined from tests of engines, subsystems, or components conducted by the manufacturer, shall be supplied for each engine-system combination. For gasoline and diesel engines, separate factors shall be established for transient HC, CO, and NO_x. For gasoline-fueled engines, a separate factor shall be established for idle CO. For diesel smoke testing, separate factors shall also be established for the acceleration mode (designated as "A"), the lugging mode (designated as "B"), and the peak opacity (designated as "C").

(iii)(A) For transient HC, CO, and NO_x (and, in the case of gasoline-fueled engines, for idle CO), the official exhaust emission results for each emission-data engine at the 125-hour test point shall be adjusted by multiplication by the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than one, it shall be one for the purposes of this paragraph.

(B) For acceleration smoke ("A"), lugging smoke ("B"), and peak smoke ("C"), the official exhaust emission results for each emission-data engine at the 125-hour test point shall be adjusted by the addition of the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph.

(iv) The emission values to compare with the standards shall be the adjusted emission values of paragraph (b)(4)(iii) of this section rounded to two significant figures in accordance with ASTM E 29–67 for each emission-data engine.

(5) [Reserved]

(6) [Reserved]

(7) Every test engine of an engine family must comply with all applicable standards, as determined in paragraph (b)(4)(iv) of this section, before any engine in that family will be certified.

16. A new § 86.084–29 is added and reads as follows:

§ 86.084–29 Testing by the Administrator.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The Administrator may require that any one or more of the test vehicles be submitted to him, at such place or places as he may designate, for the purposes of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3)(i) Whenever the Administrator conducts a test on a test vehicle, the results of that test shall, unless subsequently invalidated by the Administrator, comprise the official data for the vehicle at the prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards.

(ii) Whenever the Administrator does not conduct a test on a test vehicle at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided,* That if the Administrator makes a determination based on testing under paragraph (a)(2) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer, *And further provided,* That if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provisions of this part, the Administrator may refuse to accept that data as the official data pending retesting or submission or further information. If the manufacturer conducts more than one test on a vehicle, as authorized under § 86.079–26(a)(3)(i)(A), the data from the last test in that series of tests on that vehicle, will constitute the official data:

(iii)(A)(1) The Administrator may adjust or cause to be adjusted any adjustable parameter of an emission data vehicle or engine which the Administrator has determined to be subject to adjustment for certification and Selective Enforcement Audit testing in accordance with § 86.081–22(e)(1), to any setting within the physically adjustable range of that parameter, as determined by the Administrator in accordance with § 86.081–22(e)(3)(i), prior to the performance of any tests to determine whether such vehicle or engine conforms to applicable emission standards, including tests performed by the manufacturer under § 86.079–23(c)(1). However, if the idle speed parameter is one which the Administrator has determined to be subject to adjustment, the Administrator shall not adjust it to a setting which causes a higher engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter on the vehicle before it accumulated any mileage, all other parameters being adjusted identically for the purpose of comparison. The Administrator, in making or specifying such adjustments, will consider the effect of the deviation from the manufacturer's recommended setting on emissions performance characteristics as well as the likelihood that similar settings will occur on in-use light-duty vehicles or light-duty trucks. In determining likelihood, the Administrator will consider factors such as, but not limited to, the effect of the adjustment on vehicle performance characteristics and surveillance information from similar in-use vehicles.

(2) For those vehicles or engine parameters which the Administrator has not determined to be subject to adjustment during certification and Selective Enforcement Audit testing in accordance with § 86.081–22(e)(1), the emission-data vehicle presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the vehicle label (see § 86.079–35 (a)(1)(iii)(D)) as specified in the application for certification. If the Administrator determines that a vehicle is not within such tolerances, the vehicle will be adjusted, at the facility designated by the Administrator, prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report, the Administrator will determine if the vehicle will be used as an emission-data vehicle.

(B) If the Administrator determines that the test data developed on an emission-data vehicle under paragraph (a)(3)(i) of this section would cause that vehicle to fail due to excessive 4,000 mile emissions or by application of the appropriate deterioration factor, then the following procedure shall be observed:

(1) The manufacturer may request a retest. Before the retest, those vehicle or engine parameters which the Administrator has not determined to be subject to adjustment for certification and Selective Enforcement Audit testing in accordance with § 86.081–22(e)(1) may be readjusted to manufacturer's specifications, if these adjustments were made incorrectly prior to the first test. The Administrator may adjust or cause to be adjusted any parameter which the Administrator has determined to be subject to adjustment to any setting within the physically adjustable range of that parameter, as determined by the Administrator in accordance with § 86.081–22(e)(3)(i). However, if the idle speed parameter is one which the Administrator has determined to be subject to adjustment, the Administrator shall not adjust it to a setting which causes a higher engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter on the vehicle before it accumulated any mileage, all other parameters being adjusted identically for the purpose of comparison. Other maintenance or repairs may be performed in accordance with § 86.079–25. All work on the vehicle shall be done at such location and under such conditions as the Administrator may prescribe.

(2) The vehicle will be retested by the Administrator and the results of this test shall comprise the official data for the emission-data vehicle.

(iv) If sufficient durability data are not available at the time of any emission test conducted under paragraph (a)(2) of this section to enable the Administrator to determine whether an emission-data vehicle would fail, the manufacturer may request a retest in accordance with the provisions of paragraphs (a)(3)(iii) (A) and (B) of this section. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the vehicle from the test premises.

(b)(1) Paragraph (b) of this section applies to heavy-duty engines.

(2) The Administrator may require that any one or more of the test engines be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3)(i) Whenever the Administrator conducts a test on a test engine the results of that test, unless subsequently invalidated by the Administrator, shall comprise the official data for the engine at that prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards.

(ii) Whenever the Administrator does not conduct a test on a test engine at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided,* That if the Administrator makes a determination based on testing under paragraph (b)(2) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer: *And further provided,* That if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provision of this part, the Administrator may refuse to accept that data as the official data pending

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retesting or submission of further information.

(iii)(A)(*1*) The Administrator may adjust or cause to be adjusted any adjustable parameter of an emission-data engine which the Administrator has determined to be subject to adjustment for certification testing in accordance with § 86.084–22(e)(1), to any setting within the physically adjustable range of that parameter, as determined by the Administrator in accordance with § 86.084–22(e)(3)(i), prior to the performance of any tests to determine whether such engine conforms to applicable emission standards, including tests performed by the manufacturer under § 86.084–23(c)(1). However, if the idle speed parameter is one which the Administrator has determined to be subject to adjustment, the Administrator shall not adjust it to a setting which causes a higher engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter on the engine before it accumulated any dynamometer service, all other parameters being identically adjusted for the purpose of the comparison. The Administrator, in making or specifying such adjustments, may consider the effect of the deviation from the manufacturer's recommended setting on emissions performance characteristics as well as the likelihood that similar settings will occur on in-use heavy-duty engines. In determining likelihood, the Administrator may consider factors such as, but not limited to, the effect of the adjustment on engine performance characteristics and surveillance information from similar in-use engines.

(*2*) For those engine parameters which the Administrator has not determined to be subject to adjustment for certification testing in accordance with § 86.084–22(e)(1), the emission-data engine presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the engine label (see § 86.084–35(a)(2)(iii)) as specified in the application for certification. If the Administrator determines that an engine is not within such tolerances, the engine shall be adjusted at the facility designated by the Administrator prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report, the Administrator will determine if the engine shall be used as an emission-data engine.

(B) If the Administrator determines that the test data developed under paragraph (b)(3)(iii)(A) of this section would cause the emission-data engine to fail due to excessive 125-hour emission values or by the application of the appropriate deterioration factor, then the following procedure shall be observed.

(*1*) The manufacturer may request a retest. Before the retest, those engine parameters which the Administrator has not determined to be subject to adjustment for certification testing in accordance with § 86.084–22(e)(1) may be readjusted to the manufacturer's specifications, if these adjustments were made incorrectly prior to the first test. The Administrator may adjust or cause to be adjusted any parameter which the Administrator has determined to be subject to adjustment in accordance with § 86.084–22(e)(3)(i). However, if the idle speed parameter is one which the Administrator has determined to be subject to adjustment, the Administrator shall not adjust it to a setting which causes a higher engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter on the engine before it accumulated any dynamometer service, all other parameters being identically adjusted for the purpose of the comparison. Other maintenance or repairs may be performed in accordance with § 86.084–25. All work on the vehicle shall be done at such location and under such conditions as the Administrator may prescribe.

(*2*) The engine will be retested by the Administrator and the results of this test shall comprise the official data for the emission-data engine.

(iv) If sufficient durability data are not available at the time of any emission test conducted under paragraph (b)(2) of this section to enable the Administrator to determine whether an emission-data engine would fail, the manufacturer may request a retest in accordance with the provisions of paragraph (b)(3)(iii)(B) (*1*) and (*2*) of this section. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the engine from the test premises.

17. A new § 86.084–30 is added and reads as follows:

§ 86.084–30 Certification.

(a)(1) If, after a review of the test reports and data submitted by the manufacturer, data derived from any inspection carried out under § 86.078–7(c) and any other pertinent data or information, the Administrator determines that a test vehicle(s) (or test engine(s)) meets the requirements of the Act and of this subpart, he will issue a certificate of conformity with respect to such vehicle(s) (or engine(s)) except in cases covered by paragraph (c) of this section.

(i) Each certificate of conformity shall state the altitude(s) at which the vehicle(s) covered by the certificate has demonstrated compliance with the applicable emission standards.

(2) Such certificate will be issued for such period not to exceed one model year as the Administrator may determine and upon such terms as he may deem necessary or appropriate to assure that any new motor vehicle (or new motor vehicle engine) covered by the certificate will meet the requirements of the Act and of this part. Each such certificate shall contain the following language:

This certificate covers only those new motor vehicles (or new motor vehicle engines) which conform, in all material respects, to design specifications that applied to those vehicles (or engines) described in the application for certification and which are produced during the model year production period of the said manufacturer, as defined in 40 CFR § 86.079–2.

It is a term of this certificate that the manufacturer shall consent to all inspections described by 40 CFR §§ 86.078–7(c), 86.606, and 86.1006 and authorized in a warrant or court order. Failure to comply with the requirements of such a warrant or court order may lead to revocation or suspension of this certificate as specified in 40 CFR § 86.084–30 (c), (d), or (e). It is also a term of this certificate that this certificate may be revoked or suspended for the other reasons stated in § 86.079–30 (c), (d), or (e).

(3) One such certificate will be issued for each engine family and will certify compliance with no more than one set of applicable standards except that for gasoline-fueled light-duty vehicles and light-duty trucks, one such certificate will be issued for each engine family-evaporative emission family combination and will certify compliance with no more than one set of applicable standards.

(4) [Reserved]

(5) The counties identified below have substantially all of their area located above 1,219 meters (4,000 ft.):

Counties Located Substantially Above 1,219 Meters (4,000 feet) in Elevation

State of Arizona

Apache, Navajo.

State of Colorado

Adams, Alamosa, Arapahoe, Archuleta, Boulder, Chaffee, Clear Creek, Conejos, Costilla, Crowley, Custer, Dolores, Delta, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Lake, La Plata, Larimer, Las Animas, Lincoln, Mesa, Mineral, Moffat, Montezuma, Montrose, Morgan, Ouray, Park, Pitkin, Pueblo, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Summit, Teller, Washington, Weld.

State of Idaho

Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Camas, Caribou, Cassia, Clark, Custer, Franklin, Fremont, Jefferson, Madison, Minidoka, Oneida, Power, Teton, Valley.

State of Montana

Beaverhead, Deer Lodge, Gallatin, Jefferson, Madison, Meagher, Park, Silver Bow.

State of Nebraska

Banner, Kimball, Sioux.

State of Nevada

Carson City, Douglas, Elko, Esmeralda, Eureka, Humboldt, Lander, Lyon, Mineral, Storey, White Pine.

State of New Mexico

Bernalillo, Catron, Colfax, Curry, DeBaca, Grant, Guadalupe, Harding, Lincoln, Los Alamos, Luna, McKinley, Mora, Rio Arriba, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia.

State of Oregon

Lake.

State of Utah

Beaver, Box Elder, Cache, Carbon, Daggett, Davis, Duchesne, Emery, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Wayne, Weber.

State of Wyoming

Albany, Carbon, Converse, Fremont, Goshen, Hot Springs, Johnson, Laramie, Lincoln, Natrona, Niobrara, Park, Platte, Sublette, Sweetwater, Teton, Uinta, Weston.

(6) [Reserved]

(7) Certificates issued for light-duty vehicles or light-duty trucks certified with catalytic converters shall be subject to the following term in addition to the term in paragraph (a)(2) of this section: "Catalyst-equipped vehicles, otherwise covered by this certificate, which are driven outside the United States, Canada, and Mexico will be presumed to have been operated on leaded gasoline resulting in deactivation of the catalysts. If these vehicles are imported or offered for importation without retrofit of the catalyst, they will be considered not to be within the coverage of this certificate unless included in a catalyst control program operated by a manufacturer or a United States Government Agency and approved by the Administrator."

(8) Certificates issued for incomplete light-duty trucks shall be subject to the following term in addition to the term in paragraph (a)(2) of this section: "For incomplete light-duty trucks, this certificate covers only those new motor vehicles which when completed by having the primary load-carrying device or container attached, conform to the maximum curb weight and frontal area limitations described in the application for certification as required in 40 CFR 86.079–21(d)."

(9) Certificates issued for heavy-duty engines shall be subject to the following term in addition to the term in paragraph (a)(2) of this section: "For heavy-duty engines, this certificate covers only those new motor vehicle engines installed in heavy-duty vehicles which conform to the minimum gross vehicle weight rating, curb weight, or frontal area limitations for heavy-duty vehicles described in 40 CFR 86.079–2."

(b)(1) The Administrator will determine whether a vehicle (or engine) covered by the application complies with applicable standards by observing the following relationships:

(i) *Light-duty vehicles and light-duty trucks.*

(A) The durability-data vehicle(s) selected under § 86.078–24(c)(1)(i) shall represent all vehicles of the same engine-system combination.

(B) The emission-data vehicle(s) selected under § 86.078–24(b)(1)(ii), (b)(1)(iii), and (b)(1)(iv) shall represent all vehicles of the same engine-system combination as applicable to be sold below 4,000 feet.

(C) The emission-data vehicle(s) selected under § 86.078–24(b)(1)(vii)(A) and (b)(1)(vii)(B) shall represent all vehicles of the same evaporative control system within the evaporative family, as applicable, to be sold below 4,000 feet.

(D) The emission-data vehicle(s) selected under § 86.078–24(b)(1)(v) shall represent all vehicles of the same engine-system combination to be sold at high altitude.

(E) The emission-data vehicle(s) selected under § 86.078–24(b)(1)(vii)(D) shall represent all vehicles of the same evaporative control system within the evaporative family, sold at high altitude.

(ii) *Heavy-Duty Engines.* (A) A gasoline-fueled emission-data test engine selected under § 86.080–24(b)(2)(ii) and (iv) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(B) A gasoline-fueled emission-data test engine selected under § 86.080–24(b)(2)(iii) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(C) A diesel emission-data test engine selected under § 86.084–24(b)(3)(ii) shall represent all engines in the same engine-system combination.

(D) A diesel emission-data test engine selected under § 86.084–24(b)(3)(iii) shall represent all engines of that emission control system at the rated fuel delivery of the test engine.

(E) [Reserved]

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the vehicles (or engines) belonging to an engine family or engine family-evaporative emission family combination (as applicable), all of which comply with all applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer, data derived from any additional testing conducted pursuant to § 86.078–29, data or information derived from any inspection carried out under § 86.078–7(c) or any other pertinent data or information, the Administrator determines that one or more test vehicles (or test engines) of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078–6 with respect to such issue.

(4) For light-duty vehicles and light-duty trucks the manufacturer may, at his option, proceed with any of the following alternatives with respect to an emission-data vehicle determined not in compliance with all applicable standards for which it was tested:

(i) Request a hearing under § 86.078–6; or

(ii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed, from his application;

(A) If the failed vehicle was tested for compliance with exhaust emission standards only: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle to be tested for exhaust emission compliance only.

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(B) If the failed vehicle was tested for compliance with both exhaust and evaporative emission standards: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle which will be tested for compliance with both exhaust and evaporative emission standards. If one vehicle cannot be selected in accordance with the selection criteria employed in selecting the failed vehicle, then two vehicles may be selected (i.e., one vehicle to satisfy the exhaust emission vehicle selection criteria and one vehicle to satisfy the evaporative emission vehicle selection criteria). The vehicle selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicle selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emissions standards; or

(iii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed from his application and add a vehicle configuration(s) (or evaporative vehicle configuration(s), as applicable) not previously listed. The Administrator may require, if applicable, that the failed vehicle be modified to the new engine code (or evaporative emission code, as applicable) and demonstrate by testing that it meets applicable standards for which it was originally tested. In addition, the Administrator may select, in accordance with the vehicle selection criteria given in § 86.078–24(b), a new emission-data vehicle or vehicles. The vehicles selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicles selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards; or

(iv) Correct a component or system malfunction and show that with a correctly functioning system or component the failed vehicle meets applicable standards for which it was originally tested. The Administrator may require a new emission-data vehicle, of identical vehicle configuration (or evaporative vehicle configuration as applicable) to the failed vehicle, to be operated and tested for compliance with the applicable standards for which the failed vehicle was originally tested.

(5) For heavy-duty engines the manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test engine(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 86.078–6; or

(ii) Delete from the application for certification the engines represented by the failing test engine. (Engine so deleted may be included in a later request for certification under § 86.078–32.) The Administrator will then select in place of each failing engine an alternate engine chosen in accordance with selection criteria employed in selecting the engine that failed; or

(iii) Modify the test engine and demonstrate by testing that it meets applicable standards. Another engine which is in all material respects the same as the first engine, as modified, shall then be operated and tested in accordance with applicable test procedures.

(6) If the manufacturer does not request a hearing or present the requested data under paragraphs (b)(4) or (b)(5) (as applicable) of this section, the Administrator will deny certification.

(c)(1) Notwithstanding the fact that any certification vehicle(s) (or certification engine(s)) may comply with other provisions of this subpart, the Administrator may withhold or deny the issuance of a certificate of conformity (or suspend or revoke any such certificate which has been issued) with respect to any such vehicle(s) (or engine(s)) if:

(i) The manufacturer submits false or incomplete information in his application for certification thereof;

(ii) The manufacturer renders inaccurate any test data which he submits pertaining thereto.

(iii) Any EPA Enforcement Officer is denied access on the terms specified in § 86.078–7(c) to any facility or portion thereof which contains any of the following:

(A) The vehicle (or engine);

(B) Any components used or considered for use in its modification or build up into a certification vehicle (or certification engine);

(C) Any production vehicle (or production engine) which is or will be claimed by the manufacturer to be covered by the certificate;

(D) Any step in the construction of a vehicle (or engine) described in paragraph (c)(1)(iii)(C) of this section;

(E) Any records, documents, reports, or histories required by this part to be kept concerning any of the above.

(iv) Any EPA Enforcement Officer is denied "reasonable assistance" (as defined in § 86.078–7(c)) in examining any of the items listed in paragraph (c)(1)(iii) of this section.

(v) [Reserved]

(2) The sanctions of withholding, denying, revoking, or suspending of a certificate may be imposed for the reasons in paragraphs (c)(1) (i), (ii), (iii), or (iv) of this section only when the infraction is substantial.

(3) In any case in which a manufacturer knowingly submits false or inaccurate information or knowingly renders inaccurate or invalid any test data or commits any other fraudulent acts and such acts contribute substantially to the Administrator's decision to issue a certificate of conformity, the Administrator may deem such certificate void ab initio.

(4) In any case in which certification of a vehicle (or engine) is proposed to be withheld, denied, revoked, or suspended under paragraph (c)(1)(iii), or (c)(1)(iv) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.078–7(c) in fact occurred, the manufacturer, if he wished to contend that, even though the violation occurred, the vehicle (or engine) in question was not involved in the violation to a degree that would warrant withholding denial, revocation, or suspension of certification under either paragraph (c)(1)(iii) or (c)(1)(iv) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(5) Any revocation or suspension of certification under paragraph (c)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.078–6 hereof.

(ii) Extend no further than to forbid the introduction into commerce of vehicles (or engines) previously covered by certification which are still in the hands of the manufacturer, except in cases of such fraud or other misconduct as makes certification invalid ab initio.

(6) The manufacturer may request in the form and manner specified in paragraph (b)(3) of this section that any determination made by the Administrator under paragraph (c)(1) of this section to withhold or deny certification be reviewed in a hearing conducted in accordance with § 86.078–6. If the Administrator finds, after a review of the request and supporting data, that the request raises a substantial factual issue he will grant the request with respect to such issue.

(d) *For light-duty vehicles and light-duty trucks.*—(1) *For light-duty vehicles and light-duty trucks.* Notwithstanding the fact that any vehicle configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of comformity in whole or in part with respect to such vehicle configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 86.603; or

(ii) The manufacturer refuses to comply with any of the requirements of § 86.603; or

(iii) The manufacturer submits false or incomplete information in any report or information provided pursuant to the requirements of § 86.609; or

(iv) The manufacturer renders inaccurate any test data which he submits pursuant to § 86.609; or

(v) Any EPA Enforcement Officer is denied access to a facility on the terms specified in § 86.606.

(vi) Any EPA Enforcement Officer is denied the opportunity on the terms specified in § 86.606 to

(A) Monitor vehicle selection pursuant to § 86.607,

(B) Select vehicles for testing pursuant to § 86.607, or

(C) Monitor vehicle testing performed to satisfy any of the requirements of this part; or

(vii) Any EPA Enforcement Officer is denied "reasonable assistance" as defined in § 86.606 in examining any of the items listed in that section; or

(viii) The manufacturer refuses to comply with the requirements of §§ 86.604(a), 86.605, 86.607, 86.608, 86.610, or 86.611.

(2) The sanction of suspending a certificate may not be imposed for the reasons in paragraphs (d)(1) (i), (ii) or (viii) of this section where such refusal is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with those requirements. Such conditions and circumstances shall include, but are not limited to, any uncontrollable factors which result in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanctions of suspending a certificate may be imposed for the reasons in paragraphs (d)(1) (iii), (iv), (v), (vi), (vii) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submitted false or inaccurate information or knowingly rendered inaccurate any test data or committed any other fraudulent acts, and such acts contributed substantially to the Administrator's original decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the date of such fraudulent act.

(5) In any case in which certification of a vehicle is proposed to be suspended under paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.606 in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle configuration or engine family in question was not involved in the violation to a degree that would warrant suspension of certification under either paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (d)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.613 hereof and

(ii) Not apply to vehicles no longer in the hands of the manufacturer.

(e) *For heavy-duty vehicles and engines.*

(1) Notwithstanding the fact that any engine configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of conformity in whole or in part with respect to such engine configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 86.1003; or

(ii) The manufacturer refuses to comply with any of the requirements of § 86.1003; or

(iii) The manufacturer submits false or incomplete information in any report or information provided pursuant to the requirements of § 86.1009; or

(iv) The manufacturer renders inaccurate any test data submitted pursuant to § 86.1009; or

(v) Any EPA Enforcement Officer is denied the opportunity to conduct activities related to entry and access as authorized in § 86.1006 of this part and in a warrant or court order presented to the manufacturer or the party in charge of a facility in question; or

(vi) EPA Enforcement Officers are unable to conduct activities related to entry and access as authorized in § 86.1006 of this part because a manufacturer has located a facility in a foreign jurisdiction where local law prohibits those activities; or

(vii) The manufacturer refuses to or in fact does not comply with the requirements of §§ 86.1004(a), 86.1005, 86.1007, 86.1008, 86.1010, 86.1011, or 86.1013.

(2) The sanction of suspending a certificate may not be imposed for the reasons in paragraphs (e)(1) (i), (ii), or (vii) of this section where such refusal or denial is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with those requirements. Such conditions and circumstances shall include, but are not limited to, any uncontrollable factors which result in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturers to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanction of suspending a certificate may be imposed for the reasons outlined in paragraph (e)(1) (iii), (iv), or (v) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submitted false or inaccurate information or knowingly rendered inaccurate any test data or committed any other fraudulent acts, and such acts contributed substantially to the Administrator's original decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the data of such fraudulent act.

(5) In any case in which certification of a heavy-duty engine is proposed to be suspended under paragraph (e)(1)(v) of this section and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.1006 in fact occurred, if the manufacturer wishes to contend that, although the violation occurred, the engine configuration or engine family in

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question was not involved in the violation to a degree that would warrant suspension of certification under paragraph (e)(1)(v) of this section, he shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (e)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.1014 and

(ii) Not apply to vehicles or engines no longer in the hands of the manufacturer.

(7) Any voiding of a certificate of conformity under paragraph (e)(4) of this section shall be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.1014.

18. A new § 86.084-35 is added and reads as follows:

§ 86.084-35 Labeling.

(a) The manufacturer of any motor vehicle (or motor vehicle engine) subject to the applicable emission standards of this subpart, shall, at the time of manufacture, affix a permanent legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles (or engines) available for sale to the public and covered by a certificate of conformity under § 86.079-30(a).

(1) *Light-duty vehicles and light-duty trucks.*—(i) *A permanent, legible label shall be affixed in a readily visible position in the engine compartment.*

(ii) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label. The label shall not be affixed to any equipment which is easily detached from such vehicle.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(A) The Label heading: Vehicle Emission Control Information;

(B) Full corporate name and trademark of the manufacturer;

(C) Engine displacement (in cubic inches), engine, family identification and evaporative family identification;

(D) Engine tuneup specifications and adjustments, as recommended by the manufacturer to the ultimate purchaser, including but not limited to idle speed(s), ignition timing, and idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable) as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air-conditioner), if any, should be in operation. If a manufacturer provides tuneup specifications and adjustments for his vehicle for operation at an altitude other than that at which compliance was demonstrated, e.g., adjustments for operation below 1,219 meters for vehicles which demonstrated compliance at elevations above 1,219 meters, the manufacturer may either include these specifications and adjustments on his engine compartment label, or may indicate on the label where these adjustments might be found, i.e., by reference to the owner's manual or shop manual.

(E) An unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations which apply to light-duty vehicles or light-duty trucks;

(F) The altitude at which the vehicle has demonstrated compliance with the applicable emission standards as specified by the certificate of conformity issued under § 86.079-30. (An example of an acceptable statement is: "Compliance demonstrated above/below 4,000 feet.")

(2) *Heavy-duty engines.* (i) A permanent legible label shall be affixed to the engine in a position in which it will be readily visible after installation in the vehicle.

(ii) The label shall be attached to an engine part necessary for normal engine operation and not normally requiring replacement during engine life.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals which shall be of a color that contrasts with the background of the label:

(A) The label heading: IMPORTANT ENGINE INFORMATION.

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches) and engine family and model designations;

(D) Date of engine manufacture (month and year);

(E) Engine specifications and adjustments as recommended by the manufacturer. These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air conditioner), if any, should be in operation;

(F) For gasoline-fueled engines the label should include the idle speed, ignition timing, and the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), and valve lash.

(G) For Diesel engines the label should include the advertised hp. at rpm, fuel rate at advertised hp. in mm ^{3}/ stroke, valve lash, initial injection timing, and idle speed.

(H) The prominent statement: "(Manufacturer's corporate name) has determined that this engine has an average useful life of —— miles or —— hours of operation, whichever occurs first." The manufacturer may alter this statement only to express the useful life in terms other than miles or hours (e.g., years, or hours only).

(I) The subordinate addition to the statement in subparagraph (2)(iii)(H) of this paragraph: "This engine's actual life may vary depending on its service application. (For additional information see the owner's maintenance instructions.) This engine conforms to U.S. EPA regulations applicable to 19— Model Year New Heavy-Duty Engines for its useful life."

(iv) The label may be made up of one or more pieces: *Provided,* That all pieces are permanently attached to the same engine or vehicle part as applicable.

(b) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such vehicle (or engine) conforms to any applicable State emission standards for new motor vehicles (or new motor vehicle engines) or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the vehicle (or engine).

(c)(1) The manufacturer of any light-duty vehicle or light-duty truck subject to the emission standards of this subpart, shall, in addition and subsequent to setting forth those statements on the label required by the Department of Transportation (DOT) pursuant to 49 CFR 567.4, set forth, on the DOT label or on an additional label located in proximity to the DOT label and affixed as described in 49 CFR 567.4(b), the following information in the English language, lettered in block letters and numerals not less than three thirty-seconds of an inch high, of a color that contrasts with the background of the label:

(i) The heading: "Vehicle Emission Control Information";

(ii) The statement: "This Vehicle Conforms to U.S. EPA Regulations Applicable to 1979 Model Year New Motor Vehicles."

(iii) One of the following statements, as applicable, in letters and numerals not less than six thirty-seconds of an inch high and of a color that contrasts with the background of the label:

(A) For all vehicles certified as noncatalyst-equipped: "NON-CATALYST;"

(B) For all vehicles certified as catalyst-equipped which are included in a manufacturer's catalyst control program for which approval has been given by the Administrator: "CATALYST-APPROVED FOR IMPORT;"

(C) For all vehicles certified as catalyst-equipped which are not included in a manufacturer's catalyst control program for which prior approval has been given by the Administrator: "CATALYST."

(2) In lieu of selecting either of the labeling options of paragraph (c)(1) of this section, the manufacturer may add the information required by paragraph (c)(1)(iii) of this section to the label required by paragraph (a) of this section. The required information will be set forth in the manner prescribed by paragraph (c)(1)(iii) of this section.

(d) Incomplete light-duty trucks or incomplete heavy-duty vehicles optionally certified as light-duty trucks shall have the following statement printed on the label required in paragraph (a)(1) of this section in lieu of the statement required by paragraph (a)(1)(iii)(E) of this section: "This vehicle conforms to U.S. EPA regulations applicable to 19— Model Year New Motor Vehicles when completed at a maximum curb weight of — pounds and a maximum frontal area of — square feet."

(e)(1) Incomplete heavy-duty vehicles having an 8,500-pound gross vehicle weight rating or less shall have the following prominent statement printed on the label required in paragraph (a)(2) of this section in lieu of the statement required by paragraph (a)(2)(iii)(H) of this section: "(Manufacturer's corporate name) has determined that this engine has an average useful life of —— miles or —— hours of operation, whichever occurs first." The manufacturer may alter this statement only to express the useful life in terms other than miles or hours (e.g., years, or hours only).

(2) The subordinate addition to the statement in subparagraph (1) of this paragraph: "This engine's actual life may vary depending on its service application. (For additional information see the owner's maintenance instructions.) This engine conforms to U.S. EPA regulations applicable to 19— Model Year New Heavy-Duty Engines when installed in a vehicle completed at a curb weight of more than 6,000 pounds or with a frontal area greater than 45 square feet for its useful life."

(f) The manufacturer of any incomplete vehicle shall notify the purchaser of such vehicle of any curb weight, frontal area, or gross vehicle weight rating limitations affecting the emissions certificate applicable to that vehicle. This notification shall be transmitted in a manner consistent with the National Highway Traffic Safety Administration safety notification requirements published in 49 CFR part 568.

19. A new § 86.084-38 is added and reads as follows:

§ 86.084-38 Maintenance instructions.

(a) The manufacturer shall furnish or cause to be furnished to the purchaser of each new motor vehicle (or motor vehicle engine) subject to the standards prescribed in §§ 86.078-8 through 86.078-11 as applicable, written instructions for the maintenance and use of the vehicle (or engine) by the purchaser as may be reasonable and necessary to assure the proper functioning of emission control systems.

(1) Such instructions shall be provided for those vehicle and engine components listed in Appendix VI to this part (and for any other components) to the extent that maintenance of these components is necessary to assure the proper functioning of emission control systems.

(2) Such instructions shall be in clear, and to the extent practicable, nontechnical language.

(b) The maintenance instructions required by this section shall contain a general description of the documentation which the manufacturer will require from the ultimate purchaser or any subsequent purchaser as evidence of compliance with the instructions.

(c) For gasoline-fueled light-duty vehicles and light-duty trucks.

(1) Such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 86.078-25(a), and shall explain the conditions under which EGR system and catalytic converter maintenance are to be performed (e.g., what type of warning device is being employed and whether the device is activated by component failure or the need for periodic maintenance).

(2) [Reserved]

(3) [Reserved]

(d) For Diesel light-duty vehicles and light-duty trucks.

(1) Such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 86.078-25(a) and shall explain the conditions under which EGR system and catalytic converter maintenance are to be performed (e.g., what type of warning device is being employed and whether the device is activated by component failure or the need for periodic maintenance).

(2) [Reserved]

(e) *For heavy-duty engines.*

(1) Maintenance instructions shall specify the performance of all scheduled emission-related maintenance approved by the Administrator under § 86.084-25(c). Scheduled emission-related maintenance in addition to that performed under § 86.084-25(c) may be recommended for reasons such as to offset the effects of operating conditions which differ from the conditions experienced by the durability-data engines. Such additional recommended maintenance shall be clearly differentiated, in a form approved by the Administrator from that approved under § 86.084-25(c). The instructions may schedule maintenance on a calendar time basis, mileage basis, engine service time basis, or combinations of each.

(2) Such instructions shall specify the useful life of the engine as determined by the manufacturer under § 86.084-21(b)(4)(ii)(B). This period of use shall be expressed as a period of engine or vehicle operation or as an equivalent vehicle mileage (or both). The manufacturer shall also present the method(s) by which the need for engine rebuild can be determined, including the criteria and values required in § 86.084-21(b)(4)(ii)(C) and the necessary measurement equipment and instrumentation. The manufacturer shall also include in the instructions an explanation of how it determined both the average useful life and the values of the rebuild criteria. An explanation may be included of how the useful life is determined for an individual engine (the first occurring of either the average useful life or the need for rebuild) and of how the actual useful lives of engines used in various applications are expected to differ from the average useful life. The explanation(s) shall be in clear, nontechnical language that is understandable to the ultimate purchaser.

20. A new § 86.084-39 is added and reads as follows:

§ 86.084-39 Automatic expiration of reporting and recordkeeping requirements.

(a) [Reserved]

(b) [Reserved]

(c) *Heavy-duty engines.*

(1) All of the recordkeeping and reporting requirements in this subpart for which 1984 is the first model year of implementation shall automatically

expire on December 31, 1988, unless the Administrator acts to retain them.

(2) If the Administrator determines that the reporting and recordkeeping requirements should be retained he/she shall also at that time establish the subsequent date of expiration, which shall not be later than December 31, 1990.

21. A new § 86.085–11 is added and reads as follows:

§ 86.085–11 Emission standards for 1985 and later model year diesel heavy-duty engines.

(a)(1) Exhaust emissions from new 1985 and later model year diesel heavy-duty engines shall not exceed the following:

(i) *Hydrocarbons.* 1.3 grams per brake horsepower hour, as measured under transient operating conditions (Subpart N).

(ii) *Carbon monoxide.* (A) 15.5 grams per brake horsepower hour as measured under transient operating conditions (Subpart N).

(iii) *Oxides of nitrogen.* 10.7 grams per brake horsepower hour, as measured under transient operating conditions (Subpart N).

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust over operating schedules as set forth in Subparts N or P and measured and calculated in accordance with those procedures.

(b)(1) The opacity of spoke emissions from new 1984 and later model year diesel heavy-duty engines shall not exceed:

(i) 20 percent during the engine acceleration mode.

(ii) 15 percent during the engine lugging mode.

(iii) 50 percent during the peaks in either mode.

(2) The standards set forth in paragraph (b)(1) of this section refer to exhaust smoke emissions generated under the conditions set forth in Subpart I of this part and measured and calculated in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1984 model year naturally-aspirated diesel heavy-duty engine. This provision does not apply to turbocharged engines.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in Subparts I, N, or P of this part to ascertain that such test engines meet the requirements of paragraphs (a), (b), and (c) of this section.

22. A new Subpart K is added to Part 86 and reads as follows:

Subpart K—Selective Enforcement Auditing of New Gasoline-Fueled and Diesel Heavy-Duty Engines

Sec.

86.1001–84 Applicability.
86.1002–84 Definitions.
86.1003–84 Test orders.
86.1004–84 Testing by the Administrator.
86.1005–84 Maintenance of records; submittal of information.
86.1006–84 Entry and access.
86.1007–84 Sample selection.
86.1008–84 Test procedures.
86.1009–84 Calculation and reporting of test results.
86.1010–84 Compliance with acceptable quality level and passing and failing criteria for Selective Enforcement Audits.
86.1011–84 [Reserved]
86.1012–84 Suspension and revocation of certificates of conformity.
86.1013–84 [Reserved]
86.1014–84 Hearings on suspension, revocation and voiding of certificates of conformity.

Subpart K—Selective Enforcement Auditing of New Gasoline-Fueled and Diesel Heavy-Duty Engines

§ 86.1001–84 Applicability.

All provisions of this subpart are applicable for 1984 and later model year gasoline-fueled and diesel heavy-duty engines, effective January 1, 1984.

§ 86.1002–84 Definitions.

(a) The definitions in this section apply to this subpart.

(b) As used in this subpart, all terms not defined herein shall have the meaning given them in the Act.

"Acceptable Quality Level" (AQL) means the maximum percentage of failing engines that, for purposes of sampling inspection, can be considered satisfactory as a process average.

"Configuration" means a subclassification, if any, of an engine family for which a separate projected sales figure is listed in the manufacturer's Application for Certification and which can be described on the basis of emission control system, governed speed, injector size, engine calibration, and other parameters which may be designated by the Administrator.

"In the Hands of the Manufacturer" means that engines are still in the possession of the manufacturer and have not had their bills of lading transferred to another person for the purpose of transporting.

"Test Sample" means the collection of engines of the same configuration which have been selected to receive exhaust emission testing.

§ 86.1003–84 Test orders.

(a) The Administrator will require any testing under this subpart by means of a test order addressed to the manufacturer.

(b) The test order will be signed by the Assistant Administrator for Enforcement or his designee. The test order will be delivered in person by an EPA Enforcement Officer to a company representative or sent by registered mail, return receipt requested, to the manufacturer's representative who signs the Application for Certification submitted by the manufacturer pursuant to the requirements of the applicable sections of Subpart A of this part. Upon receipt of a test order, the manufacturer shall comply with all of the provisions of this subpart and instructions in the test order.

(c)(1) The test order will specify the engine configuration selected for testing, the manufacturer's vehicle or engine assembly plant or associated storage facility from which the engines must be selected, the time and location at which engines must be selected, and the procedure by which engines of the specified configuration must be selected. The test order may include alternative configurations to be selected for testing in the event that engines of the first specified configuration are not available for testing because such engines are not being manufactured at the specified assembly plant, not being manufactured during the specified time, or not being stored at the specified assembly plant or associated storage facility. In addition, the test order may include other directions or information essential to the administration of the required testing.

(2) The following instructions are applicable to each test order issued under this subpart:

(i) The manufacturer shall make the following documents available to EPA Enforcement Officers upon request:

(A) A properly filed and current application for certification, following the format prescribed by the EPA for the appropriate model year; and

(B) A copy of the shop manual and dealer service bulletins for the configurations being tested.

(ii) Only one mechanic at a time per engine shall make authorized checks, adjustments, or repairs, unless a particular check, adjustment, or repair requires a second mechanic as indicated in the shop manual or dealer service bulletins.

(iii) A mechanic shall not perform any check, adjustment, or repair without an Enforcement Officer present unless otherwise authorized.

(iv) The manufacturer shall utilize only those tools and test equipment utilized by its dealers or those dealers using its engines when performing authorized checks, adjustments, or repairs.

(d) A manufacturer may indicate preferred assembly plants or associated storage facilities for the various engine families produced by the manufacturer for selection of engines in response to a test order. This shall be accomplished by submitting a list of engine families and the corresponding assembly plants or associated storage facilities from which the manufacturer desires to have engines selected for testing. In order that a manufacturer's preferred location be considered for inclusion in a test order for a configuration of a particular engine family, the list must be submitted prior to issuance of the test order. Notwithstanding the fact that a manufacturer has submitted the above list, the Administrator may order testing at other than a preferred plant.

(e) Upon receipt of a test order, a manufacturer shall proceed in accordance with the provisions of this subpart.

(f)(1) During a given model year, the Administrator will not issue to a heavy-duty engine manufacturer more Selective Enforcement Auditing (SEA) test orders than an annual limit determined by dividing the projected sales of all of its heavy-duty engines bound for the United States market for that year, as made by the manufacturer in its Application for Certification, by 30,000 and rounding to the nearest whole number, unless the projected sales are less than 15,000, in which case the number is one.

(2) Any SEA test order for which the configuration fails in accordance with § 86.1010–84 or for which testing is not completed will not be counted against the annual limit.

(3) When the annual limit has been met, the Administrator may issue additional test orders for those configurations for which evidence exists indicating noncompliance. An SEA test order issued on this basis will include a statement as to the reason for its issuance.

§ 86.1004–84 Testing by the Administrator.

(a) The Administrator may require by test order that engines of a specified configuration be selected in a manner consistent with the requirements of § 86.1007–84 and submitted to him at such place as he may designate for the purpose of conducting emission tests. These tests shall be conducted in accordance with § 86.1008–84 of these regulations to determine whether engines manufactured by the manufacturer conform with the regulations with respect to which the certificate of conformity was issued.

(b)(1) Whenever the Administrator conducts a test on a test engine or the Administrator and manufacturer each conduct a test on the same test engine, the results of the Administrator's test shall comprise the official data for that engine.

(2) Whenever the manufacturer conducts all tests on a test engine, the manufacturer's test data will be accepted as the official data: *Provided,* That if the Administrator makes a determination based on testing under paragraph (a) of this section that there is a substantial lack of agreement between the manufacturer's test results and the Adminstrator's test results, no manufacturer's test data from the manufacturer's test facility will be accepted for purposes of this subpart.

(c) In the event that testing conducted under paragraph (a) of this section demonstrates a lack of agreement under paragraph (b)(2) of this section, the Administrator will:

(1) Notify the manufacturer in writing of his determination that the test facility is inappropriate for conducting the tests required by this subpart and the reasons therefor, and

(2) Reinstate any manufacturer's data upon a showing by the manufacturer that the data acquired under paragraph (a) of this section was erroneous and the manufacturer's data was correct.

(d) The manufacturer may request in writing that the Administrator reconsider his determination in paragraph (b)(2) of this section based on data or information which indicates that changes have been made to the test facility and such changes have resolved the reasons for disqualification.

§ 86.1005–84 Maintenance of records; submittal of information.

(a) The manufacturer of any new heavy-duty engine subject to any of the provisions of this subpart shall establish, maintain, and retain the following adequately organized and indexed records:

(1) *General records.* A description of all equipment used to test engines in accordance with § 86.1008–84, pursuant to a test order issued under this subpart, specifically—

(i) If testing heavy-duty gasoline engines, the equipment requirements specified in §§ 86.1306–84 and 86.1506–84 of this part; and

(ii) If testing heavy-duty diesel engines, the equipment requirements specified in §§ 86.1306–84, 86.1506–84, 86.879–6, 86.879–8, and 86.879–9 of this part. (§ 86.306–79 for Subpart D testing only.)

(2) *Individual records.* These records pertain to each audit conducted pursuant to this subpart.

(i) A complete record of all emission tests performed pursuant to this subpart (except tests performed by EPA directly), including all individual worksheets and/or other documentation relating to each test, or exact copies thereof, specifically—

(A) If testing heavy-duty gasoline engines, the record requirements specified in §§ 86.1342–84 and 86.1542–84 of this part; and

(B) If testing heavy-duty diesel engines, the record requirements specified in §§ 86.1342–84, 86.1542–84, and 86.879–10. (§ 86.337–79 for Subpart D testing only.)

(ii) The date, time, and location of each test; the number of hours of service accumulated on each engine when the test began and ended; and the names of all personnel, including supervisory personnel, involved in the conduct of the audit.

(iii) A record and description of any repairs performed prior to and/or subsequent to approval by the Administrator, giving the date and time of the repair, the reason for it, the person authorizing it, and names of all personnel involved in the supervising and performance of the repair.

(iv) The date when the engine was shipped from the assembly plant or associated storage facility and when it was received by the test facility.

(v) A brief description of any significant events, commencing with the test engine selection process, but not described by any entry under one of the previous headings, including such extraordinary events as engine damage during shipment.

(b) All records required to be maintained under this subpart shall be retained by the manufacturer for a period of one (1) year after completion of all testing in response to a test order. Records may be retained as hard copy or reduced to microfilm, punch cards, etc., depending upon the manufacturer's record retention procedure: *Provided,* That in every case all the information contained in the hard copy shall be retained.

(c) Heavy-duty engine manufacturers shall submit to the Administrator on a quarterly basis no later than thirty days after the close of each calendar quarter or other reporting schedule as approved by the Administrator all emission data,

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whether or not from FTP testing, from testing of production engines. The following information shall be provided with respect to such engines:

(1) Description of quality audit or other program under which production engines are tested including a description of sampling plans, method of sample selection, sampling rates, and emission test employed.

(2) EPA engine family.

(3) Engine identification number.

(4) Configuration.

(5) Engine model year and build date.

(6) Number of hours of service accumulated on engine prior to testing.

(7) Description of any preparation, maintenance, modification or repair on test engines.

(8) Emission test results for each valid test. If the above information is available on Automatic Data Processing (ADP) equipment, it shall be submitted on an ADP storage device such as magnetic tape, magnetic disc, punched cards, etc.: *Provided,* That the manufacturer's storage device is compatible with EPA's ADP equipment. EPA will return ADP equipment submitted by the manufacturer or, upon a request by the manufacturer, furnish the necessary ADP storage devices. Information submitted once need not be submitted again if there are no subsequent changes.

(d) Pursuant to a request made by the Administrator, the manufacturer shall submit to him the following information with regard to engine production:

(1) Number of engines, by configuration and assembly plant, scheduled for production for the time period designated in the request.

(2) Number of engines, by configuration and assembly plant, produced during the time period designated in the request which are complete for introduction into commerce.

(e) Nothing in this section shall limit the Administrator's discretion in requiring the manufacturer to retain additional records or submit information not specifically required by this section.

(f) All reports, submissions, notifications, and requests for approvals made under this subpart shall be addressed to: Director, Manufacturers Operations Division, U.S. Environmental Protection Agency, EN–340, 401 M Street S.W., Washington, D.C. 20460.

§ 86.1006–84 Entry and access.

(a) In order to allow the Administrator to determine whether a manufacturer is complying with the provisions of this subpart and a test order issued thereunder, EPA Enforcement Officers are authorized to enter during operating hours and upon presentation of credentials any of the following:

(1) Any facility where any engine to be introduced into commerce or any emission related component is manufactured, assembled, or stored;

(2) Any facility where any tests conducted pursuant to a test order or any procedures or activities connected with such tests are or were performed;

(3) Any facility where any engine which is being tested, was tested, or will be tested is present; and

(4) Any facility where any record or other document relating to any of the above is located.

(b) Upon admission to any facility referred to in paragraph (a) of this section, EPA Enforcement Officers are authorized to perform the following inspection-related activities:

(1) To inspect and monitor any aspects of such engine manufacture, assembly, storage, testing and other procedures, and the facilities in which such procedures are conducted;

(2) To inspect and monitor any part or aspect of such test procedures or activities, including, but not limited to, monitoring engine selection, preparation, service accumulation, preconditioning, emission test cycles, and maintenance; and to verify calibration of test equipment;

(3) To inspect and make copies of any records or documents related to the assembly, storage, selection and testing of an engine in compliance with a test order; and

(4) To inspect and photograph any part or aspect of any such engine and any component used in the assembly thereof that is reasonably related to the purpose of the entry.

(c) EPA Enforcement Officers are authorized to obtain reasonable assistance without charge from those in charge of a facility to help them discharge any function listed in this subpart and are authorized to request the recipient of a test order to make arrangements with those in charge of a facility operated for its benefit to furnish such reasonable assisitance without charge to EPA whether or not the recipient controls the facility.

(d) EPA Enforcement Officers are authorized to seek a warrant or court order authorizing the EPA Enforcement Officers to conduct activities related to entry and access as authorized in this section, as appropriate, to execute the functions specified in this section. EPA Enforcement Officers may proceed *ex parte* to obtain a warrant whether or not the Enforcement Officers first attempted to seek permission of the recipient of the test order or the party in charge of the facilities in question to conduct activities related to entry and access as authorized in this section.

(e) EPA Enforcement Officers who present a warrant or court order as described in paragraph (d) of this section shall be permitted to conduct activities related to entry and access as authorized in this section and as described in the warrant or court order. A recipient of a test order is required to cause those in charge of its facility or a facility operated for its benefit to permit EPA Enforcement Officers to conduct activities related to entry and access as authorized in this section pursuant to a warrant or court order whether or not the recipient controls the facility. In the absence of such a warrant or court order, EPA Enforcement Officers may conduct activities related to entry and access as authorized in this section only upon the consent of the recipient of the test order or the party in charge of the facilities in question.

(f) It is not a violation of this Part or the Clean Air Act for any person to refuse to permit EPA Enforcement Officers to conduct activities related to entry and access as authorized in this section without a warrant or court order.

(g) A manufacturer is responsible for locating its foreign testing and manufacturing facilities in jurisdictions in which local foreign law does not prohibit EPA Enforcement Officers from conducting the entry and access activities specified in this section. EPA will not attempt to make any inspections which it has been informed that local foreign law prohibits.

(h) For purposes of this section:

(1) "Presentation of Credentials" shall mean display of the document designating a person as an EPA Enforcement Officer.

(2) Where engine storage areas or facilities are concerned, "operating hours" shall mean all times during which personnel other than custodial personnel are at work in the vicinity of the area or facility and have access to it.

(3) Where facilities or areas other than those covered by paragraph (h)(2) of this section are concerned, "operating hours" shall mean all times during which an assmbly line is in operation, or engine assembly is taking place, or all times during which testing, repair, service accumulation, preparation or compilation of records, or any other procedure or activity related to testing, or to engine manufacture or assembly is being carried out in a facility.

(4) "Reasonable assistance" includes, but is not limited to, clerical, copying, interpreting and translating services, and the making available on an EPA Enforcement Officer's request of personnel of the facility being inspected during their working hours to inform the EPA Enforcement Officer of how the facility operates and to answer his questions. Any employee whom an EPA Enforcement Officer requests the manufacturer to cause to appear for questioning will be entitled to be accompanied, represented and advised by counsel.

§ 86.1007–84 Sample selection.

(a) Engines comprising a test sample which are required to be tested, pursuant to a test order issued in accordance with this subpart, will be selected at the location and in the manner specified in the test order. If a manufacturer determines that the test engines can not be selected in the manner specified in the test order, an alternative selection procedure may be employed: *Provided,* That the manufacturer requests approval of the alternative procedure in advance of the start of test sample selection and that the Administrator approves the procedure.

(b) The test engines of the configuration selected for testing shall have been assembled by the manufacturer for distribution in commerce using his normal mass production processes. If the test engines are selected at a location where they do not have their operational and emission control systems installed, the test order will specify the manner and location for selection of components to complete assembly of the engines. The manufacturer shall assemble these components onto the test engines using normal assembly and quality control procedures as documented by the manufacturer.

(c) No quality control, testing, or assembly procedures shall be used on the completed test engine or any portion thereof, including parts and subassemblies, that will not be used during the production and assembly of all other engines of that configuration.

(d) The test order may specify that EPA Enforcement Officers, rather than the manufacturer, will select the test engines according to the method specified in the test order.

(e) The order in which test engines are selected determines the order in which test results are to be used in applying the sampling plan in accordance with § 86.1010–84.

(f) The manufacturer shall keep on hand all untested engines comprising the test sample until a pass or fail decision is reached in accordance with §86.1010–83(d). The manufacturer may ship any tested engine which has not failed in accordance with §86.1010–84(b). However, once the manufacturer ships any test engine, it relinquishes the prerogative to conduct retests as provided in § 86.1008–84(i).

§ 86.1008–84 Test procedures.

(a)(1) The prescribed test procedure is the Federal Test Procedure as described in Subparts N, I and P of this Part.

(2) If a heavy-duty diesel engine manufacturer uses the test procedure in Subpart D of this part to certify 1984 model year engines pursuant to § 86.084–11(a)(1)(i)(B), (a)(1)(ii)(B), (a)(1)(iii)(B), and (a)(2), that manufacturer shall use the test procedure in Subpart D when conducting emission tests on those engines pursuant to this subpart.

(b)(1) The manufacturer shall not adjust, repair, prepare, or modify the engines selected for testing and shall not perform any emission tests on engines selected for testing pursuant to the test order unless such adjustment, repair, preparation, modification, and/or tests are documented in the manufacturer's engine assembly and inspection procedures and are actually performed or unless such adjustments and/or tests are required or permitted under this subpart or are approved in advance by the Administrator.

(2) For 1984 and later model years the Administrator may adjust or cause to be adjusted any engine parameter which the Administrator has determined to be subject to adjustment for certification and Selective Enforcement Audit testing in accordance with § 86.084–22(e)(1), to any setting within the physically adjustable range of that parameter, as determined by the Administrator in accordance with § 86.084–22(e)(3)(ii), prior to the performance of any tests. However, if the idle speed parameter is one which the Administrator has determined to be subject to adjustment, the Administrator shall not adjust it to any setting which causes a lower engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter if the manufacturer had accumulated 125 hours of service on the engine under paragraph (c) of this section, all other parameters being identically adjusted for the purpose of the comparison. The Administrator, in making or specifying such adjustments, may consider the effect of the deviation from the manufacturer's recommended setting on emissions performance characteristics as well as the likelihood that similar settings will occur on in-use heavy-duty engines. In determining likelihood, the Administrator may consider factors such as, but not limited to, the effect of the adjustment on engine performance characteristics and surveillance information from similar in-use engines.

(c) The manufacturer may accumulate up to 125 hours of service on each selected engine prior to performing exhaust emission testing. Service accumulation may be performed in any manner the manufacturer desires.

(1) The manufacturer shall accumulate service at a minimum rate of 16 hours during each 24 hour period, unless otherwise provided by the Administrator.

(2) Service accumulation shall be performed on a sufficient number of test engines during each 24 hour period to assure that the number of engines tested per day fulfills the requirements of paragraph (g) of this section.

(d) No maintenance will be performed on test engines after selection for testing nor will any test engine substitution or replacement be allowed, unless requested of the Administrator by the manufacturer and approved by the Administrator in advance of the performance of any maintenance or engine substitution.

(e) The manufacturer will be allowed 24 hours to ship test engines from the assembly plant or associated storage facility to the test facility if the test facility is not located at or in close proximity to the plant or storage facility: *Except,* That the Administrator may approve more time based upon a request by the manufacturer accompanied by a satisfactory justification.

(f) If an engine is incapable of completing the service accumulation or emission tests because of engine malfunction, the manufacturer may request that the Administrator authorize the repair or replacement of the engine. Any replacement engines will be selected in a manner prescribed in the test order.

(g) Within one working day of receipt of the test order, the manufacturer shall notify the Administrator which test facility will be used to comply with the test order. If no test cells are available at a desired facility, the manufacturer must provide alternate testing capability satisfactory to the Administrator.

(1) Heavy-duty engine manufacturers with projected annual sales of all of its heavy-duty engines bound for the United States market of 30,000 or greater, as made in their respective Applications for Certification, shall complete emission testing at their testing facility on a minimum of two engines per 24 hour period, including voided tests.

(2) Heavy-duty engine manufacturers with projected annual sales of all of its heavy-duty engines bound for the United States market of less than 30,000,

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as made in their respective Applications for Certification, shall complete emission testing at their testing facility on a minimum of one engine per 24 hour period, including voided tests.

(3) The Administrator may approve a longer period of time for conducting emission tests based upon a request by a manufacturer accompanied by a satisfactory justification.

(h) The manufacturer shall perform test engine selection, shipping, preparation, service accumulation, and testing in such a manner as to assure that the audit is performed in an expeditious manner.

(i) The manufacturer will be permitted to retest any engines tested during a Selective Enforcement Audit once a fail decision for the audit has been reached in accordance with § 86.1010–84(d) based on the first test on each engine. Each engine can be tested a total of three times but they all must be tested the same number of times. The manufacturer may accumulate additional service before conducting a retest, although the total amount of service accumulation on each engine prior to testing shall not exceed 125 hours.

§ 86.1008–84 Calculation and reporting of test results.

(a) Initial test results shall be calculated following the Federal Test Procedure specified in paragraph (a) of § 86.1008–84.

(b) Final test results shall be calculated by summing the initial test results derived in paragraph (a) of this section for each test engine, dividing by the number of tests conducted on the engine, and rounding in accordance with ASTM E29–67 to two places to the right of the decimal point.

(c) *Final deteriorated test results.* (1) The final deteriorated test results for each engine tested according to Subpart D, N or P of this Part shall be calculated by multiplying the final test results by the appropriate deterioration factor, derived from the certification process for the engine family-control system combination and model year for the selected configuration to which the test engine belongs. If the deterioration factor computed during the certification process is less than one, that deterioration factor will be one.

(2) The final deteriorated test results for each engine tested according to Subpart I of this Part shall be calculated by adding the appropriate deterioration factor, derived from the certification process for the engine family-control system combination and model year for the selected configuration to which the test engine belongs, to the final test results. If the deterioration factor computed during the certification process is less than zero, that deterioration factor will be zero.

(3) The final deteriorated test results shall be rounded, in accordance with ASTM E29–67, to the number of decimal places contained in the appropriate standard.

(d) Within five working days after completion of testing of all engines pursuant to a test order, the manufacturer shall submit to the Administrator a report which shall include the following:

(1) The location and description of the manufacturer's exhaust emission test facilities which were utilized to conduct testing reported pursuant to this section.

(2) The applicable standards against which the engines were tested.

(3) Deterioration factors for the engine family to which the selected configuration belongs.

(4) A description of the engine and any emission related component selection method used.

(5) For each test conducted,

(i) Test engine description, including:

(A) Configuration and engine family identification,

(B) Year, make, and build date,

(C) Engine identification number, and

(D) Number of hours of service accumulated on engine prior to testing.

(ii) Location where service accumulation was conducted and description of accumulation procedure and schedule.

(iii) Test number, date, initial test results before and after rounding, final test results and final deteriorated test results for all exhaust emission tests, whether valid or invalid, and the reason for invalidation, if applicable.

(iv) A complete description of any modification, repair, preparation, maintenance, and/or testing which was performed on the test engine and has not been reported pursuant to any other paragraph of this subpart and will not be performed on all other production engines.

(v) Where a replacement engine was authorized by the Administrator, the reason for the replacement and the information in paragraph (d)(5)(iii) of this section, if any, for the replacement engine.

(vi) Any other information the Administrator may request relevant to the determination as to whether the new heavy-duty engines being manufactured by the manufacturer do in fact conform with the regulations with respect to which the certificate of conformity was issued.

(6) The following statement and endorsement: This report is submitted pursuant to section 206 and section 208 of the Clean Air Act. All testing for which data is reported herein was conducted in strict conformance with applicable regulations under 40 CFR Part 86 et seq. All the data reported herein is a true and accurate representation of such testing. All other information reported herein is, to the best of

Company name ———————

knowledge, true and accurate. I am aware of the penalties associated with violations of the Clean Air Act and the regulations thereunder.

Authorized company representative ———————

§ 86.1010–84 Compliance with acceptable quality level and passing and failing criteria for Selective Enforcement Audits.

(a) The prescribed acceptable quality level is 10 percent.

(b) A failed engine is one whose final deteriorated test results pursuant to § 86.1009–84(c), for one or more of the applicable exhaust pollutants, exceed the applicable emission standard.

(c) The manufacturer shall test engines comprising the test sample until a pass decision is reached for all pollutants or a fail decision is reached for one pollutant. A pass decision is reached when the cumulative number of failed engines, as defined in paragraph (b) of this section, for each pollutant is less than or equal to the pass decision number appropriate to the cumulative number of engines tested. A fail decision is reached when the cumulative number of failed engines for one or more pollutants is greater than or equal to the fail decision number appropriate to the cumulative number of engines tested. The pass and fail decision numbers associated with the cumulative number of engines tested shall be determined by use of the tables in Appendix X of this part appropriate for the annual projected sales as made by the manufacturer in its Application for Certification. In the Tables in Appendix X, sampling plan "stage" refers to the cumulative number of engines tested. Once a pass or fail decision has been made for a particular pollutant, the number of engines whose final deteriorated test results exceed the emission standard for that pollutant shall not be considered any further for the purposes of the audit.

(d) Passing or failing of an SEA audit takes place when the decision is made on the last engine required to make a decision under paragraph (c) of this section.

(e) The Administrator may terminate testing earlier than required in paragraph (c) of this section.

(f) [Reserved]

(g) [Reserved]

§ 86.1011–84 [Reserved]

§ 86.1012–84 Suspension and revocation of certificates of conformity.

(a) The certificate of conformity is suspended with respect to any engine failing pursuant to paragraph (b) of § 86.1010–84 effective from the time that testing of that engine is completed.

(b) The Administrator may suspend the certificate of conformity for a configuration which does not pass an SEA, pursuant to paragraph § 86.1010–84(c), based on the first test or all tests conducted on each engine. This suspension shall not occur before ten days after failure to pass the audit.

(c) [Reserved]

(d) [Reserved]

(e) If the results of testing pursuant to these regulations indicate that engines of a particular configuration produced at one plant of a manufacturer do not conform to the regulations with respect to which the certificate of conformity was issued, the Administrator may suspend the certificate of conformity with respect to that configuration for engines manufactured by the manufacturer at all other points.

(f) [Reserved]

(g) The Administrator will notify the manufacturer in writing of any suspension or revocation of a certificate of conformity in whole or in part: *Except,* That the certificate is immediately suspended with respect to any failed engines as provided for in paragraph (a) of this section.

(h) The Administrator may revoke a certificate of conformity for a configuration when the certificate has been suspended pursuant to paragraph (b), (c) or (e) of this section if the proposed remedy for the nonconformity, as reported by the manufacturer to the Administrator, is one requiring a design change or changes to the engine and/or emission control system as described in the Application for Certification of the affected configuration.

(i) Once a certificate has been suspended for a failed engine as provided for in paragraph (a) of this section, the manufacturer must take the following actions:

(1) Before the certificate is reinstated for that failed engine,

(i) Remedy the nonconformity, and

(ii) Demonstrate that the engine conforms to the applicable standards by retesting the engine in accordance with these regulations.

(2) Submit a written report to the Administrator, within five working days after successful completion of testing on the failed engine, which contains a description of the remedy and test results for each engine in addition to other information that may be required by this regulation.

(j) Once a certificate for a failed configuration has been suspended pursuant to paragraph (b), (c) or (e) of this section, the manufacturer must take the following actions before the Administrator will consider reinstating such certificate:

(1) Submit a written report to the Administrator which identifies the reason for the noncompliance of the engines, describes the proposed remedy, including a description of any proposed quality control and/or quality assurance measures to be taken by the manufacturer to prevent future occurrences of the problem, and states the date on which the remedies will be implemented, and

(2) Demonstrate that the engine configuration for which the certificate of conformity has been suspended does in fact comply with these regulations by testing engines selected from normal production runs of that engine configuration, at the plant(s) or associated storage facilities specified by the Administrator, in accordance with the conditions specified in the initial test order; *Except,* That if the manufacturer elects to continue testing individual engines after suspension of a certificate, the certificate is reinstated for any engine actually determined to be in conformance with the applicable standards through testing in accordance with the applicable test procedures: *Provided,* That the Administrator has not revoked the certificate pursuant to paragraph (h) of this section.

(k) Once the certificate has been revoked for a configuration and the manufacturer desires to continue introduction into commerce of such configuration, the following actions shall be taken before the Administrator will consider reissuing such certificate:

(1) If the Administrator determines that the proposed change or changes in engine design may have an effect on emission performance deterioration, he shall so notify the manufacturer within five (5) working days after receipt of the report in paragraph (h) of this section, whether subsequent testing under this subpart will be sufficient to evaluate the proposed change or changes or whether additional testing will be required.

(2) After implementing the change or changes intended to remedy the nonconformity, the manufacturer shall demonstrate that the engine configuration for which the certificate of conformity was revoked does in fact conform with these regulations by testing engines selected from normal production runs of that engine configuration in accordance with the conditions specified in the initial test order. This testing will be considered by the Administrator to satisfy the testing requirements of § 86.078–32 or § 86.079–33 if the Administrator had so notified the manufacturer. If the subsequent audit results in passing of the audit at the level of the standards, the Administrator will reissue or amend the certificate, as the case may be, to include that configuration: *Provided,* That the manufacturer has satisfied the testing requirements specified pursuant to paragraph (j)(2) of this section. If the subsequent audit is failed, the revocation shall remain in effect. Any design change approvals under this subpart shall be limited to the configuration affected by the test order.

(l) At any time subsequent to an initial suspension of a certificate of conformity for a test engine pursuant to paragraph (a) of this section, but not later than fifteen (15) days or such other period as may be allowed by the Administrator after notification of the Administrator's decision to suspend or revoke a certificate of conformity in whole or in part pursuant to paragraphs (b), (c), (d), (e) or (h) of this section, a manufacturer may request a hearing as to whether the tests have been properly conducted or any sampling methods have been properly applied.

(m) After the Administrator suspends or revokes a certificate of conformity pursuant to this section or notifies a manufacturer of his intent to suspend, revoke or void a certificate of conformity under paragraph § 86.084–30(e), and prior to the commencement of a hearing under § 86.1014–84, if the manufacturer demonstrates to the Administrator's satisfaction that the decision to suspend, revoke or void the certificate was based on erroneous information, the Administrator shall reinstate the certificate.

(n) To permit a manufacturer to avoid storing non-test engines when conducting an audit of a configuration subsequent to suspension or revocation of the certificate of conformity for that configuration resulting from failure of an SEA, it may request that the Administrator conditionally reinstate the certificate for that configuration. The Administrator may reinstate the certificate subject to the condition that the manufacturer consents to recall all engines of that configuration produced from the time the certificate is conditionally reinstated if the configuration fails the subsequent audit at the level of the standard and to

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remedy any nonconformity at no expense to the owner.

§ 86.1013–84 [Reserved.]

§ 86.1014–84 Hearings on suspension, revocation and voiding of certificate of conformity.

(a) *Applicability.* The procedures prescribed by this section shall apply whenever a manufacturer requests a hearing pursuant to § 86.084–30(e)(6)(i), § 86.084–30(e)(7), or § 86.1012–84(1).

(b) *Definitions.* The following definitions shall be applicable to this section:

(1) "Hearing Clerk" shall mean the Hearing Clerk of the Environmental Protection Agency.

(2) "Manufacturer" refers to a manufacturer contesting a suspension or revocation order directed at the manufacturer.

(3) "Party" shall include the Agency and the manufacturer.

(4) "Presiding Officer" shall mean an Administrative Law Judge appointed pursuant to 5 U.S.C. 3105 (see also 5 CFR Part 930 as amended).

(5) "Judicial Officer" shall mean an officer or employee of the Agency appointed as a Judicial Officer by the Administrator pursuant to this section who shall meet the qualifications and perform functions as follows:

(i) Officer—there may be designated for the purposes of this section one or more Judicial Officers. As work requires, there may be a Judicial Officer designated to act for the purposes of a particular case.

(ii) Qualifications—a Judicial Officer may be a permanent or temporary employee of the Agency who performs other duties for the Agency. Such Judicial Officer shall not be employed by the Office of Enforcement or have any connection with the preparation or presentation of evidence for a hearing held pursuant to this subpart. The Judicial Officer shall be a graduate of an accredited law school and a member in good standing of a recognized Bar Association of any state or the District of Columbia.

(iii) Functions—the Administrator may consult with Judicial Officer or delegate all or part of his authority to act in a given case under this section to a Judicial Officer: *Provided,* That this delegation shall not preclude the Judicial Officer from referring any motion or case to the Administrator when the Judicial Officer determines such referral to be appropriate.

(c) *Request for public hearing.*

(1) If the manufacturer disagrees with the Administrator's decision to suspend, revoke or void a certificate or disputes the basis for an automatic suspension pursuant to § 86.1012–84(a), he may request a public hearing as described in this section. Requests for such a hearing shall be filed with the Administrator not later than 15 days after the Administrator's notification of his decision to suspend or revoke unless otherwise specified by the Administrator. Two copies of such request shall simultaneously be served upon the Director of the Mobile Source Enforcement Division and two copies filed with the Hearing Clerk. Failure of the manufacturer to request a hearing within the time provided shall constitute a waiver of his right to such a hearing. Subsequent to the expiration of the period for requesting a hearing as a right, the Administrator may, in his discretion and for good cause shown, grant the manufacturer a hearing to contest the suspension or revocation.

(2) The request for a public hearing shall contain:

(i) A statement as to which engine configuration is to be the subject of the hearing;

(ii) A concise statement of the issues to be raised by the manufacturer at the hearing: *Provided, however,* That in the case of the hearing requested under § 86.1012–84(1), the hearing shall be restricted to the following issues:

(A) Whether tests have been properly conducted, specifically, whether the tests were conducted in accordance with applicable regulations under this part and whether test equipment was properly calibrated and functioning; and

(B) Whether sampling plans have been properly applied, specifically, whether sampling procedures specified in Appendix X were followed and whether there exists a basis for distinguishing engines produced at plants other than the one from which engines were selected for testing which would invalidate the Administrator's decision under § 86.1012–84(e).

(iii) A statement specifying reasons the manufacturer believes he will prevail on the merits of each of the issues so raised; and

(iv) A summary of the evidence which supports the manufacturer's position on each of the issues so raised.

(3) A copy of all requests for public hearings shall be kept on file in the Office of the Hearing Clerk and shall be made available to the public during Agency business hours.

(d) *Summary decision.*

(1) In the case of a hearing requested under § 86.1012–83(1), when it clearly appears from the data and other information contained in the request for a hearing that there is no genuine and substantial question of fact with respect to the issues specified in § 86.1014–84(c)(2)(ii), the Administrator will enter an order denying the request for a hearing and reaffirming the original decision to suspend or revoke a certificate of conformity, if such decision has been made pursuant to § 86.1012–84(g) at any time prior to the decision to deny the request for a hearing.

(2) In the case of a hearing requested under § 86.084–30(e)(6)(i), to challenge a proposed suspension of a certificate of conformity for the reasons specified in § 86.084–30 (e)(1)(i) or (e)(1)(ii), when it clearly appears from the data and other information contained in the request for a hearing that there is no genuine and substantial question of fact with respect to the issue of whether the refusal to comply with the provisions of a test order or any other requirement of § 86.1003–84 was caused by conditions and circumstances outside the control of the manufacturer, the Administrator will enter an order denying the request for a hearing and suspending the certificate of conformity.

(3) Any order issued under paragraphs (d)(1) or (d)(2) of this section shall have the force and effect of a final decision of the Administrator, as issued pursuant to paragraph (w)(4) of this section.

(4) If the Administrator determines that a genuine and substantial question of fact does exist with respect to any of the issues referred to in paragraphs (d)(1) and (d)(2) of this section, he shall grant the request for a hearing and publish a notice of public hearing in accordance with paragraph (h) of this section.

(e) *Filing and service.*

(1) An original and two copies of all documents or papers required or permitted to be filed pursuant to this section shall be filed with the Hearing Clerk. Filing shall be deemed timely if mailed, as determined by the postmark, to the Hearing Clerk within the time allowed by this section. If filing is to be accomplished by mailing, the documents shall be sent to the address set forth in the notice of public hearing as described in paragraph (h) of this section.

(2) To the maximum extent possible, testimony shall be presented in written form. Copies of written testimony shall be served upon all parties as soon as practicable prior to the start of the hearing. A certificate of service shall be provided on or accompany each document or paper filed with the Hearing Clerk. Documents to be served upon the Director of the Mobile Source Enforcement Division shall be sent by registered mail to: Director, Manufacturers Operations Division, U.S. Environmental Protection Agency, En-

340, 401 M Street SW., Washington, D.C. 20460.

Service by registered mail is complete upon mailing.

(f) *Time.*

(1) In computing any period of time prescribed or allowed by this section, except as otherwise provided, the day of the act or event from which the designated period of time begins to run shall not be included. Saturdays, Sundays, and Federal legal holidays shall be included in computing any such period allowed for the filing of any document or paper, except that when such period expires on a Saturday, Sunday, or Federal legal holiday, such period shall be extended to include the next following business day.

(2) A prescribed period of time within which a party is required or permitted to do an act shall be computed from the time of service, except that when service is accomplished by mail, three days shall be added to the prescribed period.

(g) *Consolidation.* The Administrator or the Presiding Officer in his discretion may consolidate two or more proceedings to be held under this section for the purpose of resolving one or more issues whenever it appears that such consolidation will expedite or simplify consideration of such issues. Consolidation shall not affect the right of any party to raise issues that could have been raised if consolidation had not occured.

(h) *Notice of public hearings.* Notice of a public hearing under this section shall be given by publication in the Federal Register and by such other means as the Administrator finds appropriate to provide notice to the public. To the extent possible hearings under this section shall be scheduled to commence within 14 days of receipt of the application in paragraph (c) of this section.

(i) *Amicus curiae.* Persons not parties to the proceeding wishing to file briefs may do so by leave of the Presiding Officer granted on motion. A motion for leave shall identify the interest of the applicant and shall state the reasons why the proposed amicus brief is desirable.

(j) *Presiding Officer.* The Presiding Officer shall have the duty to conduct a fair and impartial hearing in accordance with 5 U.S.C. sections 554, 556 and 557 and to take all necessary action to avoid delay in the disposition of the proceedings and to maintain order. He shall have all power consistent with Agency rule and with the Administrative Procedure Act necessary to this end, including the following:

(1) To administer oaths and affirmations;

(2) To rule upon offers of proof and exclude irrelevant or repetitious material;

(3) To regulate the course of the hearings and the conduct of the parties and their counsel therein;

(4) To hold conferences for simplification of the issues or any other proper purpose;

(5) To consider and rule upon all procedural and other motions appropriate in such proceedings;

(6) To require the submission of direct testimony in written form with or without affidavit whenever, in the opinion of the Presiding Officer, oral testimony is not necessary for full and true disclosure of the facts;

(7) To enforce agreements and orders requiring access as authorized by law;

(8) To require the filing of briefs on any matter on which he is required to rule;

(9) To require any party or any witness, during the course of the hearing, to state his position on any issue;

(10) To take or cause depositions to be taken whenever the ends of justice would be served thereby;

(11) To make decisions or recommend decisions to resolve the disputed issues on the record of the hearing;

(12) To issue, upon good cause shown, protective orders as described in paragraph (n) of this section.

(k) *Conferences.* (1) At the descretion of the Presiding Officer, conferences may be held prior to or during any hearing. The Presiding Officer shall direct the Hearing Clerk to notify all parties of the time and location of any such conference. At the descretion of the Presiding Officer, persons other than parties may attend. At a conference the Presiding Officer may:

(i) Obtain stipulations and admissions, receive requests and order depositions to be taken, identify disputed issues of fact and law, and require or allow the submission of written testimony from any witness or party;

(ii) Set a hearing schedule for as many of the following as are deemed necessary by the Presiding Officer;

(A) Oral and written statements;

(B) Submission of written direct testimony as required or authorized by the Presiding Officer;

(C) Oral direct and cross-examination of a witness where necessary as prescribed in paragraph (p) of this section; and

(D) Oral argument, if appropriate.

(iii) Identify matters of which official notice may be taken;

(iv) Consider limitation of the number of expert and other witnesses;

(v) Consider the procedure to be followed at the hearing; and

(vi) Consider any other matter that may expedite the hearing or aid in the disposition of the issue.

(2) The results of any conference including all stipulations shall, if not transcribed, be summarized in writing by the Presiding Officer and made part of the record.

(l) *Primary discovery (exchange of witness lists and documents).* (1) At a prehearing conference or within some reasonable time set by the Presiding Officer prior to the hearing, each party shall make available to the other parties the names of the expert and other witnesses the party expects to call, together with a brief summary of their expected testimony and a list of all documents and exhibits which the party expects to introduce into evidence. Thereafter, witnesses, documents, or exhibits may be added and summaries of expected testimony amended upon motion by a party.

(2) The Presiding Officer, may, upon motion by a party or other person, and for good cause shown, by order

(i) restrict or defer disclosure by a party of the name of a witness or a narrative summary of the expected testimony of a witness, and

(ii) prescribe other appropriate measures to protect a witness. Any party affected by any such action shall have an adequate opportunity, once he learns the name of a witness and obtains the narrative summary of his expected testimony, to prepare for the presentation of his case.

(m) *Other discovery.* (1) Except as so provided by paragraph (l) of this section, further discovery, under this paragraph, shall be permitted only upon determination by the Presiding Officer:

(i) That such discovery will not in any way unreasonably delay the proceeding;

(ii) That the information to be obtained is not obtainable voluntarily; and

(iii) That such information has significant probative value. The Presiding Officer shall be guided by the procedures set forth in the Federal Rules of Civil Procedure, where practicable, and the precedents thereunder, except that no discovery shall be undertaken except upon order of the Presiding Officer or upon agreement of the parties.

(2) The Presiding Officer shall order depositions upon oral questions only upon a showing of good cause and upon a finding that:

(i) The information sought cannot be obtained by alternative methods; or

(ii) There is a substantial reason to believe that relevant and probative evidence may otherwise not be

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preserved for presentation by a witness at the hearing.

(3) Any party to the proceeding desiring an order of discovery shall make a motion or motions therefor. Such a motion shall set forth:

(i) The circumstances warranting the taking of the discovery;

(ii) The nature of the information expected to be discovered; and

(iii) The proposed time and place where it will be taken. If the Presiding Officer determines the motion should be granted, he shall issue an order for the taking of such discovery together with the conditions and terms thereof.

(4) Failure to comply with an order issued pursuant to this paragraph may lead to the inference that the information to be discovered would be adverse to the person or party from whom the information was sought.

(n) *Protective orders, in camera proceedings.* (1) Upon motion by a part or by the person from whom discovery is sought, and upon a showing by the movant that the disclosure of the information to be discovered, or a particular part thereof (other than emission data), would result in methods or processes entitled to protection as trade secrets of such person being divulged, the Presiding Officer may enter a protective order with respect to such material. Any protective order shall contain such terms governing the treatment of the information as may be appropriate under the circumstances to prevent disclosure outside the hearing: *Provided,* That the order shall state that the material shall be filed separately from other evidence and exhibits in the hearing. Disclosure shall be limited to parties to the hearing, their counsel and relevant technical consultants, and authorized representatives of the United States concerned with carrying out the Act. Except in the case of the government, disclosure may be limited to counsel for parties who shall not disclose such information to the parties themselves. Except in the case of the government, disclosure to a party or his counsel shall be conditioned on execution of a sworn statement that no disclosure of the information will be made to persons not entitled to receive it under the terms of the protective order. (No such provision is necessary where government employees are concerned because disclosure by them is subject to the terms of 18 U.S.C. 1905.)

(2)(i) A party or person seeking a protective order may be permitted to make all or part of the required showing in camera. A record shall be made of such in camera proceedings. If the Presiding Officer enters a protective order following a showing in camera, the record of such showing shall be sealed and preserved and made available to the Agency or court in the event of appeal.

(ii) Attendance at any in camera proceeding may be limited to the Presiding Officer, the Agency, and the person or party seeking the protective order.

(3) Any party, subject to the terms and conditions of any protective order issues pursuant to paragraph (n)(1) of this section, desiring for the presentation of his case to make use of any in camera documents or testimony shall make application to the Presiding Officer by motion setting forth the justification therefor. The Presiding Officer, in granting any such motion, shall enter an order protecting the rights of the affected persons and parties and preventing unnecessary disclosure of such information, including the presentation of such information and oral testimony and cross-examination concerning it in executive session, as in his discretion is necessary and practicable.

(4) In the submittal of proposed findings, briefs, or other papers, counsel for all parties shall make a good faith attempt to refrain from disclosing the specific details of in camera documents and testimony. This shall not preclude references in such proposed findings, briefs, or other papers to such documents or testimony including generalized statements based on their contents. To the extent that counsel considers it necessary to include specific details in their presentation, such data shall be incorporated in separate proposed findings, briefs, or other papers marked "confidential", which shall become part of the in camera record.

(o) *Motions.* (1) All motions, except those made orally during the course of the hearing, shall be in writing and shall state with particularity the grounds therefor, shall set forth the relief or order sought, and shall be filed with the Hearing Clerk and served upon all parties.

(2) Within such time as may be fixed by the Administrator, the judicial officer, or the Presiding Officer, as appropriate, any party may serve and file an answer to the motion. The movant shall, if requested by the Administrator, the judicial officer, or the Presiding Officer, as appropriate, serve and file reply papers, within the time set by the request.

(3) The Presiding Officer shall rule upon all motions filed or made prior to the filing of his decision or accelerated decision, as appropriate. The Administrator or the judicial officer, as appropriate, shall rule upon all motions filed prior to the appointment of a Presiding Officer and all motions filed after the filing of the decision of the Presiding Officer or accelerated decision. Oral argument of motions will be permitted only if the Presiding Officer, the Administrator or the judicial officer, as appropriate, deems it necessary.

(p) *Evidence.* (1) The official transcripts and exhibits, together with all papers and requests filed in the proceeding, shall constitute the record. Immaterial or irrelevant parts of an admissible document shall be segregated and excluded so far as practicable. Documents or parts thereof subject to a protective order under paragraph (n) of this section shall be segregated. Evidence may be received at the hearing even though inadmissible under the rules of evidence applicable to judicial proceedings. The weight to be given evidence shall be determined by its reliability and probative value.

(2) The Presiding Officer shall allow the parties to examine and cross-examine a witness to the extent that such examination and cross-examination is necessary for a full and true disclosure of the facts.

(3) Rulings of the Presiding Officer on the admissibility of evidence, the propriety of examination and cross-examination and other procedural matters shall appear in the record.

(4) Parties shall automatically be presumed to have taken exception to an adverse ruling.

(q) *Record.* (1) Hearings shall be stenographically reported and transcribed and the original transcripts shall be part of the record and the sole official transcript. Copies of the record shall be filed with the Hearing Clerk and made available during Agency business hours for public inspection. Any person desiring a copy of the record of the hearing or any part thereof, except as provided in paragraph (n) of this section, shall be entitled to the same upon payment of the cost thereof.

(2) The official transcripts and exhibits, together with all papers and requests filed in the proceeding, shall constitute the record.

(r) *Proposed findings, conclusions.* (1) Within 4 days of the close of the reception of evidence, or within such longer time as may be fixed by the Presiding Officer, any party may submit for the consideration of the Presiding Officer proposed findings of fact, conclusions of law, and proposed order, together with reasons therefor and briefs in support thereof. Such proposals shall be in writing, shall be served upon all parties, and shall contain adequate

references to the record and authorities relied upon.

(2) The record shall show the Presiding Officer's ruling on the proposed findings and conclusions except when his order disposing of the proceeding otherwise informs the parties of the action taken by him thereon.

(s) *Decision of the Presiding Officer.* (1) Unless extended by the Administrator, the Presiding Officer shall issue and file with the Hearing Clerk his decision within 14 days (or within 7 days in the case of a hearing requested under § 86.1012–84(1)) after the period for filing proposed findings as provided for in paragraph (r) of this section has expired.

(2) The Presiding Officer's decision shall become the decision of the Administrator:

(i) when no notice of intention to appeal as described in paragraphs (t) and (u) of this section is filed, 10 days after issuance thereof, unless in the interim the Administrator shall have taken action to review or stay the effective date of the decision; or

(ii) when a notice of intention to appeal is filed but the appeal is not perfected as required by paragraph (t) or (u) of this section, 5 days after the period allowed for perfection of an appeal has expired unless within that 5 day period, the Administrator shall have taken action to review or stay the effective date of the decision.

(3) The Presiding Officer's decision shall include a statement of findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact or law presented on the record and an appropriate rule or order. Such decision shall be supported by substantial evidence and based upon a consideration of the whole record.

(4) At any time prior to the issuance of his decision, the Presiding Officer may reopen the proceeding for the reception of further evidence. Except for the correction of clerical errors, the jurisdiction of the Presiding Officer is terminated upon the issuance of his decision.

(t) *Appeal from the decision of the Presiding Officer.* (1) Any party to a proceeding may appeal the Presiding Officer's decision to the Administrator: *Provided,* That within 10 days after issuance of the Presiding Officer's decision such party files a notice of intention to appeal and an appeal brief within 20 days of such decision.

(2) When an appeal is taken from the decision of the Presiding Officer, any party may file a brief with respect to such appeal. The brief shall be filed within 15 days of the date of the filing of the appellant's brief.

(3) Any brief filed pursuant to this paragraph shall contain in the order indicated, the following:

(i) A subject index of the matter in the brief, with page references, and a table of cases (alphabetically arranged), textbooks, statutes, and other material cited, with page references thereto;

(ii) A specification of the issues intended to be urged; provided, however, that in the case of a hearing requested under § 86.1012–84(1), the brief shall be restricted to the issues specified in paragraph (c)(2)(ii) of this section;

(iii) The argument presenting clearly the points of fact and law relied upon in support of the position taken on each issue, with specific page references to the record and the legal or other material relied upon; and

(iv) A proposed order for the Administrator's consideration if different from the order contained in the Presiding Officer's decision.

(4) No brief in excess of 40 pages shall be filed without leave of the Administrator.

(5) Oral argument will be allowed only in the discretion of the Administrator.

(u) *Summary appeal.* (1) In the case of a hearing requested under § 86.1012–84(1), any appeal taken from the decision of the Presiding Officer shall be conducted under this paragraph.

(2) Any party to the proceeding may appeal the Presiding Officer's decision to the Administrator by filing a notice of appeal within 10 days.

(3) The notice of appeal shall be in the form of a brief, and shall conform to the requirements of paragraph (t)(3) of this section.

(4) Within 10 days after a notice of appeal from the decision of the Presiding Officer is filed under this paragraph, any party may file a brief with respect to such appeal.

(5) No brief in excess of 15 pages shall be filed without leave of the Administrator.

(v) *Review of the Presiding Officer's decision in the absence of appeal.* (1) If, after the expiration of the period for taking appeal as provided for by paragraphs (t) or (u) of this section, no notice of intention to appeal the decision of the Presiding Officer has been filed, or if filed, not perfected, the Hearing Clerk shall so notify the Administrator.

(2) The Administrator, upon receipt of notice from the Hearing Clerk that no notice of intention to appeal has been filed, or if filed, not perfected pursuant to paragraphs (t) or (u) of this section, may, on his own motion, within the time limits specified in paragraph (s)(2) of this section, review the decision of the Presiding Officer. Notice of the intention of the Administrator to review the decision of the Presiding Officer shall be given to all parties and shall set forth the scope of such review and the issues which shall be considered and shall make provision for filing of briefs.

(w) *Decision of appeal or review.* (1) Upon appeal from or review of the Presiding Officer's decision, the Administrator shall consider such parts of the record as are cited or as maybe necessary to resolve the issues presented and in addition shall, to the extent necessary or desirable, exercise all the powers which he could have exercised if he had presided at the hearing.

(2) In rendering his decision, the Administrator shall adopt, modify or set aside the findings, conclusions, and order contained in the decision of the Presiding Officer and shall set forth in his decision a statement of the reasons or basis for his action.

(3) In those cases where the Administrator believes that he should have further information or additional views of the parties as to the form and content of the rule or order to be issued, the Administrator, in his discretion, may withhold final action pending the receipt of such additional information or views, or may remand the case to the Presiding Officer.

(4) Any decision rendered under this paragraph which completes disposition of a case shall be a final decision of the Administrator.

(x) *Reconsideration.* (1) Within twenty (20) days after issuance of the Administrator's decision, any party may file with the Administrator a petition for reconsideration of such decision, setting forth the relief desired and the grounds in support thereof. Any petition filed under this subsection must be confined to new questions raised by the decision or final order and upon which the petitioner had no opportunity to argue before the Presiding Officer or the Administrator. *Provided, however,* That in the case of a hearing requested under § 86.1012–84(1) such new questions shall be limited to the issues specified in paragraph (c)(2)(ii) of this section.

(2) Any party desiring to oppose such a petition shall file an answer thereto within ten (10) days after the filing of the petition. The filing of a petition for reconsideration shall not operate to stay the effective date of the decision or order or to toll the running of any statutory time period affecting such decision or order unless specifically so ordered by the Administrator.

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(y) *Accelerated decision, dismissal.* (1) The Presiding Officer, upon motion of any party or sua sponte, may at any time render an accelerated decision in favor of the Agency or the manufacturer as to all or any part of the proceeding, without further hearing or upon such limited additional evidence such as affidavits as he may require, or dismiss any party with prejudice, for any of the following reasons:

(i) Failure to state a claim upon which relief can be granted, or direct or collateral estoppel;

(ii) The lack of any genuine issue of material fact, causing a party to be entitled to judgment as a matter of law; or

(iii) Such other and further reasons as are just, including specifically failure to obey a procedural order of the Presiding Officer.

(2) If under this paragraph an accelerated decision is issued as to all the issues and claims joined in the proceeding, the decision shall be treated for the purposes of these procedures as the decision of the Presiding Officer as provided in paragraph (s) of this section.

(3) If under this paragraph, judgment is rendered on less than all issues or claims in the proceeding, the Presiding Officer shall determine what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. He shall thereupon issue an order specifying the facts which appear without substantial controversy, and the issues and claims upon which the hearing will proceed.

(z) *Conclusion of hearing.* (1) If, after the expiration of the period for taking an appeal as provided for by paragraphs (t) and (u) of this section, no appeal has been taken from the Presiding Officer's decision, and after the expiration of the period for review by the Administrator on his own motion as provided for by paragraph (v) of this section, the Administrator does not move to review such decision, the hearing will be deemed to have ended at the expiration of all periods allowed for such appeal and review.

(2) If an appeal of the Presiding Officer's decision is taken pursuant to paragraph (t) and (u) of this section, or if, in the absence of such appeal the Administrator moves to review the decision of the Presiding Officer pursuant to paragraph (v) of this section, the hearing will be deemed to have ended upon the rendering of a final decision by the Administrator.

(aa) *Judicial review.* (1) The Administrator hereby designates the General Counsel, Environmental Protection Agency as the officer upon whom copy of any petition for judicial review shall be served. Such officer shall be responsible for filing in the court the record on which the order of the Administrator is based.

(2) Before forwarding the record to the court, the Agency shall advise the petitioner of costs of preparing it and as soon as payment to cover fees is made, shall forward the record to the court.

23. Part 86 is amended by adding Appendix X as follows:

Appendix X—Sampling Plans for Selective Enforcement Auditing of Heavy-Duty Engines

Table 1—*Sampling Plan Code Letter*

Annual sales	Code letter
50–99	A
100–199	B
200–399	C
400 or greater	D

Table 2—*Sample Plan for Code Letter "A"*

[Sample inspection criteria]

Stage	Pass No.	Fail No.
1	(1)	(2)
2	(1)	(2)
3	(1)	3
4	(1)	3
5	(1)	3
6	(1)	3
7	0	3
8	0	4
9	1	4
10	1	4
11	1	4
12	1	4
13	1	5
14	1	5
15	1	5
16	2	5
17	2	5
18	2	5
19	2	6
20	2	6
21	3	6
22	3	6
23	3	6
24	3	6
25	4	6
26	4	7
27	4	7
28	4	7
29	4	7
30	5	7

(1) Test sample passing not permitted at this stage.

(2) Test sample failure not permitted at this stage.

Table 3—*Sample Plan for Code Letter "B"*

[Sample inspection criteria]

Stage	Pass No.	Fail No.
1	(1)	(2)
2	(1)	(2)
3	(1)	3
4	(1)	3
5	(1)	3
6	(1)	3
7	0	4
8	0	4
9	0	4
10	0	4
11	0	4
12	1	5
13	1	5
14	1	5
15	1	5
16	1	6
17	2	6
18	2	6
19	2	6
20	2	6
21	3	7
22	3	7
23	3	7
24	3	7
25	3	7
26	4	8
27	4	8
28	4	8
29	4	8
30	4	8
31	5	8
32	5	9
33	5	9
34	5	9
35	5	9
36	6	9
37	6	10
38	6	10
39	6	10
40	6	10
41	7	10
42	7	11
43	7	11
44	7	11
45	7	11
46	8	11
47	8	11
48	8	11
49	8	11
50	10	11

Table 3—*Sample Plan for Code Letter "B"*—Continued

[Sample inspection criteria]

Stage	Pass No.	Fail No.
15	1	6
16	1	6
17	2	6
18	2	6
19	2	6
20	2	6
21	3	6
22	3	7
23	3	7
24	3	7
25	3	7
26	4	7
27	4	7
28	4	8
29	4	8
30	4	8
31	5	8
32	5	8
33	5	9
34	5	9
35	5	9
36	5	9
37	6	9
38	6	9
39	6	9
40	6	9

(1) Test sample passing not permitted at this stage.

(2) Test sample failure not permitted at this stage.

Table 4—*Sample Plan for Code Letter "C"*

[Sample inspection criteria]

Stage	Pass No.	Fail No.
1	(1)	(2)
2	(1)	(2)
3	(1)	3
4	(1)	3
5	(1)	3
6	(1)	4
7	0	4
8	0	4
9	0	4
10	0	4
11	0	5
12	1	5
13	1	5
14	1	5
15	1	5
16	1	6
17	2	6
18	2	6
19	2	6
20	2	6
21	3	7
22	3	7
23	3	7
24	3	7
25	3	7
26	4	8
27	4	8
28	4	8
29	4	8
30	4	8
31	5	8
32	5	9
33	5	9
34	5	9
35	5	9
36	6	9
37	6	10
38	6	10
39	6	10
40	6	10
41	7	10
42	7	11
43	7	11
44	7	11
45	8	11
46	8	11
47	8	11
48	8	11
49	8	11
50	10	11

(1) Test sample passing not permitted at this stage.

(2) Test sample failure not permitted at this stage.

Table 5—*Sample Plan for Code Letter "D"*

[Sample inspection criteria]

Stage	Pass No.	Fail No.
1	(1)	(2)
2	(1)	(2)
3	(1)	3
4	(1)	3
5	(1)	3
6	(1)	4
7	0	4
8	0	4
9	0	4
10	0	4
11	0	5
12	1	5
13	1	5
14	1	5
15	1	5
16	1	6
17	2	6
18	2	6
19	2	6
20	2	6
21	3	7
22	3	7
23	3	7
24	3	7
25	3	8
26	4	8
27	4	8
28	4	8
29	4	8
30	4	8
31	4	9
32	5	9
33	5	9
34	5	9
35	5	9
36	6	10
37	6	10
38	6	10
39	6	10
40	6	11
41	7	11
42	7	11
43	7	11
44	7	11
45	7	12
46	8	12
47	8	12
48	8	12
49	8	12
50	8	13
51	9	13
52	9	13
53	9	13
54	9	13
55	9	13
56	10	13
57	10	13
58	10	13
59	10	13
60	12	13

(1) Test sample passing not permitted at this stage.

(2) Test sample failure not permitted at this stage.

24. A new Subpart N is added to Part 86 and reads as follows:

Subpart N—Emission Regulations For New Gasoline-Fueled and Diesel Heavy-Duty Engines; Gaseous Exhaust Test Procedures

Sec.

86.1301–84 Scope; applicability.
86.1302–84 Definitions.
86.1303–84 Abbreviations.
86.1304–84 Section numbering; construction.
86.1305–84 Introduction; structure of subpart.
86.1306–84 Equipment required and specifications; overview.
86.1307–84 [Reserved]
86.1308–84 Dynamometer and engine equipment specifications.
86.1309–84 Exhaust gas sampling system; gasoline-fueled engines.
86.1310–84 Exhaust gas sampling and analytical system; diesel engines.
86.1311–84 Exhaust gas analytical system; CVS bag sample.
86.1312–84 [Reserved]
86.1313–84 Fuel specifications.
86.1314–84 Analytical gases.
86.1315–84 [Reserved]
86.1316–84 Calibrations; frequency and overview.
86.1317–84 [Reserved]
86.1318–84 Engine dynamometer calibrations.
86.1319–84 CVS calibration.
86.1320–84 [Reserved]
86.1321–84 Hydrocarbon analyzer calibration.
86.1322–84 Carbon monoxide analyzer calibration.
86.1323–84 Oxides of nitrogen analyzer calibration.
86.1324–84 Carbon dioxide analyzer calibration.
86.1325–84 [Reserved]
86.1326–84 Calibration of other equipment.
86.1327–84 Engine dynamometer test procedures; overview.
86.1328–84 [Reserved]
86.1329–84 [Reserved]
86.1330–84 Test sequence; general requirements.
86.1331–84 [Reserved]
86.1332–84 Engine mapping procedures.
86.1333–84 Transient test cycle generation.
86.1334–84 Pre-test engine and dynamometer preparation.
86.1335–84 Optional forced cool-down procedure.
86.1336–84 Engine starting and restarting.
86.1337–84 Engine dynamometer test run.
86.1338–84 Emission measurement accuracy.
86.1339–84 [Reserved]
86.1340–84 Exhaust sample analysis.
86.1341–84 Test cycle validation criteria.
86.1342–84 Calculations; exhaust emissions.
86.1343–84 [Reserved]
86.1344–84 Information required.

Authority: Secs. 202, 208, 207, 208, 301(a) of the Clean Air Act; as amended, 42 U.S.C. 7521, 7524, 7541, 7542 and 7601.

Subpart N—Emission Regulations for New Gasoline-Fueled and Diesel Heavy-Duty Engines; Gaseous Exhaust Test Procedures

§ 86.1301–84 Scope; applicability.

This subpart contains gaseous emission test procedures for gasoline-fueled and diesel heavy-duty engines. It applies to 1984 and later model years.

§ 86.1302–82 Definitions.

The definitions in § 86.084–2 apply to this subpart.

§ 86.1303–84 Abbreviations.

The abbreviations in § 86.084–3 apply to this subpart.

§ 86.1304–84 Section numbering; construction.

(a) The model year of initial applicability is indicated by the section number. The two digits following the hyphen designate the first model year for which a section is effective. A section remains effective until superseded.

Example: Section § 86.1311–84 applies to the 1984 and subsequent model years until superseded. If a section § 86.1311–88 is promulgated it would take effect beginning with the 1988 model year; § 86.1311–84 would apply to model years 1984 through 1987.

(b) A section reference without a model year suffix refers to the section applicable for the appropriate model year.

(c) Unless indicated, all provisions in this subpart apply to both gasoline-fueled and diesel heavy-duty engines.

§ 86.1305–84 Introduction; structure of subpart.

(a) This subpart describes the equipment required and the procedures to follow in order to perform exhaust emission tests on gasoline-fueled and diesel heavy-duty engines. Subpart A sets forth the testing requirements and test intervals necessary to comply with EPA certification procedures.

(b) Four topics are addressed in this subpart. Sections 86.1306–84 through 86.1315–84 set forth specifications and equipment requirements; §§ 86.1316–84 through 86.1326–84 discuss calibration methods and frequency; test procedures are listed in §§ 86.1327–84 through 86.1341–84; calculation formulas are found in § 86.1342–84; data requirements are found in § 86.1344–84.

§ 86.1306–84 Equipment required and specifications; overview.

(a) This subpart contains procedures for exhaust emissions tests on diesel or gasoline-fueled heavy-duty engines. Equipment required and specifications are as follows:

(1) *Exhaust emission tests.* All engines subject to this subpart are tested for exhaust emissions. Diesel and gasoline-fueled engines are tested identically with the exception of hydrocarbon measurements; diesel engines require a heated hydrocarbon detector, § 86.1310–84. Necessary equipment and specifications appear in §§ 86.1306–84 through 86.1311–84.

(2) *Fuel, analytical gas, and engine cycle specifications.* Fuel specifications for exhaust emission testing are specified in § 86.1313–84. Analytical gases are specified in § 86.1314–84. The EPA heavy-duty transient engines cycles for use in exhaust testing are described

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in § 86.1333–84 and specified in Appendix I.

§ 86.1307–84 [Reserved]

§ 86.1308–84 Dynamometer and engine equipment specifications.

(a) *Engine dynamometer.* The engine dynamometer system must be capable of controlling engine torque and rpm simultaneously over transient cycles. The transient torque and rpm schedules described in § 86.1333–84 and specified Appendix I (f and g) must be followed within the accuracy requirements specified in § 86.1341–84. In addition, to these general requirements, the dynamometer read out and read out signals for speed and torque shall meet the following accuracy specifications:

(1) Engine speed shall be accurate to within 2 percent of point at all speeds.

(2) Engine torque at the flywheel shall be accruate to within 3 percent of point at all torque settings above 10 percent of full-scale of the torque measuring device. Below 10 percent of full-scale, the torque measuring device shall have an accuracy of:

(i) ±2.5 ft.-lbs., if the full scale value is 550 ft.-lbs. or less.

(ii) ±5 ft.-lbs., if the full scale value is 1050 ft.-lbs. or less.

(iii) ±10 ft.-lbs., if the full scale value is greater than 1050 ft.-lbs.

(3) *Option:* Internal dynamometer signals (i.e., armature current, etc.) may be used for torque measurement provided that it can be shown that the true engine flywheel torque during the test cycle conforms to the test cycle values as specified in § 86.1333–84, and if the technique is approved in advance by the Administrator. The minimum requirement for the Administrator's approval would include compensation for increased or decreased flywheel torque due to the armature inertia during accelerations and decelerations in the test cycle. Engineering data and comparison test results may be required.

(b) *Cycle verification equipment.* In order to verify that the test engine has followed the test cycle correctly, the dynamometer read out signals for speed and torque must be collected in a manner that allows a statistical correlation between the actual engine performance and the test cycle (See § 86.1341–84). Normally this collection process would involve conversion of analog dynamometer signals into digital values for storage in a computer. The conversion of dynamometer read out values into values (computer or other) that are used to evaluate the validity of engine performance in relation to the test cycle shall be performed in a manner such that:

(1) Speed values used for cycle evaluation are accurate to within 2 percent of the dynamometer speed read out value.

(2) Engine flywheel torque values used for cycle evaluation are accurate to within 3 percent of the dynamometer torque read out value.

(c) *Option:* For some systems it may be more convenient to combine the tolerances in paragraphs (a) and (b) of this section. This is permitted if the root mean square method (RMS) is used. The RMS values would then refer to accuracy in relationship to true value.

(1) Speed values used for cycle evaluation shall be accurate to within 2.8 percent of true value.

(2) Engine flywheel torque value used for cycle evaluation shall be accurate to within 4.2 percent of true value.

(d) *Speed calibration equipment.* A 60-tooth (or greater) wheel in combination with a common mode rejection frequency counter is considered an absolute standard for engine or dynamometer speed.

(e) *Torque calibration equipment.* Two techniques are allowed for torque calibration. Alternate techniques may be used if shown to be equivalent, and if prior approval is obtained from the Administrator.

(1) The lever-arm dead-weight technique involves the placement of known weights a known distance from the center of rotation of the torque measuring device. The equipment required are:

(i) *Calibration weights.* A minimum of 6 calibration weights for each range of torque measuring device used are required. The weights must be approximately equally spaced and each must be accurate to 0.5 percent of National Bureau of Standards weights. Laboratories located in foreign countries may certify calibration weights to local government bureau standards. Certification of weight accuracy by state government Bureau of Weights and Measures is acceptable. Effects of changes in gravitational constant at the test site may be accounted for if desired.

(ii) A lever arm with a minimum length of 24 inches. The distance from the center of the engine torque measurement device to the point of weight application shall be accurate to within 0.010 inches. The arm must be balanced or the hanging torque of the arm must be known within ±0.1 ft.-lbs.

(2) The transfer technique involves the use of a master load cell with a method of loading (usually hydraulic) the torque measuring device, or master unit that applies a known force to the torque measuring device based on piston area and pressure. The equipment required are:

(i) A master load cell or force application unit that must be calibrated at each test weight specified in paragraph (e)(1)(i) of this section with known weights traceable to within 0.1 percent of NBS weights. The provision on traceability in paragraph (e)(1)(i) apply to this section. The overall accuracy of the calibration curve of torque applied to the engine torque sensor as determined by the master units shall be within 0.5 percent of true value. Below 10 percent of full scale of the master unit the calibration curve of torque applied to the engine torque sensor shall be accurate to:

(A) ±0.5 ft.-lbs. of true value if full scale value is 550 ft.-lbs. or less.

(B) ±1.0 ft.-lbs. of true value if full scale value is 1050 ft.-lbs. or less.

(C) ±2.0 ft.-lbs. of true value if full scale value is greater than 1050 ft.-lbs.

(ii) A lever arm with a minimum length of 24 inches. The distance from the center of the engine torque measuring device to the point of force measurement or application shall be accurate to within 0.010 inches. The arm must be balanced or the hanging torque of the arm must be known within ±0.1 ft.-lbs.

(iii) Transfer of calibration or span from a dynomometer "case" torque value to the engine flywheel torque measuring device is permitted only under static or steady state conditions.

(3) Other techniques may be used if shown to be equivalent and if approved by the Administrator.

§ 86.1309–84 Exhaust gas sampling system; gasoline-fueled engines.

(a)(1) *General.* The exhaust gas sampling system is designed to measure the true mass emissions of engine exhaust. In the CVS concept of measuring mass emissions, two conditions must be satisfied: the total volume of the mixture of exhaust and dilution air must be measured, and a continuously proportioned sample of volume must be collected for analysis. Mass emissions are determined from the sample concentration and total flow over the test period. The sampling and continuous analysis system specified in § 86.1310–84 for diesel engines may be used for testing gasoline-fueled engines if the systems meet all of the requirements for such systems as specified in this Subpart.

(2) *Positive displacement pump.* The positive displacement pump—constant volume sampler (PDP–CVS), Figure N83–1, satisfies the first condition by metering at a constant temperature and pressure through the pump. The total volume is measured by counting the revolutions made by the calibrated positive displacement pump. The proportional sample is achieved by sampling at a constant flow rate.

(3) *Critical flow venturi.* The operation of the critical flow venturi-constant volume sampler (CFV–CVS), Figure N84–2, is based upon the principles of fluid dynamics associated with critical flow. The CVF system is commonly called a constant volume system (CVS) even though the flow varies. It would be more proper to call the critical flow venturi (CFV) system a constant proportion sampling system since proportional sampling throughout temperature excursions is maintained by use of a small CFV in the sample line. The variable mixture flow rate is maintained at sonic velocity, which is inversely proportional to the square root of the gas temperature, and is computed continuously. Since the pressure and temperature are the same at both venturi inlets, the sample volume is proportional to the total volume.

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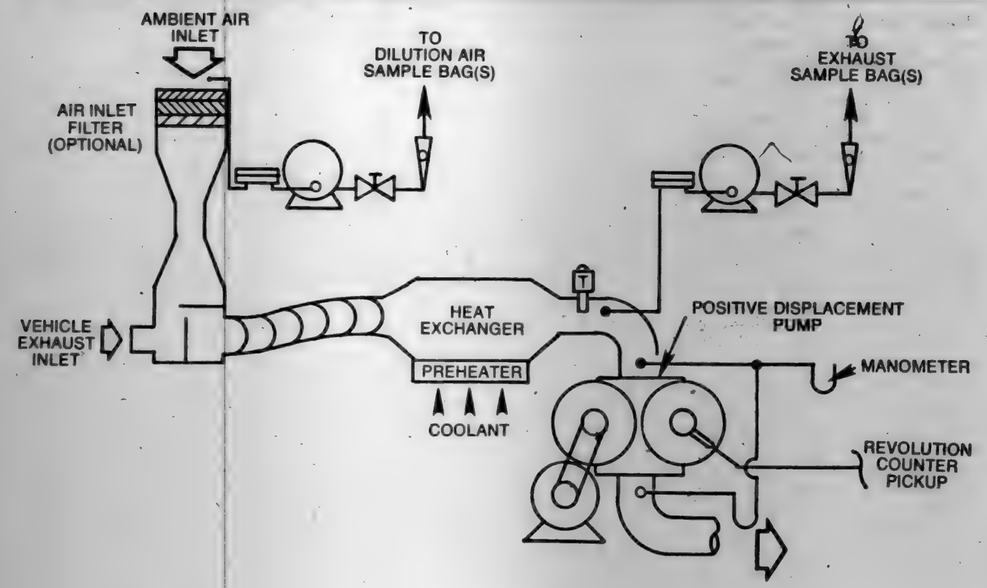

(SEE FIG. N84-5 FOR SYMBOL LEGEND)

FIGURE N84-1 — EXHAUST GAS SAMPLING SYSTEM PDP-CVS

FOR GASOLINE FUELED ENGINES

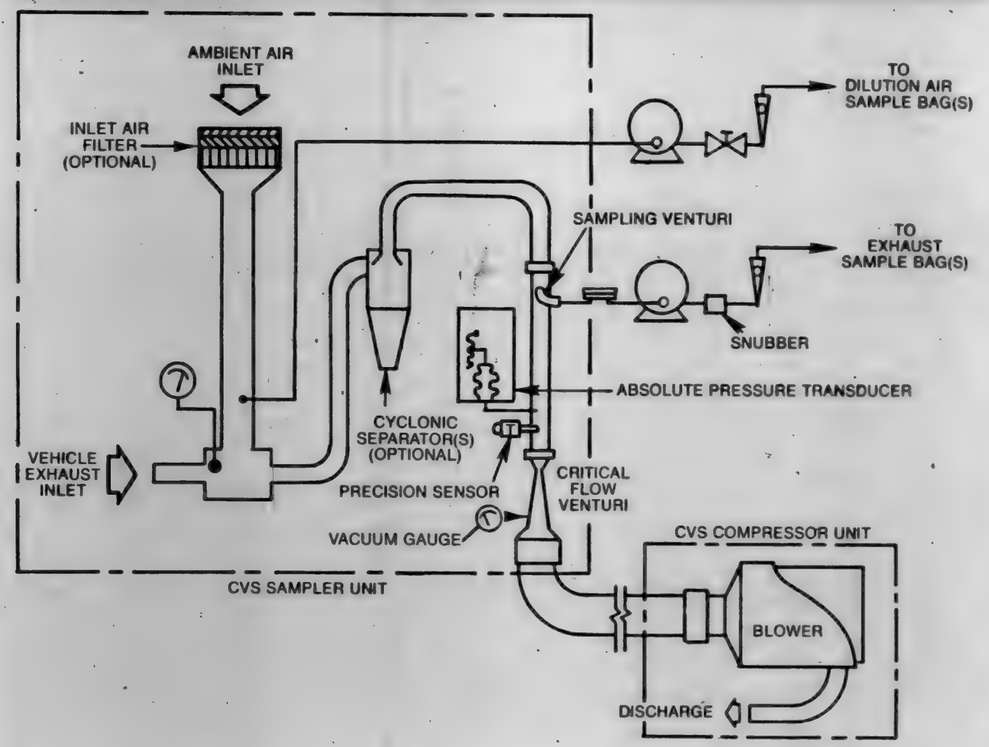

(SEE FIG. N84-5 FOR SYMBOL LEGEND)

FIGURE N84-2 — EXHAUST GAS SAMPLING SYSTEM (CFV-CVS)

FOR GASOLINE FUELED ENGINES

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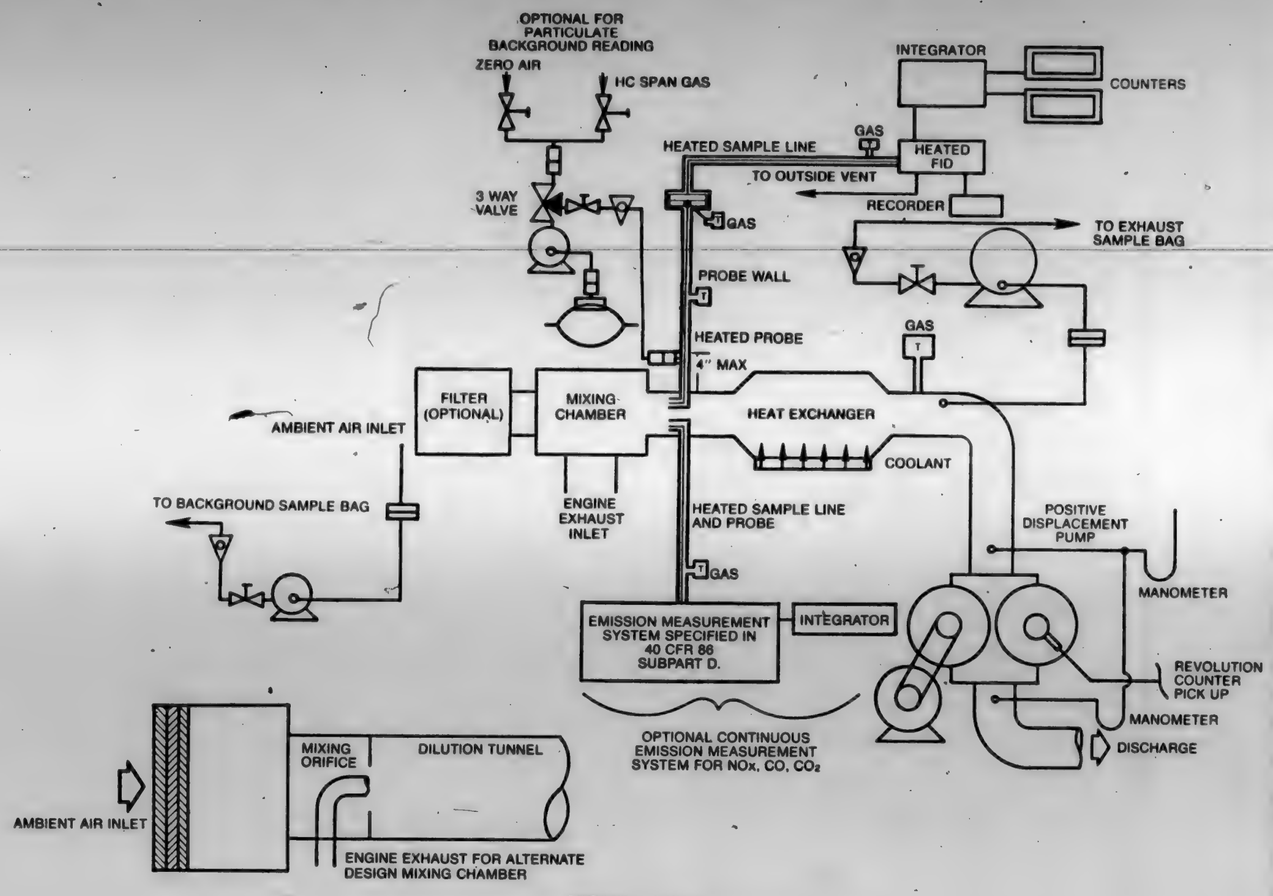

FIGURE N84-3
GASEOUS EMISSIONS SAMPLING SYSTEM (PDP-CVS)
(FOR DIESEL ENGINES ONLY)
(SEE FIGURE N84-5 FOR SYMBOL LEGEND)

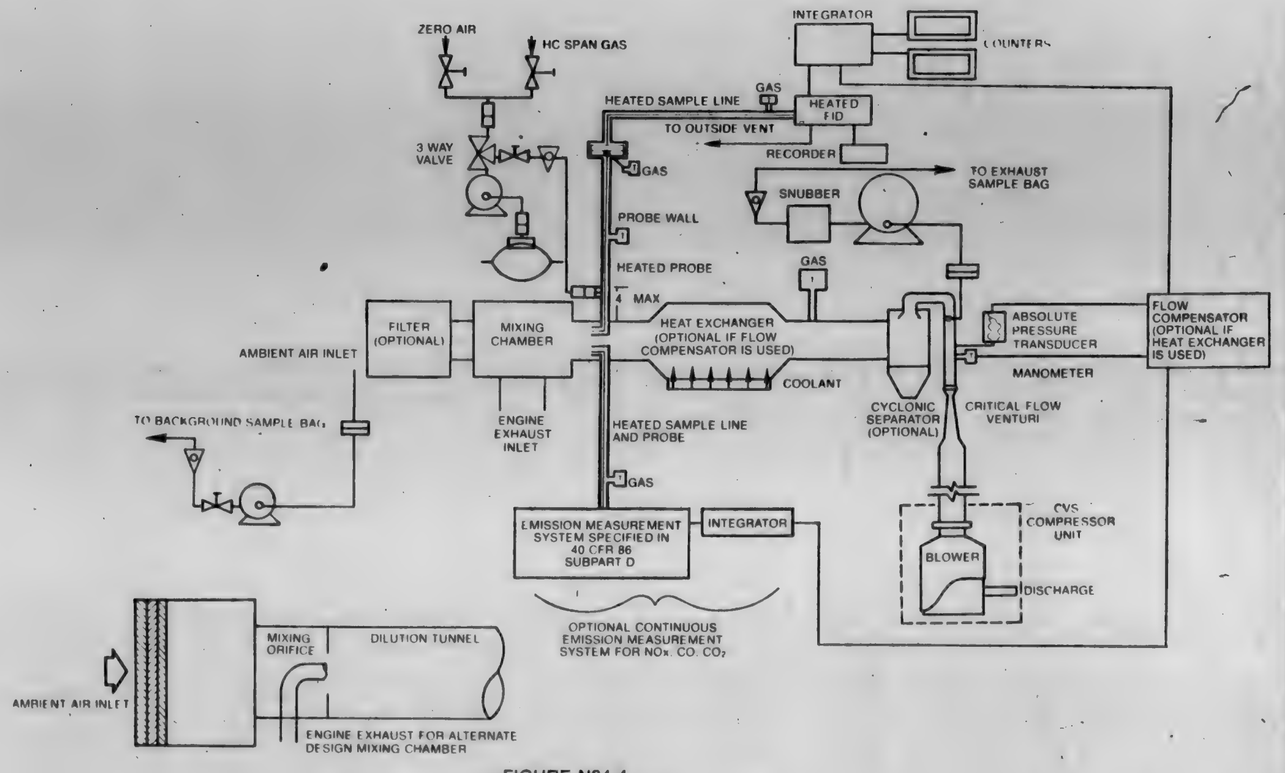

FIGURE N84-4
GASEOUS EMISSIONS SAMPLING SYSTEM (CFV-CVS)
(FOR DIESEL ENGINES ONLY)
(SEE FIGURE N84-5 FOR SYMBOL LEGEND)

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(4) *Other systems.* Other sampling and/or analytical systems including the systems described in § 86.1310–84 for diesel engines may be used if shown to yield equivalent results, and if approved in advance by the Administrator.

(b) *Component description, PDP–CVS.* The PDP–CVS, Figure N84–1, consists of a dilution air filter and mixing assembly, heat exchanger, positive displacement pump, sampling system, and associated valves, pressure and temperature sensors. The PDP–CVS shall conform to the following requirements:

(1) Static pressure variations at the tailpipe(s) of the engine shall remain within ±5 inches of water (1.2 kPa) of the static pressure variations measured during a dynamometer engine cycle with no connection to the tailpipe(s). (Sampling systems capable of maintaining the static pressure to within ±1 inch of water (0.25 kPa) will be used by the Administrator if a written request substantiates the need for this closer tolerance.)

(2) The gas mixture temperature, measured at a point immediately ahead of the positive displacement pump, shall be within ±10° F (5.6° C) of the designed operating temperature at the start of the test. The designed operating temperature may be estimated from the average operating temperature from similar tests. The gas mixture temperature variation (after the heat exchanger) during the entire test shall be limited to ±10° F (5.6° C) from its value at the start of the test. The temperature measuring system shall have an accuracy and precision of ±2° F (1.1° C).

(3) The pressure gauges shall have an accuracy and precision of ±3 mm Hg (0.4 kPa).

(4) The flow capacity of the CVS shall be large enough to eliminate water condensation in the system.

(5) Sample collection bags for dilution air and exhaust samples shall be sufficient size so as not to impede sample flow.

(c) *Component description, CFV–CVS.* The CFV–CVS, Figure N84–2 consists of a dilution air filter (optional) and mixing assembly, optional cyclonic particulate separator(s), sampling venturi, critical flow venturi, sampling system, and assorted valves, pressure and temperature sensors.

The CFV–CVS shall conform to the following requirements:

(1) Static pressure variations at the tailpipe(s) of the vehicle shall remain within ±5 inches of water (1.2 kPa) of the static pressure variations measured during a dynamometer engine cycle with no connection to the tailpipe(s). (Sampling systems capable of maintaining the static pressure to within ±1 inch of water (0.25 kPa) will be used by the Administrator if a written request substantiates the need for this closer tolerance.)

(2) The temperature measuring system shall have an accuracy and precision of ±2° F (1.1° C) and a response time of 0.100 seconds to 62.5 percent of a temperature change (as measured in hot silicone oil).

(3) The pressure measuring system shall have an accuracy and precision of ±3 mm Hg (0.4 kPa).

(4) The flow capacity of the CVS shall be large enough to prevent water condensation in the system.

(5) Sample collection bags for dilution air and exhaust samples shall be of sufficient size so as not to impede sample flow.

§ 86.1310–84 Exhaust gas sampling and analytical system; diesel engines.

(a) *General.* The exhaust gas sampling system described in this paragraph is designed to measure the true mass of gaseous emissions in the exhaust of heavy-duty diesel engines. This system utilizes the CVS concept (described in § 86.1309–84) of measuring mass emissions of NO_x, CO, and CO_2. A continuously integrated system is required for HC measurement, and is allowed for NO_x, CO, and CO_2. The mass of gaseous emissions is determined from the sample concentration and total flow over the test period. General requirements are as follows:

(1) This sampling system requires the use of a PDP–CVS, or a CFV–CVS with heat exchanger or with electronic flow compensation. Figure N84–3 is a schematic drawing of the PDP system. Figure N84–4 is a schematic drawing of the CFV system.

(2) The HC analytical system for diesel engines requires a heated flame ionization detector (HFID) and heated sample system:

(i) The HFID sample must be taken directly from the diluted exhaust stream through a heated probe and integrated continuously over the test cycle. Unless compensation for varying flow is made, the HFID must be used with a constant flow system to insure a representative sample.

(ii) The heated probe shall be located downstream of a mixing chamber that provides a uniform sample distribution across the CVS duct.

(iii) A dilution tunnel similar to those used for diesel particulate sampling may be used as a mixing chamber.

(3) *Option:*

(i) Continuously integrated measurement of dilute NO_x, CO, and CO_2 is permitted; however, prior approval of the Administrator is required. Test results will be required as well as engineering data and detailed system specifications to gain this approval. Minimum requirements and technical specifications are given in paragraph (b)(5) of this section.

(4) Bag sampling (§ 86.1309–84) and analytical (§ 86.1311) capabilities as shown in N84–3 (or Figure N84–4) are required if NO_x, CO, or CO_2 are not measured continuously.

(5) Since various configurations can produce equivalent results, exact conformance with these drawings is not required. Additional components such as instruments, valves, solenoids, pumps, and switches may be used to provide additional information and coordinate the functions of the component systems.

(6) Other sampling and/or analytical systems may be used if shown to yield equivalent results and if approved in advance by the Administrator.

(b) *Component description.* The components necessary for diesel exhaust sampling shall meet the following requirements:

(1) The PDP–CVS, shall conform to all of the requirements listed for the exhaust gas PDP–CVS (§ 86.1309–84(b)). The flow capacity of the CVS must be sufficient to maintain the diluted exhaust stream at a temperature of 375° F (191° C) of less at the sampling zone.

(2) The CFV–CVS shall conform to all of the requirements listed for the exhaust gas CFV–CVS (§ 86.1309–84(c)), along with the following requirements.

(i) The flow capacity of the CVS must be sufficient to maintain the diluted exhaust stream at a temperature of 375° F (191° C) or less at the sampling zone.

(ii) A heat exchanger or electronic flow compensator is required (see Figure N84–4).

(3) Continuous HC measurement system.

(i) The continuous HC sample system (as shown in Figure N84–3 or N84–4) shall be an "overflow calibration (or span) gas" type system. In this type of system, excess span or calibration gas spills out of the probe during calibration of the analyzer.

(ii) No other analyzers may draw a sample from the continuous HC sample probe, line or system.

(iii) The span, calibration, or background sample flow rates into the sample line shall be between 190 and 210 percent of the HFID analyzer flow rate.

(iv) The span, calibration or background gases shall enter the heated sample line no farther than 4 inches from the CVS duct or dilution tunnel outside surface.

(v) The continuous hydrocarbon probe shall be:

(A) Installed in the dilute stream facing upstream at a point where the dilution air and exhaust are well mixed.

(B) Sufficiently distant (radially) from other probes so as to be free from the influence of any wakes or eddies produced by other probes.

(C) Heated and insulated over the engine length to maintain a 375°±20° F (191°±11° C) *wall* temperature.

(D) 0.5. in (1.27 cm) minimum inside diameter.

(E) It is intended that the total hydrocarbon probe be free from cold spots (i.e., free from spots where the probe wall temperature is less than 355° F (180° C)).

(vi) The dilute exhaust gas flowing in the total hydrocarbon sample system shall be:

(A) At 375°±10° F (191°±6° C) immediately before the heated filter. This *gas* temperature will be determined by a temperature sensor located immediately upstream of the filter. The sensor shall have an accuracy and precision of ±2° F (1.1° C).

(B) At 375°±10° F (191°±6° C) immediately before the HFID. This *gas* temperature will be determined by a temperature sensor located at the exit of the heated sample line. The sensor shall have an accuracy and precision of ±2° F (1.1° C).

(C) It is intended that the dilute exhaust gas flowing in the total hydrocarbon sample system be between 365° F and 385° F (185° C and 197° C) *gas* temperature.

(vii) The response time of the continuous measurement system shall be:

(A) 1.5 seconds from an instantaneous step change at the probe entrance to the analyzer to within 90 percent of the step change.

(B) 5.5. seconds from an instantaneous step change at the entrance to the sample probe or overflow span gas port to within 90 percent of the step change.

(C) For the purpose of verification of response times, the step change shall be at least 60 percent of full-scale chart deflection.

(4) Mixing chamber.

(i) The mixing chamber shall be designed to fully mix the dilution air and exhaust gas while minimizing HC hang up in the system between the entrance of the exhaust gas into the system and the HC sample probe.

(ii) A dilution tunnel similar to those used for diesel particulate testing may be used as a mixing chamber (See Figures N84–3 and N84–4). It shall have the following criteria:

(A) The tunnel shall be of sufficient size to permit development of turbulent flow (Reynold's No. >4000) and complete mixing of the exhaust and dilution air between a mixing orifice;

(B) The engine exhaust shall be directed downstream at the point where it is introduced into the dilution tunnel;

(C) At least 18.0 inches (45.7 cm) in diameter;

(D) Constructed of electrically conductive material which does not react with the exhaust components;

(E) Electrically grounded;

(F) The temperature of the diluted exhaust stream inside of the dilution tunnel shall be sufficient to prevent water condensation;

(G) The continuous hydrocarbon probe shall be installed in the dilution tunnel facing upstream at a point where the dilution air and exhaust are well mixed (i.e., approximately 10 tunnel diameters downstream of the point where the exhaust gas enters the dilution tunnel);

(H) All other factors of the continuous HC measurement system paragraph (b)(3) of this section, shall meet the requirement specified in this subpart for diesel HC measurement systems.

(5) Optional continuously integrated NO_x, CO, and CO_2 measurement system.

(i) The sample probe shall:

(A) Be in the same plane as the continuous HC probe, but shall be sufficiently distant (radially) from other probes so as to be free from the influences of any wakes or eddies produced by other probes.

(B) Shall face upstream.

(C) Heated and insulated over the entire length to prevent water condensation, minimum temperature is 55° C (131° F). Sample *gas* temperature immediately before the first filter in the system shall be at least 55° C (131° F).

(ii) The continuous NO_x, CO, or CO_2 sampling and analysis system shall conform to the specifications of 40 CFR Part 86, Subpart D with the following exceptions and revisions:

(A) The system components required to be heated by Subpart D need only be heated to prevent water condensation, the minimum temperature allowed is 55° C (131° F).

(B) The system response defined in § 86.329–79 shall be no greater than 5.5 seconds. Longer response time may be allowed if analysis system response time is coordinated with CVS flow fluctuations, is shown to be equivalent to the 5.5 second system, and if prior approval is granted by the Administrator.

(C) Alternative NO_x measurement techniques outlined in § 86.346–79 are not permitted for NO_x measurement in this Subpart.

(D) All analytical gases shall conform to the specifications of § 86.1314–84.

(E) Any range on a linear analyzer below 155 ppm shall have and use a calibration curve conforming to § 86.330–79.

(F) The measurement accuracy requirements specified in § 86.338–79 are superseded by those specified in § 86.1338–84.

(iii) The chart deflections of analyzers with non-linear calibration curves shall be converted to concentration values by the calibration curve(s) specified in Subpart D (§ 86.330–79) before flow correction (if used) and subsequent integration takes place.

§ 86.1311–84 Exhaust gas analytical system. CVS bag sample.

(a) *Schematic drawings.* Figure N84–5 is a schematic drawing of the exhaust gas analytical system used for analyzing CVS bag samples from either gasoline-fueled or diesel engines. Since various configurations can produce accurate results, exact conformance with the drawing is not required. Additional components such as instruments, valves, solenoids, pumps and switches may be used to provide additional information and coordinate the functions of the component systems.

(b) *Major component description.* The analytical system, Figure N83–3, consists of a flame ionization detector (FID) for the determination of hydrocarbons , nondispersive infrared analyzers (NDIR) for the determination of carbon monoxide and carbon dioxide and a chemiluminescence analyzer (CL) for the determination of oxides of nitrogen.

The exhaust gas analytical system shall conform to the following requirements:

(1) The CL requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. Other types of analyzers may be used ge if shown to yield equivalent results and if approved in advance by the Administrator.

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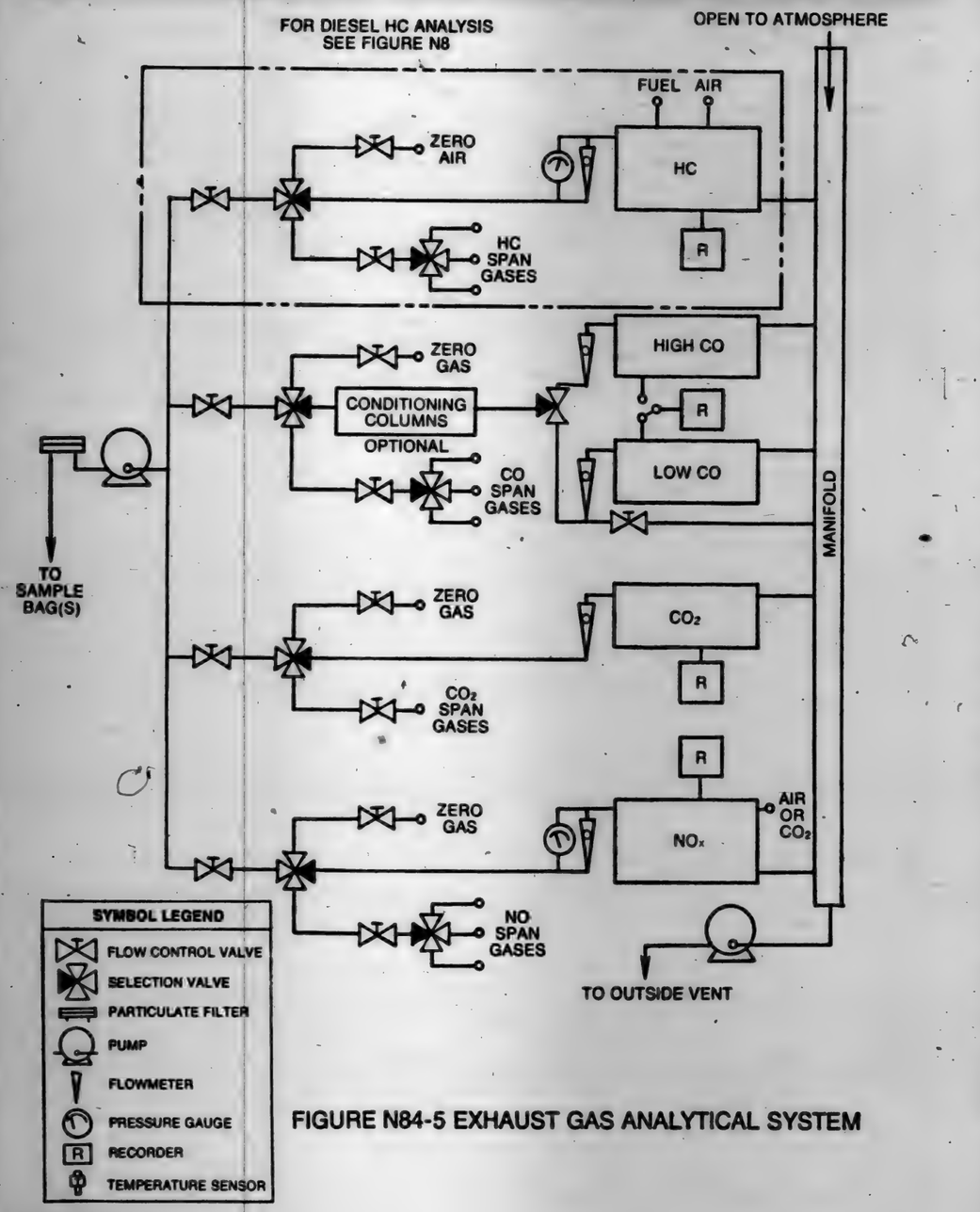

FIGURE N84-5 EXHAUST GAS ANALYTICAL SYSTEM

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(2) The carbon monoxide (NDIR) analyzer may require a sample conditioning column containing $CaSO_4$, or indicating silica gel to remove water vapor and containing ascarite to remove carbon dioxide from the CO analysis stream.

(i) If CO instruments are used which are essentially free of CO_2 and water vapor interference, the use of the conditioning column may be deleted. (See § 86.1322–84 and § 86.1342–84.)

(ii) A CO instrument will be considered to be essentially free of CO_2 and water vapor interference if its response to a mixture of 3 percent CO_2 in N_2 which has been bubbled through water at room temperature produces an equivalent CO response, as measured on the most sensitive CO range, which is less than 1 percent of full scale CO concentration on ranges above 300 ppm full scale or less than 3 ppm on ranges below 300 ppm full scale. (See § 86.1322–84.)

(c) *Alternate analytical systems.* Analysis systems meeting the specifications of 40 CFR 86, Subpart D may be used for testing this Subpart (N) with the exception of §§ 86.346–79 and 86.347–79, provided that the Subpart D systems meet the specifications of this Subpart. Heated analyzers may be used in their heated configuration.

(d) *Other analyzers and equipment.* Other types of analyzers and equipment may be used if shown to yield equivalent results and if approved in advance by the Administrator.

§ 86.1312–84 [Reserved]

§ 86.1313–84 Fuel specifications.

(a) *Gasoline.* (1) Gasoline having the following specifications will be used by the Administrator in exhaust emission testing. Gasoline having the following specifications or substantially equivalent specifications approved by the Administrator, shall be used by the manufacturer in exhaust testing, except that the lead and octane specifications do not apply.

(2) Gasoline representative of commercial gasoline which will be generally available through retail outlets shall be used in service accumulation. For leaded gasoline the minimum lead content shall be 1.4 grams per U.S. gallon, except that where the Administrator determines that vehicles represented by a test vehicle will be operated using gasoline of different lead content than that prescribed in this paragraph, he may consent in writing to use of a gasoline with a different lead content. The octane rating of the gasoline used shall be not higher than 1.0 Research octane number above the minimum recommended by the manufacturer and have a minimum sensitivity of 7.5 octane numbers, where sensitivity is defined as the Research octane number minus the Motor octane number. The Reid Vapor Pressure of the gasoline used shall be characteristic of the motor fuel used during the season in which the service accumulation takes place.

(3) The specification range of the gasoline to be used under paragraph (a)(2) of this section shall be reported in accordance with § 86.084–21(b)(3).

(b) *Diesel fuel.* (1) The diesel fuels employed for testing shall be clean and bright, with pour and cloud points adequate for operability. The diesel fuel may contain nonmetallic additives as follows: Cetane improver, metal deactivator, antioxidant, dehazer, antirust, pour depressant, dye, and dispersant.

(2) Diesel fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in exhaust emissions testing. The grade of diesel fuel recommended by the engine manufacturer commercially designated as "Type 1–D" or "Type 2–D" grade diesel fuel shall be used.

(3) Diesel fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in service accumulation. The grade of diesel fuel recommended by the engine manufacturer, commercially designated as "Type 1–D" or "Type 2–D" grade diesel fuel shall be used.

Item	ASTM	Leaded	Unleaded
Octane, research, minimum	D2699	96	93
Pb. (organic), gm/U.S. gallon		[1] 1.4	0.00–0.05
Distillation range:			
IBP, °F	D86	75–95	75–95
10 percent point, °F	D86	120–135	120–135
50 percent point, °F	D86	200–230	200–230
90 percent point, °F	D86	300–325	300–325
EP, °F (maximum)	D86	415	415
Sulphur, weight percent, (max)	D1266	0.10	0.10
Phosphorus, gm/U.S. gallon (max)		0.01	0.005
RVP, psi	D323	8.7–9.2	8.7–9.2
Hydrocarbon composition:			
Olefins, percent, (max)	D1319	10	10
Aromatics, percent (max)	D1319	35	35
Saturates	D1319	[2]	[2]

[1] Minimum.
[2] Remainder.

Item	ASTM	Type 1–D	Type 2–D
Cetane	D613	45–54	42–50
Distillation range:			
IBP °F	D86	330–390	340–400
10 percent point, °F	D86	370–430	400–460
50 percent point, °F	D86	410–480	470–540
90 percent point, °F	D86	460–520	550–610
EP, °F	D86	500–560	580–650
Gravity, °API	D287	40–44	33–37
Total Sulfur, percent	D129 or D2622.	0.05–0.20	0.2–0.5
Hydrocarbon composition:			
Aromatics, percent	D1319	[1] 8	[1] 27
Parafins, Naphthenes, Olefins	D1319	[2]	[2]
Flashpoint, °F (minimum)	D93	120	130
Viscosity, Centistokes	D445	1.6–2.0	2.0–3.2

[1] Minimum.

Item	ASTM	Type 1–D	Type 2–D
Cetane (minimum)	D613	42–54	30–58
Distillation range:			
90 percent point, °F	D86	440–530	540–630
Gravity °APM	D287	35–45	30–42
Total sulfur, percent (minimum)	D129 or D2622.	[1] 0.05	0.2
Flashpoint, °F (minimum)	D93	120	130
Viscosity, centistokes	D455	1.2–2.2	1.5–4.5

[1] Minimum.

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(4) Other petroleum distillate fuels may be used for testing and service accumulation provided they are:

(i) Commercially available;

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service;

(iii) Use of a fuel listed under paragraphs (b)(2) and (b)(3) of this section would have a detrimental effect on emissions or durability;

(iv) Written approval from the Administrator of the fuel specifications must be provided prior to the start of testing.

(5) The specification range of the fuels to be used under paragraphs (b)(2), (b)(3), and (b)(4) of this section shall be reported in accordance with § 86.084–21(b)(3).

§ 86.1314–84 Analytical gases.

(a) *Analyzer gases.*

(1) Gases for the CO and CO_2 analyzers shall be single blends of CO and CO_2 respectively using nitrogen as the diluent.

(2) Gases for the hydrocarbon analyzer shall be single blends of propane using air as the diluent.

(3) Gases for the NO_x analyzer shall be single blends of NO named as NO_x with a maximum NO_2 concentration of 5 percent of the nominal value using nitrogen as the diluent.

(4) Fuel for the FID shall be a blend of 40 ± 2 percent hydrogen with the balance being helium. The mixture shall contain less than 1 ppm equivalent carbon response. 98 to 100% hydrogen fuel may be used with advance approval of the Administrator.

(5) The allowable zero gas (air or nitrogen) impurity concentrations shall not exceed 1 ppm equivalent carbon response, 1 ppm carbon monoxide, 0.04 percent (400 ppm) carbon dioxide and 0.1 ppm nitric oxide.

(6)(i) "Zero-grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

(ii) Calibration gases shall be traceable to within 1 percent of NBS gas standards, or other gas standards which have been approved by the Administrator.

(iii) Span gases shall be accurate to within 2 percent of true concentration, where true concentration refers to NBS gas standards, or other gas standards which have been approved by the Administrator.

(7) The use of proportioning and precision blending devices to obtain the required gas concentrations is allowable provided their use has been approved in advance by the Administrator.

§ 86.1315–84 [Reserved]

§ 86.1316–84 Calibrations; frequency and overview.

(a) Calibrations shall be performed as specified in §§ 86.1318–84 through 86.1326–84.

(b) At least monthly or after any maintenance which could alter calibration, the following calibrations and checks shall be performed:

(1) Calibrate the hydrocarbon analyzer, carbon dioxide analyzer, carbon monoxide analyzer, and oxides of nitrogen analyzer.

(2) Calibrate the engine dynamometer flywheel torque and speed measurement transducers.

(3) Calibrate the engine flywheel torque and speed feedback signals.

(c) At least weekly or after any maintenance which could alter calibration, the following calibrations and checks shall be performed:

(1) Check the oxides of nitrogen converter efficiency, and;

(2) Perform a CVS system verification.

(d) The CVS positive displacement pump or critical flow venturi shall be calibrated following initial installation, major maintenance or as necessary when indicated by the CVS system verification (described in § 86.1319–84).

(e) Sample conditioning columns, if used in the CO analyzer train, should be checked at a frequency consistent with observed column life or when the indicator of the column packing begins to show deterioration.

§ 86.1317–84 [Reserved]

§ 86.1318–84 Engine dynamometer calibrations.

(a) The engine flywheel torque and engine speed measurement transducers shall be calibrated at least once each month with the calibration equipment described in § 86.1308–84.

(b) The engine flywheel torque and speed feedback signal shall be calibrated at least once each month.

(c) Other engine dynamometer system calibrations shall be performed as dictated by good engineering practice and manufacturer's recommendations.

(d) When calibrating the engine flywheel torque transducer, any lever arm used to convert a weight or a force through a distance into a torque shall be used in a horizontal position (± 5°).

(e) Calibrated resistors may not be used for engine flywheel torque transducer calibration, but may be used to span the transducer prior to engine testing.

§ 86.1319–84 CVS calibration.

(a) The CVS is calibrated using an accurate flowmeter and restrictor valve. The calibrated accuracy of the flowmeter shall be traceable to the National Bureau of Standards to within 1 percent of the true flow value.

Note.—In no case should an upstream screen or other restriction which can affect the flow be used ahead of the flowmeter unless calibrated throughout the flow range with such a device.

The CVS calibration procedures are designed for use of a "metering venturi" type flowmeter. Properly calibrated large radius or ASME flow nozzles are considered equivalent if traceable to NBS measurements. Other measurement systems may be used if shown to be equivalent under the test conditions in this action and if approved by the Administrator. Measurements of the various flowmeter parameters are recorded and related to flow through the CVS. Procedures used by EPA for both PDP– and CFV–CVS's are outlined below. Other procedures yielding equivalent results may be used if approved in advance by the Administrator.

(b) After the calibration curve has been obtained, verification of the entire system may be performed by injecting a known mass of gas into the system and comparing the mass indicated by the system to the true mass injected. An indicated error does not necessarily mean that the calibration is wrong, since other factors can influence the accuracy of the system, e.g. analyzer calibration or HC hangup. A verification procedure is found in paragraph (e) of this section.

(c) PDP calibration.

(1) The following calibration procedure outlines the equipment, the test configuration, and the various parameters which must be measured to establish the flow rate of the CVS pump.

(i) All the parameters related to the pump are simultaneously measured with the parameters related to a flowmeter which is connected in series with the pump.

(ii) The calculated flow rate, ft^3/min., (at pump inlet absolute pressure and temperature) can then be plotted versus a correlation function which is the value of a specific combination of pump parameters.

(iii) The linear equation which relates the pumpflow and the correlation function is then determined.

(iv) In the event that a CVS has a multiple speed drive, a calibration for each range used must be performed.

(2) This calibration procedure is based on the measurement of the absolute values of the pump and flowmeter parameters that relate the flow rate at each point. Three conditions must be maintained to assure the accuracy and integrity of the calibration curve:

(i) The pump pressures should be measured at taps on the pump rather than at the external piping on the pump inlet and outlet. (Pressure taps that are mounted at the top center and bottom center of the pump drive headplate are exposed to the actual pump cavity pressure, and therefore reflect the absolute pressure differentials.)

(ii) The temperature stability must be maintained during calibration. (Flowmeters are sensitive to inlet temperature oscillations which cause the data points to be scattered. Gradual changes in temperature are acceptable as long as they occur over a period of several minutes.)

(iii) All connections between the flowmeter and the CVS pump must be absolutely void of any leakage.

(3) During an exhaust emission test the measurment of these same pump parameters enables the user to calculate the flow rate from the calibration equation.

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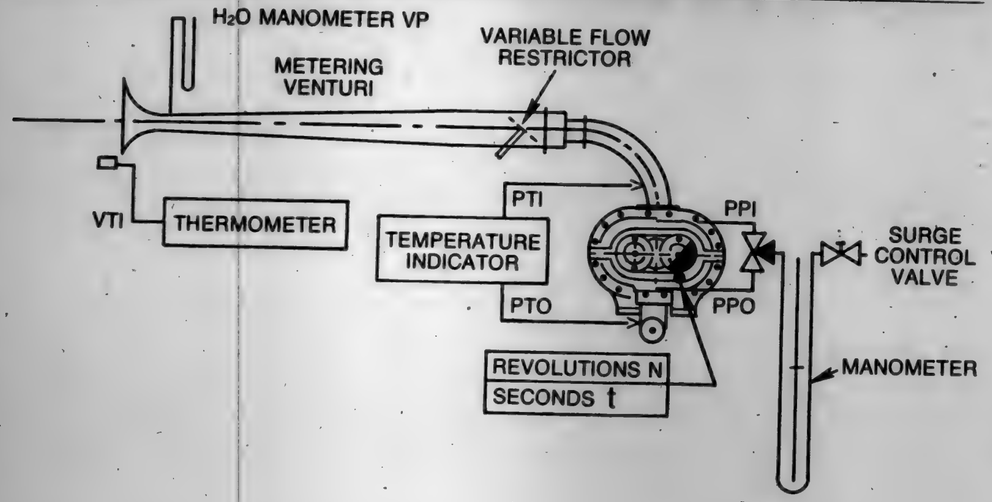

FIGURE N84-6 — PDP-CVS CALIBRATION CONFIGURATION

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(4) Connect a system as shown in Figure N84–6. Although particular types of equipment are shown, other configurations that yield equivalent results may be used if approved in advance by the Administrator. For the system indicated, the following data with given accuracy are required:

Calibration Data Measurements

Parameter	Sym	Units	Tolerances
Barometric pressure (corrected)	P_B	in. Hg (kPa)	±.01 in. Hg (±.034 kPa).
Ambient temperature	T_A	°F (°C)	±.5° F (±.28° C).
Air temperature into SFV	ETI	°F (°C)	±.50° F (±.28° C).
Pressure drop between SFV inlet and throat	EDP	in. H_2O (kPa)	±.05 in. H_2O (±.012 kPa).
Air temperature at CVS pump inlet	PTI	°F (°C)	±.5° F (±.28° C).
Pressure depression at CVS pump inlet	PPI	in. fluid (kPa)	±.05 in. fluid (±.022 kPa).
Specific gravity of manometer fluid (1.75 oil)	Sp. G		
Pressure head at CVS pump outlet	PPO	in. fluid (kPa)	±.05 in. fluid (±.022 kPa).
Air Temperature at CVS pump outlet (optional)	PTO	°F (°C)	±.5° F (±.28° C).
Pump revolutions during test period	N	Revs	±1 Rev.
Elapsed time for test period	t	s	±.05 s.

(5) After the system has been connected as shown in Figure N84–6, set the variable restrictor in the wide open position and run the CVS pump for 20 minutes. Record the calibration data.

(6) Reset the restrictor valve to a more restricted condition in an increment of pump inlet depression that will yield a minimum of six data points for the total calibration. Allow the system to stabilize for 3 minutes and repeat the data acquisition.

(7) *Data analysis:*

(i) The air flow rate, Qs, at each test point is calculated in standard cubic feet per minute (68° F, 29.92″ HG) from the flowmeter data using the manufacturer's prescribed method.

(ii) The air flow rate is then converted to pump flow, V_o, in cubic feet per revolution at absolute pump inlet temperature and pressure.

$$V_o = \frac{Qs}{n} \times \frac{T_p}{528} \times \frac{29.92}{P_p}$$

Where:

V_o = Pump flow, ft³/revolution (m³/revolution) at T_p, P_p.
Qs = Meter air flow rate in standard cubic feet per minute, standard conditions are 68° F, 29.92 in. Hg (20°C, 101.3 kPa.)
n = Pump speed in revolutions per minute.
T_p = Pump inlet temperature R(K)
= PTI + 460 (°R), or
= PTI + 273 (°K).
P_p = Absolute pump inlet pressure, in. Hg (kPa)
= P_B − PPI (Sp. Gr./13.57) for SI units, $P_p = P_B - PPI$

Where:

P_B = barometric pressure, in. Hg (kPa).
PPI = Pump inlet depression, in. fluid (kPa).
Sp. Gr. = Specific gravity of manometer fluid relative to water.

(iii) The correlation function at each test point is then calculated from the calibration data.

$$X_o = \frac{1}{n}\sqrt{\frac{P_p}{P_o}}$$

Where:

x_o = correlation function.
Δp_p = The pressure differential from pump inlet to pump outlet, in. Hg (kPa). = $P_o - P_p$
P_o = Absolute pump outlet pressure, in. Hg (kPa)
= P_B + PPO (Sp. Gr./13.57) for SI units, $P_o = P_B + PPO$

(b) *CFV calibration.* (1) Calibration of the CFV is based upon the flow equation for a critical venturi. Gas flow is a function of inlet pressure and temperature:

$$Q_s = \frac{K_v P}{\sqrt{T}}$$

Where:

Q_s = flow,
K_v = calibration coefficient,
P = absolute pressure,
T = absolute temperature.

The calibration procedure described below establishes the value of the calibration coefficient at measured values of pressure, temperature and air flow.

(2) The manufacturer's recommended procedure shall be followed for calibrating electronic portions of the CFV.

(3) Measurements necessary for flow calibration are as follows:

Calibration Data Measurements

Parameter	Sym	Units	Tolerances
Barometric Pressure (corrected)	P_B	in. Hg (kPa)	± 01 in. Hg (±.034 kPa).
Air temperature, flowmeter	ETI	°F (°C)	±.50°F (±.28°C).
Pressure drop between SFV inlet and throat	EDP	in. H_2O (kPa)	±.05 in. H_2O (±.012 kPa).
Air flow	Q_s	Ft³/min. (m³/min.)	±.5%.
CFV inlet depression	PPI	in. fluid (kPa)	±.05 in. fluid (±.022 kPa).
Temperature at venturi inlet	T_v	°F (°C)	±.5°F (±.28°C).
Specific gravity of manometer fluid (1.75 oil)	Sp. Gr.		

(4) Set up equipment as shown in Figure N84–7 and check for leaks. Any leaks between the flow measuring devices and the critical flow venturi will seriously affect the accuracy of the calibration.

(5) Set the variable flow restrictor to the open position, start the blower, and allow the system to stabilize. Record data from all instruments.

(6) Vary the flow restrictor and make at least 8 readings across the critical flow range of the venturi.

(7) *Data analysis.* The data recorded during the calibration are to be used in the following calculations:

(i) The air flow rate, Q_s, at each test point is calculated in standard cubic feet per minute from the flow meter data using the manufacturer's prescribed method.

(ii) Calculate values of the calibration coefficient for each test point:

$$K_v = \frac{Q_s\sqrt{T_v}}{P_v}$$

Where:

Q_s = Flow rate in standard cubic feet per minute, standard conditions are 68° F, 29.92 in. Hg (20° C, 101.3 kPa).
T_v = Temperature at venturi inlet, R(K).
P_v = Pressure at venturi inlet, mm Hg (kPa).
= P_B − PPI (Sp. Gr./13.57).
for SI units: $P_v = P_B - PPI$.

Where:

PPI = Venturi inlet pressure depression, in. fluid (kPa).
Sp. Gr. = Specific gravity of manometer fluid, relative to water.

(iii) Plot K_v as a function of venturi

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inlet pressure. For sonic flow, K_v will have a relatively constant value. As pressure decreases (vacuum increases), the venturi becomes unchoked and K_v decreases. See Figure N84–8.

(iv) For a minimum of 8 points in the critical region calculate an average K_v and the standard deviation.

(v) If the standard deviation exceeds 0.3 percent of the average K_v, take corrective action.

(e) *CVS system verification.* The following "gravimetric" technique can be used to verify that the CVS and analytical instruments can accurately measure a mass of gas that has been injected into the system. (Verification can also be accomplished by constant flow metering using critical flow orifice devices.)

(1) Obtain a small cylinder that has been charged with pure propane or carbon monoxide gas (caution—carbon monoxide is poisonous).

(2) Determine a reference cylinder weight to the nearest 0.01 grams.

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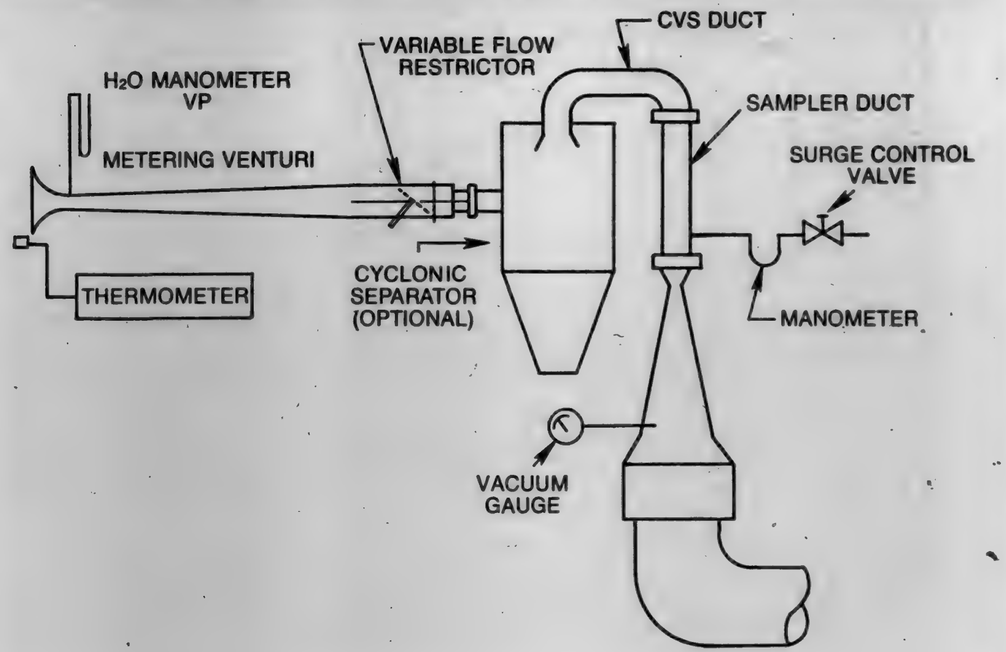

FIGURE N84-7 — CFV-CVS CALIBRATION CONFIGURATION

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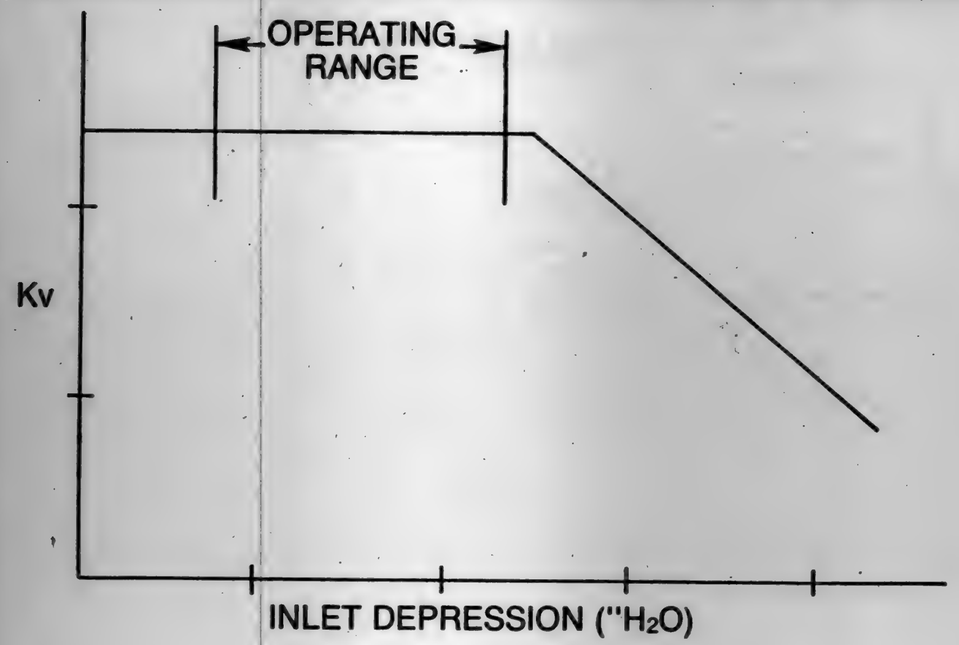

FIGURE N84-8— SONIC FLOW CHOKING

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(3) Operate the CVS in the normal manner and release a quantity of pure propane or carbon monoxide into the system during the sampling period (approximately 5 minutes).

(4) The calculations of § 86.1342 are performed in the normal way except in the case of propane. The density of propane (17.56 g/ft³/carbon atom (0.6201 kg/m³/carbon atom)) is used in place of the density of exhaust hydrocarbons. In the case of carbon monoxide, the density of 32.97 g/ft³ (1.164 kg/m³) is used.

(5) The gravimetric mass is subtracted from the CVS measured mass and then divided by the gravimetric mass to determine the percent accuracy of the system.

(6) Good engineering practice requires that the cause for any discrepancy greater than ±2 percent must be found and corrected.

§ 86.1320–84 [Reserved]

§ 86.1321–84 Hydrocarbon analyzer calibration.

The FID hydrocarbon analyzer shall receive the following initial and periodic calibration. The HFID shall be operated to a set point ±10°F (±5.5°C) between 365 and 385°F (185 and 197°C).

(a) Initial and periodic optimization of detector response. Prior to its introduction into service and at least annually thereafter the FID hydrocarbon analyzer shall be adjusted for optimum hydrocarbon response. Alternate methods yielding equivalent results may be used, if approved in advance by the Administrator.

(1) Follow the manufacturer's instructions for initial instrument start-up and basic operating adjustment using the appropriate fuel (see § 86.1314–84 and zero-grade air.

(2) Optimize on the most common operating range. Introduce into the analyzer, a propane in air mixture with a propane concentration equal to approximately 90% of the most common operating range.

(3) One of the following procedures is required for FID or HFID optimization.

(i) The procedures outlined in Society of Automotive Engineers (SAE) paper No. 770141, "Optimization of Flame Ionization Detector for Determination of Hydrocarbons in Diluted Automobile Exhaust"; author, Glenn D. Reschke.

(ii) The HFID optimization procedures outlined in 40 CFR Part 86, Subpart D.

(iii) Alternate procedures are allowed, if approved in advance by the Administrator.

(4) After the optimum flow rates have been determined, they are recorded for future reference.

(b) Initial and periodic calibration. Prior to its introduction into service and monthly thereafter the FID or HFID hydrocarbon analyzer shall be calibrated on all normally used instrument ranges. Use the same flow rate as when analyzing samples.

(1) Adjust analyzer to optimize performance.

(2) Zero the hydrocarbon analyzer with zero-grade air.

(3) Calibrate on each used operating range with propane in air calibration gases having nominal concentrations of 15, 30, 45, 60, 75 and 90 percent of that range. For each range calibrated, if the deviation from a least-squares best-fit straight line is 2% or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2% at any point, the best-fit non-linear equation which represent the data to within 2% of each test point shall be used to determine concentration.

§ 86.1322–84 Carbon monoxide analyzer calibration.

The NDIR carbon monoxide analyzer shall receive the following initial and periodic calibrations:

(a) Initial and periodic interference check. Prior to its introduction into service and annually thereafter the NDIR carbon monoxide analyzer shall be checked for response to water vapor and CO_2:

(1) Follow the manufacturer's instructions for instrument start-up and operation. Adjust the analyzer to optimize performance on the most sensitive range to be used.

(2) Zero the carbon monoxide analyzer with either zero-grade air or zero-grade nitrogen.

(3) Bubble a mixture of 3 percent CO_2 in N_2 through water at room temperature and record analyzer response.

(4) An analyzer response of more than 1 percent of full scale for ranges above 300 ppm full scale or more than 3 ppm on ranges below 300 ppm full scale will require corrective action. (Use of conditioning columns is one form of corrective action which may be taken.)

(b) Initial and periodic calibration. Prior to its introduction into service and monthly thereafter the NDIR carbon monoxide analyzer shall be calibrated.

(1) Adjust the analyzer to optimize performance.

(2) Zero the carbon monoxide analyzer with either zero-grade air or zero-grade nitrogen.

(3) Calibrate on each used operating range with carbon monoxide in N_2 calibration gases having nominal concentrations of 15, 30, 45, 60, 75, and 90 percent of that range. Additional calibration points may be generated. For each range calibrated, if the deviation from a least-squares best-fit straight line is 2 percent of less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2 percent at any point, the best-fit non-linear equation which represents the data to within 2% of each test point shall be used to determine concentration.

(c) The initial and periodic interference, system check, and calibration test procedures specified in 40 CFR Part 86 may be used in lieu of the procedures specified in this section.

§ 86.1323–84 Oxides of nitrogen analyzer calibration.

The chemiluminescent oxides of nitrogen analyzer shall receive the following initial and periodic calibration.

(a) Prior to its introduction into service and weekly thereafter the chemiluminescent oxides of nitrogen analyzer shall be checked for NO_2 to NO converter efficiency. Figure N84–9 is a reference for the following paragraphs:

(1) Follow the manufacturer's instructions for instrument start-up and operation. Adjust the analyzer to optimize performance.

(2) Zero the oxides of nitrogen analyzer with zero-grade air or zero-grade nitrogen.

(3) Connect the outlet of the NO_x generator to the sample inlet of the oxides of nitrogen analyzer which has been set to the most common operating range.

(4) Introduce into the NO_x generator analyzer-system an NO in nitrogen (N_2) mixture with a NO concentration equal to approximately 80 percent of the most common operating range. The NO_2 content of the gas mixture shall be less than 5 percent of the NO concentration.

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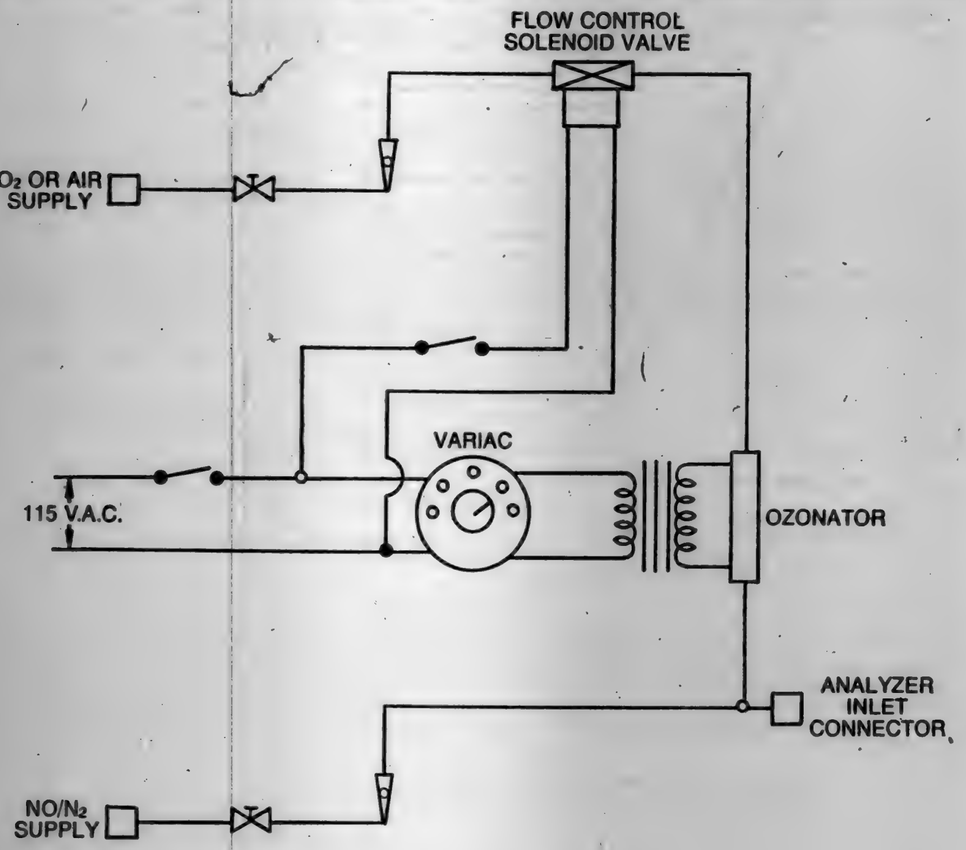

(SEE FIG. N84-5 FOR SYMBOL LEGEND)

FIGURE N84-9 — NO_x CONVERTER EFFICIENCY DETECTOR

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(5) With the oxides of nitrogen analyzer in the NO mode, record the concentration of NO indicated by the analyzer.

(6) Turn on the NO_x generator O_3 (or air) supply and adjust the O_3 (or air) flow rate so that the NO indicated by the analyzer is about 10 percent less than indicated in paragraph (a)(5) of this section. Record the concentration of NO in this $NO + O_3$ mixture.

(7) Switch the NO_x generator to the generation mode and adjust the generation rate so that the NO measured on the analyzer is 20 percent of that measured in paragraph (a)(5) of this section. There must be at least 10 percent unreacted NO at this point. Record the concentration of residual NO.

(8) Switch the oxides of nitrogen analyzer to the NO_x mode and measure total NO_x. Record this value.

(9) Switch off the NO_x generator but maintain gas flow through the system. The oxides of nitrogen analyzer will indicate the NO_x in the $NO + O_3$ mixture. Record this value.

(10) Turn of the NO_x generator O_3 (or air) supply. The analyzer will now indicate the NO_x in the original NO in N_2 mixture. This value should be no more than 5 percent above the value indicated in paragraph (a)(4) of this section.

(11) Calculate the efficiency of the NO_x converter by substituting the concentrations obtained into the following equation:

$$\text{Percent efficiency} = \left[1 + \left(\frac{a-b}{c-d}\right)\right] \times 100$$

Where:

a = concentration obtained in paragraph (a)(8),

b = concentration obtained in paragraph (a)(9),

c = concentration obtained in paragraph (a)(6),

d = concentration obtained in paragraph (a)(7).

If converter efficiency is not greater than 90% corrective action will be required.

(b) *Initial and periodic calibration.* Prior to its introduction into service and monthly thereafter the chemiluminescent oxides of nitrogen analyzer shall be calibrated on all normally used instrument ranges. Use the same flow rate as when analyzing samples. Proceed as follows:

(1) Adjust analyzer to optimize performance.

(2) Zero the oxides of nitrogen analyzer with zero-grade air or zero-grade nitrogen.

(3) Calibrate on each normally used operating range with NO in N_2 calibration gases with nominal concentrations of 15, 30, 45, 60, 75 and 90 percent of that range. For each range calibrated, if the deviation from a least-squares best-fit straight line is 2% or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2% at any point, the best-fit non-linear equation which represents the data to within 2% of each test point shall be used to determine concentration.

(c) The initial and periodic interferences, system check, and calibration test procedures specified in 40 CFR Part 86 may be used in lieu of the procedures specified in this section.

§ 86.1324–84 Carbon dioxide analyzer calibration.

Prior to its introduction into service and monthly thereafter the NDIR carbon dioxide analyzer shall be calibrated as follows:

(a) Follow the manufacturer's instructions for instrument start-up and operation. Adjust the analyzer to optimize performance.

(b) Zero the carbon dioxide analyzer with either zero-grade air or zero-grade nitrogen.

(c) Calibrate on each normally used operating range with carbon dioxide in N_2 calibration gases having nominal concentrations of 15, 30, 45, 60, 75, and 90 percent of that range. Additional calibration points may be generated. For each range calibrated, if the deviation from a least-squares best-fit straight line is 2 percent of less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2 percent at any point, the best-fit non-linear equation which represents the data to within 2% of each test point shall be used to determine concentration.

(d) The initial and periodic interferences, system check, and calibration test procedures specified in 40 CFR Part 86 may used in lieu of the procedures in this section.

§ 86.1325–84 [Reserved]

§ 86.1326–84 Calibration of other equipment.

Other test equipment used for testing shall be calibrated as often as required by the manufacturer or as necessary according to good practice.

§ 86.1327–84 Engine dynamometer test procedures; overview.

(a) The engine dynamometer test procedure is designed to determine the brake-specific emissions of hydrocarbons, carbon monoxide, and oxides of nitrogen. The test procedure consists of a "cold" start test following either natural or forced cool-down periods described in § 86.1334–84 and § 86.1335–84 respectively. A "hot" start test follows the "cold" start test after a hot soak of 20 minutes. The idle test of Subpart P may be run after the "hot" start test. The exhaust emissions are diluted with ambient air and a continuous proportional sample is collected for analysis during the cold and hot start tests. The composite samples collected are analyzed either in bags or continuously for hydrocarbons (HC), carbon monoxide (CO), carbon dioxide (CO_2), and oxides of nitrogen (NO_x). A parallel sample of the dilution air is similarly analyzed for hydrocarbon, carbon monoxide, carbon dioxide, and oxides of nitrogen.

(b) Engine torque and rpm shall be recorded continuously during both the cold and hot start tests. Data points shall be recorded at least once every second.

(c) Using the torque and rpm feedback signals, the brake horsepower is integrated with respect to time for the cold and hot cycles. This produces a brake horsepower-hour value that enables the brake-specific emissions to be determined (see § 86.1342–84, Calculations; exhaust emissions).

(d)(1) When an engine is tested for exhaust emissions or is operated for service accumulation on an engine dynamometer, the complete engine shall be tested, with all emission control devices installed and functioning.

(2) Evaporative emission controls need not be connected if data are provided to show that normal operating conditions are maintained in the engine induction system.

(3) On air cooled engines, the fan shall be installed.

(4) Additional accessories (e.g., oil cooler, alternators, air compressors, etc.) may be installed with advance approval by the Administrator.

(5) The engine must be equipped with a production type starter.

(e) Means of engine cooling which will maintain the engine operating temperatures (e.g., intake air, oil, water, etc.) at approximately the same temperature as specified by the manufacturer shall be used. Auxiliary fan(s) may be used to maintain engine cooling during operation on the dynamometer.

(f) *Exhaust system.* (1) A chassis-type exhaust system shall be used. The exhaust system shall meet the following requirements:

(i) For all catalyst systems, the distance from the exhaust manifold flange(s) to the catalyst shall be the same as in the vehicle configuration unless the manufacturer provides data

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showing equivalent performance at another location.

(ii) The exhaust back pressure or restriction shall be typical of those seen in the actual vehicle exhaust system configuration.

§§ 86.1328-84–86.1329-84 [Reserved]

§ 86.1330-84 Test sequence, general requirements.

(a) The test sequence shown in Figure N84-10 shows the major steps encountered as the test engine undergoes the procedures subsequently described.

(b) The average temperature of the engine intake air and CVS dilution air shall be maintained at 25° C±5° C (77° F±9° F) throughout the test sequence. Engines with auxiliary emission control devices which are temperature dependent (e.g., chokes, air cleaner, hot air doors, etc.) shall be tested at an average ambient test cell temperature of 25° C±5° C throughout the test sequence, except as noted in § 86.1335-84.

(c) No control of ambient or CVS dilution air humidity is required. Engine intake air humidity shall not exceed 90 grains of water per pound of dry air.

(d) The idle test of Subpart P may be run after completion of the hot start exhaust emission test, if applicable.

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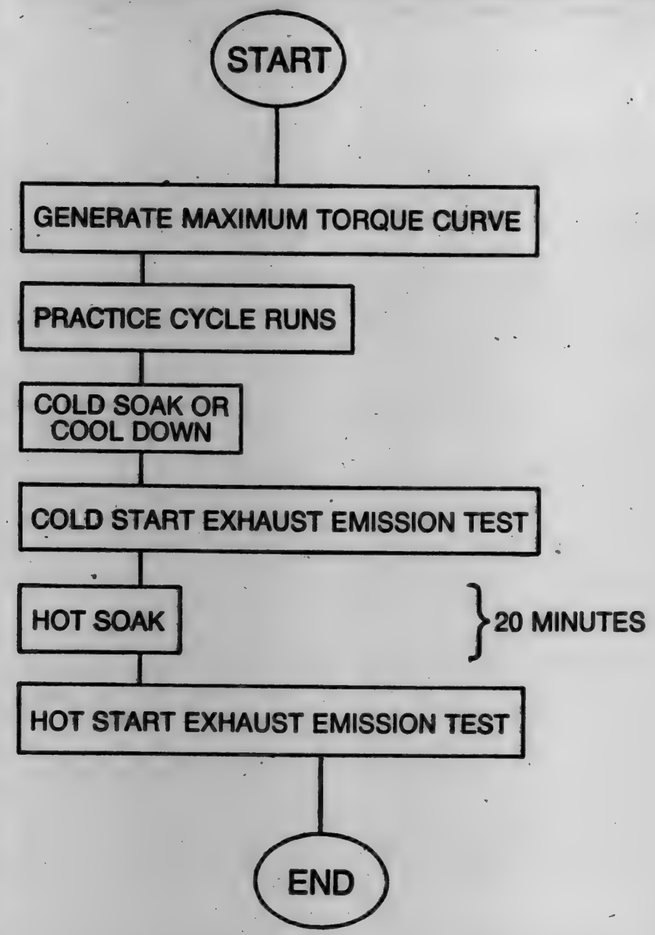

FIGURE N84-10— TEST SEQUENCE

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(e) The barometric pressure observed during the generation of the maximum torque curve shall not deviate more than 1 in. Hg from the value measured at the beginning of the map. The barometric pressure observed during the exhaust emission test shall not deviate more than 1 in. Hg from the value measured at the beginning of the emission test. The average barometric pressure observed during the exhaust emission test must be within 1 in. Hg of the average observed during the maximum torque curve generation.

(f) *Diesel Engines only.* Air inlet and exhaust restrictions shall be set to represent the average restrictions which would be seen in use in a representative application. Inlet depression and exhaust backpressure shall be set with the engine operating at maximum horsepower.

§ 86.1331-84 [Reserved]

§ 86.1332-84 Engine mapping procedures.

(a) Mount test engine on the engine dynamometer.

(b) Determine minimum mapping speed.

(1) *Gasoline-fueled engines.* The minimum mapping speed shall be calculated from the following equations:

(i) Minimum Speed = Curb Idle RPM − 200 RPM; or

(ii) Minimum Speed = 400 RPM, whichever is greater.

(2) *Diesel-engines.* The minimum mapping speed shall be calculated from the following equations:

(i) Minimum Speed = Low Idle RPM − 200 RPM; or

(ii) Minimum Speed = 400 RPM, whichever is greater.

(c) Determine maximum mapping speed.

(1) *Gasoline-fueled.* (i) For ungoverned engines the maximum mapping speed shall be calculated from the following equations:

$$\text{Maximum Speed} = \text{Curb Idle RPM} + \frac{115\ (\text{Measured rated RPM} - \text{Curb idle RPM})}{100}$$

(ii) For governed engines the maximum mapped speed shall be either that speed at which the wide open throttle torque drops off to zero, or the maximum speed as calculated for ungoverned engines, whichever is smaller.

(2) *Diesel-engines.* (i) For ungoverned engines the maximum mapping speed shall be calculated from the following equation:

$$\text{Maximum Speed} = \text{Curb Idle RPM} + \frac{113\ (\text{Measured rated RPM} - \text{Curb idle RPM})}{100}$$

(ii) For governed engines the maximum mapping speed shall be either that speed at which wide open throttle torque drops off to zero, or the maximum speed as calculated for ungoverned engines, whichever is smaller.

(d) Determine maximum torque curve (i.e., map the engine).

(1) During engine warm-up, the engine may be operated such that a preliminary estimate of measured rated speed can be made.

(2) *Gasoline-fueled engines.* (i) Start the engine and operate at zero load in accordance with the manufacturer's start-up and warm-up procedures for 1 minute ±30 seconds.

(ii) Operate the engine at a torque equivalent to 10±3 percent of the most recent determination of maximum torque for 4 minutes ±30 seconds at 2,000 rpm.

(iii) Operate the engine at a torque equivalent to 55±5 percent of the most recent determination of maximum torque for 35 minutes ±1 minute at 2,000 rpm.

(iv) Operate the engine at idle.

(v) Operate the throttle fully.

(vi) While still maintaining wide-open throttle and full-load obtain minimum engine speed. Maintain minimum engine speed for 15 seconds. Record the average torque during the last 5 seconds.

(vii) In no greater than 100 RPM increments, determine the maximum torque curve from minimum speed to maximum speed. Hold each test point for 15 seconds and record the average torque over the last 5 seconds.

(viii) *Alternate mapping technique.* In place of paragraph (d)(2)(vi) and (vii) of this section, a continual sweep of RPM is allowed. While operating at wide open throttle, the engine speed is increased at a constant 8 RPM/second (± 1 RPM/second) from minimum speed to maximum speed. Speed and torque points shall be recorded at a sample rate of at least one point per second.

(ix) Recalculate minimum and maximum speeds per paragraph (b)(1) and (c)(1)(i) or (ii) of this section using the measured rated speed derived from the new maximum torque curve. If either of the new minimum or maximum speeds lay outside the range of speeds encompassed by the actual map, then the map shall be considered void. The entire mapping procedure shall be repeated, using the newly derived measured rated speed in all calculations.

(3) *Diesel engines.* (i) Start the engine and operate at free idle for 2 to 3 minutes.

(ii) Operate the engine at approximately 50 percent power at the peak torque speed for 5 to 7 minutes.

(iii) Operate the engine at rated speed and wide open throttle for 25 to 30 minutes.

(iv) *Option.* It is permitted to pre-condition the engine at rated speed and maximum horsepower until the oil and water temperatures are stabilized. The temperatures are defined as stabilized if they are maintained within 2 percent of point for 2 minutes. The engine must be operated a minimum of 10 minutes for this option. This optional procedure may be substituted for paragraph (d)(3)(iii).

(v) Unload the engine and operate at the low idle speed.

(vi) Operate the engine at wide open throttle and minimum engine speed. Increase the engine speed at a constant rate of 8 RPM/second (± 1 RPM/second) from minimum to maximum speed. Engine speed and torque points shall be recorded at a sample rate of at least one point per second.

(vii) Recalculate minimum and maximum speeds per paragraphs (b)(2) and (c)(2)(i) or (ii) of this section using the measured rated speed derived from the new maximum torque curve. If either of the new minimum or maximum speeds lay outside the range of speeds encompassed by the actual map, then the map shall be considered void. The entire mapping procedure shall be repeated, using the newly derived measured rated speed in all calculations.

(e) Mapping curve generation.

(1) *Gasoline-fueled engines.* (i) Fit all data points recorded under paragraph (d)(2)(vi) and (vii) of this section (100 RPM increments) with a cubic spline technique.

(ii) All points generated under the continuous RPM sweep by paragraph (d)(2)(vi) and (viii) shall be connected by linear interpolation between points.

(iii) For governed engines, all points above the maximum speed (see paragraph (c)(1)(ii) of this section) shall be assigned maximum torque values of zero for purposes of cycle generation.

(iv) For all engines, all speed points below 400 RPM shall be assigned a maximum torque value equal to that

observed at 400 RPM for purposes of cycle generation.

(v) The torque curve resulting from paragraph (c)(1)(i) through (iv) of this section is the mapping curve and will be used to convert the normalized torque values in the engine cycle (see Appendix I, f) to actual torque values for the test cycle.

(2) *Diesel-engines.* (i) Connect all data points recorded under paragraph (d)(3)(vi) and (vii) of this section using linear interpolation between points.

(ii) For governed engines, all points above the maximum speed (see paragraph (c)(2)(ii) of this section) shall be assigned maximum torque values of zero for purposes of cycle generation.

(iii) For all engines, all speed points below 400 RPM shall be assigned a maximum torque value equal to that observed at 400 RPM for purposes of cycle generation.

(iv) The torque curve resulting from paragraph (c)(2) (i) through (iii) of this section is the mapping curve and will be used to convert the normalized torque values in the engine cycle (see Appendix I, g) into actual torque values for the test cycle.

(f) Alternate mapping and mapping curve generation techniques.

(i) If a manufacturer believes that the above mapping techniques are unsafe or unrepresentative for any given engine or engine family, alternate mapping techniques may be used. Alternate techniques may be used only if approved in advance by the Administrator, and only if the Administrator judges the change to be justified, and the alternate procedure to be technically correct.

§ 86.1333-84 Transient test cycle generation.

(a) The heavy-duty transient engine cycles for gasoline- and diesel-fueled engines are listed in Appendix I (f and g). These second-by-second listings are designed to represent transient torque and RPM maneuvers characteristic of heavy-duty vehicles. Both RPM and torque are normalized in these listings.

(i) To unnormalize RPM use the following equation:

$$\text{Actual RPM} = \frac{\%\text{RPM (Measured rated RPM} - \text{Curb idle RPM)}}{100} + \text{Curb idle RPM}$$

(Curb idle for diesel engines is defined as the low idle RPM.)

(ii) Torque is normalized to the maximum torque at the RPM listed with it. Therefore, to unnormalize the torque values in the cycle, the maximum torque curve for the engine in question must be used. The generation of the maximum torque curve is described in § 86.1332-84.

(b) *Example of the unnormalization procedure. The following test point shall be unnormalized:*

%RPM	% Torque
43	82

The test engines have these values:

Measured Rated RPM = 3800 (Does not appear on given torque curve.)

Curb Idle RPM = 600.

Maximum torque curve as illustrated in Figure N84-11.

Calculate actual RPM:

$$\text{Actual RPM} = \frac{\%\text{RPM (measured rated RPM} - \text{idle RPM)}}{100} + \text{Idle RPM}$$

$$\text{Actual RPM} = \frac{43\ (3800 - 600)}{100} + 600$$

$$\text{Actual RPM} = 1976$$

Determine actual torque:

Determine the maximum torque at 1976 RPM from Figure N84-11. Then multiply this value (358 ft-lb) by 0.82. This results in an actual torque of 294 ft-lbs.

(c) Engine speed and torque shall be recorded at least once every second during the cold start test and hot start test. The torque and RPM feedback signals may be electrically filtered.

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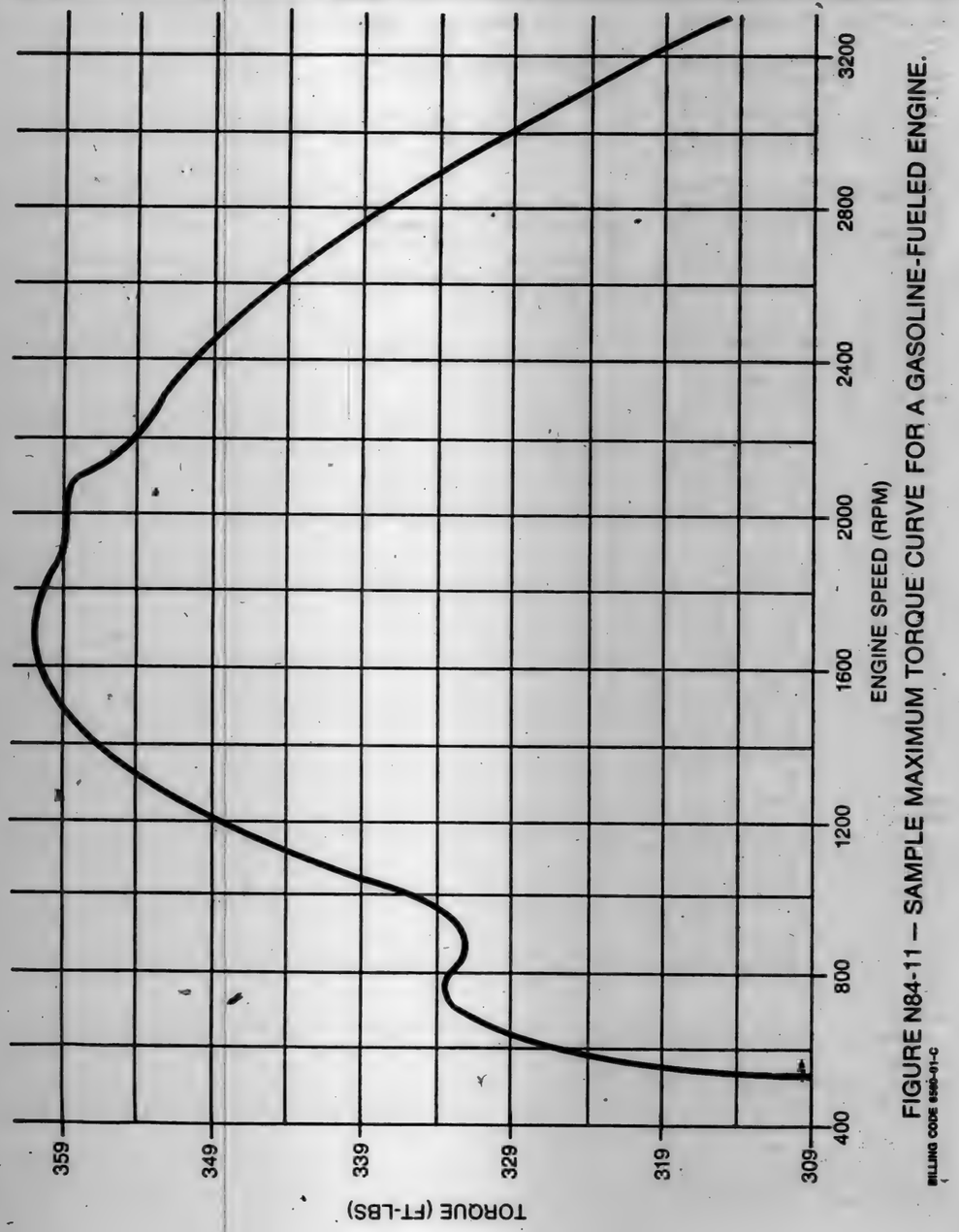

FIGURE N84-11 — SAMPLE MAXIMUM TORQUE CURVE FOR A GASOLINE-FUELED ENGINE.

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(d) *Gasoline-fueled engines.* The zero percent speed specified in the gasoline-fueled engine cycle (Appendix I (f)) shall be superseded by proper operation of the engine's automatic choke.

(1) During automatic choke operation a manual transmission engine shall be allowed to idle at whatever speed is required to produce a feedback torque of 0 ft-lbs ± 10 ft-lbs (using for example clutch disengagement, speed to torque control switching, software overrides, etc.) at those points in Appendix I where both reference speed and reference torque are zero percent values.

(2) During automatic choke operation an automatic transmission engine shall be allowed to idle at whatever speed is required to produce a feedback torque of CITT ft-lbs ± 10 ft-lbs (see (e)(2) of this section for definition of CITT) at those points in Appendix I where both reference speed and reference torque are zero percent values.

(3) This automatic choke high idle allowance is permitted only for the first 150 seconds of the cold cycle and the first 30 seconds of the hot cycle, after which the cycles shall be run as specified in Appendix I (f). (See 86.1341–84 for allowances in the cycle validation criteria.)

(e) *Automatic Transmissions.* The reference cycles Appendix I (f and g) shall be altered for engines intended for use with automatic transmissions.

(1) Zero percent speed for automatic transmission engines is defined as curb idle RPM, i.e., in-vehicle, coupled with automatic transmission in gear.

(2) All zero-percent speed, zero-percent torque points (idle points) shall be modified to zero percent speed, *x* percent torque. Using the manufacturers' specified curb idle transmission torque (CITT), the maximum torque available at the curb idle (i.e., with transmission) RPM as determined from the maximum torque curve generated in § 86.1332–84 *x* percent torque is defined per the following equation:

$$x\% = \frac{\text{CITT} \times 100}{\text{Maximum torque at curb idle RPM}}$$

§ 86.1334–84 Pre-test engine and dynamometer preparation.

(a) *Control system calibration.* (1) Before the cold soak or cool down, final calibration of the dynamometer and throttle control systems may be performed. These calibrations may consist of steady-state operation and/or actual practice cycle runs, but emissions may not be measured.

(2) Following any practice runs or calibration procedures, the engine shall be turned off and allowed to either cold soak at 60° to 86° F for a minimum of 12 hours, or be cooled per § 86.1335–84.

§ 86.1335–84 Optional forced cool-down procedure.

(a) This forced cool-down procedure applies to both gasoline and diesel-fueled engines.

(b) No substances or fluids may be applied to the engines internal or external surfaces except for water and air, and only as prescribed in paragraph (c) and (d) of this section.

(c) For water-cooled engines two types of cooling are permitted.

(1) Water may be circulated through the engine's water coolant system.

(i) The cooling water may be flowed in either direction and at any desired flow rate. The thermostat may be removed or blocked open during the cool down but must be restored before the exhaust emissions test begins.

(ii) The temperature of the circulated or injected water shall be between 10° C (50° F) and 30° C (86° F).

(iii) No fluid except water and no fluid or substance in solution with water is permitted. This does not preclude the use of a building's standard water supply for forced cool-down purposes.

(2) Flows of air may be directed at the exterior of the engine.

(i) Air shall be directed uniformly over the entire exterior surface of the engine at any desired flow rate.

(ii) The temperature of the cooling air shall not exceed 30° C (86° F). This is the only occasion when test cell ambient air temperature may deviate from the general specifications set forth in § 86.1330–84(b), i.e., may be less than 20° C (68° F).

(d) For air-cooled engines only cooling as prescribed in paragraph (c)(2) of this section is permitted.

(e) The cold cycle exhaust emission test may begin after a forced cool down only when the engine oil temperature as measured at the dipstick is between 20° C and 24° C (68° F and 75° F). No engine oil change is permitted during the test sequence, nor is any direct or indirect cooling of engine oil permitted except by natural conduction and convection associated with the procedures in paragraph (c) and (d) of this section.

(f) The cold cycle exhaust emission test for gasoline engines equipped with catalytic converters may begin after a forced cool down only when the catalyst bed temperature at the catalyst outlet is 25° C ± 5° C (77° F ± 9° F), in addition to the temperature restriction in paragraph (e) of this section.

(1) Catalyst cool down may be accomplished in whatever manner and using whatever coolant deemed appropriate by proper engineering judgment. The catalyst, engine, and exhaust piping configurations shall not be separated, altered, or moved in any way during the cool down.

(g) At the completion of the forced cool down, all general requirements specified in § 86.1330–84 and the oil temperature specification set forth in paragraph (e) of this section must be met before the cold cycle exhaust emission test may begin.

§ 86.1336–84 Engine starting and restarting.

(a) *Gasoline-fueled engines.* This paragraph applies to gasoline-fueled engines only.

(1) The engine shall be started with a production engine starter motor according to the manufacturer's recommended starting procedures in the owner's manual. The 24±1 second free idle period shall begin when the engine starts.

(2) *Choke operation:* (i) Engines equipped with automatic chokes shall be operated according to the manufacturer's operating instructions in the owner's manual, including choke setting and "kick-down" from cold fast idle.

(ii) Engines equipped with manual chokes shall be operated according to the manufacturer's operating instructions in the owner's manual.

(3) The operator may use the choke, throttle, etc. where necessary to keep the engine running.

(4) If the manufacturer's operating instructions in the owner's manual do not specify a warm engine starting procedure, the engine (automatic- and manual-choke engines) shall be started by depressing the throttle half way and cranking the engine until it starts.

(b) *Diesel engines.* The engine shall be started with a production engine starting-motor according to the manufacturer's recommended starting procedures in the owner's manual. The 24±1 second free idle period shall begin when the engine starts.

(c)(1) If the engine does not start after 15 seconds of cranking, cranking shall cease and the reason for failure to start shall be determined. The gas flow measuring device (or revolution counter) on the constant volume sampler (and the hydrocarbon integrator when testing diesel vehicles, see § 86.1337, Engine dynamometer test run) shall be turned off during this diagnostic period. In addition, either the CVS should be turned off or the exhaust tube disconnected from the tailpipe during the diagnostic period. If failure to start is an operational error, the engine shall be rescheduled for testing from a cold start.

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(2) If longer cranking times are recommended to the ultimate purchaser, such cranking times may be used provided the owner's manual and the service repair manual indicate the longer cranking times are normal, and if the use of the longer cranking times is approved in advance by the Administrator.

(3) If a failure to start occurs during the cold portion of the test and is caused by an engine malfunction, corrective action of less than 30 minutes duration may be taken (according to § 86.084–25), and the test continued. The sampling system shall be reactivated at the same time cranking begins. When the engine starts, the timing sequence shall begin. If failure to start is caused by engine malfunction and the engine cannot be started, the test shall be voided and corrective action may be taken according to § 86.084–25. The reasons for the malfunction (if determined) and the corrective action taken shall be reported to the Administrator.

(4) If a failure to start occurs during the hot start portion of the test and is caused by engine malfunction, the engine must be started within one minute of key on. The sampling system shall be reactivated at the same time cranking begins. When the engine starts, the transient engine cycle timing sequence shall begin. If the engine cannot be started within one minute of key on, the test shall be voided, corrective action taken (according to § 86.084–25), and the engine rescheduled for testing. The reason for the malfunction (if determined) and the corrective action taken shall be reported to the Administrator.

(d) If the engine "false starts", the operator shall repeat the recommended starting procedure (such as resetting the choke, etc.).

(e) *Engine stalling.* (1) If the engine stalls during the initial idle period of either the cold or hot start test, the engine shall be restarted immediately using the appropriate cold or hot starting procedure and the test continued. If the engine cannot be started before the first non-idle record of the cycle, the test shall be voided.

(2) If the engine stalls anywhere in the cold cycle, except in the initial idle period, the test shall be voided.

(3) If the engine stalls on the hot cycle portion of the test at any time up to and including 580 seconds into the hot cycle, the engine may be shut off and resoaked for 20 minutes. The hot cycle may then be rerun. Any stalling of the engine or voiding of the hot cycle more than 580 seconds into the hot cycle shall result in a void test. Only one hot start resoak and restart is permitted.

§ 86.1337–84 Engine dynamometer test run.

(a) The following steps shall be taken for each test:

(1) Prepare the engine, dynamometer, and sampling system for the cold start test. Change filters, etc. and leak check as necessary.

(2) Connect evacuated sample collection bags to the dilute exhaust and dilution air sample collection systems.

(3) Start the CVS (if not already on), the sample pumps, the temperature recorder, the engine cooling fan(s) and any data collection system (i.e., chart recorders, computers, data loggers, etc). The heat exchanger of the constant volume sampler (if used) and the heated components of any continuous sampling system(s) (if applicable) shall be preheated to their respective operating termperatures before the test begins. See § 86.1304–84(e) for continuous sampling procedures.

(4) Adjust the sample flow rates to the desired flow rate and set the CVS gas flow measuring devices to zero.

Note.—CFV–CVS sample flow rate is fixed by the venturi design.

(5) Attach the CVS flexible exhaust tube to engine tailpipe(s).

(6) Follow the manufacturer's choke and throttle instructions for cold starting. Simultaneously start the engine and begin exhaust and dilution air sampling. For diesel engines, turn on the hydrocarbon and continuous NO_x, CO, or CO_2 (if used) analyzer(s) system integrator(s) and indicate the start of the test on the data collection medium (i.e., mark the chart on a chart recorder, set a byte on a computer or data logger, etc.).

(7) As soon as it is determined that the engine is started, start a "free idle" timer.

(8) Allow the engine to idle freely with no-load for 24±1 seconds. This idle period for automatic transmission engines may be interpreted as an idle speed in neutral or park. All other idle conditions shall be interpreted as an idle speed in gear. It is permissible to lug the engine down to curb idle speed during the last 8 seconds of the free idle period for the purpose of engaging dynamometer control loops.

(9) Begin the transient engine cycles such that the first non-idle record of the cycle occurs at 25±1 seconds. The free idle time is included in the 25±1 seconds.

(10) On the last record of the cycle cease sampling, immediately turn the engine off, and start a hot soak timer.

(11) Immediately after the engine is turned off, turn off the engine cooling fan(s) if used, and the CVS blower. As soon as possible transfer the "cold start cycle" exhaust and dilution air bag samples to the analytical system and process the samples according to § 83.1340–84 obtaining a stabilized reading of the exhaust sample on all analyzers within 20 minutes of the end of the sample collection phase of the test.

(12) Allow the engine to soak for 20±1 minutes.

(13) Prepare the engine and dynamometer for the hot start test.

(14) Connect evacuated sample collection bags to the dilute exhaust and dilution air sample collection systems.

(15) Start the CVS (if not already on), the sample pumps, the temperature recorder, the engine cooling fan(s) and any data collection system (i.e., chart recorders, computers, data loggers, etc.). The heat exchanger of the constant volume sampler (if used) and the heated components of any continuous sampling system(s) (if applicable) shall be preheated to their respective operating temperatures before the test begins. See § 86.1340–84(e) for continuous sampling procedures.

(16) Adjust the sample flow rates to the desired flow rate and set the CVS gas flow measuring devices to zero.

Note.—CFV–CVS sample flow rate is fixed by the venturi design.

(17) Follow the manufacturer's choke and throttle instruction for hot starting. Simultaneously start the engine and begin exhaust and dilution air sampling.

(18) As soon as it is determined that the engine is started, start a "free idle" timer.

(19) Allow the engine to idle freely with no-load for 24±1 seconds. The provisions and interpretations of paragraph (a)(8) of this section apply.

(20) Begin the transient engine cycle such that the first non-idle record of the cycle occurs at 25±1 seconds. The free idle is included in the 25±1 seconds.

(21) On the last record of the cycle cease sampling.

(22) As soon as possible transfer the "hot start cycle" exhaust and dilution air bag samples to the analytical system and process the samples according to § 86.1340–84 obtaining a stabilized reading of the exhaust sample on all analyzers within 20 minutes of the end of the sample collection phase of the test.

(23) The CVS and the engine may be turned off, if desired.

(b) The procedure in paragraph (a) of this section is designed for one sample bag for the cold start portion and one for the hot start portion. It is permissible to use 4 sample bags per test portion. The bags shall sample for the portion of the cycle as indicated below:

	Sample time	
	Gasoline fueled	Diesel
Bag No.:		
1	272	257
2	579	597
3	895	902
4	1,167	1,199

§ 86.1338–84 Emission measurement accuracy.

(a) Measurement accuracy for analysis systems used for bag measurements.

(1) Good engineering practice would dictate that analyzer readings below 15 percent of full scale chart deflection should generally not be used.

(2) Some high resolution read-out systems such as computers, data loggers, etc., can provide sufficient accuracy and resolution below 15 percent of full scale. Such systems may be used provided that additional calibration bottles are added to insure that the calibration curves below 15 percent of full scale, in the region of the sample measurements, conforms to the accuracy specifications in § 86.1316–84 through § 86.1326–84.

(b) Measurement accuracy for analysis systems used for continuous measurement systems.

(1) Analyzers used for continuous analysis must be operated such that the integrated concentration value over the test cycle falls between 15 and 100 percent of full scale chart deflection. Exceptions to these limits are:

(i) If automatic range change circuitry is used and the limits for range changes are between 15 and 100 percent of full-scale chart deflection; or

(ii) Alternative paragraph (a)(2) of this section is used to insure that the accuracy of the calibration curve is maintained below 15 percent. In addition,

(iii) The analyzer's response may be less than 15 percent of full scale if the full-scale value is 155 ppmC or less.

(iv) The analyzer's response may be less than 15 percent of full scale if the emissions from the engine are erratic and the integrated chart deflection value is greater than 15 percent of full scale.

(v) The analyzer's response may be less than 15 percent of full scale if the contribution of all data read below the 15 percent level is less than 10 percent by mass of the final test results, and

(vi) During engine start-up the HC analyzer is allowed to "spike" off-scale for a maximum of 5 seconds.

§ 86.1339–84 [Reserved]

§ 86.1340 Exhaust sample analysis.

(a) The analyzer response may be read by automatic data collection (ADC) equipment such as computers, data loggers, etc. If ADC equipment is used the following is required.

(1) For bag analysis the analyzer response must be stable at greater than 99 percent of final reading. A single value representing the average chart deflection over a 10 second stabilized period may be stored.

(2) For continuous analysis systems, the ADC system must store at least 5 chart deflection readings per second.

(3) The chart deflections in paragraphs (a) (1) and (2) of this section may be stored on long term computer storage devices such as computer tapes, storage discs, punch cards, or they may be printed in a listing for storage. In either case a chart recorder is not required and records from a chart recorder, if they exist, need not be stored.

(4) If the data from ADC equipment is used as permanent records, the ADC equipment and the analyzer values as interpreted by the ADC equipment are subject to the calibration specifications in §§ 86.1316–84 through 86.1326–84, as if the ADC equipment were part of the analyzer.

(b) Data records from any one or a combination of analyzers may be stored as chart recorder records.

(c) Software zero and span.

(i) The use of "software" zero and span is permitted. The process of software zero and span refers to the technique of initially adjusting the analyzer zero and span responses to the calibration curve values, but for subsequent zero and span checks the analyzer response is simply recorded without adjusting the analyzer gain. The observed analyzer response recorded from the subsequent check is mathematically corrected back to the calibration curve values for zero and span. The same mathematical correction is then applied to the analyzer's response to a sample of exhaust gas in order to compute the true sample concentration.

(ii) The maximum amount of software zero and span mathematical correction is ±10 percent of full scale chart deflection.

(iii) Software zero and span may be used to switch between ranges without adjusting the gain of the analyzer.

(iv) The software zero and span technique may not be used to mask analyzer drift. The observed chart deflection before and after a given time period or event shall be used for computing the drift. Software zero and span may be used after the drift has been computed to mathematically adjust any span drift so that the "after" span check may be transformed into the "before" span check for the next segment.

(d) For bag sample analysis perform the following sequence:

(1) Warm up and stablize the analyzers.

(2) Clean and/or replace filter elements, conditioning columns (if used), etc., as necessary.

(3) The order of paragraphs (d) (1) and (2) of this section may be interchanged.

(4) Obtain a stable zero reading.

(5) Zero and span the analyzers with zero and span gases. The span gases shall have concentrations between 75 and 100 percent of full scale chart deflection. The flow rates and system pressures during spanning shall be approximately the same as those encountered during sampling.

(6) Re-check zero response, repeat paragraphs (d) (4) and (5) of this section or use software zero and span if necessary.

(7) If a chart recorder is used, identify the most recent zero and span response as the pre-analysis values.

(8) If ADC equipment is used, electronically record the most recent zero and span response as the pre-analysis values.

(9) Measure HC (except diesels), CO, CO_2 and NO_x concentrations in the sample bag(s) with approximately the same flow rates and pressures used in paragraph (d)(5) of this section. Constituents measured continuously do not require bag analysis.

(10) Rechecking of the zero and span point after the analysis of the bag is permitted. The number of bags that may be analyzed after pre-analysis values for zero and span have been determined is not specified. The limiting criteria on the time span or the number of events that may occur between the pre-analysis and post-analysis zero span checks are the following:

(i) A pre-analysis zero and span value for each range of each constituent to be analyzed must be determined and identified or recorded prior to analyzing the bag. The bag may be sampled in order to identify the specific range required prior to the determination of the pre-analysis values.

(ii) A post-analysis zero and span check for each range used must be performed and the values recorded. The time interval or the number of events that may occur between the pre and post checks is not specified. However, the difference between pre-analysis zero and span values (recorded in paragraph

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(d) (7) and (8) of this section) versus those recorded for the post-analysis check may not exceed the zero drift limit or the span drift limit of 2 percent of full scale chart deflection for any range used.

(iii) The time span between the pre and post checks may be no longer than the time period that was used to evaluate the analyzer drift performance.

(11) Analyze the remaining sample and background bags as outlined in paragraph (d) (4) through (10) of this section.

(e) For continuous sample analysis perform the following sequences:

(1) Warm-up and stabilize the analyzers.

(2) Clean and/or replace filters elements, conditioning columns (if used) etc., as necessary.

(3) The order of paragraphs (d) (1) and (2) of this section may be interchanged.

(4) Leak check portions of the sampling system that operate under a vacuum when sampling.

(5) Allow heated sample lines, filters, pumps, etc., to stabilize at operating temperature.

(6) The order of paragraphs (d) (4) and (5) may be interchanged.

(7) Obtain a stable zero reading.

(8) Zero and span each range to be used on each analyzer used prior to the beginning of the cold cycle. The span gases shall have a concentration between 75 and 100 percent of full scale chart deflection. The flow rates and system pressures shall be approximately the same as those encountered during sampling.

(9) Re-check zero response, repeat paragraphs (d) (7) and (8) of this section or use software zero and span if necessary.

(10) If a chart recorder is used, identify the most recent zero and span response as the pre-analysis values.

(11) If ADC equipment is used, electronically record the most recent zero and span response as the pre-analysis values.

(12) Measure the emissions (HC required for diesels, NO_x, CO, CO_2 optional) continuously during the cold start cycle. Indicate the start of the test, the range(s) used, and the end of the test on the recording medium (chart paper or ADC equipment). Use approximately the same flow rates and system pressures used in paragraph (d)(8) of this section.

(13) Collect background HC, CO, CO_2, and NO_x in a sample bag.

(14) Perform a post-analysis zero and span check for each range used at the conditions specified in paragraph (d)(8) of this section.

(15) Neither the zero drift nor the span drift between the pre-analysis and post-analysis checks on any range used may exceed 3 percent for HC or 2 percent for NO_x, CO, and CO_2 of full scale chart deflection, or the test is void.

(16) Determine HC background levels for the cold start cycle by introducing a sample from the background bag into the overflow HC span system.

(17) Determine background levels of NO_x, CO, or CO_2 (if necessary) by the technique outlined in paragraph (e) of this section. the continuous analyzers may be used for analysis under paragraph (e).

Note.—For a quality control check on diesel HC, compare an analysis of a background bag to a continuous analysis of background air sampled through the total hydrocarbon probe. For best results, the difference should be less than 1 percent of the average (time integrated) dilute hydrocarbon emission level during the test.

(18) Repeat paragraphs (d) (7) through (17) of this section for the hot cycle. The post-analysis zero and span check for the cold start (or previous hot start) cycle may be used for the pre-analysis zero and span for the following hot start cycle.

(19) If the HC drift is greater than 3 percent of full-scale chart deflection, hydrocarbon hang-up is suspected.

(f) HC hang-up. If HC hang-up is suspected, the following sequence may be performed.

(1) Fill a clean sample bag with zero gas.

(2) Zero and span the HFID with the overflow system.

(3) Analyze the sample bag through the overflow sample system.

(4) Analyze the sample bag on another FID or HFID meeting the specification of this Subpart or 40 CFR, Subpart D that does not have a hang-up problem.

(5) If the difference between the readings obtained in (3) percent of the HFID full scale disconnect probe and clean same. (Soaking with sulfuric acid has proven effective.) Clean sample line also. (Heating to 450° F and flow nitrogen gas continuously for 12 hours has proven useful.)

(6) Reassemble the sample system, heat to specified temperature, and repeat the procedure in paragraph (f) (1) through (6) of this section.

§ 86.1341–84 Test cycle validation criteria.

(a) To reduce errors between the feedback and reference (cycle trace) values the engine speed and torque feedback signals may be shifted a maximum of ±5 seconds with respect to the reference speed and torque traces. If the feedback signals are shifted, both speed and torque must be shifted the same amount in the same direction.

(b) Calculate the brake horsepower for each pair of engine speed and torque values recorded. Also calculate the reference brake horsepower for each pair of engine speed and torque reference values. Calculations shall be to five significant digits.

(c) Linear regressions of feedback value on reference value shall be performed for speed, torque and brake horsepower. The method of least-square shall be used. The equation shall have the form:

$y = mx + b$

Where:

y = The feedback (actual) value of speed (in RPM), torque (in ft-lbs.), or brake horsepower.
m = Slope of the regression line.
x = The reference value (speed, torque, or brake horsepower).
b = The y intercept of the regression line.

(d) The standard error of estimate (SE) of y on x and the coefficient of determination (r^2) shall be calculated for each regression line.

(e) For a valid test the criteria in Figure N84–12 must be met for both cycles (cold start and hot start) individually. Deletions from the regression analysis are permitted where allowed in Figure N84–12.

(f) The integrated brake horsepower-hour for each cycle (cold and hot start) shall be between −15 percent and +5 percent of the integrated brake horsepower-hour for the reference cycle or the test is void. All torque and speed data points must be used to calculate the integrated brake horsepower-hour. For the purposes of this calculation, negative torque values (i.e., motoring horsepower) shall be set equal to zero and included.

(g) If a dynamometer test run is determined to be statistically or experimentally void, corrective action shall be taken. The engine shall then be allowed to cool (naturally or forced) and the dynamometer test rerun per § 86.1337–84.

BILLING CODE 6560-01-M

REGRESSION LINE TOLERANCES

	SPEED	TORQUE	BRAKE HORSEPOWER
STANDARD ERROR OF ESTIMATE (SE) OF Y ON X	100 RPM	13% OF MAXIMUM ENGINE TORQUE	8% OF MAXIMUM BRAKE HORSEPOWER
SLOPE OF THE REGRESSION LINE, M	0.970-1.030	0.83-1.03 HOT 0.77-1.03 COLD	0.89-1.03 (HOT) 0.87-1.03 (COLD)
COEFFICIENT OF DETERMINATION, R^2	0.9700 1/	0.8800 (HOT) 1/ 0.8500 (COLD) 1/	0.9100 1/
Y INTERCEPT OF THE REGRESSION LINE, B	± 50 RPM	± 15 FT. LBS.	± 5.0 OF BRAKE HORSEPOWER

1/ MINIMUM

PERMITTED POINT DELETIONS FROM REGRESSION ANALYSIS

CONDITION	POINTS TO BE DELETED
FIRST 24 SECONDS (± 1) OF FREE IDLE OF HOT AND COLD CYCLES	SPEED, TORQUE, BRAKE HORSEPOWER
WIDE OPEN THROTTLE { SPEED CONTROL: TORQUE FEEDBACK < TORQUE REFERENCE }	TORQUE, BRAKE HORSEPOWER
WIDE OPEN THROTTLE { TORQUE CONTROL: SPEED FEEDBACK < SPEED REFERENCE }	SPEED, BRAKE HORSEPOWER
SPEED CONTROL, CLOSED THROTTLE, TORQUE REFERENCE < ZERO	TORQUE, BRAKE HORSEPOWER
GASOLINE FUELED ENGINES EQUIPPED WITH AUTOMATIC CHOKES; FIRST 150 SECONDS OF COLD CYCLE OR FIRST 30 SECONDS OF HOT CYCLE, CLOSED THROTTLE AND: MANUAL TRANSMISSION, IF TORQUE FEEDBACK	
A. IS EQUAL TO ZERO (± 10 FT. LBS.) OR;	SPEED BRAKE HORSEPOWER
B. AUTOMATIC TRANSMISSION, IF TORQUE FEEDBACK IS EQUAL TO CURB IDLE TRANSMISSION TORQUE (± 10 FT. LBS.)	SPEED BRAKE HORSEPOWER

BILLING CODE 6560-01-C

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§ 86.1342-84 Calculations; exhaust emissions.

(a) The final reported transient emission test results shall be computed by use of the following formula:

$$A_{wm} = \frac{1/7(g_C) + 6/7(g_H)}{1/7(BHP\text{–}Hr_C) + 6/7(BHP\text{–}Hr_H)}$$

Where:

A_{wm} = Weighted mass emission level (HC, CO, CO_2 or NO_x) in grams per brake horsepower hour.

g_C = Mass emission level in grams, measured during the cold start test.

g_H = Mass emissions level in grams, measured during the hot start test.

BHP–HR_C = Total brake horsepower-hour (brake horsepower integrated with respect to time) for the cold start test.

BHP–HR_H = Total brake horsepower-hour (brake horsepower integrated with respect to time) for the hot start test.

(b) The mass of each pollutant for the cold start test and the hot start test for bag measurements and diesel heat exchanger sample system measurements is determined from the following equations:

(1) Hydrocarbon mass: $HC_{mass} = \dot{V}_{mix} \times Density_{HC} \times (HC_{conc}/1{,}000{,}000)$.

(2) Oxides of nitrogen mass: $NO_{x\ mass} = V_{mix} \times Density_{NO_2} \times K_H \times (NO_{x\ conc}/1{,}000{,}000)$.

(3) Carbon monoxide mass: $CO_{mass} = V_{mix} \times Density_{CO} \times (CO_{conc}/1{,}000{,}000)$.

(4) Carbon dioxide mass: $CO_{2\ mass} = V_{mix} \times Density_{CO_2} \times (CO_{2\ conc}/100)$.

(c) The mass of each pollutant for the cold start test and the hot start test for flow compensated sample systems is determined from the following equations:

(1) $$HC_{mass} = \sum_{i=1}^{n}\left[\frac{(HC_e)_i}{10^6} \times (Vmix)_i \times (Density_{HC}) \times \Delta T\right] - \frac{HC_d}{10^6}\left(1 - \frac{1}{DF}\right) \times Vmix \times Density_{HC}$$

(2) $$NOx_{mass} = \sum_{i=1}^{n}\left[\frac{(NOx_e)_i}{10^6} \times (Vmix)_i \times (Density_{NO_2}) \times \Delta T\right] - \frac{NOx_d}{10^6}\left(1 - \frac{1}{DF}\right) \times Vmix \times Density\ NO_2$$

(3) $$CO_{mass} = \sum_{i=1}^{n}\left[\frac{(CO_e)_i}{10^6} \times (Vmix)_i \times (Density_{CO}) \times \Delta T\right] - \frac{CO_d}{10^6}\left(1 - \frac{1}{DF}\right) \times Vmix \times Density_{CO}$$

(4) $$CO_{2mass} = \sum_{i=1}^{n}\left[\frac{(CO_{2_e})_i}{10^6} \times (Vmix)_i \times (Density_{CO_2}) \times \Delta T\right] - \frac{CO_{2_d}}{10^6}\left(1 - \frac{1}{DF}\right) \times Vmix \times Density_{CO_2}$$

(d) Meaning of symbols:

(1) HC_{mass} = Hydrocarbon emissions, in grams per test phase.

Density = Density of hydrocarbons is 16.33 g/ft^3 (.5768 kg/m^3), assuming an average carbon to hydrogen ratio of 1:1.85, at 68° F (20° C) and 760 mm Hg (101.3 kPa) pressure.

HC_{conc} = Hydrocarbon concentration of the dilute exhaust sample corrected for background, in ppm carbon equivalent, i.e., equivalent propane X3.

$HC_{conc} = HC_e - HC_d[1-(1/DF)]$

Where:

HC_e = Hydrocarbon concentration of the dilute exhaust bag sample or, for diesel heat exchanger systems, average hydrocarbon concentration of the dilute exhaust sample as calculated from the integrated HC traces, in ppm carbon equivalent. For flow compensated sample systems HC_e is the instantaneous concentration.

HC_d = Hydrocarbon concentration of the dilution air as measured, in ppm carbon equivalent.

(2) $NO_{x\ mass}$ = Oxides of nitrogen emissions, in grams per test phase.

$Density_{NO_2}$ = Density of oxides of nitrogen is 54.16 g/ft^3 (1.913 kg/m^3), assuming they are in the form of nitrogen dioxide, at 68° F (20° C) and 760 mm Hg (101.3 kPa) pressure.

$NO_{x\ conc}$ = Oxides of nitrogen concentration of the dilute exhaust sample corrected for background, in ppm.

$NO_{x\ conc} = NO_{x\ e} - NO_{x\ d}[1-(1/DF)]$.

Where:

$NO_{x\ e}$ = Oxides of nitrogen concentration of the dilute exhaust bag sample as measured, in ppm. For flow compensated sample systems $NO_{x\ e}$ is the instantaneous concentration.

$NO_{x\ d}$ = Oxides of nitrogen concentration of the dilute air as measured, in ppm.

(3) CO_{mass} = Carbon monoxide emissions, in grams per test phase.

$Density_{CO}$ = Density of carbon monoxide is 32.97 g/ft^3 (1.164 kg/m^3), at 68° F (20° C) and 760 mm Hg (101.3 kPa) pressure.

CO_{conc} = Carbon monoxide concentration of the dilute exhaust sample corrected for background, water vapor, and CO_2 extraction, in ppm.

$CO_{conc} = CO_e - CO_d\,[1-(1/DF)]$.

Where:

CO_e = Carbon monoxide concentration of the dilute exhaust bag sample volume corrected for water vapor and carbon dioxide extraction, in ppm. For flow compensated sample systems CO_e is the instantaneous concentration. The calculation assumes the carbon to hydrogen ratio of the fuel is 1:1.85.

$CO_e = [1 - 0.01925CO_{2e} - 0.000323R]CO_{em}$.

Where:

CO_{em} = Carbon monoxide concentration of the dilute exhaust sample as measured, in ppm.

CO_{2e} = Carbon dioxide concentration of the dilute exhaust bag sample, in percent. For flow compensated sample systems CO_{2e} is the instantaneous concentration.

R = Relative humidity of the dilution air, in percent (see § 86.1342-84(a)(5)).

CO_d = Carbon monoxide concentration of the dilution air corrected for water vapor extraction, in ppm.

$CO_d = (1 - 0.000323R)CO_{dm}$.

Where:

CO_{dm} = Carbon monoxide concentration of the dilution air sample as measured, in ppm.

Δt = Time interval (in seconds) between samples in flow compensated systems (0.2 seconds maximum).

Note.—If a CO instrument which meets the criteria specified in § 86.1311-84 is used and the conditioning column has been deleted, CO_{em} can be substituted directly for CO_e and CO_{dm} can be substituted directly for CO_d.

(4) $CO_{2\ mass}$ = Carbon dioxide emissions, in grams per test phase.

$Density_{CO\ 2}$ = Density of carbon dioxide is 51.85 g/ft^3 (1.843 kg/m^3), at 68°F (20°C) and 760 mm Hg (101.3 kPa) pressure.

$CO_{2\ conc}$ = Carbon dioxide concentration of the dilute exhaust sample corrected for background, in percent.

$CO_{2\ conc} = CO_{2e} - CO_{2d}[1-(1/DF)]$.

Where:

CO_{2d} = Carbon dioxide concentration of the dilution air as measured, in percent.

(5) $DF = 13.4/[CO_{2e} + (HC_e + CO_e \times 10^{-4}]$.

K_H = Humidity correction factor.

For gasoline engines;

$K_H = 1/[1 - 0.0047\,(H-75)]$.

(or for SI units $= 1/[1 - 0.0329(H - 10.71)]$).

For diesel engines;

$K_H = 1$.

Where:

H = Absolute humidity in grains (grams) of water per pound (kilogram) of dry air.

$H = [(43.478)R_a \times P_d]/[P_B - (P_d \times R_a/100)]$ for SI units, $H = [(6.211)R_a \times P_d]/[P_B - (P_d \times R_a/100)]$.

R_a = Relative humidity of the ambient air, in percent.

P_d = Saturated vapor pressure, in mm Hg (kPa) at the ambient dry bulb temperature.

P_B = Barometric pressure, in mm Hg (kPa).

V_{mix} = Total dilute exhaust volume in cubic feet per test phase corrected to standard conditions (528° R (293° K) and 760 mm Hg (101.3 kPa).

V_{mix} = Instantaneous dilute exhaust volumetric flow rate (for compensated flow systems), in cubic feet per second.

For PDP–CVS, V_{mix} is:

$$V_{mix} = V_o \times \frac{N(P_B - P_d)\,(528°R)}{(760\ mm\ Hg)\,(T_p)}$$

for SI units.

$$V_{mix} = V_o \times \frac{N(P_B - P_d)\,(293.15°K)}{(101.3\ kPa)\,(T_p)}$$

Where:

V_o = Volume of gas pumped by the positive displacement pump, in cubic feet (cubic metres) per revolution. This volume is dependent on the pressure differential across the positive displacement pump.

N = Number of revolutions of the positive displacement pump during the test phase while samples are being collected.

P_B = Barometric pressure, in mm Hg (kPa).

P_d = Pressure depressions below atmospheric measured at the inlet to the positive displacement pump, in mm Hg (kPa) (during an idle mode).

T_p = Average temperature of dilute exhaust entering positive displacement pump during test, °R (°K).

(d) Sample calculation of mass values of exhaust emissions:

(1) Assume the following test results for gasoline engine:

	Cold start cycle test results	Hot start cycle test results
V_{mix}	6924 ft^3.	6873 ft^3.
R	30.2 pct	30.2 pct.
R_a	30.2 pct	30.2 pct.
P_B	735 mm Hg	735 mm Hg.
P_d	22.676 mm Hg	22.676 mm Hg.
HC_e	132.07 ppm C equivalent.	86.13 ppm C equivalent.
NO_{x_e}	7.86 ppm	10.98 ppm.
CO_{em}	171.22 ppm	114.26 ppm.
CO_{2e}	.178 pct	.361 pct.
HC_d	3.60 ppm C equivalent.	8.70 ppm C equivalent.
NO_{x_d}	0.0 ppm	010 ppm.
CO_{dm}	0.89 ppm	0.89 ppm.
CO_{2d}	0.0 pct	0.038 pct.
BHP–HR	0.259	0.347.

Then:

Cold Start Test

$H = [(43.478)(30.2)(22.676)]/[735 - (22.676)(30.2)/100] = 41$ grains of water per pound of dry air.

$K_H = 1/[1 - 0.0047(41-75)] = 0.862$

$CO_e = [1 - 0.01925(.178) - 0 - .000323(30.2)]171.22 = 169.0$ ppm

$CO_d = [1 - 0.000323(30.2)]0.89 = .881$ ppm

$DF = 13.4/[.178 + (132.1 + 168.9)(10^{-4})] = 64.392$

$HC_{conc} = 132.1 - 3.6[1 - (1/64.265)] = 128.6$ ppm

$HC_{mass} = 6924(16.33)(128.6/1{,}000{,}000) = 14.53$ grams

$NO_{x\ conc} = 7.86 - 0.0[1 - (1/64.265)] = 7.86$ ppm

$NO_{x\ mass} = 6924(54.16)(.862)(7.86/1{,}000{,}000) = 2.54$ grams

$CO_{conc} = 169.0 - .881[1 - (1/64.265)] = 168.0$ ppm

$CO_{mass} = 6924(32.97)(168.0/1{,}000{,}000) = 38.35$ grams

$CO_{2\ conc} = .178 - 0[1 - (1/64.285)] = .178\%$

$CO_{2\ mass} = 6924(51.85)(.178/100) = 639$ grams

Hot Start Test

Assume similar calculations result in the following:

$HC_{mass} = 8.72$ grams

$NO_{x\ mass} = 3.49$ grams

$CO_{mass} = 25.70$ grams

$CO_{2\ mass} = 1226$ grams

(2) Weighted mass emission results:

$$NOx_{mass} = 3.49 \text{ grams}$$

$$HC_{wm} = \frac{1/7(14.53) + 6/7(8.72)}{1/7(0.259) + 6/7(0.347)} = 28.6 \text{ grams/BHP–HR}$$

$$NOx_{wm} = \frac{1/7(2.54) + 6/7(3.49)}{1/7(0.259) + 6/7(0.347)} = 10.0 \text{ grams/BHP–HR}$$

$$CO_{wm} = \frac{1/7(38.35) + 6/7(25.70)}{1/7(0.259) + 6/7(0.347)} = 82.2 \text{ grams/BHP–HR}$$

$$CO_{2wm} = \frac{1/7(639) + 6/7(1226)}{1/7(0.259) + 6/7(0.347)} = 3415 \text{ grams/BHP–HR}$$

(e) The final reported brake-specific fuel consumption (BSFC) shall be computed by use of the following formula:

$$BSFC = \frac{1/7(M_C) + 6/7(M_H)}{1/7(BHP\text{–}HR_C) + 6/7(BHP\text{–}HR_H)}$$

Where:

BSFC = brake-specific fuel consumption in pounds of fuel per brake horsepower-hour (lbs/BHP–HR).

M_C = mass of fuel, in pounds, used by the engine during the cold start test.

M_H = mass of fuel, in pounds, used by the engine during the hot start test.

BHP–HR_C = total brake horsepower-hours (brake horsepower integrated with respect to time) for the cold start test.

BHP–HR_H = total brake horsepower-hours (brake horsepower integrated with respect to time) for the hot start test.

(f) The mass of fuel for the cold start and hot start test is determined from the following equation:

$M = (C_s/R_s)\,(1/453.6)$

(g) Meaning of symbols:

M = Mass of fuel, in pounds, used by the engine during the cold or hot start test.

C_s = Grams of carbon measured during the cold or hot start test.

$C_s = [12.011/(12.011 + \alpha(1.008))]HC_{mass} + 0.429CO_{mass} + 0.273\ CO_{2\ mass}$

Where:

HC_{mass} = Hydrocarbon emissions, in grams for cold or hot start test.

CO_{mass} = Carbon monoxide emissions, in grams for cold or hot start test.

$CO_{2\ mass}$ = Carbon dioxide emissions, in grams for cold or hot start test.

α = The measured hydrogen to carbon ratio of the fuel.

R_s = The grams of carbon in the fuel per gram of fuel

$R_s = 12.011/[12.011 + \alpha(1.008)]$

(h) Sample calculation of brake-specific fuel consumption:

(1) Assume the following test results:

	Cold start cycle test results	Hot start cycle test results
BHP–HR	6.945	7.078.
α	1.85	1.95.
HC_{mass}	37.08 grams	25.62 grams.
CO_{mass}	357.69 grams	350.33 grams.
$CO_{2\ mass}$	5419.62 grams	5361.32 grams.

Then:

C_s for cold start test $= [12.011/(12.011 + (1.85)(1.008))](37.08) + 0.429(357.69) + 0.273(5419.62) = 1665.10$ grams

C_s for hot start test=[12.011/(12.011+(1.85)(1.008))](28.82)+0.429(350.33)+0.273(5361.32)=1638.88 grams

R_s=12.011/[12.011+1.85(1.008)]=.866

M_c=(1665.10/.866)(1/453.6)=4.24 lbs.

M_H=(1638.86/.866)(1/453.6)=4.17 lbs.

(2) Brake-specific fuel consumption results:

$$BSFC = \frac{1/7(4.24) + 6/7(4.17)}{1/7(6.945) + 6/7(7.078)}$$

$$= .592 \text{ lbs. of fuel/BHP-HR}$$

§ 86.1343–84 [Reserved]

§ 86.1344–84 Required information.

(a) The required test data shall be grouped into the following three general categories:

(1) *Engine set-up and descriptive data.* This data must be provided to the EPA supervisor of engine testing for each engine sent to the Administrator for confirmatory testing prior to the initiation of engine set-up. This data is necessary to insure that EPA test personnel have the correct data in order to set up and test the engine in a timely and proper manner. This data is not required for tests performed by the manufacturers.

(2) *Pre-test data.* This data is general test data that must be recorded for each test. The data is of a more descriptive nature such as identification of the test engine, test site number, etc. As such, this data can be recorded at any time within 24 hours of the test.

(3) *Test-data.* This data is physical test data that must be recorded at the time of testing.

(b) All data may be supplied to the Administrator by punch cards, magnetic tape, or other electronic data processing means. Acceptable data formats and transmission techniques will be provided in the Application Format for Certification of the applicable Model Year.

(c) *Engine set-up data.* Because the specific test facilities may change somewhat with time, the specific data parameters and number of items may vary slightly. The Application Format for Certification for the applicable Model Year will specify the exact requirements. In general, the following type of data will be required:

(1) Engine manufacturer.
(2) Engine system combination.
(3) Engine code and CID.
(4) Engine identification number.
(5) Applicable engine model year.
(6) Engine fuel type.
(7) Recommended oil type.
(8) Exhaust pipe configuration pipe sizes, etc.
(9) Curb idle speed.
(10) Dynamometer idle speed. (Automatic transmission engines only.)
(11) Engine parameter specifications such as spark timing, operating temperature, advance curves, etc.
(12) Engine performance data such as, maximum BHP, rated speed, fuel flow, governed speed, etc.
(13) Recommended start-up procedure.
(14) Maximum safe engine operating speed.
(15) Number of hours of operation accumulated on engine.

(b) *Pre-test data.* The following data shall be recorded, and reported to the Administrator for each test conducted for Compliance with the provisions of 40 CFR Part 86, Subpart A:

(1) Engine-system combination.
(2) Engine identification.
(3) Instrument operator(s).
(4) Engine operator(s).
(5) Number of hours of operation accumulated on the engine prior to beginning the test sequence (Figure N84–10).
(6) Fuel identification with average of test fuel used.
(7) Date of most recent analytical assembly calibration.
(8) All pertinent instrument information such as tuning, gain, serial numbers, detector number, calibration curve number, etc. As long as this information is traceable, it may be summarized by system number or analyzer identification numbers.

(c) *Test data.* The physical parameters necessary to compute the test results and insure accuracy of the results shall be recorded for each test conducted for compliance with the provisions of 40 CFR Part 86, Subpart A. Additional test data may be recorded at the discretion of the manufacturer. Extreme details of the test measurements such as analyzer chart deflections will generally not be required on a routine basis to be reported to the Administrator for each test, unless a dispute about the accuracy of the data arises. The following type of data shall be required to be reported to the Administrator. The Application Format for Certification for the applicable Model Year will specify the exact requirements which may change slightly from year to year with the addition or deletion of certain items.

(1) Date and time of day.
(2) Test number.
(3) Engine intake air or test cell temperature.
(4) Barometric pressure.

Note.—A central laboratory barometer may be used: *Provided,* That individual test cell barometric pressure are shown to be within ±0.1 percent of the barometric pressure at the central barometer location.

(5) Engine intake air or test cell and CVS dilution air humidity.
(6) Maximum torque versus speed curve as determined in § 86.1332, with minimum and maximum engine speeds.
(7) Measured maximum horsepower, maximum torque, and rated speeds.
(8) Measured maximum horsepower and torque.
(9) High idle engine speed (diesel engines only).
(10) Fuel consumption at maximum power and torque (diesel engines only).
(11) Curb-idle fuel flow rate.
(12) Cold soak time interval and cool down procedures.
(13) Temperature set point of the heated continuous analysis system components (if applicable).
(14) Test cycle validation criteria as specified in § 86.1341–84 for each test phase (cold-hot).
(15) Total CVS flow rate with dilution factor for each test phase (cold-hot).
(16) Sample concentrations (background corrected) for HC, CO, CO_2, and NO_x for each test phase (cold-hot).
(17) Brake specific emissions (g/BHP-hr) for HC, CO and NO_x for each test phase (cold-hot).
(18) The weighted (cold-hot) brake specific emissions (g/BHP-hr) for the total test.
(19) The weighted (cold-hot) carbon balance brake specific fuel consumption for the total test.
(20) The number of hours of operation accumulated on the engine after completing the test sequences described in Figure N84–10.

25. Appendix I of Part 86 is amended to read as follows:

Appendix I–Urban Dynamometer Schedules

(a) * * *
(b) * * *
(c) * * *
(d) * * *
(e) * * *

(f) EPA Engine Dynamometer Schedule for Heavy-Duty Gasoline Engines.

Percent Revolutions per Minute and Torque Versus Time Sequence

Record (sec)	Revolutions per minute	Torque
0	0.0	0.0
1	0.0	0.0
2	0.0	0.0
3	0.0	0.0
4	0.0	0.0
5	0.0	0.0
6	0.0	0.0
7	0.0	0.0
8	0.0	0.0
9	0.0	0.0
10	0.0	0.0

Percent Revolutions per Minute and Torque Versus Time Sequence—Continued

Record (sec)	Revolutions per minute	Torque
11	0.0	0.0
12	0.0	0.0
13	0.0	0.0
14	0.0	0.0
15	0.0	0.0
16	0.0	0.0
17	0.0	0.0
18	0.0	0.0
19	0.0	0.0
20	0.0	0.0
21	0.0	0.0
22	0.0	0.0
23	0.0	0.0
24	0.0	0.0
25	−1.78	44.40
26	0.0	85.35
27	4.25	100.00
28	27.47	100.00
29	42.96	100.00
30	45.79	100.00
31	48.11	99.48
32	50.42	99.00
33	52.74	75.23
34	54.00	50.00
35	44.42	8.96
36	46.05	−10.00
37	46.00	9.99
38	37.69	−10.00
39	31.61	5.68
40	22.94	55.29
41	24.00	8.87
42	20.86	−10.00
43	12.45	−10.00
44	6.00	−10.00
45	8.52	−10.00
46	7.17	−10.00
47	2.56	−10.00
48	0.0	0.0
49	0.0	0.0
50	0.0	0.0
51	0.0	10.11
52	4.32	46.40
53	8.90	45.17
54	1.95	50.00
55	3.33	41.66
56	4.00	89.46
57	13.76	55.80
58	26.43	26.96
59	33.85	−8.16
60	36.00	−10.00
61	34.45	−10.00
62	34.00	−10.00
63	35.64	−10.00
64	32.99	27.39
65	36.00	60.00
66	41.63	74.37
67	50.41	25.76
68	48.44	−10.00
69	43.66	−10.00
70	40.39	−10.00
71	36.50	4.01
72	35.05	30.00
73	40.66	14.70
74	43.64	26.45
75	45.06	−10.00
76	47.10	−10.00
77	49.29	−10.00
78	37.10	−10.00
79	36.00	−10.00
80	34.47	−10.00
81	32.15	−10.00
82	31.67	−10.00
83	26.48	17.89
84	32.38	60.00
85	36.03	90.00
86	41.69	90.00
87	45.74	90.00
88	49.95	90.00
89	49.10	90.00
90	50.59	62.97
91	45.99	34.96
92	42.76	7.23
93	35.12	−10.00
94	32.06	67.92
95	35.53	82.65
96	46.57	88.60
97	49.77	48.85
98	52.00	60.00
99	58.06	60.00

Percent Revolutions per Minute and Torque Versus Time Sequence—Continued

Record (sec)	Revolutions per minute	Torque
100	63.66	23.42
101	64.14	17.84
102	59.58	3.76
103	36.00	42.26
104	39.09	30.00
105	42.00	30.00
106	34.85	47.16
107	32.03	10.33
108	34.00	33.48
109	34.00	50.00
110	33.02	20.69
111	25.54	−10.00
112	15.57	−10.00
113	14.00	−10.00
114	14.47	27.64
115	18.00	4.40
116	17.13	−10.00
117	16.00	−10.00
118	10.02	−10.00
119	9.81	−10.00
120	5.88	−10.00
121	4.00	−10.00
122	4.00	−10.00
123	2.93	−10.00
124	0.62	−10.00
125	0.0	0.0
126	0.0	0.0
127	0.0	0.0
128	0.0	0.0
129	0.0	0.0
130	0.0	10.00
131	0.0	10.00
132	0.0	29.02
133	0.0	27.83
134	0.0	7.34
135	0.0	0.0
136	0.0	0.0
137	0.0	0.0
138	0.0	0.0
139	0.0	0.0
140	0.0	0.0
141	0.0	0.0
142	0.0	0.0
143	0.0	0.0
144	0.0	0.0
145	0.0	0.0
146	2.00	0.0
147	1.38	0.0
148	0.0	0.0
149	0.0	5.27
150	0.0	2.16
151	0.0	0.0
152	0.0	0.0
153	0.0	0.0
154	0.83	−10.00
155	2.00	−10.00
156	0.54	−10.00
157	0.0	0.0
158	0.0	0.0
159	0.0	0.0
160	0.0	0.0
161	0.0	0.0
162	0.0	0.0
163	0.0	0.0
164	0.0	0.0
165	0.0	0.0
166	0.0	0.0
167	0.0	22.01
168	1.23	72.29
169	8.63	80.00
170	17.29	89.29
171	22.17	90.00
172	24.00	82.70
173	24.00	31.96
174	24.00	−10.00
175	22.57	−10.00
176	22.00	−10.00
177	13.86	−10.00
178	10.00	−10.00
179	9.31	−10.00
180	3.99	−10.00
181	0.0	0.0
182	0.0	0.0
183	0.0	0.0
184	0.0	0.0
185	0.0	0.0
186	0.0	0.0
187	0.0	0.0

Percent Revolutions per Minute and Torque Versus Time Sequence—Continued

Record (sec)	Revolutions per minute	Torque
189	0.0	0.0
190	0.0	0.0
191	0.0	0.0
192	0.0	0.0
193	0.0	0.0
194	0.0	0.0
195	0.0	0.0
196	0.0	0.0
197	0.0	0.0
198	0.0	0.0
199	0.0	0.0
200	0.0	0.0
201	0.0	0.0
202	0.0	0.0
203	0.0	0.0
204	−2.52	8.30
205	−4.22	15.26
206	0.0	10.00
207	0.0	15.00
208	0.0	10.00
209	0.0	75.93
210	0.0	32.22
211	1.67	35.00
212	15.48	29.82
213	25.46	−10.00
214	24.22	−10.00
215	20.44	−10.00
216	12.41	80.00
217	8.34	83.61
218	7.26	84.82
219	10.70	80.00
220	24.67	63.33
221	0.24	79.81
222	0.0	8.52
223	0.0	0.0
224	0.0	0.0
225	0.0	0.0
226	0.0	0.0
227	0.0	0.0
228	0.0	0.0
229	0.0	0.0
230	0.0	0.0
231	0.0	0.0
232	0.0	0.0
233	0.0	17.59
234	0.0	19.63
235	0.0	10.00
236	0.0	10.00
237	0.0	10.00
238	0.0	3.54
239	0.0	0.0
240	0.0	0.0
241	0.0	0.0
242	0.0	0.0
243	0.0	0.0
244	0.0	0.0
245	0.0	0.0
246	0.0	0.0
247	0.0	0.0
248	0.0	0.0
249	0.0	0.0
250	0.0	0.0
251	0.0	0.0
252	0.0	0.0
253	0.0	0.0
254	0.0	0.0
255	0.0	0.0
256	0.0	0.0
257	0.0	0.0
258	0.0	0.0
259	0.0	0.0
260	0.0	0.0
261	0.0	0.0
262	0.0	0.0
263	0.0	0.0
264	0.0	0.0
265	0.0	0.0
266	0.0	0.0
267	0.0	0.0
268	0.0	0.0
269	0.0	0.0
270	0.0	0.0
271	0.0	0.0
272	0.0	0.0
273	0.0	0.0
274	0.0	0.0
275	0.0	0.0
276	0.0	0.0
277	0.0	0.0

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Percent Revolutions per Minute and Torque Versus Time Sequence—Continued

Record (sec)	Revolutions per minute	Torque
278	0.0	0.0
279	0.0	0.0
280	0.0	0.0
281	0.0	4.17
282	1.15	10.00
283	2.00	10.00
284	0.22	10.00
285	0.0	0.0
286	0.0	0.0
287	0.0	0.0
288	0.0	0.0
289	0.0	0.0
290	0.0	0.0
291	0.0	0.0
292	0.0	0.0
293	0.0	0.0
294	0.0	0.0
295	0.0	0.0
296	0.0	0.0
297	0.0	0.0
298	0.0	0.0
299	0.0	0.0
300	0.0	4.07
301	0.0	10.00
302	0.0	17.22
303	0.0	20.00
304	0.0	20.37
305	2.33	31.94
306	16.22	36.46
307	24.00	24.91
308	24.00	13.34
309	19.06	10.00
310	16.00	−10.00
311	17.17	−10.00
312	9.04	−10.00
313	1.09	−10.00
314	0.0	0.0
315	0.0	0.0
316	0.0	0.0
317	0.0	0.0
318	0.0	0.0
319	0.0	0.0
320	0.0	0.0
321	0.0	0.0
322	0.0	0.0
323	0.0	0.82
324	0.37	41.08
325	2.88	90.00
326	6.00	94.99
327	11.94	100.00
328	15.83	100.00
329	41.26	90.28
330	46.26	90.00
331	44.56	67.08
332	36.00	1.12
333	27.58	50.12
334	23.52	90.00
335	24.00	90.00
336	26.29	70.00
337	30.00	65.36
338	30.00	34.47
339	30.00	10.00
340	30.00	10.00
341	30.00	10.00
342	30.18	60.00
343	40.00	58.25
344	40.67	50.00
345	41.02	50.00
346	40.00	50.00
347	41.61	50.00
348	42.00	50.00
349	46.00	50.00
350	48.22	50.00
351	53.21	58.69
352	57.18	70.00
353	71.00	70.00
354	72.00	70.00
355	72.13	68.06
356	74.89	28.94
357	68.91	−10.00
358	49.71	−10.00
359	41.84	−10.00
360	36.30	−10.00
361	35.93	−10.00
362	28.00	−10.00
363	23.46	−10.00
364	10.16	−10.00
365	4.72	−10.00
366	0.82	5.90
367	−9.53	19.53
368	2.20	45.60
369	20.53	7.33
370	21.15	0.0
371	17.57	−10.00
372	13.04	−10.00
373	8.41	79.70
374	10.33	100.00
375	17.27	100.00
376	22.00	100.00
377	25.16	100.00
378	28.37	100.00
379	36.73	66.35
380	43.00	−10.00
381	23.50	−10.00
382	9.37	−10.00
383	8.00	−10.00
384	6.74	−10.00
385	2.66	−10.00
386	0.11	−10.00
387	0.0	0.0
388	0.0	0.0
389	0.0	0.0
390	0.0	0.0
391	0.0	0.0
392	0.0	0.0
393	0.0	0.0
394	0.0	0.0
395	0.0	0.0
396	0.0	0.0
397	0.0	0.0
398	0.0	0.0
399	0.0	0.0
400	0.0	0.0
401	0.0	0.0
402	0.0	0.0
403	0.0	0.0
404	0.0	0.0
405	0.0	0.0
406	0.0	0.0
407	0.0	0.0
408	0.0	0.0
409	0.0	0.0
410	0.0	0.0
411	0.0	0.0
412	0.0	0.0
413	0.0	0.0
414	0.0	0.0
415	0.0	0.0
416	0.0	0.0
417	0.0	0.0
418	0.0	0.0
419	1.27	20.00
420	2.82	14.11
421	0.0	0.0
422	0.0	0.0
423	0.0	0.0
424	0.0	0.0
425	0.0	0.0
426	0.0	0.0
427	0.0	0.0
428	0.0	0.0
429	0.0	0.0
430	0.0	0.0
431	0.26	0.78
432	16.50	31.65
433	45.32	29.76
434	43.00	10.00
435	40.66	10.00
436	35.12	10.00
437	29.16	19.70
438	25.26	47.45
439	30.00	90.00
440	30.00	90.00
441	30.00	30.00
442	34.54	30.00
443	36.66	30.00
444	36.43	30.00
445	43.84	30.00
446	50.00	30.00
447	50.00	−24.56
448	50.00	20.00
449	50.01	−10.00
450	37.97	−10.00
451	35.50	−10.00
452	30.66	−10.00
453	27.02	−10.00
454	26.00	−10.00
455	26.00	−10.00
456	20.24	−10.00
457	14.00	−10.00
458	13.45	18.27
459	8.40	52.99
460	10.72	91.61
461	15.50	97.48
462	19.62	100.00
463	20.25	100.00
464	25.76	100.00
465	35.02	100.00
466	42.14	94.65
467	44.00	90.00
468	45.70	90.00
469	51.09	90.00
470	50.00	90.00
471	51.29	63.22
472	54.96	70.00
473	56.00	70.00
474	62.35	36.25
475	71.61	30.00
476	76.22	50.00
477	78.00	50.00
478	78.00	41.53
479	56.93	12.58
480	36.52	0.0
481	34.42	71.65
482	36.11	79.47
483	36.84	87.90
484	42.74	90.00
485	44.00	54.75
486	49.46	36.35
487	52.00	90.00
488	52.05	−10.00
489	25.99	0.0
490	24.00	0.0
491	24.00	−10.00
492	20.24	−10.00
493	10.16	86.43
494	8.00	90.58
495	10.20	90.99
496	13.54	90.00
497	18.00	84.13
498	20.28	100.00
499	22.00	100.00
500	23.77	91.15
501	28.06	90.00
502	30.00	86.01
503	32.86	90.70
504	32.86	100.00
505	35.37	100.00
506	36.00	100.00
507	51.77	100.00
508	60.57	95.72
509	64.00	70.00
510	64.91	70.00
511	75.83	70.00
512	82.00	70.00
513	85.72	51.42
514	86.17	49.14
515	86.45	35.13
516	90.00	15.99
517	91.12	26.74
518	92.00	32.85
519	85.74	30.00
520	69.29	−10.00
521	66.00	41.87
522	67.38	96.88
523	80.03	54.96
524	93.95	86.34
525	97.63	83.69
526	94.11	60.00
527	85.86	−10.00
528	70.00	−10.00
529	69.11	−10.00
530	66.80	−10.00
531	64.46	−10.00
532	63.00	44.36
533	52.73	49.27
534	52.00	40.00
535	52.00	43.86
536	54.18	44.33
537	53.36	4.86
538	46.28	15.78
539	48.00	19.83
540	45.65	10.00
541	45.99	10.00
542	46.05	10.00
543	44.71	3.54
544	46.82	−10.00
545	51.92	66.82
546	47.53	−10.00
547	36.31	9.23
548	17.73	55.66
549	25.43	94.52
550	36.00	37.46
551	36.00	40.00
552	34.00	40.00
553	34.00	40.00
554	34.00	36.25
555	38.25	24.68
556	43.36	61.36
557	50.76	46.12
558	52.00	19.92
559	52.32	0.0
560	52.09	3.19
561	48.00	10.00
562	46.00	10.00
563	46.00	10.00
564	30.94	19.48
565	28.00	20.00
566	28.00	20.00
567	28.00	15.81
568	28.00	10.09
569	26.53	10.00
570	26.00	10.00
571	23.71	−10.00
572	17.59	−10.00
573	11.65	−10.00
574	1.92	−10.00
575	0.0	0.0
576	0.0	0.0
577	0.0	0.0
578	0.0	0.0
579	0.0	0.0
580	0.0	0.0
581	0.0	0.0
582	0.0	0.0
583	1.26	25.19
584	6.72	47.67
585	13.67	40.56
586	16.20	80.00
587	16.52	80.00
588	25.63	75.83
589	35.15	70.00
590	38.93	77.31
591	41.76	80.00
592	40.00	10.00
593	40.00	20.18
594	40.00	52.76
595	40.00	34.62
596	40.00	30.00
597	40.00	38.33
598	40.00	30.09
599	36.30	100.00
600	40.61	100.00
601	42.00	100.00
602	42.00	100.00
603	42.00	100.00
604	42.00	100.00
605	42.00	100.00
606	42.50	97.50
607	43.19	85.99
608	43.13	85.66
609	44.00	80.00
610	44.00	80.00
611	44.00	80.00
612	44.00	80.00
613	44.70	80.00
614	46.00	74.91
615	46.00	63.34
616	46.00	60.00
617	46.00	60.00
618	44.00	10.00
619	44.00	10.00
620	43.00	10.00
621	42.00	10.00
622	42.00	10.00
623	43.85	16.26
624	50.00	90.00
625	50.00	90.00
626	50.00	90.00
627	50.00	90.00
628	50.00	90.00
629	46.26	90.00
630	46.00	89.73
631	46.97	80.00
632	49.32	80.00
633	48.00	80.00
634	48.00	80.00
635	48.00	80.00
636	48.00	70.26
637	48.00	70.00
638	48.00	70.00
639	48.00	74.44
640	48.00	61.96
641	48.52	50.00
642	50.00	50.00
643	50.00	40.00
644	50.00	44.82
645	50.76	60.00
646	52.00	48.09
647	52.00	40.00
648	52.00	40.00
649	52.04	40.69
650	54.00	90.00
651	54.00	90.00
652	54.00	85.10
653	55.29	73.59
654	56.00	70.06
655	56.00	70.08
656	56.00	60.09
657	56.00	57.23
658	56.00	50.09
659	56.00	38.17
660	56.00	30.00
661	56.00	30.00
662	54.00	39.28
663	54.00	27.76
664	54.00	20.00
665	54.00	20.00
666	54.00	20.00
667	54.00	11.46
668	54.00	0.68
669	54.00	13.21
670	54.00	30.00
671	54.96	30.00
672	57.28	30.00
673	56.41	20.00
674	57.91	30.00
675	58.22	36.40
676	60.00	90.00
677	60.00	90.00
678	60.00	95.62
679	60.00	92.60
680	60.00	90.00
681	60.00	90.00
682	60.42	90.00
683	62.74	90.00
684	65.05	90.00
685	66.00	83.15
686	66.00	71.59
687	66.00	70.00
688	66.00	70.00
689	66.00	73.14
690	66.00	80.00
691	66.00	90.00
692	66.00	90.00
693	66.00	90.00
694	68.20	100.00
695	70.00	100.00
696	70.00	100.00
697	70.00	100.00
698	74.38	100.00
699	76.00	100.00
700	72.09	100.00
701	73.60	100.00
702	72.00	100.00
703	72.00	100.00
704	72.00	100.00
705	72.00	100.00
706	72.00	100.00
707	72.29	100.00
708	73.39	100.00
709	72.82	100.00
710	74.00	100.00
711	74.00	100.00
712	77.73	100.00
713	78.00	100.00
714	77.50	100.00
715	76.00	100.00
716	76.00	100.00
717	76.00	100.00
718	72.49	100.00
719	71.79	100.00
720	67.16	100.00
721	72.70	100.00
722	75.02	100.00
723	73.34	100.00
724	73.64	91.78
725	74.00	31.21
726	76.27	28.63
727	80.00	17.05
728	80.00	5.48
729	80.00	−10.00
730	80.00	−10.00
731	80.00	62.80
732	84.00	85.00
733	85.43	82.99
734	87.62	99.88
735	84.00	100.00
736	84.00	100.00
737	84.00	91.52
738	86.00	100.00
739	86.73	100.00
740	90.00	86.59
741	91.26	89.00
742	94.00	90.00
743	95.53	91.67
744	96.00	88.76
745	100.00	98.72
746	100.57	78.90
747	102.86	89.00
748	104.00	78.99
749	104.00	90.00
750	104.00	25.98
751	103.71	20.00
752	99.54	20.00
753	96.00	20.00
754	96.00	25.44
755	96.80	85.00
756	100.15	90.00
757	100.03	90.00
758	102.35	90.00
759	104.00	73.36
760	104.00	55.11
761	101.42	30.62
762	98.39	11.57
763	97.85	−10.00
764	98.00	−10.00
765	97.46	−10.00
766	96.00	−10.00
767	96.00	−10.00
768	96.00	27.38
769	96.00	40.00
770	96.00	50.00
771	96.00	45.60
772	96.00	93.77
773	96.00	40.00
774	90.15	5.40
775	92.00	−10.00
776	92.00	−10.00
777	92.00	41.84
778	92.00	59.65
779	92.00	75.21
780	92.00	76.36
781	92.00	90.00
782	92.00	90.00
783	92.00	90.00
784	92.00	90.00
785	91.15	90.00
786	90.00	90.00
787	90.00	87.38
788	90.00	90.00
789	90.00	90.00
790	90.00	90.00
791	90.00	90.00
792	90.00	90.00
793	90.00	83.17
794	90.00	80.00
795	88.66	89.87
796	92.31	90.00
797	94.00	90.66
798	94.00	90.00
799	94.00	90.00
800	94.99	90.00
801	94.99	90.00
802	98.36	70.00
803	98.51	70.00
804	98.00	60.00
805	98.00	60.00
806	98.00	60.00
807	72.31	86.55
808	74.00	90.00
809	74.00	90.00
810	73.29	90.00

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Percent Revolutions per Minute and Torque Versus Time Sequence—Continued

Record (sec)	Revolutions per minute	Torque
811	72.00	84.86
812	73.34	73.29
813	74.00	70.00
814	72.03	70.00
815	71.71	50.00
816	70.00	50.00
817	70.00	50.00
818	68.77	56.15
819	66.00	60.00
820	64.00	60.00
821	65.00	58.28
822	66.00	40.00
823	66.00	46.01
824	66.00	60.00
825	66.60	60.00
826	66.00	60.00
827	66.00	60.00
828	66.00	61.87
829	66.00	70.00
830	66.00	70.00
831	70.00	70.00
832	70.00	70.00
833	70.00	70.00
834	70.00	70.00
835	70.00	70.00
836	70.00	70.00
837	73.61	70.00
838	76.00	62.41
839	76.00	60.00
840	76.00	100.00
841	76.32	100.00
842	80.78	100.00
843	82.00	100.00
844	83.40	100.00
845	84.00	100.00
846	83.97	90.00
847	82.35	80.00
848	85.33	93.31
849	89.95	100.00
850	88.13	100.00
851	89.21	100.00
852	95.76	100.00
853	100.23	100.00
854	102.00	100.00
855	104.59	100.00
856	112.71	100.00
857	113.01	100.00
858	112.00	100.00
859	104.00	−10.00
860	103.58	−10.00
861	102.75	−10.00
862	102.94	−10.00
863	99.24	−10.00
864	94.61	−10.00
865	93.99	−10.00
866	92.32	−10.00
867	93.36	−10.00
868	92.00	−10.00
869	90.73	−10.00
870	88.42	−10.00
871	84.21	−10.00
872	82.00	10.00
873	82.00	7.38
874	82.00	−10.00
875	82.00	−10.00
876	80.78	46.88
877	64.00	70.00
878	64.00	70.00
879	58.68	67.95
880	37.27	80.00
881	34.96	80.00
882	32.85	73.54
883	30.33	80.00
884	28.02	80.00
885	25.70	50.00
886	23.39	37.76
887	21.07	10.00
888	18.76	10.00
889	14.89	−10.00
890	12.13	−10.00
891	5.45	−10.00
892	0.0	0.0
893	0.0	0.0
894	0.0	0.0
895	0.0	0.0
896	0.0	0.0
897	0.0	0.0
898	0.0	0.0
899	0.0	0.0

Percent Revolutions per Minute and Torque Versus Time Sequence—Continued

Record (sec)	Revolutions per minute	Torque
900	0.0	0.0
901	0.0	0.0
902	0.0	0.0
903	0.0	0.0
904	0.0	0.0
905	0.0	0.0
906	0.0	0.0
907	0.0	0.0
908	0.0	0.0
909	0.0	0.0
910	0.0	0.0
911	0.0	0.0
912	0.0	0.0
913	0.0	0.0
914	0.0	0.0
915	0.0	0.0
916	0.0	0.0
917	0.0	0.0
918	0.0	0.0
919	0.0	0.0
920	−1.78	44.40
921	0.0	85.35
922	4.26	100.00
923	27.47	100.00
924	42.96	100.00
925	45.79	100.00
926	48.11	99.45
927	50.42	90.00
928	52.74	75.23
929	54.00	50.00
930	44.42	8.96
931	45.05	−10.00
932	46.00	9.99
933	37.89	−10.00
934	31.81	5.66
935	22.94	35.29
936	24.00	4.87
937	20.86	−10.00
938	12.45	−10.00
939	6.00	−10.00
940	6.52	−10.00
941	7.17	−10.00
942	2.56	−10.00
943	0.0	0.0
944	0.0	0.0
945	0.0	0.0
946	0.0	10.11
947	4.32	46.40
948	0.00	45.17
949	1.95	50.00
950	3.33	41.88
951	4.00	89.46
952	13.76	55.80
953	26.43	25.96
954	33.85	6.16
955	36.00	−16.00
956	34.45	−10.00
957	34.00	−10.00
958	35.84	−10.00
959	32.09	27.39
960	36.00	80.00
961	41.63	74.37
962	60.41	26.76
963	48.44	−10.00
964	43.86	−10.00
965	40.38	−10.00
966	36.50	4.01
967	35.06	30.06
968	40.66	16.79
969	43.64	26.45
970	45.95	−10.00
971	47.10	−10.00
972	46.29	−10.00
973	37.10	−10.00
974	36.00	−10.00
975	34.47	−10.00
976	32.15	−10.00
977	31.67	−10.00
978	28.48	13.59
979	32.38	90.00
980	36.00	90.00
981	41.68	90.00
982	45.74	90.00
983	49.95	90.00
984	49.10	90.00
985	50.59	62.97
986	45.99	34.98
987	42.76	7.23
988	35.12	−10.00

Percent Revolutions per Minute and Torque Versus Time Sequence—Continued

Record (sec)	Revolutions per minute	Torque
989	33.06	67.92
990	35.53	62.55
991	46.57	56.60
992	49.77	46.85
993	52.00	60.00
994	58.06	60.00
995	63.66	23.42
996	64.14	17.84
997	59.58	3.76
998	38.00	42.26
999	39.09	30.00
1000	40.00	30.00
1001	34.85	47.18
1002	32.00	10.30
1003	34.00	33.48
1004	34.00	50.00
1005	33.02	20.69
1006	25.54	−10.00
1007	15.57	−10.00
1008	14.00	−10.00
1009	14.47	27.54
1010	18.00	4.49
1011	17.13	−10.00
1012	16.00	−10.00
1013	10.02	−10.00
1014	9.81	−10.00
1015	5.86	−10.00
1016	4.00	−10.00
1017	4.00	−10.00
1018	2.93	−10.00
1019	0.62	−10.00
1020	0.0	0.0
1021	0.0	0.0
1022	0.0	0.0
1023	0.0	0.0
1024	0.0	0.0
1025	0.0	10.00
1026	0.0	15.00
1027	0.0	29.02
1028	0.0	27.83
1029	0.0	7.34
1030	0.0	0.0
1031	0.0	0.0
1032	0.0	0.0
1033	0.0	0.0
1034	0.0	0.0
1035	0.0	0.0
1036	0.0	0.0
1037	0.0	0.0
1038	0.0	0.0
1039	0.0	0.0
1040	0.0	0.0
1041	2.00	0.0
1042	1.38	0.0
1043	0.0	0.0
1044	0.0	6.27
1045	0.0	2.16
1046	0.0	0.0
1047	0.0	0.0
1048	0.0	0.0
1049	0.83	−10.00
1050	3.00	−10.00
1051	0.54	−10.00
1052	0.0	0.0
1053	0.0	0.0
1054	0.0	0.0
1055	0.0	0.0
1056	0.0	0.0
1057	0.0	0.0
1058	0.0	0.0
1059	0.0	0.0
1060	0.0	0.0
1061	0.0	0.0
1062	0.0	22.01
1063	1.23	72.29
1064	6.63	80.00
1065	17.29	89.29
1066	22.17	90.00
1067	24.00	82.70
1068	24.00	31.96
1069	24.00	−10.00
1070	22.57	−10.00
1071	22.00	−10.00
1072	13.66	−10.00
1073	10.00	−10.00
1074	9.21	−10.00
1075	3.99	−10.00
1076	0.0	0.0
1077	0.0	0.0

Percent Revolutions per Minute and Torque Versus Time Sequence—Continued

Record (sec)	Revolutions per minute	Torque
1078	0.0	0.0
1079	0.0	0.0
1080	0.0	0.0
1081	0.0	0.0
1082	0.0	0.0
1083	0.0	0.0
1084	0.0	0.0
1085	0.0	0.0
1086	0.0	0.0
1087	0.0	0.0
1088	0.0	0.0
1089	0.0	0.0
1090	0.0	0.0
1091	0.0	0.0
1092	0.0	0.0
1093	0.0	0.0
1094	0.0	0.0
1095	0.0	0.0
1096	0.0	0.0
1097	0.0	0.0
1098	0.0	0.0
1099	−2.52	6.30
1100	−4.22	15.35
1101	0.0	10.00
1102	0.0	10.00
1103	0.0	10.00
1104	0.0	75.93
1105	0.0	32.22
1106	1.57	35.00
1107	15.46	29.82
1108	25.46	−10.00
1109	24.32	−10.00
1110	23.44	−10.00
1111	12.41	80.00
1112	8.54	83.81
1113	7.26	84.82
1114	16.70	80.00
1115	24.67	63.33
1116	0.24	79.81
1117	0.0	8.52
1118	0.0	0.0
1119	0.0	0.0
1120	0.0	0.0
1121	0.0	0.0
1122	0.0	0.0
1123	0.0	0.0
1124	0.0	0.0
1125	0.0	0.0
1126	0.0	0.0
1127	0.0	0.0
1128	0.0	17.58
1129	0.0	10.03
1130	0.0	10.00
1131	0.0	10.00
1132	0.0	10.00
1133	0.0	9.34
1134	0.0	0.0
1135	0.0	0.0
1136	0.0	0.0
1137	0.0	0.0
1138	0.0	0.0
1139	0.0	0.0
1140	0.0	0.0
1141	0.0	0.0
1142	0.0	0.0
1143	0.0	0.0
1144	0.0	0.0
1145	0.0	0.0
1146	0.0	0.0
1147	0.0	0.0
1148	0.0	0.0
1149	0.0	0.0
1150	0.0	0.0
1151	0.0	0.0
1152	0.0	0.0
1153	0.0	0.0
1154	0.0	0.0
1155	0.0	0.0
1156	0.0	0.0
1157	0.0	0.0
1158	0.0	0.0
1159	0.0	0.0
1160	0.0	0.0
1161	0.0	0.0
1162	0.0	0.0
1163	0.0	0.0
1164	0.0	0.0
1165	0.0	0.0
1166	0.0	0.0

Percent Revolutions per Minute and Torque Versus Time Sequence—Continued

Record (sec)	Revolutions per minute	Torque
1167	0.0	0.0

Closed rack.

(2) EPA Engine Dynamometer Schedule For Heavy Duty Diesel Engines

(1) Diesel Engine Percent Revolutions per Minute and Percent Torque Versus Time Sequence

Record (sec)	Revolutions per min	Torque
0	0.0	0.0
1	0.0	0.0
2	0.0	0.0
3	0.0	0.0
4	0.0	0.0
5	0.0	0.0
6	0.0	0.0
7	0.0	0.0
8	0.0	0.0
9	0.0	0.0
10	0.0	0.0
11	0.0	0.0
12	0.0	0.0
13	0.0	0.0
14	0.0	0.0
15	0.0	0.0
16	0.0	0.0
17	0.0	0.0
18	0.0	0.0
19	0.0	0.0
20	0.0	0.0
21	0.0	0.0
22	0.0	0.0
23	0.0	0.0
24	0.0	0.0
25	0.0	3.67
26	0.0	47.69
27	3.11	68.41
28	9.09	84.54
29	15.62	80.60
30	20.49	80.00
31	37.93	79.29
32	31.20	38.25
33	21.99	26.67
34	20.00	15.10
35	22.23	16.47
36	19.61	28.05
37	20.00	20.36
38	16.23	(1)
39	6.55	(1)
40	15.62	(1)
41	23.63	(1)
42	17.51	(1)
43	14.19	62.52
44	16.64	69.36
45	27.77	80.00
46	37.03	63.78
47	47.36	75.36
48	54.77	80.08
49	57.70	80.00
50	54.03	79.92
51	58.00	65.03
52	59.65	43.29
53	62.88	50.00
54	69.83	50.00
55	72.00	42.05
56	76.81	40.00
57	84.22	42.20
58	83.66	41.26
59	80.55	(1)
60	80.51	(1)
61	78.00	(1)
62	78.79	(1)
63	80.33	30.54
64	85.58	42.12
65	81.76	50.00
66	78.00	50.00
67	83.74	43.18
68	92.10	73.65
69	88.01	(1)
70	84.00	(1)
71	84.00	(1)

(1) Diesel Engine Percent Revolutions per Minute and Percent Torque Versus Time Sequence—Continued

Record (sec)	Revolutions per min	Torque
72	81.17	(1)
73	76.46	(1)
74	66.99	12.57
75	62.23	28.43
76	64.00	20.00
77	69.46	17.42
78	60.34	10.00
79	56.85	10.00
80	56.00	(1)
81	52.45	(1)
82	39.91	10.00
83	36.38	10.00
84	30.00	10.09
85	27.98	11.00
86	26.00	18.74
87	27.86	5.96
88	28.00	(1)
89	27.41	(1)
90	20.96	(1)
91	12.15	(1)
92	3.81	(1)
93	0.0	0.0
94	0.0	0.0
95	0.0	0.91
96	0.0	7.52
97	0.0	0.0
98	0.0	0.0
99	0.0	0.0
100	0.0	0.0
101	0.0	0.0
102	0.0	0.0
103	0.0	0.0
104	0.0	0.0
105	0.0	0.0
106	0.0	0.0
107	0.0	0.0
108	0.0	0.0
109	0.0	0.0
110	0.0	0.0
111	0.0	0.0
112	0.0	0.0
113	0.0	0.0
114	0.0	0.0
115	0.0	0.0
116	0.0	0.0
117	0.0	0.0
118	0.0	0.0
119	0.0	0.0
120	0.0	0.0
121	0.0	0.0
122	0.0	0.0
123	0.0	0.0
124	0.0	0.0
125	0.0	0.0
126	0.0	0.0
127	0.0	0.0
128	0.0	0.0
129	1.77	(1)
130	1.60	(1)
131	0.0	0.0
132	0.0	0.0
133	2.14	6.28
134	3.06	0.0
135	0.0	0.0
136	0.0	0.0
137	0.0	0.0
138	0.0	0.0
139	0.0	0.0
140	0.0	0.0
141	0.0	0.0
142	0.0	0.0
143	0.0	0.0
144	0.0	0.0
145	0.0	0.0
146	0.0	0.0
147	0.0	5.51
148	0.0	11.34
149	0.0	0.0
150	0.0	0.0
151	0.0	0.0
152	0.0	0.0
153	0.0	0.0
154	0.0	0.0
155	0.0	0.0
156	0.0	0.0
157	0.0	0.0
158	0.0	0.21
159	0.0	30.00

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(1) Diesel Engine Percent Revolutions per Minute and Percent Torque Versus Time Sequence—Continued

Record (sec)	Revolutions per min	Torque
160	0.0	26.78
161	0.0	20.00
162	0.0	20.00
163	0.0	4.12
164	0.0	0.0
165	0.0	0.0
166	0.0	0.0
167	0.0	0.0
168	0.0	0.0
169	0.0	0.0
170	0.0	0.0
171	0.0	0.0
172	0.0	0.0
173	0.0	0.0
174	0.0	0.0
175	0.0	0.0
176	0.0	0.0
177	0.0	0.0
178	0.0	0.0
179	0.0	0.0
180	0.0	0.0
181	0.0	0.0
182	0.0	0.0
183	0.0	0.0
184	0.0	20.00
185	0.0	20.00
186	0.0	11.73
187	0.0	0.0
188	0.0	0.0
189	0.0	0.0
190	0.0	0.0
191	0.0	0.0
192	0.0	0.0
193	0.0	0.0
194	0.0	0.0
195	0.0	0.0
196	0.0	0.0
197	0.0	0.0
198	0.0	0.0
199	0.0	0.0
200	0.0	0.0
201	0.0	0.0
202	0.0	0.0
203	0.0	0.0
204	0.0	0.0
205	0.0	0.0
206	0.0	0.0
207	0.0	0.0
208	0.0	0.0
209	0.0	0.0
210	0.0	0.0
211	0.0	0.0
212	0.0	0.0
213	0.0	0.0
214	0.0	73.41
215	0.0	90.00
216	31.30	81.30
217	41.15	90.00
218	44.00	90.00
219	49.41	90.00
220	51.04	82.41
221	65.96	80.00
222	75.03	90.00
223	89.85	90.00
224	96.78	93.86
225	96.91	50.84
226	94.80	17.02
227	99.16	28.60
228	100.00	39.23
229	100.00	30.00
230	100.00	26.69
231	100.98	20.00
232	100.71	20.00
233	100.00	36.06
234	98.16	40.00
235	95.77	30.00
236	94.55	32.75
237	96.56	35.69
238	99.18	30.00
239	100.00	44.93
240	101.81	50.00
241	98.54	(1)
242	83.56	(1)
243	56.00	(1)
244	40.00	(1)
245	41.96	45.18
246	38.31	78.47
247	35.08	80.00

(1) Diesel Engine Percent Revolutions per Minute and Percent Torque Versus Time Sequence—Continued

Record (sec)	Revolutions per min	Torque
248	51.03	80.00
249	25.36	80.00
250	23.05	80.97
251	18.20	27.34
252	12.84	43.71
253	10.10	66.95
254	3.79	88.95
255	1.48	44.28
256	0.0	0.0
257	0.0	0.0
258	0.0	0.0
259	0.0	0.0
260	0.0	0.0
261	0.0	0.0
262	0.0	0.0
263	0.0	24.97
264	0.0	17.16
265	0.0	6.20
266	0.0	10.00
267	0.0	10.00
268	0.0	0.0
269	0.0	0.0
270	0.0	0.0
271	0.0	0.0
272	0.0	0.0
273	0.0	0.0
274	0.0	0.0
275	0.0	0.0
276	0.0	0.0
277	0.0	0.0
278	0.0	0.0
279	0.0	0.0
280	0.0	0.0
281	0.0	0.0
282	0.0	0.0
283	0.0	0.0
284	0.0	0.0
285	0.0	0.0
286	0.0	0.0
287	0.0	0.0
288	0.0	0.0
289	0.0	0.0
290	0.0	0.0
291	0.0	0.0
292	0.0	0.0
293	0.0	0.0
294	0.0	0.0
295	0.0	0.0
296	0.0	0.0
297	0.0	0.0
298	0.0	0.0
299	0.0	0.0
300	0.0	0.0
301	0.0	0.0
302	0.0	0.0
303	0.0	0.0
304	0.0	0.0
305	0.0	0.0
306	0.0	0.0
307	0.0	0.0
308	0.0	0.0
309	0.0	0.0
310	0.0	0.0
311	0.0	0.0
312	0.0	0.0
313	0.0	0.0
314	0.0	0.0
315	0.0	0.0
316	0.0	0.0
317	0.0	0.0
318	0.0	0.0
319	0.0	0.0
320	0.0	0.0
321	0.0	15.55
322	0.0	20.00
323	24.18	19.08
324	29.00	10.00
325	11.56	1.86
326	0.87	(1)
327	6.00	(1)
328	0.72	(1)
329	0.0	0.0
330	0.0	0.0
331	0.0	0.0
332	0.0	0.0
333	0.0	0.0
334	0.0	0.0
335	0.0	0.0

(1) Diesel Engine Percent Revolutions per Minute and Percent Torque Versus Time Sequence—Continued

Record (sec)	Revolutions per min	Torque
336	0.0	0.0
337	0.0	0.0
338	0.0	0.0
339	0.0	0.0
340	0.0	0.0
341	0.0	0.0
342	0.0	0.0
343	0.0	0.0
344	0.0	0.0
345	0.0	0.0
346	0.0	0.0
347	0.0	0.0
348	0.0	0.0
349	0.0	0.0
350	0.0	0.0
351	0.0	0.0
352	0.0	0.0
353	0.0	0.0
354	0.0	0.0
355	0.0	0.0
356	0.0	0.0
357	0.0	0.0
358	0.0	0.0
359	0.0	0.0
360	0.0	0.0
361	0.0	0.0
362	0.0	0.0
363	0.0	0.0
364	0.0	0.0
365	0.0	0.0
366	0.0	0.0
367	0.0	0.0
368	0.0	0.0
369	0.0	0.0
370	0.0	0.0
371	0.0	0.0
372	0.0	0.0
373	0.0	0.0
374	0.0	0.0
375	0.0	0.0
376	0.0	0.0
377	0.0	29.59
378	−1.50	87.46
379	8.88	100.00
380	46.04	100.00
381	76.89	100.00
382	80.00	100.00
383	82.14	94.54
384	85.39	83.07
385	87.70	86.51
386	92.00	79.83
387	92.00	81.66
388	94.58	86.77
389	102.68	80.00
390	106.00	72.76
391	109.18	8.43
392	111.91	(1)
393	82.00	(1)
394	78.33	(1)
395	71.15	(1)
396	68.84	(1)
397	78.35	48.17
398	82.00	70.00
399	80.65	69.46
400	92.85	60.00
401	97.48	60.00
402	98.95	60.00
403	100.74	60.00
404	103.68	43.17
405	104.00	10.04
406	80.82	20.00
407	83.37	20.00
408	91.06	15.29
409	80.00	10.00
410	76.86	(1)
411	74.11	(1)
412	71.60	(1)
413	70.58	(1)
414	78.00	(1)
415	80.29	1.45
416	80.54	17.30
417	78.23	11.13
418	78.45	19.55
419	84.36	24.18
420	72.16	80.00
421	79.10	74.83
422	90.09	18.04
423	74.04	(1)

(1) Diesel Engine Percent Revolutions per Minute and Percent Torque Versus Time Sequence—Continued

Record (sec)	Revolutions per min	Torque
424	68.02	(1)
425	68.53	(1)
426	59.39	(1)
427	53.54	(1)
428	70.00	2.36
429	73.10	17.76
430	72.13	(1)
431	57.27	(1)
432	36.03	(1)
433	20.75	(1)
434	11.49	(1)
435	−2.09	0.0
436	−0.73	0.0
437	8.57	60.00
438	20.55	81.93
439	67.10	63.00
440	86.03	39.85
441	89.33	30.00
442	91.64	30.00
443	97.88	10.40
444	97.73	1.37
445	96.00	10.00
446	96.00	0.98
447	96.00	(1)
448	85.27	28.34
449	87.54	30.76
450	86.18	29.18
451	86.00	20.00
452	87.21	20.00
453	86.00	20.00
454	87.42	20.00
455	86.00	11.32
456	77.84	(1)
457	72.00	(1)
458	71.52	(1)
459	70.00	0.04
460	70.00	(1)
461	74.88	(1)
462	74.08	(1)
463	67.74	(1)
464	66.00	(1)
465	64.23	(1)
466	62.00	(1)
467	55.84	(1)
468	54.00	(1)
469	66.43	(1)
470	75.21	70.00
471	86.00	54.53
472	86.00	34.58
473	88.81	(1)
474	90.00	(1)
475	105.48	(1)
476	74.00	(1)
477	79.54	(1)
478	71.02	10.00
479	76.45	29.38
480	81.61	40.00
481	78.16	20.39
482	74.13	25.48
483	80.00	0.0
484	80.87	0.0
485	82.00	(1)
486	80.50	(1)
487	84.00	(1)
488	94.13	(1)
489	88.96	(1)
490	93.25	(1)
491	82.00	(1)
492	49.54	45.37
493	52.40	86.99
494	84.00	90.00
495	84.99	90.00
496	71.92	93.22
497	76.67	95.21
498	82.00	93.84
499	86.76	80.00
500	93.71	80.00
501	94.87	80.00
502	103.60	80.00
503	101.23	41.89
504	95.48	24.85
505	98.00	50.00
506	96.76	50.00
507	106.21	46.82
508	110.84	(1)
509	98.55	(1)
510	70.85	(1)
511	67.27	(1)

(1) Diesel Engine Percent Revolutions per Minute and Percent Torque Versus Time Sequence—Continued

Record (sec)	Revolutions per min	Torque
512	60.96	(1)
513	48.03	(1)
514	52.31	(1)
515	54.00	(1)
516	65.27	(1)
517	78.00	(1)
518	57.61	(1)
519	42.58	(1)
520	36.81	(1)
521	22.37	(1)
522	9.52	(1)
523	0.0	0.0
524	−1.46	36.39
525	−0.23	5.75
526	0.0	0.0
527	0.0	0.0
528	0.0	0.0
529	0.0	0.0
530	0.0	0.0
531	0.0	0.0
532	0.0	0.0
533	0.0	0.0
534	0.0	0.0
535	0.0	0.0
536	0.0	0.0
537	0.0	0.0
538	0.0	0.0
539	0.0	0.0
540	0.0	0.0
541	0.0	0.0
542	0.0	0.0
543	0.0	0.0
544	0.0	(1)
545	0.0	0.0
546	−0.75	0.0
547	−0.56	0.0
548	4.00	(1)
549	0.69	(1)
550	0.0	0.0
551	0.0	0.0
552	0.0	2.80
553	0.0	20.00
554	0.0	20.00
555	0.0	7.96
556	0.0	0.0
557	0.0	0.0
558	0.0	78.53
559	1.85	90.00
560	11.10	63.88
561	15.00	70.00
562	30.05	70.00
563	42.88	70.00
564	55.10	70.00
565	63.39	68.52
566	70.65	59.94
567	72.96	90.00
568	77.87	86.46
569	88.03	90.00
570	90.00	90.00
571	92.23	100.00
572	94.00	100.00
573	94.66	100.00
574	96.00	100.00
575	97.45	100.00
576	106.64	100.00
577	110.00	83.82
578	104.77	(1)
579	87.50	(1)
580	90.00	0.0
581	91.36	(1)
582	81.84	(1)
583	85.99	(1)
584	63.68	(1)
585	69.73	(1)
586	57.05	(1)
587	59.47	(1)
588	50.42	(1)
589	44.31	(1)
590	37.58	57.01
591	33.46	21.00
592	31.16	21.00
593	28.85	20.00
594	22.13	20.00
595	9.31	(1)
596	0.0	0.0
597	0.0	0.0
598	0.0	0.0
599	0.0	0.0

(1) Diesel Engine Percent Revolutions per Minute and Percent Torque Versus Time Sequence—Continued

Record (sec)	Revolutions per min	Torque
600	0.0	0.0
601	0.0	0.0
602	0.0	0.0
603	0.0	0.0
604	0.0	0.0
605	0.0	0.0
606	2.52	8.30
607	10.30	17.87
608	13.89	20.00
609	20.20	20.00
610	24.07	22.50
611	33.33	17.50
612	40.20	(1)
613	47.85	(1)
614	66.00	7.76
615	66.00	10.85
616	67.59	32.04
617	66.00	40.00
618	67.04	40.00
619	68.00	40.00
620	66.00	46.38
621	75.93	99.53
622	78.00	100.00
623	78.00	100.00
624	77.07	100.00
625	76.00	100.00
626	76.00	100.00
627	76.00	100.00
628	75.63	100.00
629	73.00	97.50
630	76.91	90.00
631	80.25	90.00
632	83.44	90.00
633	84.00	98.76
634	84.00	100.00
635	83.61	100.00
636	82.00	100.00
637	83.02	94.91
638	86.67	90.00
639	89.65	90.00
640	90.00	99.81
641	89.45	100.00
642	96.00	100.00
643	96.00	95.47
644	97.22	90.00
645	96.00	90.00
646	98.00	90.74
647	96.00	79.17
648	96.00	77.21
649	98.00	100.00
650	98.00	94.45
651	98.00	90.00
652	98.00	90.00
653	90.00	90.00
654	89.63	90.00
655	89.68	90.00
656	90.00	90.00
657	90.00	90.00
658	91.63	81.86
659	92.00	80.00
660	90.00	81.29
661	86.43	92.85
662	87.11	100.00
663	96.00	100.00
664	98.00	100.00
665	98.00	100.00
666	90.00	99.27
667	90.46	90.00
668	92.78	90.00
669	95.09	90.00
670	100.22	82.97
671	102.00	80.00
672	102.00	70.18
673	102.00	80.00
674	97.34	50.07
675	97.02	(1)
676	96.00	(1)
677	73.12	22.19
678	75.77	39.82
679	75.76	46.80
680	75.11	37.23
681	78.00	34.34
682	80.37	40.00
683	77.51	47.49
684	81.44	50.00
685	82.13	39.36
686	84.00	27.79
687	84.00	16.21

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(1) Diesel Engine Percent Revolutions per Minute and Percent Torque Versus Time Sequence—Continued

Record (sec)	Revolutions per min	Torque
688	84.00	15.36
689	85.39	26.93
690	86.00	30.00
691	86.00	30.08
692	85.87	40.00
693	84.65	40.00
694	86.00	35.20
695	87.29	30.00
696	88.00	22.05
697	86.09	(1)
698	83.76	(1)
699	81.47	(1)
700	81.70	(1)
701	85.16	(1)
702	84.52	(1)
703	82.21	(1)
704	79.89	(1)
705	77.58	(1)
706	78.00	8.31
707	79.16	0.0
708	75.16	27.36
709	72.00	40.00
710	72.00	40.00
711	74.00	36.44
712	74.00	30.00
713	74.00	30.00
714	74.00	36.28
715	72.43	47.86
716	68.23	58.43
717	73.80	50.00
718	72.52	50.00
719	74.00	45.86
720	72.65	57.16
721	76.38	62.70
722	81.55	60.00
723	86.16	60.00
724	83.60	60.00
725	83.44	56.40
726	86.00	50.00
727	87.35	50.00
728	86.34	50.00
729	86.00	40.11
730	88.29	61.47
731	86.76	63.92
732	88.92	50.00
733	86.76	50.00
734	87.55	42.24
735	88.00	48.34
736	86.00	50.91
737	86.00	57.45
738	86.00	61.86
739	87.13	70.00
740	89.44	77.21
741	91.75	86.78
742	90.67	89.65
743	92.00	80.00
744	92.70	80.00
745	94.00	80.00
746	94.00	80.00
747	94.00	80.00
748	94.00	80.00
749	94.00	81.37
750	94.58	87.05
751	96.00	57.40
752	95.00	42.19
753	96.00	42.33
754	96.00	40.00
755	95.00	38.37
756	95.00	12.83
757	95.00	(1)
758	96.00	(1)
759	96.00	(1)
760	97.74	7.37
761	100.05	19.74
762	102.00	11.83
763	102.00	26.51
764	103.00	49.95
765	104.00	60.00
766	102.37	60.00
767	103.94	60.00
768	104.00	40.00
769	104.00	25.75
770	103.12	(1)
771	100.80	(1)
772	100.00	(1)
773	101.83	44.58
774	102.00	26.40
775	102.00	(1)
776	102.00	(1)
777	100.91	(1)
778	101.40	(1)
779	100.26	(1)
780	97.97	(1)
781	96.00	(1)
782	96.00	10.00
783	96.00	0.23
784	96.00	(1)
785	96.00	(1)
786	94.08	(1)
787	78.00	(1)
788	77.45	(1)
789	71.67	28.98
790	67.16	80.00
791	68.50	87.48
792	71.43	90.00
793	74.13	90.00
794	75.56	92.20
795	74.75	100.00
796	77.07	94.65
797	79.36	83.08
798	80.00	71.51
799	80.01	69.93
800	82.33	58.38
801	84.00	50.00
802	84.00	59.58
803	84.00	76.36
804	84.00	90.00
805	84.00	70.49
806	82.00	80.00
807	81.47	82.66
808	80.00	90.00
809	77.66	90.00
810	74.52	75.24
811	77.58	78.96
812	81.86	90.00
813	80.42	90.00
814	82.00	83.66
815	83.05	79.50
816	84.00	70.00
817	84.00	61.60
818	84.00	50.03
819	86.00	90.00
820	86.00	90.00
821	86.00	89.29
822	88.51	73.73
823	88.43	70.00
824	88.00	70.00
825	94.00	70.98
826	94.51	90.00
827	95.17	90.00
828	95.14	90.00
829	94.54	90.00
830	94.00	90.00
831	94.00	77.66
832	94.00	31.98
833	94.00	43.57
834	94.00	60.28
835	94.00	63.28
836	94.00	76.57
837	94.00	89.86
838	94.29	90.00
839	97.80	97.00
840	102.91	80.00
841	104.00	73.85
842	104.00	62.58
843	104.00	69.29
844	106.00	70.00
845	106.00	62.70
846	106.00	40.00
847	104.88	40.00
848	104.00	32.85
849	104.00	30.00
850	104.00	0.30
851	103.63	11.87
852	100.62	13.12
853	98.00	5.01
854	96.68	10.00
855	96.00	(1)
856	96.00	(1)
857	96.00	(1)
858	96.43	(1)
859	94.00	(1)
860	94.00	(1)
861	95.52	5.18
862	97.50	(1)
863	99.00	(1)
864	98.00	(1)
865	97.22	(1)
866	96.00	8.36
867	95.00	12.98
868	95.00	10.00
869	95.93	10.00
870	92.00	10.00
871	92.00	10.00
872	92.98	14.89
873	94.00	13.54
874	90.79	42.12
875	88.08	40.40
876	86.23	30.00
877	88.00	32.75
878	87.14	44.32
879	84.82	50.00
880	82.51	50.00
881	82.00	50.00
882	82.12	40.00
883	83.13	35.64
884	80.00	20.00
885	84.26	51.96
886	86.62	86.21
887	84.31	80.00
888	81.89	9.96
889	79.35	1.81
890	75.36	19.56
891	73.05	40.00
892	70.73	8.35
893	69.42	(1)
894	47.15	8.95
895	35.79	10.00
896	32.95	7.36
897	29.15	(1)
898	16.47	(1)
899	2.13	(1)
900	0.0	0.0
901	0.0	0.0
902	0.0	0.0
903	0.0	0.0
904	0.0	0.0
905	0.0	0.0
906	0.0	0.0
907	0.0	0.0
908	0.0	0.0
909	0.0	0.0
910	0.0	0.0
911	0.0	0.0
912	0.0	0.0
913	0.0	0.0
914	0.0	0.0
915	0.0	0.0
916	0.0	0.0
917	0.0	0.0
918	0.0	0.0
919	0.0	0.0
920	0.0	0.0
921	0.0	0.0
922	0.0	0.0
923	0.0	0.0
924	0.0	0.0
925	0.0	0.0
926	0.0	0.0
927	0.0	3.67
928	0.0	47.59
929	3.11	59.41
930	5.09	84.54
931	15.62	80.00
932	33.49	80.00
933	37.93	79.29
934	31.20	38.25
935	21.99	26.67
936	30.00	15.10
937	22.23	16.47
938	19.81	28.05
939	20.00	20.36
940	18.33	(1)
941	6.55	(1)
942	15.82	(1)
943	23.63	(1)
944	17.51	(1)
945	14.19	62.52
946	16.64	69.36
947	27.77	60.00
948	37.03	63.79
949	47.36	75.36
950	54.77	80.00
951	54.70	80.00
952	54.00	79.92
953	58.00	65.03
954	58.65	43.23
955	62.88	50.00
956	69.83	50.00
957	72.00	42.25
958	75.81	40.00
959	84.22	42.21
960	83.86	41.26
961	80.55	(1)
962	80.51	(1)
963	78.00	(1)
964	79.79	(1)
965	80.33	30.54
966	85.58	42.12
967	81.76	50.00
968	78.00	50.00
969	80.74	43.16
970	82.10	73.65
971	86.01	(1)
972	84.00	(1)
973	84.00	(1)
974	81.17	(1)
975	70.46	(1)
976	66.00	13.57
977	62.23	29.43
978	64.00	20.00
979	62.48	17.42
980	60.34	10.00
981	56.85	10.00
982	56.00	(1)
983	52.45	(1)
984	39.91	10.00
985	36.38	10.00
986	30.00	10.00
987	27.93	10.00
988	26.00	16.74
989	27.66	3.36
990	28.00	(1)
991	27.41	(1)
992	20.96	(1)
993	12.15	(1)
994	3.91	(1)
995	0.0	0.0
996	0.0	0.0
997	0.0	0.91
998	0.0	7.52
999	0.0	0.0
1000	0.0	0.0
1001	0.0	0.0
1002	0.0	0.0
1003	0.0	0.0
1004	0.0	0.0
1005	0.0	0.0
1006	0.0	0.0
1007	0.0	0.0
1008	0.0	0.0
1009	0.0	0.0
1010	0.0	0.0
1011	0.0	0.0
1012	0.0	0.0
1013	0.0	0.0
1014	0.0	0.0
1015	0.0	0.0
1016	0.0	0.0
1017	0.0	0.0
1018	0.0	0.0
1019	0.0	0.0
1020	0.0	0.0
1021	0.0	0.0
1022	0.0	0.0
1023	0.0	0.0
1024	0.0	0.0
1025	0.0	0.0
1026	0.0	0.0
1027	0.0	0.0
1028	0.0	0.0
1029	0.0	0.0
1030	0.0	0.0
1031	1.77	(1)
1032	1.60	(1)
1033	0.0	0.0
1034	0.0	0.0
1035	2.14	9.28
1036	9.06	0.0
1037	0.0	0.0
1038	0.0	0.0
1039	0.0	0.0
1040	0.0	0.0
1041	0.0	0.0
1042	0.0	0.0
1043	0.0	0.0
1044	0.0	0.0
1045	0.0	0.0
1046	0.0	0.0
1047	0.0	0.0
1048	0.0	0.0
1049	0.0	5.51
1050	0.0	11.34
1051	0.0	0.0
1052	0.0	0.0
1053	0.0	0.0
1054	0.0	0.0
1055	0.0	0.0
1056	0.0	0.0
1057	0.0	0.0
1058	0.0	0.0
1059	0.0	0.0
1060	0.0	0.21
1061	0.0	30.00
1062	0.0	20.76
1063	0.0	20.00
1064	0.0	20.00
1065	0.0	4.12
1066	0.0	0.0
1067	0.0	0.0
1068	0.0	0.0
1069	0.0	0.0
1070	0.0	0.0
1071	0.0	0.0
1072	0.0	0.0
1073	0.0	0.0
1074	0.0	0.0
1075	0.0	0.0
1076	0.0	0.0
1077	0.0	0.0
1078	0.0	0.0
1079	0.0	0.0
1080	0.0	0.0
1081	0.0	0.0
1082	0.0	0.0
1083	0.0	0.0
1084	0.0	0.0
1085	0.0	0.0
1086	0.0	20.00
1087	0.0	20.00
1088	0.0	11.72
1089	0.0	0.0
1090	0.0	0.0
1091	0.0	0.0
1092	0.0	0.0
1093	0.0	0.0
1094	0.0	0.0
1095	0.0	0.0
1096	0.0	0.0
1097	0.0	0.0
1098	0.0	0.0
1099	0.0	0.0
1100	0.0	0.0
1101	0.0	0.0
1102	0.0	0.0
1103	0.0	0.0
1104	0.0	0.0
1105	0.0	0.0
1106	0.0	0.0
1107	0.0	0.0
1108	0.0	0.0
1109	0.0	0.0
1110	0.0	0.0
1111	0.0	0.0
1112	0.0	0.0
1113	0.0	0.0
1114	0.0	0.0
1115	0.0	0.0
1116	0.0	73.41
1117	0.0	90.00
1118	31.30	81.30
1119	41.15	90.00
1120	44.00	90.00
1121	46.41	90.00
1122	51.04	82.41
1123	66.66	80.00
1124	75.03	90.00
1125	89.85	90.00
1126	96.78	93.66
1127	98.91	59.94
1128	94.00	17.02
1129	90.16	28.80
1130	100.00	99.83
1131	100.00	30.00
1132	100.00	28.66
1133	100.98	20.00
1134	100.71	20.09
1135	100.00	36.06
1136	98.16	40.00
1137	95.77	20.00
1138	94.55	32.75
1139	96.66	25.66
1140	98.16	30.00
1141	100.00	44.98
1142	101.81	50.00
1143	98.54	(1)
1144	93.58	(1)
1145	86.00	(1)
1146	48.00	(1)
1147	41.66	45.16
1148	38.31	78.47
1149	35.98	80.00
1150	91.03	80.00
1151	25.36	86.00
1152	23.05	60.97
1153	18.20	27.34
1154	12.64	43.71
1155	10.10	66.95
1156	3.79	66.95
1157	1.48	44.28
1158	0.0	0.0
1159	0.0	0.0
1160	0.0	0.0
1161	0.0	0.0
1162	0.0	0.0
1163	0.0	0.0
1164	0.0	0.0
1165	0.0	24.97
1166	0.0	17.16
1167	0.0	5.20
1168	0.0	10.00
1169	0.0	10.00
1170	0.0	0.0
1171	0.0	0.0
1172	0.0	0.0
1173	0.0	0.0
1174	0.0	0.0
1175	0.0	0.0
1176	0.0	0.0
1177	0.0	0.0
1178	0.0	0.0
1179	0.0	0.0
1180	0.0	0.0
1181	0.0	0.0
1182	0.0	0.0
1183	0.0	0.0
1184	0.0	0.0
1185	0.0	0.0
1186	0.0	0.0
1187	0.0	0.0
1188	0.0	0.0
1189	0.0	0.0
1190	0.0	0.0
1191	0.0	0.0
1192	0.0	0.0
1193	0.0	0.0
1194	0.0	0.0
1195	0.0	0.0
1196	0.0	0.0
1197	0.0	0.0
1198	0.0	0.0
1199	0.0	0.0

[1] Closed Rack.

26. New Subpart P—Emission Regulations for New Gasoline-Fueled Heavy-Duty Engines and Vehicles; Idle Test Procedures—is added to read as set forth below.

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Subpart P—Emission Regulations for New Gasoline-Fueled Heavy-Duty Engines and Vehicles; Idle Test Procedures

Sec.

86.1501–84 Scope; applicability.
86.1502–84 Definitions.
86.1503–84 Abbreviations.
86.1504–84 Section numbering; construction.
86.1505–84 Introduction; structure of subpart.
86.1506–84 Equipment required and specifications; overview.
86.1507–84—86.1508–84 [Reserved]
86.1509–84 Exhaust gas sampling system.
86.1510–84 [Reserved]
86.1511–84 Exhaust gas analysis system.
86.1512–84 [Reserved]
86.1513–84 Fuel specifications.
86.1514–84 Analytical gases.
86.1515–84 [Reserved]
86.1516–84 Calibration; frequency and overview.
86.1517–84—86.1518–84 [Reserved]
86.1519–84 CVS calibration.
86.1520–84—86.1521–84 [Reserved]
86.1522–84 Carbon monoxide analyzer calibration.
86.1523–84 [Reserved]
86.1524–84 Carbon dioxide analyzer calibration.
86.1525–84 [Reserved]
86.1526–84 Calibration of other equipment.
86.1527–84 Idle test procedure; overview.
86.1528–84—86.1529–84 [Reserved]
86.1530–84 Test sequence: general requirements.
86.1531–84—86.1536–84 [Reserved]
86.1537–84 Idle test run.
86.1538–84—86.1539–84 [Reserved]
86.1540–84 Idle exhaust sample analysis.
86.1541–84 [Reserved]
86.1542–84 Information required.
86.1543–84 [Reserved]
86.1544–84 Calculations; idle exhaust emissions.

Authority.—Secs. 202, 206, 207, 208, 301(a) of the Clean Air Act, as amended (42 U.S.C. 7521, 7525, 7541, 7542, and 7601.

Subpart P—Emission Regulations for New Gasoline-Fueled Heavy-Duty Engines and Vehicles; Idle Test Procedures

§ 86.1501–84 Scope; applicability.

This subpart contains gaseous emission idle test procedures for heavy-duty gasoline-fueled engines and vehicles. It applies to 1984 and later model years.

§ 86.1502–84 Definitions.

The definitions in § 86.084–2 apply to this subpart.

§ 86.1503–84 Abbreviations.

The abbreviations in § 86.084–3 apply to this subpart.

§ 86.1504–84 Section numbering; construction.

(a) The model year of initial applicability is indicated by the section number. The two digits following the hyphen designate the first model year for which a section is effective. A section remains effective until superseded.

Example: Section 86.1511–84 applies to the 1984 and subsequent model years until superseded. If a section 86.1511–85 is promulgated, it would take effect beginning with the 1985 model year; § 86.1511–83 would apply to model years 1983 and 1984.

(b) A section reference without a model year suffix refers to the section applicable for the appropriate model year.

(c) Unless indicated, all provisions in this subpart apply to gasoline-fueled heavy-duty engines and vehicles.

§ 86.1505–84 Introduction; structure of subpart.

(a) This subpart describes the equipment required and the procedures to follow in order to perform idle exhaust emission tests on gasoline-fueled heavy-duty engines and vehicles. Subpart A sets forth the testing requirements and test intervals necessary to comply with EPA certification procedures.

(b) Four topics are addressed in this subpart. Sections 86.1505–84 through 86.1515–84 set forth specifications and equipment requirements; §§ 86.1516–84 through 86.1526–84 discuss calibration methods and frequency; test procedures and data requirements are listed (in approximately chronological order) in §§ 86.1527–84 through 86.1542–84; and calculation formulas are found in § 86.1544–84.

§ 86.1506–84 Equipment required and specifications; overview.

(a) This subpart contains procedures for idle exhaust emission tests on gasoline-fueled heavy-duty vehicles and engines. Equipment required and specifications are as follows:

(1) *Exhaust emission tests.* All vehicles subject to this subpart are tested for exhaust emissions. Necessary equipment and specifications appear in §§ 86.1509–84 through 86.1511–84.

(2) *Fuel and analytical gas specifications.* Fuel requirements for idle exhaust emission testing are specified in § 86.1513–84. Analytical gases are specified in § 86.1514–84.

§§ 86.1507–84—86.1508–84 [Reserved]

§ 86.1509–84 Exhaust gas sampling system.

(a) The exhaust gas sampling system shall transport the exhaust sample from the engine or vehicle tailpipe to the analysis system in such a manner as to maintain the integrity of the sample constituents that are to be analyzed.

(b) The sample system shall supply a dry sample (i.e., water removed) to the analysis system.

(c) A CVS sampling system with bag analysis as specified in Subpart N is permitted. The inclusion of an additional raw CO_2 analyzer as specified in Subpart D is required if the CVS system is used in order to accurately determine the CVS dilution factor (D.F.). The heated sample line specified in Subpart D for raw emission measurements is not required for the raw CO_2 measurement.

(d) A raw exhaust sampling system as specified in Subpart D is permitted.

§ 86.1510–84 [Reserved]

§ 86.1511–84 Exhaust gas analysis system.

(a) Analyzers used for this subpart shall meet the following specifications.

(1) The analyzers used must have ranges such that

(i) The carbon monoxide (CO) idle standard specified in § 86.083–10 and § 86.083–11 for heavy-duty engines or vehicles will provide an analyzer response between 45 and 90 percent of full-scale deflection on the CO analyzer.

(2) The resolution of the readout device for the ranges specified in paragraph (a)(1) of this section shall be equal to or less than the following:

(i) 0.05 percent for a carbon monoxide analyzer, and

(3) For the ranges specified in paragraph (a)(1) of this section the precision shall be less than ±3 percent of full scale deflection. The precision is defined as 2 times the standard deviation of 5 repetitive responses to a given calibration gas.

(4) For the ranges specified in paragraph (a)(1) of this section, the mean response to a zero calibration gas shall not exceed ±3 percent of full scale during a one-hour period.

(5) For the ranges specified in paragraph (a)(1) of this section the mean calibration response shall be less than ±3 percent of full scale during a one hour period. The calibration response is defined as the analyzer response to a calibration gas after the analyzer has been spanned by the electrical spanning network at the beginning of the one hour period.

(6) The analyzer must respond to an instantaneous step change at the entrance to the sampling system with a response equal to 90 percent of that step change within 15 seconds or less on the ranges specified in paragraph (a)(1) of this section. The step change shall be at least 60 percent of full scale deflection.

(7) The interference gases listed shall individually or collectively produce an analyzer reading less than ±2 percent of full scale on the ranges specified in paragraph (a)(1) of this section.

Interference Gas	Concentration	Applicable analyzer
CO_2	14%	CO
C_3H_8	1%	CO
H_2O	Saturated Vapor at 200° F.	CO
NO_2	1,000 ppm	CO
O_2	5%	CO

(8) The analyzer shall be able to meet the specifications in paragraph (a) of this section.

(i) After a 30 minute warm-up from the prevailing ambient conditions,

(ii) Between the ambient temperatures of −20° C and 45° C (−4° F to 113° F),

(iii) Between 0 to 85 percent relative humidity, and

(iv) During flow variations of ±50 percent.

(b) The following analysis systems are permitted when the analysis system is in a temperature controlled environment.

(1) A CVS sampling system with bag analysis as specified in Subpart N provided suitable corrections are used to convert dilute wet-basis results to raw dry-basis results. The inclusion of an additional raw CO_2 analyzer as specified in Subpart D is required if the CVS system is used in order to accurately determine the CVS dilution factor (D.F.).

(c) A raw exhaust analysis system as specified in Subpart D provided suitable corrections are used to convert raw wet-basis results to raw dry-basis results. Measurements made on a raw dry-basis do not need correction.

§ 86.1512–84 [Reserved]

§ 86.1513–84 Fuel specifications.

Fuel meeting the engine or vehicle manufacturer's recommendations to the ultimate purchaser shall be used. Fuels meeting the specifications in § 86.1313–84 for heavy-duty engines or vehicles are permitted.

§ 86.1514–84 Analytical gases.

(a) *Analyzer gases.*

(1) Calibration gases for the CO analyzer shall be single blends using nitrogen as the diluent.

(2) Ambient air may be used for zero gas provided it is treated to remove impurities or drawn from a source that would tend to minimize CO background levels (e.g., a large room with no vehicles, ambient air, etc.).

(b) Calibration gases shall be traceable to within 3 percent of NBS gas standards, or other standards which have been approved by the Administrator.

(c) Calibration gases shall be equivalent in concentration (±10%) to the standards specified in § 86.083–10 and § 86.083–11 for heavy-duty engines or vehicles.

(d) If the CVS sampling system is used, the analytical gases specified in Subpart N shall be used.

(e) If the raw sampling system (Subpart D) is used, the analytical gases specified in Subpart D shall be used.

§ 86.1515–84 [Reserved]

§ 86.1516–84 Calibration; frequency and overview.

(a) Calibrations shall be performed as specified in §§ 86.1518–84 through 86.1526–84.

(b) At least weekly or after any maintenance which could alter calibration, check the calibration of the CO analyzer. Adjust or repair the analyzer as necessary.

(c) Water traps, filters, or conditioning columns should be checked at least daily.

(d) If the sampling and analysis procedures of Subpart D or N are used, the required calibrations and their frequencies are specified in their respective Subparts.

§§ 86.1517–84—86.1518–84 [Reserved]

§ 86.1519–84 CVS calibration.

If the CVS system is used for sampling during the idle emission test, the calibration instructions are specified in § 86.1319–84 of Subpart N.

§§ 86.1520–84—86.1521–84 [Reserved]

§ 86.1522–84 Carbon monoxide analyzer calibration.

(a) *Initial check.*

(1) Follow the manufacturers instructions for instrument start-up and operation. Adjust the analyzer to optimize performance on the range specified in § 86.1511–84(a)(1).

(2) Calibrate the analyzer with the calibration gas specified in § 86.1514–84(c).

(3) Adjust the electrical span network such that the electrical span point is correct when the analyzer reads the calibration gas correctly.

(4) Determine that the analyzer complies with the specifications in § 86.1511–84.

(b) *Periodic check.* Follow paragraphs (a) (1), (2), and (3) of this section as specified by § 86.1516–84(b). Adjust or repair the analyzer as necessary.

(c) If the analysis procedures of Subpart D or N are used, the required calibrations are specified in their respective Subparts.

§ 86.1523–84 [Reserved]

§ 86.1524–84 Carbon dioxide analyzer calibration.

(a) The calibration requirements for the dilute-sample carbon dioxide analyzer are specified in Subpart N.

(b) The calibration requirements for the raw carbon dioxide analyzer are specified in Subpart D.

(c) If another sampling and analyzing system is used that does not require carbon dioxide (CO_2) analysis, this section may be disregarded.

§ 86.1525–84 [Reserved]

§ 86.1526–84 Calibration of other equipment.

Other test equipment used for testing shall be calibrated as often as required by the manufacturer or as necessary according to good practice.

§ 86.1527–84 Idle test procedure; overview.

(a) The idle emission test procedure is designed to determine the raw concentration (in parts per million of carbon) of carbon monoxide in the exhaust flow at idle. The test procedure begins with a warm engine, required to be at the normal operating temperature. (For example, the warm-up for an engine may be a transient dynamometer test, or for a vehicle it may be any convenient operation).

(b) *Vehicles.*

(1) If the idle test is being performed on a vehicle, all emission control systems shall be intact and functioning.

(c) *Engines.*

(1) If the idle test is being performed on an engine, the required engine configuration is specified in Subpart N.

§ 86.1528–84–86.1529–84 [Reserved]

§ 86.1530–84 Test sequence; general requirements.

The test sequence shown in Figure P83–1 shows the major steps encountered during the idle test described by the subsequent procedures. The average ambient temperature of the engine test cell (in the case of an engine dynamometer test) or the vehicle environment (in the case of a vehicle test) shall be between −20° C and 45° C (−4° F to 113° F).

Start

Engine Warm-up, 5 minutes Min.
Engine Preconditioning, 30 seconds Min., 6 minutes Max.
Idle Stabilization, 30±5 seconds.
Idle Emission Test, 30±5 seconds.
End.

Figure P84–1—Test Sequence

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§§ 86.1531-84–86.1536-84 [Reserved]

§ 86.1537-84 Idle test run.

(a) *Test run.* The following steps shall be taken for each test:

(1) Achieve normal engine operating parameters. The transient emission dynamometer test is an acceptable technique to warm-up the engine to normal operating parameters for an engine test. If the transient emission test is not performed prior to the idle emission test, the engine may be warmed-up according to § 86.1332-84(d)(1) (i) through (iii). For a vehicle test, sufficient vehicle operation shall take place to achieve normal operating parameters.

(2) Check the device(s) for removing water from the exhaust sample and the sample filter(s). Remove any water from the water trap(s). Clean and replace the filter(s) as necessary.

(3) Set the zero and span points of the CO analyzer with the electrical spanning network. It is permitted to set the analyzer span with calibration gases.

(4) Hook-up or attach the sampling system to the tailpipe of the engine or vehicle.

(5) Operate the engine at 2500±50 rpm and zero load for a minimum of 30 seconds and a maximum of 6 minutes.

(6) Operate the engine at curb idle for 30±5 seconds with the dynamometer off for the engine test, or the transmission in neutral (or park for automatic transmissions) for the vehicle tests.

(7) Sample the exhaust [after paragraph (a)6 of this section] for an additional 30±5 seconds for raw dry-basis CO in percent. The average value observed during this sample period shall be the value recorded.

(b) If the CVS sampling system is used, the following procedures apply:

(1) Warm-up the engine as specified in paragraph (a)(1) of this section.

(2) Precondition the engine as specified in paragraph (a)(5) of this section.

(3) With the sample selector valves in the "standby" position, connect evacuated sample collection bags to the dilute exhaust and dilution air sample collection systems.

(4) Start the CVS (if not already on), the sample pumps, the temperature recorder, the engine cooling fan, and the raw CO_2 analyzer. [The heat exchanger of the constant volume sampler, if used, shall be preheated to operating temperature before the test begins].

(5) Adjust the sample flow rates to the desired flow rate and set the gas flow measuring devices to zero.

(6) Operate the engine at the conditions specified in paragraph (a)(6) of this section.

(7) Begin CO bag sampling and raw CO_2 sampling.

(8) Sample idle emissions long enough to obtain a sufficient bag sample, but in no case shorter than 60 seconds nor longer than 6 minutes. Follow the sampling and exhaust measurements requirements of Subpart D for the conducting of the idle modes of the gasoline or diesel steady-state test for the raw CO_2 measurement.

(9) As soon as possible, transfer the idle test exhaust and dilution air samples to the analytical system and process the samples according to § 86.1540-84 obtaining a stablized reading of the exhaust sample on all analyzers within 20 minutes of the end of the sample collection phase of the test.

(10) Disconnect the exhaust tube from the engine tailpipe(s).

(11) The CVS may be turned off, if desired.

(c) If the raw exhaust sampling and analysis technique specified in Subpart D is used, the following procedures apply:

(1) Warm-up the engine as specified in paragraph (a)(1) of this section.

(2) Precondition the engine as specified in paragraph (a)(5) of this section.

(3) Operate the engine at the conditions specified in paragraph (a)(6) of this section.

(4) Follow the sampling and exhaust measurement requirements of Subpart D for conducting the idle modes.

(d) If the engine stalls at any time during the test run, the test is void.

§§ 86.1538-84–86.1539-84 [Reserved]

§ 86.1540-84 Idle exhaust sample analysis.

(a) Record the CO idle concentrations in percent.

(b) If the CVS sampling system is used, the analysis procedures for dilute CO and CO_2 specified in Subpart N apply. Follow the raw CO_2 analysis procedure specified in Subpart D for the raw CO_2 analyzer.

(c) If the continuous raw exhaust sampling technique (Subpart D) is used, the analysis procedures for CO specified in Subpart D apply.

§ 86.1541-84 [Reserved]

§ 86.1542-84 Information required.

(a) *General data.* The following information shall be recorded for each idle emission test:

(1) Vehicle identification number for a vehicle test.

(2) Engine identification number for an engine test.

(3) Engine family.

(4) Engine displacement.

(5) Analyzer operator(s).

(6) Vehicle (engine) operator(s).

(7) Fuel identification.

(8) Date of purchase of analytical equipment.

(9) Date of most recent analytical assembly calibration.

(10) All pertinent instrument information such as tuning, gain, serial numbers, detector number, calibration curve numbers, etc. As long as this information is traceable, it may be summarized by system number or analyzer identification numbers.

(11) *Pre-test data.*

(i) Date and time of day.

(ii) Test number.

(iii) Ambient temperature (vehicle test) or engine intake air temperature (engine test).

(iv) Vehicle mileage or engine hours as applicable.

(12) *Test data.*

(i) Curb idle speed during the test.

(ii) Idle exhaust CO concentration.

(b) If a CVS sampling system with bag analysis is used for the idle emission test, record the additional information specified in Subpart N as applicable. In addition, record the raw exhaust CO_2 concentration during the test.

(c) If the raw exhaust sampling and analysis system specified in Subpart D is used, record the additional information specified in Subpart D as applicable.

§ 86.1543-84 [Reserved]

§ 86.1544-84 Calculations; idle exhaust emissions.

(a) The final idle emission test results shall be reported as percent for carbon monoxide on a dry basis. The results shall be reported to the same number of significant digits as the idle standards specified in § 86.084-10 and § 86.084-11.

(b) If a CVS sampling system is used, the following procedure shall apply:

(1) Use the procedures, as applicable, in Subpart N to determine the dilute wet-basis CO and CO_2 in percent.

(2) Use the procedure, as applicable, in Subpart D to determine the raw dry-basis CO_2 in percent.

(3) Convert the raw dry-basis CO_2 to raw wet-basis. An assumption that the percent of water by volume in the raw sample is equal to the percent of raw dry-basis CO_2 minus 0.5 percent is acceptable. For example:

10.0% dry CO_2 − 0.5% = 9.5% water
(1.00 − 0.095) (10.0% dry CO_2) = 9.05% wet CO_2

(4) Calculate the CVS dilution factor (DF) by:

$$DF = \frac{\text{Raw wet } CO_2 - \text{background } CO_2}{\text{Dilute wet } CO_2 - \text{background } CO_2}$$

(5) Convert the dilute wet-basis CO to dilute dry-basis values. An assumption that the percent of water by volume in the sample bag is 2 percent is acceptable. For example:

dilute dry CO = (dilute wet CO)/(1.00 − 0.02)

(6) Calculate the raw dry-basis CO values by:

raw dry CO = (DF) (dilute dry CO)

(d) If the raw exhaust sampling and analysis system specified in Subpart D is used, the following procedure shall apply:

(1) Use the procedure, as applicable, in Subpart D to raw dry-basis CO and CO_2.

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Monday
January 21, 1980

Part III

Department of the Treasury

Fiscal Service, Bureau of the Public Debt

Offering of U.S. Savings Bonds, Series H
Department Circular No. 905, 7th Revision

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DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 332

Offering of U.S. Savings Bonds, Series H

AGENCY: Fiscal Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This Seventh Revision of the offering circular for United States Savings Bonds, Series H, i.e., Department of the Treasury Circular No. 905, shows the improvements in the investment yields of Series H bonds. It also makes other changes in the terms of the offering necessitated by the termination of the sale of these bonds on December 31, 1979.

EFFECTIVE DATE: June 1, 1979.

FOR FURTHER INFORMATION CONTACT: A. E. Martin, Office of the Chief Counsel, Bureau of the Public Debt, (202) 376-0336.

SUPPLEMENTAL INFORMATION: On May 10, 1979, the Secretary of the Treasury announced that the interest rate paid on Series H savings bonds would be increased, effective June 1, 1979, to 6.5 percent per annum, compounded semiannually, if held to maturity. This revision of the offering circular for Series H bonds effectuates this increase and provides tables of interest payments and investment yields which reflect the higher rate.

As provided in the revision, this rate increase of ½ of 1 percent per annum is applied as follows:

First, Series H bonds purchased on and after June 1, 1979, will have an investment yield of 6.5 percent per annum, compounded semiannually, if held to original maturity, ten years from issue date. If the bond is redeemed before original maturity, the yield will be less than 6.5 percent.

Second, bonds issued prior to June 1, 1979, whether they are now in their original maturity period or an extended maturity period, will receive a ½ percent increase in investment yield to their original or next maturity date. The increase will be included in the interest check for the semiannual interest period that begins on or after June 1, 1979, and for each semiannual interest period thereafter.

For example: For a bond bearing an issue date of September 1, 1964, its first semiannual interest period after June 1, 1979, began on September 1, 1979. The interest check for that period, which will be issued on March 1, 1980, will be the first check that will reflect the improved yield.

In addition to effectuating the rate increase, this revision of the Series H bond offering circular includes several other changes relating to the termination of sale of the bonds, as announced by the Secretary of the Treasury on January 10, 1979.

First, § 332.1 provides that the offering of Series H bonds will terminate on December 31, 1979.

Second, § 332.8, relating to the extended maturity periods granted to Series H bonds, is revised. The term "extended maturity period" refers to one or more ten-year periods during which Series H bonds, if not sooner redeemed, continue to earn interest after the end of their original maturity period.

In accordance with the Secretary's prior announcement, Series H bonds bearing issue dates of June 1, 1952, through May 1, 1959, which have already been granted two 10-year extensions, will not be extended again. Thus, Series H bonds issued from June 1, 1952, to January 1, 1957, will reach final maturity 29 years, 8 months, from their respective issue dates and will cease to earn interest at that time. Series H bonds issued from February 1, 1957, to May 1, 1959, will reach final maturity exactly 30 years from their respective issue dates. All Series H bonds issued after May 1, 1959, are granted a second 10-year extension.

Finally, several minor changes have been made to the offering to update addresses used in connection with Series H bond transactions.

* * * * *

Accordingly, Department of the Treasury Circular No. 905, Sixth Revision, dated April 19, 1974, as amended and supplemented, including the tables incorporated therein (31 CFR, Part 332), is hereby revised and reissued as Department of the Treasury Circular No. 905, Seventh Revision, effective as of June 1, 1979.

This revision is effected under authority on Section 22 of the Second Liberty Bond Act, as amended (49 Stat. 21, as amended; 31 U.S.C. 757c) and 5 U.S.C. 301. Since this revision involves the fiscal policy of the United States and does not meet the Department's criteria for significant regulations, it has been determined that notice and public procedures thereon are unnecessary.

Dated: January 2, 1980.

Paul H. Taylor,

Fiscal Assistant Secretary.

PART 332—OFFERING OF U.S. SAVINGS BONDS, SERIES H

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Authority: Sec. 22, Second Liberty Bond Act as amended, 49 Stat. 21, as amended, (31 U.S.C. 757c) and (5 U.S.C. 301).

§ 332.1 Offering of bonds.

The Secretary of the Treasury hereby offers for sale to the people of the United States, United States Savings Bonds of Series H, hereinafter generally referred to as "Series H bonds" or "bonds". This offer, effective as of June 1, 1979, will terminate on December 31, 1979.

§ 332.2 Description of bonds.

(a) *General.* Series H bonds bear a facsimile of the signature of the Secretary of the Treasury and of the Seal of the Department of the Treasury. They are issued only in registered form and are nontransferable.

(b) *Denominations and prices.* Series H bonds are issued at face (par) amount and are available in denominations of $500, $1,000, $5,000 and $10,000.

(c) *Inscription and issue.* At the time of issue the issuing agent will (1) inscribe on the face of each bond the name, social security number and address of the owner, and the name of the beneficiary, if any, or the name, social security number and address of the first-named coowner and the name of the other coowner; (2) enter in the upper right-hand portion of the bond the issue date; and (3) imprint the agent's dating stamp in the lower right-hand portion to show the date the bond is actually inscribed. A bond shall be valid only if an authorized issuing agent receives payment therefor and duly inscribes, dates and stamps it.

(d) *Term.* A Series H bond shall be dated as of the first day of the month in which payment therefor is received by an agent authorized to issue the bond. This date is the issue date and the bond will mature and be payable 10 years thereafter. The bond may not be called for redemption by the Secretary of the Treasury prior to maturity or the end of any extended maturity period (see § 332.8(a)(1)). The bond may be redeemed at par after six months from issue date.

(e) *Investment yield (interest).* The interest on a Series H bond will be paid semiannually by check drawn to the order of the registered owner or coowners, beginning six months from the issue date. Interest payments will be on a graduated scale, fixed to produce an investment yield of approximately 6.5 percent per annum, compounded semiannually, if the bond is held to maturity, but the yield will be less if the bond is redeemed prior thereto. See Table 56. Interest will cease at the end of the final authorized extended maturity period, or if redeemed earlier, at the end of the interest period next preceding the date of redemption. However, if the date of redemption falls on an interest payment date, interest will cease on that date.

§ 332.3 Governing regulations.

Series H bonds are subject to the regulations of the Department of the Treasury, now or hereafter prescribed governing United States Savings Bonds [of Series A, B, C, D, E, F, G, H, J and K], contained in Department of the Treasury Circular No. 530, current revision (31 CFR, Part 315),[1] except as otherwise specifically provided herein.

§ 332.4 Registration.

(a) *General.* Generally, only residents of the United States, its territories and possessions, the Commonwealth of Puerto Rico, and citizens of the United States temporarily residing abroad are eligible to be named as owners of Series H bonds. The bonds may be registered in the names of natural persons in their own right, as provided in paragraph (b) of this section, and in the names and titles or capacities of fiduciaries and organizations, as provided in paragraph (c) of this section. Full information regarding authorized forms of registration and restrictions with respect thereto are found in the governing regulations.

(b) *Natural persons in their own right.* The bonds may be registered in the names of natural persons (whether adults or minors) in their own right, in single ownership, coownership, and beneficiary forms.

(c) *Others.* The bonds may be registered in single ownership form in the names of fiduciaries and private and public organizations, as follows:

(1) *Fiduciaries.* In the names of and showing the titles or capacities of any persons or organizations, public or private, as fiduciaries (including trustees, legal guardians or similar representatives, and certain custodians), but not where the fiduciary would hold the bonds merely or principally as security for the performance of a duty, obligation or service.

(2) *Private and public organizations.* In the names of private or public organizations (including private corporations, partnerships, and unincorporated associations, and States, counties, public corporations, and other public bodies) in their own right, but not in the names of commercial banks.[2]

§ 332.5 Limitation on holdings.

The amount of Series H bonds originally issued during any one calendar year that may be held by any one person, at any one time, computed in accordance with the governing regulations, is limited as follows:

(a) *General limitation.* $10,000 (face amount) for the calendar year 1974 and each calendar year thereafter.

(b) *Special limitation for gifts to exempt organizations under 26 CFR 1.501(c)(3)–1.* $200,000 (face amount) for bonds received as gifts by an organization which at the time of purchase is an exempt organization under the terms of 26 CFR 1.501(c)(3)–1.

(c) *Exchange pursuant to Department of the Treasury Circular No. 1036, as amended.* Series H bonds issued in an exchange pursuant to the provisions of Department of the Treasury Circular No. 1036 (31 CFR Part 339) are exempt from the annual limitation.

§ 332.6 Purchase of bonds.

(a) *Issuing Agents.* Only the Federal Reserve Banks and Branches and the Department of the Treasury are authorized to act as issuing agents for the sale of Series H bonds. However, financial institutions may forward applications for purchase of the bonds. The date an issuing agent receives the application and payment will govern the issue date of the bond purchased.

(b) *Application for purchase and remittance.* The applicant for purchase of Series H bonds should furnish (1) instructions for registration of the bonds to be issued, which must be in an authorized form; (2) the appropriate social security or employer identification number; (3) the post office address of the owner or first-named coowner; and (4) the address(es) for delivery of the bonds and for mailing checks in payment of interest, if other than that of the owner or first-named coowner. The application should be forwarded to a Federal Reserve Bank or Branch, or the Department of the Treasury, Washington, D.C. 20226, accompanied by a remittance to cover the purchase price. Any form of exchange, including personal checks, will be accepted subject to collection. Checks or other forms of exchange should be drawn to the order of the Federal Reserve Bank or the United States Treasury, as the case may be. Checks payable by endorsement are not acceptable. Any depositary qualified pursuant to Department of the Treasury Circular No. 92, current revision (31 CFR, Part 203), will be permitted to make payment by credit for bonds applied for on behalf of its customers up to any amount for which it shall be qualified in excess of existing deposits when so notified by the Federal Reserve Bank of its district.

§ 332.7 Delivery of bonds.

Authorized issuing agents will deliver Series H bonds either over-the-counter in person, or by mail at the risk and expense of the United States, to the address given by the purchaser, but only within the United States, its territories and possessions, and the Commonwealth of Puerto Rico. No mail deliveries elsewhere will be made. If purchased by citizens of the United States temporarily residing abroad, the bonds will be delivered at such address in the United States as the purchaser directs.

§ 332.8 Extended terms and improved yields for outstanding bonds.

(a) *Extended maturity periods*—(1) *General.* The terms "extended maturity period" and "second extended maturity period", when used herein, refer to 10-year intervals after the original maturity dates during which owners may retain their bonds and continue to earn interest thereon. No special action is required of owners desiring to take advantage of any extensions heretofore or herein granted.[3]

(2) *Two extensions.* All Series H bonds may be retained for two extended maturity periods of 10 years each.

[1] Copies may be obtained from any Federal Reserve Bank or Branch, from the Bureau of the Public Debt, Washington, D.C. 20226, or from the Bureau of the Public Debt, 200 Third Street, Parkersburg, West Virginia 26101.

[2] For this purpose, commercial banks (as defined in § 315.7, Department of the Treasury Circular No. 530, current revision) are those accepting demand deposits.

[3] The tables incorporated herein, arranged according to issue dates, show current schedules of interest payments and investment yields.

(b) *Improved yields*[4]*—Outstanding bonds.* The investment yield on all outstanding Series H bonds is hereby increased as follows:

(1) *Bonds reaching original maturity period on or after December 1, 1979.* By approximately ¾ of 1 percent per annum, compounded semiannually, to original maturity, on or after December 1, 1979, the increase to be included in the interest checks issued on or after that date.

(2) *Bonds which entered an extended maturity period prior to December 1, 1979.* By approximately ¾ of 1 percent per annum, compounded semiannually, for the remaining period to their next maturity date. The increase will be included in the interest checks issued on or after December 1, 1979.

(3) *Other extensions.* The investment yield for any authorized extensions, other than as set forth in paragraphs (b) (1) or (2) of this section, will be at the rate of 6.5 percent per annum, compounded semiannually, unless such rate is changed prior to the commencement of the extension period. If a change in rate is made, the tables of redemption values and investment yields published herein for such extensions shall not apply.

§ 332.9 Taxation.

The income derived from Series H bonds is subject to all taxes imposed under the Internal Revenue Code of 1954. The bonds are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

§ 332.10 Payment or redemption.

A Series H bond may be redeemed at par at any time after six months from the issue date. The bond must be presented and surrendered, with a duly executed request for payment, to (a) a Federal Reserve Bank or Branch, (b) the Department of the Treasury, Washington, D.C. 20226, or (c) the Bureau of the Public Debt, Parkersburg, West Virginia 26101. A bond received by an agent during the calendar month preceding an interest payment date may not be redeemed until that date.

§ 332.11 Reservation as to issue of bonds.

The Secretary of the Treasury reserves the right to reject any application for Series H bonds, in whole or in part, and to refuse to issue or permit to be issued hereunder any such bonds in any case or any class or classes if he deems such action to be in the public interest, and his action in any such respect shall be final.

§ 332.12 Preservation of rights.

Nothing contained herein shall limit or restrict rights which owners of Series H bonds heretofore issued have acquired under offers previously in force.

§ 332.13 Fiscal agents.

Federal Reserve Banks and Branches, as fiscal agents of the United States, are authorized to perform such services as may be requested of them by the Secretary of the Treasury in connection with the issue, delivery, redemption, and payment of Series H bonds.

§ 332.14 Reservations as to terms of offer.

The Secretary of the Treasury may at any time or from time to time supplement or amend the terms of this offering of bonds, or of any amendments or supplements thereto.

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[4] See Appendix for summary of investment yields to maturity, extended maturity and second extended maturity dates under regulations heretofore and herein prescribed.

TABLE 1

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH SEP. 1, 1952

ISSUE PRICE / REDEMPTION AND MATURITY VALUE	$500 / 500	$1,000 / 1,000	$5,000 / 5,000	$10,000 / 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 19 YEARS, 6 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * SECOND EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRE-CEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
7.5 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	5.86	6.00	6.50
8.0 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	5.88	6.50	6.50
8.5 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	5.91	6.50	6.50
9.0 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	5.93	6.50	6.50
9.5 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	5.95	6.50	6.50
10.0 YEARS 2/. . . (12/1/81)	16.25	32.50	162.50	325.00	3/ 5.97	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1952. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 29 YEARS AND 6 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 4.06%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 906, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 2

BONDS BEARING ISSUE DATES FROM OCT. 1, 1952 THROUGH MAR. 1, 1953

ISSUE PRICE / REDEMPTION AND MATURITY VALUE	$500 / 500	$1,000 / 1,000	$5,000 / 5,000	$10,000 / 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 19 YEARS, 6 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * SECOND EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRE-CEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
7.0 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	5.88	6.00	6.50
7.5 YEARS . . . . (12/1/79)	16.25	32.50	162.50	329.00	5.91	6.50	6.50
8.0 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	5.94	6.50	6.50
8.5 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	5.96	6.50	6.50
9.0 YEARS . . . . (6/1/81)	16.25	32.50	162.50	329.00	5.99	6.50	6.50
9.5 YEARS . . . . (12/1/81)	16.25	32.50	162.50	329.00	6.01	6.50	6.50
10.0 YEARS 2/. . . (6/1/82)	16.25	32.50	162.50	329.00	3/ 6.03	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF OCT. 1, 1952. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 29 YEARS AND 6 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY DATE ON BONDS DATED: OCT. 1 AND NOV. 1, 1952 IS 4.09%; DEC. 1, 1952 THROUGH MAR. 1, 1953 IS 4.10%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 906, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

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TABLE 3

BONDS BEARING ISSUE DATES FROM APR. 1 THROUGH SEP. 1, 1953

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 19 YEARS, 8 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * SECOND EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
6.5 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	5.91	6.00	6.50
7.0 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	5.94	6.50	6.50
7.5 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	5.97	6.50	6.50
8.0 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.00	6.50	6.50
8.5 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.02	6.50	6.50
9.0 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.04	6.50	6.50
9.5 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.06	6.50	6.50
10.0 YEARS 2/. . . (12/1/82)	16.25	32.50	162.50	325.00	3/ 6.08	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF APR. 1, 1953. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 29 YEARS AND 8 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY DATE ON BONDS DATED: APR. 1 AND MAY 1, 1953 IS 4.14%; JUNE 1 THROUGH SEP. 1, 1953 IS 4.15%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 4

BONDS BEARING ISSUE DATES FROM OCT. 1, 1953 THROUGH MAR. 1, 1954

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 19 YEARS, 8 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * SECOND EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
6.0 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	5.94	6.00	6.50
6.5 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	5.99	6.50	6.50
7.0 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	6.02	6.50	6.50
7.5 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.04	6.50	6.50
8.0 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.06	6.50	6.50
8.5 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.08	6.50	6.50
9.0 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.10	6.50	6.50
9.5 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.12	6.50	6.50
10.0 YEARS 2/. . . (6/1/83)	16.25	32.50	162.50	325.00	3/ 6.13	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF OCT. 1, 1953. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 29 YEARS AND 8 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY DATE ON BONDS DATED: OCT. 1 AND NOV. 1, 1953 IS 4.18%; DEC. 1, 1953 THROUGH MAR. 1, 1954 IS 4.19%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 5

BONDS BEARING ISSUE DATES FROM APR. 1 THROUGH SEP. 1, 1954

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 19 YEARS, 8 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * SECOND EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
5.5 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.50
6.0 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	6.04	6.50	6.50
6.5 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	6.06	6.50	6.50
7.0 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.09	6.50	6.50
7.5 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.11	6.50	6.50
8.0 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.13	6.50	6.50
8.5 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.15	6.50	6.50
9.0 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.16	6.50	6.50
9.5 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.18	6.50	6.50
10.0 YEARS 2/. . . (12/1/83)	16.25	32.50	162.50	325.00	3/ 6.19	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF APR. 1, 1954. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 29 YEARS AND 8 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY DATE ON BONDS DATED: APR. 1 AND MAY 1, 1954 IS 4.22%; JUNE 1 THROUGH SEP. 1, 1954 IS 4.24%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 6

BONDS BEARING ISSUE DATES FROM OCT. 1, 1954 THROUGH MAR. 1, 1955

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 19 YEARS, 8 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * SECOND EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
5.0 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.50
5.5 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	6.04	6.50	6.50
6.0 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	6.07	6.50	6.50
6.5 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.10	6.50	6.50
7.0 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.12	6.50	6.50
7.5 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.14	6.50	6.50
8.0 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.16	6.50	6.50
8.5 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.18	6.50	6.50
9.0 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.19	6.50	6.50
9.5 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.20	6.50	6.50
10.0 YEARS 2/. . . (6/1/84)	16.25	32.50	162.50	325.00	3/ 6.21	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF OCT. 1, 1954. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 29 YEARS AND 8 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY DATE ON BONDS DATED: OCT. 1 AND NOV. 1, 1954 IS 4.27%; DEC. 1, 1954 THROUGH MAR. 1, 1955 IS 4.28%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

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TABLE 7

BONDS BEARING ISSUE DATES FROM APR. 1 THROUGH SEP. 1, 1955

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 19 YEARS, 6 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * SECOND EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
4.5 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.50
5.0 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	6.04	6.50	6.50
5.5 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	6.08	6.50	6.50
6.0 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.11	6.50	6.50
6.5 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.13	6.50	6.50
7.0 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.15	6.50	6.50
7.5 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.17	6.50	6.50
8.0 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.19	6.50	6.50
8.5 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.20	6.50	6.50
9.0 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.22	6.50	6.50
9.5 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.23	6.50	6.50
10.0 YEARS 2/. . . (12/1/84)	16.25	32.50	162.50	325.00	3/ 6.24	6.50	-----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF APR. 1, 1955. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 29 YEARS AND 6 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY DATE ON BONDS DATED: APR. 1 AND MAY 1, 1955 IS 6.32%; JUNE 1 THROUGH SEP. 1, 1955 IS 6.33%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 8

BONDS BEARING ISSUE DATES FROM OCT. 1, 1955 THROUGH MAR. 1, 1956

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 19 YEARS, 6 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * SECOND EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
4.0 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.50
4.5 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	6.05	6.50	6.50
5.0 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	6.09	6.50	6.50
5.5 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.12	6.50	6.50
6.0 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.15	6.50	6.50
6.5 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.17	6.50	6.50
7.0 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.19	6.50	6.50
7.5 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.21	6.50	6.50
8.0 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.22	6.50	6.50
8.5 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.23	6.50	6.50
9.0 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.24	6.50	6.50
9.5 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.25	6.50	6.50
10.0 YEARS 2/. . . (6/1/85)	16.25	32.50	162.50	325.00	3/ 6.26	6.50	-----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF OCT. 1, 1955. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 29 YEARS AND 6 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY DATE ON BONDS DATED: OCT. 1 AND NOV. 1, 1955 IS 6.36%; DEC. 1, 1955 THROUGH MAR. 1, 1956 IS 6.38%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 9

BONDS BEARING ISSUE DATES FROM APR. 1 THROUGH SEP. 1, 1956

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 19 YEARS, 6 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * SECOND EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
3.5 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.50
4.0 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	6.06	6.50	6.50
4.5 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	6.10	6.50	6.50
5.0 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.13	6.50	6.50
5.5 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.16	6.50	6.50
6.0 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.19	6.50	6.50
6.5 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.21	6.50	6.50
7.0 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.23	6.50	6.50
7.5 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.24	6.50	6.50
8.0 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.25	6.50	6.50
8.5 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.26	6.50	6.50
9.0 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.26	6.50	6.50
9.5 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.27	6.50	6.50
10.0 YEARS 2/. . . (12/1/85)	16.25	32.50	162.50	325.00	3/ 6.29	6.50	-----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF APR. 1, 1956. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 29 YEARS AND 6 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY DATE ON BONDS DATED: APR. 1 AND MAY 1, 1956 IS 6.44%; JUNE 1 THROUGH SEP. 1, 1956 IS 6.45%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 10

BONDS BEARING ISSUE DATES FROM OCT. 1, 1956 THROUGH JAN. 1, 1957

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 19 YEARS, 6 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * SECOND EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
3.0 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.50
3.5 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	6.07	6.50	6.50
4.0 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	6.11	6.50	6.50
4.5 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.15	6.50	6.50
5.0 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.18	6.50	6.50
5.5 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.21	6.50	6.50
6.0 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.23	6.50	6.50
6.5 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.24	6.50	6.50
7.0 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.26	6.50	6.50
7.5 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.27	6.50	6.50
8.0 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.28	6.50	6.50
8.5 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.29	6.50	6.50
9.0 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.30	6.50	6.50
9.5 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.31	6.50	6.50
10.0 YEARS 2/. . . (6/1/86)	16.25	32.50	162.50	325.00	3/ 6.32	6.50	-----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF OCT. 1, 1956. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 29 YEARS AND 6 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY DATE ON BONDS DATED: OCT. 1 AND NOV. 1, 1956 IS 6.49%; DEC. 1, 1956 THROUGH JAN. 1, 1957 IS 6.51%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

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TABLE 11

BONDS BEARING ISSUE DATES FROM FEB. 1 THROUGH MAY 1, 1957

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000			
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * SECOND EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
2.5 YEARS . . .1/ (8/1/79)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.50
3.0 YEARS . . . . (2/1/80)	16.25	32.50	162.50	325.00	6.08	6.50	6.50
3.5 YEARS . . . . (8/1/80)	16.25	32.50	162.50	325.00	6.13	6.50	6.50
4.0 YEARS . . . . (2/1/81)	16.25	32.50	162.50	325.00	6.17	6.50	6.50
4.5 YEARS . . . . (8/1/81)	16.25	32.50	162.50	325.00	6.21	6.50	6.50
5.0 YEARS . . . . (2/1/82)	16.25	32.50	162.50	325.00	6.23	6.50	6.50
5.5 YEARS . . . . (8/1/82)	16.25	32.50	162.50	325.00	6.25	6.50	6.50
6.0 YEARS . . . . (2/1/83)	16.25	32.50	162.50	325.00	6.27	6.50	6.50
6.5 YEARS . . . . (8/1/83)	16.25	32.50	162.50	325.00	6.28	6.50	6.50
7.0 YEARS . . . . (2/1/84)	16.25	32.50	162.50	325.00	6.30	6.50	6.50
7.5 YEARS . . . . (8/1/84)	16.25	32.50	162.50	325.00	6.31	6.50	6.50
8.0 YEARS . . . . (2/1/85)	16.25	32.50	162.50	325.00	6.32	6.50	6.50
8.5 YEARS . . . . (8/1/85)	16.25	32.50	162.50	325.00	6.32	6.50	6.50
9.0 YEARS . . . . (2/1/86)	16.25	32.50	162.50	325.00	6.33	6.50	6.50
9.5 YEARS . . . . (8/1/86)	16.25	32.50	162.50	325.00	6.34	6.50	6.50
10.0 YEARS 2/. . . (2/1/87)	16.25	32.50	162.50	325.00	3/ 6.34	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF FEB. 1, 1957. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 4.65%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 12

BONDS BEARING ISSUE DATES FROM JUNE 3 THROUGH NOV. 1, 1957

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000			
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * SECOND EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
2.0 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.50
2.5 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	6.09	6.50	6.50
3.0 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	6.16	6.50	6.50
3.5 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.20	6.50	6.50
4.0 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.23	6.50	6.50
4.5 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.26	6.50	6.50
5.0 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.28	6.50	6.50
5.5 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.30	6.50	6.50
6.0 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.31	6.50	6.50
6.5 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.32	6.50	6.50
7.0 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.33	6.50	6.50
7.5 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.34	6.50	6.50
8.0 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.35	6.50	6.50
8.5 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.36	6.50	6.50
9.0 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.36	6.50	6.50
9.5 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.37	6.50	6.50
10.0 YEARS 2/. . . (6/1/87)	16.25	32.50	162.50	325.00	3/ 6.37	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1957. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 4.70%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 13

BONDS BEARING ISSUE DATES FROM DEC. 1, 1957 THROUGH MAY 1, 1958

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000			
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * SECOND EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
1.5 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.50
2.0 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	6.12	6.50	6.50
2.5 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	6.19	6.50	6.50
3.0 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.24	6.50	6.50
3.5 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.27	6.50	6.50
4.0 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.30	6.50	6.50
4.5 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.32	6.50	6.50
5.0 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.33	6.50	6.50
5.5 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.35	6.50	6.50
6.0 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.36	6.50	6.50
6.5 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.37	6.50	6.50
7.0 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.37	6.50	6.50
7.5 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.38	6.50	6.50
8.0 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.39	6.50	6.50
8.5 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.39	6.50	6.50
9.0 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.40	6.50	6.50
9.5 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.40	6.50	6.50
10.0 YEARS 2/. . . (12/1/87)	16.25	32.50	162.50	325.00	3/ 6.40	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1957. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 4.75%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 14

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1958

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000			
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * SECOND EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
1.0 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.50
1.5 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	6.16	6.50	6.50
2.0 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	6.24	6.50	6.50
2.5 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.29	6.50	6.50
3.0 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.32	6.50	6.50
3.5 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.35	6.50	6.50
4.0 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.36	6.50	6.50
4.5 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.38	6.50	6.50
5.0 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.39	6.50	6.50
5.5 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.40	6.50	6.50
6.0 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.40	6.50	6.50
6.5 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.41	6.50	6.50
7.0 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.41	6.50	6.50
7.5 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.42	6.50	6.50
8.0 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.42	6.50	6.50
8.5 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.43	6.50	6.50
9.0 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.43	6.50	6.50
9.5 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.43	6.50	6.50
10.0 YEARS 2/. . . (6/1/88)	16.25	32.50	162.50	325.00	3/ 6.43	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1958. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 4.81%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

V 45 / 14 JA 21 80 UMI

TABLE 15

BONDS BEARING ISSUE DATES FROM DEC. 1, 1958 THROUGH MAY 1, 1959

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION — SECOND EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.50
1.0 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	6.25	6.50	6.50
1.5 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	6.33	6.50	6.50
2.0 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.37	6.50	6.50
2.5 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.39	6.50	6.50
3.0 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.41	6.50	6.50
3.5 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.42	6.50	6.50
4.0 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.43	6.50	6.50
4.5 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.44	6.50	6.50
5.0 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.44	6.50	6.50
5.5 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.45	6.50	6.50
6.0 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.45	6.50	6.50
6.5 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.45	6.50	6.50
7.0 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.46	6.50	6.50
7.5 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.46	6.50	6.50
8.0 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.46	6.50	6.50
8.5 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.46	6.50	6.50
9.0 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.46	6.50	6.50
9.5 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.47	6.50	6.50
10.0 YEARS 2/. . . (12/1/88)	16.25	32.50	162.50	325.00	3/ 6.47	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1958. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.87%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

TABLE 16

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1959

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * — EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
10.0 YEARS 1/. .2/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	3/ 5.68	6.00	----
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	SECOND EXTENDED MATURITY PERIOD **						TO 2ND EXTENDED MATURITY
.5 YEARS . . . . (12/1/79)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 4/. . . (6/1/89)	16.25	32.50	162.50	325.00	5/ 6.58	6.50	----

1/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
2/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1959. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 6.58%.
4/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
5/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.93%.
* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

V45/14/JA21/80 UMI

TABLE 17

BONDS BEARING ISSUE DATES FROM DEC. 1, 1959 THROUGH MAY 1, 1960

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
9.5 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	5.72	6.00	6.50
10.0 YEARS 2/. . . (12/1/79)	16.25	32.50	162.50	325.00	3/ 5.75	6.50	----
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	SECOND EXTENDED MATURITY PERIOD **						TO 2ND EXTENDED MATURITY
.5 YEARS . . . . (6/1/80)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 4/. . . (12/1/89)	16.25	32.50	162.50	325.00	5/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1959. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 4.62%.
4/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
5/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 4.96%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

TABLE 18

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1960

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
9.0 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	5.77	6.00	6.50
9.5 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	5.80	6.50	6.50
10.0 YEARS 2/. . . (6/1/80)	16.25	32.50	162.50	325.00	3/ 5.83	6.50	----
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	SECOND EXTENDED MATURITY PERIOD **						TO 2ND EXTENDED MATURITY
.5 YEARS . . . . (12/1/80)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 4/. . . (6/1/90)	16.25	32.50	162.50	325.00	5/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1960. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 4.66%.
4/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
5/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 4.99%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

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TABLE 19

BONDS BEARING ISSUE DATES FROM DEC. 1, 1960 THROUGH MAY 1, 1961

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
9.5 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	5.00	6.00	6.50
9.0 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	5.83	6.50	6.50
9.5 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	5.85	6.50	6.50
10.0 YEARS 2/. . . (12/1/80)	16.25	32.50	162.50	325.00	3/ 5.88	6.50	----
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	SECOND EXTENDED MATURITY PERIOD **						TO 2ND EXTENDED MATURITY
.5 YEARS . . . . (6/1/81)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 4/. . . (12/1/90)	16.25	32.50	162.50	325.00	5/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1960. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 4.70%.
4/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
5/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 5.02%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

TABLE 20

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1961

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
8.0 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	5.82	6.00	6.50
8.5 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	5.85	6.50	6.50
9.0 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	5.88	6.50	6.50
9.5 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	5.90	6.50	6.50
10.0 YEARS 2/. . . (6/1/81)	16.25	32.50	162.50	325.00	3/ 5.92	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1961. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 4.76%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 20-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1961

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION SECOND EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (12/1/81)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 2/. . . (6/1/91)	16.25	32.50	162.50	325.00	3/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1961. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 5.07%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

TABLE 21

BONDS BEARING ISSUE DATES FROM DEC. 1, 1961 THROUGH MAY 1, 1962

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
7.5 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	5.84	6.00	6.50
8.0 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	5.88	6.50	6.50
8.5 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	5.91	6.50	6.50
9.0 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	5.93	6.50	6.50
9.5 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	5.95	6.50	6.50
10.0 YEARS 2/. . . (12/1/81)	16.25	32.50	162.50	325.00	3/ 5.97	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1961. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 4.81%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

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TABLE 21-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1961 THROUGH MAY 1, 1962

ISSUE PRICE . . . . . / REDEMPTION AND MATURITY VALUE	$500 / 500	$1,000 / 1,000	$5,000 / 5,000	$10,000 / 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION — SECOND EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (6/1/82)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 2/. . . (12/1/91)	16.25	32.50	162.50	325.00	3/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1961. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 5.11%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

TABLE 22

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1962

ISSUE PRICE . . . . . / REDEMPTION AND MATURITY VALUE	$500 / 500	$1,000 / 1,000	$5,000 / 5,000	$10,000 / 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * — EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
7.0 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	5.88	6.00	6.50
7.5 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	5.91	6.50	6.50
8.0 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	5.94	6.50	6.50
8.5 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	5.96	6.50	6.50
9.0 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	5.99	6.50	6.50
9.5 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.01	6.50	6.50
10.0 YEARS 2/. . . (6/1/82)	16.25	32.50	162.50	325.00	3/ 6.03	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1967. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 4.87%.
* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 22-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1962

ISSUE PRICE . . . . . / REDEMPTION AND MATURITY VALUE	$500 / 500	$1,000 / 1,000	$5,000 / 5,000	$10,000 / 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION — SECOND EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (12/1/82)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 2/. . . (6/1/92)	16.25	32.50	162.50	325.00	3/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1962. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 5.15%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

TABLE 23

BONDS BEARING ISSUE DATES FROM DEC. 1, 1962 THROUGH MAY 1, 1963

ISSUE PRICE . . . . . / REDEMPTION AND MATURITY VALUE	$500 / 500	$1,000 / 1,000	$5,000 / 5,000	$10,000 / 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * — EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
6.5 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	5.91	6.00	6.50
7.0 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	5.94	6.50	6.50
7.5 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	5.97	6.50	6.50
8.0 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.00	6.50	6.50
8.5 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.02	6.50	6.50
9.0 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.04	6.50	6.50
9.5 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.06	6.50	6.50
10.0 YEARS 2/. . . (12/1/82)	16.25	32.50	162.50	325.00	3/ 6.08	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1962. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 4.92%.
* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

V45/14/JA21'80 UMI

TABLE 23-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1962 THROUGH MAY 1, 1963

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000	

PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION — SECOND EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (6/1/63)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (12/1/63)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (6/1/64)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (12/1/64)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (6/1/65)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (12/1/65)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (6/1/66)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (12/1/66)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (6/1/67)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (12/1/67)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (6/1/68)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (12/1/68)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (6/1/69)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (12/1/69)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (6/1/70)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (12/1/70)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (6/1/71)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (12/1/71)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (6/1/72)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 2/. . . (12/1/72)	16.25	32.50	162.50	325.00	3/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1962. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 5.20%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

TABLE 24

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1963

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000	

PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * — EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
6.0 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	5.95	6.00	6.50
6.5 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	5.99	6.50	6.50
7.0 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	6.02	6.50	6.50
7.5 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.04	6.50	6.50
8.0 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.06	6.50	6.50
8.5 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.08	6.50	6.50
9.0 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.10	6.50	6.50
9.5 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.12	6.50	6.50
10.0 YEARS 2/. . . (6/1/83)	16.25	32.50	162.50	325.00	3/ 6.13	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1963. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 6.98%.
* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 24-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1963

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000	

PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION — SECOND EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (12/1/63)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (6/1/64)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (12/1/64)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (6/1/65)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (12/1/65)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (6/1/66)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (12/1/66)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (6/1/67)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (12/1/67)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (6/1/68)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (12/1/68)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (6/1/69)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (12/1/69)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (6/1/70)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (12/1/70)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (6/1/71)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (12/1/71)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (6/1/72)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (12/1/72)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 2/. . . (6/1/73)	16.25	32.50	162.50	325.00	3/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1963. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 5.26%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

TABLE 25

BONDS BEARING ISSUE DATES FROM DEC. 1, 1963 THROUGH MAY 1, 1964

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000	

PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * — EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
5.5 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.50
6.0 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	6.04	6.50	6.50
6.5 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	6.06	6.50	6.50
7.0 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.09	6.50	6.50
7.5 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.11	6.50	6.50
8.0 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.13	6.50	6.50
8.5 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.15	6.50	6.50
9.0 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.16	6.50	6.50
9.5 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.18	6.50	6.50
10.0 YEARS 2/. . . (12/1/83)	16.25	32.50	162.50	325.00	3/ 6.19	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1963. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 5.04%.
* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

V 45 / 14 JA 21 80 UMI

TABLE 25-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1963 THROUGH MAY 1, 1964

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION SECOND EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (6/1/84)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 2/. . . (12/1/93)	16.25	32.50	162.50	325.00	3/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1963. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 5.29%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

TABLE 26

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1964

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
5.0 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.50
5.5 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	6.04	6.50	6.50
6.0 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	6.07	6.50	6.50
6.5 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.10	6.50	6.50
7.0 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.12	6.50	6.50
7.5 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.14	6.50	6.50
8.0 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.16	6.50	6.50
8.5 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.18	6.50	6.50
9.0 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.19	6.50	6.50
9.5 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.20	6.50	6.50
10.0 YEARS 2/. . . (6/1/84)	16.25	32.50	162.50	325.00	3/ 6.21	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1964. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 5.10%.
* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 24-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1964

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION SECOND EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (12/1/84)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 2/. . . (6/1/94)	16.25	32.50	162.50	325.00	3/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1964. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 5.36%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

TABLE 27

BONDS BEARING ISSUE DATES FROM DEC. 1, 1964 THROUGH MAY 1, 1965

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
4.5 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.50
5.0 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	6.04	6.50	6.50
5.5 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	6.07	6.50	6.50
6.0 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.11	6.50	6.50
6.5 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.13	6.50	6.50
7.0 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.15	6.50	6.50
7.5 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.17	6.50	6.50
8.0 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.19	6.50	6.50
8.5 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.20	6.50	6.50
9.0 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.22	6.50	6.50
9.5 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.23	6.50	6.50
10.0 YEARS 2/. . . (12/1/84)	16.25	32.50	162.50	325.00	3/ 6.24	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1964. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 5.16%.
* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

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TABLE 27-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1964 THROUGH MAY 1, 1965

ISSUE PRICE . . . . . REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION — SECOND EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE
					PERCENT
.5 YEARS . . .1/ (6/1/85)	$16.25	$32.50	$162.50	$325.00	6.50
1.0 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.50
1.5 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.50
2.0 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50
2.5 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50
3.0 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50
3.5 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50
4.0 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50
4.5 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50
5.0 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50
5.5 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50
6.0 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50
6.5 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50
7.0 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50
7.5 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50
8.0 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50
8.5 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50
9.0 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50
9.5 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50
10.0 YEARS 2/. . . (6/1/95)	16.25	32.50	162.50	325.00	3/ 6.50

	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
	PERCENT	PERCENT
.5 YEARS . . .1/ (6/1/85)	6.50	6.50
1.0 YEARS . . . . (12/1/85)	6.50	6.50
1.5 YEARS . . . . (6/1/86)	6.50	6.50
2.0 YEARS . . . . (12/1/86)	6.50	6.50
2.5 YEARS . . . . (6/1/87)	6.50	6.50
3.0 YEARS . . . . (12/1/87)	6.50	6.50
3.5 YEARS . . . . (6/1/88)	6.50	6.50
4.0 YEARS . . . . (12/1/88)	6.50	6.50
4.5 YEARS . . . . (6/1/89)	6.50	6.50
5.0 YEARS . . . . (12/1/89)	6.50	6.50
5.5 YEARS . . . . (6/1/90)	6.50	6.50
6.0 YEARS . . . . (12/1/90)	6.50	6.50
6.5 YEARS . . . . (6/1/91)	6.50	6.50
7.0 YEARS . . . . (12/1/91)	6.50	6.50
7.5 YEARS . . . . (6/1/92)	6.50	6.50
8.0 YEARS . . . . (12/1/92)	6.50	6.50
8.5 YEARS . . . . (6/1/93)	6.50	6.50
9.0 YEARS . . . . (12/1/93)	6.50	6.50
9.5 YEARS . . . . (6/1/94)	6.50	6.50
10.0 YEARS 2/. . . (6/1/95)	3/ 6.50	-----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1964. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 5.39%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

TABLE 28

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1965

ISSUE PRICE . . . . . REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * — EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE
					PERCENT
4.0 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	6.00
4.5 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	6.05
5.0 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	6.09
5.5 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.12
6.0 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.15
6.5 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.17
7.0 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.19
7.5 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.21
8.0 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.22
8.5 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.23
9.0 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.24
9.5 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.25
10.0 YEARS 2/. . . (6/1/85)	16.25	32.50	162.50	325.00	3/ 6.26

	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
	PERCENT	PERCENT
4.0 YEARS . . .1/ (6/1/79)	6.00	6.50
4.5 YEARS . . . . (12/1/79)	6.50	6.50
5.0 YEARS . . . . (6/1/80)	6.50	6.50
5.5 YEARS . . . . (12/1/80)	6.50	6.50
6.0 YEARS . . . . (6/1/81)	6.50	6.50
6.5 YEARS . . . . (12/1/81)	6.50	6.50
7.0 YEARS . . . . (6/1/82)	6.50	6.50
7.5 YEARS . . . . (12/1/82)	6.50	6.50
8.0 YEARS . . . . (6/1/83)	6.50	6.50
8.5 YEARS . . . . (12/1/83)	6.50	6.50
9.0 YEARS . . . . (6/1/84)	6.50	6.50
9.5 YEARS . . . . (12/1/84)	6.50	6.50
10.0 YEARS 2/. . . (6/1/85)	6.50	-----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1965. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 5.23%.
* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 28-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1965

ISSUE PRICE . . . . . REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION — SECOND EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE
					PERCENT
.5 YEARS . . .1/ (12/1/85)	$16.25	$32.50	$162.50	$325.00	6.50
1.0 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.50
1.5 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50
2.0 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50
2.5 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50
3.0 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50
3.5 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50
4.0 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50
4.5 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50
5.0 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50
5.5 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50
6.0 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50
6.5 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50
7.0 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50
7.5 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50
8.0 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50
8.5 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50
9.0 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50
9.5 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50
10.0 YEARS 2/. . . (6/1/95)	16.25	32.50	162.50	325.00	3/ 6.50

	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
	PERCENT	PERCENT
.5 YEARS . . .1/ (12/1/85)	6.50	6.50
1.0 YEARS . . . . (6/1/86)	6.50	6.50
1.5 YEARS . . . . (12/1/86)	6.50	6.50
2.0 YEARS . . . . (6/1/87)	6.50	6.50
2.5 YEARS . . . . (12/1/87)	6.50	6.50
3.0 YEARS . . . . (6/1/88)	6.50	6.50
3.5 YEARS . . . . (12/1/88)	6.50	6.50
4.0 YEARS . . . . (6/1/89)	6.50	6.50
4.5 YEARS . . . . (12/1/89)	6.50	6.50
5.0 YEARS . . . . (6/1/90)	6.50	6.50
5.5 YEARS . . . . (12/1/90)	6.50	6.50
6.0 YEARS . . . . (6/1/91)	6.50	6.50
6.5 YEARS . . . . (12/1/91)	6.50	6.50
7.0 YEARS . . . . (6/1/92)	6.50	6.50
7.5 YEARS . . . . (12/1/92)	6.50	6.50
8.0 YEARS . . . . (6/1/93)	6.50	6.50
8.5 YEARS . . . . (12/1/93)	6.50	6.50
9.0 YEARS . . . . (6/1/94)	6.50	6.50
9.5 YEARS . . . . (12/1/94)	6.50	6.50
10.0 YEARS 2/. . . (6/1/95)	3/ 6.50	-----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1965. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 5.44%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

TABLE 29

BONDS BEARING ISSUE DATES FROM DEC. 1, 1965 THROUGH MAY 1, 1966

ISSUE PRICE . . . . . REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * — EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE
					PERCENT
3.5 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	6.00
4.0 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	6.04
4.5 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	6.10
5.0 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.13
5.5 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.16
6.0 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.19
6.5 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.21
7.0 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.22
7.5 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.24
8.0 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.25
8.5 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.26
9.0 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.27
9.5 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.28
10.0 YEARS 2/. . . (12/1/85)	16.25	32.50	162.50	325.00	3/ 6.29

	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
	PERCENT	PERCENT
3.5 YEARS . . .1/ (6/1/79)	6.00	6.50
4.0 YEARS . . . . (12/1/79)	6.04	6.50
4.5 YEARS . . . . (6/1/80)	6.10	6.50
5.0 YEARS . . . . (12/1/80)	6.13	6.50
5.5 YEARS . . . . (6/1/81)	6.16	6.50
6.0 YEARS . . . . (12/1/81)	6.19	6.50
6.5 YEARS . . . . (6/1/82)	6.21	6.50
7.0 YEARS . . . . (12/1/82)	6.22	6.50
7.5 YEARS . . . . (6/1/83)	6.24	6.50
8.0 YEARS . . . . (12/1/83)	6.25	6.50
8.5 YEARS . . . . (6/1/84)	6.26	6.50
9.0 YEARS . . . . (12/1/84)	6.27	6.50
9.5 YEARS . . . . (6/1/85)	6.28	6.50
10.0 YEARS 2/. . . (12/1/85)	3/ 6.29	-----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1965. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 5.60%.
* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

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TABLE 29-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1965 THROUGH MAY 1, 1966

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000	

PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION — SECOND EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/	(6/1/86)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS	(12/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS	(6/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS	(12/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS	(6/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS	(12/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS	(6/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS	(12/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS	(6/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS	(12/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS	(6/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS	(12/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS	(6/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS	(12/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS	(6/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS	(12/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS	(6/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS	(12/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS	(6/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 2/. . .	(12/1/95)	16.25	32.50	162.50	325.00	3/ 6.50	6.50	-----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1965. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 5.58%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

TABLE 30

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1966

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000	

PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * — EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
3.0 YEARS . . .1/	(6/1/79)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.50
3.5 YEARS	(12/1/79)	16.25	32.50	162.50	325.00	6.07	6.50	6.50
4.0 YEARS	(6/1/80)	16.25	32.50	162.50	325.00	6.11	6.50	6.50
4.5 YEARS	(12/1/80)	16.25	32.50	162.50	325.00	6.15	6.50	6.50
5.0 YEARS	(6/1/81)	16.25	32.50	162.50	325.00	6.18	6.50	6.50
5.5 YEARS	(12/1/81)	16.25	32.50	162.50	325.00	6.21	6.50	6.50
6.0 YEARS	(6/1/82)	16.25	32.50	162.50	325.00	6.23	6.50	6.50
6.5 YEARS	(12/1/82)	16.25	32.50	162.50	325.00	6.24	6.50	6.50
7.0 YEARS	(6/1/83)	16.25	32.50	162.50	325.00	6.26	6.50	6.50
7.5 YEARS	(12/1/83)	16.25	32.50	162.50	325.00	6.27	6.50	6.50
8.0 YEARS	(6/1/84)	16.25	32.50	162.50	325.00	6.28	6.50	6.50
8.5 YEARS	(12/1/84)	16.25	32.50	162.50	325.00	6.29	6.50	6.50
9.0 YEARS	(6/1/85)	16.25	32.50	162.50	325.00	6.30	6.50	6.50
9.5 YEARS	(12/1/85)	16.25	32.50	162.50	325.00	6.31	6.50	6.50
10.0 YEARS 2/. . .	(6/1/86)	16.25	32.50	162.50	325.00	3/ 6.32	6.50	-----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1966. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 5.46%.
* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 30-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1966

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000	

PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION — SECOND EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/	(12/1/86)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS	(6/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS	(12/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS	(6/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS	(12/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS	(6/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS	(12/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS	(6/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS	(12/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS	(6/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS	(12/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS	(6/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS	(12/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS	(6/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS	(12/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS	(6/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS	(12/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS	(6/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS	(12/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 2/. . .	(6/1/96)	16.25	32.50	162.50	325.00	3/ 6.50	6.50	-----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1966. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 5.58%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

TABLE 31

BONDS BEARING ISSUE DATES FROM DEC. 1, 1966 THROUGH MAY 1, 1967

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000	

PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * — EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
2.5 YEARS . . .1/	(6/1/79)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.50
3.0 YEARS	(12/1/79)	16.25	32.50	162.50	325.00	6.08	6.50	6.50
3.5 YEARS	(6/1/80)	16.25	32.50	162.50	325.00	6.13	6.50	6.50
4.0 YEARS	(12/1/80)	16.25	32.50	162.50	325.00	6.17	6.50	6.50
4.5 YEARS	(6/1/81)	16.25	32.50	162.50	325.00	6.21	6.50	6.50
5.0 YEARS	(12/1/81)	16.25	32.50	162.50	325.00	6.23	6.50	6.50
5.5 YEARS	(6/1/82)	16.25	32.50	162.50	325.00	6.25	6.50	6.50
6.0 YEARS	(12/1/82)	16.25	32.50	162.50	325.00	6.27	6.50	6.50
6.5 YEARS	(6/1/83)	16.25	32.50	162.50	325.00	6.28	6.50	6.50
7.0 YEARS	(12/1/83)	16.25	32.50	162.50	325.00	6.30	6.50	6.50
7.5 YEARS	(6/1/84)	16.25	32.50	162.50	325.00	6.31	6.50	6.50
8.0 YEARS	(12/1/84)	16.25	32.50	162.50	325.00	6.32	6.50	6.50
8.5 YEARS	(6/1/85)	16.25	32.50	162.50	325.00	6.32	6.50	6.50
9.0 YEARS	(12/1/85)	16.25	32.50	162.50	325.00	6.33	6.50	6.50
9.5 YEARS	(6/1/86)	16.25	32.50	162.50	325.00	6.34	6.50	6.50
10.0 YEARS 2/. . .	(12/1/86)	16.25	32.50	162.50	325.00	3/ 6.34	6.50	-----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1966. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 5.52%.
* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

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TABLE 31-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1966 THROUGH MAY 1, 1967

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000			
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION — SECOND EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (6/1/87)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 2/. . . (6/1/97)	16.25	32.50	162.50	325.00	3/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1966. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 5.689.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

TABLE 32

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1967

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000			
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * — EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
2.0 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.50
2.5 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	6.09	6.50	6.50
3.0 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	6.14	6.50	6.50
3.5 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.20	6.50	6.50
4.0 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.23	6.50	6.50
4.5 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.26	6.50	6.50
5.0 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.28	6.50	6.50
5.5 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.30	6.50	6.50
6.0 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.31	6.50	6.50
6.5 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.32	6.50	6.50
7.0 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.33	6.50	6.50
7.5 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.34	6.50	6.50
8.0 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.35	6.50	6.50
8.5 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.36	6.50	6.50
9.0 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.36	6.50	6.50
9.5 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.37	6.50	6.50
10.0 YEARS 2/. . . (6/1/87)	16.25	32.50	162.50	325.00	3/ 6.37	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1967. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 5.598.
* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 32-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1967

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000			
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION — SECOND EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (12/1/87)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (12/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 2/. . . (6/1/97)	16.25	32.50	162.50	325.00	3/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1967. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 5.748.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

TABLE 33

BONDS BEARING ISSUE DATES FROM DEC. 1, 1967 THROUGH MAY 1, 1968

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000			
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * — EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
1.5 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	6.00	6.00	6.50
2.0 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	6.12	6.50	6.50
2.5 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	6.19	6.50	6.50
3.0 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.24	6.50	6.50
3.5 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.27	6.50	6.50
4.0 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.30	6.50	6.50
4.5 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.32	6.50	6.50
5.0 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.33	6.50	6.50
5.5 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.35	6.50	6.50
6.0 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.36	6.50	6.50
6.5 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.37	6.50	6.50
7.0 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.37	6.50	6.50
7.5 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.38	6.50	6.50
8.0 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.39	6.50	6.50
8.5 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.39	6.50	6.50
9.0 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.40	6.50	6.50
9.5 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.40	6.50	6.50
10.0 YEARS 2/. . . (12/1/87)	16.25	32.50	162.50	325.00	3/ 6.40	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1967. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 5.65%.
* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

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TABLE 33-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1967 THROUGH MAY 1, 1968

ISSUE PRICE / REDEMPTION AND MATURITY VALUE	$500 / 500	$1,000 / 1,000	$5,000 / 5,000	$10,000 / 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION — SECOND EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE
.5 YEARS . . .1/ (6/1/88)	$16.25	$32.50	$162.50	$325.00	6.50
1.0 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50
1.5 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50
2.0 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50
2.5 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50
3.0 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50
3.5 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50
4.0 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50
4.5 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50
5.0 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50
5.5 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50
6.0 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50
6.5 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50
7.0 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50
7.5 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50
8.0 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50
8.5 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50
9.0 YEARS . . . . (12/1/96)	16.25	32.50	162.50	325.00	6.50
9.5 YEARS . . . . (6/1/97)	16.25	32.50	162.50	325.00	6.50
10.0 YEARS 2/. . . (12/1/97)	16.25	32.50	162.50	325.00	3/ 6.50

PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
	PERCENT	PERCENT
.5 YEARS . . .1/ (6/1/88)	6.50	6.50
1.0 YEARS . . . . (12/1/88)	6.50	6.50
1.5 YEARS . . . . (6/1/89)	6.50	6.50
2.0 YEARS . . . . (12/1/89)	6.50	6.50
2.5 YEARS . . . . (6/1/90)	6.50	6.50
3.0 YEARS . . . . (12/1/90)	6.50	6.50
3.5 YEARS . . . . (6/1/91)	6.50	6.50
4.0 YEARS . . . . (12/1/91)	6.50	6.50
4.5 YEARS . . . . (6/1/92)	6.50	6.50
5.0 YEARS . . . . (12/1/92)	6.50	6.50
5.5 YEARS . . . . (6/1/93)	6.50	6.50
6.0 YEARS . . . . (12/1/93)	6.50	6.50
6.5 YEARS . . . . (6/1/94)	6.50	6.50
7.0 YEARS . . . . (12/1/94)	6.50	6.50
7.5 YEARS . . . . (6/1/95)	6.50	6.50
8.0 YEARS . . . . (12/1/95)	6.50	6.50
8.5 YEARS . . . . (6/1/96)	6.50	6.50
9.0 YEARS . . . . (12/1/96)	6.50	6.50
9.5 YEARS . . . . (6/1/97)	6.50	6.50
10.0 YEARS 2/. . . (6/1/98)	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1967. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 5.79%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

TABLE 34

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1968

ISSUE PRICE / REDEMPTION AND MATURITY VALUE	$500 / 500	$1,000 / 1,000	$5,000 / 5,000	$10,000 / 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION * — EXTENDED MATURITY PERIOD				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE
1.0 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	6.00
1.5 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	6.14
2.0 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	6.24
2.5 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.29
3.0 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.32
3.5 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.35
4.0 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.36
4.5 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.38
5.0 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.39
5.5 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.40
6.0 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.40
6.5 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.41
7.0 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.41
7.5 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.42
8.0 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.42
8.5 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.43
9.0 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.43
9.5 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.43
10.0 YEARS 2/. . . (6/1/88)	16.25	32.50	162.50	325.00	3/ 6.43

PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
	PERCENT	PERCENT
1.0 YEARS . . .1/ (6/1/79)	6.00	6.50
1.5 YEARS . . . . (12/1/79)	6.50	6.50
2.0 YEARS . . . . (6/1/80)	6.50	6.50
2.5 YEARS . . . . (12/1/80)	6.50	6.50
3.0 YEARS . . . . (6/1/81)	6.50	6.50
3.5 YEARS . . . . (12/1/81)	6.50	6.50
4.0 YEARS . . . . (6/1/82)	6.50	6.50
4.5 YEARS . . . . (12/1/82)	6.50	6.50
5.0 YEARS . . . . (6/1/83)	6.50	6.50
5.5 YEARS . . . . (12/1/83)	6.50	6.50
6.0 YEARS . . . . (6/1/84)	6.50	6.50
6.5 YEARS . . . . (12/1/84)	6.50	6.50
7.0 YEARS . . . . (6/1/85)	6.50	6.50
7.5 YEARS . . . . (12/1/85)	6.50	6.50
8.0 YEARS . . . . (6/1/86)	6.50	6.50
8.5 YEARS . . . . (12/1/86)	6.50	6.50
9.0 YEARS . . . . (6/1/87)	6.50	6.50
9.5 YEARS . . . . (12/1/87)	6.50	6.50
10.0 YEARS 2/. . . (6/1/88)	3/ 6.63	6.50

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1968. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 5.72%.
* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 34-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1968

ISSUE PRICE / REDEMPTION AND MATURITY VALUE	$500 / 500	$1,000 / 1,000	$5,000 / 5,000	$10,000 / 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION — SECOND EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE
.5 YEARS . . .1/ (12/1/88)	$16.25	$32.50	$162.50	$325.00	6.50
1.0 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50
1.5 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50
2.0 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50
2.5 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50
3.0 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50
3.5 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50
4.0 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50
4.5 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50
5.0 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50
5.5 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50
6.0 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50
6.5 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50
7.0 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50
7.5 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50
8.0 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50
8.5 YEARS . . . . (12/1/96)	16.25	32.50	162.50	325.00	6.50
9.0 YEARS . . . . (6/1/97)	16.25	32.50	162.50	325.00	6.50
9.5 YEARS . . . . (12/1/97)	16.25	32.50	162.50	325.00	6.50
10.0 YEARS 2/. . . (6/1/98)	16.25	32.50	162.50	325.00	3/ 6.50

PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
	PERCENT	PERCENT
.5 YEARS . . .1/ (12/1/88)	6.50	6.50
1.0 YEARS . . . . (6/1/89)	6.50	6.50
1.5 YEARS . . . . (12/1/89)	6.50	6.50
2.0 YEARS . . . . (6/1/90)	6.50	6.50
2.5 YEARS . . . . (12/1/90)	6.50	6.50
3.0 YEARS . . . . (6/1/91)	6.50	6.50
3.5 YEARS . . . . (12/1/91)	6.50	6.50
4.0 YEARS . . . . (6/1/92)	6.50	6.50
4.5 YEARS . . . . (12/1/92)	6.50	6.50
5.0 YEARS . . . . (6/1/93)	6.50	6.50
5.5 YEARS . . . . (12/1/93)	6.50	6.50
6.0 YEARS . . . . (6/1/94)	6.50	6.50
6.5 YEARS . . . . (12/1/94)	6.50	6.50
7.0 YEARS . . . . (6/1/95)	6.50	6.50
7.5 YEARS . . . . (12/1/95)	6.50	6.50
8.0 YEARS . . . . (6/1/96)	6.50	6.50
8.5 YEARS . . . . (12/1/96)	6.50	6.50
9.0 YEARS . . . . (6/1/97)	6.50	6.50
9.5 YEARS . . . . (12/1/97)	6.50	6.50
10.0 YEARS 2/. . . (6/1/98)	3/ 6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1968. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 5.85%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

TABLE 35

BONDS BEARING ISSUE DATES FROM DEC. 1, 1968 THROUGH MAY 1, 1969

ISSUE PRICE / REDEMPTION AND MATURITY VALUE	$500 / 500	$1,000 / 1,000	$5,000 / 5,000	$10,000 / 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION — EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE
.5 YEARS . . .1/ (6/1/79)	$15.00	$30.00	$150.00	$300.00	6.00
1.0 YEARS . . . . (12/1/79)	16.25	32.50	162.50	325.00	6.25
1.5 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	6.33
2.0 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.37
2.5 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.39
3.0 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.41
3.5 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.42
4.0 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.43
4.5 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.44
5.0 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.44
5.5 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.45
6.0 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.45
6.5 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.45
7.0 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.46
7.5 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.46
8.0 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.46
8.5 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.46
9.0 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.46
9.5 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.47
10.0 YEARS 2/. . . (12/1/88)	16.25	32.50	162.50	325.00	3/ 6.47

PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DAYE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
	PERCENT	PERCENT
.5 YEARS . . .1/ (6/1/79)	6.00	6.50
1.0 YEARS . . . . (12/1/79)	6.25	6.50
1.5 YEARS . . . . (6/1/80)	6.33	6.50
2.0 YEARS . . . . (12/1/80)	6.37	6.50
2.5 YEARS . . . . (6/1/81)	6.39	6.50
3.0 YEARS . . . . (12/1/81)	6.41	6.50
3.5 YEARS . . . . (6/1/82)	6.42	6.50
4.0 YEARS . . . . (12/1/82)	6.43	6.50
4.5 YEARS . . . . (6/1/83)	6.44	6.50
5.0 YEARS . . . . (12/1/83)	6.44	6.50
5.5 YEARS . . . . (6/1/84)	6.45	6.50
6.0 YEARS . . . . (12/1/84)	6.45	6.50
6.5 YEARS . . . . (6/1/85)	6.45	6.50
7.0 YEARS . . . . (12/1/85)	6.46	6.50
7.5 YEARS . . . . (6/1/86)	6.46	6.50
8.0 YEARS . . . . (12/1/86)	6.46	6.50
8.5 YEARS . . . . (6/1/87)	6.46	6.50
9.0 YEARS . . . . (12/1/87)	6.46	6.50
9.5 YEARS . . . . (6/1/88)	6.47	6.50
10.0 YEARS 2/. . . (12/1/88)	3/ 6.47	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1968. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 5.81%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

V 45 / 14 JA 21 80 UMI

TABLE 35-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1968 THROUGH MAY 1, 1969

PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	ISSUE PRICE / REDEMPTION AND MATURITY VALUE $500 / 500	$1,000 / 1,000	$5,000 / 5,000	$10,000 / 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE) (2) FROM BEGINNING OF CURRENT MATURITY PD. TO F4. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION						
	SECOND EXTENDED MATURITY PERIOD **						
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (6/1/89)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (12/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (6/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (12/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (6/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 2/. . . (12/1/98)	16.25	32.50	162.50	325.00	3/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1968. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 5.92%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

TABLE 36

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1969

PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	ISSUE PRICE / REDEMPTION AND MATURITY VALUE $500 / 500	$1,000 / 1,000	$5,000 / 5,000	$10,000 / 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE) (2) FROM ISSUE TO EACH INTEREST PAYMENT DATE	(3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION *						
					PERCENT	PERCENT	PERCENT
10.0 YEARS 1/. .2/ (6/1/79)	$16.53	$33.06	$165.30	$330.60	5.67	6.61	----
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS	EXTENDED MATURITY PERIOD **						TO EXTENDED MATURITY
.5 YEARS . . . . (12/1/79)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (6/1/80)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 3/. . . (6/1/89)	16.25	32.50	162.50	325.00	4/ 6.50	6.50	----

1/ MATURITY REACHED AT 10 YEARS AND 0 MONTHS AFTER ISSUE DATE.
2/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1969. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
3/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
4/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 5.96%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

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TABLE 36-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1969

ISSUE PRICE . . . . . / REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
	SECOND EXTENDED MATURITY PERIOD **						
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (12/1/89)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (12/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (6/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (12/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (6/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (12/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 2/. . . (6/1/99)	16.25	32.50	162.50	325.00	3/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1969. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.05%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

TABLE 37

BONDS BEARING ISSUE DATES FROM DEC. 1, 1969 THROUGH MAY 1, 1970

ISSUE PRICE . . . . . / REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION *				(2) FROM ISSUE TO EACH INTEREST PAYMENT DATE	(3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
					PERCENT	PERCENT	PERCENT
9.5 YEARS . . .1/ (6/1/79)	$16.72	$33.44	$167.20	$334.40	5.69	6.69	7.19
10.0 YEARS 2/. . . (12/1/79)	17.97	35.94	179.70	359.40	5.75	7.19	----
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS	EXTENDED MATURITY PERIOD **						TO EXTENDED MATURITY
.5 YEARS . . . . (6/1/80)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (12/1/80)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 3/. . . (12/1/89)	16.25	32.50	162.50	325.00	4/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1969. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ MATURITY REACHED AT 10 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
4/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 6.01%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

V.45/14 JA21 80 UMI

TABLE 37-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1969 THROUGH MAY 1, 1970

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000			
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION — SECOND EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . . 1/ (6/1/90)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (12/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (6/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (12/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (6/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (12/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (6/1/99)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 2/. . . (12/1/99)	16.25	32.50	162.50	325.00	3/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1969. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.09%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

TABLE 38

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1970

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000			
PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION *				(2) FROM ISSUE TO EACH INTEREST PAYMENT DATE	(3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
					PERCENT	PERCENT	PERCENT
9.0 YEARS . . . 1/ (6/1/79)	$16.26	$32.52	$162.60	$325.20	5.79	6.50	7.00
9.5 YEARS . . . . (12/1/79)	17.51	35.02	175.10	350.20	5.74	7.00	7.00
10.0 YEARS 2/. . . (6/1/80)	17.51	35.02	175.10	350.20	5.83	7.00	----

PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS	EXTENDED MATURITY PERIOD **						TO EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . . . (12/1/80)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (6/1/81)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (12/1/81)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 3/. . . (6/1/90)	16.25	32.50	162.50	325.00	4/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1970. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ MATURITY REACHED AT 10 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
4/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 6.06%.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

V45/14 JA 21 80 UMI

TABLE 38-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1970

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000	

PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION — SECOND EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS	1/ (12/1/90)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS	(6/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS	(12/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS	(6/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS	(12/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS	(6/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS	(12/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS	(6/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS	(12/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS	(6/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS	(12/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS	(6/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS	(12/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS	(6/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS	(12/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS	(6/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS	(12/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS	(6/1/99)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS	(12/1/99)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS	2/. . (6/1/ 0)	16.25	32.50	162.50	325.00	3/ 6.50	6.50	-----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1970. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.13%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

TABLE 39

BONDS BEARING ISSUE DATES FROM DEC. 1, 1970 THROUGH MAY 1, 1971

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000	

PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION *				(2) FROM ISSUE TO EACH INTEREST PAYMENT DATE	(3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
					PERCENT	PERCENT	PERCENT
8.5 YEARS	.1/ (6/1/79)	$16.24	$32.52	$162.60	$325.20	5.33	5.50	5.80
9.0 YEARS	(12/1/79)	17.91	35.02	175.10	350.20	5.78	7.00	5.80
9.5 YEARS	(6/1/80)	17.91	35.02	175.10	350.20	5.83	7.00	5.80
10.0 YEARS	2/. . (12/1/80)	17.91	35.02	175.10	350.20	5.89	7.00	-----

PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS	EXTENDED MATURITY PERIOD **						TO EXTENDED MATURITY
.5 YEARS	(6/1/81)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS	(12/1/81)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS	(6/1/82)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS	(12/1/82)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS	(6/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS	(12/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS	(6/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS	(12/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS	(6/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS	(12/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS	(6/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS	(12/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS	(6/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS	(12/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS	(6/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS	(12/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS	(6/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS	(12/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS	(6/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS	3/. . (12/1/90)	16.25	32.50	162.50	325.00	4/ 6.50	6.50	-----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1970. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ MATURITY REACHED AT 10 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
4/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 6.09%.
* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 8TH REVISION, AS AMENDED AND SUPPLEMENTED.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

V45/14 JA21 80 UMI

TABLE 39-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1970 THROUGH MAY 1, 1971

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000			
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION — SECOND EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (6/1/91)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (12/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (6/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (12/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (6/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (12/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (6/1/99)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (12/1/99)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (6/1/ 0)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 2/. . . (12/1/ 0)	16.25	32.50	162.50	325.00	3/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1970. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.16%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

TABLE 40

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1971

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000			
PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION *				(2) FROM ISSUE TO EACH INTEREST PAYMENT DATE	(3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
					PERCENT	PERCENT	PERCENT
8.0 YEARS . . .1/ (6/1/79)	$16.26	$32.52	$162.60	$325.20	5.72	6.50	7.00
8.5 YEARS . . . . (12/1/79)	17.51	35.02	175.10	350.20	5.76	7.00	7.00
9.0 YEARS . . . . (6/1/80)	17.51	35.02	175.10	350.20	5.83	7.00	7.00
9.5 YEARS . . . . (12/1/80)	17.51	35.02	175.10	350.20	5.88	7.00	7.00
10.0 YEARS 2/. . . (6/1/81)	17.51	35.02	175.10	350.20	5.92	7.00	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1971. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ MATURITY REACHED AT 10 YEARS AND 0 MONTHS AFTER ISSUE DATE.
* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 40-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1971

ISSUE PRICE	$500	$1,000	$5,000	$10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
REDEMPTION AND MATURITY VALUE	500	1,000	5,000	10,000			
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION — EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (12/1/81)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (6/1/82)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 2/. . . (6/1/91)	16.25	32.50	162.50	325.00	3/ 6.50	6.50	----
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	SECOND EXTENDED MATURITY PERIOD **						TO 2ND EXTENDED MATURITY
.5 YEARS . . . . (12/1/91)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (12/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (6/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (12/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (6/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (12/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (6/1/99)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (12/1/99)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (6/1/ 0)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (12/1/ 0)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 4/. . . (6/1/ 1)	16.25	32.50	162.50	325.00	5/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1971. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 6.12%.
4/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
5/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.18%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

V 45 / 14 JA 21 80 UMI

TABLE 41

BONDS BEARING ISSUE DATES FROM DEC. 1, 1971 THROUGH MAY 1, 1972

ISSUE PRICE . . . . . / REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION *				(2) FROM ISSUE TO EACH INTEREST PAYMENT DATE
7.5 YEARS . . .1/ (6/1/79)	$16.26	$32.52	$162.60	$325.20	PERCENT 5.72
8.0 YEARS . . . . (12/1/79)	17.51	35.02	175.10	350.20	5.78
8.5 YEARS . . . . (6/1/80)	17.51	35.02	175.10	350.20	5.84
9.0 YEARS . . . . (12/1/80)	17.51	35.02	175.10	350.20	5.89
9.5 YEARS . . . . (6/1/81)	17.51	35.02	175.10	350.20	5.93
10.0 YEARS 2/. . . (12/1/81)	17.51	35.02	175.10	350.20	5.97

PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
	PERCENT	PERCENT
7.5 YEARS . . .1/ (6/1/79)	6.50	7.00
8.0 YEARS . . . . (12/1/79)	7.00	7.00
8.5 YEARS . . . . (6/1/80)	7.00	7.00
9.0 YEARS . . . . (12/1/80)	7.00	7.00
9.5 YEARS . . . . (6/1/81)	7.00	7.00
10.0 YEARS 2/. . . (12/1/81)	7.00	-----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1971. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.

2/ MATURITY REACHED AT 10 YEARS AND 0 MONTHS AFTER ISSUE DATE.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 41-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1971 THROUGH MAY 1, 1972

ISSUE PRICE . . . . . / REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE
.5 YEARS . . .1/ (6/1/82)	$16.25	$32.50	$162.50	$325.00	PERCENT 6.50
1.0 YEARS . . . . (12/1/82)	16.25	32.50	162.50	325.00	6.50
1.5 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.50
2.0 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.50
2.5 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.50
3.0 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.50
3.5 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.50
4.0 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.50
4.5 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.50
5.0 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50
5.5 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50
6.0 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50
6.5 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50
7.0 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50
7.5 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50
8.0 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50
8.5 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50
9.0 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50
9.5 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50
10.0 YEARS 2/. . . (12/1/91)	16.25	32.50	162.50	325.00	3/ 6.50

PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	SECOND EXTENDED MATURITY PERIOD **				(3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT
.5 YEARS . . . . (6/1/92)	$16.25	$32.50	$162.50	$325.00	6.50	6.50
1.0 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50	6.50
1.5 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50	6.50
2.0 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50	6.50
2.5 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50	6.50
3.0 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50	6.50
3.5 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50	6.50
4.0 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50	6.50
4.5 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50	6.50
5.0 YEARS . . . . (12/1/96)	16.25	32.50	162.50	325.00	6.50	6.50
5.5 YEARS . . . . (6/1/97)	16.25	32.50	162.50	325.00	6.50	6.50
6.0 YEARS . . . . (12/1/97)	16.25	32.50	162.50	325.00	6.50	6.50
6.5 YEARS . . . . (6/1/98)	16.25	32.50	162.50	325.00	6.50	6.50
7.0 YEARS . . . . (12/1/98)	16.25	32.50	162.50	325.00	6.50	6.50
7.5 YEARS . . . . (6/1/99)	16.25	32.50	162.50	325.00	6.50	6.50
8.0 YEARS . . . . (12/1/99)	16.25	32.50	162.50	325.00	6.50	6.50
8.5 YEARS . . . . (6/1/ 0)	16.25	32.50	162.50	325.00	6.50	6.50
9.0 YEARS . . . . (12/1/ 0)	16.25	32.50	162.50	325.00	6.50	6.50
9.5 YEARS . . . . (6/1/ 1)	16.25	32.50	162.50	325.00	6.50	6.50
10.0 YEARS 4/. . . (12/1/ 1)	16.25	32.50	162.50	325.00	5/ 6.50	6.50

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1971. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.

2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.

3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 6.15%.

4/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.

5/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.21%.

** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

V45/14 JA2180 UMI

TABLE 42

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1972

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION *				(2) FROM ISSUE TO EACH INTEREST PAYMENT DATE	(3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
					PERCENT	PERCENT	PERCENT
7.0 YEARS . . .1/ (6/1/79)	$16.27	$32.54	$162.70	$325.40	5.71	6.51	7.01
7.5 YEARS . . . . (12/1/79)	17.52	35.04	175.20	350.40	5.78	7.01	7.01
8.0 YEARS . . . . (6/1/80)	17.52	35.04	175.20	350.40	5.86	7.01	7.01
8.5 YEARS . . . . (12/1/80)	17.52	35.04	175.20	350.40	5.90	7.01	7.01
9.0 YEARS . . . . (6/1/81)	17.52	35.04	175.20	350.40	5.94	7.01	7.01
9.5 YEARS . . . . (12/1/81)	17.52	35.04	175.20	350.40	5.99	7.01	7.01
10.0 YEARS 2/. . . (6/1/82)	17.52	35.04	175.20	350.40	6.02	7.01	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1972. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ MATURITY REACHED AT 10 YEARS AND 0 MONTHS AFTER ISSUE DATE.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 42-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1972

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (12/1/82)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (6/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 2/. . . (6/1/92)	16.25	32.50	162.50	325.00	3/ 6.50	6.50	----
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	SECOND EXTENDED MATURITY PERIOD **						TO 2ND EXTENDED MATURITY
.5 YEARS . . . . (12/1/92)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (12/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (6/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (12/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (6/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (12/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (6/1/99)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (12/1/99)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (6/1/ 0)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (12/1/ 0)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (6/1/ 1)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (12/1/ 1)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 4/. . . (6/1/ 2)	16.25	32.50	162.50	325.00	5/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1972. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 6.19%.
4/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
5/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.24%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

V 45 / 14 JA 21 80 UMI

TABLE 43

BONDS BEARING ISSUE DATES FROM DEC. 1, 1972 THROUGH MAY 1, 1973

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION *				(2) FROM ISSUE TO EACH INTEREST PAYMENT DATE	(3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
					PERCENT	PERCENT	PERCENT
6.5 YEARS . . .1/ (6/1/79)	$16.27	$32.54	$162.70	$325.40	5.71	6.51	7.01
7.0 YEARS . . . . (12/1/79)	17.52	35.04	175.20	350.40	5.78	7.01	7.01
7.5 YEARS . . . . (6/1/80)	17.52	35.04	175.20	350.40	5.88	7.01	7.01
8.0 YEARS . . . . (12/1/80)	17.52	35.04	175.20	350.40	5.91	7.01	7.01
8.5 YEARS . . . . (6/1/81)	17.52	35.04	175.20	350.40	5.96	7.01	7.01
9.0 YEARS . . . . (12/1/81)	17.52	35.04	175.20	350.40	6.00	7.01	7.01
9.5 YEARS . . . . (6/1/82)	17.52	35.04	175.20	350.40	6.04	7.01	7.01
10.0 YEARS 2/. . . (12/1/82)	17.52	35.04	175.20	350.40	6.07	7.01	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1972. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ MATURITY REACHED AT 10 YEARS AND 0 MONTHS AFTER ISSUE DATE.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 67TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 43-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1972 THROUGH MAY 1, 1973

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (6/1/83)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (12/1/83)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 2/. . . (12/1/92)	16.25	32.50	162.50	325.00	3/ 6.50	6.50	----
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	SECOND EXTENDED MATURITY PERIOD **						TO 2ND EXTENDED MATURITY
.5 YEARS . . . . (6/1/93)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (12/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (6/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (12/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (6/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (12/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (6/1/99)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (12/1/99)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (6/1/ 0)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (12/1/ 0)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (6/1/ 1)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (12/1/ 1)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (6/1/ 2)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 4/. . . (12/1/ 2)	16.25	32.50	162.50	325.00	5/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1972. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 6.22%.
4/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
5/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.27%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

V 45 / 14 JA 21 80 UMI

TABLE 44

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1973

ISSUE PRICE . . . . . / REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION *				(2) FROM ISSUE TO EACH INTEREST PAYMENT DATE
					PERCENT
6.0 YEARS . . .1/ (6/1/79)	$16.27	$32.54	$162.70	$325.40	5.70
6.5 YEARS . . . . (12/1/79)	17.52	35.04	175.20	350.40	5.78
7.0 YEARS . . . . (6/1/80)	17.52	35.04	175.20	350.40	5.85
7.5 YEARS . . . . (12/1/80)	17.52	35.04	175.20	350.40	5.92
8.0 YEARS . . . . (6/1/81)	17.52	35.04	175.20	350.40	5.97
8.5 YEARS . . . . (12/1/81)	17.52	35.04	175.20	350.40	6.02
9.0 YEARS . . . . (6/1/82)	17.52	35.04	175.20	350.40	6.06
9.5 YEARS . . . . (12/1/82)	17.52	35.04	175.20	350.40	6.09
10.0 YEARS 2/. . . (6/1/83)	17.52	35.04	175.20	350.40	6.13

	(3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
	PERCENT	PERCENT
6.0 YEARS . . .1/ (6/1/79)	6.51	7.01
6.5 YEARS . . . . (12/1/79)	7.04	7.01
7.0 YEARS . . . . (6/1/80)	7.01	7.01
7.5 YEARS . . . . (12/1/80)	7.01	7.01
8.0 YEARS . . . . (6/1/81)	7.01	7.01
8.5 YEARS . . . . (12/1/81)	7.01	7.01
9.0 YEARS . . . . (6/1/82)	7.01	7.01
9.5 YEARS . . . . (12/1/82)	7.01	7.01
10.0 YEARS 2/. . . (6/1/83)	7.01	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1973. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.

2/ MATURITY REACHED AT 10 YEARS AND 0 MONTHS AFTER ISSUE DATE.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 44-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1973

ISSUE PRICE . . . . . / REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE
					PERCENT
.5 YEARS . . .1/ (12/1/83)	$16.25	$32.50	$162.50	$325.00	6.50
1.0 YEARS . . . . (6/1/84)	16.25	32.50	162.50	325.00	6.50
1.5 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.50
2.0 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.50
2.5 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.50
3.0 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.50
3.5 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50
4.0 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50
4.5 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50
5.0 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50
5.5 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50
6.0 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50
6.5 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50
7.0 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50
7.5 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50
8.0 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50
8.5 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50
9.0 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50
9.5 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50
10.0 YEARS 2/. . . (6/1/93)	16.25	32.50	162.50	325.00	3/ 6.50

	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
	PERCENT	PERCENT
.5 YEARS . . .1/ (12/1/83)	6.50	6.50
1.0 YEARS . . . . (6/1/84)	6.50	6.50
1.5 YEARS . . . . (12/1/84)	6.50	6.50
2.0 YEARS . . . . (6/1/85)	6.50	6.50
2.5 YEARS . . . . (12/1/85)	6.50	6.50
3.0 YEARS . . . . (6/1/86)	6.50	6.50
3.5 YEARS . . . . (12/1/86)	6.50	6.50
4.0 YEARS . . . . (6/1/87)	6.50	6.50
4.5 YEARS . . . . (12/1/87)	6.50	6.50
5.0 YEARS . . . . (6/1/88)	6.50	6.50
5.5 YEARS . . . . (12/1/88)	6.50	6.50
6.0 YEARS . . . . (6/1/89)	6.50	6.50
6.5 YEARS . . . . (12/1/89)	6.50	6.50
7.0 YEARS . . . . (6/1/90)	6.50	6.50
7.5 YEARS . . . . (12/1/90)	6.50	6.50
8.0 YEARS . . . . (6/1/91)	6.50	6.50
8.5 YEARS . . . . (12/1/91)	6.50	6.50
9.0 YEARS . . . . (6/1/92)	6.50	6.50
9.5 YEARS . . . . (12/1/92)	6.50	6.50
10.0 YEARS 2/. . . (6/1/93)	6.50	----

PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	SECOND EXTENDED MATURITY PERIOD **						TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . . . (12/1/93)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (12/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (6/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (12/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (6/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (12/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (6/1/99)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (12/1/99)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (6/1/ 0)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (12/1/ 0)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (6/1/ 1)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (12/1/ 1)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (6/1/ 2)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (12/1/ 2)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 4/. . . (6/1/ 3)	16.25	32.50	162.50	325.00	5/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1973. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.

2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.

3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 6.26%.

4/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.

5/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.29%.

** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

V 45 / 14 JA 21 80 UMI

TABLE 45

BONDS BEARING ISSUE DATES FROM DEC. 1, 1973 THROUGH MAY 1, 1974

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION *				(2) FROM ISSUE TO EACH INTEREST PAYMENT DATE
5.5 YEARS . . .1/ (6/1/79)	$16.88	$32.56	$162.80	$325.60	5.69
6.0 YEARS . . . . (12/1/79)	17.53	35.06	175.30	350.60	5.78
6.5 YEARS . . . . (6/1/80)	17.53	35.06	175.30	350.60	5.86
7.0 YEARS . . . . (12/1/80)	17.53	35.06	175.30	350.60	5.93
7.5 YEARS . . . . (6/1/81)	17.53	35.06	175.30	350.60	5.99
8.0 YEARS . . . . (12/1/81)	17.53	35.06	175.30	350.60	6.04
8.5 YEARS . . . . (6/1/82)	17.53	35.06	175.30	350.60	6.08
9.0 YEARS . . . . (12/1/82)	17.53	35.06	175.30	350.60	6.12
9.5 YEARS . . . . (6/1/83)	17.53	35.06	175.30	350.60	6.15
10.0 YEARS 2/. . . (12/1/83)	17.53	35.06	175.30	350.60	6.18

PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
	PERCENT	PERCENT
5.5 YEARS . . .1/ (6/1/79)	4.51	7.01
6.0 YEARS . . . . (12/1/79)	7.01	7.01
6.5 YEARS . . . . (6/1/80)	7.01	7.01
7.0 YEARS . . . . (12/1/80)	7.01	7.01
7.5 YEARS . . . . (6/1/81)	7.01	7.01
8.0 YEARS . . . . (12/1/81)	7.01	7.01
8.5 YEARS . . . . (6/1/82)	7.01	7.01
9.0 YEARS . . . . (12/1/82)	7.01	7.01
9.5 YEARS . . . . (6/1/83)	7.01	7.01
10.0 YEARS 2/. . . (12/1/83)	7.01	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1973. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.

2/ MATURITY REACHED AT 10 YEARS AND 0 MONTHS AFTER ISSUE DATE.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 67TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 45-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1973 THROUGH MAY 1, 1974

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE
.5 YEARS . . .1/ (6/1/84)	$16.25	$32.50	$162.50	$325.00	6.50
1.0 YEARS . . . . (12/1/84)	16.25	32.50	162.50	325.00	6.50
1.5 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.50
2.0 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.50
2.5 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.50
3.0 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50
3.5 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50
4.0 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50
4.5 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50
5.0 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50
5.5 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50
6.0 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50
6.5 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50
7.0 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50
7.5 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50
8.0 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50
8.5 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50
9.0 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50
9.5 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50
10.0 YEARS 2/. . . (12/1/93)	16.25	32.50	162.50	325.00	3/ 6.50
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	SECOND EXTENDED MATURITY PERIOD **				
.5 YEARS . . . . (6/1/94)	$16.25	$32.50	$162.50	$325.00	6.50
1.0 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50
1.5 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50
2.0 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50
2.5 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50
3.0 YEARS . . . . (12/1/96)	16.25	32.50	162.50	325.00	6.50
3.5 YEARS . . . . (6/1/97)	16.25	32.50	162.50	325.00	6.50
4.0 YEARS . . . . (12/1/97)	16.25	32.50	162.50	325.00	6.50
4.5 YEARS . . . . (6/1/98)	16.25	32.50	162.50	325.00	6.50
5.0 YEARS . . . . (12/1/98)	16.25	32.50	162.50	325.00	6.50
5.5 YEARS . . . . (6/1/99)	16.25	32.50	162.50	325.00	6.50
6.0 YEARS . . . . (12/1/99)	16.25	32.50	162.50	325.00	6.50
6.5 YEARS . . . . (6/1/ 0)	16.25	32.50	162.50	325.00	6.50
7.0 YEARS . . . . (12/1/ 0)	16.25	32.50	162.50	325.00	6.50
7.5 YEARS . . . . (6/1/ 1)	16.25	32.50	162.50	325.00	6.50
8.0 YEARS . . . . (12/1/ 1)	16.25	32.50	162.50	325.00	6.50
8.5 YEARS . . . . (6/1/ 2)	16.25	32.50	162.50	325.00	6.50
9.0 YEARS . . . . (12/1/ 2)	16.25	32.50	162.50	325.00	6.50
9.5 YEARS . . . . (6/1/ 3)	16.25	32.50	162.50	325.00	6.50
10.0 YEARS 4/. . . (12/1/ 3)	16.25	32.50	162.50	325.00	5/ 6.50

PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
	PERCENT	PERCENT
.5 YEARS . . .1/ (6/1/84)	6.50	6.50
1.0 YEARS . . . . (12/1/84)	6.50	6.50
1.5 YEARS . . . . (6/1/85)	6.50	6.50
2.0 YEARS . . . . (12/1/85)	6.50	6.50
2.5 YEARS . . . . (6/1/86)	6.50	6.50
3.0 YEARS . . . . (12/1/86)	6.50	6.50
3.5 YEARS . . . . (6/1/87)	6.50	6.50
4.0 YEARS . . . . (12/1/87)	6.50	6.50
4.5 YEARS . . . . (6/1/88)	6.50	6.50
5.0 YEARS . . . . (12/1/88)	6.50	6.50
5.5 YEARS . . . . (6/1/89)	6.50	6.50
6.0 YEARS . . . . (12/1/89)	6.50	6.50
6.5 YEARS . . . . (6/1/90)	6.50	6.50
7.0 YEARS . . . . (12/1/90)	6.50	6.50
7.5 YEARS . . . . (6/1/91)	6.50	6.50
8.0 YEARS . . . . (12/1/91)	6.50	6.50
8.5 YEARS . . . . (6/1/92)	6.50	6.50
9.0 YEARS . . . . (12/1/92)	6.50	6.50
9.5 YEARS . . . . (6/1/93)	6.50	6.50
10.0 YEARS 2/. . . (12/1/93)	3/ 6.50	----
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS		TO 2ND EXTENDED MATURITY
.5 YEARS . . . . (6/1/94)	6.50	6.50
1.0 YEARS . . . . (12/1/94)	6.50	6.50
1.5 YEARS . . . . (6/1/95)	6.50	6.50
2.0 YEARS . . . . (12/1/95)	6.50	6.50
2.5 YEARS . . . . (6/1/96)	6.50	6.50
3.0 YEARS . . . . (12/1/96)	6.50	6.50
3.5 YEARS . . . . (6/1/97)	6.50	6.50
4.0 YEARS . . . . (12/1/97)	6.50	6.50
4.5 YEARS . . . . (6/1/98)	6.50	6.50
5.0 YEARS . . . . (12/1/98)	6.50	6.50
5.5 YEARS . . . . (6/1/99)	6.50	6.50
6.0 YEARS . . . . (12/1/99)	6.50	6.50
6.5 YEARS . . . . (6/1/ 0)	6.50	6.50
7.0 YEARS . . . . (12/1/ 0)	6.50	6.50
7.5 YEARS . . . . (6/1/ 1)	6.50	6.50
8.0 YEARS . . . . (12/1/ 1)	6.50	6.50
8.5 YEARS . . . . (6/1/ 2)	6.50	6.50
9.0 YEARS . . . . (12/1/ 2)	6.50	6.50
9.5 YEARS . . . . (6/1/ 3)	6.50	6.50
10.0 YEARS 4/. . . (12/1/ 3)	5/ 6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1973. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.

2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.

3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 6.29%.

4/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.

5/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.33%.

** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

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TABLE 66

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1974

ISSUE PRICE . . . . . / REDEMPTION AND MATURITY VALUE	$500 / 500	$1,000 / 1,000	$5,000 / 5,000	$10,000 / 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION *				(2) FROM ISSUE TO EACH INTEREST PAYMENT DATE / (3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE / (4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
					PERCENT / PERCENT / PERCENT
5.0 YEARS . . .1/ (6/1/79)	$14.50	$29.00	$145.00	$290.00	5.69 / 5.88 / 7.01
5.5 YEARS . . . . (12/1/79)	17.53	35.06	175.30	350.60	5.73 / 7.01 / 7.01
6.0 YEARS . . . . (6/1/80)	17.53	35.06	175.30	350.60	5.82 / 7.01 / 7.01
6.5 YEARS . . . . (12/1/80)	17.53	35.06	175.30	350.60	5.89 / 7.01 / 7.01
7.0 YEARS . . . . (6/1/81)	17.53	35.06	175.30	350.60	5.94 / 7.01 / 7.01
7.5 YEARS . . . . (12/1/81)	17.53	35.06	175.30	350.60	6.02 / 7.01 / 7.01
8.0 YEARS . . . . (6/1/82)	17.53	35.06	175.30	350.60	6.06 / 7.01 / 7.01
8.5 YEARS . . . . (12/1/82)	17.53	35.06	175.30	350.60	6.11 / 7.01 / 7.01
9.0 YEARS . . . . (6/1/83)	17.53	35.06	175.30	350.60	6.14 / 7.01 / 7.01
9.5 YEARS . . . . (12/1/83)	17.53	35.06	175.30	350.60	6.18 / 7.01 / 7.01
10.0 YEARS 2/. . . (6/1/84)	17.53	35.06	175.30	350.60	6.21 / 7.01 / -----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1974. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ MATURITY REACHED AT 10 YEARS AND 0 MONTHS AFTER ISSUE DATE.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 47TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 66-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1974

ISSUE PRICE . . . . . / REDEMPTION AND MATURITY VALUE	$500 / 500	$1,000 / 1,000	$5,000 / 5,000	$10,000 / 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION / EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE / (3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE / (4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT / PERCENT / PERCENT
.5 YEARS . . . . (12/1/84)	$16.25	$32.50	$162.50	$325.00	6.50 / 6.50 / 6.50
1.0 YEARS . . . . (6/1/85)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
1.5 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
2.0 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
2.5 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
3.0 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
3.5 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
4.0 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
4.5 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
5.0 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
5.5 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
6.0 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
6.5 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
7.0 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
7.5 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
8.0 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
8.5 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
9.0 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
9.5 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
10.0 YEARS 2/. . . (6/1/94)	16.25	32.50	162.50	325.00	3/ 6.50 / 6.50 / -----
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	SECOND EXTENDED MATURITY PERIOD **				TO 2ND EXTENDED MATURITY
.5 YEARS . . . . (12/1/94)	$16.25	$32.50	$162.50	$325.00	6.50 / 6.50 / 6.50
1.0 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
1.5 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
2.0 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
2.5 YEARS . . . . (12/1/96)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
3.0 YEARS . . . . (6/1/97)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
3.5 YEARS . . . . (12/1/97)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
4.0 YEARS . . . . (6/1/98)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
4.5 YEARS . . . . (12/1/98)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
5.0 YEARS . . . . (6/1/99)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
5.5 YEARS . . . . (12/1/99)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
6.0 YEARS . . . . (6/1/ 0)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
6.5 YEARS . . . . (12/1/ 0)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
7.0 YEARS . . . . (6/1/ 1)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
7.5 YEARS . . . . (12/1/ 1)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
8.0 YEARS . . . . (6/1/ 2)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
8.5 YEARS . . . . (12/1/ 2)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
9.0 YEARS . . . . (6/1/ 3)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
9.5 YEARS . . . . (12/1/ 3)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
10.0 YEARS 4/. . . (6/1/ 4)	16.25	32.50	162.50	325.00	5/ 6.50 / 6.50 / -----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1974. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 6.31%.
4/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
5/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.34%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

V 45 / 14 JA 21 80 UMI

TABLE 47

BONDS BEARING ISSUE DATES FROM DEC. 1, 1974 THROUGH MAY 1, 1975

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION *				(2) FROM ISSUE TO EACH INTEREST PAYMENT DATE
					PERCENT
4.5 YEARS . . .1/ (6/1/79)	$14.50	$29.00	$145.00	$290.00	5.60
5.0 YEARS . . . . (12/1/79)	15.75	31.50	157.50	315.00	5.64
5.5 YEARS . . . . (6/1/80)	17.53	35.06	175.30	350.60	5.77
6.0 YEARS . . . . (12/1/80)	17.53	35.06	175.30	350.60	5.86
6.5 YEARS . . . . (6/1/81)	17.53	35.06	175.30	350.60	5.93
7.0 YEARS . . . . (12/1/81)	17.53	35.06	175.30	350.60	5.99
7.5 YEARS . . . . (6/1/82)	17.53	35.06	175.30	350.60	6.05
8.0 YEARS . . . . (12/1/82)	17.53	35.06	175.30	350.60	6.09
8.5 YEARS . . . . (6/1/83)	17.53	35.06	175.30	350.60	6.13
9.0 YEARS . . . . (12/1/83)	17.53	35.06	175.30	350.60	6.17
9.5 YEARS . . . . (6/1/84)	17.53	35.06	175.30	350.60	6.20
10.0 YEARS 2/. . . (12/1/84)	17.53	35.06	175.30	350.60	6.23

PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
	PERCENT	PERCENT
4.5 YEARS . . .1/ (6/1/79)	5.80	6.96
5.0 YEARS . . . . (12/1/79)	6.30	7.01
5.5 YEARS . . . . (6/1/80)	7.01	7.01
6.0 YEARS . . . . (12/1/80)	7.01	7.01
6.5 YEARS . . . . (6/1/81)	7.01	7.01
7.0 YEARS . . . . (12/1/81)	7.01	7.01
7.5 YEARS . . . . (6/1/82)	7.01	7.01
8.0 YEARS . . . . (12/1/82)	7.01	7.01
8.5 YEARS . . . . (6/1/83)	7.01	7.01
9.0 YEARS . . . . (12/1/83)	7.01	7.01
9.5 YEARS . . . . (6/1/84)	7.01	7.01
10.0 YEARS 2/. . . (12/1/84)	7.01	-----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1974. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.

2/ MATURITY REACHED AT 10 YEARS AND 0 MONTHS AFTER ISSUE DATE.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 47-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1974 THROUGH MAY 1, 1975

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE
					PERCENT
.5 YEARS . . .1/ (6/1/85)	$16.25	$32.50	$162.50	$325.00	6.50
1.0 YEARS . . . . (12/1/85)	16.25	32.50	162.50	325.00	6.50
1.5 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.50
2.0 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50
2.5 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50
3.0 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50
3.5 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50
4.0 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50
4.5 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50
5.0 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50
5.5 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50
6.0 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50
6.5 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50
7.0 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50
7.5 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50
8.0 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50
8.5 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50
9.0 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50
9.5 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50
10.0 YEARS 2/. . . (12/1/94)	16.25	32.50	162.50	325.00	3/ 6.50

PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	SECOND EXTENDED MATURITY PERIOD **				(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY	TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	
.5 YEARS . . . . (6/1/95)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (12/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (6/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (12/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (6/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (12/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (6/1/99)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (12/1/99)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (6/1/ 0)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (12/1/ 0)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (6/1/ 1)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (12/1/ 1)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (6/1/ 2)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (12/1/ 2)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (6/1/ 3)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (12/1/ 3)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (6/1/ 4)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 4/. . . (12/1/ 4)	16.25	32.50	162.50	325.00	5/ 6.50	6.50	-----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1974. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.

2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.

3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 6.33%.

4/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.

5/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.35%.

** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

V 45 / 14 JA 21 80 UMI

TABLE 4B

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1975

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION *				(2) FROM ISSUE TO EACH INTEREST PAYMENT DATE	(3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
					PERCENT	PERCENT	PERCENT
4.0 YEARS . . .1/ (6/1/79)	$14.50	$29.00	$145.00	$290.00	5.58	5.80	6.87
4.5 YEARS . . . . (12/1/79)	15.75	31.50	157.50	315.00	5.65	6.30	6.96
5.0 YEARS . . . . (6/1/80)	15.75	31.50	157.50	315.00	5.71	6.30	7.01
5.5 YEARS . . . . (12/1/80)	17.53	35.06	175.30	350.60	5.81	7.01	7.01
6.0 YEARS . . . . (6/1/81)	17.53	35.06	175.30	350.60	5.89	7.01	7.01
6.5 YEARS . . . . (12/1/81)	17.53	35.06	175.30	350.60	5.97	7.01	7.01
7.0 YEARS . . . . (6/1/82)	17.53	35.06	175.30	350.60	6.03	7.01	7.01
7.5 YEARS . . . . (12/1/82)	17.53	35.06	175.30	350.60	6.08	7.01	7.01
8.0 YEARS . . . . (6/1/83)	17.53	35.06	175.30	350.60	6.12	7.01	7.01
8.5 YEARS . . . . (12/1/83)	17.53	35.06	175.30	350.60	6.16	7.01	7.01
9.0 YEARS . . . . (6/1/84)	17.53	35.06	175.30	350.60	6.20	7.01	7.01
9.5 YEARS . . . . (12/1/84)	17.53	35.06	175.30	350.60	6.23	7.01	7.01
10.0 YEARS 2/. . . (6/1/85)	17.53	35.06	175.30	350.60	6.26	7.01	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1975. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ MATURITY REACHED AT 10 YEARS AND 0 MONTHS AFTER ISSUE DATE.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 4B-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1975

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (12/1/85)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (6/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 2/. . . (6/1/95)	16.25	32.50	162.50	325.00	3/ 6.50	6.50	----
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	SECOND EXTENDED MATURITY PERIOD **						TO 2ND EXTENDED MATURITY
.5 YEARS . . . . (12/1/95)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (12/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (6/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (12/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (6/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (12/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (6/1/99)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (12/1/99)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (6/1/ 0)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (12/1/ 0)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (6/1/ 1)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (12/1/ 1)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (6/1/ 2)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (12/1/ 2)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (6/1/ 3)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (12/1/ 3)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (6/1/ 4)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (12/1/ 4)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 4/. . . (6/1/ 5)	16.25	32.50	162.50	325.00	5/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1975. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 6.34%.
4/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
5/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.37%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

V 45 / 14 JA 21 80 UMI

TABLE 49

BONDS BEARING ISSUE DATES FROM DEC. 1, 1975 THROUGH MAY 1, 1976

ISSUE PRICE . . . . . / REDEMPTION AND MATURITY VALUE	$500 / 500	$1,000 / 1,000	$5,000 / 5,000	$10,000 / 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
← PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION *				(2) FROM ISSUE TO EACH INTEREST PAYMENT DATE
					PERCENT
3.5 YEARS . . .1/ (6/1/79)	$14.58	$29.00	$145.00	$290.00	5.55
4.0 YEARS . . . . (12/1/79)	15.76	31.52	157.60	315.20	5.64
4.5 YEARS . . . . (6/1/80)	15.76	31.52	157.60	315.20	5.70
5.0 YEARS . . . . (12/1/80)	15.76	31.52	157.60	315.20	5.76
5.5 YEARS . . . . (6/1/81)	17.54	35.08	175.40	350.80	5.85
6.0 YEARS . . . . (12/1/81)	17.54	35.08	175.40	350.80	5.93
6.5 YEARS . . . . (6/1/82)	17.54	35.08	175.40	350.80	6.00
7.0 YEARS . . . . (12/1/82)	17.54	35.08	175.40	350.80	6.06
7.5 YEARS . . . . (6/1/83)	17.54	35.08	175.40	350.80	6.11
8.0 YEARS . . . . (12/1/83)	17.54	35.08	175.40	350.80	6.16
8.5 YEARS . . . . (6/1/84)	17.54	35.08	175.40	350.80	6.20
9.0 YEARS . . . . (12/1/84)	17.54	35.08	175.40	350.80	6.23
9.5 YEARS . . . . (6/1/85)	17.54	35.08	175.40	350.80	6.26
10.0 YEARS 2/. . . (12/1/85)	17.54	35.08	175.40	350.80	6.29

PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
	PERCENT	PERCENT
3.5 YEARS . . .1/ (6/1/79)	6.80	6.82
4.0 YEARS . . . . (12/1/79)	6.30	6.88
4.5 YEARS . . . . (6/1/80)	6.30	6.94
5.0 YEARS . . . . (12/1/80)	6.30	7.02
5.5 YEARS . . . . (6/1/81)	7.02	7.02
6.0 YEARS . . . . (12/1/81)	7.02	7.02
6.5 YEARS . . . . (6/1/82)	7.02	7.02
7.0 YEARS . . . . (12/1/82)	7.02	7.02
7.5 YEARS . . . . (6/1/83)	7.02	7.02
8.0 YEARS . . . . (12/1/83)	7.02	7.02
8.5 YEARS . . . . (6/1/84)	7.02	7.02
9.0 YEARS . . . . (12/1/84)	7.02	7.02
9.5 YEARS . . . . (6/1/85)	7.02	7.02
10.0 YEARS 2/. . . (12/1/85)	7.02	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1975. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ MATURITY REACHED AT 10 YEARS AND 0 MONTHS AFTER ISSUE DATE.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 985, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 49-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1975 THROUGH MAY 1, 1976

ISSUE PRICE . . . . . / REDEMPTION AND MATURITY VALUE	$500 / 500	$1,000 / 1,000	$5,000 / 5,000	$10,000 / 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION / EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE
					PERCENT
.5 YEARS . . .1/ (6/1/86)	$16.25	$32.50	$162.50	$325.00	6.50
1.0 YEARS . . . . (12/1/86)	16.25	32.50	162.50	325.00	6.50
1.5 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50
2.0 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50
2.5 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50
3.0 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50
3.5 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50
4.0 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50
4.5 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50
5.0 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50
5.5 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50
6.0 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50
6.5 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50
7.0 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50
7.5 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50
8.0 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50
8.5 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50
9.0 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50
9.5 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50
10.0 YEARS 2/. . . (12/1/95)	16.25	32.50	162.50	325.00	3/ 6.50

PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
	PERCENT	PERCENT
.5 YEARS . . .1/ (6/1/86)	6.50	6.50
1.0 YEARS . . . . (12/1/86)	6.50	6.50
1.5 YEARS . . . . (6/1/87)	6.50	6.50
2.0 YEARS . . . . (12/1/87)	6.50	6.50
2.5 YEARS . . . . (6/1/88)	6.50	6.50
3.0 YEARS . . . . (12/1/88)	6.50	6.50
3.5 YEARS . . . . (6/1/89)	6.50	6.50
4.0 YEARS . . . . (12/1/89)	6.50	6.50
4.5 YEARS . . . . (6/1/90)	6.50	6.50
5.0 YEARS . . . . (12/1/90)	6.50	6.50
5.5 YEARS . . . . (6/1/91)	6.50	6.50
6.0 YEARS . . . . (12/1/91)	6.50	6.50
6.5 YEARS . . . . (6/1/92)	6.50	6.50
7.0 YEARS . . . . (12/1/92)	6.50	6.50
7.5 YEARS . . . . (6/1/93)	6.50	6.50
8.0 YEARS . . . . (12/1/93)	6.50	6.50
8.5 YEARS . . . . (6/1/94)	6.50	6.50
9.0 YEARS . . . . (12/1/94)	6.50	6.50
9.5 YEARS . . . . (6/1/95)	6.50	6.50
10.0 YEARS 2/. . . (12/1/95)	6.50	----

PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	SECOND EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . . . (6/1/96)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (12/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (6/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (12/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (6/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (12/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (6/1/99)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (12/1/99)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (6/1/ 0)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (12/1/ 0)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (6/1/ 1)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (12/1/ 1)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (6/1/ 2)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (12/1/ 2)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (6/1/ 3)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (12/1/ 3)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (6/1/ 4)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (12/1/ 4)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (6/1/ 5)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 4/. . . (12/1/ 5)	16.25	32.50	162.50	325.00	5/ 6.50	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1975. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 6.36%.
4/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
5/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.38%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

V 45 / 14 JA 21 80 UMI

TABLE 50

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1976

ISSUE PRICE . . . . . REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION *				(2) FROM ISSUE TO EACH INTEREST PAYMENT DATE / (3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE / (4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
					PERCENT / PERCENT / PERCENT
3.0 YEARS . . .1/ (6/1/79)	$14.50	$29.00	$145.00	$290.00	5.51 / 5.80 / 6.78
3.5 YEARS . . . . (12/1/79)	15.76	31.52	157.60	315.20	5.62 / 6.30 / 6.82
4.0 YEARS . . . . (6/1/80)	15.76	31.52	157.60	315.20	5.70 / 6.30 / 6.88
4.5 YEARS . . . . (12/1/80)	15.76	31.52	157.60	315.20	5.76 / 6.30 / 6.94
5.0 YEARS . . . . (6/1/81)	15.76	31.52	157.60	315.20	5.80 / 6.30 / 7.02
5.5 YEARS . . . . (12/1/81)	17.54	35.08	175.40	350.80	5.98 / 7.02 / 7.02
6.0 YEARS . . . . (6/1/82)	17.54	35.08	175.40	350.80	5.98 / 7.02 / 7.02
6.5 YEARS . . . . (12/1/82)	17.54	35.08	175.40	350.80	6.04 / 7.02 / 7.02
7.0 YEARS . . . . (6/1/83)	17.54	35.08	175.40	350.80	6.10 / 7.02 / 7.02
7.5 YEARS . . . . (12/1/83)	17.54	35.08	175.40	350.80	6.15 / 7.02 / 7.02
8.0 YEARS . . . . (6/1/84)	17.54	35.08	175.40	350.80	6.19 / 7.02 / 7.02
8.5 YEARS . . . . (12/1/84)	17.54	35.08	175.40	350.80	6.23 / 7.02 / 7.02
9.0 YEARS . . . . (6/1/85)	17.54	35.08	175.40	350.80	6.26 / 7.02 / 7.02
9.5 YEARS . . . . (12/1/85)	17.54	35.08	175.40	350.80	6.29 / 7.02 / 7.02
10.0 YEARS 2/. . . (6/1/86)	17.54	35.08	175.40	350.80	6.31 / 7.02 / ----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1976. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ MATURITY REACHED AT 10 YEARS AND 0 MONTHS AFTER ISSUE DATE.
* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 50-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1976

ISSUE PRICE . . . . . REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE / (3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE / (4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT / PERCENT / PERCENT
.5 YEARS . . .1/ (12/1/86)	$16.25	$32.50	$162.50	$325.00	6.50 / 6.50 / 6.50
1.0 YEARS . . . . (6/1/87)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
1.5 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
2.0 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
2.5 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
3.0 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
3.5 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
4.0 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
4.5 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
5.0 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
5.5 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
6.0 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
6.5 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
7.0 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
7.5 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
8.0 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
8.5 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
9.0 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
9.5 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
10.0 YEARS 2/. . . (6/1/96)	16.25	32.50	162.50	325.00	3/ 6.50 / 6.50 / ----
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	SECOND EXTENDED MATURITY PERIOD **				TO 2ND EXTENDED MATURITY
.5 YEARS . . . . (12/1/96)	$16.25	$32.50	$162.50	$325.00	6.50 / 6.50 / 6.50
1.0 YEARS . . . . (6/1/97)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
1.5 YEARS . . . . (12/1/97)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
2.0 YEARS . . . . (6/1/98)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
2.5 YEARS . . . . (12/1/98)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
3.0 YEARS . . . . (6/1/99)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
3.5 YEARS . . . . (12/1/99)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
4.0 YEARS . . . . (6/1/ 0)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
4.5 YEARS . . . . (12/1/ 0)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
5.0 YEARS . . . . (6/1/ 1)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
5.5 YEARS . . . . (12/1/ 1)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
6.0 YEARS . . . . (6/1/ 2)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
6.5 YEARS . . . . (12/1/ 2)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
7.0 YEARS . . . . (6/1/ 3)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
7.5 YEARS . . . . (12/1/ 3)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
8.0 YEARS . . . . (6/1/ 4)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
8.5 YEARS . . . . (12/1/ 4)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
9.0 YEARS . . . . (6/1/ 5)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
9.5 YEARS . . . . (12/1/ 5)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
10.0 YEARS 4/. . . (6/1/ 6)	16.25	32.50	162.50	325.00	5/ 6.50 / 6.50 / ----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1976. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 6.38%.
4/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
5/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.40%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

V 45 / 14 JA 21 80 UMI

TABLE 51

BONDS BEARING ISSUE DATES FROM DEC. 1, 1976 THROUGH MAY 1, 1977

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION *				(2) FROM ISSUE TO EACH INTEREST PAYMENT DATE	(3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
					PERCENT	PERCENT	PERCENT
0.5 YEARS . . .1/ (6/1/79)	$14.50	$29.00	$145.00	$290.00	5.48	5.88	6.74
1.0 YEARS . . . . (12/1/79)	15.76	31.52	157.60	315.20	5.59	6.30	6.78
1.5 YEARS . . . . (6/1/80)	15.76	31.52	157.60	315.20	5.69	6.30	6.82
2.0 YEARS . . . . (12/1/80)	15.76	31.52	157.60	315.20	5.76	6.30	6.88
2.5 YEARS . . . . (6/1/81)	15.76	31.52	157.60	315.20	5.81	6.30	6.94
3.0 YEARS . . . . (12/1/81)	15.76	31.52	157.60	315.20	5.85	6.30	7.02
3.5 YEARS . . . . (6/1/82)	17.54	35.08	175.40	350.80	5.94	7.02	7.02
4.0 YEARS . . . . (12/1/82)	17.54	35.08	175.40	350.80	6.02	7.02	7.02
4.5 YEARS . . . . (6/1/83)	17.54	35.08	175.40	350.80	6.08	7.02	7.02
5.0 YEARS . . . . (12/1/83)	17.54	35.08	175.40	350.80	6.13	7.02	7.02
5.5 YEARS . . . . (6/1/84)	17.54	35.08	175.40	350.80	6.18	7.02	7.02
6.0 YEARS . . . . (12/1/84)	17.54	35.08	175.40	350.80	6.22	7.02	7.02
6.5 YEARS . . . . (6/1/85)	17.54	35.08	175.40	350.80	6.26	7.02	7.02
7.0 YEARS . . . . (12/1/85)	17.54	35.08	175.40	350.80	6.29	7.02	7.02
7.5 YEARS . . . . (6/1/86)	17.54	35.08	175.40	350.80	6.32	7.02	7.02
8.0 YEARS 2/. . . (12/1/86)	17.54	35.08	175.40	350.80	6.34	7.02	-----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1976. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ MATURITY REACHED AT 10 YEARS AND 0 MONTHS AFTER ISSUE DATE.
* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 985, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 51-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1976 THROUGH MAY 1, 1977

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
0.5 YEARS . . .1/ (6/1/87)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (12/1/87)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 2/. . . (12/1/96)	16.25	32.50	162.50	325.00	3/ 6.50	6.50	-----
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	SECOND EXTENDED MATURITY PERIOD **						TO 2ND EXTENDED MATURITY
0.5 YEARS . . . . (6/1/97)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (12/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (6/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (12/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (6/1/99)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (12/1/99)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (6/1/ 0)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (12/1/ 0)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (6/1/ 1)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (12/1/ 1)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (6/1/ 2)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (12/1/ 2)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (6/1/ 3)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (12/1/ 3)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (6/1/ 4)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (12/1/ 4)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (6/1/ 5)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (12/1/ 5)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (6/1/ 6)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 4/. . . (12/1/ 6)	16.25	32.50	162.50	325.00	5/ 6.50	6.50	-----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1976. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 6.40%.
4/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
5/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.41%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

V 45 / 14 JA 21 80 UMI

TABLE 52

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1977

ISSUE PRICE . . . . . / REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION *				(2) FROM ISSUE TO EACH INTEREST PAYMENT DATE
2.0 YEARS . . .1/ (6/1/79)	$14.50	$29.00	$145.00	$290.00	5.38
2.5 YEARS . . . . (12/1/79)	15.76	31.52	157.60	315.20	5.54
3.0 YEARS . . . . (6/1/80)	15.76	31.52	157.60	315.20	5.67
3.5 YEARS . . . . (12/1/80)	15.76	31.52	157.60	315.20	5.76
4.0 YEARS . . . . (6/1/81)	15.76	31.52	157.60	315.20	5.82
4.5 YEARS . . . . (12/1/81)	15.76	31.52	157.60	315.20	5.86
5.0 YEARS . . . . (6/1/82)	15.76	31.52	157.60	315.20	5.90
5.5 YEARS . . . . (12/1/82)	17.54	35.08	175.40	350.80	5.99
6.0 YEARS . . . . (6/1/83)	17.54	35.08	175.40	350.80	6.06
6.5 YEARS . . . . (12/1/83)	17.54	35.08	175.40	350.80	6.12
7.0 YEARS . . . . (6/1/84)	17.54	35.08	175.40	350.80	6.17
7.5 YEARS . . . . (12/1/84)	17.54	35.08	175.40	350.80	6.22
8.0 YEARS . . . . (6/1/85)	17.54	35.08	175.40	350.80	6.26
8.5 YEARS . . . . (12/1/85)	17.54	35.08	175.40	350.80	6.29
9.0 YEARS . . . . (6/1/86)	17.54	35.08	175.40	350.80	6.32
9.5 YEARS . . . . (12/1/86)	17.54	35.08	175.40	350.80	6.35
10.0 YEARS 2/. . . (6/1/87)	17.54	35.08	175.40	350.80	6.37

PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
	PERCENT	PERCENT
2.0 YEARS . . .1/ (6/1/79)	5.89	6.79
2.5 YEARS . . . . (12/1/79)	6.30	6.74
3.0 YEARS . . . . (6/1/80)	6.30	6.78
3.5 YEARS . . . . (12/1/80)	6.30	6.82
4.0 YEARS . . . . (6/1/81)	6.30	6.88
4.5 YEARS . . . . (12/1/81)	6.30	6.96
5.0 YEARS . . . . (6/1/82)	6.30	7.02
5.5 YEARS . . . . (12/1/82)	7.02	7.02
6.0 YEARS . . . . (6/1/83)	7.02	7.02
6.5 YEARS . . . . (12/1/83)	7.02	7.02
7.0 YEARS . . . . (6/1/84)	7.02	7.02
7.5 YEARS . . . . (12/1/84)	7.02	7.02
8.0 YEARS . . . . (6/1/85)	7.02	7.02
8.5 YEARS . . . . (12/1/85)	7.02	7.02
9.0 YEARS . . . . (6/1/86)	7.02	7.02
9.5 YEARS . . . . (12/1/86)	7.02	7.02
10.0 YEARS 2/. . . (6/1/87)	7.02	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1977. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.

2/ MATURITY REACHED AT 10 YEARS AND 0 MONTHS AFTER ISSUE DATE.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 52-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1977

ISSUE PRICE . . . . . / REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE
.5 YEARS . . .1/ (12/1/87)	$16.25	$32.50	$162.50	$325.00	6.50
1.0 YEARS . . . . (6/1/88)	16.25	32.50	162.50	325.00	6.50
1.5 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50
2.0 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50
2.5 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50
3.0 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50
3.5 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50
4.0 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50
4.5 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50
5.0 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50
5.5 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50
6.0 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50
6.5 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50
7.0 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50
7.5 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50
8.0 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50
8.5 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50
9.0 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50
9.5 YEARS . . . . (12/1/96)	16.25	32.50	162.50	325.00	6.50
10.0 YEARS 2/. . . (6/1/97)	16.25	32.50	162.50	325.00	3/ 6.50

PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	SECOND EXTENDED MATURITY PERIOD **					(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
						PERCENT	PERCENT
.5 YEARS . . . . (12/1/97)	$16.25	$32.50	$162.50	$325.00		6.50	6.50
1.0 YEARS . . . . (6/1/98)	16.25	32.50	162.50	325.00		6.50	6.50
1.5 YEARS . . . . (12/1/98)	16.25	32.50	162.50	325.00		6.50	6.50
2.0 YEARS . . . . (6/1/99)	16.25	32.50	162.50	325.00		6.50	6.50
2.5 YEARS . . . . (12/1/99)	16.25	32.50	162.50	325.00		6.50	6.50
3.0 YEARS . . . . (6/1/ 0)	16.25	32.50	162.50	325.00		6.50	6.50
3.5 YEARS . . . . (12/1/ 0)	16.25	32.50	162.50	325.00		6.50	6.50
4.0 YEARS . . . . (6/1/ 1)	16.25	32.50	162.50	325.00		6.50	6.50
4.5 YEARS . . . . (12/1/ 1)	16.25	32.50	162.50	325.00		6.50	6.50
5.0 YEARS . . . . (6/1/ 2)	16.25	32.50	162.50	325.00		6.50	6.50
5.5 YEARS . . . . (12/1/ 2)	16.25	32.50	162.50	325.00		6.50	6.50
6.0 YEARS . . . . (6/1/ 3)	16.25	32.50	162.50	325.00		6.50	6.50
6.5 YEARS . . . . (12/1/ 3)	16.25	32.50	162.50	325.00		6.50	6.50
7.0 YEARS . . . . (6/1/ 4)	16.25	32.50	162.50	325.00		6.50	6.50
7.5 YEARS . . . . (12/1/ 4)	16.25	32.50	162.50	325.00		6.50	6.50
8.0 YEARS . . . . (6/1/ 5)	16.25	32.50	162.50	325.00		6.50	6.50
8.5 YEARS . . . . (12/1/ 5)	16.25	32.50	162.50	325.00		6.50	6.50
9.0 YEARS . . . . (6/1/ 6)	16.25	32.50	162.50	325.00		6.50	6.50
9.5 YEARS . . . . (12/1/ 6)	16.25	32.50	162.50	325.00		6.50	6.50
10.0 YEARS 4/. . . (6/1/ 7)	16.25	32.50	162.50	325.00	5/	6.50	6.50

PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	TO 2ND EXTENDED MATURITY
	PERCENT
.5 YEARS . . . . (12/1/97)	6.50
1.0 YEARS . . . . (6/1/98)	6.50
1.5 YEARS . . . . (12/1/98)	6.50
2.0 YEARS . . . . (6/1/99)	6.50
2.5 YEARS . . . . (12/1/99)	6.50
3.0 YEARS . . . . (6/1/ 0)	6.50
3.5 YEARS . . . . (12/1/ 0)	6.50
4.0 YEARS . . . . (6/1/ 1)	6.50
4.5 YEARS . . . . (12/1/ 1)	6.50
5.0 YEARS . . . . (6/1/ 2)	6.50
5.5 YEARS . . . . (12/1/ 2)	6.50
6.0 YEARS . . . . (6/1/ 3)	6.50
6.5 YEARS . . . . (12/1/ 3)	6.50
7.0 YEARS . . . . (6/1/ 4)	6.50
7.5 YEARS . . . . (12/1/ 4)	6.50
8.0 YEARS . . . . (6/1/ 5)	6.50
8.5 YEARS . . . . (12/1/ 5)	6.50
9.0 YEARS . . . . (6/1/ 6)	6.50
9.5 YEARS . . . . (12/1/ 6)	6.50
10.0 YEARS 4/. . . (6/1/ 7)	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1977. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.

2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.

3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 6.42%.

4/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.

5/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.43%.

** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

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TABLE 53

BONDS BEARING ISSUE DATES FROM DEC. 1, 1977 THROUGH MAY 1, 1978

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION *				(2) FROM ISSUE TO EACH INTEREST PAYMENT DATE
1.5 YEARS . . .1/ (6/1/79)	$14.50	$29.00	$145.00	$290.00	5.25
2.0 YEARS . . . . (12/1/79)	15.76	31.52	157.60	315.20	5.50
2.5 YEARS . . . . (6/1/80)	15.76	31.52	157.60	315.20	5.66
3.0 YEARS . . . . (12/1/80)	15.76	31.52	157.60	315.20	5.76
3.5 YEARS . . . . (6/1/81)	15.76	31.52	157.60	315.20	5.83
4.0 YEARS . . . . (12/1/81)	15.76	31.52	157.60	315.20	5.88
4.5 YEARS . . . . (6/1/82)	15.76	31.52	157.60	315.20	5.92
5.0 YEARS . . . . (12/1/82)	15.76	31.52	157.60	315.20	5.96
5.5 YEARS . . . . (6/1/83)	17.54	35.08	175.40	350.80	6.04
6.0 YEARS . . . . (12/1/83)	17.54	35.08	175.40	350.80	6.11
6.5 YEARS . . . . (6/1/84)	17.54	35.08	175.40	350.80	6.16
7.0 YEARS . . . . (12/1/84)	17.54	35.08	175.40	350.80	6.21
7.5 YEARS . . . . (6/1/85)	17.54	35.08	175.40	350.80	6.25
8.0 YEARS . . . . (12/1/85)	17.54	35.08	175.40	350.80	6.29
8.5 YEARS . . . . (6/1/86)	17.54	35.08	175.40	350.80	6.32
9.0 YEARS . . . . (12/1/86)	17.54	35.08	175.40	350.80	6.35
9.5 YEARS . . . . (6/1/87)	17.54	35.08	175.40	350.80	6.38
10.0 YEARS 2/. . . (12/1/87)	17.54	35.08	175.40	350.80	6.40

PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
	PERCENT	PERCENT
1.5 YEARS . . .1/ (6/1/79)	5.80	6.67
2.0 YEARS . . . . (12/1/79)	6.30	6.70
2.5 YEARS . . . . (6/1/80)	6.30	6.74
3.0 YEARS . . . . (12/1/80)	6.30	6.78
3.5 YEARS . . . . (6/1/81)	6.30	6.82
4.0 YEARS . . . . (12/1/81)	6.30	6.86
4.5 YEARS . . . . (6/1/82)	6.30	6.90
5.0 YEARS . . . . (12/1/82)	6.30	7.02
5.5 YEARS . . . . (6/1/83)	7.02	7.02
6.0 YEARS . . . . (12/1/83)	7.02	7.02
6.5 YEARS . . . . (6/1/84)	7.02	7.02
7.0 YEARS . . . . (12/1/84)	7.02	7.02
7.5 YEARS . . . . (6/1/85)	7.02	7.02
8.0 YEARS . . . . (12/1/85)	7.02	7.02
8.5 YEARS . . . . (6/1/86)	7.02	7.02
9.0 YEARS . . . . (12/1/86)	7.02	7.02
9.5 YEARS . . . . (6/1/87)	7.02	7.02
10.0 YEARS 2/. . . (12/1/87)	7.02	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1977. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.

2/ MATURITY REACHED AT 10 YEARS AND 0 MONTHS AFTER ISSUE DATE.

* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 53-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1977 THROUGH MAY 1, 1978

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE
.5 YEARS . . .1/ (6/1/88)	$16.25	$32.50	$162.50	$325.00	6.50
1.0 YEARS . . . . (12/1/88)	16.25	32.50	162.50	325.00	6.50
1.5 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50
2.0 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50
2.5 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50
3.0 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50
3.5 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50
4.0 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50
4.5 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50
5.0 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50
5.5 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50
6.0 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50
6.5 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50
7.0 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50
7.5 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50
8.0 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50
8.5 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50
9.0 YEARS . . . . (12/1/96)	16.25	32.50	162.50	325.00	6.50
9.5 YEARS . . . . (6/1/97)	16.25	32.50	162.50	325.00	6.50
10.0 YEARS 2/. . . (12/1/97)	16.25	32.50	162.50	325.00	3/ 6.50
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	SECOND EXTENDED MATURITY PERIOD **				
.5 YEARS . . . . (6/1/98)	$16.25	$32.50	$162.50	$325.00	6.50
1.0 YEARS . . . . (12/1/98)	16.25	32.50	162.50	325.00	6.50
1.5 YEARS . . . . (6/1/99)	16.25	32.50	162.50	325.00	6.50
2.0 YEARS . . . . (12/1/99)	16.25	32.50	162.50	325.00	6.50
2.5 YEARS . . . . (6/1/ 0)	16.25	32.50	162.50	325.00	6.50
3.0 YEARS . . . . (12/1/ 0)	16.25	32.50	162.50	325.00	6.50
3.5 YEARS . . . . (6/1/ 1)	16.25	32.50	162.50	325.00	6.50
4.0 YEARS . . . . (12/1/ 1)	16.25	32.50	162.50	325.00	6.50
4.5 YEARS . . . . (6/1/ 2)	16.25	32.50	162.50	325.00	6.50
5.0 YEARS . . . . (12/1/ 2)	16.25	32.50	162.50	325.00	6.50
5.5 YEARS . . . . (6/1/ 3)	16.25	32.50	162.50	325.00	6.50
6.0 YEARS . . . . (12/1/ 3)	16.25	32.50	162.50	325.00	6.50
6.5 YEARS . . . . (6/1/ 4)	16.25	32.50	162.50	325.00	6.50
7.0 YEARS . . . . (12/1/ 4)	16.25	32.50	162.50	325.00	6.50
7.5 YEARS . . . . (6/1/ 5)	16.25	32.50	162.50	325.00	6.50
8.0 YEARS . . . . (12/1/ 5)	16.25	32.50	162.50	325.00	6.50
8.5 YEARS . . . . (6/1/ 6)	16.25	32.50	162.50	325.00	6.50
9.0 YEARS . . . . (12/1/ 6)	16.25	32.50	162.50	325.00	6.50
9.5 YEARS . . . . (6/1/ 7)	16.25	32.50	162.50	325.00	6.50
10.0 YEARS 4/. . . (12/1/ 7)	16.25	32.50	162.50	325.00	5/ 6.50

PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
	PERCENT	PERCENT
.5 YEARS . . .1/ (6/1/88)	6.50	6.50
1.0 YEARS . . . . (12/1/88)	6.50	6.50
1.5 YEARS . . . . (6/1/89)	6.50	6.50
2.0 YEARS . . . . (12/1/89)	6.50	6.50
2.5 YEARS . . . . (6/1/90)	6.50	6.50
3.0 YEARS . . . . (12/1/90)	6.50	6.50
3.5 YEARS . . . . (6/1/91)	6.50	6.50
4.0 YEARS . . . . (12/1/91)	6.50	6.50
4.5 YEARS . . . . (6/1/92)	6.50	6.50
5.0 YEARS . . . . (12/1/92)	6.50	6.50
5.5 YEARS . . . . (6/1/93)	6.50	6.50
6.0 YEARS . . . . (12/1/93)	6.50	6.50
6.5 YEARS . . . . (6/1/94)	6.50	6.50
7.0 YEARS . . . . (12/1/94)	6.50	6.50
7.5 YEARS . . . . (6/1/95)	6.50	6.50
8.0 YEARS . . . . (12/1/95)	6.50	6.50
8.5 YEARS . . . . (6/1/96)	6.50	6.50
9.0 YEARS . . . . (12/1/96)	6.50	6.50
9.5 YEARS . . . . (6/1/97)	6.50	6.50
10.0 YEARS 2/. . . (12/1/97)	6.50	----
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS		TO 2ND EXTENDED MATURITY
.5 YEARS . . . . (6/1/98)	6.50	6.50
1.0 YEARS . . . . (12/1/98)	6.50	6.50
1.5 YEARS . . . . (6/1/99)	6.50	6.50
2.0 YEARS . . . . (12/1/99)	6.50	6.50
2.5 YEARS . . . . (6/1/ 0)	6.50	6.50
3.0 YEARS . . . . (12/1/ 0)	6.50	6.50
3.5 YEARS . . . . (6/1/ 1)	6.50	6.50
4.0 YEARS . . . . (12/1/ 1)	6.50	6.50
4.5 YEARS . . . . (6/1/ 2)	6.50	6.50
5.0 YEARS . . . . (12/1/ 2)	6.50	6.50
5.5 YEARS . . . . (6/1/ 3)	6.50	6.50
6.0 YEARS . . . . (12/1/ 3)	6.50	6.50
6.5 YEARS . . . . (6/1/ 4)	6.50	6.50
7.0 YEARS . . . . (12/1/ 4)	6.50	6.50
7.5 YEARS . . . . (6/1/ 5)	6.50	6.50
8.0 YEARS . . . . (12/1/ 5)	6.50	6.50
8.5 YEARS . . . . (6/1/ 6)	6.50	6.50
9.0 YEARS . . . . (12/1/ 6)	6.50	6.50
9.5 YEARS . . . . (6/1/ 7)	6.50	6.50
10.0 YEARS 4/. . . (12/1/ 7)	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1977. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.

2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.

3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 6.43%.

4/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.

5/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.44%.

** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

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TABLE 5*

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1978

ISSUE PRICE . . . . . REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION *				(2) FROM ISSUE TO EACH INTEREST PAYMENT DATE / (3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE / (4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
					PERCENT / PERCENT / PERCENT
1.0 YEARS . . .1/ (6/1/79)	$14.50	$29.00	$145.00	$290.00	4.99 / 5.80 / 5.65
1.5 YEARS . . . . (12/1/79)	15.76	31.52	157.60	315.20	5.42 / 6.30 / 6.67
2.0 YEARS . . . . (6/1/80)	15.76	31.52	157.60	315.20	5.63 / 6.30 / 6.70
2.5 YEARS . . . . (12/1/80)	15.76	31.52	157.60	315.20	5.78 / 6.30 / 6.74
3.0 YEARS . . . . (6/1/81)	15.76	31.52	157.60	315.20	5.84 / 6.30 / 6.78
3.5 YEARS . . . . (12/1/81)	15.76	31.52	157.60	315.20	5.90 / 6.30 / 6.82
4.0 YEARS . . . . (6/1/82)	15.76	31.52	157.60	315.20	5.95 / 6.30 / 6.86
4.5 YEARS . . . . (12/1/82)	15.76	31.52	157.60	315.20	5.98 / 6.30 / 6.94
5.0 YEARS . . . . (6/1/83)	15.76	31.52	157.60	315.20	6.01 / 6.30 / 7.02
5.5 YEARS . . . . (12/1/83)	17.54	35.08	175.40	350.80	6.09 / 7.02 / 7.02
6.0 YEARS . . . . (6/1/84)	17.54	35.08	175.40	350.80	6.15 / 7.02 / 7.02
6.5 YEARS . . . . (12/1/84)	17.54	35.08	175.40	350.80	6.21 / 7.02 / 7.02
7.0 YEARS . . . . (6/1/85)	17.54	35.08	175.40	350.80	6.25 / 7.02 / 7.02
7.5 YEARS . . . . (12/1/85)	17.54	35.08	175.40	350.80	6.29 / 7.02 / 7.02
8.0 YEARS . . . . (6/1/86)	17.54	35.08	175.40	350.80	6.33 / 7.02 / 7.02
8.5 YEARS . . . . (12/1/86)	17.54	35.08	175.40	350.80	6.36 / 7.02 / 7.02
9.0 YEARS . . . . (6/1/87)	17.54	35.08	175.40	350.80	6.39 / 7.02 / 7.02
9.5 YEARS . . . . (12/1/87)	17.54	35.08	175.40	350.80	6.41 / 7.02 / 7.02
10.0 YEARS 2/. . . (6/1/88)	17.54	35.08	175.40	350.80	6.43 / 7.02 / ----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1978. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ MATURITY REACHED AT 10 YEARS AND 0 MONTHS AFTER ISSUE DATE.
* FOR EARLIER INTEREST CHECKS AND YIELDS SEE APPROPRIATE TABLE IN DEPARTMENT CIRCULAR 905, 6TH REVISION, AS AMENDED AND SUPPLEMENTED.

TABLE 5-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1978

ISSUE PRICE . . . . . REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE / (3) FOR HALF-YEAR PRECEDING INTEREST PAYMENT DATE / (4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT / PERCENT / PERCENT
.5 YEARS . . .1/ (12/1/88)	$16.25	$32.50	$162.50	$325.00	6.50 / 6.50 / 6.50
1.0 YEARS . . . . (6/1/89)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
1.5 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
2.0 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
2.5 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
3.0 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
3.5 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
4.0 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
4.5 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
5.0 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
5.5 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
6.0 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
6.5 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
7.0 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
7.5 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
8.0 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
8.5 YEARS . . . . (12/1/96)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
9.0 YEARS . . . . (6/1/97)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
9.5 YEARS . . . . (12/1/97)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
10.0 YEARS 2/. . . (6/1/98)	16.25	32.50	162.50	325.00	3/ 6.50 / 6.50 / ----
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	SECOND EXTENDED MATURITY PERIOD **				TO 2ND EXTENDED MATURITY
.5 YEARS . . . . (12/1/98)	$16.25	$32.50	$162.50	$325.00	6.50 / 6.50 / 6.50
1.0 YEARS . . . . (6/1/99)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
1.5 YEARS . . . . (12/1/99)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
2.0 YEARS . . . . (6/1/ 0)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
2.5 YEARS . . . . (12/1/ 0)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
3.0 YEARS . . . . (6/1/ 1)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
3.5 YEARS . . . . (12/1/ 1)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
4.0 YEARS . . . . (6/1/ 2)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
4.5 YEARS . . . . (12/1/ 2)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
5.0 YEARS . . . . (6/1/ 3)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
5.5 YEARS . . . . (12/1/ 3)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
6.0 YEARS . . . . (6/1/ 4)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
6.5 YEARS . . . . (12/1/ 4)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
7.0 YEARS . . . . (6/1/ 5)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
7.5 YEARS . . . . (12/1/ 5)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
8.0 YEARS . . . . (6/1/ 6)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
8.5 YEARS . . . . (12/1/ 6)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
9.0 YEARS . . . . (6/1/ 7)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
9.5 YEARS . . . . (12/1/ 7)	16.25	32.50	162.50	325.00	6.50 / 6.50 / 6.50
10.0 YEARS 4/. . . (6/1/ 8)	16.25	32.50	162.50	325.00	5/ 6.50 / 6.50 / ----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1978. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 6.46%.
4/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
5/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.46%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

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TABLE 55

BONDS BEARING ISSUE DATES FROM DEC. 1, 1978 THROUGH MAY 1, 1979

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION				(2) FROM ISSUE TO EACH INTEREST PAYMENT DATE	(3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (6/1/79)	$10.50	$21.00	$105.00	$210.00	6.20	6.20	6.62
1.0 YEARS . . . . (12/1/79)	15.76	31.52	157.60	315.20	5.24	6.30	6.65
1.5 YEARS . . . . (6/1/80)	15.76	31.52	157.60	315.20	5.58	6.30	6.67
2.0 YEARS . . . . (12/1/80)	15.76	31.52	157.60	315.20	5.76	6.30	6.70
2.5 YEARS . . . . (6/1/81)	15.76	31.52	157.60	315.20	5.86	6.30	6.74
3.0 YEARS . . . . (12/1/81)	15.76	31.52	157.60	315.20	5.93	6.30	6.78
3.5 YEARS . . . . (6/1/82)	15.76	31.52	157.60	315.20	5.98	6.30	6.82
4.0 YEARS . . . . (12/1/82)	15.76	31.52	157.60	315.20	6.01	6.30	6.88
4.5 YEARS . . . . (6/1/83)	15.76	31.52	157.60	315.20	6.04	6.30	6.94
5.0 YEARS . . . . (12/1/83)	15.76	31.52	157.60	315.20	6.06	6.30	7.02
5.5 YEARS . . . . (6/1/84)	17.54	35.08	175.40	350.80	6.14	7.02	7.02
6.0 YEARS . . . . (12/1/84)	17.54	35.08	175.40	350.80	6.20	7.02	7.02
6.5 YEARS . . . . (6/1/85)	17.54	35.08	175.40	350.80	6.25	7.02	7.02
7.0 YEARS . . . . (12/1/85)	17.54	35.08	175.40	350.80	6.29	7.02	7.02
7.5 YEARS . . . . (6/1/86)	17.54	35.08	175.40	350.80	6.33	7.02	7.02
8.0 YEARS . . . . (12/1/86)	17.54	35.08	175.40	350.80	6.37	7.02	7.02
8.5 YEARS . . . . (6/1/87)	17.54	35.08	175.40	350.80	6.39	7.02	7.02
9.0 YEARS . . . . (12/1/87)	17.54	35.08	175.40	350.80	6.42	7.02	7.02
9.5 YEARS . . . . (6/1/88)	17.54	35.08	175.40	350.80	6.44	7.02	7.02
10.0 YEARS 2/. . . (12/1/88)	17.54	35.08	175.40	350.80	6.46	7.02	-----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1978. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ MATURITY REACHED AT 10 YEARS AND 0 MONTHS AFTER ISSUE DATE.

TABLE 55-A

BONDS BEARING ISSUE DATES FROM DEC. 1, 1978 THROUGH MAY 1, 1979

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)		
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE	(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
					PERCENT	PERCENT	PERCENT
.5 YEARS . . .1/ (6/1/89)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (12/1/89)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (12/1/96)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (6/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (12/1/97)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (6/1/98)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 2/. . . (12/1/98)	16.25	32.50	162.50	325.00	3/ 6.50	6.50	-----
PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	SECOND EXTENDED MATURITY PERIOD **						TO 2ND EXTENDED MATURITY
.5 YEARS . . . . (6/1/99)	$16.25	$32.50	$162.50	$325.00	6.50	6.50	6.50
1.0 YEARS . . . . (12/1/99)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
1.5 YEARS . . . . (6/1/ 0)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.0 YEARS . . . . (12/1/ 0)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
2.5 YEARS . . . . (6/1/ 1)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.0 YEARS . . . . (12/1/ 1)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
3.5 YEARS . . . . (6/1/ 2)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.0 YEARS . . . . (12/1/ 2)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
4.5 YEARS . . . . (6/1/ 3)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.0 YEARS . . . . (12/1/ 3)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
5.5 YEARS . . . . (6/1/ 4)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.0 YEARS . . . . (12/1/ 4)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
6.5 YEARS . . . . (6/1/ 5)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.0 YEARS . . . . (12/1/ 5)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
7.5 YEARS . . . . (6/1/ 6)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.0 YEARS . . . . (12/1/ 6)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
8.5 YEARS . . . . (6/1/ 7)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.0 YEARS . . . . (12/1/ 7)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
9.5 YEARS . . . . (6/1/ 8)	16.25	32.50	162.50	325.00	6.50	6.50	6.50
10.0 YEARS 4/. . . (12/1/ 8)	16.25	32.50	162.50	325.00	5/ 6.50	6.50	-----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1978. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 6.48%.
4/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
5/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.48%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

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TABLE 5A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1979

ISSUE PRICE . . . . . REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION				(2) FROM ISSUE TO EACH INTEREST PAYMENT DATE
					PERCENT
.5 YEARS . . 1/ (12/1/79)	$11.77	$23.54	$117.70	$235.40	4.71
1.0 YEARS . . . . (6/1/80)	15.77	31.54	157.70	315.40	5.30
1.5 YEARS . . . . (12/1/80)	15.77	31.54	157.70	315.40	5.76
2.0 YEARS . . . . (6/1/81)	15.77	31.54	157.70	315.40	5.89
2.5 YEARS . . . . (12/1/81)	15.77	31.54	157.70	315.40	5.97
3.0 YEARS . . . . (6/1/82)	15.77	31.54	157.70	315.40	6.02
3.5 YEARS . . . . (12/1/82)	15.77	31.54	157.70	315.40	6.06
4.0 YEARS . . . . (6/1/83)	15.77	31.54	157.70	315.40	6.09
4.5 YEARS . . . . (12/1/83)	15.77	31.54	157.70	315.40	6.11
5.0 YEARS . . . . (6/1/84)	15.77	31.54	157.70	315.40	6.13
5.5 YEARS . . . . (12/1/84)	17.55	35.10	175.50	351.00	6.19
6.0 YEARS . . . . (6/1/85)	17.55	35.10	175.50	351.00	6.25
6.5 YEARS . . . . (12/1/85)	17.55	35.10	175.50	351.00	6.30
7.0 YEARS . . . . (6/1/86)	17.55	35.10	175.50	351.00	6.34
7.5 YEARS . . . . (12/1/86)	17.55	35.10	175.50	351.00	6.38
8.0 YEARS . . . . (6/1/87)	17.55	35.10	175.50	351.00	6.41
8.5 YEARS . . . . (12/1/87)	17.55	35.10	175.50	351.00	6.44
9.0 YEARS . . . . (6/1/88)	17.55	35.10	175.50	351.00	6.46
9.5 YEARS . . . . (12/1/88)	17.55	35.10	175.50	351.00	6.48
10.0 YEARS 2/. . . (6/1/89)	17.55	35.10	175.50	351.00	6.50

PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
	PERCENT	PERCENT
.5 YEARS . . 1/ (12/1/79)	4.71	6.63
1.0 YEARS . . . . (6/1/80)	6.31	6.65
1.5 YEARS . . . . (12/1/80)	6.31	6.68
2.0 YEARS . . . . (6/1/81)	6.31	6.71
2.5 YEARS . . . . (12/1/81)	6.31	6.74
3.0 YEARS . . . . (6/1/82)	6.31	6.78
3.5 YEARS . . . . (12/1/82)	6.31	6.83
4.0 YEARS . . . . (6/1/83)	6.31	6.88
4.5 YEARS . . . . (12/1/83)	6.31	6.94
5.0 YEARS . . . . (6/1/84)	6.31	7.02
5.5 YEARS . . . . (12/1/84)	7.02	7.02
6.0 YEARS . . . . (6/1/85)	7.02	7.02
6.5 YEARS . . . . (12/1/85)	7.02	7.02
7.0 YEARS . . . . (6/1/86)	7.02	7.02
7.5 YEARS . . . . (12/1/86)	7.02	7.02
8.0 YEARS . . . . (6/1/87)	7.02	7.02
8.5 YEARS . . . . (12/1/87)	7.02	7.02
9.0 YEARS . . . . (6/1/88)	7.02	7.02
9.5 YEARS . . . . (12/1/88)	7.02	7.02
10.0 YEARS 2/. . . (6/1/89)	7.02	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1979. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ MATURITY REACHED AT 10 YEARS AND 0 MONTHS AFTER ISSUE DATE.

TABLE 5A-A

BONDS BEARING ISSUE DATES FROM JUNE 1 THROUGH NOV. 1, 1979

ISSUE PRICE . . . . . REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION EXTENDED MATURITY PERIOD **				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE
					PERCENT
.5 YEARS . . 1/ (12/1/89)	$16.25	$32.50	$162.50	$325.00	6.50
1.0 YEARS . . . . (6/1/90)	16.25	32.50	162.50	325.00	6.50
1.5 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50
2.0 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50
2.5 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50
3.0 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50
3.5 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50
4.0 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50
4.5 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50
5.0 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50
5.5 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50
6.0 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50
6.5 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50
7.0 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50
7.5 YEARS . . . . (12/1/96)	16.25	32.50	162.50	325.00	6.50
8.0 YEARS . . . . (6/1/97)	16.25	32.50	162.50	325.00	6.50
8.5 YEARS . . . . (12/1/97)	16.25	32.50	162.50	325.00	6.50
9.0 YEARS . . . . (6/1/98)	16.25	32.50	162.50	325.00	6.50
9.5 YEARS . . . . (12/1/98)	16.25	32.50	162.50	325.00	6.50
10.0 YEARS 2/. . . (6/1/99)	16.25	32.50	162.50	325.00	3/ 6.50

PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	SECOND EXTENDED MATURITY PERIOD **					(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO FIRST EXTENDED MATURITY
						PERCENT	PERCENT
.5 YEARS . . . . (12/1/99)	$16.25	$32.50	$162.50	$325.00		6.50	6.50
1.0 YEARS . . . . (6/1/ 0)	16.25	32.50	162.50	325.00		6.50	6.50
1.5 YEARS . . . . (12/1/ 0)	16.25	32.50	162.50	325.00		6.50	6.50
2.0 YEARS . . . . (6/1/ 1)	16.25	32.50	162.50	325.00		6.50	6.50
2.5 YEARS . . . . (12/1/ 1)	16.25	32.50	162.50	325.00		6.50	6.50
3.0 YEARS . . . . (6/1/ 2)	16.25	32.50	162.50	325.00		6.50	6.50
3.5 YEARS . . . . (12/1/ 2)	16.25	32.50	162.50	325.00		6.50	6.50
4.0 YEARS . . . . (6/1/ 3)	16.25	32.50	162.50	325.00		6.50	6.50
4.5 YEARS . . . . (12/1/ 3)	16.25	32.50	162.50	325.00		6.50	6.50
5.0 YEARS . . . . (6/1/ 4)	16.25	32.50	162.50	325.00		6.50	6.50
5.5 YEARS . . . . (12/1/ 4)	16.25	32.50	162.50	325.00		6.50	6.50
6.0 YEARS . . . . (6/1/ 5)	16.25	32.50	162.50	325.00		6.50	6.50
6.5 YEARS . . . . (12/1/ 5)	16.25	32.50	162.50	325.00		6.50	6.50
7.0 YEARS . . . . (6/1/ 6)	16.25	32.50	162.50	325.00		6.50	6.50
7.5 YEARS . . . . (12/1/ 6)	16.25	32.50	162.50	325.00		6.50	6.50
8.0 YEARS . . . . (6/1/ 7)	16.25	32.50	162.50	325.00		6.50	6.50
8.5 YEARS . . . . (12/1/ 7)	16.25	32.50	162.50	325.00		6.50	6.50
9.0 YEARS . . . . (6/1/ 8)	16.25	32.50	162.50	325.00		6.50	6.50
9.5 YEARS . . . . (12/1/ 8)	16.25	32.50	162.50	325.00		6.50	6.50
10.0 YEARS 4/. . . (6/1/ 9)	16.25	32.50	162.50	325.00	5/	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF JUNE 1, 1979. FOR SUBSEQUENT ISSUE MONTHS ADD APPROPRIATE NUMBER OF MONTHS.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 6.50%.
4/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
5/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.50%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

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TABLE 57

BONDS BEARING ISSUE DATE DEC. 1, 1979

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION				(2) FROM ISSUE TO EACH INTEREST PAYMENT DATE
					PERCENT
.5 YEARS . . .1/ (6/1/80)	$11.77	$23.54	$117.70	$235.40	4.71
1.0 YEARS . . . . (12/1/80)	15.77	31.54	157.70	315.40	5.50
1.5 YEARS . . . . (6/1/81)	15.77	31.54	157.70	315.40	5.76
2.0 YEARS . . . . (12/1/81)	15.77	31.54	157.70	315.40	5.89
2.5 YEARS . . . . (6/1/82)	15.77	31.54	157.70	315.40	5.97
3.0 YEARS . . . . (12/1/82)	15.77	31.54	157.70	315.40	6.02
3.5 YEARS . . . . (6/1/83)	15.77	31.54	157.70	315.40	6.06
4.0 YEARS . . . . (12/1/83)	15.77	31.54	157.70	315.40	6.09
4.5 YEARS . . . . (6/1/84)	15.77	31.54	157.70	315.40	6.11
5.0 YEARS . . . . (12/1/84)	15.77	31.54	157.70	315.40	6.13
5.5 YEARS . . . . (6/1/85)	17.55	35.10	175.50	351.00	6.19
6.0 YEARS . . . . (12/1/85)	17.55	35.10	175.50	351.00	6.25
6.5 YEARS . . . . (6/1/86)	17.55	35.10	175.50	351.00	6.30
7.0 YEARS . . . . (12/1/86)	17.55	35.10	175.50	351.00	6.34
7.5 YEARS . . . . (6/1/87)	17.55	35.10	175.50	351.00	6.38
8.0 YEARS . . . . (12/1/87)	17.55	35.10	175.50	351.00	6.41
8.5 YEARS . . . . (6/1/88)	17.55	35.10	175.50	351.00	6.44
9.0 YEARS . . . . (12/1/88)	17.55	35.10	175.50	351.00	6.46
9.5 YEARS . . . . (6/1/89)	17.55	35.10	175.50	351.00	6.48
10.0 YEARS 2/. . . (12/1/89)	17.55	35.10	175.50	351.00	6.50

PERIOD OF TIME BOND IS HELD AFTER ISSUE DATE	(3) FOR HALF-YEAR PERIOD PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PAYMENT DATE TO MATURITY
	PERCENT	PERCENT
.5 YEARS . . .1/ (6/1/80)	4.71	6.63
1.0 YEARS . . . . (12/1/80)	6.31	6.65
1.5 YEARS . . . . (6/1/81)	6.31	6.68
2.0 YEARS . . . . (12/1/81)	6.31	6.71
2.5 YEARS . . . . (6/1/82)	6.31	6.74
3.0 YEARS . . . . (12/1/82)	6.31	6.78
3.5 YEARS . . . . (6/1/83)	6.31	6.83
4.0 YEARS . . . . (12/1/83)	6.31	6.88
4.5 YEARS . . . . (6/1/84)	6.31	6.94
5.0 YEARS . . . . (12/1/84)	6.31	7.02
5.5 YEARS . . . . (6/1/85)	7.02	7.02
6.0 YEARS . . . . (12/1/85)	7.02	7.02
6.5 YEARS . . . . (6/1/86)	7.02	7.02
7.0 YEARS . . . . (12/1/86)	7.02	7.02
7.5 YEARS . . . . (6/1/87)	7.02	7.02
8.0 YEARS . . . . (12/1/87)	7.02	7.02
8.5 YEARS . . . . (6/1/88)	7.02	7.02
9.0 YEARS . . . . (12/1/88)	7.02	7.02
9.5 YEARS . . . . (6/1/89)	7.02	7.02
10.0 YEARS 2/. . . (12/1/89)	7.02	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1979.
2/ MATURITY REACHED AT 10 YEARS AND 0 MONTHS AFTER ISSUE DATE.

TABLE 57-A

BONDS BEARING ISSUE DATE DEC. 1, 1979

ISSUE PRICE REDEMPTION AND MATURITY VALUE	$500 500	$1,000 1,000	$5,000 5,000	$10,000 10,000	APPROXIMATE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE)
PERIOD OF TIME BOND IS HELD AFTER FIRST MATURITY AT 10 YEARS, 0 MONTHS	(1) AMOUNTS OF INTEREST CHECKS FOR EACH DENOMINATION				(2) FROM BEGINNING OF CURRENT MATURITY PD. TO EA. INTEREST PMT. DATE
	EXTENDED MATURITY PERIOD **				PERCENT
.5 YEARS . . .1/ (6/1/90)	$16.25	$32.50	$162.50	$325.00	6.50
1.0 YEARS . . . . (12/1/90)	16.25	32.50	162.50	325.00	6.50
1.5 YEARS . . . . (6/1/91)	16.25	32.50	162.50	325.00	6.50
2.0 YEARS . . . . (12/1/91)	16.25	32.50	162.50	325.00	6.50
2.5 YEARS . . . . (6/1/92)	16.25	32.50	162.50	325.00	6.50
3.0 YEARS . . . . (12/1/92)	16.25	32.50	162.50	325.00	6.50
3.5 YEARS . . . . (6/1/93)	16.25	32.50	162.50	325.00	6.50
4.0 YEARS . . . . (12/1/93)	16.25	32.50	162.50	325.00	6.50
4.5 YEARS . . . . (6/1/94)	16.25	32.50	162.50	325.00	6.50
5.0 YEARS . . . . (12/1/94)	16.25	32.50	162.50	325.00	6.50
5.5 YEARS . . . . (6/1/95)	16.25	32.50	162.50	325.00	6.50
6.0 YEARS . . . . (12/1/95)	16.25	32.50	162.50	325.00	6.50
6.5 YEARS . . . . (6/1/96)	16.25	32.50	162.50	325.00	6.50
7.0 YEARS . . . . (12/1/96)	16.25	32.50	162.50	325.00	6.50
7.5 YEARS . . . . (6/1/97)	16.25	32.50	162.50	325.00	6.50
8.0 YEARS . . . . (12/1/97)	16.25	32.50	162.50	325.00	6.50
8.5 YEARS . . . . (6/1/98)	16.25	32.50	162.50	325.00	6.50
9.0 YEARS . . . . (12/1/98)	16.25	32.50	162.50	325.00	6.50
9.5 YEARS . . . . (6/1/99)	16.25	32.50	162.50	325.00	6.50
10.0 YEARS 2/. . . (12/1/99)	16.25	32.50	162.50	325.00	3/ 6.50

PERIOD OF TIME BOND IS HELD AFTER EXTENDED MATURITY AT 20 YEARS, 0 MONTHS	SECOND EXTENDED MATURITY PERIOD **					(3) FOR HALF-YEAR PD. PRECEDING INTEREST PAYMENT DATE	(4) FROM EACH INTEREST PMT. DATE TO 2ND EXTENDED MATURITY
							PERCENT
.5 YEARS . . . . (6/1/ 0)	$16.25	$32.50	$162.50	$325.00		6.50	6.50
1.0 YEARS . . . . (12/1/ 0)	16.25	32.50	162.50	325.00		6.50	6.50
1.5 YEARS . . . . (6/1/ 1)	16.25	32.50	162.50	325.00		6.50	6.50
2.0 YEARS . . . . (12/1/ 1)	16.25	32.50	162.50	325.00		6.50	6.50
2.5 YEARS . . . . (6/1/ 2)	16.25	32.50	162.50	325.00		6.50	6.50
3.0 YEARS . . . . (12/1/ 2)	16.25	32.50	162.50	325.00		6.50	6.50
3.5 YEARS . . . . (6/1/ 3)	16.25	32.50	162.50	325.00		6.50	6.50
4.0 YEARS . . . . (12/1/ 3)	16.25	32.50	162.50	325.00		6.50	6.50
4.5 YEARS . . . . (6/1/ 4)	16.25	32.50	162.50	325.00		6.50	6.50
5.0 YEARS . . . . (12/1/ 4)	16.25	32.50	162.50	325.00		6.50	6.50
5.5 YEARS . . . . (6/1/ 5)	16.25	32.50	162.50	325.00		6.50	6.50
6.0 YEARS . . . . (12/1/ 5)	16.25	32.50	162.50	325.00		6.50	6.50
6.5 YEARS . . . . (6/1/ 6)	16.25	32.50	162.50	325.00		6.50	6.50
7.0 YEARS . . . . (12/1/ 6)	16.25	32.50	162.50	325.00		6.50	6.50
7.5 YEARS . . . . (6/1/ 7)	16.25	32.50	162.50	325.00		6.50	6.50
8.0 YEARS . . . . (12/1/ 7)	16.25	32.50	162.50	325.00		6.50	6.50
8.5 YEARS . . . . (6/1/ 8)	16.25	32.50	162.50	325.00		6.50	6.50
9.0 YEARS . . . . (12/1/ 8)	16.25	32.50	162.50	325.00		6.50	6.50
9.5 YEARS . . . . (6/1/ 9)	16.25	32.50	162.50	325.00		6.50	6.50
10.0 YEARS 4/. . . (12/1/ 9)	16.25	32.50	162.50	325.00	5/	6.50	----

1/ MONTH, DAY AND YEAR ON WHICH INTEREST CHECK IS PAYABLE ON ISSUES OF DEC. 1, 1979.
2/ EXTENDED MATURITY REACHED AT 20 YEARS AND 0 MONTHS AFTER ISSUE DATE.
3/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO EXTENDED MATURITY IS 6.50%.
4/ SECOND EXTENDED MATURITY REACHED AT 30 YEARS AND 0 MONTHS AFTER ISSUE DATE.
5/ YIELD ON PURCHASE PRICE FROM ISSUE DATE TO SECOND EXTENDED MATURITY IS 6.50%.
** THIS TABLE DOES NOT APPLY IF THE PREVAILING RATE FOR SERIES H BONDS AT THE TIME THE EXTENSION BEGINS IS DIFFERENT FROM 6.50 PERCENT.

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APPENDIX

Summary of investment yields to maturity and extended maturity dates under regulations prescribed for Series H savings bonds with issue dates from June 1, 1952.*

Issues	Term to maturity (years and months)		Yield[1] during maturity period							Yield[1] during extended maturity period (10 years)						Yield[1] during second extended maturity period (10 years)		
			1959	1965	1968	1969	1970	1973	1979		1965	1968	1969	1970	1973	1979		1973	1979
6/52- 3/54	9-9	1.00	+.50							3.75e	+.40	+.10b	5.00	+.50e			5.50e	+.50e	+.50e
4/54- 9/54	9-6	1.00	+.50							3.75e	+.40	+.10b	5.00	+.50e			5.00e		+.50e
10/54- 9/55	9-6	1.00	+.50							3.75e	+.40	+.10b	5.00	+.50e	+.50e		6.00e		+.50e
10/55- 3/56	9-6	1.00	+.50							3.75e	+.40	+.10b	5.00	+.50e	+.50e		6.00e		+.50e
4/56-11/56	9-6	1.00	+.50							4.15e		+.10b	5.00	+.50e	+.50e		6.00e		+.50e
12/56- 1/57	9-6	1.00	+.50	+.40						4.15e		+.10b	5.00	+.50e	+.50e		6.00e		+.50e
2/57- 5/58	10-0	3.25	+.50	+.40						4.15e		+.10b	5.00	+.50e	+.50e		6.00e		+.50e
6/58- 9/59	10-0	3.25	+.50	+.40						4.25b			5.00	+.50e	+.50e		6.00e		+.50e
8/58-11/59	10-0	3.75		+.40	+.10b					5.00e				+.50e	+.50e		6.50e		
12/59- 5/60	10-0	3.75		+.40	+.10b					5.00e				+.50e	+.50e	+.50e	6.50e[2]		
6/60-11/60	10-0	3.75		+.40	+.10b					5.50e					+.50e	+.50e	6.50e[2]		
12/60-12/61	10-0	3.75		+.40	+.10b	5.00				5.50e					+.50e	+.50e	6.50e[2]		
1/62-11/63	10-0	3.75		+.40	+.10b	5.00	+.50e			5.50e					+.50e	+.50e	6.50e[2]		
12/63- 5/64	10-0	3.75		+.40	+.10b	5.00	+.50e			6.00e						+.50e	6.50e[2]		
6/64- 5/65	10-0	3.75		+.40	+.10b	5.00	+.50e	+.50e		6.00e						+.50e	6.50e[2]		
6/65-11/65	10-0	3.75		+.40	+.10b	5.00	+.50e	+.50e		6.00e						+.50e	6.50e[2]		
12/65- 5/68	10-0	4.15			+.10b	5.00	+.50e	+.50e		6.00e						+.50e	6.50e[2]		
6/68- 5/69	10-0	4.25b				5.00	+.50e	+.50e		6.00e						+.50e	6.50e[2]		
6/69-11/69	10-0	5.00					+.50e	+.50e	+.50e	6.50e[2]							6.50e[2]		
12/69- 5/70	10-0	5.00					+.50e	+.50e	+.50e	6.50e[2]							6.50e[2]		
6/70-11/73	10-0	5.50						+.50e	+.50e	6.50e[2]							6.50e[2]		
12/73- 5/79	10-0	6.00							+.50e	6.50e[2]							6.50e[2]		
6/79-12/79	10-0	6.50								6.50e[2]							6.50e[2]		

1/ All yields are in terms of percent per annum, compounded semiannually. The first figure in each maturity period is the overall yield for that period at time of entry into period. Interest payments are on a graduated basis unless otherwise indicated, the full rate being received only if held to the end of the period (lesser rate if redeemed earlier). An "e" indicates payments on an approximately level basis. A "b" indicates increased interest on a bonus basis, that is, the full rate is received only if the bond is held to the end of the period (no increase if redeemed earlier). Rate increases within periods took effect at the beginning of the first full half-year interest period starting on or after the effective date as follows:

1959 - graduated improvements in rate to next maturity beginning June 1, 1969.
1965 - graduated improvement in rate to next maturity beginning Dec. 1, 1965.
1968 - bonus improvement in rate to next maturity beginning June 1, 1968.
1969 - maximum rate to next maturity beginning June 1, 1969.
1970 - level and bonus improvements in rate to next maturity beginning June 1, 1970. In the case of .50b the increase is spread over the second 5 years of maturity period.
1973 - level improvement in rate to next maturity beginning Dec. 1, 1973.
1979 - level improvement in rate to next maturity beginning June 1, 1979.

2/ Yield does not apply if prevailing rate for Series H bonds at time extension begins is different from 6.50 percent.

* The purpose of this table is to summarize the history of yields on Series H savings bonds. Because of the graduated nature of these yields this table does not contain sufficient detail for the calculation of individual checks.

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Part IV

Department of Commerce

National Oceans and Atmospheric Administration

Coastal Energy Impact Program; Regulations to Establish the Outer Continental Shelf (OCS) State Participation Grant Program

V 45 / 14 JA 21 80 UMI

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 931

Coastal Energy Impact Program; Regulations to Establish the Outer Continental Shelf (OCS) State Participation Grant Program

AGENCY: National Oceanic and Atmospheric Administration (NOAA) Department of Commerce.

ACTION: Final rule.

SUMMARY: These final regulations describe administrative procedures for implementing section 308(c)(2) of the Coastal Zone Management Act of 1972, as amended, (CZMA) (16 U.S.C. 1451, *et seq.*). Section 308(c)(2) establishes the Outer Continental Shelf (OCS) State Participation Grant Program which provides financial assistance for coastal state participation in policy, planning and managerial decisions related to management of OCS oil and gas resources.

EFFECTIVE DATE: These regulations are effective January 21, 1980.

FOR FURTHER INFORMATION CONTACT: Dan Hoydysh, Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W., Washington, D.C. 20235 (202) 634–4128.

SUPPLEMENTARY INFORMATION: I. Explanatory Statement. The Coastal Energy Impact Program (CEIP) was created by the Coastal Zone Management Act Amendments of 1976 (Pub. L. 94–370). The CEIP provides coastal States and communities with financial assistance for mitigating the adverse impacts from OCS and other coastal energy development activity.

The OCS Lands Act Amendments of 1978 (OCSLAA) (Pub. L. 95–372) amended the CEIP Program by adding a fund for the provision of grants to allow coastal States to carry out their responsibilities under the OCS Lands Act. The OCS State Participation Grant Program established under new Section 308(c)(2) of the CZMA provides up to 80% federally funded grants to coastal States likely to be affected by OCS energy activity. These grants are to be used to cover the costs of participating in policy, planning and managerial decisions relating to the development of OCS oil and natural gas resources. These grants are not to be used to cover any of the site-specific planning, construction, or property acquisition costs provided for in other provisions of the CEIP. OCS State participation grants are authorized at $5 million a year for five fiscal years—Fiscal Year 1979 through Fiscal Year 1983.

NOAA has authority to issue final regulations under Sections 308 and 317 of the CZMA.

NOAA has determined that publication of these final rules is not a major action significantly affecting the quality of the human environment and does not require preparation of an Environmental Impact Statement under the National Environmental Policy Act of 1969. NOAA also has determined that these regulations are not a significant regulatory action and do not require preparation of a regulatory analysis under Executive Order 12044.

These final regulations will become effective on publication. This is necessary because OCS participation grants may not be awarded until the regulations are in effect. Publication of these final regulations was delayed because it was not until November 1979 that NOAA decided to reprogram $3 million for Section 308(c)(2) purposes. Further delay in providing OCS participation assistance will greatly hamper State participation in current OCS-related decisions and may lead to delay in development of OCS oil and natural gas resources. Therefore, pursuant to 5 U.S.C. 553(d)(3) NOAA finds that for good cause the effective date of these regulations should not be delayed for 30 days after publication.

II. Summary of Major Provisions of the Final Regulations

Eligibility for Grants. Under Section 308(c)(2) NOAA's Assistant Administrator for Coastal Zone Management ("Assistant Administrator") is authorized to make grants to coastal States likely to be affected by OCS energy activity. Only those States eligible to receive CEIP assistance, as described in Subpart C of Part 931, may receive a Section 308(c)(2) grant. Local communities are eligible to receive OCS participation funds. However, there is no requirement that a State allocate OCS participation grants among units of local government. States have discretion as to whether units of local government receive OCS participation funds.

Affected State. The Assistant Administrator will determine that a coastal State is "likely to be affected" by OCS energy activity if:

(1) The Assistant Administrator finds that the State can reasonably expect to be exposed to significant environmental, economic, or social consequences as a result of OCS energy activity associated with any OCS lease sale that has taken place or is scheduled to take place under the Department of the Interior's OCS Planning Schedule.

(2) The Assistant Administrator finds, on the basis of reasonable evidence submitted by that State, that the State has administrative, policy, operational, or managerial responsibilities under the OCS Lands Act that should properly be supported with Section 308(c)(2) funds. When making this determination, the Assistant Administrator will consider designations of "affected" States made by the Department of the Interior (DOI) pursuant to the OCS Lands Act.

Allowable Uses of Grants. Grants are to be used by the States to participate in the Federal policy, operational, and managerial decisions relating to the development of OCS oil and gas resources. Specifically, these grants are intended to pay for State participation in, among others, the following activities— formulation of the OCS leasing program, reviewing and commenting on draft environmental impact statments prepared for OCS activites, commenting and making recommendations concerning exploration and development and production plans; and analyzing data transmitted to the State pursuant to the OCS oil and gas information program.

Allotment of Available Funding. Funding available for State participation grants will be allotted among eligible coastal States by means of a formula desinged to measure, to the maximum extent practicable, the relative administrative, policy, operational, and managerial responsibilities faced by the eligible States.

To maintain program flexibility the exact allotment formula is not specified in the regulations—i.e., the uncertainty of the OCS development process in specifying an allotment formula decreases the program's responsiveness to rapidly changing situations. However, the factors on which the allocation formula is based are specified in the regulations as follows:

(1) *Minimum Share.* Each eligible coastal State will receive an equal minimum share. The purpose of the minimum share is to assure stability in the amount of funds available to a State from fiscal year-to-year. The amount of the annual minimum share will be determined each fiscal year by the Assistant Administrator on the basis of the total amount available under Section 308(c)(2). It is the intent of the Assistant Administrator to maintain the minimum share at $75,000 when practicable.

(2) *Formula Share.* After the minimum shares are subtracted from the total amount available under section 308(c)(2), the remaining funds will be allotted among eligible coastal States according to a formula that considers: (1) the number of times a State is determined by the Assistant Administrator to be "affected" by OCS lease sales scheduled under the OCS Planning Schedule; (2) the length of the State's marine coastline; (3) the coastal population along the marine coastline; and (4) the number of acres leased since December 1, 1975, for which a State is determined by the Assistant Administrator to be affected.

(3) *Total Allotment.* A State's total allotment will consist of the sum of the minimum share plus the formula share. The Assistant Administrator may adjust the total allotment ot reflect regional differences in costs.

(4) *State Review.* The Assistant Administrator will provide each affected State with the formula that will be used to allot Section 308(c)(2) funds before final allotments are calculated. States will have 30 days to comment on this formula. Final allotments will be made as soon as practicable after the comment period.

Application for Grants. An application for an OCS State participation grant must contain: (1) A clear and concise description of the activities that will be funded and their associated costs; and (2) a statement of whether funds will be allocated among units of local government. If the State decides to allocate funds among units of local government, the application must contain an explanation of how this allocation will be based, to the maximum extent practicable, on the need for OCS participation assistance.

Reversion of Allotted Funds. Applications for OCS participation grants must be submitted to the Office of Coastal Zone Managment (OCZM) within 120 days of the date the State is notified of its final allotment. Funds that are not applied for within this 120-day period will revert to the Assistant Administrator at the end of that period. The Assistant Administrator may reallocate reverted funds as soon as practicable or may award them to States on the basis of demonstrated need.

III. Comments on Proposed Regulations and OCZM Responses

Proposed regulations for implementing the OCS State Participation Grants Program were published in the Federal Register on March 19, 1979, and a 45-day comment period was provided ending on May 3, 1979. All comments were given full consideration. Major comments and OCZM responses are given below.

One commentator questioned the wisdom of defining States "likely to be affected by OCS energy activity" as those affected by lease sales held after July 26, 1978. This commentator recommended that the cut-off date be moved back so that two lease sales in frontier areas—Nos. 38 (Southern California) and 39 (Alaska)—be considered when computing allotments of Section 308(c)(2) funds. Since an important objective of the CEIP is to encourage new OCS development, this suggestion was adopted and the cut-off date established as December 1, 1975, in order to allow the two frontier-area sales to be factored into the formula.

One commentator suggested that the allowable uses for OCS participation grants be expanded to include: participation in *suspension* as well as cancellation proceedings; *commenting on,* as well as reviewing, proposed environmental, safety, and other regulations; commenting on *exploration plans* and *drilling permits* as well as development and production plans. Although the list of allowable uses was not intended to be exclusive these suggestions were adopted.

One commentator suggested that the allotment formula should incorporate the "amount of oil and gas actually found" because this factor has the greatest impact on affected States. Although oil and gas "actually found" may correlate closely with the magnitude of the impacts an affected State is likely to experience, the amount found is not known until well into the exploration and development process. To include this factor in the allocation would further weight the distribution of funds away from frontier areas—where the amount "found" is not known—and to areas of existing OCS oil and gas production. It is the opinion of OCZM that the elements of the allotment formula specified in the regulations will enable the Assistant Administrator to apportion equitably available funds on the basis of relative need for OCS participation.

One commentator suggested that allowable uses of (c)(2) funds not include *any costs eligible* for coverage under other provisions of the CEIP. This suggestion is rejected. The only statutory limitation on the allowable uses of (c)(2) funds is that expenditures be related to a State's responsibilities under the OCS Lands Act. There is no statutory requirement that (c)(2) expenditures be prohibited because they could be covered under other provisions of the CEIP. The Report of the Committee of Conference on the OCSLAA, however, does state that (c)(2) funds may not be used for planning, public facility, public service, or environmental costs contained in other provisions of the CEIP. It is the position of OCZM that this limitation applies only to the use of section 308(c)(2) funds for site-specific planning, construction, and property acquisition projects that are covered under other provisions of the CEIP. Apart from these exceptions, if a proposed expenditure of section 308(c)(2) funds is required by a State to carry out its responsibilities under the OCS Lands Act, it is not material whether the proposed project could also be funded under other provisions of the CEIP.

One commentator noted that having the Secretary of the Department of the Interior (DOI) designate States as affected for purposes of eligibility under Section 308(c)(2) could lead to inequitable results because DOI and the States may differ in their perceptions of what constitutes significant impacts. The final regulations expressly provide that the Assistant Administrator determine which States are eligible for OCS participation funds. However, designations made by DOI pursuant to the OCS Lands Act will be considered by the Assistant Administrator.

The same commentator also noted that the Assistant Administrator's perspective on the existence or significance of impacts could differ from that of the States and therefore suggested that the Assistant Administrator's determinations of eligible States be filed for public comment before a final determination is made. This suggestion is rejected. The Assistant Administrator is expressly granted the authority to determine which States are eligible for section 308(c)(2) assistance. In addition, it is the intent of the Assistant Administrator to construe the concept of affected State broadly. At present, all marine coastal States, otherwise eligible under Section 308, have been found to be "affected" States for Section 308(c)(2) purposes. Under these circumstances, a public review and comment period is not necessary.

One commentator did not understand the purpose of the minimum share. The purpose of the minimum share is to provide a measure of fiscal certainty to the States—i.e., States are assured of receiving a certain amount each fiscal year.

One commentator suggested that the allotment formula take into account the anticipated extent and nature of energy resources as determined by the U.S. Geological Survey. This suggestion was rejected. It is the opinion of OCZM that the allotment formula described in the final regulations will equitably apportion available funds. In light of the speculative nature of "anticipated"

resources, it is OCZM's opinion that making the allotment formula more complicated is not justified.

One commentator suggested that coastal population be determined according to the boundaries of a given State's coastal zone. This approach is not practicable as census data does not exist in this format. Coastal population, as used in the final regulations, is that used by OCZM to compute grant allocations under Sections 305 and 306. This data has been adjusted to reflect only "marine" coastal population.

Several commentators objected to the imposition of an arbitrary ceiling on the maximum amount a State may receive under Section 308(c)(2). In response to this objection, the ceiling was removed. It is the opinion of OCZM that the allotment formula will accurately reflect relative need for OCS participation funds and that imposition of a ceiling is not necessary.

On commentator noted that length of marine coastline and population is not representative of a State's OCS responsibilities. OCZM disagrees. Although it is undisputable that any formula for calculating the need for OCS participation assistance may have deficiencies, it is OCZM's opinion that the length of marine coastline and coastal population correlate positively with a State's OCS responsibilities. Length of coastline reflects the amount of coastal resources that a State has at risk from OCS development. Population reflects the administrative burden a State may incur in its role as the interface between local communities and interest groups and the Federal Government.

One commentator suggested that lease sale areas for which no future activity is anticipated because of failure to locate commercial finds of oil and gas not be considered in the allotment formula. Under the allotment formula specified in the regulations, only those acres leased which, in the determination of the Assistant Administrator, affect a given State will be counted. Because the present allotment procedure allows the Assistant Administrator to adjust the formula for inactive lease sale areas, no change in the regulations is necessary.

One commentator requested clarification on how the marine coastline will be measured. Data on the marine coastline were obtained from a NOAA publication, *The Coastline of the United States*, and is public information.

One commentator suggested that the regulations be clarified to notify potential grant recipients of requirements to comply with OMB Circular A–95. This suggestion was accepted and the rules modified to highlight that these regulations are a subpart of CEIP regulations published previously and that applicants must refer to the full set of CEIP regulations.

Two commentators stated that conditioning eligibility for Section 308(c)(2) funds on a State meeting, the eligibility requirements for CEIP assistance established under Subpart C (Section 308(g)(1)) was contrary to Congressional intent. OCZM is explicitly required by Section 308(g)(1) of the CZMA to link eligibility for assistance under Section 308(c)(2) to a State satisfactorily participating in the coastal zone management program. Therefore, the suggestion "that references to eligibility requirements of Subpart C should be deleted" is rejected as not within the discretion of the Assistant Administrator.

One commentator suggested that the allowable uses be expanded to include dissemination of information on OCS activities to local governments and the public. This suggestion was adopted.

One commentator stated that the allotment formula should be specified in the regulations, and the Assistant Administrator's discretion in changing the allotment formula should be limited. This suggestion is rejected. The method of allotting Section 308(c)(2) funds is not specified by statute. Although the report of the Committee of Conference suggests that funds should be allotted among eligible States by "some type of formula", the report also states that "the precise system of allocation remains with" the Assistant Administrator, and that the Assistant Administrator has "considerable discretion" in administering this new program. Therefore, limiting the Assistant Administrator's discretion to modify the allotment formula is not warranted. However, the Assistant Administrator is committed to submitting to the States for comment the allotment formula before allotments are computed. In addition, the Assistant Administrator is limited to using the factors specified in the regulations when developing an allotment formula.

Several commentators suggested various technical changes to the allotment formula. The final regulations do not specify an exact allotment formula. The allotment formula will be developed in consultation with the States before allotments are calculated. Any subsequent modifications in the formula will also be sent to the States for review and comments before implementation.

One commentator objected to the statement in the proposed regulations that whether a State is likely to be affected will be determined "in light of NOAA's special concern for protecting the marine and coastal environment" as too vague a standard. This statement was deleted.

One commentator suggested that the "purpose of the CZMA and the OCS Lands Act would be better served and the taxpayers receive better assurance of value received for money spent" if expenditures under Section 308(c)(2) were subjected to an annual audit by an agency other than the Department of Commerce (DOC) and the audit report submitted to Congress. This suggestion was rejected. The Secretary of Commerce is expressly mandated to administer the OCS State Participation Program as part of the Coastal Zone Management Act. Annual audit of this program by a Federal agency other than DOC is not called for in the legislation. Sufficient administrative control exists at the DOC/NOAA level to assure efficient and equitable program operation. In addition, Congressional monitoring of the program is available through the oversight hearing mechanism.

One commentator stated that the allowable uses under Section 308(c)(2) greatly exceed the role the States are authorized to play in OCS oil and gas activities under the OCS Lands Act and that the allowable uses should be limited to the language "responsibilities under the OCS Lands Act." OCZM finds this distinction one of form rather than substance. The phrase "responsibilities under the OCS Land Act" is merely shorthand for those specific activities listed in Section 931.144. This list is taken, for the most part, directly from the amended OCS Lands Act. To restrict the uses of OCS participation funds to a State's "responsibilities" would create an unacceptable ambiguity regarding specific allowable expenditures.

One commentator suggested that the objectives of OCS participation assistance as stated on proposed § 931.142 exclude protection of the nation's valuable coastal environmental and recreational resources and the encouragement of rational and orderly development of OCS oil and gas resources. This commentator stated that the only proper objective of OCS participation assistance is to help coastal States carry out their responsibilities under the OCS Lands Act. OCZM disagrees that the objectives of OCS participation should be so narrowly stated. The purposes of Section 308(c)(2) grants should be read in the context of the purposes for which the CZMA and the CEIP were established. Accordingly, although Section 931.142 was reworded, the substance was not changed.

One commentator stated that the costs of implementing the consistency provisions of Section 307(c)(3)(b) of the CZMA should be an allowable cost under Section 308(c)(2). OCZM disagrees. The consistency review although addressed in the OCSLAA, is not a responsibility imposed by the *OCS Lands Act*. Accordingly, funding of Section 307 consistency review should be sought under Section 306 of the CZMA rather than Section 308(c)(2).

One commentator suggested that the regulations specifically state that Section 308(c)(2) funds be used only for OCS related activities. This suggestion was accepted. A subsection was added to § 931.145 stating that Section 308(c)(2) funds can only be used in connection with a State's responsibilities under the OCS Lands Act in accordance with these regulations.

One commentator suggested that the regulations not require the State to expend allotted funds in the year in which the allotment was made. This commentator suggested States be allowed to retain funds to the following fiscal year, provided that these funds would ultimately be spent on one of the allowable uses. This suggestion was accepted. The final regulations require only that a State apply for Section 308(c)(2) funds within 120 days after the allotment is made. States are free to specify in their applications the period of time, subject to applicable Federal fiscal management requirements, over which these funds will be spent.

One commentator suggested that the allowable uses of Section 308(c)(2) funds be expanded to include cooperation with the Administrator of the Environmental Protection Agency (EPA) as well as the Secretary of the Interior in § 931.144(a)(8). This suggestion was rejected. The OCS Lands Act does not impose a responsibility on States to cooperate with EPA in the OCS decision-making process. Therefore, to allow OCS participation grants to be used for this purpose would be inconsistent with statutory authority.

One commentator suggested that the OCS participation program is intended to enable States to participate in decisions relating to the development of all OCS energy resources and that, therefore, "energy" should be substituted for "oil and gas" where appropriate. This suggestion was not accepted because the legislation predicates eligibility for Section 308(c)(2) funds on a finding that a State is likely to be affected by OCS energy activity. As defined in the CZMA, OCS energy activity refers to development of OCS oil and natural gas resources. In addition, the Report of the Committee of Conference strongly links the purposes of these grants with participation in the OCS oil and gas development process.

One commentator stated that the definition of affected State should clarify that "affected State" status under the regulations is conferred only for purposes of Section 308(c)(2) and not for purposes of Section 307(c)(3)(B) of the CZMA or for purposes of the OCS Lands Act. This suggestion was accepted.

One commentator strongly urged reconsideration of § 931.144(a)(8) which provides payment for State activities in developing cooperative agreements with the DOI for, among other things, the formulation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws, regulations, and stipulations relevant to OCS onshore and offshore operation. This commentator cited a recent opinion of the Solicitor of the DOI which held in essence that while a third party could provide supplementary information, inspections by third parties (e.g. the State) cannot replace those conducted by DOI as delegated to the U.S. Geological Survey under 30 CFR Part 250. Therefore, the commentator noted that the DOI's statutory responsibilities under the OCS Lands Act for the prevention of waste and conservation of natural resources of the OCS and the protection of correlative rights therein are nondelegable. OCZM did not delete or modify § 931.144(a)(8). The language of that section is taken from Section 19(e) of the amended OCS Lands Act. The language of the regulation does not speak in terms of delegation but cooperation. Rather than remove this allowable use on the basis of an advisory legal opinion, OCZM believes it is preferable that the scope of any cooperative agreements be worked out among DOI and the affected States.

One commentator suggested that the allowable uses be expanded to allow States to use Section 308(c)(2) funds to encourage public participation in the OCS process. This suggestion was accepted.

One commentator suggested that a separate objective be added stating that a goal of the OCS participation program is increased public participation. This suggestion was rejected. Although the encouragement of public participation is an allowable use of Section 308(c)(2) funds, OCZM believes that the OCS participation program is focused primarily on State activities. It is OCZM's policy, in accordance with the OCS Lands Act, that the State be the primary channel of communication with the Federal Government concerning OCS related policies and decisions and that each State should determine the level of public participation according to its judgment.

The regulations for awarding OCS State Participation Grants as authorized by Section 308(c)(2) of the Coastal Zone Management Act of 1972, as amended, are defined in Subpart L which follows.

Francis J. Balint,

Acting Director, Management and Computer Systems.

January 10, 1980.

PART 931—COASTAL ENERGY IMPACT PROGRAM

A new Subpart L is added to Part 931 to read as set forth below.

These regulations are to be read in conjunction with CEIP Administrative Regulations published in the Federal Register on May 21, 1979 (44 FR 29580) (Part 931, Subparts A–K).

Subpart L—OCS State Participation Grants

Sec.

931.140 General.
931.141 Definitions.
931.142 Objectives.
931.143 Eligibility for OCS State participation grants.
931.144 Allowable uses of OCS State participation grants.
931.145 Limitations.
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931.147 Available funds.
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931.149 Application for OCS State participation grants.
931.150 Reversion of allotted funds.
931.151 Disposition of reverted or recovered Funds.
931.152 Administrative requirements.

Authority: Sections 308 and 317, Coastal Zone Management Act of 1972, Pub. L. 92–583, 86 Stat. 1280 (16 U.S.C. 1451 *et seq.*), as amended by Pub. L. 94–370, and Pub. L. 95–372.

Subpart L—OCS State Participation Grants

§ 931.140 General.

This Subpart establishes administrative procedures for awarding OCS State Participation Grants under Section 308(c)(2) of the Coastal Zone Management Act of 1972 (CZMA) as amended. This Subpart states the objectives of providing these grants and their allowable uses; describes procedures for allotting among coastal States funds available under Section 308(c)(2) and the procedures for applying for these funds.

§ 931.141 Definitions.

(a) OCS Lands Act means the Outer Continental Shelf Lands Act (43 U.S.C. 1331, *et seq.*) as amended by the Outer

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Continental Shelf Lands Act Amendments of 1978 (Pub. Law 95-327).

(b) *Affected State.* (1) OCS State participation grants will be awarded only to States the Assistant Administrator finds are "likely to be affected by OCS energy activity."

(2) The Assistant Administrator will find a coastal State "likely to be affected" by OCS energy activity if the Assistant Administrator determines:

(i) That the State can reasonably expect to be exposed to significant social, economic, or environmental consequences as a result of any OCS lease sale that has taken place or is scheduled to take place under the Department of the Interior's (DOI) Five Year Planning Schedule; or,

(ii) That the State has administrative, policy, operational, or managerial responsibilities under the OCS Lands Act that should properly be supported with Section 308(c)(2) funds.

(3) When determining under this Subpart which States are likely to be affected by OCS energy activity, the Assistant Administrator will give consideration to the designations of "affected" States made by DOI under the OCS Lands Act.

(4) States will be designated "likely to be affected" under this Subpart only for purposes of eligibility under Section 308(c)(2). State eligibility under this Subpart does not confer "affected" State status under the OCS Lands Act or under Section 307(c)(3)(B).

§ 931.142 Objectives.

The objectives of assistance under this Subpart are to expedite the rational, orderly development of OCS oil and gas resources and to protect the nation's valuable coastal environmental and recreational resources by:

(a) Encouraging coastal States to carry out their responsibilities under the OCS Lands Act;

(b) Helping the coastal States develop the capability to participate effectively in Federal policy, planning, and managerial decisions relating to the development of OCS oil and gas resources; and

(c) Encouraging cooperation between the Federal and State Governments in the management of OCS oil and gas resources.

§ 931.143 Eligibility for OCS State participation grants.

(a) A coastal State is eligible for financial assistance under this Subpart if it meets the basic eligibility requirements of Subpart C of Part 931.

(b) Units of local government are eligible for assistance under this Subpart. However, the decision to grant such assistance is discretionary with the State.

§ 931.144 Allowable uses of OCS State participation grants.

(a) OCS State participation grants are to be used by States to carry out their responsibilities under the OCS Lands Act. These responsibilities include participating in the administrative, policy, operational, and managerial decisions relating to management of the oil and natural gas resources of the Outer Continental Shelf and include, but are not limited to, the following State activities:

(1) Cooperation with the Secretary of the Interior to enforce OCS-related safety, environmental, and conservation laws and regulations.

(2) Participation in hearings conducted by the Secretary of the Interior with respect to issuance, extension, cancellation or suspension of OCS-related leases or permits.

(3) Participation in hearings held by the Federal Energy Regulatory Commission (FERC) with respect to amounts of OCS oil or natural gas that will be transported ashore in pipelines.

(4) Participation in hearings held by FERC concerning the expansion of pipeline capacities by shippers of OCS oil or natural gas.

(5) Reviewing Federal actions significantly affecting the OCS or its development to the extent these actions relate to OCS energy activity.

(6) Developing and implementing cooperative agreements with respect to the leasing of OCS lands immediately adjacent to State seaward boundaries.

(7) Participating in formulating the OCS leasing program.

(8) Developing cooperative agreements with the Department of the Interior for sharing information, joint utilization of available expertise, facilitating permitting procedures, joint planning and review, and the formulation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws, regulations, and stipulations relevant to OCS onshore and offshore operations.

(9) Cooperating with the Secretary of the Interior in carrying out environmental studies in any area included in any OCS oil and gas lease sale.

(10) Reviewing and commenting on proposed environmental, operational, safety, and other regulations that are prepared and promulgated by any Federal department or agency and applicable to the Outer Continental Shelf to the extent they are related to OCS energy activity.

(11) Reviewing, commenting on, and making recommendations concerning OCS exploration plans, development and production plans, drilling permits, and environmental reports.

(12) Reviewing and commenting on draft environmental impact statements on OCS activities governed by the OCS Lands Act.

(13) Reviewing, commenting on and analyzing any data transmitted to the State by the Secretary of the Interior pursuant to the OCS oil and gas information program. This includes inspecting any privileged information received by the Secretary regarding any OCS activity adjacent to the State.

(14) Participating in OCS policy, scientific and technical advisory board meetings established by the Department of the Interior and other OCS-related meetings called by the Department of Energy, the National Oceanic and Atmospheric Administration, or any other Federal agency.

(15) Participating in training and information conferences on OCS-related issues sponsored by government, industry, environmental, academic or public interest groups, if such participation is directly related to carrying out a State's responsibilities under the OCS Lands Act.

(16) Dissemination of information on OCS activities to local governments and the public.

(b) Paragraph (a) of this section does not represent an exclusive list of State responsibilities under the OCS Lands Act. The Assistant Administrator may determine on a case-by-case basis whether other activities are eligible for funding under Section 308(c)(2).

§ 931.145 Limitations.

(a) States may use Section 308(c)(2) grants only to carry out their responsibilities under the OCS Lands Act.

(b) Section 308(c)(2) grants awarded to a coastal State may not exceed 80 percent of the actual cost of carrying out State responsibilities under the OCS Lands Act. The Assistant Administrator will establish the ratio of the Federal share to the State share each fiscal year before computing allotments. States and local governments may use in-kind contributions as the non-Federal matching share in accordance with Office of Management and Budget Circular A-102.

(c) States may not use OCS State participation grants to cover the costs of site-specific planning, construction, or acquisition projects provided for under other provisions of Section 308.

§ 931.146 Allotment of available funds.

(a) The Assistant Administrator will allot funds available under Section 308(c)(2) among coastal States as follows:

(1) *Minimum Share.* Each eligible coastal State will receive an equal minimum share. The purpose of the annual minimum share is to provide fiscal certainty by assuring each eligible State a minimum level of funding from fiscal year to fiscal year. The minimum share will be determined by the Assistant Administrator each fiscal year on the basis of the amount of funds available under Section 308(c)(2). The Assistant Administrator intends to maintain the minimum share at $75,000 when practicable.

(2) *Formula Share.* The funds remaining after the minimum shares are subtracted from the total amount available under Section 308(c)(2) will be allotted among eligible coastal States according to a formula designed to reflect, to the maximum extent practicable, a State's responsibilities under the OCS Lands Act. This formula will be based on:

(i) The number of times a State is found by the Assistant Administrator *likely to be affected* by future OCS lease sales scheduled by the Department of the Interior under the Five-Year OCS Planning Schedule;

(ii) The length of the marine coastline;

(iii) The coastal population along the marine coastline; and

(iv) The number of OCS acres leased since December 1, 1975, with respect to which the Assistant Administrator determines a State is *likely to be affected.*

(b) The Assistant Administrator may adjust the formula to account for regional differences in costs.

(c) Because of the uncertainty of lease sale schedules, exploration and production timetables, and the difficulty in quantifying precisely State OCS responsibilities, the exact allotment formula is not codified in the regulations. However, the factors on which the formula will be based are specified in the regulations. The Assistant Administrator retains the discretion to modify the allotment formula within constraints imposed by this section, before computing the yearly allotment. The formula used by the Assistant Administrator will be submitted to the State for review and comment before final allotments are calculated.

§ 931.147 Available funds.

Funds available in a fiscal year for allotment under Section 308(c)(2) may consist of:

(a) Funds appropriated under Section 308(c)(2);

(b) Funds reverting to the Assistant Administrator under § 931.150 because they were not applied for within the designated 120-day time period;

(c) Funds awarded in previous years under Section 308(c)(2) that are recovered under § 931.97 of Subpart I because such funds were not expended or were expended for unauthorized uses; and

(d) Funds from any other sources that may be used in that fiscal year for Section 308(c)(2) purposes.

§ 931.148 Allotment procedures.

(a) *State Review.* As soon as practicable after the beginning of each fiscal year, the Assistant Administrator will provide each eligible State with the formula that will be used to allot Section 308(c)(2) grants for that fiscal year. States will have 30 days to submit comments on this formula to the Assistant Administrator.

(b) *Final Allotment.* Final allotments will be calculated as soon as practicable after the end of the 30-day review period described in (a) above.

§ 931.149 Application for OCS State participation grants.

(a) Applications for OCS State participation grants must be submitted to the Assistant Administrator within 120 days after the State is notified of its final allotment. Applications may be obtained from and submitted to:

The Office of Coastal Zone Management, 3300 Whitehaven Street NW., Washington, D.C. 20235, Attn: Grants and Loans Operations Staff.

(b) The Assistant Administrator intends to make grant awards within 45 days of receipt of a completed application.

(c) Applications for assistance under Section 308(c)(2) must contain the following information:

(1) A clear and brief description of the activities that will be carried out including the associated costs by object classification.

(2) A statement whether OCS participation funds will be allocated among units of local government. If the State intends to subgrant funds to local governments the application must contain:

(i) The name of the local government(s) that will receive OCS participation assistance and a clear and brief description of the activities that will be carried out including associated costs by object classification; and

(ii) An explanation of how, to the maximum extent practicable, these funds were allocated on the basis of need for OCS participation. However, there is no requirement that the State allocate these funds among units of local government pursuant to the intrastate allocation process under Subpart J.

§ 931.150 Reversion of allotted funds.

Funds allotted under this Subpart for which applications are not received within 120 days of the date a State is notified of its final allotment will revert to the Assistant Administrator at the end of that period.

§ 931.151 Disposition of reverted or recovered funds.

At the discretion of the Assistant Administrator, funds reverting under § 931.150 or recovered under § 931.97 may be awarded to States with a demonstrated need for additional OCS participation funds or may be reallotted as soon as practicable among all eligible coastal States.

§ 931.152 Administrative requirements.

All awards and expenditures of funds under this Subpart are subject to the applicable requirements of Subpart I.

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federal register

Monday
January 21, 1980

Part V

Department of Transportation

Federal Aviation Administration

Metropolitan Washington Airports; Proposed Policy

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 93 and 159

[Docket No. 19948; Notice No. 80-2]

Metropolitan Washington Airports

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FAA proposes to adopt rules to implement the DOT/FAA policy to guide the future operation and development of Washington National and Dulles International Airports and to improve the quality of the environment in the areas around National. That proposed policy is published elsewhere in this **Federal Register**. If adopted, the policy would necessitate amendments to existing Federal Aviation Regulations which allocate scheduled operations amongst the operators of aircraft at National Airport. In addition, the policy contemplates modification by rule making the existing practices relating to hours of operation, scheduling hours, nonstop service and aircraft equipment restrictions at National. The FAA is proposing rulemaking to assure public participation in the development of the policy, a clearer understanding and better acceptance of airport policies in the community and the aviation industry, and to assure better compliance by airport users. FAA proposes to modify Part 93 of the Federal Aviation Regulations to change the hourly allocation of operations at Washington National from the present 40 per hour for air carriers, 8 for commuter air carriers and 12 for general aviation, to 36 per hour for the air carriers, and either 12 for commuters and 12 for general aviation, or 15 for commuters and 9 for general aviation. The total hourly allocations would remain 60. FAA is also proposing to define the users of the slots by the seat size of the aircraft to promote efficient use of those slots and to assure that smaller aircraft do not use slots that are allocated to the users of large transport aircraft.

Also, FAA proposes to adjust the hours of operation of Washington National Airport. The certificated and commuter air carriers will not be permitted to schedule operations after 9:30 p.m. It is proposed that a curfew be established which will close the airport to all traffic, except in emergencies, after 10:30 p.m. and before 7:00 a.m. These measures will reduce potential certificated air carrier operations at National by 116, an 18.6 percent reduction. FAA also proposes to allow two and three engine wide-body aircraft to use National Airport subject to a determination by the airport management that the operation is compatible with airport facilities. In addition, consideration is being given to formally adopting a perimeter rule which limits the distance of nonstop flights to and from National Airport. FAA proposes that either the existing informal 650-mile perimeter with continuing exceptions for seven cities beyond 650 miles be maintained, or that the perimeter be defined as 1,000 miles, which is approximately the distance to the furthest city now permitted nonstop service under the exceptions to the current practice. This would eliminate the arguably discriminatory treatment of closer-in cities. National Airport's role as that of a "medium" and "short haul" airport would be maintained in either case.

DATE: Comments must be received by April 15, 1980.

ADDRESS: Send comments to Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Charles C. Erhard, Metropolitan Washington Airports, Washington National Airport, Hangar 9, Washington, D.C. 20001, telephone: (202) 557-0972.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written comments, data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. All communications received on or before April 15, 1980, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with DOT personnel concerned with this rulemaking will be filed in the docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 19948." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of the NPRM. Persons interested in being placed on a mailing list future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Metropolitan Washington Airports Policy

The Administrator of the Federal Aviation Administration (FAA) has issued for public review and comment a comprehensive statement of policy which, if adopted, would guide the FAA operation of the Metropolitan Washington Airports—Dulles International and Washington National Airports. The airports are owned by the United States. The Notice of Proposed Policy appears in this **Federal Register**. Certain aspects of the proposed policy, if adopted, will necessitate amendments to existing Federal Aviation Regulations which allocate scheduled operations amongst the operators of aircraft at National Airport. Other elements of the policy, if implemented, will result in modifications to existing practices relating to the hours of operation, hours of scheduling, nonstop service and permissible aircraft types. The existing practices are the products of less formal understandings between the FAA and users of the airport. FAA believes that the understanding between the airport proprietor and airport users on basic policy should be clear and, where appropriate, formally adopted as a regulation. The degree of voluntary compliance with current policies at National Airport has been very high. Nevertheless, to assure public participation, to promote a clearer understanding and better acceptance of airport policies in the community as well as amongst the operators of aircraft, and to better assure compliance with the new policies, if adopted, FAA is proposing to adopt new regulations, and modify existing regulations, relating to Metropolitan Washington Airports.

Number of Operations

FAA proposes to amend the Federal Aviation Regulation that allocates the number of scheduled operations per hour by class of user. Since April 27, 1969, Washington National Airport has been operated under a special air traffic rule known as the "High Density" rule [14 CFR 93.121 et. seq.]. The rule was adopted in response to serious airspace and airport congestion. It was intended to provide relief from excessive delays at certain major terminals including Washington National. The rule allocated 60 operations per hour under instrument flight rule (IFR) conditions at National Airport. It further allocated the 60 slots by class of user as follows: Air carrier except air taxis—40; scheduled air taxis—eight, and "Other," (general aviation)—12. The allocations to National Airport have never been modified.

The regulations permit operators to obtain additional IFR or VFR (visual flight rule) reservations without regard to the number of operations allocated if a reservation can be obtained from air traffic control. Reservations are granted by air traffic control if the aircraft may be accommodated without significant additional delay to the operations allocated for the airport. FAA procedures permit these additional reservations to be obtained not more than 48 hours in advance of the proposed operation. As a practical matter, general aviation is the only class of user that can use this additional reservation procedure because it does not operate on an advance schedule basis.

The rule grants greater priority to certificated air carriers, who provide common carriage service, in accordance with the policy of recognizing the national interest in maintaining a public mass air transportation system. FAA observed when the rule was adopted that for modern travelers there is frequently no feasible alternative mode of travel and when airspace and airport capacity limitations compel a choice by the FAA between classes of airport users, the public service offered by the common carrier, both certificated and commuter, must be preferred. These observations remain true today. It has been the intention of the FAA since the rule was promulgated to make revisions to it as required.

FAA proposes to modify the hourly allocations at National. The agency is considering alternate allocations as follows:

Alternative A

Air carrier except "air taxis", 36
Scheduled air taxis, 12
Other, 12

Alternative B:

Air carriers except air taxis, 36
Scheduled air taxis, 15
Other, 9

The total allocation of hourly IFR Operations will remain at 60.

This action is prompted, primarily, by two considerations basic to the proposed operating policy for the Metropolitan Washington Airports. First is the need to manage the growth of the two Federally owned airports so that they best serve the Washington metropolitan community, both its air travelers and its residents. National Airport is currently serving 67 percent of Metropolitan Washington air passengers despite the available capacity and modern facilities at Dulles International and Baltimore-Washington International Airports. Between Dulles and National, National serves 81 percent of the passengers, 79 percent of the air carrier operations and 87 percent of the total operations. Furthermore, despite its generally outmoded condition, National continues to grow. It served 14 million passengers in 1978 and approximately 15 million in 1979. At the present rate of growth, National is forecast to be serving nearly 20 million passengers in 1985, which would constitute 60% of the three airport market and 74 percent of the National-Dulles market.

The continued high growth rate at National leads the FAA to propose immediate measures to control the rate and to assure that a limit is placed on the growth of National Airport. The FAA believes that this will lead to better use of the region's other airports. A limit on growth will permit orderly planning and redevelopment of National's aging facility to serve a fixed number of travelers. Also, a limit is most compatible with the need to improve the environmental quality in the communities surrounding National.

A reduction of air carrier operations at National Airport appears to be the best way to achieve this managed growth objective. The reduction of four scheduled operations per hour will eliminate 64 potential operations based on the present operating hours. As part of this same rulemaking, FAA is proposing to reduce the number of hours of scheduled operations. The total reduction from potential air carrier operating slots would be 118 out of 640 per day, an 18.6 percent reduction. Even with this proposed measure, national will grow to reach the proposed 18 million annual passenger cap by 1985. But, in 1985, with the cap on growth, National will be serving nearly two million fewer passengers than it is forecast to serve if the policy is not adopted. Also, it will have been reduced percentage wise from 67 to 54 percent of the regional market. With the cap on growth, the airport's percent of the passenger market will continue to decline as Dulles and BWI grow. In a separate rulemaking, FAA will propose, in February, mechanisms for further slot reallocations to maintain the limit on growth at national. At the same time, the FAA will address the treatment of extra sections. Under present rules, carriers are permitted to operate unscheduled extra sections with a single slot. For example, in the past, the New York "shuttle" service often included four or more extra sections, particularly in the evening hours.

The second policy consideration prompting the reduction in air carrier slots is the need to provide more slots for the commuter air carriers. Under the existing rule, commuters are allocated eight scheduled operations per hour. At present, there are only eight commuter operators at National Airport. There is a list of 13 operators waiting to acquire operating slots. The turnover of commuter slots has been static for several years. Increased commuter activity has been possible only by those commuters able to obtain certificates of convenience and necessity from the Civil Aeronautics Board for their Washington operations thereby allowing them to participate in the allocation of slots for the certificated air carriers. Thus, recent increases in commuter operations have been with certificated air carriers slots, not with commuter slots. Some of these air carrier slots are, therefore, being used for the operation of comparatively small aircraft with less than 30 seats, and often only 19 or 15.

The reallocation of slots to permit more operations of commuter aircraft in lieu of the larger turbojet aircraft should result in a noise benefit to the community. By and large, the commuter aircraft are substantially quieter than the aircraft operated by the certificated carriers. Also, an increase in the commuter allocation will be in furtherance of the policy of the Airline Deregulation Act to promote the continued strengthening of commuter air carriers so as to assure a more effective, competitive airline industry. Consistent with the Airline Deregulation Act, some certificated air carriers have discontinued service to markets that are not in their interest to serve. Meanwhile, commuter air carriers that are available for replacement service to these communities have been unable to obtain slots at Washington National. The transfer of four scheduled operating positions per hour from the certificated

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air carriers to the commuters (Alternative A) should help achieve the goal of improving commuter service as well as enabling controlled growth at the airport.

Additionally, the increase in commuter slots should improve service to smaller cities and communities that have experienced a reduction or loss of service as the larger carriers have concentrated their operations on larger markets. Cities in West Virginia, Virginia, North and South Carolinas and other nearby states have expressed an interest in improved service to Washington and some have experienced a reduction in certificated carrier service. Commuter air carriers should be able to replace the lost or reduced service, and may even be able to stimulate new service to more communities that have not had direct air carrier access to Washington.

More than four additional hourly slots may be needed for the commuter operators. Therefore, FAA is also proposing for consideration the alternative of allocating seven additional slots to the commuter air carriers. The slots will be reallocated as follows: Four will be deducted from the allocation to certificated carriers and three will be deducted from the general aviation allocation (Alternative B). Under the present regulatory scheme, slots that are not used by either the certificated or commuter air carriers revert to general aviation. This practice will continue. Additionally, under the existing regulations operations are allowed at National over and above the hourly allocation if air traffic control can accommodate the operation without significant additional delay to the operations for which slots have been obtained. Because general aviation does not operate on a schedule, it can, and does, utilize this provision. FAA is not proposing to change the regulation in this regard. Experience has shown that, while operating within the rules, total general aviation operations regularly exceed the hourly allocation of 12. During the month of September, which represents the mean for monthly operations at National Airport in 1979, the number of general aviation operations exceeded 12 during 225 of the 320 weekday hours (20 days × 16 hours) subject to allocation, i.e., 70 percent of the time. In certain hours of the day, for example, the three hours from 2 p.m. to 5 p.m., there were more than 12 operations every weekday in the month of September, and in many other hours the allocation was exceeded on at least 15 days. The number of hourly general aviation operations was frequently twice the allocation, or more. Therefore, because unused carrier slots revert to general aviation and because, in any case, general aviation aircraft can often operate without a slot, the transfer of three slots from general aviation to the commuter air carriers is believed to be the best means of providing the additional commuter capacity.

The Department of Transportation believes that providing up to 15 slots per hour to the commuter air carriers is warranted as an efficient utilization of a scarce operating resource that is also consistent with other objectives of the Government. There is a waiting list of commuter carriers seeking to operate at National Airport. The commuters currently operating there are seeking additional operating times. There are also four operators of aircraft with less than 56 seats that are currently using air carrier certificated slots (approximately 20) which under this proposal will have to use commuter slots. There appears, therefore, to be sufficient demand for the 102 daily additional slots (7 for each of 14½ hours of operation) that this proposal would create for commuters.

The reallocation of operating slots is proposed here in the alternative and commenters are asked to address themselves to whether the needs of the commuter air carriers and the service they represent should be met by an infusion of four or seven additional slots per hour.

Finally, to promote the most efficient utilization of both the air carrier and commuter slots at Washington National, FAA is proposing to require that operations with aircraft having a seating capacity of less than 56 seats be conducted from the commuter air carrier or "air taxi" slot allocation, even if the carrier is certificated. Commuter air carriers that have acquired a certificate of public convenience and necessity from the Civil Aeronautics Board are presently permitted to participate in the allocation of certificated air carrier scheduling slots and to use those slots to operate aircraft with a limited seating capacity. Many of the newly certificated carriers continue to use the same aircraft they utilized before certification. Only the status of the operator has changed. As a result, 15 and 19 seat aircraft are being operated in slots that, heretofore, have been used almost exclusively by the larger capacity turbojet aircraft.

The Department of Transportation is of the opinion that the most efficient use of the slots allocated to "air carriers except air taxis," is to reserve them for larger capacity aircraft. For the same reasons of efficiency, operations of aircraft with fewer than 56 seats at Washington National should be operated in the "air taxi" slots. The "less than 56 seat" definition for commuter aircraft is as defined by Congress in Section 32 of the Airline Deregulation Act of 1978 [49 U.S.C. 1386(b)]. The requirement that "air taxi" slots be used for air carrier aircraft with a seating capacity of less than 56, and that certificated air carrier slots be used for all air carrier aircraft with 56 seats or more, will apply to all carriers, whether or not certificated.

The DOT recognizes that the impact of the growth in the commuter air carrier industry does not rest uniquely on Washington National Airport. While the proposal to require operators to use commuter slots for operations of aircraft with less than 56 seats applies only to Washington National, FAA will continue to monitor the situation at the other "high density" airports for which hourly operations are allocated by class of user under § 93.123.

Hours of Operation

FAA proposes to amend the Federal Aviation Regulations to limit the hours that National Airport is open and to further limit the hours in which the certificated and commuter air carriers can schedule operations. Carriers would be permitted to schedule operations between 7:00 a.m. and 9:30 p.m. The allocation to each class of user, between 9:00 and 9:30 p.m., will be up to half its normal hourly allocation. (If half of the hourly allocation is a fraction, then the next higher whole number may be scheduled.) The reduction in scheduling hours will eliminate 60 nighttime air carrier operating slots. When combined with the reduction in the air carrier hourly allocation of slots as discussed above, there will be a reduction of 118 air carrier operating slots. This measure will aid the FAA in controlling the growth of National Airport. It will also correct the practice which has permitted the air carriers to schedule as many as 20 operations and potentially schedule as many as 40, their entire hourly allocation, precisely at 10:00 p.m. The current scheduling limitation is not a legal prohibition on operations occurring after 10:00 p.m. if they are scheduled to occur at or before 10:00 p.m. Due to the bunching of operations at 10:00 p.m., late flights regularly occur. These late night operations impose a noise burden on the community. The prohibition on scheduling after 9:30 and the prohibition on scheduling more than half the hourly allocation of slots between 9:00 and 9:30 will eliminate the bunching of turbojet operations and help assure that scheduled operations are completed before the late night hours. Delayed arrivals or departures that are scheduled before 9:30 will be permitted to occur until 10:30 p.m.

The proposed curfew will prohibit all but emergency operations after 10:30 p.m. and before 7:00 a.m. It will affect approximately five percent of the current daily operations at National. The operations are conducted primarily by general aviation with some occasional commuter and air carrier propeller aircraft activity. Most late operations occur between 10:30 p.m. and midnight or between 6:00 and 7:00 a.m. and it is expected that these operations can be accommodated during authorized operating hours at National or at Dulles Airport and BWI.

FAA recognizes that an inconvenience may be caused to certain travelers who seek transportation to or from Washington in the evening, to the Government official or businessman wishing to travel late at night on a general aviation aircraft, to nighttime air freight carriers, and to passengers on delayed incoming flights diverted to Dulles or to BWI. This latter occurrence should be very infrequent due to the proposal to prohibit air carriers from scheduleing operations after 9:30 p.m. FAA believes that this inconvenience can be minimized by careful planning and by greater utilization of Dulles and BWI.

As stated in the Notice of Proposed Policy, the Washington area is served by three major airports, two of which are operated by the FAA. The FAA is in a position to assure that its facilities provide access to Washington to all aeronautical uses. Dulles Airport, the FAA can assure, will remain open to all users without undue restrictions. The availability of this alternative capacity, and the benefits to the community, lead the FAA to conclude that the curfew is warranted.

The proposed rule recognizes emergency operations as an exception to the curfew.

Wide-Body Aircraft

It is proposed to amend Part 159 of the Federal Aviation Regulations to specify that four engine turbojet transport category aircraft are not permitted to operate at Washington National and that two and three engine wide-body transport catetory aircraft are to be permitted only if the airport management determines that the operation would be compatible with the airport facility. This proposal would modify existing policy which has been to restrict the carriers to using two and three engine narrow body aircraft at National Airport.

Some Washington markets should be better served by the use of higher capacity aircraft. Potential markets for such aircraft service include New York, Chicago, Atlanta, Boston, and Miami. This measure should also assist the air carriers in the management of their fleet, which operates over a system of points, if Washington National, which is but one point in the system, does not unnecessarily restrict equipment usage. The newer technology aircraft are subject to progressive noise standards and their use at National is expected to result in an improvement in environmental impact when compared to the impact of continuing to operate a fleet of 100% narrow-body aircraft. With the proposed 18 million annual passenger cap, the use of wide-body aircraft with high capacity will tend to reduce further the overall number of slots available to the carriers.

Although no longer excluded as a matter of policy, it is recognized that high capacity wide-body aircraft may severely strain the ground-side capabilities of National Airport. At National, these aircraft would carry between 200–275 persons. It may not be in the best interests of air travelers to permit wide-body aircraft to operate at National where the aircraft parking apron or the terminal areas may be significantly impacted. Therefore, until facility improvements are made at National, FAA proposes to permit two and three engine aircraft not regularly operating at National on the issuance date of this notice to operate at the Airport, but only after the air carrier proposing the operation has submitted an acceptable operating plan to the Director of Metropolitan Washington Airports. That plan must describe the type of aircraft, the schedule, the gate position to be used, and other information about the operation. Wide-body aircraft operation may be disallowed by the Director on a non-discriminatory basis if he determines that the proposed operation is incompatible with the airport facilities.

Although current generation four engine transport category aircraft will continue to be excluded from National, FAA recognizes the emerging technolgy that may produce four engine jet transports that are compatible, from an operational and environmental standpoint, with the role of National Airport. At that time FAA will consider permitting those aircraft to be operated at National. Of course, Dulles Airport remains available to all types of aircraft without restriction, as does BWI.

Nonstop Service Restrictions

By agreement with the carriers, in 1966, nonstop flights to and from National were limited to a radius of 650 miles. Seven cities beyond 650 miles were excepted because they had existing nonstop service with propeller aircraft and are still provided nonstop service under the agreement. These cities are Minneapolis, St. Louis, Memphis, Tampa, Orlando, West Palm Beach and Miami.

The FAA believes that for the time being a perimeter restriction is necessary to preserve National Airport's "medium" and "short haul" and local service role and keep it distinct from the "long haul" and international role of Dulles Airport. FAA views the perimeter restriction on National as an important element to an effective managed growth policy at National.

Its elimination could intensify, rather than diminish, the use of National for long-haul service between high density markets because the longer stage lengths tend to be more attractive to the carriers. More of National's operating slots would be devoted to long-haul operations and service to closer-in markets could be detrimentally affected. Also, elimination of the perimeter to allow nonstop service to western and west coast cities from National could result in a shift of a very significant number of operations away from Dulles and BWI. For example, nonstop service to western cities such as Dallas, Houston, Austin, Denver, Tulsa and Phoenix constitute nearly 40 percent of the daily domestic flights currently operating at Dulles. A shift of all or a significant portion of these operations to National would negatively impact upon service from Dulles Airport. Thus, eliminating the perimeter would be directly contrary to the objective of making better use of Dulles' and BWI's capacity as well as contrary to the objective of managing the growth at National.

However, under the existing practice nonstop service is denied to cities beyond 650 miles even though they are not as distant as the furthest "grandfather" city, Minneapolis, which is approximately 1000 miles distant. The practice has been questioned by some as to whether it is discriminatory. Adoption of a 1000 mile rule would eliminate this question because the rule would treat cities of equal distance equally, with regard to access to National Airport. Cities beyond 1000 miles would continue to have nonstop access to Washington via Dulles or BWI.

Adoption of the 1000 mile alternative would permit nonstop service to such

cities as Birmingham, Alabama, Ft. Lauderdale, Florida, New Orleans, Louisiana, and Kansas City, Missouri and other cities. The new nonstop service would still have to be accommodated within the quota system; it would not increase the number of flights at National. In addition, it is not believed that the origin and destination points of the aircraft materially affect the environment around National Airport provided that these points are not long-haul segments. Therefore, FAA believes the 1000-mile perimeter would improve access to the Nation's Capitol without placing any appreciable further environmental burden on the surrounding community. However, maintenance of the existing 650 mile perimeter and seven exceptions is proposed here along with the alternative of 1,000 miles.

FAA is committed to maintaining National Airport as a "medium" and "short-haul" airport. However, the FAA will continue to monitor the effects of any perimeter and will consider changes to the rule to maintain reasonable use of the two Federally owned airports and to have them serve the Washington area and provide the air carriers access to the area without unreasonable and unjust restrictions.

Effective Date

FAA expects that it will need several months after the close of the comment period to reflect upon, and react to, the comments received. Final rules may be issued on or about August 15, 1980. Also, by that date FAA will issue a final environmental impact statement on the operation of the airports and the policy alternatives. Under the proposal, the final rule would not become effective until January 1, 1981. A period between adoption and the effective date of the rules is necessary to allow for the orderly allocation of slots to the individual carriers. This will be accomplished through the method that is adopted by the FAA after a future notice and comment period. The lead time is also necessary in order to permit the carriers to make the schedule modifications that would be made necessary by these rules.

Further National Airport Actions

In February, the FAA will issue a Notice of Proposed Rulemaking on methods of allocating slots among the carriers at Washington National Airport and which could be used at other high density airports, where operations are allocated on an hourly basis. Alternative methods of allocating slots amongst the carriers will be offered for public comment.

The Proposed Amendments

In consideration of the above, the Federal Aviation Administration proposes to amend Subpart K of Part 93 of the Federal Aviation Regulations (14 CFR Part 93) and Subpart C of Part 159 of the Federal Aviation Regulations (14 CFR 159) as follows:

§ 93.123 [Amended]

1. Alternative A: By amending paragraph (a) of § 93.123 in the chart entitled "IFR OPERATIONS PER HOUR," by deleting the numbers "40," "8," "12" in the vertical column beneath the words "Washington National Airport" and by substituting for them the following numbers: "36," "12," and "12."

Alternative B: By amending paragraph (a) of § 93.123 in the chart entitled "IFR OPERATIONS PER HOUR" by deleting the numbers "40," "8," "12" in the vertical column beneath the words "Washington National Airport" and by substituting for them the following numbers: "36," "15," "9."

2. By amending paragraph (b)(3) of § 93.123 by deleting the number "40" wherever it appears and by substituting for it the number "36."

3. By adding new paragraph (c) to § 93.123 to read as follows: (c) For operations at Washington National Airport, after December 31, 1980—(1) The term "air carrier except air taxis," as used in this section, is defined as operations conducted by air carriers with aircraft having a maximum passenger seating capacity of 56 or more.

(2) The term "scheduled air taxis," as used in this section, is defined as operations conducted by air taxis, or air carriers, with aircraft having a maximum passenger capacity of less than 56.

4. By adding to Part 159 new § 159.40 as follows:

§ 159.40 Hours of operation.

(a) After December 31, 1980, except in an emergency, no person may operate an aircraft at Washington National Airport after 10:30 p.m. and before 7:00 a.m.

(b) After December 31, 1980, no certificated air carrier or scheduled air taxi shall schedule an aircraft operation to occur at Washington National Airport after 9:30 p.m. and before 7:00 a.m.

(c) After December 31, 1980, from 9:00 to 9:30 p.m. at Washington National Airport, the total number of scheduled operations for certificated air carriers and scheduled air taxis shall not exceed one half the IFR operations per hour allocated to each of those classes of user under § 93.123 for Washington National Airport. If one half the allocated operations is a fraction, the next higher whole number may be scheduled.

§ 159.59 [Amended]

5. By amending § 159.59 by redesignating paragraphs "(a)," "(b)" and "(c)" as "(c)" and "(d)" and "(e)" and by adding new paragraphs (a) and (b) as follows:

(a) Except in an emergency, no person may operate a four engine turbojet transport category aircraft at Washington National Airport.

(b) After December 31, 1980, no person may operate at Washington National Airport, an aircraft of a type not regularly operated at that airport as of January 15, 1980, except as authorized by the Director of Metropolitan Washington Airports. The Director may request the person proposing to operate aircraft of this type at Washington National to submit a plan describing how the aircraft operation will be compatible with the airport facilities, including a description of the aircraft type, the schedule, and the gate position proposed to be used. The Director shall base his authorization or denial solely on the compatibility of the operation with the National Airport facility.

6. **Alternative A:** By adding to Part 159 new § 159.60 as follows:

§ 159.60 Nonstop operations.

(a) After December 31, 1980, no person may operate an air carrier aircraft nonstop between Washington National Airport and any airport that is beyond 650 statute miles from Washington National Airport.

(b) Notwithstanding paragraph (a) of this section an aircraft may be operated nonstop between Washington National Airport and the airports serving the following cities:

(1) Memphis, Tennessee
(2) Miami, Florida
(3) Minneapolis-St. Paul, Minnesota
(4) Orlando, Florida
(5) St. Louis, Missouri
(6) Tampa, Florida
(7) West Palm Beach, Florida

Alternative B: By adding to Part 159 new § 159.60 as follows:

§ 159.60 Nonstop operations.

After December 31, 1980, no person may operate an air carrier aircraft nonstop between Washington National Airport and any airport that is more than 1,000 statute miles away from Washington National Airport.

Authority: Secs. 103, 307(a), (b) and (c), 313(a), of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1359); Sec. 2 of the Act for the Administration of Washington National Airport, 54 Stat. 688; Sec. 4 of the Second Washington Airport Act, 64 Stat. 770; Sec. 6 of the Department of Transportation Act (49 U.S.C. 1655).

Note.—The FAA has determined that this document involves a proposed regulation which is significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft Regulatory Analysis prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C., on January 15, 1980.

Langhorne Bond,

Administrator.

[FR Doc. 80-1834 Filed 1-16-80; 3:20 pm]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 19950]

Metropolitan Washington Airports; Proposed Policy

AGENCY: Federal Aviation Administration, Department of Transportation.

ACTION: Notice of proposed policy.

SUMMARY: The U.S. Department of Transportation and the FAA propose to adopt a comprehensive policy that will guide the future operation and development of Washington National and Dulles International Airports and abate aircraft noise in the communities near National Airport. It is proposed that Dulles International Airport shall continue to serve all types of air transportation needs and that its facilities be improved and expanded as needed to fulfill that role. At National, FAA proposes that the future growth of aviation activity be controlled and that measures be taken to assure that no more than 18 million annual passengers use the airport in future years. FAA proposes to reduce hourly certificated air carrier scheduled operations at National from the present 40 to 36. This would immediately slow down the rate of growth in passenger activity at the airport and make available additional operating positions for commuter air carriers. A reduction in the number of operating slots reserved for general aviation from 12 to 9, with three additional slots to be made available to commuter air carriers is also under consideration.

FAA proposes to adjust the hours of operation of Washington National Airport. The certificated and commuter air carriers will not be permitted to schedule operations after 9:30 p.m. It is proposed that a curfew be established which will close the airport to all traffic, except in emergencies, after 10:30 p.m. and before 7:00 a.m. These measures will reduce potential certificated air carrier operations at National by 118, an 18.6 percent reduction. Also, it is proposed to allow two and three engine wide-body aircraft to use National Airport subject to a determination by the airport management that the operation is compatible with airport facilities. In addition, consideration is being given to formally adopting a perimeter rule which limits the distance of nonstop flights to and from National Airport. Either the existing informal 650-mile perimeter with continuing exceptions for seven cities beyond 650 miles will be maintained or the perimeter will be redefined as 1,000 miles, which is approximately the distance to the furthest city now permitted nonstop service under the exceptions to the current practice. Adoption of this latter proposal would eliminate the potentially discriminatory treatment of closer-in cities. National Airport's role as that of a "medium" and "short-haul" airport would be maintained in either case.

DATE: Comments must be received by April 15, 1980.

ADDRESS: Send comments to: Federal Aviation Administration, Office of the Chief Counsel, ATTN: Rules Docket, AGC–24, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Charles C. Erhard, Metropolitan Washington Airports, Washington National Airport, Hangar 9, Washington, D.C. 20001, Telephone: (202) 557–0972.

Background

The United States, acting through the Federal Aviation Administration (FAA) of the Department of Transportation (DOT), owns, operates and maintains the Metropolitan Washington Airports—Washington National and Dulles International, the two air carrier airports serving the Washington, D.C. area. Baltimore-Washington International Airport (BWI) also provides some service to metropolitan Washington, and is owned and operated by the State of Maryland acting through the Maryland Department of Transportation (MDOT).

For the past eight years, the U.S. Department of Transportation and the FAA have been seeking to establish an appropriate policy to guide the management and operation of Washington National and Dulles International Airports. Once a role for each airport, in meeting the Washington metropolitan area's air transportation needs, it clearly defined, it will be possible for the FAA to move ahead with long overdue improvements to the facilities at Washington National while continuing to make timely improvements to Dulles. An understanding of the role of each airport is necessary to assure that the investment in improvements is consistent with the area's needs. While the U.S. DOT does not establish policy for BWI, it recognizes that actions taken at National and Dulles Airports may influence operations at BWI. Therefore, BWI's role is being considered in the development of a policy for the federally owned airports. The respective roles of these three airports have been the subject of several studies by the U.S. DOT, the State of Maryland DOT and the Metropolitan Washington Council of Governments (COG).

In March 1978 the FAA issued a Notice of Proposed Policy [43 FR 12141, March 23, 1978]. At that time, FAA proposed that Dulles Airport would continue to provide all types of air service to the Washington area. At National it was proposed to maintain the current nonstop perimeter, to maintain air carrier activity at no more than 40 scheduled operations per hour, to end scheduled air carrier activity at 9:30 p.m. daily, to place nightime noise level restrictions on aircraft, to permit two and three engine wide-bodied aircraft to operate at Washington National Airport and to constrain the growth at National to no more than 16 million annual passengers in 1985 and 18 million in 1990. The FAA proposal was accompanied by a Draft Environmental Impact Statement. Following the proposal, FAA conducted several public hearings and solicited comments from the interested public. A large number of comments on the policy proposal were received from other Federal agencies, state and local and municipal agencies, organizations, individuals and Members of Congress. Officials of several cities currently served or seeking to receive air service to Washington via National Airport also commented on the proposal.

The Department of Transportation and the FAA have reflected upon each aspect of the policy proposal both in the light of the comments received and in light of the airports' experience after the enactment of the Airline Deregulation Act of 1978. The DOT believes that a revision to the proposed policy is appropriate:

—To address more directly the nighttime operations at National Airport,

—To address the allocation of available capacity at National among the classes of aircraft operators,

—To address more specifically the means by which any limit on annual passenger activity at National will be achieved, and

—To address the issue of whether the current practice of limiting the non-stop flights into and out of National Airport to 650 statute miles (with exception for seven cities) should be maintained or modified.

In addition, updated forecasts of aircraft usage and air passenger activity reflecting airline deregulation are now available.

After extensive review within FAA, and by the Office of the Secretary of Transportation, FAA is publishing the proposed policy, as revised, in its entirety.

Comments Invited

Interested persons are invited to participate in the development of the proposed policy by submitting written comments, data, views or arguments upon any aspect of the proposed policy. Comments relating to all issues and policies discussed below are invited as well as comments on the environmental, energy or economic impact that might result from adoption of the proposed policy. Communications should identify the docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, ATTN: Rules Docket, AGC–24, 800 Independence Avenue, SW., Washington, D.C. 20591.

All communications received on or before April 15, 1980, will be considered by the Administrator before taking action on the proposed policy or associated rules. The proposal contained in this notice may be changed in light of the comments received.

Availability of Notice

Any person may obtain a copy of this notice of proposed policy by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number. Persons interested in being placed on a mailing list for future Notices should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

FAA intends to be responsive to the comments received, expects to complete this policy review, to issue a final environmental impact statement and to issue a final policy statement by August 15, 1980.

Environmental Impact Statement

A supplement to the FAA Draft Environmental Impact Statement issued in March 1978 has been prepared. The Statement contains FAA's assessment of the probable impact of the proposed policy and a comparison of the impacts from the principal alternatives. According to the draft impact statement, when compared to the present conditions and to the projected impacts of no policy change, implementation of the policy would significantly reduce the area around National Airport that is exposed to higher aircraft noise levels. Both day and nighttime noise levels would be reduced with the greatest reduction occurring at night. The areas surrounding Dulles and BWI would experience a slight increase in noise exposure compared to the existing condition and to the projected conditions if the proposed policy is not enacted. Air quality and other environmental impacts are also detailed in the impact statement. The Statement can be obtained from Charles Erhard, Environmental Officer, Metropolitan Washington Airports, Hangar 9, Washington, D.C. 20001. Also, the statement will be distributed to area public libraries.

Public Hearing

A public hearing on the proposed policy will be scheduled within 30 days and a notice issued.

Regulatory Actions

Certain aspects of the policy, if adopted, will necessitate amendments to existing Federal regulations. In particular, an amendment to the regulation that prescribes the limitation on the number of scheduled hourly operations at National Airport by class of user (air carrier, commuter air carrier, general aviation) will be necessary. FAA believes that other aspects of the proposed policy would best be implemented by Federal regulation, particularly where change to established practice is contemplated such as in the hours of airport operation, the aircraft type restrictions and the nonstop perimeter policy. Even if current practices are not changed, FAA believes that the compliance by airport user with current policies at the airports should be founded upon a more formal relationship. The degree of voluntary compliance with current policies at National Airport has been very high. Nevertheless, to assure public participation, to promote a clearer understanding and better acceptance of airport policies in the community at large as well as amongst the operators of aircraft, and to assure compliance with the new policies, if adopted, FAA has prepared a Notice of Proposed Rule Making to accompany the proposed policy. Interested parties are advised to direct their attention and their comments to these proposed rules as well as to the proposed policy. The Notice of Proposed Rule Making is published in this **Federal Register.**

Current Characteristics of the Metropolitan Washington Airports

1. *Washington National Airport.*—National Airport, located 4½ miles from downtown Washington, is currently the area's busiest airport. It handles approximately 67 percent of the total passenger activity in the region. More than 15 million air carrier passengers used National during the twelve-month period ending September 30, 1979. If the present growth rate continues, the Airport would handle nearly 20 million passengers in 1985. Airside capacity is approximately 60 aircraft operations (a takeoff or a landing) per hour under weather conditions requiring instrument flight rules. Forty of these have been allocated to air carrier operations, 12 to general aviation operations and eight to commuter air carrier operations. The hourly allocations of each of the three classes is fully utilized during most hours of the day. To reduce the effects of noise in the surrounding residential areas, air carrier operations with jet aircraft are not scheduled after 10 p.m. or before 7 a.m. General aviation has also joined in this effort to reduce nighttime noise. Present terminal facilities can serve approximately 3,500 passengers per hour. In many hours more passengers than this pass through the airport, but only with a noticeable increase in congestion and delay. Metro rail rapid transit service has facilitated the handling of passengers at the airport. It carries approximately 15 percent of National's passengers. Even with Metro service, the airports 4,200 space public parking lot is often filled, or nearly filled to capacity.

The main terminal building at National was constructed in the early 1940's and the north terminal building was added in 1958. Although some modernization has been completed by several air carriers, the aesthetics, the efficiency of passenger handling, the internal circulation systems, including the movement of passengers between the terminals and the Metro station, are in need of substantial improvements and modernization.

Sharp differences of opinion exist over what the role of National Airport should be. The differences are best illustrated by the two perspectives which, together, encompass most of the comments received on the 1978 proposal. The representatives of the residential areas affected by aircraft noise seek to minimize the impact of the airport on their community. They hold that, with two other air carrier airports serving the region, the heavy concentration of activity at National is unwarranted and an unnecessary burden on the affected communities. The other perspective is that of the airport user and the air transport industry which seeks to maintain and improve close-by air transportation service to the Metropolitan business center and to meet the ever-increasing demand for service between more

communities and the seat of the Federal Government. From this prespective, National Airport which is Federally owned and operated, performs a national as well as a local role. Further, the air transport industry holds that the quota on operations and the restrictions on wide-body aircraft at National Airport unduly constrain growth and that the use of wide-body aircraft would be environmentally beneficial to the community.

2. *Dulles International Airport.*— Dulles Airport was designed to handle jet transport category aircraft. The terminal building designed by Eero Saarinen is generally recognized as being among the most beautiful and efficient terminals in the country. The airport is 26 miles from downtown Washington. The principal access to the airport is the Dulles Access Highway, an "airport only" road with limited exceptions that is maintained by the FAA.

Airside capacity at Dulles is approximately 100 flights per hour under instrument flight rules. Current peak hour air carrier use is approximately 30 per hour and total peak hour operation is, on an average between 60 and 80 operations. Off-peak utilization is considerably lower. The terminal capacity of approximately 1,800 passengers per hour is not regularly exceeded except during the peak periods of activity. Passenger use of Dulles grew to approximately 3.5 million in fiscal year 1979.

Role of the Airports

Dulles was designed to provide all levels of airline service to the Washington metropolitan area. It currently serves domestic and international long-haul markets. It is a port-of-entry with a modern international arrival and inspection facility. National is considered the area's medium and short-haul airport. In 1966, by an understanding with the air carriers, nonstop flights from National were restricted to a radius of no more than 650 miles with seven cities (Minneapolis, St. Louis, Memphis, Tampa, Orlando, West Palm Beach and Miami) excluded from the restriction. These cities had nonstop service with propeller aircraft at the time the restriction was established in 1966 and are provided nonstop service today under a "grandfather" arrangement.

Significant technical regulatory and social changes have occurred in recent years that have affected the air transportation industry and which make necessary a review of the roles established for the airports. These changes include, among other things:

1. Community concern over the environmental impact of flight operations over residential areas near National and Dulles Airports;
2. The possibility that air carriers could more efficiently serve Washington National with wide-body aircraft which are also environmentally preferable to the older aircraft in use at National;
3. The increased demand of smaller communities within 650 miles for service to Washington, and the emergence of commuter air carriers to service these points; and
4. The increased demand of communities beyond 650 miles for service to National Airport.

Policy Objectives

The Department of Transportation's effort to develop a policy has been undertaken with the following objectives:

1. To rationalize the role and use of the two Federally owned airports from an overall transportation viewpoint and to coordinate their use while assuring that, through these facilities, the Washington area can accommodate all aeronautical services.
2. To encourage an adjustment in the distribution of activity amongst the region's airports, an adjustment which would begin immediately and which, over time, would reduce National Airport's share of the annual passenger market significantly below its current 67% to achieve better utilization of existing and planned airport capacity.
3. To ensure that the growth, uses and roles of the airports are as compatible as possible with the competing demands and expectations of the community, both with respect to environmental quality and air transportation service.
4. To permit planning for and implementation of improvements at National Airport, but only those improvements that are consistent with its role.
5. To eliminate any unnecessary constraints on the use of aircraft at National Airport.

Proposed Policy for Metropolitan Washington Airports

The following policy is proposed to guide the management and operation of the Metropolitan Washington Airports:

1. Dulles Airport will continue to provide all types of air transportation service to the Washington area. Capacity will continue to be added as needed. The Dulles Access Highway will continue as an "Airport only" access facility with limited exceptions and the effort will be undertaken to promote and improve public transportation to the airport.

2. A program of managed growth will be undertaken at National. FAA will immediately commence the reduction in the rate of air passenger growth at National and establish a permanent limit on the number of passengers served annually at no more than 18 million. The immediate reduction in the rate of growth and maintenance of a permanent level of passenger activity will be accomplished by a reduction in a number of operating slots allocated to certificated air carriers at National.

Discussion: National Airport served approximately 15.1 million passengers in 1979. Based upon the most recent projections, if the current growth rate continues, 18 million will be reached by 1983. Under the proposed policy, Washington National would not reach 18 million passengers until calendar year 1985 at which time its share of the market will have been reduced from 67% of the region's activity today, to 54% of the projected passenger activity in 1985. Maintenance of the 18 million limitation will reduce National to 49% of the projected regional passenger activity in 1990.

The rate of growth at National and the absolute air passenger level will be evaluated by the FAA in keeping with this managed growth objective. The currently proposed reduction in air carrier slots will produce an immediate reduction in the rate of growth so that further reductions in operating slots should not be necessary until 1985 or whenever the airport is approaching the 18 million passenger level. However, FAA will propose, in February, a mechanism for further slot reallocations so that the 18 million annual passenger level will not be exceeded.

3. The total number of operating slots at National Airport will remain at 60 per hour. Certificated air carrier activity will be limited to no more than 36 scheduled operations (take-off or landing) per hour between 7:00 a.m. and 8:59 p.m., and no more than 18 scheduled operations between 9:00 p.m. and 9:30 p.m. Commuter air carrier operations will be increased from the present eight hourly operating slots. The increase is proposed to be either to 12 operations between 7:00 a.m. and 8:59 p.m., with six between 9:00 p.m. and 9:30 p.m., or 15 operations betwen 7:00 a.m. and 8:59 p.m., with eight between 9:00 p.m. and 9:30 p.m. It is proposed that, if the commuter slots are to be increased to 15, three operating slots will be deducted from the allocation to the general aviation class of user.

Discussion: The reduction in air carrier slots from the present 40 to 36 per hour will eliminate 64 air carrier operating slots per day at National based on the present 16 hours of scheduled air carrier operation. This reduction, coupled with the proposed reduction in the number of scheduling hours to 14½, will slow the rate of growth of the number of passengers served at National. It is anticipated that no further reduction in air carrier slots will be necessary until the airport is approaching the 18 million passenger cap. The cap is expected to be reached by 1985.

The increase in slots for commuter air carriers is necessary to better assure service to smaller communities that are not adequately served by the certificated carriers. There is a considerable waiting list for commuter operating slots. The immediate infusion of four slots per hour, 58 per day, should significantly reduce the backlogged demand. But it is expected that even all of these slots will be insufficient to adequately provide for commuter air carrier demand at National. For this reason FAA is also considering the addition of seven more slots per hour to the commuter air carrier allocation to create a total allocation of 15 scheduled operations per hour.

FAA believes that the proposed slot reallocation is an appropriate means of managing growth at National while making slots available for air carrier service to small communities within several hundred miles of Washington.

Neither this proposed policy nor any of the proposed rules addresses the methods by which slots are allocated within a class. At present, distribution of certificated air carrier slots is made by a committee composed of representatives of each of the carriers that operate pursuant to an exemption from the antitrust laws granted by the Civil Aeronautics Board. The commuters have an organization, the Washington National Commuter Airline Association, which is currently administering the allocation of slots for commuter air carriers. The Civil Aeronautics Board has posed the possibility that the exemption from the antitrust laws currently enjoyed by such committees maybe ended. DOT expects to issue a separate Notice of Proposed Rule Making in February in which several alternative methods of allocation will be proposed for comment. It is expected that a final rule on slot allocation will be issued on or about the same date that the final rules on National Airport are issued.

4. The hours of operation of National Airport will be modified and the scheduling hours will be reduced. The certificated air carriers and the commuter air carriers will be permitted to schedule operations from 7:00 a.m. until 9:30 p.m. An absolute curfew will be imposed on operations at Washington National. The airport will be closed to all traffic after 10:30 p.m. and before 7:00 a.m., except for emergencies.

Discussion: The reduction in scheduling hours will eliminate approximately 60 nighttime air carrier aircraft operating slots. When combined with the hourly slot reductions, there will be a reduction of 118 air carrier operating slots. Currently, approximately 75 air carrier operations are scheduled in these 118 slots. The proposal, if adopted, would result in their immediate elimination and in the loss of the additional 43 air carrier slots that are currently not used. This measure will aid the FAA in controlling the growth at National. At present, scheduled operations occur from 7:00 a.m. to 10:30 p.m. and the carriers are permitted to schedule a full hour of operations, 40 operations, precisely at 10:00 p.m. Currently, approximately 20 operations are scheduled. The proposed measure, combined with the restriction on scheduling to half the hourly operations between 9:00 and 9:30 p.m., will help avoid the bunching or air carrier operations and will better assure that scheduled operations are completed before the late night hours. Delayed arrivals or departures that are scheduled before 9:30 will be permitted to be completed until 10:30 p.m.

The curfew on all operations after 10:30 p.m. and before 7:00 a.m. will affect approximately 5% of the current daily operations at National. It is expected that these can be accommodated during the authorized operating hours at National, or readily accommodated at Dulles or BWI. The Washington metropolitan area is fortunate to be served by three major airports, one of which, Dulles Airport, the United States can assure will remain open to all classes of aviation use without undue restrictions. In light of this assured capacity and in recognition of the need to provide relief from aircraft noise to the community, the curfew on all operations at National is proposed.

5. The policy constraint on the use of two- and three-engine wide-body aircraft at National will be removed.

Discussion: The prohibition on four-engine jet aircraft operations at National will continue. While, as a matter of policy, two- and three-engine wide-body aircraft will no longer be prohibited from using National Airport, until there is a redevelopment of the airport's facilities the final decision on their use by any particular operator will reside with the Director of Metropolitan Airports. That decision is to be made after an evaluation of the requesting air carrier's proposed operating plan and will be based upon the proposed operation's compatibility with the airport facility.

6. A nonstop service perimeter at National will be defined. A restriction on the nonstop stage length of flights will be retained to preserve National's "medium" and "short haul" status. FAA proposes that the restriction be either:

a. The existing 650-mile limit with the seven "grandfather" exemptions for cities that had nonstop service when the perimeter was instituted, or

b. A 1000-mile limitation.

Discussion: The retention of the perimeter is necessary to preserve National Airport's local service role and prevent it from becoming a nonstop "long haul" airport. However, under the existing definition nonstop service is denied to cities beyond 650 miles even though they may be nearer to Washington than the furthest 'grandfather' city, Minneapolis, which receives nonstop service and is approximately 1000 miles away. Redefinition of the perimeter to 1000 miles would treat cities of equal distance equally regard to access to National Airport. It would permit nonstop service between National Airport and such cities as Birmingham, Alabama, Ft. Lauderdale, Florida, New Orleans, Louisiana, and Kansas City, Missouri. Such service would have to be accommodated within the allocation of operations at the Airport. The number of lights at National would not increase.

(Secs. 103, 307(a), (b) and (c), 313(a), of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1359); sec. 2 of the Act for the Administration of Washington National Airport, 54 Stat. 688; sec. 4 of the Second Washington Airport Act, 64 Stat. 770; sec. 6 of the Department of Transportation Act (49 U.S.C. 1655).)

Issued in Washington, D.C. on January 15, 1980.

Langhorne Bond,
Administrator.

[FR Doc. 80-1833 Filed 1-16-80; 3:20 pm]
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Part VI

Office of Management and Budget

Office of Federal Procurement Policy

Federal Participation In the Development and Use of Voluntary Standards; Final Issuance

V 45 / 14 JA 21 80 UMI

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Federal Participation in the Development and Use of Voluntary Standards; Final Issuance

AGENCY: Office of Management and Budget, Office of Federal Procurement Policy.

ACTION: Final Issuance of OMB Circular No. A–119.

SUMMARY: OMB Circular No. A–119 was approved and issued by the Director of OMB on January 17, 1980. Developed during the last three years, the Circular provides policy guidance to Executive Departments and Agencies in participating in the development of voluntary standards and in their subsequent use. Specifically, the Circular encourages Federal participation in, and support of, voluntary standards-developing activities when those activities are conducted in accordance with specified rules assuring due process. The Circular also encourages Federal use of adequate voluntary standards for procurement purposes. The Circular assigns to the Department of Commerce an administrative and coordinating role for executive branch implementation of those policies. the Circular is set forth below, in its entirety.

FOR FURTHER INFORMATION CONTACT: Mr. David F. Baker, Deputy Assistant Administrator for Logistics, telephone 202/395–7207.

James D. Currie,
Acting Administrator.

[Circular No. A–119]

Federal Participation in the Development and Use of Voluntary Standards

January 17, 1980.

1. *Purpose.* This Circular establishes policy to be followed by executive branch agencies in working with organizations which plan, develop, produce, and coordinate voluntary standards for materials, products, systems, services, processes, and practices. It also establishes policy to be followed by executive branch agencies in adopting and using such standards in procurement activities.

2. *Background.* The Federal Government performs many functions which involve the use of products and services that depend upon reliable standards. Many standards for such products and services, appropriate or adaptable for the Government's purposes, are developed and are available from certain private organizations, known as voluntary standards bodies. Federal participation in the standards-related activities of these voluntary bodies provides incentives and opportunities to establish standards that serve national needs. In addition, Federal use of voluntary standards, whenever practicable and appropriate, reduces the cost of developing and using standards and, thereby, serves the public interest. Federal adoption of such standards, moreover, is consistent with, and in furtherance of, the Federal Government's general policy of relying upon the private sector to supply Government needs for goods and services, as enunciated in OMB Circular No. A–76.

3. *Coverage.* This Circular applies to all executive branch agency participation in voluntary standards activities, both domestic and international, except as noted in paragraph 6, but does not apply to United States participation in multinational standards activities pursuant to treaties.

4. *Definitions.* As used in this Circular:

a. Executive agency (hereinafter referred to as "agency") means an executive department, independent commission, board, bureau, office, agency, Government-owned or controlled corporation or other establishment of the the Federal Government, including regulatory commission or board, and also the municipal government of the District of Columbia. It does not include the legislative or judicial branches of the Federal Government.

b. Standard means a prescribed set of rules, conditions, or requirements concerned with the definition of terms; classification of components; delineation of procedures; specification of materials, performance, design, or operations; or measurement of quality and quantity in describing materials, products, systems, services, or practices.

c. Voluntary standards are established generally by private sector bodies and are available for use by any person or organization, private or governmental. The term includes what are commonly referred to as "industry standards" as well as "consensus standards" but does not include professional standards of personal conduct, private standards of individual firms, or standards mandated by law, such as those contained in the United States Pharmacopeia and the National Formulary, as referenced in 21 U.S.C. 351.

d. Government standards include in-house and agency standards and specifications as well as Federal and Military standards and specifications.

e. Voluntary standards bodies are nongovernmental bodies which are broadly based, multi-member, domestic and multinational organizations including, for example, nonprofit organizations, industry association, and professional technical societies which develop, establish, or coordinate voluntary standards.

f. Standards-developing groups are committees, boards, or any other principal subdivisions of voluntary standards bodies, established by such bodies for the purpose of developing, revising, or reviewing standards and which are bound by the procedures of those bodies.

g. Secretary means the Secretary of Commerce or that Secretary's designee.

5. *Policy.* It is the general policy of the Federal Government to:

a. Rely on voluntary standards both domestic and international with respect to Federal procurement, whenever feasible and consistent with law and regulation pursuant to law;

b. Participate in voluntary standards bodies when such participation is in the public interest and is compatible with agencies' missions, authorities, priorities, and budget limitations. Such participation, however, is limited to those voluntary bodies that conduct their standards activities in accordance with the criteria listed in paragraph 6c, unless such participation is required by law; and

c. Coordinate agency participation in voluntary standards bodies so that (1) the most effective use is made of Federal agency representatives; and (2) the views expressed by such representatives are in the public interest and, as a minimum, do not conflict with the interests and established views of Federal agencies.

6. *Policy Guidelines.* In implementing the policy established by this Circular, agencies should recognize the positive contribution of standardization and related activities. When properly conducted, standardization can increase productivity and efficiency in industry, expand opportunities for international trade, conserve resources, and improve health and safety. It also must be recognized, however, that these activities, if improperly conducted, could suppress free and fair competition, impede innovation and technical progress, exclude safer and less expensive products, or otherwise adversely affect trade, commerce,

health, or safety. Full account shall be taken of the impact on the economy, applicable Federal laws, policies, and national objectives including, for example, laws and regulations relating to antitrust, national security, small business, product safety, environment, and conflicts of interest. In light of these considerations, the following policy guidelines are established to assist and govern implementation of the policy enunciated in paragraph 5, except that the provisions of paragraph 6c are not applicable to Federal participation in multinational organizations which develop and issue voluntary international standards. It should also be noted that the provisions of this Circular are not intended to create delay in the administrative process or provide new grounds for judicial review.

a. Reliance on Voluntary Standards in Federal Procurement.

(1) Voluntary standards that will serve the agencies' purposes and are consistent with applicable laws and regulations should be adopted, in whole or in part, and used by Federal agencies in the interests of greater economy and efficiency. While it is recognized that acceptable voluntary standards are more likely to result when developed in accordance with the due process and other basic criteria listed in paragraph 6.c, it is also recognized that suitable voluntary standards have resulted and will result from other developmental processes. Consequently, it would not be in the public interest for these guidelines to be interpreted as prohibiting the use of suitable voluntary standards merely because they were not developed in accordance with the criteria contained in paragraph 6.c. Federal agencies may, therefore, adopt and use such standards unless specifically prohibited by law from doing so. Voluntary standards will be given preference over in-house standards in the absence of mandatory Government standards unless use of such voluntary standards would result in impaired functional performance, unnecessary cost to the Government or the Nation, anticompetitive effects or other significant disadvantages. Agencies responsible for developing Government standards will periodically review their existing standards and cancel those for which an adequate and appropriate voluntary standard can be substituted.

(2) Voluntary standards which are adopted by Federal agencies will be cited, along with their dates of issuance and source of availability, in appropriate publications, regulatory orders, and related in-house documents.

(3) Agencies will not be inhibited, if within their statutory authorities, from developing and using in-house standards in the event that voluntary standards bodies cannot or do not develop a standard needed by, and acceptable to, these agencies or do not do so in a timely fashion. Nor shall the policies contained in this Circular be construed to commit any agency to the use of a voluntary standard which, after due consideration, is, in its opinion, inadequate, does not meet statutory criteria, or is otherwise inappropriate for the agency concerned.

b. Participation in Voluntary Standards Bodies.

(1) Participation by knowledgeable Federal employees in the standards activities of voluntary standards bodies and standards-developing groups should be actively encouraged and promoted by Federal agency officials when such participation is consistent with the provisions of paragraphs 5b and 6c.

(2) Federal employees who, at Government expense, participate in standards activities of voluntary standards bodies and standards-developing groups will do so as Federal agency representatives and, as such, must be authorized to participate by appropriate agency officials.

(3) Federal agency participation in voluntary standards bodies and standards-developing groups will not, of itself, connote agency agreement with, or endorsement of, decisions reached by such bodies and groups or of standards approved and published by voluntary standards bodies.

(4) For procurement applications in which Federal requirements are consistent with those of the private sector, participation by Federal agency representative should be aimed at contributing to the development of voluntary standards which will eliminate the necessity for in-house development of Federal standards for use in the procurement process.

(5) Federal agency representatives serving as members of standards-developing groups should participate actively in the standards activities of those groups but, in doing so, should not seek to dominate such groups. Active participation is intended to include full involvement in discussions and technical debates, registering of opinions and, if selected, serving as chairpersons or in other official capacities on such groups. Federal agency representatives may vote at each stage of standards development unless specifically prohibited from doing so by the head of the agency or that official's designee.

(6) The number of individual Federal agency participants in a given voluntary standards activity shall be kept to the minimum required for effective presentation of the various program, technical, or other concerns of Federal agencies.

(7) The granting of Federal support to a voluntary standards activity shall be limited to that which is clearly in furtherance of an agency's mission and responsibility. Normally, the total amount of Federal support given shall be no greater than that of all non-Federal participants in that activity except where it is in the direct and predominant interest of the Federal Government to develop a needed standard or revision thereto and such development appears unlikely to occur in the absence of such Federal support. The form of agency support, subject to legal and budetary authority, may extend to:

(a) Direct financial support; e.g., grants, sustaining memberships, and contracts;

(b) Administrative support; e.g., travel costs, hosting of meetings, and secretarial functions;

(c) Technical support; e.g., cooperative testing for standards evaluation and participation of agency personnel in the activities of standards-developing groups; and

(d) Joint planning with voluntary standards bodies to facilitate a coordinated effort in resolving priority standardization problems.

(8) Participation by Federal agency representatives in the policymaking process of voluntary standards bodies is encouraged—particularly in matters such as establishing priorities, developing procedures for preparing, reviewing, and approving standards, and creating standards-developing groups. In order to maintain the private, nongovernmental nature of such bodies, however, Federal agency representatives should refrain from decisionmaking involvement in the internal day-to-day management of such bodies (e.g., selection of salaried officers and employees, establishment of staff salaries).

c. Identification of Voluntary Standards Bodies for Federal Participation. As further described in paragraph 7a(2), the Secretary will prepare and maintain a list of voluntary standards bodies which wish to have Federal participation in their standards activities and which conduct their activities in accordance with the due process and other basic criteria contained in this paragraph. Voluntary standards bodies must be listed as a precondition to Federal participation

unless such participation is required by law. The due process and other basic criteria to be adhered to by listed voluntary standards bodies are as follows:

(1) That public notice of meetings and other standards activities is provided in an appropriate and timely fashion; and, to invite broadly-based representation, through media which are designed to reach those persons reasonably expected to have an interest in the subject. Interested persons may include, for example, consumers; small business concerns; manufacturers; labor; suppliers; distributors; industrial, institutional and other users; environmental and conservation groups; and State and local procurement and code officials. Such notices should include a clear and meaningful description of the purpose of the meeting or other proposed activity;

(2) That public notice is given in an appropriate and timely fashion of the initiation, final review, and adoption or approval of new and revised voluntary standards, and the proposed withdrawal of such standards, through media characterized in paragraph 6c(1). Such notice must clearly describe the purpose and scope of the relevant standards;

(3) That meetings are open and that participation in standards activities is available to interested persons. Unreasonable restrictions on membership in standards-developing groups by means of professional or technical qualifications, trade requirements, unreasonable fees, or other such restrictions must be avoided;

(4) That decisions reached by voluntary standards bodies in their standards activities represent substantial agreement, after a concerted effort to resolve objections, and that such agreements are reached by the participants in accordance with the published procedures of the voluntary standards body and the judgment of the official(s) duly appointed by the voluntary standards body. Such agreements imply more than a simple majority but not necessarily unanimity;

(5) That prompt consideration is given to the expressed views and concerns of all interested parties including proposals made for new or revised standards;

(6) That adequate and impartial mechanisms for handling substantive and procedural complaints and appeals are in force for use by interested parties;

(7) That appropriate records, sufficient to review and understand what transpired, are maintained of formal discussions, decisions, standards drafts, technical or other rationale for critical requirements of standards, complaints/appeals and their resolution, meeting minutes and balloting results; and that such records are retained in accordance with published procedures and are readily accessible to all interested persons on a timely and reasonable basis;

(8) That either a one-time written policy statement is maintained in the official procedures of the body or that standards literature published by the voluntary standards body specifically state that participation by Federal agency representatives in that body does not constitute Government endorsement of that body or the standards which it develops. A voluntary standard which includes a list of its developers and identifies Federal agency representation must include this disclaimer;

(9) That voluntary standards bodies publish their official procedures and make them available to interested parties on a reasonable basis;

(10) That voluntary standards are periodically reviewed and revised, as necessary, and that participation in the review process is granted to all interested persons;

(11) That preference is given to the use of performance criteria in standards development when such criteria may reasonably be used in lieu of design, materials, or construction criteria.

7. *Responsibilities.* a. The Secretary will:

(1) Coordinate and promote executive branch implementation of the policy in paragraph 5, in accordance with the policy guidelines in paragraph 6. The Secretary will establish within nine months of the date of this Circular:

(a) Written procedures, developed in such a manner as to allow for the participation of all interested parties, to implement the provisions of this Circular; and

(b) An Interagency Committee on Standards Policy which the Secretary may call upon when needed to assist in implementing the policy contained herein. All executive branch agencies having substantial standardization involvement will be represented on that Committee and will cooperate with the Secretary, as requested, in carrying out tasks assigned to the Committee.

(2) Develop and maintain current a list of voluntary standards bodies which indicate a desire to be listed and which certify to the Secretary that they are in compliance with the due process and other basic criteria cited in paragraph 6c and which provide published evidence of such compliance. The list will be published in the **Federal Register** and will include the names of voluntary standards bodies and those relevant standards-developing groups in which Federal participation is authorized. The listing will not, however, include names of units subordinate to standards-developing groups. Upon receipt of a specific challenge regarding nonadherence to the due process and other basic criteria, the Secretary will take appropriate steps to determine whether a voluntary standards body or standards-developing group is, in fact, conducting its activities in accordance with the aforecited criteria. the Secretary may call upon the Department of Justice and the Federal Trade Commission for assistance in establishing specific provisions for the due process and other basic criteria in paragraph 6c and in evaluating adherence by voluntary standards bodies to those provisions;

(3) Establish procedures by which the listing of a voluntary standards body or standards-developing group can be challenged by interested persons. For purposes of this paragraph, each standards-developing group may be considered separately. Removal from the list of a group does not automatically call for the removal from the list of all groups of the parent body, or of the parent body itself. The Secretary will establish procedures by which:

(a) Such bodies and groups can be removed from the list if a determination is made by the Secretary that they are operating, and after appropriate notice continue to so operate, without benefit of the due process and other basic criteria cited in paragraph 6c.;

(b) Federal agencies will be notified of such removal for the purpose of ceasing their participation in the standards activities of such bodies and groups;

(c) Public notice will be provided of actions taken. Such procedures shall ensure that the rights of the body or group which is the subject of the challenge are comparable to those granted to challengers; and

(d) Voluntary standards bodies which have been delisted or have had one or more standards-developing groups delisted by the Secretary may reapply for listing for themselves or for their standards-developing groups.

(4) Establish and maintain current, with the cooperation of Federal agencies, a central public register of all voluntary standards activities in which Federal agencies participate;

(5) Establish and maintain current, a comprehensive and consolidated listing, cross-referenced by subject, of standards developed by voluntary standards bodies and by Federal agencies. Such listing of standards developed by bodies other than Federal agencies shall not necessarily constitute Government endorsement thereof;

(6) Establish a program which shall make available a department-sponsored voluntary dispute resolution service for the rapid handling of procedural complaints by interested parties against listed voluntary standards bodies. As a precondition to invoking that service, a complainant must seek relief from, and have exhausted all available sources of remedy within, the affected voluntary standards body. Such a service shall have, among its requirements, the agreement of both complainant and respondent to use the service and their consent to accept the determinations of the service as the sole and final administrative review by the executive branch;

(7) Report annually to the Office of Management and Budget concerning agency implementation of this Circular.

b. The heads of executive agencies concerned with standards and standardization activities will:

(1) Implement the policy in paragraph 5 of this Circular in accordance with the policy guidelines in paragraph 6 and the procedures to be established by the Secretary within 120 days of the issuance of those procedures;

(2) Establish appropriate procedures to ensure that:

(a) Agency representatives refrain from participating in the standards activities of voluntary standards bodies and standards-developing groups which are not listed by the Secretary of Commerce as conducting themselves in accordance with the due process and other basic criteria cited in paragraph 6c, unless such participation is specifically mandated by law;

(b) Agency representatives on voluntary standards bodies are familiar with the due process and other basic criteria contained in paragraph 6c, and that agency representatives who learn of an apparent infringement of the aforecited criteria by a listed voluntary standards body or standards-developing group register their questions and concerns with that body or group and with their agencies; and

(c) The Secretary is notified of such incidents of apparent noncompliance with the aforecited due process and other basic criteria by a listed voluntary standards body;

(3) Establish appropriate procedures by which agency representatives participating in voluntary standards bodies and standards-developing groups will, to the extent possible, ascertain the views of the agency on matters of paramount interest and will, as a minimum, express views which are not inconsistent or in conflict with established agency views;

(4) Endeavor, when two or more agencies participate in a given voluntary standards body or standards-developing group, to coordinate the views of their respective agencies on matters of paramount importance so as to present a single, unified position reflective of the public interest. In instances where agreement is not reached by the affected agencies, such agencies will notify the Secretary who shall designate a lead agency. The lead agency will be responsible for developing a unified position on the important matter at issue. In so doing, that designated lead agency will consider carefully the views of the other participating Federal agencies;

(5) Provide for participation in the Interagency Committee on Standards Policy to be established by the Secretary and cooperate with the Secretary, as requested, in carrying out the mission of that Committee;

(6) Consult with the Secretary in the development and issuance of agency regulations implementing this Circular, and submit, in response to the request of the Secretary, reports on the status of agency interaction with voluntary standards bodies.

8. *Reporting Requirements.* One year from the date of issuance of this Circular, and each year thereafter, the Secretary will submit to the Office of Management and Budget a report on the status of Federal interaction with voluntary standards bodies. As a minimum, the report will include the following information:

a. The nature and extent of Federal agency participation in, and support of, voluntary standards bodies;

b. A summary of the nature of procedural complaints against listed voluntary standards bodies in accordance with the program to be developed, and a summary of the disposition of such complaints; and

c. An evaluation of the effectiveness of the policy promulgated in this Circular and recommendations for change or modification, as appropriate.

9. *Inquiries.* For information concerning this Circular, contact the Office of Management and Budget, Office of Federal Procurement Policy, telephone 202/395-7207.

James T. McIntyre, Jr.,
Director.

[FR Doc. 80-1815 Filed 1-18-80; 8:45 am]

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January 21, 1980

Part VII

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

Condominium Ownership Mortgage Insurance, Insurance Involving Existing Single Family Units and Miscellaneous Provision Changes

V 4 5 / 1 4 J A 2 1 8 0 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 234

[Docket No. R-80-750]

Condominium Ownership Mortgage Insurance, Insurance Involving Existing Single Family Units and Miscellaneous Provision Changes

AGENCY: Department of Housing and Urban Development.

ACTION: Proposed Rule.

SUMMARY: Section 313 of the Housing and Community Development Amendments of 1978 authorizes the Department to provide FHA mortgage insurance for condominium units in projects that were conventionally financed and if construction was completed for more than one year. These regulations implement that provision.

DATES: Comments must be received on or before March 21, 1980.

ADDRESS: Written comments should refer to the docket number and date and should be submitted to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. A copy of each communication will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: William L. Halpern, Director, Single Family Development Division, Department of Housing and Urban Development, Room 9270, 451 Seventh Street, S.W., Washington, D.C. 20410 (202) 755-6720. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Section 313(a) of the Housing and Community Development Amendments of 1978 (Pub. L. 95-557) amended Section 234(c) of the National Housing Act (12 U.S.C. 1715y) to authorize mortgage insurance involving condominium units in previously uninsured projects or conventionally financed projects if construction of the project was completed more than a year prior to the application for mortgage insurance. The proposed regulations set forth this new insuring authority to provide mortgage financing for potential purchasers and current owners of units already under condominium ownership. This will insure that HUD will treat owners of existing condo units who wish to sell their unit to a new owner in the same way that it treats current owners of single family housing and makes both kinds of housing equally available to consumers. Consistent with Congressional intent, this regulation is intended to assist in the resales of existing condominium units and it is the policy of HUD that this authority not be administered in a manner which encourages prospective conversion of conventional multifamily rental structures to condominiums which result in displacement of tenants or reduce the availability of needed rental housing. Therefore, these regulations only permit the use of this authority for resales of condominium units.

The Department recognizes that the conversion of rental units to condominium or cooperative ownership is a matter of concern to the Congress, and has begun a study of the nature and extent of that activity. In addition, the Department is currently reviewing its authorities and policies with respect to the availability of mortgage insurance for condominium conversions, the provision of assistance for lower income persons affected by conversions, and policies governing the conversion of multifamily projects with FHA mortgage insurance. The conversion issues will be addressed by HUD at a later time.

The proposed regulations set forth requirements which the project must meet for individual units to qualify, and generally restates existing HUD policy with respect to the conversion of multifamily projects currently under FHA multifamily mortgage insurance. Under the existing regulations, FHA mortgage insurance is available for single-family condominium units only where the project in which the unit is located is or was covered by an FHA project mortgage, or contains 11 or fewer units. Section 234.13(a) of the regulations has been modified to increase the application fee in line with the current 203(b) fee schedule. Section 234.13(b)(4)(iii) has been revised to make it clear that extension fees will not be charged when the unit is in an existing HUD-FHA insured multifamily project where the initial sales of the units taking place under the conversion of a multifamily project. Section 234.26 has been rewritten to include the insuring of mortgages encumbering existing single-family units in addition to existing provisions for conversion of projects to condominium ownership. Under the proposed amendments, a condominium unit would be eligible for mortgage insurance if (1) the project construction has been completed more than one year prior to the application for mortgage insurance, (2) at least 70 percent of the units are owner occupied and 90 percent of the units are sold and transactions finalized, and (3) HUD, through the application of appropriate administrative and underwriting guidelines, determines that the project is acceptable. In addition, the existing limitation as to the number of units in the project covered with insured mortgages and owned by the same mortgagor will remain applicable. Provisions have been made to bring the downpayment and maximum mortgage amount ratios for veterans into line with HUD's basic home mortgage insurance program, Section 203(b). The amendments also require flood insurance where applicable, and change the amount of principal obligation in the mortgage from multiples of $100 to multiples of $50. The purpose of the amendments is to facilitate resale in existing condominium units. Also, Section 234.26 has been amended to reduce the presale requirement to 70 percent.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy is available for public inspection in the Office of the Rules Docket Clerk at the address listed above. This significant rule was listed on the Department's agendas which were published in the **Federal Register** on February 1, 1979 and August 1, 1979. Accordingly, it is proposed that Chapter II of Title 24 be amended as follows:

PART 234—CONDOMINIUM MORTGAGE INSURANCE

1. By amending § 234.13(a)(1) and (b)(4)(iii) as follows:

§ 234.13 Application and commitment extension fees.

(a) *Application fee*—(1) Amount of fee. The mortgagee shall pay an application fee of $50 per family unit to cover the cost of processing.

* * * * *

(b) * * *

(4) Fee not required. A mortgagee shall not be required to pay a commitment extension fee where:

(i) The commitment to be extended or reopened is in connection with an application made on behalf of a veteran under circumstances set forth in paragraph (a)(4)(ii) of this section; or

(ii) The commitment is in connection with the insurance of a mortgage to finance the purchase of Secretary held property.

(iii) The commitment is in connection with the initial sale of the family units following the conversion of a multifamily structure involving HUD insured project mortgage to apartment ownership.

2. By adding a new § 234.17 as follows:

§ 234.17 Mortgagor and mortgagee requirements for maintaining flood insurance coverage.

(a) If the mortage is to cover property that (1) is located in an areas designated by the Secretary as a flood plain area having special flood hazards or (2) is otherwise determined by the Commissioner to be subject to a flood hazard; and if flood insurance under the National Flood Insurance Program (NFIP) is available with respect to such property, the mortgagor and mortgagee shall be obligated, by a special condition to be included in the mortgage insurance commitment, to obtain and to maintain NFIP flood insurance coverage on the property during such time as the mortgage is insured. The flood insurance to be maintained shall be in an amount at least equal to either the outstanding balance of the mortgage, less estimated land costs, or the maximum amount of NFIP insurance available with respect to the property, whichever is less. The maintainence of flood insurance coverage on the project by the Association will satisfy the requirements of this section if such coverage protects the interest of the mortgagor in the family unit. For this purpose the interest of the mortgagor is defined as insurance coverage equal to the replacement cost of the project less land costs.

(b) No mortgage shall be insured which covers property located in an area that has been identified by the Secretary as an area having special flood hazards unless the community in which the area is situated is participating in the National Flood Insurance Program, and such insurance is obtained by the mortgagor. Such requirement for Flood insurance shall be effective July 1, 1975, or one year after the date of notification by the Secretary to the chief executive officer of a flood prone community that such community has been identified as having special flood hazards, whichever is later. The amount of flood insurance required need not exceed the principal balance of the mortgage, less estimated land costs, and need not be required beyond the term of the mortgage.

3. By amending § 234.25(b) as follows:

§ 234.25 Mortgage provisions.

* * * * *

(b) Mortgage multiples. The mortgage shall involve a principal obligation in multiples of $50.

* * * * * *

4. By amending § 234.26 as follows:

§ 234.26 Project requirements.

No mortgage shall be eligible for insurance unless the following requirements are met:

(a) Location of family unit. The family unit shall be located in a project which the Commissioner determines to be acceptable, and which:

(1) is or has been covered by a project mortgage insured under an FHA multifamily housing program; or

(2) contains less than 12 units; or

(3) contains 12 or more units and more than one year prior to the application for mortgage insurance (I) construction of the project was completed and (II) the project was committed to a plan of condominium ownership by deed or other recorded instrument.

(i) In determining whether construction of a multifamily project has been completed for at least one year as required under paragraph (a)(3), the date on which construction was completed shall be the latest of the dates on which:

1. All units have been substantially completed as evidenced by certificates of occupancy from a governmental entity or recorded certificates of completion executed by a registered or licensed architect or engineer,

2. The declarant has completed all common elements and improvements which the declarant is obligated to complete by virtue of State condominium law or the condominium documents, or

3. Any right of the declarant to do any and all of the following has expired or has been waived in a recorded instrument:

(i) Add land or units to the condominium

(ii) Convert common elements into additional units or limited common elements.

(iii) Withdraw land from the condominium

(iv) Use easements through the common elements for the purpose of making improvements within the condominium or within any adjacent land, or

(v) Convert a unit into two or more units, common elements, or into two or more units and common elements. As used in this paragraph 'declarant' shall include all declarants and successor to the declarant.

(b) *Plan of condominium-ownership.* The project shall have been committed to a plan of condominium-ownership by a deed, or other recorded instrument, which is acceptable to the Commissioner.

(c) *Releases.* The family unit shall have been released from any mortgage covering the project or any part of the project.

(d) *Certificate by mortgagee.* The mortgagee shall certify that: (1) The deed for the family unit and the deed or other recorded instrument committing the project to a plan of condominium-ownership comply with all legal requirements of the jurisdiction.

(2) The mortgagor has good marketable title to the family unit subject only to the mortgage which is a valid first lien on the same.

(3) The family unit is assessed and subject to assessment for taxes pertaining only to that unit.

(e) *Controls for consumer and public interest.* The Commissioner may require such conditions and provisions as he/she deems necessary for the protection of the consumer and public interest.

(f) *Projects which have not been covered by an insured mortgage.* Projects containing 12 or more units which have not been covered by a mortgage insured under any FHA multifamily housing program and projects containing 12 or more units which are or have been covered by a mortgage insured under sections 213(a)(1) or 213(a)(2) of the Act shall meet the following additional requirements.

(1) At least 90 percent of the family units shall have been sold and the titles thereto conveyed to owners having no interest with the developer or the declarant.

(2) At least 70 percent (or such lesser number as the Commissioner may prescribe) of the family units shall be occupied by the owners.

(g) *Projects which have been or are covered by an FHA insured mortgage.* Projects which have been or are covered by a mortgage insured under an FHA multifamily housing program may be converted to condominium-ownership if converted in compliance with a conversion plan approved by the Commissioner. The conversion plan shall provide for:

(1) The termination by payment in full of the mortgage or by voluntary termination of the insurance contract covering any FHA insured mortgage on the project, unless the Commissioner determines that his/her interests and those of the individuals purchasing the family units are best served by not requiring the termination of the insurance.

(2) The release of each family unit from any existing project mortgage covering the project pursuant to a

release plan approved by the FHA. The plan shall provide for a payment to be made on the outstanding balance of the project mortgage in an amount equal to the share of the balance determined by the FHA to be attributable to the family unit.

(3) The conveyance of family units, equal in value to at least 70 percent (or such lesser percentage as the Commissioner may prescribe) or the total value of all units to owners approved by the FHA.

(4) The project mortgagee shall certify notwithstanding any provisions of the mortgage covering prepayment, that no charge is contemplated or has been collected for prepayment in full of the project mortgage.

(h) The Commissioner may require such conditions and provisions as he/she deems necessary including, but not limited to, the execution of an agreement between the owners and the Commissioner which shall be made applicable to the Association and to any owner of a family unit.

5. By amending § 234.27(a)(2) as follows:

§ 234.27 Maximum mortgage amounts.

* * * * *

(2) 97 percent of the first $25,000 of the Commissioner's estimate of the appraised value of the family unit as of the date the mortgage is accepted for insurance, (100 percent of $25,000 of such value of the sum of such value not in excess of $25,000 and the items of prepaid expense approved by the Commissioner minus $200, whichever appraised amount or sum is the lesser in the case of a mortgagor meeting the veteran qualification provided in § 203.18(b)), and 95 percent of such value in excess of $25,000.

* * * * *

6. By amending § 234.28 and redesignating paragraph (b) as paragraph (c) and by adding a new paragraph (b) as follows:

§ 234.28 Mortgagor's minimum investment.

(a) * * *

(b) The mortgage shall contain a convenant by the mortgagor to pay the allocated share of the common expenses or assessments and charges by the Association of Owners as provided in the Plan of Condominium Ownership and a provision approved by the Commissioner by which an Agreement, if any, is incorporated in and made a part of the mortgage.

* * * * *

7. By deleting § 234.59, Certificate and contract regarding use of family units for transient or hotel purposes, and substitute as follows:

§ 234.59 Mortgagor limitations.

The family unit to be covered by an insured mortgage shall be for the use and occupancy of the mortgagor or the mortgagor shall be the owner of another family unit covered by an insured mortgage for such use and occupany. The mortgagor may not own more than four family units covered by insured mortgages, one of which shall be for his/her own use and occupancy.

Authority: The provisions of this Part 234 issued under sec. 211, 52, Stat. 23, as amended, sec. 234, 75 Stat. 161; 12 U.S.C. 1715b, 1715y.

Issued at Washington, D.C. on November 30, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
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CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator. Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

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73098 12-17-79 / Clarification of use of certain frequencies by aircraft for the control of airport lights

73099 12-17-79 / Deletion of permit requirement for Canadian amateurs operating in the U.S.

73095 12-17-79 / Exemption of certain vessels operating in VTS areas from requirement to maintain a listening watch on VHF channel 16

FEDERAL TRADE COMMISSION

66466 11-19-79 / Rule for using energy costs and consumption information used in labeling and advertising for consumer appliances under the Energy Policy and Conservation Act

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Federal Highway Administration—

75552 12-20-79 / Administration of negotiated contracts

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

A complete listing for the first session of the 96th Congress was published in the Reader Aids section of the issue of January 17, 1980.

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4335 **William O. Douglas** Presidential proclamation

5002 **Carcinogens** Labor/OSHA issues rules regarding general policy for identification and regulation of physical and chemical substances posing a potential risk to humans; effective 4-21-80 (Part VII of this issue)

4472 **Special Project Grants** HEW/HRA announces competitive applications; apply by 3-3-80

4483-4485 **Grants and Contracts** Legal Services Corporation announces consideration of applications (9 documents)

4481 **Youth** Labor/ETA solicits grant applications for Youth Community and Conservation Improvement Projects, and Youth Employment and Training Programs for ages 14-21 from migrant and other seasonally farmworker families for Program year 1980; effective 1-22-80, applications by 3-17-80

4960 **Child Care Food Program** USDA/FNS issues final rules (Part V of this issue)

4918 **Aliens** Labor/ETA proposes to amend rules relating to certification of immigrant aliens for permanent employment in United States; comments by 3-24-80 (Part II of this issue)

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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4932 **Countervailing Duties** Commerce/ITA issues rules to replace Customs Service regulations; effective 1-22-80, comments by 2-29-80 (Part III of this issue)

4366 **Bowhead Whales** Commerce/NOAA proposes rules regarding the taking of whales by Indians, Aleuts, or Eskimos for subsistence purposes; comments by 3-4-80

4999 **Presidential Primary Candidate Certification** FEC designates official to receive certifications and publishes due dates for inactive status (Part VI of this issue)

4338 **Noninflationary Pay and Price Behavior** CWPS modifies treatment of incremental pay increases under pay standard; effective 1-22-80, comments by 2-21-80

4370 **Price Standards** CWPS issues policy statement regarding exceptions to first-year standards

4345 **Truth in Lending** FRS clarifies effective date to be January 10, 1980 and corrects amendatory language of rules concerning calculation and disclosure of annual percentage rate

4361 **Preferential Loans** FHLBB proposes rules limiting authority of insured institutions to grant loans at preferential rates or upon special terms; comments by 3-24-80

4360 **Guaranteed Commercial Real Estate Loans** FHLBB proposes to amend rules to authorize Federal savings and loan associations to invest in certain lands; comments by 2-21-80

4359 **Proposed Energy Performance Standards for New Buildings** DOE extends comment period and reschedules hearings; comments by 4-30-80, various hearing dates

4363 **Protein Supplements** FTC issues summary of post record comments on proposed Advertising and Labeling of Protein Supplements Trade Regulation Rule; effective 12-28-79

4503 **Sunshine Act Meetings**

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Presidential Documents

Title 3—

The President

Proclamation 4715 of January 19, 1980

William O. Douglas

By the President of the United States of America

A Proclamation

William O. Douglas served on the Supreme Court longer than any Justice in American history—more than 36 years. During all that time, individual freedom in this country had no mightier champion. As he wrote in more than one of his opinions, "The essential scheme of our Constitution and Bill of Rights was to take Government off the backs of people."

The freedom which Justice Douglas cherished—and which he struggled to preserve for all Americans—faces constant testing. Now, as our Nation gathers to meet yet another test, it is fitting that we pause to honor William Douglas and to remember his many contributions to our country.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by virtue of the authority vested in me, do hereby proclaim that, as a mark of respect to the memory of William O. Douglas and his numerous contributions to our Nation, the flag of the United States shall be flown at half-staff on all buildings, grounds and naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until his interment.

I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of January, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 80-2157
Filed 1-21-80; 10:33 am]
Billing code 3195-01-M

EDITORIAL NOTE: The President's statement of Jan. 19, 1980, on the death of William O. Douglas, is printed in the Weekly Compilation of Presidential Documents (vol. 16, no. 4).

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 2, 4, and 5

Appointment Through the Competitive System (Rule II); Prohibited Practices (Rule IV); Regulations, Investigation, and Enforcement (Rule V)

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This document transmits conforming amendments to the Civil Service Rules in accordance with E.O. 12107, "Relating to the Civil Service Commission and Labor-Management in the Federal Service," dated December 28, 1978.

EFFECTIVE DATE: January 3, 1979.

FOR FURTHER INFORMATION CONTACT: Beverly M. Jones, Issuance System Manager, 202–254–7086.

SUPPLEMENTARY INFORMATION: Section 2–103 of E.O. 12107, published on January 3, 1979, at 44 FR 1055, amended Civil Service Rules II, IV, and V. This document makes conforming amendments to 5 CFR Subchapter A—Civil Service Rules.

This is a non-significant regulation for the purposes of E.O. 12044.

Office of Personnel Management,
Beverly M. Jones,
Issuance System Manager.

Accordingly, the Office of Personnel Management is amending Title 5, Code of Federal Regulations, as follows:

PART 2—APPOINTMENT THROUGH THE COMPETITIVE SYSTEM (RULE II)

(1) § 2.4 is revised to read as follows:

§ 2.4 Probationary period.

Persons selected from registers of eligibles for career or career-conditional appointment and employees promoted, transferred, or otherwise assigned, for the first time, to supervisory or managerial positions shall be required to serve a probationary period under terms and conditions prescribed by the Office.

PART 4—PROHIBITED PRACTICES (RULE IV)

§ 4.3 [Amended].

(2) § 4.3 is amended by deleting the last sentence.

(3) Part 5 is revised to read as follows:

PART 5—REGULATIONS, INVESTIGATION, AND ENFORCEMENT (RULE V)

Sec.
5.1 Civil Service regulations.
5.2 Investigation and evaluations.
5.3 Enforcement.
5.4 Information and testimony.

Authority: 5 U.S.C. 3301, 3302; E.O. 12107.

§ 5.1. Civil Service Regulations.

The Director, Office of Personnel Management, shall promulgate and enforce regulations necessary to carry out the provisions of the Civil Service Act and the Veterans' Preference Act, as reenacted in Title 5, United States Code, the Civil Service Rules, and all other statutes and Executive orders imposing responsibilities on the Office. The Director is authorized, whenever there are practical difficulties and unnecessary hardships in complying with the strict letter of the regulation, to grant a variation from the strict letter of the regulation if such a variation is within the spirit of the regulations, and the efficiency of the Government and the integrity of the competitive service are protected and promoted. Whenever a variation is granted the Director shall note the official record to show: (a) The particular practical difficulty or hardship involved, (b) what is permitted in place of what is required by regulations, (c) the circumstances which protect or promote the efficiency of the Government and the integrity of the competitive service, and (d) a statement limiting the application of the variation to the continuation of the conditions which gave rise to it. Like variations shall be granted whenever like conditions exist. All such decisions and information concerning variations noted in the official record shall be published promptly in a Federal Personnel Manual, Letter or Bulletin and in the Director's next annual report.

§ 5.2. Investigation and evaluations.

The Director may secure effective implementation of the civil service laws, rules, and regulations, and all Executive orders imposing responsibilities on the Office by:

(a) Investigating the qualifications and suitability of applicants for positions in the competitive service. The Director may require appointments to be made subject to investigation to enable the Director to determine, after appointment, that the requirements of law or the civil service rules and regulations have been met.

(b) Evaluating the effectiveness of: (1) Personnel policies, programs, and operations of Executive and other Federal agencies subject to the jurisdiction of the Office, including their effectiveness with regard to merit selection and employee development; (2) agency compliance with and enforcement of applicable laws, rules, regulations and office directives; and (3) agency personnel management evaluation systems.

(c) Investigating, or directing an agency to investigate and report on, apparent violations of applicable laws, rules, regulations, or directives requiring corrective action, found in the course of an evaluation.

(d) Requiring agencies to report, in a manner and at times as the Director may prescribe, personnel information the Director requests relating to civilian employees in the Executive branch of the Government, as defined by Section 311 of the Civil Service Reform Act of 1978, including positions and officers and employees in the competitive, excepted and Senior Executive services, whether permanent, career-conditional, temporary or emergency.

§ 5.3. Enforcement.

(a) The Director is authorized to ensure enforcement of the civil service laws, rules, and regulations, and all applicable Executive orders, by:

(1) Instructing an agency to separate or take other action against an employee serving an appointment subject to investigation when the Director finds that the employee is disqualified for Federal employment. Where the employee or the agency appeals the Director's finding that a separation or other action is necessary, the Director

may instruct the agency as to whether or not the employee should remain on duty and continue to receive pay pending adjudication of the appeal: *Provided,* That when an agency separates or takes other action against an employee pursuant to the Director's instructions, and the Director, on the basis of new evidence, subsequently reverses the initial decision as to the employee's qualifications and suitability, the agency shall, upon request of the Director, restore the employee to duty or otherwise reverse any action taken.

(2) Reporting the results of evaluation or investigations to the head of the agency concerned with instructions for any corrective action necessary, including cancellation of personnel actions where appropriate. The Director's findings resulting from evaluations or investigations are binding unless changed as a result of agency evidence and arguments against them. If, during the course of any evaluation or investigation under this Section, the Director finds evidence of matters which come within the investigative and prosecutorial jurisdiction of the Special Counsel of the Merit Systems Protection Board, the Director shall refer this evidence to the Special Counsel for appropriate disposition.

(b) Whenever the Director issues specific instructions as to separation or other corrective action with regard to an employee, including cancellation of a personnel action, the head of the agency concerned shall comply with the Director's instructions.

(c) If the agency head fails to comply with the specific instructions of the Director as to separation or other corrective action with regard to an employee, including cancellation of a personnel action, the Director may certify to the Comptroller General of the United States the agency's failure to act together with such additional information as the Comptroller General may require, and shall furnish a copy of such certification to the head of the agency concerned. The individual with respect to whom such separation or other corrective action was instructed shall be entitled thereafter to no pay or only to such pay as appropriate to effectuate the Director's instructions.

§ 5.4. Information and testimony.

When required by the Office, the Merit Systems Protection Board, or the Special Counsel of the Merit Systems Protection Board, or by authorized representatives of these bodies, agencies shall make available to them, or to their authorized representatives, employees to testify in regard to matters inquired of under the civil service laws, rules, and regulations, and records pertinent to these matters. All such employees, and all applicants or eligibles for positions covered by these rules, shall give to the Office, the Merit Systems Protection Board, the Special Counsel, or to their authorized representatives, all information, testimony, documents, and material in regard to the above matters, the disclosure of which is not otherwise prohibited by law or regulation. These employees, applicants, and eligibles shall sign testimony given under oath or affirmation before an officer authorized by law to administer oaths. Employees are performing official duty when testifying or providing evidence pursuant to this section.

[FR Doc. 80-2001 Filed 1-21-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 771

Agency Administrative Grievance System

Correction

In FR Doc. 79-39829 appearing at page 77127 in the issue of Monday, December 31, 1979; on page 77131, third column, second line of paragraph (b), § 771.206, insert "not" after "does".

BILLING CODE 1505-01-M

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5 CFR Part 831

Retirement; Correction

AGENCY: Office of Personnel Management.

ACTION: Final rule; correction.

SUMMARY: On January 15, 1980, the Office of Personnel Management published at 45 FR 2837 an amendment to the Retirement regulations (FR Doc. 80-1326). This document corrects the effective date of that amendment.

EFFECTIVE DATE: The correct effective date should read: July 31, 1979.

FOR FURTHER INFORMATION CONTACT: Beverly M. Jones, Issuance System Manager, 202-254-7086.

(5 U.S.C. 8336(d)(2))

Office of Personnel Management,

Beverly M. Jones,

Issuance System Manager.

[FR Doc 80-2002 Filed 1-21-80; 8:45 am]

BILLING CODE 6325-01-M

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Part 705

Noninflationary Pay and Price Behavior; Amendments to Part 705 and Modifications to Questions and Answers

AGENCY: Council on Wage and Price Stability.

ACTION: Interim final rules, questions and answers, and a request for comments.

SUMMARY: The Council is modifying the treatment of incremental pay increases under the pay standard so as to exclude both longevity and qualification increases under pre-existing incremental pay plans or practices in making pay standard calculations under the collective-bargaining agreement method or under the fixed-population method. These modifications implement the policies recommended by the Pay Advisory Committee and accepted by the Council.

DATES: The effective date for these changes and Questions and Answers is January 22, 1980. Written comments may be submitted by February 21, 1980.

ADDRESS: Written comments should be addressed to: Office of the General Counsel, Council on Wage and Price Stability, 600 17th Street, NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Office of Pay Monitoring: Janice Murphey—456-7103; Lucretia Tanner—456-7180; Malcolm Liggett—456-7180; Homer Jack—456-7180.

Office of the General Counsel: Daniel Duff—456-6210; Jane Campana—456-6210.

SUPPLEMENTARY INFORMATION: On September 28, 1979, the President announced the creation of a Pay Advisory Committee to advise the Council on policies that encourage anti-inflationary behavior by employers and labor, that decelerate the rate of inflation, and that provide for a fair and equitable distribution of the burden of restraint. The Committee's charter provides that it will recommend new or revised interpretations of the pay standard. Until the Council acts on any recommendatons, the first-year pay standard (in Subpart 705B) remains in effect with the modifications that have been adopted (see the Council's questions and answers published in the **Federal Register** on October 12, 1979 (44 FR 58900), October 19, 1979 (44 FR 60251), and November 19, 1979 (44 FR 66534); see also the **Federal Register** of December 17, 1979 (44 FR 73003) and of December 28, 1979 (44 FR 76748).

On December 18, 1979, the Committee recommended that the Council exclude from pay rate calculations under the fixed-population or collective-bargaining-agreement methods for determining compliance any longevity or qualification increases under a pre-existing incremental pay plan or practice. During the first program year, the Council treated longevity increases as chargeable pay increases, while *qualification* increases (associated with skill changes) were allowed to be excluded. However, many incremental pay plans include a mix of qualification and longevity increases, and the proper classification depends on the intent of the plan. The Council left the classification to the individual parties. But, as the Council noted in its August 10, 1979, Issue Paper, State and local governments often made determinations during the first program year that resulted in dissimilar treatment of similar compensation plans among neighboring jurisdictions. To resolve this problem, the Council has decided to accept the Pay Advisory Committee's recommendation. Thus, in making pay standard calculations under the collective-bargaining agreement method (Section 705B-3) or under the fixed-population method (Section 705B-4(b)), employers may exclude both longevity and qualification increases under pre-existing incremental pay plans or practices. Such exclusions are, of course, not permissible under the remaining method of pay computation (Section 705B-4(a)).

Explanatory questions and answers on this matter are also being published by the Council.

The Council is publishing these materials on an interim final basis since many companies that are establishing their pay plans have a need to know and must be able to rely on the Council's new treatment of incremental pay increases. The Council has provided a 30-day comment period, since it is important to receive any public comments as soon as possible so that any changes may be made rapidly. However, companies may rely fully on these interim final changes to Part 705 and the questions and answers until these materials are modified.

Issued in Washington, D.C., January 16, 1980.

R. Robert Russell,

Director, Council on Wage and Price Stability.

Accordingly, in the Appendix to Part 705, Sections 705B-3 and 705B-4 are revised on an interim basis to read as follows:

1. Section 705B-3 is amended by adding paragraph (g) to read as follows:

Section 705B-3 Application of the Pay Standard to Collective Bargaining Agreements.

* * * * *

(g) The effects of legitimate promotions and increases under pre-existing incremental pay plans and practices are excluded from computations for the purpose of measuring compliance with the pay standard.

2. Section 705B-4 is amended by modifying paragraph (b) to read as follows:

Section 705B-4 Application of the Pay Standard to employees not under Collective Bargaining Agreements.

* * * * *

(b) Alternatively, compliance may be determined by computing pay-rate changes for the fixed population of continuing employees employed in the beginning and end of the program year. In this case, pay-rate increases may exclude the effects of legitimate promotions and increases under pre-existing incremental pay plans and practices.

* * * * *

In addition to amending these sections, the Council is also modifying the Questions and Answers concerning the treatment of incremental pay increases as follows:

1. Questions and Answers II-E-8 and II-E-9 published in the First-Year Compendium and originally published in the **Federal Register** of December 28, 1978 (43 FR 60777) under the same designations are deleted.

2. Questions and Answers II-D-8 and II-E-12, published in the First-Year Compendium and originally published in the **Federal Register** of January 25, 1979, (44 FR 5362) under designations II-D-10 and II-E-12, respectively, are also deleted.

3. Question and Answer II-E-7 published in the First-Year Compendium and originally published in the **Federal Register** of December 28, 1973 (43 FR 60777) under the same designation is amended to read as follows:

Q. 7. Section 705B-4(b) says that compliance may be determined on the basis of the average pay rates for continuing employees. What is the implication of this option?

A. This option allows the company to follow pay rates for the fixed population of continuing employees employed throughout the program year. This approach may be especially useful to small businesses that have changes in the composition of the work force, but do not typically perform the cost-accounting analyses needed to adjust for these compositional shifts.

When excluding promotion and incremental increases under this method, the company should be prepared to demonstrate that such increases granted during the program year are consistent with historical practices.

4. The following four Questions and Answers are adopted to read as follows:

Q. What is a pre-existing incremental pay plan or practice?

A. Any plan or practice in effect before October 1, 1979.

Q. Are increases paid under pre-existing incremental pay plans and practices chargeable against the pay standard?

A. Qualification increases associated with defined improvements in an employee's job-related credentials such as completion of an educational or vocational training program and other regularly programmed increment increases including longevity increases in pre-existing pay plans shall be excepted from the pay standard when compliance is measured under Section 705B-3 and 705B-4(b).

Q. What changes in pre-existing incremental pay plans and practices are chargeable against the pay standard under Sections 705B-3 and 705B-4(b)?

A. All structural changes in pre-existing incremental pay plans and practices that increase the cost of such increments are charged against the standard. Such changes include (but are not limited to) adding steps above the top step, reducing the number of steps required to reach the top step, increasing the established differential between steps; and shortening the time periods between steps. Pay increases resulting from implementation of a new incremental pay plan or practice should be charged. Changes in the amount of the difference between increments resulting from the general increase are not considered to be structural changes in a pre-existing incremental pay plan or practice.

Q. Does the treatment of increment increases under Sections 705B-3(g) and 705B-4(b) apply to merit pay plans?

A. Increases that represent movement within pay ranges in a pre-existing formal merit pay plan are not charged against the pay standard: *Provided,* That they are consistent with established procedures and past practices for administering such increases. Increases in the pay ranges themselves are chargeable, as are increases resulting from changes in established procedures

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or past practices for administering adjustments within pay ranges.

[FR Doc. 80-1908 Filed 1-17-80; 11:00 am]
BILLING CODE 3175-01-M

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins

AGENCY: Rural Electrification Administration.

ACTION: Final rule.

SUMMARY: REA hereby amends Appendix A—REA Bulletins to provide for the issuance of a revision of REA Bulletin 345–52, Specification for Service Entrance and Station Protector Installations (PC–5A). This document was designed to be used in conjunction with REA's Telephone System Construction Contract which has recently been revised. Changes in the contract will be reflected in the revision of PC–5.

EFFECTIVE DATE: January 16, 1980.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, telephone (202) 447–3827.

SUPPLEMENTARY INFORMATION: REA regulations are issued pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.). A Notice of Proposed Rule Making was published in the **Federal Register** on September 28, 1979, Vol. 44, No. 190, Page 55890. However, no public comments were received in response to the notice.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355–S, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: January 16, 1980.

John H. Arnesen,

Assistant Administrator—Telephone.

[FR Doc. 80-1909 Filed 1-21-80; 8:45 am]
BILLING CODE 3410-15-M

Food Safety and Quality Service

7 CFR Part 2852

U.S. Standards for Grades of Frozen Broccoli [1]

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to change the grading standards for frozen broccoli to include both on-line inspection and lot inspection procedures. It also eliminates the dual grading names of "fancy" and "extra fancy" and adopts a single letter grade nomenclature of "A" and "B." This action is being undertaken at the initiative of the Department. Promulgation of this rule will improve the standards for grading this food product.

EFFECTIVE DATE: February 22, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas E. Crider, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6248.

SUPPLEMENTARY INFORMATION: The procedures which are used by the Department to inspect frozen vegetables include the use of on-line inspection and lot inspection sampling plans. These sampling plans provide a simple objective method of grading in place of subjective judgement. This rule will incorporate these official inspection procedures and will apply them to the standards for frozen broccoli.

The Department believes that promulgation of this rule will improve the integrity of the voluntary grading standards and sampling plans by providing a more easily understood procedure which also conforms with the advanced technology being utilized by the frozen vegetable industry.

The recent trend in processing frozen vegetables is toward mechanical devices, such as trimmers, to replace costly hand trimming. Mechanization of frozen vegetable processing has changed the cosmetic appearance of some frozen vegetables; however, the quality is not affected. Some materials, such as tender broccoli leaves, which were formerly trimmed and discarded by hand, are now present in the product.

The tables of acceptance numbers in the current frozen broccoli standards are based on percent, by count, for the styles of cut, pieces, and chopped broccoli. This results in classification of defects, by count, which can bias the standards since no distinction is made between large defects and small defects. Consequently, this action would classify defects by weight, and would reduce the unfairness between an offending large unit and an offending small unit which occurs when the tolerance is based on percent, by count.

This action will also:

(1) Round Acceptable Quality Levels (AQL) numbers and dimensions to practical figures;

(2) Change the format of various tables to improve reader understanding;

(3) Eliminate the dual grading names of "fancy" and "extra standard" and adopt a single letter grade nomenclature of "A" and "B";

(4) Eliminate the use of "deviant" sample units that fail a specific requirement; and

(5) Bring the standards for frozen broccoli in line with the new chapter for Food Safety and Quality Service in the Code of Federal Regulations (7 CFR 2852.38 (a), (b), and (c)).

The proposal to revise frozen broccoli standards was published in the **Federal Register** on August 11, 1978 (43 FR 35722–35730). One letter was received from the American Frozen Food Institute requesting a 6-month trial period to test the proposal under actual production conditions. The request was denied but the frozen broccoli proposal was used on a limited basis by official USDA graders to enable comparative study. No problems were found with its implementation. Several editorial changes have been made in the final publication to enable better understanding of the defect classifications.

After consideration of all data, and since no unfavorable factual information was submitted, the United States Standards for Grades of Frozen Broccoli, 7 CFR 2852.631 through 2852.642, are revised; new §§ 2852.643 and 2852.644 are added, and the Table of Contents is amended, to read as follows:

Sec.
2852.631 Product description.
2852.632 Styles of frozen broccoli.
2852.633 Classification of style defectives.
2852.634 Tolerances for style defectives.
2852.635 Definitions of terms.
2852.636 Recommended sample unit sizes.
2852.637 Grades.
2852.638 Factors of quality.
2852.639 Classification of defects.
2852.640 Tolerances for defects.
2852.641 Sample size.
2852.642 Determining proportions of head material and leaf material.
2852.643 Compliance with style requirements.
2852.644 Compliance with quality requirements.

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act, or with applicable State laws and regulations.

§ 2852.631 Product description.

"Frozen broccoli" is the product prepared from the fresh, clean, sound stalks or shoots of the broccoli plant (Brassica oleracea [Italica group]) by trimming, washing, blanching, sorting, and properly draining. The product is frozen in accordance with good commercial practice and maintained at temperatures necessary for its preservation.

§ 2852.632 Styles of frozen broccoli.

(a) "Spears" or "stalks" mean the head and adjoining portions of the stem, with or without attached leaves, which may range in length from 9 cm (3.5 in) to 15 cm (5.9 in). The spears or stalks may be cut longitudinally.

(b) "Short spears" or "florets" mean the head and adjoining portions of the stem, with or without attached leaves, which may range in length from 2.5 cm. (1 in) to 9 cm (3.5 in). Each short spear or floret must weigh more than 6 g (0.2 oz). The short spears or florets may be cut longitudinally.

(c) "Cut" means spears or short spears cut into portions which may range in length from 2 cm (0.8 in) to 5 cm (2 in). Head material should be at least 62.5 g (2.2 oz) per 250 g (8.8 oz) and leaf material should not be more than 62.5 g (2.2 oz) per 250 g (8.8 oz).

(d) "Chopped" means spears or short spears cut into portions which are less than 2 cm (0.8 in) in length. Head material should be at least 12.5 g (0.4 oz) per 50 g (1.8 oz) and leaf material should not be more than 12.5 g (0.4 oz) per 50 g (1.8 oz).

(e) "Pieces" or "random cut pieces" mean cut or chopped portions of spears or short spears or other units which do not meet the requirements for "cut" or "chopped" styles.

§ 2852.633 Classification of style defectives.

For the purposes of determining compliance with style requirements, each nonconforming unit is considered as either a minor or major defective. Each "X" in table I represents "one (1) defective."

Table I.—*Classification of Style Defectives*

Style	Defectives: Longer than—	Defectives: Shorter than—	Minor	Major
Spears or stalks (each spear)	15.5 cm (6.1 in)	8.5 cm (3.3 in)	X	
Short spears or florets (each spear)	9.5 cm (3.7 in)	2.0 cm (0.8 in)	X	
Cut (each 5 g)[1]	5.0 cm (2.0 in)			X
		1.5 cm (0.6 in)	X	
Chopped (each 2.5 g)[1]	2.0 cm (0.8 in)		X	

[1] Leaf material is not considered in the classification of style defectives.

§ 2852.634 Tolerances for style defectives.

Defective units for style shall not exceed the Acceptable Quality Levels (AQL) in table II, table III or table IV, as applicable for the style. An insignificant weight increment of style defectives, limited to the first weight increment, shall not be considered.

Table II.—*Spears (or Stalks) and Short Spears (or Florets)*

	Minor
AQL[1]	10.0

[1] AQL expressed as percent defective.

Table III.—*Cut*

	Minor	Major
AQL[1]	10.0	6.5

[1] AQL expressed as percent defective (50–5 g increments in 250 g).

Table IV.—*Chopped*

	Minor
AQL[1]	8.5

[1] AQL expressed as percent defective (100–2.5 g increments in 250 g).

§ 2852.635 Definitions of terms.

(a) Terms applicable to all styles of frozen broccoli:

(1) *Acceptable quality level (AQL).* The maximum percent of defective units, or the maximum number of defects per hundred units of that product, that, for the purpose of acceptance sampling can be considered satisfactory as a process average.

(2) *Blemished.* A unit of broccoli that is blemished by pathological injury, hollow stems, pithy stems, insect injury, discolored, or by other means such as, but not limited to, small orange or yellowish-orange buds and olive-green petiole, to the extent that the appearance or eating quality is affected: (i) Slightly; (ii) materially; or (iii) seriously.

(3) *Defect (or defective).* Any nonconformance of a unit(s) of product from a specified requirement of a single characteristic.

(4) *Development.* (i) *Reasonably well developed.* The individual buds are not more than moderately enlarged and practically none of the individual buds are in the flowering stage.

(ii) *Poorly developed.* The individual buds are in the flowering stage or are more than moderately enlarged with or without reaching the flowering stage.

(5) *Extraneous vegetable material (EVM).* (i) *Edible.* Tender, green blades of grass or weeds or leaves which are harmless.

(ii) *Inedible.* Coarse blades of grass or weeds or leaves which may or may not be tender or green and which are harmless.

(6) *Fiber.* Tough or woody fiber that has developed near the outside portion of the broccoli stem.

(7) *Flavor and odor.* (i) *Good flavor and odor.* The product has a good characteristic flavor and odor but is free from objectionable flavors or objectionable odors of any kind.

(ii) *Fairly good flavor and odor.* The product may be lacking in good flavor and odor but is free from objectionable flavors or objectionable odors of any kind.

(8) *Sample unit.* The amount of product specified to be used for inspection. It may be:

(i) The entire contents of a container; or

(ii) A portion of the contents of a container; or

(iii) A combination of the entire contents of two or more containers; or

(iv) A portion of unpacked product.

(9) *Unit.* Any individual portion of broccoli other than loose leaves or individual buds.

(b) Terms applicable to spears and short spears only;

(1) *Broken.* Detached portions, other than loose leaves or portions thereof, which weigh more than 6 g (0.2 oz) and are definitely not intact units.

(2) *Color (individual unit).* (i) *Good color.* The outside of the stalk is a bright, distinct green. The top of the head is a bright, distinct green and may show a slight purplish cast. The color may also include lighter colored areas on the outside of the head which is typical of young and tender broccoli.

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(ii) *Reasonably good color.* The outside of the stalk may be dull and may possess a slight brownish, yellowish, or grayish cast. The head may be dull and possess a slight brownish, grayish, or yellowish cast and yellow buds due to flowering that do not seriously affect the overall brightness.

(iii) *Poor color.* The presence of yellow buds due to flowering, or any brownish, grayish, or yellowish casts that seriously affect the overall brightness.

(3) *Damage.* The head of the spear is damaged by mechanical injury, other than "broken," to the extent that the appearance or eating quality is materially affected.

(4) *Detached fragments.* Any small piece or detached portion other than loose leaves or portions thereof, which weighs 6 g (0.2 oz) or less.

(5) *Development.* (i) *Well developed.* (A) The spreading of the branching bud clusters which comprise the head of the unit does not materially affect the appearance of the unit; and

(B) The broccoli is in the early stage of maturity such that the individual buds and the immediate stems supporting the individual buds form a compact bud cluster.

(ii) *Reasonably well developed.* (A) The spreading of the branching bud clusters which comprise the head of the unit does not seriously affect the appearance of the unit; and

(B) The broccoli is in the intermediate stage of maturity such that the individual buds and the immediate stems supporting the individual buds form a reasonably compact bud cluster.

(iii) *Poorly developed.* (A) The branching bud clusters which comprise the head of the unit may be spread to the extent that the appearance of the unit is seriously affected; and

(B) The broccoli is in the advanced stage of maturity such that the individual buds and the immediate stems supporting the individual buds form a loosely structured bud cluster.

(6) *Diameter of a spear.* The greatest dimension at the right angle to the longitudinal axis 2.5 cm (1 in) from the base end.

(7) *Loose leaves or pieces of leaves.* Broccoli leaves or pieces of leaves not attached to a unit.

(8) *Trim.* (i) *Well trimmed.* The appearance of the unit is not materially affected by the presence of attached leaves or pieces of leaves and not more than slightly affected by ragged or partial removal of leaves or small side shoots, or by cutting of the stem.

(ii) *Reasonably well trimmed.* The appearance of the unit is not seriously affected by the presence of attached leaves or pieces of leaves and not materially affected by ragged or partial removal of leaves or small side shoots, or by cutting of the stem.

(iii) *Poorly trimmed.* The appearance of the unit is seriously affected by the presence of attached leaves or pieces of leaves, ragged or partial removal of leaves or small side shoots, or by cutting of the stem.

(c) Terms applicable to cut and chopped broccoli only:

(1) *Head material.* The buds or bud clusters whether or not attached to a portion of a spear and includes the fine stem material by which the buds or bud clusters are attached to the main stem.

(2) *Leaf material.* Any portion of a leaf not attached to a portion of a spear.

§ 2852.636 Recommended sample unit sizes.

(a) *For head material and leaf material:* (1) Cut style—250 g (8.8 oz). (2) Chopped style—50 g (1.8 oz).

(b) *For style and quality factors:* (1) Spears and short spears—50 units. (2) Cut, chopped, and pieces—250 g (8.8 oz).

(c) *Associated material:* (1) Broken, crushed, or similarly damaged portions of units of product in the styles of spears and short spears are to be reassembled and included in the count as whole units.

(2) Head and leaf material in the styles of cut and chopped, loose leaves or pieces in the styles of spears and short spears, and extraneous vegetable material in all product styles are part of the standard sample unit size. They are not included in the count of spears and short spears but are included in the weight of cut, pieces, and chopped broccoli. Such pieces and other extraneous vegetable material are considered part of the sample unit.

(i) When they are in a container whose entire contents are included in the sample unit;

(ii) When they are in the last of several containers included in the sample unit and 50 percent or more of the contents are required for the sample unit. None of the pieces and EVM in the last of several containers is considered part of the sample unit when less than 50 percent of its contents are required for the sample unit; and

(iii) When they are commingled with the product required for the sample unit and such product is taken from but is not the entire contents of a single container.

§ 2852.637 Grades.

(a) "U.S. Grade A" is the quality of frozen broccoli that:

(1) Meets the following prerequisites in which the broccoli:

(i) Has similar varietal characteristics;

(ii) Has a good flavor and odor;

(iii) Is practically free from grit and silt;

(iv) Has a good overall brightness; and

(v) In the styles of cut, chopped, and pieces, the individual buds are at least reasonably well developed.

(2) Is within the limits for defects as classified in Table V and specified in Tables VI, VII, or VIII, as applicable for the style.

(b) "U.S. Grade B" is the quality of frozen broccoli that:

(1) Meets the following prerequisites in which the broccoli:

(i) Has similar varietal characteristics;

(ii) Has at least a fairly good flavor and odor;

(iii) Has no more than a trace of grit and silt;

(iv) Has at least a reasonably good overall brightness which may be slightly dull; and

(v) In the styles of cut, chopped, and pieces, the individual buds may be poorly developed if they do not materially affect the appearance of the product.

(2) Is within the limits for defects as classified in Table V and specified in Tables VI, VII, or VIII, as applicable for the style.

(c) Substandard is the quality of frozen broccoli that fails to meet the requirements of U.S. Grade B.

§ 2852.638 Factors of quality.

The grade of frozen broccoli is based on compliance with requirements for the following quality factors:

(a) Prerequisite quality factors: (1) Similar varietal characteristics (all styles); (2) flavor and odor (all styles); (3) freedom from grit and silt (all styles); (4) overall brightness (all styles); and (5) development (cut, chopped, and pieces only).

(B) Classified quality factors: (1) Spears and short spears: (i) Color (individual unit); (ii) uniformity of size; (iii) detached fragments; (iv) loose leaves or pieces of leaves; (v) broken; (vi) damage; (vii) blemish; (viii) trim; (ix) development; (x) fiber; and (xi) extraneous vegetable material.

(2) Cut, chopped, and pieces: (i) Blemish; (ii) fiber; and (iii) extraneous vegetable material.

§ 2852.639 Classification of defects.

Defects are classified as "minor," "major," "severe," or "critical." Each X in Table V represents "one (1) defect."

Table V.—Classification of Defects

Quality factor	Defect	Classification			
		Minor	Major	Severe	Critical
Spears					
Color (individual unit)	Reasonably good color in grade A only (each spear)		X		
	Poor color in grades A and B (each spear)			X	
Uniformity of size	Length variation is greater than 5 cm (each spear)		X		
	Diameter variation is greater than 2 cm (each spear)	X			
Detached fragments	Each 28 g increment		X		
Loose leaves and pieces of leaves	Each 14 g increment	X			
Broken spear	Each spear	X			
Damaged spear	Each spear	X			
Blemished spear	Slightly (each spear)	X			
	Materially (each spear)		X		
	Seriously (each spear)			X	
Trim	Reasonably well trimmed in grade A only (each spear)	X			
	Poorly trimmed:				
	In grade A only (each spear)		X		
	In grade B only (each spear)	X			
Development	Reasonably well developed in grade A only (each spear)	X			
	Poorly developed in grades A and B (each spear)		X		
Fiber	Nonwoody (each spear)		X		
	Woody (each spear)			X	
Extraneous vegetable material	Edible (each piece)			X	
	Inedible (each piece)				X
Short Spears					
Color (individual unit)	Reasonably good color in grade A only (each spear)		X		
	Poor color in grades A and B (each spear)			X	
Uniformity of size	Largest unit is more than 4 times heavier than the smallest unit (each spear)	X			
Detached fragments	Each 28 g increment		X		
Loose leaves and pieces of leaves	Each 14 g increment	X			
Broken spear	Each spear	X			
Damaged spear	Each spear	X			
Blemished spear	Slightly (each spear)	X			
	Materially (each spear)		X		
	Seriously (each spear)			X	
Trim	Reasonably well trimmed in grade A only (each spear)	X			
	Poorly trimmed:				
	In grade A only (each spear)		X		
	In grade B only (each spear)	X			
Development	Reasonably well developed in grade A only (each spear)	X			
	Poorly developed in grades A and B (each spear)		X		
Fiber	Nonwoody (each spear)		X		
	Woody (each spear)			X	
Extraneous vegetable material	Edible (each piece)			X	
	Inedible (each piece)				X
Cut and Pieces					
Blemished	Slightly (each 5 g increment)	X			
	Materially (each 5 g increment)		X		
	Seriously (each 5 g increment)			X	
Fiber	Nonwoody (each 5 g increment)		X		
	Woody (each 5 g increment)			X	
Extraneous vegetable material	Edible (each 2.5 cm increment)			X	
	Inedible (each 2.5 cm increment)				X
Chopped					
Blemished	Slightly (each 2.5 g increment)	X			
	Materially (each 2.5 g increment)		X		
	Seriously (each 2.5 g increment)			X	
Fiber	Nonwoody (each 2.5 g increment)		X		
	Woody (each 2.5 g increment)			X	
Extraneous vegetable material	Edible (each 2.5 cm increment)			X	
	Inedible (each 2.5 cm increment)				X

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§ 2852.640 Tolerances for defects.

An insignificant weight increment of defects limited to the first weight increment shall not be considered.

Table VI.—*Spears and Short Spears*

	Total [1]	Major	Severe	Critical
Grade A: AQL [2]	20.0	6.5	0.65	0.25
Grade B: AQL [2]	25.0	10.0	2.5	0.65

[1] Total = Minor + Major + Severe + Critical.
[2] AQL expressed as defects per 100 units.

Table VII.—*Cuts and Pieces*

	Total [1]	Major	Severe	Critical
Grade A: AQL [2]	6.5	2.5	1.0	0.4
Grade B: AQL [2]	15.0	5.0	1.5	1.0

[1] Total = Minor + Major + Severe + Critical.
[2] AQL expressed as defects per 100 units (50–5 g increments in 250 g).

Table VIII.—*Chopped*

	Total [1]	Major	Severe	Critical
Grade A: AQL [2]	6.5	2.5	1.0	0.25
Grade B: AQL [2]	15.0	5.0	1.5	0.65

[1] Total = Minor + Major + Severe + Critical.
[2] AQL expressed as defects per 100 units (100–2.5 g increments in 250 g).

§ 2852.641 Sample size.

The sample size to determine compliance with requirements of these standards shall be as specified in the sampling plans and procedures in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (§§ 2852.1–2852.83), for lot inspection and on-line inspection, as applicable.

§ 2852.642 Determining proportions of head material and leaf material.

(a) *Method.* The proportions of head material and leaf material in cut and chopped broccoli may be determined as follows:

(1) Equipment needed: (i) 250 ml beaker; (ii) gram scale, or other suitable balance; (iii) laboratory tweezers, scalpel, or other suitable instrument for separating the stem material, leaf material, and head material; and (iv) flat grading tray.

(2) Procedure: (i) Thoroughly mix the sample unit to be tested if it is not the entire contents of a container;

(ii) Weigh 50 g (1.8 oz) in the case of chopped broccoli into a previously tared 250 ml beaker;

(iii) Weigh 250 g (8.8 oz) in the case of cut broccoli into a previously tared container;

(iv) Spread the weighed product out on a flat grading tray;

(v) Separate the stem material from the head and leaf material; and

(iv) Separate the leaf material from the head material. Weigh each separately and record the weight.

§ 2852.643 Compliance with style requirements.

(a) *Lot inspection.* (1) *spears and short spears.* A lot of frozen broccoli spears or short spears is considered as meeting the requirements for style if the Acceptable Quality Levels (AQL) in Table II are not exceeded.

(2) *Cut and chopped.* A lot of cut or chopped frozen broccoli is considered as meeting the style requirements for cut or chopped if:

(i) The requirements with respect to leaf material and head material in § 2852.632 are met;

(ii) No individual sample unit of cut broccoli contains less than 37.5 g (1.3 oz) of head material or more than 87.5 g (3.1 oz) of leaf material;

(iii) No individual sample unit of chopped broccoli contains less than 8.5 g (0.3 oz) of head material or more than 17.5 g (0.6 oz) of leaf material; and

(iv) The Acceptable Quality Levels (AQL) specified in Table III or Table IV, as applicable, are not exceeded.

(b) *On-line inspection.* (1) *Spears and short spears.* A portion of production of frozen broccoli spears or short spears is considered as meeting the requirements for style if the Acceptable Quality Levels (AQL) in Table II are not exceeded.

(2) *Cut and chopped.* A portion of production of frozen broccoli is considered as meeting the style requirements for cut or chopped if:

(i) The requirements with respect to leaf material and head material in § 2852.632 are met;

(ii) No individual sample unit of cut broccoli contains less than 37.5 g (1.3 oz) of head material or more than 87.5 g (3.1 oz) of leaf material;

(iii) No individual sample unit of chopped broccoli contains less than 8.5 g (0.3 oz) of head material or more than 17.5 g (0.6 oz) of leaf material; and

(iv) The Acceptable Quality Levels (AQL) specified in Table III or Table IV, as applicable, are not exceeded.

(c) *Single sample unit.* (1) *Spears and short spears.* Each unofficial sample unit of spears or short spears submitted for quality evaluation will be treated individually and is considered as meeting the requirements for style if the Acceptable Quality Levels (AQL) in Table II are not exceeded.

(2) *Cut and chopped.* Each unofficial sample unit of frozen broccoli is considered as meeting the style requirements for cut or chopped if:

(i) The requirements with respect to leaf material and head material in § 2852.632 are met; and

(ii) The Acceptable Quality Levels (AQL) specified in Table III or Table IV, as applicable, are not exceeded.

§ 2852.644 Compliance with quality requirements.

(a) *Lot inspection.* A lot of frozen broccoli is considered as meeting the requirements for quality if:

(1) The prerequisite requirements specified in § 2852.637 are met; and

(2) The Acceptable Quality Levels (AQL) in Tables VI, VII, or VIII, as applicable for the style, are not exceeded.

(b) *On-line inspection.* A portion of production is considered as meeting requirements for quality if:

(1) The prerequisite requirements specified in § 2852.637 are met; and

(2) The Acceptable Quality Levels (AQL) in Tables VI, VII, or VIII, as applicable for the style, are not exceeded.

(c) *Single sample unit.* Each unofficial sample unit submitted for quality evaluation will be treated individually and is considered as meeting the requirements for quality if:

(1) The prerequisite requirements specified in § 2852.637 are met; and

(2) The Acceptable Quality Levels (AQL) in Tables VI, VII, or VIII, as applicable for the style, are not exceeded.

(Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624))

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Mr. Thomas E. Crider, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

Done at Washington, D.C., on: January 17, 1980.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 80-1997 Filed 1-21-80; 8:45 am]

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7 CFR Part 2852

United States Standards for Grades of Canned Freestone Peaches; Final Rule; Correction

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects a portion of the Department's amendment to the United States Standards for Grades of Canned Freestone Peaches appearing at pages 36363–36373 in the Federal Register of June 22, 1979, with respect to the term "brightness." An editorial change was included in several sections but was not uniformly applied throughout the original amendment as intended.

EFFECTIVE DATE: January 22, 1980.

FOR FURTHER INFORMATION CONTACT: Howard W. Schutz, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6248.

SUPPLEMENTARY INFORMATION: This document corrects a portion of the Department's amendment to the United States Standards for Grades of Canned Freestone Peaches appearing at pages 36363–36373 in the Federal Register of June 22, 1979, with respect to the term "brightness." An editorial change was made in several sections but was not uniformly applied throughout the original amendment.

Accordingly, the United States Standards for Grades of Canned Freestone Peaches, § 2852.2610 (a)(iii) and (b)(iii) (7 CFR 2852.2610) are corrected to read as follows:

§ 2852.2610 [Amended]

1. In § 2852.2610(a)(iii), the words "are not" are amended to read "may be slightly".

2. In § 2852.2610(b)(iii), the words "are not" are amended to read "may be slightly".

(Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; (7 U.S.C. 1622, 1624))

Since these changes are made only to correct inadvertent errors in the original amendment, Dr. Donald L. Houston has determined that additional relevant information would not be made available by public participation in rulemaking proceedings on these amendments and good cause is found, under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to these amendments are impracticable and unnecessary. Furthermore, good cause is found for making these amendments effective less than 30 days after publication in the Federal Register.

Done at Washington, DC, on: January 17, 1980.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 80-1998 Filed 1-21-80; 8:45 am]

FEDERAL RESERVE SYSTEM

12 CFR Part 226

Truth in Lending; Calculation and Disclosure of Annual Percentage Rates; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Correction notice.

SUMMARY: The Federal Reserve is clarifying the effective dates and correcting the amendatory language used in the final rules published at 44 FR 77139, December 31, 1979, concerning calculation and disclosure of the annual percentage rate (FR Docket No. 79–39811).

FOR FURTHER INFORMATION CONTACT: Dolores S. Smith, Section Chief (202–452–2412), Ellen Maland, Senior Attorney (202–452–3867), or Margaret Stewart, Senior Attorney (202–452–2412), Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The final rules contained in FR Docket No. 79–39811 are corrected as follows:

In the Federal Register of December 31, 1979 on page 77144 in the second column, the heading "§ 226.5 [Amended]" is deleted and the paragraphs numbered 1 and 2 immediately below it are revoked and the following paragraphs are added:

Effective January 10, 1980:

a. Section 226.5 is amended by revising the title and first sentence of paragraph (a), revising paragraphs (b) and (c) in their entirety, and rescinding paragraphs (d) and (e).

b. Section 226.8 is amended by adding paragraphs (r) and (s).

c. Sections 226.502, 226.503 and 226.503 are rescinded.

Compliance with these amendments is optional until October 1, 1980. However, if the amended regulations are not complied with, the regulations as they existed prior to January 10, 1980 must be complied with.

Effective October 1, 1980, the amendments mentioned above will be enforced and there will no longer be an option of complying with the regulations as they existed prior to January 10, 1980.

Board of Governors, January 15, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-1997 Filed 1-21-80; 8:45 am]

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12 CFR Part 226

Truth in Lending; Technical Amendments

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Technical amendments.

SUMMARY: The Board is making technical amendments to its final rules published at 44 FR 77139, December 31, 1979, concerning the calculation and disclosure of the annual percentage rate (FR Docket No. 79–39811).

FOR FURTHER INFORMATION CONTACT: Dolores S. Smith, Section Chief (202–452–2412), Ellen Maland, Senior Attorney (202–452–3867) or Margaret Stewart, Senior Attorney (202–452–2412), Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The final rules contained in FR Docket No. 79–39811 are amended as follows:

In the Federal Register of December 31, 1979 on page 77144 in the second and third columns, the last sentence of § 226.5(b)(1) is amended by deleting the phrase "which is incorporated in this Part by reference" and the comma which precedes it.

The Board is republishing Supplement I (44 FR 77145), to incorporate certain numbering and format changes required for it to be published as § 226.40 of Regulation Z in the CFR and to make several technical corrections to the document as it was previously published. No substantive changes has been made to this supplement. Supplement I (§ 226.40 of Regulation Z) is amended to read as follows:

§ 226.40 Rules for Determining the Annual Percentage Rate for Other than Open End Credit Transactions Pursuant to § 226.5(b) of Regulation Z. (Supplement I)

(a) *Introduction.* (1) Section 226.5(b) of Regulation Z provides that the annual percentage rate for other than open end credit transactions shall be determined in accordance with either the actuarial method or the United States Rule method. This supplement contains an explanation of the actuarial method as well as equations, instructions and examples of how this method applies to single advance and multiple advance transactions and transactions involving

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required deposit balances (as defined in § 226.8(e) of the regulation).

(2) Under the actuarial method, at the end of each unit-period (or fractional unit-period) the unpaid balance of the amount financed is increased by the finance charge earned during that period and is decreased by the total payment (if any) made at the end of that period. The determination of unit-periods and fractional unit-periods shall be consistent with the definitions and rules in paragraphs (b) (3), (4) and (5) of this section and the general equation in paragraph (b)(8) of this section.

(3) In contrast, under the United States Rule method, at the end of each payment period, the unpaid balance of the amount financed is increased by the finance charge earned during that payment period and is decreased by the payment made at the end of that payment period. If the payment is less than the finance charge earned, the adjustment of the unpaid balance of the amount financed is postponed until the end of the next payment period. If at that time the sum of the two payments is still less than the total earned finance charge for the two payment periods, the adjustment of the unpaid balance of the amount financed is postponed still another payment period, and so forth.

(b) *Instructions and equations for the actuarial method.* (1) *General rule.* The annual percentage rate shall be the nominal annual percentage rate determined by multiplying the unit-period rate by the number of unit-periods in a year.

(2) *Term of the transaction.* The term of the transaction begins on the date of its consummation, except that if the finance charge or any portion of it is earned beginning on some other date, the term begins on that other date. The term ends on the date the last payment is due, except that if an advance is scheduled after that date, the term ends on the later date. For computation purposes, the length of the term shall be equal to the time interval between any point in time on the beginning date to the same point in time on the ending date.

(3) *Definitions of time intervals.* (i) A period is the interval of time between advances or between payments and includes the interval of time between the date the finance charge begins to be earned and the date of the first advance thereafter or the date of the first payment thereafter, as applicable.

(ii) A common period is any period that occurs more than once in a transaction.

(iii) A standard interval of time is a day, week, semimonth, month, or a multiple of a week or a month up to, but not exceeding, 1 year.

(iv) All months shall be considered equal. Full months shall be measured from any point in time on a given date of a given month to the same point in time on the same date of another month. If a series of payments (or advances) is scheduled for the last day of each month, months shall be measured from the last day of the given month to the last day of another month. If payments (or advances) are scheduled for the 29th or 30th of each month, the last day of February shall be used when applicable.

(4) *Unit-period.* (i) In all transactions other than a single advance, single payment transaction, the unit-period shall be that common period, not to exceed 1 year, that occurs most frequently in the transaction, except that

(A) If 2 or more common periods occur with equal frequency, the smaller of such common periods shall be the unit-period; or

(B) If there is no common period in the transaction, the unit-period shall be that period which is the average of all periods rounded to the nearest whole standard interval of time. If the average is equally near 2 standard intervals of time, the lower shall be the unit-period.

(ii) In a single advance, single payment transaction, the unit-period shall be the term of the transaction, but shall not exceed 1 year.

(5) *Number of unit-periods between 2 given dates.* (i) The number of days between 2 dates shall be the number of 24-hour intervals between any point in time on the first date to the same point in time on the second date.

(ii) If the unit-period is a month, the number of full unit-periods between 2 dates shall be the number of months measured back from the later date. The remaining fraction of a unit-period shall be the number of days measured forward from the earlier date to the beginning of the first full unit-period, divided by 30. If the unit-period is a month, there are 12 unit-periods per year.

(iii) If the unit-period is a semimonth or a multiple of a month not exceeding 11 months, the number of days between 2 dates shall be 30-time the number of full months measured back from the later date, plus the number of remaining days. The number of full unit-periods and the remaining fraction of a unit-period shall be determined by dividing such number of days by 15 in the case of a semimonthly unit-period or by the appropriate mutliple of 30 in the case of a multimonthly unit-period. If the unit-period is a semimonth, the number of unit-periods per year shall be 24. If the number of unit-periods is a multiple of a month, the number of unit-periods per year shall be 12 divided by the number of months per unit-period.

(iv) If the unit-period is a day, a week, or a multiple of a week, the number of full unit-periods and the remaining fraction of a unit-period shall be determined by dividing the number of days between the 2 given dates by the number of days per unit-period. If the unit-period is a day, the number of unit-periods per year shall be 365. If the unit-period is a week or a multiple of a week, the number of unit-periods per year shall be 52 divided by the number of weeks per unit-period.

(v) If the unit-period is a year, the number of full unit-periods between 2 dates shall be the number of full years (each equal to 12 months) measured back from the later date. The remaining fraction of a unit-period shall be

(A) The remaining number of months divided by 12 if the remaining interval is equal to a whole number of months, or

(B) The remaining number of days divided by 365 if the remaining interval is *not* equal to a whole number of months.

(vi) In a single advance, single payment transaction in which the term is less than a year and is equal to a whole number of months, the number of unit-periods in the term shall be 1, and the number of unit-periods per year shall be 12 divided by the number of months in the terms.

(vii) In a single advance, single payment transaction in which the term is less than a year and is *not* equal to a whole number of months, the number of unit-periods in the term shall be 1, and the number of unit-periods per year shall be 365 divided by the number of days in the term.

(6) *Percentage rate for a fraction of a unit-period.* The percentage rate of finance charge for a fraction (less than 1) of a unit-period shall be equal to such fraction multiplied by the percentage rate of finance charge per unit-period.

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(8) *General equation.* The following equation sets forth the relationship among the terms of a transaction:

$$\frac{A_1}{(1+i)^{\frac{1}{1}}} + \frac{A_2}{(1+i)^{\frac{q_2}{1}}} + \cdots + \frac{A_m}{(1+i)^{\frac{q_m}{1}}} = \frac{P_1}{(1+i)^{\frac{t_1}{1}}} + \frac{P_2}{(1+i)^{\frac{t_2}{1}}} + \cdots + \frac{P_n}{(1+i)^{\frac{t_n}{1}}}$$

(9) *Solution of general equation by iteration process.* (i) The general equation in paragraph (b)(8) of this section, when applied to a simple transaction in which a loan of $1000 is repaid by 36 monthly payments of $33.61 each, takes the special form:

$$A = \frac{33.61\ a_{\overline{36}|i}}{(1+i)}$$

Step 1: Let I_1 = estimated annual percentage rate = 12.50 %

Evaluate expression for A, letting $i = I_1/(100w)$ = .010416667

Result (referred to as A')= 1004.674391

Step 2: Let $I_2 = I_1 + .1$ = 12.60 %

Evaluate expression for A, letting $i = I_2/(100w)$ = .010500000

Result (referred to as A'') = 1003.235366

Step 3: Interpolate for I (annual percentage rate):

$$I = I_1 + .1\left[\frac{(A - A')}{(A''-A')}\right]$$

$$= 12.50 + .1\left[\frac{(1000.000000 - 1004.674391)}{(1003.235366 - 1004.674391)}\right] = 12.82483042\ \%$$

Step 4: First iteration, let I_1 = 12.82483042 % and repeat Steps 1, 2, and 3 obtaining a new I_1 = 12.82557859 %

Second iteration, let I_1 = 12.82557859 % and repeat Steps 1, 2, and 3 obtaining a new I = 12.82557529 %

In this case, no further iterations are required to obtain the annual percentage rate correct to two decimal places, 12.83%.

(7) *Symbols.* The symbols used to express the terms of a transaction in the equation set forth in paragraph (b)(8) of this section are defined as follows:

A_k = The amount of the kth advance.

q_k = The number of full unit-periods from the beginning of the term of the transaction to the kth advance.

e_k = The fraction of a unit-period in the time interval from the beginning of the term of the transaction to the kth advance.

m = The number of advances.

P_j = The amount of the jth payment.

t_j = The number of full unit-periods from the beginning of the term of the transaction to the jth payment.

f_j = The fraction of a unit-period in the time interval from the beginning of the term of the transaction to the jth payment.

n = The number of payments.

I = The percentage rate of finance charge per unit-period, expressed as a decimal equivalent.

Symbols used in this supplement are defined as follows:

$a_{\overline{x}|i}$ = The present value of 1 per unit-period for x unit-periods, first payment due immediately.

$$= 1 + \frac{1}{(1+i)} + \frac{1}{(1+i)^2} + \cdots + \frac{1}{(1+i)^{x-1}}$$

w = The number of unit-periods per year.

i = w/100 = The nominal annual percentage rate.

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(ii) When the iteration approach is used, it is expected that calculators or computers will be programmed to carry all available decimals throughout the calculation and that enough iterations will be performed to make virtually certain that the annual percentage rate obtained, when rounded to 2 decimals, is correct. Annual percentage rates in the examples below were obtained by using a 10 digit programmable calculator and the iteration procedure described above.

(c) Examples for the actuarial method. (1) Single advance transaction, with or without an odd first period, and otherwise regular. The general equation in paragraph (b)(8) of this section can be put in the following special form for this type of transaction:

$$A = \frac{1}{(1+fi)(1+i)^t}\left(P\,\ddot{a}_{\overline{n}|}\right)$$

Example (i): Monthly payments (regular first period)

Amount advanced (A) = $5000. Payment (P) = $230.
Number of payments (n) = 24.
Unit-period = 1 month. Unit-periods per year (w) = 12.
Advance, 1-10-78. First payment, 2-10-78.
From 1-10-78 through 2-10-78 = 1 unit-period. (t = 1; f = 0)
Annual percentage rate (I) = wi = .0969 = 9.69 %

Example (ii): Monthly payments (long first period)

Amount advanced (A) = $6000. Payment (P) = $200.
Number of payments (n) = 36.
Unit-period = 1 month. Unit-periods per year (w) = 12.
Advance, 2-10-78. First payment, 4-1-78.
From 3-1-78 through 4-1-78 = 1 unit-period. (t = 1)
From 2-10-78 through 3-1-78 = 19 days. (f = 19/30)
Annual percentage rate (I) = wi = .1182 = 11.82%

Example (iii): Semimonthly payments (short first period)

Amount advanced (A) = $5000. Payment (P) = $219.17.
Number of payments (n) = 24.
Unit-period = 1/2 month. Unit-periods per year (w) = 24.
Advance, 2-23-78. First payment, 3-1-78. Payments made on 1st and 16th of each month.
From 2-23-78 through 3-1-78 = 6 days. (t = 0; f = 6/15)
Annual percentage rate (I) = wi = .1034 = 10.34 %

Example (iv): Quarterly payments (long first period)

Amount advanced (A) = $10,000. Payment (P) = $385.
Number of payments (n) = 40.
Unit-period = 3 months. Unit-periods per year (w) = 4.
Advance, 5-23-78. First payment, 10-1-78.
From 7-1-78 through 10-1-78 = 1 unit-period. (t = 1)
From 6-1-78 through 7-1-78 = 1 month = 30 days. From 5-23-78 through 6-1-78 = 9 days. (f = 39/90)
Annual percentage rate (I) = wi = .0897 = 8.97 %

Example (v): Weekly payments (long first period)

Amount advanced (A) = $500. Payment (P) = $17.60.
Number of payments (n) = 30.
Unit-period = 1 week. Unit-periods per year (w) = 52.
Advance, 3-20-78. First payment, 4-21-78.
From 3-24-78 through 4-21-78 = 4 unit-periods. (t = 4)
From 3-20-78 through 3-24-78 = 4 days. (f = 4/7)
Annual percentage rate (I) = wi = .1496 = 14.96 %

(2) Single advance transaction, with an odd first payment, with or without an odd first period, and otherwise regular. The general equation in paragraph (b)(8) of this section can be put in the following special form for this type of transaction:

$$A = \frac{1}{(1+fi)(1+i)^t}\left[P_1 + \frac{P\,\ddot{a}_{\overline{n-1}|}}{(1+i)}\right]$$

Example (i): Monthly payments (regular first period and irregular first payment)

Amount advanced (A) = $5000. First payment $\left(P_1\right)$ = $250.
Regular payment (P) = $230. Number of payments (n) = 24.
Unit-period = 1 month. Unit-periods per year (w) = 12.
Advance, 1-10-78. First payment, 2-10-78.
From 1-10-78 through 2-10-78 = 1 unit-period. (t = 1; f = 0)
Annual percentage rate (I) = wi = .1008 = 10.08%

Example (ii): Payments every 4 weeks (long first period and irregular first payment)

Amount advanced (A) = $400. First payment $\left(P_1\right)$ = $39.50.
Regular payment (P) = $38.31. Number of payments (n) = 12.
Unit-period = 4 weeks. Unit-periods per year (w) = 52/4 = 13.
Advance, 3-18-78. First payment, 4-20-78.
From 3-23-78 through 4-20-78 = 1 unit-period. (t = 1)
From 3-18-78 through 3-23-78 = 5 days. (f = 5/28)
Annual percentage rate (I) = wi = .2850 = 28.50%

(3) Single advance transaction, with an odd final payment, with or without an odd first period, and otherwise regular. The general equation in paragraph (b)(8) of this section can be put in the following special form for this type of transaction:

$$A = \frac{1}{(1+fi)(1+i)^t}\left[P\,\ddot{a}_{\overline{n-1}|} + \frac{Pn}{(1+i)^{n-1}}\right]$$

Example (i): Monthly payments (regular first period and irregular final payment)

Amount advanced (A) = $5000. Regular payment (P) = $230.
Final payment $\left(P_n\right)$ = $280. Number of payments (n) = 24.
Unit-period = 1 month. Unit-periods per year (w) = 12.
Advance, 1-10-78. First payment, 2-10-78.
From 1-10-78 through 2-10-78 = 1 unit-period. (t = 1; f = 0)
Annual percentage rate (I) = wi = .1050 = 10.50%

Example (ii): Payments every 2 weeks (short first period and irregular final payment)

Amount advanced (A) = $200. Regular payment (P) = $9.50.
Final payment $\left(P_n\right)$ = $30. Number of payments (n) = 20.
Unit-period = 2 weeks. Unit-periods per year (w) = 52/2 = 26.
Advance, 4-3-78. First payment, 4-11-78.
From 4-3-78 through 4-11-78 = 8 days. (t = 0; f = 8/14)
Annual percentage rate (I) = wi = .1222 = 12.22%

(4) Single advance transaction, with an odd first payment, odd final payment, with or without an odd first period, and otherwise regular. The general equation in paragraph (b)(8) of this section can be put in the following special form for this type of transaction:

$$A = \frac{1}{(1+fi)(1+i)^t}\left[P_1 + \frac{P\,\ddot{a}_{\overline{n-2}|}}{(1+i)} + \frac{P_n}{(1+i)^{n-1}}\right]$$

Example (i): Monthly payments (regular first period, irregular first payment, and irregular final payment)

Amount advanced (A) = $5000. First payment $\left(P_1\right)$ = $250.
Regular payment (P) = $230. Final payment $\left(P_n\right)$ = $280.
Number of payments (n) = 24. Unit-period = 1 month.
Unit-periods per year (w) = 12.
Advance, 1-10-78. First payment, 2-10-78.
From 1-10-78 through 2-10-78 = 1 unit-period. (t = 1; f = 0)
Annual percentage rate (I) = wi = .1090 = 10.90%

Example (ii): Payments every two months (short first period, irregular first payment, and irregular final payment)

Amount advanced (A) = $8000. First payment $\left(P_1\right)$ = $449.36.
Regular payment (P) = $465. Final payment $\left(P_n\right)$ = $200.
Number of payments (n) = 20. Unit-period = 2 months.
Unit-periods per year (w) = 12/2 = 6.
Advance, 1-10-78. First payment, 3-1-78.
From 2-1-78 through 3-1-78 = 1 month. From 1-10-78 through 2-1-78 = 22 days. (t = 0; f = 52/60)
Annual percentage rate (I) = wi = .0730 = 7.30%

(5) Single advance, single payment transaction. The general equation in paragraph (b)(8) of this section can be put in the special forms below for single advance, single payment transactions. Forms 1 through 3 are for the direct determination of the annual percentage rate under special conditions. Form 4 requires the use of the iteration procedure of paragraph (b)(9) of this section and can be used for all single advance, single payment transactions regardless of term.

Form 1 - Term less than 1 year:

$$I = 100w\left(\frac{P}{A} - 1\right)$$

Form 2 - Term more than 1 year but less than 2 years:

$$I = \frac{50}{f}\left\{\left[(1+f)^2 + 4f\left(\frac{P}{A} - 1\right)\right]^{1/2} - (1+f)\right\}$$

Form 3 - Term equal to exactly a year or exact multiple of a year:

$$I = 100\left[\left(\frac{P}{A}\right)^{1/t} - 1\right]$$

Form 4 - Special form for iteration procedure (no restriction on term):

$$A = \frac{P}{(1+fi)(1+i)^t}$$

Example (i): Single advance, single payment (term of less than 1 year, measured in days)

Amount advanced (A) = $1000. Payment (P) = $1080.
Unit-period = 255 days. Unit-periods per year (w) = 365/255.
Advance, 1-3-78. Payment, 9-15-78.
From 1-3-78 through 9-15-78 = 255 days. (t = 1; f = 0)
Annual percentage rate (I) = wi = .1145 = 11.45%. (Use Form 1 or 4.)

Example (ii): Single advance, single payment (term of less than 1 year, measured in exact calendar months)

Amount advanced (A) = $1000. Payment (P) = $1044.
Unit-period = 6 months. Unit-periods per year (w) = 2.
Advance, 7-15-78. Payment, 1-15-79.
From 7-15-78 through 1-15-79 = 6 mos. (t = 1; f = 0)
Annual percentage rate (I) = wi = .0880 = 8.80%. (Use Form 1 or 4.)

Example (iii): Single advance, single payment (term of more than 1 year but less than 2 years, fraction measured in exact months)

Amount advanced (A) = $1000. Payment (P) = $1135.19.
Unit-period = 1 year. Unit-periods per year (w) = 1.
Advance, 7-17-78. Payment, 1-17-80.
From 1-17-79 through 1-17-80 = 1 unit-period. (t = 1)
From 7-17-78 through 1-17-79 = 6 mos. (f = 6/12)
Annual percentage rate (I) = wi = .0876 = 8.76%. (Use Form 2 or 4.)

Example (iv): Single advance, single payment (term of exactly 2 years)

Amount advanced (A) = $1000. Payment (P) = $1240.
Unit-period = 1 year. Unit-periods per year (w) = 1.
Advance, 1-3-78. Payment, 1-3-80.
From 1-3-78 through 1-3-79 = 1 unit-period. (t = 2; f = 0)
Annual percentage rate (I) = wi = .1136 = 11.36%. (Use Form 3 or 4.)

(6) Complex single advance transaction.

Example (i): Skipped payment loan (payments every 4 weeks)

A loan of $2135 is advanced on 1-25-78. It is to be repaid by 24 payments of $100 each. Payments are due every 4 weeks beginning 2-20-78. However, in those months in which 2 payments would be due, only the first of the 2 payments is made and the following payment is delayed by 2 weeks to place it in the next month.
Unit-period = 4 weeks. Unit-periods per year (w) = 52/4 = 13.
First series of payments begins 26 days after 1-25-78.
($t_1 = 0$; $f_1 = 26/28$)

Second series of payments begins 9 unit-periods plus 2 weeks after start of first series. ($t_2 = 10$; $f_2 = 12/28$)

Third series of payments begins 6 unit-periods plus 2 weeks after start of second series. ($t_3 = 16$; $f_3 = 26/28$)

Last series of payments begins 6 unit-periods plus 2 weeks after start of third series. ($t_4 = 23$; $f_4 = 12/28$)

The general equation in paragraph (b)(8) of this section can be written in the special form:

$$2135 = \frac{100\,\ddot{a}_{\overline{9}|}}{(1+(26/28)i)} + \frac{100\,\ddot{a}_{\overline{6}|}}{(1+(12/28)i)(1+i)^{10}} + \frac{100\,\ddot{a}_{\overline{6}|}}{(1+(26/28)i)(1+i)^{16}} + \frac{100\,\ddot{a}_{\overline{3}|}}{(1+(12/28)i)(1+i)^{23}}$$

Annual percentage rate (I) = wi = .1200 = 12.00%

Example (ii): Skipped payment loan plus single payments

A loan of $7350 on 3-3-78 is to be repaid by 3 monthly payments of $1000 each beginning 9-15-78, plus a single payment of $2000 on 3-15-79, plus 3 more monthly payments of $750 each beginning 9-15-79, plus a final payment of $1000 on 2-1-80.
Unit-period = 1 month. Unit-periods per year (w) = 12.
First series of payments begins 6 unit-periods plus 12 days after 3-3-78. ($t_1 = 6$; $f_1 = 12/30$)

Second series of payments (single payment) occurs 12 unit-periods plus 12 days after 3-3-78. ($t_2 = 12$; $f_2 = 12/30$)

Third series of payments begins 18 unit-periods plus 12 days after 3-3-78. ($t_3 = 18$; $f_3 = 12/30$)

Final payment occurs 22 unit-periods plus 29 days after 3-3-78. ($t_4 = 22$; $f_4 = 29/30$)

The general equation in paragraph (b)(8) of this section can be written in the special form:

$$7350 = \frac{1000\,\ddot{a}_{\overline{3}|}}{(1+(12/30)i)(1+i)^{6}} + \frac{2000}{(1+(12/30)i)(1+i)^{12}} + \frac{750\,\ddot{a}_{\overline{3}|}}{(1+(12/30)i)(1+i)^{18}} + \frac{1000}{(1+(29/30)i)(1+i)^{22}}$$

Annual percentage rate (I) = wi = .1022 = 10.22%

Example (iii): Mortgage with varying payments

A loan of $39,688.56 (net) on 4-10-78 is to be repaid by 360 monthly payments beginning 6-1-78. Payments are the same for 12 months at a time as follows:

Year	Monthly payment	Year	Monthly payment	Year	Monthly payment
1	$291.81	11	$385.76	21	$380.43
2	300.18	12	385.42	22	379.60
3	308.78	13	385.03	23	378.68
4	317.61	14	384.62	24	377.69
5	326.65	15	384.17	25	376.60
6	335.92	16	383.67	26	375.42
7	345.42	17	383.13	27	374.13
8	355.15	18	382.54	28	372.72
9	365.12	19	381.90	29	371.18
10	375.33	20	381.20	30	369.50

Unit-period = 1 month. Unit-periods per year (w) = 12.
From 5-1-78 through 6-1-78 = 1 unit-period. (t = 1)
From 4-10-78 through 5-1-78 = 21 days. (f = 21/30)

The general equation in paragraph (b)(8) of this section can be written in the special form:

$$39,688.56 = \frac{\ddot{a}_{\overline{12}|}}{(1+(21/30)i)(1+i)} \left[291.81 + \frac{300.18}{(1+i)^{12}} + \frac{308.78}{(1+i)^{24}} + \ldots + \frac{369.50}{(1+i)^{348}} \right]$$

Annual percentage rate (I) = wi = .0980 = 9.80%

(7) Multiple advance transactions.

Example (i): Construction loan

Three advances of $20,000 each are made on 4-10-79, 6-12-79, and 9-18-79. Repayment is by 240 monthly payments of $612.36 each beginning 12-10-79.
Unit-period = 1 month. Unit-periods per year (w) = 12.
From 4-10-79 through 6-12-79 = (2+2/30) unit-periods.
From 4-10-79 through 9-18-79 = (5+8/30) unit-periods.
From 4-10-79 through 12-10-79 = (8) unit-periods.

The general equation in paragraph (b)(8) of this section is changed to the single advance mode by treating the 2nd and 3rd advances as negative payments:

$$20,000 = \frac{612.36\,\ddot{a}_{\overline{240}|}}{(1+i)^{8}} - \frac{20,000}{(1+(2/30)i)(1+i)^{2}} - \frac{20,000}{(1+(8/30)i)(1+i)^{5}}$$

Annual percentage rate (I) = wi = .1025 = 10.25%

Example (ii): Student loan

A student loan consists of 8 advances: $1800 on 9-5-78, 9-5-79, 9-5-80, and 9-5-81; plus $1000 on 1-5-79, 1-5-80, 1-5-81, and 1-5-82. The borrower is to make 50 monthly payments of $240 each beginning 7-1-78 (prior to first advance).
Unit-period = 1 month. Unit-periods per year (w) = 12.
Zero point is date of first payment since it precedes first advance.
From 7-1-78 to 9-5-78 = (2 + 4/30) unit-periods.

" " " 9-5-79 = (14 + 4/30) "
" " " 9-5-80 = (26 + 4/30) "
" " " 9-5-81 = (38 + 4/30) "
" " " 1-5-79 = (6 + 4/30) "
" " " 1-5-80 = (18 + 4/30) "
" " " 1-5-81 = (30 + 4/30) "
" " " 1-5-82 = (42 + 4/30) "

Since the zero point is date of first payment, the general equation in paragraph (b)(8) of this section is written in the single advance form below by treating the first payment as a negative advance and the 8 advances as negative payments:

$$-240 = \frac{240\,\ddot{a}_{\overline{49}|}}{(1+i)} - \frac{1800}{(1+(4/30)i)} \left[\frac{1}{(1+i)^{2}} + \frac{1}{(1+i)^{14}} + \frac{1}{(1+i)^{26}} + \frac{1}{(1+i)^{38}} \right] - \frac{1000}{(1+(4/30)i)} \left[\frac{1}{(1+i)^{6}} + \frac{1}{(1+i)^{18}} + \frac{1}{(1+i)^{30}} + \frac{1}{(1+i)^{42}} \right]$$

Annual percentage rate (I) = wi = .3204 = 32.04%

(8) Transaction involving required deposit balance.

Example (i): Required constant deposit balance.

Creditor advances $1000 on 4-12-79 and requires borrower to maintain a deposit balance of $200 throughout the 12 month loan. The loan is to be repaid by 12 equal monthly payments of $90 each beginning 5-12-79. The deposit balance will be released on 4-12-80.
Unit-period = 1 month. Unit-periods per year (w) = 12.
From 4-12-79 through 5-12-79 = 1 unit-period.
From 4-12-79 through 4-12-80 = 12 unit-periods.

The general equation in paragraph (b)(8) of this section can be written as:

$$800 + \frac{200}{(1+i)^{\frac{12}{12}}} = \frac{90}{(1+i)^{\frac{1}{12}}} + \frac{90}{(1+i)^{\frac{2}{12}}} + \cdots + \frac{90}{(1+i)^{\frac{12}{12}}}$$

or for iteration solution as:

$$800 - \frac{200}{(1+i)^{\frac{12}{12}}} - \frac{90}{(1+i)^{\frac{1}{12}}} - \frac{90}{(1+i)^{\frac{2}{12}}} - \cdots - \frac{90}{(1+i)^{\frac{12}{12}}} = 0$$

Annual percentage rate (I) = vi = .2223 = 22.23%

Example (ii): Required periodic deposit into a restricted account

Creditor advances $1000 on 6-15-79. Borrower is required to make 12 monthly payments of $110 each beginning 7-15-79, of which $20 is to be deposited into an account. The account will be released to the borrower at time of final payment on 6-15-80.
Unit-period = 1 month. Unit-periods per year (w) = 12.
From 6-15-79 through 7-15-79 = 1 unit-period.

The general equation in paragraph (b)(8) of this section can be written as:

$$1000 + \frac{240}{(1+i)^{\frac{12}{12}}} = \frac{110}{(1+i)^{\frac{1}{12}}} + \frac{110}{(1+i)^{\frac{2}{12}}} + \cdots + \frac{110}{(1+i)^{\frac{12}{12}}}$$

or for iteration solution as:

$$1000 - \frac{110}{(1+i)^{\frac{12}{12}}} - \frac{240}{(1+i)^{\frac{12}{12}}} - \frac{110}{(1+i)^{\frac{2}{12}}} - \cdots - \frac{110}{(1+i)^{\frac{12}{12}}} = 0$$

Annual percentage rate (I) = vi = .1779 = 17.79%

Board of Governors, January 15, 1980.

Theodore E. Allison,
Secretary of the Board.

[FR Doc. 80-1888 Filed 1-21-80; 8:45 am]
BILLING CODE 6210-01-C

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 14

Panel on Review of Oral Cavity Drug Products; Termination

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) announces the termination of the Panel on Review of Oral Cavity Drug Products and amends the regulations to delete it from the list of standing advisory committees. The Panel was terminated because it had completed its work.

EFFECTIVE DATE: January 22, 1980.

FOR FURTHER INFORMATION CONTACT: John T. McElroy, Bureau of Drugs (HFD-513), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1430.

SUPPLEMENTARY INFORMATION: The Panel's functions were to review the data and information submitted as part of the over-the-counter (OTC) drug review under § 330.10 (21 CFR 330.10) on OTC oral cavity drug products for human use. The Panel has submitted its conclusions and recommendations on the safety, effectiveness, and labeling of these products to the Commissioner of Food and Drugs. These conclusions and recommendations will be published in a future issue of the Federal Register.

Accordingly, the purpose of the Panel has been served, and the Panel is no longer needed. On December 31, 1979, the charter for the Panel expired.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a)), 52 Stat. 1055 (21 U.S.C. 371(a)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 14 is amended in § 14.100 *List of standing advisory committees* by deleting paragraph (c)(20)(i)(*k*) *Oral Cavity Panel* and marking it "reserved."

Effective date. Because this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective January 22, 1980.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: January 15, 1980.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-1912 Filed 1-21-80; 8:45 am]
BILLING CODE 4110-03-M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

36 CFR Part 805

National Environmental Policy Act Implementation Procedures

AGENCY: Advisory Council on Historic Preservation.

ACTION: Final rule.

SUMMARY: These procedures implement Council responsibilities under the National Environmental Policy Act and regulations of the Council on Environmental Quality. These NEPA procedures have been drafted in recognition of the secondary, advisory role played by the Council in the bulk of its activities regarding Federal actions that may significantly affect the human environment. Primary emphasis for Council compliance with NEPA requirements has therefore been placed upon those Council activities that do not involve other agencies with primary NEPA responsibilities.

EFFECTIVE DATE: January 22, 1980.

FOR FURTHER INFORMATION CONTACT: John M. Fowler, General Counsel, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005, 202-254-3967.

SUPPLEMENTARY INFORMATION: The Council was established by the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and consists of the Secretary of the Interior, the Secretary of Housing and Urban Development, the Secretary of Commerce, the Administrator of the General Services Administration, the Secretary of the Treasury, the Attorney General, the Secretary of Agriculture, the Secretary of Transportation, the Secretary of State, the Secretary of Defense, the Secretary of Health, Education, and Welfare, the Chairman of the Council on Environmental Quality, the Chairman of the Federal Council on the Arts and Humanities, the Architect of the Capitol, the Secretary of the Smithsonian Institution, the Chairman of the National Trust for Historic Preservation, the President of the National Conference of State Historic Preservation Officers, and twelve appointed by the President from outside the Federal Government. The Act generally charges the Council with advising the President and the Congress on historic preservation matters. More specifically it directs the Council to recommend measures to coordinate activities of Federal, State, and local agencies and private institutions and individuals relating to historic preservation and advise on the dissemination of information pertaining to such activities; encourage public interest and participation in historic preservation; recommend the conduct of studies in such areas as the adequacy of State and local historic preservation statutes and regulations and the effects of tax policies on historic preservation; advise as to guidelines for the assistance of State and local governments in drafting historic preservation legislation; and encourage training and education in the field of historic preservation.

Pursuant to section 106 of the Act, the Council comments upon Federal, federally assisted and federally licensed undertakings that affect properties in or eligible for the National Register of Historic Places. Under the Public Buildings Cooperative Use Act (Pub. L. 95-541), the Council makes recommendations on the use of historic buildings by the General Services Administration for Federal office space. The Council has similar advisory roles under several other statutes. In virtually all of these situations, the Council makes recommendations or provides advice to assist another Federal agency in reaching a final decision on an action or activity. In those cases, the Federal agency carrying out the action or activity undertakes the required compliance with the National Environmental Policy Act (NEPA). These NEPA procedures have been drafted in recognition of the secondary, advisory role played by the Council in the bulk of its activities regarding Federal actions that may significantly affect the human environment. Primary emphasis for Council compliance with NEPA requirements has therefore been placed upon those Council activities that do not involve other agencies with primary NEPA responsibilities.

These procedures were published for comment in the Federal Register of July 12, 1979 (44 FR 40653). No comments were received. On November 8, 1979, the Council membership voted unanimously to adopt the procedures as published. Accordingly, these procedures are now being published for effect.

36 CFR is amended by adding Part 805 to read as follows:

PART 805—PROCEDURES FOR IMPLEMENTATION OF NATIONAL ENVIRONMENTAL POLICY ACT

Sec.
805.1 Background.
805.2 Purpose.
805.3 Applicability.
805.4 Ensuring environmental documents are actually considered in Council decisionmaking.
805.5 Typical classes of action.
805.6 Interagency cooperation.
805.7 Environmental information.

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Authority: Pub. L. 89-665, 80 Stat. 915 (16 U.S.C. 470), as amended, 84 Stat. 204 (1970), 87 Stat. 139 (1973), 90 Stat. 1320 (1976), 92 Stat. 3467 (1978); E.O. 11593, 3 CFR 1971 Comp., p. 154; President's Memorandum on Environmental Quality and Water Resources Management, July 12, 1978.

§ 805.1 Background.

(a) The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) establishes national policies and goals for the protection of the environment. Section 102(2) of NEPA contains certain procedural requirements directed toward the attainment of such goals. In particular, all Federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decisionmaking and to prepare detailed environmental statements on recommendations or reports on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

(b) Executive Order 11991 of May 24, 1977, directed the Council on Environmental Quality (CEQ) to issue regulations to implement the procedural provisions of NEPA. Accordingly, CEQ issued final NEPA regulations (40 CFR Part 1500–1508) on November 29, 1978, which are binding on all Federal agencies as of July 30, 1979. These regulations provide that each Federal agency shall as necessary adopt implementing procedures to supplement the regulations. Section 1507.3(b) of the NEPA regulations identifies those sections of the regulations which must be addressed in agency procedures.

§ 805.2 Purpose.

The purpose of this Part is to establish Council procedures that supplement the NEPA regulations and provide for the implementation of those provisions identified in § 1507.3(b) of the regulations (40 CFR 1507.3(b)).

§ 805.3 Applicability.

(a) These procedures apply to actions of the full Council and the Council staff acting on behalf of the full Council.

(b) The following actions are covered by these procedures:

(1) Recommendations for legislation.

(2) Regulations implementing Section 106 of the National Historic Preservation Act (NHPA).

(3) Procedures implementing other authorities.

(4) Policy recommendations that do not require implementation by another Federal agency.

(c) In accordance with § 1508.4 of the NEPA regulations (40 CFR 1508.4), Council comments on Federal, federally assisted and federally licensed undertakings provided pursuant to Section 106 of the NHPA and 36 CFR Part 800 are categorically excluded from these procedures. This exclusion is justified because Federal agencies seeking the Council's comments under Section 106 have the responsibility for complying with NEPA on the action they propose. The Council's role is advisory and its comments are to be considered in the agency decisionmaking process. Coordination between the Section 106 and the NEPA processes is set forth in 36 CFR Section 800.9.

§ 805.4 Ensuring environmental documents are actually considered in Council decisionmaking.

(a) Section 1505.1 of the NEPA regulations (40 CFR 1505.1) contains requirements to ensure adequate consideration of environmental documents in agency decisionmaking. To implement these requirements the Council shall:

(1) Consider all relevant environmental documents in evaluating proposals for action;

(2) Ensure that all relevant environmental documents, comments, and responses accompany the proposal through internal Council review processes;

(3) Consider only those alternatives encompassed by the range of alternatives discussed in the relevant environmental documents when evaluating proposals for the Council action; and,

(4) Where an environmental impact statement (EIS) has been prepared consider the specific alternative analyzed in the EIS when evaluating the proposal which is the subject of the EIS.

(b) For each of the Council's principal activities covered by NEPA, the following chart identifies the point at which the NEPA process begins, the point at which it ends, and the key officials required to consider environmental documents in their decisionmaking.

Activity	Start of NEPA process	Completion of NEPA process	Key officials required to consider environmental documents
Recommendations for legislation	During staff formulation of proposal	Prior to submission to Congress or OMB	Executive Director and full Council, as appropriate.
Regulations and procedures	Prior to publication of draft regulations in FEDERAL REGISTER.	Prior to publication of final regulations in FEDERAL REGISTER.	Executive Director and full Council as appropriate.
Policy recommendations	During staff formulation of proposal	Prior to adoption by full Council or Executive Director	Executive Director and full Council, as appropriate.

§ 805.5 Typical classes of action.

(a) Section 1507.3(c)(2) (40 CFR 1507.3(c)(2)) in conjunction with Section 1508.4 requires agencies to establish three typical classes of action for similar treatment under NEPA: actions normally requiring EIS; actions normally requiring assessments but not necessarily EISs; and actions normally not requiring assessments or EISs. Each of the covered categories of Council actions generally falls within the second category, normally requiring an assessment but not necessarily an EIS.

(b) The Council shall independently determine whether an EIS or an environmental assessment is required where:

(1) A proposal for Council action is not covered by one of the typical classes of action above; or

(2) For actions which are covered, the presence of extraordinary circumstances indicates that some other level of environmental review may be appropriate.

§ 805.6 Interagency cooperation.

The Council shall consult with appropriate Federal and non-Federal agencies and with interested private persons and organizations when it is considering actions involving such parties and requiring environmental assessments. Where other Federal agencies are involved in the proposed action, the Council shall cooperate in the required environmental assessment and the preparation of necessary environmental documents. Where appropriate as determined by the nature and extent of Council involvement in the proposed action, the Council shall assume the status of lead agency.

§ 805.7 Environmental information.

Interested persons may contact the Executive Director for information regarding the Council's compliance with NEPA.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 80-1936 Filed 1-21-80; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

36 CFR Part 1202

National Register of Historic Places; Amendment of Effective Date of Rule

AGENCY: Heritage Conservation and Recreation Service, Department of the Interior.

ACTION: Amendment of Effective Date of Rule.

SUMMARY: An interim amendment to the procedures by which owners are notified of proposals to nominate properties to the National Register of Historic Places was published in the November 7, 1979, "Federal Register", effective as of that date. This amendment to the interim regulations changes the effective date in certain respects so as to provide a transition period for certain of the notice requirements.

EFFECTIVE DATE: November 7, 1979.

ADDRESS: Written comments should be addressed to the Acting Keeper of the National Register of Historic Places, Heritage Conservation and Recreation Service, Department of the Interior, Washington, D.C. 20243.

FOR FURTHER INFORMATION CONTACT: Ms. Carol D. Shull, Acting Keeper of the National Register, United States Department of the Interior, Heritage Conservation and Recreation Service, Washington, D.C. 20243 (202–343–6401).

SUPPLEMENTARY INFORMATION: By publication in the "Federal Register" on November 7, 1979, the owner notification requirements of the National Register nomination process, 36 CFR Part 1202, were amended effective immediately on an interim basis. In order for nominations in process as of November 7, 1979, to be permitted to proceed, this amendment provides for a transition period whereby States may continue to notify property owners under the previous regulations until the States' new notices are approved by the National Register. However, nominations processed under the previous regulations will not be accepted by the National Register after March 1, 1980. This amendment is developed under the authority of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 460 *et seq.* Because these interim amendments have to do with procedural aspects of the National Register program and have no impact upon the environment, an environmental impact statement is not necessary. The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The originator of these procedures is Carol Shull, Acting Keeper of the National Register of Historic Places (202–343–6401).

Dated: January 16, 1980.

Chris Therral Delaporte,

Director, Heritage Conservation and Recreation Service.

(National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470–470t, Pub. L. 89–665, 80 Stat. 1915–1919).

Accordingly, a new paragraph (g) is added to § 1202.12 (as published November 7, 1979), as follows:

§ 1202.12 Notification.

* * * * *

(g) States may continue to notify property owners under the regulations in effect prior to November 7, 1979, until the State has its notices approved by the National Register. However, all nominations processed under the previous regulations must be received in the National Register by March 1, 1980. The National Register will notify property owners in accord with the previous procedures for nominations received in the National Register by March 1, 1980, provided the State requests that the National Register process the nominations in accord with the previous procedures.

[FR Doc. 80-1924 Filed 1-21-80; 8:45 am]

BILLING CODE 4310-03-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1394-1]

Missouri; Approval of State-Issued Variances Submitted as Revisions to the Missouri State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Correction of final rulemaking.

SUMMARY: On December 13, 1979, at 44 FR 72116 a Final Rule was published approving variance orders for Pilot Knob Pellet Company and Associated Electric Company, Thomas Hill Station, Unit No. 2. The Final Compliance date shown for each source is in error. The Final Compliance Date for Pilot Knob Pelleting is shown to be December 31, 1979. The correct date is December 31, 1982. The Final Compliance Date for Associated Electric Company is shown to be December 31, 1982. The correct date is December 1, 1979. This notice is to correct those errors.

FOR FURTHER INFORMATION CONTACT: Mr. Henry F. Rompage, Enforcement Division, Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106, telephone 816/374–2576.

Signed at Washington, D.C., on January 16, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-2055 Filed 1-21-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 65

[FRL 1392-2]

Delayed Compliance Order for American Can Co.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to American Can Company. The Order requires the Company to bring air emissions from its three gravure printing press drying ovens at Cleveland, Ohio into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP).

American Can Company's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect January 22, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Bertram Frey, Attorney, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On November 20, 1979 the Regional Administrator of U.S. EPA's Region V Office published in the **Federal Register** (44 FR 66624) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for American Can Company. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to American Can Company by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1). The Order places American Can Company on a schedule to bring its three gravure printing press drying ovens at Cleveland, Ohio into compliance as expeditiously as practicable with Regulation AP-5-07(G)(1), a part of the federally approved Ohio State Implementation Plan. American Can Company is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit American Can Company to delay compliance with the SIP regulations covered by the Order until December 31, 1979.

Compliance with the Order by American Can Company will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that American Can Company is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of the notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the order shall be effective upon publication of this notice because of the need to immediately place American Can Company on a schedule for compliance with the Ohio State Implementation Plan.

(Sec. 42 U.S.C. 7413(d), 7601)

Dated: January 14, 1980.

Douglas M. Costle,
Administrator.

1. In consideration of the foregoing, Chapter 1 of Title 40 of Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in Section 65.400:

§ 65.400 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
* * *	* * *	* * *	* * *	* * *	* * *
American Can Company	Cleveland, Ohio	EPA-5-80-A-9	Nov. 20, 1979	AD-5-07(G)(1)	Dec. 31, 1979.
* * *	* * *	* * *	* * *	* * *	* * *

[FR Doc. 80-1939 Filed 1-21-80; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 180

[PP 8F2108/R220; FRL 1396-3]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Thiabendazole

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the fungicide thiabendazole on wheat grain at 0.2 part per million (ppm) and wheat straw at 1 ppm. This rule establishes maximum permissible levels for residues of thiabendazole on wheat grain and straw.

EFFECTIVE DATE: Effective on January 22, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Henry Jacoby, Product Manager (PM) 21, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460 (202/755-2562).

SUPPLEMENTARY INFORMATION: On September 25, 1978, notice was given (43 FR 43383) that Merck & Co., Inc., PO Box 2000, Rahway, NJ 07065, had filed a pesticide petition (PP 8F2108) with EPA.

This petition proposed that 40 CFR 180.242 be amended by increasing the established tolerances for residues of the fungicide thiabendazole [2-(4-thiazoly)benzimidazole] in or on the raw agricultural commodities wheat grain at 0.1 ppm and wheat straw at 0.2 ppm to 0.2 ppm and 1 ppm, respectively. No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant information have been evaluated. The toxicological data considered in support of the proposed tolerances do not include a second carcinogenicity study (mouse). However, the chronic feeding study in the rat was performed under a protocol considered adequate for carcinogenic potential evaluation. This study did not provide any evidence that thiabendazole would be considered a presumptive carcinogenic risk. Thus, the Agency considers that the 0.2 ppm tolerance on wheat grain and the 1 ppm tolerance on wheat straw are adequate to protect the public health. The requirement for mutagenic testing is not waived, and the mutagenicity studies will be requested when suitable test protocols have been determined. The requirement for carcinogenic potential evaluation in a second mammalian species (mouse) is not waived, and the petitioner will be required to submit results of such a study to the Agency within 12 months of final issuance of this regulation. Should oncogenic effects be found in the study when submitted, the petitioner has agreed not to contest revocation of the subject regulation (Merck letter of August 23, 1979).

The scientific data considered in support of the proposed tolerances were two-year rat and dog-feeding studies; rat and mouse reproduction studies; and subacute studies on rats, sheep, and other farm animals. Based on a rat study, the no-observed-effect level is 10 milligrams (mg)/kilogram (kg) of body weight (bw)/day. This results in an acceptable daily intake (ADI) of 0.1 mg/kg bw/day and a maximum permissible intake (MPI) of 6 mg/day. Existing and proposed tolerances result in a maximum theoretical exposure of 1 mg/day. Tolerances have previously been established for residues of thiabendazole in or on a variety of raw agricultural commodities, ranging from 10 ppm to 0.1 ppm, including wheat grain at 0.1 ppm and wheat straw at 0.2 ppm. An adequate analytical method (spectrophotofluorometry) is available for enforcement purposes.

The existing tolerances for residues in meat, milk, eggs, and poultry are adequate to cover any residues resulting from the proposed use as delineated in 40 CFR 180.6(a)(2).

The pesticide is considered useful for the purpose for which tolerances are sought, and it is concluded that the tolerances of 0.2 ppm on wheat grain and 1 ppm on wheat straw established by amending 40 CFR 180.242 will protect the public health. It is concluded, therefore, that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before February 6, 1980, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on January 22, 1980, Part 180 is amended as set forth below.

(Sec. 408(d)(2) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(d)(2)])

Dated: January 11, 1980.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, § 180.242 is amended in paragraph (a) by revising wheat grain at 0.1 ppm and wheat straw at 0.2 ppm in the table to read as follows:

§ 180.242 Thiabendazole; tolerances for residues.

(a) * * *

Commodity:	Parts per million
* * *	* * *
Wheat grain	0.2
Wheat straw	1

[FR Doc. 80-1938 Filed 1-21-80; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 5, 21, 22, 23, 25, 73, 76, 78, 81, 87, 90, 94, 95, 97, and 99

[Gen. Docket No. 78-365; FCC 79-831]

Amendment to Rules Relative to the Protection of FCC Monitoring Stations From Radio Interference

AGENCY: Federal Communications Commission.

ACTION: Correction to final rule.

SUMMARY: The FCC is correcting its Report and Order, FCC 79-831 (FR Doc. 79-39813) concerning protection of FCC monitoring stations from radio interference. This Report and Order was published in the **Federal Register** at 44 FR 77164, December 31, 1979 and is corrected as set forth below.

EFFECTIVE DATE: January 31, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
David L. Means, Field Operations Bureau, (202) 632-7593.

SUPPLEMENTARY INFORMATION:

Released: January 11, 1980.

The Report and Order, FCC 79-831, in the above entitled matter, released December 27, 1979, is corrected as follows:

Page 2 of the Appendix (FR page 77167, 1st. column), instruction 2: Reference to § 90.117(d) is corrected to read "90.177(d)".

Page 4 of the Appendix (FR page 77167, 3rd. column), instruction 3: Reference to § 97.41(d) is corrected to read "97.42(d)".

Federal Communications Commission.

William J. Tricarico,
Secretary.

[FR Doc. 80-1937 Filed 1-21-80; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1383-A]

Priority in Movement of Fuel and Other Essential Commodities

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1383-A.

SUMMARY: Service Order No. 1383 was issued by the ICC to provide for the priority movement by rail of essential commodities. This situation was prompted by a shortage of fuel available to the rail industry which affected the industries' ability to handle normal freight traffic. Service Order No. 1383-A vacates Service Order No. 1383 because the fuel shortage emergency no longer exists.

EFFECTIVE DATE: Since the emergency no longer exists, this order is vacated effective 11:59 p.m., January 15, 1980.

FOR FURTHER INFORMATION CONTACT:
J. Kenneth Carter, (202) 275-7840.

SUPPLEMENTARY INFORMATION:

Decided January 11, 1980.

Upon further consideration of Service Order No. 1383 (44 FR 38850), and good cause appearing therefor:

It is ordered, § 1033.1383 *Priority in movement of fuel and other essential commodities.* Service Order No. 1383 is vacated effective 11:59 p.m., January 15, 1980.

(49 U.S.C. (10304-10305 and 11121-11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,
Secretary.

Proposed Rules

Federal Register
Vol. 45, No. 15
Tuesday, January 22, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE
Agricultural Marketing Service

7 CFR Part 989

Raisins Produced From Grapes Grown in California; Proposed Increase in Payment Rates for Handler Services on Reserve Tonnage Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking invites written comments on increasing the Raisin Administrative Committee's rates of payment to handlers for receiving, storing, fumigating, and handling reserve tonnage raisins during and beyond the crop year of acquisition. The increased rates of payment are in line with the current costs of handlers in providing such services.

DATES: Comments must be received on or before February 11, 1980.

ADDRESSES: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for inspection during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: James S. Miller, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447–5053.

SUPPLEMENTARY INFORMATION: This proposed action recommended by the Committee would increase the rates of payment to handlers for: (1) Receiving, storing, fumigating, and handling reserve tonnage raisins during the crop year of acquisition from $24 to $29 per ton; and (2) holding reserve tonnage raisins beyond the crop year of acquisition from $1.20 to $1.45 per ton for each month of the three-month period ending November 30, and from 60 cents to 75 cents per ton for each month of the next nine months. The current rates have been effective since January 6, 1978, and since that time handler costs for all of these services have increased significantly.

To make the proposed rate increases, it is necessary to amend § 989.401(a)(1) and (b) of Subpart—Schedule of Payments (7 CFR 989.401). This action would be taken under § 989.66(f) of the marketing agreement and Order No. 989, both as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California (hereinafter referred to collectively as the "order"). The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Committee is the body established under the order to administer its terms and provisions under USDA supervision.

This proposal has been reviewed under USDA criteria for implementing Executive Order 12044. It is being published with less than a 60-day comment period so handlers can be compensated for the before mentioned services at the increased rates in a more timely fashion. A determination has been made that this action should not be classified "significant" under the Department's criteria for implementing the Executive Order. An Impact Analysis is available from James S. Miller, (202) 447–5053.

The proposal to amend § 989.401(a)(1) and (b) is as follows:

§ 989.401 Payments for services performed with respect to reserve tonnage raisins.

(a) *Payment for crop year of acquisition*—(1) *Receiving, storing, fumigating, and handling.* Each handler shall, beginning January 1, 1980, of the 1979–80 crop year, be compensated at the rate of $29 per ton (natural condition weight at the time of acquisition) for receiving, storing, fumigating, and handling the reserve tonnage raisins, as determined by the final reserve tonnage percentage, acquired during a particular crop year and held by him for the account of the Raisin Administrative Committee during all or any part of the same crop year.

* * * * *

(b) *Additional payment for reserve tonnage raisins held beyond the crop year of acquisition.* Additional payment for reserve tonnage raisins held beyond the crop year of acquisition shall be made in accordance with this paragraph. Each handler holding such raisins for the account of the Committee on August 15 and the following September 1 shall be compensated for storing, handling, and fumigating such raisins at the rate of $1.45 per ton per month, or any part thereof, for each month of the three-month period ending November 30, and 75 cents per ton per month, or any part thereof, for each month of the next nine months. Such services shall be completed so that the Committee is assured that the raisins are maintained in good condition.

* * * * *

Dated: January 16, 1980.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division.

[FR Doc. 80–2000 Filed 1–21–80; 8:45 am]
BILLING CODE 3410–02–M

Rural Electrification Administration

7 CFR Part 1701

Design Manual for High Voltage Transmission Lines; Proposed Revision of REA Bulletin

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to revise and rename REA Bulletin 62–1, Transmission Line Manual.The proposed new name is: Design Manual for High Voltage Transmission Lines. Changes in the 1977 Edition of the National Electrical Safety Code require revision of this bulletin. The revised bulletin brings REA requirements into conformance.

DATE: Public comments must be received by REA no later than March 24, 1980.

ADDRESS: Submit written comments to the Director, Power Supply and Engineering Standards Division, rural Electrification Administration, Room 3306, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Archie Cain, telephone (202) 447–4413.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act as amended (7 U.S.C. 901 et seq.), REA proposes to revise REA Bulletin 62–1, Transmission Line Manual.

Interested persons may obtain copies of this proposed action from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, address above.

GENERAL SUMMARY OF CHANGES: This action revises and updates REA Bulletin 62–1 by bringing it into conformance with 1977 Edition of the National Electrical Safety Code. The proposal has been reviewed under the USDA criteria established to implement Executive Order 12044 "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from the Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3307, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: January 16, 1980.

Joe S. Zoller,
Assistant Administrator, Electric.

[FR Doc. 80–1988 Filed 1–21–80; 8:45 am]
BILLING CODE 3410–15–M

Animal and Plant Health Inspection Service

9 CFR Part 113

Standard Requirement for Pasteurella Multocida Bacterin, Avian Isolate, Type 4; Extension of Time for Comments

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of extension of time for comments.

SUMMARY: This document extends the time period for submitting written comments, data, views, and other information with respect to the Department's proposed rule to add new standard requirements for purity, safety, potency, and efficacy to be met by all biological products containing Pasteurella Multocida Bacterin, Avian Isolate, Type 4. This extension of time is granted in order to provide additional time in which interested parties may prepare relevant data and information and to develop sound views and comments. The effect of this action would be to extend the comment period on the subject notice until March 16, 1980. The original closing date for comments was December 18, 1979.

DATE: Comments must be received on or before March 16, 1980.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to: Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828–A, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. R. J. Price, 301–436–8245.

SUPPLEMENTARY INFORMATION: On October 19, 1979, there was published in the **Federal Register** [44 FR 60306] a proposed rulemaking which would revise the regulations [9 CFR 113.101, 113.102, and 113.103] by adding new standard requirements for purity, safety, potency, and efficacy to be met by all biological products containing Pasteurella Multocida Bacterin, Avian Isolate, Type 4. The proposal provided for receipt of comments on or before December 18, 1979. The Department has received requests from licensed manufacturers of such products for additional time in which to conduct the new test procedure, to obtain relevant data and information, and to develop sound views and comments. Since the Department is interested in receiving meaningful views and comments, these circumstances were considered to be adequate justification for an extension of the time period orginally allotted for submitting views and comments. Therefore, the period for the submission of comments concerning the proposal is hereby extended until March 16, 1980.

Done at Washington, D.C., this 15th day of January 1980.

Pierre A. Chaloux,
Deputy Administrator, Veterinary Services.

[FR Doc. 80–1827 Filed 1–21–80; 8:45 am]
BILLING CODE 3410–34–M

DEPARTMENT OF ENERGY

10 CFR Part 435

[Docket No. CAS–RM–79–112]

Energy Performance Standards for New Buildings; Rescheduled Public Hearing

AGENCY: Department of Energy.

ACTION: Notice of extension of comment period and rescheduling of Public hearings.

SUMMARY: The Department of Energy, in response to significant public comment, is extending the comment period and rescheduling the public hearings on the Energy Performance Standards for New Buildings Notice of Proposed Rulemaking published in the **Federal Register** on November 28, 1979 (44 FR 68120). In that **Federal Register** notice, the deadline for submitting comments to the Department on the proposed rule and attendant Technical Support Documents, including the Draft Environmental Impact Statement, was given as February 26, 1980. This date is now changed to April 30, 1980.

Also, in the original **Federal Register** notice, the dates for the hearings were listed as: January 28–30, 1980, for Washington, D.C.; February 4–6, 1980, for Atlanta and Kansas City; and February 11–13, 1980, for Los Angeles and Boston, These dates are now changed to: March 24–26, 1980, for Washington, D.C.; April 14–16, 1980, for Atlanta, Georgia, and Kansas City, Missouri; and April 21–23, 1980, for Los Angeles, California, and Boston, Massachusetts.

It should be noted that the deadline for submitting requests to speak at the hearings has changed from January 16, 1980, to March 12, 1980, with speakers to be notified by March 19, 1980. Also the locations of the hearings in Washington, D.C., and Kansas City, Missouri, have changed due to the rescheduling. The table below gives the new schedule and all the locations for the hearings.

DATES: Written comments on the proposed rule and Technical Support Documents, including the Draft Environmental Impact Statement, must be received by the Department by close of business, April 30, 1980. Five public hearings will be held, on the dates given in the table.

ADDRESSES: The hearings will begin at 9:30 a.m., local time, at the locations given in the table. Written comments and requests to speak at the hearings, as well as questions regarding the conduct of the hearings, should be directed to Joanne Bakos at the address and telephone number given below.

FOR FURTHER INFORMATION CONTACT:

James L. Binkley, AIA (Buildings and Community Systems), U.S. Department of Energy, Office of Conservation and Solar Energy, Mail Station 2114C, 20 Massachusetts Avenue NW., Washington, DC 20585, (800) 424–9040 (Continental U.S.), (800) 424–9081 (Alaska, Hawaii, territories and possessions), (202) 252–2855 (Washington, DC).

Joanne Bakos (Hearing Procedures), U.S. Department of Energy, Office of Conservation and Solar Energy, Mail Station 2221C, 20 Massachusetts Avenue NW., Washington, DC 20585, (202) 376–1651.

Richard F. Kessler (Office of General Counsel), U.S. Department of Energy, Mail Station 2221C, 20 Massachusetts Avenue NW., Washington, DC 20585, (202) 376–4817.

The procedure for submitting comments and requests to speak at the hearings remain the same as originally published in § 7.0 of the preamble to the Notice of Proposed Rulemaking.

Finally, some addresses and telephone numbers have changed. The Department of Energy, Seattle,

Washington new telephone number is (208) 442–7285. The Freedom of Information Reading Room, Washington, DC has a new telephone number which is (202) 252–5985. And, the address and telephone number for one of the contacts, Richard Kessler, has changed.

The correct information is provided with this notice.

Issued in Washington, D.C., January 15, 1980.

T. E. Stelson,

Assistant Secretary, Conservation and Solar Energy.

City	Hearing date	Location	Requests to speak to be submitted by—	Speakers selected notified by—
Washington, D.C.	March 24, 25, and 26, 1980.	Georgetown University, Hall of Nations, 36th and Prospect St's, NW, Washington, D.C. 20008.	March 12, 1980	March 19, 1980.
Atlanta, Ga	April 14, 15, and 16, 1980.	Atlanta Civic Center, 395 Piedmont Ave., NE, Atlanta, GA 30308.	March 12, 1980	March 19, 1980.
Kansas City, Mo	April 14, 15, and 16, 1980.	Sheraton Downtown, 6th and Main St's, Kansas City, MO 64106.	March 12, 1980	March 19, 1980.
Los Angeles, Calif	April 21, 22, and 23, 1980.	Holiday Inn, Convention Center, 1020 South Figueroa St., Los Angeles, Calif. 90015.	March 12, 1980	March 19, 1980.
Boston, Mass	April 21, 22, and 23, 1980.	J. W. McCormack, Post Office and Courthouse Building, Post Office Square, Boston, MA 02102.	March 12, 1980	March 19, 1980.

[FR Doc. 80-2009 Filed 1-21-80; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 545 and 561

[No. 80-31]

Investment in Guaranteed Commercial Real Estate Loans

January 16, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed amendments.

SUMMARY: These proposed regulations would authorize Federal savings and loan associations to invest in commercial real estate loans guaranteed under certain programs administered by the Farmers Home Administration, the Small Business Administration, and the Economic Development Administration on terms acceptable to the guaranteeing agency. The Board believes the proposed amendments would permit increased participation by savings and loan associations in programs intended to benefit communities by increasing their commercial vitality.

DATE: Comments must be received by: February 21, 1980.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: John R. Hall, Attorney (202–377–6445), Federal Home Loan Bank Board, at the above address.

SUPPLEMENTARY INFORMATION: These amendments would add a new § 545.6–14 to the Rules and Regulations for the Federal Savings and Loan System (12 CFR Part 545) and revise § 545.6–2(c) of those regulations. New § 545.6–14 would authorize Federal associations to invest in loans on the security of other improved real estate (including real estate usable by a business or industrial enterprise or for commercial farming) on terms acceptable to the guaranteeing agency under loan guarantee programs administered by any of the following: (1) the Small Business Administration; (2) the Farmers Home Administration or (3) the Economic Development Administration. Section 545.6–2(c) would be amended to provide an exception to the general limitations on loans on improved real estate for loans made under proposed new § 545.6–14.

The proposed amendments would also amend Part 561 of the Rules and Regulations for Insurance of Accounts (12 CFR Part 561) by amending §§ 561.15(b) and 561.17(a) to include as scheduled items only the unguaranteed portion of slow loans which are guaranteed under programs of any of the specified agencies, and to exclude from specified assets the guaranteed portion of all loans guaranteed by such agencies.

The Board believes these changes will permit savings and loan associations to provide additional service to their communities and to compete on a more equal basis with other financial institutions for an additional source of income.

Because these proposed changes would relieve restriction, and the Board believes it is in the public interest to expedite consideration of a final amendment to implement the proposal, the Board has determined to limit the comment period to 30 days.

Accordingly, the Board hereby proposes to amend 12 CFR Parts 545 and 561 by adding a new § 545.6–14 and amending §§ 545.6–2(c), 561.15(b) and 561.17(a) to read as set forth below.

Rules and Regulations for the Federal Savings and Loan System

PART 545—OPERATIONS

1. Amend the last sentence of paragraph (c) of § 545.6–2 to read as follows:

§ 545.6–2 Monthly installment loans.

* * * * *

(c) *Other improved real estate, as defined in paragraphs (a) and (c) of § 541.17.* * * * Loans made under § 545.6–8, 545.6–10 and 545.6–14 may be made as provided therein.

2. Add new § 545.6–14 to read as follows:

§ 545.6–14 Loans guaranteed under commercial and industrial development programs.

Without regard to the limitations in § 545.6–2(c) of this Part, a Federal association may, subject to § 545.6–7 of this Part, invest in loans on the security of first liens on other improved real estate in its regular lending area, provided the loans are guaranteed by one of the following agencies under authority specified herein, and the loan terms are acceptable to the guaranteeing agency:

(a) Economic Development Administration (under the Public Works and Economic Development Act of 1965, as amended, or the successor to that Act; or the Trade Act of 1974, as amended)

(b) Farmers Home Administration (under the Consolidated Farm and Rural Development Act of 1974, as amended)

(c) Small Business Administration (under the Small Business Investment Act of 1958, as amended; or the Small Business Act of 1953, as amended)

Rules and Regulations for Insurance of Accounts

PART 561—DEFINITIONS

3. Revise paragraph (b) of § 561.15 to read as follows:

§ 561.15 Scheduled items.

The term "scheduled items" means:

* * * * *

(b) 20 percent of slow loans which are insured or guaranteed, or secured by a first lien on low rent housing; 20 percent of guaranteed obligations upon which one or more interest payments due have not been paid; and 100% of the unguaranteed portion of slow loans which are Farmers Home Administration Rural Housing Program loans under 7 CFR 1980.301 *et seq.* or loans guaranteed under any program qualified under § 545.6–14 of this Chapter.

* * * * *

§ 561.17 [Amended]

4. Amend paragraph (a) of § 561.17 by adding at the end thereof, before the period, the following: "or which are guaranteed under any program qualified under § 545.6–14 of this Chapter."

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1728, 1730). Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

James J. McCarthy,

Acting Secretary.

[FR Doc. 80-1975 Filed 1-21-80; 8:45 am]

BILLING CODE 6720-01-M

12 CFR Parts 561 and 563

[No. 80-30]

Restrictions on Preferential Loans

January 16, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Board proposes to amend its Conflict of Interest regulations by further limiting the authority of insured institutions to grant loans at preferential rates or upon special terms ("preferential loans"). The proposal would prohibit preferential loans to affiliated persons, limit preferential loans to employees, and require disclosure of such loans to nonaffiliated persons. In addition, institutions would be required to adopt written policies regarding the granting of loans to nonaffiliated persons. The Board believes that these rules will assist institutions in avoiding the appearance of a conflict of interest that could adversely affect their safety and soundness and, consequently, the insurance risk of the Federal Savings and Loan Insurance Corporation.

DATE: Comments must be received by March 24, 1980.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Nancy L. Feldman, Associate General Counsel (202–377–6440), Federal Home Loan Bank Board, at the above address.

SUPPLEMENTARY INFORMATION: Section 571.7 of the Board's Rules and Regulations for Insurance of Accounts (12 CFR 571.7), which sets forth the Board's Statement of Policy on conflicts of interest, states that the Board has a paramount interest in the prevention and elimination of conditions which adversely affect the interest of members of insured institutions, the soundness of such institutions, the provision of economical home financing for the nation, and the accomplishment of the other purposes of Title IV of the National Housing Act, as amended (§ 571.7 at paragraph (a)). Paragraph (b) of § 571.7 declares specifically that such adverse effects arise when there is a conflict between accomplishment of the purposes of Title IV and the personal financial interests of affiliated persons of insured institutions, and holds that such persons have a duty to avoid placing themselves in a position which could lead to a conflict or appearance of a conflict of interest. Section 571.7 further provides that:

* * * [T]he omission by the Board to specifically limit or prohibit other conflicts of interest should not be interpreted as tacit approval thereof. The Board or its Supervisory Agents will continue to examine those conflict-of-interest situations which are not specifically limited or prohibited under the regulations and will, when circumstances so warrant, take appropriate action to prevent, circumscribe or eliminate such situations. § 571.7(c)

In 1976, the Board, in furtherance of its statutory responsibilities under Title IV, promulgated a series of regulations comprising the main body of its Conflict of Interest regulations. Section 563.43 of the Board's Rules and Regulations for Insurance of Accounts (12 CFR 563.43) is one of those regulations, and restricts loan transactions that insured institutions or their subsidiaries may enter into with "affiliated persons," a term defined in § 561.29 (12 CFR 561.29) and generally referring to an institution's directors, officers and controlling persons and their families and businesses. Paragraph 563.43(b) limits the types of loans which may be made to such persons to loans on their personal residences, loans secured by savings accounts, and education and consumer loans, and in some cases places an additional restriction on the dollar amount of such loans. Paragraph (b) further requires that each such loan must be approved in advance by a majority of the institution's board of directors (with the beneficiary not voting) with full disclosure of loan terms, including whether the loan is made on substantially the same terms, including interest rate and collateral, as those prevailing at the time on comparable loans to nonaffiliated persons. Finally, the board must justify any terms which are more favorable.

Thus, at the present time the Board's regulations do not prohibit institutions from making preferential loans to affiliated persons if the institution's disinterested board members are fully informed of the loan terms and the board provides in its approving resolution a justification for favorable terms. However, a staff memorandum issued in 1969 provided that interest rates on such loans could not be lower than the institution's cost of deposits. In addition, there are no specific limitations on preferential loans to nonaffiliated persons. But this does not mean that preferential loans in compliance with § 563.43 are immune from consideration as possible conflicts of interest. As indicated in its Statement of Policy, the Board continuously examines situations that are not explicitly covered by the regulations, and has always reserved the right to take appropriate action to prevent or eliminate actions which may be detrimental to the purposes of Title IV.

While the Board is confident that the personnel of the very large majority of insured institutions are constantly aware of the fiduciary duty owed to their institutions and their members, the Board believes that everyone, including the public, will be better served by more specific guidance on the granting of preferential loans.

Further, the Board recognizes the intent of Congress, as expressed in Section 22(h)(2) of the Federal Reserve Act, as amended by Section 104, Title I of the Financial Institutions Regulatory and Interest Rate Control Act of 1978

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(Pub. L. 95-630), applicable to commercial banks, that affiliated persons (directors, senior officers and controlling persons of financial institutions) should not be eligible for preferential loans from their financial institutions. The Board is therefore proposing similarly to prohibit the granting of preferential loans to affiliated persons (directors, officers, and controlling persons) of insured institutions. The Board is also taking this opportunity to propose a clarifying amendment to 12 CFR 561.32, the definition of "officer". The amendment would codify interpretations of the present definition to make clear that the term relates to the policy-making function rather than the title a person may have.

The Board is further proposing to restrict the types of preferential loans made to employees of insured institutions and subsidiaries, establish a maximum preferential interest rate allowance for such loans, and limit the preferential treatment to the term of employment. Finally, the Board is proposing to require that preferential loans to certain nonaffiliated persons be disclosed to the Board and, upon request, to the public.

The Board is proposing these latter limitations and disclosure requirements, rather than prohibiting outright the granting of all preferential loan terms, because it can envision that certain preferences, such as those given as part of employment benefits, might be appropriate. Since loans are the institution's "product", the Board does not believe at this time that institutions should be precluded from offering "discounts" as do other businesses.

The Board proposing to limit preferential interest rates granted by insured institutions to employees who are not affiliated persons, to a formula which has current relevance, builds in flexibility for changes in the mortgage market, and reflects what the Board understands to be most institutions' current prudent practice. The proposal would limit the interest rate preference to one percent above the institution's current cost of money. The Board contemplates issuance of a standard method of computation for determining "current" cost of money, and specifically solicits comments on appropriate methods of computation.

It is the Board's understanding that a number of institutions justify favorable loan terms as part of an employment compensation package. Such benefits could amount to substantial sums over the course of a long-term loan, sometimes far exceeding appropriate compensation for services rendered during the course of a shorter employment period. Therefore, the Board proposes to codify a practice already engaged in by many institutions, which would limit the duration of such benefits to the period of the recipient's employment. The Board specifically requests comment as to whether there are persons who regularly perform services for institutions, but are not technically employees, and who presently receive preferential loans as part of their compensation.

In addition, the proposal would limit such lending to consumer-type loans, because the Board does not believe that this type of employment benefit is appropriately extended to investment or speculative activity.

The Board believes that public disclosure of preferential loans to nonaffiliated persons other than employees would be beneficial, to discourage abuses which may result in unsafe financial conditions and to allow members to review the lending policies of their institutions. Disclosure would be made to district Federal Home Loan Banks, and be publicly available.

Finally, the proposal would require institutions' boards of directors to adopt written policies regarding the granting of preferential loans to nonaffiliated persons.

The Board again emphasizes that compliance with the proposed regulations would not preclude scrutiny of specific loans or lending practices which may appear to involve conflict-of-interest problems. However, the Board believes that the existence of a regulation and uniform compliance with it will heighten industry awareness of the pitfalls of this area of activity, and will help to maintain the high degree of public confidence the savings and loan industry has always enjoyed.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Parts 561 and 563 of the Rules and Regulations for Insurance of Accounts by revising § 561.32, amending § 563.43(b), and adding a new § 563.43a, to read as set forth below.

SUBCHAPTER D—RULES AND REGULATIONS FOR INSURANCE OF ACCOUNTS

PART 561—DEFINITIONS

1. Revise § 561.32 to read as follows:

§ 561.32 Officer.

The term "officer" means a person who participates or has authority to participate (other than in the capacity of a director) in any organization's operating management, whether or not: (1) The officer has an official title, or (2) the officer is serving without salary or other compensation. The president, any vice president (unless such vice president does not actually participate in operating management), the secretary, the treasurer, the comptroller, or any other person performing similar functions, with respect to any organization, are considered officers. The term "officer" also includes the chairman of the board of directors if the chairman is authorized by the charter or by-laws of the organization to participate in its operating management or if the chairman in fact participates in such management.

PART 563—OPERATIONS

2. Amend the prefatory language in § 563.43(b)(1) to read as follows (all of subparagraph (b)(1) is reprinted for the reader's convenience):

§ 563.43 Restrictions on loans and other investments involving affiliated persons.

* * * * *

(b) *Restrictions concerning loan transactions with affiliated persons.* (1) No insured institution or subsidiary thereof may, either directly or indirectly, make a loan to any affiliated person of such institution or purchase such a loan, except for loans that (i) are made in the ordinary course of the business of such institution or subsidiary and do not involve more than normal risk of collectibility or present other unfavorable features, (ii) after [effective date of regulation] are made on substantially the same terms, including interest rate and collateral, as those prevailing at the time for comparable loans to members of the general public, and (iii) are the following types:

(A) A loan secured by a single-family dwelling owned and occupied by the borrower as his/her principal residence;

(B) Loans in the aggregate not exceeding $10,000 for constructing, adding to, improving, altering, repairing, equipping, or furnishing a single-family dwelling owned and occupied by the borrower as his principal residence;

(C) A loan secured by a mobile home owned and occupied by the borrower as his/her principal residence;

(D) Loans secured by savings accounts maintained by the affiliated person at the institution;

(E) Loans in the aggregate not exceeding $10,000 for payment of educational expenses; and

(F) Consumer loans in the aggregate not exceeding $10,000 (including any amounts borrowed under subdivision (B) of this subparagraph).

With respect to loans covered by the exceptions in subdivisions (1) (iii) (A), (B), (C), (E), and (F) of this paragraph, each loan must be approved in advance by a resolution duly adopted with full disclosure by at least a majority (with no director having an interest in the transaction voting) of the entire board of directors of such institution or subsidiary. Full disclosure must include the terms, including interest rate and collateral, of the loan.

* * * * *

3. Add a new § 563.43a, to read as follows:

§ 563.43a Preferential loans to nonaffiliated persons.

(a) After [effective date of regulation], no insured institution or subsidiary thereof may, either directly or indirectly, grant to any nonaffiliated person a loan or other extension of credit on terms, including interest rate and collateral, not substantially the same as those prevailing at the time for comparable transactions entered into by the institution with members of the general public ("preferential loans"), except as provided in this section.

(b) Preferential loans may be made to employees of the institution or subsidiary, provided that:

(1) They are types of loans listed in § 563.43(b)(iii) (A) through (F) of this Part,

(2) The interest rate charged is at least one percent above the institution's current cost of funds (including all savings instruments and borrowings), except that loans on the security of savings accounts shall comply with § 526.2(e) of this chapter, and

(3) The institution or subsidiary limits the period of time during which the preferential terms will be extended to the duration of the employment.

(c) Preferential loans granted after [the effective date of the regulation] to nonaffiliated persons other than employees, shall be reported on a quarterly basis to the Federal Home Loan Bank in the institution's district. Such reports shall also be made publicly available by the institution. Potential recipients of such loans shall be notified of the public disclosure requirement at the time the loan commitment is offered. The report shall contain the following information as to each such loan:

(1) The person's name, address, and occupation;

(2) The amount of indebtedness;

(3) The nature of the indebtedness and of the transaction in which it was incurred;

(4) The rate of interest paid or charged thereon, if such interest rate were lower than the prevailing rate at the time;

(5) Any other preferential terms granted; and

(6) The cumulative pricipal amount of any other preferential loans outstanding from the institution to the person made after [the effective date of the regulation], and the dates such loans were made.

(d) The institution's board of directors shall, by resolution duly adopted by a majority of the full board, establish the class or classes of persons eligible for preferential loans, if any, and the reasons for the institution's policy of offering such loans and creating each such class. The resolution(s) shall be kept readily available for Board review.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730). Sec. 5A, 47 Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425a, 1437). Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 172 F.R. 4891, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

James J. McCarthy,

Acting Secretary.

[FR Doc. 80-1976 Filed 1-21-80; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 419

Games of Chance in the Food Retailing and Gasoline Industries

AGENCY: Federal Trade Commission.

ACTION: Publication of presiding officer's report.

SUMMARY: On October 19, 1978, the Commission published in the **Federal Register** [43 FR 48654] Final Notice of the proposed trade regulation rulemaking proceeding. The Presiding Officer's Report, required by the Commission's rules of practice for rulemaking (16 CFR 1.13(f)) consists of his Summary and Conclusions relating to issues arising during the proceeding has been made public and placed on rulemaking record 215-19.

DATE: The 60-day period which the rules of practice for rulemaking (16 CFR 1.13(g)) provide for comment on both the Report by the Presiding Officer and a report of the staff (16 CFR 1.13(g)) will commence upon publication of this notice since the staff report has previously been made public and placed on the record.

ADDRESS: Copies of the Presiding Officer's Report may be obtained by written request to Federal Trade Commission/SSD, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Denis E. Hynes, Presiding Officer, Office of the General Counsel, Federal Trade Commission, Washington, D.C. 20580, 202-523-3421.

SUPPLEMENTARY INFORMATION: A limited number of copies of the Presiding Officer's Report have been printed for distribution and requests for the Report should be filed in writing to the Federal Trade Commission, SSD,Washington, D.C. 20580.

The Presiding Officer's Report has not been reviewed or adopted by either the Bureau of Consumer Protection or the Commisssion and its publication should not be interpreted as reflecting the present views of the Commission or any individual Commissioner.

Issued: January 11, 1980.

Denis E. Hynes,

Presiding Officer.

[FR Doc. 80-1982 Filed 1-21-80; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 454

Advertising and Labeling of Protein Supplements Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Publication of staff's summary of post record comments.

SUMMARY: To facilitate review of the comments received concerning the proposed Advertising and Labeling of Protein Supplements Trade Regulation Rule, the staff summary of these comments is being placed on the public record.

DATE: Effective December 28, 1979.

ADDRESS: Requests for copies of the staff summary should be sent to Public Reference Branch, Room 130, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Karen E. Chandler, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, CA 94102. (415) 556-1270.

SUPPLEMENTARY INFORMATION: On July 25, 1979, the notice of publication of the staff report on the proposed trade regulation rule regarding the advertising and labeling of protein supplements was published in the **Federal Register**, 44 FR 43489. The publication of this report commenced the final 60-day public comments period on both the staff report and the Presiding Officer's report provided for in § 1.13(h) of the Commission's Rules of Practice. Two extensions of the post record comment period were granted by the Commission (44 FR 54730, 44 FR 62911). Post record

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comments received on or before October 31, 1979 were accepted for the public record. To facilitate review of the comments received, the staff summary of these comments is being placed on the public record. Requests for copies of this summary should be sent to the Public Reference Branch, Room 130, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

The Commission cautions all concerned that the staff's summary of post record comments has not been reviewed or adopted by the Commission, and that its publication should not be interpreted as reflecting the present views of the Commission, or any individual member thereof.

Approved:

Albert H. Kramer,

Director, Bureau of Consumer Protection.

[FR Doc. 80-1933 Filed 1-21-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 201

[Docket No. R-80-762]

Congressional Waiver Request

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of congressional waiver request under section 7(o)(4) of the Department of Housing and Urban Development Act.

SUMMARY: Recently enacted legislation requires defarrals of the effective dates of HUD rules. The legislation, however, permits the Secretary to request waiver of the requirement in appropriate instances. This notice lists and briefly summarizes for public information a final rule with respect to which the Secretary is presently requesting waiver.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, SW., Washington, D.C. 20410; (202) 755-6207 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: Concurrently with issurance of this Notice, the Secretary is forwarding to the Chairman and Ranking Minority Members of both Congressional Banking Committees the final rule listed below. The purpose of the transmittal is to request waiver of the deferral of effective date for the final rule under section 7(o)(3) of the Department of HUD Act. A summary of the rulemaking document for which waiver has been requested is set forth below:

24 CFR Part 201, Subpart B, Mobile Home Loans

Final Rule—Changes in Permissible Loan Amounts for Mobile Home Loans

Sec. 313 of the Housing and Community Development Amendments of 1979 amended the National Housing Act to permit increased loan amounts under HUD's mobile home loan programs. This rule permits the following increases: (1) On a single-wide mobile home, the maximum loan amount is increased from $16,000 to $18,000 and the maximum maturity period remains the same; (2) On a double-wide mobile home, the maximum loan amount is increased from $24,000 to $27,000 and the maximum maturity period remains the same. This rule implements those statutory changes.

Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978).

Issued at Washington, D.C., January 16, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-1964 Filed 1-21-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[LR-264-76]

Withholding of Tax on Certain Payments of Gambling Winnings; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the withholding of tax on certain payments of gambling winnings.

DATES: The public hearing will be held on February 26, 1980, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by February 12, 1980.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-264-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 3402 of the Internal Revenue Code of 1954. The proposed regulations appeared in the Federal Register for Thursday, November 15, 1979, at page 65777 (44 FR 65777).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by February 12, 1980. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

Robert A. Bley,

Director, Legislation and Regulations Division.

[FR Doc. 80-1699 Filed 1-17-80; 9:25 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1396-4]

State and Federal Orders Revising the State Implementation Plan

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rulemaking: proposed disapproval of revisions to State implementation plan.

SUMMARY: U.S. Environmental Protection Agency (USEPA) proposes to disapprove certain variances and enforcement orders submitted by the Illinois Environmental Protection Agency (IEPA) as revisions to the State Implementation Plan (SIP). On April 3, 1979, the Illinois Environmental Protection Agency submitted the following orders or variances as revisions to the Illinois State Implementation Plan. PCB 76-124 *IEPA* v. *Granite City Steel Division of National Steel Corporation;* PCB 78-41 *IEPA* v. *Cargill, Inc.;* PCB 78-242 *IEPA and Citizens for Better Environment* v. *Interlake, Inc. (U.S.* v. *Interlake, Inc.,* No. 76c3599; No. S-CIV-76-0141 *U.S.* v. *City of Springfield (City of Springfield* v. *Illinois Pollution Control Board,* No. 13748); PCB 78-210 *PPG Industries, Inc.* v. *IEPA;* and PCB 77-145 *Central Illinois Public Service Company (Newton Station)* v. *IEPA.* None of these variances or orders which were submitted as SIP revisions contained a demonstration that approval of these variances and orders as SIP revisions would protect the National Ambient Air Quality Standards (NAAQS). Without such a demonstration USEPA is unable to determine if the Orders meet the requirements of the Clean Air Act, 42 U.S.C. 7410. USEPA is therefore proposing disapproval of these variances and orders as revisions to the Illinois State Implementation Plan. The purpose of this notice is to invite public comment on USEPA's proposed disapproval of the orders and variances as SIP revisions.

DATE: Written comments on this proposed disapproval of revisions to the Illinois SIP must be received on or before February 21, 1980.

ADDRESSES: Address comments to: Gary Gulezian, Acting Cheif, Regulatory Analysis Section, Air Programs Branch Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6053. The variances, enforcement orders and public comments received in response to this notice may be inspected and copied (for appropriate charges) at the above address during normal business hours or at: Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.

FOR FURTHER INFORMATION CONTACT: Gary Gulezian, Acting Chief, Regulatory Analysis Section, Air Programs Branch Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6053.

SUPPLEMENTARY INFORMATION: On April 3, 1979, Illinois Environmental Protection Agency submitted certain variances and enforcement orders containing compliance schedules which extended beyond June 30, 1979, to USEPA as revisions to the Illinois State Implementation Plan. Copies of these variances and court orders were contained in Volume 8 of the April 1, 1979 draft of the Illinois State Implementation Plan which ws subsequently submitted to USEPA. The enforcement orders and the variances are described briefly as follows:

No. and title	Effect of order, decree, or stipulation	Rules affected
PCB 76-124—IEPA v. Granite City Steel Division of National Steel Corp.	Granite City Steel given until Jan. 1, 1980 to complete compliance program for its coke ovens.	102, 202(b), 203(a)
PCB 78-41, IEPA v. Cargill, Inc.	Cargill given until Dec. 31, 1979 to complete its compliance program for odor control.	103(a), 103(b)
PCB 78-242—IEPA and Citizens for a Better Environment v. Interlake, Inc. (United States v. Interlake, Inc., No. 76c3599).	Compliance schedule set for Interlake running until August 1980.	202(b), 202(c)(3) 203(d)(5)(b)(iii)
No. S-CIV-76-0141—United States v. City of Springfield v. Illinois Pollution Control Board, No. 13748.	City given until Oct. 1, 1980 to complete its compliance program.	204(a)(1)
PCB 78-210—PPG Industries, Inc. v. IEPA	PPG given 5 years from startup of its float glass plant to comply with rule 203(a).	203(a)
PCB 77-145—Central Illinois Public Service Co. (Newton Station) v. IEPA.	CIPS granted an extension until Nov. 3, 1979 for completion of a compliance program for the emission of SO2 at its Newton Station.	204(a)(1)

The above enforcement orders and variances which were submitted as SIP revisions did not include a demonstration that approval of these orders or variances as SIP revisions would protect the National Ambient Air Quality Standards. Without such a demonstration USEPA is unable to make a determination as to whether or not these variances or enforcement orders meet the SIP revision requirements found in Section 110(a)(2) of the Clean Air Act. USEPA proposes, therefore, to disapprove the request of the Illinois Environmental Protection Agency to include these variances and enforcement orders as revisions to the Illinois State Implementation Plan.

Interested persons are invited to submit written comments on this proposed action.

(42 U.S.C. 7410(3)(A))

Dated: January 11, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-1887 Filed 1-21-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

[Docket No. 21263]

Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers Between the U.S. Mainland and Hawaii, Alaska, and Puerto Rico; Joint Board Meeting

AGENCY: Federal Communications Commission.

ACTION: Order scheduling meeting.

SUMMARY: The Federal-State Joint Board convened in this proceeding has scheduled an open meeting at which interested persons may make oral presentations on what changes, if any, should be made to the NARUC-FCC Separations Manual to make it applicable to Hawaii. The Joint Board also has scheduled an open staff meeting to clarify the technical record.

DATES: Joint Board Meeting February 7, 1980. Staff Meeting February 5, 1980. Notices of Intent to participate in each meeting to be filed no later than January 30, 1980.

ADDRESSES: Send Notices of Intent to participate to: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554. The meeting will be held in the Mauka Ballroom, Convention Center, Hyatt Regency Hotel, 2424 Kalakaua Avenue, Honolulu, Hawaii.

V45/15 JA22 80 UMI

V 45 / 15 JAN 22 80 UMI

FOR FURTHER INFORMATION CONTACT: Francis L. Young, Room 528, (202) 632-3771.

In the matter of integration of rates and services for the provision of communications by authorized common carriers between the United States Mainland and Hawaii, Alaska, and Puerto Rico/Virgin Islands.

Order

Adopted: January 11, 1980.
Released: January 14, 1980.

By the Chief, Common Carrier Bureau.

1. The Federal-State Joint Board convened in this proceeding received oral presentations on July 25, 1979, in Anchorage, Alaska, on the question of what changes, if any, should be made to the existing Separations Manual to make it applicable to Alaska. The Joint Board now believes that a similar opportunity for oral presentations on what changes, if any, should be made to the Separations Manual to make it applicable to Hawaii will facilitate the Joint Board's decision making process. In order to provide equal access to parties concerned with the Hawaii question, the Joint Board further believes that such presentations be made in the most directly affected jurisdiction. Therefore a Joint Board meeting will be held in Honolulu, Hawaii, at 9:30 AM on February 7, 1980 at which the parties and all interested persons will be afforded the opportunity to make oral presentations to the Joint Board on the matter before it. In addition, the Joint Board recognizes that immediate implementation of the existing Separations Manual or any changes thereto may result in adverse economic impact on the parties through its potential application to settlements. While the settlements question is not before the Joint Board, the Joint Board believes it should provide the opportunity to the parties to advocate appropriate transition proposals. The Joint Board believes that reviewing such transition proposals will enable it to prepare a recommended decision which could be adopted by the Commission in an expeditious manner. Therefore, the parties are invited to address what transition plan, if any, should be incorporated in the Joint Board's recommended decision.

2. The Joint Board staff has reviewed and analyzed the filings of the parties including the responses to the Board's data requests. The staff believes that the filings continue to present numerous technical questions requiring clarification or exemplification. The staff's concerns relate to both Alaska and Hawaii, and it desires to address technical concerns as to both jurisdictions in a single meeting. In addition, it is noted that the Alaska long-lines carrier has previously indicated its desire to meet with the staff to clarify any outstanding matters. Therefore, the Joint Board has instructed the staff to meet with the parties in an open meeting to discuss the data submitted in this proceeding. To facilitate the conduct of this meeting, a written notification of the parties' intention to participate at this meeting should be filed no later than January 30, 1980.

3. Accordingly, it is ordered:

(a) That oral presentations on the matters set forth in paragraph 1 pertinent to Hawaii shall be made before the Joint Board on February 7, 1980, at 9:30 AM in the Mauka Ballroom, Convention Center, Hyatt Regency Hotel, 2424 Kalakaua Avenue, Honolulu, Hawai.

(b) That, subject to the filing of written notice to appear and participate no later than January 30, 1980, the parties are authorized to make oral presentations as follows: Bell System Companies, 45 minutes; Hawaiian Telephone Company, 45 minutes; and State of Hawaii, 45 minutes.

(c) The above parties may reserve part of their time for rebuttal.

(d) All other interested parties who wish to appear shall be authorized ten minutes each upon filing of a written notice to appear and participate no later than January 30, 1980 with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

4. It is further ordered, That the staff shall hold the open meeting described in paragraph 2 at 9:00 AM on February 5, 1980, in the Conference Room, Department of Attorney General, State Capitol, Room 405, 415 S. Beretania Street, Honolulu, Hawaii.

5. It is further ordered, That parties intending to participate in the staff meeting shall file a written notice of their intent to participate in that meeting no later than January 30, 1980.

Federal Communications Commission.

Philip L. Verveer,

Chief, Common Carrier Bureau.

[FR Doc. 80-1962 Filed 1-21-80; 8:45 am]

BILLING CODE 6712-01-M

U.S. DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 230

Taking of Bowhead Whales by Indians, Aleuts, or Eskimos for Subsistence Purposes

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Proposed rulemaking.

SUMMARY: At its 31st Annual Meeting held in London on July 9–13, 1979, the International Whaling Commission (the "IWC") adopted an amendment to the Schedule of the International Convention for the Regulation of Whaling (the "Convention") which established a quota for the taking of the Bering Sea stock of bowhead whales for calendar year 1980 of 18 landed or 26 struck, whichever occurs first. Under the rules of procedure of the IWC, the Schedule of the Convention containing the 1980 quota became effective on October 24, 1979.

On April 3, 1979, the National Oceanic and Atmospheric Administration "NOAA" promulgated regulations under the Whaling Convention Act of 1949, 16 U.S.C. 916 et seq. (the "Act"), which allocated the then available 1979 quota among the nine Alaskan villages which engage in subsistence whaling (44 FR 5916, amended (October 17, 1979, 44 FR 59911). Those regulations expired December 31, 1979. These proposed rules are to implement the 1980 management program.

DATES: Comments may be submitted on or before March 4, 1980.

ADDRESS: Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Dr. William Aron, Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235, telephone: (202) 634-7461.

SUPPLEMENTARY INFORMATION: Prior to 1977, the IWC Schedule exempted the Native subsistence harvest of bowhead whales from its otherwise total prohibition on the hunting of bowheads. In 1977, the IWC removed that exemption and established a 1978 quota of 12 landed or 18 struck, subsequently modified to 14 landed or 20 struck, whichever occurred first. Annual quotas have been established in subsequent

years; 18 landed or 27 struck, for calendar year 1979, and 18 whales landed or 26 struck for calendar year 1980.

Regulations in effect during 1978 and 1979 allocated the available quotas to nine whaling villages. There is no substantive differences between the regulations established for 1979 and those proposed for 1980. One less strike is available for 1980, which based on historical records, will be subtracted from the allocation given to Nuigsut. NOAA considered adding a provision this year relating to proscriptions on the export or sale in interstate commerce of whale meat, but concluded that such a provision was unnecessary in light of the proscriptions contained in the Endangered Species Act, 16 U.S.C. 1531–1543.

In order to assure participation from those members of the public sector affected by the proposed regulations, NOAA will issue a press release announcing the publication of the proposed regulations and will also send copies of the proposed regulations directly to the Alaska Eskimo Whaling Commission, the village councils of Savoonga, Gambell, Wales, Kivalina, Point Hope, Wainwright, Barrow, Kaktovik, and Nuigsut, and to U.S. conservation organizations.

Since final regulations must be published in time to allow field personnel an opportunity to implement the regulations before the beginning of the spring bowhead hunt, it is not possible to provide the 60 day comment period for significant regulations proposed by Executive Order 12044. Therefore, the Administrator of NOAA has approved reducing this comment period to 45 days.

Note.—The Department of Commerce has determined that no environmental impact statement needs to be prepared in connection with these regulations. The National Marine Fisheries Service has determined that this document does not contain a major proposal requiring preparation of a regulatory analysis under Executive Order 12044.

A Final Environmental Impact Statement (FEIS), October 1977, a Final Supplement to the FEIS, March 1979, prepared on the 1979 regulations, and an Environmental Assessment of the proposed 1980 regulations are available upon request.

1. 50 CFR Part 230 is proposed to be amended by revising § 230.10(b) to read as follows:

§ 230.10 Licenses and scientific permits.

* * * * *

(b) No permit or license shall be issued except as provided in § 230.13 and §§ 230.70 through 230.77. Licenses issued under § 230.73 shall be governed solely by the requirements of §§ 230.70 through 230.77.

2. 50 CFR Part 230 is proposed to be amended by revising §§ 230.70–230.77 and the undesignated center heading to read as follows:

Subsistence

230.70 General.
230.71 Definitions.
230.72 Prohibited Acts.
230.73 Licenses and Certificates of Inclusion.
230.74 Quotas.
230.75 Salvage of Stinkers.
230.76 Reporting by Whaling Captains.
230.77 Penalties.

Authority: Whaling Convention Act (WCA 16 U.S.C. 916a–1).

Subsistence

§ 230.70 General.

The provisions of §§ 230.70 through 230.77, which govern subsistence whaling for bowhead whales, shall expire on December 31, 1980.

§ 230.71 Definitions.

(a) As used in §§ 230.70 through 230.77 of this Part 230:

(1) "Assistant Administrator" means the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration;

(2) "Bowhead" means a whale of the Bering Sea stock of bowhead whales, *Balaena mysticetus;*

(3) "Calf" means any bowhead which is less than 21 feet in length as measured from the point of the upper jaw and the notch between the tail flukes;

(4) "Landing" means bringing a bowhead or any parts thereof onto the ice or land in the course of whaling operations;

(5) "Whaling captain" or "captain" means any Indian, Aleut, or Eskimo domiciled in a whaling village who is in charge of a vessel and a whaling crew;

(6) "Stinker" means a dead unclaimed bowhead found upon a beach, stranded in shallow water, or floating at sea;

(7) "Strike" means hitting a bowhead with a harpoon, lance, or explosive dart;

(8) "Whaling" means the hunting, striking, harassing, killing, or landing of bowheads, but does not include the salvage or processing of any stinker;

(9) "Whaling crew" means those persons under the control of a captain, who collectively participate as a unit in whaling;

(10) "Whaling village" means any of the villages of Gambell, Savoonga, Wales, Kivalina, Point Hope, Wainwright, Barrow, Nuigsut, and Kaktovik in the State of Alaska; and

(11) "Wasteful manner" means a method of whaling which is not likely to result in the landing of a struck bowhead or which does not include all reasonable efforts to retrieve the bowhead.

§ 230.72 Prohibited acts.

(a) No person shall engage in whaling except a whaling captain licensed pursuant to § 230.73 or a member of a whaling crew under the control of a captain.

(b) No whaling captain shall engage in whaling for any calf or any bowhead whale accompanied by a calf.

(c) No whaling captain shall engage in whaling in a wasteful manner.

(d) No whaling captain shall engage in whaling without an adequate crew or without adequate supplies and equipment.

(e) No person may receive money for participation in native subsistence whaling.

(f) No whaling captain shall continue to whale after, (1) the quota set forth in § 230.74 for his village of domicile is reached, or (2) the license under which he is whaling is suspended as provided in § 230.73(b), or (3) the Assistant Administrator has declared that the whaling season is closed pursuant to § 230.74(c).

(g) No whaling captain shall claim domicile in more than one whaling village.

(h) No person may salvage a stinker without complying with the provisions of § 230.75.

(i) No whaling captain shall engage in whaling with a harpoon, lance, or explosive dart which does not bear a permanent distinctive mark identifying the captain as the owner thereof.

§ 230.73 Licenses.

(a) A license is hereby issued to whaling captains.

(b) The Assistant Administrator may suspend the license of any whaling captain who fails to comply with these regulations.

§ 230.74 Quotas.

(a) During the calendar year 1980, the quota for bowheads is allocated among whaling villages as follows:

(1) Savoonga—2 whales landed or 3 struck, whichever occurs first;

(2) Gambell—2 whales landed or 3 struck, whichever occurs first;

(3) Wales—1 whale landed or 1 struck, whichever occurs first;

(4) Kivaline—1 whale landed or 2 struck, whichever occurs first;

(5) Pt. Hope—2 whales landed or 3 struck, whichever occurs first;

(6) Wainwright—2 whales landed or 3 struck, whichever occurs first;

(7) Barrow—5 whales landed or 7 struck, whichever occurs first;

V 45 / 15 JA 22 80 UMI

(8) Kaktovik—2 whales landed or 3 struck, whichever occurs first;

(9) Nuigsut—1 whale landed or 1 struck, whichever occurs first;

(b) When the number of bowheads struck or landed by whaling captains domiciled in a whaling village equals the quota for such whaling village as set forth in paragraph (a) of this section, whaling by all captains domiciled in that whaling village shall cease. All license holders shall be notified promptly by the Assistant Administrator for Fisheries using all reasonable means of communication. Licenses held by whaling captains domiciled in a whaling village which has reached its quota shall not be valid after the quota for that whaling village has been reached.

(c) The Assistant Administrator for Fisheries shall monitor the bowhead whale hunt and keep tally of the number of bowheads landed and struck. When the number of bowhead whales landed or struck reaches the sum total of the village allocations set forth in § 230.74(a), the Assistant Administrator for Fisheries may declare that the whaling season is closed and there shall be no further whaling during the calendar year 1980. Closure shall become effective upon receipt by the Federal Register of notice by the Assistant Administrator for Fisheries that the season has been closed pursuant to this regulation.

(d) If for any reason the landing or struck quota for whaling villages is not reached, the part of the quota which remains may be reassigned by the Assistant Administrator to a second whaling village: *Provided,* That if any other whaling village has exceeded its quota, the Assistant Administrator shall not reassign the quota if he determines that it is likely to result in the total number of whales landed or struck exceeding the bowhead quota then in effect under the Schedule of the International Convention for the Regulation of Whaling. In making such reassignment, the Assistant Administrator shall consult with representatives of as many whaling villages as time reasonably permits.

§ 230.75 Salvage of stinkers.

(a) Any person salvaging a stinker shall submit to the Assistant Administrator or his representative an oral or written report describing the circumstances of the salvage within 12 hours of such salvage. He shall provide promptly to the Assistant Administrator or his representative each harpoon, lance, or explosive dart found in or attended to the stinker. The device shall be returned to the owner thereof promptly unless it is retained as evidence of a possible violation.

(b) There shall be a rebuttable presumption that a stinker has been struck by the captain whose mark appears on the harpoon, lance, or explosive dart found in or attached thereto, and, if no strike has been reported by such captain, such strike shall be deemed to have occurred at the time of recovery of the device.

§ 230.76 Reporting by whaling captains.

(a) A representative of the Assistant Administrator may request each whaling captain licensed pursuant to § 230.73 to provide written statement of his name and village of domicile and a description of the distinctive marking to be placed on each harpoon, lance and explosive dart. Representatives of the Assistant Administrator may provide each captain with a form approved by the Assistant Administrator to facilitate reporting under this paragraph.

(b) Each whaling captain shall provide to appropriate representatives, on request, an oral or written report of whaling activities including but not limited to the striking, attempted striking, or landing of a bowhead whale and where possible, specimens from landed whales. The Assistant Administrator is authorized to provide technological assistance to facilitate prompt reporting and collection of specimens from landed whales, including but not limited to ovaries, ear plugs, and baleen plates. The report shall include at least the following information:

(1) The number, dates, and locations of each strike, attempted strike, or landing;

(2) The length (as measured from the point of the upper jaw and the notch between the tail flukes), the extreme width of the flukes, and the sex of the bowhead(s) landed;

(3) The length and sex of a fetus, if present in a landed bowhead whale;

(4) An explanation of circumstances associated with the striking or attempted striking of any bowhead whale not landed; and (5) The number of bowhead whales sighted by the whaling captain or any member of the whaling crew.

§ 230.77 Penalties.

Any person who whales in contravention of these regulations, or violates any other provision of the Whaling Convention Act shall be subject to the penalties set forth in 16 U.S.C. 916e and 916f, and any other penalties provided by law.

Dated: January 8, 1980.

Terry L. Leitzell,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 80-1982 Filed 1-21-80; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 45, No. 15
Tuesday, January 22, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

[Docket No. 37009]

Trans World Airlines, Inc., Discount Fare Advertising Enforcement Proceeding; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on February 21, 1980, at 10:00 a.m. (local time) in Room 1003, Hearing Room C, Universal Building North, 1875 Connecticut Avenue NW., Washington, DC, before Administrative Law Judge William H. Dapper.

Dated at Washington, D.C., January 16, 1980.

William H. Dapper,

Administrative Law Judge.

[FR Doc. 80-1943 Filed 1-21-80; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

New York Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New York Advisory Committee (SAC) of the Commission will convene at 4:30 p.m. and will end at 7:00 p.m., on February 15, 1980, at the Phelps Stokes Fund, 10 East 86th Street, New York, New York.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Eastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is the New York State Advisory Committee Housing Proposal-Census subcommittee report.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 16, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-1978 Filed 1-21-80; 8:45 am]

BILLING CODE 6335-01-M

Rhode Island Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Rhode Island Advisory Committee (SAC) of the Commission will convene at 5:00 p.m. and will end at 7:00 p.m., on February 13, 1980, at Brown University, Third World Center, 155 Angell Street, Providence, Rhode Island.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is conference planning and review of developments rehiring of census enumerators.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 16, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-1977 Filed 1-21-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Scott Designs, Inc. 901 Watson Avenue, Madison, Wisconsin 53713, producer of sewn products (accepted January 3, 1980); (2) Seal Glove Manufacturing, Inc., 523 East North Street, Millersburg, Pennsylvania 17061, producer of gloves, aprons, bags and pads (accepted January 3, 1980); (3) Joseph Pickard's Sons Company, Keysone & Benner Streets, Philadelphia, Pennsylvania 19135, producer of spring steel (accepted January 3, 1980); (4) Andmore Sportswear Corporation, 21 Minisink Avenue, Port Jervis, New York 12771, producer of men's and women's swimwear; children's blouses, skirts and vests (accepted January 3, 1980); (5) Lime Products Corporation, P.O. Box 357, Union, Maine 04862, processors of crushed & ground limestone (accepted January 3, 1980); (6) Ay-Won Belt Manufacturing Cororation, 41 East 11th Street, New York, New York 10003, producer of men's and boys' belts (accepted January 4, 1980); (7) Davis Industries, Inc., Route 1, Box 2, Dermott, Arkansas 71638, producer of women's blouses, skirts, pants, dresses and jackets; men's shirts; and jogging suits (accepted January 7, 1980); (8) Injection Footwear Corporation, 8730 N. W. 36th Avenue, Miami, Florida 33147, producer of footwear for men, women, and children (accepted January 7, 1980); (9) Bank Village Sportswear, Inc., Professional Building, New Ipswich, New Hampshire 03071, producer of women's tops, skirts, jackets and pants (accepted January 7, 1980); (10) Felsco, Inc., 116 East 16th Street, New York, New York 10003, producer of accessories for women's body support garments (accepted January 9, 1980); (11) Woodcrafters Novelty Company, Inc., P.O. Box 97, Waynesville, North Carolina 28786, producer of decorative wood accessories (accepted January 9, 1980); (12) Roseville Garment Company, Inc., 900 Passaic Avenue, East Newark, New Jersey 07029, producer of women's slacks and skirts (accepted January 9, 1980; (13) Hel-Gard Knitting Mills, Inc., 750 Onderdonk Avenue, Ridgewood, New York 11227, producer of women's sweaters (accepted January 10, 1980); (14) ATR Coil Company, Inc., 210 West Allen Street, Bloomington, Indiana 47401, producer of electronic coils (accepted January 11, 1980); (15) Lynn Heel Company, Inc., 260 Broad Street, Lynn, Massachusetts 01901, producer of shoe heels (accepted January 11, 1980); (16) Artway, Ltd., 6401 West 65th Street, Bedford Park, Illinois 60638, producer of bathroom curtains (accepted January 14, 1980); (17) Brotherhood Corporation, North Street, Washingtonville, New York 10992, producer of wine (accepted January 14, 1980); (18) Davina Lingerie Corporation, 630 Broadway, New York, New York 10012, producer of women's sleepwear (accepted January 14, 1980); (19) Geo. Moser Leather Company, P.O.

Box 170, New Albany, Indiana 47150, producer of leather (accepted January 14, 1980); (20) International Optics, Inc., 100 Boxart Street, Rochester, New York 14612 producer of molds and lenses for eyeglasses (accepted January 14, 1980); (21) Janet Knitting Mills, Inc., 155 Van Wagenen Avenue, Jersey City, New Jersey 07306, producer of women's and children's sweaters (accepted January 14, 1980); (22) Lloyd Davis Shoe Company, Inc., 360 Route 16, Somersworth, New Hampshire 03878, producer of women's footwear (accepted January 14, 1980); (23) Max Rubin Industries, 113 West North Avenue, Baltimore, Maryland 21201, producer of men's suits and sportcoats (accepted January 14, 1980); (24) Rendezvous Industries, 704 North Wells Street, Chicago, Illinois 60610, producer of sheepskin coats (accepted January 14, 1980).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing may be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

Charles L. Smith,

Acting Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 80–1934 Filed 1–21–80; 8:45 am]

BILLING CODE 3510-24-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Anticipated Transients Without Scram; Change in Agenda

The agenda for the January 25, 1980 meeting of the ACRS Subcommittee on Anticipated Transients Without Scram (ATWS) has been amended to include one or more closed sessions, if necessary, for the purpose of exploring matters involving proprietary information.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463), that, should such sessions be required, it is necessary to close these sessions to protect proprietary information. See 5 U.S.C. 552b(c)(4).

Notice of this meeting was published December 28, 1979 (44 FR 76889) and all other items regarding this meeting remain the same as published at that time.

Dated: January 16, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80–1930 Filed 1–21–80; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 11–79]

Brownsville, Tex.; Application for a Foreign-Trade Zone Within the Brownsville Customs Port of Entry

As a result of a request made by counsel for McAllen Trade Zone, Inc., Grantee of Foreign-Trade Zone No. 12, McAllen, Texas, the deadline for the submission of comments on this proposal (44 FR 65116, 11–9–79) has been extended from January 7, 1980, to February 8, 1980.

Dated: January 17, 1980.

John J. Da Ponte, Jr.,

Executive Secretary, Foreign-Trade Zones Board

[FR Doc. 80–1980 Filed 1–21–80; 8:45 am]

BILLING CODE 3510-25-M

COUNCIL ON WAGE AND PRICE STABILITY

Notice of Statement of Policy Regarding Exceptions to the First-Year Price Standards

The Council on Wage and Price Stability is announcing a statement of policy regarding exceptions to the first-year price standards. The Council will only process new requests for exceptions to the first-year price standards if they are submitted in response to Notices of Probable Noncompliance or by companies that otherwise show good cause for the Council to entertain such requests. The bases for the Council's decision are as follows:

- Four months have elapsed since the end of the first program year.
- Companies should have been aware of any need for an exception at least by the end of the first year and certainly by the time for filing PM–1's for the first year (December 1, 1979).
- The Council wants to focus its efforts on making timely second-year exception decisions, particularly in light of the approach of the mid-year compliance check.
- The Council will continue to consider first-year exception requests from those companies showing good cause.

For information on this matter, contact: Walter Leibowitz or David Wagner (202) 456–7733.

Issued in Washington, D.C., January 15, 1980.

Robert R. Russell,

Director.

[FR Doc. 80–1882 Filed 1–17–80; 10:03 am]

BILLING CODE 3175-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Selection of a Basing Area or Areas for Proposed MX Strategic Weapons System; Intent To Prepare Environmental Impact Statement

This Notice supplements the notice published in the Federal Register, Vol. 44, No. 229, 45 FR 67702, Tuesday, November 27, 1979, with reference to the Department of the Air Force intent to prepare an environmental impact statement (EIS) for use in decision making regarding the selection of a basing area or areas for the proposed MX strategic weapon system.

The scoping process to determine the nature and extent of issues and concerns that will be addressed in the Draft EIS has begun. The scoping meeting schedule extends through the month of January 1980. The public response period for the scoping process has been extended accordingly. Comments should be forwarded to the addressee listed below by February 15, 1980. The Department of the Air Force will prepare a voluntary report on the results of the scoping effort and comments received. This report should be available by the end of February 1980.

For further information concerning the MX program and the environmental impact statement activities, contact the following: Larry Molnar, Colonel, USAF, Ballistic Missile Office, Civil Engineering Division, Norton Air Force Base, California 92409. Telephone (714) 382–6811 or 382–6891.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80–1891 Filed 1–21–80; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Benson-Montin-Greer Drilling Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: January 8, 1980.

COMMENTS BY: February 21, 1980.

ADDRESS: Send to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Alan L. Wehmeyer, Chief, Crude Products Management Branch, 324 East 11th Street, Kansas City, Missouri 64106. Phone (816) 374–5932.

SUPPLEMENTARY INFORMATION: On January 8, 1980, the Office of Enforcement of the ERA executed a Consent Order with Benson-Montin-Greer Drilling Corporation ("Benson-Montin-Greer") of Farmington, New Mexico. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Benson-Montin-Greer, with its home office located in Farmington, New Mexico, is a firm engaged in the production and sale of domestic crude oil, and is subject to the Mandatory Petroleum and Allocation Regulations at 10 CFR Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Benson-Montin-Greer the Office of Enforcement, ERA, and Benson-Montin-Greer entered into a Consent Order, the significant terms of which are as follows:

1. This Consent Order covers the production and sales of domestic crude oil by Benson-Montin-Greer during the period September 1, 1973 through December 31, 1978, from the Federal 17–32 lease and the LPMU PA lease, such sales being made to Northwest Pipeline Corporation.

2. The reason for the overcharges was Benson-Montin-Greer's erroneous characterization of each of said properties as a stripper well lease, as defined at 6 CFR 150.54(s) and at 10 CFR 210.32.

3. It is understood that Benson-Montin-Greer does not, by entering into the Consent Order, admit that it has violated any regulations of the DOE.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Benson-Montin-Greer agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $51,927.50, together with interest as specified in paragraphs 1 and 4 of this Consent Order. The refunds shall be made in twelve monthly installments, with the refund completed within thirteen months from the effective date of the Consent Order. Such refunds will be made to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, Central Enforcement District, 324 East 11th Street, Kansas City, Missouri 64106. You may obtain a free copy of this Consent Order by writing to the same address or by calling (816) 374–5932.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Benson-Montin-Greer Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on February 21, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures at 10 CFR 205.9(f).

Issued in Kansas City, Missouri on the 15th day of January, 1980.

William D. Miller,

Manager, Central Enforcement District, Economic Regulatory Administration.

[FR Doc. 80–1886 Filed 1–21–80; 8:45 am]

BILLING CODE 6450-01-M

Keystone Fuel Oil Co.; Proposed Remedial Order Correction

Pursuant to 10 CFR 205.192(c) the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice that the Notice published in the Federal Register on

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December 19, 1979 (FR Vol. 44 No. 245/75206) indicating that a Proposed Remedial Order was issued to Keystone Fuel Oil Company, 25 South Heald Street, Wilmington, Delaware 19801 was an incorrect publication due to a clerical error and that as of this date ERA has not issued a Proposed Remedial Order to Keystone.

Issued in Philadelphia, Pennsylvania on the 3rd Day of January 1980.

Herbert M. Heltzer,

District Manager, Office of Enforcement.

Concurrence:

Philip P. Kalodner,

Chief Enforcement Counsel.

[FR Doc. 80-1967 Filed 1-21-80; 8:45 am]

BILLING CODE 6450-01-M

Pester Refining Co.'s Application for Reassignment of Motor Gasoline Customers

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of application and request for comments.

SUMMARY: The Economic Regulatory Administration of the Department of Energy hereby gives notice that on December 31, 1979, Pester Refining Company (Pester), in accordance with the provisions of 10 CFR 211.14(d), filed an application for reassignment of four motor gasoline customers which are located in the States of Idaho and Utah. The total amount of motor gasoline to be reassigned is approximately four million gallons annually.

A copy of Pester's application with proprietary material deleted may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, at the Economic Regulatory Administration, Office of Petroleum Operations, Room 6222–C, 2000 M Street NW., Washington, D.C. 20461.

DATE: Interested persons may submit comments on Pester's application until close of business February 15, 1980.

ADDRESS: Send comments to: Economic Regulatory Administration, Office of Petroleum Operations, Room 6222, 2000 M Street NW., Washington, D.C. 20461, Attn: Alan T. Lockard.

FOR FURTHER INFORMATION CONTACT:

John A. Carlyle, Economic Regulatory Administration, Office of Petroleum Operations, Room 6222–C, 2000 M Street NW., Washington, D.C. 20461, Telephone: (202) 254–3330.

Joel M. Yudson, Office of the General Counsel, Room 6A–127, 1000 Independence Avenue SW., Washington, D.C. 20461, Telephone: (202) 252–6744.

Issued in Washington, D.C., on the 18th day of January 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-1886 Filed 1-21-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-Cert-121]

Wellsville Fire Brick Co.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Take notice that on December 28, 1979, Wellsville Fire Brick Company (Wellsville), P.O. Box 71, Wellsville, Missouri 63384, filed application for certification of an eligible use of natural gas to displace fuel oil at its refractory plant in Wellsville, Missouri pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979), all as more fully set forth in the application on file with the Economic Regulatory Administration (ERA) and open to public insection at the ERA, Docket Room 4128–A, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m.–4:30 p.m. Monday through Friday, except Federal holidays.

In its application, Wellsville states that the volume of natural gas for which it requests certification is 30,000 Mcf which is estimated to displace the use of approximately 6,000 barrels of No. 2 fuel oil (0.5 percent maximum sulfur), at its refractory plant.

The eligible seller is Michigan Consolidated Gas Company, 1 Woodward, Detroit, Michigan 48226. The gas will be transported by the Panhandle Eastern Pipeline Company and the Michigan-Wisconsin Pipeline Company.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Ecopomic Regulatory Administration, Room 4128–A, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Finn K. Neilsen, within ten (10) calendar days of the date of publication of this notice in the Federal Register. (February 1, 1980).

An opportunity to make an oral presentation of data, views, and arguments whether against or in support of this application may be requested by any interested person in writing with the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines an oral presentation is required, further notice will be given to Wellsville and any persons filing comments, and published in the Federal Register.

Issued in Washington, D.C., on January 17, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-2049 Filed 1-21-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. EF80-3031]

Southeastern Power Administration; Extension of Time for Comments

January 15, 1980.

With this notice the deadline for filing petitions to intervene or protests in the above-stated proceeding (44 FR 76580, December 27, 1979) has been extended from January 7, 1980 to January 30, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-1953 Filed 1-21-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. E-8855]

Boston Edison Co.; Filing

January 15, 1980.

The filing Company submits the following:

Take notice that on November 30, 1979 Boston Edison Company filed a Report in compliance with Commission Opinion Nos. 53 and 53–A.

The filing contains the overall cost of service, the allocated cost of service, the revised rates, and backup and related papers.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before February 5, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-1946 Filed 1-21-80; 8:45 am]

BILLING CODE 6450-01-M

[No. 138]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

January 15, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Arkansas Oil and Gas Commission

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–10562
2. 03–139–10726–0000
3. 102 000 000
4. Huggs Incorporated
5. Triangle Industries Inc #1—SN 2389
6. Cornie Creek Field
7. Union, AR
8. 71.2 million cubic feet
9. December 27, 1979
10. Arkansas Louisiana Gas Company

1. 80–10563
2. 03–139–10879–0000
3. 102 000 000
4. Huggs Incorporated
5. J W Jones #3—SN 24438
6. Cornie Creek Field
7. Union, AR
8. 73.0 million cubic feet
9. December 27, 1979
10. Arkansas Louisiana Gas Company

1. 80–10564
2. 03–139–10681–0000
3. 102 000 000
4. Huggs Incorporated
5. J W Jones #2—SN 24183
6. Cornie Creek Field
7. Union, AR
8. 63.9 million cubic feet
9. December 27, 1979
10. Arkansas Louisiana Gas Company

1. 80–10565
2. 03–071–10154–0000
3. 103 000 007
4. Samson Resources Company
5. Ozark Real Estate No 2
6. Scranton
7. Johnson AR
8. 950.0 million cubic feet
9. December 27, 1979
10. Arkansas Louisiana Gas Company

1. 80–10566
2. 03–071–10161–0000
3. 103 000 000
4. Samson Resources Company
5. Yeager No 2
6. Spadra
7. Johnson, AR
8. 136.0 million cubic feet
9. December 27, 1979
10. Arkansas Louisiana Gas Company

1. 80–10567
2. 03–115–10035–0000
3. 102 000 000
4. Ferguson Oil & Gas Company Inc
5. Magness No 1
6. Grove
7. Pope, AR
8. 80.0 million cubic feet
9. December 27, 1979
10. Arkansas Louisiana Gas Company

1. 80–10568
2. 03–115–10030–0000
3. 102 000 000
4. Ferguson Oil & Gas Company Inc
5. Bradfield #1
6. Grove
7. Pope, AR
8. 50.0 million cubic feet
9. December 27, 1979
10. Arkansas Louisiana Gas Company

Kentucky Department of Mines and Minerals, Oil and Gas Division

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–10570/ERC–4
2. 16–195–50019–0000
3. 108 000 000
4. J W Kinzer
5. Fannie J Runyon No 1
6. Pond Creek Field
7. Pike, KY
8. 5.2 million cubic feet
9. December 27, 1979
10. Columbia Gas Transmission Corp

1. 80–10736
2. 16–193–50311–0000
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Loudiv #157
6. Leatherwood
7. Perry, KY
8. 6.2 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans

1. 80–10737
2. 16–193–50312–0000
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Kentucky River Coal #156
6. Leatherwood
7. Perry, KY
8. 8.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans

1. 80–10738
2. 16–133–50313–0000
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Campbell #150
6. Leatherwood
7. Letcher, KY
8. 6.8 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans

1. 80–10739
2. 16–133–50314–0000
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Kentucky River Coal #110
6. Leatherwood
7. Letcher, KY
8. 4.2 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans

1. 80–10740
2. 16–133–50321–0000
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Kentucky River Coal #120
6. Leatherwood
7. Letcher, KY
8. 4.2 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans

1. 80–10741
2. 16–193–50322–0000
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Kentucky River Coal #118
6. Leatherwood
7. Perry, KY
8. 4.2 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans

1. 80–10742
2. 16–133–50324–0000
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Kentucky River Coal #115
6. Leatherwood
7. Letcher, KY
8. .0 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans

1. 80–10743
2. 16–133–50325–0000
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Kentucky River Coal #116
6. Leatherwood
7. Letcher, KY
8. 4.2 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans

1. 80–10744
2. 16–133–50326–0000
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Kentucky River Coal #111
6. Leatherwood
7. Letcher KY
8. 4.2 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans

1. 80–10745
2. 16–193–50327–0000
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Kentucky River Coal #146
6. Leatherwood
7. Perry KY

8. 2.1 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans

1. 80-10746
2. 16-193-50328-0000
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Kentucky River Coal #141
6. Leatherwood
7. Perry KY
8. 12.5 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans

1. 80-10747
2. 16-193-50329-0000
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Kentucky River Coal #140
6. Leatherwood
7. Perry KY
8. 10.8 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans

1. 80-10748
2. 16-133-50330-0000
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Witaker #135
6. Leatherwood
7. Letcher KY
8. 6.8 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans

1. 80-10749
2. 16-133-50331-0000
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Kentucky River Coal #131
6. Leatherwood
7. Letcher KY
8. 4.2 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans

1. 80-10750
2. 16-193-50332-0000
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Kentucky River Coal #127
6. Leatherwood
7. Perry KY
8. 4.2 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans

1. 80-10751
2. 16-133-50333-0000
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Kentucky River Coal #125
6. Leatherwood
7. Letcher KY
8. 4.2 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans

1. 80-10752
2. 16-195-50744-0000
3. 108 000 000
4. Controlled Resources Oil & Gas Corp
5. Ky #27517 Meter #16334
6. 3050 FNL—400 FWL—2-N-84
7. Pike KY
8. 4.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans Corp

1. 80-10753
2. 16-195-50745-0000
3. 108 000 000
4. Controlled Resources Oil & Gas Corp
5. Ky #29000 Meter #16334
6. 1300 FNL—1575 FWL—2-N-84
7. Pike KY
8. 4.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans Corp

1. 80-10754
2. 16-195-50746-0000
3. 108 000 000
4. Controlled Resources Oil & Gas Corp
5. Ky #29001 Meter #16334
6. 2250 FNL—1800 FWL—2-N-84
7. Pike KY
8. 4.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans Corp

1. 80-10755
2. 16-195-50747-0000
3. 108 000 000
4. Controlled Resources Oil & Gas Corp
5. Ky #29002 Meter #16334
6. 800 FNL—2300 FWL—2-N-84
7. Pike KY
8. 4.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans Corp

1. 80-10756
2. 16-159-50760-0000
3. 108 000 000
4. Controlled Resources Oil & Gas Corp
5. Ky #27002 Meter #16018
6. 1950 FNL—1060 FEL—7-0-84
7. Martin KY
8. 12.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans Corp

1. 80-10757
2. 16-159-50761-0000
3. 108 000 000
4. Controlled Resources Oil & Gas Corp
5. Ky #26640 Meter #13793
6. 2500 FNL—2100 FEL—20-0-84
7. Martin KY
8. 4.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans Corp

1. 80-10758
2. 16-159-50762-0000
3. 108 000 000
4. Controlled Resources Oil & Gas Corp.
5. Ky #26606 Meter #559
6. 1385 FSL—1075 FEL—11-0-84
7. Martin KY
8. 4.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans Corp

1. 80-10759
2. 16-159-50756-0000
3. 108 000 000
4. Controlled Resources Oil & Gas Corp
5. Ky #25833 Meter #551
6. 290 FNL—1778 FWL 20-0-84
7. Martin KY
8. 9.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans Corp

1. 80-10760
2. 16-159-50757-0000
3. 108 000 000
4. Controlled Resources Oil & Gas Corp
5. Ky #25692 Meter #552
6. 2000 FSL—1800 FEL 19-0-84
7. Martin KY
8. 9.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans Corp

1. 80-10761
2. 16-159-50758-0000
3. 108 000 000
4. Controlled Resources Oil & Gas Corp
5. Ky #24273 Meter #5977
6. 1375 FN—1900 FE—19-0-84
7. Martin KY
8. 9.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans Corp

1. 80-10762
2. 16-159-50759-0000
3. 108 000 000
4. Controlled Resources Oil & Gas Corp
5. Ky #27491 Meter #16018
6. 2690 FSL—1085 FWL—8-0-84
7. Martin KY
8. 12.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans Corp

1. 80-10763
2. 16-159-50752-0000
3. 108 000 000
4. Controlled Resources Oil & Gas Corp
5. Ky #25093 Meter #5977
6. 850 FN—805 FW—19-0-84
7. Martin KY
8. 9.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans Corp

1. 80-10764
2. 16-159-50753-0000
3. 108 000 000
4. Controlled Resources Oil & Gas Corp
5. Ky #25218 Meter #5977
6. 2700 FN—450 FE 19-0-84
7. Martin KY
8. 9.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans Corp

1. 80-10765
2. 16-159-50754-0000
3. 108 000 000
4. Controlled Resources Oil & Gas Corp
5. Ky #26286 Meter #6401
6. 800 FNL—920 FEL—20-0-84
7. Martin KY
8. 4.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans Corp

1. 80-10766
2. 16-159-50755-0000
3. 108 000 000
4. Controlled Resources Oil & Gas Corp
5. Ky #26312 Meter #6401
6. 2150 FNL—825 FEL 11-0-84
7. Martin KY
8. 4.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans Corp

1. 80-10767
2. 16-195-50748-0000
3. 108 000 000
4. Controlled Resources Oil & Gas Corp
5. Ky #29003 Meter #16334
6. 2850 FSL—1500 FWL—2-N-84
7. Pike KY
8. 4.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans Corp

1. 80-10768

2. 16-195-50749-0000
3. 108 000 000
4. Controlled Resources Oil & Gas Corp
5. Ky #29186 Meter #16334
6. 2100 FSL—850 FWL—2-N-84
7. Pike KY
8. 4.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans Corp

1. 80-10769
2. 16-195-50750-0000
3. 108 000 000
4. Controlled Resources Oil & Gas Corp
5. Ky #29405 Meter #16334
6. 2010 FNL—540 FWL—2-N-84
7. Pike KY
8. 4.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans Corp

1. 80-10770
2. 16-195-50751-0000
3. 108 000 000
4. Controlled Resources Oil & Gas Corp
5. Ky #26873 Meter #16321
6. 2400 FSL—420 FEL—1-N-84
7. Pike KY
8. 4.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans Corp

Louisiana Office of Conservation

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
3. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-10571/79-2173
2. 17-057-21462-0000
3. 102 000 000
4. Entex Inc
5. Entex Inc Devillier No 1
6. S W Lake Bofuf
7. Lafourche LA
8. 730.0 million cubic feet
9. December 27, 1979
10. Cotton Valley Farms Inc et al

1. 80-10572/79-2715
2. 17-113-20619-0000
3. 102 000 000
4. General Crude Oil Company
5. General Crude No 1 E E Broussard
6. Cameron Canal
7. Vermilion Parish LA
8. 1000.0 million cubic feet
9. December 27, 1979
10. Columbia Gas Trans Co

1. 80-10652/79-3022
2. 17-031-20763-0000
3. 102 000 000
4. May Petroleum Inc
5. Rod RA Sui Gamble A2-D (162637)
6. Bethany-Longstreet
7. Desoto LA
8. 725.0 million cubic feet
9. December 28, 1979
10. Arkansas Louisiana Gas Company

1. 80-10653/79-3023
2. 17-031-20763-0000
3. 103 000 000
4. May Petroleum Inc
5. Hoss Su 10 Gamble A 2 (158503)
6. Bethany-Longstreet
7. Desoto LA
8. 725.0 million cubic feet
9. December 28, 1979
10. Arkansas Louisiana Gas Company

1. 80-10654/79-3024
2. 17-031-20805-0000
3. 103 000 000
4. May Petroleum Inc
5. Hoss Ra Su 9 Shanley 1 (159446)
6. Bethany-Longstreet
7. Desoto LA
8. 700.0 million cubic feet
9. December 28, 1979
10. Arkansas Louisiana Gas Company

1. 80-10655/79-3021
2. 17-031-20764-0000
3. 102 000 000
4. May Petroleum Inc
5. Rod Ra Sun Wanamaker No 1 (158504)
6. Bethany-Longstreet
7. Desoto LA
8. 850.0 million cubic feet
9. December 28, 1979
10. Arkansas Louisiana Gas Company

1. 80-10656/79-3025
2. 17-119-20230-0000
3. 103 000 000
4. Marathon Oil Company
5. CVSU MOC Davis Well No 1
6. Cotton Valley
7. Webster LA
8. 550.0 million cubic feet
9. December 28, 1979
10. United Gas Pipe Line Company

1. 80-10657/79-3010
2. 17-033-20058-0000
3. 107 000 000
4. Amoco Production Company
5. 16400 Tusc Ra Sud Ga Pacific No 2
6. Port Hudson
7. East Baton Rouge LA
8. 1460.0 million cubic feet
9. December 28, 1979
10. Louisiana Intrastate Gas Corporation

1. 80-10658/79-3009
2. 17-045-20587-0000
3. 107 000 000
4. The Stone Oil Corporation
5. Weeks & Associates No 1
6. Weeks Island
7. Iberia LA
8. 1590.0 million cubic feet
9. December 28, 1979
10.

1. 80-10659/79-3006
2. 17-001-20707-0000
3. 103 000 000
4. Continental Oil Co
5. T Ortego A Su L L Welch A No 17
6. Tepetate
7. Acadia LA
8. 350.0 million cubic feet
9. December 28, 1979
10. Conoco Inc, Basil Canal Co

1. 80-10660/79-3007
2. 17-001-20712-0000
3. 103 000 000
4. Continental Oil Co
5. T Ortego A Su L L Welch A No 18
6. Tepetate
7. Acadia LA
8. 70.0 million cubic feet
9. December 28, 1979
10. Conoco Inc, Basil Canal Co

1. 80-10661/79-3005
2. 17-109-21685
3. 103 000 000
4. Union Oil Company of California
5. Laterre Co Inc Well No 4
6. Lake Pagie
7. Terrebonne Parish LA
8. 600.0 million cubic feet
9. December 28, 1979
10. Texas Gas Transmission Corporation

1. 80-10662/79-3031
2. 17-109-22074-0000
3. 102 000 000
4. The Dow Chemical Company
5. 11600 Ra Sua A St Martin No 1
6. Bayou Sauveur
7. Terrebonne Parish LA
8. 547.0 million cubic feet
9. December 28, 1979
10. The Dow Chemical Company

1. 80-10663/79-3030
2. 17-057-21563-0000
3. 102 000 000
4. Spooner Petroleum Company
5. Ludger Rodrigue Well No 1
6. South Kraemer
7. Lafourche Parish LA
8. 67.0 million cubic feet
9. December 28, 1979
10. Texas Gas Transmission Corporation

1. 80-10664/79-3004
2. 17-001-20767-0000
3. 102 000 000
4. Great Southern Oil & Gas Co Inc
5. Oscar Frey No 3
6. Eunice
7. Acadia Parish LA
8. 48.0 million cubic feet
9. December 28, 1979
10. Transcontinental Gas Pipe Line Corp

1. 80-10665/79-2944
2. 17-001-20708-0000
3. 103 000 000
4. Ada Oil Exploration Corp
5. Lovic C Desormeaux No 1
6. Southwest Mermentau
7. Acadia LA
8. 384.2 million cubic feet
9. December 28, 1979
10. Continental Oil Company

1. 80-10666/79-2868
2. 17-113-20785-0000
3. 107 000 000
4. The Superior Oil Company
5. 21000 Ra Sua Willis Hulin No 1
6. South Erath
7. Vermilion Parish LA
8. 515.0 million cubic feet
9. December 28, 1979
10.

1. 80-10667/79-1679
2. 17-113-20866-0000
3. 108 000 000

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4. Northcott Exploration Co Inc
5. Sch Bo Rd Sus E S Trahan No 1
6. Tigre Lagoon
7. Vermilion LA
8. 12.0 million cubic feet
9. December 28, 1979
10. Transcontinental Gas Pipe Line Corp
1. 80-10841/79-2770
2. 17-113-30101-0000
3. 102 000 000
4. Union Oil Company of California
5. Vermilion Parish Sch Bd A No 34
6. East White Lake
7. Vermilion Parish LA
8. 1000.0 million cubic feet
9. December 31, 1979
10.

Montana Board of Oil and Gas Conservation

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-10556/11-79-292
2. 25-105-21136-0000
3. 103 000 000
4. Falcon-Colorado Exploration Inc
5. No 1 Green
6. Swanson Creek
7. Valley MT
8. 14.7 million cubic feet
9. December 27, 1979
10. Montana-Dakota Utilities Co.
1. 80-10557/11-79-294
2. 25-005-21247-0000
3. 108 000 000
4. J Burns Brown
5. Wayne Wright 6-1
6. Unnamed
7. Blaine MT
8. 16.0 million cubic feet
9. December 27, 1979
10. Northern Natural Gas Company
1. 80-10558/11-79-291
2. 25-071-21663-0000
3. 103 000 000
4. Falcon-Colorado Exploration Inc
5. No 2-36 State
6. Swanson Creek
7. Phillips MT
8. 5.4 million cubic feet
9. December 27, 1979
10. Montana-Dakota Utilities Co
1. 80-10559/11-79-290
2. 25-071-21662-0000
3. 103 000 000
4. Falcon-Colorado Exploration Inc
5. No 1-36 State
6. Swanson Creek
7. Phillips MT
8. 9.6 million cubic feet
9. December 27, 1979
10. Montana-Dakota Utilities Co
1. 80-10560/11-79-299
2. 25-083-21290-0000
3. 102 000 000
4. Ladd Petroleum Corporation
5. Duncan-Anderson No 19-43
6. Sidney
7. Richland MT
8. 54.7 million cubic feet
9. December 27, 1979
10. Montana-Dakota Utilities Co
1. 80-10561/11-79-295
2. 25-041-21925-0000
3. 108 000 000
4. J Burns Brown
5. Sinnott 16-1
6. Unnamed
7. Hill MT
8. 7.3 million cubic feet
9. December 27, 1979
10. Northern Natural Gas Company
1. 80-10662/11-79-303
2. 25-041-22114-0000
3. 103 000 000
4. Tricentrol United States Inc
5. Golie 5-4-T30N-R15E
6. Tiger Ridge-Bullhook Unit
7. Hill MT
8. 55.0 million cubic feet
9. December 28, 1979
10. Northern Natural Gas Company
1. 80-10663/11-79-304
2. 25-041-22104-0000
3. 103 000 000
4. Tricentrol United States Inc
5. Boyce 27-7-T30N-R15E
6. Tiger Ridge-Bullhook Unit
7. Hill MT
8. 365.0 million cubic feet
9. December 28, 1979
10. Northern Natural Gas Company
1. 80-10664/11-79-302
2. 25-041-21145-0000
3. 108 000 000
4. Tricentrol United States Inc
5. Wodarz 2-7-T31N-R14E
6. Tiger Ridge-Bullhook Unit
7. Hill MT
8. 19.0 million cubic feet
9. December 28, 1979
10. Northern Natural Gas Company
1. 80-10665/11-79-298
2. 25-071-21678-0000
3. 103 000 000
4. Falcon-Colorado Exploration Inc
5. 1-35 Yeska
6. Swanson Creek
7. Phillips MT
8. 15.3 million cubic feet
9. December 28, 1979
10. Montana-Dakota Utilities Co
1. 80-10666/11-79-300
2. 25-071-21680-0000
3. 103 000 000
4. Falcon-Colorado Exploration Inc
5. 1-34 Smith
6. Swanson Creek
7. Phillips MT
8. 18.7 million cubic feet
9. December 28, 1979
10. Montana-Dakota Utilities Co
1. 80-10667/11-79-301
2. 25-071-21681-0000
3. 103 000 000
4. Falcon-Colorado Exploration Inc
5. 1-27 Bell
6. Swanson Creek
7. Phillips MT
8. 16.5 million cubic feet
9. December 28, 1979
10. Montana-Dakota Utilities Co
1. 80-10668/11-79/298
2. 25-071-21677-0000
3. 103 000 000
4. Falcon-Colorado Exploration Inc
5. 1-33 Hancock
6. Swanson Creek
7. Phillips MT
8. 20.6 million cubic feet
9. December 28, 1979
10. Montana-Dakota Utilities Co
1. 80-10669/11-79-293
2. 25-091-21251-0000
3. 102 000 000
4. Gulf Oil Corporation
5. Stringer 1-14-1B
6. Undesignated
7. Sheridan MT
8. 171.0 million cubic feet
9. December 28, 1979
10. True Oil Company
1. 80-10670/11-79-297
2. 25-071-21668-0000
3. 103 000 000
4. Falcon-Colorado Exploration Inc
5. 1-34 Yeska
6. Swanson Creek
7. Phillips MT
8. 19.0 million cubic feet
9. December 28, 1979
10. Montana-Dakota Utilities Co

New Mexico Department of Energy and Minerals Oil Conservation Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-10555
2. 30-015-00000-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Catclaw Draw State Com #1
6. Catclaw Draw (Morrow)
7. Eddy NM
8. 800.0 million cubic feet
9. December 27, 1979
10. El Paso Natural Gas Company

North Dakota Geological Survey

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-10573/179-NGPA
2. 33-007-00296-0000
3. 102 000 000
4. Tenneco Oil Company
5. Egly #1-20 Mission Canyon
6. Four Eyes
7. Billings ND
8. 150.0 million cubic feet
9. December 27, 1979
10. Western Gas Processors Ltd
1. 80-10574/180-NGPA

2. 33-007-00296-0000
3. 102 000 000
4. Tenneco Oil Company
5. Egly #1-20 (Lower Duperow)
6. Four Eyes
7. Billings ND
8. 213.0 million cubic feet
9. December 27, 1979
10. Western Gas Processors Ltd
1. 80-10575/188/NGPA
2. 33-007-00358-0000
3. 102 000 000
4. Gulf Oil Corporation
5. Andrew-Margie 1-23-2A
6. Little Knife
7. Billings ND
8. 6.0 million cubic feet
9. December 27, 1979
10. Montana-Dakota Utilities

Ohio Department of Natural Resources, Division of Oil and Gas

1. Control number (FERC/State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-10576/01508
2. 34-003-22260-0014
3. 108 000 000
4. The Clinton Oil Co
5. Glen Kendwell No 1
6.
7. Knox
8. 12.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10577/04602
2. 34-167-23529-0014
3. 108 000 000
4. Beardmore Producing Company
5. Heckler No 2
6.
7. Washington OH
8. 9.0 million cubic feet
9. December 28, 1979
10. River Gas Company
1. 80-10578/04603
2. 34-167-23222-0014
3. 108 000 000
4. Beardmore Producing Company
5. Heckler No 1
6.
7. Washington OH
8. 7.0 million cubic feet
9. December 28, 1979
10. River Gas Company
1. 80-10579/04604
2. 34-167-23064-0014
3. 108 000 000
4. Beardmore Producing Company
5. Bryner No 1
6.
7. Washington OH
8. 5.0 million cubic feet
9. December 28, 1979
10. River Gas Company
1. 80-10580/04605
2. 34-167-23078-0014
3. 108 000 000
4. Beardmore Producing Company
5. Stacy No 1
6.
7. Washington OH
8. 1.0 million cubic feet
9. December 28, 1979
10. River Gas Company
1. 80-10581/04606
2. 34-167-23294-0014
3. 108 000 000
4. Beardmore Producing Company
5. Kris-Mar Inc No 1
6.
7. Washington OH
8. 5.0 million cubic feet
9. December 28, 1979
10. River Gas Company
1. 80-10582/04607
2. 34-167-23358-0014
3. 108 000 000
4. Beardmore Producing Company
5. Kris-Mar Inc No. 2
6.
7. Washington OH
8. 7.0 million cubic feet
9. December 28, 1979
10. River Gas Company
1. 80-10583/06476
2. 34-115-21820-0014
3. 102 000 000
4. O'Neal Productions Inc
5. Dearth No 1
6.
7. Morgan OH
8. .0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10584/06828
2. 34-031-23193-0014
3. 102 000 000
4. Jerry Moore Inc
5. Ben V Beachy No 2
6. Keene
7. Coshocton OH
8. 6.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission
1. 80-10585/06863
2. 34-031-23223-0014
3. 102 000 000
4. Jerry Moore Inc
5. Ben V Beachy No 3
6. Keene
7. Coshocton OH
8. 5.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission
1. 80-10586/06905
2. 34-031-23183-0014
3. 102 000 000
4. Jerry Moore Inc
5. Levi J Miller No 1-11
6. Keene
7. Coshocton OH
8. 6.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission
1. 80-10587/06910
2. 34-031-23107-0014
3. 102 000 000
4. Jerry Moore Inc
5. Bruce Holderbaum Unit No 1
6. Keene
7. Coshocton OH
8. 5.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10588/07138
2. 34-115-21864-0014
3. 102 000 000
4. O'Neal Productions Inc
5. George Gifford #1
6.
7. Morgan OH
8. 90.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10589/07140
2. 34-115-21824-0014
3. 102 000 000
4. O'Neal Productions Inc
5. Snodgrass No 1
6.
7. Morgan OH
8. 75.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10590/07141
2. 34-115-21865-0014
3. 102 000 000
4. O'Neal Productions Inc
5. Roberts No 1
6.
7. Morgan OH
8. 30.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10591/07146
2. 34-007-20995-0014
3. 103 000 000
4. Dorset Drilling Co Inc
5. Calvert-Haines Unit No 2
6. Lenox
7. Ashtabula OH
8. 10.0 million cubic feet
9. December 28, 1979
10. Jones & Laughlin Steel Corp
1. 80-10592/07147
2. 34-007-20984-0014
3. 103 000 000
4. Dorset Drilling Co Inc
5. White No 1
6. Lenox
7. Ashtabula OH
8. 25.0 million cubic feet
9. December 28, 1979
10. Jones & Laughlin Steel Corp
1. 80-10593/07148
2. 34-007-21021-0014
3. 103 000 000
4. Dorset Drilling Co Inc
5. Ryska-Windecker No 7
6. Lenox
7. Ashtabula OH
8. 25.0 million cubic feet
9. December 28, 1979
10. Jones & Laughlin Steel Corp
1. 80-10594/07149
2. 34-007-21013-0014
3. 103 000 000
4. Dorset Drilling Co Inc
5. Ryska-Windecker No 6
6. Lenox
7. Ashtabula OH
8. 25.0 million cubic feet
9. December 28, 1979
10. Jones & Laughlin Steel Corp
1. 80-10595/07150
2. 34-007-21012-0014

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3. 103 000 000
4. Dorset Drilling Co Inc
5. Ryska-Windecker No 5
6. Lenox
7. Ashtabula OH
8. 25.0 million cubic feet
9. December 28, 1979
10. Jones & Laughlin Steel Corp
1. 80-10598/07151
2. 34-007-20989-0014
3. 103 000 000
4. Dorset Drilling Co Inc
5. Ryska-Windecker No 4
6. Lenox
7. Ashtabula OH
8. 5.0 million cubic feet
9. December 28, 1979
10. Jones & Laughlin Steel Corp
1. 80-10597/07152
2. 34-007-20990-0014
3. 103 000 000
4. Dorset Drilling Co Inc
5. Haines No 2
6. Lenox
7. Ashtabula OH
8. 12.0 million cubic feet
9. December 28, 1979
10. Jones & Laughlin Steel Corp
1. 80-10596/07168
2. 34-031-23458-0014
3. 102 000 000
4. Jerry Moore Inc
5. Huber A Brenly Unit No 3
6. Keene
7. Coshocton OH
8. 5.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission
1. 80-10599/07187
2. 34-115-21736-0014
3. 102 000 000
4. Future Energy Corporation
5. Donovan Lowe No 1
6.
7. Morgan OH
8. 36.5 million cubic feet
9. December 28, 1979
10.
1. 80-10600/07188
2. 34-115-21768-0014
3. 102 000 000
4. Future Energy Corporation
5. Donovan Lowe No 2
6.
7. Morgan OH
8. 73.0 million cubic feet
9. December 28, 1979
10.
1. 80-10601/07189
2. 34-115-21842-0014
3. 102 000 000
4. Future Energy Corporation
5. Putnam Bragg No 1
6.
7. Morgan OH
8. 128.0 million cubic feet
9. December 28, 1979
10.
1. 80-10602/07289
2. 34-007-20996-0014
3. 103 000 000
4. Doreset Drilling Co Inc
5. Calvert-Haines Unit No 1
6. Lenox
7. Ashtabula OH
8. 25.0 million cubic feet
9. December 28, 1979
10. Jones & Laughlin Steel Corp
1. 80-10603/07390
2. 34-115-00374-0014
3. 108 000 000
4. Cameron Brothers
5. Syphers No 2
6.
7. Morgan OH
8. .1 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans Corp
1. 80-10604/07391
2. 34-115-00458-0014
3. 108 000 000
4. Cameron Brothers
5. Boyd No 1
6.
7. Morgan OH
8. .5 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans Corp
1. 80-10605/07397
2. 34-115-00364-0014
3. 108 000 000
4. Cameron Brothers
5. Syphers #1
6.
7. Morgan OH
8. .1 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans Corp
1. 80-10606/07410
2. 34-133-22035-0014
3. 103 000 000
4. Buckeye Oil Producing Co
5. Layne #1
6.
7. Portage OH
8. 21.0 million cubic feet
9. December 28, 1979
10. East Ohio Gas Company
1. 80-10607/07572
2. 34-115-21620-0014
3. 102 000 000
4. O'Neal Productions Inc
5. F Knox #3
6.
7. Morgan OH
8. .0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10608/07573
2. 34-115-21619-0014
3. 102 000 000
4. O'Neal Productions Inc
5. F Knox #2
6.
7. Morgan OH
8. .0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10609/07574
2. 34-115-21579-0014
3. 102 000 000
4. O'Neal Productions Inc
5. F Knox #1
6.
7. Morgan OH
8. .0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10610/07576
2. 34-115-21766-0014
3. 102 000 000
4. O'Neal Productions Inc
5. Ferguson Et Al Huck
6.
7. Morgan OH
8. .0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10611/07577
2. 34-115-21630-0014
3. 102 000 000
4. O'Neal Productions Inc
5. C Huck #1
6.
7. Morgan OH
8. .0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10612/07580
2. 34-115-21577-0014
3. 102 000 000
4. O'Neal Productions Inc
5. Parmiter #1
6.
7. Morgan OH
8. .0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10613/07602
2. 34-053-20179-0014
3. 108 000 000
4. Robert D Carson & Mary V Carson
5. Carson #1
6.
7. Callia OH
8. 4.1 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10614/07891
2. 34-105-21819-0014
3. 103 000 000
4. Liberty Oil & Gas Corp
5. Elmer Kaylor #1
6.
7. Meigs OH
8. 15.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10615/07892
2. 34-105-21822-0014
3. 103 000 000
4. Liberty Oil & Gas Corp
5. Clyde Kuhn #1
6.
7. Meigs OH
8. 18.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10616/07893
2. 34-105-21820-0014
3. 103 000 000
4. Liberty Oil & Gas Corp
5. Robert Marcinko #1
6.
7. Meigs OH
8. 19.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10617/07894
2. 34-105-21823-0014
3. 103 000 000
4. Liberty Oil & Gas Corp
5. Duane Wolfe #1
6.

7. Meigs OH
8. 16.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10618/07902
2. 34-103-22165-0014
3. 103 000 000
4. Leslie Oil & Gas Co Inc
5. M Terbeek Well #1
6.
7. Medina OH
8. 4.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Co
1. 80-10619/07903
2. 34-103-22052-0014
3. 103 000 000
4. Leslie Oil & Gas Co Inc
5. R Smith Well #1
6.
7. Medina OH
8. 2.0 million cubic feet
9. December 28, 1979
10.
1. 80-10620/07929
2. 34-157-23318-0014
3. 103 000 000
4. K-B Oil Co
5. Loader #1A
6.
7. Tuscarawas OH
8. 30.0 million cubic feet
9. December 28, 1979
10.
1. 80-10621/07933
2. 34-119-24893-0014
3. 103 000 000
4. Williston Oil & Development Corp
5. Founds #7
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. December 28, 1979
10.
1. 80-10622/07942
2. 34-119-24406-0014
3. 103 000 000
4. Williston Oil & Development Corp
5. Gillogly #11
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. December 28, 1979
10.
1. 80-10623/07943
2. 34-119-04407-0014
3. 103 000 000
4. Williston Oil & Development Corp
5. Gillogly #10
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. December 28, 1979
10.
1. 80-10624/07947
2. 34-119-24884-0014
3. 103 000 000
4. Williston Oil & Development Corp
5. Founds #3
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. December 28, 1979
10.
1. 80-10625/07959
2. 34-167-24157-0014
3. 103 000 000
4. Lauderman Oil & Gas Drilling
5. Archie Miller #1
6. Flemming Field
7. Washington OH
8. 470.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission
1. 80-10626/07960
2. 34-167-24565-0014
3. 103 000 000
4. Lauderman Oil & Gas Drilling
5. Edwin Pryor Etal #1
6. Archers Fork
7. Washington OH
8. 375.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission
1. 80-10627/07962
2. 34-167-24806-0014
3. 103 000 000
4. Lauderman Oil & Gas Drilling
5. Norman Casto Etux #1
6. Wingett Run
7. Washington OH
8. 1.3 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission
1. 80-10628/07966
2. 34-167-24529-0014
3. 103 000 000
4. Lauderman Oil & Gas Drilling
5. Ward #1
6. Bloomfield
7. Washington OH
8. 1.3 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission
1. 80-10629/07968
2. 34-155-21228-0014
3. 102 000 000
4. Atlas Energy Group Inc
5. Wedgewood No 1-#0575
6.
7. Trumbull OH
8. .0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10630/07967
2. 34-155-21229-0014
3. 102 000 000
4. Atlas Energy Group Inc
5. Wedgewood No 2-#0576
6.
7. Trumbull OH
8. .0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10631/07969
2. 34-155-21227-0014
3. 102 000 000
4. Atlas Energy Group Inc
5. Michetti No 1-#0573
6.
7. Trumbull OH
8. 19.4 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10632/07970
2. 34-155-21285-0014
3. 102 000 000
4. Atlas Energy Group Inc
5. R Jones No 2-#0584
6.
7. Trumbull OH
8. .0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10633/07971
2. 34-155-21284-0014
3. 102 000 000
4. Atlas Energy Group Inc
5. R Jones No 1-#0568
6.
7. Trumbull OH
8. 17.3 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10634/07972
2. 34-155-21289-0014
3. 102 000 000
4. Atlas Energy Group Inc
5. Hofmann No 1-#0583
6.
7. Trumbull OH
8. 26.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10635/07973
2. 34-155-21287-0014
3. 102 000 000
4. Atlas Energy Group Inc
5. Bosscher No 1-#0582
6.
7. Trumbull OH
8. 18.7 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10636/07974
2. 34-167-24909-0014
3. 103 000 000
4. Lauderman Oil & Gas Drilling
5. T R Mattocks #1
6. Barlow
7. Washington OH
8. 475.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission
1. 80-10637/08008
2. 34-163-20408-0014
3. 103 000 000
4. American Well Management Company
5. White No 3
6.
7. Vinton OH
8. 18.0 million cubic feet
9. December 28, 1979
10.
1. 80-10638/08007
2. 34-169-22144-0014
3. 103 000 000
4. Buckeye Oil Producing Co
5. Reinheimer 160 #2
6.
7. Wayne OH
8. 1.0 million cubic feet
9. December 28, 1979
10. Berman Shafer Operating Co
1. 80-10639/08009
2. 34-127-24373-0014
3. 103 000 000
4. Quaker State Oil Refining Corp
5. Adcock #4-T-1 80207-4
6.
7. Perry OH
8. 9.1 million cubic feet
9. December 28, 1979
10. Foraker Gas Co
1. 80-10640/08010

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2. 34-127-24332-0014
3. 103 000 000
4. Quaker State Oil Refining Corp
5. James T Brown #2 80208-2
6.
7. Perry OH
8. 11.0 million cubic feet
9. December 28, 1979
10. Foraker Gas Co
1. 80-10641/08011
2. 34-127-24331-0014
3. 103 000 000
4. Quaker State Oil Refining Corp
5. Ketcham #3 80209-3
6.
7. Perry OH
8. 9.1 million cubic feet
9. December 28, 1979
10. Foraker Gas Co
1. 80-10642/08012
2. 34-127-24392-0014
3. 103 000 000
4. Quaker State Oil Refining Corp
5. Lewis #13 80222-13
6.
7. Perry OH
8. 5.5 million cubic feet
9. December 28, 1979
10. Foraker Gas Company
1. 80-10643/08013
2. 34-075-22283-0014
3. 103 000 000
4. B T Simpson Jr
5. Clyde E & Delores Kinsey #2
6. Nashville
7. Holmes OH
8. 50.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10644/08014
2. 34-155-20294-0014
3. 103 000 000
4. Atlas Energy Group Inc
5. Maffitt No 2--#0515
6.
7. Trumbull OH
8. 8.4 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10645/08015
2. 34-155-21171-0014
3. 103 000 000
4. Atlas Energy Group Inc
5. Tobin No 2--#0570
6.
7. Trumbull OH
8. 39.4 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10646/08016
2. 34-155-21327-0014
3. 103 000 000
4. Atlas Energy Group Inc
5. Kujala-Rudge Unit No 1--#0586
6.
7. Trumbull OH
8. .0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission
1. 80-10647/08018
2. 34-063-02627-0014
3. 103 000 000
4. Harold Sparks
5. Melvin Yoder #2
6.
7. Knox OH
8. 3.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans
1. 80-10648/08019
2. 34-083-22686-0014
3. 103 000 000
4. Harold Sparks
5. Melvin Yoder #3
6.
7. Knox OH
8. 3.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Trans
1. 80-10649/08020
2. 34-053-20349-0014
3. 103 000 000
4. R Gene Brasel also DBA Brasel & BRA
5. Johnson/Halliday #1
6.
7. Gallia OH
8. 5.0 million cubic feet
9. December 28, 1979
10. Columbia Gas Transmission Corp
1. 80-10650/08021
2. 34-007-21160-0014
3. 103 000 000
4. W S W Operating Inc
5. N A Oleksbuk #1
6. Bushnell #833
7. Ashtabula OH
8. 50.0 million cubic feet
9. December 28, 1979
10. East Ohio Gas Company
1. 80-10651/08022
2. 34-119-24911-0014
3. 103 000 000
4. Petro Oil Co
5. Lewis Well #1
6.
7. Muskingum OH
8. .0 million cubic feet
9. December 28, 1979
10.

Oklahoma Corporation Commission

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-10920/01330
2. 35-121-20450-0000
3. 103 000 000
4. Trepel Petrol Explor & Dev Corp
5. Gray No 1
6. S Pine Hollow
7. Pittsburg OK
8. 146.0 million cubic feet
9. December 28, 1979
10. Arkansas Louisiana Gas Company
1. 80-10921/00788
2. 35-079-20303-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Thomas E No 1
6. W Cameron
7. Leflore OK
8. 23.0 million cubic feet
9. December 28, 1979
10.
1. 80-10922/00780
2. 35-139-20975-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Hood #1
6. SW Liberal
7. Texas OK
8. 45.0 million cubic feet
9. December 28, 1979
10.
1. 80-10923/00828
2. 35-017-20920-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Wier No 1
6. Fort Reno
7. Canadian OK
8. 115.0 million cubic feet
9. December 28, 1979
10.
1. 80-10924/01188
2. 35-071-00000-0000
3. 108 000 000
4. Kansas Gas Purchasing
5. Rowe #1
6. Blackwell
7. Kay OK
8. 10.5 million cubic feet
9. December 28, 1979
10. Cities Service Gas Company
1. 80-10925/00048
2. 35-047-21668-0000
3. 103 000 000
4. Union Texas Petroleum
5. J W Knecht No 2
6. Waukomis SW
7. Garfield OK
8. 183.0 million cubic feet
9. December 28, 1979
10. Panhandle Eastern Pipeline Co
1. 80-10926/01189
2. 35-071-00000-0000
3. 108 000 000
4. Kansas Gas Purchasing
5. Rowe #2
6. Blackwell
7. Kay OK
8. 15.9 million cubic feet
9. December 28, 1979
10. Cities Service Gas Company
1. 80-10927/01089
2. 35-073-00000-0000
3. 103 000 000
4. Harper Oil Company
5. J F Fisher #1
6. Sooner Trend
7. Kingfisher OK
8. 30.0 million cubic feet
9. December 28, 1979
10. Phillips Petroleum Company
1. 80-10928/01159
2. 35-045-20545-0000
3. 103 000 000
4. Amoco Production Company
5. Moyer Gas Unit Well #1
6. North Gage
7. Ellis OK
8. 639.0 million cubic feet
9. December 28, 1979
10. Panhandle Eastern Pipeline Co
1. 80-10929/00895
2. 35-047-21740-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Brainard #1
6. N W Enid
7. Garfield OK
8. 1055.0 million cubic feet
9. December 28, 1979
10. Arkansas Louisiana Gas Co
1. 80-10930/00814
2. 35-051-20613-0000
3. 102 000 000
4. Kaiser Francis Oil Company
5. McNeil #1
6. E Chickasha
7. Grady OK
8. 350.0 million cubic feet
9. December 28, 1979
10. Mississippi River Transmission Corp, Oklahoma Natural Gas Co
1. 80-10931/01323
2. 35-007-21510-0000
3. 103 000 000
4. Don D Montgomery Jr
5. Eagan #29-1
6. Section 29-6N-24ECM
7. Beaver OK
8. 15.0 million cubic feet
9. December 28, 1979
10. Panhandle Eastern Pipe Line Company
1. 80-10932/00920
2. 35-059-20674-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Chase #1
6. N W Lovedale
7. Harper OK
8. 434.0 million cubic feet
9. December 28, 1979
10. Michigan-Wisconsin
1. 80-10933/00768
2. 35-007-21594-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Clark F No 1
6. Dombey
7. Beaver OK
8. 379.0 million cubic feet
9. December 28, 1979
10.
1. 80-10934/00859
2. 35-129-20254-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Eakins C #1
6. Grand
7. Roger Mills OK
8. 186.0 million cubic feet
9. December 28, 1979
10. Cities Service
1. 80-10935/00881
2. 35-093-21524-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Edwards D No 1
6. Cheyenne Valley
7. Major OK
8. 361.0 million cubic feet
9. December 28, 1979
10.
1. 80-10936/01186
2. 35-059-30070-0000
3. 103 000 000
4. Arco Oil and Gas Company
5. Louis Barby #2
6. Laverne
7. Harper OK
8. 365.0 million cubic feet
9. December 28, 1979
10. Michigan Wisconsin Pipe Line Co
1. 80-10937/01327
2. 35-121-20545-0000
3. 103 000 000
4. Andover Oil Company
5. L Wayne Chandler #16-1
6. S Pine Hollow
7. Pittsburg OK
8. 40.0 million cubic feet
9. December 28, 1979
10. Arkansas Louisiana Gas Co
1. 80-10938/01325
2. 35-029-20175-0000
3. 103 000 000
4. Stephens Production Company
5. Admire Estate #1
6. Centrahoma
7. Coal OK
8. 43.2 million cubic feet
9. December 28, 1979
10. Arkansas Louisiana Gas Company
1. 80-10939/01329
2. 35-121-20562-0000
3. 103 000 000
4. Andover Oil Company
5. Adam Gibson #10-1
6. S Pine Hollow
7. Pittsburg OK
8. 30.0 million cubic feet
9. December 28, 1979
10. Arkansas Louisiana Gas Co
1. 80-10940/00773
2. 35-139-20952-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Baucum #1
6. N W Dombey
7. Texas OK
8. 374.0 million cubic feet
9. December 28, 1979
10.

Texas Railroad Commission, Oil and Gas Division

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 80-10771/08-007522
2. 42-389-30509-0000
3. 107 000 000
4. Gulf Oil Corporation
5. S E Ligon Well No 7
6. Worsham-Bayer (Ellenburger)
7. Reeves TX
8. 300.0 million cubic feet
9. December 28, 1979
10. Transwestern Pipeline Co
1. 80-10772/005083
2. 42-479-30076-0000
3. 108 000 000
4. Mitchell Energy Corporation
5. Johnson-Morris #1 50646
6. Wise-Kent (Ham Sand)
7. Wise TX
8. 7.7 million cubic feet
9. December 28, 1979
10. Natural Gas Pipeline Co of America
1. 80-10773/005505
2. 42-057-00000-0000
3. 108 000 000
4. Diamond Shamrock Corporation
5. Crist Pshigoda Et Al A No 1
6. Ellis Ranch
7. Ochiltree TX
8. 8.0 million cubic feet
9. December 28, 1979
10. Natural Gas Pipeline Co of America
1. 80-10774/005500
2. 42-233-00000-0000
3. 108 000 000
4. Diamond Shamrock Corporation
5. McNutt C No 14
6. Panhandle West
7. Hutchinson TX
8. 8.0 million cubic feet
9. December 28, 1979
10. Northern Natural Gas Co, Panhandle Eastern Pipeline Co
1. 80-10775/005498
2. 42-295-00000-0000
3. 108 000 000
4. Diamond Shamrock Corporation
5. Gussie B Shutterly No 1
6. Bradford
7. Lipscomb TX
8. 8.0 million cubic feet
9. December 28, 1979
10. Southwestern Public Service Co
1. 80-10776/006934
2. 42-233-00000-0000
3. 108 000 000
4. Carl Saxon Oil Account
5. H E Smith (00803) No 2
6. Panhandle Hutchinson County
7. Hutchinson TX
8. 9.5 million cubic feet
9. December 28, 1979
10. Phillips Petroleum Company
1. 80-10777/006933
2. 42-233-00000-0000
3. 108 000 000
4. Carl Saxon Oil Account
5. H E Smith (00803) No 3
6. Panhandle Hutchinson County
7. Hutchinson TX
8. 4.2 million cubic feet
9. December 28, 1979
10. Phillips Petroleum Company
1. 80-10778/006916
2. 42-065-00000-0000
3. 108 000 000
4. S A Oil Account
5. Garner (00145) No 4
6. Panhandle Carson County
7. Carson TX
8. 1.4 million cubic feet
9. December 28, 1979
10. Cabot Corporation
1. 80-10779/006915
2. 42-065-00000-0000
3. 108 000 000
4. S A Oil Account
5. Garner (00145) No 3
6. Panhandle Carson County
7. Carson TX
8. 1.8 million cubic feet
9. December 28, 1979
10. Cabot Corporation
1. 80-10780/006914
2. 42-065-00000-0000

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3. 108 000 000
4. S A Oil Account
5. Garner (00145) No 1
6. Panhandle Carson County
7. Carson TX
8. .3 million cubic feet
9. December 28, 1979
10. Cabot Corporation
1. 80–10781/006913
2. 42–065–00000–0000
3. 108 000 000
4. S A Oil Account
5. Garner (00145) No 2
6. Panhandle Carson County
7. Carson TX
8. .3 million cubic feet
9. December 28, 1979
10. Cabot Corporation
1. 80–10782/006911
2. 42–233–00000–0000
3. 108 000 000
4. S A Oil Account
5. Smith –J– (01325) No 3
6. Panhandle Hutchinson County
7. Hutchinson TX
8. 6.0 million cubic feet
9. December 28, 1979
10. Phillips Petroleum Company
1. 80–10783/006910
2. 42–233–00000–0000
3. 108 000 000
4. S A Oil Account
5. Smith –J– (01325) No 2
6. Panhandle Hutchinson County
7. Hutchinson TX
8. 8.0 million cubic feet
9. December 28, 1979
10. Phillips Petroleum Company
1. 80–10784/006909
2. 42–233–00000–0000
3. 108 000 000
4. S A Oil Account
5. Smith –J– (01325) No 1
6. Panhandle Hutchinson County
7. Hutchinson TX
8. 6.0 million cubic feet
9. December 28, 1979
10. Phillips Petroleum Company
1. 80–10785/006514
2. 42–105–31006–0000
3. 108 000 000
4. Bill J Graham
5. Todd No 1–RRC No 71432
6. Donham (San Andres)
7. Crockett TX
8. 8.0 million cubic feet
9. December 28, 1979
10. Permian Corporation
1. 80–10786/006499
2. 42–371–00000–0000
3. 108 000 000
4. BRC Operating Company
5. Walsh No 1 RRC No 65330
6. Abell (Permian General)
7. Pecos TX
8. 18.0 million cubic feet
9. December 28, 1979
10. PGP Gas Products Inc
1. 80–10787/006497
2. 42–179–00000–0000
3. 108 000 000
4. Production Management Assoc
5. J C Short No 1 — 25834
6. Panhandle
7. Gray TX
8. 13.3 million cubic feet
9. December 28, 1979
10. Coltexo Corporation
1. 80–10788/006065
2. 42–179–00000–0000
3. 108 000 000
4. Continental Oil Co
5. Mary Wall No 1
6. W Panhandle
7. Gray TX
8. 4.2 million cubic feet
9. December 28, 1979
10. Cities Service Gas Company (4911)
1. 80–10789/006063
2. 42–065–00000–0000
3. 108 000 000
4. Continental Oil Co
5. Burnett 60A
6. W Panhandle
7. Carson TX
8. 15.6 million cubic feet
9. December 28, 1979
10. Cities Service Gas Company (4911)
1. 80–10790/006062
2. 42–065–00000–0000
3. 108 000 000
4. Continental Oil Co
5. C E Deahl No 1R
6. W Panhandle
7. Carson TX
8. 9.9 million cubic feet
9. December 28, 1979
10. Cities Service Gas Company (4911)
1. 80–10791/006058
2. 42–233–00000–0000
3. 108 000 000
4. Continental Oil Co
5. A M Spurlock No 1
6. Carson-Hutchinson
7. Hutchinson TX
8. 6.5 million cubic feet
9. December 28, 1979
10. Diamond Shamrock Corp (4040)
1. 80–10792/005571
2. 42–065–00000–0000
3. 108 000 000
4. Getty Oil Company
5. Schafer Ranch No 34
6. Panhandle West
7. Carson and Gray TX
8. 2.0 million cubic feet
9. December 28, 1979
10. Getty Oil Co Natural Gas Plant
1. 80–10793/005569
2. 42–483–00000–0000
3. 108 000 000
4. Getty Oil Company
5. G I Foster No 1
6. Wheeler-Pan (Hunton)
7. Wheeler TX
8. 12.0 million cubic feet
9. December 28, 1979
10. Pioneer Natural Gas Company
1. 80–10794/005494
2. 42–295–00000–0000
3. 108 000 000
4. Diamond Shamrock Corporation
5. John R Wassell A No 1
6. Bradford
7. Lipscomb TX
8. 8.0 million cubic feet
9. December 28, 1979
10. Southwestern Public Service Co
1. 80–10795/005360
2. 42–357–00000–0000
3. 108 000 000
4. Diamond Shamrock Corporation
5. Morrison et al F No 1–53L
6. Parsell
7. Ochiltree TX
8. 8.0 million cubic feet
9. December 28, 1979
10. Southwestern Public Service Co
1. 80–10796/005122
2. 42–475–00000–0000
3. 108 000 000
4. Getty Oil Company
5. W D Johnson No 52
6. North Ward Estes
7. Ward TX
8. 1.0 million cubic feet
9. December 28, 1979
10. Cabot Corporation
1. 80–10797/002940
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 805
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corp
1. 80–10798/002946
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 903
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
1. 80–10799/002947
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 1205
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation
1. 80–10800/002948
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 1102
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation
1. 80–10801/002949
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 1103
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation
1. 80–10802/002951
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop

5. 05562 Weger Unit No 1105
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation
1. 80–10803/002952
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 1106
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation
1. 80–10804/002953
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 1108
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation
1. 80–10805/002954
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 1107
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation
1. 80–10806/002955
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 1109
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation
1. 80–10807/002956
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. Weger Unit No 1201 05562
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation
1. 80–10808/002957
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 1204
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation
1. 80–10809/001669
2. 42–371–31756–0000
3. 107 000 000
4. Pioneer Production Corporation
5. Dixel Gas Unit No 1 RRC ID 78650
6. Gomez (Ellenburger)
7. Pecos TX
8. 480.0 million cubic feet
9. December 28, 1979
10. Pioneer Natural Gas Company, Northern Natural Gas Co
1. 80–10810/001786
2. 42–393–00000–0000
3. 108 000 000
4. J & J Gas Properties
5. Coman B #1 22582
6. Quinduno (Lower Albany Dolomite)
7. Roberts TX
8. 9.4 million cubic feet
9. December 28, 1979
10. Natural Gas Pipeline Company of America
1. 80–10811/002936
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 1007
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation
1. 80–10812/002937
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 1008
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation
1. 80–10813/002938
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 1101
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation
1. 80–10814/002939
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 802
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation
1. 80–10815/002941
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 806
6. Weger (San Andres)
7. Crocket TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation
1. 80–10816/002942
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 807
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation
1. 80–10817/002943
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 808
6. Weger (San Andres)
7. Crocket TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation
1. 80–10818/002944
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 901
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation
1. 80–10819/002945
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 902
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation
1. 80–10820/002956
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 707
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation
1. 80–10821/002960
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. Weger Unit No 507 05562
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation
1. 80–10822/002961
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. Weger Unit No 509 05562
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation
1. 80–10823/002962
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. Weger Unit No 510 05562
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation
1. 80–10824/005521
2. 42–295–00000–0000
3. 108 000 000
4. Diamond Shamrock Corporation
5. H G Schoenhals No 1–861

6. Bradford
7. Lipscomb TX
8. 8.0 million cubic feet
9. December 28, 1979
10. Southwestern Public Service Co

1. 80–10825/002963
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. Weger Unit No 201 05562
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10826/002964
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. Weger Unit No 202 05562
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10827/002959
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. Weger Unit No 801 05562
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10828/002965
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. Weger Unit No 203 05562
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10829/002966
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. Weger Unit No 301 05562
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10830/002967
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. Weger Unit No 303 05562
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10831/00 2968
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. Weger Unit No 511 05562
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10832/002969
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. Weger Unit No 601 05562
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10833/002970
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. Weger Unit No 604 05562
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10834/002971
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. Weger Unit No 605 05562
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10835/002972
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. Weger Unit No 608 05562
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10836/002973
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. Weger Unit No 701 05562
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10837/002974
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 703
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10838/002975
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 704
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10839/002976
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 705
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10840/002977
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 706
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10841/002978
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 304
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10842/002979
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 401
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10843/002980
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 402
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10844/002981
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 501
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10845/002982
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 502
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10846/002983
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 503
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10847/002984
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 504
6. Weger (San Andres)
7. Crockett TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10848/003357
2. 42–341–00000–0000
3. 108 000 000
4. Phillips Petroleum Company
5. Porter-Fittman No 3
6. Panhandle-Moore
7. Moore TX
8. .6 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10849/003359
2. 42–357–00000–0000
3. 108 000 000
4. Phillips Petroleum Company
5. Rogers-D No 4
6. S E Share
7. Ochiltree TX
8. 4.7 million cubic feet
9. December 28, 1979
10. Panhandle Eastern Pipeline Co

1. 80–10850/003360
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Company
5. Ranch E No 3
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.5 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10851/003361
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Company
5. Ranch C No 7
6. Panhandle Hutchinson
7. Hutchinson TX
8. 4.2 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10852/003362
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Company
5. Ranch E No 4
6. Hanhandle Hutchinson
7. Hutchinson TX
8. 1.1 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10853/002592
2. 42–087–25995–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Baxter A 1
6. Hanhandle East
7. Collingsworth TX
8. 7.8 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10854/002593
2. 42–087–26295–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Williams B 1
6. Panhandle East
7. Collingsworth TX
8. 5.5 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10855/002594
2. 42–087–28055–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Coleman 1
6. Panhandle East
7. Collingsworth TX
8. 1.8 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10856/002595
2. 42–483–26303–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Williams D 3
6. Panhandle East
7. Wheeler TX
8. 15.4 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10857/002596
2. 42–483–26044–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Bush #1
6. Panhandle East
7. Wheeler TX
8. 13.3 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10858/002597
2. 42–087–25977–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Aldous B 1
6. Panhandle East
7. Collingsworth TX
8. 2.6 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10859/002598
2. 42–087–26149–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Lutes 1
6. Panhandle East
7. Collingsworth TX
8. 14.9 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10860/002599
2. 42–087–26057–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Coleman A 2
6. Panhandle East
7. Collingsworth TX
8. 4.0 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10861/002601
2. 42–087–26164–00000–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Martindale 1
6. Panhandle East
7. Collingsworth TX
8. 2.8 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10862/002602
2. 42–087–26120–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Knoll X 1
6. Panhandle East
7. Collingsworth TX
8. 17.2 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10863/002603
2. 42–087–26250–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Sanders 1
6. Panhandle East
7. Collingsworth TX
8. 16.9 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10864/002604
2. 42–483–28301–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Williams D 1
6. Panhandle East
7. Wheeler TX
8. 11.3 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10865/002606
2. 42–087–25980–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Aldous E 1
6. Panhandle East
7. Collingsworth TX
8. 15.0 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10866/002609
2. 42–087–26024–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Betenbough A 2
6. Panhandle East
7. Collingsworth TX
8. 3.9 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10867/002610
2. 42–087–26308–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Williams G 2
6. Panhandle East
7. Collingsworth TX
8. 4.3 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10868/002611
2. 42–435–30867–0026
3. 108 000 000
4. El Paso Natural Gas Company
5. Davis C #4
6. Sonora (Canyon Upper)
7. Sutton TX
8. .7 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10869/002612
2. 42–087–26136–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Laycock A 4

V45/15 JA2280 UMI

6. Panhandle East
7. Collingsworth TX
8. 17.0 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80-10870/002613
2. 42-087-28224-0000
3. 108 000 000
4. El Paso Natural Gas Co.
5. O'Neil 2
6. Panhandle East
7. Collingsworth, TX
8. 10.1 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10871/002616
2. 42-087-31689-0000
3. 108 000 000
4. El Paso Natural Gas Co.
5. Tindall A #2
6. Panhandle East
7. Collingsworth, TX
8. .4 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10872/002617
2. 42-087-28272-0000
3. 108 000 000
4. El Paso Natural Gas Co.
5. Smith B 2
6. Panhandle East
7. Collingsworth, TX
8. 3.1 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10873/002618
2. 42-087-28080-0000
3. 108 000 000
4. El Paso Natural Gas Co.
5. Emmert A 2
6. Panhandle East
7. Collingsworth, TX
8. 20.9 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10874/002619
2. 42-087-25995-0000
3. 108 000 000
4. El Paso Natural Gas Co.
5. Baxter #2
6. Panhandle East
7. Collingsworth, TX
8. 3.2 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10875/002620
2. 42-087-25053-0000
3. 108 000 000
4. El Paso Natural Gas Co.
5. Clark A 2
6. Panhandle East
7. Collingsworth, TX
8. .7 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10876/002451
2. 42-087-26196-0000
3. 108 000 000
4. El Paso Natural Gas Co.
5. Morgan D 1
6. Panhandle East
7. Collingsworth, TX
8. .1 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10877/002621
2. 42-087-26197-0000
3. 108 000 000
4. El Paso Natural Gas Co.
5. Morris 1
6. Panhandle East
7. Collingsworth, TX
8. 7.3 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10878/002622
2. 42-483-26147-0000
3. 108 000 000
4. El Paso Natural Gas Co.
5. Lone Star Producing Co 1
6. Panhandle East
7. Wheeler, TX
8. 10.4 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10879/002623
2. 42-179-34747-0000
3. 108 000 000
4. El Paso Natural Gas Co.
5. Hudgins #3-C
6. Panhandle East
7. Gray, TX
8. 17.0 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10880/002624
2. 42-087-26228-0000
3. 108 000 000
4. El Paso Natural Gas Co.
5. O'Neil A 2
6. Panhandle East
7. Collingsworth, TX
8. 8.9 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10881/002625
2. 42-087-26247-0000
3. 108 000 000
4. El Paso Natural Gas Co.
5. Purkey A 1
6. Panhandle East
7. Collingsworth, TX
8. 6.0 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10882/002626
2. 42-087-26086-0000
3. 108 000 000
4. El Paso Natural Gas Co.
5. Glenn B 2
6. Panhandle East
7. Collingsworth, TX
8. 4.9 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10883/002627
2. 42-179-34699-0000
3. 108 000 000
4. El Paso Natural Gas Co.
5. Cousins 1
6. Panhandle West
7. Gray, TX
8. 20.8 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10884/002628
2. 42-087-28195-0000
3. 108 000 000
4. El Paso Natural Gas Co.
5. Morgan C #2
6. Panhandle East
7. Collingsworth, TX
8. 4.6 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10885/002629
2. 42-087-25995-0000
3. 108 000 000
4. El Paso Natural Gas Co.
5. Batson #1
6. Panhandle East
7. Collingsworth, TX
8. 8.6 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10886/002631
2. 42-179-26222-0000
3. 108 000 000
4. El Paso Natural Gas Co.
5. Noel C 1
6. Panhandle East
7. Gray, TX
8. 2.3 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10887/002646
2. 42-087-26205-0000
3. 108 000 000
4. El Paso Natural Gas Co.
5. Newkirk #4
6. Panhandle East
7. Collingsworth, TX
8. 4.3 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10888/002646
2. 42-087-26023-0000
3. 108 000 000
4. El Paso Natural Gas Co.
5. Betenbough A 1
6. Panhandle East
7. Collingsworth, TX
8. 15.8 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10889/002650
2. 42-087-26042-0000
3. 108 000 000
4. El Paso Natural Gas Co.
5. Burkhalter 1
6. Panhandle East
7. Collingsworth, TX
8. 6.2 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10890/002651
2. 42-087-26174-0000
3. 108 000 000
4. El Paso Natural Gas Co.
5. McCracken A #1
6. Panhandle East
7. Collingsworth, TX
8. 6.7 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10891/002653
2. 42-087-26134-0000
3. 108 000 000
4. El Paso Natural Gas Co.
5. Laycock A 2
6. Panhandle East
7. Collingsworth, TX
8. 5.0 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10892/002654
2. 42-129-23694-0000
3. 108 000 000
4. El Paso Natural Gas Co.
5. Brown 1
6. Panhandle West
7. Donley, TX
8. 11.2 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10893/003402
2. 42-065-00000-0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Cooper C No. 24
6. Panhandle—Carson
7. Carson, TX
8. .4 million cubic feet
9. December 28, 1979
10. Getty Oil Co.

1. 80-10894/003405
2. 42-065-00000-0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Bryan No. 9
6. Panhandle—Carson
7. Carson, TX
8. .8 million cubic feet
9. December 28, 1979
10. Cabot Corp.

1. 80-10895/003409
2. 42-065-00000-0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Cooper C No. 10
6. Panhandle—Carson
7. Carson, TX
8. 2.0 million cubic feet
9. December 28, 1979
10. Getty Oil Co.

1. 80-10896/003412
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Bret R No. 5
6. Panhandle—Hutchinson
7. Hutchinson, TX
8. 4.9 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80-10897/003413
2. 42-065-00000-0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Jordan D No. 23
6. Panhandle—Carson
7. Carson, TX
8. .8 million cubic feet
9. December 28, 1979
10. Getty Oil Co.

1. 80-10898/003414
2. 42-065-00000-0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Jordan D Well No. 40
6. Panhandle—Carson
7. Carson, TX
8. 1.7 million cubic feet
9. December 28, 1979
10. Cabot Corp.

1. 80-10899/003415
2. 42-065-00000-0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Jordan D Well No. 41
6. Panhandle—Carson
7. Carson, TX
8. 1.7 million cubic feet
9. December 28, 1979
10. Cabot Corp.

1. 80-10900/003416
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Killough—8 No 4
6. Panhandle-Hutchinson
7. Hutchinson, TX
8. 4.8 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80-10901/003417
2. 42-179-00000-0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Leopold-B No 2
6. Panhandle Gray
7. Gray, TX
8. .2 million cubic feet
9. December 28, 1979
10. Getty Oil Co

1. 80-10902/003418
2. 42-179-00000-0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Leopold-B No 4
6. Panhandle Gray
7. Gray, TX
8. .6 million cubic feet
9. December 28, 1979
10. Getty Oil Co

1. 80-10903/003419
2. 42-179-00000-0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Leopold-B No 2
6. Panhandle Gray
7. Gray, TX
8. .2 million cubic feet
9. December 28, 1979
10. Getty Oil Co

1. 80-10942/003363
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Ranch E No 5
6. Panhandle Hutchinson
7. Hutchinson, TX
8. 4.0 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80-10943/003366
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Ranch E No 13
6. Panhandle Hutchinson
7. Hutchinson, TX
8. 3.7 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80-10944/003372
2. 42-357-00000-0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Rogers H No 3
6. Spicer
7. Ochiltree, TX
8. 9.0 million cubic feet
9. December 28, 1979
10. Panhandle Eastern Pipeline Co

1. 80-10945/003373
2. 42-357-00000-0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Rogers-J No 1
6. Farnsworth-Conner
7. Ochiltree, TX
8. 2.6 million cubic feet
9. December 28, 1979
10. Panhandle Eastern Pipeline Co

1. 80-10946/003374
2. 42-357-00000-0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Rogers-J No 2
6. Farnsworth-Conner
7. Ochiltree TX
8. 2.8 million cubic feet
9. December 28, 1979
10. Panhandle Eastern Pipeline Co

1. 80-10947/003375
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Rubin-Gammel Well No. 1
6. Panhandle-Hutchinson
7. Hutchinson, TX
8. .7 million cubic feet
9. December 28, 1979
10. Getty Oil Co

1. 80-10948/003376
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Rubin-Gammel Well No 3
6. Panhandle-Hutchinson
7. Hutchinson TX
8. 1.5 million cubic feet
9. December 28, 1979
10. Getty Oil Co

1. 80-10949/003373
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Rubin-Gammel Well No 4
6. Panhandle-Hutchinson
7. Hutchinson TX
8. 2.0 million cubic feet
9. December 28, 1979
10. Getty Oil Co

1. 80-10950/003378
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Rubin-Gammel Well No 6
6. Panhandle-Hutchinson
7. Hutchinson TX
8. .7 million cubic feet
9. December 28, 1979
10. Getty Oil Co

1. 80-10951/003383
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Belle No 2
6. Panhandle Hutchinson
7. Hutchinson TX
8. .2 million cubic feet
9. December 28, 1979
10. El Paso Natural Co

1. 80-10952/003385
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Bret R No 8

V 45/15
JA 22 80
UMI

6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.3 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co.

1. 80–10953/003392
2. 42–085–00000–0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Jordan D No 19
6. Panhandle-Carson
7. Carson TX
8. .4 million cubic feet
9. December 28, 1979
10. Getty Oil Co

1. 80–10954/003394
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Co.
5. Neil J R No 1
6. Panhandle-Hutchinson
7. Hutchinson TX
8. .7 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10955/004230
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corporation
5. Charles T McMurry #2 32561
6. Boonsville Bend Cong
7. Wise TX
8. 6.4 million cubic feet
9. December 28, 1979
10. Natural Gas Pipeline Co of America

1. 80–10956/004134
2. 42–237–00000–0000
3. 108 000 000
4. Mitchell Eneregy Corporation
5. T H CherryHolmes #1 28597
6. Boonsville Energy Corporation
7. Jack TX
8. 4.0 million cubic feet
9. December 28, 1979
10. Natural Gas Pipeline Co of America

1. 80–10957/004138
2. 42–237–00000–0000
3. 108 000 000
4. Mitchell Energy Corproation
5. John Henderson #2 37030
6. Boonsville Pend Cong
7. Jack, TX
8. 10.3 million cubic feet
9. December 28, 1979
10. Natural Gas Pipeline Co of America

1. 80–10958/004166
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corp.
5. Sam Kaker #1 13676
6. Bridgeport (Atoka Cong 6000)
7. Wise TX
8. 7.1 million cubic feet
9. December 28, 1979
10. Natural Gas Pipeline Co of America

1. 80–10959/004167
2. 42–237–00000–0000
3. 108 000 000
4. Mitchell Energy Corp.
5. L A Worthington #14 36474
6. Boonsville Bend Cong
7. Jack TX
8. 9.4 million cubic feet
9. December 28, 1979
10. Natural Gas Pipeline Co of America

1. 80–10960/004168
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corp.
5. Francis B. Conley #2 40693
6. Boonsville Bend Cong
7. Wise TX
8. 4.8 million cubic feet
9. December 28, 1979
10. Natural Gas Pipeline Co of America

1. 80–10961/003535
2. 42–367–00000–0000
3. 108 000 000
4. Ladd Petroleum Corp.
5. H Carr Unit A #1
6. Brazos East
7. Parker TX
8. 14.2 million cubic feet
9. December 28, 1979
10. Lone Star Gas Co

1. 80–10962/003536
2. 42–497–00000–0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. S H Curtner No A–1
6. Boonsville
7. Wise TX
8. 12.3 million cubic feet
9. December 28, 1979
10. Cities Servicew Company

1. 80–10963/003538
2. 42–367–00000–0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. H Carr F Unit No 1
6. Brazos East
7. Parker TX
8. 10.9 million cubic feet
9. December 28, 1979
10. Lone Star Gas Company

1. 80–10964/004130
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corporation
5. W A Stokes #1 44101
6. Boonsville Bend Cong
7. Wise TX
8. 12.1 million cubic feet
9. December 28, 1979
10. Natural Gas Pipeline Co of America

1. 80–10965/004229
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corporation
5. D W Newsome #1 28760
6. Boonsville (Bend Cong)
7. Wise TX
8. 2.8 million cubic feet
9. December 28, 1979
10. Natural Gas Pipeline Co of America

1. 80–10966/004969
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corporation
5. C P Haynes #1 28670
6. Boonesville Bend Cong
7. Wise TX
8. 10.3 million cubic feet
9. December 28, 1979
10. Natural Gas Pipeline Co of America

1. 80–10967/004970
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corporation
5. Lloyd Hinkle #1 36629
6. Boonsville Bend Cong
7. Wise, TX
8. 3.5 million cubic feet
9. December 28, 1979
10. Natural Gas Pipeline Co of America

1. 80–10968/005080
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corporation
5. Tarrant County Water Board #21 5138
6. Boonsville Bend Conglomerate
7. Wise, TX
8. 6.8 million cubic feet
9. December 28, 1979
10. Natural Gas Pipeline Co of America

1. 80–10969/003428
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Company
5. Gary No. 6
6. Panhandle Hutchinson
7. Hutchinson, TX
8. .4 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10970/003429
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Company
5. Gary No. 12
6. Panhandle Hutchinson
7. Hutchinson, TX
8. .4 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10972/3430
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Company
5. Greenriver No. 2
6. Panhandle Hutchinson
7. Hutchinson, TX
8. 1.5 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co

1. 80–10972/004301
2. 42–497–00000–0000
3. 108 000 000
4. Texaco Inc
5. Jewell Harrison #1
6. Alvord
7. Wise, TX
8. 21.9 million cubic feet
9. December 28, 1979
10. Cities Service

1. 80–10973/004306
2. 42–497–00000–0000
3. 108 000 000
4. Texaco Inc
5. W W Waites Gas Unit #2
6. Boonsville
7. Wise, TX
8. 5.9 million cubic feet
9. December 28, 1979
10. Lone Star Gas Co

1. 80–10974/004345
2. 42–497–00000–00000
3. 108 000 000
4. Mitchell Energy Corporation
5. D W Newsome #3 28761
6. Boonsville Bend Cong
7. Wise, TX
8. 1.7 million cubic feet
9. December 28, 1979
10. Natural Gas Pipeline Co of America

1. 80–10975/004347
2. 42–497–30136–0000
3. 108 000 000
4. Mitchell Energy Corporation
5. C O Alderson #2 55104
6. Boonsville Bend Cong
7. Wise, TX
8. 5.2 million cubic feet
9. December 28, 1979
10. Natural Gas Pipeline Co of America

1. 80–10976/004906
2. 42–215–00000–0000
3. 103 000 000
4. Clark Fuel Producing Co
5. Yturria T & I Co #C–6 ID 12279
6. Nichols (2800)
7. Hidalgo, TX
8. 14.0 million cubic feet
9. December 28, 1979
10. Tennessee Gas Pipeline Co

1. 80–10977/004253
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corporation
5. H W Nash #1 28758
6. Boonsville Bend Cong
7. Wise, TX
8. 11.0 million cubic feet
9. December 28, 1979
10. Natural Gas Pipeline Co of America

1. 80–10978/004909
2. 42–215–00000–0000
3. 108 000 000
4. Clark Fuel Producing Co
5. Yturria T & I Co No. 1 (ID 63897)
6. Nichols (2800)
7. Hidalgo, TX
8. 3.0 million cubic feet
9. December 28, 1979
10. Tennessee Gas Pipeline Co

1. 80–10979/003427
2. 42–085–00000–0000
3. 108 000 000
4. Phillips Petroleum Company
5. Copper Olive No. 8
6. Panhandle Carson
7. Carson, TX
8. .6 million cubic feet
9. December 28, 1979
10. Getty Oil Co

1. 80–10980/004234
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corporation
5. Oran Speer #3 28812
6. Boonsville Bend Cong
7. Wise, TX
8. 1.0 million cubic feet
9. December 28, 1979
10. Natural Gas Pipeline Co of America

1. 80–10981/004244
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corporation
5. Mary F Stewart #1 28815
6. Boonsville Bend Cong
7. Wise, TX
8. 6.5 million cubic feet
9. December 28, 1979
10. Natural Gas Pipeline Co of America

1. 80–10982/004247
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corporation
5. Emma J Montford #1 34288
6. Boonsville Bend Cong
7. Wise, TX
8. 3.1 million cubic feet
9. December 28, 1979
10. Natural Gas Pipeline Co of America

1. 80–10983/004249
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corporation
5. H J Deavers #4 28624
6. Boonsville Bend Cong
7. Wise, TX
8. 4.3 million cubic feet
9. December 28, 1979
10. Natural Gas Pipeline Co of America

1. 80–10984/004252
2. 42–497–00000–0000
3. 105 000 000
4. Mitchell Energy Corporation
5. D W Bryant #1 42359
6. Boonsville Bend Cong
7. Wise, TX
8. 9.8 million cubic feet
9. December 28, 1979
10. Natural Gas Pipeline Co of America

1. 80–10985/002934
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No. 1005
6. Weger (San Andres)
7. Crockett, TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10986/002935
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No. 1066
6. Weger (San Andres)
7. Crockett, TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–10987/003081
2. 42–179–23727–0000
3. 105 000 000
4. El Paso Natural Gas Company
5. Johnson C 1
6. Panhandle West
7. Gray, TX
8. 15.5 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Company

1. 80–10988/003111
2. 42–435–19210–0000
3. 100 000 000
4. El Paso Natural Gas Company
5. Deberry A 8
6. Sonora (Canyon Upper)
7. Sutton, TX
8. 9.1 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Company

1. 80–10989/003157
2. 42–233–00000–0000
3. 108 000 000
4. Phillips Petroleum Company
5. Gulf-Sanford-A No. 1
6. Panhandle
7. Hutchinson, TX
8. 8.8 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Co, Panhandle Eastern Pipeline Co

1. 80–10990/003273
2. 42–087–26135–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Laycock A 3
6. Panhandle East
7. Collingsworth, TX
8. 11.5 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Company

1. 80–10991/003274
2. 42–179–26238–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Orr A #1
6. Panhandle East
7. Gray, TX
8. 7.7 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Company

1. 80–10992/003275
2. 42–087–26027–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Betenbough A 5
6. Panhandle East
7. Collingsworth, TX
8. 35.3 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Company

1. 80–10993/002452
2. 42–483–25302–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Williams D 2
6. Panhandle East
7. Wheeler, TX
8. 11.2 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Company

1. 80–10994/003276
2. 42–435–19209–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Deberry A 7
6. Sonora (Canyon Upper)
7. Sutton, TX
8. 9.9 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Company

1. 80–10995/003277
2. 42–087–26250–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Scruggs B 1
6. Panhandle East
7. Collingsworth, TX
8. 12.1 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Company

1. 80–10996/003420
2. 42–179–00000–0000
3. 108 000 000
4. Phillips Petroleum Company
5. Leonard-B No. 6
6. Panhandle East
7. Gray, TX
8. .3 million cubic feet
9. December 28, 1979
10. Getty Oil Co

1. 80–10997/003421
2. 42–179–00000

V 45 / 15 JA 22 80 UMI

3. 108 000 000
4. Phillips Petroleum Company
5. Leopold-B No. 7
6. Panhandle East
7. Gray, TX
8. .2 million cubic feet
9. December 28, 1979
10. Getty Oil Co

1. 80–10998/003423
2. 42–065–00000–0000
3. 108 000 000
4. Phillips Petroleum Company
5. Cooper Olive No 3
6. Panhandle Carson
7. Carson, TX
8. .6 million cubic feet
9. December 28, 1979
10. Getty Oil Co

1. 80–10999/003425
2. 42–065–00000–0000
3. 108 000 000
4. Phillips Petroleum Company
5. Cooper Olive No 6
6. Panhandle Carson
7. Carson, TX
8. .6 million cubic feet
9. December 28, 1979
10. Getty Oil Co

1. 80–11000/003426
2. 42–065–00000–0000
3. 108 000 000
4. Phillips Petroleum Company
5. Cooper Olive No 7
6. Panhandle Carson
7. Carson, TX
8. .6 million cubic feet
9. December 28, 1979
10. Getty Oil Co

1. 80–11001/002855
2. 42–087–26125–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Laycock 6
6. Panhandle East
7. Collingsworth, TX
8. 12.2 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Company

1. 80–11002/002925
2. 42–383–00000–0000
3. 108 000 000
4. D L Bishop
5. 05095 Skelly-University No 1
6. Price (Grayburg)
7. Reagan, TX
8. 1.6 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–11003/002926
2. 42–383–00000–0000
3. 108 000 000
4. D L Bishop
5. 05095 Skelly-University No 2
6. Price (Grayburg)
7. Reagan, TX
8. 1.6 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–11004/002927
2. 42–383–00000–0000
3. 108 000 000
4. D L Bishop
5. 05095 Skelly-University No 3
6. Price (Grayburg)
7. Reagan, TX
8. 1.6 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–11005/002928
2. 42–383–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 903
6. Weger (San Andres)
7. Crockett, TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–11006/002929
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 904
6. Weger (San Andres)
7. Crockett, TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–11007/002930
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 1001
6. Weger (San Andres)
7. Crockett, TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–11008/002931
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 1002
6. Weger (San Andres)
7. Crockett, TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–11009/002932
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 1003
6. Weger (San Andres)
7. Crockett, TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

1. 80–11010/002933
2. 42–105–00000–0000
3. 108 000 000
4. D L Bishop
5. 05562 Weger Unit No 1004
6. Weger (San Andres)
7. Crockett, TX
8. .1 million cubic feet
9. December 28, 1979
10. Big Lake Gas Corporation

West Virginia Department of Mines, Oil and Gas Division

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–10680
2. 47–087–02839–0000
3. 108 000 000 denied
4. Pennzoil Company
5. W M Looney #8
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10681
2. 47–087–02841–0000
3. 108 000 000 denied
4. Pennzoil Company
5. W M Looney #10
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10690
2. 47–087–03054–F000
3. 108 000 000 denied
4. Pennzoil Company
5. S & S Starcher #3
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10691
2. 47–087–03055–F000
3. 108 000 000 denied
4. Pennzoil Company
5. M D Chewning #1
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10692
2. 47–087–03071–F000
3. 108 000 000 denied
4. Pennzoil Company
5. W M Looney #24
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10693
2. 47–087–03088–F000
3. 108 000 000 denied
4. Pennzoil Company
5. W M Looney #17
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10694
2. 47–087–03095–F000
3. 108 000 000 denied
4. Pennzoil Company
5. W M Looney #16
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10695
2. 47–087–03096–F000
3. 108 000 000 Denied

4. Pennzoil Company
5. W M Looney #18
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10696
2. 47–087–03127–F000
3. 108 000 000 denied
4. Pennzoil Company
5. W M Looney #23
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10697
2. 47–087–02831–0000
3. 108 000 000 denied
4. Pennzoil Company
5. P A Tallman No 19
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10698
2. 47–087–02832–0000
3. 108 000 000 denied
4. Pennzoil Company
5. P A Tallman No 20
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10699
2. 47–087–02835–0000
3. 108 000 000 denied
4. Pennzoil Company
5. P A Tallman No 23
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10700
2. 47–087–02978–F000
3. 108 000 000 denied
4. Pennzoil Company
5. S & S Starcher No 2
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10701
2. 47–087–02983–F000
3. 108 000 000 denied
4. Pennzoil Company
5. S & S Starcher No 1
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10702
2. 47–087–02989–F000
3. 108 000 000 denied
4. Pennzoil Company
5. S M Sergent No 5
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10703
2. 47–087–02829–0000
3. 108 000 000 denied
4. Pennzoil Company
5. P A Tallman No 14
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10704
2. 47–021–03370–0000
3. 108 000 000 denied
4. Pennzoil Company
5. W L Thompson No 4
6. Glenville
7. Gilmer WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10705
2. 47–041–07394–0000
3. 108 000 000 denied
4. Union Drilling Inc Agent
5. H Mace No 2 (615)
6. Skin Creek District
7. Lewis WV
8. .1 million cubic feet
9. December 28, 1979
10. Equitable Gas Company

1. 80–10706
2. 47–087–03130–F000
3. 108 000 000 denied
4. Pennzoil Company
5. P A Tallman No 17
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10707
2. 47–087–03134–F000
3. 108 000 000 denied
4. Pennzoil Company
5. L A Hopkins No 3
6. Geary
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10708
2. 47–087–03148–F000
3. 108 000 000 denied
4. Pennzoil Company
5. W M Looney No 13
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10709
2. 47–087–03173–F000
3. 108 000 000 denied
4. Pennzoil Company
5. S M Sergent No 4
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10710
2. 47–087–03175–F000
3. 108 000 000 denied
4. Pennzoil Company
5. P A Tallman No 24
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10711
2. 47–087–03178–F000
3. 108 000 000 denied
4. Pennzoil Company
5. W M Looney No 22
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10712
2. 47–087–03179–F000
3. 108 000 000 denied
4. Pennzoil Company
5. W M Looney No 2
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10713
2. 47–087–03180–F000
3. 108 000 000 denied
4. Pennzoil Company
5. W M Looney No 20
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10714
2. 47–087–03184–F000
3. 108 000 000 denied
4. Pennzoil Company
5. P A Tallman No 18
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10715
2. 47–087–02788–0000
3. 108 000 000 denied
4. Pennzoil Company
5. S & S Starcher No 4
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10716
2. 47–087–02818–0000
3. 108 000 000 denied
4. Pennzoil Company
5. P A Tallman No 1
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80–10717
2. 47–087–02821–0000
3. 108 000 000 denied
4. Pennzoil Company
5. P A Tallman No 4
6. Smithfield
7. Roane WV

V45/15/JA22'80 UMI

8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80-10718
2. 47-087-02825-0000
3. 108 000 000 denied
4. Pennzoil Company
5. P A Tallman No 8
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80-10719
2. 47-087-02826-0000
3. 108 000 000 denied
4. Pennzoil Company
5. P A Tallman No 9
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80-10720
2. 47-087-02827-0000
3. 108 000 000 denied
4. Pennzoil Company
5. P A Tallman No 10
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80-10721
2. 47-087-02828-0000
3. 108 000 000 denied
4. Pennzoil Company
5. P A Tallman No 13
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80-10722
2. 47-087-02782-0000
3. 108 000 000 denied
4. Pennzoil Company
5. M L Snodgrass No 2
6. Geary
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80-10724
2. 47-087-02844-0000
3. 108 000 000 denied
4. Pennzoil Company
5. W M Looney No 15
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80-10725
2. 47-087-02845-0000
3. 108 000 000 denied
4. Pennzoil Company
5. W M Looney No 21
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80-10726
2. 47-087-02736-0000
3. 108 000 000 denied
4. Pennzoil Company
5. S M Sergent No 1
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80-10727
2. 47-087-02737-0000
3. 108 000 000 denied
4. Pennzoil Company
5. S M Sergent No 3
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80-10728
2. 47-087-02738-0000
3. 108 000 000 denied
4. Pennzoil Company
5. S M Sergent #9
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80-10729
2. 47-087-02555-0000
3. 108 000 000 denied
4. Pennzoil Company
5. L A Hopkins #4
6. Geary
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80-10730
2. 47-087-02781-0000
3. 108 000 000 denied
4. Pennzoil Company
5. M L. Snodgrass #1
6. Geary
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80-10731
2. 47-087-02014-0000
3. 108 000 000 denied
4. Pennzoil Company
5. F C Lewis #1
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80-10732
2. 47-087-02834-0000
3. 108 000 000 denied
4. Pennzoil Company
5. W M Looney #3
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80-10733
2. 47-087-02835-0000
3. 108 000 000 denied
4. Pennzoil Company
5. W M Looney #4
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80-10734
2. 47-087-02837-0000
3. 108 000 000 denied
4. Pennzoil Company
5. W M Looney #6
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80-10735
2. 47-087-02838-0000
3. 108 000 000 denied
4. Pennzoil Company
5. W M Looney #7
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

1. 80-10723
2. 47-087-02643-0000
3. 108 000 000 denied
4. Pennzoil Company
5. W M Looney #12
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 28, 1979
10. Consolidated Gas Supply Corp

U.S. Geological Survey Albuquerque, N. Mex.1251. Control Number (FERC/State)

2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-10569/COA-1829-79
2. 05-067-05083-0000-0
3. 108 000 000 denied
4. Ladd Petroleum Corporation
5. Southern Ute #1-16
6. Ignacio Blanco
7. La Plata CO
8. 14.0 million cubic feet
9. December 28, 1979
10. Peoples Natural Gas

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-10671/NM-03521-79
2. 30-045-06381-0000-0
3. 108 000 000
4. Amoco Production Company
5. Gallegos Canyon Unit #266
6. Basin-Dakota
7. San Juan NM
8. 5.0 million cubic feet
9. December 28, 1979

10. El Paso Natural Gas Company

1. 80-10672/NM03514-79
2. 30-045-08537-0000-0
3. 108 000 000
4. Amoco Production Company
5. Elliott A L B #4
6. Blanco-Pictured Cliffs
7. San Juan NM
8. 8.0 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Company

1. 80-10673/NM03512-79
2. 30-045-08497-0000-0
3. 108 000 000
4. Amoco Production Company
5. Elliott A L D #4
6. Blanco-Pictured Cliffs
7. San Juan NM
8. 10.0 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Company

1. 80-10674/NM03509-79
2. 30-045-11777-0000-0
3. 108 000 000
4. Amoco Production Company
5. USA T L Rhodes B #1
6. Basin-Dakota
7. San Juan NM
8. 8.0 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Company

1. 80-10675/NM03508-79
2. 30-045-11688-0000-0
3. 108 000 000
4. Amoco Production Company
5. Gallegos Canyon Unit #246
6. Basin-Dakota
7. San Juan NM
8. 12.0 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Company

1. 80-10676/NM03506-79
2. 30-045-20713-0000-0
3. 108 000 000
4. Amoco Production Company
5. Elliott A L D #6
6. Blanco-Pictured Cliffs
7. San Juan NM
8. 12.0 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Company

1. 80-10677/NM-3497-79
2. 30-039-06043-0000-0
3. 108 000 000
4. Amoco Production Company
5. Phillips Fred C #1
6. Tapacito-Pictured Cliffs
7. Rio Arriba NM
8. 4.0 million cubic feet
9. December 28, 1979
10. Northwest Pipeline

1. 80-10678/NM-3496-79
2. 30-045-09506-0000-0
3. 108 000 000
4. Amoco Production Company
5. San Juan #1
6. Aztec-Pictured Cliffs
7. San Juan NM
8. 9.0 million cubic feet
9. December 28, 1979
10. Gas Company of New Mexico

1. 80-10679/NM3490-79
2. 30-045-11623-0000-0
3. 108 000 000
4. Amoco Production Company
5. Gallegos Canyon Unit #213
6. Basin-Dakota
7. San Juan NM
8. 18.0 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Company

1. 80-10680/NM-3489-79
2. 30-045-11618-0000-0
3. 108 000 000
4. Amoco Production Company
5. Gallegos Canyon Unit #232
6. Basin-Dakota
7. San Juan NM
8. 17.0 million cubic feet
9. December 28, 1979
10. El Paso Natural Gas Company

U.S. Geological Survey, Casper, Wyo.

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received At FERC
10. Purchaser(s)

1. 80-10911/CC 29-9
2. 05-045-06150-0000-0
3. 102 000 000
4. Palmer Oil & Gas Company
5. Federal #5-3
6. South Canyon
7. Garfied Co
8. 730.0 million cubic feet
9. December 28, 1979
10. Southwest Gas Corporation

1. 80-10916/CC996-9
2. 05-103-07673-0000-0
3. 108 000 000
4. Provident Resources Inc
5. Government 2-25-4-102
6. Foundation Creek
7. Rio Blanco, County Co
8. 20.0 million cubic feet
9. December 28, 1979
10. Northwest Pipeline Corporation

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received At FERC
10. Purchaser(s)

1. 80-10910/M238-9
2. 25-071-21337-0000-0
3. 108 000 000
4. Midlands Gas Corporation
5. 2151 21-35-31 Federal
6. Bowdoin
7. Phillips MT
8. 18.0 million cubic feet
9. December 28, 1979
10. Kansas-Nebraska Natural Gas Co Inc

1. 80-10914/M988-9
2. 25-071-21578-0000-0
3. 102 000 000
4. Midlands Gas Corporation
5. 2861 1-28 Soc et al Federal
6. Bowdoin
7. Phillips MT
8. 108.0 million cubic feet
9. December 28, 1979
10. Kansas-Nebraska Natural Gas Co Inc

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received At FERC
10. Purchaser(s)

1. 80-10915/ND967-9
2. 33-053-00762-0000-0
3. 102 000 000
4. Pennzoil Company
5. Pennzoil-Depco Federal No. 1-17
6. Mondak
7. McKenzie ND
8. 18.0 million cubic feet
9. December 28, 1979
10. Montana Dakota Utilities

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received At FERC
10. Purchaser(s)

1. 80-10905/UC 807-9
2. 43-019-30378-0000-0
3. 103 000 000
4. Ross Jacobs
5. R Jacobs #1
6. Cisco Springs
7. Grand UT
8. 60.0 million cubic feet
9. December 28, 1979
10. Northwest Pipeline Corp

1. 80-10906/UC 760-9
2. 43-047-30405-0000-0
3. 102 000 000
4. Mapco Production Company
5. RBU 11-19F
6. Island Field
7. Uinta UT
8. 130.0 million cubic feet
9. December 28, 1979
10. Mountain Fuel Supply Co

1. 80-10907/UC-870-9
2. 43-019-30402-0000-0
3. 102 000 000
4. Bordwalk Petroleum Inc
5. Levon #1
6. Cisco Springs
7. Grand UT
8. 125.0 million cubic feet
9. December 28, 1979
10. Northwest Pipeline Corp

1. 80-10908/UC-481-9A

V 45 / 15 JA 22 80 UMI

2. 43-047-30401-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. NBU 38-22830401
6. Natural Buttes Unit
7. Uintah UT
8. 10.0 million cubic feet
9. December 28, 1979
10. Colorado Interstate Gas Co
1. 80-10913/UC 997-9
2. 43-019-30456-0000-0
3. 103 000 000
4. Cisco Drilling and Development Inc
5. Cisco Federal No. 1
6.
7. Grand UT
8. 180.0 million cubic feet
9. December 28, 1979
10. Northwest Pipeline Corp
1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-10904/W951-9
2. 49-023-20052-0000-0
3. 108 000 000
4. Petro-Lewis Corporation
5. Federal 23-14
6. Labarge
7. Lincoln WY
8. 12.8 million cubic feet
9. December 28, 1979
10. FMC Corporation
1. 80-10909/W348-9
2. 49-013-20565-0000-0
3. 102 000 000
4. Damson Oil Corporation
5. Federal 1-19
6. Kanson Draw
7. Fremont WY
8. 420.0 million cubic feet
9. December 28, 1979
10. Northern Natural Gas Company
1. 80-10912/W1002-9
2. 49-037-21159-0000-0
3. 102 000 000
4. Equity Oil Company
5. Equity Federal No. 1-18
6.
7. Sweetwater WY
8. 124.0 million cubic feet
9. December 28, 1979
10. Colorado Interstate Gas Company
1. 80-10917/W350-9B
2. 49-037-21130-0000-0
3. 103 000 000
4. Marathon Oil Company
5. Wamsutter A No. 8
6. Wamsutter
7. Sweetwater WY
8. 865.0 million cubic feet
9. December 28, 1979
10. Colorado Interstate Gas Company
1. 80-10918/W636-9
2. 49-037-21215-0000-0
3. 102 000 000
4. Marathon Oil Company
5. Wamsutter No. 1-3
6. Wamsutter
7. Sweetwater WY
8. 543.0 million cubic feet
9. December 28, 1979
10. Colorado Interstate Gas Company
1. 80-10919/W186-9
2. 49-013-20825-0000-0
3. 102 000 000
4. Damson Oil Corporation
5. Shoshoni-Arapahoe Tribal 16-1
6. Boysen
7. Fremont WY
8. 150.0 million cubic feet
9. December 28, 1979
10. Montana-Dakota Utilities

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 6, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-1955 Filed 1-21-80; 8:45 am]

BILLING CODE 6450-01-M

[No. 129]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

January 11, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Kansas Corporation Commission

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 80-08206/K-79-0901
2. 15-047-00000-0000
3. 108 000 000
4. David Jackson Jr & Robt G Armstrong
5. Meyer A #1
6. Belpre
7. Edwards, KS
8. 10.0 million cubic feet
9. December 3, 1979
10. Northern Natural Gas Co

1. 80-08207/K-79-0874
2. 15-129-20339-0000
3. 103 000 000
4. Edgar W White
5. Interstate Red Cave No 1
6. Interstate Red Cave
7. Morton, KS
8. 47.0 million cubic feet
9. December 3, 1979
10. Colorado Interstate Gas Company

1. 80-08208/K-79-0875
2. 15-129-20377-0000
3. 103 000 000
4. Edgar W White
5. Interstate A-1-19
6. Interstate Morrow
7. Morton, KS
8. 73.0 million cubic feet
9. December 3, 1979
10. Colorado Interstate Gas Company

1. 80-08209/K-79-0876
2. 15-129-20362-0000
3. 103 000 000
4. Edgar W White
5. Interstate Red Cave No 2
6. Interstate Red Cave
7. Morton, KS
8. 47.0 million cubic feet
9. December 3, 1979
10. Colorado Interstate Gas Company

1. 80-08210/K-79-0905
2. 15-047-20443-0000
3. 103 000 000
4. F G Holl
5. Enlow-Miller 1-11
6. Harding
7. Edwards, KS
8. 15.0 million cubic feet
9. December 3, 1979
10. Northern Natural Gas Co

1. 80-08211/K-79-0904
2. 15-047-20251-0000
3. 103 000 000
4. F G Holl
5. Lunz A No 2
6. Embry
7. Edwards, KS
8. 27.0 million cubic feet
9. December 3, 1979
10. Northern Natural Gas Co

1. 80-08212/K-79-0903
2. 15-047-20138-0000
3. 108 000 000
4. F G Holl
5. Cross No 1
6. Wayne NW
7. Edwards, KS
8. 4.8 million cubic feet
9. December 3, 1979
10. Kansas-Nebraska Natural Gas Co, Inc

1. 80-08213/K-79-0872
2. 15-129-00000-0000
3. 108 000 000
4. Anadarko Production Company
5. Murphy A No 2
6. Richfield
7. Morton, KS
8. 7.0 million cubic feet
9. December 3, 1979
10. Panhandle Eastern Pipeline Co

1. 80-08214/K-79-0871
2. 15-007-00000-0000
3. 108 000 000
4. American Petrofina Company of Texas
5. Graves No 2
6. Hardtner
7. Barber, KS
8. 10.0 million cubic feet
9. December 3, 1979
10. Cities Services Gas Company

1. 80-08215/K-79-0864
2. 15-007-00000-0000
3. 108 000 000
4. Gulf Oil Corporation
5. Root B #4
6. Medicine Lodge
7. Barber, KS
8. 6.0 million cubic feet
9. December 3, 1979
10. Zenith Natural Gas Company

1. 80-08216/K-79-0863
2. 15-067-20496-0000
3. 103 000 000
4. Gulf Oil Corporation
5. Shawver No 2-2
6. Panoma
7. Grant, KS
8. 15.0 million cubic feet
9. December 3, 1979
10. Colorado Interstate Gas Co

1. 80-08217/K-79-0865
2. 15-007-00000-0000
3. 108 000 000
4. Cities Service Company
5. Ott "B" #1
6. Aetna
7. Barber, KS
8. 17.0 million cubic feet
9. December 3, 1979
10. Cities Service Gas Company

1. 80-08218/K-79-0095
2. 15-055-20217-0000
3. 108 000 000
4. Benson Mineral Group Inc
5. Ragsdale #1
6. Hugoton
7. Finney, KS
8. 21.9 million cubic feet
9. December 3, 1979
10. Northern Natural Gas Company

1. 80-08219/K-79-0707
2. 15-093-00000-0000
3. 108 000 000
4. Amoco Production Company
5. Beaty R T #1
6. Hugoton Chase
7. Kearny, KS
8. 13.0 million cubic feet
9. December 3, 1979
10. Cities Service Gas Co

Louisiana Office of Conservation

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 80-08220/79-2315
2. 17-001-00000-0000
3. 102 000 000, Denied
4. Goldking Production Company
5. William Leckelt No 15
6. Jennings
7. Acadia, LA
8. .0 million cubic feet
9. December 3, 1979
10. Mid Louisiana Gas Co

Montana Board of Oil and Gas Conservation

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-08224/7-79-235
2. 25-071-21541-0000
3. 108 000 000
4. Midlands Gas Corporation
5. 2370 1-23 Brown
6. Bowdoin
7. Phillips, MT
8. 20.0 million cubic feet
9. December 3, 1979
10. Kansas-Nebraska Natural Gas Co Inc

1. 80-08225/9-79-253
2. 25-071-21153-0000
3. 108 000 000
4. Midlands Gas Corporation
5. 1542 Nettie Croger 1-15 #1
6. Bowdoin
7. Phillips, MT
8. 20.0 million cubic feet
9. December 3, 1979
10. Kansas-Nebraska Natural Gas Co Inc

1. 80-08226/9-79-255
2. 25-071-21589-0000
3. 108 000 000
4. Midlands Gas Corporation
5. 0771 #1 Harrison-Laroche
6. Bowdoin
7. Phillips, MT
8. 20.0 million cubic feet
9. December 3, 1979
10. Kansas-Nebraska Natural Gas Co Inc

1. 80-08227/7-79-228
2. 25-071-21529-0000
3. 108 000 000
4. Midlands Gas Corporation
5. 2871 1-28-37-31 Laroche-Harrison
6. Bowdoin
7. Phillips, MT
8. 20.0 million cubic feet
9. December 3, 1979
10. Kansas-Nebraska Natural Gas Co Inc

1. 80-08222/7-79-236
2. 25-071-21439-0000
3. 108 000 000
4. Midlands Gas Corporation
5. 2970 #1 Federal
6. Bowdoin
7. Phillips, MT
8. 18.0 million cubic feet
9. December 3, 1979
10. Kansas-Nebraska Natural Gas Co Inc

1. 80-08223/7-79-234
2. 25-071-21156-0000
3. 108 000 000
4. Midlands Gas Corporation
5. 3452 Pehlke 1-34
6. Bowdoin
7. Phillips, MT
8. 11.0 million cubic feet
9. December 3, 1979
10. Kansas-Nebraska Natural Gas Co Inc

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-08221
2. 30-015-22205-0000
3. 103 000 000
4. J M Huber Corporation
5. Parr No 1
6. Yarrow
7. Eddy, NM
8. 273.8 million cubic feet
9. December 4, 1979
10. Transwestern Pipeline Company

1. 80-08257
2. 30-045-07881-0000
3. 108 000 000
4. Amoco Production Company
5. McDaniel Gas Com A No 1
6. Aztec-Pictured Cliffs
7. San Juan, NM
8. 21.0 million cubic feet
9. December 4, 1979
10. El Paso Natural Gas Company

1. 80-08258
2. 30-025-07881-0000
3. 103 000 000
4. Jake L Hamon
5. Union State No 2
6. North Osudo Morrow
7. Lea, NM
8. 912.0 million cubic feet
9. December 4, 1979
10. Warren Petroleum Company

1. 80-08259
2. 30-045-23266-0000
3. 108 000 000 Denied
4. El Pam Co Inc
5. Sullivan 6J (formerly 6B)
6. Aztec Fruitland
7. San Juan, NM
8. 21.0 million cubic feet
9. December 4, 1979
10. El Paso Natural Gas Company

1. 80-08260
2. 30-045-11786-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Flaningam #1
6. Aztec-Pictured Cliffs Gas
7. San Juan, NM
8. 21.9 million cubic feet
9. December 4, 1979
10. El Paso Natural Gas Company

1. 80-08261
2. 30-025-00000-0000
3. 103 000 000
4. Natomas North America Inc
5. Antelope Ridge State Com 23 #2
6. Antelope Ridge
7. Lea, NM
8. 2500.0 million cubic feet
9. December 4, 1979

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10. El Paso Natural Gas Company
1. 80-08262
2. 30-025-26299-0000
3. 103 000 000
4. Warren Petroleum Co/Div Gulf Oil
5. Lea YH State Well No 2
6. Airstrip Bone Springs
7. Lea, NM
8. .0 million cubic feet
9. December 4, 1979
10. El Paso Natural Gas Company
1. 80-08263
2. 30-015-22948-0000
3. 103 000 000
4. Southland Royalty Company
5. State 2 Com #1
6. Angell Ranch Morrow
7. Eddy, NM
8. 100.0 million cubic feet
9. December 4, 1979
10. El Paso Natural Gas Company
1. 80-08264
2. 30-039-22061-0000
3. 103 000 000
4. El Paso Natural Gas Company
5. Lindrith Unit #97
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 20.0 million cubic feet
9. December 4, 1979
10. El Paso Natural Gas Company
1. 80-08265
2. 30-041-20506-0000
3. 103 000 000
4. Phillips Petroleum Company
5. Lambirth—A No 4
6. Peterson Fusselman South
7. Roosevelt, NM
8. 50.0 million cubic feet
9. December 4, 1979
10. Transwestern Pipeline Company
1. 80-08266
2. 30-005-00000-0000
3. 103 000 000
4. Stevens Oil Company
5. Obrien I No 2
6. Twin Lakes—San Andres Assoc
7. Chaves, NM
8. 28.0 million cubic feet
9. December 4, 1979
10. Transwestern Pipeline Co, Stevens Oil Co
1. 79-04005 (Revised)
2. 30-025-25804
3. 103 Denied
4. Read & Stevens Inc
5. Scharb Com #1
6. Scharb Bone Spring
7. Lea, NM
8. 28.5 million cubic feet
9. April 23, 1979
10. Warren Petroleum Co
1. 79-04006
2. 30-025-25493
3. 103
4. Read & Stevens Inc
5. State BG #2
6. Quail Queen
7. Lea, NM
8. 5.2 million cubic feet
9. April 23, 1979
10. Warren Petroleum Co
1. 80-01953
2. 30-015-00000
3. 103 Denied

4. Wayman W Buchanan
5. Osage Com No. 1
6. Undes N Cemetery (Wolfcamp)
7. Eddy, NM
8. 109.5 million cubic feet
9. October 9, 1979
10. Natural Gas Pipeline Co of Amer

New York Department of Environmental Conservation Bureau of Mineral Resources

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-08202/682
2. 31-013-13755-0000
3. 102 000 000
4. Envirogas Inc
5. Charles Whittington No. 1
6. Wildcat
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 30, 1979
10. National Fuel Gas Supply Corp
1. 80-08203/681
2. 31-013-13682-0000
3. 102 000 000
4. Envirogas Inc
5. Kenneth James No. 1
6. Wildcat
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 30, 1979
10. National Fuel Gas Supply Corp
1. 80-08204/680
2. 31-013-13854-0000
3. 102 000 000
4. Envirogas Inc
5. Kenneth James No. 2
6. Wildcat
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 30, 1979
10. National Fuel Gas Supply Corp
1. 80-08205/679
2. 31-013-13881-0000
3. 102 000 000
4. Envirogas Inc
5. Guy Akin No. 2
6. Wildcat
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 30, 1979
10. National Fuel Gas Supply Corp

Oklahoma Corporation Commission

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-08173/04552
2. 35-129-20397-0000
3. 107 000 000
4. El Paso Natural Gas Company
5. J D McCoy No. 1
6. Reydon W Morrow Upper
7. Roger Mills, OK
8. 1095.0 million cubic feet
9. November 30, 1979
10. El Paso Natural Gas Company
1. 80-08174/04500
2. 35-129-20382-0000
3. 107 000 000
4. Dyco Petroleum Corporation
5. Peterson Unit No. 1-17
6.
7. Roger Mills, OK
8. 1560.0 million cubic feet
9. November 30, 1979
10. El Paso Natural Gas Company Panhandle Eastern Pipeline Co Kansas Nebraska Natural Gas Co
1. 80-08175/01082
2. 35-039-20209-0000
3. 103 000 000
4. Sun Oil Company (Delaware)
5. Ira Rayner Well No. 1
6. Anthony SE
7. Custer, OK
8. .0 million cubic feet
9. November 30, 1979
10.
1. 80-08176/01001
2. 35-139-21061-0000
3. 103 000 000
4. Falcon Petroleum Company
5. Clark No. 3
6. Northwest Dombey
7. Texas, OK
8. 37.0 million cubic feet
9. November 30, 1979
10. Panhandle Eastern Pipe Line
1. 80-08177/03794
2. 35-129-20368-0000
3. 107 000 000
4. L G Williams Oil Company Inc
5. Williams 28-1
6. S W Reydon
7. Roger Mills, OK
8. 700.0 million cubic feet
9. November 30, 1979
10. El Paso Natural Gas Company
1. 80-08178/04604
2. 35-129-20636-0000
3. 107 000 000
4. Hoover & Bracken Energies Inc
5. Bertha Shaller 1-7
6. Wildcat
7. Roger Mills, OK
8. 730.0 million cubic feet
9. November 30, 1979
10.
1. 80-08179/00930
2. 35-025-35328-0000
3. 108 000 000
4. Texaco Inc
5. G A Pack No. 2
6. E Griggs
7. Cimarron, OK
8. .0 million cubic feet
9. November 30, 1979
10. Transwestern Pipeline Co
1. 80-08180/01010
2. 35-195-00000-0000
3. 108 000 000
4. Graham-Michaelis Corporation
5. Denning No. 1
6. Carthage

7. Texas, OK
8. 6.0 million cubic feet
9. November 30, 1979
10. Panhandle Eastern Pipe Line
1. 80-08181/00954
2. 35-139-35406-0000
3. 108 000 000
4. Texaco Inc
5. F L Harrison Unit No. 1
6. Camrick SE
7. Texas, OK
8. 10.2 million cubic feet
9. November 30, 1979
10. Natural Gas PL Co of Amer
1. 80-08182/01093
2. 35-083-20811-0000
3. 103 000 000
4. Gulf Oil Corporation
5. John Hopfer No. 3
6. W Lawrie
7. Logan, OK
8. 18.0 million cubic feet
9. November 30, 1979
10. Eason Oil Co
1. 80-08183/01067
2. 35-051-20096-0000
3. 103 000 000
4. Cotton Petroleum Corporation
5. Hill B No. 1
6. Mustang
7. Grady, OK
8. 234.9 million cubic feet
9. November 30, 1979
10. Cities Service Gas Company
1. 80-08184/01027
2. 35-075-20259-0000
3. 103 000 000
4. Arco Oil and Gas Company
5. Ida Hollie No. 1-k
6. Red Oak (Norris)
7. Leflore, OK
8. 803.0 million cubic feet
9. November 30, 1979
10. Arkansas Louisiana Gas Co
1. 80-08185/01092
2. 35-043-20873-0000
3. 103 000 000
4. Texaco Inc
5. L D Miller No. 4
6. Putnam
7. Dewey, OK
8. 30.0 million cubic feet
9. November 30, 1979
10. Panhandle Eastern PL Co
1. 80-08186/01072
2. 35-017-20963-0000
3. 103 000 000
4. Continental Oil Company
5. Phelps No. 1-5
6. E El Reno
7. Canadian, OK
8. 28.5 million cubic feet
9. November 30, 1979
10. Cities Service Gas Co
1. 80-08187/00933
2. 35-139-00000-0000
3. 108 000 000
4. Texaco Inc
5. State A Unit No. 1
6. Guymon-Hugoton
7. Texas, OK
8. 19.3 million cubic feet
9. November 30, 1979
10. Cities Service Gas Company
1. 80-08188/01028

2. 35-079-20255-0000
3. 103 000 000
4. Diamond Shamrock Corporation
5. Edgar P Johnson No. 2
6. Rock Island
7. Leflore, OK
8. 8.0 million cubic feet
9. November 30, 1979
10. Arkansas Louisiana Gas Company
1. 80-08189/00065
2. 35-003-20824-0000
3. 103 000 000
4. Union Texas Petroleum
5. Etta Irwin No. 2
6. Chaney Dell E Sec 35 T24N R12W
7. Alfalfa, OK
8. 56.0 million cubic feet
9. November 30, 1979
10. Panhandle Eastern Pl Co
1. 80-08190/00069
2. 35-003-20600-0000
3. 103 000 000
4. Union Texas Petroleum
5. Clyde Irwin A-2
6. Chaney Dell E S 26 T24N R12W
7. Alfalfa, OK
8. 157.0 million cubic feet
9. November 30, 1979
10. Panhandle Eastern Pl Co
1. 80-08191/00255
2. 35-061-20214-0000
3. 102 000 000
4. Samson Resources Company
5. Noblin No. 1
6. Southeast Quinton
7. Haskell, OK
8. 375.0 million cubic feet
9. November 29, 1979
10. Arkansas Louisiana Gas Co
1. 80-08192/00053
2. 35-093-21389-0000
3. 103 000 000
4. Union Texas Petroleum
5. F Hall No 2
6. Chaney Dell East
7. Major, OK
8. 55.0 million cubic feet
9. November 29, 1979
10. Panhandle Eastern PL Co
1. 80-08193/00039
2. 35-047-21333-0000
3. 103 000 000
4. Union Texas Petroleum
5. Drummond State No 1
6. Waukomis SW
7. Garfield, OK
8. 150.0 million cubic feet
9. November 29, 1979
10. Panhandle Eastern PL Co
1. 80-08194/00068
2. 35-003-20570-0000
3. 103 000 000
4. Union Texas Petroleum
5. Mildred Hughes No 2
6. Chaney Dell East
7. Alfalfa, OK
8. 254.0 million cubic feet
9. November 29, 1979
10. Panhandle Eastern Pipeline Co
1. 80-08195/00067
2. 35-003-20609-0000
3. 103 000 000
4. Union Texas Petroleum
5. J. M. Rich No 1
6. Chaney Dell East

7. Alfalfa, OK
8. 147.0 million cubic feet
9. November 29, 1979
10. Panhandle Eastern PL Co
1. 80-08196/00250
2. 35-029-20164-0000
3. 102 163 000
4. Samson Resources Company
5. Mckinney No 1-Upper
6. Centrahoma
7. Coal, OK
8. 240.5 million cubic feet
9. November 29, 1979
10. Arkansas Louisiana Gas Company
1. 80-08197/00060
2. 35-093-21517-0000
3. 103 000 000
4. Union Texas Petroleum
5. Opal Baker #2
6. Chaney Dell E-S 20 T23N R11W
7. Major, OK
8. 71.0 million cubic feet
9. November 29, 1979
10. Panhandle Eastern PL Co
1. 80-08198/00066
2. 35-003-20618-0000
3. 103 000 000
4. Union Texas Petroleum
5. P H Hertzler B-3
6. Chaney Dell East
7. Alfalfa, OK
8. 120.0 million cubic feet
9. November 29, 1979
10. Panhandle Eastern PL Co
1. 80-08199/00062
2. 35-093-21499-0000
3. 103 000 000
4. Union Texas Petroleum
5. L Haggard A No 2
6. Chaney Dell East
7. Major, OK
8. 32.0 million cubic feet
9. November 29, 1979
10. Panhandle Eastern P/L Co
1. 80-08200/00063
2. 35-003-20562-0000
3. 103 000 000
4. Union Texas Petroleum
5. Dowers #3
6. Chaney Dell E-S 32 T24N R9W
7. Alfalfa, OK
8. 31.0 million cubic feet
9. November 29, 1979
10. Panhandle Eastern P/L Co
1. 80-08201/00070
2. 35-003-20586-0000
3. 103 000 000
4. Union Texas Petroleum
5. Devereaux #2
6. Chaney Dell E Sec 25 T24N R12W
7. Alfalfa, OK
8. 79.0 million cubic feet
9. November 29, 1979
10. Panhandle Eastern P/L Co

U.S. Geological Survey, Casper, Wyo.

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC

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10. Purchaser(s)
1. 80-08228/CC824-9
2. 05-103-00805-0000-0
3. 108 000 000
4. Tipperary Oil and Gas Corp
5. USA 1-20-C
6. Unnamed
7. Rio Blanco, CO
8. 15.0 million cubic feet
9. December 4, 1979
10. Northwest Pipeline Corp
1. 80-08229/CC965-9
2. 05-103-00114-0000-0
3. 103 000 000
4. Coseka Resources (USA) Limited
5. Taiga Federal 11-F-22-4S-102W
6. Thunder
7. Rio Blanco, CO
8. 36.4 million cubic feet
9. December 4, 1979
10. Northwest Pipeline Company
1. 80-08232/CC1067-9
2. 05-081-06353-0000-0
3. 103 000 000
4. Energy Reserve Group Inc
5. USA Harry Ptasynski #4
6. Powder Wash
7. Moffat, CO
8. 25.0 million cubic feet
9. December 4, 1979
10. Mountain Fuel Supply Company
1. 80-08256/CC966-9
2. 05-103-00081-0000-0
3. 103 000 000
4. Coseka Resources (USA) Limited
5. Taiga Federal 12-J-22
6. Thunder
7. Rio Blanco, CO
8. 56.8 million cubic feet
9. December 4, 1979
10. Northwest Pipeline Company
1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-08255/ND 969-9
2. 33-053-00819-0000-0
3. 102 000 000
4. Pennzoil Company
5. Pennzoil-Depco Federal #33-32
6. Mondak
7. McKenzie, ND
8. 37.0 million cubic feet
9. December 4, 1979
10. Montana Dakota Utilities
1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
3. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-08231/UC10-83-9
2. 43-047-30549-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. Natural Buttes CIGE 60-14-9-21
6. Bitter Creek
7. Uintah, UT
8. 135.0 million cubic feet
9. December 4, 1979
10. Colorado Interstate Gas Co
1. 80-08233/UC1062-9
2. 43-047-30507-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. Natural Buttes CIGE 49-22-10-21
6. Bitter Creek
7. Uintah, UT
8. 225.0 million cubic feet
9. December 4, 1979
10. Colorado Interstate Gas Co
1. 80-08234/UC10-63-9
2. 43-047-30508-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. Natural Buttes CIGE 34-13-10-20
6. Bitter Creek
7. Uintah, UT
8. 270.0 million cubic feet
9. December 4, 1979
10. Colorado Interstate Gas Co
1. 80-08235/UC1076-9
2. 43-047-30529-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. Natural Buttes CIGE 46-21-9-21
6. Bitter Creek
7. Uintah, UT
8. 225.0 million cubic feet
9. December 4, 1979
10. Colorado Interstate Gas Co
1. 80-08236/UC1077-9
2. 43-047-30531-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. Natural Buttes CIGE 52-5-10-22
6. Bitter Creek
7. Uintah, UT
8. 225.0 million cubic feet
9. December 4, 1979
10. Colorado Interstate Gas Co
1. 80-08237/UC1078-9
2. 43-047-30548-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. Natural Buttes CIGE 59-21-10-21
6. Bitter Creek
7. Uintah, UT
8. 130.0 million cubic feet
9. December 4, 1979
10. Colorado Interstate Gas Co
1. 80-08238/UC1079-9
2. 43-047-30527-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. Natural Buttes CIGE 44-9-9-21
6. Bitter Creek
7. Uintah, UT
8. 117.0 million cubic feet
9. December 4, 1979
10. Colorado Interstate Gas Co
1. 80-08239/UC1080-9
2. 43-047-30528-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. Natural Buttes CIGE 45-15-9-21
6. Bitter Creek
7. Uintah, UT
8. 58.0 million cubic feet
9. December 4, 1979
10. Colorado Interstate Gas Co
1. 80-08240/UC1061-9
2. 43-047-30533-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. Natural Buttes CIGE 53-6-10-22
6. Bitter Creek
7. Uintah, UT
8. 198.0 million cubic feet
9. December 4, 1979
10. Colorado Interstate Gas Co
1. 80-08241/UC1062-9
2. 43-047-30497-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. Natural Buttes CIGE 22-15-9-20
6. Bitter Creek
7. Uintah, UT
8. 11.0 million cubic feet
9. December 4, 1979
10. Colorado Interstate Gas Co
1. 80-08245/UC1000-9
2. 43-047-30510-0000-0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. Natural Buttes CIGE 47-14-10-21
6. Bitter Creek
7. Uintah, UT
8. 193.0 million cubic feet
9. December 4, 1979
10. Colorado Interstate Gas Co
1. 80-08246/UC1001-9
2. 43-047-30506-0000-0
3. 105 000 000
4. Gas Producing Enterprises Inc
5. Natural Buttes CIGE 48-15-10-21
6. Bitter Creek
7. Uintah, UT
8. 230.0 million cubic feet
9. December 4, 1979
10. Colorado Interstate Gas Co
1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
3. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-08230/W-1091-9
2. 49-037-21309-0000-0
3. 102 000 000
4. Davis Oil Company
5. Pickett Lake Unit #1
6. Wildcat Field
7. Sweetwater, WY
8. 1000.0 million cubic feet
9. December 4, 1979
10. Panhandle Eastern Pipeline Company, Colorado Interstate Gas Co, Columbia Gas Transmission Co
1. 80-08242/W1056-9
2. 49-005-25209-0000-0
3. 103 000 000
4. Continental Oil Company
5. Conoco Federal 29 #12
6. House Creek
7. Campbell, WY
8. 18.2 million cubic feet
9. December 4, 1979
10. Phillips Petroleum
1. 80-08243/W1043-9

2. 49-007-20391-0000-0
3. 103 000 000
4. Texas Oil & Gas Corp
5. Federal Y #1
6. Cherokee Creek
7. Carbon, WY
8. 146.0 million cubic feet
9. December 4, 1979
10. Western Transmission Corporation
1. 80-08244/W1036-9
2. 49-005-25210-0000-0
3. 103 000 000
4. Continental Oil Company
5. Conoco Federal 29 #11
6. House Creek
7. Campbell, WY
8. 16.0 million cubic feet
9. December 4, 1979
10. Phillips Petroleum
1. 80-08247/W999-9
2. 49-037-21234-0000-0
3. 102 000 000
4. Davis Oil Company
5. Hay Reservoir #12
6. Hay Reservoir
7. Sweetwater, WY
8. 270.0 million cubic feet
9. December 4, 1979
10. Panhandle Eastern Pipeline Co
1. 80-08248/W998-9
2. 49-037-21047-0000-0
3. 102 000 000
4. Davis Oil Company
5. Bush Lake #1
6. Bush Lake
7. Sweetwater, WY
8. 300.0 million cubic feet
9. December 4, 1979
10. Panhandle Eastern Pipeline Co
1. 80-08249/W995-9
2. 49-037-21353-0000-0
3. 102 000 000
4. Marathon Oil Company
5. Bruff #1-14
6. Bruff #1-14
7. Sweetwater, WY
8. 657.0 million cubic feet
9. December 4, 1979
10.
1. 80-08250/W994-9
2. 49-041-20174-0000-0
3. 102 000 000
4. Mountain Fuel Supply Company
5. Clifton Federal #28-1
6. Bruff area
7. Uinta, WY
8. 123.0 million cubic feet
9. December 4, 1979
10. Mountain Fuel Supply Co
1. 80-08251/W993-9
2. 49-041-20123-0000-0
3. 102 000 000
4. Mountain Fuel Supply Company
5. Bruff #8
6. Bruff unit
7. Uinta, WY
8. 480.0 million cubic feet
9. December 4, 1979
10. Mountain Fuel Supply Co
1. 80-08252/W992-9
2. 49-041-20205-0000-0
3. 102 000 000
4. Mountain Fuel Supply Company
5. Lansdale Federal Well #4-1
6. Bruff area
7. Uinta, WY
8. 300.0 million cubic feet
9. December 4, 1979
10. Mountain Fuel Supply Co
1. 80-08253/W990-9
2. 49-009-21445-0000-0
3. 103 000 000
4. Wexpro Co
5. Boswell Federal Well #2-1
6. Powell Field
7. Converse, WY
8. 183.0 million cubic feet
9. December 4, 1979
10. Mountain Fuel Supply Co
1. 80-08254/W989-9
2. 49-023-20265-0000-0
3. 102 000 000
4. Amoco Production Company
5. Whiskey Buttes Unit Well #17
6. Whiskey Buttes Unit
7. Lincoln, WY
8. 700.0 million cubic feet
9. December 4, 1979
10. Cities Service Gas Company, Mountain Fuel Supply Company, Stauffer Chemical Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 6, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-1956 Filed 1-21-80; 8:45 am]

BILLING CODE 6450-01-M

[No. 134]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

January 15, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Kansas Corporation Commission

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date received at FERC
10. Purchasers(s)
1. 80-09392/K-79-0326
2. 15-151-00000-0000
3. 108 000 000
4. M L Sloan
5. Verning #1
6. Carver-Robbins
7. Pratt KS
8. .0 million cubic feet
9. December 7, 1979
10. Panhandle Eastern Pipeline
1. 80-09393/K-79-0302
2. 15-097-20423-0000
3. 108 000 000
4. White & Ellis Drilling Inc
5. Thompson #1
6. Vod
7. Kiowa KS
8. 10.0 million cubic feet
9. December 7, 1979
10. Kansas/Nebraska Natural Gas Co Inc
1. 80-09394/K-78-0105
2. 15-189-20389-0000
3. 103 000 000
4. Mobil Oil Corporation
5. Fienup-Hirz Unit #2
6. Panoma
7. Stevens KS
8. 70.0 million cubic feet
9. December 7, 1979
10. Cities Service Gas Co

Louisiana Office of Conservation

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date received at FERC
10. Purchasers(s)
1. 80-09486/79-2841
2. 17-726-20172-0000
3. 103 000 000
4. Kerr-McGee Corporation
5. State Lease 1999 No 38
6. Breton Sound Block 20
7. Plaquemines Parish LA
8. .0 million cubic feet
9. December 12, 1979
10. Southern Natural Gas Company
1. 80-09487/79-2840
2. 17-726-20142-0000
3. 103 000 000
4. Kerr-McGee Corporation
5. State Lease 2000 No 43
6. Breton Sound Block 20
7. Plaquemines Parish LA
8. 14.0 million cubic feet
9. December 12, 1979
10. Southern Natural Gas Company
1. 80-09488/79-2839
2. 17-726-20175-0000
3. 103 000 000
4. Kerr-McGee Corporation
5. State Lease 4574 No. 7
6. Breton Sound Block 20
7. Plaquemines Parish LA
8. .0 million cubic feet

9. December 12, 1979
10. Southern Natural Gas Company
1. 80-09485/79-2836
2. 17-726-20166-0000
3. 103 000 000
4. Kerr-McGee Corporation
5. State Lease 1999 No 36-D
6. Breton Sound Block 20
7. Plaquemines Parish LA
8. .0 million cubic feet
9. December 12, 1979
10. Southern Natural Gas Company
1. 80-09490/79-2836
2. 17-726-20165-0000
3. 103 000 000
4. Kerr-McGee Corporation
5. BRS 20 6800 RA SU S L 1999 35-D
6. Breton Sound Block 20
7. Plaquemines Parish LA
8. 207.9 million cubic feet
9. December 12, 1979
10. Southern Natural Gas Company
1. 80-09491/79-2835
2. 17-726-20165-0000
3. 103 000 000
4. Kerr-McGee Corporation
5. BRS 20 6700 RA SU SL 1999 #35
6. Breton Sound Block 20
7. Plaquemines Parish LA
8. 18.0 million cubic feet
9. December 12, 1979
10. Southern Natural Gas Company
1. 80-09492/79-2834
2. 17-726-20171-0000
3. 103 000 000
4. Kerr-McGee Corporation
5. BR 20 5800 RCSU SL 1999#37-D
6. Breton Sound Block 20
7. Plaquemines Parish LA
8. .0 million cubic feet
9. December 12, 1979
10. Southern Natural Gas Company
1. 80-09493/79-2833
2. 17-726-20171-0000
3. 103 000 000
4. Kerr-McGee Corporation
5. BRS 20 6600 RA SU SL 1999 #37
6. Breton Sound Block 20
7. Plaquemines Parish LA
8. .0 million cubic feet
9. December 12, 1979
10. Southern Natural Gas Company
1. 80-09494/79-2837
2. 17-726-20168-0000
3. 103 000 000
4. Kerr-McGee Corporation
5. State Lease 1999 No 36
6. Breton Sound Block 20
7. Plaquemines Parish LA
8. .0 million cubic feet
9. December 12, 1979
10. Southern Natural Gas Company

Michigan Department of Natural Resources

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date received at FERC
10. Purchasers(s)

1. 80-09292
2. 21-045-32548-0000
3. 102 000 000
4. Amoco Production Company
5. Stowell Unit #1-1
6. Hamlin 1-1N-3W
7. Eaton MI
8. 51.0 million cubic feet
9. December 11, 1979
10. Consumers Power Co
1. 80-09293
2. 21-079-32872-0000
3. 103 000 000
4. Amoco Production Company
5. State Rapid River J 1-28
6. Rapid River 32 28N-7W
7. Kalkaska MI
8. 73.0 million cubic feet
9. December 11, 1979
10. Consumers Power Company
1. 80-09294
2. 21-079-32554-000
3. 102 000 000
4. Amoco Production Company
5. Simpson Unit C 2-28
6. Blue Lake 33-28N-5W
7. Kalkaska
8. 1200.0 million cubic feet
9. December 11, 1979
10. Consumers Power Co
1. 80-09295
2. 21-141-32512-0000
3. 102 000 000
4. Amoco Production Company
5. Ristow Unit IA-7
6. Belknap 5-34N-5E
7. Presque Isle MI
8. 73.0 million cubic feet
9. December 11, 1979
10. Michigan Consolidated Gas Co
1. 80-09296
2. 21-079-33034-0000
3. 102 000 000
4. Amoco Production Company
5. State Blue Lake M 2-12
6. Blue Lake 12-28N-5W
7. Kalkaska MI
8. 150.0 million cubic feet
9. December 11, 1979
10. Consumers Power Co

Ohio Department of Natural Resources Division of Oil and Gas

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-09413/04365
2. 34-169-21224-0014
3. 108 000 000
4. A W Yenne
5. Ben Brandt #1
6. Wayne
7. Wayne OH
8. 3.5 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission
1. 80-09415/07083
2. 34-157-20228-0014
3. 108 000 000
4. Kst Oil & Gas Co Inc
5. Wampfler #1
6.
7. Tuscarawas OH
8. 1.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09416/07091
2. 34-157-20169-0014
3. 108 000 000
4. Kst Oil & Gas Co Inc
5. Oler #1
6.
7. Tuscarawas OH
8. 2.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co, Inc.
1. 80-09417/07100
2. 34-157-20830-0014
3. 108 000 000
4. Kst Oil & Gas Co Inc
5. Fowler #1
6.
7. Tuscarawas OH
8. 1.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09418/07581
2. 34-121-16780-0140
3. 108 000 000
4. Guernsey Petroleum Corporation
5. Urbane Hurst #26
6.
7. Noble OH
8. 16.0 million cubic feet
9. December 12, 1979
10. The East Ohio Gas Company
1. 80-09419/07582
2. 34-119-24044-0014
3. 108 000 000
4. Guernsey Petroleum Corporation
5. Ohio Power 24MD
6.
7. Muskingum OH
8. 11.0 million cubic feet
9. December 12, 1979
10. The East Ohio Gas Company, Columbia Gas Transmission Corp
1. 80-09420/07583
2. 34-059-22161-0014
3. 108 000 000
4. Guernsey Petroleum Corporation
5. Hoopes #1 MD
6.
7. Guernsey OH
8. 14.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09421/07662
2. 34-167-24542-0014
3. 103 000 000
4. C W Riggs Inc
5. D Wilson #4
6. Reno Field
7. 1 Wash OH
8. .0 million cubic feet
9. December 12, 1979
10.
1. 80-09422/07664
2. 34-167-24531-0014
3. 103 000 000
4. C W Riggs Inc
5. D Wilson #2
6. Reno Field
7. 1 Wash OH

8. 15.0 million cubic feet
9. December 12, 1979
10.
1. 80-09423/07673
2. 34-167-24532-0014
3. 103 000 000
4. C W Riggs Inc
5. D Wilson #1
6. Reno Field
7. 1 Wash OH
8. .0 million cubic feet
9. December 12, 1979
10.
1. 80-09424/07687
2. 34-073-22144-0014
3. 103 000 000
4. Oxford Oil Co
5. Aw Marion Greenhill #18
6. N-R
7. Hocking OH
8. 10.0 million cubic feet
9. December 12, 1979
10.
1. 80-09425/07697
2. 34-103-22096-0014
3. 103 000 000
4. Northeastern Energy
5. Long No 1
6.
7. Medina OH
8. 21.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09426/07912
2. 34-153-20593-0014
3. 103 000 000
4. Darrel L Seibert
5. Darrel L Seibert #1
6.
7. Summitt OH
8. 20.0 million cubic feet
9. December 12, 1979
10. Columbia Gas of Ohio
1. 80-09427/07913
2. 34-153-20591-0014
3. 103 000 000
4. Darrel L. Seibert
5. Seibert Development Corp of Stow #2
6.
7. Summitt OH
8. 20.0 million cubic feet
9. December 12, 1979
10. Columbia Gas of Ohio
1. 80-09428/07914
2. 34-031-23611-0014
3. 103 000 000
4. Geo Energy Inc
5. Large #1
6.
7. Coshocton OH
8. 16.0 million cubic feet
9. December 12, 1979
10.
1. 80-09429/07915
2. 34-119-23926-0014
3. 103 000 000
4. Altheirs Oil Inc
5. John Welsh #1
6. Hopewell Twp
7. Muskingum OH
8. 6.0 million cubic feet
9. December 12, 1979
10. Newzane Gas Co
1. 80-09430/07916
2. 34-127-24444-0014
3. 103 000 000
4. Altheirs Oil Inc
5. Ruth Paxton #1
6. Clayton Twp
7. Perry OH
8. 6.0 million cubic feet
9. December 12, 1979
10. Foraker Gas Co
1. 80-09431/07917
2. 34-059-22602-0014
3. 103 000 000
4. Consolidated Resources of America
5. Robert Yurco Sr #1
6. Byesville
7. Guernsey 059 OH
8. 24.0 million cubic feet
9. December 12, 1979
10. Consolidated Aluminium Corporation
1. 80-09432/07918
2. 34-059-22600-0014
3. 103 000 000
4. Consolidated Resources of America I
5. Mary Mehaffey #1
6. Knox
7. Guernsey 059 OH
8. 30.0 million cubic feet
9. December 12, 1979
10. Consolidated Aluminium Corporation
1. 80-09433/07919
2. 34-059-22599-0014
3. 103 000 000
4. Consolidated Resources of America I
5. Mary Mehaffey et al #2
6. Knox
7. Guernsey 059 OH
8. 28.0 million cubic feet
9. December 12, 1979
10. Consolidated Aluminium Corporation
1. 80-09434/07920
2. 34-059-22514-0014
3. 103 000 000
4. Consolidated Resources of America I
5. Ronald and Sandra Herman #1
6. Knox
7. Guernsey 059 OH
8. 22.0 million cubic feet
9. December 12, 1979
10. Consolidated Aluminium Corporation
1. 80-09435/07921
2. 34-059-22515-0014
3. 103 000 000
4. Consolidated Resources of America I
5. John and Karen L Enos #1
6. Knox
7. Guernsey 059 OH
8. 22.0 million cubic feet
9. December 12, 1979
10. Consoldiated Aluminium Corporation
1. 80-09436/07922
2. 34-111-21899-0014
3. 103 000 000
4. Buckeye Oil Producing Co
5. Reich #1
6.
7. Monroe OH
8. 10.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09437/07923
2. 34-111-21898-0014
3. 103 000 000
4. Buckeye Oil Producing Co
5. Pollock #1
6.
7. Monroe OH
8. 13.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09438/07924
2. 34-075-22259-0014
3. 103 000 000
4. Buckeye Oil Producing Co
5. Hanna #3
6.
7. Holmes OH
8. 13.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09439/07698
2. 34-103-22097-0014
3. 103 000 000
4. Northeastern Energy
5. Long No 1
6.
7. Medina OH
8. 21.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09440/07723
2. 34-169-21504-0014
3. 108 000 000
4. Mr & Mrs Charles W Shane
5. 2004428 Shane #1
6. Milton Township
7. Wayne OH
8. 2.1 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09441/07805
2. 34-103-22158-0014
3. 103 000 000
4. John F Williams
5. Williams #1 Blakeslee
6. Brunswick
7. Medina OH
8. 42.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09442/07807
2. 34-167-24084-0014
3. 103 000 000
4. L&M Exploration Inc
5. John Schilling #1
6.
7. Washington OH
8. 12.8 million cubic feet
9. December 12, 1979
10. Gas Transport Inc
1. 80-09443/07811
2. 34-167-24273-0014
3. 103 000 000
4. L & M Exploration Inc
5. Louise Offenberger #1
6.
7. Washington, OH
8. 12.8 million cubic feet
9. December 12, 1979
10. Gas Transport Inc
1. 80-09444/07813
2. 34-167-24107-0014
3. 103 000 000
4. L & M Exploration Inc
5. Robert Schwendeman #1
6.
7. Washington, OH
8. 12.8 million cubic feet
9. December 12, 1979
10. Gas Transport Inc
1. 80-09445/07814

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2. 34-167-24128-0014
3. 103 000 000
4. L & M Exploration Inc
5. Carl Hofmann #1
6.
7. Washington, OH
8. 12.8 million cubic feet
9. December 12, 1979
10. Gas Transport Inc
1. 80-09446/07815
2. 34-167-23981-0014
3. 103 000 000
4. L & M Exploration Inc
5. Jack Hendershot #1
6.
7. Washington, OH
8. 12.8 million cubic feet
9. December 12, 1979
10. Gas Transport Inc
1. 80-09447/07816
2. 34-167-23958-0014
3. 103 000 000
4. L & M Exploration Inc
5. Joe Huck #1
6.
7. Washington, OH
8. 12.8 million cubic feet
9. December 12, 1979
10. Gas Transport Inc
1. 80-09448/07817
2. 34-127-24408-0014
3. 103 000 000
4. Bell Oil
5. George Bell #1
6. Junction City Quad
7. Perry, OH
8. 2.0 million cubic feet
9. December 12, 1979
10. National Gas Corp
1. 80-09449/07820
2. 34-167-24248-0014
3. 103 000 000
4. L & M Exploration
5. Raymond Rauch #1-A
6.
7. Washington, OH
8. 12.8 million cubic feet
9. December 12, 1979
10. Gas Transport Inc
1. 80-09450/07821
2. 34-167-24201-0014
3. 103 000 000
4. L & M Exploration Inc
5. Ed Barnes #1
6.
7. Washington, OH
8. 12.8 million cubic feet
9. December 12, 1979
10. Gas Transport Inc
1. 80-09451/07822
2. 34-167-24105-0014
3. 103 000 000
4. L & M Exploration Inc
5. Virgil Huck #1
6.
7. Washington, OH
8. 12.8 million cubic feet
9. December 12, 1979
10. Gas Transport Inc
1. 80-09452/07823
2. 34-167-24142-0014
3. 103 000 000
4. L & M Exploration Inc
5. Raiph Long #1
6.
7. Washington, OH
8. 12.8 million cubic feet
9. December 12, 1979
10. Gas Transport Inc
1. 80-09453/07824
2. 34-167-24089-0014
3. 103 000 000
4. L & M Exploration Inc
5. Lawrence Schaad #1
6.
7. Washington, OH
8. 12.8 million cubic feet
9. December 12, 1979
10. Gas Transport Inc
1. 80-09454/07851
2. 34-167-24536-0014
3. 103 000 000
4. C W Riggs Inc
5. L Hensler #1
6. Reno Field
7. Washington, OH
8. 14.0 million cubic feet
9. December 12, 1979
10.
1. 80-09455/07853
2. 34-167-24617-0014
3. 103 000 000
4. C W Riggs Inc
5. T W Bowersock #1
6. Reno Field
7. Washington, OH
8. 9.0 million cubic feet
9. December 12, 1979
10.
1. 80-09456/07872
2. 34-167-25010-0014
3. 103 000 000
4. Appalachian Petroleum Corporation
5. Charles Stengle #1
6.
7. Washington, OH
8. 3.5 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission
1. 80-09457/07873
2. 34-167-25007-0014
3. 103 000 000
4. Appalachian Petroleum Corporation
5. G Hughes #1
6.
7. Washington, OH
8. 3.5 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09458/07874
2. 34-167-25008-0014
3. 103 000 000
4. Appalachian Petroleum Corporation
5. D Harris #1
6.
7. Washington, OH
8. 3.5 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09459/07875
2. 34-167-25005-0014
3. 103 000 000
4. Appalachian Petroleum Corporation
5. Caroline Stengle No 1
6.
7. Washington, OH
8. 3.5 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09460/07876
2. 34-167-25006-0014
3. 103 000 000
4. Appalachian Petroleum Corporation
5. Velma Peters #1 (Ohio Power-Surface)
6.
7. Washington, OH
8. 3.5 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09461/07877
2. 34-115-21893-0014
3. 103 000 000
4. Partners Oil Company
5. #1-780 Anderson
6.
7. Morgan, OH
8. 100.0 million cubic feet
9. December 12, 1979
10. National Gas & Oil Corp
1. 80-09462/07878
2. 34-059-23341-0014
3. 103 000 000
4. Partners Oil Company
5. Ranck #1-79B
6.
7. Licking, OH
8. 100.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corporation
1. 80-09463/07879
2. 34-119-24164-0014
3. 103 000 000
4. Partners Oil Company
5. Patton #6-79B
6.
7. Muskingum, OH
8. 100.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Company
1. 80-09464/07880
2. 34-119-24963-0014
3. 103 000 000
4. Partners Oil Company
5. Patton #7-79B
6.
7. Muskingum, OH
8. 100.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Company
1. 80-09465/07881
2. 34-157-23405-0014
3. 103 000 000
4. Superior Petroleum Services Inc
5. MWCD B-4
6.
7. Tuscarawas, OH
8. 25.0 million cubic feet
9. December 12, 1979
10. M & B Operating Co
1. 80-09466/07882
2. 34-157-23406-0014
3. 103 000 000
4. Superior Petroleum Services Inc
5. MWCD B-3
6.
7. Tuscarawas, OH
8. 25.0 million cubic feet
9. December 12, 1979
10. M & B Operating Co
1. 80-09467/07883
2. 34-157-23407-0014
3. 103 000 000
4. Superior Petroleum Services Inc
5. MWCD B-2
6.

7. Tuscarawas, OH
8. 25.0 million cubic feet
9. December 12, 1979
10. M & B Operating Co
1. 80-09468/07884
2. 34-157-23408-0014
3. 103 000 000
4. Superior Petroleum Services Inc
5. MWCD B-7
6.
7. Tuscarawas, OH
8. 25.0 million cubic feet
9. December 12, 1979
10. M & B Operating Co
1. 80-09469/07885
2. 34-157-23409-0014
3. 103 000 000
4. Superior Petroleum Services Inc
5. MWCD B-8
6.
7. Tuscarawas, OH
8. 25.0 million cubic feet
9. December 12, 1979
10. M & B Operating Co
1. 80-09470/07886
2. 34-157-23410-0014
3. 103 000 000
4. Superior Petroleum Services Inc
5. MWCD B-5
6.
7. Tuscarawas, OH
8. 25.0 million cubic feet
9. December 12, 1979
10. M & B Operating Co
1. 80-09471/07889
2. 34-075-22247-0014
3. 103 000 000
4. Morgan-Pennington Inc
5. Abrecht No 1
6.
7. Holmes, OH
8. 11.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09472/07896
2. 34-031-23436-0014
3. 103 000 000
4. Edco Drilling & Producing Inc
5. MO-2A Smailes
6.
7. Coshocton, OH
8. 18.0 million cubic feet
9. December 12, 1979
10.
1. 80-09473/07897
2. 34-031-23447-0014
3. 103 000 000
4. Edco Drilling & Producing Inc
5. 3C Jones
6.
7. Coshocton, OH
8. 18.0 million cubic feet
9. December 12, 1979
10.
1. 80-09474/07898
2. 34-153-20702-0014
3. 103 000 000
4. Edco Drilling and Producing Inc
5. ED-1A Realty Investors Ltd
6.
7. Summit, OH
8. 18.0 million cubic feet
9. December 12, 1979
10.
1. 80-09475/07899
2. 34-119-24197-0014
3. 103 000 000
4. Edco Drilling & Producing Inc
5. #1 Barns
6.
7. Muskingum, OH
8. 18.0 million cubic feet
9. December 12, 1979
10.
1. 80-09476/07900
2. 34-119-24196-0014
3. 103 000 000
4. Edco Drilling & Producing Inc
5. #1 Leeper
6.
7. Muskingum, OH
8. 18.0 million cubic feet
9. December 12, 1979
10.
1. 80-09477/07901
2. 34-083-22658-0014
3. 103 000 000
4. Berwell Energy Inc
5. Henry Weese No 1
6.
7. Knox, OH
8. 54.0 million cubic feet
9. December 12, 1979
10. Columbia Gas of Ohio
1. 80-09478/07911
2. 34-127-24190-0014
3. 103 000 000
4. John Bell
5. John Bell #1
6. Junction City Quad
7. Perry, OH
8. 2.0 million cubic feet
9. December 12, 1979
10. National Gas Corp
1. 80-09479/07904
2. 34-133-22086-0014
3. 103 000 000
4. Pominex Inc
5. Robert Bossow Unit #1
6.
7. Portage County, OH
8. 25.0 million cubic feet
9. December 12, 1979
10. Stark Oilfield Services Inc
1. 80-09480/07905
2. 34-075-22124-0014
3. 103 000 000
4. William F Hill
5. Rohskopf #1
6.
7. Holmes, OH
8. 6.0 million cubic feet
9. December 12, 1979
10.
1. 80-09481/07906
2. 34-155-21304-0014
3. 103 000 000
4. Pyramid Oil & Gas Company
5. Templeton #1
6.
7. Trumbull, OH
8. 30.0 million cubic feet
9. December 12, 1979
10.
1. 80-09482/07907
2. 34-119-24561-0014
3. 103 000 000
4. Benatty Corporation
5. Radcliffe-Vansickle Unit #1
6.
7. Muskingum, OH
8. 25.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09483/07908
2. 34-127-24302-0014
3. 103 000 000
4. The Oxford Oil Co
5. Elza Klinger #1
6.
7. Perry, OH
8. 10.0 million cubic feet
9. December 12, 1979
10.
1. 80-09484/07909
2. 34-075-22197-0014
3. 103 000 000
4. The Oxford Oil Co
5. Eli Weaver #1
6.
7. Holmes, OH
8. 9.0 million cubic feet
9. December 12, 1979
10.
1. 80-09485/07910
2. 34-103-22022-0014
3. 103 000 000
4. H E Rupp
5. Klintworth No 1
6.
7. Medina, OH
8. 100.0 million cubic feet
9. December 11, 1979
10. Columbia Gas Transmission
1. 80-09414/06409
2. 34-121-21487-0014
3. 108
4. Mid-Atlantic Oil Co
5. Earl Smith #1
6.
7. Noble, OH
8. 13.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co

Oklahoma Corporation Commission

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-09395/01068
2. 35-017-20818-0000
3. 102 103 000
4. Sabine Corporation
5. Bollinger No 1-16
6. SW El Reno
7. Canadian, OK
8. 990.5 million cubic feet
9. December 12, 1979
10. Michigan Wisconsin Pipeline Co
1. 80-09396/01121
2. 35-093-21545-0000
3. 103 000 000
4. Pioneer Production Corporation
5. Gaylord #1-5 OTC 093-56115
6. N E Chester
7. Major, OK
8. 114.0 million cubic feet
9. December 12, 1979

V45/15/JA22'80 UMI

10. Delhi Gas Pipeline Corporation
1. 80–09397A/00256
2. 35–081–20217–0000
3. 102 000 000
4. Samson Resources Company
5. Alliance Trust No 1
6. Kinta
7. Haskell, OK
8. 395.0 million cubic feet
9. December 12, 1979
10. Arkansas Louisiana Gas Company
1. 80–09397B/00256
2. 35–081–20217–0000
3. 103 000 000 denied
4. Samson Resources Company
5. Alliance Trust No 1
6. Kinta
7. Haskell, OK
8. 395.0 million cubic feet
9. December 12, 1979
10. Arkansas Louisiana Gas Company
1. 80–09398/01114
2. 35–047–21723–0000
3. 103 000 000
4. Harper Oil Company
5. Peach #1
6. Sooner Trend
7. Garfield, OK
8. 73.0 million cubic feet
9. December 12, 1979
10. Panhandle Eastern Pipe Line Co-Res Exxon USA Inc
1. 80–09399/00372
2. 35–093–21401–0000
3. 103 000 000
4. Ladd Petroleum Corporation
5. Johnson Unit #2
6.
7. Major, OK
8. .2 million cubic feet
9. December 12, 1979
10. Oklahoma Natural Gas Gathering Co
1. 80–09400/00374
2. 35–047–21384–0000
3. 103 000 000
4. Ladd Petroleum Corporation
5. Behring B#2
6. Enid NE
7. Garfield, OK
8. 25.8 million cubic feet
9. December 12, 1979
10. Cities Service Gas Company
1. 80–09401/01160
2. 35–045–20591–0000
3. 103 000 000
4. Pacific Oil & Gas Co
5. Moyer No 2
6. Gage
7. Ellis, OK
8. 120.0 million cubic feet
9. December 12, 1979
10. Panhandle Eastern Pipe Line Company
1. 80–09402/01212
2. 35–151–20874–0000
3. 102 000 000
4. Barnell Ltd
5. Clark #1
6. Unnamed
7. Woods, OK
8. .0 million cubic feet
9. December 12, 1979
10. Michigan-Wisconsin Pipeline Co
1. 80–09403/00945
2. 35–139–35611–0000
3. 108 000 000
4. Texaco Inc
5. C N Treece NCT–1 No 1
6. Rice SW
7. Texas, OK
8. 12.8 million cubic feet
9. December 12, 1979
10. Transwestern Pipeline Co
1. 80–09404/01166
2. 35–151–20905–0000
3. 103 000 000
4. W B Osborn Jr (operator)
5. Bouma #1
6. South Waynoka
7. Woods, OK
8. 100.0 million cubic feet
9. December 12, 1979
10. Panhandle Eastern Pipeline
1. 80–09405/01104
2. 35–083–21044–0000
3. 103 000 000
4. Ramsey Engineering Incorporated
5. Meyer No 1
6. S W Lucein
7. Logan, OK
8. 64.8 million cubic feet
9. December 12, 1979
10. Eason Oil Company
1. 80–09406/01165
2. 35–045–20615–0000
3. 103 000 000
4. Amoco Production Company
5. A W Jones #1
6. N E Catesby
7. Ellis, OK
8. 219.0 million cubic feet
9. December 12, 1979
10. Northern Natural Gas Company
1. 80–09407/01125
2. 35–045–20695–0000
3. 103 000 000
4. C F Braun & Co
5. Guy No 1
6. South Gage Section 19–20N–23W
7. Ellis County, OK
8. 100.0 million cubic feet
9. December 12, 1979
10. Western Farmers Electric Cooperative
1. 80–09408/01127
2. 35–047–21718–0000
3. 103 000 000
4. J M Huber Corporation
5. Lovell No 4
6. N Waukomis
7. Garfield, OK
8. 109.5 million cubic feet
9. December 12, 1979
10. Union Texas Petroleum
1. 80–09409/00942
2. 35–025–35307–0000
3. 108 000 000
4. Texaco Inc
5. G N Dencker No 1
6. E Griggs
7. Cimarron, OK
8. .0 million cubic feet
9. December 12, 1979
10. Transwestern Pipeline Company
1. 80–09410/01034
2. 35–111–00000–0000
3. 108 000 000
4. R E & R O Lee
5. Lee 6
6. Mounds
7. Okmulgee, OK
8. 2.0 million cubic feet
9. December 12, 1979
10. Phillips Pet Co
1. 80–09411/00563
2. 35–103–00000–0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. McCracken
6. Lucien
7. Noble, OK
8. 6.0 million cubic feet
9. December 12, 1979
10. Cities Service Gas Co
1. 80–09412/00054
2. 35–003–20595–0000
3. 103 000 000
4. Union Texas Petroleum
5. Homer Davis No 2
6. Chaney Dell East
7. Alfalfa, OK
8. 80.0 million cubic feet
9. December 12, 1979
10. Panhandle Eastern Pipeline Co

West Virginia Department of Mines, Oil and Gas Division

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 80–09364
2. 47–021–02273–0000
3. 108 000 000 denied
4. Waco Oil and Gas Co Inc
5. Clifford Burke #2
6. Copen
7. Gilmer, WV
8. 10.0 million cubic feet
9. December 7, 1979
10. Equitable Gas Co
1. 80–09365
2. 47–021–02750–0000
3. 108 000 000 denied
4. Waco Oil & Gas Company
5. Steinbeck Heirs #1A
6. Mud Lick
7. Gilmer, WV
8. 10.0 million cubic feet
9. December 7, 1979
10. Equitable Gas Company
1. 80–09366
2. 47–021–00708–0000
3. 108 000 000 denied
4. Waco Oil and Gas Co
5. S C Simmons #2
6.
7. Gilmer, WV
8. .0 million cubic feet
9. December 7, 1979
10. Equitable Gas Company
1. 80–09367
2. 47–021–00821–0000
3. 108 000 000 denied
4. Waco Oil and Gas Co
5. Granville Collins Heirs #2
6.
7. Gilmer, WV
8. 4.0 million cubic feet
9. December 7, 1979

10. Equitable Gas Company
1. 80–09368
2. 47–041–20128–0000
3. 108 000 000 denied
4. W H Mossor
5. Starcher #2
6. W R Starcher Farm
7. Lewis, WV
8. .2 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp
1. 80–09369
2. 47–097–21750–0000
3. 108 000 000 denied
4. Glenn W Johnson dba Johnson Product
5. A Fallon #1
6. Union
7. Upshur, WV
8. 4.1 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Co
1. 80–09370
2. 47–041–22164–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–104 F–64612 LEW–2164
6. Hackers Creek
7. Lewis, WV
8. 42.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80–09371
2. 47–041–22162–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–105 F–64565 LEW–2162
6. Hackers Creek
7. Lewis, WV
8. 58.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80–09372
2. 47–041–22166–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–107 F–64614 LEW–2166
6. Hackers Creek
7. Lewis, WV
8. 29.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80–09373
2. 47–033–21167–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–87 F–64205 HAR–1167
6. Clark
7. Harrison, WV
8. 38.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80–09374
2. 47–033–21178–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–84 F–64287 HAR–1178
6. Union
7. Harrison, WV
8. 20.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80–09375
2. 47–033–21062–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–123 F–63596 HAR–1062
6. Engle
7. Harrison, WV
8. 48.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80–09376
2. 47–033–21179
3. 103 000 000
4. J & J Enterprises Inc
5. B–101 F–64288 HAR–1179
6. Elk
7. Harrison, WV
8. 71.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80–09377
2. 47–033–21093–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–124 F–63597 HAR–1093
6. Enge
7. Harrison, WV
8. 48.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80–09378
2. 47–033–21114–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–128 F–63849 HAR–1114
6. Sardis
7. Harrison, WV
8. 51.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80–09379
2. 47–033–21121–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–83 F–63874 HAR–1121
6. Union
7. Harrison, WV
8. 76.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80–09380
2. 47–033–21122–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–81 F–63908 HAR–1122
6. Union
7. Harrison, WV
8. 39.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80–09381
2. 47–033–21159–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–80 F–64089 HAR–1159
6. Union
7. Harrison, WV
8. 64.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80–09382
2. 47–033–21164–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–82 F–64224 HAR–1164
6. Union
7. Harrison, WV
8. 15.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80–09383
2. 47–001–28550–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–102 F–63184 Bar–855
6. Elk
7. Barbour WV
8. 26.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80–09384
2. 47–001–28780–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–114 F–63541 Bar–878
6. Philippi
7. Barbour WV
8. 18.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80–09385
2. 47–001–28870–000
3. 103 000 000
4. J & J Enterprises Inc
5. B–115 F–63772 Bar–887
6. Pleasant
7. Barbour WV
8. 9.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80–09386
2. 47–001–28880–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–116 F–63773 Bar–888
6. Pleasant
7. Barbour WV
8. 19.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80–09387
2. 47–001–28050–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–143 F–64586 Bar–950
6. Union
7. Barbour WV
8. 27.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80–09388
2. 47–001–28910–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–127 F–63776 Bar–891
6. Pleasant
7. Barbour WV
8. 23.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80–09389
2. 47–033–21032–0000
3. 103 000 000
4. J & J Enterprises Inc
5. B–55A F–63022 Har–1032
6. Union
7. Harrison WV
8. 2.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80–09390
2. 47–033–21033–0000

V 45 / 15 / JA 22 80 UMI

3. 103 000 000
4. J & J Enterprises Inc
5. B-49 F-63045 Har-1033
6. Union
7. Harrision WV
8. 43.0 million cubic feet
9. December 11, 1979
10. Consolicated Gas Supply Corp

1. 80-09391
2. 47-033-21034-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-53A F-62582 Har-1034
6. Union
7. Harrison WV
8. 40.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

U.S. Geological Survey, Metairie, La.

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received At FERC
10. Purchasers(s)

1. 80-09297/G9-879
2. 17-701-40062-0000-0
3. 102 000 000
4. Getty Oil Company
5. OCS G-3280 No A-6
6. West Cameron
7. 405
8. 1400.0 million cubic feet
9. December 11, 1979
10. Transco Gas Supply Company Northern Natural Gas Co

1. 80-09298/G9-815
2. 17-721-40150-0000-0
3. 102 000 000
4. Shell Oil Company
5. OCS 0894 No 192
6. South Pass
7. Parish LA
8. 75.0 million cubic feet
9. December 11, 1979
10. Tennessee Gas Pipeline

1. 80-09299/G9-889
2. 17-715-40285-0000-0
3. 102 000 000
4. Gulf Oil Corporation
5. OCS G-2625 #C-6
6. South Timbalier
7. 37
8. 36.5 million cubic feet
9. December 11, 1979
10. Texas Eastern Transmission Corp Tennessee Gas Pipeline Co

1. 80-09300/G9-895
2. 17-709-40340-0100-0
3. 107 000 000
4. Hunt Oil Company
5. Well No 2
6. Eugene Island
7. 63
8. .0 million cubic feet
9. December 11, 1979
10. Michigan Wisconsin Pipe Line Co

1. 80-09301/G9-896
2. 17-704-40437-0000-0
3. 102 000 000
4. Tenneco Oil Company
5. West Cameron 509 C-7
6. West Cameron
7. 509
8. 4125.0 million cubic feet
9. December 11, 1979
10. Tennessee Gas Pipeline Company

1. 80-09302/G9-897
2. 17-708-40336-0000-0
3. 103 000 000
4. Shell Oil Company
5. C-34
6. South Marsh Island
7. 130
8. 200.0 million cubic feet
9. December 11, 1979
10. Transcontinental Gas Pipeline Compa

U.S. Geological Survey, Albuquerque, N. Mex.

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received At FERC
10. Purchasers(s)

1. 80-09329/COA-3847-79
2. 05-067-06136-0000-0
3. 103 000 000
4. Petro-Lewis Corporation
5. UTE #3
6. Ignacio
7. La Plata Co CO
8. 100.0 million cubic feet
9. December 12, 1979
10. Northwest Pipeline Corp

1. 80-09500/COA-4052-79
2. 05-067--06046-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. UTE #10-A
6. Fruitland Pictured Cliffs
7. La Plata CO
8. 4.8 million cubic feet
9. December 12, 1979
10. Peoples Natural Gas Company

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 80-09303/NM-4241-79
2. 30-045-23272-0000-0
3. 103 000 000
4. Tenneco Oil Company
5. Lackey #1
6. Basin Dakota
7. San Juan NM
8. 292.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company

1. 80-09304/NM-4242-79
2. 30-039-21643-0000-0
3. 103 000 000
4. Tenneco Oil Company
5. Jicarilla A #9
6. Tapacito Gallup
7. Rio Arriba County NM
8. 365.0 million cubic feet
9. December 12, 1979
10. Northwest Pipeline Corporation

1. 80-09305/NM-4243-79
2. 30-039-21642-0000-0
3. 103 000 000
4. Tenneco Oil Company
5. Jicarilla C #6-A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 365.0 million cubic feet
9. December 12, 1979
10. Northwest Pipeline Corporation

1. 80-09306/NM-4251-79
2. 30-045-23357-0000-0
3. 103 000 000
4. Hixon Development Company
5. Federal C Well No. 5
6. Wildcat-Farmington Sand
7. San Juan NM
8. 73.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company

1. 80-09307/NM-4244-79
2. 30-039-21641-0000-0
3. 103 000 000
4. Tenneco Oil Company
5. Jicarilla C #7-A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 365.0 million cubic feet
9. December 12, 1979
10. Northwest Pipeline Corporation

1. 80-09308/NM-3511-79
2. 30-039-06156-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Contract 146 #2
6. South Blanco-Pictured Cliffs
7. Rio Arriba NM
8. 16.0 million cubic feet
9. December 12, 1979
10. Northwest Pipeline Corp

1. 80-09309/NM-3499-79
2. 30-045-06582-0000-0
3. 108 000 000
4. Amoco Production Company
5. Bayview-Riddle #1
6. Basin-Dakota
7. San Juan NM
8. 14.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company

1. 80-09310/5-79-ER
2. 30-045-21850-0000-0
3. 108 000 000
4. Dugan Production Corp
5. Red Mac #3
6. Waw Fruitland PC
7. San Juan NM
8. 3.0 million cubic feet
9. December 11, 1979
10. El Paso Natural Gas Company

1. 80-09311/4-79-ER
2. 30-045-21852-0000-0
3. 108 000 000
4. Dugan Production Corp
5. Rachel #1
6. Waw Fruitland PC
7. San Juan NM
8. 4.5 million cubic feet
9. December 11, 1979
10. El Paso Natural Gas Company

1. 80-09312/3-ER-79
2. 30-025-21857-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Langlie Federal 3
6. Jalmat-Yates Gas
7. Lea NM
8. 13.0 million cubic feet
9. December 11, 1979
10. El Paso Natural Gas Company

1. 80-09313/NM-3457-79
2. 30-045-06217-0000-0
3. 108 000 000
4. Amoco Production Company
5. Heath W D A #5
6. Blanco-Pictured Cliffs
7. San Juan NM
8. 11.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company

1. 80-09314/NM-3466-79
2. 30-039-06084-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Contract 146 #4
6. South Blanco-Pictured Cliffs
7. Rio Arriba NM
8. 11.0 million cubic feet
9. December 12, 1979
10. Northwest Pipeline Corp

1. 80-09315/NM-3467-79
2. 30-043-20115-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Tribal 358 #9
6. Ballard-Pictured Cliffs
7. Sandoval NM
8. 5.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company

1. 80-09316/NM-3468-79
2. 30-043-20034-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Tribal 360 #1
6. Ballard-Pictured Cliffs
7. Sandoval NM
8. 4.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company

1. 80-09317/NM-3473-79
2. 30-043-20114-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Tribal 358 #8
6. Ballard-Pictured Cliffs
7. Sandoval NM
8. 5.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company

1. 80-09318/NM-3480-79
2. 30-039-06069-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Contract 146 #8
6. South Blanco-Pictured Cliffs
7. Rio Arriba NM
8. 4.0 million cubic feet
9. December 12, 1979
10. Northwest Pipeline

1. 80-09319/NM-3461-79
2. 30-039-05980-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Contract 148 #15
6. Otero-Chacra
7. Rio Arriba NM
8. 11.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company

1. 80-09320/NM-3482-79
2. 30-039-06300-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Contract 155 #2
6. South Blanco-Pictured Cliffs
7. Rio Arriba NM
8. 18.0 million cubic feet
9. December 12, 1979
10. Northwest Pipeline

1. 80-09321/NM-4230-79A
2. 30-039-21891-0000-1
3. 103 000 000
4. Cotton Petroleum Corporation
5. Apache No 117 (Lindruth Gallup)
6. Lindrith Gallup
7. Rio Arriba NM
8. 132.0 million cubic feet
9. December 12, 1979
10. Northwest Pipeline Corporation

1. 80-09322/NM-4230-79B
2. 30-039-21891-0000-2
3. 103 000 000
4. Cotton Petroleum Corporation
5. Apache No 117 (Dakota West)
6. Dakota West
7. Rio Arriba NM
8. 132.0 million cubic feet
9. December 12, 1979
10. Northwest Pipeline Corporation

1. 80-09323/NM-3498-79
2. 30-045-11634-0000-0
3. 108 000 000
4. Amoco Production Company
5. Rochelle Gas Com #1
6. Blanco-Pictured Cliffs
7. San Juan NM
8. 12.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co

1. 80-09324/NM-4239-79
2. 30-045-23257-0000-0
3. 103 000 000
4. Tenneco Oil Company
5. Bolack #2
6. Basin Dakota
7. San Juan NM
8. 292.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company

1. 80-09325/6-79-ER
2. 30-045-00000-0000-0
3. 108 000 000
4. William C Russell
5. Russell #41 Hammond
6. Largo Chacra
7. San Juan NM
8. 15.0 million cubic feet
9. December 11, 1979
10. El Paso Natural Gas Company

1. 80-09326/NM-361-78
2. 30-015-22194-0000-0
3. 103 000 000
4. Yates Petroleum Corporation
5. Box Canyon #3
6. Box Canyon-Upper Penn
7. Eddy NM
8. 312.8 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co

1. 80-09327/NM-3524-79
2. 30-039-06039-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Contract 148 #1
6. South Blanco-Pictured Cliffs
7. Rio Arriba NM
8. 19.0 million cubic feet
9. December 12, 1979
10. Northwest Pipeline

1. 80-09328/NM-3525-79
2. 30-039-06718-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Apache 102 #5
6. Blanco-Mesaverde
7. Rio Arriba NM
8. 15.0 million cubic feet
9. December 12, 1979
10. Gas Company of New Mexico

1. 80-09330/NM-3906-79
2. 30-041-20245-0000-0
3. 108 000 000
4. Layton Enterprises Inc
5. Kirkpatrick Federal #5
6. Bluitt San Andres
7. Roosevelt NM
8. .6 million cubic feet
9. December 12, 1979
10. Cities Service Company

1. 80-09331/NM-4011-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Sun Oil Company (Delaware)
5. NM Federal N No 5
6. San Juan Basin
7. San Juan NM
8. 19.0 million cubic feet
9. December 12, 1979
10. Southern Union Gathering Company

1. 80-09332/NM-4012-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Sun Oil Company (Delaware)
5. NM Federal N No 6
6. San Juan Basin
7. San Juan NM
8. 6.0 million cubic feet
9. December 12, 1979
10. Southern Union Gathering Company

1. 80-09333/NM-3487-79
2. 30-045-11617-0000-0
3. 108 000 000
4. Amoco Production Company
5. Rhodes T L C#2
6. Basin-Dakota
7. San Juan, NM
8. 13.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co

1. 80-09334/NM-361-78
2. 30-015-22194-0000-0
3. 102 000 000
4. Yates Petroleum Corporation
5. Box Canyon #3
6. Box Canyon-Upper Penn
7. Eddy, NM
8. 280.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co

1. 80-09335/NM-359-78
2. 30-015-22074-0000-0
3. 103 000 000
4. Yates Petroleum Corporation
5. Maralo HL Fed Com #1

V45/15/JA22'80 UMI

6. Burton Flat Morrow East
7. Eddy, NM
8. 329.7 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09336/NM-359-78
2. 30-015-22074-0000-0
3. 102 000 000
4. Yates Petroleum Corporation
5. Maralo HL Federal #1
6. Burton Flat-Morrow East
7. Eddy, NM
8. 290.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09337/NM-3440-79
2. 30-045-20976-0000-0
3. 108 000 000
4. Amoco Production Company
5. Houck Gas Com D #1
6. Blanco-Pictured Cliffs
7. San Juan, NM
8. 18.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09338/NM-3454-79
2. 30-043-20106-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Tribal 358 #3
6. Ballard-Pictured Cliffs
7. Sandoval, NM
8. 10.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09339/NM-3383-79
2. 30-039-06062-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Contract 146 #14
6. Otero-Chacra
7. Rio Arriba NM
8. 14.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09340/NM-3388-79
2. 30-043-20050-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Tribal 360 #3
6. Ballard-Pictured Cliffs
7. Sandoval, NM
8. 9.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09341/NM-3389-79
2. 30-045-21009-0000-0
3. 108 000 000
4. Amoco Production Company
5. Ute Mountain Tribal D #6
6. Ute Dome-Dakota
7. San Juan NM
8. 3.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09342/NM-3403-79
2. 30-039-06012-0000-0
3. 108 000 000
4. Amoco Production Company
5. Phillips Fred C #2
6. Tapacito-Picture Cliffs
7. Rio Arriba NM
8. 5.0 million cubic feet
9. December 12, 1979
10. Northwest Pipeline

1. 80-09343/NM-3408-79
2. 30-039-06224-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Contract 155 #18
6. Otero-Chacra
7. Rio Arriba NM
8. 18.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09344/NM-3411-79
2. 30-045-21012-0000-0
3. 108 000 000
4. Amoco Production Company
5. Heath W D A #12
6. Blanco-Pictured Cliffs
7. San Juan, NM
8. 18.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09345/NM-3414-79
2. 30-043-20104-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Tribal 358 #4
6. Ballard-Pictured Cliffs
7. Sandoval, NM
8. 11.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09346/NM-3415-79
2. 30-043-20051-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Tribal 358 #1
6. Ballard-Pictured Cliffs
7. Sandoval, NM
8. 11.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09347/NM-3416-79
2. 30-043-20057-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Tribal 390 #2
6. Ballard-Pictured Cliffs
7. Sandoval, NM
8. 7.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09348/NM-3418-79
2. 30-045-21052-0000-0
3. 108 000 000
4. Amoco Production Company
5. Heath Gas Com D #1
6. Blanco-Picutured Cliffs
7. San Juan NM
8. 20.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09349/NM-3422-79
2. 30-045-20295-0000-0
3. 108 000 000
4. Amoco Production Company
5. Heath Gas Com L #1
6. Blanco-Pictured Cliffs
7. San Juan NM
8. 11.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09350/NM-3423-79
2. 30-045-11662-0000-0
3. 108 000 000
4. Amoco Production Company
5. Sandoval Gas Com C #1
6. Basin-Dakota
7. San Juan NM
8. 10.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09351/NM-3431-79
2. 30-039-82336-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Contract 146 #15
6. Otero-Chacra
7. Rio Arriba NM
8. 11.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09352/NM-3432-79
2. 30-039-05995-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Tribal 148 #7
6. South Blanco-Pictured Cliffs
7. Rio Arriba NM
8. 4.0 million cubic feet
9. December 12, 1979
10. Northwest Pipeline
1. 80-09353/NM-3347-79
2. 30-039-05933-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Contract 148 #3
6. South Blanco-Pictured Cliffs
7. Rio Arriba NM
8. 4.0 million cubic feet
9. December 12, 1979
10. Northwest Pipeline
1. 80-09354/NM-3356-79
2. 30-045-08409-0000-0
3. 108 000 000
4. Amoco Production Company
5. Heath W D A #8
6. Basin-Dakota
7. San Juan NM
8. 19.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09355/NM-3378-79
2. 30-043-20103-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Tribal 358 #5
6. Ballard-Pictured Cliffs
7. Sandoval NM
8. 9.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09356/NM-3380-79
2. 30-043-20112-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Tribal 358 #6
6. Ballard-Pictured Cliffs
7. Sandoval NM
8. 5.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09357/NM-3344-79
2. 30-039-60007-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Contract 148 #6
6. South Blanco-Pictured Cliffs
7. Rio Arriba NM
8. 6.0 million cubic feet
9. December 12, 1979
10. Northwest Pipeline

1. 80-09358/NM-3310-79
2. 30-045-20968-0000-0
3. 108 000 000
4. Amoco Production Company
5. Shaw John F #1
6. Blanco-Pictured Cliffs
7. San Juan NM
8. 11.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09359/NM-3318-79
2. 30-039-06071-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Contract 148 #9
6. South Blanco-Pictured Cliffs
7. Rio Arriba NM
8. 18.0 million cubic feet
9. December 12, 1979
10. Northwest Pipeline
1. 80-09360/NM-3320-79
2. 30-039-06095-0000-0
3. 108 000 000
4. Amoco Production Company
5. Phillips Fred A #1
6. Tapacito-Pictured Cliffs
7. Rio Arriba NM
8. 19.0 million cubic feet
9. December 12, 1979
10. Northwest Pipeline
1. 80-09361/NM-3328-79
2. 30-039-06113-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Contract 146 #7
6. South Blanco-Pictured Cliffs
7. Rio Arriba NM
8. 9.0 million cubic feet
9. December 12, 1979
10. Northwest Pipeline
1. 80-09362/NM-3332-79
2. 30-039-06166-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Tribal 146 #5
6. South Blanco-Pictured Cliffs
7. Rio Arriba NM
8. 20.0 million cubic feet
9. December 12, 1979
10. Northwest Pipeline
1. 80-09363/NM-3343-79
2. 30-039-05977-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Contract 148 #5
6. South Blanco-Pictured Cliffs
7. Rio Arriba, NM
8. 9.0 million cubic feet
9. December 12, 1979
10. Northwest Pipeline
1. 80-09495/NM-3735-79
2. 30-041-20023-0000-0
3. 108 000 000
4. Tenneco West Inc
5. Federal 21-A #1
6. Chaveroo-San Andres
7. Roosevelt, NM
8. 4.4 million cubic feet
9. December 12, 1979
10. Cities Service Oil Company
1. 80-09496/NM-4245-79
2. 30-039-21840-0000-0
3. 103 000 000
4. Tenneco Oil Company
5. Jicarilla C #8-A
6. Blanco Mesaverde
7. Rio Arriba, NM
8. 365.0 million cubic feet
9. December 12, 1979
10. Northwest Pipeline Corporation
1. 80-09497/NM-4089-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Amerada Hess Corporation
5. Jicarilla Apache I #2
6. Otero
7. Rio Arriba, NM
8. 17.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09498/NM-4237-79
2. 30-045-23306-0000-0
3. 103 000 000
4. Amoco Production Company
5. Eskeenalwood Gas Com D #1
6. Basin Dakota
7. San Juan, NM
8. 114.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09499A/NM-4236-79-A
2. 30-039-21896-0000-0
3. 103 000 000
4. Cotton Petroleum Corporation
5. Apache No 120 Dakota West
6. Dakota West
7. Rio Arriba, NM
8. 44.0 million cubic feet
9. December 12, 1979
10. Northwest Pipeline Corporation
1. 80-09499B/NM-4236-79B
2. 30-039-21896-0000-0
3. 103 000 000
4. Cotton Petroleum Corporation
5. Apache No 120 Lindrith Gallup
6. Lindrith Gall
7. Rio Arriba, NM
8. 44.0 million cubic feet
9. December 12, 1979
10. Northwest Pipeline Corporation
1. 80-09501/NM-4215-79
2. 30-015-22784-0000-0
3. 103 000 000
4. Hondo Drilling Company
5. Trigg-Jennings Com #1
6. North Turkey Track—Morrow
7. Eddy, NM
8. 100.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09502/NM-4013-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Sun Oil Company (Delaware)
5. NM Federal N No 2
6. San Juan Basin
7. San Juan, NM
8. 16.0 million cubic feet
9. December 12, 1979
10. Southern Union Gathering Company
1. 80-09503/NM-195-78
2. 30-039-21646-0000-0
3. 108 000 000
4. Jerome P McHugh
5. Valencia Canyon Unit #38
6. Choza Mesa Pictured Cliffs
7. Rio Arriba, NM
8. 11.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company

1. 80-09504/NM-2294-79
2. 30-015-00000-0000-0
3. 102 000 000
4. C & K Petroleum Inc
5. CK Federal No 1
6. White City (Penn)
7. Eddy, NM
8. 200.0 million cubic feet
9. December 12, 1979
10. Transcontinenal Gas Pipe Line Corp
1. 80-09505/NM-2295-79
2. 30-015-22035-0000-0
3. 103 000 000
4. C & K Petroleum Inc
5. Pennzoil Federal 2 No 1
6. White City (Penn)
7. Eddy, NM
8. 600.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co
1. 80-09506/NM-2448-79
2. 30-039-05274-0000-0
3. 108 000 000
4. M & M Production & Operation Inc
5. Jicarilla Able #5
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 1.8 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co
1. 80-09507/NM-2447-79
2. 30-039-05432-0000-0
3. 108 000 000
4. M & M Production & Operation Inc
5. Jicarilla Apache #9
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 2.2 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co
1. 80-09508/NM-2448-79
2. 30-039-05410-0000-0
3. 108 000 000
4. M & M Production & Operation Inc
5. Jicarilla Apache #14
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 1.8 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co
1. 80-09509/NM-4240-79
2. 30-045-23269-0000-0
3. 103 000 000
4. Tenneco Oil Company
5. Gooch #1
6. Basin Dakota
7. San Juan, NM
8. 292.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co
1. 80-09510/NM2449-79
2. 30-039-06067-0000-0
3. 108 000 000
4. M & M Production & Operation Inc
5. Jicarrilla Apache #6
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 1.9 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09511/NM2450-79
2. 30-039-05257-0000-0
3. 108 000 000
4. M & M Production & Operation Inc
5. Jicarilla Able #1

6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 2.2 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09512/NM2451-79
2. 30-039-05225-0000-0
3. 108 000 000
4. M & M Production & Operation Inc
5. Harrington State #7
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 2.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09513/NM2452-79
2. 30-039-00000-0000-0
3. 108 000 000
4. M & M Production & Operation Inc
5. Jicarilla Abel #4
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 2.8 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09514/NM3308-79
2. 30-039-06272-0000-0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Apache A 118 #2
6. Gavilian-Pictured Cliffs
7. Rio Arriba, NM
8. 9.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 6, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-1957 Filed 1-21-80; 8:45 am]

BILLING CODE 6450-01-M

[No. 135]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

January 11, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Louisiana Office of Conservation

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-09741/79-2902
2. 17-111-20989-0000
3. 108 000 000
4. IMC Exploration Company
5. Union Producing Co #N-166
6. Monroe Gas Field
7. Union LA
8. 3.0 million cubic feet
9. December 13, 1979
10. Mid Louisiana Gas Company

1. 80-09742/79-2901
2. 17-111-20928-0000
3. 108 000 000
4. IMC Exploration Company
5. Frost Lumber Ind #B-3
6. Monroe Gas Field
7. Union LA
8. 7.8 million cubic feet
9. December 13, 1979
10. Mid Louisiana Gas Company

1. 80-09743/79-2900
2. 17-111-20927-0000
3. 108 000 000
4. IMC Exploration Company
5. McKinnie #2
6. Monroe Gas Field
7. Union LA
8. 4.9 million cubic feet
9. December 13, 1979
10. Mid Louisiana Gas Company

1. 80-09744/79-2899
2. 17-111-20926-0000
3. 108 000 000
4. IMC Exploration Company
5. Williamson #7
6. Monroe Gas Field
7. Union LA
8. 6.1 million cubic feet
9. December 13, 1979
10. Mid Louisiana Gas Company

1. 80-09745/79-2928
2. 17-111-20607-0000
3. 108 000 000
4. CEKA Gas Gathering
5. Olincraft #2
6. Monroe Gas Field
7. Union LA
8. 3.2 million cubic feet
9. December 13, 1979
10. Darbonne Gas Gathering

1. 80-09746/79-2925
2. 17-111-20528-0000
3. 108 000 000
4. CEKA Gas Gathering
5. Olincraft #1
6. Monroe Gas Field
7. Union LA
8. 2.2 million cubic feet
9. December 13, 1979
10. Darbonne Gas Gathering

1. 80-09747/79-2924
2. 17-111-20517-0000
3. 108 000 000
4. CEKA Gas Gathering
5. Halley Wall #2
6. Monroe Gas Field
7. Union LA
8. 6.6 million cubic feet
9. December 13, 1979
10. Darbonne Gas Gathering

1. 80-09748/79-2923
2. 17-111-20516-0000
3. 108 000 000
4. CEKA Gas Corporation
5. Halley Wall #1
6. Monroe Gas Field
7. Union LA
8. 6.0 million cubic feet
9. December 13, 1979
10. Darbonne Gas Gathering

1. 80-09749/79-2922
2. 17-067-20502-0000
3. 108 000 000
4. CEKA Gas Corporation
5. Revels #2
6. Monroe Gas Field
7. Morehouse LA
8. 7.5 million cubic feet
9. December 13, 1979
10. Gas Transportation Corp

1. 80-09750/79-2921
2. 17-067-20501-0000
3. 108 000 000
4. CEKA Gas Corporation
5. Revels #1
6. Monroe Gas Field
7. Morehouse LA
8. 7.0 million cubic feet
9. December 13, 1979
10. Gas Transportation Corp

1. 80-09751/79-2932
2. 17-073-20451-0000
3. 108 000 000
4. CEKA Gas Corporation
5. Filhiol #3
6. Monroe Gas Field
7. Ouachita LA
8. 4.3 million cubic feet
9. December 13, 1979
10. Gas Transportation Corp

1. 80-09752/79-2931
2. 17-073-20450-0000
3. 108 000 000
4. CEKA Gas Corporation
5. Filhiol #2
6. Monroe Gas Field
7. Ouachita LA
8. 4.6 million cubic feet
9. December 13, 1979
10. Gas Transportation Corp

1. 80-09753/79-2930
2. 17-073-20100-0000
3. 108 000 000
4. CEKA Gas Corporation
5. Filhiol #1
6. Monroe Gas Field
7. Union LA
8. 3.6 million cubic feet
9. December 13, 1979
10. Gas Transportation Corp

1. 80-09754/79-2929
2. 17-073-20418-0000
3. 108 000 000
4. CEKA Gas Corporation
5. Perry Heirs #3
6. Monroe Gas Field

7. Ouachita LA
8. 2.0 million cubic feet
9. December 13, 1979
10. Gas Transportation Corp

1. 80-09755/79-2928
2. 17-073-20414-0000
3. 108 000 000
4. CEKA Gas Corporation
5. Perry Heirs #2
6. Monroe Gas Field
7. Ouachita LA
8. 2.0 million cubic feet
9. December 13, 1979
10. Gas Transportation Corp

1. 80-09756/79-2927
2. 17-073-20390-0000
3. 108 000 000
4. CEKA Gas Corporation
5. Perry Heirs #1
6. Monroe Gas Field
7. Union LA
8. 4.7 million cubic feet
9. December 13, 1979
10. Gas Transportation Corp

1. 80-09758/79-2857
2. 17-033-20050-0000
3. 107 000 000
4. BTA Oil Producers
5. 16400 Tusc Ra Sue G Pacific #1
6. Port Hudson
7. East Baton Rouge Parla
8. 7200.0 million cubic feet
9. December 13, 1979
10. Mid-Louisiana Gas Company

1. 80-09759/79-2936
2. 17-067-20589-0000
3. 108 000 000
4. CEKA Gas Corporation
5. Jordan #1
6. Monroe Gas Field
7. Ouchita LA
8. 1.5 million cubic feet
9. December 13, 1979
10. Gas Transportation Corp

1. 80-09760/79-2935
2. 17-111-20454-0000
3. 108 000 000
4. CEKA Gas Corporation
5. Ott #1
6. Monroe Gas Field
7. Union LA
8. 4.0 million cubic feet
9. December 13, 1979
10. Darbonne Gas Gathering

1. 80-09761/79-2934
2. 17-111-20502-0000
3. 108 000 000
4. CEKA Gas Corporation
5. Hearn #2
6. Monroe Gas Field
7. Union LA
8. 3.1 million cubic feet
9. December 13, 1979
10. Gas Transportation Corp

1. 80-09762/79-2933
2. 17-111-20451-0000
3. 108 000 000
4. CEKA Gas Corporation
5. Hearn #1
6. Monroe Gas Field
7. Union LA
8. 1.8 million cubic feet
9. December 13, 1979
10. Gas Transportation Corp

1. 80-09763/79-2895
2. 17-017-23050-0000
3. 103 000 000
4. Crystal Oil Company
5. D Simpson No 1
6. Greenwood-Waskom
7. Caddo LA
8. 37.0 million cubic feet
9. December 13, 1979
10. Arkansas Louisiana Gas Co

1. 80-09764/79-2894
2. 17-027-20330-0000
3. 106 000 000
4. Brammer Engineering Inc
5. Hoss Ra Sua Oden #1
6. Sugar Creek
7. Claiborne LA
8. 11.0 million cubic feet
9. December 13, 1979
10. United Gas Pipeline Company Louisiana Gas Instrastate of Shreveport

1. 80-09765/79-2893
2. 17-109-22122-0000
3. 102 000 000
4. Brock Exploration Corp
5. 3870 Ra Sua Pelto No 1-D
6. Orange Grove
7. Terrebonne LA
8. 197.0 million cubic feet
9. December 13, 1979
10.

1. 80-09766/79-2892
2. 17-109-222120-0000
3. 102 000 000
4. Brock Exploration Corp
5. 4000 Ra Sua Pelto No 1
6. Orange Grove
7. Terrebonne LA
8. 164.0 million cubic feet
9. December 13, 1979
10.

1. 80-09767/79-2891
2. 17-057-00973-0000
3. 108 000 000
4. Amerada Hess Corporation
5. J P Moore #10-D
6. Raceland
7. LaFourche LA
8. 20.3 million cubic feet
9. December 13, 1979
10. Transcontinental Gas Pipe Line Corp

1. 80-09768/79-2942
2. 17-049-20117-0000
3. 102 000 000
4. Triton Oil & Gas Corp
5. L James Sug Oxford #1
6. Clay
7. Jackson Parish LA
8. 640.0 million cubic feet
9. December 13, 1979
10. United Gas Pipe Line Company

1. 80-09769/79-2941
2. 17-031-20698-0000
3. 108 000 000
4. Sun Oil Company (Delaware)
5. Butler Estate No 4
6. Grogan
7. DeSoto LA
8. 2.0 million cubic feet
9. December 13, 1979
10. Tennessee Gas Pipeline Company

1. 80-09770/79-2940
2. 17-085-20345-0000
3. 108 000 000
4. Sun Oil Company (Delaware)
5. Cook Taylor B No 1
6. Grogan
7. Sabine JRA LA
8. 6.0 million cubic feet
9. December 13, 1979
10. Tennessee Gas Pipeline Company

1. 80-09771/79-2939
2. 17-031-20655-0000
3. 108 000 000
4. Sun Oil Company (Delaware)
5. Roxana Ryan No 1
6. Grogan
7. DeSota LA
8. .7 million cubic feet
9. December 13, 1979
10. Tennessee Gas Pipeline Company

1. 80-09772/79-2985
2. 17-117-20002-0000
3. 107 000 000
4. The Louisiana Land and Exploration
5. Crown Zellerbach No 1-158414
6. Bogalusa
7. Washington LA
8. 2,555.0 million cubic feet
9. December 13, 1979
10. Uncommitted

1. 80-09773/79-2986
2. 17-075-22328-0000
3. 102 000 000
4. Pel-Tex Oil Company Inc
5. LWR LC RA SUA SL 6476 #1
6. Lake Camp
7. Plaquemines LA
8. 730.0 million cubic feet
9. December 13, 1979
10. Transcontinental Gas Pipe Line Corp

1. 80-09774/79-2987
2. 17-033-20037-0000
3. 102 000 000
4. Brock Exploration Corp
5. NS 1 RA SUA SUA No 1
6. University
7. E Baton Rouge LA
8. 377.4 million cubic feet
9. December 13, 1979
10. Purchaser not determined yet

1. 80-09775/79-2984
2. 17-021-20271-0000
3. 102 000 000
4. Frank Spooner
5. Pelto Oil Co-1 #(143960)
6. Beaucoup Creek
7. Caldwell LA
8. .0 million cubic feet
9. December 13, 1979
10. United Gas Pipeline Co

1. 80-09776/79-2988
2. 17-033-20038-0000
3. 102 000 000
4. Brock Exploration Corp
5. NS 3 RB SUA LSU No 2
6. University
7. E Baton Rouge LA
8. 335.8 million cubic feet
9. December 13, 1979
10.

1. 80-09777/79-2951
2. 17-107-20202-0000
3. 100 000 000
4. John W McGowan
5. Mutual Realty Co #1 SN 155062
6. Holly Ridge Field
7. Tensas Parish LA
8. 6.0 million cubic feet
9. December 13, 1979
10.

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1. 80-09778/79-2950
2. 17-107-20255-0000
3. 103 000 000
4. John W McGowan
5. Vug Jordan-Marks #1 SN 160132
6. Holly Ridge Field
7. Tensas Parish LA
8. 8.0 million cubic feet
9. December 13, 1979
10.

1. 80-09779/79-2949
2. 17-107-20230-0000
3. 103 000 000
4. John W McGowan
5. Vua Glover #2 SN 159030
6. Holly Ridge Field
7. Tensas Parish LA
8. 8.0 million cubic feet
9. December 13, 1979
10.

1. 80-09780/79-2948
2. 17-107-20219-0000
3. 103 000 000
4. John W McGowan
5. Vuc Glover #1 SN 157224
6. Holly Ridge Field
7. Tensas Parish LA
8. 8.0 million cubic feet
9. December 13, 1979
10.

1. 80-09781/79-2947
2. 17-047-30454-0000
3. 103 000 000
4. Shell Oil Company
5. Wilbert No 239
6. White Castle
7. Iberville LA
8. 450.0 million cubic feet
9. December 13, 1979
10. Monterey Pipeline Co

1. 80-09782/79-2946
2. 17-027-20458-0000
3. 103 000 000
4. Gulf Oil Corporation
5. TV RA SUA Pauline Drewett No 1 #1576
6. Lisbon
7. Claiborne LA
8. 40.0 million cubic feet
9. December 13, 1979
10. Texas Gas Transmission Co

1. 80-09783/79-2945
2. 17-109-21997-0000
3. 103 000 000
4. Pennzoil Producing Company
5. Laterre C-14
6. Dulac
7. Terrebonne LA
8. 1,000.0 million cubic feet
9. December 13, 1979
10. United Gas Pipe Line Company

1. 80-09784/79-2943
2. 17-001-20765-0000
3. 103 000 000
4. Great Southern Oil & Gas Co Inc
5. Elmo J Bollich #2
6. Eunice
7. La Acadia LA
8. 2,409.0 million cubic feet
9. December 13, 1979
10. Texas Gas Transmission Corporation

1. 80-09785/79-2896
2. 17-031-21104-0000
3. 103 000 000
4. Crystal Oil Company
5. PSUI Kalmbach #1
6. Bethany-Longstreet
7. DeSoto LA
8. 7.3 million cubic feet
9. December 13, 1979
10. Arkansas Louisiana Gas Co

1. 80-09786/79-2956
2. 17-107-20273-0000
3. 103 000 000
4. John W McGowan
5. Mutual Realty Co A #4 SN 161275
6. Holly Ridge Field
7. Tensas Parish LA
8. 8.0 million cubic feet
9. December 13, 1979
10.

1. 80-09787/79-2955
2. 17-107-20252-0000
3. 103 000 000
4. John W McGowan
5. Mutual Realty Co A #2 SN 160059
6. Holly Ridge Field
7. Tensas Parish LA
8. 8.0 million cubic feet
9. December 13, 1979
10.

1. 80-09788/79-2954
2. 17-107-20264-0000
3. 103 000 000
4. John W McGowan
5. VUF Oliver Berry #3 SN 160497
6. Holly Ridge Field
7. Tensas Parish LA
8. 8.0 million cubic feet
9. December 13, 1979
10.

1. 80-09789/79-2953
2. 17-107-20231-0000
3. 103 000 000
4. John W McGowan
5. A S Glover Heirs #2 SN 159091
6. Holly Ridge Field
7. Tensas Parish LA
8. 8.0 million cubic feet
9. December 13, 1979
10.

1. 80-09790/79-2952
2. 17-107-20262-0000
3. 103 000 000
4. John W McGowan
5. Miller-Robinson #1 SN 160448
6. Holly Ridge Field
7. Tensas Parish LA
8. 8.0 million cubic feet
9. December 13, 1979
10.

1. 80-09791/79-2961
2. 17-107-20266-0000
3. 103 000 000
4. John W McGowan
5. VUH Calvin Rabb #5 SN 160519
6. Holly Ridge Field
7. Tensas Parish LA
8. 8.0 million cubic feet
9. December 13, 1979
10.

1. 80-09792/79-2960
2. 17-107-20248-0000
3. 103 000 000
4. John W McGowan
5. Mutual Realty Co #5 SN 160012
6. Holly Ridge Field
7. Tensas Parish LA
8. 8.0 million cubic feet
9. December 13, 1979
10.

1. 80-09793/79-2959
2. 17-107-20247-0000
3. 103 000 000
4. John W McGowan
5. Mutual Realty Co #4 SN 160011
6. Holly Ridge Field
7. Tensas Parish LA
8. 8.0 million cubic feet
9. December 13, 1979
10.

1. 80-09794/79-2958
2. 17-107-20243-0000
3. 103 000 000
4. John W McGowan
5. Mutual Realty Co A #3 SN 159972
6. Holly Ridge Field
7. Tensas Parish LA
8. 8.0 million cubic feet
9. December 13, 1979
10.

1. 80-09795/79-2957
2. 17-107-20280-0000-
3. 103 000 000
4. John W McGowan
5. Mutual Realty Co #11 SN 161573
6. Holly Ridge Field
7. Tensas Parish LA
8. 8.0 million cubic feet
9. December 13, 1979
10.

1. 80-09796/79-2968
2. 17-107-20265-0000-
3. 103 000 000
4. John W McGowan
5. VUI Calvin Rabb #4 SN 160518
6. Holly Ridge Field
7. Tensas Parish LA
8. 8.0 million cubic feet
9. December 13, 1979
10.

1. 80-09797/79-2967
2. 17-107-20203-0000
3. 103 000 000
4. John W McGowan
5. Vub Shelley A #1 SN 155063
6. Holly Ridge Field
7. Tensas Parish, LA
8. 8.0 million cubic feet
9. December 13, 1979
10.

1. 80-09798/79-2966
2. 17-107-20216-0000
3. 103 000 000
4. John W McGowan
5. Vud Shelley #1 SN 156984
6. Holly Ridge Field
7. Tensas Parish, LA
8. 8.0 million cubic feet
9. December 13, 1979
10.

1. 80-09799/79-2965
2. 17-107-20236-0000
3. 103 000 000
4. John W McGowan
5. R D Shelley F #2 SN 159194
6. Holly Ridge Field
7. Tensas Parish, LA
8. 8.0 million cubic feet
9. December 13, 1979
10.

1. 80-09800/79-2964
2. 17-107-20240-0000
3. 103 000 000
4. John W McGowan
5. R D Shelley F #1 SN 159355

6. Holly Ridge Field
7. Tensas Parish, LA
8. 8.0 million cubic feet
9. December 13, 1979
10.

1. 80-09801/79-2963
2. 17-107-20226-0000
3. 103 000 000
4. John W McGowan
5. R D Shelley D #3 SN 158949
6. Holly Ridge Field
7. Tensas Parish, LA
8. 8.0 million cubic feet
9. December 13, 1979
10.

1. 80-09802/79-2962
2. 17-107-20234-0000
3. 103 000 000
4. John W McGowan
5. R D Shelley C #3 SN 159087
6. Holly Ridge Field
7. Tensas Parish, LA
8. 8.0 million cubic feet
9. December 13, 1979
10.

1. 80-09803/79-2913
2. 17-111-20842-0000
3. 108 000 000
4. IMC Exploration Company
5. Union Producing Co #N-163
6. Monroe Gas Field
7. Union, LA
8. 7.4 million cubic feet
9. December 13, 1979
10. Mid Louisiana Gas Company

1. 80-09804/79-2912
2. 17-111-20843-0000
3. 108 000 000
4. IMC Exploration Company
5. Union Producing Co #N-16
6. Monroe Gas Field
7. Union, LA
8. 8.8 million cubic feet
9. December 13, 1979
10. Mid Louisiana Gas Company

1. 80-09805/79-2911
2. 17-111-20966-0000
3. 108 000 000
4. IMC Exploration Company
5. Phillips #F-124
6. Monroe Gas Field
7. Union, LA
8. 4.6 million cubic feet
9. December 13, 1979
10. Mid Louisiana Gas Company

1. 80-09806/79-2910
2. 17-111-20841-0000
3. 108 000 000
4. IMC Exploration Company
5. Union Producing Co #N-162
6. Monroe Gas Field
7. Union, LA
8. 7.9 million cubic feet
9. December 13, 1979
10. Mid Louisiana Gas Company

1. 80-09807/79-2909
2. 17-111-20844-0000
3. 108 000 000
4. IMC Exploration Company
5. Union Producing Co #N-161
6. Monroe Gas Field
7. Union, LA
8. 7.4 million cubic feet
9. December 13, 1979
10. Mid Louisiana Gas Company

1. 80-09808/79-2906
2. 17-111-20983-0000
3. 108 000 000
4. IMC Exploration Company
5. Union Producing Co #N-158
6. Monroe Gas Field
7. Union, LA
8. 15.3 million cubic feet
9. December 13, 1979
10. Mid Louisiana Gas Company

1. 80-09809/79-2905
2. 17-111-20838-0000
3. 108 000 000
4. Gas Transportation Corp
5. Navarro F-85 #4
6. Monroe
7. Union, LA
8. 6.1 million cubic feet
9. December 13, 1979
10. International Minerals Corp

1. 80-09810/79-2904
2. 17-111-20836-0000
3. 108 000 000
4. IMC Exploration Company
5. Frost Lumber Ind #8
6. Monroe Gas Field
7. Union, LA
8. 4.9 million cubic feet
9. December 13, 1979
10. Mid Louisiana Gas Company

1. 80-09811/79-2903
2. 17-111-20990-0000
3. 108 000 000
4. IMC Exploration Company
5. Union Producing Co #N-167
6. Monroe Gas Field
7. Union, LA
8. 3.6 million cubic feet
9. December 13, 1979
10. Mid Louisiana Gas Company

1. 80-09812/79-2915
2. 17-111-20850-0000
3. 108 000 000
4. Gas Transportation Corporation
5. Navarro F-85 #14
6. Monroe Gas Field
7. Union, LA
8. 7.2 million cubic feet
9. December 13, 1979
10. International Minerals Corps

1. 80-09813/79-2914
2. 17-111-20849-0000
3. 108 000 000
4. IMC Exploration Company
5. Union Producing Co #N-164
6. Monroe Gas Field
7. Union, LA
8. 6.1 million cubic feet
9. December 13, 1979
10. Mid Louisiana Gas Company

1. 80-09814/79-2898
2. 17-111-20925-0000
3. 108 000 000
4. IMC Exploration Company
5. Williamson #6
6. Monroe Gas Field
7. Union, LA
8. 5.4 million cubic feet
9. December 13, 1979
10. Mid Louisiana Gas Company

1. 80-09815/79-2897
2. 17-111-20924-0000
3. 108 000 000
4. Gas Transportation Corp
5. Navarro F-85 #26
6. Monroe
7. Union, LA
8. 6.9 million cubic feet
9. December 13, 1979
10. International Minerals Corp

1. 80-09816/79-2908
2. 17-111-20964-0000
3. 108 000 000
4. IMC Exploration Company
5. Union Producing Co #N-159
6. Monroe Gas Field
7. Union, LA
8. 4.8 million cubic feet
9. December 13, 1979
10. Mid Louisiana Gas Company

1. 80-09817/79-2907
2. 17-111-20834-0000
3. 108 000 000
4. IMC Exploration Company
5. Frost Lumber Industries #7
6. Monroe Gas Field
7. Union, LA
8. 6.8 million cubic feet
9. December 13, 1979
10. Mid Louisiana Gas Company

1. 80-09818/79-2916
2. 17-111-20992-0000
3. 108 000 000
4. IMC Exploration Company
5. Union Producing Co #N-157
6. Monroe Gas Field
7. Union, LA
8. 15.3 million cubic feet
9. December 13, 1979
10. Mid Louisiana Gas Company

1. 80-09820/79-3003
2. 17-055-20165-0000
3. 107 000 000
4. Whittington Operating Co
5. Hubert Roger No 1
6. Maurice
7. Lafayette, LA
8. 211.0 million cubic feet
9. December 13, 1979
10. Texas Gas Transmission Corp

1. 80-09821/79-3002
2. 17-097-20512-0000
3. 107 000 000
4. Shell Oil Company
5. 17600 Tusc RA Sub Fisher No 1
6. Big Cane
7. St Landry, LA
8. 2900.0 million cubic feet
9. December 13, 1979
10. Columbia Gas Transmission Corp

1. 80-09822/79-3001
2. 17-031-20883-0000
3. 103 000 000
4. Jeems Bayou Production Corp
5. Ramsey Et al #1 161132
6. Grogan 4319
7. Desoto Parish, LA
8. 98.0 million cubic feet
9. December 13, 1979
10. Tennessee Gas Pipeline Co

1. 80-09823/79-3000
2. 17-031-20885-0000
3. 103 000 000
4. Jeems Bayou Production Corp
5. Ramsey Et al #2 161656
6. Grogan 4319
7. Desoto Parish, LA
8. 76.0 million cubic feet
9. December 13, 1979
10. Tennessee Pipeline Corp

V45/15/JA22/80 UMI

1. 80-09824/79-2998
2. 17-031-20953-0000
3. 103 000 000
4. Jeems Bayou Production Corp
5. Bufkin #1--#162918
6. Grogan
7. DeSoto Parish, LA
8. 59.0 million cubic feet
9. December 13, 1979
10. Tennessee Gas Pipeline Co.
1. 80-09825/79-2996
2. 17-073-20407-0000
3. 108 000 000
4. Ceka Gas Corp
5. York Perry Heirs #1
6. Monroe
7. Ouachita, LA
8. 1.0 million cubic feet
9. December 13, 1979
10. Gas Transportation Corp
1. 80-09826/79-2997
2. 17-067-20592-0000
3. 108 000 000
4. Ceka Gas Corp
5. Yeldell #2
6. Monroe
7. Morehouse, LA
8. 2.0 million cubic feet
9. December 13, 1979
10. Gas Transportation Corp
1. 80-09827/79-2996
2. 17-067-20590-0000
3. 108 000 000
4. Ceka Gas Corp
5. Pollard #1
6. Monroe
7. Morehouse, LA
8. 1.0 million cubic feet
9. December 13, 1979
10. Gas Transportation Corp
1. 80-09828/79-2995
2. 17-111-20455-0000
3. 108 000 000
4. Ceka Gas Corp
5. Worley #1
6. Monroe
7. Union, LA
8. 3.0 million cubic feet
9. December 13, 1979
10. D Arbonne Gas Gathering
1. 80-09829/79-2994
2. 17-111-02204-0000
3. 108 000 000
4. Ceka Gas Corp
5. Hollis #1
6. Monroe
7. Union, LA
8. 4.0 million cubic feet
9. December 13, 1979
10. D Arbonne Gas Gathering
1. 80-09830/79-2993
2. 17-067-72058-3000
3. 108 000 000
4. Ceka Gas Corp
5. Crowder #1
6. Monroe
7. Morehouse, LA
8. 2.0 million cubic feet
9. December 13, 1979
10. Gas Transmission Corp
1. 80-09831/79-2992
2. 17-111-20600-0000
3. 108 000 000
4. Ceka Gas Corp
5. Edwards #1
6. Monroe
7. Union, LA
8. 2.7 million cubic feet
9. December 13, 1979
10. Louisiana Power and Light
1. 80-09832/79-2991
2. 17-073-20449-0000
3. 108 000 000
4. Ceka Gas Corp
5. Cartlidge #1
6. Monroe
7. Ouachita, LA
8. 2.0 million cubic feet
9. December 13, 1979
10. Gas Transmission Corp
1. 80-09833/79-2990
2. 17-033-20060-0000
3. 102 000 000
4. Brock Exploration Corp
5. NS 3 RD SUA LSU No 4
6. University
7. E Baton Rouge, LA
8. 36.5 million cubic feet
9. December 13, 1979
10.
1. 80-09834/79-2989
2. 17-033-20047-0000
3. 102 000 000
4. Brock Exploratioin Corp
5. NS 1 RB LSU No 3
6. University
7. E Baton Rouge, LA
8. 373.4 million cubic feet
9. December 13, 1979
10.
1. 80-09835/79-2983
2. 17-055-00216-0000
3. 105 000 000
4. J P Owen and Company Inc
5. VU A Stutes Et Al Unit #1
6. Judice
7. Lafayette, LA
8. 4.0 million cubic feet
9. December 13, 1979
10. Texas Gas Transmission Corp
1. 80-09836/79-2982
2. 17-107-00481-0000
3. 103 000 000
4. John W McGowan
5. R D Shelley B #1 SN 154757
6. Holly Ridge Field
7. Tensas Parish, LA
8. 8.0 million cubic feet
9. December 13, 1979
10.
1. 80-09837/79-2981
2. 17-107-20281-0000
3. 103 000 000
4. John W McGowan
5. Mutual Realty Co #13 SN 161595
6. Holly Ridge Field
7. Tensas Parish, LA
8. 8.0 million cubic feet
9. December 13, 1979
10.
1. 80-09838/79-2980
2. 17-107-20250-0000
3. 103 000 000
4. John W McGowan
5. Mutual Realty Co #7 SN 160014
6. Holly Ridge Field
7. Tensas Parish, LA
8. 8.0 million cubic feet
9. December 13, 1979
10.
1. 80-09839/79-2979
2. 17-107-20246-0000
3. 103 000 000
4. John W McGowan
5. Mutual Realty Co #3 SN 160010
6. Holly Ridge Field
7. Tensas Parish, LA
8. 8.0 million cubic feet
9. December 13, 1979
10.
1. 80-09840/79-2978
2. 17-107-20251-0000
3. 103 000 000
4. John W McGowan
5. Mutual Realty Co #8 SN 160015
6. Holly Ridge Field
7. Tensas Parish, LA
8. 8.0 million cubic feet
9. December 13, 1979
10.
1. 80-09841/79-2977
2. 17-107-20245-0000
3. 103 000 000
4. John W McGowan
5. R D Shelley F #3 SN 159974
6. Holly Ridge Field
7. Tensas Parish, LA
8. 8.0 million cubic feet
9. December 13, 1979
10.
1. 80-09842/79-2976
2. 17-107-20249-0000
3. 103 000 000
4. John W McGowan
5. Mutual Realty Co #6 SN 160013
6. Holly Ridge Field
7. Tensas Parish, LA
8. 8.0 million cubic feet
9. December 13, 1979
10.
1. 80-09843/79-2975
2. 17-107-20313-0000
3. 103 000 000
4. John W McGowan
5. R D Shelley F No 5 SN 160960
6. Holly Ridge Field
7. Tensas Parish, LA
8. 8.0 million cubic feet
9. December 13, 1979
10.
1. 80-09844/79-2974
2. 17-107-20253-0000
3. 103 000 000
4. John W McGowan
5. R D Shelley C No 6 SN 160000
6. Holly Ridge Field
7. Tensas Parish, LA
8. 8.0 million cubic feet
9. December 13, 1979
10.
1. 80-09845/79-2973
2. 17-107-20254-0000
3. 103 000 000
4. John W McGowan
5. R D Shelley C No 7 SN 160001
6. Holly Ridge Field
7. Tensas Parish, LA
8. 8.0 million cubic feet
9. December 13, 1979
10.
1. 80-09846/79-2972
2. 17-107-20278-0000
3. 103 000 000
4. John W McGowan
5. R D Shelley #11 SN 161518

6. Holly Ridge Field
7. Tensas Parish, LA
8. 8.0 million cubic feet
9. December 13, 1979
10.
1. 80-09847/79-2971
2. 17-107-20296-0000
3. 103 000 000
4. John W McGowan
5. Sher-Di-Je Land Co No SN 162025
6. Holly Ridge Field
7. Tensas Parish, LA
8. 8.0 million cubic feet
9. December 13, 1979
10.
1. 80-09848/79-2970
2. 17-107-20301-0000
3. 103 000 000
4. John W McGowan
5. R D Shelley G No 6 SN 162295
6. Holly Ridge Field
7. Tensas Parish, LA
8. 8.0 million cubic feet
9. December 13, 1979
10.
1. 80-09849/79-2969
2. 17-107-20291-0000
3. 103 000 000
4. John W McGowan
5. Glover Heirs A #3 SN 162016
6. Holly Ridge Field
7. Tensas Parish, LA
8. 8.0 million cubic feet
9. December 13, 1979
10.
1. 80-09757/79-2938
2. 17-077-20189-0000
3. 107
4. Chevron USA Inc
5. U Tusc RA Sub Leblanc-Lejeune #1
6. Judge Digby
7. Pointe Coupee, LA
8. 5610.0 million cubic feet
9. December 13, 1979
10. Sugar Bowl Gas Co

North Dakota Geological Survey

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-09732/178-NGPA
2. 33-007-00353-0000
3. 102 000 000
4. William Herbert Hunt Trust Estate
5. Gregory No 1
6. Tree Top
7. Billings, ND
8. 200.0 million cubic feet
9. December 12, 1979
10. Koch Industries Inc
1. 80-09733/177-NGPA
2. 33-007-00260-0000
3. 102 000 000
4. Al-Aquitaine Exploration Ltd
5. State 1-13
6. Teddy Roosevelt
7. Billings, ND
8. 45.0 million cubic feet
9. December 12, 1979
10. Western Gas Processors
1. 80-09734/174-NGPA
2. 33-053-00000-0000
3. 103 000 000
4. Hanson Oil Corporation
5. Sugar Butte No 2 Well
6. Charlson NE¼ SW¼ Sec 34-T163N-R
7. McKenzie, ND
8. 36.0 million cubic feet
9. December 12, 1979
10. Montana Dakota Utilities Company
1. 80-09735/173-NGPA
2. 33-053-00000-0000
3. 103 000 000
4. Hanson Oil Corporation
5. Sugar Butte Well No 1
6. Charlson Field
7. McKenzie, ND
8. 36.0 million cubic feet
9. December 12, 1979
10. Montana Dakota Utilities Company
1. 80-09736/172-NGPA
2. 33-007-00286-0000
3. 102 000 000
4. Amoco Production Company
5. Yourk #1
6. Wildcat
7. Billings, ND
8. 1000.0 million cubic feet
9. December 12, 1979
10. Montana-Dakota Utilities Company
1. 80-09737/171-NGPA
2. 33-007-00311-0000
3. 102 000 000
4. Cities Service Co
5. Wike A #2
6. Little Knife
7. Billings, ND
8. 146.0 million cubic feet
9. December 12, 1979
10.
1. 80-09738/170-NGPA
2. 33-007-00309-0000
3. 102 000 000
4. Gulf Oil Corporation
5. Steve Burian 2-22-2A
6. Little Knife
7. Billings, ND
8. 4.0 million cubic feet
9. December 12, 1979
10. Montana Dakota Utilities
1. 80-09739/169-NGPA
2. 33-033-00057-0000
3. 102 000 000
4. Terra Resources Inc
5. Messersmith #2-1
6. Bicentennial
7. Golden Valley, ND
8. 73.0 million cubic feet
9. December 12, 1979
10.
1. 80-09740/168-NGPA
2. 33-053-00723-0000
3. 102 000 000
4. Terra Resources Inc
5. BNRR #1-7
6. Bicentennial
7. McKenzie, ND
8. .0 million cubic feet
9. December 12, 1979
10. True Oil Company

Ohio Department of Natural Resources, Division of Oil and Gas

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-09515/03003
2. 34-121-21993-0014
3. 108 000 000
4. Allegheny Land & Mineral Company
5. Delancey Well-A0-10
6.
7. Noble, OH
8. 20.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Company
1. 80-09516/03004
2. 34-121-21994-0014
3. 108 000 000
4. Allegheny Land & Mineral Company
5. Kuntz Well-A0-16
6.
7. Noble, OH
8. 6.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Company
1. 80-09517/04573
2. 34-167-23849-0014
3. 108 000 000
4. Energy Unlimited Inc
5. Everett Reese #1-C
6.
7. Washington, OH
8. 1.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Co
1. 80-09518/06372
2. 34-121-21437-0014
3. 108 000 000
4. Mid-Atlantic Oil Co c/o Hays and Co
5. George & Ruth Lawrence #1
6.
7. Noble, OH
8. 9.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Company
1. 80-09519/06373
2. 34-121-21446-0014
3. 108 000 000
4. Mid-Atlantic Oil Co c/o Hays and Co
5. John B Jenkins #1
6.
7. Noble, OH
8. 9.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Company
1. 80-09520/06374
2. 34-121-21465-0014
3. 108 000 000
4. Mid-Atlantic Oil Co c/o Hays and Co
5. Neva Koval #1
6.
7. Noble, OH
8. 9.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Company
1. 80-09521/06375
2. 34-121-21530-0014

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3. 103 000 000
4. Mid-Atlantic Oil Co c/o Hays & Co
5. George Mizik #1
6.
7. Noble, OH
8. 13.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Company

1. 80-09522/06376
2. 34-121-21442-0014
3. 103 000 000
4. Mid-Atlantic Oil Co c/o Hays & Co
5. Mina Foraker #2
6.
7. Noble, OH
8. 10.5 million cubic feet
9. December 12, 1979
10. East Ohio Gas Company

1. 80-09523/06391
2. 34-121-21511-0014
3. 103 000 000
4. Mid-Atlantic Oil Co c/o Hays and Co
5. Reed-Spear #1
6.
7. Noble, OH
8. 21.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Company

1. 80-09524/06402
2. 34-121-21490-0014
3. 103 000 000
4. Mid-Atlantic Oil Co c/o Hays & Co
5. Donald Pickenpaugh #1
6.
7. Noble, OH
8. 9.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Company

1. 80-09525/06403
2. 34-121-21570-0014
3. 103 000 000
4. Mid-Atlantic Oil Co c/o Hays & Co
5. Gene Woodford #2
6.
7. Noble, OH
8. 4.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Company

1. 80-09526/06404
2. 34-121-21632-0014
3. 103 000 000
4. Mid-Atlantic Oil Co c/o Hays & Co
5. Ned Thomas #1
6.
7. Noble, OH
8. 10.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Company

1. 80-09527/06405
2. 34-121-21802-0014
3. 103 000 000
4. Mid-Atlantic Oil Co c/o Hays & Co
5. Ken Muhlbach #1
6.
7. Noble, OH
8. 8.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Company

1. 80-09528/06406
2. 34-121-21453-0014
3. 103 000 000
4. Mid-Atlantic Oil Co c/o Hays & Co
5. Wendell Morris #1
6.
7. Noble, OH
8. 19.5 million cubic feet
9. December 12, 1979
10. East Ohio Gas Company

1. 80-09529/06407
2. 34-121-21468-0014
3. 103 000 000
4. Mid-Atlantic Oil Co c/o Hays & Co
5. Raymond Morris #1
6.
7. Noble, OH
8. 14.5 million cubic feet
9. December 12, 1979
10. East Ohio Gas Company

1. 80-09530/06408
2. 34-121-21488-0014
3. 103 000 000
4. Mid-Atlantic Oil Co c/o Hays & Co Agt
5. George Garan #1
6.
7. Noble, OH
8. 6.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Company

1. 80-09531/07705
2. 34-105-21818-0014
3. 103 000 000
4. Adams Drilling Company
5. Tony Ferlet #1
6.
7. Meigs, OH
8. 4.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp

1. 80-09532/07706
2. 34-053-20447-0014
3. 103 000 000
4. Adams Drilling Company
5. Elmer Spaulding #1
6.
7. Gallia, OH
8. 5.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp

1. 80-09533/07707
2. 34-105-21831-0014
3. 103 000 000
4. Adams Drilling Company
5. F J Stobart #1
6.
7. Meigs, OH
8. 7.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp

1. 80-09534/07718
2. 34-153-20829-0014
3. 103 000 000
4. K S T Oil & Gas Co Inc
5. J D & M E Bell #1
6.
7. Summit, OH
8. 36.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co

1. 80-09535/07719
2. 34-111-21897-0014
3. 103 000 000
4. Drillers Petroleum Corp
5. Homer J Burkhart Well #2
6.
7. Monroe, OH
8. 50.0 million cubic feet
9. December 12, 1979
10.

1. 80-09536/07720
2. 34-115-21859-0014
3. 103 000 000
4. Fortune Gas and Oil Inc
5. Hamer Wilson #1
6.
7. Morgan, OH
8. 30.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Company

1. 80-09537/07721
2. 34-163-20404-0014
3. 103 000 000
4. American Well Management Company
5. White No 2
6.
7. Vinton, OH
8. 18.0 million cubic feet
9. December 12, 1979
10. Not yet determined

1. 80-09538/07722
2. 34-163-20406-0014
3. 103 000 000
4. American Well Management Company
5. Stump No 1
6.
7. Vinton, OH
8. 18.0 million cubic feet
9. December 12, 1979
10.

1. 80-09539/07724
2. 34-089-23676-0014
3. 103 000 000
4. American Well Management Company
5. Banks No 2
6.
7. Licking, OH
8. 18.0 million cubic feet
9. December 12, 1979
10.

1. 80-09540/07725
2. 34-133-22057-0014
3. 103 000 000
4. New Frontier Exploration Inc
5. Murphy #1
6.
7. Portage, OH
8. 35.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Company

1. 80-09541/07726
2. 34-025-20945-0014
3. 103 000 000
4. Edco Drilling and Producing Inc
5. #1 S W Caplan Jr
6.
7. Cuyahoga, OH
8. 18.0 million cubic feet
9. December 12, 1979
10.

1. 80-09542/07727
2. 34-083-22644-0014
3. 103 000 000
4. Richard C Meyer
5. John F Geiger No 1
6. Bladensburg-Northwest
7. Knox, OH
8. 10.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp

1. 80-09543/07729
2. 34-083-22515-0014
3. 103 000 000
4. W E Shrider Co
5. Dwight Henry #3
6.

7. Knox, OH
8. 3.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp

1. 80-09544/07730
2. 34-089-23665-0014
3. 103 000 000
4. The Oxford Oil Co
5. Loren Clark #1
6.
7. Licking, OH
8. 10.0 million cubic feet
9. December 12, 1979
10.

1. 80-09545/07731
2. 34-089-23684-0014
3. 103 000 000
4. The Oxford Oil Co
5. Barrick-Walcutt #3
6.
7. Licking, OH
8. 9.0 million cubic feet
9. December 12, 1979
10.

1. 80-09546/07732
2. 34-075-22196-0014
3. 103 000 000
4. The Oxford Oil Co
5. Galen Yoder #1
6.
7. Holmes, OH
8. 10.0 million cubic feet
9. December 12, 1979
10.

1. 80-09547/07733
2. 34-031-23598-0014
3. 103 000 000
4. The Oxford Oil Co
5. Loren Heiser #2
6.
7. Coshocton, OH
8. 9.0 million cubic feet
9. December 12, 1979
10.

1. 80-09548/07734
2. 34-031-23606-0014
3. 103 000 000
4. The Oxford Oil Co
5. Maston-Fowler #4
6.
7. Coshocton, OH
8. 9.0 million cubic feet
9. December 12, 1979
10.

1. 80-09549/07736
2. 34-133-21905-0014
3. 103 000 000
4. K S T Oil & Gas Co Inc
5. Page Unit #1
6.
7. Portage, OH
8. 36.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co

1. 80-09550/07737
2. 34-133-21967-0014
3. 103 000 000
4. K S T Oil & Gas Co Inc
5. K of C Unit #1
6.
7. Portage, OH
8. 36.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co

1. 80-09551/07738
2. 34-133-21904-0014
3. 103 000 000
4. K S T Oil & Gas Co Inc
5. Ostetrico Unit #1
6.
7. Portage, OH
8. 36.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co

1. 80-09552/07739
2. 34-151-23089-0014
3. 103 000 000
4. Belden & Blake and Co L P No 72
5. M & C Royer #4-919
6.
7. Starle, OH
8. 36.5 million cubic feet
9. December 12, 1979
10.

1. 80-09553/07740
2. 34-151-23086-0014
3. 103 000 000
4. Belden & Blake and Co L P No 72
5. W & I Slusser Comm #1-911
6.
7. Starle, OH
8. 36.5 million cubic feet
9. December 12, 1979
10.

1. 80-09554/07741
2. 34-151-22960-0014
3. 103 000 000
4. Belden & Blake and Co L P No 72
5. W & M Kaylor #1-878
6.
7. Starle, OH
8. 36.5 million cubic feet
9. December 12, 1979
10.

1. 80-09555/07742
2. 34-133-22042-0014
3. 103 000 000
4. Viking Resources Corporation
5. E J & R D Ellsworth #4
6.
7. Portage, OH
8. 30.0 million cubic feet
9. December 12, 1979
10.

1. 80-09556/07743
2. 34-133-22041-0014
3. 103 000 000
4. Viking Resources Corporation
5. E J & R D Ellsworth #3
6.
7. Portage, OH
8. 30.0 million cubic feet
9. December 12, 1979
10.

1. 80-09557/07744
2. 34-133-22040-0014
3. 103 000 000
4. Viking Resources Corporation
5. E J & R D Ellsworth #2
6.
7. Portage, OH
8. 30.0 million cubic feet
9. December 12, 1979
10.

1. 80-09558/07745
2. 34-133-22039-0014
3. 103 000 000
4. Viking Resources Corporation
5. Elmer J & Ruth D Ellsworth #1
6.
7. Portage, OH
8. 30.0 million cubic feet
9. December 12, 1979
10.

1. 80-09559/07746
2. 34-332-20840-0014
3. 103 000 000
4. Viking Resources Corporation
5. Ramsey Unit Well #1
6.
7. Portage, OH
8. 30.0 million cubic feet
9. December 12, 1979
10.

1. 80-09560/07747
2. 34-151-23085-0014
3. 103 000 000
4. Viking Resources Corporation
5. R J Slater #4
6.
7. Stark, OH
8. 30.0 million cubic feet
9. December 12, 1979
10.

1. 80-09561/07748
2. 34-151-22780-0014
3. 103 000 000
4. Viking Resources Corporation
5. R J Slater #3
6.
7. Stark, OH
8. 30.0 million cubic feet
9. December 12, 1979
10.

1. 80-09562/07749
2. 34-151-23084-0014
3. 103 000 000
4. Viking Resources Corporation
5. T & L Slater #2
6.
7. Stark, OH
8. 30.0 million cubic feet
9. December 12, 1979
10.

1. 80-09563/07750
2. 34-151-22779-0014
3. 103 000 000
4. Viking Resources Corporation
5. T & L Slater #1
6.
7. Stark, OH
8. 30.0 million cubic feet
9. December 12, 1979
10.

1. 80-09564/07751
2. 34-155-21290-0014
3. 103 000 000
4. Berea Oil and Gas Corporation
5. Smith #1
6.
7. Trumbull, OH
8. 18.8 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission

1. 80-09565/07752
2. 34-155-21309-0014
3. 103 000 000
4. Berea Oil and Gas Corporation
5. Lukasko #1
6.
7. Trumbull, OH
8. 28.8 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission

1. 80-09566/07753

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2. 34-155-21308-0014
3. 103 000 000
4. Berea Oil and Gas Corporation
5. Lukasko #2
6.
7. Trumbull, OH
8. 25.2 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission
1. 80-09567/07754
2. 34-155-21292-0014
3. 103 000 000
4. Berea Oil and Gas Corporation
5. Bielobockie #1
6.
7. Trumbull, OH
8. 18.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission
1. 80-09568/07755
2. 34-083-22851-0014
3. 103 000 000
4. Elkhead Gas & Oil Company
5. Lepley #1
6.
7. Knox, OH
8. 50.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission
1. 80-09569/07757
2. 34-167-24760-0014
3. 103 000 000
4. Quadrant Exploration
5. James and Shirley Poole Well #1
6.
7. Washington, OH
8. 54.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09570/07758
2. 34-081-21641-0014
3. 103 000 000
4. Callander & Kimbrel Inc
5. P. Donahey #1
6.
7. Licking, OH
8. 1.0 million cubic feet
9. December 12, 1979
10.
1. 80-09571/07759
2. 34-119-24175-0014
3. 103 000 000
4. Callander & Kimbrel Inc
5. R. Northrup #1
6.
7. Muskingum, OH
8. 18.0 million cubic feet
9. December 12, 1979
10.
1. 80-09572/07760
2. 34-119-24179-0014
3. 103 000 000
4. Callander & Kimbrel Inc
5. William Smith #1
6.
7. Muskingum, OH
8. 18.0 million cubic feet
9. December 12, 1979
10.
1. 80-09573/07761
2. 34-119-24892-0014
3. 103 000 000
4. Callander & Kimbrel Inc
5. Susie Williams #1A
6.
7. Muskingum, OH
8. 18.0 million cubic feet
9. December 12, 1979
10.
1. 80-09574/07762
2. 34-119-24182-0014
3. 103 000 000
4. Callander & Kimbrel Inc
5. Wm Smith #3
6.
7. Muskingum, OH
8. 17.0 million cubic feet
9. December 12, 1979
10.
1. 80-09575/07763
2. 34-127-24379-0014
3. 103 000 000
4. Callander & Kimbrel Inc
5. Ralph Bateson #1
6.
7. Perry, OH
8. 17.0 million cubic feet
9. December 12, 1979
10.
1. 80-09576/07764
2. 34-119-24176-0014
3. 103 000 000
4. Callander & Kimbrel Inc
5. C. Hardy #1
6.
7. Muskingum, OH
8. 18.0 million cubic feet
9. December 12, 1979
10.
1. 80-09577/07765
2. 34-157-23422-0014
3. 103 000 000
4. William N Tipka
5. Walter Quigley #1A
6.
7. Tuscarawas, OH
8. 30.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission
1. 80-09578/07766
2. 34-157-22968-0014
3. 103 000 000
4. William N Tipka
5. Walter Guigley #2A
6.
7. Tuscarawas, OH
8. 31.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corporation
1. 80-09579/07767
2. 34-155-21282-0014
3. 103 000 000
4. Pyramid Oil & Gas Company
5. Good #3
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. December 12, 1979
10.
1. 80-09580/07768
2. 34-155-21295-0014
3. 103 000 000
4. Pyramid Oil & Gas Company
5. Hallinbaugh-Lynch #2
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. December 12, 1979
10.
1. 80-09581/07769
2. 34-127-24220-0014
3. 103 000 000
4. Partners Oil Company
5. #1-79B Stephen Benedict
6.
7. Perry, OH
8. 100.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corporation
1. 80-09582/07770
2. 34-085-20261-0014
3. 103 000 000
4. Pioneer Oil Company
5. #2 Hasse-Nichols
6.
7. Lake, OH
8. 100.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Company
1. 80-09583/07772
2. 34-133-21934-0014
3. 103 000 000
4. K S T Oil & Gas Co Inc
5. Wason Industrial Centre Second #3
6.
7. Portage, OH
8. 36.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09584/07773
2. 34-133-21936-0014
3. 103 000 000
4. K S T Oil & Gas Co Inc
5. Wason Industrial Centre Second #2
6.
7. Portage, OH
8. 36.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09585/07774
2. 34-133-21935-0014
3. 103 000 000
4. K S T Oil & Gas Co Inc
5. Wason Industrial Centre Second #1
6.
7. Portage, OH
8. 36.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co.
1. 80-09586/07775
2. 34-167-24768-0014
3. 103 000 000
4. Quadrant Exploration Corp
5. Charles & Jennie Bowersock Well #1
6.
7. Washington, OH
8. 54.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09587/07777
2. 34-053-20456-0014
3. 103 000 000
4. Adams Drilling Company
5. Walter Loveday #1
6.
7. Gallia, OH
8. 4.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09588/07778
2. 34-119-24663-0014
3. 103 000 000
4. Coshocton Pipe Company
5. Cols & South Ohio elec Co #1F
6.

7. Muskingum, OH
8. 36.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09589/07779
2. 34-067-20359-0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Clark-Morrison #7-E
6.
7. Harrison, OH
8. 36.5 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09590/07780
2. 34-119-24952-0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. ECK #1
6.
7. Muskingum, OH
8. 36.5 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09591/07781
2. 34-019-21293-0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Clark-Morrison #8-E
6.
7. Carroll, OH
8. 27.4 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09592/07782
2. 34-059-22633-0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Keener #1
6.
7. Guernsey, OH
8. 36.5 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09593/07784
2. 34-127-24333-0014
3. 103 000 000
4. Quaker State Oil Refining Corp
5. Mahon #4 80203-4
6.
7. Perry, OH
8. 11.0 million cubic feet
9. December 12, 1979
10.
1. 80-09594/07786
2. 34-031-23559-0000
3. 103 000 000
4. Seneca Energy Corp
5. Ames #2
6.
7. Coshocton, OH
8. 36.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission
1. 80-09595/07787
2. 34-133-22084-0014
3. 103 000 000
4. New Frontier Exploration Inc
5. Murphy-Boivin Unit #1
6.
7. Portage, OH
8. 34.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Company
1. 80-09596/07800
2. 34-167-24628-0014
3. 103 000 000
4. Whipple Run Oil & Gas Corp
5. Stowe #1
6. Marietta
7. Washington, OH
8. 73.0 million cubic feet
9. December 12, 1979
10. River Gas Co
1. 80-09597/07803
2. 34-089-23656-0014
3. 103 000 000
4. Custom Industries Inc
5. Watkins #1
6.
7. Licking, OH
8. 36.0 million cubic feet
9. December 12, 1979
10.
1. 80-09598/07804
2. 34-167-25000-0014
3. 103 000 000
4. Quadrant Exploration
5. Wilbert Rohrer Well #1
6.
7. Washington, OH
8. 54.0 million cubic feet
9. December 12, 1979
10.
1. 80-09599/07808
2. 34-167-24131-0014
3. 103 000 000
4. L & M Exploration Inc
5. Clair Schwendeman #1
6.
7. Washington, OH
8. 12.8 million cubic feet
9. December 12, 1979
10. Gas Transport Inc
1. 80-09600/07810
2. 34-167-24202-0014
3. 103 000 000
4. L & M Exploration Inc
5. Walter Schaad #1
6.
7. Washington, OH
8. 12.8 million cubic feet
9. December 12, 1979
10. Gas Transport Inc
1. 80-09601/07812
2. 34-167-24314-0014
3. 103 000 000
4. L & M Exploration Inc
5. Clarence Huck #3
6.
7. Washington, OH
8. 12.8 million cubic feet
9. December 12, 1979
10. Gas Transport Inc
1. 80-09602/07818
2. 34-169-22164-0014
3. 103 000 000
4. Lomak Petroleum Inc
5. Alexander #1
6.
7. Wayne, OH
8. 18.3 million cubic feet
9. December 12, 1979
10.
1. 80-09603/07819
2. 34-031-23627-0014
3. 103 000 000
4. Leader Equities Inc
5. Blaine Gorby #1
6.
7. Coshocton, OH
8. 15.0 million cubic feet
9. December 12, 1979
10. National Gas & Oil Corp
1. 80-09604/07825
2. 34-051-22550-0014
3. 103 000 000
4. New Frontier Exploration Inc
5. Enos Unit #1
6.
7. Guernsey, OH
8. 37.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09605/07826
2. 34-157-23423-0014
3. 103 000 000
4. New Frontier Exploration Inc
5. Billy Hoffman #1
6.
7. Tuscarawas, OH
8. 12.0 million cubic feet
9. December 12, 1979
10.
1. 80-09606/07829
2. 34-059-22525-0014
3. 103 000 000
4. Oneal Production Inc
5. Everett Singleton #1
6.
7. Guernsey, OH
8. 80.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09607/07830
2. 34-059-22524-0014
3. 103 000 000
4. Oneal Productions Inc
5. Wilford Hill #3
6.
7. Guernsey, OH
8. 80.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09608/07831
2. 34-059-22523-0014
3. 103 000 000
4. Oneal Productions Inc
5. Maconoburn #1
6.
7. Guernsey, OH
8. 45.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09609/07833
2. 34-089-23672-0014
3. 103 000 000
4. American Well Management Company
5. Crowley No 2
6.
7. Licking, OH
8. 18.0 million cubic feet
9. December 12, 1979
10.
1. 80-09610/07834
2. 34-163-20407-0014
3. 103 000 000
4. American Well Management Company
5. Turner No 1
6.
7. Vinton, OH
8. 18.0 million cubic feet
9. December 12, 1979
10.
1. 80-09611/07835

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2. 34-119-24898-0014
3. 103 000 000
4. J P Sigler Inc
5. Graham & Taylor #2
6.
7. Muskingum, OH
8. 20.0 million cubic feet
9. December 12, 1979
10. Columbia Gas
1. 80-09612/07836
2. 34-119-24899-0014
3. 103 000 000
4. J P Sigler Inc
5. Graham & Taylor #1
6.
7. Muskingum, OH
8. 20.0 million cubic feet
9. December 12, 1979
10. Columbia Gas
1. 80-09613/07837
2. 34-119-24897-0014
3. 103 000 000
4. J P Sigler Inc
5. Graham & Taylor #3
6.
7. Muskingum, OH
8. 20.0 million cubic feet
9. December 12, 1979
10. Columbia Gas
1. 80-09614/07838
2. 34-119-24900-0014
3. 103 000 000
4. J P Sigler Inc
5. Graham & Taylor #4
6.
7. Muskingum, OH
8. 20.0 million cubic feet
9. December 12, 1979
10. Columbia Gas
1. 80-09615/07839
2. 34-075-22232-0014
3. 103 000 000
4. John C Mason
5. Paul Miller #2
6.
7. Holmes, OH
8. 15.0 million cubic feet
9. December 12, 1979
10. Cincinnati Gas & Electric
1. 80-09616/07840
2. 34-115-21891-0014
3. 103 000 000
4. Minuteman Exploration Company
5. G L & F M Fox #3
6.
7. Morgan, OH
8. 11.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Company
1. 80-09617/07841
2. 34-075-22236-0014
3. 103 000 000
4. Amtex Oil and Gas Inc
5. Martin Well No 1 (William & Ellen)
6.
7. Holmes, OH
8. 250.0 million cubic feet
9. December 12, 1979
10.
1. 80-09618/07842
2. 34-119-24828-0014
3. 103 000 000
4. Pemco Gas Inc
5. Sara Fliger No 4
6.
7. Muskingum, OH
8. 7.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09619/07843
2. 34-083-22661-0014
3. 103 000 000
4. Jerry C Olds
5. Mack #3
6.
7. Knox, OH
8. 4.0 million cubic feet
9. December 12, 1979
10.
1. 80-09620/07844
2. 34-083-22403-0014
3. 103 000 000
4. Jerry C Olds
5. #2 Mack
6.
7. Knox, OH
8. 3.0 million cubic feet
9. December 12, 1979
10.
1. 80-09621/07845
2. 34-157-23415-0014
3. 103 000 000
4. Belden & Blake and Co L P No 72
5. M & J Bonifant Comm #1-913
6.
7. Tuscarawas, OH
8. 36.5 million cubic feet
9. December 12, 1979
10.
1. 80-09622/07846
2. 34-151-23083-0014
3. 103 000 000
4. Belden & Blake and Co L P No 72
5. J & R Corell Comm #1-912
6.
7. Stark, OH
8. 36.5 million cubic feet
9. December 12, 1979
10.
1. 80-09623/07847
2. 34-167-24599-0014
3. 103 000 000
4. C W Riggs Inc
5. K Doak #1
6. Reno Field
7. Washington, OH
8. 18.0 million cubic feet
9. December 12, 1979
10.
1. 80-09624/07848
2. 34-167-24676-0014
3. 103 000 000
4. C W Riggs Inc
5. S Eddy #1
6. Reno Field
7. Wash, OH
8. 14.0 million cubic feet
9. December 12, 1979
10.
1. 80-09625/07849
2. 34-167-24577-0014
3. 103 000 000
4. C W Riggs Inc
5. R Casto #3
6. Reno Field
7. Wash, OH
8. 10.0 million cubic feet
9. December 12, 1979
10.
1. 80-09626/07850
2. 34-167-24598-0014
3. 103 000 000
4. C W Riggs Inc
5. Hensler-Doak #1
6. Reno Field
7. Wash, OH
8. 18.0 million cubic feet
9. December 12, 1979
10.
1. 80-09627/07852
2. 34-167-24602-0014
3. 103 000 000
4. C W Riggs Inc
5. T Bowersock #1
6. Reno Field
7. Wash, OH
8. 10.0 million cubic feet
9. December 12, 1979
10.
1. 80-09628/07854
2. 34-107-24601-0014
3. 103 000 000
4. C W Riggs Inc
5. J Bowersock #2
6. Reno Field
7. Wash, OH
8. 14.0 million cubic feet
9. December 12, 1979
10.
1. 80-09629/07858
2. 34-167-24579-0014
3. 103 000 000
4. C W Riggs Inc
5. R Casto #1
6. Reno Field
7. Wash, OH
8. 14.0 million cubic feet
9. December 12, 1979
10.
1. 80-09630/07859
2. 34-167-24578-0014
3. 103 000 000
4. C W Riggs Inc
5. R Casto #2
6. Reno Field
7. Wash, OH
8. 12.0 million cubic feet
9. December 12, 1979
10.
1. 80-09631/07860
2. 34-167-24631-0014
3. 103 000 000
4. C W Riggs Inc
5. E Hendricks #1
6. Reno Field
7. Wash, OH
8. 14.0 million cubic feet
9. December 12, 1979
10.
1. 80-09632/07861
2. 34-167-24555-0014
3. 103 000 000
4. C W Riggs Inc
5. G Hensler #2
6. Reno Field
7. Wash, OH
8. 10.0 million cubic feet
9. December 12, 1979
10.
1. 80-09633/07862
2. 34-167-24804-0014
3. 103 000 000
4. C W Riggs Inc
5. C Hensler #3
6. Reno Field

7. Wash, OH
8. 18.0 million cubic feet
9. December 12, 1979
10.
1. 80-09634/07863
2. 34-167-24554-0014
3. 103 000 000
4. C W Riggs Inc
5. G Hensler #1
6. Reno Field
7. Wash, OH
8. 12.0 million cubic feet
9. December 12, 1979
10.
1. 80-09635/07084
2. 34-157-20441-0014
3. 106 000 000
4. K S T Oil & Gas Co Inc
5. Stone #1
6.
7. Tuscarawas, OH
8. 2.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09636/07085
2. 34-157-20941-0014
3. 106 000 000
4. K S T Oil & Gas Co Inc
5. Riggle #1
6.
7. Tuscarawas, OH
8. 12.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09637/07086
2. 34-157-22382-0014
3. 106 000 000
4. K S T Oil & Gas Co Inc
5. Petekman-Muehlhoffer #1
6.
7. Tuscarawas, OH
8. 1.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09638/07087
2. 34-157-21156-0014
3. 108 000 000
4. K S T Oil & Gas Co Inc
5. Kloha #1
6.
7. Tuscarawas, OH
8. 4.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09639/07088
2. 34-157-21925-0014
3. 106 000 000
4. K S T Oil & Gas Co Inc
5. Young #1
6.
7. Tuscarawas, OH
8. 2.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09640/07089
2. 34-157-21475-0014
3. 106 000 000
4. K S T Oil & Gas Co Inc
5. Liedtke #1
6.
7. Tuscarawas, OH
8. 8.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09641/07090
2. 34-157-20385-0014
3. 106 000 000
4. K S T Oil & Gas Co Inc
5. Moore #1
6.
7. Tuscarawas, OH
8. 3.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09642/07092
2. 34-157-20767-0014
3. 106 000 000
4. K S T Oil & Gas Co Inc
5. Dessecker #1
6.
7. Tuscarawas, OH
8. 6.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09643/07093
2. 34-157-21099-0014
3. 106 000 000
4. K S T Oil & Gas Co Inc
5. Davis #1
6.
7. Tuscarawas, OH
8. 3.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09644/07094
2. 34-157-20252-0014
3. 106 000 000
4. K S T Oil & Gas Co Inc
5. Brug-Byers #1
6.
7. Tuscarawas, OH
8. 3.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co Inc
1. 80-09645/07095
2. 34-157-22103-0014
3. 106 000 000
4. K S T Oil & Gas Co Inc
5. Gundy #1
6.
7. Tuscarawas, OH
8. 3.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09646/07096
2. 34-169-21622-0014
3. 106 000 000
4. K S T Oil & Gas Co Inc
5. Barr #1
6.
7. Wayne, OH
8. 4.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09647/07097
2. 34-157-22526-0014
3. 106 000 000
4. K S T Oil & Gas Co Inc
5. Mutti #2
6.
7. Tuscarawas, OH
8. 9.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09648/07098
2. 34-157-20082-0014
3. 106 000 000
4. K S T Oil & Gas Co Inc
5. Mutti #1
6.
7. Tuscarawas, OH
8. 2.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09649/07099
2. 34-157-22130-0014
3. 106 000 000
4. K S T Oil & Gas Co Inc
5. Hummell #2
6.
7. Tuscarawas, OH
8. 11.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09650/07101
2. 34-157-20216-0014
3. 106 000 000
4. K S T Oil & Gas Co Inc
5. Chaney #1
6.
7. Tuscarawas, OH
8. 3.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co Inc
1. 80-09651/07102
2. 34-157-20962-0014
3. 106 000 000
4. K S T Oil & Gas Co Inc
5. G Albaugh #1
6.
7. Tuscarawas, OH
8. 4.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Company
1. 80-09652/07103
2. 34-157-20883-0014
3. 106 000 000
4. K S T Oil & Gas Co Inc
5. Breyer #1 Superior-Fagan
6.
7. Tuscarawas, OH
8. 10.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09653/07232
2. 34-157-00142-0014
3. 106 000 000
4. K S T Oil & Gas Co Inc
5. Gooderding #1
6.
7. Tuscarawas, OH
8. 6.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09654/07586
2. 34-127-24440-0014
3. 103 000 000
4. Irvin Producing Company
5. Everett Brown #1
6.
7. Perry, OH
8. 10.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09655/07587
2. 34-075-22154-0014
3. 103 000 000
4. Rowley & Brown Petroleum Corp
5. Pahoundis #1
6.
7. Holmes, OH
8. 10.0 million cubic feet
9. December 12, 1979
10. Columbia Gas
1. 80-09656/07646

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2. 34-167-24546-0014
3. 103 000 000
4. C W Riggs Inc
5. K Eddy #2
6. Reno Field
7. Wash, OH
8. 10.0 million cubic feet
9. December 12, 1979
10.
1. 80-09657/07647
2. 34-167-24755-0014
3. 103 000 000
4. C W Riggs Inc
5. K Eddy #3
6. Reno Field
7. Wash, OH
8. 10.0 million cubic feet
9. December 12, 1979
10.
1. 80-09658/07648
2. 34-167-24428-0014
3. 103 000 000
4. C W Riggs Inc
5. V Gibson #2
6. Reno Field
7. Wash, OH
8. 18.0 million cubic feet
9. December 12, 1979
10.
1. 80-09659/07649
2. 34-167-24418-0014
3. 103 000 000
4. C W Riggs Inc
5. Grahame Unit #1
6. Reno Field
7. Wash, OH
8. 18.0 million cubic feet
9. December 12, 1979
10.
1. 80-09660/07650
2. 34-107-24520-0014
3. 103 000 000
4. C W Riggs Inc
5. Heinrich #2
6. Reno Field
7. Wash, OH
8. 18.0 million cubic feet
9. December 12, 1979
10.
1. 80-09661/07651
2. 34-167-24547-0014
3. 103 000 000
4. C W Riggs Inc
5. A Hill #1
6.
7. Wash, OH
8. 14.0 million cubic feet
9. December 12, 1979
10.
1. 80-09662/07652
2. 34-167-24429-0014
3. 103 000 000
4. C W Riggs Inc
5. V Gibson #1
6. Reno Field
7. Wash, OH
8. 20.0 million cubic feet
9. December 12, 1979
10.
1. 80-09663/07653
2. 34-075-22147-0014
3. 103 000 000
4. Rowley & Brown Petroleum Corporation
5. Pahoundis #2
6.
7. Holmes, OH
8. 18.0 million cubic feet
9. December 12, 1979
10.
1. 80-09664/07667
2. 34-167-24756-0014
3. 103 000 000
4. C W Riggs Inc
5. K Eddy #5
6. Reno Field
7. Wash, OH
8. 10.0 million cubic feet
9. December 12, 1979
10.
1. 80-09665/07668
2. 34-167-24530-0014
3. 103 000 000
4. C W Riggs Inc
5. K Eddy #1
6. Reno Field
7. Wash, OH
8. 5.5 million cubic feet
9. December 12, 1979
10.
1. 80-09666/07670
2. 34-167-24757-0014
3. 103 000 000
4. C W Riggs Inc
5. K Eddy #4
6. Reno Field
7. Wash, OH
8. 10.0 million cubic feet
9. December 12, 1979
10.
1. 80-09667/07688
2. 34-075-22231-0014
3. 103 000 000
4. John C Mason
5. David Findley #1
6.
7. Holmes, OH
8. 12.0 million cubic feet
9. December 12, 1979
10. Cincinnati Gas & Electric
1. 80-09668/07691
2. 34-075-22234-0014
3. 103 000 000
4. Berwell Energy Inc
5. Kelley Neal No 1
6.
7. Holmes, OH
8. 18.0 million cubic feet
9. December 12, 1979
10. Columbia Gas
1. 80-09669/07695
2. 34-153-20680-0014
3. 103 000 000
4. K S T Oil & Gas Co Inc
5. E & L Realty #2
6.
7. Summit, OH
8. 36.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09670/07696
2. 34-153-20681-0014
3. 103 000 000
4. K S T Oil & Gas Co Inc
5. E & L Realty & Pondview [illegible] #1
6.
7. Summit, OH
8. 36.0 million cubic feet
9. December 12, 1979
10. East Ohio Gas Co
1. 80-09671/07700
2. 34-167-24808-0014
3. 103 000 000
4. Collins-McGregor Operating Company
5. John Grimes #2
6.
7. Washington, OH
8. 10.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09672/07701
2. 34-167-24849-0014
3. 103 000 000
4. Collins-McGregor Operating Company
5. John Grimes #1
6.
7. Washington County, OH
8. 10.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp
1. 80-09673/07704
2. 34-053-20459-0014
3. 103 000 000
4. Adams Drilling Company
5. George Croyle #1
6.
7. Gallia, OH
8. 4.0 million cubic feet
9. December 12, 1979
10. Columbia Gas Transmission Corp

Texas Railroad Commission, Oil and Gas Division

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-09674/02722
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Johnson YY No 1
6. Panhandle West
7. Hutchinson, TX
8. 4.3 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co, Panhandle Eastern Pipeline Co
1. 80-09675/02718
2. 42-421-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Hobson A No 1
6. Texas Hugoton
7. Sherman, TX
8. 12.9 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co, Panhandle Eastern Pipeline Co
1. 80-09676/02717
2. 42-421-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Elliott-C No 1
6. Texas Hugoton
7. Sherman, TX
8. 10.1 million cubic feet
9. December 12, 1979
10. Michigan-Wisconsin Pipeline Co
1. 80-09677/02713

2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Johnson MM No 1
6. Panhandle West
7. Hutchinson, TX
8. 10.8 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co, Panhandle Eastern Pipeline Co
1. 80-09678/02709
2. 42-421-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Willclo No 4
6. Texas Hugoton
7. Sherman, TX
8. 12.2 million cubic feet
9. December 12, 1979
10. Michigan Wisconsin Pipeline Co
1. 80-09679/02708
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Dugan J No 4
6. Panhandle West
7. Hutchinson, TX
8. 9.2 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co, Panhandle Eastern Pipeline Co
1. 80-09680/02698
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Cheatham RF No 2
6. Panhandle West
7. Hutchinson, TX
8. 15.1 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co, Panhandle Eastern Pipeline Co
1. 80-09681/02697
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Cheatham Rf No 1
6. Panhandle West
7. Hutchinson, TX
8. 10.8 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co, Panhandle Eastern Pipeline Co
1. 80-09682/02694
2. 42-195-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Byrne No 2
6. Hitchland 4640
7. Hansford, TX
8. 6.4 million cubic feet
9. December 12, 1979
10. Michigan Wisconsin Pipeline Co
1. 80-09683/02693
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Ingerton Wh No C-2
6. Panhandle West Red Cave
7. Hutchinson, TX
8. 10.8 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co, Panhandle Eastern Pipeline Co
1. 80-09684/02687
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Johnson-Eb No 1
6. Panhandle West Red Cave
7. Hutchinson, TX
8. 4.9 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co, Panhandle Eastern Pipeline Co
1. 80-09685/02686
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Johnson-Ad No 1
6. Panhandle West Red Cave
7. Hutchinson, TX
8. 15.5 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co, Panhandle Eastern Pipeline Co
1. 80-09705/03293
2. 42-435-30063-0026
3. 108 000 000
4. El Paso Natural Gas Company
5. Meckel D #5
6. Sonora (Canyon Upper)
7. Sutton, TX
8. 12.8 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09706/03289
2. 42-179-23725-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Johnson A 1
6. Panhandle West
7. Gray, TX
8. 4.3 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09707/03156
2. 42-421-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Overstreet No 1
6. Texas Hugoton
7. Sherman, TX
8. 12.9 million cubic feet
9. December 12, 1979
10. Panhandle Eastern Pipeline Co
1. 80-09708/02838
2. 42-421-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Craig-D No 1
6. Texas-Hugoton
7. Sherman, TX
8. 7.5 million cubic feet
9. December 12, 1979
10. Michigan Wisconsin Pipeline Co
1. 80-09709/02836
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Ingerton Wh No A-3
6. Panhandle West Red Cave
7. Hutchinson, TX
8. 19.2 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co, Panhandle Eastern Pipeline Co
1. 80-09710/02835
2. 42-341-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Huckaby No 3
6. Panhandle West Red Cave
7. Moore, TX
8. 14.1 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co, Panhandle Eastern Pipeline Co
1. 80-09711/02831
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Johnson M No 3
6. Panhandle West
7. Hutchinson, TX
8. 9.7 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co, Panhandle Eastern Pipeline Co
1. 80-09712/02740
2. 42-205-00000-0000
3. 106 000 000
4. Phillips Petroleum Company
5. Joe No 1
6. Panhandle West
7. Hartley, TX
8. 17.8 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co, Panhandle Eastern Pipeline Co
1. 80-09713/02736
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Ingerton—D No 1
6. Panhandle West Red Cave
7. Hutchinson, TX
8. 15.1 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co, Panhandle Eastern Pipeline Co
1. 80-09714/02736
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Zell No 5
6. Panhandle West Red Cave
7. Hutchinson, TX
8. 11.9 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co, Panhandle Eastern Pipeline Co
1. 80-09715/02685
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Johnson—Ak No 1
6. Panhandle West Red Cave
7. Hutchinson, TX
8. 17.6 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co, Panhandle Eastern Pipeline Co
1. 80-09716/02683
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Johnson—Ab No 1
6. Panhandle West Red Cave
7. Hutchinson, TX
8. 7.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co, Panhandle Eastern Pipeline Co
1. 80-09717/02682

V45/15/JA22'80 UMI

2. 42-195-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Pearson No 4
6. Texas Hugoton
7. Hansford, TX
8. 10.8 million cubic feet
9. December 12, 1979
10. Panhandle Eastern Pipeline Co
1. 80-09718/02656
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Snow E L No 11
6. Panhandle West Red Cave
7. Hutchinson, TX
8. 7.1 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co, Panhandle Eastern Pipeline Co
1. 80-09719/02657
2. 42-421-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Swoverland No 1
6. Texas Hugoton
7. Sherman, TX
8. 3.2 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co, Panhandle Eastern Pipeline Co
1. 80-09720/02660
2. 42-421-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Wiginton—D No 1
6. Texas Hugoton
7. Sherman, TX
8. 16.6 million cubic feet
9. December 12, 1979
10. Michigan Wisconsin Pipeline Co
1. 80-09721/02662
2. 42-195-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Schulberg No 1
6. Texas Hugoton
7. Hansford, TX
8. 12.9 million cubic feet
9. December 12, 1979
10. Panhandle Eastern Pipeline Co
1. 80-09722/02665
2. 42-421-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Pegram No 1
6. Texas Hugoton
7. Sherman, TX
8. 17.9 million cubic feet
9. December 12, 1979
10. Michigan Wisconsin Pipeline Co
1. 80-09723/02668
2. 42-421-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Pugh No 1
6. Texas Hugoton
7. Sherman, TX
8. 9.2 million cubic feet
9. December 12, 1979
10. Michigan Wisconsin Pipeline Co
1. 80-09724/02669
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Ranch—C No 2
6. Panhandle West
7. Hutchinson, TX
8. 3.5 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co, Panhandle Eastern Pipeline Co
1. 80-09725/02670
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Redcave—A No 1
6. Panhandle West Red Cave
7. Hutchinson, TX
8. 18.9 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co, Panhandle Eastern Pipeline Co
1. 80-09726/02671
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Redcave-B No 1
6. Panhandle West Red Cave
7. Hutchinson, TX
8. 10.8 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co Panhandle Eastern Pipeline Co
1. 80-09727/02673
2. 42-421-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Rouch No 1
6. Texas Hugoton
7. Sherman, TX
8. 16.5 million cubic feet
9. December 12, 1979
10. Michigan Wisconsin Pipeline Co
1. 80-09728/02675
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Garsan-B No 2
6. Panhandle West Red Cave
7. Hutchinson, TX
8. 16.2 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co Panhandle Eastern Pipeline Co
1. 80-09729/02676
2. 42-341-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Latin No 2
6. Panhandle West Red Cave
7. Moore, TX
8. 16.2 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co Panhandle Eastern Pipeline Co
1. 80-09730/02677
2. 42-205-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. McLaughlin No 2
6. Panhandle West
7. Hartley, TX
8. 11.3 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co Panhandle Eastern Pipeline Co
1. 80-09731/02678
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. McMillan Sanford No 1
6. Panhandle West
7. Hutchinson, TX
8. 12.9 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Co Panhandle Eastern Pipeline Co
1. 80-09819A/03290
2. 42-179-28075-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Fowler A 1
6. Panhandle East
7. Gray, TX
8. 18.8 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company
1. 80-09819B/03291
2. 42-483-35159-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Magnolia A 1
6. Panhandle East
7. Wheeler, TX
8. 18.0 million cubic feet
9. December 12, 1979
10. El Paso Natural Gas Company

West Virginia Department of Mines, Oil and Gas Division

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-09686
2. 47-047-00575-0000
3. 108 000 000
4. Patrick Petroleum Corporation of MI
5. Clintac Pocahontas No 1 WV81175
6. Huff Creek
7. McDowell, WV
8. 9.2 million cubic feet
9. December 12, 1979
10. Consolidated Gas Supply Corporation
1. 80-09687
2. 47-059-00610-0000
3. 108 000 000
4. Patrick Petroleum Corporation of MI
5. Growning & Dye No 1 WV 80925
6. Gilbert
7. Mingo, WV
8. 16.0 million cubic feet
9. December 12, 1979
10. Consolidated Gas Supply Corporation
1. 80-09688
2. 47-047-00549-0000
3. 108 000 000
4. Patrick Petroleum Corporation of MI
5. C-Z Pocahontas WV86110
6. Huff Creek
7. McDowell, WV
8. 6.0 million cubic feet
9. December 12, 1979
10. Cabot Corporation
1. 80-09689
2. 47-033-00673-0000
3. 108 000 000
4. Patrick Petroleum Corporation of MI

5. L C Donahue No 1 WV 81630
6. Grasslands
7. Harrison, WV
8. 15.0 million cubic feet
9. December 12, 1979
10. Consolidated Gas Supply Corp
1. 80-09690
2. 47-033-00720-0000
3. 108 000 000
4. Patrick Petroleum Corporation of MI
5. J Spenser No 1
6. Grasslands
7. Harrison, WV
8. 4.9 million cubic feet
9. December 12, 1979
10. Consolidated Gas Supply Corp
1. 80-09691
2. 47-001-00727-0000
3. 108 000 000
4. Patrick Petroleum Corporation of MI
5. D Croston No 1 WV 81280
6. Philipp
7. Barbour, WV
8. 3.0 million cubic feet
9. December 12, 1979
10. Consolidated Gas Supply Corporation
1. 80-09692
2. 47-001-00713-0000
3. 108 000 000
4. Patrick Petroleum Corporation of MI
5. R Thompson No 1 WV87575
6. Philipp
7. Barbour, WV
8. 7.2 million cubic feet
9. December 12, 1979
10. Consolidated Gas Supply Corp
1. 80-09693
2. 47-001-00710-0000
3. 108 000 000
4. Patrick Petroleum Corporation of MI
5. H Wimans No 1 WV88775
6. Phillippi
7. Barbour, WV
8. 4.8 million cubic feet
9. December 12, 1979
10. Consolidated Gas Supply Corp
1. 80-09694
2. 47-001-00805-0000
3. 108 000 000
4. Patrick Petroleum Corporation of MI
5. W Flint No 1 WV86909
6. Philippi
7. Barbour, WV
8. 8.4 million cubic feet
9. December 12, 1979
10. Consolidated Gas Supply Corp
1. 80-09695
2. 47-109-00730-0000
3. 108 000 000
4. Patrick Petroleum Corporation of MI
5. R E Morgan No 1 WV 84900
6. Baileys Ville
7. Wyoming, WV
8. 9.6 million cubic feet
9. December 12, 1979
10. Cabot Corp
1. 80-09696
2. 47-033-00701-0000
3. 108 000 000
4. Patrick Petroleum Corporation of MI
5. M Brannon No 9 WV 80789
6. Grassland
7. Harrison, WV
8. 8.4 million cubic feet
9. December 12, 1979
10. Consolidated Gas Supply Corporation
1. 80-09697
2. 47-033-00648-0000
3. 108 000 000
4. Patrick Petroleum Corporation of Mi
5. E Stewart No 1 WV 88225
6. Grassland
7. Harrison, WV
8. 5.4 million cubic feet
9. December 12, 1979
10. Consolidated Gas Supply Corp
1. 80-09698
2. 47-033-00702-0000
3. 108 000 000
4. Patrick Petroleum Corporation of Mi
5. M Brannon No 6 WV 80793
6. Grassland
7. Harrison, WV
8. 8.4 million cubic feet
9. December 12, 1979
10. Consolidated Gas Supply Corp
1. 80-09699
2. 47-033-00663-0000
3. 108 000 000
4. Patrick Petroleum Corporation of Mi
5. C Dubois No 1 WV 81765
6. Grassland
7. Harrison, WV
8. 6.6 million cubic feet
9. December 12, 1979
10. Consolidated Gas Supply Corp
1. 80-09700
2. 47-001-00728-0000
3. 108 000 000
4. Patrick Petroleum Corporation of Mi
5. W H Lantz No 2 WV 84152
6. Philippi
7. Barbour, WV
8. 1.5 million cubic feet
9. December 12, 1979
10. Consolidated Gas Supply Corp
1. 80-09701
2. 47-001-00809-0000
3. 108 000 000
4. Patrick Petroleum Corporation of Mi
5. W Carder No 2 WV 86901
6. Philippi
7. Barbour, WV
8. 1.8 million cubic feet
9. December 12, 1979
10. Consolidated Gas Supply Corp
1. 80-09702
2. 47-033-00680-000
3. 108 000 000
4. Patrick Petroleum Corporation of Mi
5. A Mitchell No 1 WV 85580
6. Grasslands
7. Harrison, WV
8. 7.0 million cubic feet
9. December 12, 1979
10. Consolidated Gas Supply Corporation
1. 80-09703
2. 47-047-00566-0000
3. 108 000 000
4. Patrick Petroleum Corporation of Mi
5. Pocahontas Kroll #2
6. Huff Creek
7. McDowell, WV
8. 9.1 million cubic feet
9. December 12, 1979
10. Cabot Corporation
1. 80-09704
2. 47-033-00697-0000
3. 108 000 000
4. Patrick Petroleum Corporation of Mi
5. M Brannon No B WV 80789
6. Grassland
7. Harrison, WV
8. 8.4 million cubic feet
9. December 12, 1979
10. Consolidated Gas Supply Corporation
1. 80-09850
2. 47-087-02966-0000
3. 108 000 000
4. Massa Oil Co
5. J M Cox Well #3
6. Clover Oil Field
7. Roone, WV
8. 1.0 million cubic feet
9. December 13, 1979
10. Columbia Gas Transmission Corp
1. 80-09851
2. 47-087-02967-0000
3. 108 000 000
4. Massa Oil Co
5. J M Cox Well #5
6. Clover Oil Field
7. Roane, WV
8. 1.0 million cubic feet
9. December 13, 1979
10. Columbia Gas Transmission Corp
1. 80-09852
2. 47-087-00873-0000
3. 108 000 000
4. J W Stone
5. Brad Stone Well #1
6. Lonneyville Gas Field
7. Roane, WV
8. 4.5 million cubic feet
9. December 13, 1979
10. Columbia Gas Transmission Corp
1. 80-09853
2. 47-087-00902-0000
3. 108 000 000
4. J W Stone
5. Brad Stone Well #2
6. Looneyville Gas Field
7. Roane, WV
8. 4.5 million cubic feet
9. December 13, 1979
10. Columbia Gas Transmission Corp
1. 80-09854
2. 47-087-00936-0000
3. 108 000 000
4. J W Stone
5. Sam Stone Well #1
6. Looneyville Gas Field
7. Roane, WV
8. 4.5 million cubic feet
9. December 13, 1979
10. Columbia Gas Transmission Corp
1. 80-09855
2. 47-013-00524-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. O V Bigler #1
6.
7. Calhoun, WV
8. 1.7 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09856
2. 47-013-00568-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. Elva Snyder #1
6.
7. Calhoun, WV
8. 12.9 million cubic feet

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9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09857
2. 47-013-00573-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. A Burrows #3
6.
7. Calhoun, WV
8. 1.5 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09858
2. 47-013-01063-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. N E Sommers #7
6.
7. Calhoun, WV
8. 3.4 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09859
2. 47-013-01061-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. H S Wilson Et Al #1
6.
7. Calhoun, WV
8. 3.4 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09860
2. 47-013-02923-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. Dora Ramsburg #8
6.
7. Calhoun, WV
8. 2.8 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09861
2. 47-013-01871-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. H S Wilson #1
6.
7. Calhoun, WV
8. 3.3 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09862
2. 47-013-02297-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. Doyle Dye #1
6.
7. Calhoun, WV
8. 8.4 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09863
2. 47-013-02314-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. Bernard Gill #1
6.
7. Calhoun, WV
8. 7.0 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09864
2. 47-085-00191-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. U S Fluharty #1
6.
7. Ritchie, WV
8. 1.8 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09865
2. 47-081-20043-7000
3. 102 000 000
4. Appalachian Exploration & Devil Inc
5. New River #6
6. Town
7. Raliegh, WV
8. 100.4 million cubic feet
9. December 13, 1979
10. Cabot Corporation
1. 80-09866
2. 47-085-03027-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. John L Gill #2
6.
7. Ritchie, WV
8. 24.8 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09867
2. 47-085-00342-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. U S Fluharty #3
6.
7. Ritchie, WV
8. 3.5 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09868
2. 47-085-00499-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. John Hyman #2
6.
7. Ritchie, WV
8. 5.5 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09869
2. 47-085-00532-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. John Hyman #3
6.
7. Ritchie, WV
8. 1.1 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09870
2. 47-085-00895-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. John Hyman #4
6.
7. Ritchie, WV
8. 2.2 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09871
2. 47-085-01975-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. U S Fluharty #4
6.
7. Ritchie, WV
8. .8 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09872
2. 47-085-02831-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. J H M Sinnett #1
6.
7. Ritchie, WV
8. 9.0 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09873
2. 47-085-03717-0000
3. 103 000 000
4. Bowser Gas & Oil Company
5. Westvaco #1
6.
7. Ritchie, WV
8. .0 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09874
2. 47-039-02021-0000
3. 108 000 000
4. S K & J M Bartlett
5. Sunday Creek Coal Co #V2030
6.
7. Kanawha, WV
8. 3.6 million cubic feet
9. December 13, 1979
10. Columbia Gas Transmission Corp
1. 80-09875
2. 47-085-03265-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. W G Richards #1
6.
7. Ritchie, WV
8. .6 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09876
2. 47-085-03408-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. John L Gill Heirs #4
6.
7. Ritchie, WV
8. 2.0 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09877
2. 47-085-03620-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. W H Sherwood #4
6.
7. Ritchie, WV
8. 4.1 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09878
2. 47-085-03499-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. W H Sherwood #5
6.
7. Ritchie, WV
8. 6.9 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09879

2. 47-085-03052-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. John L Gill Heirs #3
6.
7. Ritchie, WV
8. .7 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09880
2. 47-013-00788-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. Dora Ramsburg No 11
6.
7. Calhoun, WV
8. .9 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09881
2. 47-013-00185-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. Luerna Barr No 1
6.
7. Calhoun, WV
8. .7 million cubic feet
9. December 13, 1979
10. Cabot Corp
1. 80-09882
2. 47-013-00498-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. Luerna Barr No 2
6.
7. Calhoun, WV
8. .14 million cubic feet
9. December 13, 1979
10. Cabot Corp
1. 80-09883
2. 47-013-00558-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. Luerna Barr No 4
6.
7. Calhoun, WV
8. .7 million cubic feet
9. December 13, 1979
10. Cabot Corp
1. 80-09884
2. 47-013-00279-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. Dora Ramsburg No 10
6.
7. Calhoun, WV
8. 2.6 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09885
2. 47-013-00811-0000
3. 108 000 000
4. Bowser Gas & Oil Company
5. Dora Ramsburg No 12
6.
7. Calhoun, WV
8. 2.6 million cubic feet
9. December 13, 1979
10. Consolidated Gas Supply Corp
1. 80-09886
2. 47-041-01762-0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Beach & Arnold 669
6. West Virginia Other A-85772
7. Lewis, WV
8. 6.0 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09887
2. 47-041-01787-0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. R A Beeghley 11330
6. West Virginia Other A-85772
7. Lewis, WV
8. 12.0 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09888
2. 47-041-18910-0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. N P Alkire 3911
6. West Virginia Other A-85772
7. Lewis, WV
8. 5.0 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09889
2. 47-045-00134-0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Martha Pauley 8987
6. West Virginia Other A-85772
7. Logan, WV
8. 14.0 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09890
2. 47-049-00126-0000
3. 109 000 000
4. Consolidated Gas Supply Corporation
5. W S Pitzer 4192
6. West Virginia Other A-85772
7. Marion, WV
8. 3.0 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09891
2. 47-085-00867-0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. M D Wright & D C Riddle 9439
6. West Virginia Other A-85772
7. Ritchie, WV
8. .0 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09892
2. 47-085-03908-0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Amos Perrin 6331
6. West Virginia Other A-85772
7. Ritchie, WV
8. 11.0 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09893
2. 47-109-00225-0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Fred Cook 9159
6. Pineville Field Area A-59442
7. Wyoming, WV
8. 10.0 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09894
2. 47-087-00946-0000
3. 108 000 000
4. J W Stone
5. Harvey Odell Well No 1
6. Newton Gas Field
7. Roane, WV
8. 8.5 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-09895
2. 47-087-00953-0000
3. 108 000 000
4. J W Stone
5. C C Drake Well No 1
6. Newton Field
7. Roane, WV
8. 6.6 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-09896
2. 47-087-00962-0000
3. 108 000 000
4. J W Stone
5. G A Wright Well No 2
6. Newton Gas Field
7. Roane, WV
8. 3.1 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-09897
2. 47-087-01044-0000
3. 108 000 000
4. J W Stone
5. Ruth Hensley Well No 1
6. Newton Gas Field
7. Roane, WV
8. 2.9 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-09898
2. 47-087-01144-0000
3. 108 000 000
4. Lock 3 Oil Coal & Dock Company
5. W W Wagner No 1
6. Elk Creek-Overfield
7. Upshur, WV
8. 2.3 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-09899
2. 47-097-00970-0000
3. 108 000 000
4. Lock 3 Oil Coal & Dock Company
5. Bernard Greene No 1
6. Elk Creek-Overfield
7. Upshur County, WV
8. 3.6 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-09900
2. 47-001-00482-0000
3. 108 000 000
4. Lock 3 Oil Coal & Dock Company
5. Paugh #2
6. Elk Creek-Overfield
7. Barbour, WV
8. 7.0 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corporation
1. 80-09901
2. 47-033-00430-000
3. 108 000 000
4. Lock 3 Oil Coal & Dock Company
5. Lewis Swisher #1
6. Elk Creek-Overfield

7. Harrison, WV
8. 7.1 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corporation
1. 80-09902
2. 47-033-00446-000
3. 108 000 000
4. Lock 3 Oil Coal & Dock Company
5. L C Stout #1
6. Elk Creek-Overfield
7. Harrison, WV
8. 11.5 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corporation
1. 80-09903
2. 47-033-00481-0000
3. 108 000 000
4. Lock 3 Oil Coal & Dock Company
5. Cogar Heirs #1
6. Elk Creek-Overfield
7. Harrison, WV
8. 7.5 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corporation
1. 80-09904
2. 47-001-00345-0000
3. 108 000 000
4. Lock 3 Oil Coal & Dock Company
5. Herbert Zirkle #1
6. Elk Creek-Overfield
7. Barbour, WV
8. 4.6 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corporation
1. 80-09905
2. 47-097-01015-0000
3. 108 000 000
4. Lock 3 Oil Coal & Dock Company
5. Mary Conley #1
6. Elk Creek-Overfield
7. Upshur, WV
8. 10.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corporation
1. 80-09906
2. 47-001-00320-0000
3. 108 000 000
4. Lock 3 Oil Coal & Dock Company
5. Stewart #1
6. Elk Creek-Overfield
7. Barbour, WV
8. 7.2 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corporation
1. 80-09907
2. 47-001-00368-0000
3. 108 000 000
4. Lock 3 Oil Coal & Dock Company
5. C K Arnold #1
6. Elk Creek-Overfield
7. Barbour, WV
8. 16.5 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corporation
1. 80-09908
2. 47-001-00446-0000
3. 108 000 000
4. Lock 3 Oil Coal & Dock Company
5. T K Bennett #1
6. Elk Creek-Overfield
7. Barbour, WV
8. 4.0 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corporation
1. 80-09909
2. 47-001-00477-0000
3. 108 000 000
4. Lock 3 Oil Coal & Dock Company
5. Helen V Crites #1
6. Elk Creek-Overfield
7. Barbour, WV
8. 8.1 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corporation
1. 80-09910
2. 47-001-00481
3. 108 000 000
4. Lock 3 Oil Coal & Dock Company
5. Lottie Nutter #1
6. Elk Creek-Overfield
7. Barbour, WV
8. 5.1 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corporation
1. 80-09911
2. 47-033-20270-0000
3. 108 000 000
4. Skylark Gas Co
5. Virginia Queen
6. Elk
7. Harrison, WV
8. 5.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company
1. 80-09912
2. 47-001-00472-000
3. 108 000 000
4. Lock 3 Oil Coal & Dock Company
5. Mayle-Talbott #1
6. Elk Creek-Overfield
7. Barbour, WV
8. 20.0 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corporation
1. 80-09913
2. 47-041-21688-0000
3. 108 000 000
4. St Clair Oil Co
5. G I Davisson No 2
6. Collins Settlement
7. Lewis, WV
8. 5.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company
1. 80-09914
2. 47-033-20277-0000
3. 108 000 000
4. Skylark Gas Co
5. Frank Post #1
6. Elk
7. Harrison, WV
8. 7.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company
1. 80-09915
2. 47-033-20278-0000
3. 108 000 000
4. Skylark Gas Co
5. Raymond Queen 104 A
6. Elk
7. Harrison, WV
8. 4.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company
1. 80-09916
2. 47-033-20379-0000
3. 108 000 000
4. Skylark Gas Co
5. F W Marple
6. Elk
7. Harrison, WV
8. 16.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company
1. 80-09917
2. 47-033-20460-0000
3. 108 000 000
4. Skylark Gas Co
5. Hill Lewis
6. Elk
7. Harrison, WV
8. 18.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company
1. 80-09918
2. 47-099-01289-0000
3. 108 000 000
4. Clifford Mills
5. Tolbert Ferguson No 1
6. Butler District
7. Wayne, WV
8. 5.5 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-09919
2. 47-085-24038-0000
3. 103 000 000
4. North Hills Investment Company
5. North Hills Invest Co Vinson #1
6. Slay District
7. Ritchie, WV
8. 11.0 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corporation
1. 80-09920
2. 47-085-24166-0000
3. 103 000 000
4. North Hills Investment Company
5. North Hills Invest Co Baker #1
6. Clay District
7. Ritchie, WV
8. 11.0 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corporation
1. 80-09921
2. 47-085-24167-0000
3. 103 000 000
4. North Hills Investment Company
5. North Hills Invest Co Hoff #1
6. Clay District
7. Ritchie, WV
8. 7.3 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corporation
1. 80-09922
2. 47-085-02813-0000
3. 105 000 000
4. Locke 3 Oil Coal & Dock Co.
5. Locke Number 1
6. Union District
7. Ritchie, WV
8. 3.0 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corporation
1. 80-09923
2. 47-087-00516-REDO
3. 108 000 000
4. Massa Oil Co
5. G W Smith Well #2
6. Clover Oil Field
7. Roane, WV
8. 1.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-09924

2. 47-087-00681-0000
3. 108 000 000
4. Massa Oil Co
5. J M Cox Well #EV-1
6. Clover Oil Field
7. Roane, WV
8. 1.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-09925
2. 47-087-00728-0000
3. 108 000 000
4. Massa Oil Co
5. J M Cox #EV-2
6. Clover Oil Field
7. Roane, WV
8. 1.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-09926
2. 47-087-01249-0000
3. 108 000 000
4. Massa Oil Co
5. M C Griffith Well #1
6. Clover Oil Field
7. Roane, WV
8. 1.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-09927
2. 47-087-02024-0000
3. 108 000 000
4. Massa Oil Co
5. R C Kincaid Well #9
6. Clover Oil Field
7. Roane, WV
8. 1.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-09928
2. 47-087-02399-0000
3. 108 000 000
4. Massa Oil Co
5. R E Heckert Well #1
6. Clover Oil Field
7. Roane, WV
8. 1.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-09929
2. 47-087-02962-0000
3. 108 000 000
4. Massa Oil Co
5. O M Adams Well #3
6. Clover Oil Field
7. Roane, WV
8. 1.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-09930
2. 47-087-02961-0000
3. 108 000 000
4. Massa Oil Co
5. O M Adams Well #2
6. Clover Oil Field
7. Roane, WV
8. 1.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-09931
2. 47-087-02963-0000
3. 108 000 000
4. Massa Oil Co
5. O M Adams Well #4
6. Clover Oil Field
7. Roane, WV
8. 1.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-09932
2. 47-087-02964-0000
3. 108 000 000
4. Massa Oil Co
5. O M Adams Well #5
6. Clover Oil Field
7. Roane, WV
8. 1.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp

The applications for determination in these proceedings together with a copy or description of their materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 6, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-1956 Filed 1-21-80; 8:45 am]

BILLING CODE 6450-01-M

[No. 127]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

January 11, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Louisiana Office of Conservation

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-07558/79-2859
2. 17-111-20540-0000
3. 108 000 000
4. Panola Energy Corp
5. Exxon Arco #4
6. Monroe
7. Union, LA
8. 6.9 million cubic feet
9. November 23, 1979
10. Gas Transportation Corp
1. 80-07559/79-2862
2. 17-053-20593-0000
3. 103 000 000
4. Union Texas Petroleum
5. La M Cam A Ra Su Van Geffen No 7
6. Lake Arthur
7. Jefferson Davis, LA
8. 10.0 million cubic feet
9. November 23, 1979
10. Texas Gas Transmission Corp, Transcontinental Gas Pipeline Corp
1. 80-07560/79-2860
2. 17-111-20434-0000
3. 108 000 000
4. Ceka Gas Corporation
5. Love #1
6. Monroe
7. Union, LA
8. 1.2 million cubic feet
9. November 23, 1979
10. Gas Transportation Corp
1. 80-07561/79-2861
2. 17-111-20441-0000
3. 108 000 000
4. Ceka Gas Corp
5. Love #2
6. Monroe
7. Union, LA
8. 4.2 million cubic feet
9. November 23, 1979
10. Gas Transportation Corp
1. 80-07562/79-2862
2. 17-111-20442-0000
3. 108 000 000
4. Ceka Gas Corp
5. Love #3
6. Monroe
7. Union, LA
8. 1.5 million cubic feet
9. November 23, 1979
10. Gas Transportation Corp
1. 80-07563/79-2863
2. 17-111-20444-0000
3. 108 000 000
4. Ceka Gas Corp
5. Love #4
6. Monroe
7. Union, LA
8. 1.5 million cubic feet
9. November 23, 1979
10. Gas Transportation Corp
1. 80-07564/79-2864
2. 17-111-20450-0000
3. 108 000 000
4. Ceka Gas Corp
5. Love #5
6. Monroe
7. Union, LA
8. .5 million cubic feet
9. November 23, 1979
10. Gas Transportation Corp
1. 80-07565/79-2865
2. 17-111-20452-0000
3. 108 000 000
4. Ceka Gas Corp
5. Love #6
6. Monroe
7. Union, LA
8. 1.8 million cubic feet
9. November 23, 1979
10. Gas Transportation Corp
1. 80-07566/79-2866

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2. 17-111-20474-0000
3. 108 000 000
4. Ceka Gas Corporation
5. Ouchley #1
6. Monroe
7. Union, LA
8. 1.4 million cubic feet
9. November 23, 1979
10. Darbonne Gas Gathering

1. 80-07567/79-2867
2. 17-111-20475-0000
3. 108 000 000
4. Ceka Gas Corporation
5. Ouchley #2
6. Monroe
7. Union, LA
8. 1.4 million cubic feet
9. November 23, 1979
10. Darbonne Gas Gathering

1. 80-07568/79-2868
2. 17-111-20476-0000
3. 108 000 000
4. Ceka Gas Corporation
5. Ouchley #3
6. Monroe
7. Union, LA
8. 1.4 million cubic feet
9. November 23, 1979
10. Darbonne Gas Gathering

1. 80-07569/79-2869
2. 17-111-20477-0000
3. 108 000 000
4. Ceka Gas Corporation
5. Ouchley #4
6. Monroe
7. Union, LA
8. 1.4 million cubic feet
9. November 23, 1979
10. Darbonne Gas Gathering

1. 80-07570/79-2870
2. 17-111-20478-0000
3. 108 000 000
4. Ceka Gas Corporation
5. Ouchley #5
6. Monroe
7. Union, LA
8. 1.4 million cubic feet
9. November 23, 1979
10. Darbonne Gas Gathering

1. 80-07571/79-2871
2. 17-111-20954-0000
3. 108 000 000
4. IMC Exploration Company
5. Stancil Savage #F-125
6. Monroe Gas Field
7. Union, LA
8. 3.1 million cubic feet
9. November 23, 1979
10. Mid Louisiana Gas Company

1. 80-07572/79-2872
2. 17-111-20857-0000
3. 108 000 000
4. IMC Exploration Company
5. Smith #F-126
6. Monroe Gas Field
7. Union, LA
8. 6.0 million cubic feet
9. November 23, 1979
10. Mid Louisiana Gas Company

1. 80-07573/79-2873
2. 17-111-20856-0000
3. 108 000 000
4. IMC Exploration Company
5. Smith #F-127
6. Monroe Gas Field
7. Union, LA
8. 5.6 million cubic feet
9. November 23, 1979
10. Mid Louisiana Gas Company

1. 80-07574/79-2874
2. 17-111-20845-0000
3. 108 000 000
4. IMC Exploration Company
5. Bennett #F-128
6. Monroe Gas Field
7. Union, LA
8. 6.7 million cubic feet
9. November 23, 1979
10. Mid Louisiana Gas Company

1. 80-07575/79-2875
2. 17-111-20846-0000
3. 108 000 000
4. IMC Exploration Company
5. Bennett #F-129
6. Monroe Gas Field
7. Union, LA
8. 7.2 million cubic feet
9. November 23, 1979
10. Mid Louisiana Gas Company

1. 80-07576/79-2876
2. 17-111-20866-0000
3. 108 000 000
4. IMC Exploration Company
5. Quachita Natl Bk #F-130
6. Monroe Gas Field
7. Union, LA
8. 3.7 million cubic feet
9. November 23, 1979
10. Mid Louisiana Gas Company

1. 80-07577/79-2877
2. 17-111-20867-0000
3. 108 000 000
4. IMC Exploration Company
5. Quachita Natl Bk #F-131
6. Monroe Gas Field
7. Union, LA
8. 3.7 million cubic feet
9. November 23, 1979
10. Mid Louisiana Gas Company

1. 80-07578/79-2878
2. 17-075-22549-0000
3. 102 000 000
4. Texaco Inc
5. 7200 Ra Sua Ddc #3
6. Raphael Pass
7. Plaqyemines, LA
8. 50.0 million cubic feet
9. November 23, 1979
10. Tennessee Gas Pipeline Co

1. 80-07579/79-2879
2. 17-113-20822-0000
3. 103 000 000
4. Union Oil Company of California
5. Robert Trahan #1
6. Wright
7. Vermilion, LA
8. 73.0 million cubic feet
9. November 23, 1979
10. Columbia Gas Transmission Corp

1. 80-07580/79-2880
2. 17-017-21027-0000
3. 108 000 000
4. F E Hargraves & Sons Drlg Co Inc
5. Gl Ra Sud Gayle #1 S#142627
6. Greenwood-Waskom
7. Caddo, LA
8. 1.6 million cubic feet
9. November 23, 1979
10. United Gas Pipeline Co

1. 80-07581/79-2881
2. 17-045-30578-0000
3. 102 000 000
4. The Stone Oil Corporation
5. J B Vice #1
6. Jefferson Island
7. Iberia, LA
8. 1527.6 million cubic feet
9. November 23, 1979
10. Louisiana Intrastate Gas Corporation

1. 80-07582/79-2883
2. 17-031-20829-0000
3. 103 000 000
4. Sun Oil Company (Delaware)
5. W P Stiles Estate No 1
6. Grogan
7. Desoto, LA
8. 18.0 million cubic feet
9. November 23, 1979
10. Tennessee Gas Pipeline Co

1. 80-07583/79-2884
2. 17-031-20676-0000
3. 103-000-000
4. Sun Oil Company (Delaware)
5. Elroe Hinkie A No 1
6. Grogan
7. DeSoto LA
8. 67.0 million cubic feet
9. November 23, 1979
10. Tennessee Gas Pipeline Co

1. 80-07584/79-2885
2. 17-031-20779-0000
3. 103-000-000
4. Sun Oil Company (Delaware)
5. Frank W Matthews C No 1
6. Grand Cane
7. DeSoto LA
8. 161.0 million cubic feet
9. November 23, 1979
10. Tennessee Gas Pipeline Co

1. 80-07585/79-2886
2. 17-031-20785-0000
3. 103-000-000
4. Sun Oil Company (Delaware)
5. GR PXY Ives Su Cook-Taylor C #7-7
6. Grogan
7. DeSoto LA
8. 8.0 million cubic feet
9. November 23, 1979
10. Tennessee Gas Pipeline Co

1. 80-07586/79-2887
2. 17-031-20776-0000
3. 103-000-000
4. Sun Oil Company (Delaware)
5. GR PXY IVES SU Williams ET AL #6-2
6. Grogan
7. DeSoto LA
8. 26.0 million cubic feet
9. November 23, 1979
10. Tennessee Gas Pipeline Co

1. 80-07587/79-2890
2. 17-101-21042-0000
3. 103-000-000
4. Amoco Production Company
5. Laws Realty Co Inc No 74-D
6. Charenton Field
7. St Mary LA
8. 69.0 million cubic feet
9. November 23, 1979
10. Texas Gas Transmission Corp

1. 80-07588/79-2889
2. 17-101-21042-0000
3. 103-000-000
4. Amoco Production Company
5. Laws Realty Co Inc #74
6. Charenton

7. St Mary LA
8. 35.0 million cubic feet
9. November 23, 1979
10. Texas Gas Transmission Corp

1. 80-07589/79-2886
2. 17-047-20513-0000
3. 103-000-000
4. Shell Oil Company
5. Wilbert No 247
6. White Castle
7. Iberville LA
8. 40.0 million cubic feet
9. November 23, 1979
10. Florida Gas Transmission Co

1. 80-07590/79-2710
2. 17-111-00000-0000
3. 108-000-000
4. Ashland Exploration Inc
5. Frost Lumber IND No F7
6. Monroe
7. Union LA
8. 2.1 million cubic feet
9. November 23, 1979
10. Southern Natural Gas Company

1. 80-07591/79-2805
2. 17-049-20111-0000
3. 102-000-000
4. Triton Oil & Gas Corp
5. L James SUF Willamette IND 1
6. Clay
7. Jackson Parish LA
8. 640.0 million cubic feet
9. November 23, 1979
10. United Gas Pipe Line Company

1. 80-07592/79-2842
2. 17-111-01173-0000
3. 108-000-000
4. Gas Transportation Corp
5. Waldrop #2
6. Monroe
7. Union LA
8. 1.8 million cubic feet
9. November 23, 1979
10. Gas Transportation Corp

1. 80-07593/79-2816
2. 17-073-20757-0000
3. 108-000-000
4. Gas Transportation Corp
5. Grant D #9
6. Monroe
7. Ouachita LA
8. 8.7 million cubic feet
9. November 23, 1979
10. P & G Gathering Systems

1. 80-07594/79-2843
2. 17-073-21014-0000
3. 108-000-000
4. Gas Transportation Corp
5. Grant BK #1
6. Monroe
7. Ouachita LA
8. 12.7 million cubic feet
9. November 23, 1979
10. P & G Gathering Systems

1. 80-07595/79-2844
2. 17-073-21015-0000
3. 108-000-000
4. Gas Transportation Corp
5. Grant BK #2
6. Monroe
7. Ouachita LA
8. 12.6 million cubic feet
9. November 23, 1979
10. P & G Gathering Systems Inc

1. 80-07596/79-2845
2. 17-073-21016-0000
3. 108-000-000
4. Gas Transportation Corp
5. Grant BK #3
6. Monroe
7. Ouachita LA
8. 12.6 million cubic feet
9. November 23, 1979
10. P & G Gathering Systems

1. 80-07597/79-2846
2. 17-073-21029-0000
3. 108-000-000
4. Gas Transportation Corp
5. Grant BK #4
6. Monroe
7. Ouachita LA
8. 12.6 million cubic feet
9. November 23, 1979
10. P & G Gathering Systems

1. 80-07598/79-2847
2. 17-111-01020-0000
3. 108-000-000
4. Gas Transportation Corp
5. Waldrop #1
6. Monroe
7. Union LA
8. 2.5 million cubic feet
9. November 23, 1979
10. Gas Transportation corp

1. 80-07599/79-2848
2. 17-073-20939-0000
3. 108-000-000
4. RJW Operations
5. Crecsent #1
6. Monroe
7. Ouachita LA
8. 2.8 million cubic feet
9. November 23, 1979
10. Gas Transportation Corporation

1. 80-07600/79-2849
2. 17-073-20940-0000
3. 108-000-000
4. RJW Operations
5. Crescent #2
6. Monroe
7. Ouachita LA
8. 3.0 million cubic feet
9. November 23, 1979
10. Gas Transportation Corporation

1. 80-07601/79-2850
2. 17-111-20965-0000
3. 108-000-000
4. Panola Energy Corp
5. Navarro #1
6. Monroe
7. Union LA
8. 7.2 million cubic feet
9. November 23, 1979
10. International Minerals Corp

1. 80-07602/79-2851
2. 17-111-21327-0000
3. 108-000-000
4. Alan D Calderon
5. HSA #5
6. Monroe
7. Union LA
8. 18.1 million cubic feet
9. November 23, 1979
10. International Minerals Corp

1. 80-07603/79-2852
2. 17-111-21325-0000
3. 108-000-000
4. Alan D Calderon
5. HSA #4
6. Monroe
7. Union LA
8. 18.1 million cubic feet
9. November 23, 1979
10. International Minerals Corp

1. 80-07604/79-2853
2. 17-111-21249-0000
3. 108-000-000
4. Alan D Calderon
5. HSA #3
6. Monroe
7. Union LA
8. 11.3 million cubic feet
9. November 23, 1979
10. International Minerals Corp

1. 80-07605/79-2854
2. 17-111-21202-0000
3. 108-000-000
4. Alan D Calderon
5. HSA #2
6. Monroe
7. Union LA
8. 18.5 million cubic feet
9. November 23, 1979
10. International Minerals Corp

1. 80-07606/79-2855
2. 17-111-21207-0000
3. 108-000-000
4. Alan D Calderon
5. HSA #1
6. Monroe
7. Union LA
8. 11.0 million cubic feet
9. November 23, 1979
10. International Minerals Corp

1. 80-07607/79-2856
2. 17-111-20539-0000
3. 108-000-000
4. Panola Energy Corp
5. Exxon Arco #1
6. Monroe
7. Union LA
8. 10.0 million cubic feet
9. November 23, 1979
10. Gas Transportation Corp

1. 80-07608/79-2857
2. 17-111-20540-0000
3. 108-000-000
4. Panola Energy Corp
5. Exxon Arco #2
6. Monroe
7. Union LA
8. 7.2 million cubic feet
9. November 23, 1979
10. Gas Transportation Corp

1. 80-07609/79-2858
2. 17-111-20664-0000
3. 108-000-000
4. Panola Energy Corp
5. Exxon Arco #1
6. Monroe
7. Union LA
8. 11.0 million cubic feet
9. November 23, 1979
10. Gas Transportation Corp

Montana Board of Oil and Gas Conservation

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC

V45/15/JA22 80 UMI

10. Purchaser(s)
1. 80-07530/10-29-275
2. 25-071-21614-0000
3. 103 000 000
4. Odessa Natural Corporation
5. 30 36 32
6. Whitewater
7. Phillips, MT
8. 36.5 million cubic feet
9. November 23, 1979
10. Kansas-Nebraska Gas Co
1. 80-07531/10-79-274
2. 25-071-21615-0000
3. 103 000 000
4. Odessa Natural Corporation
5. 31 36 32
6. Whitewater
7. Phillips, MT
8. 5.5 million cubic feet
9. November 23, 1979
10. Kansas-Nebraska Gas Company Inc
1. 80-07532/7-79-224
2. 25-071-21568-0000
3. 108 000 000
4. Midlands Gas Corporation
5. 1771 1-1771 R Anderson
6. Bowdoin
7. Phillips, MT
8. 10.0 million cubic feet
9. November 23, 1979
10. Kansas-Nebraska Gas Co Inc
1. 80-07610/7-29-229
2. 25-071-21553-0000
3. 108 000 000
4. Midlands Gas Corporation
5. 1470 1.14 Laroche-Harrison
6. Bowdoin
7. Phillips, MT
8. 21.0 million cubic feet
9. November 26, 1979
10. Kansas-Nebraska Gas Co Inc
1. 80-07611/7-79-233
2. 25-071-21226-0000
3. 103 000 000
4. Midlands Gas Corporation
5. 2942-1
6. Bowdoin
7. Phillips, MT
8. 18.0 million cubic feet
9. November 26, 1979
10. Kansas-Nebraska Gas Co Inc
1. 80-07612/7-79-232
2. 25-071-21323-0000
3. 108 000 000
4. Midlands Gas Corporation
5. 2342-1
6. Bowdoin
7. Phillips, MT
8. 16.0 million cubic feet
9. November 26, 1979
10. Kansas-Nebraska Gas Co Inc

New York Department of Environmental Conservation, Bureau of Mineral Resources

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-07746/2
2. 31-009-13609-0000
3. 103 000 000
4. P&S Drilling Inc
5. Scneggenburger #1
6. Skinner Hollow
7. Cattaraugus, NY
8. 1.5 million cubic feet
9. November 27, 1979
10. National Fuel Gas Supply Corp
1. 80-07747/58
2. 31-013-13222-0000
3. 103 000 000
4. Envirogas Inc
5. Wakeley #2
6. Lakeshore
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 27, 1979
10. National Fuel Gas Supply Corp
1. 80-07748/56
2. 31-013-12842-0000
3. 103 000 000
4. Envirogas Inc
5. Thorpe #1
6. Lakeshore
7. Chautauqua, NY.
8. 18.0 million cubic feet
9. November 27, 1979
10. National Fuel Gas Supply Corp
1. 80-07749/52
2. 31-013-12951-0000
3. 103 000 000
4. Envirogas Inc
5. Taylor #1
6. Lakeshore
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 27, 1979
10. National Fuel Gas Supply Corp
1. 80-07750/51
2. 31-013-12825-0000
3. 103 000 000
4. Envirogas Inc
5. Roman #1
6. Lakeshore
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 27, 1979
10. National Fuel Gas Supply Corp
1. 80-07751/47
2. 31-013-12953-0000
3. 103 000 000
4. Envirogas Inc
5. McCutcheon #2
6. Lakeshore
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 27, 1979
10. National Fuel Gas Supply Corp
1. 80-07752/45
2. 31-013-12917-0000
3. 103 000 000
4. Envirogas Inc
5. Mason #2
6. Lakeshore
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 27, 1979
10. National Fuel Gas Supply Corp
1. 80-07753/41
2. 31-013-13219-0000
3. 103 000 000
4. Envirogas Inc
5. Jones #1
6. Lakeshore
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 27, 1979
10. National Fuel Gas Supply Corp
1. 80-07754/40
2. 31-013-12871-0000
3. 103 000 000
4. Envirogas Inc
5. Franklin #1
6. Lakeshore
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 27, 1979
10. National Fuel Gas Supply Corp
1. 80-07755/37
2. 31-013-12774-0000
3. 103 000 000
4. Enviroges Inc
5. Eggert #1
6. Lakeshore
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 27, 1979
10. National Fuel Gas Supply Corp
1. 80-07756/35
2. 31-013-13121-0000
3. 103 000 000
4. Envirogas Inc
5. Cochrane Farms Inc #5
6. Lakeshore
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 27, 1979
10. National Fuel Gas Supply Corp
1. 80-07757/31
2. 31-013-13021-0000
3. 103 000 000
4. Envirogas Inc
5. Cochrane Farms Inc #1
6. Lakeshore
7. Chautauqua, NY
8. 18.0 million cubic feet
9. November 27, 1979
10. National Fuel Gas Supply Corp

Oklahoma Corporation Commission

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, state or Block No.
8. Estimated annual volume
9. Date Received at FERC
10. Purchaser(s)
1. 80-0733/ 00833
2. 35-129-20316-0000
3. 103 000 000
4. El Paso Natural Gas Company
5. Berry #3
6. Cheyenne West
7. Roger Mills, OK
8. 2400.0 million cubic feet
9. November 23, 1979
10. El Paso Natural Gas Company
1. 80-07534/00637
2. 35-121-20549-000
3. 103 000 000
4. Supron Energy Corporation
5. Turney 1-31
6. ATOKA A
7. Pittsburg OK
8. 700.0 million cubic feet
9. November 23, 1979

10. Arkansas Louisiana Gas Company
1. 80-07535/00758
2. 35-007-21595-0000
3. 103 000 000
4. Natural Gas Anadarko Inc
5. Humphrey #1-31
6.
7. Beaver OK
8. 150.0 million cubic feet
9. November 23, 1979
10. Northern Natural Gas Company
1. 80-07536/00696
2. 35-093-20441-0000
3. 108 000 000
4. Petro Lewis Corporation
5. Wheeler Unit 6-1
6. Sooner Trend
7. Major OK
8. 8.4 million cubic feet
9. November 23, 1979
10. Partnership Properties Co
1. 80-07537/00696
2. 35-047-00000-0000
3. 108 000 000
4. Petro Lewis Corporation
5. Emma 25-1
6. Sooner Trend
7. Garfield OK
8. 8.3 million cubic feet
9. November 23, 1979
10. Partnership Properties Co
1. 80-07538/00695
2. 35-047-00000-0000
3. 108 000 000
4. Petro Lewis Corporation
5. Bingham 21-1
6. Sooner Trend
7. Garfield OK
8. 17.5 million cubic feet
9. November 23, 1979
10. Partnership Properties Co
1. 80-07539/00674
2. 35-073-00000-0000
3. 108 000 000
4. Petro Lewis Corporation
5. Violet 22-1
6. Sooner Trend
7. Kingfisher OK
8. 11.3 million cubic feet
9. November 23, 1979
10. Partnership Properties Co
1. 80-07540/00672
2. 35-073-00000-0000
3. 108 000 000
4. Petro Lewis Corporation
5. Thrasher 2-1
6. Sooner Trend
7. Kingfisher OK
8. 1.7 million cubic feet
9. November 23, 1979
10. Partner Properties Co
1. 80-07541/00663
2. 35-051-20723-0000
3. 103 000 000
4. An-Son Corporation
5. Seig #1
6. Seig #1
7. Grady OK
8. 365.0 million cubic feet
9. November 23, 1979
10. Mississippi River Trans Corp
1. 80-07542/00634
2. 35-007-21489-000
3. 103 000 000
4. Mewbourne Oil Company
5. Davis #2 ID #53330-1
6. Como (Tonkawa)
7. Beaver OK
8. 60.0 million cubic feet
9. November 23, 1979
10. Phillips Petroleum Company
1. 80-07543/00632
2. 35-007-21378-0000
3. 103 000 000
4. Mewbourne Oil company
5. Davis #1 ID #53330
6. Como (Tonkawa)
7. Beaver OK
8. 48.0 million cubic feet
9. November 23, 1979
10. Phillips Petroleum Company
1. 80-07544/00631
2. 35-007-21377-0000
3. 103 000 000
4. Mewbourne Oil Company
5. Mehnert #1 ID #53258
6. Como (Tonkawa)
7. Beaver OK
8. 48.0 million cubic feet
9. November 23, 1979
10. Phillips Petroleum Company
1. 80-07545/00362
2. 35-139-21020-0000
3. 103 000 000
4. Anadarko Production Co
5. Borchers A No 2
6. South Hough (Cherokee)
7. Texas OK
8. 3.0 million cubic feet
9. November 23, 1979
10. Phillips Petroleum Co
1. 80-07546/00943
2. 35-025-35341-0000
3. 108 000 000
4. Texaco Inc
5. Wesley Hawkins Unit No 1
6. Griggs
7. Cimarron OK
8. 3.3 million cubic feet
9. November 23, 1979
10. Transwestern Pipeline Co
1. 80-07548/00577
2. 35-047-0000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. Mitchell
6. N E Enid
7. Garfield OK
8. 9.7 million cubic feet
9. November 23, 1979
10. Cities Service Gas Co
1. 80-07549/00562
2. 35-093-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. Hays (H-23) #2
6. Ringwood
7. Major OK
8. 16.7 million cubic feet
9. November 23, 1979
10. Oklahoma Natural Gas Gathering
1. 80-07550/00913
2. 35-059-20666-0000
3. 103 000 000
4. Cimarron Petroleum Corporation
5. Woolfolk No CPC 78-2
6. Lovedale
7. Harper OK
8. 22.5 million cubic feet
9. November 23, 1979
10. Michigan Wisconsin Pipeline Company
1. 80-07551/00685
2. 35-047-21633-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Malen Smith #3
6. N E Enid
7. Garfield OK
8. 120.0 million cubic feet
9. November 23, 1979
10. Union Texas Petroleum
1. 80-07552/00680
2. 35-047-21407-0000
3. 103 000 000
4. Champlin Petroleum Company
5. M C Younger #6
6. Waukomis
7. Garfield OK
8. 120.0 million cubic feet
9. November 23, 1979
10. Union Texas Petroleum
1. 80-07553/00575
2. 35-047-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. Hutcheson
6. N E Enid
7. Garfield OK
8. 13.6 million cubic feet
9. November 23, 1979
10. Cities Service Gas Co
1. 80-07554/01112
2. 35-103-00000-0000
3. 108 000 000
4. Austin & Austin
5. Bolay #1 OTC 103-31708
6. North Orlando
7. Noble OK
8. 17.3 million cubic feet
9. November 23, 1978
10. Aminoil USA Inc
1. 80-07555/01111
2. 35-103-00000-0000
3. 108 000 000
4. Austin & Austin
5. McCoy #1 OTC 103-31711
6. Lucien
7. Noble OK
8. 13.1 million cubic feet
9. November 23, 1979
10. Aminoil USA Inc
1. 80-07556/01105
2. 35-083-00000-0000
3. 108 000 000
4. Austin & Austin
5. Kindschi #1
6. Lucien
7. Logan OK
8. 6.2 million cubic feet
9. November 23, 1979
10. Aminoil USA Inc
1. 80-07557/00879
2. 35-047-21406-0000
3. 103 000 000
4. Champlin Petroleum Company
5. M C Younger #5
6. Waukomis
7. Garfield OK
8. 120.0 million cubic feet
9. November 23, 1979
10. Union Texas Petroleum
1. 80-07705/00586
2. 35-047-00000-0000

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3. 108 000 000
4. Ladd Petroleum Corporation
5. Lemke
6. N E Enid
7. Garfield OK
8. 3.8 million cubic feet
9. November 27, 1979
10. Cities Service Gas Co
1. 80-07706/00064
2. 35-003-20551-0000
3. 103 000 000
4. Union Texas Petroleum
5. Ford B-2
6. Chaney Dell E Sec 36 T24N R12W
7. Alfalfa OK
8. 19.0 million cubic feet
9. November 27, 1979
10. Panhandle Eastern Pipeline Co
1. 80-07707/00921
2. 35-059-30699-0000
3. 103 000 000
4. Cimarron Petroleum Corporation
5. Miller CPC No 95
6. North Lovedale
7. Harper OK
8. 270.0 million cubic feet
9. November 27, 1979
10. Michigan Wisconsin Pipeline Co
1. 80-07708/00970
2. 35-007-00000-0000
3. 103 000 000
4. Marlin Oil Corporation
5. No 1 Barby
6. Mocane-Lavern
7. Beaver OK
8. 288.0 million cubic feet
9. November 27, 1979
10. El Paso Natural Gas Company
1. 80-07709/00971
2. 35-007-214444-0000
3. 103 000 000
4. Marlin Oil Corporation
5. #1 Stallings
6. Mocane-Laverne
7. Beaver OK
8. 80.0 million cubic feet
9. November 27, 1979
10. El Paso Natural Gas Company
1. 80-07710/00900
2. 35-083-21514-000
3. 103 000 000
4. Champlin Petroleum Company
5. Adkisson #2
6. E. Chaney Dell
7. Major OK
8. 45.0 million cubic feet
9. November 27, 1979
10. Union Texas Petroleum
1. 80-07711/00898
2. 35-093-21361-000
3. 103 000 000
4. Champlin Petroleum Company
5. C C Leierer A #2
6. E. Chaney Dell
7. Major OK
8. 20.0 million cubic feet
9. November 27 1979
10. Champlin Petroleum Co (Enid Plant)
1. 80-07712/00989
2. 35-007-21374-000
3. 103 000 000
4. Arco Oil and Gas Company
5. Otto Barby Gas Unit No 2
6. Mocane
7. Beaver County OK
8. 182.5 million cubic feet
9. November 27, 1979
10. Colorado Interstate Gas Company
1. 80-07713/00918
2. 35-059-20745-000
3. 103 000 000
4. Tenneco Oil Company
5. Howard 4-12
6. Selman East
7. Harper OK
8. 18.3 million cubic feet
9. November 29, 1979
10. Delhi Gas Pipeline Corp
1. 80-07714/01169
2. 35-151-35301-000
3. 108 000 000
4. Texaco Inc
5. Perry Puls Unit #1
6. Waynoka NE
7. Woods OK
8. 15.0 million cubic feet
9. November 27, 1979
10. Cities Service Gas Company
1. 80-07715/01008
2. 35-007-35498-0000
3. 108 000 000
4. Texaco Inc
5. McFarland Unit No 1
6. Mocane-Laverne
7. Beaver OK
8. 12.4 million cubic feet
9. November 27, 1979
10. Colorado Interstate Gas Company
1. 80-07716/00938
2. 35-139-00000-0000
3. 106 000 000
4. Texaco Inc
5. Steffen Unit No 1
6. Guymon-Hugoton
7. Texas OK
8. 15.0 million cubic feet
9. November 27, 1979
10. Kansas-Nebraska Gas Co Inc
1. 80-07717/00899
2. 35-003-20836-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Ross Le Crone #2
6. E. Chaney Dell
7. Alfalfa OK
8. 15.0 million cubic feet
9. November 27, 1979
10. Champlin Petroleum Co (Enid Plant)
1. 80-07718/01060
2. 35-049-00000-0000
3. 106 000 000
4. Texaco Inc
5. Bolles-Osborne Comm No 1
6. Golden Trend
7. Garvin OK
8. 7.0 million cubic feet
9. November 27, 1979
10. Lone Star Gas Company, Oklahoma Natural Gas Co
1. 80-07719/01004
2. 35-007-35500-0000
3. 106 000 000
4. Texaco Inc
5. McGee-Barby Unit No 1
6. NE Greenough
7. Beaver OK
8. 11.3 million cubic feet
9. November 27, 1979
10. Panhandle Eastern Pipeline Co
1. 80-07720/01005
2. 35-007-35198-0000
3. 108 000 000
4. Texaco Inc
5. A Underwood Unit No 1
6. Mocane
7. Beaver OK
8. 11.3 million cubic feet
9. November 27, 1979
10. Panhandle Eastern Pipeline Co
1. 80-07721/01002
2. 35-139-20400-0000
3. 108 000 000
4. Texaco Inc
5. Fred Swaim Unit No 1
6. Lorena W
7. Texas OK
8. 14.6 million cubic feet
9. November 27, 1979
10. Natural Gas Pipeline Co of Amer
1. 80-07722/00597
2. 35-047-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. Randolph Hopwood #1
6. NE Enid
7. Garfield OK
8. 8.2 million cubic feet
9. November 27, 1979
10. Cities Service Gas Co
1. 80-07723/00585
2. 35-047-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. Voth #1
6. NE Enid
7. Garfield OK
8. 8.3 million cubic feet
9. November 27, 1979
10. Cities Service Gas Co
1. 80-07724/00576
2. 35-047-21413-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. Behring #2
6. Enid NE
7. Garfield OK
8. 11.6 million cubic feet
9. November 27, 1979
10. Cities Service Gas Company
1. 80-07725/00595
2. 35-047-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. Roggow
6. NE Enid
7. Garfield OK
8. 9.6 million cubic feet
9. November 27, 1979
10. Cities Service Gas Co
1. 80-07726/00593
2. 35-047-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. King #1
6. NE Enid
7. Garfield OK
8. 14.7 million cubic feet
9. November 27, 1979
10. Cities Service Gas Co
1. 80-07727/00584
2. 35-093-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. Boehs-G(K-4)
6. Ringwood

7. Major OK
8. 5.4 million cubic feet
9. November 27, 1979
10. Oklahma Natural Gas Gathering
1. 80-07547/00635
2. 35-121-66613-0000
3. 103 000 000
4. Supron Energy Corporation
5. Bigger 6-1
6. Hartshorne and Basal Atoka
7. Pittsburg TX
8. 500.0 million cubic feet
9. November 23, 1979
10. Arkansas Louisiana Gas Company

West Virginia Department of Mines, Oil and Gas Division

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or BLock No.
8. Estimated annual volume
9. Date Received at FERC
10. Purchaser(s)

1. 80-07520
2. 47-041-21628-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. W J Barnes #2-B
6. Collins Settlement
7. Lewis WV
8. 2.0 million cubic feet
9. November 23, 1979
10. Condolidated Gas Supply Corp
1. 80-07521
2. 47-097-21182-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. W H Linger #1
6. Banks
7. Upshur WV
8. 2.0 million cubic feet
9. November 23, 1979
10. Consolidated Gas Supply Corporation
1. 80-07522
2. 47-097-21200-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. H A Underwood #1
6. Banks
7. Upshur WV
8. 5.0 million cubic feet
9. November 23, 1979
10. Consolidated Gas Supply Corporation
1. 80-07523
2. 47-097-21203-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. H A Underwood #1
6. Banks
7. Upshur WV
8. 2.0 million cubic feet
9. November 23, 1979
10. Consolidated Gas Supply Corporation
1. 80-07524
2. 47-097-21452-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. Arden Strader #1
6. Banks
7. Upshur WV
8. 1.0 million cubic feet
9. November 23, 1979
10. Consolidated Gas Supply Corp
1. 80-07525
2. 47-097-21547-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J V Tenney #1
6. Washington
7. Upshur WV
8. .5 million cubic feet
9. November 23, 1979
10. Equitable Gas Co
1. 80-07526
2. 47-097-21431-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. Keith F Woody #1
6. Washington
7. Upshur WV
8. 2.0 million cubic feet
9. November 23, 1979
10. Equitable Gas Co
1. 80-07527
2. 47-043-21271-0000
3. 108 000 000
4. Lasco Production Co
5. Well No 8374
6. Laurelhill
7. Lincoln WV
8. 2.5 million cubic feet
9. November 23, 1979
10. Columbia Gas Transp Corp
1. 80-07528
2. 47-059-20606-0000
3. 108 000 000
4. Lasco Production Co
5. Mingo Well #1
6. Harvey
7. Mingo WV
8. .0 million cubic feet
9. November 23, 1979
10. Columbia Gas Trans Corp
1. 80-07529
2. 47-085-03151-RED0
3. 108 000 000
4. Perkins Oil & Gas Inc.
5. John (O B) Poole Well 4337
6. Buck Run
7. Ritchie, WV
8. 6.0 million cubic feet
9. November 23, 1979
10. Equitable Gas
1. 80-07530
2. 47-085-22118-0000
3. 108 000 000
4. C H C Natural Gas Company
5. C H C Natural Gas Co No 1
6. Murphy District
7. Ritchie, WV
8. .0 million cubic feet
9. November 26, 1979
10. Consolidated Gas Supply Corporation
Hope Natural Gas Company
1. 80-07631
2. 47-017-22220-0000
3. 108 000 000
4. Bluestone Oil & Gas Company
5. Bluestone Oil & Gas Company
6. Southwest District
7. Doddridge, WV
8. 10.0 million cubic feet
9. November 26, 1979
10. Carnegie Natural Gas Company
1. 80-07632
2. 47-039-02461-0000
3. 108 000 000
4. Bruce W Hunt
5. Radford & Frame Well No 1
6. Elk District
7. Kanawha, WV
8. 3.3 million cubic feet
9. November 26, 1979
10. Columbia Gas Transmission Corp.
1. 80-07633
2. 47-005-00416-D000
3. 108 000 000
4. Cameron Oil & Gas Company
5. Smoot No. 2
6. Smoot No. 2
7. Boone, WV
8. 1.4 million cubic feet
9. November 26, 1979
10. Consolidated Gas Supply
1. 80-07634
2. 47-085-20308-DD00
3. 108 000 000
4. Jones Farm Oil & Gas Company
5. Jones Farm No 1
6. Murphy District
7. Ritchie, WV
8. 4.5 million cubic feet
9. November 26, 1979
10. Consolidated Gas Supply Corporation
1. 80-07635
2. 47-015-00635-0000
3. 108 000 000
4. James W Reed
5. Reed No 1
6. Henry District
7. Clay, WV
8. 1.5 million cubic feet
9. November 26, 1979
10. Columbia Gas Transmission Corp
1. 80-07636
2. 47-017-00225-R000
3. 108 000 000
4. Cabrun Gas Company
5. Cabrun Gas Company
6. Central District
7. Doddridge, WV
8. 3.3 million cubic feet
9. November 21, 1979
10. Consolidated Gas Supply Corporation
1. 80-07637
2. 47-017-02259-0000
3. 108 000 000
4. W. Paul McCutchan Agent
5. McCutchan No. 1
6. New Milton
7. Doddridge, WV
8. 7.0 million cubic feet
9. November 26, 1979
10. Consolidated Gas Supply Corporation
1. 80-07638
2. 47-085-23004-0000
3. 108 000 000
4. Price Oil & Gas Company
5. Price Oil & Gas Co No 1
6. Union
7. Ritchie, WV
8. 3.5 million cubic feet
9. November 26, 1979
10. Carnegie Natural Gas Company
1. 80-07639
2. 47-017-00539-0000
3. 108 000 000
4. Sugar Gas Company
5. Sugar Gas Well
6. New Milton District

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7. Doddridge, WV
8. 5.0 million cubic feet
9. November 26, 1979
10. Consolidated Gas Supply, Hope Natural Gas Company

1. 80-07640
2. 47-017-01005-0000
3. 108 000 000
4. W Paul McCutchan Agent
5. Gabbert No 2
6. New Milton District
7. Doddridge, WV
8. 2.0 million cubic feet
9. November 26, 1979
10. Consolidated Gas Supply Corporation

1. 80-07641
2. 47-017-00223-0000
3. 108 000 000
4. Robert L Holland
5. Bluestone No 2
6. West Union District
7. Doddridge, WV
8. 9.4 million cubic feet
9. November 26, 1979
10. Carnegie Natural Gas Company

1. 80-07642
2. 47-017-00242-000
3. 108 000 000
4. Robert L Holland
5. Bluestone No 3
6. West Union
7. Doddridge, WV
8. 8.6 million cubic feet
9. November 26, 1979
10. Carnegie Natural Gas Company

1. 80-07643
2. 47-017-00244-0000
3. 108 000 000
4. Robert L Holland
5. Bluestone No. 4
6. West Union
7. Doddridge, WV
8. 7.0 million cubic feet
9. November 26, 1979
10. Carnegie Natural Gas Company

1. 80-07644
2. 47-099-01234-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Mary G Davis 1-1125
6.
7. Wayne, WV
8. 1.4 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07645
2. 47-099-01278-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hoard Baldwin 57-1095
6.
7. Wayne, WV
8. 5.8 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07646
2. 47-099-01232-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Ethel Goode A 2-1058
6.
7. Wayne, WV
8. .4 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07647
2. 47-099-01247-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Lawrence Huff 2-1077
6.
7. Wayne, WV
8. .8 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07648
2. 47-099-01248-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hoard Baldwin 55-1087
6.
7. Wayne, WV
8. 2.9 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07649
2. 47-099-01259-0000
3. 108 000 000
4. Industrial Gas Corporation
5. F E Mathewson 14-1097
6.
7. Wayne, WV
8. 19.6 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07650
2. 47-099-01260-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Marion Burgess C 2-1089
6.
7. Wayne, WV
8. 6.0 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07651
2. 47-099-01273-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hoard Baldwin 56-1094
6.
7. Wayne, WV
8. 5.3 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07652
2. 47-099-01268-0000
3. 108 000 000
4. Industrial Gas Corporation
5. M N Lester 3-1081
6.
7. Wayne, WV
8. .4 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07653
2. 47-099-01286-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hoard Baldwin 59-1101
6.
7. Wayne, WV
8. 2.4 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07654
2. 47-099-01292-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Marian Burgess C 3-1102
6.
7. Wayne, WV
8. 10.5 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07655
2. 47-099-01261-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Rebecca Ferguson 2-1084
6.
7. Wayne, WV
8. .7 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07656
2. 47-099-01362-0000
3. 108 000 000
4. Industrial Gas Corporation
5. J C Thompson 1-1146
6.
7. Wayne, WV
8. 5.7 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07657
2. 47-099-01387-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Marian Burgess C 7-1156
6.
7. Wayne, WV
8. 2.5 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07658
2. 47-099-01335-0000
3. 108 000 000
4. Industrial Gas Corporation
5. C C Davis 1-1124
6.
7. Wayne, WV
8. 2.7 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07659
2. 47-099-01337-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co. 82-1112
6.
7. Wayne, WV
8. 5.8 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07660
2. 47-099-01341-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hoard Baldwin 61-1127
6.
7. Wayne, WV
8. 3.0 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07661
2. 47-099-01351-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Mary G Davis 2-1126
6.
7. Wayne, WV
8. 3.2 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07662
2. 47-099-01321-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co. 81-1111
6.
7. Wayne, WV
8. 8.4 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07663
2. 47-017-00266-0000
3. 108 000 000
4. W Paul McCutchan Agent
5. Gabbert No. 1
6. New Milton District
7. Doddridge, WV
8. 3.0 million cubic feet
9. November 26, 1979
10. Consolidated Gas Supply Corporation

1. 80-07664
2. 47-017-00312-0000
3. 108 000 000
4. H & H Oil Company
5. H & H Oil Company
6. West Union Magisterial
7. Doddridge, WV
8. 3.0 million cubic feet
9. November 26, 1979
10. Equitable Gas Company

1. 80-07665
2. 47-085-21520-0000
3. 108 000 000
4. Lodge Oil & Gas Company
5. Lodge Oil & Gas Co No. 1
6. Union District
7. Ritchie, WV
8. 1.4 million cubic feet
9. November 26, 1979
10. Carnegie Natural Gas Company

1. 80-07666
2. 47-085-23064-0000
3. 108 000 000
4. Nima Natural Gas Company
5. Nima Natural Gas Co No. 1
6. Union District
7. Ritchie, WV
8. 2.0 million cubic feet
9. November 26, 1979
10. Carnegie Natural Gas Company

1. 80-07667
2. 47-017-00313-0000
3. 108 000 000
4. Robert H Baker Agent
5. Goldie F Wallace #1
6. West Union Corporation
7. Doddridge, WV
8. 2.0 million cubic feet
9. November 26, 1979
10. Equitable Gas Company

1. 80-07668
2. 47-017-02137-0000
3. 108 000 000
4. Robert H Baker Agent
5. Baker No. 1 (DG No. 3)
6. Union District
7. Ritchie, WV
8. 2.0 million cubic feet
9. November 26, 1979
10. Carnegie Nat Gas Company

1. 80-07669
2. 47-001-00749-0000
3. 108 000 000
4. J & J Enterprises Inc.
5. B-6 F-61714 Bar-749
6. Union
7. Barbour, WV
8. 1.0 million cubic feet
9. November 26, 1979
10. Consolidated Gas Supply Corp

1. 80-07670
2. 47-001-00754-0000
3. 108 000 000
4. J & J Enterprises Inc.
5. B-15 F-61820 Bar-754
6. Union
7. Barbour, WV
8. 6.0 million cubic feet
9. November 26, 1979
10. Consolidated Gas Supply Corp

1. 80-07671
2. 47-099-01219-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hoard Baldwin 53-1084
6.
7. Wayne, WV
8. 3.0 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07672
2. 47-051-00961-0000
3. 108 000 000
4. Tri-County Oil & Gas Inc.
5. Maley & Newman No. 1
6. Liberty Dist
7. Marshall, WV
8. 6.4 million cubic feet
9. November 26, 1979
10. Carnegie Natural Gas Co

1. 80-07673
2. 47-099-01150-0000
3. 108 000 000
4. Industrial Gas Corporation
5. M N Lester 2-1054
6.
7. Wayne, WV
8. .9 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07674
2. 47-099-01167-0000
3. 108 000 000
4. Industrial Gas Corporation
5. B Asbury A 3-1033
6.
7. Wayne, WV
8. .6 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07675
2. 47-099-01171-0000
3. 108 000 000
4. Industrial Gas Corporation
5. H Lester 1-1057
6.
7. Wayne, WV
8. 1.4 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07676
2. 47-099-01202-0000
3. 108 000 000
4. Industrial Gas Corporation
5. G W Workman 8-1044
6.
7. Wayne, WV
8. 1.7 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07677
2. 47-099-01207-0000
3. 108 000 000
4. Industrial Gas Corporation
5. O Ferguson A 1-1059
6.
7. Wayne, WV
8. .6 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07678
2. 47-099-01218-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Marion Burgess C 1-1088
6.
7. Wayne, WV
8. .0 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80-07679
2. 47-099-01148-0000
3. 108 000 000

V45/15/JA22'80 UMI

4. Industrial Gas Corporation
5. Leach-Lycans 2–1056
6.
7. Wayne, WV
8. .3 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80–07680
2. 47–099–01143–0000
3. 108 000 000
4. Industrial Gas Corporation
5. Lawrence Huff 1–1053
6.
7. Wayne, WV
8. 1.0 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc., Huntington Alloys Inc., Libby-Owens Ford Co., Owens-Illinois, Inc.

1. 80–07681
2. 47–099–01084–0000
3. 108 000 000
4. Industrial Gas Corporation
5. B Asbury B 1–1039
6.
7. Wayne, WV
8. .8 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

1. 80–07682
2. 47–099–01087–0000
3. 108 000 000
4. Industrial Gas Corporation
5. M. Mathews 1–1043
6.
7. Wayne, WV
8. .9 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

1. 80–07683
2. 47–099–01101–0000
3. 108 000 000
4. Industrial Gas Corporation
5. D Christian 1–1042
6.
7. Wayne, WV
8. 1.2 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

1. 80–07684
2. 47–099–01110–0000
3. 108 000 000
4. Industrial Gas Corporation
5. B Asbury A 2–1032
6.
7. Wayne, WV
8. .6 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

1. 80–07685
2. 47–099–01120—0000
3. 108 000 000
4. Industrial Gas Corporation
5. B Asbury B 3–1040
6.
7. Wayne, WV
8. .5 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

1. 80–07686
2. 47–099–01135–0000
3. 108 000 000
4. Industrial Gas Corporation
5. B Asbury A 4–1051
6.
7. Wayne, WV
8. .6 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

1. 80–07687
2. 47–099–01454–0000
3. 108 000 000
4. Industrial Gas Corporation
5. B Asbury C 1–1148
6.
7. Wayne, WV
8. 2.6 million cubic feet
9. November 26, 1979
10. Gas Supply Corporation

1. 80–07688
2. 47–099–01546–0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 95–1221
6.
7. Wayne, WV
8. 12.3 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

1. 80–07689
2. 47–105–00562–0000
3. 108 000 000
4. Natural Gas Development Corp
5. Hopkins #3
6. Creston Field
7. Wirt, WV
8. 3.0 million cubic feet
9. November 26, 1979
10. Cabot Corporation

1. 80–07690
2. 47–099–01019–0000
3. 108 000 000
4. Industrial Gas Corporation
5. G W Workman 6–1102
6.
7. Wayne, WV
8. 1.2 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

1. 80–07691
2. 47–099–01020–0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hoard Baldwin 49–1011
6.
7. Wayne, WV
8. 3.3 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

1. 80–07692
2. 47–099–01507–0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 94–1215
6.
7. Wayne, WV
8. 2.6 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

1. 80–07693
2. 47–099–01551–0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 97–1227
6.
7. Wayne, WV
8. 6.6 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

1. 80–07694
2. 47–099–01508–0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 93–1214
6.
7. Wayne, WV
8. 3.6 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

1. 80–07695
2. 47–099–01550–0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 98–1226
6.
7. Wayne, WV
8. 13.9 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

1. 80–07696
2. 47–099–01496–0000
3. 108 000 000
4. Industrial Gas Corporation
5. Glen Johnson 1–1201
6.
7. Wayne, WV
8. 13.2 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

1. 80–07697
2. 47–099–01495–0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 89–1200
6.
7. Wayne, WV
8. 3.8 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

1. 80–07698
2. 47–099–01491–0000
3. 108 000 000
4. Industrial Gas Corporation

5. Wilson Coal Land Co 88–1107
6.
7. Wayne, WV
8. 5.4 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

1. 80–07699
2. 47–099–01048–0000
3. 108 000 000
4. Industrial Gas Corporation
5. M N Lester 1–1029
6.
7. Wayne, WV
8. .4 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

1. 80–07700
2. 47–099–01417–0000
3. 108 000 000
4. Industrial Gas Corporation
5. Hoard Baldwin 62–1128
6.
7. Wayne, WV
8. 3.0 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

1. 80–07701
2. 47–099–01409–0000
3. 108 000 000
4. Industrial Gas Corporation
5. R Unison 1–1157
6.
7. Wayne, WV
8. 9.0 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

1. 80–07702
2. 47–099–01486–0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 86–1195
6.
7. Wayne, WV
8. 9.5 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

1. 80–07703
2. 47–099–01487–0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 85–1194
6.
7. Wayne, WV
8. 4.1 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

1. 80–07704
2. 47–099–01471–0000
3. 108 000 000
4. Industrial Gas Corporation
5. Wilson Coal Land Co 84–1193
6.
7. Wayne, WV
8. 4.4 million cubic feet
9. November 26, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens Ford Co, Owens-Illinois Inc

U.S. Geological Survey, Metairie, La.

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–07728/69–869
2. 42–711–40331–0081–0
3. 102 000 000
4. Marathon Oil Company
5. High Is Blk A–279 #A–6
6. High Island East Add South Ext
7. A–279
8. 800.0 million cubic feet
9. November 27, 1979
10. United Gas Pipeline Co, Michigan Wisconsin Pipeline Company

U.S. Geological Survey, Casper, Wyo.

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–07730/CC–821–9
2. 05–045–06113–0000–0
3. 103 000 000
4. Tipperary Oil and Gas Corp
5. USA 4–24–E
6. Unnamed (Soldier Canyon Unit)
7. Garfield Co
8. 30.0 million cubic feet
9. November 27, 1979
10. Northwest Pipeline Corp

1. 80–07731/CC–826–9
2. 05–103–06131–0000–0
3. 103 000 000
4. Tipperary Oil and Gas Corp
5. USA 1–8–C
6. Unnamed
7. Rio Blanco Co
8. 60.0 million cubic feet
9. November 27, 1979
10. Northwest Pipeline Corp

1. 80–07743/CC–864–9
2. 05–103–06111–0000–0
3. 102 000 000
4. Coseka Resources (USA) Ltd
5. Taiga Federal 20–M–15–4S–102W
6. Thunder
7. Rio Blanco Co
8. 58.9 million cubic feet
9. November 27, 1979
10. Northwest Pipeline Corp

1. 80–07745/CC–963–9
2. 05–103–06196–0000–0
3. 103 000 000
4. Coseka Resources (USA) Ltd
5. Taiga Federal 1–R–22
6. Thunder
7. Rio Blanco Co
8. 36.0 million cubic feet
9. November 27, 1979
10. Northwest Pipeline Corp

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–07734/UC–913–9
2. 43–047–30284–0000–0
3. 102 000 000
4. Exxon Corporation
5. Exxon No 1 Pine Spring Unit
6. Wildcat
7. Uintah, UT
8. 91.0 million cubic feet
9. November 27, 1979
10. Mesa Pipeline Company

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–07729/W760–9
2. 49–003–20486–0000–0
3. 103 000 000
4. American Quasar Petroleum Co
5. Dobie Creek 13–1
6. 1826 FSL & 1868 FEL 13–42N–94W
7. Big Horn Wy
8. .0 million cubic feet
9. November 27, 1979
10. Montana-Dakota Utilities

1. 80–07732/W876–9
2. 49–005–24901–0000–0
3. 103 000 000
4. J M Huber Corporation
5. Federal No 29–1
6. Little Thunder
7. Campbell Wy
8. 160.0 million cubic feet
9. November 27, 1979
10. McCulloch Gas Processing Corp

1. 80–07733/W803–9
2. 49–023–07359–0000–0
3. 108 000 000
4. Belco Petroleum Corporation
5. BNG 45–4 07359
6. Big Piney—Labarge
7. Lincoln Wy
8. 4.0 million cubic feet
9. November 27, 1979
10. Northwest Pipeline Corporation

1. 80–07735/W914–9
2. 49–005–25191–0000–0
3. 103 000 000
4. UV Industries Inc
5. UV Industries Inc Fed—Daly B #1
6. Kitty Field
7. Campbell Wy
8. 127.8 million cubic feet
9. November 27, 1979
10.

V 45 / 15 JA 22 80 UMI

1. 80-07736/W920-9
2. 49-023-06031-0000-0
3. 108 000 000
4. Belco Petroleum Corporation
5. Opal 3-9 06031
6. Opal
7. Lincoln Wy
8. 6.0 million cubic feet
9. November 27, 1979
10. FMC Corporation
1. 80-07738/W940-9
2. 49-009-21441-0000-0
3. 103 000 000
4. Mitchell Energy Corporation
5. Federal 1-28 N G W-0316151 B
6. Mikes Draw
7. Converse Wy
8. 10.0 million cubic feet
9. November 27, 1979
10. McCulloch Gas Processing Corp
1. 80-07739/W921-9
2. 49-009-21296-0000-0
3. 103 000 000
4. Skyline Oil Company
5. Deano #1-31
6. Well Draw
7. Converse Wy
8. 23.9 million cubic feet
9. November 27, 1979
10. Inexco Gasoline Plant
1. 80-07740/W922-9
2. 49-009-21296-0000-0
3. 103 000 000
4. Skyline Oil Company
5. Cheesbrough #23-1
6. Mikes Draw
7. Converse County Wy
8. .0 million cubic feet
9. November 27, 1979
10. Phillips Petroleum Company
1. 80-07741/W939-9
2. 49-009-21386-0000-0
3. 103 000 000
4. Mitchell Energy Corporation
5. Federal 2-27 J T W-316151-B
6. Mikes Draw
7. Converse Wy
8. 6.0 million cubic feet
9. November 27, 1979
10. McCulloch Gas Processing Corp
1. 80-07742/W961-9
2. 49-035-09330-0000-0
3. 108 000 000
4. Belco Petroleum Corporation
5. BNG 89C-4 09330
6. Big Piney—Labarge
7. Sublette Wy
8. 2.0 million cubic feet
9. November 27, 1979
10. Northwest Pipeline Corp
1. 80-07744/W962-9
2. 49-009-08904-0000-0
3. 105 000 000
4. Belco Petroleum Corporation
5. Shawnee 6-13 08904
6. Flat Top
7. Converse Wy
8. 8.0 million cubic feet
9. November 27, 1979
10. Kansas-Nebraska Natural Gas Co
1. 80-07737/W941-9
2. 49-009-21421-0000-0
3. 103 000 000
4. Mitchell Energy Corporation
5. Federal 1-27 P L W-316151-B
6. Mikes Draw
7. Converse Wy
8. 5.8 million cubic feet
9. November 27, 1979
10. McCulloch Gas Processing Corp

Osage Agency, Bureau of Indian Affairs, Osage County, Okla.

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-07613
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 489
6.
7. Osage Ok
8. 3.3 million cubic feet
9. November 26, 1979
10. Cities Service Gas Co

1. 80-07614
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 491
6.
7. Osage Ok
8. 3.3 million cubic feet
9. November 26, 1979
10. Cities Service Gas Co

1. 80-07615
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 503
6.
7. Osage Ok
8. 3.3 million cubic feet
9. November 26, 1979
10. Cities Service Gas Co

1. 80-07616
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 507
6.
7. Osage Ok
8. 10.2 million cubic feet
9. November 26, 1979
10. Cities Service Gas Co

1. 80-07617
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 439
6.
7. Osage Ok
8. 1.4 million cubic feet
9. November 26, 1979
10. Cities Service Gas Co

1. 80-07618
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 472
6.
7. Osage Ok
8. 1.4 million cubic feet
9. November 26, 1979
10. Cities Service Gas Co

1. 80-07619
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 474
6.
7. Osage Ok
8. 1.4 million cubic feet
9. November 26, 1979
10. Cities Service Gas Co

1. 80-07620
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 505
6.
7. Osage Ok
8. 2.3 million cubic feet
9. November 26, 1979
10. Cities Service Gas Co

1. 80-07621
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 412
6.
7. Osage Ok
8. 10.6 million cubic feet
9. November 26, 1979
10. Cities Service Gas Co

1. 80-07622
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 214
6.
7. Osage OK
8. 3.6 million cubic feet
9. November 26, 1979
10. Cities Service Gas Co

1. 80-07623
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 289
6.
7. Osage OK
8. 3.6 million cubic feet
9. November 26, 1979
10. Cities Service Gas Co

1. 80-07624
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 308
6.
7. Osage OK
8. 3.6 million cubic feet
9. November 26, 1979
10. Cities Service Gas Co

1. 80-07625
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 312
6.
7. Osage OK
8. 3.6 million cubic feet
9. November 26, 1979
10. Cities Service Gas Co

1. 80-07626
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 317
6.
7. Osage OK
8. 3.6 million cubic feet
9. November 26, 1979
10. Cities Service Gas Co

1. 80-07627
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 321
6.
7. Osage OK
8. 3.6 million cubic feet
9. November 26, 1979
10. Cities Service Gas Co

1. 80-07628
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 360
6.
7. Osage OK
8. 3.6 million cubic feet
9. November 26, 1979
10. Cities Service Gas Co

1. 80-07629
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 508
6.
7. Osage OK
8. 3.6 million cubic feet
9. November 26, 1979
10. Cities Service Gas Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of public information, room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 6, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-1959 Filed 1-21-80; 8:45 am]
BILLING CODE 6450-01-M

[No. 128]

Notice of Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

January 11, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Ohio Department of Natural Resources, Division of Oil and Gas

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-07758/07276
2. 34-115-21518-0014
3. 108 000 000
4. Ohio Production Corp
5. Ethan Hall No. 1
6.
7. Morgan, OH
8. 8.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp., Ford Motor Co.

1. 80-07759/07275
2. 34-115-21400-0014
3. 108 000 000
4. Ohio Production Corp.
5. M & J Henderson No. 1
6.
7. Morgan, OH
8. 11.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp., Ford Motor Co.

1. 80-07760/07274
2. 34-115-21401-0014
3. 108 000 000
4. Ohio Production Corp.
5. M & J Henderson No. 1
6.
7. Morgan, OH
8. 11.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp., Ford Motor Co.

1. 80-07761/07273
2. 34-115-21195-0014
3. 108 000 000
4. Ohio Production Corp
5. Harold Scott No. 2
6.
7. Morgan, OH
8. 18.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp., Ford Motor Co.

1. 80-07762/07272
2. 34-115-21414-0014
3. 108 000 000
4. Ohio Production Corp.
5. Stout Ray, Et Al Unit No. 1
6.
7. Morgan, OH
8. 10.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp., Ford Motor Co.

1. 80-07763/07215
2. 34-155-21222-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Benning No. 1
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp.

1. 80-07764/07214
2. 34-155-20920-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Moore 1
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp.

1. 80-07765/07213
2. 34-155-20956-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Clute 1
6.
7. Trumbull, OH
8. 25.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp.

1. 80-07766/07212
2. 34-155-21083-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Yungbluth No. 1
6.
7. Trumbull, OH
8. 25.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp.

1. 80-07767/07211
2. 34-155-20909-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Yungbluth No. 1
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp.

1. 80-07768/06824
2. 34-155-20655-0014
3. 102 000 000
4. Atlas Energy Group, Inc.
5. J & G Jones No. 1—#0546
6.
7. Trumbull, OH
8. .0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp.

1. 80-07769/06823
2. 34-155-21052-0014
3. 102 000 000
4. Atlas Energy Group, Inc.
5. Caleb Jones No. 1—#0550
6.
7. Trumbull, OH
8. .0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp.

1. 80-07770/06822
2. 34-155-21051-0014
3. 102 000 000
4. Atlas Energy Group, Inc.
5. Dewitt No. 2—#0559
6.

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7. Trumbull, OH
8. .0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp.

1. 80-07771/06821
2. 34-155-20992-0014
3. 102 000 000
4. Atlas Energy Group, Inc.
5. Cortland Fuel & Supply No. 2—#0548
6.
7. Trumbull, OH
8. .0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp.

1. 80-07772/06820
2. 34-155-20884-0014
3. 102 000 000
4. Atlas Energy Group, Inc.
5. Cortland Fuel & Supply No. 1—#0547
6.
7. Trumbull, OH
8. .0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp.

1. 80-07773/06819
2. 34-155-21023-0014
3. 102 000 000
4. Atlas Energy Group, Inc.
5. Boggs-Singer No. 1—#0554
6.
7. Trumbull, OH
8. .0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp.

1. 80-07774/06818
2. 34-155-21250-0014
3. 102 000 000
4. Atlas Energy Group, Inc.
5. Popowich Unit No. 1—#0581
6.
7. Trumbull, OH
8. .0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp.

1. 80-07775/06817
2. 34-155-21053-0014
3. 102 000 000
4. Atlas Energy Group, Inc.
5. J & G Jones No. 2—#0561
6.
7. Trumbull, OH
8. .0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp.

1. 80-07776/06816
2. 34-155-21172-0014
3. 102 000 000
4. Atlas Energy Group, Inc.
5. Allegret Unit No. 1—#0551
6.
7. Trumbull, OH
8. .0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp.

1. 80-07777/06815
2. 34-155-21200-0014
3. 102 000 000
4. Atlas Energy Group, Inc.
5. Rubins No. 1—#0560
6.
7. Trumbull, OH
8. .0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp.

1. 80-07778/06814
2. 34-155-21054-0014
3. 102 000 000
4. Atlas Energy Group, Inc.
5. Dewitt No. 1—#0558
6.
7. Trumbull, OH
8. .0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp.

1. 80-07779/06813
2. 34-155-21050-0014
3. 102 000 000
4. Atlas Energy Group, Inc.
5. Zervos No. 1—#0552
6.
7. Trumbull, OH
8. .0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp.

1. 80-07780/06629
2. 34-067-20217-0014
3. 108 000 000
4. Resource Exploration , Inc.
5. Shugart #2
6.
7. Harrison, OH
8. 12.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp.

1. 80-07781/06389
2. 34-059-21637-0014
3. 108 000 000
4. Cherry Hill Petroleum, Inc.
5. John D. George #1
6.
7. Guernsey, OH
8. 1.4 million cubic feet
9. November 27, 1979
10. The East Ohio Gas Company

1. 80-07782/06388
2. 34-059-21613-0014
3. 108 000 000
4. Cherry Hill Petroleum, Inc.
5. A. R. Gray #1
6.
7. Guernsey, OH
8. 1.8 million cubic feet
9. November 27, 1979
10. The East Ohio Gas Company

1. 80-07783/06387
2. 34-059-21614-0014
3. 108 000 000
4. Cherry Hill Petroleum Inc
5. F H Vincenzo #1
6.
7. Guernsey, OH
8. .7 million cubic feet
9. November 27, 1979
10. The East Ohio Gas Company

1. 80-07784/06386
2. 34-059-21595-0014
3. 108 000 000
4. Cherry Hill Petroleum Inc
5. George H Simmerman #1
6.
7. Guernsey, OH
8. .7 million cubic feet
9. November 27, 1979
10. The East Ohio Gas Company

1. 80-07785/06385
2. 34-059-21564-0014
3. 108 000 000
4. Cherry Hill Petroleum Inc
5. Raymond C Colley #1
6.
7. Guernsey, OH
8. 1.3 million cubic feet
9. November 27, 1979
10. The East Ohio Gas Company

1. 80-07786/06384
2. 34-059-21505-0014
3. 108 000 000
4. Cherry Hill Petroleum Inc
5. Hughes-Gingerich #1
6.
7. Guernsey, OH
8. .7 million cubic feet
9. November 27, 1979
10. The East Ohio Gas Company

1. 80-07787/06317
2. 34-105-20972-0014
3. 108 000 000
4. William H Putnam
5. Anchorage—Ohio #1 5031
6.
7. Meigs, OH
8. 2.1 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission

1. 80-07788/06307
2. 34-105-20917-0014
3. 108 000 000
4. William H Putnam
5. Anchorage-Pickens 4950 #1
6.
7. Meigs, OH
8. 3.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission

1. 80-07789/06306
2. 34-105-20964-0014
3. 108 000 000
4. William H Putnam
5. #1 Anchorage-Osborne 5078
6.
7. Meigs, OH
8. 4.2 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission

1. 80-07790/06305
2. 34-105-20864-0014
3. 108 000 000
4. William H Putnam
5. Anchorage-Wiley 4951 #1
6.
7. Meigs, OH
8. 1.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission

1. 80-07791/06303
2. 34-105-20945-0014
3. 108 000 000
4. William H Putnam
5. Anchorage—Ohio #4 5031
6.
7. Meigs, OH
8. 1.6 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission

1. 80-07792/06302
2. 34-105-20868-0014
3. 108 000 000
4. William H Putnam
5. #1 Anchorage—M Torrence 5028
6.
7. Meigs, OH
8. 1.1 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission

1. 80-07793/06301
2. 34-105-20866-0014
3. 108 000 000
4. William H Putnam
5. Anchorage—J Torrence 4953 #1
6.
7. Meigs, OH
8. .7 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission

1. 80-07794/06300
2. 34-105-20834-0014
3. 108 000 000
4. William H Putnam
5. #1 Anchorage—Hall 4946
6.
7. Meigs, OH
8. 3.8 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission

1. 80-07795/06177
2. 34-155-21101-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Cleland #2
6.
7. Trumbull, OH
8. 25.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp

1. 80-07796/06176
2. 34-155-20917-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Kotapish #1
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp

1. 80-07797/06175
2. 34-155-21076-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Czako #1
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp

1. 80-07798/06124
2. 34-167-23834-0014
3. 108 000 000
4. Wynn Oil Company
5. Warren #1
6.
7. Washington, OH
8. 3.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp

1. 80-07799/06067
2. 34-155-21109-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Summers 1-A
6.
7. Trumbull, OH
8. 25.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp

1. 80-07800/06066
2. 34-155-20936-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Shaw #2
6.
7. Trumbull, OH
8. 25.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp

1. 80-07801/06065
2. 34-155-21107-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Edwards #2
6.
7. Trumbull, OH
8. 25.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp

1. 80-07802/06064
2. 34-155-21106-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Luoma #1
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp

1. 80-07803/06063
2. 34-155-21128-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Winfield #3
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp

1. 80-07804/05544
2. 34-155-21108-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Edwards #1
6.
7. Trumbull, OH
8. 25.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp

1. 80-07805/05543
2. 34-155-21122-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Craver #2
6.
7. Trumbull, OH
8. 25.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp

1. 80-07806/05405
2. 34-169-21074-0014
3. 108 000 000
4. A W Yenne
5. Frederick Johnson #1
6. Wayne
7. Wayne, OH
8. 2.9 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Co

1. 80-07807/04960
2. 34-059-21660-0014
3. 108 000 000
4. Guernsey Petroleum Corporation
5. St Clair #1-J
6.
7. Guernsey, OH
8. 4.0 million cubic feet
9. November 27, 1979
10. East Ohio Gas Company

1. 80-07808/04959
2. 34-121-21634-0014
3. 108 000 000
4. Guernsey Petroleum Corporation
5. Cox #1-G
6.
7. Noble, OH
8. 1.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp

1. 80-07809/04956
2. 34-119-23257-0014
3. 108 000 000
4. Guernsey Petroleum Corporation
5. Ohio Power #1-K
6.
7. Muskingum, OH
8. 1.5 million cubic feet
9. November 27, 1979
10. East Ohio Gas Company

1. 80-07810/04400
2. 34-153-20648-0014
3. 102 000 000
4. Poi Energy Inc
5. Johnson #1
6.
7. Summit, OH
8. 40.0 million cubic feet
9. November 27, 1979
10.

1. 80-07811/00443
2. 34-153-20643-0014
3. 102 000 000
4. Poi Energy Inc
5. Hasbrouck #1
6.
7. Summit, OH
8. 25.0 million cubic feet
9. November 27, 1979
10.

1. 80-07812/00444
2. 34-153-20649-0014
3. 102 000 000
4. Poi Energy Inc
5. Johnson #2
6.
7. Summit, OH
8. 50.0 million cubic feet
9. November 27, 1979
10.

1. 80-07813/00446
2. 34-153-20644-0014
3. 102 000 000
4. Poi Energy Inc
5. Hasbrouck #2
6.
7. Summit OH
8. 25.0 million cubic feet
9. November 27, 1979
10.

1. 80-07814/01343
2. 34-099-20402-0014
3. 102 000 000
4. Columbia Gas Transmission Corp
5. 711437 #1 P Bigelow
6.
7. Mahoning OH
8. 7.4 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp

1. 80-07815/01390
2. 34-099-20343-0014
3. 108 000 000
4. Columbia Gas Transmission Corp
5. 711438 #1 D Porter

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6.
7. Mahoning Co OH
8. 9.7 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07816/01391
2. 34-099-20336-0014
3. 108 000 000
4. Columbia Gas Transmission Corp
5. 711440 #1 R Huly
6.
7. Mahoning OH
8. 9.4 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07817/01392
2. 34-099-20388-0014
3. 108 000 000
4. Columbia Gas Transmission Corp
5. 711446 #1 Williams-Halczak
6.
7. Mahoning OH
8. 7.6 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07818/01393
2. 34-099-20401-0014
3. 108 000 000
4. Columbia Gas Transmission Corp
5. 711439 Huly #2
6.
7. Mahoning OH
8. 18.2 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07819/01394
2. 34-155-20175-0014
3. 108 000 000
4. Columbia Gas Transmission Corp
5. 711416—#1 I Gardner
6.
7. Trumbull Co OH
8. 3.2 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07820/01395
2. 34-155-20129-0014
3. 108 000 000
4. Columbia Gas Transmission Corp
5. 711451 #1 F Gibbons
6.
7. Trumbull OH
8. 7.6 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07821/01396
2. 34-099-20341-0014
3. 108 000 000
4. Columbia Gas Transmission Corp
5. 711444 #1 G Yerman
6.
7. Mahoning OH
8. 6.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07822/01397
2. 34-099-20398-0014
3. 108 000 000
4. Columbia Gas Transmission Corp
5. 711447 #1 M Yochman
6.
7. Mahoning OH
8. 11.2 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07823/01398
2. 34-099-20390-0014
3. 108 000 000
4. Columbia Gas Transmission Corp
5. 711448 #1 L Zunic
6.
7. Mahoning OH
8. 14.6 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07824/01399
2. 34-099-20352-0014
3. 108 000 000
4. Columbia Gas Transmission Corp
5. 711449 #1 J Wargacki
6.
7. Mahoning OH
8. 3.3 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07825/01400
2. 34-099-20389-0014
3. 108 000 000
4. Columbia Gas Transmission Corp
5. 711450 #1 D Kruse
6.
7. Mahoning OH
8. 8.2 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07826/01401
2. 34-099-20337-0014
3. 108 000 000
4. Columbia Gas Transmission Corp
5. 711436 #1 Chillog-Oleska
6.
7. Mahoning OH
8. 10.3 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07827/01402
2. 34-103-21143-0014
3. 108 000 000
4. Columbia Gas Transmission Corp
5. 7-10053-Wiser-Smith
6.
7. Medina Co OH
8. 7.3 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07828/01403
2. 34-115-21437-0014
3. 108 000 000
4. Columbia Gas Transmission Corp
5. 720304 Wiser-Nelson
6.
7. Morgan OH
8. 14.6 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07829/01404
2. 34-119-22913-0014
3. 108 000 000
4. Columbia Gas Transmission Corp
5. 711344 Dorothy Sharp
6.
7. Muskingum OH
8. 8.1 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07830/01405
2. 34-155-20075-0014
3. 108 000 000
4. Columbia Gas Transmission Corp
5. 711417-#1 E Mottinger
6.
7. Trumbull Co OH
8. 16.5 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07831/01408
2. 34-155-20094-0014
3. 108 000 000
4. Columbia Gas Transmission Corp
5. Theo Montgomery #11428
6.
7. Trumbull OH
8. 8.8 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07832/01408
2. 34-155-20115-0014
3. 108 000 000
4. Columbia Gas Transmission Corp
5. 711429 #1 V Wright
6.
7. Trumbull Co OH
8. 10.2 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07833/01409
2. 34-155-20092-0014
3. 108 000 000
4. Columbia Gas Transmission Corp
5. 711430 #1 H King
6.
7. Trumbull Co OH
8. 8.2 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07834/01410
2. 34-099-20334-0014
3. 108 000 000
4. Columbia Gas Transmission Corp
5. 711431 #1 F Fenton
6.
7. Mahoning OH
8. 11.8 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07835/01411
2. 34-155-20093-0014
3. 108 000 000
4. Columbia Gas Transmission Corp
5. 711452 #1 Stocker-Snyder
6.
7. Trumbull OH
8. 3.8 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07836/01412
2. 34-155-20100-0014
3. 108 000 000
4. Columbia Gas Transmission Corp
5. 711453 #1 G Banks
6.
7. Trumbull OH
8. .5 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07837/01526
2. 34-031-23105-0014
3. 108 000 000
4. Zenith Exploration Company
5. Richard Bartolec #1
6.
7. Coshocton OH
8. 3.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp

1. 80-07838/01527
2. 34-029-20551-0014
3. 108 000 000
4. Zenith Exploration Company
5. O C Denny #1
6.
7. Columbiana OH
8. 18.0 million cubic feet
9. November 27, 1979
10. East Ohio Gas Co
1. 80-07839/02088
2. 34-157-22175-0014
3. 108 000 000
4. Resource Exploration Inc
5. Holmes Land Co #1
6.
7. Tuscarawas OH
8. 7.5 million cubic feet
9. November 27, 1979
10. East Ohio Gas Co
1. 80-07840/02119
2. 34-133-21144-0014
3. 108 000 000
4. Nucorp Energy Company
5. Jahn #1
6.
7. Portage OH
8. 3.2 million cubic feet
9. November 27, 1979
10. East Ohio Gas Company
1. 80-07841/02124
2. 34-133-21145-0014
3. 108 000 000
4. Nucorp Energy Company
5. Salo #1
6.
7. Portage OH
8. 3.7 million cubic feet
9. November 27, 1979
10. East Ohio Gas Company
1. 80-07842/02126
2. 34-133-21153-0014
3. 108 000 000
4. Nucorp Energy Company
5. Reserve Construction #1
6.
7. Portage OH
8. 10.0 million cubic feet
9. November 27, 1979
10. East Ohio Gas Company
1. 80-07843/02766
2. 34-019-21029-0014
3. 108 000 000
4. L&M Exploration Inc
5. Carroll Recreation #3-A
6.
7. Carroll OH
8. 10.0 million cubic feet
9. November 27, 1979
10. Bonanza Gas Line
1. 80-07844/02984
2. 34-019-20685-0014
3. 108 000 000
4. L&M Exploration Inc
5. Beamer #2A
6.
7. Carroll OH
8. 3.0 million cubic feet
9. November 27, 1979
10. Bonanza Gas Line
1. 80-07845/03294
2. 34-169-21851-0014
3. 108 000 000
4. Wenner Petroleum Corporation
5. J Rupp et al #2
6. Smithville-Milton
7. Wayne OH
8. 3.5 million cubic feet
9. November 27, 1979
10. Columbia Gas Trans Corp
1. 80-07846/03295
2. 34-169-21845-0014
3. 108 000 000
4. Wenner Petroleum Corporation
5. J Rupp et al #1
6. Smithville-Milton
7. Wayne OH
8. 3.1 million cubic feet
9. November 27, 1979
10. Columbia Gas Trans Corp
1. 80-07847/03296
2. 34-169-21578-0014
3. 108 000 000
4. Wenner Petroleum Corporation
5. G Miller #1
6. Smithville-Milton
7. Wayne OH
8. 2.1 million cubic feet
9. November 27, 1979
10. Columbia Gas Trans Corp
1. 80-07848/03302
2. 34-169-21529-0014
3. 108 000 000
4. Wenner Petroleum Corp
5. E Saal #2
6. Smithville-Milton
7. Wayne OH
8. .7 million cubic feet
9. November 27, 1979
10. Columbia Gas Trans Corp
1. 80-07849/03303
2. 34-169-21836-0014
3. 108 000 000
4. Wenner Petroleum Corporation
5. Rupp/Hart Unit #1
6. Smithville-Milton
7. Wayne OH
8. 2.8 million cubic feet
9. November 27, 1979
10. Columbia Gas Trans Corp
1. 80-07850/03304
2. 34-169-21859-0014
3. 108 000 000
4. Wenner Petroleum Corporation
5. J Rupp et al #3
6. Smithville-Milton
7. Wayne OH
8. 3.6 million cubic feet
9. November 27, 1979
10. Columbia Gas Trans Corp
1. 80-07851/03374
2. 34-167-23965-0014
3. 108 000 000
4. Cline Oil & Gas Co
5. Snodgrass #2
6.
7. Washington OH
8. 7.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07852/03375
2. 34-167-23909-0014
3. 108 000 000
4. Cline Oil & Gas Co
5. Snodgrass #1
6.
7. Washington OH
8. 7.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission
1. 80-07853/03807
2. 34-169-21943-0014
3. 108 000 000
4. Energy Investments Inc
5. Ralph R Krabill #3
6.
7. Wayne OH
8. 3.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07854/03827
2. 34-119-22687-0014
3. 108 000 000
4. Green Gas Co
5. Culp #1
6.
7. Muskingum OH
8. 20.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Trans Corp
1. 80-07855/03828
2. 34-119-22704-0014
3. 108 000 000
4. Green Gas Co
5. Culp #2
6. N-R
7. Muskingum OH
8. 20.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Trans Corp
1. 80-07856/03829
2. 34-119-22794-0014
3. 108 000 000
4. Green Gas Co
5. Culp #3
6. N-R
7. Muskingum OH
8. 20.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Trans Corp
1. 80-07857/03682
2. 34-167-24109-0014
3. 108 000 000
4. Cline Oil & Gas Co
5. Hupp #2
6.
7. Washington OH
8. 8.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07858/03833
2. 34-167-23908-0014
3. 108 000 000
4. Cline Oil & Gas Co
5. Hupp #1
6.
7. Washington OH
8. 8.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07859/04169
2. 34-169-21159-0014
3. 108 000 000
4. R J Hickin
5. Clarence J Yost #2
6.
7. Wayne OH
8. 2.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Tran Corp
1. 80-07860/04170
2. 34-169-21207-0014
3. 108 000 000
4. R J Hickin
5. Franchester Farms LTD #2

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8. Wayne OH
7.
8. 7.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Corp
1. 80-07861/04171
2. 34-169-21178-0014
3. 108 000 000
4. R J Hickin
5. Lucille Briggle #1
6. NIA
7. Wayne OH
8. 8.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Tran Corp
1. 80-07862/04172
2. 34-103-21258-0014
3. 108 000 000
4. R J Hickin
5. IRA Porter #1
6.
7. Medina OH
8. 6.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Tran Corp
1. 80-07863/04173
2. 34-169-21972-0014
3. 108 000 000
4. Energy Investments Inc
5. Harvey Graber #1
6.
7. Wayne OH
8. 4.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07864/04369
2. 34-169-20940-0014
3. 108 000 000
4. A W Yenne
5. John Armstrong #1
6. Wayne
7. Wayne OH
8. 2.2 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Co
1. 80-07865/04554
2. 34-167-23916-0014
3. 108 000 000
4. Wynn Oil Company
5. Parsons 1
6.
7. Washington OH
8. 2.5 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07866/04555
2. 34-167-24098-0014
3. 108 000 000
4. Wynn Oil Company
5. Collins #1
6.
7. Washington OH
8. 3.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07867/04620
2. 34-083-22167-0014
3. 108 000 000
4. Reliance Management Co
5. Fred Cline #1
6.
7. Knox OH
8. 8.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07868/04952
2. 34-059-21539-0014
3. 108 000 000
4. Guernsey Petroleum Corp
5. Sprankle #1-C
6.
7. Guernsey OH
8. 3.0 million cubic feet
9. November 27, 1979
10. East Ohio Gas Company
1. 80-07869/04953
2. 34-119-22607-0014
3. 108 000 000
4. Guernsey Petroleum Corp
5. Ohio Power/White #1
6.
7. Muskingum OH
8. 3.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07870/04854
2. 34-119-23577-0014
3. 108 000 000
4. Guernsey Petroleum Corp
5. Burlingame #2-E
6.
7. Muskingum OH
8. 15.0 million cubic feet
9. November 27, 1979
10. East Ohio Gas Company
1. 80-07871/04955
2. 34-059-21618-0014
3. 108 000 000
4. Guernsey Petroleum Corp
5. Ohio Power #33C
6.
7. Guernsey OH
8. 10.0 million cubic feet
9. November 27, 1979
10. East Ohio Gas Company
1. 80-07872/06825
2. 34-155-20584-0014
3. 102 000 000
4. Atlas Energy Group Inc
5. Morabito Unit No 1—#0540
6.
7. Trumbull OH
8. .0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07873/06826
2. 34-155-20843-0014
3. 102-000-000
4. Atlas Energy Group Inc
5. Morabito Unit No 2-#0545
6.
7. Trumbull OH
8. .0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07874/07886
2. 34-127-22904-0014
3. 108-000-000
4. Petro Oil Co
5. Van Horn Well #1
6.
7. Perry OH
8. 2.0 million cubic feet
9. November 27, 1979
10. Foraker Gas Inc
1. 80-07875/06888
2. 34-127-23801-0014
3. 108-000-000
4. Petro Oil Co
5. Holt Well #4
6.
7. Perry OH
8. 1.1 million cubic feet
9. November 27, 1979
10. Paramount Transmission Corp
1. 80-07876/07041
2. 34-119-22337-0014
3. 108-000-000
4. Geo Energy Inc
5. Balderson #1
6.
7. Muskingum OH
8. 5.1 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07877/07042
2. 34-119-22873-0014
3. 108-000-000
4. Geo Energy Inc
5. Balderson #2
6.
7. Muskingum OH
8. 4.8 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07878/07043
2. 34-119-22782-0014
3. 108-000-000
4. Geo Energy Inc
5. Wayne Funk #2
6.
7. Muskingum OH
8. 6.5 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07879/07044
2. 34-119-23742-0014
3. 108-000-000
4. Callander & Kimbrel Inc
5. Cross #2
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07880/07045
2. 34-031-22259-0014
3. 108-000-000
4. Geo Energy Inc
5. Chaney #1
6.
7. Coshocton OH
8. 2.3 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07881/07060
2. 34-121-21878-0014
3. 108-000-000
4. Oxford Oil Co
5. Big C Ranch #1
6.
7. Noble OH
8. 10.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Trans Corp
1. 80-07882/07061
2. 34-075-21968-0014
3. 108-000-000
4. Oxford Oil Co
5. Richard UHL #1
6.
7. Holmes OH
8. 17.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Trans Corp

1. 80-07883/07124
2. 34-119-21580-0014
3. 108-000-000
4. Agnes Beisser Gas & Oil
5. Beisser Downing #1
6.
7. Muskingum OH
8. .5 million cubic feet
9. November 27, 1979
10. Columbia Gas Trans Corp
1. 80-07884/07125
2. 34-119-21590-0014
3. 108-000-000
4. Agnes Beisser Gas & Oil
5. Beisser Downing #2
6.
7. Muskingum OH
8. .5 million cubic feet
9. November 27, 1979
10. Columbia Gas Trans Corp
1. 80-07885/07126
2. 34-119-21248-0014
3. 108-000-000
4. Agnes Beisser Gas & Oil
5. Ray Smith #1
6.
7. Muskingum OH
8. 1.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Trans Corp
1. 80-07886/07205
2. 34-155-21126-0014
3. 102-000-000
4. Ohio Oil and Gas
5. Cadonic #1
6.
7. Trumbull OH
8. 25.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07887/07206
2. 34-155-21203-0014
3. 102-000-000
4. Ohio Oil and Gas
5. Gosnell #1
6.
7. Trumbull OH
8. 25.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07888/07207
2. 34-155-20984-0014
3. 102-000-000
4. Ohio Oil and Gas
5. Cleland #1
6.
7. Trumbull OH
8. 25.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07889/07208
2. 34-155-21209-0014
3. 102-000-000
4. Ohio Oil and Gas
5. Stein #1
6.
7. Trumbull OH
8. 25.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07890/07209
2. 34-155-21252-0014
3. 102-000-000
4. Ohio Oil and Gas
5. Tatum #1
6.
7. Trumbull OH
8. 25.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07891/07210
2. 34-155-21207-0014
3. 102-000-000
4. Ohio Oil and Gas
5. Kinleyside #1
6.
7. Trumbull OH
8. 25.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07892/07206
2. 34-115-21391-0014
3. 108-000-000
4. Ohio Production Corp
5. Leslie Stephenson No 2
6.
7. Morgan OH
8. 15.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp Ford Motor Co
1. 80-07893/07278
2. 34-155-21387-0014
3. 108-000-000
4. Ohio Production Corp
5. Reed-Richey Unit #1
6.
7. Morgan OH
8. 15.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp Ford Motor Co
1. 80-07894/07279
2. 34-155-21516-0014
3. 108-000-000
4. Ohio Production Corp
5. Bessie Simmons No 1
6.
7. Morgan OH
8. 4.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp Ford Motor Co
1. 80-07895/07404
2. 34-169-00072-0014
3. 108-000-000
4. Florence Hochberg
5. Yannayon #1
6.
7. Wayne OH
8. 8.2 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07896/07521
2. 34-155-21258-0014
3. 102-000-000
4. Ohio Oil and Gas
5. Schultz #1
6.
7. Trumbull OH
8. 20.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07897/07522
2. 34-155-21118-0014
3. 102-000-000
4. Ohio Oil and Gas
5. Dahman #2
6.
7. Trumbull OH
8. 25.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07898/07523
2. 34-155-21123-0014
3. 102-000-000
4. Ohio Oil and Gas
5. Dahman #3
6.
7. Trumbull OH
8. 20.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07899/07524
2. 34-155-21254-0014
3. 102-000-000
4. Ohio Oil and Gas
5. Bierworth #1
6.
7. Trumbull OH
8. 20.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07900/07525
2. 34-155-21257-0014
3. 102-000-000
4. Ohio Oil and Gas
5. Summers #1
6.
7. Trumbull OH
8. 20.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07901/07526
2. 34-155-21302-0014
3. 102-000-000
4. Ohio Oil and Gas
5. Brobst #1
6.
7. Trumbull OH
8. 20.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07902/07527
2. 34-155-21205-0014
3. 102-000-000
4. Ohio Oil and Gas
5. Vargo #1
6.
7. Trumbull OH
8. 20.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07903/07528
2. 34-155-21210-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Summers 3-A
6.
7. Trumbull OH
8. 25.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07904/07529
2. 34-155-21134-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Brown #1
6.
7. Trumbull OH
8. 25.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp

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1. 80-07905/07530
2. 34-155-21208-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Scheidegger #3-A
6.
7. Trumbull OH
8. 20.0 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07906/07545
2. 34-019-20981-0014
3. 108 000 000
4. L&M Exploration Inc
5. Carlisle #1
6.
7. Carroll OH
8. .5 million cubic feet
9. November 27, 1979
10. Bonanza Gas Line
1. 80-07907/07546
2. 34-019-20959-0014
3. 108 000 000
4. L&M Exploration
5. Hollyfield #1
6.
7. Carroll OH
8. 1.5 million cubic feet
9. November 27, 1979
10. Bonanza Gas Line
1. 80-07908/07548
2. 34-119-22400-0014
3. 108 000 000
4. L&M Exploration Inc
5. Strickler #1
6.
7. Mushingum OH
8. 13.1 million cubic feet
9. November 27, 1979
10. Columbia Gas Trans Corp
1. 80-07909/07549
2. 34-059-20987-0014
3. 108 000 000
4. L&M Exploration Inc
5. Miketo #1
6.
7. Guernsey OH
8. 11.3 million cubic feet
9. November 27, 1979
10. Columbia Gas Trans Corp
1. 80-07910/07588
2. 34-157-22265-0014
3. 108 000 000
4. Resource Exploration Inc
5. Harper #2
6.
7. Tuscarawas OH
8. 6.2 million cubic feet
9. November 27, 1979
10. East Ohio Gas Company
1. 80-07911/07589
2. 34-055-20152-0014
3. 108 000 000
4. Resource Exploration Inc
5. Miller #6
6.
7. Geauga OH
8. 3.5 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07912/07590
2. 34-055-20228-0014
3. 108 000 000
4. Resource Exploration Inc
5. Ciofani #1
6.
7. Geauga OH
8. 3.5 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07913/07591
2. 34-055-20135-0014
3. 108 000 000
4. Resource Exploration Inc
5. Byler #2
6.
7. Geauga OH
8. 3.5 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07914/07592
2. 34-055-20133-0014
3. 108 000 000
4. Resource Exploration Inc
5. Fisher #1
6.
7. Geauga OH
8. 3.5 million cubic feet
9. November 27, 1979
10. Columbia Gas Transmission Corp
1. 80-07915/07593
2. 34-067-20144-0014
3. 108 000 000
4. Resource Exploration Inc
5. S F Craft #2
6.
7. Harrison OH
8. 2.6 million cubic feet
9. November 27, 1979
10. American Energy
1. 80-07916/07594
2. 34-157-21120-0014
3. 108 000 000
4. Resource Exploration Inc
5. Reichman #1
6.
7. Tuscarawas OH
8. 5.1 million cubic feet
9. November 27, 1979
10. American Energy
1. 80-07917/07595
2. 34-157-21330-0014
3. 108 000 000
4. Resource Exploration Inc
5. Schmuacher #1
6.
7. Tuscarawas OH
8. 6.0 million cubic feet
9. November 27, 1979
10. American Energy
1. 80-07918/07596
2. 34-157-21499-0014
3. 108 000 000
4. Resource Exploration Inc
5. Wenger #1
6.
7. Tuscarawas OH
8. 4.0 million cubic feet
9. November 27, 1979
10. American Energy
1. 80-07919/07597
2. 34-067-20145-0014
3. 108 000 000
4. Resource Exploration Inc
5. Rutledge #2
6.
7. Harrison OH
8. 1.0 million cubic feet
9. November 27, 1979
10. American Energy
1. 80-07920/07598
2. 34-067-20139-0014
3. 108 000 000
4. Resource Exploration Inc
5. M Stewart #1
6.
7. Harrison OH
8. 2.0 million cubic feet
9. November 27, 1979
10. American Energy
1. 80-07921/07599
2. 34-067-20143-0014
3. 108 000 000
4. Resource Exploration Inc
5. Brown #1
6.
7. Harrison OH
8. 3.0 million cubic feet
9. November 27, 1979
10. American Energy
1. 80-07922/07600
2. 34-067-20136-0014
3. 108 000 000
4. Resource Exploration Inc
5. Ernest Reed #1
6.
7. Harrison OH
8. 2.0 million cubic feet
9. November 27, 1979
10. American Energy
1. 80-07923/07601
2. 34-067-20135-0014
3. 108 000 000
4. Resource Exploration Inc
5. Kildow #1
6.
7. Harrison OH
8. 2.0 million cubic feet
9. November 27, 1979
10. American Energy
1. 80-04237/01770 (REVISED)
2. 34-151-22363-0014
3. 108
4. Nucorp Energy Co
5. Weaver Well #1
6.
7. Stark OH
8. 11.4 million cubic feet
9. October 26, 1979
10. Columbia Gas Co

Oklahoma Corporation Commission

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-08005/00254
2. 35-061-20231-0000
3. 102 103 000
4. Samson Resources Company
5. Lackey Unit No. 1
6. Quinton
7. Haskell OK
8. 500.0 million cubic feet
9. November 28, 1979
10. Arkansas Louisiana Gas Co
1. 80-08006/00204
2. 35-121-20570-0000
3. 102 103 000
4. Samson Resources Company

5. Bobo Unit No. 1
6. Wilburton
7. Pittsburg OK
8. 408.0 million cubic feet
9. November 28, 1979
10. Arkansas Louisiana Gas Co
1. 80-05546/00205 (revised)
2. 35-077-20159-0000
3. 102 103
4. Samson Resources Company
5. Kent Unit No. 1
6. West Wilburton
7. Latimer OK
8. 290.0 million cubic feet
9. November 7, 1979
10. Arkansas Louisiana Gas Co
1. 80-06480/00902 (revised)
2. 35-151-20652-0000
3. 103 *denied*
4. Texas Oil & Gas Corp
5. Kellan A No. 1
6. S Waynoka
7. Woods OK
8. 304.0 million cubic feet
9. November 15, 1979
10.

Texas Railroad Commission, Oil and Gas Division

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-08116/04788
2. 42-233-00000-0000
3. 108 000 000
4. North Star Petroleum Corporation
5. H W Carver B-11 (23813)
6. West Panhandle
7. Hutchinson TX
8. 19.6 million cubic feet
9. November 29, 1979
10. Panhandle Producing Co et al
1. 80-08117/04858
2. 42-233-30242-0000
3. 108 000 000
4. Alpar Resources Inc
5. Kay #2
6. Bar Nine
7. Hutchinson TX
8. 10.0 million cubic feet
9. November 29, 1979
10. Getty Oil Company
1. 80-08118/04951
2. 42-215-00000-0000
3. 108 000 000
4. Clark fuel Producing Co
5. F B Guerra No 1 I D 50683
6. Sam Fordyce (2500)
7. Hidalgo/Starr TX
8. 15.0 million cubic feet
9. November 29, 1979
10. South Texas Natural Gas Gath Co
1. 80-08119/02510
2. 42-087-26109-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Hobbs 1
6. Panhandle East
7. Collingsworth TX
8. 11.0 million cubic feet
9. November 29, 1979
10. El Paso Natural Gas Company
1. 80-08120/02511
2. 42-087-25983-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Aldous H #1
6. Panhandle East
7. Collingsworth TX
8. 3.1 million cubic feet
9. November 29, 1979
10. El Paso Natural Gas Company
1. 80-08121/02512
2. 42-087-26115-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Huffine 1
6. Panhandle East
7. Collingsworth TX
8. 19.7 million cubic feet
9. November 29, 1979
10. El Paso Natural Gas Company
1. 80-08122/02513
2. 42-483-26304-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Williams D 4
6. Panhandle East
7. Wheeler TX
8. 4.5 million cubic feet
9. November 29, 1979
10. El Paso Natural Gas Company
1. 80-08123/02514
2. 42-087-26099-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Hall F 4
6. Panhandle East
7. Collingsworth TX
8. 7.5 million cubic feet
9. November 29, 1979
10. El Paso Natural Gas Company
1. 80-08124/02232
2. 42-195-00000-0000
3. 108 000 000
4. Patrick & Vaughn
5. H L Wilbanks No. 1 ID #28225
6. Hansford (Morrow Upper)
7. Hansford TX
8. 14.0 million cubic feet
9. November 29, 1979
10. Northern Natural Gas Co
1. 80-08125/02505
2. 42-087-26098-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Hall E 1
6. Panhandle East
7. Collingsworth TX
8. 10.1 million cubic feet
9. November 29, 1979
10. El Paso Natural Gas Company
1. 80-08126/02506
2. 42-087-25296-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Williams B #2
6. Panhandle East
7. Collingsworth TX
8. 13.7 million cubic feet
9. November 29, 1979
10. El Paso Natural Gas Company
1. 80-08127/02508
2. 42-087-26310-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Willoughby #2
6. Panhandle East
7. Collingsworth TX
8. 10.7 million cubic feet
9. November 29, 1979
10. El Paso Natural Gas Company
1. 80-08128/02509
2. 42-087-26300-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Williams C #2
6. Panhandle East
7. Collingsworth TX
8. 14.1 million cubic feet
9. November 29, 1979
10. El Paso Natural Gas Company
1. 80-08129/02471
2. 42-087-25313-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Wischkaemper 2
6. Panhandle East
7. Collingsworth TX
8. 13.0 million cubic feet
9. November 29, 1979
10. El Paso Natural Gas Company
1. 80-08130/02472
2. 42-087-26193-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Morgan B 1
6. Panhandle East
7. Collingsworth TX
8. 2.3 million cubic feet
9. November 29, 1979
10. El Paso Natural Gas Company
1. 80-08131/02501
2. 42-087-26020-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Bergman #4
6. Panhandle East
7. Collingsworth TX
8. 5.3 million cubic feet
9. November 29, 1979
10. El Paso Natural Gas Company
1. 80-08132/02502
2. 42-087-26254-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Schoonover 3
6. Panhandle East
7. Collingsworth TX
8. 6.6 million cubic feet
9. November 29, 1979
10. El Paso Natural Gas Company
1. 80-08133/05478
2. 42-341-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Brumley-Sunset No 1
6. Panhandle West
7. Moore TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Northern Natural Gas Co
Panhandle Eastern Pipeline Co
1. 80-08134/05471
2. 42-357-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. W C Herndon No 1

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6. Farnsworth
7. Ochiltree TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Southwestern Public Service Co
1. 80-06135/05468
2. 42-341-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Huff No 2
6. Panhandle West
7. Moore TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Panhandle Eastern Pipeline Co., Northern Natural Gas Co
1. 80-06136/05466
2. 42-211-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. J D Immel A No 1-14
6. Feldman North
7. Hemphill TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Panhandle Eastern Pipe Line Co
1. 80-06137/05458
2. 42-421-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Bradley No 1
6. Texas Hugoton
7. Sherman TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Northern Natural Gas Co
1. 80-06138/05457
2. 42-421-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Price D No 30
6. Texas Hugoton
7. Sherman TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Panhandle Eastern Pipe Line Co
1. 80-06139/04960
2. 42-421-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Fisher No 1
6. Texas Hugoton
7. Sherman TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Northern Natural Gas Co
1. 80-06140/04961
2. 42-421-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Cameron Walls No 1
6. Texas Hugoton
7. Sherman TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Northern Natural Gas Co
1. 80-06141/04990
2. 42-357-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Carl Ellis et al B No 1
6. Ellis Ranch
7. Ochiltree TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Natural Gas P/L Co of America
1. 80-06142/05020
2. 42-421-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Hill Estate B No 1
6. Texas Hugoton
7. Sherman TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Northern Natural Gas Co
1. 80-06143/05123
2. 42-235-00000-0000
3. 108 000 000
4. Getty Oil Company
5. Winterbotham D No 1
6. Dove Creek
7. Irion TX
8. 7.0 million cubic feet
9. November 29, 1979
10. CRA Inc., Atlantic Richfield Co
1. 80-06144/05239
2. 42-195-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. A P Spicer No 1
6. Twin
7. Hansford TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Northern Natural Gas Co
1. 80-06145/05306
2. 42-421-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Paulsen No 1
6. Texas Hugoton
7. Sherman TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Northern Natural Gas Co
1. 80-06146/05280
2. 42-421-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Price B No 1
6. Texas Hugoton
7. Sherman TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Panhandle Eastern Pipe Line Co
1. 80-06147/05436
2. 42-421-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Lowe No 1
6. Texas Hugoton
7. Sherman TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Northern Natural Gas Co
1. 80-06148/05437
2. 42-233-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Lucas No 4
6. Panhandle West
7. Hutchinson TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Northern Natural Gas Co Panhandle Eastern Pipeline Co
1. 80-06149/05442
2. 42-357-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Daniel E Kunkel No 1
6. Ellis Ranch
7. Ochiltree TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Natural Gas P/L Co of America
1. 80-06150/05459
2. 42-357-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Lydia M Wheeler No 1
6. Ellis Ranch
7. Ochiltree TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Natural Gas P/L Co of America
1. 80-06151/05463
2. 42-211-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Mae E Yokley No 1-92
6. Canadian Northwest
7. Memphill TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Northern Natural Gas Co
1. 80-06152/05464
2. 42-211-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp 11256. Mae E Yokley No 1-92
6. Canadian Northwest
7. Hemphill TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Northern Natural Gas Co.
1. 80-06153/05480
2. 42-295-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Lutie W Gex No 1-875
6. Mammoth Creek
7. Lipscomb TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Southwestern Public Service Co
1. 80-06154/05481
2. 42-357-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Crist Pshigoda Trustee No 1-A
6. Ellis Ranch
7. Ochiltree TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Natural Gas P/L Co of America
1. 80-06155/05482
2. 42-421-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Safranko No 1
6. Texas Hugoton
7. Sherman TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Northern Natural Gas Co
1. 80-06156/05483
2. 42-211-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Frass No. 2-100
6. Canadian NW
7. Hemphill TX

8. 8.0 million cubic feet
9. November 29, 1979
10. Northern Natural Gas Co
1. 80-06157/05485
2. 42-341-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Brown No. 5
6. Panhandle West
7. Moore TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Northern Natural Gas Co
1. 80-06158/05489
2. 42-341-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Anderson No 1
6. Panhandle West
7. Moore TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Northern Natural Gas Co Panhandle Eastern Pipeline Co
1. 80-06159/05493
2. 42-421-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Price D No 13
6. Texas Hugoton
7. Sherman TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Northern Natural Gas Co
1. 80-06160/04749
2. 42-371-00000-0000
3. 108 000 000
4. Alexander G Kaspar
5. M J OSullivan et al #1 54190
6. Wilbros (Queen)
7. Pecos TX
8. 12.0 million cubic feet
9. November 29, 1979
10. Phillips Petroleum Company
1. 80-06161/04786
2. 42-233-00000-0000
3. 108 000 000
4. North Star Petroleum Corp
5. Herring A A-7 (23817)
6. West Panhandle
7. Hutchinson TX
8. 18.7 million cubic feet
9. November 29, 1979
10. Panhandle Producing Co et al
1. 80-06162/04787
2. 42-233-00000-0000
3. 108 000 000
4. North Star Petroleum Corp
5. Yake A-2 (23820)
6. West Panhandle
7. Hutchinson TX
8. 12.2 million cubic feet
9. November 29, 1979
10. Panhandle Producing Co et al
1. 80-06163/05456
2. 42-421-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Tinthoff No 1
6. Texas Hugoton
7. Sherman TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Northern Natural Gas Co
1. 80-06164/05455
2. 42-295-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Lutie W Gex No 1-963
6. Mammoth Creek
7. Lipscomb TX
8. 8.0 million cubic feet
9. November 29, 1979
10. Southwestern Public Service Co

Utah Division of Oil, Gas and Mining

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 80-08007/K-107-8
2. 43-043-30068-0000
3. 102 000 000
4. American Quasar Petroleum Co
5. UPRR 3-8
6. 1500 FNL and 200 FWL (NW NW)
7. Summit, UT
8. 180.0 million cubic feet
9. November 26, 1979
10. Mountain Fuel Supply Co

West Virginia Department of Mines, Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 80-07924
2. 47-085-03612-0000
3. 108 000 000
4. Dennis D Blauser
5. Denley Sheets #1
6. Union
7. Ritchie, WV
8. 1.5 million cubic feet
9. November 28, 1979
10. Carnegie Natural Gas Company
1. 80-07925
2. 47-085-03617-0000
3. 108 000 000
4. Dennis D Blauser
5. Steven Butler #1
6. Union
7. Ritchie, WV
8. 1.5 million cubic feet
9. November 28, 1979
10. Carnegie Natural Gas Company
1. 80-07926
2. 47-0021-02483-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Conrad #2
6. Glenville
7. Gilmer, WV
8. 3.0 million cubic feet
9. November 28, 1979
10. Columbia Gas Transmission Corp
1. 80-07927
2. 47-007-06530-0000
3. 108 000 000
4. Dennis D Blauser
5. C C Davis Hrs #1
6. Saltlick
7. Braxton, WV
8. 2.5 million cubic feet
9. November 28, 1979
10. Equitable Gas Company
1. 80-07928
2. 47-007-06530-0000
3. 108 000 000
4. Dennis D Blauser
5. J F Stout #1
6. Saltlick
7. Braxton, WV
8. 1.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Company
1. 80-07929
2. 47-007-06430-0000
3. 108 000 000
4. Dennis D Blauser
5. J J Morris #2
6. Saltlick
7. Braxton, WV
8. 3.0 million cubic feet
9. November 28, 1979
10. Consolidated Gas Corporation
1. 80-07930
2. 47-057-01776-0000
3. 100 000 000
4. NRM Petroleum Corporation
5. Shomo Enterprises #1
6. Frog Run
7. Upshur, WV
8. 14.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Company
1. 80-07931
2. 47-079-00766-0000
3. 100 000 000
4. NRM Petroleum Corporation
5. Long—Foreman
6. Scott
7. Putnam, WV
8. 1.0 million cubic feet
9. November 28, 1979
10. Teavee Oil and Gas Company
1. 80-07932
2. 47-085-03614-0000
3. 108 000 000
4. Dennis D Blauser
5. Hobart Smith 1A
6. Union
7. Ritchie, WV
8. 1.5 million cubic feet
9. November 28, 1979
10. Carnegie Natural Gas Company
1. 80-07933
2. 47-041-01619-0000
3. 108 000 000
4. Dennis D Blauser
5. A W Reed #2
6. Courthouse
7. Lewis, WV
8. 7.0 million cubic feet
9. November 28, 1979
10. Consolidated Gas Corporation
1. 80-07934
2. 47-085-03598-0000
3. 108 000 000
4. Dennis D Blauser
5. Hobart Smith #
6. Union

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7. Ritchie, WV
8. 1.5 million cubic feet
9. November 28, 1979
10. Carnegie Natural Gas Company

1. 80-07935
2. 47-067-03780-0000
3. 108 000 000
4. Dennis D Blauser
5. Erctl #10
6. Summersville
7. Nicholas, WV
8. 5.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Company

1. 80-07936
2. 47-021-02326-0000
3. 108 000 000
4. Dennis D Blauser
5. P W Bartlett #1
6. Dekalb
7. Gilmer, WV
8. 3.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Company

1. 80-07937
2. 47-021-02325-0000
3. 108 000 000
4. Dennis D Blauser
5. H H Gainer #1
6. Kekalb
7. Gilmer, WV
8. 7.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Company

1. 80-07938
2. 47-021-02323-0000
3. 108 000 000
4. Dennis D Blauser
5. QK Kelly #1
6. Dekalb
7. Gilmer, WV
8. 8.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Company

1. 80-07939
2. 47-021-02312-0000
3. 108 000 000
4. Dennis D Blauser
5. Gainer Interprises #1
6. Dekalb
7. Gilmer, WV
8. 10.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Company

1. 80-07940
2. 47-021-02282-0000
3. 108 000 000
4. Dennis D Blauser
5. S W Vannoy #4
6. Dekalb
7. Gilmer, WV
8. 10.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Co

1. 80-07941
2. 47-021-02281-0000
3. 108 000 000
4. Dennis D Blauser
5. J W Vannoy #3
6. Dekalb
7. Gilmer, WV
8. 10.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Co

1. 80-07942
2. 47-021-02280-0000
3. 108 000 000
4. Dennis D Blauser
5. L B Hickman #1
6. Dekalb
7. Gilmer, WV
8. 6.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Co

1. 80-07943
2. 47-021-01916-0000
3. 108 000 000
4. Dennis D. Blauser
5. Doy Langford or James Keith #2
6. Glenville
7. Gilmer WV
8. 2.0 million cubic feet
9. November 28, 1979
10. Carnegie Natural Gas Company

1. 80-07944
2. 47-021-01893-0000
3. 108 000 000
4. Dennis D. Blauser
5. O B Summers #1
6. Glenville
7. Gilmer WV
8. 3.0 million cubic feet
9. November 28, 1979
10. Carnegie Natural Gas Company

1. 80-07945
2. 47-021-01809-0000
3. 108 000 000
4. Dennis D. Blauser
5. J J Morris #1
6. Glenville
7. Gilmer WV
8. 5.0 million cubic feet
9. November 28, 1979
10. Consolidated Gas Corporation

1. 80-07946
2. 47-021-01784-0000
3. 108 000 000
4. Dennis D. Blauser
5. E S Williams #2
6. Glenville
7. Gilmer WV
8. 2.0 million cubic feet
9. November 28, 1979
10. Consolidated Gas Corporation

1. 80-07947
2. 47-021-01397-0000
3. 108 000 000
4. Dennis D. Blauser
5. Alfred Hess #1
6. Glenville
7. Gilmer WV
8. 1.5 million cubic feet
9. November 28, 1979
10. Carnegie Natural Gas Company

1. 80-07948
2. 47-015-00928-0000
3. 108 000 000
4. Dennis D. Blauser
5. Elk River C & L #1
6. Buffalo
7. Clay WV
8. 2.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Company

1. 80-07949
2. 47-007-01139-0000
3. 108 000 000
4. Dennis D. Blauser
5. G B Howell #1
6. Birch
7. Braxton WV
8. 2.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Company

1. 80-07950
2. 47-007-00919-0000
3. 108 000 000
4. Dennis D. Blauser
5. Robert Bragg #1
6. Saltlick
7. Braxton WV
8. 1.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Company

1. 80-07951
2. 47-007-00893-0000
3. 108 000 000
4. Dennis D. Blauser
5. A W Carter #1
6. Saltlick
7. Braxton WV
8. 3.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Company

1. 80-07952
2. 47-021-02454-0000
3. 108 000 000
4. Dennis D. Blauser
5. Cunningham Hardman #2
6. Dekalb
7. Gilmer WV
8. 1.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Company

1. 80-07953
2. 47-021-02448-0000
3. 108 000 000
4. Dennis D. Blauser
5. Gainer Interprises #2
6. Dekalb
7. Gilmer WV
8. 4.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Company

1. 80-07954
2. 47-021-02447-0000
3. 108 000 000
4. Dennis D. Blauser
5. H H Haney #1
6. Dekalb
7. Gilmer WV
8. 6.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Company

1. 80-07955
2. 47-021-02446-0000
3. 108 000 000
4. Dennis D. Blauser
5. Davidson Hardman #1
6. Dekalb
7. Gilmer WV
8. 1.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Company

1. 80-07956
2. 47-021-02443-0000
3. 108 000 000
4. Dennis D. Blauser
5. H D Woofter #1
6. Dekalb
7. Gilmer WV
8. 4.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Company

1. 80-07957

2. 47-021-02408-0000
3. 108 000 000
4. Dennis D. Blauser
5. O C Davis #1
6. Dekalb
7. Gilmer WV
8. 7.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Company

1. 80-07958
2. 47-021-02383-0000
3. 108 000 000
4. Dennis D. Blauser
5. Cunningham-Hardman #1
6. Dekalb
7. Gilmer WV
8. 3.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Company

1. 80-07959
2. 47-021-02363-0000
3. 108 000 000
4. Dennis D. Blauser
5. R F Woodford #1
6. Dekalb
7. Gilmer WV
8. 2.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Company

1. 80-07960
2. 47-021-02332-0000
3. 108 000 000
4. Dennis D. Blauser
5. C F Stalmaker #1
6. Dekalb
7. Gilmer WV
8. 3.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Company

1. 80-07961
2. 47-085-01707-0000
3. 108 000 000
4. Vesta Fuel Company
5. Vesta Fuel Company Well No 1
6. Union District
7. Ritchie WV
8. 1.2 million cubic feet
9. November 28, 1979
10. Carnegie Natural Gas Company

1. 80-07962
2. 47-021-02339-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Cottrill #3
6. Glenville
7. Gilmer WV
8. .8 million cubic feet
9. November 28, 1979
10. Columbia Gas Transmission Corp

1. 80-07963
2. 47-021-02369-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Lynch #1
6. Glenville
7. Gilmer WV
8. 3.0 million cubic feet
9. November 28, 1979
10. Columbia Gas Transmission Corp

1. 80-07964
2. 47-021-02377-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Coberly #1
6. Glenville
7. Gilmer WV
8. 1.0 million cubic feet
9. November 28, 1979
10. Columbia Gas Transmission Corp

1. 80-07965
2. 47-021-02380-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Wright #1
6. Glenville
7. Gilmer WV
8. 6.0 million cubic feet
9. November 28, 1979
10. Columbia Gas Transmission Corp

1. 80-07966
2. 47-021-02390-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Wright #2
6. Glenville
7. Gilmer WV
8. 6.0 million cubic feet
9. November 28, 1979
10. Columbia Gas Transmission Corp

1. 80-07967
2. 47-021-02476-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Conrad #1
6. Glenville
7. Gilmer WV
8. 3.0 million cubic feet
9. November 28, 1979
10. Columbia Gas Transmission Corp

1. 80-07968
2. 47-021-02482-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Floyd #1
6. Glenville
7. Gilmer WV
8. 3.0 million cubic feet
9. November 28, 1979
10. Columbia Gas Transmission Corp

1. 80-07969
2. 47-085-01718-0000
3. 108 000 000
4. Vesta Fuel Company
5. Vesta Fuel Co No 2
6. Union District
7. Ritchie WV
8. 4.0 million cubic feet
9. November 28, 1979
10. Carnegie Natural Gas Company

1. 80-07970
2. 47-085-01813-0000
3. 108 000 000
4. Vesta Fuel Company
5. Vesta Fuel Co No 5
6. Union District
7. Ritchie WV
8. 1.5 million cubic feet
9. November 28, 1979
10. Consolidated Gas Supply Corp

1. 80-07971
2. 47-085-01856-0000
3. 108 000 000
4. Vesta Fuel Company
5. Vesta Fuel Co No 6
6. Union District
7. Ritchie WV
8. 1.5 million cubic feet
9. November 28, 1979
10. Consolidated Gas Supply Corp

1. 80-07972
2. 47-085-01976-0000
3. 108 000 000
4. Vesta Fuel Company
5. Vesta Fuel Co No 8
6. Union District
7. Ritchie WV
8. .0 million cubic feet
9. November 28, 1979
10. Consolidated Gas Supply Corp

1. 80-07973
2. 47-085-02073-0000
3. 108 000 000
4. Vesta Fuel Company
5. Vesta Fuel Co No 9
7. Union District
7. Ritchie, WV
8. 5.5 million cubic feet
9. November 28, 1979
10. Consolidated Gas Supply Corporation

1. 80-07974
2. 47-085-02362-0000
3. 108 000 000
4. Vesta Fuel Company
5. Vesta Fuel Co No 13
6. Union District
7. Ritchie, WV
8. 6.0 million cubic feet
9. November 28, 1979
10. Consolidated Gas Supply Corporation

1. 80-07975
2. 47-085-02580-0000
3. 108 000 000
4. Vesta Fuel Company
5. Vesta Fuel Co No 14
6. Murphy District
7. Ritchie, WV
8. .0 million cubic feet
9. November 28, 1979
10. Consolidated Gas Supply Corporation

1. 80-07976
2. 47-021-02316-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. R B Reed #1
6. Glenville
7. Gilmer, WV
8. 5.0 million cubic feet
9. November 28, 1979
10. Columbia Gas Transmission Corp

1. 80-07977
2. 47-021-02330-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Cottrill #2
6. Glenville
7. Gilmer, WV
8. 1.0 million cubic feet
9. November 28, 1979
10. Columbia Gas Transmission Corp

1. 80-07978
2. 47-021-02489-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Floyd #2
6. Glenville
7. Gilmer, WV
8. 3.0 million cubic feet
9. November 28, 1979
10. Columbia Gas Transmission Corp

1. 80-07979
2. 47-021-02491-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Floyd #3
6. Glenville

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7. Gilmer, WV
8. 3.0 million cubic feet
9. November 28, 1979
10. Columbia Gas Transmission Corp
1. 80-07980
2. 47-021-02493-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Floyd #4
6. Glenville
7. Gilmer, WV
8. 3.0 million cubic feet
9. November 28, 1979
10. Columbia Gas Transmission Corp
1. 80-07981
2. 47-021-02543-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Yerkey #1
6. Glenville
7. Gilmer, WV
8. 6.0 million cubic feet
9. November 28, 1979
10. Columbia Gas Transmission Corp
1. 80-07982
2. 47-021-02545-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Wilfong #1
6. Glenville
7. Gilmer, WV
8. 3.0 million cubic feet
9. November 28, 1979
10. Columbia Gas Transmission Corp
1. 80-07983
2. 47-021-02676-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. L Moss #1
6. Center
7. Gilmer, WV
8. 2.0 million cubic feet
9. November 28, 1979
10. Columbia Gas Transmission Corp
1. 80-07984
2. 47-021-02720-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Barker #1
6. Glenville
7. Gilmer, WV
8. 18.0 million cubic feet
9. November 28, 1979
10. Consolidated Gas Supply Corp
1. 80-07985
2. 47-021-02722-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Barker #2
6. Glenville
7. Gilmer, WV
8. 8.0 million cubic feet
9. November 28, 1979
10. Consolidated Gas Supply Co
1. 80-07986
2. 47-041-01838-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Smith #3
6. Freemans Creek
7. Lewis, WV
8. 6.0 million cubic feet
9. November 28, 1979
10. Consolidated Gas Supply Corp
1. 80-07987
2. 47-041-01839-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Hudkins #3
6. Freemans Creek
7. Lewis, WV
8. 11.0 million cubic feet
9. November 28, 1979
10. Consolidated Gas Supply Corp
1. 80-07988
2. 47-041-01840-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Randolph #1
6. Freemans Creek
7. Lewis, WV
8. 15.0 million cubic feet
9. November 28, 1979
10. Consolidated Gas Supply Corp
1. 80-07989
2. 47-041-01841-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Springston #2
6. Freemans Creek
7. Lewis, WV
8. 16.0 million cubic feet
9. November 28, 1979
10. Consolidated Gas Supply Corp
1. 80-07990
2. 47-041-01844-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Bennett #1
6. Freemans Creek
7. Lewis, WV
8. 4.0 million cubic feet
9. November 28, 1979
10. Consolidated Gas Supply Corp
1. 80-07991
2. 47-041-01861-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Edwards #2
6. Courthouse
7. Lewis, WV
8. 2.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Company
1. 80-07992
2. 47-045-00927-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Napier #1
6. Guyan
7. Logan, WV
8. 5.0 million cubic feet
9. November 28, 1979
10. Columbia Gas Transmission Corp
1. 80-07993
2. 47-079-00767-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Johnston-Berry
6. Cow Creek
7. Putnam, WV
8. 14.0 million cubic feet
9. November 28, 1979
10. Teavee Oil and Gas Co
1. 80-07994
2. 47-041-01834-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Hudkins #1
6. Freemans Creek
7. Lewis, WV
8. 20.0 million cubic feet
9. November 28, 1979
10. Consolidated Gas Supply Corp
1. 80-07995
2. 47-041-01837-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Smith #2
6. Freemans Creek
7. Lewis, WV
8. 6.0 million cubic feet
9. November 28, 1979
10. Consolidated Gas Supply Corp
1. 80-07996
2. 47-041-18330-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. L Hall #1
6. Freemans Creek
7. Lewis, WV
8. 9.0 million cubic feet
9. November 28, 1979
10. Consolidated Gas Supply Corp
1. 80-07997
2. 47-021-02763-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. A S Reed #1
6. Center
7. Gilmer, WV
8. 13.0 million cubic feet
9. November 28, 1979
10. Columbia Gas Trans Corp
1. 80-07998
2. 47-021-02922-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. J S Barker #1-A
6. Tomblyn Run
7. Gilmer, WV
8. 16.0 million cubic feet
9. November 28, 1979
10. Consolidated Gas Supply
1. 80-07999
2. 47-033-00557-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Swisher #2
6. Elk
7. Harrison, WV
8. 11.0 million cubic feet
9. November 28, 1979
10. Consolidated Gas Supply Corp
1. 80-08000
2. 47-041-01800-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Dean #1
6. Freemans Creek
7. Lewis, WV
8. 12.0 million cubic feet
9. November 28, 1979
10. Consolidated Gas Supply Corp
1. 80-08001
2. 47-041-01815-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Edwards #1
6. Courthouse
7. Lewis, WV
8. 14.0 million cubic feet
9. November 28, 1979
10. Equitable Gas Company
1. 80-08002

2. 47-041-01829-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Smith #1
6. Freemans Creek
7. Lewis, WV
8. 12.0 million cubic feet
9. November 28, 1979
10. Consolidated Gas Supply Corp
1. 80-08003
2. 47-041-01830-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Hudkins #2
6. Freemans Creek
7. Lewis, WV
8. 4.0 million cubic feet
9. November 28, 1979
10. Consolidated Gas Supply Corp
1. 80-08004
2. 47-041-01832-0000
3. 108 000 000
4. NRM Petroleum Corporation
5. Springston #1
6. Freemans Creek
7. Lewis, WV
8. 15.0 million cubic feet
9. November 28, 1979
10. Consolidated Gas Supply Corp
1. 80-08018
2. 47-021-01684-0000
3. 108 000 000
4. Cecil Pruitt Jr
5. Stump #1
6. Glennville
7. Gilmer, WV
8. 5.7 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Company
1. 80-08019
2. 47-085-21550-0000
3. 108 000 000
4. Rock Camp Oil & Gas Company
5. Effie Wilson #2-Rit 1550
6. Pullman
7. Ritchie, WV
8. 1.3 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp
1. 80-08020
2. 47-085-21511-0000
3. 108 000 000
4. Rock Camp Oil & Gas Company
5. Arden Wilson #1-Rit 1511
6. Pullman
7. Ritchie, WV
8. 1.3 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp
1. 80-08021
2. 47-085-21449-0000
3. 108 000 000
4. Rock Camp Oil & Gas Company
5. Ethel M Turner #1-Rit 1449
6. Pullman
7. Ritchie, WV
8. 1.3 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp
1. 80-08022
2. 47-085-21463-0000
3. 108 000 000
4. Rock Camp Oil & Gas Company
5. D C Hutchinson #1-Rit 1463
6. Pullman
7. Ritchie, WV
8. 1.3 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp
1. 80-08023
2. 47-041-01093-0000
3. 108 000 000
4. Cecil Pruitt Jr
5. Rhodes #1
6. Hackers Creek
7. Lewis, WV
8. 13.6 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Company
1. 80-08024
2. 47-017-00715-0000
3. 108 000 000
4. Cecil Pruitt Jr
5. Tower #1
6. Central
7. Doddridge, WV
8. 1.2 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Company
1. 80-08025
2. 47-085-21937-0000
3. 108 000 000
4. Rock Camp Oil & Gas Company
5. D C Hutchinson #2-Rit 1937
6. Pullman
7. Ritchie, WV
8. 1.3 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp
1. 80-08026
2. 47-017-01753-0000
3. 108 000 000
4. Cecil Pruitt Jr
5. Brown #2
6. Central
7. Doddridge, WV
8. 2.3 million cubic feet
9. November 29, 1979
10. Equitable Gas Company
1. 80-08027
2. 47-017-20836-0000
3. 108 000 000
4. Trio Oil & Gas Co Inc
5. C L Pearcy Etal
6.
7. Doddridge, WV
8. 3.0 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Company
1. 80-08028
2. 47-085-21590-0000
3. 108 000 000
4. Rock Camp Oil & Gas Company
5. Ruby Dotson Wilson #2-Rit 1590
6. Pullman
7. Ritchie, WV
8. 1.3 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp
1. 80-08029
2. 47-085-21428-0000
3. 108 000 000
4. Rock Camp Oil & Gas Company
5. Archie Richards #1-Rit 1428
6. Pullman
7. Ritchie, WV
8. 1.3 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp
1. 80-08030
2. 47-085-21419-0000
3. 108 000 000
4. Rock Camp Oil & Gas Company
5. A H Hodge #1-Rit 1419
6. Pullman
7. Ritchie, WV
8. 1.3 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp
1. 80-08031
2. 47-017-21162-0000
3. 108 000 000
4. Trio Oil & Gas Co Inc
5. B C Cox #4
6. New Milton Dist R H Meat House Fork
7. Doddridge, WV
8. 5.0 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp
1. 80-08032
2. 47-017-21399-0000
3. 108 000 000
4. Trio Oil & Gas Co Inc
5. W Osborne #2
6. South West District
7. Doddridge, WV
8. 1.4 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp
1. 80-08033
2. 47-017-20648-0000
3. 108 000 000
4. Trio Oil & Gas Co Inc
5. C Stinespring #1
6. West Union District
7. Doddridge, WV
8. 2.0 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp
1. 80-08034
2. 47-081-00076-0000
3. 108 000 000
4. Big Marsh Oil Co
5. BM-7 900007
6.
7. Raleigh, WV
8. 2.2 million cubic feet
9. November 29, 1979
10. Columbia Gas Transmission Corp
1. 80-08035
2. 47-081-00087-0000
3. 108 000 000
4. Big Marsh Oil Co
5. BM-10 900010
6.
7. Raleigh, WV
8. 10.7 million cubic feet
9. November 29, 1979
10. Columbia Gas Transmission Corp
1. 80-08036
2. 47-081-00093-0000
3. 108 000 000
4. Big Marsh Oil Co
5. BM-11 900011
6.
7. Raleigh, WV
8. 11.1 million cubic feet
9. November 29, 1979
10. Columbia Gas Transmission Corp
1. 80-08037
2. 47-007-00505-0000
3. 108 000 000
4. Eldon J Haught
5. Ida Crutchfield #1
6. Burnsville

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7. Braxton, WV
8. 2.2 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp

1. 80-08038
2. 47-013-01124-0000
3. 108 000 000
4. Grantsville Oil & Gas Co
5. William Shock No. 2
6. Sherman District
7. Calhoun, WV
8. 3.0 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp

1. 80-08039
2. 47-039-01961-0000
3. 108 000 000
4. Kanlin Oil & Gas Co
5. Stella Blount Etal #1
6. Malden
7. Kanawha, WV
8. 5.7 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp

1. 80-08040
2. 47-039-01944-0000
3. 108 000 000
4. Kanlin Oil & Gas Co
5. Alva Hackney #1
6. Malden
7. Kanawha, WV
8. 2.5 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp

1. 80-08041
2. 47-013-01742-0000
3. 108 000 000
4. Grantsville Oil & Gas Co
5. E O Wilson Well #2
6. Sherman
7. Calhoun, WV
8. 4.9 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp

1. 80-08042
2. 47-061-00224-0000
3. 108 000 000
4. Big Marsh Oil Co
5. BM-22
6.
7. Raleigh, WV
8. 12.3 million cubic feet
9. November 29, 1979
10. Columbia Gas Transmission Corp

1. 80-08043
2. 47-061-00102-0000
3. 108 000 000
4. Big Marsh Oil Co
5. BM-12 900012
6.
7. Raleigh, WV
8. 6.5 million cubic feet
9. November 29, 1979
10. Columbia Gas Transmission Corp

1. 80-08044
2. 47-061-00157-0000
3. 108 000 000
4. Big Marsh Oil Co
5. BM-16 6537
6.
7. Raleigh, WV
8. 19.3 million cubic feet
9. November 29, 1979
10. Columbia Gas Transmission Corp

1. 80-08045
2. 47-061-00203-0000
3. 108 000 000
4. Big Marsh Oil Co
5. BM-18
6.
7. Raleigh, WV
8. 2.1 million cubic feet
9. November 29, 1979
10. Columbia Gas Transmission Corp

1. 80-08046
2. 47-061-00207-0000
3. 108 000 000
4. Big Marsh Oil Co
5. BM-20
6.
7. Raleigh WV
8. 18.9 million cubic feet
9. November 29, 1979
10. Columbia Gas Transmission Corp

1. 80-08047
2. 47-061-00214-0000
3. 108 000 000
4. Big Marsh Oil Co
5. BM-21
6.
7. Raleigh WV
8. 18.9 million cubic feet
9. November 29, 1979
10. Columbia Gas Transmission Corp

1. 80-08048
2. 47-061-00231-0000
3. 108 000 000
4. Big Marsh Oil Co
5. BM-23
6.
7. Raleigh WV
8. 10.1 million cubic feet
9. November 29, 1979
10. Columbia Gas Transmission Corp

1. 80-08049
2. 47-017-20626-0000
3. 108 000 000
4. Trio Oil & Gas Co Inc
5. Ben W Kelley
6. Grant District Big Flint Creek
7. Doddridge WV
8. 2.5 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp

1. 80-08050
2. 47-015-00650-0000
3. 108 000 000
4. Reed-Wheeler-Young Oil & Gas Co
5. Goshorn Heirs 18
6. Union District
7. Clay WV
8. 6.0 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp

1. 80-08051
2. 47-015-00990-0000
3. 108 000 000
4. Reed-Wheeler-Young Oil & Gas Co
5. Goshorn Heirs 22
6. Union District
7. Clay WV
8. 6.0 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp

1. 80-08052
2. 47-085-01933-0000
3. 108 000 000
4. Wellings Oil & Gas Co
5. Wellings No. 1
6. Union District
7. Richie WV
8. 1.0 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp

1. 80-08053
2. 47-085-02084-0000
3. 108 000 000
4. Wellings Oil & Gas Co
5. Wellings No. 2
6. Union District
7. Richie WV
8. 1.0 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp

1. 80-08054
2. 47-081-00090-0000
3. 108 000 000
4. Big Marsh Oil Co
5. BM-4 90004
6.
7. Raleigh WV
8. 6.9 million cubic feet
9. November 29, 1979
10. Columbia Gas Transmission Corp

1. 80-08055
2. 47-013-02058-0000
3. 108 000 000
4. Smith Jones & Gibson
5. Daniel Huffman Lease Well No. 2
6. Sherman District
7. Calhoun WV
8. 3.2 million cubic feet
9. November 29, 1979
10. Cons Gas Supply Corp

1. 80-08056
2. 47-049-00022-0000
3. 108 000 000
4. Mary Jane Tennant Woodruff
5. W. H. and Augusta Mercer No. 1
6. Paw Paw
7. Marion WV
8. 5.0 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp

1. 80-08057
2. 47-085-02085-0000
3. 108 000 000
4. Mutual Oil & Gas Co
5. Locke-Cunningham No. 2
6. Union District
7. Ritchie WV
8. 1.0 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp

1. 80-08058
2. 47-085-01615-0000
3. 108 000 000
4. Bearwallow Oil & Gas Co
5. Snyder-Mossor et al. No. 2
6. Union District
7. Richie WV
8. 1.0 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp

1. 80-08059
2. 47-015-00081-0000
3. 108 000 000
4. Blue Creek Gas Co
5. White No. 1
6. Henry
7. Clay WV
8. .5 million cubic feet
9. November 29, 1979
10. Columbia Gas Transmission Corp

1. 80-08060
2. 47-015-00983-0000
3. 108 000 000
4. Blue Creek Gas Co
5. White No. 2
6. Henry
7. Clay WV
8. .5 million cubic feet
9. November 29, 1979
10. Columbia Gas Transmission Corp

1. 80-08061
2. 47-015-01068-0000
3. 108 000 000
4. Blue Creek Gas Co
5. D E 7504
6. Henry
7. Clay WV
8. .5 million cubic feet
9. November 29, 1979
10. Columbia Gas Transmission Corp

1. 80-08062
2. 47-015-01070-0000
3. 108 000 000
4. Blue Creek Gas Co
5. D E 7508
6. Henry
7. Clay WV
8. .5 million cubic feet
9. November 29, 1979
10. Columbia Gas Transmission Corp

1. 80-08063
2. 47-041-00846-0000
3. 108 000 000
4. Blue Creek Gas Co
5. White No. 1
6. Freemans Creek District
7. Lewis WV
8. 5.5 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp

1. 80-08064
2. 47-041-01683-0000
3. 108 000 000
4. Blue Creek Gas Co
5. White No. 2
6. Freemans Creek District
7. Lewis WV
8. 5.5 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp

1. 80-08065
2. 47-097-01111-0000
3. 108 000 000
4. Blue Creek Gas Co
5. Dornall No. 1
6. Meade District
7. Upshur WV
8. 4.0 million cubic feet
9. November 29, 1979
10. Columbia Gas Co

1. 80-08066
2. 47-007-00922-0000
3. 108 000 000
4. Blue Creek Gas Co
5. Nicholson No. 1
6. Salt Lick District
7. Braxton WV
8. 7.5 million cubic feet
9. November 29, 1979
10. Equitable Gas Co

1. 80-08067
2. 47-007-00938-0000
3. 108 000 000
4. Blue Creek Gas Co
5. Nicholson No. 2
6. Salt Lick District
7. Braxton WV
8. 7.0 million cubic feet
9. November 29, 1979
10. Equitable Gas Co

1. 80-08068
2. 47-007-00954-0000
3. 108 000 000
4. Blue Creek Gas Co
5. Nicholson No. 3
6. Salt Lick District
7. Braxton WV
8. 4.0 million cubic feet
9. November 29, 1979
10. Equitable Gas Co

1. 80-08069
2. 47-015-00408-0000
3. 108 000 000
4. Blue Creek Gas Co
5. Davenport Elliott No. 12
6. Henry
7. Clay WV
8. 4.9 million cubic feet
9. November 29, 1979
10. Columbia Gas Co

1. 80-08070
2. 47-015-00563-0000
3. 108 000 000
4. Blue Creek Gas Co
5. Davenport Elliott RB No. 1
6. Henry
7. Clay WV
8. 4.9 million cubic feet
9. November 29, 1979
10. Columbia Gas Co

1. 80-08071
2. 47-015-00798-0000
3. 108 000 000
4. Blue Creek Gas Co
5. Watheral C-64-2
6. Henry
7. Clay WV
8. 4.9 million cubic feet
9. November 29, 1979
10. Columbia Gas Co

1. 80-08072
2. 47-015-00959-0000
3. 108 000 000
4. Blue Creek Gas Co
5. Davenport Elliott No. 7201
6. Henry
7. Clay WV
8. 4.9 million cubic feet
9. November 29, 1979
10. Columbia Gas Co

1. 80-08073
2. 47-015-00962-0000
3. 108 000 000
4. Blue Creek Gas Co
5. Davenport Elliott No. 7203
6. Henry
7. Clay WV
8. 4.9 million cubic feet
9. November 29, 1979
10. Columbia Gas Co

1. 80-08074
2. 47-015-00965-0000
3. 108 000 000
4. Blue Creek Gas Co
5. 7205
6. Henry
7. Clay WV
8. 10.0 million cubic feet
9. November 29, 1979
10. Columbia Gas Co

1. 80-08075
2. 47-021-01781-0000
3. 108 000 000
4. Pacific States Gas & Oil Inc
5. Bud Moore No. 4
6. Glenville
7. Gilmer WV
8. 2.0 million cubic feet
9. November 29, 1979
10. Equitable Gas Co

1. 80-08076
2. 47-041-01474-0000
3. 108 000 000
4. Pacific States Gas & Oil Company
5. Lawson No. 1
6. Skin Creek
7. Lewis, WV
8. 7.0 million cubic feet
9. November 29, 1979
10. Equitable Gas Company

1. 80-08077
2. 47-041-01475-0000
3. 108 000 000
4. Pacific States Gas & Oil Company
5. Lawson No. 2
6. Skin Creek
7. Lewis, WV
8. 4.5 million cubic feet
9. November 29, 1979
10. Equitable Gas Company

1. 80-08078
2. 47-041-01505-0000
3. 108 000 000
4. Pacific States Gas & Oil Company
5. Rohrbough No. 1
6. Skin Creek
7. Lewis, WV
8. 8.9 million cubic feet
9. November 29, 1979
10. Equitable Gas Company

1. 80-08079
2. 47-041-01506-0000
3. 108 000 000
4. Pacific States Gas & Oil Company
5. C C Fisher No. 3
6. Skin Creek
7. Lewis, WV
8. 2.7 million cubic feet
9. November 29, 1979
10. Equitable Gas Company

1. 80-08080
2. 47-041-01544-0000
3. 108 000 000
4. Pacific States Gas & Oil Company
5. Bush No. 1
6. Skin Creek
7. Lewis, WV
8. 3.0 million cubic feet
9. November 29, 1979
10. Equitable Gas Company

1. 80-08081
2. 47-021-02677-0000
3. 108 000 000
4. Pacific States Gas & Oil Company Inc
5. G Collins No. 1
6. Glenville
7. Gilmer, WV
8. 4.2 million cubic feet
9. November 29, 1979
10. Equitable Gas Company

1. 80-08082
2. 47-021-02779-0000
3. 108 000 000
4. Pacific States Gas & Oil Company
5. R L Peters No. 1
6. Glenville

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7. Gilmer, WV
8. 10.0 million cubic feet
9. November 29, 1979
10. Equitable Gas Company
1. 80-08083
2. 47-041-02095-0000
3. 108 000 000
4. Pacific States Gas & Oil Company
5. G W Crook No. 1
6. Skin Creek
7. Lewis, WV
8. 7.1 million cubic feet
9. November 29, 1979
10. Equitable Gas Company
1. 80-08084
2. 47-047-01451-0000
3. 108 000 000
4. Pacific States Gas & Oil Company
5. J Fisher No. 1
6. Skin Creek
7. Lewis, WV
8. 4.1 million cubic feet
9. November 29, 1979
10. Equitable Gas Company
1. 80-08085
2. 47-021-02828-0000
3. 108 000,000
4. Pacific States Gas & Oil Company
5. E C Hess No. 1
6. Glenville
7. Gilmer, WV
8. 14.8 million cubic feet
9. November 29, 1979
10. Equitable Gas Company
1. 80-08086
2. 47-021-02784-0000
3. 108 000 000
4. Pacific States Gas & Oil Company
5. W E Frashure No. 1
6. Glenville
7. Gilmer, WV
8. 17.7 million cubic feet
9. November 29, 1979
10. Equitable Gas Company
1. 80-08087
2. 47-021-02826-0000
3. 108 000 000
4. Pacific States Gas & Oil Company
5. G C Hays No. 1
6. Glenville
7. Gilmer, WV
8. 13.9 million cubic feet
9. November 29, 1979
10. Equitable Gas Company
1. 80-08088
2. 47-021-02553-0000
3. 108 000 000
4. Pacific States Gas & Oil Company
5. J W Wolfe No. 4
6. Glenville
7. Gilmer, WV
8. 15.0 million cubic feet
9. November 29, 1979
10. Equitable Gas Company
1. 80-08089
2. 47-021-01611-0000
3. 108 000 000
4. Pacific States Gas & Oil Company
5. Taylor No. 1
6. Glenville
7. Gilmer, WV
8. 4.0 million cubic feet
9. November 29, 1979
10. Equitable Gas Company
1. 80-08090
2. 47-041-01477-0000
3. 108 000 000
4. Pacific States Gas & Oil Company
5. D K Fisher No. 2
6. Skin Creek
7. Lewis, WV
8. 2.8 million cubic feet
9. November 29, 1979
10. Equitable Gas Company
1. 80-08091
2. 47-021-01671-0000
3. 108 000 000
4. Pacific States Gas & Oil Company
5. Floyd-Linda No. 1
6. Glenville
7. Gilmer, WV
8. 3.1 million cubic feet
9. November 29, 1979
10. Equitable Gas Company
1. 80-08092
2. 47-021-01711-0000
3. 108 000 000
4. Pacific States Gas & Oil Company
5. J R Lynch No. 1
6. Glenville
7. Gilmer, WV
8. 5.4 million cubic feet
9. November 29, 1979
10. Equitable Gas Company
1. 80-08093
2. 47-021-01737-0000
3. 108 000 000
4. Pacific States Gas & Oil Company
5. Bud Moore No. 3
6. Glenville
7. Gilmer, WV
8. 2.0 million cubic feet
9. November 29, 1979
10. Equitable Gas Company
1. 80-08094
2. 47-021-02879-0000
3. 108 000 000
4. Pacific States Gas & Oil Company
5. L Rinehart No. 1
6. Glenville
7. Gilmer, WV
8. 8.2 million cubic feet
9. November 29, 1979
10. Equitable Gas Company
1. 80-08095
2. 47-021-02817-0000
3. 108 000 000
4. Pacific States Gas & Oil Company
5. E C Hess No. 2
6. Glenville
7. Gilmer, WV
8. 7.0 million cubic feet
9. November 29, 1979
10. Equitable Gas Company
1. 80-08096
2. 47-021-02843-0000
3. 108 000 000
4. Pacific States Gas & Oil Company
5. S A Hay No. 2
6. Glenville
7. Gilmer, WV
8. 9.8 million cubic feet
9. November 29, 1979
10. Equitable Gas Company
1. 80-08097
2. 47-021-02845-0000
3. 108 000 000
4. Pacific States Gas & Oil Company
5. E D Fulton No. 2
6. Glenville
7. Gilmer, WV
8. 11.9 million cubic feet
9. November 29, 1979
10. Equitable Gas Company
1. 80-08098
2. 47-021-02850-0000
3. 108 000 000
4. Pacific States Gas & Oil Company
5. J W Wolfe No. 5
6. Glenville
7. Gilmer, WV
8. 2.8 million cubic feet
9. November 29, 1979
10. Equitable Gas Company
1. 80-08099
2. 47-021-02880-0000
3. 108 000 000
4. Pacific States Gas & Oil Company
5. L Rinehart No. 2
6. Glenville
7. Gilmer, WV
8. 6.4 million cubic feet
9. November 29, 1979
10. Equitable Gas Company
1. 80-08100
2. 47-041-01438-0000
3. 108 000 000
4. Pacific States Gas & Oil Company
5. Wilson No. 1
6. Skin Creek
7. Lewis, WV
8. 5.5 million cubic feet
9. November 29, 1979
10. Equitable Gas Company
1. 80-08101
2. 47-007-01105-0000
3. 108 000 000
4. Blue Creek Gas Co.
5. Despard Heirs No. 1-Noah Wilson
6. Salt Lick District
7. Barkton, WV
8. 2.5 million cubic feet
9. November 29, 1979
10. Equitable Gas Company
1. 80-08102
2. 47-015-00216-0000
3. 108 000 000
4. Blue Creek Gas Co.
5. Davenport Elliott No. 1
6. Henry
7. Clay, WV
8. 4.9 million cubic feet
9. November 29, 1979
10. Columbia Gas Company
1. 80-08103
2. 47-015-0222-0000
3. 108 000 000
4. Blue Creek Gas Co.
5. Davenport Elliott No. 2
6. Henry
7. Clay, WV
8. 4.9 million cubic feet
9. November 29, 1979
10. Columbia Gas Company
1. 80-08104
2. 47-015-00224-0000
3. 108 000 000
4. Blue Creek Gas Co.
5. Davenport Elliott No. 3
6. Henry
7. Clay, WV
8. 4.9 million cubic feet
9. November 29, 1979
10. Columbia Gas Company
1. 80-08105

2. 47-015-00229-0000
3. 108 000 000
4. Blue Creek Gas Co.
5. Wetheral No. 1
6. Henry
7. Clay, WV
8. 4.9 million cubic feet
9. November 29, 1979
10. Columbia Gas Company
1. 80-08106
2. 47-015-00250-000
3. 108 000 000
4. Blue Creek Gas Co.
5. Davenport Elliott No. 5
6. Henry
7. Clay, WV
8. 4.9 million cubic feet
9. November 29, 1979
10. Columbia Gas Co.
1. 80-08107
2. 47-015-00259-000
3. 108 000 000
4. Blue Creek Gas Co.
5. Wetheral No. 2
6. Henry
7. Clay, WV
8. 4.9 million cubic feet
9. November 29, 1979
10. Columbia Gas Co.
1. 80-08108
2. 47-015-00260-000
3. 108 000 000
4. Blue Creek Gas Co.
5. Wetheral No. 3
6. Henry
7. Clay, WV
8. 4.9 million cubic feet
9. November 29, 1979
10. Columbia Gas Co.
1. 80-08109
2. 47-015-00299-000
3. 108 000 000
4. Blue Creek Gas Co.
5. Davenport Elliot No. 8
6. Henry
7. Clay, WV
8. 4.9 million cubic feet
9. November 29, 1979
10. Columbia Gas Co.
1. 80-08110
2. 47-017-20792-000
3. 108 000 000
4. Trio Oil & Gas Co. Inc.
5. Mary Nutter Heirs No. 2
6. Grouse Run New Milton Dist
7. Doddridge, WV
8. 4.0 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp.
1. 80-08111
2. 47-017-20476-000
3. 108 000 000
4. Trio Oil & Gas Co. Inc.
5. S N Montgomery No. 2
6. West Union District Middle Island C
7. Doddridge, WV
8. 1.5 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp.
1. 80-08112
2. 47-013-02183-000
3. 108 000 000
4. Smith Jones and Gibson
5. Daniel Huffman No. 5
6. Sherman District
7. Calhoun, WV
8. .7 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp.
1. 80-08113
2. 47-013-02174-000
3. 108 000 000
4. Smith Jones & Gibson
5. Daniel Huffman Well No. 4
6. Sherman District
7. Calhoun, WV
8. 2.4 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp.
1. 80-08114
2. 47-045-20551-000
3. 108 000 000
4. Frazier Gas Company
5. J E Frazier No. 1
6. Triadelphia
7. Logan, WV
8. 7.5 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp.
1. 80-08115
2. 47-085-01771-000
3. 108 000 000
4. Bearwallow Oil & Gas Co.
5. Snyder-Mossor et al No. 1
6. Union District
7. Ritchie, WV
8. 6.0 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp.
1. 80-08116
2. 47-013-02176-000
3. 108 000 000
4. Smith Jones & Gibson
5. Daniel Huffman Well No. 4
6. Sherman District
7. Calhoun, WV
8. 2.4 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp.
1. 80-08117
2. 47-045-20551-000
3. 108 000 000
4. Frazier Gas Company
5. J E Frazier No. 1
6. Triadelphia
7. Logan, WV
8. 7.5 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp.
1. 80-08118
2. 47-085-01771-000
3. 108 000 000
4. Bearwallow Oil & Gas Co.
5. Snyder-Mossor et al No. 1
6. Union District
7. Ritchie, WV
8. 6.0 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp.
1. 80-08165
2. 47-021-01699-000
3. 108 000 000
4. Cecil Pruitt Jr
5. Stump No. 2
6. Glenville
7. Gilmer, WV
8. 5.7 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp.
1. 80-08166
2. 47-085-01442-0000
3. 108 000 000
4. Rock Camp Oil & Gas Company
5. Ruby Dotson et al No. 1-BIT 1442
6. Pullman
7. Ritchie, WV
8. 1.3 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp.
1. 80-08167
2. 47-017-20612-000
3. 108 000 000
4. Trio Oil & Gas Co. Inc.
5. Jeennings Cottrill No. 1
6. J L Cottrill Morgans Ron
7. Doddridge, WV
8. 5.0 million cubic feet
9. November 29, 1979
10. Consolidated Gas Supply Corp.
1. 80-08168
2. 47-081-00234-0000
3. 108 000 000
4. Big Marsh Oil Co.
5. BM-24
6.
7. Raleigh, WV
8. 7.6 million cubic feet
9. November 29, 1979
10. Columbia Gas Transmission Corp.
1. 80-08169
2. 47-081-00236-0000
3. 108 000 000
4. Big Marsh Oil Co.
5. BM-25
6.
7. Raleigh, WV
8. 9.3 million cubic feet
9. November 29, 1979
10. Columbia Gas Transmission Corp.
1. 80-08170
2. 47-081-00258-0000
3. 108 000 000
4. Big Marsh Oil Co.
5. BM-19
6.
7. Raleigh, WV
8. 10.9 million cubic feet
9. November 29, 1979
10. Columbia Gas Transmission Corp.
1. 80-08171
2. 47-081-00263-0000
3. 108 000 000
4. Big Marsh Oil Co.
5. BM-27
6.
7. Raleigh, WV
8. 16.7 million cubic feet
9. November 29, 1979
10. Columbia Gas Transmission Corp.
1. 80-08172
2. 47-081-00270-000
3. 108 000 000
4. Big Marsh Oil Co.
5. BM-28
6.
7. Raleigh, WV
8. 5.1 million cubic feet
9. November 29, 1979
10. Columbia Gas Transmission Corp.
1. 79-22198
2. 47-087-01120
3. 108
4. Pennzoil Company
5. S J Chambers No. 5
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 29, 1979
10. Consolidated Gas Supply Corp.
1. 79-022007 (Revised)
2. 47-087-01927
3. 108
4. Pennzoil Company
5. J A Harris No. 17
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 26, 1979
10. Consolidated Gas Supply Corp.

Osage Agency, Bureau of Indian Affairs, Osage County, Okla.

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-08006
2. 35-113-00000-0000-0
3. 108 000 000

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4. Ajax Oil & Gas Corp Inc.
5. Osage Well No. C–115
6. Pond Creek
7. Osage, OK
8. 1.8 million cubic feet
9. November 29, 1979
10. Cities Service Gas Co.

1. 80–08009
2. 35–113–00000–0000–0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc.
5. Osage C–110
6. Pond Creek
7. Osage, OK
8. 1.8 million cubic feet
9. November 29, 1979
10. Cities Service Gas Co.

1. 80–08010
2. 35–113–00000–0000–0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc.
5. Osage Well C–124
6. Pond Creek
7. Osage, OK
8. 1.8 million cubic feet
9. November 29, 1979
10. Cities Service Gas Co.

1. 80–08011
2. 35–113–00000–0000–0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc.
5. Osage Well C–133
6. Pond Creek
7. Osage, OK
8. 1.8 million cubic feet
9. November 29, 1979
10. Cities Service Gas Co.

1. 80–08013
2. 35–113–00000–0000–0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc.
5. Osage Well C–411
6. Pond Creek
7. Osage, OK
8. 1.8 million cubic feet
9. November 29, 1979
10. Cities Service Gas Co.

1. 80–08014
2. 35–113–00000–0000–0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc.
5. Osage Well 475
6. Pond Creek
7. Osage, OK
8. 1.8 million cubic feet
9. November 29, 1979
10. Cities Service Gas Co.

1. 80–08015
2. 35–113–00000–0000–0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc.
5. Osage Well 477
6. Pond Creek
7. Osage, OK
8. 1.8 million cubic feet
9. November 29, 1979
10. Cities Service Gas Co.

1. 80–08016
2. 35–113–00000–0000–0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc.
5. Osage Well 478
6. Pond Creek
7. Osage, OK
8. 1.8 million cubic feet
9. November 29, 1979
10. Cities Service Gas Co.

1. 80–08017
2. 35–113–00000–0000–0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc.
5. Osage Well 479
6. Pond Creek
7. Osage, OK
8. 1.8 million cubic feet
9. November 29, 1979
10. Cities Service Gas Co.

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–08012
2. 35–113–00000–0000–0
3. 106 000 000
4. Ajax Oil & Gas Corp Inc.
5. Osage Well C–172
6. Pond Creek
7. Osage, OK
8. 1.8 million cubic feet
9. November 29, 1979
10. Cities Service Gas Co.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's office of Public Information, room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 6, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–1980 Filed 1–21–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP80–129]

El Paso Natural Gas Co.; Application

January 16, 1980.

Take notice that on December 10, 1979, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP80–129 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain tap facilities and the sale and delivery of natural gas to Rimrock Gas Company (Rimrock) for resale to Ruben P. Potter, Jr., a right-of-way grantor located on Applicant's pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to install minor facilities to provide one tap, at a total estimated cost of $2,150, in order to accommodate a request for natural gas delivery which Applicant received from Rimrock for Ruben P. Potter, Jr., a right-of-way grantor who has reserved the right to such natural gas service as partial consideration for the right-of-way easement granted to Applicant. Applicant states that such gas service would be made at a point located on Applicant's 16-inch O.D. South Zybach Trunk C gathering system pipeline in Beckham County, Oklahoma. Applicant asserts that it would finance the cost of such facilities from internally generated funds.

Applicant further states that the estimated residential peak day requirement for the Ruben P. Potter, Jr. tap would be 1.4 Mcf, and the estimated requirement for the first full year of operation would be 130 Mcf.

It is stated that the proposed sale of natural gas would be made at the rate in effect under Applicant's Rate Schedule X–1.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–1947 Filed 1–21–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ID–1886]

Frank W. Kaestner; Filing

January 15, 1980.

Take notice that on January 10, 1980, Frank W. Kaestner (Applicant), filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director, Monogahela Power Company—Public utility.

Director, The Potomac Edison Company—Public utility.

Director, West Penn Power Company—Public utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 11, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–1948 Filed 1–21–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ES 80–23]

Iowa Southern Utilities Co.; Application

January 15, 1980.

Take notice that on December 28, 1979, Iowa Southern Utilities Company (Applicant), a corporation incorporated under the laws of the State of Delaware, with its principal business office at Centerville, Iowa, filed a request to enter into negotiations to issue securities in connection with financing the costs of the Company's undivided share of pollution control and certain other facilities at the Ottumwa Generating Station.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions of protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–1949 Filed 1–21–80; 8:45 am]

BILLING CODE 6450–01–M

[Project No. 2743—Terror Lake]

Kodiak Electric Association, Inc.; Participation of Rural Electrification Administration in the Preparation of Environmental Impact Statement

January 15, 1980.

On December 21, 1979, the Federal Energy Regulatory Commission issued notice of intent to prepare an environmental impact statement and notice of a scoping meeting for the proposed Terror Lake Project No. 2743 in 44 FR 75702. Public notice was issued on December 27, 1979. Project No. 2743 would be located on Kodiak Island, Alaska and would affect lands of Alaskan Natives, the State of Alaska, and Federal lands under the administration of the Department of the Interior and Transportation.

The Rural Electrification Administration of the Department of Agriculture has requested that the special note below be published with our **Federal Register** Report.

"The Rural Electrification Administration (REA) is participating in the preparation of the draft EIS on the Terror Lake Hydroelectric Project, FERC No. 2743, as a cooperating federal agency with its internal identification number: USDA–REA–EIS (Adm.–80–2–D); the REA intends to use the forthcoming final EIS on this project to fulfill the NEPA requirements in conjunction with an REA potentially forthcoming major federal action for guaranteeing loan funds in support of this project to the Applicant, Kodiak Electric Association, Inc."

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–1950 Filed 1–21–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket Nos. ER79–642, ER78–14 and ER77–354]

Missouri Utilities Co.; Order Clarifying Prior Order

January 16, 1980.

On September 9, 1979, Missouri Utilities Company (MU) tendered for filing an unexecuted service agreement,[1] under its filed SFR–1 tariff, to apply to the City of Malden, Missouri (Malden), after the expiration of Malden's fixed-rate contract on October 1, 1979. The filing was duly noticed and Malden filed comments, but chose not to intervene.

On November 5, 1979, we accepted the service agreement for filing, suspended it for one day, and made the filing subject to the outcome of litigation on the SFR–1 tariff in Docket Nos. ER77–354 and ER78–14, into which the proceeding was consolidated. We ordered that the service agreement be modified by removal of a resale restriction found to be unduly restrictive and anticompetitive. Malden's comments did not request any specific Commission action and did not give us cause to order an investigation of the unexecuted service agreement. However, we noted that Malden could file a complaint under Section 206 of the Federal Power Act at a later date.

On December 14, 1979, Malden petitioned for a clarification of the order of November 5, 1979. Malden states that it is uncertain of the significance of the filed unexecuted service agreement. In the event that the unexecuted agreement has "legal significance," Malden requests a hearing on its provisions in a new proceeding.

Section 35.2(b) of the Commission's regulations defines "rates schedule" to mean:

* * * A statement of (1) electric services as defined in paragraph (a) of this section, (2) rates and charges for or in connection with that service, and (3) all classifications, practices, rules, regulations or contracts which in any manner affect or relate to the aforementioned service rates, and charges. This statement shall be in writing and may take the physical form of a contractual

[1] Designated as: "Missouri Utilities Company, Service Agreement under FPC Electric Tariff, Original Volume No. 1 (Supercedes Rate Schedule FPC No. 7 as supplemented)."

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document, purchase or sale agreement, lease of facilities, tariff or other writing. Any oral agreement or understanding forming a part of such statement shall be reduced to writing and made a part thereof. (Footnote deleted.)

The unexecuted service agreement clearly comes within this definition. The SFR–1 tariff filed in Docket Nos. ER77–354 and ER78–14 contemplates the filing of the service agreements.[2] The form of the service agreement was also appended to the original filed rate and tariff. Although the service agreement was not executed, the Commission's acceptance of the service agreement for filing binds Malden and MU to its terms under the filed rate doctrine once Malden takes service under the SFR–1 rate. *Montan-Dakota Utilities Company* v. *Northwestern Public Service Company*, 341 U.S. 246 (1950).

Malden's petition seeks a hearing on the service agreement separate from the proceedings in Docket Nos. ER77–354 and ER78–14. In order to institute such an investigation it is encumbent upon the petitioner to file a complaint complying with Section 1.6 of the Commission's rules of practice and procedure. We will not treat Malden's present petition as a complaint, for it is too vague to sufficiently apprise MU of the material allegations against its filed service agreement: Requiring MU to respond to Malden's vague allegations may unduly prejudice its position. We shall, therefore, deny Malden's request for a hearing without prejudice to its right to file a more specific complaint which details the allegations on which Malden relies and the relief it requests.

The Commission Orders

(A) Malden's request for a hearing on the unexecuted service agreement filed by MU in Docket Nos. ER79–842, *et al.*, is hereby denied, without prejudice to the submission of a complaint which complies with § 1.6 of the Commission's rules of practice and procedure.

(B) The Secretary shall promptly publish this order in the Federal Register.

[2] For example: section 1 of the rate schedule states, "This rate schedule shall be subject to . . . and pursuant to an electric service agreement in the form contained in this tariff * * *" Section 7(2) states; "Customers receiving service under this schedule shall sign a contract effective for twenty (20) years;" Similarly the General Rules and Regulations refer to a service contract or electric service agreement in sections 1, 3 and 4. Section 12 of the General Rules and Regulations provides that preexisting contracts for service shall be effective "until * * * replace by a service agreement in the form contained in this electric tariff."

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-1992 Filed 1-21-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2931]

S. D. Warren Co.; Application for Major License

January 15, 1980.

Take notice that an application for a major license was filed May 15, 1979, and supplemented December 6, 1979, by the S. D. Warren Company (Applicant) (pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r) (1976)) for the constructed Gambo Project, FERC No. 2931, located on the Presumpscot River in Cumberland County, Maine, near the towns of Gorham and Windham, Maine. Correspondence regarding the application should be sent to: John B. Blatz, III, Associate Counsel, S. D. Warren, a Division of Scott Paper Company, Scott Plaza One, Philadelphia, Pennsylvania 19113; and Bernard A. Foster, III and Nancy J. Hubbard, Ross, Marsh & Foster, 730 15th Street, NW., Washington, D.C. 20005.

Project Description—The Gambo Project consists of: (1) A 250-foot-long, 24-foot-high, concrete overflow dam; (2) a pond with negligible storage capacity and a normal water surface elevation of 138.8 feet m.s.l.; (3) a 30-foot-long, 29-foot-high sluice gate structure containing three 5.55-foot-high, 4.5-foot-wide sluice gates; (4) a 4-foot-by-4-foot log sluice gate; (5) a 15-foot-deep, 737-foot-long concrete-lined canal; (6) a concrete and brick powerhouse containing two 950 kW generators; and (7) appurtenant facilities. The project is operated as a run-of-the-river facility.

Purpose of the Project—The Applicant uses and will continue to use the 12,960,000 kWh of project energy generated annually by the Gambo Project in the operation of its Westbrook Paper manufacturing plant.

Cost of the Project—The cost of the constructed project and land purchased was $756,000.

Recreational Development—The Gambo Project is located in a rural setting that has no industrial, commercial, or recreational activity. According to the application, the project is not conducive to recreational development, and the recreational quality and potential of the project area are negligible. The Applicant does not propose the installation of any recreational facilities at the project.

Protests and Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest, or petition to intervene must be filed on or before March 13, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426.

Competing Application—Anyone desiring to file a competing application must submit to the Commission, on or before March 13, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 12, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended*, 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), (*as amended*, 44 FR 61328, October 25, 1979).

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-1994 Filed 1-21-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-170]

Texas Eastern Transmission Corp.; Application

January 16, 1980.

Take notice that on December 31, 1979, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed an application in Docket No. CP80–170 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a long-term storage and transportation service, beginning on April 16, 1980, for 12 of its resale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that by an agreement with Consoldiated Gas Supply Corporation (Consolidated) it has obtained 32,000,000 dekatherms (dt) equivalent of natural gas storage capacity for a 20-year period beginning April 16, 1980, and continuing from year to year thereafter. Applicant proposes to provide long-term storage and transportation service to twelve of its resale customers who are presently provided with storage and transportation service by Applicant. The twelve customers are said to be Algonquin Gas Transmission Company, Brooklyn Union Gas Company, Elizabethtown Gas Company, New Jersey Natural Gas Company, Philadelphia Electric Company, Philadelphia Gas Works, Public Service Electric & Gas Company, Carnegie Natural Gas Company, Consolidated Edison Company of New York, Inc., Missouri Utilities Company, National Gas & Oil Corporation, and United Cities Gas Company (Customers).

Applicant states that it has agreed to deliver to Consolidated quantities of natural gas, which quantities Applicant's Customers would mutually agree upon, for injection into storage on a firm service basis. It is stated that when requested, Consolidated would deliver to Applicant the storage gas of Applicant's Customers, on a firm service basis, at a reasonably constant daily rate not to exceed 341,000 dt equivalent. It is further stated that all transmission of the natural gas would utilize existing facilities of Consolidated and Applicant.

Applicant states that it has agreed to store and transport the storage quantities for its Customers on the basis of its Storage Service Tariff SS–II. Applicant proposes to revise Section 12.6 of the general Terms and conditions of its FERC Gas Tariff, Fourth Revised Volume No. 1. It is said that these revisions reflect Applicant's proration of capacity policy with respect to the service provided under its Rate Schedule SS–II, and that similarly, it is proposed that Applicant's Rate Schedule TS–1 be revised to reflect the change in proration policy.

The transportation and storage rate Applicant proposes to charge under its Rate Schedule SS–II is said to be a composite of Consolidated's GSS storage service charge and an additional charge for transportation as approved by the Commission.

Applicant states that the demand charge, space charge, and injection charge are all charged to it on the basis of Consolidated's GSS rate which is passed on directly to Applicant's participating customers.

It is stated that under the terms of the proposed Rate Schedule SS–II, Applicant would provide quantities of natural gas from a customer's storage inventory not to exceed the maximum daily withdrawal quantity (MDWQ) which is the maximum quantity of SS–II gas that Applicant would be obligated to withdraw from storage for a customer on any day less six percent which would be retained by Applicant for fuel and other compnay use and that the portion of the customer's MDWQ for which Applicant had constructed and dedicated system capacity would be on a firm delivery basis and is termed the firm daily withdrawal quantity (FDWQ). It is said that the annual costs associated with all facilities which must be added to Applicant's system to enable the establishment of any increases in the FDWQ's of the customers, would be borne by those customers which have FDWQ's under Rate Schedule SS–II by means of a firm demand charge.

Applicant further states that for those customers who nominate to receive gas under Rate Schedule SS–II, such gas that does not exceed the sum of a particular customer's FDWQ and his existing curtailment level on any one day would be defined as basic withdrawal gas and that the basic withdrawal rate includes the GSS withdrawal charge of 1.0 cents, adjusted for shrinkage, plus the transportation charge of 1.5 cents per dt. It is said that any natural gas delivered under Rate Schedule SS–II that exceeds the sum of a particular customer's FDWQ and its present curtailment level on any one day would be defined as excess withdrawal gas. The rate for excess withdrawal is said to be the basic withdrawal rate plus the difference between the applicable basic in zone transportation charge and excess in-zone transportation charge under Applicant's Rate Schedule TS–1.

Applicant requests that the Commission permit it to flow-through changes in Consolidated's GSS rates to its customers under its Rate Schedule SS–II.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 16, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly give.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-1993 Filed 1-21-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–59001A; FRL 1394–6]

Approval of Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Approval of an exemption for test marketing activities from the premanufacture notification requirements of section 5 of the Toxic Substances Control Act (TSCA).

SUMMARY: On December 5, 1979 EPA received an exemption application from the 3M Company of St. Paul, Minnesota to manufacture a substance for test marketing purposes. A Federal Register notice published on December 19, 1979 (44 FR 72335) announced the receipt of the exemption application. The generic name of the substance is potassium salt of substituted pentamethine oxanol dye. EPA has determined that 3M's test marketing of the chemical substance will not present any unreasonable risk of injury to health or the environment. Therefore the Agency has granted 3M an exemption from the TSCA premanufacture reporting requirements for test marketing in the manner

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described in the application. The exemption is effective immediately.

FOR FURTHER INFORMATION CONTACT: Scott Flamm, Notice Review Branch, Premanufacturing Review Division (PTS–794), Office of Pesticides and Toxic Substances, EPA, Washington, D.C. 20460 (755–6297).

SUPPLEMENTAL INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirement of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b), to pemit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of its disposition in the **Federal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On December 5, EPA received an application from the 3M Company, St. Paul, Minnesota for an exemption from the requirements of section 5(a) and 5(b) of TSCA, to manufacture a substance for test marketing purposes. A **Federal Register** notice published on December 19, 1979 (44 FR 75235) announced the receipt of the exemption application and requested comment on the appropriateness of granting the exemption. The Agency received no comment concerning the application. The company claimed the specific identity of the substance confidential. The generic name is potassium salt of substituted pentamethine oxanol dye.

In the application, 3M states that it will manufacture 400 grams of the substance for test marketing purposes. It further states that it will provide five customers with rolls of paper containing the substance. 3M estimates that eight employees will be exposed to the substance during manufacturing and processing operations. four 3M employees will be exposed to the solid form of the substance and four will be exposed to the substance in solution. The applicant expects that exposure to the substance by its customers' employees will be minimal because, as a function of its use, only a limited number of persons will be exposed and the exposure will be to low concentrations for short durations. Finally, 3M states that aqueous effluents from its processing operations will contain no more than 2 parts per million (ppm) of the substance.

Data submitted by 3M Company and reviewed by EPA indicate that the substance should not present an acute toxicity problem. Animal feeding studies using structural analogues of the substance demonstrate that the substance should have relatively low acute toxicity. Further, based on structural similarities between this substance and other substances for which we have data, EPA has no reason to suspect that it will cause any carcinogenic, mutagenic, teratogenic, or other chronic effects in humans.

With regard to ecological effects, the Agency has found no reason to anticipate hazards to invertebrates, plants, fish, mammals, birds, or most micro-organisms. This is based on the structure of the substance, its biodegradability (which should be rapid), and the extremely small amounts that will be discharged to the environment during the test marketing period. No effects on ecosystem processes were reported and EPA does not expect that any will occur as a result of test marketing.

Based upon the low level of concern regarding the substance and its extremely limited exposure during test marketing, EPA has determined that the substance will not present any unreasonable risk of injury to health or the environment as a result of the test marketing activities described in 3M's application. Accordingly, EPA grants 3M an exemption, effective immediately, from the premanufacture reporting requirements for purposes of test marketing the potassium salt of substituted pentamethine oxanol dye in the specific manner described in the test marketing application. In particular, this restricts 3M to the use and production volume described in the application. Specific limitations are not discussed here because 3M has claimed this information as confidential. Prior to manufacturing this substance for commercial purposes other than test marketing or research and development, 3M must submit a premanufacture notice (PMN) as required under section 5(a) of TSCA. This exemption is granted solely to the 3M Company.

Dated: January 16, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-1691 Filed 1-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL–1397–1]

Availability of Environmental Impact Statements

Agency: Office of Environmental Review (A–104) US Environmental Protection Agency.

Purpose: This notice lists the environmental impact statements (EISS) which have been officially filed with the EPA and distributed to Federal agencies and interested groups, organizations and individuals for review pursuant to the council on environmental quality's regulations (40 CFR Part 1506.9).

Period Covered: This notice includes EIS's filed during the week of January 7, 1980 to January 11, 1980.

Review Periods: The 45-day review period for draft EIS's listed in this notice is calculated from January 18, 1980 and will end on March 3, 1980. The 30-day review period for final EIS's as calculated from January 18, 1980 will end on February 19, 1980.

EIS availability: To obtain a copy of an EIS listed in this notice you should contact the Federal agency which prepared the EIS. This notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental review, EPA, for further information.

Back copies of EIS's: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

For Hard Copy Reproduction: Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036.

For Hard Copy Reproduction or Microfiche: Information Resources Pres, 2100 M Street, NW, Suite 316, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review (A–104), Environmental Protection Agency, 401 M Steeet, SW Washington, DC 20460. (202) 245–3006

Summary of Notice

On July 30, 1979, the CEQ Regulations became effective, pursuant to section 1506.10(A), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of January 7, 1980 to January 11, 1980 the 30-day review period will be calculated from January 18, 1980. The review period will end on February 19, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of January 7, 1980 to January 11, 1980. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the state(s) and county(IES) of the proposed action and a brief summary of the proposed federal action and the federal agency EIS number, if available, is listed in this notice, commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period of EPA has approved a waiver from the prescribed review period. The appendix II includes the federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, state(s) and county(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal Agency.

Appendix IV sets forth a list of EIS retractions concerning previous notices of availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: January 17, 1980.

William D. Dickerson,

Acting Director, Office of Environmental Review (A–104).

Appendix I—EIS's Filed with EPA During the Week of January 7 through 11, 1980

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412–A, Admin. Building, Washington, D.C. 20250, (202) 447–3965.

Rural Electrification Administration

Final

230 kV Transmission Line, Benton Co. 10 Milaca, Benton and Mille Lacs Counties, Mich., January 11: Proposed is the issuance of REA loans funds for the construction of a 230 kV transmission line from Benton County to Milaca, Mille Lacs County, Minnesota, the project will include: (1) the possible construction of two microwave towers, (2) single shaft steel or concrete poles, (3) the possible acquisition of additional right-of-way. The proposed routes range from 24.2 to 38.7 miles in length. (USDA–REA–EIS(ADM)79–5) (USDA–REA–(ADM)–79–5–F). Comments made by: DOI, DOT, USDA, COE, EPA, State agencies, Businesses. (EIS Order No. 00031.)

Final

Escalante Electric Generating Station, McKinley County, N. Mex., January 9: Proposed is the awarding of a guaranteed loan for the construction and operation of the escalante 233mw coal-fired unit to be located at Prewitt, McKinley County, New Mexico. The project will include associated transmission, water pipeline, and rail spur facilities, the 2,720-acre site is planned to support up to 1000mw of electric generating capacity. The transmission facilities will include two 14-mile 115kV lines from the Escalante station to the Ambrosia Lake substation and a 9-mile 115kV transmission line to an existing 115kV line. (USDA–REA–EIS–(ADM)–79–6–F). Comments made by: DOI, EPA, DOT, COE, USDA, State and local agencies, groups. (EIS Order No. 00016.)

Soil Conservation Service

Final

Upper North Laramie River Watershed, Albany County, Wyoming, January 9: Proposed is a watershed protection plan for the upper North Laramie river watershed located in Albany County, Wyoming, the structural measures planned for this project consist of: (1) constructing a multipurpose dam and reservoir for recreation, irrigation and flood protection; and (2) basic recreation facilities, land treatment measures include practices for watershed protection, land improvement, and irrigation water management. (USDA–SCS–EIS–WS–(ADM)–79–1–F). Comments made by: USDA, AHP, HEW, COE, EPA, DOI, FERC, State agencies, businesses. (EIS Order No. 00022.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272–0121.

Draft

Upper Mississippi River Resource Management Plan, several counties in Iowa and Minnesota, January 8: Proposed is a river resource management plan for the Mississippi River from Gutlenberg, Iowa to the head of navigation at Minneapolis, Minnesota. Five alternative channel maintenance plans that in essence designate a dredged material disposal site for every historic dredge cut on the river. Also recommended are a set of plans for: 1) navigation channel maintenance, 2) commercial transportation, 3) fish and wildlife resources, 4) sediment and erosion control, 5) recreational resources, and 6) flood plain management. (St. Paul District) (EIS order No. 00019.)

Irondequoit Bay Navigation Improvements, Monroe County, New York, January 8: Proposed are recreational navigation improvements for Irondequoit Bay in Monroe County, New York. The preferred alternatives consider opening the bay at the existing outlet with a fixed, four-lane highway bridge or dredging a deeper channel at the same location with a lift bridge providing unlimited vertical clearance. The dredged material disposal options preferred are wetland creation and open-water dumping in the deepest waters of Irondequoit Bay. (Buffalo District) (EIS order No. 00012.)

Draft Supplement

Souris River Flood Control, Burlington Dam, Ward, McHenry and Renville Counties, N. Dak., January 9: Proposed is a flood control plan for the Souris River in the counties of Ward, McHenry and Renville, North Dakota. The project would include: 1) construction of a dam near Burlington, 2) a raise of Lake Darling Dam, 3) a diversion tunnel to carry flood flowes on the Des Lacs River to the Souris River, and 4) downstream channel work. This statement supplements a draft EIS, No. 740479, filed on 3–29–74, and includes a biological assessment of impacts of all threatened or endangered species and a section 404(B)(1) evaluation of proposed fill activities. (St. Paul District) (EIS order No. 00015.)

Final Supplement

Cedar River Local Flood Protection Evansdale (FS–1), Blackhawk County, Iowa, January 8: Proposed is a local flood protection plan for the City of Evansdale, Blackhawk County, Iowa. The plan involves the construction of earthern levees along the Cedar River and Elk Run Creek and will utilize the embankment of I–380 as part of the protection system. Two borrow areas, totaling about 41 acres, will be required to obtain material for levee construction. The protective works will be about 3.2 miles in length. There will also be four ponding areas of 11.0 acres, 2.8 acres, 6.0 acres, and 40.0 acres. (Rock Island District) Comments made

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by: EPA, DOT, HEW, DOI, State and local agencies (EIS order No. 800013.)

DEPARTMENT OF ENERGY

Contact: Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4C–064, Forrestal Bldg., Washington, DC 20585, (202) 252–4600.

Final

Los Alamos Scientific Laboratory Site (LASL), Los Alamos and Santa Fe Counties, N. Mex., January 10: The purpose of this EIS is to determine the impacts of continuing activities at the Los Alamos scientific laboratory (LASL) located in Los Alamos, Santa Fe and Los Alamos Counties, New Mexico. Since 1945 the primary function of LASL was research and development of nuclear weapons. Expansion of LASL efforts have included four major research program areas which are: national security, energy, biomedical/environmental, and physical research. Also discussed are past impacts and coverage of some further growth and evaluation of research programs in new areas. (DOE/EIS–0018) Comments made by: EPA, DOI, NRC, HEW, USDA, NSF, State and local agencies, groups and individuals. (EIS order No. 00021.)

Geothermal Demonstration Program 50 MWE Power Plant, Sandoval and Rio Arriba, N. Mex., January 11: Proposed is the funding of a 50 MWE geothermal well field, power plant and transmission line located at the Baca Ranch in Sandoval and Rio Arriba Counties of New Mexico. The principal effluents from the power plant are nonflashed, hot geothermal fluid, which will be injected, and geothermal vapor released to the atmoshpere from cooling towers. A 115 KV transmission line will be constructed from the project to the TA–3 substation near Los Alamos. The geothermal well field will consist of up to 17 wells producing fluid from an area of approximately 746 acres. (DOE/EIS–0049) Comments made by: AHP, USDA, NRC, GSA, DOI, FERC, EPA, NSF, HEW, State and local agencies, groups, individuals and businesses. (EIS order No. 00030.)

Draft Supplement

Savannah River plant waste management operations, Aiken County, S.C., January 11: Proposed is a plan for waste management operations at the Savannah River plant in Aiken County, South Carolina. The plan will include the completion of construction and operation of fourteen tanks for high-level radioactive waste storage on an interim basis until long-term or final disposal of the wastes can be achieved. This statement supplements a final EIS, No. 771225, dated 9–30–77, and examines design alternatives for fourteen 1.3 million gallon high-activity waste tanks now under construction. (DOE/EIS–0062–D.) (EIS Order No. 00026.)

Hanford site waste management operations, Benton County, Wash., January 11: Proposed is a waste management operations plan for the Hanford site located in Richland, Benton County, Washington. The plan would involve the completion of construction and the operation of thirteen tanks for high-level radioactive liquid waste storage on an interim basis until long-term or final disposal of the wastes can be achieved. This statement supplements a final EIS, No. 751848, dated 12–22–75, and examines design alternatives for tanks currently under construction. (DOE/EIS–0063–D.) (EIS Order No. 00027.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Robert Rose (ANR–490), Railroad Program Manager, Office Air, Noise, and Radiation, U.S. Environmental Protection Agency, Washington, D.C., 20460, (202) 557–7666.

Final

Interstate Rail Carrier Noise Emission Regulation, regulatory, January 11: Proposed are source standards based on the Interstate Rail Carrier Noise Emission Regulation which would establish a national standard for specific sources and, as provided by the Act, will preempt state and local statutes and ordinances. This action establishes noise emission standards for active retarders, locomotive load cell test stands and car coupling and amends Sections 201.11 and 201.12 of the Rail Carrier Noise Emission Regulations to provide additional control of switcher locomotive noise. (EIS Order No. 80025.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Brown, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, (202) 755–6300.

Draft

Wheatstone subdivision, mortgage insurance, Harris County, Tex., January 10: Proposed is the issuance of HUD home mortgage insurance for the Wheatstone subdivision located in Harris County, Texas, the area encompasses some 1,200 acres of land. When completed the subdivision would be composed primarily of approximately 4,260 single family dwellings. (HUD–R06–EIS–79–9D.) (EIS Order No. 00023.)

Final

Route No. 23 urban renewal project, Wayne Township; Passaic County, N.J., January 11: Proposed is the awarding of an amendatory loan for the NJ–23 urban renewal project in the Wayne Township, Passiac County, New Jersey. The project would encompass a 178 acre tract of land extending along both sides of NJ–23 for a distance of approximately 4,100 feet. The alternatives consider: 1) an open space design involving upgrading existing industrial area with balance left as open space for passive recreation; and 2) a minimum build design including upgrading of industrial area, construction of 800 housing units, with balance retained as open space. Comments made by: AHP, USDA, COE, DOE, EPA, HEW, DOI, FPC, VA, NRC, State agencies, groups. (EIS Order No. 00029.)

Section 104(H)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the Office of the Appropriate Local Executive. Copies are not available from HUD.

Final

Cadillac Center, construction (CDBG), Wayne County, Mich., January 11: Proposed is the awarding of HUD CDBG funds for the redevelopment of 4.4 acres, to be known as Capitol Centre, downtown Madison, Dane County, Wisconsin. The area now exists as two grade-level parking lots. The redevelopment would provide unsubsidized housing, subsidized housing for elderly and handicapped persons, a senior citizens' center, retail space, open space, and parking ramps. The no action alternative is considered. Comments made by: COE, DOT, AHP, EPA, DOI, State and local agencies, individuals. (EIS Order No. 00028.)

Final

Gallery II of Market Street East (CBDG), Philadelphia County, Pa., December 7: Proposed is the awarding of CDBG funding for the development of the Gallery II of Market Street East within the City and County of Philadelphia, Pennsylvania. The Gallery II is a commercial development project providing 880,000 sq. ft. of office space, some 400,000 sq. ft. of leasable retail area, and a 950 car garage. The project is a continuation of the already completed Gallery I and is to be built partially over the Center City commuter connection now under construction. Comments made by: EPA, DOT, DOC, DOI, State and local agencies. (EIS Order No. 791298.)

This EIS should have been published in the Federal Register Notice dated December 14, 1979. The review period began on December 14, 1979 and will terminate on January 14, 1980. See Appendix VI.

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343–3891.

Geological Survey

Final

Northern Powder River Basin Coal, Big Horn, Horn, Rosebud, Sheridan Counties, Mont., January 9: Proposed is coal development with Northern Powder River Basin in Horn, Rosebud, and Sheridan Counties, Montana. Three mining and reclamation plans have been proposed. The mine plans include 3,826 acres of existing Federal coal leases and 540 acres of private coal leases. A total of 7,400 acres of Federal and private land would be required for the mines, related facilities, and rights-of-way. Volume I of this EIS analyzes the cumulative impacts of the proposed developments. Volume II is a site-specific analysis of the Pearl Mine. (FES–80–1.) Comments made by: AHP, FERC, USDA, COE, DOE, HUD, DOI, DLAB, EPA, State agencies, groups, individuals, and businesses. (EIS Order No. 00017.)

DEPARTMENT OF LABOR

Contact: Ms. Joanne Lindhart, Chief, Office of Environmental Impact Assessment, Department of Labor, Room N–3673, Washington, D.C. 20210, (202) 523–7111.

Final

Cancer policy, regulation of toxic substances, January 11: Proposed is the establishment of general regulations concerning the identification, classification, and regulation of toxic substances that may pose a risk of cancer to workers. Intended is the establishment of: 1) New procedures and a framework for regulating exposure, 2) policies concerning identification and classification carcinogens, and 3) model standards for use in specific rulemakings involving such substances. Comments made by: (EIS Order No. 00032.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, Nuclear Regulatory Commission, P–518, Washington, D.C. 20555, (301) 492–8446.

Final

Indian Point Unit No. 3, cooling system, Westchester County, N.Y., January 9: Proposed is the issuance of an amendment to the facility operating license for the Indian Point Unit 3 located in the Village of Buchanan, Westchester County, New York, the amendment would extend the date of termination for the once—through cooling system to September, 1982 with a possible extension to September 1983. After termination the unit will operate with a closed cycle cooling system. (NUREG–0574.) Comments made by: USDA, DOE, EPA, HUD, DOI, State and local agencies, groups. (EIS Order No. 00018.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th street, SW., Washington, D.C. 20590, (202) 426–4357.

Federal Highway Administration

Draft

U.S. 70, Smithfield bypass, Johnston County, N.C., January 10: Proposed is the improvement of U.S. 70 (Smithfield bypass) from the U.S. 70/U.S. 70A Intersection Northwest of Smithfield to the U.S. 70/U.S. 70A Intersection Southeast of Smithfield, Johnston County, North Caroline. The facility would be reconstructed to a four lane highway. The Length of the improvement is 17 miles. The alternatives considered include: 1) a freeway on new alignment, 2) five alignments which would utilize some portion of existing U.S. 70 and/or U.S. 70A, 3) partial construction, 4) widening U.S. 70A, 5) public transit, 6) postponment, and 7) no action. (FHWA–NC–EIS–79–03–D.) (EIS Order No. 00024.)

Final

I–85, Charlotte bypass, NC–273 to U.S. 29/NC–49, Gaston and Mecklenburg Counties, N.C., January 8: Proposed is the upgrading of approximately 15.6 miles of existing I–85 through Charlotte from NC–273 in Gaston County to the U.S. 29/NC–49 connector in Mecklenburg County, all within North Carolina. The proposed improvements consist of widening the existing roadway from four to six lanes and reconstructing all deficient interchanges and structures. the alternatives considered include: 1) mass transit, 2) a reduced facility concept, 3) the major design alternative, and 4) do-nothing. (FHWA–NC–EIS–78–03–F.) Comments made by: COE, DOT, USDA, EPA, HEW, DOI, FERC, State and local agencies, groups, individuals, and businesses. (EIS Order No. 00014.)

Final

NB–63 and U.S. 6 improvements, near Ashland, Saunders County, Nebr., January 10: Proposed is the improvement of NB–63 and U.S. 6 near the City of Ashland, Saunders Country, Nebraska. The improvement of NB–63/U.S. 6 to 14th street, for a distance of 3.7 miles the reconstruction of .68 mile on U.S. 6 is needed to provide a channelized intersection at the West Junction of NB–63 and U.S. 6. The improvements also include construction of two new bridges. (FHWA–NEB–EIS–78–11–F.) Comments made by: DOT, USAF, COE, USDA, EPA, State and local agencies. (EIS Order No. 00020.)

EIS's Filed During the Week of Jan. 7, 1980 to Jan. 11, 1980

[Statement Title Index—By State and County]

State	County	Status	Statement title	Accession No.	Date filed	Original agency No.
	Aiken	Final	Cancer Policy, Regulation of Toxic Substances	800032	01–11–80	DLAB
		Supple.	Savannah River Plant Waste Management Operations.	800026	01–11–80	DOE
Iowa		Draft	Upper Mississippi River Resource Management Plan.	800019	01–08–80	COE
Michigan	Benton	Final	230 KV Transmission Line, Benton Co. to Milaca	800031	01–11–80	USDA
	Mille Lacs	Final	230 KV Transmission Line, Benton Co. to Milaca	800031	01–11–80	USDA
	Wayne	Final	Cadillac Center, Construction (CDBG)	800028	01–11–80	HUD
Minnesota		Draft	Upper Mississippi River Resource Management Plan.	800019	01–08–80	COE
Montana	Horn	Final	Northern Powder River Basin Coal, Big Horn	800017	01–09–80	DOI
	Rosebud	Final	Northern Powder River Basin Coal, Big Horn	800017	01–09–80	DOI
	Sheridan	Final	Northern Powder River Basin Coal, Big Horn	800017	01–09–80	DOI
Nebraska	Saunders	Final	NB–63 and U.S. 6 Improvements, Near Ashland	800020	01–10–80	DOT
New Jersey	Passaic	Final	Route No. 23 Urban Renewal Proj., Wayne Township.	800029	01–11–80	HUD
New Mexico	Los Alamos	Final	Los Alamos Scientific Laboratory Site (LASL)	800021	01–10–80	DOE
	McKinley	Final	Escalante Electric Generating Station	800016	01–09–80	USDA
	Rio Arriba	Final	Geothermal Demonstration Program 50MWE Power Plant.	800030	01–11–80	DOE
	Sandoval	Final	Geothermal Demonstration Program 50MWE Power Plant.	800030	01–11–80	DOE
	Sante Fe	Final	Los Alamos Scientific Laboratory Site (LASL)	800021	01–10–80	DOE
New York	Monroe	Draft	Irondequoit Bay Navigation Improvements	800012	01–08–80	COE
	Westchester	Final	Indian Point Unit No. 3, Cooling System	800018	01–09–80	NRC
North Caroline	Gaston	Final	I–85, Charlotte Bypass, NC–273 to U.S. 29/NC–49	800014	01–08–80	DOT
	Johnston	Draft	U.S. 70, Smithfield Bypass	800024	01–10–80	DOT
	Mecklenburg	Final	I–85, Charlotte Bypass, NC–273 to U.S. 29/NC–49	800014	01–08–80	DOT
North Dakota	McHenry	Supple.	Souris River Flood Control, Burlington Dam	800015	01–09–80	COE
	Renville	Supple.	Souris River Flood Control, Burlington Dam	800015	01–09–80	COE
	Ward	Supple.	Souris River Flood Control, Burlington Dam	800015	01–09–80	COE
Oregon	Marion	Final	FAUS–1830, McLeod Lane to or Electric Railroad	800011	01–04–80	DOT
Texas	Harris	Draft	Wheatstone Subdivision, Mortgage Insurance	800023	01–10–80	HUD
Washington	Benton	Supple.	Hanford Site Waste Management Operations	800027	01–11–80	DOE
Wyoming	Albany	Final	Upper North Laramie River Watershed	800022	01–09–80	USDA

V45/15 JA2280 UMI

Appendix II.—*Extension Waiver of Review Periods on EIS's Filed with EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/ extension	Date review terminates
U.S. ARMY CORPS OF ENGINEERS					
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.	Hookers Prairie Phosphate Mine, Polk County, Fla.	Draft 791201	Dec. 7, 1979	Extension	Feb. 14, 1980.
DEPARTMENT OF COMMERCE					
Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377-4335.	Groundfish Fishery of the Pacific Ocean, FMP.	Draft 791172	Nov. 30, 1979	Extension	Feb. 4, 1980.
DEPARTMENT OF TRANSPORTATION					
Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.	I-78m I-78/Hasbrville to I-78/Still Valley, New Jersey, and Pennsylvania.	Final 791139	Nov. 19, 1979	Extension	Feb. 11, 1980.

Appendix III.—*EIS's Filed with EPA which have been Officially Withdrawn by the Originating Agency*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Date of withdrawal
None.				

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/No.	Date notice published in "Federal Register"	Reason for retraction
None.				

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed with EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No.
U.S. DEPARTMENT OF TRANSPORTATION			
Mr. Thomas S. Westall, Flight Standards Division (ARM-205), U.S. Department of Transportation, 10455 East 25th Avenue, Aurora, Colorado 800010.	Jackson Hole Airport, Boeing, 737 Service, Grand Teton NP, Wyoming.	Dec. 26, 1979	791300

This Report should have been published in the January 4, 1980 FEDERAL REGISTER. There is a 45 day review of the document which began on January 4, 1980 and will terminate on February 19, 1980.

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	correction
U.S. ARMY CORPS OF ENGINEERS				
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.	Louisville Lake, Little Wabash River Basin, Multi-Purpose Project.	Final 791241	Dec. 21, 1980	Under commenting parties DOI was incorrectly listed as DOE. The DOE made no comment on this project. The DOI letter is incorporated in the final EIS.
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT				
Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6306.	Gallery II of Market Street East, Philadelphia, PA. (CDBG).	Final 791259	Jan. 18, 1980 (see app. I).	This EIS should have been published in the FEDERAL REGISTER Notice dated Dec. 14, 1979. The review period began on Dec. 14, 1979 and was terminated on Jan. 14, 1980.

[FR Doc. 80-2005 Filed 1-21-80; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-612-DR]

Washington; Amendment of Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Washington, (FEMA-612-DR), dated December 31, 1979.

DATED: January 11, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7848.

NOTICE: The Notice of a major disaster for the State of Washington dated December 31, 1979, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 31, 1979.

The following County for Individual Assistance only:

Kitsap

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-1882 Filed 1-21-80; 8:45 am]
BILLING CODE 6718-02-M

FEDERAL HOME LOAN BANK BOARD

Senior Executive Service; Career Reserved Positions

In accordance with Title IV of the Civil Service Act of 1978, Section 3132(b), the Chairman designated the following positions as career-reserved during calendar year 1979:

Deputy Director—Examination/Policy, ES-301
Deputy Director—Examinations/Field Operations, ES-301
Director, Administration, ES-301

FOR FURTHER INFORMATION CONTACT: Doris McGhee, Director of Personnel, Federal Home Loan Bank Board, 202-377-6050.

J. J. Finn,

Secretary to the Board, Federal Home Loan Bank Board.

[FR Doc. 80-1888 Filed 1-21-80; 8:45 am]
BILLING CODE 6720-01-M

Senior Executive Service-Performance Review Board; Establishment

In accordance with Title IV of the Civil Service Reform Act of 1978, the FHLBB has established a Performance Review Board to make recommendations to the Chairman regarding the performance of its senior executives. The Performance Review Board consists of the following members: Rita I. Fair, Samuel D. Ewing, Jr., Milan C. Miskovsky, Richard L. Petrocci, and L. David Taylor.

FOR FURTHER INFORMATION CONTACT: Doris McGhee, Director of Personnel, Federal Home Loan Bank Board, 202-377-6050.

J. J. Finn,

Secretary to the Board, Federal Home Loan Bank Board.

[FR Doc. 80-1894 Filed 1-21-80; 8:45 am]
BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Independent Ocean Freight Forwarder License Applicants; Cosmopolitan Forwarders, Ltd., et al.

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Cosmopolitan Forwarders, Ltd., 7755 Brandeis Way, Springfield, VA 22153, Officers: Bobbie O. Sampson, President, Margaret C. Howell, Secretary/Treasurer.
Sea-Mar Freight Forwarders, Inc., 6595 N.W. 36th Street, Miami, FL 33166, Officers: Benito Perez, President, Esther Donn, Secretary.
Columbia Shipping, Inc., 138-01 Springfield Blvd., Jamaica, NY 11413, Officers: Lawrence F. Bauer, President, Sharon Bauer, Secretary, Michael McAdam, Vice President.
Worldwide Expeditors, Inc., 191 Aldine Bender, Houston, TX 77060, Officers: Nelda Moore, President, Alger Moore, Vice President, Jaburn Ron Kelly, Secretary.

By the Federal Maritime Commission.
Dated: January 16, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-1894 Filed 1-21-80; 8:45 am]
BILLING CODE 6730-01-M

Dumont Shipping Co., Inc., et al.; Notice of Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before February 11, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: FF-100.

Filing Party: Bernard D. Atwood, Esquire, Haight, Gardner, Poor and Havens, One State Street Plaza, New York, New York 10004.

Summary: Agreement No. FF–100 between Dumont Shipping Co., Inc. (DSCI) (FMC No. 887), George A. Stattel, Inc. (GASI) (FMC No. 1008), George A. Stattel and Mildred A. Stattel, provides for the dissolution and liquidation of GASI as soon as possible after the effective date of this agreement. Thereupon GASI is to surrender its independent ocean freight forwarder license No. 1008. All accounts of GASI are to be taken over by DSCI. This agreement will supersede Agreements Nos. FF–76–1 and FF–76–1–A between the same parties, both of which will be automatically terminated as of the effective date of Agreement No. FF–100.

Agreement No.: T–3244–1.

Filing Party: J. A. Munster, Vice President-Treasurer, Delta Line, P.O. Box 50250, 1700 International Trade Mart, New Orleans, Louisiana 70150.

Summary: Agreement No. T–3244, originally between San Francisco Port Commission (Port) and Prudential Lines (Prudential), provides for the 5-year lease by Port of Piers 30 and 32 for use as a marine terminal and for associated stevedoring work and terminal operations associated and necessary to the handling of import and export cargoes between land and vessels loading and unloading at the premises.

On or about May 22, 1978, Delta Steamship Lines, Inc. (Delta), acquired the Mexican, Caribbean, Central America and South America trades and operations of Prudential, including all future liabilities and section 15 agreements to which Prudential was a party in the aforementioned trade areas.

This amendment modifies the lease under Agreement No. T–3244 by assigning said lease to Delta, effective June 16, 1978, and it assumes all of the obligations, terms, covenants, promises and conditions of said lease dated December 10, 1975, between the Port and Prudential. Any rent or other charges or interest thereon due or owing to the Port from Prudential prior to June 16, 1978, is not waived. Prudential is released from any liabilities and obligations under said lease on or after June 16, 1978.

Agreement No.: T–3683.

Filing Party: David C. Weigel, Assistant Attorney General, State of Indiana, 219 State House, Indianapolis, Indiana 46204.

Summary: Agreement No. T–3683, between Domtar Industries, Inc. (Domtar), and the Indiana Port Commission (Port), provides for the 5-year lease by the Port to Domtar of 2.04 acres of land at Burns Waterway Harbor on Lake Michigan at Portage, Indiana, to be used for the purpose of the installation and operation of a storage, processing and distribution facility for salt and the transportation of the material necessary and incidental to such activity.

Agreement No. 7670–19.

Filing Party: Howard A. Levy, Attorney for North Atlantic Baltic Freight Conference, Suite 727, 17 Battery Place, New York, New York 10004.

Subject: Agreement No. 7670–19 would amend the North Atlantic Baltic Freight Conference Agreement by adding new language to Article XI to provide that the conference members shall appoint a European resident representative, and that they may appoint the Chairman of the Scandinavian/Baltic U.S North Atlantic Westbound Freight Conference, or a member of his staff, for that purpose, and whose duties thereof, include, among other things, attending meetings, implementing shipper request and complaint procedures pursuant to Article VII of Agreement No. 7670, and housekeeping, administrative and funding arrangements pursuant to the Memorandum of Housekeeping Arrangements of the Trans-Atlantic Freight Conference (FMC Agreement No. 10281) and pursuant to Article XVIII of Agreement No. 7670.

Agreement No.: 9902–12.

Filing Party: Edward Schmeltzer, Esquire, Schmeltzer, Aptaker & Sheppard, P.C., 1800 Massachusetts Avenue NW., Washington, D.C. 20036.

Summary: Agreement No. 9902–12 is a proposal by the parties to the Euro-Pacific Joint Service Agreement to expand the geographic scope of the agreement to include service from/to the Hawaiian Islands. Service from/to the Hawaiian Islands will be provided only via transshipment at U.S. Pacific Coast ports. Service under the agreement is currently provided between ports on the U.S. Pacific Coast and ports in the United Kingdom, Scandinavia, and Continental Europe, including wayports in Mexico, Central America, the East Coast of South America, and the West Indies.

Agreement No.: 10126–1.

Filing Party: Mr. K. N. Tice, Chester, Blackburn & Roder, Inc., 1775 Northwest 70th Avenue, Miami, Florida 33126.

Summary: Agreement No. 10126–1 would amend the basic agreement by (1) deleting Trailer Container Line as a participant and (2) changing the name of The Northern Pan America Line d/b/a Nopal Caribe Lines to Nopal Star Line Limited.

Agreement No.: 10267–4.

Filing Party: Howard A. Levy, Esquire, 17 Battery Place, Suite 727, New York, New York 10004.

Summary: Agreement No. 10267–4 is a proposal by the member lines of the Container Carriers Discussion Agreement to extend the life of the basic agreement for one year, to March 31, 1981.

By Order of the Federal Maritime Commision.

Dated: January 16, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80–1883 Filed 1–21–80; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Open Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, February 7, 1980
Thursday, February 21, 1980
Thursday, February 28, 1980

The meetings will convene at 10 a.m., and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C., section 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW., Washington, D.C. 20415 (202–632–9710).

Dated: January 17, 1980.

Jerome H. Ross,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. 80–1998 Filed 1–21–80; 8:45 am]

BILLING CODE 6325–01–M

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPR 40]

Federal Procurement; Current Interest Rate of 12¼ Percent Under Public Law 92–41

January 4, 1980.

1. *Purpose.* This bulletin provides, for the information of executive agencies, the current interest rate established by the Secretary of the Treasury under Pub. L. 92–41 (85 Stat. 97) for the Renegotiation Board.

2. *Expiration date.* This bulletin expires June 30, 1980, unless sooner revised or superseded.

3. *Background.* The interest rate determined by the Secretary of the Treasury, as required by Pub. L. 92–41 for Renegotiation Act purposes, has been applied to various interst payment requirements in the FPR. For the July 1–December 31, 1979, period, the interest rate was announced in GSA Bulletin FPR 38. Use of the Renegotiation Act rates will be continued for the present. As previously indicated, the propriety of this arrangement is being discussed with the Department of the Treasury.

4. *Agency information.* The Secretary of the Treasury has established an interest rate of 12¼ percent as applicable to the 6-month period beginning on January 1, 1980, and ending on June 30, 1980. The following sections of the Federal Procurement Regulations are affected by the interest rate: §§ 1–7.203–15, 1–8.212–1(f), 1–8.701, 1–8.702, 1–8.703, 1–8.704–1, 1–8.706, 1–8.804–2(b), 1–8.806–4, 1–30.403, 1–30.414–2(k)(2), and 1–30.414–2(n)(3).

Herman W. Barth,

Acting Assistant Administrator for Acquisition Policy.

[FR Doc. 80–1695 Filed 1–21–80; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 79N–0338; DESI 4681]

Certain Drugs Containing Adiphenine Hydrochloride; Drugs for Human Use; Drug Efficacy Study Implementation; Revocation of Exemption

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice revokes the temporary exemption for products containing adiphenine hydrochloride alone and in combination with certain sedatives or minor tranquilizers, which permitted them to remain on the market beyond the time limit scheduled for implementation of the Drug Efficacy Study. The questions of the drugs' effectiveness have now been resolved.

EFFECTIVE DATE: January 22, 1980.

FOR FURTHER INFORMATION CONTACT: Herbert Gerstenzang, Bureau of Drugs (HFD–32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice appearing elsewhere in this issue of the **Federal Register**, the Food and Drug Administration is reclassifying the indications for the following drug product (DESI 4681) to lacking substantial evidence of effectiveness:

NDA 4–681; Trasentine-Phenobarbital Tablets containing adiphenine hydrochloride and phenobarbital; previously marketed by Ciba Pharmaceutical Co., Ciba-Geigy Corp., 556 Morris Ave., Summit, NJ 07901.

The product has been allowed to remain on the market beyond the time limit established for implementation of the drug efficacy study (DESI) on the condition that manufacturers undertake additional clinical studies to determine the product's effectiveness. The temporary exemption was announced in a notice published in the **Federal Register** of November 11, 1975 (40 FR 52644).

A clinical study submitted by Ciba pursuant to the notice failed to demonstrate effectiveness of either the single-entity or the combination drugs containing adiphenine hydrochloride. No other person submitted data. Therefore, the temporary exemption granted by the November 11, 1975 notice, as it pertains to adiphenine hydrochloride alone and in combination with a sedative or minor tranquilizer, is hereby revoked; effective January 22, 1980.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1).

Dated: January 10, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–1976 Filed 1–21–80; 8:45 am]

BILLING CODE 4110–03–M

Office of Education

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Program Liaison Committee of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463, Sec 10(a)(2)).

DATE: February 21, 1980, 1:00 p.m. to 5:00 p.m.; February 22, 1980, 9:00 a.m. to 3:00 p.m.

ADDRESS: National Advisory Council on Adult Education, 425 13th Street, N.W., Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT: Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th Street, N.W., Washington, D.C. 20004 (202/376–8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress

together with his comments and recommendations.

The meeting of the Committee shall be open to the public.

The proposed agenda includes:

State Advisory Council Publication.
Glossary/Organizational Publication.
Organizational Relationship With Chief State School Officers.
Committee Budget.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, 425 13th Street, N.W., Suite 323, Washington, D.C. 20004.

Signed at Washington, D.C. on January 15, 1980.

Gary A. Eyre,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 80-1969 Filed 1-21-80; 8:45 am]

BILLING CODE 4110-02-M

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Program Effectiveness and Evaluation Committee of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463, Sec. 10(2)(2)).

DATE: March 5-6, 1980, 9:00 a.m. to 5:00 p.m.

ADDRESS: National Advisory Council on Adult Education, 425 13th Street NW., Suite 323, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th St. NW., Washington, D.C. 20004 (202/376-8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Committee shall be open to the public.

The proposed agenda includes:

Adult Education Program Assessment Project.
State Program and Financial Reporting System.
Project on Americans in Transition.
Conceptual Framework for Adult Learning Programs.
Committee Budget.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, 425 13th St. NW., Suite 323, Washington, D.C. 20004.

Signed at Washington, D.C. on January 15, 1980.

Gary A. Eyre,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 80-1970 Filed 1-21-80; 8:45 am]

BILLING CODE 4110-02-M

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Executive Committee of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463, Sec. 10(a)(2)).

DATE: February 8, 1980, 9:00 a.m. to 5:00 p.m.

ADDRESS: Detroit Plaza Hotel, Renaissance Center, Detroit, Michigan.

FOR FURTHER INFORMATION CONTACT: Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th Street, N.W., Washington, D.C. 20004 (202/376-8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Committee shall be open to the public.

The proposed agenda includes:

NACAE Budget.
Standing Committee Budgets.
Committee Functions and Responsibilities.
Committee Meetings.
Program Visitations.
Department of Education Organization.
Cost Benefits of Adult Education.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, 425 13th Street, N.W., Suite 323, Washington, D.C. 20004.

Signed at Washington, D.C. on January 17, 1980.

Gary A. Eyre,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 80-1971 Filed 1-21-80; 8:45 am]

BILLING CODE 4110-02-M

Public Health Service

Health Resources Administration

Special Project Grants; Application Announcement

The Bureau of Health Manpower, Health Resources Administration, announces that competitive applications for Special Project Grants will be accepted from accredited schools of public health and other educational institutions under the authority of section 792(a) & (b) of the Public Health Service Act, as amended. Application materials are expected to be available on January 18, 1980.

Section 792(a) authorizes the Secretary to make grants to assist accredited schools of public health in meeting the costs of special projects to develop new programs or expand existing ones. Accredited schools of public health may apply for project grants in:

(1) Biostatistics or epidemiology;

(2) Health administration, health planning, or health policy analysis and planning;

(3) Environmental or occupational health;

(4) Dietetics and nutrition; or

(5) Maternal and child health.

Section 792(b) authorizes the Secretary to make grants to assist other educational institutions in meeting the costs of special projects for graduate programs in:

(1) Biostatistics or epidemiology;

(2) Health administration, health planning, or health policy analysis and planning;

(3) Environmental or occupational health; or

(4) Dietetics and nutrition.

Awards are limited to the listed programs. For FY 1980, in determining the priority for funding of approved competitive applications, additional preference will be accorded to projects in which the following are demonstrated:

1. The provision of external degree programs designed to offer graduate level public health training in one or more of the listed programs for practitioners while they remain on the job.

2. The development or expansion of curriculum components within one or more of the listed programs to provide content which specifically addresses the health problems and health service needs of minorities and disadvantaged persons.

3. The development or expansion of curriculum components in administration, planning, and policy analysis within the following graduate programs: biostatistics or epidemiology, environmental or occupational health, dietetics and nutrition, maternal and child health.

"Minorities" means individuals whose race/ethnicity is classified as American Indian or Alaskan Native, Asian or Pacific Islander, Black or Hispanic. (OMB-Designations of race/ethnic categories found in **Federal Register**, Vol. 42, No. 64, April 4, 1977, and implementing OMB Circular No. A-46 Revised Transmittal Memorandum No. 6, dated May 12, 1977).

"Disadvantaged persons" means an individual who (a) comes from an environment that has inhibited the individual from obtaining the knowledge, skills, and abilities required to enroll in and graduate from a graduate or specialized program in public health, or (b) comes from a family with an annual income below a level based on low income thresholds according to family size, published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in all health manpower programs.

The following income figures are to be used to determine what constitutes a low-income family for purposes of these Special Project grants for fiscal year 1980:

[Adjusted gross income for calendar year 1980]

Size of parents family [1]	Income level [2]
1	$4,400
2	5,700
3	6,800
4	8,700
5	10,200
6	11,500

[1] Includes only dependents listed on Federal income tax returns.
[2] Rounded to $100.

4. The development or expansion of curriculum components within existing health administration and planning programs for health service administrators and health planners who are preparing for employment in health maintenance organizations, extended care facilities, ambulatory care facilities, and health planning agencies.

5. The development or expansion of programs structured to meet manpower needs in health services administration and planning which lead to regional educational opportunities for students residing in states which have a documented shortage of health service administrators and planners, as documented by the applicant.

Applications which do not address these preferences will be reviewed and given full consideration for funding. Each preference which is met will enhance the competitive position of an approved applicant in determining the order of funding of approved applications.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer, (D-04), Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone: (301) 436-7360.

Questions concerning the programmatic aspects of these grants should be directed to: Chief, Education Development Branch, Division of Associated Health Professions, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 5-41, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone: (301) 436-6800.

To be considered for fiscal year 1980 funding, applications must be received by the Grants Management Officer, Bureau of Health Manpower, at the address above no later than March 3, 1980. Approximately $775,000 is expected to be available for these grants.

Dated: January 17, 1980.

Henry A. Foley, Ph. D.,

Administrator.

[FR Doc. 80-3074 Filed 1-21-80; 8:45 am]

BILLING CODE 4110-83-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-36223]

Alaska; Proposed Withdrawal and Reservation of Lands; Correction

January 14, 1980.

In FR Doc. 79-31552 appearing at pages 58970 and 58971 in the **Federal Register** of Friday, October 12, 1979, the following changes should be made:

1. On page 58971, the last line of the last paragraph which read 90 Stat. 7252 is corrected to read 90 Stat. 2752.

2. Immediately following the above correction, two paragraphs are added to read as follows:

Effective on January 22, 1980, the above-described lands shall be segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. The segregative effect of this proposed withdrawal shall continue for a period of two years, unless sooner terminated by action of the Secretary of the Interior. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. If the withdrawal is approved, the segregation will continue for the duration of the withdrawal.

All communications (except for public hearing requests) in connection with this proposed withdrawal should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 701 C Street, Box 13, Anchorage, Alaska 99513.

Robert E. Sorenson,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-1806 Filed 1-21-80; 8:45 am]

BILLING CODE 4310-84-M

Alaska State Office; Redelegation of Authority

1. Pursuant to the authority contained in Part I, Section 1.1(a) of Bureau Order

V45/15 JA22 80 UMI

No. 701 of July 23, 1964, as amended, I hereby redelegate authority to take action as listed below:

a. Chief, Branch of Lands and Minerals Operations, in the Division of Technical Services, authority to take action on the matters listed in Part II–A.

b. Chief, Minerals Section, in the Branch of Lands and Minerals Operations, Division of Technical Services, authority to take action on the following matters listed in Part II:

Sections: 2.2(b), 2.2(c), 2.2(d), 2.3(a), 2.3(c), 2.5(b), 2.5(c), 2.6 All.

c. Chief, Lands Section, in the Branch of Lands and Minerals Operations, Division of Technical Services, authority to take action on the following matters listed in Part II:

Sections: 2.2(b), 2.2(c), 2.2(d), 2.3(a), 2.3(c), 2.9 All except (p) and (t)(7).

d. Chief, State Selections Section, in the Branch of Lands and Minerals Operations, Division of Technical Services, authority to take action on the following matters listed in Part II:

Sections: 2.2(b), 2.2(c), 2.2(d), 2.3(a), 2.3(c), 2.9(p).

e. Chief, Technical Information Section, in the Branch of Lands and Minerals Operations, Division of Technical Services, authority to take action on the following matters listed in Part II:

Sections: 2.2(c), 2.4(a)(4), 2.6(k), 2.9(e).

The authority in Section 2.9(e) is limited to the receiving of final proof testimony and administering oaths pertaining to Alaska homesteads.

2. The Chiefs, Division of Technical Services, and Branch of Lands and Minerals Operations, may in their discretion personally exercise any authority hereby delegated.

3. The Chief, Branch of Lands and Minerals Operations, may, by written order, designate any qualified employee of the Branch to perform the functions of the position. Such order will be approved by the Chief, Division of Technical Services. Each employee who serves in such capacity shall prepare a memorandum showing the date and hour of the commencement and termination of each period of service in that capacity.

4. The Chiefs, Minerals Section, Lands Section, State Selections Section and Technical Information Section may, by written order, designate any qualified employee of the Section to perform the functions of their position in their absence. Such order will be approved by the Chief, Branch of Lands and minerals Operations. Such employee who serves in such capacity shall prepare a memorandum showing the date and hour of the commencement and termination of each period of service in that capacity.

5. Effective date. This redelegation of authority will become effective on January 1, 1980.

6. The following previously published redelegation of authority is hereby canceled:

a. Approved October 31, 1975 (40 F.R. 52069).

Curtis V. McVee,

State Director.

[FR Doc. 80-1907 Filed 1-21-80; 8:45 am]

BILLING CODE 4310-84-M

Upper Missouri National Wild and Scenic River, Mont.; Boundary, Classification and Management Plan

The following is a summary of a plan for the development operation and management of that segment of the Missouri River to be administered by the Secretary of the Interior through the Bureau of Land Management (BLM) as provided for in Title II, Pub. L. 94–486.

The segment, 149 miles in length, extends from Fort Benton, Montana, downstream to the Fred Robinson Bridge where U.S. Highway 191 crosses the Missouri River. The plan, as required pursuant to section 202, Pub. L. 94–486 and Section 3(b), Pub. L. 90–452, includes detailed boundaries, classification of the river segment, and the proposed development and management of the segment in accordance with the river classification.

The plan is available for public review and comment at the following BLM Offices:

Bureau of Land Management, Division of Recreation and Cultural Resources, Interior Building, 18th and C Streets NW., Washington, D.C. 20240.

Bureau of Land Management, Montana State Office, Granite Tower, 222 N. 32nd Street, Billings, Montana 59107, Office Hours: 8 a.m.–4:30 p.m.

Bureau of Land Management, Lewiston District Office, Bank Electric Building, Lewiston, Montana 59457, Office Hours: 7:45 a.m.–4:30 p.m.

The boundaries, classifications, and development plans shall take effect in accordance with section 3(b) of the Act of October 2, 1968.

January 15, 1980.

Ed Hastey,

Associate Director.

Introduction

The National Wild and Scenic Rivers Act, Pub. L. 90–542, was enacted October 2, 1968. In passing this important legislation, Congress stated that:

"It is hereby declared to be the policy of the United States that certain selected rivers of the Nation, which with their immediate environments, possess outstandingly remarkable scenic, recreational, geological, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environment shall be protected for the benefit and enjoyment of present and future generations. The Congress declares that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes."

The National Wild and Scenic Rivers Act, as amended October 12, 1976, by Pub. L. 94–486, 90 Stat. 2327, incorporated the 149 mile segment of the upper Missouri River from Fort Benton downstream to the Fred Robinson Bridge (U.S. Highway 191 crossing) within the National Wild and Scenic River System.

The Upper Missouri National Wild and Scenic River is somewhat unique in that it is to be administered under the provisions of the National Wild and Scenic Rivers Act as well as principles of multiple use and sustained yield as incorporated in the Taylor Grazing Act (48 Stat. 1269 as amended) and the Amendment to the Wild and Scenic Rivers Act, Pub. L. 94–486, section 203(a).

Boundary Designation

Boundaries of the Upper Missouri Wild and Scenic River were established in conformance with: Pub. L. 94–486 after survey; aerial and ground reconnaissance; reference to previously proposed boundary maps; and consultation with interested agencies, groups and citizens.

The boundary is generally designated to be the Missouri River and its bed from Fort Benton to Coal Banks Landing and within the Charles M. Russell National Wildlife Range. This boundary includes the area between the mean high water marks, including islands and areas of associated riparian vegetation. Ownership of navigable waters and underlying lands was passed to the State in the Statehood Act of 1889. Specific deviations within these stretches of the river would accrue through identification of needed access, campgrounds, and cultural resource sites which would be identified in final activity management plans.

The remaining designated portion of the Missouri River is generally bounded by the tops of the steep slopes and bluffs, in conformance with rim-to-rim protection concept stated in section 203 of Pub. L. 94–486 Rim-to-rim includes the Missouri River, flood plain, and slopes visible from the Missouri River, which reach to the crest or horizon formed by the general level of the plains.

Classification

Three potential classifications are cited in the Wild and Scenic Rivers Act, section 2(b):

Wild—Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America.

Scenic—Those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and undeveloped but accessible in places by roads. Recreational—Those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.

The Upper Missouri River contains all three of the classifications listed in section 2(b) of the Wild and Scenic Rivers Act. A classification of the Missouri River is as follows:

Segment, Length and Reclassification

Fort Benton to Ebersole Bottom, 52 miles, Recreational.

Ebersole Bottom to Deadman Rapids, 33 miles, Wild.

Deadman Rapids to Holmes Rapids, 7 miles, Recreational.

Holmes Rapids to Leslie Point, 7 miles, Wild.

Leslie Point to Magdall Homestead, 5 miles, Scenic.

Magdall Homestead to Cow Island, 24 miles, Wild.

Cow Islands to Fred Robinson Bridge, 21 miles, Scenic.

Coordination

In August, 1977, a public meeting was held in Lewistown, Montana, to discuss a conceptual plan prepared by the Bureau. Forty written comments from individuals responding to the conceptual plan were also received and considered by BLM.

Consultation and coordination with other units of government, private, and public interests, were solicited in the preparation of the detailed management plan. These entities included:

Heritage Conservation and Recreation Service,
National Park Service,
U.S. Coast Guard,
U.S. Fish and Wildlife Service,
U.S. Army Corps of Engineers,
Environmental Protection Agency,
Montana Fish and Game Department,
Montana Water Quality Bureau,
Montana Department of Natural Resources,
Montana Historical Society,
Montana Land Department,
Montana Department of Highways,
The County Commissioners of: Fergus, Chouteau, Blaine and Phillips Counties.

Public meetings sponsored by the Bureau to solicit response to the detailed plan were conducted in the following Montana communities:

Lewistown
Havre
Fort Benton
Glasgow
Helena
Great Falls
Billings
Missoula
Bozeman

Description

Fort Benton to Ebersole Bottom—Recreational Segment

Most of the man-made features readily seen from the Missouri River are located in this 52 mile Fort Benton to Ebersole Bottom segment. The Burlington Northern Railroad parallels much of this stretch and several roads lead to or run parallel to the Missouri River. Cultivated fields frequently extend from the Missouri River banks to the base of the bluffs. Cottonwood groves are scattered along the banks and on the numerous river islands. A campground and launch ramp operated by the Montana Department of Fish and Game is located at Coal Banks Landing. The bridge at Fort Benton and the ferries at Loma and Virgelle provide the only river crossings in this stretch of the Missouri River. Most of the lands in this segment are in private ownership.

Ebersole Bottom to Deadman Rapids—Wild Segment

The spectacular white rocks section of the Missouri River begins at Ebersole Bottom and extends to Deadman Rapids, approximately four miles above the Judith River junction.

Although some cliff formations are at the water's edge, most of the outstanding scenic and geologic features are located in the adjacent breaks. These, in turn, frequently open into highly scenic side canyons with white sandstone walls.

In this 33 mile segment, few buildings can be observed from the Missouri River. Two are sites of seasonal ranch headquarters. A road to one ranch and a few jeep trails wind their way down to the Missouri River. These jeep trails are seldom used and offer little, if any distraction to the visitor. The Missouri River still remains generally inaccessible, essentially primitive, and in its natural state.

Deadman Rapids to Holmes Rapids—Recreational Segment

Much of the segment from Deadman Rapids to Holmes Rapids is included in the Judith Landing Historic District, a 9,555 acre component of the National Register of Historic Places. The historic PN Ranch headquarters is located here. This seven mile segment is a transition area between the white rocks and the Missouri badlands. The hills are farther back from the Missouri River and create a broad plain which dominates this segment. The Lohse (PN) Ferry serves as the only river crossing in the 50 miles downstream from the Virgelle Ferry. The Lohse (PN) Ferry, operator buildings, and approach roads are the primary intrusions seen from the Missouri River. Several ranch headquarters and associated buildings are located in the vicinity of the Judith River junction. These buildings are partially obscurred from the Missouri River by cottonwood groves and the river banks. A recreation area and fishing access site are located on the north bank of the Missouri River near the ferry approach road. This site is maintained by the Montana Fish and Game Department. Most of the land in this segment is in private ownership.

The Lohse (PN) Ferry site has long been suggested as a possible bridge crossing by central Montana residents. Recreational classification of this segment of the Missouri River would not preclude such construction.

Holmes Rapids to Leslie Point—Wild Segment

The heavily eroded and generally barren badlands from Holmes Rapids to Leslie Point cannot be entered except by the Missouri River or horseback. The massive, rugged bluffs project an aura of stark isolation. The abandoned homesteads in the area accentuate the traveler's feeling of remoteness and appreciation for the struggles of earlier times. Several cottonwood groves provide campsites. The lands in this segment are largely in public ownership.

Leslie Point to Magdall Homestead—Scenic Segment

The land character of the segment from Leslie Point to Magdall Homestead is nearly the same as the Holmes Rapids to Leslie Point segment described above. Different features include active farm and ranch operations, developed county access roads and the McClelland (Stafford) Ferry which connects these north and south access roads. The limited flatter bottom lands are in private ownership and the more extensive rugged bluffs are in public ownership.

V 45 / 15 / JA 22 80 UMI

Magdall Homestead to Cow Island—Wild Segment

The massive, rugged, and generally barren badlands continue through the Magdall Homestead to Cow Island segment. A few cottonwood groves, sparse grass and brush, and some scattered conifers are found. Two isolated old homesteads lend to the feeling of solitude in this largely federally owned segment.

Cow Island to Fred Robinson Bridge—Scenic Segment

All but a few acres of this 21-mile stretch from Cow Island to Fred Robinson Bridge are federally owned. The badlands open into broad and open country with scenic views extending beyond previous segments. The former barrenness dissolves into flood plain cottonwood groves with coniferous trees on the adjacent hillsides and breaks. Some of the bottom lands show evidence of former or present ranching operations and irrigated crops.

The abandoned Power Plant Ferry site is located a few miles below Cow Island. Further downstream the James Kipp State Recreation Area is located at the Fred Robinson Bridge. About half of this segment is within the Charles M. Russell National Wildlif Range; therefore, wildlife is more often seen here than in any other section of the Missouri River.

Management Objectives and Policies

The Wild and Scenic Rivers Act, section 10(a), states that:

> Each component of the national wild and scenic rivers system shall be administered in such manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its esthetic, scenic, historic, archeologic and scientific features.

The management policy stated above has been further expanded, clarified, and, in some instances, modified by the amendment to the Wild and Scenic Rivers Act in Pub. L. 94–486. The sections of the amendment dealing with boundaries and multiple use management require that special care be given to the development of management policies which meet both Wild and scenic River *and* Multiple Use objectives. The amendment provides that Upper Missouri Wild and Scenic River management include: a bridge, irrigation and pumping facilities, agriculture, grazing, mining and mineral leasing, rights-of-way, and other activities. But such management must be consistent with Wild and Scenic River values.

Management of the Missouri River must be designed according to specific river segments because of unique characteristics or use objectives. Certain general management objectives do apply to the Missouri River as a whole.

General Management Objectives

Recreation Resources

The primary recreation use season is determined to be that period extending from the weekend before Memorial Day through the weekend following Labor Day. Management of recreational use will be confined to this period until a clear need for extension develops.

Because the long term and continuing impact of human use on the river and its environment is not fully understood, a system of periodic evaluation and monitoring will be conducted by BLM in order to develop criteria to insure a quality recreational experience.

Determine visitor use capacity by river segment, based on recreation standards for spatial distancing, average group sizes and available campsites.

Provide or maintain limited access for camping, hunting, and fishing as well as sanitation facilities to meet public health needs and to prevent site deterioration and water pollution.

Provide for visitor health and safety at levels appropriate to the risks normally expected when engaged in recreational activities on the Missouri River. Attempt to eliminate or reduce hazards on or over the Missouri River.

Inform visitors of historical aspects, recreational values and safety precautions needed to fully enjoy and protect the Missouri River.

Implement a visitor use permit system to begin long term administration and control of visitor numbers.

Encourage operation of all recreational sites now administered by the Montana Fish and Game Department.

Promulgate rules for use of motorized vehicles, boats and aircraft as needed to meet the objectives of this plan. Manage outfitter and guide services to meet public needs in keeping with carrying capacities.

Maintain or improve water quality at federal recreation sites to meet state and federal standards for drinking water.

Minimize noise pollution in zones valued for solitude.

Negotiate for fee simple title to lands which contain recretional or cultural values which would be best protected and enhanced by acquisition.

Acquire scenic and site easements on privately owned properties which are needed for overnight campsites and for protection of historic, cultural and scenic values.

Develop interpretive programs that enhance the understanding, appreciation, and enjoyment of the various resources, user reguations, and resource uses of the river management area.

Permit hunting and fishing in accordance with state laws and regulations, except in designated zones and at specific periods when no hunting will be permitted for reasons of public safety and administration.

Provide potable drinking water sources at desirable locations.

Promulgate visitor use rules needed to achieve the objectives stated above and provide for their dissemination, understanding, and enforcement.

Cultural Resources

Maintain an on-going inventory of all lands within the river management corridor to identify, evaluate and plan for the protection of prehistoric and historic cultural resources.

Provide for the preservation, protection, and enhancement of historical and archeological sites in compliance with federal laws and policies.

Prepare a narrative history of human use of lands within the Missouri River management area.

Provide interpretation of historic and archeological sites for visitor enjoyment. Acquisition of limited, privately owned lands may be required to accomplish this objective. Suitable sites will be nominated to the National Register of Historic Places.

Maintain data and artifacts for future research and use.

Natural History

Conduct a natural history resource inventory to identify examples of rare, unique, or otherwise outstanding biotic or geologic values.

Preserve the geological and paleontological resource in its present pristine condition.

Protect threatened and endangered species of flora and fauna.

Permit natural processes to proceed with minimal human interference.

Visual Resources

Protect and maintain existing primitive and natural characteristics of the visual resource. Acquire lands or interest in lands necessary to carry out this objective.

Reduce the impact of existing and future man-made intrusions on the visual resource in accordance with the Wild and Scenic Rivers Act.

Minerals

Inventory mineral resources and mining claims for management planning.

Allow development and use of mineral resources (as provided in the Act) in such a manner as to prevent degradation of the aesthetic, prehistoric, historic, geologic, and primitive features of the area. Needed actions may include mining claim validity determinations, scenic easements, and cooperation with the State of Montana in assuring that private mining meets the objectives of this plan. Surface coal mining is prohibited in this area by the Strip Mining Act of 1977. The removal of gravel or other streambed materials will be permitted only in accordance with existing authorities and where it is determined that such removal will not have a harmful effect upon water quality or fisheries potential.

Range

Manage grazing of public lands in a manner which maintains or improves forage production, maintains or enhances riparian vegetation, wildlife habitat, watershed and scenic values, and minimizes conflict between livestock and recreationists.

Construct livestock management facilities such as fences and water sources to comply with scenic restrictions appropriate to the classification of the wild and scenic river segment. A few facilities such as fences or corrals on private lands will be subject to the terms and conditions of scenic easements.

Exclude livestock from high visitor use areas, such as campsites, through fencing or changes in use seasons.

Forest Management

Dedicate the forest and woodland resource to the maintenance of the scenic character of the Missouri River. Cutting of timber would be allowed only to prevent spread of disease or insect infestations or to clean up burned areas.

Cottonwood groves will require protection and enhancement for their recreational values. Livestock may be excluded from some small selected tracts of public lands which are determined to be suitable for cottonwood enhancement. A variety of experimental methods of cottonwood reforestation should be attempted.

Watershed

Mange all resource uses to prevent watershed or water quality deterioration.

Soil stabilization will be encouraged in high use areas adjacent to the river. Native plant species should be used in all areas where seeding or planting is required. Special management protection measures will be needed for areas of unique biological value.

Wildlife

Cooperate with the State of Montana in maintaining wildlife populations and enhancing sport fishing and hunting through maintenance and enhancement of habitat.

Inventory and develop habitat management plans for threatened or endangered wildlife species in accordance with approved recovery plans.

Study the potential for the re-introduction of bighorn sheep on public lands in the breaks and white rocks segments of the Missouri River.

Give equal consideration in habitat management for fish and wildlife for both nongame and game species.

Land Acquisition and Use Controls

Give priority in fund expenditure to the acquisition and development of administrative sites, historic or cultural sites, campsites, and unique features.

Develop cooperative agreements with local units of government to apply zoning controls on sensitive lands adjacent to the river.

Establish a system for monitoring the chemical, biological, and physical properties of the river and its resources to prevent or mitigate adverse developments which may occur in the management corridor.

Scenic easements or other easements will be obtained as are reasonably necessary to carry out the management plan. Where mutually agreeable with the landowner, acquisition of non-federal lands may occur by fee purchase, donation, or exchange.

Review powersite classifications on a site specific basis through procedures outlined in the Federal Land Policy and Management Act (Pub. L. 94–579).

Revoke water reserve and stock driveway withdrawals found incompatible with purposes of the wild and scenic Missouri River.

Applications for new utility rights-of-way may be approved where they are consistent with maintaining wild and scenic river values.

Examine all existing utility lines to determine if their present locations and visual aspects are compatible with the river management prescriptions. The long range goal is to place aesthetically unpleasing overhead lines underground or to channel them into corridors, subject to existing rights.

Eliminate trespass through appropriate legal means.

A cadastral survey will be made of all lands in the management area, and boundary markers will be placed for ready identification.

Consider issuing right-of-way grants through, over, and under lands in Federal ownership. In order to assure maintenance of present agricultural uses, such as grants shall be compatible with classification standards and controls of the river segments. Subject to valid existing rights, close all roads and trails which conflict with management objectives.

Water

Conduct studies to determine water flow needs to maintain water quality, maintenance and enhancement of riparian habitat and a quality recreational environment.

Develop maps which delineate the 100 year floodplain where proposed developments are likely to occur. Such maps will be used for planning and zoning purposes in conjunction with local entities to protect wild and scenic river values.

Fire Management

Provide for suppression of wildfire in a manner consistent with maintaining the wild, scenic or recreation character of the river segments, and prevent fire escape onto private lands. Rehabilitate burned areas as needed to reduce erosion conditions and maintain scenic values.

Lands Included Within the Designated Boundary of the Upper Missouri Wild and Scenic River

T. 26 N., R. 12 E., P.M.M.;
Secs. 1, 2, 3, 4: All,
Sec. 5, S½,
Sec. 6, SE¼,
Sec. 7, NE¼,
Sec. 8, N½,
Sec. 9, NW¼,
Sec. 10, N½NE¼,
Sec. 11, NE¼, N½NW¼, N½SE¼,
Secs. 12, 13: All,
Sec. 24, E½, E½W½,
Sec. 25, E½, E½W½,
Sec. 36, E½.

T. 27 N., R. 12 E., P.M.M.;
Sec. 26, S½NE¼, SE¼NW¼, E½SW¼, SE¼,
Sec. 33, S½SE¼,
Sec. 34, S½SW¼,
Sec. 35, E½, E½W½.

T. 23 N., R. 13 E., P.M.M.;
Sec. 3, NW¼NW¼,
Sec. 4, N½NE¼.

T. 24 N., R. 13 E., P.M.M.;
Secs. 3, 4: All,
Sec. 8, SW¼NW¼, N½SW¼, SE¼SW¼, S½SE¼,
Sec. 9, All,
Sec. 10, N½, SW¼, W½SE¼,
Sec. 15, W½,
Sec. 16, All,

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Sec. 17, NE¼, E½NW¼,
Sec. 21, N½, N½SW¼, SE¼,
Secs. 22, 23, 24, 25: All,
Sec. 26, N½, N½S½, SW¼SW¼,
Sec. 27, All,
Sec. 28, E½
Sec. 33, E½
Sec. 34, N½NE¼, W½,
Sec. 35, NW¼NW¼,
Sec. 36, N½, SE¼.
T. 25 N., R. 13 E., P.M.M.:
Sec. 4, W½NW¼, S½,
Sec. 5, All.
Sec. 6, E½E½, NW¼NE¼, NE¼NW¼,
Sec. 7, NE¼NE¼,
Secs. 8, 9: All,
Sec. 10, W½SW¼;
Secs. 14, 15, 16: All,
Sec. 17, E½E½
Sec. 20, E½E½, SW¼SE¼,
Sec. 21, All,
Sec. 22, N½NE¼, W½,
Sec. 27, W½,
Sec. 28, All,
Sec. 29 NE¼, NE¼SW¼, N½SE¼, SE¼SE¼,
Sec. 31, NE¼NE¼, S½NE¼, N½SE¼,
Sec. 32, NE¼NE¼, S½N½, NW¼NW¼, N½SW¼, SE¼SW¼, SE¼,
Sec. 33, All,
Sec. 34, W½.
T. 26 N., R. 13 E., P.M.M.:
Sec. 7, S½SW¼,
Sec. 18, W½,
Sec. 19, W½, NW¼SE¼, S½SE¼,
Sec. 29, SW¼,
Secs. 30, 31 All,
Sec. 32, S½NE¼, W½, SE¼.
T. 23 N., R. 14 E., P.M.M.:
Sec. 1, NE¼NE¼, S½NE¼, NW¼, S½,
Sec. 2, NE¼, NE¼NW¼, S½NW¼, S½,
Sec. 3, W½, SE¼,
Sec. 4, All,
Sec. 5, N½, N½S½,
Sec. 6, NE¼,
Sec. 9, E½, E½W½, NW¼NW¼,
Secs. 10, 11, 12, 13: All,
Sec. 14, N½, SE¼,
Sec. 15, N½,
Sec. 16, NE¼,
Sec. 23, N½NE¼, SE¼NE¼, NE¼SE¼,
Sec. 24, All
Sec. 25, N½.
T. 24 N., R. 14 E., P.M.M.:
Sec. 19: Lots 3–8, 13–16,
Sec. 29, S½SE¼,
Sec. 30 Lots 3–8, 11–20, SE¼,
Sec. 31, 32: All
Sec. 33, NW¼NW¼, S½NW¼, SW¼,
Sec. 35, SE¼SW¼.
T. 22 N., R. 15 E., P.M.M.:
Secs. 1, 2, 3, 4, 5: All,
Sec. 6, Lots 1–5, 11–13, 22, S½NE¼, SE¼,
Sec. 9, N½, N½S½,
Sec. 10, N½, N½S½,
Sec. 11, N½, N½S½, S½SE¼,
Sec. 12, All.
T. 23 N., R. 15 E., P.M.M.:
Sec. 7, Lots 13–18,
Sec. 18, Lots 1–20,
Sec. 19, Lots 1–20, SE¼,
Sec. 25, SE¼NE¼, NE¼SE¼, S½S½,
Sec. 27, SW¼SW¼,
Sec. 28, S½S½,
Sec. 29, S½S½,
Secs. 30, 31, 32, 33: All,
Sec. 34, SW¼NE¼, W½NW¼, SE¼NW¼, S½,
Sec. 35, S½
Sec. 36, All.
T. 22 N., R. 16 E., P.M.M.:
Sec. 4, W½W½,
Secs. 5, 6: All,
Sec. 7, N½, SW¼, N½SE¼, SW¼SE¼,
Sec. 8, NW¼, NW¼SW¼.
T. 23 N., R. 16 E., P.M.M.:
Sec. 22, E½SW¼, SE¼,
Sec. 23, S½,
Sec. 24, S½,
Secs. 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36: All.
T. 22 N., R. 17 E., P.M.M.:
Sec. 1: N½.
T. 23 N., R. 17 E., P.M.M.:
Sec. 19, Lots 11, 12, 15–18, E½,
Secs. 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30: All,
Sec. 31, Lots 1–12, NE¼, N½SE¼,
Sec. 32, N½, N½SW¼, NW¼SE¼,
Sec. 33, N½NE¼, SW¼NE¼, NW¼,
Sec. 34, NE¼, N½NW¼,
Sec. 35, N½,
Sec. 36, All.
T. 22 N., R. 18 E., P.M.M.:
Sec. 2, W½NW¼,
Sec. 3, N½,
Sec. 4, N½,
Sec. 5, N½,
Sec. 6, N½.
T. 23 N., R. 18 E., P.M.M.:
Sec. 11, SE¼SE¼,
Sec. 12, S½S½,
Sec. 13, All,
Sec. 14, E½E½, S½SW¼, SW¼SE¼,
Sec. 15, S½S½,
Secs. 22, 23, 24, 25, 26, 27: All,
Sec. 28, NE¼, NE¼NW¼, S½NW¼, S½,
Sec. 29, S½N½, S½,
Sec. 30, S½NE¼, NW¼, S½,
Secs. 31, 32, 33, 34: All,
Sec. 35, N½N½, SW¼NW¼, W½SW¼.
T. 23 N., R. 19 E., P.M.M.:
Secs. 1, 2, 3, 4: All,
Sec. 5, SE¼NE¼, NE¼SE¼, S½SE¼,
Sec. 7, S½S½,
Sec. 8, E½, S½SW¼,
Secs. 9, 10: All,
Sec. 11, N½,
Sec. 12, All,
Sec. 13, N½N½,
Sec. 15, N½,
Secs. 16, 17, 18, 19: All,
Sec. 20, N½, SW¼, N½SE¼, SW¼SE¼,
Sec. 21, N½, N½S½,
Sec. 29, W½NE¼, NW¼,
Sec. 30, N½.
T. 24 N., R. 19 E., P.M.M.:
Sec. 33, S½N½, S½,
Secs. 34, 35, 36: All.
T. 23 N., R. 20 E., P.M.M.:
Secs. 1, 2: All,
Sec. 3, NE¼NE¼, S½N½, S½,
Sec. 4, S½N½, S½,
Sec. 5, NW¼NE¼, S½NE¼, NW¼, S½,
Secs. 6, 7, 8, 9, 10, 11: All,
Sec. 12, N½, SW¼, N½SE¼,
Sec. 14, N½,
Sec. 15, N½,
Sec. 16, All,
Sec. 17, N½,
Sec. 18, N½.
T. 24 N., R. 20 E., P.M.M.:
Sec. 31, W½, S½SE¼,
Sec. 32, S½SW¼, SW¼SE¼,
Sec. 34, E½SE¼,
Sec. 35, S½,
Sec. 36, All.
T. 23 N., R. 21 E., P.M.M.:
Sec. 1, All,
Sec. 2, N½, N½S½,
Sec. 3, N½, SW¼, N½SE¼, SW¼SE¼,
Secs. 4, 5, 6: All,
Sec. 7, N½, N½S½,
Sec. 8, N½, N½S½,
Sec. 9, N½, N½S½,
Sec. 10, NW¼NE¼, N½NW¼,
Sec. 12, E½,
Sec. 13, E½,
Sec. 24, E½,
Sec. 25, E½,
Sec. 36, N½NE¼.
T. 24 N., R. 21 E., P.M.M.:
Sec. 25, SW¼,
Sec. 26, S½,
Sec. 27 S½,
Sec. 28, S½,
Secs. 30, 31, 32, 33, 34, 35: All,
Sec. 36, S½NE¼, W½, SE¼.
T. 22 N., R. 22 E., P.M.M.:
Secs. 1, 2: All,
Sec. 3, E½,
Sec. 12, NE¼, E½NW¼, NE¼SW¼, N½SE¼.
T. 23 N., R. 22 E., P.M.M.:
Sec. 4, W½,
Secs. 5, 6, 7, 8: All,
Sec. 9, W½,
Sec. 16, W½,
Secs. 17, 18, 19, 20, 21, 22, 23: All,
Sec. 24, SW¼,
Secs. 25, 26, 27, 28, 29, 30: All,
Sec. 31, N½, N½S½,
Sec. 32, N½NE¼, SW¼NE¼, NW¼, N½SW¼, NW¼SE¼
Sec. 33, N½N½,
Sec. 34, N½, N½SW¼, SE¼,
Secs. 35, 36: All.
T. 24 N., R. 22 E., P.M.M.:
Sec. 31, S½N½, S½,
Sec. 32, S½N½, S½,
Sec. 33, S½NW¼, SW¼.
T. 23 N., R. 23 E., P.M.M.:
Sec. 28, SW¼NW¼, W½SW¼,
Sec. 29, S½N½, S½,
Sec. 30, S½N½, S½,
Secs. 31, 32: All,
Sec. 33, W½W½.

[FR Doc. 80-1880 Filed 1-21-80; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species: Applicant: New York Zoological Society, PRT 2–6227, Bronx Zoo, Bronx, New York 10460.

The applicant requests a permit to import in the course of foreign commerce three Eld's brow-antlered deer (*Cervus eldi thamin*), one male from the East Berlin Zoo and two females from the Rangoon (Burma) Zoo, for enhancement of propagation and survival: Applicant: Minnesota Zoological Garden, PRT 2–6230, Apple Valley, Minnesota 55124.

The applicant requests a permit to import in the course of foreign commerce two clouded leopards (*Neofelis nebulosa*) and one Malayan tapir (*Tapirus indicus*) from Aalborg Zoo, Aalborg, Denmark for enhancement of propagation and survival.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish & Wildlife Service, WPO, Washington, D.C. 20240.

Interested persons may comment on these applications on or before February 21, 1980. by submitting written data, views, or arguments to the Director at the above address.

Dated: January 16, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, Fish & Wildlife Service.

[FR Doc. 80–1886 Filed 1–21–80; 8:45 am]

BILLING CODE 4310-55-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before January 11, 1980. Pursuant to § 60.13 of 36 CFR Part 60, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments or a request for additional time to prepare comments should be submitted by February 1, 1980.

Carol Shull,

Acting Keeper of the National Register.

COLORADO

Baca County

Deora vicinity, *Colorado Millennial site.*

Costilla County

Fort Garland vicinity, *Fort Massachusetts Site.*

Jefferson County

Golden vicinity, *Magic Mountain Site.*

Montezuma County

Pleasant View vicinity, *Lancaster, James A., Site.*

Pleasant View vicinity, *Pigge Site.*

Saguache County

Gunnison vicinity, *Old Agency Fortified Site.*

GEORGIA

KENNESAW MULTIPLE RESOURCE AREA (Partial Inventory). This area includes: Kennesaw, *Big Shanty Village Historic District,* Park Ave., Whitfield Pl., Main, Harris, Lewis, and Cherokee Sts.; *Cherokee Street Historic District,* Cherokee St.; *North Main Street Historic District,* N. Main St.; *Summers Street Historic District,* Summers St.; *Camp McDonald,* off U.S. 41; *Gibson, John S., Farmhouse,* 3370 Cherokee St.

Clarke County

Athens, *First A.M.E. Church,* 521 N. Hull St.

Coweta County

Senoia, *Hollberg Hotel,* Seavy and Barnes Sts.

Monroe County

Culloden, *Culloden Historic District,* Hickory Grove Rd., Main, College and Orange Sts.

Putnam County

Eatonton vicinity, *Turnwold,* SE of Eatonton on Old Phoenix Rd.

Upson County

Thomaston vicinity, *Rose Hill Mill and House,* NW of Thomaston on Thompson Lane and Hanna Mill Rd.

Walton County

Social Circle, *Social Circle Historic District,* GA 11 and GA 229.

ILLINOIS

Winnebago County

Rockford, Spafford, *Amos Catlin, House,* 501 N. Prospect St.

INDIANA

Marion County

Indianapolis, *Chatham-Arch Historic District,* roughly bounded by I–65, College Ave., 10th, 11th, North, New Jersey, Cleveland and East Sts.

IOWA

Adair County

Stuart, *Stuart Passenger Station,* Front St.

KANSAS

Shawnee County

Topeka, *Potwin Place Historic District,* roughly bounded by Elmwood, Grove, Broadmoor, and Willow Sts.

KENTUCKY

Ballard County

Wickliffe, *Ballard County Courthouse,* 4th and Court Sts.

Campbell County

Newport, *Mansion Hill Historic District,* roughly bounded by I–471, Washington Ave., 2nd and 6th Sts.

Daviess County

Owensboro, *Medley House,* 1220 Frederica St.

Grant County

Elliston vicinity, *Ford Stone House,* south of Elliston.

Hardin County

Elizabethtown, *Elizabethtown Courthouse Square and Commercial District,* KY 61.

MARYLAND

Allegany County

Flintstone vicinity, *Breakneck Road Historic District,* W of Flintstone.

Baltimore (independent city)

Baltimore General Dispensary, 500 W. Fayette St.

Bancroft (motor vessel) Fell's Point.

Calvert County

Solomons, *Chesapeake Bay Bugeye (William B. Tennison)* Calvert Marine Museum.

Hartford County

Bel Air, *Graham-Crocker House,* 30 N. Main St.

Bel Air vicinity, *Dibb House,* E of Bel Air at 1737 Churchville Rd.

Washington County

Spielman vicinity, *Hogmire-Berryman Farm,* N of Spielman off MD 63.

MINNESOTA

NOBLES COUNTY MULTIPLE RESOURCE AREA (Partial Inventory). This area includes: Adrian, *Adrian State Bank,* Main St. and 2nd Ave.; *St. Adrian's Catholic Church,* Main and Church Sts., Adrian vicinity, *Siemer Silo and Barn,* W of Adrian; Dundee, *Sioux City and St. Paul Railroad Section House,* Spencer and 1st. Sts.

PIPESTONE COUNTY MULTIPLE RESOURCE AREA (Partial Inventory). This area includes: Ihlen, *Ihlen Mercantile Company,* Holman St. and Sherman Ave.; Jasper, *Bauman Hall,* 201 W. Wall St.; *Christianson House and Store,* 208 E. 2nd St.; *Farrar House,* 200 E. 2nd St.; *Gerber Hospital and Garage,* 120 E. Wall St.; *Stordahl Building,* 119 W. Wall St.; Pipestone, *Pipestone County Courthouse,* 3rd. St.; *Pipestone Public Library,* 3rd. St., SE. and S. Hiawatha Ave.; *Pipestone Water Tower,* 2nd St., NE.; *Rock Island Depot,* 400 N. Hiawatha Ave.

ROCK COUNTY MULTIPLE RESOURCE AREA (Partial Inventory). This area includes: Beaver Creek, *First National Bank of Beaver Creek, 1st. Ave.; Beaver Creek vicinity, Close Brothers Land Company Tenant House,* N of Beaver Creek on SR 5; Hills vicinity, *Nuffer Farmstead,* NE of Hills; Kenneth, *Kenneth School,* 230 W. 1st. Ave.; Luverne, *Gerber, J. W., House,* 324 W. Main St.; *Holy Trinity Church,* N. Cedar and E. Luverne Sts.; *Kniss House,* 209 N. Estey St.; *Luverne Library,* 205 N. Freeman St.; *Maplewood Chapel,* W. Warren St.; *Omaho Depot, Palace Theater,* Main St. and Freeman Ave.; *Worthington and Sioux Falls Freight Depot,* 106 E. Fletcher St.

NEW HAMPSHIRE

Belknap County

Tilton, *House by the Side of the Road, The,* 61 School St.

Sullivan County

Newport, *Town Hall and Courthouse,* 20 Main St.

NEW MEXICO

San Miguel County

Las Vegas, *Distrito de los Escuelas*, S. Pacific and S. Gonzales Sts.

NEW YORK

Allegheny County

Alfred, *Firemen's Hall*, 7 W. University St.

New York County

New York, *St. Andrew's Episcopal Church*, 2067 5th Ave.

Niagara County

North Tonawanda, *Riviera Theatre*, 27 Webster St.

Warren County

Silver Bay, *Silver Bay Association Complex*, NY 9N.

Wyoming County

Warsaw, *Trinity Church*, W. Buffalo St.

NORTH DAKOTA

Cass County

Fargo, *Gethsemane Episcopal Cathedral*, 204 S. 9th St.

OKLAHOMA

Canadian County

Yukon vicinity, *Czech Hall*, 2.5 mi. S of Yukon.

Choctaw County

Hugo, *Hugo Historic District*, U.S. 70 and U.S. 271.

Jackson County

Eldorado, *American Legion Hut*, 607 W. Main St.

Muskogee County

Fort Gibson, *Dragon Commandant's Quarters, 409 Creek St.*

Oklahoma County

Edmond, *Citizens' State Bank*, 102 S. Broadway.
Oklahoma City, *Cotton-Exchange Building*, 218 N. Harvey St.
Oklahoma City, *Montgomery Ward Building*, 500 W. Main St.

Pawnee County

Pawnee vicinity, *Lone Chimney*, SE of Pawnee on OK 18.

Payne County

Stillwater, *First Church of Christ, Scientist*, 7th and Duncan Sts.

Pittsburg County

Hartshorne vicinity, *Jones Academy*, N of Hartshorne.
McAlester, *Mine Rescue Station Building*, 507–509 E. 3rd. St.

Sequoyah County

Sallisaw, *Faulkner, Judge Franklin, House*, E. Cherokee St.

OREGON

Lane County

Coburg vicinity, *Oregon Railway and Navigation Company Bridge*, SE of Coburg.

Linn County

Albany, *Monteith Historic District*, Roughly bounded by 2nd., Lyon, 12th and Elm Sts.

TENNESSEE

Grundy County

Beersheba Springs, *Beersheba Springs Historic District*, TN 56.

Henry County

Springville vicinity, *Hagler, John L., House (Porter House)* NW of Springville on Poplar Grove Rd.

TEXAS

Fort Bend County

Richmond, *Fort Bend County Courthouse*, 400 Jackson St.

UTAH

Emery County

Emery, *Emery L. D. S. Church*, Off UT 10.

Salt Lake County

Salt Lake City, *Technical High School*, 241 N. 300 West St.

Sanpete County

Spring City vicinity, *Crawforth, Charles, Farmstead*, SW of Spring City on Pigeon Hollow Rd.

Utah County

Pleasant Grove, *Pleasant Grove School*, Main St.
Provo, *Talmadge, James E. and Albert, House*, 345 E. 400 North St.

Washington County

Toquerville, *Naegle Winery*, Main and 5th Sts.

VIRGINIA

Alexandria (independent city).

Old Dominion Bank Building, 201 Prince St.

Brunswick County

Alberta vicinity, *Hobson's Choice*, E of Alberta on VA 606.
Lawrenceville vicinity, *Fort Christianna (Fort Christanna)* SW of Lawrence.

Chesterfield County

Chesterfield, *Magnolia Grange*, VA.
Midlothian vicinity, *Hallsborough Tavern*, W of Midlothian on U.S. 60.

Culpeper County

Culpeper, *Hill Mansion*, 501 East St.
Raccoon's Ford vicinity, *Greenville*, NE Raccoon's Ford.

Fluvanna County

Bremo Bluff vicinity, *Bremo Slave Chapel*, N of Bremo Bluff.

Manassas (independent city)

Liberia, 8700 Centreville Rd.

Staunton (independent city)

Beverley Historic District, U.S. 250 and VA 254.

[FR Doc. 80-1624 Filed 1-21-80; 8:45 am]

BILLING CODE 4310-03-M

National Registry of Natural Landmarks

AGENCY: Heritage Conservation and Recreation Service, Department of the Interior.

ACTION: Notification of potential national natural landmarks.

The areas listed below have been identified as potential national natural landmarks by the Service's Division of Natural Landmarks in accordance with the provisions of 36 CFR 1212.4. Pursuant to § 1212.5(b)(1) of 36 CFR Part 1212, written comments concerning the potential designation of these areas as national natural landmarks may be forwarded to the Acting Associate Director for Natural Programs, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments or a request for additional time should be submitted no later than February 21, 1980.

Dated: January 17, 1980.

Robert A. Ritsch,

Acting Associate Director for Natural Programs.

CALIFORNIA

Contra Costa County

Mt. Diablo; 31 miles east of Berkeley.

Fresno and San Benito Counties

Panoche Mountain; 54 miles West of Fresno.

Humboldt County

Humboldt Lagoons; 30 miles North of Eureka.

Kern County

Caliente Creek; 13 miles Southeast of Bakersfield.

Monterey County

Lewis Creek and Mustang Ridge; 65 miles Southwest of Fresno.

San Luis Obispo and Kern Counties

Elkhorn Scarp and Carizzo Plain; 10 miles West of Taft.

Shasta County

Burney Falls; 50 miles Northeast of Redding.
Samwel Cave; 25 miles North of Redding.

Solano County

Dixon Vernal Pools; 13 miles Northeast of Fairfield.

Ventura, Kern, and Los Angeles Counties

Mt. Pinos-Sespe Creek; 14 miles North of Ventura.

MAINE

Knox County

Appleton Bog; 4 miles Southeast of Liberty.

Lubec County

Carrying Place Cove Bog; 1.5 miles South of South Lubec.

MASSACHUSETTS

Berkshire County

Cold River Virgin Forest; 9 miles Southeast of North Adams.

Essex County

Plum Island-Parker River National Wildlife Refuge; 4 miles Southeast of Newburyport.

Nantucket County

Muskeget Island; 20 miles South of Cape Cod.

NEW HAMPSHIRE

Carroll County

White Lake Pitch Pine; 10 miles Northeast of Moultonboro.

Grafton County

The Bowl Natural Area; 15 miles West of Conway.

NEW YORK

Rockland County

Hook Mountain and Nyack Beach State Park-Palisade Sill and Triassic Brunswick Formation; 1 mile North of Nyack.

Suffolk County

Long Beach, Orient State Park; 1 mile Southeast of Orient.

OREGON

Harney County

Steens Mountain; 65 miles Southeast of Burns.

Jefferson County

The Island; 10 miles Southwest of Madras.

Josephine County

Eight Dollar Mountain; 22 miles Southwest of Grants Pass.

Lake County

Warner Valley; 25 miles East of Lakeview.

Lane and Deschutes Counties

Three Sisters; 58 miles East of Eugene.

Wallowa County

Wallowa Lake Moraines; 6 miles Southeast of Enterprise.

Wasco County

Mill Creek Research Natural Area; 15 miles Southwest of The Dalles.

VERMONT

Chittenden and Lamoille Counties

Mount Mansfield Natural Area; 3 miles East of Underhill Center.

Rutland County

Gifford Woods; 9 miles Northeast of Rutland.

WASHINGTON

Benton and Walla Walla Counties

Wallula Gap; 16 miles South of Pasco.

Cowlitz and Skamania Counties

Mount St. Helens; 46 miles Northeast of Vancouver.

Garfield County

Pataha Bunchgrass Research Natural Area; 1.5 miles Southwest of Peola.

Kittitas County

Umtanum Ridge Water Gap; 14 miles North of Yakima.

Whatcom County

Mount Baker; 30 miles East of Bellingham.

[FR Doc. 80-1621 Filed 1-21-80; 8:45 am]

BILLING CODE 4310-03-M

INTERNATIONAL TRADE COMMISSION

[332-106]

Identification of Chemicals for the New Tariff Nomenclature for Certain Benzenoid Chemicals; Extension of Comment Period

AGENCY: United States International Trade Commission.

ACTION: Notice is hereby given that the United States International Trade Commission, at the request of the United States Trade Representative, has extended until February 11, 1980, the period for receipt of written comments on its preliminary determinations with respect to identification of chemicals for the new tariff nomenclature for certain benzenoid chemicals.

Notice of the Commission's investigation was published in the Federal Register of June 28, 1979 (44 FR 39315) and December 5, 1979

Issued: January 16, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-2023 Filed 1-21-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 79-24]

Metrosubstance Abatement Program, Inc., Detroit, Mich.; Hearing

Notice is hereby given that on December 18, 1979, the Drug Enforcement Administration, Department of Justice, issued to Metro Substance Abatement Program, Inc., Detroit, Michigan, an Order To Show Cause as to why the Drug Enforcement Administration Certificates of Registration PM0120294 and PM0154334 issued to Respondent should not be revoked.

Written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Thursday, January 24, 1980, in Courtroom No. 410, Detroit Recorder's Court, 1441 St. Antoine Street, Detroit, Michigan.

Dated: January 18, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80-2075 Filed 1-21-80; 8:45 am]

BILLING CODE 4110-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Youth Community and Conservation Improvement Projects (YCCIP) and Youth Employment and Training Programs (YETP) for Youth Who Are Members of Migrant and Other Seasonally Employed Farmworker Families

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of solicitation for grant application.

SUMMARY: The Department of Labor is soliciting applications for grants for Youth Community and Conservation Improvement Projects (YCCIP) and Youth Employment and Training Programs (YETP) for youths age 14–21 who are members of migrant and other seasonally farmworker families for Program Year 1980. These programs are authorized under the Youth Employment and Demonstration Projects Act of 1977 (YEDPA) and Title IV, Subparts A and B of the Comprehensive Employment and Training Act (CETA) as reauthorized by the CETA amendments of 1978, Sections 433(a)(4) and 423(b). Funds are awarded on a special competitive basis to those grantees qualified under Section 303 of the Act and that are operating comprehensive employment and training 303 programs for migrant and seasonal farmworkers and their families under CETA for Program Year 1980.

ELIGIBLE APPLICANTS: Please note that grantees operating multi-state programs are listed only once; however, all States under the grantees' sponsorship are considered as eligible applicants.

V45/15 JAN 22 1980 UMI

New England Farmworkers' Council, Inc., 6 Frost Avenue, Springfield, Massachusetts 01105.
Penobscot Consortium Training and Employment Administration, 333 Illinois Avenue, POB 1136, Bangor, Maine 04401.
Central Vermont Community Action Council, Inc., 15 Ayers Street, Barre, Vermont 05641.
Farmworkers Corporation, Inc., 1400 West Landis Avenue, Vineland, New Jersey 08360.
Rural New York Farmworker Opportunities, Inc., 339 East Avenue, Suite 305, Rochester, New York 14604.
Commonwealth of Puerto Rico, 414 Barbosa Avenue, Hato Rey, Puerto Rico 00917.
Migrant and Seasonal Farmworkers Association, Inc., 3929 Western Blvd., POB 33315, Raleigh, North Carolina 27606.
Alabama Migrant & Seasonal Farmworkers Council, Inc., 1400 South Decatur Street, Montgomery, Alabama 36104.
Florida State Department of Education, Vocational Education Division, Capitol Building, Tallahassee, Florida 32301.
Tennessee Opportunity Program for Seasonal Farmworkers, Inc., 2803 Foster Avenue, Nashville, Tennessee 37211.
Mississippi Delta Council for Farmworkers Opportunities, 1005 State Street, Clarksdale, Mississippi 38614.
Office of the Governor, CETA Division, 1800 St. Julian Place, Columbia, South Carolina 29204.
Illinois Migrant Council, 202 South State Street, Suite 1500, Chicago, Illinois 60604.
Indiana Office of Manpower Development, 150 West Market Street, 7th Floor, Indianapolis, Indiana 46204.
Michigan Economics for Human Development, 980 West Jefferson Street, Grand Ledge, Michigan 48837.
Minnesota Migrant Council, 35 Wilson Avenue, NE., POB 1231, St. Cloud, Minnesota 56301.
La Raza Unida de Ohio, 5340 E. Main Street, Suite 200, Oliver Building, Columbus, Ohio 43213.
United Migrant Opportunity Services, Inc., 809 West Greenfield Avenue, Milwaukee, Wisconsin 53204.
Arkansas Council for Farmworkers, Inc., 1200 Westpark Drive, Suite 400, POB 4241, Little Rock, Arkansas 72204.
Home Education Livelihood Program, 1203 Coal Avenue, S.E., Albuquerque, New Mexico 87106.
ORO Development Corporation, 1104 N. Classen Drive—1st Floor, Oklahoma City, Oklahoma 73103.
Motivation, Education and Training, Inc., 107 North College, POB 1749, Cleveland, Texas 77327.
Wichita SER/Jobs for Progress, 2700 North Woodland, Wichita, Kansas 67204.
Rural Missouri, Inc., 1108 Missouri Blvd., Jefferson City, Missouri 65101.
Nebraska Association of Farmworkers, 200 South Silber Avenue, POB 1459, North Platte, Nebraska 69101.
Colorado Council on Migrant and Seasonal Agricultural Workers and Families, 7905 West 44th Avenue, Wheatridge, Colorado 80033.
Motivation, Education and Training, Inc., POB 781, Jennings, Louisiana 70546.
State of Montana, D.C.A./Community Services Division, 1424 Ninth Avenue, Helena, Montana 59601.
North Dakota Migrant Council, 101 North Third Street, POB "Drawer X," Grand Forks, North Dakota 58201.
Utah Migrant Council, 12 East Center Street, Midvale, Utah 84047.
Northwestern Community Action Programs of Wyoming, Inc., POB 431, Worland, Wyoming 82401.
Migrant Opportunity Programs, 6611 South Central Avenue, Phoenix, Arizona 85040.
Portable Practical Education Preparation, Inc., 338 N. Granada Avenue, Tucson, Arizona 85705.
California Human Development Corporation, 9257 Windsor Road, POB 10, Windsor, California 95492.
Center for Employment and Training, 425 South Market Street, San Jose, California 95113.
Compesinos Unidos, Inc., POB 203, Brawley, California 92227.
Central Valley Opportunity Center, Inc., 1743 North Ashby Road—Suite 5, Merced, California 95340.
Proteus Adult Training, Inc., 321 South Bridge St. POB 727, Visalia, California 93277.
Office of the Governor, Dept. of Labor-Industrial Relations, 825 Mililani Street, Honolulu, Hawaii 96813.
Idaho Migrant Council, 715 South Capitol Blvd. No. 403, Boise, Idaho 83702.
Northwest Rural Opportunities, 804 Decatur, Sunnyside, Washington 98944.

A total of $2,680,160 is available for farmworker youth for YCCIP projects and $13,841,720 is available for YETP programs. Grants will be made for not less than $150,000 and not more than $1,000,000; however, the Department may allocate more than $1,000,000 to a single grant under special circumstances.

Solicitation for Grant Application packages for YCCIP or YETP projects will be mailed to all eligible applicants from the Office of Farmworker Programs, U.S. Department of Labor on or about February 1, 1980. Grant application packages will include the regulations, guidelines, specifications and forms to which eligible applicants must adhere in preparing an application.

EFFECTIVE DATE: January 22, 1980.

FOR FURTHER INFORMATION CONTACT: Lindsay Campbell, telephone: (202) 376-6128.

SUPPLEMENTARY INFORMATION: Pursuant to the YEDPA, the Office of Farmworker Programs (OFP) of the Employment and Training Administration, U.S. Department of Labor (DOL) announces the availability of funds to implement YCCIP and YETP projects for youth who are members of migrant and seasonal farmworker families for Program Year 1980. These programs are designed to enhance the employability of these special youth groups, age 14–21 to help coordinate and improve existing career development, employment and training and to test different approaches in solving the employment problems of farmworker youth.

This publication constitutes formal notice that applications for YCCIP and YETP funds for this target group must be hand delivered or posted by registered or certified mail no later than March 17, 1980.

Grantees which are multi-State operators may submit one proposal covering more than one State; however, each eligible applicant must submit three copies of the application(s) to the address listed below: U.S. Department of Labor, Employment and Training Administration, 601 D Street, N.W., Room 6308, Patrick Henry Building, Washington, D.C. 20213, Attn.: Mr. Lindsay Campbell.

Eligible applicants are requested to notify both the Office of Farmworker Programs and the appropriate A–95 clearinghouse(s) by Preapplication for Federal Assistance, Standard Form 424 on or before February 20, 1980, so that appropriate arrangements may be made for the prompt review of the grant application. Copies of the formal grant application(s) must also be sent to the appropriate A–95 clearinghouse(s) for comment at the same time the grant application(s) is mailed to the above address. The A–95 clearinghouses should send comments to the above address as well as to the applicant(s).

All grant applications received bearing postmarks after March 17, 1980, shall be returned without consideration. No deviation in this condition shall be made by the Office of Farmworker Programs. All hand delivered grant applications will be accepted daily between hours of 8:15 a.m. and 4:45 p.m. at the address listed above. All eligible applicants will be given a receipt bearing a time and date of delivery. Applications received after 4:45 p.m. on March 17, 1980, shall be returned without consideration. No deviation in this condition shall be granted.

Grant applications will be subject to an objective and fair review by the Office of Farmworker Programs. Grants will be made to eligible applicants by the Department for projects which will best promote the purposes of the Act for farmworker youth. This competitive review will also take into account the extent to which the project will develop new information (knowledge development) or innovative methods relating to the provision of services to youth who are members of migrant and seasonal farmworker families. It is expected that Grant Awards will be made on or about June 1, 1980.

Consultation and technical assistance relative to the development of an application is available upon request from Lindsay Campbell, Office of Farmworker Programs, (202) 376–6128.

Signed at Washington, D.C. this 16th day of January, 1980.

Lamond Godwin,

Administrator, Office of National Programs.

[FR Doc. 80-1992 Filed 1-21-80; 8:45 am]

BILLING CODE 4510-30-M

Office of the Secretary

Anchor Motor Freight, Inc., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 1, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 1, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of January 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Anchor Motor Freight, Inc. (workers)	Baltimore, Md.	1/8/80	1/3/80	TA-W-6,778	Deliver new automobiles.
Arvin Industries, Arvin Automotive Division (IAMAW).	Greenwood, Ind.	1/10/80	1/7/80	TA-W-6,779	Exhaust pipes for cars and trucks.
Central Electronics Company, Paris Division (company).	Paris, Ill.	1/11/80	1/8/80	TA-W-6,780	Color TV subassembly.
Claremont Beef Co., Inc. (workers)	Claremont, N.H.	1/11/80	1/8/80	TA-W-6,781	Fabricates fresh beef products, also, lean trimmings for sausage manufacturers.
Essex Group, Inc. (IBEW)	Dekalb, Ill.	12/12/79	12/4/79	TA-W-6,782	Electrical cords.
General Motors Corp., General Motors Assembly Division (UAW).	Baltimore, Md.	1/11/80	1/7/80	TA-W-6,783	Automobiles and trucks.
Phillips Stamping Co., Inc. (IAMAW)	Bellaire, Ohio	1/11/80	1/3/80	TA-W-6,784	Automotive parts.
Zenith Electronics Corporation of Pennsylvania, Audio Division (company).	Watsontown, PA.	1/11/80	1/8/80	TA-W-6,785	Stereos.
Zenith Radio Corp. (company)	Elk Grove Village, Ill.	1/11/80	1/8/80	TA-W-6,786	Color TV subassembly.
Zenith Radio Corp. (company)	Glenview, Ill.	1/11/80	1/8/80	TA-W-6,787	Administration and research.

[FR Doc. 80-1993 Filed 1-21-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6086]

Neal Coal, Inc., Summersville, W. Va.; Affirmative Determination Regarding Application for Reconsideration

On December 20, 1979, one of the petitioners requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for former workers of Neal Coal, Inc., Summersville, West Virginia. This determination was published in the **Federal Register** on December 14, 1979, (44 FR 72681).

The petitioner claims that workers at Neal Coal, Inc., Summersville, West Virginia, were denied trade adjustment assistance while workers at the Big Fork Coal Company, TA–W–5514, and the Alabama Fuel Company, TA–W–5550, both of Summersville, West Virginia, were certified eligible to apply for trade adjustment assistance despite the fact that they sold all their coal to the same company for cleaning, grading and shipping.

Conclusion

After reivew of the application, I conclude that the claim of the petitioner is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 10th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-1994 Filed 1-21-80; 8:45 am]

BILLING CODE 4510-28-M

Grants and Contracts; East Mississippi Legal Services

January 17, 1980.

The Legal Services Corporation was established pursuant to the Legal

Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

East Mississippi Legal Services in Forest, Mississippi, to serve Jasper, Leake, and Smith Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street, N.E., 9th Floor, Atlanta, Ga. 30308.

Antone G. Singsen, III,

Vice President—Finance and Management.

[FR Doc. 80-1985 Filed 1-21-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts; Evergreen Legal Services

January 17, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Spokane Legal Services Center in Spokane, Wash., to serve Lincoln County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Seattle Regional Office, 506 Second Avenue, Seattle, Wa. 98104.

Antone G. Singsen, III,

Vice President—Finance and Management.

[FR Doc. 80-1991 Filed 1-21-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts; Idaho Legal Aid Services

January 17, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Idaho Legal Aid Services, Inc. in Boise, Idaho, to serve Butte, Clark, Custer, Fremont, Lemhi and Teton Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Seattle Regional Office, 506 Second Avenue, Seattle, Washington 98104.

Antone G. Singsen, III,

Vice President—Finance and Management.

[FR Doc. 80-1989 Filed 1-21-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts, Legal Aid Services, Inc.; Casper, Wyo.

January 17, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Aid Services, Inc., in Casper, Wyoming, to serve Campbell, Crook and Weston Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Service Corporation, Seattle Regional Office, 506 Second Avenue, Seattle, Wa. 98104.

Antone G. Singsen, III,

Vice President—Finance and Management.

[FR Doc. 80-1988 Filed 1-21-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts; Oregon Legal Services

January 17, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Oregon Legal Services Corporation in Portland, Oregon, to serve Crook, Deschutes and Jefferson Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Seattle Regional Office, 506 Second Avenue, Seattle, Wa. 98104.

Antone G. Singsen, III,

Vice President—Finance and Management.

[FR Doc. 80-1986 Filed 1-21-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts Southeast Mississippi Legal Services

January 17, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Southeast Mississippi Legal Services in Hattiesburg, Mississippi, to serve Convington, Greene and Wayne Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street, N.E., 9th Floor, Atlanta, Ga. 30308.

Antone G. Singsen, III,

Vice President—Finance and Management.

[FR Doc. 80-1983 Filed 1-21-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts; Southwest Mississippi Legal Services

January 17, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Southwest Mississippi Legal Services in McComb, Mississippi, to serve Lawrence, Lincoln and Walthall Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street, N.E., 9th Floor, Atlanta, Ga. 30308.

Antone G. Singsen, III,

Vice President—Finance and Management.

[FR Doc. 80-1984 Filed 1-21-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts; Spokane Legal Services

January 17, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Evergreen Legal Services in Seattle, Washington, to serve Lewis, Klickitat, and Skamania Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Seattle Regional Office, 506 Second Avenue, Seattle, Wa. 98104.

Antone G. Singsen, III,

Vice President—Finance and Management.

[FR Doc. 80-1990 Filed 1-21-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts, Wind River Legal Services

January 17, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Wind River Legal Services, Inc. in Ft. Washakie, Wyoming, to serve Lincoln, Sublette, Sweetwater, Teton and Uinta Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Seattle Regional Office, 506 Second Avenue, Seattle, Wa. 98104.

Antone G. Singsen, III,

Vice President—Finance and Management.

[FR Doc. 80-1987 Filed 1-21-80; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Office for Partnership (Partnership Coordination) Panel; Cancelled Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Office for Partnership (Partnership Coordination) Panel to the National Council on the Arts that was to be held January 31, 1980, from 8:30 a.m.–5:00 p.m. and February 1, 1980, from 8:30 a.m.–5:00 p.m. (which appeared in the **Federal Register** January 3, 1980, pg. 860) has been cancelled.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

January 11, 1980.

[FR Doc. 80-1940 Filed 1-21-80; 8:45 am]

BILLING CODE 7537-01-M

Theatre Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Theatre Advisory Panel to the National Council on the Arts will be held February 14, 1980 from 9:00 a.m.–5:30 p.m., and February 15, 1980 from 9:00 a.m.–5:30 p.m. at the Mark Taper Forum, 135 N. Grand Avenue, Los Angeles, California.

A portion of this meeting will be open to the public on February 14, 1980 from 1:00 p.m.–5:30 p.m. The five year plan will be discussed from 1:00 p.m.–3:00 p.m., followed by a question-answer period with the public until 5:30 p.m.

The remaining sessions of this meeting on February 14, 1980 from 9:00 a.m.–1:00 p.m. and Feburary 15, 1980 from 9:00 a.m.–5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

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Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

January 14, 1980.

[FR Doc. 80-1941 Filed 1-21-80; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Procedures and Administration Subcommittee; Meeting

The ACRS Procedures and Administration Subcommittee will hold an open meeting on February 6, 1980, in Room 1010, 1717 H St., NW., Washington, DC 20555.

The agenda for subject meeting shall be as follows: *Wednesday, February 6, 1980; 2:00 p.m. until conclusion of business.*

The Subcommittee will discuss procedures for conduct of ACRS activites including management of the ACRS Fellowship Program and procedures for handling dissenting professional opinions.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Raymond F. Fraley (telephone 202/634–3265) between 8:15 a.m. and 5:00 p.m., EST.

Dated: January 16, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-1929 Filed 1-21-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups, and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published December 20, 1979 (44 FR 75533). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meeting.

Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee and Working Group meetings usually begin at 8:30 a.m. The exact time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the February 1980 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–3267, ATTN: Mary E. Vanderholt) between 8:15 a.m. and 5:00 p.m., EST.

Subcommittee and Working Group Meetings

**Licensee Event Reports (LERs),* January 23, 1980, Washington, DC. POSTPONED INDEFINITELY. Notice of postponement was published January 16, 1980.

**Surry Nuclear Station,* January 23, 1980 (Morning), Washington, DC. The Subcommittee will continue its review of the Surry Station steam generator replacement program. Notice of this meeting was published December 28, 1979.

**Metal Components,* January 23–24, 1980, Washington, DC. The Subcommittee will review the status of unresolved generic items involving pressure vessels, steam generators, and other pressure boundary components. Notice of this meeting was published December 28, 1979.

**Anticipated Transients Without Scram (ATWS),* January 25, 1980, Washington, DC. The Subcommittee will meet with representatives of the NRC Staff to discuss the proposed resolution of ATWS. Notice of this meeting was published December 28, 1979 and January 22, 1980.

**Three Mile Island, Unit 1,* January 31-February 1, 1980, Middletown, PA. The Subcommittee will review the application of the Metropolitan Edison Company to restart the Three Mile Island, Unit 1, Nuclear Plant. Notice of this meeting was published January 16, 1980.

**Reactor Safety Research,* February 6, 1980, Washington, DC. POSTPONED INDEFINITELY. Notice of this meeting was published December 20, 1979.

**Regulatory Activities,* February 6, 1980, Washington, DC. RESCHEDULED to March 5, 1980. Notice of this meeting was published December 20, 1979.

**Reliability and Probabilistic Assessment,* February 6, 1980, Washington, DC. The Subcommittee will discuss: 1) consistency of actual component failure experience with that projected in WASH–1400, 2) probabilities of the September 24, 1977 Davis Besse and the March 20, 1978 Rancho Seco events using WASH–1400 methodology, 3) risk comparison of nuclear plants with other methods of electricity generation, and 4) quantitative safety goals for nuclear power plants. Notice of this meeting was published January 22, 1980.

**Procedures and Administration,* February 6, 1980 (Afternoon), Washington, DC. The Subcommittee will discuss procedures for conduct of ACRS activities including management of the ACRS Fellowship Program and procedures for handling dissenting professional opinions. Notice of this meeting was published January 22, 1980.

**Emergency Core Cooling Systems/ Reactor Fuels,* February 14, 1980, Washington, DC. The Subcommittees will discuss proposed changes in the fuel clad ballooning models for Appendix K to 10 CFR 50.54 and the effect of these changes on vendor evaluation models. Also, discussions will be held on the effects of externally mounted thermocouples on LOFT fuel, and the analysis of small break LOCAs in Westinghouse UHI reactors.

**Plant Arrangements,* February 20–21, 1980, Washington, DC. On February 20 the Subcommittee will discuss the Sandia Laboratories recently completed "Final Report (Draft) on Phase I of Generic Task No. A–17, Systems Interaction in Nuclear Power Plants." On February 21 the Subcommittee will discuss the status of various generic items contained in the ACRS March 21, 1979 report, "Status of Generic Items Relating to Light-Water Reactors: Report No. 7."

**General Electric Test Reactor (GETR),* February 22, 1980, San Francisco, CA Area. The Subcommittee will continue its review of the geologic and seismologic aspects of the GETR plant site. Other matters related to the NRC Order to Show Cause may also be discussed. Notice of this meeting was published December 20, 1979.

**Babcock and Wilcox Water Reactors,* March 4, 1980, Washington, DC. The Subcommittee will continue its discussion of the sensitivity to transients of once-through steam generators (OTSG) and other features of Babcock and Wilcox designed nuclear plants.

**Regulatory Activities,* March 5, 1980, Washington, DC. The Subcommittee will review regulatory guides and revisions to existing regulatory guides; also, it may discuss pertinent activities which affect the current licensing process and/or reactor operation.

ACRS Full Committee Meetings

February 10–12, 1980

A. *NRC Bulletins and Orders resulting from the Three Mile Island, Unit 2, Nuclear Power Plant Accident.

B. *ACRS Annual Report on the NRC Safety Research Program.

C. *Proposed criteria for Mark I Dynamic Containment.

D. *Proposed operation of the Three Mile Island, Unit 1, Nuclear Power Plant.

E. *Proposed modification of NRC Criteria for Siting Nuclear Facilities.

F. *Proposed ACRS report on nuclear power plant component failure rates and probabilistic assessment of nuclear plant incidents.

G. *Recent operating occurrences at nuclear facilities.

March 6–8, 1980

Agenda to be announced.

April 10–12, 1980.

Agenda to be announced.

Dated: January 17, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-1927 Filed 1-21-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Reliability and Probabilistic Assessment; Meeting

The ACRS Subcommittee on Reliability and Probabilistic Assessment will hold an open meeting on February 6, 1980, in Room 1046, 1717 H St., NW., Washington, DC 20555.

The agenda for subject meeting shall be as follows: Wednesday, February 6, 1980; 8:30 a.m. until the conclusion of business.

The Subcommittee will meet in executive session with its consultants and fellows to explore and exchange opinions regarding the topics being discussed. The Subcommittee will also hear some brief presentations and hold discussions with representatives of the NRC Staff. The following topics will be discussed:

1. Consistency of actual component failure experience with that projected in WASH-1400.

2. Probabilities of the Sep. 24, 1977 Davis Besse and the March 20, 1978 Rancho Seco events using WASH-1400 methodology.

3. Risk comparison of nuclear plants with other methods of electricity generation.

4. Quantitative safety goals for nuclear power plants.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Gary Quittschreiber, (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: January 16, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-1928 Filed 1-21-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-4492]

Federal-American Partners Uranium Mill, Gas Hills Mining District, Fremont County, Wyo.; Availability of Environmental Report and Intent To Prepare a Draft Environmental Impact Statement Concerning Renewal of a Source Material License

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of availability of environmental report and intent to prepare a draft environmental impact statement and to hold a scoping meeting.

SUMMARY: 1. Description of the Proposed Action—Federal-American Partners (FAP) has operated a uranium mill in the Gas Hills Mining District of Wyoming since 1959 under NRC Source Material License No. SUA–667. FAP is currently applying to renew this Source Material License and to obtain approval for a mill expansion and use of a new tailings disposal system. The mill is located in Fremont County on the Gas Hills route approximately 80 kilometers (50 miles) east of Riverton, Wyoming. FAP's proposed plans call for the expansion of the mill process capacity from 860 metric tons of ore (950 short tons) per day to 2,680 metric tons of ore (2,950 short tons) per day and disposal of tailings into a mined out pit approximately one mile from the mill.

2. Pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, FAP has filed an environmental report in support of their applications. The environmental report and any subsequent documents will be available for inspection and copying at the Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555. Copies of the environmental report are also being provided to the State Planning Coordinator, Office of the Governor, 2320 Capitol Avenue, Cheyenne, Wyoming 82002.

3. The scoping process will include a meeting to be held in the Lodge Room of the Elks, 207 E. Main Street, Riverton, Wyoming, on February 13, 1980 at 7:00 p.m. This meeting will provide for a briefing of interested parties concerning the proposed action and alternatives and opportunity for comment on the scope of the proposed statement. The participation of the public and all interested government agencies is invited. Copies of this notice will be mailed to all affected federal, state and local agencies, and other interested persons. Written comments concerning the scope of the proposed statement will be accepted until February 29, 1980.

4. After the environmental report has been analyzed, a draft environmental impact statement will be prepared. The DEIS is expected to be available to the public for review and comment in June, 1980.

Questions about the proposed action, DEIS, or scoping meeting and any written comments should be directed to D. M. Gillen, U.S. Nuclear Regulatory Commission, Division of Waste Management, 483–SS, Washington, D.C. 20555, phone (301) 427–4103.

Dated at Silver Spring, Maryland, this 14th day of January, 1980.

For the Nuclear Regulatory Commission.

Ross A. Scarano,

Chief, Uranium Recovery Licensing Branch, Division of Waste Management.

[FR Doc. 80-1932 Filed 1-21-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-275 OL, 50-323 OL]

Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2); Change of Place of Argument

January 16, 1980.

The location of the oral argument in this cause scheduled for 9:30 a.m., Wednesday, January 23, 1980, has been changed from the U.S. Tax Court to the *United States District Court, Courtroom No. 12, 19th Floor, Federal Building and Courthouse, 450 Golden Gate Avenue, San Francisco, California.*

It is so ordered.

For the Appeal Board.
C. Jean Bishop,
Secretary to the Appeal Board.
[FR Doc. 80-1931 Filed 1-21-80; 8:45 am]
BILLING CODE 7590-01-M

PRESIDENT'S COMMISSION ON PENSION POLICY

Meetings

The President's Commission on Pension Policy has scheduled meetings as follows:

February 4, 1980, of the study groups on present and future income needs of the retired and disabled population, and pension policy and the economy, a roundtable discussion with labor union representatives, in Room 2008 of the New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C., commencing at 9:00 a.m.

February 25, 1980, of the study group on present and future income needs of the retired and disabled population, on retirement ages and general study group issues, at the Sir Francis Drake Hotel, San Francisco, California, commencing at 9:00 a.m.

February 26, 1980, of the study group on present and future income needs of the retired and disabled population, on income adequacy and general study group issues, at the Ambassador Hotel, Los Angeles, California, commencing at 10:00 a.m.

March 13, 1980, of the full Commission, a regular meeting, in Room 2008 of the New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C., commencing at 8:30 a.m.

April 18, 1980, of the study group on the ability of the present U.S. pension systems to meet the needs of the retired, disabled, and their survivors, on universal Social Security coverage, in Room 2008 of the New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C., commencing at 9:00 a.m.

June 13, 1980, of the study group on the ability of the present U.S. pension systems to meet the needs of the retired, disabled, and their survivors, on funding and financing issues, at the Marquette Hotel, Minneapolis, MN, commencing at 10:00 a.m.

The meetings will be open to public observation. Persons interested in attending should address a letter to the President's Commission on Pension Policy, 736 Jackson Place, N.W., Washington, D.C. 20006. Admission of observers will be on the basis of the earliest postmark date and to the extent space is available. The Commission's telephone number is (202) 395-5132.

The Commission invites interested parties and individuals who wish to present testimony to the Commission or one of its study groups to make a written request to the Executive Director at least two weeks before the meeting. The request should outline the contents of the statement to be presented and contain some background information.

Thirty copies of the formal statement must be received by the Executive Director 10 days before the scheduled meeting. The public is also free at any time to submit written testimony without making a presentation.

Additional information may be obtained by calling Philip L. Sparks, Public Information Officer, at the telephone number listed above.

Signed at Washington, D.C., this 15th day of January 1980.
Thomas C. Woodruff,
Executive Director.
[FR Doc. 80-1889 Filed 1-21-80; 8:45 am]
BILLING CODE 6820-95-M

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

Public Hearing, Los Angeles, Calif.

The Select Commission on Immigration and Refugee Policy will hold the seventh of 12 regional hearings on:

Date: February 5, 1980.
Time: 9 a.m.–5 p.m.; 7–9 p.m.
Place: The Occidental Center Auditorium, 1149 S. Hill Street, Los Angeles, California 90015.

The Los Angeles hearing will be chaired by Rose Matsui Ochi, Executive Assistant to the Mayor of Los Angeles and a member of the Select Commission.

Other Commissioners attending include the Rev. Theodore M. Hesburgh, President, University of Notre Dame and Chairman of the Select Commission; Secretary of Labor F. Ray Marshall; Senator Dennis DeConcini (D-Arizona); Senator Alan K. Simpson (R-Wyoming); Rep. Robert McClory (R-Illinois); and Judge Cruz Reynoso, Associate Justice, California Court of Appeals.

The major portion of this hearing will be devoted to testimony from invited witnesses addressing issues relating to refugee resettlement, rights and entitlements of aliens, and consideration of the preference system for immigrant visas.

There will also be an "Open Mike" in the evening from 7–9 p.m. available to anyone wishing to address any immigration issue before the Commission.

Written statements will be accepted for a period of 7 days following the hearing from people unable to appear in person.

The public is cordially invited to attend both the day and evening discussions.

The Select Commission on Immigration and Refugee Policy was created by public law to provide a comprehensive review of U.S. immigration laws, policies, and procedures. The regional hearings are being held to ensure that a wide range of views are heard and considered by the Commission. Other hearings are being held in Baltimore, Boston, Chicago, Denver, Miami, New Orleans, New York, Phoenix, San Antonio, and San Francisco.

Members of the Commission include four Cabinet officers, eight members of Congress with four members selected from each Judiciary Committee, and four members appointed by the President.

Anyone wishing more information about the Los Angeles hearing or about testifying at the evening session should contact: Lee Thomas Surh, Select Commission on Immigration and Refugee Policy, New Executive Office Building, Suite 2020, 726 Jackson Place, NW., Washington, D.C. 20506.
Telephone: (202) 395–5615.
Lawrence H. Fuchs,
Executive Director.
[FR Doc. 80-1906 Filed 1-21-80; 8:45 am]
BILLING CODE 6820-AC-M

Public Hearing; Phoenix, Ariz.

The Select Commission on Immigration and Refugee Policy will hold the sixth of 12 regional hearings on:

Date: February 4, 1980.
Time: 9:00–4:00; 5–7:00 p.m.
Place: The Phoenix Little Theatre, 25 East Coronado Road, Phoenix, Ariz.

The Phoenix hearing will be chaired by Senator Dennis DeConcini (D–Arizona) and member of the Select Commission.

Other Commissioners attending include Secretary of HEW Patricia Harris; the Rev. Theodore M. Hesburgh, President, University of Notre Dame and Chairman, Select Commission; Senator Charles McC. Mathias, Jr. (R–Maryland); Senator Alan K. Simpson (R–Wyoming); Rep. Robert McClory (R–Illinois); Rep. Hamilton Fish, Jr. (R–New York); Rose Matsui Ochi, Executive Assistant to the Mayor of Los Angeles; Joaquin F. Otero, Vice President, Brotherhood of Railway and Airline Clerks; and Judge Curz Reynoso, Associate Justice, California Court of Appeals.

The major portion of this hearing will be devoted to testimony from invited witnesses addressing issues relating to the impacts of illegal or undocumented aliens on the U.S. economy and society, legalization of undocumented aliens, and border nation cooperation.

There will also be an "Open Mike" from 5:00–7:00 p.m. available to anyone wishing to address any immigration issue before the Commission.

Written statements will be accepted for a period of 7 days following the hearing from people unable to appear in person.

The public is cordially invited to attend both the day and evening discussions.

The Select Commission on Immigration and Refugee Policy was created by public law to provide a comprehensive review of U.S. immigration laws, policies, and procedures. Regional hearings are being held to ensure that a wide range of views are heard and considered by the Commission. Other hearings are being held in Baltimore, Boston, Chicago, Denver, Los Angeles, Miami, New Orleans, New York, San Antonio, and San Francisco.

Members of the Commission include four Cabinet officers, eight members of Congress with four members selected from each Judiciary Committee, and four members appointed by the President.

Anyone wishing more information about the Los Angeles hearing or about testifying at the evening session should contact: Elaine Daniels, Select Commission on Immigration and Refugee Policy, New Executive Office Building, Suite 2020, 726 Jackson Place, NW., Washington, D.C. 20506.
Telephone: (202) 395–5615.
Lawrence H. Fuchs,
Executive Director.
[FR Doc. 80-1905 Filed 1-21-80; 8:45 am]
BILLING CODE 6820-AR-M

DEPARTMENT OF STATE

[Public Notice CM-8/264]

Advisory Committee on the Law of the Sea; Partially Closed Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) as amended by Pub. L. 94-409 section 5(c), notice is hereby given that the Advisory Committee on the Law of the Sea will meet in closed sessions on Thursday, February 7 and in both open and closed sessions on Friday, February 8, 1980. The open session of the meeting will convene February 8 at 2:30 p.m. in the Loy Henderson Conference Room, U.S. Department of State, 21st and C Streets, NW, Washington, DC.

The purpose of the closed meeting is to discuss specific conference issues and formal planning and policy preparations for the U.S. Delegation to the Ninth Session of the Third United Nations Conference on the Law of the Sea to be held in New York beginning February 27, 1980. During these closed sessions, documents classified under the provisions of Executive Order 12065 will be discussed.

These documents relate to the issues which the United States will be negotiating at the Conference. The documents are exempt under 5 U.S.C. 552b(c)(1), and may be withheld from disclosure in the public interest.

The issues cover such subjects as freedom of navigation on the high seas and in international straits, national security interests, the nature of a deep seabeds mining regime and proposed deep seabed mining legislation, the breadth of the continental margin, the juridical status of the economic zone, fisheries, vessel source pollution, scientific research, dispute settlement, and other related topics involving U.S. national security matters. Premature disclosure of the contents of these documents could adversely affect our foreign relations interests and jeopardize the chances of obtaining a timely and satisfactory Law of the Sea Treaty.

The open session of the Advisory Committee meeting will discuss all principal agenda issues to be considered during the Third United Nations Conference on the Law of the Sea, including those issues stated above, but will not examine the classified items discussed during the closed session.

The Advisory Committee on the Law of the Sea represents a broad cross-section of industries, professions, academic disciplines and other public groups. As such, it will comprehensively review the proposals which will come before the Conference.

At the open session, beginning at 2:30 p.m. February 8, the general public attending may participate in the discussion subject to instructions of the Chairman.

As entrance to the State department is controlled, members of the public who wish to attend the open session should contact Mr. Thomas Okada and provide their name and affiliation to facilitate their attendance. Mr. Okada's telephone number is (202) 632-0041.

Dated: November 29, 1979.
Alan D. Berlind,
Director, Office of the Law of the Sea Negotiations.
[FR Doc. 80-1944 Filed 1-21-80; 8:45 am]
BILLING CODE 4710-10-M

[CM-8/265]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The working group on safety of navigation of the Subcommittee on Safety of Life at Sea will conduct an open meeting on February 20, 1980 in Room 3201, U.S. Coast Guard Headquarters (Transpoint Building), 2100 Second Street SW., commencing at 9:30 a.m.

The purpose of the meeting is to discuss the following topics:

—Consider matters for the forthcoming SUB NAV XXIV session scheduled for February 25–29, 1980 and in particular:
—Routing of ships;
—Matters related to the 1972 Collision Regulations;
—Ship movement reporting systems;
—Omega differential correction systems;
—Shipborne navigational aids and related equipment;
—Accuracy requirements and harmonization of radio navigation systems;
—World-wide VHF navigational channels;
—Matters related to search and rescue;
—Any other business.

Requests for further information should be directed to Captain D. B. Charter, Jr., c/o Commandant (G-WLE/11), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593, telephone (202) 426-1934.

Dated: January 10, 1980.
John Todd Stewart,
Chairman, Shipping Coordinating Committee.
[FR Doc. 80-1945 Filed 1-21-80; 8:45 am]
BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

[Public Debt Series—No. 4-80]

Treasury Notes of January 31, 1982, Series N-1982

January 17, 1980.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $4,000,000,000 of United States securities, designated

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Treasury Notes of January 31, 1982, Series N–1982 (CUSIP No. 912827 KH 4). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for thier own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated January 31, 1980, and will bear interest from that date, payable on a semiannual basis on July 31, 1980, and each subsequent 6 months on January 31 and July 31, until the principal becomes payable. They will mature January 31, 1982, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secur deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, January 23, 1980. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, January 22, 1980.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customes and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made or completed on or before Thursday, January 31, 1980, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Tuesday, January 29, 1980, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Monday, January 28, 1980, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 2024 Filed 1–21–80; 8:45 am]

BILLING CODE 8610–40–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 274 (Sub-No. 3)]

Abandonment of Railroad Lines—Use of Opportunity Costs

Decided December 26, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Statement of policy change.

SUMMARY: By notice published in the **Federal Register** (44 FR 10807) the Commission instituted a proceeding to determine the appropriate use of opportunity costs as a factor in approving abandonments. Ex Parte No. 274 (Sub-No. 3), Abandonment of Railroad Lines—Use of Opportunity Costs. After considering the comments that were filed the Commission has decided to allow carriers to introduce evidence as to the opportunity costs they incur.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, (202) 275–7245.

SUPPLEMENTARY INFORMATION:

Background

On February 23, 1979, notice was published in the **Federal Register** (44 FR 10807) instituting this proceeding to determine the appropriate use of opportunity costs as a factor in approving rail abandonments. We defined the term "opportunity cost" as "the real economic loss an entity experiences when it must forego some other, more profitable use of its resources."

This proceeding grew out of our decision in *Texas and Pacific Railway Company Abandonment*, 360 I.C.C. 206 (1979). The central issue was whether the opportunity costs incurred in keeping rail assets tied up in less profitable operations, as opposed to more profitable uses elsewhere, was a proper criterion to be considered in approving abandonments. A brief discussion of that case would be helpful.

On July 12, 1976, the Texas and Pacific Railway Company filed an application to abandon its Rock House line. That line consists of 27.2 miles of spur trackage on which is located one shipper. Traffic over the lines totaled 94 carloads (3.5 cars per mile) in 1975, 106 carloads (4.0 cars per mile) in 1976, and no traffic during the first 5 months of 1977. The single shipper's facility was not in production when the record was closed, and only two employees were being kept on the site. Because the track was of recent vintage, however, cost figures for the rail operation were quite low and the line was showing a

marginal profit overall. On the basis of these facts, Review Board Number 5 denied the application on September 30, 1977. On appeal, division 1 reversed the board on April 5, 1978. The division found that substantial opportunity costs were incurred by applicant in keeping valuable line tied up in a marginal operation. It concluded that applicant's inability to use the rail on other lines was a substantial burden on interstate commerce, sacrificing more efficient movement of other traffic to accommodate the needs of one shipper. On July 20, 1978, the Commission reopened the proceeding, finding that the case involved a matter of general transportation importance.

On February 9, 1979, the Commission by a vote of 3 to 2 reinstated the initial decision denying the abandonment. In the view of the majority neither Commission precedent nor our regulations offered guidance as to how to use opportunity costs as a factor in the public convenience and necessity test. the majority, therefore, concluded that we should forego any consideration of opportunity costs. Thus, in determining that the public convenience and necessity did not permit the proposed abandonment, reliance was placed on the traditional balancing test, without employing opportunity costs.

Comments

Written comments in this proceeding were received from government, rail, and shipper interests. From the Federal Government, comments were filed by the United States Department of Transportation (DOT) and the Office of Rail Public Counsel (RPC). The State bodies which commented were: State of Illinois, joined by Illinois Commerce Commission and John W. McGinness, Illinois Legislative Director for United Transportation Union (Illinois); Illinois Department of Transportation (IDOT); Minnesota Department of Transportation (Minnesota); State of New Hampshire (New Hampshire); New York State Department of Transportation (New York); Ohio Rail Transportation Authority (ORTA); South Dakota Public Utilities Commission (South Dakota); State of Texas (Texas); and the Commonwealth of Virginia, Department of Highways & Transportation (Virginia).

The rail interests filing comments were the Association of American Railroads (AAR), Missouri Pacific Railroad Company (MOPAC), Southern Pacific Transportation Company (SP), and St. Louis-San Francisco Railway Company (Frisco).

Shippers which submitted comments were Elcor Corporation (Elcor), Farmland Industries, Inc. (Farmland), The Fertilizer Institute (TFI), FirstMiss Inc. (FirstMiss), National Counsel of Farmer Cooperatives (NCFC), National Grain and Feed Association (NGFA), and Vistron Corporation (Vistron).

The comments of IDOT, New York, Vistron, DOT, and NGFA were late-filed. However, since consideration of those comments would be helpful in our determination, and the delay would not prejudice or delay the disposition of the case, those comments have been accepted. Thus DOT's motion for leave to file comments is granted.

Opposition.—Illinois, IDOT, Minnesota, ORTA, South Dakota, FirstMiss, Farmland, and NGFA express total opposition to the use of opportunity costs as a factor in abandonment proceedings. These parties are concerned that if opportunity costs are made a factor the result will be wholesale abandonment of profitable lines.

They stress the fact that railroads, as common carriers, occupy a unique place in the corporate world. They believe that common carriers are not free to make decisions regarding how and where to commit their resources based solely on the principle of profit maximization.

Assuming an unfettered use of opportunity costs as a factor, it is argued that carriers would be able to abandon operations if they could get a higher return by investing assets elsewhere. Thus, a carrier receiving a 7-percent return on investment on a branch line could argue that it should be able to abandon that line since it could get a 10-percent return by investing in municipal bonds.

The statutory test in abandonment proceedings is whether the public convenience and necessity permit abandonment. By focusing on maximizing carrier profits, these parties argue, the Commission would be disregarding the needs of the public.

Many of the parties also object to evidentiary aspects of using opportunity costs as a factor. IDOT is concerned with what it sees as an increased burden of proof on protestants. It believes that we will become involved in questions of carrier investment priorities. It also argues that the use of an opportunity costs concepts cannot be applied consistently to carriers of significantly varying financial health. It feels that we will need to require information regarding the carrier's investment and marketing policies and the financial health of the entire corporate entity. It fears that protestants will have to prove that the carrier was financially healthy and that its management had incorrect corporate priorities.

Although the overall tone of these comments is total opposition to any use of opportunity costs as a factor, the parties suggest several limitations on its use if we find it to be an appropriate factor. Many state that it should be limited to evidence of alternative rail use. The shipper interests are most concerned with the effect that rural abandonments would have on them and their customers. Farmland suggests that opportunity costs not be applied in the context of rural branch lines. Furthermore, it believes that we should consider opportunity costs only when a line cannot realize a profit after determining net carrier revenue, including the potential revenue if all cars requested were supplied, less the minimum amount required for necessary upgrading of the line.

Limited use.—Other parties advocating a limited use of opportunity costs as a factor are RPC, New Hampshire, Texas, Elcor, NCFC, TFI, and Vistron. They offer numerous comments on how opportunity costs could be factored into the traditional balancing test in a useful but limited manner. Many of these parties argue that opportunity costs should be afforded relatively little weight in the balancing test. They also express the need to enforce a decision granting abandonment based on an alternative rail use of the assets by monitoring the subsequent use of those assets.

These parties generally agree that opportunity costs should be limited to evidence regarding alternative *rail* uses. The major area of controversy is whether evidence of scrap value of these assets should be allowed. New Hampshire contends that carriers should not be allowed to sell their rail assets and use the cash proceeds on their rail system. Rather we should limit carriers to actually relocating the salvageable, tangible rail assets. Furthermore, New Hampshire would restrict carriers to relocating their assets within the same State in which they are presently used.

While RPC believes that we should only consider the return the assets invested in the line to be abandoned would yield if reinvested in other rail uses, it would not limit carriers to simply relocating tangible assets. Instead RPC would allow evidence regarding proposed use of proceeds resulting from the sale of these assets. As to the evidentiary burden on the carrier, RPC suggests that carriers be required to demonstrate where on the system the reinvestment will be made and why it will be a more productive (not simply more profitable) investment.

Elcor, the protesting shipper in the *Texas and Pacific* case, argues that the carrier's opportunity costs should be reduced by the real economic loss shippers and communities suffer when forced to use alternative modes of transportation. The resulting figure would be the appropriate opportunity cost to be considered in abandonment proceedings.

Vistron takes an altogether different approach. It suggests that railroads establish a "base investment" related to the general return and that opportunity costs be compared to that base level. Thus, a carrier that earns an overall 5-percent return on investment would, therefore, not be allowed to abandon a line with a 6-percent return even though by selling the line's assets and using the proceeds elsewhere the carrier could recover a substantially higher return.

Support.—The remaining parties, which include the rail interests, DOT, New York, and Virginia disagree strongly with any limitations. Arguing that carriers should be allowed to function in a free market type economy, these parties believe that we should allow unfettered use of opportunity costs as a factor in abandonment proceedings.

They argue that railroads like other businesses must be free to make rational investment decisions without undue government interference. They stress that without the ability to invest resources so as to receive the best possible return, railroads will be unable to compete with other businesses for investor dollars. Furthermore, by allowing carriers to use their funds elsewhere, the public will benefit from a financially healthier rail industry through lower rates and better service.

For this reason they assert that carriers must not be forced to live with a bad investment decision. Noting that investments once made are not thereafter ignored, they argue that if at a later point the company determines that the cost of disinvestment does not exceed the cost of continuing the investment, the company should be able to divest. They maintain that a railroad should be free to reinvest the proceeds in any alternative manner.

DOT supports the application of a broad economywide concept of opportunity costs in determining the total cost to society of continuing service. It argues that the test of public convenience and necessity should compare all costs of maintaining service with all reasonably perceived public benefits. Evidence of *any* alternative investments should be allowed as part of this test.

Frisco argues that the failure to consider opportunity costs frustrates carrier attempts to maintain and upgrade their systems. Its comments discuss at length how and when the opportunity costs factor should be used in abandonment proceedings.

Frisco distinguishes between two situations where a railroad might invoke opportunity costs as a factor in seeking abandonment. The first is when a line's assets are of no use other than scrap and the carrier would like to reinvest the proceeds more profitably. In such a case, the enormous rehabilitation and maintenance costs involved in keeping the line operational are properly the focus of analysis. Opportunity costs will have little significance in this context.

It is where the assets are both in good condition and needed elsewhere, Firsco asserts, that opportunity costs should play a significant role. Frisco identifies three instances in which a carrier might be operating a marginally profitable line which is in good repair and made up of materials with high alternate railroad use potential. One is when a branch line which was once a highly developed and well maintained connection between carriers has since lost the bridge traffic which originally justified the construction and maintenance expenditures received. The second is when a branch line which is the stub-end of a formerly highly developed and well maintained trunkline has been severed. The third is when a branch line is recently constructed to reach new or potential markets which failed to materialize or ceased to exist. This situation, of little out-of-pocket costs and marginal profitability, does not fit easily into the traditional balancing test.

Since Frisco believes the opportunity costs factor will be most relevant in the situation outlined above, it discounts the charges of wholesale branch line abandonment. Further, it notes that since most branch line rail is too light for main line use, and since the trend is to use continuously welded rail on main lines, most redevelopment will occur on other branch lines. Thus, it follows that branch line service will actually improve.

In terms of the evidentiary burden Frisco believes the carrier should be able to present evidence concerning the condition and character of the rail and the new uses to which it can be put. The cost of taking up the old rail or moving the old assets must also be considered, but this item must be balanced against the cost of buying new assets if the old were not moved.

Discussion and Conclusions

After examining the public comments we find that opportunity costs must be a factor used in determining whether the public convenience and necessity permits abandonment. This finding reflects our belief that opportunity costs are a real, and, in some cases, very significant factor in determining whether the line at issue is imposing a burden on interstate commerce. We, therefore, advise carriers that in all future abandonment cases they are welcome to offer evidence of their opportunity costs. Such evidence may include the costs incurred in keeping assets tied up in less profitable operations as opposed to more profitable uses elsewhere, including nonrail uses.

The two hypothetical cases offered by the Frisco are instances in which evidence of opportunity costs may be particularly relevant. However, since we believe that there are numerous situations in which the Commission should consider such a factor, we do not propose an exact rule of general applicability.

We believe that in the abandonment areas must look ultimately to how productivity assets are used. Lines consisting of valuable rail assets which are underutilized should be allowed to be abandoned so that those assets may be better used elsewhere. Furthermore, it should be kept in mind that if we require a carrier to operate marginally profitable lines, it will be necessary for the carrier to earn more than a reasonable rate of return on other lines in order for the carrier to achieve an overall rate of return sufficient to attract investment capital. This hidden form of cross-subsidization is highly questionable as a matter of national transportation policy.

If a carrier seeks to abandon a line in good physical condition it most likely is because a forecasted return was not realized. Holding a carrier responsible for a poor investment decision by denying abandonment would serve the public poorly. If a carrier has made an investment which proves unwise, it should be allowed to minimize its losses.

Despite this announced policy of allowing carriers to introduce evidence of opportunity costs in the form of net salvage value or productivity of rail assets we are not altering our traditional balancing test.

Protestants are of course free to respond to the applicant's opportunity costs evidence. For example questions as to ownership of the line or the land on which it is constructed, the source of funds used for construction or

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rehabilitation, contracts between shippers and carriers, et cetera, can be introduced by parties in an attempt to persuade the Commission, that, on balance, the equities in a particular case require denial of the abandonment.

The abandonment process has always involved balancing. By this statement we merely wish to inform the public that we are willing to listen to additional arguments advanced by carriers to support their contention that operation of a given line is a burden on interstate commerce. We believe that the judicious consideration of opportunity costs as one of the factors in abandonment cases will enable us to fulfill better our statutory duty to ensure the development, coordination, and preservation of a transportation system that meets the needs of the United States.

This decision does not have any significant environmental or energy consequences. The environmental and energy consequences of individual abandonments will continue to be assessed in the context of the involved proceeding, of course.

Commissioner Alexis, joined by Commissioner Clapp, concurring:

I agree that opportunity costs should be given consideration in abandonment cases in applications involving lines that are marginally profitable.

There are several criteria that should be included in considering opportunity costs of capital:

1. We should look at the return on investment of the specific line in relation to a particular carrier's long-term cost of capital.

2. The burden of proof should be on the railroad seeking abandonment of the line to show that its return on investment (for this line) is below its cost of capital.

3. The railroad should also show that the assets could be employed somewhere else in its system at a higher rate of return, would improve its overall financial performance, and, or would improve the services that it would offer to other shippers.

We should not place limits on how assets are transferred from one transportation use to another *e.g.*, movement of lines to other location, sales of assets and reinvestment in other transportation assets, and the like. However, I would oppose sales of nonmarginal lines if the proceeds are not reinvested in other transportation assets.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Commissioner Alexis, joined by Commissioner Clapp, concurred.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-1923 Filed 1-21-80; 8:45 am]
BILLING CODE 7035-01-M

[Notice No. 161]

Assignment of Hearings

January 14, 1980.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 124070 (Sub-34F), Chemical Haulers, Inc., now assigned for hearing on January 22, 1980 at Chicago, IL. is canceled and transferred to Modified Procedure.
MC 117416 (Sub-62F), Newman and Pemberton Corporation, now assigned for hearing on January 10, 1980 at Washington, DC., is canceled and transferred to Modified Procedure.
MC 128270 (Sub-31F), Rediehs Interstate, Inc., A Delaware Corporation, now assigned for hearing on February 25, 1980 will be held in Room 1944C, Everett McKinley Dirksen Bldg., 219 South Dearborn Street, Chicago, IL.
MC 56679 (Sub-109F), Brown Transport Corporation, now assigned for hearing on January 22, 1980 will be held at the Century Center Hotel, 2000 Century Boulevard NE (At I–85 North and Clairmont Road) Atlanta, GA.
MC 146703 (Sub-1F), Roberts and Oake, Inc., transferred to Modified Procedure.
MC 145154 (Sub-2F), Young's Transportation Company, now assigned for hearing on January 16, 1980 (3 days) at Houston, TX in Room Park Plaza One, Holiday Inn—Memorial Plaza, 2nd Floor—2100 Memorial Drive.
No. AB–1 (Sub-86F), Chicago and North Western Transportation Company Abandonment between Tracy and Gray in Lyon, Lincoln, and Yellow Medicine Counties, Minnesota and Deuel County, SD, Now being assigned for hearing on March 10, 1980 (1 week) at Marshall, MN, location of hearing room will be designated later.
MC 112713 (Sub-265F), Yellow Freight System, Inc., transferred to Modified Procedure.
MC 141963 (Sub-2F), Air Cargo Transit, INC now being assigned for hearing on March 24, 1980 (1 Day) at Phoenix, AZ location of hearing room will be by subsequent notice.
MC 129537 (Sub-40F), Reese Transportation Co., now assigned for hearing on February 11, 1980 (5 days) at New Orleans, LA in the Willow—Room #1001, Gateway Hotel, 2261 North Causeway Boulevard.
MC 143594 (Sub-6F), National Bulk Transport, Inc., now assigned for hearing on February 6, 1980 (3 days) at New Orleans, LA in the Willow—Room #1001, Gateway Hotel, 2261 North Causeway Boulevard.
MC 126118 (Sub-105F), Crete Carrier Corporation, transferred to Modified Procedure.
MC 144957 (Sub-5F), Petercliffe, LTD, now assigned for hearing on January 23, 1980 will be held at the U.S. County Courthouse, 111 North Hill Street, Los Angeles, CA.
MC 48958 (Sub-166F), Illinois California Express, Inc., now assigned for hearing on January 28, 1980 will be held at the U.S. Courthouse, Room No. 203, 111 North Hill Street, Phoenix, AZ.
MC 144217 (Sub-1F), Roberts Hargis d/b/a Bodee Truck Lines, Inc., now assigned for hearing on January 30, 1980 will be held at the U.S. Courthouse, Room No. 203, 111 North Hill Street, Phoenix, AZ.
MC 146703 (Sub-11F), Roberts & Oake, Inc., now assigned for hearing on February 27, 1980 is canceled and transferred to Modified Procedure.
MC 113855 (Sub-476F), International Transport, Inc., transferred to Modified Procedure.
MC 105120 (Sub-17F), Freightways Express, Inc., and MC C 10162, Dodds Truck Line, Inc. and Dodds Truck Line, Inc., Operator and Lessee of Bennett Truck Line, Inc., now being assigned for hearing is advanced to January 21, 1980 (3 days), at the Executive Plaza Inn, 1471 Brooks Road East, Memphis, TN.
MC 136828 (Sub-29F), Cook Transports, Inc., now assigned for hearing on February 11, 1980 at Birmingham, AL, is canceled and application dismissed.
MC 123405 (Sub-65F), Food Transport, Inc., transferred to Modified Procedure.
Ex Parte No. 315 (Sub-1F), In the Matter of Kenneth R. Davis, now assigned for hearing on January 29, 1980 at Washington, D.C. is postponed indefinitely.
MC 123272 (Sub-24F), Fast Freight, Inc., now assigned for hearing on March 5, 1980 at Milwaukee, WI is canceled.
MC 145539 (Sub-1F), Ohio Northern Transit Company, now assigned for hearing on February 5, 1980 at Columbus, OH is postponed to May 13, 1980 (9 days) at Columbus, OH, location of hearing room will be by subsequent notice.
MC 48958 (Sub-166F), Illinois California Express, Inc., now assigned January 2, 1980 at Phoenix, AZ, will be held in the Maricopa County Superior Court, 201 W. Jefferson St., Phoenix, AZ, instead of in Room No. 203, U.S. Courthouse, 111 North Hill St.
MC 144217 (Sub-1F), Robert Kargis D/B/A Dodee Truck Lines, Inc. now assigned for hearing on January 30, 1980, Phoenix, AZ, instead of in Room No. 203, U.S. Courthouse, 111 North Hill St.
MC 143230 (Sub-2F), Luck Trucking, Inc., now assigned for hearing on January 22, 1980 at Chicago, IL in the University of Chicago Law School, 1111 East 60th Street.

MC 112801 (Sub-226F), Transport Service, Co., now assigned for hearing on January 24, 1980 at Chicago, IL in the University of Chicago Law School, 1111 East 60th Street.
MC 110563 (Sub-270F), Colkway Food Express, Inc., now assigned on January 25, 1980 at Chicago, IL in the University of Chicago Law School, 1111 East 60th Street.
MC 45194 (Sub-23F), Lattavo Bros., Inc., and MC 8959 (Sub. 33F), Youngstown Cartage Inc., now being assigned for Prehearing Conference February 20, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.
No. 37166, Detention Charges on Coal From Oklahoma to Missouri, VIA SLSL, now assigned for hearing on January 8, 1980 at St. Louis, MO. is postponed to January 9, 1980 (1 Day), in Conference Room 322, 1114 Market St., St. Louis, MO.
MC 146703 (Sub-4F), Roberts & Oake, Inc., now assigned for hearing on January 16, 1980 at Washington, DC. is canceled and transferred to Modified Procedure.
No. AB 6 (Sub-69F), Burlington Northern, Inc., Abandonment Between West Quincy, and Kirksville, MO., now assigned for hearing on February 25, 1980 is postponed to March 24, 1980 (1 Week), at Edina, MO, in a hearing room to be designated later.
MC 145738 (Sub-3F), East-West Motor Freight, Inc., now assigned for hearing on January 22, 1980 will be held at the U.S. County Courthouse, 111 North Hill Street, Los Angeles, CA.
MC 144957 (Sub-3F), Petercliffe, LTD., now assigned for hearing on January 23, 1980 will be held at the U.S. County Courthouse, 111 North Hill Street, Los Angeles, CA.
MC 144957 (Sub-3F), Petercliffe, LTD., now assigned for hearing on January 23, 1980 will be held at the U.S. County Courthouse, 111 North Hill Street, Los Angeles, CA.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-1921 Filed 1-21-80; 8:45 am]
BILLING CODE 7035-01-M

[Investigation and Suspension No. 9244 (Sub-1)]

Carrier Exceptions to ConRail Surcharge on Wine, TCEB

AGENCY: Interstate Commerce Commission.

ACTION: Notice of reopening of related proceedings in which divisions of revenue have been prescribed.

SUMMARY: The cited pending proceeding involves proposed surcharges on joint rates. The surcharge would accrue only to one carrier party to the rate. The Commission has determined that it is necessary to reopen related divisions proceedings where the basis for the divisions of revenue has been prescribed. The divisions proceedings are reopened to the extent necessary in this proceeding. All parties to the original divisions proceedings are here placed on notice that the Commission may approve a resettlement of divisions with respect to the commodities involved in this surcharge proceeding if doing so is found to be necessary and appropriate.

FOR FURTHER INFORMATION CONTACT: Richard Felder—(202) 275–7693.

SUPPLEMENTARY INFORMATION: The reopened divisions proceedings are as follows: New England Divisions, 132 I.C.C. 93 (1927), *Divisions of Freight Rates*, 253 I.C.C. 673 (1942), *Official Western Trunk Line Divisions*, 269 I.C.C. 765 (1948), *Official-Southwestern Divisions*, 292 I.C.C. 447 (1954), *Official-Southern Divisions*, 337 I.C.C. 74 (1970), *Akron C. & Y.R. Co.* v. *Atchison, T. & S. F. Ry. Co.*, 339 I.C.C. 540 (1971), and *Cincinnati, N.O. & T.P. Ry. Co.* v. *Akron, C. & Y.*, 353 I.C.C. 165 (1976).

Dated: January 8, 1980.

By the Commission, George M. Chandler, Acting Director, Office of Proceedings.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-1922 Filed 1-21-80; 8:45 am]
BILLING CODE 7035-01-M

[Rule 19, Ex Parte No. 241, 77th Rev. Exemption No. 90]

Exemption Under Provision of Mandatory Car Service Rules

It appearing, That the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, ICC RER 6410–C, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a) and 2(b).

Aberdeen and Rockfish Railroad Company
Reporting Marks: AR
The Ahnapee & Western Railway Company
Reporting Marks: AHW
Ann Arbor Railroad System,
Michigan Interstate Railway Company, Operator
Reporting Marks: AA
Apalachicola Northern Railroad Company
Reporting Marks: AN
*The Arcata and Mad River Railroad Company
Reporting Marks: AMR
Atlanta & Saint Andrews Bay Railway Company
Reporting Marks: ASAB
Bath and Hammondsport Railroad Company
Reporting Marks: BH
*Burlington Northern Inc.
Reporting Marks: BN–CBQ–GN–NP–SPS
Cadiz Railroad Company
Reporting Marks: CAD
Camino, Placerville & Lake Tahoe Railroad Company
Reporting Marks: CPLT
City of Prineville
Reporting Marks: COP
The Clarendon and Pittsford Railroad Company
Reporting Marks: CLP
Columbus and Greenville Railway Company
Reporting Marks: CAGY
Delta Valley & Southern Railway Company
Reporting Marks: DVS
Detroit, Toledo and Ironton Railroad Company
Reporting Marks: DT&I–DTI
Duluth, Missabe and Iron Range Railway Company
Reporting Marks: DMIR
East Camden & Highland Railroad Company
Reporting Marks: EACH
East St. Louis Junction Railroad Company
Reporting Marks: ESLJ
Galveston Wharves
Reporting Marks: GWF
Genessee and Wyoming Railway Company
Reporting Marks: GNWR
Green Mountain Railroad Corporation
Reporting Marks: GMRC
Greenville and Northern Railway Company
Reporting Marks: GRN
The Hutchinson and Northern Railway Company
Reporting Marks: HN
Helena Southwestern Railroad Company
Reporting Marks: HSW
Illinois Terminal Railroad Company
Reporting Marks: ITC
Indiana Eastern Railroad and Transportation, Inc.
d.b.a. The Hoosier Connection
Reporting Marks: HOSC
*Lake Erie, Franklin & Clarion Railroad Company
Reporting Marks: LEF
Lake Superior & Ishpeming Railroad Company
Reporting Marks: LSI
Lamoille Valley Railroad Company
Reporting Marks: LVRC
Lancaster and Chester Railway Company
Reporting Marks: LC
Lenawee County Railroad Company, Inc.
Reporting Marks: LCRC
Longview, Portland & Northern Railway Company
Reporting Marks: LPN
Louisiana Midland Railway Company
Reporting Marks: LOAM
Louisville and Wadley Railway Company
Reporting Marks: LW
Louisville, New Albany & Corydon Railroad Company

*Addition.
*Addition.

Reporting Marks: LNAC
Manufacturers Railway Company
Reporting Marks: MRS
Maryland and Delaware Railroad Company
Reporting Marks: MDDE
McCloud River Railroad Company
Reporting Marks: MR
Middletown and New Jersey Railway Company, Inc.
Reporting Marks: MNJ
Mississippian Railway
Reporting Marks: MISS
Missouri-Kansas-Texas Railroad Company
Reporting Marks: MKT–BKTY
New Hope and Ivyland Railroad Company
Reporting Marks: NHIR
New Orleans Public Belt Railroad
Reporting Marks: NOPB
New York, Susquehanna and Western Railroad Company
Reporting Marks: NYSW
Octararo Railway, Inc.
Reporting Marks: OCTR
Oregon & Northwestern Railroad Co.
Reporting Marks: ONW
Pearl River Valley Railroad Company
Reporting Marks: PRV
Peninsula Terminal Company
Reporting Marks: PT
Pittsburg, Allegheny & McKees Rocks Railroad Company
Reporting Marks: PA&M
Port Huron and Detroit Railroad Company
Reporting Marks: PHD
Port of Tillamook Bay Railroad
Reporting Marks: POTB
Providence And Worcester Company
Reporting Marks: PW
Raritan River Rail Road Company
Reporting Marks: RR
St. Lawrence Railroad
Reporting Marks: NSL
St. Louis Southwestern Railway Company
Reporting Marks: SSW
St. Marys Railroad Company
Reporting Marks: SM
Sandersville Railroad Company
Reporting Marks: SAN
Savannah State Docks Railroad Company
Reporting Marks: SSDK
Sierra Railroad Company
Reporting Marks: SERA
Southern Pacific Transportation Company
Reporting Marks: SP
Southern Railway Company
Reporting Marks: SOU
Terminal Railway, Alabama State Docks
Reporting Marks: TASD
The Texas Mexican Railway Company
Reporting Marks: TM
Toledo, Peoria & Western Railroad Company
Reporting Marks: TPW
Union Railroad of Oregon
Reporting Marks: UO
Vermont Railway, Inc.
Reporting Marks: VTR
Virginia Central Railway
Reporting Marks: VC
Wabash Valley Railroad Company
Reporting Marks: WVRC
WCTU Railway Company
Reporting Marks: WCTR
Youngstown & Southern Railway Company
Reporting Marks: YS
Yreka Western Railroad Company
Reporting Marks: YW

Effective January 1, 1980, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., December 28, 1979.
Interstate Commerce Commission.
Robert S. Turkington,
Agent.

[FR Doc. 80-1020 Filed 1-21-80; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: January 15, 1980.

In our decision of January 8, 1980, an 11.5-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

Although the weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 11.7 percent, we are authorizing that the 11.5-percent surcharge on this traffic remain in effect. All owner-operators are to continue to receive compensation at the 11.5-percent level. In addition, no change will be made in the existing authorization of a 2.0-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators. However, a 4.4-percent surcharge is authorized for the bus carriers.

Some shippers have raised questions with regard to the application of the X–311 surcharges on certain LTL shipments slightly below truckload minimum weights, when the carrier is required to give the shipper the benefit of the lower truckload charge if it is exceeded by the LTL charge. It appears that some carriers are first determining whether the truckload or LTL charge applies, and then assessing the fuel surcharge. Since the fuel surcharge for truckload shipments is considerably larger than that for LTL movements, this can lead to instances where net overall charges for LTL shipments at truckload rates are higher than for the same LTL shipments at the LTL rates.

This methodology could result in higher charges for smaller shipments than for larger shipments over the same routings in violation of 49 C.F.R. 1310.7(e). We find that in computing charges in situations described above that the fuel surcharge must be added in first, and the lowest total charges (including the surcharge) be assessed against the shipper.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissioners or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D. C., for public inspection, and by delivering a copy to the Director, Office of the Federal Register, for publication therein.

It is ordered: This decision shall become effective Friday, 12:01 a.m., January 18, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Stafford, Commissioners Stafford, Clapp, Trantum, and Alexis.
Agatha L. Mergenovich,
Secretary.

Appendix.—*Fuel Surcharge*

Base Date and Price per Gallon (Including Tax)
January 1, 1979 ..... 63.5¢

Date of Current Price Measurement and Price per Gallon (Including Tax)
January 14, 1980 ..... 107.6

Average Percent: Fuel Expenses (Including Taxes) of Total Revenue

(1) From transportation performed by owner-operators (Apply to all truckload rated traffic)	(2) Other (including less-truckload traffic)	(3) Bus carriers
16.5%	2.9%	8.5%
Percent Surcharge Developed		
11.7	2.0%	4.4%
Percent Surcharged Allowed		
11.5%	2.0%	4.4%

[FR Doc. 80-1019 Filed 1-21-80; 8:45 am]
BILLING CODE 7035-01-M

[Notice No. 259]

Motor Carrier Temporary Authority Applications

January 16, 1980.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 149086TA, filed February 28, 1979. Applicant: TRANSPORTATION, INC., R.R. #4, Ottawa, KS 66067. Representative: David L. Bones, 205 E. Wilson, Ottawa, KS 66067. *Coal, in bulk.* From mine site of Clemens Coal Co. near Pittsburg, KS to Kansas City, Independence, Lee's Summit, Sedalia, Springfield, Joplin, and Asbury, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Mackie-Clemens Fuel Company, 320 No. Locust, Pittsburg, KS 66762. Send protests to: Thomas P. O'Hara, District Supervisor, ICC, 256 Federal Bldg., 444 S.E. Quincy, Topeka, KS 66683.

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-1018 Filed 1-21-80; 8:45 am]
BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 274]

Permanent Authority Decision-Notice

Decided: January 11, 1980.

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issue or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. All original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act.)

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the

authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

MC 52709 (Sub-367F), filed June 26, 1979. Applicant: RINGSBY TRUCK LINES, INC., 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (address same as applicant). Transporting (1) *containers and container closures,* from Denver and Golden, CO to points in the United States (except AK and HI); and (2) *pallets, packaging materials, and dunnage,* from points in the United States (except AK and HI), to Denver and Golden, CO, and points in IL, IN, KS, MI, MO, NE, OH, OK, TX, and WI, restricted to the transportation of traffic destined to the facilities of the Continental Group, Inc. (Hearing site: Denver, CO or Chicago, IL.)

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343 (a) or submit an affidavit indicating why such approval is unnecessary.

MC 56679 (Sub-123F), filed June 26, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Ave., SW., Atlanta, GA 30310. Representative: David L. Capps (same address as applicant). Transporting *crude silicon carbide,* from Buffalo, NY, to points in Elbert County, GA. (Hearing site: Atlanta or Elberton, GA.)

MC 57778 (Sub-32F), filed June 25, 1979. Applicant: MICHIGAN REFRIGERATED TRUCKING SERVICE, INC., 6134 West Jefferson Avenue, Detroit, MI 48209. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Transporting (1) *foodstuffs,* from the facilities of J. M. Smucker Company, at or near Orrville and Medina, OH, to points in IN and MI, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Columbus, OH.)

MC 67419 (Sub-7F), filed June 25, 1979. Applicant: PHILIP STINGER, INC., N.E. Corner of 35th and Moore Streets, Philadelphia, PA 19145. Representative: Raymond A. Thistle, Jr., Five Cottman Court, Homestead Road & Cottman Street, Jenkintown, PA 19046. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *insulation materials,* and *materials and supplies* used in the manufacture and installation of insulation materials (except commodities in bulk), (a) from Pennsauken, NJ, to points in CT, DE, KY, MA, MD, ME, NC, NJ, NH, NY, OH, PA, RI, SC, VA, VT, WV, and DC, (b) from Elizabethtown, KY, to points in DE, MD, PA, NJ, and NY, (2) *roofing felt,* from Lockland, OH, to Pennsauken, NJ, and (3)(a) *roofing materials and supplies,* and (b) *materials and supplies* used in the manufacture of the commodities in (3)(a) above, from Goldsboro, NC, to points in DE, MD, NJ, NY, PA, VA, and DC, under continuing contract(s) in (1) through (3) above, with the Celotex Corporation. (Hearing site: Philadelphia, PA.)

MC 71478 (Sub-47F), filed June 25, 1979. Applicant: THE CHIEF FREIGHT LINES CO., a corporation, 2401 North Harvard, Tulsa, OK 74115. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Transporting (1) *plastic articles and materials* (except commodities in bulk), and (2) *equipment and supplies* used in the manufacture and distribution of plastic articles, (except commodities in bulk), (a) between Jacksonville, IL, on the one hand, and, on the other Chicago, IL, Kansas City, MO, Louisville, KY, and points in OH, and (b) between Macedon, NY, and Chicago, IL, restricted in (a) and (b) above to the transportation of traffic originating at or destined to the facilities of Mobil Chemical Company, Plastic Division. (Hearing site: Chicago, IL.)

MC 73688 (Sub-96F), filed June 25, 1979. Appliant: SOUTHERN TRUCKING CORPORATION, P.O. Box 7195, 1500 Orenda Avenue, Memphis, TN 38107. Representative: Diane Price, Route 6, Box 15, North Little Rock, AR 72118. Transporting *roofing* from the facilities of Tarco, Inc., at North Little Rock, AR, to points in AL, FL, GA, IL, IN, KY, LA, MD, MO, MN, NC, OH, OK, SC, TN, TX, and VA (Hearing site: Little Rock, AR, or Memphis, TN.)

MC 97009 (Sub-27F), filed June 25, 1979. Applicant: HERZOG TRUCKING COMPANY, INC., 200 Delaware St., Honesdale, PA 18431. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting (1) *cotton clothing, synthetic clothing, and piece goods,* and (2) *materials, equipment, and supplies* used in the manufacture and sale of the commodities in (1) above, between Honesdale and Plains, PA, on the one hand, and, on the other, points in MA. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 97009 (Sub-28F), filed June 26, 1979. Applicant: HERZOG TRUCKING COMPANY, INC., 200 Delaware St., Honesdale, PA 18431. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting (1) *unpainted wooden furniture,* and (2) *materials, equipment, and supplies* used in the manufacture and sale of wooden furniture (except commodities in bulk), between the faciliteis of S. J. Bailey & Sons, Inc., at or near (a) Honesdale, PA, and (b) Walton, NY, on the one hand, and, on the other, points in CT, IL, IN, MI, OH, MA, WV, VT, NH, ME, NY, PA, NJ, RI, and MD. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 99848 (Sub-3F), filed June 27, 1979. Applicant: J. F. LUX TRANS. CO. INC., 232 Ash Street, Reading, MA 01867. Representative: Joseph T. Bambrick, Jr., P.O. Box 216, Douglassville, PA 19518. Transporting *general commodities* (except those of unusual value, classes A and B explosives, households goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Hillsboro, Merrimack, Rockingham, and Stafford Counties, NH, and points in RI and MA. Condition: Prior or coincidental cancellation, at applicant's written request, of its Certificate of Registration in MC–99848 (Sub-1) issued April 8, 1964. (Hearing site: Boston, MA, or Manchester, NH.)

MC 106119 (Sub-26F), filed June 26, 1979. Applicant: ASSOCIATED PETROLEUM CARRIERS, INC., Union Road, P.O. Box 2808, Spartanburg, SC 29302. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Transporting *liquid petroleum products* (except propane), in bulk, in tank vehicles, from Savannah, GA, to points in FL. (Hearing site: Columbia, SC, or Washington, DC.)

MC 106398 (Sub-1010F), filed June 27, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Fred Rahal, Jr., 525 South Main, Tulsa, OK 74103. Transporting *building materials* (a) from Unadilla, NY, to Bolton, MA, and (b) from Bolton, MA, to points in TX, and those points in the United States in and east of WI, IL, KY, TN, MS, and LA. (Hearing site: Pittsburgh, PA.)

MC 108119 (Sub-159F), filed June 1, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Transporting (1) *machinery, air heating and cooling equipment, and bearings,* (2) *parts* for the commodities in (1) above, and (3) *materials and supplies* used in the manufacture and installation of the commodities in (1) and (2) above, between Oklahoma City, OK, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Oklahoma City, OK.)

MC 108119 (Sub-170F), filed June 28, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Transporting *iron and steel articles,* from Gerald, MO, to points in the United States (except AK and HI). (Hearing site: St. Louis, MO.)

MC 112989 (Sub-116F), filed April 20, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). Transporting (1) *storage tanks,* and *iron and steel pipe,* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between points in Washoe County, NV, Pueblo County, CO, and Kern County, CA, on the one hand, and, on the other, points in CA, OR, WA, ID, MT, UT, CO, AZ, NM, TX, NV, ND, SD, OK, and WY. (Hearing site: Reno, NV, or San Francisco, CA.)

Note.—Dual operations may be involved.

MC 118838 (Sub-56F), filed June 28, 1979. Applicant: GABOR TRUCKING, INC., R.R. 4, Detroit Lakes, MN 56501. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *metal products,* from the facilities of United States Gypsum Company, at Warren, OH, to points in CA, CO, IA, ID, KS, MN, MT, ND, NE, NV, OR, SD, UT, WA, WI, and WY. (Hearing site: Chicago, IL.)

MC 118838 (Sub-57F), filed June 29, 1979. Applicant: GABOR TRUCKING, INC., R.R. 4, Detroit Lakes, MN 56501. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55401. Transporting *lumber, wood, lumber products, and wood products,* from points in WA and OR, to points in IA, IL, IN MI, MN NE, ND, OH, PA, SD, and WI. (Hearing site: Seattle, WA, or Portland, OR.)

MC 118838 (Sub-58F), filed June 29, 1979. Applicant: GABOR TRUCKING, INC., R.R. 4, Detroit Lakes, MN 56501. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55401. Transporting *lumber, wood, lumber products, and wood products,* from points in ID, to points in IA, IL, IN, MI, MN, NE, ND, OH, PA, SD, and WI. (Hearing site: Seattle, WA, or Portland, OR.)

MC 118978 (Sub-12F), filed June 7, 1979. Applicant: MERCURY EXPRESS LTD., 2100 United Boulevard, Coquitlam, British Columbia, Canada V3K 3V4. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. Transporting (1) *such commodities* as are dealt in or used by grocery and food business houses, and (2) *commodities,* the transportation of which is otherwise exempt from economic regulations under 49 U.S.C. § 10526(a)(6), in mixed loads with the commodities in (1) above, between points in CA, ID, OR, and WA on the one hand, and, on the other, points of entry on the international boundary line between the United States and Canada in WA, ID, and MT. (Hearing site: Seattle, WA.)

MC 119689 (Sub-25F), filed June 25, 1979. Applicant: PEERLESS TRANSPORT CORP., 2701 Railroad Street, Pittsburgh, PA 15222. Representative: Robert T. Hefferin (same address as applicant). Transporting (1) *animal and poultry feed* and *animal and poultry feed ingredients,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between South River, MO, Pearl River, NY, and Willow Island, WV, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 121799 (Sub-2F), filed June 26, 1979. Applicant: CARPET DELIVERY SERVICE, INC., 2808 N. 29th Avenue, Hollywood, FL 33020. Representative: John P. Bond, 2766 Douglas Road, Miami, FL 33133. Transporting *carpeting,* between points in AL, GA, KY, MS, NC, SC, and TN, on the one hand, and, on the other, points in FL. (Hearing site: Washington, DC.)

MC 124078 (Sub-978F), filed July 13, 1979. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Transporting *commodities in bulk,* (1) between those points in the United States in and east of ND, SD, NE, KS, OK, and TX, and (2) between those points in the United States in and east of ND, SD, NE, KS, OK, and TX, on the one hand, and, on the other, those points in the United States in and west of MT, WY, CO, and NM (except AK and HI). (Hearing site: Chicago, IL.)

MC 125368 (Sub-72F), filed June 26, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: Roland Lowell, 6th Floor, United American Bank Bldg., Nashville, TN 37219. Transporting (1) *meats, meat products, and (2) supplies* used in the manufacture of meat products, (a) from the facilities of Dinner Bell Foods, at or near Archbold, Defiance, and Troy, OH to points in NC and VA, and (b) from Wilson, NC to points in OH and VA. (Hearing site: Washington, DC, or Chicago, IL.)

MC 127579 (Sub-24F), filed June 25, 1979. Applicant: HAULMARK TRANSFER, INC., 1100 North Macon Street, Baltimore, MD 21205. Representative: Glenn M. Heagerty, 1100 North Macon Street, Baltimore, MD 21205. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Union Camp Corporation and Moore-Handley, Inc. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 129908 (Sub-12F), filed September 10, 1979. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th Street, Oklahoma City, OK 73107. Representative: T. J. Blaylock (same address as applicant). Transporting *foodstuffs,* from the facilities of Ragu Foods, Inc., at Merced, CA, to points in CO and TX. (Hearing site: Oklahoma City, OK.)

MC 133689 (Sub-285F), filed June 26, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First St. SW., New Brighton, MN 55112. Representative: Robert P. Sack, P. O. Box 6010, West St. Paul, MN 55118. Transporting (1) *household appliances,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of household appliances, between St. Cloud, MN, and Webster City, Fort Dodge, and Jefferson, IA, on the one hand, and, on the other, points in the United States, in and east of ND, SD, NE, KS, OK , and TX. (Hearing site: St. Paul, MN.)

MC 133878 (Sub-3F), filed June 25, 1979. Applicant: A. E. TRUCKS, INC., Weston, Luzerne County, PA 18256. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. To operate as a *contract carrier,* by motor

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vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *mobile shelving*, from Atlanta, GA, Dallas, TX, Chicago, IL, and Cucomonga, CA, and points in Wilkes Barre and Plains Townships, PA, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture of mobile shelving, from points in the United States (except AK and HI), to Cucomonga, CA, and points in Wilkes Barre and Plains Townships, PA, under continuing contract(s) in (1) and (2) above with Metropolitan Wire Corporation, of Wilkes Barre, PA. (Hearing site: Wilkes Barre, PA.)

MC 136208 (Sub-9F), filed June 25, 1979. Applicant: CREAGER TRUCKING CO., INC., 4 N.E. Marine Drive, Portland, OR 97217. Representative: Jerry R. Woods, Suite 1440–200 Market Bldg., 200 Market Street, Portland, OR 97201. Transporting *flat glass*, from the facilities of Guardian Industries Corp., at or near Kingsburg, CA, to points in ID, MT, NV, OR, UT, WA, and AZ. (Hearing site: Portland, OR.)

Note.—Dual operations may be involved.

MC 136308 (Sub-81F), filed June 25, 1979. Applicant: KLM, INC., Old Highway 49 South, P.O. Box 6096, Jackson, MS 39208. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Transporting (1) *telephones, telephone parts and housings, electrical cable and wire, and printed paper forms*, (a) from the facilities of GTE Automatic Electric Incorporated, at or near Huntsville, AL, to Kansas City, MO, Tampa, FL, and Salt Lake City, UT, (b) from the facilities of GTE Automatic Electric Incorporated, at or near Salt Lake City, UT, to Pomona, CA, Everett, WA, Garland, TX, Kansas City, MO, Northlake, IL, Richmond, VA, Tampa, FL, Huntsville, AL, and the port of entry on the International Boundary line between the United States and Canada at or near Sweetgrass, MT, and (c) from the facilities of GTE Automatic Electric Incorporated, at or near Genoa, IL, to the port of entry on the International Boundary line, between the United States and Canada, at or near Sweetgrass, MT, and (2) *telephones, telephone parts, telephone switchboards, telephone switchboard parts, electric cable and wire, cable racks, teletypewriters, and parts for teletypewriters*, and *printed paper forms*, from the facilities of GTE Automatic Electric Incorporated, at or near Northlake, IL, to points in AL, CA, FL, NV, NJ, NY, NC, OK, OR, SC, TX, UT, and WA. (Hearing site: Huntsville, AL, or Jackson, MS.)

Note.—Dual operations may be involved.

MC 136308 (Sub-82F), filed June 27, 1979. Applicant: KLM, INC., Old Highway 49 South, P.O. Box 6096, Jackson, MS 39208. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, Jackson, MS 39205. Transporting (1) *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), and (2) *foodstuffs*, in mixed loads with commodities listed in (1) above, from the facilities used by Oscar Mayer & Co., Inc. at (a) Goodlettsville, TN, to points in CA and TX, (b) Beardstown, IL to points in CA, MD, NC, SC, TN, TX, and VA, (c) Sherman, TX, to points in CA, (d) Davenport, IA to points in AL, LA, and MS, (e) Madison, WI, to Sherman, TX, and (f) Woodstock and Chicago, IL, to points in TX, restricted in (a) through (f) above to the transportation of traffic originating at the named origins. (Hearing site: Madison, WI, or Washington, DC.)

Note.—Dual operations may be involved.

MC 138469 (Sub-153F), filed June 25, 1979. Applicant: DonCo Carriers, Inc., P.O. box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Transporting *automobile glass*, from the facilities of Libbey-Owens-Ford Company, at or near Toledo, OH, to points in TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Cleveland, OH, or Chicago, IL.)

MC 139769 (Sub-2F), filed June 25, 1979. Applicant: FALCON CHARTER SERVICE, INC., 120 Perry Street, San Francisco, CA 94107. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter operations, beginning and ending at San Francisco, CA, and extending to points in Douglas and Washoe Counties, NV. (Hearing site: San Francisco, CA, or Reno, NV.)

MC 140829 (Sub-275F), filed June 26, 1979. Applicant: CARGO, INC., P.O. Box 206, US Highway 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61, M.C.C. 209 and 766 (except commodities in bulk), from Boston, MA, Charleston, SC, New Haven, CT, New Orleans, LA, Norfolk, VA, Philadelphia, PA, Wilmington, DE, and points in NJ and NY, to points in CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, OK, PA, TX, and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140859 (Sub-11F), filed June 25, 1979. Applicant: WESTERN KENTUCKY TRUCKING, INC., 1245 Center Street, Henderson, KY 42420. Representative: William L. Willis, 708 McClure Building, Frankfort, KY 40601. Transporting *commodities* in bulk, in tank vehicles, between the facilities of the Henderson County Riverport Authority, in Henderson County, KY, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, KY, MI, MS, MO, OH, TN, VA, WI, and WV. (Hearing site: Henderson, KY, or Evansville, IN.)

MC 140859 (Sub-12F), filed June 25, 1979. Applicant: WESTERN KENTUCKY TRUCKING, INC., 1245 Center Street, Henderson, KY 42420. Representative: William L. Willis, 708 McClure Building, Frankfort, KY 40601. Transporting *general commodities* (except commodities in bulk, in tank vehicles), between the facilities of the Henderson County Riverport Authority, in Henderson County, KY, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, KY, MI, MS, MO, OH, TN, VA, WI, and WV. Condition: To the extent any certificate issued in this proceeding authorizes the transportation of classes A and B exposives, it shall be limited in point of time to a period expiring 5 years from the date of issuance of the certificate. (Hearing site: Henderson, KY, or Evansville, IN.)

MC 142378 (Sub-4F), filed April 5, 1979. Applicant: CENTRAL DISPATCH, INC., 650 Manhattan Street, Harvey, LA 70058. Representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, LA 70130. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *engine parts, motor parts*, and *equipment and parts* for ocean going vessels, (1) between Tampa, Miami, West Palm Beach, and St. Petersburg, FL, Savannah, GA, Charleston, SC, Norfolk, VA, Wilmington, DE, Baltimore, MD, Phildelphia, PA, Newark and Elizabeth, NJ, and New York, NY, and (2) between points in Plaquemines, St. Bernard, Orleans, Jefferson, St. Charles, St. John the Baptist, St. James, Ascension, Iberville, East Baton Rouge, West Baton Rouge, and Calcasieu Parishes, LA, Harrison and Jackson Counties, MS, Orange, Jefferson, Cameron, and Calhoun Counties, TX, Bay Town, Houston, Galveston, Corpus Christi, Texas City, and Freeport, TX, Baldwin and Mobile Counties, AL, on the one hand, and, on the other Tampa, Miami, West Palm Beach, and St. Petersburg, FL, Savannah, GA, Charleston, SC, Norfolk, VA, Wilmington, DE, Baltimore, MD, Philadelphia, PA, Newark, NJ, Elizabeth, and New York, NY, restricted in (1) and (2) above to the transportation of traffic having an immediate prior movement by air or water. (Hearing site: New Orleans, LA.)

MC 142378 (Sub-5F), filed April 5, 1979. Applicant: CENTRAL DISPATCH, INC., 650 Manhattan Street, Harvey, LA 70058. Representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, LA 70130. Transporting *passengers and their baggage*, (1) between Tampa, Miami, West Palm Beach, and St. Petersburg, FL, Savannah, GA, Charleston, SC, Norfolk, VA, Wilmington, DE, Baltimore, MD, Phildelphia, PA, Newark and Elizabeth, NJ, and New York, NY, and (2) between points in Plaquemines, St. Bernard, Orleans, Jefferson, St. Charles, St. John the Baptist, St. James, Ascension, Iberville, East Baton Rouge, West Baton Rouge, and Calcasieu Parishes, LA, Harrison and Jackson Counties, MS, Orange, Jefferson, Cameron, and Calhoun Counties, TX, Bay Town, Houston, Galveston, Corpus Christi, Texas City, and Freeport, TX, Baldwin and Mobile Counties, AL, on the one hand, and, on the other Tampa, Miami, West Palm Beach, and St. Petersburg, FL, Savannah, GA, Charleston, SC, Norfolk, VA, Wilmington, DE, Baltimore, MD, Philadelphia, PA, Newark and Elizabeth, NJ, and New York, NY, restricted in (1) and (2) above to the transportation of traffic having an immediate prior movement by air or water. (Hearing site: New Orleans, LA.)

MC 142378 (Sub-5F), filed April 5, 1979. Applicant: CENTRAL DISPATCH, INC., 650 Manhattan Street, Harvey, LA 70058. Representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, LA 70130. Transporting *passengers and their baggage*, (1) between Tampa, Miami, West Palm Beach, and St. Petersburg, FL, Savannah, GA, Charleston, SC, Norfolk, VA, Wilmington, DE, Baltimore, MD, Phildelphia, PA, Newark and Elizabeth, NJ, and New York, NY, and (2) between points in Plaquemines, St. Bernard, Orleans, Jefferson, St. Charles, St. John the Baptist, St. James, Ascension, Iberville, East Baton Rouge, West Baton Rouge, and Calcasieu Parishes, LA, Harrison and Jackson Counties, MS, Orange, Jefferson, Cameron, and Calhoun Counties, TX, Bay Town, Houston, Galveston, Corpus Christi, Texas City, and Freeport, TX, Baldwin and Mobile Counties, AL, on the one hand, and, on the other Tampa, Miami, West Palm Beach, and St. Petersburg, FL, Savannah, GA, Charleston, SC, Norfolk, VA, Wilmington, DE, Baltimore, MD, Philadelphia, PA, Newark and Elizabeth, NJ, and New York, NY, restricted in (1) and (2) above to the transportation of traffic having an immediate prior movement by air or water. (Hearing site: New Orleans, LA.)

MC 142999 (Sub-16F), filed June 1, 1979. Applicant: TRANSPORT MANAGEMENT SERVICE CORPORATION, P.O. Box 39, Burlington, NJ 08016. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, NW, Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *chemicals, drugs, and petroleum products*, (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), (a) from Phillipsburg, Delair, and Pennsauken, NJ, and Belfast, PA, to points in LA, TX, and CA, and (b) from Hayward and Los Angeles, CA, to points in NJ and PA, under continuing contract(s) with J. T. Baker Chemical Company, a division of Richardson Merrill, of Phillipsburg, NJ. (Hearing site: Washington, DC.)

MC 143908 (Sub-2F), filed June 27, 1979. Applicant: GEORGE F. GREEN TRANSPORT, INC., 701 Hardeman Avenue, Ft. Vallet, GA 31030. Representative: Kim G. Meyer, P.O. Box 56387, Atlanta, GA 30343. Transporting (1) *agricultural chemicals*, in packages, between points in AL and GA, on the one hand, and, on the other points in NC, (2) *pyrophyllite*, in packages, between points in Peach County, GA and points in Moore County, NC, (3) *sulphur*, in packages, between Atmore, AL on the one hand, and, on the other, points in FL, GA, MS, SC, NC, and TN, and (4) *clay, lime, and talc*, in packages, between Atmore, AL, on the one hand, and, on the other, points in GA and FL. (Hearing site; Atlanta, GA.)

MC 143989 (Sub-5F), filed June 26, 1979. Applicant: GREEN MOUNTAIN CARRIERS, INC., Representative: Gordon L. Sands (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic materials*, from Selkirk, NY, to points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KY, KS, LA, MI, MN, MS, MO, NE, NV, NM, NC, OH, OK, OR, PA, SC, TN, TX, UT, VA, WA, WV, and WI, under continuing contract(s) with General Electric Company, of Selkirk, NY. (Hearing site: Albany, NY, or Washington, DC.)

Note.—Dual operations may be involved.

MC 144688 (Sub-26F), filed June 26, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. Transporting (1) *animal feed and animal feed ingredients*, from the facilities of Sunshine Mills, Inc., at or near (a) Red Bay, AL, and (b) Tupelo, MS, to points in FL, GA, KY, OH, and TN, and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities described in part (1) above, in the reverse direction, restricted in (1) and (2) above to the transportation of traffic originating at the named origins or destined to the indicated destinations. (Hearing site: Atlanta, GA..)

MC 144698 (Sub-4F), filed June 4, 1979. Applicant: GAYLE A. GARNER d.b.a. GARNER TRUCKING, 510 North Lennox, Casper, WY 82601. Representative: Gayle A. Garner (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *motor vehicle parts*, and (2) *accessories* for motor vehicles, and (3) *bodies, hoists, and tool boxes*, and (4) *materials and supplies* used in the construction of motor vehicles, between Houston, Dallas, Ft Worth, and Abiline, TX, Moore, Oklahoma City, and Tulsa, OK, Wichita and Ottowa, KS, and points in WY and MT, under continuing contract(s) with Colman Equipment Co., of Casper, WY. (Hearing site: Casper, or Cheyenne, WY.)

MC 144858 (Sub-12F), filed June 25, 1979. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Building, 1623 Farnam, Omaha, NE 68102. Transporting *photographic apparatus, and materials, equipment, and supplies* used in photographic application and photographic processing, (1) from the facilities of Eastman Kodak Company, at Rochester, NY, to the facilities of Eastman Kodak Company at (a) San Ramon, Whittier, and Los Angeles, CA, (b) Dallas, TX, (c) Oak Brook, IL, and (d) Chamblee, GA, (2) from the facilities of Eastman Kodak Company at Windsor, CO, to the facilities of Eastman Kodak Company at (a) Dayton, NJ, and (b) Oak Brook, IL, (3) between the facilities of Eastman Kodak Company at Windsor, CO, on the one hand, and, on the other, the facilities of Eastman Kodak Company at (a) San Ramon and Whitter, CA, (b) Dallas, TX, and (c) Rochester, NY, (4) from the facilities of Eastman Kodak Company at Dallas, TX, to Denver, CO, and (5) from the facilities of Eastman Kodak Company at Windsor, CO, to New York, NY. (Hearing site: Rochester, NY.)

Note.—Dual operations may be involved.

MC 145499 (Sub-3F), filed June 4, 1979. Applicant: R.M.S., INC. of WISCONSIN, P.O. Box 249, County Trunk F, Route 2, Edgerton, WI 53534. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. Transporting (1) *truck semi-trailers* (except those designed to be

drawn by passenger automobiles), in initial movements in truckaway service and (2) *used truck trailers, in secondary movements, in truckaway service, and trailer parts and accessories* between Edgerton, WI, on the one hand, and, on the other, points in IA, IL, IN, MI, MN, MO, NE, and OH. (Hearing site: Madison, WI.)

MC 145619 (Sub-2F), filed June 26, 1979. Applicant: PAUL E. MARLOWE, d.b.a. NATIONAL WAREHOUSE & DISTRIBUTION COMPANY, P.O. Box 3561, Kingsport, TN 37664. Representative: Harry W. Asquith, 810 Bank of Knoxville Building, Knoxville, TN 37902. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *printed matter*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of printed matter, (except commodities in bulk, in tank vehicles), between Kingsport and New Canton, TN, on the one hand, and, on the other, points in CT, GA, IL, IN, KY, LA, MD, MA, MI, MS, NJ, NY, NC, OH, PA, TN, VA, and WV, under continuing contract(s) with Kingsport Press, Inc., of Kingsport, TN. (Hearing site: Knoxville or Kingsport, TN.)

MC 145879 (Sub-1F), filed June 11, 1979. Applicant: IAN ELDER, d.b.a. ELDER AND COMPANY, 407 Southeast 24th Street, Fort Lauderdale, FL 33316. Representative: Charles W. Loe, Jr., P.O. Box 1691, Tampa, FL 33601. Transporting *general commodities*, in containers (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between Miami, Port Everglades, Fort Lauderdale, and West Palm Beach, FL, on the one hand, and, on the other, points in Dade, Broward, and Palm Beach Counties, FL, restricted to the transportation of traffic having a prior or subsequent movement by water. (Hearing site: Fort Lauderdale or West Palm Beach, FL.)

MC 146049 (Sub-5F), filed June 26, 1979. Applicant: SOLAR TRUCKING, INC., 211 Eighth Street, Perrysburg, OH 43551. Representative: Arthur R. Cline, 420 Security Building, Toledo, OH 43604. Transporting *cullet*, in bulk, in dump or hopper-type vehicles, between those points in the United States in and east of MN, IA, MO, AR, and LA, restricted to the transportation of traffic originating at or destined to the facilities of Owens-Illinois, Inc. (Hearing site: Columbus, OH, or Washington, DC.)

MC 146049 (Sub-6F), filed June 26, 1979. Applicant: SOLAR TRUCKING, INC., 211 W. Eighth Street, Perrysburg, OH 43551. Representative: Arthur R. Cline, 420 Security Building, Toledo, OH 43604. Transporting *lime, limestone, lime products, and limestone products*, in bulk, in dump vehicles, from points in Sandusky County, OH, to Chicago, IL, and Detroit, MI. (Hearing site: Columbus, OH, or Washington, DC.)

MC 146079 (Sub-5F), filed June 25, 1979. Applicant: JACKSON TRANSPORTATION, INC., R.R. 1, Box 410A, Clayton, IN 46118. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *battery boxes, covers, and vents*, from the facilities of The Richardson Company, at Indianapolis, IN, to points in AL, CT, DE, FL, GA, IL, MN, KY, MA, MI, MS, VT, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VA, and WI, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Chicago, IL.)

MC 146848 (Sub-2F), filed June 26, 1979. Applicant: ARDEN BOELTER AND WALTER NOWATZSKI, a partnership, d.b.a. NOBEL TRUCKING, Route 2, Markesan, WI 53946. Representative: James Robert Evans, 145 W. Wisconsin Avenue, Neenah, WI 54956. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *expandable polystyrene distribution materials, and expandable polystyrene packaging materials*, from Markesan, WI to points in IL, IN, IA, MI, MN, and OH, and (2) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction, under continuing contract(s) in (1) and (2) above with Robin II, Inc., of Markesan, WI. (Hearing site: Milwaukee, WI.)

MC 147409 (Sub-2F), filed June 27, 1979. Applicant: THE SPRINGFIELD TRANSPORTATION COMPANY, a corporation, 3200 Columbiana Road, New Springfield, OH 44443. Representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. Transporting (1) *such commodities* as are dealt in or used by manufacturers of tractor cabs (except commodities in bulk), between the port of entry on the international boundary line between the United States and Canada at or near Rooseveltown, NY, and the facilities of Sims Manufacturing Co., Inc., at (a) Rutland, MA, (b) Payne, OH, and (c) Rock Falls, IL, on the one hand, and, on the other, points in the United States (except AK and HI), and (2) *such commodities* as are dealt in or used by manufacturers of hand tools (except commodities in bulk), between Columbiana and Warren, OH, and Fayettville, AR, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named points. (Hearing site: Columbus, OH.)

MC 147489F, filed June 28, 1979. Applicant SLAW TRUCKING INC., 5117 Varna Ave., Sherman Oaks, CA 91423. Representative: Sam Silverstein, 416 West Eighth St., Suite 810, Los Angeles, CA 90014. Transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those which because of size or weight require the use of special equipment), between the facilities of Louisiana Midland Railway, at Trout, LA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Los Angeles, CA, or New Orleans, LA.)

MC 147729F, filed June 28, 1979. Applicant: BLACKMON TRUCKING COMPANY, INC., Star Route 1, Box AA, Merryville Highway, DeRidder, LA 70634. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768. Transporting *woodchips, bark, and sawdust*, in bulk, (1) between points in Hardin, Jasper, Nacogdoches, Newton, Panola, Polk, Sabine, Shelby, San Augustine, and Tyler Counties, TX, on the one hand, and, on the other, points in Beauregard Parish, LA, and (2) between points in Sabine Parish, LA, on the one hand, and, on the other, points in Hardin County, TX. (Hearing site: Houston, TX, or New Orleans, LA.)

MC 147739F, filed June 25, 1979. Applicant: MAVERICK TRANSPORT, INC., Box 246, Rogers, MN 55374. Representative: Samual Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Transporting (1) *plastic resin and plastic scrap*, from points in IL, KS, KY, LA, MA, NC, OH, PA, TX, and WI, to points in IL, IA, MN, and WI, (2) *plastic scrap*, from points in OK to Minneapolis, MN, and (3) *reprocessed plastic materials*, from points in IA, OH, OK, TX, and WI to Minneapolis, MN. (Hearing site: Minneapolis or St. Paul, MN.)

[FR Doc. 80-1917 Filed 1-21-80; 8:45 am]
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Sunshine Act Meetings

Federal Register
Vol. 45, No. 15
Tuesday, January 22, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[M-266]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10:30 a.m., January 24, 1980.

PLACE: Room 1027 (open), Room 1011 (closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 35936, *Enforcement Proceeding against Commuter Airlines, Inc.* The Attorney General of the State of New York, supported by BCP, petitions for review of the administrative law judge's denal of the Attorney General's request to intervene (memo No. 9429, OGC).
3. Docket 33340, Tariff limits for filing overcharge freight claims of certain carriers in foreign transportation (memo No. 8392-B BDA, BIA, BCP).
4. U.S. interior point-London normal economy fare (NEF) increases proposed by British Airways (memo No. 9430, BIA).
5. Docket 37140, Republic's application for a change in service pattern to allow less service on weekend days at Gadsden, Greenwood, Unviersity/Oxford, and Moultrie (BDA).
6. Docket 36229, United's notice to suspend service at Bakersfield (BDA).
7. Docket 37351, Green Hills notice of intent to suspend service at Kirksville, Missouri (BDA).
8. Docket 37285, notice of Frontier Airlines of intent to suspend nonstop or single-plane service in 25 markets under section 401(j)(2) of the Act (BDA).
9. Docket 37137, Pan American's Notice Under Section 401(j) to Continue its Suspensions at Chicago/Rockford, Philadelphia, Dallas/Ft. Worth, and Wake Island (memo No. 9431, BDA, OCCR).
10. Docket 37208, Trans World Airlines' notice under section 401(j)(1) to terminate its certificate obligations at Honolulu, Hawaii and Agana, Guam (memo No. 9425, BDA, OCCR).
11. Docket 37277, Braniff Airways' notice to terminate service at Pittsburgh, Pennsylvania (memo No. 9432, BDA, OCCR).
12. Docket 37040, Frontier's notice, under sections 401(j)(1) and (2), of its intention to terminate its service to Chicago; and nonstop and single-plane service between Chicago and Topeka, Manahattan and Salina, Kansas; and between Lincoln, Nebraska, and Topeka, Manhattan and Salina, Kansas (memo No. 9427 BDA, OCCR).
13. Essential Air Service at Hazelton, Pa. (BDA).
14. When to Invite Proposals for Replacement Service in the Nebraska Panhandle Case and the Montana Points Case (memo No. 9422 BDA, OCCR).
15. Docket 33223, Application and petition of Federal Express Corp. (memo No. 8373-E, BDA).
16. Docket 35073, Application of USAir (formerly Allegheny Airlines) for restriction removal in the Norfolk-New York market (memo No. 8815-A, BDA).
17. Dockets 36367, 36487, 36504, and 36731, applications of PSA, USAir, Continental and United for authority in nine Portland markets (memo No. 9428, BDA).
18. Docket 32707, Application of Lineas Aereas Costarricenses, S.A. (LACSA) for amendment of its foreign air carrier permit, to include the coterminal points New Orleans and Los Angeles (memo No. 9421 BIA, OGC, BALJ).
19. Docket 26477, Aerotransportes Entre Rios, S.R.L. application for amendment and renewal of foreign air carrier permit to engage in nonscheduled air transportation of property and mail (memo No. 9418 BIA, OGC, BALJ)
20. Request for instructions on action to regulate intermodal air/truck service by foreign air carriers (memo No. 9433 BIA).
21. Dockets 30897, 37027, 36709, 34778, 31153, 27355, 28287, 37024, and 30522; *Caribbean Area Service investigation*, Order on Discretionary Review (OGC).

STATUS: Open (items 1-19); closed (items 20 and 21).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

SUPPLEMENTARY INFORMATION: Public disclosure, particularly to foreign govenments, of opinions, evaluations, and strategies discussed in connection with this item could seriously compromise the United States Government's ability to achieve future bilateral understandings which would be in the best interest of the United States. Accordingly, we believe that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate future action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9) and 14 CFR section 310b.5(9)(B) and that any meeting on this item should be closed:

Chairman Marvin S. Cohen
Member Elizabeth E. Bailey
Member Gloria Schaffer

This memo concerns strategy and positions that may be taken by the United States in negotiations with Venezuela. Public disclosure, particularly to foreign governments of opinions, evaluations, and strategies relating to the issues could seriously compromise the ability of the United States Delegation to achieve agreements which would be in the best interest of the United States. Accordingly, we believe that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate future action within the meaning of the exemption provided under 5 U.S.C 552(C)(9) and 14 CFR section 310b.5(9)(B) and that any meeting on this item should be closed:

Chairman Marvin S. Cohen
Member Elizabeth E. Bailey
Member Gloria Schaffer

Persons Expected To Attend

Board Members.—Chairman Marvin S. Cohen; Member Richard J. O'Melia; Member Elizabeth E. Bailey; and Member Gloria Schaffer
Assistants to Board Members.—Mr. David Kirstein; Mr. James L. Deegan; Mr. Daniel M. Kasper; and Mr. Stephen H. Lachter.
Managing Director.—Mr. Cressworth Lander.
Executive Assistant to the Managing Director.—Mr. John R. Hancock.
Bureau of International Aviation.—Mr. Sanford Rederer; Mr. Douglas V. Leister; Mr. Ivars V. Mellups; Mr. Vance Fort; Ms. Carolyn K. Coldren; Mr. Francis S. Murphy; Mr. Parlen L. McKenna; Mr. Franklin J. McDermott; Mr. Donald L. Litton; Mr. Richard; M. Loughlin; Ms Patricia A. DePuy; Mr. Regis P Milan, Jr.; Mr. Joseph Di Bella, Jr.; and Mr. Anthony M. Largay.
office of the General Counsel.—Ms. Mary McInnis Schuman; Mr. Peter B. Schwarzkopf; Mr. Lawrence R. Myers; Mr. Michael Schopf; and Mr. George S. Baranko.
Office of Economic Analysis.—Mr. Robert H. Frank; Mr. David Sibley; and Mr. Robert Preece.

V45/15/JA22/80 UMI

Bureau of Consumer Protection.—Mr. Reuben B. Robertson; Mr. William H. Wentz; and Ms. Patricia J. Kennedy.
Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9) and 14 CFR section 310b.5(9)(B) and that the meeting may be closed to public observation.

Mary McInnis Schuman,
General Counsel.

[FR Doc. 80-123 Filed 1-18-80; 3:05 pm]
BILLING CODE 6320-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION.

Revised Agenda,[1] as of January 18, 1980.

TIME AND DATE: 9:30 a.m., Commission meeting, Wednesday, January 23, 1980.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Ave., Bethesda, Maryland.

STATUS: Part open, part closed.

A. Open to the Public

1. *Briefing on Consumer Outreach Initiatives.*—The staff will brief the Commission on options for expanded outreach efforts to consumer groups and multiplier groups during Fiscal Year 1980.

2. *Hair Dryer Corrective Action Plans, ID 80-15 and 80-19.*—The Commission will consider two corrective action plans involving asbestos-containing hair dryers. The plans are from the Andis Co. (ID 80-15) and from National Presto Industries, Inc. (ID 80-19).

3. *Sodium Fluoride Petition, PP 79-2.*—The Commission will consider a petition in which the Upjohn Company asks for an exemption from special packaging requirements for certain tablet preparations. The Commission previously considered this petition at its January 16 meeting.

B. Closed to the Public

4. *Requests for Enforcement Relief: Lead in Paint.*—The Commission will consider two petitions for relief from the ban of lead in paint on children's products. One petition seeks exemption from the ban; the other seeks an amendment. The staff briefed the Commission on this matter January 16. (Closed under exemptions 4 and 10: confidential commercial or financial information, and litigation).

CONTACT PERSON: Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, DC 20207: Telephone (202) 634-7700.

[S-116-80 Filed 1-18-80; 11:30 am]
BILLING CODE 6355-01-M

[1] Agenda revised January 18, 1980 to add current item 3: Sodium Fluoride Petition. Agenda previously revised January 16, 1980 to delete a briefing on the Corning Coffee Pot Corrective Action, which will be rescheduled, and to add current item 2. Agenda originally approved January 11.

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, January 24, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special closed Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item number, and Subject

Hearing—1—Further submissions concerning petition to reopen the record, enlarge the issues, and remand for further hearing; joint petition for approval of agreement; and related pleadings in the RKO General, Inc. (WNAC-TV), Boston, Massachusetts, comparative renewal proceeding (Docket Nos. 18759-18761).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: January 17, 1980.

[S-118-80 Filed 1-18-80; 11:52 am]
BILLING CODE 6712-01-M

4

(FR No. 94)

FEDERAL ELECTION COMMISSION.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, January 24, 1980, at 10:00 a.m.

CHANGE IN MEETING: The following items have been added—

Draft AO 1979-66—Hubart Beatty, Treasurer, Associated General Contractors of American PAC.
Draft AO 1979-67—James T. Lynn, Republican Natl. Committee and Ronald D. Eastman, Democratic National Committee.
Draft AO 1979-77—J. McDonald Williams H. D. Johnson, III, Trammell Crow Company.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, telephone: 202-523-4065.

Marjorie W. Emmons,
Secretary to the Commission.

[S-119-80 Filed 1-18-80; 1:51 p.m.]
BILLING CODE 6715-01-M

5

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNEMENT: To be published January 21, 1980.

PREVIOUSLY ANNOUNCED DATE AND TIME: January 17, 1980, at 2 p.m.

CHANGE IN MEETING: The following items have been added:

(2) Briefing by the Staff on Status of Implementing Section 201 and 210 of PURPA.
(3) RM80-14, Final Regulations Under Sections 105 and 106(b) of the Natural Gas Policy Act of 1978.

Kenneth F. Plumb,
Secretary.

[S-117-80 Filed 1-18-80; 11:30 am]
BILLING CODE 6450-01-M

6

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., January 21, 1980.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTER TO BE CONSIDERED: 1. Docket No. 79-58: Dual Rate Contract Systems in the Foreign Commerce of the United States—Discussion of comments.

CONTRACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-114-80 Filed 1-17-80; 4:37 pm]
BILLING CODE 6730-01-M

7

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.
January 16, 1980.

TIME AND DATE: 10 a.m., Wednesday, January 23, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. El Paso Rock Quarries, Inc., DENV 79-139-PM, et al.
2. Cyprus Industrial Minerals Corporation, DENV 78-558-M, (Petition for Discretionary Review).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen 202-653-5632.

[S-120-80 Filed 1-18-80; 2:17 pm]
BILLING CODE 6820-12-M

8

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Friday, January 25, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposal to improve energy efficiency (including contracts) at the Federal Reserve Bank of Cleveland.
2. Proposed purchases, under competitive bidding, of computer equipment within the Federal Reserve System.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: January 17, 1980.

Griffith L. Garwood,
Deputy Secretary of the Board.

[S-115-80 Filed 1-17-80; 4:00 pm]
BILLING CODE 6210-01-M

9

NATIONAL RAILROAD PASSENGER CORPORATION. Board of Directors' Meeting.

In accordance with Rule 4a. of Appendix of the Bylaws of the National Railroad Passenger Corporation notice is given that the Board of Directors will meet on January 30, 1980.

A. The meeting will be held on Wednesday, January 30, 1980, in the National Guard Association Building, 3rd Floor, One Massachusetts Avenue, Northwest, Washington, D.C., beginning at 9:30 a.m.

B. The meeting will be open to the public at 10:30 a.m. beginning with agenda item No. 3, as described below.

C. The agenda items to be discussed at the meeting follow.

Agenda—National Railroad Passenger Corporation—Meeting of the Board of Directors—January 30, 1980

Closed Session

1. *Internal Personnel Matters.*
2. *Litigation Matters.*

Open Session

3. *Approval of Minutes of Regular Meeting of December 19, 1979.*
4. *Commitment Approval Requests.*
80-65—Seattle Commissary Rehabilitation.
80-70 thru 80-82—Harrisburg Line—Facility and Right-of-Way Improvements.
80-83 thru 80-90—Springfield Line—Facility and Right-of-Way Improvements.
80-91 thru 80-95—Northeast Corridor—Facility and Right-of-Way Improvements.
80-102—Reconstruction of 58th Street Bridge, Philadelphia, PA.
79-60-S1—Supplemental Funding for the Satellite Commissionary-Chicago Union Station.
79-114-S1—Supplemental Funding to Establish New Service—Chicago to Indianapolis.
78-33-S3—Modernization of Beech Grove—Phase IV.
77-154-S2—Upgrading Signal System—Michigan District.
77-154-S3—Michigan Track Upgrading, Phase IV.
77-24-S5—Chicago Illinois Phase IV Modernization of 12th and 16th Street Yards—Additional Service Yard Facilities.
76-T-79-S1—Supplemental Funding for Steam Boiler—Sunnyside, New York.
80-01—Conversion of Five (5) Amdinettes to Lounge/Dinettes.
80-67—On-Board Electronic Hot Bearing Detector System.
80-99—Acquisition of Southern Railway Cars.
79-78-R1—Revision to CAR 79-78: HEP Conversion of Hi-Level Cars.
77-266-S5—Purchase of Lightweight Electric Locomotives.
5. *Board Committee Reports:* Equipment, Finance, Northeast Corridor Improvement Project, and Organization and Compensation.
6. *President's Report.*
7. *New Business.*
8. *Adjournment.*

D. Inquiries regarding the information required to be made available pursuant to Appendix A of the Corporation's Bylaws should be directed to the Corporate Secretary at (202) 383-3973.

Dated: January 18, 1980.

Elyse G. Wander,
Corporate Secretary.

[S-121-80 Filed 1-18-80; 2:36 am]

10

NUCLEAR REGULATORY COMMISSION.

DATE: January 17, (changes) and 24, 1980.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Thursday, January 17.—3:30 p.m.: Meeting with Representatives of Oil, Chemical and Atomic Workers Int'l Union Regarding NFS-Erwin and Financial Relief and Related Matters (approximately 1 hour, public meeting) (additional item).

Thursday, January 24.—1:30 p.m.: Report of NRC/TMI Special Inquiry Group (approximately 3 hours, public meeting).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

January 17, 1980.

Roger M. Tweed,
Office of the Secretary.

[S-122-80 Filed 1-18-80; 2:40 pm]
BILLING CODE 7590-01-M

V 45 / 15 JAN 22 80 UMI

V 45 / 15 JA 22 80 UMI

federal register

Tuesday
January 22, 1980

Part II

Department of Labor

Employment and Training Administration

Labor Certification Process for the Permanent Employment of Aliens in the United States

V 45 / 15 JAN 22 80 UMI

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 656

Labor Certification Process for the Permanent Employment of Aliens in the United States

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Employment and Training Administration of the Department of Labor proposes to amend its regulations relating to certification of immigrant aliens for permanent employment in the United States. The amendments are intended to clarify some apparent ambiguities in the regulations, to make the regulations easier to read, and to reflect the experience of the Employment and Training Administration in administering 20 CFR Part 656 since its promulgation in 1977.

DATES: Interested persons are invited to submit written comments on this proposed rulemaking on or before March 24, 1980.

ADDRESS: Send written comments to: David O. Williams, Administrator, United States Employment Service, Employment and Training Administration, United States Department of Labor, Suite 8000—Patrick Henry Building, 601 "D" Street, N.W., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT: Mr. Aaron Bodin, Chief, Division of Labor Certifications, Office of Technical Support, United States Employment Service, Employment and Training Administration, United States Department of Labor, Suite 8410—Patrick Henry Building, 601 "D" Street, N.W., Washington, D.C. 20213. Telephone: 202–376–6295.

SUPPLEMENTARY INFORMATION:

The Employment and Training Administration (ETA) of the Department of Labor (DOL) is proposing to amend its regulations at 20 CFR Part 656, for clarification, and to reflect ETA's experience in administering Part 656 since its effective date of February 18, 1977. See 42 FR 3441 (January 18, 1977). ETA's regulations for the certification of immigrant aliens for permanent employment in the United States are issued pursuant to section 212(a)(14) of the Immigration and Nationality Act (Act). 8 U.S.C. 1182(a)(14).

Permanent Alien Employment Certification Process

Before the Department of State and the Immigration and Naturalization Service (INS) may issue visas and admit certain immigrant aliens to work permanently in the United States, the Secretary of Labor must first certify to the Secretary of State and to the Attorney General that:

(a) There are not sufficient United States workers, who are able, willing, qualified, and available at the time of the application for a visa and admission into the United States and at the place where the alien is to perform the work; and

(b) The employment of the alien will not adversely affect the wages and working conditions of similarly employed United States workers. 8 U.S.C. 1182(a)(14).

If DOL determines that there are no able, willing, qualified, and available U.S. workers, and that permanent employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers, DOL so certifies to INS and to the Department of State, by issuing a permanent labor certification.

If DOL cannot make one or both of the above findings, the application for permanent alien employment certification is denied. DOL may be unable to make the two required findings for any of one or more reasons, including, but not limited to:

(a) The employer has not adequately recruited U.S. workers for the job offered to the alien, or has not followed the proper procedural steps in Part 656.

(b) The employer has not met its burden of proof under section 291 of the Act (8 U.S.C. 1361), that is, the employer has not submitted sufficient evidence of attempts to obtain available U.S. workers, and/or the employer has not submitted sufficient evidence that the wages and working conditions which the employer is offering will not adversely affect the wages and working conditions of similarly employed U.S. workers. With respect to the burden of proof, section 291 of the Act (8 U.S.C. 1361) states, in pertinent part, that:

> Whenever any person makes application for a visa or any other document required for entry, or makes application for admission, or otherwise attempts to enter the United States, the burden of proof shall be upon such person to establish that he is eligible to receive such visa or such document, or is not subject to exclusion under any provision of this Act . . .

(c) DOL through its own knowledge and experience, finds that U.S. workers are available and/or that an adverse effect on similarly employed U.S. workers will result, and the employer has not met the burden of rebutting DOL's finding or findings.

Department of Labor Regulations

DOL has promulgated regulations at 20 CFR Part 656 governing the labor certification process described above for the permanent employment of immigrant aliens in the United States. Part 656 was promulgated pursuant to an implements section 212(a)(14) of the Act (8 U.S.C. 1182(a)(14)).

The regulations at 20 CFR Part 656 set forth the factfinding process designed to develop information sufficient to support the granting or denial of a permanent labor certification. They describe the potential of the Federal-State system of public employment offices to assist employers in finding available U.S. workers, and how the factfinding process is utilized by DOL as the basis of information for the certification determination. See also 20 CFR Parts 601–604, 621, and 651–658; and 29 U.S.C. Chapter 4B.

Part 656 also sets forth the responsibilities of employers who desire to permanently employ immigrant aliens in the United States. Such employers are required to demonstrate that they have attempted to recruit U.S. workers through advertising, through the Federal-State public employment service system, and by other specified means. The purpose is to assure an adequate test of the availability of U.S workers to perform the work, and to insure that aliens are not employed under conditions adversely affecting the wages and working conditions of similarly employed U.S. workers.

The rulemaking proposed in this document will not change the elements of the program discussed above, which adequately implement the mandate in section 212(a)(14) of the Act (8 U.S.C. 1182(a)(14)). The financial and other impact of this proposed rulemaking is not so great as to require a regulatory analysis. See 44 FR 5576 (January 26, 1979). The paragraphs that follow discuss the amendments proposed by this document.

Discussion of Proposed Amendments

Dieticians

The American Dietetic Association has petitioned ETA to delete dieticians from the list of precertified occupations on *Schedule A*. ETA has communicated with the American Hospital Association, the U.S. Office of Personnel Management, and the public employment service system to determine the availability of U.S. dieticians to meet the nation's needs. These agencies indicate that there are sufficient able, willing, qualified, and available dieticians nationwide to meet the needs of U.S. employers. Therefore, the Administrator of the U.S. Employment Service has proposed that dieticians be removed from *Schedule A*. This proposed rule would amend § 656.10(a)(1)(i) by deleting the term "Dietetics."

Physical Therapists

There appears to be a continued shortage of qualified physical therapists to meet the nation's needs. For that reason, it is proposed that this occupation will continue to be on *Schedule A*. However, the American Physical Therapy Association (APTA), in evaluating the credentials of alien physical therapists, has found that the aliens frequently have not completed all the courses necessary for State licensure, and must take additional courses in the United States to be permitted to sit for licensing examinations. The APTA recommends that the aliens be eligible to take the physical therapy licensure examination in the State of intended employment prior to the labor certification. This does not appear to be unduly burdensome, since a license is necessary to practice in this field. The proposed rule would amend § 656.10(a) to require that the alien physical therapist be eligible to sit for the licensing examination in the State of intended employment. Since educational qualifications would be included in licensability, and since some States do not require a baccalaureate degree for practice in physical therapy, the requirement of a baccalaureate degree for this occupation would be removed. As documentation of *Schedule A* eligibility, § 656.22 would be amended to require the alien physical therapist to submit with the application for certification a signed statement or letter from the physical therapy licensing authority in the State of intended employment, stating that the alien has met all the requirements necessary to take that State's physical therapy licensing examination.

Physicians (and Surgeons)

The proposed amendments would alter somewhat the certification procedures for physicians and surgeons. In geographic areas certified by the Secretary of Health, Education, and Welfare (HEW) as shortage areas for the alien's medical specialty, the job opportunity would be on the precertification list, *Schedule A*. The normal recruitment requirements would not apply to such job opportunities.

While Congress found in section 2(c) of the Health Professions Educational Assistance Act of 1976 (42 U.S.C. 292 note) that there is a sufficient number of physicians and surgeons in the United States as a whole, it found further in section 2(a)(3) of that Act (42 U.S.C. 292 note) that there are many geographic areas in the United States in which there are inadequate numbers of health professions personnel to meet health care needs. Congress directed DOL and HEW to work together so that DOL could make equitable determinations with regard to applications for permanent labor certification by alien graduates of foreign medical schools. By adding some physicians and surgeons to *Schedule A* (but only for areas where their medical specialty is in short supply), HEW and DOL expect to fill some of the health care needs of those geographic areas.

Under the proposal, a signed statement from the appropriate Regional Health Administrator, Public Health Service Regional Office, Department of HEW (RHA), or the RHA's designee, would be required as documentation of physician and surgeon *Schedule A* eligibility. RHAs are the chief officials of the regional offices of the Public Health Service in HEW. 44 FR 21711; April 11, 1979. The appropriate RHA is the one in whose region the job opportunity is located. Addresses for the RHAs will be included in the regulations.

The signed statement from the RHA would certify that the alien will be employed as a physician (or surgeon) in a geographic area which has been designated by the Secretary of Department of Health, Education, and Welfare (HEW) as a *Health Manpower Shortage Area* for the alien's medical specialty, or has been identifed otherwise by the Secretary of HEW as having an insufficient number of physicians in the alien's medical specialty, in accordance with section 906 of Health Professions Education Assistance Act (8 U.S.C. 1182 note).

As with all *Schedule A* applications, the application forms and other documentation would be filed directly with the Immigration and Naturalization Service (INS) or with a Consul of the Department of State.

Physicians and surgeons on *Schedule A* still would have to meet, as a prerequisite for labor certification, the educational and/or testing requirements in section 212(a)(32) of the Immigration and Nationality Act (INA) (8 U.S.C. 1182(a)(32)) or section 602(a) of the Health Professions Educational Assistance Act of 1976, as amended (8 U.S.C. 1182 note). The regulations with respect to physicians and surgeons, both those on and not on *Schedule A*, also would be amended to clarify the changes made to the educational and/or testing requirements for physicians and surgeons by section 307(q)(1) and (3) of the Health Services Extension Act of 1977 (Title III of Public Law 95–83; 8 U.S.C. 1182 note).

Professional Nurses

It is proposed that professional (also known as "registered") nurses be added to *Schedule A* for geographic areas where HEW has found that a shortage of such nurses exists for the alien's nursing setting. As with physicians and surgeons on *Schedule A*, the applicant would have to obtain a signed statement from the appropriate RHA documenting that there is a shortage of professional nurses in that area for that type of nursing setting.

The rationale for *Schedule A* precertification for job opportunities in shortage areas for particular nursing settings is similar to that for physicians and surgeons. As stated above, Congress has found that some geographic areas of the United States have significant shortages of health professions personnel. The proposed amendment would recognize those shortages by allowing limited predeterminations as to the availability of and lack of adverse effect to United States workers.

Also under the proposed amendments, all alien professional nurses seeking permanent labor certifications, both those nurses on and not on *Schedule A*, would have to document passage of the Commission on Graduates of Foreign Nursing Schools (COGFNS) examination or an equivalent written State licensing examination for professional nurses. It has been determined that employment of alien professional nurses who have not passed these examinations adversely affects the wages and/or working conditions of similarly employed U.S. workers. Recent statistics have shown that a very small percentage of alien nurses pass State professional nursing examinations after they are admitted into the United States. Many of those not passing the examinations are seeking and accepting employment below the professional status for which they entered the United States, tightening the job market for U.S. workers in those occupations. See 20 CFR § 656.11(a)(36).

DOL believes that the COGFNS examination for professional nurses provides an adequate test of the qualifications of aliens for labor certification purposes.

The COGFNS is an independent, non-profit organization established at the

behest of the Division of Nursing, Bureau of Health Manpower, Department of Health, Education, and Welfare, which also had become concerned over the increasing number of foreign nurse graduates in the United States, who could not achieve State licensure. The COGFNS developed this examination to test the capabilities of foreign professional nurses in all the area of nursing for which American nurse graduates are responsible, and to afford an objective estimate of their ability to pass licensure examinations in the United States. The examination is given in April and October of each year, in the United States and approximately 30 other countries throughout the world. Further information may be obtained from the Commission on Graduates of Foreign Nursing Schools (COGFNS), 3624 Market Street, Philadelphia, PA 19104.

COGFNS has stated that the last date for filing to take its April 1980 examination is January 2, 1980, and it is anticipated that the results of the examination will be issued by July 1, 1980.

References to HEW

References in these proposed regulations to the Department of (and Secretary of) Health, Education, and Welfare, may be changed in the final rule to the Department of Health and Human Services. See §§ 509 and 601(a) of the Department of Education Organization Act (20 U.S.C. 3508 and 3401 note), Public Law 96–88, 93 Stat. 668, 695, and 696.

Intracompany Transferees

Aliens seeking *Schedule A* precertification as intra-company transferees will have to evidence more completely their attachment to the international corporation or organization employing them and the truly international character of their employer. Currently, aliens who were employed as managers or executives by an international corporation or organization for one year may under certain conditions obtain *Schedule A* precertification.

The use of *Schedule A*, Group IV, by aliens who are in reality investors is inappropriate. See 8 CFR § 212.8(b)(4). DOL has observed that Group IV has been used at times by alien investors, and by U.S. branches or offices set up by foreign businesses primarily to facilitate immigration. For these reasons, the regulation at § 656.10(d) would be amended to more clearly set forth the requirement that evidence be presented to show that the alien was employed by the employer for at least one year outside the United States. The employer also would have to have been doing business in the United States for at least one year prior to submission of the permanent alien labor certification application. Additionally, the alien beneficiary of the certification would have to be qualified for an "L–1" visa (temporary nonimmigrant intracompany transferee) as a manager or executive. See 8 U.S.C. 1101(a)(15)(L); and 8 CFR § 214.2(l).

General Filing Instructions

Section 656.20 would be expanded from an introductory statement to a statement of general filing instructions applicable to all applications for alien labor certification, including those on the predetermination *Schedules A* and *B* and occupations designated for special handling. Certain requirements applying to all applications, and currently in § 656.21(b), will be transferred to this section.

A new § 656.20(b)(2) standardizes the attorney notice of appearance procedure with INS practice. Notices of appearance by attorneys for aliens and employers will be submitted on INS Form G–28. See 8 CFR § 292.4(a). This will clarify whether particular attorneys are representing the employer and/or the alien in appliction for certification.

DOL has found that a bona fide test of the availability of U.S. workers cannot take place where the alien beneficiary or the alien's attorney or representative participates in the interview(s) or consideration of U.S. workers seeking the job offered to the alien. Additionally, in some situations, Certifying Officers have reported that some employers have utilized unusual interviewing or consideration procedures for job opportunities involving job offers to aliens. For example, the attorney for the employer or alien or some nonpersonnel official would conduct the interview and participate in the consideration of U.S. workers applying for the job.

To standardize further attorney practice in labor certification procedures with that before the Department of Justice's Board of Immigration Appeals, persons suspended or disbarred from practice before that Board pursuant to 8 CFR § 292.3 would not be permitted to act as an attorney, agent, or representative for an employer and/or an alien in labor certification matters.

The application form for alien labor certification has for a number of years required documents submitted in languages other than English to be accompanied by an accurate translation into English. This provision would now be included specifically in the regulations.

Basic Labor Certification Application Process

Except for applications involving occupations on *Schedule A* or occupations designated for special handling (described below), the basic labor certification application process in § 656.21 would continue to be followed. Many of the provisions now in § 656.21 will be retained. Some, as discussed above, have been moved to § 656.20. The new provisions are discussed below.

The regulations now state that the job opportunity must not be described with unduly restrictive job requirements in the employer's recruitment or application. Thus, the job requirements shall be, in part, those normally required for the job in the United States, and shall not include requirements for a language other than English, unless adequately documented as arising from business necessity.

A requirement that the worker live on the employer's premises would have to be proved by adequate documentation of business necessity.

When an employer recruits U.S. workers for a job, the statement of an employer preference, such as "10 years experience preferred" or "Knowledge of German language preferred," can deter otherwise available, able, willing, and qualified U.S. workers from applying for the job. In that sense, statement of an unduly restrictive employer preference can obstruct a bona fide recruitment effort as much as unduly restrictive job requirement. Employer or customer preference or convenience is not sufficient to prove business necessity. Business necessity is something the absence of which would undermine the essence of the business operation. The regulation would be clarified to prohibit unduly restrictive employer preferences expressed in recruitment to the same extent as unduly restrictive job requirements.

Previously, the Certifying Officers have specified what they consider to be a bona fide effort by an employer to recruit U.S. workers for the job opportunity within its own organization or among visitors to its premises. Employees of and visitors to the employer, while perhaps not interested or qualified for the job offered the alien, may know of U.S. workers who are interested and qualified. The regulations would clarify the specific manner by which notices of the job opportunity are to be posted within the employer's organization. The employer would continue to be required to conduct other appropriate recruitment efforts.

Currently, the regulations have been interpreted to require two forms of printed advertising for the job opportunity. One is published over the employer's name and directs workers to report to the employer. The other is published over the name of the local office of the State employment service and directs workers to report to that office for referral to the employer. The regulations would be simplified to require only one type of advertisement, over both the names of the local office of the State employment service and the employer, directing workers to report to the employment service for referral to the employer. The manner and extent of such an advertising effort, to result in a bona fide recruitment effort, would be specified in the regulation and are to a great extent the same as the current regulations.

Two other provisions will be added to reduce the backlog of cases in local employment service and ETA regional offices and speed up determinations on applications. Applications which are inactive for 45 days in local office files due to the failure of the employer or alien to provide requested documentation, will be returned to the employer. If the employer resubmits the application, it will be considered a new application for filing purposes. Also, except for the occupations on *Schedule B* (20 CFR § 656.11), the Certifying Officer may reduce some of the recruitment efforts otherwise required, for good cause shown.

Occupations Designated for Special Handling

A new § 656.21a would be added, dealing with occupations for which the basic labor certification application procedures are inappropriate and which are not on *Schedule A* or *B*. For now, these occupations are college and university teachers, aliens represented to be of exceptional ability in the performing arts, and sheepherders.

For college and university teacher positions, the employer would have to document that it went through a competitive recruitment and selection process, as defined in the proposed regulation. Other evidence of the alien's qualifications, similar to that required in the basic application process, would have to be submitted.

For job offers to aliens represented to have exceptional ability in the performing arts, the documentation of the alien's ability essentially would be similar to that in the current regulations.

Alien sheepherders who have lawfully and continuously been employed in the United States for at least 33 of the 36 months immediately preceding the application would be permitted a simplified application procedure. All that would have to be filed would be a completed application form and signed statements from the alien's employers during that period, attesting to the employment. Sheepherder applications for permanent alien labor certification, where the alien has the requisite experience sheepherding in the United States, would be filed directly with INS or with a Consul of the Department of State, *not with DOL or a State employment service*. This proposed regulation would not affect applications for temporary employment of aliens as sheepherders, which must be filed pursuant to Subpart C of 20 CFR Part 655.

Schedule A Application Process

The changes to § 656.22 with respect to *Schedule A* applications for job opportunities as physicians and surgeons, professional nurses, and intra-company transferees have been discussed above.

Aliens of exceptional ability in the sciences or arts (except the performing arts) are now in Group II of *Schedule A*. The documentation requirement for such applicants would be eased by allowing the applicants greater flexibility in choosing the evidence they submit in support of applications. The language in the regulation also would be clarified and other technical changes would be made.

Schedule B Application Process

Schedule B lists occupations for which the Administrator has predetermined there are sufficient able, willing, qualified, and available U.S. workers, or that employment of aliens would adversely affect the wages and working conditions of similarly employed U.S. workers. The occupations on *Schedule B* are listed at § 656.11, and the documentation requirements to apply for waivers of the predetermination are at § 656.23.

It is proposed to amend § 656.23 to permit applicants to submit rebuttal evidence to the Certifying Officer in response to a proposed determination ("*Notice of Findings*") denying the application. Currently, only applications not on *Schedule A* or *B* are afforded the opportunity to rebut the certifying officer's proposed findings. As is currently in effect, appeals from final determinations of Certifying Officers from denials of *Schedule B* waivers may be made to the DOL Office of Administrative Law Judges.

Labor Certification Determinations

Section 656.24(b)(1) would be amended to clarify the standard by which a Certifying Officer determines whether the requirements of the regulations have been met. A limited right to excuse a partial failure to comply with the regulations would be granted the Certifying Officers. Employers and aliens would be expected to comply strictly with each applicable requirement of Part 656, unless the regulations expresaly state otherwise. Compliance with the regulations is necessary to adequately test the labor market for U.S. workers and to determine adverse effect on U.S. workers. This provision does not apply to applications filed with INS or a State Department Consul under *Schedule A* or for permanent employment as a sheepherder.

Procedures Following a Labor Certification Determination

Currently, a proposed denial of an application for labor certification is sent to the employer on a *Notice of Findings* form. The employer is permitted to submit rebuttal evidence (and if the employer does so, the alien may also do so) to the Certifying Officer. 20 CFR § 656.25.

Section 656.25 now would be clarified to state that failure to submit timely rebuttal evidence not only makes the *Notice of Findings* automatically the final decision of the Secretary, but also constitutes a failure to exhaust available administrative remedies, and denies the applicant any further administrative review within DOL. Similarly, failure to file a timely request for administrative review from an adverse *Final Determination* (after rebuttal) would constitute a refusal to exhaust available administrative remedies. All findings in the *Notice of Findings* not rebutted would be deemed admitted.

Administrative-Judicial Review of Denials of Labor Certifications

It is proposed that all appeals from *Final Determinations* by Certifying Officers would be made to Administrative Law Judges, rather than to either Administrative Law Judges or Hearing Officers as at present. Additionally, § 656.26 would be amended to speed up the review process, by shortening the current 30-day briefing period to 21 days. It has been found that many of the briefs have been submitted early enough at present to meet this proposed requirement. To accommodate individuals filing by mail from greater distances, documents would be deemed filed when mailed or

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delivered to the Administrative Law Judge.

Publication of Administrative Law Judge Decisions

At present, a number of Administrative Law Judges in the Office of Administrative Law Judges hear and decide appeals from denials of applications for permanent alien labor certification. Since the Administrative Law Judges hear and decide cases independently of DOL and each other, divergent opinions on the same issues, all of which may be reasonable, have been issued. To provide uniform guidance to the public and to the Certifying Officers as to their responsibilities under the regulations, a system of published decisions would be established in a new § 656.27a. The Office of Administrative Law Judges of DOL would designate specific Administrative Law Judge decisions to be printed and published. The Administrator, U.S. Employment Service, will provide the Certifying Officers with copies of all such published decisions.

Technical and Clarifying Amendments

Other technical and clarifying amendments are proposed to be made to 20 CFR Part 656, and are reflected in the proposal below.

Development of Proposed Rulemaking; Regulatory Impact

This proposed rulemaking document was prepared under the direction and control of Mr. David O. Williams, Administrator, U.S. Employment Service, Employment and Training Administration, U.S. Department of Labor, Washington, D.C.

The economic and other impact of this proposed rule is not so significant as to require the development of a regulatory analysis. See 44 FR 5576 (January 26, 1979).

Proposed Rulemaking

Accordingly, it is proposed to amend Part 656 of Chapter V of Title 20, Code of Federal Regulations, as follows:

§ 656.2 [Amended]

1. Section 656.2 is amended by adding the bracketed citation "[8 U.S.C. 1361]" at the end of paragraph (b).

2. Section 656.10 is amended as follows:

(a) By deleting and reserving paragraphs (a)(1)(i) and (a)(2)(i);

(a) By revising the introductory paragraph, paragraph (a)(3), and paragraph (d); and by adding a new paragraph (a)(4); to read as follows:

§ 656.10 Schedule A.

The Administrator, United States Employment Service (Administrator), has determined that there are not sufficient United States workers who are able, willing, qualified, and available for the occupations listed below on *Schedule A* and that the wages and working conditions of United States workers similarly employed will not be adversely affected by the employment of aliens in *Schedule A* occupations. An alien seeking a labor certification for an occupation listed on *Schedule A* may apply for that labor certification pursuant to § 656.22 of this Part.

Schedule A

(a) * * *

* * * * *

(3) Health care occupations:

(i) Persons who will be employed as physical therapists, and who possess all the qualifications necessary to take the physical therapist licensing examination in the State in which they propose to practice physical therapy.

(ii) Aliens who will be employed as physicians (or surgeons) in a geographic area which has been designated by the Secretary of Department of Health, Education, and Welfare (HEW) as a *Health Manpower Shortage Area* for the alien's medical specialty, or has been identified otherwise by the Secretary of HEW as having an insufficient number of physicians in the alien's medical specialty, in accordance with section 906 of Health Professions Education Assistance Act (8 U.S.C. 1182 note).

(iii) Aliens who will be employed as professional nurses in a geographic area which has been designated by the Secretary of HEW as a *Professional Nursing Shortage Area*, or aliens who will be employed as professional nurses in a geographic area which has been identified by the Secretary of HEW as having an insufficient number of professional nurses for the type of nursing setting in which the alien will work. (This paragraph (a)(3)(iii) applies only to applications for certification filed on or after July 1, 1980.)

(4) Definitions of Group I occupations:

(i) "Physical therapists" means persons who apply the art and science of physical therapy to the treatment of patients with disabilities, disorders and injuries to relieve pain, develop or restore function, and maintain performance, using physical means, such as exercise, massage, heat, water, light, and electricity, as prescribed by a physician (or surgeon).

(ii) "Physician (or surgeon)" is defined in § 655.50 of this Part.

(iii) "Professional nurse" is defined in § 656.50 of this Part.

* * * * *

(d) Group IV:

(1) Aliens who have been admitted to the United States in order to work in, and who are currently working in, managerial or executive positions with the same international corporations or organizations with which they were continuously employed as managers or executives outside the United States for one year before they were admitted.

(2) Aliens outside the United States who will be engaged in the United States in managerial or executive positions with the same international corporations or organizations with which they have been continuously employed as managers or executives outside the United States for the immediately prior year.

(3) For the purposes of this paragraph (d), the international corporation or organization must have been established and doing business in the United States for a period of at least one year prior to the submission of the application for the alien to quality under *Schedule A*, Group IV. For the purposes of this paragraph (d), "doing business" shall mean a regular, systematic, and continuous course of conduct, including both the solicitation of business and the provision of goods and/or services by the employer, and shall not be limited to the mere presence of an agent or office in the United States of the international corporation or organization.

3. Section 656.11 is amended as follows:

(a) By italicizing the term *"Schedule B"* wherever it appears; and

(b) By deleting the colon at the end of the introductory paragraph and inserting in lieu thereof a period and an additional sentence, to read as follows:

§ 656.11 Schedule B.

* * *. An employer seeking a labor certification for an occupation listed on *Schedule B* may apply for a labor certification pursuant to § 656.23 of this Part.

* * * * *

4. Section 656.20 is amended as follows:

(a) By redesignating paragraph (d) as paragraph (g);

(b) By revising the section heading and paragraphs (a), (b), and (c); and by adding new paragraphs (d), (e), and (f); to read as follows:

§ 656.20 General filing instructions.

(a) A request for a labor certification on behalf of any alien who is required by the Act to become a beneficiary of a labor certification in order to obtain permanent resident status in the United States may be filed as follows:

(1) Except as provided in paragraphs (a)(2) through (4) of this section, an application for a labor certification shall be filed pursuant to this section and § 656.21 of this Part.

(2) An employer seeking a labor certification for an occupation designated for special handling shall apply for a labor certification pursuant to this section and §§ 656.21a of this Part.

(3) An alien seeking labor certification for an occupation listed on *Schedule A* may apply for a labor certification pursuant to this section and § 656.22 of this Part.

(4) An employer seeking a labor certification for an occupation listed on *Schedule B* shall apply for a labor certification pursuant to this section and §§ 656.21 and 656.23 of this Part.

(b)(1) Aliens and employers may have agents apply for labor certifications on their behalf. The alien and/or the employer shall sign a statement that the agent is representing the alien and/or employer and that the alien and/or employer takes full responsibility for the accuracy of any representations made by the agent.

(2) Aliens and employers may have attorneys represent them. Each attorney shall file a notice of appearance on Immigration and Naturalization Service (INS) Form G–28, naming the attorney's client or clients. Whenever, under this Part, any notice or other document is required to be sent to an employer or alien, the document shall be sent to their attorney or attorneys who have filed notices of appearance on INS Form G–28, if they have such an attorney or attorneys.

(3)(i) It is contrary to the best interests of U.S. workers to have the alien and/or agents or attorneys for the alien participate in interviewing or considering U.S. workers for the job offered the alien. As the beneficiary of a labor certification application, the alien cannot represent the best interests of U.S. workers in the job opportunity. The alien's agent and/or attorney cannot represent the alien effectively and at the same time adequately consider the qualifications of U.S. workers for the job opportunity. Therefore, the alien and/or the alien's agent and/or attorney may not interview or consider U.S. workers for the job offered to the alien, unless the agent and/or attorney is the employer's representative as described in paragraph (b)(3)(iii) of this section.

(ii) The employer's representative who interviews or considers U.S. workers for the job offered to the alien shall be the person who normally interviews or considers, on behalf of the employer, applicants for job opportunities such as that offered the alien, but which do not involve labor certifications.

(4) No person under suspension or disbarment from practice before the United States Department of Justice's Board of Immigration Appeals pursuant to 8 CFR § 292.3 shall be permitted to act as an agent, representative, or attorney for an employer and/or alien under this Part.

(c) Job offers filed on behalf of aliens on the *Application for Alien Employment Certification* form must clearly show that:

(1) The employer has enough funds available to pay the wage or salary offered the alien.

(2) The wage offered equals or exceeds the prevailing wages determined pursuant to § 656.40 of this Part, and that the wage the employer will pay to the alien when the alien begins work will equal or exceed the prevailing wage which is applicable at the time the alien begins work;

(3) The wage offered is not based on commissions, bonuses or other incentives, unless the employer guarantees a wage paid on a weekly, bi-weekly, or monthly basis;

(4) The employer will be able to place the alien on the payroll on or before the date of the alien's proposed entrance into the United States;

(5) The job opportunity does not involve unlawful discrimination by race, creed, color, national origin, age, sex, religion, handicap, or citizenship;

(6) The employer's job opportunity is not:

(i) Vacant because the former occupant is on strike or is being locked out in the course of a labor dispute involving a work stoppage; or

(ii) At issue in a labor dispute involving a work stoppage;

(7) The employer's job opportunity's terms, conditions and occupational environment are not contrary to Federal, State or local law; and

(8) The job opportunity has been and is clearly open to any qualified U.S. worker.

(d) If the application involves labor certification as a physician (or surgeon), the labor certification application shall include the following documentation:

(1)(i) Documentation which shows clearly that the alien has passed Parts I and II of the National Board of Medical Examiners Examination (NBMEE), or the Visa Qualifying Examination (VQE) offered by the Educational Commission for Foreign Medical Graduates (ECFMG); or

(ii) Documentation which shows clearly that:

(A) The alien was on January 9, 1977, a doctor of medicine fully and permanently licensed to practice medicine in a State within the United States;

(B) The alien held on January 9, 1977, a valid specialty certificate issued by a constituent board of the American Board of Medical Specialties; and

(C) The alien was on January 9, 1977, practicing medicine in a State within the United States; or

(iii) The alien is a graduate of a school of medicine accredited by a body or bodies approved for the purpose by the United States Commissioner of Education (regardless of whether such school of medicine is in the United States).

(e) If the application is filed on or after July 1, 1980, and involves labor certification as a professional nurse, the labor certification application shall include documentation that the alien has passed the Commission on Graduates of Foreign Nursing Schools (COGFNS) Examination or an equivalent written State registered/professional nursing licensing examination.

(f) Whenever any document is submitted to a State or Federal agency pursuant to this Part, the document either shall be in the English language or shall be accompanied by a written translation into the English language, certified by the translator as to the accuracy of the translation and his/her competency to translate.

* * * * *

5. Section 656.21 is amended as follows:

(a) By deleting paragraphs (a)(3), (a)(4), and (a)(6);

(b) by redesignating paragraph (a)(5) as a new paragraph (a)(3); and

(c) By revising the introductory text in paragraph (a); by revising paragraph (b) and paragraphs (e) through (i); and by adding new paragraphs (j) and (k); to read as follows:

§ 656.21 Basic labor certification process.

(a) Except as otherwise provided by §§ 656.21a and 656.22 of this Part, an employer who desires to apply for a labor certification on behalf of an alien shall file, in duplicate, a Department of Labor *Application for Alien Employment Certification* form and any attachments required by this Part with the local employment service office serving the area where the alien proposes to be employed. The employer shall set forth on the *Application for Alien Employment Certification* form, as appropriate, or in attachments:

* * * * *

(b) Except for labor certification applications involving occupations

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designated for special handling (see § 656.21a of this Part) and *Schedule A* occupations (see §§ 656.10 and 656.22 of this Part), the employer shall submit, as a part of every labor certification application, on the *Application for Alien Employment Certification* form or in attachments, as appropriate, the following clear documentation:

(1) The employer shall document the employer's good faith efforts to recruit U.S. workers without success through the public employment service system and through other labor referral and recruitment sources normal to the occupation:

(i) This documentation shall include documentation of the employer's recruitment efforts for the job opportunity which shall:

(A) List the sources the employer may have used for recruitment, including, but not limited to, advertising; public and/or private employment agencies; colleges or universities; vocational, trade or technical schools; labor unions; and/or development or promotion from within the employer's organization;

(B) Identify each recruitment source by name;

(C) Give the number of U.S. workers responding to the employer's recruitment;

(D) Give the number of interviews conducted with U.S. workers;

(E) Specify the lawful job-related reasons for not hiring each U.S. worker interviewed; and

(F) Specify the wages and working conditions offered to the U.S. workers; and

(ii) The employer shall include also a copy of at least one advertisement, if any, for the job opportunity placed by the employer prior to filing an *Application for Alien Employment Certification* form.

(2) The employer shall document that the job opportunity has been and is being described without unduly restrictive job requirements:

(i) the job opportunity's requirements, unless adequately documented as arising from business necessity:

(A) Shall be those normally required for the job in the United States;

(B) Shall be those defined for the job in the *Dictionary of Occupational Titles (D.O.T.)* including those for subclasses of jobs;

(C) Shall not include requirements for a language other than English.

(ii) If the job opportunity involves a combination of duties, for example engineer-pilot, the employer must document that it has normally employed persons for that combination of duties and/or workers customarily perform the combination of duties in the area of intended employment, and or the combination job opportunity is based on a business necessity.

(iii) If the job opportunity involves a requirement that the worker live on the employer's premises, the employer shall document adequately that the requirement is a business necessity.

(iv) If the job opportunity has been or is being described with an employer preference, the employer preference shall be deemed to be a job requirement for purposes of this paragraph (b)(2).

(3) Except for job opportunities in private households, the employer shall document that it has posted notices of the job opportunity at its place of business:

(i) Notices of the job opportunity posted by the employer shall contain the information required for advertisements by paragraph (g)(3) through (g)(8) of this section, except that they shall direct applicants to report to the employer, not the local employment service office;

(ii) Notices of the job opportunity shall be posted by the employer for at least 10 consecutive business days; shall be clearly visible and unobstructed while posted; and shall be posted in conspicuous places, where the employer's U.S. workers readily can read the posted notice on the way to or from their place of employment. Appropriate locations for posting notices of the job opportunity include, but are not limited to, locations in the immediate proximity of wage and hour notices required by 29 CFR § 516.4 or occupational safety and health notices required by 29 CFR § 1903.2(a).

(4) The employer shall document that its other efforts to locate and employ U.S. workers for the job opportunity, such as recruitment efforts by means of private employment agencies, labor unions, advertisements placed with radio or TV stations, recruitment at trade schools, colleges, and universities or attempts to fill the job opportunity by development or promotion from among its present employees, have been and continue to be unsuccessful. Such efforts may be required after the filing of an application if appropriate to the occupation.

(5) If unions are customarily used as a recruitment source in the area of industry, the employer shall document that they were unable to refer U.S. workers.

(6) The employer shall document that its requirements for the job opportunity, as described, represent the employer's actual minimum requirements for the job opportunity, and the employer has not hired workers with less training or experience for jobs similar to that involved in the job opportunity or that it is not feasible to hire workers with less training or experience than that required by the employer's job offer.

(7) If U.S. workers have applied for the job opportunity, the employer shall document that they were rejected solely for lawful job-related reasons.

* * * * *

(e) The local employment service office shall calculate, to the extent of its expertise using wage information available to it, the prevailing wage for the job opportunity pursuant to § 656.40 of this Part and shall put its finding into writing. If the local office finds that the rate of wages offered is below the prevailing wage, it shall advise the employer to increase the amount offered. If the employer refuses to do so, the local office shall advise the employer that the refusal is a ground for denial of the application by the Certifiying Officer; and that if the denial becomes final, the application will have to be refiled at the local office as a new application.

(f) The local employment service office, using the information on job offer portion of the *Application for Alien Employment Certification* form, shall prepare and process an employment service job order:

(1) If the job offer is acceptable, the local office, in cooperation with the employer, then shall attempt to recruit United States workers for the job opportunity for a period of thirty days, by placing the job order into the regular employment service recruitment system.

(2) If the employer's job offer is discriminatory or otherwise unacceptable as a job order under employment service regulations, the local office, as appropriate, either shall contact the employer to try to remedy the defect or shall return the *Application for Alien Employment Certification* form to the employer with instructions on how to remedy the defect.

(g) In conjunction with the recruitment efforts under paragraph (f) of this section, the local office shall place an advertisment for the job opportunity in a newspaper of general circulation or in a professional or ethnic publication, whichever is appropriate to the occupation and most likely to bring responses from able, willing, qualified, and available U.S. workers. The local office shall require the employer to pay the local office in advance for the reasonable cost of having the advertisement published. The employer shall supply the local office with the text of the advertisement for approval prior to its publication, and may request the local office's assistance in drafting the text. The advertisement shall:

(1) Direct applicants to report or send resumes, as appropriate for the occupation to the local employment service office for referral to the employer;

(2) Include a local office identification number and the complete address or telephone number of the local office, but shall not identify the employer;

(3) Describe the job opportunity with particularity;

(4) State the rate of pay, which shall not be below the prevailing wage for the occupation, as calculated pursuant to § 656.40 of this Part;

(5) Offer prevailing working conditions;

(6) State the employer's minimum job requirements;

(7) Offer training if the job opportunity is the type for which employers normally provide training;

(8) Offer wages, terms, and conditions of employment which are no less favorable than those offered to the alien; and

(9) Be published for at least 3 consecutive business days.

(h) The employer shall supply the local office with required documentation or requested information in a timely manner. If documentation or requested information is not received within 45 days of the date of the request the local office shall return the *Application for Alien Employment Certification* form, and any supporting documents submitted by the employer and/or the alien, to the employer to be filed as a new application.

(i) The Certifying Officer may reduce the employer's recruitment efforts required by paragraphs (f) and/or (g) of this section, for good cause shown, but no such reduction may be granted for job offers involving occupations listed on *Schedule B*.

(j) The local employment service office shall wait 30 days from the date of the publication of the employer's advertisements for the results of such recruitment. If, after the required recruitment period, the recruitment is not successful, the local office shall send the application, its prevailing wage finding, copies of all documents in the particular application file, and any additional appropriate information (such as local labor market data), to the employment service agency's State office or, if authorized, to the regional Certifying Officer.

(k) An employment service agency's State office which receives an application pursuant to paragraph (j) of this section may add appropriate data or comments, and shall transmit the application promptly to the appropriate Certifying Officer.

6. A new § 656.21a is added to Part 656, to read as follows:

§ 656.21a Applications for labor certifications for occupations requiring special handling.

(a) An employer shall apply for a labor certification to employ an alien as a college or university teacher or an alien represented to be of exceptional ability in the peforming arts by filing, in duplicate, an *Application for Alien Employment Certification* form, and any attachments required by this Part, with the local employment service office serving the area where the alien proposes to be employed.

(1) The employer shall set forth the following on the *Application for Alien Employment Certification* form, as appropriate, or in attachments:

(i) The employer shall submit a statement of the qualifications of the alien, signed by the alien.

(ii) The employer shall submit a full description of the job offer for the alien employment.

(iii) If the application involves a job offer as a college or university teacher, the employer shall submit documentation to show clearly that the employer selected the alien for the job opportunity pursuant to a competitive recruitment and selection process, through which the alien was found to be more qualified than any of the United States workers who applied for the job. For purposes of this paragraph (a)(1)(iii), evidence of the "competitive recruitment and selection process" shall include:

(A) A statement, signed by an official who has actual hiring authority, from the employer outlining in detail the complete recruitment procedure undertaken; and which shall set forth:

(*1*) The total number of applicants for the job opportunity;

(*2*) The specific lawful job-related reasons why the alien is more qualified than each U.S. worker who applied for the job; and

(*3*) A final report of the faculty, student, and/or administrative body making the recommendation or selection of the alien, at the completion of the competitive recruitment and selection process;

(B) A copy of at least one advertisement for the job opportunity placed in a national professional journal, giving the name and the date(s) of publication; and which states the job title, duties, and requirements;

(C) Evidence of all other recruitment sources utilized;

(D) A statement of the results of the recruitment described in this paragraph (a)(1(iii); and

(E) A written statement attesting to the degree of the alien's educational or professional qualifications and academic achievements.

(2) Applications which are filed after June 30, 1980, for job opportunities as college and university teachers, shall be filed within twelve months after a selection is made pursuant to a competitive recruitment and selection process.

(iv) If the application is for an alien represented to have exceptional ability in the performing arts, the employer shall submit:

(A) Documentation to show this exceptional ability, such as:

(*1*) Documents attesting to the current widespread acclaim and international recognition accorded to the alien, and receipt of internationally recognized prizes or awards for excellence;

(*2*) Documents showing the alien's work experience during the past year did require, and the alien's intended work in the United States will require, exceptional ability;

(*3*) Published material by or about the alien, such as critical reviews or articles in major newspapers, periodicals, and/or trade journals (the title, date, and author of such material shall be indicated);

(*4*) Documentary evidence of earnings commensurate with the claimed level of ability;

(*5*) Playbills and starbillings;

(*6*) Documents attesting to the outstanding reputation of theaters, concert halls, night clubs, and other establishment in which the alien has appeared, or is scheduled to appear; and/or

(*7*) Documents attesting to the outstanding reputation of repertory companies, ballet troupes, orchestras, or other organizations in which or with which the alien has performed during the past year in a leading or starring capacity; and

(B) A copy of at least one advertisement placed in a national publication appropriate to the occupation (and a statement of the results of that recruitment) which shall:

(*1*) Identify the employer's name, address, and the location of the employment, if other than the employer's location;

(*2*) Describe the job opportunity with particularity;

(*3*) State the rate of pay, which shall not be below the prevailing wage for the occupation, as calculated pursuant to § 656.40 of this Part;

(*4*) Offer prevailing working conditions;

(*5*) State the employer's minimum job requirements;

(6) Offer training if the job opportunity is the type for which employers normally provide training; and

(7) Offer wages, terms, and conditions of employment which are no less favorable than those offered to the alien; and

(C) Documentation that unions, if customarily used as a recruitment source in the area or industry, were unable to refer equally qualified U.S. workers.

(3) The local employment service office, upon receipt of an application for a college or university teacher or an alien represented to have exceptional ability in the performing arts, shall follow the application processing and prevailing wage determination procedures set forth in §§ 656.21 (d) and (e) of this Part, and shall transmit a file containing the application, the local office's prevailing wage findings, and any other information it determines is appropriate, to the State employment service agency office, or if authorized by the State office, to the appropriate Certifying Officer.

(4) If the local employment service office transmits the file described in paragraph (a)(3) of this section to the State office, the State office shall follow the procedures set forth at § 656.21(k) of this Part.

(b)(1) An employer shall apply for a labor certification to employ an alien as a sheepherder by filing an *Application for Alien Employment Certification* form, and any attachments required by this paragraph (b), directly with a Department of State Consular Officer or with a District Office of INS, not with a local or State office of a State employment service agency, and not with an office of DOL. The documentation for such an application shall include:

(i) A completed *Application for Alien Employment Certification* form, including the Job Offer for Alien Employment, and the Statement of Qualification of Alien; and

(ii) A signed letter or letters from all U.S. employers who have employed the alien as a sheepherder during the immediately preceding 36 months, attesting that the alien has been employed in the United States lawfully and continuously as a sheepherder, for at least 33 of the immediately preceding 36 months.

(2) An Immigration Officer, or a Consular Officer, shall review the application and the letters attesting to the alien's previous employment as a sheepherder in the United States, and shall determine whether or not the alien and the employer(s) have met the requirements of this paragraph (b).

(i) The determination of the Immigration of Consular Officer pursuant to this paragraph (b) shall be conclusive and final. The employer(s) and the alien, therefore, may not make use of the review procedures set forth at §§ 656.26 and 656.27 of this Part.

(ii) If the alien and the employer(s) have met the requirements of this paragraph (b), the Immigration or Consular Officer shall indicate on the *Application for Alien Employment Certification* form the occupation, the immigration or consular office which made the determination pursuant to this paragraph (b), and the date of the determination (see § 656.30 for the significance of this date). The Immigration or Consular Officer then shall forward promptly to the Administrator copies of the *Application for Alien Employment Certification* form, without the attachments.

7. Section 656.22 is amended as follows:

(a) By redesignating paragraphs (f), (g), and (h) as paragraphs (g), (h), and (i), respectively;

(b) By italicizing the term *"Schedule A"* wherever it appears; and

(c) By revising paragraphs (c) and (d); and by adding a new paragraph (f) to read as follows:

§ 656.22 Applications for labor certifications for "Schedule A" occupations.

* * * * *

(c) Aliens seeking labor certifications under Group I of *Schedule A* shall file as part of their labor certification applications documentary evidence of the following:

(1) Aliens seeking labor certifications under Groups I(1)(i) and I(2)(i) of *Schedule A* (§ 656.11(a)(1)(i) and (a)(2)(i)) shall file as part of their labor certification applications documentary evidence of their degrees and of the equivalence of their degrees to United States granted Ph. D's, master's, or bachelor's degrees, as appropriate.

(2) Aliens seeking *Schedule A* labor certifications as physical therapists (§ 656.11(a)(3)(i)) shall file as part of their labor certification applications a letter or statement signed by an authorized State physical therapy licensing official in the State of intended employment, stating that the alien is qualified to take that State's written licensing examination for physical therapists.

(3) Aliens seeking *Schedule A* labor certifications as physicians (or surgeons) (§ 656.11(a)(3)(ii)) shall file, as part of their labor certification applications, the following:

(i) Documentation required by § 656.20(d) of this Part; and

(ii) A statement signed by the appropriate Regional Health Administrator of the Department of Health, Education, and Welfare (HEW) stating:

(A) That the job opportunity is located within a designated *Health Manpower Shortage Area* for the alien's medical (or surgical) specialty; or

(B) That the job opportunity is located within an area which has an insufficient number of physicians (or surgeons) in the alien's medical specialty.

(4) Aliens seeking *Schedule A* labor certifications as professional nurses (§ 656.11(a)(3)(iii)) shall file as part of their labor certification applications the following:

(i) Documentation required by § 656.20(e) of this Part; and

(ii) A statement signed by the appropriate Regional Health Administrator of the Department of Health, Education, and Welfare (HEW) stating:

(A) That the job opportunity is located within a designated *Professional Nursing Shortage Area;* or

(B) That the job opportunity is located within an area which has an insufficient number of professional nurses for the type of nursing setting in which the alien will practice.

(5) Aliens seeking *Schedule A* labor certification as physicians (or surgeons) or professional nurses, shall request the applicable shortage statements, described in paragraphs (c)(2)(ii) and (c)(3)(ii) of this section, by making a written request to the appropriate Regional Health Administrator of HEW (Addresses of appropriate HEW Regional Health Administrators are listed at § 656.61 of this Part). The written request shall include:

(i) The alien's name;

(ii) The alien's medical (or surgical) specialty, or the nursing setting, as appropriate;

(iii) The complete name and address of the alien's intended employer; and

(iv) The names of the county and State where the job opportunity is located.

(d) Aliens seeking labor certifications under Group II of *Schedule A* shall file as part of their labor certification applications documentary evidence testifying to the current widespread acclaim and international recognition accorded them by recognized experts in their field; and documentation showing that their work in that field during the past year did, and their intended work in the United States will, require exceptional ability. In addition, the aliens must file, as part of their labor certification applications, documentation from at least two of the following seven groups:

(1) Documentation of the alien's receipt of internationally recognized prizes or awards for excellence in the field for which certification is sought;

(2) Documentation of the alien's membership in international associations, in the field for which certification is sought, which require outstanding achievements of their members, as judged by recognized international experts in their disciplines or fields;

(3) Published material by or about the alien, relating to the alien's work in the field for which certification is sought, which shall include the title, date, and author of such published material;

(4) Evidence of the alien's participation on a panel, or individually, as a judge of the work of others in the same or in an allied field of specialization to that for which certification is sought;

(5) Evidence of the alien's original scientific or scholarly research contributions of major significance in the field for which certification is sought;

(6) Evidence of the alien's authorship of published scientific or scholarly articles, in the field for which certification is sought, in international journals or journals with an international circulation; and/or

(7) Evidence of the display of alien's work, in the field for which certification is sought, at artistic exhibitions in more than one country.

* * * * *

(f)(1) Aliens seeking labor certifications under Group IV of *Schedule A* shall meet, at the time of filing the application, the eligibility requirements of the Immigration and Naturalization Act for an L–1 non-immigrant classification as a manager or an executive. See 8 U.S.C. 1101(a)(15)(L); and 8 CFR § 214.2(1). However, persons who are eligible for an L–1 visa on the basis of specialized knowledge, but not managerial or executive experience, do not meet the requirements for Group IV of *Schedule A*. The actual filing of an L–1 visa petition is not required.

(2) Aliens seeking labor certifications under Group IV of *Schedule A* shall file as part of their labor certification applications a written verification of employment statement, signed by an authorized officer of the international corporation or organization which will employ the alien in the United States. The written verification of employment statement shall set forth:

(i) The dates of the alien's employment with the international corporation or organization;

(ii) The name(s) of the components of that employer for which the alien has been and/or is being employed, inside and outside the United States;

(iii) Unless such information has been entered on the *Application for Alien Employment Certification* form, a description of the positions held by the alien within the international corporation or organization, and the dates the alien held each position; and

(iv) The dates the international corporation or organization was established and has been doing business in the United States prior to the submission of the application. The term "doing business" is defined in paragraph (d)(3) of *Schedule A* (§ 656.10(d)(3) of this Part).

* * * * *

8. Section 656.23 is amended by italicizing the term *"Schedule B"* wherever it occurs, and by revising paragraphs (d)(1) and (g), to read as follows:

§ 656.23 Applications for Schedule B occupations; requests for waivers from Schedule B.

* * * * *

(d) * * *

(1) The documentation required by §§ 656.20 (b), (c), (f), and (g) and 656.21;

* * * * *

(g) If the waiver is denied, the regional Certifying Officer shall follow the procedures set forth in paragraphs (c) through (g) of § 656.25 of this Part.

9. Section 656.24 is amended as follows:

(a) By deleting from paragraph (b)(2)(iii) the phrase "as is appropriate" and inserting in lieu thereof the phrase "as are appropriate";

(b) By replacing the semicolon at the end of paragraph (b)(2)(ii) with a period; and

(c) By revising paragraph (b)(1) to read as follows:

§ 656.24 Labor certification determinations.

* * * * *

(b) * * *

(1) The employer has met the requirements of this Part. The Certifying Officer has the discretion to excuse a failure on the part of the employer to comply fully with the requirements of this Part, if the Certifying Officer first determines that the labor market has been sufficiently tested to warrant a finding of unavailability of U.S. workers and lack of adverse effect. The Certifying Officer's excusal of such a failure on the part of an employer shall be set forth specifically on the *Final Determination* form.

* * * * *

10. Section 656.25 is amended as follows:

(a) By deleting the term *"Determination and Transmittal"* wherever it occurs and by inserting in lieu thereof the term *"Final Determination"*; and

(b) By revising paragraphs (c)(3), (c)(4), and (e) to read as follows:

§ 656.25 Procedures following a labor certification determination.

* * * * *

(c) * * *

(3) Specify a date, 35 calendar days from the date of the *Notice of Findings*, by which documentary evidence and/or argument may be submitted to cure the defects or to otherwise rebut the bases of the determination, and advise that if the rebuttal evidence has not been mailed by certified mail by the date specified:

(i) The *Notice of Findings* shall automatically become the final decision of the Secretary denying the labor certification;

(ii) Failure to file a rebuttal in a timely manner shall constitute a refusal to exhaust available administrative remedies; and

(iii) The administrative-judicial review procedure provided in § 656.26 of this Part shall not be available; and

(4) Quote the rebuttal procedures set forth at paragraphs (d), (e) and (f) of this section.

* * * * *

(e)(1) Documentary evidence to rebut the basis of a *Notice of Findings*, which may include evidence that the defects noticed therein have been cured, shall be mailed by certified mail on or before the date specified in the *Notice of Findings* to the Certifying Officer who issued the *Notice of Findings*.

(2) Failure to file rebuttal evidence in a timely manner shall constitute a failure to exhaust available administrative appellate remedies.

(3) All findings in the *Notice of Findings* not rebutted shall be deemed admitted.

* * * * *

11. Section 656.26 is amended as follows:

(a) By selecting the term *"Determination and Transmittal"* wherever it appears and inserting in lieu thereof the term *"Final Determination"*;

(b) By deleting the term "hearing officer" wherever it appears and inserting in lieu thereof the term "Administrative Law Judge"; and

(c) By revising paragraphs (b), (c), and (d) to read as follows:

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§ 656.25 Administrative-judicial review of denials of labor certification.

* * * * *

(b)(1) The request for review shall be in writing and shall be mailed by certified mail to the Certifying Officer who denied the application within 35 calendar days of the date of the determination, that is, by the date specified on the *Final Determination* form; shall clearly identify the particular labor certification determination from which review is sought; shall set forth the particular grounds for the request; and shall include all the documents which accompanied the *Final Determination* form.

(2) Failure to file a request for review in a timely manner shall constitute a failure to exhaust available administrative remedies.

(3) If the denial of labor certification involves an application for a job opportunity as a college or university teacher or an application on behalf of an alien represented to be of exceptional ability in the performing arts, the employer may designate the names and addresses of persons or organizations of specialized competence which the employer has asked to submit *amicus* briefs.

(4) Evidence of recruitment not within the record upon which the denial of labor certification was based shall not be included in the request for review.

(c) Upon the receipt of a request for request for review, the Certifying Officer shall immediately assemble an indexed Appeal File:

(1) The Appeal File shall be in chronological order, shall have the index on top followed by the most recent document, and shall have numbered pages. The Appeal File shall contain the request for review, the complete application file, an copies of all the written material, such as pertinent parts and pages of surveys and/or reports upon which the denial was based.

(2) The Certifying Officer shall send the Appeal File to the Chief Administrative Law Judge, Office of Administrative Law Judges, Suite 700—Vanguard Building, 1111 20th Street, N.W., Washington, D.C. 20036.

(3) In denials involving college and university teachers and aliens represented to be of exceptional ability in the performing arts, two additional copies of the Appeal File shall be sent to the Chief Administrative Law Judge.

(4) The Certifying Officer shall send a copy of the Appeal File to the Solicitor of Labor, Attn: Associate Solicitor for Employment and Training Legal Services, Suite N2101—NDOL, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

(5) Unless the certification was denied by the national Certifying Officer, the Certifying Officer shall send a copy of the Appeal File to the Administrator.

(6) The Certifying Officer shall send copies of the index to the Appeal File to the employer and to the alien. The Certifying Officer shall afford the employer and the alien the opportunity to examine the complete Appeal File at the office of the Certifying Officer, for the purpose of satisfying the employer and the alien as to the contents, and furnishing or suggesting the addition of any documentation which is not in the Appeal File, but which was submitted prior to the issuance of the *Final Determination* form.

(d)(1) An Administrative Law Judge, designated by the Chief Administrative Law Judge, shall afford all parties, including the Solicitor, 21 days to submit or decline to submit any appropriate Statement of Position or legal brief. The Department of Labor shall be represented solely by attorneys within the Office of the Solicitor of Labor. In the cases of denials involving college and university teachers and aliens represented to be of exceptional ability in the performing arts, if the employer has designated a person or organization which the employer has asked to submit an amicus brief, the Administrative Law Judge shall afford the person or organization 21 days to submit an amicus brief. Briefs, statements, and amicus briefs submitted pursuant to this paragraph shall be deemed timely if either mailed or delivered to the Administrative Law Judge on or before the end of the 21-day period set forth in this paragraph.

* * * * *

§ 656.27 [Amended]

12. Section 656.27 is amended by deleting the term "hearing officer" wherever it appears and inserting in lieu thereof the term "Administrative Law Judge."

13. A new § 656.27a is added to Part 656 to read as follows:

§ 656.27a Published decisions.

(a) From time to time, the Office of Administrative Law Judges shall designate decisions of an Administrative Law Judge (or previous decisions of Hearing Officers) under §§ 656.26 and/or 656.27 of this Part to be printed and published. The Office of Administrative Law Judges will arrange to make such decisions available for sale to the general public.

(b) The Administrator shall provide to all Certifying Officers copies of all decisions published pursuant to paragraph (a) of this section.

§ 656.28 [Amended]

14. Section 656.28 is amended as follows:

(a) By deleting the term *"Determination and Transmittal"* wherever it occurs and inserting in lieu thereof the term *"Final Determination"*;

(b) By deleting from paragraph (b)(1) the words "preference or"; and

(c) By replacing the semicolon at the end of paragraph (b)(3) with a period.

§ 656.31(a) [Amended]

15. Section 656.31 is amended by deleting the phrase "of this referral" from the first sentence in paragraph (a).

§ 656.40 [Amended]

16. Section 656.40 is amended by deleting the phrase "If the job opportunity is an occupation" and inserting in lieu thereof the phrase "If the job opportunity is in an occupation."

17. Section 656.50 is amended as follows:

(a) By deleting the definitions of the terms *"Determination and Transmittal* form," "Hearing Officer," "Labor certification," and "Local employment service office";

(b) By italicizing the term *"Notice of Findings"*; and

(c) By inserting the following definitions alphabetically:

§ 656.50 Definitions, for the purposes of this Part, of terms used in this Part.

* * * * *

"Administrative Law Judge" means a Department of Labor official designated by the Chief Administrative Law Judge to preside at DOL administrative hearings.

* * * * *

"Assistant Secretary" means the Assistant Secretary of Labor for Employment and Training, the chief official of the Employment and Training Administration.

* * * * *

"Attorney" means any person who is a member in good standing of the bar of the highest court of any State, Possession, Territory, or Commonwealth of the United States, or the District of Columbia, and who is not under any order of any court or of the Board of Immigration Appeals suspending, enjoining, restraining, disbarring, or otherwise restricting him or her in the practice of law.

* * * * *

"Chief Administrative Law Judge" means the chief official of the Office of Administrative Law Judges of the Department of Labor.

* * * * *

"Final Determination form" means the form used by the Certifying Officer to notify employers of labor certification determinations, which was formerly known as the *"Determination and Transmittal* form."

* * * * *

"HEW" means the U.S. Department of Health, Education, and Welfare.

* * * * *

"Labor certification" means the certification to the Secetary of State and to the Attorney General of the determination by the Secretary of Labor pursuant to section 212(a)(14) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(14)):

(1) That there are not sufficient U.S. workers who are able, willing, qualified, and available at the time of an alien's application for a visa and admission to the United States and at the place where the alien is to perform the work; and

(2) That the employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers.

"Local employment service office" and "local office" mean an office of a State employment service agency (also known as a State job service), which serves a particular geographic area within a State. Unless specified otherwise in this Part, the local office performing the functions required by this Part shall be the local employment service office serving the area where the job opportunity is located.

* * * * *

"Occupation designated for special handling" means an occupation, described at § 656.21a of this Part, for which DOL has determined that special labor market tests are appropriate.

* * * * *

"Physicians (and/or surgeons)" means persons who apply the art and science of medicine or surgery primarily in patient care to the diagnosis, prevention, and treatment of human diseases, disorders of the mind, and pregnancy. This definition includes persons practicing medicine, surgery, osteopathy, psychiatry, and opthamology. The physician or surgeon may specialize in treating a specific area of the body, or a particular disease, sex, or age group.

* * * * *

"Professional nurses" means persons who apply the art and science of nursing, which reflects comprehension of principles derived from the physical, biological, and behavorial sciences. Professional nursing generally includes the making of clinical judgments concerning the observation, care, and counsel of persons requiring nursing care; and administering of medicines and treatments prescribed by the physician or dentist; the participation in activities for the promotion of health and the prevention of illness in others. A program of study for professional nurses generally includes theory and practice in clinical areas such as: obstetrics, surgery, pediatrics, and medicine. This definition includes only those occupations within Occupational Group No. 075 of the *Dictionary of Occupational Titles* (4th ed.)

* * * * *

"Regional Health Administrator" means the chief official of the Public Health Service Regional Office, Department of HEW, in each HEW region, or the Regional Health Administrator's designee. The addresses of the appropriate Regional Health Administrators for *Schedule A* employment as a physician (or surgeon) or nurse are listed at § 656.61 of this Part.

"Secretary of Health, Education, and Welfare (HEW)" means the chief official of the United States Department of Health, Education, and Welfare (HEW) or the Secretary of HEW's designee.

* * * * *

"United States," when used in a geographic sense, means the fifty States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam.

* * * * *

18. Subpart F is amended by revising its heading to read as follows:

Subpart F—Addresses

* * * * *

19. New §§ 656.61 and 656.62 are added to read as follows:

§ 656.61 Addresses of Regional Health Administrators, Public Health Service Regional Office, of HEW.

For the purposes of § 656.22(c)(2), (3), and (4) of this Part, the addresses of the appropriate Regional Health Administrators for each State are as follows:

Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont): Regional Health Administrator, Department of HEW, J. F. Kennedy Federal Building, Government Center, Boston, MA 02203.

Region II (New York, New Jersey, Puerto Rico, and the Virgin Islands): Regional Health Administrator, Department of HEW, 26 Federal Plaza, New York, NY 10007.

Region III (Delaware, the District of Columbia, Maryland, Pennsylvania, and West Virginia): Regional Health Administrator, Department of HEW, P.O. Box 13716, (3535 Market Street. Do not use street address for mailing purposes.), Philadelphia, PA 19101.

Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee): Regional Health Administrator, Department of HEW, 101 Marietta Tower, Atlanta, GA 30323.

Region V (Illinois, Indiana, Michigan, Ohio and Wisconsin): Regional Health Administrator, Department of HEW, 300 South Wacker Drive, Chicago, IL 60606.

Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas): Regional Health Administrator, Department of HEW, 1200 Main Tower Building, Dallas, TX 75202.

Region VII (Iowa, Kansas, Missouri, and Nebraska): Regional Health Administrator, Department of HEW, Federal Office Building, 601 East 12th Street, Kansas City, MO 64106.

Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming): Regional Health Administrator, Department of HEW, Federal Office Building, 1961 Stout Street, Denver, CO 80294.

Region IX (Arizona, California, Guam, Hawaii, and Nevada): Regional Health Administrator, Department of HEW, Federal Office Building, 50 United Nations Plaza, San Francisco, CA 94102.

Region X (Alaska, Idaho, Oregon, and Washington): Regional Health Administrator, Department of HEW, Arcade Plaza Building, 1321 Second Avenue, Seattle, WA 98101.

§ 656.62 Locations of Immigration and Naturalization Service Offices.

For the purposes of §§ 656.21a(b) and 656.22 of this Part, the locations of INS offices in the United States are listed at 8 CFR § 100.4.

Part 656 [Amended]

20. Wherever they appear in Part 656, the following terms shall be amended to appear in italics:

(a) *Application for Alien Employment Certification;*

(b) *Schedule A;*

(c) *Schedule B;*

(d) *Notice of Findings;*

(e) *Final Determination;* and

(f) *Dictionary of Occupational Titles* and *D.O.T.*

Signed at Washington, D.C. this 17th day of January 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc 80-1979 Filed 1-21-80; 8:45 am]

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Tuesday
January 22, 1980

Part III

Department of Commerce

International Trade Administration

Countervailing Duties

V 45 / 15 JA 22 80 UMI

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 355

Countervailing Duties

AGENCY: International Trade Administration.

ACTION: Final rules and request for comments.

SUMMARY: These regulations replace the Customs Regulations relating to countervailing duties in order to effect the changes made in the countervailing duty law by the Trade Agreements Act of 1979 and Reorganization Plan No. 3 of 1979. The countervailing duty regulations were previously contained in 19 CFR 159.47, which is being deleted by the U.S. Customs Service in a separate document. The new regulations will be contained in a new chapter of title 19, chapter 3, and specifically in part 355 of title 19.

The principal change in the countervailing duty law effected by the Trade Agreements Act of 1979 is the introduction of a "material injury" test for products from countries which assume the obligations of the Agreement on Subsidies and Countervailing Measures.

Other significant changes include the acceleration of countervailing duty proceedings; greater public participation in, and access to, information developed during investigations and during the assessment phase of proceedings; and prompter and more effective application of provisional measures to imports during the course of an investigation. These changes in the law require that conforming amendments be made to the regulations.

DATES: Effective date: January 22, 1980. Comments (in triplicate) until February 29, 1980.

ADDRESSES: Send comments to Assistant Secretary for Trade Administration, Room 3850, Department of Commerce, Washington, D.C. 20230. Written comments available for public inspection during regular business hours at Room 3100, Department of Commerce, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: C. Christopher Parlin, James Lyons or Jan White Foley, Office of General Counsel, Department of Commerce, Washington, D.C. 20230; 202–377–4772.

SUPPLEMENTARY INFORMATION: Proposed regulations on countervailing duties were published on October 3, 1979, with comments due on November 19. The Department has determined for good cause pursuant to section 553(B) of title 5 of the United States Code (5 U.S.C. 553(d)(3)). That further notice and public procedure prior to the effective date of these final regulations are impracticable, unnecessary, and contrary to the public interest. The final regulations issued today are necessary for the administration of the countervailing duty law and, consequently, will be effective immediately upon publication.

The Department of Commerce is deferring publication of final regulations on issues covered by certain sections of the proposed regulations of the Customs Service, published in the **Federal Register** on October 3, 1979. Additional written comments (in triplicate) with respect to those proposed provisions may be submitted until February 29, 1980. They should be addressed to the Assistant Secretary for Trade Administration, Room 3850, Department of Commerce, Washington, D.C. 20230. Written comments submitted will be available for public inspection during regular business hours at Room 3100, Department of Commerce, Washington, D.C.

Background

The provisions of the former Customs Regulations relating to countervailing duties were based on section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303). In view of the changes made to the Tariff Act of 1930 by Title I, subtitles A, C and D (countervailing duties) of the Trade Agreements Act of 1979, Public Law 96–39, effective January 1, 1980, and the changes effected by Reorganization Plan No. 3 of 1979 (44 FR 69273, December 3, 1979), effective January 2, 1980, certain conforming amendments must be made to the regulations relating to countervailing duties. Certain changes or additions to the former regulations are also necessary to implement the Statements of Administrative Action which were approved by Congress in enacting the Trade Agreements Act of 1979.

On October 3, 1979, the United States Customs Service, Department of the Treasury, proposed amendments to the Customs Regulations relating to countervailing duties and invited public comment on the proposed regulations. Since that time Reorganization Plan No. 3 of 1979 and Executive Order 12188 have effected the transfer to the Secretary of Commerce of all functions of the Department of the Treasury pursuant to section 303 and Title VII (including section 771(1), which defines the administering authority) of the Tariff Act of 1930, except for certain functions reserved to the Customs Service.

In anticipation of the transfer effected by the Plan, the Department of Commerce and the Department of the Treasury have jointly reviewed and considered all comments received on the proposed regulations and have jointly prepared these final regulations. The Trade Agreements Act of 1979 requires the Department of Commerce to issue regulations necessary or appropriate to carry out its countervailing duty responsibilities by January 1, 1981. However, in order for the Department of Commerce to conduct its countervailing duty program, it is necessary for some regulations to be effective as soon as possible after the effective date of Title I of the Act, January 1, 1980. These regulations follow. The Department of Commerce anticipates that as experience is gained in administering its new countervailing duty program, the Department will continue to evaluate these regulations, and, when appropriate, will propose amendments to them. The Department will consider written comments on the regulations published below.

The Department of Commerce is deferring publication of final regulations on issues covered by certain sections of the proposed regulations of the Customs Service published in the **Federal Register** on October 3, 1979; principally those provisions relating to the proposed Subpart A respecting the determination and calculation of net subsidy and specifically sections 155.1, 155.2, 155.3, 155.4, 155.7(j), 155.51, 155.60, 155.61, 155.62, 155.63, and 155.64. Final regulations on these issues are not necessary immediately for the conduct of the countervailing duty program. Moreover, these issues are complex, and the Department prefers to gain as much experience as possible on these issues prior to publishing final regulations. Additional written comments are invited on these sections. Such comments should be sent to the address indicated above and must be received by February 29, 1980.

In the Background section of the notice of proposed rule making published by the Customs Servce, five specific administrative and interpretative guidelines were proposed to be continued. Subject to continuing review and publication in the **Federal Register** of any change therein, they are hereby provided as statements of policy and interpretation for public guidance and appear as Annex 1 to the regulations which follow. With regard to the first such guideline, the physical incorporation test, the wording has been revised to made it clear that this test is not applied in connection with the non-excessive rebate or remission, upon exportation, of indirect taxes imposed directly upon the exported product, such as sales taxes, value-added taxes, or commodity taxes. The rebate or remission of such taxes is not considered a subsidy. A change has been made in the fourth guideline by deleting the last sentence. The deleted sentence raised two problems. First, it implied that in determining whether a rebate or reduction of direct taxes is a subsidy, the form of the tax provision would be decisive—i.e., whether the rebate or reduction is universally applicable. This ignored the possibility that while a practice could as a formal matter be universal, it could in fact apply only to a particular enterprise or industry. The second problem was the implication that a tax reduction or rebate which does not apply to all sectors is necessarily a subsidy. This might not be the case if, as with a depletion allowance, a type of tax practice is accepted as appropriate for only a particular sector (e.g., an extractive industry). The Department intends to revise this list from time to time in the future. Further, it should be noted that the list is not intended to be an exhaustive compilation of all procedures or practices followed in determining the existence or size of a subsidy. It is a list of major practices which have been or are expected to be followed, and it is published to provide as much general guidance as possible at this time.

Annex 2 lists countries under the Agreement on Subsidies and Countervailing Measures. This Annex is published in response to the comment that the list of countries under the Agreement should be periodically published.

Annex 3 list the outstanding countervailing duty orders which are currently in effect.

On November 16, 1979, the President directed Executive Departments and Agencies to ensure that federal regulations will not place unnecessary burdens on small businesses and organizations. The President's memorandum was issued after publication of the proposed regulations on countervailing duties and preceded the close of the comment period by only three days. To comply with the President's memorandum, the Departments of Commerce and the Treasury have examined the written comments for those relating to small businesses and have attempted to incorporate these comments in the regulations published below. Moreover, the Departments have introduced some flexibility into the regulations in order to minimize the burden on small businesses and organizations. A section was added inviting persons intending to file petitions to seek from the Department of Commerce information on the requirements for petitions prior to filing. A provision was added to waive, when unduly burdensome, the requirement that parties serve written comments on all other parties. In at least one case, a comment was rejected because of the burden to petitioners, particularly small businesses. This comment suggested requiring the petitioner to give notice of its filing to all parties named in the petition.

However, because the comment period was almost closed at the time of the President's directive to minimize unnecessary regulatory burdens on small businesses, the Department of Commerce now invites written comments specifically on the effect on small businesses and organizations of the regulations published below as well as the sections enumerated above upon which final action is being deferred. Written comments should be sent to the address listed above and must be received by February 29, 1980. The Department of Commerce will analyze these comments and, if appropriate, publish proposed or final amendments reflecting these comments.

In formulating the regulations published below, the Departments of Commerce and the Treasury have considered all written comments received as well as the testimony which was presented at the November 6, 1979, conference relating to the proposed countervailing duty regulations. Some comments went beyond the scope of this rulemaking or urged changes inconsistent with the Act. These suggestions have not been incorporated. Some comments addressed matters more appropriately addressed by the U.S. International Trade Commission; these were referred to the Commission. A number of comments suggested that the final regulations make clear which sections do not apply to dutiable merchandise from a country not a country under the Agreement as defined in section 701(b) of the Act (19 U.S.C. 1671(b)) (hereinafter referred to as "non-agreement country"). These suggestions were incorporated. Some comments urged a degree of specificity considered inappropriate for regulations and were rejected for this reason.

A number of comments stated that the deadlines are too short for submissions by parties, for example, for resubmitting confidential requests, for alleging critical circumstances, and for presenting written views prior to a final determination. While sympathetic to these views, the Department has not incorporated the suggested changes because any additional time granted to parties would impair the ability of the Department of Commerce to meet the deadlines imposed by the Act.

A section by-section analysis of the comments follows:

1. *Section 355.0 Scope.* This section delineates the scope of Part 355 and indicates in what respects an investigation of dutiable merchandise from a non-agreement country pursuant to section 303 of the Tariff Act of 1930 shall differ from a countervailing duty investigation conducted under Title VII of the same Act. The section remains unchanged except that it now explicitly states that injury information shall not be required in a petition relating to dutiable merchandise from a non-agreement country. This section also provides that determinations by the Secretary under the Tariff Act of 1930 shall not be considered major federal actions significantly affecting the environment within the meaning of the National Environmental Policy Act of 1969, as amended, or relevant Executive Orders.

2. *Sections 355.1 through 355.4.* The publication of final regulations affecting those issues developed in the corresponding provisions of the proposed rulemaking is being deferred. Section 355.5 pertaining to the definition of "Agreement on Subsidies and Countervailing Measures," has been deleted and the contents of that provision included in § 355.7(j).

3. *Section 355.6 "Definition of Countervailing Duty Proceeding," "Investigation," "Determination" and "Order."* This provision remains unchanged except for technical amendments.

4. *Section 355.7. Other Definitions.* Comments suggested that there be a deadline for the filing of requests to become a party to the proceeding, provided that later intervention would be allowed for good cause. The essence of these comments were adopted. One comment suggested that the regulations provide guidance on how member countries of a customs union will be treated when the factual situations of the subsidies vary among member countries. Although the regulations do not address this subject, the Department anticipates taking such variations into account by considering the benefits actually provided by each participating member country.

5. *Section 355.15 Information Generally Available.* One commenter suggested that the first sentence of

subsection (a) be amended so that the reference to material submitted or collected be limited to "by any interested party." Since the statutory provision on the record for judicial review deals with "all information presented to or obtained by the Secretary" (Section 516A(b)(2)(A)(i), Tariff Act of 1930, as amended by section 1001(a), Trade Agreements Act of 1979, 93 Stat. 302 (19 U.S.C. 1516a), it was not considered appropriate to make this change. Two technical changes have been made in subsection (a). It was determined that instead of merely citing the statutory provision on contents of the record for review, the statutory criteria should be spelled out. It was also determined that the last sentence in subsection (a) should be part of subsection (b).

6. *Section 355.16 Ex Parte Meetings.* Several commenters suggested that the record of ex parte meetings should contain, in addition to the identity of the persons present, the date, time and place of the meeting. This suggestion has been adopted. It was also suggested that the regulation identify the party responsible for preparing the memorandum of the meeting. This suggestion also has been adopted—the regulation now indicates that normally the memorandum for the record will be prepared by one of the Government participants; of course, in light of § 355.34(a) ("submission of information and written views") private parties who participate in such meetings may submit their own summaries. Another commenter objected to the materiality requirement in the first sentence. This suggestion has not been adopted. Since the purposes of memoranda for the record of ex parte meetings are to ensure that parties to the proceeding are more fully aware of the presentation of information during an investigation and for purposes of judicial review of determinations made during a countervailing duty investigation, it was determined that the limitation to "factual information material to a determination" was proper and appropriate.

7. *Section 355.17 Confidentiality Maintained.* In response to a comment that this section of the proposed regulations was more appropriately situated in another section, the material has been deleted and so transferred. Several commenters objected to the first sentence of the proposed regulation. They pointed out that unlike all other situations involving information submitted under a request for confidential treatment, this section contained no provision for notifying the submitter of the intent to disclose such information and providing an opportunity to withdraw it rather than have it disclosed. The revised provision (in § 355.18(e)) clearly indicates that notification will be given and an opportunity to withdraw the material provided in all instances where a request for confidential treatment is not granted. The transferred material has been replaced with language dealing with the maintenance of confidentiality of information designated as confidential by the person submitting it.

8. *Section 355.18 Requests for Confidential Treatment of Information.* One commenter objected to the provision of a 10% band for approximated presentation of confidential information, stating it was not large enough where the numbers involved are small. While such a problem may exist in a small number of cases, it has been determined that, on balance, use of a wider band would have the effect much more often of excessively distorting the nonconfidential summary. Accordingly, the comment has not been adopted. Another commenter stated that subsection (a)(3) could result in less information being made available than under the former Customs Regulations since only a brief non-confidential summary is required to accompany an agreement to permit disclosure under an administrative protective order. Where such an order is granted, parties other than those whose attorneys or other representatives are granted access will have only the less detailed non-confidential summary. This is an inevitable result of the protective order mechanism; it was determined to be inappropriate to require a more detailed summary in such cases. However, the comment was adopted with respect to situations where the request for an order is denied. Accordingly, the regulation has been amended to indicate that where the request for a protective order is denied, a nonconfidential summary conforming to the requirements of subsection (a)(1) or a statement under subsection (a)(2) shall be required, except where, in unusual circumstances, a less detailed summary is permitted.

Two commenters objected to the provision in subsection (b) that nonconforming requests be returned to the submitter; they felt that this subsection should contain the same provision for notification of the submitter and opportunity to correct as is contained in new subsection (e). This suggestion has not been adopted. Subsection (b) is concerned with procedurally deficient requests for confidential treatment (including inadequate nonconfidential summarization), while new subsection (e) deals with the substantive question of the effect of a determination that information does not warrant confidential treatment. Thus, the mechanics for each situation are appropriate—rejection of a nonconforming request under subsection (b) and notification and opportunity to withdraw under (e). Of course, a request rejected under subsection (b) may always be resubmitted, as long as the resubmission is timely. Several commenters objected to this provision, and requested that a 10-day period always be permitted for resubmission. This suggestion has not been adopted. Under the short time limits of the new Act it would be exceedingly burdensome automatically to permit a 10-day resubmission period. Thus, it has been determined that the language "belated submissions may be rejected" should be maintained; of course, since the word "may" is used, where feasible and appropriate, extensions for resubmission will be within the discretion of the Secretary.

Several commenters stated that subsection (c) should be amended to provide that unless a request for confidential treatment is denied within 10 days, the request should be deemed accepted. This suggestion has not been adopted. The rights of other interested parties to review information not truly warranting confidential treatment should not be defeated by the automatic granting of such treatment for any reason not relevant to the content of such information. The regulation has been amended, however, to provide that normally a determination on whether to grant a request for confidential treatment will be made within 10 working days.

Subsection (d) has been split into two subsections for purposes of clarity—dealing with where the request for confidential treatment is granted and where it is denied, respectively. In new subsection (e), which covers the situation where requests are denied, the material originally in the first sentence of § 355.17 of the proposed regulations has been relocated.

9. *Section 355.19 Standards for Determining Confidentiality of Information.* One commenter objected to inclusion of "ordinarily" in subsection (a). The comment was not accepted because it was determined that particular circumstances (e.g., public disclosure of the same information elsewhere) might make it inappropriate to grant confidential treatment. Several commenters asserted that information from domestic interested parties regarding the operations of foreign interested parties should not be accorded confidential treatment. This comment has been accepted in part—subsection (b) has been amended to provide that such information will not be accorded confidential treatment except to the extent that it might disclose the identity of confidential sources used by the domestic interested parties. This revision is being made because it is recognized that knowledge of allegations by domestic interested parties is a vital element in the attempt by foreign interested parties to establish they are not engaged in the complained of unfair trade practices. One commenter stated that the identity of sources should never be publicly disclosed. This comment was not accepted. Under subsection (c)(6) the identity of sources can be protected where requested and approved. No change from this standard is warranted.

10. *Section 355.20 Limited Disclosure of Certain Confidential Information Under an Administrative Protective Order.* Numerous commenters suggested that only attorneys should be eligible for disclosure under an administrative protective order; several of the commenters urged further limitation—to outside counsel. Neither suggestion has been adopted. In the Statement of Administrative Action accompanying the Trade Agreements Act of 1979, the Administration stated that *generally* disclosure under administrative protective order would be made only to attorneys. (House Doc. No. 96–153, Part II, 96th Cong., 1st Sess. 437 (July 19, 1979).) Use of "generally" precludes absolute limitation to attorneys. Of course, business confidential information from foreign firms concerning prices of actual transactions, production and distribution costs, and names of particular customers and suppliers is vital in countervailing duty proceedings. Such information is considered highly confidential, and will be provided only if those submitting it believe that it is, and it is in fact, exceedingly unlikely that such information will be disclosed to persons who should not have access (primarily competitors). Accordingly, the Department will grant administrative protective orders only where it is convinced that the requesting person will be subject to effective sanctions in the event of a breach; normally this will be limited to attorneys who are subject to disbarment.

Numerous commenters also suggested an addition to the regulation indicating that an administrative protective order will be granted only upon a showing of good cause. This suggestion has been adopted. The applicant for an order must demonstrate good cause for release. Further, in determining whether to grant the order the need of the party requesting the information will be weighed against the need of the party submitting it for continued confidential treatment. This balancing test is taken from language in the Senate Report dealing with judicial protective orders. (S. Rep. No. 96–249, 96th Cong., 1st Sess. 100 (1979)). It was considered appropriate to use it with respect to administrative protective orders as well.

Several commenters objected to the absence of provisions for notice of a request for an order and opportunity to comment and for the right to withdraw information rather than have it so disclosed. These suggestions were adopted since these rights are available with regard to information that the Department does not believe to warrant confidential treatment.

Some commenters were concerned that subsection (b)(1)(D) as drafted could permit disclosure under protective order to employees of domestic competitors—the section uses the phrase ". . . persons employed by *or supervised by* the attorney or representative. . . ." Clearly, employees of domestic competitors other than counsel should never have such access. The regulation has been amended to so indicate explicitly.

11. *Section 355.21 Information Exempt From Disclosure:* One commenter suggested that information received from a foreign government should not be "classified" and therefore exempted from disclosure where a foreign government is merely transmitting data received from and prepared on behalf of private sources. This suggestion has not been adopted. Under the terms of Executive Order 12065 the Department is not permitted to disregard a foreign government's submission of information in confidence. Further, it is often difficult to determine whether information is, in fact, merely being transmitted by a foreign government on behalf of private sources or whether it has been supplied, in part at least, by the foreign government itself. Nonetheless, foreign governments, in practice, will be discouraged from claiming confidential treatment for information they are merely transmitting on behalf of private sources.

12. *Section 355.25 Procedures for Self-Initiation.* Some comments suggested that consulting with a country under the Agreement prior to initiating an investigation under this section might delay initiation of an investigation. The Agreement Relating to Subsidies and Countervailing Measures requires that a country under the Agreement be given an opportunity to consult prior to initiation of an investigation. To accommodate the comments to the extent consistent with this international obligation, this regulation has been changed to require giving such a country an opportunity for consultation prior to self-initiation.

13. *Section 355.26 Procedures for Initiation by Petition.* Comments suggested that a petitioner should be required to supply documentation on which it relies in making its petition, if reasonably available. This comment was adopted.

One comment suggested that petitioners be required to state the position of other industry members on the petition. This comment was rejected on the grounds that each industry member best knows its own position and should be the source of that information.

Some comments suggested that the petitioner be required to provide notice of its filing to parties named in the petition or, alternatively that the Secretary publish notice of receipt of a petition. The service requirement was rejected as unduly burdensome to petitioners, particularly small businesses. The suggestion that the Department publish notice of its receipt of a petition was rejected as impracticable within the 20 days allowed by the Act for the sufficiency determination.

One comment suggested that consulting with a country under the Agreement before initiation of an investigation based on a petition. This comment was not adopted because the requirement of notice to the country manufacturing or producing the merchandise in question is considered sufficient.

One comment suggested that the regulation make clear that only the non-confidential copy of the petition will be provided to the representative of the foreign country. This change was made.

14. *Section 355.27 Determination of Sufficiency of Petition.* One comment suggested that the regulation make clear that the petition is deemed to be filed at the time it is received by the Secretary. This comment was adopted.

15. *Section 355.28 Preliminary Determinations.* Several amendments have been made in this section to reflect comments received in response to the proposed rulemaking. Paragraph (a) is amended to state that only where the merchandise subject to investigation is from a country which is a country under

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the Agreement or is free of duty shall the Secretary be precluded from making a preliminary determination before the Commission makes a preliminary injury determination. Paragraph (c) has been changed to require that a petitioner, when requesting an extension of the period prior to a preliminary determination, set forth the reasons for the request. Without such information the Department would be unable to satisfactorily rule on the request. Paragraph (d) has been revised to indicate that the posting of a bond or other security should ordinarily be considered adequate to protect the revenue. Whether special bonds ultimately will be required for merchandise subject to a suspension of liquidation in a countervailing duty investigation is a question which must await further review at the administrative level.

16. *Section 355.29 Critical Circumstance Determinations.* This section remains unchanged.

17. *Section 355.30 Termination of Investigation.* One comment suggested that the regulations provide that prior to termination the petitioner be required to describe any agreements made and to certify that it is not aware of any others. This suggestion was not incorporated in the regulation. The Secretary has implicit authority to seek this information from the parties as part of his consideration of whether the public interest is served by termination.

18. *Section 355.31 Suspension of Investigation.* Certain aspects of this section have been further clarified. Paragraph (g) has been amended to indicate the principal criterion which will govern in selecting the most representative period for purposes of establishing a ceiling on the level of imports during the interim period preceding the date on which the subsidy is to be offset or exports discontinued. A number of comments recommended that the representative period not include any time frame during which a subsidy had been granted with respect to the subject merchandise. This recommendation was not adopted because where the subsidy has existed for a substantial period the adoption of the recommendation could compel the Secretary to utilize a time period which is truly unrepresentative. Moreover, the regulations preserve sufficient flexibility so that the Secretary can use a period other than the six month period ordinarily to be used where circumstances so require.

Several other comments questioned whether any authority exists to exclude from entry merchandise imported in excess of the ceiling established pursuant to paragraph (g). Sections 704(d)(2) and (d)(3) of the Tariff Act of 1930, as amended, however, contain an explicit grant of such authority.

Paragraph (h) relating to a petitioner's role in the suspension procedures has been amended to explicitly reflect the legislative intent that the petitioner be given a meaningful role during the period prior to acceptance of the agreement.

19. *Section 355.32 Violations of Agreements.* This section pertaining to the violation of agreements which form the basis for the suspension of an investigation remains unchanged except for a clarifying amendment in paragraph (b). The language of that paragraph has been modified so as to make it clear that notice of a possible breach will be given to parties only where that breach is inadvertent and other than one which is considered to be intentional as defined in paragraph (c) of the section.

20. *Section 355.33 Final determinations.* One comment requested that disclosure under subsection (c) be made automatically. This comment was rejected on the grounds that it does not impose an undue burden to require a party to request disclosure.

A number of comments stated that the deadline is too short for presenting written views prior to a final determination. While sympathetic to these views, the Department of Commerce has not been able to incorporate the suggested changes because any additional time granted to the parties would impair the ability of the Department to meet the deadlines imposed by the Tariff Act of 1930, as amended. However, a provision was added allowing for an extension of time for good cause.

21. *Section 355.34 Submission of Information and Written Views.* A comment suggested that the requirement that each party serve its written comments on the other parties be deleted because of the burden imposed on small businesses. In response to this comment, a provision was added allowing the Secretary to waive the requirement when unduly burdensome.

22. *Section 355.35 Hearings.* One comment suggested that notice of the hearing be given in the notice of the preliminary determination. This comment was rejected because at the time of the preliminary determination the hearing will not necessarily have been scheduled.

23. *Section 355.36 Countervailing Duty Order.* This proposed section has been amended to specify that where an investigation is continued pursuant to section 704(g) of the Tariff Act of 1930, as amended, and where the final determination by the Department and the Commission are affirmative, the Department shall not issue a Countervailing Duty Order so long as the suspension agreement remains in force and continues to meet the statutory requirements, and the parties to the suspension agreement carry out their obligations thereunder.

24. *Section 355.37 Differences in Determined and Estimated Countervailing Duties.* This section provides for adjustments to be made where the estimated countervailing duty deposited differs from that finally determined as due. No written comments were received on this section, and it remains unchanged from the proposed regulation.

25. *Section 355.38 Effect on Firms Not Benefitting From Subsidy.* Conflicting comments were received pertaining to this section: some recommended that exclusion be automatic; others that it be discretionary. Practical administrative considerations dictate that a firm which although potentially subject to an order, has not itself been investigated, should bear the burden of making application for exclusion and supplying the necessary information. Those firms which are investigated will automatically be excluded if exclusion is appropriate. Where firms are excluded, however, the regulations provide for publication of the name of any firm so excluded.

Ordinarily, firms wishing to be considered for exclusion from any possible affirmative determination should submit an application for exclusion, together with all necessary supporting documentation, no later than 30 days after the date of publication of the notice of Initiation of Countervailing Duty Investigation.

26. *Section 355.39 Verification of Information; Use of Best Information Available.* The section has been amended to reflect several comments which suggested that a party be notified of, and afforded an opportunity to correct, a defect in its submission. The resubmission of information to permit the correction of a deficiency will be allowed so long as the resubmission is made within a time period which permits adequate analysis and verification of the information so submitted. A substantial extension of the original time period in most instances would preclude the Secretary from fulfilling its responsibilities under the Tariff Act of 1930, as amended, in the statutorily mandated time limits and, consequently, will not be allowed.

Several other comments criticized the requirement for English translations set forth in paragraph (d). This paragraph remains unchanged because the regulations already provide for a waiver of the requirement where necessary. The Secretary certainly will not initially possess an extensive foreign language capability and, consequently, it will not be able to use untranslated submissions in most circumstances.

27. *Section 355.40 Interest on Certain Overpayments and Underpayments.* This section sets forth the rate of interest to be paid on certain overpayments and underpayments. No written comments were received on this section, and it remains unchanged from the proposed regulation.

28. *Section 355.41 Administrative Review of Determinations.* Paragraph (a) has been redrafted to more clearly provide for an annual review of Countervailing Duty Orders and suspended investigations. Paragraph (c) has been amended to reflect the view expressed in some comments that the time limits set forth in paragraph (c) were excessively short. The day on which questionnaires will be mailed has been advanced and the period within which a response must be received has been doubled so as to continue the present practice of permitting thirty days in which to reply. Because the questionnaire relates to an annual review of which the respondent is aware, the thirty-day period should be adequate.

29. *Section 355.42 Revocation of Countervailing Duty Order and Termination of Suspension.* This provision has been changed substantially.

Some of the changes in the section are designed to reflect concerns expressed in the comments received. Representatives of foreign and importing interests thought that the 3-year time period required before revocation or termination was too long. They also stated a preference that the Secretary have no discretion in determining whether to grant a revocation or termination in those instances where either a subsidy had not been bestowed on the imported merchandise or exports had ceased for the requisite period of time. Contrasting views were presented by members of domestic industry who pointed to the possibility that renewed subsidies or exports immediately after the issuance of a revocation or termination could result in a flagrant violation of the purpose of the revocation and undermine the administration of the law.

The section as now published addresses these concerns and adopts procedures which should more effectively implement the intent of the Trade Agreements Act of 1979. This section provides for a revocation or termination both upon application by an interested party and on the Secretary's own initiative. Where the revocation or termination is issued on the basis of an application made by an interested party, a minimum of two years must have elapsed in which the imported merchandise had not benefitted from a subsidy. The two-year period will run from either the date of the issuance of the Countervailing Duty Order or the date of the preliminary determination, depending upon whether the party seeking revocation or termination can demonstrate that the imported merchandise had not benefitted from a subsidy during the period of and immediately preceding the countervailing duty investigation. Pursuant to paragraph (d), a revocation or termination will not be issued unless the party making application agrees in writing to an immediate suspension of liquidation and reinstatement of the Order or continuation of the investigation, as appropriate, if circumstances develop which indicate that the merchandise thereafter imported benefits from a subsidy.

Where three years have elapsed and the Secretary has determined that there is no likelihood of resumption of the imports of the merchandise subject to the Order or the subsidy has been eliminated, paragraph (b) authorizes the Secretary to issue a revocation or termination on his own initiative.

The remaining provisions of paragraphs (c) and (d) establish the procedures which have been adopted for revocation and termination. A tentative notice will be issued and an opportunity for presentation of views will be afforded. Where the Secretary's final decision is to grant a revocation or termination, a notice to that effect will be issued.

30. *Section 355.43 Subsidy Practices Discovered During an Investigation.* Several comments suggested that when it is impracticable to include a newly discovered subsidy practice in an ongoing investigation, the Secretary should initiate another investigation. In response to these comments, this section is changed to provide that the Secretary either shall initiate a separate investigation of the newly discovered subsidy practice or allow the petitioner to withdraw the petition and resubmit it including the newly discovered subsidy practice.

31. *Section 355.44 Library of Foreign Subsidy Practices and Countervailing Duty Measures.* Several comments suggested adding a section providing for the creation of a subsidy library. This was done.

32. *Section 355.50 Action by the District Director, Suspension of Liquidation.* It has been determined that the substance of this provision is more appropriately addressed in regulations which are to be issued by the Customs Service, Department of the Treasury.

33. The publication of regulations governing the issues involved in § 155.51 pertaining to the Conversion of Currencies and §§ 155.60 through 155.64 in Subpart E of the proposed regulations relating to Action with Respect to Quota Cheese is being deferred.

Authority

The authority for the final regulations published below is 5 U.S.C. 301 and the Trade Agreements Act of 1979, dated July 26, 1979, Pub. L. 96-39, section 3(b), 93 Stat. 148.

Drafting Information

The principal authors of this document were Christoper Parlin, James Lyons and Jan White Foley, Office of the General Counsel, Department of Commerce. However, other personnel in the Department of Commerce, Department of the Treasury and the U.S. Customs Service assisted in its development.

Regulatory Analysis

The Department of the Treasury concluded that a regulatory analysis is not necessary for the regulations published below because the economic consequences involved flow directly from the Act. The Department of Commerce concurs in this conclusion.

Final Regulations

Accordingly, new Commerce Regulations entitled "Countervailing Duties," are established in a new Chapter 3, and specifically in a Part 355, of Title 19 of the Code of Federal Regulations and are set forth below:

Dated: January 11, 1980.

Stanley Marcuss,

Acting Assistant Secretary for Trade Administration.

CHAPTER III—INTERNATIONAL TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 355—COUNTERVAILING DUTIES

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Authority: 5 U.S.C. 301 and the Trade Agreements Act of 1979, dated July 26, 1979, Pub. L. 96-39, section 3(b), 93 Stat. 148.

§ 355.0 Scope.

This part sets forth procedures and rules applicable to proceedings under section 303 and Title VII of the Tariff Act of 1930, as amended (19 U.S.C. 1303 *et seq.*) (hereinafter referred to as "the Act") relating to the imposition of countervailing duties. The regulations established in this part shall be applicable under section 303 of the Act except that in the case of any imported article or merchandise which is dutiable—

(a) No determination by the Commission under sections 703(a), 704, or 705(b)(1) of the Act shall be required;

(b) No investigation may be suspended under section 704(c) of the Act, and § 355.31(b) and related sections hereof shall be inapplicable;

(c) No determination of critical circumstances shall be made, and § 355.29 hereof shall be inapplicable;

(d) No injury information need be contained in the petition as would otherwise be required by §§ 355.26(a)(12) and (a)(13); and

(e) Wherever the regulations require that allegations or information with respect to the issues of injury and subsidy contained in section 701(a) of the Act be provided, only information or allegations with respect to the question of subsidy in section 701(a)(1) shall be required.

Determinations by the Secretary under the Act shall not be considered major federal actions significantly affecting the environment within the meaning of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) and Executive Order 11514, March 5, 1970, as amended by Executive Order 11991, May 24, 1977; and Executive Order 12114, January 4, 1979.

Subpart A—Definitions

§§ 355.1–355.5 [Reserved]

§ 355.6 Definitions of Countervailing Duty "Proceeding," "Investigation," "Determination" and "Order."

(a) A "proceeding" refers to that time from the filing of a petition (or publication of a notice of self-initiation under section 702(a) of the Act) until the publication of the earliest of (1) a notice of termination, (2) a negative determination that has the effect of terminating the administrative proceedings; or (3) a notice of revocation of an Order.

(b) An "investigation" refers to that time between the publication of a notice of initiation and the publication of the earliest of (1) a notice of termination, (2) a negative determination that has the effect of terminating the adminstrative proceedings; or (3) an Order.

(c) A "determination" is an official decision in the course of a proceeding.

(d) An "Order" is a notice issued following final determinations of subsidy and, when applicable, injury, which provides for the imposition of countervailing duties.

§ 355.7 Other definitions.

(a) *Country.* "Country" means a foreign country, a political subdivision, dependent territory, or possession of a foreign country, and may include an association of two or more foreign countries, political subdivisions, dependent territories, or possessions of countries into a customs union outside the United States.

(b) *Industry.* "Industry" means the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product as provided in section 771(4) of the Act.

An "industry" may also include domestic producers in a particular market in the United States where such producers sell all or almost all of their production of the like product in question in that market and where the demand for the like product in that market is not supplied to any substantial degree by producers of the product located elsewhere in the United States.

(c) *Interested Party.* "Interested party" means—

(1) A foreign manufacturer, producer, or exporter, or the the United States importer, of merchandise which is the subject of an investigation under section 303 or Title VII of the Act or a trade or business association a majority of the members of which are importers of such merchandise;

(2) The government of a country in which such merchandise is produced or manufactured;

(3) A manufacturer, producer, or wholesaler in the United States of a like product;

(4) A certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States of a like product; or

(5) A trade or business association, a majority of whose members manufacture, produce, or wholesale a like product in the United States.

(d) *Person.* "Person" includes all "interested parties" as well as other individuals, enterprises or entities, as appropriate to the context.

(e) *Secretary.* "Secretary" means the Secretary of Commerce or his designee.

(f) *Commission.* "Commission" means the U.S. International Trade Commission.

(g) *Customs Service.* "Customs Service" means the United States Customs Service of the Treasury Department.

(h) *Department.* "Department" means the Department of Commerce.

(i) *Party to the proceeding.* "Party to the proceeding" means (1) the petitioner; (2) the government of the country in which the merchandise subject to the investigation is manufactured or produced, or from which it is exported; (3) foreign manufacturers, producers and exporters of the merchandise subject to the investigation; and (4) any other interested party, within the meaning of paragraph (c), who informs the Secretary in writing of his intent to become a party to the proceeding within 20 days after the preliminary determination or who demonstrates to the satisfaction of the Secretary good cause for intervention.

(j) *Agreement.* "Agreement" means the "Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (Relating to Subsidies and Countervailing Measures), approved under section 2(a) of the Trade Agreements Act of 1979, as the same may be amended, and as such amendments are approved, or otherwise accepted by or for the United States from time to time.

(k) *Act.* "Act" means the Tariff Act of 1930, as amended.

Subpart B—Access to Information

§ 355.15 Information generally available.

(a) *Duty to maintain material in record.* The Department shall maintain the official record of all proceedings. The record shall consist of a copy of all information presented to or obtained by the Secretary during the course of the proceeding, including all governmental memoranda pertaining to the proceeding, memoranda of *ex parte* meetings, all determinations and notices thereof published in the Federal Register, and all transcripts or records of conferences or hearings. (See section 516A(b)(2) of the Act.) The record will contain three types of materials:

(1) Materials protected from disclosure;

(2) Non-confidential material submitted by any person other than an employee or officer of the United States Government; and

(3) Non-confidential and non-privileged material submitted or developed by an employee or officer of the United States Government.

(b) *Examination and copying of information.* In general, all information in subparagraphs (2) and (3) of the record described in paragraph (a) will be available for inspection or copying at the Department by any person during business hours. With respect to documents prepared by an officer or employee of the United States Government, factual matters, as distinguished from advice, recommendations, opinions and evaluations, contained in any such documents will be made available by summary or otherwise on the same basis as information contained in documents submitted by other persons. The fees charged for providing copies of documents shall be the same as for providing copies of documents pursuant to requests made under the Freedom of Information Act (5 U.S.C. 552). (See 15 CFR 4.9).

(c) *Reports of progress of investigation.* The Department shall, from time to time upon request, inform any party to the proceeding of the progress of an investigation. Ordinarily, no such report shall be provided until 60 days after the petition is filed. Such progress reports shall not contain privileged or confidential information and, if in written form, shall be included in the official record.

(d) *Protection of the record.* Unless otherwise ordered in a particular case by the Secretary, the record shall not be removed from the Department. A certified copy of such record shall be made available to any court before which any aspect of a proceeding is under review, with appropriate safeguards to prevent disclosure of confidential or privileged information that may be included therein.

§ 355.16 Ex parte meetings.

A written memorandum will be prepared of any *ex parte* meeting between (a) any interested party or other person providing factual information material to a determination in the proceeding and (b) the person to whom the authority to make determinations under the Act has been delegated (the Assistant Secretary for Trade Administration) or the person making a final recommendation for decision to such person (the Deputy Assistant Secretary for Import Administration). Such memorandum shall be prepared as expeditiously as possible. It shall be included in the official record. The memorandum of such *ex parte* meeting shall include the date, time and place of the meeting, the identity of all persons present, and a non-confidential summary of the matters discussed or then submitted. Normally this memorandum shall be prepared by one of the Government participants at the meeting. If the Assistant Secretary or Deputy Assistant Secretary directs that the memorandum be prepared by a non-government participant, the Assistant Secretary or Deputy Assistant Secretary (whichever directs preparation by a non-government participant) shall act expeditiously to review, approve and include in the record such memorandum.

§ 355.17 Confidentiality maintained.

Except as provided in § 355.20, information submitted to the Department which is designated as confidential by the person submitting it shall not be disclosed to any person (other than an officer or employee of the United States Government who is directly concerned with carrying out the investigation in connection with which the information is submitted) without the consent of the person submitting it. (§ 355.16(e) sets forth the procedures followed where a request for confidential treatment is denied, in whole or in part.)

§ 355.18 Requests for confidential treatment of information.

(a) *Submission and contents of requests.* Any person who submits information in connection with a proceeding may request that such information, or any specified part thereof, be treated as confidential. Any information submitted which is not designated as confidential by the person submitting it normally shall not be treated as confidential. Information which is subject to a request for confidential treatment shall be set forth on separate pages and each such page shall be clearly marked "Confidential Treatment Requested." Each separate request for confidential treatment of information, other than information submitted in confidence by a foreign government which is restricted from disclosure pursuant to statute or Executive Order, shall be accompanied by a full statement of the reason or reasons why the submitting party believes that each piece of information subject to such request is entitled to confidential treatment within the guidelines set forth in § 355.19. All requests for confidential treatment shall be accompanied by one of the following:

(1) A summary or approximated presentation of all information which may be disclosed to the public and which is sufficiently full and descriptive of the confidential information (generally, data in numerical form relating to prices and costs of individual forms shall be considered adequately summarized—and not incapable of summary—if presented—or capable of being presented—in terms of indices or in figures within 10% of the actual figure);

(2) A statement by the person submitting the information that the information is not susceptible to such a summary or presentation, accompanied

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by a full statement of the reasons supporting this conclusion; or

(3) An agreement to permit disclosure under protective order, accompanied by a brief nonconfidential statement describing the confidential data submitted, which need not be as detailed as the summary provided under (1) above. Should the information concerned not be released under an administrative protective order, the person submitting the information must, unless he requests that the information be returned and not considered in the proceeding, submit either a summary or approximated presentation conforming to paragraph (a)(1) of this section or a statement under paragraph (a)(2) of this section within the time period specified in the denial of the request for an administrative protective order. The requirements of the preceding sentence do not apply where the Secretary, because of unusual circumstances, determines that a less detailed non-confidential summary is appropriate. In such unusual circumstances such less detailed summary as deemed appropriate by the Secretary must be submitted.

(b) *Return of information as a result of non-conforming requests.* Any information for which confidential treatment is requested which does not conform to the requirements of paragraph (a) (including the requirement that any summary or approximated presentation be sufficiently full and descriptive) may be returned to the submitting person, together with an explanation of the reasons it is nonconforming, and will not be considered in connection with the proceeding. Information so returned may be resubmitted with a new request for confidential treatment which complies with the requirements of this section, and will be dealt with in the same manner as an original submission of information accompanied by a request in acceptable form, if received within the time for the original submission. Belated submissions may be rejected.

(c) *Consideration of requests.* While a determination as to whether to grant a request for confidential treatment is pending, the information for which confidential treatment is requested shall be treated as confidential by the Department. A determination normally shall be made within 10 business days after the receipt of information accompanied by a conforming request for confidential treatment, whether, and, if so, to what extent, the request for confidential treatment shall be granted and whether claims submitted under paragraph (a)(2) are justified.

(d) *Treatment of information where request for confidential treatment is granted.* (1) If a request for confidential treatment of information is granted, the information covered thereby will not be made available, except pursuant to § 355.20, for inspection or copying,

(i) by any person other than an officer or employee of the United States Government directly involved with carrying out the investigation in connection with which the information is submitted, or

(ii) by a person who has been specifically authorized to receive such information by the person who requests the confidential treatment.

(2) Information for which confidential treatment is granted shall be made available to officers and employees of the Commission only upon confirmation that the confidentiality of such information will be maintained and that it will not be disclosed, either publicly or under an administrative protective order, without the express, written consent of the Secretary.

(3) Information submitted in confidence by a foreign government shall be made available only to the extent, and under the procedures, provided in Executive Order 12065 of June 28, 1978 (43 FR 28949), or any superseding or amending Order.

(e) *Treatment of information where request for confidential treatment is denied.* Should it be determined that any part of the material for which confidential treatment has been requested (1) does not warrant confidential treatment in whole or in part, (2) is in a form which cannot reasonably be associated with, or otherwise used to identify, the operations of a particular person and thus should not be treated as confidential, or (3) that information claimed not susceptible to a non-confidential summary is in fact capable of such treatment, the Department shall notify the person who submitted the information. Unless the person submitting the information thereafter agrees that the information (including any summarized or approximated presentation thereof) may be treated as non-confidential information, or provides a summary of matters found to be capable of such treatment, such information (including any summarized or approximated presentation thereof) shall be returned to the submitting person and not considered in the proceeding.

§ 355.19 Standards for determining confidentiality of information.

(a) *In general.* Information ordinarily will be considered to be privileged or confidential only if its disclosure would be likely:

(1) To cause substantial harm to the competitive position of the person submitting the information;

(2) To have a substantial adverse effect upon the person supplying the information or upon the person from whom the information was obtained; or

(3) To impair the ability of the United States Government to obtain in the future necessary information, not required by law to be provided, from the same person or others similarly situated.

(b) *Information ordinarily regarded as appropriate for disclosure.* Except as provided in paragraph (c), information ordinarily will be regarded as appropriate for disclosure if it relates to:

(1) Prices, market conditions, terms of sale or similar information that is published or otherwise available to the public;

(2) Laws, regulations, Executive Orders, or other official documents which are published in the country by which adopted, as well as translations thereof; or

(3) Information submitted by the petitioner or other domestic interested party concerning the operations of a foreign interested party, except to the extent that it might disclose the identity of confidential sources.

(c) *Information ordinarily regarded as privileged or confidential.* Information will ordinarily be regarded as privileged or confidential if it would disclose:

(1) Business or trade secrets;

(2) Production costs;

(3) Distribution costs;

(4) Prices of actual transactions or offers;

(5) The names of particular customers or suppliers;

(6) The exact amounts of the gross subsidies received and used by an enterprise; or

(7) The names of particular persons from whom confidential information was obtained, if nondisclosure of the names has been requested and approved by the Secretary.

§ 355.20 Limited disclosure of certain confidential information under an administrative protective order.

(a) *In General.* (1) Any confidential information (other than information submitted in confidence by a foreign government which is restricted from disclosure pursuant to statute or Executive Order), including some or all of the information described in § 355.19(c), may be made available to an attorney or other representative under a protective order as described in paragraph (b). Forms for submitting requests for disclosure pursuant to a protective order incorporating the terms of this regulation will be made available. The application for disclosure pursuant to protective order filed by an attorney or other representative of a party to the proceeding must (i) describe with particularity the information requested and set forth the reasons for the request, (ii) indicate the procedures to be followed to avoid unauthorized disclosure of the information requested, and (iii) demonstrate good cause for release of such information.

(2) Upon receipt of an application for disclosure of confidential information under a protective order, the Secretary will inform the person from whom the information was obtained of the request and provide an opportunity for such person to comment thereon.

(3) In determining whether to release information under a protective order, the Secretary shall weigh whether the need of the person requesting the information outweighs the need of the person submitting it for continued confidential treatment. Account also shall be taken of the probable effectiveness of the sanctions described under paragraph (e) of this Section, or other sanctions as may be prescribed for breach of the order. Generally, disclosure under a protective order will be made only to attorneys who are subject to disbarment from practice in the event of a violation of the order.

(4) Should it be determined to release information under a protective order, the person submitting the information will be so notified. If the person submitting the information does not agree to the release of the information under protective order, such information shall be returned to the submitting person and not considered in the proceeding.

(b) *Protective Order.* The protective order under which information is made available to the attorney or other representative of a party to the proceeding shall require that attorney or representative to submit a personal sworn statement that he/she will:

(1) Not divulge any of the information so obtained and not otherwise available to him to any other person other than:

(i) Personnel of agencies of the United States Government directly responsible for conducting the proceeding in question who are involved in such proceeding;

(ii) The person from whom the information was obtained;

(iii) An attorney in good standing employed on behalf of the party requesting the disclosure who has furnished an appropriate, similar statement; or

(iv) Those persons other than attorneys employed by or supervised by the attorney or representative (but in no case including officers, partners, associates and employees of the party represented or any other domestic competitor of the foreign firm whose information is involved) having a need therefore in connection with preparing oral or written statements in the proceeding, who shall have furnished a similar statement;

(2) Use such information solely for the purposes of the proceeding then in progress;

(3) Not consult with any person other than a person described in paragraph (b)(1) (i) or (ii) concerning such confidential information without obtaining the approval of the Department and the party (or the attorney for the party) from whom such confidential information was obtained;

(4) Take adequate precautions to ensure the security of the confidential materials and the information contained therein subject to the protective order; and

(5) Promptly report any breach of such agreement to the Secretary.

(c) *Acknowedgement of sanctions for breach of protective order.* The sworn statement referred to in paragraph (b) shall include an acknowledgement by the person providing it that breach thereof:

(1) May subject the following persons to disbarment from practice before any constituent agency of the Department for up to seven years following publication of a determination that the order has been breached:

(i) The person submitting the statement;

(ii) Any firm of which such person is a partner, associate, or employee; and

(iii) Such person's partners, associates, employer and employees;

(2) Shall, in the case of an attorney, lead to referral of such breach at the ethics panel of the appropriate bar associations; and

(3) Shall subject the offender and the party he represents to such other administrative sanctions determined to be appropriate, including striking from the record any information or briefs submitted by, or on behalf of, the party represented by the offender, terminating any investigation then in progress, or revoking any Order then in effect.

(d) *Final disposition of materials released under protective order.* Upon completion of aproceeding, or at such earlier date as may be determined appropriate for particular data, the security of confidential information shall be protected by requiring each attorney or other representative to return all copies of materials released to them pursuant to this section and all other materials containing the confidential information (such as notes or charts based on any such information received under protective order), accompanied by a certificate from the attorney or other representative to whom the material was delivered or disclosed and each person specified in paragraphs (b)(1) (C) or (D) of this section, attesting to his/her personal, good faith effort to determine that no other copies of such materials have been made available to or retained by the party he represents or any other person to whom disclosure was not specifically authorized.

(e) *Sanctions for breach of protective Order.* (1) The Secretary shall determine whether any person has violated a protective order, and, as a sanction, may:

(i) Bar any such person and any firm of which such person is a partner, associate, or employee, or any partner, associate, employer, or employee of such person, from representing any other person's interest before any constituent agency of the Department in any capacity for a period of up to seven years from the date of publication in the Federal Register of a notice that the existence of a breach has been determined to exist;

(ii) In the case of a violation of this section by an attorney, refer such breach to the ethics panel of the appropriate bar associations; and

(iii) Subject the offender and the party he represents to such other administrative sanctions as are determined by the Secretary to be appropriate, including striking from the record any information or briefs submitted by, or on behalf of, the party represented by the offender, terminating any investigation then in progress, or revoking any Order then in effect.

(2) Any person to whom such sanctions are proposed to be applied shall be afforded a reasonable opportunity to be heard before the determination is made.

§ 355.21 Information exempt from disclosure.

Information which might otherwise be available under this subpart shall be exempt from disclosure if it relates to any matter which is required to be kept confidential pursuant to privilege, statute or Executive Order. This includes information that has been provided to the United States in confidence by a foreign government or international organization of governments. Such information currently is restricted from disclosure pursuant to Executive Order No. 12065 of June 28, 1978 (43 FR 28949).

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Subpart C—Countervailing Duty Procedures and Determinations

§ 355.25 Procedures for self-initiation.

(a) *General.* Whenever the Secretary determines, from information available to him, that a countervailing duty investigation is warranted into the question of whether the duty imposed by Section 701(a) of the Act should be imposed with respect to a particular class or kind of merchandise imported into the United States, he shall publish in the **Federal Register** a "Notice of Initiation of countervailing duty Investigation," provided that if such merchandise is produced or exported from a country which is a country under the Agreement, such notice shall be published only after giving such country an opportunity for consultation. The Notice is to include:

(1) A description of the merchandise involved;

(2) The name of the country of exportation to the United States and, if the merchandise is produced in a country other than that from which it is exported, the name of the country in which the merchandise is produced;

(3) A summary of the information received that would, if found to be accurate, require the imposition of duties pursuant to section 701(a) of the act; and

(4) A statement that the investigation will be terminated without further notice upon publication of notice of a preliminary of final negative injury determination by the Commission.

(b) *Information provided to the Commission.* Upon initiation of the investigation, the Commission will be notified promptly, and will be provided with such information as is available relating to the matter under investigation, including any available information on the amount of the net subsidy and the volume of trade. Information for which confidential treatment has been granted by the Secretary shall be made available to the Commission only upon confirmation that the confidentiality of such information will be maintained and that it will not be disclosed, either publicly or under an administrative protective order, without the express written consent of the Secretary.

§ 355.26 Procedures for initiation by petition.

(a) *Contents of petition.* Any interested party, as defined in subparagraph (C), (D), or (E) of section 771(9) of the Act, who has reason to believe that a subsidy is being provided with respect to merchandise imported into the United States and, except for dutiable merchandise of a country which is not a country under the Agreement (hereinafter "non-agreement country"), that an industry in the U.S. is being or is likely to be materially injured or its establishment is materially retarded by reason of imports of that merchandise may file a petition on behalf of an industry pursuant to section 701(a) of the Act with the Secretary, Attention: Assistant Secretary for Trade Administration, Room 3850, Department of Commerce, Washington, D.C. 20230, requesting the imposition of additional duties in an amount equal to the alleged subsidy.

The petition shall contain, or be accompanied by, information, to the extent reasonably available to the petitioner, in subsantially the following form:

(1) The name and address of the petitioner and any other person, firm, or association the petitioner represents, if appropriate;

(2) The industry on whose behalf the petition is filed, including the names of other enterprises included in such industry;

(3) A statement indicating whether the applicant has initiated proceedings pursuant to sections 337 and 732 of the Act (19 U.S.C. 1337, 1673a) or section 301 of the Trade Act of 1974 (19 U.S.C. 2411), or has filed, or is filing, for import relief pursuant to section 201 of the Trade Act of 1974 (19 U.S.C. 2251), or has initiated proceedings pursuant to section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862), with respect to the merchandise which is the subject of the proceeding;

(4) A detailed description of the imported merchandise in question, including its technical characteristics and uses, and, where appropriate, its tariff classification under the Tariff Schedules of the United States;

(5) The name of the country or countries from which the merchandise is being, or is likely to be, exported to the United States and, if the merchandise is produced in a country other than that from which it is exported, the name of the country in which it is produced;

(6) The names and addresses of enterprises believed to be benefitting from the subsidy and exporting the merchandise so benefitted to the United States;

(7) All pertinent facts with regard to the alleged subsidy including, if known, the statutory or other authority under which it is provided, the manner in which it is paid and the value of such subsidy when received and used by producers or sellers of the merchandise;

(8) In addition to information concerning alleged subsidies, information as to individual sales (including customers) and prices thereof on sales by foreign manufacturers, producers or exporters to the United States during the period to be investigated;

(9) The volume and value of imports of the merchandise from the country in question in the most recent two-year period, and also other periods if the petitioner believes such other periods to be more representative, or, if the merchandise is not presently imported into the United States or is not imported in significant quantities, information as to the likelihood of its importation;

(10) The names and addresses of enterprises believed to be importing the merchandise;

(11) The names and addresses of the other enterprises in the United States engaged in the production, manufacture or sale of like merchandise. If numerous, information need not be provided with respect to any enterprises that accounted for less than 2% of domestic production, manufacture or sale of like merchandise during the most recent 12-month period;

(12) Information as to the material injury or threat thereof to, or the material retardation of the establishment of, a United States industry by reason of the imported merchandise alleged to be subsidized, as described in 19 CFR 207.11 and 207.26.

(13) If "critical circumstances" are alleged, information as to:

(i) Material injury which is difficult to repair;

(ii) Massive imports in a relatively short period; and

(iii) How the product benefits from an export subsidy which is inconsistent with the Agreement; and

(14) Any other documentation on which petitioner relies in making its petition. Forms for the submission of petitions may be adopted from time to time. The use of such forms shall not be mandatory, provided the information required thereby and reasonably available to the petitioner is otherwise included in the petition.

(b) *Translations to English.* Unless such requirement is waived in individual cases, any information submitted in the petition or in support thereof, which is in a foreign language, must be accompanied by an English translation.

(c) *Simultaneous filing with Commission.* Except for petitions with respect to dutiable merchandise from non-agreement countries, the petitioner shall file a copy of the petition with the Commission on the same day as the petition is filed with the Secretary and shall so certify in submitting the petition to the Secretary.

(d) *Confidentiality of information.* Any petition which contains information for which confidential treatment has been requested and which is essential to support the petition will not be considered to have been received in acceptable form unless the requirements of § 355.18(a) of this part are met.

(e) *Amendment of petition.* Upon timely receipt of additional information, the Secretary shall allow amendment of the petition. Except for petitions with respect to dutiable merchandise from non-agreement countries, any such amendment must be filed with the Commission on the same day as they are filed with the Secretary.

(f) *Form and number of copies.* The petition and, to the extent feasible, all supporting information, shall be submitted on letter-size paper, double spaced type written or printed, in at least 10 copies.

(g) *Notification of affected country's representative.* Upon receipt of a petition, a non-confidential copy with a non-confidential summary of confidential data contained in the petition shall promptly be delivered to a representative in Washington, D.C. of the affected country or countries in which merchandise subject to the investigation is manufactured or produced.

(h) *Additional information concerning requirements for petitions.* Additional information concerning requirements for petitions may be obtained by contacting the office of the Assistant Secretary for Trade Administration, Room 3850, Department of Commerce, Washington, D.C. 20230; (202) 377–2867.

§ 355.27 Determination of sufficiency of petition.

(a) *Determination of sufficiency.* Within 20 days after a petition is filed under § 355.26 a determination shall be made by the Secretary on the sufficiency of the petition. A petition is considered to be filed at the time it is received by the Secretary.

(b) *Notice.* If that petition properly alleges the basis on which a countervailing duty may be imposed under section 701(a) of the Act, contains information reasonably available to the petitioner supporting the allegations, and is filed by an interested party described in subsection (C), (D), or (E) of section 771(9) of the Act, an investigation shall be initiated and a notice of "Initiation of Countervailing Duty Investigation" shall be published in the **Federal Register**. The notice shall contain a description of the merchandise subject to the investigation, based upon consultation between the Secretary and the Commission.

(c) *Insufficiency of petition.* If it is determined that a petition does not properly allege the basis on which a countervailing duty may be imposed under section 701(a) of the Act, does not contain information deemed reasonably available to the petitioner supporting the allegations, or is not filed by an interested party described in subsection (C), (D), or (E) of section 771(9) of the Act, the petition shall be dismissed and the proceeding terminated. The petitioner shall be notified in writing of the reasons for dismissal, and a notice of "Dismissal of Countervailing Duty Petition" shall be published in the **Federal Register**, which shall summarize the reasons for dismissal of the petition.

(d) *Notice to Commission.* A copy of any determination hereunder shall be furnished promptly to the Commission. If the investigation is initiated, such information as has been received relating to the matter under investigation shall be made available to the Commission. Information for which confidential treatment has been granted by the Secretary shall be made available to the Commission only upon confirmation that the confidentiality of such information will be disclosed, either publicly or under an administrative protective order, without the express written consent of the Secretary.

§ 355.28 Preliminary determinations.

(a) *In general.* Within 85 days after the date on which a petition is filed under section 702(b) of the Act, or an investigation is commenced under section 702(a) of the Act, (1) A preliminary determination shall be made, based upon the best information available at the time of the determination, as to whether there is a reasonable basis to believe or suspect that a subsidy is being provided with respect to the merchandise which is the subject of the investigation; except that where merchandise from either a country under the Agreement or duty-free merchandise is involved, such determination shall not be made before an affirmative preliminary determination by the Commission under section 703(a) of the Act.

(2) If the determination is affirmative, the amount of the net subsidy shall be estimated and stated.

(3) If separate enterprises have received materially different benefits, such differences shall also be estimated and stated.

(4) Notice of the determination, the parties affected, and the estimated net subsidy shall be published in the **Federal Register**. The determination, which shall contain a statement of the facts and conclusions of law upon which it is based, shall be mailed or otherwise delivered to all parties to the proceeding and the Commission.

(b) *Extraordinarily complicated cases.* (1) If a case is determined to be extraordinarily complicated, the preliminary determination shall be made no later than the 150th day after the petition is filed under section 702(b) of the Act, or an investigation is commenced under section 702(a) of the Act.

(2) Any determination that a case is "extraordinarily complicated" shall be based on express findings that:

(i) The importing and exporting parties are cooperating with the investigation;

(ii) The case is extraordinarily complicated by reason of (A) the number and complexity of the alleged subsidy practices under investigation, (B) the novelty of the issues presented, (C) the need to determine the extent to which particular subsidies are used by individual manufacturers, producers, exporters, or (D) the number of firms whose activities must be investigated; and

(iii) Additional time is needed to make the preliminary determination.

(3) All parties to the proceeding shall be notified in writing of any determination to treat the case as "extraordinarily complicated," not later than 20 days before the date on which the preliminary determination would otherwise be required under section 703(b) of the Act. Upon making such a determination, a notice of "Postponement of Preliminary Determination" shall be published in the **Federal Register**, which notice shall summarize the reasons for the postponement.

(c) *Request for extension by petitioner.* If a request for an extension, stating the reasons for the request, is received from the petitioner no later than 25 days before the preliminary determination would otherwise be required under section 703(b) of the Act, the preliminary determination may be postponed until not later than the 150th day after the date on which the petition is filed. Upon acting on such a request a notice of "Postponement of Preliminary Determination" shall be published in the **Federal Register**, stating it has been made at the petitioner's request.

(d) *Contents of preliminary determination.* The preliminary determination shall include conclusions with regard to all facts and issues of law considered material to the determination, and shall, if affirmative:

(1) Order the suspension of liquidation of all entries of merchandise subject to

the determination which is entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of the determination in the Federal Register; and

(2) Impose provisional measures by requiring a cash deposit, or the posting of a bond or other security for each entry of the merchandise concerned equal to the estimated amount of the net subsidy applicable to such merchandise. The posting of a bond or other security will be deemed adequate unless the revenue will not be sufficiently protected.

(e) *Commission access to information.* All information upon which the determination was based and which the Commission may consider relevant to its injury determination shall be made available to the Commission. Information for which confidential treatment has been granted by the Secretary shall be made available to the Commission only upon confirmation that the confidentiality of such information will be maintained and that it will not be disclosed, either publicly or under an administrative protective order, without the express written consent of the Secretary.

§ 355.29 Critical circumstances determinations.

(a) *Determination.* If, not less than 30 days before the date on which a final determination is due, a petitioner alleges critical circumstances, then at the time the preliminary determination is made or, if such determination is due within 20 days or has already been made, then within 1 month after the allegation is received, a determination shall be made whether there is a reasonable basis to believe or suspect that there have been massive imports of the merchandise subject to the investigation over a relatively short period, and if so, whether the alleged subsidy is an export subsidy inconsistent with the Agreement: If, not more than 30 but not less than 20 days before the date on which a final determination is due, a petitioner alleges critical circumstances, then no preliminary determination as to critical circumstances shall be made. A finding as to critical circumstances shall be included pursuant to § 355.33(b) in the affirmative final determination. In making such determination, account shall be taken of such factors as the import penetration of the subject merchandise and historic patterns of importation.

(b) *Notification of Commission.* The Commission shall be notified promptly of any determination under this section.

(c) *Suspension of liquidation.* Upon an affirmative preliminary determination of critical circumstances, any suspension of liquidation ordered under Section 703(d)(1) of the Act shall apply, or if notice of suspension of liquidation has already been published, such suspension shall be amended to apply, to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered.

(d) *Publication of notice.* Upon an affirmative preliminary determination of critical circumstances, a notice thereof shall be published in the Federal Register, either as part of the notice of preliminary determination, or, if occurring later, as a separate notice of "Preliminary Determination of Critical Circumstances."

§ 355.30 Termination of investigation.

(a) *Termination upon withdrawal of petition.* A countervailing duty investigation may be terminated by the Secretary at any time upon withdrawal by the petitioner of the petition on which the investigation was initiated, after notice to all other parties to the investigation and consultation with the Commission. No investigation shall be terminated unless it is determined such termination is in the public interest. Notice of any termination shall be published in the Federal Register, together, where appropriate, with a copy of any correspondence exchanged with the petitioner on the basis of which the petitioner withdrew the petition and the investigation was terminated.

(b) *Termination upon negative determination.* An investigation shall be deemed terminated, without further comment or action, upon publication of any negative final determination or a negative preliminary or final determination by the Commission on the issue of injury.

§ 355.31 Suspension of investigation.

(a) *Agreements to eliminate or completely offset a subsidy or to cease exports.* An investigation may be suspended at any time before a final determination if the government of the country in which the subsidy practice allegedly occurs agrees, or exporters who account for substantially all of the imports of the merchandise which is the subject of the investigation agree:

(1) To eliminate completely the subsidy or to offset completely the amount of the net subsidy, with respect to the merchandise exported directly or indirectly to the United States; or

(2) To cease exports of that merchandise to the United States, within 6 months after the date on which the proceeding is suspended.

(b) *Agreements eliminating injurious effect.* (1) *Generally.* An investigation may be suspended at any time before a final determination upon acceptance of an agreement from a government of the country in which the subsidy practice exists, or from exporters accounting for substantially all of the imports of the merchandise which is the subject of the investigation, if it is determined:

(i) extraordinary circumstances are present; and

(ii) The agreement will eliminate completely the injurious effect of the exports to the United States of the merchandise which is the subject of the investigation.

(2) *Additional requirements.* Except for the case of an agreement by a foreign government to restrict the volume of imports of merchandise into the United States which is the subject of the investigation, no agreement under paragraph (b) of this section may be accepted unless:

(i) The suppression or undercutting of prices of like domestic products by imports of the merchandise will be prevented; and

(ii) At least 85 percent of the net subsidy will be eliminated or offset with respect to each exporter subject to the agreement.

(3) *Quantitative restrictions agreements.* An agreement to restrict the volume of imports of merchandise which is the subject of the investigation may be accepted only from the government of the country from which such merchandise is exported.

(c) *Definition of "Substantially All".* For purposes of section 704 (b) and (c) of the Act, exporters who account for "substantially all" of the imports in question shall mean exporters who have accounted for no less than 85 percent by volume of the subject merchandise imported into the United States during the period of investigation, or such other recent, representative period determined appropriate. The number and identity of affected exporters shall be considered no less frequently than once annually in connection with the determination required under section 751 of the Act, and, if appropriate, additional or different exporters may be required to furnish assurances to ensure continued applicability of the assurance to the requisite percentage of the affected trade.

(d) *Definition of "Extraordinary Circumstances."* For purposes of Section 704(c) of the Act, "extraordinary circumstances" shall mean

circumstances in which (1) suspension of the investigation will be more beneficial to the domestic industry than continuation of the investigation, and (2) the investigation is complex. For purposes of this section, "complex" shall mean there are a large number of alleged subsidy practices which are complicated, the issues raised are novel, or the number of exporters involved is large.

(e) *Monitoring of agreements.* No agreement under section 704 of the Act shall be accepted unless effective monitoring of the agreement is practicable. In accepting assurances and in monitoring compliance therewith, the Secretary shall not be obliged to ascertain on a continuing basis the level of domestic prices of merchandise like that covered by the agreement.

(f) *Public Interest.* No agreement under section 704 of the Act shall be accepted unless the agreement is determined to be in the public interest.

(g) *Exports not to increase during interim period.* No agreement under section 704(b) of the Act shall be accepted unless that agreement provides an adequate means of ensuring that the quantity of the merchandise covered by that agreement and exported to the United States during the period provided for the elimination or offset of the subsidy or cessation of exports does not exceed the quantity of such merchandise exported to the United States during the most recent representative period determined to be appropriate to the case. In ordinary circumstances, the representative period shall refer either to the six months preceding the month in which the petition was filed or the comparable six-month period of a year earlier, whichever more accurately reflects the historical level of importation absent import surges. If deemed necessary and appropriate, an order excluding from entry, or withdrawal from warehouse, for consumption, any entries of the subject merchandise in excess of the quantity exported to the U.S. during the period determined to be representative may be issued by the Secretary.

(h) *Procedures for suspension of investigations.* Prior to accepting any agreement under section 704:

(1) The petitioner shall be notified and consulted with concerning the Secretary's intention to suspend the investigation. A copy of the proposed agreement shall be furnished to the petitioner no less than 30 days prior to the proposed suspension of the investigation. Any such agreement shall contain the procedures to be followed to monitor compliance, and a statement of the compatability of the agreement with the requirements of subsections (b) and (d) or (c) and (d) of section 704 of the Act;

(2) All parties to the proceeding shall be notified of the proposed suspension not less than 30 days prior thereto; and

(3) All parties to the proceeding and other government agencies which may have an interest in the effects of the agreement shall be afforded an opportunity to submit written comments and information for the record with respect to the proposed suspension.

(i) *Issuance of an Affirmative Preliminary Determination.* Upon acceptance of an agreement to suspend an investigation, a "Notice of Suspension of Countervailing Duty Investigation" shall be published in the Federal Register, including a summary of the principal provisions of the agreement on the basis of which the investigation was suspended. Unless an Affirmative Preliminary Determination has already been issued, an "Affirmative Preliminary Determination" shall be published together with the notice suspending the investigation.

(j) *Suspension of liquidation.* (1) *Elimination of subsidy; complete offset of net subsidy or cessation of exports.* If an agreement is accepted which provides for the elimination of a subsidy, complete offset of the net subsidy, or cessation of exports of the subsidized merchandise to the United States pursuant to section 704(b) of the Act, then, notwithstanding the issuance of an Affirmative Preliminary Determination, the liquidation of entries of merchandise covered by the agreement shall not be suspended. If liquidation has previously been suspended in the investigation, such suspension shall, without further comment or action, terminate on the date the notice is published and estimated countervailing duties shall be refunded, or other appropriate bonds or security shall be released.

(2) *Other suspension agreements.* Agreements to suspend an investigation other than those described in paragraph (j)(1) of this section shall not affect the suspension of liquidation of entries of merchandise (except that the security required may be adjusted to reflect the effect of the agreement) until the Commission has completed its review of the suspension agreement, if such review is requested. If no request for review of suspension is received by the Commission within 20 days after the "Notice of Suspension of Countervailing Duty Investigation" is published, the suspension of liquidation shall, without further comment or action, terminate on the 21st day after such publication.

(k) *Commission review.* Where the Commission, having undertaken a review of an agreement to suspend an investigation other than one described in paragraph (j)(1) of this section, makes a negative determination, the Secretary shall resume his investigation on the date of publication of such determination as if the affirmative preliminary determination under § 355.26 had been made on that date. Where the Commission makes an affirmative determination in such a case, the Secretary shall continue the suspension of the investigation and terminate any suspension of liquidation which may then be in effect, and all estimated countervailing duties shall be refunded and all appropriate bonds or other security shall be released.

(l) *Continuation of investigation.* By filing a request with both the Secretary and, where the investigation involves merchandise from a country under the Agreement or duty-free merchandise, with the Commission on the same date, the foreign government of the country, the products of which are the subject of an agreement to suspend an investigation, or the petitioner or any other domestic interested party (within the meaning of subparagraph (C), (D), or (E) of section 771(9) of the Act), which is a party to the proceeding, may during the 20-day period following the date of publication of the notice of suspension, request a continuation of the investigation. Upon receiving such a request, the Secretary and Commission shall continue the investigation. If, as a result of such continued investigation, a Final Negative Determination is made or the Commission makes a negative injury determination, the investigation shall be terminated, without further comment or action, and notice thereof published in the Federal Register. If an Affirmative Final Determination is made and the Commission makes an affirmative injury determination, the suspension shall remain in effect in accordance with its terms. The provisions of paragraph (j) of this section regarding the suspension of liquidation of entries of merchandise covered by the agreement are unaffected by this subsection.

§ 355.32 Violations of agreements.

(a) *In general.* If it is determined that an agreement on the basis of which an investigation was suspended is being, or has been, violated, or no longer meets the requirements of subsections (b) and (d) or (c) and (d) of section 704 of the Act:

(1) Liquidation of unliquidated entries of merchandise shall be suspended effective as of the later of the date which is 90 days before the date of

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publication of the notice of suspension of liquidation, or the date on which the merchandise, the sale or export to the United States of which was in violation of the agreement, was first entered, or withdrawn from warehouse, for consumption;

(2) If the investigation was not completed, the investigation shall be resumed as if an Affirmative Preliminary Determination was made on the day on which the investigation is resumed;

(3) If the investigation was completed, a Countervailing Duty Order shall be issued, effective with respect to entries the liquidation of which was suspended upon the determination that the agreement had been violated; and

(4) The petitioner, interested parties who are or were party to the proceedings, and the Commission shall be notified and notice of the determination shall be published in the **Federal Register**, including a summary of the reasons therefor.

(b) *Notice of possible breach.* If there is reason to believe that an agreement no longer meets the requirements of the Act or that an agreement is being breached, and the breach involves a violation of the agreement other than that described in paragraph (c), each party to the agreement shall be notified at the earliest moment, so that alternative or amended agreements may be considered before the agreement is deemed violated.

(c) *Intentional violations.* The intentional violation of any agreement entered into under section 734 of the Act shall subject any person who is party to the agreement and is determined to have intentionally violated it to the same penalties as for a fraudulent violation of section 592 of the Act (19 U.S.C. 1592). The procedural requirements of section 592 shall be applicable to any action to collect penalties.

§ 355.33 Final determinations.

(a) *In general.* Within 75 days after the date of a Preliminary Determination, a Final Determination shall be made whether a subsidy is being provided with respect to the merchandise subject to the investigation.

(b) *Critical circumstances.* If critical circumstances have been alleged and an Affirmative Final Determination reached, then it shall include a finding of whether the subsidy is inconsistent with the Agreement, and whether there have been massive imports of the class or kind of merchandise involved over a relatively short period.

(c) *Disclosure of information.* Promptly after making the Preliminary Determination, there shall be disclosed to each interested party then a party to the proceedings who requests such disclosure, all non-confidential information and, if made available under § 355.20, confidential information, on the basis of which the preliminary determination was made.

(d) *Opportunity of parties to present views.* Prior to the Final Determination, an opportunity shall be provided for all parties to be heard orally in person or by counsel before a designated official pursuant to § 355.35. Written views will be received from any person at any time, provided that, unless the Secretary or the officer presiding at the hearing otherwise provides for good cause, consideration of written views may be declined if received more than 10 days after the transcript of any hearing is available to the public or less than 30 days before the Final Determination is due, whichever is earlier.

(e) *Notice of Determination.* Notice of the Final Determination, the parties affected and the estimated net subsidy, if any, shall be published in the **Federal Register**. Copies of the determination shall be mailed or otherwise delevered to all parties to the proceeding and the Commission.

(f) *Contents of Final Determinations.* The Final Determination shall include conclusions with regard to all facts and issues of law considered material to the Determination. If the Determination is affirmative, the amount of the net subsidy shall be estimated and stated, and the nature of the subsidy determined. If separate enterprises have received materially different benefits, such differences shall be estimated and stated.

(g) *Effect of Negative Final Determination.* If the Final Determination is negative, the proceeding shall be terminated including any suspension of liquidation which may then be in effect, and all estimated countervailing duties refunded and all appropriate bonds or other security released.

(h) *Effect of Negative Final Determination by Commission.* If the Final Determination by the Commission under section 735(b) of the Act is negative, the proceeding shall be terminated including any suspension of liquidation which may then be in effect, and all estimated countervailing duties refunded and all appropriate bonds or other security released.

§ 355.34. Submission of information and written views.

(a) *Submission of information and written views.* Except in situations where it would be manifestly unjust, any information or written views submitted in connection with a proceeding shall be considered only if received within the time established by these regulations or specific instructions applicable to such submission; any information or written views received after such time shall not be considered in the proceeding. Any written views intended to be considered in connection with a proceeding shall be submitted on letter-size paper, double spaced, in at least 10 copies, to the Secretary, Attention: Assistant Secretary for Trade Administration, Room 3850, Department of Commerce, Washington, D.C. 20230. Except when the Secretary determines it will be unduly burdensome to the party to the proceeding, in which case the Secretary shall effect the service, a copy shall also be served at the same time, by mail or personal service, on counsel for each party to the proceeding as of the date of such filing, or if not represented by counsel, then the person designated for such purpose by the party. A certificate of such service shall accompany any such filing.

(b) *Designation of agent.* Every party to the proceeding shall designate a person to receive service of all papers filed in a proceeding. A list of such designated agents shall be made available by the Secretary.

§ 355.35 Hearings.

During the course of an investigation, normally within 30 days after the Preliminary Determination is published, a hearing shall be held, upon the request of any party to the proceeding, to provide interested persons an opportunity to present views orally. Such hearing shall be conducted before a designated official. A verbatim record shall be transcribed and copies of the transcript made available to the public. The hearing shall not be subject to the Administrative Procedure Act, and shall not involve the examination or cross examination of witnesses under oath. At the discretion of the officer conducting the hearing, persons not parties to the proceeding, including officials of other agencies or departments of the United States Government, may present views. If not included in the notice of the preliminary determination, notice of such a hearing shall be published in the **Federal Register**. All requests for hearings shall be accompanied by a statement outlining the issues which the person wishes to discuss. Reasonable notice of the hearing will be given to all parties to the proceeding. One week prior to such a hearing, pre-hearing briefs shall be submitted to the Secretary and exchanged among parties to the proceeding. Persons will be restricted, in their oral presentations, to

issues raised in this pre-hearing brief. Any person not submitting such a brief ordinarily will be restricted to rebuttal of points made by other persons. Ordinarily, the presiding officer at a hearing will provide an opportunity for the submission of post-hearing briefs, within the time limits prescribed at the hearing. The Secretary may at any time invite any person to supply him with information or argument.

§ 355.36 Countervailing duty order.

Within seven days of notification by the Commission that it has made an affirmative determination on the issue of injury, except for an affirmative determination of injury made pursuant to a request that the investigation be continued under section 704(g) of the Act, or simultaneously with the publication of a final affirmative determination in an investigation involving dutiable merchandise from a non-agreement country, a Countervailing Duty Order shall be published that:

(a) Directs customs officers to assess a coutervailing duty on the merchandise found to be benefitting from a subsidy, equal to the amount of the net subsidy determined or estimated to exist, such assessment to be made within 6 months after the date on which the Secretary has received satisfactory information upon which such assessment may be based, but in no event later than 12 months after the end of the exporter's annual accounting period within which the merchandise is entered, or withdrawn from warehouse, for consumption;

(b) Includes a description of the class or kind of merchandise to which it applies, in such detail as is deemed necessary;

(c) Pending liquidation of entries of the merchandise, requires the deposit of estimated countervailing duties in an amount equal to the amount of the net subsidy found to exist, at the same time as estimated normal customs duties on that merchandise are deposited; and

(d) Includes information concerning "critical circumstances," if found to exist.

§ 355.37 Differences in determined and estimated countervailing duties.

If the amount of the estimated countervailing duty deposited pursuant to a Preliminary Affirmative Determination is different from the amount of the countervailing duty to be assessed pursuant to a Countervailing Duty Order, the difference with respect to merchandise entered, or withdrawn from warehouse, for consumption before publication of notice of the Commission's affirmative final determination or, in those investigations involving dutiable merchandise from non-agreement countries, the Secretary's final determination shall be:

(a) Disregarded, to the extent that the estimated duty is less than the duty determined to be assessable under the Order; or

(b) Refunded, to the extent that estimated duties collected were more than the duty determined to be assessable under the Order.

§ 355.38 Effect on firms not benefitting from subsidy.

Any firm which does not benefit from a subsidy alleged or found to have been granted to other firms producing or exporting the merchandise subject to the investigation shall, on timely application therefor, be excluded from a Countervailing Duty Order. An application shall be considered timely if made within 30 days after publication of a "Notice of Initiation of Countervailing Duty Investigation." The name of any such firm which is determined to have satisfied the requirements for exclusion will be published in the **Federal Register**.

§ 355.39 Verification of information; Use of best information available.

(a) Information upon which a Final Determination is based shall be verified. The methods and procedures used to verify information in a particular case shall be published in the **Federal Register** in the "Notice of Affirmative Final Countervailing Duty Determination," or "Notice of Negative Final Countervailing Duty Determination," as appropriate.

(b) Whenever information cannot be satisfactorily verified, or is not submitted in timely fashion or in the form required, the submitter of the information will be notified and the affected determination will be made on the basis of the best information then otherwise available, which may include the information submitted in support of the petition. An opportunity to correct inadequate submissions will be provided if the corrected submission is received in time to permit proper analysis and verification of the information concerned; otherwise no corrected submission will be taken into account. Where a party to the proceeding unreasonably refuses to provide requested information, that fact may be taken into account in determining what is the best available information.

(c) In verifying information under this section, access to files, records and personnel with relevant information may be requested by appropriate officers of the Secretary as a part of the verification process. In addition to information relating to alleged subsidies, information as to sales (including customers) and prices thereof on sales to the United States during the period of investigation by foreign manufacturers, producers or exporters shall be requested. Failure to permit such access may prevent satisfactory verification and require the application of paragraph (b).

(d) All responses to requests for information must be in English and in the form requested unless such requirement is waived. Failure to supply information in the form requested may require the application of paragraph (b).

(e) Responses to all questionnaires directed to foreign parties shall be forwarded by airmail or faster means simultaneously to the Secretary and to the U.S. Embassy in the country in question and shall be deemed timely received if received at either office within the time required by any specific request, order or regulation.

§ 355.40 Interest on certain overpayments and underpayments.

Interest shall be payable, at the rate in effect under section 6621 of the Internal Revenue Code of 1954 on the date on which the rate or amount of duty is finally payable, or 6 percent, whichever is higher, on overpayments and underpayments of amounts deposited on merchandise entered, or withdrawn from warehouse, for consumption on or after the date on which notice of an affirmative determination by the Commission with respect to that merchandise is published.

§ 355.41 Administrative Review of Determinations.

(a) *In general.* At least once during each 12-month period beginning on the anniversary of the date a Countervailing Duty Order or notice of the suspension of an investigation is published, the amount of any net subsidy or the status of, and compliance with, any agreement by reason of which an investigation was suspended, shall be redetermined.

(b) *Changed circumstances.* (1) Whenever the Secretary receives information concerning, or a request for the review of a Countervailing Duty Order or an agreement on the basis of which an investigation was suspended which shows changed circumstances sufficient to warrant review of such Order or agreement, he shall, before conducting such review, publish a "Notice of Intention to Review Suspension Agreement or "Notice of Intention to Review Countervailing Duty

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Order" in the **Federal Register**. Such Notice shall indicate the merchandise concerned and any changed circumstances or other significant issues then known which will be considered during the review.

(2) In the absence of good cause shown, no review based on allegations of changed circumstances shall be conducted within 24 months after the date of an Affirmative Final Determination or a determination to suspend an investigation.

(c) *Procedures.* Written views on proposed revisions of a Countervailing Duty Order, including new facts for examination, will be accepted at any time, but unless changed circumstances are alleged, normally will not be processed sooner than 90 days before such redetermination is due for publication. Questionnaires requesting current relevant data will normally be sent 85 days before such date, requesting reply within 30 days of receipt.

(d) *Disclosure and hearings.* A disclosure may be made, generally about 30 days prior to the date the redetermination is due for publication, on request by parties then party to the proceeding, to such interested parties of all non-confidential information and, where appropriate, pursuant to a protective order, confidential information, on the basis of which the redetermination will be made. Written views may be presented, and an opportunity to present oral views may be requested, by any party to whom disclosure was made. After providing an opportunity for comment by interested parties on the proposed determination, a revised Countervailing Duty Order, including any revised bases for the assessment of duties on the merchandise, shall be published in the **Federal Register.**

§ 355.42 Revocation of Countervailing Duty Order and termination of suspended investigation.

(a) *In general.* Whenever the Secretary determines that a subsidy within the meaning of section 771(5) of the Act is no longer being bestowed upon the manufacture, production or exportation of merchandise which is the subject of a Countervailing Duty Order and is satisfied that there is no likelihood of resumption of the subsidy, he may act to revoke or terminate, in whole or in part, such order or suspended investigation. Ordinarily, consideration of such revocation or termination will be made only subsequent to a review as described in § 355.41.

(b) *Application to revoke or terminate.* An application for the revocation of any Order or the termination of a suspended investigation, premised upon the lack of a legal basis for the imposition of countervailing duties, may be submitted in writing by an interested party to the Secretary together with detailed information demonstrating that the imported merchandise no longer benefits from a net subsidy. Ordinarily, such an application will be considered only if the production, manufacture, or exportation of the merchandise has been without benefit of a net subsidy for at least a two-year period following the date of publication in the **Federal Register** of a Countervailing Duty Order or notice of suspension of investigation; *provided, however,* that where a firm can demonstrate that neither the production nor exportation of the merchandise had benefitted from a net subsidy during the period of or immediately prior to the investigation (but the firm did not file a timely application for exclusion under § 355.38), the two-year period shall begin on the date of the preliminary determination regardless of whether that determination was affirmative or negative.

(c) *Revocation or termination by the Secretary.* The Secretary may on his own initiative revoke an Order or terminate a suspended investigation after three years if he is satisfied that (1) there is no likelihood of resumption of imports of the merchandise to the United States, the production, manufacture or export of which benefitted from a net subsidy, or (2) the subsidy itself, has been eliminated or (3) other changed circumstances which exist warrant a revocation of an Order or the termination of a suspended investigation.

(d) *Revocation or termination based upon injury reconsideration.* [Reserved].

(e) *Notice of revocation or termination.* If it appears to the Secretary from his review under section 751 of the Act and an application filed pursuant to paragraph (a) of this section (or from his own determination under paragraph (b) of this section) that a revocation or termination may be appropriate, he will publish a "Notice of Tentative Determination to Revoke or Terminate." Before the Secretary may tentatively revoke an Order or terminate a suspended investigation pursuant to paragraph (a) of this section the parties who are subject to the revocation or the termination must agree in writing to an immediate suspension of liquidation and reinstatement of the Order or continuation of the investigation, as appropriate, if circumstances develop which indicate that the merchandise thereafter imported into the United States is benefitting from a net subsidy on its manufacture, production or exportation. Opportunity for interested parties to present views with respect to the tentative revocation will be provided.

(f) *Final determination.* As soon as possible after publication of a "Notice of Tentative Determination to Revoke or Terminate" the Secretary will determine whether final revocation or termination is warranted. In cases where an application for a revocation or termination is based on the absence of a net subsidy with respect to the imported merchandise and the dispositive date for establishing a two-year period of no net subsidy is the date of publication of the Order, the Secretary may determine that a final revocation or termination is warranted only if the firm involved provides information showing no receipt of a net subsidy with respect to the subject merchandise up to the date of publication of the "Notice of Tentative Determination to Revoke or Terminate." Ordinarily, a revocation or termination will be effective with respect to all merchandise, which is the subject of the revocation or termination, entered, or withdrawn from warehouse, for consumption on or after the date on which the "Notice of Tentative Determination to Revoke or Terminate" is published in the **Federal Register.** The liquidation of all merchandise which is the subject of a tentative revocation or termination and which is entered, or withdrawn from warehouse, for consumption on or after the date of publication or the "Notice of Tentative Determination to Revoke or Terminate," will be ordered suspended pending the final determination on revocation or termination.

§ 355.43 Subsidy practices discovered during an investigation.

If, during an investigation, a practice is discovered which appears to be a subsidy with respect to the merchandise under investigation, which practice was not included in the allegations in the petition, that practice shall be included in the scope of the investigation if the Secretary determines it is practicable in light of the time limits applicable to such investigation. If not practicable, the Secretary shall either (a) allow the petitioner to withdraw the petition and resubmit it including any newly discovered subsidy practice or (b) initiate a separate investigation of the newly discovered subsidy practice. In all cases, the parties to the proceeding shall be notified of any practice discovered and whether it will be included in the investigation. Failure to include any practice so discovered in a pending investigation is without prejudice to its consideration pursuant to § 355.41.

§ 355.44 Library of Foreign Subsidy Practices and Countervailing Measures.

(a) The Secretary shall establish a library of information relating to foreign subsidy practices and countervailing measures. Copies of material in the library shall be made available to the public upon payment of the costs of preparing such copies. The fees charged for providing copies shall be the same as for providing copies pursuant to requests made under the Freedom of Information Act (5 U.S.C. 552) (see 15 CFR 4.9).

(b) Information on subsidy practices which are the subject of an investigation or are discovered during an investigation with respect to merchandise not the subject of the investigation (other than confidential information) shall be transferred to the library.

Annex I.—Administrative and Interpretative Guidelines for Determination and Calculation of Subsidies

1. The physical incorporation test: The non-excessive rebate or remission of indirect taxes (sales, value-added, and consumption taxes) is not regarded as a subsidy. However, when a system of indirect taxation operates in such a manner that the full amount of the tax is not directly assessed on the product in question, at a time when it is in substantially the condition in which it would be exported, the physical incorporation test is applied. Under that test, the rebate or remission of fiscal charges on items physically incorporated in the exported product is not considered a subsidy. Rebated taxes on services, catalysts and other items (e.g. energy) not incorporated in the product (or necessary waste), however, directly related to the production and exportation of the merchandise, would be treated as an excessive rebate and, therefore, a subsidy.

2. Export payments as an estimate of indirect taxes paid: Generally the payment to an exporter, of a lump sum calculated and identified as a non-excessive rebate of the indirect tax incidence on the exported product, and its components, will not be treated as a subsidy if the government has reasonably calculated and documented the actual tax experience of the product under investigation.

3. Drawback of duties: The drawback, rebate or remission of Customs duties not in excess of the actual duties due or paid, on imported items physically incorporated in the final product is not regarded as a subsidy. The drawback remission or drawback of duties on imported capital goods or other items involved in the production but not physically incorporated in the exported merchandise would be counteravailable.

4. Income and social security taxes: The rebate of or reduction in the amount of direct taxes imposed on an exported product is generally regarded as a subsidy. Similarly, special (industry specific) income tax provisions which apply irrespective of export performance may constitute a subsidy to the extent that the provisions deviate from the normal tax provisions of the country in question. For purposes of assessing a countervailing duty, the savings derived from this benefit ordinarily would be allocated over the recipient company's production of the merchandise during the most recent business year.

5. Effect of inflation or devaluation on the value of the net subsidy: The value of a subsidy may be diminished in certain circumstances because of delayed payment during a period of inflation or currency devaluation. Allowance for the reduction in value of the subsidy will be made only where the Government of the exporting country specifically provides by decree or regulation that the payment of the subsidy amount be delayed.

Administrative delays in payment are not regarded as "mandated" within the meaning of section 771(6)(B) of the Act. The loss of value is calculated on the basis of the potential interest earned in the country of exportation during the period of delayed payment.

Annex II.—Countries Which Have Signed the Agreement [Reserved]

Annex III.—*Countervailing Duty Orders Currently in Effect*

Country	Commodity	Treasury decision	Action
Argentina	Textile mill products and men's and boys' apparel	78-445	Bounty declared—rate.
	Nonrubber footwear	79-18	Bounty declared—rate.
Australia	Sugar content of certain articles	39541	Declared rate.
		49157	New estimated rates.
		52923	Contingent suspension of rates.
		54582	New rates.
		55716	Certain articles exempted as to shipments exported on or after July 19, 1982.
		74-133	New rate.
		75-54	New rate.
		76-167	New rate.
	Butter	42937	Bounties declared—rates.
		43087	New rates.
		46551	New estimated rate.
Austria	Cheese	76-10	Bounty declared—rate.
		76-11	Imposition of countervailing duties waived.
Belgium	Dairy products	75-113	Bounty declared—rate.
		76-114	Imposition of countervailing duties waived.
	Canned hams and canned shoulders	75-300	Bounty declared—rate.
		75-301	Imposition of countervailing duties waived.
Brazil	Footwear, non-rubber	74-233	Bounty declared—rate.
	Leather handbags	76-3	Bounty declared—rate.
	Certain castor oil products	76-80	Bounty declared—rate.
	Yarn	77-87	Bounty declared—rate.
	Scissors and shears	77-64	Bounty declared—rate.
	Textile mill products and men's and boys' apparel	78-446	Bounty declared—rate.

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Annex III.—*Countervailing Duty Orders Currently in Effect*—Continued

Country	Commodity	Treasury decision	Action
Canada	Cheese, 93-94 score from whole milk, cheddar, including "washed curd," types	50003	Bounties declared—rates.
		68-147	Discontinued as to cheese manufactured on or after Apr. 1, 1968.
	Cheese, 89-94 score, blue-vein, of Roquefort type	53182	Bounties declared—rates.
		68-147	Discontinued as to cheese manufactured on or after Apr. 1, 1968.
	X-radial steel belted tires manufactured by Michelin Tire Manufacturing Company of Canada, Ltd.	73-10	Bounty declared—rate.
		74-237	New estimated rate.
		74-254	Final rate declared.
	Glass beads	76-247	Bounty declared—rate.
	Groundfish	77-107	Bounty declared—rate.
	Groundfish	78-191	Bounty declared—rate.
	Fish	79-67	Bounty declared—rate.
	Optic Liquid level sensing probes	79-09	Bounty declared—rate.
Colombia	Leather handbags	78-125	Bounty declared—rate.
Cuba	Cordage	53534	Bounties declared—rates.
		54650	T.D. 53534 modified.
		47886	Bounties declared—rate.
		48794	Discontinued as to direct shipments.
Denmark	Butter	75-113	Bounty declared—rate.
	Dairy products	75-114	Imposition of countervailing duties waived.
	Canned hams and canned shoulders	75-300	Bounty declared—rate.
		75-301	Imposition of countervailing duties waived.
	Butter cookies	78-12	Bounty declared—rate.
European Communities (consisting of France, the United Kingdom, West Germany, Luxembourg, Ireland, the Netherlands, Denmark, Italy, and Belgium.	Frozen boneless beef	76-109	Bounty declared—rate.
	Dextrines and soluble or chemically treated starches derived from potato starch	80-2	Bounty declared—rate.
	Tomato products	79-250	Bounty declared—rate.
	Sugar	75-253	Bounty declared—rate.
Finland	Cheese	76-173	Bounty declared—rate.
		76-174	Imposition of countervailing duties waived.
France	Canned tomato paste	68-111	Bounty declared—rate.
	All merchandise except that not benefited by Decree 68-581 dated June 29, 1968, as amended by Decree 68-599 dated July 6, 1968.	68-192	Bounty declared—rate.
		68-270	New rate
		69-41	Discontinued as to merchandise exported from France on and after Feb. 1, 1969.
	Barley	71-117	Bounty declared—rate.
	Molasses	71-118	Bounty declared—rate.
	Dairy products	75-113	Bounty declared—rate.
		75-114	Imposition of countervailing duties waived.
	Canned hams and canned shoulders	75-300	Bounty declared—rate.
		75-301	Imposition of countervailing duties waived.
Great Britain	Spirits	34466	Bounties declared—rates.
		34752	Descriptions.
		34962	No bounty on rum.
		35089	Proof gallons.
		35510	Alcoholic perfumery.
		35668	Orange bitters.
		47826-7	Quantity for computing duty.
		52555	Bounty on plain spirits terminated.
		55812	Modified as to certain spirits.
		48355	Bounties declared—rates.
	Sugar	80108	New rates.
		80127	New rates.
	Dairy products	75-113	Bounty declared—rate.
		75-114	Imposition of countervailing duties waived.
	Canned hams and canned shoulders	75-300	Bounty declared—rate.
		75-301	Imposition of countervailing duties waived.
Greece	Tomato products	72-88	Bounty declared—rate.
		74-66	Declared—rates.
Ireland	Spirits	47753	Bounties declared—rates.
		47826-7	Quantity for computing duty.
	Dairy products	75-113	Bounty declared—rate.
		75-114	Imposition of countervailing duties waived.
	Canned hams and canned shoulders	75-300	Bounty declared—rate.
		75-301	Imposition of countervailing duties waived.

Annex III.—*Countervailing Duty Orders Currently in Effect*—Continued

Country	Commodity	Treasury decision	Action
Italy	Galvanized fabricated structural steel units for the erection of electrical transmission towers.	67-102	Bounties declared—rate.
	Canned tomatoes and canned tomato concentrates	68-112	Bounty declared—rate.
		68-13	New rate.
		70-83	New rate.
		72-234	Discontinued as to canned tomatoes and canned tomato concentrates exported from Italy directly to the United States on and after July 15, 1971; new rate as to canned tomatoes and canned tomato concentrates exported from Italy to countries other than the United States and subsequently imported into the United States.
	Steel welded wire mesh	68-149	Bounty declared—rate.
	Ski-lifts and parts thereof	68-256	Bounty declared—rate.
		69-91	New rate.
	Certain steel products	69-113	Bounties declared—rates.
	Compressors and parts thereof	72-122	Bounty declared—rate.
	Refrigerators, freezers, other refrigerating equipment, and parts thereof	73-85	Bounty declared—rate.
	Die presses	74-165	Bounty declared—rates.
	Dairy products	75-113	Bounty declared—rate.
		75-114	Imposition of countervailing duties waived.
	Canned hams and canned shoulders	75-300	Bounty declared—rate.
		75-301	Imposition of countervailing duties waived.
	Float glass manufactured by Societa Italiana Vetro, S.p.A and Fabbrica Pisana, S.p.A	76-9	Bounty declared—rate.
	Cap screws, ¼" in diameter and over, of iron or steel	76-225	Bounty declared—rate.
	Iron or steel chains and parts	77-249	Bounty declared—rate.
India	Oleoresins	79-37	Bounty declared—rate.
	Footwear	79-275	Bounty declared—rate.
Japan	Certain fasteners	70-158	Bounty declared—rate.
	Nuts, bolts, and capscrews	77-128	Bounty declared—rate.
	Iron and steel chains and parts thereof	78-295	Bounty declared—rate.
Korea	Bicycle tires and tubes	70-13	Bounty declared—rate
	Handbags	77-152	Bounty declared—rate.
Luxemberg	Dairy products	75-113	Bounty declared—rates
		75-114	Imposition of countervailing duties waived
	Canned hams and canned shoulders	75-300	Bounty declared—rate
		75-301	Imposition of countervailing duties waived
Mexico	Carbon steel and high strength steel plate	76-7	Bounty declared—rate
		76-8	Imposition of countervailing duties waived
The Netherlands	Dairy products	75-113	Bounty declared—rate
		75-114	Imposition of countervailing duties waived
	Canned hams and canned shoulders	75-300	Bounty declared—rate
		75-301	Imposition of countervailing duties waived
Norway	Cheese, other than Jarlsberg	76-152	Bounty declared—rate
		76-153	Imposition of countervailing duties waived
Pakistan	Certain textile products	79-186	Bounty declared—rate.
Republic of Korea	Footwear	76-13	Bounty declared—rate
		76-14	Imposition of countervailing duties waived
Spain	Bottled green olives	76-341	
	Non-rubber footwear	76-342	
	Vitamin K	74-234	Bounty declared—rate.
	Unwrought zinc	74-235	Bounty declared—rate.
	Iron or steel chains and parts thereof	75-321	Bounty declared—rate.
	Ampicillin trihydrate	77-103	Bounty declared—rate.
	Amoxicillin trihydrate	78-20	Bounty declared—rate.
	Ferroalloys	78-90	Bounty declared—rate.
	Oleoresins	78-211	Bounty declared—rate.
Sweden	Cheese	80-11	Bounty declared—rate.
		79-71	Bounty declared—rate.
		78-186	Bounty declared—rate.
		76-189	Imposition of countervailing duties waived.
Switzerland	Rayon staple fiber	79-141	Bounty declared—rate.
	Emmenthaler and Gruyere cheese	76-5	Bounty declared—rate.
		76-6	Imposition of countervailing duties waived
Taiwan	Footwear	78-240	Bounty declared—rate.
		76-343	
Uruguay	Handbags	77-203	Bounty declared—rate.
	Leather wearing apparel	78-154	Bounty declared—rate.
	Leather Handbags	78-33	Bounty declared—rate.

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Annex III.—*Countervailing Duty Orders Currently In Effect*—Continued

Country	Commodity	Treasury decision	Action
West Germany	Textile mill products and men's and boys' apparel	78-444	Bounty declared—rate.
	Nonrubber footwear	78-32	Bounty declared—rate.
	Dairy products	75-113	Bounty declared—rate.
		75-114	Imposition of countervailing duties waived.
	Canned hams and canned shoulders	76-300	Bounty declared—rate.
		75-301	Imposition of countervailing duties waived.

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January 22, 1980

Part IV

Department of Labor

Office of Federal Contract Compliance Programs

Payment of Membership Fees and Other Expenses to Private Organizations

V 45 / 15 JA 22 80 UMI

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Part 60-1

Payment of Membership Fees and Other Expenses to Private Organizations

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Proposed rule.

SUMMARY: The Office of Federal Contract Compliance Programs is proposing a regulation which would prohibit Federal contractors from paying membership fees or other expenses for its employees to join or participate in private organizations which exclude persons on the basis of race, color, sex, religion or national origin, if membership in the organization can reasonably be expected to confer an employment advantage on the employees (for whom such fees or other expenses are paid) over similarly situated employees who are excluded from the organization. The proposal would establish a procedure through which the contractor conducts an analysis to determine whether an employment advantage exists, and would require contractors to cease payments to exclusionary organizations which confer such an advantage. The regulation would apply only to Federal contractors; it would have no application to the membership practices of private organizations.

DATE: Comments must be received by March 24, 1980.

ADDRESS: Send written comments to E. E. Mitchell, Director, Division of Program Policy, Office of Federal Contract Compliance Programs, U.S. Department of Labor, Washington D.C. 20210.

FOR FURTHER INFORMATION CONTACT: E. E. Mitchell, Office of Federal Contract Compliance Programs, U.S. Department of Labor, Washington, D.C. (202) 523-9426.

SUPPLEMENTARY INFORMATION: The Office of Federal Contract Compliance Programs (OFCCP) administers three programs which prohibit employment discrimination by Federal contractors and subcontractors. Executive Order 11246, as amended, prohibits employment discrimination based on race, color, religion, sex, and national origin; Section 503 of the Rehabilitation Act of 1973 prohibits handicapped-based discrimination; and Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 prohibits discrimination based on veteran status.

The proposal, however, would cover discrimination prohibited by the Executive Order only. The question of developing a regulation concerning membership fee payments arose in relation to OFCCP's authority under the Executive Order, and encompassed the types of discrimination covered by the Order. In the meantime, OFCCP has undergone consolidation of its responsibilities for enforcement of the Order and Sections 503 and 402. In considering the proper scope of its proposal, OFCCP is therefore requesting comments on whether there is a need to expand the coverage of the proposal to those groups protected by Sections 503 and 402.

The proposed regulation is intended to address employment problems which beset employees and applicants for employment with Federal contractors when such employees or applicants are excluded from membership in a private organization in which contractor-sponsored membership is provided to similarly situated employees or applicants. The proposal would make it a violation of the Executive Order for a contractor to finance membership in a discriminatory organization if such membership would confer upon the member employee a business or profesional advantage over similarly situated employees who are excluded from membership in the organization. Such business or professional advantage constitutes a barrier to hiring, advancement, and other conditions of employment for those.who, by virtue of their race, sex, religion or national origin, are excluded from contractor-sponsored membership in the discriminatory organization. The purpose of the proposed regulation is to prohibit contractors from paying membership fees for the employees to join exclusionary organizations which confer a business or professional advantage and thus erect a barrier to equal employment opportunities of excluded employees.

OFCCP has no jurisdiction over the membership practices of private organizations, and does not seek any through this proposal. This proposed regulation would not prohibit contractors from making direct contributions unrelated to employment to charitable, service, or other private organizations. Neither does the proposed regulation prohibit employees from maintaining membership in any organization for which they elect to pay membership or other fees not reimbursed by the contractor.

I. Background

The question of contractor payment of membership fees and related expenses first arose in early 1976 during the course of compliance reviews conducted by the Department of the Treasury which, at that time, was the agency delegated responsibility under the Executive Order over financial institutions. The Treasury Department found a number of banks which were financing membership for executive employees in prestigious private clubs. Some of these private clubs maintained discriminatory membership practices, particularly on the basis of sex. Because women were typically excluded from membership, Treasury Department officials asked the Department of Labor whether the payment of fees by an employer for its employees to join private clubs which maintained discriminatory membership practices violated the Executive Order. In a legal opinion which subsequently was circulated on a fairly wide basis, the Department of Labor concluded that such practices did violate the Executive Order.

As a result of the circulation of the opinion, the Department of Labor received a number of letters from organizations in which Government contractors subsidized memberships for their employees and which also restricted membership on the basis of race, color, religion, sex, or national origin. Most of these letters were opposed to the position taken by the Department of Labor in its opinion letter to the Department of Treasury, and some suggested that the opinion position violated the exemption for the employment practices of certain private membership clubs contained in Title VII of the Civil Rights Act of 1964, as amended, and the Civil Rights Act's public accommodations exemption for private clubs. Because these letters raised questions about the construction of sections of the Civil Rights Act over which it has no jurisdiction, the Department of Labor asked the Department of Justice to review the entire question of contractor payment of membership fees.

The response from the Department of Justice, in December 1976, advised that none of the exemptions in either Title VII or the public accommodations law, or the Constitution, would bar OFCCP from prohibiting the payment of dues or other expenses by a contractor where such a remedy was needed to correct discrimination in regard to promotions, compensation or other aspects of employment. But while Justice affirmed that OFCCP had clear authority to prohibit the payment of membership fees in such circumstances, it suggested that OFCCP's proposed opinion letter was overly broad. The Department of Labor sought additional clarification from Justice in July 1977. Justice reviewed the issues and, in the fall of 1977, recommended to the Department that OFCCP should consider issuing a regulation establishing a rebuttable presumption that a contractor's payment of fees or other expenses to an exclusionary organization constitutes a violation of the contractor's equal opportunity clause. In order to rebut such a presumption, the contractor would have to demonstrate that its fee and expense payment practices did not confer on member employees any business or professional advantage having a discriminatory impact upon hiring, promotion, commission bonuses, or other benefits or employment practices.

As this exchange of correspondence recognized, it is a common practice among certain companies to pay for their employees' membership in private associations, organizations and clubs. The purposes for this practice vary. Some are directly related to the conduct of the business, where membership in an organization provides the employee with opportunities to make business contacts, to entertain clients or to participate in events which further the conduct of business. Some, on the other hand, merely have the effect of furthering public and community relations and allow the employer to act the role of the "good citizen" by sponsoring employees' activities in organizations which provide community service. And some combine both purposes.

On July 13, 1979, the Senate Committee on Banking, Housing, and Urban Affairs conducted hearings on the payment by banking industry employers of employee membership fees in private organizations. Representatives of various civil rights groups spoke of the barriers facing women and minorities in advancing to upper levels of employment because of the industry's use of discriminatory private clubs to conduct business. The banking regulatory agencies presented studies which indicated that numerous commercial and home loan banks pay membership fees and related expenses for their employees to participate in private organizations, some of which maintain discriminatory membership practices. The studies also revealed that very few of the financial institutions surveyed had written policies relating to the payment of fees to organizations which discriminate in membership practices. A study conducted by the Federal Deposit Insurance Corporation revealed, for example, that 419 banks (or 60 percent of the 701 banks surveyed) regularly pay membership fees for participation by their employees in private organizations. Of the banks surveyed, 164 had established a policy of not paying fees to organizations with discriminatory policies.

Department of Labor officials in their testimony discussed the history of the development of this issue as it relates to the contract compliance program and noted the complexity of the problems involved in implementing such a policy; discussed the barriers that discriminatory private organizations may place in the way of employment advancement of women, minorities, and other groups protected by the programs administered by OFCCP; and reiterated the Department's position that employment discrimination arising from a contractor's payment of membership fees in discriminatory private organizations violates the Executive Order.

On October 19, 1979, the five constituent Federal financial regulatory agencies of the Federal Financial Institutions Examination Council (comprising the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration) published a policy to discourage financial institutions from paying membership fees to discriminatory clubs at which business is commonly conducted (see FR 60406). The policy also discourages payment of the costs of any business or social function conducted at such discriminatory clubs.

II. Proposed Regulation

The proposed regulation would make it a violation of Executive Order 11246 for contractors to pay membership fees or other expenses to organizations which bar, restrict, or limit membership on the basis of race, color, sex, religion or national origin where such restrictions or limitations impact upon employees' promotional opportunities, status, compensation or other terms and conditions of employment. The proposal would establish a procedure through which the contractor would conduct an analysis of its membership fee payment policy to determine whether any employees were maintaining contractor-sponsored membership in a discriminatory organization which conferred a business or professional advantage having an adverse impact on excluded employees.

Nothing in the proposal would prohibit contractors from paying membership fees to organizations which confer no business or professional advantage. Paragraph (b) of the proposed regulation contains an analysis composed of five steps designed to enable the contractor to determine whether its fee payment policy is non-discriminatory, which organizations to which it pays fees have discriminatory membership practices, which employees maintain employer-paid memberships in such discriminatory organizations, and whether these employees receive any business or professional advantage by virtue of their membership in such discriminatory organizations. The sixth step of the process would require the cessation of payments to any discriminatory organization which the contractor's analysis determines to be conferring a business or professional advantage.

In developing the proposal, OFCCP has considered a number of factors concerning employer fee payment practices and aspects of implementing a policy to address these practices. The two sections below pose a number of questions upon which OFCCP is particularly interested in receiving comment in this regard.

A. Questions of Practice

In this area OFCCP seeks comments and information about contractors' practices in paying membership fees and related expenses and their motives behind such payments.

1. *Reasons for paying fees and expenses.* What reasons do employers have for paying membership fees for employees who join various organizations, associations, and clubs? Making business contacts, entertaining company clients, a desire to associate the company with community affairs, providing fringe benefits to employees, and professional development of employees are presumably among the reasons. Do other reasons exist? How does the employer separate organizations for the purpose of determining to which organizations it will pay fees, how it will account for expenses, and how much it will pay?

2. *Advancement in employment.* How important is participation in an organization to an employee's advancement? In order to be a factor in advancement, must participation be in an organization which has an explicit business purpose, or may participation in a community service organization also be a factor? Does the importance of participation in a service organization increase when that organization is the

only one or one of the few in a community?

3. *Extent of participation.* Membership in an organization does not necessarily confer upon the participant the same privileges enjoyed by other members. If an employee is eligible for a form of membership which does not provide for full use of the facilities and full participation, is that employee disadvantaged insofar as the use of that organization for business purposes is concerned? For example, would women associate members of a traditionally all-male athletic club be disadvantaged if their membership category permitted them use of only the club's bar and restaurant and excluded them from the athletic facilities?

In considering whether to expand the scope of the regulation to include discrimination on the basis of handicap, OFCCP would also like comments on how the accessibility of club facilities might affect the organization's approach to membership of the handicapped. Are there instances in which the inaccessibility of all of a club's facilities to handicapped members raises impediments to those members' full enjoyment of membership privileges?

4. *Financial arrangements.* What methods do employers use to pay for employee participation in organizations, and how are these accounted for in the employer's records? Are methods used other than the direct payment to an organization by the employer or reimbursement in whole or in part to the employee? Which expenses are counted as business expenses, as fringe benefits to the employee, and as contributions for charity or community service? To what extent do employers purchase block memberships for the company, thereafter making participation available to employees? What effect does such a system have upon the policies and practices of the company, and how does the company determine which employees are eligible for the benefit of fee-paid membership?

B. Questions of Policy

1. *Extent of coverage.* Although the proposed rule would not cover private organizations, it could have an impact upon certain organizations through its requirement that contractors analyze their fee-payment practices and cease payment to discriminatory organizations which confer an employment advantage upon member employees. should OFCCP alter consideration of business or professional advantage so as to restrict the application of the rule? For example, if an organization has a purpose totally unrelated to any business or professional goal, should that fact be sufficient to establish the organization as one conferring no business or professional advantage? Or should OFCCP, in determining such an advantage, consider the actual functions of the organization, i.e., whether that organization functions to confer business or professional advantage upon its members? If OFCCP were to associate business or professional advantage with certain types of organizations, what organizational functions would be of the kind one would consider as conferring a business or professional advantage on participating employees?

In considering types of organizations, how should OFCCP characterize an organization as being of a particular type? How, for example, would each of the following types of organizations be considered:

Service clubs;
Fraternities, sororities and social clubs;
Civic organizations;
Religious societies;
Ethnic clubs and organizations serving particular national origins; and
Organizations whose primary purpose is to improve the employment, economic, or social posture of minorities or women.

2. *Consideration of accounting practices.* What consideration should OFCCP give to how a contractor accounts for the payments it makes for employee participation in an organization? If, for example, a contractor takes a tax deduction for such payments as business expenses, should the contractor be permitted to argue that no business advantage is conferred upon the employee participating in that organization? If so, on what grounds?

3. *Judging business or professional advantage.* While it is clear that business or professional advantage accrues from the environment a club provides for entertaining clients, it might also accrue from the opportunities to make business or professional contacts. Are there other ways in which a business or professional advantage might accrue? For example, if the organization is a particularly prestigious one, might advantage accrue solely from belonging to an organization of prestige? Once a contractor has determined whether an organization to which it pays fees and expenses provides no business or professional advantage, how can it demonstrate or verify that its determination is correct?

4. *Effects of the regulation upon employer policies.* What effects might OFCCP's proposed regulation have upon contractor's policies of paying membership fees? Might contractors, as an example, simply cease payments to all organizations and instead supplement employee salaries for the purpose of covering fee payments? If so, how will such contractors establish the amounts to be paid to each eligible employee? How will they reconcile differences in salaries and fringe benefits that may result from payments to employees with the Executive Order's requirement that compensation and other conditions of employment be made on a non-discriminatory basis? Comment is particularly sought from contractors in regard to this question.

III. Regulatory Analysis

It has been determined that this document does not contain a major proposal requiring the preparation of a regulatory analysis under Executive Order 12044, Improving Government Regulations (43 FR 12661), or the Department of Labor's guidelines for implementing the Executive Order.

This document was prepared by OFCCP's Division of Program Policy under the direction and control of Weldon J. Rougeau, Director, Office of Federal Contract Compliance Programs. Staff from the Office of the Assistant Secretary for Employment Standards and the Office of the Solicitor provided assistance.

Note.—The EEOC has not approved the proposed OFCCP regulations on payment of membership fees to private clubs and other private organizations under Executive Order 12067 authorizing the Commission to coordinate civil rights policy, but has voted to permit publication because the Senate Housing, Banking and Urban Affairs Committee has requested the earliest possible publication.

EEOC has reservations concerning § 60–1.11 which bars payment of membership fees to discriminating clubs unless the employer can show that there are no effects on the employment opportunities of employees who are excluded. The Commission invites comment on the alternative position which, under § 703(a)(1) of Title VII of the Civil Rights Act of 1964, as amended, would absolutely prohibit payment by employers of fees to such discriminating clubs.

Accordingly, it is proposed to add a new § 60–1.11 to Part 60–1, Title 41, Code of Federal Regulations, as set forth below.

Dated: January 17, 1980.

Ray Marshall,
Secretary of Labor.
Donald Elisburg,
Assistant Secretary, Employment Standards.
Weldon J. Rougeau,
Director, OFCCP.

§ 60–1.11 Payment or reimbursement of membership fees and other expenses to private clubs.

(a) *Discriminatory practice.* Payment or reimbursement by contractors of membership fees and other expenses for participation by their employees in a private club or organization which bars, restricts or limits its membership on the basis of race, color, sex, religion, or national origin constitutes a violation of Executive Order 11246 where such restrictions or limitations impact upon employees' promotional opportunities, status, compensation or other terms and conditions of employment.

(b) *Responsibilities of contractors.* In order to ensure that no employee suffers employment discrimination because of the contractor's membership fee payment policy, each contractor having such a practice or policy shall conduct the following analysis. It shall be the responsibility of the contractor to demonstrate compliance with the procedures required in this section. The contractor shall:

(1) Analyze its fee payment policy to ensure that its benefits are available to all similarly situated employees without regard to race, color, sex, religion, or national origin.

(2) Determine which, if any, of the organization to which payments are made maintain membership policies which bar, restrict, or limit membership on the basis of race, color, sex, religion, or national origin.

(3) Determine which employees in each job group or category maintain contractor-sponsored membership in private clubs or organizations which bar, restrict, or limit membership on the basis of race, color, sex, religion, or national origin.

(4) Determine any direct or indirect benefits received by employees from their membership in such exclusionary clubs or organizations which serve to enhance their employment opportunities or which give to them an employment or professional advantage over employees who are excluded from such membership.

(5) Compare the promotion rate, compensation, and other job benefits of employees who maintain contractor-sponsored membership in such exclusionary clubs or organizations with those of employees who are excluded from such clubs or organizations, and record the results.

(6) Upon determining that there exists any employment or professional advantage, immediately cease the reimbursement or payment of membership fees for participation in the exclusionary club or organization. The requirement contained in this paragraph (b)(6) that a contractor cease payments does not apply if the contractor establishes that the membership of its employees in such clubs or organizations has no impact on their promotional opportunities, status, compensation or other terms and conditions of employment.

The contractor may conduct a separate analysis for different chapters of an organization, and where it does so, may limit any necessary corrective action to the particular chapters which observe discriminatory membership practices. In addition, the contractor may substitute any other procedures to carry out its responsibilities under this section, or to demonstrate that its fee payment practices do not result in proscribed employment discrimination.

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Part V

Department of Agriculture

Food and Nutrition Service

Child Care Food Program

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 226

Child Care Food Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule implements the provisions of Pub. L. 95-627, the Child Nutrition Amendments of 1978, regarding the Child Care Food Program. Enacted on November 10, 1978, the statute provides permanent authorization for the Program. The overall intent of the statute and these regulations is to facilitate increased particpation in the Program and to improve nutrition among children enrolled in day care. The Department expects the final rule to remove obstacles and provide inducements for participation, and at the same time ensure the quality and nutritional integrity of the Program. Provisions of the final regulations which will help to achieve these goals include a reorganization of the payment structures in the Program, alternative approval procedures for day care centers, day care homes and outside school hours care centers and systematized Program assistance requirements for State agencies and sponsoring organizations. The Department anticipates that the new provisions embodied in these regulations will stimulate Program growth. This responds to a growing need nationwide among working parents for adequate child care services.

EFFECTIVE DATE: Refer to § 226.29—Implementation.

FOR FURTHER INFORMATION CONTACT: Jordan Benderly, Director, or Beverly Walstrom, Child Care and Summer Programs Division, Food and Nutrition Service, Washington, D.C. 20250, 202-447-8905.

SUPPLEMENTARY INFORMATION: The Child Care Food Program is authorized by section 17 of the National School Lunch Act. Comprehensive final Program regulations were last published on June 25, 1976 (41 FR 26179). Three amendments to those regulations have since been published to provide audit funds, delete the time limit for securing IRS tax-exempt status, and announce the opening of the Mountain Plains Regional Office. Pub. L. 95-627, enacted on November 10, 1978, substantially revises the Program and authorizes it on a permanent basis. This statute prescribes several major nondiscretionary changes, such as mandatory advance payments, a new method of assigning reimbursement rates, separate food service and administration rates for sponsoring organizations of day care homes, establishment of institution appeal procedures, time frames for application approvals and payments of claims, and annual notification of Program availability to non-participating child care centers, outside-school-hours care centers, and day care homes. (The new statutory formula for State administrative expense funds is codified under Part 235 of this title.)

On July 3, 1979, proposed Child Care Food Program regulations were published (44 FR 39078) to implement Pub. L. 95-627. These regulations incorporated not only the provisions of the law, but also recommendations based on three years of Program experience from various sources, including a public meeting held in January 1979, to solicit public comment. A comment period of 45 days was initially announced and subsequently extended to afford a total of 60 days for interested parties and organizations to submit criticisms, favorable opinions, and information to affect regulatory policies. The preamble to the proposed regulations actively encouraged public comment, identifying particular areas where the Department was especially eager to receive public input. The Department received 344 responses from all sectors of the child care community, including State agencies, advocacy groups, sponsoring organizations, child care centers, home day care providers, FNS Regional Offices, licensing authorities, and experts on nutrition.

All responses were studied, and comments were summarized and cataloged according to the section of the regulations, to which they refer so that they could be systematically and readily considered during the development of final regulations.

Comments on regulatory issues are presented where those issues are discussed in the preamble. In most instances, the Department did not discuss comments which recommended changes contrary to Pub. L. 95-627, or which were unaccompanied by justification and without discernible rationale. This preamble sets forth the basis and purpose behind significant changes from the July 3 proposed regulations. It can be generally assumed that those reasons given in the preamble to the proposed regulations for creating its provisions are still valid for those provisions which appear unchanged in the final rule. They are not, therefore, repeated or elaborated in this preamble except in instances where an appreciable number of comments disclose misunderstanding or request clarification. A thorough understanding of the grounds for the final rule may require reference to the July 3 publication (44 FR 39078).

I. Definitions

1. *Classifications.* Some commenters requested clarification of the definitions of "institution", "sponsoring organization" and "child care facility", and the relationship among these entities. The apparent lack of clarity is probably attributable to several factors: (1) the first two terms are not employed in precisely the same manner as in the Program regulations of June 25, 1976; (2) the terms were not always appropriately used in the text of the proposed rule; and (3) the adjective "independent" was occasionally attached to "institution", yielding a redundant construction. These definitions were intended to differentiate more clearly between institutions and sponsoring organizations.

An institution is any organization which directly enters into a Program agreement with the State agency. A sponsoring organization is a type of institution which administers the Program at one or more day care homes, or two or more centers, or at one center which is organizationally distinct (i.e., has separate tax-exempt status) from the sponsoring organization, or any combination of centers or homes. An "independent center" is the other type of institution; it may be either a child care center or outside-school-hours care center.

The term "child care facility" is reserved for centers or homes which participate in the Program under the auspices of a sponsoring organization and do not themselves enter into a Program agreement with the State agency. There are essentially two kinds of organizations in the program: institutions, which execute Program agreements with the State agency, and child care facilities, which do not. The term "family day care home" was shortened to "day care home" in order to avoid confusion between Program terminology and terminology in Federal Interagency Day Care Requirements (FIDCR).

2. *Income to the Program.* Twelve commenters requested clarification of the definition of income to the Program. The Department believes the definition to be adequate, but acknowleges the advisability of further explanation. The definition focuses on funds actually "used" in an institution's food service, rather than on funds "designated for use" in the food service (as in the Program regulations of June 25, 1976), since funds in the latter category may sometimes be legitimately diverted to other expenses incurred in an institution's overall child care program, of which the CCFP is but a part. While the definition in the final rule encompasses all monies, other than Program payments, used in the food service, institutions are advised to report as income on their claims for reimbursement only funds used for food service costs which are claimed for reimbursement. If, for example, an institution uses Head Start funds to pay a cook's salary, but does not claim that salary for CCFP reimbursement, then the Head Start funds so employed should not be reported as income to the CCFP. If, during the Fiscal year, it becomes necessary to pay food service bills with non-Program funds, institutions may wish to borrow the necessary funds from their other accounts, paying back such loans to the extent possible with CCFP reimbusement. Money lent rather than permanently transferred to the Program is not reported as income to the CCFP. At the end of the fiscal year, whatever loans remain outstanding after all CCFP reimbursement has been applied to Program costs become permanent cash transfers, and thus funds used in the Program. But they are not reported as income to the Program because they cover food service costs in excess of maximum Program earnings. When such loans are made to the Program, they should be clearly identified as loans in the institution's journal of accounts.

3. *Enrolled Children.* Fifteen commenters requested that "enrolled children", a term frequently used in the proposed rule, be defined. The Department accordingly defines enrolled children as those for whom the institution has on file a document signed by the parent or guardian indicating that the child is enrolled for child care under the auspices of the institution. Only meals served to enrolled children may be claimed for reimbursement. Daily meal count records document meals claimed under the Program. But documentation of enrollment, in turn, is necessary to validate meal counts. Signed family size and income statements, of course, constitute acceptable documentation of enrollment. The families of children reported in the paid category in center programs need not submit family size and income statements; in their absence, other documentation of enrollment is needed. This rule does not require the collection of such data from families of children enrolled under the Program in day care homes. However, it does require that there be alternate documentation to support the home program enrollment figures. The Department believes that this definition will resolve many questions regarding whether certain meals can be claimed and improved Program accountability.

4. *Food Service Management Companies.* The term "vendor" has been replaced by the term "food service management company" because the latter, which has gained wide acceptance through use in the Child Care and Summer Food Service Programs is, as some commenters have indicated, more immediately understood by the child care community. It also has the clear advantage of greater specificity than "vendor".

5. *FIDCR.* The definition of, and references to, FIDCR have been removed from the final rule because this set of child care standards is no longer applicable to the Program. A new set of standards, the CCFP child care standards, have been developed for the Program.

II. Licensing/Approval

1. *Licensing, Child Care Standards Approval, registration.* A number of commenters requested clarification of the meaning of "licensing", "child care standards approval", and "registration". Some commenters asked why Pub. L. 95-627 and the proposed regulations specify that the child care eligibility requirement can be satisfied by licensure or approval, but not registration. Others have inquired why the outreach mailing mandated by Section 226.7(f) includes registered non-participating centers and homes when these are not eligible to participate in the CCFP. A few commenters recommended that registration be accepted for the purpose of establishing eligibility.

The Department understands licensing to mean the application of child care standards to a child care center, outside-school-hours care center, or day care home and the issuance of a document certifying compliance with these standards. State or local law establishes the standards and the scope of their applicability, and empowers the licensing authority to apply them and to grant licenses. Child care standards approval signifies the application of child care standards to a center or home by a State, Federal, or local agency to establish compliance, usually for the purposes of the program administered by the agency. The key similarity between licensing and approval is that both entail the application of child care standards and a compliance determination. The Department believes that these procedures are essential for the health and safety of children participating in the Program and therefore requires licensure or approval for child care centers, outside-school-hours care centers, and day care homes. Registration, as employed in Pub. L. 95-627 and this rule, signifies only the formal acknowledgement of the existence of a center or home, without the application of child care standards or any determination regarding compliance. Registration does not, therefore, meet the child care eligibility requirement of the Program. The Department is aware that this term has different meanings in various States. For example, a State licensing authority restricted by law to licensure of child care centers only may certify the compliance of day care homes with appropriate standards, but refer to this procedure as registration because legal authority to license homes does not exist in the State. This procedure, although called "registration" by the licensing authority, corresponds to the Department's conception of approval and therefore satisfies the Program child care eligibility requirement. State agencies are advised to compare the procedure employed with the definitions supplied in this preamble when determining the Program eligibility of a child care center, outside-school-hours care center, or day care home. Non-participating registered centers and homes are included in the outreach mailing mandated by Section 226.7(f) because the Department believes that information on Program benefits may provide an incentive for registered centers and homes to secure licensing or approval so that they can satisfy the Program child care eligibility requirement.

2. *CCFP Child Care Standards.* In the preamble to the proposed rule, the Department expressed the intention to establish a modified set of child care standards based on Federal Interagency Day Care Requirements (FIDCR) as amended by Title XX of the Social Security Act. Standards under consideration for retention or modification in final regulations were listed. Comments on the appropriateness of these standards, with particular stress on their applicability to participating after school recreation programs, were solicited, as were comments on the child care standards proposed by the Department of Health, Education, and Welfare (DHEW) on June 15, 1979. Only 13 comments on the issue of child care

standards for the Program were received. These do not represent a concensus of opinion either on the general issue or any specific standard. For example, two commenters felt that Title XX FIDCR staff-child ratios are too stringent for outside-school-hours care centers, while two argued that the ratios for school-age children should be retained or made more stringent.

Three commenters recommended that the Department adopt the standards proposed by DHEW, while one expressed strong opposition to this course of action.

The Department has pursued its intent, as conveyed in the preamble to the proposed rule, to adapt Title XX FIDCR to the Program. All of the standards listed in the July 3 preamble (except "Educational Services," which are cited therein as being optional under Title XX FIDCR) have been incorporated with modifications into Section 226.7 (d)(2) of the final rule as standards for child care centers and day care homes. The standards for outside-school-hours care centers which were published in the June 25, 1976, Program regulations are retained in this final rule, except that child-staff ratios are stipulated herein. (The same ratios apply to child care centers.) Compliance with these standards entails the submission of current fire/safety and health/sanitation permits or certificates. The Department decided to retain the standards for outside-school-hours care centers so that outside-school-hours care canters would not be required to shift from these standards to CCFP child care standards with the possibility of an additional shift to DHEW standards at a later date. CCFP child care standards embody the Department's intention to ensure the health and safety of children without imposing requirements that would either reduce present participation or retard Program expansion. The Department is committed to monitoring the implementation of these standards in order to determine the extent to which they are applied, their effectiveness in ensuring children's health and safety while in care, and their effects on presently participating and prospective day care homes, outside-school-hours care centers, and child care centers. The Department will give serious consideration to rescinding the CCFP child care standards in favor of DHEW standards for day care homes or one or both types of centers when the latter are issued as a final rule. The Department will consider adopting final DHEW standards because these standards have been under long and careful consideration by the Federal department with the greatest concentration of expertise in the area of child care, and because the DHEW standards are being developed with the aid of extensive input from the child care community.

Independent centers, and sponsoring organizations on behalf of centers or homes under their jurisdiction, may choose to demonstrate compliance with CCFP child care standards or applicable State or local standards when licensing or approval is not available.

Section 226.7(d)(4) establishes alternate approval procedures to be implemented in the backlog situation. If, one year after the State agency approves for Program participation a center or home to which it has granted alternate child care standards approval in the backlog situation, the licensing authority indicates that the center or home has failed to take action on completing licensing requirements, then the State agency must terminate the home or center's Program participation. If, on the other hand, the center or home has initiated the necessary actions, but has not completed them within the one-year period, the State agency may renew standards approval. These provisions apply in instances when the licensing authority offers instructions on how the center or home may bring itself into compliance with licensing requirements and suspends final action on the application for licensure rather than denying it. If the licensing application is denied, § 226.7(d)(4) indicates that the State agency must terminate the center or home's Program participation effective the date of the denial.

3. *Alternate Approval Procedures:* Some commenters expressed displeasure with the proposed requirement that State agencies provide alternate approval to otherwise eligible child care centers, outside-school-hours care centers, and family day care homes where licensing is not available. However, because Pub. L. 95–627 mandates that alternate approval be made accessible where regular licensing or approval is not available, the final rule retains the provision requiring State agencies to provide for alternate approval. To satisfy this requirement, State agencies may permit independent centers and sponsoring organizations on behalf of their facilities to self-certify compliance with applicable State, local or Child Care Food Program child care standards.

4. *Backlogs:* One area of the proposed alternate approval provisions which was the subject of significant public comment was alternate approval in situations where licensing is not available on a timely basis due to the licensing authority's administrative backlogs. Ten commenters questioned the legality of the State agency's granting child care standards approval to a center or home for which State licensure is mandated by law as a prerequisite to operation. Were the State agency to grant such approval, it would be contravening, and encouraging the center or home to violate, State law. The Department has therefore provided, in Section 226.7(d)(4) of the final regulations, for an exemption from State agency alternate approval responsibilities in the backlog situation. FNS will exempt a State agency with respect to any type of child care entity (child care center, outside-school-hours care center, day care home) when State law mandates that entities of this type secure State licensure as a prerequisite to operation. If child care entities in States with such laws were to be granted alternate approval, the administering agencies would be dealing with child care entities that operate illegally. Such a situation would be untenable. A State agency seeking this exemption relative to a given type of child care entity must submit for FNS review and approval documentation from the chief State legal officer that the condition for exemption exists within the State. This exemption provision does not apply to the State agency's responsibility to engage in alternate approval procedures relative to centers or homes for which licensing or approval is not legally available or is legally available but not required by State law.

III. State Responsibilities

1. *State Plan of Child Care Food Program Operations.* At the request of numerous commenters, the paragraphs of § 226.6 enumerating Program data requirements have been revised and reorganized for the purpose of clarification. Also in response to public comment, § 226.6(a) has been changed to include the signature of the chief State agency officer as a prerequisite to approval of the Plan. Commenters expressed the view that, since the regulations prescribe certain State agency procedures in great detail, a requirement that these procedures be included in the State Plan would result in an unnecessary verbatim repetition of regulations. The paragraphs of § 226.6 dealing with food service equipment assistance, the institution appeal procedure, and start-up and advance payments therefore require that the State agency detail in its Plan only those portions of the regulatory procedures relative to which it may exercise discretion. In order to facilitate

preparation and clarity in the format of Plans, the requirements have been redesignated with a single series of arabic numbers. Finally, a number of commenters recommended that the final rule provide for a period of public comment on the Plan. While the Department encourages State agencies to provide for public input into their Plan development procedures, no public comment period has been mandated in this rule. Timeframes for Plan development and submission impose time constraints on State agencies which could become too severe if a formal comment period were mandated in regulations.

2. *Application approval.* The proposed rule afforded State agencies two distinct options with regard to the processing of applications. First, the State agency could annually update applications rather than each year require resubmission of all materials required for initial Program approval. Benefits were to be derived from this process in that only information which had changed during the previous year would be required for updating an institution's application. In fact, itemization of information subject to change, such as has been incorporated into § 226.6(b), shows that little information need not be resubmitted annually. However, the option has been retained in the final rule for use by State agencies which may find it advantageous. Second, the proposed rule permitted State agencies to extend the annual process of renewing institutions' participation in the Program throughout the year. This practice would permit the State agency to evenly distribute application processing activity over the year rather than concentrating it in the period immediately preceding commencement of each fiscal year. The Department's Office of General Counsel (OGC) has determined, however, that a Program agreement may not be effective during two fiscal years because Federal agencies may not obligate funds which have not been appropriated by the Congress. An agreement effective from May 1, 1979, to April 30, 1980, for example, would establish a commitment of funds for reimbursement for the period October 1, 1979–April 30, 1980, without a supporting Congressional appropriation. Funds not appropriated may not be committed; thus, each Program agreement must be annually renewed effective October 1. This requirement could increase the workload but some State agencies may still find it advantageous because it permits distribution of the application processing workload.

Fifteen commenters requested that the timeframes established for approval of applications be increased either by changing the number of days permitted or by changing "calendar days" to "working days." The former suggestion could not be implemented because Pub. L. 95–627 specifies the number of days to be allowed. The latter method could not be used because the Department's OGC has interpreted Congressional intent to be that whenever the law stipulates "days," "calendar days" are intended. The Department had discretion in establishing some regulatory timeframes in other sections of the regulations. For purposes of clarification, all references in the final rule are either to "calendar days" or "working days."

3. *Commodity distribution.* State agency procedures for implementing the commodity provisions of Public Law 95–627 have been clarified in the final rule (§ 226.7(g)). While some commenters argued that it is impractical to allow some institutions to receive commodities while others receive cash-in-lieu of commodities, the statute clearly provides for institution discretion on whether to receive commodities or cash "unless this proves impracticable due to the small number of institutions preferring donated commodities."

June 1 has been specified as the date by which the State agency must submit to the State distributing agency a list of institutions which have elected to receive commodities with estimates of the average daily number of lunches and suppers to be served to children by each of these institutions. As stipulated in the proposed rule, the State agency may, under certain circumstances, request permission from FNS to provide cash in lieu of commodities to all institutions. Such requests must be submitted to FNS so as to allow sufficient time for deliberation and, if the request should be denied, for preparation and submission of the institutional commodity list to the State distributing agency by June 1. The final rule therefore requires that all State agency requests for cash in lieu of commodities for all institutions under the Program be submitted to FNS not later than May 1.

4. *Institution appeal procedure.* In response to comments, the scope of actions which may be appealed has been expanded to include a denial of an application submitted by a sponsoring organization on behalf of a child care facility and a termination of the participation of a facility. A number of commenters asserted that institutions determined "seriously deficient" by the State agency under the provisions of § 226.7(c) should have the right to appeal. However, all findings of serious deficiency lead to one of two actions, denial of an application or termination of Program participation, both of which are appealable actions. An appeal of the finding of serious deficiency, which is based on precisely the same evidence as the denial or termination, would be redundant. One commenter recommended that the State agency's notices of action and the time and place of personal appearance be posted by certified mail, return receipt requested. The Department has accepted this proposal and revised the final rule accordingly. Postal receipts constitute the only means for documenting (1) commencement of the 15-day period following receipt of the notice of action within which the institution must file its request for a review, and (2) the 10-day period between notification of a personal appearance and the date of the appearance. In response to the request of 9 commenters, this former period has been firmly set at 15 days. State agencies are required to acknowledge a request for review within 10 calendar days of receipt. The final rule also clarifies the distinction between a personal appearance before the review official, and submission of written documentation to the review official, both of which are included in the institution's right to appeal. Whatever written documentation the institution chooses to submit must be filed within 30 days of the institution's receipt of the notice of action so that the review official will be assured of sufficient time to consider such material prior to the date by which he must render his decision. The final rule also provides that institutions and facilities may continue to operate under the Program during an appeal of termination, unless the action was based on imminent danger to the health or welfare of children. State agencies should document every case where an institution or facility is terminated based on imminent danger to children.

5. *Program assistance.* Fourteen commenters stated that the review requirements proposed in § 226.7(k) either were adequate or should be increased. An equal number of commenters argued that these requirements, especially the percentage of child care facilities to be reviewed, place an undue burden on State agencies. Some asserted that the administrative review mandates, combined with other newly proposed provisions which increase State agency responsibilities, would entail costs in excess of funds generated by the State administrative expense (SAE) funding

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formula (Part 235 of this title). Available information and comments do not, in the Department's judgment, support a reduction of the 33.3 percent of institutions, and 15 percent of the child care centers and outside-school-hours care centers under their jurisdiction, to be reviewed annually by the State agency. But the Department does believe that sufficient cause exists for reducing the percentage of day care homes under each sponsoring organization to be reviewed. Given the limitation on SAE funds available to State agencies, cost effectiveness becomes an especially crucial criterion in the evaluation of their management and administrative requirements. The unit cost benefits of reviewing a sponsored center or an institution far exceed those to be derived from a home review, with respect to both the number of children who will benefit from assistance provided by the State agency during a review and the State agency's responsibility to monitor Program compliance. A reduction in the percentage of homes to be reviewed would liberate State agency review resources for a more intensive concentration on institutions and centers, and thus, a more efficient and effective supervisory assistance effort. The Department also observes that 48 percent of the homes participating in State agency-administered States are concentrated in only four States, upon which the proposed home review quota would have a disproportionate impact. The SAE formula takes into account the amount of reimbursement earned by institutions in the State, but not the number of feeding locations in the State. A home generates considerably less reimbursement, and proportionately less SAE funding, than a center. Yet, the resources consumed by a home review may approach those required for a center review. Accordingly, the Department has provided in the final rule that the State agency need review not more than 10 percent of the first 1,000 day care homes and 5 percent of the homes in excess of 1,000 under each sponsoring organization reviewed.

6. *Child care standards compliance.* A number of commenters opposed the requirement of § 226.7(m) that the State agency, when conducting administrative reviews of centers or homes to which it has not granted alternate approval, report observed violations of the applicable child care standards. Justifications presented for opposition to the requirement often indicate that it has been misunderstood. The State agency is required to review, as a part of the administrative review process, independent centers or child care facilities for child care standards compliance only when the center or facility is operating under alternate approval granted by the State agency. This provision does not, as has been supposed by some commenters, impose upon State agencies the responsibility to determine compliance with child care standards applied by other agencies or authorities. Rather, where licensing has been granted by the licensing authority, it requires only that they report to the appropriate authorities whatever standard violations they may observe during the course of administrative reviews. Such observation is incidental to, rather than a mandatory part of, the administrative review process. A State agency representative who counts 17 children at the lunch service in a day care home, or notes blatantly unsanitary conditions in the kitchen of a child care center, for example, is required by the final rule to report accordingly to the appropriate licensing authority. The rule promulgates what the Department considers to be a necessary and reasonable administrative practice for the protection of children.

7. *Food service equipment assistance.* The proposed rule mandated that each State agency establish an application deadline. This provision would ensure that all timely applications from eligible institutions have an equal opportunity for consideration. Commenters noted, however, that the need to grant assistance may arise both before the application due date and after the State agency has made awards exhausting its apportionment. At any time during the fiscal year, an institution may experience a sudden need for assistance without which it would be unable to continue its food service under the Program, for example, the irreparable breakdown of a stove. Section 226.25(g) provides for direct disbursement of assistance funds to food service equipment suppliers on behalf of an institution when all Program eligibility requirements have been met except licensing/approval, and all licensing/approval requirements have been met except for food service equipment. (While several commenters opposed this provision, it appears in the statute and is therefore included in the final rule.) This option was afforded to the State agency as a means for facilitating Program expansion. State agencies may need access to assistance funds for this purpose at any time during the fiscal year. Therefore, § 226.25(h) of the final rule enables the State agency to place in reserve up to 10 percent of its food service equipment assistance apportionment for direct disbursement, emergency assistance awards, and awards to approved institutions which need equipment assistance to initiate Program operations. Reserved funds may be utilized for these purposes and may be taken out of reserve at any time to meet identified equipment needs of other institutions.

8. *Management evaluations.* Comments from the General Accounting Office have indicated that followup on management evaluations of State agencies should be intensified so as to ensure that corrective actions are taken on a timely basis and that such actions are effective. Therefore, the Department has added to § 226.8(c) the requirement that the State agency submit to FNSRO a written plan for correcting serious deficiencies, including specific timeframes for accomplishing corrective actions and initiating followup efforts, within 60 calendar days of receipt of the management evaluation report.

9. *Unitization of meals provided by food service management companies.* Ten commenters opposed § 226.7(h)(11) of the proposed rule, which mandated that breakfasts, lunches, and suppers provided to outside-school-hours care centers by food service management companies be unitized, with or without milk. Comments indicated that bulk delivery may be more suitable for some Programs, and that it may facilitate the provision of hot meals. The Department recognizes the validity of these arguments and therefore permits exemption from the unitization requirement when the State agency determines that unitization would impair the effectiveness of food service operations.

10. *Participation controls.* Sixteen commenters raised various concerns regarding the establishment of participation controls. Section 226.8(k) of the proposed rule confirmed the State agency's authority to establish control procedures for ensuring that payment is not made for meals served to children in excess of "the authorized capacity of each institution." In the final rule, "institution" has been replaced by "independent center or child care facility" because an institution may be a sponsoring organization with a number of facilities under its jurisdiction, whereas authorized capacity applies to the individual center or home. Eleven commenters expressed concern that a State agency exercising this control might not take into account the service of meals in shifts, i.e., breakfast served at two different times to two different groups of children. These commenters apparently assumed that the control

would be effected through analysis of claims for reimbursement. The Department believes, for the following reasons, that the control can be effectively exerted on a consistent basis only through on-site observation. First, control through analysis of sponsoring organization claims is not likely to be successful because attendance below licensed capacity at one facility may compensate for excessive attendance at another so that the sponsoring organization's claim reveals no violation. Second, with respect to independent centers, claims analysis is an effective means for exercising the control only when the State agency ensures that apparent excesses are not actually attributable to meal service in shifts.

11. *Special developmental projects.* Two commenters requested clarification as to whether funds for special developmental projects (§ 226.4(j)) are a part of, or in addition to, regular Program funds. Pub. L. 95-627 specifies that the total amount of assistance a State can receive in any fiscal year under the CCFP shall not exceed the sum of (1) funds provided by the State to institutions, and (2) funds used for special developmental projects under section 10 of the Child Nutrition Act of 1966. Therefore, the Department has determined that funds for special developmental projects are separate from and additional to regular Program funds.

12. *Approval of applications and termination of institutions.* The proposed rule prohibited participation by institutions which have been terminated from the Program during the prior three fiscal years. The Department has decided that, in order to provide some flexibility in dealing with terminated institutions, the State agency, with FNS concurrence, will be permitted to approve the application of a terminated institution before the expiration of three fiscal years if the State agency determines that the institution has taken all the corrective actions needed to prevent recurrence of the deficiencies that led to the termination of the institution (§ 226.7(c)).

IV. Financial Management Provisions

1. *Advance payment provisions.* Commenters favored advance payments by more than two to one. Revisions and clarifications were, however, requested with regard to advance payment procedures. Some commenters questioned the practice of issuing three advances prior to receipt of a valid claim for the month for which the first advance was paid (e.g., paying an August advance prior to receipt of a valid claim for June). Five of these commenters misunderstood § 226.11(b) to mean that three advances must be issued prior to receipt of a valid claim. Rather, the proposed and final rules establish three advances as the maximum number which may be issued without receipt of a valid claim. This maximum does not restrain the State agency from establishing more stringent controls, provided the controls will not prevent the State agency from making advance payments within the required timeframes. Having issued advances for June and July, for example, the State agency may withhold the August advance until the June claim has been received and validated. But this tighter control will be feasible only if the State agency can, between July 10, the due date for the first claim, and August 1, the date by which the third advance must have been issued, place a stop-payment on the third advance. It is anticipated that few State agencies, especially those with computerized payment systems, will be able to do so. State agency controls over advance payment are perhaps best effected through careful determinations regarding the amounts of initial advance payments and frequent adjustments of these amounts on the basis of claims for reimbursement.

A number of commenters pointed out that the procedure for establishing the amount of the first advance on the average monthly reimbursement paid to an institution during its prior six months of operations does not adequately allow for growth in an institution's participation which may have taken place during this period. The proposed rule provided for an initial advance in an amount less than the six-month average in instances where an institution's participation had dwindled by stipulating that the State agency "may limit the amount of the advance payment to the full amount of reimbursement which the State agency has anticipated the institution will earn in the month for which the advance payment is made" (§ 226.11(a)). By replacing "limit" with "adjust", the final rule allows State agencies to make the initial advance in an amount either more or less than the six-month average as determined by its estimate of the institution's needs. A combination of 14 home sponsors and providers, two advocacy groups, four State agencies, and two Regional Offices expressed concern relative to the timeframes for the flowdown of advance payments from the sponsoring organization level to day care home providers. Section 226.16(j) of the proposed rule provided that "each sponsoring organization for family day care homes shall disburse within 15 working days of receipt from the State agency the full amount of food service payments among each of the operating homes under its jurisdiction." Some commenters were concerned that disbursement of advances within 15 working days of receipt may result in numerous overpayments to day care homes in the form of unearned advances. Such overpayments would result from the relatively high turnover in day care home participation and in child placements within homes. Foreseeing the likelihood of overpayments and the time and difficulty attendant upon recovering them, home sponsoring organizations might exercise their option to reject advance payments for homes.

Alternatives to the proposed rule offered by commenters either explicitly or implicitly allow for sponsors to withhold each home provider's advance until the provider's records have been submitted for the month for which the advance is payable. Suggested timeframes for flowdown of advances to homes range from the day of receipt of the provider's records to within 15 days of receipt.

The Department recognizes the validity of the commenters' arguments and, at the same time, the importance of retaining the cash-flow benefits of advances for homes. Section 226.17(g) of the final rule therefore provides that sponsoring organizations electing to receive advances for homes must disburse the advances to each home not later than the fifth working day following receipt of the home's records for the month for which the advance is payable. Sponsoring organizations may still, of course, disburse advances to homes immediately upon receipt of advance payment from the State agency. Assuming prompt submission of provider records (which will be encouraged should sponsoring organizations of homes elect to exercise their new option under § 226.17(g)), advances could be issued to providers as early as the fifth day of the month following the reporting month. Under the Program regulations of June 25, 1976, homes could not expect to receive their first Program payment before the second week of the month following their first month in the Program, i.e., approximately 75 days after most serve their first Program meal. The option of § 226.17(g) would encourage more sponsoring organizations to accept advance payment for their homes and accelerate first payment to homes by 4 to 6 weeks.

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Section 226.17(j) mandates that sponsoring organizations maintain Program payments in a non-interest-bearing account from the date of receipt to the date of disbursement. This provision ensures that sponsoring organizations which decide to exercise the option of § 226.17(g) will base their decision on the best interests of homes under their jurisdiction.

Four commenters took issue with the provision requiring that sponsoring organizations disburse to the homes under their jurisdiction the full amount of food service payments because it does not take into account situations in which the sponsoring organization provides either vended meals or groceries to its homes for use in the Program. While the Department does not encourage this practice, provision has been made for it in § 226.17(g) of the final rule. The sponsoring organization may withhold from Program payments to each home an amount equal to food service costs incurred by the sponsoring organization on the home's behalf and with the home provider's written consent. Section 226.19(b)(7) requires that any arrangement between a sponsoring organization and a day care home for the sponsoring organization to incur food service cost on the home's behalf and withhold from the home payment an amount sufficient to cover such costs be incorporated into the mandatory agreement between the sponsoring organization and the home.

Section 226.19(b) has been revised to allow for such arrangements in that it now prevents only the charging of administrative fees to homes, as opposed to the prohibition against fees for any Program service established in the proposed rule. Charges for meals or groceries equalling the actual costs incurred by the sponsoring organization are the only permissible charges to homes under the Program.

2. *Eligibility for start-up funding.* While the concept of start-up funding received wide public support as a means for promoting Program expansion in day care homes, 60 commenters considered the eligibility requirements overly restrictive. Many stated that previous participation in the Program should not render an organization ineligible for start-up payments. This provision was said to discourage sponsoring organizations of centers from developing home programs. Sponsors of centers bring to home sponsorship a fund of valuable Program knowledge and management experience, together with a performance history that is known by the State agency. These characteristics make them particularly suitable home sponsors, but do not necessarily reduce the costs that they, as opposed to a new sponsor, would incur in developing a home program. Regulations clearly acknowledge the significant differences between centers and homes by establishing for each type a separate reimbursement system and different operating requirements. Center sponsors, as well as new sponsoring organizations, must develop a management system appropriate for home Programs. The major function of home program development, home recruitment, would not be appreciably less expensive for center sponsors. The Department has therefore adopted, in § 226.13(b) of the final rule, the recommendation of 16 commenters that sponsoring organizations of centers (and independent centers as well) be made eligible for start-up funding with which to develop home programs.

A number of commenters wanted start-up eligibility criteria expanded to include currently participating sponsoring organizations of homes so that such sponsors could expand their programs. The Department's analysis of home programs in States where FNS Regional Offices administer the Program indicates that expansion among large sponsors accounts for most of the recent increase in home participation. Such sponsorships tend to grow of their own accord. Smaller home programs, in contrast, may experience difficulty, largely of a financial nature, in increasing the number of homes under their jurisdiction. Therefore, the final rule (§ 226.13(b)) makes start-up funds available to sponsors of less than 50 homes for the purpose of expanding their programs. These sponsors may receive start-up assistance for increasing the number of homes they administer to as many as 50.

The final rule also (1) stipulates that no sponsoring organization may be approved to receive start-up payments more than once (§ 226.13 (b)), and (2) explicitly applies the timeframes of § 226.7(b) to the processing of applications for start-up funding (§ 226.13(b)).

(3) *Procurement standards.* Following publication of the proposed rule, the Office of Management and Budget (OMB) issued a revision of Attachment O to its Circular A–102. This attachment mandates procurement standards for Federal grant programs such as the Child Care Food Program.

These standards were first published by OMB as a proposed rule and then made final after appropriate revision in response to public comment. They are therefore incorporated into final Program regulations (§ 226.23) without recourse to additional comment.

V. Rates of Reimbursement

1. *Rate adjustments.* Section 226.4(g) of the final rule has been revised in order to achieve greater specificity and simplicity. Adjustments of rates for meals served in day care homes will be made to the nearest cent rather than the nearest quarter of a cent. The Department believes that home rates in whole cents will simplify and therefore facilitate computation of reimbursement for homes. This section also clarifies that administrative rates for sponsoring organizations of day care homes, and only these rates, will be adjusted on an annual rather than semi-annual basis. July 1 is established as the effective date for adjustments.

Several commenters inquired why rates of reimbursement for breakfasts, lunches, and suppers served in centers are not stated in Program regulations. These rates are based on legislation concerning the School Breakfast Program and the National School Lunch Program respectively, and are made applicable to the Child Care Food Program through appropriate references in Program legislation. Thus, in § 226.4(b) of the final rule, which describes the basis for making funds available to the State agency for meals served in centers, section 4 of the Child Nutrition Act of 1966 is referenced with regard to breakfast rates and sections 4 and 11 of the National School Lunch Act are referenced concerning lunch and supper rates. On the other hand, supplement rates for meals served in centers and rates for all meal types served in homes, as well as administrative rates for sponsoring organizations of homes, are specified in Program regulations because they derive directly from section 17 of the National School Lunch Act (as amended by Public Law 95–627), which governs the Child Care Food Program.

2. *Administrative reimbursement for sponsoring organizations of day care homes.* Commenters took issue with three significant aspects of the provisions establishing the system and levels of administrative reimbursement for sponsoring organizations of day care homes: (1) the levels of reimbursement, (2) the requirement that a home operate at least 10 days during a month in order to generate administrative reimbursement for its sponsoring organization, and (3) the provision which may lessen the sponsoring organization's administrative reimbursement for homes because centers also participate in the Program under its jurisdiction.

(a) *Levels of reimbursement.* Of the 121 commenters who discussed levels of administrative reimbursement for home sponsoring organizations, 112 shared the view that the proposed rates ($40 per month for each of the first 25 homes, $30 per month for each of the next 25 homes, and $25 per month for each additional home) were insufficient. A number of participating sponsoring organizations submitted either monthly administrative costs per home or detailed line item administrative budgets from which such monthly costs could be derived. This information on present expeditures led the Department to supplement its initial research concerning the appropriate level of reimbursement. The most current nationwide Program data were used to develop a profile of the average participating home indicating (1) average daily attendance (4.05 children), (2) claiming percentages (46.1 percent free, 24.8 percent reduced, and 29.1 percent paid), and (3) number of meals served to children each month (60 breakfasts, 108 lunches and suppers, 148 supplements). The total reimbursement generated by the average home each month ($140.02) was then reduced by the monthly food cost factor earnings of the home ($102.79) on the assumption that the sponsoring organization turns such payments over to the home and then applies the remainder of reimbursement ($37.23) to its Program administrative costs.

This amount was then compared with the amount of administrative reimbursement which the average home would provide each month for its sponsoring organization under the rates in the proposed rule ($32.40). A comparison of the amounts derived in this manner indicates that the average home will generate $4.83 less each month in administrative reimbursement under the proposed rule than under the Program regulations of June 25, 1976. The Department considers the level of administrative funding available under current Program regulations to be the most reliable base available for establishing administrative rates in the final rule and therefore has increased the rate for each tier of homes by $5, to $45 per month for each of the first 25 homes, $35 per month for each of the next 50 homes, and $30 per month for each additional home (§ 226.13(a)).

The second tier has been expanded to include 50 homes, rather than 25 as proposed, in order to provide some additional assistance to sponsoring organizations which administer more than 50 homes. Current Program information indicates that such sponsoring organizations administer the CCFP for nearly 40 percent of the homes participating in the Program. Considering the additional administrative responsibilities imposed by these regulations, adequate support for these sponsors is vital to the Program.

Pub. L. 95–627 mandates that a study be conducted of "the administrative costs of institutions participating in the program, . . . including the cost effect of such factors as the types of institutions, the number of children served, and the location of institutions in urban or rural areas" (section 17(l)(1)). The results of this and other studies mandated by the statute are to be reported to Congress in May, 1980. Levels of administrative reimbursement established in the final rule will be subject to reconsideration and adjustment based on the findings and recommendations of this study.

(b) *Ten-day operating requirement.* Thirteen commenters opposed, while only one supported, the provision of § 226.13(a) which would deny administrative reimbursement to a sponsoring organization for a home which operates less than 10 days in a month. Commenters argued that administrative responsibilities, including training, recordkeeping, payment, and in many instances supervisory assistance, are the same for a home whether it operates less than 10 days or for the full month. This requirement, coupled with the relatively high turnover in participating homes, could introduce a fluctuation into the sponsoring organization's administrative reimbursement which would not be offset by variations in its administrative costs. Accordingly, this provision has been stricken from § 226.13(a) of the final rule.

(c) *Reduction of home administrative reimbursement due to sponsorship of centers.* § 226.13(a) of the proposed rule provided that each child care center under the jurisdiction of a sponsoring organization which also administers the Program in homes would reduce administrative reimbursement potential for homes. For example, a sponsoring organization which administers 20 centers and 30 homes would be able to receive administrative payment rates of $45 for five homes (the first 20 slots being assigned to centers) and $35 for each of its remaining 25 homes. Sixteen commenters opposed this provision; none supported it. The provision would discourage center sponsors from expanding their programs to include homes, and data currently available to the Department does not establish at a sufficient level of certainty that sponsoring organizations of centers can administer the Program in homes more economically than can sponsoring organizations of homes only. Accordingly, this provision has been withdrawn from the final rule.

3. *Food service rates.* Pub. L. 95–627 mandates the establishment of reimbursement rates adequate to cover the costs of Program food and prescribed labor in day care homes. While the statute makes such reimbursement payable to homes without a requirement for documentation of these costs, it does not exempt Program payments to providers from Federal income tax. Only the Internal Revenue Service (IRS) may establish policies and procedures regarding Federal tax liability. In the preamble to the proposed rule, the Department outlined a possible method for distinguishing the portion of the rates attributable to Program food costs from the labor portion without recourse to actual records of Program costs incurred at the home level. It was assumed that Program payments for food would not be includable in taxable income, but that providers would incur tax liability for labor compensation. The proposal was designed to relieve providers of the responsibility to document their Program food costs for tax purposes. The issue of whether a percentage of Program payments to providers may be attributed to food costs without documentation of such costs, and related tax issues, are as yet unresolved. Therefore, references have not been included in the final rule to the 35-percent-for-labor proposal set forth in the preamble to the proposed rule.

VI. Institution Provisions

1. *Reorganization of the proposed rule.* Sections of the proposed rule setting forth requirements for sponsoring organizations, child care centers, day care homes, and outside-school-hours care centers (§ 226.16–§ 226.19) have been reorganized in order to achieve greater clarity. A new section, institution provisions (§ 226.16), now initiates this sequence. It is followed by a section on sponsoring organizations provisions (§ 226.17). The latter incorporates all provisions of the former through cross reference since sponsoring organizations are a category of institutions, and specifies requirements unique to sponsoring organizations. The following section (§ 226.18) is devoted to child care centers. The institution provisions of § 226.16 are applied to independent child care centers through cross reference, and the balance of § 226.18 sets forth requirements which apply to child care centers whether they

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are independent or sponsored. Section 226.19 is devoted to day care home requirements, and § 226.20 treats outside-school-hours care centers. The latter applies the provisions of § 226.18 to independent outside-school-hours care centers through cross reference and states requirements applicable to such centers whether they are independent or sponsored.

2. *Second Meals.* A number of commenters expressed concern that § 226.17(d) and § 226.18(c) of the proposed rule appear to prohibit claiming reimbursement for second meals. Rather, these sections state that the same group of children may not participate in more than one breakfast, lunch, and supper meal service, or more than two supplement meal services each day. A second meal may, however, be served to a child *during a single meal service period* providing that the conditions of § 226.21(j) of the final rule are being met. This section (designated § 226.20(j) in the proposed rule) mandates that institutions and their facilities plan for an order or prepare meals on the basis of current participation trends and document that they are doing so. When this requirement is being met, any excess meals which may result from unforeseeable fluctuation in participation may be served to enrolled children and claimed for reimbursement.

3. *Meal service in day care homes.* Public comment has led the Department to alter provisions governing meal service in day care homes. The first change concerns § 226.18(c) of the proposed rule, which requires homes to serve at least one major meal type (breakfast, lunch, or supper). This requirement has been withdrawn from the final rule because it does not make adequate allowance for after school home care, to which the service of a supplement only would be appropriate. Second, some commenters requested clarification of the conditions under which meals served to the home care provider's own children may be claimed for reimbursement. Accordingly, § 226.18(c) of the final rule permits the claiming of such meals only when (1) the provider's own children are enrolled and participating in the child care program at the time the meals are served, and (2) enrolled nonresident children are present and participating in the child care program. This clarification is based on Pub. L. 95–627, which restricts the Program to organizations providing "nonresidential child care." During the periods when non-resident children are not present and participating, the home temporarily becomes residential in the regulatory sense and therefore is ineligible for Program benefits.

4. *Requirements for outside-school-hours care centers.* Twenty-two commenters took issue with the requirement (§ 226.19(b)(2) of the proposed rule) that children participating in nonresidential schools operating as outside-school-hours care centers be enrolled for care for not less than two consecutive hours. This provision would necessitate that children be present at such schools as early as 6:00 a.m., in order to receive breakfast under the Program prior to the beginning of classes. The Department has decided to follow the recomendation and has removed this requirement. However, schools which wish to serve breakfasts to children are encouraged to participate in the School Breakfast Program (7 CFR 220) rather than the Child Care Food Program. Seven commenters argued that outside-school-hours care centers should be permitted to serve lunch on weekdays because this meal is not always available at schools. Section 226.20(b)(5) of the final rule therefore provides that the State agency may authorize the service of lunch on weekdays to enrolled children attending schools which do not offer a lunch program. This paragraph also stipulates that outside-school-hours care centers may not operate under the Program on weekends only.

VII. Meal Patterns

1. *Format.* In order to achieve greater clarity and to facilitate quick reference, portion requirements for the various meal types for children ages one and above are presented in chart form in the final rule (§ 226.21(c)).

2. *Infant meal pattern.* Section 226.20(b)(1) of the proposed rule presented solid foods as an option for service to infants in the 0–4 month age group and listed maximum portions for such foods. Numerous commenters contended that solid foods should not be introduced to infants during the first months of life and cited recognized authorities in support of their position. The Department has resurveyed relevant literature and finds, on balance, that nutrition authorities are in agreement with commenters to the proposed rule. The American Academy of Pediatrics, for example, states that there is no known nutritional basis for serving solid foods to infants under three months of age. This practice may cause feeding problems due to the infant's neuromuscular unreadiness for solid feeding and may contribute to chronic overeating, as well as food intolerances and allergy. The Department has accordingly removed all reference to solid foods from the 0–4 months meal pattern in the final rule (§ 226.21(b)(1)). This action constitutes the withdrawal of a recommendation rather than the establishment of a prohibition. The Department recognizes that solid foods should be introduced gradually, and that the meal pattern for infants age 4 up to 8 months calls for a more abrupt introduction than may be desirable. Caregivers are therefore encouraged to exercise discretion in this regard, and to gradually introduce solid foods to infants after they reach 4 months of age. The infant meal patterns will be subject to a more comprehensive reevaluation than was possible in the interim between publication of the proposed and final rules.

3. *Portion sizes.* In order to clarify the language concerning certain bread alternates, the Department has generated the classifications of cereal, either cold and dry or cooked; cooked pasta or noodle products; and cooked cereal grains. Separate portion sizes have been included in § 226.21(c) of the final rule for these categories of bread alternate. The portion sizes were determined on the basis of nutritional comparability to the existing bread component for each age range for each meal type, and on what was considered to be a reasonable and practical serving size.

The proposed rule allowed that younger children (ages 6 up to 9) in the age bracket of age 6 to 12 years be served lesser quantities of the foods (other than bread and milk) than are stipulated in the meal patterns, provided that the quantities served are based on the lesser food needs of the younger children. This provision has been deleted due to the Department's concern that an adequate amount of food be served to every child and that the proposed provision might in some cases be misinterpreted or abused.

4. *Additional provision.* In order to provide for greater simplicity for programs which serve meals prepared by schools, the final rule allows such programs to serve any meals which meet the meal pattern requirements of the National School Lunch Program (7 CFR 210) or School Breakfast Program (7 CFR 220).

VIII. Implementation

Comments on proposed regulations expressed a variety of views regarding implementation which can best be characterized as stressing either the urgent need to make available the increased benefits enacted in Pub. L. 95–627 or the equally compelling necessity of sufficient time for administering agencies to implement the numerous and complex new provisions. Twenty-five commenters urged that certain payment provisions be made effective on or before the publication date of final regulations, the vast majority of them favoring October 1, 1979. Thirty-one commenters supported full implementation within a period of time to begin upon publication of the final rule; 14 of these commenters recommended October 1, 1980, as the date by which full implementation must be accomplished. The Department believes that the interests of the Program are best served through a mediation of these contrasting positions. A phased schedule has therefore been developed to provide for the earliest implementation that is consistent with the full and efficient utilization of administering agency resources. May 1, 1980 is the pivotal date of this schedule, which appears in § 226.29 in the final rule. Except where otherwise specified in this schedule, all provisions of the final rule become effective on May 1, 1980.

1. *State agency planning and development activities.* Prior to May 1, the State agency will be intensively engaged in planning and development activities. Program forms and instructions must be either revised or originated. Among these are: Program application forms, claim for reimbursement, Program agreement, start-up application and agreement, standard contract, sponsor/day care home agreement, and financial management instruction. Financial management and payment systems must be developed and tested. Training at all levels is crucial during the implementation period. FNS will be training Regional Office personnel, who will have the responsibility of training personnel at the administering agency level. Training of institutions in their new Program responsibilities and prerogatives will also be necessary. All training should take place early in the implementation period to ensure a smooth and speedy transition to the new systems of the final rule. FNS will provide sample forms and instructions, as well as assistance in the development of payment systems, to State agencies.

2. By April 1, State agencies shall solicit each institution's preference for USDA-donated commodities or cash in lieu of commodities. Should the result of this survey suggest that the distribution of commodities to the small number of institutions requesting them would be impracticable, the State agency may, by May 1, after consultation with the State distribution agency, request permission from FNS to provide cash in lieu of commodities to all institutions. The commodity provisions of these regulations must be implemented by all State agencies on July 1, 1980.

3. *State agency activities to be completed by May 1, 1980:* (a) Complete the outreach mailing mandated by § 226.7(f).

(b) Execute with each institution an addendum to the Program agreement effective for the period May 1, 1980–September 30, 1980, and incorporating the provisions of the final rule, the institutional choice determined under § 226.7(b)(10) and § 226.10(a), and an administrative budget for sponsoring organizations of day care homes.

(c) Notify each institution of the availability of food service equipment assistance, the State agency's criteria for determining which institutions are especially needy, and procedures for application for assistance. (The State agency need not establish a food service equipment assistance application deadline for Fiscal Year 1980. It may make direct disbursements to suppliers of food service equipment in accordance with § 226.25(g) at any time following publication of this rule. Should the State agency decide to establish a reserve fund, as provided for in § 226.25(h), for Fiscal Year 1980, the fund may not exceed 10 percent of the unobligated balance of the State's apportionment on the date the fund is established.)

(d) Inform all participating institutions in writing of their new responsibilities under the program.

4. The reimbursement systems and rates established by this rule are effective for all claims for reimbursement for the month of May 1980, and for each month thereafter. State agencies are expected to process and pay claims for May and following months in accordance with the timeframes established by § 226.8(j).

5. The State agency must begin evaluation of applications for start-up payments to sponsoring organizations of day care homes as provided for by § 226.13(b) by May 1, 1980.

6. The State agency must initiate alternate approval procedures as provided for by § 226.7(d)(3) by May 1, 1980, although the earliest deadline for actually granting alternate approval to an independent center or child care facility under these procedures would be 90 days after that date.

7. The institution appeal procedure of § 226.7(j) becomes effective on or after May 1, 1980, with regard to all appealable actions taken by the State agency on or after May 1, 1980. The date of receipt of the State agency's notice of action by the institution, not the dates of the operating period covered by the action, determines whether the appeal provisions are applicable to the action.

8. By July 1, the State agency must disburse the first advance payment to each institution whose request for advance was received by June 1. The first advance payment must be issued to each institution whose request was received after June 1 within 30 calendar days of the date of receipt. All subsequent advances are payable by the first day of each month of operation.

9. The prohibitions of § 226.9(b) are effective for the period May 1, 1980–September 30, 1980, only if they do not conflict with the audit section of the State agency's Plan of Child Care Food Program Operations for Fiscal Year 1980.

10. Alternate approval granted any child care facility or independent center operating under the Program regulations published on June 25, 1976, shall be sufficient for the purpose of establishing eligibility until September 30, 1980.

11. With the following exceptions, all eligibility, administrative, and operating requirements established by this rule for institutions and day care facilities become effective on May 1, 1980:

(a) Sponsoring organizations are required to execute agreements with all day care homes under their jurisdiction in accordance with § 226.19(b) by July 1, 1980. However, the provisions of § 226.19(b) become effective on May 1, 1980.

(b) Between May 1, 1980, and September 30, 1980, sponsoring organizations must conduct not less than one review of each child care center and day care home under their jurisdiction and not less than two reviews of each outside-school-hours care center under their jurisdiction, unless the sponsoring organization will between October 1, 1979, and September 30, 1980, otherwise conduct all of the reviews required in § 226.17(d)(4).

12. FNS may grant extensions not to exceed 60 calendar days for implementation of all provisions referenced in § 226.29, except the new reimbursement rates and systems and § 226.29(b), (c) and (d)(2), if a State experiences serious difficulties in meeting the timeframes outlined in this section. Requests for an extension regarding advance payments must be filed with FNS not later than May 1. Requests for extensions on implementation of other provisions must be filed with FNS not less than 45 days prior to the implementation date specified for each provision in § 226.29. Each such request submitted by State Agencies must be accompanied by a detailed justification outlining the reason for the delay and must include

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an alternative schedule for implementation of the delayed provision(s).

In order to provide the increased level of benefits incorporated in this rule as rapidly as possible to currently participating children and to expedite the extension of benefits to potential participants, the Department has established a strict and compressed implementation schedule. Implementation according to this schedule will require full utilization of State agency resources at a level of maximum efficiency. The Department anticipates that some State agencies, notwithstanding a full commitment of available resources to implementation, may not be able to comply fully with the schedule. Therefore, provision has been made for extensions on implementation of all requirements referenced in the schedule except reimbursement rates and systems. The Department will ensure that no extensions will be granted except in this circumstance. The sequence of activities involved in implementation of new reimbursement and advance payment systems, just two of many complex and time-consuming implementation tasks, will account for the time provided in the implementation schedule: (1) develop payment and financial management systems, (2) develop, clear, print, and distribute claim forms and related Program forms, (3) provide intensive training to institutions regarding the new reimbursement systems and use of the claim form, (4) establish administrative budgets for all sponsoring organizations of day care homes and enter their budget limits into the payment system, (5) elicit each institution's choice to receive all or part of advance payments and (except for home programs) to be reimbursed on the basis of tiering or an alternate method, (6) enter these choices into the payment system, (7) compute initial advances for all institutions which have chosen to receive them, and (8) issue initial advance payments and reimburse first claims. The three phases which these activities comprise, internal planning and development, communication with institutions, and incorporation of institutional feedback into State agency systems, cannot be accomplished simultaneously; they must be sequenced.

Recent evaluations of Program administration and operations by the Department's Office of the Inspector General (OIG) and the General Accounting Office (GAO) disclosed serious problems at all Program levels. Among those cited were insufficient monitoring and follow-up by administering agencies to ensure that corrective action has been taken, and deficient menus and recordkeeping at institution and child care facility levels. Some of these deficiencies were attributed to insufficient training and staffing. While the Department has already initiated some corrective action, OIG and GAO findings suggest the need for a major remedial effort coordinating activity at all Program levels. Immediate implementation of the final rule would further strain staff resources and compound identified problems with those resulting from the introduction of new requirements in the absence of adequate planning and preparation. The Department believes it has provided sufficient time for orderly implementation of this rule, including the intensive training and related remedial actions necessary to address problems identified by OIG and GAO.

Some commenters suggested effective dates for the new reimbursement rates and systems which precede the date established in the implementation schedule. However, an earlier date would necessitate retroactive reimbursement, which, in turn, would impose an additional workload on numerous participating institutions and on all State agencies, at a time when their staffs are fully engaged in implementation of the final rule. In order to receive retroactive reimbursement, sponsoring organizations of day care homes would have to inform the State agency regarding the amounts of reimbursement earned under the Program regulations of June 25, 1976, which they passed down to homes, on the one hand, and retained for their administrative expenses, on the other, during the period for which retroactive reimbursement would be made. The State agency would then have to corroborate this information through reference to claims submitted for this period, compute reimbursement under the new system and rates for this period, and make appropriate adjustments. An additional impediment to retroactive reimbursement exists in the case of sponsoring organizations with both centers and homes under their jurisdiction. Such sponsoring organizations will not have the separate records of administrative costs for their homes which are necessary to compute reimbursement under the new system until they have received written guidance and training which conveys the need for and purpose of such records and have adjusted their recordkeeping systems accordingly. State agencies will be unable to provide such guidance and training and accomplish all of their other implementation tasks sooner than is provided for in the schedule. The additional burden imposed by retroactive reimbursement would draw away staff resources from implementation functions and thus either delay or reduce the effectiveness of their performance.

Accordingly, the Department is revising and reissuing 7 CFR 226 as follows:

PART 226—CHILD CARE FOOD PROGRAM

Subpart A—General

Sec.
226.1 General purpose and scope.
226.2 Definition.
226.3 Administration.

Subpart B—Assistance to States
226.4 Payments to States and use of funds.
226.5 Donation of commodities.

Subpart C—State Agency Provisions
226.6 State Plan of Child Care Food Program Operations.
226.7 State agency administrative responsibilities.
226.8 State agency responsibilities for financial management.
226.9 Audits.

Subpart D—Payment Provisions
226.10 Assignment of rates of reimbursement for centers.
226.11 Program payment procedures.
226.12 Program payments for child care centers and outside-school-hours care centers.
226.13 Administrative payments to sponsoring organizations for day care homes.
226.14 Food service payments to sponsoring organizations for day care homes.
226.15 Claims against institutions.

Subpart E—Operational Provisions.
226.16 Institution provisions.
226.17 Sponsoring organization provisions.
226.18 Child care center provisions.
226.19 Day care home provisions.
226.20 Outside-school-hours care center provisions.
226.21 Requirements for meals.
226.22 Food Service management companies.
226.23 Procurement standards.
226.24 Free and reduced-price meals.

Subpart F—Food Service Equipment Provisions.
226.25 Food service equipment assistance.
226.26 Property management requirements.

Subpart G—Other Provisions
226.27 Other provisions.
226.28 Program information.
226.29 Implementation.

Authority: Sec. 2, Pub. L. 95–627, 92 Stat. 3603 (42 U.S.C. 1766); Sec. 10, Pub. L. 95–627, 92 Stat. 3623 (42 U.S.C. 1771); Sec. 10, Pub. L. 89–642, 80 Stat. 889 (42 U.S.C. 1779).

Subpart A—General

§ 226.1 General purpose and scope.

This part announces the regulations under which the Secretary of Agriculture will carry out the Child Care Food Program. Section 17 of the National School Lunch Act, as amended, authorizes assistance to States through grants-in-aid and other means to initiate, maintain, and expand nonprofit food service programs for children in nonresidential institutions which provide child care. The Program is intended to enable child care institutions to integrate a nutritious food service with organized child care services for enrolled children. In general, the program embodies two phases: payments will be made to State agencies or FNS Regional Offices (a) to enable them to reimburse institutions the net costs incurred in providing a food service to children (food assistance), and (b) to the extent funds are available, enable them to reimburse institutions in whole or in part for the acquisition cost of the purchase or for the rental of equipment for the storage, preparation, transportation or serving of food to children (food service equipment assistance).

§ 226.2 Definitions.

(a) "Acquisition cost" means the net invoice price of expendable or nonexpendable personal property acquired by purchase. This property may include any attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Ancillary charges such as taxes, duty, protective intransit insurance, freight or installation may be included in, or excluded from acquisition cost in accordance with the State agency's regular accounting practices.

(b) "Act" means the National School Lunch Act, as amended.

(c) "Administrative costs" means costs incurred by an institution related to planning, organizing, and managing a food service under the Program, and allowed by the State agency financial management instruction.

(d) "Advanced payments" means financial assistance made available to an institution for its Program costs prior to the month in which such costs will be incurred.

(e) "CCFP child care standards" means Child Care Food Program child care standards developed by the Department for alternate approval of child care centers, outside-school-hours care centers, and day care homes by the State agency under the provisions of § 226.7(d)(2)–(4).

(f) "Child care center" means any public or private nonprofit organization licensed or approved to provide nonresidential child care services to enrolled children, primarily of pre-school age, including but not limited to day care centers, settlement houses, neighborhood centers, Head Start centers and organizations providing day care services for handicapped children. Child care centers may participate in the program as independent centers or under the auspices of a sponsoring organization.

(g) "Child care facility" means a licensed or approved child care center, day care home, or outside-school-hours care center under the auspices of a sponsoring organization.

(h) "Children" means (1) persons 18 years of age and under, and (2) mentally or physically handicapped persons, as defined by the State, over 18 years of age enrolled in an institution or a child care facility serving a majority of persons 18 years of age and under.

(i) "Claiming percentage" means the ratio of the number of enrolled children in an institution in each reimbursement category (free, reduced-price or paid) to the total of enrolled children in the institution.

(j) "Day care home" means an organized nonresidential child care program for children enrolled in a private home, licensed or approved as a family or group day care home and under the auspices of a sponsoring organization.

(k) "Department" means the U.S. Department of Agriculture.

(l) "Delivery costs" means the costs incurred in transporting allowable food service equipment from point of shipment to point of destination as specified in the procurement document. It includes all costs associated with delivery, but does not include the alteration of buildings to accommodate equipment during the delivery process.

(m) "Enrolled child" means a child whose parent or guardian has submitted to an institution a signed document which indicates that the child is enrolled for child care.

(n) "Especially needy institution" means an institution meeting eligibility requirements of this part and serving a high percentage (as determined by the State agency in its approved State Plan of Child Care Food Program Operations) of children from families meeting the State's family-size income standards for free and reduced-price meals.

(o) "Fiscal year" means a period of 12 calendar months beginning October 1 of any year and ending with September 30 of the following year.

(p) "FNS" means the Food and Nutrition Service of the Department.

(q) "FNSRO" means the appropriate Food and Nutrition Service Regional Office of the Food and Nutrition Service.

(r) "Food service equipment assitance" means Federal financial assistance made available to State agencies to assist institutions in the purchase or rental of equipment to enable the institutions to establish, maintain and expand food service under the Program.

(s) "Food service management company" means an organization, other than a public or private nonprofit school, with which an institution may contract for preparing and, unless otherwise provided for, delivering meals, with or without milk for use in the Program.

(t) "Free meal" means a meal served under the Program to a child from a family which meets the income standards for free school meals and for which neither the child nor any member of his family pays or is required to work in the food service program.

(u) "Income standards" means the family-size and income standards prescribed annually by the State, on the basis of the Secretary's Guideline for Determining Eligibility for Free and Reduced-Price Meals under the National School Lunch Program and the School Breakfast Program.

(v) "Income to the program" means any funds used in an institution's food service program, including, but not limited to all monies, other than Program payments, received from other Federal, State, intermediate, or local government sources; children's payments for meals and food service fees; income from any food sales to adults; and other income, including cash donations or grants from organizations or individuals.

(w) "Independent center" means a child care center or outside-school-hours center which enters into an agreement with the State agency to assume final administrative and financial responsibility for Program operations.

(x) "Infant cereal" means any iron-fortified dry cereal specially formulated for and generally recognized as cereal for infants that is routinely mixed with formula or milk prior to consumption.

(y) "Infant formula" means any iron-fortified infant formula, intended for dietary use as a sole source of food for normal, healthy infants, served in liquid state at manufacturer's recommended dilution.

(z) "Installation costs" means necessary and reasonable costs incurred in uncrating, setting up, and making final

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connection of allowable equipment to existing utilities in the location in which the equipment is to operate, except those costs that constitute a capital or leasehold improvement of the buildings.

(aa) "Institution" means a sponsoring organziation, child care center, or outside-school-hours care center which enters into an agreement with the State agency to assume final administrative and financial responsibility for Program operations.

(bb) "Meal" means food which is served to enrolled children at an institution or child care facility and which meets the nutritional requirements set forth in this part.

(cc) "Milk" means pasteurized fluid types of unflavored or whole flavored milk, lowfat milk, skim milk, or cultured buttermilk which meet State and local standards for such milk except that, in the meal pattern for infants (8 months up to 1 year of age), "milk" means unflavored whole fluid milk or an equivalent quantity of reconstituted evaporated milk which meets such standards. In Alaska, Hawaii, American Samoa, Guam, Puerto Rico, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands if a sufficient supply of such types of fluid milk cannot be obtained, "milk" shall include reconstituted or recombined milk. All milk should contain vitamins A and D at levels specified by the Food and Drug Administration and be consistent with State and local standards for such milk.

(dd) "Nonexpendable personal property" means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. The State agency may use its own definition of nonexpendable personal property provided that such a definition at least includes all tangible personal property as defined herein.

(ee) "Nonresidential" means that the same children are not maintained for more than 24 hours on a regular basis.

(ff) "OIG" means the Office of the Inspector General of the Department.

(gg) "Operating costs" means expenses incurred by an institution in serving meals to children under the Program, and allowed by the State agency financial management instruction.

(hh) "Outside-school-hours care center" means a public or private nonprofit organization licensed or approved to provide organized nonresidential child care services to enrolled children, primarly of school-age, outside of the school hours. Outside-school-hours care centers may participate in the Program as independent centers or under the auspices of a sponsoring organization.

(ii) "Personal property" means property of any kind except real property. It may be tangible—having physical existence—or intangible—having no physical existence such as patents, inventions, and copyrights.

(jj) "Program payments" means financial assistance in the form of start-up payments, advance payments, or reimbursement paid or payable to institutions for operating costs and administrative costs.

(kk) "Program" means the Child Care Food Program authorized by Section 17 of the National School Lunch Act, as amended.

(ll) "Reduced-price meal" means a meal served under the Program to a child from a family which meets the income standards for reduced-price school meals. Any separate charge imposed shall be less than the full price of the meal, but in no case more than 20 cents for a lunch or supper, 10 cents for a breakfast, and five cents for a supplemental meal, and for which neither the child nor any member of his family is required to work in the food service program.

(mm) "Reimbursement" means Federal financial assistance paid or payable to institutions for Program costs within the rates assigned by the State agency.

(nn) "School year" means a period of 12 calendar months beginning July 1 of any year and ending June 30 of the following year.

(oo) "Sponsoring organization" means a public or nonprofit private organization which is entirely responsible for the administration of the food program in: (1) one or more day care homes, (2) a child care center or outside-school-hours care center which is a legally distinct entity from the sponsoring organization; (3) two or more child care centers or outside-school-hours care centers; or (4) any combination of child care centers, day care homes, and outside-school-hours care centers.

(pp) "Start-up payments" means financial assistance made available to a sponsoring organization for its administrative expenses associated with developing or expanding a food service program in day care homes and initiating successful Program operations.

(qq) "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(rr) "State ageny" means the State educational agency or any other State agency that has been designated by the Governor or other appropriate executive, or by the legislative authority of the State, and has been approved by the Department to administer the Program within the State or, in States in which FNS administers the Program, FNSRO.

(ss) "Tier 1" means an institution where no less than two-thirds of the enrolled children are members of families that satisfy the income standards for free and reduced-price school meals.

(tt) "Tier 2" means an institution where less than two-thirds but not less than one-third of the enrolled children are members of families that satisfy the income standards for free and reduced-price school meals.

(uu) "Tier 3" means an institution where less than one-third of the enrolled children are members of families that satisfy the income standards for free and reduced-price school meals.

(vv) "Title XX" means Title XX of the Social Security Act.

§ 226.3 Administration.

(a) Within the Department, FNS shall act on behalf of the Department in the administration of the Program.

(b) Within the States, responsibility for the administration of the Program shall be in the State agency, except that FNSRO shall administer the Program in any State where the State agency is not permitted by law or is otherwise unable to disburse Federal funds under the Program to any institution in the State.

(c) Each State agency desiring to take part in the Program shall enter into a written agreement with the Department for the administration of the Program in the State in accordance with the provisions of this part. This agreement shall cover the operation of the Program during the period specified therein and may be extended by consent of both parties.

(d) When the Department determines that the State is not operating the Program in accordance with the provisions of this part, it shall, through FNSRO, assume the administration of the Program in the State as provided for in § 226.27(a)(1).

(e) FNSRO shall, in each State in which it administers the Program, have available all funds and assume all responsibilities of a State agency as set forth in this part.

Subpart B—Assistance to States

§ 226.4 Payments to States and use of funds.

(a) *Availability of funds.* For the fiscal year beginning October 1, 1979, and for each fiscal year thereafter, based on funds provided to the Department, FNS shall make funds available to each State agency to reimburse institutions for their costs in connection with food service operations, including administrative expenses, under this part. Funds shall be made available in an amount no less than the sum of the totals obtained under paragraphs (b), (c), (d), (e) and (h) of this section. However, in any fiscal year, the aggregate amount of assistance provided to a State under this part shall not exceed the sum of the Federal funds provided by the State to participating institutions within the State for that fiscal year and any funds used by the State under paragraphs (h) and (j) of this section.

(b) *Center funds.* For meals served to children in child care centers and outside-school-hours care centers, funds shall be made available to each State agency in an amount no less than the sum of the products obtained by multiplying:

(1) The number of breakfasts served in the Program within the State by the National average payment rate for breakfasts under section 4 of the Child Nutrition Act of 1966. (All breakfasts served in the State, including tier 3 institutions, are funded under this provision).

(2) The number of breakfasts served in the Program within the State to (i) children in tier 1 institutions and (ii) children from families that satisfy the income standards for free school meals enrolled in institutions which have elected to receive reimbursement in accordance with the eligibility of each enrolled child for free, reduced-price or paid school meals, by the national average payment rate for free breakfasts under section 4 of the Child Nutrition Act of 1966.

(3) The number of breakfasts served to (i) children in tier 2 institutions, and (ii) children from families that satisfy the income standard for reduced-price school meals enrolled in institutions which have elected to receive reimbursement in accordance with the eligibility of each enrolled child for free, reduced-price or paid school meals, by the national average payment rate for reduced-price school breakfasts under section 4 of the Child Nutrition Act of 1966.

(4) The number of lunches and suppers served in the Program within the State by the national average payment rate for lunches under section 4 of the National School Lunch Act. (All lunches and suppers served in the State, including tier 3 institutions, are funded under this provision.)

(5) The number of lunches and suppers served in the Program within the State to (i) children in tier 1 institutions, and (ii) children from families that satisfy the income standard for free school meals enrolled in institutions which have elected to receive reimbursement in accordance with the eligibility of each enrolled child for free, reduced-price or paid school meals, by the national average payment rate for free lunches under section 11 of the National School Lunch Act.

(6) The number of lunches and suppers served in the Program within the State to (i) children in tier 2 institutions and (ii) children from families that satisfy the income standard for reduced-price school meals enrolled in institutions which have elected to receive reimbursement in accordance with eligibility of each enrolled child for free, reduced-price or paid school meals, by the national average payment rate for reduced-price lunches under section 11 of the National School Lunch Act.

(7) The number of supplements served in the Program within the State to (i) children in tier 3 institutions, and (ii) children from families that do not satisfy the income standards for free and reduced-price school meals enrolled in institutions which have elected to receive reimbursement in accordance with the eligibility of each enrolled child for free, reduced-price and paid school meals, by 6.5 cents.

(8) The number of supplements served in the Program within the State to (i) children in tier 1 institutions, and (ii) children from families that satisfy the income standard for free school meals enrolled in institutions which have elected to receive reimbursement in accordance with the eligibility of each enrolled child for free, reduced-price and paid school meals, by 26.00 cents.

(9) The number of supplements served in the Program within the State to (i) children in tier 2 institutions, and (ii) children from families that satisfy the income standard for reduced-price school meals enrolled in institutions which have elected to receive reimbursement in accordance with the eligibility of each enrolled child for free, reduced-price and paid school meals, by 19.75 cents.

(c) *Day care home funds.* For meals served to children in day care homes, funds shall be made available to each State agency in an amount no less than the sum of the products obtained by multiplying:

(1) The number of breakfasts served in the Program within the State by 46 cents.

(2) The number of lunches and suppers served in the Program within the State by 90 cents.

(3) The number of supplements served in the Program within the State by 27 cents.

(d) *Administrative funds.* For administrative payments to day care home sponsoring organizations, funds shall be made available to each State agency in an amount not less than the product obtained each month by multiplying the number of day care homes participating under each sponsoring organization within the State by the applicable rates specified in § 226.13(a)(3).

(e) *Start-up funds.* For start-up payments to eligible sponsoring organizations, funds shall be made available to each State agency in an amount equal to the total amount of start-up payments made in the most recent period for which reports are available for that State or on the basis of estimates by FNS.

(f) *Funding assurance.* FNS shall ensure that, to the extent funds are appropriated, each State has sufficient Program funds available for providing start-up and advance payments in accordance with this part.

(g) *Rate adjustments.* FNS shall publish a notice in the **Federal Register** to announce each rate adjustment. Beginning January 1, 1980, FNS shall adjust the following rates on the specified dates:

(1) The rates for meals served in day care homes shall be adjusted semi-annually, on January 1 and July 1, on the basis of changes in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Department of Labor. Such adjustments shall be made to the nearest $.01 based on changes measured over the most recent six-month period for which data are available.

(2) The rate for supplements served in child care centers and outside-school-hours care centers shall be adjusted semi-annually, on January 1 and July 1, on the basis of changes in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Department of Labor. Such adjustments shall be made to the nearest $.0025 based on changes measured over the most recent six-month period for which data are available.

(3) The rate for administrative payments to day care home sponsoring organizations shall be adjusted annually, on July 1 on the basis of changes in the series for all items of the Consumer Price Index for All Urban Consumers published by the Department

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of Labor. Such adjustments shall be made to the nearest dollar based on changes measured over the most recent twelve-month period for which data are available.

(h) *Audit funds.* For the expense of conducting audits and reviews under § 226.9, funds shall be made available to each State agency in an amount equal to two percent of the Program reimbursement and food service equipment assistance provided to institutions within the State during the second fiscal year preceding the fiscal year for which these funds are to be made available. The amount of assistance provided to a State under this paragraph in any fiscal year may not exceed the State's expenditures under § 226.9 during such fiscal year.

(i) *Method of Funding.* This section sets forth FNS methods of authorizing funds for State agencies. (Different procedures will be used to make funds available to FNSRO). These methods minimize the time between the transfer of funds from the United States Treasury to the State agency and their final disbursement to institutions.

(1) The "Letter of Credit" (SF 1193A) is the document by which an official of FNS authorizes a State agency to draw funds from the United States Treasury. This shall be the preferred method of payment for State agencies which receive at least $120,000 per year and which meet the requirements in Attachment J of OMB Circular A–102.

(2) State agencies shall request payment(s) by submitting a Request for Payment on Letter of Credit and Status of Funds Report (Treasury Form SF–183) to the appropriate United States Treasury Regional Disbursing Office with a copy to FNS.

(3) State agencies shall submit requests for funds only at such times and in such amounts as will permit prompt payment of obligations.

(4) State agencies shall use the funds received from such requests without delay for the purpose for which drawn.

(5) State agencies not meeting the requirements for the Letter of Credit method of payment shall be provided funds by Treasury check in accordance with the provisions of Treasury Circular 1075.

(j) *Special Developmental Projects.* The State agency may use in carrying out special developmental projects an amount not to exceed one percent of Program funds used in the second prior fiscal year. Special developmental projects shall conform to FNS guidance and be approved in writing by FNS.

§ 226.5 Donation of commodities.

(a) USDA foods available under section 6 of this Act, section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 1431), section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a–1), or other authority, and donated by the Department shall be made available to each State.

(b) The value of such commodities (or cash-in-lieu of commodities) donated to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions, other than sponsoring organizations for day care homes which are not receiving commodities, in that State during that school year by the rate for commodities or cash-in-lieu thereof established for that school year under the provisions of section 6(e) of this Act.

Subpart C—State Agency Provisions

§ 226.6 State plan of child care food program operations.

(a) *Submission.* Not later than May 15 of each year, each State agency shall submit to FNS, for approval a State Plan of Child Care Food Program Operations. The State agency shall give the Governor, or his delegated agency, the opportunity to comment on the relationship of the Plan to other programs operating within the State and the effect on areawide or local jurisdictions. A period of 45 days from the date of receipt of the State Plan by the Governor, or his delegated agency, shall be afforded to make such comments. The signature of the chief State agency officer on the Plan shall be a prerequisite to its approval by FNS. Approval of the State Plan of Child Care Food Program Operations by FNS shall be a prerequisite to the payment of Program funds to the State agency under this part and to the donation by the Department of any commodities under Part 250 of this title for use in institutions under this part.

(b) *Required Components.* A State Plan of Child Care Food Program Operations shall include as a minimum, the following information:

(1) The number of child care centers, outside-school-hours care centers, and day care homes in the State that are licensed, approved, or registered, or that receive funds under Title XX.

(2) The number of participating sponsoring organizations and the number of child care centers, outside-school-hours care centers, and day care homes participating under their jurisdiction, together with the average daily attendance for each type of facility.

(3) The number of participating independent child care centers, and independent outside-school-hours care centers, together with the average daily attendance for each category.

(4) The number of participating child care centers, outside-school-hours care centers, and day care homes granted alternate child care standards approval by the State agency under the provisions of 226.7(d)(2)–(4).

(5) The detailed outreach plan of the State agency, including as a minimum:

(i) Actions the State agency proposes to take to extend the Program to all eligible child care centers, outside-school-hours care centers, and day care homes (placing priority on reaching centers and homes in needy areas first);

(ii) The number of sponsoring organizations, child care centers, outside-school-hours care centers, and day care homes targeted for outreach; and

(iii) Assistance the State agency proposes to give day care homes in obtaining sponsoring organizations.

(6) The State agency's plan for the conduct of audits, including:

(i) The method which will be employed to ensure that audits of the State agency and institutions take place not less frequently than once every two years;

(ii) If the audits will be conducted by State personnel, a description of the organization of the State agency in sufficient detail to demonstrate the independence of the audit function; and

(iii) The method which will be employed to ensure timely and appropriate resolution of audit findings and recommendations.

(7) The State agency's plan for implementing the alternate child care standards approval provisions of § 226.7(d)(2)–(4).

(8) The detailed action plan the State agency proposes to undertake to provide sufficient training and technical assistance to facilitate expansion and effective operations of the Program.

(9) The State agency's system for monitoring compliance with the provisions of this part at all levels of Program operations, implementing appropriate remedial actions, ensuring that such actions have effectively corrected Program deficiencies, and measuring progress toward achieving Program goals.

(10) The State agency's criteria for determining which institutions are eligible for especially needy equipment assistance and a plan for disseminating the criteria to all institutions in the State.

(11) The State agency's procedures relative to the discretionary portions of food service equipment provisions under § 226.25, including:

(i) Procedures the State agency will use to elicit and process applications for assistance;

(ii) Application deadline date;

(iii) Whether the State agency will exercise the option to disburse funds directly to suppliers of food service equipment under the conditions set forth in § 226.25(g); and

(iv) Whether the State agency will establish a reserve fund as provided for in § 226.25(h) and, if so, the percentage of the State agency's food service equipment assistance apportionment which will be placed in reserve.

(12) The title of the review official who will make determinations on institution appeals of State agency actions in accordance with the provisions of § 226.7(j), together with a description of organizational structure sufficiently detailed to demonstrate the review official's independence from all State agency personnel authorized to make decisions that are subject to appeal.

(13) The State agency's budget and expenditures data for the Program for Federal-State administrative expense funds assistance.

(14) The State agency's procedures relative to the discretionary portions of start-up and advance payment provisions under § 226.13(b)–(e), 226.11(a)(b), and 226.8(h), including:

(i) The State agency's procedure for ensuring that no sponsoring organization is approved to receive start-up payments more than once (§ 226.13(b));

(ii) The State agency's procedures for determining the amount of start-up funds expended by the sponsoring organization in accordance with the terms of the start-up agreement, and for recovering start-up payments as appropriate (§ 226.13(e));

(iii) The State agency's procedures for comparing advance payments issued with earned reimbursement, in accordance with § 226.8(h), and the frequency with which such comparisons will be made for all institutions;

(iv) Whether, at the end of the fiscal year, the State agency will demand repayment of unearned advances, or deduct such unearned advances from payments made during the following fiscal year (§ 226.11(b)); and

(v) The State agency's procedure for ensuring that no institution is issued a fourth advance payment until the State agency has received and validated the institution's claim for the third month prior to the month for which the advance is to be paid (§ 226.11(b)).

§ 226.7 State agency administrative responsibilities.

(a) *State agency personnel.* Each State agency shall provide sufficient consultative, technical and managerial personnel to administer the Program, provide sufficient training and technical assistance to institutions and monitor performance to facilitate expansion and effective operation of the Program.

(b) *Application approval.* Each State agency shall establish an application procedure to determine the eligibility under this part of applicant institutions, and facilities for which applications are submitted by sponsoring organizations. State agencies, by written consent of the State agency and the institutions, shall renew agreements with institutions not less frequently than annually. A State agency may not execute an agreement to be effective during two fiscal years, but may nevertheless establish an ongoing renewal process for the purpose of reviewing and approving applications from participating institutions throughout the fiscal year. As a minimum, such application approval process shall include: (1) renewal of the Program agreement; (2) except for sponsoring organizations of day care homes, submission of current family size and income information on enrolled children; (3) for sponsoring organizations of day care homes, submission of the current total number of children enrolled; (4) issuance of a nondiscrimination policy statement and media release; (5) for sponsoring organizations, submission of a management plan; (6) submission of an administrative budget; (7) submission of documentation that all child care centers, outside-school-hours care centers, and day care homes for which application is made are in compliance with Program licensing/approval provisions; (8) statement of institutional preference to receive commodities or cash in lieu of commodities; (9) except for sponsoring organizations of day care homes, institutional choice to receive reimbursement on the basis of either the tiering method or the alternative method offered by the State agency; (10) institutional choice to receive all, part, or none of advance payment. Any institution applying for participation in the Program shall be notified of approval or disapproval by the State agency in writing within 30 calendar days of filing a complete and correct application. If an institution submits an incomplete application, the State agency shall notify the institution within 15 calendar days of receipt of the application and shall provide technical assistance, if necessary, to the institution for the purpose of completing its application. Any disapproved applicant shall be notified of its right to appeal under paragraph (j) of this section.

(c) *Denial of applications and termination of institutions.* The State agency shall not enter into an agreement with any applicant institution identifiable through its corporate organization, officers, employees, or otherwise, as an institution which participated in any Federal child nutrition program at any time during the previous three fiscal years, including the fiscal year of its application to the Program, and which was seriously deficient in its operation of any such program. The State agency shall terminate the Program agreement with any institution which it determines to be seriously deficient. Following such termination, the institution shall not be eligible to participate in the Program during the remainder of the fiscal year of its termination and the subsequent two fiscal years, unless the State agency, with FNS concurrence, determines that the institution has taken appropriate corrective actions to prevent recurrence of the deficiencies that led to a termination from the Program. However, the State agency shall afford an institution every reasonable opportunity to correct problems before terminating the institution for being seriously deficient. Serious deficiencies, which are grounds for disapproval of applications and for termination include, but are not limited to, any of the following:

(1) Noncompliance with the applicable bid procedures and contract requirements of federal child nutrition program regulations;

(2) The submission of false information to the State agency;

(3) Failure to return to the State agency any advance payments which exceeded the amount earned for serving eligible meals, or failure to return disallowed start-up payments;

(4) Failure to maintain adequate records;

(5) Failure to adjust meal orders to conform to variations in the number of participating children;

(6) The claiming of Program payments for meals not served to participating children;

(7) Service of a significant number of meals which did not include required quantities of all meal components;

(8) Continued use of food service management companies that are in violation of health codes;

(9) Failure of a sponsoring organization to disburse payments to its

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facilities in accordance with its management plan:

(10) A history of administrative or financial mismanagement in any Federal child nutrition program.

(d) *Licensing/Approval.* This section prescribes State agency responsibilities to ensure that child care centers, outside-school-hours care centers, and day care homes meet the licensing/approval criteria set forth in this part. Sponsoring organizations shall submit to the State agency documentation that facilities under their jurisdiction are in compliance with licensing/approval requirements. Independent centers shall submit such documentation to the State agency on their own behalf.

(1) *General.* Each State agency shall establish procedures to annually review information submitted by institutions to ensure that all participating child care centers, day care homes, and outside-school-hours care centers either:

(i) are licensed or approved by Federal, State, or local authorities; or

(ii) are complying with applicable procedures to renew licensing or approval in situations where the State agency has no information that licensing or approval will be denied; or

(iii) receive Title XX funds for providing child care, if licensing or approval is not available; or

(iv) demonstrate compliance with applicable State or local child care standards to the State agency, if licensing is not available and Title XX funds are not received; or

(v) demonstrate compliance with CCFP child care standards to the State agency, if licensing or approval is not available and Title XX funds are not received.

(2) *CCFP child care standards.* (i) When licensing or approval is not available, independent child care centers, and sponsoring organizations on behalf of their child care centers or day care homes, may elect to demonstrate compliance, annually, with the following CCFP child care standards or other standards specified in paragraph (d)(3) of this section:

(A) *Staff/Child Ratios.* (*1*) Day care homes provide care for no more than 12 children at any one time. One home caregiver is responsible for no more than 6 children ages 3 and above, or no more than 5 children ages 0 and above. No more than 2 children under the age of 3 are in the care of 1 caregiver. The home provider's own children who are in care and under the age of 14 are counted in the maximum ratios of caregivers to children.

(*2*) Child care centers and outside-school-hours care centers do not fall below the following staff/child ratios:

(*i*) For children under 6 weeks of age—1:1

(*ii*) For children ages 6 weeks up to 3 years—1:4

(*iii*) For children ages 3 years up to 6 years—1:8

(*iv*) For children ages 6 years up to 10 years—1:15

(*v*) For children ages 10 and above—1:20

(B) *Nondiscrimination.* Day care services are available without discrimination on the basis of race, color, or national origin.

(C) *Safety and Sanitation.* (*1*) A current health/sanitation permit or satisfactory report of an inspection conducted by local authorities within the past 12 months shall be submitted.

(*2*) A current fire/building safety permit or satisfactory report of an inspection conducted by local authorities within the past 12 months shall be submitted.

(*3*) Fire drills are held in accordance with local fire/building safety requirements.

(D) *Suitability of Facilities.* (*1*) Ventilation, temperature, and lighting are adequate for children's safety and comfort.

(*2*) Floors and walls are cleaned and maintained in a condition safe for children.

(*3*) Space and equipment, including rest arrangements for preschool age children, are adequate for the number and age range of participating children.

(E) *Social Services.* Independent centers, and sponsoring organizations in coordination with their facilities, have procedures for referring families of children in care to appropriate local health and social service agencies.

(F) *Health Services.* (*1*) Each child is observed daily for indications of difficulties in social adjustment, illness, neglect, and abuse, and appropriate action is initiated.

(*2*) A procedure is established to ensure prompt notification of the parent or guardian in the event of a child's illness or injury, and to ensure prompt medical treatment in case of emergency.

(*3*) Health records, including records of medical examinations and immunizations, are maintained for each enrolled child. (Not applicable to day care homes.)

(*4*) At least one full-time staff member is currently qualified in first aid, including artificial respiration techniques. (Not applicable to day care homes.)

(*5*) First aid supplies are available.

(*6*) Staff members undergo initial and periodic health assessments.

(G) *Staff Training.* The institution provides for orientation and ongoing training in child care for all caregivers.

(H) *Parental Involvement.* Parents are afforded the opportunity to observe their children in day care.

(I) *Self-Evaluation.* The institution has established a procedure for periodic self-evaluation on the basis of CCFP child care standards.

(ii) When licensing or approval is not available, independent outside-school-hours care centers, and sponsoring organizations on behalf of their outside-school-hours care centers, may elect to demonstrate compliance with child care standards developed by the State agency which shall include, as a minimum, information on: (A) fire/safety, (B) sanitation, (C) organized activities, (D) kitchen and restroom facilities, (E) appropriateness of games and materials, (F) availability of emergency medical care, and (G) child-staff ratios as indicated in § 226.7(d)(2)(i)(A). For items (A) and (B), above, appropriate State or local permits are required.

(3) *Alternate approval procedures.* Each State agency shall establish procedures to review information submitted by institutions for centers or homes for which licensing or approval is not available in order to establish eligibility for the Program. Licensing or approval is not available when (i) no Federal, State, or local licensing/approval standards have been established for child care centers, outside-school-hours care centers, or day care homes; or (ii) no mechanism exists to determine compliance with licensing/approval standards; or (iii) licensing authorities do not make a determination on an application for licensing/approval within a reasonable period of time (as specified in § 226.7(d)(4)). In these situations, independent centers, and sponsoring organizations on behalf of their facilities, may choose to demonstrate compliance with either CCFP child care standards, applicable State child care standards, or applicable local child care standards. State agencies shall provide information about applicable State child care standards and CCFP child care standards to institutions, but may require institutions electing to demonstrate compliance with applicable local child care standards to identify and submit these standards. The State agency may permit independent centers, and sponsoring organizations on behalf of their facilities, to submit self-certification forms, and may grant approval without first conducting a compliance review at the center or facility. But the State agency shall require submission of health/sanitation and fire/safety permits or certificates for all independent centers and facilities seeking alternate child care standards approval.

(4) *Backlogs.* Independent centers and sponsoring organizations on behalf of their facilities, may submit to the State agency a Program application for a child care center, outside-school-hours care center, or day care home which has applied for licensing and has not yet secured a determination from the licensing authority. Within 15 calendar days of receipt, the State agency shall notify the institution that the Program application is incomplete and provide the institution with information on demonstrating compliance of the center or home with CCFP child care standards and applicable state child care standards. However, the State agency shall not make any determination of eligibility under this section until 90 calendar days have elapsed from the date the State agency received both a Program application and documentation indicating that an application for licensure was submitted to the licensing authority. When a child care center, outside-school-hours care center, or day care home is approved under this section, the institution which submitted its Program application shall be informed of the responsibility to notify the State agency if the licensing application of the center or home is approved or denied by the licensing authority. The State agency shall terminate the Program participation of any independent center or facility so denied licensure or approval, effective the date of the denial. The State agency shall terminate the Program participation of an independent center, or facility, if, one year from the date of Program approval, the State or local licensing authority indicates that the independent center or the facility has failed to take action on completing the requirements for licensing. FNS shall exempt State agencies from implementation of the provisions of this paragraph and of § 226.7(d)(3)(iii) with respect to any type of child care entity (child care center, outside-school-hours care center, day care home) when State law mandates that entities of that type secure State licensure as a prerequisite to operation. State agencies seeking this exemption relative to a given type or types of child care entities shall submit for FNS review and approval documentation from the chief State legal officer that the condition for exemption exists within the State regarding the specified type or types.

(e) *Annual requirements.* State agencies shall require institutions to comply with applicable provisions of this part. Each State agency shall annually:

(1) Enter into and execute a written Program agreement with each institution, or renew such agreement with the written concurrence of the institution. The program agreement shall provide that the institution shall accept final financial and administrative responsibility for management of an effective food service, comply with all requirements under this part, and comply with all requirements under the Civil Rights Act of 1964 and the nondiscrimination regulations of the Department, as now or later amended (7 CFR Part 15), to the end that no person shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under the Program.

(2) Require each sponsoring organization to submit a management plan with its application for review and approval. Such a plan shall include detailed information on the organizational administrative structure, the staff assigned to Program management and monitoring, administrative budget, and procedures which will be used by the sponsoring organization to administer the Program in and disburse payments to the child care facilities under its jurisdiction.

(3) Require each institution to submit an administrative budget. Each sponsoring organization shall be required to incorporate this budget into its management plan.

(4) Determine that all meal procurements with vendors are in conformance with the bid and contractual requirements of § 226.23.

(5) Inquire as to the preference of institutions for commodities or cash-in-lieu of commodities.

(6) Provide institutions with information on foods available in plentiful supply, based on information provided by the Department.

(7) Inform institutions with separate meal charges of their responsibility to ensure that free and reduced-price meals are served to children unable to pay the full price and provide to all institutions a copy of the State's income standards to assist them in meeting their responsibility.

(f) *Program expansion.* Each State agency shall take affirmative action to expand the availability of benefits under this Program. As a minimum, the State shall annually notify each nonparticipating child care center, outside-school-hours care center, and day care home within the State that is licensed, approved, registered, or receiving funds under Title XX of the availability of the Program, the requirements for Program participation, the availability of food service equipment funds under the Program, and the application procedures to be followed in the Program. The State agency shall make the list of child care centers, outside-school-hours care centers, and day care homes notified each year available to the public upon request.

(g) *Commodity distribution.* The State shall annually inquire as to the preference of each institution for commodities or cash-in-lieu of commodities. Each institution electing cash-in-lieu of commodities shall receive such payments. Each institution which elects to receive commodities shall have commodities provided to it unless the State agency, after consultation with the State commodity distribution agency, demonstrates to FNS that distribution of commodities to the number of such institutions would be impracticable. The State agency may then, with the concurrence of FNS, provide cash-in-lieu of commodities for all institutions. A State agency request for cash-in-lieu of all comodities shall be submitted to FNS not later than May 1 of the school year preceding the school year for which the request is made. The State agency shall, by June 1 of each year, submit a list of institutions which have elected to receive commodities to the State commodity distribution agency, unless FNS has approved a request for cash-in-lieu of commodities for all institutions. The list shall be accompanied by information on the average daily number of lunches and suppers to be served to children by each such institution. The State agency may, with the concurrence of the State distribution agency, permit institutions to change their choice between commodities and cash-in-lieu of commodities during the same fiscal year.

(h) *Standard contract.* Each State agency shall develop a standard contract in accordance with § 226.22 and provide for its use between institutions and food service management companies. The contract shall expressly and without exception stipulate:

(1) The institution shall provide the food service management company with a list of the State agency approved child care centers, day care homes, and outside-school-hours care centers to be furnished meals by the food service management company, and the number of meals, by type, to be delivered to each location;

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(2) The food service management company shall maintain such records (supported by invoices, receipts or other evidence) as the institution will need to meet its responsibilities under this part, and shall promptly submit invoices and delivery reports to the institution no less frequently than monthly;

(3) The food service management company shall have Federal, State or local health certification for the plant in which it proposes to prepare meals for use in the Program, and it shall insure that health and sanitation requirements are met at all times. In addition, the State agency may require the food service management company to provide for meals which it prepares to be periodically inspected by the local health department or an independent agency to determine bacteria levels in the meals being prepared. These bacteria levels shall conform to the standards which are applied by the local health authority with respect to the level of bacteria which may be present in meals prepared or served by other establishments in the locality. Results of these inspections shall be submitted to the institution and to the State agency;

(4) The meals served under the contract shall conform to the cycle menus upon which the bid was based, and to menu changes agreed upon by the institution and food service management company;

(5) The books and records of the food service management company pertaining to the institution's food service operation shall be available for inspection and audit by representatives of the State agency, of the Department, and of the U.S. General Accounting Office at any reasonable time and place, for a period of 3 years from the date of receipt of final payment under the contract, or in cases where an audit requested by the State agency or the Department remains unresolved, until such time as the audit is resolved;

(6) The food service management company shall operate in accordance with current Program regulations;

(7) The food service management company shall not be paid for meals which are delivered outside of the agreed upon delivery time, are spoiled or unwholesome at the time of delivery, or do not otherwise meet the meal requirements contained in the contract;

(8) Meals shall be delivered in accordance with a delivery schedule prescribed in the contract;

(9) Increases and decreases in the number of meal orders may be made by the institution, as needed, within a prior notice period mutually agreed upon in the contract;

(10) All meals served under the Program shall meet the requirements of § 226.21; and

(11) All breakfasts, lunches, and suppers delivered for service in outside-school-hours care centers shall be unitized, with or without milk, unless the State agency determines that unitization would impair the effectiveness of food service operations. For meals delivered to child care centers and day care homes, the State agency may require unitization, with or without milk, of all breakfasts, lunches, and suppers only if the State agency has evidence which indicates that this requirement is necessary to ensure compliance with § 226.21.

(i) *Procurement provisions.* State agencies shall require institutions to adhere to the procurement provisions set forth in § 226.23.

(j) *Institution appeal procedures.* Each State agency shall establish an appeal procedure to be followed by an institution requesting a review of a denial of an institution's application for participation, a denial of an application submitted by a sponsoring organization on behalf of a facility, a termination of the participation of an institution or facility, a suspension of an institution's agreement, a denial of an institution's application for start-up payments, a denial of an advance payment, a denial of all or a part of the claim for reimbursement, demand for the remittance of an overpayment, and any other action of the State agency affecting the participation of an institution in the Program or the institution's claim for reimbursement. At a minimum, the procedure shall provide that:

(1) The institution shall be advised in writing of the grounds on which the State agency based its action. The notice of action, which shall be sent by certified mail, return receipt requested, shall also include a full description of the institution's rights and responsibilities under this section;

(2) The written request for review shall be filed by the appellant not later than 15 calendar days from the date the appellant received the notice of action, and the State shall acknowledge the receipt of the request for appeal within 10 calendar days;

(3) The appellant may refute the charges contained in the notice of action in person and by written documentation to the review official. In order to be considered, written documentation must be filed with the review official not later than 30 calendar days after the appellant received the notice of action. The appellant may retain legal counsel, or may be represented by another person. A hearing shall be held by the review official in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant so specifies in the letter of request for review. Failure of the appellant institution's representative to appear at a scheduled hearing shall constitute the appellant institution's waiver of the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing;

(4) If the appellant has requested a hearing, the appellant shall be provided with at least 10 calendar days advance written notice, sent by certified mail, return receipt requested, of the time and place of the hearing;

(5) Any information on which the State agency's action was based shall be available to the appellant for inspection from the date of receipt of the request for review;

(6) The review official shall be an independent and impartial official other than, and not accountable to, any person authorized to make decisions that are subject to appeal under the provisions of this section;

(7) The review official shall make a determination based on information provided by the State agency and the appellant, and on Program regulations;

(8) Within 60 calendar days of the State agency's receipt of the request for review, the review official shall inform the State agency and the appellant of the determination of the review;

(9) The State agency's action shall remain in effect during the appeal process. However, participating institutions and facilities may continue to operate under the Program during an appeal of termination, unless the action is based on imminent dangers to the health or welfare of children. If the institution or facility has been terminated for this reason, the State agency shall so specify in its notice of action; and

(10) The determination by the State review official is the final administrative determination to be afforded to the appellant.

(k) *Program assistance.* Each State agency shall provide technical and supervisory assistance to institutions and facilities to facilitate effective Program operations, monitor progress toward achieving Program goals, and ensure compliance with the Department's nondiscrimination regulations (Part 15 of this title), issued under Title VI of the Civil Rights Act of 1964. Documentation of supervisory assistance activities, including reviews conducted, corrective actions prescribed, and follow-up efforts, shall

be maintained on file by the State agency. Program reviews shall assess institutional compliance with meal requirements, family-size and income documentation where applicable, financial management standards, and non-discrimination regulations. The State agency shall annually review 33.3 percent of all institutions, including reviews of 15 percent of the child care centers and outside-school-hours care centers under each sponsoring organization reviewed, and 10 percent of the first 1,000 day care homes and 5 percent of the homes in excess of 1,000 under each sponsoring organization reviewed. Such reviews shall be made for newly participating sponsoring organizations with five or more child care facilities within the first 90 days of Program operations. The State agency review system shall ensure that all institutions are reviewed at least once evey four years.

(l) *Program irregularities.* Each State agency shall promptly investigate complaints received or irregularities noted in connection with the operation of the Program, and shall take appropriate action to correct any irregularities. State agencies shall maintain on file evidence of such investigations and actions. FNS and OIG may make investigations at the request of the State agency, or whenever FNS or OIG determines that investigations are appropriate.

(m) *Child Care Standards Compliance.* The State agency shall, when conducting administrative reviews of child care centers, outside-school-hours care centers, and day care homes approved by the State agency under paragraphs (d)(3) and (4) of this section, determine compliance with the child care standards used to establish eligibility and ensure that all violations are corrected. If violations are not corrected within 60 calendar days of written notification to the institution, the State agency shall terminate the Program participation of the violating institution or facility. However, if the health or safety of the children is imminently threatened, the State agency may immediately terminate participation of the institution or facility. If, during an administrative review of a child care center, outside-school-hours care center, or day care home not approved by the State agency under paragraphs (d)(3) and (4) of this section, the State agency observes violations of applicable health, safety, or staff-child ratio standards, or attendance in excess of licensed capacity, the State agency shall promptly refer such violations to the appropriate authority. The State agency may deny reimbursement for meals served to attending children in excess of authorized capacity.

(n) *Sponsoring organization agreement.* Each State agency shall develop and provide for the use of a standard form of agreement between each day care home sponsoring organization and all day care homes participating in the Program under such organization. State agencies may develop a similar form for use between sponsoring organizations and other types of facilities.

§ 226.8 State agency responsibilities for financial management.

(a) *General.* This section prescribes standards for financial management systems in administering Program funds by the State agency and institutions.

(b) *State level responsibilities.* Financial management systems for Program funds in the State agency shall provide for:

(1) Accurate, current, and complete disclosure of the financial results of Program activities in accordance with Federal reporting requirements.

(2) Records of Program operations which will adequately identify funds authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income. State agencies shall maintain documentation of all claims against institutions under §226.15. The records may be kept in their original form or on microfilm, and shall be retained for a period of three years after the date of submission of the Final Financial Status Report (Standard Form 269), except that, if audit findings have not been resolved, the records shall be retained beyond the three-year period as long as required for the resolution of the issues raised by the audit. Reports shall continue to be submitted on a regular basis after the end of the fiscal year to which they pertain until all unpaid obligations have been liquidated, at which time the next report made should be marked "Final" and submission discontinued for the fiscal year.

(3) Records which identify disallowed costs and offsets resulting from FNS or other determinations and the disposition of these amounts. Procedures must be in effect to prevent State agency claims for these costs under Program administration.

(4) Effective control and accountability by the State agency for all Program funds, property, and other assests acquired with Program funds. State agencies and subagencies or contractors shall adequately safeguard all such assets and shall assure that they are used for authorized Program purposes.

(5) Controls which minimize the time between the receipt of Federal funds from the United States Treasury and their payment to institutions. In the letter-of-credit system, the State agency shall make drawdowns from the United States Treasury through a United States Treasury Regional Disbursing Office in amounts as close as possible to their needs. Advances made by the State agency to institutions should conform to these same standards.

(6) Support and source documents for costs.

(7) Audit trails including identification of time periods, initial and summary accounts, cost determination and allocation procedures, cost centers or other accounting procedures to support any costs claimed for Program administration.

(c) *Management evaluations and audits.* State agencies shall provide FNS with full opportunity to conduct management evaluations (including visits to institutions and facilities) of all operations of the State agency under the Program, and shall provide OIG with full opportunity to conduct audits (including visits to institutions and facilities) of all operations of the State agency under the Program. Within 60 calendar days of receipt of each management evaluation report, the State agency shall submit to FNSRO a written plan for correcting serious deficiencies, including specific timeframes for accomplishing corrective actions and initiating follow-up efforts. Each State agency shall make available its records, including records of the receipt and expenditure of funds, upon request by FNS or OIG. OIG shall also have the right to make audits of the records and operations of any institution.

(d) *Reports.* Each State agency shall submit information to FNS on Program operations on a monthly and quarterly basis, and on the use of Program funds on a quarterly basis. FNS may require that each State agency submit an annual report on the scope of Program operations.

(e) *Rate assignment.* Each State agency shall require institutions (other than sponsoring organizations for day care homes) to submit, not less frequently than annually, information necessary to assign rates of reimbursement as outlined in § 226.10.

(f) *Administrative budget approval.* The State agency shall approve institution administrative budgets, and shall limit allowable administrative costs claimed by each sponsoring organization for day care homes to administrative costs approved in its annual budget. The State agency may establish such administrative costs

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limits for other institutions. Administrative budget levels may be adjusted to reflect changes in Program activities.

(g) *Start-up payments.* Each State agency shall establish procedures for evaluating requests for start-up payments, issuing these payments to eligible sponsoring organizations, and monitoring the use of these payments.

(h) *Advance payments.* Each State agency shall establish procedures for issuing advance payments by the first day of each month and comparing these payments with earned reimbursement on a periodic basis.

(i) *Recovery of overpayments.* Each State agency shall establish procedures to recover outstanding start-up and advance payments from institutions which, in the opinion of the State agency, will not be able to earn these payments.

(j) *Claims processing.* Each State agency shall establish procedures for institutions to properly submit claims for reimbursement. All valid claims shall be paid within 45 calendar days of receipt. Within 15 calendar days of receipt of any incomplete or incorrect claim which must be revised for payment, the State agency shall notify the institution as to why and how such claim must be revised. If the State agency disallows partial or full payment for a claim for reimbursement, it shall notify the institution which submitted the claim of its right to appeal under § 226.7(j). State agencies may permit disallowances to be appealed separately from claims for reimbursement.

(k) *Participation controls.* The State agency may establish control procedures to ensure that payment is not made for meals served to children attending in excess of the authorized capacity of each independent center or child care facility.

(l) *Financial management system.* Each State agency shall establish a financial management system in accordance with OMB Circular A-102 and FMC 74–4, and with FNS guidance to identify allowable Program costs and establish standards for institutional recordkeeping and reporting. These standards shall (1) prohibit claiming reimbursement for meals provided by a child's parents, except as authorized by § 226.19(e), and (2) allow the cost of meals served to adults who perform necessary food service labor under the Program, except in day care homes. The State agency shall provide guidance on financial management requirements to each institution.

§ 226.9 Audits.

(a) In accordance with the Plan submitted under § 226.6(b), the State agency shall provide for audits at the State and institution levels of Program funds, payments and operations. Such audits shall be conducted at least once every 2 years for each institution. Organization-wide audits of institutions receiving other Federal funds may be counted toward meeting this requirement. The audits shall determine the fiscal integrity of financial transactions and reports, and compliance with applicable laws and regulations. Audits may be made by: (1) State agency internal auditors; (2) State Auditors General; (3) State Comptrollers Office; (4) other comparable State or local audit groups; (5) certified public accountants; (6) public accountants licensed on or before December 31, 1970, currently certified or licensed by the regulatory authority of the State or other political subdivision of the United States.

(b) Except with the written approval of FNSRO, State agencies shall not permit institutions either to select an auditing firm or to disburse funds provided to the State agency for the conduct of audits under § 226.4(h).

(c) In conducting audits during any fiscal year, the State agency shall establish priorities for using the funds provided for in § 226.4(h) first to meet the fiscal audit requirements outlined in this section. Costs pertaining to such audits shall not be borne in whole or in part by the institution. Such audits shall be fiscal audits conducted in accordance with the Department's guidelines. After fulfilling the audit requirements, any remaining funds may be used by the State agency during the fiscal year for which the funds are allocated to conduct administrative reviews of program operations in institutions. If the funds provided under § 226.4(h) are not sufficient to meet the requirements of this section, the State agency may use available State administrative expense funds to conduct audits.

(d) Use of audit guides available from OIG is encouraged. When these guides are utilized, OIG will coordinate its audits with State sponsored audits to form a network of intergovernmental audit systems.

(e) In making management evaluations or audits for any fiscal year, the State agency or OIG may disregard any overpayment which does not exceed $35 or, in the case of State agency administered programs, does not exceed the amount established under State law, regulations or procedures as a minimum amount for which claims will be made for State losses generally. No overpayment shall be disregarded, however, where there are unpaid claims of the same fiscal year from which the overpayment can be deducted, or where there is evidence of violation of criminal law or civil fraud statutes.

(f) While OIG shall rely to the fullest extent feasible upon State sponsored audits, OIG may, whenever it considers necessary: (1) Make audits on a statewide basis; (2) perform on-site test audits; (3) review audit reports and related working papers of audits performed by or for State agencies.

Subpart D—Payment Provisions

§ 226.10 Assignment of rates of reimbursement for centers.

(a) Each State agency shall, not less frequently than annually, notify each participating institution of its option to receive reimbursement on the basis of either (1) the tier determined by the percentage of enrolled children who are eligible for free and reduced-price meals or (2) the eligibility of each enrolled child for free, reduced-price, or paid meals. This notification shall include an explanation of the methods of reimbursement. The method of determining reimbursement to an institution may be changed more frequently than annually only with the concurrence of both the State agency and the institution. The State agency may reassign rates of reimbursement more frequently than annually when warranted by changes in family-size and income information. Assigned rates of reimbursement shall be adjusted semi-annually to reflect changes in the national average payment rates.

(b) For institutions which elect to receive reimbursement on the basis of the percentage of enrolled children from families meeting the State's income standards for free and reduced-price meals, the State agency shall, not less frequently than annually, assign rates of reimbursement as follows: (1) Rates of reimbursement not less than the national average payment rates for free meals shall be assigned to meals served in tier 1 institutions; (2) rates of reimbursement not less than the national average payment rates for reduced-price meals shall be assigned for meals served in tier 2 institutions; and (3) rates of reimbursement not less than the national average payment rates for paid meals shall be assigned to tier 3 institutions. The State agency shall assign such rates of reimbursement, not less frequently than annually on the basis of family-size and income information reported by each institution. Assigned rates of reimbursement may

be changed more frequently than annually if warranted by changes in family-size and income information.

(c) For institutions which elect to receive reimbursement on the basis of eligibility of each enrolled child for free, reduced-price, or paid meals, the State agency shall either:

(1) Require that institutions submit each month figures for meals served daily to children from families meeting the State's family-size income standards for free meals, to children from families meeting the State's family-size income standards for reduced-price meals and to children from families not meeting such guidelines; or

(2) Establish claiming percentages, not less frequently than annually, for each institution on the basis of the number of enrolled children eligible for free, reduced-price, and paid meals; or

(3) Determine a blended per-meal rate of reimbursement, not less frequently than annually, by adding the products obtained by multiplying the applicable national average payment rate of reimbursement for each category (free, reduced-price, paid) by the claiming percentage for that category.

(d) The State agency may elect to pay an institution's final claim for reimbursement for the fiscal year at higher reassigned rates of reimbursement for lunches and suppers; however, the reassigned rates may not exceed the applicable maximum rates of reimbursement established under § 210.11(b) of the National School Lunch Program regulations. The total payments made to the institution shall not exceed the total net costs incurred for the fiscal year.

§ 226.11 Program payment procedures.

(a) Each State agency shall provide advance payment to each institution by the first day of each month of operation. However, any institution may decline to receive all or part of advance payment. The first advance payment of the fiscal year to each institution shall approximate the full amount of the average monthly reimbursement paid to the institution during the prior 6 months of operation except that the State agency may adjust the amount of advance payment to the full amount of reimbursement which the State agency has estimated the institution will earn in the month for which the advance payment is made. Advance payments to newly participating institutions shall equal the amount of reimbursement which the State agency has estimated the institution will earn in the month for which the advance payment is made.

(b) If the State agency has reason to believe that an institution will not be able to submit a valid claim for reimbursement, such as failure to submit a claim for reimbursement as required by this section or audit or monitoring evidence of extensive Program deficiencies, advance payments shall be withheld until the claim is received or the deficiencies are corrected. The State agency shall notify the institution of the reason for withholding the advance and allow the institution full opportunity to submit evidence on appeal as provided for in § 226.7(j). After three advance payments have been made to an institution, the State agency shall establish procedures to ensure that no subsequent advance payment is made to such institution until the State agency has validated the institution's claim for reimbursement for the third month prior to the month for which the advance is to be paid. Claims for reimbursement and other information should be utilized to adjust the amount of advance payments to reflect the current amount needed by the institution for one month's operation. During the fiscal year, if the State agency determines that the amount of advance payments paid to an institution, less reimbursement earned by the institution, will not be earned by claims for reimbursement anticipated for the remainder of the fiscal year, the State agency may demand full or partial repayment of the outstanding balance. At the end of the fiscal year, unearned payments advanced to institutions shall be repaid to the State agency upon demand, or deducted from payments during the following fiscal year.

(c) Claims for reimbursement shall be filed with the State agency by the 10th day of the month following the month covered by the claim. Not more than 10 days of the beginning or ending month of Program operations in a fiscal year may be combined on a claim with the operations of the month immediately following the beginning month, or preceding the ending month. Claims for reimbursement may not combine the last month of a fiscal year with the first month of the next fiscal year. Claims for reimbursement shall report information in accordance with the financial management system established by the State agency, and in sufficient detail to justify the reimbursement claimed. In submitting a claim for reimbursement, each institution shall certify that the claim is correct and that records are available to support the claim. Such records shall be retained for a period of three years after the date of submission of the final year to which they pertain, except that if audit findings have not been resolved, the records shall be retained beyond the end of the three-year period as long as required for the resolution of the issues raised by the audit. All accounts and records pertaining to the Program shall be made available, upon request, to representatives of the State agency, of the Department, and of the U.S. General Accounting Office for audit or review, at a reasonable time and place.

(d) The State Agency may initiate procedures for suspension of an institution's agreement if any claim for reimbursement has not been submitted within 90 calendar days after the end of the month covered by the claim. Upon expiration of such 90 days, the State agency shall notify the institution and afford 15 calendar days for submission of the missing claim. If the claim is not postmarked or received within 15 days, the State agency may suspend the institution's agreement, or disallow the claim, or elect not to take action. A suspended agreement shall remain suspended until such time as the claim is received and determined to be valid and correct by the State agency. Reimbursement shall not be paid for meals served during the period of suspension, nor shall the State agency make any advance payments to the institution during this period. The State agency shall notify any institution suspended from participation under this paragraph of its rights to appeal under § 226.7(j).

(e) Claims for reimbursement for meals served during each fiscal year must be filed with the State agency prior to January 1 of the following fiscal year in order to be eligible for reimbursement. The State agency shall, as determined necessary through its administrative review process or otherwise, promptly take corrective action with respect to any such claim. Such corrective action must be completed in sufficient time to be reflected in the final Program Operations and Financial Status Report for each fiscal year if reimbursement for such claims is to be made available from that fiscal year through the Letter of Credit process described under § 226.4(c) of this part. The final Program Operations and Financial Status Reports for each fiscal year must be submitted by March 1 of the following year. Any requested increase in reimbursement level for a fiscal year resulting from corrective action taken after submission of the final fiscal year Program Operations and Financial Status Reports, must be submitted to FNS for approval. The request will be accompanied by a written explanation of the basis for the adjustment and the actions taken to minimize the need for

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such adjustments in the future. If FNS approved of such increase, it will make payments subject to the availability of funds. Any reduction in reimbursement for that fiscal year resulting from corrective action taken after submission of the final fiscal year Program Operations and Financial Status Reports shall be handled in accordance with the provisions of § 226.8(a) of this Part except that amounts recovered may not be used to make program payments.

(f) If a State agency has reason to believe that an institution or food service management company has engaged in unlawful acts with respect to Program Operations, evidence found in audits, investigations or other reviews shall be a basis for non-payment of claims for reimbursement.

§ 226.12 Program payments for child care centers and outside-school-hours care centers.

(a) Payments shall be made only to institutions operating under an agreement with the State agency for the meal types specified in the agreement served at approved child care centers and outside-school-hours care centers. A State agency may make payment for meals served in accordance with provisions of the Program in the calendar month preceding the calendar month in which the agreement is executed.

(b) Each institution shall report each month to the State agency the total number of meals, by type (breakfasts, lunches, suppers, and supplements), served to children.

(c) Each State agency shall base reimbursement to each institution on the number of meals, by type, served to children multiplied by the assigned rates of reimbursement. For institutions which have elected to receive reimbursement on the basis of the eligibility of each enrolled child for free, reduced-price, or paid meals, the State agency shall either: (1) Base reimbursement to institutions on actual daily counts of meals served, and multiply the number of meals, by type, served to children from families meeting the State's family-size income standards for free meals, served to children from families meeting the State's family-size income standards for reduced-price meals, and served to children from families not meeting such standards by the applicable national average payment rate, or (2) apply the applicable claiming percentage or percentages to the total number of meals, by type, served to children and multiply the product or products by the assigned rate of reimbursement for each meal type, or (3) multiply the assigned blended per-meal rate of reimbursement by the total number of meals, by type, served to children.

(d) During any fiscal year, total payments to an institution, including any cash payments in lieu of commodities, shall not exceed allowable Program operating and administrative costs, less income to the program. The State agency may limit payments for administrative costs to the amount approved in the annual administrative budget of the institution. The State agency may prohibit an institution from using payments for operating costs to pay for administrative expenses.

(e) Supplemental food shall not be reimbursed if the institution also participates in the Special Milk Program for Children (7 CFR Part 215).

(f) Each institution shall maintain records as prescribed by the State agency financial management system.

§ 226.13 Administrative payments to sponsoring organizations for day care homes.

(a) Sponsoring organizations for day care homes shall receive payments for administrative costs. During any fiscal year, administrative costs payments to a sponsoring organization may not exceed the lesser of (1) actual expenditures for the costs of administering the Program less income to the Program, or (2) the amount of administrative costs approved by the State agency in the sponsoring organization's budget, or (3) the sum of the products obtained by multiplying each month the sponsoring organization's:

(i) Initial 25 day care homes by 45 dollars;

(ii) Next 50 day care homes by 35 dollars; and

(iii) Additional day care homes by 30 dollars. During any fiscal year, administrative payments to a sponsoring organization may not exceed 30 percent of the total amount of administrative payments and food service payments for day care home operations.

(b) Prospective sponsoring organizations of day care homes, participating sponsoring organizations of child care centers or outside-school-hours care centers, independent centers, and participating sponsoring organizations of fewer than 50 homes which meet the criteria of this paragraph shall be entitled to receive start-up payments to develop or expand successful Program operations in day care homes. The State agency shall approve start-up payments only once for any eligible sponsoring organization. Sponsoring organizations which apply for start-up payments shall evidence: (1) Public or nonprofit status in accordance with § 226.16(a), except that sponsoring organizations which are moving toward compliance with the requirements for IRS tax-exempt status must demonstate current tax-exempt status under State law and regulations; (2) an organizational history of managing funds and ongoing activities (i.e. administering public or private programs); (3) an acceptable and realistic plan for recruiting day care homes to participate in the Program, which may be based on estimates of the number of day care homes to be recruited and information supporting their existence (e.g., the method of contacting providers); (4) an acceptable preliminary sponsoring organization management plan (e.g., plans for pre-operational visits, training). The State agency shall deny start-up payments to applicant sponsoring organizations which fail to meet any of these criteria or which have demonstrated financial irresponsibility in the operation of other programs funded by Federal, State, or local governments. The State agency shall notify the sponsoring organization of the reasons for denial and allow the sponsoring organization full opportunity to submit evidence on appeal as provided for in § 226.7(j). Any sponsoring organization applying for start-up funds shall be notified of approval or disapproval by the State agency in writing within 30 calendar days of filing a complete and correct application. If a sponsoring organization submits an incomplete application, the State agency shall notify the sponsoring organization within 15 calendar days of receipt of the application and shall provide technical assistance, if necessary, to the sponsoring organization for the purpose of completing its application.

(c) Applicant sponsoring organizations which apply for and meet the criteria for start-up payments shall enter into an agreement with the State agency. The agreement shall specify:

(1) Activities which the sponsoring organization will undertake to initiate or expand Program operations in day care homes;

(2) The amount of start-up payments to be issued to the sponsoring organization, together with a budget detailing the costs which the sponsoring organization shall incur, document, and claim;

(3) The time allotted to the sponsoring organization for the initiation or expansion of Program operations in family day care homes;

(4) The responsibility of the applicant sponsoring organization to repay, upon demand by the State agency, start-up payments not expended in accordance with the agreement.

(d) Upon execution of the agreement, the State agency shall issue a start-up payment to the sponsoring organization in an amount equal to not less than one, but not more than two, month's anticipated administrative reimbursement to the sponsoring organization as determined by the State agency. However, no sponsoring organization may receive start-up payments for more than 50 day care homes, and eligible sponsoring organizations with fewer than 50 homes under their jurisdiction at the time of application for start-up funds shall receive such payments for up to 50 homes, less the number of homes under their jurisdiction. In determining the amount of start-up payments to be made to a sponsoring organization, the State agency shall consider the anticipated level of start-up costs to be incurred by the sponsoring organization and alternate sources of funds available to the sponsoring organization.

(e) Upon expiration of the time alloted to the sponsoring organization for initiating or expanding Program operations in day care homes, the State agency shall obtain and review documentation of activities performed and costs incurred by the sponsoring organization under the terms of the start-up agreement. If the sponsoring organization has not made every reasonable effort to carry out the activities specified in the agreement, the State agency shall demand repayment of all or part of the payment; however, the sponsoring organization may retain start-up payments for all day care homes which initiate Program operations. No sponsoring organization may retain any start-up payments in excess of its actual costs for the expenditures specified in the agreement.

§ 226.14 Food Service payments to sponsoring organizations for day care homes.

(a) Payments shall be made only to sponsoring organizations operating under an agreement with the State agency for the meal types specified in the agreement served to enrolled children at approved day care homes.

(b) Each sponsoring organization shall report each month to the State agency the total number of meals, by type (breakfasts, lunches, suppers, and supplements) served to children enrolled in approved day care homes.

(c) Each sponsoring organization shall receive payments for meals served to children enrolled in approved day care homes at the rate of 46 cents for each breakfast, 90 cents for each lunch and supper, and 27 cents for each supplement. However, the rate for the lunches and suppers shall be reduced by the value of commodities established under § 226.5(b) for all sponsoring organizations for day care homes which have elected to receive commodities. The full amount of food service payments shall be disbursed to each day care home on the basis of the number of meals, by type, served to children. However, the sponsoring organization may withhold from Program payments to each home an amount equal to costs incurred for the provision of Program foodstuffs or meals by the sponsoring organization in behalf of the home and with the home provider's written consent.

§ 226.15 Claims against institutions.

(a) State agencies shall disallow any portion of a claim for reimbursement and recover any payment to an institution not properly payable under this part. However, the State agency shall notify the institution of the reasons for any disallowance or demand for repayment, and allow the institution full opportunity to submit evidence on appeal as provided for in § 226.7(j). Minimum State agency collection procedures for unearned payments shall include: (1) written demand to the institution for the return of improper payments; (2) if, after 30 calendar days, the institution fails to remit full payment or agree to a satisfactory repayment schedule, a second written demand for the return of improper payments sent by certified mail return receipt requested; and (3) if, after 60 calendar days, the institution fails to remit full payment or agree to a satisfactory repayment schedule, the State agency shall refer the claim against the institution to appropriate State or Federal authorities for pursuit of legal remedies.

(b) In the event that the State agency finds that an institution which prepares its own meals is failing to meet the meal requirements of § 226.21, the State agency need not disallow payment or collect an overpayment arising out of such failure if the institution takes such other action as, in the opinion of the State agency, will have a corrective effect.

(c) If FNS does not concur with the State agency's action in paying an institution or in failing to collect overpayment, FNS shall notify the State agency of its intention to assert a claim against the State agency. In all such cases, the State agency shall have full opportunity to submit evidence concerning the action taken. The State agency shall be liable to FNS for failure to collect an overpayment, unless FNS determines that the State agency has conformed with this part in issuing the payment and has exerted reasonable efforts to recover the improper payment.

Subpart E—Operational Provisions

§ 226.16 Institution provisions.

(a) *Tax-exempt status.* Institutions shall be public, or have tax-exempt status under the Internal Revenue Code of 1954, or be moving toward compliance with the requirements for tax-exempt status, or be currently operating another Federal program requiring nonprofit status. An institution which has applied to IRS for tax-exempt status may participate in the Program while its application is pending review by IRS. If IRS denies the application for tax-exempt status, the institution shall immediately notify the State agency of such denial. The State agency shall then terminate the participation of the institution. If IRS certification of tax-exempt status has not been received within 12 months of filing the application with IRS and IRS indicates that the institution has failed to provide all required information, the State agency shall terminate the participation of the institution until such time as IRS tax-exempt status is obtained.

(b) *Applications.* Each institution shall submit to the State agency all information required for its approval. As a minimum, such information shall include:

(1) Evidence of nonprofit status, in accordance with § 226.16(a);

(2) An application for participation, or application renewal materials, accompanied by all necessary supporting documentation;

(3) An administrative budget;

(4) If an independent child care center or independent outside-school-hours care center, documentation that it meets the licensing/approval requirements of § 226.7(d)(1); and

(5) A nondiscrimination and free and reduced-price policy statement, and information regarding a public release, in accordance with § 226.24.

(c) *Responsibility.* Each institution shall accept final administrative and financial responsibility for Program operations. No institution may contract out for management of the Program.

(d) *Staffing.* Each institution shall provide adequate supervisory and operational personnel for management and monitoring of the Program.

(e) *Recordkeeping.* Each institution shall establish procedures to collect and maintain all necessary Program records. Such records shall include:

(1) Copies of all applications and supporting documents submitted to the State agency;

(2) Documentation of the enrollment of each child, including family size and income information used to determine eligibility for free or reduced price meals for each child reported as being in either need category, at child care centers and outside-school-hours care centers;

(3) Documentation of the enrollment of each child at day care homes;

(4) Daily records indicating the number of children in attendance and the number of meals, by type (breakfast, lunch, supper, and supplements) served to enrolled children;

(5) Except at day care homes, daily records indicating the number of meals, by type, served to adults performing labor necessary to the food service;

(6) Copies of invoices, receipts, or other records required by the State agency financial management instruction to document:

(i) Administrative costs claimed by the institution;

(ii) Operating costs claimed by the institution except sponsoring organizations of day care homes;

(iii) Income to the Program;

(7) Copies of all claims for reimbursement submitted to the State agency;

(8) Receipts for all Program payments received from the State agency;

(9) Copies of menus, and any other food service records required by the State agency; and

(10) Information on training session date(s) and location(s), as well as topics presented and names of participants.

(f) *Claims submission.* Each institution shall submit claims for reimbursement to the State agency in accordance with § 226.11.

(g) *Program agreement.* Each institution shall enter into a Program agreement with the State agency in accordance with § 226.7(e)(1).

(h) *Commodities.* Each institution receiving commodities shall ensure proper commodity utilization.

§ 226.17 Sponsoring organization provisions.

(a) Each sponsoring organization shall comply with all provisions of § 226.16.

(b) Each sponsoring organization shall submit to the State agency all information required for its approval and the approval of all child care facilities under its jurisdiction, including:

(1) A sponsoring organization management plan, in accordance with § 226.7(e)(2);

(2) An application for participation, or renewal materials, for each child care facility accompanied by all necessary supporting documentation; and

(3) Timely information concerning the eligibility status of child care facilities (such as licensing/approval actions).

(c) Each sponsoring organization shall accept final administrative and financial responsibility for food service operations in all child care facilities under its jurisdiction.

(d) Each sponsoring organization shall provide adequate supervisory and operational personnel for the effective management and monitoring of the Program at all child care facilities under its jurisdiction. At a minimum, such Program assistance shall include:

(1) Pre-approval visits to each child care facility for which application is made to discuss Program benefits and verify that the proposed food service does not exceed the capability of the child care facility;

(2) Staff training for all child care facilities in Program duties and responsibilities prior to beginning Program operations;

(3) Additional training sessions, to be provided not less frequently than annually;

(4) Reviews of food service operations to assess compliance with meal pattern, recordkeeping, and other Program requirements. Such reviews shall be made not less frequently than:

(i) Three times each year at each child care center, provided at least one review is made during each child care center's first six weeks of Program operations and not more than six months elapses between reviews.

(ii) Four times each year at each day care home, provided at least one review is made during each day care home's first four weeks of Program operations and not more than six months elapses between reviews;

(iii) Six times each year for each outside-school-hours care center, provided at least one review is made during each outside-school-hours care center's first four weeks of Program operations and not more than three months elapses between reviews.

(e) In addition to the records required under § 226.16(e), each sponsoring organization shall maintain the following:

(1) Information concerning the dates and amounts of disbursements to each child care facility;

(2) Information concerning the location and dates of each child care facility review, any problems noted, and the corrective action prescribed and effected.

(f) The State agency may require a sponsoring organization to enter into separate agreements for the administration of separate types of child care facilities (child care centers, day care homes, and outside-school-hours care centers).

(g) Each sponsoring organization electing to receive advance payments for day care homes may disburse such payments to each of the operating homes under its jurisdiction immediately upon receipt from the State agency, but shall disburse such payments to each home not later than the fifth working day following receipt of the home's records for the month for which the advance is payable. If advance payments are disbursed by the sponsoring organization prior to receipt of each home's records, such payments shall be based on the number of meals projected to be served to enrolled children at each day care home during the period covered by the advance, multiplied by the applicable payment rate as specified in § 226.14(c). Each sponsoring organization shall disburse any reimbursement payments for food service due to each operating home within 15 working days of receipt from the State agency. Such payments shall be based on the number of meals served to enrolled children at each day care home, less any payments advanced to such home. However, the sponsoring organization may withhold from Program payments to each home an equal to food service operating costs incurred by the sponsoring organization in behalf of the home and with the home provider's written consent. If payments from the State agency are not sufficient to provide all day care homes under the sponsoring organization's jurisdiction with advance payments and reimbursement payments, available monies shall be used to provide all due reimbursement payments before advances are disbursed.

(h) Disbursements from sponsoring organizations for child care centers or outside-school-hours care centers shall be made within fifteen working days of receipt of payment, on the basis of the management plan approved by the State agency, and may not exceed the Program costs documented at each facility during any fiscal year.

(i) Disbursements of advance payments may be withheld from child care facilities which fail to submit reports required by § 226.16(e).

(j) Each sponsoring organization shall maintain all Program payments in a non-interest-bearing account between the date of receipt from the State agency and the date of disbursement.

§ 226.18 Child Care Center Provisions.

(a) Child care centers may participate in the Program either as independent centers or under the auspices of a sponsoring organization. Child care centers paricipating as independent centers shall comply with the provisions of § 226.16.

(b) All child care centers, whether, independent or sponsored, shall meet the following requirements:

(1) Child care centers shall have Federal, State, or local licensing or approval to provide day services to children. Child care centers which are complying with applicable procedures to renew licensing or may participate in the Program during the renewal process, unless the State agency has information which indicates that renewal will be denied. If licensing or approval is not available to a child care center, it may participate if:

(i) It receives Title XX funds for child care; or

(ii) It demonstrates compliance with the CCFP Child Care Standards or any applicable State or local child care standards to the State Agency.

(2) Child care centers shall be public, or have tax-exempt status under the Internal Revenue Code of 1954, or be moving toward compliance with the requirements for tax-exempt status, or be currently operating another Federal program requiring nonprofit status. A child care center which has applied to the Internal Revenue Service (IRS) for tax-exempt status may participate in the Program while its application is pending review by IRS. If IRS denies the application for tax-exempt status, the child care center shall immediately notify the State agency of such denial and the State agency shall terminate the participation of the child care center. If IRS certification of nonprofit status has not been recieved within 12 months of filing the application and IRS indicates that the child care center has failed to provide all required information, the State agency shall terminate the participation of the child care center until such time as IRS tax-exempt status is obtained.

(3) Each child care center participating in the Program shall serve one or more of the following meal types: (i) Breakfast, (ii) Lunch, (iii) Supper, and (iv) Supplemental food. Reimbursement shall not be claimed for more than two services of supplemental food or more than one service of any other meal type provided daily to the same group of children.

(4) Each child care center participating in the Program shall claim only the meal types specified in its approved application in accordance with the meal pattern requirements specified in § 226.21. Reimbursement may not be claimed for meals served to children who are not enrolled, or for meals served to children at any one time in excess of the child care center's authorized capacity. Menus and any other nutritional records required by the State agency shall be maintained to document compliance with such requirements.

(5) A child care center with pre-school children may also be approved to serve a breakfast, supplement, and supper to school-age children enrolled in an outside-school-hours care program meeting the criteria of § 226.20(b) which is distinct from its day care program for pre-school-age children. The State agency may authorize the service of lunch to such enrolled children who attend a school which does not offer a lunch Program. If the majority of children served by the center are participating in an outside-school-hours care program, the center shall comply with reporting requirements of § 226.20 and, if it is a facility, shall be monitored by the sponsoring organization at the frequency specified in § 226.17(d)(4)(iii).

(6) A child care center may utilize existing school food service facilities or obtain meals from a school food service facility, and the pertinent requirements of this part shall be embodied in a written agreement between the child care center and the school. The center shall maintain responsibility for all Program requirements set forth in this part.

(7) Child care centers shall maintain current family-size and income information for children classified as eligible for free and reduced-price meals, and documentation of the enrollment of children not eligible for free or reduced-price meals.

(8) Each child care center shall maintain daily records of the number of meals, by type (breakfast, lunch, supper, and supplements) served to enrolled children and to adults performing labor necessary to the food service.

§ 226.19 Day care home provisions.

(a) Day care homes shall have current Federal, State or local licensing or approval to provide day care services to children. Day care homes which are complying with applicable procedures to renew licensing or approval may participate in the Program during the renewal process, unless the State agency has information which indicates that renewal will be denied. If licensing or approval is not available to a day care home, it may participate in the Program if:

(1) It receives Title XX funds for providing child care; or

(2) It demonstrates compliance with CCFP child care standards or applicable State or local child care standards to the State agency.

(b) Day care homes participating in the program shall operate under the auspices of a sponsoring organization. Sponsoring organizations shall enter into a written agreement, developed by the State agency, with each sponsored day care home to specify the rights and responsibilities of both parties. At a minimum, the agreement shall embody:

(1) The right of the sponsoring organization, the State agency, and the Department to visit the day care home and review its meal service and records during its hours of child care operations;

(2) The responsibility of the sponsoring organization to train the day care home's staff in program requirements;

(3) The responsibility of the day care home to prepare and serve meals which meet the meal patterns specified in § 226.21;

(4) The responsibility of the day care home to maintain records of menus, and of the number of meals, by type, served to enrolled children;

(5) The responsibility of the day care home to promptly inform the sponsoring organization about any change in the number of children enrolled for care or in its licensing or approval status;

(6) The meal types approved for reimbursement to the day care home by the State agency;

(7) The right of the day care home to receive in a timely manner the full food service rate for each meal served to enrolled children for which the sponsoring organization has received payment from the State agency. However, if, with the home provider's consent, the sponsoring organization will incur costs for the provision of Program foodstuffs or meals in behalf of the home, and subtract such costs from Program payments to the home, the particulars of this arrangement shall be specified in the agreement;

(8) The right of the sponsoring organization or the day care home to terminate the agreement for cause or convenience; and

(9) A prohibition of any sponsoring organization fee to the day care home for its Program administrative services.

(c) Each day care home shall serve one or more of the following meal types: (1) Breakfast, (2) Lunch, (3) Supper, and (4) Supplemental food. Reimbursement shall not be claimed for more than two services of supplemental food or more than one service of any other meal type provided daily to the same group of children.

(d) Each day care home participating in the Program shall serve the meal types specified in its approved application in accordance with the meal pattern requirements specified in

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§ 226.21. Menu records shall be maintained to document compliance with these requirements. Meals shall be served at no separate charge to enrolled children.

(e) Each day care home shall maintain daily records of the number of children in attendance and the number of meals, by type, served to enrolled children. Payment may be made for meals served to the home provider's own children only when (1) such children are enrolled and participating in the child care program during the time of the meal service, and (2) enrolled nonresident children are present and participating in the child care program. Reimbursement may not be claimed for meals served to children who are not enrolled or for meals served at any one time to children in excess of the home's authorized capacity.

(f) The State agency may not require a day care home or sponsoring organization to maintain documentation of home operating costs. The State agency may not require a sponsoring organization to provide family size and income data on children enrolled in homes under its jurisdiction unless the sponsoring organization seeks to qualify as an especially needy institution.

§ 226.20 Outside-school-hours care center provisions.

(a) Outside-school-hours care centers may participate in the Program either as independent centers or under the auspices of a sponsoring organization. Outside-school-hours care centers participating as independent centers shall comply with the provisions of § 226.16.

(b) All outside-school-hours care centers, whether independent or sponsored, shall meet the following requirements:

(1) Outside-school-hours care centers shall have current Federal, State or local licensing or approval to provide organized child care services to enrolled school-age children outside of school hours. The main purpose of the Program shall be the care and supervision of children. Outside-school-hours care centers which are complying with applicable procedures to renew licensing or approval may participate in the Program during the renewal process, unless the State agency has information which indicates that renewal will be denied. If licensing or approval is not available to an outside-school-hours care center, it may participate in the Program if:

(i) It receives Title XX funds for providing child care; or

(ii) It demonstrates compliance with CCFP child care standards or any applicable State or local child care standards to the State agency.

(2) Outside-school-hours care centers shall be public, or have tax-exempt status under the Internal Revenue Code of 1954, or be moving toward compliance with the requirements for tax-exempt status, or be currently participating in another Federal program requiring nonprofit status. Centers which have applied to IRS for tax-exempt status may participate in the Program while their application is pending review by IRS. If IRS denies the application, the center shall immediately notify the State agency of such denial and the State agency shall terminate the participation of the center. If IRS certification of nonprofit status has not been received within 12 months of filing the application and IRS indicates that the center has failed to provide all required information, the State agency shall terminate the participation of the center in the Program until such time as IRS certification is obtained.

(3) Nonresidential public or private nonprofit schools which provide organized child care programs for school children may participate in the Program as outside-school-hours care centers if:

(i) Children are enrolled in a regularly scheduled child care program which meets the criteria of paragraph (1) of this section. The program is organized for the purpose of providing child care services and is distinct from any extracurricular programs organized primarily for scholastic, cultural, and athletic purposes; and

(ii) Separate Program records are maintained.

(4) Outside-school-hours care centers shall be eligible to serve a breakfast, supplement, and supper to enrolled children outside of school hours.

(5) The State agency may authorize the service of lunch on weekdays to enrolled children attending schools which do not offer a lunch program. Lunch and a second supplement may be served to all enrolled children during periods of school vacation, including weekends and holidays. However, outside-school-hours care centers may not operate under the Program on weekends only.

(6) Reimbursement may not be claimed for children who are not enrolled, or for meals served to children at any one time in excess of authorized capacity.

(7) Three hours shall elapse between the beginning of one meal service and the beginning of another, except that 4 hours shall elapse between the service of a lunch and supper when no supplement is served between lunch and supper. The service of a supper shall begin no later than 7 p.m. and end no later than 8 p.m. The duration of the meal service shall be limited to 2 hours for lunches and suppers and 1 hour for other meals.

(8) Each outside-school-hours care center shall ensure that each meal service is supervised by an adequate number of operational personnel trained in Program requirements. Operational personnel shall ensure that: (i) Meals are served only to children enrolled for care and adults who perform necessary food service labor; (ii) meals served to children which meet the meal pattern requirements specified in § 226.21; (iii) each meal service is consistent with the meal time requirements of paragraph (7) of this section; (iv) meals served are consumed on the premises of the centers; (v) accurate records are maintained; and (vi) the number of meals prepared or ordered is promptly adjusted on the basis of participation trends.

(9) Each outside-school-hours care center shall accurately maintain the following records:

(i) Documentation of enrollment for all children, including current family-size and income information for children classified as eligible for free and reduced-price meals;

(ii) number of meals prepared or delivered for each meal service;

(iii) daily menu records for each meal service;

(iv) number of meals served to enrolled children at each meal service;

(v) number of enrolled children in attendance during each meal service;

(vi) number of meals served to adults performing necessary food service labor for each meal service; and

(vii) all other records required by the State agency financial management system.

(10) An outside-school-hours care center may utilize existing school food service facilities or obtain meals from a school food service facility, and the pertinent requirements of this part shall be embodied in a written agreement between the outside-school-hours care center and the school. The center shall maintain responsibility for all Program requirements set forth in this part.

§ 226.21 Requirements for meals.

(a) Except as otherwise provided in this section, each meal served in the Program shall contain, as a minimum, the indicated food components:

(1) A breakfast shall contain:

(i) A serving of fluid milk as a beverage or on cereal, or used in part for each purpose.

(ii) A serving of vegetable(s) or fruit(s) or full-strength vegetable or fruit juice, or an equivalent quantity of any combination of these foods.

(iii) A serving of whole-grain or enriched bread; or an equivalent serving of cornbread, biscuits, rolls, muffins, etc., made with whole-grain or enriched meal or flour; or a serving of whole-grain or enriched or fortified cereal; or a serving of cooked whole-grain or enriched pasta or noodle products such as macaroni, or cereal grains such as rice, bulgur, or corn grits; or an equivalent quantity of any combination of these foods.

(2) Both lunch and supper shall contain:

(i) A serving of fluid milk as a beverage.

(ii) A serving of lean meat, poultry or fish; or cheese; or an egg; or cooked dry beans or peas; or peanut butter; or an equivalent quantity of any combination of these foods. These foods must be served in a main dish, or in a main dish and one other menu item, to meet this requirement. Cooked dry beans or dry peas may be used as the meat alternate or as part of the vegetable/fruit component, but not as both food components in the same meal.

(iii) A serving of two or more vegetables or fruits, or a combination of both. Full-strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.

(iv) A serving of whole-grain or enriched bread; or an equivalent serving of cornbread, biscuits, rolls, muffins, etc., made with whole-grain or enriched meal or flour; or a serving of cooked whole-grain or enriched pasta or noodle products such as macaroni, or cereal grains such as rice, bulgur, or corn grits; or an equivalent quantity of any combination of these foods.

(3) Supplemental food shall be served between other meal types and contain two of the following four components:

(i) A serving of fluid milk as a beverage, or on cereal, or used in part for each purpose.

(ii) A serving of meat or meat alternate.

(iii) A serving of vegetable(s) or fruit(s) or full-strength vegetable or fruit juice, or an equivalent quantity of any combination of these foods. Juice may not be served when milk is served as the only other component.

(iv) A serving of whole-grain or enriched bread; or an equivalent serving of cornbread, biscuits, rolls, muffins, etc., made with whole-grain or enriched meal or flour; or a serving of whole-grain or enriched or fortified cereal; or a serving of cooked whole-grain or enriched pasta or noodle products such as macaroni, or cereal grains such as rice, bulgur, or corn grits; or an equivalent quantity of any combination of these foods.

(b) *Infant meal pattern.* When infants aged up to 1 year participate in the Program, an infant meal shall be offered. Foods within the infant meal pattern shall be of texture and consistency appropriate for the particular age group being served. The total amount of food authorized in the meal patterns set forth below must be provided to the infant in order to qualify for reimbursement but may be served during a span of time consistent with the infant's eating habits. Solid food should be introduced to children age 4 months and older on a gradual basis with the intent of ensuring their nutritional well-being. The infant meal shall contain, as a minimum, each of the following components in the amounts indicated for the appropriate age group:

(1) *Age 0 up to 4 months.*

(i) Breakfast—4–6 fluid ounces of infant formula.

(ii) Lunch or supper—4–6 fluid ounces of infant formula.

(iii) Supplemental food—4–6 fluid ounces of infant formula.

(2) *4 up to 8 month.*

(i) Breakfast—6–8 fluid ounces of infant formula; 1–3 tablespoons of infant cereal.

(ii) Lunch or supper—6–8 fluid ounces of infant formula; 1–2 tablespoons of infant cereal; 1–2 tablespoons of fruit or vegetable of appropriate consistency or a combination of both; 0–1 tablespoon of meat, fish, poultry or egg yolk or 0–½ ounce (weight) of cheese or 0–1 ounce (weight or volume) of cottage cheese or cheese food or cheese spread of appropriate consistency.

(iii) Supplemental food—2–4 fluid ounces of infant formula or full-strength fruit juice; 0–¼ slice of crusty bread or 0–2 cracker type products made from whole-grain or enriched meal or flour that are suitable for an infant for use as a finger food when appropriate.

(3) *8 months up to 1 year.*

(i) Breakfast—6–8 fluid ounces of infant formula, or 6–8 fluid ounces of whole fluid milk and 0–3 fluid ounces of full-strength fruit juice; 2–4 tablespoons infant cereal.

(ii) Lunch or supper—6–8 fluid ounces of infant formula, or 6–8 fluid ounces whole fluid milk and 0–3 fluid ounces of full-strength fruit juice; 3–4 tablespoons of fruit or vegetable of appropriate consistency or infant cereal or combinations of such foods; 1–4 tablespoons of meat, fish, poultry, or egg yolk or ½–2 ounces (weight) of cheese or 1–4 ounces (weight or volume) of cottage cheese or cheese food or cheese spread of appropriate consistency.

(iii) Supplementary food—2–4 fluid ounces of infant formula or whole fluid milk or full-strength fruit juice; 0–¼ slice of crusty bread or 0–2 cracker type products made from whole-grain or enriched meal or flour that are suitable for an infant for use as a finger food when appropriate.

Breakfast

(c)(1) The minimum amount of food components to be served as breakfast as set forth in paragraph (a)(1) of this section are as follows:

Food components	Age 1 to 3	Age 3 to 6	Age 6 to 12 [1]
MILK			
Milk, fluid	½ cup [2]	¾ cup	1 cup.
VEGETABLES AND FRUITS			
Vegetable(s) and/or fruit(s)	¼ cup	½ cup	½ cup.
or			
Full-strength vegetable or fruit juice or an equivalent quantity of any combination of vegetable(s), fruit(s) and juice.	¼ cup	½ cup	½ cup.
BREAD AND BREAD ALTERNATES [3]			
Bread	½ slice	½ slice	1 slice.
or			
Cornbread, biscuits, rolls, muffins, etc. [4]	½ serving	½ serving	1 serving.
or			
Cold dry cereal [5]	¼ cup or ½ oz	½ cup or ½ oz	¾ cup or 1 oz.
or			
Cooked cereal	¼ cup	½ cup	½ cup.
or			
Cooked pasta or noodle products	¼ cup	¼ cup	½ cup.
or			
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate.	¼ cup	½ cup	½ cup.

[1] Children age 12 and up may be served adult-size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section for children age 6 up to 12.
[2] For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.
[3] Bread, pasta or noodle products, and cereal grains shall be wholegrain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour; cereal shall be whole-grain or enriched or fortified.
[4] Serving sizes and equivalents to be published in guidance materials by FNS.
[5] Either volume (cup) or weight (oz.), whichever is less.

Lunch or Supper

(2) The minimum amounts of food components to be served as lunch or supper as set forth in paragraph (a)(2) of this section are as follows:

Food components	Age 1 to 3	Age 3 to 6	Age 6 to 12 [1]
MILK			
Milk, fluid	½ cup [2]	¾ cup	1 cup.

Food components	Age 1 to 3	Age 3 to 6	Age 6 to 12 [1]
VEGETABLES AND FRUITS			
Vegetable(s) and/or fruit(s) [2]	¼ cup total	½ cup total	¾ cup total.
BREAD AND BREAD ALTERNATES [3]			
Bread	½ slice	½ slice	1 slice.
or			
Cornbread, biscuits, rolls, muffins, etc. [4]	½ serving	½ serving	1 serving.
or			
Cooked pasta or noodle products	¼ cup	¼ cup	½ cup.
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate.	¼ cup	¼ cup	½ cup.
MEAT AND MEAT ALTERNATES			
Lean meat or poultry or fish [5]	1 oz	1½ oz	2 oz.
or			
Cheese	1 oz	1½ oz	2 oz.
or			
Eggs	1 egg	1 egg	1 egg.
or			
Cooked dry beans or peas	¼ cup	⅜ cup	½ cup.
or			
Peanut butter or an equivalent quantity of any combination of meat/meat alternate.	2 tbsp	3 tbsp	4 tbsp.

[1] Children age 12 and up may be served adult-size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section for children age 6 up to 12.
[2] For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.
[3] Serve 2 or more kinds of vegetable(s) and/or fruit(s). Full-strength vegetable or fruit juice may be counted to meet not more than one-half of the requirement.
[4] Bread, pasta or noodle products, and cereal grains shall be wholegrain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be whole-grain or enriched meal or flour.
[5] Serving sizes and equivalents to be published in guidance materials by FNS.
[6] Edible portion as served.

Supplemental Food

(3) The minimum amounts of food components to be served as supplemental food as set forth in paragraph (a)(3) of this section are as follows. Select two of the following four components. (Juice may not be served when milk is served as the only other component.

Food components	Age 1 to 3	Age 3 to 6	Age 6 to 12 [1]
MILK			
Milk, fluid	½ cup [2]	½ cup	1 cup.
VEGETABLES AND FRUITS			
Vegetable(s) and/or fruit(s)	½ cup	½ cup	¾ cup.
or			
Full-strength vegetable or fruit juice or an equivalent quantity of any combination of vegetable(s), fruit(s) and juice.	½ cup	½ cup	¾ cup.
BREAD AND BREAD ALTERNATES [3]			
Bread	½ slice	½ slice	1 slice.
or			
Cornbread, biscuits, rolls, muffins, etc. [4]	½ serving	½ serving	1 serving.
or			
Cold dry cereal [5]	¼ cup or ½ oz	½ cup or ½ oz	¾ cup or 1 oz.
or			
Cooked cereal	¼ cup	¼ cup	½ cup.
or			
Cooked pasta or noodle products	¼ cup	¼ cup	½ cup.
or			
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate.	¼ cup	¼ cup	½ cup.
MEAT AND MEAT ALTERNATES			
Lean meat or poultry or fish [6]	½ oz	[6] oz	1 oz.
or			
Cheese	½ oz	½	1 oz.
or			
Eggs	½ egg	½ egg	1 egg.
or			
Cooked dry beans or peas	⅛ cup	⅛ cup	¼ cup.
or			
Peanut butter or an equivalent quantity of any combination of meat/meat alternate.	1 tbsp	1 tbsp	2 tbsp.

[1] Children age 12 and up may be served adult-size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section for children age 6 up to 12.
[2] For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.
[3] Bread, pasta or noodle products, and cereal grains shall be wholegrain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with wholegrain or enriched meal or flour; cereal shall be whole-grain or enriched or fortified.
[4] Serving sizes and equivalents to be published in guidance materials by FNS.
[5] Either volume (cup) or weight (oz.), whichever is less.
[6] Edible portion as served.

(d) *Additional Food.* To improve the nutrition of participating children over 1 year of age additional foods may be served with each meal as follows:

(1) *Breakfast.* Include as often as practical an egg; or a 1-ounce serving (edible portion as served) of meat, poultry or fish; or 1-ounce of cheese; or 2 tablespoons of peanut butter or an equivalent quantity of any combination of these foods. Additional foods may be served as desired.

(2) *Lunch or supper.* Additional foods may be served as desired.

(e) *Temporary unavailability of milk.* If emergency conditions prevent an institution normally having a supply of milk from temporarily obtaining milk deliveries, the State agency may approve the service of breakfasts, lunches or suppers without milk during the emergency period.

(f) *Continuing unavailability of milk.* The inability of an institution to obtain a supply of milk on a continuing basis shall not bar it from participation in the Program. In such cases, the State agency may approve service of meals without milk, provided that an equivalent amount of canned, whole dry or nonfat dry milk is used in the preparation of the components of the meal set forth in subparagraphs (a)(1), (2) and (3) of this section.

(g) *Statewide substitutions.* In American Samoa, Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, the following variations from the meal requirements are authorized; a serving of a starchy vegetable, such as yams, plantains, or sweet potatoes may be substituted for the bread requirements.

(h) *Individual substitutions.* Substitutions may be made in food listed in paragraphs (b) and (c) of this section if individual participating children are unable, because of medical or other special dietary needs, to consume such foods. Substitutions because of medical needs shall be made only when supported by a statement from a recognized medical authority which includes recommended alternate foods.

(i) *Special variations.* FNS may approve variations in the food components of the meals on an experimental or a continuing basis in any institution where there is evidence that such variations are nutritionally sound and are necessary to meet ethnic, religious, economic, or physical needs.

(j) *Meal planning.* Institutions shall plan for and order meals on the basis of current participation trends, with the objective of providing only one meal per child at each meal service. Records of participation and of ordering or preparing meals shall be maintained to demonstrate positive action toward this objective. In recognition of the fluctuation in participation levels which makes it difficult to estimate precisely the number of meals needed and to reduce the resultant waste, any excess meals that are ordered may be served to children and may be claimed for reimbursement, unless the State agency determines that the institution has failed to plan and prepare or order meals with the objective of providing only one meal per child at each meal service.

(k) *Sanitation.* Institutions shall ensure that in storing, preparing, and serving food, proper sanitation and health standards are met which conform with all applicable State and local laws and regulations. Institutions shall ensure that adequate facilities are available to store food or hold meals.

(l) *Donated commodities.* Institutions shall efficiently use in the Program any foods donated by the Department and accepted by the institution.

(m) *Plentiful foods.* Institutions shall, in isofar as practicable, purchase and efficiently use in the Program foods designated as plentiful by the Department.

(n) *Additional provision.* The State agency may allow institutions which serve meals prepared in schools participating in the National School Lunch and School Breakfast Programs to substitute the meal pattern requirements of the regulations governing those programs (7 CFR Part 210 and 7 CFR Part 220, respectively) for the meal pattern requirements contained in this section.

§ 226.22 Food service management companies.

(a) Any institution may contract with a food service managment company. An institution which contracts with a food service managment company shall remain responsible for ensuring that the food service operation conforms to its agreement with the State agency. All procurements of meals from food service management companies shall adhere to the procurement standards set forth in § 226.23. Public institutions shall follow applicable State or local laws governing bid procedures. In the absence of any applicable State or local laws, and in addition to the procurement provisions set forth in § 226.23, the State agency may mandate that each institution with Program meal contracts of an aggregate value in excess of $10,000 formally advertise such contracts and comply with the following procedures intended to prevent fraud, waste, and Program abuse:

(1) All proposed contracts shall be publicly announced at least once 14 calendar days prior to the opening of bids. The announcement shall include the time and place of the bid opening;

(2) The institution shall notify the State agency at least 14 calendar days prior to the opening of the bids of the time and place of the bid opening;

(3) The invitation to bid shall not provide for loans or any other monetary benefit or terms or conditions to be made to institutions by food service management companies;

(4) Nonfood items shall be excluded from the invitation to bid, except where such items are essential to the conduct of the food service;

(5) The invitation to bid shall not specify special meal requirements to meet ethnic or religious needs unless special requirements are necessary to meet the needs of the children to be served;

(6) The bid shall be publicly opened;

(7) All bids totaling $50,000 or more shall be submitted to the State agency for approval before acceptance. All bids shall be submitted to the State agency for approval before accepting a bid which exceeds the lowest bid. State agencies shall respond to any request for approval within 10 working days of receipt;

(8) The institutions shall inform the State agency of the reason for selecting the food service management company chosen. State agencies may require institutions to submit copies of all bids submitted under this section.

(b) The institution and the food service management company shall enter into a standard contract as required by § 226.7(h). However, public institutions may, with the approval of the State agency, use their customary form of contract if it incorporates the provisions of § 226.7(h).

(c) A copy of the contract between each institution and food service management company shall be submitted to the State agency prior to the beginning of Program operations under the subject contract.

(d) Each proposed additional provision to the standard form of contract shall be submitted to the State agency for approval.

(e) A food service management company may not subcontract for the total meal, with or without milk, or for the assembly of the meal.

§ 226.23 Procurement standards.

(a) This section establishes standards and guidelines for the procurement of foods, supplies, equipment, and other goods and services. These standards are furnished to ensure that such materials and services are obtained efficiently and economically and in compliance with the provisions of applicable Federal law and Executive orders.

(b) These standards shall not relieve the institution of any contractual responsibilities under its contracts. The institution is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements entered into in support of the Program. These include, but are not limited to: source evaluation, protests of award, disputes, and claims. Violations of the law shall be referred to the local, State, or Federal authority having proper jurisdiction.

(c) Institutions may use their own procurement procedures which reflect applicable State and local laws and regulations, provided that procurements made with Program payments conform to the standards set forth in this section and in Attachment O) of Office of Management and Budget Circular A–102, as well as to procurement requirements which may be established by the State agency, with the approval of FNS, to prevent fraud, waste, and Program abuse.

(d) Institutions shall maintain a written code of standards of conduct which shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by Program payments. No employee, officer or agent of the grantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

(1) The employee, officer or agent;

(2) Any member of his immediate family;

(3) His or her partner; or

(4) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

The institution's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

Institutions may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic vlaue.

To the extent permitted by State or local law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the institution's officers, employees, or agents, or by contractors or their agents.

(e) The institution shall establish procurement procedures which provide that proposed procurement actions shall be reviewed by institution officials to avoid the purchase of unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease versus purchase alternatives, and any other appropriate analysis to determine which approach would be the most economical.

(f) Affirmative steps shall be taken to assure that small and minority businesses are utilized when possible. Affirmative steps shall include the following:

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(1) Including qualified small and minority businesses on solicitation lists;
(2) Assuring that small and minority businesses are solicited whenever they are potential sources;
(3) When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation;
(4) Where the requirement permits, establishing delivery schedules which will encourage participation by small and minority businesses;
(5) Using the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce and the Community Services Administration as required;
(6) If any subcontracts are to be let, requiring the prime contractor to take the affirmative steps in 1 through 5 above;
(7) Taking similar appropriate affirmative action in support of women's business enterprises.

(g) All procurement transactions, regardless of whether by sealed bids or by negotiation and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition consistent with this section. Procurement procedures shall not restrict or eliminate competition. Examples of what is considered to be restrictive of competition include, but are not limited to (1) placing unreasonable requirements on firms in order for them to qualify to do business, (2) noncompetitive practices between firms, (3) organizational conflicts of interest, and (4) unnecessary experience and bonding requirements.

(h) The institution shall have written selection procedures which shall provide, as a minimum, the following procedural requirements:

(1) Solicitations of offers, whether by competitive sealed bids or competitive negotiation, shall:

(i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated.

(ii) Clearly set forth all requirements which offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(2) Awards shall be made only to responsible contractors that posses the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(i) Program procurements shall be made by one of the following methods:

(1) Small purchase procedures are those relatively simple and informal procurement methods that are sound and appropriate for the procurement of services, supplies or other property, costing in the aggregate not more than $10,000. Institutions shall comply with State or local small purchase dollar limits under $10,000. If small purchase procedures are used for a procurement under the program, price or rate quotation shall be obtained from an adquate number of qualified sources.

(2) In competitive sealed bids (formal advertising), sealed bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest in price.

(i) In order for formal advertising to be feasible, appropriate conditions must be present, including as a minimum, the following:

(A) A complete, adequate and realistic specification or purchase description is available.

(B) Two or more responsible suppliers are willing and able to compete effectively for the institution's business.

(C) The procurement lends itself to a firm-fixed-price contract, and selection of the successful bidder can appropriately be made principally on the basis of price.

(ii) If formal advertising is used for a procurement under the Program, the following requirements shall apply:

(A) A sufficient time prior to the date set for opening of bids, bids shall be solicited from an adequate number of known suppliers. In addition, the invitation shall be publicly advertised.

(B) The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation.

(C) All bids shall be opened publicly at the time and place stated in the invitation for bids.

(D) A firm-fixed-price contract award shall be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine low bid when prior experience of the grantee indicates that such discounts are generally taken.

(E) Any or all bids may be rejected when there are sound documented business reasons in the best interest of the Program.

(3) In competitive negotiation, proposals are requested from a number of sources and the Request for Proposal is publicized. Negotiations are normally conducted with more than one of the sources submitting offers, and either a fixed-price or cost-reimbursable type contract is awarded, as appropriate. Competitive negotiation may be used if conditions are not appropriate for the use of formal advertising. If competitive negotiation is used for a procurement under a grant, the following requirements shall apply:

(i) Proposals shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The Request for Proposals shall be publicized and reasonable requests by other sources to compete shall be honored to the maximum extent practicable.

(ii) The Request for Proposal shall identify all significant evaluation factors, including price or cost where required and their relative importance.

(iii) The institution shall provide mechanisms for technical evaluation of the proposal received, determinations of responsible offerors for the purpose of written or oral discussions, and selection for contract award.

(iv) Award may be made to the responsible offeror whose proposal will be most advantageous to the procuring party, price and other factors considered. Unsuccessful offerors should be notified promptly.

(4) Noncompetitive negotiation is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Noncompetitive negotiation may be used when the award of a contract is infeasible under small purchase, competitive bidding (formal advertising), or competitive negotiation procedures. Circumstances under which a contract may be awarded by noncompetitive negotiation are limited to the following:

(i) The item is available only from a single source;

(ii) Public exigency or emergency when the urgency for the requirement will not permit a delay incident to competitive solicitation;

(iii) FNS authorizes noncompetitive negotiation; or

(iv) After solicitation of a number of sources, competition is determined inadequate.

(j) The cost plus a percentage of cost method of contracting shall not be used. Instructions shall perform some form of cost or price analysis in connection with every procurement action including contract modifications. Costs or prices based on estimated costs for contracts under the Program shall be allowed only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles.

(k) Institutions shall maintain records sufficient to detail the significant history of a procurement. These records shall include, but are not necessarily limited to information pertinent to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the cost or price.

(l) In addition to provisions defining a sound and complete procurement contract, institutions shall include the following contract provisions or conditions in all procurement contracts and subcontracts as required by the provision, Federal Law or FNS:

(1) Contracts other than small purchases shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.

(2) All contracts in excess of $10,000 shall contain suitable provisions for termination by the institution including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(3) All contracts awarded in excess of $10,000 by institutions and their contractors shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

(4) Where applicable, all contracts awarded by institutions in excess of $2,500 which involve the employment of mechanics or laborers shall include a provision for compliance with section 103 of the Contract Work Hours and Safety Standards Act (40 USC 327–330) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard work day or work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the work week. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(5) The contract shall include notice of FNS requirements and regulations pertaining to reporting and patent rights under any contract involving research, developmental, experimental or demonstration work with respect to any discovery or invention which arises or is developed in the course of or under such contract, and of FNS requirements and regulations pertaining to copyrights and rights in data.

All negotiated contracts (except those awarded by small purchases procedures) awarded by institutions shall include a provision to the effect that the institution, FNS, the Comptroller General of the United States or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcriptions. Institutions shall require contractors to maintain all required records for three years after institutions make final payment and all other pending matters are closed.

(6) Contracts and subcontracts of amounts in excess of $100,000 shall contain a provision which requires compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1837(h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. The provision shall require reporting of violations to FNS and to the U.S. EPA Assistant Administrator for Enforcement (EN–329).

(7) Contracts shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy efficiency conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94–163).

(m) Institutions shall maintain a contract administration system insuring that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

§ 226.24 Free and reduced-price meals.

(a) The State agency shall require each institution to submit, at the time the institution applies for Program participation, a writen policy statement concerning free and reduced-price meals to be used uniformly in all child care facilities under its jurisdiction as required in this section. Institutions shall not be approved for participation nor agreements renewed unless the free and reduced-price policy statement has been approved. Pending approval of a revision of a policy statement, the existing policy shall remain in effect.

(b) Sponsoring organizations of day care homes (which may not serve meals at a separate charge to children) and other institutions which elect to serve meals at no separate charge, shall develop a policy statement consisting of an assurance to the State agency that all children are served the same meals at no separate charge, regardless of race, color, or national origin, and that there is no discrimination in the course of the food service.

(c) Independent centers and sponsoring organizations of centers which charge separately for meals shall develop a policy statement for determining eligibility for free and reduced-price meals which shall include the following:

(1) The specific criteria to be used in determining eligibility for free and reduced-price meals. The institution's standards of eligibility shall conform to the State's income standards.

(2) A description of the method or methods to be used in accepting applications from families for free and reduced-price meals.

(3) A description of the method or methods to be used to collect payments from those children paying the full or reduced price of the meal which will protect the anonymity of the children receiving a free or reduced-price meal.

(4) An assurance which provides that the institution will establish a hearing procedure for challenging, for cause, eligibility for free and reduced-price meals: (i) A simple, publicly announced method for a family to make an oral or written request for a hearing; (ii) an opportunity for the family to be assisted or represented by an attorney or other person in presenting its appeal; (iii) an opportunity to examine, prior to and during the hearing, the documents and records presented to support the decision under appeal; (iv) that the hearing shall be held with reasonable promptness and convenience to the family and that adequate notice shall be given to the family as to the time and place of the hearing; (v) an opportunity for the family to present oral or documentary evidence and arguments supporting its position; (vi) an opportunity for the family to question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses; (vii) that the hearing shall be conducted and the determination made by a hearing official who did not participate in making the initial decision; (viii) the determination of the hearing official shall be based on the oral and documentary evidence presented at the hearing and made a part of that hearing record; (ix) that the family and any designated representatives shall be notified in writing of the decision of the hearing official; (x) that a written record shall be prepared with respect to each hearing, which shall include the decision under appeal, any documentary evidence and a summary of any oral testimony presented at the hearing, the decision of the hearing official, including the reasons therefor, and a copy of the notification to the family of the decision of the hearing official; and (xi) that such written record of each hearing shall be preserved for a period of three years and shall be available for examination by the family or its representatives at any reasonable time and place during such period.

(5) An assurance that there will be no overt identification of free and reduced-price meal recipients and no discrimination against any child on the basis of race, color, or national origin.

(6) An assurance that the charges for a reduced-price lunch or supper will not exceed 20 cents, that the charge for a reduced-price breakfast will not exceed 10 cents, and that the charge for a reduced-price supplement will not exceed 5 cents.

(d) The hearing procedure prescribed under paragraph (c)(4) of this section shall be followed when an institution challenges for cause the continued eligibility of any child for free or reduced-price meals. While the challenge is pending, the child shall continue to receive the free or reduced-price meals to which he is entitled under the eligibility standards announced by the institution based upon the information supplied in the application made by the family.

(e) Each institution shall annually provide the information media serving the area from which the institution draws its attendance with a public release. The release issued by all sponsoring organizations of day care homes, and by other institutions which elect not to charge separately for meals, shall announce the availability of meals at no separate charge. The release issued by institutions which charge separately for meals shall announce the availability of free and reduced-price meals to children meeting the approved eligibility criteria. All media releases shall state that meals are available to all enrolled children without regard to race, color, or national origin.

(f) Free and reduced-price meal eligibility reports by institutions to State agencies shall be based on family-size and income information established not more than 12 months prior to reporting.

(g) Sponsoring organizations for family day care homes shall ensure that no separate charge for food service is imposed on families of children enrolled in participating family day care homes.

Subpart F—Food Service Equipment Provisions

§ 226.25 Food service equipment assistance.

(a) *Apportionment of food services equipment assistance funds to States.* For each fiscal year, the Secretary shall make food service equipment assistance payments to each State from any Federal funds made available for the purchase and rental of equipment to be used in the Program. Such payments shall be apportioned among the States on the basis of the ratio of the number of children below age 6 who are members of families that satisfy the income standards for free and reduced-price meals to the number of such children in all States. If any State cannot utilize all the funds allocated to it under this section, the Department shall make reallocations to the remaining States in the manner set forth in this paragraph for allocation of funds.

(b) *Payment of food service equipment assistance funds to States.* Food service equipment funds to be paid to any State shall be made available by means of Letter of Credit issued by FNS in favor of the State agency. The State agency shall use these funds in accordance with § 226.4(i).

(c) *Notification of available funds.* Within 30 days of notification by FNS to the State agency of the amount of funds available for food service equipment assistance, the State agency shall notify each institution of the availability of food service equipment assistance, of the criteria for determining which institutions are especially needy, of procedures for application for assistance, and of the application deadline date.

(d) *Matching of food service equipment assistance funds.* Payment to any State of funds allocated under this paragraph for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this section shall be financed from sources within the State, except that this condition shall not apply to equipment obtained for institutions that are especially needy, as defined in the approved State Plan of Child Care Food Program Operations. Payment made by FNS to State agencies and by State agencies to institutions may be matched either by the recipient institution or from other State or local sources and payments. Funds from sources within the State may include any source of State or local funds.

(e) *Use of food service equipment assistance funds.* Food service equipment assistance funds shall be used by State agencies to reimburse institutions for the cost of purchasing or renting equipment, other than land or building, to establish, maintain, and expand food service operations under the Program.

(f) *Application approval procedures and priorities.* Any institution which has applied for or is participating in the Program may apply to the State agency for food service equipment assistance. Each State agency shall establish an application deadline date to ensure that applications from eligible institutions have an equal opportunity for consideration on the basis of these criteria: (1) the need of the institution for Federal financial assistance to acquire food service equipment, (2) the necessity for the equipment for which application is made to operate an adequate food service, (3) the number and need of the children enrolled in the Program, (4) the extent to which the equipment for which application is made will be used in the Program, and (5) the amount of funds available to the State agency. Each institution which submits an application shall be notified within 30 calendar days as to whether the application is complete and correct. All applications received by the application deadline date shall be approved or disapproved within 60 calendar days, of this date. Each State agency shall ensure that applications from institutions with no equipment or grossly inadequate equipment are acted upon before applications from other institutions. Applications received after the deadline date may be approved, but shall be accorded a lower priority than those applications received by such date.

(g) *Direct disbursement.* The State agency may disburse food service equipment assistance funds directly to a supplier of food service equipment if the funds are used to purchase equipment for an institution that (1) meets all the requirements for participation except for the licensing requirements, and (2) satisfies all the requirements for licensing, except for a requirement for food service equipment. The State agency shall retain legal title to the equipment until the State agency and the institution sign an agreement authorizing the institution to participate in the Program.

(h) *Reserve fund.* The State agency may keep in reserve up to 10 percent of its annual food service equipment assistance allocation for disbursement to institutions meeting the criteria of paragraph (g) of this section and to approved institutions which require immediate equipment acquisition or replacement in order to initiate or continue food service under the Program. Funds thus reserved shall be disbursed in accordance with the provisions of this section, except that the State agency may approve applications of institutions meeting the criteria of this paragraph at any time during the fiscal year and without consideration of the equipment needs of other institutions. Institutions meeting these criteria shall also be eligible to receive food service equipment assistance from funds which have not been reserved. The State agency may, at any time during the fiscal year, withdraw funds from reserve in order to satisfy identified equipment needs of institutions not meeting the criteria of this paragraph.

(i) *Agreements.* Institutions approved for food service equipment assistance shall enter into a written agreement with the State agency. The institution shall agree to: (1) Participate in the food service aspect of the Program, (2) maintain full and accurate records to account for the costs of the equipment and receipt and use of all equipment assistance funds, and retain such records for a period of three years after final disposition, (3) bear the portion of the purchase price as is agreed upon, (4) use purchased or rented equipment acquired in whole or in part with Federal funds, principally in connection with the institution's nonprofit food service, and (5) comply with the provisions of § 226.23 and 226.24 of this part where personal property is acquired with food service equipment assistance funds. State agencies shall ensure that agreements with institutions, as a minimum, are in accordance with this section.

(j) *Equipment assistance reimbursement payments.* Equipment assistance payments may be made to reimburse institutions for the purchase or rental cost, including delivery and installation charges, of the equipment described on the application approved by the State agency. Total payments made to institutions may not exceed the total cost of the equipment acquired, including transportation and installation charges; however, on a statewide basis, total payments made to institutions other than especially needy institutions shall not exceed three-fourths of the total costs.

(k) *Food service equipment assistance reimbursement procedure.* Each State agency shall require each approved institution to submit a reimbursement voucher for equipment acquired. Each reimbursement voucher shall be accompanied by a copy of the bill, invoice, other evidence of purchase or rental and shall be made part of the institution's case file maintained by the State agency for a period of three years after final disposition. In submitting a reimbursement voucher for equipment, each institution shall certify that the voucher is true and correct, that the equipment has been installed and is operating in the capacity for which it was acquired, that records are available to support the voucher, and that payment has not been received.

§ 226.26 Property management requirements.

(a) This section prescribes policies and procedures governing title, use, and disposition of personal property obtained by an institution by purchase, whose cost was borne in whole or in part with food service equipment assistance funds. Institutions shall follow the property management policies and procedures prescribed by the State agency.

(b) The following requirements shall be observed in acquiring, using and disposing of nonexpendable personal property:

(1) When nonexpendable personal property is acquired by an institution in whole or in part with equipment assistance funds, title shall be vested in the institution.

(2) The institution shall retain such property in the Program as long as the State agency decides that there is a need for such property to accomplish the purposes of the Program whether or not the institution's food service continues to be supported by Federal funds.

(3) When there is no longer a need for such property to accomplish the purpose of the Program, the institution shall use the property in connection with other Federal programs it administers. Priority shall be given to Federal programs administered by the Department over the programs administered by other Federal agencies. Approval from the Department or State agency, as applicable, must be obtained by the institution prior to using equipment acquired with food service equipment assistance funds for programs of other Federal agencies. When the institution no longer has need for such property in any of its federally assisted programs, the property may be use for the institution's own official activities. In such situations, the institution may use the property without reimbursement to the State agency, or sell the property and retain the proceeds if the property had an acquisition costs of less than $1,000 per unit. In the case of other property, the institution may retain the property for its own use, provided that a fair compensation is made to FNS for the Federal share of the property. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the property to the current fair market value of the property. If the institution has no need for the property, disposition shall be made as follows:

(i) If the property had an acquisition cost of $1,000 or more per unit, the institution shall request disposition instructions from the State agency. If the State agency has no need for the property, the availability of the property shall be reported to the General Service Administration (GSA) by the Department to determine whether a requirement for the property exists in other Federal programs. FNS shall issue instructions to the State agency within 120 days following the receipt of the request. If the institution is instructed to ship the property elsewhere, the institution shall be reimbursed by the State agency where applicable, with an

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amount which is computed by applying the percentage of the institution's participation in the cost of the property to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred. If the institution is instructed to otherwise dispose of the property, the institution shall be reimbursed by the State agency for the costs incurred in the disposition. If disposition instructions are not issued within 120 days after reporting, the institution shall sell the property and reimburse the Department in an amount which is computed by applying the percentage of Federal participation in the cost of the property to the sales proceeds. Further, the institution may be permitted to deduct and retain from the Federal share $100 or 10 percent of the proceeds, whichever is greater, for the institution's selling and handling expenses.

(ii) When the State agency determines that nonexpendable personal property with an acquisition cost of $1,000 or more financed with food service equipment assistance funds is unique or difficult or costly to replace, the State agency may reserve the rights to require the institution to transfer title to property to the State agency or to a third party subject to the following provisions:

(A) The right to require the transfer of title may be reserved only by means of an express special condition in the agreement or, if approval for the acquisition of the property is given after the agreement is executed, by the means of a written stipulation at the time the approval is given.

(B) The property shall be appropriately identified in the award document or otherwise made known to the institution.

(C) FNS or the State agency shall not exercise this right until the institution no longer needs the property in the Program. That need will be deemed to end on the date of termination of the agreement, unless the institution continues to conduct a food service after the date and demonstrates to the State agency a continued need for the property in its food service.

(D) The State agency shall issue disposition instructions within 120 days after the completion of the need for the property under the Program. If instructions are not issued within this 120 day period, the State agency's right shall lapse, and the institution shall apply the applicable standards contained in paragraphs (b)(2) and (3) of this section.

(4) The institution's property management standards for nonexpendable personal property shall also include the following procedural requirements:

(i) Property records shall be maintained accurately and provide for: (A) a description of the property; (B) manufacturer's serial number or other identification number; (C) acquisition date and costs; (D) source of the property; (E) percentage of food service equipment assistance funds used in the purchase of the property; (F) location, use, and condition of the property; and (G) ultimate disposition data including sales price or the method used to determine current fair market value if the institution reimburses the Department for its share.

(ii) A physical inventory of property shall be taken and the results reconciled with the property records at least once evey two years to verify the existence, current utilization, and continued need for the property.

(iii) A control system shall be in effect to ensure adequate safeguards to prevent loss, damage, or the theft of the property. Any loss, damage, or the theft of nonexpendable property shall be investigated and fully documented. The institution shall be responsible for replacing or repairing (with funds of the institution) property which is lost, damaged, or destroyed due to negligence by the institution.

(iv) Adequate maintenance procedures, including those recommended by the manufacturer shall be implemented to keep the property in good condition.

(v) Adequate sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

(c) The institution may, at its option, either retain or sell items of expendable personal property when no longer needed for any federally sponsored activity (including activities sponsored by other Federal agencies). Compensation to the Department is required if the aggregate fair market value of all of those items of expendable personal property acquired with equipment assistance funds exceeds $1,000 when no longer needed for any federally sponsored activity. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original property to the current fair market value of items retained and to the sales proceeds of items sold.

(d) Compensation for the Federal share of property made by institutions to the State agency shall be returned to FNS, except that food service equipment assistance monies returned in the same fiscal year that the monies were paid may be used by the State agency under § 226.25.

Subpart G—Other Provisions

§ 226.27 Other provisions.

(a) *Grant closeout procedures.* Grant closeout procedures for the Program shall be in accordance with Attachments K and L of the Office of Management and Budget Circular A–110 (41 FR 32016, July 30, 1976), or Attachment L of the Office of Management and Budget Circular A–102 (42 FR 45828, September 12, 1977).

(1) *Termination for cause.* FNS may terminate a State agency's participation in the Program in whole, or in part, whenever it is determined that the State agency has failed to comply with the conditions of the Program. FNS shall promptly notify the State agency in writing of the termination, the reasons for the termination and the effective date. A State agency shall terminate the Program participation of an institution or facility by written notice whenever if is determined by FNS or the State agency that the institution or facility has failed to comply with the conditions of the Program.

(2) *Termination for convenience.* FNS or the State agency may terminate the State agency's participation in the Program when both parties agree that the continuation of the Program would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The State agency shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. FNS shall allow full credit to the State agency for the Federal share of noncancellable obligations, properly incurred by the State agency, or FNSRO where applicable. FNSRO or the State agency may terminate an institution's participation in accordance with these provisions.

(b) *State requirements.* Nothing contained in this part shall prevent a State agency from imposing additional requirements for participation in the Program which are not inconsistent with the provisions of this part; however, any additional requirements shall be approved by FNSRO and may not deny the Program to an eligible institution.

(c) *Value of assistance.* The value of assistance to children under the Program shall not be considered to be income or resources for any purposes under any Federal or State laws,

including, but not limited to laws relating to taxation, welfare, and public assistance programs.

(d) *Maintenance of effort.* Expenditure of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under the Act.

(e) *Fraud penalty.* Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this part, whether received directly or indirectly from the Department or whoever receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets, or property are of the value of $100 or more, be fined not more than $10,000 or imprisoned not more than five years, or both, or if, such funds, assets, or property are of a value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

§ 226.28 Program information.

Persons desiring information concerning the Program may write to the appropriate State agency or Regional Office of FNS as indicated below:

(a) In the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont: New England Regional Office, FNS, U.S. Department of Agriculture, 33 North Avenue, Burlington, MA 01803.

(b) In the States of Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, One Vahlsing Center, Robbinsville, NJ 08691.

(c) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FNS, U.S. Department of Agriculture, 1100 Spring Street NW, Atlanta, GA 30309.

(d) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin: Midwest Regional Office, FNS, U.S. Department of Agriculture, 536 South Clark Street, Chicago, IL 60605.

(e) In the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming: Mountain Plains Regional Office, FNS, U.S. Department of Agriculture, 2420 West 26th Avenue, room 430, Denver, CO 30211.

(f) In the States of Arkansas, Louisiana, New Mexico, Oklahoma and Texas: Southwest Regional Office, FNS, U.S. Department of Agriculture, 1100 Commerce Street, room 5–C–30, Dallas, TX 75242.

(g) In the States of Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, the Northern Mariana Islands, and Washington: Western Regional Office, FNS, U.S. Department of Agriculture, 550 Kearny Street, room 400, San Francisco, CA 94108.

§ 226.29 Implementation.

(a) Except where otherwise specified in this section, all provisions of this rule shall become effective on May 1, 1980.

(b) The State agency shall, by April 1, solicit each institution's choice of either USDA-donated commodities or cash-in-lieu of commodities. Should the results of this survey suggest that the distribution of commodities to the small number of institutions requesting them would be impracticable, the State agency may, by May 1, after consultation with the State distributing agency, request permission from FNS to provide cash-in-lieu of commodities to all institutions. Through June 30, 1980, State agencies shall continue to provide either cash-in-lieu of commodities to all institutions or commodities to all institutions in accordance with the program regulations of June 25, 1976. The commodity provisions of the final rule shall be implemented by all State agencies on July 1, 1980.

(c) Prior to May 1, State agencies shall inform all participating institutions of their new responsibilities under the program. FNS will provide prototype materials to assist States.

(d) By May 1, the State agency shall:

(1) Complete the outreach mailing mandated by § 226.7(f).

(2) Execute with each institution an addendum to the Program agreement effective for the period May 1, 1980—September 30, 1980, and incorporating:

(i) the provisions of this rule;

(ii) the institutional choices determined under S226.7(b)(10) and S226.10(a); and

(iii) and administrative budget for sponsoring organizations of day care homes.

(3) Notify each institution of the availability of food service equipment assistance, the State agency's criteria for determining which institutions are especially needy, and procedures for application for assistance. (The State agency need not establish a food service equipment assistance application deadline for Fiscal Year 1980. It may make direct disbursements to suppliers of food service equipment in accordance with § 226.25(g) at any time following publication of this rule. Should the State agency decide to establish a reserve fund, as provided for in § 226.25(h), for Fiscal Year 1980, the fund shall not exceed 10 percent of the unobligated balance of the State's apportionment on the date the fund is established.)

(4) Begin evaluating requests for start-up assistance in accordance with § 226.13(b).

(5) Institute alternate approval procedures as provided in § 226.7(d)(2).

(e) The reimbursement systems, except for advances, and rates established by this rule are effective for all claims for reimbursement for the month of May, 1980, and for each month thereafter. State agencies shall process and pay claims for May and following months in accordance with the timeframes established by § 226.8(j).

(f) The institution appeal procedure of § 226.7(j) shall become effective with regard to all appealable actions taken by the State agency on or after May 1, 1980. The date of receipt of the State agency's notice of action by the institution, not the dates of the operating period covered by the action, shall determine whether the appeal provisions are applicable to the action.

(g) By July 1, State agencies shall disburse the first advance payment to each institution whose request for advance was received by June 1. The first advance payment shall be issued to each institution whose request was received after June 1 within 30 calendar days of the date of receipt. All subsequent advances are payable by the first day of each month of operation.

(h) The prohibitions of § 226.9(b) shall be effective for the period May 1, 1980–September 30, 1980, only if they do not conflict with the audit section of the State agency's Plan of Child Care Food Program Operations for fiscal year 1980.

(i) Alternate child care standards approval granted by the State agency to any child care facility or independent center under the Program regulations published on June 25, 1976, shall be sufficient for the purpose of establishing eligibility until September 30, 1980.

(j) FNS may grant State agencies extensions not to exceed 60 calendar days for implementation of all provisions cited in this section, except the effective dates for reimbursement rates and systems (Paragraph (e)), and the provisions referenced in Paragraphs (b), (c), and (d)(2) if serious problems are encountered which make implementation in accordance with this section infeasible. State agencies seeking an extension for implementation of advance payment provisions shall be submitted to FNS not later than 45 days

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prior to the implementation date specified in this section. Each such request submitted by State agencies shall be accompanied by a detailed justification, outlining the reason for the delay and must include an alterative scheduled for implementation of the delayed provision(s).

(k) With the following exceptions, all eligibility, administrative, and operating requirements established by this rule for institutions and day care facilities shall become effective on May 1, 1980:

(1) Sponsoring organizations shall execute agreements with all day care homes under their jurisdiction in accordance with § 226.19(b) by July 1, 1980. However, the provisions of § 226.19(b) shall become effective on May 1, 1980.

(2) Between May 1, 1980, and September 30, 1980, each sponsoring organization shall conduct not less than one review of each child care center and day care home under its jurisdiction and not less than two reviews of each outside-school-hours care center under its jurisdiction, unless the sponsoring organization will, between October 1, 1979, and September 30, 1980, otherwise conduct all of the reviews required in § 226.17(d)(4).

(Section 2, Pub. L. 95-627, 92 Stat. 3603, 42 USC 1766)

Note.—This action has been reviewed under the USDA criteria established to implement Executive Order 12044. A determination has been made that this action should be classified "significant." An Impact Analysis is available from Jordan Benderly.

The reporting and/or recordkeeping requirements contained herein have been submitted to the Office of Management and budget in accordance with the Federal Reports Act of 1942.

Dated: January 18, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-2006 Filed 1-21-80; 8:45am]

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federal register

Tuesday
January 22, 1980

Part VI

Federal Election Commission

Designation of Official to Receive Presidential Primary Candidate Certification of Inactive Status

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FEDERAL ELECTION COMMISSION

[Notice 1980-1]

Designation of Official To Receive Presidential Primary Candidate Certification of Inactive Status

AGENCY: Federal Election Commission.

ACTION: Notice of designation of official to receive Presidential primary candidate certifications of inactive status.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Ann Fiori, Assistant General Counsel, 1325 K Street NW., Washington, D.C. 20463, (202) 523-4143.

11CFR 9033.4(b) provides that a Presidential candidate who receives federal primary matching funds will be ineligible for matching payments as of the 30th day following the second consecutive primary election in which the candidate receives less than 10 percent of the popular votes cast for all candidates of the same party in such election, if the candidate permitted or authorized his or her name to appear on the ballot. This provision does not apply, however, if the candidate certifies to the Commission at least 25 business days prior to the primary that he or she will not be an active candidate in the primary involved.

To efficiently process these certifications of inactive status, the Commission has designated the General Counsel as the proper official to receive them. Certifications of inactive status should therefore be sent to the following address; Charles N. Steele, General Counsel, Federal Election Commission, 1325 K Street NW., Washington, D.C. 20463.

The following tables set forth the dates which candidate certifications of inactive status are due:

Table 1.—*Suspension of Public Financing Eligibility—Democrats*

Primary	Primary date	Candidate certification of inactive status
1. New Hampshire	Feb. 26	Jan. 21.
2. Massachusetts	Mar. 4	Jan. 28.
Vermont	Mar. 4	Jan. 28.
3. Alabama	Mar. 11	Feb. 4.
Florida	Mar. 11	Feb. 4.
Puerto Rico	Mar. 11	Feb. 4.
4. Georgia	Mar. 18	Feb. 8.
5. Illinois	Mar. 18	Feb. 11.
6. Connecticut	Mar. 25	Feb. 19.
New York	Mar. 25	Feb. 19.
7. Kansas	Apr. 1	Feb. 26.
Wisconsin	Apr. 1	Feb. 26.
8. Louisiana	Apr. 5	Mar. 3.
9. Pennsylvania	Apr. 22	Mar. 18.
10. District of Columbia	May 6	Apr. 1.
Indiana	May 6	Apr. 1.
North Carolina	May 6	Apr. 1.
Tennessee	May 6	Apr. 1.

Table 1.—*Suspension of Public Financing Eligibility—Democrats*—Continued

Primary	Primary date	Candidate certification of inactive status
11. Maryland	May 13	Apr. 8.
Nebraska	May 13	Apr. 8.
12. Michigan	May 20	Apr. 15.
Oregon	May 20	Apr. 15.
13. Arkansas	May 27	Apr. 21.
Idaho	May 27	Apr. 21.
Kentucky	May 27	Apr. 21.
Nevada	May 27	Apr. 21.
14. California	June 3	Apr. 28.
Montana	June 3	Apr. 28.
New Jersey	June 3	Apr. 28.
New Mexico	June 3	Apr. 28.
Ohio	June 3	Apr. 28.
Rhode Island	June 3	Apr. 28.
South Dakota	June 3	Apr. 28.
West Virginia	June 3	Apr. 28.

Table 2.—*Suspension of Public Financing Eligibility—Republicans*

Primary	Primary date	Candidate certification of inactive status
1. Puerto Rico	Feb. 17	Jan. 14.
2. New Hampshire	Feb. 26	Jan. 21.
3. Massachusetts	Mar. 4	Jan. 28.
Vermont	Mar. 4	Jan. 28.
4. South Carolina	Mar. 8	Feb. 1.
5. Alabama	Mar. 11	Feb. 4.
Florida	Mar. 11	Feb. 4.
Georgia	Mar. 11	Feb. 4.
6. Illinois	Mar. 18	Feb. 11.
7. Connecticut	Mar. 25	Feb. 19.
New York	Mar. 25	Feb. 19.
8. Kansas	Apr. 1	Feb. 26.
Wisconsin	Apr. 1	Feb. 26.
9. Louisiana	Apr. 5	Mar. 3.
10. Pennsylvania	Apr. 22	Mar. 18.
11. Texas	May 3	Mar. 31.
12. District of Columbia	May 6	Apr. 1.
Indiana	May 6	Apr. 1.
North Carolina	May 6	Apr. 1.
Tennessee	May 6	Apr. 1.
13. Maryland	May 13	Apr. 8.
Nebraska	May 13	Apr. 8.
14. Michigan	May 20	Apr. 15.
Oregon	May 20	Apr. 15.
15. Idaho	May 27	Apr. 21.
Kentucky	May 27	Apr. 21.
Nevada	May 27	Apr. 21.
16. California	June 3	Apr. 28.
Mississippi	June 3	Apr. 28.
16. Montana	June 3	Apr. 28.
New Jersey	June 3	Apr. 28.
New Mexico	June 3	Apr. 28.
Ohio	June 3	Apr. 28.
Rhode Island	June 3	Apr. 28.
South Dakota	June 3	Apr. 28.
16. West Virginia	June 3	Apr. 28.

Dated: January 15, 1980.

Robert O. Tiernan,

Chairman, Federal Election Commission.

[FR Doc. 80-1995 Filed 1-21-80; 8:45 am]

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Note: There were no items eligible for inclusion in the list of Rules Going Into Effect Today.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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Tuesday, January 22, 1980

Part VII

Department of Labor

Occupational Safety and Health Administration

Identification, Classification and Regulation of Potential Occupational Carcinogens

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1990

Identification, Classification and Regulation of Potential Occupational Carcinogens

AGENCY: The Occupational Safety and Health Administration of the United States Department of Labor (OSHA).

ACTION: Final rule.

SUMMARY: This Part, promulgated today, sets forth OSHA's general policy for the identification and regulation of physical and chemical substances that pose a potential occupational carcinogenic risk to humans. The Part provides for future individual rulemakings concerning each substance, or combination or mixture of substances, or process to be regulated, thereby affording the public and OSHA the opportunity, among other things, to determine the applicability of this general policy to any specific substance, combination or mixture of substances or process and to select the most effective type of regulation to control human exposures to such potential occupational carcinogenic substance, combination or mixture of substances or process.

EFFECTIVE DATE: April 21, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Department of Labor, OSHA, Office of Public Affairs, Third Street and Constitution Avenue, N.W., Room N–3641, Washington, D.C. 20210 (202–523–8151). Copies of this document may be also obtained at any time by request to the OSHA Office of Public Affairs at the same address or telephone number listed above, or by contacting any OSHA regional or area office.

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I. INTRODUCTION

A. THE FORMAT OF THIS STATEMENT OF REASONS (THE PREAMBLE)

In addition to the Table of Contents and this Introduction, this document consists of four other major components. Part A explains the rationale for and the necessity of the promulgation today of this general policy and procedure of the Occupational Safety and Health Administration (OSHA), a policy and procedure which describe how potential occupational carcinogens will be identified, classified and regulated in the future unless good grounds exist for deviation from that general policy.

Part B of this document describes those issues underlying this rulemaking that are involved in the use of evidence derived from the human experience in the qualitative scientific and policy determinations of whether a substance, or combination of substances, poses a potential carcinogenic hazard to humans, namely whether exposure to such substance or substances should be regarded as having some potential for increasing the risk of cancer to humans. Part B also describes those scientific and policy issues that are involved in the methods (and assumptions on which they are based) for attempting to estimate, when appropriate, the magnitude of that risk in exposed human populations. Part C describes the same issues as Part B except that it deals with the use of evidence derived from experimentation in mammalian laboratory animals.

Other relevant scientific issues not disposed of in Parts B and C and issues of a policy or legal nature are discussed in Part D. In addition, Part D also includes a description of the procedural mechanisms set forth in this final set of regulations and any additional rationale not already discussed. A bibliography of some of the scientific and other publications referred to in this Statement of Reasons is also included. Part E consists of the Regulatory Text.

References to the direct written testimony of witnesses are designated by the name of the witness, the letter "S" and the page of the statement, *e.g.*, Upton, S. 5. References to the oral direct testimony or questioning of any witness are preceded by the witness's nan... and the general transcript page number, *e.g.*, Upton, Tr. 450. In addition, the federal agency, state agency, university, employer or participant affiliation is noted where applicable, *e.g.*, Upton (Director, NCI), S. 5 or Upton (Director, NCI), Tr. 450. Exhibits admitted to the Record of the public hearing are referred to by exhibit number, and also by author and date if they are publications in the scientific literature. Other scientific publications referred to by witnesses are also cited by author and date.

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B. DESCRIPTION

Pursuant to sections 6(b), 8(c) and 8(g) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1593, 1599, 29 U.S.C. 655, 657), the Secretary of Labor's Order 8–76 (41 FR 25059) and Title 29 of the Code of Federal Regulations (CFR), Part 1911, Title 29 of the CFR hereby is amended by adding a new Part 1990, to deal with the specific identification, classification and regulation of toxic substances for which there is reported to be evidence of a carcinogenic potential to humans. In addition, The Part sets forth some of the factors which OSHA will normally consider in establishing priorities. As discussed below, these regulations generally apply to all employments in all industries covered by the Act, including general industry, construction, maritime and agriculture, as to the scientific identification and classification of potential carcinogens. (29 CFR 1990.101) However, the regulatory requirements for research laboratories and the construction, agriculture and maritime industries may involve different approaches, depending upon the industry involved.

This set of regulations promulgated today attempts to deal with one of the most important issues OSHA faces, namely the exposure of workers to toxic substances which may be potential carcinogens. OSHA recognizes that in regulating occupational exposure to potential carcinogens, many gaps remain in our knowledge of cancer, its causes or cures. Minimizing exposures to potential carcinogens and thus minimizing the incidence of the disease, however, can be relatively swift if proper procedures such as this set of regulations are in place. We believe that to wait for years for science to provide further depth of understanding to the complex issues of cancer causation or cure, without having today some consistent and workable system for the reduction or prevention of human exposures to those toxic substances for which there is evidence of a carcinogenic potential to workers, would be inconsistent with OSHA's statutory obligations and unacceptable to all. In this regard, it should be noted that this rulemaking is tinctured by two factors:

a. The problem of reconciling a fluid, developing *science* into a rational and efficient *legal/policy* regulatory context without creating a rigidity that would hinder the scientific approach or meaningful scientific advances; and

b. The desire for a consistent approach by all concerned, including the Federal government, to the regulation of potential carcinogens, whether they be found in the workplace, in the general environment, in food and drinking water or in consumer products.

OSHA believes that this document encompasses an orderly, comprehensive and scientifically flexible set of regulations to identify, classify and regulate potential carcinogens in American workplaces, hopefully in a relatively short period of time. It also sets forth factors that OSHA will normally consider in establishing priorities. This action is based upon five basic propositions, namely:

1. That OSHA should consider all meaningful scientific information in the regulation of specific substances.

2. That the term "carcinogen", although perhaps difficult to define as a matter of science, must be defined for purposes of overall regulatory activity with the knowledge that as meaningful scientific advances are made, these regulations will be quickly amended to reflect such advances.

3. That a toxic substance, scientifically identified as a carcinogen in a mammalian test system, as defined, is to be treated *as a scientific and a policy matter* as posing a carcinogenic risk to humans, unless scientifically sound and convincing evidence demonstrates otherwise for the substance under consideration.

4. That when OSHA is regulating a Category I potential carcinogen, as defined herein, the permissible exposure limits will be set as low as feasible. In cases where there are suitable substitutes that are found to be less hazardous to the worker, no occupational exposure to the toxic substance will be permitted. These determinations are to be made in the individual rulemakings conducted pursuant to this Part.

5. That when OSHA is regulating a Category II potential carcinogen, as defined herein, regulatory requirements will generally be of a different degree than those imposed by the regulation of a Category I potential carcinogen.

In short, utilizing the best available scientific knowledge, OSHA will determine whether a substance poses a carcinogenic risk to humans, in general, by relying upon scientifically evaluated evidence from human epidemiological studies, animal studies or both. The degree of conclusiveness of such data may permit regulation of the toxic substance as a Category I potential carcinogen or a Category II potential carcinogen. Substances which on the basis of a brief scientific review of available data are considered candidates for further scientific review and possible regulation under this Part will be placed on the "Candidate List of Potential Occupational Carcinogens". Two priority lists will be prepared—a Category I Potential Carcinogen list and a Category II Potential Carcinogen list. The Candidate list and the priority lists have no regulatory effect and do not represent a determination that any of the substances on these lists are, in fact, potential occupational carcinogens. Rather, these lists are necessary steps in setting priorities and in allowing for public input. Further review of the evidence may result in the removal of a substance from the lists or may trigger regulatory activity through the issuance of a proposal or, in appropriate circumstances, an emergency temporary standard to control exposure to the potential occupational carcinogen. Guideline model standards will be utilized to facilitate this process.

The scientific and policy concepts underlying this policy, although sometimes controversial, have been followed after extensive consideration and scientific debate in other rulemakings by OSHA and other regulatory agencies many times in the past. For example, see the preambles to OSHA's carcinogen standard applicable to 14 selected substances, 29 CFR 1910.1003–1910.1016 (39 FR 3758), *aff'd, Synthetic Organic Chemicals) Manufacturers Assn. v. Brennan* I 503 F.2d 1155 (3rd Cir., 1974) *cert. den.* 420 U.S. 973 (1975) and *Synthetic Organic Chemical Manufacturers Assn. v. Brennan* II 506 F.2d 385 (3d Cir. 1974) *cert. den. sub nom. Oil, Chemical and Atomic Workers v. Dunlop* 423 U.S. 830 (1975); the vinyl chloride standard, 29 CFR 1910.1017 (39 FR 35892) *aff'd. The Society of the Plastics Industry v. OSHA*, 509 F.2d 1301 (2nd Cir.) *cert. den. sub nom. Firestone Plastics Co. v. U.S. Dep't of Labor*, 421 U.S. 992 (1975); the inorganic arsenic proposal (40 FR 3392, 1975) and final standard 29 CFR 1910.1018 (43 FR 19584, 1978), appeal pending *ASARCO v. OSHA* (9th Cir. 1978); the coke ovens emissions proposal (40 FR 32268, 1975) and final standard, 29 CFR 1910.1029 (41 FR 46742, 1976), *aff'd, American Iron and Steel Institute v. OSHA* 577 F.2d 825 (3rd Cir. 1978), petition for certiorari pending.

In addition to previous OSHA regulatory decisions, the United States Environmental Protection Agency (EPA), the Food and Drug Administration (FDA) of the United States Department of Health, Education, and Welfare, the United States Consumer Product Safety Commission (CPSC) and other governmental agencies and bodies have, in the past, made, or recommended, regulatory decisions based upon the same views expressed in this document. The views of such governmental agencies, including research agencies, are quoted throughout this document. See, for example, however:

a. *EPA:*

In Re Stevens Industries, et al., (37 FR 13369, June 30, 1972), *aff'd*

Environmental Defense Fund (EDF) v. EPA, (DDT), 489 F.2d 1247 (D.C. Cir. 1973); *In Re Shell et al.*, (39 FR 37285, Oct. 18, 1974), *aff'd, EDF v. EPA*, (Aldrin and Dieldrin) 510 F.2d 1292 (D.C. Cir. 1975); Pesticide Registration, Reregistration and Classification Procedures (40 FR 28241, July 7, 1975 and codified in 40 CFR Part 164); *In Re Velsicol et al.*, (41 FR 7552, 1976) *aff'd, EDF v. EPA*, (Heptachlor and Chlordane) 548 F.2d 998 (D.C. Cir. 1976), *cert. den.* 431 U.S. 925 (1977); *In Re: The Toxic Pollutant Effluent Standard for PCBs* (42 FR 6531, Feb. 2, 1977) *aff'd EDF v. EPA* (PCBs) 598 F.2d 62 (D.C. Cir., 1978) and *Hercules, Inc., et al. v. EPA* (Toxaphene) 598 F.2d. 91 (D.C. Cir., 1978); Proposed National Emission Standards for Hazardous Air Pollutants; Policy and Procedures for Identifying, Assessing, and Regulation of Airborne Substances Posing a Risk of Cancer, 44 FR 58642 (Oct. 10, 1979).

b. FDA:

In re: Chloroform (proposal, 41 FR 15026–29, April 9, 1976 and final, 41 FR 26842–46, June 29, 1976); *In re Chemical Compounds in Food-Producing Animals: Proposed Criteria and Procedures for Evaluating Assays for Carcinogenic Residues* (44 FR 17069, March 20, 1979).

c. *CPSC:*

In re: Vinyl Chloride (39 FR 36576, Oct. 11, 1974) revised and reissued (43 FR 12308, March 24, 1978); *In re TRIS* (42 FR 18850, April 8, 1977) revised and reissued (42 FR 61621, Dec. 6, 1977); *In re Asbestos* (42 FR 63354, Dec. 15, 1977); *In re Benzene* (43 FR 21839, May 19, 1978); *Interim Policy and Procedure for Classifying, Evaluating, and Regulating Carcinogens in Consumer Products* (43 FR 25657, June 13, 1978) (withdrawn for technical reasons on April 23, 1979).

Thus, we believe that this Part creates a system for regulatory action, based on a broad consensus of scientific and regulatory opinion, which will create a uniform and reasonable response to the regulation of potential carcinogens; will permit OSHA to regulate such substances in a timely manner; and which sets forth the factors OSHA will normally consider in setting priorities for the regulation of such substances. The existing case-by-case approach, with its constant re-examination of already resolved scientific and policy issues, does not permit regulation of such substances in a timely and efficient fashion. Moreover, OSHA believes this approach is needed to overcome the administrative difficulties created by the case-by-case approach. We also believe that this system will provide a responsible and relatively speedy response to new scientific data concerning hazards and risks to humans; is completely compatible and consistent in its scientific underpinnings with the positions taken by other regulatory and research health agencies of this Nation; and will provide clearer guidance to American employers on the identification, classification and regulation of potential occupational carcinogens, now or in the future. As the President of Dow Chemical Co. testified: "We think we should have a logical, workable regulation that every company, whether responsible or not, should stick to" (Oreffice, Tr. 3200).

In issuing these regulations, OSHA is relying upon leading scientific evidence and opinions believed to reflect the scientific conclusions of individual cancer specialists and expert national and international cancer committees and agencies, as well as "experience gained under . . . other health and safety laws" (section 6(b)(5) of the Act). In such a task we recognize that we are operating "on the frontiers of scientific knowledge" *Industrial Union Department v. Hodgson*, 499 F.2d 467, 474, (D.C. Cir. 1974) but with a "command to act" *Ethyl Corp. v. EPA* 541 F.2d 1, 28 (D.C. Cir. 1975) and "a heavy burden" to explain when no action is taken *EDF v. EPA (PCBs)* 598 F.2d 62 (D.C. Cir. 1978).

This Part is essentially a statement of general policy regarding regulation of toxic substances which may pose a cancer hazard to workers. It provides that certain exceptions may be made to the policy where it is shown that unique circumstances exist. (29 CFR 1990.144) In addition, it provides for consideration of substantial new issues and/or substantial new evidence. (29 CFR 1990.145) And if, because of scientific breakthroughs or other good reason, it appears that all or part of the policy is no longer appropriate, these regulations will be amended. (29 CFR 1990.106) In this way, OSHA will be able to deal with potential carcinogens far more efficiently while providing flexibility for exceptions and scientific advances. OSHA encourages petitions for amendments to these regulations as conditions so warrant and has provided for a review of the appropriateness of these regulations on a periodic basis.

C. THE RULEMAKING

1. The Development of the Proposal

On January 19, 1977, the Assistant Secretary of Labor for OSHA formally transmitted for review and comment a draft of the proposed set of regulations and preamble, to the National Advisory Committee on Safety and Health (NACOSH), a standing advisory committee provided for by section 7(a) of the Act. In addition, the acting Assistant Secretary, on February 17, 1977, formally transmitted the same package to NIOSH with a request for "NIOSH's formal review of the document and all suggestions on how to improve it as soon as possible".

On April 18, 1977, the Director of NIOSH responded that: "we feel it is advisable that OSHA proceed expeditiously to publish this draft, for public comment, as a proposed carcinogen regulation or administrative policy". NIOSH further stated that: "It ha[d] a number of technical concerns which can be discussed as the formal rulemaking proceeds . . .".

In the meantime, NACOSH held several subcommittee meetings, which were duly announced in the **Federal Register**, to discuss the draft preamble and regulations. Full public participation was invited and written and oral views and presentations were consistently encouraged. (See, e.g. 42 FR 4554 [1/25/77]; 42 FR 14181 [3/15/77]; 42 FR 19936 [4/15/77].) The two relevant NACOSH subcommittees, one the subcommittee on Standards and the other on Policy and Budget, on April 5, 1977, adopted a position which was received and adopted by the full NACOSH committee on May 5, 1977. The resolution adopted by NACOSH stated:

"RECOMMENDATIONS ON PROPOSED REGULATION OF CERTAIN TOXIC MATERIALS

"Having reviewed the draft document 'Regulation of Certain Toxic Materials', we endorse OSHA's general attempt to deal with this difficult problem. In order to develop in the public forum the various factors, including certain legal and scientific issues, for a regulatory carcinogen policy to govern OSHA's administrative approach and to promote a degree of predictability, the draft proposal should be published in the **Federal Register** solely for the purpose of information gathering and that neither the document nor the process be engaged for a rulemaking purpose at this time. This recommendation is proposed since:

"1. The document can be adopted by OSHA as an administrative policy, and there should be such flexibility.

"2. The document, even if adopted as a policy through the rulemaking process, would not deprive due process challenges when subsequent standards are promulgated.

"3. The document identifies those issues upon which much debate has evolved and should continue, including the concept that some substances, although not always scientifically definable as carcinogens, must be addressed because of a regulatory obligation."

Issues which need to be expanded

1. address adequacy of classification system

2. address carcinogenicity of impurities and mixtures

3. expand discussion on "other than animal testing" routes
4. anatomic and metabolic fate
5. decision on rate retention issue

At the meeting on May 5, 1977, some members of the public such as the representative of the Synthetic Organic Chemical Manufacturers Association (SOCMA) "object(ed) to the statement in the recommendation that OSHA has the authority to adopt the proposal as an administrative policy and the implication that it should do so. In our view there is a serious question as to whether the proposal can legally be adopted as an administrative policy by OSHA without rulemaking."

In addressing these concerns on the Record, the NACOSH members stated that they believed further public comment was needed because "the subgroup did not feel that it, itself, was in a position to evaluate the scientific and technical aspects of the document" to make meaningful comments (NACOSH Tr. 126, May 5, 1977). However, the full committee made it clear that it would make no recommendation as to how OSHA should proceed, *viz:*

Dr. Ashford: I think [Dr. Imbus of Burlington Industries, Inc.] is right when he said that we left it open for OSHA's legal reading on whether or not to adopt it.

Mr. Sheehan: It would not come back to this Committee to make a determination as to whether it should be an administrative policy.

Dr. Ashford: I think the decision as to whether it should be an administrative policy or a 6(b) rulemaking is left to the Solicitor and OSHA. I think that is best left in their hands.

Mr. Sheehan: That is correct. (NACOSH Tr. 126.)

During the spring and summer of 1977, OSHA carefully reviewed the recommendations of both NIOSH and NACOSH. Because of the importance of the issues and in order to assure the fullest public participation in resolution of the issues, and maximum usefulness of the cancer policy once adopted, OSHA decided that it should commence this rulemaking with the full procedures provided for in section 6(b) of the Act. The publicly stated alternative was OSHA's belief that an internal pronouncement of policy which would affect substantive rights of interested parties might not be sustainable in the Courts, thus, in actuality, delaying its effective date in this important area by years.

On June 13, 1978, the Consumer Product Safety Commission issued a "cancer policy" scientifically similar to that encompassed in this rulemaking. It was issued as an "interim policy" without public rulemaking. (43 FR 25657) On September 12, 1978, Dow Chemical Company and 6 other plaintiffs, namely Diamond Shamrock Corp., Ethyl Corporation, PPG Industries, Inc., Stauffer Chemical Company, Vulcan Materials Company and Louisiana Chemical Association, brought an action to enjoin the CPSC from proceeding with the implementation of that policy. The basis for the action was plaintiffs' allegations that CPSC had failed to comply with 5 U.S.C. sections 553 (b) and (c) of the Administrative Procedures Act.

In support of their motion for an injunction, Dow Chemical and the six other plaintiffs stated on September 15, 1978:

"Shortly after the IRLG was formed, the Occupational Safety and Health Administration took the lead in exploring the scientific and regulatory problems associated with potential carcinogens. On October 4, 1977, OSHA proposed a broad approach to carcinogens which would classify substances based on relative risk and then proceed to evaluate means for reducing risks of harm. OSHA has recently held four months of hearings on the scientific and policy issues involved in this proposal.

"In the course of these extensive hearings, there has been a vigorous debate as to the classification of carcinogens, risk evaluation, and the appropriate regulatory response."

* * * * *

"While OSHA and other governmental bodies were attempting to grapple with the problem of carcinogens in a systematic and coordinated way, the CPSC decided to shortcut this process by announcing its own position on this subject."

* * * * *

"The CPSC has made no real effort to examine the serious scientific and regulatory issues behind the interim regulations. The preamble to the June 13, 1978 [CPSC] regulations consists of a single page [in the **Federal Register**] of background information. In contrast, the preamble to the OSHA proposal regarding carcinogens contained 36 pages [in the **Federal Register**] of detailed discussion of the underlying scientific literature and policy issues. The CPSC has apparently ignored all of these data and issues, and is seeking to implement its own private notions without subjecting them to public scrutiny." (Dow's Memorandum of Points etc., pp. 5–7.)

The Court granted Dow Chemical and the other plaintiffs an injunction less than 2 months later in *Dow Chemical et al.* v. *Consumer Product Safety Commission* 459 F. Supp. 378 (W.D.La. 1978) on the basis that it believed that the CPSC cancer policy was more than a general statement of policy but would affect substantial rights of persons and therefore rulemaking was required.

2. The Proposal

The OSHA proposal, which Dow Chemical and others almost one year later characterized as an attempt "to grapple with the problem of carcinogens in a systematic and coordinated way", was published in the October 4, 1977, issue of the **Federal Register** (42 FR 54148). It requested the submission of written comment from all interested persons on the variety of scientific, technical and procedural issues addressed or implicit in the proposal by no later than December 8, 1977 with all direct written testimony of witnesses to be filed by January 9, 1978, over 4 months after the proposal was published. Moreover, OSHA transmitted the proposal to over 100 major trade associations and unions inviting their active participation in the rulemaking. In addition, OSHA scheduled an informal hearing to commence on March 4, 1978 to provide an opportunity for additional presentation of evidence concerning the issues and to facilitate the conduct of this rulemaking (42 FR 54183).

The proposal requested that the public's witness statements and comments be filed prior to the filing of the direct testimony of witnesses invited by OSHA to testify, which was scheduled to occur on February 28, 1978 (42 FR 54183). By doing so, OSHA intended to clarify the issues so that they would all be addressed and not "passed like ships in the night". The goal was to compile the fullest Record possible for the decision makers, in this case both the Assistant Secretary of Labor for OSHA and the Secretary of Labor.

In November 1977, requests for extensions of time were received. On November 22, 1977, as published in the November 29, 1977 issue of the **Federal Register** (42 FR 60753), the Assistant Secretary extended the time deadlines set forth in the October 4, 1977 proposal and stated:

OSHA wishes to encourage debate on the numerous issues raised by the proposed regulations, while recognizing the need to proceed as expeditiously as possible. For that reason OSHA has decided to extend the period for filing written comments, data, views and arguments and other notices of intention to appear to January 30, 1978. Further OSHA also extends the time period for the submission of testimony and documentary evidence to be introduced by public witnesses at the hearing to January 30, 1978.

Because of these extensions of time for submission from interested parties, OSHA will file the testimony of its witnesses and make them available on or before March 15, 1978, rather than by February 28, 1978, as set forth in the original notice. These extensions require rescheduling of the public rulemaking hearing to April 4, 1978, rather than March 14, as set forth in the original notice. The place of the hearing has also been changed to the Departmental Auditorium, Constitution Avenue between 12th and 14th Streets N.W., Washington, D.C.

In January 1978, however, requests for additional extensions of time were again received together with requests to permit the public the opportunity to reply to any testimony filed by witnesses that had been requested by OSHA. On January 24, 1978, as published in the January 27, 1978 issue of the **Federal Register** (43 FR 3729), the Assistant Secretary again extended the time requirements of the original proposal and provided an additional opportunity for the public to submit supplemental responses. Specifically, an additional three weeks were set aside so that any public participant could file witness statements and comments addressing any issues raised by the statements filed by witnesses requested by OSHA to testify and not raised in the proposal. The hearing was rescheduled to begin on May 16, 1978. No further requests for extensions of time were received and not one party to the proceedings availed itself of the opportunity to file additional or supplemental witness statements as provided.

3. The Response to the Proposal and the Hearings

At the outset, it should be pointed out that, in the proposed notice of rulemaking, OSHA stated that it expected that some might question the policy and scientific decisions inherent in the proposal as going too far, while others might contend that they did not go far enough (42 FR 54149). OSHA proposed that all concerned, however, should approach these issues in a spirit of co-operation and candor—and with the recognition that policy determinations in a legal framework could not be based solely upon scientific fact where such factual data were often incomplete. But, insofar as the central issue of whether exposure to potential carcinogens should be regulated, OSHA stated that it believed that the time had come to say that at least this issue had been resolved (42 FR 54149). In that regard, OSHA cited the "expert"* blue ribbon scientific Ad Hoc Committee on the Evaluation of Low Levels of Environmental Chemical Carcinogens of NCI, which reported over nine (9) years ago in 1970 to the Surgeon General of the United States that:

*The term used by FDA in 44 FR 17090 (March 20, 1979).

"An effective program to protect man from the mass of environmental cancer hazards is within reach. No more time should be allowed to pass before the recommendations set forth in this report are applied to reality." (NCI Ad Hoc Committee, 1970, p. 8.)

It should be noted that five (5) of the eight (8) members of that committee and two (2) of the staff members testified or presented evidence in this rulemaking, namely: Dr. Umberto Saffiotti (NCI); Dr. Paul Kotin (Johns-Manville), Dr. William Lijinsky (FCRC: NCI); Dr. Marvin A. Schneiderman (NCI); Dr. Philippe Shubik (Eppley Institute, Univ. of Nebraska); Dr. Richard R. Bates (FDA, NIEHS); and Dr. Elizabeth K. Weisburger (NCI).

This rulemaking, as described below, may well be the most important single proceeding OSHA has ever had or will ever conduct in the future in this area. It interested major segments of the public such as the American Petroleum Institute (API) who "strongly support(ed) 'the need for a comprehensive and rational policy for the regulation of carcinogens in the workplace'." (API Brief, p. 1). API further stated "(d)espite the many problems API has with the specifics of OSHA's Proposal, OSHA has provided a useful forum for the broad discussion of issues that may prove helpful in ultimately deciding the uniquely difficult questions presented by the regulation of carcinogens." (API Brief, p. 1). It included full participation by organized labor such as the American Federation of Labor and Congress of Industrial Organizations (AFL–CIO), the United Steelworkers of America (USW), the International Brotherhood of Teamsters, the United Automobile Workers (UAW), and the Oil, Chemical and Atomic Workers (OCAW). It attracted participation by environmental groups such as the Environmental Defense Fund (EDF), the Natural Resources Defense Council (NRDC) and the Health Research Group (HRG). And it spawned a major new trade association, the American Industrial Health Council (AIHC) and chaired by the President of Dow Chemical Co. (Oreffice, S. 1). The stated objective of AIHC was "cooperating with government, labor, and the public in developing a sound policy for the control of exposures to carcinogens in the workplace" (AIHC Brief, p. 5).

OSHA is gratified that its hope for co-operation and candor in this proceeding was far exceeded by the responsible public response and participation. Indeed, we believe that this entire rulemaking provides justification for the rationale underlying the legal process by which such actions of Federal agencies are finally decided. As the Director of Health Standards Programs stated on the first day of the hearing:

"In its preamble to this proposal, OSHA has attempted to explain in detail the reasons for each provision in the proposal. The scientific debate behind each policy has been described; OSHA's position has been stated as clearly as we were able; other regulatory views have been identified; and opposing arguments summarized. We welcome the impressive array of scientific experts and other parties who will testify on behalf of industry, unions, public interest groups, and the government. Their testimony and statements will help build an extensive public record which the Agency will closely analyze and draw upon in making our decisions on the final cancer policy regulations.

"Although the proposal reflects the Agency's position at the time it was issued, last October, our mind is open. Our desire to have a rulemaking record which reflects the true spectrum of opinion in the scientific community on every significant issue will be served by hearing all of the testimony in this proceeding.

"This hearing has attracted the largest number of participants in OSHA's seven-year rulemaking history. We were not surprised. The scope of issues raised by the proposal cut across almost every conceivable discipline. We welcome the impressive array of scientific and policy experts who will testify and build a record for the Agency to analyze, and we intend that in this proceeding all facets of the proposal will undergo thorough scientific and policy scrutiny.

"In the interest of creating as full a record as possible, OSHA has requested a relatively large number of individuals to participate in this hearing or to provide statements for the record. Many of these individuals are scheduled to present oral testimony in this hearing. In the interest of time, some are not, but their statements will be placed in the record.

"All of the distinguished individuals are appearing as individual scientists or citizens to present their individual views, except in the case of NIOSH or where the witness has indicated otherwise. Because OSHA requested an individual to submit a statement for the record, or testimony for this hearing does not necessarily mean that OSHA subscribes to any or all of the views presented in that statement. Again, for the purposes of developing a full and complete record, OSHA encouraged all of these persons participating at its requests to cover any or all areas of disagreement with the proposal if they so desired. These statements, therefore, as the cover sheet on them indicates, are statements requested by OSHA, not statements from OSHA or statements by OSHA witnesses in the traditional legal sense." (Wrenn, Tr. 21–23)

OSHA believes that the rulemaking proceeding provided OSHA with greater insights into the rational regulation of substances which present potential cancer hazards to humans.

The hearings began on May 16, 1978, before the Department of Labor's

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Administrative Law Judge Jean Greene. In general, hearings were held each working day thereafter and ended on July 25, 1978. The Record was finally closed after various extensions on December 19, 1978. The Record was certified by Judge Greene on January 23, 1979.

OSHA requested 54 experts in the field of carcinogenesis from all relevant disciplines to present written statements. Forty-six of those witnesses were actually presented at the hearing for cross-examination, including the Director of NCI, Arthur C. Upton; the Director of NIEHS, David P. Rall; the Commissioner of FDA, Donald Kennedy; the Chairperson of the CPSC, S. John Byington; and the EPA Assistant Administrator for Toxic Substances, Steven Jellinek. None of these witnesses nor any other persons requested to be witnesses by OSHA left the witness stand until the questioning of such witness by all participants and attorneys in the hearing was complete. All other persons invited by OSHA to file statements as witnesses were available for questioning upon request but no such request was ever made by any participant to this rulemaking. The public filed many witness statements, pre-hearing comments and exhibits in the Record. The transcript, which consists almost solely of responses to questions, is over 8,500 pages. Large volumes of exhibits and references, primarily scientific papers and articles, were submitted for the Record. Over one hundred seventeen post-hearing statements, comments and briefs were received. Eleven other comments were submitted by persons who did not participate in this rulemaking. It is estimated that the total Record consists of over 250,000 pages.

An impressive feature of the hearing record was the high scientific quality of much of the testimony. The list of witnesses as pointed out above included the Directors of NCI and NIEHS. In addition, many distinguished cancer researchers from these institutes, NIOSH, other federal, state and international agencies, the academic community, private research Institutes and industrial research departments also appeared. Many witnesses presented extensive, up-to-date reviews of various aspects of carcinogenesis, including extensive documentation from the scientific literature or their own work. In addition to many volumes of scientific papers and reviews, a number of reports of expert committees of the National Academy of Sciences and other scientific bodies were incorporated into the Record. Several participants pointed out that OSHA's original proposal was documented primarily with references to reviews and committee reports published in the period 1969–76. The extensive documentation submitted for the hearing record has enabled OSHA to update this documentation and to incorporate many primary references reflecting current scientific knowledge.

4. The Interagency Regulatory Liaison Group (IRLG)

Much has been made of the fact that, pursuant to the belief of the President of the United States that federal agencies involved in common areas of endeavor should at least attempt to coordinate their activities, the Administrator of EPA, the Assistant Secretary of Labor for OSHA, the Commissioner of FDA and the Chairperson of CPSC formalized in 1977 a degree of cooperation and coordination between their four regulatory agencies (that had existed for years in varying degrees) known as the Interagency Regulatory Liaison Group or IRLG.

AIHC has claimed that OSHA's participation in the development of an IRLG "Risk Assessment" document has somehow tainted the OSHA cancer policy. OSHA does not agree. First, every decision in this cancer policy is based exclusively upon the Record from the proceeding. Moreover, there is nothing unique about OSHA participating in a number of activities at the same time that cover the same or related issues. Thus, not only did OSHA participate in developing the IRLG risk assessment document, but it also issued standards on several carcinogenic substances including arsenic, benzene and acrylonitrile during the two years since the proposed cancer policy was published. OSHA believes that it would be impossible for it to carry out its statutory responsibilities if it were foreclosed from considering, in other contexts, issues it is considering with regard to a specific regulation.

PART A. THE RATIONALE AND NEED FOR THIS GENERAL POLICY

II. THE REGULATORY DILEMMA

Any decision as to how to regulate carcinogens is obviously complex. Despite some advances in our understanding of cancer, the fundamental causes and mechanisms elude us. Chemical or physical agents known or suspected to pose a risk of inducing cancer in humans present certain problems unique to the regulation of toxic materials in the workplace, which are discussed below. And with the increasing number of environmental chemicals, the number of carcinogens also is likely to increase, together with the size and complexity of OSHA's rulemakings and the concomitant Records and related issues consistently raised in various federal Courts of Appeals.

Perhaps the most eloquent statement of the problems faced by OSHA or any regulatory agency in this area concerning regulation of human exposures to possible carcinogenic substance was made by Dr. Richard Bates (NIEHS, FDA) in his direct testimony concerning the historical example of the Broad Street pump:

"A classic episode in the history of disease prevention took place in London in 1854. An epidemic of cholera occurred in the neighborhood around Broad Street. John Snow, the hero of the story, studied the habits of the victims and found that almost all obtained their water from the well on Broad Street. Swift action was taken; the pump was closed down and the epidemic rapidly subsided. This disease was caused by exposure to the bacterium *Vibrio cholerae*. One can imagine the reaction that might occur today if it were proposed to close down the pump on the basis of evidence of the kind obtained by John Snow. Many scientists would point out that it had not been conclusively demonstrated that the water was the cause of the disease. They would be troubled because of the lack of satisfactory theoretical knowledge to explain how the water could have caused the disease. Furthermore, other habits of those who had become ill had not been adequately investigated, so it would not be possible to rule out other causes of the disease. The scientists would have been correct. Others would have pointed out that some members of the community who drank from the Broad Street well had not succumbed to cholera. Thus, even if there were something wrong with the water, there must be other factors involved, and if we could control these we would not have to be concerned about the water. These conclusions are also correct. Some who consumed water from the Broad Street well would have objected to closing it because the taste of water from other wells was not as agreeable. Finally, if the pump had been owned by an individual who sold the water, he would certainly have protested against closing down his business on the basis of inconclusive evidence of hazard.

"This story illustrates a number of points that need to be kept in mind as we examine the proposed carcinogen policy of the Occupational Safety and Health Administration. First, if human disease and deaths are to be prevented, it is often necessary to control exposure for which there is some evidence of hazard before that evidence has reached the point that scientists would universally regard as conclusive. The alternative, to continue exposure until there is conclusive evidence of human hazard, is a form of human experimentation that our society finds increasingly unacceptable.

"Second, development of a disease in any individual is the result of complex interactions of a variety of factors including his or her genetic susceptibility; environmental influences on the person's state of susceptibility that may include such things as exposure to other harmful agents in the environment, the person's state of nutrition, age and general health; and finally the level and extent of exposure to specific disease causing agents. These principles hold true for cholera; not all who drank from the Broad Street well developed cholera. These principles also apply to cancer induction; cancer develops in susceptible individuals exposed to carcinogenic agents.

"Third, the incidence of disease in a population can be reduced either by reducing exposure to specific causative agents or through general or specific measures that reduce the level of susceptibility of the population to the causative agents. The state of our knowledge about the specific disease determines which measures can be applied most successfully at any particular time in history. During John Snow's time, removing the supply of contaminated water was the most feasible approach. Today, cholera can also be controlled through immunization and mortality can be reduced through specific therapy. During John Snow's time, however, the latter options were not available. Control of tuberculosis has resulted as much from better nutrition and improved living conditions as it resulting from hospitalization of diseased individuals. These general health measures increased resistance of the population to the disease agent. More specific immunization techniques against tuberculosis have been developed, but their effectiveness has been a matter of considerable debate for many years.

With cancer, the major method of prevention available to us today is to prevent exposure to chemicals and radiations capable of inducing the disease." (Bates, S. 1–4; footnotes omitted.) (Elaborated in Bates, Preventing Occupational Cancer, 28 Environmental Health Perspectives [NIEHS] pp. 303–310 [1979]).

In addition, Dr. Bates had earlier observed:

"Occupational carcinogenesis is the result of failure to detect carcinogens in the laboratory before there is exposure of human populations, and in some cases, failure to take adequate, protective measures even after a carcinogenic risk has been identified." Bates, "Laboratory Approaches to the Identification of Carcinogens," in Occupational Carcinogenesis, Vol. 271 of the Annals of the New York Academy of Sciences (1976).

The Assistant Secretary of Labor and the Secretary of Labor emphatically agree with Dr. Bates. The primary purpose of the Act is to assure, so far as possible, safe and healthful working conditions for every American employee over the period of his or her working lifetime. One means prescribed by Congress to achieve this goal is the mandate given to, and the concomitant authority vested in, the Secretary of Labor to set mandatory safety and health standards. The Congress specifically mandated that:

"The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of standards, and experience gained under this and other health and safety laws." (Section 6(b)(5)).

In setting standards pursuant to the Act, the Secretary is also expressly required to consider the feasibility of the proposed standards. Senate Committee on Labor and Public Welfare, S. Rep. No. 91–1282, 91st Cong., 2d Sess., p. 58 (1970). Nevertheless, considerations of technological feasibility are not limited to devices already developed and in use. Standards may require improvements in existing technologies or require the development of new technology. *The Society of the Plastics Industry* v. *OSHA, supra* at 1390. In practice, OSHA also takes into account economic considerations in determining what is feasible.

Where appropriate, the standards are required to include provisions for labels or other forms of warning to apprise employees of hazards, suitable protective equipment, control procedures, monitoring and measuring of employee exposure, employee access to the results of monitoring, appropriate medical examinations and training and education. Moreover, where a standard prescribes medical examinations or other tests, they must be available at no cost to the employees (section 6(b)(7)). Standards may also prescribe recordkeeping requirements where necessary or appropriate for enforcement of the Act or for developing information regarding occupational accidents and illnesses (section 8(c)).

Sections 2(b)(5), 2(b)(6), 6, 20, 21, 22, and 24 of the Act reflect the Congress's recognition that conclusive medical or scientific evidence, including causative factors, epidemiological studies or dose response data may not exist for many toxic materials or harmful physical agents. Nevertheless, the Congress mandated that standards should not be postponed because definitive medical or scientific evidence is not currently available. Indeed, while final standards are based on the best available evidence, the legislative history makes it clear that the Congress was aware of the "frightening gap" between "our knowledge about [toxic] substances, and what we need to know" (Leg. Hist. 1044–1045). The best available evidence provision was inserted because "it is not intended that the Secretary be paralyzed by debate surrounding diverse medical opinion." House Comm. On Education and Labor, H.R. Rep. No. 91–1291, 91st Cong., 2d Sess. 18 (1970). In fact, foremost among the concerns of the Congress in enacting OSHA was the ever-increasing number of toxic materials and harmful physical agents in the workplace. Leg. Hist. 142–143, 159–160, 411–415, 503, 510, 845–846, 1061. The Senate Committee on Labor and Public Welfare, for example, reported that toxic agents were a pernicious threat to employee health:

"Workers in the dusty trades still contract various respiratory diseases. * * * Carcinogenic chemicals, lasers, ultrasonic [sic] energy, beryllium metal, epoxy resins, pesticides, among others, all present incipient threats to the health of workers. * * * It is estimated that every 20 minutes a new and potentially toxic chemical is introduced into industry. New processes and new sources of energy present occupational health problems of unprecedented complexity.

"Recent scientific knowledge points to hitherto unsuspected cause-and-effect relationships between occupational exposures and many of the then so-called chronic diseases—cancer, respiratory ailments, allergies, heart disease, and others. In some instances, the relationship appears to be direct: asbestos, ionizing radiation, chromates, and certain dye intermediaries, and among others, are directly involved in the genesis of cancer. In other cases, occupational exposures are implicated as contributory factors. The distinction between occupational and nonoccupational illnesses is growing increasingly difficult to define."

Id. at 142.*

Death from such "silent killers"** was occurring because many employers had little economic incentive to provide healthful workplaces. "[M]any employers—particularly smaller ones—simply cannot make the necessary investment in health and safety, and survive competitively, unless all are compelled to do so." Id. at 144 (Senate Report). Because employees often moved from job to job, "an employer investing in current occupational health precautions would receive no future benefits, not even in the reduction of workmen's compensation costs. He

*The House Committee on Education and Labor likewise identified exposure to toxic substances as a principal concern. *Id.* at 844–846.

**Leg. Hist. 1044–45 (Rep. Udall).

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might be paying for the past neglect of another employer." Id. at 854 (House Report).

In the circumstances, the Congress concluded, the best approach was to impose a duty on all employers to provide workplaces as free from health hazards as possible. Congress recognized that achievement of this goal would require substantial investment in health protection (Leg. Hist. 444, 510, 525–526, 1004, 1030, 1040, 1150–1151), and that these costs "would be put into consumer goods . . ." *Id.* at 444 (Sen. Yarborough).*** But the Congress concluded that the expense of providing a safe and healthful place to workers is a necessary and reasonable cost of doing business. Senator Eagleton of Missouri observed that "[t]he costs that will be incurred by employers in meeting the standards of health and safety to be established under this bill are, in my view, reasonable and necessary costs of doing business. Whether we, as individuals, are motivated by simple humanity or by simple economics, we can no longer permit profits to be dependent upon an unsafe or unhealthy worksite." *Id.* at 1150–1151. Senator Williams of New Jersey, one of the principal authors of the Act, stated that the costs of compliance was "the price we should pay for the 80 million workers in America." *Id.* at 444.****

This congressional judgment has been supported by the Courts which have reviewed standards promulgated under the Act. In *Industrial Union Department, AFL–CIO* v. *Hodgson,* 499 F. 2d 467 (D.C. Cir. 1974), the United States Court of Appeals considered the Secretary of Labor's delegated mandate and power under the Act to protect the health of workers from exposure to asbestos. It stated (499 F. 2d at 474):

"From extensive and often conflicting evidence, the Secretary in this case made numerous factual determinations. With respect to some of those questions, the evidence was such that the task consisted primarily of evaluating the data and drawing conclusions from it. The court can review substantial support for the Secretary's findings. But some of the questions involved in the promulgation of these Standards are on the frontiers of scientific knowledge, and consequently as to them insufficient data is presently available to make a fully informed factual determination. Decision making must in that circumstance depend to a greater extent upon policy judgments and less upon purely factual analysis.[18]"

"[18] Where existing methodology or research in a new area of regulations is deficient, the agency necessarily enjoys broad discretion to attempt to formulate a solution to the best of its ability on the basis of available information, Permian Basin Area Rate Cases, 390 US 747, 811, 88 S. Ct. 1344, 20 L. Ed. 2d 312 (1968)."

This rationale was likewise applied in *The Society of the Plastics Industry, Inc.* v. *OSHA* 509 F.2d 1301 (2d Cir.), *cert. den. sub nom. Firestone Plastics Co. v. U.S. Dep't of Labor* 421 U.S. 992 (1975), where the Second Circuit reviewed regulations limiting worker exposure to vinyl chloride. The Court stated at 1380:

"As in *Industrial Union Department, AFL–CIO v. Hodgson, supra,* the ultimate facts here in dispute are on the frontiers of scientific knowledge, and, though the factual finger points, it does not conclude. Under the command of OSHA, it remains the duty of the Secretary to act to protect the workingman, and to act even in circumstances where existing methodology or research is deficient. The Secretary, in extrapolating the MCA study's findings from mouse to man, has chosen to reduce the permissible level to the lowest detectable one. We find no error in this respect."

And in *Ethyl Corp.* v. *EPA* 541 F.2d 1 (D.C. Cir. 1976), the Court of Appeals affirmed the EPA Administrator's decision to limit lead in gasoline, based in large part upon the rationale of *IUD* v. *Hodgson, supra* and *SOCMA* v. *OSHA, supra.* The Court stated at pp. 24–28:

"Questions involving the environment are particularly prone to uncertainty. Technological man has altered his world in ways never before experienced or anticipated. The health effects of such alterations are often unknown, sometimes unknowable. While a concerned Congress has passed legislation providing for protection of the public health against gross environmental modifications, the regulators entrusted have not been endowed with a prescience that removes all doubt from their decision-making. Rather, speculation, conflicts in evidence, and theoretical extrapolation typify their every action. How else can they act, given a mandate to protect the public health but only a slight or nonexistent data base upon which to draw? Never before have massive quantities of asbestiform tailings been spewed into the water we drink. Never before have our industrial workers been occupationally exposed to vinyl chloride or to asbestos dust. Never before have hundreds of thousands of tons of lead emissions been disgorged annually into the air we breathe. Sometimes, of course, relatively certain proof of danger or harm from such modifications can be readily found. But, more commonly, 'reasonable medical concerns' and theory long precede certainty. Yet the statutes—and common sense—demand regulatory action to prevent harm, even if the regulator is less than certain that harm is otherwise inevitable.

"Undoubtedly, certainty is the scientific ideal—to the extent that even science can be certain of its truth. But certainty in the complexities of environmental medicine may be achievable only after the fact, when scientists have the leisurely and isolated scrutiny of an entire mechanism. Awaiting certainty will often allow for only reactive, not preventive, regulation. Petitioners suggest that anything less than certainty, that any speculation, is irresponsible. But when statutes seek to avoid environmental catastrophe, can preventive, albeit uncertain, decisions legitimately be so labeled?" 541 F.2d 1 at pp. 24–25, omitting footnotes.

"That petitioners, and their scientists, find a basis to disagree is hardly surprising, since the results are still uncertain, and will be for some time. But if the statute accords the regulator flexibility to assess risks and make essentially legislative policy judgments, as we believe it does, preventive regulation based on conflicting and inconclusive evidence may be sustained. Recent cases have recognized this flexibility in similar situations [citing *IUD* v. *Hodgson; SOCMA* v. *OSHA, supra;* and *Reserve Mining Co.* v. *EPA* 514 F. 2d 492 (8th Cir. 1975) (en banc), 541 F. 2d 1 at 27.

* * * * *

"Where a statute is precautionary in nature,[57] the evidence difficult to come by, uncertain, or conflicting because it is on the frontiers of scientific knowledge, the regulations designed to protect the public health, and the decision that of an expert administrator, we will not demand vigorous step-by-step proof of cause and effect. Such proof may be impossible to obtain if the precautionary purpose of the statute is to be served." 541 F. 2d 1 at 28.

[57] "Or, as with OSHA, mandatory in its command to act. *See* Note 56 *supra.*"

In *Certified Color Manufacturers Ass'n* v. *Mathews,* 543 F.2d 284 (D.C. Cir. 1976), the Commissioner of FDA had terminated provisional approval of the color additive "Red Dye No. 2" because of suggestive evidence that it caused cancer in rats. In affirming that action, the Court stated at 297–298:

"Courts have traditionally recognized a special judicial interest in protecting the public health, particularly where 'the matter involved is as sensitive and frightladen as cancer'. Where the harm envisioned is cancer, courts have recognized the need for action based upon lower proof than otherwise applicable." (footnotes omitted).

And finally, in *EDF* v. *EPA (PCBs),* 598 F.2d 62 (D.C. Cir. 1978) the Court said at 88:

"After review of the authorities on the difficult issue of carcinogenic effect, we conclude that EPA's evidence furnishes adequate support for its prohibition. An administrator has a "heavy burden" to "explain the basis for his decision to permit the continued use of a chemical known to produce cancer in experimental animals." *EDF* v. *Ruckelshaus* (DDT), 439 F.2d 584, 596 n.41 (D.C. Cir. 1971); *accord, EDF* v. *EPA* (heptachlor and chlordane), 584 F.2d 998, 1005 (D.C. Cir. 1976), *cert. denied,* 431 U.S. 925 (1977); *EDF* v. *EPA* (aldrin and dieldrin), 510 F.2d at 1302; *see EDF* v. *Department of Health, Education and Welfare,* 428 F.2d at 1090–92. When firm evidence establishes that a chemical is a carcinogen, statutes generally leave an administrator no alternative but to step in to protect the public.

"On the other hand, when the evidence is less than firm, but merely suggests that a chemical may be a carcinogen, the same "heavy burden" may not attend administrative inaction. The decision to act in such a case has been held to fall within the discretion of the Administrator. For example, in *Reserve Mining Co.* v. *EPA,* 514 F.2d 492 (8th Cir. 1975) (en banc), EPA sought to abate discharge of mining refuse into Lake Superior "under an acceptable but unproved medical theory," that the discharges were carcinogenic. 514 F.2d at 529. The court concluded that the discharges should be abated, even though there would be a heavy cost, including possible loss of many jobs, to the local economy. Id. at 514–20, 535–40. Similarly, in *Certified Color Manufacturers Association* v. *Mathews,* 543 F.2d 284 (D.C. Cir. 1976), the Food and Drug Administration (FDA) terminated its provisional approval of a color additive used to dye food on the basis of a vigorously debated study of the additive's carcinogenic effects. This court concluded that the FDA action should be upheld, based upon FDA's scientific judgment that the study was not conclusive, but was merely suggestive of carcinogenicity. Id. at 297. "Courts have traditionally recognized a special judicial interest in protecting the public health, particularly where "the matter involved is as sensitive and fright-laden as cancer." Where the harm envisaged is cancer, courts have recognized the need for action based upon lower standards of proof than otherwise applicable." Id. at 297–98 (footnotes omitted) quoting *EDF* v. *EPA* (DDT), 465 F.2d 528, 538 (D.C. Cir. 1972). The courts have frequently upheld regulations based on evidence of carcinogenic effects. See, e.g., *American Iron & Steel Institute* v. *OSHA,* No. 78–2358, slip op. at 31–32 (3d Cir. March 28, 1979) (coke oven emissions); *Society of the Plastics Industry* v. *OSHA,* 509 F.2d at 1311 (vinyl chloride); *Synthetic Organic Chemical Manufacturers Association* v. *Brennan,* 503 F.2d 115, 1159–60 (3d Cir.) (same), *cert. denied,* 420 U.S. 973 (1974).

"These cases demonstrate that inevitable tension attending regulation of carcinogens. Frequently, such regulations have severe economic impact. Indeed, sometimes, as alleged by industry petitioners in this case, such regulations may jeopardize plants or whole industries, and the jobs depending on them. In such circumstances, the temptation to demand that the agency furnish conclusive proof of carcinogenicity as support for the regulations is great. However, the decision to delegate authority to an agency to control suspected carcinogens is a legislative judgment that is not open to question in this court. Congress's direction to EPA to protect against incompletely understood dangers could not be carried out if we were to adopt the proof requirements advocated by industry petitioners."

This proposal marks a departure from OSHA's usual pattern of a substance-by-substance approach in setting health standards concerning exposures to potential occupational carcinogens. For the reasons set forth herein, OSHA believes that such an approach is not only proper and necessary but in fact compelling because of its "experience gained under this and other health and safety laws". (The Act, section 6(b)(5).) Moreover, OSHA believes that by establishing a rational and predictable policy concerning the regulation of exposures to occupational carcinogens, employers, employees, the general public, the scientific community and public interest groups will not only benefit from improved employee health, but also experience greater efficiencies in their own activities.*

Employees are exposed to many substances on a daily basis. Obviously, most of these substances are not carcinogenic. Yet, some may be. OSHA believes that this general policy and procedure will facilitate the sifting through the evidence concerning substances which may be imputed to be potential carcinogens and the application of uniform, predictable criteria in order to assess whether such substances should indeed be treated as carcinogenic. Without such a system and appropriate criteria, OSHA believes that this task cannot be accomplished in a timely and efficient manner. With an appropriate system and criteria, worker health will be protected efficiently without rediscussing or relitigating, time and time again, the same issues and without unnecessarily draining limited industry, union, public interest, scientific and government resources. As a result of this policy, OSHA believes that these limited resources will focus on the most substantial issues in OSHA rulemaking proceedings, thus leading to more compact and useful Records in a shorter period of time. In addition, this policy will result in continuity of approach, even in the face of changes of policymakers. This new approach is intended to ameliorate certain administrative problems in standard setting. One significant aspect of past rulemakings concerning carcinogens was the enormous time period between OSHA's initial **Federal Register** notices and final judicial actions. For example, in its nine (9) year history, OSHA has concluded only seven (7) rulemaking proceedings in regulating carcinogens. Moreover, it should be noted that the total time the official process took from the date of the first official announcement in the **Federal Register** to completion of the judicial review of the final standard does not necessarily include the time required to analyze the facts and develop the proposal in the first instance, which itself can be considerable.** Finally, it should be noted that the procedures followed in each of the following cases differed because of an attempt to speed up the process. None of the differing procedures succeeded in achieving that goal.

a. Asbestos

An emergency temporary standard regulating occupational exposures to asbestos was published on December 7, 1971 (36 FR 23207) and not judicially contested; a permanent standard was proposed on January 12, 1972 (37 FR 466) and, after a short hearing, was published in final form on June 7, 1972 (37 FR 11318); the permanent standard was contested in *Industrial Union Department, AFL–CIO* v. *Hodgson* on July 27, 1972, and affirmed in 499 F.2d

***Senator Yarborough, a co-sponsor of the bill that was ultimately enacted, replied to the claim that the bill would be expensive (id. at 510):

"One may well ask too expensive for whom? * * * Is it too expensive for the employee who loses his hand or leg or eyesight? Is it too expensive for the widow trying to raise her children on meager allowance under the workmen's compensation and social security? * * *

"We are talking about people's lives, not the indifference of some cost accountants. We are talking about assuring the men and women who work in our plants and factories that they will go home after a day's work with their bodies intact."

****Congress anticipated that to some extent the cost of compliance would be recovered in savings in health care, workmen's compensation, lost wages and lost productivity. Id. at 142, 844–845, 1061.

*While OSHA will not elaborate upon the lengthy time consuming "case-by-case" rulemakings experienced by other agencies under other statutes, an excellent discussion of the same problems appears in McGarity, "Substantive and Procedural Discretion in Administrative Resolution of Science Policy Questions: Regulating Carcinogens in EPA and OSHA", 67 Georgetown Law Journal 724 (February 1979). Also see Berger and Riskin, Economic and Technological Feasibility in Regulating Toxic Substances Under the Occupational Safety and Health Act, 7 Ecology Law Quarterly 285 (1978). The scientific commentators have also recommended a generic, rather than a case-by-case approach, to regulating carcinogens for the same reasons. See National Academy of Sciences—National Research Council, Decisionmaking for Regulating Chemicals in the Environment 33 (1975).

**Only two other health standards have been promulgated during the history of OSHA namely: standards regulating occupational exposures to inorganic lead and cotton dust. In the case of the standard regulating occupational exposure to lead, the proposed final standard was published on October 3, 1975 (40 FR 45634), extensive hearings held and the final standard published on November 14, 1978, a process that took over 36 months. An appeal is pending in the Court of Appeals for the District of Columbia in *Lead Industries, Inc.* v. *OSHA.* In the case of the standard regulating occupational exposure to cotton dust, an advance notice of proposed rulemaking was published on December 27, 1974 (39 FR 44769), a proposed permanent standard published on December 28, 1976 (41 FR 54498), extensive hearings held in April and May of 1977, and final standards published as to Cotton Dust and Cotton Dust in Cotton Gins on June 23, 1978 (43 FR 27350 and 27418), a process that took over 42 months. Appeals were recently decided by the Court of Appeals for the District of Columbia in *AFL–CIO* v. *Marshall* and *Texas Independent Ginners Assoc.* v. *Marshall.*

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467 on April 17, 1974, the entire process consuming about 29 months.¶

b. Fourteen Carcinogens

On July 6, 1972, OSHA requested information concerning fifteen substances (37 FR 13285). A package of fourteen (14) emergency temporary standards regulating occupational exposures to a like number of carcinogens was published on May 3, 1973 (38 FR 10929), contested in part in *Dry Color Manufacturers' Assn.* v. *Brennan* and vacated on October 4, 1973 by the Third Circuit Court of Appeals at 486 F.2d 98; an advisory committee was appointed and began its meetings on June 25, 1973, the proposed permanent standard was published on July 16, 1973 (38 FR 18800) and amended on August 16, 1973 (38 FR 22141), a hearing was held in September 1973 and the final standard published on January 29, 1974 (39 FR 3756), contested in *Synthetic Organic Chemical Manufacturers Assn. (SOCMA)* v. *Brennan* I (EI) on January 29, 1974 and *SOCMA* v. *Brennan* II (MOCA) on February 4, 1975. In *SOCMA* v. *Brennan* I, the Third Circuit affirmed in part in 503 F.2d 1155 on August 26, 1974, *cert. den.* on March 17, 1975 in 420 U.S. 973. A petition for rehearing was denied on October 6, 1975. In *SOCMA* v. *Brennan* II, the Third Circuit affirmed in 506 F.2d 385 on December 17, 1974. A petition for certiorari was filed on March 20, 1975 and denied by the Supreme Court on October 6, 1975 *sub nom. Oil, Chemical and Atomic Workers* v. *Dunlop* in 423 U.S. 830. The entire process consumed about 40 months.

c. Vinyl chloride

A fact-finding hearing concerning vinyl chloride was announced on January 30, 1974 (39 FR 3874) and held on February 15, 1974. An emergency temporary standard regulating occupational exposure to vinyl chloride was published on April 5, 1974 (39 FR 12341) and not judicially contested, a proposed permanent standard was published on May 10, 1974 (39 FR 16896), the permanent standard published on October 4, 1974, (39 FR 35892), contested in *The Society of the Plastics Industry* v. *OSHA* on October 1, 1974, and affirmed in 509 F.2d 1301 on January 21, 1975, *cert. den. sub nom. Firestone Plastics Co.* v. *U.S. Department of Labor* in 421 U.S. 992, on May 27, 1975, the entire process consuming 15 months.

¶The cancer-causing properties of asbestos were not used as a basis for the 1972 OSHA asbestos standard.

d. Coke oven emissions

An advisory committee concerning occupational exposures to coke oven emissions was appointed on August 12, 1974, and held twenty-eight days of meetings during which testimony was presented by numerous experts and parties and over 200 exhibits received, the proposed permanent standard was published on July 24, 1975 (40 FR 40849), promulgated on October 22, 1976 (41 FR 46742), contested in *American Iron and Steel Institute* v. *OSHA* on October 23, 1976, and affirmed in 577 F.2d 825 on March 28, 1978, petition for *certiorari pending* in the United States Supreme Court, the entire process consuming 66 months so far.

e. Arsenic

An advance notice of proposed rulemaking concerning occupational exposures to inorganic arsenic was published on June 11, 1974 (39 FR 20494), a fact-finding hearing was announced on August 30, 1974 (39 FR 31644), held on September 20, 1974, a proposed standard was published on January 21, 1975 (40 FR 3392), a final permanent standard published on May 5, 1978 (43 FR 19584), contested in *ASARCO* v. *OSHA* on May 5, 1978 and judicial review is pending in the Ninth Circuit Court of Appeals and decision has been deferred pending the result of the Supreme Court decision in the case of the contested standard regulating occupational exposures to benzene, *infra*. The entire ongoing process has therefore consumed 67 months.

f. Benzene

An emergency temporary standard regulating occupational exposures to benzene was published on May 3, 1977 (42 FR 22516), stayed in *API* v. *OSHA* by the Fifth Circuit Court of Appeals on May 20, 1977, a proposed permanent standard was published on May 27, 1977 (42 FR 27482), published in final form on February 10, 1978 (43 FR 5918), contested in *American Petroleum Institute* v. *OSHA* on February 2, 1978, and vacated in 581 F.2d 493 on October 5, 1978, *certiorari granted* in *Marshall* v. *API* 440 U.S. 906 on February 21, 1979 by the United States Supreme Court, the entire process, so far, consuming 31 months.

g. Acrylonitrile

On June 29, 1977 (42 FR 33043), and July 5, 1977 (42 FR 34326), OSHA requested public comments concerning occupational exposure to vinyl cyanide or acrylonitrile. An emergency temporary standard regulating occupational exposures was published on January 17, 1978 (43 FR 2586), contested on January 17, 1978, the stay was denied in *Vistiron* v. *OSHA* on March 28, 1978 in the Sixth Circuit, a permanent standard was proposed on January 17, 1978, (43 FR 45762), hearings held in March and April 1978 and the final standard issued on October 3, 1978 (43 FR 45762). That final standard was not judicially contested, although the entire process consumed 16 months even after the Manufacturing Chemists Association and Dow Chemical Co. on the one hand and E. I. du Pont de Nemours & Co. Inc. on the other hand informed OSHA that such substance was a potential carcinogen based on both animal and human evidence in March and May of 1977 respectively.

h. Beryllium

In the case of a standard regulating occupational exposures to beryllium, the proposed standard was published on October 17, 1975 (40 FR 4814). Hearings were held during August and September 1977. A final standard is pending with the process to date having consumed at least 51 months.

In sum, OSHA believes that the length of time consumed in official regulatory and judicial processes will be shortened after the promulgation of this Part for the following reasons: the periodic announcement of regulatory priorities and advance notice of identification and classification criteria will enable all participants in the regulatory process, including OSHA staff, to act with greater efficiency and certainty in framing the truly critical issues in any rulemaking and locating the required technical and scientific expertise early in the proceeding. This should shorten and sharpen the rulemakings. Also the reviewing courts will be presented with rulemaking records of improved coherence, relevance and reduced size, aiding their deliberations.

Other administrative problems faced by OSHA in promulgating regulations in this area on a case-by-case basis are expected to be mitigated by these regulations. OSHA had stated that the present system unreasonably takes the time of scientific experts who were asked to present statements concerning identical issues in various proceedings. For example, Dr. Rall (Director, NIEHS) testified:

". . . I think the discussion of the issues can and should continue forever.

Mr. Hanson [of Dow Chemical Co.] Which forum, sir?

* * * * *

Dr. Rall: In scientific forums. Sometimes the regulatory agency has to say—and I think it is perfectly proper—that we accept the current state of knowledge and regulate on the basis of it. The point really is that the evidence is overwhelming that compounds which are carcinogenic in laboratory animals—and this may well be only in one species in a good test—have a very high probability of being carcinogenic for man.

Mr. Hanson: Sir, if the statement were the only issue being foreclosed in this rulemaking, I am not sure I would have a concern.

* * * * * *

Dr. Rall: Well, you know, there are a lot of other issues that I could continue with.

* * * * * *

Mr. Hanson: OK. Another foundation, supposedly, is this business of witnesses not wanting or being unable to appear in rulemakings. Do you feel uncomfortable appearing here today talking with me?

Dr. Rall: I do not feel uncomfortable, but I should point out that this entire process is taking a significant amount of my time.

* * * * *

And I am delighted to do it once, but I would simply be unable to do it on a recurring basis, or I could not fulfill the main part of my job, which is to run a research institute.

Mr. Hanson: Yes, Sir.

Dr. Rall: And I think that is a very real consideration.

Mr. Hanson: Yes, indeed, it is, sir. . . .

But would you not, as Director of NIEHS in Research Triangle Park want the opportunity in an OSHA rulemaking proceeding to come back and talk with me about something new, exciting or revolutionary in the field of carcinogenesis?

Dr. Rall: Absolutely. And if and when that occurs, I would urge OSHA to promulgate [an] amended or a new standard.

* * * * * *

But I have no assurance that that is going to occur six months from now or sixteen years from now, . . .". (Rall, Tr. 406–09)

In addition, the present system hardly guarantees a continuity of approach in every case, whether it be within the Agency or within the Courts. And finally, the manpower resources of the Department of Labor are simply overwhelmed using the present approach.

In short, OSHA believes that administrative feasibility supports such a procedure as is provided for in this document. The necessity to resolve basic scientific policy issues anew, in each rulemaking, has increased the burden on the Department of Labor and members of the scientific community called upon to address these widely accepted policies. Moreover, relitigation of these issues in the Federal courts has also drained staff time and energy and has inhibited OSHA initiatives while its policy determinations were repeatedly relitigated.

OSHA also notes that the legal and administrative resources of all parties are similarly taxed by these repeated assaults on widely accepted policy positions taken by Federal regulatory agencies regulating potential carcinogens. Thus, unions, environmental groups, consumer federations, trade associations, and large and small employers, have dedicated often limited time, effort and money to opposing fruitlessly, or supporting superfluously, rulemakings, results of which are usually determinations which have been resolved consistently in the past. OSHA believes these efforts by all these parties may have detracted from more meaningful actions to protect employees, such as increased research to identify hazards and to improve the efficiency and cost-effectiveness of control technology and methods, and the education and training of employees.

It is OSHA's belief that if these regulations are not promulgated, with the present resources the output of standards to protect American workers from potential carcinogenic substances may never be adequate. Indeed, to follow the past system and procedure for each and every individual substance and hazard would be, we believe, beyond the abilities of any agency, no matter how large a staff it may have.

The vinyl chloride standard (29 CFR 1910.1017) provides a striking example of the effort which has been required for standard promulgation, under optimum circumstances, pursuant to the *de novo* case-by-case approach. That standard, developed on a top priority basis with resources borrowed from other on-going projects, took the full statutory six months from the issuance of the emergency temporary standard, through the required hearings and the adequate review of the record, to publish a final rule. And that time does not include the time and resources devoted to the earlier fact-finding hearing and the necessary preparation of the emergency temporary standard and preamble themselves. Moreover, that time does not include the resources that were required to defend the final standard in the appellate courts. The ETS itself was not contested.

The vinyl chloride rulemaking proceedings concerned a substance which undisputedly was a human carcinogen. Yet, controversy raged during the hearing concerning the precise level of exposure which posed a hazard, whether a "safe" exposure level existed, whether animal data could be prudently extrapolated to man in quantitative terms and the appropriateness of the regulatory requirements. The comments and testimony concerning these issues were discussed in a significant part of the more than 600 written comments, 200 written and oral hearing submissions, the hearings, and the 4,000 page record.

Notwithstanding the bulk and comprehensiveness of the record, OSHA finally determined that the record did not provide definitive answers to these questions. The Agency declared, "[w]e cannot wait until indisputable answers to these questions are available, because lives of employees are at stake" (39 FR 35892).

OSHA, therefore, like other administrative agencies in the past, has determined that it is necessary at this time, in the fulfillment of its statutory objectives, to reshape the size and content of its rulemaking proceedings at least insofar as potential carcinogens are concerned. This set of regulations finalized today incorporates policy determinations concerning how and when chemical or physical substances should be identified, classified, and consequently regulated, as posing a carcinogenic risk to humans.

It is OSHA's intention to limit the issues in the subsequent 6(b) rulemakings on individual substances, to topics and issues specific to those individual substances. The rehearing of the validity of this classification system and most of the other general policy determinations as described in this document, including the procedural structure intended to be followed, are not to be the subject of those individual rulemakings. However, other than the foreclosed policy determination that employees shall be exposed to Category I potential carcinogens at the lowest level feasible and that the level should be reached primarily through the use of engineering and work practice controls, hardly any scientific or policy issue is really foreclosed from discussion if certain minimum threshold criteria are met in the subsequent rulemakings. A description is more fully set out below.

The Agency believes that this "generic" form of standard setting will not in any way deny "due process", the statutory procedural requirements set forth in section 6(b) of the Act or in 5 U.S.C. 553, *et seq.*, since every opportunity for notice, comment, and public participation in extensive hearings pursuant to those provisions has been afforded. Moreover, the model regulatory standards we believe are flexible. As pointed out below, with certain limited exceptions, the model standards contain provisions that are no more than guidelines for OSHA and the public in conducting future regulatory activity and are not meant, as was perceived by some of the participants in this rulemaking, to be rigid, to involve irrebuttable presumptions or to provide

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the prescribed protection in the most costly manner conceivable. The opposite is our intent. In this document, therefore, OSHA has adopted in large part the proposed language and suggestions of the American Petroleum Institute (API) and others to express more clearly the function of these model standards. The model standards, as did API's model standard: "retain the *types* of requirements contained in the OSHA Proposal, but restructure each provision in the form of guidelines and criteria to permit OSHA and the public to tailor each standard to the specific substances being regulated" (API, Post Hearing Comments, September 15, 1978, p. 16.) And, as promulgated herein, even the provisions in the model standards concerning the "types" of requirements are only presumptive which means that they can be changed, added to or deleted from, as to any given substance, depending upon only a requirement that the proponent of such change satisfactorily explains the basis for such a change from OSHA's general policy concerning regulation of potential occupational carcinogens. The presumption that the types of requirements are to be mandated is *not*, therefore, irrebuttable. Only the decisions that levels of exposure be as "low as feasible" and achieved by way of any practicable combination of "engineering controls and work practices" for Category I toxic substances are presented in this regulation and foreclosed from further discussion in subsequent rulemakings on individual substances. These decisions have been policy determinations made by OSHA in the past in standards issued concerning regulation of exposures to carcinogens and are merely codified by this document.

OSHA has legal authority pursuant to the Act to follow the generic approach to rulemaking. Sections 6(b), 3(8), 2(b)(3) & (9) and 8(g)(2) provide for the promulgation of occupational health standards and this includes methods reasonably necessary and appropriate for such standards and regulations the Secretary deems necessary to carry out his responsibilities. The Secretary believes that the generic approach to rulemaking, establishing general policies in this proceeding and specific requirements in subsequent individual rulemakings is a necessary and reasonable approach to regulating occupational carcinogens in view of the large number of such substances which must be considered and regulated and the weaknesses of the past substance-by-substance approach.

It is well established that administrative agencies have broad discretion in tailoring administrative procedures in informal rulemakings to the needs of efficient regulatory actions so long as the public can effectively present its views and questions the agency's position. The courts have also encouraged agencies to promulgate general rules to guide their decisions in individual cases. *Vermont Yankee* v. *NRDC*, 435 U.S. 519, 545–46 (1978); *SEC* v. *Chenery Corp.*, 332 U.S. 194(1947); *NLRB* v. *Wyman-Gordan* 395 U.S. 759 (1969). They have also generally accepted that particular rulemaking proceedings are within broad grants of statutory authority. *Mourning* v. *Family Public*, 411 U.S. 356 (1972).

In addition to the statutory authority that OSHA has to engage in generic or policy rulemaking. It has long been recognized by the courts that regulatory agencies, such as OSHA, may use innovative rulemaking procedures to set policy, in order to comply with their statutory mandates, even at the expense of nominally depriving interested parties of a hearing on individual claims which may be contrary to the generally announced policy. Thus in 1956, the Supreme Court held that the Federal Communications Commission was not required to give a license applicant a statutorily required hearing, when the applicant did not qualify under the Commission's policy, adopted through rulemaking, that no person could own more than five (5) broadcasting stations. (*United States* v. *Storer Broadcasting Co.*, 351 U.S. 192, 202 (1956). *See also, FPC* v. *Texaco*, 377 U.S. 33 (1964); *Airline Pilots Asso.* v. *Quesada*, 276 F.2d (2nd Cir. 1960). *See also, EDF* v. *EPA* (PCBs) 598 F.2d 62 (D.C. Cir., 1978). In *Texaco* the Supreme Court stated,

"To require the Commission to proceed only on a case by case basis would require it, so long as its policy outlawed indefinite price changing provisions, to repeat in hearing after hearing its conclusions that condemn all of them. There would be a vast proliferation of hearings. . . We see no reason why under the statutory scheme the process of regulation need be so prolonged and so crippled." (p. 112)

The overriding concern in these cases is whether parties had unreasonably been deprived of due process or statutory procedural rights which were intended to assure that the agency would not act arbitrarily in denying claims. OSHA believes that no such deprivation will occur as the result of promulgation of these regulations. We believe that the recent opinion of the Court of Appeals for the District of Columbia in *EDF* v. *EPA* (PCBs) 598 F.2d 62 (1978) is apposite. There the Court stated:

Finally, in reviewing EPA's policy of regulating less chlorinated PCBs in part on the basis of what is known about more chlorinated PCBs, we must recognize considerations of administrative feasibility. The number of toxic substances subject to regulation seems very large. Regulation of so many substances could well be extremely difficult if EPA were precluded from drawing inferences from available data on well-known, related substances. Moreover, requiring proof of causation for each chemical would force EPA to expend resources in areas that are well-enough known so that inference is acceptable, when those resources could be otherwise employed in areas where knowledge is inadequate. In ruling on the type of proof and procedure required for making individual determinations, the Supreme Court has construed statutes protecting the environment and public health in light of considerations of administrative feasibility. See *E. I. du Pont de Nemours & Co.* v. *Train*, 430 U.S. at 132 (type of proof);[52] *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609, 62–22 (1973) (procedure).[53] See also *United States* v. *Storer Broadcasting Co.*, 351 U.S. 192, 202–05 (1956).

[52] The Supreme Court stated in E. I. du Pont de Nemours & Co. v. Train, 430 U.S. 112, 132 (1977) (quoting Permian Basin Area Rate Cases, 390 U.S. 747, 777 (1968)): " " " (C)onsiderations of feasibility and practicality are certainly germane" to the issues before us. Bowles v. Willingham, (321 U.S. 503.) 517. We cannot, in these circumstances, conclude that Congress has given authority inadequate to achieve with reasonable effectiveness the purposes for which it has acted.'

[53] The Supreme Court stated in Weinberger v. Hynson, Westcott & Dunning, Inc., 412 U.S. 609, 621 (1973), holding that individual proceedings were not required for each of the thousands of drugs subject to regulation:

"The NAS–NRC panels evaluated approximately 16,500 claims made on behalf of the 4,000 drugs marketed pursuant to effective NDA's in 1962. Seventy percent of these claims were found not to be supported by substantial evidence of effectiveness, and only 434 drugs were found effective for all their claimed uses. If FDA were required automatically to hold a hearing for each product whose efficacy was questioned by the NAS–NRC study, even though many hearings would be an exercise in futility, we have no doubt that it could not fulfill its statutory mandate to remove from the market all those drugs which do not meet the effectiveness requirements of the Act."

OSHA believes that the combination of the broadly based rulemaking hearing and proceeding concerning this proposal and the subsequent section 6(b) proceedings on individual substances will provide all parties with ample opportunity to present their views and comments at the most relevant procedural stages. Certain policy determinations will be limited but not foreclosed from rehearing at the subsequent section 6(b) hearings. Other decisions based more on factual considerations, such as the applicability of the content of the specific protective provisions such as monitoring, respirator use and protective clothing, are open in the section 6(b) proceedings

depending on the unique properties of the substance being regulated, as is pointed out below.

The Supreme Court has indicated, that when applying the Storer Doctrine, it is appropriate to permit participants in individual proceedings to be able to petition for a modification of the general policies. However, the participant would have to meet a heavy burden of proof to show justification for the modification. Some participants have argued that the proposed cancer policy did not have adequate provisions to permit persons to petition to modify the general policies (AIHC Ex. 251A, pp. 46–47). Other participants argued there were adequate provisions in the proposal or that such provisions were not necessary when the policies were to be applied in a subsequent rulemaking and not an adjudication. (C. 270, pp. 13–14). The final cancer policy has been changed to permit more extensive provisions to petition for modifications of the general policies. Sections 1990.106 and .145 provide for procedures for petitioning to modify the general policies included in the cancer policy. Section 1990.145 permits such petitions in the course of a rulemaking on an individual substance if strong new evidence become available. Section 1990.144 permits consideration of certain issues if meeting certain criteria evidence is presented.

Therefore, OSHA believes the flexibility and fairness of the individual substance-by-substance approach will be preserved by the procedures and policies incorporated in this part since the feasibility and appropriateness of the protective provisions as applied to a given substance will be fully discussed at the rulemaking concerning the specific substance, held pursuant to this Part. Yet OSHA's general policy and factual judgments, based mainly "on the frontiers of scientific knowledge" with a "command to act", have been established after opportunity for full public participation in this rulemaking, and any future amendments thereto, and will not be allowed to be relitigated in "the standard-by-standard", "substance-by-substance" or "case-by-case" process.

The Cancer Policy is an occupational safety and health standard within the meaning of the Act. It contains scientific policy determinations, regulatory procedures, and specific provisions which will be included in the regulation of potential carcinogenic substances. These provisions include, for example, the requirement that exposures be set at the lowest feasible level and that there be primary reliance on engineering and work practice controls. Some provisions of the model standard are also presumptively required. Thus, some issues normally raised and considered in section 6(b) standards setting proceedings have been limited or resolved in this rulemaking. Therefore OSHA has followed the additional procedural requirements specified by section 6(b) of the Act and the OSHA procedural regulations in 29 CFR Part 1911 for issuing occupational safety and health standards.

On September 11, 1978, the Secretary of the United States Department of Health, Education and Welfare publicly introduced a draft scientific study prepared by the National Cancer Institute (NCI), the National Institute of Environmental Health Sciences (NIEHS) and the National Institute for Occupational Safety and Health (NIOSH) entitled: "Estimates of the Fraction of Cancer in the United States Related To Occupational Factors" (NCI, NIEHS and NIOSH Institutes' Report). The final report was introduced into the Record of this rulemaking on September 15, 1978 and is discussed below. OSHA believes that in presenting the NCI, NIEHS and NIOSH Institutes' Report, the Secretary of HEW's remarks are particularly relevant in setting this rulemaking in its proper context. The Secretary of HEW stated:

". . . most of the arguments against occupational health and safety measures, as you know, focus on costs. And these arguments seldom focus on the tremendous gain that these programs can provide.

"It is, in my judgment, myopic to argue that programs to protect workers are inflationary—If we do not count in our calculations what those programs buy: safety, health and often greater productivity.

"It is time to take the blinders off: To count what these programs promise in ultimate savings. Which, after all, creates the greater burden: the cost of a program to protect workers from occupational hazards? Or the staggering costs of treating workers for the consequences of these hazards? Our economists must join with our scientists and find a new way to calculate inflation related to occupational health and safety.

"Finally, there is the matter of simple justice. We do not want an economy that buys goods at the expense of workers' health; an economy that asks workers to earn their livelihoods by endangering their lives. The workers of America are willing and able and eager to sweat on the job; we should not ask them to bleed.

"So you and I have a job to do; a job of convincing the American public that programs of prevention and health promotion are not just an expense, but an investment; that they are worthwhile, desirable, economically feasible, and urgently needed—especially in the workplace. For it is in the workplace where many of the dangers are greatest.

"And vigilance in the workplace is one way of detecting hazards that may otherwise spread from factory or laboratory to the world outside. We have learned, often by tragic experience, that kepone, undetected in the workplace today, flows insidiously into our rivers and streams tomorrow. The occupational exposure to asbestos today is tomorrow's exposure to our families at home and our children in school. Today's chemical dumping ground may be tomorrow's subdivison or school playground. By protecting workers today, we are likely to make the greatest gains in our efforts to protect the rest of society.

"So I would argue first that we should take a broad view of occupational health and safety programs. These are not programs which benefit workers alone—they are for all of us. So they belong at the center of a broad new national preventive-health strategy."

III. CANCER AS A PUBLIC HEALTH PROBLEM AND A PUBLIC POLICY DILEMMA

Cancer is a particularly dreaded and costly disease. It is believed that almost 400,000 Americans died of cancer in 1977—more than 1,000 persons per day. Over one million Americans are under treatment for some form of the disease, and each year over 900,000 new cases are diagnosed in this country. Of these cases, about one-third are skin cancers: troublesome, sometimes painful, usually treatable, causing the death of about 2,000 persons per year; the other two-thirds or 600,000, however, are more serious and more of them are potentially fatal. About 25 percent of the United States' population—one person in four—will ultimately develop some form of cancer, other than skin cancer. Despite enormous expenditures on research into methods of treatment, the survival rates of patients afflicted with most of the major types of cancer have improved only a little during the past 20 years. Thus, most persons contracting cancer die within 2 or 3 years—often after expensive, painful, and distressing illnesses (USDHEW 1973, 1975, 1977; American Cancer Society 1978).

As other causes of death have declined in frequency, cancer has increased in importance and is now the second most frequent cause of death in the United States. Although cancer accounted for less than 4% of deaths in the United States in 1900 (64 deaths per 100,000) it accounted for more than 18% in 1975 (170 deaths per 100,000) (crude rates) (National Center for Health Statistics, 1970; American Cancer Society 1978; Epstein, Univ. of Illinois, S. 4). The increase in the mortality rate from cancer is due in part to aging of the population and in part to increases in age-specific mortality rates (Epstein, Univ. of Illinois, S. 5; Jones, Univ. of San Francisco, S. 22–50). After adjusting for

changes in age distribution of the population, cancer incidence rates in the United States have been increasing during this decade at about 2% per annum (Schneiderman, (NCI), Post-Hearing Comment, pp. 2–3). However, the trends in cancer incidence and mortality are complex: when analyzed in detail, they show a complicated pattern of increases and decreases, depending on many factors such as anatomical site, age, sex, socio-economic status and geographic location. (Berg, Colo. Regional Cancer Center, S. 6–8; Schneiderman, NCI, S. 3–7; Jones, Univ. of San Francisco, S. 22–50; Epstein, Univ. of Illinois, S. 6–8). In recent years, there have been increases in the incidences of cancer of the breast, colon, prostate, bladder, lung, pancreas, esophagus, skin (melanoma), and lymphatic system. As shown in detail in subsequent sections, some of the increases are attributable in part to cigarette smoking and to occupational factors, sometimes acting together (see Sections G-H below).

The economic and social impacts of cancer in the United States are massive and yet hard to estimate. Certainly the human anguish is. Those impacts, however, are very real. The National Center for Health Statistics estimates that by 1977, the Nation was spending $5.5 billion each year on hospital care and physicians' services for cancer patients and that the expected earnings of people who died that year had a value of $14.6 to $18.5 billion. Additional costs such as outpatient therapy and other treatment-related fees may raise the direct annual expenditures for cancer well into the tens of billions of dollars. To these direct expenditures must be added indirect costs, such as the estimated 1.8 million work-years lost annually to the national economy and to family income by unemployed or underemployed cancer victims (Levin, D. L., *et al.*, 1974). Another estimate cited by the General Accounting Office of the United States Congress is that the annual cost of cancer is at least $15 billion, of which $3–5 billion is attributable to direct care and treatment and the remainder to the loss of earning power and productivity (GAO 1976). This estimate is supported by a study prepared with information on the economic costs of cancer to the United States, and to individual patients' families in particular. See "The National Cancer Program, the Strategic Plan", January 1973.

Cancer is a disease exceptionally feared by the American people, apparently because of its unique manifestations: the progressive and irreversible destruction of the body by autonomous growth of abnormal cells from within the body itself. Moreover, it is sometimes stated that cancer is a disease which affects the survivors as much as the victims (Wilson, Harvard Univ., S. 37.). Thus, although it is sometimes claimed that cancer is primarily a disease of old age and that its elimination would not increase life expectancy by more than a few years, the Nation has expressed a special determination to control cancer, by expending large sums on research, treatment, and rehabilitation. More recently, with the recognition that measures to reduce exposures to substances that cause cancer may be more effective in eliminating this disease than attempts to cure it, the Congress and the research and regulatory agencies have begun to devote more of the Nation's resources to prevention of cancer by the reduction of human exposures to such substances. Some parties to this proceeding recognized such efforts, such as API which stated: ". . . because our massive research efforts have produced few clear solutions, the progress of a cancer is frequently irreversible. Under the circumstances it is both appropriate and necessary that we place substantial emphasis on cancer prevention. This should include efforts to control and reduce possible exposure to carcinogens in the environment, including the working environment." (API Post-Hearing Brief, Appendix C, p. 1).

A. THE NATURE OF THE DISEASE

Cancer is a disease generally characterized by the progressive growth of abnormal populations of cells. The early cellular and molecular events of the disease and the mechanisms leading to its initiation are not fully understood, although progress has been made as a result of research in recent decades. Some of the results of this research were presented in testimony or exhibits at the hearing; e.g., in the statements of Dr. Emmanuel Farber (Univ. of Toronto), Dr. Curtis Harris (NCI), Dr. Benjamin Trump (Univ. of Maryland), Dr. Ronald Hart (Ohio State Univ.); Dr. Francis Roe (AIHC), and in such exhibits as the symposium volumes *Origins of Human Cancer* (Hiatt *et al.*, 1977). Much of this evidence supports the theory that cancer originates from cells which have been transformed, frequently by changes in or damage to the DNA or other genetic material. Although such damage to DNA may frequently be repaired, permanent cell transformation may result if the repair mechanisms are ineffective, or if the damage is repaired incorrectly. There is increasing evidence that at least some cancers may originate from a single transformed cell. Once the initial transformation has taken place, the resulting aberrant cells are capable of self-replication and may progress to stages in which they are capable of invading normal tissue, and spreading throughout the body, even though the agent or agents responsible for inducing the disease may be no longer present.

In most cases of cancer, unrestrained cell growth leads to the development of *tumors* which compress, invade, and/or destroy normal tissues. These tumors usually lead eventually to death. Just as there are many different types of cells in the body, there are different types of tumors, each of which may be distinctive in its behavior. However, induced malignant tumors generally share some common characteristics, such as a long latent period between initial exposure and manifestation of the disease, as pointed out below. Some other characteristics may also include a higher rate of cell growth than in the normal, surrounding tissues, failure to maintain the boundaries of normal tissue and organs, a microscopic appearance which suggests immature rather than mature tissues, and a tendency in humans to spread to parts of the body distant from the original site of the cancer. Not all of these features, however, accompany every malignant tumor.

Most body structures are composed of many different kinds of tissues made up of many different types of cells, any of which may give rise to cancer. A specific type of cancer draws its name generally from the type of cell affected. For example:

- Cancers of connective tissue, including bones, are generally called sarcomas.
- Cancers of epithelial cells that line the body's internal surfaces and cover the external surfaces (lung, breast, skin, etc.) are generally called carcinomas.
- Cancers of cells that compose the blood-forming system are generally called leukemias or lymphomas.

Although sarcomas, carcinomas, and lymphomas share many common characteristics, epidemiological studies have revealed differences in their behavior which suggest that at least some of the factors controlling their development may differ (Peto 1977, pp. 1410–1411). The vast majority (over 90%) of fatal human cancers are carcinomas, so that most generalizations about "cancer" and its mechanisms are actually generalizations about carcinomas (*id.*). Indeed, the word "cancer", although now used generally for all types of malignant neoplasms originally applied specifically to carcinomas.

Cancer is a collective term for large number of different types of disease. Therefore it is difficult to specify features that uniquely characterize cancer or even to give the term a rigorous scientific definition. Dr. Harold Stewart (NIH) discussed the problem involved in defining cancer:

"More than 100 years ago, Professor Virchow opined: "I do not think that a living human being can be found who even under torture could actually say what tumors really are." But even today, in the face of Virchow's warning, imposter savants continue the production of inaccurate and inapplicable definitions of cancer. Some feel that such definitions are too pragmatic and do damage by discouraging new concepts and are thus a real impediment to cancer research. From a practical point of view, they inhibit the recognition of early or so-called borderline cancers in laboratory animals. According to Nemerov: "People's reason for wanting a definition is to take care of the borderline case, and this is what a definition, as if by definition, will not do." (Stewart, 1977, pp. 306–307; Exhibit C to Stewart Statement, references omitted.)

Definitions of terms such as "neoplasm" were also discussed by Dr. I. Nathan Dubin (Medical College of Penn., S. 4–5):

"*Neoplasm.* One of the shortest definitions of '*neoplasms*', and still accurate, was given by the American pioneer in cancer, James Ewing (1928, p. 5); he defined it as follows: 'A tumor [1] is an autonomous new growth of tissues.' Willis (1948, p. 1) stated that a neoplasm was 'an abnormal mass of tissue, the growth of which exceeds and is uncoordinated with that of the normal tissues, and persists in the same excessive manner after cessation of the stimuli which evoked the change.' In other words, a neoplasm is a new mass of multiplying cells which have escaped from the normal controls of the host and which are independent of those mechanisms that normally control the number, multiplication, histological structure, and metabolism of normal cells."

[1] For "tumor" substitute the word "neoplasm", currently preferred.

Dr. Emmanuel Farber (University of Toronto) offered a generalized definition of cancer:

". . . I do not belong to that group who advocate we abandon the word 'cancer' for something more precise. Precision is essential for scientific analysis. Yet, the essence of the cancer problem is just that—we do not know what the components are that allow the cellular behavior we see. Until we know that, we had best use an imprecise term, otherwise, we are just as likely to pick a wrong precise one. In the context of this presentation, 'cancer' is an imprecise descriptive term to encompass all the many conditions in which cells proliferate for whatever reason in a more or less uncontrolled manner, invade tissues and set up satellite growths in other organs. The overall result of such a process, if left undisturbed, is almost always the death of the host." (Farber, 1973, pp. 4–5; Appendix B to Farber Statement.)

However, despite the difficulties of definition, both Dr. Stewart (NIH) and Dr. Farber (Univ. of Toronto) emphasized that cancer can almost always be readily identified and diagnosed as such. Dr. Farber stated:

"What do we know about the essence of how a malignant neoplastic cell differs from its normal homologue? I must stress at this point that cancer is not a unity but rather a whole biological spectrum which varies quite widely with the nature of the tissue and cell involved as well as with the physiologic state of the host. Yet, despite this spread, most examples of malignant neoplasia do fall fairly easily into a category that allows one to classify them as cancer.

"As stated clearly by Prehn (87), neoplasia comprises two separate alterations in cell physiology: (1) a form of abnormal somatic cell variation that represents somatic mutation and/or aberrant and defective differentiation, and (2) a pathologic form of hyperplasia. . ." (Farber, 1973, p. 5; Appendix B to Farber Statement.)

And Dr. Stewart stated:

"From years of experience, the clinical pathologist has learned to distinguish early neoplastic lesions from simple hyperplastic changes, and vice versa. Thus, although they look much alike through the microscope, the papillary lesion in the larynx of juveniles will, he knows, regress spontaneously, whereas that in the urinary bladder will, if untreated, progress to widespread cancer. Many comparative pathologists lack this degree of sophistication. Either they ignore or they fail to recognize the potentialities of the innocent-looking cellular proliferations that often herald the development of neoplasms in laboratory rodents. One example is the common pulmonary neoplasm of the mouse that arises from the alveolar type-II cell. Some misapply the terms "alveolar cell hyperplasia" or "adenoma" to its early developing stages. Later, however, after the growth has reached large proportions, or spread to the pleura and mediastinum or metastasized, they then apply the term "cancer." The neoplasm, excised at different stages in its development, grows readily when transplanted to syngeneic mice, in which it exhibits autonomy, invasion, and metastases. Application of the term "hyperplasia," which implies a nonneoplastic process or "adenoma," which implies a benign tumor, to any stage in its biologic development and progression represents misuse of these terms." (Stewart, 1977, pp. 305–306; Exhibit C to Stewart Statement.)

Dr. Francis J. C. Roe (AIHC) defined cancer as follows:

"Cancer is a disease of multicellular organisms which is characterised by the seemingly uncontrolled multiplication and spread within the organism of apparently abnormal forms of the organism's own cells."

* * * * *

"Within this definition are mentioned the three key characteristics of cancer—cellular multiplication, invasiveness and autonomy.

"It would not be possible to define cancer in terms of cell multiplication only, firstly because the cell generation-time in some cancers is long compared with that in normal tissues such as the gut mucosa and bone marrow. Secondly, the rapid multiplication of cells which had not acquired the ability to invade surrounding tissues would lead to an easily-treated, benign tumour rather than to a malignant one.

"Invasiveness is the characteristic of cancer which makes it a lethal disease. It is interesting, in this connection, to make a distinction between cancers of solid tissues and cancer of the blood or lymphatic systems. In the latter case, the normal cells already have the ability to invade other tissues, and the cancerous state arises when the rate of production of new cells continually exceeds the rate of destruction of old ones.

"Autonomy refers to the apparently uncontrolled nature of cell multiplication. It is supposed that, in the normal way, during development and repair, the overgrowth of tissues or cells is resisted by the organism as a whole or by the affected tissues or organs. Cancer represents an escape from such control. Our knowledge of controlling mechanisms is far from complete . . ." (Roe, S. 15, quoting Roe, 1966a)

Dr. Roe testified further:

"Although cellular abnormality is usually an integral aspect of the cancerous process, it is important to stress that *cancer is a disease of the whole of multicellular organisms and not a disease or disorder or cells . . .*". (Roe, S. 16, emphasis in original)

Other witnesses such as Nobel Prize winner Dr. David Baltimore (Massachusetts Institute of Technology), emphasized that cancer is a disease of cells (Baltimore, S. 1). In fact, as made clear by Dr. Roe, it is both: cancer is a disease affecting organisms which is characterized by and caused by abnormal behavior of their cells.

B. THE MULTI-STAGE, MULTI-CAUSAL NATURE OF CANCER

Many witnesses emphasized that cancer is a complex disease which characteristically progresses through a number of stages of development, and that a variety of different factors can act to initiate or accelerate its development at each stage. It follows from this proposition that most cancers would have multiple "causes" and that it therefore would be simplistic to assign to each a single causative agent. In the regulatory context, this does not mean however that the task of prevention is irrelevant or hopeless. Indeed, it makes it even more imperative to prevent or reduce exposures to known carcinogens for we do not know the interactions of other and unknown variables, such as

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genetic, hormonal or synergistic factors in any given individual or population.

In recognition that cancer may evolve from multiple causes, Dr. Arthur Upton (Director, NCI) made the following summary characterization:

"It is no longer held likely that cancer results from a single factor; rather it appears that carcinogenesis is a multi-causal, multi-stage process, in which several environmental factors as well as other influences, such as genetic and hormonal factors, play varying roles in a particular carcinogenic response. Even within the group of factors commonly labelled "environmental," it seems that in many cases several different factors interact to induce cancer. Certain agents initiate neoplastic cell transformation; others act as "promoters" or "co-carcinogens"; others may enhance the metabolic activation of procarcinogens. Some agents act on DNA; some activate latent viruses; others may accelerate the development of cancer cell lines by modifying hormone levels, or by suppressing immune mechanisms. These various environmental factors may interact not only with each other, but with genetic, nutritional, and hormonal factors in the host, to influence the probability of developing cancer. It is, therefore, impossible to identify a single "cause" for each case or type of cancer." (Upton, S. 3–4)

Dr. David Rall (Director, NIEHS) made the following statement:

". . . recent research on the mechanisms of carcinogenesis has shown that it is a complex process which progresses through a number of stages. First, the precarcinogen (which is usually chemically unreactive) is converted to a reactive electrophilic intermediate: This conversion requires one or more metabolic reactions whose rates depend on the activity of enzymes and other factors in the cell. Second, this reactive intermediate interacts with electron-rich centers in the target cell (usually in the DNA) to cause cell transformation. This change in DNA may be reversed by the process of DNA repair, or may lead to the successful initiation of a transformed cell line. The new cell line may or may not develop autonomously to form a tumor, depending on enzyme activities, hormone levels, the effectiveness of immune mechanisms, etc. Each of these stages in carcinogenesis may be initiated, promoted, or modified by a variety of host and environmental factors, including chemicals as well as diet, hormones, etc. It thus appears that the initiation and development of a tumor are affected by a number of factors, acting simultaneously or sequentially, and it is erroneous and meaningless to assert that they are "caused" by only one . . .". (Rall, S. 4–5).

Dr. I. Bernard Weinstein (Columbia University) expressed the concept as follows:

"We know that in both experimental animals, and in humans, carcinogenesis frequently results from the exposure not to a single substance but to several substances and that the evolution from a normal cell to a tumor cell is a multi-step process with different agents acting at different stages. It is possible to define at least two different types of agents as well as two distinct steps. The first types of agents are called initiating agent carcinogens, and are sometimes referred to as "solitary carcinogens." These compounds, when given at sufficient doses, produce tumors on their own. They also are frequently mutagenic when tested in mutagenesis assays." (Weinstein, S. 6)

Dr. Robert Squire (Johns Hopkins University) made a similar statement and showed how the multi-stage, multi-causal nature of cancer frequently results in synergistic action between causative agents:

"Epithelial cancer, for example, as is now recognized, involves a multistage process in which sequential cellular and subcellular events precede the appearance of clinical cancer. To describe this process, the concepts of "initiation" and "promotion" have been introduced in studies of carcinogenesis in skin (Berenblum 1941). These prevail today and are considered relevant to many other epithelial systems (Farber 1976; see also Appendix B). "Initiation" describes a specific, irreversible cellular alteration induced by carcinogenic substances and resulting in a population of latent or dormant tumor cells. "Promotion" describes the proliferation of those cells, which is induced by subsequent exposure to the same or a different substance and which results in a progression to clinical cancer. Classical initiation-promotion studies illustrate well the synergistic effects of separate exposures neither of which alone would have produced cancer at the doses involved. Significantly, the conditions induced by initiator substances persist, and therefore exposure to a promoting substance even after a considerable delay can result in cancer (Berenblum 1974; Boutwell 1974, 1976, 1977).

"Studies involving liver carcinogenesis have also shown persistent and additive effects of subcarcinogenic exposure to certain substances. Becker (1975) demonstrated that cellular alterations induced by subcarcinogenic doses of N-2-fluorenylacetamide may later be augmented by subcarcinogenic doses of dimethylnitrosamine or N-hydroxyfluorenylacetamide to yield hepatocellular carcinoma. Weisburger et al. (1965) showed an increase in liver cancer induction after combined exposure to 2-acetylaminofluorene and carbon tetrachloride.

"In other systems, the studies of nitrosomethylurea and cyclamate by Hicks et al. (1975) and the Oser study (Oser et al. 1975) of cyclamate and saccharin demonstrated at least additive if not synergistic effects of two substances in the induction of bladder cancer in rats. Laskin et al. (1970) demonstrated that benzo(a)pyrene combined with sulfur dioxide, when inhaled, induced lung cancer in rats. In the doses administered, neither substance alone was carcinogenic.

"Other examples of cocarcinogenesis in animals exist in the literature; there is also evidence that cigarette smoking and occupational exposure to asbestos have synergistic or additive effects in humans (Selikoff et al. 1968). It must therefore be assumed that cocarcinogenesis is not rare in humans or animals. (Squire, S. 5–7)

Dr. Emmanuel Farber (Univ. of Toronto) presented testimony and exhibits which described in detail the progression of cancer through a series of stages, using his own research on liver carcinogenesis as examples:

"Figure 1 of Appendix D illustrates our current views of the major steps in liver carcinogenesis initiated by chemicals, including an approximate estimate of the relative time scale of these steps in the process. We think that the preneoplastic phase, including initiation, takes up well over 50 percent of the whole in the liver and this fits well with what we know in many other organs and tissues, including some in humans (lung, skin, liver, urinary bladder, etc.). Initiation is quite rapid and consists of at least two steps—the induction of some one or more molecular alterations as the first step, and a round of cell replication for "fixation" as the second step. A delay in the time of occurrence of the second step may favor the reversibility of the first step by repair processes. This is followed by a long period dominated by selection and growth of the putative initiated cells and the progressive differentiation of these cells (see pp. 4–6 in Appendix C, and pp. 11–12 and Charts 1–7 in Appendix B.). Neoplastic development resembles a chain reaction, triggered by exposure to a carcinogen, in which the links are new cell populations with altered organisational, structural, and biochemical properties. The probability that the new cell populations will be transformed to a malignant state increases progressively through a number of stages (Charts 6 and 7 in Appendix B).

"Most chemical carcinogens appear to inhibit cell proliferation, as reflected in the fact that they inhibit regeneration of liver cells following partial hepatectomy. This creates an environment in which there is selection for cells with resistance to the cytotoxic action of the carcinogen. (Chart 4 of Appendix B). In one of our experiments, we have shown that administration of such a cytotoxic agent (2-acetylaminofluorene) permitted the selective growth of foci of resistant cells previously transformed by a single exposure to another carcinogen (diethylnitrosamine) (Appendix E). In subsequent steps of development, exposure to one or more carcinogens may lead to selection for resistance, growth, and increasing malignancy of the transformed cell population (Chart 4 of Appendix B).

"There are thus at least two ways in which chemicals can lead to the development of cancer: by initiating changes in cells and by permitting selective growth of populations of changed cells. Some chemicals, of course, may act in both ways. The experimental technique described in Appendix E shows how the two types of actions may be detected and studied independently. It appears very promising as a short term test for carcinogenicity, at least in the liver.

"The fate of cells altered by exposure to an initiating dose of a carcinogen is largely

environment dependent. If this is appropriate for selective growth, cancer develops. If this is not, no cancer may develop in the lifetime of that organism even though the initiated cells may persist for a major portion of its life span. Carcinogens or probably noncarcinogenic promoting agents play a major role in creating this selection of environment (Appendix D, pp. 19–21).

"As our knowledge of the sequences of events involved in carcinogenesis increases, we can no longer regard chemical carcinogenesis as a simple one-stage or two-stage process. Rather, cancer seems to develop progressively through a number of stages, each of which can be influenced by chemicals or other environmental factors, interacting with host factors such as nutrition, hormone levels, etc. Any proposal for identification and classification of carcinogens should recognize this complexity. (Farber, S. 2–4, citing Farber 1973, Farber, *et al.* 1978, Farber, 1978, Solt and Farber, 1976; Appendices B, C, D, E to Farber Statement)

"Another facet that I think is important to emphasize in this context is that the biological properties that seem to be characteristic of cancer are not necessarily a single unitary package of biological aberration but rather seem to be a number of discrete units that can be acquired separately during its life history. This concept of progressive acquisition of the alterations that go to make up a neoplasm at any stage in its evolution is, in my view, a fundamental one that I shall return to later in greater detail."

* * * * *

"Given a plethora of potential carcinogenic stimuli and a susceptible host, how does cancer develop? There is almost universal agreement that more than one step is essential before we can observe with any method now available an identifiable cancer. This step-wise process is best observed in the skin with chemical carcinogens (6–8, 104) but is now amply documented in many different systems in man and in animals. Although instances of a direct conversion of a normal target cell to [a] growing cancer may be found, the majority of examples so far studied indicate a more complex process.

"The initial interaction between a chemical carcinogen or one of several forms of irradiation and the target tissue may be of very short duration and irreversible. We are now beginning to obtain some insight into this phase, *initiation* and I shall return to this shortly. The subsequent steps are still very much unclear. There are at least two major possibilities: (1) the first states that the process of initiation induces a cancer cell and that all the subsequent steps, however many they may be, are concerned with encouraging the growth of this cellular species. In other words, according to this hypothesis, the problem is essentially the development or evolution *of* a cancer cell (Chart 1). (2) The alternative hypothesis states that the process of initiation induces an altered but non-neoplastic cell that now can evolve into cancer, acquiring seriatim as it does the properties that endow the cancer with its characteristic behavior pattern. In other words, according to this second hypothesis, the problem is the development or evolution *to* a cancer cell (Chart 2). This whole process leading to the first appearance of a malignant neoplastic cell population, together with the subsequent evolution of an already formed cancer, would all be included in what Foulds calls *progression* (31). Although these distinctions between (1) and (2) may seem trivial, they are far from it, both theoretically and especially practically. How one would attempt to analyze the process in order to prevent the appearance of a cancer could differ greatly depending upon which hypothesis one subscribes to.

"If a multistep process is the usual, what is its meaning in relation to cancer? What is the essential need for a series of steps, each probably occurring in a new cell population, in the development of a malignant neoplastic process? The simplest hypothesis states that a cell or group of cells that display all the major properties we associate with cancer have several "biological units" of aberration or deviation from the original target cell population and that each of these units is usually acquired separately in a new cell population in a stepwise fashion (Chart 3). Although, conceivably, some circumstances may exist whereby all the units can be induced simultaneously, this appears to be the exception rather than the rule, at least with chemical carcinogens, irradiation and the inert plastic sheets. If this concept has any validity, we would anticipate as a minimum 3 or 4 major steps, since growth, invasion, metastasis and cytologic alteration appear to be easily recognizable characteristics of many forms of cancer (see 57).

"Obviously, these are only gross behavioral properties of a malignant cell population. There must be many more alterations when one views the population at metabolic and molecular levels. In addition, each property has a quantitative range, often very wide, so that growth may be slow or fast, invasion may be minimal or extensive, etc. This is seen clearly not only in cancer of different tissues but also in cancer of the same type at different phases of its development.

"This view of carcinogenesis implies that the transformation of an original target cell population to an overt cancer consists of a number of discrete cell populations, each of which in their makeup and properties is one step closer to the final goal. In other words, carcinogenesis may be nothing more or less than equivalent to a process of progressive cellular evolution which stops only with the demise of the host. (Farber, 1973, pp. 10–14; Appendix B to Farber Statement.)

"It is now clearly evident that the development of cancer in many, if not all epithelial tissues as well as in some connective tissue and other mesodermal and non-epithelial ectodermal cells and tissues, is a multistep process. In this process, new cell populations appear with altered phenotypic properties and at least some of these new cell types appear to participate as steps in a sequence of events leading to cancer (malignant neoplasia). These collections of new cells are often highlights in the process. The identification and characterization of these various cells and the delineation of their role in the development of cancer remains as a major challenge, not only as essential components in evolving an understanding of the nature of a malignant neoplasm, but also as a basis for new approaches to the early diagnosis of preneoplasia and neoplasia and to the interruption of the carcinogenic process." (Farber, 1978, p. 2; Appendix D to Farber Statement.)

Dr. Farber's work is described more fully in his exhibits and was referred to by a number of other witnesses. (See, for example, Dr. Kotin, Johns-Manville, S. 12). Two distinctive features of Dr. Farber's conclusions are: (a) that the probability that a transformed cell will eventually progress into a tumor is initially low but increases at each step in the process of development; (b) that some agents increase this probability by exerting selection in favor of the transformed cells relative to normal cells.

Mr. Richard Peto (Oxford University) discussed multistage models for carcinogenic development and showed that they are consistent with and derive considerable support from the results of epidemiological studies:

". . . it seems likely that multistage processes underlie the generation of a large majority of human cancers (the carcinomas). . . . Although the eventual synthesis is not yet in sight, multistage models should at present be thought about to some extent, and their general features should be common knowledge, as the general framework of this eventual synthesis will (at least for that 90% of fatal human cancers which are carcinomas) almost certainly be some kind of multistage model.

* * * * *

"The essential multistage hypothesis is that a few distinct changes (each heritable when cells carrying them divide) are necessary to alter a normal cell into a malignant cell, and that human cancer usually arises from the proliferation of a clone derived from a single cell that suffered all the necessary changes and then started to proliferate malignantly." (Peto, 1977, pp. 1403–1404; Annex D to Peto Statement.)

As pointed out by most of the above witnesses, the fact that cancer can be a multistage process in which each stage can be influenced by internal and external factors means that most cancers are likely to have multiple causes. Mr. Peto discussed this relationship between multiple stages and multiple causes, using data on human lung cancer to support his conclusions:

"If multistage models are even approximately true, then the incidence rate for each cancer is proportional to a product of more than one event rate, each with different determinants, and it makes little sense to ask for the cause of a particular cancer; each has more than one distinct cause."

* * * * *

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"In general, it seems that different stages in carcinoma induction have qualitatively different causes and are therefore themselves qualitatively different from each other". (Peto 1977, pp. 1420, 1422; Annex D to Peto Statement.)

Dr. Francis Roe (AIHC) presented a summary of the various factors known to influence cancer incidence in experimental animals. These factors include genetic factors, viruses, hormones, microbiological status, immunological status, parasitic infections, trauma, burns, actinic radiation, ionizing radiation, caloric intake, and diet, in addition to chemical carcinogens (Roe, S. 20–41). It is important to note that almost all of these factors are known to affect cancer incidence in humans as well as in experimental animals (for examples, see reviews in Fraumeni, 1975).

Many other witnesses added specific or general comments emphasizing the multi-causal aspects of cancer. For example, Dr. Marvin Schneiderman (NCI) quoted from the Report of the Safe Drinking Water Committee:

"A possibly unifying concept concerning interactions is the "*fertile ground*" idea. If the carcinogen falls on fertile ground, it will lead to cancer growth. If not, no cancer. This implies a whole set of questions about the nature of the "fertile ground." Some animal experimentation seems to imply that, with the induction of mammary tumors in the rat by hormonal stimulation, the ground is made fertile by earlier viral infection (Shellabarger, 1976). Similar results seem to be shown in the induction of (mouse) cancers through the combination of malaria infection and exposure to the Moloney mouse-tumor virus (Wedderburn, 1970). A similar mechanism has been suggested for the development of Burkitt's lymphoma in children in East Africa, in malaria infection associated with appropriate viral infection (Morrow, 1976).

"Another way that fertile ground can arise is through a deficiency interaction. Here, the absence of some element, material, or vitamin may reduce the ability of repair mechanisms, so that a level of a carcinogen that produces little or no cancer in a population capable of repair produces much cancer in a population of repair-deficient individuals. An example is the high cancer rate in Xeroderma pigmentosum patients—people with a low ability for DNA repair (Robbins, 1974; Cleaver, 1968). A similar mechanism (on a grosser level) may be involved in the high incidence of cancer of the esophagus in central Asians, whose bread and tea diet may not contain the elements necessary to permit repair of tissue affected by low levels of a nonidentified carcinogen (Mahboubi, 1973)." (NAS, 1977a, p. 51).

Dr. Arthur Upton (Director, NCI) cited lung cancer as an example of a multi-causal phenomenon:

"Cigarette smoking provides an example of the difficulty of quantifying the contribution of a single factor, even in an apparently clear-cut case. The incidence of cancer in smokers and non-smokers has been studied extensively; the excess rates of cancer in smokers are well established; and from knowledge of the number of smokers the total number of excess cancers causally *related* with smoking can be calculated. For example, it has been estimated that up to 40 percent of all male cancer deaths in the U.S. (i.e., about 85,000 deaths annually) may be associated with cigarette smoking. It would be reasonable to conclude that smoking is *one* major cause of these cancers, in the sense that they would not have occurred in the absence of smoking. However, it would not be reasonable to conclude that smoking is the *only* cause. It is known, for example, that at least two agents—alpha-radiation and asbestos—act synergistically with cigarette smoking in causing lung cancer in exposed workers. In addition, work to be summarized in the testimony of Dr. Curtis C. Harris of NCI has shown that there is much inter-individual variability in the susceptibility of human cells to carcinogenic agents found in tobacco smoke. Thus, the effect of cigarette smoking in inducing cancer is known to be dependent on physical, chemical, and host factors; however, we do not know the degree to which it is dependent on these factors (or on other factors which may be uncovered in the future). Hence, we cannot assert that the 40% of male cancer deaths in the general population associated with smoking are not simultaneously associated with one or more other factors." (Upton, S. 4–5)

Dr. Robert Squire (Johns Hopkins University) gave a similar example:

"However, there is also reason to be concerned about interaction between environmental factors and genetic predisposition in segments of the population. An example is the association between genetically determined aryl hydrocarbon hydroxylase inducibility and bronchogenic carcinoma (Kellerman 1977)." (Squire, S. 4)

Dr. David Rall (Director, NIEHS) also referred to the same example:

"For example, there is increasing evidence that the carcinogenicity of benzo(a)pyrene is strongly affected by characteristics of the host animal, including the activity of enzymes which convert the chemical to active metabolites, and perhaps by conditions in the gut which lead to reactivation of the ultimate carcinogen. These characteristics are believed to be influenced by genetic and dietary factors respectively. It would be wrong to assert that a particular cancer (or class of cancers) is "caused" by genetic factors, or "caused" by dietary factors, or "caused" by benzo(a)pyrene. The occurrence of the cancer is attributable to all three factors (and probably others) acting in combination." (Rall, S. 5)

Dr. Rall continued:

"Recognizing that carcinogenesis is a multi-phased process whose progression is influenced by a number of different factors, it makes little sense to assert that "only" 1–5% of cancers are attributable to a single factor. It would be consistent with our present knowledge to assert that *all* cancers are associated in one way or another with occupational factors, just as they are probably *all* associated with dietary factors, with genetic factors, and with hormonal factors." (Rall, S. 5)

C. INTERACTIONS AMONG CAUSAL FACTORS

An additional and very important complicating factor is that many of the factors affecting cancer incidence interact additively or more than additively (synergistically). In addition, some may also act antagonistically. For example, Dr. Robert Squire (Johns Hopkins University) made the following summary statement:

"Numerous experiments involving cocarcinogenesis indicate that different carcinogens may have additive, synergistic, or antagonistic effects in organisms exposed to them. It is unlikely that we can predict which, if any, of the above effects will occur in the case of specific chemicals without observing their action experimentally, but numerous studies do demonstrate the existence of potential hazards." (Squire, S. 5)

A number of witnesses referred to the studies of Dr. Irving Selikoff (Mount Sinai School of Medicine), which showed the very marked synergism between cigarette smoking and asbestos in the induction of lung cancer:

"Evidence of the carcinogenic potential of asbestos was provided over the period 1935–1965 for a number of neoplasms, including bronchogenic carcinoma [1–3], pleural and peritoneal mesothelioma [4–6], and gastrointestinal cancer [7]. It was found in 1967, however, that for the most important of these neoplasms—lung cancer—the risk did not depend on asbestos alone. Rather, if there were not concordance of two agents—cigarette smoking and asbestos—the tumor was uncommon [8].

"In 1963, prospective observation was begun of 370 long-exposed asbestos workers in the New York metropolitan area. By April 30, 1967, no death from lung cancer had occurred among the 87 men with no history of cigarette smoking, despite their many years of occupational exposure to asbestos. In contrast, 24 deaths from lung cancer occurred among the 283 men with a history of cigarette smoking [8], although only 2.98 such deaths had been expected, given their smoking habits [9]. We suggested that the combination of the two factors—asbestos greatly increasing the lung cancer risk of cigarette smoking—had a sharp, multiplying effect. It was calculated that an asbestos worker who smokes cigarettes has eight times the risk compared to smokers of the same age who do not work with asbestos, and 92 times the risk of men who neither work with asbestos nor smoke cigarettes [8].

"These findings were based on limited observations, especially with regard to nonsmokers. Additional investigations confirm the original conclusions [10].

"The survivors of the original group of 370 men were followed to December 31, 1973. Altogether, 191 died from 1963 to 1973. Among the 87 men with no history of cigarette smoking, two deaths (of 41) occurred from lung cancer; both men smoked pipes or cigars. Among the 283 with a history of regular cigarette smoking, there were 150 deaths, 45 of lung cancer (Table 1).

"A second, much larger, study was undertaken to investigate whether asbestos exposure without cigarette smoking truly did not increase the risk of lung cancer significantly, especially since such exposure was clearly associated with increased cancer risk at other sites (e.g., peritoneum, gastrointestinal tract) in nonsmokers. On January 1, 1967, we registered the entire membership of the insulation workers' union in the United States and Canada and have observed the group since. When the cohort was enrolled, each man was asked to record his lifetime smoking habits. Of those enrolled, 9,590 indicated that they were either then smoking cigarettes or had previously smoked regularly; 609 had a history of smoking pipes and/or cigars but no cigarettes; and 1,457 had never smoked regularly at all. Smoking habits were not recorded for 6,144 men. Analysis of lung cancer deaths among the 17,800 men to December 31, 1972, showed that increased risk of this neoplasm was limited to asbestos workers who also had a history of cigarette smoking. Among the 9,590 cigarette smokers, there were 179 deaths from lung cancer (of 640 all told); of the 2,066 men with no history of cigarette smoking, only 2 (of 93 total) died of lung cancer (Table 2). Unfortunately, data are not yet available detailing lung cancer risk specifically for amount and nature of smoking, as were available through 1965 [9]. Nevertheless, using the earlier tabulations, these new findings again demonstrate that asbestos workers who do not smoke, or smoke only pipes and/or cigars, have about the same lung cancer risk as men not occupationally exposed to asbestos dust. However, exposure to asbestos dust greatly increases the lung cancer risk among cigarette smokers [11].

"There is evidence [12] that uranium mining and cigarette smoking also interact as multiple factors. Moreover, an association between smoking and radiation has been noted [13] among Hiroshima and Nagasaki atomic-bomb survivors, with lung cancer disproportionately increased among the radiation-exposed individuals who also had a history of cigarette smoking." (Selikoff and Hammond, 1975, pp. 467–470; Exhibit to Squire Statement)

During his oral testimony, Dr. Selikoff (Mount Sinai School of Medicine) described the results from his most recent study:

"We found that among the 2,066 non-cigarette smokers there should have been 1.82 deaths, the way the statisticians put it, 1.82 deaths of lung cancer. There were eight. In other words, somewhere around four to five times as many. But this is certainly not a major public health problem. You had four times or five times the number of a very small number; and five times nothing is still not very much.

"On the other hand, you had again five times the already high risk of cigarette smoking, so that instead of 67 deaths anticipated, 325 actually occurred, confirming not simply the carcinogenicity of asbestos in terms of lung cancer among those exposed, but also the extraordinary multiple factor etiology." (Selikoff, Tr. 1702)

Dr. William Nicholson (Mount Sinai School of Medicine) also commented upon the multiplicative effects resulting from exposure to asbestos and cigarette smoking:

"Increasing evidence is accumulating that many cancers have a multiple-factor etiology. For example, lung cancer in asbestos workers is strongly associated with cigarette smoking. In the large cohort of 17,800 insulators observed by Selikoff and Hammond, the smoking habits of the majority of workers were obtained at the beginning of their study. Table 8 illustrates the effects of cigarette smoking on lung cancer mortality. In 2,066 noncigarette smokers, only two lung cancers were seen in a six-year period; 179 were observed in 9,590 men with a history of cigarette smoking. Although the data are still insufficient to accurately determine the risk of dying of lung cancer in nonsmoking asbestos insulators, they do suffice to establish that the risk is less than that for cigarette smoking males in the general population who do not work with asbestos. However the combination of cigarette smoking and asbestos has a multiplying effect. From data on the New York and New Jersey insulators cohort, it has been calculated that the combined risk for dying of lung cancer of an asbestos worker who smokes is 92 times that of an individual who neither smokes nor works with asbestos.

"It is clear that it would be necessary to include evaluation of multiple-factor effects in calculating threshold values for asbestos cancer risk. It is equally clear that this requirement would introduce insurmountable sample-size, statistical, and sampling requirements." (Nicholson, 1976, p. 164; Exhibit 11 to Nicholson Statement) (footnote omitted)

Dr. David Kaufman (Univ. of N. Carolina) described his experimental work on interactions between ferric oxide and benzo(a)pyrene (BP) in causing lung cancer in hamsters and concluded:

"The first major issue that was considered was the effects of two or more carcinogens, specifically how their interactions may have a greater effect than that of any of the individual constituents. Our work shows that treatment of experimental animals with two carcinogens given sequentially can result in an increase in tumor incidence and a decrease in time necessary for the appearance of tumors of the respiratory tract. In accord with our findings, the several cited examples of work by others show that in an analogous manner combinations of carcinogens can produce tumor incidences greater than that expected with either of the single treatments or that anticipated as the sum of the effects of the single treatments. The examples cited indicate that this type of interaction can be demonstrated in tissues other than the respiratory tract and in experimental animals other than the hamster as well as in *in vitro* studies. Furthermore, I have cited examples where combinations of carcinogen exposures in humans also produces a greater than an apparent additive tumor response."

"A second major point that was indicated was that carcinogen exposures may be potentiated by a variety of non-carcinogenic factors. Our work shows that the association of benzo(*a*)pyrene with a non-carcinogen, Fe_2O_3, specifically when the BP is adsorbed to the Fe_2O_3, greatly enhances the resultant tumorigenic effect of the BP dose. Our results suggest that at least in part this effect may [be] related to the prolonged retention of the BP within the respiratory tract when attached to the Fe_2O_3 particles. Our illustrations of the experimental work of others indicate that such diverse treatments such as inhalation of SO_2, performance of a partial hepatic resection, feeding of phenobarbital, or application of croton oil or its active constituents, all of which are not by themselves carcinogenic, may all increase the incidence of observed tumors and/or reduce the time needed for the apearance of the tumors". (Kaufman, S. 19)

Indeed, a committee reporting to the Director of the National Cancer Institute in 1973 advised him that synergistic effects are likely to be of overwhelming importance in the induction of human cancer:

"Of major importance in this connection is the fact that the carcinogenic process initiated by a submanifestational dose of one agent may be brought to completion by a submanifestational dose of another agent of entirely different chemical structure, even when exposure to the first agent has ceased and even when long periods of time intervene between the two types of exposure. It appears that carcinogenesis can result from the summation of a number of irreversible alterations in cells, no one of which may suffice to produce a manifest cancer. This is known to be true of the carcinogenic effects of ionizing radiation; it is the total lifetime exposure that is the determining factor. Similarly, there is no evidence that a newborn animal exposed to a chemical carcinogen ever reverts to normal with respect to the likelihood of developing cancer. On the contrary, throughout its lifetime it has a higher risk of developing cancers than its untreated littermates.

"Under natural conditions, few if any people are exposed to a single pure chemical. Such exposure is usually to mixtures and crude products. Isolation of individual carcinogens is often complicated by the presence of other chemicals that can enhance or retard the carcinogenic reaction. For example, the role of such cocarcinogens and/or anticarcinogens in tobacco smoke may be as important as that of the several carcinogens that have been isolated in minute quantities.

"There can be no doubt that the general population is continually exposed to hundreds of chemical, physical and biological agents that produce cancers of various types in various species under certain conditions. Little is known about interactions between

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several of these agents, but there is clear evidence that such interactions do exist. Additional complexities are introduced by evidence of involvement of intestinal bacteria in metabolic conversions of the active carcinogen in cycad meal.

"In view of the enormous and largely unpredictable differences in susceptibility of different species and different individuals to most carcinogens, and the fact that the significant factor is the totality of lifetime exposure (which can never be estimated accurately) to a large number and variety of carcinogenic agents and cocarcinogens, some known and many unknown, little if any useful practical purpose can be served by attempts to assess the hazard for man of a particular environmental carcinogen on the basis of quantitative data obtained in laboratory animals. Emphasis on this point not only is misguided but is misleading and may be harmful." (NCI Ad Hoc Committee, 1973, p. 11; Hearing Exhibit 24)

Several expert committees have also noted the potential for synergistic interactions. A Committee of the National Academy of Sciences stated in *Drinking Water and Health:*

"Some experience in man begins to give answers to these questions. The few known interactive effects in man are related to exposure to cigarette smoking combined with some other exposure—industrial or social. These are the combined effects of cigarette smoking (inhaled); asbestos exposure (Selikoff, 1968); inhalation of radon, as in the case of the uranium miners (Lundin, 1971); and the use of alcohol (Rothman, 1972). All of these show risks that are more than additive. For example, the heavy smoker has about two times the risk of the nonsmoker of dying of cancer of the oral cavity. The heavy drinker-heavy smoker has about 15 times the risk of the nonsmoker, nondrinker. Reports from Great Britain support the idea that the recent reduction in male lung cancer mortality, particularly in Greater London, with small changes in cigarette smoking and large changes in air pollution have come about through an interaction between urban air pollution and cigarette smoking (Lawther, 1976)." (NAS, 1977a, p. 50; Appendix I to Rall Statement)

In their report to the Surgeon General, the Ad Hoc Committee on the Evaluation of Low Levels of Environmental Chemical Carcinogens also addressed this problem:

"Interactions among multiple factors have received limited attention to date. There are well-documented instances in animal studies of strong synergistic effects produced by chemicals in combination with radiation, viruses, or other chemicals. The epidemiological patterns of certain human cancers implicate combined effects of multiple agents (e.g. inhalation of radon and radon daughters in uranium mines and cigarette smoking)." (NCI Ad Hoc Committee, 1970, p. 4; Exhibit 10b to Epstein Statement)

The concept of *carcinogenesis* is complicated by the recognition that most cancers may have multiple causes and progress through multiple stages. Certainly it may be improper to attempt to assign every cancer to a single carcinogenic factor, as pointed out by Dr. Rall and Dr. Upton in the passages quoted above. One of the most complete and rigorous definitions of a *carcinogen* in the Record may be the one offered by Mr. Richard Peto (Oxford University), who defined a carcinogen as any external agent that directly or indirectly increases the likelihood that a transformed cell will pass through one of the stages in the process of development of cancer:

"Definitions

1. The incidence rate of cancer among people of age t, which may be written I(t), is the probability that a person of age t will develop a new cancer tomorrow.

2. Among cells which have suffered certain heritable changes and are at risk of suffering a particular further heritable change the event rate, R, of that further change is the probability that a cell which has been ready for such a change for some time, but hasn't yet suffered it, will do so tomorrow.

3. If we number the heritable changes suffered by a particular cell en route from normality to malignancy 1,2, . . . , n (where n might be, e.g., somewhere around 4 or 6), then we can call these changes stages, and we can call a cell that has suffered only the first two such changes a stage-II cell, and so on. A particular person might already contain several stage-I cells, some stage-II cells, and a few stage-III cells when the cell which eventually kills him suffers the first of its stages. Thus one cannot usefully say that a person has reached stage III, only that certain cells have done so. Confusion on this point is surprisingly common.

4. Let the event rate of the change into stage I be called R_1. In some multistage models R_i is constant, whereas in others it varies with age, or with the condition of the neighboring cells, or with the time since that cell suffered its previous change.

5. Any external agent that directly or indirectly increases any of the n event rates, $R_1 \ldots R_n$, may be called a carcinogen, [*] as may any agent which makes it more probable that a fully transformed cell will proliferate successfully rather than be eliminated or held in check." (Peto, 1977, pp. 1404–1405, Annex D to Peto Statement) (footnote omitted).

Mr. Peto added in a footnote:

"[*]Some authors use the word 'carcinogen' in a more limited sense and then refer to other agents, which I would also call carcinogens, as cocarcinogens, promoters, enhancers, etc. In this report, any agent, process, or habit that increases the risk of cancer among people of a particular age will be called a carcinogen whether or not it operates in one of the ways listed in definition 5." (*ibid.*, p. 1406)

OSHA generally concurs with the broad definition of the term *carcinogen* as used in the above passage, and notes that it includes agents referred to by others as "cocarcinogens, promoters, enhancers, etc." The NCAB Subcommittee on Environmental Carcinogenesis also recommended a broad definition of a "carcinogen", as follows:

". . . the term carcinogen is used in its broad sense, because in most of the current human epidemiologic approaches and certain animal bioassays it is not possible to differentiate clearly between initiating agents, and certain modifying factors. Any factor or combination of factors which increases the risk of cancer in humans is of concern regardless of its mechanism of action. (NCAB 1977, p. 461).

It is reasonable to discuss all such agents under the same heading, if only because of the practical impossibility of distinguishing between them experimentally.* Whether all such agents should be *regulated* alike is a more complex question, which will be discussed below.

D. DISTINCTIVE FEATURES OF CARCINOGENESIS

It is apparent from the testimony summarized above that carcinogenesis has a number of distinctive features which set it apart from other types of toxicity and require that it should be treated in a different way by regulatory agencies. Dr. Robert Squire (Johns Hopkins University) discussed this issue as follows:

"It is probably true that all substances are toxic at some level and that most are safe at another, since many metabolic, pharmacokinetic, and detoxification or repair processes are dose-dependent".

"Not all substances, however, are carcinogenic, including many that exhibit other types of toxicity and can cause death. In the current NCI carcinogenesis bioassays (reports in progress), over one-half of the substances tested showed no carcinogenic effects, although most were to some extent toxic at the levels tested. These results are particularly revealing, since the chemicals were selected for testing because some concern for their carcinogenic potential existed. Carcinogenicity is in fact a specific type of toxicity, resulting in a persistent and self-perpetuating alteration of cells, apparently through the interaction of the ultimate carcinogen and cellular genetic material or other cellular macromolecules that control cellular differentiation (Miller 1977). It is perhaps identical to somatic mutation, a type of genetic toxicity, but it is to be distinguished from most other types of toxicity, which do not result in heritable cell alterations. The mechanisms of carcinogenicity are unknown, but the phenotypic expression of the carcinogenic process is clearly different from that of non-neoplastic toxicity.

"Thus, I believe that we are compelled to consider carcinogenesis a specific and perhaps unique toxic manifestation. We should not, in my view, regulate carcinogens as we do many other toxic substances". (Squire, S. 7–8)

Dr. Umberto Saffiotti (NCI) provided a recent, and very thorough, analysis of the differences between what he termed "terminal" and "self-replicating", e.g., carcinogenic, toxic effects:

"Traditional" toxicology has been concerned mostly with toxic effects having the following characteristics:

(1) They appear early; (2) the intensity of the induced pathology is directly correlated with the intensity of the toxic exposure; and (3) manifestations of toxicity are due to altered functional products, degenerative changes, or death of the target cells themselves. I refer to these as terminal toxic effects * * *

"The traditional approach for estimating an acceptable level for human exposure to agents inducing such terminal toxic effects has been that of using relatively short-term animal toxicity tests, determining a no-effect level under the conditions of test, and then applying a so-called safety factor for extrapolation to the human situation. If these estimations still turn out to be excessive for humans, as evidenced by the consequent development of toxic symptoms, then exposures can be further reduced until the symptoms disappear. This approach, of course, implies that the symptoms indicating toxicity should appear early and that the damage should be reversible. This traditional empirical approach to the setting of thresholds is well summarized in a statement I heard from a British colleague: "Find a no-effect level in animals, divide by 100, and pray."

"These traditional methods in toxicology are inadequate to deal with the pathogenetic mechanisms involved in the chemical induction of cancer. The characteristics toxicologic event in carcinogenesis is a trigger change in the target cell's regulatory mechanism, which determines a self-replicating cell lesion. The carcinogenic event so modifies the genomes and/or other molecular control mechanisms in the target cells that these are then able to give rise to a progeny of permanently altered cells. It is indeed this progeny of cells which represents the induced pathology. The expression of the toxic injury therefore does not derive from the same cells that were originally hit by the toxic agent, or from their functional products, but rather from the proliferation of a new population of altered cells.

"The subsequent growth of the altered cell population into a clinically detectable neoplasia follows the rules of biological determination. In this respect, carcinogenesis fits well, at the somatic-cell level, into the general pattern of biological evolution defined by Jacques Monod as a sequence of chance events followed by the necessity of biological determination of their expression (Monod 1970; Saffiotti 1977).

"The critical molecular injury caused by specific carcinogenic agents may be quantitatively extremely limited—even to a few cells—and may therefore remain 'silent.' What will make it manifest is the proliferation of the altered cell population, the extent of which is dependent on host conditions. The intensity of the pathological response in a subject, i.e., the growth rate and spread of a cancer, is not dependent on the level of carcinogenic exposure received by the subject. In fact, each tumor is characterized by independent progression (Foulds 1969).

"Carcinogenic effects are therefore intrinsically different from the terminal toxic effects described above. The characteristics of carcinogenic effects are the following: (1) Their appearance is delayed; (2) the frequency of the expression of injury (e.g., tumor incidence) in the exposed population is directly correlated with the intensity of the carcinogenic exposure, but the intensity of the induced pathology (e.g., tumor growth and spread) is independent of the intensity of the carcinogenic exposure; and (3) the manifestations of toxicity are due to the proliferative response of a new altered cell population. I refer to these effects as self-replicating toxic effects (Saffiotti 1977)". (Saffiotti, 1977a, pp. 1311–1312; Exhibit to Saffiotti Statement)

Dr. Marvin Schneiderman (NCI) and his colleagues also discussed the differences between carcinogenesis and other manifestations of toxicity:

"First, cancer appears often to be a disease of DNA damage or mis-repair, or incomplete repair and there is evidence that large numbers of molecules of an offending agent are not needed to cause DNA damage. Second, cancer is a progressive process. Once the last stage is started, the cells appear to develop an existence of their own, growing out of bounds as it were. The initiating agent doesn't need to be present any longer once the process has started on its way (although a 'promoter' may need to be around for a long time to produce high risks). Third, many agents seem to lead to the same cancer. This implies, that unlike basterial disease where one agent leads to one disease we must not consider each agent in isolation, but we need to put the doses of these same end result materials together additively (at least)". (Schneiderman et al., 1976, p. 2; Appendix D to Schneiderman Post-Hearing Comments)

Dr. Richard Griesemer (NCI) made a similar point:

"The assumption that the 'principles of toxicology' apply to carcinogenesis has not been proved. In particular, the evidence that exposure of cells to very small amounts of carcinogens results in irreversible changes that can be shown to be the beginning of the carcinogenic process indicates that caution should be used in attempting to predict threshold levels until more data are obtained." (Griesemer, S. 7)

These and other exhibits in the proceeding emphasized four distinctive features of carcinogenesis: single-cell origin, irreversibility, age-dependence, and latency.

1. Single-cell origin

Several witnesses referred to evidence that cancers develop from foci of a very few cells, probably in many cases from a single transformed cell.

Dr. Hoel, Mr. Peto, and their colleagues discussed such evidence:

"Single-Cell Origin. If individual cancers arise from an original, single, "transformed" cell, then the statistical nature of the carcinogenic dose response will be governed by the extreme tail of the "transformation" response distribution. The effect of this is to make virtually any process of discrete events approximately linear at low dose. Two primary observations indicate the single-cell origin of cancers. In women who are heterozygous for electrophoretic variants of X-linked glucose-6-phosphate dehydrogenase, cancers are uniformly of one phenotype or the other (6), whereas a comparable amount of normal tissue is composed of a mixture of cells of the 2 phenotypic classes. Further evidence for the single-cell origin of cancers comes from experimental efforts in which "transformed" cells are transplanted into whole animals. Although there is much controversy associated with various aspects of this line of research, it seems that the ability of a single cell to give rise to a cancer is well demonstrated (7). Thus, 2 lines of evidence indicate that cancer can be most reasonably assumed to arise from events associated with or occurring inside single cells. (Crump et al., 1976, p. 2977 (citing Fiaklow, 1974 and Gartler, 1973); Annex C to Peto Statement)

Dr. Lorenzo Tomatis (IARC) also discussed this evidence in one of his exhibits:

"The capacity of single cells to give rise to cancer has been demonstrated in a series of experiments using single embryonal carcinoma cells (Kleinsmith & Pierce, 1964). The hypothesis of the single-cell origin of cancer is supported by the finding (see Fiaklow, 1972, for review; Smith et al., 1971) that cancers in women who are heterozygous for variants of the X-linked glucose-6-phosphate dehydrogenase are in many cases of a single phenotype, while comparable amounts of normal tissue are composed of a mixture of cells of the two phenotypic clones. A single clonal origin of cancer would be compatible either with tumour initiation resulting from a rare event such as a spontaneous somatic mutation, or with the presence of a very limited number of cells susceptible to a generalized oncogenic stimulus. A multiple clonal origin would imply that a large number of cells in the target organ are susceptible to the oncogenic stimulus or that the oncogenic stimulus was

[*] As an example of an alternative definition, Dr. William Butler (NACA) proposed the following: "A chemical carcinogen is a substance that causes a cell or group of normal cells which would not otherwise have shown this property, to change its biological behavior and demonstrate autonomous growth of a malignant character." (Butler, S. 17) Apart from the problem that this defines a carcinogen as the single cause of a multi-causal phenomenon, the reason given by Dr. Butler for rejecting OSHA's definition was because it was "purely operational" (S. 10). However, for regulatory purposes, OSHA believes that it is obviously necessary to use a definition that is operational. Dr. Philippe Shubik (Eppley Institute, Univ. of Nebraska) also discussed the definition of a carcinogen in OSHA's proposal, and commented that "definition is a enormously difficult, if not impossible, task" (S. 5, 7, 17).

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very powerful. (Tomatis, 1977a, pp. 299–300; Appendix 3 to Tomatis Statement)

Dr. Emmanuel Farber (University of Toronto) introduced his own experimental studies which showed liver carcinomas developing from minute foci: these studies were interpreted in terms of a single-cell origin (Farber, 1978, p. 11, Appendix D to Farber Statement, referring to Friedrich-Freska and Hoffmann 1969, Schieferstein et al., 1974, Scherer and Hoffmann, 1971).

There is evidence that the first stage in initiation of carcinogenesis may result from the interaction of a molecule of the carcinogen with DNA or other genetic material in the cell (Cairns, 1977; Boutwell, 1974, 1977; Berenblum, 1974; Kotin, S. 17–18; Rall, S. 4; Hart, S. 7–14). Hence it would follow from the fact that cancer develops from a single cell, that cancer may be initiated by the interaction of a single molecule of a carcinogen with the critical target site in a cell (NAS, 1977a, p. 37–38)* This is not to say that a single molecule administered to the animal will suffice to ensure that it will develop cancer, since the probability of this interaction taking place appears to be dependent on dose. However, it does indicate that some tumors may be traced back to a single molecular interaction which began the progression leading to a transformed, self-replicating cell line. This is of profound importance for the concept of "threshold" doses. (See Section V. D. 10 below on Thresholds).

2. Irreversibility

A number of exhibits discussed the *irreversibility* of carcinogenic effects, and their distinction in this respect from other toxic effects. The Ad Hoc NCI Committee's report to the Surgeon General presented the matter as follows:

"The effects of carcinogens on tissues appear irreversible. Exposure to small doses of a carcinogen over a period of time results in a summation or potentiation of effect. The fundamental characteristic which distinguishes the carcinogenic effect from other toxic effects is that the tissues affected do not seem to return to their normal condition. This summation of effects in time and the long interval (latent period) which passes after tumor induction before the tumor becomes clinically manifest demonstrate that cancer can develop in man and in animals long after the causative agent has been in contact and disappeared." (NCI Ad Hoc Committee, 1970, p. 2; Exhibit 10b to Epstein Statement)

This concept was further elucidated at the hearing by Dr. Stewart (NIH), quoting from the unanimous 1973 report of an eight man committee, of which he was chairman, to the Director of NCI. The committee stated:

"Of major importance in this connection is the fact that the carcinogenic process initiated by a submanifestational dose of one agent may be brought to completion by a submanifestational dose of another agent of entirely different chemical structure, even when exposure to the first agent has ceased and even when long periods of time intervene between the two types of exposure. It appears that carcinogenesis can result from the summation of a number of irreversible alterations in cells, no one of which may suffice to produce a manifest cancer. This is known to be true of the carcinogenic effects of ionizing radiation; it is the total lifetime exposure that is the determining factor. Similarly, there is no evidence that a newborn animal exposed to a chemical carcinogen ever reverts to normal with respect to the likelihood of developing cancer. On the contrary, throughout its lifetime it has a higher risk of developing cancers than its untreated littermates." (NCI Ad Hoc Committee, 1973, p. 11; Hearing Exhibit 24)

The Safe Drinking Water Committee of the National Academy of Sciences also emphasized the irreversibility of carcinogenic processes:

"Some effects of toxic chemicals are unmistakably irreversible. They include terata, malignant tumors, mutations in offspring of exposed animals, and some neurological changes. These are gross manifestations of specific chemical-cell interactions, and it is possible or probable, that there are early reversible effects, either in the cellular process first affected or at intervening stages. Prediction of adverse effects from short-term studies is possible if the critical dose and the rate-limiting factors that determine reversibility are known. Without this knowledge, evaluation of toxicity will generally deal more with the possibility of irreversible effects than with speculatively reversible effects."

* * * * *

"It is more prudent to treat some kinds of toxic effects that may be self-propagating or strictly cumulative, or both, as if there were no threshold and to estimate the upper limits of risk for any given exposure. Included among these are effects that result from an initial, chemically induced alteration in cellular genetics that is transmitted by cell propagation. Carcinogenesis and mutagenesis are examples in which a single cell transformation has the theoretical potential for irreversibility, which might involve self-propagation, even in the absence of further exposure." (NAS, 1977a, pp. 23, 25; Apendix I to Rall Statement)

Some witnesses interpreted certain evidence as possibly indicating reversibility. For example, Dr. Paul Kotin (Johns-Manville) cited the work of Dr. Farber (Univ. of Toronto) as evidence for the proposition that early lesions induced by carcinogens regress if exposure is terminated (Kotin, S. 19; Kotin, Tr. 8744). However, Dr. Farber's own papers showed that although the *Nodular lesions* may regress, foci of altered cells remain in latent form and can be selected to proliferate by appropriate stimuli up to 17 months later (Solt and Farber, 1976; Farber, 1978, p. 17, Appendix D to Farber Statement). Dr. Farber also commented as follows on Dr. Kotin's interpretation:

"As he [Dr. Kotin] correctly pointed out, early preneoplastic liver lesions do regress unless the environment is appropriate for continued stimulation of the initiated cells (promotion). However, we also pointed out that the induction of initiated cells was an irreversible phenomemon. As in the skin, these early lesions were found to persist for long periods (up to 44 weeks) and could be stimulated to proliferate at will by creating the appropriate environment for selection.

"Using our new assay for initiation, we have not found a dose of diethylnitrosamine that does not initiate if accompanied by cell death plus regeneration or better a round of cell replication. Thus, we cannot be certain that a threshold actually exists for initiation of carcinogenesis. This is particularly so, given the well known variation in susceptibility to carcinogens of animals of different genetic backgrounds." (Farber, Post-hearing Comment. p. 1)

In the context of the multistage models of cancer, "irreversibility" does not mean that a transformed cell will inevitably develop into cancer. It means that the transformed cells will retain their *potential* to progress through later stages into fully-developed cancer for most or all of the lifetime of the animal. This progression is dependant upon other environmental or host factors which trigger subsequent transformations or select for growth of the transformed cell line. As Dr. Farber pointed out (Farber, 1978, p. 18; Appendix D to Farber Statement), the number of cancers that appear in experimental rats 12 to 18 months after exposure is "many magnitudes" smaller than the number of foci of transformed cells that can be detected early. Thus only a very small fraction of the transformed cells eventually progress to cancers, and these do so only in circumstances favorable for such progression. However, there is no evidence in this or other studies* that

* A number of witnesses disagreed with this point: see, for example, Dr. Roe (S. 49, 58), and Dr. Kotin (S. 11).

* Dr. Francis Roe (AIHC) cited evidence that the initiating effects of carcinogens on mouse skin declined in magnitude over periods of 24–52 weeks after exposure. OSHA does not find these studies (Roe et al., 1972, Berenblum and Shubik, 1949, Roe and Salaman, 1954) to be compelling evidence for reversibility, because the experiments did not exclude other explanations for the dependence of tumor yield on age. Even if they were taken at face value, however, they appear to show effects of an initiating dose persisting for up to half the lifetime of the animals.

the initial transformations can be reversed: indeed, they remain latent for most or all of the animal's lifetime (*id.*). The importance of these findings for regulation of carcinogens is that even brief exposures early in life must be assumed to have irreversible effects which may be manifested as cancers late in life. If a person has been exposed to a carcinogen that affects an early stage in cancer development, the only way to avert the consequences of this exposure would be to eliminate subsequent exposure to agents required for late stages. Since these are often unknown and may be non-specific, the practical consequence is that early exposure irreversibly increases the probability of developing cancer.

An important consequence of the irreversibility of carcinogenic transformations is that humans exposed to a carcinogen generally remain at increased risk of developing cancer even after exposure to the carcinogen has ceased. Empirical studies of this effect in rodents have been discussed in preceding paragraphs. Two exhibits in the Record reviewed evidence for the persistence of risk in humans, derived from epidemiological studies of exposed groups. Both Peto (1977, pp. 1415–1418) and the NCI, NIEHS and NIOSH Institutes' Report (Appendix A) discussed data on lung cancer in cigarette smokers. Persons who continue to smoke show an incidence of lung cancer which increases rapidly with age (approximately as the fourth power of age); their relative risk to that of non-smokers remains roughtly constant with age. Persons who stop smoking remain at increased risk, but their cancer incidence does not continue to increase as fast as that of continuing smokers; instead it approaches (but never falls as low as) that of non-smokers after 20 or more years. Both Mr. Peto and the NCI, NIEHS and NIOSH Institutes' Report interpreted these data as indicating that cigarette smoke affects the penultimate stage in the multi-stage process.

"The incidence rate of cancer is the number of cells that have suffered all but the final stage times the event rate for the final stage (times the probability that a fully transformed cell will escape control). If, therefore, we suddenly change the event rate for the final stage, a sudden change in the inception rate of cancers will result, which will (after allowing for the time they take to grow visible) quickly affect the incidence rate.

"This is not what is observed among regular smokers who give up smoking; the extra incidence rate stays approximately constant after smoking ceases.

"This is one of the strongest, and hence most useful, observational restrictions on the formulation of multistage models for lung cancer. It was suggested by Pike, who also analyzed the first 17 years of Doll's data on British doctors to demonstrate that these data were compatible with it (Doll 1971). I have recently analyzed the full 20 years of Doll's data, and I find that if we take Doll's data plus the data of Dorn (Kahn 1966) and of Hammond (1966), the same pattern emerges. Hammond's (1966) impression that lung cancer incidence rates revert to nonsmoker incidence rates 10 years after stopping appears to be wrong, perhaps due to an artifact of chance. The truth seems to be that when smokers quit, their extra lung cancer incidence rate remains remarkably constant for at least 15 years thereafter, and probably for longer.

"This is still good for the individual—the large increases in the lung cancer incidence rate that would have occurred later had smoking continued are avoided.

"If a simple multistage model is accepted, with smoking increasing the event rate of the penultimate stage, this constancy of extra annual incidence after smoking has been stopped is what would be expected, and in any model it suggests that smoking cannot possibly be acting on the final stage. If a model in which partially altered cells have a selective advantage is posited, then this selective advantage must cease when smoking ends; otherwise, the number of cells ready to undergo the last stage would increase and so would the extra lung cancer incidence rate attributable to past smoking. In other words, if proliferation of partially altered cells occurs and affects the kinetics of lung cancer induction, then encouragement of this proliferation must be the way, or one of the ways, in which smoking increases the risk of cancer. (Peto, 1977, p. 1415, citing Doll, 1971, Kahn, 1966, and Hammond, 1966; Annex D to Peto Statement)

* * * * *

"For cigarette smoking, the incidence of lung cancer increases with the daily amount smoked (either linearly or perhaps quadratically) and with the fourth power of duration of smoking, for current smokers. On stopping smoking the incidence does not further increase, but remains approximately constant with age until it approaches that of non-smokers after some 20 years (Doll and Peto 1976). The relative risk therefore falls within five years of stopping smoking, as shown in Figure 1a" (NCI, NIEHS and NIOSH Institutes' Report, 1978, p. A–1; Hearing Exhibit 224b) (Footnote omitted)

On the other hand, data for persons exposed to three other carcinogens (radiation, asbestos, and nickel) indicate no such decline in relative risks even 35 years after exposure. Instead, the incidence of the induced cancers continued to rise with age in the way observed in continuing smokers. This is what is expected in a multistage process if the carcinogen affects one of the earliest stages, and the factors influencing subsequent stages remain unchanged:

"For radiation, leukemia behaves differently from tumors of epithelial origin. Following a single course of radiation treatment for ankylosing spondylitis (Smith and Doll 1978), the relative risk for leukemia rises rapidly, reaching a peak within 3–5 years, then decreases to become inappreciable some 12–15 years after exposure (Figure 1b). The relative risks for epithelial tumors of heavily exposed organs, however, remain low until 10 years after exposure, then rise and remain on a plateau for the remainder of the observation period (Figure 1c).

"Other epidemiological data on risks from irradiation show similar behavior for leukemia (A-bomb survivors) and for breast cancer (A-bomb survivors, women given radiation treatment for tuberculosis or post-partum mastitis).

"The two examples just given provide the two extreme possibilities, continually elevated risk following exposure of very limited duration, or a rapid fall in risk following cessation of a long lasting exposure.

"Asbestos and nickel provide two examples of occupational exposures where cohorts have been followed over an extended period of time. Asbestos causes lung cancer, cancer of the gastrointestinal tract, and mesotheliomas (Selikoff and Hammond, 1978). Among a cohort more than two thirds of whom had been exposed for less than two years (Newhouse and Berry, 1976), the incidence of mesotheliomas increased with increasing rapidity until the limit of the observation period, 35 years after first exposure (Figure 1d). Conversion of these incidence figures into corresponding values for relative risk is not helpful due to the rarity of the non-occupationally related disease. However, the absolute risk, as given by the incidence figure, shows no sign of leveling off even thirty years after cessation of external exposure. Extrapolation of the incidence curve to higher age groups would seem justified, to give an estimate of 8–10% of deaths due to mesothelioma predicted in the group under study (Newhouse and Berry 1976).

"For cancer of the lung the data have not been presented in such clear fashion, but all studies indicate an increase in relative risk for the period more than twenty years after start of exposure compared to 10–19 years after start of exposure. Assumption of a constant relative risk would appear to be conservative (Selikoff and Hammond 1978; Peto et al. 1977; Newhouse and Berry 1976; Knox et al. 1968).

"For nickel, the main carcinogenic hazard for the cohort from Wales appears to have been removed from the environment around 1930 (Doll, Matthews and Morgan 1977). Nevertheless, there has been no indication that the relative risk for either lung cancer or for cancer of the nasal sinuses has fallen over the decades following the reduction in hazard (Doll et al. 1970, 1977) up to the most recently reported follow-up ending in 1971. Similarly in the Norwegian study (Pedersen 1973), the great reduction in exposure to dust and fumes since 1950 is not reflected in any reduction in relative risk. Interestingly, the values for the relative risk (average over follow-up to 1971 in both cases) for the Welsh cohorts exposed before 1930 and the Norwegian cohort exposed before 1950 were similar, approximately 10-fold.

"One would conclude from these two examples of occupational exposure that the epithelial tumors induced behave more like epithelial tumors related to radiation than to those related to cigarette smoking. Exposure to the aromatic amines would seem similar with risk among the exposed not falling two [decades] after removal from the workplace of the known carcinogens, but in this situation the replacements for the carcinogens may themselves have been carcinogenic (Fox and Collier 1976).

"The different types of behavior described above can be [derived] from the widely accepted multi-stage theory of carcinogenesis, wherein a cancer is assumed to arise from a single cell which then passes through a series of stages, the last of which leads irreversibly to a clinically apparent tumor. With k stages, and with probabilities of transition constant over age, one would predict the age-specific incidence to increase with age to the (k–1) power, as is observed for most epithelial tumors with k–5 or 6 (Whittemore 1977; Cook, Doll and Fellingham 1969)." (NCI, NIEHS and NIOSH Institutes' Report, 1978, pp. A–1—A–4; Hearing Exhibit 224b)

In conjunction with the experimental data from exposed animals, these epidemiologic data indicate that persons exposed to carcinogens, even for short periods, will remain at increased risk for most or all of their lives (see Dr. Shubik, (Eppley Institute, Univ. of Nebraska), S. 31). If the carcinogen affects a late stage of cancer development, the relative risk (though not necessarily the absolute risk) may decline quite rapidly after cessation of exposure, as in the case of cigarette smoking. On the other hand, if the carcinogen affects an early stage, the relative risks will remain high, as in the case of asbestos and nickel. If a worker is exposed to several carcinogens sequentially in the course of his working life, the relative risks may therefore be additive or multiplicative. These facts underline the importance of avoiding or reducing exposures to carcinogens if occupational cancer is to be prevented or reduced.

3. Age-Dependence

Numerous witnesses pointed out that the incidences of most cancers are strongly age-dependent. Basic data on age-specific incidence and mortality from various types of cancer were presented in several exhibits (American Cancer Society, 1978; Mason, *et al.*, 1975, 1978; NCI, 1975; Devesa and Silverman, 1978). Mr. Peto (Peto, 1977, pp. 1404–1409) pointed out that the incidence of most human cancers increases with the fourth, fifth, or sixth power of age, and that these patterns can easily be understood in terms of multi-stage models:

". . . multistage models give a very natural explanation for cancer being a hundred times rarer among young adults than among the elderly, but no plausible explanation has yet been offered for the fact that the risk of cancer in old age is not vastly different in species with very different life-spans.

* * * * *

"Human incidence data suggest that if an inbred population of humans were to be exposed throughout life to constant levels of the types of environmental insults we now suffer, the separate incidence rates of all carcinomas in group 2 (other epithelial cells) (with the possible exceptions of the liver, which exhibits a mode in countries where liver cancer is very common, and nasopharynx, which is slightly more common among children than it ought to be) would each increase as the fourth, fifth, or sixth power of age up to at least age 75, in conformity with the predictions from several multistage models.*" (Peto, 1977, pp. 1404, 1409; Annex D to Peto Statement)

This dependence of cancer incidence on the 4th, 5th, or 6th power of age is often taken as evidence that cancer progresses through 3, 4, or 5 stages (NCI NIEHS and NIOSH Institutes' Report, 1978, p. A–4), but as Mr. Peto pointed out (Peto, 1977, p. 1407), this conclusion does not necessarily follow.*

Several witnesses discussed the relationships between cancer and aging. Dr. Francis J. C. Roe (AIHC) suggested that cancer is a disease of old age because natural selection would be expected to have led to the evolution of defense mechanisms that operate early in life:

"If there were a genetically determined susceptibility to deve.op cancer *early* in life, one would expect it to be 'bred out' of the species, since unaffected individuals would have a reproductive advantage over those affected. But there would be no tendency for a susceptibility to develop cancer *late* in life to be bred out. This may account for the fact that cancer is by and large a disease of the later or post-reproductive period of life." (Roe, S. 18, quoting Roe 1966a)

Similar comments were made by Dr. Farber (Farber, pp. 26–27, 1978; Appendix D to Farber Statement), and Mr. Peto (1977, pp. 1412–1414). Dr. Roe went further and suggested that cancer is of positive benefit to the species:

"Cancer in its many forms is undoubtedly a natural disease. It is probably one of Nature's many ways of eliminating sexually effete individuals who would otherwise, in Nature's view, compete for available food resources without advantage to the species as a whole." (Roe, S. 94)

*Several witnesses appeared confused between the concepts of multi-stage and "multi-hit" concepts of carcinogenesis (Chase, Tr. 8636–8637; Roe, S. 46–49). There is little evidence from epidemiology for multi-hit phenomena, which would result in much steeper dose-response curves than are observed (Peto 1977, pp. 1405, 1422). See also Schneiderman *et al.*, (1978; exhibit D to Schneiderman Post-Hearing Comment) for further discussion of this point.

OSHA does not subscribe to this viewpoint. In the first place it is based on a fundamental misunderstanding of the process of natural selection, which acts at the level of the individual and not at the level of the species. Apart from this, it does not accord with the existence of the elaborate defense mechanisms described by Dr. Roe and others, which operate even in the "sexually effete". Moreover, Mr. Peto (Peto, 1977, pp. 1412–1413) pointed out that most common human cancers are geographically variable and associated with recent changes in human life-styles. This suggests that they are not under the control of natural factors that are included in Dr. Roe's concept of "Nature's view". Indeed, it suggests that Dr. Roe was at least partly wrong in concluding that the common forms of cancer constitute a "natural disease".

4. Latent period

The fourth distinctive characteristic of cancer, the long *latent periods* between exposure and effect, was abundantly documented in the Record. Many witnesses pointed out that there is a long latent period between the initial events in carcinogenesis and the clinical manifestations of the disease: in animals this period extends up to a full lifetime and in humans there are instances of latent periods in the range 5-40 years. (Lijinsky, S. 24; Holmberg, S. 5; Millar, Appendix C, pp. 6–8; Stewart, S. 2; NCI Ad Hoc Committee, 1970, p. 2; Cole and Goldman, 1975, pp. 172–176; Selikoff, Tr. 1697–1722; Nicholson, Tr. 1711; Harris, Tr. 1991). Although several witnesses pointed out that latent periods are difficult to define or to measure precisely, there was no dispute that for many carcinogenic processes there is no visible manifestation of the effects of the initiating event for periods which may extend up to half a lifetime or more. For example, see Exhibit 188 B, p. 15 and p. 20 (P.H.C. of Bethlehem Steel Corp.). The consequences of this fact in complicating the identification of carcinogens are discussed below. For the general purposes of this Part, the most important point is that the regulation of carcinogens must be anticipatory in nature: it is not justifiable to wait until manifestations of toxicity are observed, because by then a whole generation of workers may have been exposed.

In case histories of human exposure to chemical carcinogens whose effects are characterized in this way by long latent periods, such as cigarette smoke or asbestos, conclusive epidemiological findings were not available until 20 or more years after the start of exposure, by which time large numbers of persons had been exposed and a substantial cancer epidemic had been caused. Thus, as pointed out below, the significance of the long latent period for chemical carcinogenesis is that *it is impractical and imprudent to wait for results of epidemiological studies in humans;* prevention of chemical carcinogenesis in humans requires identification of the carcinogens by experimentation in laboratory animals with a short lifetime and a correspondingly short latent period for tumor induction. As the "expert" NCI Ad Hoc Committee's report to the Surgeon General stated:

"It is, therefore, important to realize that incidences of cancer in man today reflect exposure of 15 or more years ago; similarly, any increase of carcinogenic contaminants in man's environment today will reveal its carcinogenic effect some 15 or more years from now. For this reason, it is urgent that every effort be made to detect and control sources of carcinogenic contamination of the environment well before damaging effects become evident in man. * * * Environmental cancer remains one of the major disease problems of modern man." (NCI Ad Hoc Committee, 1970, p. 2; Exhibit 10b to Epstein Statement)

And, as Administrator Russell Train of EPA pointed out in *In Re Velsicol, supra:*

". . . the latency periods for cancer inducing chemicals tend to be long (in the tens of years), so that what results there are from the study of human exposure are difficult to gather and may well appear too late to save people from an already widespread chemical to which they are unavoidably exposed." (41 FR 7575)

E. CANCER AS AN ENVIRONMENTAL DISEASE

A number of participants cited evidence that cancer is an environmental disease, in the sense that many forms of cancer are strongly associated with environmental factors (*sensu lato*). Estimates that as many as 60–90 percent of cancers are associated with environmental factors were introduced into the record. For example, Dr. Arthur Upton (Director, NCI) summarized the evidence as follows:

"It is now widely recognized that the incidence of many types of cancer in the human population can be associated with a number of different environmental factors. The evidence for such statements is of several kinds:

1. International and national statistics on cancer mortality and incidence show enormous variations in the frequency of various types of cancer from country to country and even from place to place within a single country. In extreme cases, differences in cancer incidence between high-risk areas and low-risk areas are greater than 50-fold. Certain types of cancer are strongly characteristic of limited areas in the world.

2. Studies of migrants—i.e., persons who change their environment—show that their pattern of cancer incidence frequently changes from that of their country of origin to that of their country of adoption, although the change may not be complete within one generation.

3. Epidemiological studies have shown that many types of cancer can be associated statistically with a variety of environmental factors, including smoking, occupation, sunlight, dietary patterns, ionizing radiation, and exposure to drugs and other chemicals.

4. For a number of specific agents, including ionizing radiation and at least 20 chemicals, there is now good evidence that they cause cancer in humans. Their identification has been primarily by means of retrospective epidemiological studies of persons highly exposed to these agents, either in the workplace or in the course of therapeutic treatments with drugs or radiation." (Upton, S. 2–3)

Dr. David Rall (Director, NIEHS) summarized the findings as follows:

"It is generally recognized nowadays that cancer is an "environmental disease," in the sense that the incidence of cancer shows wide geographic variations and can be correlated with such variables as race, life-style, and exposure to radiation and chemicals. Estimates ranging up to 90% have been given for the proportion of cancers that can be associated with environmental factors in this broad sense." (Rall, S. 2)

Dr. Bo Holmberg (Swedish NBOSH) also discussed the evidence associating human cancer with environmental factors:

"*Cancer as an environmental disease.* Cancer consists of a number of diseases which are not evenly distributed between sexes, geographical areas, or occupational groups. Colon cancer, for example, is less common among Japanese than among west coast Americans. After moving into the United States, Japanese immigrants and especially their descendants tend to adopt a more "American" cancer pattern in this respect (Cairns, 1975). Skin cancer is more common in southern parts of Europe than in northern parts, and skin melanomas are more common in southern Sweden than in the north (*Cancer Incidence in Sweden (1971).*) Regional differences in incidence may also be found for other cancer sites; thus stomach cancer is more common in northern Sweden than in the south. When analyzing cancer incidence on a geographic micro-scale, one can also observe an urban-rural gradient for lung cancers. In addition, lung cancer and cancer of the urinary bladder are more common among men than among women. The most important carcinogenic factor responsible for the urban-rural gradient and the male/female difference in lung cancer incidence is tobacco smoking. A proportion of lung cancers, i.e., 5–10 cases per 100,000 per year, may be induced by general air pollutants possibly in combination with tobacco smoking (Karolinska Institute, 1978). Some occupationally exposed groups are also recognized as high risk groups for specific cancers when compared to other professions or when compared to the general population.

"When looking at cancer incidences in industrial countries, for example USA (Cairns, 1975), England and Wales (Higgins, 1974) or Sweden (Ericsson and Ringertz, 1972: Appendix 4), the incidence of some cancers has been increasing during the last decades. Looking for instance at cancer incidences in 1968 in Sweden (Ericsson and Ringertz, 1972) compared to those in the year 1959 (Fig. 1) one can observe an increase in age-adjusted incidence for many sites. This increase ranged from 10 to almost 100 percent during the 10-year period. For two types [of] cancer, stomach cancer and nasal cancer, the Swedish cancer incidences decreased during the same time period. Looking at absolute figures for incidence of all cancers, 19,000 new cases were reported in the year 1958 and 29,000 in 1971. The Swedish figures quoted are cancer morbidity data, not mortality data. During a 10 year period mortality figures may be changed by improvements in diagnosis and therapy. Morbidity figures provide a better measure of trends in the induction of cancer.

"Taken together, the patterns and trends in cancer incidences in various parts of the world indicate that cancer diseases are mainly due to environmental factors (Higginson, 1976). The increase in cancer incidences during such a short time period as 10 years (Fig. 1) cannot be explained by differences in life expectancy. Instead it must indicate that the exposure to causative environmental factors was markedly increased in the past, starting several years or a couple of decades ago and certainly prior to 1959. Only in a very few instances has it been possible to relate environmental cancers to exposures to specified single carcinogens. Cancer is more often due to multiple causes than to single causes." (Holmberg, S. 1–3)

Sir Richard Doll (Regius Professor of Medicine, Univ. of Oxford), in a paper cited by several participants in the OSHA proceedings, stated:

"Since Kennaway's seminal work, the evidence that cancer can be prevented has accumulated steadily and is now overwhelming. Whether it will ever be possible to prevent the disease altogether, as we can now prevent poliomyelitis and scurvy, is impossible to say until we know more about the mechanism by which it is produced; but we should be able to reduce the age-specific incidence rates—which account for a quarter of all deaths of men in Britain under 75 years of age—by at least 80 to 90%. That this is so, is suggested primarily by the great variation in the incidence of different types of cancer in different communities and in different parts of the world.

"This variation is illustrated in Tables 1 and 2, which show maximum and minimum incidence rates for all cancers that are common enough somewhere for the disease to affect more than 1% of men or women by 75 yr., in the absence of other causes of death. The range of variation is never less than fourfold and is sometimes more than a hundredfold." (Doll, 1977, p. 569; Annex E(a) to Peto Statement) (Footnotes omitted).

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A number of other witnesses referred to similar estimates of the fraction of cancers attributable to environmental factors, citing original studies by Higginson (1969) and Boyland (1969), and a review by the World Health Organization (WHO Tech. Report Series 276, 1974). Very comprehensive reviews of the association between various cancers and environmental factors were introduced into the record in a number of different exhibits (e.g., Doll, 1977; Wynder and Gori, 1977; Weisburger, 1976). A book edited by J. F. Fraumeni, *Persons at High Risk of Cancer* (1975), included chapters devoted to reviews of associations between cancer incidence and such factors as occupation, diet, tobacco, alcohol, radiation, drugs, air pollution, sexual factors, and viruses.

A few witnesses expressed reservations about the reliability or applicability of estimates of the fraction of cancers attributable to environmental factors (e.g., Dr. Kessler, S. 2–5; Dr. Roe, S. 6–8). However, these witnesses were primarily concerned with emphasizing that "environmental" factors included such factors as life-style as well as chemical carcinogens, that genetic and other host factors could also be important, and that occupational factors comprise only one of the environmental factors. Neither the preamble to OSHA's proposal nor exhibits at the hearing suggested that cancer was caused *exclusively* by chemical carcinogens. OSHA accepts the broad conclusion presented by the witnesses quoted above, that the majority of human cancers are attributable to environmental factors, with the important proviso that most cancers have multiple causes and that some cancers may be caused by intrinsic as well as extrinsic factors. In the words of Dr. Rall (Director, NIEHS):

> "Recognizing that carcinogenesis is a multi-phased process whose progression is influenced by a number of factors, it makes little sense to assert that "only" 1–5% of cancers are attributable to a single factor. It would be consistent with our present knowledge to assert that *all* cancers are associated in one way or another with occupational factors, just as they are probably all associated with dietary factors, with genetic factors, and with hormonal factors." (Rall, S. 5)

Recognition by cancer specialists that many, if not most, human cancers are influenced by environmental factors is of extraordinary significance to OSHA—it means that occupational cancers may be preventable if the causative agents can be identified and human exposure to them eliminated or minimized. The opportunities for preventing cancer by reducing exposure to causative environmental factors were emphasized by many other witnesses, including Dr. Upton (Director, NCI) (S. 2–8), Dr. Richard Griesemer (NCI) (Tr. 971), Dr. David Rall (Director, NIEHS) (S. 5–6), Dr. Richard Bates (FDA/NIEHS) (S. 1–4), Mr. Paul Orrefice (Dow Chemical Co. (S. 7–8), Dr. Philippe Shubik (Eppley Institute, Univ. of Nebraska) (S. 1) and Dr. Robert Hoover (NCI) (S. 9–10).

F. MOST SUBSTANCES DO NOT APPEAR TO BE CARCINOGENIC

As studies are reported of the carcinogenicity of substances representing a wide range of molecular structures and used for a variety of purposes, there has been a tendency for some time to claim that all substances are capable of causing cancer if administered to experimental animals at sufficiently high doses. This claim appears to be based on the notion that carcinogenesis is a nonspecific kind of biological process associated with any substance under the right conditions, namely that test animals, bred for their sensitivity to carcinogens, when fed maximum tolerated doses of a substance for their lifetime become very ill and may be more susceptible to carcinogenic effects, either of the test substance or of other intrinsic or extrinsic agents or processes. For examples of this hypothesis, see the testimony of Dr. Roe (AIHC) and Dr. Olson. (St. Louis Univ.)

However, there is evidence that renders this claim very unlikely to be true. In fact, relatively few substances have been found to be carcinogenic and available evidence indicates that most substances do not cause cancer. A publication of the U.S. Department of Health, Education, and Welfare compiles and abstracts all substances tested for carcinogenic effects. ("Survey of Compounds Which Have Been Tested For Carcinogenic Activity," Volumes I–VII (1974–1976).) Although these volumes are not intended to provide a critical evaluation of the data on each of the substances, only about 17% of about 7,000 substances were reported as showing tumorigenic effects and this in spite of the fact that most of the compounds were selected for experimental study because of prior suspicion that they might show such effects (i.e., their structural similarities to known carcinogens). Thus, these data appear considerably to overstate the true proportion of carcinogenic substances in the human environment.

A critical review of the literature on carcinogenicity of chemicals has been undertaken by the International Agency for Research on Cancer (IARC) with the support and collaboration of NCI. Chemicals are selected for review in this ongoing program on the basis of two criteria: (a) that there is some evidence of human exposure, and (b) that there is some reason to suspect carcinogenic activity. Of 368 chemicals evaluated in volumes 1–16 of the IARC monographs, some evidence of carcinogenicity was found for 247.

Of these, some 26 substances have been identified as associated with excess cancer incidence in humans. Two hundred and twenty one showed some evidence of carcinogenicity from tests in animals, but these substances had not received adequate epidemiologic study to evaluate their effects in humans (Tomatis, *et al.*, 1978). In addition, fifteen occupational categories have been reported to be associated with excess cancer incidence without identification of a specific etiologic agent (NCI, NIEHS, and NIOSH Institutes' Report, 1978).

In a study sponsored by NCI from 1965 to 1968 and performed by the Bionetics Research Laboratories under contracts PH 43–64–57 and PH 43–67–735, approximately 140 pesticide and industrial chemicals were tested for carcinogenic activity. Pesticide chemicals, of course, are known to possess high biological activity as demonstrated by their use as pesticides. In addition, the substances tested in the Bionetics study were selected on the basis of a number of criteria, among which were: (1) published evidence of toxicity that suggested potential hazards to humans and (2) the similarity between possible test substances and substances of known carcinogenic activity. Each substance was fed to both sexes of two strains of mice at a maximum tolerated dose determined at a young age by continuous oral administration with both positive and negative controls for 18 months. Despite weighting in the choice of test substances, fewer than 10% of the substances tested definitely produced tumorigenic effects and most of the others gave no evidence of carcinogenicity (Innes *et al.*, 1969).

Furthermore, it has been recognized for many years that *negative* findings of carcinogenesis bioassays are often not published and are even rejected for publication (Report of the Panel on Carcinogenicity, Int. Union Against Cancer, "Carcinogenicity Testing," edited by I. Berenblum, IUAC, Geneva, 1969). Thus, the percentage of substances tested for carcinogenic activity and found positive may be even lower than present data indicate.

During the hearings to consider the intent of the Administrator of the U.S. Environmental Protection Agency to cancel the registration of the pesticides aldrin and dieldrin, testimony was presented concerning this proposition. The Associate Director for Carcinogenesis of the Division of Cancer Cause and Prevention at NCI, Dr. Umberto Saffiotti, testified:

> "Not all chemicals can cause cancers, contrary to some ill-informed belief: in fact, only a relatively small proportion of the chemical species that have been studied are capable of such activity. The activity is dependent on a number of specific chemical and physical properties of the molecules, which are gradually brought to light. It can be expected that, when thousands of new environmental chemicals will be tested, only a few hundred, or maybe just a few dozen, will be found to be carcinogenic, and it will be possible to concentrate our preventive measures on those." (Exhibit 40 of the EPA Public Hearings concerning the cancellation of the pesticide registrations of Aldrin and Dieldrin, 1973, pp. 7–8.)

Thus, the available evidence provides strong indication indeed that not all chemicals are capable of causing cancer and that only a small fraction of the total is so capable.*

Other federal regulatory agencies have made the same observations. In the DDT cancellation proceeding, In *Re Stevens Industries, et al.*, EPA IFR Docket No. 63 et al., 37 FR 13369 (1972), *aff'd EDF* v. *EPA*, 489 F. 2d 1247 (D.C. Cir. 1973), EPA Administrator William D. Ruckelshaus stated:

> "The 'everything is cancerous' argument fails because it ignores the fact that not all chemicals fed to animals in equally concentrated doses have produced the same tumorigenic results." (37 FR 13371)

Likewise, in the Aldrin and Dieldrin suspension proceeding, *In Re Shell Chemical Co. et al.*, EPA FIFRA Docket No. 145, 39 FR 37265 (1974), *aff'd, EDF* v. *EPA*, 510 F. 2d 1292 (D.C. Cir. 1975), EPA Administrator Russell E. Train stated:

> "Carcinogenicity is a relatively rare phenomenon exhibited by only a few of the many hundreds of thousands of chemicals." (39 FR 37268)

And in ordering the suspension of the pesticides Heptachlor and Chlordane in *In Re Velsicol Chemical Co. et al.*, EPA FIFRA Docket No. 384, 41 FR 7572 (1976), *aff'd, EDF* v. *EPA*, 548 F. 2d 998 (D.C. Cir. 1976), Administrator Train stated:

> "Finally, I have noted some tendency, not entirely absent from the record, to assert that any chemical, if fed in sufficiently large amounts, will cause cancer in test animals. This is not true. A study sponsored by the National Cancer Institute tested 140 pesticides and industrial chemicals in two strains of mice, and less than ten percent of these were found to be carcinogenic." (41 FR 7575)

*OSHA recognizes that over 2,400 agents have been identified by NIOSH as being "suspect carcinogens" (*Suspected Carcinogens*, HEW Publication No. (NIOSH) 78–149, December, 1978). By NIOSH's definition, this means that NIOSH has found some evidence, scientifically unevaluated by it and of varying degrees of quality and quantity, suggesting that those substances possibly have some potential carcinogenic activity, based on observations in human populations or on results from experimentation with laboratory test animals. Yet, OSHA has completed regulatory activity for only 20 of those substances since its creation on April 29, 1971. A preliminary "first-cut" scientific review of the NIOSH list by an OSHA contractor, as will be discussed below, indicates that 271 of the substances are likely to meet the proposed Category I criteria while 300 are likely to meet the proposed Category II criteria. While OSHA does not view this list as definitive, this indicates that only a relatively small fraction of the substances listed in the NIOSH and other lists of suspected carcinogens is likely to prove carcinogenic when the scientific evidence is thoroughly reviewed.

G. Occupational Factors in the Development of Cancer

1. In General

Almost all substances recognized as being carcinogenic in humans were first identified as such in the occupational setting. The reason for this is that workers are generally exposed to relatively high levels of chemicals and that clusters of unusual cancers among specific groups of workers can often be identified even without formal epidemiologic studies. As Dr. Irving Kessler (Johns Hopkins Univ.) pointed out (S. 9), even today relatively few adequate epidemiologic studies of exposed workers have been carried out, and much of the original evidence that occupational factors are associated with excess cancer risk was derived from case reports or descriptive surveys.

Several distinguished witnesses presented detailed evidence on specific chemicals and occupational situations associated with excess cancer risks. These witnesses included Dr. Robert Hoover (NCI), Drs. Irving Selikoff and William Nicholson (Mount Sinai School of Medicine), Dr. John Berg (Colorado Regional Cancer Center), Dr. David Wegman (Harvard Univ.), Dr. Bo Holmberg (Swedish NBOSH), Dr. David Schottenfeld (Cornell Univ.), Dr. Sidney Pell (DuPont), Dr. Irving Kessler (Johns Hopkins Univ.), Dr. Robert Morgan (Univ. of Toronto), Dr. Lorenzo Tomatis (IARC), and the panel from NIOSH comprised of Mr. Edward Baier, Dr. Richard Boggs, Dr. David Groth, Dr. Richard Niemeier, Dr. Robert Hill, Mr. James Gideon, Mr. Robert Schutz, Mr. Richard Waxweiler, Dr. Geoff Taylor, Dr. Ralph Yodaiken, and Mr. Howard Waldeman.

Among the many relevant exhibits introduced into the Record, four comprehensive reviews were particularly important: a symposium volume *Occupational Carcinogenesis* (Saffiotti and Wagoner, 1976), a review of Cole and Goldman, (1975), a survey in the NCI, NIEHS, and NIOSH Institutes' Report, (1978), and the *Monograph* Series of the International Agency for Research on Cancer.

According to these reviews and a paper of Tomatis *et al.*, (1978) summarizing the monographs of the IARC, some 18 industrial chemicals and/or industrial processes have been identified as associated with increased carcinogenic risks in workers. These occupational factors are the following:

Aflatoxins
4-Aminobiphenyl
Arsenic compounds
Asbestos
Auramine (manufacture)
Benzene
Benzidine
Bis(chloromethyl)ether
Cadmium using industries (? cadmium oxide)
Chloromethyl methyl ether
Chromium (chromate producing industries)
Haematite mining (perhaps due to radon gas)
Isopropyl oil
Mustard gas
2-Naphthylamine
Nickel (oxides)
Soot, tars, and oils
Vinyl chloride
(Tomatis *et al.* 1978, Table II)

In addition, excess cancer incidence has been reported in a number of other occupational groups without identification of a specific etiologic agent. These groups include the following:

Occupational groups	Cancer site(s)	Percent excess reported
Coal Miners	Stomach	40
Chemists	Pancreas	84
	Lymphomas	79
Foundry Workers	Lung	50–150
Textile workers	Mouth and pharynx	77
Printing Pressmen (newspaper).	Mouth and pharynx	125
Metal Miners	Lung	200
Coke by-product Workers.	Large intestine	181
	Pancreas	312
Cadmium Production Workers.	Lung	135
	Prostate	248
Rubber Industry:		
Processing	Stomach	80
	Leukemia	140
Tire Building	Bladder	68
	Brain	96
Tire Curing	Lung	61
Furniture workers	Nasal cavity and sinuses.	300–400
Shoe Workers	Nasal cavity and sinuses.	700
	Leukemia	100
Leather Workers	Bladder	150

(NCI, NIEHS and NIOSH Institutes' Report, 1978, Table 3, references omitted; Hearing Exhibit 224b).

In addition, there is an excess of certain cancers in counties where petroleum refining is carried out (Hoover, S. 7–8; Mason, *et al.* 1975, 1976). The NCI, NIEHS and NIOSH Institutes' Report pointed out that

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occupational exposure to radiation is also a significant cause of cancer:

"In addition to chemical carcinogens, occupational exposure to radiation is known to be a significant cause of cancer in U.S. workers. Groups at risk include radiologists, uranium miners, workers in the nuclear industry, military personnel exposed to radiation from nuclear explosions and to nuclear weapons, aircrews, and persons working at high altitudes. Persons working outdoors such as farm workers and fishermen are subject to increased risks of skin cancer associated with solar radiation. We have not attempted to make numerical estimates of expected cancer incidence in these occupations, although many millions of workers are at presumptive risk." (NCI, NIEHS and NIOSH Institutes' Report, 1978, p. 16; Hearing Exhibit 224 b)

As Dr. Arthur Upton (Director, NCI) pointed out (S. 6), the list of known carcinogenic agents includes several very large volume chemicals to which millions of workers are exposed. Similarly the list of other hazardous occupations presented above would involve several million workers. Moreover, only a small number of the industries and chemicals which might pose carcinogenic risks have ever been studied. Dr. David Rall (Director, NIEHS) pointed out that of 368 chemicals reviewed in the IARC Monograph series, only about 8 percent have been adequately studied for potential carcinogenicity in exposed humans (Rall, Director, NIEHS, S. 3–4). The same point was made in the NCI, NIEHS and NIOSH Institutes' Report (1978):

"Few industries have been investigated adequately for evaluating the possible occurrence of occupationally related cancers. Because of the insensitivity of epidemiologic surveys and various difficulties in conducting them (7), only agents and industrial processes which lead to rather large excess incidences have been identified to date. The International Agency for Research on Cancer (IARC) has an ongoing program to review data on chemicals for potential carcinogenic effects. To date, some 368 chemicals and industrial processes have been reviewed. According to a recent summary of the results of this program (8), some 28 chemicals or industrial processes have been identified as associated with increased risk of cancer in man (Table 1). This list includes a number of drugs and chemicals to which there is little or no occupational exposure in the United States. Only 8 or 9 of the 28 substances and processes listed in Table 1 involve exposure to large numbers of workers. By way of contrast, some 221 chemicals or mixtures were identified in the same survey as carcinogenic to one or more animal species. Although there is some occupational exposure to the majority of these 221 substances, epidemiological and case studies were in all cases either lacking, or inadequate to determine whether or not the substances are associated with excess cancer incidence in exposed human populations (8). Thus, adequate data are available for only a very small fraction of the substances and industrial processes which pose potential risks to exposed workers. Although it is possible that all the major hazards have already been identified, there is little reason to believe this without much more extensive epidemiologic investigations. In fact, many new processes and materials have been introduced in recent years. Some of these could be as hazardous or more hazardous than those used in the past." (NCI, NIEHS and NIOSH Institutes' Report, 1978; pp. 1–2; Hearing Exhibit 224b)

Dr. Robert Hoover (NCI) pointed out that the identification of excess carcinogenic risks in occupational groups is the rule rather than the exception:

"In summary, very few industries have received any sort of evaluation for long-term health hazards. It should be obvious then that trying to estimate the amount of cancer that is industrially related is impossible in the absence of such evaluations." (Hoover, S. 8–9)

2. Occupational Factors in the Development of Cancer in the U.S.

There was a clear consensus that cancer is a serious occupational problem and that OSHA should regulate workplace carcinogens. The percentage of all cancer that workplace cancer contributes, however, was the subject of vigorous debate in the hearings. Many industry interests, witnesses and participants cited estimates by Higginson (1969), Higginson and Muir (1976), Wynder and Gori (1977), and Doll (1977 and unpublished) that no more than 1–5 percent of total cancers in the developed countries are attributable to occupational factors.

The only attempts to document any such estimates in the Record, however, were presented in the testimony of Dr. Irving Selikoff (Mt. Sinai School of Medicine) and the NCI, NIEHS and NIOSH Institutes' Report (1978). Dr. Selikoff testified:

"Taken with other data that Dr. Nicholson has used, it suggests that this one carcinogen [asbestos] has been responsible for an extraordinary number of deaths and may be anticipated to be responsible for this in coming years, at least for the next thirty to forty years, as a result of our past inadequacies.

"Secretary Califano three or four weeks ago—maybe it is five weeks ago now—reported his estimates that there are now some eight to eleven million people who have been significantly exposed to asbestos and who are now at risk of asbestos disease. We have found that 20 percent of all deaths are due to lung cancer among people significantly exposed to asbestos.

"This would suggest that—let us use a round figure of around 10 million for Secretary Califano's estimate. This would suggest that somewhere around two million deaths of lung cancer are going to occur in the next thirty, forty or so years. What is that, around 50,000 a year or something like that?

"Our data—and we do not agree with the British here—indicate that somewhere between seven and nine percent will die of mesothelioma. The British say it is going to be somewhere around 11 percent. Well, it will be somewhere in between perhaps. I think our data are better. But in any case it promises to be somewhere around 900,000 deaths of mesothelioma in the next 30 or 40 years. In any one year it will be no more than, what, 10,000, 11,000 or so deaths.

"We can add the gastrointestinal, the oral-pharyngeal, the larynx, the kidney, and so forth.

"But it suggests that some 40,000 deaths a year, approximately 10 percent of all cancer deaths in this country are going to be due to this one agent, the one that happens to have been very well studied, in these next decades which face us as a result of our past inadequacies." (Selikoff, Tr. 1702–04)

Dr. Selikoff, when further asked to clarify his testimony concerning mesothelioma, stated:

"Okay. Secretary Califano, on the basis of the data available to him, estimated that there were now between 8 and 11 million Americans who had been significantly exposed to asbestos. That is a pretty big spread, and I do not know whether 8 million is right or 11 million is right. And this, by the way, does not take into account people who have been exposed in household contact circumstances, to which Dr. Nicholson alluded, nor in neighborhood circumstances, nor from the use of consumer products, you know, the guy who does his own spackling at home over the years, going to the supermarket and buying some spackle compound which contained 12 percent asbestos, et cetera.

"But let us take the between 8 and 11 million. For purposes of discussion, for round figures, let us use the term 10 million. If our data are correct that it is going to be somewhere around 8 percent, let us eliminate the British projection. That would indicate that of the 10 million that 800,000 will die of mesothelioma. But they are not going to die tomorrow nor next year. Some of them are only 25 years old now, and they are not going to die, if our other data are correct, until they are 55. About two-thirds of all asbestos insulation workers die before the age of 65. This has created quite an actuarial problem, because they have been paying into their pension funds as if they are going to live past 65 like the rest of us, but they tend not to, and the pension funds are getting too weighty.

"But be that as it may, they will be dying. I would estimate, let us say, in the next 40 or so years. If 800,000 are going to die in the next 40 years, it will be somewhere around, in rough figures, around 20,000 per year. It may be more [than] 30 years from now, less [than] five years from now, depending upon the duration from onset at this point.

"Q: Would you consider, Dr. Selikoff, would you consider 20,000 deaths of mesothelioma per year a major public health problem?

"A: Oh, of course." (Selikoff, Tr. 1737–38)

The NCI, NIEHS and NIOSH Institutes' Report (1978) estimated that in coming decades up to 20 percent and perhaps as much as 40 percent of cancers in the U.S. might be associated with occupational factors. These estimates were originally disputed by AIHC (Hearing Exhibit 275), although another group of AIHC consultants (Research Statistics, 1978) considered that they were somewhat inflated but within a reasonable range.

OSHA believes that resolution of the conflicting estimates is not necessary to justify action to reduce exposure to carcinogens in the workplace. This regulation was not and is not predicated on the assumption that occupational factors are responsible for any specific fraction of the cancer burden in the U.S. population. As noted above, a number of large groups of workers are already known to be at a statistically detectable excess risk for certain cancers. Even if such groups were small, OSHA would be justified, indeed required, to regulate their exposure in order to eliminate their risk of illness and death. However, it is known that these groups are not small. As Dr. David Rall (Director, NIEHS) pointed out (Rall, S.3), even if occupational factors in fact caused "only" 1–5 percent of cancer, in the U.S. this would still account for between 3,800 and 19,000 cancer deaths annually. Thus, OSHA believes that under the circumstances it may never be possible to absolutely determine the exact percentage of cancer attributable to occupational exposures. Yet OSHA rejects, for the reasons discussed, the claims that "occupational" cancer contributes less than 1–5 percent of the total cancer in the United States.

Nevertheless, because of the prominence given to this argument by several witnesses, OSHA considers it desirable to review the issue briefly. For the reasons given in the NCI, NIEHS and NIOSH Institutes' Report (pp. 5–8), OSHA places little weight on the estimates by Higginson, Wynder and Gori, and Doll.* Specifically, these estimates were based on the erroneous assumption that each cancer should be assigned to a single specific cause, were limited to the small number of known examples, and were largely unsupported by documentation or critical review of data. As the NCI, NIEHS and NIOSH Institutes' Report concluded:

"We conclude that the statement, that no more than 1% to 5% of cancers in the United States are attributable to occupational factors is based on partial use of current knowledge, reflects the one-cause one-effect fallacy—and is not particularly useful for estimating future risks. It is not even a correct reflection of the published estimates, which range up to 10% [Wynder and Gori 1977] or 15% [Cole 1977]." (NCI, NIEHS and NIOSH Institutes' Report, 1978, pp. 7–8; Hearing Exhibit 224b)

While respecting the attempts of Higginson *et al.* to estimate the "importance" of environmental or occupational cancers, OSHA agrees with the conclusion of the NCI, NIEHS and NIOSH Institutes' Report that Higginson *et al.*'s estimates of the "importance" of occupational cancer are too insecurely based and inadequately documented to serve as the basis for the assignment of any national priorities.

In contrast, the estimates of the NCI, NIEHS and NIOSH Institutes' Report were much more fully documented and included three significant methodological improvements:

(i) The Institutes recognized that most cancers have multiple causes:

"The initiation and development of cancer is a multi-phased, multi-causal process in which both external and internal factors act, probably at each of several stages, before frank, clinical cancer appears. It is likely that many, if not most, cancers are influenced by two or more different external factors acting simultaneously or sequentially. Thus, alcohol by itself appears to be a minor cause of cancer—but alcohol combined with cigarette smoking leads to risks 15 times higher than those experienced by non-smoking non-drinkers. If a drinker smoker develops cancer of the oral cavity, to which 'cause' should it be attributed? Drinking or smoking? If we could correctly identify the proportions of cancer incidence 'attributable to' each of the classes of environmental factors considered by Wynder and Gori, the sum of these percentages would be considerably higher than 100. One of the best-studied examples of interaction between exogenous agents is that between asbestos and cigarette smoke in inducing lung cancer (9). Most lung cancers 'attributable to' asbestos are probably simultaneously 'attributable to' smoking. If current theories of a multi-causal process are correct, it seems likely that a large fraction of cancers which at first appear to be 'attributable to' smoking should also be 'attributable to' asbestos, radiation, and/or other occupational factors." (NCI, NIEHS and NIOSH Institutes' Report, 1978, p. 3; Hearing Exhibit 224b)

(ii) The Institutes took into account the long latent periods for occupational cancer and recognized that the germane question is how to estimate the future consequences of present exposures:

"Another defect of the studies summarized above is that they may deal with an inappropriate question. Most appear to have been attempting to provide estimates of the fraction of *present-day* cancer incidence that is attributable to occupational exposure *in the past*, to agents that have already been demonstrated to be carcinogenic. However, such a question is of limited interest because the most important consequences of exposures in the recent past will not be manifested until some time in the future. The question that needs to be addressed is 'What is the likely contribution of *present-day* occupational exposures to future cancer incidence?' An answer to this question must be somewhat speculative, because we do not know which of the chemicals in the present-day workplace will be identified sometime in the future as causing cancer. Accordingly, to provide a basis for making appropriate estimates, we will first attempt to estimate the contribution of occupational exposure to known carcinogens in the recent past to present and future cancer incidence." (*ibid.*, p. 8)

(iii) The Institutes recognized that most occupational studies underestimate lifetime risks, because for many carcinogens excess risks remain and even increase with age after cessation of exposure:

"Most occupational carcinogens are characterized by 'latent periods' of 10 to 50 years between the onset of exposure and the clinical appearance of tumors (7). This is consistent with the multi-stage process. When occupationally related cancers are detected, they usually reflect exposures which started one or more decades in the past. Accurate numerical assessment is further complicated by the strong dependence of cancer incidence upon age and upon duration of exposure. Even in cases where an excess *risk* is detected within one or two decades, this dependence on age implies that most of the attributable cancers will not occur until later in the life span of the exposed workers, perhaps as much as 40 or 50 years after the first exposure. It is difficult to trace anyone for so long a time, and those epidemiological studies which do not follow people for a full lifetime are likely to underestimate lifetime risks. Most industrial-epidemiologic studies have not (and probably could not) follow a working population to its extinction. This problem is discussed in more detail in the Appendix, but a numerical example illustrates its importance. For many types of cancer, incidence increases approximately at the fourth or the fifth power of age (10); hence the cumulative number of cancers occurring in a population over a lifetime increases at the fifth or sixth power of age. If exposure to a carcinogen results in a constant multiplicative increase in risk at all ages, then the number of cancers occurring in an exposed group will similarly increase at the fifth or sixth power of age. Thus, for example, the number of attributable cancers occurring by age 50 would be only about one-fifth or one-sixth of that expected by age 70.

*Numerical estimates by Doll were introduced into the Record after the close of the hearing (Report of the British Royal Society Study Group on Long Term Toxic Effects, July, 1978; See AIHC Post-Hearing Brief, p.19). However, Dr. Andre McLean, an AIHC witness who was secretary of the Study Group, had earlier characterized this estimate as follows: ". . . that particular estimate was kicked around and was produced by Sir Richard Doll and Richard Peto and is a fairly informal—and I do not think that we can make much of it." (McLean, Tr. 4830).

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For this reason epidemiological studies often enumerate only a small fraction of the total excess cancers attributable to an agent. Any overall assessment of the importance of occupational carcinogenesis should take this into account." (*ibid.*, pp 3–4)

Despite these methodological improvements, the NCI, NIEHS and NIOSH Institutes' Report recognized that the estimates were severely limited by inadequacies of the data base, particularly by the lack of any information on the risks associated with most industrial chemicals. For this reason, the Institutes did not attempt to make numerical estimates of future consequences of present-day exposures: the Institutes limited the calculations to future consequences of exposures in the recent past to a few well-studied chemicals, and pointed out the severe limitations even of this exercise (*ibid*, pp. 8, 16–18).

The NCI, NIEHS and NIOSH Institutes' Report divided occupational carcinogens into three groups for the purpose of estimating their potential importance:

(i) For asbestos, the report presented calculations projecting an average of 58,000 to 75,000 excess cancer deaths per year in the next 30–35 years, i.e., 13–18 percent of all cancer deaths in the United States in that period (NCI, NIEHS and NIOSH Institutes' Report, 1978, pp. 8–11).

(ii) For five other well-studied substances, the report performed rough projections based on observed site-specific risks and estimates of the number of workers exposed (NCI, NIEHS and NIOSH Institutes' Report, 1978, pp. 12–14 and Table 2). The report expressed considerable reservations about these estimates and did not in fact use them directly:

"For these reasons, the figures should not be interpreted as precise estimates of future cancers, but it is reasonable to compare them with the data derived by the same method for asbestos related cancers. At the least, the data summarized in Table 2 show that the five other agents together pose hazards similar to or greater than those posed by asbestos. The sum of the best projections (see notes to Table 2) for the five compounds is about 33,000 cancers per year, versus 13,900 for asbestos." (*ibid.*, p. 14)

(iii) For other known and potential occupational risks, the report made no estimates at all except to point out the existence of such risks (*ibid.*, pp. 15–16).

The NCI, NIEHS and NIOSH Institutes' Report concluded that it was impossible to say anything firm about the magnitude of future risks attributable to present-day occupational exposure to chemicals for which there are no epidemiological data. However, the Report added the following statement:

"There is no evidence, however, that these risks are substantially less than the risks resulting from exposures in the recent past. Although several of the most important known carcinogens have been controlled, others have not; many carcinogenic and potentially carcinogenic chemicals are still present in U.S. workplaces; the total volume of synthetic organic chemicals produced in the U.S. continues to increase rapidly. If only one of the thousands of chemicals introduced into commerce in the past 30 years proves to be as hazardous as asbestos, this could suffice to maintain comparable rates of occupationally-related cancer for decades into the future. In our view, any complacency about the future consequences of present-day exposure to uncharacterized chemicals would be unjustified." (*ibid.*, p. 18)

Because the NCI, NIEHS and NIOSH Institutes' Report overall estimates depend primarily on their estimate of the magnitude of asbestos-related cancer, it is worth reviewing the basis for this estimate:

"Asbestos as a Well-Studied Example"

"The consequences of occupational exposure to asbestos in the United States have only begun to be recognized in the recent past (12–14). It has been estimated* (11) that between 8 and 11 million workers have been exposed to asbestos in the U.S. since the beginning of World War II. Of that total, approximately 1.5 to 2.5 million are presently employed. Probably a million have already died, while the remainder—between 5.5 and 7.5 million workers—were formerly employed in environments with significant asbestos exposure, including the survivors among the 4.5 million who worked in shipyards during the 1940's. Of these and other asbestos workers, approximately 4 million are believed to have had heavy exposure to asbestos (11). Epidemiological studies of workers (13–15) have indicated that, of heavily exposed workers who have already died, 20–25 percent have died of lung cancer, 7–10 percent of pleural or peritoneal mesothelioma, and 8–9 percent of gastrointestinal cancers, adding up to a total of 35–44%. These figures may be underestimates of lifetime cancer risks, because most of these workers have not been followed to the end of their life span.

"Of the 4 million heavily exposed workers, at least 1.6 million are thus expected to die of the asbestos-related cancers listed above. [In the absence of exposure to asbestos, about 0.35 million (8–9 percent) would have been expected to die of cancers at these sites.] Assuming that the excess risk to the remaining less heavily exposed workers is one-quarter of that to the heavily exposed workers (an assumption suggested by the data in ref. 16), the total number of cancers attributable to asbestos in the less-heavily exposed group would be expected to be in the range 0.4 to 0.7 million, raising the total to 2.0 to 2.3 million. Since most of these cancers will be manifested over a period of 30–35 years, the expected average number of cancer deaths associated with asbestos per year in that period will be between 58,000 to 75,000." Such numbers would comprise 13–18% of all cancer deaths expected in the United States in the foreseeable future (assuming that total cancer deaths increase to 400,000 to 450,000 per year)." (*ibid.*, pp. 8–10)

This calculation has been contested by AIHC, basically on three grounds:

(i) that the incidence of mesothelioma ("the marker disease for asbestos") is only 10–20 percent of that predicted by the NCI, NIEHS and NIOSH Institutes' Report;

(ii) that the Institutes' Report overestimated the number of workers with heavy exposure to asbestos and underestimated the number of World War II workers who have already died; and

(iii) that both exposure to asbestos and smoking have been reduced since 1945. (AIHC *Reply*, pp. 2–3 and Appendix A; Hearing Exhibit 275 A)

OSHA does not find these objections compelling. AIHC's estimates of mesothelioma incidence were based on the NCI's "SEER" program, whose sample does not include several of the cities or states where asbestos use has been greatest. The data on the number of workers exposed heavily and surviving to date are certainly imprecise, but it is unlikely that they are too high even by a factor of two. OSHA notes that an AIHC sponsored review considered that the asbestos estimates might be too high by up to a factor of two (Stallones and Downs, 1978). OSHA notes also that the leading specialist in asbestos-induced cancers, Dr. Irving Selikoff (Mount Sinai School of Medicine) himself estimated as many as 50,000 excess deaths per year among highly exposed workers, a figure very close to that in the NCI, NIEHS and NIOSH Institutes' Report. Accordingly OSHA regards the Institutes' estimates of asbestos-related cancers as reasonable, and unlikely to be too high by more than a factor of two. Because of the conservative way in which the NCI, NIEHS and NIOSH Institutes' Report extrapolated from the asbestos estimates,* OSHA believes that their final estimate (that up to 20–40 percent of U.S. cancers in coming decades will be occupationally related) is reasonable.** Finally, it should be noted that even if the number of workers exposed to asbestos was overstated, the

*AIHC's detailed critique of the calculations in the Institutes' Report for other carcinogens is misplaced, because the results of these calculations were not in fact used directly to derive the overall estimates.

**The results of the Stallones *et al.* study are consistent with the NCI, NIEHS and NIOSH Institutes' Report.

NCI, NIEHS and NIOSH Institutes' Report dealt only with six substances instead of the 18 substances identified by Tomatis *et al.* (1978) as confirmed human occupational carcinogens, thus perhaps understating the risks found in the American workplace. Likewise, the occupational categories for which no single agent was identified were not factored into the calculations.

The NCI, NIEHS and NIOSH Institutes' Report pointed out that its conclusion that a substantial fraction of cancers in the United States is occupationally related is not inconsistent with conclusions that substantial fractions of cancers are also associated with other factors, such as cigarette smoking and diet.*

"These estimates do not diminish the importance of other contributing factors to cancer risk such as smoking, diet, and perhaps urban-rural differences. While much of the data on occupational cancer risk considered in this paper do not specifically consider factors such as smoking (except for asbestos) and diet, it is also fair to state that the prevailing body of data linking smoking and diet with cancer risk does not adequately consider the contribution of exposure to occupational carcinogens. This is largely because the available scientific methodologies do not facilitate adequate consideration of all contributing factors in any single study or approach. Until recently most scientists did not take into account the multiple etiologies and the multi-stage nature of cancer. In retrospect, it is likely that cancer risk is a function of multiple interacting factors. Past assessments, unfortunately, generally failed to consider adequately one of the most important, and preventable, risk factors, exposure to carcinogenic agents in the workplace." (NCI, NIEHS and NIOSH Institutes' Report, 1978, p. 22; Hearing Exhibit 224b).

3. Opportunities for Prevention of Occupational Cancer

The importance of the recognition that occupational factors are associated with a significant fraction of cancer incidence in the United States is that most occupationally related cancers can be prevented by reducing exposure. As the NCI, NIEHS and NIOSH Institute Report expressed the matter:

"The estimates of cancer attributable to occupational exposure given here should be viewed as pointing up the opportunities that exist to prevent disease in future generations. The causes of cancer are multiple, with more than one factor contributing to cancer risk. In such a situation, any percentage accounting of contributing causes to cancer well exceeds 100%. To prevent cancer, one must concentrate on causative factors that can be reduced so that we can decrease the burden of disease in future generations. It has been argued that present day asbestos workers are at lower risk than earlier workers. Opportunities to reduce risks and subsequent disease in other occupations are at hand." (Institutes' Report, 1978, p. 23)

*AIHC's criticism of this conclusion as "double or triple accounting" (AIHC *Reply*, p. 12) is not consistent with the scientific consensus on the multi-causal nature of carcinogenesis, as discussed above, and demonstrates a serious lack of understanding of the issue.

The opportunities for prevention of cancer were also emphasized by several other witnesses, including Dr. Rall (Director, NIEHS) (S. 6), Dr. Upton (Director, NCI) (S. 2–8), Dr. Epstein (Univ. of Illinois) (S. 11–26), Dr. Holmberg (Swedish NBOSH) (S. 7–8), and Dr. Shubik (Eppley Institute, Univ. of Nebraska) (S. 1).

Recognizing that most cancers have multiple causes, it is theoretically possible to prevent them in more than one way. For example most asbestos related lung cancers occur in workers who also smoke (Selikoff, Tr. 1702). According to Dr. Selikoff's data, it would be possible to prevent about as many lung cancers by eliminating smoking as by eliminating exposure to asbestos; eliminating both would yield additional benefits.

During the proceeding some parties appeared to suggest that OSHA should regulate cigarette smoking in the workplace rather than control workplace exposures to carcinogens. OSHA agrees that cigarette smoking is a grave public health problem. However, there is no evidence that by controlling cigarette smoking in the workplace, cancer from occupational exposures will cease. Therefore, OSHA is required to regulate occupational carcinogens regardless of whether it regulates the smoking of cigarettes in the workplace.

The question of regulating cigarette smoking is a complex social and policy issue that goes far beyond the purview of OSHA. It is a personal habit which is likely to continue outside of the workplace even if controlled in the workplace. Other regulatory agencies have the authority to regulate the general sale and use of cigarettes. On the other hand, OSHA can and does control smoking in the workplace to prevent employees from smoking in the presence of occupational carcinogens. OSHA may well determine, on the basis of scientific review, that "passive" exposure to cigarette smoke in the workplace constitutes a potential occupational carcinogenic risk which should be regulated under the terms of the policy. It may be that in establishing its priorities OSHA will give higher priority to substances and physical agents that are occupationally released than to cigarette smoking which is a general exposure that happens to take place in workplaces. In any event, since OSHA is not establishing a priority list as a part of this document, the question of the priority of cigarette smoking in the workplace will be decided when OSHA in fact determines its priorities.

H. TRENDS IN CANCER INCIDENCE AND MORTALITY

Some parties to this proceeding claimed that because the proposal stated that: "As the rates increase, the causes elude us", OSHA was predicting that an epidemic of cancer was about to occur. This is inaccurate. OSHA did not imply nor intended to imply any such epidemic. Nor did OSHA "impl[y] that the use of industrial chemicals is the new and substantive causative factor in this epidemic" (Post Hearing Brief of the American Iron and Steel Institute, p. 28). In any event, OSHA does not believe that this issue is revelant to whether OSHA should establish a cancer policy. Cancer is a serious problem, and, as Dr. Schneiderman (NCI) has pointed out, this Nation has made commitments in the past to eradicate specific diseases, although the incidence or mortality rates from such diseases had gone down. Thus, OSHA does not believe that it is required to show that cancer incidence in this country is on the rise before promulgating a policy such as encompassed by this document today. Indeed, with the rapid increase of the use of synthetic organic substances, as pointed by Dr. David Rall (Director, NIEHS), such a policy as this one adopted today will be needed to provide a prudent degree of worker protection.

As other causes of death have been reduced in importance in this century, deaths from cancer have increased steadily. In 1900, pneumonia and influenza headed the list of the ten leading causes of death in the U.S., followed by tuberculosis, infectious gastrointestinal diseases and heart disease. Cancer was only number eight, accounting for less than 4% of all deaths. By 1940, cancer had climbed to the second leading cause of death after heart disease, accounting for about 18% of all deaths, and it has remained in second place ever since. By 1975, cancer caused 20 percent of all deaths in the United States, and it is now estimated that about 27 percent of the present population will die of cancer. The total number of deaths from cancer has been increasing at more than 2 percent per year and reached 385,000 in 1977 (USDHEW, 1974, Levin, *et al.*, 1974; Monthly Vital Statistics Report 1978; Epstein, S. 3–8; Schneiderman *et al.*, 1978).

Although much of the increase in cancer mortality has resulted from the increasing average age of the

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population, this is not the only factor at work. Age-specific death rates for a number of types of cancer have increased significantly since 1951 (Jones, S. 23–45). The age-adjusted * death rate for malignant neoplasms increased from 79.6 per 100,000 in 1900 to 128.4 in 1966, 130.7 in 1971, and 132.3 in 1976 (Schneiderman, 1978, Table 1). Although the age-adjusted *mortality* rate from cancer has thus been increasing by only about 0.3 percent per year, the age-adjusted *incidence* rate has been increasing by about 1.6 percent per year (*ibid.*, Table 3). The difference reflects three factors: (i) the inclusion in the incidence figures of cancers that are not immediately fatal or not fatal at all; (ii) improvements in early diagnosis and treatment for certain cancers which prolong the interval between diagnosis and death; (iii) misdiagnosis of some cancer deaths as due to other causes.

A very large volume of testimony was presented at the hearing on trends in cancer incidence and mortality, and their hypothetical relevance to the problem of occupational carcinogenesis. Detailed presentations were made in the statements of Dr. Marvin Schneiderman (NCI), Dr. Samuel Epstein (Univ. of Illinois), Mr. Richard Peto (Univ. of Oxford), Dr. Bo Holmberg (Swedish NBOSH), Dr. Johannes Clemmesen (Danish Cancer Registry), Dr. Hardin Jones (Univ. of San Francisco), and in the presentations of AIHC and other industry groups. Most of this testimony was devoted to arguing two major points: (i) whether there is or is not a cancer "epidemic", and (ii) whether the current increase in cancer mortality is largely or wholly attributable to smoking. For example, AIHC summarized its position as follows:

"The reasons advanced by OSHA to support its proposal imply that this nation is suffering an epidemic of cancer and that the epidemic is largely if not entirely attributable to increased manufacture and use of industrial chemicals. Factual evidence does not support that view. If we use the turn of the century as a time against which to compare today's cancer problem, there has indeed been an increased in the incidence of cancer—but the increase is predominantly attributable to (1) greater longevity (the incidence of cancer increases with age), and (2) pandemic cigarette smoking. With adjustments for these two forces, as documented by both the American Cancer Society and United States government statistics, no overall increase in cancer incidence appears for the United States." (AIHC Alternative, p. 1) (Footnotes omitted)

OSHA regards this testimony as both in error and irrelevant to the issues in this proceeding, for the following reasons:

1. The need for this regulation was not and is not predicated upon the existence of a cancer "epidemic", nor even upon the existence of trends in cancer mortality. Even if the trends in cancer incidence were uniformly downward, the existence of demonstrable carcinogenic risks in U.S. workplaces would require regulatory action by OSHA, under the terms of the Occupational Safety and Health Act.

2. Gross statistics on cancer mortality are an extremely insensitive tool with which to explore the relationship between occupational exposure and cancer risk. Most of the industry testimony on trends in cancer mortality was based on the results of surveys in 1947, 1961, and 1969–1971. In view of the 20–30 year latent periods for occupational cancers, it is extremely unlikely that these statistics would reflect the consequences of exposures later than the 1940's.* As the NCI, NIEHS and NIOSH Institutes' Report (1978) pointed out, the major public health disaster of asbestos-related cancer may be only just beginning to be reflected in overall cancer statistics, despite 37 years of heavy exposure (Institutes' Report, 1978, pp. 10–11, 20).

3. Summary statistics on cancer mortality obscure many important trends that would need to be considered in testing hypotheses about the importance of occupational factors. For example, trends in mortality may be opposite to trends in incidence; trends are frequently different in males and females, in blacks and whites, and in older and younger persons (Schneiderman, NCI, Post-hearing Comments; Jones, Univ. of San Francisco, S. 23–45).

4. With the recognition that most cancers are caused by multiple factors, it is scientifically incorrect to argue that specific trends in cancer mortality are attributable exclusively to cigarette smoking and that the influence of other factors can therefore be excluded.†

Among the statements on cancer statistics presented during the proceeding, most were based on the results of the Second and Third National Cancer Surveys, conducted in 1947 and 1969–71 respectively (Dorn and Cutler, 1959; NCI, 1975). Only the testimony of Dr. Marvin Schneiderman (NCI) discussed in detail data generated through 1975 by the NCI's SEER program. As Dr. Schneiderman pointed out (Post-hearing Comments, p. 2 and Appendix B), the SEER data are better than the earlier data in three respects:

(i) they are based on better diagnostic data, especially for older persons; (ii) they reflect cancer incidence rather than mortality; (iii) they provide information on trends since 1970:

"1. The National Cancer Institute's SEER program provides a sample of cancer incidence in the United States, providing data that are internally consistent and comparable to the data provided by the Third National Cancer Survey (Appendices B and C). I believe that these are the only data in the hearing record that provide measures of recent trends in incidence of cancer (1970–1975).

"2. The SEER data on cancer incidence are developed from a review of hospital (and other) records and are likely to give more accurate diagnostic information than mortality data, which are derived from death certificates (Appendix B, p. 3). In particular, the SEER data are likely to be reliable indices of trends in cancer incidence in persons over 65, unlike the mortality data for the United Kingdom on which Richard Peto has commented." (Schneiderman, Post-hearing Comments, p. 2)

According to the SEER data, (Schneiderman, Post-hearing Comments, Appendix B, Table 2), total age-adjusted cancer incidence in white males increased by about 8 percent between 1970 and 1975. Restricting attention to cancers at sites thought likely to affected by industrial carcinogens, the increase in incidence in white males was 11% in the 5-year period. The largest increases were in melanoma (37%), lymphoma (17%), bladder cancer (17%) and lung cancer (7%). At least in the bladder and lung, increases in incidence in black males have been much greater than those in white males (Epstein, S. 7, citing Cutler and Devesa 1973).

Since the sites showing the largest increases in cancer incidence in the period 1970–75 are sites at which occupationally-related cancers tend to be observed (NCI, NIEHS and NIOSH Institutes' Report, Tables 1 and 3), these data are consistent with a hypothesis that exposure to industrial carcinogens increased in importance in the 1940's or 1950's. AIHC (Post-hearing Brief, pp. 18–19) and its witnesses argued instead that most of the increases were attributable to cigarette smoking and therefore should be subtracted out of the cancer statistics. However, such a position is not convincing to OSHA.* As the NCI, NIEHS and NIOSH Institutes' Report (1978) pointed out:

"To subtract all the 'smoking-related' cancers from the total is sophistry, because at least two of the sites in question are precisely those in which 'occupationally-related' cancers are best recognized. Many of the smoking-related cancers should be simultaneously attributable to occupational factors. On a per capita basis smoking among adults is declining and this should result in a decline in the smoking-related cancers—but none of this is factored in when all 'smoking-related' cancers are removed from the total." (NCI, NIEHS and NIOSH Institutes' Report, 1978, p. 20; Hearing Exhibit 224b)

Although subtracting out smoking-related cancers is likely to subtract out many occupationally-related cancers also, Dr. Schneiderman nevertheless applied AIHC's proposed procedure to the SEER data on cancer incidence. Using artificially high figures for the fraction of cancers "attributable" to smoking and sunlight, Dr. Schneiderman found that the incidence of cancers not attributable to these factors had increased by 7 percent since 1970. The incidence of cancers thought likely to be industrially related had increased by 12 percent (Schneiderman, Post-hearing Comments, Appendix B). He concluded:

"3. Cancers that are possibly industrially related increased in incidence in white males between the 1947 and 1970 National Cancer Surveys. The annual rate of increase after making generous allowance for the effects of cigarette smoking ranged between 0.4% and 1.0% per year (Appendix B, p. 6 and Table 1).

"4. In the time period 1970 to 1975 this increase ranged between 1.4% and 2.3% per year (Appendix B, p. 6 and Table 2).

"5. Conclusions (3) and (4) were unchanged when approximate allowance was made for changes in smoking habits and in tar content (Appendix B, p. 6). In fact, the recent reductions in the tar content of cigarettes probably mean that I overestimated the contribution of cigarette smoking to the recent increase in cancer incidence." (Schneiderman, Post-hearing Comments, pp. 2–3)

OSHA concludes that AIHC's argument was factually incorrect: even after over-compensating for the effects of cigarette smoking, the *incidence* of occupationally-related cancers has increased since 1947 and the increase has accelerated since 1970. As pointed out above, however, these facts are not *directly* relevant to this regulation, because cancer causing substances must be regulated in the workplace, regardless of whether general rates of some types of cancer are increasing. Nevertheless, if rates are indeed going up, and occupational sources are responsible for a significant portion of the cancer rates, it would reemphasize the urgency of taking measures now to reduce exposures to carcinogenic agents in the workplace.

PART B.

IV. EVIDENCE DERIVED FROM THE HUMAN EXPERIENCE

As pointed out in the proposal, the scientific and policy determination that a substance, or combination of substances; poses a qualitative carcinogenic hazard to humans can be based upon three types of evidence:

1. Evidence derived from the human experience;

2. Evidence derived from experimental long term bioassay results in mammalian laboratory animals (usually rodents); and/or

3. Supportive evidence, derived from studies of chemical structure and short-term or other tests, that correlate with carcinogenicity.

A. OSHA'S PROPOSAL

In the proposed regulation, OSHA defined a "potential occupational carcinogen", among other things, as:

". . . any toxic substance which (1) [c]auses, at any level of exposure or dose, as the result of any oral, respiratory, or dermal exposure, or any other exposure which results in the systemic distribution of the substance under consideration in the organism tested, an increased incidence of benign or malignant neoplasms, or a combination thereof, in (i) humans or (ii) in one or more experimental mammalian species, or (2) in a statistically significant manner decreases the latency period between exposure and onset of neoplasm in (i) humans or (ii) in one or more experimental mammalian species." (42 FR 54184)

Insofar as human studies were concerned, this proposed definition had two important features. First, the preamble explained that OSHA proposed to utilize positive evidence for carcinogenicity in either humans or in experimental animals as at least the basis for a presumption or inference of a qualitative hazard to humans. Second, by using the word "causes," OSHA anticipated the use of reasonable, scientifically evaluated evidence to determine a causal association between exposure and effect. Much of this section of this preamble is concerned with the nature of epidemiologic evidence and the establishment of causation by the use of human studies. Perhaps the best discussion of the role of scientific judgment in establishing causation was that of Dr. Umberto Saffiotti (NCI):

1. *"Causes".* The definition begins by stating that "Potential Occupational Carcinogen" means any toxic substance which *causes* . . . (neoplasms).

"Let us try to understand what is involved in the concept of causation in the recognition of carcinogenic effects. In life sciences, 'causation' implies an inference of sufficient condition to bring about a temporal sequential relationship between two events. In the case of carcinogens, the two events are the exposure of an organism to a given agent and the induction in that organism of a neoplasm. Studies on the concept of causation in biology emphasize its aspect of inference from a limited number of observations and therefore its inherent element of probability (Russel, 1948). Determining that an agent is capable of causing a given neoplastic response is the outcome of a complex judgmental activity, involving evaluation of many different factors, such as knowledge of the chemical and biological systems under consideration, determination of adequacy of the conditions of observation, qualitative and quantitative evaluation of the morphology and function of the observed organisms and of their target tissues."

"A judgment of causality in carcinogenesis may be based not only on the recognition of an excessive number of neoplasms in the exposed subjects but also on other factors, such as the observation of a pattern of pre-neoplastic and neoplastic lesions in a logical temporal sequence, information about the transport of the etiologic agent to the target cells, and knowledge about its chemical reactivity. The judgment will derive from a multiplicity of direct and indirect observations which combine with general knowledge of the phenomena under study in the mind of the expert who is making this judgment. In this respect this process is similar to that of a physician diagnosing a disease from a multiplicity of observations and their logical analysis. A chemical agent should not be judged carcinogenic solely on the basis of a cursory 'tumor count', without thorough evaluation of the conditions of exposure and of host response. A simple tumor count however, if markedly abnormal, can raise a considerable level of suspicion. Concurrence and reproducibility of the observations are important elements for this assessment. The judgment of causality also includes a consideration of possible interfering factors which may produce false appearances of a cause-effect relationship, such as the presence of highly carcinogenic impurities in test substances, or—on the other side—the presence of intercurrent diseases in the test animals which may prevent the manifestation of neoplastic response.

"The judgment of carcinogenicity needs to be made by competent, experienced and objective professionals after analysis of all the relevant evidence. It goes without saying that this judgment should be objective and immune from conflicts of interest.

"I believe that the judgmental aspect of the process of carcinogen identification is

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* An "age-adjusted" death rate is the number of deaths per 100,000 persons expected in a population with a standardized age distribution. Comparison of age-adjusted death rates eliminates effects due to changing age distribution in the population, but it does not eliminate effects due to changes in the age distribution of cancer deaths such as those tabulated by Jones (S. 23–45).

* The arguments of Dr. Jandl (Harvard Univ.) (S. 2–10) were incorrect for this reason, among others.

† The increase in asbestos-related lung cancer is usually dismissed as due to smoking, while effects of asbestos on the incidence of stomach and colon cancer are masked by long-term downward trends (*id.*). Reported deaths from mesothelioma have not yet shown an increase in the U.S. statistics (AIHC *Reply*), although they have increased in the United Kingdom (Doll, Annex E(b) to Peto Statement).

*Dr. David Rall (Director, NIEHS) described the assignment of a class of cancers to a single causative factor as "unscientific and reductionist" (S. 4).

embodied in the proposed OSHA policy by its very use of the term 'causes', by its inclusion of provisions for a discretionary evaluation (e.g., [Section] 1990–110(b): 'if * * * the Secretary finds * * * any other evidence * * * sufficient to convince him * * *') and particularly by its provisions for rebuttal of the classifications." (Saffiotti, S. pp. 6–8)

In the discussion of human studies in the preamble to the proposed regulation (42 FR 54155–54156), OSHA placed primary emphasis on the practical limitations of human studies and on the difficulties involved in scientifically establishing causation or even an association, as pointed out below.

Firstly, it was argued that carcinogenicity testing by prospective studies would not be suitable because of moral constraints against human experimentation, as well as the problems of long-term follow-up (due to the long latency period of cancer development, often several decades) and of controlling for exposure to other toxic materials (or other types of "confounding variables").

Secondly, it was argued that retrospective studies, while more readily available at the present time for evaluation, tend to have more problems in evaluation and interpretation, with "negative" studies the most difficult to interpret. Because of the time lapse between exposure and effect, retrospective studies cannot prevent exposure of some workers to carcinogenic substances, except as a basis for further action. Reliability of data generated by these types of studies was stated to be often difficult to assess for the following reasons: (1) due to individual variability in susceptibility to carcinogenic agents, effects are difficult to assess unless large study populations are used; (2) the long latency period makes detection of cause-effect relationships difficult; detection is further hindered by the difficulties in follow-up of a mobile worker population; and (3) it is difficult to link an effect with exposure to a single compound due to the occurrence of multiple exposures, difficulties in defining levels of exposure, and the possibility of additive, synergistic or inhibitory effects of these multiple exposures.

For these and other reasons, OSHA proposed to place little weight on purportedly negative results obtained in epidemiologic studies. Indeed, OSHA specifically stated that positive results from animal tests, would, in general, outweigh "negative" results from epidemiologic studies:

"And, it should be noted that certain chemicals may be carcinogenic in certain species, including man, but not in others. For example, betanaphthylamine, a known carcinogen in man, monkeys and dogs, is not apparently carcinogenic in rats or rabbits. Hence, positive studies in any mammalian species will, as a general rule, always supersede negative findings in another species." (UICC 1969, p. 18; NCI, 1970, p. 2; NCAB report, p. 9)

"Thus OSHA believes that, as a practical rather than a theoretical matter, positive animal data should supersede negative human data, in general, because of the inherent defects in such human studies, as pointed out above." (42 FR 54161)

At the outset, two points should be noted. First, in the preamble to the proposal, OSHA devoted comparatively little attention to discussion of positive results obtained in epidemiologic studies. OSHA assumed that little discussion of positive studies was needed, because where a positive study existed, its relevance to human risk would be clear. This lack of emphasis on positive studies, combined with extensive discussion of the limitations of "negative" studies, was mistaken by some participants as an intention not to use results of epidemiological studies, whether positive or negative. The discussion below attempts to enunciate OSHA's position more clearly in that regard. Second, because of the problems inherent in proving a "negative", as discussed below, some confusion arose. OSHA therefore uses the term "non-positive" to set forth more clearly the intent of this set of regulations promulgated today.

B. THE PUBLIC'S RESPONSE

A large number of witnesses and participants addressed the use of human studies in identifying and classifying carcinogens. OSHA notes initially that no witness or participant objected to the use of clearly positive results in human studies as an indicator of risks to other exposed persons. Apart from comments which discussed the "importance" of occupational exposures to chemicals as causes of cancer in the United States (see above), or presented the results of epidemiologic studies in specific industries, four broad types of issues were raised in the Record:

1. Many witnesses objected to what they interpreted as the downplaying of the importance of human studies in the proposed regulation.

2. There was considerable confusion in the Record about the types of information which human studies can provide and their inherent limitations.

3. Some witnesses pointed out difficulties in establishing positive results in epidemiologic studies, and some urged OSHA to adopt specific criteria for the evaluation of positive studies.

4. Many witnesses claimed that there are valid non-positive epidemiologic studies and that these should outweigh positive evidence of carcinogenicity of the same chemicals obtained in animals.

In response to these comments, OSHA has reviewed the Record in detail and will discuss these issues in greater depth below. In this discussion, OSHA places primary weight on the testimony of witnesses who are professional epidemiologists and statisticians, including Dr. Marvin Schneiderman (NCI), Dr. Robert Hoover (NCI), Dr. John Berg (Colorado Regional Cancer Center), Mr. Richard Peto (Oxford Univ.), Dr. Johannes Clemmesen (Danish Cancer Registry), Dr. Robert Morgan (Univ. of Toronto), Dr. Irving Kessler (Johns Hopkins Univ.), Dr. David Schottenfeld (Cornell Univ), Dr. Sidney Pell (DuPont), Dr. David Wegman (Harvard Univ.), Dr. Irving Selikoff and Dr. William Nicholson (Mount Sinai School of Medicine), Dr. Bo Holmberg (Swedish National Board on Occupational Safety and Health), Dr. P. J. Lawther and Mr. Robert Waller (St. Bartholomew's Hospital Medical College).

1. General Arguments for the Use of Epidemiologic Data

At the outset, it should be noted that not one party to this proceeding suggested that OSHA should ignore scientifically evaluated positive human data. To the contrary, several parties argued that OSHA should place much more weight on human studies, at least for limited purposes. For example, AIHC argued as follows in its Alternatives Proposal:

"OSHA is correct in recognizing that most epidemiologic studies which claim to demonstrate—even qualitatively—that an excessive incidence of cancer is caused by a single chemical are suspect because of: (a) mixed chemical exposures; (b) unknown, nonoccupational exposures (*e.g.*, smoking); and (c) poor estimations of exposure levels. However, studies which *do not* show excessive cancer incidence ('negative studies') are seldom criticized from these standpoints. Therefore, any well-executed study utilizing universally accepted techniques deserves consideration in the categorization of chemicals. In fact, it should be the primary decision-making criterion."

"The AIHC proposal would attribute more significance to available epidemiologic data (human experience) than would the OSHA proposal which would even subordinate any such negative data to positive results seen in an experimental bioassay. Since human data are free from the difficulties of extrapolating from animals, it is quite arbitrary and otherwise unscientific not to use these data whenever they are available."

"Human data could play a significant role in several ways. First, such data could suffice to classify a substance as a known human carcinogen; it is recognized that relatively few chemicals would be so classified. Second, where appropriate, such data, with exposure level information, could indicate potency. On the other hand, such data could in some cases preclude carcinogenic classifications that might otherwise seem indicated on the basis of positive animal data. More generally, such data must be considered relevant, along with the results of animal studies, in any risk assessment."

"There is good reason to attribute significance to epidemiologic data, whenever such data are available. For example, aflatoxin is one of the most potent carcinogens in various mammalian species, but there is ample epidemiologic evidence that, where the material is not ingested in gross quantities it does not produce harmful effects in man, despite widespread exposure to it in peanuts, corn, maize and sorghum."

* * * * *

"Negative human data on the toxicity of carcinogenic materials are seldom seen in scientific journals, and certainly never in the popular press. These data are seldom compiled as there has been little incentive for making them known—much less for developing more data—since, as the OSHA proposal demonstrates, little importance is attached to this information relative to positive animal studies. The AIHC proposal would encourage the compilation and disclosure of such data, and would in many cases provide a better factual and scientific basis for rulemaking than can be provided by extrapolation from animal data." (AIHC Alternative, pp. 39–42)

Reserve Mining Company argued as follows:

"A discipline such as epidemiology, which has 'provided the firmest scientific base on which practical political decisions can be made' relative to the prevention and treatment of cancer, should not be disgarded (*sic*) as without evidentiary value. The procedural process by which OSHA is attempting, through these proposed regulations, to establish irrebuttable presumptions, and the legal infirmities of such an attempt, are described in subsequent sections." (Reserve Mining, S. 15)

The American Iron and Steel Institute stated:

"A second scientific concept underlying the Generic Cancer Policy is the notion that positive results in animal studies should always supersede negative human epidemiological data. This decision to ignore negative epidemiological data drew strong criticism from a variety of witnesses. It was pointed out that epidemiological studies are the most relevant and probative evidence of human biological responses and that they are 'naturally more appropriate for assessing human risk' than are laboratory animal tests.

"Thus, it makes no sense to ignore epidemiological data where it is available. Indeed, by refusing to recognize the significance of such data, OSHA will discourage interested persons from sponsoring epidemiological studies." (AISI, Post-hearing Brief, pp. 71–72; Hearing Exhibit 250) (Footnotes omitted.)

Dr. Philippe Shubik (Eppley Institute, Univ. of Nebraska) made the following critical comment:

"The approach taken in the OSHA document is entirely negative and would seem designed to discourage the in-depth collection of additional epidemiologic data. It would appear to be retrogressive not to attempt to acquire as much data as possible and to recognize the potential uses that may arise." (Shubik, S. 13)

Dr. Johannes Clemmesen (Danish Cancer Registry) commented as follows:

"The OSHA proposal confines epidemiology to a very minor role in its scheme of regulation. Indeed OSHA proposes to ignore negative epidemiology where there is positive animal data. I believe this to be an unsound approach. While epidemiology has its limitations, human data where available should be used as a regulatory tool. Since the ultimate question for OSHA as well as for public health in general, is the effect of a substance on humans, it is difficult to conceive how one could even consider ignoring relevant human experience. Given the difficulties and limitations of animal tests and extrapolation therefrom to humans, epidemiology becomes a critical body of information which needs in all cases to be carefully evaluated." (Clemmesen, S. 11)

Dr. Douglass Lloyd (Connecticut Dept. of Health) argued as follows:

"OSHA is relying on many authoritative publications and conclusions of scientific committees in order to provide scientific support for its categorization of toxic substances. It would therefore seem appropriate to accept the results of pertinent epidemiologic studies if properly executed, irrespective of whether the results are positive or negative." (Lloyd, Tr. 8322)

Dr. Fred Hoerger (Dow Chemical) commented:

"Since human epidemiologic data are free from the uncertainties of extrapolation from animal tests, it seems quite unreasonable not to use valid data when they are available. Such data reflect what happens in the real world and may supply results different from what might be suggested by animal tests alone." (Hoerger, Tr. 3616)

As pointed out above, much of this criticism conflicts with the proposal itself. OSHA did not in fact propose to "confine epidemiology to a very minor role," nor to "ignore epidemiological data where it (*sic*) is available"; nor would epidemiology be "disgarded (*sic*) as without evidentiary value". To the contrary, as pointed out, OSHA proposed to place great weight on positive studies, even where they are not fully conclusive:

"The basis for these criteria initiating a Category I classification are predicated upon the discussions above and here. First, despite the inherent limitations of epidemiological studies in humans, where such studies indicate positive results, even where there is a small cohort of workers, OSHA believes that exposure to such a substance gives rise to great concern. Thus, the proposed set of regulations provides that such evidence in humans at least presumptively initiates a Category I classification, unless the evidence is "only suggestive" in which case the evidence initiates the Category II classification. It is only where the human evidence is "totally inadequate" that OSHA will classify the toxic substance as a Category III toxic substance. OSHA believes that responsible public regulation in matters concerning human health requires no less action or caution." (42 FR 54170)

In fact, OSHA intends to place weight on human studies wherever they provide germane and probative scientific information about potential hazards (or the lack thereof), and that includes "non-positive" results as discussed and qualified below. Many of the comments quoted above appear to reflect a lack of appreciation of the limitations of epidemiological studies, which will be discussed in more detail below.

It had been OSHA's intention at the time of the proposal to regulate chemicals as potential carcinogens based on scientifically evaluated positive epidemiologic studies. This is made clear in the proposed regulation itself. Sect. 1990.110 stated that: "A presumption exists that a toxic substance shall be classified by the Secretary as a Category I Toxic Substance if: (a) the toxic substance meets the definition of a potential occupational carcinogen in (1) humans . . ." Sect. 1990.120 stated that "a toxic substance shall be classified by the Secretary as a Category II Toxic Substance" if the toxic substance meets the definition of a potential occupational carcinogen" in studies in test animals or humans . . ."

As pointed out above, OSHA assumed that reliance upon scientifically evaluated positive epidemiologic evidence would not be controversial and therefore placed primary emphasis in the proposal on the problems presented in carrying out epidemiologic studies and the special difficulties presented by "non-positive" epidemiology. Some participants, as the above discussion indicates, misinterpreted OSHA in regard to the use of positive epidemiology and believed that OSHA intended to disregard it.

As discussed above, epidemiology can be a powerful tool in indicating the carcinogenicity of a substance, or a combination of substances. All parties addressing the issue recognized this, as the discussion above reflects. They recommended that OSHA make use of suitable positive epidemiologic data for regulatory purposes when such evidence exists. This final set of regulations

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carries out OSHA's intention and the recommendation of those participants, by regulating substances as Category I or II potential carcinogens based on suitable positive epidemiological data, where available.

The discussion in sections 2 and 3 below deals with the nature of the epidemiologic method and its strength and importance in identifying carcinogens for regulatory purposes. Section 4 points out some of the limitations of the epidemiologic method and how they can be overcome, at least when strong positive associations exist. The discussion in Section 5 demonstrates that it is not possible to set rigid criteria for judging positive epidemiologic studies, but rather that this requires good professional judgment. Section 5 also points out that positive epidemiologic studies can be valid indicators of the carcinogenicity of substances even though they do not meet all the criteria of an ideal epidemiologic study. This is because the demonstration of a large enough excess risk will more than outweigh the likely effects of confounding factors which might exist in the study.

After the discussion of the issues concerning positive epidemiology, there is an extensive discussion of the issues concerning epidemiologic studies which result in "non-positive" determinations. This discussion will set forth the scientific reasons why OSHA believes that, as a general matter, only little weight, if any, can be placed on such studies.

2. Nature of the Epidemiologic Method

In the preamble to the proposed regulation, epidemiologic studies were defined as:

"* * * comparing cancer risk for selected groups of individuals exposed to known agents with the risk for a similar population that either has not been exposed to the same agents or has been exposed but at a significantly lower level." (42 FR 54155)

Epidemiology has been defined in standard textbooks introduced into the Record as ". . . the study of the distribution and determinants of disease prevalence in man" (McMahon, 1970, p. 1, Reference 1 to Hoover Statement), or as ". . . the study of disease in relation to the characteristics of the groups of persons in whom it occurs." (Lilienfeld *et al.*, 1967, p. 3; Reference 16 to Bates Statement). It focuses not upon any single individual but upon groups of individuals.

Basically, evidence of carcinogenicity in humans can be derived from two types of epidemiological studies, namely: (1) descriptive epidemiologic studies in which the morbidity or mortality due to cancer in human populations is found to vary (spatially or temporally) with exposures to the agent and (2) analytical epidemiologic studies (e.g., case-control or cohort studies) in which individuals' exposures to the agent are found to be associated with an increased risk of cancer. A "cohort" study is one in which the frequency of various types of cancer in a group of workers exposed to a substance is compared to that in a "control" group not so exposed. The exposed and control groups are matched, to the extent possible, in terms of age, sex and other characteristics such as smoking history. The control group may consist of another group of workers with different exposure history or of a sub-category of the general population with the same age and sex distribution as the exposed group. A "case-control" study is one in which a group of patients with a certain type of cancer is compared to a group of controls without cancer but otherwise similar to the patients in age, sex, smoking history and other characteristics. By interviewing patients and controls, it is possible to seek consistent differences between the groups in their exposure to factors operating in the past which might have contributed to the induction of cancer. In the occupational context, associations are sought between occurrence of cancer and prior employment in certain types of jobs. Epidemiologic studies, when done properly, are the most direct—and, if positive, obviously tragic—measure of the carcinogenicity of an agent since humans themselves were the subjects of these studies.

In contrast to the controlled experimental study of animal species, epidemiologic studies of necessity rely upon the untoward effects of unplanned exposures in the past. For that reason, it may be difficult, in any one epidemiologic study, to account for all potentially confounding variables. Thus, while a single epidemiologic study may strongly suggest a cause-effect relationship, the most scientifically convincing evidence of causality from epidemiologic studies generally is derived from more than one independent study done under diverse circumstances which result in positive findings.

Any epidemiologic study showing or not showing a positive association between exposure to an agent and an increased risk of cancer may be weighted to a greater or lesser extent insofar as the following criteria are met:

(1) Definition of Study Population. A clear description is made of the population from which the study group was selected, the method of selecting the subjects of the study group, the criteria and rationale for inclusion or exclusion of study subjects and the procedure and rationale by which the study subjects were classified according to presence or absence and degree of exposure.

(2) Reference Population. A clear description is made of the reference or standard population against which the study group is contrasted and the procedure and rationale for selecting that reference or standard population.

(3) Disease Ascertainment and Classification. A clear statement is made of the specific procedures and sources for disease ascertainment including the degree of completeness of that ascertainment for the study and the reference population. The criteria are specified for classification of morbidity and mortality (e.g., nosology) and a statement is made addressing the comparability of study and reference population regarding the classification scheme.

(4) Positive or Negative Bias or Confounding. As the operation of factors in the study design or execution may lead erroneously to an observed excess or deficit of cancer risk among exposed individuals, a clear statement is made of the magnitude of over- or underestimating disease risk in the study group. Such factors to be considered are selection of healthy individuals for work and ethnicity and life-style differentials.

(5) Dose-Response Relationship. A dose-response relationship is demonstrated, that is an increase in cancer morbidity or mortality with an increase in degree of exposure. Demonstration of such a relationship provides strong evidence for incriminating the agent under study as a causal factor in the etiology of cancer causation. However, because of difficulty in the quantification of actual degree of exposure (dose-rate, deposition, retention, excretion), such a relationship may not always be apparent. For that reason the lack of a demonstrated dose-response relationship may not negate the carcinogenicity of an agent.

In addition to these criteria, it must be recognized that any epidemiologic study will have confidence limits around estimates of association or relative risks (e.g. around Standard Mortality Ratios, etc.). As pointed out below, in a study reported as non-positive or "negative", the upper confidence limit may fall at a relative risk considerably above unity and thus the study cannot be regarded as decisively negative but only as excluding a relative risk that is above the upper limit. Finally, a non-positive epidemiologic study may be relevant only to dose levels within or below the range of those observed in the study and is pertinent only if sufficient time has elasped since first human exposure to the agent. Experience with human cancers of known etiology suggests that the period from first exposure to a chemical carcinogen to development of clinically observed cancer is usually measured in decades and may be in excess of 30 years.

A concise summary of the nature of epidemiology and of the principal types of study that are undertaken was presented in an exhibit to the Record:

"Epidemiology is concerned with identifying patterns of distribution of diseases that occur in man. Rates of incidence and mortality are reviewed in the context of time trends, geography and personal characteristics. This descriptive profile of a disease serves to guide the pursuit of etiologic factors that are likely determinants of a specific pattern.

"The epidemiologic methods that are concerned with testing causal hypotheses can be classified either as case-control or cohort in type. The case-control ('retrospective', 'case history') study is most suitable in studies of rare diseases, in 'fishing' for multiple factors of uncertain significance and for the initial exploration of a specific etiologic hypothesis. The cohort ('prospective', 'longitudinal', 'follow-up') study is advantageous in that it provides a direct measure of the incidence or risk of developing a disease in individuals with a specific characteristic, and is most suitable for testing a particular hypothesis, which has already been developed from prior retrospective (and/or cross-sectional) studies. For practical purposes, the various caveats about sample size in cohort studies guide the epidemiologist to focus on hypotheses that involve a relatively common exposure (in more than 2 or 3% of individuals at risk), a relatively common cancer (incidence of 1/1000/year) and for discerning relative risks (risk ratios) in the exposed that are at least twice that of the control group." (Schottenfeld *et al.*, 1978, p. 5; Hearing Exhibit 219)

Another definition in a standard textbook emphasizes that epidemiology has both descriptive and analytic aspects:

"Epidemiology is the study of the distribution and determinants of disease prevalence in man * * *

"* * * Two main areas are indicated in the definition. These are the study of the distribution of disease (descriptive epidemiology) and the search of determinants of the noted distribution (analytic epidemiology). The first, describing the distribution of health states in terms of age, sex, race, geography, etc., might be considered an extension of the discipline of demography to health and disease. The second, involving interpretation of the distribution in terms of possible causal factors, is the special contribution of epidemiology. Definitions of epidemiology that consider only the descriptive phase do not indicate the unique component of the discipline". (McMahon *et al.*, 1970, p. 3) * (Footnote omitted)

3. Strength and Importance of Epidemiologic Data

The overwhelming importance of epidemiologic data is that they provide direct evidence of associations between exposure to chemicals and patterns of disease *in humans*. Thus, when a relatively clear positive association is demonstrated in an adequately conducted study, its relevance to the prediction of human hazards and risks is clear and unmistakable: there is usually no room for the lengthy debates that inevitably accompany attempts to extrapolate from experimental results in animals to predict human hazards or risks. Dr. Hoover (NCI) discussed the strengths of the epidemiologic method at some length in his written statement:

"The strengths of the epidemiologic method are twofold. First of all, this method allows the direct measurement of the risk of cancer due to an exposure in a *human* population. It can thus identify causes of cancer in humans that are associated with intermediate or high levels of risk. Secondly, there is a much less obvious role and strength of the epidemiologic method. That is, these kinds of studies can allow someone to gain insights into the basic mechanisms of a disease causation (for cancer the mechanism of carcinogenesis)." (Hoover, S. 11)

Dr. Hoover later described an appropriate use of epidemiology as one which identifies hazards associated with exposure to a risk factor, and allows insights into mechanisms of these associations such as "latent period related to potency" and "susceptibility by age-at-exposure" (Hoover, S. 16). In his oral testimony, Dr. Hoover (NCI) stated that epidemiology is:

"* * * an extremely important tool in identifying occupational exposures and other hazards because it studies people in the context in which they are exposed. So it identifies excess risk that might have been missed in studying pure exposures." (Hoover, Tr. 793)

Dr. Bo Holmberg (Swedish NBOSH) made a similar point:

"Epidemiological studies are the only types of studies which, under ideal conditions, can give numerical estimates of the excess risk of getting cancer in workers' populations. Experimental studies with animals can presently not give precise information on the quantitative risk of human exposure. Thus, it is important to carefully analyze populations at risk." (Holmberg, S. 6)

Several references from the literature introduced into the Record support the importance of consideration of positive epidemiological data. Sir Richard Doll stated that, of all the agents known to cause cancer in the workplace, most were initially discovered by observation in humans (Doll, 1977; Annex E to Peto statement). Dr. Lorenzo Tomatis (IARC) cited the examples of the aromatic amines and bis(chloromethyl)ether as two chemicals for which the cancer hazard in humans was demonstrated epidemiologically long before positive animal data were generated (Tomatis, 1977b, Appendix 4 to Tomatis statement).

On the other hand, some witnesses looked upon epidemiologic evidence primarily as a method for verifying the results of animal testing. They cited the statement of the Second Task Force for Research Planning in Environmental Health as follows:

"Epidemiologic investigation can be of value in the development of an understanding of chemical carcinogens in two major areas which are in urgent need for exploration: (a) Many chemicals exist which have an important bearing on current lifestyle but which, subsequent to their general use, have been shown to introduce cancer in laboratory animals. DDT is a case in point. In such cases, it should be possible, on a world and/or national basis, to define populations that have been extensively exposed during manufacture and use of specific agents. The cancer morbidity or mortality of these populations could provide valuable evidence for the validity of certain animal test systems as predictors for human cancer." (DHEW, 1977, pp. 285–286; Reference 25 to Robinson Statement)

One of the more persuasive statements on the importance of epidemiology came from Dr. Philippe Shubik (Eppley Institute, Univ. of Nebraska) who stated:

"* * * clear epidemiologic data in humans does not require a delay of regulatory action while a suitable animal species is identified and a test conducted. Most agents known to be carcinogenic in man have been identified in the first instance by case reports and epidemiologic studies and have subsequently been confirmed in animal studies as carcinogens." (Shubik, S. 12)

An earlier discussion of the uses of epidemiology emphasized its importance in application to prevention of disease:

"The main function of epidemiology is to discover groups in the population with high rates of disease, and with low, so that causes of disease and of freedom from disease can be postulated. The most obvious and direct examples are the original observations on the nutritional deficiencies (scurvy, beriberi, pellagra, goiter); the geographical study of

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cancer (especially of the skin and liver); the industrial cancers (bladder, for instance); and industrial accidents (of coal-miners or railway workers). The biggest promise of this method lies in relating diseases to the *ways of living* of different groups, and by doing so to unravel causes of disease about which it is possible to do something."

* * * * *

"The great advantage of this kind of approach to prevention is that it may be applicable in the early stages of our knowledge of diseases, to disrupt the pattern of causation before the intimate nature of diseases is understood. Sufficient facts may be established for this by epidemiological methods alone, or in combination with others. The opportunity may thus offer to deal with one cause, or with various combinations of causes. Moreover, the possibility of two types of control may be opened up—environmental (as in the fluoridation of water) and personal (through alteration of diet and hygiene)." (Morris, 1955, p. 399) (emphasis in original)

In the context of this rulemaking, this statement emphasizes how epidemiologic studies can lead to preventive measures (i.e., reduction in exposures), even before the causal associations are fully worked out. This is another respect in which epidemiologic studies offer important advantages over experimental animal studies.

Dr. David Wegman (Harvard Univ.) made a concise statement of the importance of epidemiology in elucidating occupational cancer risks:

"Epidemiology can prove a powerful tool to evaluate risk in occupational settings. Although it alone has not been responsible for many of the discoveries of occupational cancer risk, it has proven very useful in confirming risk or characterizing its extent. In fact, it is a tool which has been underutilized in the evaluation of work related cancer risks either due to poor applications or to missed opportunities." (Wegman, S. 7) (Footnote omitted)

4. Limitations of the Epidemiologic Method

Dr. Hoover (NCI) discussed some of the major weaknesses of the epidemiologic method:

"There are at least five major weaknesses to the epidemiologic approach. First of all, as you may have inferred from my emphasizing that epidemiology was reasonably strong in identifying intermediate and high levels of risk, it is quite weak at identifying the causes of very low levels of risk. Very small differences in risk between a group exposed to some substance versus that in a group not exposed to it could be due to a variety of reasons: for example, chance, or other differences between the exposed and unexposed which we either do not know about or cannot adequately control for. Because of this, it becomes next to impossible to say with any assurity that a very low level of risk is caused by a similarly low level exposure to some substance. What do I mean by low level of risk? I believe I can put this in context by noting that the lowest excess cancer risk that I know of that is directly observable in a group of exposed individuals and is generally accepted as being due to that exposure and not some other factor, is the 30% excess risk of childhood leukemia among children who were exposed to radiation *in-utero* in the last trimester of pregnancy (pelvimetry). Indeed, it has taken us some 20 years to become reasonably convinced of this 30% excess risk.

"The second weakness of the method, and perhaps its most important weakness, is what is referred to as latent period or induction-incubation period. This is the interval between exposure to a cause of a disease and the actual manifestation of the disease itself. As you are all aware, for cancer causing exposures these latent periods are quite long—from 5 years to over 50 years.

"The third weakness of the method is in its lack of specificity of exposure. Often, in fact usually, we epidemiologists are studying the effect of exposure to mixtures of chemicals or other agents, rather than pure exposures to a single toxic substance.

"The fourth weakness is the inability to control for unknown risk factors for the disease in question. In an experiment the randomization procedure hopefully introduces some control for unknown factors. In observational studies, we can control for known confounding factors, but obviously cannot guarantee control for unknown confounders.

"The last weakness of the approach encompasses the practical problems involved in doing epidemiology. In order to effectively function, an epidemiologist needs to have access to appropriate information on large groups of people. Sometimes this is possible, and sometimes the information just does not exist. In addition, there is currently a lack of enough competent epidemiologists even to evaluate adequately the information that does exist." (Hoover, S. 11–12)

Many witnesses believed that a major problem with retrospective epidemiologic studies is the identification and quantification of exposure of workers to hazardous agents. Dr. David Wegman (Harvard Univ.) stated:

"First and foremost is the problem of defining exposure. Most of the existing epidemiology studies on occupational cancer rely on retrospective methods. Industry, however, as a rule had not kept much let alone adequate environmental data on workplace exposures. Many studies therefore have had to use duration of employment as a measure of exposure rather than any direct measure. This problem has led to no end of controversy about the interpretation of results from these studies and rightly so. Even when attempts are made to estimate past exposures, the estimates are gross and problematic. On the other hand, if one were to accept duration of employment with all its shortcomings, many companies do not maintain records appropriate to such use. This gives special meaning to the somewhat whimsical definition of an epidemiologist as a scientist in search of a denominator. Studies of work related cancer too often must be planned where appropriate records have been maintained rather than where exposure or use circumstances would indicate the need or desirability for evaluation.

"Even in these instances records are a problem. There may be inadequate duration of employment to create sufficiently distinct groups of duration when duration is an indirect measure of dose. There may further be inadequate length of time since exposure to provide enough time for tumors to present themselves." (Wegman, S. 7)

Discussing the data on asbestos, one of the best-studied human carcinogens, Dr. William Nicholson (Mount Sinai School of Medicine) stated:

"In all of these [studies] we have limited dose data. There is scant information on exposures to insulation workers. In 1945, there was one paper published using techniques no longer considered adequate of insulation exposures in naval shipyards. Other than that, the only data which really exists is that obtained in the last eight to ten years. So that to obtain a dose-response relationship for asbestos, one of the most [studied] carcinogens, we are very limited; and for many others the limitation is even greater. In fact, if one looks at the two dozen known human carcinogens, only three or four exist that have data that would allow some estimate of past exposure." (Tr. 1708–1709)

Mr. Richard Waxweiler (NIOSH) stated that another problem is that records of past exposure are often not available:

"Another problem that makes it extremely difficult to do epidemiology in a retrospective sense is that there is—just the fact that we quite often cannot get the records to look at these exposures, to look at who has worked in certain areas in the past. There is no legislation that I know of today that says we have to maintain personnel records on people exposed for the last 30 or 50 years, given in the absence of a recognized hazard." (NIOSH, Tr. 2952)

Specificity of exposure often cannot be determined, as stated by Dr. Bo Holmberg (Swedish NBOSH):

"Epidemiological studies are often difficult to make conclusive with respect to specific agents, because it is seldom possible to isolate a single variable in the study. Humans are exposed to many chemical agents in their work environment and in the general environment. In many cases it is not possible to establish a causal relationship between an excess frequency of cancer and exposure to a single chemical. In those cases one can only define a risk group with reference to specific technological processes, plants, companies, or industrial branches." (Holmberg, S. 8)

In addition, there are the problems associated with job mobility as pointed out by Dr. Francis J. C. Roe (AIHC):

"In a rapidly changing situation, workers tend to be exposed to a particular chemical for no more than a few years before the process or product becomes obsolete or the worker moves to another job. The effects of even a potent carcinogen might therefore be (a) minimised and (b) overlooked. The effects are apt to be overlooked because, in man, a latent period of several years tends to separate start of exposure to a carcinogen and any discernible increase in cancer risk. If during the latent period a worker moves on to other employment, the association between his development of a cancer and his exposure to the agent which contributed to its cause will be more difficult to discern.

"The briefer the period of exposure to a carcinogen the longer the latent period is likely to be and the more unlikely it is that the association will be recognized. Modern technology enables large amounts of particular chemicals or products to be produced by very few people. In these circumstances it might be difficult to recognise the effects of even a relatively potent carcinogen, particularly if the type of cancer hazard involved occurs commonly in unexposed people.

"During his working life-time a worker in, for instance, the chemical or drug industry might be exposed simultaneously or sequentially to many different suspect chemical agents. In these circumstances it might be very difficult to recognise the one agent out of the many that was primarily responsible for increasing the risk of his developing cancer." (Roe, S. 9–10)

The problem of defining exposure has sometimes been dealt with by indirect means—the utilization of job titles to specify exposure groups. But this also results in problems:

"There are many specific problems making occupations difficult to study. Many workers are unaware of the conditions surrounding them or the substances they handle. The latter difficulty often results because a particular agent is known by a trivial chemical or trade name. Many persons change occupations from time to time, and may forget or lose interest in the experiences of former occupations. Further difficulties result because many occupational titles have no specific exposure connotation—a single title may refer to occupations involving exposure to very different substances; equally problematic, a particular exposure may be sustained in occupations with dissimilar titles or duties. The value of occupational titles as an index of exposure is further reduced by their upward social drift, particularly on death certificates. These difficulties are vexing in case-control studies, which are dependent on memory, and in any study that uses titles rather than descriptions of duties or exposures to categorize occupations. Such studies, especially when negative, are not persuasive." (Cole and Goldman, 1975, p. 169; Exhibit to Squire Statement)

Even after obtaining reasonable estimates of exposure, the results of an epidemiologic study are not necessarily relevant to other exposed populations, because of the effects of other, unknown risk factors. As Dr. Hoover (NCI) stated:

"... you would have some sort of estimate of the bounds of the potential risk, but you would also have to realize that that applies only to this kind of population exposed over that period of time. And if the population you were wanting to extrapolate to smoked differently, smoked lower tar cigarettes, higher nicotine cigarettes, ate a different diet, were exposed to a different mix of chemicals in the environment, you may indeed get a different estimate, that it is extrapolatable to people who were exposed in that manner for that duration of time at that level." (Hoover, Tr. 794)

It may be noted that this comment applies specifically to the quantitative extrapolation of risk from one group of workers to another group. The existence of other risk factors would not ordinarily limit the qualitative extrapolation of hazards.

In his written testimony, Dr. Hoover (NCI) illustrated the fact that similar effects on cancer incidence could also be due to different types of exposure:

"A case in point is bladder cancer, the tumor perhaps most closely linked to occupational exposures. It has been estimated that 20% of the bladder cancers that occurred in the Boston metropolitan area at one particular point in time could be attributed to occupational exposures. The same estimate was computed for Leeds, England, and New Orleans, Louisiana at particular points in time. Before one jumps to the conclusion that in general 20% of bladder cancer is occupational, it should be realized that many of the industrial exposures occurring in each of these areas did not occur in the others. For example, in the Boston metropolitan area, very little of the bladder cancer could be attributed to exposures in the organic chemical industry which may be responsible for the higher percentage of occupational induced bladder cancer in Salem County, New Jersey (16,21)." (Hoover, S. 7)

Some known risk factors or confounding variables which may affect the interpretation of an epidemiologic study include:

a. *Socioeconomic status:*

"Finally, a problem results because occupation is so closely related to social class. Indeed, in many studies occupational level—not exposure—is used to designate an individual's social class. Social class, in turn, is a correlate of risk for many cancers, including some for which the association is quite strong. The possible confounding by social class and other characteristics (e.g. race) of an employed group should be evaluated before it is inferred that a causal association exists between the occupational exposure and a cancer. For example, soft-coal miners were reported [8] at increased risk of cancer of the stomach, but when the effects of social class were evaluated [9], the association was much reduced." (Cole and Goldman, 1975, p. 169; Exhibit to Squire Statement)

Associations between cancer incidence and social class were also discussed by Dr. Francis J. C. Roe (AIHC) (S. 12–13). Mr. Richard Peto (Oxford Univ.) also pointed out that errors in reporting cancer incidence result from inadequate autopsy procedure and diagnoses, especially for lower class persons (S. 11–14). Dr. Johannes Clemmesen (Danish Cancer Registry) also referred to social class effects (S. 5).

b. *Age at exposure:*

"Another potentially interesting item, since it could have profound implications for prevention, is the relationship of excess risk to age-at-starting exposure. In one study [12], all the excess risk of bladder cancer among men with occupational exposures was confined to those whose exposure began prior to age 25. If this finding were confirmed, it would have considerable significance. Studies of occupational carcinogenesis are needed to determine the relationship of excess risk to age at first exposure. At least two issues appear involved: First, younger persons might be more susceptible to cancer induction; and second, only persons who are first exposed while young may work long enough to sustain carcinogenic exposures. (The latter explanation did not apply in the bladder cancer study cited.) In either case, the implication is that only persons, say, 40 and over should be placed in the possibly carcinogenic work environments. Yet, on the basis of existing knowledge, we cannot make this recommendation. Several studies [13,14] suggested that elderly persons are actually more susceptible than the young to cancer induction. These relationships should be worked out in detail so that their preventive implications can be exploited. It may be that both the young and the old are susceptible, but that the middle-aged are relatively resistant to carcinogenesis." (Cole and Goldman, 1975, p. 170; Exhibit to Squire Statement)

c. *Smoking history:*

Smoking history should generally be controlled for in epidemiologic studies because of the major influence of smoking on cancer rates at several sites. Dr. Irving Selikoff (Mount Sinai School of Medicine) presented data on the effect that smoking has on the incidence of lung cancer in asbestos insulation workers. From a study population of 17,800 people, 2,066 men did not smoke cigarettes while 9,591 reported that they had a history of cigarette smoking:

"* * * few lung cancers were seen among those with no history of cigarette smoking, only eight. On the other hand, among the 9,500 men with a history of cigarette smoking, there were 325 deaths of lung cancer. The same was true of esophagus, with a significant increase only among those with a history of cigarette smoking.

* * * * *

"We found that among the 2,066 non-cigarette smokers there should have been 1.62

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deaths, the way the statisticians put it, 1.82 deaths of lung cancer. There were eight. In other words, somewhere around four to five times as many. But this is certainly not a major public health problem. You had four times or five times the number of a very small number; and five times nothing is still not very much.

"On the other hand, you had again five times the already high risk of cigarette smoking, so that instead of 67 deaths anticipated, 325 actually occurred, confirming not simply the carcinogenicity of asbestos in terms of lung cancer among those exposed, but also the extraordinary multiple factor etiology.

"Now, what does this mean? Taken with other data that Dr. Nicholson has used, it suggests that this one carcinogen has been responsible for an extraordinary number of deaths and may be anticipated to be responsible for this in coming years, at least for the next thirty to forty years, as a result of our past inadequacies." (Selikoff, Tr. 1699, 1702)

E. Cuyler Hammond in a chapter of *Persons at High Risk of Cancer* also commented on the influence smoking has on the interpretation of epidemiologic data:

"The relationship between cigarette smoking and cancer may be illustrated by a prospective epidemiological study of over one million men and women who were enrolled between October 1, 1959; and March, 1960, and traced through September 30, 1965 [7,8]. The findings are consistent with dozens of other studies conducted by many different investigators in many different countries. Mortality ratios for cancer were computed by dividing the age-standardized death rate of cigarette smokers by the age-standardized death rate of those who never smoked regularly (Table 1). Cigarette smoking increases the risk of lung cancer to a greater degree than any other cancer site. In addition, cigarette smoking (as well as pipe and cigar smoking) multiplies the risk of cancer of the buccal cavity (lip, mouth, and tongue) and pharynx by a factor of about three to ten depending upon the type and amount of smoking. It is hard to estimate the mortality ratio with any precision because the rate in nonsmoking men in the United States is very low. As shown in several studies, heavy drinking of alcoholic beverages increases the risk of mouth and throat cancer even further in smokers [9].

"Furthermore, cigarette smoking greatly increases the risk of cancers of the larynx and esophagus. Again the rarity of these cancers in non-smoking American men makes it difficult to estimate the exact degree of risk in terms of mortality ratios. Smoking also multiplies the risk of bladder cancer, particularly among men under the age of 65. This finding has been confirmed by many studies and appears beyond dispute.

"The increased risk of cancer of the pancreas in cigarette smokers is supported by histologic evidence. Atypical changes have been observed in the nuclei of pancreatic duct cells among smokers coming to autopsy, with the extent of such changes increasing with the amount of smoking [10]. The relation of smoking to cancer at other sites is less definitely established. In several studies, for example, deaths ascribed to liver cancer have occurred more frequently in cigarette smokers than nonsmokers [1]. However, in many cases, there is considerable doubt as to whether the liver was the primary site of cancer. The association may be due to lung cancer with liver metastases being mistakenly reported as primary liver cancer. This subject is worth further investigation." (Hammond, 1975, p. 182; Exhibit to Squire Statement)

d, Errors in reporting.

Dr. Douglass Lloyd (Connecticut Dep't. of Health) pointed out the limited reliability of death certificates:

"* * * it depends on how the death certificates are filled out. The death certificates may list everything from heart failure for someone who had an underlying neoplastic process which resulted in pulmonary obstruction and led to a respiratory cardiac failure. I do not think you can say that if there is no higher incidence it necessarily rules out a carcinogen having an effect on the population you are looking at compared to the general population." (Lloyd, Tr. 8020; see also Peto, Tr. 2543)

This factor, as well as others, may act to bias or distort the data and thus result in problems in evaluation.

e. Problems in identifying weak associations.

A recent review of epidemiologic studies relevant to evaluating the risks posed by saccharin, conducted by the National Academy of Sciences' Committee for a Study on Saccharin and Food Safety Policy, provided a synopsis of the factors that can complicate the interpretation of studies which are designed to detect weak associations.

"Three types of epidemiologic studies are reported in this chapter: time-trend studies, prospective studies, and retrospective case-control studies. All three studies were designed to determine whether there is a higher probability (or risk) of bladder cancer with exposure to saccharin than in its absence. The methods and results of these studies illustrate the difficulties that are encountered with epidemiologic data.

"First, many of the studies were originally conducted for purposes that are unrelated to the present goal of determining the association, if any, of saccharin use with bladder cancer or other health effects. These studies rarely have detailed information on saccharin consumption because their purpose was to investigate other factors associated with bladder cancer such as cigarette smoking or coffee drinking.

"*Second, investigations of this relationship are designed to detect a strong association if it exists, but they may include too few study subjects to measure a weak one.* Since the number of persons using saccharin is so great, even weak associations are important in predicting risks to health.

"Finally, with the most competent design and with adequate numbers of subjects to identify weak associations, an investigator will often be unable to distinguish the expected association from the confounding effect of some other factor. Such variables can be excluded by appropriate study design when the factors are known in advance. Since unknown factors cannot be formally excluded, it is ultimately a matter of judgment whether an association that persists after ruling out all known confounding factors should be accepted as causal. *If the persisting association is strong, e.g., a tenfold or greater increase in a disease risk, it is difficult to defend the position that an unsuspected factor may be responsible. However, if the persisting association is weak, e.g., less then a twofold increase, such an unsuspected variable may indeed be responsible.* Cigarette smoking or hazardous occupations may be variables that confound low-level associations between saccharin use and the occurrence of bladder cancer. Ultimately, a weak association may be demonstrated by intervention studies, clinical trials, or prophylactic trials. There have been no intervention studies of saccharin. Consequently, the interpretation of any results must be judgmental at present."

* * * * *

"The relationship between saccharin and disease risk has been examined mostly through case-control studies of bladder cancer (Howe *et al.*, 1977; Kessler, 1976; Kessler and Clark, 1978; Morgan and Jain, 1974; Simon *et al.*, 1975; Wynder and Goldsmith, 1977). The exception is the above-mentioned study of spontaneous abortion (Kline *et al.*, 1978). In all of these studies, the saccharin exposure information has been obtained by questionnaires with known shortcomings such as biased response due to differential recall and interviewer bias in the assessment of exposure."

"Assuming that saccharin is a carcinogen of low potency in humans and that it produces a risk as low as that suggested by Howe *et al.* (1977), the numbers of bladder cancer cases studied have been too small (Kessler, 1976; Simon *et al.*, 1975; Wynder and Goldsmith, 1977) to demonstrate a statistically significant difference. Furthermore, the cases were often matched with controls but matching was ignored in the analysis (Kessler, 1976; Simon *et al.*, 1975; Wynder and Goldsmith, 1977). This may result in an underestimate of the actual risk."

"Since the respondents' medical status could be easily distinguished (or was known by the questioner), the possibility of interviewer bias exists in all retrospective questionnaire studies without an independent assessment of exposure. For example, the interviewer may have tried to "coax the desired response" from the cases with more enthusiasm than he or she portrayed to the controls. This criticism can be made of any study that is built on personal interviews and has been mentioned by the FDA/NCI Interagency Saccharin Working Group (USDHEW, 1977) in a critical review of Kessler's study (Kessler, 1976; Kessler and Clark, 1978)."

* * * * *

"Synergy should be addressed (Hicks and Chowaniec, 1977; USDHEW 1977) when considering multiple exposures among saccharin users. Such exposures are likely to include cigarette smoking, coffee drinking, and a history of hazardous occupational exposure."

"Latent times for malignancy are commonly measured in decades, and periods of 30 to 40 years may be required for the total effect of any carcinogen to become apparent in humans. A common problem of all the studies on humans to date is that the major increase in use of saccharin may be too recent for its carcinogenic effects, if present, to be manifest." (NAS, 1978, pp. 3–80–81, 3–89, 3–92, emphases added)

Other confounding factors discussed in this Committee report—selection bias, recall bias, coffee consumption, medical history, social status and type of water supply—are less likely to be significant in occupational studies than in the case-control studies reviewed by the Committee. In any case, such biases and confounding factors are only likely to be important when relative risks are small—i.e. when the survey shows only a weak correlation with exposure to a substance, or no association at all. The important point made by the Committee is that *these confounding factors and biases are unlikely to negate a study which shows a strong positive result.* Thus, there is a crucial difference between the interpretation of positive and negative studies: studies that show no association, or only a weak positive association, need scrupulous review to exclude the possibility of confounding factors, whereas studies that show a strong positive association can be accepted even if the possibility of minor biases cannot be excluded. This point was also made directly by Dr. Hoover (NCI) (S. 11).

API also presented an informative summary of problems involved in evaluating epidemiologic studies, especially in the occupational situation.

"The methodological features of epidemiological studies of the workplace and cancer are reviewed in Table I. The important parameters include the type and "strength" of exposure, age at initial exposure, latency or the frequency distribution of the interval from first exposure to the initial diagnosis of disease, duration of exposure, intensity of exposure and its variability over the cumulating person-years at risk and the spectrum of morbidity and mortality. In addition to the methodological issues summarized in Table I, there are other interpretive pitfalls in epidemiological research that may confound or obscure precise inferential reasoning.

"Confounding refers to the extraneous influence of factors, other than the measured occupational experience, on the association with the risk of cancer. For example, social class is closely linked with occupational status, and may be more directly associated with the risk of developing or dying from various types of cancer. Social class factors may be linked with personal habits, aspects of life style that include patterns of nutrition and non-occupational environmental factors, and access to and utilization of medical care services. The observed increased risk of cancer may arise from mixed chemical and physical exposures or the interaction of occupational and non-occupational factors.

"The observations emanating from epidemiological studies may be suspect because of lack of accurate exposure data and limited or incomplete follow-up from the onset of some remote exposure, even if it was of short duration. In the studies that depend upon recall, the workers may be unaware of the identity of the substances that they have handled. Routine records rarely satisfy the needs of epidemiological research, but rather what may be needed is the development of a standardized comprehensive occupational health information system with prospective monitoring throughout a defined work force. Job titles may not connote a specific exposure, or the same title may encompass a multitude of possible toxic agents that are likely to produce a variety of effects. Each individual worker may have moved through a number of different jobs even within the same manufacturing industry. The task is to attempt to group the various jobs into homogeneous categories of exposure." (Schottenfeld *et al.*, 1978, p. 0; Hearing Exhibit 219)

Table I—*Methodological Features of Occupational Studies*

[From Schottenfeld et al. 1978]

Issue	Commentary
"1. 'Signal' cancer	Suspect an occupational agent when cancers of uncommon site or histology appear in space-time clusters, particularly when some cases are diagnosed under age 60 years (e.g. mesothelioma, pleura and peritoneum (asbestos) angiosarcoma, liver (vinyl chloride monomer) adenocarcinoma, nasal cavity and paranasal sinuses (isopropyl oil, chromium, nickel, woodworkers in furniture industry, boot and shoe workers) squamous carcinoma, scrotum (soot, lubricating oils) oat cell carcinoma, lung (Bis chloromethyl ether, chloromethyl methyl ether) acute leukemia including erythroleukemia (benzene, rubber workers) osteogenic sarcoma (radium watch dial painters)).
"2. Interval since onset of exposure	The latent period between first exposure and onset of disease may vary between 5–40 years. The calculation of latency or the median interval of time of onset of disease, and the approximate confidence limits about the median, should be corrected for the spontaneous incidence of cancer, particularly for the more common types of cancer and for relative risks less than 4.0. Factors that may influence latency include the type and strength of exposure, age at first exposure, interaction with mixed or multiple chemical exposures (including cigarettes) and individual (host) factors. The instantaneous risk of disease or death may not be constant over time and, therefore, a life table analysis may be more appropriate than cumulating person-years of experience, irrespective of the time since first exposure.
"3. Dose-response relationship	Unfortunately crudest retrospective dose data are often not available. The dose-rate may have varied over time, therefore duration of exposure may not be equivalent among workers unless interval exposure levels, duration and age are considered concomitantly. There are methods to summarize linear and nonlinear components of the dose-response relationship.
"4. Synergism:	Is the risk associated with a particular exposure additive or multiplicative (interactive) with known causes of the disease? Examples of interactions between known causes of the same disease are few in the epidemiologic studies of occupational carcinogenesis (e.g., cigarette smoking in asbestos workers or uranium miners). Further research is needed on this important issue, for example, with respect to cigarette smoking and known occupational causes of lung and lower urinary tract cancers. Demonstration of synergism has important implications for industrial hygiene, selective screening and counseling of individual workers.
"5. Why not use the general population as the only control group in a cohort study?	Although most cohort studies of occupational mortality use the general population as a standard for deriving the expected number of deaths, pre-employment selection ("healthy worker" bias) affects the comparative experience. Age-standardized mortality ratios (SMR) [The standardized mortality ratio (SMR) has been widely used in occupational studies for the evaluation of overall and cause-specific mortality. It is derived from the ratio of observed number of deaths to those expected based upon the age, sex, race, geographic area, calendar period, cause-specific mortality of a standard population. An SMR of less than 100 indicates that for the aggregate of person-years there were fewer deaths than expected, while an SMR above 100 implies the opposite. The SMR, which is distinctive from a summary estimate of relative risk, has been evaluated critically in recent years.] in general are 60 to 90 percent of the standard in the working population. The selection factors are particularly in evidence when reviewing mortality due to cardiovascular, chronic respiratory and infectious diseases, but less striking for malignant neoplasms. The effect is higher in the employed blacks. A suggested remedy is to develop reference working populations from other published cohorts of workers, a 10 percent sample of social security recipients (Longitudinal Employer—Employee Data File), and/or internal comparisons within the study cohort stratified by degree of exposure, age, sex, race, geographic area of residence and tobacco smoking history." (From Schottenfeld *et al.*, 1978; Hearing Exhibit 219)

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Another witness for API, Dr. Peter Goldman, (Harvard Univ.) placed strong emphasis on the insensitivity of epidemiological studies:

"Our concern increases when we consider the insensitivity of our methods for identifying an association between a chemical exposure and human cancer. Generally this association has only been made when an increased incidence of a tumor of an unusual type was noted or when an unusual clustering of a common tumor occurred in a particular population. Unless specific epidemiological information is available for analysis and there is reason to suspect a particular result, even a moderate increase in a common tumor may escape detection.

"It would also be worrisome to rely exclusively on truly prospective epidemiological studies because there is often a latent period of several years between the time of exposure and the development of clinical cancer. Thus relying on an early warning system based on the appearance of a few human cases could mean that the signal indicating a need to modify exposure could come too late to protect a large population already exposed.

"Detection of human cancers by epidemiological surveillance is further hampered by the mobility of the American work force. Thus even if traditional epidemiological methods are applied in an improved manner they, considered alone, may still not offer satisfactory protection against cancer that may be caused by occupational exposure." (Goldman, S. 3–4)

A final limitation of epidemiologic studies is that for most chemical substances and industrial processes, relevant data are lacking simply because such studies have not yet been conducted. Dr. David Rall (Director, NIEHS) commented upon this deficiency, citing a review by Tomatis, *et al.* (1977):

"In the first place, [the estimates of the fraction of cancers caused by occupational factors] are based only upon the *known* examples of occupational carcinogens. As other witnesses who are specialists in cancer epidemiology have pointed out, definitive epidemiological studies are very difficult to carrry out (because of the long latent periods for development of cancer, among other factors). Even in occupational settings only the stronger carcinogenic agents are likely to be detected. More important, only a limited number of occupational exposures have ever been investigated for carcinogenic risk. Attached as Appendix G to this statement is a paper by L. Tomatis *et al.*, describing the program of the International Agency for Research on Cancer (IARC) in which monographs are prepared and published on potential carcinogens. In the first 16 volumes of the monographs, 368 substances have been evaluated. The chemicals were selected on the basis of two criteria: (a) that there was evidence of human exposure and (b) that there was some evidence of carcinogenicity in experimental animals and/or of a human risk. Among the 368 substances were included 173 industrial chemicals, 5 industrial processes, and 2 industrial by-products; occupational exposure can be inferred for at least 336 substances (90%). Twenty-six chemicals or industrial processes were identified as associated with an excess carcinogenic risk to man (Table II in Appendix G) and for a further 221, some evidence of carcinogenicity in one or more animal species was found. For the majority of these 221 chemicals evidence of human exposure exists but no evaluation of the carcinogenic risk to man was made, either because no epidemiological studies or case reports were found (205 compounds), or because the results were inconclusive (16 compounds). For the remaining 121 chemicals, the available studies were inadequate to make an evaluation of the presence or absence of a carcinogenic effect (pp. 9–10 of Appendix G). Thus, of the 368 compounds reviewed in the IARC monographs, less than 8% had received adequate investigation to judge whether or not they have carcinogenic effects in humans. This is a grossly inadequate basis on which to assess the percentage of human cancers 'caused' by occupational exposure." (Rall, S. 3–4)

Dr. Irving Kessler (Johns Hopkins Univ.) made a similar point and added that studies conducted to date with occupational groups have been deficient in quality as well as quantity:

"In fact, there have been relatively few controlled epidemiological studies of occupational groups. Rather, the large majority of human studies have been conducted upon hospitalized patients with and without a given disease. Only in the last few years, with the emergence of interest in occupational health hazards, have occupational studies been undertaken by epidemiologists. With a few exceptions, most of these could not, until recently, have been classified as well designed and controlled epidemiological studies. This is an emerging and very important field where methodologic approaches are still being developed." (Kessler, S. 9)

5. Criteria for Evaluating Positive Epidemiologic Studies

A number of participants and exhibits discussed criteria or guidelines for the establishment of a causative relationship between exposure to an agent and increased incidence of cancer. For example, the International Agency for Research on Cancer (IARC) presented the following criteria in the most recent revision of the preamble to its Monograph series:

"An analytical study that shows a positive association between an agent and a cancer may be interpreted as implying causality to a greater or lesser extent, if the following criteria are met:

(1) There is no identifiable positive bias.

(By positive bias is meant the operation of factors in study design or execution which lead erroneously to a more strongly positive association between an agent and disease than in fact exists. Examples of positive bias include, in case-control studies, more nearly complete ascertainment of exposure to the agent in cases than in controls and, in cohort studies, more nearly complete detection of cancer in individuals exposed to the agent than in individuals not exposed).

(2) The possibility of positive confounding has been considered.

(By 'positive confounding' is meant a situation in which the association between an agent and a disease is rendered more strongly positive than it truly is as a result of an association between that agent and another agent which either causes or prevents the disease. An example of positive confounding is the positive association between coffee consumption and lung cancer, which results from their joint association with cigarette smoking).

(3) The association is unlikely to be due to chance alone.

(4) The association is strong.

(5) There is a dose-response relationship.

"In some instances a single epidemiological study may be strongly indicative of a cause-effect relationship, however, the most convincing evidence of causality comes when several independent studies done under different circumstances result in 'positive' findings." (IARC, 1978, Vol. 17, p. 18).

IARC does not usually consider case reports or descriptive epidemiologic studies to be sufficient in themselves to establish a causal association:

"Evidence of carcindgenicity in humans can be derived from three types of study, the first two of which usually provide only suggestive evidence: (1) reports concerning individual cancer patients (case reports), including a history of exposure to the supposed carcinogenic agent; (2) descriptive epidemiological studies in which the incidence of cancer in populations is found to vary (spatially or temporally) with exposure to the agent; and (3) analytical epidemiological studies (e.g., case-control or cohort studies) in which individual exposure to the agent is found to be associated with an increased risk of cancer." (Ibid, p. 18)

Nevertheless, OSHA notes that IARC considers that case reports and descriptive epidemiologic studies may provide at least "suggestive evidence".

The NCAB Subcommittee on Environmental Carcinogenesis summarized the types of evidence that suggest a positive association:

"Types of evidence suggesting that an agent is carcinogenic in humans include: neoplastic response directly related to exposure (both duration and dose); incidence and mortality differences related to occupational exposure; incidence and mortality differences between geographic regions related to different exposure rather than genetic differences and/or altered incidence in migrant populations; time trends in incidence or mortality related to either the introduction or removal of a specific agent from the environment; case-control studies; and the results of retrospective-prospective and prospective studies of the consequences of human exposures. Clinical case reports may also provide early warning of a potential carcinogen." (NCAB Report, 1977, p. 462; Exhibit B to Weinstein Statement)

The Temporary Committee for the Review of Data on Carcinogenicity of Cyclamate set the following criteria for judging epidemiologic data:

"The carcinogenicity of cyclamate in humans must be established on adequate evidence that exposure to it alone, or in combination with one or more other chemicals, increases the risk of malignant neoplasms in humans to levels higher than in a comparable cohort not exposed (or exposed at a lower dose) to cyclamate.

"Some of the acceptable evidence includes: response directly related to exposure (both duration and dose); incidence and mortality differences between countries or other geographic areas; altered incidence in migrant populations; time trends in incidence (including lowering incidence when specific agents are removed from the environment); and prospective studies of the consequences of exposure. The absence of such evidence, however, does not establish the safety of cyclamate due to the insensitivity inherent in population-based epidemiologic studies." (Temporary Committee for the Review of Data on Carcinogenicity of Cyclamate, 1976, p. 3; Appendix 2 to Griesemer Statement)

From these quotations one can see that the crucial point is the establishment of the causal link between exposure and effect, revealed in higher incidence of cancer as compared to those not exposed. However, none of these expert committees specified any rigid criteria for the evaluation of evidence.

Both E.I. DuPont De Nemours and Company and AIHC submitted the same proposed criteria for evaluation of positive epidemiological data:

"*Criteria.*" A substance shall be classified as a known human carcinogen on the basis of valid epidemiological data or other valid human data. Such data should be evaluated in light of:

"1. The magnitude of the association between exposure and excessive age-standardized risk (as measured by relative risk analysis or Standard Mortality Rate) and the statistical confidence limits.

"2. The size of a study population and the number of cases of cancer.

"3. The specificity of the type and site of cancer.

"4. Confirmation, or lack of confirmation, by other independent studies.

"5. The suitability of the control group used for the confirmation of excessive risk, particularly the extent to which exposed and control groups are similar in respects other than exposure to the suspect agent, e.g., ethnic, socio-economic, dietary, exposure to other chemicals, use of tobacco.

"6. Whether there is evidence of a dose-response relationship.

"7. Whether the observed carcinogenic effect is likely to be direct or indirect, e.g., explicable in terms of a biological mechanism which is irrelevant to the occupational exposure.

"8. Whether well-documented individual case reports or studies show that the substance in question has in fact, or with a high degree of probability, caused cancer in humans, even though the number of cases is too small to apply epidemiologic or statistical tests." (AIHC Alternative Proposal, pp. 61–62; DuPont Recommended Alternative (Appendix A), pp. 45–47)

Dr. J. V. LeBlanc (Phillips Petroleum) proposed the following criteria:

"Category I human epidemiologic evaluations should include as a minimum either a single prospective study including medical histories, air monitoring data for the specific chemical substances in question, lifestyle information, such as smoking, alcohol consumption, and dietary information, or two retrospective evaluations with two of the following items different in each study: (a) the time interval of exposure, (b) the principal investigator, or (c) the plant or industrial site evaluated. Retrospective studies should include detailed medical histories and air monitoring data for the specific chemical substance in question. A ten year work history is necessary for all epidemiologic studies." (LeBlanc, S. 4–5)

Dr. Robert Snyder cited (S. 14) A. B. Hill's "Rules of Evidence of Cause and Effect Relationship" as a guideline for evaluating positive epidemiologic data:

"1. Strength of association.

"2. Consistency (reproducibility in time and space).

"3. Specificity (uniqueness in quality or quantity).

"4. Temporality (congruous sequence in time).

"5. Biological gradient (proportionality between exposure and outcome).

"6. Plausibility (biological possibility).

"7. Coherence (biological compatibility).

"8. Experimental verification (biological modeling).

"9. Analogy (biological extrapolation)."

(Hill, 1965: for full discussion see Lilienfeld *et al.*, 1967, pp. 91–99)

Hooker Chemical Co. proposed an elaborate scoring system to express in numerical form the adequacy of epidemiologic studies and the applicability of these results. The factors to be considered were listed in an "Evaluation Checklist":

"1. Specificity of site.

"2. Effect direct or indirect.

"3. Suitability of control group.

"4. Size of study population.

"5. Sensitivity of study.

"6. Potency." (Hooker, S. 35)

API proposed the following set of criteria as part of a "minimum" number of steps to be followed in evaluating epidemiologic studies:

"D. Determinations of carcinogenicity should be based on appropriate weighting and consideration of all pertinent scientific studies including negative as well as positive studies. Given the present state of knowledge, we believe the following steps should be considered at a minimum:

"1. Sound epidemiological studies, whether negative or positive should be accorded the appropriate weight in identifying confirmed human carcinogens. The following criteria should be used in evaluating human data on carcinogenicity:

"a. The specificity of the type and site of cancer.

"b. The size of the study population and the number of cases of cancer.

"c. The statistical validity of the exposed population size.

"d. The suitability of the control group used for the confirmation of excessive risk, particularly the extent to which exposed and to which control groups are similar, in respects other than exposure to the suspect agent—e.g., ethnic, socio-economic, dietary, exposure to other chemicals, use of tobacco.

"e. The magnitude of the association between the number of persons exposed and the excessive number of cases of cancer when compared to a group at standardized risk and the statistical confidence limits of association.

"f. Whether well-documented case reports or studies show that the substance in question has with a high degree of probability, caused cancer in humans, even though the number of cases is too small to apply epidemiologic or statistical tests.

"g. Confirmation, or lack of confirmation, by other independent studies.

"h. The possible role of host factors such as congenital and genetic diseases, immune deficiency diseases, acquired diseases and multiple primary neoplasms.

"i. The possible contribution of other environmental factors such as tobacco, alcohol, radiation, drugs, diet, air and water pollution, and viruses and other microbes.

"j. Whether there is evidence of a dose-response relationship.

"k. Whether the observed carcinogenic effect is likely to be direct or indirect—i.e.,

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explicable in terms of a biological mechanism which is irrelevant to exposure to the suspect substance." (API, 1978, pp. A3–A4; Hearing Exhibit 77)

In contrast to this, one of API's own exhibits emphasized strongly that the evaluation of positive studies is primarily a matter of judgment rather than rigid use of specific criteria:

"The conduct of each epidemiologic study requires some judgment about whether an association is of causal significance. The Surgeon General's report on Smoking and Health concludes an introductory discussion of judgment and causal inference with the following:

" 'The causal significance of an association is a matter of judgment which goes beyond any statement of statistical probability.'

"The criteria most appropriate for evaluating an association are consistency, strength, temporal relationship, coherence and specificity. The criterion of consistency is analogous to experimental replication, but may also rest on the demonstration that diverse investigative approaches produce similar results. The strength of an association may be expressed in terms of relative risk ('risk ratio', 'odds ratio') and population attributable risk ('etiologic fraction'). Coherence embraces the criterion of biologic plausibility, although it should not discourage the consideration of unorthodox, innovative hypotheses. The temporal criterion requires that the presumed cause must always precede the observed effect, whereas the criterion of specificity implies that there is a predictive pattern of effect(s) likely to occur with frequency greater than random chance if the antecedent event or complex of events were of causal significance." (Schottenfeld *et al.*, 1978, pp. 5–6; Hearing Exhibit 219)

AIHC proposed lengthy guidelines for evaluation and use of occupational epidemiologic cancer studies.

"The following guidelines are intended to describe major factors in assessing the strengths and limitations of epidemiologic studies, the use of which in turn will assure maximum and appropriate utilization of valid human data. The guidelines are not intended as a check list for accepting or rejecting a study. All data on human exposure to a substance should be considered in attempting to reach a judgment on the human health risks from occupational exposure. Although studies that satisfy all of these guidelines should receive greatest attention, studies that do not should receive attention commensurate with their strengths and weaknesses. There is no substitute for the evaluation of individual studies by highly qualified experts, such as the Data Evaluation and Classification Panel recommended in the AIHC Alternative." (AIHC Post-hearing Brief, App. D, p. 1; Hearing Exhibit 251)

AIHC proceeded to list and discuss a number of features of an epidemiologic study which should be taken into account:

"I. Description of Study Features
A. Population Characteristics
1. Study Population
2. Comparison Population
3. Sampling Procedure and Sample Size
4. Observation Period
B. Exposure Characteristics
1. Occupational Exposure Under Study
2. Confounding Variables
C. Health Effect
D. Procedures
E. Case Presentations
II. Analytic Method
A. Data Presentation
B. Data Analysis
III. Evaluation & Results and Their Interpretation
A. Hypothesis Testing
B. Limitations
C. Bias
D. Power"
(AIHC Post-hearing Brief, pp. D1–D10, headings only)

AIHC then gave the following general criteria for accepting a positive result:

"A study is classically considered to be 'positive' (show an effect) when the upper confidence limit of the frequency in the comparison population falls below the lower confidence limit of the frequency in the study population and this difference is not explained by the study's limitations, biases, or confounding variables." (*ibid.*, p. D10)

OSHA recognizes that many factors complicate the conduct and evaluation of epidemiologic studies, and that "false positive" results may sometimes be obtained in poorly designed or poorly conducted studies. However, on review of the evidence in the Record, OSHA concludes that it would be unjustified and inappropriate to adopt any rigid set of criteria for the acceptance of positive epidemiologic studies. As the above discussion indicates, the major participants in this proceeding, although listing many "criteria" for the evaluation of studies, in fact recommended the use of expert judgment in interpreting these criteria, rather than any rigid sets of rules. The factors which are common to the above lists of criteria are in fact factors of well-known importance in epidemiology, which would be taken into account by any competent scientist or group of experts evaluating a study. On the other hand, some of the factors included in the above lists could not be adopted as required criteria because they would result in improper and unjustifiable delays in acceptance of clearly positive results. For example, Phillips Petroleum's proposed requirement for either a 10-year prospective study or two 10-year retrospective studies would result in unreasonable delays in regulation of chemicals for which good positive data exist. In fact, some of the long lists of criteria and factors to be considered in evaluating studies that were presented in the Record would serve little purpose except to delay or prevent the acceptance of studies that would meet the general standards of informed professional epidemiologists. OSHA notes in particular that a widely quoted textbook gives a much less restrictive criterion for acceptance of causative relationships:

"We therefore recognize that a causal relationship exists whenever there is evidence that possible etiological factors form part of the complex of circumstances which increases the probability of developing a cancer, and that in its diminution or absence the frequency of the cancer is diminished (Lilienfeld et al., 1967, p. 87)."

The key to the reasonable interpretation of positive epidemiologic studies, as AIHC and others pointed out, is thus the exercise of good scientific judgment. This concept is inherent in OSHA's use of the word "causes" in its definition of "potential occupational carcinogen" (see Saffiotti, S. 6–8). Thus OSHA intends to apply good scientific judgment in the interpretation of epidemiologic data. OSHA will consider the factors as those enunciated by Lilienfeld *et al.*, IARC and AIHC, rather than follow, by rote, any rigid set of rules, in the evaluation of the data for any given substances. To do otherwise would be to reject the arguments of all parties that OSHA should exercise scientific judgment in the determination of whether the data are or are not sufficient. OSHA is aware of its responsibility to "assure the safety and health of American workers", and repeats its intention to take regulatory action whenever there is reasonable evidence that a risk exists:

"The basis for these criteria initiating a Category I classification are predicated upon the discussions above and here. First, despite the inherent limitations of epidemiological studies in humans, where such studies indicate positive results, even where there is a small cohort of workers, OSHA believes that exposure to such a substance gives rise to great concern. Thus, the proposed set of regulations provides that such evidence in humans at least presumptively initiates a Category I classification, unless the evidence is "only suggestive" in which case the evidence initiates the Category II classification. It is only where the human evidence is "totally inadequate" that OSHA will classify the toxic substance as a Category III Toxic Substance."

OSHA believes that responsible public regulation in matters concerning human health requires no less action or caution. (42 FR 54170)

6. Alleged "Non-Positive" Studies and Criteria for Their Acceptance

a. General arguments for the validity of "non-positive" studies.

Perhaps the most vigorously debated issue relating to human studies was whether OSHA was correct in proposing that "in general", positive animal data should supersede "non-positive" human data. Many participants claimed that this position was scientifically unsound and that in fact, for a number of substances, "non-positive" epidemiological studies existed and should be given greater weight than positive animal studies. In addition to the general objections quoted above from AIHC, Reserve Mining, AISI, and Dr. Clemmesen, several parties addressed specifically the validity of "non-positive" data. For example, Ethyl Corporation, citing Dr. Irving Kessler (John Hopkins Univ.), argued as follows:

"In its categorization scheme for carcinogens, OSHA proposes to use only positive human epidemiological data. Although OSHA is correct that a number of factors can limit the significance of negative human epidemiological studies, none of these factors justify [*sic*] disregarding such studies entirely. As Dr. Kessler notes, the "notion that negative findings in epidemiological studies are to be ignored as worthless is not only unscientific and illogical but counterproductive in the search for reasonable methods to protect man from environmental hazards." (Kessler, S. 6) "For, if substantial and consistant negative findings are to be ignored, by what logic then should substantial and significant positive findings be accepted?" (Ethyl Corp. Post-hearing Brief, p. 63; Hearing Exhibit 232)

Dr. Alonzo Lawrence (Koppers) stated that:

"It would appear that OSHA's principal concern in the future will focus on the health effects of existing chemicals. In such matters, it would appear that human epidemiological evidence, particularly negative findings with regard to cancer induction, should be regarded as valuable information and considered more fully in the regulatory process.

"In fact, the requirement for industrial hygiene monitoring and medical examinations in all existing and proposed occupational health standards are de facto recognition of the importance of prospective epidemiological information in the practice of occupational health and regulatory activities." (Tr. 7778)

Dr. Carl Dernahl (Union Carbide) stated:

"If four or five or ten cancers in 100 animals can result in a judgment that a material is a carcinogen, what justification is there for refusing to accept human data covering a span of several decades and involving several hundred to perhaps a few thousand people when data shows no carcinogenic relationship?". . .

"In the last analysis, valid epidemiologic observations related to experience of people should be given primary evidentiary weight in making judgments of potential harm to people, rather than complete reliance on rats, mice or a strain of bacteria." (Tr. 6597–6598)

Dr. Philippe Shubik (Eppley Institute, Univ. of Nebraska) offered the following comments on OSHA's preamble discussion of Human Studies:

"This section is devoted, with reason, to the complexities of the epidemiological method. However, it is again too extreme and totally rules out the use of negative epidemiological intelligence under any circumstances. This is counter to common sense and to recently expressed scientific viewpoints." (Shubik, S. 12)

Pittsburgh Plate Glass commented as follows:

"Epidemiological evidence has been the primary basis for issuance of standards for suspect human carcinogens. This should remain unchanged. . . . Much valuable information can be obtained from properly conducted epidemiological studies. If epidemiological studies are used to identify potential risk or cancer association, then they should also form the basis as evidence of minimal or no risk of cancer from the actual exposures that occurred in workplace environment." (PPG, S. 14)

The Soap and Detergent Association also objected to OSHA's proposal that positive animal data should supersede "non-positive" data:

"We believe that the weight to be assigned to epidemiological data should be placed in proper perspective. Where sufficient epidemiological data is available it should be given greatest weight in characterizing risk. Thus, even where appropriate animal data documents potential risk, epidemiological data should be given great weight in the *choice* of any regulatory response." (SDA, S. 6, emphasis in original).

Drs. Robert Snyder and Anthony Triolo (AISI) made the following statement:

"Perhaps the more significant failing of the OSHA proposal is the outright refusal to recognize that negative results in a human epidemiological study should, at least in some cases, outweigh a demonstration of carcinogenicity in animals. Thus, negative human data should outweigh positive (though weak or limited) animal results if the epidemiological study was carefully structured, based on data that is known with a high degree of confidence and shows results that unambiguously demonstrate the absence of cancer induction. Where the negative human data is the result of a less optimal study, it need not necessarily outweigh positive animal data. Admittedly, there may be few instances in which convincing negative human epidemiological results will exist for a substance that has produced positive results in animals. Nevertheless, the fact remains that human data is clearly the most relevant data in assessing the cancer risk in humans, and it cannot be emphasized too strongly that a thorough evaluation of any human epidemiological data is an absolute requirement regardless of how persuasive the animal data appears to be." (Snyder and Triolo, S. 14–15, footnote omitted)

Reserve Mining Co., like other participants, argued that the fact that epidemiologic studies can give reliable positive results means that weight should be placed on negative results:

"The value and validity of human epidemiological evidence cannot be as easily cast aside as OSHA appears to prefer. Indeed, while citing and quoting the views of Cole and Goldman (42 FR 54155), OSHA overlooks the significance of what these authors state:

"Existing epidemiological methods are adequate for demonstrating carcinogenic hazards in the work environment even when the excess risk is rather small and the disease in question is relatively common in the general population. However, this capacity for recognition depends on the actual occurrence of disease and, by itself, has [no] preventive or control value. Ideally, we should prevent occupational cancers from occurring; failing that, we should strive to eliminate [a] fatal outcome in cases that do occur. Technical and epidemiologic approaches are likely to be useful both in the area of prevention and mortality reduction." (Cole and Goldman, in Fraumeni, Persons at High Risk of Cancer, National Cancer Institute, 1975, at p. 177, emphasis supplied)." (Reserve Mining, S. 14)

b. Nature and limitations of "non-positive" studies

The above comments, and others in the Record, reflect a fairly widely-held opinion that some weight should be placed on "non-positive" results of epidemiological studies. However, as shown in detail below, other witnesses argued strongly that "negative" or "non-positive" results have many uncertainties and cannot be given any weight. In view of the importance of this issue, OSHA has reviewed and analyzed the Record carefully and in detail in this and the following section of the preamble. Initially, OSHA draws attention to three major deficiencies in the testimony presented in support of

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the use of negative epidemiologic studies.

1. Very few of the participants made any note of or distinction between the qualitative and quantitative use and interpretations of "negative" or "non-positive" studies. In principle, it is impossible to prove a negative with any study of a finite size. An epidemiologic study, like any other screening test, is an instrument of limited sensitivity. Thus, however well a study may be carried out, the most that can be concluded reliably is that it failed to show an effect within the limit of sensitivity imposed by the study design. This point was concisely expressed in the report of the NCAB Subcommittee on Environmental Carcinogenesis:

"Negative epidemiological data may not establish the safety of suspect materials. Negative data on a given agent obtained from extensive epidemiological studies of sufficient duration are useful for indicating upper limits for the rate at which a specific type of exposure to that agent could affect the incidence and/or mortality of specific human cancer" (NCAB Report, 1977, p. 462).

However, most of the witnesses who quoted this paragraph in support of the use of "negative" epidemiologic data failed to make this fundamental distinction between the qualitative identification of a hazard to humans and the quantitative assessment of the risk. Indeed, after careful review of the comments on this issue, OSHA has found only a handful of comments which specifically proposed the use of "negative" epidemiologic data "for indicating upper limits for the rate at which a specific type of exposure to that agent could affect the incidence and/or mortality of specific human cancers." These specific proposals, which have a substantial conceptual and theoretical basis, will be discussed in the next section (B.7 below). Here we review the less specific arguments that "non-positive" human studies should offset, outweigh or supersede positive results in animal tests insofar as the qualitative identification of a carcinogen is concerned. We note at the outset the opinion of the NCAB Subcommittee that "Negative epidemiological data may not establish the safety of suspect materials."

2. A second deficiency is that few witnesses recognized that reliable results showing no risk are *inherently* more difficult to establish than positive results in epidemiology. As pointed out in Section 4 above, the presence of small confounding factors is of little consequence when a large excess risk is observed, but may be of major consequence if the study reveals only a small excess risk, or no excess risk at all (see the report of the NAS Committee for a study of Saccharin and Food Safety Policy, quoted above). For example, if a ten-fold excess cancer frequency is observed, a minor source of bias or confounding factor is of much less consequence than if the cancer frequency is only 1.5 times that in the control group. The same comments apply to sample size: a large excess risk can be identified in a small group of workers, whereas many thousands of workers must be studied to establish that relative risks are less than 2.0.

3. A third point is that many witnesses argued for the use of negative epidemiologic data as though they were to be considered in isolation. In fact, under this regulation, substances will be considered for regulation as Category I potential carcinogens only when there is evidence that is more than suggestive of their carcinogenic activity, either in animals or in humans. Thus, the issue is not whether non-positive epidemiologic data should be given weight, but whether such data should be given *sufficient weight to outweigh positive evidence, which often may be very strong indeed.*

In addition, most of the participants failed to recognize the severe limitations of "non-positive" epidemiologic data. Even the definition of a "negative" epidemiologic study proved difficult: those who attempted to define a "negative" study merely defined it as a non-positive study:

"A negative epidemiologic study would be one that fails to find an association between, say, the variable under consideration, that is, the exposure to a substance, and subsequent development of disease or excess mortality . . . Or you could say fails to find the association between independent and dependent variables, if you want to be more generic." (Morgan, AIHC, Tr. 3673)

Dr. Mitchell Zavon (NACA) stated:

"I would define negative epidemiological data simply as a properly done epidemiological study which did not come up with evidence of associative relationship between an exposure to a substance and some aberrant physiologic response, whether this be development of malignancy or more commonly, other effects." (Zavon, Tr. 5416)

However, this term is not one that is usually used in the field, as Dr. Zavon pointed out:

". . . I would simply say that at the limit of our measurements, we were unable to detect any effect, and that I would call, if you wished, a negative epidemiological study. I would not ordinarily use that term. I would simply say that the epidemiologic study did not indicate any positive correlation." (Zavon, Tr. 5417)

In addition to the general comments quoted in the previous section about the insensitivity of epidemiologic studies and the difficulty of conducting them in an unbiased way, a large number of comments were made about the specific limitations of "negative" studies.

Dr. David Rall (Director, NIEHS) and Dr. Marvin Schneiderman (NCI) introduced the report of the National Academy of Sciences' Safe Drinking Water Committee, whose conclusions on the value of epidemiologic studies relative to that of animal carcinogenicity studies were as follows:

"Studies in laboratory animals must be used to predict the safety of environmental chemicals. Human epidemiological studies cannot be used to predict nor assure safety, for several reasons:

"1. Epidemiology cannot tell what effects a material will have until after humans have been exposed. One must not conduct what might be hazardous experiments on man.

"2. If exposure has been ubiquitous, it may be impossible to assess the effects of a material, because there is no unexposed control group. Statistics of morbidity obtained before use of a new material can sometimes be useful, but when latent periods are variable and times of introduction and removal of materials overlap, historical data on chronic effects are usually unsatisfactory.

"3. It is usually difficult to determine doses in human exposures.

"4. Usually, it is hard to identify small changes in common effects, which may nonetheless be important if the population is large.

"5. Interactions in a "nature-designed" experiment usually cannot be controlled." (NAS, 1977a, p. 28; Appendix I to Rall Statement)

In the report *Cancer Testing Technology and Saccharin,* the Advisory Panel reviewing the negative epidemiologic data made the following comments:

". . . negative epidemiological studies are far more difficult to interpret. Humans are usually exposed to carcinogens in doses far smaller than are used in animal experiments. The effects are consequently less frequent, and the number of people whose experience needs to be judged to detect the cancer effect is much greater.

"Lack of certainty as to the validity of the data on exposure in case-control studies is a further reason for reservations in interpreting negative findings. Only a portion of the population uses saccharin, and the use of statistics from the total population may dilute any association that exists among the users—perhaps to the point of making it unobservable." (OTA, 1977, p. 27, Exhibit C to Weinstein Statement)

In a paper presented to the New York Academy of Sciences, Drs. Schneiderman, DeCoufle, and Brown of NCI presented the following criticisms of some so-called "negative" occupational epidemiologic studies:

"However because of limitations in study design (including documentation of true

exposure), analysis, and interpretation of results, we believe these studies do not conclusively demonstrate that these materials are 'safe' even within the particular group under study.

"The deficiencies inherent in these studies can be classified broadly into two categories. One is the inappropriateness or inadequacy of the study group, i.e.,

"1. the exposure was not really present in the environment or, if it was, there was no uptake by the 'exposed' persons (e.g., non-respirable sized material);

"2. the exposure was of such short duration because of high turnover rates in the industry or was at such a low level that, coupled with a small study group, demonstration of an effect, i.e., a signal above the background noise, would be very difficult

* * * * * *

"The second set of problems is more statistical. Specific troubles include:

"1. Invalid population-at-risk. For example, looking only at currently employed workers, as in the DuPont study of cancer incidence. Cancer incidence and mortality appeared low because the study was cross-sectional rather than longitudinal, i.e., it was a 'snapshot' rather than a cumulative observation of a fixed population over time.

"2. Incomplete enumeration of health outcomes (e.g., deaths) in the study group.

"3. Incorrect cause-of-death classification (e.g., Pinto's smelter workers, some of whose deaths were charged to pneumonia (the immediate cause) rather than the lung cancer which led to the pneumonia).

"4. Inappropriate comparison group (e.g., comparing one high risk group to another high risk group or comparing a low-dose sub-cohort to the entire cohort in which high doses are dominant).

"5. Starting with a study group whose average age at entry to study is very young and, when coupled with the length of follow-up, results in an inadequate number of person years at older ages where chronic diseases are most prevalent.

"6. Inadequate number of person-years at risk of dying.

"7. Latency phenomenon not considered either in determining the length of the follow-up period or, if follow-up interval was adequate, analysis did not subdivide risk estimator by latency intervals (e.g. over entire period of observation there may be little or no effect observed when all latency intervals are combined but when split into sub-intervals, an elevated risk ratio may appear only after 20 or 30 years since first exposure).

"A general problem that exists for epidemiological studies attempting to relate exposure to a material (dose) and health outcome characterized by a long period of clinical latency (effect) is the measure of dose. Problems with dose estimation arise in several ways.

"1. Estimation of the levels to which individual study group members were exposed in the past often involves making 'guesstimates' about historical conditions. One wonders how realistic it is to build dose-response curves from the past for determining thresholds when currently there are serious problems about how to measure levels of various contaminants. It is possible to have such a wide choice in making dose estimates for human populations that contradictory conclusions can be reached from independent epidemiologic studies for the same populations.

"2. The model of how the disease comes about, which we need when relating dose to response, especially when the dose is changing during the followup period is not obvious." (Schneiderman *et al.*, 1978, pp. 19–21; Appendix D to Schneiderman Post-hearing Comments)

API presented a paper which, while claiming that epidemiologic studies may identify the "absence of risk", recognized that such studies have limitations:

"Properly designed epidemiological studies may serve to identify the absence of risk. The validity of any inference about minimal or no risk may be determined by the adequacy of exposure and follow-up information. The ability to detect significant differences in risk will depend in part upon a statistically adequate sample that will enable the determination of differences in risk if they do indeed exist. However, a limitation of the epidemiologic method may be its insensitivity to measure, in retrospect, single or complex low-level chemical exposures that give rise to small increases in risk. In addition, because of the long latency period, the orientation is post-hoc and not predictive or applicable to those chemicals that are now being introduced." (Schottenfeld et al., 1978, p. 7; Hearing Exhibit 219)

This passage unequivocally claims that negative studies "may serve to identify the absence of risk." However, other witnesses pointed out that the insensitivity of epidemiologic studies imposes an upper limit on the magnitude of effects that can be detected. As Dr. Richard Bates (NIEHS; FDA) stated:

"Few epidemiological studies of occupational cancer have been of adequate sensitivity to detect anything smaller than a 50% increase in the incidence of cancer over that found in the general population. Weakly carcinogenic agents, that is those capable of inducing cancer only if the most highly susceptible individuals at the level to which the worker population is exposed, would not be detected by most studies." (Bates, S. 7)

His opinion was shared by many other witnesses:

"Well, I think I referred to the tremendous difficulty of obtaining such negative data. Firstly, we do not have the population large enough to achieve negative data that would have a statistical power that would be useful in human circumstances. We can only say that something is perhaps not producing five times as much of this cancer as one might expect, and negative data of that order is not really adequate to protect workers." (Nicholson, Tr. 1756)

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"Well, they are insensitive. I do not think—it is not worthless to do epidemiological studies. I think they are very worthwhile to do for a variety of reasons, and I think we ought to put more effort into this, but negative data in such an insensitive test frankly is not worth very much for making a decision, a regulatory decision." (Harris, Tr. 2017)

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". . . human epidemiology studies are very limited in sensitivity, that the only thing one can hope to detect using that method are very potent carcinogens.

"I mean, that tends to be generally true, is that you can only detect high incidence of cancer, and that is of course, because of the background rate that we all have to deal with, the 25 percent incidence already in people." (McCann, Tr. 1588)

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"In the weak carcinogen area you can demonstrate perhaps animal positive results and probably cannot demonstrate comparable human results." (Lawrence, Tr. 7785)

Dr. Irving Kessler (Johns Hopkins Univ.) agreed that epidemiologic studies are insensitive, but did not consider that the small risks that could not be detected would be of concern:

"One of the weaknesses of epidemiological studies is—human epidemiological studies, noted—is that they cannot dectect low level risks. I think technically—and I will use that word a lot during my presentation—technically, that is correct. Epidemiological studies of the kind, of the magnitude normally done on hundreds or a few thousand patients cannot detect increased risks at the level of one percent or one-tenth of a percent or a hundredth of a percent; however, it is my contention that such risks, given the enormous variability that exists among people anyway, and in the conditions of any study done under any circumstances, given this enormous built-in variability, what does a risk of one percent, a tenth of a percent or a hundredth of a percent mean?

"To me it means an abstraction; a statistical abstraction having no biological reality whatsoever." (Kessler, Tr. 6875)

Further discussion of the problem of quantitative estimation of the upper limits on risk consistent with the results of "non-positive" studies is given in the next section.

Dr. Irving Selikoff (Mount Sinai School of Medicine) gave an extremely important and informative example of the insensitivity of the epidemiologic method:

"I think that Dr. Nicholson's mention before of the asbestos related cancer of the lung in non-smoking asbestos workers teaches us a great deal. We looked at a fairly good-sized group in New York City of the 370 men. These were all more than 20 years from onset because they were the survivors of the original 1943 cohort, and yet, by 1967 we did not see a single case of lung cancer among the non-smokers. Now, if asbestos did not cause mesothelioma and if there were no cigarette smoking among us, I would not be able to tell you if asbestos is a carcinogen or not. It was not until we followed 2000 people

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for 10 (more) years that we were able to find eight cases against 1.62 expected. It took a great deal of work to get this basic epidemiological data, and if studies are not done with that duration and at that size, then all you can say is you did not look. And unfortunately, we do not often have the opportunity of looking. And there are many reasons for this but that is another question." (Selikoff, Tr. 1757)

Another aspect of the insensitivity of the epidemiologic method is the long latency period between exposure and effects; failure to follow-up on study groups for sufficiently long time periods would lead to a "false negative" result. Mr. Richard Peto (Oxford University) commented on this point:

". . . if in theory you have observed 50,000 people for a period of about 40 years, and you can distinguish well between those who are exposed and those who are not exposed, then you can start making statements. And particularly the problems arise because counts of risks for quite important carcinogens may be negligible for even decades of continued exposure. It may be that 40 years continued exposure is extremely dangerous, but that 15 years of continued exposure confers what is a negligible risk until further time has elapsed." (Peto, Tr. 2542) (see also Drinking Water and Health, NAS, 1977a, p. 51)

As Mr. Peto (S. 28–31) and Dr. Matthew Meselson (Harvard Univ.) pointed out, one cannot expect that the high dosed workers would necessarily show a reduced latency period;

"So I believe that there is no basis whatever for assuming that the age distribution would be changed by the dose. So that if you give a little bit of a carcinogen and you find that the age distribution is a certain one—let's say that half of the tumors are in people 50 and lower and whatever—that if you give more of the carcinogen it will still be true that half of the induced tumors are in people in that age group and lower, that age distribution will not change unless, of course, you give so much that you begin wiping out the oldsters so there are no oldsters to contribute to that category.

"Anyway, that is what we have to assume, I believe. I think there is pretty widespread agreement that that is what we have to assume; that the time dependence follows that Weibull equation, and if you assume that then the problem with human epidemiologic studies of short duration is that they are so exceedingly insensitive because of that factor." (Meselson, Tr. 1535–1536)

The long latency period also results in difficulties in defining the nature of the exposure:

"Two more difficulties affect virtually all studies of occupational carcinogenesis. Most cancers probably have an "incubation" period of 20 years or more. In industrialized countries, technologic advances and changing needs are such that many industries evolve rapidly. As they do, new jobs and exposures come into being and others cease to exist. Thus, a given study might uncover a carcinogenic exposure that has already ceased. At the same time, the more recent replacement exposure cannot be evaluated because the requisite incubation period has not elapsed." (Cole and Goldman 1975; p. 169; Exhibit to Squire Statement)

However, even if these problems with latency and duration of exposure are resolved, Dr. Umberto Saffiotti (NCI) pointed out that due to the uniqueness of exposure situations, it would be impossible to extrapolate safety for all workers exposed to a substance from a single negative study:

"In discussing human studies it is important to stress that occupational epidemiology seldom provides results of sufficient extent and accuracy to guarantee adequate negative evidence and to establish that the usage of a substance is safe in the face of positive experimental findings. Interindividual variability, previous or concurrent histories of other occupational or environmental exposures, special conditions of exposures (e.g., during pregnancy) may interfere in the extrapolation of such apparently negative observations from one occupational group to another."(Saffiotti, S. 29)

Dr. Richard Bates (NIEHS; FDA) concurred:

"So the best that we can say with a "negative" human epidemiologic study is under the conditions of exposure of this particular group of people—that is, whatever level of exposure they have had for whatever period of time they have had—this number of people did not have an increase in cancer incidence great enough to be statistically identified." (Bates, Tr. 623)

Another factor which affects the sensitivity of an epidemiologic study is the size of the study group. According to Dr. William Nicholson (Mount Sinai School of Medicine):

"We do not have the population large enough to achieve negative data that would have a statistical power that would be useful in human circumstances. We can only say that something is perhaps not producing five times as much of this cancer as one might expect, and negative data of that order is not really adequate to protect workers. I think the prudent course is to go with the animal data in the absence of what would be substantive negative data." (Nicholson Tr. 1756)

Many negative studies are suspect because not all sites of possible cancer induction have been analyzed, as Dr. John Berg (Colorado Regional Cancer Center) demonstrated in his discussion on Saccharin:

"What is fallacious about much of the discussion about saccharin is that its safety is said to be proven if it can be demonstrated that there is no excess risk of *bladder* cancer. Most chemical carcinogens show target organ specificity and produce cancer in only one or two tissues when fed or injected into a particular animal strain. This is because most chemicals have to be activated and changed to an ultimate carcinogen before they are dangerous. Different compounds require different sets of enzymes for activation. These enzyme sets exist in different tissues. Their location in the animal varies from species to species . . . A study is not negative unless *all* cancer risks are shown to be low enough to be acceptable.": (Berg, S. 23–24).

The unpredictability of the organ specificity of a carcinogen in humans was demonstrated by the work of Hammond and Selikoff on asbestos workers:

"We also looked at all other sites. Dr. Hammond analyzed expected and observed rates for all sites of cancer, indeed, for all diseases. We found a significant excess, statistically significant, for cancer of the larynx, cancer of oral pharynx and cancer of the kidney, with roughtly two to three times as many as expected.

"However, even knowing and having proven in human circumstances that this agent was a human carcinogen, we found that this did not hold for a number of other sites. In other words, we could not predict even based on human experience, that something was going to be a carcinogen for this or that other tissue.

"At post-mortem, for example, asbestos workers tend to have much asbestos, many fibers, in the liver. They get there through the bloodstream. Yet, there was no excess of liver cancer. We found an excess of cancer of the kidney; we did not find an excess of cancer of the bladder, where there were nine or ten expected, and only eight observed. There was no excess of leukemia and lymphoma, there was no excess of cancer of the skin, pancreas, et cetera. In other words you just simply were unable to predict, not merely from animal experiments, but even from human information, you could not predict entirely in this regard." (Selikoff, Tr. 1695–1696)

Problems like those listed above have led some scientists, like Mr. Peto (Peto, Tr. 2542) or Dr. Renate Kimbrough (CDC) (Tr. 1776–1777) to state that they have never encountered a good non-positive epidemiologic study, in the sense that it would demonstrate the safety of a substance (See also Drs. Upton (Upton, Tr. 318) and Yodaiken (Yodaiken, Tr. 2943)). Dr. Kessler (Johns Hopkins Univ.) suggested that these weaknesses are simply an invitation for the conduct of better epidemiologic studies (Kessler, Tr. 6877). Although better epidemiologic studies are indeed needed, the issue before OSHA in this proceeding is the protection of workers today, not the identification of carcinogens by the use of human data tomorrow. The evidence quoted above indicates that epidemiologic studies can only detect effects within the limits of sensitivity of the experimental design. Most studies have been of insufficient sensitivity to provide convincing evidence that carcinogenic risk is substantially lower than that indicated by presumptive positive evidence derived from other sources. At the least, "non-positive" studies would have to meet extremely strict standards before weight could be placed on them in opposition to positive evidence in humans or experimental animals. Because of the possibility that such strict standards however may be met and the need for scientific flexibility, OSHA has provided for consideration of such studies in the qualitative determination of a hazard, if strict threshold standards of proof are met, as discussed below.

c. Criteria for Evaluation of "Non-positive" Epidemiologic Studies

Several witnesses were asked to suggest criteria for evaluating epidemiologicai evidence, especially so-called "non-positive" studies. Many witnesses emphasized the primary importance of exercising professional judgment, especially in the face of conflicting animal data. As Dr. Robert Olson (St. Louis Univ.) stated:

"What I am saying is that one has to start with animal experimentation, which may be a very important red flag about a given compound, would indicate its potential for carcinogenesis in a given species under given conditions and then go from there. But when one puts into juxtaposition a lot of negative clinical information and a few positive animal tests in one species—and that applies to saccharin, to TCE, to DDT—then one has a problem that requires judgment by experts and not rote procedures." (Olson, Tr. 3234)

In fact, Dr. John Thorpe (API) suggested that, rather than establish criteria at all, OSHA should rely on the judgment of "a compètent epidemiologist" in conjunction with other scientists who would be able to determine the quality of any epidemiologic data submitted for purposes of regulation (Tr. 4582).

Dr. Robert Morgan (Univ. of Toronto) believed that the use of criteria and of scientific judgment should be applied after calculation of statistical significance is made:

"Let me say that I do not think it is the job of the epidemiologist to set an arbitrary figure at which you will believe there is an association or lack of an association. The job of the epidemiologist is to find out what the relative risk is, and give you some confidence limits. So I say that that kind of decision, then is not the epidemiologist's.

"A point that has not come out, really, is that there is no such thing as proof, and the acceptance or rejection of a hypothesis is really a subjective phenomenon based as much as possible on objective data, and that when we do statistical testing to test our hypothesis, supposedly, we are setting some arbitrary limits. And then we say if it comes in one way we will believe it; we may believe it if it comes in the other way . . ."

* * * * *

"One of the criteria you have to build in as to whether to include the study in your weighting of positive and negative studies, is does the study make sense. There are far more problems in the design of the study and the data collection than there are in the statistical tests."

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". . . you can have some a priori criteria, but you will still, I suspect, reach a point where you must look at the study very carefully, and say what else other than those specified in the criteria might have gone on here?" (Morgan, Tr. 3678–3680)

One thing that makes the setting of criteria more difficult is that, as Mr. Richard Waxweiler (NIOSH) said:

"There is no one acceptable protocol that I know of for epidemiological studies." (Waxweiler, Tr. 2880)

The International Agency for Research on Cancer (IARC) proposed general guidelines for the evaluation of "negative" studies, while recognizing that such studies provide severely limited information:

"Analytical epidemiological studies that show no association between an agent and a cancer ('negative' studies) should be interpreted according to criteria analogous to those listed above: (1) There is no identifiable negative bias. (2) The possibility of negative confounding has been considered. (3) The possible effects of misclassification of exposure or outcome have been considered.

"In addition, it must be recognized that in any study there are confidence limits around the estimate of association or relative risk. In a study regarded as 'negative', the upper confidence limit may indicate a relative risk substantially greater than unity; in that case, the study excludes only relative risks that are above this upper limit. This usually means that a 'negative' study must be large to be convincing. Confidence in a 'negative' result is increased when several independent studies carried out under different circumstances are in agreement.

"Finally, a 'negative' study may be considered to be relevant only to dose levels within or below the range of those observed in the study and is pertinent only if sufficient time has elapsed since first human exposure to the agent. Experience with human cancers of known etiology suggests that the period from first exposure to a chemical carcinogen to development of clinically observed cancer is usually measured in decades and may be in excess of 30 years." (IARC, 1978, Vol. 17, pp. 19)

As discussed earlier, the NCAB Subcommittee on Environmental Carcinogenesis similarly specified that non-positive studies primarily serve to place upper limits on possible risks. The Subcommittee did not specify criteria for evaluation of such studies, except to emphasize that the studies should be "extensive" and "of sufficient duration." (NCAB Report, 1977, p. 462).

General considerations as to the development of standards for epidemiologic studies brought up the point that non-positive studies are more difficult to evaluate, and thus more stringent criteria should be laid down for non-positive than for positive studies:

". . . the advantage of a positive study is that you may be able to find an associated risk because of a high exposure level. But if you have a low exposure level, you may not be able to prove that there is not a risk. So that your epidemiology can operate positively with confidence at an earlier stage or with less available criteria, less of the criteria being met than would be the case for a negative study." (Wegman, Tr. 1682–1683)

Dr. Robert Hoover (NCI) voiced a feeling shared by several other scientists that non-positive studies are usually not even acceptable:

"I do not think you can ever apply a set of standards that would say a negative epidemiologic study or study that shows no risk supervenes a study which says that this agent is a carcinogen. And I referred to that in my testomony.

It is kind of a general principle of science that you cannot prove a negative. You can only fail to identify the positive, and usually a good, positive study supervenes a negative study.

Put on top of that the problem that epidemiology has of not really being able to go down to 10 percent excess risk, 5 percent excess risk. You can almost never, therefore, demonstrate something is not a carcinogen using epidemiologic methodology." (Hoover, Tr. 792)

Although there was general agreement that specific, rigid criteria could not be formulated, many witnesses offered suggestions as to factors important in the evaluation of non-positive epidemiologic studies.

The main points raised were these:

(1) The size of population sample under study is related to the sensitivity of the test, as a large study population is necessary to detect evidence of "weak" carcinogenicity (Olson, Tr. 3235–3236). Sufficient numbers are necessary to set fairly narrow confidence limits, which depend on what the background cancer rate is for the site under study (Berg, Tr. 1677–1678). Dr. David Rall (Director, NIEHS) suggested that a non-positive study would be more convincing if it were set up with sufficient numbers so that a 5 to 10% excess risk could be detected (Tr. 454). However, Dr. Robert Hoover (NCI) stated that:

". . . the lowest relative risk that I am aware of that is generally accepted by most epidemiologists as observable in an exposed group and attributable to that exposure is the

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30 to 40 percent excess risk of childhood leukemia in kids who were exposed in utero in the last trimester, . . . so that is a relative risk of 1.3. So a relative risk of 1.04 is essentially non-detectable by an epidemiological study, at least non-detectable and attributable to causality". (Hoover, Tr. 789–790)

These comments were addressed fairly specifically to the quantitative problem of calculating upper limits on risk. By extension, these arguments indicate that only a study of infinite size could demonstrate that there is no risk whatsover. Indeed, Dr. Hoover pointed out that relative risks below 1.04 are not in practice detectable.

It is also essential to include in the study population a representative group of people, as one cannot extrapolate similar risks or lack thereof between sexes, races, etc. (Berg, Tr. 1678). And as several witnesses have agreed, appropriate control groups are necessary (similar to the study group in basic demographic characteristics and other factors such as smoking patterns).

(2) The characteristics of the study group's exposure to the substance in question are important. Dr. John Berg (Colorado Regional Cancer Center) said:

". . . you have to have some idea of the dose that the people are exposed to if you are going to try to attribute the risk to a specific compound.

"Sometimes you may not be able to do this and still find it important to show that there is a risk in a setting. But in general, the aim should be to attribute the risk to something specific, and for that you need the dose." (Berg, Tr. 1677)

Dr. David Wegman (Harvard Univ.) concurred:

"One thing that you need to have is adequate exposure period. It is not adequate to have one year of exposure and Dr. Berg refers in his testimony to the difference between 30 year's exposure in one individual and one year's exposure in 30 individuals, which in our epidemiological way of analyzing, comes out to the same number of person-years, 30, but is very different in terms of what you are likely to find from the two studies if they were elaborated into larger numbers.

"So you need an adequate number of years of exposure, depending on the level of exposure, and I cannot give you a specific guideline except to say that is one of the criteria that has to be evaluated. And the other one is that unless the exposures are very high, that you have to have a reasonable range of exposure in the study population or it will be difficult to distinguish excesses, particularly since it is difficult to come up with good comparison populations; it is better to use—or particularly advantageous to use internal controls at different exposure levels, as indicated by, for example, Dr. Lloyd's study of the coke oven workers where he was able to, by reasonably crude distinctions of exposure levels, identify differential risks associated with exposures.

"So I think you need adequate exposure and a range of exposure within those studies". (Wegman, Tr. 1679–1680)

He pointed out that such data are expecially important in evaluating negative studies based on retrospective data, but are usually not available:

". . . I have yet to see and would be surprised to see adequate, historically collected exposure data to provide us with sufficient evaluation of exposure retrospectively; that is, looking back in time to exposures that have already occurred, to predict that we could come up with, starting today on old data, a negative epidemiologic study that could rule out an association between a given exposure and a risk of cancer that is related to that exposure, because the exposure data is not there." (Wegman, Tr. 1681–1682)

Dr. Umberto Saffiotti (NCI) stated that it is necessary not only to identify the exposure groups but also to define the conditions of their exposure (Saffiotti, Tr. 970). However, this information is rarely available and is often difficult to estimate decades after the fact (Berg, Tr. 1678). Length of employment, although often used as an indirect measurement of exposure, is rarely satisfactory. The only witness who proposed a specific minimum exposure requirement was Dr. Robert Olson (St. Louis Univ.):

"I would say a significant human experience is exposure to a chemical over 20 years, for the purposes of this hearing." (Olson, Tr. 3274)

(3) The length of follow-up of the exposed groups was another widely-discussed issue. Different minimum periods of follow-up have been proposed:

"Negative studies have utility if they are adequate studies, and adequate studies, I think, requires very strict definition. Cancer, as you know, can take up to thirty years to develop after exposure, after even a single exposure. So as a very first criterion you have got to have a study that lasts thirty years". (Rall, Tr. 365)

* * * * *

"Some of the work that I have done with Phil Cole again indicates that that means around 40 to 50 years. So you are in the position of to identify that 30 percent excess with some sort of—with the usual statistical assumptions of statistical significance and ability not to miss an association that is really there, you would have to follow close to 15,000 exposed people and close to 15,000 controls or comparison individuals for 50 years, just to eliminate the influence of chance." (Hoover, Tr. 794)

* * * * *

". . . negative epidemiologic data with follow-ups of less than 10 or 15 years are not very useful." (Albert, Tr. 2382)

Dr. Irving Selikoff (Mt. Sinai School of Medicine), referring to studies with asbestos workers, stated:

"We found, for example, that among those less than 15 years from onset of exposure there was very little excess cancer, and there was not a single case of mesothelioma. It was only at 20, 25, 30, 35 years after onset of work that the excess became significant. For example, at 10 to 14 years from onset there was not, as I say, a single mesothelioma. Yet, at 30 years from onset, nine percent of all deaths were due to mesothelioma. There were no cancers of the lung at all in less than ten years from onset of their work, yet at 30 years from onset of their work, one-third of all deaths were due to lung cancer. In other words, the long latent period is striking and is a constraint on all studies of occupational cancers among humans. It must be taken into account.

"If you do not have the opportunity of assessing the mortality experience 30, 35, 40 years from onset, well, withhold any judgment, because that is when for many carcinogens this is found." (Selikoff, Tr. 1697)

Dr. John Berg (Colorado Regional Cancer Center) also agreed that "well over 20 years" is necessary:

"In other words, before a study can be accepted as negative, it must provide at least 20 years of follow-up after exposure (30 years is much better) and every individual exposed must be followed whether they remain on the job, go to other jobs or retire. There must be enough people involved that any appreciable excess risk would in fact provide statistically significant numbers of new cancers. All kinds of cancer must be looked for. A representative group must be studied. Then a negative result will be good evidence that no important hazard exists to the exposed worker." (Berg, S. 24–25)

(4) One also has to be alert to bias in follow-up, a frequent problem. Dr. Berg stated:

"The thing that you should be able to take for granted but unfortunately cannot is that you have complete follow-up of the people and not the tendency that one sees in industry studies very often, to keep track only of the people who stay on the job, who are healthy, who are stable in their employment and stay well, these are the only people that one can follow; therefore, this is the evidence we have to use, and ignore the people who have—particularly those, in some cases, who have retired because of poor health." (Berg, Tr. 1678)

Dr. Roy Albert (EPA) concurred, and added that bias is often difficult to detect. When asked what criteria should be used in evaluating non-positive studies, he replied:

"Whether the people that were doing the epidemiologic study had a vested interest in its being negative . . . or positive. The situation has come up both ways, and I think it is particularly difficult, with all due apologies to industry representatives, for a federal agency to take epidemiologic studies that were done in-house, where it is difficult to know whether objectivity was used in selecting the individuals included in the study. (Albert, Tr. 2381)

This problem of bias can be somewhat overcome by requiring corroboration of results (or lack thereof) by other studies differing in design or sources of data:

"Comparison of studies differing in design may best be handled statistically (see Section 5). There is a distinct advantage to having the same substance examined by different methods (e.g. case-control vs. cohort) because unrecognized sources of bias or confounding are less likely to operate through both study designs than in replications of a single design. . . Where data from different populations agree, the diversity of source tends to strengthen the association and, presumably, the willingness to generalize the findings to other, untested populations. Where findings differ, sources of bias and confounding must be carefully examined (see 4.2). If discrepancies cannot be so explained, a statistical approach (see Section 5) may be indicated." (Morgan, 1978, p. 9; Hearing Exhibit 218) (See also Dr. Wegman, S. 9).

(5) Another problem is how to define an adequate comparison group. Studies of occupational groups are often confounded by the "healthy worker effect"—the tendency for persons who are actively working to display lower frequencies of disease (including cancer) than otherwise comparable groups in the general population. Hence if cancer mortality or incidence in a group of workers is compared with the mortality or incidence expected in the general population, the standard mortality ratio (SMR) will usually be less than 100 in the absence of any effect of occupational factors (other than the capacity to work *per se*) on cancer mortality or incidence. If a SMR of 100 is observed, this may be *prima facie* evidence of increased risk. The "healthy worker effect" was discussed by Dr. Bo Holmberg (Swedish National Board on Occupational Safety and Health):

"In some epidemiological studies occupationally exposed groups seem to survive longer than the general population. This so-called "healthy worker effect" (McMichael, 1976) is often due to a selection of the workers' population. When an epidemiological study of occupationally exposed people does not reveal an excess risk of cancer—or even reveals a healthy worker effect—this does not prove a lack of effects. Thus epidemiological studies can give "false negative" results. Accordingly exposure to agents known from experimental studies to be carcinogenic should be regulated, even if there is no direct evidence of an excess risk in exposed workers." (Holmberg, S. 10)

Dr. John Berg (Colorado Regional Cancer Center) also described the biases introduced in studies which ignore the "healthy worker effect":

"The most common ploy however is the "healthy worker" study. In one version of this kind of fallacious negative study, only the deaths of workers who are on the payroll at the time of death are tabulated. Workers who retire from illness as well as from age or who just quit because the job made them sick are ignored since the company (fortunately) has no records on these individuals. Given the physical demands of most exposure-prone occupations, it should not be surprising that on-the-job deaths from slowly debilitating diseases such as cancers are rare even when carcinogenic exposures are intense.

"The study of Laws *et al.* (20), cited as proving DDT harmless is a more blatant example of data misuse. In the plant in question there had been 1,098 employees. Of these, 35 who were currently employed were chosen for study. They had absorbed DDT but were healthy. Nothing was done about tracing employees who did not or could not continue work. No comment is made about deaths among the employees. I submit that finding a few people who do not seem to be affected by a substance is far from proving that there is no cancer risk, even if 19 years was long enough to see a cancer risk (and only a few of the 35 men had exposures that long)." (Berg, S. 22–23)

Thus, at the least, an epidemiologic study of workers exposed to a chemical should include matching to a control group of comparable workers if any weight is to be placed on a non-positive result. If such a procedure is not followed, the "healthy worker effect" would invalidate any study which failed to show an excess cancer incidence over that in the general population. Indeed, as Holmberg implied, even a study in which the SMR for workers was found to be 100 may be *prima facie* evidence of excess risk.

On reviewing the expert testimony cited above, OSHA concludes that it is not possible to establish formal criteria for the evaluation of "non-positive" epidemiological studies, and that none have in fact been put forward. As in the case of positive studies, proper evaluation requires the exercise of good scientific judgment, taking into account the factors discussed above. However, it is possible to specify certain *minimum* levels of statistical validity which a study would have to meet before it would be considered as providing any potentially meaningful evidence of an absence of a hazard or risk. These levels, which are based upon substantial evidence in the Record, are discussed below.

d. Examples of allegedly "non-positive" epidemiologic studies for substances giving positive results in animals

The theoretical problems involved in establishing convincing "negative" results in epidemiologic studies would be of less consequence if there were in fact a body of such studies which meet satisfactory scientific standards. A number of witnesses and participants suggested that such non-positive studies do in fact exist. For example, AIHC argued as follows:

"There are physiological and metabolic differences between rodents and man and substances which may be carcinogenic to animals may not be carcinogenic to man. There is evidence in the record that epidemiology can identify substances shown to be carcinogenic in animal tests which do not present a carcinogenic risk to man at the levels to which man is exposed. Dr. Clemmesen and Dr. McLean referred to phenobarbital (Tr. 3553–3556; 4804–4805). DDT and saccharin were cited by Dr. Olson (Tr. 3226). Dr. Golberg referred to dinitrotoluene (Tr. 6511–6513) and DDT and aldrin/dieldrin were cited by Dr. Van Raalte (Tr. 3556–3558, Ex. 53) and Dr. Astolfi (S. at 3–5). Dr. Murray also referred to his extensive practical experience with a number of substances (S. 4)." (AIHC, Post-hearing Brief, p. 127; hearing Exhibit 251)

A number of other witnesses cited DDT and aldrin/dieldrin as demonstrated to be non-carcinogenic in humans (e.g. Lu, S. 7–8; Kotin, Tr. 8730–8731). Dr. Kotin (Johns-Manville) also cited hepatachlor/chlordane and isoniazid (Kotin, S.9). In addition, he and other witnesses cited fibrous glass (Kotin, Tr. 4927, 8758–8760).

Before examining these claims, it is important to note that there is a long historical record of "false negative" epidemiologic studies of chemicals which have later been shown to be carcinogenic in humans. Schneiderman *et al.*, (1978, Appendix D to Schneiderman Post-hearing Comments, Table 2) summarized some of these "false negative" studies. Listed were three reportedly negative studies for arsenic, one for asbestos, two for benzene, one for coke oven emissions, one for petroleum refinery emissions, and two for vinyl chloride. The discussion by Schneiderman *et al.* of the methodological and other reasons for the erroneous findings has already been quoted above (*ibid.*, p. 19–21). In addition, there are other examples of false negative results in the Record, of which the most notable was that of Dr. Irving Selikoff (Mount Sinai School of Medicine), who found no excess incidence of lung cancer in non-smoking asbestos workers for 30 years after exposure. This result was cited by several witnesses at this hearing as evidence that asbestos caused lung cancer only in smokers (Weinstein, S. 7). However after 5 more years' follow-up this result proved to be a false negative (Selikoff, Tr. 1757).

With this warning that non-positive results should be evaluated critically

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and with methodological rigor, OSHA has examined the specific claims quoted above.

(1) *DDT*

A number of witnesses who argued that DDT had been shown to be non-carcinogenic cited evidence which is totally unacceptable, even as descriptive epidemiology. Several witnesses argued that liver cancer mortality has been declining in the United States since DDT was first introduced (see, e.g., Lu, S. 8, citing Deichmann and MacDonald 1977). In fact, as discussed above and elaborated upon below, there is no obvious reason why it should be assumed that DDT should act in the liver in humans, rather than at other sites such as the lung or lymphatic system at which it induces excess tumor incidence in mice. In any case, trends in liver cancer have not been uniform. Liver cancer mortality has increased steadily in blacks, especially in black males (Cutler and Devesa 1973). Liver cancer incidence has increased markedly in Connecticut (NAS 1977b, Appendix 10d to Epstein Statement). Dr. Robert Olson (St. Louis Univ.) simply stated: "Despite this widespread distribution and human use, these compounds have not been shown to cause cancer in man" (S. 28). Another witness simply inquired informally of "medical directors" of "manufacturing companies":

> "Well, what I did there was again looked at a literature—and that publication really does not mean anything, but then speak with the medical directors or whatever the title may be of large manufacturers of chlorinated hydrocarbon pesticides; a, ask the question, "Are you following this population?" "Yes." "How long have you been manufacturing the material?" "At least two decades." "Have you any evidence of any impact in terms of liver cancer?" (Kotin, Tr. 8730–8731)

OSHA does not believe that it is prudent or scientifically justified to place weight on "epidemiologic" data of this type.

The literature on DDT has been reviewed most recently by NIOSH (1978a) in a publication which included all the references cited by witnesses at the hearing and many others in addition. According to this review:

> "DDT has been shown to be carcinogenic in mice in at least 11 experiments, many of which involved exposure for up to six generations, several dose levels or dosage regimens, or several routes of exposure (Table 4.3.2)"
>
> * * * * *
>
> "DDT is carcinogenic in mice, increasing the incidence of tumors primarily in the liver, but also in the lungs and lymphatic system in some experiments. In one experiment, DDT increased the incidence of liver tumors in mice exposed for their lifetime to only 2 ppm in the diet. Tissue levels of DDT in these mice were comparable to or lower than those reported in several studies of occupationally exposed workers. DDD and DDE are also carcinogenic in mice, causing liver and lung tumors; DDE is more effective than DDT itself. In two experiments with rats, DDT induced liver tumors (or "neoplastic nodules") with a low degree of malignancy. DDD has also been reported to be carcinogenic in rats. Three experiments involving exposure to hamsters to DDT have given negative results for carcinogenicity. DDT also interacts with other carcinogens in mice and rats, increasing the incidence of tumors in some experiments and decreasing it in others." (NIOSH, 1978a, pp. 144, 149)

Epidemiologic studies with DDT are complicated by the fact that most general population exposure is to the metabolite DDE, whereas workers are exposed primarily to DDT and to the other principal metabolite DDD; this complication was ignored by some witnesses who argued that "DDT" had been shown to be safe. Only one medium-term study has been carried out with workers exposed to DDT. This study (Laws et al. 1967) was conducted on 35 men employed for 11–19 years, at exposure levels 5–81 times the average for the general population (NIOSH 1978a, pp. 124–125). This study is "inadequate for determining whether DDT may have carcinogenic or teratogenic effects in humans." (*ibid.*, p. 148; see also criticisms of Berg, S. 22–23).

> "Workers with mean blood residues of 1.0 ppm (equivalent to a daily intake of about 18mg of DDT) showed a significantly higher frequency of chromatid aberrations than less exposed controls."
>
> * * * * *
>
> ". . . Seven studies have been reported in which levels of DDT and DDE in tissues at autopsy have been related to cause of death. In three of these studies, residue levels of DDT and DDE were significantly higher in cancer victims than in persons dying of other causes. No such association was found in the four other studies. Considered in toto, these findings fail to prove or disprove a cause and effect relationship." (NIOSH 1978a, pp. 148, 141)

NIOSH thus regarded the "epidemiologic" studies as inconclusive and made the following recommendation:

> "Based on the demonstrated potential of DDT for inducing tumors in both rats and mice, NIOSH recommends that DDT be controlled and handled in the workplace as a suspected occupational carcinogen and that exposure to DDT be minimized to the greatest extent possible." (*ibid:* p. ix).

(2) *Aldrin/dieldrin*

Essentially the same situation holds for aldrin/dieldrin as for DDT. The literature on aldrin/dieldrin has been reviewed by NIOSH (1978b). Aldrin/dieldrin has been shown to be carcinogenic in mice in 20 experiments, increasing the incidence of lung and liver tumors at low doses. Experiments in rats were regarded by NIOSH as "more equivocal":

> "In rats, aldrin/dieldrin appeared to increase the incidence of tumors at a variety of sites when administered at low dietary concentrations (0.1–30 ppm), but consistently failed do so when administered at higher concentrations (10–150 ppm). The reasons for this apparent reversal in dose-response relationships are not clear." (NIOSH, 1978b, 105–106).

The only "epidemiologic" study is a survey of a group of only 35 workers who had worked with insecticides, including aldrin and dieldrin, for up to 19 years; their exposure was quite modest, ranging up to about 50 times that in the general population. NIOSH concluded:

> "Although a few workers who were exposed to aldrin/dieldrin for up to 19 years have been studied, the available reports are inadequate for determining whether aldrin/dieldrin may have carcinogenic, mutagenic or teratogenic effects in humans. . . .
>
> * * * * *
>
> ". . . NIOSH recommends that these two pesticides be controlled and handled in the workplace as suspected occupational carcinogens and that exposure be minimized to the greatest extent possible. (*ibid*: pp. 105, vi).

(3) *Chlordane/Heptachlor*

Despite the claim that while chlordane and heptachlor may cause cancer in test animals and does not in humans (Kotin, Tr. 8730–8731), OSHA is unaware of any adequate epidemiologic study with either or both of these pesticides. (See NAS 1977b, Exhibit 10d to Epstein statement, pp. 20–23).

(4) *Phenobarbital*

Data on phenobarbital were presented by Dr. Johannes Clemmesen (Danish Cancer Registry) and Dr. A. E. M. McLean (AIHC). The data have also been reviewed by IARC (1977, vol. 13, pp. 157–161; Hearing Exhibit 60).

Phenobarbital has been shown to be carcinogenic in the liver in several experiments with mice (Clemmesen S. 16–18 and refs. therein), and in one experiment induced liver tumors ("neoplastic nodules") in rats (Rossi et al., 1977). It interacts with other carcinogens in the liver of rats, enhancing their effects in some circumstances and decreasing them in others (Clemmesen, S. 14–16 and refs. therein).

Dr. Clemmesen presented the results of his own large-scale study of 8078 epilepsy patients who had been treated with anticonvulsant drugs (originally phenobarbital, but subsequently phenytoin) between 1933 and 1962, followed up to 1972 (Clemmesen, S. 18–20; Clemmesen and Hjalgrim-Jensen, 1977). Three thousand three hundred and forty eight patients were followed for more than 20 years after admission, 2,056 for more than 25 years, and 1,086 for more than 30 years. Excluding brain tumors, which are associated with epilepsy, the only striking result was a highly significant increase in liver cancer (11 observed versus 2.75 expected). Clemmesen attributed this to treatment with Thorotrast, which was verified in 8 of the 11 cases.

Dr. McLean presented the following summary of an unpublished study of epileptics:

> "Phenobarbital and Liver Tumors. Unpublished results of a study on people with epilepsy, S. White and A. McLean, 1978. Mortality in 2,000 patients with sever(e) epilepsy, Chalfont Centre, 1951–1974.

	No. Observed	Expected
"Primary Liver Cancer	0	0.5
Deaths from Epilepsy	185	2.2
Accidental Deaths	54	12.5

> "Most patients were treated with phenobarbital, but these very severe cases were not adequately controlled by the drug, so that a high mortality resulted in spite of treatment. Without treatment mortality would undoubtedly have been much higher.
>
> "The background level of liver cancer is about 0.5 to one case in 100,000 (age standardized mortality). If the risk were increased by a factor of five to one in 20,000 we might still not detect any cases in about ⅓ of our surveys. But this risk is clearly negligible in contrast to the other risks." (McLean, S. 16–17)

There are several problems involved in accepting these studies as evidence for non-carcinogenicity of phenobarbital:

(i) McLean did not give details of the age, duration of treatment, or duration of follow-up of his patients, so its sensitivity cannot be evaluated. As he himself pointed out, it could have missed the 4-fold increase in liver cancer reported by Clemmesen and Hjalgrim-Jensen, even if the patients had been observed as long.

(ii) Although Clemmesen's study is a model of its kind, epileptic patients (who were partially institutionalized and suffer excess mortality from other causes) are not wholly satisfactory as a study group. Clemmesen observed a substantial increase in respiratory cancer (37 observed vs. 20 expected), which should have been examined against smoking habits in an institutionalized population.

(iii) Clemmesen's explaining away of the positive finding of increased liver cancer, exactly the site expected on the basis of animal experimentation, appears to be *post hoc* rationalization, whether warranted or not. It was criticized as follows:

> "Clemmesen did further follow up on these epileptics and found continued excess of respiratory cancers, still a surprise, but not related to the duration of treatment at Filadelfia, thus perhaps not drug related, but only showing the inappropriateness of the measures of "expected" number of cases and an excess of liver cancers, this time statistically significant, and related to duration of treatment (observed as a % of "expected": (less than) 10 yrs. treatment: 153%; (equal to or greater than) 10 yrs: 476%).
>
> "Clemmesen looked at these people still further, and has found that 8 of the 11 patients with liver cancer received Thorotrast, a material that has been associated with liver cancer. To him this is a satisfactory explanation of the dose-response and the statistical significance and he now, neglecting his earlier cautions, asserts that phenobarbitone has proven to be a non-carcinogen in man. I would like to see a consideration of the interaction of phenobarbitone and Thorotrast which this result strongly suggests, a study of thorotrast use in the remainder of the patients, an expectation of liver cancer based on earlier thorotrast experience, and a review of that earlier experience with respect to the use of other interacting drugs (people who were administered Thorotrast usually had rather serious illnesses and it is most reasonable to assume they received other drugs). I find far more unanswered than answered questions in these data.
>
> "To me, converting a statistically significant dose-response effect into *proof* of no effect is a feat in intellectual gymnastics that I must admire, even though I find it hard to accept." (Schneiderman, S. 24)

(iv) Clemmesen's study, if accepted as a negative study of phenobarbital, would also probably be accepted as a negative study of phenytoin, which was given to the patients for at least 20 years. Phenytoin, however, is accepted as a human carcinogen on the basis of other studies (Anthony, 1970; Charlton and Lunsford, 1971; Li *et al.*, 1975; Tomatis, *et al.* 1978).

(v) Subsequent to the hearings, another study with phenobarbital has been published which gave positive results for carcinogenicity (Gold *et al.*, 1978).

Thus Clemmesen's study, despite its relatively large sample size and 35-year follow-up, may prove to be a classical "false negative".

(5) *3,3'-Dichlorobenzidine.*

AIHC (Alternative Proposal, p. 40) cited two studies for the proposition that 3,3'-dichlorobenzidine (DCB) is non-carcinogenic in humans. MacIntyre (1975) surveyed 225 workers thought to have been exposed to DCB in a British plant. Only 12 workers had worked with DCB for more than 15 years, and only 4 for more than 20 years. Only 36 workers had been observed for more than 15 years after first exposure, and only 16 for more than 20 years. No case of bladder cancer was observed. The author commented:

> "It is obvious that the majority have been exposed for less than 16 years which means the latent period may not have been reached for all employees . . . Again the majority were exposed within the last 20 years and so there is still time for tumors to appear." (MacIntyre, 1975, p. 24)

Gerarde and Gerarde (1974) surveyed 207 workers presumed to have been exposed to DCB in a U.S. plant. Only 42 workers had worked with DCB for more than 15 years and only 22 for more than 20 years. One hundred one workers were followed up for periods between 20 and 31 years. Twenty-six workers were lost from the study. Seventeen neoplasms had been reported in the group, but no cases of bladder cancer.

Dr. Robert W. Morgan (Univ. of Toronto) stated that:

> "I would feel reasonably confident that the negative epidemiological studies of this material makes it unlikely that the substance is a human carcinogen." (Morgan, S. 1)

However, he cited an estimate by the statistician who worked on the Gerarde study that there was one chance in ten of missing a relative risk of 3 [presumably for bladder cancer]. In view of the limited periods of exposure and follow-up, OSHA does not regard this as even weak evidence for lack of risk, and it certainly would not outweigh the positive evidence in rats and mice. On the question of the possible magnitude of the risk, Gerarde and Gerarde stated:

> "It is apparent that if DCB is a human bladder carcinogen, it is much less potent than [benzidine] or beta-naphthylamine." (Gerarde and Gerarde, 1974, p. 332)

The basis for this statement is unclear, because no data were presented on the concentrations of DCB to which the employees were exposed (pp. 323–324). Dr. Richard Wilson (Harvard Univ.) attempted to calculate an upper limit for the "potency" of DCB and concluded that the data were consistent with a risk as high as one-tenth that associated with equal exposure to benzidine (Hearing Exhibit 51, Table 1). Thus the fact that excess cancer incidence has not yet been observed in workers exposed to DCB is more likely due to the short periods that have elapsed since exposure, or to the low levels of exposure, rather than to any intrinsic lack of activity or low "potency".

(6) *Isoniazid.*

V 45 / 15 JA 22 80 UMI

V 45 / 15 JA 22 80 UMI

Isoniazid (INH) has been the principal drug used in the treatment of tuberculosis since the early 1950's. It is carcinogenic in mice and positive in short-term tests (Goldman *et al.*, 1977). Several studies of treated patients have been cited in the record for the proposition that it is nevertheless not carcinogenic in humans (Kotin, S. 9; Grasso, S. 9).

Hammond *et al.* (1967) studied 311 patients followed for up to 15 years after initial isoniazid therapy. There was a small excess of cancer in males (9 cases observed versus 4 expected), which the authors did not regard as significant. Glassroth *et al.* (1977a) reported on 25,323 patients treated with isoniazid in 2 controlled prophylactic trials, and followed up for periods of up to 14 years. The authors pointed out the limitations of such a short follow-up period:

"According to these findings, if INH is conducive to specific types of cancer, the period of observation of the 2 prophylaxis populations is long enough to detect a trend for some types of cancer, but may be completely inadequate for others." (Glassroth *et al.*, 1977a, p. 1072)

No significant excess of cancer deaths was found for any site (*ibid.*, p. 1071). However, there was an unexplained difference between patients in "intensive care wards" and "normal wards", with a marked excess of cancer deaths in isoniazid-treated patients among the former (Goldman *et al.*, 1977). Campbell and Guilfoyle (1970) found no excess of lung cancer deaths in a retrospective study of 3,064 Australian veterans surveyed 8–13 years after treatment with isoniazid. Miller *et al.* (1978) conducted a case/control study of 285 cases of bladder cancer and found an association with prior isoniazid treatment in females. Although the relative risk (3.0) was the highest observed for any risk factor considered in the study, it was not statistically significant because of the small number of cases treated with isoniazid. Glassroth *et al.* (1977b) conducted a case-control study of 142 cases of bladder cancer and 48 cases of renal cancer: none of the cases and only 2 controls had been treated with isoniazid. Stott *et al.* (1976) studied 2,606 patients treated with isoniazid and followed up for 16–23 years. There was no clear association between prior isoniazid treatment and deaths from neoplasms of the lung or other sites. However, the study was complicated by an unexplained change in the incidence of neoplasms during the study. Both patients treated with isoniazid and those otherwise treated after 1953 had excess risks (in the range 1.4–1.8 times those expected in the general population). Since the mean period of follow-up was only 19 years, the authors regarded their findings as provisional (Stott *et al.*, 1976, p. 12).

Although these six studies were extensive and well-conducted, their limitation, with one exception, to follow-up periods of 8–15 years makes them of very limited value as evidence for non-carcinogenicity of isoniazid (see quotations above; Goldman *et al.* (1977, pp. 470, 472); Kotin and Chase, Tr. 8730). Even if the short follow-up periods are discounted, there are some suggestive positive findings in at least two of the studies. Moreover, with the exception of the study by Glassroth *et al.* (1977b), all the studies were conducted on treated tuberculosis patients, and are likely to have been complicated by interactions between tuberculosis, lung cancer, and smoking habits (Stott *et al.*, 1976).

(7) *2,4-Dinitrotoluene.*

OSHA is not aware of any epidemiologic studies conducted with 2,4-dinitrotoluene (see Goldberg, Tr. 6513–6514).

(8) *Fibrous glass.*

Studies relevant to assessing potential risks associated with exposure to fibrous glass have been reviewed by NIOSH (1977a). Fibrous glass induces tumors (sarcomas and mesotheliomas) in animals exposed via intrapleural or intraperitoneal implantations. The effects are much greater for long, thin fibers (less than 0.25 μm in diameter and longer than 8 um in length) (Stanton *et al.*, 1978). Unlike asbestos, glass fibers have not been shown to be translocated to the pleura or peritoneum after inhalation. Fibrous glass is less effective in inducing tumors in animals than asbestos.

"Much of the concern about fibrous glass results from certain similarities with asbestos. Both are fibrous materials of varying lengths and diameters. The diameters of glass fibers are generally larger than those of asbestos fibers. Asbestos fibers and fibrils are most often less than 1 μm in diameter. The asbestos fibers tend to fracture longitudinally to form fibrils less than 0.5 μm in diameter. Fibrous glass was found to clear more rapidly than anthophyllite asbestos in a comparative study of single inhalation exposures [59]. Similarities in fibrogenic response between fibrous glass and asbestos have been observed from intratracheal studies in rats but the response was quantitatively less with fibrous glass [64]. Both fibrous glass and asbestos acted quite similarly in the various lesser incidence of tumors." (NIOSH, 1977a, p. 93)

Two studies of workers exposed to fibrous glass have involved sufficiently long follow-up to merit review. Enterline and Henderson (1975) studied 416 workers who had retired after unspecified periods of work with fibrous glass. Workers who had died before age 65 were not considered. Among workers who retired, there was a non-significant increase in "non-malignant diseases of the respiratory system". Bayliss *et al.* (1976) conducted a retrospective cohort analysis of 1448 workers with 5 or more years' exposure to fibrous glass and follow-up for 23–32 years after initial employment. There was a significant excess of deaths due to "nonmalignant respiratory diseases" (19 observed vs. 10.04 expected). The workers were apparently exposed to very low airborne concentrations of glass (0.08 fibers/ml). The median diameter of the fibers was 1.8 μg and the median length 28 μm. A subgroup of workers thought to have been exposed for limited periods to smaller fibers (1–3 μm diameter) showed a marginally significant excess frequency of deaths from "malignant and nonmalignant respiratory disease". [This conclusion has been disputed: see comments of Kotin and Chase (Johns-Manville), Hearing Exhibit 181]. Neither the study of Enterline and Henderson (1975) nor that of Bayliss *et al.*, was controlled for smoking.

NIOSH concluded:

"On the basis of the information available for evaluation, fibrous glass is not at this time considered to present a carcinogenic hazard in the workplace." (NIOSH, 1977a, pp. 92–93)

However, this conclusion would apply at best to the larger fibers to which most workers were exposed in the past. Strong positive results in animals have been obtained only with smaller fibers (Stanton *et al.*, 1978), and indeed it is questionable whether the large fibers are carcinogenic in animals at all. Bayliss *et al.*, pointed out:

"However, because commercial production of small-diameter (less than 1 μm) fibers only began in the 1960s, no facility has been in operation sufficiently long to permit evaluation of the manifestation of any potential pathogenic lung effects, including carcinogenicity, that result from inhalation and exposure to small-diameter glass fibers." (Bayliss *et al.*, 1976, p. 330)

In view of the low exposure levels and the marginal positive finding by Bayliss *et al.* (1976) the available studies are not strong "non-positive" evidence, even for the large diameter fibers. There is also a question of the appropriateness of the route of exposure, since positive animal results have been obtained only by intrapleural or intraperitoneal implantation, and it is not clear whether inhaled fibers are translocated systemically to these tissues. These points should be explored more fully in a rule-making proceeding on fibrous glass or subcategories thereof. For the purposes of this generic rule-making, the available studies do not constitute persuasive evidence that the animal studies are not relevant to the prediction of human hazard for the specific types of fiber tested: the epidemiological studies are not directly relevant and in any case are not conclusively negative. Thus the data on fibrous glass do not provide a good example of a case in which a "non-positive" epidemiological study should outweigh positive animal data. Indeed, substantial evidence in the Record supports the proposition that such a study should be outweighed by positive animal data.

(9) *Saccharin.*

Dr. Robert Olson (St. Louis Univ.) cited 8 published epidemiologic studies and a review by Wynder and Weisburger (1977) for the proposition that:

". . . there is no reliable evidence of any increase in any tumors in those groups using sweeteners extensively as compared to non-users." (Olson, S. 27)

These and other epidemiologic studies have been reviewed in detail by a Committee of the National Academy of Sciences established specifically to review the data on saccharin. This committee found "many deficiencies" in the studies cited by Dr. Olson, and discussed in detail two less deficient studies published subsequently:

"The committee reviewed the epidemiologic studies of the relationship between saccharin and bladder cancer and between saccharin and spontaneous abortion. With one exception, findings indicated the absence of a health hazard for either sex. However, there were many deficiencies in the methods of the studies that showed no association.

(1) Time-trend studies by Armstrong and Doll in 1974 and by Burbank and Fraumeni in 1970 provide no evidence that saccharin use is necessarily associated with cancer. This method may be too insensitive to separate the effects of saccharin from known bladder cancer risk factors, such as cigarette smoking, that have been changing over time.

(2) Studies on diabetics, by Armstrong *et al.* in 1976, by Armstong and Doll in 1975, and by Kessler in 1970, do not show a positive association between saccharin use and bladder cancer, but these studies suffer from a number of limitations that hinder assessment of the risk of saccharin: (a) findings in diabetics may not be applicable to the nondiabetic population; (b) individual saccharin consumption was not measured; and (c) there were no data on smoking habits and certain occupations that are known to be associated with bladder cancer.

(3) The case-control studies do not provide clear evidence to support or refute an association between saccharin use and bladder cancer. Two studies of sufficient size for reliable measurement of low-level effects of saccharin use are those by Howe *et al.* in 1977 and by Kessler and Clark in 1978. The study by Howe *et al.* used a complex method to estimate the relative risk of bladder cancer in nonnutritive sweetener users and non-users. This study reported that the proportion of male bladder cancer patients who used nonnutritive sweeteners is significantly higher (risk ratio of 1.6) than the proportion of male controls who used nonnutritive sweeteners. The study by Kessler and Clark reported no statistically significant excess risk for either sex, and is thus consistent with no excess cases of bladder cancer attributed to the use of saccharin. The committee believes that the methodologic difficulties of each study do not allow one to judge the seemingly contradictory results. Four other case-control studies—those by Kessler in 1976, Morgan and Jain in 1974, Wynder and Goldsmith in 1977, and Simon *et al.* in 1975—have failed to demonstrate a statistically significant risk, but these studies have major deficiencies which severely limit confidence in their findings." (NAS, 1978, pp. TS–4–5)

The Committee summarized its findings as follows:

"The epidemologic studies that are detailed in Chapter 3 do not provide clear evidence to support or refute an association between past saccharin use and bladder cancer in males. All but two of the studies either suffered from methodologic difficulties or were too insensitive for reliable measurement of a potentially low-level effect of saccharin use. Of the two most extensive studies, one shows a statistically significant excess number of cases of bladder cancer; the other does not." (*ibid.*, p. ES–6, emphasis in original)

Dr. Robert Hoover (NCI) had earlier pointed out that if the experimental data on saccharin carcinogenesis in rats were extrapolated to predict the magnitude of human risk, a relative risk of about 1.04 would be expected for bladder cancer, far too low to be detected. However, the study of Howe *et al.* (1977) indicated a much larger risk (Hoover, Tr. 789–791). In view of these findings, the epidemiologic data on saccharin are at best inconclusive; there is a strong possibility that saccharin, too, will prove to be a classical "false negative".

(10) *Summary*

In summary, none of the examples of "non-positive" epidemiologic studies cited by participants to this rulemaking can be accepted as evidence of non-carcinogenicity. Indeed, several appear likely to prove to be classical "false negatives".

7. Use of Epidemiologic Studies To Set Upper Limits of Risk.

Although there was thus little evidence in the Record that epidemiologic studies have established satisfactory evidence of non-carcinogenicity for any substance,* another potentially important function of epidemiologic studies was suggested by several participants. As quoted above, the NCAB Subcommittee pointed out that:

Negative data on a given agent obtained from extensive epidemiologic studies of sufficient duration are useful for indicating upper limits for the rate at which a specific type of exposure to that agent could affect the incidence and/or mortality of specific human cancers. (NCAB Report, 1977, p. 462)

Several parties to the hearing recommended that OSHA should in fact use "negative" data in this way. For example, API argued as follows:

Many witnesses testified that there may be cases where, through an exercise of scientific judgment, it is apparent that the negative results have significant bearing on carcinogenic risk. Dr. Albert, for example, testified that evidence based on several sound negative studies and one marginally-adequate positive result represents a weaker basis for regulation than do two sound positive studies and several marginally-adequate negative ones. Further, EPA considers negative epidemiologic data to be an indispensable regulatory tool in "provid[ing] an upper limit of how bad the agent could be." (API, post hearing Brief, p. 36, citing Dr. Albert, Tr. 2336–2337, 2378–2380)

AIHC argued as follows:

"Negative epidemiology can also serve to correct risk estimates based on positive animal data. Perhaps the best example in this record is ethylene dibromide where on the basis of an epidemiological study of 158 exposed workers, EPA was led to modify its risk assessment from exposure to that compound based on positive animal data. (Ex. 43, Tr. 2336; "Risk Assessment for Ethylene Dibromide (EDB)," API P.H.) EPA also testified that negative epidemiological data are particularly useful where a positive animal study involves a route of exposure different from human exposure. (Tr. 2383)

"Another example in the record of the use of human epidemiology to adjust or correct a risk assessment based on animal data is the FDA risk assessment of aflatoxin in peanut butter. (Ex. 38.) The FDA relied on epidemiological data in reaching the conclusion that humans are biologically closer to aflatoxin resistent [sic] mice than the more aflatoxin susceptible rats. *Id.* at 3–4. The data were also used to calculate the potential health benefits from an additional reduction in aflatoxin level. *Id.*

* The Report of the Safe Drinking Water Committee cited extensive cross-sectional studies of populations exposed to fluoridated and non-fluoridated drinking water in support of the proposition that fluoride at therapeutic levels is non-carcinogenic (NAS, 1977a, pp. 381–389). These studies are among the most extensive ever undertaken and provide better evidence of non-carcinogenicity (or of very low risk) than any others in the record of this hearing. However, they have little relevance to occupational exposure. They do not, for example, exclude the possibility of risks from cancer to workers exposed to fluorides by inhalation.

The record does not support OSHA's administrative rejection of negative human studies. On the contrary, the record makes clear that such studies can have significant value. (AIHC Post-hearing Brief, pp. 127–128)

AIHC also cited (*ibid.*, p. 126) Dr. Bates (NIEHS) (S. 11) and Dr. Hoover (NCI)(Tr. 794) in support of this proposition.

DuPont also suggested in a less specific comment that epidemiologic data could be used in this way to set an "acceptable level of exposure":

We submit that an acceptable level of exposure is one which gives high confidence that there will be no observable excess of cancer in the population at risk due to occupational exposure to chemicals. It does not assure that no cases will occur, but it does provide confidence that such cases, if any, will be well below the variation in cancer from other causes (e.g., diet and cigarette smoking) and thus undetectable.

Criteria for determining an acceptable level of exposure from epidemiological data. An acceptable level of exposure can be determined from valid epidemiological data where there is adequate data about previous exposure levels among the cohort. The DuPont Recommended Alternative (Appendix A) contains a list of criteria which should be used in evaluating the validity of epidemiological data." (DuPont, S. 28)

In its post-hearing brief, DuPont observed:

"Perhaps the clearest statement of the role of negative epidemiology is in the Report of the Subcommittee of the National Cancer Advisory Board entitled "General Criteria for Assessing the Evidence for Carcinogenicity of Chemical Substances." In this very careful report subject to extensive peer review, the Committee concluded:

" 'Negative epidemiological data may not establish the safety of suspected materials. Negative data in a given agent obtained from extensive epidemiologic studies of sufficient duration are useful for indicating upper limits for the rate at which a specific type of exposure to that agent could affect the incidence and/or mortality of specific human cancers. NCAB General Criteria at 462.'

"Dr. Rall agreed with the NCAB as to the appropriate role for epidemiology (Tr. 386). Dr. Hoover and Dr. Bates also agreed that a valid negative study could identify the upper boundary of a potential hazard (Tr. 794; Bates S. 11). Dr. Berg urged OSHA not to reject a valid negative study (Tr. 1679). Even Dr. Epstein testified that negative studies should be weighed in the regulatory process (Tr. 1462)." (DuPont, Post-hearing Brief, p. 16; Hearing Exhibit 267)

DuPont concluded:

"Epidemiology is properly used to identify the human risk. Negative epidemiology is useful to indicate upper limits for the rate at which a specific type of exposure to that agent affect the incidence and/or mortality of specific human cancers."(ibid., p. 27)

However, while the idea that epidemiologic studies may be used to establish upper limits of risk may be conceptually sound and theoretically attractive, the examples presented in the Record were not very convincing and do not suggest that this proposed method would be very useful in standard-setting. OSHA does not reject such an approach, however, as discussed below, but points out that better epidemiologic studies are needed to utilize this approach than were available in the cases cited.

In the case of ethylene dibromide, EPA indeed revised its estimate of potential risks extrapolated from a carcinogenesis bioassay in rodents, on the basis of a "non-positive" study in occupationally exposed workers. However, the rodent bioassay was one which had raised unusually difficult problems of extrapolation: the induction of stomach tumors in rats after administration by gavage was used to predict possible induction of cancer at unpredictable sites in humans after exposure by inhalation. Hence the fact that the observations in humans were inconsistent with the high estimate of risk derived from the animal data is of little significance except to emphasize the uncertainties involved in extrapolating across different species, routes, and organs (see below in the section on Quantitative Estimation of Risk). The unpublished "epidemiologic" study referred to by API and AIHC was apparently no more than a mortality survey. As presented in Hearing Exhibit 43, only 156 workers were involved, who were exposed to low concentrations of ethylene dibromide (0.9–3.0 ppm TWA) for unspecified periods (which were presumably only a limited part of a lifetime, since the average age of the workers at the time of study was only 55 years). No mention is made of the completeness of follow-up of former employees. Nevertheless at one plant an excess of cancer was actually observed (5 cases observed versus 2.2 expected, which the authors state was not statistically significant, but in fact was significant if allowance is made for the healthy worker effect). Considering the limited fraction of a lifetime involved in the study, the data are consistent with a 5–10 fold increase in lifetime risk even at the low exposure levels involved.

For aflatoxin, OSHA has studied the FDA document proffered by AIHC (Hearing Exhibit 38) and does not agree that it provides unequivocal support for the proposition that "humans are biologically closer to aflatoxin resistent (*sic*) mice than the more aflatoxin susceptible rats." Apart from uncertainties and qualifications actually presented by FDA, there is in fact little difference in the susceptibility of rats and mice to aflatoxin—no more than a factor of 4–10 according to Wilson (Hearing Exhibit 51, Table 1, citing data analyzed by Meselson and Russell 1977). According to AIHC's own witness, Dr. Richard Wilson, citing data from the same paper by Piers and Linsell (1973) as that on which FDA's analysis was based, humans fall approximately between rats and mice in their susceptibility (Wilson Hearing Exhibit 51). Other experts who have analyzed human and animal data on aflatoxin-related liver cancer also found that humans and rats were quantitatively similar in susceptibility, within the limits of reliability of the data (see e.g., NAS, 1975a, p. 51).

There are data in the record for four other carcinogens for which similar calculations might be performed. Dr. Richard Wilson (Harvard Univ.) presented upper limits on the "potency" in humans of two carcinogens for which he regarded the epidemiologic evidence as negative. These were saccharin and 3,3'-dichlorobenzidine (Wilson, Hearing Exhibit 51, Table 1). However, for saccharin Wilson's estimate of the upper limit of "potency" (and hence the upper limit on low-dose risk) was 20 times higher than that for rats. For 3,3'-dichlorobenzidine the upper limit on "potency" was 400 times higher than that for mice. Hence the human data are of no value whatsoever for establishing an upper limit on risk that would be lower than that predicted on the basis of animal experiments.

For two other carcinogens, vinyl chloride and diethylstilbestrol (DES), data on human carcinogenic response were judged to indicate lower susceptibility than data on mice and rats (NAS, 1975a, p. 51). Hence, if the human data are regarded as complete measures of response, they could be used to establish risk levels lower than those extrapolated from the animal data (see Wilson, Response to Post-hearing Comments of Nisbet, pp. 8–10). However, as the NAS Committee pointed out (NAS, 1975a, p. 82), the data on vinyl chloride and DES are for rare tumors exhibited after short latent periods. In the case of vinyl chloride, there is already evidence for excess risks of cancer at other sites. In the case of DES, OSHA is well aware that there are millions of young people in the United States who were exposed to DES *in utero*, and that many of them exhibit tissue abnormalities which may develop into cancer later in life. It will be more than 50 years before this unfortunate "experiment" is concluded and we are

able to determine the "upper limit" on their risk.

Thus, OSHA is not aware of a single case in which "negative" human epidemiological data could be used reliably to establish upper limits on risk. In particular, OSHA is unaware of reliable data for any carcinogen that would demonstrate that the upper limit on risks to humans is below the risks measured in animals under comparable exposure conditions. However, if such data become available and are presented in rulemakings on specific substances, OSHA is certainly prepared to rationally and responsibly use them in attempting to establish low dose risks. Guidelines for minimum standards for consideration of "non-positive" epidemiological studies are set out below. To be useful in standard-setting, such studies would also need to be accompanied by quantitative data on exposure histories. However, OSHA's experience to date is that such data are often a matter of uncertainty and dispute (e.g. in the benzene rulemaking). For this reason, OSHA is unlikely to be able to use such data unless the circumstances of exposure are well-defined, so that the magnitude of the calculated "upper limit" on risk can be calculated accurately.

C. OSHA'S CONCLUSIONS

On the basis of a review of the extensive evidence in the Record, OSHA draws the following general conclusions:

1. Retrospective epidemiologic studies of exposed workers are very difficult to carry out in a systematic and unbiased manner, and in fact comparatively few good studies have been reported.

2. Epidemiologic studies are complicated by many factors, including the selection of exposed and control groups, definition and measurement of exposure, length of exposure and follow-up periods, and various kinds of bias.

3. If care is taken to minimize biases, positive results in epidemiologic studies are an important source of information on hazards to exposed workers.

4. Although specific criteria for the conduct and evaluation of epidemiologic studies cannot be laid down, there is widespread agreement on the factors to be considered in evaluation of studies. The most important requirement is the exercise of informed scientific judgment.

5. "Non-positive" epidemiologic studies cannot, in principle, establish the safety of agents under suspicion on other grounds. None of the studies presented as "non-positive" in this rulemaking stands up to critical scrutiny.

6. In theory, "non-positive" epidemiologic studies may serve to establish upper limits on potential risks under specified conditions of exposure. However, the few examples of such calculations presented in the Record are not convincing.

Accordingly, OSHA believes that substantial evidence in the Record supports the following specific conclusions:

1. That scientifically evaluated positive evidence for carcinogenicity of a substance in humans should serve as the basis for the classification of a substance as a potential occupational carcinogen. The general provisions of the OSHA Cancer Policy therefore state (1990.143(a)):

"(a) *Positive human studies.* Positive results obtained in one or more human epidemiologic studies will be used to establish the qualitative inference of carcinogenic hazards to workers."

2. That, in general, positive animal data should supersede "non-positive" human data in the qualitative identification of a hazard, as will be discussed below.

3. That epidemiologic studies, if accompanied by reliable data on exposure levels, may be useful in priority-setting, but are rarely, if ever, sensitive enough to be useful in setting acceptable levels of exposure.

OSHA recognizes that exceptions to these general rules may arise in specific cases. No such cases for such exceptional treatment were presented in the Record, however. Accordingly, OSHA believes that such exceptional cases, if they should arise, should be treated as exceptions in the manner specified below, rather than through any modification to the general policy. In this manner, the policy itself provides that OSHA will evaluate all meaningful and relevant evidence, including evidence that provides "non-positive" results.

Based on the testimony and evidence in the Record, and the desire for needed scientific flexibility in reviewing the relevant data, as pointed out below, OSHA believes that epidemiologic studies which give "non-positive" results will rarely provide evidence to offset scientifically evaluated positive results of carcinogenicity observed either from other human studies or from experimental studies in test animals. Hence OSHA will not, in general, consider such non-positive studies in the qualitative identification of a carcinogenic hazard, either in classifying potential occupational carcinogens or in weighing evidence offered as exceptions to the general policy. However, OSHA recognizes that there may be circumstances in which the results of positive studies in humans or in animals may be less than convincing or conclusive and which may, in fact, be substantially offset by "non-positive" results in an extensive epidemiological study. Likewise, although none of the cases presented in the hearing to support this proposition was convincing, it may be possible in theory that the results of epidemiologic studies could be used to establish upper limits on risks, provided that sufficient data are available on exposure levels. For these reasons, OSHA has reviewed the evidence in the Record and has used it to establish minimum criteria for determining whether and in what circumstances such evidence should be considered for assessing risks, either qualitatively or quantitatively. OSHA's purpose in establishing these criteria is to encourage the collection of good epidemiologic data and to use such data responsibly when they provide cogent evidence on risks, while avoiding wasting time and resources on consideration of inadequate or limited data which do not provide such evidence.

While meeting these minimum criteria only permits the party introducing the evidence to argue its relevance before the Agency, OSHA believes that prudence in the interest of public health dictates that the evaluation of such evidence should await the case-by-case rulemaking. However, OSHA believes that in light of the insensitivities of non-positive epidemiologic studies and other matters discussed above, the minimum criteria set forth at least the reasonably necessary minimum requirements that should be met before any exception promulgated in this set of regulations, should be considered by OSHA in the future. Thus, the OSHA Cancer Policy provides (§ 1990.143(c)):

"(c) *Non-positive human studies.* Positive results in human or mammalian studies generally will be used for the qualitative identification of potential occupational carcinogens, even where non-positive results from human studies exist. Such non-positive results will be considered by the Secretary only if the studies or results meet the criteria set forth in § 1990.144(a)."

Specifically, the minimum criteria, found at 1990.144(a), are:

(a) *Non-positive results obtained in human epidemiologic studies.*

Non-positive results obtained in human epidemiologic studies regarding the substance subject to the rulemaking or to a similar or closely related substance will be considered by the Secretary only if they meet the following criteria.

Criteria. (i) The epidemiologic study involved at least 20 years' exposure of a group of subjects to the substance and at least 30 years' observation of the subjects after initial exposure;

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(ii) Documented reasons are provided for predicting the site(s) at which the substance would induce cancer if it were carcinogenic in humans; and

(iii) The group of exposed subjects was large enough for an increase in cancer incidence of 50% above that in unexposed controls to have been detected at any of the predicted sites.

The first criterion is related to the duration of the epidemiologic study. There was ample evidence in the Record that epidemiologic studies do not provide any useful evidence of lack of hazard or risk unless they represent studies of the consequences of exposure extending over 20–30 years or more. On the basis of the evidence in the Record and the specific statements reviewed above, OSHA concludes that the Record amply supports the proposition that epidemiologic studies that are purportedly "non-positive" should not be considered unless such studies involve a minimum of 20 years exposure of workers or other subjects to the substance and a minimum of 30 years' follow-up after initial exposure. For example, the criterion of 20 years' exposure was discussed by Mr. Peto (Peto, Tr. 2452) and Dr. Olson (Olson, Tr. 3274), and that of 30 years' follow-up is based upon the discussion of this issue by the IARC (1978, Vol. 17, p. 19) and the testimony of Dr. Selikoff (Selikoff, Tr. 1687, 1757), Dr. Rall (Rall, Tr. 365), Dr. Hoover (Hoover, Tr. 794) and Dr. Berg (Berg, S. 24–25). Although some of these witnesses argued that 40 or even 50 years of follow-up was necessary before clear inferences of a negative could be drawn, OSHA believes that 30 years can reasonably be used as a criterion to allow the *consideration* of studies which provide evidence of some limited value.

The second criterion is related to the site at which cancers may be induced. As pointed out by Dr. Berg, an epidemiologic study cannot be said to be negative unless *all* cancer risks are shown to be acceptable (Berg, S. 23–24). Thus, in theory at least, an epidemiologic study must be sensitive enough to detect a 50% increase in cancer incidence at *any* site before it can provide really cogent evidence of lack of risk. In practice, such a criterion could not be used, because no epidemiologic study of practical size could detect a 50% increase in a rare type of tumor. Thus, OSHA is willing for practical reasons to consider studies which are sensitive enough to detect a 50% increase at all sites where the agent is judged likely to act in humans. The third criterion, then, is that documented reasons should be provided for predicting the site(s) at which the substance is likely to induce cancer if it were carcinogenic in humans. For the reasons stated by Dr. Berg, it will not, in general, be sufficient to assume that a substance would act in the same site in humans as in animals: additional evidence such as the site-specificity of structurally related compounds would normally be required.

The third criterion is concerned with the sensitivity of the study to detect effects which may be judged to be significant. As discussed in Section B.6 above, the sensitivity of an epidemiologic study (assuming it is well conducted and free of biases) is determined primarily by the size of the study population and its background incidence of cancer. Several witnesses pointed out that even relatively large studies are often barely sensitive enough to detect a five-fold increase in risk (see testimony of Dr. Nicholson, Tr. 1756, and Dr. Selikoff, Tr. 1757). Dr. Bates (NIEHS; FDA) testified that few studies have been of sufficient sensitivity to detect anything smaller than a 50% increase in the incidence of cancer over that found in the general population (Bates, S. 7). Dr. Hoover (NCI) testified that the smallest excess risk established to date in an epidemiological study is between 30% and 40% (Hoover, Tr. 789–790) and that epidemiologic techniques cannot be expected to detect excess risks of 5–10%.

This testimony presents OSHA with a dilemma. An excess risk of 50% can hardly be regarded as negligible, especially in view of OSHA's statutory mandate to assure "that no employee will suffer material impairment of health or functional capacity . . .". Therefore, OSHA has concluded that it would be justified to require, prior to consideration of evidence showing a "non-positive" result, that any study showing such results be capable of detecting at least a 50% excess risk in exposed humans. Although it is questionable whether such a study would in fact provide the "assurance" required by the Act, the testimony of Dr. Hoover and Dr. Bates suggest that to require greater sensitivity would place unreasonable demands on the epidemiologic technique. And to require proof of "absolute negativity" would be impossible. Thus, OSHA believes that this criterion is a reasonable compromise between the limited sensitivity of epidemiologic studies and the extreme sensitivity required to provide adequate assurance of minimal adverse effects.

If non-positive results of an epidemiologic study are to be used as the basis for establishing upper limits on risks at specific exposure levels, the considerations discussed above relative to duration of the study and the prediction of the site of action are equally valid. Hence, OSHA intends to require the first and second criteria stated above as minimum criteria to be met for the consideration of evidence from such studies. If these criteria are met, the results of the study may be used to calculate statistical upper confidence limits on the risks experienced by the workers included in the study. However, these upper confidence limits will only be of value in establishing a relationship between upper limits on risks and exposure levels if there is precise information on the level of exposure of the study population. Accordingly, OSHA will establish as an additional criterion for the consideration of such data the requirement that specific data on the level of exposure of the study population be provided. Such data must be based either on direct measurements of exposure levels made periodically throughout the period of exposure, or upon other data which provide unequivocal evidence of the magnitude of exposure. The relevant portion of § 1990.144(a) provides that:

> Arguments that non-positive results obtained in human epidemiologic studies should be used to establish numerical upper limits on potential risks to humans exposed to specific levels of a substance will be considered only if criteria (i) and (ii) are met and, in addition:
>
> (iv) Specific data on the level of exposure of the group of workers are provided, based either on direct measurements made periodically throughout the period of exposure, or upon other data which provide reliable evidence of the magnitude of exposure.

PART C.

V. EVIDENCE DERIVED FROM EXPERIMENTAL LONG-TERM BIOASSAY RESULTS IN MAMMALIAN LABORATORY ANIMALS

A. OSHA'S PROPOSAL

In the preamble to the proposed regulation, OSHA placed great reliance upon positive results arising from long-term animal experimentation to qualitatively identify potential occupational carcinogens. As proposed, a positive finding in one or more mammalian test species was considered sufficient evidence upon which to initiate some type of regulatory action under section 6(b) of the Act. Specifically, the definition of "potential occupational carcinogen" proposed was:

> ". . . any toxic substance which (1) [c]auses, at any level of exposure or dose, as the result of any oral, respiratory or dermal exposure, or any other exposure which results in the systemic distribution of the substance under consideration, in the organism tested, an increased incidence of benign or malignant neoplasms, or a combination thereof, in (i) humans or (ii) in one or more experimental mammalian species, or (2) in a statistically significant manner decreases the latency period between exposure and onset of neoplasm in (i) humans or (ii) in one or more experimental mammalian species." (42 FR 54184)

As pointed out above, for practical purposes the detection today of carcinogenic activity of most substances is based on experimentation in laboratory animals. All substances or mixtures of substances that have been proven carcinogenic by direct observation in humans have also been shown to be carcinogenic in experimental animals (with the exception of arsenic and perhaps benzene, still under experimental study). Because of the difficulties of epidemiologic studies of humans exposed to potential carcinogens, OSHA recognized that there may be no data which provide absolutely definitive evidence—one way or another—as to whether cancer is caused in humans by a substance that has been shown to be carcinogenic in test animals.

OSHA stated, however, that the failure to assume that such a substance does pose some level of carcinogenic threat to humans seemed imprudent and could lead to a public health disaster. OSHA quoted the "expert" Ad Hoc NCI Committee's report to the Surgeon General which stated in 1970:

> "Any substance which is shown conclusively to cause tumors in animals should be considered carcinogenic and therefore a potential cancer hazard for man." (NCI Ad Hoc Committee, 1970, p. 1; Exhibit 10b to Epstein Statement)

B. THE PUBLIC'S RESPONSE

Virtually all witnesses and participants agreed that evidence and data derived from experimental studies in mammalian test animal species should be relied upon by OSHA to identify a hazard to humans. However, a dichotomy developed on this issue as between substances to which humans are presently exposed and those "new" substances to which no humans are exposed and which presumably can be regulated without incurring great economic costs. Most, if not all, witnesses agreed that as to these latter substances, animal evidence alone should serve as the basis for regulatory action, although other witnesses and industrial groups suggested that regulatory action should not be initiated for the former substances until conclusive positive human data are available.

A number of distinguished scientists who testified at the hearings expressed opinions supporting OSHA's proposed position. Dr. Arthur Upton (Director, NCI) testified as follows:

> "When a chemical substance (or mixture) is found to be carcinogenic in animals, it is prudent to assume that it has at least the potential to induce cancer in humans also. This assumption is accepted by the vast majority of experts in chemical carcinogenesis, and indeed underlies most of the experimental work in the field. As documented in the preamble to OSHA's proposal, it has also been enunciated explicitly by several expert international and national committees. It rests upon the following body of experience:
>
> "1. All the chemicals demonstrated to cause cancer in humans, with the probable exception of arsenic, are known to cause cancer in animals, although they often act at different sites.
>
> "2. Most chemicals shown to induce cancer in one mammalian species also induce cancer in other mammalian species when properly tested. Although there is often much variation in susceptibility from one species to another, there are few, if any, adequately-documented cases of species-specific carcinogens.
>
> "3. The pathological development of tumors in various species of animals, including man, is similar; there are laboratory animal models for most types of human cancer.
>
> "4. There is evidence that the mechanisms of molecular interactions of many carcinogens with target cell macromolecules are the same in several animal species and in humans. At this fundamental level of biological organization, there is no reason to expect qualitative differences in response between species."
>
> * * * * *
>
> "Given this lack of knowledge concerning mechanisms, I believe that a reproducible carcinogenic response in any species of test animals must be considered sufficient to describe the test compound as a carcinogen and so a potential threat to human health . . ."
>
> ". . . Given the variation in human susceptibility to carcinogens, I believe it unreasonable to ignore a finding of carcinogenicity in any mammalian test species when considering possible effects on human health." (Upton, S. 12–13, 17)

Later, in response to questioning on the subject, Dr. Upton added:

> "I would think that the mere evidence of carcinogenicity in animals is sufficient to label the compound as a potential carcinogen for humans." (Upton, Tr. 330)

Dr. David Rall (Director, NIEHS) testified as follows:

> "There are several reasons why the assessment of the carcinogenic risks of industrial chemicals must be based primarily on animal experimentation rather than on direct observation of carcinogenic effects in man. First, as pointed out above, very few industrial chemicals and processes have been subjected to adequate epidemiological studies to determine whether or not they cause carcinogenic effects in workers. Second, epidemiological studies are insensitive and little weight can be placed on surveys which do not show positive results. Third, many industrial chemicals have not been in production long enough for any effects to be observable, bearing in mind the long latent periods for chemically-induced cancers. Fourth, it would be unethical to wait for evidence of harm in exposed workers when risks can be established relatively quickly by animal experimentation." (Rall, S. 6–7)

This testimony echoed many of the same arguments voiced by OSHA in the proposal. Dr. Rall was also very emphatic on this point in his oral testimony:

> "I think the evidence is overwhelming that if you have got a good, positive study in animals, regulatory action should flow from there." (Rall, Tr. 423)

Dr. Donald Kennedy (Commissioner, FDA) expressed his approval of OSHA's use of animal experimentation in the identification of potential human carcinogens:

> "The OSHA proposal contains the statement that substances determined to be carcinogenic in mammals will be treated as a *policy matter* as posing a carcinogenic risk to humans. Based on what I have said above, I would take the position that this principle need not be only a matter of policy. It is a scientifically justifiable principle." (Kennedy, S. 10)

Dr. Richard Griesemer (NCI) stated:

> "The most logical and scientifically sound approach to identifying chemical carcinogens is through animal experiments . . . With the presently available data, it must be presumed that those chemicals that cause cancer in animals are potentially carcinogenic for man." (Griesemer, S. 5–6)

Dr. Umberto Saffiotti (NCI) testified on this subject as follows:

> "Another major reason for accepting evidence of carcinogenicity from experiments in mammalian species is the large body of knowledge that has accumulated for decades, and particularly in the last decade, on the comparative pathology of human and experimental cancers demonstrating their close similarity on both morphological and functional grounds." (Saffiotti, S. 20–21)

Dr. Saffiotti (NCI) continues by quoting from one of his own papers:

> "An essential tool for the study of carcinogenesis, its modulation and its inhibition is the development of animal models for the experimental induction of cancers of the same types as those observed in human pathology. Particularly in the last decade, many new animal models have been developed, so that now we can say that most major forms of human cancers can be reproduced in animals by chemical induction.

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They show histopathogenesis patterns very similar to those known from human pathology. This close correlation by itself strongly supports the evidence for a chemical origin of a large proportion of human cancers.

"The NCI laboratories, and those which have participated in the collaborative effort of the NCI Carcinogenesis Program, have contributed extensively to these advances. Recently developed models of chemically induced carcinogenesis include several examples of major epithelial cancers, such as lung cancer originating from the bronchial epithelium (Saffiotti *et al.* 1968, 1972a,b; Kaufman *et al.*, 1972a; Karbe and Park 1974); carcinoma of the larynx (Saffiotti and Kaufman 1975), large-bowel cancer (Druckrey, 1972; Ward *et al.* 1973; Weisburger 1973; Thurnherr *et al.* 1973; Ward 1974), carcinoma of the pancreas (Pour et al. 1974, 1975; Reddy and Rao 1975; Pledger *et al.* 1975; Levitt *et al.* 1977), kidney carcinoma (Reuber 1974a,b; Dees *et al.* 1976; Heatfield *et al.* 1976), urinary-bladder carcinoma (Saffiotti *et al.* 1967a; Tiltman and Friedell 1971; Hicks and Wakefield 1972; Hicks *et al.* 1975), and mammary carcinoma (Cullino *et al.* 1975)." (Saffiotti, 1977a, pp. 1317–1318)

Dr. David Baltimore (MIT) offered the following statement:

"There is every reason to believe that the gross principles of carcinogenesis as studied in animals are relevant to humans. Therefore, compounds that increase incidences of tumors in animals should have the same potential in humans. Human physiology clearly differs from animal physiology so a one-to-one mapping of events in animals onto humans should not be expected, but general principles should carry over." (Baltimore, S. 1–2)

Dr. Robert Squire (Johns Hopkins University) commented on the similarities between cancer in different species:

"Although the incidences vary with the species, virtually every type of cancer observed in man is also observed in some other animals and there is no reason to presume that the causative factors differ fundamentally between species. On the contrary, our knowledge of cancer mechanisms indicate that they apply to all mammals and perhaps all animals. At cellular and molecular levels, we are all quite similar." (Squire, S. 11)

Other witnesses who expressed general support for OSHA's proposed use of experimental animal evidence included: Dr. Curtis Harris (NCI), (Harris, Tr. 1954); Dr. Benjamin Trump (Univ. of Maryland), (Trump, Tr. 2016); Dr. Samuel Epstein (Univ. of Illinois, S. 30); Dr. Renate Kimbrough (Center for Disease Control), (Kimbrough, Tr. 1775; Dr. Richard Bates (NIEHS; FDA) S. 12; Dr. William Lijinsky (Frederick Cancer Research Center), S. 30; Dr. Paul Kotin (Johns-Manville), S. 20; Dr. William Butler (NACA), S. 11; Dr. Francis J. C. Roe (AIHC), S. 71; Dr. Philippe Shubik (Eppley Institute, Univ. of Nebraska), S. 14; Dr. Ronald Hart (Ohio State Univ.), S. 7–28; Dr. Richard Wilson (Harvard Univ.), S. 14; Dr. Perry Gehring (Dow Chemical Co.), Tr. 5172; Dr. David Hoel (NIEHS), Tr. 2187; and the Consumer Product Safety Commission, Exhibit 39, p. 25).

In addition to these general statements about the similarities between the effects of carcinogens in mammalian test animals and humans, some specific new evidence on the similarities at the cellular and molecular levels was also introduced. The review by Dr. Saffiotti (1977a), in which the development of a number of specific animal models of human cancers was summarized, has already been quoted above. Dr. Saffiotti concluded:

". . . many new animal models have been developed, so that now we can say that most major forms of human cancers can be reproduced in animals by chemical induction. They show histopathogenesis patterns very similar to those known from human pathology." (Saffiotti, S. 21)

Dr. Curtis Harris (NCI) and Dr. Benjamin Trump (Univ. of Maryland) introduced their work on the comparative metabolism and mechanisms of action of chemical carcinogens. In Dr. Harris's words:

"These findings indicate a remarkable qualitative similarity in the response of animal and human tissues to carcinogens." (Harris, S. 3)

Dr. Trump summarized his findings as follows:

"1. *There is an extremely close correspondence between certain types of human cancer and cancers induced in experimental animals by chemical carcinogens.* This correspondence has been demonstrated in our laboratory for lung cancer (in humans and hamsters) and kidney cancer (in humans and rats). The tumors in humans and animals appear virtually identical in histogenesis, ultrastructural morphology, and cytochemistry. Preliminary results indicate a similar correspondence for tumors in other tissues, including pancreas, breast, colon, bladder, cervix, prostate, and liver.

"2. Studies of the development of kidney carcinomas in rats show that *early lesions previously termed adenomas are transplantable and presumably represent adenocarcinomas in situ.*

"3. *Experimental exposure of human lung tissues* (maintained as xenografts in immune-deficient mice) *to carcinogens results in a sequential development of early lesions exactly resembling that seen in specimens from patients with lung cancer and in hamsters treated with BP–Fe_2O_3.*

"4. *Both human and animal tissues metabolize chemical carcinogens to mutagenic metabolites which bind to DNA.*

"5. There is great variability (up to 75-fold) between individuals in the ability of their tissues to bind mutagenic metabolites to DNA. *This variability appears to reflect inter-individual variability in susceptibility to chemical carcinogenesis.*

"In general, these results provide strong support for the use of experimental animal systems in identifying carcinogens which pose a risk to humans. In addition, tissue culture systems are proving to be excellent tools for the identification of carcinogens and mutagens, and for study of mechanisms of carcinogenesis." (Trump, S. 12–13, emphases in original)

Dr. Emmanuel Farber (Univ. of Toronto) presented a detailed account of his own work on the development of liver cancer in rodents in response to chemical carcinogens. He added the following conclusion emphasizing the direct relevance of this work to humans:

". . . there is an impressive basic similarity in etiology, pathogenesis and pathology between hepatocellular carcinomas in experimental animals and humans. In the animal, the role of cell damage and cell proliferation early in carcinogenesis is becoming evident. In the human, liver cancer is frequently associated with pre-existing liver cirrhosis and occurs in highest incidence in parts of the world in which liver damage by chemicals and viruses is most in evidence. The patterns of growth, morphology and life history of liver cancer in experimental animals and in humans are unusually alike. For these and other reasons stated in Appendix D, there is abundant evidence for the thesis that liver cancer development in experimental animals is a valid and reliable model for human liver cancer." (Farber, S. 4–5, citing Farber, 1978)

Other witnesses who testified to the similarity between humans and mammalian animals in metabolic, cellular and pathological aspects of carcinogenesis included: Dr. Elizabeth Weisburger (NCI), S. 3; Dr. Robert Squire (Johns Hopkins Univ.), S. 10–11; Dr. Arthur Upton (Director, NCI), S. 13; Dr. Harold Stewart (NCI), Exhibit B; Dr. Nathan Dubin (Medical College of Pennsylvania) S. 19–21; and Dr. Melvin Reuber (Frederick Cancer Research Center), S. 2. OSHA long ago accepted this principle. In the preamble to the standards for the 14 carcinogens, OSHA stated:

"A major question of occupational carcinogenesis relates to the extrapolation of results of animal experimentation to humans. The basis of numerous objections to the proposals is that, even assuming the validity of animal experiments, such do not furnish sufficient evidence that the substances involved are carcinogenic to humans. Extrapolation of results obtained by animal experimentation is alleged to be vitiated by several considerations: (a) That certain cancers are specific only to some species; (b) that the conditions of animal experiments are out of proportion to, and not consistent with conditions prevailing in industrial exposure; and (c) that no cancers have yet been detected in humans exposed to the substances. For those substances whose metabolism is understood, and is similar in both animals and man, the fact that they induce cancers in animals warrants the expectation that they will induce cancers in men. This applies to the substances which cause urinary bladder cancers in animals acting, not directly, but indirectly through the mediation of metabolites formed both in experimental animals and in exposed workers. This is also true of those substances which apparently require no metabolic alteration but attack a particular biologic system (e.g., respiratory tract, alimentary canal) which is similar in both animals and humans.

"The objections raise the much broader issue of human exposure to a chemical which is only known to have caused cancers in experimental animals. It is important to note that some opponents of the regulation of such chemicals do not advocate treating them as if they were harmless with respect to carcinogenic potential. Several employers, for instance insist that such substances must be treated with "care" or "respect", while also insisting that they call for significantly less protection than those substances known to be human carcinogens.

"We think it improper to afford less protection to workers when exposed to substances found to be carcinogenic only in experimental animals. Once the carcinogenicity of a substance has been demonstrated in animal experiments, the practical regulatory alternatives are to consider them either non-carcinogenic or carcinogenic to humans, until evidence to the contrary is produced. The first alternative would logically require, not relaxed controls on exposure, but exclusion from regulation. The other alternative logically leads to the treatment of a substance as if it was known to be carcinogenic to man.

"We agree with the Director of NIOSH, and the report of the Ad Hoc Committee on the Evaluation of Low Levels of Environmental Chemical Carcinogens to the Surgeon General, U.S. Public Health Service, April 22, 1970, that the second alternative is the responsible and correct one. This decision accords with the work practices of some who object to the proposed regulation." (39 FR 3756 at 3757–58)

This position was affirmed by the Third Circuit Court of Appeals which held in *Synthetic Organic Chemical Manufacturers' Association v. Brennan*, 503 F.2d 1155, 1160 (3d Cir. 1974) that: "there does exist substantial evidence in the record as a whole to support the Secretary's finding that [ethyleneimine] is carcinogenic in rats and mice and, in the absence of evidence of carcinogenicity in humans, the Secretary properly weighed the only available alternatives."

Other agencies and expert scientific committees have also agreed. In *In Re Shell supra*, the EPA Administrator stated:

"The ultimate issue in this suspension proceeding is whether Aldrin-Dieldrin is carcinogenic in man. Because man's response to carcinogens is similar to that of rodents, the finding that a substance is carcinogenic in experimental animals indicates that it poses a similar risk to man."

In affirming that decision, the Court of Appeals for the District of Columbia stated at 510 F.2d at 1299:

"The validity of extrapolation to humans from data derived from tests on animals is also a matter within the agency's expertise. There was testimony before the Administrator to support such extrapolation and this court has acknowledged the significance of test animal data when cancer is involved. Use of animal data is particularly appropriate where, as here, accurate epidemiological studies cannot be conducted because virtually universal contamination of humans by residues of aldrin/dieldrin make it impossible to establish an uncontaminated human control group. The long latency period of carcinogens further hinders epidemiological research, and the ethical problems of conducting cancer experiments on human beings are too obvious to require discussion. Although extrapolation of data from mice to men may be quantitatively imprecise, it is sufficient to establish a "substantial likelihood" that harm will result. Cf. Society of Plastics Industry, Inc. v. OSHA, 509 F2d. 1301, at 1308 (2d Cir. 1975)." (510 F2d at 1299)

And in proposing to ban the use of chloroform in drug and cosmetic products, FDA stated:

"Although he is not aware of any direct evidence that chloroform induces cancer in man, the Commissioner recognizes that the positive finding of cancer in test animals in the National Cancer Institute report indicates chloroform may pose a risk of cancer for humans. Experience has indicated that, with one or two possible exceptions, compounds that are carcinogenic in humans are also carcinogenic in one or more experimental animal bioassay systems. In addition, several compounds first detected as a carcinogen in experimental animals were later found to cause human cancer. The clear demonstration that a compound is carcinogenic in experimental animals must, therefore, be taken as evidence that it has a potential for carcinogenesis in humans unless there is strong evidence to the contrary." (41 FR 15027)

In finalizing that decision some two months later, FDA stated:

"The Commissioner considers the fact that a substance has been shown to be an animal carcinogen must be taken as evidence that it has a potential for carcinogenesis in humans unless there is strong evidence to the contrary." (41 FR 26844)

And, in banning "TRIS", the Consumer Product Safety Commission stated:

"The Commission has no conclusive data that establish that TRIS has caused cancer in humans. Since cancers develop over many years and cannot be easily linked to particular causes, this is not unexpected. The Commission's Office of the Medical Director (OMD) believes that once a substance is established as an animal carcinogen, it can never be assured as a safe substance for human exposure. In addition, OMD believes that all known human carcinogens have been shown to be carcinogenic in laboratory animals." (footnotes omitted). (42 FR 28031)

In "General Criteria for Assessing the Evidence for Carcinogenicity of Chemical Substances", prepared for NCI by the Subcommittee on Environmental Carcinogenesis of its National Cancer Advisory Board (NCAB), (February, 1977), it was stated that studies with expermental animals represent "a major source of data on carcinogenicity". Although present knowledge is not sufficently advanced to allow a precise determination of whether a carcinogen identified solely by means of a bioassay in animals will or will not be carcinogenic in humans, and because it is not ethically nor practically feasible to undertake to study the effects on humans of substances identified as carcinogens through animal studies, it is necessary to rely on the correlation between substances studied in animals and those known to induce cancer in humans. The NCAB Report stated that:

"[e]xperience has indicated that, with one or two possible exceptions, compounds that are carcinogenic in humans are also carcinogenic in one or more experimental animal bioassay systems. In addition, several compounds first detected as carcinogens in experimental animals were later found to cause human cancer. Demonstration that a compound is carcinogenic in animals should therefore, be considered evidence that it is likely to be carcinogenic in humans, unless there is strong evidence in humans to the contrary." (NCAB Report, 1977, p. 461; Exhibit B to Weinstein Statement)

The validity of using animal data as a qualitative indication of potential human effects has long been recognized by scientific advisory committees, and other governmental bodies in addition to the testimony of the witnesses cited above and below; portions of the extensive discussion by expert committees of the general criteria and principles applied to the design and interpretation of studies in animals will be traced to illustrate the varying conditions accepted for testing for carcinogenicity in animals (including length of the exposure period, number of animals to be employed, kinds of controls to be used, etc.) and the necessity for reliance on such data despite some uncertainties that might arise. As far back as 1959, a report of the National Research Council's Food Protection Committee provided one of the earliest reviews of the problems of identifying carcinogens. In the case of

food additives, it was noted that epidemiological studies were even more difficult to conduct in the general population than for occupational exposures, and a series of general considerations and principles underlying evaluations of carcinogenicity from animal studies was outlined. The report stated with regard to substances studied by administration to experimental animals that:

"[t]here is general agreement as to the carcinogenicity of these substances and, although the carcinogenicity of all of them for man has not been demonstrated, it is unlikely that anyone would defend the addition of any of them to the human diet". (NRC, 1959, p. 6)

In 1961, a joint committee of the Food and Agricultural Organization (FAO) and the World Health Organization (WHO) issued a report entitled: "Evaluation of the Carcinogenic Hazards of Food Additives" (WHO Tech. Rept. 220). The Committee, in its report, noted the ". . . difficulty of carrying out and interpreting epidemiological studies" and recognized that tests in animals are necessary to identify carcinogens. The Committee stated that:

". . . tests on experimental animals cannot provide irrefutable proof of the safety or carcinogenicity of a substance for the human species. However, it is at least reassuring that the known carcinogenic activities of certain chemicals in man are similar in many ways to those found in experimental animals." (WHO Tech. Rept. 220, 1961, p. 6)

As a minimum safeguard, the committee said an ". . . investigation of the tumor incidence in a chronic toxicity test . . ." should be performed, which ". . . should involve the study of an adequate number of animals of two species (*e.g.*, rats and mice) and subjected to the feeding of a suitable dose range of the substance under question for the lifetime of the animals." (*Ibid.*, p. 7)

The Committee also noted its view of the need to use sensitive animals and stated:

"Both sexes of each of at least two species of animals should be used in the tests throughout their lifespan. In most cases these species would be rats and mice. Hamsters or dogs might be suitable, but guinea-pigs, for example, appear to be resistant to some known carcinogens. The use of dogs in carcinogenicity tests has disadvantages. Because of the expense of maintenance, it is difficult to use a sufficient number to detect a low incidence of cancer, and the life span of the animal is 12–15 years." (*Ibid.*, p. 8)

The Committee report further stated that to establish valid negative results requires either the "unrealistic" use of large numbers of animals or dose levels ". . . far in excess of those recommended for human consumption." (*Ibid.*, p. 9). Thus, to reduce the possibility that studies in animals will be too insensitive to detect the carcinogenic action of a substance, the Committee pointed out that large doses of the substance are administered to the animals, despite the fact that in some cases large doses of many substances may cause nonlethal, non-carcinogenic but toxic effects in animals.

A report published in 1969 by the International Union Against Cancer (UICC, 1969) discussed the results of a study of:

". . . those aspects of experimental carcinogenesis in animals which have a direct bearing on the problems of environmental cancer in man . . .", with particular emphasis on: ". . . methods of testing substances suspected of being carcinogenic in man, and to problems related to testing procedures." (UICC, 1969, p. 1)

The report states:

"The need to formulate minimal requirements for satisfactory testing of substances suspected of being carcinogenic for man has been recognized for a long time, and a number of international and regional bodies had already discussed it in some detail and published specific recommendations . . . These earlier recommendations differed one from another in several respects, due in part to conflicting views among the various experts in the field, though some of the divergencies of opinion were more concerned with differences between minimal and optimal requirements." (*Ibid.*, p. 11)

The report then discussed some of the procedures generally employed in animal bioassays for carcinogenicity, the presentation of data, their interpretation, and other points, including priorities for testing. In the report it was also stated that positive findings should outweigh negative results:

"It is generally recognized that negative results of biological testing are less significant than positive results, in relation to human application. This is all the more true when testing procedures are inadequate." (*Ibid.*, p. 18)

In the United States, a review of concepts to be applied in carcinogenicity testing was also published in 1969 by the Commission on Pesticides and Their Relationship to Environmental Health, appointed by the Secretary of the Department of Health, Education and Welfare (Mrak Commission). The Technical Panel on Carcinogenicity recommended that food additives and contaminants be tested for possible carcinogenic effects by means of adequate long-term bioassays:

"The minimum requirements for such bioassays should include: Adequate numbers of animals of at least two species and both sexes with adequate positive and negative controls, subjected for their lifetime to the feeding of a suitable dose range of the test material, including doses considerably higher than would be present in food . . . any substance which is shown conclusively to cause cancers in animals when tested under these conditions should be considered potentially carcinogenic for man . . ." (Mrak Commission, 1969, p. 467)

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". . . the number of animals in each test group should be sufficient throughout the tests to yield statistically significant results. It is important to stress that the detection of positive results in these bioassays depends on the development of tumor incidences significantly above the threshold of detectability for a given number of animals. Any carcinogenic effect below these levels will not be detected by the bioassays used." (*Ibid.*, p. 465)

* * * * *

"The species most practical for testing are rats, mice, and—as more recently shown—hamsters. Strains and colonies should be selected to provide adequate sensitivity to tumor induction, as revealed by positive control tests with known carcinogens." (*Ibid.*, p. 465)

The Technical Panel noted (footnote 2 on p. 465) that:

"[t]he use of nonrodent species, recommended in the earlier reports, has now been substantially dropped. A suitable, practical nonrodent species would be useful but it is not available at this time . . . . While dogs have been employed for tests of carcinogenicity, with noteworthy success in selected cases (bladder carcinogenicity of aromatic amines), the requirement of lifetime feeding makes this species too expensive, in terms of time and funds, to be employed routinely." (*Ibid.*, p. 465)

The Technical Panel also noted the:

"(g)eneral principles and criteria for evaluation of carcinogenic hazards . . . laid down by several expert committees conceived in the last fifteen years by scientific and public health agencies . . ." (*Ibid.*, p. 464)

and stated that:

"Recommendations made in these reports express a remarkably unanimous view on the general principles and criteria to be followed for carcinogenesis safety evaluations, widely accepted in principle by the scientific community (references omitted)." (*Ibid.*, p. 464)

In the report, the Technical Panel discussed the uncertainties as to the relevance and extrapolation of animal data to humans, stating that such uncertainties:

". . . are a cause for concern and caution in interpretation of results. It should be noted, however, that a remarkable degree of concurrence has been found to exist between chemical carcinogenesis in animals and that in man where it has been studied closely." (*Ibid.*, p. 482)

Thus, in recommending that human exposure to those pesticides considered to present a potential health hazard to humans should be reduced, the Mrak Commission cautioned that:

". . . it is of utmost importance that the results of screening tests be scientifically and rationally considered. The correct interpretation of hazards to human health is sometimes extraordinarily difficult. It must involve the transfer of the results of animal experiments to prediction of human effects. In addition, the screening process frequently involves preliminary examination of the effects of massive dosages, possible contamination of test samples, and other factors which affect proper interpretation . . . (but) . . . (t)he health and welfare of the public must be effectively protected." (*Ibid.*, p. 10)

Also in 1969, a Panel on Carcinogenesis of FDA's Advisory Committee on Protocols for Safety Evaluation prepared a report (FDA Panel Report) and later published it ("Panel on Carcinogenesis Report on Cancer Testing in the Safety Evaluation of Food Additives and Pesticides." *Toxicol. Appl. Pharmacol.*, 20, 419 (1971)). The FDA Panel concerned itself ". . . with an evaluation of the present status of testing for carcinogenic action of food additives and other chemicals, which come into contact with man principally through his diet . . . and . . . consideration of recommended test procedures for carcinogenesis" (p. 425). A number of issues involved in the reliance on tests in animals under controlled conditions were discussed. Of the species of animals that might be used, the Panel said:

"There is general recognition that new species in addition to the commonly used rodents are needed for carcinogenicity testing. Increasing the number of species used would greatly increase the margin of confidence with which safety can be predicted . . . The most discussed additional species are primates. Recent studies show certain primates to be highly susceptible to some carcinogens; however, much more work is needed to justify the additional expense and time that would be necessitated by the introduction of these animals in routine test procedures." (*Ibid.*, p. 426)

And in a discussion of the use of dogs, the Panel said:

"There is general agreement that the dog is not a practical test animal because of its size and relatively long life span." (*Ibid.*, p. 426)

The FDA Panel also delineated the responses in experimental animals as compared with a series of untreated (control) animals that ". . . may suggest the presence of a carcinogenic hazard . . ." They are:

". . . (1) an increased incidence of tumors of a type seen commonly in the control animals, (2) an occurrence of a type of tumor not seen at all in the control animals or (3) a combination of the occurrence of a different type of tumor and an increased incidence of one or several types of tumors seen in the controls. In some experiments the only manifestation of an effect consists of (4) an earlier occurrence of tumors in the treated animals than in the controls, the incidence being the same in both. In yet another variation the only effect seen may consist of (5) an increase in the number of tumors per animal, the number of tumor bearing animals being the same." (*Ibid.*, pp. 419–420)

In 1969, the NRC Food Protection Committee prepared another report, "Evaluating the Safety of Food Chemicals," which was published in 1970 (NRC, 1970). The Committee noted that the previous reports of the Food Protection Committee, the Joint FAO/WHO Expert Committee, and the FDA contained:

". . . complementary statements of the principles underlying evaluation of the safety of food chemicals and . . . set forth proposed procedures for accomplishing the evaluation . . ." (NRC, 1970, p. 1)

The Committee stated that it was:

". . . not the purpose of this report to present another set of principles and procedures, but rather to review the purposes and value of what have become conventional procedures . . ." (*Ibid.*, p. 1)

The Committee discussed difficulty in carrying out controlled epidemiological studies and stated that:

"(c)ontrolled experimental studies in man, though desirable, have limited predictive value . . ." (*Ibid.*, p. 44)

and therefore:

"(i)t is clear that appropriate and well-executed animal studies are more likely to provide a substantial background of biological data from which to judge safety than are studies in man alone." (*Ibid.*, p. 45)

In a discussion of the evaluation of the carcinogenic hazards of chemicals for man, the Committee stated that:

"(o)n both ethical and practical grounds, the possible carcinogenic effects of chemicals to which man might be exposed must be determined in experimental animals, generally in short-lived species. The extrapolation of the results of these determinations to man rests on two basic findings:

"1. Despite a great variety of studies, no significant aspect of the natural occurrence, induction, and properties of cancer has been shown to differ fundamentally between man and experimental animals.

"2. Considerable assurance of the general applicability of the tests can be derived from the fact that the chemicals generally known to be carcinogenic in man also induce neoplasia (tumors) in experimental animals.

"(M)any clear differences in the activities of chemical carcinogens in various species exist, however, and the unpredictable nature of species differences is the principal limitation to the extrapolation of results from studies with experimental animals to man." (*Ibid.*, p. 47)

In 1970, the report, prepared for the Surgeon General by the Ad Hoc Committee of NCI, dealt with problems of exposure to chemical agents from all sources and ". . . the scientific criteria for evaluation of carcinogenic hazards." (NCI, 1970, p. 1). In emphasizing the broader scope of their report, the Committee said:

"(M)any previous recommendations on the criteria to be used for evaluating environmental chemical carcinogenic hazards have been made for specific sources of exposure or for specific groups of substances (e.g. food additives, pesticides, certain occupational carcinogens). In some cases this approach has led to an uneven assessment of risks from different sources and to an uneven approach to preventive measures." (*Ibid.*, p. 1)

The Committee acknowledged that:

"(t)he present state of the art requires long-term bioassays in mammalian species for the experimental identification of carcinogenic activity . . . A body of knowledge has developed over the years on the response of experimental animals to chemical carcinogens. Several committees of experts in the field of carcinogenesis convened by national and international bodies over the past 15 years have formulated general principles for performance and evaluation of carcinogenesis studies in animals. The recommendations put forth by these committees have shown remarkable unanimity (specifically cited were WHO Tech Repts 276 and 220, FDA Panel Report, Mrak Commission Report) and are widely accepted in principle by the scientific community" (*Ibid.*, p. 6)*

Among the Committee's recommendations were:

"Any substance which is shown conclusively to cause tumors in animals should be considered carcinogenic and therefore a potential cancer hazard for man. Exceptions should be considered only where the carcinogenic effect is clearly shown to result from physical, rather than chemical, induction, or where the route of administration is shown to be grossly inappropriate in terms of conceivable human exposure.

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*The committee cited the following references: P. Shubik and J. Sice, "Chemical carcinogenesis as a chronic toxicity test: A Review," *Cancer Res. 16.* 728–742 (1956). D. B. Clayson, "Chemical Carcinogenesis," Boston, Massachusetts, Little Brown and Co., 1962. W. C. Hueper, W. D. Conway, "Chemical Carcinogenesis and Cancers," Springfield, Illinois, C. C. Thomas 1964. J. H. Weisburger and E. K. Weisburger, "Tests for Chemical Carcinogens," *In* Methods in Cancer Research, Volume I. (H. Busch, ed.), New York, New York, Academic Press Inc., 1967, pp. 307–367. J. G. Arcos, M. G. Argus, G. Wolf, "Testing Procedures," In "Chemical Induction of Cancer," Volume I (J. G. Arcos, M. G. Argus, and G. Wolf, eds.), New York, New York, Academic Press Inc., 1968, pp. 340–463.

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". . . Data on carcinogenic effects in man are only acceptable when they represent critically evaluated results of adequately conducted epidemiological studies.

". . . Evidence of negative results, under the conditions of the test used, should be considered superseded by positive findings in other tests. Evidence of positive results should remain definitive, unless and until new evidence conclusively proves that the prior results were not causally related to the exposure.

. . . A basic distinction should be made between intentional and unintentional exposures.

. . . No substance developed primarily for uses involving exposure to man should be allowed for widespread human intake without having been properly tested for carcinogenicity and found negative.

". . . Any substance developed for use not primarily involving exposure in man but nevertheless resulting in such exposure, if found to be carcinogenic, should be either prevented from entering the environment or, if it already exists in the environment, progressively eliminated." (*Ibid.*, pp. 1, 2)

The Committee also stated:

"Any substance which is shown conclusively to produce tumors in animals . . . should be considered potentially carcinogenic for man." (*Ibid.*, p. 7)

More recent reports further confirm the widely recognized validity of animal experiments for establishing the carcinogenic potential of substances. An ongoing series of monographs published by the International Agency for Research on Cancer of WHO (IARC), beginning in 1972, lists animal data and any epidemiological evidence of cancer in humans when discussing the carcinogenic potential of individual substances or of classes of substances. The monographs were initiated as a result of a recommendation in 1970 of the IARC Advisory Committee on Environmental Carcinogenesis:

". . . that a compendium on carcinogenic chemicals be prepared by experts. The biological activity and evaluation of practical importance to public health should be referenced and documented." (IARC, 1972, Vol. 1, p. 8)

The stated objective of the monographs is:

". . . to achieve a balanced evaluation of data through the deliberations of an international group of experts in chemical carcinogenesis and to put into perspective the present state of knowledge with the final aim of evaluating the data in terms of possible human risk, as well as to indicate the need of research efforts." (IARC, 1972, Vol. 1, p. 8)

The monographs emphasized that the response to a carcinogen in animals may be observed in several forms:

"(*a*) as a significant increase in the frequency of one or several types of neoplasm, as compared with other than zero frequency in control animals;

"(*b*) as the occurrence of neoplasms not observed in control animals;

"(*c*) as a decreased latent period as compared with control animals;

"(*d*) as a combination of (*a*) and (*c*)." (IARC, 1972, Vol. 1, p. 10)

In 1975, the National Research Council published two reports that addressed the question of carcinogenicity testing in animals. In a report on present and alternative technologies for pest control (NRC Pest Control), it was concluded:

". . . the carcinogenic risks, and other health hazards, of pesticides require continuing evaluation by testing with laboratory mammals; and that despite the problems involved in translating the results from such experiments to human risk, the present techniques are sufficiently reliable to justify registration actions based upon such data alone, or an interim basis, until evidence convincingly demonstrates that there is no human risk." (NAS, 1975a, p. 5; Hearing Exhibit 2)

In a report on principles for evaluating chemicals in the environment (NRC Principles for Evaluating Chemicals), a section was devoted to chemical carcinogenesis which discussed aspects of experimental design for carcinogenicity testing.

The report stated:

"[r]odents are the animals of choice for carcinogenesis tests because of their convenience, comparatively short life span and proven susceptibility to a broad range of carcinogenic agents." (NAS, Evaluating Chemicals, 1975b, p. 150)

In 1976 the Subcommittee on Environmental Carcinogenesis of the National Cancer Advisory Board, National Cancer Institute, issued a report entitled "General Criteria for Assessing the Evidence for Carcinogenicity of Chemical Substances" (NCAB report), June 2, 1976. The report stated:

". . . Demonstration that a compound is carcinogenic in animals should, therefore, be considered evidence that it is likely to be carcinogenic in humans, unless there is strong evidence in humans to the contrary." (NCAB Report, 1977, p. 461; Exhibit B to Weinstein Statement)

A number of expert review committees which have reported since 1976 on various aspects of the identification of carcinogens have expressed general support for the use of animal testing. The Safe Drinking Water Committee of the National Academy of Sciences made the following summary statement:

"EFFECTS IN ANIMALS, PROPERLY QUALIFIED, ARE APPLICABLE TO MAN

"This premise underlies all of experimental biology and medicine, but because it is continually questioned with regard to human cancer, it is desirable to point out that cancer in men and animals is strikingly similar. Virtually every form of human cancer has an experimental counterpart, and every form of multicellular organism is subject to cancer, including insects, fish, and plants. Although there are differences in susceptibility between different animal species, between different strains of the same species, and between individuals of the same strain, carcinogenic chemicals will affect most test species; and there are large bodies of experimental data that indicate that exposures that are carcinogenic to animals are likely to be carcinogenic to man, and vice versa.

"Evidence that circumstances leading to cancer induction in humans are also applicable to experimental animals stems from the very first observation of chemical carcinogenesis—the appearance of cancer of the scrotum in chimney sweeps, observed by the British surgeon, Percival Pott, in 1775. It was not until modern times that a substance implicated in human cancer was found to be carcinogenic in animals, when the Japanese scientists, K. Yamagiwa and K. Ichikawa, found in 1915 that extracts from coal tar caused cancer when applied to the skin of experimental animals. Many pure carcinogenic chemicals have since been isolated from a wide variety of "tars" derived from incomplete combustion of organic matter, such as coal, wood, and tobacco. There is little doubt that these and other chemicals, alone or in combination, are responsible for the greatly increased incidence of lung cancer among smokers. With the possible exception of arsenic and benzene, all known carcinogens in man are also carcinogenic in some species, although not in all that have been tested." (NAS, 1977a, pp. 53–54; Appendix I to Rail Statement)

The final OTA report, *Cancer Testing Technology and Saccharin* stated:

"Animal tests are accepted as valid, reliable predictors that a substance will produce cancer in humans." (OTA, 1977, p. 5; Exhibit C to Weinstein Statement)

The report continued:

"Animal tests are the best current methods for predicting the carcinogenic effect of substances in humans. All substances demonstrated to be carcinogenic in animals are regarded as potential human carcinogens; no clear distinctions exist between those that cause cancer in laboratory animals and those that cause it in humans. The empirical evidence overwhelmingly supports this hypothesis." (*Ibid.*, p. 11)

In the latest volume of the IARC Monograph series, the preamble states:

"For many of the chemicals evaluated in the first 17 volumes of the *IARC Monographs* for which there is *sufficient evidence* of carcinogenicity in animals, data relating to carcinogenicity for humans are either insufficient or nonexistent. In the absence of adequate data on humans, it is reasonable to regard for practical purposes such chemicals as if they were carcinogenic to humans." (IARC 1978, Vol. 17, p. 20)

The National Academy of Sciences Committee for a Study of Saccharin and Food Safety Policy reported as follows:

"Since animal studies that are properly conducted to detect carcinogenic activity are qualitatively predictive of human responses, the committee concludes that saccharin ingestion presents a predicted cancer risk to humans. However, because of the substantial uncertainties in extrapolating from experimental doses to human exposure levels, the committee concludes that quantitation of risks to humans cannot be made with confidence." (NAS, 1978, p. T–3, emphasis in original)

In addition, a report by the Food Safety Council made extensive recommendations for the use of animal tests in the evaluation of chronic hazards of food components, including carcinogenicity:

"The selection of test species for chronic testing is limited by many practical considerations and has been considered in detail in the references cited above. Since it is generally acknowledged that the test period should encompass a major portion of the lifespan of the test species, the selection is limited to those mammalian species with relatively short longevity. It is also necessary that there exist adequate biological knowledge of the species, including information on required husbandry practices and spontaneous diseases and their management. Laboratory animals such as dogs, and non-human primates, although perhaps desirable in many respects, are usually unacceptable because of their relatively long lifespans. There may be an instance, however, in which the nature of the toxicity or the procedures required will necessitate the use of larger species such as dogs, cats or non-human primates."

"Among laboratory rodents, mice and rats have been the traditional test species employed in chronic testing. Their lifespan, size and cost are well suited to this purpose. Further, there is extensive experience and information of the biological characteristics, husbandry and diseases of mice and rats, exceeding that of any other animals except domestic veterinary species. It is, therefore, recognized that mice and rats remain the species of choice under most circumstances unless specific considerations dictate otherwise. Experience with Syrian hamsters is expanding and this species is also considered acceptable for chronic toxicity testing. However, there is not yet sufficient biological data to consider hamsters as replacements for rats or mice, but rather as an acceptable third species. (Food Safety Council, 1978, pp. 97–98; Hearing Exhibit 227)

C. OSHA's General Conclusions

The validity of qualitatively extrapolating animal test results to humans is firmly based upon substantial and empirical evidence in the Record, as we pointed out above. Not only have experiments in test mammalian animals given positive carcinogenic test results for every compound known to cause cancer in humans, except arsenic and perhaps benzene, but although there may be wide variations in the susceptibility of various species to cancer, evidence indicates that a substance that causes cancer in one mammalian animal species is likely to do so in most other mammalian species tested. Substantial evidence and scientific data in the Record indicate, in sum, that laboratory animals are suitable test models for determining the cancer-causing potential of a toxic substance to humans.

OSHA concludes that the general principle that substances shown to be carcinogenic in test animals should be presumed to pose a qualitative carcinogenic hazard to exposed humans was overwhelmingly supported, except as so qualified below; indeed, the specific scientific documentation for the principle is steadily being enlarged. It is for these reasons that the relevant portion of the OSHA Cancer policy states at 1990.143(b):

(b) *Positive animal studies.* Positive results obtained in one or more experimental studies conducted in one or more mammalian species will be used to establish the qualititative inference of carcinogenic hazard to workers. Arguments that positive results obtained in mammalian species should not be relied upon will be considered only if evidence is presented which meets the criteria for consideration specified in § 1990.144(c) or § 1990.144(f).

Although a large number of witnesses testified about the way in which animal data should be used in identifying, classifying, and regulating potential occupational carcinogens, almost all the witnesses and participants accepted the general proposition that a substance found to be carcinogenic in animals should be regarded as a potential human carcinogen. This virtually unanimous view is illustrated by the above discussion and analysis. There was however, concern expressed about how OSHA's general policy will in fact be applied in regulatory activity in the future. In the preamble to the proposed regulation, most of the specific concerns discussed by the participants in this rulemaking were raised and discussed under the following 10 titles:

1. Mammalian Species.
2. Positive versus Non-positive Results.
3. Testing at High Doses.
4. Species or Organ Specificity.
5. Statistical Significance.
6. How much weight should be placed upon the incidence of benign tumors in animals as an indication of potential carcinogenic hazard in man?
7. How much weight should be placed on the induction of a type of tumor which occurs spontaneously in untreated animals?
8. Which routes of exposure of experimental animals are to be considered appropriate for extrapolation to man?
9. How much confirmation of positive results is necessary?
10. Can "safe" or "no effect" levels be set for exposure to chemical carcinogens?

The evidence presented in this Record on these points will therefore be discussed below under the same 10 titles. In addition, concern was expressed on additional points which were raised elsewhere in the proposal, were fully aired during the rulemaking and are discussed below as follows:

11. Criteria for Assessing Animal Studies.
12. Promoters.
13. Metabolism.

The evidence presented in the Record on these points and the other general issues raised will also be discussed below.

D. THE SPECIFIC ISSUES

1. Mammalian Species

a. OSHA's Proposal

In the preamble to the proposed regulation, OSHA proposed that tests in any mammalian species would be regarded as appropriate for the prediction of potential hazard to exposed humans, whereas tests on non-mammalian species would not. OSHA specified that rats, mice and other mammalian species are the species of choice in carcinogenicity testing, and that positive results in any of these species would be given importance, *viz:*

"Mammalian species are those species of test animals generally considered directly relevant to man insofar as carcinogenicity testing is concerned. Other species, such as reptiles, have not been shown to have any such similarity to humans, insofar as carcinogenicity is concerned. Thus, OSHA relies, in general, only upon results found in testing of mammalian species. In that regard, the rat and mouse (and to a lesser extent the hamster) have traditionally been the species of choice for carcinogenicity testing, other mammalian species being useful for certain purposes but generally impractical for use in full-scale bioassays (WHO Tech. Rept. 220, p. 8; Mrak Commission, p. 465; FDA Panel Report, p. 428; NRC Principles for Evaluating Chemicals, p. 150). The choice of the rat and mouse is not only dictated by considerations of convenience, but because of their known susceptibility to agents known to be carcinogenic in humans as well as the similarity in the mechanisms of tumor induction (NRC, 1970, p. 47)." (42 FR 54160)

b. The Public's Response

(1) *General Support for the Proposed Position.*

Most witnesses and participants in this rulemaking expressed general support for OSHA's proposed position

that a positive result in any mammalian species is important and meaningful in the qualitative identification of a potential human hazard. Dr. Arthur Upton (Director, NCI) and Dr. Richard Griesemer (NCI) described the NCI Bioassay Program, the largest screening program under way for the identification of carcinogens, which uses rats and mice as the species of choice. In fact, NCI defines a chemical carcinogen as:

". . . a chemical that has been demonstrated to cause tumors in mammalian species by induction of a tumor type not usually observed; or by induction of an increased incidence of a tumor type normally seen, or by its appearance at a time earlier than would be otherwise expected." (Sontag *et al.*, 1976, pp. 46–47; Appendix to Griesemer Statement)

Dr. Upton (Director, NCI) after discussing in general the lack of knowledge of the mechanisms of carcinogenesis commented:

"Given this lack of knowledge concerning mechanisms, I believe that a reproducible carcinogenic response in *any* species of test animal must be considered sufficient to describe the test compound as a carcinogen and so a potential threat to human health. I consider that a similar reaction in a second mammalian species is a confirmation of the carcinogenicity of the test agent, but it is not necessary before a finding of carcinogenicity and potential threat to human health can be made; negative results in a second or even third species of test animal do not in my mind establish that the test agent is not a potential threat for human beings. Given the variation in human susceptibility to carcinogens, I believe it unreasonable to ignore a finding of carcinogenicity in any mammalian test species when considering possible effects on human health. (Upton, S. 17)

Dr. David Baltimore (MIT) stated that:

"There is every reason to believe that the gross principles of carcinogenesis as studied in animals are relevant to humans. Therefore, compounds that increase incidences of tumors in animals should have the same potential in humans. Human physiology clearly differs from animal physiology so a one-to-one mapping of events in animals onto humans should not be expected, but generally principles should carry over." (Baltimore, S. 1–2)

Dr. Renate Kimbrough (CDC), in response to questioning, stated:

"It does not matter what species are we talking about. Whatever species you have a positive result in, that should be a signal saying that this compound is carcinogenic, and that the exposure to this compound ought to be reduced." (Kimbrough, Tr. 1777)

Dr. Richard Griesemer (NCI) also commented:

"We are certain today—and I used that advisedly—we are certain that there are no species differences amongst mammals for carcinogens, and that animal carcinogens are very likely if not certainly human carcinogens." (Griesemer, Tr. 957)

Dr. Matthew Meselson (Harvard Univ.) commented:

". . . I would be very suspicious of any such claim of a species difference; not that there are not such claims, but that sometimes they have been based on inadequate information and they seem to live on like legends and not really be true." (Meselson, Tr. 1538)

Later, he summarized by saying:

"So, my impression on looking through the literature for the compounds I did is that you can get an exaggerated view of the importance of these species differences partly because of inadequate experimentation, partly because even when they do exist you have to ask how big are the differences in comparison with our purposes in getting a scale that covers the whole range of a million." (Meselson, Tr. 1541)

Dr. Melvin Reuber (NCI–FCRC) commented on the significance of the laboratory carcinogenicity findings to human health:

"Qualitatively, it has been shown that the formation and occurrence of tumors in man and other mammals—such as hamsters, mice and rats—is quite similar. In tests undertaken to date, it has been demonstrated, with two possible exceptions (arsenic and benzene), that every chemical which has been found to be carcinogenic in man is also carcinogenic in one or more mammalian test animals. Furthermore, the majority of chemical carcinogens which have undergone sufficient testing have been shown not to be species specific. That is, testing has shown that if these compounds will produce tumors in one species, it will very likely produce tumors in more than one, thus adding weight to any finding of carcinogenicity in tests using any mammalian species. Sufficient documentation is available on qualitative extrapolation of animal data that one must conclude that a finding of carcinogenicity in one mammalian species should be deemed to have relevance for other mammalian species—including man." (Reuber, 1977, pp. 14–15; Appendix C to Reuber Statement)

Dr. Bo Holmberg (Swedish NBOSH) raised the point that the insensitivity of epidemiological studies does not preclude action on results in mammalian species:

"The apparent low number of established occupational carcinogens is not a true indicator of the problem and certainly does not justify a lack of action on all chemical compounds inducing cancer in mammalian species." (Holmberg, S. 7)

Dr. Donald Millar (Acting Director, NIOSH) after a discussion of known human carcinogens commented:

"Of the human carcinogens mentioned above, almost all have been shown to be positive in rats and several of them are positive in mice. Fortunately, these are the mammalian species which are least costly to process, and, therefore, their use can be recommended with very few or no qualifications." (NIOSH, Appendix C, p. 2)

In a recently published set of recommendations, the Food Safety Council adopted a similar viewpoint:

"Among laboratory rodents, mice and rats have been the traditional test species employed in chronic testing. Their lifespan, size and cost are well suited to this purpose. Further, there is extensive experience and information of the biological characteristics, husbandry and diseases of mice and rats, exceeding that of any other animals except domestic veterinary species. It is, therefore, recognized that mice and rats remain the species of choice under most circumstances unless specific considerations dictate otherwise. Experience with Syrian hamsters is expanding and this species is also considered acceptable for chronic toxicity testing. However, there is not yet sufficient biological data to consider hamsters as replacements for rats or mice, but rather as an acceptable third species." (Food Safety Council, 1978, pp. 97–98; Hearing Exhibit 227)

A similar position was taken by the Consumer Product Safety Commission:

"(A) *Mammalian species.* CPSC generally will rely only upon results found in testing mammalian species as opposed to reptiles, fish, etc. As a practical matter, small mammals such as hamsters, rats and mice will be the test animals of choice, because of their convenience, relatively low cost, and susceptibility to agents known to be carcinogenic to humans." (CPSC, Hearing Exhibit 39)

(2) *Issues Raised at the Hearing.*

Despite the general consensus that mammalian species are generally appropriate for carcinogenicity testing, and that rats and mice are the species of choice, a number of witnesses objected to the use of certain mammalian test systems. In particular, objections were raised to the use of certain strains with high spontaneous incidence of tumors, and to the use of certain strains of mice. For example, the Food Safety Council continued as follows after the passage quoted above:

"There is controversy over the use of mice in toxicity testing, particularly with respect to the assessment of potential carcinogenic risk (Grasso, Crampton, and Hooson, 1977). The relevance of test results in mice is questioned primarily because of the high spontaneous rates of certain tumor types, and the effects of many modifying factors such as diet, viruses and hormones on the incidences. Particular concern is given to lymphomas, lung, liver and mammary tumors. It is true that certain strains of mice have high natural incidences of one or more of these tumors, and that their unusual genetic susceptibility may not be relevant to the human population. The use of such strains is appropriate for carcinogenesis research but not safety testing. However, several strains of mice have relatively low to moderate rates of spontaneous neoplasms and these are well suited to carcinogenicity testing. The fact that environmental factors may modify the tumor rates in test animals does not invalidate animal experiments unless species specific responses can be demonstrated, because similar factors undoubtedly also influence human response to carcinogens. The important point is that genetic and environmental influences be uniform among treated and control animals. It is also argued that mice are excessively sensitive to carcinogens, but one may equally argue that their sensitivity is an advantage in safety testing and in the extrapolation of animal data to the genetically diverse human population." (Food Safety Council, 1978, p. 98; Hearing Exhibit 227)

A number of witnesses at the hearing presented specific testimony on these issues. For example, Dr. Robert Olson (St. Louis Univ.) summarized his discussion on the use of the mouse in extrapolating to humans:

". . ., it is very difficult to extrapolate carcinogenicity testing from mice to human beings because of the mouse's high basal tumor incidence, inconstant basal development of tumors over various periods of time, marked effects of diet and nutritional status, response to trace carcinogens in animal foodstuffs, hypersensitivity to endocrine and social factors, inconstant life span and changing age-dependent tumor incidence, sensitivity to infection by oncogenic viruses and metabolic pathways which do not parallel those in man. The Panel on Carcinogenicity of the Cancer Research Commission of the International Union against Cancer recommended strongly against the use of only one species in carcinogenicity testing. They said, 'To allow for differences in the pattern of response between man and animals, the testing of a suspected substance must be carried out in more than one species of animal. Ideally, the more species used, the better; in practice, some compromise must be reached' (84). For all these reasons, it is my view that using the mouse as the *sole* test animal in determining the potential human carcinogenicity of given compounds is not a sound biological approach." (Olson, S. 25, emphasis in original)

Drs. Paul Newberne and Adrianne Rogers (MIT) commented:

"The foregoing discussion of the significant incidence of liver nodules in a majority of mouse strains and substrains and the problems of classifying them leads one to conclude that the mouse leaves much to be desired as a species for safety testing. The results of studies upon which this report is based do not always give a clear indication of carcinogenic activity for a given chemical. The relatively rare mention of metastases or of histological features of hepatic tumors reported leads one to suspect that carcinogenic activity was, in some instances, based on the induction of nodules which may have been benign.

"In our opinion, with the foregoing documented information in mind, it is scientifically unsound to base any judgment as to chemical safety on mouse liver tumors alone until we understand the biological behavior of such lesions. (Newberne and Rogers, S. 16–17)

Dr. Paul Grasso (AIHC) stated:

"In the mouse, lymphomas, pulmonary adenomas, hepatomas and mammary tumours are found much more frequently than other tumours, and are readily induced by a number of chemical agents. As discussed in our publication entitled "The Mouse and Carcinogenicity Testing" (Ref. 9) important biological factors unrelated to treatment appear to play a major role in the development of these tumours so that even if there is a statistically significant difference between test and control, one cannot accept this as valid evidence of carcinogenic activity. Some of the factors responsible for the development of these four types of tumours are outlined in the following sections. (Grasso, S. 5)

His colleague Dr. Reginald Crampton (AIHC) also commented:

"From the cancer point of view there is no such animal as the mouse. For example, the male mice of strain C3H will spontaneously develop up to 85% incidence of liver tumours (8,9) whereas mice of strain SWR/J have a near zero incidence of liver tumours (10). There are many similar examples involving other types of tumours. Furthermore, there is evidence that within a single strain of mice the incidence of spontaneous tumours may change with time (11, 12)."

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"Whilst the precise way in which cancer is caused in any species is unknown, several predominant factors are known to affect its appearance in the mouse, which are absent or which appear to play a minor role in other species, including man. These are virus infection, genetic effects, and hormonal status."

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"Any animal that has a high incidence of 'spontaneous' tumours should be regarded as unsatisfactory. Not only is a positive result more difficult to establish in statistical terms unless large numbers of animals are used, but a positive result may fail to be elicited, thereby producing a false negative result. This is the most serious error of any system for detecting carcinogenic activity."

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"The propensity of the mouse to produce tumours by the interaction of virus, genome, and exposure to chemicals, raises great difficulties of interpretation. Such interactions do not, as far as we know, play major roles in other species. These interactions may explain why the dose response to carcinogens usually observed in rats, is often absent or anomalous in the mouse, at least where the induction of lymphomata occurs (19,20). The ability to ascribe the relative importance in carcinogenesis of these various factors is often poor or non-existent, and in the case of bio-assays, as distinct from research investigations, usually impossible. Thus, extrapolation is not even feasible." (Crampton, S. 4–7)

Dr. James Jandl (Harvard Univ.) commented at length on the use of the mouse:

"In the proposed rules OSHA recommends the format of employing mice in numbers of approximately 50, including males and females; and rats, in similar numbers of males and females. Rats are not as susceptible, as a rule, to carcinogenesis as mice. However, a number of inbred strains of rats have been developed which possess similar spontaneous high rates of cancer of one or more organs. The characteristic of both inbred mice and rats is that they are mainly a very fragile, poorly breeding, congenitally defective group of animals, having a lifespan that is, on the average, approximately one-half to one-third of normal. The normal lifespan of a rat is between three and four years. The lifespan of a normal mouse is approximately the same. Mouse longevity among inbred strains is very difficult to obtain from the source laboratories. Rat longevity data are available and they range in inbred rats commonly used between eleven and fourteen months. The deaths in these animals are not necessarily due to neoplasm but through a variety of other defects that are clustered in their inheritance. These include nephritis, pneumonitis, pulmonary cysts, and central nervous system lesions, etc. Thus, these animals are susceptible to non-specific stimuli."

"An argument introduced early by OSHA in defense of the use of inbred animals, for which they have a particular liking, is that almost no carcinogenic agent known to affect man fails to affect inbred strains. One might add that it is possible to induce a cancer, many cancers, or to expedite the onset of spontaneous cancer in these inbred strains through very non-specific means. This is not very important proof, and involves very few chemicals, and does not apply to at least two carcinogens for man."

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"Among the numerous overt biochemical and other differences between mouse and man which bear upon the issue of carcinogenesis, is a habit that is particularly prominent in rodents known as coprophagy. The significance of the coprophagy in the metabolism of ingested substances and specifically with regard to carcinogenesis has only been appreciated in recent years. It is generally accepted fact that a foreign chemical absorbed into the body of any mammal is subject to a host of detoxifying mechanisms, a typical one being conjugation to a glucoside, glucuronide or sulfate. This leads to excretion, harmlessly, of the compound through the bile into the intestine. At the lower end of the small intestine the conjugated material then is exposed to the vast population of anaerobic microorganisms which possess an enormous diversity of biochemical enzymic reactions, potentially."

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"Consequently, the habit of coprophagy, which is an intense way of life for rodents, inevitably casts a shadow of doubt on much of the experimental carcinogenesis studies that have been performed in rats and mice. (Coprophagy cannot be prevented without

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extraordinary physical technology; indeed, the restraints required to prevent it induce mental changes that totally alter the habits of the animal and make it useless as a test animal.)"

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"It is highly unlikely that one can place credence upon the tests conducted in rodents, particularly inbred mice and inbred rats which are quite distant from man, which have different detoxifying and metabolizing properties, which have the unpleasant habit of coprophagy, and which have so short a life span that doses employed in testing them are hundreds or thousands or tens of thousands greater than those to which occupational personnel would be exposed. Indeed, it is almost certain that the high level of toxicity or the near-toxicity of each individual dose given on the unfirm and unsubstantiated ground that the lifespan of the animal must be compensated for by increased dosage in order to be interpretable for human beings, *contributes* to the carcinogenicity of any compound given. It is also true, in the opposite direction, that because large and toxic levels of compounds are tested, the multi-factorial dose-effect or dose-response nature of chemicals confuse the results and actually *conceal* a carcinogen because the chemical is given in an amount that in itself is anti-carcinogenic, as described previously."

"I think it would be reasonable to assume that a compound tested under these bizarre conditions in mice, should it be found to be carcinogenic, should be accepted only as a potential hazard for man until proved otherwise." (Jandl, S. 29–31, 33–34, 36–37 emphases added)

Dr. William Butler (NACA) also commented on this issue:

"It is true that the National Cancer Institute and Shell Research Company use mice extensively in their research. This is primarily for reasons of convenience, and because both mice and man are mammals. There is evidence that both mice and man are susceptible, for example, to the induction of hepatic carcinoma. But there is no good evidence that the responses of mice to carcinogens are similar to those of man. There are dissimilarities in the distribution and sites of neoplasms and there is no good evidence that the other pathological changes induced by carcinogens are the same in the two species. Such correlations have no foundation and should not be used to justify regulation.

"The use of mice has strongly been advocated as a test species for carcinogenesis bioassay. At the present time, this is beset with difficulties, as there is considerable disagreement over the pathological diagnosis of many lesions, not only those termed "hepatomas" but also on the significance to be placed on the increased incidence of such lesions in inbred strains." (Butler, S. 12)

As did Dr. Johannes Clemmesen (Danish Cancer Registry):

"OSHA proposes to accept as conclusive evidence of carcinogenicity positive results in one species if those results have been replicated. In doing so OSHA overlooks the fact that, in general, laboratory mice have been inbred more intensively than rats. Systematic brother-to-sister mating through many generations of mice has been encouraged to ensure a high degree of genetic uniformity. This, however, has resulted in a corresponding loss of general applicability of results. For instance, it has been possible to breed strains of mice with very high incidence of mammary cancer, while in the human species it is possible to demonstrate only a slight hereditary trend to this disease. In my view a strain of mice consisting of practically genetically uniform animals corresponds to the genetical makeup of only a single human and the data should be evaluated accordingly. Replication of results within the same strain of mice is not equivalent with replication within a non-inbred species, not to speak of different species. It therefore is not a sound criterion for classification." (Clemmesen, S. 12–13)

The above quotations mention a number of different objections to the use of specific strains of animals as the basis for inferences of carcinogenic risk. Although these objections were not always separated by the witnesses, the following distinct issues appear to be raised by this testimony:

(a) Can strains with a high spontaneous incidence of tumors be used in carcinogenicity testing?

(b) Does the presence of tumor viruses invalidate positive results in mouse test?

(c) Is the spontaneous incidence of tumors in certain mouse strains unstable, and if so does this invalidate positive results obtained in them?

(d) Can liver tumors in mice be diagnosed reliably and consistently?

(e) Is the induction of tumors in mice predictive of carcinogenicity in other species?

(f) Can reliable results be obtained in inbred strains of rodents?

(g) Are there other characteristics of rodents, such as a tendency to coprophagy, which would invalidate their use in carcinogenicity testing?

(a) *Can strains with a high spontaneous incidence of tumors be used in carcinogenicity testing?* This issue is discussed elsewhere in this Preamble (Section V.D. 7: *Spontaneous Tumors*). There OSHA concludes that the occurrence of spontaneous tumors in the strain of animals used for testing would not by itself invalidate a test, providing that the test is adequately controlled. Under such circumstances, the occurrence of a high incidence of tumors in controls is in general likely to give false negative rather than false positive results. OSHA agrees that in cases where the spontaneous incidence of tumors is extremely high (over 50 percent), the results of experiments may be difficult to interpret. However, although there was much discussion of *hypothetical* cases of this kind, no witness presented an example in which such a case was the primary evidence for carcinogenicity of a substance.

(b) *Does the presence of tumor viruses invalidate results obtained in mouse tests?* In addition to the general statements quoted above, three witnesses offered specific comments on viruses. Dr. Reginald Crampton (AIHC) presented the following comments:

"Cancer inducing viruses are widespread in mice, in particular those inducing tumours of the lymphoreticular system and the mammary gland (16). The genetic make-up of the mouse is also known to be a strong influence on the incidence of pulmonary, (17) mammary and lymphoreticular tumours. There is some evidence that in the case of lymphoreticular tumours it is the interaction between the genome and viruses which, in some ill-defined way, induces these tumours (18). Similarly, the susceptibility of the mouse to mammary tumours when its hormonal status is changed may also be related to the interaction of virus and hormonal activity and diet (16)." (Crampton, S. 6)

Dr. Robert Olson (St. Louis Univ.) also included a paragraph on viruses (Olson, S. 21–23). However, neither of these witnesses suggested that the effect of tumor viruses would be enhanced by noncarcinogens. The only such claim was made by Dr. Francis J. C. Roe (AIHC):

"The above concept of the origin of tumour viruses was advanced by ourselves ten years ago (Roe and Rowson, 1968) and is accepted as both plausible and likely by those who have considered it. It accounts for the fact that certain virus-induced neoplasms occur in far higher incidence in some strains of laboratory animal than any single kind of neoplasm of unknown cause occurs in any other species, including man. Thus there is no equivalent in the wild or in man of the 100%, or close to 100% incidences of, say, mammary cancer, or malignant lymphoma in certain strains of mice, unless one encompasses outbreaks of leukaemia in fowls, epizootic myxomatosis (deliberately spread by man in the control of rabbit populations) and odd diseases, such as Aleutian disease of mink."

"It is clear from numerous published studies that the presence of tumour viruses may greatly enhance the risk of tumour development in response to exposure to other agents, including X-irradiation and chemical agents (see Roe and Rowson, 1968). Moreover, non-specific non-carcinogenic agents, such as turpentine (Friedewald, 1942) may greatly enhance the tumorigenic effects of tumour viruses." (Roe, S. 63)

As Dr. Roe pointed out, it is well-established that some *carcinogens* may interact with tumor viruses to enhance tumor incidence. The paper by Friedewald, cited by Dr. Roe for the proposition that non-carcinogens may do so also, was conducted under conditions (gross tissue damage followed by application of another carcinogen) which would be regarded by OSHA as inappropriate for prediction of human risk. In any case, Roe's categorization of turpentine as "non-carcinogenic" is not justified by the results of any experiments available to OSHA (NIOSH, 1978c; USDHEW, 1969). This matter was put into perspective by Dr. Robert Squire (Johns Hopkins University):

"Since mice harbor so many oncogenic and other viruses, including a hepatitis virus, it has been claimed that hepatic neoplasms in this species are likely to be the result of cocarcinogenic viral effects that are not relevant to humans. Although it is true that mice are subject to numerous viral infections, so are humans. Furthermore, human hepatitis virus has been implicated in the etiology of human liver cancer (Ziegler et al. 1977). If, therefore, a murine virus is involved in mouse liver carcinogenesis (and there is no evidence to substantiate this), it may still be relevant to human cancer assessment." (Squire, S. 21)

Thus, OSHA concludes that the involvement of a virus in the etiology of a certain type of tumor would not necessarily invalidate the identification of a carcinogen based on observed induction of this type of tumor. However, to accommodate the scientific concerns expressed above, OSHA believes that if convincing evidence is presented showing the primary involvement of a virus in a particular experiment and that the substance is not likely to be carcinogenic in the absence of the virus, OSHA will consider the evidence on its merits if certain minimum criteria are met. Specifically, in other words, if the virus is clearly established to be the sole direct mechanism producing the carcinogenic effect in the test mammalian animals, the virus will not be regulated pursuant to this set of regulations, as the definition of "potential occupational carcinogen" found in 1990.103 includes only physical or chemical substances. If the substance is alleged to operate only by way of interaction with a virus, so that the substance has only an indirect link to the carcinogenic effect, the final set of regulations provide in § 1990.144(f) that:

"(f) *Indirect Mechanisms.*

The Secretary will consider evidence that positive results obtained in a carcinogenesis bioassay with experimental animals are not relevant to a determination of a carcinogenic risk to exposed workers, if the evidence demonstrates that the mechanism by which the observed tumor incidence is effected is indirect and would not occur if humans were exposed. As examples, evidence will be considered that a substance causes a carcinogenic effect by augmenting caloric intake or that the carcinogenic effect from exposure to a substance is demonstrated to be the result of the presence of a carcinogenic virus and it is demonstrated that, in either case, the effect would not take place in the absence of the particular carcinogenic virus or the augmented caloric intake.

(c) *Is the spontaneous incidence of tumors in certain mouse strains unstable, and if so does this invalidate positive results obtained in them?* Although a number of witnesses and participants referred to variability or "instability" in the spontaneous incidence of tumors in certain mouse strains, only a few such witnesses or participants provided detailed documentation of this variability and of factors influencing it. Dr. Francis J. C. Roe (AIHC) presented evidence that the "spontaneous" incidence of tumors may be influenced by genetic factors, viruses, hormones, microbiological status, immunological status, trauma, parasitic infections, radiation , caloric intake, and diet, in addition to carcinogens (S. 20–41). Dr. Roe placed particular emphasis on the roles of nutritional factors and caloric intake, and introduced some of his own experimental results in this area:

"Of all the factors known to influence the incidence of cancers, diet and caloric intake are, in my opinion, among the most important." (Roe, S. 31)

Dr. Robert Olson (St. Louis Univ.) also presented evidence for the influence of the same factors (S. 16–23), and in addition pointed out the dependence of tumor incidence on age (S. 21).

Drs. Paul Grasso and Reginald Crampton (AIHC) introduced their book "The Mouse and Carcinogenicity Testing" (Grasso *et al.*, 1977), which provided extensive tabulations of "spontaneous" tumor incidence in mice. The data were classified by strain, sex, site of tumor, laboratory and date of experiment. However, other factors stressed by other witnesses, such as age, duration of experiment, and diet, were not tabulated. The authors concluded:

"An important feature in the history of these tumours is the fluctuation in incidence in the same strain from generation to generation in the same laboratory, and from one laboratory to the next. This is particularly noticeable in both inbred and outbred strains with a high natural incidence of tumors. As far as one can tell, this fluctuation is unpredictable and quite unexplained." (Grasso et al., 1977, p. 6; Hearing Exhibit 138)

Some of the same data were cited by other witnesses, including Drs. Paul Newberne and Adrianne Rogers (MIT). A number of the same points were made in the book *Mouse Hepatic Neoplasia* (Butler and Newberne, 1975), especially in Chapter 6 by Grasso and Hardy:

"Thus there is some evidence that a number of factors may be involved in the induction of this type of tumour, and until more is known about their role it would be unsound to base conclusions on carcinogenic activity on the sole induction of mouse liver tumours, even assuming they are all cancers." (Grasso and Hardy, 1975, p. 129)

There was considerable confusion in this and other testimony on this subject. Most witnesses did not make clear whether they believed that the variations in "spontaneous" tumor incidence were in fact "unpredictable and quite unexplained" (as suggested by Drs. Grasso and Crampton) or whether they are in fact predictable and explainable on the basis of environmental and host factors (as suggested by the testimony of Drs. Olson and Roe). If the former, it would indeed be difficult to interpret the results of experiments which showed changes in tumor incidence at the sites in question; if the latter, the variability could be accommodated by the use of properly matched controls.

This issue was reviewed in detail by Dr. Walter Heston (NIH), an expert in the interaction of genetic and environmental factors in determining tumor incidence in mice, and the author of a number of papers cited by Drs. Olson, Roe, Grasso, and Crampton. Dr. Heston reviewed in detail the genetics of tumor incidence in mice, and the history of major strains and sub-strains, and he explained the phenomenon of "genetic drift". He then pointed out, with examples, the dependence of "spontaneous" tumor incidence on age, sex, hormonal status, diet, growth and well-being, and experimental factors such as postmortem conditions, degree of examination of animals, pathological definitions, and statistical fluctuations. He reviewed the data presented by Drs. Grasso and Crampton and pointed out numerous errors and over-simplifications. In particular, he pointed out that much of the "unpredictable and . . . unexplained" fluctuation in tumor incidence was attributable simply to variations in age of the animals in different experiments (Heston, Post-hearing Comment, Appendix 1). Much, if not all, of the remaining variation was attributable to genetic drift, inconsistencies in tumor classification, incomplete autopsy, and diet.

"Upon detailed examination of the background material contained in these publications it soon becomes apparent that the figures on tumor incidence are not easily comparable with one another and certainly do not demonstrate that there are wide and unpredictable fluctuations in tumor frequencies among animals likely to serve as experimentals and controls in a test for

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chemical carcinogenesis." (Heston, Post-hearing Comments, p. 18)

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". . . do not find that this compilation establishes that tumors such as hepatomas vary in incidence in such a way as to lessen their value or the value of inbred mice in testing for carcinogenic effects of chemical substances." (*ibid.*, p. 17)

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"The factors of age, substrain differences, diets, and procedures must all be controlled before any conclusions on variability of tumor rates can be drawn." (*ibid.*, p. 21)

Dr. Heston also pointed out similar errors and misinterpretations presented by Drs. Paul Newberne (MIT) and Robert Olson (St. Louis Univ.) (S. 21–23). Although the testimony of Dr. Heston (NIH) cited above was primarily addressed to the variability of liver tumors in mice, he also showed that the alleged variability in the incidence of mammary tumors was largely illusory (Heston, Post-hearing Comment, p. 21, Appendix 2).

As Dr. Heston pointed out, the effects of the environmental and host factors which affect tumor incidence in mice can readily be controlled by careful experimentation:

". . . there are many important genetic and environmental factors which are known to influence incidence of hepatomas and other tumors of the mouse. These influencing factors, both real and procedural, can make tumor frequency estimates of lessened or no value if they are not controlled by appropriate experimental designs. It is extremely important to recognize that these factors can be controlled and must be controlled in any adequate testing for a carcinogen. Control animals must always be run simultaneously with the experimental animals. The controls and experimentals must be of the same age and sex distribution. They must be kept in the same environment to the extent that this is possible. This means that they should have the same temperature, humidity, lighting, and handling. Ideally cages should be distributed throughout the mouse room in a randomized way. The animals must be fed the same diet with the exception of the candidate carcinogen if a candidate compound is to be administered via the dietary route. Once the compound has been administered and the animals are sacrificed at the desired age or ages, controls and experimentals must be subjected to the same autopsy and diagnosis procedures. The only difference between the test group and the controls should be that the test group receive the candidate substance while the control animals are free of the candidate substance. In this way any difference between the two groups in incidence of hepatomas or other tumors can be attributed to the substance tested. While it is true that the incidence of induced or spontaneous tumors can be changed by environmental influences, induced changes in tumor incidence are not difficult to determine accurately if the environmental and genetic factors are properly controlled. *In other words, properly controlled carcinogenesis bioassays in mice give reliable and meaningful results.*" (Heston, Post-hearing Comments, pp. 15–16, emphasis added)

Other witnesses (including Dr. I. Nathan Dubin (Medical College of Penn.), S. 19, and Dr. David Groth (NIOSH), Tr. 2999) concurred with Dr. Heston's conclusions. The National Agricultural Chemicals Association (NACA) also recommended that the same factors should be controlled (S. 33). Dr. Richard Griesemer (NCI) testified as follows:

"It is common knowledge that strains of rodents have differing incidences of spontaneous tumors. Also known, but not so commonly stated, is that the incidences of spontaneous tumors within a strain or substrain are remarkably constant. In a carcinogenesis bioassay, when matched control animals are used, genetic drift is not a factor. When matched control animals are housed under identical environmental and dietary conditions as well, comparisons of treated and untreated animals can be made with assurance." (Griesemer, S. 8–9)

Finally, as Dr. Heston (NIH) also emphasized, intra-specific variability in spontaneous tumor incidence, and influences of environmental and host factors on this incidence, are found not only in mice, but also in other animals, including humans:

"The assertion by Drs. Grasso and Crampton that chemically induced enhancement of the major tumors of the mouse (lung, liver, mammary and reticuloendothelial tumors) should not suffice to consider that chemical as posing a carcinogenic hazard to humans is a perplexing one. While it is true that such enhancement may come about by mechanisms which are not relevant to humans, it is also true that the same or related mechanisms may indeed operate in humans. Moreover, it is not known whether human tumors which do appear are "spontaneous", chemically-induced, or the result of chemical enhancement of a neospontaneous state in otherwise normal cells. Thus, I feel that a reproducible chemical enhancement of spontaneously occurring tumors can be considered as evidence that the chemical is hazardous to man—the chemical may indeed be carcinogenic in man.

"Studies of cancer incidence in human populations indicate that some cancers may be the result of chemical carcinogens acting on susceptible genotypes in people. Tokuhata (1963) and Tokuhata and Lilienfeld (1963) demonstrated this relationship between genetic susceptibility to lung cancer and clinical manifestation of lung cancer among smokers. A total of 270 lung cancer victims were matched with 270 controls who did not have lung cancer to the extent possible for age, smoking patterns, income, state of health, etc. A significant excess in lung cancer mortality was found in *relatives* of the lung cancer patients when compared with the relatives of the noncancerous control individuals. The question was raised about familial tendencies to smoke, which could be related to familial tendencies to develop lung cancer and thus give rise to a spurious association between smoking and lung cancer. It was found that lung cancer was aggregated in families independently of smoking habits and that smoking habits were also aggregated in families, but this aggregation was independent of the appearance of lung cancer. This is evidence that genetic predisposition to cancer, much like what we have observed in inbred strains of mice, may be critical in the chemical induction of cancer in humans." (Heston, Post-hearing Comments, pp. 23–25)

As many witnesses were at pains to point out, cancer incidence in humans is known to be influenced by genetic factors, viruses, hormones, microbiological status, immunological status, trauma, parasitic infections, radiation, caloric intake, and diet, in addition to carcinogens (see especially testimony of Drs. Roe, Squire, and the book edited by Fraumeni (1975)). These are exactly the factors listed by Roe (S. 20–41) as influencing tumors in mice and rats. Indeed, Dr. Crampton agreed that man is an "unsatisfactory" animal in the same sense as he had categorized the mouse as "unsatisfactory" (Crampton, Tr. 6590). "Satisfactory" or not, substantial evidence in the Record indicates that the mouse is a reasonable model for identifying substances that pose a potential carcinogenic hazard to humans. The critical precaution to be observed in experimental studies with mice—as in epidemiological studies with humans—is to match the exposed and unexposed (control) groups, so that rigorous comparisons can be made.

(d) *Can liver tumors in mice be diagnosed reliably and consistently?* Four witnesses presented evidence for the proposition that liver tumors in mice could not be diagnosed reliably and consistently, so that it is not possible to draw unambiguous inferences about carcinogenicity from changes in their frequency. This proposition has been presented in some detail in a book *Mouse Hepatic Neoplasia* (Butler and Newberne, 1975). This book was introduced into evidence by several parties, including its editors, Drs. William Butler (NACA) and Paul Newberne (MIT). In addition, Drs. Stan Vesselinovitch (NACA) and Adrianne Rogers (MIT) presented similar testimony.

The arguments of these witnesses and of contributors to *Mouse Hepatic Neoplasia* may be summarized briefly as follows: (i) Pathologists cannot agree on the nomenclature to be assigned to tumors and other lesions of the mouse liver; (ii) most of the tumors are histologically benign, and the term "hepatocellular carcinoma" should be reserved for those that display unequivocal characteristics of malignancy; (iii) the progression of tumors through various stages is not yet understood, so that terminology implying a sequential development should not be used. In addition to these terminological questions, several witnesses claimed that the biological behavior of the tumors and their relationship to chemical carcinogens is not yet understood.

Examples of these statements include the following:

"It is evident from literature reports that there is a wide-spread divergence of opinion on the diagnosis of mouse liver lesions and of their significance (Butler and Newberne, 1975). At the I.A.R.C. Working Conference on Liver Cancer held at the Chester Beatty Research Institute in 1968 the problem of interpretation of focal proliferative lesions of mouse liver cells was discussed, and there was little agreement on the diagnosis of such lesions. The interpretation of individual lesions varied from hyperplasia to malignant neoplasia if invasion or metastases were not demonstrated. Without information on the biological behaviour of the lesions, pathologic opinions are based upon interpretation of histologic and cytologic detail and vary with the experience of individual pathologists."

"The divergence of pathologic diagnoses of mouse liver lesions has been demonstrated in two exercises. In an unpublished study, opinions were obtained from ten pathologists representing Canada, the United States, the United Kingdom, Germany and the Netherlands, on lesions induced in mouse liver by a pesticide. In no case was there unanimity of opinion of the ten pathologists consulted. In another study in Japan, a series of 43 cases was considered by 15 pathologists and again there was no unanimity of opinion. Moreover, there was a lack of consistency of individual opinions (Takayama, 1975). While in many cases there was a measure of agreement, in others wide variation was apparent."

"There are a number of explanations for these discrepancies including the inevitable disparity of training and experience of the pathologists. Whatever the cause of the disparity, it has far-reaching public health and economic significance. If the assessment of an experiment or test is based on the pathological interpretations of induced lesions, as it almost invariably is in safety testing, any disagreement in interpretation obviously limits the usefulness of the system." (Newberne and Rogers, S. 9–10)

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"As a result of my interest in the development and diagnosis of rodent hepatic neoplasia, and with the wide spread of disagreement as to the diagnostic features by which hepatic neoplasia is recognized in the rat and mouse, Dr. P. M. Newberne, Department of Nutrition and Food Science, Massachusetts Institute of Technology, and I decided that it would be useful to assemble a group of pathologists actively interested in the subject. As a result of our efforts, we organized a group of pathologists representing as diverse a range of opinion as possible to meet in a workshop and discuss the problem. This meeting was held in May, 1974, the report from which is published in a Monograph entitled 'Mouse Hepatic Neoplasia,' published by Elsevier (North Holland), Amsterdam, and edited by Dr. Newberne and myself. Within this workshop, many aspects of the problems of diagnosis and interpretation of mouse hepatic neoplasia were discussed. It will be apparent from reading the papers and from the discussion of this workshop that there are very wide levels of disagreement as to both the means by which hepatic neoplasia is diagnosed in the mouse and the relevance of this to carcinogenicity testing. It is also apparent that on the basis of the work which is in the scientific literature, the problems of diagnosis and interpretation cannot now be resolved." (Butler, S. 5–6)

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"Because of their frequent occurrence, the hepatic nodular lesions in rodents have been extensively studied and debated, yet these hepatic lesions in rodents persist as targets of controversy. Lesions whose natural history has been less well-studied cannot be characterized, and hence the significance of increased incidences of benign lesions in rodents is even more obscure." (NACA, S. 31)

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"We cannot conclude that each of various hepatic nodular populations, however temporally related to *bona fide* hepatocellular carcinoma, represent a development step committed ultimately to progress to hepatocellular carcinoma. In my judgment the carcinogenicity of a compound should be predicated upon the induction of malignant neoplasia (carcinoma) and not simply upon the induction of benign nodular lesions or even hyperplastic nodules in rodents. Provisions should be made by OSHA for consideration of evidence pertaining to the correctness of a diagnosis of malignant neoplasms, since this is directly relevant to the assessment of the potential carcinogenic risk to man." (Vesselinovitch, S. 13)

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"The study of neoplastic lesions in rodents is important for two reasons. Firstly to further the understanding of the pathogenesis of neoplasia and secondly as part of toxicological evaluation of new compounds. In both cases the extrapolation of the animal data to man must be based upon an evaluation of the information available. Therefore it is essential to attempt to get an accurate diagnosis of the proliferative lesions in the rat and mouse liver. The morphology and biological behaviour of these lesions in the rat has been described by many investigators. There is convincing evidence of a correlation between the structure of the primary lesions and its ability to invade and metastasize in the host. Also the incidence of metastases is high. In our experience with aflatoxin 75% of rats with such pleomorphic lesions have demonstrable invasion and metastases. Therefore a diagnosis of hepatocellular carcinoma on the morphology of the primary liver lesion is justified."

"In the mouse the situation is confused. There are only a few descriptions in the literature of the morphology of the lesions. There is even less published evidence of their biological behaviour in the host making any correlation between the morphology of the primary lesions and behaviour in the host unwise if not impossible. The presence of a 5% incidence of metastases from a defined lesion is insufficient evidence of the malignant nature of the remaining 95%. It can only arouse suspicion as to their nature." (Jones and Butler, 1975, p. 51)

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"The main problem that arises from the study of the nodular lesions in the mouse liver is making an assessment of their biological behaviour. It is obviously important to determine which of the lesions are carcinoma and to recognize the characteristics of the lesions which enables this diagnosis to be made. In the recommendations of the IARC Working Conference on Liver Cancer it was suggested that the assessment of the carcinogenicity of a lesion should be based upon its biological behaviour; that is the presence of invasion or metastases. However, in all published series and from our experience with phenobarbitone, the incidence of metastases is very low. Even in the reports (Walker et al., 1971) where the lungs were step serial sectioned metastases were only found in 2.1% of mice with nodules. In our own series we have so far failed to find any metastasis or evidence of local invasion. From literature surveys this would appear to be a common finding. Therefore, except in those cases where such biological behaviour can be demonstrated in a high incidence, the definitive diagnosis of carcinoma cannot be made."

"In the earlier part of this paper we have attempted to sub-divide the parenchymal cell lesions using the criteria of Walker et al. (1971). This classification was initially used as a convenient but arbitrary division. Walker et al. also found that the metastases occurred in those animals with the type B lesions. This classification was primarily based upon the structure of the nodules and its associated vascular bed and secondarily upon the cytology. At the extreme ends of the spectrum we find it reasonably easy to make the distinction between the types of lesions. However, there appears to be a continuous spectrum of change without a sharp separation of types. On our large area plastic embedded material the subdivision of types becomes even less certain."

"The cytological characteristics of the lesions have been used as diagnostic criteria of malignancy. In the large nodules arising in controls there is some variation in both cell size and staining characteristics of the cytoplasm, as well as increased variation in nuclear size. It is worth noting that in non-tumour bearing untreated mice, 18–24 months old, there is considerable variation in nuclear morphology. Multinucleate cells are also present and the nuclei contain cytoplasmic inclusions." (Jones and Butler, 1975, pp. 42–47)

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It is apparent on reviewing this material that the issues raised were at least partly nomenclatural and semantic rather than biological. The classification of a continuous spectrum of lesions into discrete categories inevitably appears to be somewhat judgmental, and it is not surprising that pathologists should disagree as to the precise points at which to place the boundaries between categories. Much of the dispute is concerned with the distinction between benign and malignant tumors (see quotations above from Jones and Butler 1975, and a discussion of this paper in Butler and Newberne 1975, pp. 57–59). Most pathologists define a malignant neoplasm as one which has the *potential* to invade and/or metastasize, whereas others require that invasion or metastasis must have occurred before they consider a neoplasm to be malignant. The restrictive criteria demanded by Drs. Butler and Vesselinovitch for the diagnosis of hepatocellular carcinoma appear to represent extreme examples of the latter position. However, the nomenclatural distinctions between benign and malignant tumors are not important to the identification of potential carcinogenic risks, as discussed below in Section V.D. 6 of the Preamble. The important distinction for this purpose is not between benign and malignant tumors, but between neoplastic and non-neoplastic lesions. Although there are, of course some marginal cases on which pathologists will disagree, the consensus of the expert pathologists who testified at the hearing (with the possible exception of Dr. Butler) was that this distinction can be made reliably. For example, Dr. Robert Squire (Johns Hopkins University) testified as follows:

"Thus there is good evidence that the neoplastic process is sequential and therefore that the practice of differentiating early and late lesions and assigning them to different biological processes is arbitrary and without foundation. It is incumbent upon those who reject the presence of early lesions as evidence of carcinogenicity to provide evidence to the contrary."

"Pathologists have applied such names as hyperplastic nodules, adenomas, hepatomas, type A nodules, and hepatocellular carcinoma to the early proliferative nodules in mouse livers. NCI and NCTR pathologists involved in carcinogenesis bioassays and their collaborators currently agree that the early nodules should be termed hepatic adenomas, and the more diffuse, anaplastic lesions be termed hepatocellular carcinomas. The early nodules are considered benign neoplasms in the sense that they rarely invade normal tissues or metastasize at that stage, but they are recognized as the precursors of the malignant carcinomas. It is because of this potential for malignant behavior that several pathologists prefer the term carcinoma for the entire spectrum of lesions. There was, however, consensus among this group of experienced pathologists that all of the available evidence indicates that these proliferative hepatocytic lesions in mouse livers are neoplastic and represent a carcinogenic response in that species." (Squire, S. 20–21)

Dr. Melvin Reuber (NCI–FCRC) testified as follows:

"My own knowledge and experience of liver tumors in rats and mice are summarized in part in Appendix C, a review of carcinogenicity testing of chemicals with particular reference to organochlorine pesticides. This paper includes a description of the development of neoplastic lesions in the livers of rats and mice exposed to carcinogens, with a classification of successive stages in this development. For reasons stated in this and numerous other papers which I have written, it is my experience that neoplastic lesions in the livers of mice can be characterized and diagnosed as reliably in mice as in other animals. There is an excellent correlation between the histopathological characteristics of liver tumors in mice and their biological behavior as reflected by transplantation experiments or observations of invasion and metastasis. The development of liver tumors in mice closely parallels that observed in rats and humans. The induction of liver tumors in mice by chemicals is a reliable indication of carcinogenicity and provides a valid index of carcinogenic risk to exposed humans. This opinion is shared by specialists at the National Cancer Institute and the International Agency for Research on Cancer." (Reuber, S. 2, citing Reuber, 1977)

Dr. I. Nathan Dubin (Medical College of Penn.), after reviewing some of the data in *Mouse Hepatic Neoplasia* and pointing out the limited pathological experience of some of the authors, continued as follows:

"The argument has been made that we don't know enough about liver tumors in mice to correlate their morphologic structure with their behavior, and that the experience in mice has been limited to 25 years. Yet in 1908, Murray presented evidence attesting to the malignant neoplastic nature of the spontaneous hepatic tumor of the mouse, followed 7 years later by a report of its metastasis by Slye et al. in 1915 (cited by Stewart, 1975, p. 320). The duration of experience with mouse hepatic tumors is close to 70 years, and not 25 years." (Dubin, S. 17)

Dr. Harold Stewart (NCI), an eminent and experienced pathologist, discussed the issue at considerable length in one of his exhibits:

"Evidence attesting to the malignant neoplastic nature of the common spontaneous hepatic tumor of the mouse was first presented nearly 60 years ago (Murray, 1908); this was followed 7 years later by a report of its metastasis (Slye et al., 1915) and 20 years later by a report of its transplantability to other mice (Strong and Smith, 1936). Subsequent studies have continued to confirm these acceptable criteria of a malignant neoplasm in properly executed experiments. More than 30 years ago, Edwards et al. (1942) adduced additional evidence from elegant cytological studies that the spontaneous hepatic lesion of the mouse is a genuine neoplasm and advanced cogent arguments that contradicted those advanced by others who contended that the lesion is a hyperplastic nodule of regenerated tissue or a developmental anomaly. Among the arguments advanced then and now to imply the nonneoplastic nature of the hepatic growth is the high degree of differentiation of the cells, together with their definite tendency to form liverlike cords alternating with endothelial-lined sinuses and the capacity for storing fat and glycogen. That the lesion is regenerative in character is difficult to reconcile with the absence of any demonstrable damage in liver tissue away from the hepatoma. The fact that the lesion is seen in mice consistently after middle age contradicts the idea of a congenital anomaly. Moreover, the fact that the cells may be well-differentiated does not rule out neoplasm, since the metastasis of spontaneous hepatic cell carcinomas of man, the cow, and other species, and of certain of the induced liver carcinomas of the rat, may closely resemble normal hepatic cells."

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"It is evident from the foregoing that for years following Murray's 1908 report of the first observation of the common hepatic tumor of the mouse, this small neoplasm was the object of serious scientific study by those interested in the pursuit of knowledge for its own sake. Their studies resulted in the accumulation of a large body of facts dealing with the morphology of the spontaneous and induced tumors, the metastases and transplants, the characteristics of the subcellular constituents, the incidence in different inbred strains of mice, and the influence of genetics, age, diet, castration, and hormones. These scientific studies proved this lesion to be cancer. Then suddenly all this changed. This small tumor, often not as large as the tip of a man's finger, began to engage the attention of wealthy and powerful industrial concerns, the chemical and pharmaceutical companies in particular, whose products including drugs, chemicals, food additives, and pesticides when subjected to carcinogenicity testing in the mouse, might induce this tumor. Examples are aldrin, dieldrin, and DDT. Two questions were asked: Is the common liver tumor of the mouse a genuine malignant neoplasm? Should a chemical compound that induces the common liver tumor of the mouse but tumors at no other site in this species, and no tumors at any site in other species of laboratory animal, be banned from the human environment because the agent under test poses a carcinogenic hazard for man? There are those who have said yes and those who have said no to one or the other or both of these questions."

"Train (1974), in prohibiting the environmental use of aldrin and dieldrin (except for three minor uses), based his decision on the testimony of expert witnesses who are recognized authorities on carcinogenesis and carcinogenicity testing. A crucial piece of testimony given by one of the experts, Dr. U. Saffiotti of the National Cancer Institute, was that the proposition is unacceptable, that the induction of liver tumors in mice is a tissue response that is not representative of carcinogenic effects such as are seen in the other organs and other species. Moreover, Train (1974) held that there is no distinction between the induction of so-called benign or malignant tumors in determining the carcinogenicity of a compound. Butler (1971) agreed that the ability of the hepatoma to transplant suggests that the lesion is neoplastic but not necessarily carcinomatous, since according to him transplantion per se cannot be considered an absolute indication of malignancy. Roe (1966) in a paper entitled "Carcinogenesis and Sanity" argued that evidence for carcinogenicity must be sought in more than one biological system since an increase of a type of tumor that arises commonly in a test species is suggestive of a cocarcinogenic rather than a carcinogenic effect. This opinion was later expressed by Roe and Grant (1970) and by Grasso and Crampton (1972). Fouts (1970) argued that the mouse is an unsatisfactory test animal because hepatic microsomal enzyme inducers, such as phenobarbitone and DDT, induce similar responses in man and the rat and a dissimilar response in the mouse. Some have dangerously proposed that a critical assessment of the carcinogenic potential to a man of a chemical compound, where variations in results between test species exist, can be obtained only from epidemiological studies in man exposed to high levels of the chemical for long periods. If this suggestion were to be taken seriously, then in view of the known lengths of the latent periods of different industrial cancers in man, such a wait-and-see attitude might well require a long period of many years before the onset of an epidemic of cancer due to the chemical in question manifested itself.

"Geliatly (1975) deplored the use of the term 'hepatoma' and instead advocated the use of the term 'hepatic parenchymal nodule' as though a change in name had the power to alter the nature of the lesion. He advanced the concept that the common liver tumor of the mouse represents a broad spectrum covering focal, nonneoplastic, cellular proliferation (nodular hyperplasia), benign parenchymal neoplasm (liver cell adenoma), and finally malignant parenchymal neoplasms (hepatocellular carcinoma). In analyzing the carcinogenic relevance of these different categories of hepatic lesions of the mouse to man, he classified 4-dimethlyaminoazobenzene as a powerful carcinogen for man because it induced hepatocellular carcinomas in the mouse according to his classification. By contrast, when he fed the food additives Flavour G and Flavour F he classified the increased hepatic lesions caused by these agents almost exclusively as small nodules of hyperplasia.

"The reasoning employed by some who classify the mouse hepatoma as a hyperplastic lesion is difficult to understand unless they mean to imply that such a lesion is a stage in the evolution of cancer. But not all authors imply this meaning. Geliatly (1975) is firm in his conviction that some hepatic lesions of the mouse are hyperplasias to begin with, and remain so and do not progress to cancer during the lifetime of the animal, but he adduced no convincing evidence to support this contention. As with many neoplasms of man and animals, the early stages of cancer may be innocuous-looking cellular proliferations. As the neoplastic condition progresses to its final stages, the lesion takes on patterns or appearances that pathologists commonly recognize as cancer. *What some do not appreciate is that the process is cancer from its earliest inception."* (Stewart, 1975, pp. 320, 326–328; Exhibit B to Stewart Statement; emphasis added)

Dr. Renate Kimbrough (CDC) similarly testified that so-called "hyperplastic nodules" in both mice and rats are neoplasms:

"Ms. Warren: Of what value in the determination of carcinogenicity do you think, for example, mouse hepatic neoplastic nodules would have?

"Dr. Kimbrough: To me they are part of the response that you get from an agent that is a carcinogen.

"Ms. Warren: What about hyperplastic nodules?

"Dr. Kimbrough: Of course, there is a lot of confusion still in the literature about that, and this same confusion exists for rat liver lesions. For the rat lesions the National Academy of Sciences is now trying to have a standardized nomenclature for these liver tumors to indicate what they represent. In other words, many people use hyperplastic and neoplastic nodules interchangeably. That is, one person will call something a hyperplastic nodule that another person will call a neoplastic nodule.

"To me, all of these nodules are neoplasms. There is no such thing as a hyperplastic nodule." (Kimbrough, Tr. 1792)

In confirmation of these expert opinions, it is interesting to note that a recently published study by Williams *et al.* (1979) has confirmed that both early and late stages in the development of mouse liver nodules are transplantable and thus conform to the criteria of neoplasms:

"In conclusion, the successful transplantation of the mouse liver nodules described in this study confirms that these nodules are neoplasms, and the finding of metastases from transplants of Type B tumors indicates that these are malignant neoplasms. These findings thus correspond with the biologic behavior of these neoplasms in situ recently described by Yesselinovitch et al. (Williams *et. al.*, 1979, p. 70)

OSHA concludes from analysis of these statements and exhibits that the alleged difficulty in identifying and interpreting neoplasms in the mouse liver is grossly exaggerated. The biological behavior of mouse liver neoplasms is well understood and can be identified objectively and reliably. Provided that scientific experience and judgment are used, the induction of mouse liver tumors can be used as an indicator of carcinogenicity as reliably as tumors arising at other sites or in other species. Indeed, one of the witnesses quoted above appears to have been essentially in agreement with this conclusion:

"For a number of years, I have advocated the usefulness of the mouse liver system for carcinogenicity bioassays when used with full consideration of the extensive knowledge acquired in the area of hepatocarcinogenesis and neoplastic liver morphology. This view is based on several, long-term, integrated studies aimed at identifying various factors and experimental conditions capable of modifying inception and/or promotion of liver carcinogenesis." (Vesselinovitch, S. 14)

(e) *Is the induction of tumors in mice predictive of carcinogenicity in other species?* As shown above, the objections to the use of the mouse liver tumor system on the grounds that it gives unreliable and non-reproducible results appear to have little or no substance. A separate objection made by some witnesses is that mouse liver tumors have unique characteristics which mean that enhancement of their incidence by a chemical is not predictive of carcinogenicity in other species, including humans. Although no witness made this claim explicitly, several made statements that at least implied such a position. Examples of such statements are those by Dr. Paul Grasso (AIHC), S. 5–10, Tr. 6560–6563; Dr. Reginald Crampton (AIHC), S. 7–8, Tr. 6559; Dr. William Butler (NACA), S. 12; and several statements by contributors to *Mouse Hepatic Neoplasia* (Butler and Newberne 1975). Although most of these comments were addressed to the mouse liver, Drs. Grasso and Crampton also objected to the use of other tumor sites in the mouse.

OSHA is aware that doubts about the validity of the mouse liver tumor system are fairly widely held, and that several reports of scientific committees issued in the past two years have reflected the controversy. For example, the Report of the NCAB Subcommittee made the following statement:

"Certain methods (listed below) are important pointers to potential carcinogenicity and cannot be ignored; however, they may require additional studies before extrapolation to particular conditions of human usage can be made. Examples of these methods are:

Bioassays employing inbred strains of animals which develop high incidences of particular tumors in the untreated state. In some of these studies the particular characteristics of the animals and the results obtained may require additional evaluation—in other instances, such well controlled test systems may be quite satisfactory for the

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establishment of carcinogenicity of an agent." (NCAB Report, 1977, p. 462)

The International Agency for Research on Cancer (IARC) revised the wording of the preamble to its monograph series during 1978 to read as follows:

"Evidence for the carcinogenicity of some chemicals in experimental animals may be *limited* for two reasons. Firstly, experimental data may be restricted to such a point that it is not possible to determine a causal relationship between administration of a chemical and the development of a particular lesion in the animals. Secondly, there are certain neoplasms, including lung tumours and hepatomas in mice, which have been considered of lesser significance than neoplasms occurring at other sites for the purpose of evaluating the carcinogenic risk of chemicals to humans. Such tumours occur spontaneously in high incidence in these animals, and their malignancy is often difficult to establish. An evaluation of the significance of these tumours following administration of a chemical is the responsibility of the particular Working Group preparing the individual monograph, and it has not been possible to set down rigid guidelines; the relevance of these tumours must be determined by considerations which include experimental design and completeness of reporting."

"Some chemicals for which there is limited evidence of carcinogenicity in animals have also been studied in humans with, in general, inconclusive results. While such chemicals may indeed be carcinogenic to humans, more experimental and epidemiological investigation is required."

"Hence, 'sufficient evidence' of carcinogenicity and 'limited evidence' of carcinogenicity do not indicate categories of chemicals: the inherent definitions of those terms indicate varying degrees of experimental evidence, which may change if and when new data on the chemicals become available. The main drawback to any rigid classification of chemicals with regard to their carcinogenic capacity is the as yet incomplete knowledge of the mechanism(s) of carcinogenesis." (IARC, 1978, p. 21)*

The Food Safety Council made a similarly equivocal statement:

"There is controversy over the use of mice in toxicity testing, particularly with respect to the assessment of potential carcinogenic risk (Grasso, Crampton, and Hooson, 1977). The relevance of test results in mice is questioned primarily because of the high spontaneous rates of certain tumor types, and the effects of many modifying factors such as diet, viruses and hormones on the incidences. Particular concern is given to lymphomas, lung, liver and mammary tumors. It is true that certain strains of mice have high natural incidences of one or more of these tumors, and that their unusual genetic susceptibility may not be relevant to the human population. The use of such strains is appropriate for carcinogenesis research but not safety testing. However, several strains of mice have relatively low to moderate rates of spontaneous neoplasms and these are well suited to carcinogenicity testing. The fact that environmental factors may modify the tumor rates in test animals does not invalidate animal experiments unless species specific responses can be demonstrated, because similar factors undoubtedly also influence human response to carcinogens. The important point is that genetic and environmental influences be uniform among treated and control animals. It is also argued that mice are excessively sensitive to carcinogens, but one may equally argue that their sensitivity is an advantage in safety testing and in the extrapolation of animal data to the genetically diverse human population." (Food Safety Council, 1978, p. 98; Hearing Exhibit 227)

Finally, in the specific case of dieldrin, the WHO/FAO Working Group on the Evaluation of Pesticides in Food concluded that the induction of mouse liver tumors was not predictive of human risk:

"Results of various carcinogenicity tests in mice and other mammalian species indicate that there is a *species-specific effect of dieldrin and aldrin on the mouse liver,* resulting in an increased frequency of liver tumors only in this animal species. In all species examined (mouse, rat, rabbit, rhesus monkey, chimpanzee) 12-hydroxy-dieldrin and 4,5-aldrin-trans-dihydrodiol were the major metabolites. Regarding the ratios of these two metabolites the mouse seems to metabolize the test compound predominantly by the opening of the epoxide ring. This metabolic pathway on the one hand and a high rate of metabolism compared to other animal species examined on the other, could result in relatively high concentrations of 4,5-aldrin-transdihydrodiol in the mouse liver."

"Dieldrin, as well as other chlorinated pesticides, is a powerful inducer of microsomal enzymes. Owing to their high rate of metabolism, mice are especially susceptible to such effects. (See Section 3.1). Compared to other animal species, it reacts rather anomalously and the mouse, therefore, may not be an appropriate model for man in this case."

"The results of prolonged enzyme induction are proliferation of the endoplasmic reticulum in the cells, and hypertrophy and hyperplasia of the liver. These changes are fully reversible if treatment is ceased before tumours have developed on the chronically overloaded and damaged cells. Similar effects are produced by phenobarbital." (WHO/FAO 1976, exhibit 52).

The scientific documentation cited by these committees is much less extensive then that in the OSHA record. The NCAB and IARC did not cite any specific documentation on this issue, and the papers cited by the Food Safety Council and WHO/FAO have been discussed above and OSHA believes that other papers are more scientifically convincing.*

On reviewing the Record, OSHA finds that there is little scientific support for the position that tumorigenicity in the mouse is not predictive of effects in other species, including humans. In fact, there is extensive and substantial evidence in the Record to support the proposition that the induction of tumors in mice, and specifically tumors in the mouse liver, is highly correlated with carcinogenicity in other organs and other species. For example, Dr. Lorenzo Tomatis (IARC) (Tomatis, *et al.,* 1978; Appendix 5 to Tomatis Statement) reviewed data on chemicals or manufacturing processes associated with cancer induction in humans and reported that nineteen of these had been adequately tested in the mouse. Of these nineteen, eighteen were positive in the mouse, including five that were positive in the mouse liver and fifteen that were positive in other organs. The lone exception is hematite mining, for which the exact substance(s) responsible for inducing lung cancer are unknown. It is questionable whether exposure conditions similar to those found in the mining industry can be adequately recreated for laboratory tests to take into account possible synergistic effects.

An earlier review of the relationships between the induction of liver tumors in mice and effects in other species (Tomatis et al. 1973) was referred to by OSHA in the preamble to the proposed regulation. Dr. Umberto Saffiotti (NCI) described the results of this earlier survey:

"Tomatis *et al.* (1973) have reviewed this issue. They searched the literature and made a list of chemicals that were reported to have induced liver tumors in mice: 58 chemicals were included in this list. The literature was then examined for reports on tests of these chemicals in two other species, namely rats and hamsters. Of these 58 mouse liver carcinogens, 18 were reported to induce only liver tumors in mice, while the others produced tumors in other organs also. Of the 18 that were reported to produce only mouse liver tumors, *none* were reported to have been adequately tested in the other two species with negative results. Of the 58 chemicals which were reported to induce tumors of the liver, or of the liver plus other organs, in the mouse, only 16 were listed as having been tested and found negative in one of the other species (rats or hamsters)#of these 16, however, 9 were reported as negative in rats but were not tested in hamsters, 1 was reported as negative in rats but was positive in hamsters, 5 were reported as negative in hamsters but were positive in rats. Thus only one compound, positive in mice, was reported as having been tested in both rats and hamsters with negative results: This compound is benz(a)anthracene which was reported to cause not only hepatomas but also lung tumors by feeding in mice, and was found to be carcinogenic also by other routes of administration in mice, causing tumors of the lung, skin, and bladder. Although this compound was reported as negative in rats and hamsters, it is important to state that it was *not adequately tested* in rats and hamsters. There are no reports of such tests by chronic feeding in rats or hamsters, nor of any long-term tests with continuous administration in large numbers of animals, with adequate pathology. The only feeding study in rats on this compound was published in 1945 (White and Eschenbrenner, 1945); it stated that 2 out of 3 male rats were found to have 3 hepatomas each. No hepatomas were found in 3 females, nor in different groups of controls. Although obviously totally inadequate, this report suggests the possibility of liver carcinogenicity in rats. So the conclusion of this literature survey is that no chemical was found to have been adequately tested and shown to produce liver tumors in mice but no tumors in the other two most common species of test animals. As a matter of interest, Tomatis et al. have limited their discussion to the correlation of test results as presented in the literature, without undertaking a critical evaluation of the adequacy of the test used to enter a classification of positive or negative into their tables. Such an analysis would show that many tests in rats or hamsters, reported as negative, are really quite inadequate and should not be accepted as (negative evidence)." (Saffiotti, S. 32–33)

Dr. Saffiotti concluded:

"The survey by Tomatis *et al.* is however, sufficient to disprove the proposition that the induction of liver tumors in mice is a tissue response that is not representative of carcinogenic effects such as are seen in other organs or other species. No scientific basis could be found to support the suggestion that the carcinogenicity of a chemical in mice is not representative of its activity in other species including man." (Saffiotti, S. 33)

The review by Tomatis *et al.* (1973) has not been updated to incorporate the results of more recent experimentation. However, the data introduced into the record do not justify any change in the general conclusion drawn by Tomatis *et al.* and by Dr. Saffiotti. In the NCI bioassay report series, several new chemicals have been reported to induce tumors in the mouse liver but not in other organs of the mouse or in rats. Examples are DDE, trichloroethylene, chlordane, and heptachlor (NCI Carcinogenesis Technical Reports, Nos. 2, 8, 9, 131). On the other hand, several chemicals which have been reported in the past to be carcinogenic only in the mouse liver are now known to induce tumors also at other organs in the mouse and/or in other species. Examples are DDT (NIOSH 1978a), aldrin/dieldrin (NIOSH 1978b), phenobarbital (Rossi et al. 1977), and chloroform (NCI Carcinogenesis Technical Report, 1976). Thus, as experimentation continues, the general concordance between the mouse liver and other bioassay systems remains good.

The validity of results obtained in the mouse for assessing carcinogenic potential in humans was also supported by a number of other eminent scientists. These included: Dr. Harold Stewart (NCI), S. 5; Dr. Samuel Epstein (Univ. of Ill.), Exhibit 10c, p. 2429–2431; Dr. Arthur Upton (Director, NCI), S. 18; Dr. Curtis Harris (NCI), Tr. 2003; Dr. Benjamin Trump (Univ. of Md.), Tr. 2002–2003; Dr. Lawrence Fishbein (NCTR), Tr. 1857; Dr. Melvin Reuber (NCI-FCRC), S. 2; Dr. I. Nathan Dubin (Medical College of Penn), S. 17–21; Dr. Robert Squire (Johns Hopkins University), S. 22; and Dr. Renate Kimbrough (CDC), Tr. 1797–1798. And, based on similar scientific evidence, the Administrator of EPA, on at least two occasions, has come to the same conclusion. In *In Re Shell,* the EPA Administrator stated:

"Most of what we know about cancer is derived from tests with experimental animals, usually mice. The response of mice to carcinogens is similar pathologically to that of man; and research laboratories, such as those of the National Cancer Institute and Shell Chemical Company, use mice extensively in their research." (Footnotes omitted)

And in *In Re Velsicol,* the EPA Administrator reiterated:

"For these reasons, pesticides and other chemicals are tested for carcinogenicity in laboratory animals, particularly mice (the first choice) and rats, which are broadly accepted by the scientific community as appropriate test animals for these purposes."

"The mouse develops almost every kind of cancer that occurs in man and, with few, if any, exceptions, is subject to cancer from any source which is known to be a carcinogen in man. In both mouse and man, genes are involved in the control of processes through which cancer is induced. They control reactions to physical and chemical carcinogens. The genetic characteristics of mouse and man are sufficiently similar to permit the assumption that if a chemical or other agent such as radiation causes cancer in a particular organ of mice, then it will also cause cancer in the same organ, or possibly some other organ, of man.

"In fact, the difficulty with using laboratory animals to test for carcinogenicity lies in the other direction. The failure of a chemical to induce cancers in a particular strain (or even several strains) of laboratory animals is not an assurance that the chemical is not a carcinogen in man, since that particular strain may be genetically resistant to cancer from that source, where, by contrast, the genetic susceptibility of people to cancer varies a great deal from person to person." (42 FR 54160)

(f) *Can reliable results be obtained in inbred strains of rodents?* Several witnesses objected to the use of inbred strains of rodents, specifically mice, on the grounds that such strains were excessively sensitive, unstable, or otherwise unsuitable for carcinogenicity testing. The most explicit set of objections of this kind was by Dr. James Jandl (Harvard Univ.):

"The arguments presented by OSHA in defense of their reliance upon testing substances for carcinogenesis in inbred strains of mice are specious and often contradictory. For example, it is stated that almost all substances accepted as being carcinogenic for human beings are carcinogens for 'rodents'; the fact is that the strains of mice most commonly selected for such tests have a spontaneous development of one or more cancers as a natural consequence of the particular genetic defect in cancer resistance mechanisms for which they were originally inbred."

* * * * *

"In the proposed rules OSHA recommends the format of employing mice in numbers of approximately 50, including males and females; and rats, in similar numbers of males and females. Rats are not as susceptible, as a rule, to carcinogenesis as mice. However, a number of inbred strains of rats have been developed which possess similar spontaneous high rates of cancer of one or more organs. The characteristic of both inbred mice and rats is that they are mainly a very fragile, poorly breeding, congenitally defective group of animals, having a lifespan that is, on the average, approximately one-half to one-third of normal. The normal lifespan of a rat is between three and four years. The lifespan of a normal mouse is approximately the same. Mouse longevity among inbred strains is very difficult to obtain from the source laboratories. Rat longevity data are available and they range in inbred rats commonly used between eleven and fourteen months. The deaths in these animals are not necessarily due to neoplasm but through a variety of other defects that are clustered in their inheritance. These include nephritis, pneumonitis, pulmonary cysts, and central nervous system lesions, etc. Thus, these animals are susceptible to non-specific stimuli.

"An argument introduced early by OSHA in defense of the use of inbred animals, for which they have a particular liking, is that almost no carcinogenic agent known to affect man fails to affect inbred strains. One might add that it is possible to induce a cancer, many cancers, or to expedite the onset of spontaneous cancers in these inbred strains through very non-specific means. This is not very important proof, and involves very few chemicals, and does not apply to at least two carcinogens for man." (Jandl, S. 24, 29–31)

Dr. Robert Olson (St. Louis Univ.) citing Roe and Tucker (1973), likened the

* Some confusion was caused in the Record by the introduction of an earlier draft of this section of the preamble. Such confusion was evident, for example, in the testimony of the American Textile Manufacturers Institute (S. 15). OSHA notes that the revised and final version quoted above does not draw any general conclusion about the applicability of results obtained in the mouse liver, but merely states that these neoplasms "have been considered of lesser significance" and states that such cases should be examined on their own merits.

*See also NIOSH (1978b) for a much more comprehensive and critical review of the data on aldrin/dieldrin cited by the WHO/FAO committee.

use of "pure bred strains of mice with high tumor incidence as tantamount to using a dirty biological 'test tube', in which case the carcinogen may in fact be functioning as a co-carcinogen." (S. 15). Dr. Benjamin Van Duuren (NYU) expressed a preference for using random-bred animals which have a low incidence of spontaneous tumors, and commented on supposed difficulties raised by the use of inbred strains in the NCI bioassay program (Van Duuren, Tr. 1814–15).

These comments reflect considerable confusion about a number of points. For example, OSHA did not have a "particular liking" for inbred strains, nor recommend their use: OSHA merely proposed to use results obtained in either inbred or outbred strains if such were the only results available. Inbred strains do not constitute a "dirty" experimental tool, but a "clean", precise tool for a limited purpose. The point is that some witnesses in the hearing confused the interpretation of tests which demonstrate hazard with the design of tests to demonstrate safety.

This issue was reviewed by Dr. Walter Heston (NIH), a pioneer in the development and use of inbred strains of mice for studying factors affecting tumor incidence. Dr. Heston described characteristics of inbred strains of mice which were misunderstood by the witnesses quoted above:

"An inbred strain is a line or breed of mice which has been propagated by matings of littermate brother sister pairs for 20 or more generations."

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"After 20 generations, the percentage of homozygosity increases very slowly until it is balanced by the reverse tendency toward heterozygosity because of spontaneous mutations. This reversion to heterozygosity is the basis for the process known as genetic drift which is discussed below.

"In starting an inbred strain, problems in maintaining the strain soon arise because of the appearance of deleterious traits. Most individuals of all diploid species contain genes for recessive deleterious traits. These traits are not expressed because they are masked by the dominant nondeleterious alleles. During inbreeding, recessive genes become expressed because of homozygosity. Frequently these deleterious traits cause loss of viability, reproductive success, or both. These problems in viability are overcome, however, by maintaining large numbers of animals. This permits selection for vigorous animals. The critical period is around generation eight. Once the strain gets beyond this point it usually can be maintained with no difficulty.

"With homozygosis at practically all loci the strain continues to breed true generation after generation. All offspring are then genetically similar to one another and to their parents. The degree of genetic similarity is almost as great as that between identical twins.

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"Today we have inbred strains of all laboratory animals that supply the genetically controlled material with which the most modern medical research on mammals is carried out. Without the use of inbred strains, biological results would be much more difficult to reproduce, which would lessen their value.

"1.2 Tumor frequencies in mouse strains and substrains

"In selecting the brother and sister pairs which are the basis for developing an inbred strain, certain traits, such as viability, are selected intentionally. The majority of traits, however, are fixed unintentionally in the inbreeding process. Such traits include those which are responsible for fixing the incidence of various tumors that can be expected when nongenetic factors are controlled. Thus certain combinations of genes give, in some strains, over 99% of certain tumors within the normal lifespan of the animals. Other gene combinations, seen in other inbred strains, give incidences approaching 0% and still other strains have tumor incidences in between these extremes. These incidences are characteristic of the particular strain and are relatively stable generation after generation, provided the nongenetic factors are kept constant." (Heston, Post-hearing Comments, p. 1–4)

After reviewing data on factors which affect tumor incidence in inbred and outbred strains, Dr. Heston concluded:

"The human population is a genetically heterogeneous one in which some individuals may be expected to be resistant to induction of particular tumors and some may be genetically susceptible. We might not have to be concerned about the resistant individuals, and they might constitute a large part of the population. Unfortunately we do not know who is susceptible, who is resistant, and what proportion of the population falls into these groups. If a compound induces tumors in a susceptible strain such as C3H, then it probably can induce tumors in susceptible humans as well, and exposure to such a chemical should be avoided." (*ibid.*, p. 27)

Similar views were expressed by other witnesses, such as Dr. Arthur Upton (Director, NCI), S. 14; Dr. Richard Bates (NIEHS; FDA), S. 15; and Dr. Richard Griesemer (NCI), S. 8–9.

OSHA concurs with these witnesses' assessment of the scientific data presented on this issue. The evidence indicates that both inbred and outbred strains of mice have advantages and disadvantages. The use of inbred strains permits the precise experimental analysis of carcinogenic phenomena, at the expense of loss of generality. The use of outbred strains has the advantage of being more easily extrapolated to a genetically heterogeneous population, at the expense of loss of statistical sensitivity. OSHA therefore intends to use results obtained from both types of systems, while recognizing and taking into account the limitations of each.

(g) *Are there other characteristics of rodents which would invalidate their use in carcinogenicity testing?* The only other specific characteristic of rodents which was explicitly proposed as a factor which might invalidate positive results for carcinogenicity obtained in them was their tendency to coprophagy. Dr. James Jandl (Harvard Univ.) presented the hypothesis that microbial action on chemicals in rodent feces might transform chemicals into active metabolites that would not be formed *in vivo* (S. 33–36).

On reviewing this argument OSHA does not find it convincing. The chemicals cited as examples by Dr. Jandl are well-established as carcinogens in more than one species (IARC Monographs). It is highly improbable that they would not be metabolized to carcinogenic derivatives *in vivo*, either by the gut flora or enzymatically, (see comments by Dr. Roe, S. 27, and Dr. Goldberg, Tr. 6512). To establish this fact would be extremely difficult (see discussion of Metabolism below).

c. OSHA's Conclusions

After reviewing all the material and evidence submitted into the Record on this issue, OSHA concludes that there is no substantial scientific evidence to support the proposition that tumors induced by substances in properly controlled experiments in mice should be given less weight than tumors induced in rats or other mammalian species. In any event, prudence would appear to prohibit a regulatory agency from ignoring experiments in mice, pending the development of much greater scientific knowledge on this issue than presently exists. Most of the discussion above has been specifically concerned with liver tumors in mice, because the liver is the site on which most of the objections to the use of mice have been focused. However, most of the arguments summarized above are equally applicable to other tumor sites whose predictive value has been questioned, such as the lung, mammary gland, and lymphoreticular system of mice. This is equally true for certain types of tumors in other species, such as mammary tumors in rats. OSHA concludes that in all these cases, the arguments for the hypothesis that mice have unique characteristics that would make the results inapplicable to other species are scientifically unconvincing. With reference to the disputes over pathological nomenclature, Dr. Harold Stewart (NCI) placed these arguments in perspective:

"Decisions about the pathologic classification of lesions that arise in animals subjected to tests for carcinogenesis may therefore have far-reaching legal and social implications. A critical factor is the skill and dependability of the pathologist who evaluates the end results. If, for example, he diagnoses the induced lesions as cancer, the agent is banned. If, on the contrary, he categorizes them as a hyperplastic process or a benign tumor, there is the possibility that the agent may not be banned from the environment. Despite the fact that no immutable histologic criteria exist for the certain determination of the early cellular proliferations of cancers as purely hyperplastic changes, there are those who have advanced specious arguments in favor of this contention. Another ploy is to lower the value of the diagnosis of cancer to benign tumor, to classify for example, the murine alveologenic carcinoma of the lung as adenoma and hepatocellular carcinoma as hepatoma or a space-occupying nodule—this even though the neoplasms may metastasize in from 1 to 20% of tumor-bearing animals. There is, moreover, no basis for classifying the so-called mammary fibroadenoma of the rat as a benign tumor, because, in reality, it is a neoplasm in a stage of transition: it readily transplants to syngeneic animals in which it may grow as a sarcoma or carcinoma or a mixture thereof.[13] Further, some who apply the terms "adenoma", "hepatoma," and "fibroadenoma" to these respective neoplasms downgrade the classification of the chemicals that induced them to tumorigens and contend that tumorigens are less harmful to man than are carcinogens. In my opinion, *those who express these views fit the definition of a dialectician: they are practiced in the art of using forms of reasoning so as to make fallacies pass for the truth.*" (Stewart 1977, pp. 310–311, Exhibit C to Stewart Statement, emphasis added)

Based on the detailed scientific evidence in the Record, OSHA reaffirms its proposed position, namely that data from all mammalian species, including the mouse, will be relied upon in the qualitative identification of potential carcinogens.

2. Positive Versus "Non-positive" Results

a. OSHA's Proposal

In the preamble to the proposed regulation, OSHA proposed that, in general, positive results should supersede non-positive or negative results:

"Likewise, positive results in tests with experimental animals, if obtained under sound experimental conditions and with proper statistical confirmation, should generally supersede negative results, both because of the aforementioned insensitivity of laboratory bioassays conducted with limited numbers of animals, which may frequently lead to false negative results, and also because of interspecies differences in susceptibility. (42 FR 54161)

In support of this proposal, OSHA relied upon two sets of recommendations. First, several expert committees had specifically recommended this approach:

"Evidence of negative results, under the conditions of the test used, should be considered superseded by positive findings in other tests. Evidence of positive results should remain definitive, unless and until new evidence conclusively proves that the prior results were not causally related to the exposure. (NCI Ad Hoc Committee, 1970, p. 1; Exhibit 10b to Epstein Statement)

Similar recommendations were made by other committees (UICC 1969, p. 18; NCAB 1977, p. 463). Second, expert committees which had specified minimum requirements for safety testing had recommended testing in at least two species because of the likelihood of obtaining false negative results in single tests (WHO Tech. Report 220, p. 8; Mrak Commission, pp. 486–487; the Surgeon General's Ad Hoc Committee, 1970, p. 1).

b. The Public's Response and OSHA's Evaluation

At the outset, it should be noted that the issue of positive and "non-positive" data, presumably conflicting with one another, arises in three basic contexts, namely: (a) positive animal evidence and "non-positive" human evidence; (b) positive and "non-positive" animal evidence in the same animal species; and (c) positive evidence in one animal species and "non-positive" evidence in another animal species.

(1) *General Support for the Proposed Position.*

Dr. Arthur Upton (Director, NCI) made the following statement:

"Given this lack of knowledge concerning mechanisms, I believe that a reproducible carcinogenic response in *any* species of test animal must be considered sufficient to describe the test compound as a carcinogen and so a potential threat to human health. I consider that a similar reaction in a second mammalian species is a confirmation of the carcinogenicity of the test agent, but it is not necessary before a finding of carcinogenicity and potential threat to human health can be made: negative results in a second or even third species of test animal do not in my mind establish that the test agent is not a potential threat for human beings. Given the variation in human susceptibility to carcinogens, I believe it unreasonable to ignore a finding of carcinogenicity in any mammalian test species when considering possible effects on human health." (Upton, S. 17)

Dr. Umberto Saffiotti (NCI) quoted the "expert" 1970 Ad Hoc Committee on Evaluation of Low Levels of Environmental Chemical Carcinogens:

"Conclusive evidence of carcinogenicity in one species supersedes negative findings in other species in the extrapolation of risk to man, since no basis presently exists to rule out the likelihood that human beings respond in the same manner as the positive test species." (Saffiotti, S. 34)

Dr. Roy Albert (EPA) made the following statement:

"Well, I think it is very difficult to define this in an explicit way, because the large number of combinations and permutations of the number of studies that one can have, the kinds of responses that one sees in the positive, and also in the negative as to whether they are really negative or marginally so, how well the studies are done. I suppose one could come up with some sort of scheme for doing this, but it seemed to me that when one has a clearcut study that is positive it is difficult to see how negative studies are going to eliminate that positive result." (Albert, Tr. 2379)

Dr. Robert Squire (Johns Hopkins Univ.) cited the NCI Temporary Committee for the Review of Data on Carcinogenicity of Cyclamate in discussing the scientific judgment which must be exercised in each individual case and concluded:

"Our current test methods are relatively insensitive and imprecise for detecting carcinogenic potential. However, any clearly positive animal study must be considered as the best qualitative experimental evidence available for human carcinogenic risk." (Squire, S. 13)

Dr. Adrian Gross (FDA) commented:

"I would also endorse the concept stressed several times in the document that, if the principle of statistical significance is retained, in cases of repeated investigations with apparently conflicting results, unequivocal findings of carcinogenesis should not be "averaged" with the more questionable ones without giving the former a great deal more "weight" than the latter." (Gross, S. 2)

Dr. Robert Hoover (NCI) in discussing human studies, laboratory animal assays, and *in vitro* assays commented:

"Because of the severe limitations of each of these methods of investigation, a good study showing positive evidence of carcinogenicity should take precedence over negative studies. For example, animal studies are hindered by the inability to routinely evaluate the effect of low-level exposures, and the potential problems of species specificity. On the other hand, human studies are hindered by the inability to identify low-level, but substantial, increases in risk, the long latent period between exposure and disease, and the influences of multiple exposures and differing host susceptibilities." (Hoover, S. 20)

General support for the proposition that positive animal data should, in general, supersede non-positive animal data was also presented by the

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Scientific Apparatus Makers Association (S. 4) and by other parties.

(2) *Issues Raised in the Rulemaking.*

(a) *In General.* Despite the general support for OSHA's proposed position, a number of witnesses objected in principle to the discarding of non-positive evidence. For example, the American Iron and Steel Institute argued as follows:

While it may very well be that, in most instances, positive animal data should outweigh negative animal data, in the view of Drs. Snyder and Triolo, it is bad science and bad regulatory policy to establish a rule that positive animal results must be preferred over negative animal results in *all* cases, without evaluating each experiment to determine its scientific merit. This is particularly true since positive animal results are not invariably indicative of human carcinogenicity. (AISI, S. 26–27)

Dr. Gerald Chase (Johns-Manville) voiced a similar view during his oral testimony:

Positive results should not generally supersede negative results. Such an approach represents analysis of available information at an elementary level. As with risk assessment, OSHA should use the most advanced scientific input in assessing negative and positive studies. While on the one hand positive studies certainly cannot be blindly counterbalanced by negative studies, neither, on the other hand, can negative studies be ignored when a positive study is available.

Both approaches are scientifically, statistically naive . . . OSHA must allow for sophisticated, not naive, analyses of data. Positive results should not generally supersede negative results, from a statistical point in view. (Chase, Tr. 4855–4856)

AIHC asserted that OSHA was forming its policy merely for administrative ease:

"While as an administrative matter it may be convenient to reject negative results in the face of a positive test, the record demonstrates that any such conclusion is inconsistent with the scientific evaluation process." (AIHC, Post-hearing Brief, p. 159; Hearing Exhibit 251)

Other comments presented by different industry representatives were typified by the comment of PPG Industries:

"The basic philosophy that studies revealing positive findings are either more reliable or properly conducted fails all scientific principles. A positive finding in an animal toxicity study must be equally critiqued according to the same guidelines as would be a negative animal study." (PPG Industries, S. 3).

Similar comments were presented by: National Paint and Coating Assoc., S. 14; FMC, S. 9; Ciba Geigy, S. 7; Pennzoil Co., S. 6; Chemical Industry Institute of Toxicology, S. 2; Eli Lilly and Co., S. 4; Texaco, Attachment 1; NACA, S. 17; Standard Oil, S. 11; Council for Agricultural Science and Technology, S. 17–19.

The specific issues raised by the testimony of these witnesses and other participants were the following:

1. Should "non-positive" results in human studies outweigh positive results in animal experiments, and if so, in what circumstances?
2. Should "non-positive" results in animal experiments outweigh positive results in other animal experiments, and if so, in what circumstances?
3. What precautions should be taken to avoid placing weight on "false positive" results?
4. How should OSHA deal with data of varying quality?

In this section, we review and analyze the scientific evidence presented on these issues.

(b) *Should "non-positive" results in human studies outweigh positive results in animal experiments?* Many witnesses argued that, in principle, results from human epidemiological studies should be given primary weight, and that non-positive human data should generally or always outweigh positive animal data. However, very few actual examples of such situations were presented, and none of these were borne out when scrutinized, as pointed out above. The question of "non-positive" human epidemiological studies has been discussed above (See Chapter IV. *Evidence Derived from the Human Experience*).

The remaining discussion in this section refers only to the situation in which positive and non-positive results in animal experiments exist and must be evaluated together.

(c) *Should "non-positive" results in animal experiments outweigh positive results in other animal experiments?* The general principle underlying OSHA's proposed position is that animal experiments are insensitive, so that "false negative" results are likely to be frequent. This principle was supported by many witnesses, a sample of whose testimony follows. Dr. Joyce McCann (Univ. of Calif.) testified as follows:

"The confidence with which one accepts a negative is less than the confidence that one accepts a positive. I mean, I think that is clear in any scientific experiment.

"With respect to, for example, comparing animal cancer test data and short-term test data, a negative in an animal cancer test means more to me than a negative in a short-term test. But it is very difficult to prove a negative. I do not think we can get away from that fact. It is very difficult.

"A negative animal cancer test can only tell us that a chemicial is less potent than a certain lower limit of detectability value, depending on the particular design of that test. Now, that less potent includes zero, so that includes all the non-carcinogens, but it also includes the mistakes. But that is something we cannot get around.

"The National Cancer Institute has tried to define what seems to constitute a reasonable cancer test that is economically feasible and has a chance of detecting a fairly weak carcinogen, but such tests can make mistakes. They can still miss things, especially the very weak carcinogens.

"That is not to say that everything that is negative in a cancer test is likely to be positive. It is just the opposite." (McCann, Tr. 1590)

Dr. Donald Kennedy (Commissioner, FDA) pointed out that any errors in experimentation are likely to result in a non-positive outcome:

"As to negative results in animal tests, you said "better conducted." I would have to know how better conducted. The general experience is that when you mess up a study it is easier to make it come out negative than positive. There are all sorts of places in science where we employ that principle. Indeed, when you design an experiment, one of the features of the design that you try to build into it is that the kinds of mistakes you are likely to make are going to be mistakes that will conduce to the results you are not getting. In other words, you try to design the experiment so that experimental error will not tend to prove the hypothesis.

"It just turns out that with most animal studies the results of error are more likely to make a substance come clean than to show that it is carcinogenic. At least, I think that is the view of most people who have been involved in such experiments. I mean, if you mess up on feeding the animals, if you put them in the wrong cages, if you screw up their diets, you are going to make the experimentals and the controls more alike, because you are going to reduce separation. So there is a real rationale for taking positive results more seriously than negative results." (Kennedy, Tr. 571–572)

Drs. Curtis Harris (NCI) and Benjamin Trump (Univ. of Md.) commented on the insensitivity of test systems:

"Dr. Harris: The test systems, including epidemiological data, are extremely insensitive; therefore, one cannot necessarily trust negative data, which is unfortunate.

"Dr. Trump: And that is especially true with epidemiologic data because of the difficulties and complexities." (Tr. 2028)

They expanded upon these points upon further questioning:

"Dr. Harris: If they are positive (results of test), you have indication under the conditions of test that the result that you have, whether it is toxicity, mutagenicity, carcinogenicity, is positive. If it is negative, you do not know. The test may be inappropriate; you may be choosing the wrong animal; you may be choosing a whole variety of different things.

"Dr. Trump: The important point of the testing is to identify hazards, and then to regulate. It is true there may be some additional hazards in the so-called negative group." (Tr. 2034)

An experiment's sensitivity is a trade-off between how small an increase in carcinogenicity the researcher wishes to be able to detect and how large an experiment he or she can practically manage to run. Dr. David Rall (Director, NIEHS) addressed this compromise in his oral testimony:

"If you look at the broad spectrum of animal experiments for carcinogenesis, what you really want to do is detect positives. You cannot design a large enough experiment to exclude beyond all sorts of probability a negative. What you really want to do is detect positives.

"Now, if you have a very positive compound, a very few animals—twenty, eighteen—will give you a positive result, but that means it is a very, very hot carcinogen. But I think that rather than specify the numbers, you can write the standard such, you know, you can pick up this much of a relative risk with this much of a 95 percent confidence limit. And I think that is the way to go." (Rall, Tr. 429)

Dr. McCann spoke of this, too:

"And in fact, false negatives in animal cancer tests is the biggest problem of animal cancer tests. This is because you can only do them with a limited number of animals.

"There are a number of examples of animal carcinogens that have been negative in one or two animal cancer tests and then positive in another. One of the most interesting examples is something called furyl furamide, or AF–2, that was used as a food preservative in Japan for about eight years. And they tested it in food, twice, in two animal cancer tests that were not horrible tests. They were fairly decent tests, and it was negative.

"After the eight years, Dr. Sugimura working in Japan, using a method very similar to ours, a bacterial test method, was starting to look at food, and he put a slice of fish sausage that happened to contain this preservative on a Petri dish and found a large number of revertant colonies coming up around the fish sausage, which indicated the fish sausage was mutagenic.

"He then started purifying the chemical from the fish sausage, thinking he was going to find a natural part of fish sausage mutagenic, and it turns out it was the food additive.

"That chemical was then put back into cancer tests, and they designed the test so that it was more complete. They used more animals. They did generally a more complete test, and it turned out positive. And it has been banned now. In fact, they withdrew all the food that contained it.

"But there are a number of examples of that, and I think in general, animal cancer tests are proving themselves to be—they are very good, in one sense. They are weakest, I think, in the area of detecting weaker carcinogens and in the area of false negatives." (McCann, Tr. 1585–1586)

An experiment with 100 animals would only be able to identify statistically a carcinogen of considerable strength. As Dr. Richard Bates (NIEHS; FDA) remarked:

"A study in 100 animals, a common size of experimental group at the present time, can obviously not detect anything lower than a one percent incidence of cancer. In actual practice, statistical considerations only permit the detection of a risk several fold larger than this for rare tumors and considerably larger if the types of tumors induced are those found with significant frequency in untreated control animals." (Bates, S. 13)

Dr. William Nicholson (Mt. Sinai School of Medicine) voiced this same concern:

"Current animal bioassay experiments really only select out the fairly strong carcinogens. We are dealing with 100 animals, and to see an effect there, you only would be able to do so with something that has significant potency. So if it does have an effect in animals, then it is of a strong enough nature as a carcinogen that one certainly should take heed with respect to human exposures." (Nicholson, Tr. 1714)

Sensitivity also involves a number of other aspects of the experimental protocol. Dr. Umberto Saffiotti (NCI) pointed out inadequate pathological examination as a possible source of false negatives:

"One (point) is what I call great limitation in the detectability of carcinogenic effects in these experimental groups. As we all know, the detectability is largely a function of the magnitude of the experimental group; is a function of the extent of observation; for example, the extent of pathology that you do on the animals on the test.

"If you sample a few tissues from a group of animals and only look at them microscopically, you may have tumors present in the tissues you are not processing and miss them. Equally, if animals die in an experiment and are not properly autopsied, they may have tumors that are not seen.

"Now, even in the best of experiments in which all the animals are carefully examined, the major limitation comes from the number available. So there is that limitation of the detectability of an effect." (Saffiotti, Tr. 855)

Dr. William Lijinsky (NCI–FCRC) discussed the balance that must be struck in selecting the appropriate dosage for an optimally meaningful experiment:

"For reasons again of statistics, we have to use as high a dose as we can because the exposure period is so much shorter than that which man might experience. And we want to produce as large an effect in that small group of animals as we can . . .

"What we have to guard against in a bioassay is a false negative. We do not want to conclude from an inadequate test that the compound is safe when it, in fact, is a carcinogen. So we want to use as high a dose as we can. However, we do not want to use a dose so high that it upsets the dynamics of the body in such a way that the animals die early, for example. The main reason that we do not—that we use a maximally tolerated dose and not the maximum dose is that we do not want the animals to die before the end of their normal lifespan, so that we are sure we give the greatest possible opportunity for tumors to develop. That is the reason we adopted a maximally tolerated dose, not a maximal dose. It has nothing to do with differences of metabolism." (Lijinsky, Tr. 1075–1076)

In his written testimony, Dr. Saffiotti stated that he did not feel the exposure regime of standard carcinogenesis tests achieves maximum possible sensitivity:

"The chronic treatment is started when the animals "should be no older than 6 weeks of age and, if possible, weanlings". This choice makes the test much less sensitive than those in which the test compound is administered to the parents of the test animals before conception and to the pregnant mothers through the gestation and nursing periods and to the test animals from their birth. Many chemicals induce a much more marked carcinogenic response when administered during the development of the organism, in the fetal or neonatal periods (Rice, 1976). Yet the current test standards do not require that all chemicals be tested under such conditions of high susceptibility. The animals are then exposed to the test treatment for a large portion of their lifetime. The NCI guidelines recommend 24 months of observation without treatment; the surviving animals are then sacrificed. Such a schedule falls short of providing a full lifetime exposure, particularly for rodent strains that may live up to 3 years. The sacrifice schedule may also cut short the appearances of late tumors or the further manifestation of invasion or metastases. The use of only 50 animals per group limits the detectability of effects to those appearing with a frequency near 1 in 10 or higher, clearly several orders of magnitude above those levels of risk (e.g., 1:10,000 or 1:100,000) that would represent serious hazards in people." (Saffiotti, S. 10–11)

Very few witnesses dissented from the general principle that animal tests are insensitive. However, a few witnesses argued that the inherent sensitivity of certain animal models may offset the statistical insensitivity of the experiments in which they are used. For example, Dr. Francis J. C. Roe (AIHC) made the following statement:

"It is sometimes suggested that man may be more sensitive than laboratory animals to the induction of cancer by a particular agent. This possibility certainly exists just as does the possibility that a particular agent that does not cause cancer in animals will do so in man. Either situation could arise, for instance because the metabolism of an agent in man is different from its metabolism in laboratory animals. However, by far the more likely situation is that laboratory animal test systems are *more* sensitive than man. I say this because of the greater likelihood that the laboratory animals used for tests will have

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been selected for genetically-determined or virus-determined high sensitivity to tumor induction. Also, several aspects of the laboratory environment (e.g. over-feeding, abnormal hormonal status, see section 3) increase the risk of tumor development in response to non-specific factors." (Roe, S. 75)

However, there was no convincing testimony to suggest that the use of sensitive animal models would lead to "false positive" results. Indeed, available evidence is sufficient to discount such a suggestion (Tomatis, 1977a, p. 305). Thus at best these arguments would be relevant only to the issue of quantitative estimation of risks: they provide no basis for discarding positive results even in allegedly sensitive systems. Hence substantial evidence presented in the Record generally supports the proposition that animal experiments are insensitive, and that little weight, if any, can be placed on "non-positive" results.

There are two main types of situations in which OSHA might have to weigh "discrepant" results of animal testing:

(a) cases in which positive result(s) in one species has to be weighed against non-positive result(s) in other species;

(b) cases in which positive result(s) in one species has to be weighed against non-positive result(s) in the same species.

Case (a) has been discussed fully above. For the reasons given, it is concluded that in general, because of the varying susceptibility among animal species, positive results from testing in one animal species should always be given, in light of present scientific knowledge, greater weight than, and in fact supercedes, non-positive results obtained from testing in other species. The main issue to be discussed here is case (b), the weighing of positive and non-positive results obtained from testing in the same species of test animals.

A number of participants to this Rulemaking expressed concern, either in testimony or in briefs, that substances would be regulated on the basis of positive results in single tests, which might be of marginal quality, and that these results could not be outweighed by negative results, even if negative results were obtained in many tests. Examples of such comments are the following: Dr. Roy Albert (EPA), Tr. 2379–80; Council for Agricultural Science and Technology, S. 19; Hardwood Plywood Manufacturers Assoc., S. 2; Texaco, S.-Attachment 3. OSHA believes that such hypothetical cases are unlikely to arise in practice. In the first place, very few substances have been tested under adequate protocols with negative results more than 2 or 3 times. Indeed, no such case was presented during the hearings. However, if such a case were to arise, OSHA would review the data carefully and consider the possibility that the positive result might be a "false positive" (see subsection (d) below). Such a scientific review would take place as provided for in the final set of regulations. Secondly, OSHA does not in fact intend to regulate substances as Category I potential carcinogens on the basis of a single marginal positive result. OSHA will *ordinarily* require confirmation of positive results in more than 1 group of animals (see Section V.D. 9 below). Thus the sole remaining issue is whether *confirmed* positive results in one species should be superseded by non-positive results in the same species.

For comparisons within species, the same general principle applies: carcinogenesis bioassays are generally insensitive and little weight can be placed on non-positive results. Furthermore, there are differences in susceptibility within species which are liable to give rise to "false negative" results. This point was addressed by Dr. Umberto Saffiotti (NCI):

"As is the case with the variability among different species, so is it possible to observe a marked variability of response to a carcinogen among different strains of the same species. Therefore the intrinsic value of a positive response in a given strain—if technically valid—is not affected by the finding of positive or negative findings in other strains. The value of a positive result in a second strain simply provides further confirmation of the ability of the substance to exert a carcinogenic action. Another kind of confirmation may be obtained by the results of another experiment in the same strain. As with different species, there again the experimental conditions may vary from test to test and one does not necessarily have to expect that the carcinogenic response be qualitatively the same. The age at the time of exposure, the sex, the mode of administration, the dose and period of exposure, as well as dietary and maintenance conditions can affect the quality and intensity of the response in different experimental groups." (Saffiotti, S. 30–31)

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"The tests are conducted usually only on two particular strains of animals, one strain of mice and one strain of rats. This extremely narrow range of biological variants represents another great limitation in the detectability of carcinogenic effects, which are often known to vary considerably in their intensity and localization among different strains and species. The observation of a tumor response only at very high doses in a given strain may be paralleled by the induction of a carcinogenic response detectable at much lower doses in another strain. An example of this variation of susceptibility is provided by the studies on the carcinogenicity of DDT. In strain Balb/c mice, only the dose of 250 ppm in the diet revealed a detectable carcinogenic effect, by observation in groups of approximately 120–130 female mice (Terracini, et al. 1973 a,b); in strain (C57BL/6xC3H/Anf)F1, positive results were found with a dose of 140 ppm, with initial exposures to 40.4 mg/kg b.w., from 7 to 28 days of age (Innes et al. 1969). In strain CF1— mice, however, a carcinogenic effect was detected down to levels of 2 ppm in the diet, well below the levels currently allowed as residues in several food products (Tomatis et al. 1972). This finding was subsequently confirmed." (Turusov et al. 1973) (Saffiotti, S. 11).

Dr. Benjamin Trump (Univ. of Md.) also commented on this point in regard to the use of inbred strains:

"The main problem, indeed, with inbred strains is that you might get false negatives, either because they are [not] sensitive or because of background, and so on." (Trump, Tr. 2014)

Hence, OSHA concludes that the proposition that positive results in general, should be given greater weight than non-positive results applies in the case of discrepant results within a single species. However, as pointed out below, OSHA believes that this issue should be reviewed in the "substance-by-substance" rulemaking and not foreclosed nor even limited. See 29 CFR 1910.143(d)

(d) *What precautions should be taken to avoid placing weight on "false positive" results?* Several witnesses emphasized that carcinogenesis bioassays, like all diagnostic tests, are liable at times to give both "false positive" and "false negative" results. Dr. Schneiderman (NCI) stated:

"How good are effectively diagnostic tests? Any of the short term tests, the animal tests and so on, are really diagnostic tests. We are trying to diagnose whether a particular material is a carcinogen or not, so in this sense they have all the characteristics of a diagnostic test.

"We are also trying to use 400 or 600 or 800 animals as a surrogate for a 100 million person labor force. The question then is: Do our diagnostic tests have—what kind of operating characteristics do they have? And the major operating characteristics that we know all diagnostic tests have * * * are that they have false positives and false negatives. And it seems to me that is the issue.

"I know of essentially no diagnostic test which is absolutely certain with respect to false positives and false negatives, and I think that is a characteristic of the testing that we are doing here." (Schneiderman, Tr. 311)

False positive results may arise in several ways: (a) from methodological errors in experimentation; (b) from confounding factors; or (c) from chance variations in tumor incidence. The first two types of errors can be minimized by applying good scientific judgment in assessing the experimental results. Most of the legitimate concerns arise from statistical "false positives" of type (c).

Mr. Richard Peto (Oxford Univ.) discussed the statistical problems involved in analyzing experimental data on tumors at a number of different sites:

"Because in most experiments animals of both sexes and of more than one strain are studied, and the separate incidence of tumors at each of a dozen or more anatomical sites is independently documented, some of the many significance levels calculated will probably be less than 0.05 just by chance. Because of this, individual P-values of 0.05 (or even 0.01) are not necessarily convincing unless the effects concerned can be reproduced in independent experiments or unless the agents concerned show striking activity in a battery of short-term tests; for a single animal experiment to be convincing without such support, a P-value of well under 0.01 (perhaps even 0.001) should usually be required. Unless this policy of requiring rather extreme P-values is adopted, an unacceptably large number of misleading results will emerge by chance alone." (Peto, S. 17)

Dr. Joyce McCann (Univ. of Calif.) voiced a similar concern:

"The large number of tissues evaluated in a single cancer study can create false positives due to statistical fluctuation and unreproducible positive results can also be caused by unpredictable fluctuations in tumor incidence among control animals. For rare tumors, or in cases where a single test shows a positive dose-response result at more than one dose level, these statistical arguments do not as readily apply, and a "false positive" result is much more unlikely." (McCann, S. 24)

A number of other witnesses made essentially the same point (Council for Agricultural Science and Technology, S. 19).

One way to reduce the number of "false positives" is to apply a more stringent criterion for statistical significance before accepting a single positive result at one organ site. This procedure was proposed by Mr. Peto (S. 17, see above quotation). However, by requiring a higher degree of statistical significance, false positives are reduced at the expense of increasing the number of false negatives. Mr. Peto gave a specific illustration of this trade-off:

"Now, the trouble with taking a rather extreme definition of positive is that if something genuinely is carcinogenic but not very strongly so, as for example, saccharin, if you insist on a very extreme difference before you are convinced, then you will not be impressed by something which is a genuine carcinogen." (Peto, Tr. 2550)

This problem was analyzed by Fears *et al.* (1977) in an exhibit to the testimony of Dr. Griesemer (NCI). The authors showed that both false positive and false negative results are more likely at sites at which there is a substantial spontaneous incidence of tumors. Using data on spontaneous tumor rates in the NCI bioassay program, the authors calculated the probability of obtaining false positive results and false negative results under various methods of analyzing the experiment ("screening strategies"). Their principal conclusions were: (i) that any strategy to reduce the number of false positives results in an increase in false negatives; (ii) the probability of obtaining a false positive result is acceptably low if positive results are required at both doses in one site; (iii) the probability of obtaining false positive results is reduced still further by incorporating additional information. The following passage provides greater detail:

"The tissue site at which a significant result is found can be of considerable importance in a chemical screen. Tissue sites with high spontaneous tumor rates are more likely to yield false-positive results than are sites with low spontaneous tumor rates. For example, in the pituitary gland of the female Fischer 344 rat, the probability of a false positive in either of 2 dose groups is 0.059 and the probability of a false positive at both dose groups is 0.007. In contrast, for the majority of tissue sites (those with spontaneous tumor rates of less than 1%), the probability of a false positive in either of 2 dose groups is 0.00018. Thus, a significant result (even at only 1 dose) at a tissue site with a low spontaneous tumor rate offers strong evidence against the chemical under study. The presence of a dose-response relationship (higher tumor rates at higher doses) provides corroborative evidence of tumorigencity.

"The upper bounds on the misclassification rates for the decision rules considered in this paper offer valuable insight into the problems of chemical screening. The upper bounds for the strategy that indicates a positive compound if a significant result is found in either dose should serve as a warning against a screen that relies solely upon statistical significance and does not require biological consistency. The complex 2-species, 2-sex screen described previously which requires the supporting evidence of significance in both dose levels yields an acceptable false-positive probability. This lower false-positive error rate is accompanied by a higher probability of a false-negative result. Of course, there are other biologically consistent results that should be considered as evidence of tumorigenicity, such as the occurrence of a significant result in 1 dose for both male mice and male rats at the same tissue site. A good screen must incorporate biological knowledge and careful statistical analysis." (Fears et al., 1977 p. 1944; Exhibit to Griesemer Statement)

Dr. Bo Holmberg (Swedish NBOSH) commented on these results:

"It is however not very probable that a false positive result will be obtained (Page, 1977; Fears et al., 1977) even in a single animal test, should it be well performed. If a false positive result appears it does so only in remote cases and when high incidences of spontaneous tumors appear in the control series." (Holmberg, S. 26)

OSHA also is impressed by testimony that false negatives are of greater public health concern than false positives, and that an appropriate balance should be struck on this basis:

"I personally do not consider a few false positive results as being an important problem. I am generally more concerned with the false negatives, especially considering the inherent insensitivity of the conventional animal test systems." (Holmberg, S. 26–27)

Dr. Curtis Harris (NCI) stated that these were his priorities also:

"And I am frankly not very concerned about false positives. I am much more concerned about false negatives from a public health standpoint." (Harris, Tr. 2015)

OSHA concludes, on the basis of the above cited testimony and the other substantial evidence in the Record, that, if an experiment is analyzed properly ("incorporating biological knowledge and careful statistical analysis"), false positives are probably not of significant concern. The principal concern remains the likelihood of falsely *rejecting* positive results through taking precautions to minimize the possibility of accepting false positives.

(e) *How should OSHA deal with data of varying quality?* A final question raised in this rulemaking is how positive results obtained in experiments of poor quality should be weighed against non-positive results obtained in experiments of better quality. This question was posed, for example, in AIHC's Post-hearing Brief:

"OSHA's statement as to positive and negative results is stated in terms of tests of equal soundness from an experimental point of view. *Id.* There is, however, a general recognition that tests are of varying quality and, as many witnesses pointed out (*e.g.*, Dr. Griesemer, Tr. 930; Dr. Furst, Tr. 6924–6926, 7159–7160), the tests in the literature are recognized to be of very uneven quality. See discussion *supra*, at 128–131. Thus, OSHA's administrative determination is based on an assumption as to validity which is essentially unrealistic." (AIHC, Post-hearing Brief, p. 158; Hearing Exhibit 251)"

The Council for Agricultural Science and Technology (S. 19) also discussed this issue. Dr. Roy Albert (EPA) posed the problem in quite specific terms:

"If you have a marginally positive result in one study, then a series of negative studies provides evidence that weakens the strength of the evidence of its positivity.

"Now, if you say if you have one marginally positive study and one negative study how much does that reduce the weight

of evidence, or two negative studies and one marginally positive, or three negative and one—it is very difficult to say that. I must say that this is a problem of no small magnitude, because it is not out of the question, and the situation has arisen where economically important agents have one study done on them and they show up with a marginally positive result, and the question comes up, well, what do we do now? You know, there are people that are interested in using the material. You know darn well that if they go to the expense, and it is a very considerable expense, of doing another study and it turns out negative, the question is how many negatives does it take to wipe out that positive study? So I think this is a difficult situation, and I think it is clearest, as I said, when one has a marginally positive result and a series of negative results. This puts it in a category of a very weak response." (Albert, Tr. 2379–2380).

It should be noted that Dr. Albert was discussing in this passage the problem of evaluating a *single* test that was marginally positive.

Several witnesses argued that in evaluating the results of animal tests, it is appropriate to apply more stringent criteria to experiments which give non-positive results than to those which give positive results (Lijinsky, Tr. 1080; Epstein, Tr. 1462–1463). For the reasons given above, OSHA regards these arguments as reasonable. However, as discussed elsewhere in this Preamble, it is not scientifically justified to establish rigid criteria for the assessment of the "quality" of tests. If cases should arise in which data of varying quality need to be evaluated in light of each other, OSHA intends to rely on good scientific judgment to do so. However, such cases are unlikely to occur frequently, because OSHA will not ordinarily regulate substances as Category I potential carcinogens on the basis of single positive results. (See Section V.D. 9 on *Confirmation of Results).* Hence OSHA would not consider regulating a substance as a Category I potential carcinogen on the basis of a single test of poor quality. Finally, as Dr. Donald Kennedy (Commissioner, FDA) pointed out in the passage quoted above, experiments of poor quality are much more likely to lead to false negative results then false positives (Kennedy, Tr. 571–572).

c. OSHA's Conclusions

At the outset, it was noted that the issue of "non-positive" evidence, derived from the human or test animal experience, generally arises in three different contexts, namely: (1) positive animal data and "non-positive" human data; (2) positive test animal data in one species and "non-positive" data in another species of test animals; and (3) positive test animal data in one species and "non-positive" data in the same species from other testing.

(1) This first scenario was fully discussed above under Section IV, above. To recap however, OSHA concluded in section IV that the limited sensitivity of the epidemiologic method required that, except in the confines of certain narrow exceptions to the general policy, as provided, the results of a positive study or studies in humans or animals supersede or outweigh any "non-positive" study or studies in humans. Few such "non-positive" studies are available, as discussed, that can reliably detect less than a 50% increased incidence of cancer at any potential target site for workers exposed for the majority of their working lives. If such a study on a substance subject to rulemaking is made available to OSHA, it will be responsibly considered by the Secretary, as pointed out.

(2) The second scenario that arises from positive results from testing in one species of test animals and "non-positive" results from testing in another test animal species is discussed above under subsection 6(2)(c). There, we concluded that, because of the limited sensitivity of tests in experimental animals and because different species of animals vary in their susceptibility, positive results in one species supersede or should be given greater weight than "non-positive" results from testing in another species, in establishing the qualitative inference of carcinogenic hazard to workers.

(3) Based on the discussion of the evidence in the Record above, OSHA concludes here that when positive and non-positive results are reported in the same species of test animal, positive results in studies providing biological and statistical evidence of acceptable quality should be given the greater weight. This is particularly true in light of the limited sensitivity of testing in experimental animals. Nevertheless, because of the stated need for scientific flexibility, as discussed below, OSHA has provied for a mechanism to additionally consider such evidence discounting positive results, under unusual circumstances as specified in sections V.D. 3, 8 and 13 below.

Thus to reflect OSHA's intent as to the last two possible scenarios, the OSHA Cancer Policy provides (1990.143(d)):

(d) *Non-positive animal studies.* Positive results in one or more mammalian studies will be used for the qualitative identification of potential occupational carcinogens, even where non-positive studies exist in other mammalian species. Where non-positive and positive results exist in studies in the same species, the non-positive results will be evaluated.

3. Testing at High Doses

a. OSHA's Proposal

In the preamble to the proposed regulation, OSHA proposed to rely upon positive results from experiments in laboratory animals conducted "at any level of exposure or dose". The basic rationale supporting the proposal was the necessity to evaluate the biological effects of a substance under test all the way to the highest levels of exposure compatible with lack of unrelated toxic effects, and, in addition, to overcome the statistical insensitivity of laboratory bioassays conducted with the limited numbers of test animals that could be handled in practical laboratory conditions. Stated a different way, OSHA believed that laboratory bioassays conducted at doses and under experimental conditions likely to yield maximum tumor incidence were valid qualitative indicators of carcinogenic hazards, and that such testing should indeed be encouraged because it gives more reliable qualitative results than testing at lower doses.

b. The Public's Response and OSHA's Evaluation

Virtually all of the witnesses and participants addressing this issue endorsed the propriety of testing at levels higher than those levels to which humans are actually exposed. Nevertheless, there was some debate as to the actual magnitude of the levels of exposure that can be used in carcinogenicity tests without impairing the reliability of such testing as predictors of carcinogenic hazard or risk. And there was also some concern raised as to the use of such doses as used *in practice.*

For the purposes of the following discussion, it should be pointed out that, in general, the term maximum tolerated dose (MTD) is usually defined as the highest dose of a substance under test, given during a chronic study, that can be predicted not to alter the treated animals' normal longevity from toxic effects other than carcinogenicity. Since the determination of an MTD is judgmental in nature and often based upon subchronic data, the judgment may be wrong. As Dr. Leon Golberg of the Chemical Industry Institute of Technology (CIIT) pointed out: "[E]very' one of us is liable to err in reaching a [MTD] decision." (Golberg, S. 3). Thus, although the proposal by OSHA and, understandably, all witnesses referred to a maximum tolerated dose or "MTD", OSHA believes that the term *estimated* maximum tolerated dose or "EMTD" may be a more accurate description of the state of the scientific art than the term "MTD". Thus EMTD will be used throughout this preamble.

Three principal issues were raised in this proceeding concerning the issue of EMTDs:

1. Is it generally appropriate to test laboratory animals at the highest dose level that can be tolerated by them during lifetime administration (the EMTD) to determine qualitatively a carcinogenic hazard?
2. Are there biological reasons to believe that substances tested at high doses will produce carcinogenic effects at the highest dose but not at the lower doses?
3. How is the EMTD to be defined and should the results of experiments in which the EMTD is exceeded be discarded?

1. *The General Appropriateness of EMTDs.* A great many witnesses supported the use of an EMTD for qualitative identification of carcinogenic hazards. Dr. Arthur Upton (Director, NCI) stated in his direct testimony:

"To offset the statistical insensitivity as much as possible, it has become standard practice to test chemicals for carcinogenicity at relatively high doses. This practice has been endorsed by almost all workers in the field, including the expert international and national committees cited above. In the NCI bioassay two doses have usually been used—the maximum tolerated dose (MTD) and one-half of the MTD. Probably no feature of carcinogenesis bioassays is so widely misunderstood or misrepresented as the use of these relatively high doses. Contrary to widespread popular belief, there is no evidence that a chemical which is carcinogenic at high doses would not also be carcinogenic at lower doses. The evidence, in fact, is that it is likely to be carcinogenic at any dose, but at a frequency which is much less likely to be detectable at low doses than at high doses. Criticism of high dosages used in animal tests may be based on a misunderstanding of their purpose. The tests are intended as screening procedures, to identify those chemicals with the potential to cause cancer, not as tests to measure the frequency of induced cancer at a particular level of exposure." (Upton, S. 11)

Dr. Richard Griesemer (NCI) in his direct testimony stated:

"When the objective of the experiment is to determine the capability of the chemical to produce cancer, it is mandatory that experiments in animals be conducted with large doses. The general approach recommended by NCI is to select the highest dose of the test agent that can be predicted not to alter the animals' normal longevity from effects other than carcinogenicity. If this approach is not used or if chemicals are not tested under the most rigorous conditions, then negative results are meaningless. (Griesemer, S. 6, footnotes omitted)

Dr. Griesemer (NCI) during his cross-examination commented further:

"I believe strongly that if one does not pursue the testing of chemicals for carcinogenicity at the maximal *tolerated* dose, that one runs the risk of missing carcinogens. I find it hard to believe that there are non-carcinogens which when given in excessive doses will produce cancer." (Griesemer, Tr. 997–98)

Dr. Umberto Saffiotti (NCI), testifying with Dr. Griesemer, agreed:

"I . . . also do not really find any scientific basis presented to justify the selection of these levels as those . . . above which it is not useful to study the effect of certain chemicals. (Saffiotti, Tr. 998)

Dr. Saffiotti (NCI) in his direct testimony expanded upon this issue, *viz:*

". . . there is a broad consensus of qualified scientific opinion that carcinogenesis tests should include bioassays at or near the highest tolerated dose level. If a substance had only been tested at lower level and no carcinogenic effects had been detected, this would only tell us—as is always the case with negative results—that the effect in the chosen test system was below the detectability threshold of that particular test. We would be left totally uninformed as to whether a detectable response may be induced by the test compound at higher levels of administration. Which maximum test dose-level should then be chosen? Any level other than the MTD would not represent a maximal challenge of the chosen test system, and might be expected to yield a correspondingly lower response, unless the test system were changed to a more sensitive one, either by increasing the number of test animals proportionally or by switching to a more sensitive biological model. To increase the number of test animals adequately, as required in order to extend detectability of effects to lower doses, might create extremely serious logistic and economic problems. The adoption of test systems more sensitive than those currently recommended for standard testing is an alternative possibility that could be given further consideration. Presently accepted bioassay standards, such as the NCI "Guidelines for Carcinogen Bioassay in Small Rodents" (Sontag, Page, and Saffiotti, 1976) are far from recommending extreme conditions of test. Adoption of standardized test protocols always implies acceptance of some arbitrary selections, which should be made on the basis of best judgment by highly knowledgeable experts." (Saffiotti, S. 8–9)

Dr. William Lijinsky (NCI–FCRC) in his direct testimony expanded upon the issue:

"The dose chosen (for testing) is usually the maximally tolerated dose (MTD), that is, the highest dose which can be given for a prolonged period without causing detectable toxic effects in the animals, as detected by weight loss and by pathologic examination.

"The reason for using the maximally tolerated dose, rather than a lower dose more closely resembling the quantities to which people might be exposed, lies in the numerology of carcinogenesis. We accept a number of premises which are based on our experience of carcinogenesis studies. These are that carcinogenic effects are cumulative, that individual responses to carcinogens vary over a range, that man is no more sensitive than the animals to the action of the carcinogen, and that there is a relation between dose and tumor response which reveals itself as an increase of incidence of tumors and a decrease in the time taken to develop tumors as the dose increases, and vice-versa.

"Let us assume that 100,000 people will be exposed to the substance for a considerable portion of their lifetime, and that 100 of them, or 1 in 1,000, will develop tumors from the exposure (in the case of a substance used as a food additive to which millions of people are exposed, the numbers would be increased proportionately). In order to detect this risk in a group of animals of manageable size the dose must be increased greatly, because the induction of 1 tumor in 1,000 animals would require a group of at least 1,000 test animals, clearly an unwieldy number. Unfortunately, one tumor of a certain type induced in a group of animals of any size is not statistically significant, since it could occur by chance. Even 2 or 3 could occur by chance. In practice, the minimum number of cases which is considered significant is 5. Therefore, strict numerical equivalence with the human experience would require a group of 5,000 test animals in which 5 tumors of a certain type would be found, none of which occurred in a group of 5,000 untreated controls. This is a requirement for 10,000 animals for a test of one substance at one dose in one sex of one species. Clearly the cost would be outrageous and there would be the possibility of having selected an unusceptible species or sex. Even under these conditions the dose given to the animals would have to be increased at least 30 times over that to which people are exposed to compensate for the differences in exposure times.

"To make the test more manageable than that described we use groups of 50 males and females of each sex of two species and give such groups one or two doses of the substance for their lifetime. We increase the dose as much as possible below toxic levels (at least 30–100 times above human doses) and in practice use the MTD. We then look for an incidence of at least 5 animals with an induced tumor which does not appear in the controls before it is considered that the substance is a carcinogen. However, it is only necessary to find such an incidence in one of those groups for the test to be positive, as explained above. On the other hand, if there is no significant incidence of induced tumors, we can say that the substance is non-carcinogenic and 'safe' although all we have shown is that fewer than 1 in 1,000 people exposed to the substance will develop cancer. It is not possible to extrapolate risk from such an experiment since the conditions of the test are so coarse. We have not considered the possible synergistic action of other carcinogens, as man might be exposed to. The possible effects of promotors, or of antagonists, have not been considered. At best the test, if positive, tells us that there is a risk. If we were to be conservative and include the possibility that man is more

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sensitive than the experimental animals to the carcinogen, then the factors discussed above might not be adequate and larger groups of animals should be employed anyway, but this is probably not feasible." (Lijinsky, S. 27–30)

Dr. Lijinsky, during his cross examination, commented further:

"It is not adequate to test chemicals at the low doses to which man is exposed, since even those chemicals known to be carcinogens in man will give false negative results under these conditions. This is because of the shorter exposure time of the experimental animals, only two years, compared with man's lifetime, which is 50 years or more, and to the smallness of the group of animals, 50 or 100 usually, compared with the human population at risk which might be millions, of which some might be much more susceptible than others. In no case is the mechanism of action of any carcinogen known in man or animals, so comparisons of metabolism cannot be assumed to indicate that man is more or less likely than the animal to be susceptible to the risk of cancer in exposure to a carcinogen." (Lijinsky, Tr. 1020)

Dr. Lijinsky again emphasized later in his oral testimony:

"For reasons again of statistics, we have to use as high a dose as we can because the exposure period is so much shorter than that which man might experience. And we want to produce as large an effect in that small group of animals as we can so that we safeguard the population." (Lijinsky, Tr. 1075)

Dr. Lorenzo Tomatis (IARC) also noted in an article attached to his written statement:

"The choice of a sensitive model appears to be justified as an attempt to compensate for the limited number of animals normally used. One of the reasons given for underestimating or disregarding animal experimentation is that results are often obtained by the second approach, that is, by using a model which is accused of being too sensitive. There is sufficient evidence to indicate that experimental results can indeed predict a hazard to man (Tomatis, 1974; Tomatis et al., 1973), while there is no evidence that, for instance, a chemical which is carcinogenic to experimental animals will not in any circumstances produce tumors in man." (Tomatis, 1977, p. 305; Appendix 3 to Tomatis Statement)

Dr. Harold Stewart (NCI) introduced a report addressed to the Director of NCI by an Ad Hoc Committee on Testing for Environmental Chemical Carcinogens, which included the following passage:

"There can be no question of the value of investigating carcinogenicity at different dose levels of the agent. For example, information as to mechanisms of action and the influence of modifying factors might be better obtained with minimally effective than with maximally tolerated amounts. However, this is not relevant to *identification of environmental carcinogens and assessment of their significance for human cancer*, which are our immediate concerns. Moreover, in the case of many, if not most, carcinogens, decreasing the dosage from a maximally effective to a minimally effective level produces prolongation of the latent period in addition to decreased incidence of tumors. If the dose is lowered to a point at which the mean latent period exceeds the life span of the animal, negative results may be obtained at levels that might be carcinogenic for equally susceptible, longer-lived animals." (Stewart, S. 3, emphasis added)

Dr. Richard Bates (NIEHS, FDA) testified:

"Animal experiments are usually conducted at considerably higher levels of exposure than those customarily occurring in humans, though in some poorly controlled occupational settings it is possible for workers to be exposed to high levels of carcinogenic chemicals. Since this practice of testing at high dose levels is often challenged, some comments about it are in order. The fundamental reason for doing so is to enhance the sensitivity of the experimental bioassay to detect a chemical carcinogen. A study in 100 animals, a common size of experimental group at the present time, can obviously not detect anything lower than a one percent incidence in cancer. In actual practice, statistical considerations only permit the detection of a risk several fold larger than this for rare tumors and considerably larger if the types of tumors induced are those found with significant frequency in untreated control animals. This level of risk is considered much higher than that which is socially acceptable in an exposed human population. In order to detect lower levels of risk, it is either necessary to test in much larger groups of animals or to test at much higher dosage levels than those to which humans are exposed and use mathematical procedures to estimate the level of risk from lower levels of exposure." (Bates, S. 12–13)

Dr. Bernard Weinstein (Columbia Univ.) testified:

"It would, of course, be desirable to expose test animals to doses which are within the range of human exposures. However, this is not feasible for a number of reasons. First, the animal assay system is relatively insensitive because of the limited number of animals that can be used in a specific study. If only 50 to 100 animals are used, then the system would be sensitive at only about the 10% level; that is, about 10% of the animals would have to get tumors for such an effect to be considered statistically significant. It would require an extremely potent carcinogen to produce 10% tumors if the agent were given at low doses; so the conventional procedure is to increase the dose to increase the tumor yield if the compound is indeed carcinogenic." (Weinstein, S. 4)

Dr. Renate Kimbrough (CDC) commented in her oral testimony:

"You would not want to do a cancer study and give doses that are so high that you lose most of the animals before they ever come to the point where most of them would develop cancer. And on the other hand, you do not want to make the dose so low that because you are dealing with a small group of animals, you could miss the fact that the compound is a carcinogen. So what you then arrive at is the tolerated—the highest tolerated dose and you would have to use those dosage levels because of the small number of animals that you are exposing. In other words, your system that you are using, the animal system, is not very sensitive, the way we are doing the studies at the moment. Therefore, you try to use the highest tolerated dose and do your study with that, even though you know that people often are exposed to less, since we are trying to protect people that are exposed in much larger numbers and that also have—they have genetic differences to the susceptibility that might be differently affected by the carcinogen. In order to try to cover all of that, we should have a fairly high dose." (Tr. 1788–89)

Dr. Benjamin Trump (Univ. of Md.) commented during oral testimony why testing at the EMTD is appropriate:

". . . to try to get around the relative insensitivity of the assay. Animals only live for two years. If lower doses are done you get to the background level, and this is one of the reasons for the insensitivity, because even something that causes an event one in ten thousand times in humans would be a significant number of cancers. So it would not even be satisfactory at that level. So to get around all those problems, to get around the short lifetime of the rodents, it is necessary to use high doses, and this to me is very logical." (Trump, Tr. 2008)

Other witnesses who supported the use of testing at the EMTD included: Dr. Donald Millar (Acting Director, NIOSH), Appendix C to NIOSH statement, p. 15; Dr. William Nicholson (Mt. Sinai School of Medicine), S. 2; Dr. David Rall (Director, NIEHS), S. 6; and Mr. Steven Jellinek and Dr. Roy Albert in their joint statement for EPA, S. 2.

A principal purpose of using the EMTD is to maximize the sensitivity of a bioassay. Dr. Richard Griesemer (NCI) discussed this in his oral testimony:

"Again, if the purpose of the study is only to determine whether the chemical is capable of producing cancer in animals, then it is desirable that the experiment be conducted under the most rigorous conditions for producing that result. That is, one would use as many animals as possible, he would use as many routes as possible, he would use the largest doses that are compatible with a long lifetime so that the animal has time to develop cancer, and to that extent the general principles of toxicology apply." (Griesemer, Tr. 936)

Dr. Lijinsky (NCI–FCRC) testified similarly:

"As I said, what we have to guard against in a bioassay is a false negative. We do not want to conclude from an inadequate test that the compound is safe when it, in fact, is a carcinogen." (Lijinsky, Tr. 1076)

Other scientific and regulatory bodies have, in the past, supported the same position proposed by OSHA. As the NCI Ad Hoc Committee's report to the Surgeon General stated:

". . . bioassay methods have remained tools of low sensitivity, capable only of detecting the highest peaks of carcinogenic activity. The factor which limits bioassays sensitivity is usually the small number of test animals used. If the bioassay design has a low probability of detecting carcinogenic effects produced by hazards at levels comparable to those present in environmental samples, then tests at such levels are wastes of time, effort and money. The need to test levels higher than those found in the environment is thus founded. (NCI Ad Hoc Committee, 1970, p. 7)

In 1973, the Canadian Report on Protocols For Testing of Chemicals For Carcinogenicity stated:

"Selection of doses to be tested is currently a subject of controversy, particularly in relation to food additives and certain environmental chemicals. In carcinogenesis testing, the highest dose level should be within the toxic range, but should be consistent with the prolonged survival of the majority of animals. The lower levels should permit the animals to survive in good health for their natural life span or until tumors develop (WHO, 1969). Use of very high dose levels has been critized [*sic*] on the basis that it can be incompatible with normal physiological function and creates a metabolic overload on the animal. Higher doses are sometimes selected to delineate mechanism of action and metabolism of carcinogens but there is some question as to whether data obtained from such studies is representative of the situation at lower dose levels (Weil, 1972). Most investigators have used at least three dose levels which is compatible with WHO recommendations on food additives and drug carcinogenicity testing and is in keeping with Canadian guidelines on testing of food additives. It is generally intended that the lowest dose selected will produce no real increase in tumor incidence over control animals." (Health and Welfare, Canada, 1973, p. 19)

In 1975, the National Academy of Sciences in *Contemporary Pest Control Practices and Prospects* stated at p. 65:

"The sensitivity of such tests is inherently limited by the number of animals employed. For example, even if no cancers are found in a group of, say 100 animals, one can conclude with 95 percent confidence only that the true frequency of cancer induction at the given dose is less than 3 percent. Clearly, in extrapolation to man, a likelihood of inducing cancer in no more than 3 out of 100 individuals would hardly be reassuring. In practice, animal tests may be even less sensitive than the foregoing example suggests. This is because the control animals themselves may develop a substantial frequency of various kinds of cancer, making the problem one of detecting a significant increase above an already appreciable background. In order to increase the sensitivity of animal tests, administered doses are chosen to be considerably higher than the level to which humans usually are exposed. This procedure may fail if the test compound greatly shortens the life span of the animals as a result of toxic effects other than cancer. In that case, the older ages at which carcinogenesis is likely to be most manifest cannot be studied." (NAS, 1975a, p. 65; Appendix H to Rall Statement)

In 1977, in *Drinking Water and Health*, the National Academy, in summarizing its discussion of "Chemical Contaminants: Safety and Risk Assessment" stated:

"The exposure of experimental animals to toxic agents in high doses is a necessary and valid method of discovering possible carcinogenic hazards in man.

"The most commonly expressed objection to regulatory decisions based on carcinogenesis observed in animal experiments is that the high dosages to which animals are exposed have no relevance in assessment of human risks. It is therefore important to clarify this crucial issue. Practical considerations in the design of experimental model systems require that the number of animals used in experiments on long-term exposure to toxic materials will always be small, compared with the size of the human populations similarly at risk. To obtain statistically valid results from such small groups of animals requires the use of relatively large doses so that effects will occur frequently enough to be detected. For example, an incidence as low as 0.01% would represent 20,000 people in a total population of 200 million and would be considered unacceptably high, even if benefits were sizable. To detect such a low incidence in experimental animals directly would require hundreds of thousands of animals. For this reason, we have no choice but to give large doses to relatively small experimental groups and then to use biologically reasonable models in extrapolating the results to estimate risk at low doses." (NAS, 1977a, p. 55; Appendix I to Rall Statement)

And in *Cancer Testing Technology and Saccharin*, the Congress's Office of Technology Assessment stated that:

"Standard procedure in animal cancer tests is to feed substances at the 'maximum tolerated dose'. . . . Contrary to popular opinion, all chemicals do not cause cancer at high dose levels. Many food additives and other chemicals have been tested in animals at this level without causing cancer.

"The rationale for feeding large doses of a substance in animal tests is as follows. As the dose of a substance that causes cancer is increased the number of exposed animals that develop cancer also increases. To conduct a valid experiment at high dose levels, only a small number of animals (perhaps several hundred) is required. However, to conduct a valid experiment at low dose levels, a very large number of animals is required. (The smallest incidence rate detectable with 10 animals is 10 percent or one animal. To detect a 1-percent incidence rate, several hundred animals would be required.)" (OTA, 1977, pp. 11–12. Exhibit C to Weinstein Statement)

And on February 1, 1979, the Office of Science and Technology Policy of the Executive Office of the President stated in a staff paper, *Identification, Characterization, and Control of Potential Human Carcinogens: A Framework For Federal Decision-Making:*

"High dose testing is a necessary feature of laboratory bioassays, given the limitations of time and study animals. The finding of cancer in animals only at high doses does not imply that such doses would be required in humans—particularly in view of the longer exposure periods existing in the human case. Animal dose levels should, however, be selected so as not to induce overt toxicity unrelated to carcinogenicity. Toxic doses may result in the dysfunction of metabolic processes that at lower levels might protect the animal (and humans) from cancer." (OSTP, 1979, p. 9)

These points have also been expressed in precedents established by the Administrator of EPA, who stated in *In re Shell, supra:*

"High doses are administered in animal tests, not because the researchers seek to correlate animal response levels to humans, but because with a limited number of animals this methodology is necessary to determine gross effect. Consequently, a substance that will induce cancer in experimental animals at *any* dose level, no matter how high or low, should be treated with great caution." (footnotes omitted). (39 FR 37268)

Again, in *In Re Velsicol*, EPA addressed this issue and stated:

". . . High doses in animal experiments are thus justified, and indeed necessary, because the comparatively small numbers of animals necessarily involved in the experiments make it very difficult at least to test for positive results at lower doses.

"Testing at . . . relatively high doses is now generally regarded as essential to the attempt to reduce the gross insensitivity imposed on tests by the small size of animal groups routinely tested, such as 50 or so rats or mice per dose level per chemical, compared with the millions of humans at presumptive risk . . ." (41 FR 7575)

FDA has also said, in eliminating chloroform from drugs and cosmetics (41 FR 28842):

"b. The comment also argues that the dosage in the NCI studies was excessive and thus does not support the contention of risk to humans. Noting that the NCI report stated that the methodology used in their studies differs from that which is currently used by NCI, the comment states that the most serious defects in the methodology used are the inadequacy of the subchronic toxicity study to determine the maximal tolerated dose (MTD) and one-half MTD, and the failure to employ a meaningful definition of MTD. The comment further states that had a proper and reliable subchronic study been

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conducted, employing liver and renal function measurements as well as histological assessment of the effects of chloroform upon the liver and kidney, it would have been found that the dose levels used were too toxic. In support, the comment notes that in the NCI rat study, the dose levels had to be reduced after 22 weeks of treatment because the lethal consequences were too great. The comment also cites in support a short term study conducted at Bio/dynamics Inc. at dosage levels of 60, 120, 240, and 480 milligrams/kilogram and with the same strain of mice as that used in the NCI study. In the Bio/dynamics Inc. study both males and females had poor tolerance to the chloroform and at the 480 and 240 miligrams/kilogram levels most of the mice died.

"It is the Commissioner's opinion that the growth and survival curves as plotted for the mice in the NCI report reveal no significant effect on growth from the dosages administered, and only in the high-dose level female mice is there an effect seen on survival. However, this effect was observed late in the study, when the death rate showed a sudden increase after the 70th week. The Commissioner therefore concludes that the dosages in the NCI mouse study conform to the standard generally accepted for an MTD to be used in carcinogenicity studies.

"In the NCI rat study, it is true that the survival rate for chloroform-treated rats was lower than that for control rats.

"However, in the Commissioner's view the high dosage level for male rats appears to conform to standards for MTD when the first 90 days of the growth curves are examined. The comment's objection regarding excessive dosage (greater than MTD) would apply only to female rats. In this regard the Commissioner notes that the statement in the comment that dosage levels employed had to be reduced after 22 weeks because of lethality applies only to the female rats. Despite the reduction in dosage, the survival curves show a consistently lower survival rate. However, the Commissioner emphasizes that there was no increase in tumors reported for these animals. Rather, it was only in the male rats that an increased incidence of renal tumors was reported.

"The comment also points out that the ratio of tumor-bearing animals to animals involved in all chloroform treatment groups is less than that found in both male and female matched control groups. This observation, however, is noted and described by NCI in their report as not significant. Moreover, the Commissioner believes the distribution of other than kidney tumors to be normal. Aside from this, the comment disregards the dose-related time of tumor onset. The CTFA analysis further states that "* * * data for the female groups indicate that chloroform treatment may have actually exerted beneficial effects." Obviously, the lethal effects cannot be viewed as beneficial. Finally, the Commissioner notes that in the case of male rats where dosage would appear to conform to the generally accepted standard for carcinogenicity studies, definite evidence of kidney carcinogenicity appeared." (41 FR 26842)

2. Do Biological Reasons Make Testing at EMTDs Inappropriate?

Some witnesses, who objected to OSHA's proposed reliance on experiments which utilize the EMTD, proposed mechanisms by which chemicals might hypothetically show carcinogenic effects only at high doses. Some of these witnesses argued that any chemical, if given at a high enough dose, may produce cancer due to metabolic overloading of the body's natural detoxification mechanisms. Specifically, some witnesses proposed that with some sufficiently high dose there is a discontinuity or shift in the dose-response curve resulting in metabolic and pharmacokinetic factors which would lead to carcinogenic effects only at doses above the discontinuity.*

Dr. Perry Gehring (Dow Chemical) was a major witness supporting the hypothesis of "metabolic overloading":

"Because of the biochemical mechanisms involved in the genesis of cancer it is *scientifically reasonable* to conclude that administration of large doses of chemicals to animals for cancer testing assesses improperly the risk of exposure to low doses." (Gehring, S. 3, emphasis added)

He went on to say:

"Only relatively high doses can, in practice, yield statistically significant data. But *frequently* such high doses produce cancer simply because their very immensity overwhelms the biochemical pathways that would detoxify smaller, more realistic doses." (Gehring, S. 13, emphasis added)

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"Dose-response curves may show an unusually large increase in response with increasing dose, starting at the dose level where "saturation" effects become evident . . . The overwhelming of detoxification processes is particularly important in carcinogenesis because reactive electrophilic intermediates will react with macromolecules such as DNA, rather than being detoxified." (Gehring, S. 17)

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". . . it is clear that as dose increases there is a disproportionate increase in the amount of reactive metabolite bound to genetic material escaping repair . . . The formation of such material is probably associated with chemical carcinogenesis . . . data generated from studies of animals given large doses cannot be extrapolated to predict the incidence of cancer caused by exposure to smaller amounts of the same chemical. Such extrapolation assumes that the fate of the chemical does not change with dose—an assumption which requires the curve of unrepaired "damaged" genetic material to be a straight line parallel to the abscissa. Clearly it is not." (Gehring, S. 19)

Dr. Benjamin Van Duuren (New York Univ.) also commented on this issue:

". . . there is a process that is called metabolic overload, and that if one gives a very weak carcinogen or a non-carcinogen in an extremely high dose, you might cause changes in the metabolism, the enzymatic activation and deactivation of the chemical, so that what would really normally be in the workplace, a non-carcinogenic chemical, may give rise to cancer, yes." (Tr. 1876)

Dr. Carroll Weil (Carnegie Mellon Univ.) also claimed that metabolic differences could be important:

". . . massive doses can result in different metabolism and pharmacokinetics than do concentrations similar to the one [sic] to which man will be exposed. (Tr. 6594–95)

Dr. Paul Kotin (Johns-Manville) also commented on testing at high doses:

". . . my concern over the high dose is that if it becomes shown that the high dose doesn't utilize certain detoxification mechanisms, whether it is conjugation or whether it is chewing up of certain amino acids, like glutathione or the like, then again the objection becomes meaningless in the sense that the high dose and the low dose have an anatomic and metabolic fate independent of the size of the dose." (Tr. 8716)

Dr. Kotin proposed still another problem with testing at high doses:

". . . the high doses interfere with repair mechanisms, and I am not limiting it to the repair mechanisms associated with DNA repair and so on. I am speaking about the ability of a macromolecule to heal itself or to have a cell organelle—let me put it that way—interfered with, even lysed within the cell by an exogenous agent at a given dose might be very much meaningless in terms of the preponderance of organelles there to keep the cell in a state of homeostasis or equilibrium.

"A large dose can result in the lysis of the cell if you get enough lysosomes strewn out within the cell, as the result of an overwhelming dose of an agent.

"At the level of metabolic pathways I have mentioned, the availability of buffering macromolecules like amino acids that serve as buffering for certain exogenous agents—the using up of certain conjugating agents, whether it is a sulfate or any of the others, which are detoxifying mechanisms, so that there are a variety of normal physiologic, homeostatic mechanisms within the cell which can effectively handle a dose below X and which cannot handle above X." (Tr. 8722)

Dr. Harry Skalsky (Reynolds Aluminum) commented:

"The MTD testing may also be criticized on other grounds. In any physiological system, a biochemical pathway may become overloaded and/or a secondary system be activated. Young and Gehring demonstrated a dramatic increase in the excretion of unchanged dioxane as a function of dose, suggesting that the hazard from a high dose of dioxane may be disproportionately greater than that from a lower dose.

"The possibility of changes in pharmacodynamics or metabolism of a compound has been ignored in maximum tolerated dose testing. With the amount of toxic stress on a test animal at the MTD dose, changes in the metabolism would be expected. That these parameters have not yet been measured discredits any data from maximum tolerated dose testing." (Tr. 7590)

Dr. John Zapp (Dupont) commented:

"Animals which metabolize a chemical differently from man cannot be expected to yield results comparable to man. Doses which overwhelm an animal's capacity to metabolize a chemical by its normal mode can lead to the accumulation of abnormal metabolites which produce effects which do not occur at doses which the animal can handle in its normal mode, and which therefore may lead to false conclusions regarding the effects of low doses in man." (Tr. 5286)

The National Agricultural Chemicals Association (NACA) commented:

"High doses may cause the formation of carcinogenic agents that are not formed at low dose levels, and thus negate the relevance of the animal tests." (NACA, S. 4)

Borden Chemical, Inc. commented:

"OSHA fails adequately to consider that when the dosage for an animal is massive, its natural detoxification systems or defense mechanisms . . . are usually overwhelmed . . . result is that the detoxification mechanisms of the host become incapable of providing the necessary protection." (Borden, 4)

Despite the number of comments proposing the importance of the mechanism of metabolic overloading, the actual scientific evidence presented in support of this hypothesis was very, very limited. Dr. Perry Gehring (Dow Chemical) cited his own work and that of his associate Dr. P. G. Watanabe on vinyl chloride in rats as an example of dose-dependent metabolic differences (Watanabe *et al.* 1976 a,b,c; References to Dr. Gehring's Statement). Dr. Gehring commented:

"It is absolutely essential in assessing risk that attention be given to dose because administration of large doses in accordance with the maximum tolerated dose concept frequently overwhelms the detoxification mechanisms of the body, resulting in disproportionate increase in the manifestations of toxicity, and this is inclusive of oncogenicity. In my testimony, I illustrate this simplistically with barrels having two slits. As the flow of fluid [dose] into the barrel increases, the capacity for escape of the fluid through the lower slit is overwhelmed. This leads to a buildup of the fluid in the barrel and escape by another slit.

"This, in reality, does occur in the body. Increasing the dose of many chemicals increases disproportionately the amount of the chemical retained in the body or the amount reacting with tissue, and in some cases, the amount entering alternate routes of biotransformation which produce reactive metabolites that react with tissue. In some cases, the depletion of critical constituents needed for detoxification by high doses may enhance greatly the reaction with tissue. For example, depletion of glutathione." (Tr. 5034–35)

As noted by NACA, Drs. Gehring and Watanabe drew the following conclusions:

"The primary detoxification pathway for VC involves conjugation of its reactive metabolites with nonprotein sulfhydryl groups. Therefore, it seems reasonable to postulate that as the nonprotein sulfhydryl groups are depleted, reactive metabolites will be free to react with other macromolecules (DNA, RNA, protein, lipids), resulting in toxicity and carcinogenicity.

"In summarizing the study on the pharmacokinetics and metabolism of VC, the data indicate that the fate of VC in rats is dose-dependent following either single oral administration or inhalation exposure. More importantly, it appears from the data available that a correlation exists between doses of VC that cause tumors and those that saturate metabolic or detoxifying pathways." (NACA, S. 22–23)

However, at least one of these conclusions appears to be in conflict with the results of Drs. Gehring and Watanabe. The authors showed (Watanabe *et al.* 1976b; Reference to Gehring Statement) that at high doses, diminished detoxification efficiency in fact correlates with a flattening of the dose-response curve for hepatic angiosarcoma, i.e., a *reduction* in the incremental increase in tumor incidence per unit increment in dose. In other words, the work of Drs. Gehring and Watanabe with vinyl chloride suggests an overloading of *toxification* mechanisms, not detoxification mechanisms. Subsequent to the hearing this point was stated more explicitly in another paper published by Dr. Gehring and his co-workers:

"For vinyl chloride-induced hepatic angiosarcoma in rats, a logarithmic probability plot (probit plot) of the incidence versus the amount of vinyl chloride metabolized, *v*, over a range of exposures from 50 to 10,000 ppm of VC gives a classical straight line (Fig. 2A). The dose-response relationship is not a straight line when plotted as a function of the exposure concentration, S (Fig. 2B). These results support further the conclusion that VC requires biotransformation to an active metabolite for tumorigenesis. Furthermore, a more reasonable evaluation of the dose-response data for vinyl chloride-induced tumorigenesis requires knowledge of the amount of VC activated as a function of exposure." (Gehring *et al.*, 1978, p. 586)

The authors then proceeded to distinguish clearly between this situation and the hypothetical case of overloading of detoxification mechanisms:

"For some chemicals detoxification of the chemical *per se* or reactive metabolites formed from the chemical may also be dose-dependent and saturable leading to a build-up of toxic materials. In such cases, the incremental responses to increasing doses or exposures will become disproportionately larger rather than smaller." (Gehring *et al.* 1978, p. 587, references omitted)

A recent letter in *Science* by Drs. K. Hooper, R. Harris, and B. Ames discussed Gehring's argument for dose dependent detoxification mechanisms and its relation to whether chemical carcinogens exhibit "thresholds":

"The first argument is that mechanisms detoxifying carcinogens are overwhelmed at the high dose levels often used in rodent bioassays, and a disproportionately large carcinogenic effect occurs at these doses. As an example, Gehring implies that at dose levels of vinyl chloride above 50 to 150 parts per million, where detoxification mechanisms may be saturated, a disproportionate increase in carcinogenic effect in rodents would occur. Yet the animal bioassay results of Maltoni (2), Lee *et al.* (3), and Viola *et al.* (4) on vinyl chloride suggest, if anything, just the opposite: as inhalation exposures increase beyond 150 ppm, the increase in carcinogenic response is *less* than that predicted from a linear extrapolation of the responses in the dose range 0 to 150 ppm (Fig. 1). Thus, the risk from exposure to low levels of vinyl chloride might be more than a millionfold higher than Gehring's estimate (5). Based on recent pharmacokinetic studies on vinyl chloride (6), the explanation for this proportionately greater activity at low doses may be that the mechanisms that *activate* vinyl chloride to the proximate carcinogen are saturated at high doses." (Hooper *et al.*, 1979, p. 602, figure omitted)

The authors concluded that Dr. Gehring's argument is inaccurate and does not support the contention that the risk to society from such chemicals would be negligible.

In any case, the argument appears to oversimplify the issue of the carcinogenesis of vinyl chloride, since

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* The following is a list of some of the participants who expressed support of the above arguments, especially the comment that OSHA was not considering evidence that detoxification mechanisms may be overwhelmed at high doses (i.e., EMTD levels): Dr. Marvin Friedman (Allied Chemical) (S. 10); Shell Oil (S. 31–33); Dr. Arthur Furst (API) (S. 7–10); B. F. Goodrich (S. 1); Mobay Chemical Co. (S. 20); Industrial Health Foundation, Inc. (S. 6); Ciba-Geigy (S. 0); American Telephone and Telegraph Co. (S. 4); Upjohn Co. (S. 6–7); Department of Energy (S. 3); Compton and Knowles (S. 3–4); AIA (S. 1); Phillips Petroleum (S. 5–6); Martin-Marietta Chemicals' (S. 3); Eli Lilly (S. 4); Miles Laboratories (S. 2–3); Burroughs Wellcome Co. (S. 2); Dyes Environmental and Toxicology Organization, Inc. (S. 9); Standard Oil Co. of California (S. 12–13); American Conference of Government and Industrial Hygienists (S. 7); Chemical Specialties Manufacturers Assoc. (S. 13); National Paint and Coatings Assoc. (S. 16); Bristol-Myers Co. (S. 32); Balchem Corp. (S. 2); Soap and Detergent Assoc. (S. 63); Union Carbide Corp. (S. 5–6); Dr. Harry Demopoulos (S. 16); Manufacturing Chemists' Assoc. (S. 31–32); Air Products and Chemicals (S. 6); GTE Service Corp. (S. 3–5); Stauffer Chemical Co. (S. 2); Organization Resources Counselors, Inc. (S. 54–56); Sherwin-Williams Co. (S. 16); ASARCO (S. 19).

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other evidence in the record showed that vinyl chloride induces several other tumor types in addition to angiosarcoma of the liver, and indeed is effective at very low doses (see Dr. Holmberg's Statement, and Maltoni, 1977).

The only other specific study cited by any witness in support of the concept of metabolic overloading was a study by Dr. Gehring on the carcinogenicity of dioxane (Kociba *et al.*, 1974; Reference to Gehring Statement). This study showed clear evidence of carcinogenicity only at the highest of three dose levels, which Gehring associated with a quantitiative shift in metabolic transformation:

"Demonstration of Dose Dependency—The excretion of ^{14}C-activity by rats given various doses of ^{14}C-dioxane also demonstrated dose-dependent kinetics; as the dose was increased, more dioxane *per se* was eliminated via exhalation; at low doses essentially all was excreted rapidly as beta-hydroxyethoxyacetic acid (HEAA) in the urine. Thus, the biotransformation of 1,4-dioxane to the *detoxification* product, HEAA, is a saturable process which is overwhelmed by increasing the magnitude of the dose. The marked retention of dioxane with an increasing dose led us to conclude that the metabolism of dioxane must be 'induced' markedly with repeated daily doses. 'Induced' means that an adaptation occurs whereby the capacity to metabolize dioxane is increased." (Gehring, S. 23–24, emphasis added)

Dr. Gehring went on to present data which:

". . . indicates that a dose of 1000 mg/kg/day caused a marked induction of the elimination of dioxane; 10 mg/kg/day did not cause induction. In plain language the metabolism of rats receiving 1000 mg/kg/day dioxane had markedly changed. Their responses to dioxane, whether toxicological or carcinogenic, are not extrapolatable to rats receiving low doses." (Gehring, S. 24)

However, these data do not clearly show a corresponding discontinuity in the dose-response relationship for tumor induction. Indeed the data presented in the paper by Kociba *et al.* (1974) for liver tumors (10/120 at the 1000 mg/kg/day dose level, 1/120 at 100 mg/kg/day, and 0/120 at 10 mg/kg/day) are exactly what would be expected if the dose-response relationship were linear and non-threshold. Other experiments have been reported in which 1,4-dioxane has induced excess tumor incidence in mice and rats at doses down to 240 mg/kg/day (NCI Carcinogenesis Technical Report 80, 1978; IARC, 1976, Vol. 11, pp. 244–256). Thus, although Dr. Gehring's data indicate dose-dependent changes in metabolism of 1,4-dioxane, there is no evidence that tumor induction occurred only above the dose-levels at which the metabolic shift took place.

As pointed out below, OSHA concludes, therefore, that the concept that "metabolic overload" can lead to tumor induction only at high doses is not adequately supported by the available data, even for vinyl chloride and 1,4-dioxane. Since these were the only chemicals for which evidence on "metabolic overload" was presented in the Record, OSHA could not conclude that testing at the EMTD is inappropriate, either in general or even for these specific chemicals. If better evidence is ever available for "metabolic overload", it may be appropriate to introduce this evidence in a rule-making on the specific substance as is pointed out below. Such evidence would be considered by OSHA under the criterion of Section 1990.144(d) when classifying a substance. However, the evidence presented in the Record on this topic would not warrant any change in the general definition of "potential occupational carcinogen" in that regard.*

Even if better evidence were available for the hypothesis of metabolic overload in specific cases, it is not clear how it would be used either in designing experiments or in interpreting results. No witness offered specific suggestions for the use of such data. For example, Dr. Paul Kotin (Johns-Manville) was asked whether the biochemical and physiological effects which he had discussed were sufficiently measurable so that one could measure no-effect levels and use them to modify the definition of maximum tolerated dose: he replied that he had "never done that" (Tr. 8723). Dr. Harry Skalsky (Reynolds Aluminum) recommended that specific efforts should be made to establish that a compound is metabolized in the same manner at both lower and higher doses (Tr. 7590). However, he did not offer any prescription as to what should be done if such information is not available or if differences are found.

A recent publication of the Food Safety Council (*Proposed System for Food Safety Assessment*, 1978) recommended that the high dose in chronic testing should be defined as one which "takes into consideration metabolic and pharmacokinetic data . . ." However, the way in which such data would be taken into consideration was not stated, and the report explicitly recommended that:

". . . if dose-dependent qualitative or quantitative differences occur, at least one test dose should be set above the metabolic shift . . ." (Food Safety Council, 1978, p. 102)

Although this recommendation is not operationally explicit, the Council appears to be recommending that high test doses be used even if there is evidence for dose-dependent metabolism of the kind discussed by Gehring and others.

This issue was put into perspective by Dr. Umberto Saffiotti (NCI) in his prepared testimony:

"An objection has been expressed over the validity of results of tests conducted at very high exposure levels. This objection is based on a hypothetical condition: that the metabolic pathways for carcinogenic activation of the test chemical may be *qualitatively* different in a critical manner at high and low levels of exposure, so that the chemical becomes completely and totally detoxified up to a certain level of exposure, while at high dose levels the detoxification mechanism is "overloaded" and carcinogenic metabolites begin to be produced and become effective. If this hypothesis were proven to be correct, and if in addition we could demonstrate that no extraneous influence would alter these control mechanisms, and if we could then demonstrate the level at which "overflow" occurs, and then establish a valid method for predicting this "threshold level" reliably, and finally if we could be sure that this hypothetical methodology applies to the case being considered, and to all conditions of human exposure and to all exposed individuals with their varying susceptibilities, then—at last—we would indeed be able to assure that the carcinogenic effect observed in tests at high levels of exposure is not relevant for the prediction of hazards in people at much lower levels.

"At this time such a hypothesis remains unsubstantiated and its applicablity to the determination of human safety based on animal test data is unwarranted. Metabolic pathways of carcinogen activation do indeed change quantitatively from species to species even with major dose level changes, but the evidence is that the changes are in the relative proportions of different metabolites rather than in their abrupt disappearance at fixed levels. Many chemical agents, both endogenous and exogenous, can alter the enzymatic systems which control carcinogen activation, for example concurrent exposures to other carcinogens. Individual thresholds of susceptibility to given carcinogens indeed exist, i.e., it is a matter of simple observation that not everybody who is exposed to a carcinogenic agent develops a cancer from it in a lifetime. Those who do are the most susceptible individuals. The entire basis of preventive medicine is directed towards the protection of susceptible individuals.

"If all the necessary elements of evidence were assembled to provide unquestionable proof that a carcinogenic effect obtained at high doses is due to a mechanism of action which is specifically different from that at low doses and completely inoperative at low doses, in all exposed individuals, then this evidence—if critically valid—would constitute good ground for rejecting the assumption of a carcinogenic risk at low levels. I have not seen any such documentation so far for any chemical carcinogen. I believe that it is not likely to be developed in the near future, because of current methodological limitations. If it were developed, it may most likely concern a single or a few individual chemicals rather than the generality of exposures. Should these exceptional cases emerge with the progress of research—as I very much hope they will—the proposed OSHA policy can implement the necessary exceptions through its flexible provisions for judgmental evaluations implicit in the term "causes" discussed above, and through its provisions for rebuttal." (Saffiotti, S. 12–13)

Referring to this statement Dr. Saffiotti during his oral testimony concluded:

"What this statement to me implies is that we are really dealing with a very theoretical possibility, and it is not anything so practical that we can use it as a basis for regulation in the everyday world. (Tr. 877)

Dr. Robert Squire (Johns Hopkins) agreed with Dr. Saffiotti on this point:

". . . if thorough metabolic, biochemical, and genetic studies clearly demonstrate that no electrophilic or genetically toxic moieties are produced by a particular chemical, that chemical may give rise to less concern than one capable of an irreversible interaction with macromolecular targets. Carcinogenic potential, if present, would more likely depend on a promotional or secondary mechanism. In this case, I would not feel it necessary to test at a toxic level. However, very few compounds have yet been studied enough to justify such treatment. "(Squire, S. 23)

On the question of metabolic overload which may alter the effects of a compound under testing, Dr. Curtis Harris (NCI) commented:

"I do not think there is any evidence for that. I think perhaps one of the things that we are—that Mr. Schwartz was trying to bring up—maybe that is what he meant by metabolic overload. That is a very hypothetical situation in which—I do not know of any really good data to show that that is the case. And there are so many assumptions based in that hypothesis, that it is to me exceedingly unlikely." (Harris,Tr. 2009)

In discussing metabolic differences between species, Dr. William Lijinsky (NCI–FCRC) commented:

"We do not know enough about the mechanism of action of any carcinogen, even the much studied ones, to be able to make judgments of the significance of similarities or differences in metabolism of a substance in man versus animals in evaluating a carcinogenesis test. There is no reason to believe that metabolic overloading of the animal will lead to tumor induction in animals by a non-carcinogen; metabolic overloading is likely to lead to a diminution of carcinogenic effectiveness of a substance because of excretion of much of the dose unchanged. (Lijinsky, S. 30)

During his oral testimony Dr. Lijinsky explained:

"So we want to use as high a dose as we can. However, we do not want to use a dose so high that it upsets the dynamics of the body in such a way that the animals die early, for example. The main reason that we do not—that we use a maximally tolerated dose and not the maximum dose is that we do not want the animals to die before the end of their normal lifespan, so that we are sure we give the greatest possible opportunity for tumors to develop. That is the reason we adopted a maximally tolerated dose, not a maximal dose. It has nothing to do with differences of metabolism." (Lijinsky, Tr. 1076)

For the vast majority of substances, such evidence is lacking. If it could be demonstrated that at high dose levels qualitative and quantitative differences occur in metabolism which preclude the possibility of carcinogenic risk in the test animals, and if it can be shown that humans will respond the same as the test animals, then a high test dose would not be relevant to human risk. Short of this, high test doses are required to assure that potential carcinogenic risks to sensitive segments of the human population are avoided.

3. *Definitions of EMTD.*,

(a) As has been discussed earlier, the Record in this proceeding has demonstrated considerable misunderstanding and confusion about the concept of EMTD and how EMTD levels should be selected. Controversy surrounding the use of EMTD appears therefore to be in part a result of misunderstandings over the meaning of the term itself or how it is operationally utilized in practice, rather than a substantive difference in opinion regarding the appropriateness of using high dose levels in screening tests. There is, in fact, no precise definition of EMTD and logical debate and discussion leading to consensus is therefore difficult. Descriptions of the EMTD by experts in carcinogenesis have varied from "doses which induce significant levels of mortality to assure that a potential carcinogenic risk is not missed" to "levels which do not involve any degree of toxicity".*

An important point which was widely overlooked by some witnesses at the hearing is that it is impossible to establish criteria for defining EMTD in terms of survival and toxic effects observed during a lifetime experiment, unless the experiment is to be carried out twice. In fact, an operational definition of EMTD must be based on observations during a preliminary (subchronic) experiment. This is evidenced in the most recent definition formulated for the National Cancer Institute Bioassay Program *(Guidelines for Carcinogen Bioassay in Small Rodents,* National Cancer Institute, 1976; Appendix 1 to Griesemer statement):

"*A maximum tolerated dose* (MTD) should be selected for each sex of each strain to be used in the chronic study. The MTD is defined as the highest dose of the test agent given during the chronic study that can be predicted not to alter the animals' normal longevity from effects other than carcinogenicity. The MTD is estimated after a review of the subchronic data. Since these data may not always be easily interpretable, a degree of judgment is often necessary in estimating the MTD. The MTD should be the highest dose that causes no more than a 10% weight decrement, as compared to the appropriate control groups, and does not produce mortality, clinical signs of toxicity, or pathologic lesions (other than those that may be related to a neoplastic response) that would be predicted to shorten the animal's natural life span." (Sontag *et al.*, 1976, pp. 14–15, footnote omitted)

Other examples of definitions of EMTD presented in the record are as follows:

PPG Industries:

"An adequate definition incorporating all of the essential parameters to enable an appropriate and realistic MTD to be selected [does] not yet exist. Treatment levels which cause detectable or measurable hematological, enzymatic, pathological and behavioral changes, in addition to weight gain, depression, and early mortality, must enter into the selection of a proper MTD. When a realistic and appropriate MTD is defined incorporating the above points, there will be fewer arguments as to the appropriateness of the study results." (PPG Industries, S. 22)

Dr. Harry Skalsky (Reynolds Aluminum):

"The use of high dose testing by F.D.A., E.P.A., and O.S.H.A. is based on the premise that there is no minimum dosage of a carcinogen. Testing of this type uses the

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* A number of other witnesses also argued during oral testimony that testing at high doses was inappropriate due to metabolic overload of detoxification mechanisms: Dr. Robert Olson (St. Louis Univ.), Tr. 3238; Dr. James Jandl (Harvard Univ), Tr. 3346; Dr. Leonard Goldwater Tr. 3538–9; Mr. Carroll Kirwin (Phillips Petroleum), Tr. 4206–7; Dr. A. E. M. McLean (AIHC), Tr. 4843–6; Dr. William Lederer (Manufacturing Chemists Assn.) Tr. 4795–6; Dr. Leon Goldberg (Chemical Industry Institute for Toxicology), Tr. 6488–9; Dr. Ralph Freudenthal (Stauffer Chemical Co.), Tr. 6751–3; Dr. Arthur Furst (API), Tr. 6932; Mr. John Yost (Muskegon Chemical Co.), Tr. 7311; Dr. Marshall Hahn (Georgia Pacific Co), Tr. 7933–4; Dr. Paul Gross (Industrial Health Foundation), Tr. 8320. However, none of these witnesses cited any specific evidence additional to that of Dr. Gehring cited above. Thus, although the belief in the concept of "metabolic overloading" is evidently widely held, the only evidence adduced to support it appears to be the work of Gehring on dioxane, which OSHA judges to be inconclusive.

*What is clear, however, is that it just is not true that "(t)esting of this type uses this maximum tolerated dose or the dose at which the animal is just able to survive." (Skalsky, Reynolds Aluminum, Tr. 7589). In fact, as pointed out above, such a situation gives rise to false negative results, not false positive.

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maximum tolerated dose (MTD) or the dose at which the animal is just able to survive. (Skalsky, S. 8)

Dr. Benjamin Van Duuren (New York Univ.):

"It is to do a two or three month short-term evaluation of the toxicity of a compound, and what we define as the maximum tolerated dose is the dose that does not give rise to weight loss or early death, or other acute toxic effects in animals . . ." (Tr. 1881–1882)

FDA (1971):

"Testing should be done at doses and under experimental conditions likely to yield maximum tumor incidence. This would mean the use of doses several orders of magnitude above the actual use level." (FDA Panel, 1971 p. 433)

Health Protection Branch of Canada (1973):

"In carcinogenesis testing, the highest dose level should be within the toxic range, but should be consistent with the prolonged survival of the majority of animals. The lower levels should permit the animals to survive in good health for their natural life span or until tumors develop." (Health and Welfare, Canada, 1973, p. 19, reference omitted)

Subsequent to the hearing, the Food Safety Council (*Proposed System for Food Safety Assessment*, 1978.) presented a review of factors involved in selecting dose levels, and made the following recommendation:

". . . the high dose in chronic testing should be defined as one which [in] a subchronic study:

"1. Induces no overt toxicity, i.e., appreciable death of cells or organ dysfunction as determined by appropriate clinical, pathological, or biochemical methods.

"2. Induces no toxic manifestations which are predicted to shorten the lifespan of the animals except as the result of neoplastic development.

"3. In two generation studies, is not detrimental to conception rates, fetal or neonatal survival, or postnatal development.

"4. Does not retard weight gain during the subchronic test by greater than 10% as compared to control animals.

"5. Takes into consideration metabolic and pharmacokinetic data, and if dose-dependent qualitative or quantitative differences occur, at least one test dose should be set above the metabolic shift (provided the level(s) does not exceed the criteria listed above in 1 through 4)." (Food Safety Council, 1978, p. 102)

This recommendation and the NCI *Guidelines for Carcinogen Bioassay in Small Rodents* have three key features in common: (i) the EMTD is to be selected on the basis of results observed in a subchronic study; (ii) it is appropriate to select a dose level which induces minor toxic effects and up to 10% weight loss even in the subchronic study; (iii) the selection of the EMTD involves the *prediction* of survival during the chronic test. Neither these definitions nor others in the Record require that there should be no manifestations of toxic effects after exposure at the EMTD for a lifetime. Nor does OSHA believe that there is any documented evidence in the Record that would invalidate positive results observed in a lifetime study in which toxic effects or reduced survival occurred.

(b) Several witnesses cited examples of studies in which toxic effects or reduced survival were reported in long-term bioassays. Some witnesses suggested that those effects indicated that the EMTD had been exceeded (Dr. Robert Olson (St. Louis Univ.), Tr. 5024; PPG Industries, S. 24). However, although these witnesses implied that the results of the experiments were unreliable, none actually stated that the results should be discarded altogether. Perhaps the clearest statement is that of Dr. Leon Golberg (CIIT), as follows:

"In the present instance, an appraisal of the 'state of the art' is made possible by an analysis of the carcinogenesis bioassay data considered over the past two years by the Data Evaluation/Risk Assessment Subgroup of the Clearinghouse on Environmental Carcinogens of the National Cancer Institute. In Table II, a summary is provided of some of the salient features that emerge, illustrating a number of difficult issues, some of which were found by the Subgroup to need consideration. What this table tells us is that the protocols and conduct of bioassays carried out in the recent past leave much to be desired. I know that changes have been made in an effort to correct some of these deficiencies. Nevertheless, the heritage of just this one program has provided a record of hundreds of tests whose *results cannot be taken at their face value for automatic decisions* on carcinogenic potential. For purposes of assessment of risk to man, *the full data forthcoming from each test will need careful evaluation* by appropriate experts who will consider them in the context of all the available information on the compound in question, not solely on the basis of the test results forthcoming from the carcinogenesis bioassays." (Golberg, S. 2–3, emphases added)

The evidence on this issue was summarized by AIHC in its Post Hearing Brief, as follows:

"Similarly, Dr. McLean testified that large doses can alter metabolic pathways and injure tissues, making it difficult to extrapolate from MTD doses (Tr. 4845–4846). Dr. Olson also emphasized that MTD can incapacitate or injure organ systems leading, for example, to renal damage as well as neoplastic lesions (Tr. 3238). Dr. Olson referred specifically to the MTD bioassay on trichloroethylene where there was evidence of renal and cardiac damage (Tr. 3244). Exhibit 83 is a statement by Dr. Bernard Oser, presented to the National Academy of Science committee evaluating saccharin, in which he refers to the organ damage which raised questions about the results of the experiments on saccharin. Similarly, Dr. Furst discussed the consequences of physical damage from an excessive dose. (Furst S. 7–8, Tr. 6931–6932, 6947–6948.)

* * * * *

Thus, Dr. Golberg testified, if the MTD is not selected properly, massive nonspecific tissue damage can result. *Id.* at 4. This can lead to carcinogenic results by a "Secondary mechanism"—tissue damage. (Golberg S. 4–6, Tr. 6484–6491.) The questionable relevance of a positive result from secondary carcinogenesis was recognized, Dr. Golberg said, by the Food and Drug Administration in the case of selenium and by investigators in the case of antithyroid action of substances in rats which have no counterpart in man." (Golberg S. 5–6.) (AIHC Post Hearing Brief, pp. 134–135; Hearing Exhibit 251)

The notation of "secondary carcinogenesis" was presented in great detail by Dr. Leon Golberg (CIIT):

"One of the consequences of nonspecific tissue damage (Pozharisski, 1975) that may be produced by compounds administered at the MTD is carcinogenesis by a "secondary" mechanism. Here is a well-recognized concept that was utilized by the Food and Drug Administration to account for the production of liver cancer by high doses of selenium, which is an essential nutrient at low doses (**Federal Register**, 1973, 1974). The important principle of secondary carcinogenesis is much more widely applicable (Kolbye, 1976), although its implications have not been adequately explored. Suffice it to say that the production of cancer by secondary mechanisms is an instance where the end-result is not necessarily indicative of carcinogenic potential of the compound responsible for the effect. In some cases of this sort, a threshold is demonstrable for the production of the primary effect that elicits this secondary neoplastic change. Thus, in considering selenium, the Commissioner of the Food and Drug Administration pointed out that consumption of beverage alcohol "is associated with a higher incidence of liver cirrhosis, which, in turn, is associated with a higher incidence of liver cancer. Other common agents, at high levels, may produce the same result." He drew the conclusion that such substances "are not, by reason of their capacity to induce liver damage when abused by being consumed at high levels, properly classified as carcinogenic because of their potential association with a higher rate of liver cancer."

"One may extend the illustrations of secondary mechanisms of carcinogenesis to the area of antithyroid action that results in thyroid epithelial hyperplasia which, if continued long enough, eventually leads to neoplasia. This is the mechanism by which iodine deficiency elicits thyroid cancer in rats (Doniach, 1970b; Lupulescu and Petrovici, 1968) but, apparently, does not lead to thyroid cancer in people (Doniach, 1970a). Thyroid hyperplasia is produced in rats by dietary goitrogens, certain sulfonamides and antithyroid agents (Astwood, Sullivan, Bissell and Tyslowitz, 1943). What is more, the high rate of apparently spontaneous follicular hyperplasia in the thyroids of old rats makes this species an unsuitable model for man. A further example of "secondary" carcinogenesis is the production of bladder stones by compounds like diethylene glycol (Weil, Carpenter and Smyth, 1965, 1967). In rats and mice the presence in the urinary bladder of such stones or other foreign bodies is associated with the development of urothelial hyperplasia, papillomas, and ultimately carcinomas (Toyoshima and Leighton, 1975). These illustrations emphasize the need for careful analysis and expert judgment in interpreting observations on carcinogenesis, in view of the importance of distinguishing primary from secondary pathological events. Only in this way can one assess the role played by the particular MTD of the compound used in any given bioassay, in eliciting the primary changes." (Golberg, S. 4–6)

The hypothesis of "secondary carcinogenesis" was also discussed by Dr. Francis J. C. Roe (AIHC), who proposed as examples of secondary carcinogenic mechanisms the production of bladder stones (ethylene glycol, polyoxyethylene(8)monostearate) and tissue damage in the testis (cadmium) (Roe, S. 24, 68). Dr. Robert Olson (St. Louis Univ.) cited the NCI bioassays for trichloroethylene and tetrachloroethylene as examples of tests in which the high doses used caused:

". . . tissue damage unrelated to tumor formation . . . . These procedures violate the rules of good practice in toxicology, and make extrapolation of results from animals to man impossible." (Olson, S. 11, Tr. 5034)

PPG Industries similarly cited the NCI Bioassay for 1,2-dibromoethane:

"The NCI study (gavage) on 1,2-dibromoethane used doses which resulted in a high incidence of squamous cell carcinomas of the forestomach and death. Treatment levels in excess of the MTD by NCI definition were used. With all of the uncertainties in bioassay programs conducted for NCI, the agencies consider them as conclusive. This stance is untenable. (S. 23)

OSHA concludes that the hypothesis of secondary carcinogenesis is not supported by a substantial body of empirical evidence. The examples of induction of bladder stones provide at best circumstantial evidence of association between the effects, not evidence for a causal connection (see Saffiotti, Tr. 937–938). In the case of saccharin, where induction of bladder stones has been proposed repeatedly as an explanation for the positive results, analysis of the actual data indicates that this hypothesis is incorrect. Indeed, the test data on saccharin have been reviewed repeatedly by expert committees, which concluded that saccharin is correctly categorized as a carcinogen in rats (OTA, 1977, NAS, 1978).

Among the other examples cited, the evidence for carcinogenicity of selenium is at best inconclusive (IARC, 1975; NAS, 1976; Squire and Goodman, Post-hearing Comment, p. 6; Saffiotti, Post-hearing Comment, p. 2; Furst, Tr. 6947). Beverage alcohol is well recognized as a cause of cancer in humans, acting not only in the liver, but also in the mouth and esophagus (Rothman and Keller, 1972; USDHEW, 1978; Peto, 1977; Rothman, 1975 pp. 139–150). Dr. Roe himself questioned whether the testicular lesions caused by cadmium were in fact neoplasms (S. 24), and in any case cadmium compounds are recognized as carcinogenic in humans resulting from occupational exposure (Tomatis *et al.*, 1978). And in the cases of trichloroethylene and tetrachloroethylene, there was an increased tumor incidence in mice exposed to both dose levels, even though the male mice exposed to the low doses of tetrachloroethylene and the female mice exposed to the low doses of trichloroethylene showed little or no reduction in survival relative to controls (NCI Carcinogenesis Technical Reports, 2, 13, 1976–77).

Finally, if the dose levels in a bioassay are chosen at too high a level, so that the animals die prematurely, this would *reduce* the probability of observing a positive result rather than being likely to give rise to a false positive. This is reflected in the definition of EMTD proposed by the FDA Advisory Committee on Protocols for Safety Evaluation: ". . . [one] likely to yield maximum tumor incidence" (FDA 1971). (See also Griesemer, Tr. 935–936)

Those who would urge OSHA to reject data from tests conducted at "too toxic" doses would presumably wish OSHA to ignore data such as those on 1,2-dibromoethane, which induced multiple-site tumors at both dose levels in both sexes of rats and mice within 60 weeks of exposure, at incidence rates up to 94 percent (NCI Carcinogenesis Technical Report 86, 1978).* OSHA believes that it would be improper to ignore such overwhelming evidence of hazard.

c. OSHA's Conclusions

OSHA intends, therefore, to use data obtained from bioassays conducted at "any level of exposure or dose" to support the finding of carcinogenicity of a substance. If truly substantial scientific data are available to support a hypothesis of "metabolic overloading", "secondary carcinogenesis" or some other non-specific mechanism of action, OSHA is willing to consider such data, provided that they meet the criteria set out below. However, there was no substantial evidence in the Record (other than speculation or hypothesis) to justify any modification in the general definition of "potential occupational carcinogen."

Specifically, OSHA concludes that small numbers of test animals may serve as appropriate "surrogates" for large populations of humans; a specific cancer response in 1% of the work population would be a major health disaster, but such a response would go undetected in 50–100 test animals. Since carcinogenic response is usually dose related, the biological and statistical sensitivity of a bioassay may be enhanced by increasing the exposure levels of the test substance rather than the less feasible alternative of increasing the number of test animals to match the human population at risk.

The EMTD is determined on the basis of pre-chronic tests and other relevant information. If the actual conduct of a test reveals that the EMTD is too high to meet the conditions defined above, clear positive results obtained above the EMTD are acceptable as evidence of carcinogenicity unless there is convincing evidence to the contrary as discussed below. On the other hand, non-positive results obtained above the EMTD are generally considered inadequate, unless particularly strong and specific scientific reasons justify their acceptance as non-positive. Positive results obtained at or below the EMTD provide evidence of carcinogenicity.

Although, as specified above, none of the evidence presented in the Record relative to the concepts of "metabolic overloading" or "secondary carcinogenesis" was scientifically sound and/or convincing, OSHA will consider such evidence for a specific substance subject to rulemaking if better evidence is provided in the future. In this regard, OSHA believes that it is appropriate to require that certain criteria, which such evidence on specific substances must satisfy before any evidence will be considered in the substance-by-substance rulemakings, be met. These criteria have been developed after a detailed review of the substantial evidence in the Record, specifically that discussed in Section V.D. 3(b) above. The minimum criteria are as follows. Section 1990.143(g) provides that:

*Again, EPA has accepted the results of the NCI bioassay for 1,2-dibromoethane as positive for carcinogenicity, and has initiated regulatory action (42 FR 63139–63140).

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(g) *Use of high doses in animal testing.* Positive results for carcinogenicity obtained in mammals exposed to high doses of a substance will be used to establish the qualitative inference of carcinogenic hazard to workers. Arguments that such studies should not be relied upon will be considered only if evidence which meets the criteria set forth in Section 1990.144(d) is provided.

And section 1990.144(d) provides:

(d) *Use of high doses in animal testing.* Arguments that positive results obtained in carcinogenesis bioassays with experimental animals subjected to high doses of a substance are not relevant to potential carcinogenic risks to exposed workers will be considered by the Secretary only if the evidence for the specific substance subject to the rule-making meets the following criteria:

Criteria. (i) Documented evidence is presented to show that the substance in question is metabolized by the experimental animal species exposed at the dose levels used in the bioassay(s) to metabolic products which include one or more that are not produced in the same species at lower doses.

(ii) Documented evidence is presented to show that the metabolite(s) produced only at high doses in the experimental animal species are the ultimate carcinogen(s) and that the metabolites produced at low doses have been tested and not been found to be carcinogenic; and

(iii) Documented evidence is presented to show that the metabolite(s) produced only at high doses in the experimental animal species are not produced in humans exposed to low doses.

In the hypothetical case of "metabolic overloading", at least three specific points need to be addressed before such evidence can have any scientific bearing on the points at issue. First, it needs to be shown specifically that "metabolic overloading" actually takes place—i.e., at high doses one or more metabolic products are produced which are not found at all at doses low enough to be relevant to occupational exposure. (It is obviously scientifically insufficient simply to show a difference in relative yields of different metabolites, or of metabolite and unchanged material, since at best such evidence would be relevant only to quantitative estimation of risk.)

Second, it needs to be shown that one or more of the products produced only at high doses are the exclusive cause of the carcinogenic effect and that the metabolites produced at low doses have been tested and not been found to be carcinogenic. (Dr. Gehring's data on vinyl chloride fail in this respect).

Third, it needs to be shown that the same type of "metabolic overloading" would result in humans—i.e., that the metabolites produced in the animals only at high doses would not be produced in humans under occupational exposure conditions. To make a convincing showing in this regard, substantial evidence on metabolism in humans would be required (see Section V.D. 13 below).

In the case of other mechanisms of "secondary carcinogenesis", it is more difficult to specify precise operational criteria for the consideration of evidence. In general, OSHA will require that definite evidence be presented for the substance subject to rulemaking that a "secondary" mechanism of carcinogenesis can reasonably be involved to explain the observations. Specifically, OSHA will require that a reasonable scientific showing be made that the mechanism of action of the specific substance has been demonstrated, and, *in addition,* that this mechanism would not operate at exposure levels relevant to occupational conditions. (For example, if it is hypothesized that a carcinogen operates at high doses by inducing the formation of bladder stones, it should be shown (i) that the excess cancers are associated individually with bladder stones; (ii) that bladder stones are induced only at high doses; and (iii) that neither bladder stones or tumors are induced at lower doses.)

OSHA has provided for the consideration of such data in § 1990.144(f), which provides criteria for the consideration of claims that carcinogenic effects result from these or other *Indirect Mechanisms* (see Section V.D.I above).

OSHA's purpose in specifying these criteria is to encourage the submission of scientific data that genuinely support the scientific inferences of "metabolic overloading" or "secondary carcinogenesis" in specific cases, while avoiding wasting time and resources on the repetition of scientifically insufficient discussions of these issues in the future.

4. Organ Specificity

a. OSHA's Proposal

In the preamble to the proposed regulation, OSHA took the position that positive results in any mammalian species and "at any organ or site" would be considered relevant in the identification and regulation of any toxic substances as a potential occupational carcinogen. In the preamble (42 FR 54162), OSHA cited two reviews in support of this position, *viz:*

"In experimental carcinogenesis, the type of cancer seen is often the same as that recorded in human epidemiological studies (e.g., bladder cancer in man, monkeys, dogs, and hamsters with beta-naphthylamine). In other instances, however, a chemical will induce neoplasms at different sites in different animal species (e.g., benzidine, which induces hepatic carcinoma in the rat, but bladder carcinoma in man; or chloroform, which induces hepatic carcinoma in the mouse, but kidney carcinoma in the rat) (IARC Monographs, Vol. 1, p. 10; 41 FR 15028; NRC Pest Control, Vol. 1, pp. 74–82). Thus there can be no presumption that the organ affected in animal experiments would necessarily be that at risk in man." (42 FR 54162)

b. The Public's Response and OSHA's Evaluation

There was general and virtually unanimous support for the proposed position that carcinogens are not normally organ-specific or species-specific. Indeed, only one substantial issue was raised during the rulemaking. A number of witnesses argued that some strains of mice have unique characteristics which make them particularly susceptible to the induction or enhancement of tumors at certain sites, primarily the liver, lung, mammary gland and lymphoreticular system. The evidence for this position was reviewed in detail under section V.D. 1 above (*Mammalian Species*) and was found to be insufficient to justify any exception to the basic proposition. Except for that issue, no other documented evidence was presented that would indicate that a positive result in one organ of one species would not be indicative of a potential risk to exposed humans regardless of the organ or site at risk in humans.

A review of the findings of the IARC Monograph program was presented by Dr. Lorenzo Tomatis (IARC) and others (Tomatis, *et al,* 1978; Appendix 5 to Tomatis Statement; Appendix G to Rall Statement). After reviewing the results of experimental studies in animals with 26 chemicals or industrial processes reported to be carcinogenic in humans, Dr. Tomatis (IARC) made the following generalization:

"Comparison between target organs in humans and animals confirms that the carcinogens have, in some cases, the same organ specificity in humans and experimental animals. In most cases, the chemicals were tested in more than one animal species, but the similarity in organ specificity may be limited to only one of the animal species tested. The chances for similar target organs are apparently greater if similar routes of exposure are used (Table 2). However, chemicals which were found carcinogenic in both humans and animals were carcinogenic in the latter also when administered by routes different from the one by which humans are exposed. The target organs in animals are more often multiple than in man." (Tomatis, *et al.,* 1978, p. 881; Appendix 5 to Tomatis Statement)

Examples of chemicals which affected different organs in humans and animals were given in Table 2 of Tomatis, *et al.,* 1978, omitting data on tumors at the site of administration.

Chemical	Target organ and (route) in humans	Animal species	Target organ and (route)
Aflatoxins	Liver (oral, inhalation)	Rat	Liver, stomach, colon, kidney (oral); liver, trachea (intratracheal).
		Mouse	Lung (i.p. injection).
4-aminobiphenyl	Bladder (skin, inhalation, oral)	Mouse (newborn)	Liver (s.c. injection).
		Rat	Mammary gland, intestine (s.c. injection).
Auramine (manufacture of)	Bladder (skin, inhalation, oral)	Mouse, rat	Liver (oral).
		Rat	Local, liver, intestine (s.c. injection).
Benzidine	Bladder (skin, inhalation, oral)	Mouse	Liver (s.c. injection).
		Rat	Liver (oral); Zymbal gland, liver, colon (s.c. injection).
		Hamster	Liver (oral).
Cadmium using industries	Prostate, lung (inhalation, oral)	Rat	Local, testis (s.c. or i.m. injection).
Cyclophosphamide	Bladder (oral, injection)	Mouse	Haemopoietic system, lung (i.p., s.c. injection); various sites (oral); bladder (i.p. injection).
		Rat	Mammary gland (i.p. injection); various sites (i.v. injection).
Diethylstilbestrol	Uterus, vagina (oral)	Mouse	Mammary gland (oral); mammary, lymphoreticular, testis (s.c. injection, s.c. implantation).
		Rat	Mammary, hypophysis, bladder (s.c. implantation).
		Hamster	Kidney (s.c. injection, s.c. implantation).
		Squirrel monkey	Uterine serosa (s.c. implantation).
Melphalan	Haemopoietic system (oral, injection)	Mouse	Initiator (skin); lung, lymphosarcoma (i.p. injection).
Mustard gas	Lung, larynx (inhalation)	Mouse	Lung (inhalation, i.v. injection), local, mammary (s.c. injection)
2-naphthylamine	Bladder (skin, inhalation, oral)	Mouse	Liver, lung (s.c. injection).
N'N-bis(2-chloro-ethyl)-2-naphthylamine	Bladder (oral)	Mouse	Lung (i.p. injection).
Vinyl chloride	Liver, brain, lung (skin, inhalation)	Mouse, rat	Lung, liver, blood vessels, mammary, Zymbal gland, kidney (inhalation).

This table shows that for more than half of the known human carcinogens which have been adequately tested in animals, tumors were induced in one or more animal species at organ sites different from those at which tumors are induced in exposed humans. In particular, it should be noted that for nine chemicals, tumors were induced in the liver and/or lungs of experimental mice, but at different sites in humans. Thus, at least for these substances, the induction of liver and lung tumors in mice indicates the existence of a qualitative hazard to humans, but does not indicate the organ site at risk.

Dr. Curtis Harris (NCI) dealt with the concept of organ or species specificity. He stated:

"The term 'organ-specific' I think is very bad. I think it should be changed to 'organ predominance' because I do not know of a chemical that causes cancer only in a single organ in an experimental animal species and in no other, where it has been adequately tested." (Harris, Tr. 2005)

"I do not think there are sex-specific carcinogens just as there are not species-specific carcinogens". (Harris Tr. 2006)

When asked specifically about target organs in animals for which there is no human analog, such as the Zymbal gland or forestomach, Dr. Harris (NCI) replied:

"Well, I do not think that makes me feel any more comfortable. That is one aspect of it. The other aspect is that usually the carcinogen causes tumors in multiple organs, and it may appear with a greater frequency in the Zymbal gland than in the breast, but it is almost—first of all, it would not make me feel any more comfortable, and second, that I frankly do not know of any carcinogen that causes only tumors of the Zymbal gland. Maybe there is such, but I am just not knowledgeable about that." (Harris, Tr. 2005)

Dr. Benjamin Trump (Univ. of Md.) also stated that:

". . . it is impossible to predict from one animal to another where the neoplasm is going to occur, and there are many examples where it occurs in one species in one organ, and another in another, and there are many factors involved in that." (Trump, Tr. 2005–2006)

To illustrate this point he described the following study:

"In that lead study that I mentioned, there is an excellent example of that with the compound alone, fluorobiphenyl acetamide, predominantly both liver and kidney, but many more liver. Adding lead greatly diminished the number of liver tumors; greatly increased the number of kidney. In humans exposed to varieties of—bombarded by all kinds of things, there is no way to predict." (Trump, Tr. 2006)

Dr. Umberto Saffiotti (NCI) commented in his direct testimony:

"Caution must be exerted when considering possible implications for humans of the organ[o]tropic effects of carcinogens observed in experimental models. Many carcinogens show markedly different organ specificity in different host conditions: therefore specific organotropic effects of the exposure to a given carcinogen in humans are often unpredictable from animal bioassays."

* * * * *

"Positive results of carcinogenesis studies in two mammalian test species constitute a solid basis of evidence for the presumption that a substance is a carcinogen and that exposure to it should be minimized. The two species may not respond in the same way to the carcinogen: neoplasms may develop in different tissues and organs and they may show different degrees of differentiation and malignancy. In this respect one should not expect to replicate exactly the same type of neoplastic response to different species. Similarly one should not expect the same type of carcinogenic response in humans and in a given test animal.

"The two-species requirement in the proposed policy has primarily a confirmatory value. *No evidence exists that carcinogens are species-specific.* Those that were found positive in one species and that were studied widely enough in other species were usually found to be positive in more than one species." (Saffiotti, S. 22, 29–30)

Dr. Bernard Weinstein (Columbia Univ.) also discussed this issue:

"There are known carcinogens which produce their carcinogenic effects at specific sites in different animal systems. However, the concept of site specificity is not completely understood at the present time. Certain factors have been identified, including: exposure levels, i.e., if certain tissues are directly exposed to the agent, then they become the responsive site; ability to metabolize the compound, which varies among tissues; rate of delivery to tissues; exposure via excretory pathways; differences in rates of proliferation of tissues; and differences between tissues in the repair of damage to cellular DNA. This is a complex process with numerous influencing factors, and *I do not believe that any conclusions about the safety of compounds can be drawn* on the basis of the site specificity." (Weinstein, S. 5)

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Dr. William Lijinsky (NCI–FCRC) commented at length on problems of defining organ and species specificity:

"Equally baffling in our attempts to study human cancer through experiments in animal models is the matter of species specificity and organ specificity. This is what bedevils risk extrapolation based on the results of simple chemical or biological tests also. We have no idea where man is placed in the scale of susceptibility to chemical carcinogens except in the few unfortunate cases in which we have been able to count the number of people who developed cancer after known exposure to industrial chemicals. Aflatoxin is the most potent carcinogen known—for rats—in which it induces liver cancer at very small doses. However, it appears to be completely noncarcinogenic in mice and active in monkeys only at quite high doses. This is a carcinogen to which man is exposed, and we suspect that these exposures contribute to human cancer risk in some areas of the world. However, we have no idea what that contribution is or how it relates quantitatively to carcinogenic risks from other parts of the environment, such as diet and medicines (several antimalarials and drugs used to treat infectious diseases in those regions are suspected of being carcinogens). Similarly, polynuclear compounds, to many of which man is exposed, are potent skin carcinogens in mice, and induce lung cancer when implanted in the lungs of hamsters, but are quite ineffective on rat skin and completely inactive in guinea pigs. Aromatic amines induce bladder tumors in dogs and hamsters, as well as in man, but do not induce bladder tumors in rats or guinea pigs or mice, and are very weakly carcinogenic or inactive in rats and guinea pigs. Among the nitrosamines, whose role in human cancer is suspected but not demonstrated, we see a great variety of response among species and organs to their carcinogenic action (12). While all species are more or less susceptible to the carcinogenic action of nitrosamines, rats appear to be more sensitive than mice, while hamsters and Guinea pigs are intermediate, although there are exceptions with specific nitrosamines. To give a few examples of differences in response, nitrosoheptamethyleneimine induces lung tumors in rats, but not in Syrian hamsters, in which it induces tumors of the forestomach. Nitrosododecamethyleneimine induces tumors of the glandular stomach in mice, but only liver tumors in rats. Nitroso-2,6-dimethylmorpholine gives rise to tumors of the esophagus in rats, to tumors of the pancreas (similar to the most common form of human pancreatic cancer) in Syrian hamsters, and to tumors of the liver in guinea pigs. These differences are, presumably, due to differences in metabolism of the compound and in physiology between the species, but we have no idea what these differences are, nor how we could predict the action of such a carcinogen in man. It might be inactive in man, but it would be unwise to assume that and there is no way in which the evidence could be obtained which would prove it." (Lijinsky, S. 19–20)

Dr. Roe (AIHC) was one of the few witnesses who did place emphasis on organ specificity for carcinogens although he appeared to agree that one cannot be sure that there is such a thing as organ-specificity among species or in any given species:

"Where agents predispose to cancer, more often than not they predispose to a particular form of the disease or to a closely-related group of cancers. Only occasionally does the same agent predispose to cancers of several different sites or kinds, or does the same agent predispose to one kind of cancer when exposure is by one route and to another kind of cancer when exposure is by a different route. Occasionally the same agent predisposes to one kind of cancer in one animal species and predominantly to another kind of cancer in another animal species. However, all these are the exceptions rather than the rule and, as indicated above, one should be cautious in the interpretation of data which suggest that exposure to an agent is associated with increased risk of cancer of a wide variety of kinds. For instance the suggestion that fluoridation of water is associated with generally increased risks of cancer in humans (Burk & Yiamouyiannis, 1975) was due to poor epidemiology and not to any effect of fluoride (Doll and Kinlen, 1977)." (Roe, S. 11).

However, Dr. Roe was making this point specifically to argue against the use of increases in total tumor incidence as evidence of carcinogenicity. Elsewhere Dr. Roe agreed with OSHA's general principle and proposed two other formulations or corollaries of it:

"(i) There can be no presumption that *any* human organ would be affected in the case of substances that predispose to tumor formation in an animal test.

"(ii) There can be no presumption that a substance that gives negative results in animal tests will not predispose to one or other form of cancer in man." (Roe, S. 87–88).

Finally, in *In Re Shell*, the EPA Administrator, in addressing the issue stated:

"Most carcinogens are also not organ-specific. In a survey by Dr. Tomatis of 58 compounds known to produce liver tumors in mice, 40 also induced tumors in a variety of other organs. Furthermore, chemically induced tumors in one species need not appear in the same organ in other species. Thus, a carcinogen which induces liver tumors in mice might, for example, produce mammary cancers in rats and lung tumors in men." (39 FR 37286)

The following additional observation of the EPA Administrator is also relevant:

"Some witnesses also suggested that carcinogens can be species-specific—that is, a chemical substance might affect mice but not any other species, including man. This is theoretically possible. But of the thousands of compounds tested the record indicates that this effect has been suggested for only one of them, and even this single exception has been seriously challenged. I therefore will rely on the conclusion of such organizations as the International Association for Research on Cancer, which have rejected species-specificity as unsubstantiated.

"If carcinogens are not species-specific, it logically follows that the demonstration of carcinogenic effect in more than one species is not absolutely necessary for a finding of carcinogenicity." (39 FR 37289)

c. OSHA's Conclusions

Accordingly, while noting the divergence of opinion with regard to the mouse, and particularly to the mouse liver, discussed above, OSHA concludes that its proposed position is fully justified by substantial scientific evidence presented in this Record. OSHA concludes that the organs and tissues that are the targets of carcinogenicity may vary greatly in different species and even under different exposure conditions. Examples are known both of widely different target sites (e.g. benzidine induces bladder carcinomas in humans and cholangiomas and liver cell carcinomas in hamsters and rats) and of similar responses (e.g. vinyl chloride induces the same type of angiosarcomas of the liver in humans, rats, and mice). Thus, because no direct analogy of morphologic response can be expected from a carcinogen in test animals of different species and in humans, OSHA believes that it is appropriate and prudent to assume that target sites for carcinogenic action of a substance in humans are not necessarily the same as those found in animal experiments. Thus, satisfactory documentation of a "non-positive effect" in humans cannot be limited to the organs in which tumors have been induced in experimental animals.

5. Statistical Significance

a. OSHA's Proposal

The relevant portion of the proposed definition of "potential occupational carcinogen" was "any toxic substance which (1) causes, at any level of exposure or dose, . . . an increased incidence of benign or malignant neoplasms, or a combination thereof, in (i) humans or (ii) in one or more experimental mammalian species or (2) in a statistically significant manner decreases the latent period between exposure and onset of neoplasm in humans or in one or more experimental mammalian species" (42 FR 54184). Although this definition was not a model of clarity, OSHA had intended that evaluation for statistical significance would generally be carried out as part of the determination that a substance "causes" an increased incidence of neoplasms. This point was discussed briefly in the Preamble however and OSHA believes the discussion made clear the intent:

For adequate demonstration of carcinogenicity of a substance in test animals, it is generally necessary that the increased incidence of neoplasms in one or more of the experimental groups should be evaluated statistically for significance (NCAB Report, p. 5; Mrak Commission Report, p. 465). This requires that the size of the experimental groups be adequately large to permit statistical evaluation (Mrak Commission Report, p. 465; UICC 1969, p. 17). (42 FR 54162)

In any event, as discussed below, OSHA agrees with the comments that statistical significance, in general, should be required.

b. The Public's Response and OSHA's Evaluation

Only a limited number of witnesses commented on statistical aspects of evaluation of carcinogenesis bioassays, and only a few technical papers were introduced into the Record (Fears *et al.*, 1977; Peto, 1974). Indeed, all participants agreed that statistical significance, in general, was required for treating a substance as a Category I potential carcinogen. Except for a few witnesses who pointed out the ambiguity in OSHA's proposed definition, most of the comments addressed two points: (i) whether criteria should be specified for the determination of "significance", and (ii) the frequency of occurrence of false positives and false negatives in carcinogenesis bioassays if specific criteria are adopted.

The following is a sample of comments presented in the Record criticising OSHA's proposed position:

"OSHA's proposed reliance upon test results that lack statistical significance is scientifically unsound. In written statements and oral testimony, the importance of statistical significance as an element to be considered in the overall evaluation of test results was emphasized time and again. For example, Dr. Umberto Saffiotti stated that 'statistical significance is a very important component of the judgmental activity . . .'" (Tr. 907)

Similarly, Dr. Donald Kennedy, Commissioner of Food and Drugs, indicated that he would require statistical significance in test results before labeling a component as carcinogenic. (Tr. 563) Dr. Arthur C. Upton, Director of the National Cancer Institute, agreed, noting that statistical significance is a necessary, but not in itself sufficient, basis for reaching scientific conclusions. According to Dr. Upton, test results should be significant not only in the statistical sense but also in light of an "adequate overall scientific evaluation."[144]

* * * * * *

"Thus, statistical significance is an essential aspect of scientific validity, and, when regulatory decisions are to turn on the statistical significance of experimental results, the term should not be left undefined.[145] Edward J. Baier recommended on behalf of NIOSH that statistical significance be defined at the 95% confidence level.[146] We believe that it should be defined at least at that level, although, if the recommendation of Dr. Richard Peto is accepted, even test results at the 95% confidence level "should not in general be taken as strong evidence that [the] substance is carcinogenic." (Tr. 2517) (American Iron and Steel Institute, Post-hearing Brief, pp. 86–88)

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"AIHC urges OSHA on the basis of this record to include statistical significance in its proposed criteria for the conduct and evaluation of animal and human studies. Whether or not a single common level of confidence should be selected in advance for all studies is controversial. Thus, NIOSH recommends that "statistically significant" be defined as "at the 95% confidence level" without any distinction as to the use to be made of an evaluation at that level of confidence. (NIOSH S. 5) Dr. Peto, on the other hand, testified that significance levels of .05 (95% confidence level) should not be taken as strong evidence of carcinogenicity. (Tr. 2517)

"It is AIHC's view that it is not only important to retain the concept of statistical significance; it is also important to recognize that the level of statistical significance selected for a particular evaluation depends on the use to be made of data. If the 95% level such as NIOSH recommended were to be selected by OSHA, OSHA should recognize three points relevant to that selection:

(i) Since 1/20 of the tests may be random false positives under this confidence criterion (Dr. Peto Tr. 2548), confirmatory evidence becomes a matter of prime importance.

(ii) There will be circumstances where a much higher level of confidence is required, as is discussed in a succeeding section of this brief. See *infra*, at 163–164.

(iii) Different levels of statistical significance may be relevant in evaluating an experiment which produces rare tumors as distinguished from one which induces an increase in the tumors to which a tumor prone species is subject.

"Dr. Upton made clear that statistical significance is not solely reliance on a bare arithmetic concept. We need to know also, he said, whether the controls behaved in accordance with the characteristics of the strain (Tr. 284); and the test results must be significant in light of the overall scientific evaluation of the test. *Id.* As Dr. Shimkin notes '[s]tatistics must make biological sense first and not be a mathematical exercise.' (Report of the NCI Clearinghouse at 74, AIHC P.H)." (AIHC Post-hearing Brief, pp. 142–144)

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"Data that is not statistically significant not only does not demonstrate carcinogenicity, but may not even give rise to a suggestion in which any scientific confidence can be placed. In short, the term 'suggestive' as used in the regulation is far too imprecise. As Drs. Snyder and Triolo point out, OSHA must define the level at which data will be deemed to be statistically significant as well as the level, below statistical significance, that will be deemed sufficient to warrant further regulatory action." (American Iron and Steel Institute, S. 8–9)

* * * * * *

"Parameters of statistical significance have been established and these must be more thoroughly addressed in classifying substances. The mere statement that data should be statistically significant, as it appears in the Notice of Proposed Rulemaking, is insufficient. In a recent editorial published in Lancet II, September 1977, the authors concluded: in general, epidemiologists are familiar with the dangers (and the temptations) of drawing conclusions from findings in subgroups when total results are not significantly different from expected. (16) The referenced study by Howe, et al., found no significance between the incidence of cancer and the whole group of cases versus the controls. When the groups were broken down by sex, males evidenced a higher incidence than controls; females had a lower incidence than controls." (National Paint and Coating Association, S. 15–16)

Several comments reflected some confusion about the reasons why statistical analysis is undertaken, and about the concept of statistical "significance". The scientific reason for conducting statistical analysis of experimental results is to obtain an objective estimate of the possibility that an observed result might have arisen by chance. Conventionally, a level of probability is selected below which scientists agree that a result is statistically significant. However, such levels are somewhat arbitrary and for purposes of public policy additional considerations may be important, especially when the statistical analysis indicates marginal significance or the experimental system is insensitive.

Statistics are an important tool in evaluating carcinogenesis bioassays, but it should also be recognized that there are limitations inherent in these bioassays which require that additional scientific judgment be applied in evaluating these tests. Dr. Arthur Upton (Director, NCI) indicated in his testimony that in addition to considering statistically significant results, the tests should be ". . . significant in the light of adequate overall scientific evaluation" (Upton, Tr. 285). Dr. Umberto Saffiotti (NCI) agreed in his testimony, stating:

". . . statistical significance is an important component of the judgment, but by no means the only and exclusive method in the absence of any evaluation of the nature of the data. There is a biological evaluation [also] . . ." (Saffiotti, Tr. 898)

In using standard statistical procedures to evaluate the endpoint in a carcinogen bioassay, one can occasionally obtain false positive or

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false negative results. It is important to keep the number of both false positive and false negative results as low as possible:

"The pool of chemicals under consideration by such a screening program must, of necessity, contain many useful nontumorigens as well as a few tumorigens. Thus, a screen must have good sensitivity since failure to classify correctly a tumorigen would be serious (a false negative), and a screen must have good specificity since there is loss to society if a safe, useful material is declared a tumorigen (a false positive)". (Fears *et al.*, 1977, p. 1941; Exhibit 5 to Griesemer Statement)

False negatives can occur for several reasons. These include the following:

(1) Early deaths due to such factors as excess toxicity or intercurrent disease in the treated animals such that there is not adequate time for expression of a carcinogenic response. These factors are detected by a biological evaluation of the overall study.

(2) The increase in the incidence of a tumor due to the substance is such that it cannot be detected statistically due to the spontaneous tumor rate at a specific site. An extreme example of this is that if the incidence rate of a tumor is 90% in the control population, it would be virtually impossible to detect a carcinogenic response at the site unless these tumors appear very early (decreased latency). At lower spontaneous tumor rates, strong carcinogenic effects can be detected but weak ones may still be missed.

(3) The incidence of a tumor is zero in the matched controls of the experiment and the numbers present in the treated animals are below those required for statistical significance. In order to evaluate such cases, one must have some knowledge of the incidence rate of that tumor in historical controls of the same species, strain and sex, preferably at the same laboratory. One must know whether this is a tumor which is indeed rare in a large historical control population or whether it is a tumor which occurs in low numbers but with a variable incidence in individual control groups. In the former case, a rare tumor, the presence of only a few tumors in the treated groups is of importance in determining the carcinogenic potential of a substance. In such a case, it can be shown that the matched control population does conform to the historical control data and that it is improbable that the number of tumors present in the treated group is due to chance. In the latter instance, the matched controls do not conform to the historical control population and the tumors seen in the treated animals could be due to chance.

False positive results can also occur:

"Tissue sites with high spontaneous tumor rates are more likely to yield false-positive results than are sites with low spontaneous tumor rates." (Fears *et al.*, 1977, p. 1944; Exhibit 5 to Griesemer Statement)

At those sites with a moderate to high spontaneous tumor rate, there is some degree of variability in the incidence between control groups. This variability is minimized in inbred strains of animals (Heston, S. 3–4), but still exists. If one has a large historical control population which can be broken down by individual control groups, one can determine the range of the variation in incidence for a tumor at a specific site. If in an individual bioassay, the incidence in the control group was at the lower end of the range and the incidence in the treated group was at the upper end, a false positive might result. However, by knowing the range of variation for a specific tumor site, such false positives can be eliminated. An example of the use of historical control data to verify that a positive result is biologically significant was given in the testimony of Dr. Richard Griesemer (NCI) (S. 9–10).

Positive results in one species, one sex and one dose level at a site with a high spontaneous tumor rate are those most likely to be false positive. The presence of a dose-response relationship, positive results at more than one site or in more than one species or sex all provide corroborative evidence that a carcinogenic effect is real and not a false positive (Fears *et al.*, 1944–45).

In summary, although a statistically significant increase in tumors at a tissue site is important in determining whether a substance is a carcinogen, other factors must be taken into consideration. Several witnesses discussed this point:

In an evaluation of the animal carcinogenicity test, we must judge whether the results are negative, positive, or inconclusive. This judgment must depend not only upon statistical analysis but upon expert experience and knowledge of laboratory animal disease and pathology. Proper randomization of animals, adequate and uniform pathologic sampling, and uniform pathologic interpretations are but a few of the critical areas that can alter experimental results. In some cases attention must also be given to the incidence, variability, and biological features of neoplasms in historical as well as matched control animals when possible treatment-related effects are assessed, although statistical analysis has not traditionally considered such historic data. (Squire, S. 13)

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It needs to be emphasized that the NCI bioassays, like any other well-designed cancer test, are interpreted continuously and carefully. A chemical is not labelled as a carcinogen automatically if it causes a statistically significant increase in tumors at one site in one species. If an increase is observed, the experiment is reviewed thoroughly, including consideration of the etiology of the tumor type, its occurrence in untreated controls in other experiments, dose-response relationship, etc. Many experiments raise specific problems of interpretation; the resolution of these problems requires evaluation by experienced professionals in several disciplines, and cannot be reduced to a formula. (Upton, S. 12)

Dr. Umberto Saffiotti (NCI) provided a thoughtful discussion of the factors involved in establishing causation in experimental biology, to which OSHA agrees, *viz*:

Let us try to understand what is involved in the concept of causation in the recognition of carcinogenic effects. In life sciences, "causation" implies an inference of sufficient condition to bring about a temporal sequential relationship between two events. In the case of carcinogens, the two events are the exposure of an organism to a given agent and the induction in that organism of a neoplasm. Studies on the concept of causation in biology emphasize its aspect of inference from a limited number of observations and therefore its inherent element of probability (Russel, 1948). Determining that an agent is capable of causing a given neoplastic response is the outcome of a complex judgmental activity, involving evaluation of many different factors, such as knowledge of the chemical and biological systems under consideration, determination of adequacy of the conditions of observation, qualitative and quantitative evaluation of the morphology and function of the observed organisms and their target tissues.

A judgment of causality in carcinogenesis may be based not only on the recognition of an excessive number of neoplasms in the exposed subjects but also on other factors, such as the observation of a pattern of pre-neoplastic and neoplastic lesions in a logical temporal sequence, information about the transport of etiologic agent to the target cells, and knowledge about its chemical reactivity. The judgment will derive from a multiplicity of direct and indirect observations which combine with general knowledge of the phenomena under study in the mind of the expert who is making this judgment. In this respect this process is similar to that of a physician diagnosing a disease from a multiplicity of observations and their logical analysis. A chemical agent should not be judged carcinogenic solely on the basis of a cursory "tumor count", without thorough evaluation of the conditions of exposure and of host response. A simple tumor count however, if markedly abnormal, can raise a considerable level of suspicion. Concurrence and reproducibility of the observations are important elements for this assessment. The judgment of causality also includes a consideration of possible interfering factors which may produce false appearances of cause-effect relationship, such as the presence of highly carcinogenic impurities in a test substance, or—on the other side—the presence of intercurrent diseases in the test animal which may prevent the manifestation of a neoplastic response.

The judgment of carcinogenicity needs to be made by competent, experienced and objective professionals after analysis of all the relevant evidence. It goes without saying that this judgment should be objective and immune from conflicts of interest. (Saffiotti S. 6–7)

Several witnesses were asked whether OSHA should specify a level of probability below which results would be regarded as statistically significant. NIOSH proposed that OSHA should define "statistically significant" as "at the 95% confidence level" (S. 5). However, Dr. Donald Kennedy (Commissioner, FDA) expressed the opinion that such a specification could not be useful:

"The purpose of the test of statistical significance is to assure the experimenter and his or her scientific referees that the result that has been obtained, that is, the difference between experimentals and controls, is unlikely to be due to chance alone.

"Q: Do you think it would be useful of OSHA to set forth in the regulation the minimum level of statistical significance that it requires in one of the animal tests that is going to be used as a basis for regulation?

"A: No, because as I think I see within the universe of animal testing enough variation in the kinds of experiments done, and thereby in the confidence limits and levels of statistical significance that one would want to assume, that I am not sure that such a prescription wouldn't prove to be more confining than it is helpful. (Kennedy, Tr. 564)

Mr. Richard Peto (Oxford University) recommended that OSHA should use a specific procedure for statistical evaluation and should set a stringent standard for statistical significance:

"As with humans, so also most animal cancer incidence rates rise steeply with the age of the animal. Thus, the number of cancers produced in an experiment can depend critically on the numbers of animals that survive into old age. All sorts of irrelevant aspects of animal management and treatment toxicity can affect the pattern of survival of groups of experimental animals and hence the number of cancers observed. Because of this, misleading conclusions may well emerge from an animal experiment unless due allowance for intercurrent death rates is made during the statistical analysis. Straightforward ways of making such allowances are listed in Annex F, and it is recommended that these methods (or some other statistical methods which correct validly for the effects of mortality on cancer yields in experimental animals) be routinely used in the proposed evaluation by OSHA of animal carcinogenicity data.

"Because in most experiments animals of both sexes and of more than one strain are studied, and the separate incidence of tumours at each of a dozen or more anatomical sites is independently documented, some of the many significant levels calculated will probably be less than 0.05 just by chance. Because of this, individual P-values of 0.05 (or even 0.01) are not necessarily convincing unless the effects concerned can be reproduced in independent experiments or unless the agents concerned show striking activity in a battery of short-term tests; for a single animal experiment to be convincing without such support, a P-value of well under 0.01 (perhaps even 0.001) should usually be required. Unless this policy of requiring rather extreme P-values is adopted, an unacceptably large number of misleading results will emerge by chance alone." (Peto, S. 16–17)

Mr. Peto's first suggestion, that OSHA should use a standard and sophisticated method for analyzing bioassay results, is not always practical because OSHA is necessarily limited to interpreting results of experiments conducted in the past, for which the required data are frequently not available. His second suggestion, to use a stringent criterion for significance, is addressed to the problem of avoiding false positives in an experiment involving multiple comparisons. This problem was also posed in a paper by Salsburg (1977), but Salsburg's conclusion that false-positive rates are likely to be high was challenged by Fears and Tarone (1977). The problem was analyzed in some detail in another paper by Fears *et al.* (1977), who showed that false-positive rates are likely to be significant only at sites where the spontaneous incidence of tumors is high. Using data on spontaneous incidences of tumors in the NCI bioassay program, they calculated that the false-positive rate would be less than 0.025 (1 in 40) if a requirement were adopted that tumor incidence should be increased significantly at the $p=0.05$ level at both dose-levels in the same species. Fears *et al.* (1977) pointed out that the adoption of stringent criteria to minimize the false-positive rate would result in an increase in the false-negative rate. Accordingly some judicious trade-off between the two is required:

"The tissue site at which a significant result is found can be of considerable importance in a chemical screen. Tissue sites with high spontaneous tumor rates are more likely to yield false-positive results than are sites with low spontaneous tumor rates. For example, in the pituitary gland of the female Fischer 344 rat, the probability of a false positive in either of 2 dose groups is 0.059 and the probability of a false positive at both dose groups is 0.007. In contrast, for the majority of tissue sites (those with spontaneous tumor rates of less than 1%), the probability of a false positive in either of 2 dose groups is 0.00016. Thus, a significant result (even at only 1 dose) at a tissue site with a low spontaneous tumor rate offers strong evidence against the chemical under study. The presence of a dose-response relationship (higher tumor rates at higher doses) provides corroborative evidence of tumorigenicity.

"The upper bounds on the misclassification rates for the decision rules considered in this paper offer valuable insight into the problems of chemical screening. The upper bounds for the strategy that indicates a positive compound if a significant result is found in either dose should serve as a warning against a screen that relies solely upon statistical significance and does not require biological consistency. The complex 2-species, 2-sex screen described previously which requires the supporting evidence of significance in both dose levels yields an acceptable false positive probability. This lower false positive error rate is accompanied by a higher probability of a false-negative result. Of course, there are other biologically consistent results that should be considered as evidence of tumorigenicity, such as the occurrence of a significant result in 1 dose for both male mice and male rats at the same tissue site. A good screen must incorporate biological knowledge and careful statistical analysis." (Fears *et al.*, 1977, p. 1944; Exhibit 5 to Griesemer Statement)

And, the OSTP Staff Paper of February 1979 briefly discussed this issue:

The various testing methods discussed above cannot provide a simple yes or no answer regarding the potential for human carcinogenesis. Rather, test results offer a probability that such a potential exists. In evaluating any such test, one examines the data and then performs a statistical test of the null hypothesis—that there is no difference between the control and experimental groups in cancer (or mutation) rate. If there is, indeed, a difference, the statistical test will provide a probability that such a difference could have been observed due to chance alone. This probability is expressed as a p value. The statement that a test is "significant at a p value of less than 0.05" means that, if the null hypothesis were true (*i.e.*, if there were no actual difference between the control and the experimental groups), then there would be less than a 5% probability that such a difference could have been observed due to chance alone.

By convention, scientists often choose a p value of less than 0.05 as "statistical proof" that the null hypothesis is false. However, any given p value on a single test must be viewed in the context of other available data. For example, if a sufficient number of tests is performed, predictably a "statistically significant" difference will be found in at least one test, regardless of the p value which is chosen, simply as a result of random variation. (OSTP, 1979, pp. 12–13).

c. OSHA's Conclusions

On reviewing the Record, OSHA concludes that statistical analysis is an important tool in the evaluation of results of carcinogenesis bioassays, in that it permits the objective testing of hypotheses and the determination of the probability that certain observed results

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might have been obtained by chance. Nevertheless, OSHA concurs with the statements of numerous witnesses that evaluations of bioassays cannot be based on statistical analysis taken alone, but requires a scientific evaluation of all aspects of the experiments. OSHA also concludes that while it may not be possible to set a specific criterion for statistical significance that can be applied uniformly in all circumstances (i.e. the degree of statistical significance that is observed must be evaluated with reference to the spontaneous tumor incidence at the site in question), such issue is obviously a factor in the determination of causality. In this respect, OSHA places considerable weight on the detailed analysis of the problem by Fears *et al.* (1977). For further discussion, see *"Confirmation of Results"*, section V.D. 9 below. Thus the final set of regulations states at 1990.143(j):

"(j) *Statistical Evaluation.* Statistical evaluation will be used in the determination of whether results in human, animal or short-term studies provide positive evidence for carcinogenicity, but will not be the exclusive means for such evaluation."

6. How Much Weight Should Be Placed Upon the Induction of Benign Tumors in Animals as an Indication of Potential Carcinogenic Hazards in Humans?

a. OSHA's Proposal

In the preamble to the proposed regulations, OSHA proposed to place as much weight on an experiment in which only benign tumors are observed, as upon experiments in which both malignant and benign tumors are induced. OSHA recognized that this issue has been controversial in the past and discussed the issue at some length in the preamble to the proposal. OSHA concluded:

"It is plain from the above quotations that the scientific discussion is not concerned with the significance of benign tumors, but rather with the precise degree of weight that should be placed upon the results of an experiment in which a substance induces only tumors that are authoritatively classified as benign in the test animals. Since such instances are acknowledged to be rare [citations omitted], the issue may be somewhat academic. (42 FR 54163)

b. The Public's Response and OSHA's Evaluation

At the outset, it should be clear that the issue raised in this section was not, as some witnesses seemed to suggest, whether substances which induce benign tumors in animal experiments are of little concern because they are expected to induce "only" benign tumors in humans also. Rather, the issue was whether the induction of benign tumors in animals is a manifestation of carcinogenic activity of a substance, which might be manifested as the induction of either benign or malignant tumors (or both) in other species, including humans. The latter was the singular issue—and because no one presented a case of a substance that produced only benign tumors—a highly academic issue.

Many witnesses testified and offered a wide range of opinions on this issue and it appeared that there was substantial evidence and agreement in the Record that the issue is indeed academic. Dr. Umberto Saffiotti (NCI) testified that:

"In 25 years of work in chemical carcinogenesis, I am among those who are not able to come up with a good documentation of any kind that substantiates the mechanism for the induction of benign tumors alone that would never progress to a more advanced stage." (Saffiotti, Tr. 878)

Dr. Saffiotti's testimony was supported by Dr. Richard R. Griesemer (NCI) who stated that, in his opinion, there were no such things as benign tumors in chemical carcinogenesis experiments (Griesemer, Tr. 877–78). Dr. Curtis C. Harris (NCI) also testified that he knew of no chemical that caused only benign tumors (Harris, Tr. 2012), and Dr. Nathan Dubin, (Medical College of Pennsylvania) concurred with this opinion (Dubin, Tr. 1210).

Furthermore, when asked if he had ever dealt with a substance that induced only benign tumors in test animals, Dr. Benjamin Trump, (Univ. of Maryland) testified:

"Never. In all of the examples that we have worked with, what used to be or what some people might have called benign lesions years ago are clearly part of the progression from normal to malignant, and often as in the case of the work that we have done with kidney carcinomas . . . (t)hey are tiny carcinomas, not benign adenomas as they used to be called, because they can be transplanted . . . I think the term "benign tumor" is a dangerous concept, because benign tumors in the human, such as leiomyomas of the uterus, classically called benign tumors, can undergo malignant degeneration. In experimental animals the so-called benign tumors I regard as earlier forms, and often just miniature versions.

"Furthermore, since we cannot predict the organs in which tumors may occur in humans from a compound tested, from the organs in the test animal, even if there was a benign tumor in the brain it is not a very desirable thing to have since it kills the host. So for all of those reasons, I think that concept has become outmoded." (Trump, Tr. 2011–2012)

In addition to this testimony, Dr. Harold L. Stewart, who was head of pathology at the National Cancer Institute for thirty years, also testified at the hearing. Dr. Stewart was instrumental in organizing the National Institutes of Health's Registry of Experimental Cancers, which the World Health Organization has designated the International Reference Center for tumors in laboratory animals (Stewart Tr. 696). Under questioning he testified that in his opinion there is no benign epithelial tumor of the liver in rodents, and that he had never seen benign tumors of the thyroid, pituitary or adrenal glands in rodents (Tr. 678–680).*

Dr. Saffiotti (NCI) took the position that even if a substance were found to induce only benign neoplasms in a test animal species, it would not necessarily have the same effect in other species, including humans. He stated:

". . . we know that carcinogens in general can act on different types of cells, tissues and organs in different species. They could therefore induce a neoplastic response in a target cell type capable only of giving rise to benign proliferation in one species, while hitting a cell capable of developing into a malignant neoplasm in another species. We have no evidence now that such selective mechanisms exist for the induction of exclusively benign neoplasms." (Saffiotti, S. 17)

Dr. Saffiotti discussed two other types of results from carcinogenesis experiments. The first is the case where we have the induction of only neoplasms which are diagnosed as benign "but which belong to a type known to be capable of progression to a malignant state" (S. 17). Examples listed by Dr. Saffiotti included lung adenomas and hepatomas of the liver. With respect to these kinds of lesions, Dr. Saffiotti pointed out that it is very difficult to rule out invasion or metastatic spread of a particular tumor, without an extremely detailed examination of the animal's tissues (Saffiotti, S. 18). In cases such as this, Dr. Saffiotti stated:

"(t)he prudent policy approach . . . is to assume that their malignant potential may be likely to occur in other biological conditions, such as in extrapolation to humans. (Saffiotti, S. 17).

The other case which Dr. Saffiotti considered was one in which most of the induced neoplasms are benign, but in which a relatively small number of tumors have already progressed to the malignant state. Dr. Saffiotti concluded with respect to such cases:

". . . Although the number of tumors diagnosed as malignant may not reach statistical significance as such in the number of animals at risk, the total neoplastic response (benign and malignant) may be clearly significant. In such cases the arguments given above for inclusion of neoplasms diagnosed as benign in a total neoplastic response are further reinforced by the presence of clearly malignant cases." (Saffiotti, S. 18–19)

In one of the exhibits to his written testimony, Dr. Stewart addressed the significance of the biological process of tumor growth in humans:

"In the sphere of clinical medicine, the terms 'benign' and 'malignant' are useful. They are part of the language by which pathologists and surgeons communicate. For practical purposes, the differential diagnosis of cancer depends on aspects of abnormality of nuclei, mitotic figures, and growth patterns. Let us consider two patients each with a nodule in the thyroid gland. The nodule in patient one has a follicular pattern and is confined to the gland. The diagnosis is benign adenoma. The treatment is a simple excision. In patient two, the nodule exhibits essentially the same follicular pattern, but the growth has broken through the capsule of the gland and penetrated the veins. The diagnosis is cancer. Treatment requires wide local excision and deep neck dissection, with all of the complications, morbidity, and mutilation that attend this surgical procedure. Thus, the terms 'benign' and 'malignant' are clinically useful. Nonetheless, from a strictly biologic point of view, the neoplasms of these respective patients are of the same order. They differ only by the degree of their progression. Had patient one delayed treatment, the tumor could have progressed to the stage observed in patient two. Conversely, had patient two sought treatment earlier, the tumor may not have progressed beyond the stage observed in patient one. With cancer, events often, though not necessarily, occur in irreversible succession." (Stewart, 1977, p. 308; Exhibit C to Stewart Statement)

Dr. Robert Squire, (Johns Hopkins Univ.) provided an analysis of the issue of the biology of tumor induction in animals. Dr. Squire explained that neoplasia is a pathological process and not a class of static pathological states that may definitively be classified as benign or malignant. He stated:

"Since the goal of carcinogenicity testing in animals is to assess potential for neoplastic induction, in all of its stages, the process, not simply the final stages of malignancy, must be evaluated. In a pathological evaluation of an animal carcinogenesis test, the determination of specific tumor incidences requires that, unless there is evidence to the contrary, all neoplasms of the same cell type be considered together. It is the responsibility of the pathologist to indicate which tumor types represent sequences in the same neoplastic process and to combine them for statistical analysis." (Squire, S. 18)

As Dr. Stewart stated in another one of his exhibits:

"Some experimental pathologists have forgotten, while others never learned, that the field of human oncology has many examples of cancers, some that arise as innocent-looking lesions, others that pursue an indolent course over a long period of years and metastasize infrequently late in the disease, and still others so well differentiated that when sections of the metastases are placed side by side with a section of the organ of origin the two may not be distinguishable. Cancer of the urinary bladder arises in man as an innocent-looking papillary structure which, if left untreated, grows into the lumen and into the wall of the bladder and metastasizes widely, the metastases taking on the appearance of a highly malignant transitional-cell or undifferentiated-cell carcinoma. A classic example of a human tumor that may metastasize while still retaining the appearance of the organ of origin is thyroid gland cancer, formerly miscalled benign metastasizing goiter. There are additional examples of cancers in human medicine that never metastasize, such as the gliomas and basal cell carcinomas. Examples of those that persist at the site of origin for a long period of time and metastasize late in the disease and then only in a fraction of the cases, but are nevertheless malignant and lethal, are certain fibrosarcomas, leiomyosarcomas, and salivary gland tumors. It is often difficult for the clinical pathologist to distinguish between those salivary gland tumors classified as papillary cystadenoma and papillary cystadenocarcinoma, since tumors with a relatively benign histological appearance may metastasize after a long period of slow growth. Similarly, a mixed tumor of the salivary glands may after a long static period undergo rapid growth and metastasize widely. The late Dr. Joseph McFarland (1943) used to refer to this phenomenon as a ripening process of the mixed salivary gland tumor. There are thus no immutable criteria by which one can, with certainty, diagnose all cancers during all stages of their progression from their early inception to their terminal metastasis. One needs to understand very well the tumor with which he is dealing, its histological appearances, and its biological behavior at different stages of its growth. The phenomenon of tumor progression is inadequately understood in comparative pathology." (Stewart, 1975, p. 310; Exhibit B to Stewart Statement)

Under questioning Dr. Stewart gave other examples of this biological progression. He testified that the alveologenic tumor of the lung in mice had been studied by intermittent sacrifice of the test animals and that:

"We could trace that tumor from the moment it just formed a few cells in an alveolus. Then it became larger. Then it invaded adjacent alveoli. Then it invaded the bronchus . . . [t]hey metastasize in a certain number of cases. They spread to different organs of the body. That tumor is malignant from day one. It is a malignant neoplasm. . . . [t]hat is a malignant tumor from the very beginning." (Tr. 635)

The testimony of the above witnesses, along with that of Dr. Samuel S. Epstein (Univ. of Illinois) (Epstein, 1978, p. 2430 Exhibit 10c to Epstein Statement) and Dr. Richard Bates (NIEHS; FDA) (S. 19–21) provided strong support for OSHA's judgment expressed in the Preamble to the proposed regulation, that the induction of benign or malignant tumors should have synonymous implications with respect to human health. As Dr. Bates testified:

"Q. So for practical purposes you would accept the induction of benign neoplasia as posing the identical risk as something that induces malignant neoplasia in a test animal?"

"A. I would say that they pose a human risk and I cannot distinguish between the two of them in terms of their potency for humans." (Bates, Tr. 661)

Several witnesses disagreed that equal weight should be attributed to the induction of benign and malignant tumors. Dr. Bernard Weinstein (Columbia University) concurred with the cautious opinion expressed by the 1977 National Cancer Advisory Board Subcommittee, of which he was a member. The Subcommittee Report stated:

"The occurrence of benign neoplasms raises the strong possibility that the agent in question is also carcinogenic since compounds that induce benign neoplasms frequently induce malignant neoplasms. In addition, benign neoplasms may be an early stage in a multi-step carcinogenic process and they may progress to malignant neoplasms; also, benign neoplasms may themselves jeopardize the health and life of the host. For these reasons, if a substance is found to induce benign neoplasms in experimental animals it should be considered a potential human health hazard which requires further evaluation. In experiments where the increased incidence of malignant neoplasms in the treated group is of questionable significance, a parallel increase in incidence of benign tumors in the same tissue adds weight to the evidence for carcinogenicity of the test substance." (NCAB 1977, p. 462, Exhibit B to Weinstein Statement)

Dr. Weinstein testified:

"Unlike OSHA, I would not place as much weight on an experiment in which only benign tumors are observed. . . . While there is a respectable body of scientific opinion which supports the OSHA position, I would classify a compound which truly produces only benign tumors as a suspect carcinogen which should have high priority for further testing. However, in animal bioassays where a substance is found to induce primarily benign tumors in certain tissues, and there are some malignancies in these same tissues, then I would more readily classify the compound as a carcinogen." (Weinstein, S. 3–4)

*The question of the significance of the induction of liver tumors in mice and their development to malignancy was dealt with at length in Section V.D. 1.

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Dr. Paul M. Newberne and Dr. Adrianne Rogers (MIT) agreed that the phenomenon of induction of only benign tumors is an "unlikely event" (S. 17), but did not agree that a general rule equating the induction of benign and malignant tumors was appropriate. They summarized their position as follows:

"Our understanding of mechanisms of carcinogenesis does not permit us to make generalizations about the relationship between induction of benign and malignant tumors or between development of spontaneous and induced tumors. Clearly there are benign tumors which are not precursors of malignant tumors or indicative of carcinogen exposure and others which are. At this point judgment of the significance of a given tumor must be based on knowledge of the behavior of that tumor in that animal species or strain. Benign tumors have little effect on the host aside from occupying space or by interfering mechanically with function while malignant tumors destroy the host unless removed or arrested. These two classifications are as valid in safety evaluation as they are in human or veterinary diagnostic pathology; they should be separated when interpreting animal safety data. Considering all tumors (benign or malignant) equally significant as indicators of carcinogen exposure will neither increase our understanding nor provide information on carcinogenic hazards." (Newberne and Rogers, S. 18–19)

In addition to these witnesses, Dr. Francis Roe (AIHC) submitted written comments stating that although he felt that the induction of benign tumors

"... prompts the need for particularly stringent carcinogenicity tests . . . it is positively misleading to equate benign and malignant tumors. An agent which gives rise predominantly to malignant tumours must be regarded as *more hazardous* than one which under similar circumstances gives rise to only, or predominantly, benign tumors. The inescapable corollary of this is that an agent which predisposes only or mainly to benign tumor formation is *less hazardous*." (Roe, S. 88)

Dr. Roe, in essence, urged OSHA to give priority in regulation to compounds which produced more obviously malignant tumors in animal test systems.

Dr. William Butler (NACA) also disagreed with OSHA's position and commented as follows:

"The arguments should not be used, as set out in the proposed rules, suggesting that benign neoplasm should be considered as important because it progresses to malignant neoplasm. The available evidence is against this suggestion. Most of the biological evidence of the behavior of neoplasm comes from man and from clinical experience, and it is evident that the vast majority of benign neoplasm do not progress to malignant and that malignant neoplasm does not develop from benign neoplasm. This is the current teaching in pathology (Anderson, 1971). It is further supported by the evidence in the rat (Williams, Klaiber, Parker and Farber, 1971). The statement, "(B)enign tumors are often pre-cursors of malignant tumors" has not been substantiated in practice. The correct approach in assessing the possible carcinogenicity of a test compound should be the accurate designation of the data, and a direct interpretation of this without reliance upon an intervening hypothesis of progression. The terminology to be used must necessarily be equally discriminating. By definition, a carcinogen induces malignant neoplasia, therefore, if a chemical agent induces just benign neoplasia, it should not be considered to be a carcinogen. Some other descriptive word is required. It is important to make such distinctions so that the underlying biology is clearly reflected in the terminology used to describe the phenomena." (Butler, S. 20–21)

The International Agency for Research on Cancer, in the latest revision of the preamble to its Monograph series, made the following statement:

"Many chemicals induce both benign and malignant tumours; few instances are recorded in which only benign neoplasms are induced by chemicals that have been studied extensively. Benign tumours may represent a stage in the evolution of a malignant neoplasm or they may be 'end points' which do not readily undergo transition to malignant neoplasms. If a substance is found to induce only benign neoplasms in experimental animals, the chemical should be suspected of being a carcinogen and requires further investigation". (IARC, 1978, vol. 17, p. 15)

The most extensive discussion of this issue in the Record was that of Dr. Robert Squire (Johns Hopkins Univ.):

"Evidence from animal studies has indicated that most epithelial cancer is a multistage process beginning with proliferative or dysplastic lesions and progressing through development phases to carcinoma (Farber 1976). The *Summary Statement* of the NCI Symposium "Early Lesions and the Development of Cancer" described the process:

"Data were presented at the Conference regarding the development of cancer of the urinary bladder, uterine cervix, liver, breast, skin, lung, colon, pancreas, and stomach. It is clear that the development of cancer in all of these organ sites is a prolonged process, which may take 20 years or more in humans to reach its invasive stages. Before invasive malignant disease occurs, various preneoplastic changes occur in all of the above organ sites. Although these preneoplastic changes have not been generally considered to be "cancerous" (in the classical, clinical diagnostic sense of the term), they are definitely an integral part of the process of development of cancer. Because the prognosis for invasive malignant disease becomes worse as the stage for the disease increases, it is essential that more intensive efforts be devoted to study of the disease process in its preneoplastic states (Anthony et al. 1976; see Appendix B).

"Before invasive cancer develops, many of the lesions exhibit the pathological features characteristic of benign neoplasms, as defined in standard pathology texts (Willis 1967, pp. 18–26). Under experimental conditions it has been determined that progression to malignancy is compound and dose-related and that it varies in individuals, strains, and species (Homburger 1974; Selikoff and Hammond 1975). The basis for the variations is not well understood, although it has been observed that genetics, hormonal factors, nutrition, age, route, and schedule of exposure are among the many factors that modify carcinogenic response. The effect of exposure is well illustrated in skin painting studies in mice, where effects may be either none, benign papillomas, or carcinomas, depending upon the dose of carcinogen applied (Stenback et al. 1974). The authors stated, "There is a direct relationship between dosage and degree of 'neoplastic potentialities,' if one can visualize a gradation from regressing papilloma through the growing benign tumor or to the invasive cancer" (p. 188).

"It would be incorrect of course to say that all preneoplastic or benign neoplastic lesions progress to cancer; many clearly do not. But it is misleading to consider those neoplasms that do not progress to malignancy as biologically distinct and unrelated to the carcinogenic stimulus. There is no reason to conclude that the failure of neoplasms to become malignant in one individual or species will predict the same behavior in other animals.

"The statement is often made that human cancers begin as malignant proliferations and do not develop from so-called benign precursors, as has been observed in experimental animals. This position, however, fails to recognize that interim observations of early lesions, which can be readily made in experimental animals, are rarely possible in humans. In fact, there are several cases in which early observations in humans have been possible, and these indicate that human cancer is preceded by benign-appearing proliferations that proceed through a sequence of neoplastic alterations similar to changes that occur in experimental animals. These cases include ones of bladder cancer, kidney cancer, pancreatic cancer, and liver angiosarcomas associated with exposure to vinyl chloride (Popper and Thomas 1975; Popper et al. 1977; Friedell 1976; Greene 1973; Reuber 1974; Heatfield et al 1977; Levitt et al. 1977). Chemically induced bladder cancer in experimental animals and man progresses through stages of noninvasive epithelial proliferation (hyperplasia) before invasive cancer develops (Jacobs et al. 1977; Squire et al. 1977; Ito 1969; Roe 1966). In his report on urinary bladder neoplastic changes in mice, Roe (p. 238) stated that:

'. . . we have been greatly impressed with the apparent gradation of lesions from simple hyperplasia and metaplasia, through benignity to malignancy. At times it was difficult to draw the line between one category of lesions and the next and we formed the strong impression that there is a tendency for the less proliferative lesions to progress to the more proliferative and for the benign to progress to the malignant.'

"In reporting a study of human bladder neoplasms, in which 100 cases were followed for 15 years or more, Greene *et al.* (1973, p. 207) stated:

'The most significant findings from our study are that 1) 73 percent of patients had recurrent tumors, 2) 22 percent had recurrent neoplasms that were less differentiated and more lethal than the original lesion and 3) 10 percent had frankly invasive carcinoma with diffuse metastasis that caused death. Somewhat similar findings were reported by Pyrah and associates, who noted recurrent tumors in 70 percent of patients and frank carcinoma in 13 percent. Such somber data imply that the original tumors cannot be considered benign papillomas but must be considered carcinomas and treated as such.'

"Hepatocellular carcinomas have also been identified as developing from so-called benign hepatic adenomas in women taking contraceptive steriods (Popper et al. 1977).

"Considering the similarities between neoplasms in humans and animals in other respects, I see little justification for presuming that man is unique with respect to neoplastic development.

"The terms 'benign' and 'malignant' have served the field of surgical pathology well, since they attempt to reflect a prognostic judgment on a given patient. They do not always, however, properly define the neoplastic process that, in a population of experimental animals, we take as evidence of exposure to a carcinogenic stimulus. Willis' well-known text, *Pathology of Tumors*, discusses the problem of tumor classification:

'Many histogenetic species of tumours include some growths which occupy the borderline between innocence and malignancy. Good examples of this are afforded by papillary epithelial growths, many of which cannot be classed with precision either as benign papillomas or malignant papillary carcinomas. Thus the papillary growths of the bladder exhibit a complete range of structure and behavior—from the slowly growing wholly superficial pedunculated villous papilloma of uniform fully organized architecture, to the rapidly growing, infiltrative, sessile, irregularly papillary carcinoma. Of many of the intermediate members of such a series, it is difficult to assess the degree of malignancy and to predict their probable course. Some growths, with a past history and microscopical structure which lead us to look upon them as 'benign,' may nevertheless prove their essential malignancy by later recurrence, infiltration or metastasis. Similar borderline characters are displayed by some of the papillary growths in the intestine, larynx, thyroid, breast, and in ovarian cysts (Willis 1967, p. 18).'

"In his conclusion, Willis (p. 26) stated further:

'Innocence' and 'malignancy' are not two distinct biological properties pertaining to neoplasms, but merely convenient terms which have become firmly entrenched in pathology because of their prognostic value. By experience of each histogenetic class of tumours, we have learnt which particular tumours in that class are likely to remain local in their growth and to be curable by local removal, and which ones will spread more or less widely and dangerously. The pathologist knows, however, that in most classes of tumours growths of intermediate behavior occur, for the prognosis of which the bald terms 'innocent' and 'malignant' must be qualified. Between the cellular characters of tumours and their degrees of malignancy there is a broad parallelism, largely based on the inverse relationship of rate of proliferation and degree of differentiation of tumour cells. To this parallelism, however, there are many exceptions.

'The notion that 'malignancy' implies something new and peculiar added to neoplasia is false. So also is the notion that there is a specific "malignant" cachexia.'

"All of these observations support the concept of neoplasia as a pathological process, not as static pathologic states that may definitively be classified as benign or malignant. Since the goal of carcinogenicity testing in animals is to assess potential for neoplastic induction, in all of its stages, the process, not simply the final stages of malignancy, must be evaluated. In a pathological evaluation of an animal carcinogenesis test, the determination of specific tumor incidences requires that, unless there is evidence to the contrary, all neoplasms of the same cell type be considered together. It is the responsibility of the pathologist to indicate which tumor types represent sequences in the same neoplastic process and to combine them for statistical analysis. (Squire, S. 14–16)

Dr. Bo Holmberg (Swedish NBOSH) testified as follows:

"When considering the problem of benign tumors in animals for the evaluation of the carcinogenic risk it should be recognized that benign tumors often appear earlier than malignant tumors in experimental systems (Holmberg *et al.*, 1976, Appendix 6). There are very few, if any, examples in which chemicals induce only benign tumors in mammals. Even the recognition of benign tumors is complicated in animals because the experimenter usually cannot observe the progressive development of tumors and must rely on histopathological evidence. Early stages of malignant tumors often appear benign and metastases may be difficult to detect. A classical case is the mouse hepatoma, which often appears benign unless the animal is allowed to live to extreme old age and the lungs are carefully searched for metastases.

"Should the formation of hepatomas in mice not be taken as an indication of carcinogenic activity, some compounds known to pose a carcinogenic risk to humans would not be classified as carcinogens. The human bladder carcinogen 2-naphthylamine, administered in the drinking water to outbred mice for 84 weeks (Clayson and Ashton, 1963) did for instance increase the incidence of hepatomas relative to that in controls. In newborn mice, which generally are considered to be more sensitive to carcinogens than adult animals, 2-naphthylamine induced lung adenomas, one hepatoma and one lymphosarcoma (Radomski *et al.*, 1971).

"To take another established carcinogen as an example, the human bladder carcinogen benzidine given to mice by subcutaneous administration (Prokofjeva, 1971; Bonser *et al.*, 1956) did also increase the frequency of hepatomas. Should histologically benign liver tumors in mice, appearing after exposure to chemical carcinogens, not be regarded as an indication of carcinogenic activity of the compound such substances as 2-naphthylamine and benzidine would escape classification. The conclusions drawn in the overview by Tomatis *et al.* (1973) on the biological effects of hepatomogenic compounds, make it more prudent to regard the appearance of hepatomas in the mouse as an indication of carcinogenic hazard to man." (Holmberg, S. 20–22)

Dr. Richard Bates (NIEHS; FDA) also presented a detailed discussion of the issue:

"Another debated issue is the significance of benign tumors as an index of carcinogenicity of a chemical. This subject has been debated by many groups of scientists who have issued recommendations on the interpretation of carcinogenicity studies. Depending upon which report is read, one will receive the advice either to base the assessment of carcinogenicity only on the presence of malignant tumors, (**) on both malignant and benign tumors, (**) or on both malignant and benign tumors when both are present in the same organ, but not on benign tumors when malignant tumors are not also present. (**) Thus, this is certainly an issue on which unanimity of scientific opinion does not prevail. In analyzing this issue it is helpful to consider the circumstances under which the distinction between benign and malignant tumors developed and how these apply to the problem of determining whether or not a chemical is capable of inducing cancer. These terms developed in the context of human medicine where the goal was to predict the likelihood that the tumor found in an individual patient would be lethal. It was noted that tumors with certain characteristics were most likely to be lethal, that is malignant, whereas others did not indicate a bad prognosis. Thus, the terms benign and malignant reflected the expected outcome of the presence of the tumor in the individual patient. They bore no relationship to the causal events leading to these tumors and whether or not such events would produce the same or a different kind of tumor in another individual. The guidelines for distinguishing between benign and malignant tumors are very good with some kinds of tumors, but relatively poor for others. Thus, in the latter case, disagreement may exist among qualified pathologists as to whether the tumor has passed from the point at which it is benign to that at which it is malignant. The sharp distinction between benign and malignant tumors is also somewhat muddied by the tendency of some kinds of benign tumors to progress onward to malignancy.

"In the experimental bioassay, we are not really interested in whether the tumor will or will not be lethal in the particular mouse or rat. We are interested in whether these tumors indicate that the chemical inducing them is capable of causing cancer under some circumstances in exposed human beings. Thus, the question is whether the

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tumors represent an index of carcinogenicity of the chemical rather than whether they represent a lethal threat to the animal in which they reside. A number of experimental studies suggest the importance of considering the presence of benign tumors as an indicator that their inducing agent is capable of causing malignancy. The induction of benign adenomas of the mouse lung has been used as an indicator of carcinogenicity. It has been shown that many widely studied chemical carcinogens that are clearly capable of inducing malignancy under some circumstances cause an increase in this tumor type. (41) Some scientists discounted an early study showing the induction of benign tumors of the liver in mice by DDT (42) because no malignancies were found. These studies were stopped after 18 months. Subsequent studies lasting for a longer period confirmed this result and also showed the induction of some malignant tumors of the liver. (43) The induction of tumors of the mammary gland by x-ray and by carcinogenic polycyclic hydrocarbons has been extensively studied in rats. These carcinogenic agents are capable of inducing both malignant adenocarcinomas and benign fibroadenomas of the mammary gland. These tumors are similar to those found in the human breast, and in humans, as in the rat, the former is clearly malignant and the latter clearly benign. Studies in rats, however, have shown that the relative proportion of these two types of tumors that are induced varies markedly among different genetic strains of rat, (44) indicating the importance of genetics in determining whether a carcinogen will induce a benign or malignant tumor. Thus, it has been shown that under some experimental conditions chemicals capable of inducing malignancy will primarily induce benign tumors. It is not clear that there are any chemicals capable only of inducing benign tumors and never inducing malignancies, though the possibility that there may be some cannot be ruled out. As with many other questions, the regulator must make a decision before arguments have ceased within the scientific community. These may either lean toward protecting human health or toward protecting economic enterprise. In the former case a significant increase in benign tumors would be considered to be an index of carcinogenicity. In the latter case less weight would be placed on benign tumors." (Bates, S. 19–21)

c. OSHA's Conclusions

On reviewing the Record on this topic, OSHA makes two general conclusions based on substantial evidence in the Record:

1. Despite the range of opinions expressed on the issue, comparatively few well documented studies of the progression of tumors were presented in the Record. Where such studies were presented (e.g. those of Reuber (1977a, b) on liver tumors in mice and rats, of Stewart (Stewart, Tr. 634–635) on lung tumors in mice, or of Trump (Trump, S. 6–7) on kidney tumors in rats), they indicate that tumors often classified as "benign" are in fact merely stages in the progression to malignancy or are "malignant from the start".

2. No documented case was presented in the Record in which a substance was demonstrated to induce only benign tumors in animals.

Thus, OSHA concludes that the general principle enunciated in its proposed regulation, that a substance which induces benign tumors in an animal test should be regarded as a potential occupational carcinogen, was well supported by the *scientific* evidence presented at the hearing. OSHA notes that this proposition is accepted by EPA and used in its regulatory decisions (EPA, S. 3). OSHA recognizes, however, that some scientists disagree with the principle, even though they are unable to name specific chemicals which would justify consideration as exceptions. OSHA also notes that the NCAB Subcommittee and the IARC recommended that chemicals which induce only benign tumors should not be categorized unequivocally as carcinogenic.

For these reasons, OSHA is willing to consider evidence that a substance induces "only" benign tumors, provided that such evidence reaches the minimum scientific criteria for acceptability specified herein. For the reasons given in testimony of such witnesses as Dr. Stewart, Dr. Bates, Dr. Reuber, and Dr. Dubin, OSHA will not ordinarily consider arguments that liver or lung tumors in mice are benign for the purposes of this rebuttal.

In sum, the evidence presented in the Record and reviewed above indicates that essentially all known carcinogens* induce either malignant tumors, or a mixture of benign and malignant tumors, or benign tumors of a type which forms part of a progression to malignant tumors and thus have the capacity to progress to malignancy. Indeed, there was substantial testimony that the term "benign tumor" is in many cases inappropriate when applied to experimental carcinogenesis studies and is used in a misleading fashion. Accordingly, OSHA will not ordinarily place weight on the purported distinction between "benign" and malignant tumors in experimental animal studies. Since no documented case was presented in the Record in which a substance was demonstrated to induce only benign tumors, the issue is largely academic. However, OSHA notes that there was a body of scientific opinion that would place lesser weight on such hypothetical substances, if they should be found to exist. Accordingly, to avoid foreclosing an issue that may perhaps prove to have some genuine scientific content, OSHA is willing to consider good evidence that a substance has been shown to induce only benign tumors. However, to avoid wasting time and resources on repetition of the lengthy and often academic discussion of the issue presented in this Record, OSHA will require a reasonable showing that the evidence is substantial. Accordingly, OSHA has established modest criteria which such evidence must meet before it will be considered in rulemakings on specific substances. Specifically section 1990.143(i) states:

(i) *Benign tumors.* Results based on the induction of benign or malignant tumors, or both, will be used to establish a qualitative inference of carcinogenic hazard to workers. Arguments that substances that induce benign tumors do not present a carcinogenic risk to workers will be considered only if evidence that meets the criteria set forth in 1990.144(e) is provided.

Section 1990.144(e) provides:

(e) *Benign tumors.* The Secretary will consider evidence that the substance subject to the rulemaking proceeding is capable only of inducing benign tumors in human or experimental animals provided that the evidence for the specific substance meets the following criteria:

Criteria. (i) Data are available from at least two well-conducted bioassays in each of two species of mammals (or from equivalent evidence in more than two species).

(ii) Each of the bioassays to be considered has been conducted for the full lifetime of the experimental animals.

(iii) The relevant tissue slides are made available to OSHA or its designee and the diagnoses of the tumors as benign are made by at least one qualified pathologist who has personally examined each of the slides and who provides specific diagnostic criteria and descriptions; and

(iv) All of the induced tumors must be shown to belong to a type which is known not to progress to malignancy or to be at a benign stage when observed. In the latter case, data must be presented to show that multiple sections of the affected organ(s) were adequately examined to search for invasion of the tumor cells into adjacent tissue, and that multiple sections of other organs were adequately examined to search for tumor metastases.

The first criterion is related to the quantity of evidence. It is obviously insufficient to present evidence from only one species, since some chemicals are known to induce primarily benign tumors in one species and primarily malignant tumors in another. Moreover, in view of the testimony of Dr. Bates (S. 21) on the role of genetics in determining the degree of malignancy of induced tumors, it would be desirable to have data from more than one strain of each species. Certainly a single experiment from each of two species would not provide substantial evidence that a chemical induces *only* benign tumors in each. For these reasons, although OSHA will not insist on the presentation of data from more than one strain of each species, OSHA will establish, as a minimum criterion, that data be available from at least two experiments in each of two species or from equivalent evidence in more than two species.

The second criterion is concerned with the duration of the experiments. Since many so-called "benign" tumors eventually progress to malignancy if the animal is allowed to live long enough, data from experiments which are terminated prior to the natural lifespan of the species involved are of little or no value for this purpose. Hence OSHA will require, as a minimum, that the experiments be conducted for the lifespans of the animals involved, and that a substantial number of animals should actually live to their expected lifespans. As a general guideline, minimum figures for expected lifespan would be 21 months for mice and 24 months for rats.

The third and fourth criteria are related to the identification of the induced tumors as benign. It is apparent from the testimony of eminent witnesses such as Dr. Stewart, Dr. Bates, Dr. Saffiotti and Dr. Dubin, that many tumors often reported by less knowledgeable pathologists as "benign" are in fact part of a progression to malignancy or are malignant from the start. Thus, for example, OSHA will not accept claims that liver-cell tumors or alveologenic lung tumors in mice are benign (see testimony of Dr. Reuber and Dr. Stewart quoted above). As a minimum criterion, as pointed out, OSHA will require that the diagnoses of induced tumors as benign should have been made by a qualified pathologist (preferably Board-certified) who has personally examined each of the tissue slides which are alleged to show benign tumors, and should be accompanied by specific diagnostic criteria and descriptions. In addition, documented reasons should be given for excluding the possibility that the tumors are part of a malignant progression, or for concluding that all the tumors were at a benign stage when observed. In the latter case, data must be presented to show that multiple sections of likely target organs were made to search for evidence of invasion or metastases.

As discussed more fully above (Sections V.D.1 and V.D.6) there is often considerable disagreement among pathologists as to whether specific tumors should be classified as benign or malignant.* The reasons for these disagreements include the application of different criteria for malignancy (see statements of Dr. William H. Butler (NACA), Dr. Stan Vesselinovitch (NACA), and Dr. Harold Stewart (NIH)), inexperience and even bias among certain pathologists (for discussion see Stewart 1977, Exhibit C to Stewart statement, pp 310–311). Furthermore, some experiments reported in the past have suffered from substantial shortcomings, as pointed out from personal professional experience by Dr. Adrian Gross (FDA) (S.13–14). Accordingly, OSHA cannot automatically accept at face value any claim that an experimental study yielded tumors that were exclusively benign. At the minimum, OSHA will require that the relevant tissue slides should be made available. OSHA may, at the Secretary's discretion, submit the slides to a second pathologist selected by OSHA for an independent review. Even if both pathologists concur in their diagnoses, OSHA has concluded that it may be important in view of the scientific disagreements in this area that in any given case, each pathologist should provide specific criteria for their diagnostic categories, and that descriptions or illustrations should be provided to permit evaluation by other interested parties.

OSHA concludes, after review of the substantial evidence in the Record, that these criteria are reasonable, and that meeting them they will permit the consideration of any good evidence that a substance induces only benign tumors. At the same time, the minimum criteria will contribute to efficient regulation by discouraging frivolous or unscientific arguments.

7. How Much Weight Should Be Placed on the Induction of a Type of Tumor Which Occurs Spontaneously in Untreated Animals?

a. OSHA's Proposal

In the preamble to the proposed regulation, OSHA discussed how much weight should be placed on experiments in which administration of a substance under test merely increases the frequency of a type of tumor which occurs spontaneously in the control (untreated) animals involved in the experiment. OSHA proposed to interpret the results of experiments showing an increased incidence of tumors in treated animals as positive evidence of carcinogenicity, regardless of the spontaneous tumor incidence in the controls, provided that the experiments were sufficiently well controlled and the increase in incidence of tumors was statistically significant.

b. The Public's Response and OSHA's Evaluation

Some witnesses and participants argued that substances which increase the frequency of a type of tumor which occurs spontaneously in the test animals should not be classified as carcinogenic *per se*, but be merely viewed as "augmenting" or "enhancing" agents, insofar as that study is concerned. However, such a view was not supported by the Record, including the expert scientific committees which have reviewed this problem as will be discussed below:

"For present practical purposes, no distinction is made between the induction of tumors and the enhancement of tumor incidence, although it is noted that there may be fundamental differences in mechanisms that will eventually be elucidated." (IARC, 1972, Vol. 1, p. 10)

and:

". . . it is not possible to differentiate clearly between initiating agents, promoting agents, and certain modifying factors. Any factor or combination of factors which increases the risk of cancer in humans is of concern regardless of its mechanism of action." (NCAB Report, 1977, p. 461)

A more substantial argument that was raised is that certain animal strains may be inappropriate for testing because of high and variable spontaneous incidence of tumors in one or more organs. This argument was made with particular reference to liver tumors in certain strains of mice, but was also made in reference to lymphosarcomas in mice, and certain other tumors. The NCAB Report cautioned against unequivocal reliance on:

*In strict parlance, the term "carcinogen" should apply only to agents which induce carcinomas. The term is used here in its broad sense, to include agents which include sarcomas, leukemias, and "benign" epithelial tumors. Some regulatory scientists also use the term "oncogen" to encompass these agents.

*Some participants, such as the National Agricultural Chemicals Association (NACA) and its witness, Dr. William Butler, argued that in some cases, such as mouse liver tumors, this disagreement is irreconcilable, because there is insufficient scientific knowledge about their biological behavior. Although OSHA does not accept these arguments, if they were correct they would imply that benign tumors could not be reliably diagnosed, so that it would be academic even to consider giving them special treatment in regulatory classifications.

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"[b]ioassays employing inbred strains of animals which develop high incidences of particular tumors in the untreated state. In some of the studies the particular characteristics of the animals and the results obtained may require additional evaluation—in other instances, such well controlled test systems may be quite satisfactory for the establishment of carcinogenicity of an agent." (NCAB Report, 1977, p. 462)

Other expert committees, however, expressed no such reservations, merely emphasizing that the spontaneous incidence of tumors be carefully recorded (Mrak Commission, 1969, p. 465; UICC, 1969, p. 17), and in some cases recommending the use of genetically inbred strains with known spontaneous tumor incidence for specific bioassay purposes (UICC 1969, p. 16; NAS Principles for Evaluating Chemicals, 1975, p. 135; FDA Panel, 1971, p. 422). It was also pointed out that where the spontaneous incidence of tumors is high or even 100%, reliable inferences of carcinogenicity can be drawn from a decrease in the latency periods or an increase in the number of tumors per animal (IARC, 1972, Vol. 1, p. 10; FDA Panel, 1971, p. 420). In such cases, the emphasis that the study be "well controlled" (NCAB Report, 1977, p. 462) is important since the incidence of spontaneous tumors may depend on age or other factors, which therefore must be maintained the same in control and treated groups.

A number of witnesses addressed this issue and a range of opinions was expressed. Dr. Francis J. C. Roe (AIHC) wrote that the use of inbred strains of mice with high spontaneous tumor incidence is equivalent to using a "dirty test tube" (Roe and Tucker, 1973). He and Dr. Robert Olson (St. Louis Univ.) argued that the substances being tested may be acting as co-carcinogens and simply accelerating an inherent neoplastic tendency (Olson, S. 15). In addition, Dr. Olson discussed a number of non-specific stimuli known or believed to influence the frequency of spontaneous tumors in the mouse. He and others argued that this "hypersensitivity" to such stimuli as diet, stress, and viruses makes it difficult, if not impossible, to distinguish between these effects and those due to carcinogens.

Dr. James Jandl (Harvard Univ.) wrote that many of these high incidence strains are higly sensitive to the induction of spontaneous tumors and that the increased sensitivity is thought to be due to defects in DNA repair, detoxification, and metabolism. Dr. Jandl concluded:

"[i]t is highly unlikely that one can place credence upon the tests conducted in rodents, particularly inbred mice and inbred rats which are quite distant from man, which have different detoxifying and metabolizing properties, which have the unpleasant habit of copropagy, and which have so short a life span that doses employed in testing them are hundreds or thousands or tens of thousands greater than those to which occupational personnel would be exposed." (Jandl, S. 36–37)

Dr. Arthur Furst (Univ. of San Francisco) stated that certain strains of test animals with high spontaneous tumor incidence should not be used for specific test purposes:

"Another area for consideration is the natural history of the spontaneous tumors found in test animals. If the controls have a greater incidence of any spontaneous tumor than is expected from historical data, this experiment cannot be valid. Other criterion should include the specific strain of the species which should not be used for an experiment. For example, if mammary tumors are to be expected, the C3H mouse cannot be used; if pumonary tumors are to be investigated, strain A mice cannot be used; if testicular tumors are anticipated, then Fischer–344 rats cannot be used. This means that no single species or strain can become standard for all animal bioassays." (Furst, S. 22–23)

On the other hand, Drs. Robert Snyder and Anthony Triolo (American Iron and Steel Institute) expressed an opposite viewpoint:

"For a given strain of mouse, the susceptibility of a given target organ to the induction of tumors by chemicals seems to parallel the spontaneous frequency of tumors in that organ (Shimkin, 1940). When a tumor is described as being spontaneous, it means that the causes are unknown. For example, the A/J strain of mouse has a high incidence of spontaneous lung tumors (up to 78%) reaching its maximum at 20 months of age. In this strain of mouse, the latency is shortened and the incidence of tumors and the number of individual tumors per animal are increased following the administration of various tumorigenic alkylating agents (Shimkin, *et al.*, 1966). By contrast, the C57 black strain of mouse has a low spontaneous rate of lung tumor formation and tends to be resistant to the induction of lung tumors after exposure to chemical agents."

"Thus, if carcinogenic activity were being tested in the C57 strain after administration of a chemical capable of inducing lung tumors, the data would most likely suggest that the chemical was not carcinogenic. On the other hand, a similar test conducted in the A/J strain of mouse could very well show a carcinogenic effect for lung. Also, if the B6C3F1 mouse were used as a test animal, as suggested in "Guidelines for Carcinogen Bioassay in Small Animals" (Sontag *et al.*, 1976), tumors induced by chemicals in the mammary glands, spleen, pancreas, urinary bladder, ovary, uterus, adrenals and thyroid might go undetected due to the low spontaneous tumor incidence at these target organs in this particular strain of mouse (Page, 1977)." (Snyder and Triolo, S. 24–25)

Dr. Philippe Shubik (Eppley Institute, Univ. of Nebraska) took issue with NCAB's position, quoted above, that no practical distinction should be made between induction of tumors and the enhancement of tumor incidence:

"This categorical stand (apparently adopted for "policy" rather than scientific reasons) is again out of date. The NCAB subcommittee listed several pointers "to potential carcinogenicity—which require additional studies before they can be extrapolated to man." These include "Bioassays employing inbred strains of animals which develop high incidences of particular tumors in the untreated state." It would seem to be a matter of common sense to distinguish between an experiment in which a leukemia incidence of say 95% in the control animals was merely a change in the latent period and occurred a month early and another in which the experimental animals developed bladder cancers and the controls developed none." (Shubik, S. 19–20)

However, the NCAB Subcommittee did not make such a statement. The Subcommittee actually stated that such methods "*may* require additional studies before extrapolation to *particular conditions of human usage* can be made." The Subcommittee also stated that only *some* of these bioassays "may require additional evaluation—in other instances, such well controlled test conditions may be quite satisfactory for the establishment of carcinogenicity of an agent." (NCAB Report, 1977, p. 462)

Dr. William Butler (NACA) made the following statement:

"At the present moment, an animal with a high spontaneous incidence of a specific lesion, which may be modified by treatment by an exogeneous chemical, would be an inappropriate species. An increase of a neoplasm of already high incidence gives no confidence that the agent has induced a neoplasm. There is no validity in the suggestion that animals showing a very low or nil incidence of a neoplasm are not susceptible to induction of that neoplasm." (Butler, S. 15)

Other comments expressing the opinion that it is inappropriate to base conclusions upon increased incidence of tumors that occur spontaneously were made by Dr. H. G. S. Van Raalte (AIHC), S. 16, Dr. Frank C. Lu (Univ. of Miami), S. 6, and Dr. Johannes Clemmesen (Danish Cancer Registry), S. 8.

Many other scientists, however, have expressed the view that species with high spontaneous evidence of tumors are appropriate for bioassay purposes and this was the view of three expert committees. Only the NCAB Subcommittee expressed even partial reservations about the use of strains of animals with high incidences of spontaneous tumors.

A number of distinguished witnesses at the hearing expressed support for the position of the expert committees. Dr. Arthur Upton (Director, NCI) testified at length on this issue:

"Arguments are sometimes made that certain types of animal models, as certain methods of testing, have limited relevance to predicting the potential for human risk. Although these arguments are often scientifically trivial, they have sometimes generated considerable heat in cases where these methods of testing show the carcinogenicity of economically important chemicals. I would like to comment on two of these arguments, on which OSHA invited comment in its proposal."

"1. Objections are sometimes raised to the use of a mouse as a test animal, especially when a chemical gives rise to an increase only in liver tumors. One argument that is made to support such objections is that mice have an "unacceptably" high spontaneous incidence of liver tumors. There are several reasons why such an argument is untenable. Apart from the fact that the use of the mouse has been universally endorsed by expert committees and regulatory agencies, mouse liver tumors, in fact, appear to be a good model for at least certain types of human cancer. Several agents known to be carcinogenic in humans also induce tumors in the mouse liver, although in most cases they affect predominantly other organs in humans.

"More generally, the apparent susceptibility of mice to liver tumors should not make the mouse inappropriate for use in testing. It is elemental in carcinogenicity testing that not all mammalian test species—be they mice, rats, hamsters, others—show the same incidence of spontaneous tumors. Some strains and species are more susceptible than others, and picking an appropriate test strain is a fundamental consideration in planning a carcinogenicity test. In general, the strain chosen should have a good susceptibility to carcinogens, and one reason that the mouse is a good test animal is that we have more knowledge of the mouse and more inbred strains of the mouse to work with than is the case with other test species. I find it somewhat misleading, therefore, to speak of a test *species* as exhibiting particular characteristics, since through genetic breeding we have established diverse strains within species, each differing in its characteristics from others.

"2. A related argument is that less weight should be placed on results obtained in strains of animals in which there is a high spontaneous incidence of the type of tumor induced by the compound. The argument may be paraphrased as follows: Even if an increased incidence of tumors is found in test animals after exposure to a particular compound, one cannot properly infer the test agent "caused" the induction of such tumors; one can state only that a statistical association was demonstrated between administration of the compound and the elevated incidence of tumors; one must know the mechanisms by which a carcinogenic response is elicited before one can speak to the question of "causation" or label a test compound a "carcinogen".

"I do not subscribe to this position. In carcinogenicity testing today we base findings of carcinogenicity on precisely recorded experimental comparisons of treated and untreated groups of animals, and I believe it not only proper but important that we do so. Given our present state of knowledge concerning the mechanisms of carcinogenicity, it may be some time before we can reliably establish the entire pathway from administration of a carcinogenic agent to the appearance of a carcinogenic response. To require that such a pathway be established in detail before an agent can be labelled "carcinogenic" would be to adopt the ostrich-like position of ignoring facts which constitute obvious warning flags for human health."

* * * * *

"Because of incomplete knowledge concerning mechanisms, I also do not believe that distinctions between "carcinogens" and "co-carcinogens", or between "causative agents" and "enhancing agents" can be considered relevant today when ascertaining hazards to human health arising from carcinogens. In safety testing of carcinogens today, we are concerned with one question: "Does exposure to the test agent result in a significant induction of tumors in exposed populations as compared to controls?" If so, then the test agent has elicited a carcinogenic response and must, therefore, be considered potentially hazardous to human health. Precise knowledge of the mechanism of action of the carcinogen or possible co-factors in the host animal is not required for preventive action unless and until we know that similar co-factors are not also found in man. Until we have such knowledge, it is difficult to make practical distinctions between "carcinogens" and "co-carcinogens" and between "causative agents" versus "enhancing agents." (Upton, S. 13–17)

Dr. Robert Squire (Johns Hopkins Univ.) explained:

"Tumors that normally occur with a high or variable incidence are more likely than others to be misinterpreted, because of statistical type I errors, as positive results of the exposure (Fears, 1977; Hoel, 1977). Examples include liver, lung, and hematopoietic neoplasms in certain strains of mice. Even at these sites, however, carcinogenic effects may be clearly demonstrated by obvious increases in tumor incidences or decreases in latency periods." (Squire, S. 12)

Dr. Bernard Weinstein, (Columbia Univ.) agreed that a well controlled study is able to predict a carcinogenic risk for man. A high level of spontaneous tumors only results in a loss of sensitivity for detecting a carcinogenic effect.

Dr. Walter Heston (NCI) stated:

"[w]hile it is true that such enhancement may come about by mechanisms many which are not relevant to humans, it is also [true] that the same [or] related mechanisms may indeed operate in humans. Moreover, it is not known whether human tumors which do appear are "spontaneous," chemically-induced, or the result of chemical enhancement of a neospontaneous state in otherwise normal cells. Thus, I feel that a reproducible chemical enhancement of spontaneously occurring tumors can be considered as evidence that the chemical is hazardous to man—the chemical may indeed be carcinogenic in man." (Heston, Post-hearing Comment, p. 24)

As pointed out by Dr. Heston, many of the non-specific stimuli mentioned by Dr. Olsen have been implicated in human carcinogenesis. The role of diet in human cancer was discussed by Armstrong (1977) who listed four possible mechanisms by which diet can influence human carcinogenesis:

"Recent interest in the role of diet in human carcinogenesis has arisen from experimental studies of diet and cancer in animals (reviewed by Clayson 1975), descriptive epidemiologic studies showing correlations between national cancer rates and consumption of foodstuffs (reviewed by Armstrong and Doll 1975), studies of changes in cancer incidence and dietary habits with migration (Haenszel and Kurihara 1968), and analytic studies relating cancer risk to the dietary habits of individuals (for example, case-control studies in the Hawaiian Japanese; Haenszel et al. 1973).

"The following is suggested as a classification of possible mechanisms for the role of diet in human carcinogenesis:

1. Ingestion of carcinogens or carcinogen precursors.
2. Effects on the production, activation, or inactivation of carcinogens by the intestinal flora.
3. Effects on the endogenous production, activation, or inactivation of carcinogens.
4. Effects on tissues to alter their susceptibility to carcinogenesis.

"Epidemiologic data are available which illustrate with varying degrees of certainty each of these possible mechanisms." (Armstrong, 1977, p. 557)

However, we are far from being able to predict when and under what circumstances these interactions will occur in humans. The situation is no different with experimental animals.

Dr. John Berg (Colorado Regional Cancer Center) also made this point when discussing the complexity of human carcinogenesis:

"Bowel cancer undoubtedly is related in some way to diet. We don't yet know the carcinogen involved, though several candidates are under investigation. We do know, however, that bile acids are good *promoters* of colon carcinogenesis, that fat in the diet increases the output of bile acids and that bowel cancer around the world is highly correlated with fat intake. We also know that bowel cancer risk, other things being equal, is lowered in people who eat more fruits and vegetables. We also know the vitamin C and naturally occuring food constituents act as antioxidants to reduce the activity of carcinogens, so we have identified some tertiary factors affecting bowel cancers (the promoters are secondary factors). Finally we

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have reason to believe that, given the same intake of carcinogens, the same level of promoters and of antioxidants, increasing dietary fiber may slightly lower cancer risk. We don't know yet which factors will be easiest to change or which changes will have the biggest influence on risk but we do know that the combination is far more deadly than any single substance." (Berg, S. 16)

Dr. Berg also noted that correlations of this sort also exist for cancer of the stomach, esophagus, and prostate.

The thesis presented by Dr. Olson and others, that mice of high incidence strains are uniquely susceptible to these influences is therefore unacceptable. Many witnesses agreed that certain strains or species of animals are genetically predisposed to cancer. What was not so readily recognized is that similar situations exist for human cancers. Epidemiological studies of cancer incidence in human populations indicate a relationship between genetic susceptibility and the appearance of various types of cancers. Dr. Robert Squire (Johns Hopkins Univ.) listed several examples of this interaction:

"Examples include leukemia, Wilm's tumor, retinoblastoma, and skin cancer. Evidence of familial predisposition to breast cancer, certain endocrine gland tumors, and colon cancer also exists (Mulvihill 1975; Kellerman 1977). These genetically predisposed cancers represent only a small proportion (1–2%) of the total human cancer burden (Knudson 1977). However, there is also reason to be concerned about interaction between environmental factors and genetic predisposition in segments of the population. An example is the association between genetically determined aryl hydrocarbon hydroxylase inducibility and bronchogenic carcinoma (Kellerman 1977)." (Squire, S. 4)

Dr. David Kaufman (Univ. of N. Carolina) also referred to genetic effects on "spontaneous" tumor incidence in man:

"An individual's genetic inheritance also appears to have a significant role in determining risk to malignancy. It is clear that individuals with genetically acquired diseases such as xeroderma pigmentosa, ataxia telangiectasia, Fanconi's anemia, and familial polyposis of the colon, to name but a few, are at increased risk to various neoplasms (37). Since individuals who are homozygous and manifest the symptoms of the first three diseases cited are rare and generally die young, they are unlikely to be members of the work force. The pool of individuals who are heterozygous and carry the recessive gene responsible for Fanconi's anemia and ataxia telangiectasia are not rare. It has been estimated that approximately 1% and 0.3% of populations within the United States are heterozygous carriers of the genes of ataxia telangiectasia (38) and Fanconi's anemia (39). Epidemiologic studies have shown that individuals who carry these recessive genes are at an increased risk for the development of malignant tumors (36, 39). Unfortunately, individuals carrying these recessive traits are now only detectable by their familial relationship to a homozygous individual suffering from these diseases. Thus, no predictive test is available for their identification. The cited examples are but a few of the more numerous genetically determined diseases which have been associated with an increased risk of malignancy. It is not difficult to imagine that these are manifestations of only the more obvious genetic variations in the human population. It is plausible that the variability in familial risks of malignant disease is, to some degree, related to a variety of genetic properties as yet unidentified." (Kaufman, S. 16–17)

Dr. Walter Heston (NCI) also pointed out that susceptible genotypes exist in the human population. It has been shown that lung cancer is aggregated in families independently of smoking habits. He stated:

"[t]his is evidence that genetic predisposition to cancer, much like what we have observed in inbred strains of mice, may be critical in the chemical induction of cancer in humans." (Heston, Post-hearing Comment, p. 25)

Therefore a large amount of evidence supports the idea that cancer in both humans and animals may arise due to the exposure of susceptible individuals to carcinogens. The fact that a particular strain of mice has a high spontaneous tumor incidence should not disqualify it from being used to identify carcinogens. Induction of tumors in such an animal is no less relevant for the purpose of identifying carcinogens than the use of a low resistance strain. This was illustrated by a study described by Dr. Heston:

"Lynch (1943) studied the relationship of spontaneous lung cancer and induced lung cancer in three mouse strains. The three strains were selected because they represent strains with high, medium, and low spontaneous tumors of the lung. Strains and their spontaneous lung tumor rates were: Swiss inbreds (predecessor of the SWR strain): 46.1%; Bagg (inbred predecessors of the BALB/c strain): 26.3%; and strain 1194, 4.6%. These strains included mice of all ages. Mice were injected intraperitoneally with 0.125 mg of a 0.4% solution of 1,2,5,6 dibenzanthracene in olive oil at 2 to 4 days of age. Induction of lung tumors was found to be related to the susceptibility of each strain to spontaneous tumors. Thus, in Swiss mice, 100% of the mice showed from 24 to 86 lung tumors/mouse 65 to 75 days after injection. The Bagg mice showed 100% incidence with 27 to 61 tumors per mouse 210 days after injection, and strain 1194 mice showed a 50% incidence, with no mouse having over 5 tumors, 175 to 210 days after injection. Thus the carcinogenic effects of dibenzanthracene were seen in all three strains, but the Swiss mice were the most sensitive indicators of carcinogenic activity." (Heston, Post-hearing Comment, pp. 25–26)

Two additional points were made in testimony and exhibits at the hearing. First, as suggested by Dr. Heston above, recent studies of the mechanisms of cancer induction suggested that animals with relatively high spontaneous tumor incidence may in fact be *more* appropriate for assaying potential carcinogens than animals with low or zero spontaneous incidence:

"One practical implication of the fact that different carcinogens share many mechanistic steps is that enhancement of certain carcinogenic processes may have a more readily detectable effect on cancer incidence in animals with high background levels of all other carcinogenic processes. Therefore carcinogenicity tests of various substances should possibly include tests on high spontaneous incidence strains or experiments to see whether the test substance enhances the carcinogenic effect of a standard carcinogen." (Crump *et al.*, 1976, p. 2977; Annex C(a) to Peto Statement)

Second, for statistical reasons, the use of animals with high spontaneous incidence is likely to lead to false negative results rather than false positives:

"Any animal that has a high incidence of "spontaneous" tumors should be regarded as unsatisfactory. Not only is a positive result more difficult to establish in statistical terms unless large numbers of animals are used, but a positive result may fail to be elicited, thereby producing a false negative result. This is the most serious error of any system for detecting carcinogenic activity. (Crampton, S. 6)

* * * * *

"Spontaneous tumors occur at different sites in virtually every species and strains thus far tested. The organs affected and numbers of tumors vary. The inbred strains developed by researchers have been either to increase sensitivity or to avoid certain inherent weaknesses such as spontaneous tumors and diseases not related to the chemical. From a purely statistical standpoint, animal studies that have a low spontaneous incidence of cancer in a target organ of concern are preferred." (PPG, S. 26)

c. OSHA's Conclusions

Based on review of the evidence in the Record, OSHA finds no scientific reason to modify its original proposal on this issue. OSHA believes that because it was not as clear as it might have been that OSHA intended that results in animal testing were to be statistically reviewed for significance in all cases, many participants may have replied to this issue and perhaps over-emphasized the issue concerning the use of animals with high rates of spontaneous tumors. In any event, although some scientists may prefer results obtained in strains of animals with low spontaneous tumor incidence, for statistical and other reasons, OSHA believes that results obtained in high incidence strains are valid indicators of carcinogenicity, provided that the experiments are well controlled and the observed increases in tumor incidence are statistically significant. OSHA will consider evidence that the tumor incidence and rate of development are related to random variation within a control range when good data are available for control animals of the strain under consideration from the laboratory reporting the test results. Indeed, because a species of animal has a very low or zero spontaneous incidence of tumors at various sites, this may indicate that it is resistant to the induction of tumors at these sites by carcinogens, and hence would be unsuitable as an experimental subject and for this reason, the use of positive controls in carcinogenesis bioassays has been recommended by some expert committees (Mrak Commission, 1969, p. 467). As in other aspects of evaluation of experiments, interpretation of such data requires the exercise of good scientific judgment which includes the determination and review of statistical and biological significance. Thus, OSHA's Cancer Policy specifically provides in section 1990.143(e):

"(e) *Spontaneous tumors.* Positive results in human or mammalian studies for the induction or acceleration of induction of tumors of a type which occurs "spontaneously" in unexposed individuals, will be used for the qualitative identification of potential occupational carcinogens."

8. Routes of Administration

a. OSHA's Proposal

In the preamble to the proposed regulation, OSHA specifically requested the public participants to the rulemaking to address the question:

"Which routes of exposure of experimental animals are to be considered appropriate for extrapolation to man?"

Specific attention was drawn to this question because occupational exposure to carcinogens may often be either by way of dermal or inhalation exposure, whereas studies with experimental animals often involve other types of exposure or administration, such as oral exposure, or in some cases exposure by skin painting or injection. In the proposed regulation, OSHA proposed to utilize positive results for carcinogenic activity obtained from most routes of exposure, with the specific exception of carcinogenesis resulting from injections or implantations, in which the tumors are induced only at the site of application. OSHA stated that it intended to consider each case on its merits, subject to the following guiding principles:

"(1) Oncogenic effects resulting from dermal, inhalation, injection (with tumors at distant sites) and oral exposure (including gavage or intratracheal instillation), shall be regarded as directly relevant to occupational exposure, except in special circumstances;

(2) Carcinogenesis resulting from injections or implantations, in which the tumors are induced only at the site of application, shall generally be regarded as irrelevant to occupational exposure, except where the substance is distributed systemically or in other special circumstances." (42 FR 54164)

b. The Public's Response and OSHA's Evaluation

The general issue raised was whether a positive result obtained in an experiment with animals exposed by one route of administration justifies an inference of carcinogenic hazard to humans who might be primarily exposed by another route of exposure. If so, the next question becomes whether all routes of exposure provide equally valid evidence for drawing inferences of carcinogenicity, or whether some routes of exposure are to be regarded as inappropriate? The specific issues as addressed in the proceeding were the following:

1. Is the general proposition correct, that a positive result obtained in an experiment with animals exposed by one route justifies an inference of carcinogenic risk to humans exposed by another route, or, in the alternative, should OSHA utilize data only from experiments in animals exposed by the same route as that of occupational exposure?

2. Should weight be placed on the induction of tumors at the site of injection or implantation, and if so, in what circumstances?

3. Are there routes of exposure that can be categorized as just inappropriate in the determination that a substance poses a potential occupational hazard to humans?

(1) Are most routes of administration appropriate?

Most witnesses expressed support for the proposal as it related to the qualitative identification of a carcinogenic hazard. A number of witnesses expressed support for the general proposition that positive results obtained by various routes of exposure can be used as the basis for determination of carcinogenicity and for extrapolation to infer risk to humans or animals exposed by other routes.

For example, Dr. Richard Griesemer (NCI) stated that:

"There is no unique route of exposure for animals that must be employed for the results to be relevant to predicting human risks." (Griesemer, S.8)

He further stated:

"When the objective of the experiment is to determine the capability of the chemical to produce cancer, the appropriate route of exposure is the one in which it is demonstrated that the chemical has reached all the parts of the body." (Griesemer, S. 8)

Dr. Benjamin Van Duuren (NYU) cited four examples from his own work which indicate that a substance found carcinogenic by one route characteristically is carcinogenic when tested by another route. The examples were chloromethylmethyl ether (CMME), bis-chloromethyl ether (BCME), epichlorohydrin, and dimethyl carbamoyl chloride (DMCC):

"Each of these compounds was first shown to cause squamous carcinoma when applied to the skin of mice and sarcomas in mice exposed by intraperitoneal and subcutaneous injection. In subsequent inhalation exposure studies, CMME and BCME caused squamous carcinoma of the bronchial epithelium in rats; epichlorohydrin and DMCC caused squamous carcinoma of the nasal epithelium. CMME and BCME are now accepted as human carcinogens (lung cancer) because of the results of epidemiologic studies" (Van Duuren, S.6, references omitted)

Dr. Van Duuren (NYU) during his oral testimony reaffirmed this position:

"It is desirable but not always that important. And I can cite you several examples of this. Epichlorohydrin is a very widely used industrial chemical. We show that it does not cause skin tumors in mice; it did cause sarcomas by subcutaneous injection in our own laboratory, and was subsequently shown in our Institute by inhalation to cause nasal epithelium carcinomas in rats by inhalation exposure. And therefore, the route of exposure, while it is desirable to have it the same as what the industrial exposure is, is not necessarily the critical factor." (Van Duuren, Tr. 1813)

Dr. Bo Holmberg (Swedish NBOSH), after considerable discussion of data regarding similarity of results among different routes of exposure for animal models anddhuman exposures, commented:

"No route of administration is *a priori* irrelevant to occupational exposure . . . as soon as a target dose high enough to produce cancer in a limited number of animals is obtained by one route of administration or another, the substance should be regarded as posing a cancer risk." (Holmberg, S. 24–25)

Dr. Lorenzo Tomatis (IARC) commented:

"The use of the same or similar routes of administration can result, although not consistantly, in tumors occurring at the same target organs in different species. The available evidence of human carcinogens indicates, however, that chemicals found carcinogenic to man were carcinogenic to animals when given by a variety of routes, most of them different from that by which humans are exposed." (Tomatis, S. 5)

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In fact, Dr. Tomatis presented a table in one of his references (Tomatis, *et al.*, 1978, Appendix 5 to Tomatis Statement) which shows that 18/26 or 69% of the known human carcinogens have been tested by subcutaneous injection, intramuscular injection or intraperitoneal injections with positive results. His table, partially presented below, compares target organs and routes of exposure in animals and humans.

Compound	Animal species	Route of exposure in animals/in humans
Aflatoxins	Mouse, Rat	i.p., s.c.-oral/inhalation.
4-aminobiphenyl	Mouse, Rat	s.c.-oral/inhalation.
Asbestos	Rat only	i.p., s.c.-oral/inhalation.
Auramine	Rat only	s.c.-oral/inhalation.
Benzidine	Mouse, Rat	s.c.-oral/inhalation.
Bis(chloromethyl) ether	Rat only	s.c.-inhalation.
Cadmium	Rat only	s.c., i.m.-oral/inhalation.
Chloromethylmethyl ether	Rat only	s.c.-inhalation.
Chromium	Mouse, Rat	s.c., i.m.-oral/inhalation.
Cyclophosphamide	Mouse, Rat	s.c., i.m.-inhalation.
Diethylstilbestrol	Mouse, Rat, Hamster, Squirrel, Monkey.	s.c. (impla.), s.c. oral.
Hematite	Rat only	s.c.-inhalation.
Melphalan	Mouse, Rat	s.c.-oral, injection.
Mustard Gas	Mouse only	s.c.-inhalation.
2-Naphthylamine	Mouse only	s.c.-oral inhalation.
Nickel (implantation)	Mouse, Rat, Hamster	s.c., i.m.-inhalation (impla.).
N,N-Bis (2-chloroethyl) 2-naphthylamine	Rat only	s.c. oral.
Phenytoin	Mouse only	i.p.-oral injection.

NOTES

(i.p. = Intraperitoneal injection.
S.c. = Subcutaneous injection (unless otherwise noted).
I.m. = Intramuscular injection (unless otherwise noted)".
(Tomatis, *et al.* Appendix 5 to Tomatis Statement, pp. 879–880.)

Many witnesses agreed that experimental animal bioassays conducted by inhalation, dermal, or oral routes of exposure, while the likely human exposure is by a different route, are appropriate for qualitatively identifying the carcinogenicity potential to humans. These witnesses included Dr. Arther Upton (Director, NCI), Tr. 324–325, Dr. David Rall (Director, NIEHS), Tr. 485, Dr. Donald Kennedy (Commissioner, FDA), Tr. 579–580, Dr. Renate Kimbrough (CDC), Tr. 1788, and Mr. Richard Peto (Oxford Univ.), Tr. 2521.

On the other hand, several witnesses expressed the opinion that experiments in animals should be conducted by the same routes of exposure as those by which humans are exposed. These witnesses included Dr. Carroll Weil (Carnegie-Mellon Univ.), S. 2–3; Dr. George Claus (AIHC), S. 12–13; Dr. Roy Albert (EPA), Tr. 2390; Dr. Francis J. C. Roe (AIHC), S. 76; and Ethyl Corporation, S. 17–19. However, it is not clear from the context of these comments that any of the witnesses was referring to the situation of direct concern to OSHA, *viz.* the qualitative interpretation of positive results in an animal experiment already conducted. For example, Dr. Carroll Weil of Carnegie-Mellon Institute of Research commented:

"Effects obtained by one route of administration to test animals are not a priori applicable to effects by another route of administration to man. The routes chosen for administration to test animals (in experiments to predict the degree of safety of a material for man) should, therefore, be the same as those to which man will be exposed. (Weil, S. 2–3)

This statement explicitly refers to experiments conducted "to predict the degree of safety of a material for man", and not to the use of a positive result to infer hazards. OSHA agrees that it may be appropriate to require testing by the same routes as those by which humans are exposed if the purpose of the testing is to establish the *safety* of a material. This viewpoint was expressed by the Surgeon General's "expert" Ad Hoc Committee in 1970:

"No chemical substance should be assumed *safe* for human consumption without proper *negative* lifetime biological assays of adequate size. The minimum requirements for carcinogenesis bioassays should provide for: adequate numbers of animals of at least two species and both sexes with adequate controls, subjected for their lifetime to the administration of a suitable dose range, including the highest tolerated dose of the test material by routes of administration that include those by which man is exposed. Adequate documentation of the test conditions and pathologic standards employed are essential." (NCI Ad Hoc Committee 1970, p. 1, emphasis added; Exhibit 10(b) to Epstein Statement)

However, it would not follow that a positive result by any route should be deemed irrelevant.

Dr. George Claus (AIHC) cited certain substances which have been reported to be positive by one route in animal testing but negative when tested by another route (S. 12–13). Dr. William Lijinsky (NCI–FCRC) similarly cited polynuclear hydrocarbons as being negative by oral administration in mice while positive by skin application (S. 20).

However, such findings would not support an inference that the positive results were irrelevant to prediction of human risk. Rather, they would indicate that false negative results can be obtained with certain routes of exposure, so that testing by multiple routes would be necessary to provide reasonable assurance of safety (as indicated by the Ad Hoc Committee in the recommendation cited above.)

If it were practicable, it would be desirable to test chemicals by the routes of exposure most similar to those by which humans are exposed; by this means the most direct comparisons would be facilitated, at least so far as quantification of risk is concerned, discussed below. Several witnesses supported this general position during the hearings: Dr. Van Duuren (NYU) S. 5; Dr. Albert (EPA) Tr. 2386, 2390, NIOSH, Appendix *C*, p. 14, 15; Dr. Furst, S. 7; Dr. Weil (Carnegie-Mellon) S. 2–3; Stauffer Chemical Co., S. 3; Dr. Roe, S. 76. However, in occupational situations, workers are frequently exposed by multiple routes, usually by both dermal and inhalation routes and sometimes also by ingestion.

Dr. Bo Holmberg (Swedish NBOSH) commented further:

"Another reason for taking subcutaneous injections and similar routes of administration seriously is that many substances may penetrate the intact skin during occupational handling in amounts sufficient to induce cancer. The penetration of chemical substances additionally may be greatly enhanced by skin injuries or skin diseases, conditions which are common in industrial work. Experimental studies where carcinogens are administered by subcutaneous or intramuscular injections are very close models to that practical situation." (Holmberg, S. 23)

Dr. Griesemer (NCI) commented:

"It should be noted, though, that for most chemicals man is exposed by multiple routes, most commonly by inhalation and dermal exposure in the workplace and by ingestion in the home. It may be noted, too, that the majority of inhaled particulates cleared from the lung are subsequently swallowed and that volatile chemicals (e.g. kerosene) may reach the respiratory tract after they are swallowed." (Griesemer, S. 7–8)

It would be very difficult in practice to design a bioassay in which animals were exposed by the combination of routes that would exactly match the human exposure. In any case, the issue facing OSHA is not the design of the most appropriate bioassay, but the interpretation of reported results of bioassays conducted in the past. Comparatively few substances have been tested for carcinogenicity by the inhalation route and it would not adequately protect employees for OSHA to limit its regulatory activity to these substances because evidence strongly indicates that other routes of exposure in animals accurately predict human response to carcinogens. This point was addressed in 1970 by the Surgeon General's Ad Hoc Committee:

"The present state of the art requires long-term biossays in mammalian species for the experimental identification of carcinogenic activity. United States law requires that food additives and various other materials be tested in animals by the intended route of human exposure. Similar tests have not been required for some materials to which humans are exposed by other than the oral route. The expanding production and use of chemicals in household products results in extensive human exposure (via the skin and respiratory tract) to dusts and aerosols; little information is available on the chronic toxicity of these materials by these routes of administration. It would not be wise to wait for the results of these "experiments in man" before instituting animal experimentation." (NCI Ad Hoc Committee, 1970 p. 6, Exhibit 10(b) to Epstein Statement.)

In any case serious scientific questions were raised during the rulemaking as to whether inhalation experiments on animals in fact constitute the most appropriate model for predicting carcinogenic risks to humans exposed by inhalation. Dr. Holmberg commented:

"The inhalation route of exposure in animal experimentation is generally considered most relevant to the occupational routes of entry of chemicals. It is, however, to be observed that inhalation studies in small rodents with polycylic hydrocarbons (PAH) generally have given negative results (Laskin and Sellakumar, 1974), although benzo (a) pyrene and other PAH's in tobacco smoke and in general air pollution are accepted as representing a human lung cancer risk. The results in the experimental studies are negative because the anatomy and the physiology of the rodent respiratory system do not allow the PAH to build up a lung tissue dose large enough for a sufficiently long time to permit the development of tumors in a limited number of animals. By intratracheal instillation or intrapulmonary implantation of the carcinogenic PAH's however, lung tumors are easily induced in experimental animals. If one completely discards experimental data obtained by subcutaneous injection, intramuscular, intravesicular or intrapulmonary implantation and similar routes of administration one is ignoring the fact that it is the target dose of the carcinogen which matters in cancer formation." (Holmberg, S. 24.)

Dr. David Kaufman (Univ. of N. Carolina) presented in detail the results of his own experiments involving intratracheal instillation of benzo(a)pyrene and/or ferric oxide in rodents (Kaufman, S. 10–12). His results provide detailed illustration of Dr. Holmberg's point that intratracheal instillation is an appropriate model for inhalation exposure of humans, because it permits the achievement of an adequate dose to the target issue.

Dr. William Lijinsky (Director, NCI–FCRC) also commented on one of the major drawbacks of inhalation as a route of exposure for animal testing:

"In the case of inhalation, it is impossible to achieve the goal of the standard test for carcinogenicity of applying the maximum tolerated dose. The maximum tolerated dose by inhalation is likely to be much lower than the maximally tolerated dose by feeding because inhalation involves a pathway of exposure. As a gas —, if the compound is a gas, which means that the density of the compound, the concentration of the compound, is low, it also involves the factor of toxicity by the inhalation route due to the particular biological nature of the compound. There are many compounds that are toxic by inhalation and much less toxic by feeding. Inhalation involves passage into the lungs. The substance might have a local effect on the lungs or the nasal passageways which would restrict the concentration you could apply to the animal. And I think that as a test method, inhalation is poor in testing for safety because of this restriction." (Lijinsky, Tr. 1081–1082.)

Dr. Griesemer similarly commented:

"Some routes of administration are less effective in animals because the dose that can be administered is limited, but this is not necessarily so in man. Therefore, in our animal tests, we usually administer the chemical by feeding because in that way we can apply a satisfactory dose." (Griesemer, Tr. 1020)

Dr. Samual Epstein (Univ. of Ill.) also commented on this issue:

"I would not be happy to develop negative inferences from carcinogenicity tests based on skin painting, because it is difficult to get an accurate dose into an animal by skin painting. I think that ideally one would like to see a mixture of two types of tests, feeding as a standard method of administration of substantive quantities of agents to an animal, and also inhalation. I think the inhalation experiments would be useful in certain defined circumstances, but I think the feeding is an adequate method of getting a range of doses into an animal, extending up to a maximally tolerated dose." (Epstein, Tr. 1367)

NIOSH explained other problems of inhalation testing:

"First of all, there is no equivalent to the olfactory pathway in man. Secondly, animals do not breathe through their mouth, which man does, so there are obvious differences between man and animals. * * * Also, obviously the particle size is important. Man may be able to take in larger particles than animals and it may reach different levels of the respiratory tree in man as opposed to animals." (NIOSH, Tr. 2040–50)

Thus, because of these inherent differences in the respiratory system between humans and animals, NIOSH agreed that if an experiment were limited to the inhalation route alone, the possibility of producing a false negative result would be increased.

2. Subcutaneous and Implantation Testing

There was considerable discussion in the Record of the appropriateness of experiments involving subcutaneous injections and implantations in evaluating human risk, and a wide range of opinions was expressed. In general, there were few substantial objections to the use of injections or implantations as a route of administration, provided that the material is distributed systemically and gives rise to tumors at sites distant from the point of injection. For example, the tabulation by Tomatis referred to above (Tomatis, *et al.* 1978, pp. 879–880; Appendix 5 to Tomatis Statement) shows that a number of substances known to be carcinogenic in humans have been shown to be carcinogenic in certain animal species, primarily by the

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injection route. Dr. Arthur Furst (Univ. of San Francisco), in presenting a review of carcinogenic effects of metals (Furst and Haro, 1969; Appendix 1 to Furst Statement), stated as one of his proposed criteria for identification of carcinogens:

"The tumor induced should appear at a site distant from the site of application of the metal." (Furst, S. 2)

A paper by Dr. Michael B. Shimkin (Shimkin and Stoner, 1975: API Post-hearing Comment) which was introduced into the Record presented a review of a carcinogenesis bioassay technique involving the exposure of young strain A mice to chemicals by intravenous injections, with the subsequent observation of lung adenomas. The conclusion of his paper was:

"The lung tumor response in strain A mice is easily and clearly positive to all major types of chemical carcinogens. Estrogenic and other steroid hormones, with the targets of endocrine-regulated tissues, are an exception.

"The lung tumor of the mouse has demonstrated its ability to pick up undetected, unpredicted neoplastic responses, such as to urethane and to isoniazid. The carcinogens picked up by the lung tumor system, without exceptions known to us, have been shown to be carcinogenic for other tissues and in other species of animals. Although lung tumors are the earliest neoplasms induced by urethane, for example, further work showed the compound to be an intriguing multipotential carcinogen." (Shimkin and Stoner, 1975, p. 46–47; Hearing Exhibit 219)

The point at issue is, thus, not the appropriateness of exposure by injection, but the significance to be attached to the induction of tumors *only* at the site of injection or implantation. Some comments asserted that little or no weight should be placed on injection or implantation site tumors. For example, Standard Oil commented:

"Implantation site tumors may be first stage warnings of possible hazard and indicate the need for further testing; but unless tumors can be produced by inhalation, dermal, or oral routes, it is wrong to regulate the substance as a carcinogen." (Standard Oil, S. 13)

The NCAB Subcommittee report stated that:

"The criteria for extrapolation may vary depending on the agent in question. For example, demonstration that a compound only produces subcutaneous sarcomas in rodents may be relevant to a drug that will be injected subcutaneously in humans, but such animal data may not necessarily be appropriate in assessing the risks associated with a substance that humans will only receive orally. Because of the limitation inherent in animal bioassays, a negative result obtained in a particular animal bioassay does not exclude the potential carcinogenicity of a compound in humans. The inappropriate experimental species may have been chosen: the number of animals tested may have been too small; or the duration of observation may have been too short. Alternatively, test conditions may have been inappropriate in terms of their predictive value for the response of humans. The extrapolation of experimental carcinogenicity data to the human situation is strengthened by obtaining results in more than one species. Negative results obtained in one species do not, however, detract from the significance of clearly positive results obtained in another species." (NCAB Report, 1977, p. 463; Exhibit B to Weinstein Statement)

Dr. Samuel Epstein (Univ. of Ill.) stated in response to a question:

"Well, I would say that certain kinds of tests are not necessarily appropriate for occupational carcinogens, and I would not be willing to make formal extrapolations under most circumstances upon carcinogenicity data based on subcutaneous administration." (Epstein, Tr. 1367.)

However, other witnesses commented on the significance which should be attached to local tumor induction. In fact several witnesses provided detailed comment and discussion of this problem. Dr. Francis J. C. Roe (AIHC) commented:

"The statement that 'Tumors induced only at the site of application are generally irrelevant to occupational exposure unless the substance is distributed systemically' is manifestly wrong. The production of skin cancer by inadequately refined mineral oils does not depend on their systemic distribution, nor almost certainly does the production of lung cancer in response to the inhalation of bischloromethyl methyl ether." (Roe, S. 91.)

Two witnesses, Dr. Bo Holmberg (Swedish NBOSH) and Dr. Lorenzo Tomatis (IARC) provided detailed discussion of this problem. Dr. Holmberg commented:

"I would in this connection like to point out the many experiments performed with metals in rodents, where local tumors have been induced. Thus, intraosseal implantation of chromium, subcutaneous and intramuscular injections or intramuscular implantation of chromium metal and some chromium compounds have induced local sarcomas in rodents (IARC Vol. 2, 1973). Exposure to chromium compounds, particularly hexavalent compounds does represent a risk for lung cancer and possibly also for nasal cancer among smelting workers. Data on the mutagenicity of some chromium compounds also suggest a potential carcinogenic activity. The experimental data with chromium compounds obtained by subcutaneous and intramuscular implantation are therefore to be regarded as being relevant to occupational exposure, i.e., they are truly predictive of a risk of cancer at least in the organ of contact. Studies with some nickel compounds by subcutaneous injection in rodents (IARC Vol. 2, 1973 and Vol. 11, 1976) have also led to the induction of local tumors. Also in this case occupational exposure to nickel compounds in the metal refinery industry poses an increased risk for cancer in the organs of contact, the lungs, and the nasal cavity.

"Subcutaneous injections and subcutaneous or intramuscular implantations of benzo (a) pyrene (IARC, Vol. 3, 1973), dibenzanthracene (IARC, Vol. 3, 1973), 1,3-propanesultone (IARC, Vol. 4, 1974), dimethylsulphate (IARC, Vol. 4, 1974) and amitrole (IARC, Vol. 7, 1974) also give rise to local tumors." (Holmberg, S. 22–23.)

Dr. Holmberg concluded:

"The formation of local tumors by subcutaneous and intramuscular injections in the rat, together with evidence on mutagenic activity or on effects of DNA repair *in vivo* or *in vitro*, should be sufficient basis for regulating occupational exposure to that chemical. The complexity of a decision concerning the carcinogenic risk of chemicals is sometimes very great. Such decisions should therefore be made only by scientists who are specialists in the field of chemical carcinogenesis." (Holmberg, S. 25.)

The primary issue is not whether subcutaneous injection or subcutaneous implantation are direct parallels to human exposure, but whether positive results for tumor injection by these routes do or do not predict carcinogenic activity by other routes. The only extensive review of evidence on this point was provided by Dr. Tomatis, who presented an analysis of data reviewed by the IARC monograph Programme (Tomatis, 1977b; Appendix 4 to Tomatis Statement):

"Subcutaneous (S.C.) injection is often quoted as an example of an unreliable route of administration, particularly in rats. There are several good arguments to uphold the claim that the induction of local sarcomas following s.c. injection cannot be considered an index of the carcinogenic activity of the compound under test (Grasso and Goldberg 1966; Gangolli et al. 1967). We carried out a survey on a number of chemicals tested by the s.c. route in rodents to see if there was a correlation between their capacities to induce local and/or distant tumors in one species and their capacities to induce tumors by another route in another species.

"Of the 222 chemicals (excluding metals) considered in the first 11 volumes of the IARC Monographs (IARC 1972–1976), 114 had been tested by the s.c. route. Twelve of these had been tested by the s.c. route only and 102 by the s.c. and other routes. Of the 12 tested by the s.c. route only, one was negative (glycidyl stearate) and 11 positive. Of these seven (dibenzo[h,r,s,t]pentaphene, dibenzo[a,l]pyrene,2-(1-aziridinyl)ethanol, patulin, glycidyl oleate, propylene oxide, ethylene oxide) produced local tumors only, three (estradiol, progesterone, testosterone) produced distant tumors only, and one (tannins) produced local and distant tumors. Seven of these 12 chemicals were tested only in the mouse, three only in the rat, one in both species, and one in the rat, the mouse, and the hamster.

"Of the 102 chemicals which had been tested by the s.c. as well as by other routes, 69 were found carcinogenic when the chemical was given s.c. or by another route, and for 18 chemicals the tests were negative or inconclusive regardless of whether the chemical was given s.c. or by another route.

"Nine chemicals tested by several routes of administration were found positive only when administered s.c. Of these, one (o-tolidine) produced only distant tumors, and the other eight (magenta, orange I, scarlet red, yellow OB, native carrageenans, parasorbic acid, penicillic acid, benzyl chloride) produced only local tumors. Seven of these nine chemicals were tested s.c. only in the rat, one in the rabbit and the rat, and one in the mouse and the rat. It must be noted that for only two chemicals (yellow OB and benzyl chloride) were the tests carried out by a route other than s.c. considered adequate negative tests. For the other seven, the tests, although negative, were considered inadequate or inconclusive.

"Six chemicals were negative when tested by the s.c. route and positive when tested by another route of administration. Of these, three (diazomethane, aramite, thiourea) were tested s.c. only in the mouse, one (mestranol) only in the rat, and two (para-aminoazobenzene and sudan II) in the mouse and the rat. Only the s.c. test with mestranol in the rat could be judged as an adequate negative test; the others, although negative, were considered inadequate.

"In conclusion, the administration of a chemical by the s.c. route produced what one could call false negative results for six (5.6%) of the 102 chemicals tested, and, if we accept all the criticisms of this route of administration, false positive results for nine (8.7%) of the 102 chemicals tested. Even, so, it appears that the s.c. route of administration is not much worse than any other route." (Tomatis, 1977b, p. 1350; Appendix 4 to Tomatis Statement)

Dr. Tomatis continued:

"It does not seem justified to exclude the subcutaneous route nor to ignore evidence of carcinogenicity from the induction of injection site sarcomas. Such a stand has some justification, but it should be better qualified. The subcutaneous route and the induction of local sarcomas can give very valid carcinogenicity evidence indeed. (see Tomatis, 1977, appended)

". . . too strict a reinforcement of the rule that the route of exposure for experimental animals should always be the same or similar to that to which humans are exposed could jeopardize a number of significant studies. To give an example, BCME was first found to be carcinogenic by topical application to the skin and by subcutaneous injection and only later on by inhalation." (Tomatis, S. 4–5)

and suggested:

"My suggestion is that the criteria for excluding a chemical from Category I, based on the presence or absence of similarity of the route of exposure, be applied with moderation." (Tomatis, S. 5)

Other witnesses also commented on this issue. Dr. Umberto Saffiotti (NCI) testified:

"An element of suspicion may well be raised by some topical implantation tests if previous studies and adequate controls should suggest that the effect may indeed be directly attributable to the chemical carcinogenic action of the test material. This was the case with the first experimental demonstration of the carcinogenic action of calcium chromate by intrabronchial pellet implantation, which induced bronchogenic carcinoma in rats (Laskin et al., 1970); this effect was later confirmed by the inhalation of the same chemical (Laskin and Sellakumar, 1974), which had already been linked to an occupational lung cancer risk by observations in man (reviewed in IARC, 1973)." (Saffiotti, S. 15)

Dr. Robert Squire (Johns Hopkins Univ.) commented:

"Another indication of carcinogenicity that has been excluded is the induction of tumors at sites of injection. This occurrence can assist in the evaluation of systemic or other data. Recently Tomatis (1977, p. 1350) demonstrated a high degree of correlation between the results of local subcutaneous carcinogenesis studies and animal experiments using other routes. Of 102 chemicals administered by subcutaneous as well as other routes, the results of 87 were similar. For 9 chemicals, results were positive by the subcutaneous route alone, reflecting an 8.7% 'false positive' rate. For 6 chemicals, results were positive by other routes but negative subcutaneously, reflecting a 5.6% 'false negative' rate." (Squire, S. 27)

Dr. Squire went on to recommend that OSHA use data arising from local tumor induction derived from injection or implantation routes of administration as supportive evidence for classification into Category I and that two such tests be deemed sufficient to support a classification of a substance as a Category II toxic substance. (Squire, S. 32).

Dr. Benjamin Van Duuren (NYU) commented:

"* * * the induction of skin carcinomas or sarcomas by exposure routes that do not parallel the primary exposure conditions in humans should not be considered 'grossly inappropriate.' " (Van Duuren, S. 6)

He went on to say that:

"Many people consider subcutaneous injection a valid test for solutions of chemicals when the doses used cause no local tissue damage or other toxic effects. This kind of test is different from physical carcinogenesis with solids implanted subcutaneously or suspensions injected subcutaneously which result in sarcomas only at the site of injection or implantation." (Van Duuren, S. 6)

Dr. Richard Griesemer (NCI) pointed out that:

"As I recall, it says in the regulation that induction of sarcomas at injection sites in rodents will not be used for regulatory purposes, and I wish to throw out for the record that we have examples of such experiments where we believe such findings are significant." (Griesemer, Tr. 975)

Dr. Benjamm Trump (Univ. of Md) and Dr. Curtis Harris (NCI) echoed the usefulness of subcutaneous injections. Dr. Trump commented:

"Yes, certainly, because with any route of administration there is likely to be distribution to various organs, and because of the factors already mentioned that modify organ distribution as a result of other exposure et cetera, therefore it is my opinion that the rules are also liberal on that point. Even subcutaneous administration when that has been followed in other tests where there have been claim of only subcutaneous neoplasms, it has been frequently discovered that other organs also show neoplasia." (Trump, Tr. 2007)

Dr. Harris commented further:

". . . I think there are a lot of people who would say that that sort of data would be important, and that generally it has been found by Tomatis and others in evaluating carcinogenicity data, that when it has been found subcutaneously, most frequently it will cause tumors elsewhere the compound will cause tumors elsewhere. So again, I think this is a point which, if I am correct in this, that the evaluation of results for regulatory decision are quite conservative." (Harris, Tr. 2007–8)

Dr. Umberto Saffiotti (NCI) supported the proposal as to subcutaneous injections:

"Experience in chemical carcinogenesis studies has shown that in a great variety of cases a chemical may affect different tissues or organs. Some carcinogens are reactive as such and produce their carcinogenic effect usually on the tissues with which they come directly in contact: these would include the upper digestive tract for oral intake (oral cavity, esophagus and stomach), the entire respiratory tract mucosa, from the nasal cavities to the lung, in the case of inhaled materials and the epidermal surface for skin exposure. These direct acting carcinogens may also produce their effects on internal organs if they are absorbed into the organism and distributed systemically to a variety of tissues. A striking example is provided by the effect of ethylnitrosourea in mice treated at birth by injection: as many as 60 different tumor types were induced, originating in almost all major organ systems (Vesselinovitch et al. 1974). An agent may however be administered by routes other than oral, respiratory or dermal in such a way that its localization is strictly topical and its effect is limited to the response of the exposed tissue, as in the cases of pellet implantations of non-diffusible materials in tissues or body cavities or of the implantation of plaques or disks into the connective tissues ("solid state carcinogenesis", see reviews by Bischoff and Bryson, 1964; Brand, 1975) There has been a wide consensus of scientific judgment that for such special cases the evidence may be insufficient for a

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definition of potential human carcinogen, particularly if no comparable conditions of exposure exist in the human situation." (Saffiotti, S. 14–15)

Dr. Francis J. C. Roe (AIHC) cited examples of "non-specific carcinogenesis" as a predisposing factor to carcinogenic responses in animals exposed by inappropriate routes of exposure:

"Several years ago my colleagues and I reported the occurrence of tumours of the urinary bladder in mice following the implantation of glass beads into the bladder (Ball *et al.*, 1964; Roe, 1964). The prolonged presence within the bladder was associated with a variety of hyperplastic proliferative changes of the bladder epithelium as well as with the development of benign and malignant tumours. Our finding, which has subsequently been confirmed by others both in the mouse and in the rat, strongly suggest that prolonged non-specific irritation due to the presence of solid bodies in the bladder, such as calculi, are likely to predispose to tumour formation. If so then agents which, in very high doses, predispose to the formation of calculi in the urinary tract might be expected also to predispose to tumour formation. This is almost certainly the mechanism underlying the occurrence of bladder tumours in animals given high doses of ethylene glycol or polyoxyethylene(8) monostearate (Golberg, 1967). When these substances are fed in high dosage, rats excrete oxalate in such concentrations in the urine that oxalate stones form in the bladder. A few of the rats which develop such stones then go on to develop tumours of the bladder. A more recent example of the same phenomenon is the development of stones and bladder tumours in male mice fed diets containing 20% xylitol (unpublished data from studies still in progress). In neither of these instances did bladder tumours arise unless stones were also present." (Roe, S. 68–69)

On reviewing the evidence, OSHA recognizes the divergence of scientific opinion on this point, but is impressed by the evidence provided by Dr. Tomatis and other witnesses for the concordance between the induction of injection site tumors and other manifestations of carcinogenicity. Accordingly, although OSHA is unwilling to accept injection or implantation site tumors alone as sufficient evidence of carcinogenicity standing alone, OSHA believes that such evidence supports—and is in concordance with—other evidence that together meet the definition of a "potential occupational carcinogen". OSHA therefore believes that when such is the case, the total evidence warrants that the substance be classified as a Category I potential carcinogen. As we emphasize below, however, the caveat remains that when such results occur from physical, rather than chemical induction, such evidence will not be considered in the determination of a hazard to humans.

3. "Grossly Inappropriate", "Physical Induction" or "Solid-State Carcinogenesis"

The Surgeon General's "expert" NCI Ad Hoc Committee made the following recommendation in 1970:

1.a. Any substance which is shown conclusively to cause tumors in animals should be considered carcinogenic and therefore a potential cancer hazard for man. Exceptions should be considered only where the carcinogenic effect is clearly shown to result from physical, rather than chemical, induction, or where the route of administration is shown to be grossly inappropriate in terms of conceivable human exposure. (NCI Ad Hoc Committee, 1970, p. 1 Exhibit 10(b) to Epstein Statement)

Unfortunately, the Ad Hoc Committee did not explain exactly what was meant by "physical . . . induction" or "grossly inappropriate" and comparatively little documented evidence on these points was presented in the hearing. Moreover, the NCAB Subcommittee explicitly excluded physical agents from consideration (p. 461).

However, what is clear from the Record is that special conditions of tissue exposure or reaction may result in a tumor response by mechanisms that appear due to physical rather than chemical properties of the test material. The Record indicates that the following conditions are evaluated differently in this respect:

a) The induction of sarcomas around a "solid state" implant of the test substance into a connective tissue shall generally not be considered an indication of the carcinogenicity of a substance when it is administered in another physical form.

b) The induction of a carcinogenic response by asbestos and other fibrous materials by a mechanism linked to certain physical characteristics such as fiber length and diameter is recognized as a basis for categorizing the exposure to such fibrous materials as a carcinogenic hazard.

c) The effect of particulate materials in the induction of respiratory neoplasms, when they are administered jointly with certain carcinogens (probably through their capacity to absorb and retain carcinogens, to penetrate the respiratory tract tissues, and to stimulate early cellular responses) is generally not recognized as evidence of carcinogenicity of these substances but rather as an indication of their role as cofactors in carcinogenesis; particulate materials require careful but separate consideration as a potential hazard.

d) The induction of a neoplastic response by a substance because of its radioactivity is recognized as a cancer hazard.

Thus OSHA does not intend to exclude from the scope of this set of regulations the induction of cancer by such agents acting as fibrous materials and/or dust, in view of the massive evidence for the carcinogenicity of asbestos. Moreover, OSHA is mandated to regulate occupational exposure to radiation, and at present does so under other regulations and intends to continue doing so. OSHA intends therefore to exclude only consideration of those routes and considerations of administration that give rise to what is known as "solid state carcinogenesis", namely the development of sarcomas from the fibrous tissue capsule formed around large and smooth-surfaced implants of a substance, especially when altering the physical properties of the implant's surface (e.g. comminution into small fragments or powder, perforation or roughening) abolishes the ability of the implant to induce sarcomas.

Several witnesses referred to this phenomenon of "solid state carcinogenesis", in which the implantation of relatively large masses of solid materials into the tissues of experimental animals leads to the induction of local tumors, depending on the physical characteristics of the implanted material (Saffiotti, S. 14–15; Roe, S. 68–69). OSHA believes that there is sufficient and substantial evidence in the record to justify discounting such results as clear indicators of carcinogenicity, and will not use such evidence in the classification of potential occupational carcinogens pursuant to this policy. For other cases in which there is a possible physical as well as chemical role in the mechanism of action of tested substances, e.g., for the biological effect of inhaled fine particles of poorly soluble substances, OSHA intends to examine the evidence carefully in the case-by-case rulemakings taken pursuant to this policy in the future.

C. OSHA's Conclusions

On the basis of an extensive review of the substantial evidence in the Record, OSHA concludes that its proposed position on this issue should be modified slightly. First, experiments involving any route of exposure in which tumors are induced or enhanced at sites distant from the site of administration should be regarded as providing relevant evidence of carcinogenicity. Second, experiments in which the substance under test induces only tumors at the site of injection or implantation as a result of its biological reactivity, the substance should be regarded as providing at least suggestive or concordant evidence. Finally, however, if there is reason to believe that the tumors occur as a result of "solid state" carcinogenesis, OSHA will, at this time, regard the results as inappropriate to extrapolate to the human condition.

As detailed in the foregoing, OSHA will consider evidence for the induction of tumors in experimental animals to be directly relevant to the inference of potential carcinogenic risks to exposed workers in two sets of circumstances:

(a) If the animals were exposed via the oral, inhalation, or dermal routes, irrespective of the site where the tumors were induced;

(b) If the animals were exposed via other routes and tumors were induced at distant sites.

If animals are exposed via other routes and tumors are induced only at the site of administration (e.g. injection site sarcomas), OSHA will ordinarily consider such evidence only as "suggestive" evidence of carcinogenicity, or as concordant evidence which may support otherwise unconfirmed positive evidence in mammalian bioassays. OSHA however, will not consider such evidence even as concordant in cases exemplified by "solid state carcinogenesis," where evidence is provided that suggests that the induction of local tumors is related to the physical configuration or formulation of the material (e.g. the crystalline form or dimensions of a solid material, or the matrix of an impregnated implant). To be discounted by OSHA, such experimental results should be accompanied by evidence which indicates that the effect is produced *only* when the substance is administered in specific physical configurations or formulations. That is, at the least, negative results of adequately conducted experiments in which the same substance is administered in other configurations or formulations should be presented, and should be sufficiently well documented to support the argument for exclusion of the positive results.

Thus, OSHA's Cancer Policy provides (§ 1990.143(f)):

(f) *Routes of exposure.*

(1) Positive results in studies in which mammals are exposed via the oral, respiratory or dermal routes will be used for the qualitative identification of potential occupational carcinogens, whether tumors are induced at the site of application or distant sites.

(2) Positive results in studies in which mammals are exposed via any route of exposure and in which tumors are induced at sites distant from the site of administration will be used for the qualitative identification of potential occupational carcinogens.

(3)(i) Positive results in mammalian studies in which tumors are induced only at the site of administration, in which a substance or mixture of substances is administered by routes other than oral, respiratory or dermal, will be used as "concordant" evidence that a substance is a potential occupational carcinogen.

(ii) Arguments that such studies should not be relied upon will be considered only if evidence which meets the criteria set forth in § 1990.144(b) is provided.

And § 1990.144(b) states:

(2) *Tumors induced at site of administration.* Arguments that tumors at the site of administration should not be considered will be considered only if:

(i) The route of administration is not oral, respiratory or dermal; and

(ii) Evidence is provided which establishes that induction of local tumors is related to the physical configuration or formulation of the material administered (e.g., crystalline form or dimensions of a solid material, or matrix of an impregnated implant) and that tumors are not induced when the same material is administered in a different configuration or formula.

9. How Much Confirmation of Positive Results Is Necessary?

a. OSHA's Proposal

In the preamble to the proposed regulation, OSHA proposed, in general, not to identify or regulate a substance as a Category I Toxic Substance on the basis of a single positive result in an animal bioassay that was not "replicated. OSHA instead proposed to require confirmation of such a result, either by a second positive result in an animal test, or by positive results in short-term tests. OSHA discussed this issue in the Preamble as follows:

"For the reasons stated above, positive results in tests with experimental animals, if obtained under sound experimental conditions and with proper statistical confirmation, should in general, supersede negative results, including those in humans, as pointed out. In particular, positive findings of carcinogenicity in one animal species should generally outweigh negative reports in another, in relation to human application (UICC, 1969, p. 18; NCI, 1970, p. 2; NCAB Report, p. 9).

"Nevertheless, OSHA recognizes that 'false positive' results may arise occasionally, both through statistical accidents and honest errors in the conduct of single experiments. Accordingly, OSHA recognizes that much greater weight should be attached to positive results that have been replicated in another study than in a single unconfirmed result. As the National Cancer Advisory Board expressed the situation:

" 'Such increases [in neoplasms in experimental animals] may be regarded with greater confidence if positive results are observed in more than one group of animals or in different laboratories. The demonstration that the occurrence of neoplasms follows a dose-dependent relationship provides additional evidence of a positive result.' (NCAB Report, p. 5).

"While recognizing the importance of a single positive result as a warning flag, the Agency believes that it would not serve the interest of responsible public rulemaking to impose major, cost intensive regulatory requirements on the basis of unconfirmed, and possibly unreproducable [sic], results. Following the guidance of the NCAB Subcommittee, which emphasized in the above-quoted passage and elsewhere that varying degrees of confidence can be attached to positive results, OSHA proposes to establish a three-tier system of classification for those toxic substances that are found in the American workplace. In general, as is more fully discussed below, Category I toxic substances are those whose carcinogenicity, as defined, has been determined in humans or in two or more mammalian species of test animals or in one species if the results of that study have been replicated. Category II toxic substances are those whose carcinogenicity has been reported but the evidence for some reason is only suggestive, as defined, or positive in one species, but not yet replicated." (42 FR 54164–54165)

OSHA specifically directed the public's attention to this aspect of the proposal and asked for specific comments concerning it.

b. The Public's Response and OSHA's Evaluation

A number of comments was received on this aspect of the proposed regulations. Some witnesses and participants thought that positive results in at least two or more species should be required before regulating a substance at all; on the other hand, other participants thought that a single well-conducted test would suffice to categorize a substance as a full-blown carcinogen. A number of participants urged OSHA to make more explicit the concept of "replication". Other participants discussed the validity of using results in short-term tests as confirmation of evidence of carcinogenicity in animal bioassays.

The following is a sampling of some of those comments:

"Generally it is AIHC's position that in a regulation of this kind where interspecies exptrapolation is made, it is sound to have as basic criteria for OSHA Category I and AIHC Category II the requirement that the substance be shown to be carcinogenic in two mammalian species. The basic uncertainties in animal data discussed in the preceding sections of this brief point to the conclusion that it would be unwise as a general matter to rely on a single test in a single species for a generic classification scheme."

"We have addressed in the previous section the reasons why we believe it is important for OSHA, except in rare cases, to

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require positive results in two species before classifying a substance in Category I. It is unsatisfactory to attempt to argue away the need for a two-species test by confirming 'replication' of a positive test in a single species. Should OSHA , despite the soundness of the view to the contrary, decide to rely on a single species, OSHA should require at minimum the confirmation of 'replication'. (NIOSH S. 5)

* * * * *

"As NIOSH points out, "simple replication using the exact same study design may not be particularly definitive." (NIOSH S. 5–6; *see also* Dr. Crampton S. 8.) It is imperative that if OSHA decides, incorrectly AIHC believes, to rely on replication of a test as confirmatory evidence, OSHA should clarify the ambiguous term "replication". The protocol or study design should be clearly defined. AIHC urges that OSHA adopt the NIOSH recommendations and require replication in a separate laboratory with separate controls. AIHC also recommends that a different strain and additional dose levels be required. If the route of administration is not the same as the route of explosure of humans, the replication should use the same route of exposure as humans." (AIHC Post-hearing Brief, pp. 159–160, 166–167)

Dr. Francis J. C. Roe (AIHC) discussed the concept of replication:

"Confirmation by replication is obviously not without value, and in circumstances where there is room to doubt the interpretation of a study because of defects in design or execution confirmatory studies are essential. However, the same experiment done twice with the same result doesn't resolve many of the kinds of problem[s] in interpretation discussed above. If a test substance non-specifically enhanced the incidence of virus-induced tumours in one experiment it is likely to do it again in a second similar experiment. *The second experiment confirms that an effect is produced by the test substance but it does not prove or confirm that the test substance is a carcinogen.*" (Roe, S. 91–92, emphasis in original).

Dr. Johannes Clemmesen (Danish Cancer Registry) made a similar point:

"Replication within the same strain of mice is not equivalent with replication within a non-inbred species, not to speak of different species. It is not therefore a sound criterion for classification." (Clemmesen, S. 12)

Dr. Arthur Furst (Univ. of San Francisco) argued the need for confirmation in two species:

"There is a definite need to obtain positive results in more than one mammalian species before a determination of carcinogenicity can be made. OSHA proposes to accept as confirmation: (1) positive evidence in humans, (2) evidence in two or more mammalian species of test animals, (3) evidence in one species 'if the results of that study have been replicated,' or (4) 'the combination of positive result for carcinogenicity in a single bioassay in a mammalian test species.' Relative to (3) it is important to clarify on what basis replicate experiments will be an acceptable criterion of activity. Does this mean two experiments done in the same laboratory or done in two different laboratories? Must the animals come from the same supplier? Are the chemicals to be used from the same source? It seems to me that if chemical X is declared carcinogenic in specific YYY strain of rat by the OOO route, this information should be obtainable from different laboratories using YYY strain if rat when administering X by OOO route without requiring that only one source of the agent can be used.

"It would seem that replication by the same experimenters in the same laboratory using the same strain and the same experimental design would not be appropriate, for this would not detect any problems in the particular experimental design used or similar problems inherent in the procedures. Thus, it would seem that replication in a single species would require, at a minimum, that the experiments be carried out in a different laboratory or by a different group of experimenters, preferably on the basis of an independent design. Yet, I cannot feel comfortable with (3) alone and in my publications I will not call a metal, for example, carcinogenic without evidence in two or more mammalian species of test animals." (Furst, S. 18–19)

NACA suggested not only that positive results would be more persuasive in two species, but that the results should be replicated in each. Such a proposal would require four positive results before a chemical could be deemed carcinogenic:

"Not only may false positive effects, derived from statistical rather than biological considerations, be obtained in a first test species, but the same false positive effects could be observed in single test in a second species. For example, a putative carcinogen might be observed to have a higher incidence of bronchial neoplasms in male rats and endometrial adenocarcinoma in female mice. *More persuasive evidence of carcinogenicity would be provided if the same target organ were observed in both species.* In any case, the results in the second species like those in the first, should be replicated to exclude statistical artifact." (NACA, S. 47)

NIOSH expressed agreement with the need for some sort of confirmation of results in independent testing:

"A criterion for assigning chemicals to an OSHA Category I Toxic Substance is the necessity for replicated results. Replication may be achieved by obtaining a similar significant increase in tumor incidence in the same species where the experiments were performed with at least an independent set of control animals. Although we agree with the need for "replicating" animal experiments in order to include the substance in Category I (an exception might be made when highly significant results are obtained in an adequately conducted and biologically-appropriate test), we believe that simple replication using the exact study design may not be particularly definitive. We would hope that where researcher have the option, such confirming experiments would be performed in a different laboratory, perhaps using a different sex or strain of test animal, additional dose levels or a different route of administration so as to provide for a more comprehensive and accurate assessment of the substance." (NIOSH, S. 5–6)

In contrast to these comments, a number of witnesses expressed the opinion that confirmation and replication were unnecessary, and that a single well-conducted test would suffice to support a conclusion that a substance is carcinogenic. Dr. Bo Holmberg (Swedish NBOSH) presented this point of view:

"Concerning the classifiction of chemicals, OSHA takes the standpoint that a positive result in one single animal experiment should have less value than positive results obtained in two separate experiments or positive results obtained in two species. This standpoint may seem reasonable with respect to the possibility that false positive results in a cancer test may arise occasionally. It is however not very probable that a false positive result will be obtained (Page, 1977, Fears *et al.* 1977); even in a single animal test, should it be well performed. If a false positive result appears it does so only in remote cases and when high incidences of spontaneous tumors appear in the control series.

"The time required (at least 2–4 years) to obtain a second positive result may be sufficient to induce a number of additional cancers in occupationally exposed workmen. According to my opinion, one single well-done animal experiment in one species should weigh as much, in terms of regulatory measures, as two separate experiments or positive results from two species. Additional toxicological information, such as data on mutagenicity, biotransformation products, distribution of the compounds with known chemical and structure-activity relationships with other carcinogenic activity, of course adds to the weight of one single positive cancer test. I personally do not consider a few false positive results as being an important problem. I am generally more concerned with the false negatives, especially considering the inherent insensitivity of the conventional animal test systems. Positive results from one good conventional cancer test should thus be sufficient to initiate the most stringent regulatory measures. A positive result in one animal experiment should furthermore outweigh not only negative experimental data but should also outweigh negative epidemiological findings, for the reasons stated above." (Holmberg, S. 22–23)

The Environmental Defense Fund (EDF) argued that the requirement for replication should be replaced by a requirement for reproducibility:

"EDF notes that the preamble to the cancer policy states that a single, "exceptionally" well conducted test in one animal species may be considered sufficient for establishing a presumption that a substance be classified in Category I. However, because, as a matter of public policy, the elimination of the risk faced by workers exposed to carcinogenic chemicals necessitates OSHA action without needless delay, EDF maintains that the present Section 1990.110(a)(4) be deleted and the following inserted in its place: "a single mammalian species if the results are reproducible." Reproducible results are defined as results obtained from an experiment that has been conducted and reported on in such a manner as to enable duplication of the experiment. EDF shares the concern expressed by the Subcommittee on Environmental Carcinogenesis of the President's Cancer Advisory Committee that a decision on the carcinogenicity of a compound not necessitate the actual replication of an experiment where the results of a single experiment clearly indicate a compound is carcinogenic.

"Because OSHA has no authority to require industry or other government agencies to test a substance, failure to enact the change suggested might result in years of continued worker exposure to a toxic chemical. For example, judging from past experience, the time between the acceptance of a recommendation to the National Cancer Institute (NCI) that a chemical be tested and completion of the tests is on the order of 5 years." (EDF, S. 2–3)

Dr. Lorenzo Tomatis (IARC) argued as follows:

"A single long-term experiment in a single species can be relevant if the experimental procedures were adequate and the results unambiguously indicated the induction of malignant tumors. Whilst confirmation of such a study can be advised, to wait for the confirmatory results of scientifically sound data might entail a delay in preventive measures. In addition, it is not clear which test(s), other than another long-term test, would be considered to add significantly to results obtained in a single long-term study carried out in a single species. This is of particular importance, since it is proposed that a chemical can be assigned to Category I if a positive result obtained in a single study in a single species is confirmed by a positive result obtained in a short-term test. The decision is apparently left to the Secretary, but it certainly entails a difficult evaluation of the significance of a variety of tests presently used. The so-called short-term carcinogenicity and related tests are certainly essential as a first screening of environmental substances, but there is no consensus as to which extent they can validate, or replace, results obtained in long-term testing. If it is assumed that a positive result in a short-term test can strengthen the results obtained in a long-term test, would negative results obtained in a short-term test weaken the results obtained in a single, long-term study? This point needs clarification." (Tomatis, S. 4)

EPA also disagreed with OSHA's proposed requirement for replication:

"EPA's policy does differ with OSHA's proposed regulation on one significant scientific issue. EPA is seriously concerned with the fact that the proposed regulations provide that animal test results generally cannot be relied upon as a sufficient basis for stringent regulatory action unless replicated or supported by short term studies. Although the proposal allows use of unreplicated animal tests if "exceptionally well conducted" we believe that this is too great a qualification. EPA policy is that an unreplicated test can be an entirely adequate basis for concluding that a chemical must be regulated as a carcinogenic risk. Such tests can often be extremely persuasive evidence that a hazard exists. Moreover, the delay while waiting for replication of tests may often be quite substantial." (EPA, S. 4)

Dr. David Rall (Director, NIEHS) emphasized the role of scientific judgment:

"On the one hand, there are cases where a single, well-conducted experiment giving clearly positive results should suffice to establish a chemical as a carcinogen and to justify stringent measures to reduce occupational exposure. On the other hand, there are cases where two or even three less conclusive positive results would still leave some doubt. The fact is that scientific experiments never give results that are 100% positive, nor 100% negative. Science deals in probabilities, and carcinogenesis biossays give results that may fall anywhere on a continuous spectrum of probabilities, extending from 2 or 3% at the lowest to nearly 100% at the highest. Division of this spectrum into discrete categories may be necessary for regulatory purposes, but it is necessarily arbitrary from a scientific point of view. Thus the recommendation of a scientist would be to make the criteria for categorization flexible, and to apply as much scientific judgment to each case as is compatible with legal and regulatory requirements.

"On the specific criteria proposed, there is no question that two positive tests provide greater confidence than one, even in the same species. There is no question that positive results in short-term tests (such as the Ames test, induction of unscheduled DNA repair, or malignant cell transformation *in vitro*) add to the confidence that one would have in a single positive animal test. This is not to say that these short-term tests are *equivalent* to lifetime bioassays in rodents: it merely reflects the fact that most carcinogens give positive results in short-term tests. Hence, if there is any reluctance to accept the result of a single animal bioassay, positive results in short-term tests would add sufficient evidence to overcome this reluctance. Certainly, it seems reasonable to use them in this way rather than to demand a second lifetime test in a rodent, which would be lengthy and expensive. In fact, most experts in carcinogenesis would be willing to accept the results of a single well-conducted test as definitive evidence for carcinogenicity (as indeed the IARC does in its monographs)." (Rall, S. 13–14)

Dr. Donald Kennedy (Commissioner, FDA) also emphasized the importance of the quality of tests:

"Very often it is the case that one good experiment with a lot of animals and very careful conditions, very carefully controlled conditions, is better than two experiments with minimal numbers. I often feel, for example, that in my own regulatory work, that I wish that more effort and more resources had been put into single experiments than into replications with equally inadequate numbers of the same experiments." (Kennedy, Tr. 502)

Other witnesses who expressed the opinion that a single well-conducted test that gave a clear positive result would suffice included Dr. Harold Stewart (NIH) (S. 5); Dr. Robert Squire (Johns Hopkins Univ.) (S. 25–26); Dr. Richard Griesemer (NCI) (S. 10–11); Dr. Benjamin Trump (Univ. of Maryland) and Dr. Curtis Harris (NCI) (Tr. 2003–2004); Dr. Renate Kimbrough (CDC) (Tr. 1786); Dr. I. Nathan Dubin (Medical College of Pennsylvania) (Dubin, Tr. 1197); Dr. Richard Bates (NIEHS; FDA) (Bates, Tr. 631); Dr. Samuel Epstein (Univ. of Illinois) (S. 39); and Dr. Philippe Shubik (Eppley Institute, Univ. of Nebraska) (S. 23).

Two exhibits were entered into the Record which discussed in mathematical terms the relative confidence that can be placed in replicated and unreplicated results. Dr. Robert W. Morgan (Univ. of Toronto) presented a paper by Morgan and Corey (1978) which formulated the probability that a substance is a carcinogen after considering results from carcinogenicity tests, the presumed sensitivity and specificity of these tests and an assumed *a priori* probability of carcinogenicity for the substance in question. The results of this paper are not very useful, however, because the *a priori* probability factor is extremely arbitrary and does not consider the relationship between sensitivity and the degree to which the treatment actually differs from the control procedure. A more sophisticated analysis of the problem is that by Fears *et al.* (1977), who showed that the probability of obtaining false positive results under the conditions of the NCI bioassay is reduced to a very low level by requiring replication *within* a single test, specifically by requiring a significant increase in tumors at the same site in the same species at *two* dose levels. For a fuller discussion of this analysis, see Section V.D. 5: *Statistical Significance.*

c. OSHA's Conclusions

On reviewing the evidence in the Record, OSHA is impressed by the fact that essentially no witness nor participant supported OSHA's original proposal, even semantically. A number of participants argued that positive results in two species should be required as a minimum requirement for any

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inference of carcinogenicity. A number of other witnesses objected to the proposal that *replication* of results should suffice as confirmation, arguing that a result in an inappropriate species might be replicable although not biologically significant. On the other hand, an impressive body of expert opinion was presented to indicate that a single well-conducted test should suffice, and that to require replication or confirmation would unreasonably delay regulation of hazardous substances.

For reasons set out in Section V.D. 1 above, OSHA rejects the argument that positive results should be required in two species before an inference is drawn about human hazard or risk. The principal question to be addressed is how much confirmation is needed for a single positive result in one species.

The primary consideration which led OSHA to make its original proposal was that occasional false positives might arise in single unreplicated tests.The analysis by Fears *et al.* (1977) shows that the likelihood of false positives arising for statistical reasons can be reduced to an extremely low level if the statistical decision rules are chosen appropriately, with consideration of the spontaneous incidence of tumors at the site in question. This analysis, which was quoted extensively in Sections V.D.2 and V.D.5, shows that statistically reliable conclusions can be drawn from the results of single experiments (although in some cases the appropriate decision rules may require positive results in two or more groups of animals within the experiment). Thus, although OSHA will normally require some concordant evidence, as defined, before classifying a substance as a Category I Potential Carcinogen, OSHA is persuaded that positive results in single tests should be subjected to thorough scientific evaluation. As pointed out above, a number of distinguished scientists testified that a single test which gives a clear positive result should suffice for the identification of carcinogenic activity. This is particularly true if the positive result is extremely compelling—e.g., the induction of many unusual tumors, or the early deaths of most treated animals due to cancer. As pointed out by Dr. Tomatis (S. 4), Dr. Rall (S. 13–14) and Dr. Kennedy (Tr. 502), among others, such results may be fully valid if "the experimental procedures were adequate;" or if the test is judged to be "well-conducted." For these reasons, OSHA is providing in § 1990.112(a) that a substance may be classified as a Category I Potential Carcinogen on the basis of scientifically evaluated positive results.

. . . . in a single mammalian species in an adequately conducted long-term bioassay, in appropriate circumstances where the Secretary determines the requirement for concordance is not necessary.

OSHA's intention is that this provision should only be used in cases where the evidence has been carefully scrutinized and found to be unusually compelling. For reasons stated elsewhere in this preamble (Section V.D.11) it is not possible to establish specific criteria for the judgment that a test is "adequately conducted" and that the results are "positive". As in other cases, the principal need is for the exercise of good scientific judgment in the evaluation of data.

OSHA believes that its position on this issue is similar to that recommended by the Food Safety Council:

"The outcome of a chronic animal test may be regarded as positive if clear evidence of neoplastic or non-neoplastic toxic effects is obtained, as judged by end-points that may be clinical, pathological or biochemical. Circumstances in which such positive evidence is obtained may include a similar result in a different animal species or in a separate experiment with the same species, recognizing the possibility of one experiment yielding erroneous conclusions. In the case of a single experiment with one animal species, the evidence may also be sufficiently compelling to exclude the likelihood of a false positive. Examples would include the induction of rare tumors or diseases, evidence of dose-related response in two or more dosage levels, positive results in both sexes, or in the case of animal carcinogenicity, positive evidence for genetic toxicity as described in Chapter 6." (Food Safety Council, 1978, p. 107)

10. Can "Safe" or "No-Effect" Levels Be Set For Exposure To Carcinogens?

a. OSHA's Proposal

OSHA proposed (42 FR 54167, 54185) that substances deemed to meet the definition of Category I Toxic Substances, by the previously mentioned criteria, would be regulated to the lowest feasible level of employee exposure, as determined by the Secretary of Labor.

This position was proposed because of the scientific evidence discussed in the preamble to the proposed set of regulations that "safe", "no-effect", or "threshold" levels of exposure could not be objectively established for carcinogens for any individual and certainly, not with respect to any given human population. And, in the event that such levels do characterize any or all carcinogens for all persons, OSHA did not believe it possible to determine these levels exactly nor practicable to estimate them precisely. For the purposes of regulation, therefore, OSHA proposed that it was necessary for regulatory purposes to assume that "threshold", "safe" or "no-effect" levels could not be established. For this reason OSHA proposed to establish its future standards for exposures to individual carcinogenic substances at the lowest feasible levels for all substances identified as Category I Toxic Substances.

b. The Public's Response and OSHA's Evaluation

A number of scientific witnesses expressed general support for OSHA's position. Dr. Richard Bates (NIEHS; FDA) commented:

"One of these assumptions is that there is no threshold below which exposure to a carcinogenic chemical entails no risk. That is to say, although decreasing the exposure will decrease the risk of cancer induction, there is no level below which the risk becomes absolutely zero until zero exposure is reached. Debate over this question is partly a matter of semantics or definition of terms. Some scientists approach this issue as a mathematical problem by which the likelihood of induction of cancer becomes very, very small as exposure becomes very, very small, but the possibility still remains. Others will conclude that when the risk gets small enough it is the practical equivalent of zero. Thus, the first group might argue that a risk of one in one billion of inducing cancer is a finite (though perhaps tolerable) risk and not a threshold while the other group may argue that for practical purposes this is so low as to be the practical equivalent of a threshold. More scientific arguments for threshold may point out the possibility that chemicals are metabolized differently at high exposure levels than at low levels, that protective mechanisms may be more effective at low exposure levels than at high ones, and that repair mechanisms may be more effective at low exposure levels than at high levels. In principle, these arguments can only be used as arguments in favor of a threshold if it can be shown that the carcinogenic metabolite present at high exposure levels is totally absent at low exposure levels (rather than simply present as a lower proportion of total metabolites), or that defense and repair mechanisms are totally effective (rather than proportionately more effective) at low exposure levels in contrast to high levels. In the absence of this information as a general principle or for any specific chemical under question, these arguments may suggest that the risk from low levels of exposure may be somewhat less than otherwise might be projected from high exposure experiments, but they fail to provide convincing arguments for the general concept of threshold." (Bates, S. 13–15, references omitted)

Dr. Donald Kennedy (Commissioner, FDA) commented:

"A second scientific issue that I think requires comment is that relating to the matter of "safe" levels of human exposure to carcinogens. As a scientist I must hold to the view that it may some day be possible, once the mechanisms by which carcinogens exert their effects are well understood, to establish procedures for estimating levels of carcinogen exposure that represent no risk to humans. For the present the best available information on this subject leads me to the conclusion that scientists do not have the knowledge to permit such estimations. We must for the present hold to the view that some health risk exists at any level of carcinogen exposure." (Kennedy, S. 10–11)

Dr. Marvin Schneiderman (NCI) cited several NAS committees whose conclusions concurred with the OSHA proposal:

"Anticipating a later remark by Sidney Weinhouse in the Cold Springs Habor Symposium on the Origins of Human Cancer (Book C. p. 1308), Cold Springs Harbor Laboratory, 1977, and the conclusions of the anonymous authors of the "Drinking Water and Health" and "Contemporary Pest Control Practices and Prospects:

"Another problem, and one which unfortunately is not amenable to scientific solution, is the existence of a threshold. Is there a lower limit of exposure below which normal repair and recuperative processes will prevent cancer? This is perhaps one of the most pernicious questions that confront the regulatory agencies. It is the refuge of the apologist for industry and has support from traditional toxicology. However, there is as yet no evidence whatsoever that thresholds exist for the irreversible process of carcinogenesis. If they do exist, they would be at a nondeterminable low level, and they would probably differ for each substance and for each test species. It is important to recognize also that carcinogenic risks to man have to be weighed against a substantial background of an already existing environmental as well as probable endogenous cancer burden, which more than likely has already exceeded any threshold which might exist. (Crump et al. 1976). For these reasons, prudence requires the assumption that thresholds for carcinogens do not exist. Unless some new, compelling information appears, the concept of threshold serves no useful purpose in regulatory decisions. The authors assumed that no threshold could be demonstrated for carcinogens". (Schneiderman, S. 26–27)

Dr. Matthew Meselson (Harvard Univ.) presented this issue in his oral testimony:

"It is conceivable, but my belief is that it should be assumed in general that there is no such thing as a threshold. I have three reasons for this. And by the way, none of these three reasons is the reason which is a further reason you could use, but I do not, used by my colleague, Dick Wilson, who says it is the most conservative, generally reasonable hypothesis. I do not take that—I do not use conservatism as my choice.

"But the first is that I know of no publication in the entire literature on dose response of primary carcinogens that provides evidence for the existence of a threshold. I have asked toxicologists to send me publications with such evidence, and I have not received a single one. I have gone through the— as mentioned in the National Academy report that is part of my testimony—the dose response study by the Franklin Institute done under contract with the National Cancer Institute, in seeing there not a single case, and they have tried to review the entire world literature on dose response, 150-some odd dose response curves are reviewed in that study. I have not seen a single case in which the data depart significantly from either the probit or single particle hypothesis in a way demanding a threshold.

"More than that, one has to remember a very simple but for some reason until the last few years overlooked point, and I think a very powerful point, and that is as animals we humans are way past the threshold. We are like an experiment with mice or rats in which 25 percent of them are coming down with tumors. We are not a cancer-free population. We have an enormous incidence of cancer in our population. So that unless one is talking about a chemical which is being activated by an absolutely unique pathway unique to that chemical, an activating enzyme that does not work on anything else, or does something unique to the entity that no other chemical does, activates a mutagenic repair pathway that no other chemical does, unless that is the case, we are just talking about adding a little bit more when we talk about low dose, to what is already a lot, and demonstrably past the threshold, because we are already past any thresholds as a population.

"So to take the burden on one's self of saying that I believe this chemical is unique in the world, is operating by a mechanism that is not already going on in our bodies, is an incredibly arrogant statement. There would be no basis in sicientific fact for such an a priori statement. So it would be different if nobody ever got cancer, and some scientists came along and said, we have just discovered that there could be a disease if you let this certain thing in the environment. We are going to call it cancer. Then somebody could say, but how do you know there is not a threshold for this hypothetical disease that at present nobody is getting, because if nobody is getting it, clearly we could be below the threshold. That might be why nobody is getting it. But if 25 percent of us are getting it, you have to make some, in my opinion, very far out assumptions before you can conclude that a chemical under—a particular chemical under scrutiny is going to operate in such a way as to not already be past that hypothetical threshold.

"And then finally, the most plausible biological models for the—and here we are in an area of more theory, but to me the most plausible biological models for carcinogenesis do not involve mechanisms that would admit of a threshold.

"So I see no basis at all for any policy assumption of a threshold. You cannot say where it is, even if it were there. The strong theoretical argument is to believe that if there were one we are out past it anyway. And there are even strong arguments, I believe, for saying there is not one in most cases.

"Now, does this mean that you could not someday come up with some chemical or some imagined pathway that would have threshold-like characteristics? No. But it does mean that for your average chemical that you have to think about, a new chemical, or a chemical that has been in use, it seems to me that the overwhelming burden of all the arguments is that you must assume that there is no threshold." (Meselson, Tr. 1544–1547)

Dr. Samuel Epstein (Univ. of Illinois) presented extensive evidence in support of OSHA's position (S. 28–33) citing the IUAC in 1954 and 1956, HEW Secretary Flemming in 1960, and the "expert" Ad Hoc Committee of the Surgeon General in 1970. He asserted in cross-examination:

"I assert that there is no method of setting safe levels for chemical carcinogens." (Epstein, Tr. 1393)

Dr. David P. Rall (Director, NIEHS) opened his oral testimony with a comment which put matters in perspective:

". . . [A]lthough theoretically no-effect thresholds may exist for carcinogens, the threshold concept is presently inapplicable to the human population in the United States. Since 16% of our population now dies of cancer, I submit that as a population we have now exceeded any theoretical population threshold." (Rall, Tr. 354)

Dr. Harold Stewart (NIH) quoted the minutes of the Ad Hoc Committee on Testing for Environmental Chemical Carcinogens of which he was chairman:

"In the case of the human population, with the completely unknown variations in sensitivity to any chemical carcinogen, and with the impossibility of knowledge of other variables that may affect responsiveness to these agents, attempts to establish threshold levels for carcinogenicity are unrealistic." (Stewart, S.3)

Dr. William Nicholson (Mt. Sinai School of Medicine) commented:

"Despite considerable research on the effects of carcinogenic substances and their dose-response relationships, no data exist that would define a threshold for any carcinogen. The task confronting one who would define a level below which no carcinogenic risk exists for human populations is virtually an impossible one." (Nicholson, S.1)

Mr. Richard Peto (Oxford Univ.) introduced a paper into the Record which:

". . . argues that what should in general be expected from chronic low exposure levels is that, because of the (frequently ignored) effects of the general background of carcinogens, no safe threshold doses will exist." (Peto, S.1)

Other witnesses who supported OSHA's position on this issue include:

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EPA, S.3; Dr. William Lijinsky (NCI—FCRC), S.31; Dr. Robert Squire (Johns Hopkins University) S.22; Dr. Benjamin Van Duuren (NYU), S.9; Dr. Bo Holmberg (Swedish NBOSH), S.14; Dr. David Hoel (NIEHS), S.1; Dr. Lawrence Fishbein (NCTR), Tr. 1873–1874; Dr. David Wegman (Harvard Univ.), Tr. 1674; and Dr. Arthur Upton (Director, NCI), S. 6–8.

In addition to the reports cited in the proposal, several other reports of expert committees were introduced into the Record which provided additional general support for OSHA's proposed position. For example, the National Academy of Sciences Report on Pest Control (1975a) described the issue as follows:

"*Threshold hypothesis.* This hypothesis assumes that there is a dose below which cancer induction cannot occur. An examination of published dose-response data for chemical carcinogenesis in laboratory animals provides no clear indication of a threshold for any carcinogen (Craig and Miller 1974). In a review of 151 dose-response curves, none was found to be clearly inconsistent in a manner suggesting a threshold with both the single-event and the probit hypotheses discussed below. Neither is there any adequate theory of chemical carcinogenesis that would require the general existence of thresholds. Thus, even if a threshold is postulated, there is presently no empirical or theoretical basis for determining the dose at which it may occur. Unless and until this can be done, the threshold concept does not provide a practical basis for risk estimation." (NAS, 1975a, p. 83, Exhibit H to Rall Statement)

Another Committee of the National Academy of Sciences, charged with evaluating the potential carcinogenicity of the pesticides heptachlor and chlordane, reported as follows on the issue of thresholds and "virtually safe level of exposure":

"*Question IV:* If chlordane or heptachlor or their metabolites pose a carcinogenic risk to man, is it possible to determine a level of exposure to chlordane or heptachlor or their metabolites which does not pose a risk of cancer to man or which constitutes a virtually safe level of exposure?

"*Answer:* Neither statistical nor biochemical procedures permit determination of a threshold dose for any carcinogen. Furthermore, since the committee believes that there are not sufficient data to permit a reliable estimate of the magnitude of risk to humans from these pesticides, it is unwilling to propose a virtually safe level of exposure.

"*Discussion:*

The first part of Question IV asks, in effect, if thresholds exist for agents that pose carcinogenic risks to humans. This question has been considered in depth by the many experts and expert committees referred to in the discussion on Question II. Their conclusions indicate that it is not known if true thresholds exist in the carcinogenic responses of humans and laboratory animals to chemical carcinogens. Even if they do exist, there are no data for humans that would permit the estimation of threshold concentrations of chlordane, heptachlor, or their metabolites. Nor is it possible to calculate such threshold concentrations for humans from the carcinogenicity data obtained from tests with laboratory animals because of the uncertainties inherent in the extrapolation of such data from one species to another.

With regard to the second part of Question IV, it is impossible to guarantee noncarcinogenicity of a compound in animals or humans. Furthermore, the determination of a "virtually" safe dose requires knowledge of the dose-response relationship in humans and the specification of an acceptable risk. The committee is of the opinion that knowledge of the carcinogenicity and metabolism of these compounds is inadequate for the prediction of dose-response relationships in humans and that the determination of acceptable risk would be a societal judgement and not one based on scientific facts. "(NAS, 1977b, pp. 31–32; Appendix 10d to Epstein Statement). (Footnote omitted)

A third Committee of the National Academy of Sciences, reporting in 1977 to EPA on *Drinking Water and Health*, provided an extensive discussion of thresholds in the context of risk assessment for carcinogens in drinking water. This Committee formulated four principles "that underlie efforts to assess the irreversible effects of long-continued exposure to carcinogenic substances at low dose rates." Principle 2 reads as follows:

"Methods do not now exist to establish a threshold for long-term effects of toxic agents" (NAS 1977a, p. 54; Appendix I to Rall Statement).

In support of this principle, the Committee provided an extensive discussion of the scientific evidence for low-dose effects of carcinogens. This discussion read in part as follows:

"Whether or not a particular effect follows a dose-response relationship that has a threshold depends entirely on the mechanism of the effect. Many effects have thresholds. For example, the gastrointestinal-radiation syndrome, acute drug toxicity, and radiation or drug control of some tumors all have dose-response curves that show thresholds. The curves are sigmoid, and below a particular dose there is zero probability of producing the effect, because it requires many independent occurrences and will not occur until the number of such events exceeds some critical value. The gastrointestinal-radiation (or drug) syndrome is a case in point. An animal will not die until the number of intestinal crypt cells that have been killed exceeds some value that is critical to the integrity of the organ. Any radiation or drug dose that kills fewer cells than this critical number can be considered to be "safe" (at least for this one syndrome).

"We are used to thinking in terms of thresholds and sigmoid dose-response curves. For example, if it costs $4,000 to buy an automobile, we do not imagine that we will have a 50% chance of buying the same vehicle for $2,000. If 100 aspirin tablets constitute a lethal dose, we do not calculate that we will have a 1% chance of dying if we swallow a single tablet. Because we know the mechanisms underlying these events, we expect thresholds to the dose-response curves, and indeed they are evident.

"However, other effects may well not have threshold dose-effect relationships. If an effect can be caused by a single hit, a single molecule, or a single unit of exposure, then the effect in question cannot have a threshold in the dose response relationship, no matter how unlikely it is that the single hit or event will produce the effect. Mutations in prokaryotic and eukaryotic cells can be caused by a single cluster of ion pairs produced by a beam of ionizing radiation. We would expect that mutations can be caused by a single molecule or perhaps group of molecules in proximity to the DNA. The necessary conclusion from this result is that the dose-response relationship for radiation and chemical mutagenesis cannot have a threshold and must be linear, at least at low doses.

"It is one step further to correlate mutagenesis with carcinogenesis. Nevertheless, the evidence is strong that there is a close relationship between the two (McCann et al., 1975; McCann and Ames, 1976; Ames. 1976; DHEW, 1977).

"We therefore conclude that, if there is evidence that a particular carcinogen acts by directly causing a mutation in the DNA, it is likely that the dose-response curve for carcinogenesis will not show a threshold and will be linear with dose at low doses.

Consideration of the Dose-Response Relationship

"In considering the possibility of thresholds for carcinogenesis, it is important to understand that there is no agent, chemical or physical, that induces a form of cancer in man that does not occur in the absence of that agent. In other words, when there is exposure to a material, we are not starting at an origin of zero cancers. Nor are we starting at an origin of zero carcinogenic agents in our environment. Thus, it is likely that any carcinogenic agent added to the environment will act by a particular mechanism on a particular cell population that is already being acted on by the same mechanism to induce cancers. This reasoning implies that only if it acted by a mechanism entirely different from that already operating on the tissue could a newly added carcinogen show a threshold in its dose-response curve.

Examination of Experimental Dose-Response Curves

"The most extensive information on carcinogenesis both in experimental animals and in humans is with ionizing radiation (BEIR, 1972). Although there is evidence implicating thresholds in some animal tissues (Walburg, 1974), thresholds have in general not been established for most tissues. If such thresholds exist, they occur at sufficiently

low doses that it would require massive, expensive, and impracticable experiments to establish them. In view of the common finding—for example of a linear dose-response relationship (unaffected by dose-rate)—for cancer induction in animals by high LET radiation, it is unlikely that such thresholds exist. Linearity is not essential to the no-threshold argument since nonlinear, dose-response relationships do not necessarily imply the existence of thresholds.

"Recent reviews by Bardensen (1975) and Brown (1976) suggest that the dose-response curve for mutation induction, the production of chromosome aberrations, and the induction of tumors in mammals is linear with low-LET radiation up to about 50–100 rads. Brown (1976) concluded from the available human data that this also applies to man. Such findings argue against a threshold for ionizing radiation. Because many carcinogenic agents act like radiation in producing mutations, chromosome aberrations, and cell killing, we see this as an additional argument against the likelihood of thresholds in the dose-response curves of these agents.

Heterogeneity of the Population

"The human population in the United States—the population we are trying to protect—is a large, diverse, and genetically heterogeneous group exposed to a variety of toxic agents Genetic variability to carcinogenesis is well documented (Strong, 1976), and it is also known that individuals who are deficient in immunological competence (for genetic or environmental reasons) are particularly susceptible to some forms of cancer (Cottier et al., 1974). It seems, therefore, that even if we were to postulate an average threshold for a particular cancer induced by a particular agent, we would in practice need a series of thresholds for different individuals. It would be extremely difficult to establish a single threshold.

"We conclude from these arguments that, despite all the complexities of chemical carcinogenesis, thresholds in the dose-response relationships do not appear to exist for direct-acting carcinogens. If they do exist, they are unlikely to be detected and, hence, impossible to use. This means that there can be no totally "safe" exposure to a particular carcinogen, nor can the term "margin of safety" have any meaning. Any dose of a carcinogen must be considered to be associated with a risk, and even if that risk is vanishingly small, it must be estimated."

* * * * *

"Even if a normal cell has been transformed to some intermediate stage in the carcinogenic process, this would not necessarily mean that cancer must occur. Cell repair or recovery or some other response from the immune mechanisms may be sufficient to stop or reverse the process before the final stage is reached. In addition, the death of these transformed cells may occur before the process has a chance to continue toward the eventual cancer. This is one of the major arguments in favor of the existence of a threshold. However, if there is some probability that these recovery mechanisms will not complete their role before the occurrence of another event or transformation, this type of threshold will not exist.

"Thresholds may be considered from two viewpoints—an "actual" threshold, which is an exposure below which any carcinogenic response attributable to the specific agent is impossible, and a "practical" threshold, which is an exposure below which an attributable carcinogenic response is highly unlikely. In discussing carcinogenic thresholds, Mantel (1963) has argued that it is immaterial whether or not "actual" thresholds exist, and that one should consider the "practical" thresholds when estimating human risk. Mantel and Bryan (1961) stated that a risk of cancer of 1 in 10^8 could be thought of as a "practical" threshold and that efforts should be made to estimate exposures that would produce no more than this risk. Using mathematical models that relate the latency period (time between initiation of exposure and appearance of cancer) to the exposure, Jones (1976) suggested that a "practical" threshold could be defined as an exposure for which the latency period is beyond the normal life span.

"Experimental or observational evidence of the existence of an "actual" threshold is usually presented in the form of a dose-response graph, in which the percentage of animals with tumors or the average number of tumors per animal is plotted against the dose of the carcinogen. Either the existence of doses that do not lead to an increase in tumor incidence over controls, or the extrapolation of such curves to low doses that apparently would result in no tumor increase, is cited as an indication of the existence of a threshold below which no response is possible. This type of reasoning is an exercise in self-deception.

"In the first case, failure to observe positive responses does not guarantee that the probability of response is actually zero. From a statistical viewpoint, zero responders out of a population of size N is consistent at the 5% significance level with an actual response probability between zero and approximately 3/N (e.g., when N = 100 and zero responders are observed, the true probability of response may be as high at 3%).

"In the second case, when an observed plot of dose against tumors is extrapolated downward to find a no-effect dose, it is assumed that the observed dose-response relationship, usually linear, will obtain throughout the entire spectrum of doses and that one threshold exists for the entire population at risk. The assumption of linearity throughout the entire dose spectrum can easily lead to erroneous conclusions. For example, consider the true dose-response relationship shown by the dashed curve in Figure II–I.

"The curve is convex, which would be consistent with a multievent theory of carcinogenesis in which more than one event is affected by the carcinogenic agent. This type of convex dose-response relationship, when sampled in an animal experiment over only a part of the dose range, could be thought to imply the existence of a threshold if simple linear extrapolation is used. If the animal experiment is performed at doses between A and B, one could conclude that a threshold exists at dose d_A; if the experiment is performed at doses between B and C, the conclusion could be that a higher threshold exists at dose d_B. In fact, with convex dose-response curves, simple linear extrapolation will always imply the existence of a threshold, if the experiment is performed over any range of doses that appears to produce linearity between dose and response.

"In addition, the assumption of one threshold is unrealistic. It is much more likely that, if thresholds do exist, not all members of the population have the same one. The human population is a very diverse, genetically, heterogeneous group that is exposed in different degrees to a large variety of toxic agents. Many different disorders may affect the frequency of mutational events in specific tissues. Disorders characterized by chromosomal instability have been found to be predisposed to malignancy. Patients with xeroderma pigmentosum are highly susceptible to ultraviolet-induced skin cancer, and it has been found that they have deficient DNA repair mechanisms (Robbins et al., 1974). In Bloom's syndrome, there is an immune deficiency and increased risk of leukemia and cancer of the colon (German, 1972). These systems may provide a model in which the risk of mutation and subsequent malignancy after exposure to an environmental carcinogen may be genetically determined. If malignancy is the result of a series of mutational events, there must be subpopulations at various degrees of risks or with various thresholds for the carcinogenic agent. Therefore, the search for thresholds should not be a search for one specific no-effect dose applicable to all members of the population at risk; rather, the problem is to find many thresholds for each of the subgroups within the population." (NAS, 1977a, pp. 37–44; Appendix I to Rall Statement).

c. Areas of Confusion Presented in the Record

A large number of witnesses presented testimony on the subject of thresholds or no-effect-levels for carcinogens. Many witnesses expressed general support for the OSHA position or provided additional details on specific points; other witnesses either objected to the OSHA proposal in general terms or proposed specific reasons why it should not apply in certain individual cases. However, some of their testimony appears to have reflected confusion over terminology or scientific concepts. It is important to resolve this confusion before analyzing the evidence on the principal points at issue.

First, the distinction between a "no observed effect level" or "no effect level" (NOEL or NEL) and a "threshold" was frequently blurred. For example, Dr. Paul Kotin (Johns-Manville) stated in his written submission:

"Chemical carcinogens can be administered at dose levels that yield no

cancers in laboratory animal models and that neither shorten the animals' life span nor results in demonstrable abnormalities in metabolic and physiologic capabilities. This is clearly a no effect (threshold) level." (Kotin, S. 13)

and in his oral presentation:

"I do not know how you define threshold, so let us avoid that; but I hope you will accept no effect level as a euphemism for it for our discussion." (Kotin, Tr. 4905)

Drs. P. J. Gehring and G. E. Blau in their article, "Mechanisms of Carcinogenesis: Dose Response" stated:

"Biologically, "threshold" has been interpreted to mean that there is a dose below which no response will occur. Hence when a dose is found that did not produce a toxic response in a reasonable number of subjects, laboratory animals or humans, it is assumed that the dose is subthreshold." (Gehring and Blau, 1977, p. 165; Exhibit 9 to Hoel Statement).

Dr. Robert Olson (St. Louis Univ.) disposed of the issue by defining threshold to be synonymous with no-effect level:

"Threshold" is an operational term denoting the highest dose at which no measurable effect occurs. No-effect levels have been repeatedly demonstrated for carcinogens in animals and man." (Olson, S. 10)

For scientific or regulatory purposes, *threshold* would be a dosage level below which an effect (cancer) *could not* and *never would* occur, not merely a point below which an effect would be infrequent, no matter how very infrequent. The National Academy of Sciences in their report, "Principles for Evaluating Chemicals in the Environment" cited by Mr. Sheldon Samuels (AFL–CIO) noted:

"The term "no-effect level" is statistically meaningless, and therefore of limited value, since it merely means that no effect was observed in studies using a group of animals of particular size." (Samuels, Tr. 7203)

Thresholds may hypothetically exist at the cellular, individual, or population levels. It was often unclear exactly what type of threshold was being discussed in the written statements and oral testimony. Occasionally, arguments developed from a biochemical basis were generalized to the population level without due consideration of all the potential complications.

Dr. Paul Kotin (Johns-Manville) observed that there is a "series" of thresholds, in his oral responses to the following question:

"Q. "Our understanding of chemical carcinogenesis at the molecular level is so primitive as to make the question of a threshold almost premature. Would you agree with that statement?

"A. It even sounds familiar. I might even have written it.

"Q. Yes. In fact, you did.

"A. Yes, I know. I have to elaborate very briefly here. You see, the question of a threshold, there are series of successive thresholds, and what I was speaking [of] there was the kinetics of the interaction between an environmental agent, a molecule of beta naphthylamine, whatever it is in a chlorinated hydrocarbon or whatever it is in a fiber that initiates the change with the genetic material. This is what I had in mind; that the threshold there we really know nothing about." (Kotin, Tr. 4903)

The determinants of a cellular threshold alone would be very complicated, as explained by Dr. R. W. Hart (Ohio State Univ.) in his written testimony:

"There are four general categories of DNA repair in mammalian cells: a) excision or prereplication repair, b) strand break repair, c) postreplication repair, and d) photoreactivation. It is now apparent that the first three of these are composed of multiple pathways. However, little is known concerning the specific enzymology, kinetics, or biological consequences resulting from alterations in these pathways. Additionally, DNA repair is a dynamic process in which: 1) various repair mechanisms coexist, 2) the state of the cell cycle may favor one repair system over another, 3) the state of differentiation of a given tissue may play a role in the extent and type of DNA repair that predominates, and 4) the biological manifestations of the type and/or quantity of repair or lack thereof may vary as a function of the aforementioned factors." (Hart, S. 15–16) (Footnotes omitted)

Dr. Richard Bates (NIEHS; FDA) discussed the intricacies of this question at some length in his written submission:

"The science of toxicology will have made immense strides when it becomes able to use the results of animal experiments to precisely predict the toxic risk of a chemical to any individual or group of humans. Unfortunately we are not there yet. The problem is terribly complicated. Absorption, rate of metabolism, and excretion of environmental chemicals may differ among species. Species may differ in the types or relative ratios of metabolites formed from any chemical and in the sensitivity of various organ systems to the toxic effects of these chemicals. Individuals within each of these species may show wide differences among these parameters depending upon their genetics and on modifying environmental circumstances. Susceptibility in the same individual may fluctuate during the phases of various biological cycles. Although we know these variables exist, we do not have enough knowledge to weigh each of the factors in any particular case and come up with a reliable multiplier for converting results of animal experiments to risk for any individual human under his or her conditions of life."

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"The concept of threshold is also confused by some scientists using the term to apply to individuals while others use it to apply to populations. As discussed earlier, the sensitivity of any individual to a chemical carcinogen will vary depending upon his genetics, his state of health, age, and exposure to a wide variety of environmental factors. Thus more resistant individuals may be able to tolerate an exposure level that would result in cancer for the more susceptible. One way of thinking of threshold would be to define this level as below the threshold for carcinogenicity of the first individual but above that for the second.

"When these considerations are applied on a population basis, it can be seen that this level might increase the total incidence of cancer in a large exposed population even though the level might be one that could be tolerated by many individuals within it. Since approximately a quarter of the American population will develop some form of cancer during their lifetimes, it is apparent that many are already over their threshold and additional exposures are likely to push more over that limit.

"At the present time, we are still in a position of being unable to unequivocally decide whether or not thresholds exist, as defined at the molecular or population level, or to determine which individuals in the population may or may not be able to tolerate additional exposure from carcinogenic chemicals." (Bates, S.9, 15).

Dr. David Rall (Director, NIEHS), in response to a question about whether other scientists may adopt assumptions which may lead to the prediction of thresholds, commented:

"It is very interesting. I am really not aware of any other scientists who have explicitly doubted or considered population thresholds. The discussion that I have seen and read deals with individual thresholds, but I have not seen discussion doubting the fact that for populations, there probably are no thresholds." (Rall, Tr. 455)

Later he clearly expressed the differences between a population threshold and an individual threshold:

". . . there are variations in the way chemicals are activated in the body to become carcinogens, and the mechanisms the body has to inactivate those chemicals. There are immunological mechanisms which may or may not serve to rid the body of newly-developing cancers. In looking at a very clean animal population, you can conceive that the first little bit of a chemical that is carcinogenic may be totally detoxified by these and other mechanisms. But they all have a limited capacity. They are not infinite, and the more chemicals or the more radiation or other carcinogenic agents that that individual is exposed to, you will begin to find that those protective mechanisms no longer protect.

"Now, if you are dealing with a population of many people over long periods of time, it is inconceivable to me that on a population basis, these people will not be exposed to a varying amount of other carcinogens and obviously, we are every day, if our death rate is 16 percent from cancer. Other drugs and chemicals which can influence these various protective mechanisms, infections which can influence these various protective mechanisms, the intrinsic genetic variability of the population where some people are richly endowed in these and some are not, and this is why I say that as populations, it is very hard to conceive as a threshold, and further, with a 16 percent incidence of cancer deaths, I think it is clear we have all exceeded those thresholds". (Rall, Tr. 483–484)

Several witnesses expressed the opinion that, if there is a threshold mechanism for carcinogenesis, it would probably be determined at the cellular level and that particular values would characterize each individual rather than the entire human population. Thresholds of this nature would not simplify the regulatory dilemma as was explained in the written submission of Dr. John A. Zapp (Du Pont):

"In the relatively small finite populations studied in the laboratory it is generally possible to find a 'no-observed effect level' (NOEL). But the question remains that in large populations there may be a few individuals who react to lower doses than any individual in the observed population. Hence for regulatory purposes some extrapolation of the risk to very large populations must be considered in attempting to get acceptable dose levels. As an example, that dose might be set at a level which might be expected to affect only one person per million at risk. Various formal schemes have been proposed to make such extrapolation, but have not been widely adopted for regulatory purposes.

"Several things should be observed about these extrapolations: (1) each leads to an unverifiable conclusion; (2) each takes us far from the observed data base into the unknown; (3) each is dependent on subjective assumptions about how the dose-effect curve goes in the unobservable region; and (4) none leads to a guaranteed safe finite dose for every individual in the population." (Zapp, S. 20)

Summarizing this evidence, it is possible to postulate that each individual human has a tolerance level for a given substance, but as to any given population, no threshold would necessarily be anticipated. OSHA is, of course, required to protect populations of workers against the effects of carcinogens. For this reason, evidence presented in the Record suggesting the existence of thresholds at the cellular or individual level was not particularly helpful, except where it was explicitly related to the prediction of population thresholds.

Perhaps because of the strong association of the two concepts in toxicology, there was a tendency by some witnesses to confuse the existence of a threshold with that of a dose/response relationship and to assume that, without a threshold, a dose/response curve would not be logical. For example:

"What are the unique chemical and physical properties of carcinogenic agents? What is unusual in their anatomic and metabolic fate that could be expected to isolate them from 'dose response' and 'threshold?' Most important, what might be the characteristics of the development and natural history of the group of diseases we call cancer, which, when viewed as a continuum, might erroneously generate the position that cancer originates in a non-threshold event and progresses in a nondose-response manner?" (Dr. Paul Kotin, Johns-Manville, S. 16)

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"There is abundant experimental testimony supporting the view that the effect of carcinogens, like that of other biologically active substances, is dose related and that there are levels of intake below which no effect can be observed." (Dr. Paul Woolrich, AIHA, S.6)

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"In the case of certain exogenous carcinogenic factors, epidemiological studies suggest the existence of a threshold. Cigarette smoking, for example, is well known to cause human cancer in a dose-related fashion." (Truhaut, 1977, p. 33–34; Exhibit 24 to Scala Statement)

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"While it recognizes dose-response relationships in the case of 'known' carcinogens, it questions the existence of thresholds and chooses to treat any substance shown to be carcinogenic in animals as having no 'safe' or 'no-effect' levels." (Dr. Bernard Oser, AIHC, S.19)

The assumption implicit in these quoted passages, that a dose-response relationship is synonymous with the existence of a threshold, is not justified. It is possible to envisage dose-response relationships for carcinogens without thresholds, and indeed many such relationships were discussed by witnesses at the hearing (e.g. by Dr. Hoel (NIEHS), Mr. Peto (Oxford Univ), Dr. Rall (Director, NIEHS), and Dr. Schneiderman (NCI)). Drs. Gehring and Blau discussed this confusion in their article quoted above:

"For chemical carcinogenesis, dose-response is not a universally accepted concept. However, its lack of universal acceptance is likely the result of the erroneous assumption that the dose-response and threshold concepts are inextricably associated. Chemical carcinogens, regardless of chemical composition, produce a greater incidence of cancer when administered in large doses than in smaller doses and a dose-response curve does exist (Weisburger, 1975). It may be argued that for some chemicals the response is related linearly to dose rather than to the logarithm of the dose. However, this deviation, if true, does not preclude the establishment of a dose-response relationship. Furthermore, such a deviation does not alter, whatsoever, application of the dose-dependency concepts to the hazard assessment of chemicals, as will be presented later." (Gehring and Blau, 1977, p. 165; Exhibit 9 to Hoel Statement)

An article by Dr. Irving Selikoff (Mt. Sinai School of Medicine), introduced into the Record by Du Pont, also made this clear:

"3. Threshold levels for carcinogenic agents—The existence of dose-disease response relationships is not a contradiction of the concept that thresholds do not exist for the occurrence of cancer following exposure to carcinogenic agents. The fact that it may be very difficult to obtain definitive information on the incidence of cancer at very low levels of exposure provides a background for our current uncertainty in this area." (Selikoff, 1975, p. 91; Attachment I to Du Pont Post-hearing Comment).

When questioned at the hearings, Dr. Paul Kotin (Johns-Manville) firmly stated that a dose response relation did not necessarily imply a threshold (Kotin, Tr. 4928).

Several witnesses argued that the fact that some exposed individuals do not develop cancer implies a common threshold for all:

"What is important is to recognize that there are exposures possible that will not automatically result in cancer."

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"The list is potentially endless, and encompasses virtually every facet of life for all of us. Why, then, do we not all die from cancer? Again, the answer must be that nature has devised biological thresholds that function to protect us from casual exposure to potential carcinogens." (Organization Resources Counselors, S. 36, 43)

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"The no-safe-level hypothesis is denied readily by the populations who have been at long-term risk in an acceptable risk environment to the many toxic materials with which we are surrounded. The no-safe-level hypothesis ignores the capacity of the human organisms not only to accommodate to finite low levels of toxic materials, but also to make beneficial use of them." (Dr. Blaine Mays (Chemetron), Tr. 6189)

However, the wide variability in susceptibility to cancer within a population was pointed out by many witnesses: Dr. Harold Stewart (NIH), S. 4–5; Dr. William Lijinsky (NCI), Tr. 1017; Dr. Donald Kennedy (Commissioner, FDA), Tr. 578–579; Dr. Umberto Saffiotti (NCI), Tr. 950, Dr. Curtis Harris (NCI), Tr. 2017; and Dr. David Kaufman (Univ. of N. Carolina), Tr. 2200.

Another paper cited by several witnesses argued vigorously against the importance of stochastic processes in carcinogenesis:

"Although this approach [MTD bioassay] may be acceptable for screening chemicals for further evaluation, translation of the data to predict the hazard of low-level exposure is

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presumptuous guesswork at best. The presumptuous guesswork has been sophisticated by the statistician who has applied his stochastic, statistical processes, and "stochastic" (which is defined as guesswork) is emphasized. Not considered in making such statistical extrapolations is the fact that the fate of many chemicals changes as the magnitude of the dose." (Gehring et al., 1977, p. 187, Reference to Bates Statement).

Dr. Marvin Schneiderman (NCI) and his co-workers presented a more sophisticated view of this issue:

"The importance of Falk's work on threshold is to remind us of the complexity of the carcinogenic process and, although Falk doesn't say it directly, of the stochastic or probabilistic nature of the process. He reminds us that we must not lose sight of the possibilities of anticarcinogens, or chemoprevention, but this involves an entirely different set of concepts and no generalization seems possible at this time. While Falk gives arguments about numbers of molecules necessary, inactivation, and reaction with cellular constituents other than DNA they all have force. What he neglects to tell us is that these reactions are not likely to be perfect, complete. He doesn't discuss whether it is likely that many paths lead to the (possible) same somatic mutation that is one stage in the development of cancer. Incomplete deactivation and incomplete repair or "unscheduled" repair remain very likely and being likely, and being contributors to one or more stages of carcinogenesis, we should see not threshold, but rather lowered real dose and thus lower, but still non-zero probability of cancer." (Schneiderman et al. 1978, pp. 12–13; Appendix D to Schneiderman Post-hearing Comment)

Thus, rather than being "guesswork", a stochastic view of carcinogenesis takes into account that the process is not understood in complete detail and that its causal components extend to the molecular level which will probably never be entirely predictable.

d. Specific Points at Issue in the Record

After clarification of these areas of confusion, the principal scientific issues raised during the proceeding were the following:

1. Are there features of the process of chemical carcinogenesis which distinguish it from other toxicological processes and would invalidate the automatic extension of the principle of thresholds?
2. Are there protective mechanisms that would eliminate the possibility of carcinogenic effects at low doses?
3. Is it logical to assume that there must be thresholds for "bionutrients"?
4. Have thresholds ever been observed for specific carcinogens in laboratory animals or in humans?
5. Is there a consistent relationship between dose and latent period that would result in a practical threshold at low doses?
6. Would the interaction between carcinogens invalidate the concept of a threshold?
7. Are all individuals equally susceptible to the action of a carcinogen?

1. Distinctive features of carcinogenesis.

Several witnesses expressed the opinion that carcinogenesis should be similar to other toxicological processes in various respects, including the existence of thresholds. For example, Dr. Paul Kotin (Johns-Manville) made the following statement:

"1. *A dose must exist below which a carcinogen is ineffective.*

"Chemical carcinogens of every known category, chemical composition, and steric configuration produce more cancers when administered in large doses than smaller ones, and a dose response curve can be demonstrated for graduated doses (references omitted)

"Carcinogens are like all biologically active substances; they owe their effect to the manner in which they react with the chemical constituents of living organisms. For active substances in general, the greater the extent of reaction, the greater the magnitude of effect. Moreover, the response of a biological system (both experimental animal and human) to a physiologically active agent is proportional, over some range of concentrations, to the concentration of the active agent within the system.

"In the scientific community there are investigators who maintain that the evaluation of the effects and response of a carcinogenic substance should be different from the evaluation of the effects and responses of toxic chemical substances that are not carcinogens. Disregarding established principles of dose response and biological thresholds, they believe that the effect of a carcinogen is all or none, that a single molecule is sufficient of itself to be the ultimate agent of harm, whereas they believe a biological system can tolerate certain concentrations of a noncarcinogenic toxic chemical without any demonstrable adverse effect. There are convincing theoretical arguments as well as data to show that a dose must exist below which a carcinogen is ineffective." (Kotin, S. 11–12)

Dr. Harry Skalsky (Reynolds Aluminum Co.) stated:

"Thresholds exist for every biological phenomenon. OSHA, as a matter of policy, and FDA, as required by law, do not recognize a minimum level of a carcinogen. However, recent advances in cellular biology indicate that this position should be modified." (Skalsky, Tr. 7588)

In their article "Mechanisms of Carcinogenesis: Dose Response", Gehring and Blau delineated the stages at which a threshold might come into effect:

"(1) Chemical carcinogenesis is a multistage process involving:

(a) Exposure, absorption, distribution, activation, deactivation, and elimination of the chemical per se or products formed from it.

(b) Interaction with critical receptor sites leading to molecularly transmittable products.

(c) Survival and proliferation of transformed cells to clinical cancer.

"Interference with any of these processes may constitute a threshold. For example, there is a plethora of data showing that promoters, which in themselves cannot initiate cancer, can enhance greatly the incidence of cancer induced by administration of an initiator. Also, the damaged receptor site may undergo repair." (Gehring and Blau, 1977, p. 165; Exhibit 9 to Hoel statement.)

The late Dr. Hardin B. Jones (Univ. of Calif.), however, distinguished in his submission between toxicants and carcinogens in terms of whether or not they have a threshold:

"In carcinogenesis, the dose response relationships follow closely to a direct proportion between degree of exposure and incidence of neoplasms. Such quantitative relationships indicate a constant risk of neoplastic change per unit exposure to the carcinogen, and there are many carefully done examples showing this to be the rule. Biology has advanced in the theory of understanding of the process of carcinogenesis and we believe that this constancy of risk reveals an underlying molecular process. Dilution does not affect the characteristics of this molecular process which stays constant per unit of dose over a much wider range than is the case with forces causing physiologic change."

"Toxic substances induce physiological disturbances, since the degree of disturbance depends upon the extent physiological controls are overloaded. Toxicant effects subside disproportionately rapidly on lowering dosages; viewed the other way, they begin from a threshold level and build up gaining in degree of effect per unit dose as dose increases. My analysis shows that the appearance of the liver "neoplasms" with exposure to chloroform, chlordane or heptachlor fits the dose response dynamics of toxicant and not of a carcinogen."

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"The difference between toxicants and carcinogens is that, with decreasing dose, toxicants reach a no-effect level, a threshold, and as the threshold is approached, the toxic effects greatly subside. In contrast, true carcinogens continue to exert influence, as dose decreases, and the tumor risk appears constant, per unit of carcinogen, over the detected range of cancers. Yet through animal bioassays at very high doses, toxicants may be implicated in the causation of cancer. Examples of such toxicants for which thresholds can be established are chloroform, carbon tetrachloride, chlordane and heptachlor." (Jones, S. 4, 19–20)

Dr. Arthur Upton (Director, NCI) provided an explanation of the differences between carcinogenesis and other toxicological processes:

". . . experience teaches us that the kind of toxicity that results in acute renal shutdown, that results in respiratory failure, cardiac arrest, acute hematologic insufficiency, generally involves a measure of tissue insult that does in fact to all practical intents and purposes represent a threshold; whereas with other kinds of effects, we may be dealing with subtle injury to perhaps only a single cell in the body: The induction of a mutation in a germ cell; induction of a carcinogenic change in one of the body cells.

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". . . I only have to damage perhaps one cell in the bone marrow to give myself leukemia, and that is the problem. That is the great difference between this threshold phenomenon in toxicology and the non-threshold phenomenon.

"We have to be much more careful about the non-threshold category because that type of damage, for what we know about it, is permanent. It is not reversible." (Upton, Tr. 343–345)

Dr. Upton enunciated four principles that apply to radiation carcinogenesis, and proposed that on the basis of present knowledge it would be prudent to apply these principles to chemical carcinogens. The first two of these principles were:

"1. Any exposure to ionizing radiation is considered to pose some risk of increased cancer incidence.

"2. At low exposure, the excess risk is considered likely to be proportional to the increase in exposure (relative to background)." (Upton, S. 6–7)

Another specialist in radiation carcinogenesis, Dr. Richard Wilson (Harvard Univ.), agreed with the application of these principles to chemical carcinogenesis (Wilson, Tr. 3421), as did Dr. Bo Holmberg (Swedish NBOSH) (Holmberg, S. 14).

In a 1975 publication by Dr. Upton, observations on dose-response relationships for radiation carcinogenesis were summarized as follows:

"The dose-incidence relation in experimental animals is generally curvilinear, with the following features: (a) in the high dose region, the incidence tends to reach a plateau or to decline with increasing dose, presumably because of excessive injury (Upton, 1967; United Nations, 1972); (b) in the intermediate dose region, the incidence tends to rise more steeply with increasing dose than at lower or higher dose levels; (c) with decreasing dose and dose rate, the curve tends to become shallower, at least in the case of low-LET radiation.

From the foregoing, the cancer biologist is tempted to infer that at low dose levels (1) "initiating" effects of radiation predominate, which are to some extent reversible in incipient stages; (2) these effects may be magnified by other types of effects ("enhancing," "promoting" etc.) at intermediate dose levels; and (3) both types of carcinogenic effect fail to be expressed fully at high dose levels, because of side-effects or excessive injury." (Upton, 1975, p. 397)

This passage was erroneously quoted at (Tr. 4884) as though it supported the concept of a "no effect level", although in fact it stands for exactly the opposite position, as reflected in Dr. Upton's direct statement.

Dr. Upton also quoted a 1960 Report of the Federal Radiation Council:

"There is a particular uncertainty with respect to the biological effects at very low doses and dose rates. It is not prudent, therefore, to assume that there is a level of radiation exposure below which there is an absolute certainty that no effect may occur.

"This consideration, in addition to the adoption of the conservative hypothesis of a linear relation between biological effect and the amount of dose, determines our basic approach to the formulation of radiation protection guides." (Upton, 1975, p. 399)

To paraphrase the WHO Technical Report 546 (pp. 9–10) quoted in the proposal: Carcinogenesis, whereby one event can cause irreversible damage in a single cell which can be perpetuated by self-replication like a somatic cell mutation and produce an observable effect only after long latency, is qualitatively very different from the acute or even chronic non-carcinogenic effects of toxic chemicals. Carcinogenesis now appears to be a multi-causal, multi-stage disease process which involves the interaction of a multitude of inherited susceptibility factors and environmental risks.

Dr. Schneiderman (NCI) and his colleagues discussed some of the unique properties of carcinogens:

"Is cancer different then from other ills the flesh is heir to? (This cliche does not necessarily imply a genetic mechanism). There is evidence that it is different. Dinman in advancing his theory of the "minimum number of molecules" required for damage did not include cancer among the diseases that his argument would apply to. First, cancer appears often to be a disease of DNA damage or mis-repair, or incomplete repair and there is evidence that large numbers of molecules of an offending agent are not needed to cause DNA damage. Second, cancer is a progressive process. Once the last stage is started, the cells appear to develop an existence of their own, growing out of bounds as it were. The initiating agent doesn't need to be present any longer once the process has started on its way (although a "promoter" may need to be around for a long time to produce high risks). Third, many agents seem to lead to the same cancer. This implies that unlike bacterial diseases where one agent leads to one disease, we must not consider each agent in isolation, but we need to put the doses of these same end result materials together additively (at least). If n materials lead to the same event and each is at an effective dose of d_i, and each one of these below its own separate threshold, assuming there was one, we would have to be concerned whether the sum of the d_i would be below the organism's personal threshold. Thus, on a theoretical basis, if the same cancer can be brought about by several agents, being exposed to each of these agents below its own individual threshold could still lead to the sum of the exposures exceeding the threshold for the organism." (Schneiderman et al., 1978, pp. 2–3; Appendix D to Schneiderman Post-hearing comments)

Dr. Robert Squire (Johns Hopkins Univ.) also expanded upon the unique aspects of carcinogenesis in his prepared statement:

"It is well established that carcinogenesis, like other forms of toxicity, is dose-dependent, and carcinogenic risk often correlates with levels and duration of exposure to carcinogens (Druckrey 1967). In contrast to other forms of toxicity, however, there may be a cumulative effect of exposure to a carcinogen because of the irreversible nature of the carcinogenic toxicity. This has been demonstrated in animal studies and by the increased incidence of respiratory cancer in chloromethyl methyl ether workers as related to cumulative exposure. Nelson (1976, p. 87) stated, "Again, lung cancer occurrence follows in an orderly way the cumulative time-weighted exposure."

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"It is probably true that all substances are toxic at some level and that most are safe at another, since many metabolic, pharmacokinetic, and detoxification or repair processes are dose-dependent.

"Not all substances, however, are carcinogenic, including many that exhibit other types of toxicity and can cause death. In the current NCI carcinogenesis bioassays (reports in progress), over one-half of the substances tested showed no carcinogenic effects, although most were to some extent toxic at the levels tested. These results are particularly revealing, since the chemicals were selected for testing because some concern for their carcinogenic potential existed. Carcinogenicity is in fact a specific type of toxicity, resulting in a persistent and self-perpetuating alteration of cells, apparently through the interaction of the ultimate carcinogen and cellular genetic material or other cellular macromolecules that control cellular differentiation (Miller 1977). It is perhaps identical to somatic mutation, a type of genetic toxicity, but it is to be distinguished from most other types of toxicity, which do not result in heritable cell alterations. The mechanisms of carcinogenicity are unknown, but the phenotypic expression of the carcinogenic process is clearly different from that of non-neoplastic toxicity.

"Thus, I believe that we are compelled to consider carcinogenesis a specific and perhaps unique toxic manifestation. We should not, in my view, regulate carcinogens as we do many other toxic substances." (Squire, S.5, 7–8)

Dr. Richard Griesemer (NCI) stated similarly:

"The assumption that the "principles of toxicology" apply to carcinogenesis has not been proved. In particular, the evidence that exposure of cells to very small amounts of

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carcinogens results in irreversible changes that can be shown to be the beginning of the carcinogenic process indicates that caution should be used in attempting to predict threshold levels until more data are obtained." (Griesemer, S. 7)

Dr. Curtis Harris (NCI) testified also about the irreversibility of early stages in cancer induced by cigarette smoke:

"There is some evidence that the histological appearance of the metaplasia, the amount of metaplasia, the number of foci decrease in number and in extent. There is no evidence that they go away completely, and there is no evidence that the carcinogenic process is reversible. . . ."

"What happens. . . is that the risk plateaus off, but it is still a much higher risk than someone who does not smoke, and I think that is—so far, as we know, it is an irreversible process." (Harris, Tr. 2023–2024)

Dr. Hoel, Mr. Peto, and their colleagues summatized evidence that cancers often originate from single cells:

"Single-Cell Origin. If individual cancers arise from an original, single, "transformed" cell, then the statistical nature of the carcinogenic dose response will be governed by the extreme tail of the "transformation" response distribution. The effect of this is to make virtually any process of discrete events approximately linear at low dose. Two primary observations indicate the single-cell origin of cancers. In women who are heterozygous for electrophoretic variants of X-linked glucose-6-phosphate dehydrogenase, cancers are uniformly of one phenotype or the other (6), whereas a comparable amount of normal tissue is composed of a mixture of cells of the 2 phenotypic classes. Further evidence for the single-cell origin of cancers comes from experimental efforts in which "transformed" cells are transplanted into whole animals. Although there is much controversy associated with various aspects of this line of research, it seems that the ability of a single cell to give rise to a cancer is well demonstrated (7). Thus, 2 lines of evidence indicate that cancer can be most reasonably assumed to arise from events associated with or occurring inside single cells. (6)" (Crump et al., p. 2977 (citing Fiaklow, 1974 and Gartler, 1974). (Annex C to Peto Statement).

These points were discussed more fully in the Introduction (see Chapter III. A. *The Nature of the Disease*). The consensus of the scientific witnesses was that carcinogenesis is a distinctive process which differs from other toxicological processes in several key features. There is, therefore, no sound reason to assume that it must necessarily resemble other processes in displaying a threshold. Indeed, there are substantial empiricial and theoretical reasons why it should not.

(2.) Protective mechanisms.

One phenomenon which was proposed as a mechanism that might lead to a threshold in carcinogenesis is immuno-surveillance:

"There is a substantial and growing body of evidence that carcinogenesis is subject to immunosurveillance, particularly cell-mediated immunity (Roe and Tucker, 1974; Weisburger, 1975)." (Gehring and Blau, 1977, p. 166; Exhibit 9 to Hoel Statement)

However, the significance of this mechanism was questioned by Dr. Curtis Harris (NCI):

"Q. What I am asking you is if you had evidence that immunosuppression led to an increased incidence of cancer—

"A. Well, you are talking about something that is very hypothetical and you just said that you have no evidence—there was a theory, and I guess it is still a theory, that there is such a thing as immunological surveillance, and that has become a bit passe now.

"There is an association, that is a fair statement, but there is an association between the risk of cancer and a lot of exogenous factors . . . Most of the increased risk happens to be in a couple of very rare kinds of tumors, such as lymphomas, and it is not clear whether or not the immunosuppression per se was the cause of it or the antigenic stimulus of the kidneys, the foreign kidneys, from another individual that we put into the patient, or a combination of the two. The mechanism of that, frankly, is not known." (Harris, Tr. 2040)

Another mechanism cited by a number of witnesses that might hypothetically lead to a threshold effect at low doses is DNA repair. Several witnesses cited the example of *xeroderma pigmentosum* to illustrate the importance of DNA repair. Persons suffering from *xeroderma pigmentosum* are characterized by an impaired ability to repair DNA and are much more susceptible to skin cancer after exposure to ultra-violet light than normal persons, e.g.:

". . . there is a tendency to denigrate repairs, but let me give you an example of where repair represents the difference between the manifestation of a disease or its non-occurence, and that is cancer in patients with xeroderma pigmentosa.

"It is the absence of one repair mechanism that is the fulcrum which determines the occurrence or non-occurrence of cancer." (Kotin, Tr. 4893)

However, the logic of this statement and its application to the threshold concept are not clear. Skin cancer is frequent in persons who do not suffer from *xeroderma pigmentosum*: hence the reference to "non-occurrence of cancer" was incorrect.

Dr. Umberto Saffiotti (NCI) discussed this repair mechanism and the individual susceptibility it is subject to at length during his oral testimony:

"We know that xeroderma pigmentosum patients—these are patients with a special genetic disorder that makes them extraordinarily susceptible to the induction of skin cancer by agents such as sunlight—we know that these patients with this particularly high genetic susceptibility would develop literally hundreds sometimes or certainly a large number of skin cancers, essentially by the age of 20 or something like that.

"And we know that if we have people of a somewhat lower level of susceptibility but still very high, which I characterize by certain genetic features in their skin complexion, we know that those are particularly high-risk individuals. Now, if we have certain occupations that involve high-level exposure to actinic radiation, to sunlight, such as certain agricultural or marine activities and others, or certain activities in exposure to sunlight at high altitudes, we know from epidemiologic studies that some of these people are indeed at a very high risk for skin cancer. We also know that if they are protected from sunlight this skin cancer would not appear. There is a recent case report on two patients diagnosed with this genetic condition, xeroderma pigmentosum, at birth because of their genetic background who have been raised in complete protection from sunlight, yet with living a fully active life, having outdoor exercise after sunset and such provisions, they are now 18 or something like that. They were reported when they were 18 years old, and they have not had a single skin tumor, which is extremely different from what you would expect from such very high-risk people if they had had exposure to this agent.

"Now, what I am really driving at is that even the very high-risk people can be effectively protected by removing the exposure, and that one should always worry about high-risk individuals in the population. For those cases where we do not know [illegible] the high-risk markers are, then ob[illegible] take a prudent attitude of cut[illegible] all the exposures. The question is [illegible] whether we should select employment c[illegible]teristics or exposures and so on for those people. I think that without going into the legal and labor negotiation aspects of that problem, certainly all the information should be made available to such people that would indicate to them, with documentation, what are the high risks that they could take and those they would be particularly affected by. What I would say is that if I would advise, as a scientist, an employer who has to have a crew of people working at high altitudes in sunlight, I would make these points known to them so that the workers and their unions would be fully informed of this particular aspect. Beyond that, I know there are policy issues that I am really not in a position to sort out. They are delicate problems of freedom of employment and all that.

"But what I want to stress in this context is that even for those high-risk people, there can be protective mechanisms that would prevent their exposure to this agent and allow them to work even in what other people consider an exposure case, protecting them from their exposure. So I think you do the best you can under both circumstances." (Saffiotti, Tr. 966–965)

A detailed description of DNA repair mechanisms was provided by Dr. Ronald W. Hart (Ohio State Univ.):

"It thus appears a reasonable assumption that excision or prereplication repair plays a primary role in the modulation of the carcinogenic potential of a number of chemical and physical carcinogens and thus should be considered when evaluating their potential hazard. This may be especially the case since it is a reasonable expectation that the capacity of a cell to repair DNA damage may determine its threshold level for such physiological endpoints as cytotoxicity, mutagenicity, and potential carcinogencity. For example, XP fibroblast cell cultures from patients of complementation Group A (the most excision repair defective class of XP patients) have a lower threshold level for cytotoxicity and mutagenicity (for many physical and chemical carcinogens) than do fibroblast cell cultures derived from normal individuals.

"Strand Break Repair

"A second general form of DNA repair is strand break repair. Strand break repair is generally measured by following the rejoining of single-or double-stranded DNA on, respectively, an alkaline or neutral sucrose gradient subsequent to exposure of cells to either X-rays or chemical alkylating agents. Breaks in DNA may arise from: a) alkali-labile apurinic sites in DNA, b) alkali-labile phosphotriester groups in alkylating DNA, c) cellular metabolism, and d) the action of excision repair enzymes. Regardless of the nature of the factor inducing strand breaks in cellular DNA treated with either X-ray, alkylating agents or 4NQO, with the possible exception of the latter, there is little data suggesting correlation *in vitro* between strand break repair and carcinogenesis.

"Postreplication Repair

"Postreplication repair is a process in which DNA newly synthesized from a defective or damaged template is repaired. This concept was derived from the observation that newly synthesized DNA in UV-irradiated cells is initially of lower molecular weight than in unirradiated cells. The gradual increase in molecular weight on subsequent incubation of UV-irradiated cell cultures has been interpreted as the repair of gaps formed in the newly synthesized DNA opposite the UV-induced DNA lesions. Obviously, this system would be important only in cells actively synthesizing DNA and in cells that were unable to excise all lesions from their DNA prior to the onset of DNA synthesis.

"In bacterial systems, it is now fairly certain that mutations may be induced by either mispairing of the DNA bases during DNA replication or by misrepair during postreplication repair. Both misreplication and misrepair can be induced by DNA damage entering DNA replication. Other causes for the induction of misreplication have been covered in an elegant review by Drake and Baltz and will not be covered here. While misrepair (presumably postreplication repair, since prereplication repair is assumed to be error-free) has been directly related to mutagenesis in bacterial systems, the evidence for either postreplication repair (error-free or error-prone) or its mutagenic nature is, at best, only indirect in mammalian systems. This evidence includes: a) the existence of a variant form of xeroderma pigmentosum which is normal for excision or prereplication repair, but is abnormal with regard to the rate at which newly synthesized (lower molecular weight) DNA in UV-irradiated cells increases in size on subsequent incubation (these studies presumably indicate an error in postreplication repair); b) the observation that xeroderma pigmentosum cells derived by XP variant individuals have a higher than expected mutation frequency following exposure to certain carcinogens such as UV-light, polcycylic aromatic hydrocarbons, and acetoxyacetyl-aminofluorene; and c) the observation that caffeine, a known blocker of error-free postreplication repair in certain bacterial systems, enhances under selected conditions the number of ouabain-resistant mutants in the Chinese hamster cell line V-79. Thus, while it is tempting to suggest that mammalian cell mutagenesis and carcinogenesis may be partly due to an error-prone postreplication repair system occurring in mammalian cells, as it apparently does in bacterial cell systems, there is at this time insufficient evidence to draw such a conclusion.

"From the evidence presented in Section 2 above, it is apparent that various forms of DNA repair systems operate in mammalian cells and, further, that these systems operate to remove DNA damage induced by both physical and chemical agents. The form of DNA repair most closely associated with modulation of the cytotoxic, mutagenic, and carcinogenic action of physical and chemical carcinogens appears to be excision or prereplication repair. While other forms of DNA repair may also modify the cytotoxic, mutagenic, and carcinogenic action of environmental agents, the lack of scientific data makes it difficult to draw such a conclusion. It is, however, a reasonable assumption that at least excision repair is a major modulator of the carcinogenic and mutagenic potential of many but not all carcinogens." (Hart, S. 20–23)

Dr. Hart went on to summarize his comments as follows:

"35. The presently available evidence suggests that:

(a) DNA is the primary target for most but not all physical and chemical carcinogens;

(b) For many chemical carcinogens metabolic activation is required to produce the carcinogenic form of the agent;

(c) DNA repair (of at least the excision form) appears to modulate the cytotoxic, mutagenic and carcinogenic potential of physically or chemically induced DNA damage;

(d) Correctly repaired DNA damage is assumed to have no deleterious biological effect;

(e) Unrepaired DNA damage, entering DNA replication, is believed to produce mutations by either misreplication or misrepair;

(f) For many, but not all carcinogens, mutagenesis appears to correlate well with carcinogenesis.

"36. It is thus a reasonable assumption that species differences in either or both the ability to metabolically activate chemical carcinogens or repair carcinogen-induced DNA damage would relate to the carcinogenic potential of many of these agents. The presently available evidence on species differences with regard to these two factors is meager, but suggests that:

(a) Fibroblasts derived from longer-lived species (e.g. humans) are less able to metabolically activate the polycyclic aromatic hydrocarbons than those derived from shorter-lived species (e.g. mice).

(b) Fibroblasts derived from longer-lived species (e.g. humans) are better able to excise UV-induced DNA damage than those derived from shorter-lived species (e.g. mice).

"37. If further examination shows that humans cells have either a lesser or greater ability to repair various forms of DNA damage than cells from rodent species and/or that human cells have either a greater or lesser ability to metabolically activate various chemical agents to their carcinogenic forms than rodent cells, then either way these factors should be taken into account when setting threshold levels for occupational exposure to potentially hazardous agents." (Hart, S. 27–28)

Strictly speaking, *any* failure in repair leaves the possibility of initiation of the carcinogenic process and so precludes the existence of a threshold. Dr. Hart in his exhibit "The Role of DNA Repair in Aging" indicated that the repair process is not 100% reliable:

"The majority of the genetic information in a differentiated cell is normally nontranscribable (Cutler, 1974). Most mammalian systems do not show total repair of DNA damage and the fraction of damage repaired decreases as the amount of insult to DNA increases (Hart and Setlow, 1974). Preferential repair of DNA damage in nonchromatin-bound DNA following UV-irradiation has been demonstrated in human fibroblast cultures in vitro (Wilkins and Hart, 1974). When previously UV-irradiated cells are exposed to a high salt solution and the number of endonuclease-sensitive regions remaining are determined, a significant fraction appear to remain unrepaired in the chromatin-bound regions even several days after UV treatment. Thus, even if the rate of occurrence of random DNA is constant and the fraction of new damage accumulates at a constant rate over the lifespan of an animal, it would be expected that there would occur a preferential increase in the amount of distortion of the DNA helix in the chromatin-bound regions of the DNA.

"At the functional level, unrepaired or incorrectly repaired DNA damage can be reflected in (1) transcription of erroneous mRNA; (2) synthesis of nonfunctional enzymes; (3) cessation of transcription; or (4) gene de-repression (Trosko and Chang, This Volume; Trosko and Hart, 1975). In any system where repair of DNA is incomplete and damage thus accumulates with time, the results of these functional alterations would also be expected to increase. When the amount of damage a system can tolerate is exceeded, system malfunction and death ensue." (Hart, 1976, p. 540–541; Exhibit to AIHC Statement)

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The critical issue is whether DNA repair is 100 percent efficient in some or all circumstances. Some witnesses stated that excision repair is 100 percent efficient (Dr. Robert Olson (St. Louis Univ.), Tr. 3332; Dr. James Jandl (Harvard Univ.), S. 19–20), but agreed with Dr. Hart that postreplication repair is not (Jandl, S. 19–20). Dr. David Brusick (AIHC) was equivocal on the issue, stating that "the DNA repair system can eliminate essentially 100% of induced lesions . . .", but without specifying which type of repair was being referred to.

Dr. Arthur Upton (Director, NCI) made the following statement:

"We know of repair mechanisms that operate on the gene, but we know that they do not operate with 100 percent efficiency. So that there is always some residual level of damage that is not repaired.

"We also know that there can be misrepair of damage, and there is some evidence that it is in fact the misrepair, the faulty repair, that eventually leads to cancer." (Upton, Tr. 346)

Dr. Bertram Dinman (Alcoa) went further and expressed the opinion that none of the repair mechanisms could be expected to be 100 percent efficient:

"Q. On page 2 of your statement, the very last paragraph, you have written: "By 1978 it has become apparent that errors in DNA sequences can be corrected by at least three general mechanisms," and you list excision or [pre] replication repair, strand break repair, and post replication repair.

"To the best of your knowledge, are any of these repair mechanisms known to be 100 percent effective?

"A. I do not think there is any biological phenomenon which could be expected to occur 100 percent of the time." (Dinman, Tr. 7028–7029)

OSHA concludes from the testimony cited above that DNA repair is not normally 100 percent efficient, and indeed that it would be unreasonable to expect it to be so. Accordingly our knowledge of DNA repair cannot be used to justify the assumption of population thresholds for carcinogens, either in general or in specific cases. In addition, DNA repair appears to be a general phenomenon and would be expected to be significant in experimental animals as well as exposed humans. Accordingly, its principal significance from the point of view of regulation is for the quantitative rather than the qualitative extrapolation from animals to humans. At present there is insufficient evidence for interspecific comparison of repair efficiency (Hart, S. 23–28; Tr. 3500), but any variations in efficiency would greatly complicate the problem of quantitative interspecific comparisons.

A third protective mechanism cited by many witnesses is the detoxification of carcinogenic metabolites prior to their interaction with DNA or other cellular macromolecules. Some aspects of this mechanism have been discussed above relative to the hypthesis of "metabolic overloading" at high doses. The specific question relevant to threshold is whether detoxification mechanisms can be 100 percent efficient *at low doses.*

Dr. Ralph Freudenthal (Stauffer Chemical Co.) spoke of the possibility of detoxification:

". . . there is a concentration at which detoxification can handle the material in such a way that the reactive metabolites do not get to the critical macromolecules, and therefore you do not get tumorigenicity. So I believe not only in these studies is there a no-effect level. I think there is a real no-effect level." (Stauffer, Tr. 6758)

However, Dr. Curtis Harris (NCI) challenged the idea that it would be completely effective:

"We are looking at conjugation of carcinogens with glutathione, sulfates, glucuronides. But as I mentioned, you cannot equate conjugation with detoxification, in that you cannot assume that the detoxification mechanisms are 100 percent efficient. And there are examples in which a conjugate can be deconjugated, leading to the active form of the carcinogen. . ."

* * * * *

"I said that detoxification mechanisms are not 100 percent efficient, and it is unreasonable to believe that they would be, and that what some people call detoxification, conjugation reactions, can in fact lead to a conjugated product that can, by bacteria, or by normal human cells, be deconjugated, and you are right back where you started again, with the active form of the carcinogen."

* * * * *

"No, I think that there are several ways that you might, in understanding the mechanism, be able to prevent carcinogenesis. One is inhibiting activation, and the other is enhancing deactivation. Now, deactivation does not necessarily correlate with conjugation. It we could find a way of making everyone so that they could 100 percent efficiently get rid of carcinogens, that would be very nice. I think that is an unreasonable hope, though." (Harris, Tr. 1998–1999)

A number of witnesses cited in support of the hypothesis of detoxification at low doses a paper by Dr. Jerome Cornfield (Cornfield, 1977; Hearing Exhibit No. 9). This paper, however, only explored the consequences of a mathematical hypothesis, and did not cite any evidence in support of its basic assumptions. In the Record of this rulemaking, it was shown that Cornfield's model: (a) was applicable only at the cellular level, and not at the organism or population level; (b) would apply only to a single dose exposure; and (c) predicted a threshold only in the improbable circumstances in which deactivation was irreversible and takes place instantaneously, before any of the active metabolites is able to interact with DNA (Dr. Marvin Schneiderman (NCI), S. 28–30; Dr. David Hoel (NIEHS), S. 6; Dr. David Rall (Director, NIEHS), Tr. 395–396, Drs. Gerald Chase and Paul Kotin (Johns-Manville), Tr. 4941–4942). Dr. Marvin Schneiderman (NCI) and his colleagues discussed the Cornfield model in a paper presented to the New York Academy of Sciences Conference "The Scientific Basis for the Public Control of Environmental Health Hazards:"

"Cornfield does not claim that this model demonstrates the existence of threshold but rather that the model is sufficiently permissive to accommodate a threshold. The model has been criticized as being deficient in its biological base in that (a) to get the "hockey stick" requires nearly *instantaneous and complete detoxification* or instantaneous achievement of the subsequent steady state; (b) it seems to be concerned with a *single pulsed* exposure and not lifetime exposure, and (c) it has yet to deal with *variation in detoxifying ability* in an exposed population. Cornfield has withheld his model from current consideration as a practical risk-assessment procedure "because it appears to require quantitative information on metabolic pathways that will often not be available." In fact, he gives no example of a case in which this information is available." (Schneiderman et al., 1978, p. 6; Appendix D to Schneiderman Post-hearing Comment, emphasis added)

In his direct testimony Dr. Schneiderman (NCI) concluded:

"Thus, I would conclude if one assumes instantaneous complete deactivation, one can show a threshold. If it is necessary to have instantaneous, complete deactivation, which is biologically most unlikely, to show threshold, then threshold is also most unreasonable." (Schneiderman, S. 30)

Dr. Schneiderman (NCI) included in his direct testimony a letter addressed to the journal *Science* in which some of these objections were presented. Subsequently, this letter has been published by *Science* together with critical letters by G. McGaughey (Veterans Administration Hospital, Long Beach, CA), K.S. Crump (Louisiana Tech. University), J. Neyman (University of California), E. Scherer and P. Emmelot (Netherlands Cancer Institute) (*Science*, 202: 1105–1107, 1978). In reply, Dr. Cornfield stated:

"An author cannot escape complete responsibility for misinterpretation of his writings, but I nevertheless suggest that *only a misreading of my article could have led to characterizing the model given there as a threshold model."* (*Ibid.*, p. 1107, emphasis added)

Thus there appears to be no substantial evidence, either empirical or theoretical, in the Record to support the concept of a threshold resulting from low dose detoxification.

Another hypothetical biological mechanism presented to support the concept of a threshold is that early lesions induced by carcinogens regress upon cessation or reduction of exposure. Strictly, this mechanism would result in a threshold duration of exposure rather than a threshold dose, below which no cancer would eventuate. One of the two witnesses who offered documented evidence for such an hypothesis was Dr. Leon Golberg (CIIT):

"One view of the primary changes, such as thyroid hyperplasia, that progress to neoplasia, regards them as precancerous processes. The question then arises: Are such primary changes irreversible, or does lowering or cessation of exposure to the agent that elicited them cause them to disappear? The latter course is observed with antithyroid agents (Jemec, 1977). Evidence also exists that, in the liver, bladder or other organs, what appear to be preneoplastic changes can be reversed in their early stages, depending on dose and duration of exposure (Pitot, 1977; Farber, 1976; Pitot, Barsness, and Kitagawa, 1978; Farber and Solt, 1978; Friedell, Jacobs, Nagy, and Cohen, 1977). The implications of these few observations are potentially momentous. They may not be found to be universally applicable, but they do emphasize that measured caution, and a search for understanding, is more appropriate in the interpretation of scientific observations than insistence upon rigid criteria." (Golberg, S. 6)

Dr. Paul Kotin (Johns-Manville), apparently citing the same sources, testified that he had changed his scientific opinion and now believed in the concept of threshold "on the basis of three almost simultaneous, epoch-making observations in liver carcinogenesis":

". . . within the recent past Dr. Farber has convinced himself, and incidentally, he has convinced me, that he has identified some enzymatic markers which are critical to the carcinogenesis in the liver, and he has used a rat model rather than a mouse model. And Dr. Pitot himself has demonstrated, certain enzymatic pathways and enzymatic production of the pathways enzyme, which he thinks are significant to and involved with the development of malignant neoplasms in the liver. And the same of Peter Emmelot of the Netherlands.

* * * * *

"Several things have happened as a result of their studies. One, both Dr. Pitot and Dr. Farber have observed regression of lesions which were characterized as being on the way toward neoplasia. So I guess the reason for my changing my mind is that until such a time—and again, let me say that these are neoplasms in animals with no genetic selection for high liver cancer—so that the whole question of the hepatoma which was used in the diagnosis of—or in the regulation for carcinogens becomes a moot point, that at least using the liver model one cannot say positively that an increased incidence of these genetically predetermined tumors is sufficient to indict an agent as a carcinogen."

* * * * *

". . . Of course liver tumors in mice and rats can predict or show some correlation with liver cancer in man . . . what I am trying to say is that they predict, but do so within the confines of dose response and exposure to levels which do not result in cancer, and even more dramatically, result in the regression of some of the benign nodules, much the same as skin papillomas regress when you have an inadequate dose of a carcinogenic polycyclic hydrocarbon. (Kotin, Tr. 8740–8744)

In response to questions about whether all the "benign nodules" regress at low doses, however, Dr. Kotin replied:

"I can't say some or all. . . . Whether they all regress or not, I don't know." (Kotin, Tr. 8744)

In fact, two of the scientists responsible for these "epoch-making observations" presented testimony in these hearings, and neither cited his own work as supporting the hypothesis of a threshold. Papers by Dr. Pitot and Dr. Farber were introduced into the Record (Pitot, 1977, Hearing Exhibit 181, no. 1; Farber 1973, 1978, Appendices to Farber Statement; Farber *et al.* 1977, Hearing Exhibit 181, no. 2). These papers do not support the issue of thresholds. In fact, Dr. Pitot made the following comments in his prepared statements:

* * * * *

"Although it is true that we can not specify the precise level at which possible hazard to an individual becomes zero, it must also be recognized that living is not a "no-risk" situation.

* * * * *

"Although, as emphasized in the OSHA document, it is not possible to establish a threshold for a chemical carcinogen or even the shape of the dose-response curve at low levels of exposure, many data show that the incidence of tumors decreases markedly as the dose of a carcinogen is decreased." (Pitot, S. 2–3.) (Emphasis supplied.)

And Dr. Emmanual Farber (Univ. of Toronto) commented on Dr. Kotin's interpretation of his work as follows:

"As he correctly pointed out, early preneoplastic liver lesions do regress unless the environment is appropriate for continued stimulation of the initiated cells (promotion). However, we also pointed out that the induction of initiated cells was an irreversible phenomenon. As in the skin, these early lesions were found to persist for long periods (up to 44 weeks) and could be stimulated to proliferate at will by creating the appropriate environment for selection.

"Using our new assay for initiation, we have not found a dose of diethylnitrosamine that does not initiate if accompanied by cell death plus regeneration or better a round of cell replication. Thus, *we cannot be certain that a threshold actually exists for initiation of carcinogenesis. This is particularly so, given the well known variation in susceptibility to carcinogens of animals of different genetic background.*

"Judging by our own work and a knowledge of the published literature, and given the wide variation in susceptibility with genetic diversity, I cannot convince myself that a threshold has ever been clearly demonstrated for initiation of the carcinogenic process." (Farber, Post-hearing Comment, p. 1) (Emphasis supplied)

Finally, Dr. Emmelot, in his response with Dr. E. Scherer to Dr. Cornfield (*Science*, 202: 1978, 1107) pointed out that neither Dr. Cornfield's data nor Dr. Gehring's are consistent with Dr. Cornfield's model. Thus it appears that Drs. Kotin and Golberg were in error in citing the works of Drs. Pitot, Farber and Emmelot in support of the threshold hypothesis.

3. Do "bionutrients" necessarily display thresholds?

A number of witnesses proposed the hypothesis that because certain chemicals ("bionutrients"), which appear to be essential at low doses for the existence of human life, are carcinogenic at high doses in experimental animals, these substances must therefore necessarily have thresholds. This hypothesis is apparently based upon an assumption that "Nature wouldn't do it to us." See, e.g.: Dr. Robert Olson (St. Louis Univ.); Dr. James Jandl (Harvard Univ.); Dr. Bernard Oser (AIHC); Dr. Ronald Hart (Ohio State Univ.); Dr. George Claus (AIHC); Dr. Elwood Blanchard (DuPont); Dr. Leonard Goldwater (AIHC); Dr. John Thorpe (API); Dr. Arthur Furst (Univ. of San Francisco); Dr. Ralph Freudenthal (Stauffer Chemical Co.); Dr. Gary ter Haar (Ethyl Corp.); Dr. Paul Gross (IHF); and Dr. Adrianne Rogers (MIT). Dr. Paul Kotin (Johns-Manville) alluded to this issue in his written submission:

"There are two instances of biological circumstances which unequivocally dramatize the concept of a threshold level of carcinogenic effect. The first relates to the carcinogenicity of certain steroid hormones. Estrogens and androgens are carcinogenic for experimental species, and in the case of estrogens, the occurrence of disease in humans has been documented (23). In the case of the synthetic estrogen stilbestrol and the naturally occurring estrone, cancer has been observed only after the administration of large doses of these agents. Estrogenic hormones are ever-present at *subthreshold* levels in the earth's population.

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"The second instance relates to the universal occurrence of certain trace metals, such as nickel and chromium, in the bodies of man (24, 25). In both animals and man these elements have been shown to be carcinogenic at high dose levels. Their physiologic presence, however, is unaccompanied by any demonstrable abnormalities." (Kotin, S. 15)

Other substances cited in this context were tryptophane, Vitamin D, cobalt, selenium, indole, calcium, lactose and maltose.

A number of witnesses contested this hypothesis. Dr. Richard Bates (NIEHS; FDA) discussed the hypothesis as follows:

"On the threshold question, the assumption is often made that since hormones are natural chemicals of the human body, there are levels that are noncarcinogenic and a small incremental exposure over natural levels will have no significant effect. This overlooks the fact that a substantial proportion of human cancers occur in organs under the control of hormones even among individuals who have never received synthetic hormonal chemicals. Thus, "normal" levels of exposure do appear to be related to the development of cancer in some people. A small increase in those levels may have a small impact on the total cancer incidence, but is not necessarily negligible. The problem with the second question is illustrated by the drug, diethylstilbestrol. This drug is carcinogenic in experimental animals (32) and has been shown to cause cancer of the vagina in the offspring of some women who were treated with it during pregnancy (33). It almost certainly can induce cancer through the same mechanism as natural estrogens, but it also has a chemical structure that some have suggested might be capable of being activated to a chemical that can bind to DNA (34), and therefore may act through other mechanisms of carcinogenesis as well." (Bates, S. 17–18)

Dr. Upton (Director, NCI) agreed with this position:

"I do not see that the existence of evidence for essentiality of a material as a trace nutrient is incompatible with the concept that that same material may be carcinogenic in trace amounts. So I don't think that kind of evidence in any way contradicts the notion that there may be in fact no non-carcinogenic or safe level in the cancer risk sense." (Upton, Tr. 272)

And in speaking of sunlight as another example, he remarked:

". . . conceivably in any amount [it] is both deleterious, and in appropriate amounts, useful. There is no reason why it shouldn't be both deleterious and useful a priori." (Upton, Tr. 348)

Dr. Robert Squire (Johns Hopkins Univ.) submitted a post-hearing statement concerned with the question of bionutrients. At the outset, Dr. Squire stated:

"Several witnesses proposed that no-effect levels or 'thresholds' of carcinogens are demonstrated by the fact that some essential bionutrients or endogenous substances are also carcinogenic *at* higher doses (see Appendix *IV* for a list of such claims). The presumption is that if substances are normally present, i.e., physiologic at certain tissue levels, they cannot also be carinogenic or otherwise harmful at the same or similar levels.

"There is no logical basis for such reasoning, and it most certainly is not supported by scientific evidence. In fact, analysis of the available data, substance by substance, clearly shows that evidence for a threshold cannot be derived from this reasoning . . . It cannot *a priori* be assumed that low levels of different substances, in bionutrients or otherwise, do not contribute, at least in part, to the existing incidence of human cancer. To the contrary, the unpredictable side effects of several drugs and food components suggest that low levels of certain nutrients and other substances probably do account for considerable disease burden in the population. This is particularly true if one considers the potential additivity of synergistic capability of many substances." (Squire and Goodman, P.H.C., p. 1–2).

Dr. Squire then carefully reviewed and catalogued the proffered evidence found in the Record in considerable detail (Appendix IV) and concluded that none of the cases provided evidence for thresholds. Dr. Squire reviewed the evidence for the carcinogenicity of number of the substances in question (cobalt, selenium, calcium, vitamin D2, tryptophane, indole, and eggs) and determined that the carcinogenicity of such substances has not yet been conclusively demonstrated. He stated that nickel and chromium were acknowledged bionutrients, but it was not known whether their carcinogenic forms were the same as their biologically necessary ones. The hormone, estrogen, presented the most completely documented case according to Dr. Squire. He pointed out that estrogen is an acknowledged bionutrient, an endogenous substance, and, yet, an established carcinogen. In addition, animal data (Heston, 1975) and human epidemiological data (Feinleib, 1968, Exhibit to Squire's Post-hearing Comments) both showed reduced frequencies of breast tumors in ovariectomized females, indicating that estrogens, even while performing their necessary biological functions at physiological levels, simultaneously contribute to the "background" incidence of breast cancer. The risks appear to rise continuously with dose without any evidence of a threshold.

Dr. Rall concurred with this interpretation:

"I know of no biochemical or physiological principle that indicates there is any reason to believe that. I find it much more comfortable scientifically to believe that they are indeed carcinogens, even at that concentration which is a biological necessity.

"I think the critical point is that chemicals are not known to induce any tumors that do not naturally occur. Therefore, some of the background incidence of tumors, cancers in the population may well be due to these critical, important, necessary trace elements, hormones, and so forth. That, to me, bears no relationship to the threshold hypothesis." (Rall, Tr. 374–375)

The idea that these essential bionutrients might at least in part, account for the "background" occurrence of cancer was supported by others. Dr. Benjamin L. Van Duuren (NYU) stated:

". . . there are certain chemicals which are natural body constituents that can cause cancer, and that is why there is a certain incidence of spontaneous cancer." (Van Duuren, Tr. 1851)

Dr. Lawrence Fishbein (NCTR) concurred (Fishbein, Tr. 1889).

Drs. Squire and Goodman offered the following summarizing comments:

"In the preceding pages, the inability to demonstrate a threshold was based upon a lack of adequate evience for carcinogenicity, or, with the exception of hormones, lack of evidence to demonstrate that certain carcinogens are also required nutrients or endogenous substances. In the case of hormones, the evidence shows that normal, endogenous substances may also contribute to cancer development, and there is no basis to conclude that the same phenomenon does not apply to other physioiogical substances. Primarily, however, one fundamental issue prevails, i.e., without specific supporting evidence, there is no logical *a priori* basis for concluding that because something is required or beneficial for some specific function, it cannot also be harmful or carcinogenic." (Squire and Goodman, Post-hearing Comment, p. 14)

Finally, Dr. Saffiotti (NCI) also reviewed this hypothesis, drawing similar conclusions:

"The specific examples used by Dr. Olson were those of selenium, chromium, nickel and of steroid hormones. The argument appears to be a logical non-sequitur. The fact that a substance is essential to normal body functions at a certain level in no way precludes the possibility that this substance may under certain circumstances also enter into particular chemical-biological reactions which induce specific damage to certain cells, such as neoplastic transformation. The best example to illustrate this point is the case of estrogens (cited by Dr. Olson himself). It is well known that a normal level of these hormones indeed causes the induction of mammary tumors, as known by the fact that reduction of the levels of these endogenous hormones by ovariectomy leads to a marked reduction of the "spontaneous" incidence of breast tumors. This phenonemon has been shown not only in experimental animals but also in human females. Another relevant example is that of sunlight, which under "normal" conditions is beneficial or even essential and is well tolerated by populations with highly pigmented skin. The same level of sunlight, however, is associated with a definite skin cancer incidence in light-skinned populations and results in an extremely high incidence and mortality from skin cancer in individuals with a specific genetic predisposition (*Xeroderma pigmentosum*). The same general argument applies to the cases of selenium, chromium and nickel, but in these cases, it has not been established that the chemical compounds of these elements which are essential are in fact the same as those discussed as carcinogenic. The evidence for carcinogenicity of selenium has been reviewed by the IARC and considered inconclusive (IARC 1975; NAS, 1976). The evidence for the carcinogenicity of chromium and nickel is limited to some specific compounds (IARC 1973, Vol 2; 1976, Vol 11). The chemical relevance of this evidence to the mechanisms of physiological action of chromium and nickel is uncertain, and it seems unlikely that the same compounds would be involved.

"Other witnesses in the hearing have cited other compounds in this context, such as tryptophan and its metabolites for which carcinogenic effects are experimentally well documented; for these compounds—as discussed above—there is no evidence on which to assume that they do not ever exert any carcinogenic effect at "normal" levels in humans.

"A few other compounds, discussed in the record of the hearing in this context, are Vitamin D, Vitamin A, calcium, cobalt and lactose. The evidence for the carcinogenicity of these agents is either inadequate or highly questionable. They do not pose any different problem than those reviewed above.

"In conclusion, the data available on the carcinogenic activity of compounds which are considered as essential nutrients or body constituents does not warrant any general inference that population thresholds can be determined for chemical carcinogens." (Saffiotti, Post-hearing Comment, pp 1–3)

OSHA concludes that it is not logical to assume that there must be thresholds for "bionutrients". Indeed, OSHA believes that there is substantial evidence in the Record showing that such thresholds probably do not exist.

4. Are there theoretical reasons to expect that a threshold exists at the cellular level?

Several witnesses presented a theoretical argument that a minimum number of molecules—about 10,000—of a toxicant must be present in a cell before any biological effects could take place: Dr. Robert Scala (Exxon), S. 11–12; Dr. George Claus (AIHC), S. 22–27; Dr. Robert Olson (St. Louis Univ.), S. 29–33; Dr. Bernard Oser (AIHC), S. 4–5; and the AIHC Panel on Alternatives, S. A–4. All of these arguments referred directly or indirectly to a paper by B. D. Dinman (1972), who reviewed data on dose-response relationships for enzyme inhibition and concluded as follows:

"Hutchinson in a perceptive essay has proposed the concept that there might be a concentration limit below which biologically significant reactions probably would not occur."

* * * * *

"Obviously the construction of a satisfactory stochastic model is beyond our present capabilities. But if we use the approach suggested by Hutchinson, it would apparently be reasonable to suggest that, "there might be too many commoner, accidentally and potentially interfering materials (or sites?) around in the cell for any very important substance to work practically at a concentration of less than 10^4 atoms or molecules per cell".

". . . To believe that a single molecule's presence in a cell implies a definite potential for deleterious effect disregards stochastic consideration. To believe that such molecules cause an undesirable effect disregards the presence of multiplicity of interfering substances. Such thinking also does not take into account the fact that the dose of a foreign atom may be related to the probability of its interacting with an available active site or that a similar probability governs the answers to the question of whether interactions will occur at discrete topographical loci upon a structural or functional molecule (or on a possible precursor). While the construction of stochastically sound model is remote, the reasonableness of the hierarchy of cellular element concentrations as these relate to metabolic function suggests that a threshold for biological activity exists within a cell at 10^4 atoms."(Dinman, 1972, pp. 495, 497; Exhibit 7 to Scala Statement)

No evidence was presented in the Record that this argument has any relevance to carcinogenesis. Dr. Dinman's original paper presented data only for enzyme inhibitors. Drs. Olson and Claus cited evidence only for enzyme inducers, hormones, and vitamin B 12 (loc. cit.). All these agents affect macroscopic functions of the cell, and there is no scientific reason whatsoever to extrapolate from such data to events such as reactions with genetic material. At a recent symposium, Dr. Marvin Schneiderman (NCI) addressed this issue and commented as follows:

"First, cancer appears often to be a disease of DNA damage or mis-repair, or incomplete repair and there is evidence that large numbers of molecules of an offending agent are not needed to cause DNA damage." (Schneiderman et al., 1978, p. 2; Appendix D to Schneiderman Post-hearing Comment)

Other reasons for regarding carcinogenesis as a phenomenon different from toxic effects such as enzyme inhibition were given above (subsection 1). Indeed, Dr. Dinman himself presented testimony in these hearings and did not make any claim that this argument would be relevant (Alcoa, Statement). Finally, even if the argument did apply to some class of carcinogens, it would have no practical relevance to OSHA standard-setting, because the hypothetical threshold concentration of 10^4 molecules per cell would appear to correspond to an extremely low level of exposure. For a substance of a molecular weight 600, it would correspond to only about 5 micrograms in a human liver, which could result from an occupational exposure to a concentration of less than 1 ug per cubic meter.

5. Have thresholds in fact been demonstrated for specific carcinogens?

Several witnesses claimed that thresholds had been observed for various carcinogens, but, in spite of questioning, only a handful of documented cases were proffered for the record. Dr. Paul Kotin (Johns-Manville) cited radiation, DDT, and asbestos as examples (Kotin, Tr. 8700; Kotin, Post-hearing Comments). The case of radiation has already been discussed above with citations to the work of Dr. Upton and the report of the Federal Radiation Council. The most extensive and detailed review of dose-response relationships for radiation carcinogenesis concluded that existing data could all be represented by a linear, non-threshold function (Committee on Biological Effects of Ionizing Radiation, 1972, pp. 86–87; Reference to Wilson Statement).

The case of asbestos was discussed in detail by Dr. Marvin Schneiderman (NCI):

"The authors say "The methods agreed in demonstrating a clear direct relationship, which may well be linear, between excess lung cancer mortality and total dust exposure. One of the discussants of the paper (Mr. G. Berry of the Medical Research Council of Great Britain), says "The way the x^2 statistics are presented (in Table 4) suggests that the authors were considering a threshold model, i.e. that there was no excess below some non-zero exposure. Certainly there was no detectable excess for an exposure less than 300 10^6 $pf^{-3}y$ but they obviously do not attach too much weight to this since they remark in the summary that the relationship may well be linear. It is difficult to quarrel with this in view of the fact that the x^2 of 36.76 with 9 degrees of freedom may be subdivided into 36.00 with one degree of freedom representing a linear trend and 0.76 with eight degrees of freedom for deviations about the trend; this is almost too good to be true!" It seems to us that this excellent piece of work, with careful attention to problems of data collection and analysis, with a rather large number of cases and controls, further indicates the almost insurmountable problems in establishing threshold for humans. We find it impressive that no clear threshold has been shown for this, or any other human exposure studies." (Schneiderman et al., 1978, pp. 25–26;

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Appendix D to Schneiderman Post-hearing Comment)

Dr. William Nicholson (Mt. Sinai School of Medicine) also discussed the case of asbestos at length (Nicholson, Tr. 1706–1712), with similar conclusions:

". . . we cannot establish thresholds for cancer, whether for asbestos, as has already been discussed, or for other carcinogens." (Nicholson, Tr. 1706)

For DDT, carcinogenic effects have been demonstrated in animals at the lowest doses tested, and there are no adequate epidemiological studies (IARC, 1973, vol. 5, pp. 108–109; NIOSH 1978a; see Chapter IV, *Evidence Derived From The Human Experience*, above).

Dr. Harry Demopoulos proposed cigarette smoke as a carcinogen for which a threshold had been observed (Tr. 5463). However, there are extensive data in the Record demonstrating a linear, non-threshold dose-response relationship for cigarette-caused lung cancer, down to a non-zero incidence in "non-smokers" (Doll, 1964, 1971; Whittemore and Altshuler, 1976; Figure 1 to McCann Statement; OTA 1977).

Dr. Robert Olson (St. Louis Univ.) claimed that thresholds had been established for "numerous biologically active compounds", but he cited few except for the so-called "bionutrients" (S. 32–36). In any case, as pointed out above, he used the term threshold synonymously with "no-observed-effect level" (S. 10). Dr. Paul Woolrich (AIHA) who proposed dimethylnitrosamine (Tr. 4286), and Dr. Francis J.C., Roe, who proposed cadmium (S. 24), also apparently were referring to "no-observed-effect levels," since the papers they cited provide no evidence of thresholds.

The issue of identification of thresholds from empirical data was put into scientific perspective by Dr. Charles C. Brown (NCI) in a paper referenced by Dr. Arthur Furst (Univ. of San Francisco):

"Thresholds may be considerd from two viewpoints—an "actual" threshold, which is an exposure below which any carcinogenic response attributable to the specific agent is impossible, and a "practical" threshold, which is an exposure below which an attributable carcinogenic response is highly unlikely . . ."

". . . Experimental or observational evidence of the existence of an "actual" threshold is usually presented in the form of a dose-response graph, in which the percentage of animals with tumors or the average number of tumors per animal is plotted against the dose of the carcinogen. Either the existence of doses that do not lead to an increase in tumor incidence over controls, or the extrapolation of such curves to low doses that apparently would result in no tumor increase, is cited as an indication of the existence of a threshold below which no response is possible. This type of reasoning is an exercise in self-deception.

"In the first case, failure to observe positive responses does not guarantee that the probability of response is actually zero. From a statistical viewpoint, zero responders out of a population of size N is consistent at the 5% significance level with an actual response probability between zero and approximately 3/N (e.g., when N= 100 and zero responders are observed, the true probability of response may be as high as 3%).

"In the second case, when an observed plot of dose against tumors is extrapolated downward to find a no-effect dose, it is assumed that the observed dose-response relationship, usually linear, will obtain throughout the entire spectrum of doses and that one threshold exists for the entire population at risk. The assumption of linearity throughout the entire dose spectrum can easily lead to erroneous conclusions." (Brown, 1977; reprinted with minor changes in NAS, 1977a; Appendix I to Rall Statement)

Finally, Drs. Marvin Schneiderman (NCI), David Rall (Director, NIEHS), Donald Kennedy (Commissioner, FDA) and Matthew Meselson (Harvard Univ.) referred to an extensive review of the world literature on dose-response relationships for carcinogens:

"*Threshold hypothesis.* This hypothesis assumes that there is a dose below which cancer induction cannot occur. An examination of published dose-response data for chemical carcinogenesis in laboratory animals provides no clear indication of a threshold for any carcinogen (Craig and Miller 1974). In a review of 151 dose-response curves, none was found to be clearly inconsistent in a manner suggesting a threshold with both the single-event and the probit hypotheses discussed below. Neither is there any adequate theory of chemical carcinogenesis that would require the general existence of thresholds. Thus, even if a threshold is postulated, there is presently no empirical or theoretical basis for determining the dose at which it may occur. Unless and until this can be done, the threshold concept does not provide a practical basis for risk estimation." (NAS, 1975a, P. 83; Appendix H to Rall Statement)

Dr. Meselson commented further:

"But the first is that I know of no publication in the entire literature on dose response of primary carcinogens that provides evidence for the existence of a threshold. I have asked toxicologists to send me publications with such evidence, and I have not received a single one. I have gone through the—as mentioned in the National Academy report that is part of my testimony—the dose response study by the Franklin Institute done under contract with the National Cancer Institute, in seeing there is not a single case, and they have tried to review the entire world literature on dose response, 150-some odd dose response curves are reviewed in that study. I have not seen a single case in which the data depart significantly from the either probit or single particle hypothesis in a way demanding a threshold." (Meselson, Tr. 1545)

OSHA believes that, based on this testimony and the other evidence in the Record, no threshold levels should be presumed to exist for regulatory purposes at the present time.

6. Is there a consistent relationship between dose and latent period that would result in a practical threshold at low doses?

A number of witnesses presented an hypothesis that there is an inverse relationship between the dose of a carcinogen and the latent period for development of the consequent tumors, such that at sufficiently low doses, the latent period would exceed the lifetime of the animal and no tumors would be manifested. The corresponding dose would then be regarded as an "effective" or "practical" threshold. This argument might also be characterized as the "You shouldn't live so long" theory. This hypothesis is derived ultimately from the work of Druckrey who presented his results in the form of the following empirical generalization:

"In conclusion, the results of the quantitative experiments presented here conformingly show that also in carcinogenesis at continuous exposure with all substances tested and without regard to the organ of tumour development, clear dose-effect and time relationships exist, which are explained by the general formula

$$dt^n = const.$$

(10) with n>1. Accordingly on logarithmic coordinates linear regressions are obtained. Even in the range of very small doses d no deviation from linearity is recognizable. There is no indication for the existence of a "subthreshold dose" as far as the primary effects on the cellular level are considered.

"Formula (10) proved to be valid not only in animal experimentation but also in human cancer statistics as demonstrated by Nordling (1953) and by Doll (1963). The numeric value of n, however, differs considerably with different carcinogens ranging from 1.1 up to 6.5 and can be considered as an indicator for the carcinogenic activity of the individual compound." (Druckrey, 1967, p. 75; Exhibit 8 to Scala Statement).

This generalization was narrowed by the late Dr. Hardin B. Jones (Univ. of San Francisco), who presented the following conclusion:

"Both threshold and non-threshold patterns of dose-effect relationships show a further influence of dose on risk of cancer in that the time to the appearance of cancers (the "latent period") increases as a fractional power of the reduction in exposure. When degree of exposure to a carcinogen becomes sufficiently small, the risk of cancer may become zero because there is not enough time, within the life span, for any cancers to develop. (Jones, S. 3)

Dr. Jones supported his conclusion with some documentation (Jones, Appendix B) and the following argument:

"It is not practicable to determine just when the initial carcinogenic change takes place even when there is a single exposure to a carcinogen, and the starting point is even more uncertain when there is chronic exposure to a very low environmental level of the carcinogen. It is also difficult to determine the exact point at which a viable tumor has evolved; that should be the endpoint, as the former is the starting point, for the measurement of what is commonly called "the latent period for carcinogenesis". But even with relatively crude boundaries of the latent period, it turns out that a general law governs its relationship to dose. If a dose, D_o is associated with a latent period, t_o for a given species of animal and a given carcinogen under specific conditions, then the latent period, t, associated with another dose, D, can be expressed as:

$$t = t_o(D_o/D)^{in}$$

and n usually has a value close to 3."

"This is a relationship that lends to a linear graph when plotted on log-log paper. The following examples show the generality of the power relationship between dose and time, and the possibility of simple extrapolation, in graphic analysis of the relationship, by prolonging the straight line. A statistical association of mathematical formulation, however, is of little force without a sound explantion of a way the relationship has come about as a biological response. Alexander Grendon and I have proposed the hypothesis that the carcinogen generates a fairly uniform density of initially altered cells in the tissue of concern, but that the affected cells result in tumors only if two or more clones that develop from them grow to a point where they make contact. We have postulated that it requires interaction of some unknown number of affected cells to generate an autonomous tumor. If the density of intitially altered cells is proportional to dose, as indicated by the tumor-dose relationship, then the mean distance between any two adjacent altered cells should be proportional to the cube root of dose. If the rate of growth of the individual pretumorous clones is uniform, the mean values of the time for adjacent clones to join should be inversely proportional to the cube root of the dose of carcinogen. Probably very few of the clones survive to reach this stage becaube of modifying factors, including those that relate to the defense mechanisms of the body against tumor formation. Thus, the actually measured dose-time effect will vary from the inverse cube root of dose. Instead of n=3 in $t = constant/D^{1/n}$ may be some value such as 2.4 or 3.5, etc.

"Linear extrapolation of dose and yield of tumors may theoretically indicate that N cases of cancer may result from even trace amounts of a carcinogen in food. In this case the risk is assumed to remain unchanged per unit of exposure form the high levels inducing tumors in experimental animals to the dilute residue in food. Linear extrapolation of the dose-latent period graph, however, indicates that these theoretical cancers would appear long after the maximum life span, so that, in fact, the hazard at trace residue levels is negligible or perhaps truly zero." (Jones, S. 14–16)

Dr. Jones's contention that the exponent "n" is usually equal to or close to 3 is not supported, however by the data cited in his own Appendices. As shown by Druckrey (1967), the value of "n" may vary between 1.1 and 6.5 for the chemicals he studied. Moreover, Jones and Grendon (1975) cited two cases in which n was infinite, i.e., the latent period was independent of dose (diethylstilbestrol at low doses, and urethane).

Nevertheless, Dr. Jones's conclusion was used by a number of witnesses to argue that the dependence of latent period on dose would suffice to ensure a practical threshold dose, below which no tumors would occur in the lifetime of exposed animals. One such argument was the following:

"(3) As the dose of a carcinogen is decreased, the latency period for cancer development increases. This phenomenon was revealed lucidly by Druckrey (1967), who noted that the does multiplied by some power of time was constant; i.e. dt^n = constant in which n=2 to 4. For all practical purposes, this relationship implies a threshold in that multiples of a lifetime will be required for expression of cancer in response to low doses. Albert and Altshuler (1973) utilized the increasing latency with decreasing dose of a carcinogen to formulate limits for unavoidable exposures to carcinogens.

"(4) Utilizing the relationship of dose to time-of-appearance of cancer, Jones and Grendon (1975) postulated that a number of cells in close proximity require transformation to allow development of an aberrant clone of cells and ultimately cancer. This multihit hypothesis, if true, will result in a marked reduction in the incidence of cancer as the dose is decreased for the same reason that trimolecular chemical reactions become negligible as the concentrations of the reactants are decreased." (Gehring and Blau, 1977, p. 166; Exhibit 9 to Hoel Statement)

The Council for Agricultural Science and Techonology commented:

"A fourth form of evidence is provided by the observation that the length of time between exposure and cancer development increases as the dose becomes smaller (Jones and Grendon, 1975). Extrapolation of such trends to doses lower than those at which cancer development is found experimentally leads to the inference that at suitably small doses the time between exposure and cancer development should exceed the lifetime of the species. According to such an extrapolation, the dose that corresponds to a lag time of one lifetime between exposure and cancer development might be defined as the threshold exposure for a single dose of a carcinogen." (CAST, S. 13)

Dr. Robert Scala (Exxon) pointed out:

"Jones and Grendon (1975) have suggested that the data on leukemia latency in survivors of atomic bombing and in humans exposed to radium from dial painting also land themselves to comparable anaylses. For the radium painters, the latent period could be shown to be a function of a constant divided by the true radium equivalent; there is a practical threshold to the carcinogenic effect of ingested bone-seeking alpha emitters in that life ends for other reasons before radiogenic cancer can appear following small ingested doses. Jones and Grendon further point out that no experimental situations have been uncovered in which the relationship between latent period and carcinogenic dose was different for man from that for other animal species." (Scala, S. 15)

Reserve Mining Co. commented as follows:

"Finally, numerous animal experimentations have unquestionably demonstrated the existence of the dose-response effects of carcinogens. The experiments of Druckrey,° and others, pertaining to numerous carcinogenic substances, have demonstrated the now accepted principles that the smaller the dose, the longer the time of cancer induction, and at very low dosages, the induction time can be longer than the life expectancy of the animal under investigation. These experiments amply demonstrate what has come to be identified at the "practical threshold level of exposure." i.e., the level of exposure which will not result in any carcinogenic effect within the life-expectancy of the subject animal." (Reserve Mining, S. 17–18)

However, a number of witnesses who commented on this issue showed that Druckrey's conclusion may not apply in general even to animal experiments, may not apply to cancers in humans, and cannot be used in the estimation of risks to humans exposed at low doses. In the first place, "latent periods" are difficult to define and to measure, particularly in extrapolating from animal experiments to humans (much less from one human group to another). Dr. Umberto Saffiotti (NCI) explained the difficulties as follows:

"The determination of latent period can be made by various techniques of observation in the course of a bioassay. If both test and control animals are sacrificed at a fixed time, only the early part of a temporal distribution curve may be observable, and consequently the estimate of the average latent period for all tumors or tumor-bearing animals may be artificially altered. If the test and control groups are allowed to live out their lifespan, the comparison of latent periods must take into account the relative survival and the number of animals at risk, particularly in the case of competing risks. A definition of latency period must be provided in the context of bioassay, and the methodology used for estimating it must be described. It is always difficult to determine the "onset" of a neoplasm. One can use morphometric criteria for tumors detectable during clinical

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observation of the animals (e.g., skin or subcutaneous tumors) and establish a minimum size as a criterion for identification. For neoplasms of the internal organs it is practically impossible to determine an adequate "time of onset": methods such as palpation of the abdomen are highly subjective and generally unreliable. Large serial sacrifice studies can provide excellent data on time-to-tumor-induction, but they are seldom available and should not replace standard bioassay protocols. In most cases, what is referred to as "latent period" is the time between the beginning of the exposure and the time of observation of a tumor at death: this parameter is obviously influenced by all those factors which determine time of death, e.g., intercurrent disease or other tumors. Here too, the judgment of a competent pathologist will provide a critical evaluation of such aspects as tumor size, location, cellular differentiation and invasion which may contribute to an estimate of a temporal sequence." (Saffiotti, S. 26–27)

Dr. David Hoel (NIEHS) pointed out that the observation of a change in the time-to-first-tumor does not indicate any change in the actual latency periods:

"Unfortunately . . . the observed time-to-first-tumor will increase with decreasing dose for the multistage model yet no true threshold will occur at low doses with this model. In other words, a non-threshold model will predict that the data will look as through a threshold in time exists, when in fact it does not." (Hoel, S. 7; See also Tr. 2191–2196)

Dr. Hoel referred in this passage to a mathematical analysis by Guess and Hoel (1977), which was summarized as follows:

"A number of animal carcinogenesis experiments have demonstrated that the time from initial exposure to first detection of tumors increases with decreasing dose. This observation has led to some speculation that at very low doses tumors would take so long to develop that life would end before tumors appeared. We show that the apparent increase in tumor development time can be easily seen as nothing more than a manifestation of the mathematical fact that decreasing the incidence necessarily increases the first time-to-tumor. No physical increase in tumor growth time need to be postulated to explain the observations. Existing methods of low-dose risk extrapolation implicitly account for the increase in time-to-tumor statistics insofar as they account for the decrease in tumor incidence." (Guess and Hoel, 1977, p. 279; Exhibit 12 to Hoel Statement)

Mr. Richard Peto (Oxford Univ.) also showed that the conclusion that latent periods lengthen with decreasing doses is an error of interpretation:

"This dependence of time to *first* tumour, under conditions of *strong* carcinogenesis, on the applied dose level has been the source of a great deal of misleading confusion, as may be seen, for example, in the testimony of the late Professor Hardin Jones and in the testimony of Dr. Weil. The point is that the doses given in these experiments were so high that, had we been able to excise each tumour as it arose, each animal would in expectation have developed several tumours during his natural lifespan. If an animal would have developed several independent excised tumours, each with a similar age distribution, then what Blum or Druckrey would observe would only be the first of these several excised tumours. As with decreasing dose fewer tumours per animal arise, so the expected time of the first of the tumours excised from this animal would increase even if there was no dependence on dose of the age-distributions of the tumours which do arise. However, in this case the time increase will not continue indefinitely; if the expected number of tumours per animal is only 0.1 for example, then so few animals would get 2 or more tumours that the effects of the first tumour obscuring later tumours will be negligible, and at all total incidence levels below 10% there will be no further appreciable effect of dose level on the effects of competing to be first on the age distribution of those tumours which are observed. It is noteworthy that if Armitage and Doll's (1961) multistage model of cancer is accepted, leading to an incidence rate of cancer among cancer-free survivors which is proportional to $(d+d_0)^a (age)^k$, then Blum (1959) and Druckrey's (1967) quantitative results—median proportional to $(d+d_0)^{(a/\ldots+k)}$ and constant variance of the logarithm of tumour induction time—would be predicted, as would my initial principles. (This doesn't prove my principles, but it does prove that Blum (1959) and Druckrey's (1967) experimental results support them.)

"Thus, even if, as may well be the case, the age distribution of tumours is really independent of dose (and the effect of increasing dose is simply to increase the number of such tumours that would be expected to arise on each animal), one would expect that at high doses the *first* tumour would arise earlier, simply because the first of ten similarly distributed tumour times is likely to be smaller than the first of only two such times.

"Failure to allow for the numerical effects of competition to be first (and the consequent failure to realise that such a competition ceases to have any material effects once the expected number of tumours per animal decreases below about 0.1) is a common error (Jones and Grendon, 1975; 1976). A much more common, and much more serious error, is failure to remember that no carcinogen acts alone, and that the effects of background processes place another substantial constraint, completely ignored in the testimonies of Professor Hardin Jones and Dr. Weil, on the effects of progressive dose reduction on the age distribution of those tumours which do arise. As I have already explained, the simple assumption of the existence of some background exposure suffices to demonstrate that all mathematical and biological hypotheses yield predictions which conform with the principles with which I started: proportionality of extra risk to applied dose, and independence of age distribution from applied dose." (Peto, Annex B, pp. 6–7; also see Tr. 2527, 2531)

Dr. Meselson pointed out another mathematical problem arising from the statistical assumptions made by Druckrey (1967) and workers who quoted him:

"Assuming a log normal distribution is not something you would do on biological grounds, you do this on statistical grounds because it is a very easy function to deal with as a statistician, whether you are talking about railway train waiting times or cancer or anything. It is a statistical device, but it has built into it certain very unbiological characteristics. For example, a log normal distribution of time to tumor means that if you can get past a certain age you are home free; the danger starts to decrease. Everything we know indicates that the longer you are exposed to a carcinogen the hazard goes up; never comes down. Whereas, a bell-shaped curve, which is what they were talking about, of time to tumor, going up and then coming down, is a totally unbiological concept. It was used, I would gather although I have never talked to the authors about it, as a plausible statistical modeling device, but I think a not very satisfactory and not very biological one. There is reasonably good experimental evidence, in fact, that '. . . the time distribution of tumor is independent of dose, unless you go so high as to start killing off animals, and instead takes this form that I mentioned before; namely, that for a steady product exposure to a carcinogen the likelihood of tumor goes, as the duration of exposure, to a power like three, four or five. That fits the results of Druckrey in Germany looking at a variety of compounds; it fits the human data . . .'

"So I believe that there is no basis whatever for assuming that the age distribution would be changed by the dose. So that if you give a little bit of a carcinogen and you find that the age distribution is a certain one—let's say that half of the tumors are in people 50 and lower and whatever—that if you give more of the carcinogen it will still be true that half of the induced tumors are in people in that age group and lower, that age distribution will not change unless, of course, you give so much that you begin wiping out the oldsters so there are no oldsters to contribute to that category." (Meselson, Tr. 1533–1535)

Finally Dr. Marvin Schneiderman (NCI) pointed out that the Druckrey-Jones argument is concerned only with the median time-to-tumor in a population, and that some individuals in a population will develop cancer early even when the median time-to-tumor is greater than a lifespan. Dr. Schneiderman also pointed out observational evidence that in the human population the age-distribution of many cancers does not appear to be dependent in any way on exposure to environmental factors:

"I believe that we will find many more situations similar to the radiation-breast cancer situation in which some external environmental event prepares the way for the development of cancer in later life when some other event either "internal" or external, but operational only at or after some later age, takes place. For single stage cancers or cancers for which the second stage (or the necessary later stages) is not age-related, then higher doses of the initial exposure should lead to the shortening of the so-called latent period.

"One of the lessons that we could learn from the history of the cigarette smoking-cancer conflict lies right here. Early on, one of the counter arguments to the suggestion that cigarette smoking led to lung cancer was the observation that the average age of onset of lung cancer was only trivially lower in heavy smokers than in light smokers and non-smokers. The argument derived from the fact that Druckery had shown that with some chemical agents which produced cancer in a high proportion of the animals on which they were tested, the animals at the higher doses had shorter times before the cancers appeared. What was not realized was that the development of lung cancer is most likely a multi-stage event in which the cigarette smoking does not provide the last event (or does not often provide the last event). If the last event, the triggering event, comes from something within the individual (or outside him) which is not likely to occur until some later age, then we should expect only little effects of the dose of the agents leading to the earlier event(s) in reducing the time to appearance of the disease.

"That there is some host mediated later event or events is consistent with the fact that cancers in different organs in humans appear at different times in the life of humans. Cervical cancer in women occurs, on the average, at much younger age than ovarian cancer. Lung cancer occurs on the average of a younger age than bladder cancer. Cancer of the prostate is an old man's disease (See Axtell and Murray on the average age at diagnosis and years of life lost to cancers).

"It seems to me that the Druckrey model is meaningful only for single-event cancers, cancers caused by "complete" carcinogens to which no further contribution from the inside world of the host, or the outside world of other events, is necessary. I suspect that our animal model systems are most able to pick up only these one-step or complete carcinogens." (Schneiderman, S. 14–15)

In discussing the Druckrey model during his oral testimony, Dr. Schneiderman (NCI) concluded:

"The consequence of this—then one of the ways to check out on this would be to look at the average age of appearance of cancer, average age of diagnosis of different forms of cancer in which the incidence has been changing very rapidly. If the incidence has been changing, if cancer is an environmental disease, we would assume with increasing incidence there must be more exposure, heavier doses. The average age then ought to go down. If incidence is decreasing, we ought to expect there is reduced exposure. If there is reduced exposure, lower doses, the average age ought to go up. This has not happened. When one looks at the average age, at the diagnosis of cancer in the United States—at least I have the data for the United States, these average ages have not changed substantially. This again leads me to believe that the Druckrey model is not particularly applicable to most of human cancers. There may be some situations in which it is applicable, but to most of human cancers, it is not applicable. So that is that next section of review, my report." (Schneiderman, Tr. 710–712)

In a post-hearing comment, Dr. Schneiderman (NCI) provided further discussion of how changing the median of a distribution does not greatly influence when cancers are actually observed.

"This formulation does not address when the earliest cancers appear but only the median time to appearance. One needs, in addition, information on the distribution of time of appearance to evaluate the concept of a "practical" threshold. If the distribution is narrow in time, the concept may have meaning. If the distribution is broad, it will not be meaningful. One might expect in genetically heterogeneous animal, like man, that the distribution will be broad.

". . . We show that to reduce the average age at cancer death (of those people who will die of course) by one year (in the United States, the average survival from time of diagnosis of cancer is about 2 years) from 69.23 years, when the lifetime probability is .0014, i.e. the probability of cancers as rare as the breast in men or the tongue in women) to 68.2 years requires an increase in the cancer rate to a 11.16% lifetime probability—higher than that for any single cancer in the United States. The median age, in the absence of competing causes of death for a lifetime risk of .0014, is 194 years, and for a lifetime probability of .011 is 128 years (using the particular model of response we set out earlier). Thus the "practical" suggestion of reducing median cancer age to well beyond the human life span seems to be unrealistic, because it is not median age (in the absence of competing risks) that is important. The extrapolation models based on median ages are not appropriate."

* * * * *

"All this leads us to say once again that there appears to be little or no evidence that the interpretations placed on the Druckrey model are correct when the incidence rates are low as they [are] in humans. If the model doesn't apply when the rates are low, then it certainly doesn't apply when one discusses "practical threshold" where the rates should be approching zero. The concept of the "practical threshold" impresses us as a will-o'-the wisp."

* * * * *

"The time-to-appearance models that lead to considerations of possible "practical" thresholds are defective (or least unrepresentative) in at least two ways: first they deal with high incidences of cancer in test animals while the lifetime probability of cancer in man is low for any site. With low incidences median ages to appearance are trivially dose related. The human data within the United States show no dose-median age relationship. Second, the apparent relationship between dose and latent period may be an artifact of high doses producing many tumors per animal the first of which having a competitive advantage will kill the host, before the others can become clinically noticeable." (Schneiderman et al., 1978, pp. 7, 26, 33, 37: Appendix D to Schneiderman Post-hearing Comment)

7. Would the interaction among carcinogens invalidate the concept of a threshold?

A number of witnesses testified that, even if thresholds could be established for the circumstances in which animals are exposed only to single carcinogens, this would have little or no relevance to risk assessment for humans, who are exposed to many carcinogens, either simultaneously or sequentially. Specifically, several witnesses pointed out that there is already a relatively high incidence of cancer in the human population. Hence many individuals are already at or close to the "threshold" for certain processes involved in cancer development, so that incremental exposure to even small quantities of an agent that accelerates these processes would be expected to lead to an increase in the frequency of cancer. This point was discussed by Dr. Mathew Meselson (Harvard Univ.) as follows:

"More than that, one has to remember a very simple but for some reason until the last few years overlooked point, and I think a very powerful point, and that is as animals we humans are way past the threshold. We are like an experiment with mice or rats in which 25 percent of them are coming down with tumors. We are not a cancer-free population. We have an enormous incidence of cancer in our population. So that unless one is talking about a chemical which is being activated by an absolutely unique pathway unique to that chemical, an activating enzyme that does not work on anything else, or does something unique to the entity that no other chemical does, activates a mutagenic repair pathway that no other chemical does, unless that is the case, we are just talking about adding a little bit more when we talk about low dose, to what is already a lot, and demonstrably past the threshold, because we are already past any thresholds as a population.

"So to taken the burden on one's self of saying that I believe this chemical is unique in the world, is operating by a mechanism that is not already going on in our bodies, is an incredibly arrogant statement. There would be no basis in scientific fact for such an a priori statement. So it would be different if nobody ever got cancer, and some scientists came along and said, we have just discovered that there could be a disease if you let this certain thing in the environment. We are going to call it cancer. Then somebody could say, but how do you know there is not a threshold for this hypothetical disease that at pesent nobody is getting, because if nobody is getting it, clearly we could be below the threshold. That might be why nobody is getting it. But if 25 percent of us are getting it, you have to make some, in my opinion, very far out assumptions before you can conclude that a chemical under—a

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particular chemical under scrutiny is going to operate in such a way as to not already be past that hypothetical threshold." (Meselson, Tr. 1545–1547)

Dr. David Rall (Director, NIEHS) made essentially the some point, both in his opening statement (Rall, Tr. 354) and in response to a question about protective mechanisms:

". . . I think however, it becomes almost ridiculous when you recognize that 16% of the people in this room are going to die of cancer. I mean, this talk of a threshold is, to me, sort of an ethereal dream world. You know. 16% are going to die of cancer and about twice that will get cancer in their lifetime. I am sorry, but I think the threshold was exceeded a long time ago, and I just do not see any point in talking about it anymore, in terms of the population." (Rall, Tr. 397–398).

Mr. Richard Peto (Oxford Univ.) developed this point at some length in his direct statement (S. 5–10 and Annex B) and presented a mathematical proof that under rather general conditions no threshold would be expected. The basic requirement for this proof is the existence of "carcinogenic background alternatives", i.e. the existence of other agents in the environment of the exposed animal which give rise to the same functional effect:

"The second assumption needed is that some carcinogenic background alternatives exist to the carcinogen being considered, i.e. *some* of the spontaneous cancers that arise do so by mechanisms which are functionally similar to those whereby the test carcinogen works. Again, I believe that for *most* carcinogens *some* carcinogenic background alternatives are likely to exist, although again I would expect a few counter-examples to occur. (The counter-examples would probably involve cases where the carcinogen produces some gross pathological effect, such as suppression of ovulation, which then affects cancer risk, rather than cases where it acts directly by causing a local DNA lesion.)" (Peto, S. 6)

In introducing this section of his testimony, Mr. Peto explained that most arguments for the hypothesis of thresholds or extremely low risks associated with low doses are due to failure to recognize the possibility that "equivalent background" may exist. Accordingly, he referred to the concept of thresholds as "nonsense" (Peto, Tr. 2515).

Many witnesses presented examples of experiments which had demonstrated additive or synergistic effects of different chemicals. Dr. David Kaufman (Univ. of N. Carolina) testified about his own experimental work with combinations of chemicals and drew the following conclusions:

"Our work shows that treatment of experimental animals with two carcinogens given sequentially can result in an increase in tumor incidence and a decrease in time necessary for the appearance of tumors of the respiratory tract. In accord with our findings, the several cited examples of work by others show that in an analogous manner combinations of carcinogens can produce tumor incidences greater than that expected with either of the single treatments or that anticipated as the sum of the effects of the single treatments. The examples cited indicate that this type of interaction can be demonstrated in tissues other than the respiratory tract and in experimental animals other than the hamster as well as *in vitro* studies. Furthermore, I have cited examples where combination of carcinogen exposures in humans also produces a greater than an apparent additive tumor response." (Kaufman, S. 19)

Dr. Richard Griesemer (NCI), too, testified that synergism among carcinogens was a frequent phenomenon:

"I recently went through an exercise of attempting to find good examples of additive effects from combinations of chemicals, and I had discovered that by and large, the evidence is for something more than additive, either, that is, multiplicative rather than additive, or on the opposite extreme, some combination effects are inhibitory." (Griesemer, Tr. 928).

Dr. Robert Squire (Johns Hopkins Univ.) referred to many examples:

"Numerous experiments involving cocarcinogenesis indicate that different carcinogens may have additive, synergistic, or antagonistic effects in organisms exposed to them. It is unlikely that we can predict which, if any, of the above effects will occur in the case of specific chemicals without observing their action experimentally, but numerous studies do demonstrate the existence of potential hazards.

"Epithelial cancer, for example, as is now recognized, involves a multistage process in which sequential cellular and subcellular events precede the appearance of clinical cancer. To describe this process, the concepts of "initiation" and "promotion" have been introduced in studies of carcinogenesis in skin (Berenblum 1941). These prevail today and are considered relevant to many other epithelial systems (Farber 1976; see also Appendix B). "Initiation" describes a specific, irreversible cellular alteration induced by carcinogenic substances and resulting in a population of latent or dormant tumor cells. "Promotion" describes the proliferation of those cells which is induced by subsequent exposure to the same or a different substance and which results in a progression to clinical cancer. Classical initiation-promotion studies illustrate well the synergistic effects of separate exposures neither of which alone would have produced cancer at the doses involved. Significantly, the conditions induced by initiator substances persist, and therefore exposure to a promoting substance even after a considerable delay can result in cancer (Berenblum 1974; Boutwell 1974, 1976, 1977).

"Studies involving liver carcinogenesis have also shown persistent and additive effects of subcarcinogenic exposure to certain substances. Becker (1975) demonstrated that cellular alterations induced by subcarcinogenic doses of N-2-fluorenylacetamide may later be augmented by subcarcinogenic doses of dimethylnitrosamine or N-hydroxyfluorenyl acetamide to yield hepatocellular carcinoma. Weisburger et al. (1965) showed an increase in liver cancer induction after combined exposure to 2-acetylaminofluorene and carbon tetrachloride.

"In other systems, the studies of nitrosomethylurea and cyclamate by Hicks et al. (1975) and the Oser study (Oser et al. 1975) of cyclamate and saccharin demonstrated at least additive if not synergistic effects of two substances in the induction of bladder cancer in rats. Laskin et al. (1970) demonstrated that benzo(a) pyrene combined with sulfur dioxide, when inhaled, induced lung cancer in rats. In the doses administered, neither substance alone was carcinogenic.

"Other examples of cocarcinogenesis in animals exist in the literature; there is also evidence that cigarette smoking and occupational exposure to asbestos have synergistic or additive effects in humans (Selikoff et al. 1968). It must therefore be assumed that cocarcinogenesis is not rare in humans or animals." (Squire, S. 5–7)

Studies by Dr. Irving Selikoff (Mt. Sinai School of Medicine) on the interactions between the effects of asbestos and smoking were discussed by Dr. Weinstein (Columbia Univ.), Dr. Nicholson (Mt. Sinai School of Medicine), and Dr. Harris (NCI) as well as by Dr. Selikoff:

"We found that among the 2,066 non-cigarette smokers there should have been, the way the statisticians put it, 1.82 deaths of lung cancer. There were eight. In other words, somewhere around four to five times as many. But this is certainly not a major public health problem. You had four times or five times the number of a very small number; and five times nothing is still not very much.

"On the other hand, you had again five times the already high risk of cigarette smoking, so that instead of 67 deaths anticipated, 325 actually occurred, confirming not simply the carcinogenicity of asbestos in terms of lung cancer among those exposed, but also the extraordinary multiple factor etiology. (Selikoff, Tr. 1702)

Dr. Selikoff also mentioned the interaction of radiation and benzene:

"For example, to revert to Japan, where we know that radiation-exposed people there have more leukemia than anticipated. But if, after Hiroshima and Nagasaki men were exposed to benzene in their work, they have much more leukemia than all other Nagasaki and Hiroshima victims. So the potential for multiple factor interaction which our colleagues in the laboratory have been prodding us about for these last 20 years is now becoming very real." (Selikoff, Tr. 1748)

Additional discussion of the interaction between asbestos and cigarette smoke was presented by Dr. William Nicholson (Mt. Sinai School of Medicine), Tr. 1713; Dr. Curtis Harris (NCI), Tr. 1973–1974; and Dr. Bernard Weinstein (Columbia Univ.), S. 7. Dr. Francis J.C. Roe (AIHC) also discussed the phenomena of tumor promotion, cocarcinogenesis, and additive and synergistic effects of carcinogens and gave additional examples (S. 41–44).

The practical implications of additivity and synergism were discussed by a number of witnesses. Dr. Richard Griesemer (NCI) commented as follows:

"One of the things that concerns me about the proposed regulations is that the emphasis appears to be on single chemicals and their carcinogenicity, where people are exposed to many chemicals at differing rates and differing amounts, and I believe that the combination effects are much more important than those of single chemicals." (Griesemer, Tr. 938).

Dr. William Lijinsky (NCI-FCRC) showed how additivity and synergism make the concept of threshold inapplicable:

"In the chronic tests of chemical carcinogens in animals we administer a single substance which is the only variable between a treated group and an untreated control group. We then measure the increased tumor response, if any, in the treated group compared with the control group. If there is a statistically significant increase in tumor frequency in the treated group, we say that the substance is a carcinogen. This is not, however, the way in which man is exposed to a carcinogen, even in the workplace. Man's exposure is to a multitude of carcinogens, arising from diet, habits and the environment, all of which contribute to the cancer risk which is so high that 1 in 4 of the population of the United States develop cancer of some type during their lifetime. Therefore, it is impossible to state that any exposure to a carcinogen is without risk, since we do not know how to measure this risk, nor what the other risks are." [Lijinsky, S. 16]

Drs. Crump, Hoel, and Bates and Mr. Peto placed similar comments in the Record. Dr. Kaufman also spoke very strongly for a cautious approach to regulation in this context:

". . . A variety of extrinsic and intrinsic factors can influence the development of cancer. Some of the examples considered experimental studies in animals, but it is likely that similar processes are operative in the causation of human cancer. The general agreement between the experimental studies considered and the human studies cited lend support to this assertion. It should be evident that carcinogenic risks for individual humans cannot be accurately estimated by simple extrapolation from animal carcinogenicity data. Other factors may influence the susceptibility of individuals to cancer. In fact, certain susceptibility factors may greatly increase the sensitivity of individuals to a given exposure to carcinogens. The conclusion which I draw from these observations is that in attempting to establish conditions which protect individuals at their place of work from cancer-causing hazards, other factors must be considered besides the risk from exposure on the job. An ample margin of safety must be included to provide for the effects of other co-carcinogenic or carcinogenic agents to which the individual is exposed as well as the effects of intrinsic properties of the individual which puts him at increased susceptibility. Although some types of exposures and some intrinsic properties of individuals may actually impede rather than potentiate the effects of carcinogen exposure, it is impossible to accurately predict these favorable interactions in all cases. Thus, prudent policy would include an effort to provide some protection from additive or synergistic effects." (Kaufman, S. 20)

Dr. Lorenzo Tomatis (IARC) also discussed this point:

"This hypothesis does not make prevention any easier. In fact, if it is very difficult to calculate a minimal or undetectable effect dose of a carcinogen acting in isolation, it becomes an almost impossible task to define a no-effect or minimal-effect dose of a carcinogen acting in combination with another carcinogen or with an agent which may modify its activity." (Tomatis, 1977a, p. 301; Appendix 3 to Tomatis Statement)

Dr. Donald Kennedy (Commissioner, FDA) commented as follows:

"The problem of thresholds is further confounded by our knowledge that there are synergistic and additive effects among carcinogens and that the human population is exposed simultaneously to a number of carcinogens. The problem of establishing a "safe" exposure level for individual carcinogens is greatly exacerbated because of this. I do not expect a satisfactory solution to this problem for many years." (Kennedy, S. 11)

Finally, Dr. Rall (Director, NIEHS) addressed the issue as follows in one of his exhibits:

"But the issue is not thresholds or no thresholds; it is one of adding a new carcinogen to a pool of present carcinogens. I would suggest, therefore, that there may well be thresholds with carcinogenic substances when given to a very clean animal in an environmentally controlled situation that is, when there are few or no other carcinogens present: this is what the experimental oncologist tries to create in the standard laboratory animal test system—a clean animal of known and homogeneous genetic background with a well characterized diet and no known carcinogens living in sterile filtered air. The human population is different, however: the mouse doesn't smoke or breathe hydrocarbons or sulfur oxides from fossil fuels, doesn't drink, doesn't take medicine, doesn't eat bacon or smoked salmon, but man does." (Rall, 1978, pp. 164–165; Appendix C to Rall Statement)

OSHA concurs with this summary of the evidence, that the exposure of humans to a variety of different carcinogens, which frequently have additive, synergistic or inhibitory effects, provides additional reasons to regard the concept of thresholds as irrelevant and inapplicable to the determination of human hazards or risks.

e. OSHA's Conclusions

After review of the very extensive evidence in the Record, OSHA concludes that its proposed position that there is no presently acceptable way to reliably determine a threshold for a carcinogen for any given population is amply supported by the evidence presented and also represents, to a large extent, a consensus of scientific opinion. Specifically, there is substantial evidence in the Record that carcinogenic processes differ from other types of toxic effects in being irreversible and originating from minute foci or even from single cells, so that there is no theoretical reason to expect a threshold even for an individual. The various defense mechanisms put forward as theoretical bases for thresholds, such as DNA repair, detoxification, and immuno-suppression, are unlikely to be efficient enough to ensure a threshold, as pointed out below. And, even if thresholds do exist for individual humans, it would not be expected that such thresholds exist for populations of exposed persons, because of individual human variations in susceptibility, additive and synergistic effects with other carcinogens and with intrinsic and extrinsic factors.* The evidence proffered for the existence of thresholds for specific carcinogens was inconclusive or erroneous. In short, there is much scientific evidence that thresholds do not exist for carcinogenesis; even if they do, there is no scientific way to establish what they are for any specific carcinogen and for any specific population.

Stated a different way, the self-replicating nature of cancer, the

*As pointed out, our inability, at present, to determine whether humans are more or less sensitive than any test animal species in question is one lynch-pin to the determination of thresholds. In the case of thalidomide, for example, admittedly not a carcinogen but a teratogen, humans were 60 times *more* sensitive than mice, 100 times *more* sensitive than rats, 200 times *more* sensitive than dogs and 700 times *more* sensitive than hamsters. In the case of inorganic arsenic, a known human carcinogen, no positive results have been reported in any mammalian test animal, including the mouse and rat, although non-positive results have been so reported. And in the case of beta-naphthylamine, a known bladder carcinogen in humans, monkeys and dogs, non-positive results have been reported in rats and rabbits. Hence, today it does not appear feasible to predict a quantitative finite "safe" level for a carcinogen to any individual human, let alone for a human population, comprised as we all are of aggregates of genetically heterogeneous individuals, with widely varying predispositions and susceptibilities and widely varying exposures to carcinogenic substances throughout our lives.

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multiplicity of causative factors to which individual humans can be exposed, the possible additive, synergistic or antagonistic combination of effects, and the wide range of individual human susceptibilities work together in making it currently unreliable—and perhaps impossible—to predict a threshold below which any given working human population, exposed to a carcinogen, has no increased risk of contacting cancer. This was true in 1980 when Secretary Arthur Fleming of HEW testified that: "Scientifically, there is no way to determine a safe level for a substance known to produce cancer in animals". This was equally true, fourteen years later, when HEW Secretary Caspar Weinberger stated on June 14, 1974 that HEW "lacks the scientific information necessary to establish no effect levels for carcinogenic substances in animals in general and in man in particular. In the absence of such information, we do not believe that detectable residues of carcinogenic animal drugs should be allowed in the food supply." It was true in 1975 when the Director of NIOSH stated that: "It is not possible at present to determine a safe exposure level for carcinogens." (Revised Arsenic Criteria Doc., p. iv, 1975). And the Secretary of Labor believes it true today.

OSHA concludes, based upon substantial evidence in the Record, that observation of the marked individual differences in the response of humans to carcinogens shows that some individuals obviously do not develop cancer in their lifetime, whereas others develop it readily after the same exposure to the same carcinogen. Although these observations may be compatible with the existence of different "thresholds" for individual humans in certain conditions, they are not a basis for predicting a "no-effect", "threshold" or "safe" level of a carcinogen in other individuals exposed in the same or different conditions.

In addition, individual humans are generally exposed throughout life to a number of carcinogens, which may be considered to provide a background of some carcinogenic risk; exposure to any amount of a single carcinogen, however small, should be regarded as capable of adding to the total carcinogenic risk. Susceptibility to cancer can vary greatly among individual humans due to genetic, racial and ethnic factors, to environmental and dietary exposure and the other factors.

This variability among humans makes it very difficult to have a great deal of confidence that an observed "no-effect" levels of exposure in experimental test animals or even in a specific human population (for which individual variation may be small in comparison to the total population) will be applicable to any given human population at risk. A large number of factors (e.g., age, sex, race, nutritional status, immunologic status, general state of health, previous exposure to other substances) could affect individual susceptibility. Based on the very substantial evidence in the Record, therefore, OSHA believes that even if thresholds for specific carcinogens could be demonstrated for certain individual humans, no reliable method is known today for establishing a threshold that could apply to an exposed group of workers.

11. Should Criteria or Protocols Be Established for the Conduct and Interpretation of Carcinogenesis Bioassays?

a. OSHA's Proposal

In the preamble to the proposed regulation, OSHA stated that carcinogenicity results from testing in animals should generally be assessed according to sound and accepted principles for the design and interpretation of such experiments and that while there was substantial scientific agreement on what many of those principles are, that specified and rigid protocols for experimental design and data interpretation would not be prescribed by OSHA.

OSHA made clear its intention to rely upon scientifically sound and convincing positive evidence of animal carcinogenicity for classifying a substance as a potential human carcinogen. OSHA proposed to "rely on evidence from . . . . adequately designed and conducted animal studies . . . . as the basis for such regulation" (42 FR 54148). OSHA reinterated this intention to rely on ". . . . positive results in tests with proper statistical confirmation. . . ." (42 FR 54164). OSHA's proposal cited the 1969 NRC Food Protection Committee, which advised that:

". . . appropriate and well-executed animal studies are more likely to provide a substantial background of biological data from which to judge safety. . . ." (NRC, 1970, p. 1)

The importance of careful scientific scrutiny of reports of positive bioassay results was cited in the proposed regulation in a quotation from Dr. Umberto Saffiotti, who said, ". . . . some of the 'positive' tests reported in the literature—particularly the older ones—are not quite satisfactory by present standards. . . ." (42 FR 54152).

OSHA's proposal emphasized the need to evaluate positive bioassay reports in light of details of experimental protocols and interpretative procedures of the particular experiments in question. The proposal stated:

"OSHA recognizes that there are . . . factors involved in carcinogenicity tests which affect the degree of confidence in the results . . . . OSHA may require detailed review of each experiment before classifying each toxic substance . . . ." (42 FR 54165)

The proposal further stated that a prsumption of carcinogenicity shall be rebutted if "animal data . . . . are totally inadequate to establish any conclusion with respect to . . . . carcinogenicity . . . ." (42 FR 54185).

In the proposed regulation, OSHA recognized that general agreement exists in the scientific community on the criteria and basic principles for judging the acceptability of data from animal carcinogenicity bioassays. The 1969 Mrak Commission Report, for example, was cited in the proposed regulation on the point that there is a "remarkably unanimous view on the general principles and criteria to be followed in carcinogenesis safety evaluation, widely accepted in principle by the scientific community . . . ." (42 FR 54158). The 1970 Ad Hoc Committee Report to the Surgeon General was also cited:

"Several committees of experts in the field of carcinogenesis convened by national and international bodies over the past 15 years have formulated general principles for performance and evaluation of carcinogenesis studies in animals. The recommendations put forth by these committees have shown remarkable unanimity . . . and are widely accepted in principle by the scientific community." (NCI, 1970, p. 6)

The proposed OSHA regulation concluded that:

"[i]t would seem therefore, that opinions of scientific experts generally are substantially in agreement on . . . the minimal and optimal experimental conditions for testing for carcinogenicity . . . ." (42 FR 54160)

OSHA's proposed regulation did not suggest or specify particular minimal or desirable criteria or standards for acceptance of evidence of carcinogenicity from animal bioassays. OSHA made clear in the proposed regulation that while there is substantial scientific agreement on what constitutes adequate carcinogenicity testing, particulars of experimental design and interpretation have not been and should not be rigidly standardized in order to select information relevant to regulation of substances posing a carcinogenic risk to humans. OSHA's proposal stated that:

". . . the general criteria and principles applied to the design and interpretation of studies in animals . . . illustrate the varying conditions accepted for testing for carcinogenicity in animals . . . ." (42 FR 54157)

As seen below, OSHA's avoidance of prespecification of particular minimal or desirable testing and/or interpretative protocols accords with scientific opinions of most experts appearing at the public hearing, and also accords with conclusions of previous scientific bodies.

A key point, made in the proposed regulation, is that there are necessarily different standards for judging the acceptability of bioassay results depending on whether or not the results indicate that the test substance is positive for carcinogenicity. Scientific groups responsible for judging the *safety* of substances such as food additives were cited in the proposal as delineating criteria for acceptable *negative* experimental evidence of carcinogenicity. Such negative evidence is required for approval of many substances for human consumption. The 1961 joint FAO/WHO Committee on Food Additives, for example, was cited as recommending standards for bioassay procedures, including numbers of animals, numbers of species, sexes, and doses, as well as the duration of bioassays for safety studies (42 FR 54158). Other previous scientific committees which specified factors for acceptability of safety tests were also cited, including the 1969 UICC Report and the 1969 Mrak Commission Report. These reports were published by groups concerned mainly with establishing minimal standards for evidence showing that substances are *safe enough* from the point of view of carcinogenicity for human consumption or exposure to be acceptable. OSHA, in contrast to these groups, is not primarily concerned with *negative* carcinogenicity data; instead, OSHA reacts to reports of *positive* evidence of carcinogenicity in order to protect employed persons from exposure to carcinogens. As discussed in the proposed regulation (42 FR 54161), substances for which there is negative evidence of carcinogenicity from animal bioassays would be treated in the same way as substances for which there is no evidence for or against carcinogenicity.

The proposed regulation indicated that positive and "negative" carcinogenicity results must be evaluated according to different standards. While certain basic criteria for the acceptability of positive bioassay data are necessary to avoid false positive conclusions, convincing evidence of carcinogenic activity can be derived from bioassays conducted according to a wide variety of experimental protocols. Standards for the acceptability of positive data cannot be defined in the same way that is possible in setting minimal standards for negative conclusions in safety testing of chemicals. This distinction was clearly reflected in the proposed regulation, which quoted the 1969 UICC report on this point:

". . . negative results of biological testing are less significant than positive results. . . . this is all the more true when testing procedures are inadequate." (UICC, 1969, p. 18)

b. The Public's Response and OSHA's Evaluation

(1) General Characterization of the Testimony.

The preponderance of expert testimony presented at the public hearing focused on four points: (1) carcinogenicity data have been generated in the past by a wide variety of experimental bioassay procedures, and such data must be carefully reviewed in order to be useful for regulatory purposes; (2) there is broad scientific agreement on criteria and principles for assessing the adequacy of experimental protocols for animal bioassays and the reliability of conclusions derived from such bioassays; (3) narrowly defined protocols or particular prescribed standards for bioassay execution should be avoided by OSHA; and (4) inferences of human carcinogenic risk should not be limited to experiments which have been interpreted by standardized procedures or protocols.

Several opinions were heard on factors which OSHA should take into account in judging the adequacy and reliability of animal bioassay data. Most witnesses described such factors in general ways and specifically advised against rigid standards for the assessment of bioassay results.

(2) Specific Issues Raised at the Hearing

The questions relating to adequacy of experimental bioassay protocols and results which were addressed at the public hearing may be summarized as follows:

a. Does OSHA need to review protocols of animal bioassays yielding evidence that a substance is carcinogenic?

b. Should OSHA prescribe protocols for the design and execution of carcinogenesis bioassays?

c. Should OSHA prescribe standards for the interpretation of bioassay data?

d. What factors need to be taken into account by OSHA in the interpretation and evaluation of animal carcinogenicity experiments?

e. How should OSHA judge whether positive bioassay reports meet its criteria for acceptability?

(a) Does OSHA need to review protocols of animal bioassays which yield evidence that a substance is carcinogenic?

Long-term animal bioassays for detection of carcinogenic activity are subject to a great many factors which may influence the results. As Dr. Walter Heston (NIH) testified, ". . . there are many important genetic and environmental factors which are known to influence the incidence of hepatomas and other tumors . . ." (S. 15). For this reason, OSHA intends to scrutinize bioassay protocols to establish whether any findings of carcinogenicity are reliable.

The need to subject evidence of carcinogenicity to scientific review before such evidence can be used for regulatory purposes was clearly stated in the OSHA proposal and reiterated by many witnesses called during the hearing. As Dr. Richard Bates (NIEHS; FDA) testified:

". . . evidence that [a] chemical has caused the cancer . . . requires an evaluation of the way in which the study was conducted and that [the study] was conducted adequately. . . . I certainly would not myself support the concept that you use just any set of figures that somebody puts in front of your nose for making a regulatory decision . . . you do have to evaluate whether [the] study was well conducted and well carried out. . . ." (Bates, Tr. 599–600)

Dr. Umberto Saffiotti (NCI) similarly advised:

"A chemical agent should not be judged carcinogenic solely on the basis of a cursory 'tumor count', without thorough evaluation of the conditions of exposure and of host response." (Saffiotti, S. 7)

Dr. Donald Kennedy (Commissioner, FDA) concurred:

"I support the position that no final conclusion about the carcinogenicity of a chemical should be drawn from poorly designed or conducted animal experiments." (Kennedy, Tr. 522)

Dr. Renate Kimbrough (CDC) agreed, ". . . how well the study was conducted . . . [could] make a lot of difference . . ." (Tr. 1796). Dr. William Lijinsky (NCI–FCRC) testified:

"It seems foolish to accept the results of any test which shows a negative result uncritically as proving the safety of a substance, and equally foolish to accept a positive result, i.e., evidence of hazard, uncritically as evidence of danger. Much depends on the quality of the test." (Lijinsky, S. 2–3)

Dr. Carroll Weil (Carnegie-Mellon) also supported the position that there is

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a need to review experiments before results could be accepted:

". . . all experiments are not created equal. Differences in experimental design . . . may radically affect results." (Weil, S. 2)

Dr. Leon Golberg (CIIT) agreed:

". . . the full data forthcoming from each test will need careful evaluation in conjunction with all other relevant data by appropriate experts . . ." (Golberg, Tr. 6488)

Several witnesses testified that much carcinogenesis testing has been of varying, and sometimes poor, quality, emphasizing the need for review of experiments. Dr. Adrian Gross (FDA) testified that there have been ". . . widespread shortcomings in the . . . data submitted to [the FDA] for regulatory purposes. . . ." (Gross, S. 12). Dr. Gross added that not all the shortcomings were due to problems in experimental protocols or procedures:

". . . reports on results of animal testing are often false or misleading and in some cases they may be downright fraudulent" (Gross, S. 13)

Mr. Leslie Dach (EDF) testified that:

". . . there have been unfortunate experiences where federal agencies have gone out and asked for further followup studies, and they have come back in a form that was then unusable to the regulatory agency . . ." (Dach, Tr. 7341)

Dr. Sidney Wolfe (Health Research Group) stated that "none of these studies are perfect . . ." (Wolfe, Tr. 6537). Dr. Francis Roe (AIHC) added, "In some cases . . . the standard of execution of tests has been low." (Roe, S. 59). Dr. Golberg (CIIT) testified:

" . . . the protocols and conduct of bioassays carried out even in the recent past leave much to be desired . . . results cannot be taken at their face value for automatic decisions on their carcinogenic potential."

* * * * *

". . . we have data going back many years, and the standards of performance of toxicological tests were not as adequate then as we would have them today." (Golberg, Tr. 6487–88, 6500)

Dr. Roe agreed that test results need evaluation by experts of "many disciplines" and went on to allege that U.S. regulatory agencies do not engage experts to interpret bioassay data. Dr. Roe offered:

"The interpretation of long-term animal tests should not be left to lump-counters aided by computers and statisticians as tends to have become the norm in (r)egulatory (a)gencies within the U.S.A. (Roe, S. 62)

OSHA and industry witnesses agreed that deficiencies in past test protocols can be taken into account by experts to make valid judgments on the adequacy and reliability of the data produced by such experiments. Dr. Golberg noted:

". . . one is always able to criticize what was done in the past . . . utilization of that data is possible, provided that the people who are reviewing it are experts and have the necessary background and breadth of experience." (Golberg, Tr. 6500)

Dr. Bernard Weinstein (Columbia Univ.) voiced the same opinion:

". . . there will be experiments where the data is interpretable even though it may not fulfill the current NCI bioassay description." (Weinstein, Tr. 2258)

As explained in the proposed regulation, OSHA intends to act on reports of positive carcinogenic activity of substances. For this reason, evaluation of "non-positive" carcinogenicity results is of interest to OSHA in the limited areas discussed above and below, and where expert evaluation of results which at face value appear non-positive may in fact reveal positive evidence for carcinogenicity. Thus, in general, OSHA's review of bioassay protocols will be mainly concerned with verifying that results which appear positive are indeed reliable. In his oral testimony, Mr. Grover C. Wrenn, Jr. (OSHA) made clear OSHA's intention to avoid false positive conclusions to the extent possible:

". . . the idea that is implicit in the term 'exceptionally well conducted' is that there should be some demonstration of the ability to replicate results, and . . . this stems from the fear of false positives, regulation proceeding on the basis of falsely positive evidence." (Wrenn, Tr. 102)

False positive results must be guarded against, even if the occurrence of such false positives is fairly rare. Dr. Donald Kennedy (Commissioner, FDA) testified that:

". . . we may experience 'false positive' results in some animal bioassays. This possibility cannot be denied, although the weight of scientific evidence collected thus far strongly suggests that such an experience is not the general rule, and may only occur infrequently." (Kennedy, S. 7)

Dr. Kennedy suggested a reason why false positives are rare:

"It just turns out that with most animal studies the results of [experimental] error are more likely to make a substance come clean than to show that it is carcinogenic." (Kennedy, Tr. 571)

Dr. Francis Roe (AIHC) described three reasons why animal bioassays might lead to false positive results:

". . . because of chance . . . because the test agent at high dosage predisposes to a change . . . which, in turn predisposes to cancer . . . because the test agent modified the response of the animal to an agent already within it . . . or to an agent that is currently in its background environment." (Roe, S. 67)

Dr. Roe continued:

". . . When it comes to measuring the false-positive rate for predictive animal carcinogenicity tests, we have no way of doing it . . . [an] alternative is to see whether known human carcinogens produce tumors in laboratory animals. With the exception of arsenic, they do." (Roe, S. 69)

Dr. Arthur Upton (Director, NCI) also mentioned some factors which might lead to the acceptance of false positive results:

"It needs to be emphasized that the NCI bioassays, like any other well-designed cancer test, are interpreted continously and carefully. A chemical is not labelled as a carcinogen automatically if it causes a statistically significant increase in tumors at one site in one species. If an increase is observed, the experiment is reviewed thoroughly, including consideration of the etiology of the tumor type, its occurrence in untreated controls in other experiments, dose-response relationship, etc. Many experiments raise specific problems of interpretation; the resolution of these problems requires evaluation by experienced professionals in several disciplines, and cannot be reduced to a formula." (Upton, S. 12)

During oral testimony, Dr. Upton added that the "adequacy of the pathological evaluation of the lesions" (Upton, Tr. 289) is an additional factor which must be reviewed in order to avoid false positive conclusions.

It is OSHA's intention to subject positive evidence of carcinogenicity to sufficient scrutiny to take account of the confounding factors mentioned above and to rule out certain pitfalls which can lead to falsely positive results, despite the apparent infrequency of such occurrences. Specific steps which will be taken by OSHA to reduce the possibility of false positive results leading to improper regulation are discussed below.

(b) Should OSHA Prescribe Protocols for Design and Execution of Carcinogenesis Bioassays?

A few witnesses representing industry and environmental groups testified that OSHA should define protocols for the design and conduct of animal carcinogenesis bioassays, while the majority of testimony favored no designation of acceptable experimental protocols.

Comments submitted by the Environmental Defense Fund, for example, included the suggestion that ". . . the Secretary should, in the 'cancer policy,' establish standards for [the] conduct [of bioassays] . . . [t]he Secretary should coordinate with any party carrying out such studies to insure that they met the standards set up . . ." (EDF, S. 9). Mr. Leslie Dach (EDF) suggested that OSHA should base such standarized protocols on material being developed by other agencies:

"(i)n generating these guidelines there are a number of places that OSHA can turn to for guidance, including the guidelines being developed under the Federal Insecticide, Fungicide, and Rodenticide Act, and under the Toxic Substances Act. We would expect the Secretary to take a close look at these and use them as the basis for coming out with standards for studies . . . "(Dach, Tr. 7341)

Two industry witnesses, Dr. Paul Kotin (Johns-Manville) and Dr. Adrianne Rogers (MIT) were much more emphatic in their exhortations that OSHA should prescribe standards for acceptable bioassay procedures. Dr. Kotin said:

". . . (i)f indeed a policy, a regulation, is going to require among other elements of input a body of scientific knowledge . . . this clearly calls for a . . . detailed requirement on the part of the regulatory agency in terms of setting up of standards and guidelines for testing, and something more specific than well-performed tests or extremely well-performed tests, and something more specific than one or two species. There must be some attempt to identify the species and the strains within the species . . . (Kotin, Tr. 8618)

". . . I would recommend that standards and guidelines for testing be evolved and be an integral part of the regulation . . ." (Kotin, Tr. 8619)

Dr. Kotin's suggestion for the way in which OSHA could produce such testing protocols differed from that of Mr. Dach. He testified:

". . . an agency of the Executive—one of the major agencies, departments in the Executive Branch with its resources should have no trouble in convening—and not only find no trouble but naturally, get agreement on the part of a series or a number of acknowledged experts—and let's just assume that somebody in academia has no ax to grind—with no ax to grind who would come up with a series of protocols . . . these people can be gotten together, and this be done." (Kotin, Tr. 8658)

In his written comments, Dr. Kotin stated:

". . . (i)t is indefensible to base regulatory decisions on the use of a non-standardized test for carcinogenic bioassay." (Kotin, S. 21)

Dr. Rogers agreed with Dr. Kotin that OSHA should prescribe bioassay protocols. Dr. Rogers testified:

". . . we believe that proposed OSHA policy is deficient [in] that it does not . . . have clear criteria for published studies which will be considered acceptable as evidence of carcinogenicity in animals . . . or establish protocols to be used for new tests to be conducted in order to provide acceptable evidence . . ." (Rogers, Tr. 6552)

In a joint statement, which Dr. Rogers wrote with Dr. Paul Newberne, these scientists contended that:

". . . The proposed OSHA policy is deficient in that it does not . . . have clear criteria for published studies which will be considered acceptable as evidence of carcinogenacity in animals . . . or establish protocols to be used for any new tests to be conducted in order to provide acceptable evidence . . . [if] regulatory decisions are going to be approached in an explicit, if arbitrary, manner, it is most important to include a complete definition of the quality of the science to be involved, e.g., what scientific tests should be used, how they are going to be run . . ."

* * * * *

". . . [w]e propose that OSHA . . . establish protocols [guidelines], to be used for new studies of test substances . . . the protocols should . . . cover the materials and methods used in all tests including sex, species, source, strain and age of the test animals, diet, water source, housing temperatures, humidity and so forth . . ." (Rogers and Newberne, S. 6, 8)

Dr. Rogers and Dr. Newberne made the following suggestion for how OSHA could produce such standardized test protocols:

". . . [t]he criteria and protocols [guidelines] should be developed in conjunction with a group of scientists knowledgeable in all aspects of chemical carcinogenesis and then submitted to larger groups for review and comments . . ." (Rogers and Newberne, S. 8)

Witnesses who advised OSHA to establish specific acceptable bioassay protocols differed greatly on what such protocols should consist of. The EDF statement made no attempt to specify what acceptable protocols would be, except for the very general statement, made by Mr. Dach:

". . . [t]he goal we have in mind for these standards is to ensure that the work that is submitted to OSHA . . . is done in such a way that it can support a conclusion, positive or negative . . ." (Dach, Tr. 7348)

Dr. Kotin wrote that ". . . the number of factors that can significantly affect animal bioassay data for carcinogenesis are myriad . . ." (S. 20). Among the "myriad" factors listed were very general factors such as "selection protocol for 'test' and control" and such highly specific factors as "cage composition" and "circadian rhythm effect" (Kotin, S. 20). Dr. Kotin's written comments indicating that specific experimental protocols could be produced by an appropriate group of experts, mentioned above, appear to be contradictory to his oral testimony, where he made clear that protocols for testing could not be specified in advance:

". . . I would not want standards and guidelines to be interpreted as a straight jacket, a variety of sets and standards and guidelines would be necessary . . ." (Kotin, Tr. 8619)

Dr. Kotin also stated in oral testimony:

". . . [i]f you are going to ask me for specific experimental protocols here, obviously I am not going to give them to you because the point again I made in my generalization is they would vary . . . having done it in the past, I suppose I could lay it out again but I cannot lay out a series of protocols for you right now." (Kotin, Tr. 8656–8657)

Dr. Rogers' testimony on this point advocated prespecification of bioassay protocols, including such minute details as "water source" and "humidity" in animal rooms. However, when asked "Would you apply these criteria to all animal experiments?", she replied, "Yes. I think most of them. It depends what the purpose of the experiment is. . . ." (Rogers, Tr. 8598.) In response to a further question, "If an experiment did not meet your criteria, would you consider it to be an invalid test . . . would you consider any conclusions drawn from that to be invalid with respect to carcinogenicity?", Dr. Rogers replied: "No. It depends on what the conclusions are that one is going to draw" (Rogers, Tr. 8598).

Other witnesses agreed unanimously that where a Federal agency has authority to conduct bioassays or specify proper procedures for bioassay design and execution, it would be impossible or undesirable to attempt to delineate what such acceptable or minimal protocols would consist of. Dr. David Rall (Director, NIEHS) was asked ". . . is it fair to conclude that you believe that there should be some minimum criteria of experimental design, of conduct and interpretation that have to be met before positive results in animal tests are used as the basis of categorizing a substance as a potential human carcinogen?" (Tr. 390). Dr. Rall replied that he favored "performance guidelines" rather than specific standards for performance of animal bioassays:

"I think . . . it is much better to write performance standards than a by-the-numbers standard, thou shalt have x something or other . . . the scientific community could and probably should draft performance standards for laboratory animal tests . . . these should be rather guidelines than specific. I think you want to talk about what the test will show rather than exactly how you do it . . . so you can . . . allow the flexibility to design the experiment in a way that suits the situation." (Rall, Tr. 390)

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Dr. Adrian Gross (FDA) addressed this topic when asked ". . . did I understand you to say that you would not favor the promulgation of rigid guidelines for the conduct of tests?" Dr. Gross replied, "That is correct, yes, sir." In response to the further question, "And did I understand you to say that you think that . . . flexibility in the design of tests would be in the long run a benefit [to] the industry?" Dr. Gross responded: "Of the industry and of all of us as members of the community, yes" (Gross, Tr. 1944–1945). Dr. Gross was earlier asked ". . . you stated that you did not favor rigid standardization of testing, and I think I understand that. Do you not favor a standardization of minimum standards for testing protocols?" Dr. Gross replied:

"No, not really. Beyond certain minimum requirements. For instance . . . one minimum requirement . . . is that the test be a relevant one . . . test something we can deal with, test in a susceptible animal and so on, an informative sort of test. But beyond that, how much testing, how many animals at what levels, how often, this kind of stuff I would say we would be better off not to specify that." (Gross, Tr. 1945–1946)

Dr. Richard Griesemer (NCI) similarly advised OSHA not to attempt to prescribe experimental protocols or establish minimal requirements for acceptable studies:

". . . as a scientist, I believe it undesirable to attempt to standardize protocols or to attempt to come up with a minimum requirement for a carcinogen bioassay . . ." (Griesemer, Tr. 930)

Dr. Griesemer added that the question of standardization of bioassay protocols was under active consideration by international experts:

". . . I am leaving this afternoon for a meeting in Germany where we are planning an international meeting to work specifically on standardization. But there is already an awareness and an assumption that it will not be possible and in fact is not desirable . . . each chemical is different. Each system is different . . ."

* * * * *

"I am concerned with the best possible experiment for the purpose. That does not mean standardized tests . . . I think there is a consensus of opinion about what is a proper experiment after the experiment is over."

* * * * *

". . . [standardized tests] might tend to assure uniformity in the way an experiment is conducted, and I again find that an undesirable approach to research. I think what is required is not uniformity. What is required is the truth." (Griesemer, Tr. 929–930, 932–933, 934)

Dr. William Lijinsky (NCI–FCRC) was asked ". . . are you aware of [an] attempt to come up with one criteria (sic) to be used by everybody in this area of standards for animal bioassays?" Dr. Lijinsky replied:

"I do not know of any attempt to get a single set of criteria. I am not sure it is possible, because chemicals vary so much . . ." (Lijinsky, Tr. 1040)

Dr. Bernard Weinstein (Columbia Univ.) testified:

". . . I think it would be wrong to insist, for example, that the document state that x number of animals should be used and x number of species should be used, and x number of dosages should be used, and x number of histologic sections should be taken and so forth because . . . this is an evolving field . . . the NCI bioassay . . . is under surveillance . . . so I do not think we need specify or can specify at the present time these details.

". . . the subject is just too complex to spell out procedures that are appropriate for testing a broad range of compounds. This has to be taken on a compound-by-compound basis . . . no one can spell out at the present time as to what should be done in terms of the best carcinogen assay. It is just too complicated and it will vary under different conditions." (Weinstein, Tr. 2257, 2280)

Additional scientists noted that the field of bioassay testing is an active one and protocols are constantly being refined. Dr. Arthur Upton (Director, NCI) pointed out that ". . . the design of the NCI bioassay has been progressively improved over the years, to incorporate new knowledge . . ." (Upton, S. 10). Dr. David Groth (NIOSH) testified, ". . . it would be inadvisable to put in a rigid set of criteria and then have to change this every year as we learn more information . . ." (Tr. 2890). Dr. William Lijinsky (NCI–FCRC) added, ". . . [t]hese standards, the laboratory procedures, are continually changing, but there are minimal (NCI) standards" (Tr. 1031).

Mr. Grover C. Wrenn, Jr. (OSHA) testified at the outset of the hearing that ". . . we don't envision publishing detailed criteria for the design and conduct of studies . . . in much greater detail than is suggested in the preamble to this proposal . . ." (Tr. 103) ". . . the proposal does at least set forth some criteria which imply the kinds of protocols that are appropriate for animal experimentation in the assessment of carcinogenic potential . . ." (Tr. 227). When Mr. Wrenn was asked: ". . . [the proposal] doesn't say what criteria must be present or what circumstances must be present in a particular study in order to qualify it . . . do I understand then that in not putting such criteria into the proposed standard, that OSHA found it impossible to develop such criteria as of October of 1977?", he replied, "I am not sure that would fully explain the absence of those criteria in the proposal. There is also the possible benefit of that measure of flexibility within the future operation of this policy . . ." (Tr. 228).

OSHA finds that in light of the Record established in this proceeding, it is neither advisable nor possible to set particular experimental protocols for all acceptable carcinogenicity bioassays. The test protocols of scientific institutions are constantly being changed as new knowledge is gained, which makes specification of protocols impractical. There appears to be nearly unanimous agreement that competent scientific experts can distinguish between acceptable and unacceptable bioassay protocols. If OSHA finds that particular studies are of doubtful validity because of flaws in experimental design and/or execution, such studies will not be utilized as the basis for regulation.

(c) Should OSHA Prescribe Standards for Interpretation of Bioassay Data?

As discussed above, OSHA will review experiments of varying experimental designs and experimental protocols to decide whether there is sufficient indication of carcinogenic activity to regulate exposure to the substance under consideration. OSHA's position, clearly indicated in the proposed regulation and now supported by substantial evidence in the Record, is that such interpretation of experimental results will be done by scientific experts and may involve scientific review. A few witnesses argued, however, that the proposal for expert scientific review of experimental results is too broad and needs to be defined by specific interpretative protocols and procedures for assessment of bioassay data. For example, some of the many reasons why it should be impossible to devise a standardized method of interpreting bioassay data were pointed out by Dr. Leon Golberg (CIIT):

"The . . . issue concerns the evaluation of toxicity data . . . the complexity of the confounding issues of which we are now aware, the plethora of procedures being applied nowadays . . . make it imperative to involve a group of the most knowledgeable and experienced experts . . . it is essential to treat each compound as a unique entity . . ." (Golberg, Tr. 8485–8487)

During oral testimony, Dr. Golberg reiterated the need for flexibility, rather than rigidity, in interpreting results:

". . . we have a record of hundreds of tests that have been carried out in the recent past . . . which could not really be assessed adequately by . . . rigid criteria . . ." (Golberg, Tr. 8499).

Dr. Roe (AIHC) also stated:

". . . the task of distinguishing between . . . valid and relevant tests and . . . invalid and irrelevant tests is not one that can be delegated to a computer. For this purpose, there is no better way than to rely on the collective judgment of a group of independent, relevantly experienced and well-informed scientists . . ." (Roe, S. 59)

Mr. Leslie Dach (EDF), who had advocated standardization of bioassay protocols (see above), stated that such standardization should not be extended to interpretation of results:

". . . evaluation will be done by the [Labor] Department on the basis of looking at the data—there are many cases where the author of a paper reaches a conclusion which is not agreed to by other independent reviewers or readers—the standards we had in mind would apply to the conduct of the experiment and not its interpretation." (Dach, Tr. 7348)

Many witnesses unanimously agreed that interpretation of bioassays should not be done in a standardized manner, but rather by reliance on scientific judgment of experts in the field of carcinogenesis testing. Dr. David Rall (Director, NIEHS) testified:

. . . the recommendation of a scientist would be . . . to apply as much scientific judgment to each case as is compatible with legal and regulatory requirements. (Rall, S. 14)

Dr. Arthur Upton (Director, NCI) stated:

". . . the NCI bioassays, like any other well-designed cancer test, are interpreted continuously and carefully . . . many experiments raise specific problems in interpretation; the resolution of these problems requires evaluation by experienced professionals in several disciplines, and cannot be reduced to a formula." (Upton, S. 12)

Upon cross-examination, Dr. Upton reiterated:

"[a]ll these questions [of interpretation] go into the evaluation of a test result, and I suppose that if one wanted to write a book of pathology, one could characterize this process. But to reduce it to a simple formula would be very difficult." (Upton, Tr. 289)

Additional scientists advising OSHA not to attempt to specify formulae for the interpretation of bioassay results included NIOSH, which said:

". . . the studies will be validated by scientists of repute or an advisory committee. Therefore, there is no need to write in obvious criteria . . . to suggest that these criteria should be written into the document is excessive material. I think it is a waste of paper." (NIOSH, Tr. 3005–3006)

Dr. Richard Griesemer (NCI) wrote:

". . . the criteria for judging the carcinogenicity of a substance cannot be reduced to a formula. They require the exercise of good scientific judgment as well as good experimentation." (Griesemer, S. 11)

During oral testimony, Dr. Griesemer testified:

". . . there are a number of possible conditions under which the evidence might be judged as sufficient . . . when we interpret [bioassay results], we may not be able to decide whether a chemical is carcinogenic on the basis of that data . . . that is why when we analyze the results of experiments we start by analyzing the adequacy of the experiment itself. If it is insufficient we do not go any further. We ask industry or whoever conducted that experiment to do it over." (Griesemer, Tr. 930–931, 932, see also Tr. 934)

Support for the concept that it is possible and/or desirable for OSHA to specify procedures for interpreting results of carcinogenesis bioassays was generally limited to testimony presented by Dr. Paul Kotin (Johns-Manville) and Dr. Adrianne Rogers (MIT) and the joint statement written by Drs. Rogers and Paul Newberne (MIT). As described above, industry witnesses Golberg and Roe specifically rejected the notion that data interpretation could be done by a prescribed protocol. In contrast, Dr. Kotin testified, ". . . standards and guidelines for data interpretation are necessary (Kotin, Tr. 8619) . . . it is imperative that . . . some form of evaluation be introduced into the regulatory procedure . . . (Tr. 4895) . . . [the proposal] fails to provide a mechanism . . . with guidelines for experimental protocol development, implementation, data analysis and interpretation, and this indeed is where a generic approach is vitally needed . . ." (Tr. 4895). Dr. Kotin's testimony, however, contains several statements which appear to contradict the notion that OSHA should set interpretative standards. For example, Dr. Kotin, as quoted above, continued, ". . . a generic approach (to data analysis) is vitally needed, not that a single test is valid for everything . . ." (Tr. 4895).

In their joint statement, Drs. Newberne and Rogers wrote:

"The proposed OSHA policy is deficient in that it does not establish clear criteria for published studies which will be considered acceptable as evidence of carcinogenicity in animals . . . tests which rely on [mouse liver] lesions, without adequate control populations, confirmation by histologic diagnoses, observation of biological behavior and other available methods, are of limited usefulness as a basis for regulatory decisions. Proper standards of acceptability of data or test protocols should recognize and provide for these factors in advance".

* * * * *

". . . the proposed regulation as now written appears to allow acceptance of studies which do not conform to currently recommended protocols".

* * * * *

". . . we propose that OSHA establish clear criteria for published studies which will be considered acceptable as evidence of carcinogenicity of a test substance." (Newberne and Rogers, S. 6, 7, 8)

Drs. Rogers and Newberne also stated:

"[e]stablishing the scientific criteria on an ad hoc, after the fact basis is highly unsatisfactory from a scientific point of view, and we would assume the same is also true from a regulatory point of view.

* * * * *

"[t]he potential effects of this failure to provide standards of acceptability of scientific evidence are well illustrated by experience . . ." (Newberne and Rogers, S. 8, 6)

Dr. Newberne and Dr. Rogers also offered specific suggestions for factors which should be taken into account in data interpretation:

"[m]any studies . . . were designed for purposes other than testing its carcinogenicity and therefore may not have included adequate numbers of animals, proper control animals, control and monitoring of environmental conditions including diet, assay of compound purity, or other requirements . . .

* * * * *

"The protocols should, *inter alia*, cover the materials and methods used in all tests including sex, species, source, strain and age of the test animals, diet, water source, housing temperature, humidity and so forth so that tests can be exactly replicated . . ." (Newberne and Rogers, S. 7, 8)

A third list of suggested factors which interpretative protocols might include was offered in Dr. Rogers' individual statement. Dr. Rogers wrote:

"An acceptable protocol must be designed specifically for the purpose of investigating the carcinogenicity of the agent in question . . . [f]oremost among the elements of a properly designed study is the condition that the only variable is exposure to the test agent . . . this requires the use of control animals . . . as well as careful, systematic monitoring of the animals . . . all test animals should be examined grossly and microscopically for evidence of tumors . . . there should be a complete and accurate autopsy of each animal. . . . tests of statistical significance must be applied. . . . studies should. . . . contain a full description of all the materials, methods . . ." (Rogers, S. 4–6)

Dr. Rogers warned:

"Any regulation which permits the reliance on studies which fail to meet these or similar criteria will allow and encourage poor scientific practices, and . . . the possibility of significant regulatory error . . ." (Rogers, S. 6)

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During oral testimony, Dr. Rogers stated:

". . . we believe that the proposed OSHA policy is deficient and that it does not establish clear criteria for published studies which will be considered acceptable as evidence of carcinogenicity in animals . . . (Rogers, Tr. 6552)

". . . the proposed regulation does not adequately specify criteria for evaluating animal data which will be used to determine whether a substance is carcinogenic. . . ." (Rogers, Tr. 6565)

Dr. Rogers advocated concepts such as "a basic and common sense approach" (Tr. 8601) to data interpretation and stated:

". . . I think the tests that have been done should be evaluated using very careful scientific criteria, and then obviously it comes to a decision . . ." (Tr. 8605)

Dr. Rogers also stated:

". . . the proposed regulation should include provisions which to the extent possible assure that regulatory decisions which use it as a framework are based on sound, relevant data . . ." (Rogers, Tr. 8565)

In saying that such provisions should be established "to the extent possible," Dr. Rogers' testimony was in agreement with that of three other witnesses: Dr. Donald Kennedy (Commissioner, FDA), Dr. Richard Bates (FDA/NIEHS) and Mr. Grover C. Wrenn, Jr. (OSHA). Dr. Kennedy testified that standards such as those involved in interpreting bioassay data be described and published "wherever possible" (Kennedy, Tr. 523). Dr. Bates said, ". . . I do favor [adopting interpretative criteria] to the extent that it is feasible . . ." (Bates, Tr. 597). Mr. Wrenn was asked (by Mr. Newman): "And you are saying . . . if I understand you correctly, that it would be desirable to the extent possible to set forth in this standard in its final form such criteria [to qualify a study]?" Mr. Wrenn replied, "To the extent this record permits doing that, yes" (Wrenn, Tr. 228). He then added ". . . we have no prejudice against including criteria of that sort within the final standard" (Wrenn, Tr. 229). Earlier in his oral testimony, Mr. Wrenn made the point that "[OSHA] will rely to some degree upon the evidence we get in this proceeding to clarify . . . what you rely upon to determine whether a study is well conducted or not" (Wrenn, Tr. 103).

It is clear from a review of the record that with the exception of Dr. Rogers and, to some extent, Dr. Kotin, scientists testified that it would be unwise and futile for OSHA to attempt to specify criteria and standards for acceptance of bioassay results. As discussed below, some of the criteria which were suggested by Dr. Rogers, such as consideration of control animals and availability of a description of experimental procedures, will indeed be among the many factors which OSHA experts will take into account in an evaluation of bioassay data. Specified standards for such criteria will not be promulgated by OSHA, as recommended by witnesses at the hearing.

(d) What Factors Need To Be Taken Into Account by OSHA in the Interpretation and Evaluation of Animal Carcinogenicity Experiments?

As discussed above, a clear preponderance of witnesses appearing at the public hearing did not favor prespecification of factors and standards for acceptable animal bioassay results. OSHA concurs. However, many experts testified on the importance of particular points which should or must be taken into account in determining the reliability of bioassay results. In addition, several reports were submitted into evidence on efforts of previous scientific groups to consider the problem of minimal and/or desirable standards for acceptable animal bioassays and their interpretation:

1. International Agency for Research on Cancer. 1978. IARC Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Man;

2. Food Safety Council. 1978. Proposed System for Food Safety Assessment;

3. Environmental Protection Agency. 1978. Proposed guidelines for registering pesticides in the U.S., Hazard evaluation: Humans and domestic animals;

4. World Health Organization. 1974. Assessment of the Carcinogenicity and Mutagenicity of Chemicals;

5. National Cancer Institute. 1976. Guidelines for Carcinogen Bioassay in Small Rodents;

6. Health and Welfare Canada. 1973. The Testing of Chemicals for Carcinogenicity, Mutagenicity and Teratogenicity;

7. International Union Against Cancer. 1969. Carcinogenicity Testing;

8. Food and Drug Administration Advisory Committee on Protocols for Safety Evaluation. 1971. Panel on carcinogenesis report on cancer testing in the safety evaluation of food additives and pesticides;

9. Mark Commission. 1969. Report of the Secretary's Commission on Pesticides and Their Relationship to Environmental Health;

10. National Academy of Sciences. 1975. Principles for Evaluating Chemicals in the Environment.

In addition to these reports, several witnesses submitted statements on criteria for experimental design and data interpretation:

a. American Industrial Health Council. AIHC Recommended Alternatives to OSHA's Generic Carcinogen Proposal;

b. American Petroleum Institute. An Approach to Generic Rulemaking for Regulation of Occupational and Environmental Carcinogens (Hearing Exhibit 252, Appendix C);

c. Hooker Chemical Company. (Hearing Exhibit 71).

Specific suggestions for experimental and interpretative factors are discussed below.

The most important consideration in judging the validity of animal bioassay results is whether the results are taken to support positive or negative conclusions of carcinogenicity of a substance. As discussed above, OSHA's concern is to protect employed persons from exposure to substances for which there is positive evidence of carcinogenicity. Since animal bioassays are generally rather insensitive measures of the carcinogenicity of a substance, criteria for acceptability of positive results need be far less stringent than criteria for acceptability of negative results or evidence of safety. Dr. David Groth (NIOSH) testified on the differences in judging reliability of negative bioassay results as opposed to positive results: "The relative importance of the [adequacy] criteria . . . does depend upon the results of the experiment . . ." (Tr. 2998–2999). The same point was made during the oral testimony of Dr. Samuel Epstein (Univ. of Illinois). Mr. Barnard (AIHC) asked: ". . . I take it then that you would not be willing to accept a negative study that used just 20 animals and were fed 18 months . . . [a]nd yet, you refer to the Innes study by Litton Bionetics where these tests were conducted, as I understand it, for 18 months on 20 animals." Dr. Epstein replied: "Your question is entirely different. Your question asked me would I be satisfied with a negative. The inferences I have made from the Innes study related to positives" (Tr. 1242). This point was stressed by Dr. Donald Kennedy (FDA) (Kennedy, Tr. 571), who pointed out that flaws in experimental design are much more likely to result in false negatives than in false positives. For this reason, interpretative criteria for studies which are positive need to be much less stringent than those which are considered negative. Dr. Kennedy summarized his view on this topic by stating, ". . . there is a real rationale for taking positive results more seriously than negative results." Dr. David Rall (Director, NIEHS) concurred with this view in stating:

". . . there are cases where a single well-conducted experiment giving clearly positive results should suffice to establish a chemical as a carcinogen and to justify stringent measures to reduce occupational exposure." (Rall, S. 13–14)

Dr. Robert Squire (Johns Hopkins Univ.) also indicated that while there are many pitfalls in execution of bioassays, "*any* clearly positive animal study must be considered as the best qualitative experimental evidence available for human carcinogenic risk" (Squire, S. 13, emphasis added).

This important distinction between negative and positive bioassay data was not clearly made by industry witnesses or briefwriters who called for specific guidelines and protocols without consideration that such guidelines are much more acceptable in an evaluation of the adequacy of negative bioassay data than for positive results.

Another important distinction which was confused in the comments of many witnesses and participants was between defects in design of bioassays and defects in their conduct. If a bioassay is conducted with too few animals, with too low a dose, or for too short a period, this will generally invalidate a negative result, although a clear positive result will nevertheless be valid and meaningful. On the other hand, if an experiment is inadequately conducted or inadequately reported, it may be impossible to draw any valid conclusions, positive or negative, however good the experimental design. Many of the comments about the interpretation of "inadequate" tests failed to make the distinction between these two categories of inadequacy.

It is important to emphasize that "negative" results in carcinogenicity bioassays simply define a limit beyond which carcinogenic activity would have been detected. Absolute safety can never be demonstrated; agencies concerned with establishing safety standards must balance the relative insensitivity of animal bioassays with the high cost of such tests and the increasing chances of experimental error as the experiment becomes larger and more elaborate. If the results of animal bioassays appear to support a conclusion of lack of carcinogenicity, OSHA's interest in reviewing experimental protocols is limited to the possibility that a more extensive examination of pathological or other criteria may possibly lead to the conclusion that the compound was in fact positive for carcinogenicity. If the available evidence indicates that the chemical is not positive for carcinogenicity, OSHA's position on that particular chemical is the same as if the chemical had never been tested for carcinogenicity.

Several expert witnesses presented opinions on specific factors in design and execution of animal carcinogenicity bioassays which may be important in judging adequacy and reliability of results. Such suggestions involved several specific areas which are discussed below.

Controls. Most witnesses agreed that control or untreated animals are essential to any experimental determination of carcinogenicity. Few witnesses, however, suggested that OSHA set minimal or desirable standards for what constitutes an adequate control group. The importance of adequate controls was emphasized by Dr. Walter Heston (NIH), who wrote,

"The only difference between the test group and the controls should be that the test group receive the candidate substance while the control animals are free of the candidate substance. In this way any difference between the two groups in incidence of hepatomas or other tumors can be attributed to the substance tested. While it is true that the incidence of induced or spontaneous tumors can be changed by environmental influences, induced changes in tumor incidence are not difficult to determine accurately if the environmental and genetic factors are properly controlled. In other words, properly controlled carcinogenesis bioassays in mice give reliable and meaningful results." (Heston, Post-Hearing Comment, pp. 15–16)

Dr. Ralph Yodaiken (NIOSH) agreed: "It would be unthinkable . . . to have a study without controls . . ." (Tr. 3005). Dr. David Groth (NIOSH) added, ". . . in the field of science, the requirements for experiments and testing a single chemical or agent are that the control and exposed populations are different only with respect to one variable . . ." (Tr. 2991–2992). Mr. Newman asked the NIOSH panel, ". . . [y]ou would say, then, that part of your minimal criteria for the acceptance of animal studies would be that there is a control population used, would you not?" Dr. Yodaiken replied, "Yes" (Tr. 2992). ". . . the most important thing . . . is that . . . the control and exposed groups must be similar except for the one major variable, so that they [can] compare the exposed with the control group" (Tr. 2997).

Dr. Rogers concurred:

". . . foremost among the elements of a properly defined study is the condition that the only variable is exposure to the test agent . . . this requires the use of control animals . . ." (Rogers, S. 4)

Dr. Arthur Upton (Director, NCI) mentioned that the evaluation of bioassay results may take historical controls into account:

". . . the experiment is reviewed thoroughly, including consideration of . . . occurrence [of tumors] in untreated controls in other experiments . . ." (Upton, S. 12)

As is discussed further below, historical controls may be especially important in evaluations of positive bioassay results.

Number of animals in the bioassay. Acceptable positive results can be based on small numbers of animals. This was emphasized by many witnesses. Dr. Harold Stewart (NIH) related how the carcinogenicity of estrogen was discovered in a small-scale experiment:

"Professor Lacassagne demonstrated the carcinogenicity of estrogen. He used five male mice and got cancer of the breast in all five . . . [i]f you have breast cancer in five male mice it has got to be a carcinogen . . ." (Stewart, Tr. 489)

Dr. William Lijinsky (NCI–FCRC) agreed that "five males with breast tumors is an extraordinarily large number . . ." (Tr. 1074)

Dr. Richard Griesemer (NCI) said:

". . . if ten animals are exposed to a chemical and all ten of them develop stomach tumors in six months, one does not need much more information to draw a conclusion. If, however, the same experiment were conducted and no tumors were produced in excess of those in the controls, one would say that was an inadequate experiment." (Griesemer, Tr. 933)

This comment provides another illustration of the distinction between the requirements for demonstrating positive and negative results.

Dr. David Rall (Director, NIEHS) indicated that in some cases, only a few animals can suffice for a clear bioassay result: ". . . if the chemical is a hot carcinogen, you do not need as many animals as if it is not . . ." (Rall, Tr. 442)

Another case where a positive conclusion of carcinogenicity was based on a small group of animals was cited by Dr. Ralph Yodaiken (NIOSH), who testified:

"If a study comes in where only ten animals have been used for a variety of doses, as was the case with the Dow Chemical study on acrylonitrile, it was the professional judgment of the people at NIOSH that this was a valid [positive] study . . ." (Yodaiken, Tr. 2991)

Mr. Edward Baier (NIOSH) concurred: ". . . it might very well be that a few animals can indicate enough or supply enough data to draw a conclusion . . ." (Baier, Tr. 3003)

The relevance of the number of experimental and/or control animals must be judged in the context of the particular experiment under

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consideration. Dr. David Groth (NIOSH) was asked ". . . it might very well be that a few animals can indicate enough or supply enough data to draw a conclusion. Is this correct?" "On the other hand, you can have several hundreds of animals and not be able to draw a conclusion. Is that correct?" Each time, Dr. Groth replied, "Yes" (Tr. 3004).

Other witnesses, including Drs. Renate Kimbrough (CDC) and Samuel Epstein (Univ. of Illinois), mentioned that the number of animals in a bioassay was an important consideration in negative studies. As Dr. Umberto Saffiotti (NCI) said, ". . . the detectability is largely a function of the magnitude of the experimental group . . ." (Saffiotti, Tr. 855). The only witness who said that the magnitude of experimental and/or control groups was relevant to both negative and positive carcinogenicity bioassays was Dr. Rogers, who said that tests of statistical significance must be utilized in the interpretation of bioassay results (see below) and that "usually at least 50 exposed and 50 controls" were required for statistical tests (Rogers, S. 6). However, Dr. Rogers said during oral testimony, "The numbers of animals to be used really is governed by what levels of statistical significance one wants . . ." (Rogers, Tr. 8598).

Duration of dosing. Duration of dosing in carcinogenicity bioassays is another criterion which should be specified if one is setting minimal standards for negative studies (Epstein, Tr. 1238; Epstein, S. 94; Weinstein, Tr. 2249), but which need not be so specified if positive results are revealed. As Dr. Leon Golberg (CIIT) testified,

> ". . . two complete years have not passed in any of the [Chemical Industry Institute of Toxicology] tests, but we have carried out interim sacrifices . . . and some of these are already yielding very suggestive results . . . we are studying aniline, and at the first sacrifice of the animals exposed to aniline hydrochloride we found a . . . fibroplasia of the splenic capsule . . . taken in conjunction with a study . . . released by the National Cancer Institute . . . where they observed tumors of the spleen derived from connective tissue, this is a very close link which suggests that what we are observing are early stages of what will ultimately develop into the same kinds of tumors." (Golberg, Tr. 6505–6506)

Dr. Richard Griesemer (NCI) similarly testified that positive results can be obtained after relatively short periods of dosing:

> ". . . we know of experiments where there was only a single exposure and cancers [were] produced. We know of cancers that are induced in very short periods . . . three azo dyes [produced] liver cancers in 90 days. I would say that is very short." (Griesemer, Tr. 1001)

Autopsy and pathology procedures. This is another area where specifications can be made for negative studies but which must be considered in the context of particular positive studies. As Dr. Golberg testified:

> "I can give you the case of dinitrotoluene . . . in our tests to date . . . the histology has not been done, but the gross findings at autopsy suggest that there is liver cancer in these animals . . ." (Golberg, 6506)

Dr. David Groth of NIOSH testified that ". . . the animals should be autopsied and tissues examined for the lesions, including cancer" (NIOSH, Tr. 2889). Dr. Arthur Upton (Director, NCI) agreed that accurate pathological diagnoses are essential in making a positive determination from a carcinogenicity bioassay:

> ". . . a significant or conclusive effect in a test species . . . involves an assessment of the adequacy of the pathological evaluation of the lesions, were they in fact tumors or were they misdiagnosed, were they simply abcesses or inflammatory lesions?" (Upton, Tr. 289)

Dr. Weinstein called for "clear histologic verification that the lesions were malignant neoplasms . . ." (Weinstein, Tr. 2254–2255)

Monitoring of animal health. Several witnesses mentioned that factors in the design of experiments which involve surveillance of the animals, including their weight and food consumption, could be relevant to the outcome of animal bioassays. Dr. Epstein mentioned that "diet and care" of animals, if poor, can make carcinogenicity bioassays insensitive (Epstein, S. 94). Dr. Kimbrough said that "what the animal weights were" would influence her judgment of the adequacy of a study (Kimbrough, Tr. 1796). Dr. William Lijinsky (NCI–FCRC) indicated that monitoring of animal health and food intake was important in the conduct of bioassays under his direction (Lijinsky, Tr. 1032–1033, 1035–1036).

Despite these concerns, only one witness, Dr. Adrianne Rogers (MIT) called for OSHA to establish specific "minimum criteria . . . which would indicate . . . systematic monitoring of and control over all the animals . . ." (Rogers, Tr. 8565). Dr. Leon Golberg (CIIT) stated that ". . . [n]o arbitrary rule of the thumb is available . . . [for] how to select the upper dose in a long-term toxicity test . . ." (Golberg, S. 3). When Dr. Golberg was asked: "Would you consider a very serious weight loss (to be) more than 10 percent of the animal's weight?", Dr. Golberg replied:

> ". . . I do not think that by itself would vitiate the total outcome of the test and its interpretation." (Golberg, Tr. 6526–6527)

Monitoring of animal diets and compound purity. Several witnesses voiced concern about the possibility of false positive results which might be caused by contaminant substances. The related question of false negative results occurring by contamination of control diets with carcinogens was also discussed. Dr. Golberg alleged that:

> ". . . It [is] very rare . . . for anyone to say, well, why wasn't this compound adequately characterized? Why wasn't the dietary level of this material checked, as it would be required under good laboratory practice" . . . (Golberg, Tr. 6522).

Dr. Richard Niemeier (NIOSH) said ". . . probably the feed should be monitored periodically for [a] particular contaminant" (Niemeier, Tr. 2994). Dr. Adrianne Rogers (MIT) called for "systematic monitoring of . . . diets, exposures . . ." (Rogers, Tr. 8565) for bioassays to be acceptable. Among other "standards for acceptable studies" Dr. Rogers included "assay of compound purity" (Rogers, S. 7).

This issue has several aspects which were not always clearly distinguished in testimony and comments:

1. Monitoring of actual (as opposed to nominal) levels of a chemical in a test diet is desirable primarily in cases where the exact intensity of exposure is in question—e.g., if a quantitative risk extrapolation is to be made. There is no obvious way in which failure to measure dietary levels would invalidate the qualitative results of a test that gave a positive result, and no showing was made that it would do so.

2. The presence of potentially carcinogenic impurities or contaminants is of importance primarily when a technical product is tested. In such cases, it is possible for the technical product to be carcinogenic even though the pure chemical may be inactive. However, since workers are exposed to the technical product, it is unlikely that testing in these circumstances will give rise to false positive results. Of more concern in general is the likelihood of obtaining false negative results by testing the pure chemical.

3. Contamination of control diets with carcinogens is in general likely to give rise to false negative results, by increasing the tumor incidence in the control groups.

4. The most difficult issue is raised by the circumstance in which a change in a manufacturing process or in formulation has led to the elimination of a potentially carcinogenic contaminant. In this hypothetical circumstance, a positive result obtained in the past may be irrelevant to the inference of risk from the currently manufactured technical product. Although no cases of this kind were demonstrated or even plausibly suggested in the hearing Record, OSHA is cognizant of the theoretical possibility that they may arise in the future. If satisfactory evidence is presented that a positive result obtained in the past was attributable to a contaminant, OSHA will review such evidence in detail. It would appear that several areas of concern in that regard would be the following:

(a) demonstration that the currently-manufactured product is not carcinogenic, in a test at least as sensitive as the earlier test which gave a positive result;

(b) plausible evidence that the product used in the earlier test contained a carcinogenic contaminant;

(c) demonstration that the mixture of this contaminant and the currently manufactured product yields positive results similar to those obtained in the earlier test.

OSHA recognizes that these criteria are stringent, but believes that it would be the Agency's responsibility to apply stringent standards of proof before discounting the results of a positive test. OSHA can in no circumstances discount a clear positive result as the basis of hypothesis or conjecture, but will require detailed verification that a disputed postive result can be replicated by re-introducing the hypothetical active agent.

In addition to these factors which are important in judging the adequacy of the design and execution of bioassays, a number of witnesses discussed factors which should be taken into account in their interpretation. These factors included assessment of statistical significance, dose-relatedness of carcinogenic activity, reproducibility of results, and description of experimental procedures and results. These are discussed below.

Statistical significance of results. As mentioned above, all experiments should generally include a control group in order to make conclusions of any kind justifiable, even though, in some cases, the control group may be simply historical or based on scientific experience with the particular colony or strain of test animal. Where an obviously positive result is not observed, a more sophisticated presentation of control versus treated results is needed and statistical significance is necessary to demonstrate that the incidence of tumors in experimental animals was indeed causally increased by exposure to the test agent.

No clear formula for how to determine whether a particular set of results is statistically significant emerged from the hearing. Certain specific suggestions were made, including that of Mr. Richard Peto (Univ. of Oxford):

> "Because in most experiments animals of both sexes and of more than one strain are studied, and the separate incidence of tumours at each of a dozen or more anatomical sites is independently documented, some of the many significance levels calculated will probably be less than 0.05 just by chance. Because of this, individual P-values of 0.05 (or even 0.01) are not necessarily convincing unless the effects concerned can be reproduced in independent experiments or unless the agents concerned show striking activity in a battery of short-term tests; for a single animal experiment to be convincing without such support, a P-value of well under 0.01 (perhaps even 0.001) should usually be required. Unless this policy of requiring rather extreme P-values is adopted, an unacceptably large number of misleading results will emerge by chance alone." (Peto, S. 17)

Another specific suggestion raised was that of Dr. Carroll Weil (Carnegie-Mellon), who offered:

> "Statistical tests for significance are valid only on the experimental units (e.g., either litters or individuals) that have been mathematically randomized among the dosed and concurrent control groups." (Weil, S. 2)

Several witnesses testified that it would be undesirable to attempt to predesignate statistical treatment of data or even to specify particular regulatory responses to various levels of statistical significance. As Dr. David Rall (Director, NIEHS) testified:

> ". . . Clearly if [the experiment] is statistically significant . . . it is a positive experiment and should be treated as such . . . but it seems to me quite clear that there are certain rare tumors in animals, and if after exposure to a chemical you have an increase in those tumors, you ought to be extraordinarily suspicious of that chemical, even though it does not quite hit the magic five per cent." (Rall, Tr. 387–388)

Dr. Upton, on the other hand, warned against acceptance of apparently positive results, even if those results met criteria of statistical significance:

> "A chemical is not labeled as a carcinogen automatically if it causes a statistically significant increase in tumors at one site in one species. If an increase is observed, the experiment is reviewed thoroughly . . ." (Upton, S. 12)

Dr. Donald Kennedy (Commissioner, FDA) testified that he would require statistical significance before he would judge the results of a particular bioassay positive (Tr. 563). Upon further questioning, however, Dr. Kennedy added:

> ". . . I see within the universe of animal testing enough variation in the kinds of experiments done, and thereby in the confidence limits and levels of statistical significance that one would want to assume, that I am not sure that such a prescription wouldn't prove to be more confining than it is helpful." (Kennedy, Tr. 564)

Other testimony supported the view that statistical significance must be evaluated on a case-by-case basis before conclusions or interpretations can be drawn. Dr. Richard Griesemer (NCI) testified that under certain circumstances, the appearance of tumors in "marginally statistical numbers" would still lead to suspicion of the test substance (S. 11). Dr. David Groth (NIOSH) made the important point that evaluations of statistical significance are "particularly important in the case of negative results" (Groth, Tr. 2995), as opposed to the cases of positive results upon which OSHA is charged to react. Dr. Umberto Saffiotti (NCI) discussed the issue as follows:

> "[t]here is no specification [in the OSHA proposal] about levels of statistical significance, clearly because these are subsumed in the strong requirement implied by a recognition of causality. As I said above, there is more to a judgment of causation than a strictly numerical value: the latter is but a framework for a complex diagnostic scientific evaluation." (Saffiotti, S. 25)

Further discussion of this issue is presented above in Section V.D. The consensus of the expert opinion presented at the hearing was that, although tests of statistical significance are always desirable, it would be unwise to prescribe rigid criteria for the conduct of such tests, or for the levels of probability to be judged significant.

Dose-relatedness of results. Several witnesses indicated that dose-relatedness of bioassay results could have a bearing on the interpretation of particular experiments. Dr. Arthur Upton (Director, NCI) said that "dose-response relationship" is among the factors involved in interpretation of a bioassay (Upton, S. 12). Dr. Richard Griesemer (NCI) mentioned that "when more tumors form at lower than at high doses" evidence for carcinogenicity was weaker, but under certain circumstances, he "would still be suspicious . . ." (Griesemer, S. 11). Dr. Griesemer also mentioned that "dose relationships" were among factors "not considered as relating to the weight of the evidence for carcinogenicity" at certain meetings of world experts on carcinogenicity (Griesemer, Tr. 931).

Several witnesses warned against any rigid requirements for dose-relatedness

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in judging positive evidence of carcinogenicity. Dr. David Rall (Director, NIEHS) pointed out:

"Dose response can be very misleading, often at the very high dose, because the animals are sick; the dose is higher than it ought to be. You see fewer tumors than at a lower dose.

So one would say, 'Well, gee, the dose response is backward,' but actually that really would make sense. So I think it is a little hard to make a categorical statement about that." (Rall, Tr. 389)

Dr. William Lijinsky (NCI-FCRC) stated, ". . . it is not necessary to show a dose response to establish that the compound is a carcinogen . . . it is helpful if there is a dose response; it is not necessary". (Lijinsky, Tr. 1079). Dr. Leon Golberg (CIIT) wrote that at least "three . . . dose levels" be used in experiments where quantitative conclusions of carcinogenic potency were to be drawn; he did not comment on the need for multiple dose levels or dose-relatedness for qualitative determinations of carcinogenicity (Golberg, S. 6).

Reproducibility of results. Several witnesses mentioned that if a compound is shown to be carcinogenic on more than one occasion, this adds a great deal of weight to the conclusion that the compound is a carcinogen. However, these witnesses did not say that replication should be an essential factor in establishing that a compound is a carcinogen for regulatory purposes. Dr. Umberto Saffiotti (NCI) said that "concurrence and reproducibility of the observations are important elements for this assessment [of causality]" (Saffiotti, S. 7). Dr. Bernard Weinstein (Columbia Univ.) said that ". . . in the area of carcinogen bioassay many of us feel that one needs reproducibility . . ." (Weinstein, Tr. 2249). Dr. Weinstein added that such evidence of reproducibility could take several forms, including ". . . adequate numbers of control groups or evidence of different dose levels or different species . . ." (Tr. 2249), while Mr. Grover Wrenn (OSHA) stated that:

". . . the idea that is implicit in the term 'exceptionally well conducted' is that there should be some demonstration of the ability to replicate results" . . . (Wrenn, Tr. 102)

It is important to note that these and other witnesses used the word reproducibility to refer to the *ability* to reproduce results; they did not equate it with the actual reproduction or replication of results. The need for replication of results is discussed in more detail in Section V.D.9. above.

Description of experimental procedures and results. Dr. Adrianne Rogers (MIT) called for "certain minimum criteria" for "description of materials, methods, controls, [and] analytical procedures used . . . to assure that regulatory decisions . . . are based on sound, relevant data . . ." (Rogers, Tr. 8565). Dr. David Groth (NIOSH) agreed that "[t]here should be a sufficient description . . . particularly in the case where you have negative results . . ." (Groth, Tr. 2998). Several witnesses agreed that problems of interpretation of positive studies could be solved by additional data on materials and methods which could usually be readily obtained from the author or laboratory where the study was conducted. Although it is obvious that adequate description of a study is a prerequisite for its correct interpretation, it would be impossible to specify precise minimum criteria for acceptability without arbitrarily excluding some studies from consideration.

Reports for several groups which have discussed and published statements on criteria for experimental design and data interpretation were entered into evidence, as were the API alternative approach and the Hooker Chemical Company alternative approach. As seen below, these documents all support the contention of OSHA witnesses that no simple formula for bioassay design or interpretation can be made, and that the most useful aproach is to set out general criteria and considerations for expert review. These reports on criteria which were entered into evidence were as follows:

a. International Agency for Research on Cancer. 1978. IARC Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Man;

b. Food Safety Council. 1978. Proposed System for Food Safety Assessment;

c. Environmental Protection Agency. 1978. Proposed guidelines for registering pesticides in the U.S., Hazard evaluation: Humans and domestic animals;

d. World Health Organization. 1974. Assessment of the Carcinogenicity and Mutagenicity of Chemicals;

e. National Cancer Institute. 1976. Guidelines for Carcinogen Bioassay in Small Rodents;

f. Health and Welfare, Canada. 1973. The Testing of Chemicals for Carcinogenicity, Mutagenicity and Teratogenicity;

g. International Union Against Cancer. 1969. Carcinogenicity Testing;

h. Food and Drug Administration Advisory Committee on Protocols for Safety Evaluation. 1971. Panel on carcinogenesis report on cancer testing in the safety evaluation of food additives and pesticides;

i. Mrak Commission. 1969. Report of the Secretary's Commission on Pesticides and Their Relationship to Environmental Health.

All these groups were in substantial agreement that certain factors need to be taken into consideration in the design and interpretation of carcinogenicity bioassay studies. These groups were largely concerned with negative studies. Despite this concern with safety studies, however, in almost no case was any specific recommendation made on exactly how the general considerations should be embodied in particular experimental designs or interpretation. Several reports specifically avoided prescriptions for protocols:

"The criteria which are described are general guidelines and not rigid, universal criteria. The complexity of the problem dictates that the evaluation of the potential human hazards of a given agent must be individualized in terms of the chemical and metabolic aspects of that agent . . ." (NCAB Report, 1977, p. 461; Exhibit B to Weinstein Statement)

(e) How should OSHA determine whether positive bioassay reports meet scientific criteria for acceptability?

OSHA clearly cannot prescribe a formula for judging whether a given bioassay is adequate to form part or all of the basis for regulation of human exposure. Such determinations will have to be made on a case-by-case basis by OSHA's experts. There was almost unanimous support for this approach voiced at the hearing. Dr. Paul Kotin (Johns Manville) made this point with unusual clarity when he said, "I know there is not a worker in the field who does not have a feel for what is an adequate study" (Kotin, Tr. 8648). Dr. Richard Griesemer (NIH) testified: "I think there is a consensus of opinion about what is a proper experiment after the experiment is over" (Griesemer, Tr. 932–933). Dr. Harold Stewart (NCI) made the following comment on experimental designs: ". . . [if] there are standards for setting up tests for evaluation a possible carcinogen . . . it would be a test that you could read through and say, 'good test' " (Stewart, Tr. 590). Dr. Ralph Yodaiken (NIOSH) was asked, ". . . how should the acceptability of the protocol be determined?" He replied, "There is no set of rules which an investigator has to follow. Each experimenter determines his own guidelines . . . then the protocol is acceptable . . . I do not think there is any set of fixed guidelines we have to follow or scientist [who] would be prepared to follow" (Yodaiken, Tr. 2891). Dr. Richard Bates (FDA) said: ". . . a variety of disciplines are needed, and people with expertise and experience are needed to make many phases of the evaluation . . ." (Bates, Tr. 592).

Support for a case-by-case approach to data evaluation also came from Dr. Golberg (CIIT), who said:

"Even more than in the past it is essential to treat each compound as a unique entity, and to consider all the relevant facts about it. Good science demands no less." (Golberg, Tr. 6486–6487)

Dr. Adrian Gross (FDA) summed up his feeling on this issue as follows:

"I feel that all we have to do is publish how we will assess the results . . . give the people the freedom to do whatever is right for them and for their own circumstances, as long as we state the rules of the game in advance . . ." (Gross, Tr. 1944)

c. OSHA's Conclusions

The issue of how OSHA will evaluate data from the animal carcinogenicity bioassays of diverse formats and quality was discussed in the proposed regulation and in this proceeding. The related question of whether OSHA should prescribe specific standards for the conduct of bioassays and for the evaluation of bioassay results was also addressed at the hearing.

The proposed regulation noted that the quality of bioassay data is indeed variable and such data need and will get careful scientific evaluation. The proposal further noted that broad scientific agreement exists on principles for evaluating bioassay data for purposes of regulation of human exposure to potential carcinogens.

OSHA concludes that it should not specify minimal or desirable standards of acceptability for studies yielding evidence of carcinogenicity. The great majority of witnesses testified in favor of OSHA's intention to rely upon informed scientific judgment for a flexible approach to evaluation of the adequacy and significance of bioassay data. Witnesses who alleged that there is a need for OSHA to specify protocols for conducting bioassays for judging quality and significance of bioassay data failed to provide evidence that specification of such protocols is desirable or feasible. Several witnesses testified that it would indeed be unnecessary, undesirable, and scientifically indefensible for OSHA to prescribe standards for use of bioassay data for regulatory purposes.

Previous consideration of these issues by various scientific experts and committees was reviewed at the hearing. Several groups have listed criteria for judging adequacy of negative bioassay data, but the criteria have typically been discussed only in general ways and prespecification of standards for such criteria has been largely avoided for all but the most basic experimental factors.

Specification of criteria for the acceptability of positive results was advised against by witnesses and has been avoided by most previous scientific groups. Most witnesses testified that evidence of carcinogenicity from bioassays should be evaluated by scientific experts to judge adequacy of the positive results.

Case-by-case expert scientific review appears to be the only feasible manner of evaluating positive carcinogenicity evidence. Thus, OSHA will judge adequacy of bioassay data by expert scientific review, and not by prescribing experimental or interpretative protocols in advance. It should be noted that this scientific review and exercise of scientific judgment is not intended to create any legal rights beyond those inherent in section 6(b) of the Act.

In summary, the field of carcinogenicity testing by means of animal bioassays is complex. There is simply no way to standardize experimental bioassays, nor is there a way to standardize means of interpreting results from bioassays. Dr. Arthur Upton (Director, NCI) explained this situation as follows:

"Many experiments raise specific problems of interpretation; the resolution of these problems requires evaluation by experienced professionals in several disciplines, and cannot be reduced to a formula." (Upton, S. 12)

Mr. Edward Baier (Deputy Director, NIOSH) explained the NIOSH position on experimental protocols and interpretation as follows:

Q: The NIOSH does not have criteria for the evaluation of animal studies?

A: Not a written policy as such.

Q: Does it have an unwritten policy?

A: Yes. I think as we discussed this morning, we could probably enumerate what a lot of the criteria are, unwritten.

Q: They exist, then, in the heads of the people that work at NIOSH?

A: Yes, as professional judgment. (Baier, Tr. 2989)

12. Should Tumor "Promoters" be Distinguished from Tumor "Initiators" and Regulated Differently?

a. OSHA's Proposal

In the preamble to the proposed regulation, OSHA made no distinction, for regulatory purposes, between those toxic substances that may "initiate" carcinogenesis and those toxic substances that might "promote" it.

b. The Public's Response and OSHA's Evaluation

A number of participants drew attention to the multi-stage nature of cancer and to supposed distinctions between the mechanisms of action of agents that are responsible for the first stage in cancer development ("initiators") and agents responsible for subsequent stages ("promoters"). One concise account of the difference between these classes of agents was presented by Dr. Bernard Weinstein (Columbia Univ.):

"We know that in both experimental animals, and in humans, carcinogenesis frequently results from the exposure not to a single substance but to several substances and that the evolution from a normal cell to a tumor cell is a multi-step process with different agents acting at different stages. It is possible to define at least two different types of agents as well as two distinct steps. The first types of agents are called initiating agent carcinogens, and are sometimes referred to as "solitary carcinogens." These compounds, when given at sufficient doses, produce tumors on their own. They also are frequently mutagenic when tested in mutagenesis assays.

"The second class of agents, called tumor promoters, by themselves do not produce cancer but enhance the activity of the initiating agents. If a very low dose of an initiating agent carcinogen is given to experimental animals, and this is followed by treatment with a promoting agent, the combination will produce a high incidence of tumors. The classical case of this phenomenon involves exposing the skin of mice to low doses of known carcinogens such as benzo(a)pyrene or N-Methyl N-nitrosourea. Although higher doses of these compounds by themselves will produce a very high incidence of tumors, the doses chosen are so low that by themselves, they produce no tumors or a very low incidence of tumors. At varying intervals a second agent, generally from a different class of compounds, is applied to determine if the combination of exposures will produce a significant incidence of tumors. If such a result occurs, we refer to it as syncarcinogenesis, and if the second agent would not by itself produce tumors even at high doses, that agent is classified as a promoting agent. In recent years this phenomenon has been studied in a variety of tissues, including colon and bladder.

"There is reason to believe that this interaction between these two different types of compounds could be important in the production of tumors in humans. For instance, asbestos workers who do not smoke cigarettes do not appear to have a higher incidence of lung cancer than other non-smoking individuals who do not work with asbestos. However, asbestos workers who smoke cigarettes have at least a ten-fold higher incidence of lung cancer than cigarette smokers who do not work with asbestos. So we have one agent, cigarette smoke, which at higher doses will by itself produce lung cancer. A second agent, asbestos, by itself will apparently not produce lung cancer.[2] However, when the two agents are placed together, there is a synergistic action.

"It is likely that the incidence of a variety of human cancers is not determined exclusively by exposure to initiating agents. It is possible that all of us are frequently

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exposed to initiating agents, but that the rate-limiting step is the exposure to promoters. Thus, it is extremely important to identify promoting agents in the human environment." (Weinstein, S. 6–7)

Another account was presented in the report of the National Academy of Sciences' Committee for a Study of Saccharin and Food Safety Policy:

"In skin, liver, mammary glands, colon, and, probably, in most other tissues or organs in laboratory animals, carcinogenesis can be induced by a brief exposure to one type of chemical, an *initiating carcinogen*, followed by a prolonged exposure to other chemicals, called *promoting agents* or *promoters*. Promoters are often not able to initiate carcinogenesis by themselves or they do so very inefficiently. At best, they are carcinogens of low potency. Most carcinogens are capable of both initiating and promoting and, thus, can produce cancer by themselves after repeated or prolonged exposure.

"The apparent latent period between initiation and the appearance of cancer is not a true latent period. Rather, it is characterized by the presence of new cells that represent steps or stages in the slow cellular evolution from normal, through initiated, preneoplastic, and premalignant cells, to the ultimate malignant cells that characterized cancer. Generally, the new cells in the early phases grow quite slowly. They may have distinctive structural and biochemical markers that facilitate their identification with reasonable certainty. In humans, these lesions have been studied most thoroughly in the cervix and in the skin but now are receiving greater attention in the urinary bladder, breast, and respiratory tract, among other sites.

"The process of promotion appears to be essential for cancer development. For example, in tissues such as the skin and liver, changes in cells or tissues that have been induced by a brief exposure to a carcinogen may persist for most of the lifetime of an animal without undergoing further steps in the carcinogenic process. The essentially irreversible nature of the initiating events emphasizes the potential hazard for cancer development from even a brief exposure to a potent carcinogen.

"In contrast to initiation, many of the events that occur during the process of promotion and prior to the appearance of cancer appear to be reversible. The focal collections of altered cells that proliferate during the several steps and that fall under the general phenomenon of promotion may disappear with discontinuance of the promoting stimuli. Thus, for many chemicals, a continual exposure to a promoting environment over a relatively long period seems to be required for the development of cancer.

"The essential nature of the process of promotion is not understood. There is general agreement that a stimulus for cell proliferation is one component. However, this by itself is insufficient. Although the analysis of promotion is largely undeveloped, it appears that each organ or tissue may require its own special type of environment in order to select and encourage the growth and further evolution of those few cells that are altered during initiation. For example, croton oil and one group of its active derivatives, the phorbol esters, are potent promoters for the skin, phenobarbital for the liver, bile acids and cyclopropenoid fatty acids for the colon, and prolactin and other hormones for the mammary gland. If this organ-specificity proves to be a general phenomenon in promotion, it poses major problems in the development of suitable general assay procedures for promoters and of appropriate guidelines for wise government regulation." (NAS, 1976, pp. 3–1–3–3).

A more detailed account presented by the National Cancer Advisory Board Subcommittee on Environmental Carcinogenesis characterized initiating and promoting agents more precisely, and pointed out that they are often difficult to distinguish by means of the biological test systems presently available:

"Our understanding of the latency phenomenon in the natural history of carcinogenesis was pioneered by Mottram (1944), markedly accelerated by the studies of Berenblum and Shubik (1947, 1949), and further enhanced by Boutwell (1974), Van Duuren (1976), Hecker (1971), and others. The basic demonstration by Berenblum and Shubik was that skin carcinogenesis could be divided into a state of *initiation*, which resulted from the direct administration of a known chemical carcinogen such as a polcyclic hydrocarbon, followed by a second stage of promotion, which necessitated the repeated application of another agent, termed the promoting agent. The promoting agent alone was essentially incapable of inducing the neoplastic transformation. Several characteristics of initiating and promoting agents are now recognized. These qualitative differences in the two stages are summarized in Table 5.

"Promoting agents exert effects which can be modulated by the environment. Boutwell *et al.* (1949), Tannenbaum (1944), and others (Slaga *et al.*, 1978) demonstrated the effect of nutrition on tumor promotion, with respect to both the quality and the quantity of nutritional components given to animals undergoing carcinogenesis. Furthermore, Boutwell (1964) demonstrated by subtle dosage regimens that promotion could be reversed under appropriate circumstances. Retinoids, for example, can inhibit the biochemical effects of promoting agents in the skin (Verma and Boutwell, 1974) and the appearance of several types of neoplasms (Sporn, 1976). Finally, promoting agents for the skin, especially the phorbol esters, cause the development of a few neoplasms on prolonged administration. Although some investigators have attributed this finding to a weak carcinogenicity of the promoting agents, an equally plausible explanation is that efficient promoting agents, on repeated administration, may promote cells initiated by radiation or chemicals in the environment such as or by spontaneous errors. Although the latter concept makes a clear distinction between the initiating and promoting agents, it also raises difficulties in distinguishing clearly between weak carcinogens and promoting agents by the biological test systems presently available.

"One may characterize initiating and promoting agents in terms of their biological and their molecular function, with the understanding that such definitions are not yet definitive but encompass the facts as presently known. Since, under certain circumstances, initiators are mutagenic and promoters are not, the following definitions are appropriate:

'Initiating Agent—an agent—chemical, physical, or biological—capable of directly altering the native molecular structure or the genetic component (DNA) of the cell. Such alteration(s) may be the result of a covalent reaction of DNA with the initiating agent itself or with one of its metabolites. Such alteration may also include distortion of the structure of DNA without covalent alteration of its components. Finally the agent may cause one or more complete scissions of the DNA chain, an elimination of one of its component parts (e.g., bases or sugars) or errors in reading or repair by DNA polymerase. Such capabilities of an initiating agents do not in themselves prove that alteration of DNA is an absolute requirement for the neoplastic transformation.

'Promoting Agent—an agent, that alters the expression of genetic information of the cell. Examples of such agents include hormones, drugs, plant products, etc. which themselves do not directly react with the genetic material but rather affect its expression by a variety of mechanisms including cell surface receptors, cytoplasmic and nuclear protein receptors, or an alteration of other cellular components and functions.

'Traditionally the bioassay of tumor promoters has been done in whole animal experiments, but there have been recently described a few systems in cell culture, in which tumor promoting action can be observed (vid infra). Like some initiating agents and complete carcinogens, promoting agents show a significant degree of specificity with respect to the tissue in which they exert their effects, e.g., phenobarbital in the liver but not in the skin. Furthermore, the endocrine state, nutritional state and age of the animal are modifying factors in the response to both initiating and promoting agents (Slaga *et al.*, 1978).

'Given the characteristics of promoting agents, one of their important effects is to decrease significantly the time between the application of the initiating agents and the appearance of the final neoplasms. This effect, verified numerous times by experimental studies, can also be applied to the "spontaneous" appearance of neoplasms in animals. Peraino and his associates (1975) reported that phenobarbital induced a decrease in the latency time for spontaneous hepatoma production in the mouse. Thus, promoting agents administered to animals for extended periods without a knowledge of the lifetime spontaneous incidence of neoplasia may give results which label a promoting agent as an initiating agent." (NCAB, 1979, pp. 12–14)

Characteristics of Stages of Initiation and Promotion in Skin Carcinogenesis

(From NCAB, 1979, Table 5)

Initiation	Promotion
Irreversible with "memory"	Reversible, at least in early stages.
Initiated cells and immediate progeny not usually indentifiable	Promoted neoplasm seen grossly.
"Pure" initiation (incomplete carcinogen) causes irreversible change but no neoplasm unless promoter applied.	Promoting agents not carcinogenic but may promote cells fortuitously initiated cells (i.e. background).
Dependent on cell cycle and, for many chemicals, on the metabolism of the cell.	Modulated by diet, hormonal, environmental, and related factors.

A number of witnesses suggested that OSHA should take account of the distinctions between initiating and promoting agents in its rules for identification, classification and regulation of substances posing potential carcinogenic risks. For example, Dr. Emmanuel Farber (Univ. of Toronto) made the following statement:

"As our knowledge of the sequences of events involved in carcinogenesis increases, we can no longer regard chemical carcinogenesis as a simple one-stage or two-stage process. Rather, cancer seems to develop progressively through a number of stages, each of which can be influenced by chemicals or other environmental factors, interacting with host factors such as nutrition, hormone levels, etc. Any proposal for identification and classificaton of carcinogens should recognize this complexity." (Farber, S. 4, citing Farber, 1978; Appendix D to Farber Statement)

Dr. Paul Kotin (Johns-Manville) quoted the following statement:

"Carcinogenesis appears to consist of at least two separable stages, initiation and promotion. Initiation is an irreversible process that can be produced by *sufficient treatment* with a *subcarcinogenic dose* of a physical or chemical carcinogen, while promotion is a reversible process requiring repeated application of a promoting agent that ultimately stimulates the initiated cells to give rise to a tumor. . . . Since most, if not all, chemical carcinogens interact with DNA . . . it seems reasonable to assume that alterations in DNA (somatic mutations) may give rise to an initiated cell. However, epigenetic mechanisms cannot be discounted. . . .The mechanisms responsible for promotion are unknown and, while stimulation of cell replication is required, this does not in itself appear to be sufficient . . . . The effect of promoters on gene expression and other cellular metabolic processes may be indispensible." (Kotin, S. 17–18, quoting Yager and Potter, 1975)

AIHC introduced an article by Jean L. Marx which suggested that the distinction between initiating agents and promoting agents may eventually justify different strategies for cancer prevention:

"The distinction between initiation and promotion has important implications for public health because the initiation step of the process eventually leading to tumor formation is irreversible. But promotion is reversible. If the exposure ceases before the cells gain the ability to multiply in the absence of the promoter, then tumor formation may be avoided.

"Moreover, investigators have shown that certain agents inhibit tumor promotion even in the presence of the promoting agent."

* * * * *

"But there is an even greater significance to the existence of promotion inhibitors. Several investigators have pointed out the improbability of ever removing all chemicals capable of initiation—which only requires one exposure and is irreversible—from the environment. But the effects of promotion are reversible if the promoter can be removed in time, and even if it cannot be removed, it may be possible to use inhibitors to prevent cancers from developing. Thomas Slaga of Oak Ridge National Laboratory, for example, has observed a synergistic inhibition of promotion by a combination of a steroid with a vitamin A derivative at doses at which neither of these agents is toxic. Thus, although many questions about the mechanism of tumor initiation and promotion remain unanswered, the investigators hope that the research will lead both to a better understanding of chemical carcinogenesis and ultimately of strategies for preventing it." (Marx, 1978, pp. 515 and 518; Hearing Exhibit 219)

Mr. Richard Peto (Oxford Univ.) suggested that some distinction might be made between mutagenic carcinogens, which he believed are likely to be initiators, and non-mutagenic carcinogens, which he believed are unlikely to be:

"Nearly all the compounds where difficulties, both either theoretical or real, arise are substances which are carcinogenic for animals but which are not mutagenic, and I would suggest that regulations be drawn up in such a way as to distinguish between these, perhaps by a difference in emphasis rather than a quantitative difference, but that some distinction be made. Perhaps that mutagenic carcinogens perhaps, you know, should be treated presumptively as proposed but that rebuttal should be invited. The exact phraseology is much better left to lawyers than to somebody who tries to be a scientist." (Peto, Tr. 2518)

Dr. Robert Squire (Johns Hopkins Univ.) made a somewhat similar suggestion (Squire, S. 19).

Apart from these suggestions by Mr. Peto and Dr. Squire, OSHA believes that the comments in the Record on this issue were generally of a non-specific nature. Although several witnesses suggested that promoters are in some way of less concern than initiators, none offered a specific, operationally explicit procedure for identifying or regulating promoters less stringently than initiators. As Dr. Richard Bates (NIEHS; FDA) pointed out, we do not have sufficient knowledge at the present time to identify promoters unequivocally as such or to establish "threshold" levels of exposure to them:

"Another class [of chemicals] would be promoting agents. In the experimental skin carcinogenesis model for which this terminology was developed, it is recognized that these agents have little or no carcinogenic effect themselves, that they markedly enhance the carcinogenicity of certain carcinogenic chemicals, and that their effect requires repeated exposure and is reversible in the absence of such repeated exposure. Since the mechanism by which this effect occurs in the skin has still not been adequately worked out, it is difficult to know how widespread this phenomenon is for various chemicals and organ sites. Thus, although this is probably a class of chemicals affecting the incidence of cancer that many would regard as likely to have a threshold, there are usually practical problems involved in knowing whether or not to place a chemical in this class from the amount of data generally available to the regulator. There are also problems involved in deciding at what level such a threshold may exist, and there is little information on how a multiplicity of such chemicals in the human environment may interact in a additive, synergistic, or inhibitory way." (Bates, S. 16–17) (footnote omitted).

Dr. William Lijinsky (NCI-FCRC) made a similar point:

"While this model [initiation-promotion] is interesting and philosophically satisfying, the evidence that it has relevance to types of cancer other than skin, in animals or in man, is very flimsy. There are inconsistencies even in the animal model itself, in that it only works in certain strains of mice, even for the skin, and not in rats or in hamsters. Likewise, it seems to work well only when polynuclear compounds are the initiators, since the potent alkylating agents nitrosomethylurea and nitrosomethylnitroguanidine, although skin carcinogens themselves, are very poor initiators and give rise to only very small increases in skin tumors when their application to mouse skin is followed by Croton oil treatment. This reveals, yet again, how little we know about the mechanism of carcinogenesis and how risky it is for us to base decisions which might jeopardize human health on such uncertain bases." (Lijinsky, S. 17)

There are a number of other serious practical difficulties. As NIOSH pointed out (S. 16), the terms "promoting agents" and "co-carcinogens" are "widely and variously used—without the same meanings to everyone." As the NCAB Subcommittee on Environmental

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Carcinogenesis pointed out, existing biological test systems are not capable of identifying promoters clearly (NCAB 1979, pp. 12–14). Indeed, all known promoting agents also have at least weak tumorigenic activity (Van Duuren 1976, p. 29). It would be difficult for OSHA to adopt Dr. Squire's proposal to regulate non-mutagenic carcinogens less rigorously, because several chemicals well established as carcinogenic in humans are not mutagenic (e.g. asbestos, nickel, diethylstilbestrol). This issue was put in perspective in the recent report of the Office of Science and Technology Policy:

"It has been argued that a chemical which only increases an already high rate should be viewed as a promoter or co-carcinogen (rather than a direct-acting carcinogen) and treated differently in the regulatory process. While such an argument may have merit, current routine laboratory methods do not generally allow one to distinguish promoters or co-carcinogens from direct-acting carcinogens. Laboratory protocols for demonstrating promoter effects have not yet been adapted to test schemes. Until such methodology becomes available, we believe that a chemical which increases the cancer incidence rate in laboratory animals should be viewed as a potential human carcinogen and treated accordingly by regulatory agencies." (OSTP, 1979, p. 10).

The last conclusion has been endorsed by others in recent years:

"The two stage mechanism has not been convincingly demonstrated in carcinogenesis in sites other than the skin. There are many situations in which a two-stage mechanism appears as an attractive explanation. We are still at a stage where much more study is needed before many of these concepts, valid for the skin, can be said to have general application. From a practical standpoint it is apparent that croton oil or substances of similar activity would pose a considerable hazard to the skin. Although such interactions may pose an important public health problem, our present state of knowledge does not make it practical to recommend routine tests for cocarcinogenicity or promoting action; if circumstances suggest the existence of such action, testing should take this into account. This area needs intensive study." (FDA, 1971, p. 423)

* * * * *

"In this document the term "carcinogen" is used in its broad sense, because in most of the current human epidemiologic approaches and certain animal bioassays it is not possible to differentiate clearly between initiating agents, promoting agents, and certain modifying factors. Any factors or combination of factors which increases the risk of cancer in humans is of concern regardless of its mechanism of action." (NCAB Report, 1977, p. 461)

This position was endorsed by several expert witnesses, including Dr. Arthur Upton (Director, NCI). Dr. Bernard Weinstein (Columbia Univ.) and Dr. Benjamin Van Duuren (New York Univ.):

"Because of incomplete knowledge concerning mechanisms, I also do not believe that distinctions between "carcinogens" and "co-carcinogens", or between "causative agents" and "enhancing agents" can be considered relevant today when ascertaining hazards to human health arising from carcinogens. In safety testing of carcinogens today, we are concerned with one question: "Does exposure to the test agent result in a significant induction of tumors in exposed populations as compared to controls?" If so, then the test agent has elicited a carcinogenic response and must, therefore, be considered potentially hazardous to human health. Precise knowledge of the mechanism of action of the carcinogen or of possible co-factors in the host animal is not required for preventive action unless and until we have such knowledge, it is difficult to make practical distinctions between "carcinogens" and "co-carcinogens" and between "causative agents" versus "enhancing agents".(Upton, S. 16–17)

* * * * *

"I agree with the OSHA proposal that no distinction should be made between the induction of tumors and the enhancement of tumor incidence in rodent bioassays." (Weinstein, S. 3)

* * * * *

". . . a number of air pollutants, phenols, and long chain aliphatic hydrocarbons are known to have co-carcinogenic or tumor promoting properties (18). In addition, cigarette smoke, a complex mixture or organic compounds, contains both initiators and promoters. In light of the continuous exposure to these substances, there is no theoretical reason to believe that exposure to even a very small additional amount of another carcinogen, cocarcinogen, or tumor promoter would not lead to tumor induction." (Van Duuren, S. 8)

c. OSHA's Conclusions

For these reasons, OSHA concludes that it would not be practicable or justifiable to establish different criteria for the identification, classification, or regulation of initiating and promoting agents. OSHA agrees with the NCAB Subcommittee that "any factor or combination of factors which increases the risk of cancer in humans is of concern regardless of its mechanism of action." This is particularly important in the occupational setting, in which the likelihood of periodic exposure to initiators makes the occurrence of promoters of special concern.

13. Should Metabolic and Pharmacokinetic Information be used in the Identification or Regulation of Potential Carcinogens?

a. OSHA's Proposal

During the course of the public comment period, the question was raised repeatedly whether OSHA should take into account data on pharmacokinetics and metabolism in identifying, classifying and regulating potential carcinogens. While some participants claimed that OSHA had rejected such an approach, the preamble to the proposed regulation clearly stated:

"OSHA is not aware of any single molecular configuration, structural characteristic, or physical property of chemical carcinogens that can be pinpointed as the crucial cancer inducing element or site. One explanation may be that a substance may be metabolized to a different form when exposed to the test model or man and that metabolite [may] be the carcinogen, rather than the substance itself. However, gross similarities in chemical reactivity and metabolic fate in the host can be identified for many chemical carcinogens. This followed the discovery by the Millers that metabolic conversion of environmental chemical carcinogens can occur in the host with the ultimate formation of the "proximate" or "active" form of the chemical carcinogen." (42 FR 54168)

OSHA did, in other words, recognize that interspecies differences in metabolism and pharmacokinetics may exist and can complicate the prediction of carcinogenic activity. In discussing the problems of using structure-activity correlations for predicting carcinogenic effects of untested compounds, OSHA also commented:

". . . there are the compounding factors of dose dependent variations in metabolic fate, species differences in anatomic and metabolic fate, and the influence of related compounds [summation, synergism or inhibition) upon chemical carcinogens when present simultaneously either in the environment or in the host." (42 FR 54168)

At the time of the proposed regulation, OSHA was following the lead of expert committees which did not explicitly list metabolism and pharmacokinetics as factors to be considered in evaluating the carcinogenic potential of a compound. In a report of the panel on Carcinogenicity of the Cancer Research Commission of the UICC, the panel commented on the role of metabolic studies in routine carcinogenicity testing:

"In the opinion of the Panel, studies on metabolic changes of carcinogens in the body should not, in general, be part of a bioassay programme designed to detect carcinogens in man's total environment. Too little is known at present about the metabolism of established carcinogens to enable the design of useful experiments for routine testing centres." (UICC, 1969, p. 35)

The Ad Hoc Committee on the Evaluation of Low Levels of Environmental Chemical Carcinogens commented that metabolic characteristics or abnormalities may modify the development of neoplasia but concluded:

"Understanding of their specific effects in man, however is still not adequate to serve as a reliable basis for preventive action." (NCI Ad Hoc Committee, 1970, p. 4; Exhibit 10b to Epstein Statement)

A NAS report on *Contemporary Pest Control Practices and Prospects* had commented:

"Research on molecular mechanisms in carcinogenesis has provided evidence that the actual carcinogen is often not the compound administered but instead is a metabolite of that compound (Miller and Miller 1971). Active carcinogens tend to possess particular features of chemical structure by which they may be recognized. Although apparent exceptions are known, similarities in the metabolic fate of a compound in different species may imply similar carcinogenic properties. Hence, metabolic studies using human and animal tissues can support the case that a given compound that is carcinogenic in animals may or may not be carcinogenic in man. At present, however, such information is available only for very few compounds." (NAS, 1975a, pp. 66, 74; Appendix H to Rall Statement)

A Report of the World Health Organization (WHO) discussed the role of metabolic activation in modifying the carcinogenic potential of chemicals and commented that:

"Although the facts of interaction of the active form of chemical carcinogens with cellular macromolecules are well established, the significance of these interactions for carcinogenesis is not yet understood." (WHO Tech. Report No. 546, 1974, p. 7)

Finally, the FDA in publishing *Criteria and Procedures for Evaluating Assays for Carcinogenic Residues in Food Producing Animals* summarized the comments they had received regarding the use of metabolic data:

"Numerous comments were received on the proposal's requirement for metabolic studies. Several comments stated that there should be no attention paid to metabolites. Others contended that metabolism studies should not be routinely required on the ground that the pathway of excretion is of no toxicological importance if all of the administered compound has been eliminated from the tissues of the target animal. Most comments recommended that a metabolism study should only be required to determine the major metabolites in the edible tissue of target animals, suggesting that the public health would not be served if petitioners are required to pursue endless structural elucidations and quantitations of all metabolites even though some of them might constitute minor fractions of the residue of the sponsored compound. Comments also contended that it may not be experimentally possible to administer to animals sufficient quantitities of a compound to obtain amounts of residues sufficient for structural identification. Several comments asserted the studies should be limited to identification of residues in the edible tissues of target animals and that generally it would be unnecessary to have such information on metabolites in inedible tissues. Further, some comments stated that radiotracer studies can be employed to determine the time by which the sponsored compound and its metabolic products are eliminated ("out time"). However, other comments suggested that all metabolites should be identified and tested for toxicity. (42 FR 10416)

FDA's analysis of these comments appears to reflect the fact that some interests generally oppose the use of metabolic information as part of a safety testing scheme, in sharp contrast to the position of the same interests in this proceeding, who urged that metabolic information be required as part of a system for identifying carcinogens.

b. The Public's Response and OSHA's Evaluation

OSHA is aware that, subsequent to the publication of the proposed regulation in this rulemaking and the subsequent hearing, several committees and agencies have recommended or proposed that metabolic and pharmacokinetic information should be used in the evaluation of carcinogenic risk. The EPA's *Proposed Guidelines for Registering Pesticides* include a section on metabolic data:

"Metabolism studies are designed to provide information on how a pesticide moves, changes, or accumulates in the mammalian system. The field of metabolic studies can be quite broad and a number of very complex tests would be needed to define precisely how a single compound is processed in the mammalian body. Data from a general metabolism study would be required to support the registration of all pesticide products for which chronic data are also required. The study, as proposed here, is designed to identify the significant metabolites produced from a pesticide and to determine how long and how much a pesticide and its metabolites are stored in various tissues of the body.

"Data from a general metabolism study would be used primarily to indicate the need for additional or special toxicity testing. For example, EPA could compare the major animal metabolites (metabolism data), with the compounds which are formed by degradation of a pesticide in the environment (environmental chemistry data). This comparison would show whether an environmental breakdown product is also produced by animal metabolism. If not, humans might be exposed to a compound on which the Agency had no toxicity data, since the breakdown product is neither part of the substance normally tested under the guidelines nor is it formed by metabolism of the test substance. The general metabolism studies might also indicate that levels of a pesticide or a metabolite in body tissues increase steadily with repeated dosing. The Agency is particularly concerned with such bioaccumulative compounds. Tissue concentration of a bioaccumulative pesticide could eventually build up to a toxic level as a result of long-term, low-level exposure. With such information, EPA would give particular attention to the evaluation of chronic toxicity test data." (43 FR 37349)

The Food Safety Council's report included a chapter on "Metabolism and Pharmacokinetics" and made the following recommendation:

"Increased understanding of the value and applicability of pharmacokinetics has led to the recognition that metabolic and pharmacokinetic data are not merely ancillary information but constitute vital mainstream characteristics of the compound, to be used in planning both the strategy and tactics of the approaches to safety evaluation. Metabolic and pharmacokinetic information is central to the design of protocols, leading to proper species selection, definition of dose regimens and the appropriate conduct of both in vivo and in vitro tests. Intelligent application of metabolic and pharmacokinetic information is one of the principal weapons that permits the selection of appropriate tests and conditions specifically tailored to the characteristics of the individual compound under study. Thus, in the plan of investigation developed herein, metabolic comparability between man and the animal species proposed for use in a long-term test will be established before any such test is initiated." (Food Safety Council, 1978, p. 65; Hearing Exhibit 227)

It should be noted that both these reports recommended the use of metabolic and pharamacokinetic data as part of the design of a series of tests to establish safety. Neither was concerned with the retrospective evaluation of tests showing positive results, the problem generally facing OSHA.

The Safe Drinking Water Committee of the NAS suggested that metabolism studies are useful for *quantitative* assessments of carcinogenic risk:

"Despite wide gaps in our knowledge of the metabolism and ultimate fate of chemicals in man, properly conducted experiments will yield results that can improve our estimates of the risk to human populations from long-term exposures." (NAS, 1977, p. 27; Appendix I to Rall Statement)

Some participants criticized OSHA for not listing metabolism and pharmacokinetics as factors to be taken into account in the *qualitative* identification of carcinogens. The AIHC Recommended Alternatives stated:

"OSHA's proposal sanctions extrapolation from mammalian test data to human exposure but ignores major metabolic, pharmacokinetic and biochemical differences which exist between species of animals and man." (AIHC Recommended Alternatives, p. 36)

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The American Iron and Steel Institute (AISI, Post-hearing Brief, p. 13), also criticized OSHA for not listing these factors in the proposed regulation.

Other witnesses simply urged that OSHA should consider such data in the final regulation: Dr. Raymond Yang (Carnegie-Mellon), S. 4; Dr. Mitchell Zavon (NACA), Tr. 5406; Dr. Carroll Kirwin (Phillips Petroleum), Tr. 4208; Dr. Harry Skalsky (Reynolds Aluminum), Tr. 7597; Dr. Ralph Freudenthal (Stauffer Chem.), Tr. 6748–6757; Dr. Marvin Friedman (Allied Chemical), S. 6–9; and Dr. Miro Todorovich (National Center for the Public Interest), Tr. 7967.

The comments and testimony received on this issue can be divided into three principal areas of question:

1. In what circumstances would metabolic and pharmacokinetic information be sufficient to rebut the qualitative presumption that a chemical found to be carcinogenic in animals presents a risk to humans?
2. Is our knowledge of metabolism and pharmacokinetics sufficient for this information to be useful in practice in a significant number of cases?
3. Can specific procedures or criteria for the use of metabolic and pharmacokinetic information be laid down on the basis of our present knowledge?

1. *In what circumstances would metabolic and pharmacokinetic information serve to rebut a qualitative presumption of risk?*

The only extensive body of evidence relevant to this question is that related to the hypothesis of "metabolic overloading". This evidence was presented to show that metabolic and pharmacokinetic information should be used in selecting high dose levels to be used in chronic toxicity testing, and that if it were not so used, positive results obtained at high doses might not be valid as a basis for qualitative extrapolation of risks at low doses. This evidence has already been reviewed in detail (See section 3. *Testing at High Doses).* The only other way in which metabolic and pharmacokinetic information would appear to invalidate the extrapolation of positive results in animals would be to show that a chemical is metabolized in humans in a qualitatively different way from that observed in animals. Specifically, OSHA believes that before any such information so used, public health considerations would dictate that it should be reasonably shown that the active carcinogenic metabolite in animals is *not* produced in human tissues. Although a number of witnesses implied that such evidence should be sought, no witness offered a specific example of such a qualitative difference having been observed. However, the evidence that such a circumstance might occur will be reviewed critically in the next section.

2. *Is our present knowledge of metabolism and pharmacokinetics sufficient to be useful in practice?*

(a) *Limitations of data.* Our present ability to use metabolic and pharmacokinetic information is greatly limited by the paucity of specific data available. For example, several witnesses were asked if they knew of any substance for which the metabolite which is known to be the ultimate carcinogen in animals, is *not* produced in human tissues. No one knew of such a chemical or study (See Goldman, Tr. 4480; Yang, Tr. 6824–5; Harris, Tr. 2075; Hoel, Tr. 2194). Indeed, the number of chemicals for which the ultimate carcinogenic metabolite in animals is known is quite small (See Goldman, Tr. 4480; Yang, Tr. 6824–6825; Gehring, Tr. 5175). The difficulty then lies in establishing if humans metabolize the chemical through the same pathway to the same ultimate carcinogenic metabolite as that found in animals.

Other witnesses pointed out that it would be unethical to conduct the experiments in humans which would be necessary to demonstrate that humans do not metabolize a compound to the identical ultimate carcinogen found in animals:

"We need to know the mechanism of carcinogenesis in the animal, and then we could perhaps find out if the mechanism were the same in man, which would be a sort of an experiment that properly would not be condoned, having identified a carcinogen in animals. I doubt if anybody would want to be exposed to such a compound at a dose that might induce cancer." (Lijinsky, Tr. 1055)

Another witness who also expressed this concern was Dr. Benjamin Trump, (Univ. of Md.) Tr. 2016.

Dr. Peter Goldman (Harvard Univ.) best summed up the uncertainties of defining the ultimate carcinogen for humans while discussing how many tissues would have to be examined before one could conclude that the human did not activate the compound:

". . . the more tissues one examined under the more ideal experimental conditions and found that nothing happened, the more certain our conclusion would be that human tissues do not activate this. But again, somebody may find a system where he can get those tissues to perform, but that becomes increasingly less likely as more data is piled up on the negative side. So I think one can never conclude with certainty that human tissues do not activate." (Goldman, Tr. 4478–4479)

Dr. Ronald Hart (Ohio State Univ.) expressed his concern over the lack of comparative metabolic data necessary to make such determinations:

"In other words, to see if there is any comparison between metabolic activation, and detoxification also has to be taken into consideration here, too. How long are these things around?

"And again, there just is not the data available, Ian. In other words, this pretty well summarizes the comparative approach, comparative evolutionary approach. It is a paucity of data; it is absolutely terrible." (Hart, Tr. 3500)

Dr. David Hoel (NIEHS) also commented on our lack of knowledge:

"I mean, what you have said theoretically is plausible in terms of having . . . the metabolite that is identified as being carcinogenic in the rodent not existing in man. I mean, that is, you know, conceivable. I cannot cite you any cases where that indeed is the situation, but, you know, theoretically it is a possibility.

"What I would worry from the practical standpoint is have we identified all the metabolite[s], do we really know what metabolite is the carcinogenic one, or have them all identified in the rodents, and are we sure that we have the metabolites identified in the human and none of those, although they may include some or not some of the ones in the rodents, whether or not we have those identified and the carcinogenic ones do not exist in man.

"Now, you know, practically I do not know if, you know, in today's time whether we are in a position to come up with such information." (Hoel, Tr. 2194)

The limitations of our knowledge were also expressed in a number of expert committee reports. The Safe Drinking Water Committee in their report *Drinking Water and Health* pointed out the usefulness of metabolic and phrmacokinetic data but commented that "there are few, if any, substances for which such understanding is at hand" (NAS, 1977a, p. 23). They stressed the difficulties in using these data to assess long term effects in humans, resulting from wide variations in metabolic and pharmacokinetic processes within the human population:

"In the last decade, large genetic differences in metabolism of toxic agents have been found in man, and study of these effects has led to a new branch of pharmacology—pharmacokinetics. The range of variability is illustrated by the observation that, in a group of about 20 patients, the steady-state plasma concentrations of two tricyclic antidepressants varied by about 30-fold, and the half-time of disappearance from the plasma varied about 10-fold (Hammer and Sjoqvist, 1967). Also, the plasma concentration of isonicotinic acid hydrazide has been found to vary by a factor of almost 100 in different people, and this appears to be genetically controlled (Weber, 1976).

* * * * *

"Many sources of variation within the population of any species, such as age, sex, pregnancy, disease, can affect the response to foreign substances. An example is the difference between sexes in metabolism and toxicity of acetylsalicylic acid (Menguy et al., 1972).

"In addition, such environmental variables as temperature, lighting, barometric pressure, humidity, and diet are known to affect the toxicity of environmental pollutants. For example, the oral absorption of pentobarbital is greatly altered by the prior ingestion of a small cheese sandwich. In this case, peak pentobarbital concentration in plasma is diminished by about 50%, and the duration of the effective plasma concentration is doubled (Bush et al., 1966).

"Another difficulty in extrapolating from laboratory animals to man is the dose-duration problem. The lifetime of a mouse is about 2 yr. A man's life expectancy is close to 70 yr, and a woman's 5 yr longer. Because man usually excretes compounds more slowly than mice, this means that man, with a very small daily intake, can develop a greater accumulation of a compound over many years. (NAS, 1977a, pp. 35, 36; Appendix I to Rall Statement)

The Ad Hoc Committee on the Evaluation of Low Levels of Environmental Chemical Carcinogens commented that metabolic characteristics or abnormalities may modify the development of neoplasia but concluded that:

"Understanding of their specific effects in man, however, is still not adequate to serve as a reliable basis for preventive action." (NCI Ad Hoc Committee, 1970, p. 4; Exhibit 10b to Epstein Statement)

A recent paper by Weiner and Newberne pointed out several specific limitations inherent in using metabolic and pharmacokinetic data to estimate carcinogenic risk for humans:

". . . comparisons of drug blood concentrations, and even tissue concentrations in various species, have often been disappointing in terms of the expected predictability of the safety of the drug in man from such studies.

"It is a small wonder that there has been a great deal of interest in studying the metabolites of drugs to help predict safety in man from animal studies. A few years ago it became fashionable to seek predictability by selecting test species which resembled man in terms of drug and metabolite blood and urine concentrations. The need for human biochemical data with doses of therapeutic magnitude at times limited the applicability of this principle. More limiting, however, is a wide spectrum of factors (Plaa, 1976) as a result of which predictability of human safety is not necessarily better in species which appear to have blood and/or urinary metabolite patterns judged to be "similar" to man. Important differences in predominant metabolic pathways are often not reflected in the concentration patterns (Gillette, 1977). In fact, even differences in tissue binding when metabolic pathways are similar can lead to the seemingly paradoxical situation of greater toxicity in the species with a shorter half-life in the blood (Zak and Weiner, 1975). It is not just the presence of metabolites, but their nature and distribution in each species that help determine the reaction they will cause." (Weiner and Newberne, 1978, pp. 231–232)

Weiner and Newberne also pointed out that:

". . . some of the toxicologically most troublesome metabolites are those which are formed in small, even minute, amounts and may be highly reactive, a fact which may contribute to both their toxic action and likelihood of escaping biochemical detection." (Ibid., 1978, p. 232, citing Gillette, 1977)

The authors concluded:

"Our ability to better predict human safety from animal toxicological studies will not come from irrationally expanding the variety and magnitude of "routine" tests but by selectively augmenting an appropriate spectrum of empirical toxicological studies consistent with the nature of each specific problem." (Ibid. 1978, p. 233, citing Gillette, 1977)

Dr. Umberto Saffiotti (NCI) also pointed out limitations in our knowledge of metabolism and mechanisms of action in his written testimony:

"I wish to stress that the study of the mechanism of action of carcinogens in human tissues is still in an early stage of development and I do not expect that it could be used in the near future to determine in a definitive manner that a given substance, known to be carcinogenic in animals, is entirely without any carcinogenic risk in humans. I do believe, however, that this methodology will bring about a much more accurate understanding of the differences between human and experimental animals in the metabolic requirements for activation of carcinogens and in the susceptibility to their effects. The major observations so far made show the qualitative similarity of the interactions of carcinogens with target tissues from experimental animals and humans, and the high quantitative variability of the human response among different individuals. Work along these lines will make it possible in the future to recognize particular susceptibility factors or markers which may allow us to identify the individuals in a population who are at a particularly high risk from exposure to a given substance or group of substances. A prudent policy of cancer prevention requires protection of the most sensitive individuals in the population." (Saffiotti, S. 42–43)

(b) *Available techniques and knowledge.* Dr. Raymond Yang (Carnegie-Mellon) presented in detail a specific technique to identify and measure metabolic differences between animals and humans. He described this method, "Comparative Metabolic Profile Analysis" as follows:

3.1.1 "The test chemical, labeled with radioisotope, is introduced by the route to be used in the chronic toxicity studies to an animal species most commonly used in chronic toxicity studies (i.e., rat, mouse, hamster, guinea pig). For the sake of convenience, the rat will be used as an example in the subsequent steps.

3.1.2 An *in vivo* metabolic profile is generated by chromatographic method using the first 24-hr urine sample from the rat.

3.1.3 The radioactive test chemical is incubated with rat tissues (liver, kidney, lung) under adequate tissue maintenance conditions. Generally, the liver, being the principal organ for the metabolism of foreign chemicals, is the only tissue needed for this step.

3.1.4 An *in vitro* rat metabolic profile is generated by the same chromatographic method using the incubation medium from the preceding step.

3.1.5 The radioactive test chemical is incubated, under similar conditions as above, with human tissues (liver, kidney, lung) obtained from local hospitals by surgical procedures or autopsies.

3.1.6 An *in vitro* human metabolic profile is generated similarly as above.

3.1.7 Compare the three metabolic profiles, i.e. rat *in vivo*, rat *in vitro* and human *in vitro*.

3.2 The rationale of this approach may be best demonstrated by the following equations: If Rat *in vivo* approximates Rat *in vitro* and Rat *in vitro* approximates Human *in vitro* then Rat *in vivo* approximates Human in *in vivo*.

3.3 In the event that the rat metabolic profiles do not match that of man, similar comparisons should be made on other species (mouse, hamster, guinea pig). The species and/or strain which most closely resembles man is the animal of choice." (Yang, S. 5–6)

Drs. Benjamin Trump (Univ. of Md.) and Curtis Harris (NCI) also presented data on experimentation they are conducting into the metabolic similarities between humans and animals. Specifically, this research involves using *in vitro* techniques for measuring inter- and intra-individual as well as interspecies variations in the metabolism of chemicals by human and animal tissues. Dr. Harris has focused on the identification of host susceptibility factors in humans. Several examples of chemicals tested in this system were described:

"Initial investigations are directed toward elucidating the metabolism by human tissues of chemical procarcinogens that are found in the environment. Since the binding of carcinogens to cellular macromolecules, i.e., the formation of adducts, is considered to be an important step in carcinogenesis (3), we have measured the capability of cultured human tissues to form such adducts. The chemical procarcinogens, 7, 12-dimethylbenz[a]anthracene, 3-methylcholanthrene, benzo[a,h]anthracene, dimethylnitrosamine, diethylnitrosamine, N-nitrosopiperidine, N-nitrosopyrrolidine, dinitrosopiperazine, and 1,2-dimethylhydrazine have been shown to be metabolically activated by human bronchus,

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pancreatic duct and/or colon (4–11). The pathway of metabolic activation of benzo[a]pyrene in cultured human bronchus and the molecular structure of the major adduct between DNA and benzo[a]pyrene has been identified (7,8,12). It is important to note that this adduct has the same molecular structure as the benzo[a]pyrene-DNA adduct found in cells of experimental animals in which benzo[a]pyrene is known to be carcinogenic following *in vivo* exposure. The response of human and animal cells to inducers and inhibitors of benzo[a]pyrene metabolism is also qualitatively similar (5,6,8). These findings indicate a remarkable qualitative similarity in the response of animal and human tissues to carcinogens." (Harris, S. 3)

Dr. Harris concluded:

"These assays will aid in the qualitative, but not as yet quantitative, assessment of the carcinogenicity of a chemical. Since studies with tissues from both human and animal models can be conducted in parallel, direct comparison can be made with the tissues maintained in the same controlled experimental setting." (Harris, S. 7)

Dr. Trump also cited specific examples of the similarities in metabolism between animal and human tissues in his written testimony (S. 5–12) and concluded in his summary:

"3. *Experimental exposure to human lung tissues* (maintained as xenografts in immune-deficient mice) *to carcinogens results in a sequential development of early lesions exactly resembling that seen in specimens from patients with lung cancer and in hamsters treated with BP–Fe_2O_3.*

"4. *Both human and animal tissues metabolize chemical carcinogens to mutagenic metabolites which bind to DNA . . .*

". . . In general, these results provide strong support for the use of experimental animal systems in identifying carcinogens which pose a risk to humans. In addition, tissue culture systems are proving to be excellent tools for the identification of carcinogens and mutagens, and for study of mechanisms of carcinogenesis." (Trump, S. 13, emphases in original)

What Dr. Harris said explicitly and Dr. Trump implied in these statements is that they have found qualitative similarities between individuals and between different species, while quantitatively the differences may be extensive. For example, Dr. Harris described a wide range of inter-individual variation in the levels of carcinogen-DNA adducts formed, and in the activity of the enzymes responsible for metabolism (S. 3–4). He also described intraspecies differences:

"Intraspecies or strain differences in oncogenic susceptibility have also been found and in some cases linked to the genetically-determined metabolism of the chemical procarcinogen. The carcinogenicity of polynuclear aromatic hydrocarbons, such as benzo[a]pyrene, 7,12-dimethylbenz[a]anthracene and 3-methylcholanthrene, shows a positive correlation with aryl hydrocarbon hydroxylase activity (15); this is one of the enzymes necessary for the metabolic activation of these chemical carcinogens. In a second example, the incidence of colonic carcinomas caused by 1,2-diethylhydrazine varies markedly among strains of mice. These differences in susceptibility to 1,2-diethylhydrazine are genetically determined in the form of dominant inheritance (28). The possible metabolic basis for this observation is currently being investigated in my laboratory." (Harris, S. 5–6)

Dr. Saffiotti also recognized this:

"Metabolic pathways of carcinogen activation do indeed change quantitatively from species to species and even with major dose level changes, but the evidence is that the changes are in the relative proportions of different metabolites rather than in their abrupt disappearance at fixed levels. Many chemical agents, both endogenous and exogenous, can alter the enzymatic systems which control carcinogen activation, for example concurrent exposures to other carcinogens." (Saffiotti, S. 12–13)

In a paper submitted by Dr. Harris, the present limitations of this technique are expressed:

"Man is genetically a heterogeneous population, and pharmacogenetic studies in identical and fraternal twins have shown that interindividual variation in drug metabolism is greater than intraindividual variation (Vessel, 1971). As noted above, there is marked variation among individuals in their ability to metabolize at least one class of chemical carcinogens, polynuclear aromatic hydrocarbons. Whether or not the intraindividual variation of carcinogen metabolism due to exogenous agents, e.g., tobacco smoke, is either more or less than interindividual variation determined by genetic differences is unknown. However, these genetic differences in the metabolic activation of chemical procarcinogens such as benzo[a]pyrene may be a very important host determinant in an individual's risk of developing cancer. While extensive indirect data supporting this hypothesis linking metabolism and susceptibility has accumulated in studies using cells in culture and experimental animals (Weisburger, 1973; Heidelberger, 1975) it has not yet been adequately tested in man. One problem has been the lack of information concerning the metabolic pathways of chemical carcinogens in human target tissues; experimental models using human tissues should help correct this deficiency." (Harris, 1977, p. 399; Exhibit 1 to Harris Statement)

Dr. Trump also discussed some of the limitations of these techniques:

"Since various species of animals are known to differ in the way in which they metabolize foreign compounds, it is obvious that differences could exist between the metabolism occurring in man and that occurring in other animals such as the rodent. For this reason, validation of the results from experimental models is difficult and extrapolation of animal data to man requires assumptions which cannot be verified without more detailed knowledge of the metabolism of carcinogens in the human than is presently available." (Trump, S. 3)

He concluded as follows:

"There is great variability (up to 75-fold) between individuals in the ability of their tissues to bind mutagenic metabolites to DNA. *This variability appears to reflect inter-individual variability in susceptibility to chemical carcinogenesis.*" (Trump, S. 13, emphases in original)

(c) *Positive evidence is easier to obtain than negative.* A great deal of the testimony reviewed above has discussed the uncertainties of establishing metabolic and pharmacokinetic differences between humans and animals. An additional uncertainty lies in the attempt to establish that a compound found to be carcinogenic in animals is not metabolized via a similar pathway to the identical ultimate carcinogen. Establishing such a negative finding is particularly difficult due the complicating variables discussed above. A positive finding, however, would stand on its merits and would justify a qualitative inference of carcinogenic risks. Dr. Peter Goldman (Harvard Univ.) expressed this opinion clearly:

"Well, that is right, because a positive, if confirmed, is there whereas a negative, it could always mean that something was not really quite right and change the conditions a little bit, one could get it." (Goldman, Tr. 4482)

(3). Can specific procedures or criteria for the use of metabolic and pharmacokinetic information be laid down on the basis of our present knowledge?

Very few committee reports and research papers have suggested specific procedures for using pharmacokinetic and metabolic information in the evaluation of potential carcinogenic risk for humans. The Food and Drug Administration in publishing *Criteria and Procedures for Evaluating Assays for Carcinogenic Residues in Food Producing Animals* has proposed a procedure for the use of metabolic studies:

"C. COMPARATIVE METABOLISM STUDY TO AID IN ASSESSING CARCINOGENCITY OF INTRACTABLE RESIDUES

"1. Sponsored compound always tested: Rationale and procedure. When it is determined that a sponsored compound has the potential to contaminate edible tissues with residues whose consumption may pose a human risk of carcinogenesis, the sponsored compound itself shall always be tested for carcinogenesis. Residues are selected for testing according to those criteria already discussed in paragraph III.B., but there are overriding reasons for testing the sponsored compound, even if it is not detected as a residue. Metabolic transformation or nonenzymatic degradation of a sponsored compound can lead to a number of tissue residues which cannot be obtained (either by isolation or synthesis) in sufficient amounts for carcinogenicity testing (such residues are herein and in the regulation referred to as "intractable residues"). Testing the sponsored compound itself therefore provides one experimental means for acquiring data on the carcinogenic potential of such residues.

"Although the dominant criterion for selecting test animal species or strains for chronic toxicity testing will be the degree to which a species or strain models man, the application of a secondary criterion for selection can provide a means for addressing the problem of intractable residues. Specifically, selection of test animals can also be based on comparative metabolism data (target animal and test animal) which can be used to determine the extent to which particular species or strains, by virtue of the way they metabolically convert the sponsored compound, will be exposed during testing to the same complement of residues expected in tissues derived from target animals.

"For example, if a metabolite detected as a residue in edible tissues of the target animal is determined to be toxicologically important, the petitioner will be asked to pursue isolation or synthesis of the compound for toxicity testing purposes. If all attempts at this fail, then the comparative metabolism approach is available if a potential test animal species is shown to produce the same metabolite when it is administered the sponsored compound. In this way, there is some degree of assurance that the toxicity test of the sponsored compound also provides some estimate of the toxicity of the intractable metabolite. Because human food could be contaminated with the intractable metabolite, such a test provides a practical approach to a complex and important issue.

"This construct has been included in the final regulations in response to comments that all metabolites ought to be ignored (which the Commissioner concludes is neither legally nor scientifically acceptable) or that all metabolites must be isolated and independently tested (which is not technologically possible).

"2. Selection of residues for chronic toxicity testing. On the basis of all of the studies described above, the Commissioner will select those residues, in addition to the sponsored compound, that require chronic toxicity testing." (42 FR 10417)

EPA recently proposed a similar procedure in its *Proposed Guidelines for Registering Pesticides in the U.S.; Hazard Evaluation: Humans and Domestic Animals:*

"163.85–1 General metabolism studies.

"(a) Purpose. A general metabolism study is required for the following major purposes:

(1) To identify and to the extent possible, quantify significant metabolites;

(2) To determine any possible bioaccumulation and/or bioretention of the test substance and/or metabolites;

(3) To determine pesticide absorption as a function of dose;

(4) To characterize route(s) and rate(s) of pesticide excretion;

(5) To relate pesticide absorption to the duration of exposure of the animal; and

(6) To obtain an estimate of binding of the test substances and/or its metabolites by target macromolecules in potential target organs.

"(b) When required. Data from a general metabolism study are required to support the registration of each formulated product which requires a chronic feeding study or an oncogenicity study, in accordance with § 163.83–1 and § 163.83–2." (43 FR 37394; Exhibit 218)

The Scientific Committee of the Food Safety Council described a detailed method for utilizing metabolic and pharmacokinetic data "to be used in planning both the strategy and tactics of the approaches to safety evaluation":

"The study of the metabolism and pharmacokinetics of an ingested substance is carried out for the following purposes:

"A. To gain a general understanding of the absorption, biotransformation, disposition, and elimination of the ingested substance after a single dose and after repeated doses.

"B. To provide information about the rate at which these processes occur, and the temporal relationships between dose and tissue levels reached so that the following information may be derived:

1. Whether steady-state tissue concentrations are achieved.

2. Time required to achieve a steady state with a particular dosage regimen.

3. Total metabolite load at the steady state.

4. How the metabolic and pharmacokinetic characteristics change with time, dose, and dosage regimen.

5. Under what circumstances the metabolic and/or excretory systems become overloaded. This need implies that pharmacokinetic studies should bracket the toxic doses for the species investigated, i.e., should cover "normal" metabolism as well as metabolism under extreme stress levels of the compound.

"In accordance with this separation in the degrees of required sophistication, the study of metabolism and pharmacokinetics may be divided into two stages as follows:

"Stage I—scheduled to follow a series of acute toxicity and mutagenicity evaluations and to precede subchronic tests. The purpose is to provide a general overview of the fate of an ingested substance in the body. The information obtained should help to determine the doses to be used, to arrive at the method and frequency of administration, species to be selected, and determine the duration of the subchronic studies in animals.

"Stage II—follows a decision to embark upon long-term studies and involves a more detailed examination intended to yield the central information for planning the dose regimen and other features of the long-term investigations.

"Stage I aims at fulfilling objective A above and, to a limited extend, providing some of the items of information (for example, B.1. and 2.) listed under objective B. by the time stage II is undertaken, the main emphasis will be directed to the outstanding questions arising from the findings to date, as they relate to objective A., but more particularly to objective B. *Any attempt to specify precisely the nature of the investigations and their protocols in stages I and II would be contrary to the general policy laid down for this report, namely the maintenance of flexibility to permit the overall approach to be tailored to the particular compound under investigation.*

"The relevance of these considerations is exemplified by the description below of a wide range of preliminary investigations, as well as ancillary metabolic studies that can be carried out in vitro. Judicious selection of appropriate experimental procedures will often prove helpful. To attempt to weave all these approaches into a rigid sequence of mandated studies would result in much wasted effort; conversely, to omit them altogether would deprive the innovative investigator of valuable techniques. (Food Safety Council, 1978, p. 65–66; Hearing Exhibit 227, emphasis added.)

It should be recognized, again, that all three of these procedures were proposed as part of a battery of tests designed to establish the safety of a tested compound. These elaborate series of tests were not recommended as part of a procedure to interpret positive results in animal tests, and there was no showing that any of them would be crucial or even important in such interpretation.

The NAS Committee on Safe Drinking Water did not suggest any method for using pharmacokinetic and metabolic data but did make recommendations as follows:

"Research must be supported to develop an understanding of the mechanisms by which water pollutants produce toxic effects. This includes pharmacokinetics, toxication-detoxication mechanisms, and biochemical and pathological mechanisms of action.

"Estimates of margin of safety can be made more precisely and rationally as more is known about what happens to a chemical in the body and what the chemical or its metabolites do to the body. The results of such research also are necessary to develop rapid, inexpensive, accurate screening tests for various critical forms of toxicity.

"It is recognized that much of this research is going on, but the Committee is convinced that more must be done. In protecting the population of the United States from environmental pollution there is no more important or potentially productive effort than the support of this kind of research. Since these studies are long-term in nature and must be closely coupled to basic biomedical research, they should be supported primarily by research rather than regulatory agencies." (NAS, 1977a, p. 56; Exhibit I to Rall Statement)

During the hearing, only two witnesses provided OSHA with

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documented examples of how to use metabolic and pharmacokinetic data. Dr. Perry Gehring (Dow Chemical) was one. Dr. Gehring's work, however, was concerned primarily with identification of dose-dependent changes in metabolism and pharmacokinetics. Its relevance to this regulation has been discussed elsewhere in this Preamble in relation to the hypothesis of threshold resulting from "metabolic over-loading" (See section V.D. 3. *Testing at High Doses).*

Dr. Raymond Yang (Carnegie-Mellon) suggested a specific method, "Comparative Metabolic Profile Analysis", which has been previously described. Dr. Yang recommended that this method may prove useful in selecting a suitable species for chronic toxicity testing:

> "For those chemicals which demonstrate carcinogenic properties toward one or more animal species but for which there is no available information regarding human response, this approach may provide valuable information concerning metabolic similarity or differences between the tested species and man. Thus the extrapolation of results of animal experiments to man could be done on a more scientific basis.
>
> "For those chemicals whose chronic toxicities have never been established, the application of this approach may assist in the rational selection of animal models for chronic toxicity studies based on their metabolic similarity to man. This might obviate conducting unnecessary, long-term animal toxicity studies in metabolically unsuitable species." (Yang, S. 4–5)

A recent article by J. F. Young and J. F. Holson of the National Center for Toxicological Research presented the following conclusions and recommendations:

> "In conclusion, the following recommendations for designing and evaluating pharmacodynamic studies are made:
>
> "1. Initiate the pharmacokinetic studies early in the testing sequence so that the results can be used to help evaluate the toxicity as well as to design further tests.
>
> "2. Use the following guidelines for the pharmacodynamic studies:
>
> (a) Use i.v. dosing initially.
>
> (b) Obtain serial blood samples from maternal animals prior to sacrifice and measurement in embryos.
>
> (c) Do not combine blood data from different animals for analysis as a group, but perform the pharmacokinetic analysis on each individually.
>
> (d) Check for dose-independent or dose-dependent pharmacokinetics.
>
> (e) Choose comparable gestation times and stages when comparing species.
>
> (f) Select doses so that dosimetry is constant across species.
>
> (g) Validate your model by increasing or decreasing the dosimetry." (Young and Holson, 1978, p. 185–186)

All of these recommendations and suggestions address the problem of designing or selecting a species for testing which is "comparable" to man with respect to available metabolic or pharmacokinetic data. No specific recommendations were made which could assist OSHA to interpret or evaluate the reported results of bioassays conducted in the past in assessing potential carcinogenic risk for humans.

c. OSHA's Conclusions

On detailed review of the scientific evidence in the record, OSHA draws the following conclusions:

1. Several expert committees and reviewing bodies which have reported since 1977 have recommended that studies of metabolism and pharmacokinetics should be incorporated into procedures for safety testing of chemicals.

2. Recommendations for the use of information on metabolism and pharmacokinetics have been limited to recommendations for its use in planning further tests, or for quantitative interpretation of dose-response relationships, or both.

3. No serious scientific arguments were presented that would indicate that information on metabolism and pharmacokinetics is essential for retrospective interpretation of tests carried out in the past.

4. Information on metabolism and pharmacokinetics of carcinogens is generally deficient even for experimental animals and is especially deficient for humans. Tissue culture techniques afford some promise for future use, but are not sufficiently well developed for routine use at the present time.

5. To rebut the *qualitative* presumption that a chemical found carcinogenic in animals poses a risk to exposed humans, it would at least be necessary to show (a) that the metabolite identified as the ultimate carcinogen in animals is not produced in human tissues, and (b) that other metabolites of such a substance produced in human tissues are not carcinogenic. OSHA does not believe that such information is available for any carcinogen, and indeed OSHA believes that such information is unlikely to become available because of the wide variability in metabolic differences between different tissues and between individuals in the population.

6. Although information in pharmacokinetics is theoretically important for quantitative risk assessment, there is so much variability among individuals that the principal consequence of considering pharmacokinetic data is to increase the range of uncertainty in such estimates.

OSHA concludes, based on the Record, that, in general, for the purposes of negating the identification or classification of potential occupational carcinogens, information on metabolism and pharmacokinetics is of extremely little practical value at the present time. For the reasons stated above, OSHA will not require information on metabolism or pharmacokinetics as part of its procedures for identifying and classifying potential occupational carcinogens, and will not ordinarily consider such evidence unless a strong showing is made that it would be sufficient to rebut the general inference that a substance which gives positive results in carcinogenesis bioassays in one species would pose a potential risk to exposed workers. Such evidence will be considered, if the following minimum criteria which have been selected on the basis of a detailed review of the evidence in the Record are met.

As general background to the criteria specified below, OSHA points out that the only way in which metabolic data would suffice to show that a substance which induces cancer in animals would not pose any risk to humans would be to prove that it did so via a metabolite that is only produced in the animal species and is not produced in humans under any circumstances (see, generally, the analysis in sections 1 and 2(c) above). Thus the absolute minimum criteria for the consideration of such data would appear to be that the metabolites of the substance must be completely known in both the experimental animal species and in humans. Therefore, OSHA's first two specific criteria are that a complete metabolic profile, including identities of trace metabolites, must be presented for both the experimental animal species and for humans.

Thus, § 1990.144(c) provides:

(c) Metabolic differences.

Arguments that differences in metabolic profiles can be used to demonstrate that a chemical found positive in an experimental study in a mammalian species would pose no potential carcinogenic risk to exposed workers will be considered by the Secretary only if the evidence presented for the specific substance subject to the rulemaking meets the following criteria:

Criteria. (i) A complete metabolic profile, including identities of trace metabolites, is presented for the experimental animal species;

(ii) A complete metabolic profile, including identities of trace metabolites, is available for a human population group representative of those who are occupationally exposed;

(iii) Documented evidence is provided for ascribing the carcinogenic activity of the substance in the test animal species to metabolite(s) produced only in that species and not in humans; and

(iv) Documented evidence is provided to show that other metabolites produced also in humans have been adequately tested and have not been shown to be carcinogenic.

In presenting these criteria, OSHA is not recommending or endorsing deliberate human experimentation. OSHA anticipates that in some cases data on metabolism in humans may be available from studies of workers already exposed, or from tissue culture studies. Whatever the source of the data, the completeness of the metabolic profiles, and the completeness and representativeness of the samples from which data are derived, will be issues to be explored thoroughly.

In the event that metabolic profiles for the experimental animals and humans are qualitatively different, OSHA will require a reasonable showing that the carcinogenicity of the substance in animals can be linked clearly with one or more metabolites which are produced only in the animals. General arguments that the existence of these metabolites "weakens" or "might" negate the inference of potential hazard to humans are of little scientific or evidentiary value and will not be considered. Instead OSHA will impose these two specific minimum requirements: (i) some tangible evidence must be presented to indicate that the animal metabolite is either the ultimate carcinogen or is the indispensable step in the carcinogenic process (e.g., evidence of mutagenicity of covalent binding to DNA); and (ii) some tangible evidence must be presented that the other metabolites which are produced in humans are not also carcinogenic. OSHA believes these criteria are reasonable. OSHA's intent is to ensure that evidence will be considered if it provides reasonable grounds for establishing that metabolic differences are truly significant in the process of identifying carcinogens, while preventing a waste of time or resources on discussion of evidence that is irrelevant or whose interpretation is speculative or hypothetical.

Finally, it is important to note the use of metabolic data in identifying potential carcinogens. An extremely important general point which was brought out in the scientific evidence on metabolism presented in the Record is that most "carcinogens" require metabolic activation before they can interact with genetic material and initiate the process of carcinogenesis. In commonly used scientific terminology, the substances administered to experimental animals are referred to as "procarcinogens" and are metabolized within the body one or more times to yield "proximate carcinogens" and "ultimate carcinogens." The "ultimate carcinogens" are reactive, often electrophilic, compounds which react with DNA or other macromolecules in the cell and are believed thereby to initiate the process which ultimately leads to cancer. (See, in general, the statements and exhibits of Drs. Upton, Saffiotti, Rall, Fishbein, Roe, and Kotin; for detailed testimony on the mechanisms of metabolic activation see the statements and exhibits of Drs. Hart, Trump, and Curtis Harris).

Apart from the intrinsic scientific interest of these recent findings, they have an important practical consequence, in that the definition of "carcinogen" has to be broad enough to include "procarcinogens" and "proximate carcinogens" as well as "ultimate carcinogens." In a narrow technical sense, only "ultimate carcinogens" *initiate* cancer. However, since the "ultimate carcinogens" result from the metabolic activation of procarcinogens within the body, the administration of "procarcinogens" to an animal is the original event which leads to this initiation. It is widely understood that procarcinogens are *causes* of cancer in this sense, even though it is now understood that there are frequently intermediate metabolic events in the chain of causation. OSHA's definition of a potential occupational carcinogen as an agent which "causes" an increased incidence of neoplasms is intended to be broad enough to include both procarcinogens and ultimate carcinogens. This usage is in agreement with universal scientific practice, since all the lists of carcinogens proffered at the hearing included agents which require metabolic activation.

Another practical consequence of this scientific knowledge about metabolic activation is that in some circumstances a substance may be identified as a potential carcinogen primarily on the basis of metabolic information. If substance A is known to be metabolized into substance B in the body, and if substance B is known to be carcinogenic on the basis of human or animal studies, OSHA believes that there is a clear scientific inference that substance A should be treated as carcinogenic, whether or not it has been tested directly. OSHA has clarified its definition of potential occupational carcinogen to make this point explicit. Thus, the definition of "Potential occupational carcinogen" 29 CFR 1990.103 now states: "This definition also includes any substance which is metabolized into one or more potential occupational carcinogens by mammals." In practice, this circumstance might arise in several ways. At the simplest level, a substance such as benzidine hydrochloride would be identified as a potential occupational carcinogen because it is known to dissociate to yield benzidine in biological media. Likewise, some benzidine-based dyes would be identified as potential occupational carcinogens if they are shown to be metabolized to yield free benzidine. As another example, organic compounds of such metals as arsenic and nickel would be identified as potential occupational carcinogens if they are shown to be metabolically converted to inorganic compounds of these metals known to be carcinogenic. The issues raised by the metabolic interconversion of inorganic compounds are discussed more fully in Section VII below, *Structural Similarities to Known Carcinogens.*

For the purpose of applying this provision of the definition, OSHA will, where appropriate, scientifically evaluate the results of experimental studies of the metabolism of substances subject to regulation under this part. The basis for the conduct of metabolic studies in mammals and in human tissues was presented in the testimony of Dr. Yang, Dr. Trump, and Dr. Curtis Harris among others. In general, metabolites formed in any species of mammal will be considered relevant to the evaluation of potential human risks, although OSHA will consider evidence proffered on interspecific differences in metabolism if such evidence meets the criteria specified in § 1990.144(c). Metabolites formed by non-mammalian species (other than mammalian gut flora in vivo) will not be considered relevant. In general, the results of metabolism studies conducted in mammals in vivo will be preferred, but the results of in vitro metabolism studies conducted with mammalian tissues or fractions thereof will be used if they are found to be valid and relevant upon scientific evaluation. The presence of carcinogenic or mutagenic metabolites in the urine or body fluids of exposed workers will be considered *prima facie* evidence of hazard.

VI. SHORT TERM OR IN VITRO TESTS FOR CARCINOGENESIS

A. OSHA's Proposal

In the preamble to the proposed regulation, OSHA briefly discussed the advantages and the limitations of short-term tests:

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"OSHA is aware that short-term and *in vitro* tests for carcinogens are being developed rapidly, take a few weeks at most to complete and yet examine the capacity of a substance to cause mutagenicity, other genetic alterations or neoplastic transformation. Reliance upon the short-term mutagenic tests is based upon the assumption that cancer can be related to genetic alterations and that, therefore, detection of such changes is indicative that such a substance may have carcinogenic potential. Mutagenesis tests are very useful as screening tests because they can be conducted quickly and inexpensively. In addition, short term tests have been developed to test the ability of a substance to induce neoplastic transformation of cells that are cultured *in vitro*.

"Short term tests use a variety of biological systems, such as bacteria, yeast and mammalian cells. These methods are in various stages of development and some of these methods have been more extensively utilized than other ones. To date, the most widely used method appears to be the Salmonella, or Ames, test. This method utilizes several specially constructed strains of Salmonella bacteria to detect mutagenic changes. Rat (or human) liver extracts are used to activate the mutagenic form of the substance being tested. However, although the correlation between positive short term tests and animal carcinogenicity may be good, the number of validation studies is still small." (42 FR 54167)

Being aware of the limitations of these tests, OSHA agreed with the judgment set down by the NCAB Subcommittee:

"A major practical limitation in the bioassay of potential carcinogens is the large number of test animals and the long duration required to obtain results. A number of short-term or in vitro tests are currently under development and appear promising. These include assays for: the induction of DNA damage and repair; mutagenesis in bacteria, yeast, *Drosophila melanogaster*, or in mammalian somatic cell cultures; and neoplastic transformation of mammalian cells in culture. Other assays that have been employed include the dominant lethal test and studies of chromosomal damage. The latter two tests suffer from the fact that they are frequently non-specific and/or difficult to quantify. Of the various short-term tests, the Ames *Salmonella* mutagenesis system has been studied the most extensively. Tests based on other in vitro approaches are also being developed.

"The intelligent application and interpretation of the in vitro tests must also take into account species variations in factors related to the pharmacologic distribution and metabolism of the parent compound as well as possible species differences in macromolecular repair and host defense mechanisms. A number of approaches addressed to the metabolic aspects are now available, including "host-mediated" mutagenesis assays; the assay of urine and other biologic fluids taken from animals or humans receiving the test compound; the addition of microsomal enzymes and co-factors to the assay system; and the inclusion of specific cells in the assay.

"At present, none of the short-term tests can be used to establish whether a compound will or will not be carcinogenic in human or experimental animals. Positive results obtained in these systems suggest extensive testing of the agent in long-term animal bioassays, particularly if there are other reasons for testing. Negative results in a short-term test, however, do not establish the safety of the agent.

"This Subcommittee is enthusiastic about the possible future use of in vitro tests as part of a screening system for potential carcinogens and believes that their further development and validation deserve high priority." (NCAB Report, 1977, p. 462–463; Exhibit B to Weinstein Statement)

OSHA did not propose to use any short-term tests as the *sole* basis for the identification of potential carcinogens. Citing the FDA decision to ban chloroform, however, OSHA did propose to use short-term tests, when adequately performed, as confirmatory evidence to support results from animal bioassays:

"In particular OSHA proposes that the combination of positive results in short term tests and a positive result for carcinogenesis in a single bioassay in a mammalian test species would provide sufficient evidence for classifying a substance as a Category I toxic material." (42 FR 54168)

OSHA was, therefore, primarily concerned with using short term tests to *confirm* results provided by animal bioassays and not as a *substitute* for bioassay data.

B. The Public Response and OSHA's Evaluation

First, some participants commented that OSHA should not use short term tests as the sole basis for determining the carcinogenicity of a substance, and that substituting short term tests for an animal bioassay was inappropriate. For example, NACA, in discussing why short term tests are not sufficient to place a substance in Category I, commented:

". . . the term short term tests, which is not defined in the proposed rule, is assumed to refer to short term tests for mutagenicity. These tests may be capable of detecting mutagenic effects, but not carcinogenic effects. . . . Mutagenicity testing is not an accepted method of assessing carcinogenic risk to man." (NACA, S. 47–48)

Mobay Chemicals commented:

"We do not feel a 'short-term' or *in vitro* test, or a battery of these tests, can, at the present time, be given significance equal to that of a well conducted long-term animal study in considering the potential carcinogenicity of a substance." (Mobay, S. 27)

Gulf Oil Chemicals commented:

"OSHA proposes to give equal weight, in the regulatory process, to tests in two mammalian species, and in one mammalian species and 'short-term tests' (which are enumerated in the OSHA proposal). 'Short-term tests' used in this manner have not been shown to be uniformly valid predicters of human carcinogenic potential and should not be given equal weight with mammalian testing." (Gulf Oil Chemicals Co., S. 2)

Ciba Geigy commented:

"While we agree that the short-term *in vitro* assays are acceptable as a gross screening method appropriate to determine the need for more sophisticated *in vitro* or *in vivo* tests, to use them as a definite indicator of carcinogenicity in humans or animals is inappropriate at this time." (Ciba Geigy, S. 7)

Other witnesses whose testimony reflected this view as well were Dr. Alonzo Lawrence (Koppers), Tr. 7778–7779; Dr. Rulon Rawson (Univ. of Texas), Tr. 4420; Dr. Mitchell Zavon (Hooker Chemical), Tr. 5378; and Dr. Harry Skalsky (Reynolds Aluminum), Tr. 7592–7593.

Second, a number of witnesses and comments addressed the role of short-term tests in identifying and classifying carcinogenic potential for humans. Several broad issues were raised which will be discussed in depth below:

1. How can short-term tests be used in predicting potential carcinogenic risks for humans?
2. What short-term tests are currently available and how much weight should be placed on each?
3. What is the current status of validation for each?
4. How well do short-term tests predict carcinogenesis?
5. What degree of confidence do short-term tests add to the results of animal bioassays in the evaluation of carcinogenic risks for humans?
6. Can a battery of short-term tests be developed which would provide reasonable predictions of carcinogenic activity, and if so, what criteria should be met by such a battery?
7. Would the regulation of carcinogens which are also mutagens provide additional benefits by reducing mutagenic hazards?

In analyzing these issues, as pointed out below, OSHA places primary weight on the testimony of witnesses and participants who documented their statements and who, from their experience in working with short term tests, are considered experts in this field. These included Dr. Joyce McCann (University of California); Dr. Matthew Meselson (Harvard University); Dr. Benjamin Trump (University of Maryland); Dr. Curtis Harris (NCI); Dr. Lawrence Fishbein (NCTR); Dr. Ronald Hart (Ohio State Univ.); and Dr. David Brusick (AIHC).

1. How Can Short-Term Tests Best Be Used in Predicting Potential Carcinogenic Risks for Humans?

Many witnesses addressed the question of what role short term tests should have in regulatory procedures. However, there was a wide range of comments reflecting substantial disagreement on the extent to which these tests should be used. Some participants claimed that one or more short term tests should be a sufficient basis for regulatory action to begin (EDF, Tr. 6357). Others believed that, at this time, no confidence at all could be placed in these tests until they are further validated. Almost all witnesses agreed, however, that these tests could be applied at least as a screening device for setting priorities in selecting substances for testing in long-term animal bioassays. This spectrum of opinion was similarly reflected in the summary of a workshop conducted by the Chemical Industry Institute of Toxicology (CIIT) entitled—"Strategies for Short-Term Testing for Mutagens/Carcinogens":

"Many new short-term tests have been proposed to predict the mutagenic/carcinogenic activity of chemicals, and it would appear that these tests have the potential of revolutionizing this area of toxicology. However, there currently exists a wide range of opinion as to the usefulness of the short-term tests. On the one hand, some investigators feel that these assays are so well developed and validated that they should be adopted by regulatory agencies as a valuable part of the health hazard assessment of chemicals. They believe that the testing procedures and interpretation of results can be rigorously defined in regulations so that governmental administrators and lawyers can fairly and usefully apply such laws. On the other hand, others see the tests as having some value, but being capable of producing misleading information. They consider it doubtful, at best, that the ability of a chemical to induce mutagenic effects in bacteria could in any way realistically predict the role such a chemical might play in the complex process of carcinogenesis in man. They point out that for many proposed short-term assays experimental details have not been well defined, important factors in the tests, such as the metabolic activation system, are poorly understood and lack standardization, and most tests have not been evaluated with reasonable numbers of compounds of known mutagenicity/carcinogenicity." (Golberg, S. 5)

There were, however, a number of recommendations to OSHA regarding how best to use these tests. Dr. David Rall (Director, NIEHS) gave a clear, concise description of how short-term tests would be useful to confirm results from long-term animal bioassays:

"There is no question that positive results in short-term tests (such as the Ames test, induction of unscheduled DNA repair, or malignant cell transformation *in vitro*) add to the confidence that one would have in a single positive animal test. This is not to say that these short-term tests are *equivalent* to lifetime bioassays in rodents: it merely reflects the fact that most carcinogens give positive results in short-term tests. Hence, if there is any reluctance to accept the result of a single animal bioassay, positive results in short-term tests would add sufficient evidence to overcome this reluctance. Certainly, it seems reasonable to use them in this way rather than to demand a second lifetime test in a rodent, which would be lengthy and expensive." (Rall, S. 14)

Dr. Robert Squire (Johns Hopkins University) expressed a similar opinion:

"These tests should also be evaluated when weighing the potential carcinogenic risk of certain chemicals, because they may provide evidence that corroborates animal test results." (Squire, S. 9)

Dr. Arthur Upton (Director, NCI) commented in his oral testimony that short term tests may be useful as a prescreen in the selection of chemicals for long-term testing or to help isolate the ultimate carcinogen or "substance in question":

"To my knowledge, we do not yet have adequate understanding of the predictive value of short-term tests to rely on them solely as a basis for regulatory decisions. And for that reason, I think that those working in the field today view them as useful in several ways. One, indeed, as a shortcut pre-screen, if you will, in the selection of compounds for longer-term testing. And secondly, in providing additional evidence as to the action of the compound in question in the cellular system. When we put a chemical into an animal and eventually see the tumor result, as I mentioned in my opening statement, we can envisage that a complicated series of chain reactions has taken place between the introduction of the substance, final appearance of the tumor. The short-term test may help us in determining that the substance in question is, in fact, genotoxic, is capable of attacking the genes of the cell. We know there is a very high correlation between genotoxicity or mutagenicity and carcinogenicity." (Upton, Tr. 289–290)

Dr. Lawrence Fishbein (NCTR) also expressed his opinion on the value of data from mutagenic assays in setting priorities:

"And if shown to be positive in the more applicable ones, those where there are larger data bases, such as the Ames, et cetera, and its importance is such that considering that animal bioassays are expensive and time-consuming, that this would help prioritize the selection." (Fishbein, Tr. 1869)

Dr. Maurice Johnson (B. F. Goodrich: AIHC Alternatives Panel) suggested that positive results from short-term tests may serve as a warning of possible carcinogenic hazard to employees working with such substances:

". . . there would be short-term in vitro tests such as the Ames test, mouse lymphoma, mammalian cell transformation, DNA damage which are useful carcinogenic screening tests. While there are limitations to such tests, we believe that they are useful warnings of a possible carcinogenic hazard. Positive test results should be reported to the affected workers and to the proper governmental agencies. OSHA should publish the results of these in vitro tests and issue an interim work practice standard. This could be in the form of a model standard. The employer should ensure that these work practices are initiated, and these might include providing facilities for washing and showering upon leaving the work area, providing eating areas away from possible exposure areas, and maintaining good cleanup of spills.

"The employer should then conduct a hazard evaluation to determine all areas where human exposure to the substance may occur. In addition, measurement techniques which will aid in determining the extent of the exposure to the substances should be developed. Engineering measures to reduce exposure should be initiated.

"Animal studies should be initiated to determine in vivo carcinogenicity and the initiation of these studies should be reported." (Johnson, Tr. 4165–4166)

Dr. Johnson went even further and agreed that if after a two year period, no new data were available on a substance found positive in a short term test, then it would be appropriate for OSHA to require the implementation of engineering controls (Johnson, Tr. 4175).

Dr. David Brusick (AIHC) provided detailed evidence for another use of short-term tests. Dr. Brusick discussed how these tests are useful in the understanding of the mechanisms of carcinogenesis at the molecular level and in defining the potential of a substance to be carcinogenic:

"Although the spectrum of submammalian and in vitro assays is broad, the objective of these as applied to chemical carcinogenesis is similar; and that is, to identify chemicals which have the capability of inducing DNA alterations or morphologically transformed cells. This information is then used to define the genetic/carcinogenic potential of the chemical." (Brusick, S. 6)

Dr. Brusick then went on to suggest the following roles for the use of short-term tests (STT):

"(a) Results from a battery of STT can be used to identify genetic/carcinogenic potential if all or most of the responses are unequivocally positive. This identification cannot be equated with a definitive classification of the chemical as an animal carcinogen.

"(b) Results from STT can be used to identify potential mutagens/carcinogens in situations where insufficient quantities of the test material can be produced or collected to perform large scale rodent bioassays; for example, concentrated environmental air or

water samples, treated crop residues' samples or tissue residue samples from treated fish, poultry, or mammals consumed by humans.

"(c) Results from STT can be used to design rodent bioassay studies along the following lines; species selection based on data from in vitro activation studies of chemical bioactivation to its active form, and identification of susceptible target tissues based again on comparative levels of in vitro bioactivation. The results of STT would be useful in designing the size of the confirmatory rodent bioassay. The number of dose levels and animals per group might vary depending on this preliminary information.

"(d) STT should be used to develop working hypotheses for the concepts of mechanism of cancer induction, threshold levels and species extrapolation. These hypotheses can provide the framework upon which specific resolution of these problems can be made using appropriate animal assays." (Brusick, S. 15–16)

Other witnesses who also commented that short-term tests might be useful in the understanding of the mechanisms of carcinogenesis were Dr. Benjamin Trump (University of Maryland), Dr. Curtis Harris (NCI) and Dr. Umberto Saffiotti (NCI) (S. 37). Dr. Trump described how his *in vitro* test system could be useful in this manner:

"And the main thing about our systems is that by culturing organized tissues, you can not only do short-term effects, like examine for mutagenic metabolites using either bacterial or mammalian cell system, but you can also look over the long run and study the development of actual lesions in this organized tissue and compare those with what occurs in the human bronchus or human pancreas . . .

" . . . or the animal model, and that is what is the most exciting thing to us, being mainly interested in mechanisms. And as was mentioned, it is very encouraging that we are able to take benzpyrene, MNNG, DMBA, and produce in the test tube in organized tissues what we consider to be premalignant epithelial lesions or even carcinomas in situ morphologically in the nude mice that are being used to graph these tissues so transformed morphologically to examine for tumorigenesis." (Trump, Tr. 1980–1982)

Dr. Harris commented:

"Studies of the interactions of chemicals with cultured human tissues and cells can now supplement the carcinogenesis data from experimental animals. Short-term assays with human material described above focus on the interaction of chemicals with DNA, i.e., formation of adducts and induction of mutations. DNA repair synthesis and perhaps increased sister chromatid exchanges in human cells exposed to chemicals are other measures of this interaction which may also prove to be useful as short-term tests. These assays will aid in the qualitative, but not as yet quantitative, assessment of the carcinogenicity of a chemical. Since studies with tissues from both human and animal models can be conducted in parallel, direct comparison can be made with the tissues maintained in the same controlled experimental setting.

"The exciting promise of these assays lies in the potential to identify individuals who are highly susceptible to chemical carcinogens in the environment and the workplace. If this promise is fulfilled, increased preventive efforts can be focused on these predisposed individuals." (Harris, S. 7)

Dr. Joyce McCann (Univ. of Calif.) also provided guidance on how short-term tests could best be used. Dr. McCann commented that:

"Current knowledge amply justifies using short-term tests within a regulatory framework aimed at identifying and regulating potential human carcinogens." (McCann, S. 3)

However, Dr. McCann also commented on the caution that must be used in data from non-human sources:

"At the outset, I believe a key point that must be acknowledged is that incorporation of information from any nonhuman source (including animal carcinogenicity tests and short-term tests) into decisions about the potential health hazards of a chemical, injects an element of uncertainty into the decision which cannot completely be removed. The current state of science in this area cannot guarantee that mistakes will not be made. The important point is that the current state of science can guarantee that if mistakes occur (and they may not), the number of mistakes is likely to be very small. Furthermore, because of the seriousness of cancer as a life-threatening, essentially irreversible disease, it is reasonable to admit one's willingness to accept the possibility of some mistakes in attempting to limit human exposure to potentially life-threatening chemicals. The evidence from animal carcinogenicity tests and short-term tests indicates that the most likely mistakes will be in misclassifying substances, especially the weaker carcinogens, as non-carcinogens, rather than in falsely designating substances as carcinogens.

"The few "false positives" that theoretically may occur will be far outweighed by the many human carcinogens that will be correctly identified." (McCann, S. 2–3)

Dr. McCann then provided four specific points of evidence as support for her statement that short-term tests can be used as outlined in the proposed regulation:

"1. When short-term tests are evaluated for their ability to detect known human carcinogens the same way animal carcinogenicity tests are evaluated, they fare equally well with the animal tests with the one exception of diethylstilbestrol (DES)."

* * * * *

"2. Retrospective validation studies comparing results in short-term tests with those from animal carcinogencity tests indicate a very high correlation between the two general methods of detection and suggest that both methods will more often fail to detect carcinogens than they will falsely detect them."

"3. There are an increasing number of examples where short-term tests have accurately predicted the carcinogenic potential of chemicals."

* * * * *

"4. Short-term tests provide information about the potential carcinogenicity of a chemical in humans that cannot be supplied by rodent cancer tests." (McCann, S. 5–9, emphasis omitted)

Dr. McCann concluded by offering an additional suggestion to OSHA:

"In addition to triggering long term cancer tests, ideally I believe that short-term test data from appropriate test batteries should also trigger animal studies to determine if the chemical can reach the germinal tissue or can cross the placental barrier. I hope the time is not too distant when evidence for this, along with positive data from short-term test batteries is sufficient for a Category I type of classficiation for mutagens." (McCann, S. 14)

In addition to these comments, a number of witnesses expressed the opinion that short term tests were useful only as a screening tool. These witnesses included: Dr. Paul Kotin (Johns-Manville), S. 22; Dr. Rulon Rawson (Univ. of Texas), Tr. 4420; Bristol-Myers, S. 2; Dr. Harry Skalsky (Reynolds Aluminum), Tr. 7601–7602; Dr. George Claus (AIHC, Tr. 3512); Dr. Edward Sowinski (Uniroyal Chemicals), (Tr. 8244–8245). Because these statements, however, lacked the specific documentation or scientific review of the available data as did the other witnesses cited above, OSHA places greater weight upon the opinions of these experts.

2. What Short-Term Tests Are Currently Available and How Much Weight Should Be Placed on Each?

Short term tests were defined in the proposed regulation as follows:

"Short-term tests includes, but is not limited to positive results in more than one of the following assays for: (1) the induction of DNA damage and repair; (2) mutagenesis in bacteria, yeast, or *Drosophila melanogaster*; (3) mutagenesis in mammalian somatic cells; (4) mutagenesis in mammalian germinal cells; or (5) positive results in tests for neoplastic transformation of mammalian cells in culture." (42 FR 54184)

There are many short-term tests which can be used to measure the factors listed in the above definition. However, these tests do not all measure the same mutagenic endpoint. In general, chemicals tested in *in vitro* systems may induce changes which affect different levels of biological organization. Changes may occur at the molecular, cellular or multicellular level. A single substance may induce

chromosomal mutations, breakage or rearrangement of parts of chromosomes, point mutations, changes in single genes, or more subtle changes in DNA. No single short term test will measure all of these events. As a result, a substance may produce different results in different tests depending on how its mechanism of action affects DNA or cellular organization.

During the course of the hearing, a large number of short-term tests were described, defined, listed and discussed. The most extensive descriptive list was found in the report of the DHEW Subcommittee on Environmental Mutagenesis in which 35 tests are described. A more workable list of short term tests was found in the OTA report on saccharin. In this study, twelve short term tests were described, nine in full detail:

"1. *Sister Chromatid Exchange (SCE).*—The sister chromatid exchange (SCE) test (134,161) is similar to other cytogenetic procedures in that it measures changes in chromosomal structure. However, it employs a special staining technique to detect subtle changes that do not affect gross chromosomal structure. Classical cytogenetic techniques depend upon such gross changes in structure for detection. In many cases, SCEs have been shown to occur more frequently than gross chromosome aberrations after treatment of cells with chemical mutagens. For this reason, the SCE test may be a more sensitive method than standard cytogenetic procedures for detection of chemicals which have weak cytogenetic activity. The role of SCEs in the generation of mutagenic events in cells has not been proven. But considerable experimental evidence, consistent with the theoretical understanding of how mutations are likely to occur, indicates that events which cause SCEs also can cause mutations. A number of carcinogens and a few noncarcinogens have been tested using the SCE procedure (1,134,161), and the correlation looks promising. However, the method needs to be thoroughly validated to demonstrate its value as a predictor of carcinogenicity and mutagenicity."

* * * * *

"2. *Mutagenesis Tests in Mammalian Cells in Culture.*—Several mutagenesis tests using mammalian cells in culture are in various stages of development and validation. The two used to teat saccharin are the mouse lymphona (31) and Chinese hamster ovary (CHO)/HGPRT (130) tests. These methods are similar in that both measure mutations at a specific locus in either mouse lymphoma or CHO cells. Both select mutants that are resistant to either purine (HGPRT test) or pyrimidine (mouse lymphoma test) analogues which, if incorporated into DNA, are lethal to the cell. A mutation at the HGPRT genetic locus in CHO cells makes it impossible for a purine analogue to be incorporated into DNA, and a mutation at the TK genetic locus in mouse lymphoma cells prevents incorporation of certain pyrimidine analogues. Currently, the genetics of the CHO cell line is better defined, but the mouse lymphoma system has been more extensively used for mutagenesis testing. A validation study on the CHO/HGPRT system is in progress, and some results have been published (131). Although the mouse lymphoma test is being used by a number of laboratories and many chemicals have been tested, most of the results have not yet been published."

* * * * *

"3. *In Vitro Cytogenetic Tests for Chromosome Aberration in Mammalian Cells in Culture.*—Cytogenetic tests measure changes in the morphological structure of chromosomes. A number of different types of structural changes can be produced. Many of these changes are lethal to cells, but some can lead to stable mutagenic changes. Many cytogenetic methods are available, using a variety of cell types from both mammals and humans and using both *in vitro* and *in vivo* procedures. For example, some of the most frequently used *in vivo* methods measure changes in chromosome structure in bone marrow cells, peripheral lymphocytes, or spermatocytes in animals. *In vitro* human peripheral lymphocytes are often used, as well as a wide variety of cell lines from both humans and animals."

* * * * *

"4. *The Salmonella/Ames Test.*—This test is currently the most widely used of the short-term tests. A large number of known carcinogens have been tested and shown to be mutagens in this system (96,97,139, 155,163). The method is very efficient for detection of organic chemical carcinogens (about 90 percent of those tested can be detected), but it does not detect all classes of carcinogens with equal efficiency. For example, metals, some chlorinated hydrocarbons, and the hydrazines are poorly detected.

"The procedure uses several specially constructed strains of the bacterium *Salmonella typhimurium*. These strains contain different mutations that inactivate the genes necessary for the synthesis of the amino acid histidine, and as a result that bacteria cannot grow unless this amino acid is added to the growth medium. The test is carried out by exposing the bacteria to the chemical to be tested and measuring the number of bacterial colonies that are able to grow in the absence of histidine. Each such bacterial colony is the product of a mutational event. A correlation between increasing dosage of a chemical and increasing numbers of colonies shows the chemical to be mutagenic. The method also incorporates rodent (or human) liver extracts into the assay mixture to provide 'activating enzymes,' which are necessary to metabolize some carcinogens to their active forms."

* * * * *

"5. *Mitotic Recombination in Yeast.*—A number of different types of genetic events can be assayed in yeast. The most widely used assays for testing carcinogens and mutagens are those that measure mitotic recombinations (194). This process involves breaking and rejoining parts of homologous chromosomes and can lead to changes in the genetic characteristics of the organisms. Mitotic recombination can result in chromosomal mutations that affect large numbers of genes, as compared to point mutations, which affect single genes. The basic molecular processes involved in these two mutagenic events are most likely related because chemicals that induce mitotic recombination, almost without exception, also cause point mutations. The yeast that has been most commonly used to detect mitotic recombination events is *Saccharomyces cerevisiae* D3. Over 100 carcinogens and noncarcinogens have been tested in this strain as part of an NCI-sponsored contract (154) to evaluate short-term tests. The method does detect a number of carcinogens and is useful, but it is not as sensitive as many of the other short-term tests."

* * * * *

"6. *Tests for DNA Repair Activity (Unscheduled DNA Synthesis and the Pol Test).*—These tests measure the ability of chemicals to interact with DNA in a way that causes DNA repair to occur. The unscheduled DNA synthesis test (149) measures DNA repair directly in cultured human fibroblasts (cells derived from human skin) after treatment with chemicals. This method is quite sensitive and has been shown to detect a wide range of chemical carcinogens and mutagens. The Pol test is used to detect chemicals that cause particular types of damage in DNA. This type of damage can be repaired by an enzyme present in the bacteria. The Pol test determines the toxicity of the test chemical in mutants that lack the DNA repair enzyme. A positive result is inferred if the chemical under test is more toxic to the bacteria lacking the repair enzyme than it is to the parent strain that contains the enzyme. The Pol test, though useful, is not applicable to detection of a wide range of carcinogens and mutagens. The method has recently been improved (145), and the modified as well as the standard procedures were used in testing saccharin."

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"7. *Drosophila Sex-Linked Recessive Lethal Test.*—The fruit fly, *Drosophila*, can be used to detect a variety of mutagenic and chromosomal breakage events (2). The test used here employs the whole animal and is an *in vivo* test in contrast to most of the other, *in vitro*, short-term tests. *Drosophila* has enzymes that are capable of carrying out many of the same reactions that activate chemical carcinogens in mammalian systems. The most sensitive assay using *Drosophila*, which detects the broadest range of mutagens at the lowest concentrations, is generally considered to be the sex-linked recessive lethal test (2,176), which detects lethal mutagenic changes in the X chromosome. Usually, in this method, male flies are treated with the chemical to be tested (in this case saccharin was added to the nutrient medium), and they are then mated to female flies that have not been treated. Female progeny receive one X chromosome from the female parent and one X chromosome from the male parent; male progeny receive one X from the female parent and one Y from the male parent. Thus, all males carry one X and one Y chromosome, and all females carry two X chromosomes. Even if the one X chromosome

carried by the parental male flies has suffered lethal damage from the chemical treatment (due probably to chromosome breakage caused by the chemical), this damage will not affect the viability of the first generation progeny. A "lethal X" will, in the progeny females, have another healthy X to carry out the needed functions of the X chromosome. A "lethal X" will not be present in any of the male progeny because the one X chromosome in each male progeny is always donated by the female parent, which was not treated with the chemical. The next step in the assay is to mate the first generation daughters to normal untreated males. Now, if one of the X chromosomes carried by the females is the "lethal X", this chromosome will be passed on to some of the male offspring of this second mating. Because males have only one X chromosome, the males receiving the "lethal X" chromosome will die, and in fact such offspring are never hatched. Since so much is known about the distribution of chromosomes among progeny, the experiment can be designed so that a normal mating will result in two phenotypic classes of male offspring. If the class of male offspring that would have received the "lethal X" is missing, then this fact is evidence that the initial chemical treatment, two generations previous, caused lethal chromosome damage in the X chromosome of the treated males."

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"8. *In Vitro Transformation.*—It is by no means clear that the molecular changes that lead to the altered growth potential associated with transformation of cells *in vitro* are the same as the changes that occur during carcinogenesis *in vivo*. However, several lines of evidence strongly suggest that there is a relationship between the processes and that mutagenesis may be the crucial molecular event. *In vitro* transformation tests measure the ability of a chemical to change a cell from a form that cannot cause a tumor in an animal to a form that will result in a tumor if the treated cells are re-injected into the animal.

"Several *in vitro* transformation systems are under development. The hamster embryo (135) and C3H mouse 10T 1/2(143) systems used to test saccharin have both been used to detect a number of carcinogens and mutagens. The National Cancer Institute has recently completed a validation study on the hamster embryo system (135) in which 54 carcinogens and 21 non-carcinogens were tested. The method was quite efficient and was able to detect transforming activity for all but eight of the carcinogens. It did not detect activity for any of the noncarcinogens. The cells used in *in vitro* transformation assays can activate some carcinogens to their active forms. But in order to detect a broad range of carcinogens, these tests have to be coupled to a metabolic activation system. Work is in progress on this alteration in a number of laboratories."

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"9. *Induction of Plasminogen Activator.*—Plasminogen is an enzyme which, when activated, degrades fibrin, a substance involved in the blood clotting process. Many mammalian cell lines, after transformation with viruses or chemical carcinogens, produce a substance that will activate plasminogen. Recently it has been shown that a number of tumor promotors are very potent inducers of plasminogen activator (187). As discussed earlier in this report, some evidence suggests that saccharin has tumor-promoting activity. For this reason, the plasminogen activator assay was included in the saccharin test battery. The plasminogen activator system has thus far been used only for detecting the plant diterpene tumor promoters, and whether it is capable of detecting other types of promoters is not known." (OTA, 1977, pp. 95–106; Exhibit C to Weinstein Statement) (Tables and figures omitted)

Another witness who discussed these tests in some detail was Dr. David Brusick (AIHC) (S. 17).

Another list of short term tests was given in a paper by Purchase *et al.* (1976), introduced by Dr. Matthew Meselson (Harvard Univ.) and by other witnesses. In this paper six tests were described. The Ames test and cell transformation test have been described: the others were:

"*Rabin's test.* The loss of ribosomes from isolated rat liver rough endoplasmic reticulum (RER) following incubation with potent carcinogens in vitro, as first described by Williams and Rabin, has been quantitatively monitored by radio-tracer techniques. An increase (10% or greater) in degranulation of the RER by the test compound, as compared with negative controls was taken to indicate a positive result.

"*Implant test.* A novel technique has been developed based on the histological assessment of the fibrous capsule and surrounding tissues which develop three months after surgical implantation in mice of Millipore filter disks overlain with a gelatinous suspension of the test compound.

The histological appearance of the capsule surrounding each implant was scored on a scale between 1 (low) and 5 (high) based on the appearance of lesions thought to be indicative of neoplasia. The mean scores from control implants containing only DMSO and gelatin were then compared with those from the test implants. Compounds causing a statistically significant increase in the mean score were taken as positive in the test.

"*Sebaceous gland test.* Bock and Mund have demonstrated that the sebaceous glands of mouse skin are sensitive to the topical application of carcinogens. Test chemicals were applied directly to mouse skin and those causing a statistically significant decrease in the ratio of sebaceous glands to hair follicles were taken to be positive.

"*Tetrazolium reduction test.* The test was based on that described by Iversen and Evensen. Samples of mouse skin which had been exposed to the test compound in vivo were incubated in aqueous solutions of tetrazolium red. Statistically significant increases in the in situ biological reduction of the colourless tetrazolium compound to the coloured formazan were measured spectrophotometrically and taken to indicate a positive response for the test compound." (Purchase *et al.* 1976, p. 625; Hearing Exhibit 32)

Several other short term tests were included in a list presented by the NCAB Subcommittee on Environmental Carcinogenesis.

"The intelligent application and interpretation of the *in vitro* tests must also take into account species variations in factors related to the pharmacologic distribution and metabolism of the parent compound as well as possible species differences in macromolecular repair and host defense mechanisms. A number of approaches addressed to the metabolic aspects are now available, including 'host-mediated' mutagenesis assays; the assay of urine and other biologic fluids taken from animals or humans receiving the test compound; the addition of microsomal enzymes and co-factors to the assay system; and the inclusion of specific cells in the assay." (NCAB, 1977, pp. 462–463.)

Another list was given in Dr. Fishbein's report *Potential Industrial Carcinogens and Mutagens:*

"Mutagenicity screening is now apparently both feasible and necessary for chemicals now in, and those which will enter the environment. The mutagenic activity of certain reactive chemicals can be detected in prokaryotic and eukaryotic cells. Short-term microbial tests (in *Salmonella typhimurium, Escherichia coli* and *Bacillus subtilis* in combination with *in vitro* metabolic activation) for mutation-induction include assays for both forward and reverse mutation at specific loci, as well as tests for inhibition of DNA repair.

"The mutagenic activity of some chemicals have also been detected in *Saccharomyces, Neurospora* and *Drosophila.*

"Chemically-induced stable phenotypic changes have been induced in mammalian cell culture systems that include Chinese hamster cells, L5178Y mouse lymphoma cells, human skin fibroblasts and a human lymphoblastoid cell line.

"Unscheduled DNA synthesis (a measure of excision repair) in human fibroblasts has been used as a prescreen for chemical carcinogens and mutagens, both with and without metabolic alteration." (EPA, 1977, p. 4, references omitted, Exhibit to Fishbein statement)

A number of short-term or *in vitro* tests are currently under development and appear promising. These include assays for: the induction of DNA damage and repair; mutagenesis in bacteria, yeast, *Drosophila melanogaster,* or in mammalian somatic cell cultures; and neoplastic transformation of mammalian cells in culture. Other assays that have been employed include the dominant lethal test and studies of chromosomal damage. The latter two tests suffer from the fact that they are frequently non-specific and/or difficult to quantify. Of the various short-term tests, the Ames *Salmonella* mutagenesis system has been studied the most extensively. Tests based on other *in vitro* approaches are also being developed.

3. "Validation" of Short-Term Tests

Although a significant number of short term tests is thus available, two of these tests, the Ames test and in vitro cell transformation, have come to be regarded by the scientific community as more "validated" than the others.

A number of witnesses described what they considered to be "validated" short term tests. There was, however, considerable disagreement among these witnesses not only on what tests were "validated" but also on the validation status of several of the tests. From the arguments raised, it was apparent that what constituted a valid test to one scientist did not necessarily constitute a valid test to another. To some witnesses "validation" meant reproducibility, while to others the term meant standardization. To others, the term meant the establishment of a correlation between results in the test and positive results for carcinogenicity. Even the use of these terms was ambiguous. Reproducibility, for example, was used by some witnesses to describe results from other short term tests, while others used the term to indicate concordance with results in long term animal bioassays. Still others referred to reproducibility within the same test or laboratory. Standardization was used to refer to criteria for test protocols in most instances. Often, the same witnesses used the term in several of the contexts described above. It is clear therefore that much of the divergence of opinion about the state of validation of the various tests reflected different uses of the term rather than different interpretations of the scientific data.

The only clear description of how to define a valid study was presented by Dr. Umberto Saffiotti (NCI). Dr. Saffiotti introduced into the record a report of an NCI workshop on *in Vitro Carcinogenesis,* which he edited. In his introduction to the workshop report, Dr. Saffiotti discussed factors which would have to be considered in attempting to validate any short-term tests:

"The research methods needed to provide reliable validation are dependent on several factors: e.g., level of critical quality control of the methods under consideration; extent of their reproducibility; adequacy and accuracy of the in vivo carcinogenesis data against which the in vitro methods are supposed to be validated; number and type of chemicals and chemical groups used in the process of validation.

* * * * *

"I believe that the process of testing the short-term systems for their predictive value in identifying carcinogens should include the following approaches:

(a) Selection of several short-term test systems, including tests for mutagenesis and for neoplastic transformation of cells in culture.

(b) Definition and standardization of laboratory procedures and measurement of their reproducibility, using a small number of test chemicals for each test method.

(c) Selection of a large list of chemicals as reference compounds, including direct carcinogens, procarcinogens and noncarcinogens. About 100 compounds have been used by the NCI Carcinogenesis Program in the evaluation of mutagenesis test systems (35, 44, 45); the Ames test has been evaluated using an additional 200 chemicals in various laboratories (35). In the hamster embryo cell transformation system, a list of about 75 chemicals has been tested so far (42). The list of reference chemicals needs to be evaluated for their reliability in terms of in vivo carcinogenesis data. It is important to include a sufficiently large number of noncarcinogenic reference chemicals. These lists should be periodically extended and revised to include a representative range of chemical classes. I believe that in a second phase, each biological test system should be screened using nearly all the available chemicals for which extensive reliable data exist on carcinogenesis bioassays in animals (perhaps 500 to 600 compounds).

(d) Definition of biological metabolic activation systems and of the metabolic requirements for each of the chemicals of the reference list.

(e) Systematic screening of the selected chemicals in the selected bioassay systems, including tests for reproducibility and by a double blind procedure.

(f) Comparison of the response of different test systems, with particular consideration for the susceptibility of different cell systems with regards to host and tissue of origin.

(g) Concurrently, much new imaginative research is needed in the following areas: development and definition of new cell transformation systems, with emphasis on epithelial cells and on human cells; metabolic activation mechanisms; relation of mutagenic to carcinogenic events in the same target cells; biochemical mechanisms involved in transformation; markers of the transformed state; and definition of culture conditions.

"The NCI Carcinogenesis Program has undertaken an extensive effort towards the development and validation of short-term methods for carcinogenesis screening, and towards their definition and interpretation along these lines." (Saffiotti and Authrup, Eds., 1978, pp. 3, 9–10; Exhibit to Saffiotti Statement)

The IARC preamble discussed several difficulties which must be considered in any validation process:

"The results of validation studies could be strongly influenced by such selection of chemicals and by the proportion of carcinogens in the series of chemicals tested; this should be kept in mind when evaluating the predictivity of a particular test. The usefulness of any test is reflected by its ability to classify carcinogens and noncarcinogens, using the animal data as a standard; however, animal tests may not always provide a perfect standard. The attainable level of correlation between short-term tests and animal bioassays is still under investigation.

"Since many chemicals require metabolism to an active form, test systems that do not take this into account may fail to detect certain potential carcinogens. The metabolic activation systems used in short-term tests (for example, the cell-free systems used in bacterial tests) are meant to simulate the intact human." (IARC, 1978, Vol. 17, p. 28)

With these considerations in mind, IARC listed four tests as "validated": the Ames test, the X-linked recessive lethal test in *Drosophila melanogaster,* unscheduled DNA synthesis, and *in vitro* transformation (*id.*) Several other witnesses listed the Ames test as validated (e.g., Meselson, Tr. 1476; McCann, Tr. 1551–1552). Dr. Leon Golberg (CIIT) considered the dominant lethal test to be "validated" (Tr. 6530). Dr. Umberto Saffiotti (NCI) discussed several short-term tests using mammalian cells in culture in which he felt confident:

"I shall limit the present discussion to the use of tests for the neoplastic transformation of mammalian cells in culture by chemical substances. Methods for such tests have been developed in several laboratories since the first report by Berwald and Sachs (1965). Some of these methods are currently extensively used in several laboratories with good reproducibility and have been found to respond to a large variety of chemical carcinogens. Two types of test systems have been so far most widely studied. They are: a) the golden hamster embryo cell system, which uses primary and/or secondary cultures of normal embryo cells; and b) the mouse embryo fibroblast cell line system, which uses established homogeneous cell lines, particularly the C_3H 10T ½ clone 8 cell line.

"Other systems, which utilize other cell types, including epithelial cell systems, are currently being developed and defined.

"A number of criteria have been developed for the recognition of induced neoplastic transformation, including colony morphology, growth in special culture media, and the production of neoplastic growth following inoculation into immunocompatible or immunosuppressed animals. Comprehensive documentation on these methods is included in two recent review books (Montesano, Bartsch and Tomatis, Eds., 1976; Saffiotti and Authrup, Eds., 1976). These methods require competent professional skills and judgment for their performance and evaluation." (Saffiotti, S. 35–37)

During the hearing, a number of confounding factors were introduced to question the "validity" of short term tests, especially the Ames test. Dr. Meselson (Harvard Univ.) discussed one of these points, use of substances such

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as phenobarbital or PCB's to activate the enzymes in the liver extracts used in the Ames test. Dr. Meselson argued that these substances may still be present after activation and may influence the results. However he did not feel this would invalidate the tests:

"No, it just contributes to the background that you find, and there is always going to be a background due partly to the natural reversion of these histidine mutations. And it is true that when you put on the liver paste you raise the background slightly. Something in it is raising the background. What exactly that is there are lots of—after all, those livers are coming from mice who are real animals or rats who are real animals and real animals die of cancer. Human population, 25 percent of us will get cancer, 25 percent as measured from birth; 17 or so percent of Americans die of cancer. It is not any different with other mammals. They all are susceptible to cancer. So it is not surprising that there is something in them. In fact, the reason I got interested in this potency correlation was the rather naive biochemical question, could you grind up animals so to speak, and get an extract and then fractionate this in the usual ways that biochemists fractionate complex mixtures on chromatographic columns, and then devise some assay to see which are the active fractions and then fractionate those further, until finally, you isolate a single pure compound and identify it chemically to find out what are the carcinogens really in our bodies that are actually causing the prevalent rate of cancer. A kind of brute force, head-on and naive attack on the cancer problem.

"Now, to answer the question of whether you could take that approach, I need to know is there an assay which is sensitive enough. So I had to begin thinking about how do you measure sensitivity. Not sensitivity to mutation but sensitivity in terms of cancer. And that led me to ask is there a correlation in fact between the sensitivity in the Ames test to mutation on the one hand, and the potency of a compound as a carcinogen. So, yes, I think there are undoubtedly some carcinogenic molecules in that liver extract. There are certainly some mutagenic ones. They come from animals who are dying of cancer; all animals are dying of cancer at some probability. Or getting cancer." (Meselson, Tr. 1528–1529)

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"Well, the results would be valid in any case because you always do some tests where you do not have the compound, and you get a background number of colonies. And the test is significantly positive only if the chemical you add gives something which is for sure significantly above that steady background. Now, all that the liver paste does in the respect you are talking about here is to contribute a little to the background. It also greatly enhances the signal if it is a compound that needs activation, but it does contribute a little to the background. So in that sense, the sense you are talking about, it slightly limits the sensitivity of the Ames test; slightly limits it by contributing a little bit more to the background, thus increasing the likelihood that you might not pick up something which is actually positive." (Meselson Tr. 1530)

Dr. McCann discussed another problem, the fact that DNA repair mechanisms in the bacteria tester strains are not the same as those in humans or even in the parent bacteria from which the tester bacteria are derived:

"There have been two alterations inserted into the bacteria, each dealing with different kinds of repair activities in the cell. And in general, one could divide the repair activities into two groups: One sometimes called the accurate repair system or the UV repair system, and these are enzymes that recognize lesions in DNA and clip them out and sew the DNA back up, in effect.

"And one of the primary things that characterizes them is that they do not make mistakes. They do a very accurate job of it, and that is why this system is often called the accurate repair system.

"Well, one of the modifications put into the bacteria was to introduce a mutation into one of the genes that govern one of the enzymes in that system so that that capability in these bacteria is much reduced from what it is in the wild type.

"Now, I think the crucial question there, and it is a very legitimate one, is: do you create mutagens by doing that? Well, in fact, all of the evidence indicates that we do not, because what happens is that that increases the sensitivity of the test in that a weakly mutagenic substance becomes a more potent mutagen. It is easier to detect, and for a screening test, that is very important.

"There is not a single example of a chemical that is a mutagen in the repair-defective strain that is not a mutagen also in the wild type. It becomes a much stronger mutagen, and it makes the test much more effective for picking up activities. It does not create anything.

"The second repair system is similar to the first, I think much less understood, but it might be characterized by the fact that it performs a similar function in that it recognizes lesions and repairs DNA, but it does not do it as accurately. It makes mistakes, and that is sometimes referred to as the error-prone repair system.

"Now, in two of the bacterial strains we use, and we use generally a total of about four—in two of these strains, there has been what was mentioned this morning, a plasmid, which is basically just an extra piece of DNA inserted into the bacteria that has the apparent effect of enhancing the error-proneness of that repair system.

"So that when lesions are introduced into the DNA, in the process of their repair, that process has a much better chance of making a mistake, and a mistake is translated into a mutation. So again, the effect is not a qualitative change in that we do not create mutagens, but it greatly increases the sensitivity of the test so that chemicals that in the strains without the plasmid are very, very weak mutagens become very, very strong." (McCann, 1558–1560)

Dr. McCann continued to discuss another factor, the removal of the outer cell surface of the bacteria:

"The lipopolysaccharides coat the surface of bacteria normally, and they are sort of sticky substances that function to protect the bacteria. The reasons for that is also to increase the sensitivity, and large molecules that ordinarily apparently tend to get stuck in that outer sticky coating can then come in." (McCann, Tr. 1560)

Dr. McCann expressed the opinion that these differences did not in any way detract from the results of these tests:

"It is acting differently in the manner of degree, in a quantitative sense, but not in a qualitative sense, which I think is a very important distinction when one is trying to grapple with, first of all, the fact that here we are using bacteria and trying to get information about people. I mean, I think that is a difficult thing to grapple with in the first place, and then realizing that we have put modifications into the bacteria makes it even more difficult to grapple with.

"But I do not find any theoretical objection to this whatsoever, and on top of it, one has to superimpose the enormous amount of evidence that it works, which also is an important element." (McCann, Tr. 1560–1561)

4. How Well Do Short-Term Tests Predict Carcinogenesis?

The use of short-term tests for mutagenicity to predict carcinogenic potential is predicated upon the existence of a correlation between carcinogenic and mutagenic activity of chemicals. Several witnesses presented evidence for such a correlation. In particular, Dr. David Brusick (AIHC) presented detailed documented evidence to support the assumed relationship:

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"17. If STT are capable of identifying chemicals with carcinogenic potential for mammals, there must be a relationship between specific types of genetic alterations and the production of malignant cells. Logically, this relationship would appear evident in the nature of neoplastic diseases.

"18. The following points all contribute to the logic trail leading to the proposed link between mutation and cancer (31).

(a) Tumors appear to result from the process of cell transformation following cell proliferation. Every cell which undergoes transformation to a malignant state will not produce a tumor because of immune surveillance and other *in vivo* control phenomena. Tumors appear to be clonal in origin (2), which is evidence for a single cell origin.

(b) Transformed malignant cells have phenotypic properties which are different from their nontransformed precursor cells (3). This is evidence that a genotypic change has produced the new phenotype.

(c) Transformed cells transmit their phenotypic properties to all progeny cells. This is evidence that the control of malignancy is associated with the hereditary components of the altered cell. The Central Dogma Hypothesis of Crick and Watson would ascribe the change to the DNA molecule.

(d) Transformed cells will grow into a tumor if transplanted into a healthy syngeneic host animal (4). This is evidence that the tumorigenic properties are directly associated with the malignant cells.

"19. Chemicals which have been shown to produce mutagenic changes in DNA and especially those demonstrated to produce such changes in mammalian cells would, therefore, be potential carcinogens. Other pieces of indirect evidence support the assumption that DNA lesions provide the basis for malignant transformation. For example, many chemicals produce cancer through the formation of carcinogenic intermediates following metabolic activation (5). These carcinogens, called procarcinogens, are inactive until enzymatically converted to the biologically active form. Generally, the mixed function oxidase (MFO) enzyme system associated with the rough endoplasmic recticulum of cells is involved in the biotransformation of chemicals to their active form (6). It has been demonstrated that the mutagenic properties of procarcinogens are also associated with the carcinogenic intermediate (7,8). For several procarcinogens the active carcinogen has been established and it is the same molecule which is genetically active (9). A concordance between these two activities would be mandatory only if mutation is a prerequisite step leading to malignancy.

"21. Essentially all chemicals known to directly initiate cancer in mammals are active mutagens or produce mutagenic metabolites. Numerous comparative studies support this relationship (10,11,12,13,14,15) and if the mechanism postulated in figure 1 approximates the events which actually occur in malignant transformation, then to conclude that all chemical mutagens are potential carcinogens is not an overstatement of the data. However, it must be emphasized that a potential carcinogen cannot be equated with an established mammalian carcinogen." (Brusick, S. 6–9)

Dr. Ronald Hart (Ohio State Univ.) also presented detailed testimony on the correlation between carcinogenesis and mutagenesis:

"Until recently, support for the somatic mutation theory of cancer had not been enthusiastic; since many potent carcinogens were found to be non-mutagenic in early test systems.[3] Indeed, it is still generally agreed today that not all carcinogens are mutagens. For many of those carcinogens which do appear to be mutagenic (conservatively at least 70%), metabolic activation has provided an explanation for the earlier observation that many potent carcinogens were not mutagenic. The Millers found that most all chemical carcinogens were either electrophiles *per se* or could be metabolically activated to electrophilic species.[4,5] When, subsequently, activating systems* were added to the mutagen test systems, virtually all chemical carcinogens were mutagenic.[6]

Investigators of recent years have shown a strong correlation between the carcinogenicity and mutagenicity of a variety of chemical and physical agents (presumably reflecting, in many cases, the ability of an agent to cause DNA damage thereby altering the normal base sequence of DNA).[6] Data from a number of mutagen test systems which employ either microsomal homogenates (the cellular subunit which contains enzymes capable of modifying certain chemical agents to a form in which they will cause cancer) or feeder cells (cells containing the aforementioned enzymes) indicate that there is for selected chemicals a 90% correlation between carcinogenicity and mutagenicity.[4,5] This correlation is strong support for the somatic (nongerm cells*) mutation theory of cancer originally proposed by Boveri.[10] Acceptance of the somatic mutation theory proposed makes it reasonable to consider DNA as a critical cellular target for many chemical carcinogens.

"14. DNA was initially assumed to be the target macromolecule for chemical and physical carcinogens for the same reasons it was presumed to be for the lethal and mutagenic effects of X-rays and ultraviolet (254 nm) light: (a) it is the largest macromolecule in the cell and thus has the greatest probability of interacting with any electrophilic agent; (b) unlike other macromolecules it appears in a unique copy and thus damage to it would be expected to have greater consequence for cellular behavior than damage to, for example, 1 out of 50 identical RNA molecules or 1 out of 500 to 1000 identical proteins; (c) it serves as the template for synthesis of most other cellular macromolecules and thus damage to it would be expected to propagate throughout the cell; (d) unlike RNA, lipids, and proteins, there is no turnover of DNA and thus damage to DNA may be expected to be comparatively stable if not repaired; (e) since most cancers appear to be clonogenic, it is a reasonable assumption that the alteration responsible for the transformed state must be inheritable between cell generations, thus implicating a genetic change.[11]

"15. In addition to the intuitive evidence presented above, several recent studies have provided indirect and direct evidence that DNA damage plays a causative role in carcinogenesis. It now appears that virtually all major classes of chemical carcinogens bind to DNA [2,12,13] and, further, that either the extent of binding (to be outlined below) or the absence of subsequent removal of such DNA-chemical bonds (to be covered in Section 2) correlates well with the carcinogenic potential of these agents. The types and extent of DNA-chemical interactions vary as a function of the agent, cell type, species, and physiological environment.[11] Evidence that physical and many chemical carcinogens interact with cellular DNA, and produce distortions (via either dimerization,[14] substitution at various nucleophilic sites on the heterocyclic bases,[15,16] phosphotriesters [16,17] and/or inter- and intra-strand crosslinks [18]) in that macromolecule resulting in carcinogenesis and/or mutagenesis is presented below. . . .

* * * * *

"16. Hence, in summary, it is clear that most, but not all, chemical and physical carcinogens damage cellular DNA. Further, it is clear that for many chemical carcinogens, metabolic activation is required for them to effect their interaction with DNA and exhibit their mutagenic and carcinogenic potentials. The mutagenic and carcinogenic potential of many chemical carcinogens appears to be related to both the extent of their binding of DNA and the chemical nature of the bond they form with DNA. It is thus a reasonable assumption that differences in the metabolic activation potential of liver homogenates and cell feeder systems would be reflected in the extent of binding of the active chemical species to the DNA." (Hart, S. 7–0, 14)

Dr. Hart made the following conclusions about the associations between carcinogenicity and mutagenicity:

"35. The presently available evidence suggests that:

(a) DNA is the primary target for most but not all physical and chemical carcinogens;

(b) For many chemical carcinogens metabolic activation is required to produce the carcinogenic form of the agent;

(c) DNA repair (of at least the excision form) appears to modulate the cytotoxic, mutagenic and carcinogenic potential of physically or chemically induced DNA damage;

(d) Correctly repaired DNA damage is assumed to have no deleterious biological effect;

(e) Unrepaired DNA damage, entering DNA replication, is believed to produce mutations by either misreplication or misrepair;

(f) For many, but not all carcinogens, mutagenesis appears to correlate well with carcinogenesis. (Hart, S. 27–28)

Dr. Joyce McCann also presented detailed documented evidence on the correlation between mutagenesis, specifically as measured by the Ames assay, and carcinogenesis. As discussed earlier, she presented these data as scientific evidence to support OSHA's proposed use of short-term tests:

"1. When short-term tests are evaluated for their ability to detect known human carcinogens the same way animal carcinogenicity tests are evaluated, they fare equally well with the animal tests with the one exception of diethylstilbestrol (DES).

"Short-term tests detect all known human carcinogens, with virtually the same exceptions as for animal tests. Neither short-term tests nor animal carcinogenicity tests have yet convincingly detected the suspected human carcinogens arsenic or benzene. All the organic chemical human carcinogens (except benzene and DES) are detected in the *Salmonella* (Ames) test (Table 1), asbestos causes chromosome aberrations (2), the metal carcinogens are detected in *in vitro* tranformation tests (3). Given that there are about 25 known or suspected human carcinogens, this correspondence between animal carcinogenicity tests and short-term tests is striking.

"Although the short-term tests currently available efficiently detect carcinogens that

interact with DNA, they may not detect carcinogens that act through non-mutagenic mechanisms. Though there is much evidence to indicate that the great majority of carcinogens are mutagens, it is reasonable to suppose that there will be carcinogens which are not mutagens. DES, a human carcinogen, is an example which most likely acts through a hormonal, non-mutagenic mechanism. The carcinogenic activity of DES can be detected in mammalian carcinogenicity tests, but not in short-term tests currently available. This points out an important limitation of short-term tests even when batteries of tests are used, and emphasizes the continuing need for animal carcinogenicity tests.

"2. Retrospective validation studies comparing results in short-term tests with those from animal carcinogenicity tests indicate a very high correlation between the two general methods of detection and suggest that both methods will more often fail to detect carcinogens than they will falsely detect them.

"The major limitation of short-term tests is that they detect fewer chemicals as positive than the animal carcinogenicity tests. This problem can be minimized by using an appropriate battery of tests, but even if batteries of tests are used this limitation will most likely still be the major source of error from short-term tests. Comparisons of results in short-term tests and animal carcinogenicity tests have indicated that, provided both the positive short-term test data and the animal carcinogenicity data are adequate, there is no clear example of a true "false positive" of which I am aware. For results in the *Salmonella* test, Bruce Ames and I have discussed this in detail (4, 5, 6) (see Appendix). In general, however, the theoretical possibility of true false positives from short-term tests is very real. For example, activation pathways or repair mechanisms that are different from those found in humans are certainly a possibility. At this time the non-mammalian short-term tests are the most sensitive and versatile of the currently available methods. Nevertheless, because of their distance from mammals, and the theoretical reasons for false positives, I believe that at least one short-term test using eukaryotic, or mammalian cells should be positive in the battery of short-term tests required to elevate a chemical from Category II to Category I status.

"3. There are an increasing number of examples where short-term tests have accurately predicted the carcinogenic potential of chemicals.

"The evidence is now quite strong that almost all human and animal carcinogens are mutagens. It is a somewhat different question, however whether chemicals that are turned up by short-term tests will be found to be carcinogens (i.e., are mutagens carcinogens?). Ultimately, in evaluating the usefulness of short-term tests as predictors of carcinogenicity, this is the more relevant of the two questions. Although such data takes much longer to generate because we must wait for the cancer tests, there is a growing list of carcinogens that were accurately predicted by short-term tests. In fact, there is not so far a single example of a wrong prediction. It is important that we keep a close watch on this growing list, so we may identify any false predictions that turn up. So far, short-term tests are proving to be excellent predictors of carcinogenicity, and I believe the evidence to date is ample to justify OSHA's proposed use of short-term tests.

"Some examples are: (1) *Ethylene dichloride*, recently reported carcinogenic in NCI animal carcinogenicity tests, has been known to be a potent mutagen in *Drosophila* for many years (7). (2) *Dibromochloropropane* (DBCP), recently found to cause sterility in humans, was found to cause sterility in animals a number of years ago and evidence of carcinogenicity in animals and mutagenicity in short-term tests also preceded the human evidence (discussed in 8). (3) *Tris*, the flame retardant, was first reported mutagenic in the *Salmonella* test (9), subsequently found positive in many other short-term tests before the observation that it caused cancer in animals. Other examples are dye components in oxidative hair dyes (10), ethylene dibromide, nitroquinoline-N-oxide, and the Japanese food additive AF–2 (see (6) for references)." (McCann, S. 5–9)

Dr. David Rall (Director, NIEHS) also commented on the correlation between mutagenicity and carcinogenicity:

"I think the evidence from the Ames-type test and the other tests is very strong that there is a high degree of correlation between carcinogenicity of non-hormonal organic chemicals and the—particularly the Ames and the other mutagenesis or rapid in vitro tests." (Rall, Tr. 367–368)

As did Dr. Arthur Upton (Director, NCI):

"The short-term test may help us in determining that the substance in question is, in fact, genotoxic, is capable of attacking the genes of the cell. We know there is a very high correlation between genotoxicity or mutagenicity and carcinogenicity. The correlation is not perfect and so we cannot rely on genotoxicity as a measure of carcinogenicity." (Upton, Tr. 290)

Other witnesses who agreed that a strong correlation exists between mutagenicity results from short-term tests and carcinogenicity results from long-term animal bioassays included Dr. Roy Albert (EPA), Tr. 2361; Dr. David Hoel (NIEHS), S. 8–9; Dr. Peter Goldman (Harvard Univ.), S. 15; Dr. Bernard Goldstein (New York University), S. 2–3. A number of studies have been conducted which set out to establish what correlation did exist for groups of chemicals between carcinogenic results and mutagenic results in short-term bioassays. The most comprehensive of these "validation" studies was carried out by Dr. Bruce Ames. Dr. Matthew Meselson described this investigation.

"Dr. Bruce Ames of the University of California at Berkeley and his colleagues have reported the results of testing nearly 300 chemicals for mutagenicity according to the methods worked out in their laboratory. The results were then compared with those of published long-term carcinogenicity tests on laboratory rodents. Most (84%) of the chemical carcinogens were found to be mutagenic (157/175), while most (88%) noncarcinogens were not found to be mutagenic (95/108) (McCann et al., 1975)." (Meselson, S. 6)

Dr. McCann, who collaborated with Dr. Ames in this study, commented that the purpose of the study was to find out if the results of the Ames test were "meaningful" to people in predicting the potential carcinogenicity of a substance. Dr. McCann continued:

"And so for that reason, we had to undertake some kind of validation attempt to see if we, in fact, were getting information which was relevant to what we were interested in.

"There are so few chemicals that are known to cause cancer in people. There may be about 25, but that is not a long enough list. We did look at those, and the test detects virtually all of the organic chemical carcinogens, and it is interesting that it only misses the chemical carcinogens that appear to be also missed in the animal cancer tests, which I think is significant.

"But what was needed was clearly a much bigger list, and also what was needed were a number of chemicals that looked like they were not going to be carcinogens in people. And so for that reason, we had to go to animal cancer data, because there are large numbers of chemicals that have been tested in animals, and there are large numbers that have been positive and large numbers that have been negative.

"So we made a comparison of the results in our test with the results in animal cancer tests. Now, when one does that kind of exercise, I think one has to realize at the outset that since both test systems are imperfect, there are going to be some mistakes generated due to the imperfections from both.

"Some of the mistakes will be due to animal cancer test problems. Some of the other mistakes will be due to the Salmonella method.

"What in fact happened is that we did have some noncorrelations. We had some false negatives in Salmonella, chemicals that were carcinogens in the animals, and we had some so-called false positives, chemicals that were positive in Salmonella but negative in the animal cancer test.

"So what we did in those cases is look at the data from both systems, and what we found is that the animal cancer test data for the chemicals that showed some mutagenic activity in our tests but were negative in the animal cancer tests was in general very limited. The tests, most of them were clearly defective in that they would have very few animals or cover a very short duration.

"And in fact, false negatives in animal cancer tests is the biggest problem of animal cancer tests. This is because you can only do them with a limited number of animals.

"There are a number of examples of animal carcinogens that have been negative in one or two animal cancer tests and then positive in another. One of the most interesting examples is something called furyl furamide, or AF–2, that was used as a food preservative in Japan for about eight years. And they tested it in animals before putting it in food, twice, in two animal cancer tests that were not horrible tests. They were fairly decent tests, and it was negative.

"After the eight years, Dr. Sugimura working in Japan, using a method very similar to ours, a bacterial test method, was starting to look at food, and he put a slice of fish sausage that happened to contain this preservative on a petri dish and found a large number of revertant colonies coming up around the fish sausage, which indicated the fish sausage was mutagenic.

"He then started purifying the chemical from the fish sausage, thinking he was going to find a natural part of fish sausage mutagenic, and it turns out it was the food additive.

"That chemical was then put back into cancer tests, and they designed the test so that it was more complete. They used more animals. They did generally a more complete test, and it turned out positive. And it has been banned now. In fact, they withdrew all the food that contained it.

"But there are a number of examples of that, and I think in general, animal cancer tests are proving themselves to be—they are very good, in one sense. They are weakest, I think, in the area of detecting weaker carcinogens and in the area of false negatives.

"So for the chemicals that registered positive in our tests that were negative in the animal cancer tests, my personal feeling is that I do not believe there is a good example of a true false positive among those.

"Now, I do not mean by that to rule out the possibility of false positives because I think that is a very important point, that there may be some, but I think we need to be willing to make a few mistakes. I think the most important thing is that all the evidence we have now from Salmonella, from the other short-term tests, is that the mistakes we make are going to be proportionately very, very few." (McCann, Tr. 1583–1586)

As previously mentioned, Dr. Meselson introduced a paper by Purchase *et al.* (1976) which evaluated six short-term tests for their ability to detect known carcinogens. These authors tested 58 carcinogens and 62 non-carcinogens in each of six short-term tests, conducted under standardized conditions. The highest correlations between the test results and previously reported carcinogenicity were obtained in the Ames test (which gave "accurate predictions" for 91 percent of the carcinogens and 93 percent of the non-carcinogens) and *in vitro* cell transformation (91 percent and 97 percent respectively). Rabin's test, subcutaneous implants, sebaceous gland suppression and tetrazolium reduction gave less "predictive" results (ranging from 37 to 95 percent).

Dr. David Brusick (AIHC) also introduced a table in which results of animal bioassays were correlated with results from short-term tests. Dr. Brusick summarized several "validation" studies as shown in Table 1 below. This table shows a range of "correct designations" from 85–95%. Dr. Brusick commented on this table:

"The results of the studies summarized in Table 2 indicate that some chemicals classified as carcinogens do not exhibit genetic activity in STT. Since it is unlikely that all of these chemicals were incorrectly classified by rodent bioassay studies, the origin of cancer in mammals may not be a single type of mechanism. Certain chemicals appear to be mammalian carcinogens but are not clearly capable of producing genetic alterations in STT." (Brusick, S. 10)

Table I.—*A Summary of Some Validation Studies on Selected Short-Term Tests (From Brusick, Table 2, References Omitted)*

Test	Approximate number of chemicals evaluated in the reported studies	Approximate percentage of correct designations	Estimate of the unreported compounds evaluated in similar tests[a]
Ames test	[b]420	90	5,000–6,000
Transformation Test	87	90	250–300
Mouse Lymphoma Test	[c]32	95	500
Sister Chromatid Exchange	[c]14	80	50
Drosophila (SLRL)	[d]100	90	1,000–2,500
Unscheduled DNA Synthesis	[c]16	87	100–200
In Vitro Cytogenetic Analysis	134	[e]85–95	1,000–2,500

[a] This estimate is based on estimates of in-house testing by private firms including contract laboratories. It gives an estimation of the experience factor associated with the tests and an indication of their use in chemical testing. These estimates represent results on unique compounds.
[b] This data represents tests on compounds common to both studies.
[c] Number of reported chemicals insufficient for accurate determination of reliability.
[d] Polycyclic hydrocarbons are generally negative in *Drosophila*.
[e] The value depends on criteria for (+) and (–) designations.

Several witnesses questioned the reliability of the reported correlation between long term animal bioassays and results in the Ames assay. For example, the CIIT workshop report asserted that the high correlation was misleading due to "judicious selection of the chemicals used" (exhibit to Golberg testimony, pp. iv-v). However, this comment would not be applicable to the study by Purchase *et al.* (1976), who used a wide range of chemicals. Dr. Samuel Epstein (Univ. of Illinois) referred to a study by Legator in which 494 chemicals in 45 structural classes were tested, and in which a correlation between carcinogenicity and mutagenicity was found only in certain classes. However, Dr. Ames and his colleagues have responded to these criticisms by pointing out that at least some of the purported discrepancies are due to the insensitivity of animal bioassays with resulting "false negative" results for carcinogenicity:

"Maugh also quotes Lijinsky as saying the *Salmonella* (Ames) test is not a useful qualitative predictor of carcinogenicity on the basis that it has only a 55 percent correlation for a group of polycyclic hydrocarbons that he tested for both mutagenicity and carcinogenicity (11). However, the Ames test has been extensively validated in three independent studies (12, 13), all of which agree that approximately 90 percent of the carcinogens from a wide variety of classes were mutagens in the test. Furthermore, Lijinsky's study does show that the *Salmonella* mutagenicity assay is an excellent test for the detection of carcinogenic polycyclic hydrocarbons: 88 percent of the carcinogenic hydrocarbons analyzed (14 out of 16) were mutagenic in *Salmonella*. This agrees with a large study on polycyclics by Coombs et al. (14), in which 38 out of 38 carcinogenic polycyclics were mutagenic in the test.

"Lijinsky obtained the "55 percent correlation" estimate by combining his results on the 16 carcinogens with the 8 "noncarcinogens," of which 8 out of 8 were mutagens. Unfortunately, Lijinsky accepts the results of limited or inadequate cancer tests as definitive evidence that a chemical is a "noncarcinogen." But the word "noncarcinogen" has meaning only in the context of an analysis of the power of the

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test. We have discussed elsewhere (15) the problems with using Lijinsky's insensitive cancer tests for determining whether or not a chemical is a "noncarcinogen." His analysis of carcinogenicity was based entirely on skin painting studies, which are considerably less sensitive than the standard NCI feeding studies and do not meet NCI criteria for an adequate test. It remains problematical whether his skin painting studies would have detected very many of the known human carcinogens at the doses used, although the *Salmonella* test detects almost all of these (13)." (Hooper *et al.*, 1979, pp. 602–603)

Purchase *et al.* (1976) raised another procedural question:

"The main appeal of short term tests is that they seem to offer a method of rapidly searching a group of compounds for potential carcinogens in order that priorities may be set for conventional long term studies. However, the drawback to using even relatively reliable tests for such purposes is that the proportion of positives produced which would be expected to be false may become very large. It is not possible from the present study to accurately estimate this proportion, but the model shown in Table 4 illustrates the nature of the problem which may be encountered. For example, in the model the effect of using a test which was known to be 90% accurate to screen an arbitrarily selected sample of 1,000 chemicals containing 10 carcinogens (1%) would be to generate 108 positive results of which only nine would be carcinogens. There would, therefore, be only an 8% chance that a compound which was positive in the test would be an animal carcinogen. Conversely, in the present example, the probability that a compound which gave a negative result in the test would be a non-carcinogen would be greater than 99%. (Purchase *et al.*, 1976, pp. 626–627)

This point was referred to by Dr. Francis Roe (AIHC; S. 51–52). However, in making his comment, Dr. Roe failed to address the specific proposal under consideration. OSHA does not intend to regulate compounds on the basis of one short-term test alone. In order to guard against the likelihood of false positive results of the kind referred to by Purchase *et al.*, OSHA intends to rely on results from more than one short-term test, combined with the results from at least one long-term animal bioassay, as the basis for instituting regulatory action. The probability of obtaining false positive results is greatly reduced by requiring a second corroborative test. The probability of obtaining false positive results in one animal bioassay *and* in more than one short-term test is vanishingly small.

There were a number of other witnesses who did not agree that there was a correlation between mutagenicity and carcinogenicity which could be used for predictive purposes. These commentors include: Dr. Rulon Rawson (Univ. of Texas), S. 4–5; Dr. Francis Roe (AIHC), S. 53–54; Dr. Paul Kotin (Johns-Manville), S. 22; Crompton and Knowles Inc., S. 3; and Dr. William Lijinsky (NCI–FCRC), S. 25.

However, these witnesses offered no specific data that would offset the reliability of the correlations reported by Purchase *et al.* (1976), Sugimura *et al.* (1976), McCann *et al.* (1975), and the other authors cited by Dr. Brusick. Thus, although OSHA recognizes that there is some divergence of opinion, OSHA concludes that there is in fact a better than 90 percent correlation between the results of certain short-term tests and animal bioassays for carcinogenicity. Thus, with due regard for the possibility of obtaining occasional false positive results in single tests, OSHA believes that the requirement of more than one of the short-term tests under consideration creates a very high predictive value.

5. What Degree of Confidence Do Short-Term Tests Add to the Results of Animal Bioassays in the Evaluation of Carcinogenic Risks for Humans?

A number of witnesses commented that short-term tests added a strong sense of confidence to the results of animal bioassays. Dr. David Rall (Director, NIEHS) expressed the point as follows:

"There is no question that positive results in short-term tests (such as the Ames test, induction of unscheduled DNA repair, or malignant cell transformation *in vitro*) add to the confidence that one would have in a single positive animal test. This is not to say that these short-term tests are *equivalent* to lifetime bioassays in rodents: it merely reflects the fact that most carcinogens give positive results in short-term tests. Hence, if there is any reluctance to accept the result of a single animal bioassay, positive results in short-term tests would add sufficient evidence to overcome this reluctance. Certainly, it seems reasonable to use them in this way rather than to demand a second lifetime test in a rodent, which would be lengthy and expensive." (Rall, S. 14)

Dr. Roy Albert (EPA) expressed a similar opinion when he agreed that a short-term test would increase his confidence in the significance of a marginally positive result from an animal bioassay (Tr. 2380). However, Dr. Albert stated a slightly different opinion about negative results in short term tests:

"The correlation is generally pretty good between positive mutagenicity and positive carcinogenicity, so that negative results [in mutagenicity tests] tend to diminish the strength of the evidence to some extent, but I do not think to the extent that positive results actually strengthen the evidence. That is almost an unfair way the game is played." (Albert, Tr. 2381)

Dr. Lawrence Fishbein (NCTR) felt that mutagenicity test results added to his confidence in results from animal bioassays, especially when used in conjunction with available structural similarities. Dr. Fishbein commented that these data should be sufficient to "boost a compound from Category II to Category I" (Tr. 1824).

Other witnesses commented that it was difficult to address this question because they felt that *one* animal bioassay alone was sufficient to provide evidence that a substance posed a potential carcinogenic risk (Bates, Tr. 666; Kimbrough, Tr. 1794–1795).

However, these witnesses agreed with Drs. Rall, Albert, and Fishbein, that positive results in short-term tests add to the weight of evidence for potential carcinogenicity (Bates, Tr. 645; Kimbrough, Tr. 1794–1795). Thus, although few witnesses addressed this specific issue, there was substantial evidence in the record from eminent scientists to support the conclusion that positive results in one or more short-term tests would increase the degree of confidence that should be placed in the results of one otherwise uncorroborated long-term carcinogenicity bioassay.

6. Can a battery of short-term tests be developed which would provide reasonable predictions of carcinogenic activity, and if so, what criteria should be met by such a battery?

Many witnesses recommended to OSHA that the use of a battery of short-term tests is the best approach to using and evaluating the results of these tests. The major limitation of short-term tests is that no one test is likely to detect all animal or human carcinogens. Thus, if only one test is used, a substantial number of false negative results is expected. This problem can be minimized by using an appropriate *battery* of tests. Dr. Joyce McCann (Univ. of California) presented a detailed rationale for the use of a battery of tests:

"1. Some short-term tests detect certain classes of carcinogens that other short-term tests do not. The use of complementary short-term tests in test batteries can help to minimize false negatives.

"2. By requiring that positive results in a short-term test be verified by a positive result in other short-term tests, batteries will help to minimize false positives. Although many of the individual short-term tests are proving to be highly predictive, and there are as yet no clear cut examples of false positives, the theoretical possibility of error remains. Since short-term tests can be done with relative ease (compared to doing an animal carcinogenicity test) it seems prudent to require that before regulatory action is taken, that any positive result in a short-term test be verified by a positive result in other short-term tests.

"3. One of the strengths of short-term tests is their ability to rapidly supply information from a variety of test organisms and metabolic activation conditions. Such information cannot be obtained from animal cancer tests, but can be obtained from batteries of short-term tests, with relatively little extra expenditure of time and energy. To do less would be to under-utilize this valuable source of toxicological information. (McCann, S. 10–11)

Dr. McCann elaborated on what she meant by a battery of short-term tests in her oral testimony:

"No single test can detect every carcinogen. Salmonella is pretty good. The organic chemicals that are known to cause cancer in people are virtually all detected by the Ames test. Metal carcinogens are not detected by this system.

"The system also seems to do rather poorly with some classes of carcinogens. Some chlorinated chemicals were mentioned this morning. There are some others.

"Some of the other methods do detect these chemicals. In fact, when you put together several short-term tests and look at the list of chemicals that cause cancer in people and look at the list of the hundreds of chemicals that cause cancer in animals, you can detect virtually all of them using a combination of short-term tests, so there is a complementarity among short-term tests that I think makes a battery essential, makes using more than one test essential because of the danger of missing things, of having the so-called false negatives.

"The other reason, I believe, is that there is certainly the theoretical possibility of making mistakes in the other direction any time you use a test that is different from what you are basically interested in, which is that we are interested in people ultimately.

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"Now, a battery in my view contains a number of different forms. The way I like to think about it is that in general, the less data we gather, the more likely we are to miss something. So that technically, we could make a list that would maybe contain 10 or 12 short-term tests and say, "This is absolutely the best we can do and this gives us the greatest assurance in detecting something that might be hazardous," and then as we pull back from that, I think the risk of making a mistake has to go up a little bit.

"And how much one is willing to have that risk go up I think depends enormously on what the potential health hazard is, which comes down quite often to the degree of exposure to people.

"So I think of batteries being of different sizes, depending upon the level of concern. In terms of a regulatory decision, I definitely feel that more than one positive result is required." (McCann, Tr. 1562–1563, 1564–1565)

Dr. David Brusick (AIHC) also recommended a battery:

"(b) A single test response is probably insufficient to be of value in carcinogen identification. A consistent trend of responses among a reliable battery of at least four SST would be necessary to reach a conclusion regarding genetic activity. The battery should consist of tests which detect specific locus gene mutation and chromosome aberrations. The group of assays given in Tables 1 and 2 represent an acceptable battery." (Brusick, S. 15)

Other witnesses who expressed similar opinions were Dr. Renate Kimbrough (CDC), Tr. 1795; Dr. Benjamin Van Duuren (NYU), Tr. 1868–1869; Dr. Lawrence Fishbein (NCTR), Tr. 1886–1888; Drs. Curtis Harris (NCI) and Benjamin Trump (Univ. of Maryland), Tr. 1975–1984; Dr. Roy Albert (EPA), Tr. 2380; and Dr. Geoff Taylor (NIOSH), Tr. 2945–2946.

The CIIT Workshop on "Strategies for Short-term Testing for Mutagens/Carcinogens" also recommended using a battery of validated short-term tests:

"The Workshop concluded that results from a battery of validated tests could be of significant value in assessing the carcinogenic potential of a chemical, provided that the overall assessment was made in the context of a rational examination of all the facts concerning the compound. Positive results in several, valid short-term tests indicate that, without waiting for the results of long-term animal exposure studies, operations involving the chemical should be immediately examined and human exposure reduced to as far as is practicable . . . The results of lifetime animal exposure studies would be extremely valuable in confirming carcinogenic potential of a chemical and in establishing acceptable safe limits of exposure, and such studies should be considered. Nevertheless, positive results from an adequate short-term testing battery cannot be ignored and an effective program to protect people who are likely to be exposed should be instituted without delay.

"A further suggestion in formulating a battery of tests would be to incorporate at least one system that involves the use of mammals or mammalian cells. Also, many investigators felt that cell transformation systems showed the most promise as accurate predictors of the carcinogenic potential of chemicals." (Golberg, S. i–vi i–v,)

IARC also recommended the use of a battery:

"The present state of knowledge does not permit the selection of a specific test(s) as the most appropriate for identifying potential carcinogenicity. Before the results of a particular test can be considered to be fully acceptable for predicting potential carcinogenicity, certain criteria should be met: (1) the test should have been validated with respect to known animal carcinogens and found to have a high capacity for discriminating between carcinogens and noncarcinogens, and (2) when possible, a structurally related carcinogen(s) and noncarcinogen(s) should have been tested simultaneously with the chemical in question. The results should have been reproduced in different laboratories, and a prediction of carcinogenicity should have been confirmed in additional test systems. Confidence in positive results is increased if a mechanism of action can be deduced and if appropriate dose-response data are available. For optimum usefulness, data on purity must be given.

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"An adequate assessment of the genetic activity of a chemical depends on data from a wide range of test systems. The monographs include, therefore, data not only from those already mentioned, but also on the induction of point mutations in other systems [61–66], of structural [67] and numerical chromosome aberrations, including dominant lethal effects [68], of mitotic recombination in fungi [61] and of sister chromatid exchanges. [69,70]." (IARC, 1978, Vol. 17, p. 27, footnotes omitted)

The EPA has also proposed to require the use of a battery of short-term tests in the evaluation of pesticides for chronic hazards. In the "Proposed Guidelines for Registering Pesticides in the U.S.; Hazard Evaluation: Humans and Domestic Animals", EPA provided a basis for the use of a battery of short term mutagenic assays:

"In developing these proposed guidelines, EPA and the study group relied on certain well established principles of genetic theory.[13] The most important points are: That essentially all organisms contain DNA as their genetic material; that the DNA genetic code is universal among life forms; that mutations occur spontaneously in all living beings; and that the frequency of mutation can be increased by exposure to chemicals. These basic points mean that all species can be used to detect and predict genetic change in other species. Thus, the Agency can use mutagenicity data from test systems which employ many different life forms to assess the potential of chemicals to produce mutagenic effects in humans." (43 FR 37348, footnotes omitted)

EPA described its guidelines as follows:

"The proposed mutagenicity guidelines contain a "battery" of 13 different kinds of tests which are grouped into three different categories. Two of the categories would be designed to evaluate the two large categories of genetic abnormalities: Gene mutations and chromosome aberrations. A third category of test would evaluate the potential of a chemical to interact with or to cause primary damage to DNA or other genetic processes in a cell. These tests detect a potentially broader spectrum of genetic events than do gene and chromosomal mutation tests.

"An Applicant would be required to submit data from several kinds of tests in each category: Three kinds of gene mutation tests, three kinds of chromosome aberration tests, and two kinds of DNA damage/repair tests. Data would be required therefore, from a total of eight different kinds of tests. EPA proposes to require several kinds of tests from each of the different categories because it is unlikely that any single test system is adequate to evaluate with sufficient sensitivity the full range of genetic damage which could be caused by a chemical. Nor is

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it likely that any one test system is sensitive to the entire variety of chemicals used as active ingredients in pesticides. Finally, one other advantage of the battery approach is that applicants have considerable flexibility in the timing and selection of tests." (43 FR 37348)

It should be recognized, however, that EPA's proposed requirement of eight tests is made in the context of safety testing. Although negative results in eight tests may be needed to provide reasonable assurance of safety, positive results in as few as two would give a high degree of confidence that a chemical poses hazards.

As described above, OTA reviewed results in ten short-term tests in the evaluation of the carcinogenicity of saccharin. A NAS report on the *Principles and Procedures for Evaluating the Toxicity of Household Substances* also recommended the use of a battery of short-term tests:

"Mutagen tests must fulfill certain requirements if they are to provide information suitable for the protection of humans. No single extant test meets each of the requirements; therefore, a combination of tests must usually be employed, as exemplified above.

"The full spectrum of molecular classes of mutation must be detectable. These include the loss or gain of entire chromosomes; mutations arising from chromosome breaks (or equivalent events) namely deletions, duplications, and rearrangements; and point mutations. The last consist of chromosome mutations that are small enough to affect only a single gene, of additions or deletions of one or a few base pairs, and of base pair substitutions. Criteria for reliably detecting all types of point mutations are notably lacking in the in vivo mammalian test systems.

"Many nonmutagenic chemicals become mutagenic as a result of metabolic processing. Conversely, some mutagens may be so efficiently inactivated through metabolic action that they become innocuous. Thus, an understanding of the corporeal pharmacology of environmental chemicals is crucial to mutagen testing.

A suitable capacity for metabolic activation must be incorporated into any test system other than the intact animal. Two methods are currently available. The first involves the direct incorporation of enzymatically competent mammalian tissue extracts into microbial tests (including cultured mammalian cells). The second involves administering the agent to an animal and then obtaining animal extracts (such as urine or blood) for subsequent analysis in a microbial test. Metabolic activation systems are also under continual development. Improvements are to be expected on a regular basis for a number of years.

"The pharmacological importance of such factors as routes of administration should not be underestimated. For example, some intestinal organisms contribute to the mutagenic activation of certain chemicals; therefore, it is important that the routes of exposure be appropriate.

"Finally, test systems must display both sensitivity, detecting as broad a spectrum of chemical classes as possible, and accuracy, including reproducibility." (NAS, 1977c, p. 89)

Finally, a report prepared for DHEW by the Subcommittee on Environmental Mutagenesis recommended a battery of short-term tests:

"The report presents a critical evaluation of a number of tests which have been utilized in research laboratories. Because chemicals may induce mutations which affect different levels of organization of the genetic material, this discussion is partitioned to test systems which detect: 1) breakage or rearrangements of parts of chromosomes; 2) chemical changes in single genes; and 3) more subtle chemical changes in the DNA. Because a single test system will not detect all types of events with a high degree of accuracy, the report stresses the need for using a battery of tests when attempting to assess the mutagenic potency of a chemical.

* * * * *

"For chemicals which receive widespread human exposure (e.g., food additives, certain pesticides), an extensive battery of genetic tests may be necessary. This battery could be appropriately modified based upon the availability of other toxicological data on a particular compound. For limited human exposure (prescription drugs), test systems would be selected which would reflect knowledge of the chemical's structure and properties, use levels, and the population at risk.

"In situations where a large number of chemicals must be tested for mutagenicity, it may not be feasible to put them through an entire battery of tests simultaneously. One approach to this is a hierarchical or tier system which employs a prescreen step. The purpose of this step is to rapidly identify those substances which are genetically active and it routinely employs a sensitive, rapid, method using bacteria (the Ames test is one such method).

* * * * *

"Continuing to stress the need to employ a battery of tests, the Committee further discussed procedures which are necessary to define a chemical as a human mutagen. In providing such optimal criteria, it is again stated that practical procedures to assess the induction of heritable mutations directly in humans are not currently available. The list presented reflects the current state of the art and may be altered as improvements in methodology and advancement of knowledge accrue." (DHEW, 1977, p. 304)

Again it should be recognized that the recommendation for an "extensive" battery is made in the context of testing to establish safety.

Although a battery of short-term tests was highly recommended to OSHA, very little comment was offered on what guidelines OSHA should adopt in how to use the battery. The design of an appropriate battery or the interpretation of the results from a battery received very little comment in the Record of these hearings. One witness who did comment was Dr. David Rall (Director, NIEHS). Dr. Rall referred OSHA to the DHEW Subcommittee Report on Environmental Mutagenesis and suggested that OSHA adopt the subcommittee guidelines on how to interpret results from mutagenic assays. Dr. Rall continued:

"The field, as I am sure you know, is moving very rapidly. The tests are becoming much better validated, more sophisticated. We are trying to develop ways where they can be almost automated with excellent quality controls. These results are coming out now, and I think in the next year or so we will have a very much better picture of which of this myriad of tests—and there are about thirty—are the most reproducible and the most reliable. And I think the longer OSHA or anyone waits to set their criteria for acceptance of tests in place, the smarter they are. The field is moving very rapidly.

"If you wanted to pick a few tests now, sure, you could pick them, but I would rather wait until we have a little more data which is coming out and do it then." (Rall, Tr. 368)

Dr. Lawrence Fishbein (NCTR) also expressed the opinion that OSHA should not move too quickly to establish criteria or standards for the battery of tests which should be used. When asked how many short-term tests should provide positive results before weight should be applied to those results, Dr. Fishbein responded:

"I would not want to place a specific number. I would think a positive in perhaps two tests, the Ames and the transformation of mammalian cells in vitro, would do it . . . one mammalian and one microbial." (Fishbein, Tr. 1888)

7. Would the regulation of carcinogens which are also mutagens provide additional benefits by reducing mutagenic hazards?

An important consideration which was not addressed by many witnesses was whether carcinogens pose a mutagenic risk to exposed humans. Since there is little scientific argument against the conclusion that most carcinogens are also mutagens, protection of workers from the mutagenic effects of carcinogens that are also mutagenic would be an additional benefit from the regulation of carcinogens. Dr. Robert Squire (Johns Hopkins Univ.), citing the *DHEW Report on Approaches to Determining the Mutagenic Properties of Chemicals* commented:

"A major concern other than for cancer is over the potential of genotoxic chemicals to induce genetic alterations in future generations. In 1977 the DHEW Subcommittee on Environmental Mutagenesis (1977, pp. 308–310) reported:

"There is no known way to estimate the contribution of chemical agents to the human genetic disease burden, either as it exists now or as it is likely to exist in the future. Concern over the possibility that certain chemicals may pose a threat to the integrity of the human genome (the totality of genes comprising the chromosomes) and thus to future generations of humans is predicated on sound theoretical reasoning and inescapable implications derivable from a large body of contemporary knowledge. While proof is lacking, there can be no reasonable doubt that man has endured through thousands of generations despite the presence of mutagenic agents in the human environment. In the recent past, as a result of the industrial revolution, the spectrum and number of agents has increased markedly. Although we still have extensive exposure of the human population to numerous natural mutagens, we now have, in addition, exposure to numerous man-made chemicals, many with potent mutagenic activity. This new type of exposure may well have increased the amount of damage in the present human population. Thus, the need is to devise, develop and utilize test approaches which identify mutagenic potential, assess potency, and provide results which are understandable in terms of the human responses as part of the toxicologic, safety evaluation process . . .

"The fundamental concern in mutagenesis is the risk to future generations. Alterations of the genetic material in germinal cells are seldom expressed in the exposed individuals and indeed, may not be manifest for several generations. Since gametogenesis requires both mitotic and meiotic processes, assessment of mutagenicity should ideally involve testing of cells which undergo meiosis. Nevertheless, the usefulness of cells other than germinal cells as a predictive tool is judged to be high, particularly for certain kinds of genetic alterations." (Squire, S. 10)

Dr. McCann also expressed the opinion that controlling mutagens was an important additional benefit from controlling carcinogens:

Critically examining the value of short-term tests only with respect to their relevance to cancer is somewhat artificial in that chemicals that cause mutations are of interest whether or not there is evidence they also cause cancer. Mutagenic damage to the human gene pool could itself be an important problem. There is a relatively high incidence of birth defects (5–10 percent of all children in the U.S. are born with birth defects). The number and amounts of chemical mutagens in the environment (both natural and man-made) indicate the role of chemical mutagens in causing birth defects could be substantial. There is also some suggestion that DNA damaging chemicals play a role in causing atherosclerosis, the main form of heart disease. It may be that cancer is simply one disease manifestation belonging to a more general class of adverse health effects that can result from DNA damage. If such damage occurs in the germ line (egg or sperm cells) then hereditary damage, such as birth defects" can result. If mutations occur in the somatic cells, for example in lung tissue, then cancer can result. The complete story is not known, and is no doubt quite complex. There are most certainly other physiological processes involved which contribute to the development of these health problems. However, the data now at hand indicates that it is very likely to the clear advantage of society to locate the primary sources of human exposure to mutagens, and as much as is feasible, to make it possible for individuals to limit their exposure (McCann, S. 12–14).

Dr. Lawrence Fishbein (NCTR) commented that carcinogens do pose a mutagenic risk to humans:

"I think that there is an obvious potential genetic hazard for known chemical carcinogens and mutagens." (Fishbein, Tr. 1886–1887)

He expressed the opinion that if carcinogens are regulated in such a way as to reduce human exposure then it would be beneficial to reduce mutagenic human risk.

Dr. Arthur Upton (Director, NCI) also expressed a concern for the genotoxic nature of many carcinogens:

"The short-term test may help us in determining that the substance in question is, in fact, genotoxic, is capable of attacking the genes of the cell. We know there is a very high correlation between genotoxicity or mutagenicity and carcinogenicity." (Upton, Tr. 290)

EPA in its proposed pesticide guidelines also discussed how regulating mutagens would also provide the obverse benefit of protecting against carcinogenic risks:

"The Agency, of course, recognizes the long-term significance and potential benefits of selected mutagenicity tests in oncogenicity screening. In particular, the correlation between results from submammalian gene mutational tests, such as the Ames test, and results from in vivo bioassay techniques for oncogenicity, is an area under active scientific consideration. EPA emphasizes, however, that the proposed testing requirements relate only to the assessment of mutagenic effects. Regulatory use of mutagenicity testing to evaluate oncogenic effects must be considered in its own right." (43 FR 37347)

C. OSHA's Conclusions

On review of the evidence cited above, OSHA recognizes that there was a wide range of opinion among the witnesses about the reliability and significance of short-term tests. However, much of the opinion was unsubstantiated, and sought to persuade OSHA not to regulate a substance as a potential occupational carcinogen based solely on short-term tests. Reviewing the testimony of the scientists who are specialists in the area (Drs. McCann, Brusick, Hart, Fishbein, Trump, Harris, and Meselson) and the specific studies which have investigated the validity of the test systems (McCann *et al.*, 1975; Purchase *et al.*, 1976; Sugimura *et al.*, 1976; and other papers cited in Brusick's testimony), OSHA is impressed by the weight of evidence that such tests provide meaningful results and that substances which give positive results in the well validated systems are likely to be carcinogenic. OSHA notes also that this conclusion was supported by representatives of agencies such as EPA, NIEHS, and DHEW. Thus OSHA concludes that there is ample justification for the use of short-term tests for the limited purpose of providing confirmatory evidence for a single otherwise uncorroborated animal bioassay. On the evidence presented in the Record, the probability of a false positive result for a chemical which is positive in one well-conducted bioassay and one well-validated short-term test is extremely small. In general, OSHA intends to rely upon at least two positive results in different test systems to provide this type of confirmation. This Part also defines five such systems, which, based upon the discussion above, OSHA believes are sufficiently validated to utilize as concordant evidence. Moreover, OSHA recognizes that the evaluation of positive results in short term tests is a matter for good scientific judgment and will interpret the data on each substance on their own merits. As further systems become validated, OSHA intends to amend this Part accordingly. Some participants claimed that where a substance has given positive results in two or more short-term tests in the absence of any long-term testing in mammalian systems, that such evidence would be concordant with other evidence of potential carcinogenicity. Although two of the most experienced and informed witnesses at the hearing expressed the opinion that such evidence should suffice for regulation of the substance as a Category I toxic substance, OSHA recognizes that the majority of the scientific opinion at the hearing would not support such a regulatory principle at the present stage of development and validation of the tests. However, OSHA is impressed by the consensus of scientific opinion expressed in the introduction to the CIIT Workshop that:

"Positive results in several, valid short-term tests indicate that, without waiting for the results of long-term animal exposure studies, operations involving the chemical should be immediately examined and human exposure reduced to as far as is practicable." (Golberg, S. i–vi)

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VII. Structural Similarity to Known Carcinogens

A. OSHA's Proposal

In the preamble to the proposed regulation, OSHA stated that: "In determining whether a toxic substance poses a carcinogenic risk to humans . . . OSHA will not, at this time, place . . . any reliance on molecular structure or similarity . . ." (42 FR 54155). OSHA explained its reluctance to use molecular similarity to known carcinogens for purposes of regulating exposure to possible carcinogens as follows:

"Whether chemical similarities between known carcinogens and other untested substances should be used to qualitatively predict the carcinogenic effects of those untested substances, as a matter of regulation, rather than of research, has been debated in recent time."

"OSHA is aware that, for many years, priorities for scientific research in testing individual substances for carcinogenic activity have sometimes been set, to a certain extent, by the structural similarity of those substances to be tested to the structural similarities of other substances that have been tested and found positive for carcinogenic activity. This concept has often been referred to as the "structure/function" theory. Many have recognized the distinction between using structural similarity to predict carcinogenic activity of an untested substance as a basis for setting priorities when actually testing substances on the one hand and using such structural similarity to regulate untested substances that may have a great deal of structural similarity to substances that have been tested and found positive on the other hand." (42 FR 54168)

OSHA similarly declined to consider substances safe from suspicion of carcinogenic hazard based on chemical structure. The Ad Hoc NCI Committee's report to the Surgeon General was cited in the preamble to the proposed regulation as follows:

"At the present time the chemical structure or physico-chemical properties of a compound do not provide a reliable basis for prediction of freedom from carcinogenic activity. Several structure-activity correlations are valuable indicators of the possible carcinogenicity of a compound but none can be used to classify the compound as noncarcinogenic." (NCI Ad Hoc Committee, 1970, p. 5–6)

OSHA concluded by stating, ". . . at least at this time, OSHA does not propose to rely upon structural similarities between known carcinogens and other substances to regulate those other toxic substances as carcinogens. Public comment as to this specific part of the proposal is invited." (42 FR 54168).

B. The Public's Response and OSHA's Evaluation

The issue of whether chemical structure can play a role in the identification, classification and regulation of potential carcinogens was discussed by several witnesses in this proceeding. A related topic discussed by several participants, was whether potential carcinogens, particularly inorganic compounds, can be grouped into classes on the basis of structural or chemical similarity and regulated together. Comments both in favor of and opposed to use of chemical structure as a guide to predicting carcinogenicity were submitted. While no clear consensus of opinion was reached, a preponderance of witnesses, including several experts testifying for industrial interests, favored at least some role for chemical structures in the OSHA procedures for identifying and regulating carcinogens.

Witnesses supporting use of chemical structures in classifying toxic substances as carcinogens included Dr. Fishbein, (NCTR), Dr. Van Duuren (NYU), Dr. Lijinsky (NCI–FCRC), Dr. Squire (Johns-Hopkins), Dr. Saffiotti (NCI), Dr. Shubik, (Eppley Institute, Univ. of Nebraska), Dr. Roe (AIHC), Dr. Goldman (Harvard Univ.), and Dr. Harris (Uniroyal). Other witnesses, Drs. Rogers, Furst, and Powers (Brush Wellman), testified that they opposed any use of structural similarity to provide a basis for regulation of possible carcinogenic substances, while the comments submitted by NIOSH indicated support of a role for molecular structure depending on whether the compounds in question were organic or inorganic in nature. These expert opinions are reviewed in greater detail below.

Dr. Lawrence Fishbein (NCTR) singled out OSHA's original rejection of the utility of chemical structures in classifying potential carcinogens as an area of "particular concern." Dr. Fishbein stated:

"OSHA is to be commended for its proposed regulation to protect workers from occupational exposure to carcinogens. However, certain parts of the policy trouble me. One area of particular concern is the failure to make use of information on structural and metabolic similarity to known carcinogens. Other agencies, such as EPA, have stated their intent to use "structural similarity" at least to set priorities, if not to regulate chemicals under the Toxic Substances Control Act (TSCA). In OSHA's Cancer Policy information of this type could be incorporated into both Category I and II Criteria. Just how this information could best be utilized is open to debate. I feel the combination of positive results in one well-conducted animal test and structural similarity to a known carcinogen or group of carcinogens would be sufficient to place a chemical in Category I. The suggestive evidence required for Category II could be satisfied with multiple short term tests and structural similarity to a known carcinogen or group of carcinogens. To foreclose any consideration of the growing body of structural and metabolic information would be irrational." (Fishbein, S. 6)

Dr. Fishbein also stated:

"There is an expanding literature to suggest that a critical examination of the chemical structure *per se*, reactivity, as well as aspects of biotransformation, can, in a number of instances, serve as a predictive tool for the assessment of potential carcinogenicity in laboratory animals and/or humans." (Fishbein, S. 3).

Dr. Fishbein pointed out that within certain groups of substances there is strong evidence that it is the common chemical moiety *per se* which imparts carcinogenicity. Among the chemical groups for which there is strong evidence of carcinogenicity for most or all of the compounds studied are: nitrosamines; alkylating and acylating agents; halogenated unsaturated derivatives; and aromatic amines, according to Dr. Fishbein (S. 3–4). During oral testimony, Dr. Fishbein explained further why chemical structures would be useful for predicting carcinogenicity in particular situations:

"Some classes [of compounds] give you more confidence than others by dint of the volume of information that has been accumulated, such as halogenated olefins, aziridines, nitrosamines, where there are many, many examples of carcinogens. So that the introduction in the future of a compound related to those compounds would certainly raise in my estimation a very high probability of a risk, solely based on the data that is available of similarly related compounds" (Fishbein, Tr. 1819).

Dr. Fishbein emphasized that informed scientific judgment is necessary to evaluate the likelihood that a chemical is carcinogenic by dint of its molecular similarity to known carcinogens.

"Q. Could you tell me what qualifications would be required to make this type of determination?"

"A. Well, a chemist with a number of years' experience, an organic chemist who is familiar with the literature of carcinogenic and mutagenic compounds, who has familiarity with metabolic routes, I think these attributes would be a requirement." (Fishbein, Tr. 1825)

Dr. Van Duuren (NYU) agreed with Dr. Fishbein that chemical structures can be informative about the likelihood that a compound has carcinogenic properties. Dr. Van Duuren wrote:

"The chemical structure of a compound can frequently serve as a guide to potential carcinogenicity in animals or humans." (Van Duuren, S. 3).

Dr. Van Duuren provided several specific examples of cases where carcinogenicity was indeed predicted by research scientists on the basis of molecular structures. Dr. Van Duuren wrote:

"The compounds chloromethyl methyl ether (CMME), bis(chloromethyl)ether (BCME), and trichloroethylene (TCE) are classical examples of the utility of such information. I selected CMME and BCME on the basis of their chemical reactivity from a list of over 400 chemicals handled by one chemical manufacturer. Their structures suggested that the halogen atom would be very reactive in displacement reactions. The existence of resonance forms involving carbonium or oxonium ions would allow nucleophilic displacement of the halogen bearing carbon atom. This has been shown to be a typical reaction of a-haloethers. Because of this they fall into the broad category referred to as alkylating agents, many of which have proven to be carcinogenic, e.g., epoxides and ethylenimine. Subsequent studies in mice exposed by the dermal and subcutaneous routes and in rats [exposed] subcutaneously bore out our initial assumptions. The bifunctional alkylating agent, BCME, was shown to be carcinogenic in both test systems and also a potent initiating agent in two-stage carcinogenesis. CMME although inactive alone, showed significant activity in 2-stage mouse skin carcinogenesis.

"A third example is TCE. On the basis of several known metabolites in humans, we proposed a metabolic pathway involving an epoxide intermediate. This, in addition to its structural similarity to vinyl chloride (a potent liver carcinogen), led to the prediction that TCE would be carcinogenic, which was proven correct by the recent NCI bioassay. TCE was shown to be carcinogenic by feeding in B6C3F1 hybrid mice. More recent biochemical studies have provided evidence supporting our initial prediction on TCE's metabolic fate.

"In addition, work done in our laboratory with the monofunctional epoxides, epichlorohydrin and styrene epoxide, has pointed to the importance of a reactive adjacent functional group for carcinogenic activity. Our predictions on these two compounds were confirmed in subsequent animal testing. From these and other studies, reliable criteria for predicting carcinogenic potential have been developed. These include:

1. Functionality (mono-, bi-, etc.)
2. Interatomic distances in bifunctional agents
3. Stereochemistry
4. Molecular flexibility in bifunctional agents
5. Chemical reactivity with nucleophilic reagents
6. Known or suspected metabolic pathways.

"From the above examples it is obvious that data on chemical structure should not be disregarded, as is proposed by OSHA." (Van Duuren, S. 3–5, references omitted)

Dr. Van Duuren further agreed with Dr. Fishbein that informed scientific judgment is necessary to evaluate the likelihood that a chemical is a carcinogen by virtue of its structural similarity to known carcinogens:

"* * * the inclusion of structural considerations into regulatory decisions cannot be reduced to a formula and will require good scientific judgment." (Van Duuren, S. 5)

In his comments on the usefulness of considering chemical structures in protecting employed persons from exposure to possible carcinogens, Dr. Van Duuren wrote:

". . . I believe that current scientific knowledge can support the use of chemical structure analysis in predicting the likelihood of chemical carcinogenesis in certain situations. Such information would be useful to OSHA in determining the classification of various toxic substances and, therefore, should be incorporated within the regulation." (Van Duuren, S. 8–9)

Dr. Van Duuren added:

"I agree that evidence of structural similarity to a known carcinogen would not stand alone in determining whether a compound is carcinogenic. However, it would seem reasonable that structural similarity in combination with positive results in one mammalian species or in several short-term tests would be sufficient evidence for a Category I classification or at least Category II." (Van Duuren, S. 5)

During oral testimony, Dr. Van Duuren testified:

"* * * the proposed [OSHA] document does not give that much weight to a structure activity, * * * we should consider very seriously the chemical structure and its possible biological activity * * *

"If we are dealing with direct-acting carcinogens, and by that I mean alkylating agents, acylating agents, we should be very much concerned about those compounds. In the case of indirect-acting agents which have to be metabolized, we should consider possible metabolic pathways and what intermediates might be involved, and where these intermediates will be activated carcinogenic intermediates." (Van Duuren, Tr. 1835)

Dr. William Lijinsky (NCI–FCRC) emphasized that many of the known chemical carcinogens belong to well-defined chemical classes which can be recognized by information on structures. Dr. Lijinsky mentioned three such chemical classes in his testimony:

"There has been an explosion of work in chemical carcinogenesis during the past twenty years or so and a large number of compounds have been found to induce cancer in experimental animals, many of them belonging to a few well-defined chemical classes. Among them are polynuclear hydrocarbons, aromatic amines and N-nitroso compounds. It is noteworthy that many of these carcinogens were considered safe (i.e. noncarcinogenic) before they were tested in animals, although the grounds for making such an assumption are obscure." (Lijinsky, S. 7)

Dr. Umberto Saffiotti (NCI) and Dr. Robert Squire (Johns Hopkins Univ.) stated that structural information should be used in conjunction with other data in classifying toxic substances. Dr. Saffiotti mentioned "special cases" where a combination of evidence could be sufficient to place a substance in Category I:

"An example could be that of a substance for which a single test in mammalian species is overwhelmingly positive, the compound is a close chemical analog of a group of well established carcinogens, and there is incomplete but highly suggestive evidence of effects in humans or in another species." (Saffiotti, S. 38)

In one of his exhibits, Dr. Saffiotti gave an example of the relationship between knowledge of structure-activity relationships and the adequacy of biologic systems in which the activity is measured:

"The manner in which the chemical aspects of carcinogenesis are evaluated in biological terms has sometimes caused me some concern. One of the major problems in attempting to assess the pathways for chemical activation of carcinogens and in identifying ultimate carcinogens consists of relating chemical structure to the long-term biological effect that characterizes a given chemical as a carcinogen, i.e., the induction of tumors. Let me use, as an example, the compound dibenzl[a,c]anthracene, a five-ring aromatic hydrocarbon without K region. It was first bioassayed by repeated skin applications in mice during the initial studies on the carcinogenicity of polynuclear hydrocarbons in the early 1930s (2). In a first series of skin tests, an impure preparation was tested in a total of 60 mice, of which only 17 survived at one year; the only two mice which survived over 600 days developed skin carcinomas. A purer preparation was tested in 10 mice, of which two survived over 600 days and one developed skin carcinoma. In a subsequent test using a pure sample, only 20 mice were used, only two survived at one year, the last mouse dying at 487 days, and no tumors were found. The authors went on to state: "we cannot say that no tumors would have been obtained had the mice lived exceptionally long, as in the earlier series with the impure material." However, in their discussion, the compound was considered noncarcinogenic and this classification was accepted, without further tests, by other authors. The compound was tested again in a similar way in a group of 15 mice by Heidelberger et al. (3) in the early 1960s and, since again no tumors were observed, the authors confirmed its lack of carcinogenicity; on this basis, the compound was later used as a "negative control."* Van Duuren et al. (4)

then tested it, but just for initiating activity on mouse skin. They found it positive and therefore called it a noncarcinogenic initiator. We tested it (5) for full carcinogenic activity on mouse skin and found it quite active as a full carcinogen, although with a long latent period (eight carcinomas out of 30 initial mice, average latent period of 60 weeks). DiPaolo et al. have shown (6) and he has reported here (7), that this carcinogen induces neoplastic transformation in vitro. The important point that I want to stress by this example is that our knowledge of the carcinogenicity of a given chemical structure is a reflection of the biologic systems by which we determine carcinogenicity. A critical evaluation of these bioassay systems and of their sensitivity is needed in defining the biologic activity (or lack of activity) of a given chemical." (Saffiotti, 1974, pp. 729–730; Exhibit to Saffiotti Statement)

Dr. Squire mentioned that chemical structures could furnish regulatory information, but only if used in conjunction with other data:

"I do agree, that structure-activity predictions ought not to be used *by themselves* to classify a substance as carcinogenic or noncarcinogenic." (Squire, S, 30, emphasis added)

Statements of witnesses invited by industry included several opinions that chemical structure information should indeed be used by OSHA in classifying toxic substances as carcinogens. Dr. Phillippe Shubik (Eppley Institute, Univ. of Nebraska) quoted the OSHA Proposal:

" '(OSHA) will not place any reliance on molecular structure * * *.' "

and commented:

"Surely this is somewhat extreme. It is accepted that specific chemical structures, *e.g.* aromatic amino groups, polycyclic aromatic hydrocarbons, the nitroso groups, tend to confer carcinogenicity on a molecule * * * thus, a complete failure to use structure-activity relationship is totally irresponsible." (Shubik, S. 11)

Dr. Francis Roe (AIHC) also stated that OSHA's original proposal not to take chemical structures into account in classifying chemicals for regulation should be modified. Dr. Roe wrote:

"* * * extrapolation to man should not, as seemingly proposed by OSHA in their 11 principles, be based solely on a consideration of the results of a long-term animal test. All available information should be taken into account, including chemical structure. * * *" (Roe, S. 71, emphasis omitted)

Dr. Roe added:

"* * * there are some chemical structures about which, even in the absence of any biological data, I should be very concerned." (Roe, S. 85)

Dr. Peter Goldman (Harvard Univ.) similarly advocated some role for information on chemical structures when he wrote:

"It is the structural properties of the carcinogen which determine its pathway of activation, and our knowledge of structural similarities enables us in many cases to predict which pathway will be followed for the activation of a particular compound." (Goldman, S. 12)

Additional testimony supporting a role for chemical structure information in identifying potential carcinogens was furnished by Dr. Walter Harris (Uniroyal). Dr. Harris related the attempts of his laboratory to design a miticide with the benefits of "Aramite" but without its carcinogenic activity. (Tr. 7394) He testified:

". . . we selected the best [miticide] and ran a full-scale, two-year animal (carcinogenicity) study. Because of the chemical relationship to "Aramite," we knew we had to put it to a very rigorous test . . . when the first few animals were sacrificed . . . they were full of cancer. We simply stopped right there and went back to the bench . . . There is a happy ending . . . we learned what part of the chemical structure caused cancer, and . . . create[d] a new chemical which does not cause cancer in animals yet controls the mites . . .". (Harris, Tr. 7395)

Testimony opposing any use whatsoever of chemical structures as predictors of possible carcinogenic hazard was limited to that of Dr. Arthur Furst (Univ. of San Francisco), Dr. Adrianne Rogers (MIT) and Mr. Robert Biggs (Brush Wellman). Dr. Rogers wrote:

"From a scientific point of view, it appears that the question of carcinogenicity should be considered separately for each element, compound, mixture, alloy or other material, and that tests of a material of one structure and composition cannot be used as a basis for drawing conclusions of carcinogenicity of materials of different composition or structure because they have one or more components in common. The definition of "toxic substance" should be clarified to include only the specific material tested and found to be carcinogenic." (Rogers, S. 9).

During cross-examination, Dr. Rogers repeated her opinion as follows:

". . . [T]ests of a material of one structure and composition cannot be used as a basis for drawing conclusions of carcinogenicity of materials of different composition or structure simply because they have one or more components in common", (Rogers, Tr. 8566)

Dr. Furst similarly opposed use of chemical structure information for regulation, and provided examples of why he considered such information to be unreliable for both organic and inorganic compounds:

"The (OSHA Proposal) discusses the aspect of chemical similarities as a means of predicting potential activity of untested compounds. In many, if not most cases, the actual research must be done . . . Butter yellow dye produces hepatomas when fed to rats; the 4'–F [derivative] is also active, the 2-OH is not.

"There is a tendency for many scientists who have not done actual laboratory research in metal carcinogenesis to lump all compounds of an element together. As noted in my publication (Furst, A. & Schlauder, M. J., Environ. Toxicol. and Path. 1, 51 (1977), silver fails to produce tumors under the most favorable conditions to test a compound as a carcinogen, yet in two of my references, silver is listed as being carcinogenic. In a new publication of mine (Furst, A., J. Nat. Cancer Inst., May (1978)), I show an organic manganese compound active in rats. The pure element manganese and the dioxide under identical conditions are inactive, thus manganese cannot be called a carcinogenic element. Again as quoted in one of my publications (Furst, A., Schlauder, M. and Sasmore, D.P., Cancer Research (1976)), we found lead chromate and lead acetate to be active, but not lead metal or lead oxide.

"From this discussion I believe that each compound, element, or agent, regardless of similarity to a demonstrated carcinogen, must be considered as a separate entity and must not be classified as a group. Otherwise we will regulate many compounds in element classes as carcinogenic, when only one compound is active. Also we will rule out whole families of compounds—for example all hydrocarbons, all azodyes, all nitroso compounds. This is neither logical nor scientific." (Furst, S. 27–28)

In his prepared oral statement, Dr. Furst discussed some examples of inorganic substances which, in Dr. Furst's opinion, showed that structural considerations can be misleading:

"I am of the firm belief of the necessity to evaluate each discrete element, compound, alloy or other chemically or structurally distinct material individually for its potential carcinogenic action in animals.

"In the Federal Register of Tuesday, October 4, 1977, volume 42, . . . No. 192, page 54188, "Criteria for Identification"—Part D "Molecular Structure or Similarity," OSHA recognizes this important principle that it is not possible to use a structure/activity relationship to predict the presence or absence of the carcinogenicity of a new compound. This preamble uses as examples a number of different classes of organic compounds, which do indeed provide sound support for the position which the preamble takes. There is no mention in this section, however, of metals, alloys, metaleoids or inorganic compounds. Some persons, in particular representatives of NIOSH, have suggested at this hearing, that while it is scientifically sound not to extrapolate from one organic agent to another based on chemical or structural similarity, the same is not true of inorganic materials, and particularly not of metals. These persons have stated that if an organic element or one or more of its compounds are shown to be carcinogenic, all forms of the materials, including other compounds and alloys containing it, should be deemed to be carcinogenic.

"No theoretical basis has been advanced for this distinction between organic and inorganic materials, nor could there be, for there is no sound basis for it. In fact there is a considerable body of empirical data to which my research has contributed, which demonstrates that the positive results of tests performed on certain elements, compounds or alloys are not indicative of carcinogenic activity in other compounds or alloys containing the same metal. For example, while certain forms of nickel including nickel powder, nickel carbonyl, nickelocene, and nickel subsulfide (Ni_3S_2) have reportedly induced cancer in animals, nickel monosulfide (NiS) under similar test conditions has not induced cancer. The use of the positive results with respect to certain nickel containing materials as a basis for drawing conclusions about other nickel containing materials would, in this case, result in the erroneous conclusion that nickel monosulfide is, and should be treated as a carcinogen.

"Still on the same subject of nickel containing materials, I recently ran a three year study comparing three nickel alloys called TRIP steels. Each contained about 8% nickel. Finely powdered samples were compared with pure nickel. No cancers of any kind were found in the TRIP steel treated rats; the rats treated with pure nickel had a statistically significant number of fibrosarcomas; the untreated vehicle control did not develop any tumor of the histological type.

"Manganese compounds provide another example. Bioassay work which I conducted under contract to the National Cancer Institute demonstrated that whereas manganese acetlyacetonate was carcinogenic, manganese powder and manganese dioxide exhibited no carcinogenic potential in parallel experiments. The report of this experiment, which was just published in the May, 1978 issue of the Journal of the National Cancer Institute, drew the conclusion that the results of tests conducted with a particular manganese containing material cannot be extrapolated to all compounds of that element, and that individual tests should be performed on each manganese containing material of interest before drawing conclusions concerning its carcinogenic potential.

"Lead and lead containing materials exhibit similar variations. We published in Cancer Research that lead chromate was carcinogenically active, but not lead metal or lead oxide. Others have published on the activity of lead acetate.

"A fourth example of the impropriety of grouping all compounds of an element as carcinogenic if one or two compounds of that element are active lies in OSHA's proposed treatment of beryllium containing materials. In the proposed beryllium standard, all beryllium containing materials were lumped together into one "substance" to be regulated as a single carcinogen. This is an example of the impropriety of extrapolating from one unlike substance to another. While there are reports in the literature that the element and certain of its inorganic compounds have induced tumors in animals, I can find no references which report that beryllium copper alloy has ever done so. I am making a thorough search of the literature for a new review I am writing. It is known that animal bioassay work has been done at NIOSH with dilute alloys of beryllium nickel and beryllium copper—the animals exposed to these agents did not develop tumors. The inability to make extrapolations from one material to another containing some of the same constituents, leads me to conclude that there is no scientific basis for postulating that beryllium copper alloy poses a threat as a tumorigen or a carcinogen. The only rationale, other than convenience, for extrapolating from beryllium compounds, such as beryllium sulfate to beryllium-copper would be that the elemental beryllium is the carcinogenic agent. In dilute beryllium copper alloys the beryllium exists in the alloy either in a solid solution or as a beryllide of the copper or cobalt. There is no known method at present of etching the elemental beryllium from the copper or vice versa. Metals in combination cannot be considered as the same physiological substances as the elemental metal.

"More recent research with metals indicates that under some experimental conditions, a metal may actually *inhibit* the action of a known carcinogen, be it inorganic or organic. Manganese inhibited the carcinogenic action of nickel subsulfide, a project completed by Dr. Sunderman under a contract for NIOSH. (Sunderman, *et al., Cancer Research 36,* 1790 (1976). Selenium inhibited the formation of colon tumors by 1, 2, Dimethylhydrazine (Jacobs, *et al., Cancer Letters 2,* 133 (1977), and finally, copper inhibited ethionine carcinogenicity (Brada and Altman, Adv. Exp. Med. Biol., 91, 193 (1977).

"In conclusion I believe that the term *substance* should be specifically defined as including only a specific, unique material, but not groups of similar or related materials; thus a 'toxic' substance within the meaning of the regulation would properly be limited to the specific, unique element, compound, or alloy, or other material tested by a valid experiment and found to be carcinogenic. Such a definition would comport with current scientific knowledge about the very limited extrapolability of results with one material to other materials similar in composition or structure" (Furst, Tr. 7151–7157).

Representatives from the Brush Wellman Company agreed with Dr. Furst that information on chemical structures should not be used by OSHA. "The Proposed Regulation," Brush Wellman wrote, deals with:

". . . the question whether chemical similarities between known carcinogens and other untested materials should be used as a basis for regulating the latter. Citing a number of circumstances in which small variations in composition or structure of different compounds or other materials can be determinative effects on carcinogenic potential, OSHA has tentatively concluded, and correctly so, that it will not rely on such similarities as a group for regulating materials . . ." (Brush Wellman, S. 3).

The NIOSH expert panel originally stated, in response to questions, that "similarity in structure cannot be used in an objective manner for regulation of chemical(s) as a Class I material" (Ex. 197, paragraph 29). However, during oral testimony, Dr. David Groth stated:

"If one or more inorganic nickel compounds were tested and found to be carcinogenic, then we assume that all the other inorganic compounds are also carcinogenic." (NIOSH, Tr. 3011)

* * * * *

"The fact that nickel sulfide has been found to be carcinogenic in rats by inhalation would indicate that nickel compounds in general are probably carcinogenic, and we would recommend that nickel compounds should be regulated as such.

"Now, I am not aware of any other nickel compounds that have been demonstrated to be carcinogenic—the nickel carbonyl by inhalation—other than that by inhalation. Other than that, there are some that have been shown to be carcinogenic by intramuscular injection as well.

"In general, I think that is correct. Once an opinion is made by the scientists who review the data that the nickel or whatever, metal salt, salts are carcinogenic, they can make a recommendation that the rest of the salts or inter-metallics or alloys will be also."

"If in fact, though, that someone were able to demonstrate something entirely different, I think that information should be evaluated, and perhaps at some time an exception might be made for one or more substances. (NIOSH, Tr. 3048)

Dr. Richard Niemeier clarified the NIOSH position on the usefulness of chemical structure information during oral testimony and stated that in the original NIOSH response to OSHA, quoted above:

"[NIOSH was] addressing organic compounds or organic substances, as opposed to inorganic substances * * * we are qualifying [the original NIOSH response to OSHA] to state an organic chemical instead of all chemicals . . ." (Tr. 3060–3061)

C. OSHA's Conclusions

On review of the scientific evidence presented at the public hearing, OSHA recognizes that its perceived position may not represent the consensus of scientific opinion found in the Record and perhaps should, therefore, be clarified or modified. The American Coke and Coal Chemicals Institute stated that:

"It is not clear in the proposal whether by 'toxic substance' or a 'potential occupational carcinogen' OSHA intends to mean individual chemical substances or combinations thereof as well." and "urge[d] OSHA to clarify its position on this matter in such a way as to reflect the complexities of actual situations". (P.H.C., Exh. 249, pp. 3–4)

In fact, there is substantial and documented evidence that for

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substances that clearly fall into certain classes, strong inferences of potential carcinogenicity can be drawn on the basis of structural similarity alone. The chemical classes involved are primarily groups of organic chemicals, in which several members of the class have been shown to be carcinogenic and in which the activity can be associated clearly with a common chemical moiety or structural subunit (see the specific examples cited by Drs. Fishbein and Van Duuren). For substances in these classes, the presence of the chemical moiety in question may be useful in determining whether a substance should be identified as a potential occupational carcinogen. As explained by Dr. Fishbein, the critical factors involved in the use of this information are the experience and informed judgment of the scientists making the evaluation. Before using such information, OSHA will ensure that it is scientifically evaluated. Although OSHA is impressed by the opinion of Dr. Van Duuren that a chemical showing structural similarity to a group of known carcinogens, in combination with positive results in short term tests, should be classified into Category I, the scientific evidence does not justify adopting this as a general principle. On the other hand, it would clearly be imprudent to permit continued exposure of workers to a substance in a well-known class of carcinogens (e.g., alpha-haloethers, aziridines, or N-nitrosamines) while awaiting results of a long-term animal bioassay. In such cases, OSHA may regulate a group of substances on the basis of clear, positive evidence available on some members of the group. In hypothetical cases such as these OSHA intends to make use of expert scientific judgment, and the regulation as promulgated here provides sufficient flexibility to do so.

Certainly, OSHA intends to utilize such evidence in priority setting. Section 1990.132(b)(5) includes as one factor to be considered:

"Whether the molecular structure of the substance is similar to the molecular structure of another substance which meets the definition of a potential occupational carcinogen;

And OSHA has provided that one of the issues to be considered in the individual rulemaking is

"(a) Whether the substance, group of substances or combination of substances subject to the proposed rulemaking is appropriately considered in a single proceeding;" (§ 1990.146(a))

The issues raised by inorganic compounds are more complex, and OSHA recognizes that scientific opinion on these issues is less uniform. On the other hand, the issue of what constitutes "structural similarity" among inorganic compounds was not addressed in any depth by the witnesses in this proceeding and some of the apparent divergences in opinion appear to reflect different concepts of "similarity". It is clear from the testimony presented at the hearing that the mere demonstration of carcinogenicity of one compound of an element does not warrant the automatic inference of carcinogenic risks posed by all other compounds and mixtures containing the element. On the other hand, some of the examples cited by Dr. Furst and other witnesses as cases of "non-carcinogenicity" are not convincing (e.g., nickel monosulfide and lead oxide). Beryllium copper is presently before OSHA in another rulemaking and will not be discussed here. Thus, OSHA cannot accept on the merits Dr. Furst's conclusion that the carcinogenicity of each compound of a metal must be established independently. Nor does the position taken by Dr. Rogers, that "the question of carcinogenicity should be considered separately for each element, compound, mixture, alloy or other material. . . ." appear reasonable. To adopt this position would mean that regulation could be avoided and workers continued to be exposed to a carcinogenic material by a slight change in product composition. To take Dr. Rogers' position on mixtures literally would mean that data could not even be extrapolated from one batch of a commercial product to another. Moreover, limitation of resources would make this approach totally impractical, and uneconomical, even ignoring the years of exposure to workers that would pass before the results of testing of each batch were obtained.

Instead of adopting any extreme position, OSHA intends to use "structural similarity" of inorganic compounds in a judicious and appropriate manner, with careful exercise of scientific judgment. In individual rulemakings taken pursuant to this policy, it may be reasonable to associate the carcinogenic activity exhibited by one or more compounds of a metal with the metal itself or with one of its compounds formed *in vivo*. In such a case, inferences of potential hazard posed by other compounds would be justified, at least if the element were present in a biologically available form. In other cases, such as manganese, cited by Dr. Furst, the carcinogenic activity of one manganese compound may not necessarily justify an inference of hazard for other manganese compounds. It is important to treat each case on its merits, and to utilize the scientific information in an informed and careful manner in each rulemaking.

In summary, OSHA is persuaded by the testimony of expert witnesses that information on structural similarity should be used wherever it provides probative evidence of potential risks, subject to the exercise of expert scientific judgment, in the individual rulemakings taken pursuant to this policy and not foreclosed—one way or the other—by this rulemaking. OSHA is also persuaded by the testimony of Dr. Shubik, that failure to use structure-activity relationships in identifying and classifying potential carcinogens would be irresponsible. OSHA believes that the language in the final regulation is based upon a general scientific consensus and substantial evidence in the Record, *viz:*

§ 1990.111(c). "This Part applies to individual substances, groups of substances, or combinations or mixtures of substances which may be found in workplaces in the United States. In individual rulemaking proceedings under this Part, the identity and range of substances and mixtures to be covered by the standard will be specified and the appropriateness of applying the available evidence to the range of substances and mixtures proposed for regulation will be subject to scientific and policy review."

OSHA notes that this decision does not differ from the method by which OSHA has regulated potential occupational carcinogens in the past. For example, vinyl chloride, 29 CFR 1910.1017, was regulated without regard to other vinyl substances, trivalent and pentavalent arsenicals were regulated together as one substance, 29 CFR 1910.1018, and emissions from coke-oven operations were regulated as a process, 29 CFR 1910.1029. It is intended that this decision give OSHA and the public that needed scientific flexibility in regulating different or distinct potential carcinogenic substances in the workplace with maximum protection for the worker by regulatory decisions properly tailored to each regulated substance, combination of substances or process, whatever the case may be determined as appropriate in the individual rulemakings held pursuant to this policy.

VIII. The Attempt To Make Quantitative Estimates of Carcinogenic Risks for Regulatory Purposes From Test Animals

A. OSHA's Proposal

In the preamble to the proposed regulation (42 FR 54167), OSHA proposed tentatively to use quantitative estimates of carcinogenic risk, if at all, only at the point of "considering the feasibility of the regulatory provisions of any given standard," but not for the purpose of "evaluating the expense and level of control considered feasible in view of the risk posed by any given substance." Citing papers by Mantel *et al.* (1975) and Mantel and Schneiderman (1975), the proposal pointed out the need to be cautious in estimating the nature of the dose-response relationship for any carcinogen. Citing a paper by Crump *et al.* (1976), OSHA referred to increasing evidence supporting the proposition that the response in terms of the number of individuals at risk within a population would be linear with dose, at least at low exposure levels:

"* * * linear dose-response relationships are likely to be approximately correct for many environmental carcinogens, and this should be publicly agreed for such substances, as it was for radiation 20 years ago." (Crump *et al.* 1976, p. 2979; Exhibit 6 to Hoel Statement.)

OSHA specifically invited the public's attention to the issue of whether quantitative estimates of risk should even be attempted for substances identified as potential occupational carcinogens and, if so, the methods to be employed for a quantitative estimation of (42 FR 54167).

B. General Response Received on the Issue

A very large response was received on this issue of quantitative estimation of risks. However, the opinions expressed varied widely, reflecting substantial disagreements about the relative merits, accuracy, and reliability of existing methods for risk estimation. Most participants agreed that the risks posed by potential carcinogens can be of widely differing magnitudes. Many participants also argued that some attempt should be made by OSHA to estimate risks as a function of exposure levels. However, there was great disagreement as to how these estimates should be used in regulatory procedures, if they are made at all. Some participants proposed that numerical estimates of risk should be used directly in cost/benefit balancing, whereas other participants emphasized the uncertainties involved in low-dose risk estimation. Some participants believed that these uncertainties were so great that quantitative estimates should not be made at all.

OSHA believes that many of the comments did not fully take into account OSHA's statutory responsibility or the difficulties in extrapolating to low-dose human exposure. All the issues are discussed extensively below.

A number of the participants placed in the Record very useful summaries of scientific evidence on the feasibility of making estimates of risk at low doses, on the methods available for making such estimates, and on their reliability and limitations. Section XI.B contains a detailed discussion of the economic implications of regulatory procedures that rely on quantitative risk assessments. This section is restricted to the scientific evidence OSHA places particular weight on the testimony and exhibits offered by specialists in this field, and by scientists with responsibility for making and reviewing such estimates, either for regulatory agencies or as chair-persons of expert scientific committees. These witnesses included Dr. David Hoel (NIEHS), Mr. Richard Peto (Oxford Univ.), Dr. Marvin Schneiderman (NCI), Dr. David Rall (Director, NIEHS), Dr. Matthew Meselson (Harvard Univ.), Dr. Donald Kennedy (Commissioner, FDA), Dr. Adrian Gross (FDA), and Dr. Roy Albert (EPA). OSHA also places substantial weight on the comments of Dr. Richard Wilson (Harvard Univ.), who provided a detailed review of the issues and specific suggestions for procedures. In addition, OSHA places special weight on the reports of recent expert review committees, including the Safe Drinking Water Committee (NAS 1977), the Saccharin Study Committee (NAS 1978), and the Scientific Committee of the Food Safety Council (FSC 1978).

C. Review and Analysis of Comments

For the purpose of review and analysis, the comments and testimony received on this issue may be divided into several discrete groups:

1. General comments on the need to consider carcinogenic "potency" or to make quantitative estimates of risk.
2. Definitions of "potency" and its relation to low-dose risks.
3. Methods for extrapolating dose-response data to low doses.
4. Scaling factors for extrapolating from animals to man.
5. Factors complicating quantitative estimates.
6. Comments on the role of risk estimation in the regulatory process.
7. Specific proposals for making low-dose risk estimates and for using them in regulation.
8. Specific examples of risk calculations for individual chemicals.

1. *General Comments on the Need To Consider Carcinogenic "Potency"*

A number of participants suggested that rational regulation required the consideration of carcinogenic "potency". While this concept may be appealing, for many of the proposals the term was not properly defined, nor were detailed regulatory frameworks utilizing the potency concept outlined. For example, both API and AIHC recommended the use of quantitative risk estimates in non-specific terms, as follows:

"The amounts of different chemicals known to have non-carcinogenic toxic effects can vary by several orders of magnitude **; a different permissible exposure limit for each is therefore appropriate and justified. Since it has been demonstrated that the amounts of different substances that produce carcinogenic effects can likewise differ by a million fold or more **, it seems irrational for the OSHA proposal to proceed on the basis that all known and potential carcinogens pose equivalent risks (by requiring the "lowest feasible" permissible exposure level in all cases). Carcinogens, like noncarcinogen toxins, should be classified or ranked in terms of potency, and regulated according to the degree of hazard that their use or uses presents to employees. For example, bischloromethylether is a very potent known human carcinogen; vinyl chloride is much less potent. More severe controls clearly are warranted for the former. Greater priority should be accorded to regulating a substance that is a potent carcinogen than a substance that is a weak carcinogen, where the extent of employee exposure is the same.

"The AIHC alternative calls for categorizing both human and animal carcinogens in terms of the potency of carcinogenic response, "high," "intermediate," or "low". These classifications are provided primarily to assist in establishing regulatory priorities. (However, a low potency carcinogen may warrant high priority if exposures are high and extensive.) The potency distinctions also would be an indicator of the regulatory controls to be imposed: more stringent controls for the more potent carcinogens. However, the categories would not inflexibly determine the regulatory controls. Such controls, including the means of achieving the permissible exposure level, would be determined on a case-by-case basis in light of assessments of risks and benefits. Controls and exposure levels could easily differ for two substances in the same category, depending on the circumstances of each case." (AIHC Alternative Proposal, pp. 30–31)

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"It is possible to determine through statistical techniques alone that considerable differences exist in the potency of suspect carcinogens. For example, exposure to certain chemicals has resulted in the development of cancers only at very high concentrations and/or after lengthy periods of exposure, and then at levels only marginally more significant than for the control group. Yet, other substances have generated substantial increases in the incidence of neoplasms even after brief or low level exposures. Thus, for example, the environmental pollutant aflatoxin requires less than one microgram to induce liver tumors in rodents, and saccharin was tested at 7.5% in the diet." Furst Statement 21

"OSHA's current proposal does not take even obvious differences in potency into account. There are two reasons why OSHA should consider such information. First, such

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information is necessary to prioritize substances for regulatory control: the most pressing health dangers should be controlled first. Second, without such information, OSHA will be unable to determine what level of health protection is feasible." (API, S. 54–55)

AIHC also proposed that OSHA should include assessments of risk in procedures for setting priorities:

"Assessment'of risk in this context means: (i) evaluation of the data to determine whether the quality of the epidemiological study or animal test provides a valid data base for a determination that a human cancer risk is presented by exposure to the substance; and (ii) evaluation of the potency of the substance with respect to human risk. This latter function includes selection of appropriate extrapolation techniques and consideration of the relevant metabolic and pharmacokinetic data as available." (AIHC Memorandum on Priorities, p. 3)

A number of individual witnesses also made comments to the same general effect. For example, Dr. Francis J. C. Roe (AIHC) made the following general conclusion:

"(vii) Carcinogens differ in intrinsic potency and this should be taken into account in predicting possible human hazard." (Roe, S. 76)

Dr. Richard Wilson (Harvard Univ.), introducing his statement with detailed proposals for risk estimation, summarized his recommendations as follows:

"I believe it is possible to make an adequate risk analysis from data on carcinogenesis in animals, and particularly in rodents. The evidence suggests that chemicals vary in their potency by factors of 100,000, and that potency in any species can be factored very roughly into an in-human potency multiplied by a species factor, recognizing that chemical insults may strike different organs in different species.

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"I have done some of this and I believe it is possible to calculate then the carcinogenic risk to man for any chemical where there is animal data. I have summarized some comparisons, and Professor Meselson has done also." (Wilson, Tr. 3364–3365)

Later, Dr. Wilson concluded:

"So therefore, I think the whole purpose of the OSHA proposal would be enhanced if one defined the 'as low as feasible' for exposures in terms of a calculation of risk and made some estimate of how much one could afford to pay to reduce that risk." (Wilson, Tr. 3372)

Dr. A. E. M. McLean (AIHC) commented as follows:

"OSHA ignores the concept of varying potency in carcinogens and proposes to treat all substances meeting its overly-broad Category I criteria alike, requiring the same regulatory response for each. This concept does not accord with reality, common sense or good science." (McLean, S. 5)

The Reserve Mining Co. commented as follows:

"It is undisputed that carcinogens vary in potency. As noted in the 'Supplementary Information":

"In comparable test systems, chemical carcinogens can vary in the responses they elicit by as much as a factor of 10^7 (10,000,000) (WHO Tech. Rept. 546, p..11)" (42 FR 54165). While recognizing that the potencies of carcinogens can vary by a factor of ten million, the OSHA proposal would gloss over such obvious distinctions and generically treat all carcinogens as one, subject to the same compliance standard. Such a generalized or generic approach to the regulation of cafcinogens is at odds with recent scientific thought." (Reserve Mining, S. 11–12)

Dr. Robert Eckardt (American Occupational Medicine Assoc.) made the following statement:

"That there are differences in potency between carcinogens is a well-established fact. This is illustrated in accompanying Table 1 from the literature or from government study reports. It is evident from this table that the effective dose for various cancer-producing agents in animals (that is, their potency) ranges from over 1% in the diet to as little as a few micrograms per day. Further, as stated recently by Boyland (J. Soc. Occup. Med. 27: 98, 1977), 'Thus there is a million-fold variation in the activity of carcinogenic substances when expressed on the basis of dose required'." (Eckardt, S. 2–3)

Dr. Robert A. Scala (Exxon) expressed a similar viewpoint, although he defined "potency" in a totally different way:

"The individual dose-response curve, in comparison with other dose-response curves of chemicals, indicate differences in potency. For an individual chemical determined by animal testing to be a carcinogen, the potency (i.e. tumor-yield, *or* time-to-tumor, *or* total percentage of animals affected, *or* numbers of tumors per animal) can be related to dose rate and total dose administered. These factors differ widely for different compounds. Any classification system which simply ranks materials as carcinogenic or noncarcinogenic and fails to differentiate among them on the basis of potency, would not reflect the potential carcinogenic risk differences represented by different chemical compounds. To be useful, a system for classifying chemicals which present a potential chemical risk must differentiate between high, medium, and low potency carcinogens. Otherwise, the primary purpose of assessing the risk represented by a particular carcinogen will not be achieved. It would be pointless to group an extremely weak carcinogen with an extremely potent carcinogen, since both the priority for action and the specific regulatory response should be markedly different for them." (Scala, S. 10–11)

Dr. Authur Furst (Univ. of San Francisco) made a similar recommendation:

"1. OSHA should ask the National Academy of Sciences, or some other body with broad-based expertise in dealing with carcinogens and cancer, to appoint a Committee to establish criteria for characterizing the carcinogenic potential of chemical substances. These criteria should go beyond the simple determination of whether or not a substance is a "carcinogen" to indicate whether or not there is actual evidence of a carcinogenic potential in humans, thus differentiating between human carcinogens and demonstrated animal carcinogens, and should also indicate the relative potency of both human carcinogens and animal carcinogens." (Furst, S. 29)

Dr. Paul Kotin (Johns-Manville) listed as one of the "crucial deficiencies" in the OSHA proposal:

"The grouping of all carcinogens into a single category for regulation, in the face of universally recognized differences in potency, mode of action, and species response." (Kotin, S. 29)

To meet this perceived deficiency, he made the following recommendations:

"3. The validity of risk level assessment must be substituted for the rigidity of the "lowest feasible level" philosophy.

4. The results of the study of risk assessment must be applied to a risk/benefit analysis." (Kotin, S. 32)

Dr. Richard Zeckhauser (Harvard Univ.) made the following statement:

". . . the classification system totally ignores evidence of the potency of potential carcinogens. Two, it ignores many important aspects of dose-response relationships . . . and this is related to the potency." At the very least, some rough distinctions should be made on the basis of potency. Surely a substance shown to be carcinogenic to humans at exposures approaching current occupational levels ought to be treated differently than one for which the evidence is restricted to very high doses administered to animals by a route other than those encountered in the workplace." " (Tr. 4317–4318, quoting from his own draft of an unpublished paper)

Dr. Philippe Shubik (Eppley Institute, Univ. of Nebraska) commented as follows:

"The failure to appreciate the fact that carcinogens may differ in their potency by up to seven orders of magnitude considerably reduces the effectiveness of these proposals in the control of occupational carcinogens. Some attempt to divide carcinogens into strong and weak actors is essential." (Shubik, S. 33–34)

A number of other witnesses made similar comments and proposals.

In addition to these recommendations that "potency" and/or risk estimation be used in some manner to regulate carcinogens, a second group of participants testified that quantitative estimates of carcinogenic risks can and should be made—but only if their uncertainties are explicitly recognized and their use carefully limited. These witnesses felt that risk assessments, given the uncertainties involved, would play a more useful role in the structuring of priorities than in the standard-setting process. Dr. Donald Kennedy (Commissioner, FDA) made the following comments:

"I believe it important to note that not all carcinogens are equally potent and that there are vast differences in the levels of human exposure to carcinogens. Quantification of carcinogenic risks, regardless of the method used, takes into account these differences and permits the identification of the most important hazards, the least important or insignificant, and those falling between these limits. I urge OSHA to use quantification of risk as one component of decision-making. I have no suggestion about the best way to quantify risk, but it is clear to me that, from a scientific view, it is important to do so." (Kennedy, S. 11–12)

Dr. David Hoel (NIEHS), a specialist in quantitative risk assessment, introduced his direct testimony as follows:

"The need for a quantitative approach to human risk assessment can be based upon two premises: (1) Some carcinogens or their active metabolites directly interact with cellular DNA and produce a form of cancer which is the result of a single cell somatic mutation (see Cairns (1975)). Thus we are at least theoretically in a no-threshold situation for some chemicals and therefore absolute safety cannot be assured (see NAS/NRC (1977)). (2) Quantitatively there is a broad range of carcinogenic potencies among chemical carcinogens (see NAS/NRC (1977), Meselson and Russell (1977)).

"Given these two concepts there clearly is a need to assess quantitatively the risk to man at low exposure levels in order to have a rational standard setting and methodology." (Hoel, S. 1–2)

Dr. David Rall (Director, NIEHS) stated that the concept of "feasibility" includes consideration of the magnitude of carcinogenic risks, and that scientists should both estimate such risks and define the uncertainties in such estimates:

"Ultimately, however, the selection of a "feasible" level depends on a judgment as to when the costs of control (which may include health risks and resource costs as well as economic costs) are justified by the magnitude of the carcinogenic risks posed by unregulated exposure . . . The task of the environmental health scientist is to estimate as precisely as possible the magnitude of the risks posed by exposure, and to define the uncertainties involved in these estimates. The scientist should also specify the point at which scientific analysis ends and social judgment must be involved." (Rall, S. 1–2)

Mr. Richard Peto (Oxford Univ.) agreed that the selection of a "feasible" level of control included some consideration of the magnitude of potential risks. (Peto, Tr. 2554)

Mr. Steven Jellinek and Dr. Roy Albert (EPA) described how quantitative risk assessment is used by the Environmental Protection Agency:

"EPA uses a two-step decision-making process to regulate potential carcinogens. The first decision faced is whether a particular substance poses a cancer risk. The second decision is what regulatory action, if any, should be taken to reduce the risk. The two decisions are reached separately.

"Once EPA has determined that a substance being evaluated does pose a carcinogenic risk, EPA proceeds to independent analyses of the magnitude of the risk posed by the substance and, where the law permits us to do so, the socio-economic impacts of regulating the substance. Both analyses are completed before the Agency reaches a regulatory decision. The magnitude of the risk plays a significant role in EPA's regulatory process, entering into the decision whether to regulate a substance, what priority we give to regulation of the substance, and what type of regulatory action (if any) we should take." (Jellinek, S, 2)

"The second question of how much cancer the agent is likely to cause is answered by use of various mathematical extrapolation models applied to the animal or epidemiological results together with estimates of the levels of exposure to the agent to the extent that such estimates can be made. These quantitative estimates are regarded as crude and offered only to give rough estimates of the magnitude of the public health problem. Such estimates may be of use in setting regulatory priorities or in determining levels of feasible control." (Albert, S. 2)

Mr. Jellinek suggested that OSHA should use quantitative estimates of risk for two purposes:

"Second, we encourage OSHA to include risk estimation in its regulatory process. While cancer risk estimation is an imprecise endeavor involving many uncertainties, such estimation does succeed in providing some measure of the magnitude of risk posed by a substance. Such estimation should be used, in some instances, to determine whether to regulate. If a substance is believed to be a carcinogen but is a weak carcinogen to which few persons are exposed, the best regulatory course might be to defer any regulation in favor of concentrating limited resources on higher toxicity, higher exposure substances. OSHA's proposal does not appear to permit the agency to adopt this course. We believe that OSHA also should use estimation of risk to help establish priorities and to help determine "feasibility" of various levels of control. The greater the degree of risk posed by a substance, the tighter the control should be of that substance." (Jellinek, S. 5–6)

Dr. Albert also recommended that OSHA should use quantitative risk assessment for the same two specific purposes:

"Finally, a comment on the matter of quantitation of cancer risks. The extrapolation of cancer risks to very low levels of exposure is undoubtedly more useful to EPA than OSHA. In the general environment, exposures to carcinogens can commonly be very low and involve large populations. In the occupational setting the potential for exposure is always high. Nevertheless, because carcinogens can vary in potency by as much as a million fold, OSHA should strongly consider using quantitative risk assessment to the extent possible for prioritization of chemicals and as a factor in judging feasibility of regulatory control." (Albert, S. 6)

Dr. Joyce McCann (Univ. of Calif.) made the following suggestions in the summary of her statement:

"II. Quantitative human risk extrapolations from animal carcinogencity tests can be useful within the lowest feasible level framework proposed by OSHA.

A. There may be examples where "feasibility" and acceptable risk are quite incompatible.

B. Risk estimates can be wrong by an order of magnitude, or even more, and still be useful as rough estimates in determining if the lowest feasible level is compatible with acceptable risk.

C. Although the data are not extensive, they indicate that carcinogenic potencies of chemicals in rodents and in humans are roughly similar.

D. For use in low dose extrapolations, a linear dose response, even though uncertain, is the most reasonable assumption consistent with the use of risk assessment calculations for the purpose of determining upper limit estimates.

E. Although risk estimates can be useful within the context of the lowest feasible level approach, they should not be used to set exposure levels higher than the lowest levels feasible." (McCann, S. 3–4)

These and other witnesses stressed the uncertainties inherent in quantitative risk estimates, and proposed their use only for limited purposes, as discussed more fully below.

In contrast, a third group of witnesses expressed the opinion that quantitative risk estimates could not and should not be made at all, at least in circumstances where experimental data in animals were the only basis for estimating risks to exposed humans. Dr. Richard Griesemer (NCI) expressed this opinion as follows:

"And where (the general principles of toxicology) do not apply, in my opinion, is when one tries to extrapolate to lower dose levels. In my opinion, as I have said, I do not believe that can be done, even for the animal." (Griesemer, Tr. 938)

He continued:

"But my belief then is that we should not attempt to extrapolate dose data or route data from animals to man; I do not think it is possible." (Griesemer, Tr. 957)

Dr. William Lijinsky (NCI–FCRC) made the following statements:

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"With only a single exception until now, all of the known agents carcinogenic in man have reproduced this carcinogenic effect in one or more species of experimental animals. But without reliable indication, man is more or less susceptible to their carcinogenic action than are the animals. This makes risk extrapolation impossible with our present knowledge other than to state a carcinogenic risk exists." (Lijinsky, Tr. 1018)

He added:

"I do not extrapolate risk. I do not think it is possible. As I said in my summary, I do not think it is possible to extrapolate risk at all at the moment, except to say that any compound which induces tumors in experimental animals in a well-conducted test poses a risk to man if man is exposed to it. That is all you can say. You cannot measure the risk."

* * * * *

"I said that there might be strong and weak carcinogens. I did not say we could identify which they were. I implied that there might be strong and weak carcinogens, but I did not say that we could identify them, or we could tell them one from the other in any way." (Lijinsky, Tr. 1056)

Similar statements were made by other distinguished scientists: Dr. Umberto Saffiotti (NCI), Tr. 1009; Dr. Benjamin Trump (Univ. of Md.), Tr. 2019; Dr. Curtis Harris (NCI), Tr. 2019; Dr. Isadore Dubin (Medical College of Penn.), Tr. 1128, 1151, 1166, 1199, 1202; and Dr. Bernard Weinstein (Columbia Univ.), Tr. 2284. Dr. Curtis Harris (NCI) was explicit in stating that we do not have test systems which can be used to predict "potency" of chemicals in humans:

"Beta-naphthylamine is a good example. That is why I think we have to be very hesitant in making quantitative extrapolations. I do not think we can do that. Beta-naphthylamine for workers who have been exposed to that compound for over a five-year period causes 100 percent bladder cancer. Now, you would have never predicted that from the animal tests. You would have predicted that it is a carcinogen, but you would not have predicted its potency. And that is very unfortunate. I wish we had test systems in which we could predict potency, but we do not." (Harris, Tr. 1974–1975)

Dr. Griesemer (NCI) made a similar comment:

"Intellectually and intuitively, I believe that it is very likely that there is a difference in potency of chemicals. When it comes to absolute evidence that demonstrates potency, I cannot do it, because of the confounding factors in the experiments." (Griesemer, Tr. 1005).

Three recent reports of committees of the National Academy of Sciences have given similarly conflicting recommendations on the use of quantitative risk assessment. Dr. David Rall (Director, NIEHS) introduced the section of the report of The Safe Drinking Water Committee which dealt with safety and risk assessment (NAS 1977a). This chapter was written by a subcommittee of which Dr. Rall was chairman. One of the four principles enunciated by the subcommittee as underlying efforts to assess the irreversible effects of long-continued exposure to carcinogenic substances at low dose rates was the following:

"Principle 4:

"Materials should be assessed in terms of human risk, rather than as "safe" or "unsafe."

"The limitations of the current experimental techniques do not allow us to establish safe doses, but with the help of statistical methods we may be able to estimate an upper limit of the risk to human populations. To calculate such a risk, we need data to estimate population exposure; a valid, accurate, precise, and reproducible assay procedure in animals; and appropriate statistical methods. Several general guidelines may be presented. First, no rigid, generally applicable procedure can be recommended for testing all toxic agents. Substances differ too much in their overall effects, and the design of appropriate assays will ultimately have to be left to the well-informed judgment of expert investigators. If substances that affect large populations are found to be carcinogenic, experiments of much wider scope may have to be conducted to obtain more detailed information on their possible effects in humans." (NAS, 1977a, p. 56; Appendix I to Rall Statement)

Elsewhere in the chapter the subcommittee discussed methods for low-dose extrapolation and actually calculated potential risks for exposure to certain substances in drinking water (*ibid.*, p. 794). However, as discussed below, the subcommittee strongly emphasized the uncertainties in low-dose risk extrapolation, and the committee did not use their risk estimates to propose drinking water standards.

The Pesticide Information Review and Evaluation Committee (NAS, 1977b) considered it impossible to make quantitative estimates of risk to humans:

"In conclusion, chemical carcinogens appear to act in laboratory animals and humans via similar and possibly identical pathways. One must assume, therefore, that chemicals which are carcinogenic in animals may be carcinogenic in humans, but the committee is unwilling to quantify this risk. The existence of large species differences in responses to chemical carcinogens is a fundamental uncertainty in the extrapolation of carcinogenicity data from laboratory animals to humans.

"Through the use of data generated from experiments with animals, it is possible to attempt estimation of the risk to humans associated with exposure to chlordane, heptachlor, and/or their metabolites. Unfortunately, any such assessment must rely to a large degree on subjective judgment about the magnitude of certain important numerical quantities because of the lack of specific knowledge about the nature of the dose-response curves for the tested animal species beyond the fixed experimental range (i.e., within the range normally encountered in the environment). Furthermore, assumptions must also be made about the unknown effects of potential species differences with respect to physiological, metabolic, and/or carcinogenic processes involved. Clearly this assessment process is not entirely objective. Since the committee was charged with answering questions based on scientific facts, it considers it inappropriate to adopt such a judgmental procedure." (NAS, 1977b, p. 29; Exhibit 10d to Epstein Statement)

Most recently the Report of the Committee for a Study on Saccharin and Food Safety Policy (NAS 1978) discussed this issue at some length. After presenting a set of disparate estimates of potential human risks, the Committee concluded:

Since animal studies that are properly conducted to detect carcinogenic activity are qualitatively predictive of human responses, the committee concludes that saccharin ingestion presents a predicted cancer risk to humans. However, because of the substantial uncertainties in extrapolations from experimental doses to human exposure levels, the committee concludes that quantitation of risks to humans cannot be made with confidence. (Table 3–8). (NAS, 1978, p. 3–74, emphasis in original).

Finally, the Food Safety Council recently issued a report which recommended quantitative assessment of risks for all food components and calculated "virtually safe doses" for a number of carcinogens:

"When toxic or other undesirable effects are found in test procedures, it is almost always at exaggerated dose levels. It then becomes necessary to estimate the probability of such a response at dose levels encountered under normal conditions of consumption. A procedure for making such an estimate is presented in the section entitled, Quantitative Risk Assessment." (Food Safety Council, 1978, p. 4; Hearing Exhibit 227)

In summary, there is considerable divergence of opinion among scientists on the issue of quantitative risk assessments. Although many participants believed it desirable to differentiate between carcinogens on the basis of the magnitude of the risks they pose, most recognized that there is considerable uncertainty in estimates of these risks, and a substantial number of distinguished participants believe that such estimates cannot be made at all. (See subsections 7 and 8 below.)

2. Definitions of "Potency" and Its Relationship to Low-Dose Risks

Many participants to this rulemaking used the term "potency" in imprecise ways. In the passages quoted above, Dr. Eckardt used the term as equivalent to "effective dose" (concentration in diet or daily dose in mg/kg) whereas Dr. Scala used it as equivalent to effect ("tumor-yield, or time-to-tumor, or total percentage of animals affected, or numbers of tumors per animal"). Dr. Zeckhauser originally defined potency as:

"basically how strong the carcinogenic *potential* of the substance is" (Tr. 4335, emphasis added).

However, he subsequently gave two different definitions:

"As I understood potency, it is—I think one interpretation that is sometimes given to it is *the slope of the dose-response curve*, which basically says how much of a particular reaction you get for an increase in the dose level. So this would—potency, to give you a more general interpretation, as I interpreted it, means two substances to which we are exposed at the same level; the more potent one will cause more of whatever phenomenon we happen to be looking at. If it is carcinogenesis, the more potent substance, and *if I say Substance A is twice as potent as Substance B, then I would say that over the relevant range that if I exposed 10,000 workers to each of these two substances at the same levels of concentration, there would be twice as many workers contracting cancer in one sample as in the other, on an expected value basis.*

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"And what it means is it is an abstract concept which can be applied in a great variety of areas which *relates exposure to consequence.* And therefore, it applies as well to human beings as it does to animals. We may not have the information on human beings, but certainly the potency concept applies to human beings." (Tr. 4369–4370, emphasis added)

Dr. Paul Kotin (Johns-Manville) defined potency as:

"The ability to induce neoplasms on the basis of the concentration of the agent multiplied by its time, which is the pharmacologic definition of dose . . ." (Kotin, Tr. 8883).

Dr. Kotin also drew an analogy between the term potency in chemical carcinogenesis and the term "linear energy transfer" in radiation carcinogenesis (Kotin, Tr. 4886). Although the latter is a measure of the effects of radiation at the cellular level, Dr. Kotin stated that he was equating this with carcinogenic potency at the whole-animal level (Kotin, Tr. 8701–8703).

Only two scientifically precise definitions of potency were presented in the record. Dr. Joyce McCann (Univ. of Calif.) and Dr. Matthew Meselson (Harvard Univ.) designated the term potency as the daily dose in mg/kg giving 50% tumor induction in 24 months in a rodent bioassay. Dr. Lamm (API Alternatives Panel) gave a similar definition. The term was precisely defined in a paper by Meselson and Russell (1977), who also gave an operational method for calculating it from bioassay data:

"We define the carcinogenic potency, k, as $1n2/D_{\frac{1}{2}}$, where $D_{\frac{1}{2}}$ is the daily animal dose which gives 50% cumulative single-risk incidence of induced cancer after 2 years of exposure, a time chosen to approximate the normal average life-span of laboratory rats, mice, and hamsters.

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"Animal experiments generally do not provide k directly. We obtain it in two steps. First, we estimate the cumulative single-risk incidence of tumor, I, at a time t measured from the start of treatment at dose rate D. Then we use the relationship $k = [-\ln (1-I)]/[Dt^{n+1}]$, where time is expressed in units of 2 years. This serves to normalize experimental data to an accumulated single-risk incidence of 50% and an exposure time of 2 years. The relationship follows from the definition of k and the assumption that the proportion of previously unaffected animals developing tumors per unit time after exposure for a time t varies with the first power of D and the nth power of t. For continuous carcinogenesis, this dose and time dependence, with $2<n<4$, provides an approximation to the data for a variety of animal and human cancers (Druckrey 1967; Doll 1971). Since there is not adequate information available to determine the best value of n for most of the compounds of interest here, we selected the value $n=3$ at the outset and have used it throughout. In any case, the rejection of experiments with exposure times of less than 50 weeks helps to avoid very large errors in normalization." (Meselson and Russell, 1977, p. 1474; Exhibit 17 to Hoel Statement)

Dr. Richard Wilson (Harvard Univ.) introduced and defined the term as follows:

"This risk contains two factors: the exposure to the carcinogen, and the carcinogenic effect at this exposure. This will be a simple product *if* it is assumed that the dose-response relationship is linear. The *slope* of this dose-response relationship is the *potency* and we obtain a simple relationship at low doses." (Wilson, S. 11)

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"The relationship between fractional cancer incidence and exposure (E) (=dose rate) is $I=(1-\exp(-PE))=PE$ at low exposure where P is a constant called the potency. Sometimes the fractional cancer incidence is called the cancer risk.

"This definition of potency assumes a proportional response even if animals show toxic effects. For the moment, I will ignore details such as these, and bring them in as corrections later." (Wilson, 1978, p. 8; Hearing Exhibit 51)

For an operational definition of potency, Dr. Wilson (Harvard Univ.) specified that one should take response data at high doses, draw a straight line to the origin, and calculate the potency as the slope of this line (Tr. 3428–3429). As is made clear in these quoted statements, Dr. Wilson's definition of potency is dependent on the assumption of a linear dose-response relationship. Under this assumption, his definition is essentially the same as that of Meselson and Russell (Tr. 3428). However, if the dose-response relationship is not linear, the two definitions are not necessarily related at all. For example, if two carcinogens have dose-response curves of different shapes, one may be relatively more "potent" at high doses and the other relatively more "potent" at low doses. Thus, unless a specific mathematical form for the dose-response relationship can be assumed, there is no unique definition of "potency" that is applicable to any carcinogen unless a specific region of the dose-response relationship is specified (as was done, for example, by Meselson and Russell).

OSHA's primary concern is with risks to workers exposed at low doses, and for this purpose measurements of responses at high doses are not directly applicable unless some method of extrapolation can be agreed upon. However, all the definitions of potency proffered at the hearing (including Wilson's—Tr. 3429) are of very limited relevance since they are based on measurements of responses at high doses. The important question at issue is a different one: how to estimate risks at low exposure levels.

Another fundamental consideration is that "potency" is not an intrinsic property of a carcinogen, but can only be defined in terms of a specific test system. Dr. Peter Goldman (API) stated this most explicitly:

"Well, I think that first of all, potency has to be defined in terms of a particular test system.

"In other words, the measurement that is made is critical and the system in which that measurement is made. And then just, if we now in that system have two compounds A and B and we find that we get the same response in these two systems with twice as much A as B, then we can say that A is half as potent as B.

"In other words, and there are a little technical tricks one looks for 50% response and equates compounds on the basis of weight required to give the 50% response. But basically, I think that that is the definition of potency.

"And, I might point out that perhaps some confusion arises in that in certain test systems compound A can be more potent than compound B, whereas in another test system the reverse can occur." (Goldman, Tr. 4489)

Dr. Umberto Saffiotti (NCI) also discussed this issue at some length:

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"There has been discussion of the word "potency" as if that were something we can identify as being intrinsic in the molecular structure of a chemical; a chemical carries that potency. Now, potency obviously is potency as measured by an effect. The effect is in interaction of the agent with a host, and the potency that we can—the effects that we measure and can try and classify in potency, are the results of that chemical biological interaction. Therefore, they are dependent on the biological conditions under which the interaction occurs.

"Now, if we change that, we are to be—we are expecting that the total effect will change. Therefore, we are measuring something that is a variable by itself. Now, if that range of variables were narrow and if we could say by and large, if something has a potency that we can measure by the intensity of this effect and the effect in another species or system or under other conditions may vary from it, but probably not more than by a factor of two, we would then have a least a certain basis for correlation if we were comparing minor variations there with possibly large variations between different chemicals.

"Now, so far we have been looking into this matter with a great deal of interest because it would be very useful scientifically to be able to make some sense out of the whole issue of potency. I hope some day we will find some new approach to it that would allow us to do it. At the present time we find such a marked variation in the response, both at the inter-individual level, particularly as it applies to people, and at the species-to-species or biological system to biological system level, that we cannot really extrapolate the magnitude of an effect as measured in one case to the prediction of an effect in another. Therefore, the term "potency," which is implying a continuum, a property, is to me really not possible to document in a scientifically acceptable way. We can have different orders of effect within a biological system, then when we change the system we change the effect." (Saffiotti, Tr. 1005–1007)

OSHA concludes that much of the testimony addressed to carcinogenic "potency" was either confused or relevant only to responses at high doses. Since standards setting is concerned with estimation at low doses, such concepts are not directly relevant. The remainder of this discussion will be limited to analysis of testimony on the subject of estimation of risks resulting from low doses.

3. *Methods of extrapolating dose-response data to low dose levels*

Extrapolation of dose-response data to predict potential risks at low doses requires some kind of assumption about the mathematical form of the dose-response relationship. Several detailed descriptions of mathematical models incorporating such assumptions are available. One of the simplest introductions is provided in the report of the Committee for a Study of Saccharin and Food Safety Policy (NAS 1978):

"A chemical that has been associated with an increased cancer incidence in bioassays of laboratory animals is likely to be a carcinogen in humans. Extrapolation to humans of cancer incidence in animals is necessary to quantify the expected degree of risk for humans that are exposed to concentrations of the chemical that differ from those in bioassays of animals. This extrapolation procedure consists of two basic steps:

1. within the test animal species, extrapolation of the experimental results of tests performed at high exposure or dose levels to much lower exposures in animals, which correspond to human exposures; and

2. extrapolation of these estimated risks for animals at low doses to the risks for humans at comparable levels.

"The first step in this process requires the assumption of some biological model, which implies a mathematical rule that relates the dose level of a particular carcinogen to an observable response, e.g., the occurrence of a particular type of tumor at any time within the animal's natural lifespan or lifetime for the duration of the study. This assumption is normally required since the animal studies are conducted at much higher exposure levels than are commonly found for human exposures. These high exposure levels must be used to obtain measurable results with a limited number of animals. At dose levels that correspond to common human exposures, several thousand animals would be needed to estimate the increased carcinogenic risk in humans.

"Many theoretical dose-response models of carcinogenesis have been proposed, each of which leads to a particular mathematical form for this dose-response relationship. All theories have one concept in common: that there is no known uniform threshold dose below which any carcinogenic response is impossible for all individuals at risk. Even if thresholds do actually exist, it is scientifically impossible to measure them or to prove their existence. In addition, the assumption of one uniform threshold for heterogenous groups is unrealistic. It is much more likely that each member of the population has an individual threshold level which is some complex function of unique biochemical and physiological composition. A further argument against use of threshold models for the estimation of attributable risk is that the environment contains many carcinogenic agents and that the particular chemical in question may be acting additively over and above this "background." Therefore, since tumors do appear spontaneously in a central population, the threshold, assuming it does exist, has probably already been exceeded by the environmental background. Craig and Miller (1974), in a review of 151 dose-response curves, found only one to be inconsistent with the no-threshold hypothesis.

"Some of the more commonly used mathematical extrapolation modes are the following:

"The *probit model* is derived from the assumption that each member of the population has his own tolerance level for the chemical, below which there will be no response and above which the subject will respond. These tolerances are further assumed to vary among members of the population and to follow a log-normal probability distribution. Mantel and Bryan (1961) have suggested use of a modification of this model for extrapolation of carcinogenesis bioassays from high to low doses. Since the tolerance distribution for the homogeneous laboratory animal population should have a smaller variation than that of the heterogeneous human population, they suggest that the risk extrapolation be based on a model with a more shallow slope than that observed in the bioassay. This shallow slope should be no greater than the average true slope over the extrapolation range. A slope of one probit per 10-fold change in dose is commonly used for this Mantel-Bryan extrapolation.

"The *single-hit, or single-event, model* is derived from the assumption that cancer starts in a single cell as the result of some random event, or "hit", which produces an irreversible change in the cell's DNA. It is further assumed that the probability of this event, attributable to the carcinogen in question, is proportional to the exposure level.

"The *multi-stage model* (Crump *et al.*, 1976), a generalization of this single-event model, is derived by assuming that the carcinogenic process consists of some unknown number of stages that are required for cancer expression. The probability of at least one of the transitions from one stage to another is assumed to be a property of the particular carcinogen in the same manner as the single-event model.

"Other models, such as the log-logistic and multi-hit models (Food Safety Council, 1978) have also been proposed, but the three models described above produce a range of extrapolations that would be obtained by most other models. Models of dose-response based on the actions and reactions on *in-vivo* chemical and physiologic processes have also been proposed (Gehring and Blau, 1977). These are determined by a series of differential equations corresponding to multicompartmental models of the chemical processes within the body that correspond to the internal fate of the chemical carcinogen.

"The difficulty with using any of these dose-response models for high- to low-dose extrapolation purposes is their similarity over the observable response range, 5% to 95% response rates, contrasted with their dissimilarity in the range of very low response rates (Table 3–7).

Although all three models are similar in the observation range, the lower part of the table shows that extrapolation to exposure levels that are expected to give very low response rates is highly dependent upon the choice of mathematical model. The upper part of Table 3–7 shows that three of the most commonly used models differ by very little over a 256-fold dose range. At a dose that is 1/1000 of the 50% response dose, the single-hit model gives an estimated response rate that is 200 times as large as the log-normal model. The fact that a limited animal bioassay that is conducted at dose levels high enough to give observable response rates cannot discriminate among these various models and the fact that these same models are substantially divergent at lower dose levels provides the major uncertainty for high- to low-dose extrapolation. (NAS 1978, pp. 3–61—3–66).

TABLE 3–7.—Expected Response Rates as a Function of Dose for Different Dose-Response Models[a]

Relative Dose	Percent		
	Log Normal	Log Logistic	Single Hit
16	98	96	99+
8	92	92	99
4	84	84	94
2	66	70	75
1	50	50	50
.50	31	30	29
.25	16	16	16
.125	7	8	8
.063	2	4	4
0.01	.05	.4	.7
0.001	.00035	.026	.07
0.0001	.0000001	.0016	.007

[a] Data from USCHEW 1971.

A number of other sources provide more technical accounts of the mathematical models available. Dr. David Hoel (NIEHS) provided the following introduction to the multi-stage model and showed its relationship to the linear model:

"Several quantitative theories of carcinogenesis have been proposed which relate tumor incidence with both dose rate and duration of exposure of the carcinogen. These models generally assume that the carcinogenesis process is single cell in origin and is the result of several stages which can include somatic mutation. The transitional events are individually assumed to depend linearly on dose rate. This then leads in general to a model in which the probability of tumor is approximately a low order polynomial in dose rate. In the low dose region which would relate to environmental levels one finds that the response is well approximated by a lidear function of dse rate (Armtage ad Doll, 1961; Crump *et al.*, 1976). Another class of dose response models which have been applied are those which have a history in bioassay work. For example, both the logistic and probit functions are used for estimating LD_{50} in toxicology. Mantel and Bryan (1961) have applied the probit to low dose estimation in carcinogenesis. Its drawback is primarily that the model is not based upon a mathematical description of a biological mechanism as is the case with the multistage somatic mutation model. Since it produces quite different results in the low dose region it probably should not be applied in those cases where it is believed that the carcinogen is direct acting with cellular DNA as is proposed in the multistage models (Crump *et al.*, 1976; Guess *et al.*, 1977).

"Of the multistage models the one discussed by Armitage and Doll (1961) has received considerable attention (Crump *et al.*, 1976 and 1977; Guess and Crump, 1976; Guess *et al.*, 1977; Hartley and Sielkin, 1977). The function which is used states that the probability of a tumor by time t using dose rate d is

$$P(d,t) = 1 - \exp[-g(d)h(t)]$$

where

$$g(d) = \prod_{i=1}^{k} (\alpha_i + \beta_i d)$$

with $\alpha_i > 0, \beta_i > 0$ for $i = 1, \ldots, k$. This represents a k stage or mutational step model with dosage and time factoring. The above mentioned authors have developed maximum likelihood estimates for the unknown parameters in the model. Further they have approximate confidence estimates on low dose estimates of the probability of tumor. These procedures are mathematically complicated in that computing algorithms are required in order to obtain the estimates. Recently Guess *et al.* (1977) have applied these algorithms to experimental carcinogenesis data on vinyl chloride, DDT, chloroform, DMN and dieldrin. In all of these cases k=1 or 2 was found to provide the best fit although DMN yielded a zero estimate of the linear coefficient. In each case the upper bound of risk was estimated to be linear at low dose as one would theoretically anticipate.

"It was previously mentioned that the multistage models were approximately linear at low dose rates. An important question is: how good is the linear approximation? It may be that linear extrapolation is a perfectly adequate method and much simpler than using complicated computer algorithms. Furthermore, there is the intuitive belief that the lower convex portion of a typical dose-response curve would be bounded above by a straight line (Hoel *et al.*, (1975). It is felt, however, that a line is a too conservative upper bound in that it greatly over estimates the risk at low dose levels. It has been shown by Crump *et al.*, (1976) that the linear approximation to the multistage model is quite good if a background or spontaneous tumor rate is present." (Hoel, S. 2–4)

Additional technical data are provided in Dr. Hoel's testimony and in references thereto (Albert and Altschuler, 1973; Armitage and Doll, 1961; Cornfield, 1977; Crump *et al.*, 1976, 1977; Guess and Crump, 1976; Guess and Hoel, 1977; Guess *et al.*, 1977; Hartley and Sielkin, 1977; Hoel *et al.*, 1975; Mantel and Bryan, 1961). Other detailed presentations are found in the Reports of the Safe Drinking Water Committee (NAS 1977a, pp. 38–69) and the Food Safety Council (1978, pp. 109–120).

A variety of different opinions has been expressed about the relative merits of the various mathematical models discussed in these sources. The late Dr. Hardin B. Jones (Univ. of San Francisco) took one extreme position in stating that all "true carcinogens" display linear non-threshold dose-response relationships:

"Other substances that may cause cancer are more appropriately called true carcinogens because they show no threshold in the testable dose-risk relationship. The risk they impart is proportional to dose, which is to say, approximately constant in added degree of risk of cancer for each added unit of exposure. True carcinogenesis involves such hydrocarbons as: methylcholanthrene, dibenzanthracene, or benzopyrene. Another example is ionizing radiation." (Jones, S. 3; see also S. 11–13 and Jones and Grendon, 1975, p. 252.)

Dr. Richard Wilson (Harvard Univ.) also proposed that the linear model should be used in risk assessment:

"The preferred technique for simplicity and for a prudent (conservative) public policy is a linear interpolation with no threshold" (Wilson, S. 2; see also Tr. 3422–3423).

Mr. Richard Peto (Oxford Univ.) explained that most models predict a linear dose-response relationship at low dose, because of the probable existence of "equivalent background", *i.e.*, exposure to other background carcinogens to which the effects of an added carcinogenic agent will be linearly additive (Peto, S. 1; Annex B; Peto 1978). He explained during his oral testimony:

"Now, if we admit the possibility of such a background, then it turns out that all the arguments as to whether we should have linear models, K-hit models, one-hit models, probit models, log normal models or whatever, becomes irrevelant to the mathematical estimation of the upper confidence limit on the risk associated with a particular low dose. If any of these models is formulated in the mathematical form that the risk is equal to some function—probit, log normal, whatever—of dose plus background dose, then the consequences will be the same. Where background dose now becomes a parameter to be estimated statistically and if the model is formulated in this way, then we always finish up with linear upper confidence limits; you know, that the risk just turns out to be proportional to the dose at low doses." (Peto, Tr. 2514)

Essentially the same point was made in detail in the original paper by Peto, Hoel and their colleagues in which the multi-stage model was developed (see comment by Hoel quoted above):

"Virtually all models of carcinogenesis that depict the exposure as affecting an already ongoing process will lead to linearity at low dose. We have discussed the validity of this assumption above. This result then implies that, no matter what the biological mechanism we might imagine, if the carcinogen increases some part of the already ongoing process, then we should expect the response to be approximately linear at low dose.

"As pointed out above, this assumption of dependence or common mechanism is not trivial. It can make orders of magnitude differences in the estimated risk associated with low dose exposure.

"If we conceive of the cell alteration process as a series of discrete single-cellular events that can occur in sequence or randomly in any given cell and that a dose-independent induction period follows, then we should expect dose-response over

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background to be linear. We have required neither that all steps be affected by the carcinogen (only some) nor that these steps be all mechanistically similar in quantity or quality. This general class incorporates most of the reasonable models that have been proposed. The keys to this result are the assumptions of the single-cell origin and the lack of any appreciable dose dependence in the induction period.

"A further extension of the group of models allows the incorporation of threshold models into the class of "linear at low dose." We have indicated that, if we conceive of single cells as the biological unit at risk and that the initiation response is a threshold phenomenon, then by assuming that the threshold is randomly distributed in dose we find that the low dose response of the whole tissue over background will be approximately linear. If, rather implausibly, we do suppose that some sort of cellular thresholds exist, then clearly all cells do not have the same threshold since all cells do not all become cancers simultaneously. Here again, we have assumed that the carcinogen acts in conjunction with the "spontaneous" or background effects.

* * * * *

"*Practical Implications.* Our results may be crudely summarized by the observation that, in environments already containing appreciable amounts of carcinogenic processes, the effects of any slight addition to these processes will be proportional to the amount added. Both control laboratory animals and wild humans already suffer a considerable incidence of cancer; thus the extra incidence caused by a small amount of a new carcinogen will be proportional to the dose rate of that carcinogen. This thought is not particularly remarkable, but its implications are that much previous investigation of the form of the dose-response relationship at infinitesimal doses is irrelevant to the interpretation of animal studies for the formulation of social policy.

* * * * *

"In our opinion, linear dose-response relationships are likely to be approximately correct for many environmental carcinogens, and this should be publicly agreed for such substances, as it was for radiation 20 years ago." (Crump et al., 1976, pp. 2978–2979; Exhibit 7 to Hoel Statement)

The Report of the Safe Drinking Water Committee also stated that a wide class of multi-stage models leads to predictions of linearity at low doses and that these models have good theoretical justification:

"Most of these theories start with the premise that the carcinogenic process consists of one or more stages that occur at the cellular level, but that not all of these stages are related to the carcinogen. These stages may be cell mutations or other biological or chemical events and may be monocellular or multicellular in origin. The probability of transition to an event related to the carcinogen is assumed to be proportional to the exposure. The exact nature and causes of these events are largely unknown. However, the most important aspect of these quantitative theories of carcinogenesis is that most of them lead to mathematical models for which the probability of tumor occurrence is generally related to a polynomial function of dose. For low exposure, the region of most importance, they are well approximated by a simple linear function of dose (Iverson and Arley, 1950; Fisher and Holloman, 1951; Muller, 1951; Nordling, 1953). This class of dose-response models may be considered as models that are "linear at low dose." Other mathematical dose response models have been proposed for this problem of extrapolating from high doses to low doses, the most notable being the log-probit method of Mantel and Bryan (1961). These types of models have little biological justification in what is known about the carcinogenic process. In addition, some require use of preselected parameters chosen without regard to the particular experimental situation or results. A dose response model selected for extrapolation purposes should, at the very least, be consistent with current knowledge of the carcinogenic process." (NAS, 1977a, p. 47; Appendix I to Rall Statement)

Dr. Arthur Upton (Director, NCI) similarly pointed out that it was a fundamental principle of radiation carcinogenesis that dose-response relationships should be assumed to be linear at low doses. He then stated:

"Accordingly, unless specific exceptions can be demonstrated, it would appear prudent on the basis of present knowledge to apply to chemical carcinogens the four principles listed above for radiation protection." (Upton, S. 7–8)

Dr. Upton stated further:

"I think for purposes of public protection policy, it is generally advocated that one assume a linear dose-effect relationship in the low dose domain." (Upton, Tr. 280)

Other witnesses who gave reasons for preferring the linear and/or multi-stage models for low dose extrapolation included Dr. Joyce McCann (Univ. of Calif.):

"This is, of course, another problem, that because of the confidence limits on the points that we can generate, because they are so wide, they are not inconsistent with other hypotheses. But the linear dose-response is more theoretically pleasing. The Mantel-Bryant really does not have much of a biological basis at all." (McCann, Tr. 1573)

Finally, the NAS Pest Control Committee also recommended use of the linear extrapolation procedure:

"*Estimates of Carcinogenic Hazard.* Until more is known about the mechanisms of chemical carcinogenesis, any method of extrapolation to predict cancer rates at doses much lower than tested will remain partly a matter of conjecture. However, the single-event hypothesis probably provides an upper limit for induced incidence estimates at low dose levels and is compatible with the very limited human data on carcinogenesis at intermediate response levels. It would therefore seem prudent to employ the single-event hypothesis in making risk estimates, at least for those carcinogens for which the dose-response curve from animal experiments approaches linearity at the lower response levels that can practically be studied. In that case, the estimated total lifetime incidence in man resulting from continuous exposure to an environmental carcinogen would be the lifetime incidence for continuous exposure to the same total dose per body weight found by extrapolation of the animal data under the single-event assumption. For risk assessment, the resulting estimate would then be subject to adjustment to allow for statistical uncertainty in the input data." (NAS, 1975a, p. 85; Appendix H to Rall Statement)

In contrast to this very wide support among experts for the use of linear and/or multi-stage extrapolation models, only a few statements were made in the record justifying the use of other models. Dr. Kelvin H. Ferber (Allied Chemical) expressed a preference for the log-probit model:

"We next address the choice of a dose-incidence model. The logistic model is merely a mathematical convenience with little biophysical support. The one-hit and Weibull models ignore the many defenses (13) available to the organism and frequently lead to absurdly low acceptable dose levels. The lognormal or log-probit model, preferred here, does have a biophysical basis, beyond the fact that many sets of dose-response data fit the model rather closely. At low concentrations, the action of foreign molecules requires work and the rate is thus limited by the well-known work function:

$$W = NRT \ln C_2/C_1$$

from which it follows that the amount of work done, that is, the intensity of attack on a cell or organ is a log function of the available dose. The measureable results of the attack, on the other hand, depend on the susceptibility of the specific organism. It is widely accepted that, in a large population, susceptibility is randomly or normally distributed. This is logical, since susceptibility is influenced by a myriad of physiological, biochemical and genetic factors. (Ferber, S. 3–4)

However, no other witness supported such a relationship between "work" and "intensity of attack." Dr. Adrian M. Gross (FDA) criticized the linear model and introduced correspondence by Mantel arguing that the Mantel-Bryan procedure is better based scientifically (Mantel, 1978; for responses see Cancer Research, 38: 1835)

"Crump's linear model, which is practically identical with the so-called "one hit" model, provides a bound of conservatism to all models for extrapolation into a region of very low rate of response from observable data with the usual size experiments. But the fact that the linear or the one hit model is the most conservative one that could be conceived does not by itself make it the most desirable one.

* * * * *

"To all this I would add merely a single observation: what distinguishes Mantel and Bryan's (probit) procedure from that of all the other competing proposals is that theirs is the only one to have evolved from considerations of demonstrable realities as opposed to merely mathematical speculation. Basically all of these proposals for risk assessment at very low levels of exposure differ amongst themselves mainly in the steepness of the extrapolating slope. Mantel and Bryan's choice here, one probit per logarithm of the dose, was the result of examining a variety of dose-response relationships in the field of biological assays as was clearly explained in their original paper published in 1961 in the Journal of the National Cancer Institute. They chose this slope in what I would term a "reasonable" fashion, as opposed to a possible anarchistic or nihilistic choice of the most conservative (flat) slope that one could conceive." (Gross, S. 8–9)

One argument presented by Gross was that use of the Mantel-Bryan procedures would tend to promote good experimentation (Gross, S. 10–11). However, Dr. Wilson considered that other low dose extrapolation procedures would do so also (Wilson, Tr. 3433).

The only other detailed discussion of the relative merits of the various extrapolation models was in the report of the Food Safety Council. This report expressed a preference for the multi-hit model, basically on the grounds that this model takes into account empirical evidence for dose-response curves that are steeper than linear in the observable response range:

"5. There are three related but logically distinct elements involved in choice of a method; the choice of a model, the choice of an extrapolation procedure, and a societal judgment as to acceptable risks in the light of possible benefits or lack thereof of the agent under consideration.

"The models that currently seem usable or close to usable for low dose extrapolation are the probit model, the one-hit model, the k-hit model and the Armitage-Doll model. The statistico-pharmacokinetic model, which is in many respects the most biologically realistic of all, is excluded because it appears to require quantitative information on metabolic pathways that will often not be available. The one-hit model is really a special case of the k-hit model and does not require separate consideration. The four dose level experimental design recommended in Chapter 10 will lead to responses permitting the estimation of both parameters of the k-hit model and the control response as well, more often than designs now in use. If the estimated value of k is near unity, this will be equivalent to the choice of the one-hit model, but the choice governed by data rather than a priori considerations. Any of the other three models will describe most data sets in the 5% to 95% range equally well and the choice among them must depend on other considerations, such as the rapidity with which each approaches control, response as dose approaches zero. The probabilities yielded by the probit model approaches zero faster than any power of D, the k-hit model as the k^{th} power of D, and by the Armitage-Doll model slowly, as the first power of D for α, >0.

"A major mathematical basis for this slow approach is the ad hoc assumption that the somatic mutation rate is of the form of $(\alpha+d)$, where D is dosage, α the spontaneous mutation rate (presumably often the result of exposure to physical or chemical carcinogens) and $b>0$. This is a very strong assumption which is not supported by (a) the general lack of evidence for dose-wise additivity shown by many experiments in joint effects of two or more agents, as discussed in Section 2, or (b) experiments in which the effects of one tumor inducing agent inhibits those of another, or (c) experiments, such as those of Haie et al. (1978) with methanesulfonate in Chinese hamster ovary cells, in which an in vitro linear dose-response curve for mutation disappears when performed in vivo, in agreement with the view that whole body defense mechanisms impair linearity.

"Some agents which are carcinogenic at high dose levels have little or no observed effect at low dose levels, in apparent disagreement with the linear assumption (see, however, National Academy of Sciences, 1977 p. 40). Thus, nitrilotriacetic acid (NTA), which led to kidney tumors in 12 out of 48 rats when fed at 2% in the diet had an incidence of 2 out of 91 at 1.5%, 1 out of 91 at .75%, 0 out of 48 at both 0.2% and 0.02% and 0 out of 127 in control rats. Other high dose carcinogens, considered in the previous section, which show little or no low dose linearity are sodium saccharin, and ethylenethiourea.

"Preliminary results of the experiments of the National Center for Toxicologic Research (NCTR) with 2–AAF show non-zero incidence of bladder tumors at 24 months with 75, 100 and 150 ppm, but none at 4 dose levels below this. The number of animals on whom these preliminary low-dose negative results are based is not given, but the original experimental design called for well above 1,000 animals sacrificed at 24 months or followed for life for each of the four low dose levels (Cranmer, 1978). Results of this type cannot, in principle, disprove the existence of a small but non-zero linearity which eludes detection in experiments of finite size. In this sense, both the concepts of a threshold and of low-dose linearity are opposite sides of the same non-operational coin, neither being generally capable, even in principle, of direct experimental proof or disproof. Mantel's observation and Crump's at least partial agreement (Mantel, 1978) that the additivity assumption leading to low-dose linearity, 'is not a scientifically established fact,' puts the model in its proper perspective—as a hypothesis that may perhaps lead to further experiments or provide alternative explanations for already existing data, but lacking detailed experimental support.

"Some carcinogens yield dose-response curves that are linear or sublinear in the observed dose range, such as vinyl chloride and 2–AAF induced liver tumors in the NCTR results, and for such agents no assumption other than low-dose linearity seems possible. The above argument is critical, not of low-dose linearity when it is justified by the data, but of its assumed general or near-general applicability no matter what the data. What is required is a procedure which assumes low-dose linearity when data in the observable range suggest this, but rejects the assumption when the shape of the curve suggests that the high doses have saturated the repair, protective or other mechanisms by which multi-cell organisms cope with low doses—without, however, assuming the existence of unobservable population thresholds. The gamma multi-hit model has this characteristic, for which reason we recommend its use. There may be special circumstances under which biological considerations not reflected in the observed dose-response curve would suggest low-dose linearity. Nothing that has been said is meant to preclude giving weight to such considerations.

"Many of the extrapolation procedures that have been proposed appear to incorporate value judgments in ways that are not always easily identifiable, particularly in the choice of so-called conservative procedures, such as the use of slopes shallower than shown by the data in the Mantel-Bryan procedure and the use of upper confidence limits to response or lower confidence limits on VSD in both the Mantel-Bryan and Crump et al. procedures.

"Although the value judgment involved in the use of conservative risk assessments may seem appropriate in the light of the many scientific unknowns involved, once formalized as a specific mathematical procedure it escapes the control of the decisionmaker and can lead to undesirable and unsound results by distorting the balance between risk and benefit. We therefore recommend the separation of the mathematical and societal aspects of the problems, with the extrapolation procedure chosen to provide 'best estimates' of risk as well as their upper or lower limits. The behavior of confidence limits in the absence of any evidence of toxicity, as discussed in the previous section, provides another reason for confining the extrapolation procedure to best estimates." (Food Safety Council, 1978, pp. 116–117; Hearing Exhibit 227)

Although this is one of the most recent reviews of the problem, no witness at the hearing expressed support for the scientific and judgmental views expressed in it.

Several witnesses recommended that dose-time relationships should be taken into account: Dr. Kelvin Ferber (Allied Chemical), S. 4–7; Dr. Hardin Jones (Univ. of San Francisco), S. 3–4; Dr. John Zapp (DuPont), S. 14–23; and Mr. Carroll Weil (Carnegie Mellon Univ.), S. 3–5. However, there is considerable doubt that any general relationship between dose and latent period would be applicable to humans (for full discussion see the Section on No-Effect Levels above). This point was discussed by Peto (S. 1, 6–7) who concluded that the

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evidence cited for a relationship between dose and latent period is faulty, and that under the multi-stage model no such dependence would be expected:

"Failure to allow for the numerical effects of competition to be first (and the consequent failure to realize that such a competition ceases to have any material effects once the expected number of tumors per animal decreases below about 0.1) is a common error (Jones and Grendon, 1975; 1976). A much more common, and much more serious, error is failure to remember that no carcinogen acts alone, and that the effects of background processes place another substantial constraint, completely ignored in the testimonies of Professor Hardin Jones and Dr. Weil, on the effects of progressive dose reduction on the age distribution of those tumors which do arise. As I have already explained, the simple assumption of the existence of some background exposure suffices to demonstrate that all mathematical and biological hypotheses yield predictions which conform with the principles with which I started: proportionality of extra risk to applied dose, and independence of age distribution from applied dose." (Peto, Annex B, S.30).

This point was also addressed by Dr. Hoel:

"Most dose-response studies in animal experimentation are plots of dose rate versus total tumor incidence for the duration of the study. In large studies there is often sufficient data to plot cumulative tumor incidence versus age. This is then done for dose and the curves compared. Models are also fit to data and have the possibility of use in low dose estimation. Albert and Altshuler (1973) have fit the log normal model of Blum and Druckrey to several sets of laboratory data. Also Whittemore and Altshuler (1976) have fit both the Weibull and log-normal model to the physician smoking data of Hill and Doll. As with the ordinary dose-response models one finds that there usually is not sufficient data to distinguish between competing models. Yet the choice of a time-to-tumor model can greatly change any estimated low dose effects.

"It has been suggested (Jones and Grendon (1975)) that the time to first tumor or latency period increases with decreasing dose. Then with a sufficiently small dose the time-to-first-tumor will exceed man's lifetime thus producing an effective carcinogenic threshold. Unfortunately as shown by Guess and Hoel (1977) the observed time-to-first-tumor will increase with decreasing dose for the multistage model yet no true threshold will occur at low doses with this model. In other words a non-threshold model will predict that the data will look as though a threshold in time exists, when in fact it does not." (Hoel, S. 6–7)

Dr. Hoel discussed this issue further in his oral testimony:

"Now, at one time, people felt that, well, if you bring time into it, then we can solve our problems because you can get the accurate estimates, but the situation is the same both whether you use time or you do not use time, that you could fit the models equally well and you get quite different answers in the low-dose region. Therefore, your models should have a biological basis and not simply be a curve-fitting exercise." (Hoel, Tr. 2151)

A more technical discussion of the issues was given earlier in a paper by **Hoel *et al.* (1975)**, who pointed out the difficulties in selecting an appropriate time-to-occurrence model and drew the following conclusion:

"With both lognormal and Weibull models there are considerable technical problems in the actual estimation of the unknown parameters. These become particularly complicated in the face of competing risks. If these statistical difficulties can be satisfactorily overcome, extrapolation could then be considered. Again, as expected, low dose extrapolation is highly dependent on the choice of which of the two models to apply. One set of calculations in Chand and Hoel (1974) gave differing values for the probability of tumor occurrence in a particular hypothetical experimental situation. At a given low dose it was found that the lognormal model predicted an incidence of $2X10^{-7}$, while the Weibull model yielded, at the same dose, an incidence of $2.4X10^{-4}$. The magnitude of the difference increased as the dose level decreased. This is qualitatively the same as, but quantitatively even more difficult than the situation with the dichotomous response model. Also, it is not clear whether these differences are primarily due to the manner in which the dose dependency was incorporated into the model or the distribution which was chosen, or both. Thus it may be concluded that the problems of model dependency in low dose extrapolation will be present in both the dichotomous and time-to-occurrence situations.

"Research is needed to solve the difficulties which occur in order to obtain conservative models for required extrapolation in time-to-occurrence situations. This may be possible by using the Weibull distribution with particular restrictions on its range of parameter values. Considerable investigation is needed before time-to-occurrence models can be seriously used in establishing maximum risk associated with exposure to low dose levels." (Hoel et al., 1975, p. 144; Exhibit 14 to Hoel Statement)

OSHA concludes from this expert testimony that the scientific basis for assuming relationships between dose and time-of-occurrence in the low dose region is tenuous, and that the simple formulae proposed by certain witnesses are not well supported. At the present time, it would be premature to attempt to incorporate dose-time relationships into low-dose risk extrapolations.

The above discussion has been limited to the question of low dose risk assessment based on extrapolation of animal data. In special cases it may be possible to extrapolate from epidemiological data in exposed humans. However, such cases are rare because quantitative data on dose-response relationships are rarely available, and only a few witnesses even mentioned such extrapolations. These witnesses explicitly or implicitly assumed that linear dose-response relationships would be a valid basis for extrapolation, and no witness specifically contested this assumption.

Dr. Joyce McCann (Univ. of Calif) presented data on lung cancer in human cigarette smokers, which agree very closely with a linear dose-response relationship over an 8-fold range of doses (McCann, S. 19–20, Fig. 2). The same data were presented in the OTA Saccharin Report (OTA, 1977, p. 23) and discussed by other witnesses: Mr. Richard Peto (Oxford Univ.), S. 10; Dr. Richard Wilson (Harvard Univ.), S. 13–14; and Dr. Ian Nisbet, Post-hearing Comment, pp. 3–4. Dr. Richard Wilson (Harvard Univ.) presented risk estimates for several carcinogens by linear extrapolation from epidemiological data (S. 50–51, 53, 78–81, 84–88; Hearing Exhibit 251B) as did Dr. Ian Nisbet (Post-hearing Comment, pp. 1–7; Hearing Exhibit 224e). No objections were made to such procedures, which appear reasonable in the light of the data presented on smoking.

A complicating factor in extrapolating from human epidemiological data is that in most cases such data refer to persons exposed for a limited fraction of their lifetimes. Several witnesses have pointed out that the incidence of most human cancers increases as the k'th power of age, where k is between 2 and 8 and is usually 4 or 5. Discussion on this point was presented by: Dr. David Hoel (NIEHS), S. 4–7; Dr. Francis J. C. Roe (AIHC), S. 50–51; and Mr. Richard Peto (Oxford Univ.), S. 10. Accordingly data based on exposures for even half a lifetime (35 years) will greatly underestimate the potential effects. This question was discussed in the NCI, NIEHS and NIOSH Institutes' Report (Hearing Exhibit 224b, Appendix A). In this report it was concluded that for most carcinogenic agents, the excess risk would remain even after exposure was terminated. Exceptions to this generalization would be agents such as cigarette smoke which act at late stages in the carcinogenic process. For such agents, the relative risk of induced cancer may decrease towards 1 after cessation of exposure (ibid.) Thus, unless there is reason to assume that a particular carcinogen acts at a late stage, measurements of risks after half a lifetime's exposure are likely to underestimate lifetime risks by a factor of 16–32 or even more.

4. Scaling Factors for Extrapolating From Animals to Humans

If one of the above mathematical models is used to estimate potential low dose risks by extrapolation from high-dose observations in animals, the estimates strictly apply only to the same species of animal under the same experimental conditions. To estimate potential low dose risks to exposed humans, additional assumptions have to be made about relative risks to humans and animals at low doses. Much testimony was presented in the hearing about these assumptions and the uncertainties resulting from their adoption.

The first set of assumptions relates to scaling factors. A human, for example, lives for 35 times as long as a mouse, and has roughly 3,000 times as many cells, so that over a lifetime the chance of one cell being "hit" by a carcinogen is 100,000 times higher for a human than for a mouse (Hart, S. 23–28; Rall, 1977, Appendix E to Rall Statement). How are such factors (and other scale factors such as differences in rate of metabolism and rate of cell division) to be taken into account in extrapolating from one species to another?

This question has been addressed in several reports. The Food Safety Council discussed the theoretical issues as follows:

"The two main methods for converting results in experimental animals to man are on a mg/kg/day body weight basis or by the concentration in the diet. When the experimental animal is the mouse, dietary concentration leads to a VSD for a man 6-fold lower than that obtained with the mg/kg conversion (Assoc. Food and Drug Off., 1959). Dietary concentrations are not considered accurate indices of actual dosages since the latter are influenced not only by voluntary food intake as affected by palatability and caloric density of the diet and by single or multiple caging, but more particularly by the age of the animal. During the initial stages of growth, the anatomic, physiological, metabolic and immunologic capabilities are not fully developed. Moreover the potentiality for toxic effect in an animal is a function of the dose ingested, utimately the number of molecules per target cell which would indicate that actual intake in mg/kg/day rather than dietary concentrations should be the basis for inter-species conversions." (Food Safety Council, 1978, p. 118; Hearing Exhibit 227)

Dr. Hoel and his colleagues discussed the same points in an exhibit to Dr. Hoel's testimony:

"The extrapolation of the results from laboratory animal studies to man is probably the most difficult and least understood aspect of the total extrapolation problem. There is generally good qualitative agreement between carcinogenesis in animal and in man. The difficulty arises in attempting to predict quantitatively from animal data to man.

"For acute toxicity of a number of anti-cancer agents, parameters such as the LD_{10} and maximum tolerated dose are quantitatively quite similar in mouse, rat, hamster, dog, monkey, and man (see Freireich et al., 1966). This similarity was observed when the dose was administered on a basis of surface area which is approximately equivalent to using the 2/3 power of weight. On a basis of dose per unit of body weight, man would be about 12 times as susceptible as the mouse (see Rall, 1969). If dosage is, however, on a dietary-concentration basis, then it has been suggested that there is little or no further need to make a surface area adjustment (Mantel and Schneiderman, 1975).

"Little is known quantitatively about comparative chronic toxic effects in animal and man. For a given compound there are likely to be species differences in absorption, metabolism and excretion which must be taken into account in quantitative extrapolation. At the present stage of knowledge the prudent strategy, after performing extrapolation, would be to incorporate a conversion factor based on the 2/3 power of weight and an additional species factor. This species conversion factor should be determined by biological considerations after taking into account the compound and the available information concerning the species and strain being tested." (Hoel et al., 1975, pp. 145–146; Exhibit 14 to Hoel Statement)

Another discussion of the issue was presented in the Report of the Safe Drinking Water Committee:

"Size tends to determine the rate of distribution of substances in the body; in large animals, they are distributed more slowly and tend to persist longer. In general, large animals metabolize compounds more slowly than do small animals. Large mammals have many more susceptible cells; thus, if the carcinogenic event is rare, it would be more likely to occur in a large mammal than in a small one (a mouse experiment using 1,600–2,000 animals represents about the same number of susceptible cells as are contained in one man). Obviously, however, a mouse is not the equivalent of a very small man; nor is a man the equivalent of a very large mouse. In the mouse, the ratio of cardiac output per minute to blood volume is 1:1. In man, the ratio is 1:20. Thus, blood circulates approximately 20 times as rapidly in a mouse as in a man. (This difference is not a peculiar species difference, but typifies the differences between very small and relatively large animals.) The implication is that the time a substance spends in the plasma (excluding metabolism) is longer in a larger mammal than in a smaller one. Thus, for the same milligram-per-kilogram dose, human tissues are exposed to a substance for a much longer time than mouse tissues. This is consistent with data obtained in studies of anticancer drugs, which showed that—on a milligram-per-kilogram basis—a mouse required 12 times as much drug to respond as did man, a rat 6 times as much, and a dog and a monkey 2–3 times as much. When the data were expressed on a milligram-per-square-meter basis, the differences between species were sharply reduced. In addition, the cell-division rate is greater in small animals: e.g., the cycle time of mouse gut or marrow cells is about half that of man. The life span of a man is 35 times that of a mouse. Thus, there are many more cell divisions in man, and therefore a greater opportunity for neoplastic change.

"These observations suggest that small mammals that are routinely used for toxicity testing are often more resistant than man to toxic compounds. This implies that small animal systems are likely to produce many false-negative results, and has important implications for establishing safety factors or using "conservative" techniques for extrapolation." (NAS, 1977a, pp. 31–32; Appendix I to Rall Statement)

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"Various measures used in assessing acute toxicity—such as LD_{10}, LD_{50}, and maximal tolerated dose—are generally found to be quantitatively similar among most animals. On the basis of dose per unit of body surface, toxic effects in man are in the same range as those in experimental animals, such as mouse, rat, hamster, dog, and monkey. On a body-weight basis man is generally more vulnerable than the experimental animal; probably by a factor of 0–12. Comparative studies have shown generally that absorption, metabolism, and excretion of various drugs are slower, dose-for-dose, in man; that there is greater retention of such drugs; and that higher concentrations occur in body fluids and tissues in man than in small mammals" (*ibid.* pp. 52–53).

Empirical data to clarify the question of interspecific scaling of doses for carcinogenic effects are extremely scanty. Dr. Matthew Meselson (Harvard Univ.) and Dr. Donald Kennedy (Commissioner, FDA) presented an analysis of dose-response data in animals and humans for six carcinogens, published as part of the NAS Pest Control Report:

"The carcinogens for which comparisons can be made are those already known to affect humans. In generalizing to other compounds, this selection may impose a bias, exaggerating the sensitivity of man relative to laboratory test systems. Other factors may introduce an opposite bias. For two carcinogens, vinyl chloride and DES, observations on man are for considerably less than a full lifetime so that the reported incidence may be a serious underestimate of the eventual total. Also, these two compounds and aflatoxin are known as human carcinogens because they are associated with types of cancer that are otherwise rare. If these carcinogens also induce more common types of cancer, even at much higher frequency, this could go undetected, again giving rise to an underestimate of their overall carcinogenicity to man.

"The limited conclusion that emerges from the comparisons given in Table 5 is that if the data from the most sensitive published test on animals are used to predict lifetime human

incidence on a dose per weight basis, the results seem approximately correct for benzidine, chlornaphazine, and cigarette smoking. For aflatoxin, the predicted human incidence is about ten times greater than estimated from existing epidemiologic studies, while for vinyl chloride it is about 500 times higher. For DES, the human incidence predicted from the result of a single dose administered to newborn female mice is about 50 times higher than that estimated from studies of adenocarcinomas in daughters of women given DES during pregnancy. Thus, as a working hypothesis, in the absence of countervailing evidence for the specific agent in question, it appears reasonable to assume that the lifetime cancer incidence induced by chronic exposure in man can be approximated by the lifetime incidence induced by similar exposure in laboratory animals at the same total dose per body weight. (For a discussion of interspecies scaling factors for dose, see Rall 1974.)" (NAS, 1975a, p. 82; Appendix H to Rall Statement)

This conclusion was quoted by several other witnesses. In opposition to this conclusion, Dr. Wilson (1978, Exhibit 51) reanalyzed the data for the carcinogens reviewed by the Pest Control Committee and claimed that the dose-response data in animals and humans corresponded better when scaled on the basis of mg/kg/day rather than mg/kg/lifetime (see also Wilson, S. 21). In other words, Dr. Wilson's analysis suggested that animals and humans would suffer generally similar risks if exposed to the same carcinogen, each at the rate of 1 mg/kg/day; on the other hand, the NAS analysis would suggest that humans exposed to a carcinogen at 1 mg/kg/day would suffer similar risks to rats exposed at 35 mg/kg/day. There are problems with both interpretations: under the scaling rule proposed by NAS, human risks might be overestimated by factors up to 200 (vinyl chloride, diethylstilbestrol), whereas under Dr. Wilson's scaling rule, human risks might be underestimated by similar factors. OSHA is inclined to place more weight on the NAS analysis because, as stated in the NAS report, the human data on vinyl chloride and DES used in the analysis probably represented only part of the lifetime response to these carcinogens. However, even without resolving the discrepancy, it is apparent that scaling factors alone introduce considerable uncertainties in predicting human risk from animal data, perhaps by a factor of at least 35. OSHA is aware of the fact that the NAS analysis is based on an extremely small number of cases, which include poorly controlled studies and offer a tenuous basis for any quantitative assessment of the results.

5, Factors Complicating Extrapolation From Animals to Humans

In addition to scaling factors, there are many other factors which complicate the extrapolation from animal data to predict the potential magnitude of risks to humans. Some of the complicating factors mentioned at the hearing include metabolism and pharmacokinetic factors (including differences in rates of absorption, distribution, metabolism, and excretion); dose-dependent pharmacokinetics; inter-species, inter-strain, and inter-individual differences in metabolism and susceptibility; additive and synergistic interactions with other carcinogens, co-carcinogens, hormonal and immunological factors; prenatal and neonatal exposure; DNA repair; differing routes of exposure; etc.

These points were addressed in a number of statements, comments, and exhibits, of which the following provide only a sample. The Safe Drinking Water Committee discussed the problem as follows:

"Number of Animals

"The number of exposed animals is important. Typically, about 10^2-10^3 experimental animals are tested, whereas the population of humans to be protected may be 10^6-10^9.

"The human population is genetically heterogeneous, whereas test populations of animals, as a rule, are relatively inbred. Genetic traits can affect many aspects of susceptibility to pollutants.

"Selectivity influences the test-animal population in that only healthy vigorous animals are started on test, whereas the exposed human population may contain subpopulations that are ill and weak.

"Environmental Differences

"Nutritional differences and the physical environment (heat, light, ionizing radiation, etc.) can affect response to pollutants. The chemical environment—from drugs to air pollutants—with its overwhelming number and types of substances, provides the possibility for synergistic toxicity. Synergistic effects have occurred with therapeutic drugs, are well known in experimental carcinogenesis, and are an ever-present danger.

"Absorption

"Rates of absorption of chemicals through the gastrointestinal tract are generally comparable in laboratory animals and man. The barriers within the gastrointestinal tract and the cell membranes, which prevent the free passage of organic compounds, are quite similar among mammalian species. These barriers are either the cells themselves or the intercellular junctions, which are "closed" or "tight" and which, in general, force substances to move through cells, rather than between them. It should be recognized, however, that there are differences between one animal and another and between man and animal. The ratio of surface area to volume in the gastrointestinal tract, and the transit time through it, often differ among and within species. These factors affect absorption. The pH differs in various parts of the gastrointestinal tract in different species; this can affect the absorption of some partially ionized compounds. The possibility that intact proteins can be absorbed in neonates of some species suggests that absorption in the neonate can be nonspecific.

"The presence of bacteria in the gastrointestinal tract can affect absorption indirectly. Bacteria may convert the original substance into one that is more or less absorbable, and thus alter the apparent toxicity of a chemical, or they may convert a nontoxic substance into a toxic one. For example, reduction of nitrate to nitrite permits the formation of highly carcinogenic nitrosamines by reaction with secondary amines from the diet. The bacterial populations in the gastrointestinal tract vary between species and within species, and in the same individual from time to time, often changing with changes in diet.

"Distribution and Storage

"Once a compound is absorbed, it is distributed throughout the body, largely by the circulatory system. This gives the opportunity for binding to plasma protein or tissue, and storage in such depots as fat and bone. There can also be differences between species with respect to plasma protein and tissue binding. These differences do not seem to be of major importance, but small mammals, such as mice, tend to bind substances less extensively than man. Research on such subjects as storage depots is needed.

"Metabolic Differences

"The primary organs that metabolize substances are the liver, the lungs, and kidneys. With respect to hepatic metabolism—often considered to be the most important—small mammals generally metabolize substances more rapidly than large mammals, and herbivores more rapidly than carnivores. There are other interspecific differences; this is a field in which research is active.

"Excretion and Reabsorption

"There are few comparable data contrasting renal or hepatic excretory rates of substances in mice, rats, dogs, monkeys, and man. What data there are suggest that small mammals excrete compounds via the kidneys considerably more rapidly than large mammals. There are too few data to show systematic differences in hepatic excretion and the extent of reabsorption after hepatic excretion. Some substances are excreted through the hepatic system more rapidly by rodents than by dogs and other large animals. After excretion via the bile, reabsorption from the gastrointestinal tract may occur.

"Differences in Receptor Sites

"The action of cellular and intercellular membranes is also of concern. An unaltered substance or its metabolites, after distribution through the body, must pass through a variety of cellular and intercellular membranes to arrive at the site of action. Many of these membranes are of major importance in determining the ultimate

toxicity of the substance. The blood-brain and blood-testicular barriers, for instance, effectively modulate the chemical composition of the fluid surrounding the central nervous system cells and the developing sperm cells. These barriers can also avert or delay the arrival of potentially toxic compounds at the sites of action. Similarly, the placenta acts as a barrier between the maternal circulation and the developing fetus. In addition to the passive barriers, active-transport systems influence the movement of foreign organic compounds. This is a subject in which research is moving rapidly, and there is a great need for unified systematic theories on interspecific relationships. In general, if a substance reaches a site of action, the ultimate toxic reaction seems to be consistent among species. Development of a lesion will then follow this reaction. With some of the more serious manifestations, such as malignant change and mutagenic change, development of a lesion may depend on the extent of damage (e.g., severely damaged cells will die; generation time of the cells and rates of repair processes may be affected). For instance, the generation time of the rapidly proliferating cell population in the mouse is about half of that in man; therefore, cancer is likely to appear earlier in the mouse."

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"More and more patterns that are useful for extrapolation to man are being recognized and can be identified in the course of studying pharmacological disposition of a substance. Most of the differences that have been observed suggest that man is more sensitive than the usual experimental animal, and this must be kept in mind in establishing permissible exposures for humans.

"There are great difficulties in comparing the median animal to the not-so-average man. Man is not genetically homogeneous and is usually exposed to a much wider range of environmental conditions than the usual experimental animal. Differences in environmental factors are known to affect the toxicity of a substance. Differences in the genetic makeup of the individual can affect toxicity. These must be considered in the extrapolation of laboratory-animal toxicity data to man. We must predict for, and protect, the highly sensitive individual as well as the average or median person. Because of the multitude of man-made chemicals, the different habits and life-styles of populations, and the different eating habits of populations, there is considerable variation in the intake of, or exposure to, environmental pollutants. These must also be considered in establishing permissible exposures to environmental agents.

"In the last decade, large genetic differences in metabolism of toxic agents have been found in man, and study of these effects has led to a new branch of pharmacology—pharmacokinetics. The range of variability is illustrated by the observation that, in a group of about 20 patients, the steady-state plasma concentrations of two tricyclic antidepressants varied by about 30-fold, and the half-time of disappearance from the plasma varied about 10-fold (Hammer and Sjoqvist, 1967). Also, the plasma concentration of isonicotinic acid hydrazide has been found to vary by a factor of almost 100 in different people, and this appears to be genetically controlled (Weber, 1976).

"Many examples of unexpected toxic reactions to therapeutic agents have been caused by interactions of compounds that were normally safe when given alone (Conney and Burns, 1972). The likelihood that such synergistic interactions will occur with environmental pollutants is high. An early and striking example of unexpected synergistic interactions (hypertensive crisis) occurred in patients who, while taking monoamine oxidase inhibitors, ate cheese that contained bioactive amines. Although theoretically predictable, this effect had not been suggested in the literature before it was observed in patients.

"Many sources of variation within the population of any species, such as age, sex, pregnancy, disease, can affect the response to foreign substances. An example is the difference between sexes in metabolism and toxicity of acetylsalicylic acid (Menguy et al., 1972).

"In addition, such environmental variables as temperature, lighting, barometric pressure, humidity, and diet are known to affect the toxicity of environmental pollutants. For example, the oral absorption of pentobarbital is greatly altered by the prior ingestion of a small cheese sandwich. In this case, peak pentobarbital concentration in plasma is diminished by about 50%, and the duration of the effective plasma concentration is doubled (Bush et al., 1966).

"Another difficulty in extrapolating from laboratory animals to man is the dose-duration problem. The lifetime of a mouse is about 2 yr. A man's life expectancy is close to 70 yr, and a woman's 5 yr longer. Because man usually excretes compounds more slowly than mice, this means that man, with a very small daily intake, can develop a greater accumulation of a compound over many years.

"It is currently impossible to estimate the effects of all the genetic and environmental variability in the human population."

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"In all these [extrapolation] theories, the emphasis is mainly on the stochastic nature of the changes involved in the carcinogenesis process. The role played by the carcinogen is considered to a much lesser degree. It is commonly assumed that transitional events in the process that are attributable to the carcinogen occur with probabilities proportional to the degree of exposure. This is undoubtedly a gross oversimplification of the actual process. The actual exposure is no doubt modified by absorption, distribution, metabolism, and excretion of the chemical substance, and the effective exposure should probably be the actual concentration of the carcinogen at and within the target cells. Other factors that may affect delivery of the carcinogen to intercellular compartments are membrane permeability and enzyme binding. Therefore, the "effective dose" may well be some complex function of the actual exposure and the biochemical and physiological characteristics of the host. Most of these mathematical models incorporate the dose as it is actually administered in animal experiments or human exposure. The function relating administered dose to "effective dose," if it is not a simple case of proportionality, can have a profound effect on the dose-response relationship. As a simple example, consider a linear model relating dose (effective dose) to response. If the effective dose is proportional to the administered dose, then a linear model obtains for administered dose versus response. If the dose relationship is concave, which would obtain if the incremental increase in effective dose decreases with higher doses, then the relationship between administered dose and response would also be concave. Thus, the various dose-response curves that have been observed may not be indicative of different carcinogenic processes once the agent has reached the target cell, but rather may indicate different functions relating administered dose to effective dose. This problem will probably relate more to chemical cacinogenesis as opposed to radiation-induced cancer." (NAS, 1977a, pp. 32–36, 41–42; Appendix I to Rall Statement)

The International Agency for Research on Cancer (IARC), in the revised preamble to its monograph series, also noted that extrapolation from one species to another introduced unquantifiable uncertainties:

"In the present state of knowledge, it would be difficult to define a predictable relationship between the dose (mg/kg bw/day) of a particular chemical required to produce cancer in test animals and the dose which would produce a similar incidence of cancer in humans. The available data suggest, however, that such a relationship may exist,[46] at least for certain classes of carcinogenic chemicals. Data that provide *sufficient evidence* of carcinogenicity in test animals may therefore be used in an approximate quantitative evaluation of the human risk at some given exposure level, provided that the nature of the chemical concerned and the physiological, pharmacological and toxicological differences between the test animals and humans are taken into account. However, no acceptable methods are currently available for quantifying the possible errors in such a procedure, whether it is used to generalize between species or to extrapolate from high to low doses. The methodology for such quantitative extrapolation to humans requires further development." (IARC, 1978, Vol. 17, p. 20)

The National Cancer Advisory Board Subcommittee on Environmental Carcinogenesis discussed the complexities of interspecies extrapolation in the following terms:

"*Quantitative extrapolation* from animal studies for the purposes of evaluating human risks entails large uncertainties at the present time. Each case must be individually evaluated, taking into consideration such factors as adequacy of experimental design, statistical significance of the data, dose-response relationships, duration of exposure, route of administration, metabolism (including species variations), host's susceptibility, co-factors and other modifying

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factors, and the amount of the material to which humans will be exposed. The criteria for extrapolation may vary depending on the agent in question." (NCAB Report, 1977, p. 463, emphasis supplied)

Dr. Harold Stewart (NIH) introduced the report of an Ad Hoc Committee on Testing for Environmental Chemical Carcinogens, which reported to the Director of NCI as follows:

"In forming judgments as to the possible carcinogenic hazard posed by a particular environmental chemical, consideration must be given to certain important aspects of the action of these agents. These include, among others: the long latent period; the wide variation in individual susceptibility and degree of exposure; the possibilities of exposure transplacentally (fetus) and via the mother's milk (newborn); the potential of most chemical carcinogens for producing cancer of various organs under different circumstances, the additive, synergistic and antagonistic actions of many carcinogens, the virtual irreversibility of effects of submanifestational doses; the importance, to the ultimate development of cancer, of the totality of lifetime exposure to all carcinogenic agents, chemicals, radiation and viruses. . . .

"In view of the wide differences in susceptibility to potent chemical carcinogens of different species, strains, and even individuals of the same species, the extent of hazard for man cannot possibly be judged on the basis of dosage requirements for carcinogenicity in any other species. Moreover, it is impossible, on the basis of findings in other species, to evaluate the significance for human cancer of carcinogens that reach the fetus by transplacental passage or the newborn by way of the mother's milk.

Furthermore, carcinogenesis in man probably involves actions of a number of agents, perhaps in the hundreds, some operating simultaneously and some sequentially, on an extremely heterogeneous population. Some of these may act additively, others synergistically, and still others antagonistically. Isolation of a single one or a few for analysis in animal experiments tends to produce a caricature of the human situation which may be misleading.

"There can be no question of the value of investigating carcinogenicity at different dose levels of the agent. For example, information as to mechanisms of action and the influence of modifying factors might be better obtained with minimally effective than with maximally tolerated amounts. However, this is not relevant to identification of environmental carcinogens and assessment of their significance for human cancer, which are our immediate concerns. Moreover, in the case of many, if not most, carcinogens, decreasing the dosage from a maximally effective to a minimally effective level produces prolongation of the latent period in addition to decreased incidence of tumors. If latent period exceeds the life span of the animal, negative results may be obtained at levels that might be carcinogenic for equally susceptible, longer-lived animals.

"If one plots the incidence of tumors against time at any given dose of carcinogen, one finds considerable variation in the latent period in individual animals, even of inbred strains. The variation is greatest at low dose levels, because large doses are able to override the effects of small genetic or experimental variations. This is one of the reasons for employment of maximum tolerated doses in testing for carcinogenicity. As the dosage is lowered, tumors appear only among the more sensitive animals. In the case of the human population, with the completely unknown variations in sensitivity to any chemical carcinogen, and with the impossibility of knowledge of other variables that may affect responsiveness to these agents, attempts to establish threshold levels for carcinogenicity are unrealistic.

"Of major importance in this connection is the fact that the carcinogenic process initiated by a submanifestational dose of one agent may be brought to completion by a submanifestational dose of another agent of entirely different chemical structure, even when exposure to the first agent has ceased and even when long periods of time intervene between the two types of exposures. It appears that carcinogenesis can result from the summation of a number of irreversible alterations in cells, no one of which may suffice to produce a manifest cancer. This is known to be true of the carcinogenic effects of ionizing radiation; it is the total lifetime exposure that is the determining factor. Similarly, there is no evidence that a newborn animal exposed to a chemical carcinogen ever reverts to normal with respect to the likelihood of developing cancer. On the contrary, throughout its lifetime it has a higher risk of developing cancers then its untreated littermates.

"Under natural conditions, few if any people are exposed to a single pure chemical. Such exposure is usually to mixtures and crude products. Isolation of individual carcinogens is often complicated by the presence of other chemicals that can enhance or retard the carcinogenic reaction. For example, the role of such co-carcinogens and/or anticarcinogens in tobacco smoke may be as important as that of the several carcinogens that have been isolated in minute quantities.

"There can be no doubt that the general population is continually exposed to hundreds of chemical, physical and biological agents that produce cancers of various types in various species under certain conditions. Little is known about interactions between several of these agents, but there is clear evidence that such interactions do exist. Additional complexities are introduced by evidence of involvement of intestinal bacteria in metabolic conversions of the active carcinogen in cycad meal.

"In view of the enormous and largely unpredictable differences in susceptibility of different species and different individuals to most carcinogens, and the fact that the significant factor is the totality of lifetime exposure (which can never be estimated accurately) to a large number and variety of carcinogenic agents and cocarcinogens, some known and many unknown, little if any useful practical purpose can be served by attempts to assess the hazard for man of a particular environmental carcinogen on the basis of quantitative data obtained in laboratory animals. Emphasis on this point not only is misguided but is misleading and may be harmful." (Stewart, S. 2–5, quoting from NCI, 1973; Hearing Exhibit 14)

Several other witnesses discussed factors complicating quantitative extrapolation. Dr. Curtis Harris (NCI) and Dr. Benjamin Trump (Univ. of Md.) presented the results of their own studies which have shown marked inter-individual differences in the metabolism of procarcinogens to their ultimate metabolic forms. These differences are believed to correlate with differences in susceptibility, as Dr. Harris explained:

"From the quantitative point of view a wide interindividual variation in the levels of carcinogen-DNA adducts has been found. For example, the inter-individual variability for binding levels of benzo[a]pyrene to DNA was 70-fold for cultured human bronchus and nearly 100–fold for cultured human colon (6, 13). A marked variability among individuals is also found in pharmacological studies of drug metabolism in clinical studies (14). The clinical pharmacology of drugs metabolized by mixed-function oxidases have particular importance and relevance to the metabolism of carcinogenic polynuclear aromatic hydrocarbons because they also require oxidation by this class of enzymes to become ultimate carcinogens. One of the mixed-function oxidases, aryl hydrocarbon hydroxylase, is under genetic control in mice (15). Recent investigations of aryl hydrocarbon hydroxylase in cultured human monocytes and lymphocytes from twins have also found a major genetic component of control and have suggested that the pattern of inheritance is polygenic (16). Aryl hydrocarbon hydroxylase activity has been found in several other human cells and tissues, e.g. liver, pulmonary macrophages and placenta (17, 18, 19, 20). Environmental factors such as tobacco smoke and chemicals can also have a profound effect on the activity of mixed-function oxidases including aryl hydrocarbon hydroxylase (14, 17). For example, smoking of tobacco by women enhanced the activity of placental aryl hydrocarbon hydroxylase (19). However, a marked variation in enzyme activity was still associated with a relatively constant level of smoking; a 70-fold variation was found in placentas from women who smoked 15–20 cigarettes per day (20). The interaction between genetic and environmental factors in the control of carcinogen metabolism is still largely undetermined, but methods have been developed in the last decade to make this a fruitful area for future studies." (Harris, S. 3–4)

In his oral testimony, Dr. Harris (NCI) discussed the significance of these and other findings:

"If you compare different strains of a species, you can get marked differences in the kinds of test results that we are doing, such as binding to DNA. In some cases, this correlates with susceptibility in the test animal. We have no evidence yet that it will correlate with susceptibility in humans, although we suspect and we hope that it might. (Harris, Tr. 2018)

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"Now, one of the great deficiencies we have in our experimental data is that we look primarily at only one compound at a time in the experimental test, where we know that humans are exposed to multiple agents at different levels in different regimens, and the interaction may be quite complex. In fact, we know of synergism between carcinogens such as tobacco smoke and asbestos. The people who happen to be exposed to asbestos and smoke cigarettes have a markedly greater risk of developing lung cancer, bronchogenic carcinoma—and I think we have to be very careful about what we mean by lung cancer—than the smokers here in this room. The asbestos, I understand from Dr. Selikoff, itself has some effect in increasing the risk of bronchogenic carcinoma, maybe four or fivefold, which is significant. But the risk of asbestos alone and the risk of cigarette smoke alone is more than additive, and I think that is a—and there are other examples—that is a warning sign.

"Our experimental tests are at the point that we are not looking at these interactions now in testing compounds. I think that more effort ought to be put in this area. But there are differences in strains, there are differences probably in people. But I think the question you really want to ask is, are there thresholds; are there thresholds in carcinogenesis, and at the moment we have no method of determining thresholds and there is no evidence for that. Unfortunately, most of our tests, our animal testing, is a very insensitive system for a variety of reasons that I am sure there has been testimony given here on the number of animals that are under test, the fact that there are examples in which the human seems to be more susceptible to a compound than any animal species. Beta-naphthylamine is a good example. That is why I think we have to be very hesitant in making quantitative extrapolations. I do not think we can do that. Beta-naphthylamine for workers who have been exposed to that compound for over a five-year period causes 100 percent bladder cancer. Now you would not have never predicted that from the animal tests. You would not have predicted its potency. And that is very unfortunate. I wish we had test systems in which we could predict potency, but we do not." (Harris, Tr. 1973–1975)

Dr. Arthur Upton (Director, NCI) made the following comment:

"Such evidence as we have does lead us to suppose that there may be enormous variations in potency, million-fold differences in potency, that aflatoxin being one of the most potent carcinogens in animals, and trichloroethylene being perhaps 100,000 or a million times less potent.

"But the evidence is still fragmentary. We need much more research before we will be in a position to speak confidently about potency.

"There is the other problem that in the experiments that we have done, it has been customary to give one compound at a time to the test animals, and we have good evidence that combinations may produce unpredictably large effects. *So an agent which may not be potent alone may in the presence of another compound take on 1,000-fold greater potency.*

"This is another factor that seriously complicates the quantification of potency in the carcinogens at this state in our knowledge of the problem. (Upton, Tr. 319, emphases added)

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"Trichloroethylene in the animal system behaves as a weak carcinogen. I stress that we have insufficient evidence to arrive at confidence estimates of the relative potency in humans, particularly since we are likely to be dealing with combinations of agents. So I think the animal data we have provides scanty basis on which to make risk estimates, quantitative risk estimates in man. (Upton, Tr. 337)

Dr. Robert Hoover (NCI) pointed out complications even in extrapolating from one group of humans to another:

"I think that you should attempt to quantify risk in any kind of study you do, whether it is animal or human. The two of us up here are basically counters, and we believe that you do not know anything unless you can measure it. So I think that in a total assessment you should attempt to measure a risk associated with exposure to specific substances for a specific duration of time. And that is useful information in trying to prevent disease.

"I think that attempting to use that information to rank carcinogens as to their potency would be to ignore the substantial amount of human evidence of variability by host factor, and other environmental exposures that we have referred to before.

"DES is not a very potent carcinogen for the vagina of the menopausal women who take it. In fact, I do not know of any association at all. Based on that you would call it a very nonpotent carcinogen. It is an extremely potent vaginal carcinogen for the fetus.

"Asbestos in nonsmokers, or uranium mining in non-smokers is associated with some hazard, but probably if you get accurate measures of it, not—in relative terms, in epidemiologic relative terms, not high. You would never suspect the 90-fold hazard associated with a smoker working in the asbestos industry.

"So I think that you should attempt to measure risks and hazards. You should attempt to relate them to specific exposures and complexes of exposures in humans, because that will be vital to your attempts to prevent disease. But I think to rely on one study in one population with all its incumbent host and other environmental characteristics to rank an agent in a potency scale would be to ignore everything we know from science." (Hoover, Tr. 805–806, emphases added)

Dr. Irving Selikoff (Mount Sinai School of Medicine) also pointed out how the example of asbestos points up the unreliability of quantitative extrapolations from animals to humans:

". . . let me tell you my unhappy experience. I suspect we learn at least as much from our failures as we do from our successes. For years I was told that asbestos was not a powerful carcinogen, because the animals did not show cancer with it. Animal studies began with asbestos in 1930, and the first cancers were produced only in 1962, Dr. Wagner.

"I began asbestos research around 1951, and for the first ten years of my asbestos life, I was studying alveolar capillary block syndrome, and physiological changes, because I did not—I was told that there was no particular cancer hazard on the basis of animal studies, and it was not a potent carcinogen. Well, obviously I was wrong. Maybe the animals did not smoke and did not live in the rest of the environment in which humans live, neither the workplace nor at home, nor whatever. So *that potency has to do with many things. Also, what might be potent in one set of circumstances or in one animal, might not be potent in another. And there is no way to predict.* Sometimes you cannot even extrapolate from mouse to rat, and what might be potent in a rat may not be in a mouse, and what may not be potent in a guinea pig may be very potent in a dog. For example, you know very well that beta-naphthylamine, in order to get a bladder cancer acknowledged, we had to study dogs, and I think some of the best studies in the world were done by du Pont with regard to the dog studies and bladder carcinogens. So it is very difficult to extrapolate on the basis of current knowledge with regard to potency, yet there is difference in potency.

"But even then, look at what happens with human beings. You can take a very weak carcinogen like cigarette smoking. You know, cigarette smoke is a very weak carcinogen. In humans you have to give it to them for 30 years, 20 times a day before they will get cancer, and even then not all of them will get it. It is a weak carcinogen, and yet it can take a tremendous toll.

"This year in the United States we expect 100,000 deaths of cancer in considerable part due to cigarette smoking. So the question of potency is one unfortunately that we cannot extrapolate from knowledge that we currently have.

"Also, I have another bad experience, let me confess. I was in Houston, Texas, in 1970 when Dr. Viola reported Zymbal cell tumors of the rat ear with vinyl chloride. And I walked away, and I said gosh, another Zymbal cell tumor agent. Isn't it nice that human beings do not have any Zymbal cells in their external ear? And it was not until 1974 that nature hit me in the face with the angiosarcomas of the liver, and with perhaps other tumors. So that potency of one type in one animal really does not help guide us. And yet there is a difference in potency. Perhaps 10 or 15 years from now when we have better basic information, when we know something about mechanism, when we know something about pathogenesis, we will be able to sort this out better than we can now." (Selikoff, Tr. 1753–1755)

Dr. John Berg (Colorado Regional Cancer Center) made a related point:

"I am not quite sure what potency means. The best I can understand, something with

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low potency would be a material that only had, say, a low level of contaminants by a strong carcinogen, or that was metabolized in the body only in a small fraction to an active carcinogen. And, of course, if we are talking, as some people have said in the cyclamate story, about the contaminants in part, then we are getting back to basically a strong carcinogen. If we are talking about metabolic changes, we are talking about what individuals do. And the implication might well be that what was a low potency for one individual would be high potency for another. But I cannot visualize a material that in some way was a direct but weak carcinogen. To my mind it does not make biologic sense." (Berg, Tr. 1627)

Dr. Marvin Schneiderman (NCI) discussed both scaling questions and differing susceptibilities:

"We have some information in the animal studies, generally at substantially higher doses, and that means that we have to then do some, as it were, modeling. You have to create a mathematical model that is consistent with the biology, and the mathematician and the biologist have to work closely together to see that such a model is created.

"Data which are fit by a whole series of models at medium and high doses, when one looks at the extrapolations from the different models, can give you rather different—substantially different—estimates of risk down at the rather low dose levels. So one of your problems is the model that you assume, and how you use it.

"Another problem is that we are trying to extrapolate from, in general, inbred, highly inbred animals, the mouse or the rat or something of that sort, to an outbred animal, man, with a much wider range of susceptibilities. So that while the animal data—what may happen when you look at the human exposures is that humans at some very low levels might be very susceptible, whereas in this rather inbred strain of mouse you don't have individuals so susceptible.

"Let me give you a rather obvious example. There was a blond-haired, blue-eyed lady here earlier today. She is at much greater risk of skin cancer than would be a dark-haired, dark-skinned person. So we have this enormous range in humans, but within an inbred strain of animal, you don't get this wide range.

"Secondly, the animal lifespan is very much shorter than man's, maybe of the order of 1/35th. Third, the animal metabolism rates are usually very much higher than that of man. There is the further difficulty in these kinds of extrapolations that in general we work with very small numbers of animals compared to the kind of population we want to extrapolate to. If we do an experiment with 1,000 mice, which is an enormous experiment, we may want to be extrapolating this kind of information to 100 million humans. I don't know how many mice that takes to equal one man, or how many men equals one mouse in that, but is it of the order of 1,000 or 10,000, or something like that, or is it 100,000? So we are using the mouse as a surrogate for an enormous number of people.

"So all these difficulties come into making the extrapolations down to low doses, and from one species to another." (Schneiderman, Tr. 796–796)

Dr. Matthew Meselson (Harvard Univ.) and Dr. Joyce McCann (Univ. of Calif.) discussed the difficulty in comparing "potencies" of chemicals in different species, and suggested that when properly analyzed the data suggested inter-species variations by up to a factor of at least 100. Dr. McCann discussed this latter point in her oral testimony:

"I suspect that there is a wide range of carcinogenic potencies in people. People I do not think are that different from rodents. The problem that we are confronted with is are they ordered in the same way that they are ordered in this chart? This is rodent data. And that is where enormous uncertainties creep in. We have limited information on that score. One of the primary sources of information about potency in rodents compared to potency in people is the work that Dr. Meselson did that was discussed some this morning, trying to estimate the exposure of people to chemicals that have been associated with human cancer, and to compare the carcinogenic potency of those chemicals in people with the potency from the animal cancer tests. And as he indicated this morning, considering there is a million to ten million-fold range of possibilities for answers from that kind of exercise, the fact that he came up with differences that were 100-fold or even less in some cases I think is enormously significant." (McCann, Tr. 1598–1599)

Dr. Meselson pointed out that quantitative risk estimates could be useful for certain purposes even granting uncertainties by up to a factor of 100:

"You see, if there is only a difference of even 100, that sounds enormous to some for species differences. It suggests interesting metabolic differences perhaps between the two species; an area for fruitful research, all that, so you will concentrate on it. On the other hand, for practical purposes, maybe that factor of 100 even, which is a big factor now, is not so bad because if we could even reliably divide chemicals into, say, four categories—carcinogenic chemicals—very strong, strong, medium and weak—and be really sure of that, strength categories as applied to man, we would be a big step beyond where we are today. If we could divide them into 10 shades, 10 categories, that would be tremendous." (Meselson, Tr. 1541)

Dr. Richard Bates (NIEHS: FDA) made another statement about factors complicating quantitative assessments:

"When I put on my scientific hat, I have to admit that our basis for doing this is very uncertain at this point. There are just a lot of quantitative uncertainties here: the problem of differences in the ratios of different kinds of metabolites among species; the rates of metabolism among species or among human individuals with differences in genetic background, and differences in susceptibility of individuals across this wide range of genetics in the human population compared to the limited genetics in the animal strains; the exposure of people to probably quite a few carcinogenic and cocarcinogenic chemicals, and the background of their environment against which you are adding this one that you are trying to evaluate at this particular time, in contrast to animal experiments that are designed to try to minimize this. All of this puts this matter of potency on a very uncertain scientific basis.

"Now, that is not to say, and I would certainly agree that if you conducted an experiment on 20 different carcinogens in one strain of mouse or rat under set experimental conditions, you will certainly see a wide range of potency under those given experimental circumstances. (Bates, Tr. 610)

Finally, Dr. Samuel Epstein (Univ. of Ill.) commented on interspecies extrapolation as follows:

"Clearly, when you have dose-response situations, and most of our dose-response data does, in fact, come from animals, when you have dose-response situations it is possible to develop extrapolations within that particular species, and to develop interesting concepts of so-called risk estimates.

"However, when you try to extrapolate and try to develop risk estimates from one species to another, this is a frightfully difficult game. In other words, going from the mouse to the rat is a frightfully difficult game. When you go from the mouse to the human, when the mouse, you have data dealing with exposures to mice under carefully controlled laboratory circumstances with carcinogen A in a controlled environment—to go from that to man, you are faced with the following problems. A, in man you do not know—even if you assume that in principle there was a comparable sensitivity at any one point, you do not know the relative shape of the dose-response curves firstly. And also, man unlike mouse is at far greater risk from exposure to any individual carcinogen because exposure to any individual carcinogen represents an incremental insult over that of a wide range of other chemical carcinogens to which he or she are concomitantly exposed. So therefore, it becomes a terribly difficult matter to say I am taking dose-response data from animals to go to humans. (Epstein, Tr. 1229–1230)

Among industry witnesses, Dr. Paul Kotin (Johns-Manville) discussed factors affecting response in animal systems at some length:

"1. *The Cancer-Producing Potency Of Chemical Carcinogens Can Be Profoundly Altered By Modifying The Host, The Complexity Of The Environment, And The Physical Properties Of The Chemical Agent*

"Changes can be accomplished through (a) pretreatment with chemical agents (both carcinogenic and noncarcinogenic) which can either stimulate or depress drug-metabolizing enzyme systems; (b) diet modification; (c) hormonal modification by endocrine gland removal or artificial administration of hormones; (d) varying population size (density) in laboratory animal cages (34). Significant induced as well as spontaneous differences exist in the human response to carcinogens. When, for example, the site and

patterns of cancer occurrence in the nonsomoker and smoker or the alcohol user and nonuser are compared, the "shifting" levels of cancer induction bespeak a response to carcinogens that is dependent upon achieving a level of interaction (threshold) that is not fixed, but quite liable to change.

"Spontaneous or physiologic variations, still cryptic as to mechanism, are routinely observed in clinical as well as experimental settings. This individual variability is at the suprathreshold level and is essentially irrelevant to the regulatory process.

"The concept that one molecule of a carcinogen interacting with one intracellular macromolecule will result in a mandatory nonthreshold response, inevitably resulting in cancer development, precludes both naturally occurring and induced modifications of response to carcinogens. The multiplicity of cofactors both exogenous and endogenous critical to the response to a carcinogen and the development of cancer is reflected in greater qualitative and quantitative variations in the human response to carcinogens than all other environmental agents. The paucity of knowledge of the mechanisms of cell initiation and their progression to clinical cancer has generated a mystique, as a frequent substitute for data, when interpreting diverse pathological expressions of the group of diseases designated cancer. For example, each organ or organ system can develop an array of different types of cancer, often with important differences in natural history, in response to exogenous carcinogens. As shown in Table I, a variety of cancers develop from environmental agents, and one wonders whether the various histological patterns and types (a) reflect qualitative or quantitative differences in intra-cellular genetic events; (b) are manifestations of response at the tissue level; or (c) are expressions of host factors operating at the systemic level. Critical to the above is the continuing opportunity for carcinogen-exposed tissue to express any one of its multipotential capabilities. While the factors concerned with the ultimate path are for the most part unknown, clearly dose and its corollary threshold can be shown to be involved." (Kotin, S. 23–24)

Dr. Kotin also discussed a number of factors which would need to be studied in evaluating experimental results in carcinogenesis (Kotin, Tr. 8653–8680).

Dr. Robert Scala (Exxon) emphasized uncertainties in both qualitative and quantitative extrapolation resulting from these factors:

"Carcinogenic potential as shown by animal testing, and actual carcinogenic risk in humans, are clearly different. Carcinogenic potential can be demonstrated with some rigor by studies of a chemical in animals. The results are, of course, subject to such influences as dose, duration, route of administration, pretreatment, and others I have already mentioned. Carcinogenic risk assessment in humans, however, requires far more scientific judgment, not only taking into account the amount and quality of the experimental data but also to correlate it with and extrapolate it to realistic circumstances of human exposure." (Scala, S. 18)

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"Eckardt's third type are biologically-trained, biologically-oriented individuals who attempt to make extrapolations from animals to man with a proper understanding of the limitations and with a high degree of intellectual and scientific sophistication and honesty. These individuals take into account questions of mechanism of action, whether or not biochemical activation is necessary, what metabolic pathways may be involved, whether or not host factors may be protective, the possibility of initiation-promotion phenomena, and finally the important issue of metabolic overload. Careful extrapolation from animal data to human risk must and can be done, on the basis of which we can set realistic and practical human exposure levels that will provide sound public protection without overreacting by establishing technologically and economically infeasible regulatory requirements. It is this type of sophisticated scientific evaluation that must be incorporated into the revision of the OSHA proposal if it is to be implemented successfully." (Scala, S. 21–22)

Dr. Francis J. C. Roe (AIHC) discussed three assumptions necessary in extrapolating carcinogenic risks to humans, and suggested that uncertainties by several orders of magnitude may result:

"The main difficulties for the future, however, lie in situations where human data are inadequate, or even, non-existent. In these situations the extent of risk to man can only be judged on the basis of the results of laboratory tests, including long-term tests on animals. In making the jump from animals to man, 3 basic assumptions have to be made: *Firstly*, we need to assume that an agent which reduces life expectation by a certain percentage in an animal will reduce life expectation by the same percentage in man and not by the same actual length of time. *Secondly*, we need to assume that man is equally sensitive to the carcinogenic effects of an agent as the laboratory species in which tests have been carried out. *Thirdly*, we need to assume that there is a linear relationship between exposure and loss of life expectation. The *first* of these assumptions is generally well borne out for known carcinogens for which there exist both human and animal data. The *second* assumption is probably also generally reasonable. However, interstrain and interspecies differences in susceptibility to carcinogens are known to exist and are sometimes so marked that an agent which gives positive results in one strain or species at a well tolerated dose-level may be without detectable carcinogenic effect in another species even at maximum tolerated doses. Where the animals used for tests have built into them genetically-determined high susceptibility to the development of certain tumours, or where they carry tumour viruses which increase the risk of tumour development (see 3.3.3), it is highly likely that the animals used are *more* susceptible, possibly by several orders of magnitude, than man. On the other hand, the possibility that man is more susceptible than any of the usually used species of laboratory animal can never be excluded. The *third* assumption is, as we have already argued (see 7, 16), conservative." (Roe, S. 84A–84B)

A number of other industry witnesses and commentors emphasized the importance of such factors as metabolism, pharmacokinetics, and DNA repair, and urged OSHA to take account of these factors in evaluating experiments. For reasons elaborated in the Sections titled *Testing at High Doses* and *Metabolism*, OSHA concludes that such factors are not of major importance in the *qualitative* extrapolation of experimental results to predict the existence of a risk to exposed workers. OSHA agrees that such factors would be important if detailed quantitative estimates of risk were to be made for the purpose of risk-benefit comparisons. However, the testimony and exhibits quoted above indicate that (a) for most carcinogens information on comparative metabolism and pharmacokinetics is not presently available, and is unlikely to become available without direct experimentation in man; (b) our understanding of these phenomena is insufficient to make confident predictions in the absence of precise data. Hence the primary significance of this testimony is that *metabolic and pharmacokinetic differences add enormously to the difficulties and uncertainties involved in quantitative extrapolation.* Other factors discussed in the testimony quoted above, particularly inter-individual variations and interactions with environmental and host factors, also contribute greatly to these difficulties and uncertainties. In fact, some of these factors also lead to substantial uncertainties even in ranking chemicals relative to each other in the degree of risk they pose to exposed humans.

6. *The Role Played by Quantitative Risk Estimation in the Regulatory Process*

Representatives of several federal agencies discussed the role played by quantitative risk estimation in regulatory activities that fell within their purview. EPA provided the following description of its procedures in its official comments:

"Since carcinogens differ radically in potency, EPA has taken the view that quantification has a significant role to play in the regulatory process. Thus, section 3.5.3 of EPA's Interim Cancer Assessment Guidelines calls for estimates of cancer risk utilizing a variety of risk extrapolation models. . . ." (41 Fed. Reg. 21405 (1976)). Risk estimates are

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performed by the Agency's Carcinogen Assessment Group ("CAG"). In providing these estimates, CAG has been assiduous in pointing out that cancer risk quantification is at the frontiers of science and that the results must be regarded as crude because of the great number of uncertainties involved in the process. Accordingly, the Agency has been advised that these estimates cannot be regarded as much more than "ball park" estimates. Nevertheless, the process has been a useful one, in that it has afforded us some measure, however imprecise, of the magnitude of the cancer risk in question. We believe that a quantitative risk assessment can be an important factor in determining whether to regulate a substance or what priority it should be given as well as how much to regulate the substance." (EPA, S. 10–11) (footnote omitted)

EPA referred in these comments to its Interim Cancer Assessment Guidelines:

"When an agent is judged to be a potential human carcinogen, estimates should be made of its possible impact on public health at current and anticipated levels of exposure. The available techniques for assessing the magnitude of cancer risk to human populations on the basis of animal data only are very crude due to uncertainties in the extrapolation of dose-response data to very low dose levels and also because of differences in levels of susceptibility of animals and humans. Hence, the risk estimates should be regarded only as rough indications of effect. Where appropriate, a range of estimates should be given on the basis of several modes of extrapolation." (41 FR 21405, Section 2.0)

EPA procedures were described further by Mr. Steven Jellinek, Assistant Administrator for Toxic Substances, and Dr. Roy Albert, Chairman of the Carcinogen Assessment Group:

"The second question of how much cancer the agent is likely to cause is answered by use of various mathematical extrapolation models applied to the animal or epidemiological results together with estimates of the levels of exposure to the agent to the extent that such estimates can be made. These quantitative estimates are regarded as crude and offered only to give rough estimates of the magnitude of the public health problem. Such estimates may be of use in setting regulatory priorities or in determining levels of feasible control." (Albert, S. 2)

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"EPA uses a two-step decision-making process to regulate potential carcinogens. The first decision faced is whether a particular substance poses a cancer risk. The second decision is what regulatory action, if any, should be taken to reduce the risk. The two decisions are reached separately.

"Once EPA has determined that a substance being evaluated does pose a carcinogenic risk, EPA proceeds to independent analyses of the magnitude of the risk posed by the substance and, where the law permits us to do so, the socio-economic impacts of regulating the substance. Both analyses are completed before the Agency reaches a regulatory decision. The magnitude of the risk plays a significant role in EPA's regulatory process, entering into the decision whether to regulate a substance, what priority we give to regulation of the substance, and what type of regulatory action (if any) we should take." (Jellinek, S. 2)

In oral testimony, Mr. Jellinek and Dr. Albert amplified these statements to some extent. Specifically, they stated that EPA has been conducting quantitative risk assessments where possible prior to taking regulatory action since 1976 (Tr. 2289), and that it uses the linear non-threshold dose-response model as well as other extrapolation models and displays the results of each (Tr. 2289–2291). In some cases quantitative risk assessments have not been possible (Tr. 2294).

Mr. Jellinek emphasized that some statutes administered by EPA require risk-benefit balancing, whereas others specify technology-based controls, and that the role of risk assessment is different in the two cases (Tr. 2323). Mr. Jellinek emphasized the uncertainties involved in risk assessment in response to a question about risk-benefit analysis:

"Well, I think that it really depends upon what someone thinks it means when they say a risk-benefit analysis. I think if you are talking about quantifying risks and benefits in commensurable units, I think that is extremely difficult, and I frankly do not think it can be done. If you are talking about trying to get as good an idea quantitatively and otherwise of what the risk is, and as good an idea quantitatively or otherwise of what the benefit is, and then exercising your thus informed judgment to make a decision, that not only can be done but it has been done and it has got to be done or else we are not going to make any decisions." (Jellinek, Tr. 2322)

Dr. Albert made a similar comment in response to a question as to whether he felt comfortable when quantitative risk estimation is used in risk benefit analysis:

"Provided it is used with the understanding of the limitations, which I think are probably not any greater than the limitations associated with socioeconomic impact assessments. Those have a great deal of uncertainties attached to them.

"In point of fact, the Air Office in the EPA is using the quantitative risk assessment for the purpose of making priority judgments as to which agents it is going to be looking at, which carcinogens." (Albert, Tr. 2389)

In sum, EPA has determined that quantitative risk estimation is a constructive element in both the priorities-setting process and as an element in the setting of standards, recognizing the limitations involved.

Mr. S. John Byington, Chairman of the Consumer Product Safety Commission, stated in response to questions that the Commission does not differentiate between carcinogens for regulatory purposes, and uses quantitative risk estimation only in terms of setting priorities. (Tr. 2089, 2095)

Dr. Donald Kennedy (Commissioner, FDA) limited his comments on this issue primarily to suggestions that OSHA should use quantitative risk assessment as one component of decision-making (S. 11). He introduced one FDA rulemaking—the proposed rule to revoke the interim food additive regulation for saccharin and its salts (42 FR 19996). In that document FDA made estimates of potential risks to humans consuming saccharin, these estimates being derived both from animal tests and epidemiological data (p. 20002). FDA then used these estimates only in a general way to support its proposed rule:

"The Food and Drug Administration thus considers the animal data and the human epidemiological data on saccharin to be compatible. The estimated excess risk to the individual of developing bladder cancer from lifetime use of, e.g., 150 milligrams of saccharin per day, is believed to be somewhere between zero and 4 per 10,000. The estimated population risk in the United States, assuming such use by each individual, is somewhere between zero and 1,200 cases per year.

"Although the risk from consumption of saccharin is small compared to that of other health hazards, e.g., cigarette smoking, saccharin is only one of a potentially large number of hazards present in our environment. The Commissioner believes that reduction of prolonged, general exposure to a number of weakly carcinogenic substances in our environment as they are discovered may be essential to reduce the total incidence of cancer." (42 FR 20002)

Dr. Richard Bates (NIEHS; FDA) discussed this assessment and stated:

"Yes, but it was done just as kind of a crude handle of where we might be, and then the conclusion was that we get rid of exposure. We reduced it to the lowest feasible level, which is zero in the case of saccharin." (Tr. 684)

In response to questions, Dr. Kennedy indicated his opinion that quantitative risk assessments should be used for priority-setting and for public education, but not for risk-benefit analysis as a component of regulatory decision-making:

"I think you are really asking whether the second [assessment or extrapolation of risks for humans] I am saying that it should be done because there are very often important purposes affiliated with it; perhaps setting of agency priorities, perhaps public education about a hazard, various things, but that seldom is the precise magnitude of an assessed or extrapolated risk a critical feature in Stage Three, namely, regulatory decision-making." (Kennedy, Tr. 514)

Dr. M. Adrian Gross (FDA) stated in response to questions that he was familiar with only one proposed regulation in which FDA had used quantitative estimation of risk for regulatory purposes (Tr. 1940). In that proposed regulation, applying to residues in food-producing animals (42 FR 10477), Dr. Gross stated that the Mantel-Bryan extrapolation procedure was not used to assess human risk, and indeed he emphasized that "one cannot use the Mantel-Bryan procedure or other procedures like it to assess human risk at all" (Tr. 1938).

The representatives from NIOSH, Mr. Baier, Dr. Groth, and Dr. Yodaiken, stated that it was NIOSH's position that the potency of carcinogens has very little weight and should not be considered in evaluating carcinogens (NIOSH, Tr. 3063–3067, 3112–3113). It is not used by NIOSH even for evaluating priorities:

"In animal experiments there is a difference, of course, in dose response in the same species to different chemicals. However, unless we have human data we really cannot evaluate these comparisons between chemicals in humans unless we have this data. We have to assume that these chemicals have the same or equal potency in humans until some other data is acquired." (Groth, Tr. 3064–3065)

Mr. Richard Peto (Oxford Univ.) described the procedure for regulating carcinogens in the United Kingdom by the Carcinogenicity Committee of the Department of Health and Social Security, of which he was a member (Tr. 2568–2570). He explained that "potency" of carcinogens was considered in this process only in an informal way, and that modeling techniques for risk assessments are not used:

"No. I think that they are not of great value. The formal modeling I think is not of great value. I think that many of the models currently employed are misleading. They give a misleading impression of safety sometimes. And I think that, their logical basis is, in some cases, rather unsound, and that many of them have implicitly the assumption that there is no equivalent background, and that this is very dangerous.

"So I think that we do not use models, and I am glad we do not. I am the only statistician on this committee." (Peto, Tr. 2570)

In summary, EPA is the only one of the five agencies whose procedures were discussed in the Record which makes quantitative estimates of risk on a regular basis in determining the degree of regulation. The Agency believes:

". . . that a quantitative risk assessment can be an important factor in determining whether to regulate a substance or what priority it should be given as well as how much to regulate the substance." (EPA, S. 11)

This belief is qualified by the EPA's recognition of the uncertainties involved in quantitative risk estimation, and in fact its decisions on "how much to regulate the substance" are not based on mathematical comparisons of risks and benefits, even where EPA (unlike OSHA) is required by statute to balance risk and benefits. As Mr. Jellinek explained (Tr. 2322), EPA's procedure is to get "as good an idea quantitatively of what the risk is," and then to exercise its "thus informed judgment to make a decision." Other agencies concur as to the usefulness of risk assessments for priorities setting.

7. Specific Proposals for Making Low-Dose Risk Estimates and for Using Them in Regulation

As noted earlier, a number of witnesses and participants recommended that OSHA should use quantitative risk estimates in the standards setting process. Section X1.B.7 contains a detailed discussion of these proposals and their methodological deficiencies. This section is limited to a discussion of the implications of large uncertainties in health estimates for the usefulness of such analyses. Only one fully specified procedure was proposed by any participant. Dr. Richard Wilson (Harvard Univ.) proposed a procedure by which the concept of "feasibility" of control should be replaced by a risk-benefit analysis. In brief, Wilson proposed that a "conservative" estimate of risks at low doses should be derived by application of the linear non-threshold model to either human or animal data, and that a specific level of exposure should be regarded as acceptable if the calculated risk were less than 10^{-6} per year (i.e., risk less than 1 cancer per 100,000 workers per year). At higher risk levels the number of lives likely to be saved by specific measures to reduce exposure should be calculated, and control measures should be regarded as justified if their estimated cost does not exceed $1 million per life saved. Additional details of the proposed procedure, including methods for extrapolating from partial lifetime exposure data, were given in Dr. Wilson's statement.

There are a number of methodological problems with Dr. Wilson's proposal which would make it unreasonable, if not arbitrary, for OSHA to adopt it. This section will deal only with the dependence of this procedure on reliable assessments of risk. His procedure would require the assumption that the estimates of risk generated by it are sufficiently accurate to balance against estimates of control costs. As shown in the preceding two sections, enormous uncertainties are introduced into extrapolations from animals to man by such factors as differences in metabolism, pharmacokinetics, and scaling factors. Even Dr. Wilson, who minimized such differences in his testimony, acknowledged the possibility of errors by up to a factor of 200 from scaling factors alone (Hearing Exhibit 51). Even where epidemiological data in humans are available as the basis for extrapolation, substantial uncertainties may be introduced by different interpretations of the existing data, selection of "best" data from which to extrapolate, and extrapolation from partial-lifetime to full-lifetime risks (see Nisbet (Post-hearing Comments (Hearing Exhibit 224e), and Wilson, Response to Nisbet (Hearing Exhibit 251B)). Finally, Wilson's use of a linear, non-threshold extrapolation model was rejected as too conservative by many industry witnesses, whereas in fact it was not as conservative as other models in one respect: it did not incorporate a statistical upper confidence limit. On the basis of these and other limitations discussed in the preceding sections, and section X1, OSHA concludes that neither Wilson's procedure nor any other comparative risk framework that could be devised would be reliable within a factor of 100 or more, usually much more. Although estimates obtained by the use of this procedure may help OSHA to make "informed judgments", clearly it is not useful in practice to set standards.

The only other specific recommendation for a risk assessment procedure presented in the record is that of the Scientific Committee of The Food Safety Council. After extensive discussion of alternative methods of risk assessment, they made the following recommendation:

"7. The choice of mathematical procedures for low dose extrapolation has no firm biological basis and must to some extent be arbitrary. But the chief alternative to low dose extrapolation is the setting of zero tolerances for any substance that is harmful at sufficiently high doses, i.e. nearly everything. But zero tolerances are not reasonable alternatives for many agents which have clear benefits for man. Thus, risk assessment is unavoidable and must, implicitly or explicitly, involve a balancing of risk and benefit. We recommend the gamma multi-hit model for estimating responses at low dose levels and the virtually safe dose, corresponding to an arbitrarily small level of risk, chosen for each agent by decision-making authorities after consideration of the

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risk and benefits involved." (Food Safety Council 1978, p. 119; Hearing Exhibit 227)

There are serious questions about whether this proposed procedure for food additives would be compatible with OSHA's statutory mandate to "assure" protection of workers' health "to the extent feasible." Apart from this, the procedure would utilize the gamma multi-hit extrapolation model, which as shown above has received no support from the scientific community.

Dr. Joyce McCann (Univ. of California) discussed what she believed was the proper role of risk assessment in the regulatory process in her written statement. While recognizing that estimates of carcinogenic potency may be uncertain by one or two orders of magnitude, she concluded that they may still be useful as a "check on the reasonableness of a standard set according to feasibility":

"Risk estimates can be wrong by an order of magnitude, or even more, and still be useful as rough estimates in determining if the lowest feasible level is compatible with acceptable risk." (McCann, S. 3)

In oral testimony she expanded upon this concept:

"Well, certainly for prioritizing chemicals, potency can have great value. I mean, when one is faced with a very long list and you have to decide where to start, I think potency and human exposures should play a very useful role in ordering priorities. And I suspect that is how they will end up being used.

"But in addition, I would also like to see an awareness of an upper limit exposure based on a risk-assessment calculation after lowest feasible levels are set, a check." (McCann, Tr. 1602)

However, she cautioned that:

"Although risk estimates can be useful within the context of the lowest feasible level approach, they should not be used to set exposure levels higher than the lowest levels feasible." (McCann, S. 4)

This suggestion is compatible with the reservations expressed above about the use of uncertain estimates in making precise cost-benefit comparisons. Dr. McCann's suggestion appears to be to use risk assessments to check whether the rough estimates of risk, at the lowest feasible level, are not too high to be "acceptable". If they are, then action by Congress, EPA under the Toxic Substances Control Act, or other actions may be appropriate.

A similar suggestion was made by Mr. Jellinek and Dr. Albert (EPA):

"Second, we encourage OSHA to include risk estimation in its regulatory process. While cancer risk estimation is an imprecise endeavor involving many uncertainties, such estimation does succeed in providing some measure of the magnitude of risk posed by a substance. Such estimation should be used, in some instances, to determine whether to regulate. If a substance is believed to be a carcinogen but is a weak carcinogen to which few persons are exposed, the best regulatory course might be to defer any regulation in favor of concentrating limited resources on higher toxicity, higher exposure substances. OSHA's proposal does not appear to permit the agency to adopt this course. We believe that OSHA also should use estimation of risk to help establish priorities and to help determine "feasibility" of various levels of control. The greater the degree of risk posed by a substance, the tighter the control should be of that substance." (Jellinek, S. 5–6, emphasis added)

* * * * *

"Finally, a comment on the matter of quantitation of cancer risks. The extrapolation of cancer risks to very low levels of exposure is undoubtedly more useful to EPA than OSHA. In the general environment, exposure to carcinogens can commonly be very low and involve large populations. In the occupational setting the potential for exposure is always high. Nevertheless, because carcinogens can vary in potency by as much as a million fold, OSHA should strongly consider using quantitative risk assessment to the extent possible for prioritization of chemicals and as a factor in judging feasibility of regulatory control. (Albert, S. 6)

8. *Performing Risk Calculations for Individual Substances*

A number of risk calculations for specific chemicals were introduced into the record in statements and exhibits (see, for example, the statements of Drs. Wilson, Hoel, and exhibits thereto). For two chemicals, vinyl chloride and saccharin, a range of estimates derived by different methods was presented; these estimates provide a good illustration of the strengths and weaknesses of the various techniques.

(a) *The example of vinyl chloride.*— For comparative purposes, all the risk estimates presented in the record are converted here to lifetime risks at an exposure level of 1 ppm. Seventeen such estimates are presented in the first table below, with the method of extrapolation and the source of data. These estimates span an enormous range; even if the "threshold" postulated by Claus is discounted, estimates of risk at 1 ppm range from 10^{-8} to less than 10^{-3}—more than a million-fold variation. The variation arises from several sources: use of different source data, different extrapolation models, and in some cases calculation of upper confidence limits. However, other variables, such as scaling factors, interspecific differences in susceptibility, and prenatal exposures, were not considered by the cited authors, so that the full range of possible variation is still not represented.

(b) *The example of saccharin.* The second table below was compiled by the Committee for a Study on Saccharin and Food Safety Policy (NAS 1978). It shows a range of variation of more than 5 million-fold in estimates of human risk, although all the estimates were derived from the same set of experimental data on rats. Other estimates of saccharin risks included in the record, including those by FDA (41 FR 20002), Wilson (S. 41, 73), and OTA (1977), fall within this range. However, at least one published estimate of risks posed by saccharin lies outside this range. Miller *et al.* (1978), extrapolating from human epidemiological data, estimated that lifetime use of saccharin by the U.S. population might result in as many as 48,000 cases of bladder cancer per year, equivalent to a lifetime risk of 15,000 cases per million exposed. Thus the possible range of risk estimates for this chemical is greater than 10 million-fold.

(c) *General conclusions.* For each of these two chemicals, estimates of possible risks at exposure levels which are currently permitted vary over ranges of 1–10 million or even more. Few chemicals have been more thoroughly studied than vinyl chloride, which is one of only half a dozen chemicals for which numerical data on risk derived from human studies are available (NAS, 1975a). Yet even in this case it is not possible to state whether the cost of averting one occupationally-related cancer is greater than $100 million (Wilson S. 53), or as little as $100,000. Clearly it would be not only unjustifiable but irresponsible for OSHA to use any such single point estimate as part of a simple summary cost/benefit statement (and guide to standard setting) as proposed by Wilson. In the face of uncertainties of many orders of magnitude in anticipated cancer risks, a fair analysis of available facts must alert the decision-maker to the wide range in the level of cancer risk which may reasonably be foreseen under alternative interpretations of available data.

Single-point estimates of risk are inappropriate. In view of the health-protective mandate of the OSHA Act, it is particularly necessary for OSHA in considering standards for carcinogens to take appropriate notice of the many types of circumstances which can lead to much greater human risks than might be inferred from simple "best estimate" calculations based on standard linear no-threshold interpolation. Among these circumstances are:

• *Difference in species sensitivity.* As previously noted (see comments of Dr. Trump, Tr. 1974–5, quoted above), the potency of beta-naphthylamine in inducing bladder cancer in animal systems would, if directly used in the absence of human data, have led to a understatement of the actual human cancer hazard of this material. Available data for quantitatively comparing cancer risks for man and other species are so few at present that 1) even if available data from the most apparently sensitive animal species is used for cancer risk assessment on a particular substance and 2) even if a conservative scaling factor is used for the animal to human dose conversion, there should generally be considered to be an appreciable chance that the human risk might greatly exceed the calculated animal risk due to intrinsic differences in species sensitivity. Absent other information, it would not be unreasonable in presenting risk estimates to allow for a possible uncertainty of 100-fold or more from this factor alone.

• *Differences in individual sensitivity.* Animal carcinogenesis data usually represent the response of relatively homogeneous groups of animals. Animal colonies are often inbred, reducing genetic variation among individual animals, and there is a deliberate effort to minimize the variability in environmental exposures which might interact with the substance being tested for carcinogenicity. By contrast, it was noted repeatedly in the hearings that worker populations exposed to carcinogens can be expected to be relatively heterogeneous collections of individuals—with substantial variations in both genetic factors (influencing, *inter alia*, metabolic handling of carcinogens and the efficiency of repair of pre-carcinogenic DNA lesions) and potentially interacting environmental factors (e.g., the difference in cancer risk between smoking and non-smoking asbestos workers). Even if the basic form of the relationship between dose and cancer risk within each individual is linear, if there are substantial differences between individuals in susceptibility (slope of the dose/cancer risk relationship) within an exposed population, the number of cancers produced in a population by low doses of carcinogen will generally *exceed* the number which would be expected from a simple linear interpolation from high dose observations. The degree to which a simple linear interpolation may understate the true risk due to such individual variability is not yet known for any specific carcinogen.

It is recognized that there may be factors which would result in a linear extrapolation being an over-estimate of the risk, but the Secretary must be especially concerned with the possibilities of high worker risk and err on the side of caution (IUD v. Hodgson). OSHA will not, in general, have any reliable body of data for predicting the likely degree of individual human variability in sensitivity to specific chemicals to be regulated. However, in view of the testimony that appreciable inter-individual variability has been observed in drug metabolism and carcinogen binding to DNA (e.g. the work of Hammer and Sjoqvist, 1967, finding a ten-fold variation among twenty patients in the half-time for disappearance of tricyclic antidepressants from plasma, and the work of Harris and Trump, 1976, finding a 70-fold variation amoung 37 patients in the amount of the carcinogen benzo(a)pyrene bound to DNA in human bronchi cultured under similar conditions (Harris, S. 3–4)), there may often be an uncertainty of 10-fold or more due to this factor.

• *"Plateau effects."* The original Maltoni animal experiments on the carcinogenicity of vinyl chloride at various dose levels illustrate another potential hazard of simple linear interpolation of cancer risks from high to low doses (Maltoni, 1975). The Maltoni data from experiment BTI span a very large range in dosage from 50 ppm to 10,000 ppm. By contrast, most current carcinogenesis bioassays are done for only two very high doses (a "maximally tolerated dose," and a dose estimated to be about half that). The Maltoni data for vinyl chloride exhibit a plateau in the carcinogenic response at the highest dose levels. There are relatively small differences in the yield of total tumors or angiosarcomas between the animal groups given doses from 500 to 10,000 ppm. At 500 ppm and below, there is a fall-off in tumor yield compatible with a linear dose-response relationship. If, in the case of vinyl chloride, only the two highest dose levels (6,000 and 10,000 ppm) had been tested, and a linear-dose response relationship had been assumed beginning with the point at 6,000 ppm, the risk at the 250 ppm level would have been underestimated by over 10-fold, compared to the actual results at 250 ppm. Thus, when making risk estimates from data covering a very limited range of dosage, it is quite possible that simple linear interpolation from the lowest dose which happens to be available may lead to ten-fold or greater errors if the carcinogenic response shows a plateau similar or worse than that found with vinyl chloride. This is essentially the point made in the testimony of Dr. Gehring (Dow Chemical), although Gehring presented his data in a way which obscured the fact that "metabolic overloading" in this case gave rise to a massive underestimation of risk.

• *Uncertainty in future chemical usage and worker exposure.* A final factor which may contribute substantial uncertainty to estimates of the number of cancers which may result under a given exposure standard is the future changes in the number of workers who may be subjected to exposure to the regulated substance. Clearly, if the regulated substance is used in an expanding industry, over a period of several years the number of workers at risk (and the number expected to eventually develop cancer) may rise by many-fold from the number exposed at the time the standard is promulgated. A similar expansion of the risk may occur if the regulated substance comes into wide use for new applications.

All of these considerations make it prudent to regard "best estimates" of cancer risk from simple linear interpolation of animal or human epidemiological data as potentially understating actual cancer risks by orders of magnitude.

9. *Is Mutagenic "Potency" a Useful Predictor of Carcinogenic "Potency"?*

Dr. Matthew Meselson (Harvard University) introduced a paper in which he and his colleague, K. Russell, had compared the carcinogenic "potencies" of 10 carcinogens in rodents with their mutagenic "potencies" as measured in the Ames *Salmonella* reversion test (Meselson and Russell, 1977). Both carcinogenic and mutagenic potencies were carefully defined, and the authors found a "rough . . ." correlation between the two:

"For a variety of compounds which are both carcinogenic and mutagenic, it is found that the carcinogenic potency k in laboratory rodents is approximately equal to the mutagenic potency m in Salmonella, using definitions of k and m given in the text. An exception to this relationship is noted for a number of nitroso compounds, for which k is considerably greater than m.

"It is suggested that the carcinogenic potency of a mutagenic compound for man may be roughly equal to that in rodents if the carcinogenic potencies are expressed in terms of the average normal life-spans of the respective species." (Meselson and Russell, 1977, p. 479; Exhibit 18 to Hoel Statement.)

If such a correlation can be confirmed by further measurements on specific classes of carcinogens, it might perhaps prove possible to improve predictions of potential low-dose risks to humans, avoiding some of the complexities and

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uncertainties discussed in previous sections. However, at present, data are extremely limited (see Goldman, S. 20). OSHA is aware of a large-scale study in progress which would throw light on this possibility (Ames and Hooper, 1978). Pending the results of such a study it would be premature to consider its incorporation into any scheme for risk assessment.

Estimates of Lifetime Risk From Exposure to 1 ppm Vinyl Chloride

Source	Estimate of lifetime risks	Method of extrapolation	Source of data
Wilson (S. 53)	2.5×10^{-3}	Linear	Epidemiological unspecified source.
Wilson (Exh. 251 B)	5×10^{-4}	Linear	Epidemiological and Maltoni (unspecified).
Crump and Guess (1977), exhibit to Hoel statement.	2×10^{-4}	Multi-stage, upper confidence limit.	Maltoni (1975).
Guess *et al.* (1977), exhibit to Hoel statement.	2×10^{-4}	Multi-stage, upper confidence limit.	Maltoni (1975).
	1×10^{-4}	Mantel-Bryan, upper confidence limit.	Maltoni (1975).
Clase (S. 38)	0	Assumption of threshold at 10^7 molecules per cell, calculated to occur at exposure level of 4.9 ppm.	
Nisbet (post-hearing comment, p. 6)	4×10^{-3} to 1×10^{-2}	Linear	Maltoni (1977), Table 12.
Gehring *et al.* (1978), p. 590	10^{-6}	Log-probit, extrapolation of observed dose-response curve.	Gehring *et al.* (1978), dose-response curve based on unmetabolized VC.
Hooper and Ames (1979)	Greater than 10^{-2} (rats)	Linear	Maltoni (1977), liver angiosarcomas.
	Greater than 10^{-2} (rats)	Linear	Maltoni (1977), mammary tumors.
	10^{-1} to 10^{-3} (humans)	Linear, extrapolated to humans.	Maltoni (1977).
Food Safety Council (1978)	10^{-2}	Multi-hit	Maltoni (1975).
Do	2×10^{-3}	Multi-hit, upper confidence limit.	Maltoni (1975).
Do	5×10^{-3}	Multi-stage	Maltoni (1975).
Do	8×10^{-3}	Multi-stage, upper confidence limit.	Maltoni (1975).
NAS (1977), exhibit to Hoel and Rail statements, p. 794.	2×10^{-3}*	Multi-stage, upper confidence limit.	Maltoni (1975).

* Assuming breathing rate of 15 m^3/day to convert from oral intake to inhalation exposure.

Estimated Human Risks From Saccharin Ingestion of 0.12 g/Day (From NAS 1978, p. 3-72)

	Lifetime cases/million exposed	Cases per 50 million/yr
Rat dose adjusted to human dose by surface area rule:		
Method of high- to low-dose extrapolation:		
Single-hit model (Hoel, 1977)	1,200	840
Multi-stage model (with quadratic term (Hoel, 1977)	5	3.5
Multi-hit model (Scientific Committee of the Food Safety Council, 1978)	.001	0.0007
Mantel-Bryan probit model (Brown, 1978)	450	315
Rat dose adjusted to human dose by mg/kg/day equivalence:		
Method of high- to low-dose extrapolation:		
Single-hit model (Saccharin and its Salts, 1977)	210	147
Multi-hit model (Scientific Committee of the Food Safety Council, 1978)	.001	0.0007
Mantel-Bryan probit model (Brown, 1978)	21	14.7
Rat dose adjusted to human dose by mg/kg/lifetime equivalence:		
Method of high- to low-dose extrapolation:		
Single-hit model (Brown, 1977)	5,200	3,640
Multi-hit model (Scientific Committee of the Food Safety Council, 1978)	.001	0.0007
Mantel-Bryan probit model (Brown, 1978)	4,200	2,940

D. OSHA's Conclusions

On reviewing the mass of expert testimony and conflicting opinions in the record, OSHA draws the following conclusions:

1. The "potency" of a chemical carcinogen can be defined only in relation to a specific test system and for specific experimental conditions. Although there is some correlation between the relative "potencies" of carcinogens in different test systems, there are also wide variations.

2. In the few cases where epidemiological studies provide good dose-response data in exposed humans, it is reasonable to make quantitative estimates of risks at low exposure levels. For such estimates, a linear exposure-response relationship should be assumed to represent a (single number) "best estimate" of likely risk. Data on partial-lifetime exposures should be extrapolated to predict full-lifetime risks, assuming a power-law relationship between response and elapsed time unless there is good evidence to support a different assumption for a specific carcinogen.

3. In cases where it is necessary to extrapolate from experimental data in an animal model to estimate the order of magnitude of low dose risks, the multi-stage (Armitage-Doll) model or its special case, the linear (one-hit) model have the best empirical and theoretical justification for use in making "best estimates" of likely risk at specific doses. Estimates obtained using the log-probit (Mantel-Bryan) and other models should not be presented except to show the range of potential uncertainty.

4. Pending further study and validation, time-to-event models should not be used in risk estimation.

5. While in the future it may be possible to use measurements of mutagenic potency to predict relative carcinogenic risks, at least within certain groups of carcinogens for which the correspondence may become well established, there is no adequate understanding of the correlation for such an approach to be implemented at the present time.

6. Where experimental data are available for several animal model systems, it is prudent for public health reasons to use the data from the most sensitive system as the basis for extrapolation.

7. Extrapolation from animal data to predict risks in humans introduces many additional uncertainties. These include selection of appropriate scaling factors for size, lifespan, and metabolic rate; differences in routes of exposure, duration and schedule of exposure, absorption, metabolism, and pharmacokinetics; differences in intrinsic susceptibility and repair capabilities; intra-population variation in susceptibility; and exposure to other carcinogens and intrinsic and extrinsic modifying factors. At least theoretically, these factors can affect the relative response of humans and animals by many orders of magnitude.

8. The uncertainties involved in extrapolating from high-dose animal experiments to predict low-dose risks to humans are far too large at present to justify using the estimates as the basis for quantitative risk/benefit analysis. This conclusion is well illustrated by the more than million-fold variation in the

estimates of risk derived by different authors for risks to persons exposed to vinyl chloride at the OSHA standard of 1 ppm.

9. Nevertheless, risk assessments may be useful for two purposes: (a) to predict relative risks different carcinogens when extensively studied, as the basis for establishment of priorities; (b) to estimate reductions in risks as a result of regulatory action, when adequate data exist to assess the role of the many uncertainty factors. For the latter purpose (b) single numbers for "best estimates" of expected cancer risk, derived from linear interpolations of available data should not be used alone, but should be accompanied by a statement of a reasonable range of risk, based on cautious asumptions in the several relevant areas of uncertainty.

PART D

IX. DESCRIPTION OF THIS SET OF REGULATIONS AND ANALYSIS OF THE MAJOR REGULATORY ISSUES

The previous discussions have set forth the necessity of and the scientific rationale for the promulgation today of the OSHA Cancer Policy to identify, classify and regulate potential occupational carcinogens. We do not intend to duplicate those discussions here. The following sections attempt to explain: (1) the procedural mechanisms which will be utilized to accomplish these goals and (2) the additional rationale and policy considerations, that are not discussed in other portions of this preamble, regarding the specific regulatory activity that may ensue.

For ease in discussing the issues, a description of this set of regulations (and issues implicit therein) is presented first. Other issues raised in the rulemaking are discussed in Sections XI and XII below.

A. SCOPE AND PURPOSE (§§ 1990.101 AND 1990.102)

In the proposed regulation, OSHA stated that:

". . . the three proposed model standards would apply to all workplaces in all industries, including the general, construction, maritime and agriculture industries, whenever occupational exposure to the toxic substance, as defined, occurs." (42 FR 54174).

In the course of this rulemaking proceeding, major criticism of this proposed provision was made by certain affected industries. Specifically, representatives of the construction, maritime and agriculture industries argued that the provisions of the model standards and other provisions of the proposed regulation should not apply to their industries. In addition, several participants expressed the view that the proposal, particularly certain provisions of the model standards, should not apply to the regulation of carcinogens as used in research laboratories. Iminent scientists not only expressed such concern (see e.g., Henry Pitot) but also testified as to precautions presently and voluntarily used. In particular, OSHA received correspondence from a number of academic institutions and scientific bodies expressing concern over the potential impact of the cancer policy on the conduct of both instructional and research activities in college and university laboratories, especially in laboratories where carcinogens are presently and necessarily used for the purposes of cancer research. These participants generally urged OSHA either to exclude research laboratories from the application of the proposed Part *per se*, or to exempt them from the regulations issued pursuant to the Part, or to establish a different approach for protecting laboratory workers from that established for other industrial facilities. Many of these participants considered the model standards contained in the proposed set of regulations to be inappropriate, in certain respects, for application to research laboratories. Their arguments for exemption from some provisions of the model standards were based upon the following claims:

(1) Research laboratories use very small quantities of each carcinogen at any one time;

(2) Exposures are brief and infrequent;

(3) The need to use particular substances, including carcinogens, is often difficult to predict in advance;

(4) Research laboratories are, in general, staffed by highly trained personnel;

(5) To impose the same kinds of requirements for worker protection on laboratories as on industrial operations would stifle research, particularly cancer research;

(6) Compliance would be unreasonably expensive.

Although very few of these claims were supported by any specific actual documentation or proof, OSHA is sympathetic to the special circumstances of research laboratories. In a memorandum dated December 21, 1978 to the Director of the Office of Science and Technology Policy, the Director of NCI, Dr. Arthur C. Upton, pointed out:

"The concerns expressed by Professor Roberts and others regarding the application of the proposed OSHA Cancer Policy to research laboratories are indeed important and deserve serious consideration. Having spent many years at the bench, I can fully appreciate the apprehension of scientists who may be concerned not only about the imposition of unneeded control measures, but also about the intrusion of the Federal government into the inner sanctum of the research laboratory. I recall that not too dissimilar concerns were expressed by some researchers when tighter safeguards were imposed on the handling and use of radioisotopes.

"A major concern of researchers appears to center on the necessity to monitor the laboratory environment for contamination by chemical carcinogens. Professor Roberts and others believe that current work practices minimize such environmental contamination and, hence, the potential for laboratory worker exposure. They argue that the cost to monitor would be a needless expense and on that many laboratories could not afford. Despite the belief that the containment of carcinogens is well under control, there are little hard data to support this idea. In fact, there are a number of studies indicating that laboratory workers are often at an increased cancer risk."

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"The problem we are faced with is our lack of knowledge regarding the extent and nature of contamination in laboratories engaged in research with chemical carcinogens. The problem is compounded by variations that exist in control technology and work practices among laboratories. The problem could be partially solved and, at the same time, the potential for worker exposure reduced by uniformly requiring that certain minimum safeguards be used by laboratories working with carcinogens. The experience with radioisotopes might well provide a model for implementing universal standards for the handling and disposal of carcinogens. I believe that such basic safeguards should apply irrespective of the carcinogen and without regard as to whether a carcinogen is or is not regulated under the OSHA Cancer Policy.

"As you may know, a subcommittee of the DHEW Committee to Coordinate Toxicology and Related Programs (CCTRP) is developing guidelines for the handling of chemical carcinogens used in the research laboratory. The subcommittee is attempting to define sets of work practices and controls which correspond to different levels of potential exposure. The subcommittee also is preparing safety monographs on the carcinogens now regulated by OSHA and on additional ones designated by the CCTRP. Many of the basic safeguards in the subcommittee's guidelines and those proposed in the OSHA Cancer

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Policy are essentially the same as suggested in Professor Roberts' letter of November 8.

"Apart from the minimum safeguards that should be universally applied, there may not be the same need for research laboratories to conform absolutely with an OSHA standard established for industry. Circumstances could be envisioned in which a rigid and comprehensive standard could needlessly inhibit research initiatives. For example, certain research efforts could be obstructed even though the level of potential risk would be lower than that considered in establishing the OSHA standard. In other circumstances, the same standard may be as appropriate for research laboratories as for industry. It seems to me that a standard should have some flexibility to allow for the nature and extent for use of a carcinogen by a research laboratory. Although it would be difficult for OSHA to define every circumstance requiring a special exemption to a standard, it should be recognized that there would be legitimate claims that deserve such consideration."

OSHA believes that exposure of a worker to potential carcinogens is a matter of serious and grave concern and that appropriate protective measures must be implemented, whether the worker is in a laboratory, in a manufacturing facility, or in any other type of workplace. On the basis of the substantial scientific documentation in the Record, OSHA has concluded that as to those scientific issues concerning the identification and classification of potential occupational carcinogens, this Part is uniformly applicable to all workplaces under the jurisdiction of the Act, including laboratories. On the other hand, OSHA is aware that an interagency group has proposed guidelines for the use of many specific substances in research laboratories. The approach of protecting laboratory workers with good processes and good practices may be preferable to specific monitoring of each individual substance employed. OSHA intends to pursue this matter further and reserves judgment for the present on the research laboratories.

Thus, there may be justification for a different type of regulatory response, depending on the type of industry impacted, in implementing this Part. The manner of use and the specific circumstances posed by exposure of workers in research laboratories and in the construction, agriculture, and maritime industries may call for different regulatory approaches, depending on the industry involved and the manner of use of the specific potential occupational carcinogen under consideration. For these reasons, OSHA has concluded that the application of this Part to these industries, as to the regulation of any given substance, should be determined on a case-by-case basis, in the course of the rulemakings taken pursuant to this Part, until a Record can be developed that would support a more appropriate set of model guidelines.

In the case of the construction industry, OSHA notes the existence of an Advisory Committee created pursuant to the Contract Work Hours and Safety Standards Act (40 U.S.C. 333 *et seq.*) and the fact that this Committee has been considering the application of health standards to the construction industry. OSHA intends to refer appropriate questions regarding the applicability to construction of provisions of the model standards to this Committee.

In summary, therefore, OSHA intends that the procedures for the identification and classification of potential carcinogens apply uniformly to such substances in whatever industry or workplace they may be found. The procedures for regulation of potential carcinogens, including the model standards set out in § 1990.151 and § 1990.152, will apply generally to all workplaces, except that certain provisions may be modified or waived for the construction, maritime, or agriculture industries, or for research laboratories, as circumstances may warrant for a specific potential occupational carcinogen regulated under this Part.

B. DEFINITIONS (§ 1990.103)

Definitions in this section are intended to reflect the same scientific conclusions and factual determinations as those found in the proposed regulation, except as discussed below. The language of some of the definitions has been changed in minor ways to express more clearly the intended meaning. Two definitions have been deleted, and two other definitions have been changed in more substantive ways.

(i) Some participants criticised the proposed definition of "suggestive evidence" as being imprecise. After careful review of the scientific issues involved, OSHA has concluded that there are too many variables which affect the degree of confidence in results of scientific studies to provide a single definition of "suggestive evidence" which would cover all eventualities and resolve all concerns raised in this proceeding. Instead, therefore, OSHA intends to rely on scientific judgment and to classify chemicals on the basis of a full scientific review which will consider the limitations of each individual study.

(ii) The proposed definition of "foreign toxic substance" has been deleted because this classification is not used in this Part, as is discussed below.

(iii) The definition of positive results in "short-term tests" has been changed slightly to reflect the extensive scientific evidence discussed in Section VI above. On the basis of the conclusions drawn in Section VI, OSHA has formulated its definition of "positive results in short-term tests" to specify only test systems that OSHA believes, in its judgment, have been "validated" in the sense discussed therein and to not include test systems that have not yet been validated. The definition requires results in two or more test systems for the reasons detailed in Section VI.

(iv) The definitions of "toxic substance" and "potential occupational carcinogen" have been amalgamated into a single definition, because comments contained in the Record reflected some confusion resulting from the original terminology, including the distinction between the two terms.

(v) In the proposed regulation, OSHA did not propose any general definition of the term "substance", and the term is not defined in this final set of regulations, for the following reasons. The definition of "potential occupational carcinogen" is written to cover not only a single substance, but a "combination or mixture of substances." (§ 1990.103) It is OSHA's intention that specific rulemakings to be conducted under this Part may, in appropriate circumstances, be applied to a single substance, to technical mixtures or formulations, to combinations of substances (such as alloys or co-polymers), to categories of substances (such as glass fibers or dyes with a common carcinogenic metabolite), or even to hard-to-define mixtures (such as tars or mine dusts). This approach, in fact, has been OSHA practice in past rulemakings concerned with carcinogenic substances: these have involved relatively pure chemicals (vinyl chloride, 29 CFR 1910.1017), industrial products or processes which may contain only relatively small fractions of the carcinogenic agent (benzene, 29 CFR 1910.1028), categories of substances (various types of asbestos, 29 CFR 1910.1001, or various compounds of arsenic, 29 CFR 1910.1018), and hard-to-define mixtures (coke oven emissions, 29 CFR 1910.1029). OSHA intends to continue this practice and to define the range of substances to be covered in each regulatory proceeding in a way which is appropriate to the scientific evidence and industrial circumstances relevant to the specific case. In other words, OSHA intends no change in how it has resolved this issue in the past in other rulemaking proceedings.

Some participants urged OSHA to define "substance" for the purposes of this Part in a much more specific and restrictive way. Notable among these arguments were those of Brush Wellman and its witness Dr. Adrianne Rogers (MIT), who wrote as follows:

"From a scientific point of view, it appears that the question of carcinogenicity should be considered separately for each element, compound, mixture, alloy or other material, and that tests of a material of one structure and composition cannot be used as a basis for drawing conclusions of carcinogenicity of materials of different composition or structure because they have one or more components in common. The definition of "toxic substance" should be clarified to include only the specific materials tested and found to be carcinogenic." (Rogers, S. 9).

However, there was voluminous evidence in the Record (including that proffered by Brush Wellman and Dr. Rogers) to show that such an approach would be unjustified and self-defeating. The principal issues involved have been discussed in detail in Sections IV, V, and VII above. The major points that OSHA believes are supported by substantial evidence in the Record include the following:

(i) Most industrial processes yield a complex mixture of chemicals to which workers may be exposed. Even in cases where a technical product has been tested in a bioassay, it is unlikely that any individual workplace will contain exactly "the specific material tested and found to be carcinogenic."

(ii) The exact constitution of a technical product varies between one manufacturing plant and another and even from batch-to-batch within the same plant.

(iii) Where a pure chemical has been tested in a bioassay and found to be carcinogenic, it is scientifically justified to assume that it presents a hazard to workers in any workplace where it is found, whatever other chemicals may be present in technical products or mixtures.

(iv) Many industrial processes produce ill-defined mixtures of chemicals, and in several cases major carcinogenic hazards have been revealed by epidemiologic studies before a specific agent could be identified. One example of an ill-defined mixture already regulated by OSHA is coke oven emissions. Other examples reported in the Record include soot, tars, and oils, chromate processing industries, hematite mining, and woodworking. It would appear to be inconsistent with the purposes of the Act to withhold regulatory action to protect workers from such identified hazards until a specific individual material has been identified as a causative agent.

For these reasons, which are extensively documented in the Record, OSHA intends to define the range of substances to be covered in each specific rulemaking on a case-by-case basis. OSHA expects that each individual case will raise a different combination of issues. These will be fully reviewed scientifically as part of the basis for each proposed rule, and the range of substances to be covered will be defined and subject to comment and resolution in each proceeding. On the basis of substantial evidence in the Record, OSHA believes that it would be unjustified to make a general definition of the range of substances to be covered, either in the excessively restricted form proposed by Brush Wellman in this rulemaking proceeding, or in a less restricted form that would be unlikely to fit the circumstances of specific rulemakings.

C. SCIENTIFIC REVIEW PANEL (§ 1990.104) AND ADVISORY COMMITTEES (§ 1990.105)

Section 1990.104 provides that at any time, the Secretary may request the Directors of NCI, NIEHS and/or NIOSH to convene a scientific review panel* to provide recommendations to the Secretary on the identification, classification or regulation of any potential occupational carcinogen. The Directors will choose the members of the Panel, who should be qualified in the disciplines relevant to the issues raised and be government employees. Where any report is submitted by a Panel, it should be filed in the record of any relevant proceeding undertaken pursuant to the Part, and appropriate public comment will be allowed. OSHA has chosen to utilize the expertise of the federal government research institutes with primary and universally recognized expertise in carcinogenesis and environmental and occupational health. Indeed, OSHA believes that *this* Record in *this* rulemaking reaffirms the breadth and quality of the scientific expertise on carcinogenesis residing in NCI, NIEHS and NIOSH.

Under the Act, and 29 CFR Part 1912, the Secretary may additionally establish an Advisory Committee to provide recommendations on any of a wide range of issues relating to one or more standards, including scientific issues. (Section 7(b) of the Act). The Committees must be composed of a broad cross-section of persons qualified by experience and affiliation so as to present the diverse views of interested groups. In the past, OSHA has convened advisory committees on specific standards for potential occupational carcinogens (e.g., asbestos, the 14 carcinogens, and coke oven emissions). OSHA anticipates that Advisory Committees will in the future also be convened from time to time, thereby giving OSHA additional flexibility in tapping needed scientific expertise outside the Agency.

Advisory Committees will differ substantially in function and constitution from the scientific review panels established under § 1990.104. Thus, the scientific review panels may often have a much narrower scientific focus and be less formal. Since they will be composed entirely of government employees, the scientific review panels would not constitute advisory committees within the meanings of Section 7 of the OSHA Act or the Federal Advisory Committee Act. On the other hand, Advisory Committees would be composed of a cross-section of interests and would be utilized to review issues that go beyond scientific issues. Also, Advisory Committees may only be utilized at prescribed junctures in the rulemaking process, whereas scientific advice from the scientific review panel may be sought at any time for any reason.

The proposed set of regulations did not provide explicitly for a scientific review panel, although OSHA has always believed strongly in the need for the best scientific evaluation of all meaningful scientific data. The concept of providing for evaluation by "outside" scientists is based in large measure upon the suggestions of AIHC, which recommended the creation of an "Evaluation and Classification Panel". However, OSHA is unable to accept AIHC's specific recommendations for the functioning of its proposed panel. For example, AIHC's panel would have been selected by the National Academy of Sciences from lists provided by NCI and non-governmental groups, and would have been solely responsible for the identification and classification of potential occupational carcinogens, subject only to judicial review. Apart from serious questions about the legality and appropriateness of transferring the authority for identifying, classifying, and regulating carcinogens from OSHA to this indirectly-established and non-governmental panel, OSHA believes that AIHC's proposed system would be inefficient in its division of responsibilities, would be subject to unreasonable delays, and would not

*This provision for convening panels on specific substances should be distinguished from § 1990.109(a)(1) which requires the Secretary to request review of the entire Part, at least every three years, by the Directors of NCI, NIEHS and NIOSH, respectively.

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ensure the protection of workers. OSHA believes that the system reflected in § 1990.104 and § 1990.105 is much more likely to ensure that OSHA will receive prompt, expert and impartial advice, and to ensure that regulation of potential occupational carcinogens will be expeditious and efficient.

In sum, pursuant to the Act, OSHA has several options available to it to assure that all of the meaningful evidence has been scientifically evaluated. To the extent possible, OSHA has adopted them all. Moreover, the wisdom underlying this system adopted today would appear to have been specifically considered and extensively debated by the Congress on whether there should be an "independent" Board to issue health and safety standards. In the end, the Congress rejected that approach and placed responsibility for issuing standards on the Secretary of Labor, although of course the Secretary could make use of all outside technical and scientific expertise in an advisory capacity.

In this regard, OSHA agrees with the observations of the AFL–CIO in its post-hearing brief, that some of the concerns expressed in the congressional debate apply equally to the AIHC recommended panel. These were: that the Board was not accountable to any one person (Leg. Hist. 1090–1), that many other regulatory agencies had combined standard-setting and enforcement authority and that the key need was for the technical personnel at the operating level of the agency (Leg. Hist. at p. 427–430; AFL–CIO Post Hearing at 26).

D. AMENDMENTS TO THE POLICY AND THE "FREEZING OF SCIENCE" ISSUES (§ 1990.106 and § 1990.145)

As noted elsewhere, OSHA was and is committed to assuring that sound scientific judgment is always utilized in applying this Part to determine whether any particular substance or substances should be regulated as potential occupational carcinogens. Because many participants apparently did not realize this fact, for the reasons detailed below in section IX.I, OSHA has explicitly provided in this Part that amendments should be made to the Part to reflect and respond to expanding scientific knowledge and important scientific developments.

Two mechanisms for amending this Part are explicitly provided. These provisions are intended to ensure that OSHA will consider the "latest scientific data in the field" and that the Policy will reflect the current state of scientific knowledge in carcinogenesis, and incorporate the "best available evidence" pursuant to § 6(b)(5) of the Act. The relevant provisions are as follows. Section 1990.106 deals with scientific review of this Part, at least every three (3) years by the National Cancer Institute, the National Institute for Environmental Health Sciences and the National Institute of Occupational Safety and Health. Section 1990.145 establishes specific procedures to institute an amendment proceeding in conjunction with a rulemaking on a specific substance.

The more general § 1990.106 specifies four circumstances in which OSHA is required to review the Policy: (1) A recommendation for amendment made individually or collectively by the Directors of NCI, NIEHS and NIOSH after a required periodic review; (2) a recommendation for amendment made individually or collectively by each of the Directors of these Institutes, on their own motion; (3) a petition submitted by the public which demonstrates new evidence or issues; and (4) the Secretary's own motion.

More specifically, section 1990.106(a)(1) requires the Secretary to request each of the Directors of NCI, NIEHS and/or NIOSH to review the cancer policy at least every three (3) years, to advise OSHA on whether any significant scientific and/or technical advances since the effective date of this Part warrant any amendment. This periodic review by the Institutes, initiated by the Secretary, is an important mechanism for ensuring that this Part remains consistent with significant discoveries in carcinogenesis and occupational health. Because of their unique positions at the forefront of research, the Institutes may bring to OSHA's attention scientific advances that might not otherwise have been raised.

The second mechanism provided by this Part to ensure that OSHA considers the latest scientific developments is the procedure of § 1990.106(a)(2) that provides for and encourages the Director(s) of the Institutes to recommend to OSHA amendments to this Part based on significant scientific or technical advances, outside the periodic review process. OSHA encourages the Institutes to notify OSHA whenever they become aware of any such evidence. Although OSHA anticipates that periodic review at least every three years will cover most significant advances, it is possible that significant advances in the interim will be made and the amendment of this Part should reflect such advances in a timely fashion by the inclusion of this provision.

The third way specified to require OSHA to review the Part is for a member of the public to file a petition meeting the requirements of § 1990.106(a)(3). The requested amendment must be based on substantial new evidence, and/or substantial new issues. The petition must contain a detailed statement and analysis as to why the petitioner believes that the data, views and arguments presented: (a) are so significant as to warrant amendment of this Part and (b) constitute substantial new evidence or substantial new issues, as further defined. To be considered "new," evidence must be based upon data, views and arguments which differ significantly from those presented in the rulemaking(s) underlying this Part. Thus, OSHA will welcome the submission of substantial new evidence on any issues. OSHA will also welcome the raising of substantial "new" issues, i.e., issues upon which OSHA did not reach a conclusion in this Policy, including the conclusions reached in the preamble. OSHA will not, however, reconsider the same issues based upon the same or merely cumulative evidence.

Lastly, this set of regulations states that the Secretary may, on his own motion, commence a rulemaking proceeding to amend this Part. This essentially expresses the Agency's willingness to initiate an amendment proceeding whenever the Secretary believes that amendment would advance the goals of the Act. The provision does not, therefore, include the requirement that the Secretary initiate an amendment proceeding only when "substantially new" evidence or issues constitute the basis. Similarly the Secretary *may* reconsider this Part, in light of public petitions even where substantial new evidence or issues are not raised. But, the Secretary is not *required* to reconsider or relitigate the Policy in such circumstances. And, the rationale for OSHA's changing its conclusion on provisions of the Policy would have to be aired in an appropriate rulemaking proceeding, accompanied by a reasoned statement supporting the policy change.

Section 1990.106(b) requires the Secretary to respond to recommendations from the Institutes and to petitions by the public within prescribed timeframes. The Secretary believes that the requirement to respond, particularly to public petitions, is an important aspect of keeping the public informed of OSHA's views and actions.

OSHA's possible responses to public petitions whose contents conform to § 1990.106(a)(3) are as follows. The Secretary will either (i) refer the petition to the Directors of NCI, NIEHS and/or NIOSH; (ii) appoint an advisory committee; (iii) deny the petition, giving the reasons therefor; or (iv) commence a rulemaking proceeding to amend this Part. OSHA is not required to respond to petitions that do not meet the procedural requirements of § 1990.106 or § 1990.145. The imposition of a requirement for response in every case where the public makes an insubstantial claim of scientific advance would burden the Agency, deprive it of the capability to respond promptly to those petitions that are based on genuinely new scientific advances, and in essence, would deprive OSHA of the ability to regulate its own priorities. It would also permit the relitigation of the same issues time and again under the amendment procedures.

Where the Secretary determines that the substantial new evidence or substantial new issue is sufficient to initiate a proceeding to amend this Part, the Secretary shall either:

(a) commence a rulemaking proceeding to consider amending this Part; or

(b) commence a rulemaking proceeding to consider amending this Part and consolidate it with the proceeding on the individual substance.

OSHA believes that these provisions eliminate any basis for the criticism of some participants, who alleged that OSHA's proposal would "freeze science" because it would foreclose the future consideration of new scientific advances by the Agency.

Another change from the proposal is an opportunity to amend this cancer policy in the context of standard-setting proceedings on potential occupational carcinogens, based on a demonstration of substantial new evidence and/or substantial new issues, which relate to the substance then the subject of a rulemaking proceeding (§ 1990.145).

These provisions of § 1990.145 were not part of the proposal and their introduction directly responds to comment and testimony in the Record. The definitions of substantial new issues and evidence are the same as those in § 1990.106. The required contents of the petitions for consideration of substantial new issues and evidence are also intended to be identical. In addition, the petition must explain why the proposed amendment relates to the substance at issue.

Petitions must be filed by the deadlines established in the Advance Notice of Proposed Rulemaking, discussed below. In extraordinary cases, petitions may also be filed where the evidence was not available by the deadline, and is submitted at the earliest possible time (§ 1990.145(c)(3)). In the rare case where an Advance Notice of Proposed Rulemaking is not published, conforming petitions must be submitted by the deadline established in the notice of proposed rulemaking.

OSHA believes these provisions will assure the timely consideration of new evidence, will prevent the adoption of standards based on outdated science and technology, and will ensure that significant developments in the field of carcinogenesis will continue to be reflected in OSHA standards-setting activities.

These procedures to intergrate amendment and standard-setting are specifically responsive to the concern expressed in a representative comment by the Dow Chemical Company:

> "The record, however, has now made it clear that there is absolutely no assurance that the latest scientific evidence in the field will be permitted to be applied under the proposal to any given regulation of a specific chemical substance. . . . Further, petitions to modify this proposal, if adopted to address the latest scientific data could proceed wholly and separately apart from a contemporaneously initiated rulemaking of a specific substance under the generic regulation. One consequence is an obvious frustration of the proper application of the law. The latest science will not necessarily be allowed in a rulemaking on a specific substance." (Dow Post-Hearing Brief at 7)

A contrary concern was expressed by the Natural Resources Defense Council. NRDC stated that it is unfair for an agency to develop major policy changes of great importance in individual cases, rather than in a "broad rulemaking proceeding," because of limited notice and participation opportunities in the narrower proceeding. NRDC's concern was that a scientific policy issue at stake in a standard-setting proceeding could literally be buried because of inadequate notice. To foreclose that possibility, section 1990.145(d)(iii) requires that the Secretary publish a proposed amendment in the **Federal Register**, whether or not the amendment proceeding is consolidated with the proceeding on an individual substance. In either case, OSHA would, as it has done in the past and in this rulemaking proceeding, affirmatively seek out and encourage participation from all interested segments of the public.

Whenever issues of broad application are addressed in a individual rulemaking proceeding, OSHA will clearly identify these issues in the **Federal Register**, and will notify the public in the same manner as it would if the proceeding encompassed only the broad, general amendment. The provisions of § 1990.145(c)(2) require the petitioner to specify the provisions of the Part believed to be inappropriate and to show that the new evidence is relevant to the specific substance. OSHA will therefore be able to describe the scope and text of any amendment in the notice of the proposed amendment.

In sum, OSHA believes that these newly incorporated amendment procedures will prevent the constant "relitigation" of previously determined issues, yet will allow genuine scientific and policy advances to be incorporated fairly, effectively and expeditiously in this Part.

It should be emphasized that the only way to change this Part is through rulemaking, *i.e.*, a rulemaking proceeding conducted according to one of the above described procedures and subject to the above-described requirements.

OSHA disagrees with AIHC's characterization of the petition to amend as "a time consuming and ponderous mechanism for incorporating into the regulatory standards newly available evidence or data concerning theretofore unresolved issues" (Post Hearing Brief at 190). OSHA does not believe that procedures for amending the cancer policy are unduly burdensome. Further, the potential for combining amend and standard-setting proceedings where a proposed amendment appears limited in scope is expected to expedite the incorporation of policy changes which have limited future application. In the cases where major policy changes are warranted, we believe all interested parties should have an opportunity to participate. This is true whether a major policy issue is considered alone or in conjunction with an individual substance rulemaking proceeding.

E. GENERAL STATEMENT OF REGULATORY POLICY (§ 1990.111)

Section 1990.111 is a general statement of the essential elements of this Part. It does not conflict with and is not intended to supersede any of the more detailed provisions elsewhere in these regulations. With two exceptions, each of the subparagraphs is fully explained elsewhere in this preamble. The two exceptions are subparagraphs 111(j) and 111(k), which are explained below in Section XII.

F. CLASSIFICATION OF CARCINOGENS (§ 1990.112)

In the proposal, OSHA proposed to classify toxic substances into three

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substantive categories and to regulate them in different ways.

In general, as more fully discussed below, Category I toxic substances are those whose carcinogenicity, as defined, has been determined in humans or in two or more mammalian species of test animals or in one species if the results of that study have been replicated. Category II toxic substances are those whose carcinogenicity has been reported but the evidence for some reason is only suggestive, as defined, or positive in one species, but not yet replicated. Category III toxic substances are those for which the evidence is inadequate to raise any concern regarding carcinogenicity or where the evidence consists of animal data in a single species that is less than suggestive. (42 FR 54165)

1. Category I and II potential carcinogens

OSHA's rationale for distinguishing between Category I and Category II toxic substances was, firstly, that "false positive" results may arise occasionally, and, secondly, that the degree of scientific confidence in positive results may vary:

OSHA recognizes that "false positive" results may arise occasionally, both through statistical accidents and honest errors in the conduct of single experiments. Accordingly, OSHA recognizes that much greater weight should be attached to positive results that have been replicated in another study than in a single unconfirmed result.

* * * * *

OSHA recognizes that there are other factors involved in carcinogenicity tests which affect the degree of confidence in the results (e.g., choice of strain, spontaneous tumor incidence, duration of experiment, survival, intensiveness and competence of pathological examination, etc.). In addition, OSHA may require detailed review of each experiment, including, where necessary, independent pathological diagnoses, before classifying each toxic substance. (42 FR 54164–54165)

This proposal was commented on by a number of participants in this rulemaking. There was extensive scientific testimony supporting and documenting OSHA's position, cited above, that there are a number of factors involved in carcinogenicity tests which affect the degree of scientific confidence in the results. Other participants argued that some types of data are more convincing than others as evidence of potential carcinogenic risks to exposed workers: for example, all scientific witnesses agreed that convincing positive results in human epidemiological studies would justify classifying a substance in Category I, whereas only a few argued that positive results in short-term tests would be sufficient. For these reasons, there was widespread support for the proposal to classify potential occupational carcinogens into two or more categories. However, a wide range of proposals was made for the criteria for such classification. As discussed earlier, there was a wide range of scientific opinion on the extent of confirmation or replication needed before positive results in human or animal studies can be used to support an inference of carcinogenicity. Some participants argued that OSHA should not regulate workplace exposures at all unless the evidence for carcinogenicity were fully convincing, and some participants claimed that OSHA's proposed definition of "suggestive" evidence was too imprecise.

After review of the extensive comments in the Record, OSHA concludes that its original proposal was basically sound and was well supported scientifically. Accordingly, the proposal is being modified in only minor ways. The rationale for the criteria for Category I and Category II potential carcinogens is discussed in several sections of the preamble. (See, e.g., section V.D.9.)

Where evidence is "suggestive," substances will be classified as Category II Potential Carcinogens. As noted above, OSHA attempted in the proposal to define the term "suggestive," but, based upon the Record in this proceeding, it has not been possible to define the factors which would compel a finding that evidence is "suggestive." "Suggestive" is a commonly used and understood scientific term that requires the exercise of scientific judgment. OSHA believes that the Secretary should, subject to appropriate consideration of priorities, regulate potential carcinogens in cases where scientific evaluation indicates that there is suggestive evidence of carcinogenic hazard. As a legal matter, the Act requires OSHA to take measures to reduce worker exposure wherever there are adequate scientific reasons to infer that such exposure is likely to cause material impairment to health, even if the state of scientific knowledge is such that the existence of the hazard has not been established with complete and absolute certainty. As a scientific matter, both human epidemiologic studies and experimental animal studies are subject to a large number of variables, so that the degree of scientific confidence that can be placed in positive results may vary greatly. This point was documented by voluminous scientific evidence in the record. It was summarized most succinctly by Dr. David Rall (Director, NIEHS), as follows:

I believe that most scientists will be happy to see the introduction of something like Category II, recognizing that some experiments give inconclusive results and allowing us to escape from the dilemma of having to assign all chemicals into "Yes" or "No" categories. On the other hand, scientists always feel unhappy about the application of rigid criteria to complex questions. The scientific decision as to whether a chemical has been shown to be carcinogenic in an animal species requires consideration of all aspects of the experiment, including not only the statistics of the number of tumors but also the pathological diagnoses, exposure regimens, health and nutrition of the animals, and many other factors. Once a chemical is established as a carcinogen in an animal species, there follows a presumption of risk to exposed humans, but the precise degree of risk depends on consideration of other factors, including routes of exposure, metabolic pathways, structure-activity relationships, etc. It is difficult to reduce these manifold considerations to a formula.

On the one hand, there are cases where a single, well-conducted experiment giving clearly positive results should suffice to establish a chemical as a carcinogen and to justify stringent measures to reduce occupational exposure. On the other hand, there are cases where two or even three less conclusive positive results would still leave some doubt. The fact is that scientific experiments never give results that are 100% positive, nor 100% negative. Science deals in probabilities, and carcinogenesis bioassays give results that may fall anywhere on a continuous spectrum of probabilities, extending from 2 or 3% at the lowest to nearly 100% at the highest. Division of this spectrum into discrete categories may be necessary for regulatory purposes, but it is necessarily arbitrary from a scientific point of view. Thus the recommendation of a scientist would be to make the criteria for categorization flexible, and to apply as much scientific judgment to each case as is compatible with legal and regulatory requirements. (Rall, S. 13–14)

Many other witnesses testified about the large number of factors which affect the conclusiveness of positive results and about the crucial role of scientific judgment in judging whether results are conclusive or not.

Because there are so many factors which may limit scientific confidence in positive results, OSHA accepts Dr. Rall's conclusion that rigid criteria cannot and should not be established to separate "conclusive" and "suggestive" results. Instead, OSHA intends to rely on scientific judgment and to classify chemicals on the basis of a full scientific review which considers the limitations of each individual study.

2. Category III Substances

The proposal included provisions for Category III toxic substances (Ex. 1, 42 FR 54172, § 1990.130–133, 42 FR 54186). Category III substances were substances

where there was some evidence of carcinogenicity, but not enough evidence to classify them as Category I or II substances or to take any regulatory action. Under the proposal, if a substance was classified as Category III, the NCI, NIOSH, EPA and FDA would be notified, the decision would be published in the **Federal Register**, and a list of all Category III substances would be periodically published in the **Federal Register**. There were also provisions to reconsider a Category III classification.

There was little comment on the Category III classification. NRDC recommended that the Category III classification be utilized for substances for which the only evidence of carcinogenicity was short term tests. They recommended no regulatory action, but suggested that OSHA establish priorities for further testing.

DuPont (III–134, pp. 52, 67) and AIHC (III–104Q, p. 85) provided for Category III substances in their regulatory proposals. Their definition of Category III would include most substances which would prove to be Category III substances in the OSHA proposal as well as some substances which OSHA's proposal might classify as Category I or II. DuPont and AIHC recommended that the only regulatory response to their Category III substances would be a request to the scientific community for further research and, if deemed necessary, regulation based on other—or non-carcinogenic—effects.

OSHA has carefully considered its proposed position and the few comments which were made. It has decided that it would be advisable not to include a formal Category III classification within this Part. All agreed that it would be inappropriate to take regulatory action based on the evidence which would result in a Category III classification. Requests for further scientific research can be made without going through regulatory procedures. If regulation is needed for non-carcinogenic effects, then the general § 6(b) procedures of the Act are the appropriate approach. OSHA, therefore believes, that having a formal Category III would utilize limited administrative resources which would be better spent on identifying and regulating Category I and II substances.

3. Category IV—Foreign Substances

The proposal also included provisions for Category IV Toxic Substances (Ex. 1, 42 FR 54172; § 1990.141, 42 FR 54187). The proposed regulations provided that when a substance met the definition of a toxic substance but appeared not to be present in any workplace in the United States, the Secretary would publish in the **Federal Register** a notice to classify the substance in Category IV and give the public opportunity to comment on that determination. If the comments indicated that the substance was present or if later information indicated that a Category IV substance was now present, the Secretary would proceed to reclassify the substance as provided for by the Cancer Policy. The proposed regulation also required the periodic publication of the Category IV list in the **Federal Register**.

The reason for the Category IV classification was that sometimes some evidence might be presented to OSHA of the possible carcinogenicity of a substance, although that substance did not appear to be present in any American workplace. OSHA believed it unwise to continue to evaluate the evidence about the substance or propose to regulate it, under such circumstances, because scientific resources appeared to be better spent evaluating and regulating substances which were present in the American workplace and created an immediate hazard.

There were some comments on this aspect of the proposal. AIHC, (Ex. 251A, p. 192), NIOSH (S. III–34, p. 3), and the Environmental Defense Fund (S. IV–30, p. 10) all agreed with OSHA that it was unwise to waste administrative and scientific resources on classifying and regulating substances not present in the American workplace. NIOSH and EDF suggested that they believed that the proposal's procedures would result in too many resources being spent on substances not present in the workplace. NIOSH and AIHC recommended that there be no Category IV to eliminate that problem. EDF recommended that OSHA first determine whether a substance is present before giving any other consideration to it.

All agreed that administrative resources should not be spent on substances not present in the American workplace. Indeed, this was OSHA's belief as well. Thus, upon consideration, OSHA agrees with the commenters that the best way to achieve this goal, is to eliminate the Category IV classification from this final Part. The appropriate time to consider the identification and regulation of potential carcinogens is when a substance is introduced or about to be introduced into an American workplace.

Sections 1990.111(c) and 1990.121(a) of this final set of regulations indicate that this Part shall apply to substances reported to be present in the American workplace. The specific nature of Category I and II definitions will permit an employer to determine which substances that are not present in the American workplace, are likely to be identified as potential occupational carcinogens, if they intend to introduce those substances.

In sum, on review of the Record, OSHA has concluded that the advantages to be gained by maintaining these proposed categories would not justify the expenditures of time and Agency resources necessary to conduct the required scientific reviews. Accordingly, Categories III and IV are not included in this final set of regulations. In cases in which a rulemaking is conducted on a substance proposed for classification into Category I or Category II, and the scientific evidence is found insufficient to justify classification into either Category, OSHA will make a public statement of this finding but will not make a formal Category III designation for such a substance. Similarly, if a rulemaking is initiated on a substance proposed for classification as Category I or Category II, and if information is received which satisfies OSHA that the substance is not found in workplaces in the United States, OSHA will make a public statement of this finding, but will not make a formal Category IV designation for such a substance.

G. CANDIDATE LIST AND PRIORITIES (§§ 1990.121, 1990.122, 1990.131, AND 1990.132)

OSHA believes that this Part establishes a flexible process for screening evidence on substances that may be potential occupational carcinogens and for setting priorities among such substances for full scientific evaluation and regulation as potential occupational carcinogens. The process will take place in three sequential steps, each of which is more fully described below:

(i) the establishment of a 'Candidate List' of substances which, on the basis of brief scientific review, may be considered candidates for further scientific review and possible identification, classification, and regulation as potential occupational carcinogens;

(ii) the establishment of two 'Priority Lists' of substances selected from the Candidate List on the basis of information that suggests relatively high degrees of hazard to exposed worker populations;

(iii) the selection of one or more substances from the Priority Lists for full scientific review with a view to subsequent rulemakings.

OSHA's original proposed regulation did not include either an explicit system

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for setting priorities* or a method for screening and classifying the large number of substances reported or alleged to be carcinogenic. However, the proposal drew attention to "the large number of potential carcinogens already identified by NIOSH," and invited the public to submit comments on "the best way to supplement these regulations insofar as those substances identified as 'suspect carcinogens' by NIOSH are concerned" (42 FR 54169, 54170). Furthermore, as pointed out below, in the course of this rulemaking, in response to requests submitted by some participants, OSHA released a preliminary version of the Candidate List prepared by an OSHA contractor, Clement Associates, Inc., scientific regulatory consultants. This list (referred to as the "Clement List" by some participants) was based primarily on a brief scientific evaluation of the data identified in the NIOSH List. OSHA specifically invited *all* participants to submit comments on the Clement List, and specifically to propose ways to set priorities among the substances included in it.

OSHA's adoption of an explicit process for screening candidate substances and for setting priorities is responsive to a large volume of public comment on this point. Many individual witnesses, participants, and Federal regulatory agencies such as FDA and EPA urged OSHA to adopt such a system and to make it public. Furthermore, OSHA agrees with what almost every participant argued, that a rational system of setting regulatory priorities is dictated by the recognition that any Policy as proposed could not and should not transform carcinogen regulation into a mechanical process. Rather, OSHA should, to the extent practicable, regulate the "worst first." However, OSHA believes that under no circumstances should priority-setting slow the important process of reducing human exposures to potential carcinogens.

In addition, the following expectations underlie OSHA's adoption of an explicit process of screening and priority setting:

1. The Department of Labor's internal rulemaking resources will continue to be inadequate to complete standards on all potential occupational carcinogens within a limited period of time.

2. It is not necessarily a prudent use of Agency or Society's resources to regulate immediately every substance that meets the definition of a potential occupational carcinogen. For example, other hazards must be dealt with, as well, the number of exposed workers varies, as does exposure levels and other factors.

3. No workable system can be devised to assess the evidence and then regulate in the foreseeable future all substances on the NIOSH List that meet the criteria for a potential occupational carcinogen.

4. The NIOSH List admittedly includes many substances which are listed as "suspected carcinogens" on the basis of inadequate evidence, and many others which are laboratory "curiosities" unlikely to be found in any workplace, so that a screening process is necessary to limit the range of substances that deserve full scientific review.

Although a large number of comments and suggestions on methods for priority setting were received, both in response to the initial proposal and in response to specific requests for suggestions, OSHA finds after review of the evidence in the Record on this issue that the comments were not particularly helpful for developing a specific priority setting system. The proposals concerning the setting of priorities presented in the Record had three major limitations:

(i) Most priority-setting systems that were proposed were far too elaborate, many of them requiring *full* scientific review of *all* data on *all* candidate substances, together with elaborate risk estimation schemes and in some cases cost-benefit analyses for all substances, before *any* ranking could be undertaken;

(ii) Most proponents of priority-setting apparently assumed that extensive data were available on human exposure and risks, and were unaware of the extremely limited data actually available on most substances;

(iii) Several proposed schemes included numerical systems for estimating risks, involving the assumption that quantitative risk estimation could be conducted reliably and consistently for all substances.

The essence of a good priority-setting system is that it should improve the *efficiency* of a regulatory system by enabling the regulatory agency to treat the "worst first." If the system is too elaborate, it will actually reduce the efficiency of the regulatory system by absorbing the resources of the agency in the priority-setting exercise, to the point where actual regulation is postponed. OSHA regards proposals that its priority-setting system should be based on "systematic review of all the scientific evidence" as disingenuous, both because most of the scientific evidence required for systematic review is lacking, and because consideration of all the scientific evidence available is more appropriately done in the final stage of classification and regulation. To adopt such proposals would achieve little except to delay—if not postpone forever—the initiation of regulation. This approach, which OSHA rejects, has been characterized by some as "Paralysis by Analysis".

Accordingly, OSHA has used the proposals proffered in the Record to suggest a procedure by which OSHA will devise a screening and priority-setting system which will use the limited information available in an efficient way, without attempting to use a formal or rigid system. OSHA believes that its three-step process will accomplish this.

The publication of a Candidate List of Potential Occupational Carcinogens is provided by § 1990.121. This list will include substances which are present in American workplaces and which, based upon OSHA's brief review of available data, appear to be candidates for further scientific review or for regulation as potential occupational carcinogens. The list may also tentatively designate substances as candidates for classification as Category I or Category II potential occupational carcinogens, although some substances will be listed merely as candidates, without mention of any category. Annual publication of the list in the **Federal Register** is required. The Secretary will consider and respond to petitions concerning the inclusion or exclusion of any substance from the Candidate List (§ 1990.122).

The regulation generally defines "available data" to mean: (1) data submitted by any person; (2) data referred to in NIOSH's list of suspect carcinogens; (3) data found in the U.S. Public Health Service, Publication No. 149; (4) Monographs of the Toxic Substances Control Act International Agency for Research on Cancer (IARC); (5) The Inventory of Chemical Substances prepared by the Administrator of EPA; (6) the Annual Report of the Secretary of HHS to the President and Congress; and (7) other relevant data of which the Secretary has actual knowledge (§ 1990.121(a)). For administrative and other practical reasons, the Candidate List will not specify the data that were reviewed. OSHA will identify the relevant data to any interested party upon written request.

The regulation permits the tentative designation of a substance by Category, but does not require it. OSHA tentatively will designate a substance if after the brief scientific review, the quantity and nature of reported evidence permit such a preliminary designation.

The compilation of the Candidate List will assist OSHA and other interested parties in several ways. In the first place, it is expected to reduce the number of substances subject to review from the several thousand "suspected carcinogens" in the NIOSH List to no more than a few hundred which survive an initial scientific review. In addition, OSHA believes, and the Record supports, that the establishment of the Candidate List will improve OSHA's ability to set priorities and to select substances for regulation under this Part; will provide the public useful information by informing them that a substance is a candidate for closer scientific review and possible regulation; will stimulate early public comment to assist OSHA to evaluate the available scientific data before it; will assist the research community to focus its resources; and will help OSHA become cognizant of relevant data before it sets priorities for regulation.

OSHA emphasizes that the Candidate List is not a final scientific determination that any listed substance is a potential occupational carcinogen, nor is it intended as even a pre-classification warning. The failure to include a substance or its subsequent deletion from the Candidate List is not intended to detract from the value of any data concerning that substance, in the context of any OSHA enforcement or rulemaking proceeding. No legal rights or burdens are intended to be conveyed or imposed by the inclusion or exclusion of a substance. However, the Secretary will welcome information that may be relevant to the inclusion or exclusion of any substance on the List, and will respond to any petitions thereon (§ 1990.122).

For the purpose of compiling the Candidate List, OSHA intends that a "brief scientific review" will initially consist only of review of data contained in items (2) to (6) of the list in § 1990.121(a). The inclusion of a substance in item (5), the EPA Inventory of Chemical Substances; compiled pursuant to the Toxic Substances Control Act, will be used as *prima facie* evidence for the presence of the substance in workplaces in the United States. Reports of carcinogenicity presented or cited in items (2), (3), and (4) will be subjected to scientific review, to the extent required for the purposes of compiling the Candidate List. At this stage of scientific review, underlying data will not be sought or reviewed except as provided, non-positive results will not be considered in relation to positive results, and special factors such as those listed in § 1990.144 will not be considered. If a substance appears to be a candidate for inclusion in Category II, data on short-term tests will be assembled from readily available sources (such as the Environmental Mutagen Information Center and computerized bibliographies) and scientifically reviewed. Substances included in item (6), the Secretary of HHS's annual Report to the President, will generally be included in OSHA's Candidate List without further review. Additional information falling under items (1) or (7) will be incorporated as it comes to the attention of the Secretary.

OSHA is at present preparing the first Candidate List and will make it public within three months after the effective date of this Part. A preliminary version of the Candidate List was prepared and released to participants in July 1978, with an invitation for comment. That draft List differs from the forthcoming Candidate List in three major respects which were dictated by resource constraints: only substances listed in the NIOSH List of "suspected carcinogens" were considered, results of short-term tests were not reviewed, and the EPA "Inventory of Chemical Substances" was not available.* Instead, the draft List was based on two other sources of information on the occurrence of substances in U.S. workplaces: the EPA "TSCA Candidates List" and the U.S. International Trade Commission's 1976 data base. The number of substances tentatively identified as candidates for Category I or II was 488 based on the former source and 187 based on the latter source. OSHA anticipates that the number of substances included in its first Candidate List will lie between these figures.

OSHA believes that a brief scientific evaluation process of the kind specified above is sufficient and appropriate to accomplish the purposes of compiling and making public a Candidate List. It is OSHA's judgment that requiring a more intensive review process, at the early, non-regulatory stage of screening evidence, would compromise OSHA's ability to perform its main regulatory functions by absorbing all agency scientific resources. Primarily for this reason OSHA rejects the recommendation of Dr. Lester Lave (Carnegie-Mellon Univ.) that OSHA publish a list of potential carcinogens based on the "most complete knowledge of the toxicity of substances in each plant" (Lave S. 37).

The inclusion in the Candidate List of substances listed in sources other than the NIOSH List was recommended by several parties, and OSHA agrees that review of additional sources is appropriate. OSHA has also incorporated the suggestion of AIHC, that EPA's "Inventory of Chemical Substances" be used as part of any preliminary classification process. (Exhibit 251 D at 4–5).

Many participants expressed mixed feelings as to whether the Candidate List should be made public. On the one side, all agreed that OSHA should have a system for priority-setting. On the other hand, whether the Candidate List should actually be made public generated significant public comment, some from the same participants. AIHC expressed concern about the value of tentative classifications on such a list "since the data are unevaluated." Other parties raised the issue of "stigma," based on their perceptions of inclusion of substances based on "unevaluated data." For example, the Society of the Plastics Industry, Inc. stated in a post-hearing comment:

> "First of all, unevaluated lists of substances being considered as potential candidates for regulation as carcinogens should not be treated lightly. While the parties to OSHA's proposed cancer policy proceeding were anxious to see the preliminary categorization, the publication of a list which had not been at all scrutinized is regarded by industry as inappropriate. . . . For example, the erroneous listing of a substance as being under consideration of regulation as a carcinogen can cause the two extremes of public reaction—one, concern about the use of the material and, the other, erosion of the credibility of governmental and other scientists in assessing carcinogenic hazards. In addition the scientific resources of government, industry, and the public are diverted to investigating and rebutting erroneous classifications. Furthermore, the incorrect association of materials, which have been shown to be innocuous and safe for their intended uses, with well known, potent carcinogens can have a detrimental effect on their manufacture, marketing and use. For such reasons, OSHA should take much greater care in this area" (Exhibit 263 at 16–17).

However, as pointed out above, OSHA believes that AIHC and the Society of the Plastics Industry were

*The omission of an explicit priority system from the proposal did not mean that OSHA was oblivious to the importance of priority setting. Indeed, OSHA discussed possible schemes for addressing the backlog of substances identified by NIOSH and invited comment on the best way to implement the policy (42 FR 54169, 54170). OSHA intended that priority setting would continue to be a traditional exercise of Agency discretion, subject to the guidance of section 6(g) of the Act, which states:

"In determining the priority for establishing standards under this section, the Secretary shall give due regard to the urgency of the need for mandatory safety and health standards for particular industries * * * work places or work environments. The Secretary shall also give due regard to the recommendations of the Secretary of Health, Education and Welfare regarding the need for mandatory standards in determining the priority for establishing such standards."

*Several participants who commented on this draft List erroneously concluded that data on substances included in it had not been subjected to critical review. To the contrary, at least two studies on each substance had been subjected to full scientific review.

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incorrectly assuming that data in the Clement List and the Candidate List were or are to be "unevaluated." OSHA emphasizes that the primary purpose of the list is to indicate which substances should be subjected to fuller scientific review. Designating the list "Candidate List" should be sufficient to communicate this intent.

In fact, OSHA believes that making the list public, with the invitation to submit information concerning the evaluation of baseline data, and the required annual updating, will convey the tentative nature of any listing and underscores OSHA's willingness to review the Candidate List.

The second step in setting priorities for regulation under this policy is the establishment of two more refined Priority Lists. Section 1990.131 requires the Secretary to establish two priority lists, one for approximately 10 Category I candidates, the other for approximately 10 Category II candidates. The listing of a substance is, again, not OSHA's scientific determination that the listed substance is in fact, a Category I potential carcinogen or a Category II potential carcinogen. (Section 1990.131.) Inclusion on a Priority List means that the Secretary has or intends to thoroughly review all of the relevant and meaningful scientific and technological evidence concerning the listed substances ahead of other substances on the Candidate List. The order within the priority lists is not intended to convey the order of additional scientific evaluation of data and the Secretary can alter listings accordingly. The Secretary reserves the right to regulate a substance as a potential occupational carcinogen, regardless of whether such substance appeared on any of the published Candidate or Priority Lists. The Priority Lists are not intended to create any legal rights.

Section 1990.132 contains some of the factors OSHA will consider in setting priorities for regulation. These are: (1) the estimated number of exposed workers; (2) the estimated levels of workers' exposure; (3) the reported levels of exposure causing increased incidence of neoplasms in humans and/or animals; (4) the extent to which regulatory activity can reduce cancer risk and other occupational and environmental hazards; (5) the extent to which the substance has a molecular structure similar to the molecular structure of another substance that meets the definition of a potential occupational carcinogen; (6) whether substitutes exist that would pose lower risks, or whether there is other evidence that the social and economic costs of regulation would be small; and (7) the relationship of the substance to regulatory activities of other agencies.

Section 1990.133 provides that the Priority Lists be published in the **Federal Register** every six months, and that notices requesting relevant information and comment may accompany the lists.

The above provisions directly respond to comments in this rulemaking Record, which reflected a consensus by virtually all interests represented, that the final cancer policy should include specific provisions for priority-setting.

OSHA has previously described the development of regulatory priorities in the health hazard area as considering the following factors: the number of exposed workers; the severity of the hazard; the existence of information relevant to hazard identification and control; recommendations from NIOSH; petitions for standards; and court decisions and other factors affecting enforceability. Of these factors, severity is considered the most important [see Exh. 77 to Appendix 42, Secretary of Labor's Brief, *National Congress of Hispanic American Citizens* v. *Marshall* (No. 79–1222 U.S.C.A. D.C.)]

OSHA's priority factors also are consistent with those established by other regulatory agencies and by the Regulatory Council. Dr. Donald Kennedy (Commissioner, FDA) described the factors considered by his agency in the setting of priorities as the relative carcinogenic potency of the substance, the number of persons exposed and the dosage or level of exposure. (Kennedy, Tr. 493–497). EPA utilizes a similar system, basing its priorities on an analysis of relative potencies and the number of persons exposed (Tr. 2359, Jellinek, S. 2). Dr. Bates (NIEHS; FDA) testified that he agreed with the approach to priorities which stated as its goal, "Let's get the worst things out of the way first," and that this would be "highly desirable" from the point of view of regulatory agencies.

The factors listed in § 1990.132(b) are not intended to cover all the relevant information which might ideally be considered to estimate the magnitude of a cancer hazard presented by a substance, and the consequent priority for regulatory intervention. As noted in the language of the Part, the setting of priorities involves consideration of many factors, including subjective judgment. More important, critical numerical information is in most cases lacking on such major factors as the number of workers exposed, the extent of their exposure, and the risks accrued per unit of exposure. For this reason, the setting of priorities for subsequent rulemaking activity necessarily must involve a large element of scientific judgment applied to usually incomplete data.

The first factor, the number of exposed workers, is fundamental to assessing the extent of both the health problem and the need for regulatory intervention. The second factor, the levels of their exposure, refines the degree of risk for the individual, and for the affected population. As Dr. Bates (NIEHS; FDA) testified, "The individual's risk of developing cancer is higher as you increase the exposure level, and the principle holds that the lower the exposure . . . the fewer people who are going to get cancer." (Bates, Tr. 611–612). The third factor, the levels of exposure that are reported to cause an increased incidence of neoplasms, is a very rough measure of the likelihood of risk per unit of exposure. Although, for reasons detailed above and below, OSHA has concluded that numerical estimates of cancer risk are too uncertain to serve as the basis for setting permissible exposure limits. OSHA believes that consideration of the possible magnitude of risk may be relevant and can be useful for priority-setting. It is prudent to assume that a substance which induces neoplasms in animals at relatively low levels is likely to pose a greater hazard to workers (other circumstances being equal) than a substance which induces neoplasms in animals at only higher levels.

The fourth factor, *i.e.*, the effectiveness of regulation in reducing both the cancer risk and other health and safety risks, is a recognition of the interplay between this Part and other hazards to workers, particularly as to the overall need for regulation. OSHA intends, when it considers regulating any substance, to ascertain whether other physical and chemical properties constitute occupational hazards, to the extent that they are known, from exposure to that substance and to include protection against those hazards in the standard when doing so would not delay a regulatory response to reducing cancer risk from that substance.

The fifth factor, the molecular similarity between a potential carcinogen and other regulated potential carcinogens, is less clearly related to the likely magnitude of the risks posed by a substance, and may in fact be given less weight by OSHA than other listed factors. However, other things being equal, it may be justifiable to give slightly higher weight to a substance that belongs to a class of substances known to pose hazards to workers.

The sixth factor, whether substitutes exist that would lower risks, or whether there is other evidence that the social and economic costs of regulation would be small, is another one of the priority-setting factors. OSHA is concerned about the relative costs of regulations in terms of health risks, and about the cost-effectiveness of regulations in the sense discussed by witnesses such as Dr. Lave (Carnegie-Mellon Univ.) and Dr. Zeckhauser (Harvard Univ.). If two possible regulatory activities would protect equal numbers of workers and all other circumstances are similar, there is an argument for proceeding first with the regulation with the smallest social and economic costs. OSHA is aware of problems of equity raised by this principle, however, and will use this factor cautiously in setting priorities.

The final specific factor listed for consideration in priority-setting is the co-ordination of regulations on a given substance with other regulatory agencies. There is an obvious advantage in such co-ordination if it can be achieved. Although it is difficult to use this factor formally in drawing up the Priority Lists, it may be appropriate at times to initiate rulemaking for a substance which is relatively low in the Priority Lists in order to achieve inter-agency co-ordination.

Under the priority system in these regulations, some Category II potential carcinogens, in appropriate circumstances, may be regulated before some Category I potential carcinogens. Since categorization reflects some degree of confidence that the substance causes cancer, while the priorities approach considers several other relevant factors, no inconsistency would be involved in such a decision. For example, where a substance meets the criteria for Category II potential carcinogen, because evidence of concordance may be absent, yet where large numbers of employees are exposed to high levels, OSHA may determine that the substance should be regulated before a Category I potential carcinogen to which only a small number of workers may be exposed. At the hearing, the CPSC Chairman testified that CPSC may give a higher priority to a substance where evidence of carcinogenicity is "weaker" than the evidence concerning another substance, if there is a potential for significantly greater exposure in terms of the number of persons exposed, and other relevant considerations. (Byington, Tr. 2090).

This Part emphasizes the judgmental component of priority setting. Section 1990.132 states that, "The setting of priorities is a complex matter which requires subjective and policy judgments. It is not appropriate to establish a rigid formula or to assign predetermined weight for each factor. The identification of some of the elements is to guide the OSHA staff and the public in the development of priorities. It is not intended to create any legal rights with respect to the setting of priorities."

Retaining flexibility in setting priorities is consistent with the recommendations of many participants. In this regard, AIHC testified, "Priorities for regulation would depend upon the exercise of judgment based on all available information, particularly information as to actual workplace hazards, rather than any predetermined or automatic order. Regulations most needed would be developed first." (AIHC, Tr. 3607)

In sum, OSHA believes a requirement for a priority setting system will improve the quality of rulemaking proceedings (in terms of the length, sequence and focus), should assist the Agency in determining rational priorities, and ultimately should lead to more efficient regulation of workplace exposure to potential carcinogens by providing more health protection to the American worker. The actual system itself, however, is in the Agency's discretion and may change as circumstances warrant.

H. PROCEDURES FOR RULEMAKING (§§ 1990.141, 1990.142, AND 1990.147)

The steps OSHA will take after issuing the priority lists are as follows. OSHA will select one or more substances which it intends to regulate, will begin relevant technological and economic studies, and in such cases will issue Advance Notices of Proposed Rulemaking, which will describe these studies. In almost every such case, OSHA then expects to initiate rulemaking, by issuing either a notice of proposed rulemaking, pursuant to section 6(b) of the Act, or an emergency temporary standard, pursuant to section 6(c) of the Act. The model standards attached hereto (§§ 1990.151 and 1990.152) will serve as guidelines for OSHA in developing the proposal and the public in anticipating OSHA's regulatory stance. A more extended discussion of the role of the model standards is found elsewhere.

In more detail, the regulatory provisions governing this activity are as follows. Section 1990.141 applies after the initiation of an economic and/or technological study to analyze the ability of impacted industries to comply with the different levels of employee protection under consideration. The form and content of the studies will also vary with the circumstances. Although OSHA expects that most substances selected for study will have appeared on the priority lists, the Agency has retained the discretion to initiate regulatory activity for substances not so appearing, as well.

Within 30 days after the study is initiated, the Secretary will normally issue an Advance Notice of Proposed Rulemaking (ANPR), which will provide information to the public on the scope of the feasibility study, the available data on health effects, and an estimation of when the Secretary anticipates the issuance of a proposal (§ 1990.141). It will also indicate the deadline for the public to file feasibility information, and the procedural requirements including the timeframes that must be met before substantial new evidence or substantial new issues in support of an amendment to this Part (as provided by § 1990.145) will be considered.

The ANPR was not explicitly provided for in the proposal, although ANPR's have been utilized in the past as one common means of gathering information by all Federal agencies and are encouraged by Executive Order 12044 on improving government regulations. Under the proposal, OSHA contemplated utilizing ANPR's in a similar fashion. However, in viewing its past experience, OSHA noted that while OSHA was conducting its feasibility studies, which can take 6 to 9 months, and analyzing the health and other data, response by the public to gather information has often not been synchronized with OSHA's effort. Thus, many interested persons either were not aware of OSHA's inquiry or would wait until the publication of the proposal in the **Federal Register** to put forth their best efforts. As a result, OSHA and the public had different needs after the proposal was issued: OSHA had completed most of its independent work and was ready for detailed public input in a rulemaking proceeding; on the other hand, many members of the public were often just "gearing up" and would request more time to prepare their presentations adequately. Under this Part, the ANPR will allow—and indeed require—the public and OSHA to synchronize their information-gathering efforts at the same time. OSHA recognizes that the information provided in an ANPR may not be as detailed as that found in the proposed regulation. In fact, some of the data, including feasibility data, are likely to be preliminary. Nonetheless, the issuance of ANPRs will enable OSHA and all interested persons to gather and analyze

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technological, economic and other relevant information. The model standards will serve as guides to the likely content of the proposal. Interested persons should be able to complete the bulk of their technological and economic studies before the actual proposal is issued and would only then have to reevaluate that data in light of the proposal.

In contrast, most or all of the data on health effects are likely to be available to the public when any ANPR is issued. Therefore, in most instances it will be appropriate to expect the interested public to review the available data long before the issuance of the proposal so that substantial new issues or substantial new evidence can be raised in timely fashion. Early submission of new issues and new evidence is necessary to ensure that they can be considered adequately without delaying the rulemaking process. As discussed elsewhere, the Secretary will establish a deadline for the filing of new evidence or new issues. The deadline will usually be 60 to 90 days from the publication of the ANPR, but will vary, depending on factors such as the anticipated date of the actual proposal and the volume and complexity of the scientific information. Interested persons may request the Secretary to extend the deadline if circumstances so require. It should be noted that while these ANPRs will generally be issued, there will be some situations, such as where an emergency temporary standard is necessary, in which the advance notice may be omitted.

Section 1990.142 is based on the statutory options for initiating rulemaking; i.e., standard setting under § 6(b) which will include protective provisions based on the guidance of the relevant model standards and will list the issues expected to be at issue; or the issuance of an emergency temporary standard under § 6(c) along with a proposal for a permanent standard. These provisions are changed from the proposals in three major respects.

A significant change from the proposal in this rulemaking relates to time requirements. The proposal contained requirements for OSHA to issue proposals on all potential occupational carcinogens within prescribed time limitations, but there were no time requirements concerning procedures to be taken after the issuance of proposals. In contrast, this Part establishes time requirements after the issuance of proposals. For example, time requirements are established for the close of the comment period, the commencement of any hearing and the promulgation of final standards. The intent is to promulgate final standards within one year from the issuance of proposals, unless there are specific reasons for granting extensions.

In reviewing OSHA's history in promulgating final standards, it is clear that the time period from the issuance of proposals to the issuance of final standards has been longer than what might be considered a reasonable amount of time. For example, the final inorganic arsenic standard was issued 40 months after the proposal. Contrast this with the time from proposal to final standard where the Act establishes timeframes: vinyl chloride, only 6 months; and acrylonitrile, only 7 months. By establishing these timeframes in this regulation, OSHA is making a public commitment to the issuance of final standards (or a statement as to why no final standard will issue) which is an extremely important matter and not to be taken lightly. Implementation of final standards protects employees; proposals are merely a step in that process, and workers remain at risk in the interim. When the government and the public expend valuable resources on rulemaking proceedings, it is reasonable to expect that the proceeding will be brought to a conclusion within a reasonable amount of time, one way or another.

The purpose of these timeframes is not to provide a legal basis to prevent or in any way delay promulgation of final standards. Rather, they are intended to provide specific targets for completion of the standard-setting process, so that any failure to comply or unreasonable delay will be made public.

A requirement to issue proposals within certain time periods was included in the proposed regulation, but is not included in this Part, for several reasons. First, unlike the proposal, priorities will not be determined by an identifiable event such as receipt of information from the public. Instead, priorities will be based upon policy judgments taking into account numerous factors. Moreover, in deference to OSHA's limited resources, OSHA recognizes that it will not be able to regulate every potential occupational carcinogen in the immediate future. In these circumstances, it would not serve a useful purpose to require the automatic issuance of proposals within a prescribed timeframe.

The second important change from the proposal is the way in which the model standards will be used in individual rulemakings. Each rulemaking proposal will follow the format of the model standards and will include the major industrial hygiene provisions represented in the paragraph headings, unless the Secretary explains why he believes such a provision is inappropriate. In contrast to the proposal, this Part makes explicit that the Secretary has discretion in each rulemaking proposal, to include, delete or change any protective provision under each paragraph heading. These more detailed regulatory provisions are intended to guide OSHA in drafting the proposals and are expected to vary among proposed substances. OSHA notes an extended discussion of the role of the model standards in this Part is contained *infra*.

The third significant change in the initiation of regulatory activity is the use of emergency temporary standards to initiate regulatory activity for Category I potential occupational carcinogens. The use of an ETS was to be mandatory for Category I toxic substances under the proposed regulation, but is now discretionary in this final regulation (see the discussion in section K below).

I. GENERAL PROVISIONS FOR USE OF ANIMAL AND HUMAN DATA (§§ 1990.143 AND 1990.144)

The principal purpose of this generic rulemaking is to facilitate the regulation of toxic substances posing potential carcinogenic hazards to workers. By reviewing most of the general scientific issues concerning carcinogenesis and by establishing general rules concerning the use of scientific information on carcinogenesis, this proceeding is intended to improve both the efficiency and specificity of individual rulemakings, ensure uniformity of treatment and avoid continual relitigation of issues already clearly resolved. However, carcinogenesis is a complex process which is still not adequately understood scientifically. Hence, it is necessary to strike a balance between some limitation of scientific discussion, which is necessary to avoid regulatory paralysis, and the flexibility to consider exceptional cases and to accommodate new scientific advances.

In the proposed regulation, OSHA attempted to strike this balance between regulatory efficiency and scientific flexibility by reviewing each of the major issues in carcinogenesis and drawing conclusions on each. Further discussion of these major generic issues in the individual rulemakings was to be foreclosed "in general". However, flexibility was to be achieved in two major ways. First, a system was proposed whereby regulatory presumptions could be rebutted, either for specific named reasons or "for any other scientific reason". Second, OSHA

stated its willingness to consider amendment of the generic regulations whenever new scientific advances so warranted.

OSHA's proposal was criticized from several perspectives. Some participants criticized the proposals for rebuttal, particularly the general criterion for rebuttal, as excessively flexible and tantamount to re-opening all the supposedly foreclosed issues. Others criticized the proposal as not providing sufficient opportunity for the consideration and possible incorporation of new scientific developments. This Part is responsive to both criticisms by increasing the opportunities for the introduction of new evidence and consideration of new issues where appropriate, while more clearly reaching conclusions on the many issues which were fully presented and analyzed in this proceeding.

In the first place, the most cogent objections to the proposal presented by scientific witnesses were related to the procedures made for accommodating new scientific knowledge. A number of witnesses described rapid advances in scientific knowledge of some aspects of carcinogenesis, (especially the study of mechanisms, structure-activity relationships, short-term tests, and quantitative estimation of risks) and recommended that provision should be made for incorporating new knowledge as it is acquired. Accordingly, this final regulation includes more specific procedures for the amendments of the policy to reflect new scientific knowledge. Section 1990.108 provides for general review of the policy at regular intervals or at the request of either the Directors of NCI, NIEHS, or NIOSH, or members of the public. In addition, § 1990.145 provides for the consideration of new issues or substantial new evidence whenever such new issues or new evidence arise in the course of rulemaking on a specific substance. These two provisions will provide ample opportunity for both this Part and rulemakings subject to it to be kept in step with scientific advances.

In the second place, OSHA's proposal prompted the detailed presentation of scientific evidence in the Record. This evidence not only provided primary scientific documentation of the major issues in carcinogenesis discussed in OSHA's proposal, but also brought the Record up to date by permitting OSHA to incorporate the scientific evidence generated in 1977 and 1978. As shown in detail in the analysis presented in Sections IV–VIII, this scientific evidence presented at the hearing generally provided ample and overwhelming support for OSHA's original proposed conclusions. Only one substantial new scientific issue was raised in the hearing—the possible use of metabolic and pharamacokinetic information. Although this information was shown to be of considerable scientific interest (and possibly be useful in the future), no appropriate proposal for its use in identifying and classifying potential occupational carcinogens was made. OSHA therefore concludes, after exhaustive review of the evidence, that its proposed conclusions on the major scientific issues were, in general, correct.

A third aspect of the scientific evidence presented at the hearing, however, were examples of unusual or exceptional cases which several witnesses claimed would constitute exceptions to OSHA's general conclusions. These cases are fully reviewed in OSHA's analysis of the Record in Sections III–VIII above. Although OSHA concludes that most of these supposed exceptional cases are purely hypothetical or speculations about future advances, OSHA is persuaded that provision should be made for considering such cases, if they should in fact arise in individual rulemakings pursuant to this Part. Accordingly, this final regulation includes two specific provisions for considering such cases. First, § 1990.145 provides a mechanism for the consideration of substantial new issues or substantial new evidence whenever such issues or evidence arise in connection with a rulemaking on an individual substance. Second, exceptions to the general criteria may also be considered, thus, OSHA's substantive conclusions on issues and evidence raised in the generic rulemaking are reflected in the provisions of § 1990.143 and § 1990.144. Section 1990.143 sets out 11 specific provisions concerning the use of human and animal data in identifying and classifying potential occupational carcinogens. Section 1990.144 establishes provisions for considering exceptional cases, specifying minimum criteria which must be met by evidence on purported exceptions before it will be considered. The purpose of establishing these minimum criteria is to permit the full consideration of all scientific evidence that is sufficiently strong to justify consideration of exceptions to the general provisions of § 1990.143, while excluding evidence that is irrelevant, repetitious, or clearly insufficient to warrant review. As explained in detail above, these criteria have been established on the basis of substantial scientific evidence presented in the Record. They have been chosen in such a way as to permit consideration of evidence that may warrant exceptional treatment, while excluding consideration of evidence that has already been shown in this Record to be speculative or insufficient.

OSHA concludes that the provisions of §§ 1990.143, .144, and .145 will suffice to provide the scientific flexibility needed to accommodate new scientific evidence and unusual or exceptional cases. At the same time they will greatly improve the speed, efficiency, and consistency of rulemaking procedures by providing an explicit and uniform framework for using scientific data, by limiting continual re-introduction and re-litigation of arguments already fully resolved scientifically, and by excluding evidence and arguments that are repetitious, frivolous or irrelevant.

J. LIMITATIONS ON ISSUES TO BE CONSIDERED IN THE RULEMAKINGS (§ 1990.146)

As stated above, one of the important objectives of this Part is to increase the efficiency of the rulemaking process by avoiding continual re-discussion and re-litigation of issues, already resolved. Section 1990.146 contributes to this objective by prescribing the issues that the Secretary may consider in each rulemaking on a specific substance or group of substances. It operates in conjunction with §§ 1990.143, 1990.144, and 1990.145, which specify general provisions for the use of human and animal data and provide for limited exceptions. Section 1990.146 limits the evidence that may be considered in each rulemaking proceeding to evidence directly relevant to the issues raised by the regulation of the specific substance subject to the rulemaking, unless § 1990.145 permits an exception.

Section 1990.146 specifies the following issues that may be considered:

(a) Whether the substance, group of substances or combination of substances subject to the proposed rulemaking is appropriately considered in a single proceeding.

As discussed earlier, there are many cases where it is appropriate for OSHA to establish standards for groups or categories of substances considered together, or even for hard-to-define mixtures. For the reasons stated, the definition of the range of substances and/or mixtures to be included in the individual standard-setting proceeding may involve a number of complex questions which ultimately must be resolved by good scientific and engineering judgment. OSHA believes it

is, therefore, entirely appropriate that these questions should be open for comment and resolution in the specific rulemaking on the substance or group of substances.

(b) Whether the substance or group of substances subject to the rulemaking meets the definition of a potential occupational carcinogen set forth in § 1990.103, including whether the scientific studies are reliable.

This corresponds to issue (a) of § 1990.113 and 123 of the proposed regulation. The purpose of including this issue is to provide for an opportunity to subject the scientific studies to scientific review and ultimately to the exercise of scientific judgment as to whether the studies bring the substance within the definition of a potential occupational carcinogen. The scientific issues upon which OSHA has reached a conclusion, including conclusions in the preamble to this Part, may not be raised under the rubric of scientific judgment or reliability or any other provision of this Part.

(c) Whether the available data can appropriately be applied to the range of substances covered by the rulemaking.

There are several circumstances in which the data which provide the evidence for carcinogenicity of a substance may not be automatically applicable to the range of substances or mixtures of substances covered by the rulemaking. For example, a compound may have been tested, whereas workers are exposed to a technical mixture, or *vice versa*. Epidemiological data may refer to one technical mixture, whereas workers may nowadays be exposed to another. If a class or category of substances is to be regulated, epidemiologic or experimental data will usually be available for only a few members of the class. In all these cases, the use of data obtained with one substance or mixture to justify the inference of risk to workers exposed to another substance or mixture is the subject of legitimate scientific debate, and should be open for full comment and resolution in the individual rulemakings.

(d) Whether the information, data and views that are submitted in accordance with § 1990.144 are sufficient to warrant an exception to this Part.

The issues that may now be raised under this provision would have been foreclosed in the proposed regulation. As noted in the explanation of § 1990.144, the Secretary believes it is more appropriate to establish evidentiary criteria for these issues rather than foreclosing them entirely. Since evidence may be received in accordance with § 1990.144, the Secretary must consider whether the evidence is sufficient to warrant an exception to the Policy.

(e) Whether the data, views and arguments that are submitted in accordance with § 1990.145 are sufficient to warrant amendment of this Part.

Since substantial new evidence and substantial new issues may be raised in accordance with § 1990.145, the Secretary must consider whether such data, views and arguments are sufficient to warrant an amendment to this Part. It should be emphasized that "substantial new issues" are important issues that are new or issues that OSHA did not present conclusions on in the Cancer Policy, including the underlying rationale as described in the preamble. Moreover, the submission of "substantial new evidence" in accordance with § 1990.145 is sufficient to require the Secretary to consider either "new" or "old" issues argued and raised by such evidence. In this way, OSHA will be able to consider "the best available evidence," while avoiding relitigating issues that are resolved by this Part.

(f) Whether the potential occupational carcinogen meets the criteria for a Category I potential carcinogen or a Category II potential carcinogen.

The need to consider this issue is self-evident. It should be noted that this issue does not permit the relitigation of the criteria for Category I and Category II potential carcinogens. Rather, in considering the issue, the Secretary is required to apply the criteria set forth in the Policy, except as noted below.

(g) The environmental impact arising from regulation of the substance.

As the draft and final Environmental Impact Statement to this Part point out, environmental consequences of the regulation of individual substances, if any, are usually dependent on the specific characteristic of that substance. Therefore, it is appropriate to investigate in the course of the substance specific rulemakings, the environmental impacts of each regulation. That is also the time that actions can be taken to ameliorate any possibly unfavorable environmental impacts which may be revealed.

OSHA will follow the requirements of the National Environmental Policy Act, the Council on Environmental Quality's regulations and the Department of Labor's implementing regulations during the course of an individual rulemaking.

(h) Any issues required by statute or Executive Order.

This issue recognizes that future court decisions interpreting the Act and amendments to the Act may require OSHA to consider additional issues. It also is a recognition that OSHA will consider additional issues that are required by Executive Order and are not inconsistent with the Act (or this policy). It should be noted that no legal rights are created by this provision. Rather, the legal right would have to be based upon any independent legal obligations recognized in court decisions, or created by an amendment to the Act, or otherwise required by the Act.

(i) The determination of the lowest feasible level to control exposures to Category I Potential Carcinogens primarily through the use of engineering and work practice controls, including technological and economic considerations.

This definition is basically the same as the provision in proposed regulation (§ 1990.113(c)).

As stated in § 1990.111(h), "Worker exposure to Category I Potential Carcinogens will be reduced to the lowest feasible level, primarily through the use of engineering and work practice controls." OSHA intends that this issue is foreclosed. However, the determination of the lowest feasible level including technological and economic considerations must, of course, be an issue in the individual proceeding. Although OSHA believed that it was clear that the determination implicitly included technological and economic considerations, because of the concerns expressed in the Record, the Part explicitly expresses these considerations.

(j) The determination of the appropriate employee exposure level, consistent with the Act's requirements, for Category II Potential Carcinogens.

This issue includes the elements of § 1990.123(c) of the proposal, which provided for worker exposure levels to be based upon other toxic effects where there is no standard or where the present standard is inadequate. This Part allows the Secretary greater discretion, as to whether a permissible exposure limit should be established for any specific Category II potential carcinogen under consideration in an individual rulemaking, and, if so, upon what health considerations the permissible exposure should be based. Thus § 1990.111(i) provides: "Worker exposure to Category II Potential Carcinogens will be reduced as appropriate and consistent with the statutory requirements on a case-by-case basis in the rulemaking proceedings on individual substances. Any permissible exposure limit so established shall be met primarily through the use of engineering and work practice controls." Since the level for Category II carcinogens will be determined on a "case-by-case basis", the setting of levels must be an issue for the proceeding.

(k) Whether suitable substitutes are available for one or more uses of Category I potential carcinogens.

The proposal provided for setting a "no occupational exposure level" when suitable substitutes existed for Category I potential carcinogens to encourage substitution. The provision has been included in the final Cancer Policy with changes. See the extensive discussion of the suitable substitutes provision in Section XII.b of this preamble and the statement of regulatory policy in § 1990.111(k). Section 1990.146(k) indicates that all issues relevant to substitution may be considered in a rulemaking on a permanent standard for a Category I substance.

(l) Whether the provisions of the proposal and of § 1990.151 and § 1990.152 (model standards) are appropriate, except as limited by § 1990.142.

The proposal (§ 1990.113(d) and .123(d)) would have permitted changes in the model standards based upon unique properties or uses of the substance or inappropriateness or infeasibility of the standard. The language has been changed to more adequately reflect OSHA's intentions. The role of the model standards is discussed in detail elsewhere. These model standards are expected to be the focal point in determining the final regulatory requirements for each substance-specific standard. To the extent that the proposed standard differed from the model standard, the appropriateness of the proposal would, of course, be at issue. It should also be noted that the sufficiency of protection afforded by the proposal and the model standard would also be an issue in the proceeding. Thus, if a party believes that the proposal and the model standards do not provide sufficient employee protection, that issue can be raised. Likewise, if a party believes that the proposal and model standards "over-regulate" in any specific case, this too is an issue to be decided in the individual rulemaking. However, as noted above, the primacy of engineering and work practice controls may not be challenged under this provision in the individual rulemakings.

One issue that was expressly permitted in the proposal is whether the Secretary correctly determined that the classification should not be rebutted. See § 1990.113(b) and 1990.123(b). Although this Part does not expressly provide for this issue, any issue that could have been raised under the proposed provision may be raised under this Part. Since the format (presumption—rebuttal) has been changed, the issues that may be raised appear in different places in this Part. For example, under the proposal, the allegation that the evidence on a substance is only "suggestive" may be used to rebut a Category I classification, thus leading to a Category II classification. Under the Cancer Policy, the issue of whether the evidence is "suggestive" may be raised in determining whether a potential occupational carcinogen should be regulated as a Category I or II potential carcinogen. See also, e.g., the proposed § 1990.111(a)(2) and § 1990.144(b) and § 1990.146(c) of this Part.

K. PROVISIONS OF STANDARDS FOR POTENTIAL OCCUPATIONAL CARCINOGENS (§ 1990.142(a)(2), (a)(3), AND (b))

The Part provides for three types of standards that may be applied to potential occupational carcinogens. When proposing a standard for a substance classified as a Category I potential occupational carcinogen, the Secretary will issue a notice of proposed rulemaking which follows the provisions of § 1990.142(a)(2). He may also issue an Emergency Temporary Standard which follows the provisions of § 1990.142(b). At the time of proposing a standard for a substance classified as a Catetory II potential occupational carcinogen, the Secretary will issue a notice of proposed rulemaking which will follow the provisions of § 1990.142(a)(3). Final standards are to be issued according to the provisions of § 1990.147, which specifies timeframes for issuances of final standards and that any substantial differences between proposed and final standards should be explained.

For Category I potential occupational carcinogens, the principal provisions of the proposed standards are the following:

(i) a permissible exposure limit, which "shall be set as low as feasible to be achieved primarily through engineering and/or work practice controls";

(ii) other specified provisions included in the model standard, which is to serve as a guideline.

These provisions are discussed and justified below under *Methods of Compliance*.

OSHA had proposed that exposure to all Category I substances required an ETS, because "(a) employees are exposed to grave danger . . . and (b) that such emergency standard is necessary to protect employees from such danger."

This final set of regulations provides that the Secretary may initiate rulemaking for a Category I potential occupational carcinogen by issuing an Emergency Temporary Standard (ETS) pursuant to § 6(c) of the Act and § 1990.111(1) of this Part (§ 1990.141(b)). The change from the proposal is the deletion of the requirement to issue an ETS when rulemaking is begun on all Category I substances. (See proposed § 1990.112).

OSHA has concluded that the proposal's policy determination, i.e., that continued exposure to a Category I substance constitutes a "grave danger" within the meaning of section 6(c)(1)(A) of the Act, is correct. The proposal's statement of reasons explained:

The proposition that cancer, and substances that cause cancer, pose a grave danger to man does not need lengthy discussion. As pointed out, the nature of a cancer hazard differs from other types of toxicity. Employees exposed to carcinogens risk incurable, irreversible and in most cases, fatal consequences. These consequences may be irreversibly set in time. No symptomatic evidence of the development of the cancer may be apparent to the employee during a long latency period. A single exposure episode may be sufficient to cause cancer. These factors . . . establish the grave danger.

Evidence and testimony introduced into the Record of this proceeding have provided abundant support for this policy determination. As discussed above, the essentially irreversible and incurable nature of many occupationally related cancers has been described by witnesses. In addition, it is widely accepted that exposure to carcinogens for very short periods can begin the carcinogenic process and epidemiological evidence is consistent with this view. OSHA notes that its determination that substances which may cause cancer pose a "grave danger" to employees has judicial endorsement. See *(Dry Color Manufacturer's Assn. Inc.* v. *Dept. of Labor,* 486 F. 2d 98 (CA 3, 1973); *Vistron Corp.* v. *OSHA,* (No. 78–3020 CA 6, 1978).)

However, OSHA has determined that the question of whether a particular emergency standard is necessary to protect employees from such grave danger, the second prong of the statute's test, is more appropriately left for determination in each case. OSHA believes it should retain the flexibility not to issue Emergency Temporary Standards where, for instance, the limits of short-term exposure reduction already have been reached voluntarily. In such a case, although OSHA's application of the priority factors listed

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in § 1990.132(b) and otherwise, might signal regulatory activity leading to a permanent standard, there may be no compelling need for an emergency standard. In other cases, the level of the agency's resources including compliance, legal and technical personnel, at a given time, may suggest that employee health may be more effectively protected by concentrating those resources in work on permanent standards.

This is not to say that the Agency disavows the judgment that in most such cases, employee exposures should be reduced as soon as possible. Scientific support for reducing employee exposure and instituting other protective measures upon identification of Category I potential occupational carcinogens was provided by Drs. Saffiotti and Griesemer (Tr. 1001–1002). In addition, Dr. Selikoff testified: "With good scientific judgment, I would urge that exposure to carcinogens cease as soon as they are identified" (Tr. 1995). Dr. Fishbein "back(ed) fully" the issuance of an ETS once a substance is placed in Category I (Tr. 1651) as a confirmed carcinogen.

Like the model permanent standards, the model Emergency Temporary Standard is more flexible than the proposal's so that the provisions needed to be implemented immediately will vary with the substance, the industry, the previous regulatory history, and other relevant factors. Most general provisions of the proposed model have been retained; they cover the essential elements such as notification of use, housekeeping, monitoring and exposure control housekeeping information and training, and medical surveillance. As discussed in more detail under the model standards, these types of general provisions will be required for ETS's unless good reason exists not to do so. The model ETS provisions will be used as a guideline for the detailed requirements. Thus, for example, some form of monitoring will usually be required, but the frequency, accuracy and other detailed requirements will be determined on a case-by-case basis.

For Category II potential occupational carcinogens, the principal provisions of the proposed standard are the following:

(i) reduction in worker exposure "as appropriate and consistent with the statutory requirements on a case-by-case basis in the rulemaking proceedings on individual substances. Any permissible exposure level so established shall be met primarily through engineering and work practice controls."

(ii) other specified provisions included in the model standard, which is to serve as a guideline.

Of these provisions, the requirements of the model standard and the direction to rely primarily on engineering and work practice controls are discussed fully in Section X below on *Methods of Compliance*. The first provision, however, for reduction in worker exposure to be set on a case-by-case basis, is not discussed in Section X and represents a change from the provision in the proposed regulation. The proposal was that permissible exposure levels for Category II toxic substances should be set on the basis of toxic effects other than carcinogenesis, unless a standard already existed. This proposal was criticized on a number of grounds. First, it was argued that the regulatory consequences of Category II as outlined by OSHA provide no incentive to industry or to other Federal agencies and in no way guarantee that the necessary scientific studies to determine whether a substance should be classified in another category will be carried out in a reasonable amount of time (EDF, Tr. 7329).

Similarly, the Natural Resources Defense Council urged that the question of the carcinogenicity of Category II substances be resolved within a specific period of time. (270, pp. 24–26. See also Tr. 6357–58—Dr. Wolfe). "Category II classification should result in immediate action of some kind and emergency animal bioassay tests and human epidemiology programs should be initiated to determine if the substance should be elevated to Cat. I . . . the standard should specify a testing protocol once classified as Cat. II."

OSHA believes these concerns are valid. Since additional tests might well establish that a Category I classification is appropriate, new research efforts are necessary so that the Agency can reassess the carcinogenic potential of a Category II substance. OSHA intends to utilize all possibilities provided under the Toxic Substances Control Act to develop data, and to officially inform EPA when a Category II classification is made, before OSHA completes its regulatory activity. Official notice of Category II classifications and requests for development of additional data will be sent to NCI, NIEHS, NIOSH, EPA, FDA, and CPSC, at the same time (See Wrenn, Tr. 105). In addition, Category II standards may prescribe such monitoring and medical surveillance as the Secretary concludes may be necessary or appropriate for the development of information regarding a substance's carcinogenicity.

Some participants questioned the appropriateness of classifying a substance under Category II on the basis of its carcinogenic potential, yet setting an exposure level on the basis of the acute or chronic effects other than cacinogenicity. The Environmental Defense Fund and the National Association of Manufacturers expressed the concern that regulating substances for non-carcinogenic effects under the "cancer policy" would slow down OSHA's response to regulating occupational carcinogens (Tr. 7329). NRDC's representative questioned the rationale of the regulatory scheme, testifying that:

"Under Category II, the present proposal does not make any sense to me at all. OSHA proposes to set exposure levels based on toxicity data that has nothing to do with cancer, even though the reason that a substance is in Category II is because there is some evidence that it causes cancer." (Tr. 6299)

NRDC suggested that the answer to this problem is to require as much worker protection against the carcinogenic risk as possible using existing control technology (270, pp. 24–26).

OSHA has decided not to include a requirement in the cancer policy that all Category II substances be regulated on the basis of potential carcinogenic effects at the lowest feasible level, or some variant thereof, as suggested by NRDC. The evidence may not justify that action in some situations. But OSHA agrees that its proposal precluded consideration of potential carcinogenic effects in setting the PEL in all circumstances. While individual substances are classified under Category II on the basis of specified scientific criteria, there may be a range in the quality or quantity of the evidence indicating carcinogenicity meeting these criteria. In some cases, for example where the evidence of carcinogenicity concerning a Category II substance is strong (even though insufficient to bring it into Category I), and other factors such as the number of exposed workers and the potential impact of limiting exposure seem to warrant regulatory action, it may be appropriate to set the exposure level on the basis of carcinogenic effects in order to meet the Agency's statutory responsibilities.

OSHA disagrees with NRDC that it is necessarily inconsistent to classify a substance under Category II because there is some evidence it causes cancer, yet to set the level on the basis of other toxic effects. The setting of a permissible exposure limit is only one aspect of regulation. As discussed above, classification under Category II is primarily intended to trigger further research and data gathering, so that the Agency can ascertain if the substance should be elevated to Category I.

Furthermore, the fact that a toxic substance is a suspect carcinogen may accord it a higher priority than a toxic substance that is not a suspect carcinogen (all other factors being equal). See discussion at Section XVII and IX–B1. Thus, there are reasons plainly relevant to the Cancer Policy for classifying a substance under Category II even if a PEL for Category II were based solely on other toxic effects of that substance. Moreover, in certain circumstances, rational use of the Agency's resources may well suggest that so long as a substance is being regulated under Category II, the substance's other toxic effects should be regulated as well.

On the other hand, OSHA agrees that there may be circumstances where it would be inappropriate for the Agency to base a Category II exposure level on other toxic effects. Where the data on toxicity are limited, further research may be necessary before regulation on the basis of toxic effects would be appropriate. Where the data are disputed, lengthy rulemaking proceedings are likely. In either case, the swift and generally limited regulatory response contemplated for Category II Potential Carcinogens would be impeded. Consequently, the Agency believes that toxic effects cannot always be the governing criterion for setting a Category II PEL, although toxic effects will certainly be relevant in many cases.

These comments, and others in the Record, have persuaded OSHA that there are no criteria that are equally appropriate for establishing an exposure level that would be valid for all Category II potential occupational carcinogens. A major problem is that most Category II substances are in this category precisely because there is insufficient information on their toxicity. Accordingly, the principal value of the categorization is to draw attention to the lack of information and to set in motion new studies. To this extent, the Category II standard is likely to be, to some extent, a standard that will hopefully stimulate data gathering. During the period of data gathering, which may be anticipated to be relatively short, the permissible exposure level should be set at a value which reflects the information available on the substance at the time of rulemaking. OSHA's wording of the standard in this final regulation reflects this conclusion.

L. FINAL ACTION (§ 1990.147)

The final action provision is basically self-explanatory. It provides a system whereby the Secretary must timely conclude rulemakings commenced, pursuant to this Part and comply with certain other requirements.

X. THE MODEL STANDARDS

A. THE ROLE OF THE MODEL STANDARDS

OSHA is issuing two model standards as part of its final cancer policy regulations. They are an Emergency Temporary Standard and a Permanent Standard Model. These model standards are changed from the proposal, both in concept and substance.

The role of the model standards in the cancer policy was extensively discussed in this rulemaking. In particular, API submitted lengthy and helpful post hearing comments on the model standards.

Based on a review of the record and the policy considerations of the Agency, OSHA has made the following decisions. The paragraph headings in the model standards which represent the major industrial hygiene programs envisioned by Section 6(b) of the Act, must be included by the Secretary in every rulemaking proposal initiated under this "cancer policy unless he explains why he believes such a program is inappropriate. In contrast, the policy gives the Secretary complete discretion to include, delete or change any specific provision under each heading.

As in the proposal, three basic policy determinations, (i) that the employee exposure limits for Category I shall be "the lowest feasible" (ii) that the permissible exposure level shall be achieved primarily through engineering and work practice controls, are incorporated in the models and; (iii) that required Medical examinations and personal protective clothing and equipment must be provided at no cost to the employee.

The reasons for assigning these various roles to these components of the models are as follows. First, the decision to routinely incorporate the paragraph headings of the model standards (with the exceptions stated above) in each proposal stems from OSHA's findings that these headings represent generally applicable elements of industrial hygiene programs to protect the health of employees. Thus, the paragraph headings in the models will appear in each proposed standard, unless OSHA explains why the program would be inappropriate. For example, in the model standard for both Category I and Category II substances, the various paragraph headings include medical surveillance and training and information and others. Each of these broadly stated industrial hygiene program elements was endorsed by the entire spectrum of the professional industrial hygiene community in the record. OSHA believes that all these programs are important constitutents of an effective employee protection program. The detail and rigor of such programs, however are suitable for determination only in specific rulemakings, in the context of exposure to specific substances, their properties and uses, affected industries and work operations.

The difference in Category I and Category II model standards is as follows. As in the case of the detailed provisions under each paragraph heading, the Secretary does not "presume" that the inclusion of the four headings of "permissible exposure limits", "hygiene facilities", and "signs and labels" in a proposed standard is necessary. The inclusion or deletion of such a program from a final standard will be determined based solely on the record of the rulemaking proceeding.

To further clarify the role of these provisions, OSHA has made two other changes from the proposal. First, OSHA has deleted from the models most of the quantitative detail, such as frequencies of monitoring and other specifications such as method for floor cleaning. Second, the appropriateness of these newly "generalized" industrial hygiene provisions, can easily be placed in issue in an individual substance rulemaking by a party without alleging the "uniqueness" of a property or use (contrast proposed § 1990.113). The section of these final regulations which sets forth this changed role in the models is § 1990.142.

In addition, the final regulation specifically identifies as an issue in subsequent § 6(b) proceedings whether the provisions of the proposals are appropriate and sufficient (§ 1990.146). This issue was changed from the proposal's version of whether there were "unique properties or uses that make the specific protective measures of the proposed standard inappropriate or infeasible" (proposed § 1990.113, 123) OSHA has made this change in response to comments that requiring a showing of "uniqueness" was either unreasonable or did not truly conform to OSHA's stated intention to allow "appropriateness" to be discussed in most proceedings.

OSHA also agrees with the AFL–CIO that the subsequent rulemaking proceedings should consider "whether any additional measures not contained in the proposed standard should be included to improve its effectiveness"

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OSHA had intended that the question of adequacy of protection be an issue in the § 6(b) rulemakings. In the final regulation, therefore, to clarify the point, the word "sufficient" has been inserted after "appropriate" to assure that additional protective provisions may be urged in the § 6(b) rulemakings.

OSHA anticipates that these changes in language will allow flexibility in adapting the model standards to specific substances, while retaining the advantages of issuing models as guidance to OSHA and the public in future proceedings.

These revisions in the format and substance of the model standards do not change the two basic policy determinations that were incorporated in the proposals and continue to be incorporated in the final model standard for Category I substances. One policy determination was explained in the preamble to the proposal as follows:

> OSHA intends to permit no deviation from the general policy, that the employee exposure limits and permanent Category I standard shall always be the "lowest feasible level". OSHA does not believe that it should deviate, in the substance by substance rulemakings themselves, from the position proposed to be established in the rulemaking, namely, that when dealing with human carcinogens it is appropriate to set a level which assures the lowest feasible risk to workers. If and when substantial evidence is available to show that "safe" or "no-effect" levels can be predicted for exposure of human beings to carcinogens, OSHA will act to amend this basic policy decision reflected in this set of regulations proposed today.

OSHA's reasons for this policy were also articulated in the preamble to the proposal as follows:

> The policy decision to reduce exposures to as low as feasible, is not made without sound support. As has been discussed above, a no-effect or threshold level may theoretically exist for any specific carcinogen. As yet, however, there is no satisfactory scientific basis for determining such levels for any given population. Thus, as has been proposed, any human exposure to a carcinogen, even at levels below those which induced positive effects in man or in test animals, would be considered by OSHA to present a potential cancer risk as a policy matter. We do not know whether "safe" of "no-effect" levels exist for carcinogen and, if so, what they may be. Therefore, attempts to set finite exposure limits are not directed at determining "safe" levels of exposure but rather are attempts to determine the lowest feasible levels.

The proposal recited extensive scientific evidence supporting this position (42 FR 54165). We believe the scientific evidence adduced in this policy provided even more extensive support. (See Section V.D.10).

The other major policy determination reflected in the model standards, i.e. OSHA's statement, on methods of compliance is fundamentally unaltered from the proposal and, similarily, is not intended to be changed in rulemaking conducted pursuant to the procedures established by this cancer policy. It is, in brief, the requirement that permissible exposure limits be achieved primarily through engineering and work practice controls, except in the case of an ETS where respiratory protection may also be relied on. An extensive discussion of this policy is found below.

OSHA also does not agree with some participants that the purpose of all protective provisions merely is to control emissions or dispersions of contaminated material to a numerical permissible exposure level. Rather, as the Act itself recognizes, employee health is promoted by some programs whose purpose is somethng other than directly reducing employee exposure. Thus medical surveillance and the knowledge of adverse health effects gives employees information they need to make decisions about their jobs and their futures. Similarly, Congress directed that employees be advised by labels or warning of all hazards, (§ 6(b)(7)), and that employees or their repreaentatives have the right to observe monitoring or measuring. The reason for these requirements is that they contribute to employee health by promoting an informed workplace and encouraging employees to act as "private compliance officers," not that in the narrow sense they are simply components of an exposure control strategy.

A different issue was raised by AISI (#219, T. at 30) and others who recommended that the final cancer policy should contain no model standards because of legal flaws and policy objections. To the extent that this suggestion was premised on the lack of flexibility inherent in the models, OSHA believes the changed role of the model standards goes far to meet these concerns. In sum, the inclusion of model standards is expected to improve OSHA's ability to respond appropriately to scientific evidence concerning potential occupational carcinogens and thereby help transform the Cancer Policy into tangible employee protection.

B. DESCRIPTION OF THE PROVISIONS OF THE MODEL STANDARDS

The following is a discussion of the general requirements and specific provisions contained in the model standards.

There are three provisions of the model standards that will apply in all circumstances and may not be changed except by amendment of this Part under §§ 1990.106 or 1990.145. They are: (1) worker exposure to Category I Potential Carcinogens will be reduced to the lowest feasible level; (2) permissible exposure levels will be achieved primarily through engineering and work practice controls; and (3) medical examinations and personal protective equipment required by individual standards will be provided at no cost to the employee.

All proposals regulating potential occupational carcinogens will contain provisions for certain general requirements, such as monitoring and medical surveillance, unless the Secretary explains why such general requirements are inappropriate. The specific provisions under each general heading will be decided on a case-by-case basis. The details contained in the model standards will serve as guidelines. The following discussion provides OSHA's rationale for including the various provisions in the standards. The discussion of the detailed provisions is provided for background information and more guidance.

(1) Scope and Application (Paragraph a)

All standards will have a Scope and Application provision, to indicate who is covered by the standard and who is not covered.

The actual coverage of each standard will be decided on a case-by-case basis.

One issue in the Cancer Policy proceeding was the intended coverage of each individual standard. Exemptions were urged for industries such as the construction industry (see e.g. Tr. 7128–29); certain maritime segments, agriculture and laboratories (see API comments at 23, comment No. 67; See discussion on laboratories in Section IX–A). Some argued that it would be impractical and unreasonable to apply the model standards in these industries because of special circumstances such as high turnover, limited and intermittent exposure and transient job sites.

The Agency has concluded after review of the evidence on this record, and based on its own experience administering other health standards, that these issues are particularly suited for resolution in the individual substance proceedings. For example, where construction workplaces dominate exposure situations, it may be appropriate to devise special regulatory requirements for construction. Thus, exclusions from regulation for specific industries may be urged in the rulemaking proceedings.

The Agency believes based on the Record, that the scientific conclusions and policies are equally applicable to all employees in every industry. Identifying and classifying substances pursuant to scientific principles enunciated in this Cancer Policy will be done without reference to industry designation. No evidence was introduced to show that all employees in any particular industry were free from exposure to potential carcinogenic substances.

The question of whether, in considering the regulation of a specific substance, different industries and uses should be regulated differently is still open. Since reasons for excluding industry segments from specific standards or portion of standards usually would involve a finding that it would not be feasible to include them, such decisions would be based on the facts concerning a particular substance and are not amenable to resolution on a generic basis.

In addition to possible exclusion for certain industries, provisions for action levels and percentage exclusions will be considered on a case-by-case basis. Although other OSHA standards have utilized both "action levels" and "percentage exclusions" to limit the scope of the standard or certain substantive requirements, OSHA did not include these concepts in the proposed model standards because they were not thought to be generally appropriate for all cases for carcinogen regulation. However, the Agency did not intend to foreclose the application of these concepts in future rulemakings.

The rulemaking proceeding has not altered OSHA's views concerning the lack of universal applicability of these regulatory devices. However, a significant segment of the public endorsed their use in previous standards, and has urged that OSHA include in this Cancer Policy a statement of intention to appropriately utilize action levels and percentage exclusions. OSHA believes that this suggestion has merit, and has included, in the final model, standards, references to these devices, to be used "when appropriate."

Because of the amount of public interest in these issues, a review of the relevant record follows. The action level concept was supported by many participants in the rulemaking proceeding. Industry witnesses supported the use of the concept to minimize employer burden. These included representatives of the NAM (T-7673); SPI (T-6655, 6708, 6703, 6661, 6702), and Northern Petrochemical Company (T-8095).

At what level to establish the action level was widely debated. Although it was generally acknowledged that no one level would be appropriate for all substances, some participants preferred establishing a policy of setting an action level at a set ratio to the permissible exposure level, with the possibility of setting a different level in exceptional cases. (See, e.g., SPI at 6675.)

According to NIOSH an action level of ½ the permissible exposure was selected for the Standards Completion Project, based on statistical considerations, *i.e.*, that at that level, there was only a "small probability" that the actual exposure level is above the PEL. Although one half the PEL has been chosen in some standards covering carcinogens, (e.g., vinyl chloride), the "small probability" cited above may or may not be considered sufficiently "small" when dealing with Category I substances. In appropriate circumstances, even that "small" probability of overexposure may be considered too high. It should be noted that the Standards Completion Project, with its uniform ½ action level, was not intended to cover substances with carcinogenic potential. OSHA may also use an action level to trigger various regulatory requirements in a standard for a Category II substance for which no PEL is established.

The AFL–CIO, along with API and Dr. Robert Harris, testifying for OSHA, have recommended that action level determinations be based on the observed (measured) variability in exposure situations (Post-hearing brief, at 99, see also, Harris, Statement, API, Exh. 219–8).

Additionally, the use of an action level can serve other purposes. For example the recently promulgated lead standard (43 FR 54992 *et seq.*) set the "action level" to implement new protective provisions, such as medical removal protection. Thus, that standard provides that in specified cases of adverse medical findings, employees be removed from work having an exposure to lead at or above the action level. The "action level" was chosen in part as a level low enough to "enable the gradual excretion of the excess lead."

OSHA, therefore, has left the determination of whether to set an "action level," the choice of specific requirements to be triggered by an "action level" and the setting of an action level, to be made in the context of the record developed in each rulemaking conducted pursuant to this part.

Many participants also endorsed provisions for exclusion of certain mixtures, or "percentage exclusions" in the models. (See, e.g., B.F. Goodrich M7–2; Adhesive and Sealant Council #91–9; AIHC pp. 51–52; PMA #116–12, 3M #239–9; etc.). Most comments on this subject cited the OSHA use of such exemptions in its standards for 14 carcinogens (29 CFR 1910.1003–1016), with the percentage exclusion set at 1.0 percent for certain substances and 0.1 percent for others. The comments were concerned in large part that mixtures containing trace amounts of regulated substances would mandate expensive control devices. For example, it was argued that "many areo space propellants and aviation lubricants contain trace amounts of carcinogens which cannot be eliminated. Failure to provide exemptions would have enormous adverse impacts . . ." (To same effect see, e.g., #141–2; 144–2; #259–23.)

OSHA agrees that percentage exclusions may be appropriate in some cases. In other cases, it may not be possible to establish an appropriate percentage exclusion. Therefore, the Agency prefers to leave this issue for the substance-specific rulemakings where relevant information can be considered. Accordingly the percentage exclusion issue can be appropriately raised in any rulemaking under this Part.

(2) Definitions (Paragraph b)

As with Scope and Application, it is clear that a definition section must be provided to define the important terms utilized in standards on individual substances.

(3) Permissible Exposure Limits (Paragraph c)

Under the Cancer Policy, the permissible exposure level for Category I Potential Carcinogens will be reduced to the lowest level feasible. This requirement can only be changed by amendment of the Cancer Policy.

The proposed model ETS and permanent standard for a Category I carcinogen provided that employee exposure would be reduced to the lowest level feasible. What exposure level is in fact "feasible" for an individual substance would be determined in the rulemaking proceeding on that substance. The Secretary explained that the basis for this decision was that, since there is no satisfactory basis for determining a "safe" or threshold level for exposure to carcinogens, any human exposure to a carcinogen presents a potential cancer risk. Therefore, in keeping with the requirement in section 6(b)(5) of the Act to "assure" that no employee will suffer material impairment to health, to the extent feasible, attempts to set exposure limits would be directed at determining

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the lowest feasible levels. Section XI contains an extensive discussion of the technological and economic considerations relevent to determining the lowest feasible level for worker exposure to potential carcinogens.

The permissible exposure limit for Category II Potential Carcinogens raises different issues. As noted in the discussion of Category II Potential Carcinogens section of the preamble (see section IX–K), any PEL may be determined as appropriate, consistent with the record. Because of the nature of the evidence of Category II Potential Carcinogens and the role other toxic effects may play in establishing any PEL's, this is an issue that is not foreclosed.

Whether ceiling limits are appropriate will be established on a case by case basis. In past regulations on carcinogens, OSHA has sometimes provided for a ceiling (see, e.g., vinyl chloride and benzene) and other times has not done so (see, e.g., coke oven emissions). This determination has been based upon the unique circumstances of each record. The record in this proceeding does not permit a uniform decision on whether there should be a ceiling limit; therefore the issue of whether to establish a ceiling limit will be decided on a case by case basis.

Whether eye and dermal limits are appropriate will also be established on a case by case basis. Issues such as the likelihood that the regulated substance is absorbed and systemically distributed are the bases for deciding whether to establish eye and dermal limits. Therefore this issue is best left to resolution upon the record in each rulemaking proceeding.

(4) Notification of Use and Emergencies (Paragraph d)

There will be a notification of use provision, unless the Secretary explains why such a provision is inappropriate.

Employer notification of use to OSHA is an important provision of regulatory standards; there are millions of workplaces in the United States and it is impossible for OSHA to know all or even most of the workplaces that use carcinogenic substances. Therefore, it is often essential for OSHA's enforcement of new standards to have reports of the use of potential carcinogens. Reporting of emergencies, defined in the proposal as releases over the ceiling limit, also aids OSHA's enforcement of standards, provides valuable feasibility information and aids in monitoring the effectiveness of OSHA standards. Because, a "ceiling limit" may not always be included and some participants suggested that massive or uncontrollable releases should constitute emergencies, the definition of an emergency will vary from case to case.

Criteria for the application of the notification of use requirement will be determined on a case by case basis. Although most participants felt notification of use would provide OSHA with valuable information, several participants felt that a broad notification of use provision would be too burdensome in many instances.

OSHA's intent is to avoid imposing reporting requirements that are unduly burdensome; indeed, in the past, OSHA has imposed limited notification of use requirements (see, e.g., benzene). Issues such as whether other Agencies may require similar imformation and if there are other reasonable means for obtaining this information will also be considered.

(5) Exposure Monitoring and Measuring (Paragraph e)

(a) There will be a provision for exposure monitoring and measurement unless the Secretary explains why such a provision is inappropriate.

Monitoring is one of the touchstones of OSHA health standards; without some form of monitoring, employers would not know the extent to which employees are exposed to carcinogenic substances and whether controls were needed. Employees could not even know whether they were being protected in accordance with the standard.

Section 6(b)(7) of the Act mandates that any standard promulgated under the Act shall, where appropriate, provide for monitoring or measuring of employee exposure in such manner as may be necessary for the protection of employees. In addition, section 8(c)(3) of the Act (29 U.S.C. 657) requires employers to promptly notify any employee who has been or is being exposed to toxic substances or harmful physical agents at levels which exceed those prescribed by an applicable occupational safety and health standard and to inform such employee of the corrective action being taken to reduce such exposures. Exposure monitoring is necessary, therefore, in order to determine whether employees are being exposed to the toxic substance at levels exceeding those prescribed by the standard and therefore should be notified as required by the Act.

In addition to the statutory requirements, there are various other reasons which make it appropriate for employers to measure employee exposure to the toxic substance.

First, employers have a legal obligation imposed by the individual standard to assure that their employees are not exposed above the permissible exposure limits. Exposure monitoring informs the employer whether that obligation is being met.

Second, if the employer determines that employee exposures exceed the permissible exposure limits, then there is an obligation (for Category I Potential Carcinogens) to institute engineering and work practice controls in order to reduce exposures to the permissible exposure levels. Hence, exposure monitoring aids in the evaluation of the effectiveness of the engineering and work practice controls and informs the employer whether additional controls need be instituted.

Third, if the permissible exposure limits are exceeded, either before or after all feasible engineering and work practice controls have been instituted, there is an obligation on the employer to provide respiratory protection for employees. The selection of a particular respirator depends largely on the level at which employees are being exposed. Therefore, exposure monitoring is necessary in order to determine whether respiratory protection is required at all, and if so, which respirator is to be selected.

The record in this proceeding provided continuing confirmation that the need for reliable exposure monitoring transcends the narrow purpose of measuring air contamination and is central to any meaningful industrial hygiene program. For example, Dr. Robert Harris testified, "when permissible exposure limits are set, monitoring programs are needed for their implementation." (Tr. 3161) The purposes of monitoring, recited above, demand that measurements be reliable and accurate. As was pointed out by Dr. Harris, decisions, especially to institute further exposure control, are not only "of substantial importance to the health of exposed workers, . . . such decisions may also involve large amounts of money. It is important that the monitoring which is done yield information which will permit the best possible decision." (Harris, S. 4)

(b) The specifics of the monitoring and measuring provision will be determined on a case by case basis. The measurements would be made by monitoring which is representative of each employee's exposure to the toxic substance over an eight-hour (8) period. They should be made without regard to the use of respiratory protection. In order to use the results of exposure monitoring to evaluate the effectiveness of the required engineering and work practice controls, to determine whether additional controls must be instituted, and to ascertain which, if any, respirator must be used, it is important to know employee exposure levels without regard to the use of respiratory protection. Exposure measurements of each individual employee would, of course, be the best indication of each employee's exposure. However, OSHA believes that this may be too burdensome and unnecessary; therefore, monitoring which is truly representative of each employee's exposure may provide the necessary information with, in many instances, fewer samples.

Whenever there has been a production, process, control or personnel change which may result in new or additional exposures to the toxic substance or whenever the employer has any other reason to suspect an increase in employee exposure, the employer would have to repeat the required monitoring and measurements for those employees affected by such change or increase. This is important so that the employer may take the appropriate actions such as providing the appropriate respirator protection or instituting engineering controls. Standards should provide for employer notifications of each employee in writing of his exposure promptly after receipt of the results of any required measurement. Although section 8(c)(3) of the Act requires employers to promptly notify an employee who is exposed in excess of the permissible exposure limit, the standard may extend that right to employees exposed below the permissible exposure limits and establishes the time period for such notice. OSHA believes that informing employees of their exposure measurement, even below the permissible exposure limits, contributes to their understanding of their work and its attendant hazards, and the need for their attention to protective devices.

The proposed model would have always required monitoring at quarterly frequencies when employee exposure was below the permissible exposure limits, and monthly when exposures were in excess of the permissible limits. The OSHA industrial hygiene panel, NIOSH and other participants endorsed these requirements. (See St., Douglas Soule, Holaday, Billings, Tr. 2837, 2860).

Dr. Harris, Professor of Environmental Engineering, School of Public Health, University of North Carolina, testifying for OSHA endorsed "these proposed frequencies (as) reasonable" (Harris, S. 2). Dr. Harris further stated "as a practical matter, exposure monitorings at intervals more frequent than monthly are likely to take place in situations in which exposures exceed the permissible limit and where efforts are underway to implement controls. Quarterly monitoring as a minimum, has the desirable characteristic of at least one series of measurements during each season of the year, thus accommodating different comfort ventilation regimes and any seasonal changes in process or production rates" (S. 3–4) OSHA witness Holaday also endorsed quarterly monitoring as appropriate and not "particularly onerous." (Tr. 2860)

Also, the proposed monitoring frequencies were compatible with most employer testimony which showed a wide range of monitoring strategies voluntarily in use depending upon the evidence of carcinogenicity, the material and its location. For example Allied Chemical testified that for materials on a "suspect list . . . we have monitored quarterly, monthly, or semiannually" (Tr. 8531). Dr. Langer of Dow Chemical testified that his company conducted monitoring at monthly frequencies in some cases depending on "what the situation is." The kind of situation in which Dow considered monitoring less frequently than quarterly to be appropriate is "where the material has low toxicity, where the nature of the physical properties of the material are such that it would not be airborne, the process is totally contained, or where just in my judgment there is not need for frequent monitoring." (Tr. 5199)

Thus, although the hearing record provided evidence that monitoring for substances regarded as carcinogenic at the intervals proposed by OSHA was sometimes the practice of some companies, it also showed that these companies monitored at other frequencies depending upon the particular processes involved, as well as the exposure limits prescribed, and the properties of the substance.

Examples in promulgated OSHA standards also demonstrate this diversity of minimum monitoring frequencies. The asbestos standard requires semi-annual monitoring (§ 1910.1001(b)(2)(ii)). The vinyl chloride standard requires quarterly monitoring for employees exposed between the action level and the PEL (§ 1910.1017(d)(1)(ii)). Yet the standard for inorganic arsenic requires monitoring at minimum 6 month intervals for employees exposed between the action level and the PEL (§ 1910.1018(e)(3)(iii)). Therefore, while restating our belief that monitoring is appropriately performed quarterly and monthly in many circumstances, we agree with those participants who stated that the incorporation of specific frequencies in the model regulations may be inappropriate.

Monitoring frequencies, therefore, are deleted from the models in this policy. OSHA has retained, however, the format for specifying frequencies in the standards when promulgated. This is in contrast to the suggestion made by AISI (post-hearing brief at 113) that "the timing and frequency of exposure monitoring can best be left to the exercise of good industrial hygiene practice, which may dictate differing results depending on the circumstances of each individual case." Rather, we agree with API's approach that the scope and form of monitoring is appropriately considered on a substance by substance basis (API post-hearing brief at 30). AISI's approach, although meeting the objective of accommodating substances of varying forms and exposure potential, does not state any performance objectives, and thus does not constitute a meaningful standard for employers to comply with.

The issue of whether to require that initial exposure determinations be based on actual measurements, was discussed during this proceeding. One objection voiced by participants is that the initial monitoring provisions are burdensome because they become operative by the mere "presence" of a substance (see, e.g., NAM 227 p. 77). The question of what level of a substance is sufficient to activate any given provision of a standard is intended to be open to consideration in the individual standards proceedings. One reason for requiring actual measurements, rather than permitting estimates based on "paper computations," is to establish "a reference point for future monitoring." (Soule, Tr. 2837) Dr. Soule recommended initial monitoring, even in situations where the possibility of escape of the material into the environment was low. (Tr. 2837) Dr. Harris noted that "if the material is used in a process or operation one cannot determine solely from qualitative observation whether exposures are greater or less than the permissible exposure limit; measurements are necessary for this initial determination." (Harris, Tr. 2)

API suggested that the model standards permit the use of an "initial determination" (using inspections and well-accepted mathematical techniques) rather than requiring measurement in each instance (Comments of API on OSHA's Proposed Model Standards, 40). API pointed to OSHA's previous use of this approach in the Standards Completion Program and its proposals for trichloroethylene (TCE) and ketones. (40 FR 49032, 49036–37; 40 FR 20202, 20203).

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However, OSHA does not consider it appropriate to permit initial determinations rather than initial monitoring for carcinogens. OSHA believes, therefore, that in general, actual measurements provide the most reliable method of assessing the degree of employee exposure.

API had suggested that it was appropriate to require monitoring only where the substance is released as a result of work operations, to avoid requirements to monitor for ubiquitous substances such as benzene and inorganic arsenic. OSHA agrees with API, but also believes that monitoring should be required for exposures which may be generated within the workplace such as friable asbestos insulation, although they may be unrelated to work operations. In these cases, worker exposure is real, is unrelated to background contamination, is within the control of employers, and should be monitored and controlled. Such issues are best resolved in individual proceedings.

The frequency for redeterminations of exposure levels when the initial monitoring did not exceed the PEL or the action level, was also at issue. The proposal required that "additional monitoring" be conducted "whenever, there has been a production, process, control or personnel change . . . or . . . the employer has any other reason to suspect a change, which may result in new or additional exposures to (the substance)." (Proposed § 1990.160(e)(4).) Some participants considered this requirement too stringent, arguing that redeterminations should be required only where exposures are reasonably expected to exceed either the permissible levels or the limit for the respirator type used (e.g., Standard Oil, #72, p. 18). Other suggestions were for remonitoring only when there are significant changes in process or controls (e.g., #163, p. 11) or where a change is likely to result in exposure above the action level (API model standard comments at 42). However, as stated previously, the inherent variability of the air contamination in the workplace is a phenomenon independent of "any conscious change in the operation." (Harris, Tr. 3169) OSHA therefore believes that requiring additional monitoring where there has been a conscious change in process or control is appropriate. In fact, such monitoring may miss random fluctuations or those variations due to changes in process and control which the employer may not be aware of, yet will result in exposures over the PEL. To overcome this deficiency, it was suggested that remonitoring be required even if the initial determination indicates the workplace is below the action level, and no process or control change is introduced. Dr. Harris endorsed yearly frequencies for remonitoring, when the levels are very low (Tr. 3183). OSHA's industrial hygiene panel similarly agreed that even where a major process change has not taken place the concentration of an air contaminant varies from day to day and from month to month (Tr. 2856). Neither Dr. Billings nor Mr. Holaday could accept a policy for potential carcinogens which would permit no remonitoring of the workplace, even when the initial results showed exposures below the action level. (Tr. 2860). Others suggested that such a requirement would be unduly burdensome. This issue is also well-suited to regulation on a case by case basis.

Brush Wellman Inc. recommended that OSHA include provisions for specifying required monitoring devices and methods "rather than leaving them for discretionary determination by enforcement personnel." The Company argued that where, "as in the case of beryllium and probably most other materials present in the workplace atmosphere, where readings vary over time and different kinds of devices give different results," the setting of a standard based on "feasibility compliance must be accompanied by a specification of the monitoring device and program which is to be employed." (#241, at 26–27).

OSHA in certain standards has specified methods of measurements. For example, the asbestos standard (29 CFR § 1910.1001(e)) requires that "all determinations of airborne concentrations of asbestos fibers be made by the membrane filter method at 400–450 X(magnification)(4 millimeter objective) with phase contrast illumination." However, a more common and flexible approach is demonstrated by the monitoring requirement in the inorganic arsenic standard which sets specified performance objectives *viz.*, "accuracy (with a confidence level of 95 percent) of not less than plus or minus 35 percent for concentrations of inorganic arsenic greater than 5 $\mu g/m^3$ but less than 10 $\mu g/m^3$." (§ 1910.1018(e)(ii)).

OSHA believes that where, as in the case of asbestos, the available evidence showed that only one measurement method was both reliable and available, it may be prudent to require the method. However, OSHA notes that new and improved sampling and analytical methods are being developed, and that any unnecessary specification of method may inhibit their development and use.

(6) Regulated Areas (Paragraph f)

(a) There will be a provision for regulated areas for Category I carcinogens unless the Secretary explains why such a provision is inappropriate.

The primary purpose of regulated area is to identify areas where certain levels are exceeded and limit access to those areas to authorized persons. In this way, unnecessary employee exposure is eliminated.

(b) Whether there will be regulated areas for Category II Potential Carcinogens will be determined on a case by case basis.

As we have noted elsewhere, the Secretary has reserved wide latitude in the regulatory requirements for Category II Potential Carcinogens. The inclusion of requirements such as signs and labels or PELs based primarily upon the carcinogenic property of Category II Potential Carcinogens will be determined on a case by case basis. Since regulated areas are intimately tied to these provisions, whether they will be required will be determined on a case by case basis also.

(c) The details of regulated areas will be resolved on a case by case basis.

Normally, OSHA does not describe in detail the areas which must be designated as regulated areas. In some circumstances, it does (see, e.g., coke oven emissions). This issue as well as the level at which the regulated area would be established will be resolved in individual proceedings.

(7) Methods of Compliance (Paragraph g)

One of the few regulatory issues that has been definitely resolved in this rulemaking is OSHA's methods of compliance requirements, including the requirement that engineering and work practice controls be used as the primary method of complying with PEL's. As discussed more fully below, engineering and work practice controls are the only reliably effective means of protecting employees from potential occupational carcinogens. Respirators are relied on only as a means of last resort because they simply do not provide a comprehensive and reliable method of employee protection, are uncomfortable and may themselves create safety and health hazards.

This policy has been applied by OSHA in every health standard for potential carcinogens. Yet, time and again similar arguments have been made on the relative effectiveness, cost,

the need for employer discretion, and other issues. OSHA has carefully reviewed all relevant aspects of the record on this issue and concludes that substantial evidence supports the continued preference for engineering and work practice controls. Accordingly, OSHA has foreclosed further consideration of this issue except under the amendment provisions of §§ 1990.106 and 1990.145.

1. Summary of Policy. This policy and the model standard for Category I and II Potential Carcinogens restates OSHA's previously applied policy that engineering and work practice controls be used as the primary method to reduce employee exposure to or below the permissible exposure limits except to the extent that employers can establish that these controls are not feasible.

In situations where feasible engineering and work practice controls are insufficient to reduce exposure to the permissible limits they must nonetheless be used to reduce exposures to the lowest achievable level, and then be supplemented by the use of respiratory protection. In addition, a program must be established and implemented to reduce exposures to within the permissible exposure limits or to the greatest extent feasible, solely by means of engineering and work practice controls. Written plans for this program must be developed.

2. Summary of Record. Virtually all industrial hygiene experts appearing on behalf of government, industry, public interest groups and unions, affirmed the theoretical and practical superiority of engineering the contamination out of the workplace, rather than relying on respirators to filter the contamination from the worker's air supply.

OSHA's preference for engineering controls in the abstract was not seriously challenged. What was challenged was OSHA's "generic policy" of preference for engineering controls. The major objections voiced with this policy by participants in this proceeding were that the requirement, when applied to specific industry segments, specific companies, plants and operations, may prove cost-ineffective, impracticable, and otherwise economically and technologically inappropriate (see e.g. AISI, post-hearing brief; DuPont post hearing brief, NAM). It was argued that OSHA's preference for engineering and work practice controls should be left open to re-examination in each substance-specific rulemaking or be made an option for the individual employers (DuPont, API).

OSHA has scrutinized its proposed policy of preference of control strategies both to examine alternative approaches and to provide flexibility in application without eroding OSHA's long validated policy of primary reliance on engineering and work practice controls to reduce exposures to toxic materials. If the basic reasons for adopting this preference, *i.e.*, the inherent greater efficiency and reliability of engineering over personal protective controls, are no longer valid, OSHA encourages petitions to modify this policy to reflect that fundamental shift in industrial hygiene doctrine.

3. *The Reasons for the Policy.* Engineering controls with appropriate work practices are unquestionably the best method for effective and reliable control of employee exposures to cancer causing agents. Engineering controls can act on the source of the emission and eliminate or reduce employee exposure without reliance on the employee to take self-protective action. Engineering controls encompass material substitution, process or equipment redesign, process or equipment sealing, enclosure, or isolation, local exhaust ventilation, and employee isolation (e.g., a standby pulpit, as opposed to personal protective equipment). Once engineering controls are implemented, the employee is permanently protected, subject only, in some cases, to periodic preventive maintenance.

The record contains numerous references to effective engineering solutions to controlling exposure to highly toxic substances. Examples of process or equipment modification include shifts in reaction chemistry which have avoided the production of by-product BCME in product CCME. Also, conversion from spray painting to a paint dipping operation has successfully reduced the amount of atomized paint droplets in the workplace. Seals have been highly effective. Metallurgical purification processes which rely on hydrometallurgy rather than pyrometallurgy can be sealed so as to prevent exposures (Tr. p. 2756–7). The use of double mechanical equipment seals which are internally pressurized with an inert pressurizing fluid at a greater pressure than is in the process itself seals hazardous materials even when equipment failure occurs. The use of alarms to detect such leaks permits their timely repair. Maintenance of ventilation ductwork and pneumatic transfer systems under "negative pressure" (i.e., less than ambient pressure) similarly seals leaks of hazardous materials.

Examples of process isolation or enclosure include special automated sand blasting cabinets designed to completely enclose the operation and prevent the escape of silicous dust, spray painting enclosures housing automatic painting equipment, and glove box facilities for handling carcinogens pharmaceuticals, biological agent and radioactive isotopes (Soule, S. 11, Billings, S. 9).

Local ventilation (usually combined with partial to complete enclosure) is a commonly used control method (Soule, p. 11). It is applied most effectively in capturing emissions at the point of potential introduction to the workplace. The use of temporary enclosures and movable ventilation ducts can make local ventilation extremely versatile (Holaday, p. 4). Local ventilation is commonly and effectively applied in preventing workplace emissions from sources such as product stream sampling stations, pump gland seals, agitator shaft seals, and valve stem packings (Billings, S. p. 9). In vinyl chloride operations, local ventilation is used as a backup engineering control to prevent emissions in the event that the primary engineering control technique (process sealing) fails, thus giving a higher degree of confidence to the control system.

OSHA notes that the record of this and other rulemakings indicates that local ventilation may best serve as an adjunct to other engineering control measures, rather than the primary control strategy. OSHA witness Billings stated that ventilation controls "may be less desirable than complete control at the source by elimination or process enclosure." (S. 8–9) Similarly, Soule testified "after a particular piece of equipment or process has been enclosed to the maximum extent, ventilation should be used to control any contaminant that might otherwise escape into the work environment." (S. 11)

However, OSHA has determined not to establish a preference for certain types of engineering control over other types of engineering controls for the following reasons. First, OSHA's primary concern is that the PEL is met through the use of engineering and work practice controls. Compliance may be achieved through the use of ventilation and other engineering controls. Further, the testimony of this record indicates that local ventilation is generally utilized appropriately. Its limitations are obvious, and the increasing need to design ventilation systems to meet EPA ambient air restrictions increases the cost of these systems and is a disincentive to their appropriate use. It should be noted that the environmental

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impact of standards issued under the policy will be considered, and that the environmental impact of particular engineering controls may be raised.

Further advantages of the above strategy are the benefits in terms of easier compliance with environmental pollution control regulations which may be promulgated by the Environmental Protection Agency and otherwise limiting contamination of the general environment.

Exhaust of contaminated air or gas is restricted by environmental quality concerns. Cleaning of exhaust gases may be necessary, which requires energy and capital resources, thereby making ventilation less desirable than complete control at the source by elimination or process enclosure (Billings S. 8). Mr. Holaday pointed out that engineering controls limit the spread of contamination to other portions of the plant, and to surrounding environs (Tr. 2798).

Other benefits may derive from the implementation of engineering controls. Examples given are "improved general housekeeping, economic recovery of collected material and possible reuse, reduction in general ventilation requirements, and improved quality of the product by minimizing cross contamination." (Soule, p. 11, testimony.)

"Work practice controls" or "work practices" accomplish the same results as engineering controls, but rely upon employees to repeatedly perform certain activities in a specified manner so that airborne concentrations are eliminated or reduced. Work practices may involve simple instructions to employees to keep lids on containers, to clean up spills immediately, or to observe required hygiene practices. Good work practices are often required in conjunction with engineering controls; for example, where employees perform an operation under an exhaust hood, they must perform their work in such a way as to maximize the efficiency of the ventilation equipment.

Work practices do not include administrative controls. The term administrative controls refers mainly to employee rotation, so that for any one employee his exposure is lower or his work hours are reduced. Although OSHA's recently promulgated lead standard included administrative controls in its definition of work practices, the preamble to that standard (43 FR 52990) made it clear that since administrative controls, by definition, expose more employees to the contaminant, they are unacceptable when the contaminant is one for which "no effect" levels are unknown, such as carcinogens. *Ibid.*

Work practices also act on the source of the emission but rely upon employee behavior, which in turn relies upon supervision, motivation and education to make them effective. For this reason work practices are not as desirable a method as engineering controls. But because the two methods often must be employed together to make either one effective and because they are the only methods that act to eliminate or reduce the hazard at its source, they have been given equal status in the compliance priorities of the final cancer policy.

4. *The Record as a Whole Supports the Policy.* The rulemaking record in the "cancer policy" generated substantial support for the use of engineering and work practice controls as the preferred means of preventing employee exposure, both from government and industry witnesses. The basis for this priority has been previously stated in Appendix A to OSHA's Regulatory Analysis of the proposal, and the preamble to the recent OSHA standards on inorganic arsenic (43 FR 19584, 19617–19618), lead, DBCP and acrylonitrile (43 FR 45800), among other places.

As has been pointed out in these documents, respirators are the least satisfactory means of control because of difficulties inherent in their design and use. Respirators are capable of providing good protection only if they are properly selected for the types and concentrations of airborne contaminants present, properly fitted and refitted to the employee, worn by the employee, and replaced when they have ceased to provide protection. While it is theoretically possible for all of these conditions to be met, it is more often the case that they are not. Consequently, the protection of employees by respirators is not very effective and is therefore permitted only in certain specified circumstances. For example, proper facial fit is essential, but due to variation in individual facial dimensions, and the limited range of facepiece configurations, such fit is difficult to achieve. Often the work involved is strenuous and the increased breathing resistance of the respirator reduces their acceptability to employees. Safety problems presented by respirators must also be considered. Respirators limit vision. Speech is also limited. Voice transmission through a respirator can be difficult, annoying and fatiguing. Movement of the jaw in speaking also causes leakage. Communication may make the difference between a safe, efficient operation, on the one hand, and confusion and panic, especially in difficult and dangerous jobs, on the other hand. Also skin irritation can result from wearing a respirator in hot, humid conditions and such irritation can cause considerable distress and disrupt work schedules. The extent of this problem is even greater where the toxic substance is a skin irritant and becomes trapped between the respirator facepiece and the skin.

It is clear therefore that respirators cannot be considered as the primary means of employee health protection. Nevertheless, they do provide some protection and OSHA has concluded therefore that under certain circumstances, the employees must use the respirators provided. Many witnesses support this view (see e.g. Held and Douglas).

OSHA witness Bruce Held recommended against respirators as the first line of defense on the basis that:

". . . engineering controls are positive. You know if a ventilation system breaks down; when it happens you will have one or two trained engineers or maintenance people that can take care of it; in the meantime you can evaluate your people. On the other hand, you do not know a respirator leaks until after the man becomes sick" (2785).

He fairly summarized the OSHA position as follows:

"I feel very strongly that (the use of respirators) is the second line of defense and that engineering controls are by far the most effective and preferred method." (Tr. 2863)

This position was also supported by industrial hygienists of recognized expertise in industry. For example, Dr. Sowinski of Uniroyal testified that "we adhere to the basic requirements of good industrial hygiene practice, that engineering controls are the best choice." AIHC too "agree[s] that engineering controls should be considered first." (Tr. 8399) Dr. Langner of Dow (Tr. 5118) and Dr. Strassburge of BF Goodrich, among others, also concurred with this position.

Dr. Karrh of DuPont stated that "you would much prefer to have whatever the offending substance is controlled at its source." (Tr. 5365) Other industry witnesses support the superiority of engineering controls and the weaknesses of personal protection (Dr. Thorpe, API, Tr. 4514–16, Dr. First, API, Tr. 6853, Casey, G. E., Tr. 7905, Janus, Hooker, Tr. 4182).

In spite of the general concurrence among knowledgable health professionals concerning the primacy of engineering and work practice controls over personal protective equipment, a few commenters stated that toxic substances should be controlled through

personal protective equipment rather than through engineering controls. Representative comments were:

"Toxic substances in the workplace should be reduced through personal protective equipment rather than through mandated engineering controls." (250–7)

"If adequate surveillance is maintained, the use of personal protective equipment is an effective control measure. An employer should be given the option of establishing a personal protection equipment program and/or work practices control program to minimize the employee's exposure as long as they are equally or more effective than programs based on engineering controls." American Telephone and Telegraph Co. (To same effect, see, e.g., #210, p. 12; FMC Corp. #818).

Another representative comment stated:

"Engineering controls . . . would probably require large dollar expenditures in the form of capital investment and operating expenses . . . OSHA should take into consideration any combination of equipment controls, engineering controls, work practices or personal protective equipment that adequately shields the worker from known or potential carcinogenic substances, rather than legislating engineering controls as the sole protective remedy" (see also #262, p. 7; #208, p. 10).

The above comments are representative of numerous statements in the record. These statements share a number of misunderstandings, as discussed below:

(1) The assumption that personal protection can be as effective as engineering controls is not supportable. No example is given in the hearing record which describes a specific case in which protective equipment is as effective as engineering controls in preventing or providing equivalent reduction in worker exposure. This is due to the *intrinsic limitations* of respirators compared to engineering controls. OSHA feels that these limitations are such that a control strategy which relies on protective equipment as a primary means of protection cannot be made as effective as a strategy which relies on reductions of emissions at their source as a first line of defense, with personal protection as a backup.

(2) The assumption that personal protective equipment would not continue to play an important role as a second line of defense after the installation of feasible engineering and work practice controls, thus depriving the employer of needed flexibility in devising an overall control strategy, is a misunderstanding of OSHA's intent. OSHA strongly supports the implementation of the most effective personal protective equipment program that is possible, after the implementation of all feasible engineering controls.

(3) The assumption that reliance on engineering controls deprives the employer of necessary flexibility in developing a control strategy exhibits a misunderstanding of the alternative control technology possibilities. There are usually many effective engineering alternatives for solving a given problem. One example of this involves control of the exposures associated with manual cleaning of residual polymer which builds up on the inside of PVC polymerization reactors. Alternative control measures have included:

—automated cleaning using high pressure water spray equipment

—automated cleaning using a chemical solvent system

—steam vacuum stripping to remove residual monomer prior to cleaning

—use of coatings on the reactor walls which substantially reduce the rate of polymer buildup and hence the frequency of cleaning

—use of additives to the reacting mix which modify the reaction so as to reduce buildup on the reactor walls

—use of different process technology (bulk polymerization) which avoids the problems associated with a three phase water-solid-monomer mix, resulting in substantial reduction in polymer buildup on reactor walls.

—use of much larger reactors with a much higher volume-to-surface-area ratio, which greatly increases production quantity in relation to the frequency of required reactor cleaning

As stated previously, engineering controls may include material substitution, process or equipment redesign, sealing, enclosure, isolation, local exhaust ventilation, and employee isolation. This range of control options provides ample opportunity for American industry to exercise its demonstrated innovativeness.

A second group of comments from participants in the rulemaking raises the concern that the OSHA policy of reliance on engineering controls will place an intolerable economic burden on industry. For example, it was stated that the proposal allowing exposure reduction only by engineering and work practice controls, rather than by use of employee protective equipment, is unduly burdensome and probably will result in making it economically infeasible to manufacture many products in the United States and yet remain competitive with foreign-produced products. (242 at 4) It was also stated that mandating engineering controls rather than personal protective equipment will cause severe hardship, especially in cases of small businesses (see 135 at 3.).

These comments also indicate misunderstanding of the proposed model standard. The proposal had stated that "the permissible exposure limits for Category I toxic substances are not chosen as 'safe' or 'no-effect' levels, but on the basis of OSHA's belief as to the lowest feasible levels. OSHA is mandated by the Act to consider feasibility in setting regulations." (p. 54161)

Recent OSHA rulemakings such as acrylonitrile and cotton dust have involved extensive discussions of feasibility. Additional discussion is included in this preamble. OSHA has incorporated a variety of contingencies (including delayed compliance times) in these rulemakings in order to allow for feasibility constraints. OSHA has consistently and clearly expressed its intention to include feasibility as a determining factor in the permissible exposure level setting which will occur in individual rulemakings.

Other comments had called for exceptions to be made in the required use of engineering controls for cases where exposures are intermittent, are limited in time, or are limited to a small number of employees.

For example, it was argued that personal protective equipment in conjunction with work practice controls would adequately protect the small number of workers exposed to small batches of a substance for short time periods; and that an employer should not have to place total reliance on engineering controls to protect one or two employees from intermittent exposure. (Notice #90 p. 18 Republic Steel).

Relatedly, API contended that certain engineering or work practice controls will be "cost-ineffective in certain situations even though they are technologically and financially possible." API's examples are "(1) work operations where the PEL's are exceeded only briefly or intermittently and (ii) work operations where engineering or work practice controls are enormously expensive, yet will accomplish only a minor reduction in exposures, so that respirators will be required in any event." (Comments of API on OSHA's Proposed Model Standards at 48).

AISI indicated that its concern was with "mobile employees who move from place to place and areas in which one man would be involved once a week to look at one dial in a pump room, and that is it; and if you went into engineering controls the amount of

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money may be astronomical to provide the controls" (Tr. 4712–4713).

OSHA agrees that both the cost of installing engineering controls and the number of employees protected by such controls may vary substantially from case to case. Previous discussions have presented the *inherent* advantages of engineering controls over personal protection, which apply in virtually *all* cases. As stated previously, OSHA has concluded that this is not an issue of serious debate among knowledgeable health professionals today.

The hearing record does not contain good examples of employee exposure situations in which a few employees would require protection by enormously expensive engineering controls. In the case cited above by AISI, for example, the pumproom dial may be replaced by a commonplace and relatively inexpensive device which senses the pressure, temperature, flow rate, etc. (as appropriate) and transmits this signal to an environmentally-regulated control room, thus avoiding the need for employee entry into the pump room. This is an example of process isolation through automation/remote control, which is one of numerous recognized engineering control methods. During the hearing API again suggested that in certain work place circumstances respirators should be used as the first line of defense. OSHA's industrial hygiene witnesses agreed that in certain obvious circumstances respirator use was appropriate. These circumstances were described as "before one could put in engineering controls", "when the engineering control is not operating"; "in emergency situations"; and "if you have the engineering controls installed, and they are good, but they are not good enough." OSHA standard notes that the proposed and final model would permit respirator use in these conditions.

In addition, API posed certain hypothetical conditions of workers exposed temporarily during the work day, "where respirators might make good sense and provide appropriate levels of protection." One such situation was a highly automated workplace with a worker operating primarily from a control room, where he is protected by engineering controls, but where several times a day where for 15 minutes the worker enters the process room and is exposed to an unspecified level of contamination. The assumed cost of engineering controls in the enclosed process room is millions of dollars (Tr. 2775–2776). OSHA witness Held stated from the "context of feasibility," looking "at the money involved . . ." talking about millions of dollars for one person in a fifteen minute exposure . . . that very possibly in that particular situation it would make more sense to use the respiratory protection." (Tr. 2776). OSHA witness Douglas, however, pointed out that the frequency of entry into the automated area should be considered in determining whether engineering controls should be installed to protect employees entering the automated area." (Tr. 2776). API described another hypothetical situation—"a truck driver whose only potential exposure is at time of loading which might be twice a day," and suggested control using respirators (Tr. 2777). OSHA witnesses Held and Douglas testified that other variables such as whether "there are clouds of material" being dispersed, the potential exposure of other people, and the number of trucks a day being loaded should be considered before respirator use could be permitted as a first line of defense. Thus, neither respirator expert testified that respirators would be more effective; and both pointed out that the superficially minimal exposure situations suggested by API as candidates for primary control by respirators must be scrutinized for wider, higher or more frequent exposure potential which would disqualify the use of respirators as a primary control.

As indicated by the small number of specific examples provided in the hearing record, OSHA believes that the number of exposure problems which will not be amenable to solution by engineering control measures will not be great. Nonetheless, the cancer policy, including OSHA's enforcement policy of considering feasibility in an individual case, may consider the infrequent exposure situation where a partial reliance on protective equipment may be an effective control approach.

The proposed model standard had stated that respirators may be used as the primary control strategy in work operations such as maintenance or repair activities in which the employer establishes that engineering and work practice controls are not feasible, or as a supplemental control strategy "in work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the permissible exposure limits."

OSHA's reasons for specifying repair and maintenance activities in the proposed provision were that they are intermittent, often unpredictable, and often undertaken when engineering controls break down. Under such circumstances it is likely that respiratory protection often will provide effective protection to these exposed employees, because, for example, when exposure durations are short, many problems associated with respirator use, such as discomfort, decrease in productivity, loosening of face seals and saturation of filter beds, either will not occur or will be of very minor significance.

In the final regulation OSHA has deleted the specific mention of repair and maintenance activities, as an illustration of "work operations . . . in which engineering and work practice controls are not feasible." The record pointed out, and OSHA agrees, that some maintenance and repair activities are feasibly controlled by engineering and work practice controls (Tr. 2684–2685). Therefore, in order to clarify that OSHA did not intend to exclude maintenance and repair operations from its general policy of requiring primary reliance on feasible engineering and work practice controls, OSHA has made the above described changes in the final model standard.

This final policy, like the proposal, provides that where feasible engineering and work practice controls are insufficient to reduce exposure to the permissible limit, they must nonetheless be used to reduce exposure to the lowest achievable level and then be supplemented by the use of respiratory protection. This policy is not new to this Cancer Policy rulemaking. Virtually all OSHA health standards have applied this policy. See, for example, the lead standard, § 1910.1025(f)(1)(ii); the arsenic standard, § 1910.1018(h)(1)(iii) and the vinyl chloride standard, § 1910.1017(f)(2). The reasons for requiring the installation of feasible engineering and work practice controls, even when insufficient to reduce exposures to the PEL, was explained in the inorganic arsenic preamble as follows: "Even in situations in which engineering controls will not succeed in reducing exposure levels below the TWA limit, it is still appropriate to require all feasible engineering controls, even though it was necessary for supplemental use of respiratory protection. Engineering controls, by minimizing the exposure, without regard to the use of respirators, will have minimized the potential for overexposure resulting from poorly fitting respirators and will usually reduce the number of employees who need to wear respirators. (43 FR 19617). The preamble to the coke oven standard also discussed the reasons for implementing such a requirement. There, OSHA stated:

> OSHA believes that the most effective means of controlling employee exposures is to contain the emissions at their source. We do not believe the use of respirators is an acceptable long term solution to the hazards associated with exposure to coke oven emissions because of the many drawbacks relating to their use. (See discussion under Respirators below).
>
> A necessary element of this approach is to require the use of engineering and work practice controls which can be implemented to reduce employee exposures to the lowest level achievable by these controls, even when these controls may not reduce exposures to or below the permissible exposure limit. In reaching this conclusion, we have carefully considered the possibility of requiring such controls only where there is a reasonable expectation that exposures would be reduced to or below the permissible exposure limit. In this regard, it should be noted that there is no known safe level of exposure to coke oven emissions.
>
> We fully expect respirators to be approved by NIOSH for coke oven emissions in the near future. However, we still would not know each employee's actual intake of coke oven emissions because of variability in quality control, fit, the extent to which supervisors enforce the requirement that employees wear respirators, etc. Therefore, since reduced ambient air levels necessarily reduce actual employee intake, there is a greater likelihood that actual employee intake will be at or below the permissible exposure limit as a result of the installation of such controls.
>
> In addition, it is difficult if not impossible to predict in advance the levels which will be achieved by implementing particular engineering and work practice controls. Therefore, there may be instances where employers are able to achieve lower levels than they had anticipated. Finally, requiring employers to implement controls only where they expect to reach the permissible exposure limit with such controls would provide an incentive to employers to conservatively estimate the effectiveness of controls, and could divert attention from reducing exposures to establishing that particular controls would not reduce exposure to or below the permissible exposure limit. In these circumstances, particularly noting the goal of compliance with the permissible exposure limit solely by means of engineering and work practice controls, we have concluded that it is necessary to require employers to reduce levels by means of engineering and work practice controls which can be implemented to the lowest level achievable by these controls, even when such controls are not sufficient to reduce levels to or below the permissible exposure limit. (41 FR 46759)

OSHA expert witness Duncan Holaday testified similarly that there are "reasons for putting in engineering controls even though they are not as effective as it was hoped they would be . . . You reduce the contamination in the work room air . . . You also limit the spread of contamination to other portions of the plant and to the surrounding environs." (Tr. 2798). OSHA witness Douglas also endorsed requiring engineering controls to be utilized to the greatest extent feasible, then supplemented by respirator use. "The engineering controls will reduce the number of employees on respirators. The lower exposure levels resulting from the engineering controls will permit the use of simple, less confining and easier to use respirators." In addition, such reductions in exposure may also reduce the amount of time employees will need to wear a respirator. Finally, lower background levels will reduce the potential exposure for those employees who have not been properly fitted to their respirator or who do not wear them conscientiously.

Only a few commenters stated that OSHA's proposed priority for controls ignored "the requirement that OSHA take economic feasibility into account" in setting standards (see, e.g., #252) OSHA required methods of compliance set out in the proposal and the final model standard explicitly state that engineering and work practice controls are required to be used to reduce employee exposure to the PEL, "except to the extent that the employer establishes that such controls are not feasible." Similarly, proposed § 1990.160(g)(h)(ii), which sets out the conditions under which respirators may be used, explicitly mentions feasibility. Further, as discussed in detail elsewhere, in subsequent rulemakings undertaken pursuant to this policy, OSHA will be bound by the requirements of feasibility in establishing standards.

As noted above, OSHA rulemakings such as acrylonitrile, cotton dust and lead have involved extensive discussions of feasibility. OSHA has incorporated a variety of contingencies (including delayed compliance times of up to ten years for primary lead smelters, for example) in these rulemakings in order to allow for feasibility constraints. The continued usefulness of these approaches in future standard settings is anticipated. Since their application must accommodate the financial and technological conditions of the affected industry, OSHA will consider on a case-by-case basis appropriate compliance periods for specific industries.

There will be a provision which requires employers to develop a written compliance plan in order to meet the PEL primarily through engineering and work practice controls, unless the Secretary explains why such a provision is inappropriate. The need for a compliance plan is clear; a written compliance plan is a necessary prerequisite to rationally planning a control strategy. In addition, it is an objective check to see if employers are taking the initial steps towards compliance with standards. There was substantial support for this provision (see, e.g., Dr. Billings). The details of compliance plans will be resolved on a case-by-case basis.

8. Respirators (Paragraph h)

Respirators will be required as a secondary means of compliance in certain circumstances in order to comply with any PELs established under the Policy.

The general need for provisions which would be applied when respirators are used to protect employees against airborne contamination from potential carcinogens is supported by this Cancer Policy record and other relevant rulemaking records.

The need for effective requirements for respirator use in standards subject to the policy is an important supplement to engineering and workpractice controls. First, conditions where respirators must be used are acknowledged and specified in the model standard. These circumstances are: (i) during the time period necessary to install or implement feasible engineering and work practice controls; (ii) in work operations in which engineering and work practice controls are not feasible; (iii) in work operations where feasible engineering and work practice controls are not sufficient to reduce exposures to or below the permissible exposure limits; and (iv) in emergencies.

As noted in the discussion on methods of compliance, the inherent limitations of respirator design and use render them the least preferred control strategy. OSHA acknowledges, however, that where they must be used, such as when more preferred controls have not or cannot be installed, it is necessary to minimize their limitations by insisting on careful selection, use and fit. These elements are included in the respirator provision in the model standard.

OSHA explained its proposed model respirator provisions as follows:

> The three model standards require that the employee be properly trained to wear the respirator, to know why the respirator is needed and to understand the limitations of the respirator. An understanding of the hazards involved is necessary to enable the employee to take steps for his or her own protection. The respiratory protection program implemented by the employer must conform to the program set forth in 29 CFR 1910.134. This section contains basic requirements for proper selection, use, cleaning, and maintenance of respirators.
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> The three proposed model standards also contain a respirator selection table (Table I) so the employer will be informed of and provide the type of respirator which affords

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the proper degree of protection based on the airborne concentrations of the toxic substance.

To prevent skin irritation and to minimize the discomfort of respirator use, the three model standards require that employees must be allowed to periodically wash their faces and respirator facepieces in order to remove any accumulation of the toxic substance or to reduce the chance of irritation from the wearing of the facepiece itself, such as a heat rash.

In the Cancer Policy proceeding, participants questioned the deletion of a quantitative fit test requirement from the models. OSHA had not included such a requirement because the Agency believed the necessary equipment was neither widely available nor feasible (Wrenn, Tr. 94).

Witnesses with expertise in respirator protection endorsed the greater reliability of quantitative fit testing although they did not consider that such a requirement should be mandatory (Held, Tr. 2675–76, Douglas Stmt.). Qualitative fit testing is still considered reliable if done "extremely carefully," and some experts recommend that a greater protection factor be allowed in such case (Id). The final model includes a requirement that the employer assure that respirators fit properly.

OSHA notes both the theoretical superiority of quantitative fit testing and the potential feasibility problems of quantitative fit testing for all industries. Determinations on these issues must await the development of a relevant factual record in each rulemaking.

9. Protective Clothing and Equipment (Paragraph j)

(a) There will be a provision for protective clothing and equipment, unless the Secretary explains why such a provision is inappropriate.

Generally, there was little debate in the rulemaking record concerning the reasonableness in a general sense of requiring "appropriate" personal protective clothing and equipment. Duncan Holaday, testifying for OSHA, gave the most complete explanation of the reasons for this requirement:

> The appropriate use of personal protective clothing, gloves and goggles is an essential part of an effective program for minimizing exposure to occupational carcinogens. Obviously, choice of clothing and equipment should depend on the degree of protection desired and the form of the substance encountered. For example, during my tenure with the public health service, I inspected oil refineries whose employees had shown a historic excess of skin cancers attributable to exposure to pyrolysis oils. Although truly impervious clothing is often restricting to the wearer and uncomfortable, I observed that the oil industry provided and employees wore impervious clothing to protect against contact with this substance. The work operations presenting the risk of exposure were short enough so the significant discomfort of the clothing was not a disincentive to its use. In addition, the obvious hazard of skin cancer overcame any inconvenience of wearing impervious clothing in the oil refineries.

In addition to minimizing the cancer hazard from contact with the substance, protective clothing prevents skin absorption of potential occupational carcinogens.

As noted elsewhere, the appropriate protective clothing and equipment must be provided by the employer at no cost to the employee.

(b) The detailed requirements of the protective clothing and equipment provisions will be determined on a case-by-case basis.

The type of clothing and equipment, the circumstances which trigger the requirement, the cleaning and disposal of them and other provisions will be determined on a case-by-case basis pursuant to this policy (See, e.g., AISI's suggestion that each substance should be evaluated as to its physical and chemical properties before mandating specific requirements on protective clothing and equipment).

10. Housekeeping (Paragraph k)

There will be a provision which requires a housekeeping program to minimize accumulations, unless the Secretary explains why such a provision is inappropriate.

The rulemaking generated substantial discussion concerning the proposed model standard's requirement relating to housekeeping. In its preamble to the proposal, OSHA set forth the reasons for its requirements as follows:

> Removal and prevention of accumulations of the toxic substance dust and liquid deposits on all surfaces in the workplace are important aspects in minimizing employee exposure, particularly in the case of a Category II toxic substance where there may not be a mandatory reduction in the present permissible exposure limits, per se. To assure that the toxic substance is not reintroduced into the workplace air, all three model standards prohibit dry sweeping or the use of compressed air for cleaning of floors and other surfaces where the toxic substance dust or liquid deposits are found.
>
> As important, all three models standards require that when the toxic substance is present in a liquid form, or as a resultant vapor, that all containers or vessels shall be enclosed to the maximum extent feasible and tightly covered when not in use.

The final model standard covering housekeeping is substantially different from the proposal. It imposes a general obligation on employers to adopt a housekeeping program to minimize accumulations of the substance. The detailed housekeeping techniques in the proposed provision, although useful and appropriate in many situations, are being deleted as inappropriate for promulgation as policy statements of the agency.

Mr. Soule, testifying for OSHA, enlarged on the objectives served by housekeeping provisions as follows:

> There are really two objectives to these provisions: one to prevent accumulation to the point where there is a reasonable chance or opportunity for secondary dispersal of the contaminant into the environment; and the second objective to maintain levels to such a point where any inadvertent or otherwise direct contact, let us say with the skin, would prevent a significant opportunity again for exposure by that route, by skin absorption. (Tr. 2628).

The question of how to measure surface contamination was addressed by some participants. Dr. First, testifying for API, pointed out that uniform sampling procedures for "wipe tests" are required to get consistent and reproducible results. Some variables in sampling procedure would be the area sampled, the force used in wiping, and the number of "wipes". (Tr. 6856). Dr. First also raised the question of how to interpret the data obtained from "wipe tests", especially where the health hazard is only known to result from inhalation (Tr. 6856). Dr. Peterson, testifying for PMA, described techniques for assessing surface contamination, and indicated that "surface contamination is not a well-developed art; it is something that has been sadly neglected." (Tr. 7081–7082). In some cases the available techniques are not substance-specific (Tr. 7081). Both Drs. First and Peterson stated that wipe sampling has been used most extensively for radioactive materials (Tr. 7083). OSHA therefore believes that the feasibility as well as the appropriateness of wipe testing should be assessed in substance-specific rulemakings.

Although there was agreement that the "free of accumulation" provision was appropriate when "necessary", there was disagreement about when the provision was necessary.

For example, a representative of the plastics industy testified that "requirements for cleaning surfaces are not appropriate for materials which have low volatility, but which are not absorbed through the skin." (Tr. 6898). OSHA therefore has deleted this proposed provision. Instead, cleaning of surfaces is included in the list of housekeeping operations which the employer should periodically perform. The extent of cleaning for all operations depends upon what is appropriate and

necessary to prevent significant skin and eye contact and ingestion. OSHA does not intend to establish a no contact compliance standard by these provisions.

Housekeeping is expected to remain the employer's most obvious and inexpensive method of reducing exposures.

The record shows general support for the concept of good housekeeping. The programs of specific industries and employers vary considerably. Some employee testimony indicated that housekeeping programs were casualties of increased productivity programs, resulting in eliminating the people who cleaned things up (Tr. 6265).

Examples of company housekeeping programs are part of the rulemaking record. For example, Robert A. Hoffer, President of Hoffer Plastics, employing 380 persons testified that his company has "regular housekeeping inspections on a weekly basis" (Tr. 6718). It was pointed out that smaller companies may have to rely on their production people to do the cleanup, whereas larger companies can hire crews to clean up specifically (Tr. 6719–20).

Industry participants pointed out that good housekeeping in production areas serves other interests, such as providing products for an American market which will be clean and free of contamination. (Tr. 6717–6718). Sometimes, contamination of a product is cause for customer rejection (Tr. 6723).

11. Waste Disposal (Paragraph l)

There will be a provision prohibiting dispersion of carcinogenic waste material into the workplace, unless the Secretary explains why such a provision is inappropriate.

The proposed model standards would have required that employers dispose of waste, scrap, equipment or debris containing the toxic substance by collecting and disposing of it in sealed bags or other closed containers to prevent dispersion of the toxic substance outside the container.

The final model standard has changed the focus of the requirement from a specific practice to a performance requirement of preventing dispersion of the carcinogenic waste material into the workplace environment. Of course, in many cases, sealed containers will be used to meet this requirement. Also, OSHA recognizes that the dangers of contamination from carcinogenic wastes extends to future employees of the on-site disposing employer or of his successor, to employees of employers whose facilities are utilized for disposal, such as landfills or garbage dumps, and to employees who may contact the hazardous wastes at those facilities, such as employees engaged in construction on such a landfill. Therefore, the model standards also indicate that, where appropriate, employers should label, or otherwise inform all employees who may foreseeably contact the waste material, of the identity of the material. In most cases, where disposal is effected by placing the liquid or solid waste material in containers, a label, designed to withstand the conditions of disposal for the foreseeable period of employee contact, will be an appropriate way to comply with this requirement. The method of informing employees can be coordinated with any other requirements set by federal agencies such as EPA, or state or local governmental bodies exercising authority over waste disposal.

OSHA acknowledges, as was pointed out by NRDC, that the proposal "makes no provision concerning how or where to dispose of contaminated wastes." (#145 at 56). The final model standards similarly omit such specific provisions. As with the other model provisions, OSHA believes that the diversity of substances, industries and plants reasonably precludes dictating specific waste disposal procedures in this generic regulation. Consideration of this issue is best left to individual rulemaking proceedings or as part of OSHA's assessment of environmental impact.

12. Hygiene Facilities and Practices (Paragraph m)

There will be a provision for hygiene facilities and practices for Category I Potential Carcinogens unless the Secretary explains why such a provision is inappropriate. The inclusion of a requirement to provide hygiene facilities for a Potential Category II Carcinogen is discretionary and will depend on the circumstances of the substance, its use, and affected workplaces. It is first intended that certain facilities covered by 29 CFR 1910.141, *i.e.*, showers and change rooms, be included when they are appropriate, given the properties of the substance, the form of exposure, and the work operations involved. OSHA intends that the details of the standards promulgated under the cancer policy will be open in each individual rulemaking. To extend the supported rulemaking record in each case, requirements may differ in details from those in § 1910.141. In addition, the proposal had also stated that where food was consumed at the workplace, lunchrooms with a filtered air supply will be provided.

The general reason for requiring such kinds of facilities is to protect employees from secondary contamination from the regulated substance, either via their own body and clothing, or their fellow workers. Witnesses acknowledged during the cancer policy proceedings the value of these requirements. For example, Mr. Soule testified, "provisions for 'clean' and 'dirty' locker areas for street and work clothes, respectively, use of shower or other personal hygiene facilities . . . all can be considered work practice controls, equal in importance to the engineering controls mentioned earlier". (S. 13) (See also testimony of Mr. Holaday, Dr. Billings and Mr. Douglas). In other recently promulgated OSHA standards, OSHA has required that employees shower at the end of a shift (See, e.g., § 1910.1018(m)(2)(i), inorganic arsenic; § 1910.1029(i)(2)(i), coke oven emissions; § 1910.1044(1)(2)(i)) and wash or shower immediately after significant contamination, in some cases (e.g., 1910.1044(1)(2)(ii), DBCP).

The proposal specifically required that employers assure that employees shower at the end of the work shift. Showering was generally agreed on as valuable employee protection, when appropriate to the properties of the substance and working conditions. Industry witnesses testified that showering after contact with some forms of carcinogenic contamination was appropriate, and in their own companies required showering after contact. (See, e.g., Upjohn #163, appendix p. 2) Mr. Lynch of Exxon testified that showers would be necessary and definitely should be required when "it is possible to have significant skin contact to substances which can either cause skin cancer or enter the body through skin . . . on the other hand, for a gas, for example, that does not cause skin cancer and cannot enter through the skin, showers are not needed". Thus, whether and when showering should be required are issues particularly suited for substance-specific rulemaking.

Requirements for change rooms have also been incorporated in standards covering toxic substances, especially when they are in dust or particulate form. (e.g. § 1910.1001(d)(4) asbestos; § 1910.1018(m)(i) inorganic arsenic; § 1990.1029(i)(1) coke oven emissions.).

The necessity for change rooms is related to the employer's obligation to provide protective clothing and equipment. The primary purpose of protective clothing and equipment is to serve as a barrier between the employee and the contaminant. Without change

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rooms to remove and dispose of contaminated clothing and equipment, they would become the carriers of contamination they were designed to avoid.

OSHA was surprised that its proposed requirement relating to lunchrooms engendered significant debate. It appears that the preamble to the proposal (42 FR 5417) may have been misunderstood. OSHA's intention was not to require that employers provide lunchrooms, but rather, that employers assure that the areas in the work place in which employees eat their lunch are relatively free of contamination and that any such areas be comfortable so as to encourage employee use. Indeed, Dr. Melvin First, who testified for API, agreed "that the lunchroom should be tempered, whether the air has to be cooled or warmed or whatever. It should be a comfortable place to eat." (Tr. 6868.) The record indicates that some companies routinely provided this (e.g., Allied Chemical Tr. 7440).

Other industry support for tempering lunchroom air turned on the degree of contamination in the vicinity of the lunchroom. For instance, M. Janes of AISI supported the requirement when it is located "where people eat near the substance in question", but objected to the requirement when the lunchroom is located "half a mile away". (Tr. 4171.) OSHA has retained the guideline, but added the words "if appropriate" to indicate that the need for such a provision should be determined on a case-by-case basis.

The degree of exposure which should "trigger" the various requirements included in the hygiene provisions was at issue. OSHA rejects the suggestion of API that the model standards should provide that "the hygiene facilities are required only for workers exposed above the PELs, not to all workers exposed to airborne concentrations of a substance". (Comments on Model Standards, 53, for 76.) Where, as here, the requirements are intended to reduce exposure via all routes, OSHA believes it does not make sense to "trigger" the requirements at a permissible exposure limit based on airborne concentrations alone. Additionally, as discussed earlier, the PELs are established based on feasibility, not on a determination of a "safe" exposure level.

Another issue was raised concerning OSHA's guideline that employers "assure" the use by employees of prescribed hygiene facilities.

The use of the word "assure" reflects OSHA's position that employers have the authority to impose and enforce reasonable work rules and make compliance with them a condition of employment. As reflected in the testimony of the industrial hygiene witnesses recited above, OSHA's experience has been that if employees understand the need for these provisions and if the hygiene rules are imposed fairly, employers will find their employees will cooperate in complying with these rules. Therefore, comments which objected to the word "assure" as "unrealistic" have been in OSHA's experience considerably overstated.

13. Medical Surveillance (Paragraph n)

(a) A requirement for a medical surveillance program will be included in each proposed standard for potential occupational carcinogens unless the Secretary explains in the proposal why such a program is inappropriate.

Appropriate medical surveillance programs are mandated by the statute. See section 6(b)(7) of the Act. They must be provided without cost to the employee. As discussed more fully elsewhere, the requirement that medical examinations be provided at "no cost to the employee" is one of the few foreclosed regulatory issues.

The rulemaking record provided much support for the general appropriateness of requiring medical surveillance programs for employees exposed to potentially carcinogenic substances. Many reasons were given. Where there is the possibility of early detection of carcinogenic effect, medical surveillance was characterized as essential. (Murray T. 3549, Thorpe T. 4565, Lam T. 4567, 5595). In addition, medical surveillance will provide ongoing data to refine information as to whether a material is a potential carcinogen (Thorpe 4566), making surveillance additionally appropriate for Category II potential carcinogens.

The usefulness of periodic examinations "often" will extend to the employee's general health, independently of any questions of carcinogensis (Lamm. Tr. 4567). In addition, the relationship between host susceptibility and exposure makes all health data relevant to the diagnosis of potential cancer.

(b) The details of the medical surveillance program, however, will be left to the rulemaking record of the substance-specific proceeding. The details include the frequency, protocols of the examinations, the content of the reports required from the examining physician, and the information given physicians by the employers.

Some questions related to the larger issues of access to medical records were raised in the Cancer Policy hearing. Since these issues are the subject of an ongoing rulemaking, and a final standard is expected to be promulgated shortly, OSHA has deleted from the models any provisions concerning access to medical records.

The proposal had set forth OSHA's typical medical surveillance program requirements. In pertinent part, the proposal provisions were as follows:

> The model standards require that the medical surveillance program provide each covered employee with an opportunity for medical examination. As noted above, the authority and requirement for this provision are found in section 6(b)(7) of the Act.
>
> All examinations and procedures are required to be performed by or under the supervision of a licensed physician and provided without cost to the employee. While the physician will usually be selected by the employer, the standard does not so mandate, leaving the employer free to institute alternative procedures such as joint selection with the employee or selection by the employee. Clearly, a licensed physician is the appropriate person to be conducting a medical examination. However, certain parts of the required examination (e.g., taking a history) do not necessarily require a physician's expertise and may be conducted by another person under the supervision of the physician. As noted above, the Congress has mandated, by reason of section 6(b)(7) of the Act, that medical examinations and procedures required by OSHA standards be provided at no cost to the employee.
>
> The model standards provide that a work history, medical history and medical examination be performed. The purpose of this requirement is to establish a baseline health condition against which changes in an employee's health may be compared in the detection of changes in physical condition.
>
> The model standards leave blank the specific medical protocols for the examination. The various tests that comprise the medical examination to be prescribed in the individual rulemaking are determined by the specific toxicology and effects of each substance. The tests that are designed to be used in an initial assessment of an employee's health and to detect changes in health which may occur are to be required as appropriate. Of course, if additional tests and procedures are appropriate for a given substance, they may be added in the specific rulemaking covering that substance.
>
> The model standards require that the employer provide the physician with certain specified information. This information includes a copy of the regulation, a description of the affected employee's duties as they relate to the employee's exposure, the results of the employee's exposure measurement, if any personal protective equipment is used or is to be used, and information from previous medical examinations of the affected employee to the extent that they are not readily available to the physician. The purpose in making this information available to the physician is to aid in the evaluation of the employee's fitness to wear personal protective equipment when required. It should be noted that the model standards do not require that a copy of the regulation be given to the physician for each employee. One copy would be sufficient, provided that the employer assures that the physician is aware of which employees are covered by this standard. Items that relate to individual employees or categories of employees (such as the description of job duties) need be transmitted to the physician only once, unless, for example, the duties change. Exposure measurements will be cumulative, so that the results of each monitoring are to be sent to the physician. However, since sampling will be done on a representative basis, the language of the model standards requires the physician to be given either the employee's actual exposure measurements, if available, or the estimated level of the employee's exposure based on the relevant representative measurements.
>
> The employer is required to obtain a written opinion from the examining physician containing: the physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of health from exposure to the toxic substance; the results of the medical tests performed; any recommended limitations upon the employee's exposure to the toxic substance and upon the use of protective clothing and equipment such as respirators; and a statement that the employee has been orally informed by the physician of any medical conditions which require further examination or treatment. This written opinion must be relevant to specific findings or diagnoses unrelated to occupational exposure, and a copy of the opinion must be provided to the affected employee. The purpose in requiring the examining physician to supply the employer with a written opinion containing the above mentioned analyses is to provide the employer with a medical basis to aid in his determination of the employee's initial placement and continuing capability to use protective clothing and equipment. Requiring that the opinion be in written form will serve as an objective check that employers have actually had the benefit of the information in making these determinations. Likewise, the requirement that the employee be provided with a copy of the physician's written opinion will assure that the employee is informed of the results of the medical examination and may take any appropriate action. The purpose in requiring that specific findings or diagnoses unrelated to occupational exposure not be included in the written opinion is to encourage employees to submit to a medical examination by removing the fear that employers may find out information about their physical condition that has no relation to occupational exposures.

During this rulemaking, participants raised the question of adverse health risk to workers because of the performance of required medical tests and procedures. (e.g., Lamm. 4567). In particular, mandating frequent x-rays was cited (e.g., 4568) as creating its own risk of cancer (see, e.g., #143).

In response to this concern, OSHA has deleted the provision in the guidelines that the initial physical examination be conducted with any specific protocol.

OSHA intends that the question of the appropriateness of diagnostic x-rays, as well as other procedures, should be considered in subsequent proceedings and should include the question of the risk, if known, of the procedure itself.

The model medical surveillance provision applies to each employee who is or will be exposed to the substance. (§ 1990.160(n)(1)(i). Some participants questioned the breadth of this requirement. In some standards regulating carcinogens, OSHA has limited the required administration of medical tests and procedures presenting their own risk of adverse health effects to "high risk populations" (See, e.g., the discussion in the preamble to the coke oven emission standard, 41 FR 46777–46779). The problems in defining a "high risk population" were also discussed in the coke oven emission preamble.

The question of defining a high risk group, like determining other cut off points for various aspects of medical surveillance programs and determining frequencies of various protocols, cannot be decided in the abstract. "High risk" was defined in relation to exposure levels and to frequency and duration of exposure for purposes of mandating sputum and urinary cytology. (41 FR 46779). Similarly specific tests may lead to cut-offs in future standards.

Thus, appropriate cut-offs, if any, for prescribing any medical surveillance for any exposed employees must necessarily be shaped in a single substance rulemaking. OSHA also will use the action level concept, where appropriate, as well as the coke oven emission approach, i.e., identifying employees with longer term exposures, for certain tests. In some cases, all exposed employees may be covered by the medical surveillance requirements.

Another issue discussed at the cancer policy proceedings was whether, as proposed, employer-supplied medical examinations may be administered solely by employer-retained physicians. Most union participants strongly argued against allowing examinations by "company doctors" to satisfy the standard. (See, e.g., Tr. 5842, 5843, 5933, 5934). Solutions urged by union participants and others were to give the employee the right to choose his own examining physician (Tr. 5916); and to obtain a second medical opinion from a physician of the employee's choice (Tr. 5933 ACTUU).

Industry participants supported the proposal's provisions for employer-selected examining physicians. For example, API argued that convenience and efficiency would be fostered by employer-selected physicians. API pointed out that its member companies often use outside occupational health specialists as well as in-house personnel. (API comments on model standards). It was suggested that unless examinations are performed by "adequately trained occupational physicians, they will largely be a waste of time," and that in-house or outside occupational health specialists are in a far better position than individual private practitioners to identify group trends and risks and report them to employers without infringing on workers' privacy rights (API, Ibid., 54–44).

OSHA agrees with the United Auto Workers representative who stated he doubted "whether it is possible to modify the entire company-doctor system in the context of this hearing on the cancer policy" (Tr. 5843). Therefore, OSHA has retained the proposal's requirement that the employer provide affected employees with opportunities for medical examinations and procedures performed under the supervision of a licensed physician, and which shall be provided without cost to the employee. This requirement would not preclude the institution of the suggested alternatives, such as employee-designated physicians, but would not require such designation.

Another alternative suggested was a multiple physician review procedure. However, very little evidence was introduced to support the need for such a provision as part of the Cancer Policy.

14. Employee Information and Training (Paragraph o)

There will be a provision for employee information and training unless the Secretary explains why such a provision is inappropriate. As recited in the preamble to the proposal:

> The three model standards uniformly require the employers to provide a training program for employees exposed to the toxic substance. OSHA believes that an information and training program is essential for the protection of employees because an employee can do much to protect himself if he is informed of the nature of the hazards in his workplace. To be effective, an employee education system must, at a minimum, apprise the employee of the specific hazards associated with his work environment. For this reason, the employer would be required to inform each employee exposed to the toxic substance of the nature of the toxic substance-related health problems, and the necessity for exposure control and medical and industrial hygience monitoring programs.
>
> The three model standards also require that the training program be provided at least annually. The content of the training program is intended to apprise the employees of: (1) the hazards to which they are exposed; (2)

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the necessary steps to protect themselves, including avoiding unnecessary exposures, respiratory protection and medical surveillance; (3) their role in reducing exposures to the toxic substance and (4) their rights under the standard. Section 6(b)(7) of the Act makes it clear that these are appropriate goals of an employee training program, and the model standards, therefore, include them.

The employer is required to make a copy of the model ETS and proposed and final standards, as applicable, as well as the appendices, available to the affected employees. This requirement, in combination with the review provided for as part of the training program, is intended to assure that employees understand hazards and the requirements of the applicable standard.

More so than with any other proposed provision of the models, the education and training requirements were supported by the entire spectrum of participants in the cancer policy rulemaking.

Examples of industry support include Dr. Jawschke of Stauffer, who testified that it was "absolutely essential that the worker receive information on . . . things he is exposed to and which may present a risk to him" (Tr. 6700). Similarly, Dr. Casey of General Electric agreed that it is appropriate to train employees about hazards of working with potentially carcinogenic materials" (Tr. 7903).

Dr. Lange of Dow, who recommended that the training provisions be "guidelines" rather than compulsory standards, agreed that the required components of training programs in the proposed models are "in general, the type of things which should be included" (Tr. 5203).

Union testimony approved the requiring of comprehensive training programs at minimum frequencies. The need for such training was dramatically shown by some hearing testimonies. Some employees testified they got no training and were ignorant of chemical and physical hazards in their plants, including carcinogenic hazards (Tr. 6997, 6106, 6111, 6147, 6187). Other employees testified they "are at their (employer's) mercy" in receiving information that something may be carcinogenic and receive only selective information (Tr. 6221). Union officials testified that plants handling substances regulated by OSHA tended to have better training programs than other plants where potential carcinogens were not regulated (Tr. 5770, 5771).

Industry representatives agreed that the value of training and education spills over to the entire industrial hygiene program. Employees can appreciate the utility of requirements (Tr. 5942, 6700), and thus are motivated to participate in the implementation of other provisions.

One point of contention was the scope of the training requirements. API criticized applying the provision to "all employees where there is occupational exposure to a substance," stating this created "unnecessary coverage" (Exh. 252, B, 59). They cited the inorganic arsenic standard as showing the suitability in some circumstances of restricting coverage to employees exposed above the action level, or for whom there is a risk of exposure-related eye or skin irritation. Since the details of the training provisions will be determined on a case-by-case basis, the cut-off point for training will be an issue in the proceeding.

15. Signs and Labels (Paragraph p)

(a) There will be a provision for signs and labels which warns employees of the cancer hazard for Category I potential carcinogens unless the Secretary explains why such a provision is inappropriate.

The preamble to the proposal had set forth the reasons for this provision as follows:

OSHA believes that it is important and indeed section 6(b)(7) of the Act requires, that appropriate forms of warning, as necessary, be used to apprise employees of the hazards to which they are exposed in the course of their employment. OSHA believes, as a matter of policy, that employees should be given the opportunity to make informed decisions as to whether to work at a job under the particular working conditions extant. Furthermore, OSHA believes that when the control of potential safety and health problems involves the cooperation of employees, the success of such a program is highly dependent upon the employee's understanding of the hazards attendant to that job.

In light of the serious nature of the hazard of exposure to carcinogens, OSHA does not believe that periodic training alone will adequately apprise employees of the carcinogenic hazard. However, coupled with the training requirements, OSHA believes that the requirement to post signs will adequately do so. Additionally, the appearance of the phrase "cancer hazard" or "potential cancer hazard" on the warning sign will assure that employees are actually being informed of this hazard.

Since even persons who are exposed to a carcinogen only occasionally may face an increased risk of cancer, OSHA does not believe that the hazard to these people is overstated by the required signs. Also, as is the case with a regular employee, the warning signs would serve as an added impetus to occasionally visiting employees to utilize any protective equipment which has been provided.

Finally, given the evidence of the carcinogenicity of substances, OSHA believes that signs will not cause undue alarm. This is especially so when balanced against the positive results anticipated, as described above. For all of the reasons set forth, OSHA believes that it is appropriate to use precautionary signs which warn of a cancer hazard. Additionally, the phrase "authorized personnel only" relates directly to requirements in the Category I permanent standard which limit access and activities within regulated areas.

The words "danger" or "caution" are used for three reasons: (1) To attract the attention of workers; (2) to alert workers to the fact that they are in a dangerous area, i.e., an area where they are exposed to a potential carcinogen; and (3) to emphasize the importance of the message to follow.

The use of labels or signs required by other statutes, regulations, or ordinances in addition to, or in combination with, signs required by this standard is permitted. OSHA recognized that employers may be subject to various legal requirements to use warning signs and labels. The purpose of this provision of the standard is to allow the employer to comply with these various requirements in an administratively convenient manner.

The standard requires that no statement which contradicts or detracts from the effect of any sign required by this paragraph shall appear on or near any such required sign. They also require that the legend on the signs be kept visible to employees by illuminating and cleaning the signs when necessary. These two requirements are designed to ensure the effectiveness of the warning signs.

Statements which contradict or detract from the intended effect of the sign are clearly counterproductive to using signs to convey information. Similarly, if the legend on the sign cannot be read because of either darkness or an unclean condition, then there is no purpose in requiring signs to be posted.

The use of precautionary labels on containers of protective clothing contaminated with the toxic substance is required. We are mindful that no evidence may presently exist that laundry workers who handle contaminated clothing containing any specific carcinogen exhibit an excess of cancer. However, no evidence exists to the contrary, and in light of our experience with other carcinogens (e.g. asbestos) and the preventative nature of the Act, we have decided to include a requirement for precautionary labels for contaminated clothing. Moreover, OSHA believes it is as appropriate that individuals who are engaged in handling and laundering the contaminated clothing be apprised of the hazard and practices to be avoided when handling the clothing as it is to inform the other primary employees.

OSHA believes the fundamental reasons stated in the preamble to the proposal are supported by this rulemaking record.

These reasons for sign posting were amplified during the hearing. Employees who worked around signs indicating that vinyl chloride was a "cancer-suspect agent" testified they find sign posting very helpful. It reminds them of what atmosphere they are in, they can act accordingly and they know what

obligation the company is under in handling this product (Tr. 5902). Opposition to these requirements, which was expressed during the rulemaking hearing, did not contest the reasons for requiring signs and labels, but objected to the wording as stress-inducing (e.g., PMA #116); the number of signs as excessive (#163) (e.g. #218 AISI) and the requirements that labels be affixed on containers leaving the workplace as exceeding OSHA's jurisdiction. It was also suggested that large numbers of signs will reduce their impact (e.g. #218 AISI, #163 Upjohn).

The main opposition to OSHA's requirements for posting signs using the word "cancer" was provided by the Polyurethane Manufacturers Association (PMA) (see #116, Tr. 7042 et seq.). The crux of PMA's complaint is that OSHA's proposed wording for signs would be a "scare factor" (T. 7051). PMA presented an expert on the "human factors" design of signs, labels and instructions who testified that the signs and labels proposed by OSHA "are a failure in almost every respect", (Dr. Chapanis, Tr. 7072 et seq.). The "most serious failure" according to Dr. Chapanis, is that neither OSHA or NIOSH conducted any genuine tests, experiments or surveys on the proposed signs or labels, and therefore they violate existing standards for the preparation of warning signs (Tr. 7072–7073). However, we note that the "standards" and examples discussed by Dr. Chapanis relate to "accident prevention" (Tr. 7073, 7074) and to a standardized sign system that was developed without regard for chronic, long term biological risks such as cancer.

Dr. Chapanis' empirical evidence on the utility of OSHA's proposed signs to allow workers to arrive at informed decisions were "some small tests, not really good tests," which he conducted (Tr. 7073).

Also, although Dr. Chapanis and other witnesses provided by PMA said that using the word "cancer" would cause emotional stress, other witnesses objected to the signs and labels required on the ground that the number of signs required would cause the warnings to be ignored.

API, PMA and other industry groups have suggested that rather than bearing the legend "cancer hazard" or "potential cancer hazard", labels indicate the "nature or strength of the underlying evidence of carcinogenicity" (B, 62). OSHA disagrees. We believe the proposed designations of "cancer hazard" and "potential cancer hazard" reflect the underlying evidence. Including such information as the number of animal tests on a label as suggested by Dr. Chapanis would clutter the limited space of the label.

The proposal explained the labeling requirement and the reasons for their prescription as follows:

As to labels, due to the hazardous nature of exposure to a potential carcinogen, OSHA believes that emphasis should be placed on warning employees and other persons about the danger of exposure. For this reason, the model standards include a requirement that caution labels be affixed to all containers containing the Category I and Category II toxic substance and of the products containing it, not only because of the hazardous nature of this exposure, but because of the related necessity for both the employer and employee to know whether the product contains any of the carcinogen. The labeling provisions for the model standards for the Category I and Category II toxic substance also require the employer to assure that caution labels are affixed to any product containing the toxic substance when such product leaves the employer's workplace. This proposed requirement is designed to protect any other employees who will be handling, transporting, or using this product. Thus manufacturers and suppliers would be required to affix caution labels. The rationale for this requirement is that the manufacturer or supplier is in the best position to know whether the product does contain the Category I and Category II toxic substance and should therefore be required to inform employees of even other employers of the hazards to which they are being exposed.

Testimony indicated that often labeling as to contents of containers was the only source of information about its content, which in turn was essential to assessing the potential for exposure of employees or appropriate handling procedures (T. 7177–7178).

Some industry representatives testified it was their company's practice to generically label their products when they leave the plant (e.g. T. 6643, Union Carbide), and to label their tanks inside the plant with the generic chemicals they contain (T. 7944). OSHA believes, therefore, that the general requirement to label containers constitute responsible industry practice and, unless shown inappropriate in a particular standard setting proceeding, should be included in the standard.

The details of the signs and labeling provisions will be resolved on a case-by-case basis. Thus, for example, the triggering point for the provision would be an appropriate issue for the individual proceedings.

Whether a signs and labels provision will be included for Category II potential occupational carcinogens will be determined on a case-by-case basis.

As noted elsewhere, the Secretary has retained wise latitude in the regulation of Category II carcinogens. Since regulation of such a substance may, in some circumstances, be based substantially upon other toxic effects, it may be inappropriate to have a signs and labels provision that warns of the cancer hazard. On the other hand, there may be circumstances where such a provision is appropriate. Therefore, the determination will be made on a case-by-case basis.

16. Recordkeeping (Paragraph q)

There will be a recordkeeping provision unless the Secretary explains why such a provision is inappropriate.

The proposed model standards had discussed the detailed provisions and reasons for requiring that records be maintained of exposure monitoring and medical surveillance. The detailed provisions of recordkeeping will be determined on a case-by-case basis. In addition, OSHA is not resolving in the Cancer Policy the issues covered by OSHA's soon-to-be published final standard on Access to Employee Exposure and Medical Records, proposed at 43 FR 3137 (July 21, 1978).

Section 8(c)(3) of the Act mandates the promulgation of regulations requiring employers to maintain accurate records of employee exposure to potentially toxic substances or harmful physical agents which are required to be monitored or measured. Accordingly, such a provision is incorporated in the model standards.

The model standards provide that records should be kept which include information which is intended to identify the employee and to accurately reflect the employee's exposure. Specifically, it should include: (a) the names, social security numbers and job classification of each employee covered by the monitoring; (b) the dates, number, duration and results of each of the samples taken, including a description of the representative sampling procedure used to determine employee exposure where applicable; (c) the type of respiratory protective devices worn by the employee, if any; (d) the environmental variables that could affect the measurement of employee exposure; and (e) a description of the sampling and analytical methods used, and evidence of their accuracy.

The model standards also indicate that the employer should keep an accurate medical record for each employee who is subject to surveillance. Section 8(c)(1) of the Act authorizes the promulgation of regulations requiring an employer to keep such records as are necessary or appropriate for the enforcement of the Act or for developing information regarding the causes and prevention of occupational illnesses.

OSHA believes that medical records (like exposure monitoring records) are generally both necessary and appropriate to both the enforcement of the standards and the development of information regarding the causes and prevention of illness related to exposure to potential occupational carcinogens.

Like all records, medical records serve as an objective check that an employer has actually performed the substantive requirements of the standard. As explained above, these records relate an employee's medical effects with his exposure in order to develop information regarding cause and prevention.

The model standards provide that the medical records should include information which is intended to identify the employee, to accurately reflect the employee's health, and to establish that the employee has had an opportunity to participate in a medical examination. It is also required by OSHA's proposal that the "medical surveillance" file for "each employee" include a copy of the information provided to the physician and a copy of the employee's work history. OSHA agrees that in some cases the items required to be provided to the examining physician, *i.e.*, the personal protective equipment used, the employee's exposure level, and the employee's duties, will have been retained by the employer, either as part of the exposure monitoring record required to be kept by the model standards, or otherwise as part of the employer's routine recordkeeping for other administrative purposes. OSHA, therefore, has adopted API's suggestion that information supplied by the employer to the physician not be required to be kept specifically in the medical surveillance file, by adding an exception to the paragraph (q)(2)(ii) retention requirement as a "medical surveillance record, denominated '(c)', if it is kept elsewhere by the employer for the period of time specified in paragraph (q)(2)(iii)".

API also observed that OSHA is engaged in an ongoing rulemaking proceeding on "Access to Employee Exposure Medical Records" which addresses the questions of providing access to these records by NIOSH, OSHA, employees and their representatives. OSHA intends to apply the access provisions which will be established in that proceeding to all health standards. However, until those regulations are promulgated, OSHA will continue to regulate access on a case by case basis, and the model standards preserve that intention.

17. Observation of Monitoring (Paragraph r)

Each standard regulating exposure to Category I and II substances, including an ETS, will include a general requirement for observation of monitoring by employees or their representatives.

The reason for always requiring such a provision is the requirement in section 8(c) of the Act that employers provide employees or their representative with the opportunity to observe monitoring of employee exposures to toxic substances or harmful physical agents. In accordance with this section, all three model standards contain identical provisions for such observation. To assure that the right to observe is meaningful, observers would be entitled to receive an explanation of the measurement procedure, to observe all steps related to the measurement procedure and to record the results obtained.

Under the guideline the observer, whether an employee or designated representative, should be provided with, and is required to use, any personal protective devices required to be worn by employees working in the area that is being monitored, and should comply with all other applicable safety and health procedures.

In particular with potential occupational carcinogens, OSHA believes an observation of monitoring program can improve the efficiency of the monitoring process itself. This may be so because permissible exposure limits in many cases will be set at low levels and new detection devices may be introduced. OSHA believes that by having employees and their representatives observe monitoring, their cooperation will help in assuring the reliability of monitoring programs, and help to identify, where possible, representative employee exposures. Employees will also be increasingly aware of work situations where exposures are highest and of their work habits which can influence exposures.

18. Provisions for ETS's

Many provisions of the ETS model standard are the same as those for permanent standards. Thus, the lowest feasible level requirement and the requirement that employers provide mandated personal protective equipment and medical examinations at no cost to the employee are the same for both permanent standards and ETSs. The role of scope and application, definitions, PEL, notification of use exposure monitoring and measurement, protective equipment and clothing, housekeeping, respirators, medical surveillance, employee information and training, signs and labels and recordkeeping is the same for ETSs and permanent standards. That is, the program will be required unless the Secretary explains why such a program is inappropriate and the specific details will be decided on a case-by-case basis. While some of the detailed provisions may vary, they are not discussed in depth herein because such provisions are merely guidelines and the differences can be generally ascribed to the short-term and interim nature of ETSs.

The methods of compliance provision for ETSs differ substantially from the permanent standard.

(b) The Model ETS. OSHA has indicated that the provisions of the model ETS are intended to require only those things which are possible to be achieved immediately or within a very short period of time. The model ETS therefore states that OSHA prefers the reduction of employee exposure by way of engineering and work practice controls.

Examples of engineering controls and housekeeping procedures which can be installed in a short time were submitted into the record by Dr. Billings, as follows:

"Short-term controls include housekeeping to reduce access of the material to the workplace (fugitive emissions), work practices which limit time of exposure or which limit the amount of material disseminated or dispersed in the workplace (wet methods of dust control or high efficiency vacuum cleaners, covered containers of liquid or powder, etc.), and temporary local exhaust systems, or some types of general ventilation (e.g., a window exhaust fan). Temporary local exhaust systems of the self-contained type are readily available as complete packages for air exhaust volumes of about 100 cfm up to a few thousand cfm. These may be connected in the process or operations ventilated with flexible exhaust ducts and appropriate hooding, and the exhaust recirculated or directed out of the plant roof. Larger volumes (centralized systems) require larger components, longer times, more resources, and imply regulatory approvals associated with large sources. . . . In my opinion, the use of respiratory protective devices as a means of control of hazards caused by exposure to toxic chemicals in the workplace environment should be limited to the absolute minimum time because they have many disadvantages in use and do not provide positive protection for the workers. If respiratory protective devices are required and must be used for a temporary period, then the use of self-powered air purifying types should be encouraged (contain pump, motor, battery, air purifying component such as a filter, absorbent as appropriate to the toxic constituent in the environment, and a hose to a positive pressurized oro-nasal or face mask pressurized face shield)." (Billings, St. 12–13).

It also recognizes, as a practical matter, that in some instances the immediate reduction of exposure will be primarily through the use of respiratory protection and the institution of good housekeeping practices and other work practices. The model ETS recites recommended work practices which may be easily instituted to help reduce exposure. They should be implemented even where they do not fully reduce exposures to or below the PEL. The methods of compliance, therefore, are a major difference between the model ETS and the model 6(b) standards. One other major and distinctive feature of the model ETS is the requirement that during the effective period of the ETS (6 months) employers must look down the road to the model permanent standard for the Category I Potential Carcinogen and start planning how to reduce exposures to the lowest feasible levels solely by way of engineering and work practice controls. Thus, OSHA anticipates that by such requirements delayed effective dates of the permanent standard can be limited or perhaps avoided altogether, hastening the reduction of employee exposure to the toxic substance. Because of the general irreversibility of cancer as pointed out above, OSHA considers the early reduction of employee exposures the most significant provision in decreasing the risk of cancer.

The Record in this proceeding supports the proposal (see e.g. duPont) and OSHA therefore has adopted the proposed methods of compliance provision.

The model ETS does not include requirement for the designation of regulated areas. As has been explained, the ETS requirements are those that OSHA has determined and believes can generally be instituted immediately or fairly quickly. Yet, before a regulated area is required, employers would be required to monitor to determine which, if any, employees are exposed to the toxic substance over the permissible exposure limits. OSHA believes that with the present requirements of the model ETS, it would not be feasible in many cases to add this additional requirement to the model ETS. Similarly, it would normally not be possible to design and build hygiene facilities within the life of the ETS. Accordingly, hygiene facilities will generally not be required in ETS standards.

XI. ECONOMIC AND ENVIRONMENTAL CONSIDERATIONS

A. ECONOMIC CONSIDERATIONS—GENERAL

1. The Proposal and Introduction

The proposal provided that one of the issues to be considered in a rulemaking concerning a Category I Toxic Substance was "the determination of the lowest feasible occupational exposure." OSHA intended that the inquiry under this issue include relevant technological and economic considerations. The final regulation makes this intention explicit by inserting the words "including technological and economic considerations" in § 1990.146(i).

Mr. Wrenn, OSHA Director of Health Standards, expanded on the proposal's discussion of feasibility in his opening statement for the agency and in answers to questions on the first day of the cancer policy hearing. He pointed out that feasibility included technical and economic considerations as a whole (Wrenn, Tr. 34) and that the term was best defined in the context of the statute, court decisions and prior OSHA regulations such as arsenic, coke oven emissions and others where the concept was applied to a concrete factual record (Wrenn, Tr. 115, 159). He stated that OSHA would continue under the cancer policy to perform economic and technical assessments similar to those done in the past (Wrenn, Tr. 62). Mr. Wrenn pointed out that since the cancer policy did not regulate any specific substance, it was more appropriate to conduct studies of economic consequences in the regulation of specific carcinogens (Wrenn, Tr. 174, S. 6).

Because technological and economic considerations are factors in determining the lowest feasible level, the proposal pointed out that an economic assessment would be performed pursuant to relevant Executive Orders in individual rulemakings where appropriate (42 FR 54128). The concept of feasibility in the Act, as interpreted in the leading case *I.U.D. v. Hodgson*, 499 F. 2d 467 (D.C. Cir. 1974) makes it clear that certain economic considerations are included within that term, and that therefore they are issues in individual 6(b) rulemakings. Since these considerations are issues for the individual rulemakings pursuant to the OSHA Cancer Policy, it is not necessary that they be resolved in this policy rulemaking.

These proceedings produced extensive public comments on the appropriate role that economics should play in this rulemaking itself and in the regulation of carcinogens in individual rulemakings that might be taken pursuant to this general policy. There is a substantial amount of evidence in the Record concerning economic considerations. This consists of the OSHA Regulatory Analysis, oral testimony from the extensive public hearings, numerous written comments, exhibits submitted by interested parties in response to the proposal and a cost impact study (the Snell report) performed for the American Industrial Health Council (AIHC).

While the expressed economic concerns often dealt with specific provisions of the proposal, analysis of the Record indicates that the economic considerations can be generally divided into issues relevant to the overall policy objective of reducing the incidence of occupationally related cancer and those dealing with the preferential method for reaching this objective. The next section (Section 2, *Summary of the Record*) summarizes the major economic testimony but does not draw any conclusions. Section 3 (*Summary of OSHA's Conclusions*) briefly summarizes the relevant economic issues and OSHA's conclusions. Finally, Section B (*Discussion of the Economic Factors in Specific Issues*) is divided into nine parts that discuss specific economic considerations. It analyzes in detail the economic evidence and explains OSHA's conclusions. That section focuses primarily on the economic aspects of those issues and provides cross references to the discussions of the non-economic aspects of these issues in other parts of the preamble.

2. Summary of the Record

The Record indicates general agreement that one of the major reasons why it is necessary to regulate occupational carcinogens is because of their "externality-generating" nature. Externalities result in an inefficient allocation of the National resources because market prices fail to reflect the social costs of production. The resulting distortions in relative prices lead to the excess consumption of commodities produced in high-risk industries. See, for example, the testimony of Drs. Ashford (MIT) (Ashford, Tr. 2489–90) and Lave (Carnegie-Mellon) (Ex. 117, pp. 10–11). Disagreement among some witnesses centered on the degree of health protection necessary to insure optimal internalization of occupational disease costs.

The AIHC presented Dr. Richard Wilson, a physicist from Harvard University, who recommended a specific procedure (comparative risk or risk-

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benefit analysis) for defining health protection in terms of acceptable risk levels (Wilson, S. III–104D). Dr. Wilson performed calculations of single point-estimates of risks which humans voluntarily accept (e.g., engaging in certain sports activities) or involuntarily live with (e.g., being a pedestrian in a motor age). He also derived single-point estimates of excess risk for specific carcinogens. Section VIII on risk assessment discusses whether single-point or range estimation is more appropriate. The estimates of voluntary and non-voluntary risks were to provide benchmarks in his view to OSHA in regulating occupational carcinogens.

Dr. Wilson employed these point-estimates of "acceptable risk levels" to develop the boundaries for a detailed regulatory framework. For occupational risks higher than those which he argued individuals voluntarily accept, defined as one death per 100 exposed workers per year, risk would be reduced irrespective of the costs, including a ban on the hazardous activity if necessary. In contrast, no regulatory action would be undertaken for risks less than 1 death per 100,000 workers annually. In Dr. Wilson's view, intermediate risks for chemical carcinogens would require control measures only to the extent that the margin abatement costs per life saved did not exceed one million dollars.

The Record contains extensive comments on the difficulties involved in performing quantitative risk assessments, especially of carcinogens. As discussed in Section VIII, many participants to this rulemaking pointed out that such estimates are crude and highly uncertain and may actually underestimate risks by many orders of magnitude. The AFL–CIO and the United Steel Workers of America (Ex. 261), for example, reviewed the scientific bases for risk assessment at great length and concluded that the available scientific methodology permits only highly speculative risk assessments. They argued that risk assessments of carcinogens are likely to err systematically downward (underestimate human risk) because of the much greater genetic variability in humans than that which exists in test animal species and because employees, unlike clinical test animals, are exposed to a great number of toxic and possibly carcinogenic substances likely to induce synergistic effects. They concluded that, "the record indicates that the potential for misleading impressions of safety from risk assessments are great." (AFL–CIO, P.H. Brief, Ex. 261 pp. 81–82).

In response to Dr. Wilson's testimony, Dr. Ian C. T. Nisbet, an OSHA consultant, filed a comment directed to Dr. Wilson's estimates of occupational risks (Ex. 224–E). Dr. Nisbet re-calculated Dr. Wilson's risk assessments for industrial carcinogens and concluded that point-estimates of risks in excess of 9 to 40 times Dr. Wilson's projections could be defended. Dr. Wilson responded (Ex. 251b) that in 2 cases, his estimates were better than Dr. Nisbet's and that in one case his estimates were based on different assumptions.

Other parties discussed the concepts behind Dr. Wilson's methodology for determining "acceptable" risk based on historically observed levels of voluntary or involuntary risks. Dr. Lave (Ex. 117) discussed at length various research attempts to analyze the risks that humans are willing to accept. He discussed the conceptual and practical difficulties inherent in evaluations of risk, including the large variations in the risks that humans view as acceptable, the difficulties that individuals face in assessing risks, and the characteristics of risk that influence individual preferences for risk. These dimensions include whether the risk is voluntary or imposed, familiar or unknown, controllable or uncontrollable, of immediate occurrence or indeterminate in the future, and whether the risk affects large numbers of humans with low probability or small numbers of individuals with high probability (pp. 17–19). He also stated,

"Another major complication evolves from intertemporal changes in preferences due to higher standards of living and improved knowledge. The higher our standard of living, the more protection and greater safety we desire (are willing to pay for); also, the greater our knowledge about the adverse effects of exposures, the more we desire to lower exposures." (pp. 23–24).

The AFL–CIO and United Steel Workers of America argued (Ex. 261, pp. 70–87) that regulation of potential occupational carcinogens cannot be based on a comparison between risks voluntarily accepted and the involuntarily and largely unknown risks which workers face. They stated:

"While ivory tower theorists and model builders testified that this was not so (according to industry witnesses risk faced by workers are voluntary and known—See Wilson, Lamn tr. 4525, Lave), the testimony of many workers show that knowledge and choice are not luxuries shared by all" (AFL–CIO, Tr. 6124, 6170).

Dr. Ashford (MIT) stated that this Nation clearly preferred actions which would prevent major disasters, even if it would mean that in some areas regulations would in retrospect be stricter than absolutely necessary (Ashford, Tr. 2492–4). (He called this concept the "minimization of regret.") Health hazards are regulated in a state of imperfect knowledge. Society prefers strict regulation which would catch and prevent the thousands of excess deaths caused by potential carcinogenic substances such as asbestos which in retrospect was much more hazardous than originally envisioned.

Some parties recommended the use of formal cost-benefit analysis as the decision rule for achieving efficient levels of control. (See, for example, Dr. Wilson's approach to the control of intermediate occupational risk levels discussed above). Under this framework, social costs and benefits would be expressed in terms of their monetary equivalents, summed and then compared. Carcinogens would be regulated only to the extent that the benefits of improved health (including longevity) exceeded the costs of hazard abatement.

Other parties recognized the complexities inherent in defining the overall boundaries of occupational risk levels that society is willing to accept and therefore focused their proposals on regulatory methodologies which they believed would more efficiently allocate the Nation's total health resources however defined. They recommended that cost-benefit or cost-effectiveness analysis form the primary basis for determining priorities for regulation and for setting standards controlling individual carcinogenic substances.

API presented testimony of two economists, Dr. Richard Zeckhauser (Harvard University, S. III–125, pp. 717 et seq.) and Dr. Lave (Ex. 117). They recognized the philosophical and practical difficulties inherent in reducing the benefits of improved health to a monetary dimension, particularly where the valuation of human life was involved. Dr. Lave, for example, stated that the notion of explicitly placing a dollar value on life (or, alternatively stated, placing a value on premature death or morbidity) "repugnant" but stated that failing to attempt to make such valuations would be "capricious behavior." (p. 13).

Both Drs. Zeckhauser and Lave argued that placing a monetary value on human life is not necessary to achieve optimal allocation of available health resources. They recommended a cost-effective approach both to structure priorities for regulatory actions and to set standards.

It should be noted that the term "cost-effective" has two meanings. It refers to a mathematical form of analysis described below. It is also used as an adjective describing the least-costly method of achieving a particular level of health benefits.

The cost-effectiveness analysis advocated by Drs. Lave and Zeckhauser would involve estimating risks to workers and compliance costs at alternative levels of exposure for each substance. The cost and risk reduction estimates at various exposure levels for substances would be integrated into a framework for regulation. Industrial substances would be ordered and regulated to levels according to the number of lives saved per dollar expended. They stated that OSHA should first regulate the substance to the level which would save the most lives per dollar of control costs, then the next substance to the level which would save the second greatest number of lives per dollar, etc. They argued that OSHA should continue to regulate until the cost to save one life was greater than the risk that the Nation was willing to accept (however determined).

Under this procedure, exposure levels set might be higher than the lowest feasible level, as defined by OSHA. Whether this would be the case for individual substances would depend on the estimated costs to reach various exposure limits and the estimated number of lives which could be saved by spending equivalent sums in other health and safety activities.

Dr. Zeckhauser would expand his matrix of possible regulatory outcomes to include alternative control strategies, non-carcinogenic health effects, and even non-occupational health actions (highway safety, hospital construction, etc.). While Dr. Zeckhauser did not specify acceptable risk levels, he argued that we, as humans and as a Society, often tolerate substantial levels of risk despite technologies to eliminate them.

AIHC and API submitted lengthy post hearing briefs (Exs. 251 & 257 respectively) which summarized the views of many participants concerning a policy for regulating carcinogens in this hearing. These parties argued that the OSHA Cancer Policy is designed to achieve a "risk-free" Society, and that this is an undesirable goal because it is impossible to achieve and wasteful of economic resources.

They supported a generic approach to the regulation of carcinogens, but suggested a format designed to achieve the most health protection for each dollar of regulatory expenditures. Technological, economic and risk assessments would be performed for each proposal. This information would then be formally integrated into a cost-benefit or cost-effectiveness analysis. While no specific regulatory response was to be required by the cost-benefit analysis, any final regulation would explicitly take into account costs and benefits. Under this approach, the lowest feasible level would not automatically be set for Category I carcinogens; rather costs and benefits would be used as part of the regulatory process to determine the "reasonably necessary" level of risk. Finally, they suggested that a more efficient use of Society's resources would flow from a more flexible approach to the model standards.

The Regulatory Analysis Review Group (RARG, Ex. 253) also proposed economic efficiency criteria. They recommended that OSHA undertake risk analysis of individual substances to be regulated, perform balancing between social costs and benefits, and modify model standards to increase their flexibility and performance orientation.

Other parties to the proceedings criticized this approach. The Natural Resources Defense Council, the Oil, Chemical and Atomic Workers, the Environmental Defense Fund and the Urban Environment Conference argued (Joint P.H. Brief, Ex. 268) that risk assessment and cost-benefit analysis were not appropriate. They stated that the available evidence is so imprecise as to hold little predictive value. Indeed, they would just be "hid(ing) political judgments, numbers and decision-making behind jargon" (p. 44) and would greatly delay needed regulation. They also argued that it was irrelevant to compare health risks which we voluntarily incur to occupational risks which are not voluntary. Finally, they argued that the Act does not permit such cost-benefit judgments to be made (pp. 43–45). They urged that exposure levels be set as low as technically feasible or zero, if necessary, because of the high health risks of carcinogens.

Dr. Nicholas A. Ashford (MIT, Tr. 2396–2411) testified that cost-benefit criteria, while useful as analytical tools, were not appropriate as decision rules for occupational health regulation. He argued that occupational health differed from some environmental problems. The public, by and large, equally benefited from and paid the costs for cleaner water. If a cost-benefit analysis determined that the costs necessary to achieve cleaner water exceeded the benefits, the same public would forego both the reductions in risk and water quality and the regulatory costs. However, in the case of occupational safety and health, different groups enjoy the economic savings of not regulating and take the risks. Consumers save through lower prices and employers benefit through higher profits from not regulating, while risks are borne by workers, often in the lower economic groups. Therefore, occupational safety and health posed an "equity" question. Dr. Ashford believed it was inappropriate to ignore equity considerations and pay attention to efficiency criteria alone. He believed that cost-benefit analyses are not neutral when the costs and benefits accrue to different parties. Therefore, Dr. Ashford stated that efficiency criteria cannot form the major basis for decision-making on occupational health questions and that inequalities in the distribution of costs and benefits must be given heavy consideration.

In Dr. Ashford's view, both the language and legislative history of the Act made it clear that the Congress intended to weigh regulation heavily on the side of worker protection. He testified that those who argue that cost-benefit analysis should be central to health regulation are trying, by making seemingly neutral arguments, to circumvent the decision by the Congress that health regulation should be highly protective of employees.

The AFL–CIO and United Steel Workers of America (P.H. Brief Ex. 261) stated that they supported OSHA's policy to set the level for carcinogens at the lowest level feasible, a concept that includes technical and economic considerations. They argued that this constituted good public policy because there are no safe levels demonstrated for carcinogens and setting the lowest feasible level comported with the major court decisions upholding previous OSHA standards such as *IUD* v. *Hodgson*, 499 F. 2d 478 (D.C. Cir. 1977) and *AISI* v. *OSHA* (3rd Cir. 1978). This policy followed a sequence that included doing a technical and economic study of the effects of the individual standard on the affected industry, then setting the level achievable with generally known engineering controls (or those reasonably likely to be developed or adopted), and then considering the economic impact of that level. They argued that a reasonable interpretation of the Act and its legislative history would indicate that OSHA was not to take economics into account in writing health standards, but to place first emphasis on health considerations. (p. 20 et. seq.). They also pointed out that:

"The assessment of costs and benefits are plagued with many methodological and philosophical problems—validation of cost estimates, measurement of benefits, choice of discount rates, value judgments about the worth of a human life, all of which limit their

predictive value and render them meaningless for setting standards to protect workers health." (p. 93)

Mr. Joseph Odorcich, Vice President of the United Steel Workers of America, summarized the views of the AFL–CIO concerning the proposal (Tr. 5640–5705). Mr. Odorcich stated that the evidence available for most potential carcinogens is not sufficient to permit assessments of risk with any confidence and that more importantly, there is no evidence that any money saved not reducing exposures to a specific substance to the lowest feasible level would be spent on protecting worker health in other areas.

Mr. Odorcich stated:

"Given the battle over past regulations and the failure of many in industry to adequately protect their workers exposed to recognized hazards, we can only view so called cost-effective regulation as another attempt to legitimize the trade of workers lives for dollars." (Tr. pp. 5700–01)

Several studies attempted to estimate the overall magnitude of the workplace carcinogen problem and hence the total potential benefits or costs associated with the OSHA Cancer Policy. The joint report of NCI, NIEHS and NIOSH estimated the proportion of cancers related to occupational causes and hence, the total potential benefits associated with eliminating exposures to occupational carcinogens (Ex. 224b). The study estimated that at least 20 percent of the U.S. cancer cases annually are related to industrial sources. Other available estimates show both much lower and much higher occupational cancer incidences. (See the extensive discussion in Section III–G.) The Regulatory Analysis Review Group discussed several problems inherent in this study, but agreed that "the study is useful in presenting the order of magnitude of the problem" and hence the potential benefits of the Cancer Policy (Ex. 253).

Several industry participants in this proceeding approached the proposal from the perspective of the overall cost implications of all regulatory action which may be taken in the future pursuant to this policy. The AIHC submitted a report by the Foster D. Snell Division, Booze, Allen and Hamilton (S. III–104 R & S) which attempted to quantify the total costs of certain "scenarios" for regulating carcinogens.

The cost estimates derived from the Snell study were extrapolated from a base of 7 substances and a composite of 8 pesticides. Snell estimated initial start-up costs (capital expenditures) totaling $9 billion to $88 billion with annual costs of $6 to $36 billion depending on assumptions about the number of substances regulated and stringency of control levels.

A number of criticisms were entered in the Record on the Snell Report conclusions and methodology. RARG concluded that "there are a number of major methodological problems with the BAH (Booze, Allen & Hamilton or Snell) study which makes it impossible to place great confidence in its results." (Ex. 253, p. 12). Appendix A of the RARG Report analyzes those problems at length. Nevertheless, the RARG concluded "that the analysis does document the potential for the policy to impose a large drain on the country's resources."

Other parties to the rulemaking rejected the Snell study estimates as even crude indicators of likely cumulative regulatory effects. Both Ruth Ruttenburg (AFL–CIO, Ex. 94) and Dr. Jared E. Hazleton (University of Texas, Ex. 247) presented technical analyses of the Snell Report. They noted a number of major methodological difficulties with the data collection methods, statistical base, extrapolation techniques, and assumptions regarding future regulatory outcomes in the Snell study.

In Ms. Ruttenburg's judgment, the Snell Report underestimated the cost savings from economies of scale (e.g. one set of controls reduces exposures to a number of substances), substitution of safer chemicals, and technological developments. She pointed out that prior studies had commonly overestimated costs and that for the best study available, vinyl chloride, a retrospective analysis indicated not only that the costs were substantially overstated, but that significant technological innovation occurred which was not anticipated in the prospective study.

In Dr. Hazleton's view, the Snell Report took the wrong approach. The proper approach, from a regulatory point of view according to Dr. Hazleton, was to determine the *incremental* cost of OSHA's generic approach to regulating carcinogens versus other possible approaches. He stated that clearly, occupational carcinogens will be regulated in one manner or another and therefore an estimate of the costs of one regulatory approach in comparison to no regulation is inappropriate. Further, Dr. Hazleton pointed out that the study measured only compliance costs and failed to estimate the costs involved in the nonregulation of industrial carcinogens (e.g. premature death, medical costs, government transfer payments, etc).

Dr. Hazelton concluded:

"Given the reliance on confidential data which was not included in the report, and which was elicited in a manner which would tend to bias upward the estimates; the extreme variation in compliance cost estimates among substances for both the substance producing and using industries; the doubtful basis of the selection of the three scenarios; and the frequent reliance on judgments that are not explained, it is not possible to come to any conclusion about the validity of the Snell compliance cost estimates other than that it would be a mistake to place any reliance on them." (p. IV–26–27).

3. Summary of OSHA's Conclusions

OSHA has carefuly considered all the economic issues raised during this rulemaking process along with the available economic and technical evidence. Based on a careful examination of this Record, OSHA has modified certain provisions of the cancer policy where appropriate to assure more flexible and cost-effective regulation.

First, it was suggested that the OSHA proposal did not adequately provide for setting priorities among regulatory candidates and that this would inefficiently utilize economic resources and afford less protection to workers. The final Cancer Policy contains an explicit priority mechanism that better ensures that regulatory efforts are directed at the most serious health problems in the workplace.

Second, it was suggested that the automatic issuance of emergency temporary standards might result in inefficient utilization of scarce administrative and economic resources in the regulation of those substances which are not the most crucial regulatory candidates. The final Cancer Policy has eliminated requirements for the automatic issuance of emergency temporary standards and permanent regulations for Category I Potential Carcinogens. The automatic regulatory response for Category II Potential Carcinogens has also been eliminated. OSHA has determined that the objectives of a generic approach to the regulation of potential occupational carcinogens require a procedure for establishing priorities for regulatory action.

Third, it has been suggested that the proposed model standards were too rigid and that this might waste resources by requiring unneeded provisions. The final OSHA Cancer Policy has increased the flexibility and performance-orientation of the model standards to promote more cost-effective regulation. Model standards will now serve as guidelines for regulatory provisions to be determined in individual rulemakings.

Fourth, the proposal was criticized for not including provisions for action levels and percentage exclusions. It was suggested that in certain circumstances the absence of such provisions might result in very large costs burdens for employers whose employees are exposed at levels substantially below the permissible exposure limit. The final OSHA Cancer Policy includes a provision for establishing action levels and percentage exclusions where appropriate to assure that limited health resources are directed at serious health hazards.

Fifth, it was argued that the suitable substitutes provision in the proposal was too broadly drawn and therefore that it might force substitution where it was not feasible. The final Cancer Policy has modified the suitable substitute provision to explicitly include technical and economic considerations in the determination of feasibility to avoid unnecessary economic disruptions wasteful of society's resources.

Sixth, some parties argued that greater use of respiratory protection rather than engineering controls might reduce costs. The final Cancer Policy, however, maintains the preference for engineering controls and work practices to achieve the required reduction in worker exposure. Substantial evidence in the Record demonstrates that reliance on respirators as a primary control strategy is not as effective as engineering controls because respirators provide less reliability and comprehensiveness of protection. In addition, attempts to justify primary reliance on respiratory protection based on cost-effectiveness are misleading because such analyses fail to include the substantial administrative costs that would be required to make a respirator program as comprehensive as engineering controls and to take into account the greater unreliability of respiratory protection.

Seventh, some parties argued that exposure levels should be set based on cost-benefit criteria. However, the final OSHA Cancer Policy retains the provision that exposures to Category I Potential Carcinogens be reduced to the lowest feasible level taking into account technological and economic considerations. OSHA believes that a cost-benefit approach to setting permissible exposure limits would be inappropriate for three reasons.

First, the state-of-the-art of quantitative risk assessment techniques particularly for carcinogens, that are crucial to cost-benefit analysis, is too crude and unreliable to permit the refined estimates necessary to determine risk reduction at various exposure levels. OSHA believes that estimates with such wide variations that may understate cancer risks by orders of magnitude are not useful in setting control levels. Cancer is an irreversible disease leading to death with no demonstrated threshold or safe level, and thus requires a highly protective regulatory approach.

Secondly, as a matter of policy, efficiency criteria alone are not appropriate because they ignore equity considerations. The economic savings from less protective regulation accrue to industry in the form of higher profits and consumers in the form of lower prices. But the costs are borne by workers through increased industrial illness and death rates. OSHA believes that it would be inappropriate for an agency statutorily required "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions" to ignore such equity considerations.

Finally, OSHA believes that the correct interpretation of the Act requires the agency to reduce worker exposure to carcinogens to the lowest feasible level since no safe level can be shown.

Eighth, the final OSHA Cancer Policy does not freeze science. It provides procedures for individual petitions and periodic agency review (at least every three years) for amending provisions of the Cancer Policy. This insures that technological breakthroughs in respirators or scientific advances in risk assessment techniques can be accommodated to the extent appropriate within the Cancer Policy itself.

Ninth, the Snell study was initially presented as a hard estimate of the costs of the Cancer Policy. It was later argued that though not very accurate, the magnitude of the costs estimated nevertheless indicated that a more elaborate cost study should be conducted by OSHA. OSHA has determined that serious methodological flaws preclude meaningful interpretation of the Snell study results. OSHA believes that the total cost impact of future standards issued pursuant to OSHA's Cancer Policy cannot be reasonably estimated at this time because of the uncertainties surrounding the identity of specific chemical substances to be regulated, exposure levels and other control devices to be established in standards issued for those substances, and the timing of regulations (hence, the identification of appropriate baselines) in ensuing rulemaking procedures. OSHA has also determined that the final Cancer Policy which is designed to speed up and streamline the promulgation of standards for potential cancer-causing substances and to resolve often-litigated issues will not directly impose cost burdens on industry. For these reasons, OSHA believes that economic analyses would be most usefully performed in the context of individual rulemakings.

B. DISCUSSION OF THE ECONOMIC FACTORS IN SPECIFIC ISSUES

The following sections discuss the economic issues relevant to the OSHA Cancer Policy in greater detail.

(1) Setting Priorities

While the OSHA Cancer Policy proposal required that substances be identified and classified as Category I and II toxic substances according to established scientific criteria, it did not specify exactly how priorities for regulation of substances within each category would be determined. However, OSHA recognized in the preamble to the proposal the need for "orderly handling" of potential carcinogenic substances and requested public comment on an appropriate procedure. (Ex. 1, 42 FR 51169–70). Extensive comments followed on the setting of priorities for regulating potential industrial carcinogens including specific proposals.

Many parties to the rulemaking stressed the importance of an explicit priority scheme for standards development. For example, the American Petroleum Institute stated that "OSHA must establish an effective means of prioritizing substances for regulatory action." (Ex. 252, p. 10)

Participants suggested specific options for establishing priorities. Several parties favored comprehensive quantitative priority systems that included detailed technical and cost information in addition to risk assessments for each substance. For example, Dr. Lave (Carnegie-Mellon Univ.), invited to testify by the API, recommended a priority system based on cost-effectiveness criteria. He stated that,

"one indication of OSHA's success would be that it systematically formulated all regulations that would save a life for $50,000 or less, then later $100,000 or less, and so on. Such action would give OSHA a set of priorities which are sorely needed for dealing with NIOSH documents, petitions, and the thousands of potentially toxic substances. Using cost-effectiveness analysis to formulate priorities would provide a natural mechanism for defining how far OSHA should go to in enhancing worker health and safety." (Lave, Ex. 117, pp. 13–14).

Such a system would prescribe that OSHA select among potential substances for regulation those that offered the greatest improvement in

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occupational health per dollar of society's resources. Dr. Zeckhauser also expressed similar views in his statement (S. p. 7) which are discussed in the analysis of the record section.

Other parties suggested less quantitative priority systems to direct resources at those substances creating the greatest apparent health risk. See, for example, NRDC, C. II–270, p. 23; AIHC. Recommended Alternative, § III–104–Q, pp. 41–42; RARG, Ex. 253, p. 21.

OSHA recognizes the need for establishing priorities for dealing effectively with the large number of candidates for scientific review and regulation as potential carcinogens. Decisions as to which substances to control and the order of regulatory proceedings can have important impacts on occupational health as well as on levels of industry and government expenditures. Theoretically, a systematic priority scheme can allocate more efficiently society's resources and provide maximum worker protection.

While OSHA has employed implicit procedures for determining the order of substances for standards development, OSHA agrees that an explicit system can provide industry and workers with improved information concerning future regulatory requirements. A predictable regulatory environment is more conducive to capital investment decisions that require discrete commitments of funds and hence longer range horizons. Improved industry planning can lead to the installation of hazard abatement controls that are more efficient, lower compliance costs and avoid disruptions in capital budgeting strategies.

OSHA also recognizes the role of improved information in stimulating innovation that could potentially provide more cost-effective and efficient controls than afforded by conventional techniques. An explicit priority system will augment the technology-leveraging effects of OSHA regulations which encourage new technology, process design, and product substitution. Finally, a priority system will increase workers' knowledge of potential health risks and their participation in the rulemaking process.

The final Cancer Policy will establish two priority lists for regulating potential occupational carcinogens. One list will include approximately ten (10) candidates for rulemaking as Category I potential carcinogens; the other approximately ten (10) candidates for rulemaking as Category II potential carcinogens.

Factors to be considered in setting priorities (where data is available) include: (1) the estimated number of exposed workers; (2) the estimated levels of human exposure; (3) the levels of exposure to the substance which have been reported to cause an increased incidence of neoplasms in exposed humans or animals; (4) the extent to which regulatory action can reduce not only the risks of contracting cancer but also other occupational and environmental health hazards; (5) whether the molecular structure of the substance is similar to the molecular structure of another substance which meets the definition of a potential occupational carcinogen; (6) whether there are substitutes that pose a lower risk of cancer or other serious health problems, or available evidence otherwise suggests that the social and economic costs of regulation would be small; and (7) other health and safety hazards and the actions being taken or planned by other governmental agencies in dealing with the same or similar health and safety hazards (§ 1990.132(b)). These factors together would include the extent to which health improvements can be achieved through regulation. The criteria will serve as rough guidelines to OSHA and the public in the development of priorities for the scientific review and regulation of potential carcinogens that maximize health improvements.

While the OSHA priority system includes as appropriate the assessment of cancer risk to workers resulting from exposure to carcinogens where data are adequate (§ 1990.111(j)), OSHA recognizes that quantitative risk assessment is at the frontiers of science and the results are crude or inexact because of the large number of uncertainties involved. The scientifc difficulties involved in performing risk assessment of carcinogens, using both epidemiological and animal data, are enumerated in detail in Section VIII.

Well conducted epidemiological studies of excess cancer risks in humans from industrial exposure are likely to be more reliable than animal test studies for the purpose of quantitative risk assessment. However, it is often difficult or impossible to get the data necessary to conduct epidemiological studies from which it would be possible to make reasonable estimates of risks. This generally requires a work force which can be traced and measurements or reasonable estimates of past exposures. The association between workplace exposure and disease is frequently obscured by the long-latency periods involved for industrial carcinogens. Confounding variables such as multiple causality (e.g. smoking), exposures to other chemicals and synergistic effects further complicate the quantitative estimation of human risks. Also, it may be difficult to extrapolate from risks measured at high exposure to risks at lower exposures. See the discussion in Section IV above as well.

Most potential carcinogens will be identified experimentally through animal tests. Animal studies present the major additional difficulty of extrapolating from high dose exposures in test animals to low dose exposure in humans. Section VIII above analyzes the difficulties, various scientific opinions and experience with past extrapolations.

Even where quantification of risk is possible, a wide range of uncertainty will still exist. For example, as discussed in Section VIII above, the estimates of risk from exposure to vinyl chloride vary by a factor of one million. Estimates of risks may understate actual risks by orders of magnitude. The high degree of uncertainty involved requires that cautious and prudent assumptions be utilized in performing such risk assessments. For many substances, only qualitative risk evaluations may be possible, particularly where animal data are involved.

The data constraints and large number of uncertainties involved in the estimation of human carcinogenic risks require a priority system that is sufficiently flexible to accomodate subjective information and policy judgments as well as information about the number of employees exposed, environmental exposure, the levels of exposure reported to cause excess incidence for neoplasms of various substances, and other factors to be considered as discussed above. Any priority list, therefore, cannot involve a strict numerical ranking scheme. The OSHA priority list will obviously determine only the approximate order in which rulemaking shall proceed and OSHA may select a substance not on the list. The final standard provides that OSHA will publish the priority lists in the **Federal Register** at least every six months and will periodically request information for the development of priorities. This process may lead to better data on priorities for regulation and elicit important information about newly-recognized hazards.

A "cost-effective analysis" approach to establishing priorities holds considerable heuristic appeal to some. Under cost-effectiveness analysis, potential regulatory actions would be undertaken according to the number of lives saved per dollar of expenditure. Where such information is available, OSHA will make use of it in setting priorities under the Cancer Policy.

However, OSHA does not believe that such analysis can be used as the primary basis for priorities-setting for several reasons.

First, OSHA believes that a more comprehensive cost-effectiveness priority system capable of providing meaningful estimates of relative costs per life saved cannot be formally developed given the data and resource constraints. The scientific difficulties in performing risk assessments in general at current exposure levels are magnified when health risks must be evaluated at alternative control levels.

Such analysis would also require estimates of compliance costs at alternative levels of control. OSHA's considerable experience with cost projections for occupational health standards suggests that such estimates are very controversial, time-consuming and as the vinyl chloride case indicates (discussed below in subsection 9), often highly inaccurate. Given their significance in such a quantitative ranking scheme, OSHA cannot accept Dr. Lave's suggestion for "back-of-the-envelope" cost calculations (Lave, Tr. 7007).

Cost-effectiveness analysis calculus would thus produce ratios of varying degrees of inaccuracy and comparability. In OSHA's view, the resulting estimates would produce numbers that are so highly speculative as to be essentially meaningless for comparison purposes. OSHA has opted for a more manageable priorities-setting approach that provides greater assurance that health resources are channeled at serious health hazards.

Second, a cost-effectiveness priorities scheme leaves unanswered how one evaluates quantitatively different health outcome possibilities (e.g., mortality versus morbidity) on a relative basis. Such calculations also ignore the subjective judgments necessary when cost and risk data are of differing degrees of uncertainty and where equivalent man-years saved estimates hide vast differences in death probabilities among different groups of workers.

Finally, cost-effectiveness ratios formally incorporate predetermined alternative control strategies and thus determine both the timing and stringency of control. Such analysis does not meet statutory requirements to set "the standard which most adequately assures, to the extent feasible . . . that no employee will suffer material impairment of health." (The Act, Section 6(b)(5)). This is discussed below.

OSHA, therefore, believes that consistent with the objectives of the Act, OSHA should set priorities to regulate substances in an order that maximizes the health benefits arising from such regulation. The OSHA priority system will include quantitative risk assessments where data are adequate and consider information on the social and economic costs of regulation as appropriate. The priority system included in the final Cancer Policy will thus provide better assurance that societal resources are concentrated on substances likely to produce the greatest health impacts in future regulations issued pursuant to this policy and improve the regulatory decision-making process. See Section IX–G of this preamble for a discussion of other non-economic aspects of the priorities issue.

(2) Automatic Regulatory Requirements and Prescribed Timetables

The OSHA proposal provided that following a brief comment period, upon initial classification of a substance as a Category I toxic substance, there would be the automatic issuance of an Emergency Temporary Standard (ETS). The ETS would have required the identification of exposed employees, monitoring of exposure levels, medical examinations, and immediate reductions in exposures to the lowest feasible level. Simultaneously with the issuance of the ETS, a proposed permanent standard was to be published, public comments invited and a hearing scheduled. At the end of the rulemaking, if the Secretary determined that classification of the substance was correct and not rebutted, a final standard was to be issued. Pursuant to Section 6(c) of the Act, the final standard would be promulgated within six months from issuance of the emergency temporary standard. Permanent standards were also required for Category II Potential Carcinogens within a specified timeframe. OSHA received public comments concerning the provisions for automatic regulation of all workplace carcinogens within prescribed timeframes.

Some participants in this proceeding supported the automatic issuance of emergency temporary standards for Category I Potential Carcinogens. For example, the NRDC, OCAW, EDF and UDF argued this was the correct approach in their joint post hearing brief (Ex. 268). It has been argued by those in favor of the automatic ETS provision for Category I Potential Carcinogens that the potentially serious health consequences associated with evidence of proven carcinogenic hazards in workplaces, necessitated immediate reductions in exposure levels and commencement of environmental and biological monitoring and investigation of engineering controls. Further, immediate issuance of an ETS would not prove unduly disruptive because of the flexibilities built into the proposed ETS model standard requirements.

Other participants to these proceedings commented on the potential disadvantages of the automatic requirement for issuance of ETS standards. They contended that it would not be necessary in all circumstances and questioned the legality of the provision. See Ex. 252, pp. 84–89; Ex. 251A, pp. 234–7.

Section IX–4 has a detailed discussion of the questions presented by the automatic issuance of ETS's and the changes OSHA has made from the proposal. OSHA has carefully reviewed the evidence on these issues. In summary, OSHA recognizes the need to establish a rational priority system to assure an orderly and effective approach to the scientific review and regulation of potential occupational carcinogens. The automatic issuance of ETS's would make it difficult for a priority system to operate. Thus, the final Cancer Policy does not contain a requirement for automatic issuance of an ETS for Category I Potential Carcinogens. OSHA believes that prudent utilization of its resources requires the flexibility to target regulatory actions where they are most needed. OSHA will continue to issue emergency temporary standards as appropriate pursuant to Section 6(c) of the Act. This flexibility will also allow OSHA to propose permanent standards for substances without first issuing emergency temporary standards, thus assuring more efficient allocation of public and private resources.

(3) Model Standards

The OSHA proposal contained three model standards: an emergency temporary standard for Category I Toxic Substances, a permanent standard for Category I Toxic Substances and a permanent standard for Category II Toxic Substances. These proposed model standards included detailed requirements for monitoring, medical surveillance, housekeeping, hygiene facilities, shower rooms, lunch rooms, recordkeeping, etc. (Proposal, Ex. 1, 42 FR 54187–95). It was to be an issue "whether the toxic substance has unique properties or uses that make the specific protective measures of the proposed (model) standard inappropriate or infeasible." (Proposal, § 1990.113, 123). But the Secretary was "to issue a final standard which shall follow the format and content of the model standard. . . . Any deviation, addition or change from that format and content shall be explained, together with the

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reasons therefore." (Proposal § 1910.114, 124)

Discussion in the Record focused on both the role of model standards and specific requirements. Industrial hygiene experts generally supported the need for the provisions as auxilliary controls under most circumstances. The Record on these questions and on the non-economic reasons for the changes from the proposal to the final regulation is analyzed in detail in Section X.

Economic criticism of the role of model standards centered on concerns that relatively strong presumptions in favor of the detailed provisions of the model standards could lead to frequent inclusion of provisions for specific carcinogens that are ineffective as worker protection measures but impose substantial cost burdens on the regulated industry.

For example, the RARG stated:

"OSHA proposes that detailed model standards be triggered by the classification of a substance as a carcinogen. Because such substances can vary widely in such aspects as their potency, chemical state, primary route of entry, and production processes, the RARG report recommends that the model standards be kept flexible. The detailed requirements for certain means of compliance, certain types of hygienic and eating facilities, for specific housekeeping practices and for monitoring of the workplace air may not always be appropriate or cost-effective." (Ex. 253 p. 8, see also pp. 30–35).

A number of other participants made similar comments. For example, API stated that:

"The need for flexibility is demonstrated by the record of the proceeding which reveals considerable diversity among substances, workplaces and protective measures. Thus potential workplace carcinogens may vary considerably in carcinogenic potency, chemical state (liquids, gases, solids, dusts), primary route of entry, levels and variations in levels of exposures, specificity of tumor sites, the appearance of detectable precancerous conditions and in many other ways. Moreover the cost, form and availability of resources for controlling exposures, monitoring, medical testing and achieving other protective goals can vary substantially from one substance to another, and from one workplace to another." (Ex. 252, App. 6, p. 6)

After considering the Record, OSHA has decided to substantially increase the flexibility of the model standards provisions in order to accommmodate potential diversities among substances in chemical properties, routes of entry, process types and other characteristics relevant to health risks. For example, there appears to be less need for showering provisions in the case of gases than for dusts. The monthly monitoring provision of the proposal may also prove unnecessary in specific situations. (See Lave, ex. 117, pp. 19–33, but compare AFL–CIO, ex. 261, pp. 99–102).

The final Cancer Policy provides that the model standard provisions will serve as guidelines to be followed when appropriate. Certain general types of requirements will be presumed to apply, such as monitoring and medical surveillance except where circumstances so warrant, but the detailed requirements are to be determined on a substance-by-substance basis in the individual rulemakings. See the extensive discussion of these changes in Section X. The use of model standards as guidelines eliminates the strong presumptions in favor of specific, detailed, and occasionally costly industrial hygiene provisions. Specific regulatory provisions will now be tailored to the needs of the particular substances regulated.

The RARG (Ex. 253, pp. 8, 34) and several other parties recommended that OSHA give special recognition to "performance" standards. OSHA believes that the changes in the role of the model standards and in the design of specific provisions will improve the flexibility and performance-orientation of regulatory provisions for individual substances.

In conclusion, the modifications adopted in the model standard provisions will substantially improve the cost-effectiveness of individual substance regulations. The flexibility introduced in the model standards will avoid requirements for standard provisions that do not improve worker health protection.

(4) Action Levels and Percentage Exclusions

The Cancer Policy proposal did not specifically provide for action levels or percentage exclusions. As discussed in depth in Section X.B.I. an action level is an exposure substantially under the maximum permissible exposure limit, below which few, if any, regulatory requirements apply. For example, the arsenic standard (29 CFR 1910.1018) contains a 10 $\mu g/m^3$ permissible exposure limit with a 5 $\mu g/m^3$ action level. For exposure levels above 10 $\mu g/m^3$, the full requirements of the regulation are applicable. Exposures between 5 $\mu g/m^3$ and 10 $\mu g/m^3$ require only medical and exposure monitoring provisions. Below the 5 $\mu g/m^3$ action level, the only requirement is for initial environmental monitoring if there is a possibility that arsenic exposure might exceed the action level.

A percentage exclusion exempts employers with regulated substances present as small fractions of other substances from most regulatory requirements. For example, employers who have ethyleneimene (29 CFR 1910.1012) present as less than 1% of a mixture with another substance are not covered by that regulation.

Action levels and percentage exclusions are designed to avoid unnecessary regulatory requirements at exposures substantially under the permissible exposure limit (PEL). Both may exclude from coverage certain workplaces well under the PEL. In addition, action levels provide for some necessary control precautions as exposures approach the PEL. Medical surveillance and environmental requirements can indicate situations requiring corrective action.

OSHA's proposal did not explicitly include an action level or percentage exclusion because it was believed that substantial variations in chemical properties and routes of entry (e.g.; dermal absorption versus inhalation) made difficult generalizations about these concepts. However, OSHA had found action levels or percentage exclusions appropriate in most of its prior regulations of carcinogenic agents. (See the 13 carcinogens regulated at 29 CFR §§ 1910.1003–1910.1016, vinyl chloride at § 1910.1017, arsenic at § 1910.1018, benzene at § 1910.1028, and acrylonitrile at § 1910.1045).

Parties to the rulemaking generally criticized the absence of action levels and percentage exclusions concepts, arguing that failure to incorporate such provisions could, in many circumstances, greatly inflate the costs of compliance without providing additional health protection to employees. API recommended inclusion of the action level concept in the model standard for Category I potential carcinogens (Ex. 252, app. C, pp. 25–27) stating:

"While provision for an action level may not always be appropriate, a definition should appear in OSHA's model standards to raise the issue for consideration in individual cases by OSHA and the public." (pp. 26–27).

AIHC also argued that action levels and percentage exclusions should generally be included in carcinogen standards. Regarding their potential advantages, AIHC stated:

"By fixing a mixture cut-off, the number of regulated workplaces will drop dramatically without in any way endangering employee health * * *".

"Similarly, the use of an action level makes it possible to reduce dramatically the cost of compliance since monitoring and medical surveillance, which make up a large part of the costs of compliance, will be reduced." (Ex. 251A, p. 249).

While OSHA believes that serious methodological flaws in the Snell Report (S. III–104 R&S, see discussion below) invalidate their cost of compliance findings, the Snell report consultants agreed that inclusion of an action level concept in their costing assumptions would have clearly lowered their compliance costs estimates (Tr. 3672–3673). For example, an estimated $1 billion capital cost item in the "other industry" segment of the vinyl chloride industry would have been completely eliminated. (Tr. 3672–73). They also stated that an action level for tetracholoralthylene would "substantially lower the $331 million compliance costs projected for regulation of this chemical" (Tr. 3675).

Other participants also expressed equally strong support for the establishment of an action level concept. Dr. Robert Harris, (S. 20), a recognized expert in workplace monitoring asked to testify by OSHA, recommended that a definition for action levels be incorporated in the model standards. The AFL–CIO also approved inclusion of action levels to the extent that the model standards did not define specific values, but allowed for case-by-case determination of appropriate lower limits (Tr. 5713, Ex. 261, pp. 98–99).

OSHA agrees that inclusion of action levels or percentage exclusions in regulations of most carcinogens can, in appropriate cases, potentially create large costs savings without impairing worker health protection. The final Cancer Policy contains definitions of action levels and percentage exclusions to be applied where appropriate.

(5) Suitable Substitutes

The Cancer Policy proposal included a provision that would set a "no occupational exposure" level for confirmed carcinogens where a suitable substitute existed. This provision would not "ban" a carcinogen where a suitable substitute existed, but would encourage substitution by setting a very low exposure level. The final Cancer Policy retains this concept but with substantial modifications designed to meet technical and economic criticisms. Section XII–B of this preamble discusses at length the reasons for the proposal, public comments received, and the rationale for retention of the concept in changed form.

OSHA is maintaining the "suitable substitutes" provision in the final Cancer Policy based on the generally accepted scientific principle that there is no existing method to reliably determine a safe level of exposure to a carcinogen (See Section V 10). Substitution (if feasible) is by definition the most protective compliance strategy since it eliminates the hazard without extensive control devices and avoids the possibility of unintended exposures caused by equipment malfunctions. The AFL–CIO (Ex. 261), United Automobile Workers (Tr. 5725), the Natural Resources Defense Council (C. II–270, p. 38, Ex. 268, p. 40; Tr. 6316–19), and the Health Research Group (Tr. 6352–54) strongly recommended that OSHA retain the suitable substitutes requirement for these reasons.

However, a number of other participants contended that OSHA did not adequately define the term "suitable substitutes" in the proposal. OSHA intended that this provision be used only in cases where the substitute for the potential carcinogen was relatively effective technically and where the costs of substitution were feasible. It was pointed out, however, that the general language in the proposal could lead to applications of the suitable substitutes provision in circumstances where substitution was technically possible, but not nearly as effective, or where costs of substitution were not feasible. For example, AIHC argued in its post hearing brief that "substitution . . . would be dramatically costly and disruptive if forced where no technological alternative now exists . . . The huge irreversible shifts in the economy from such a price change or ban underline the great economic significance of this issue." (Ex. 251A, p. 69).

The AIHC utilized a study done by Charles H. Kline & Co. for Shell Oil Company (S. III–83) to support this contention. The Kline study assumed a substitution scenario banning the use of benzene, ethylene oxide and vinyl chloride. No statistical cost data was collected with which to perform a market analysis predicting the direct compliance costs and economic effects of substitution. Instead, the study relied on interviews with various industry officials (sometimes identified see p. 9, usually not see p. 12) to solicit responses as to whether such a policy would put their company "out of business" (p. 9) or create "sheer disaster" (p. 12). Kline then reviewed basic trends in production, price, and employment data. Normally, these trends would be applied to projections of cost increases due to regulation through input-output analysis to predict the economic effects. With no data base however, the Kline study could only qualitatively determine their numerical assessments of economic impacts. The study results, not surprisingly, suggested large price increases and reductions in output and employment for various industries under the assumed scenarios.

In addition to the non-rigorous methodology and questionable survey techniques employed, the Kline study failed to establish reasonable scenarios concerning future regulatory outcomes under the suitable substitutes provision and to evaluate cases where substitution lowered costs. The failure of the study to establish parameters that properly reflect the scope of OSHA's substitution policy, invalidates use of the results as even crude indicators of likely regulatory impacts. Shell accepted that the "intent here was really to show what the extreme could be." (Tr. 5586).

Previous OSHA experience with such studies leads to similar conclusions. For example, before the issuance of OSHA's vinyl chloride standard, Arthur D. Little, Inc. submitted a study (Ex. 69), similar to the Kline analysis for vinyl chloride, which concluded:

"The companies in the PVC resin industry have stated that they would be unable to meet the newly proposed non detectable tolerance standard and its enforcement would force the shutdown of all PVC resin plants in the U.S. . . .

"Summarizing the conclusions of this report, we find that an immediate shutdown of all PVC resin plants in the U.S. and the subsequent unavailability of PVC resin would result in a loss of 1.7–2.2 million jobs in consuming and related industries and a loss of domestic production value of $65–80 billion annually." (p. 1).

Although OSHA set a 1 ppm level, then considered the lowest level detectible with available sampling techniques, none of the predicted consequences occurred. Retrospective analysis indicated that after the vinyl chloride regulation was issued, the growth trend in production of PVC continued at 8–11 percent annually, with the exception of the 1975 recession year. There was no net loss of employment although 2 of the oldest and least-efficient plants (out of 23) did shut down, while production costs increased only 6 percent. (Ex. 70)

In view of the weaknesses of the Kline study and other examples placed in the Record (see the discussions submitted by the refractories industry and others in Section XII–B–5), as well as agency experience with similar studies, OSHA believes that the evidence fails to substantiate predictions of economic disaster stemming from the OSHA suitable substitutes provision.

Nevertheless, OSHA is sensitive to the concerns expressed of possible severe economic consequences resulting

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from improper application of a broad suitable substitutes provision. OSHA has therefore clarified the suitable substitutes provisions in the final regulation, to make explicit its intended policy that technological and economic feasibility considerations be applied to determinations of whether suitable substitutes exist. The final regulation requires that the technical feasibility of the possible substitute, including its relative effectiveness, be taken into account. The economic costs of substitution must also be considered in determining feasibility, including direct compliance costs and the time needed for raising capital and orderly changeover of production facilities. The final regulation requires that evidence on the relative safety of potential substitutes be carefully analyzed. This meets AIHC's concern that the suitable substitutes provision might be utilized when the substitute itself is actually more hazardous.

OSHA believes the modifications in the final suitable substitutes provision meet the economic concerns of industry representatives. These changes will make explicit reasonable policies regarding determinations of whether a suitable substitute exists or whether substitution is infeasible. However, OSHA has retained the preference for substitution as the most protective compliance strategy for carcinogens where substitutes are found suitable.

(6) Engineering Controls

The final Cancer Policy maintains the preference for engineering controls and work practices to reduce worker exposure to potential occupational carcinogens. OSHA's policy reflects the much greater relative-effectiveness of engineering and work practice controls and the frequently greater failure rate of personal protective equipment.

Section X.B.7 of the preamble provides a detailed discussion of alternative technological approaches to controlling carcinogens and concludes that the greater relative-effectiveness of engineering and work practice controls is substantial. The following sections briefly summarize the evidence.

While expressing a general preference for engineering controls, some parties recommended that greater reliance be placed on respirators as a feasible and cost-effective alternative to engineering controls in certain situations. API stated that while agreeing that engineering and work practice methods are generally preferable, "the record shows that engineering or work practice controls will be plainly cost-ineffective in situations even though they are technologically and financially possible." (Ex. 252, App. B, p. 247). The AIHC (Ex. 251A, p. 274) and the American Iron and Steel Institute (Ex. 219, pp. 38–40) expressed similar views.

Dr. Zeckhauser also suggested that personal protective devices be considered acceptable primary control strategies when "cost-effective." He stated,

> "What I am suggesting—and I am not an expert on respirators or engineering controls—is that we use the most cost-effective means of reducing exposures where that is available. If respirators are effective and they protect workers at the same cost better than engineering controls, then I would say we should have respirators." (Tr. 4353.)

Nearly all industrial hygiene experts expressed the opposite position; namely, that personal protective devices should serve only as secondary lines of defense. See the testimony of Mr. Held (Univ. of Cal., Lawrence Livermore, Tr. 2683), Mr. Soule (S. V–15, p. 8), Mr. Douglas (Univ. of Cal., Los Alamos, S. V–19, p. 3), Mr. Holaday (S. V–20, p. 3) and Dr. Billings (Johns Hopkins, S. V–31, p. 13).

Other industrial hygiene experts also recommended against primary reliance on respirators. Mr. Thorpe, testifying on behalf of API, stated:

> "And as soon as you say respirators, everybody gets a bit claustrophobic about the idea of a man working eight hours with a mask on in a horribly dusty environment; and they are naturally repelled by that. And I do not think there is anyone in his right mind that is going to advocate that a man be required to work eight hours a day, five days a week in that kind of situation." (Tr. 4514.)

Dr. Langer (Dow), Tr. 5118; Dr. Janus (Hooker Chemical), Tr. 4161; Dr. First (AIHC), Tr. 6852–3; and Dr. Jaeschke (Stauffer), Tr. 6796, expressed similar views.

OSHA has carefully reviewed all relevant aspects of the Record on this issue. OSHA believes that the substantial weight of the industrial hygiene evidence supports the continued primacy of engineering and work practice control strategies.

OSHA accepts that in some circumstances, respiratory protection may be cheaper than engineering controls. However, simply because a particular technological approach is cheaper does not mean it is "cost-effective."

The cost of a respirator control strategy is frequently analyzed only in terms of capital outlays. However, in addition to capital costs, a comprehensive respirator program would require more frequent and careful monitoring and medical surveillance. This would involve increased recordkeeping, employee notification, and observation of monitoring, as well as worker education and training. Employers would also have to provide a program of tests to demonstrate and ensure fitting. OSHA would have to ensure compliance through increased inspection activity. All of these factors contribute to substantial administrative costs involved in implementing a comprehensive respirator program that must properly be included in estimates of the relative costs of respirators compared to engineering and work practice controls.

Further, there is substantial evidence that even a comprehensive respirator program may not provide adequate protection because of reliability problems. In addition to technical efficiency problems, difficulties are frequently encountered in preserving face fits, and in installing, cleaning, and replacing filters.

Communication is also difficult while wearing a respirator. Any jaw movement can break the facepiece-to-face seal and cause respirator leaks. Claustrophobia, anxiety and general physical discomfort may also limit the effectiveness of respirators.

Cost-effective approaches are only meaningful when alternative technologies are of comparable reliability in providing worker protection. Quantification of the risks associated with alternative control strategies is at the frontiers of science. This problem is significantly magnified when the alternative control strategies involved widely-differing degrees of reliability of both a technical (theoretical efficiency) and in practice nature. In addition to the relatively greater failure rate of respirators, a cost-benefit analysis would have to adjust benefit (reduction in risk) estimates to reflect the extent of non-supervision, bad-fitting, and other reliability factors. Conventional cost-benefit analyses in favor of respirators have not made such adjustments. Such risk estimation in practice would be difficult and highly uncertain given the current state-of-the-art of risk assessment techniques and the heavy dependence on predictions of employer behavior. Furthermore, the administrative costs necessary to insure a respirator program of comparable effectiveness to engineering controls would likely be substantial, thereby lowering the benefit to cost ratio (even assuming equal reliability).

Finally, as pointed out in Section X.B.7., the OSHA requirements for engineering controls are not as inflexible as industry representatives suggest. For example, Sections 1990.151 and .152 permit the use of respirators in maintenance or similar intermittent operations where engineering controls are not feasible.

(7) The Role of Economics in Setting Exposure Levels

The proposal followed the approach used by OSHA in past regulations to set permissible exposure levels for carcinogens, requiring that exposures to Category I toxic substances be reduced to the "lowest feasible level." Several parties suggested a formal integration of quantitative risk assessments with cost data in determining appropriate levels of hazard control.

To understand the differences in these approaches, it is useful to clarify the Secretary's decision-making process and differentiate that from other approaches which rely upon traditional cost-benefit analysis.

The Secretary's decision-making process under OSHA first involves an evaluation of the adverse health effects which result from exposure to a toxic substance, using disease epidemiology and toxicological evidence and exposure monitoring data, where available. Health assessments help to determine the overall magnitude and severity of occupational disease problems. They assist in determining the need for regulatory actions (prioritization); in evaluating properties of exposure to given health hazards (i.e., routes of entry, chemical state, etc.); and in relating the extent of exposure risk to carcinogenic agents in specific industrial settings (i.e., processes, presence of co-contaminants, intensity of exposure etc.). Many aspects of such health evaluations are necessarily qualitative in nature because of data limitations and the large number of uncertainties involved.

OSHA also conducts technology assessments which include an evaluation of existing control technology and of the regulated industry's capability to develop or purchase control technology, to redesign its production technology, and to develop and utilize substitute products or equipment. The economic consequences of alternative technological approaches are one factor in the analysis, along with an evaluation of both the technical reliability and comprehensiveness of protection of alternative control strategies.

As part of this generic approach to regulation of carcinogens, OSHA has concluded that quantitative risk assessments, where available, may be utilized as a factor in establishing priorities for regulation. Health assessments of both a quantitative and qualitative nature are also relevant in rulemakings for evaluating control needs for specific industries and processes; in the design of standard provisions (e.g., the need for action levels, biological and environmental monitoring frequency, etc., and in assessing likely health outcomes from regulation.

The determination of feasibility includes an assessment to determine the lowest exposure level generally achievable by the affected employers through engineering and workpractice controls. This level takes into account that in some locations where control is difficult, respiratory protection may be used to supplement engineering controls. The cost of achieving this level are compared with the economic capabilities of affected industries. The regulation issued is designed so as to be achievable from an economic perspective. Some factors which the agency takes into account in assessing economic feasibility where appropriate include the costs of best available control technology and work practices; exposure levels achieved by industry leaders; costs of new and improved control technology which is "looming on the horizon"; the ability of each affected industry and the national economy to bear financial costs, among other factors.

OSHA's determination of feasibility has been narrowly construed by some to be restricted only to matters determining the economic affordability of controlling exposure of the substance under consideration. However, the Department of Labor in the brief to the Supreme Court on benzene in *Marshall v. American Petroleum Institute* has stated:

> "Second, 29 U.S.C. 655(b)(5) comes into play after the Secretary decides to issue a new standard. Thus, if a rulemaking record affirmatively demonstrates that an existing standard is highly protective and that imposing a more stringent standard would threaten the industry's ability to respond to other health hazards without significantly improving health protection, the Secretary has discretion not to issue the standard or to delay regulation until more immediate hazards are addressed."
>
> "Furthermore, the Secretary has never asserted that he is precluded from considering (where there is some reason to believe it is so) whether the cost of a standard is sufficiently large that the affected industry will be unable to respond effectively to future health hazards. If that situation were to arise, the statutory phrase 'most adequately assures, to the extent feasible' (Section 655(b)(5)) is sufficiently flexible to allow the Secretary to take into account in setting a standard the need for the industry to meet future threats to employee health. In short, there is no realistic basis for respondents' hyperbole that the Secretary's regulatory approach will lead to a severe misallocation of finite occupational health resources."

Several of the major industrial participants advocated that an "efficiency-based" approach be used to determine permissible exposure limits. Their approach would estimate risks to workers and compliance costs at alternative levels of exposure for each substance regulated. The cost and risk reduction estimates at various exposure levels of substances would be integrated into a framework for achieving maximum worker protection per dollar of health resources expended. Efficiency criteria would determine the stringency of control technology mandated. Exposure levels would be set higher (lower) than the lowest feasible level defined by OSHA depending on whether the costs of hazard abatement at the margin were higher (lower) than the value of preserving life or preventing disease.

OSHA has carefully examined the evidence in this Record on alternative approaches to regulating toxic chemicals. The final Cancer Policy retains the OSHA proposal's approach to standards setting in conjunction with an explicit priority system to direct regulatory efforts at more serious health hazards. It requires that exposure to confirmed carcinogens be reduced to the lowest feasible level, but adds language to make explicit OSHA's intent to take into account technological and economic considerations in determining feasibility.

OSHA believes that this decision-making process reflects not only the clear legislative mandate discussed below, but also avoids technical and methodological problems which render alternative decision rules inappropriate. Specifically, OSHA has determined that an approach to setting permissible exposure limits based on efficiency criteria alone would be inappropriate for three reasons.

First, a cost-benefit or cost-effectiveness approach hinges critically on the ability to develop reliable numerical estimates of cancer risks. Risk assessment techniques, particularly for carcinogens, are too crude and unreliable to permit the depth of analysis necessary for estimating the extent of health impairment associated with different exposure levels. (See Section VIII for an extensive discussion of this issue.) OSHA believes that while quantitative risk estimates can be a useful element along with other factors,

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in setting priorities and in examining likely health outcomes from regulation, estimates with wide variations that may understate cancer risks by many orders of magnitude are not sufficiently instructive for setting control levels. Cancer is an irreversible disease leading to death with no demonstrated threshold or safe level and thus requires a highly protective regulatory approach. Uncertainties in cost estimation introduce further distortions into comparisons of costs and health benefits which render cost-benefit ratios inappropriate as the basis for decision rules for determining levels of worker protection.

Second, as a matter of policy, decisions based on efficiency criteria are not appropriate because they ignore equity considerations. The economic savings from less protective regulation accrue to industry in the form of higher profits and to consumers through lower prices. But the costs are borne by workers through increased industrial illness and death rates.

Finally, OSHA believes that correct interpretation of its legislative mandate requires the agency to set the lowest feasible level for those substances where no safe level can be shown.

The following sections outline several alternative approaches based on formal integration of risk assessment and technological/economic evaluations and the methodological and legislative bases for OSHA's determination that alternative decision rules for determining acceptable exposure levels are inappropriate.

Industry representatives recommended that numerical estimates balancing social costs and benefits from the primary basis for the setting of standards for individual carcinogenic agents. These parties argued that the OSHA Cancer Policy as proposed was designed to achieve a risk-free society, and that this is an undesirable goal because it is impossible to achieve and wasteful of economic resources. Industry participants contended that cost-benefit analysis would ensure maximum health protection because of limitations in the total health resources available for improving workplace health.

Dr. Zeckhauser, for example, argued that workers and society at large, would suffer if health expenditures are not efficiently allocated because fewer cases of cancer would be prevented (Tr. 4410). Similarly, Dr. Lave indicated that since society is willing to spend only some of its resources on health protection, it must attempt to determine the value of possible purchases in order to make intelligent expenditure decisions." (Lave, Tr. 6993).

The AIHC summarized the views of many industry participants in their post-hearing brief (Ex. 251 A, pp. 22–230). They concluded:

"AIHC believes that the record strongly supports the conclusion that OSHA should undertake a cost/benefit analysis as part of the regulatory process to determine the level of control. This may not necessitate an elaborate formal cost/benefit analysis but it does mean that OSHA will have sufficiently identified the societal costs and benefits that it can more reasonably determine an acceptable level of risk—the reasonably necessary level—in setting particular standards." (Ex. 251A, p. 230)

The methodologies employed in cost-benefit or cost-effectiveness analysis have been discussed at length in the section on analysis of the record. They will only be briefly summarized below.

Conceptually, it may be appropriate to tally the costs and benefits to society at large associated with an investment project. Under this cost-benefit framework, if benefits exceed costs, there is a net social benefit and the project should be undertaken. Regarding occupational health investments, estimates of the costs of compliance at a particular control level would be compared to the permanent or long-term benefits of improved occupational health defined as the costs of nonregulation. Exposure levels would be lowered only the extent that the benefits of improved health (including extended longevity) exceed hazard abatement costs; otherwise, resources would be more efficiently spent elsewhere.

Dr. Wilson advocated such a cost-benefit approach to regulating chemical substances with risks of death between 1/100 and 1/100,000 per year. Controls would be installed only to the extent that they save one life for every $1 million in expenditures, his implicit estimate of the value of human life. Other parties to the proceeding recommended cost-effectiveness analysis as a procedure for setting standards. (It should again be noted that the term "cost-effective" has two meanings. Drs. Lave and Zeckhauser use it as a noun to describe a formal mathematical analysis which is explained in the next paragraph. Cost-effective also may be employed as an adjective to refer to the achievement of a predetermined degree of health protection with the least expenditure of society's resources.)

Cost-effectiveness analysis avoids some of the human valuation problems attendant with cost-benefit analysis. Under this framework, estimates of costs and risk reduction at various exposure levels for different substances would be expressed in terms of lives saved per dollar of health expenditures. OSHA would proceed to regulate in order each chemical to the level which would save the most lives per dollar. Some chemicals would undergo more than one regulatory proceeding. For example, suppose that there are 3 carcinogenic chemicals. Controlling chemical X from 500 to 100 would save 1 life per $100,000; from 100 to 20, 1 life per $500,000; and from 20 to 1, 1 life per $2 million. Controlling chemical Y from 200 to 50 would save 1 life per $200,000; from 50 to 10, 1 life per $750,000; and from 10 to 2, 1 life per $5,000,000. Controlling chemical Z from 10 to 1 would save 1 life per $800,000; and from 1 to 0.1, 1 life per $1 million.

For this hypothetical case, Drs. Zeckhauser and Lave would recommend the following governmental response. First, OSHA would regulate X from 500 to 100, then Y from 200 to 50, then Z from 10 to 1, then X from 100 to 20, etc. Regulation would not continue until all possible regulatory actions were exhausted, but would stop at the point where the cost to save one life was greater than the risk that society deemed acceptable. Cost-effectiveness analysis was to be further expanded to include alternative control strategies, noncarcinogenic health effects, and even nonoccupational health actions (highway safety, hospital construction, etc.).

A cost-effective or cost-benefit approach to setting permissible exposure levels would balance control costs and predicted benefits at the margin. Dr. Zeckhauser explained marginal analysis and its use in setting exposure levels as follows:

"[I]t is important to determine not only how much is achieved on average for a particular level of expenditure but how much is achieved at the margin . . . We might look at a standard that reduces exposure by an amount X at an expenditure of $100 million. The gain may seem worth it. But the gain at the margin may be rather minimal. What if we would achieve a reduction of 98% of X for an expenditure of merely $50 million? Well, that last small reduction in exposure would be costing a very great deal."

Under this incremental approach, that last unit of protection would be required only when it is cost-effective.

AIHC and API submitted lengthy post hearing briefs (exs. 251 and 257 respectively) in support of cost-effectiveness and cost-benefit analysis for the setting of standards as well as priorities. They recommended that economic and risk assessments be performed for each proposal. This information would then be formally integrated into a cost-benefit or cost-effectiveness analysis. Under this approach, the lowest feasible level would not automatically be set for Category I carcinogens, rather the cost and benefits would be used as part of the regulatory process to determine the "reasonably necessary" level of risk.

While cost-benefit or cost-effectiveness analysis can illustrate the nature of economic trade-offs involved under various regulatory alternatives, they say little about how much occupational health improvement society can afford or is willing to pay for. Wilson's recommendation attempted to define an overall objective function for determining acceptable levels of risk. Using comparative risk analysis, Dr. Wilson calculated single-point estimates of risks which individuals voluntarily (engaging in certain sports activities) or involuntarily live with (pedestrian in a motor age). For example, he calculated that some individuals voluntarily accept a risk of death of 1/1000 per year of activity to engage in risky sports such as auto racing and rock climbing. Smokers "voluntarily" accept a level of risk three times higher. People "involuntarily" accept a risk of 1/5000 per year from motor vehicles—his highest estimate of involuntarily accepted life-style risk. The highest fatality rates that Wilson reports among occupational groups in the workforce presently are approximately 1/1000 per year for coal miners, railroad workers and firefighters. However, the risk of death for coal miners from work-related causes approaches 1 death per 100 annually when fatalities from black lung disease are included.

He argued as an appropriate benchmark for risk reduction that OSHA not attempt to lower occupational risks below other voluntarily accepted risks levels. (S.III–104D, p. 36). He used his estimates of non-occupational risks voluntarily accepted or involuntarily lived with to develop risk categories for structuring occupational regulatory actions.

Dr. Wilson recommended different regulatory responses for risks in excess of one death per 100 employees per year (regulation irrespective of cost) and for risks below one death per 100,000 annually (no regulation). For occupational risks of death between these boundaries, cost-benefit analysis would determine the reduction in risks. (See discussion in the subsection on analysis of the Record for further detail).

While these efficiency approaches may be intrinsically appealing as "objective" numerical decision rules, they are inconsistent with the Act. In addition, they are beset, in practice, by serious technical and methodological problems that expose their subjectivity and undermine their appropriateness as the decision mechanism for determining exposure levels.

The following sections examine the analytical and legislative difficulties underlying such analyses.

First, OSHA believes that the use of cost-benefit and cost-effectiveness analysis to set exposure levels in a largely mechanical fashion is inappropriate because the calculations involved are crude and carry serious potential for misleading health determinations. Cost-benefit and cost-effectiveness analysis depend crucially on the reliability of risk and cost estimates for their legitimacy, since relationships between a series of these numerical estimates define the set of substances for regulation and the stringency of control levels.

The Record contains extensive comments on the difficulties involved in performing cancer risk assessments. There is intense scientific controversy on the issue of the reliability of risk estimates, particularly for carcinogenicity. Some scientists and expert committees contend that risk can be confidently estimated, while others believe that risk assessments are likely to be highly inaccurate. Their various views on differences in quantitative responses between test animals and humans, and methods of extrapolating from high doses to low doses are analyzed in Section VIII.

Even strong proponents of risk assessment recognized the significant difficulties inherent in relating disease incidence to different exposure levels. Dr. Lave, testifying on behalf of the API stated, "It is generally difficult to estimate the extent of the decrease in the probability of accident or disease when a safety device is added or exposure levels are lowered. Indeed some of the questions are almost impossible to answer in principle since they involve low exposures over prolonged periods to small groups." (S.III–125, p. 10.) Dr. Zeckhauser also accepted the enormous difficulties entailed in estimating the number of lives saved through a specific reduction in exposures, but argued that such estimates must be made despite their crudeness.

A careful review of the scientific evidence has led OSHA to conclude that risk assessments for carcinogens are in general highly inaccurate and can not provide a sufficiently reliable basis for determining levels of worker protection. The ability to perform quantitative risk assessments for carcinogens differs from classic toxins because there is no known safe level for exposure to carcinogens. Risk assessments must be made for exposure levels where data are usually unavailable. While extrapolation from historical statistical bases is the conventional technique for computing such estimates, risks for nearly all industrial carcinogens must be identified experimentally because of the long 20–40 year latency periods between exposure and onset of disease. For most carcinogens, such assessments will require extrapolations from high dose animal tests to much lower exposures in human populations.

As a result, unlike other toxic substances, no single number with a small range of uncertainty can be found to represent a safe level. For carcinogens, the "best estimate" from standard linear no-threshold interpolation represents only a beginning in the assessment of risk. Such a single number "best estimate" may understate or overstate actual cancer risk by orders of magnitude. The actual risk may be 10–10,000 times larger or smaller than the predicted risk.

Two examples illustrate the enormous range of valid estimates of risk for carcinogens which are possible under different, but plausible assumptions. Estimates of risk for vinyl chloride at 1 ppm vary by a factor of 1 million, from a life-time risk of exposure of 1/100,000,000 to 1/100. For saccharin, estimates of excess bladder cancer cases derived from animal data as a result of lifetime saccharin use range from .001 per 1,000,000 exposed to 5,200 per 1,000,000 exposed. An estimate based on epidemiological data predicts 15,000 bladder cancers per 1,000,000 exposed. The range in possible defensible estimates is over ten million (See Section VIIIc8).

OSHA believes that crude estimates of risk exhibiting such wide variation are not sufficiently instructive to form the basis for setting exposure levels. Cancer is an irreversible disease commonly leading to death with no known safe levels of exposure and thus requires a high level of protection.

The final Cancer Policy will use quantitative risk assessments where data are available to develop a priority system for regulating chemical carcinogens. OSHA has determined that such risk assessments despite the range of uncertainty can provide a rough but useful guide for identifying overall health needs, along with other factors. Even at this level of analysis, OSHA recognizes that the large uncertainties inherent in the quantification of cancer risks require a priority system that is sufficiently flexible to accommodate the

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qualitative information and policy judgments necessarily involved.

OSHA also believes that the benefits of a proposed regulation should be carefully examined where appropriate. However, where ranges of uncertainty are large, a single number "best estimate" (the most likely value) for risk is misleading. Rather a range of uncertainty must be recognized that constitutes crude guesses as to a probability distribution of risk. Traditional cost-benefit analyses undertaken in welfare economics do not encounter uncertainties of this magnitude. When great uncertainty as to risk exists the decision of what numerical value for risk accompanies a particular exposure level ceases to become objective in the rigorous scientific sense.

Further uncertainties for the validity of cost-benefit or cost-effectiveness computations enter in the predictions of compliance costs. Such analyses would require estimates of compliance costs at alternative levels of control. OSHA's considerable experience with cost projections for occupational health standards suggests that such estimates are very controversial, time-consuming and as the vinyl chloride case indicates, often highly inaccurate (see subsection #9 below). Such studies are generally forced to analyze the compliance costs associated with conventional techniques since the costs of untested technological and process innovation and changes in product characteristics cannot be easily determined.

Cost-effectiveness calculus would thus produce ratios of varying degrees of inaccuracy and comparability. In OSHA's view, the resulting estimates would produce numbers for comparison purposes that are highly speculative and carry great potential for misleading health determinations. A cost-benefit ratio is therefore an inappropriate decision rule for setting permissible exposure levels.

There are still other methodological difficulties undermining useful interpretation of cost-benefit results. The cost and benefit streams differ in temporal distributions. Determination of an appropriate discount rate for future benefits is controversial, yet the predicted benefits are highly sensitive to particular values selected. In addition, there are serious problems in valuing different kinds of benefits relative to each other (e.g., injury vs. death, pain, and suffering vs. loss of function). Many important social benefits never enter cost-benefit ratios since they are intangible and thus not easily converted to monetary dimensions.

For cost-benefit analyses of occupational health regulation, an especially serious methodological problem is involved where adverse health outcomes include premature death, because it would be necessary to assign a value to human life.

Attempts to assign economic weights to human life have often assumed a human capital approach, which values an individual's economic contribution to society. Human life valuation is calculated in terms of the present discounted value of future income streams (gross output) or the present discounted value of future income streams minus an individual's consumption (net output). This approach assumes that the only goal of economic policy is to maximize Gross National Product. Human life valuations also depend critically on earnings levels, leading to lower values for the retired, women, and disadvantaged low-wage groups (Ex. 220b–110,110D, 110N, 109 p. 57).

Another approach avoids any direct calculations of the loss of potential earnings or spending. Instead, the value of human life is implicitly calculated based on the cost of programs paid for by society that increase or decrease the number of deaths, such as the kidney dialysis program. However, estimates based on these "social" values have been found to differ widely depending on the program (Ex. 220b–110g).

Another methodology is based on insurance policies. Insurance premiums and death probabilities associated with specific activities have been used to calculate the value that individuals set on their lives. However, this approach is conceptually deficient since life insurance refers only to compensation to others.

Finally, attempts to value life have been based on estimates of wage premiums paid for high-risk occupations, using regression analysis. This methodology is based on the principle that workers in high hazard jobs will demand premiums to compensate them for the additional risks entailed. The annual (hourly wage) premiums required to assume the additional risks are then converted into estimates of the value of human life. The results of this methodology are mixed. Estimates of the value of human life (where risk premiums have been found) vary widely with average figures ranging between $100,000 and $1 million. In addition to technical analytical problems involved in individual studies, the general validity of this methodology rests on the assumption of perfectly competitive labor markets. Hence, this approach requires that workers possess accurate knowledge of risks and make well-informed choices, an unlikely assumption for workplace carcinogens, and that workers can readily move to lower-risk jobs.

Dr. Lave, an advocate of cost-benefit analysis, pointed out the difficulties of placing a value on life. He stated:

"While dollars are the natural metric of abatement costs, they are alien to the measurement of benefits. As explained above, the notion of explicitly valuing premature death or morbidity in dollars is repugnant. (Shelling, 1968; Burger, 1976; Lave and Seskin, 1977). Nonetheless, the refusal do so can be shown to result in grave misallocation of resources and in capricious behavior." (Ex. 117, p. 13)

After examining all the evidence in the coke oven proceeding (made part of this Record in Ex. 220b), where extensive data and arguments were presented on whether it was appropriate to attempt to put a dollar value on life, OSHA concluded:

"that these methodologies do not adequately quantify the value of life. Accordingly we decline so." (41 FR 48751)

The evidence presented in the Cancer Policy confirms this conclusion. OSHA believes that it is not possible for it to place a value on life and regulate on this basis.

Still another methodological problem occurs for cost-benefit analysis when comparing different technologies. A benefit-to-cost ratio, expressed as "lives saved (or cancers prevented) per dollar expended" is the criterion generally used for cost-effectiveness determination, but its use is frequently difficult when comparing alternative control technologies which control hazards with differing *reliability* and *comprehensiveness of protection.* (This was discussed at length in the economic section on respirators.)

All of these factors assure that cost-effectiveness or cost-benefit calculus would produce ratios of differing degrees of inaccuracy and comparability. In OSHA's view, the resulting estimates would produce numbers that are highly speculative. Methodological deficiencies make difficult technically correct, non-arbitrary comparisions of cost and benefits and render cost-benefit analysis inappropriate as the decision rule for setting permissible exposure levels for carcinogens.

Finally, Wilson's recommendation moved beyond cost-benefit analysis in attempting to establish the overall parameters for determining acceptable levels of occupational risks. Under comparative risk analysis, the risks of other voluntary and involuntary risks

that people live with are computed and these are used to establish boundaries for setting occupational exposure levels.

Various parties discussed the concepts behind Dr. Wilson's methodology for determining "acceptable" risk based on historically observed levels of voluntary or involuntary risks. Dr. Lave (above and Ex. 117) discussed at length various research attempts to analyze the risks that humans are willing to accept. He pointed out the conceptual and practical difficulties inherent in evaluations of risk, including the large variations in the risks that humans view as acceptable, the difficulties that individuals face in assessing risks, and the characteristics of risk that influence individual preferences for risk. These include whether the risk is voluntary or imposed, familiar or unknown, of immediate occurrence or indeterminate in the future, and whether the risk affects large number of people with low probability or small numbers with high probability (pp. 17–19).

OSHA does not find this approach convincing. The validity of this methodology for determining acceptable levels of occupational risk based on observed risk decisions in other areas hinges on several critical assumptions which are highly controversial. These include the individual's ability to properly assess risk; that past behavior is indicative of present attitudes; that existing levels of risks are acceptable norms; and the ability to define predictable patterns of risk tolerance. In OSHA's view, many of these assumptions appear inappropriate.

In addition, Dr. Lave noted that for some categories of risk, such as occupational risk, individuals demand greater reductions in risk levels than for other classes with larger objective risk probabilities. Lave attributed this to irrational behavior. OSHA draws a different conclusion. The risk-benefit evidence suggests to OSHA that there are complex non-additive dimensions to risk that invalidate simple comparisons between non-occupational voluntarily accepted risks and occupational risks (i.e., between familiar routine risks and the unfamiliar risks of workplace exposure to toxic substances).

In addition to the methodological problems outlined above, OSHA believes that as a matter of policy, efficiency criteria alone are not appropriate because they ignore equity considerations. The economic savings from less protective regulation accrue to industry in the form of higher profits and to consumers in the form of lower prices. But the costs are borne by workers through increased industrial illness and death rates.

Efficiency analysis cannot accommodate the distributional implications involved when the costs and benefits accrue to different subgroups. Welfare comparison could only be made if there is an acceptable method for aggregating individual utilities (satisfactions) into a social welfare function ranking alternative efficient arrangements in order of their social desirability. Unfortunately, it has been conclusively demonstrated that no satisfactory aggregation procedure is possible. As a result, economic analysis ignores equity considerations because they involve interpersonal comparisons of utility, whereby one group is made better off, while another is made worse off.

Dr. Ashford (MIT), discussed the implications of equity for cost-benefit analysis. He stated:

"The most serious limitation (of cost-benefit analysis), however, lies in the failure to successfully deal with the fact that the cost and benefit streams accrue to different parties. One person's benefit cannot be neatly traded off from another's cost. Maximizing social welfare should not necessarily be equated with optimizing social welfare. Equity and economic efficiency are sometimes conflicting goals. As a decision tool, cost-benefit analysis can be useful in identifying the nature of the trade-offs; as a decision rule it is useless. Regulation of toxic substances is an expression of social policy, not economic policy, and the social decision does not end with internalizing the social costs of producing and using chemicals and followed by equating costs and benefits at the margin." (Tr. 2402–3)

See also Dr. Ashford's discussion at pp. 2400–2402 and Dr. Hazleton's in Ex. 247, pp. III–1 to 3.

OSHA believes that it would be inappropriate for an agency statutorily required "to assure so far as possible every working man and woman in the nation safe and healthful working conditions" to ignore such equity considerations.

Finally, OSHA believes that the Cancer Policy approach to regulating carcinogens to the lowest feasible level most accurately reflects the requirements of the OSH Act because a safe threshold level of exposure cannot be demonstrated for carcinogens. This position has just been clearly stated by the D.C. Circuit in *AFL–CIO* v. *Marshall* (78–1562' 1/24/79), a decision upholding the OSHA cotton dust standard. The Court stated:

"Industry petitioners would have the court impose an additional constraint on OSHA's authority to determine standards. They claim that under the feasibility requirement, OSHA must demonstrate that 'the benefits of the standard are in proportion with the costs which it imposes.' This amounts to a claim that no standard may be promulgated under section 6(b)(5) of the Act absent a formal cost-benefit analysis. The industry similarly argues that OSHA must justify the expense imposed by its standard by comparing it with the industry's proposed alternatives.

"OSHA agrees that a systematic evaluation of costs and benefits is to be encouraged within the limits of available estimation techniques, yet it contends that such analysis is not requried. OSHA argues that the OSH Act constrains its regulation of dangerous substances 'only by the limits of feasibility.' We agree.

"We also find that no additional constraint is imposed by the Act's definition of a health or safety standard as reasonably necessary or appropriate to provide safe or healthful employment. The language of the Act and the clear intention of Congress permit no other conclusion.

* * * * *

"In the OSH Act, Congress itself struck the balance between costs and benefits in the mandate to the agency. Section 6(b)(5) unequivocally mandates OSHA to set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity."

Thus Congress concluded that the benefits of health protection warranted the expenses of an effective standard.

. . . Congress determined in the OSH Act that any severe risk to employee health must be eliminated or reduced if feasible means to do so exist. This calls for a two-step analysis by the agency: (1) determining whether health impairment is threatened by the suspect substance, and (2) determining whether the selected strategy protect workers from this risk is both technologically and economically feasible. Nothing in the statute or its legislative history requires a further determination that the costs of the standard bear a "reasonable" relationship to its benefits.

"Further, cost-benefit analysis would not necessarily improve agency health and safety determinations. These techniques require the expression of costs, benefits and performance in often arbitrary, measurable terms. They may hide assumptions and qualifications in the seeming objectivity of numerical estimates. Especially where a policy aims to protect the health and lives of thousands of people, the difficulties in comparing widely dispersed benefits with more concentrated and calculable costs may overwhelm the advantages of such analysis.

OSHA considered the alternative proposed by the industry and found it inadequate to protect against the health risk at issue. We recognize that the agency's control strategy is costly. But it is the result of long and comprehensive investigation by the agency assisted by extensive public participation. (Slip opinion pp. 51–52.)

OSHA's choice of the lowest feasible level has also been approved in *Industrial Union Dept.* v. *Hodgson,* 499 F. 2d 467 (D.C. Cir., 1974), *American Iron*

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and Steel Institute v. *OSHA*, 577 F. 2d 825 (3rd Cir., 1978) and the *Society of Plastics Industries* v. *OSHA*, 509 F. 2d 1301 (2nd Cir., 1976). This approach has been rejected in *American Petroleum Institute* v. *OSHA*, 581 F. 2d 4931 (5th Cir., 1978), cert. granted. The Agency has appealed the Fifth Circuit's decision on the basis that the Act and Congressional intent require that employee exposure to carcinogens be reduced to the lowest level feasible.

To summarize, in examining the Record on the generic cancer policy it is clear that the same criticisms of the Secretary's decision-making process are raised which were raised in previous hearings on specific standards. The criticisms fall into three areas: (1) specific disagreements concerning health, technological or economic data, (2) the depth of analysis taken in risk assessment or technology/economic evaluations and (3) the Secretary's decision rule regarding the extent and nature of worker protection required by employers.

The first type of criticism is discussed in other sections of the document. The second type has been explained at great length in this section. The Secretary has always recognized the importance of undertaking risk and technology/economic assessments. However, the depth of such analyses should not be pushed further than the state-of-the-art justifies. The difficulties involved in performing risk assessments, especially for carcinogens, have been enumerated both in this section and in Section VIII. Unlike classic toxic substances, there are no demonstrated safe levels of exposure for carcinogens. Risk estimates for carcinogens involve a wide range of uncertainty. For carcinogens, a single point-estimate of risk may understate or overstate actual cancer risks by orders of magnitude. The actual risk may be factors of 10–10,000 larger or smaller. A single number "best estimate" for risk is therefore not appropriate. Rather, a range of uncertainty must be recognized which constitutes crude guesses as to a probability distribution of risk. Traditional cost-benefit analyses undertaken in welfare economics do not encounter uncertainties of this magnitude. When great uncertainty as to risk exists the decision of what risk accompanies a particular exposure level ceases to become objective in the rigorous scientific sense.

In choosing among alternative strategies to control hazards, more than the costs of control must be taken into account. Technology assessments must include an evaluation of both the technical reliability and comprehensiveness of protection of alternative technological approaches.

A benefit-to-cost ratio, expressed as "lives saved (or cancers prevented) per dollar expended" is the criterion used for cost-effectiveness determination in traditional cost-benefit analyses, but its use is methodologically inappropriate in the control of carcinogens. Traditional cost-benefit criteria are inappropriate decision rules for setting exposure levels, where estimates are highly uncertain and where economic evaluations of alternative control technologies involve wide-ranging differences in reliability and comprehensiveness of protection. In addition, traditional cost-benefit analysis takes no cognizance of equity considerations which are paramount to occupational health regulation.

The Secretary concludes, for all the reasons discussed above, that while a careful examination of the costs and benefits of a proposed regulation may be useful, a cost-benefit decision rule is an inappropriate basis for setting permissible exposure levels of worker exposure to carcinogens.

Relevant to the third criticism, the Secretary's mandate under the OSH Act is clear and specific as to the degree of protection required to be provided to workers from exposure to toxic substances. As long as there are workers faced with a risk of "material impairment", protection must be provided "to the extent feasible." Discretion as to what constitutes material impairment or what is feasible lies with the Secretary and has been shaped by the court decisions. Cancer is an irreversible disease leading to death with no threshold or safe level and thus requires a highly protective approach. In addition, this approach has been successful in protecting employees in the past, has not created significant economic disruption in prior regulations and is consistent with the requirements of the Act.

In conclusion, this process reflects not only the clear legislative mandate discussed above, but also avoids methodological problems which make alternative decision rules inappropriate. Therefore, the final Cancer Policy retains the proposal's provision that worker exposure to confirmed carcinogens is to be reduced to the lowest feasible level taking into account technological and economic considerations.

(8) General Amendments to the Part

The OSHA Cancer Policy establishes procedures for regulating industrial carcinogens designed to streamline the promulgation of standards for hazardous substances. Numerous public comments were received on the advantages of a generic approach to regulating carcinogens. Such a policy would increase the efficiency and consistency of OSHA's rulemaking on carcinogens by resolving certain issues that are routinely raised in individual proceedings based on widely accepted scientific principles and prudent policy judgments. Adopting these principles as a matter of policy will permit more timely issuance of regulations and more effectively utilize agency resources. A more systematic and predictable approach to regulating carcinogens will also provide industry and workers with improved information on future regulatory actions.

A generic policy will thus assure that subsequent regulations achieve a greater overall reduction in the incidence of workplace cancer. (Section II presents a more detailed discussion of the relative advantages of a generic approach to regulating chemical carcinogens).

Industry witnesses argued that by establishing a generic policy, OSHA would not be able to keep pace with the fast-changing science of cancer or technological advances. The principal economic issues centered on concern that OSHA determinations regarding primary control strategies and the role of risk assessments would nullify any future significant developments in respirators that might make them equally as effective as engineering controls or in risk quantification techniques.

OSHA has determined after careful review of the evidence that the current state-of-the-art requires primary reliance on engineering and work practice controls to effectively control exposures to potential occupational carcinogens and on achieving the lowest feasible level to assure maximum health protection. (See discussion above and in Section VD10).

However, the final OSHA Cancer Policy has expanded opportunities for amendment of the policy. The policy provides amendments based on procedures for individual petitions, recommendations of the federal health research institutes, and periodic agency review (at least every three years) to permit consideration of significant scientific and technical advances. (§ 1990.106). Such reviews will assure that any significant unanticipated developments in control technologies or risk methodologies that render current state-of-the-art practices obsolete are not precluded from future consideration. In addition § 1990.145 permits amending the policy in the course of a substance specific rulemaking if substantial new evidence becomes available. Such procedures assure that technological breakthroughs in respirators or scientific advances in risk quantification techniques could be accommodated to the extent appropriate through suitable amendments to the Cancer Policy. The amendment procedures are analyzed in Section IX.D.

(9) The "Snell Report"

The Snell Report (S. III–104 R & S) submitted by the American Industrial Health Council attempted to assess the total cost impact of the carcinogen proposal. OSHA has carefully evaluated both the report and relevant public comments and concluded that the Snell estimates have little predictive value. This conclusion is based on both the particular methodology employed in the study and on conceptual and practical difficulties associated with applying such costing procedures to generic standards in general. OSHA believes that meaningful economic analyses can only be performed for individual regulated substances. The Cancer Policy provides for a careful analysis of exposure levels, costs, and feasibility including technical and economic considerations in the rulemaking proceeding for the regulation of each individual chemical.

The Snell study developed cost estimates for regulating 7 substances and a composite group of pesticides at alternative exposure levels. The case studies used confidential data submitted by producer and user industries. Total cost estimates of the Cancer Policy were extrapolated from this base. The survey data and additional evidence obtained from prior OSHA regulations and public sources were used to deduce estimating factors reflecting compliance costs of regulating the case-study group of chemicals at alternative control levels. These substance-specific cost factors were expressed in terms of a base unit (percent of value of shipments for producer industries and per exposed employee for user industries). Separate cost factors from different data sources were combined with the case study factors in some fashion to produce composite estimating factors for the specific substances. The factors used relied heavily on "study team" judgment rather than on more objective engineering or statistical criteria.

To obtain overall cost estimates for the Cancer Policy required specification of the future number of regulated chemicals and the stringency of permissible exposure limits for Category I Potential Carcinogens. The study developed several regulatory scenarios for these parameters. The number of regulated substances assumed ranged from 38 to 2,415 chemicals. The 2,415 substances include all chemicals on the NIOSH list where there has been any literature reference of possible carcinogenicity. Alternative permissible exposure levels selected were 10 ppm, 1 ppm, and below 1 ppm. Portions of these chemicals groups were designated as Category I or Category II Potential Carcinogens according to certain assumptions. Crude assumptions regarding multiple exposures, substitution possibilities, and technological developments were used to adjust overall coverage (value of shipments and exposed employees) categories for groups of chemicals.

The extrapolation technique used involved multiplying these adjusted values of shipment or exposed employee figures by the appropriate estimating factors, to produce total cost estimates under various regulatory scenarios. Based on this methodology, the study calculated estimates of capital costs ranging from $9 billion to $88 billion and annual costs from $6 to $36 billion depending on assumptions concerning the number of chemicals regulated and levels of engineering control.

A large number of criticisms directed at the Snell Report conclusions took issue with specific technical aspects of the study design, data base, and project implementation. These will be discussed in the following sections.

Numerous data inadequacies undermine the validity of the Snell analysis. The study attempted to project costs from a narrow base of 7 case studies and some additional data to a large universe of chemicals. Given the wide diversity in chemical properties, routes of entry, production processes, and time-weighted exposures, it is not clear whether these 7 substances can be considered representative of the potential chemical population. Snell made no attempts to validate whether these substances were appropriate as proxies for the total universe.

The small sample size and low response rate to the study survey (only 76 questionnaires of the 7,000 printed copies were received from 9 companies) could have introduced serious unkown biases in sample characteristics for substances, industries, exposure levels, processes and other relevant technical determinants of costs.

In addition to potential sample biases, the small size of the primary data base also reduces the statistical reliability of the projections. (In statistical terminology, as the sample size increases, the sample mean approaches the population mean; *Law of Large Numbers.)* Snell agreed in response to oral questions:

A. Dr. Nemec (Snell): "It is correctly stated that as we move further away from the seven case studies, the accuracy of the data base decreases." (Tr. 2850–1)

The importance of sample size for estimation accuracy is accentuated for the user industries which have substantially fewer survey observations but incur approximately 95 percent of the compliance costs. For example, Snell estimated for the medium scenario that producer industry capital costs would total $0.4–$1.1 billion or 2 percent of total capital costs. The other 98 percent ($16–$46 billion) of capital costs would accrue to the user industries. (St. III–104R p. IA–2.)

Witnesses also pointed out weaknesses in the data collection methods used by Snell. Data confidentiality provisions precluded assessment of the reliability of the data base (Tr. 3876–7). The opportunity for independent evaluation of the data set is important given the large variance in compliance costs among substances and within producer and consumer industries and the costing method's dependence on employer-based surveys. Dr. Hazleton, Associate Dean and Professor in the Lyndon B. Johnson School of Public Affairs at the University of Texas, an economic consultant to OSHA, brought out through his questioning (Tr. 3961–2) and also stated in his comments (Ex. 247, p. IV–13, n. 2) that had an appropriate methodology been followed the underlying data could have been made available while confidentiality was maintained.

Dr. Hazleton also criticized the questionnaire language for a design bias which would encourage employers to exaggerate cost impacts. For example, the questionnaire stated that "the proposed regulation would lead to a flurry of regulatory activity" and that an industry committee "believes that the OSHA proposal might result in the improper classification of a substantial number of substances and that the proposal's economic costs might be out of proportion to its possible benefits." (p. IV–11 to 12.)

Although Snell argued that the study employed an engineering approach to estimating costs, they conducted no engineering evaluations of specific control technology, environmental monitoring or analysis of exposure data, which are conventional techniques for engineering analysis. Instead, Snell relied heavily on data supplied by industry in the case studies and questionnaires. No independent

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supportive evidence for evaluating the validity of the cost estimates were collected outside of a few plant visits and contacts with a few suppliers of control technology. (Tr. 3872–8)

The costing methodology primarily assumed that compliance would be achieved by conventional control technology and processes. Retrofit technology often proves to be an expensive control strategy relative to installation of new processes or technologies that are more cost-effective or efficient control strategies. Retrospective studies of the vinyl chloride industry showed that substantially lower compliance costs were achieved through innovative alterations in production processes. (See discussion below.)

Data base problems are further compounded by weaknesses in the techniques used to extrapolate the total cost impacts of the Cancer Policy. These methodological difficulties arise from several sources. First, the estimating factors critical to cost projections (see general discussion above on the Snell study methodology) were not derived in any consistent or explainable fashion. Estimating factors for chemicals were computed separately from the 7 case studies, economic studies prepared for other OSHA regulations, and other survey sources. These separate estimating factors were then combined in some manner to obtain overall estimating factors for individual chemicals. Snell did not take a mean or median figure or utilize some generally recognized engineering or statistical formula. Instead, the overall estimating factors relied heavily on "study team judgment." Snell stated in response to questions:

A. Dr. Nemec (Snell): I would call your attention to Appendix E–1–3 at the bottom of the page we indicate the average and standard deviation as well as the ultimate factor used which is labeled "Study Team Judgment." * * * (Tr. 3939–40)

In addition, differences in data accuracy would seem to dictate that estimating factors derived from the case studies be weighted most heavily. In fact, the overall estimating factors chosen are consistently higher than the mean or median of the estimating factors derived from the case studies. Dr. Hazelton stated,

"In the question period, it was pointed out that the study team judgment in many instances produced a figure which was considerably in excess of the mean or median observation for the case study substances. For example, for Category I substances at a PEL of 10 ppm, the study team judgment is 2.2 percent of the final value of shipments for capital costs in the substance producing industries. Note that as shown in Table 3B above, the mean of the case study observations was 1.4 and the median was 0.9. Recall also the Snell had previously reported that '* * * as we move further away from the seven case studies, the accuracy of the data base declines.' Nonetheless, in this case, as in many others, Snell's judgment appears to have ignored the case study data and to have selected a number which is more representative of additional inputs, in this case selecting 2.2 which is just below the median of the additional inputs. In neither the Snell Study nor the Snell Testimony, does one find any discussion of how these judgments were reached, other than the comment that they represented the collective wisdom of a team of experts." (Ex. 247, IV–25–26; See also Tr. pp. 3954–61).

For the user industries in particular, the average cost factors derived from the case studies are consistently much lower than the aggregate cost factor used. No reason for selecting the cost factors used are supplied despite the fact that the user industry exhibits a greater range of potential cost factor values and user industry estimates dominate the total estimated costs of the proposal. The manner in which these estimating factors were modified to determine ranges of estimates are also not explainable in any consistent fashion.

Witnesses also criticized the value of shipment and number of employee bases. Dr. Hazelton points out that no particular justification is given on the appropriateness of utilizing the value of final shipments and numbers of employees exposed as the base unit for the estimating factors. Possible alternatives, for example, would be pounds of chemicals shipped, or number of workplaces with exposures. Further, because Snell did not supply underlying data, there is no way of analyzing the base choice selected. (Ex. 247, pp. IV–14–15).

These bases were adjusted to reflect alternative regulatory scenarios on the number of chemicals regulated and stringency of control requirements. (See discussion above on general methodology of the Snell Report). Many witnesses criticized the crude assumptions used to develop these scenarios. Particular criticism was directed at assumptions for the number of chemicals regulated, the classification of substances as Category I or II Potential Carcinogens, the 1.5 estimate of multiple exposures, the standardized cost estimates for nonengineering controls in user industries, and various control requirements (e.g., at 10 ppm, 50 percent of employees in user industries would require engineering controls). The particular assumptions used often appeared arbitrary and without much supporting documentation. Some provided unrealistic scenarios of likely regulatory options under the Cancer Policy.

These methodological problems led many witnesses to conclude that the Snell Study estimates could not be interpreted in any meaningful way. The Report of the Regulatory Analysis Review Group submitted by the Council on Wage and Price Stability concluded that "there are a number of major methodological problems with the BAH (Booze Allen & Hamilton or Snell) study which makes it impossible to place great confidence in its results." (Ex. 253, p. 12. Appendix A of the Report analyzes those problems at length.)

Dr. Hazelton came to similar conclusions. he stated:

"Given the reliance on confidential data which was not included in the report, and which was elicited in a manner which would tend to bias upward the estimates; the extreme variation in compliance cost estimates among substances for both the substance producing and using industries; the doubtful basis of the selection of the three scenarios; and the frequent reliance on judgments that are not explained, it is not possible to come to any conclusion about the validity of the Snell compliance cost estimates other than that it would be a mistake to place any reliance on them." (IV–26–27).

Snell submitted two responses to the criticisms dated September 11, 1978 (Ex. 218) and October 23, 1978 (Ex. 251C). Snell argued that its critics misinterpreted the scope and objectives of the report and failed to take into account the limited time available for its preparation. Technical responses were made regarding the choice of estimating factors and the handling of multiple exposures. In its Post Hearing Brief (Ex. 251A), the AIHC industry group stated that the "AIHC does not argue that the Snell estimates are hard numbers upon which regulatory decisions should be made, but rather that they are indicators of the need to take a closer look." (pp. 110–111).

OSHA has carefully reviewed the Snell study and various criticisms of the analysis. This preamble has detailed OSHA's assessment of various technical issues. Based on that review, OSHA agrees with the conclusion of a number of participants that the Snell estimates are unreliable and hold little predictive value as indicators of the likely cumulative cost impact of all future OSHA regulations of carcinogens.

Certain parties to the rulemaking recommended that OSHA perform a more comprehensive economic analysis. (See, for example, the Regulatory Analysis Review Group (Ex. 253) and the AIHC (Ex. 251A)). The agency has declined to do so for three reasons.

First, the Cancer Policy, which is designed to structure and speed-up the regulation of cancer-causing chemicals will not directly impose economic burdens.

Second, while the Cancer Policy will "affect" costs of individual standards (e.g. by requiring primary reliance on engineering controls for Category I Potential Carcinogens), it incorporates the requirement that standards be feasible. Specific determinations of feasibility will be made in the context of individual rulemaking proceedings.

Third, on the basis of careful evaluation of the Snell methodology and alternative techniques, OSHA has determined that it is not possible to estimate meaningful costs for the cancer policy for several reasons.

Both the Snell study and economic studies performed by OSHA for individual substances indicate that cost of compliance estimates for the Cancer Policy and for health standards in general are highly sensitive to the specific values selected for parameters which cannot be reasonably determined at the present time and which can only be resolved during rulemaking proceedings for specific chemicals. These variables include: the number of chemicals regulated, particular chemicals which prove to be carcinogenic, category of regulation, exposure levels established, control strategies, presence of action level or percentage exclusion provisions (see discussion above) and compliance periods.

For example, the incremental annualized costs of compliance for a new acrylonitrile standard varied over 110 percent, from $24 million to $84 million depending on the permissible exposure limit selected. Annualized costs of compliance for the cotton dust standard also varied significantly (by over 175 percent) depending on differences in levels of control. For the Snell study, estimates of the total direct costs of the cancer proposal differed by over 600 percent depending on the number of substances or stringency of control assumed. Snell accepted this point.

Q. "So that in fact there could be a very, very large variation in the estimate, depending upon how all these seven categories were handled."

A. Dr. Nemec (Snell): "Indeed." (Tr. 3868).

Retrospective analysis of the vinyl chloride study performed for OSHA by the same Snell Division illustrates the difficulties involved in projecting reasonably accurate costs to achieve compliance of just one chemical, to a specified control level, in an industry with relatively few plants and similar processes. The Snell vinyl chloride report predicted that the lowest feasible levels which could be achieved for the VCM industry was 2–5 ppm at an estimated direct capital cost of $24 million (Tr. 3896, Ex. 68, Chart (Exhibit) V–4). It estimated that the lowest feasible level achievable in the PVC industry was 10–15 ppm at a direct capital cost of $140 million (Tr. 3896–7, Ex. 68, Chart (Exhibit) V–9). Total costs for the VCM and PVC industries were at these levels estimated at $164 million. Snell also derived a cost estimate for attempting to achieve 1 ppm, which they argued would not be feasible. The estimated $584 million in direct capital costs for the VCM industry to attempt to achieve 1 ppm (Tr. 3898–9; Ex. 69, Chart (Exhibit) V–10). They estimated costs for the PVC industry to attempt to achieve 1 ppm at $1.35 billion (Tr. 3900–3; Ex. 65 Exhibit V–14). In fact, both industries did achieve the 1 ppm level in about three years at a cost of $22 million for the VCM industry (Tr. 3889). The $2 million figure in the transcript should be $22 million—See S. 104 R, pp. VA 14 and 22) and at a cost of $105 million for the PVC industry (Tr. 3889). Therefore, actual cost figures for achieving the 1 ppm control levels selected by OSHA are only about 7 percent of predicted costs, $127 million versus $1.91 billion. In fact, the actual costs to achieve the 1 ppm level were less than the estimates derived by Snell to achieve 2–5 ppm for VCM and 10–15 ppm for PVC.

Snell disputes that their "no detectable level" estimate in the 1974 prospective study was for the 1 ppm level, claiming that the "no detectable level" that they costed out was below 1 ppm. However, at the time of the study, it appeared that 1 ppm and "no detectable" level were in fact similar. The scientific evidence on the state-of-the-art regarding measurements using available sampling techniques was mixed. Some experts indicated that 1 ppm was the lowest readily detectable level then in the factory setting while other experts pointed out that lower levels were measurable in the laboratory setting. The Snell vinyl chloride report uses different formulations in several places. The study conclusions, however, suggest that 1 ppm approximates the "no detectable" level. It states:

"Based on the industry survey and Snell's independent assessments of the state-of-the-art of the technology, it is concluded that achieving 'no detectable' (0–1 ppm) VCM levels in the VCM industry is not feasible principally through engineering means." (Ex. 68, p. VI–1, the same statement is repeated on that page for the PVC industry.)

The evidence and discussion above clearly indicates that it is not possible to estimate with any validity the future costs of regulating a currently unknown number of chemicals to unspecified levels of control.

These uncertainties are further compounded in the final Cancer Policy which establishes a priority system and more flexible, "cost-effective" model standards provisions. The OSHA priority system influences the timing of regulations. The Snell methodology assumed a simple comparative static framework whereby *all* substances for regulation as defined under the various scenarios were assumed to be simultaneously and immediately regulated. While problems exist with this methodology, it could be justified as a reasonable simplifying assumption based on the automatic regulatory requirements triggered by classification of a substance as a Category I or II Potential Carcinogen and the provisions for issuance of final regulations within prescribed timeframes. The fixed baseline established by this methodology can be readily compared with one of "no regulation."

The final Cancer Policy's inclusion of a priority scheme that eliminates automatic regulatory triggers invalidates this simple approach. With a priority system, different baselines for substances would be required to reflect the order and timing of standards issuance. Such baselines simply cannot be reasonably forecast. They would require knowledge of a series of complicated and unknowable issues such as the relative priority for regulation of all currently known and unrecognized serious occupational health hazards, the intertemporal distribution of capital costs, technology life-cycles (both plants and equipment) and future opportunities for technological innovation. The final standard also improves the flexibility and cost-effectiveness of standard provisions, introducting yet more uncertain dimensions into a cost analysis.

Thus, OSHA believes that the total cost impact of future standards issued pursuant to OSHA's Cancer Policy cannot be estimated because of the enormous uncertainties surrounding the set of specific chemical substances (many of which are presently unknown), the exposure level set after feasibility analyses, standards provisions to be established, and the order and timing of future substance-by-substance regulation. There are simply too many

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unknown variables that preclude development of a meaningful system for estimating the cumulative costs of the OSHA Cancer Policy.

These complexities could be even further expanded if OSHA were to attempt to estimate the marginal cost of OSHA's generic approach to regulating carcinogens versus other possible approaches. Since occupational carcinogens would continue to be regulated in the absence of the Cancer Policy, OSHA believes that estimation of incremental costs is conceptually the proper methodology.

Dr. Hazleton, after an extensive analysis of the Snell report for the AIHC, drew similar conclusions:

> "The estimates of direct compliance costs developed by Snell cannot be attributed to generic regulation *per se*, but rather must be viewed as estimates of compliance costs which result from the regulation of occupational carcinogens—whether this regulation occurs under the provisions of OSHA's proposed generic approach or under other procedures. Thus, the Snell cost estimates are not *incremental costs*. In the absence of generic regulatory procedures, it must be assumed that the occupational health objectives mandated by Congress would continue to be addressed by OSHA through a case-by-case approach.
>
> ". . . However, it should be recognized that it is highly unusual to attempt, and extremely difficult in practice to determine the prospective costs of a proposed *policy*, such as is represented by the generic rulemaking, as opposed to specific, proposed *programs*." (Ex. 247, pp. IV–7 to 8)

This incremental methodology would replace the "no regulation" baseline with various scenarios reflecting what OSHA would have done in the absence of a generic regulation. This would be compared with scenarios regarding the future regulatory programs. Although this approach would be conceptually more appropriate than the Snell approach, it would be even more difficult to carry out in a defensible manner. There would be an additional set of essentially unpredictable variables to factor into the analysis. OSHA therefore agrees with Dr. Hazleton's conclusion that such an analysis would be "highly unusual to attempt and extremely difficult in practice to determine."

The serious conceptual difficulties described above confirm OSHA's conclusion that conventional economic analyses would be more usefully performed in the context of individual substance rulemakings. The OSHA Cancer Policy, which is designed to structure and speed-up the regulation of cancer-causing substances, will not directly impose cost burdens. To the extent that it will affect the costs which will be created by individual standards it requires that these costs be feasible for affected industries. The proper approach for analysis of the Cancer Policy involves a discussion of possible policy approaches that could be used in generic regulation. OSHA placed in the Record a Regulatory Analysis of the Cancer Policy on October 24, 1978 which discussed alternative policy approaches and examined several possible classification schemes and parameters used to determine feasibility. The Preamble discusses in detail various alternative approaches for specific issues.

Under the Cancer Policy, OSHA will perform economic studies for individual regulations. Such specific cost analyses will have a better chance of being reasonably accurate, and are directly relevant to the industries and workers being regulated for development of an appropriate regulation, consistent with OSHA's statutory mandate. OSHA believes that such analyses will improve the effectiveness of regulations by assuring that all available and relevant technical, economic and health information will be taken into consideration in the regulatory process.

C. ENVIRONMENTAL CONSIDERATIONS

The OSHA proposal included a Draft Environmental Impact Statement (Ex. 1, 42 FR 54180, et seq.). The draft pointed out that any environmental impact of the OSHA Cancer Policy was primarily limited to the internal or workplace environment. It pointed out that the majority of the proposal's preamble discussed those impacts at length and they were favorable, resulting in a reduction in occupational cancer. The draft incorporated by reference that discussion of the workplace environment.

The Draft Environmental Impact Statement (Draft or DEIS) pointed out that the Cancer Policy did not specify the particular chemicals which were to be regulated. Possible impacts on the external environment, if any, would by and large be dependent on the characteristics of the particular chemicals to be regulated. The Draft further pointed out that because chemicals to be regulated were not specified, attempts to quantify external environmental impacts would be speculative and therefore perhaps not appropriate or required before specific chemicals were proposed for regulation. The Draft noted that investigation of external environmental effects of specific chemicals would be appropriately done at the time a regulation of a chemical was proposed where facts would be available. The proposed Cancer Policy provided that environmental issues, including, of course, the requirements of the National Environmental Policy Act were to be considered during the regulation of individual chemicals.

The Draft did discuss the external environmental effects of some general regulatory provisions. It pointed out that certain types of engineering controls which sealed the carcinogen within the process, tended to improve the external environment by reducing the carcinogen's escape both into the workplace and external environment. However, other types of engineering controls such as ventilation would not improve the external environment (unless, of course, filters of various types were installed). The Draft also discussed the external environmental effects of various control levels and regulations of differing scope.

The Draft requested comments and information on all environmental issues. The proposal also indicated that all possible environmental consequences of the proposed Cancer Policy were an issue in the proceeding and requested comments and data.

OSHA reviewed 52 comments in direct response to the Draft. However, 45 either made no specific comments or stated generally they approved of the Cancer Policy proposal. Only three of the comments referred to traditional environmental concerns (air quality, water quality, waste disposal, etc.) and none presented specific factual information. (The other comments mentioned scientific issues discussed elsewhere in the preamble). However, OSHA received a number of criticisms for not engaging in a more extensive investigation of possible external environmental effect of the Cancer Policy and possible alternatives. (See for example, NRDC, C. II–270, pp. 54–56 and AIHC, Ex. 251A, pp. 82–95)

OSHA decided to undertake a more comprehensive investigation of possible external environmental impacts of its prior carcinogen regulations, the proposed Cancer Policy and various alternatives. The results of that investigation are included in the Final Environmental Impact Statement (FEIS or Final) which has been published. (Copies are available from OSHA's Office of Regulatory Analysis, Rm. N3651 200 Constitution N.W., Washington, D.C. 20210, Tele. (202) 523–7056.)

The following discussion summarizes the FEIS. In large part, the FEIS confirms the conclusions drawn in the Draft; however, certain changes in the final Cancer Policy have been made to make

it more sensitive to environmental concerns. Discussion of the effect the final Cancer Policy and the alternatives will have on the internal or workplace environment are, of course, discussed in other parts of this preamble.

In preparation of the FEIS, OSHA reviewed the external environmental effects of four prior OSHA carcinogen regulations, vinyl chloride, coke oven emissions, benzene and arsenic. A major source of information was EPA studies of the effects those regulations had on the external environment. The EPA studies include, in some cases, engineering studies, computer models, and, in the coke oven case, measurements of the reduction in external emissions from controls installed to meet the OSHA standard.

The results of the study are explained at length in Chapter VI of the FEIS. For example, controls required by OSHA reduced charging emissions from coke ovens by 88% and door leaks by 65% into the external environment. Solvent cleaning installed to meet the OSHA vinyl chloride regulation reduced the need to open the reactor from every batch to once every 80 batches. This reduced vinyl chloride emissions into the external atmosphere from 0.14 to 0.0018 Kg vinyl chloride monomer (the carcinogen) for every 100 Kg of polyvinyl chloride (PVC) produced.

The conclusion of the FEIS is that the four prior OSHA carcinogen regulations had already or would improve the external air quality. The reason for this is that certain types of engineering and work practice controls which enclose the carcinogen within the process equipment, prevent the carcinogen from escaping into the external atmosphere as well as into the workplace environment. Ventilation controls with filters, baghouses or electrostatic precipitators also may benefit the external environment, but they will not, if the ventilation controls do not have filters. Other types of engineering controls such as clean rooms and pulpits, and respiratory protection will not have effects positive or negative on the external environment.

Both the proposed and final Cancer Policy put primary emphasis on the use of engineering controls as the control strategy. The FEIS indicates that this approach is preferable for environmental resources as well as for the other reasons it has been chosen, which are discussed in Sections X–7 and XI of this document.

Since individual regulations issued pursuant to the Cancer Policy will be similar to the four analyzed prior regulations in the emphasis on engineering controls, and in other relevant respects, it is a reasonable prediction that regulation issued under the Cancer Policy will also benefit air quality. This, of course, may not be true in every case. But the environmental impact assessment or statement, which will be carried out for individual regulations, is the appropriate method for identifying exceptions and indicating responses to eliminate problems.

It also is a reasonable generalization that the future OSHA carcinogenic regulations under the Cancer Policy will not have significant effects on water quality or waste disposal as past regulations have not. But exceptions will be appropriately investigated and ameliorative strategies identified during the regulation of specific substances, as provided for by the Cancer Policy.

The FEIS also confirmed the analysis of the Draft that the main focus of environmental investigation must be at the time regulation of specific chemicals is proposed. The FEIS points out that chemicals have different properities and possible external impact are heavily dependent on these particular characteristics. The environmental impacts of regulating gases, liquids and particulates, and chemicals with different toxicities and uses will be different. For example, arsenic is used as a wood perservative. Wood perservatives by extending the life of wood reduce the demands on forest resources and reduce the need to use persistent pesticides. The arsenic FEIS investigated and determined that there would be adequate suppliers of arsenic for this purpose. However, this particular impact is, of course, substance specific to arsenic and could only be determined in an environmental impact statement for a particular chemical.

The FEIS points out that even similar controls for similar processes may have different environmental effects. Copper smelting and coke oven production are both large scale, high temperature operations involving large furnaces. Negative pressure (as a control) while charging coke ovens is environmentally sound. However, negative pressure to reduce arsenic emissions from reverbatory furnaces during copper smelting, may result in increasing sulfur dioxide emissions to the external atmosphere.

Examples like these further indicate that the main thrust of environmental investigation should be at the time that regulation of a specific chemical is proposed. Both the proposed and final Cancer Policy provide that environmental issues are to be considered during the regulation of particular substances.

The Final Environmental Impact Statement examines the possible differential external environmental effects of the proposal and 7 alternatives. The alternatives were the proposals suggested by AIHC, API, DuPont, NRDC and AFL–CIO–USW. It also included an analysis of an "integrated" alternative, which is very similar to the final Cancer Policy and a "no action" alternative. The FEIS identifies nine areas of possible differential external environmental effects. These were speed of regulation, predictability, priorities, control level, control methodologies, suitable substitutes action levels, percentage exclusions and model standards. It then examines the possible differential external environmental effects of the proposal and the 7 alternatives in each of the areas. The following discussion briefly summarizes the FEIS findings in each area and OSHA's response in the final Cancer Policy.

The FEIS analysis indicated that the proposal, NRDC, AFL–CIO and integrated alternative would result in quicker regulation than the DuPont AIHC, or API alternatives. The DuPont and AIHC alternative provide for an additional stage, the scientific panel, which would slow the regulatory process as would the API's lack of clear classification scheme. Regulation of occupational carcinogens is likely to benefit the external environmental as well as the work place environment, as discussed above. Therefore the final Cancer Policy and those alternatives which are likely to lead to a quicker regulatory response are likely to be more beneficial to the external environment overall.

The FEIS indicates that more predictable regulation is likely to increase voluntary control actions before regulation is completed and that this may benefit the external environment. The proposal and all the alternatives except the API and "no action" alternative are likely to be advantageous in this respect. Their relatively concrete classification schemes will improve the predictability of regulatory response. Of course, the final Cancer Policy also has a specific classification framework.

The Final Environmental Impact Statement analysis indicates that a priorities system, which the alternatives had, but which was not included in the proposal, would benefit the external environment. The final Cancer Policy, as discussed in Sections IX-G and XI of the preamble, includes a priorities system. There are many reasons for the inclusion of a priorities system in the

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final Cancer Policy, including its beneficial environmental effects.

The final Cancer Policy has also specifically incorporated external environmental effects as one of the factors to be considered in setting priorities for the regulation of occupational carcinogenesis. See § 1990.132(b)(4).

Lower exposure levels may be more beneficial to the external air quality if, they are achieved through engineering controls. The FEIS indicated that those controls which will tend to result in lower workplace exposures will tend to reduce external emissions more. (There may be possible exceptions which must be determined for each substance.) The final Cancer Policy and those alternatives which set the lowest feasible exposure level may therefore have advantages in this respect over the alternatives which set an exposure level based on cost-benefit analysis.

As discussed above, certain types of engineering controls will provide significant benefits to the external environment. The final Cancer Policy, the proposal, the NRDC, and the AFL–CIO–USW alternatives place a greater emphasis on engineering controls than the other alternative, though all alternatives suggest that there should be a reference for engineering controls.

The final Cancer Policy provides that environmental issues are to be considered in the regulation of specific carcinogens. The FEIS indicates that some types of engineering controls have greater benefits to the external environmental than others. This is one of the issues which may be considered in a substance specific rulemaking as an environmental issue.

The FEIS indicates that in some circumstances substitution will benefit the external environment and in other situations it will not depending on the qualities of the substitute. This issue is appropriately considered in the context of the regulation of a specific chemical where substitution in proposed, as is permitted by the final Cancer Policy.

Most of the alternatives recommended the inclusion of action levels and percentage exclusions, lower level cut-offs below which most or all of the provision of a standard do not apply. The proposal did not include either of the concepts. The analysis in the FEIS indicated that in some circumstances action levels (and percentage of exclusions) may benefit the external environment and in other circumstances they do not.

One example discussed in the FEIS where an action level benefited the external environment is in the case of vinyl chloride. The standard provided that if exposures were kept below one-half the permissible exposure level, then the provisions of the regulation did not apply. As a result manufacturers of PVC developed better stripping techniques to reduce the residual carcinogenic monomer from the PVC plastic. In consequence, fabricators of the plastic could keep exposures of their workers below the action level and there was less residual monomer to escape into the external atmosphere.

OSHA has in the final Cancer Policy made it an issue whether an action level or percentage exclusions should be included in the regulation of individual substances. At that time, environmental considerations will be one factor which may be taken into account in determining whether the inclusion of an action level or percentage exclusion is appropriate.

The FEIS points out that in some circumstances provisions of the model standard will have no effects on the external environment and in other circumstances they may improve it. This needs to be considered in the context of a proposed regulation of a specific chemical.

In conclusion, OSHA has prepared a Final Environmental Impact Statement. Environmental considerations have been taken into account in the preparation of the Cancer Policy and will be taken into account in the issuance of individual standards pursuant to the Cancer Policy.

XII. OTHER ISSUES NOT DISCUSSED ELSEWHERE IN THIS PREAMBLE

A. RISK ASSESSMENT (§ 1990.111(j))

Risk assessments may involve two elements: the qualitative identification of the existence and nature of a risk, and the quantitative estimation of its possible magnitude and likely distribution among exposed persons. The nature of the risk assessment possible will necessarily vary from substance to substance. The scientific bases for quantitative estimates of the cancer risks to workers exposed to potential occupational carcinogens are reviewed in detail in Section VIII. On the basis of voluminous expert testimony in the Record, OSHA concluded that the uncertainties involved in such estimates are far too large to justify using them as the basis for setting a permissible exposure limit, (see sections VIII and XI.) This conclusion was well illustrated by the more than million fold variation in the estimates of risks presented by various scientific authorities for risks to workers exposed to vinyl chloride at the OSHA standard of 1 ppm. Nevertheless, OSHA concluded that risk assessments may be useful for two purposes: (a) to predict relative risks of different carcinogens when extensively studied as the basis for establishing priorities; (b) to estimate reduction in risks as a result of regulatory action, when adequate data exist to assess the role of the many factors that lead to uncertainties.

Accordingly, in appropriate circumstances, OSHA will attempt to make both qualitative and quantitative assessments of risk for individual substances where available data permit. In light of our interpretation of the Act and because of the enormous uncertainties involved in risk estimation, which are fully discussed in Section VIII, OSHA's estimates of possible risk will not be used to justify the establishment of any particular permissible exposure level, or to imply that any level of risk is judged to be "acceptable." It is clear from the evidence presented in the Record that at the present stage of scientific development, such estimates are so uncertain that reliance on a numerical cost/benefit calculation to set permissible exposure levels would be misleading. OSHA's assessments of risk will instead be intended to provide very rough estimates of the possible magnitude of the risks that may remain even after exposure has been reduced to the lowest feasible level. Such information will be of use for a number of purposes: to judge the likely effectiveness of the regulation and OSHA's compliance with the Act; to inform workers of possible risks and employers of possible liabilities; to help determine the need for long-term follow up of exposed workers; and, in cases in which residual risks appear high, to prompt a search for more effective control measures and for suitable substitutes. OSHA is aware that understatement of residual risk would be very dangerous. Accordingly, OSHA will use prudent and cautious techniques of risk estimation which will be designed to avoid understating the risks. In particular, for the reasons specified in detail in Section VIII, OSHA will use conservative mathematical techniques to extrapolate risks to low doses, and will use cautious assumptions if extrapolation from animals to humans is attempted. If risk estimates are based on human epidemiologic data, prudent and cautious assessments of exposure levels will be used, and attempts to extrapolate from partial-lifetime data to estimate lifetime risk will be made, except in cases in which there are insufficient data to support such calculations.

B. SUITABLE SUBSTITUTES (§1990.111(k))

The Cancer Policy proposal included a requirement providing for no occupational exposure to Category I toxic substances where suitable substitutes exist that are less hazardous to humans. The "no occupational exposure requirement" proposed was not intended to be a ban on the use of the material. The substance could still be used, if necessary, utilizing a truly closed system. The basis for this provision is the widely accepted scientific conclusion that at the present time there is no satisfactory scientific way for demonstrating a safe level of exposure to a carcinogen (42 FR 54174). Therefore it is prudent public health policy to eliminate occupational exposure when suitable substitutes exist.

There was substantial comment on this requirement. The Natural Resources Defense Council recommended that no occupational exposure be permitted to carcinogens when safer substitutes were available, because of the generally accepted scientific principle that there is no safe level of exposure to a carcinogen. In addition, it recommended that no occupational exposure be permitted to a carcinogen, even if there were no suitable substitute, if that chemical does not have critical importance. However, it suggested that OSHA, in general, define the terms used in greater detail (C. II–270, p. 38; P.H. Brief, Ex. 268, p. 40; Tr. 6316–19).

The AFL–CIO and USW also supported this proposal. They pointed out the importance of substitution as a control technology (P.H. Brief, Ex. 261, pp. 96–99) and quoted from Dr. Melvin First, an industrial hygiene expert testifying for the American Petroleum Institute, who stated:

> "For an airborne carcinogen? I think we all agree that the first step is to see if there are suitable substitutes which are not carcinogenic and do not have other undesirable properties. This is a concept which has enormous appeal to our field of endeavor because it is such a neat and beautiful way to solve a problem." (Tr. 6862–3)

Mr. Mark Stepp, UAW, recommended substitution and engineering controls as the most effective control strategies (Tr. 5725).

Dr. Samuel Epstein pointed out that because of risks from carcinogens, claims that they serve unique purposes should be critically examined, and that even it they are useful, consideration should be given to banning or requiring their use in a closed system with continuous monitoring (S. V–37, p. 66). Dr. Sidney Wolfe (HRG) proposed that since there is no safe level of exposure to a carginogen, zero exposure should be the norm, with a permit system to prevent unnecessary use (Tr. 6452–54).

DuPont (S. III–134) discussed their own internal policy for controlling occupational exposures and recommended an alternative to OSHA's policy. Although they questioned OSHA's legal authority to require no occupational exposure when suitable substitutes exist (p. ii), they stated that they "are committed to closing down any process when safe operation is not possible." (p. 2) They discussed in Appendix B, pp. 3–8, their efforts to control a chemical, HMPA. Initially they controlled exposure to 100 ppb (parts per billion). Later animal data indicated that HMPA caused malignant tumors at very low exposures and immediate efforts were taken to reduce exposure within one year to 0.5 ppb. In addition a 4-year program to develop and replace HMPA with a suitable substitute was commenced. Dupont stated that this program has been successful.

A number of the industrial participants at the hearing criticized the suitable substitutes provision. These criticisms were summarized at considerable length in AIHC's Post Hearing Brief (Ex. 251A, pp. 68–81). These participants believed that OSHA did not adequately define the term "suitable substitute." They argued that if no occupational exposure was permitted, when substitution was technically possible but much more expensive and less satisfactory technically, great disruption would be created. Further it was pointed out that even a truly closed system would result in some exposure. As analytic techniques constantly improve, the no occupational exposure limit would, they believed, be a constantly shifting requirement. Further, they argued that market forces would lead to substitution anyway, if truly suitable substitutes existed for a carcinogen.

A number of companies and industry representatives discussed what they considered to be the results of setting a "no occupational exposure" level for specific chemicals. They suggested that in some circumstances great disruption would be created because there was no technically satisfactory substitute. In the case of other chemicals, they suggested that substitution was technically acceptable but would either be very expensive or moderately expensive. A number of the specific examples presented are discussed below.

The Snell Report (S. III–104 R&S, Ex. 66) presented by the AIHC, considered several specific instances of possible substitution. It concluded that:

> • • • Substitution potential varies with the specific applications for each substance. Complex technical and economic issues are involved in each substitution situation. A simple cost trade-off can influence the substitution potential if compliance costs raise the price sufficiently to motivate or shift to alternative chemicals. Substitution however, would be dramatically costly and disruptive if forced where no technological alternative exists. • • • (Ex. 66, p. 25)

Snell also concluded that,

> Substitution efforts, required or encouraged under this proposal, will require increased research and development efforts and a significant amount of time to accomplish. To the extent this occurs it can have a major negative effect on innovation. (S. III–104R, ID–2)

The attorneys for AIHC argued that OSHA does not have legal authority to set a "no occupational exposure" level. They contended that this is tantamount to a ban of a product. (Ex. 251A, p. 68 et seq.) They stated that there was no express language in the OSHA Act referring to banning substances and argued that statutes which permit bans contain express authority. They also contended that the suitable substitute provision in the proposal was too vague and that there were other legal problems with the proposal.

The AFL–CIO and United Steel Workers attorneys argued that OSHA does have legal authority to set a "no occupational exposure level" for a carcinogenic chemical if a suitable substitute exists (Ex. 261, p. 98 et seq.). They stated that substitution is a well recognized control procedure authorized by § 6(b)(7) of the OSHA Act.

OSHA has considered the extensive factual, policy and legal arguments on this point and the evidence presented. OSHA has concluded that substitution is the most effective control for occupational carcinogens and that it should be encouraged where it is feasible through a requirement for "no occupational exposure". OSHA believes that much of the criticism of such a policy was based on a misunderstanding. The proposal did not intend to encourage substitution by setting a "no occupational exposure level" where substitution is not feasible, just as engineering controls would not be imposed if they were not feasible. Further, neither the proposal nor the final regulation permit a "no occupational exposure" level to take effect until after a full hearing takes place, where all evidence will be carefully considered. The langunge of

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the suitable substitutes sections has been changed to clarify the intent and to respond to the valid criticisms and suggestions made.

Substitution has always been considered the preferred control strategy for toxic or carcinogenic substances. It completely eliminates the hazard without extensive control devices and eliminates the possibility of unintended exposures from the breakdown of equipment. This control strategy is even more desirable in the case of carcinogens, where there is a substantial body of opinion that there is no completely safe level of exposure. See the discussion above, in Section V.D. 10.

The desirability of substitution of safer alternatives for toxic chemicals has been the first principle of industrial hygiene for many years. The industrial hygiene witnesses at this hearing reaffirmed this principle in their testimony, as analyzed in the engineering controls discussion in Section X. This testimony included that of industrial hygiene experts, such as Dr. First, who were invited to testify by industry. DuPont also pointed out that substitution is the appropriate approach when a chemical cannot be used safely as the HMPA example indicates.

Encouraging substitution by setting a "no occupational exposure level" when suitable substitutes are available is permitted and encouraged by the OSHA Act. It is a "control * * * procedure" authorized by § 6(b)(7) designed to encourage "the highest degree of health and safety protection for the employee" as mandated by § 6(b)(5) of the OSHA Act. It is feasible because before this control strategy may be implemented by this regulation, the evidence on the record must show that substitution is "feasible" as is also required by the Act. This control strategy does not ban the use of the carcinogenic chemical. While it encourages substitution by setting the "no occupational exposure" level, it does permit its use if the employer is able to design and prefers to use closed system engineering control technology to achieve this level of exposure, as it is defined below. However, the feasibility of the no occupational exposure level is judged by the feasibility of substitution, not by whether the employer may be able to design a truly closed system.

One of the criticisms of the proposal was that the term "suitable substitute" was too vague. Paragraph 1990.111(k) in the final regulation expressly clarifies that the determination of whether a suitable substitute exists requires consideration of the following factors.

Consideration must be given to evidence on the safety of the substitute. Data that would indicate this might be, for example, no valid positive tests indicating carcinogenicity of the substitute and a negative result in an animal test or several negative short term tests of the substitute. Consideration would also be given to the comparative acute and chronic toxicity of the carcinogenic chemical and the substitute, and other relevant factors, such as environmental factors.

Secondly, consideration must be given to the technical feasibility of the substitute including its relative effectiveness. A substitute, to be technically suitable, must perform reasonably well in the relevant functions. It need not, however, have the same performance characteristics of the chemical that it would be a substitute for, nor perform equally well in every aspect. This is essentially a factual determination and the examples discussed below provide good illustrations of what are and what are not technically suitable substitutes.

Thirdly, the economic cost of substitution must be considered. If the substitute is only moderately more expensive for a high or low volume chemical, then substitution is likely to be feasible. Similarly, if the substitute is substantially more expensive, but the chemical only makes up a small part of the cost of the final product, then substitution is also likely to be feasible. In these circumstances there are not likely to be major impacts on users. However, if the proposed substitute is substantially more expensive and makes up a large part of the cost of the final product then substitution may not be economically feasible. Also, if many of the producers of the product can switch to producing the substitute, or if its production is not the major part of most producers' product lines, then substitution is likely to be feasible in this respect. However, if most producers cannot switch to other products and it is a major part of most producers' product lines, then in some circumstances substitution may not be feasible.

The Cancer Policy makes no final determination on these issues for specific chemicals. Ultimate decisions will be based on all the facts involving a particular substance after a full hearing. Other factors may be relevant depending on the facts of a particular situation; the examples discussed below illustrate these criteria.

Consideration of the feasibility of the substitute also is to take into account the amount of capital investment needed to switch to the substitute and the time needed to install new equipment in an orderly fashion. These factors can often be met by permitting a reasonable phase-in time period for switching to the substitute. Sections 1990.111(k) and 1990.146(1) require that consideration be given to these matters and that a reasonable time period be set for substitution before the "no occupational exposure" requirement takes effect.

Industry representatives presented a number of examples of substitution which they argued indicated that "the no occupational exposure when suitable substitutes exist" provision would be unworkable. However, proper analysis of those examples, based upon the criteria for determining whether suitable substitutes exist which are set forth in the final regulation, shows that the suitable substitute provision is a sensible and feasible method of protecting employee health. The specific industry contentions of damaging consequences from substitution only occur in situations where no suitable substitutes in fact exist. In those circumstances, this regulation would not set a "no occupational exposure" limit and therefore those alleged difficulties would not occur. (The discussion of the following examples is not meant to imply that the chemicals considered would or would not be found to be potentially carcinogenic. They are discussed because various witnesses presented them as examples where substitution would be difficult.)

The example presented by the Refractories Institute was use of coal tar pitch in the manufacture of furnace linings and muds for sealing blast furnaces. According to the Institute, substitutes dramatically shorten the life of furnaces between relinings and could lead to unsafe blowouts of blast furnaces. If this evidence is correct, then clearly the substitutes are not suitable substitutes technically, and a "no occupational exposure" standard for coal tar pitch in these uses would not be permitted by this regulation. Dr. Knowlton of the Refractories Institute testified that there was no suitable substitute for coal tar pitch in the above uses (Tr. 6458).

A similar analysis applies to the examples presented in the Charles H. Kline & Co. study presented by Shell (S. III–83). They stated that the presently conceivable substitutes which might replace phenolic resins in the manufacture of plywood are much weaker and are not nearly as weather resistant. If that is true, then there would not be any technically suitable substitute for phenolic resins made from benzene, and there would be no basis for setting a "no occupational exposure level" for the benzene used for the purpose. Consequently, the drastic consequence discussed by Kline from the "banning" of benzene in that use would not occur.

The other examples in the Kline study also appear to represent situations where suitable substitutes do not exist at the present time and therefore the regulation would not permit setting a "no occupational exposure" level. This was recognized by Shell itself. Dr. Sagenkahn of Shell stated in regard to the plywood example that "the intent here was really to show what the extreme could be." (Tr. 5586). This further response was also made:

> Q. "Don't you think it would have been a more useful analysis (referring to the Kline study) if instead of taking situations where there really are not feasible substitutes and giving the analysis of them, you would have taken situations that would have been more arguably the case that there were feasible substitutes, to see what the effect of such a provision would be."
>
> A. Dr. Sagenkahn: "Well, I would agree that might have been useful, but we could not perceive in advance what the result might be. You must remember that what we did is we went out and we asked people what they thought might happen so we could not know in advance that we either picked a good or bad example, and I agree that if we had found something where there was a suitable substitute, that might have been something in the other direction." (Tr. 5587)

The Snell Report's (S. III–104 R, S) discussion of substitution also provides some useful illustrations of the suitable substitutes requirement. Tetrachlorethylene (perchlorethylene) is widely used as a drycleaning agent and degreaser. In those uses the lowest technically feasible level of control appears at this time to be relatively high, in the multiparts per million. Many employees (and others) are exposed to this compound. If studies clearly indicate that tetrachlorethylene is a Category I carcinogen,[1] then it would seem approriate to reduce exposures below the level technically achievable with engineering controls.

Fluorocarbon drycleaning agents seem to have advantages and disadvantages in comparison with tetrachlorethylene, but overall appear to be reasonably suitable substitutes technically, at least as indicated by the discussion in Snell. Reasonable evidence of their safety and their permissibility under other acts and regulations would have to be considered before analysis of their suitability as substitutes would be taken further.

However, the Snell Report indicates it would cost approximately $30,000 in capital expenditures per average drycleaning establishment to switch. Many such establishments are small businesses and Snell suggests it would be difficult for them to raise the necessary capital even though the substitution might result in increased productivity. If this information supplied by Snell is correct, then there would be some feasibility questions about the suitability of the substitute. At the § 6(b) hearing on the regulation all the information on this point would be considered. The evidence might indicate that substitution would be feasible if a sufficiently long switchover time were permitted. (If replacement by a safer process takes place when equipment is normally replaced, then the actual additional cost of the switch may be small.) Alternatively, the evidence presented might indicate that another course of action was more appropriate.

Another example presented by Snell was n-propanol. Here for some uses the substitutes were, in Snell's opinion, clearly technically feasible, and Snell did not indicate that any major economic dislocation would occur from the switch. The substitutes are somewhat more expensive than n-propanol, but the substitutes are just a small part of the cost of the ultimate product. (If a substance which represents 1% of the cost of a final product goes up 25%, then the cost of the final product goes up an insignificant ¼ of 1%). A few chemical companies would have to switch production of one of their chemical lines, or the business of some would go down a small amount, balanced by a small increase in the business of other chemical companies, with no net employment changes. If the evidence indicates that n-propanol is a Category I Carcinogen and the evidence presented by Snell is correct on the feasibility of substitutes, then it appear that this may be a situation where it would be appropriate to permit no occupational exposure for some uses of n-propanol because suitable substitutes are available. This is an hypothetical analysis based on the data submitted by Snell. Obviously if a standard were proposed, the factual situation would be investigated in detail.

In summary then, OSHA believes that the criteria included in this final regulation for determining whether a "no occupational exposure" requirement shall issue for a use of a Category I carcinogen are clear, specific and reasonable. This is illustrated by the examples and discussion above. Further no determination to issue such a requirement will occur before an opportunity for an extensive evidentiary hearing. Therefore the criteria set forth in this section will be applied in the context of an extensive factual record which will give additional meaning to the issues and terms. In view of the substantial health benefits of encouraging substitution for carcinogenic chemicals where a safe level of exposure cannot be demonstrated, and in view of the detailed analysis that the final regulations requires to assure that the "no occupational exposure level" will only be set when it is feasible, OSHA has concluded that the "no occupational exposure" requirement will substantially improve occupational health, is feasible and will not have the negative effects alleged by some witnesses.

Some participants to this proceeding urged that OSHA go further than its proposal. Dr. Epstein recommended banning carcinogens in some circumstances (S.66). The Health Research Group recommended a permit system (Tr. 6452–54) and the NRDC recommended setting a "no occupational exposure" level even when suitable substitutes were not available, if the substance was not of crucial national importance (II–270, p. 38). NRDC noted that there is some legal authority which supports their suggested course of action. See *AFL–CIO* v. *Brennan*, 530 F.2d 109,121 (3d Cir., 1975).

For the reasons discussed in this section OSHA believes the provisions on suitable substitutes included in the final cancer policy are the most appropriate at this time. They will improve workers' health and will not create the administrative difficulties of a permit system or require consideration of the extent to which the social utility is relevant to OSHA standards setting. Therefore, it has not been necessary for OSHA to consider what additional authority it might have in this area. If there are circumstances in the future where the factual situation, additional policy considerations, or experience with the provision promulgated, indicate that directly banning a substance or creating a permit system might be warranted, OSHA will then consider whether either of these actions is authorized and appropriate. Any proposal premised on these options would of course be subject to the close scrutiny of full rulemaking proceedings.

There was a final major criticism of the "no occupational exposure" requirement, that the proposal had not adequately defined what OSHA meant by that level, except to say that a "truly closed system" must be used. Some also argued that without defining the concept

[1] This discussion should not be taken to indicate that the studies indicate or do not indicate that it is, but is rather a hypothetical discussion of substitutability based on evidence submitted by the AIHC.

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of "no occupational exposure", the level set would be a constantly moving target as analytic techniques improved.

OSHA does not believe that the concept of a closed system is as elusive as some industry representatives have argued. Duncan Holaday, an industrial hygienist, testified that it was a term which was meaningful, and he gave examples (Tr. 2755–2760).

However, OSHA accepts the arguments that to be workable and enforceable, a numerical value must be set for the level of a substance which satisfies the requirement of "no occupational exposure." OSHA has considered several possible generic definitions, but has concluded that circumstances are likely to be different for different substances and that a specific upper limit should be set for each substance, on the basis of evidence generated in the record of the specific rule-making. In general, the simplest operational definition would be the lowest level detectable in an industrial environment with existing analytical technology. OSHA anticipates that in most cases such a level will be established on the basis of evidence in the record. However, there may be circumstances in which the analytical methodology is poorly developed, and such a level might not be low enough. In such a case OSHA might set a lower level based on other concrete and specific methodology, e.g., by the use of tracers or surrogate substances.

Section 1990.146(1) requires that an employer who chooses not to use the suitable substitute, must achieve compliance with the level set for the carcinogen with engineering and work practice controls alone. As discussed in Section X, respirators are a much less satisfactory method to control exposures for carcinogens. When a suitable substitute exists, it is inappropriate to permit the employer to achieve compliance with respirators.

The Snell Report suggested (S. III–104R, p. ID–2) that encouraging substitution would require increased research and development efforts and would have a negative effect on innovation. OSHA hopes that this requirement will indeed encourage additional research on safer substitutes and enhance technological innovation. OSHA believes that increased research and development on safer chemicals is extremely important, and to the extent this provision encourages it, OSHA believes that this is a further justification for it.

The second part of the Snell statement is speculation. Snell presented no evidence at all on how increased safety regulation has stifled innovation. Indeed, the only concrete evidence in this record indicates to the contrary. As a result of the OSHA vinyl chloride standard, industry increased research, which resulted in the development of better stripping techniques (methods of removing the carcinogenic monomer from the final product) and safer and more efficient production techniques. These facts were acknowledged by Snell itself at the hearing. After a lengthy discussion of the vinyl chloride example, the following question and answer took place.

Q. "So as a result of OSHA pushing the chemical companies, we have now developed better technology at low cost to achieve low levels."

A. Mr. Grisser (Snell): "That is correct." (Tr. 3908)

It is OSHA's understanding that a number of those newly developed techniques have proved useful in controlling exposures to acrylonitrile at lower cost as well.

Several witnesses stated that market forces will tend to lead to voluntary substitution when low levels of exposure are needed for one chemical and a safer, suitable substitute is available. That is certainly correct. However, the dangers from carcinogens are great and the advantages of substitution as a control strategy are substantial, as discussed above. Therefore, OSHA believes it is appropriate to go somewhat further than market forces to encourage substitution, even though, for example, the substitute may be somewhat more costly than the carcinogen after controls are instituted.

Finally, it has been argued that the "no occupational exposure" provision of this regulation is somehow inconsistent with Section 6 of the Toxic Substances Control Act (TSCA). The contention made is that since TSCA gives the EPA authority to ban the production and use of a chemical which creates unreasonable risk of injury to health, it is inconsistent that OSHA have authority to "ban" a substance. OSHA finds no inconsistency between TSCA and the "no occupational exposure when a suitable substitute exists" provision of the Cancer Policy final standard. First, the OSHA regulation does not ban a substance, but generally sets exposure at the lowest detectable level. Secondly, nothing in the OSHA regulation would prevent the EPA from banning the production and use of the chemical under TSCA criteria, if they were met. Third, no regulatory conflict would result if OSHA set a "no occupational exposure level", and EPA decided not to prohibit the manufacture of the substance. It could still be manufactured under the OSHA regulation, but employees could not be exposed above the "no occupational exposure level" set.

It is also contended (AIHC, Post Hearing Brief, Ex. 251A, pp. 79–80) that the pre-marketing notification requirements of section 5 of TSCA would make it impossible to introduce a suitable substitute in the time frames required by OSHA regulations. Section 5 of TSCA requires manufacturers to notify EPA prior to the introduction of a new chemical or in some circumstances a new use of an old chemical. In certain circumstances, the manufacturer must undertake testing and submit the new test data. In other circumstances the EPA may request an injunction to prevent the use of a chemical presenting an unreasonable risk of injury.

There is no inconsistency between the TSCA and the OSHA Act and the Cancer Policy final standard in this respect. Section 1990.111(k) provides that the time permitted before the no occupational exposure requirement takes effect must be sufficiently long to take into account regulatory requirements such as the provisions of TSCA. Further, any such regulation will by law have to be contingent on EPA not taking action to prevent the use of the substitute. If for some reason EPA takes action to prevent the new use of the suitable substitute, then the "no occupational exposure limitation" of the standard would not take effect since no suitable substitute would exist. In practice it would be unlikely that EPA would make a determination that a chemical, which OSHA has found to be a suitable substitute, presented an unreasonable risk of injury. OSHA will take into account evidence of the safety of the substitute before setting a no occupational exposure level.

C. POLICY OF AT "NO COST" TO EMPLOYEES

OSHA is explicity incorporating in the Cancer Policy the regulatory policy that where employers are required to provide medical surveillance and/or personal protective equipment in standards initiated pursuant to this Cancer Policy, that these medical examinations or protective equipment be provided at no cost to the employee.

The requirement that these protective elements be provided at "no cost" to employees was included in the relevant model provisions in the proposal. This aspect of these provisions generated virtually no comment.

Most standards regulating exposure to toxic substances, including carcinogens have incorporated such provisions. See e.g. for medical surveillance;

§ 1910.1017(k), vinyl chloride;
§ 1990.1018(1)(ii), inorganic arsenic;
§ 1910.1028(1)(ii), benzene;
§ 1910.1029(j)(1)(iv), coke oven emissions. As to personal protective equipment, see the following:
§ 1910.1016(j)(1), inorganic arsenic;
§ 1910.1044(j)(1), DBCP; and
§ 1910.145(j)(1), acrylonitrile.

The reasons for adopting this as policy for medical surveillance, are the following. Congress has instructed OSHA that where appropriate "standards shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at his cost, to employees exposed to such hazards in order to most effectively determine whether the health of such employees is adversely affected by such exposure" (§ 6(b)(7)).

OSHA believes that this statutory mandate alone, is a sufficient basis upon which to declare that medical surveillance must be provided without cost to employees. In any event, even without such explicit authority, it would be appropriate to impose this requirement in order to effectuate complete medical surveillance, and hence to further the purposes of the Act. The agency found in the recent lead rulemakings that a primary reason that many employees were reluctant to participate in medical surveillance programs was the fear of resulting adverse economic consequences, such as transfers or job termination. (See preamble to the lead standard, 43 FR at 54442–54450).

Employees may also be reluctant to participate in medical examinations because cancer is a particularly feared disease. Given these existing disincentives to employee participation in medical examination programs, it plainly would be counterproductive to add yet another—the cost of the examinations themselves. Consequently, if the medical surveillance provisions under the Cancer Policy are to provide meaningful employee protection, employers must bear the costs.

Similarly, the cost of personal protective equipment could be an economic disincentive to employees which would reduce the efficacy of personal protective equipment provisions. Such protection is of course an essential element of an occupational health program designed to eliminate exposure to carcinogens, and thus specifically required when appropriate, under section 6(b)(7).

OSHA notes that the proposition that the cost of employee protection against occupational health hazards is properly placed on the employer has received significant judicial endorsement. (See most recently *AFL-CIO* v. *Marshall* s78–1562 U.S.C.A. D.C. Slip at 79.) It is also consistent with Congressional recognition that the primary responsibility for compliance with the Act is on the employer (Leg. Hist. 150–151).[1]

Finally, the requirement that employers pay for protective equipment is a logical corollary of the accepted proposition that the employer must pay for the institution of required engineering and work practice controls. To the extent that protective equipment like engineering controls, is intended also to protect against airborne contamination, employers logically must pick up the expense. There is no rational basis for distinguishing the use of personal protective equipment to protect against other means of contamination such as spills, or protect against other routes of exposure (absorption, rather than inhalation). The goal, in each case, is employee protection; consequently, the responsibility of paying for the protection should, in each case rest on the employer. Based on our review of this record, our recent experience with other health standards, and our evaluation of what is necessary and appropriate to effectuate the statutory purposes, we conclude that the proper approach for the agency on the promulgation of new standards is to require employers to pay for all personal protective equipment.

D. MEDICAL REMOVAL PROTECTION

A medical examination may reveal that an employee should be removed from an area where there is the possibility of contact with a carcinogen. It may also reveal that an employee should not wear a respirator, which he may need to wear because he is assigned to an area with high exposure levels of the carcinogen. Medical removal protection (MRP) would provide that when an employee has to be removed from his assigned work area in these circumstances, the employer must assure that the employee receives the same rate of pay and does not lose seniority. The employer may do this by assigning the employee to another area where exposures are lower and by maintaining the employee's pay and seniority from his old position until such time as the employee's condition improves.

Union representatives pointed out the importance of medical removal protection in this proceeding (Ex. 184–c, pp. 3–4). Employees might refuse to take medical examinations because they would fear that an adverse medical opinion could result in loss of employment. As a result, the purpose of the medical surveillance requirements would be defeated and early detection of illness would, too often, not occur.

OSHA agrees with the importance of not creating disincentives to taking medical examinations. Medical removal protection has been included in two recent OSHA standards, lead and cotton dust, where a substantial amount of evidence was introduced on how to appropriately design a medical removal protection program.

The Cancer Policy proposal concentrated on scientific, industrial hygiene and procedural issues, and did not specifically raise the issue of MRP. Relatively little data was introduced into the record to assist in designing an MRP program. Therefore, OSHA believes that it would not be possible to include MRP in the final Cancer Policy at this time.

However, medical removal protection may be included in proposals for the regulation of individual carcinogens pursuant to the Cancer Policy as an additional regulatory provision which is appropriate in the specific circumstances of that chemical. In addition, OSHA is investigating the possibility of proposing a general medical removal protection regulation which would apply to toxic and carcinogenic chemicals. During a rulemaking on such a proposal it would be possible to concentrate on MRP and to design an effective program based on a careful review of the relevant information.

E. ALTERNATIVE PROPOSALS

This preamble is organized by issue. Each section discusses the proposals' provisions, the evidence and views presented and OSHA's conclusions on each issue. In addition, several participants submitted comprehensive alternative approaches. The major provisions of the alternatives are considered under the appropriate issues and the regulatory aspects of the proposal and alternatives are summarized in the Final Environmental Impact Statement. This section gives a brief overview of the major alternatives, a summary of OSHA's views on their major provisions and cross references to other sections of the preamble which discuss those issues in depth.

[1] The Act's overriding purpose is to "assure so far as possible every working man and woman in the nation safe and healthful working conditions." Section 2(b) of the Act, 29 U.S.C. s651(b) 1979. See also Legis. Hist. at 1050–51 (remarks of Sen. Eagleton) (costs of health and safety standards are reasonable and necessary costs of doing business); id. at 1051 (remarks of Rep. Broomfield) workers should not suffer while labor and industry argue).

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The major alternative approaches were submitted by the American Petroleum Institute and the American Industrial Health Council. Dupont's is similar to AIHC's. Union and environmental groups supported OSHA's proposal in large part but made varying suggestions on the different components.

API's Alternative

The API's approach provided no formal categorization scheme. Instead API suggested that OSHA perform extensive evaluations using all scientific evidence and risk-benefit data on substances with carcinogenic potential to establish overall priorities for regulation. The extent and kind of regulation would also be based on the result of the risk assessment.

Rather than classification criteria, API also suggested that a "hierarchy of results" of animal and human evidence should be considered as "guidelines" for priorities and classifications. All scientific information and policies would be evaluated prior to the regulation of each chemical.

OSHA believes that risk assessment may provide some assistance in setting priorities. OSHA, in response to suggestions by API and many others, has adopted a prioritization framework. These issues are discussed in Sections VIII, IX and XIIB.1 and 7. Also, OSHA believes that by leaving open for reconsideration all scientific policies during the regulation of each chemical, the API approach will not increase the speed of the regulatory process, a necessary goal of this policy as discussed in Section II.

Rather than adopting consistently applicable criteria, API suggested a "summary judgment" type of proceeding in each rulemaking. OSHA would accompany proposed standards with statements of 1) uncontroversial material facts and 2) material issues not currently susceptible to factual resolution. Parties could dispute these conclusions by submitting supporting evidence. OSHA would determine whether its motion for summary judgment had been effectively opposed. To the extent it had not been effectively opposed, OSHA could regard the issue as settled. Judicial review of OSHA's denial of an opposition to OSHA's summary judgment would lie at the time of appeal of the final standard.

OSHA believes the "summary judgment" procedure is less appropriate and less fair than "generic rulemaking" to apply policy to the regulation of carcinogens. A summary judgment procedure is inappropriate to establish broad general scientific policies because less scientific expertise can be concentrated on the issues. Also, it would be more difficult for parties interested only in the policy to participate, and the application of a policy may vary from proceeding to proceeding.

The API alternative recommended a more flexible approach to the inclusion of model standards provisions for particular chemicals. This would depend on the specific characteristics of each substance. OSHA has incorporated many of these suggestions into the final Cancer Policy as is discussed in Section X A.

AIHC's Alternative

AIHC's process to identify carcinogens would be conducted by a Scientific Review Panel, which was outside OSHA and was composed of both governmental and non-governmental experts. OSHA did not accept this suggestion, because it believed it was a non-accountable process, inconsistent with the legislative history, and for legal reasons. These are discussed in Section IX.C.

The panel, the sole body authorized to scientifically evaluate evidence, could propose revisions of AIHC's categorization scheme or criteria, which would then be subject to APA informal rulemaking.

Classification of carcinogens under the AIHC scheme would be based on generically determined criteria. Three categories were suggested. Category I was "known human carcinogens." Category II was "confirmed animal carcinogens." Classification in Category II would require positive animal tests in two different species where "excessive doses" were not administered and there was "an appropriate route of administration." Within categories I and II were subcategories depending on the "potency" of the carcinogen. Category III would include chemicals for which animal bioassays show positive results but do not meet Category II criteria.

OSHA believes that its classification framework has a sounder scientific basis. See the discussions in Sections V.D. 3, 8 & 9, VIII, and IX. F.

The AIHC recommended that there be no required regulatory response. The decision to issue an ETS upon Category I classification, was to be made "as soon as possible." It would turn on whether OSHA decided a "grave danger" under § 6(c) existed. If an ETS did not issue, a proposal for a permanent § 6(b) standard would be considered. It would depend on OSHA's regulatory priorities, and whether OSHA decided that a standard was "necessary" to protect employees. The determination of "necessity" would hinge on risk/benefit analysis.

The permissible exposure limit in the AIHC alternative would be based on the concept of an "acceptable" exposure level derived from risk/benefit analysis. Risk/benefit analysis also would be used in considering each regulatory provision in a proposal. To the extent AIHC's scheme relies on risk assessment and risk/benefit analysis to set exposure levels, the discussion in Sections VIII and XI is applicable.

The final Cancer Policy includes some provisions similar to AIHC's suggestions. The issuance of ETS's would depend on the specific circumstances (§ IX. H.). A priorities system has been included and risk assessment data is one factor to be taken into account in setting those priorities (§ IX. 6.).

AFL–CIO–USWA Alternative

AFL–CIO–USWA generally endorsed OSHA's classification system and criteria. They recommended as an additional classification basis for Categories I and II, evidence showing the component's ability to metabolize in the body to a confirmed carcinogen. This has been incorporated in the Cancer Policy. See S. 1990. 143(k). Metabolism is discussed in Section V.D. 13.

OSHA's proposed Category I response was endorsed. An alternative response to Category II classification utilizing hazard alerts, program directives and enforcing under the general duty clause of Section 5(a) of the Act was suggested. OSHA has not included the latter suggestion in the framework of the Cancer Policy. However it has been considering modifying its enforcement policies to utilize similar strategies pursuant to the OSH Act.

The NRDC Alternative

NRDC endorsed in general OSHA's proposal. However, NRDC urged that a priority system be established to first control those substances posing the greatest carcinogenic risk. NRDC also urged that the generic scientific policies be separately listed and that specific amendment procedures be articulated in the Cancer Policy itself. These suggestions, also made by other participants, have been adopted. See the discussions in § IX. D, E, G, & I.

OSHA appreciates the participants who submitted alternative comprehensive approaches. They have assisted OSHA in modifying the proposal to achieve a more effective final Cancer Policy. Some of the provisions of the various alternatives have been incorporated into the final policy and others have not, depending on the scientific evidence and OSHA's policy judgments discussed in this preamble.

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XIV. AUTHORITY

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, and by Anson M. Keller, the Special Assistant for Legal and Regulatory Policy for the Occupational Safety and Health Administration and Grover C. Wrenn, Jr., Director of Federal Compliance and State Programs (formerly Director of Health Standards Programs) for the Occupational Safety and Health Administration, U.S. Department of Labor, 3rd Street and Constitution Ave., N.W., Washington, D.C. 20210.

The Federal Register has been requested to officially file this document at 1 p.m. E.S.T. on January 18, 1980 which shall be the time of issuance of this document as provided by 29 CFR § 1911.18. The time of issuance is the earliest moment that petitions for review may be filed with United States Courts of Appeals.

Accordingly, pursuant to sections 4(b), 6(b), 8(c) and 8(g) of the Occupational Safety and Health Act of 1970 (84 Stat. 1592, 1593, 1599; 29 U.S.C. §§ 653, 655, 657), the Secretary of Labor's Order 8–76 (41 FR 25059) and 29 CFR Part 1911, Chapter XVII of Title 29, the Code of Federal Regulations is hereby amended by adding a new health standard and procedural regulation for the Identification, Classification and Regulation of Potential Occupational Carcinogens, as Part 1990.

Signed at Washington, D.C., this 16th day of January, 1980. This amendment is effective on April 21, 1980.

Ray Marshall,

Secretary of Labor.

Eula Bingham,

Assistant Secretary of Labor for Occupational Safety and Health.

PART E. REGULATORY TEXT

A new Part 1990 is added to Title 29 of the Code of Federal Regulations, reading as follows:

PART 1990—IDENTIFICATION, CLASSIFICATION, AND REGULATION OF POTENTIAL OCCUPATIONAL CARCINOGENS

General

Sec.
1990.101 Scope.
1990.102 Purpose.
1990.103 Definitions.
1990.104 Scientific review panel.
1990.105 Advisory committees.
1990.106 Amendments to this policy.

The OSHA Cancer Policy

1990.111 General statement of regulatory policy.
1990.112 Classification of potential carcinogens.

Priority Setting

1990.121 Candidate list of potential occupational carcinogens.
1990.122 Response to petitions.
1990.131 Priority lists for regulating potential occupational carcinogens.
1990.132 Factors to be considered.
1990.133 Publication.

Regulation of Potential Occupational Carcinogens

1990.141 Advance notice of proposed rulemaking.
1990.142 Initiation of a rulemaking.
1990.143 General provisions for the use of human and animal data.
1990.144 Criteria for consideration of arguments on certain issues.
1990.145 Consideration of substantial new issues or substantial new evidence.
1990.146 Issues to be considered in the rulemaking.
1990.147 Final action.

Model Standards

1990.151 Model standard pursuant to section 6(b) of the Act.
1990.152 Model emergency temporary standard pursuant to section 6(c) of the Act.

Authority: Secs. 4(b), 6(b), 8(c) and 8(g) (84 Stat. 1592, 1593, 1599, 1599; 29 U.S.C. §§ 653, 655, 657), The Secretary of Labor's Order 8–76 (41 FR 25059) and 29 CFR Part 1911, Chapter XVII of Title 29.

General

§ 1990.101 Scope.

This Part establishes criteria and procedures for the identification, classification, and regulation of potential occupational carcinogens found in each workplace in the United States regulated by the Occupational Safety and Health Act of 1970 (the Act). The procedures contained in this Part supplement the procedural regulations in other parts of this Chapter. In the event of a conflict, the procedures contained in this Part shall govern the identification, classification, and regulation of potential occupational carcinogens. This Part may be referred to as "The OSHA Cancer Policy."

§ 1990.102 Purpose.

The Act provides, among other things, that "the Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his or her working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. Whenever practicable, the standard promulgated shall be expressed in terms of objective criteria and of the performance desired" (section 6(b)(5)). It is the purpose of the regulations of this Part to carry out the intent of the Act with respect to the identification, classification, and regulation of potential occupational carcinogens.

§ 1990.103 Definitions.

Terms used in this Part shall have the meanings set forth in the Act. In addition, as used in this Part, the following terms shall have the meanings set forth below:

"Act" means the Occupational Safety and Health Act of 1970 (Pub. L. 91–596, 84 Stat. 1590 *et seq.*, 29 U.S.C. 551 *et seq.*).

"Administrator of EPA" means the Administrator of the United States Environmental Protection Agency, or designee.

"Chairperson of CPSC" means the Chairman of the United States Consumer Product Safety Commission, or designee.

"Commissioner of FDA" means the Commissioner of the Food and Drug Administration, United States Department of Health and Human Services, or designee.

"Director of NCI" means the Director of the National Cancer Institute, United States Department of Health and Human Services, or designee.

"Director of NIEHS" means the Director of the National Institute of Environmental Health Sciences, United States Department of Health and Human Services, or designee.

"Director of NIOSH" means the Director of the National Institute for Occupational Safety and Health, United States Department of Health and Human Services, or designee.

"Secretary of HHS" means the Secretary of the United States Department of Health and Human Services, or designee.

"Mutagenesis" means the induction of heritable changes in the genetic material of either somatic or germinal cells.

"Positive results in short-term tests" means positive results in assays for two or more of the following types of effect: (1) the induction of DNA damage and/or repair; (2) mutagenesis in bacteria, yeast, *Neurospora* or *Drosophila melanogaster*; (3) mutagenesis in mammalian somatic cells; (4) mutagenesis in mammalian germinal cells; or (5) neoplastic transformation of mammalian cells in culture.

"Potential occupational carcinogen" means any substance, or combination or mixture of substances, which causes an increased incidence of benign and/or malignant neoplasms, or a substantial decrease in the latency period between exposure and onset of neoplasms in humans or in one or more experimental mammalian species as the result of any oral, respiratory or dermal exposure, or any other exposure which results in the induction of tumors at a site other than the site of administration. This definition also includes any substance which is metabolized into one or more potential occupational carcinogens by mammals.

§ 1990.104 Scientific review panel.

(a) *General.* At any time, the Secretary may request the Director of NCI, the Director of NIEHS and/or the Director of NIOSH to convene a scientific review panel ("the panel") to provide recommendations to the Secretary in the identification, classification, or regulation of any potential occupational carcinogen.

(b) *Membership.* The panel will consist of individuals chosen by the respective Director(s). The panel will consist of individuals who are appropriately qualified in the disciplines relevant to the issues to be considered, and who are employed by the United States. The panel does not constitute an advisory committee within the meaning of sections 6(b) or 7(b) of the Act, or the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770).

(c) *Report.* The Secretary shall request that the panel submit a report of its evaluation within ninety (90) days after the appointment of the members of the panel. The Secretary shall place a copy of the report in the record of any relevant rulemaking undertaken pursuant to this Part and allow an appropriate time for public review and comment. If a panel is not established or fails to file a timely report, or if the Secretary determines that it is necessary to proceed without waiting for the panel's report, the Secretary may proceed in making any determination without such report.

(d) *Other aid and assistance.* Nothing herein precludes the Secretary from obtaining advice or other aid from any person or organization including NCI, NIEHS, and NIOSH.

§ 1990.105 Advisory committees.

The Secretary may appoint an Advisory Committee, pursuant to sections 6(b) and 7 of the Act, and 29 CFR Part 1912, concerning any potential occupational carcinogen. The Secretary shall require the Advisory Committee to submit its recommendations to assist the Secretary in standard setting no later than ninety (90) days from the date of the Advisory Committee's appointment, unless extended by the Secretary for exceptional circumstances. If an Advisory Committee fails to file a timely report, the Secretary may proceed in standard setting activities without such a report.

§ 1990.106 Amendments to this policy.

(a) *Initiation of review of this policy.*—(1) *Secretary's request.* No later than every three (3) years from the effective date of this Part, or from the last general review, the Secretary shall request the Director of NCI, the Director of NIEHS and/or the Director of NIOSH, to review this Part and render their opinions on whether significant scientific or technical advances made since the effective date of this Part warrant any amendment to this Part. The request shall ask that the answer be provided to the Secretary within one hundred twenty (120) days.

(2) *Recommendations by the institutes.* At any time, the Director of NCI, the Director of NIEHS and/or the Director of NIOSH may submit recommendations to the Secretary for amendments to this Part whenever any of them believes that scientific or technical advances justify such amendments.

(3) *Petitions from the public.* (i) Any interested person may petition the Secretary concerning amendments to this Part based upon substantial new issues or substantial new evidence.

(ii) For the purposes of this Part, substantial new evidence is evidence which differs significantly from that presented in establishing this Part, including amendments.

(iii) For the purposes of this Part, substantial new issues are issues which differ significantly from those upon which the Secretary has reached a conclusion in the rulemaking establishing this Part (including the conclusions reached in the preamble).

(iv) Each petition to amend this part shall contain at least the following information:

(A) Name and address of petitioner;

(B) The provisions which the petitioner believes are inappropriate;

(C) All data, views and arguments relied upon by the petitioner; and

(D) A detailed statement and analysis as to why the petitioner believes that the data, views and arguments presented by petitioner:

(i) Constitute substantial new issues or substantial new evidence; and

(ii) Are so significant as to warrant amendment of this Part.

(b) *Response to recommendations and petitions.*—(1) *By the institutes.* Whenever any Director recommends an amendment to this Part, the Secretary shall, within one hundred twenty (120) days after receipt of the recommendation, publish in the Federal Register, a notice which (i) states the reasons why the Secretary has determined not to commence a rulemaking proceeding to amend this Part, in whole or in part, at that time; or (ii) commences a rulemaking proceeding to consider amending this Part accordingly; or (iii) appoints an Advisory Committee as provided for by § 1990.105 of this Part and sections 6(b) and 7 of the Act.

(2) *By the public.* Within ninety (90) days, or as soon thereafter as possible, after receipt of a petition pursuant to section 1990.106(a)(3), the Secretary shall: (i) refer the petition to the Director of NCI, the Director of NIEHS and/or the Director of NIOSH, in which case the provisions of §§ 1990.106 (a) and (b)(1) are applicable; or (ii) appoint an advisory committee; (iii) deny the petition, briefly giving the reasons therefor; or (iv) commence a rulemaking proceeding to consider amending this Part accordingly.

(3) *On the Secretary's motion.* At any time, the Secretary may, on his own motion, commence a rulemaking proceeding to amend this Part.

The OSHA Cancer Policy

§ 1990.111 General statement of regulatory policy.

(a) This Part establishes the criteria and procedures under which substances will be regulated by OSHA as potential occupational carcinogens. Although the conclusive identification of "carcinogens" is a complex matter "on the frontiers of science," (*IUD* v. *Hodgson* 499 F. 2d 467, 474 (D.C. Cir. 1974)), responsible health regulatory policy requires that criteria should be specified for the identification of substances which should be regulated

as posing potential cancer risks to workers.

(b) The criteria established by this Part are based on an extensive review of scientific data and opinions. The Part provides for amending these criteria in light of new scientific developments. Decisions as to whether any particular substance meets the criteria or not will be consistent with the policies and procedures established by this Part and will be based upon scientific evaluation of the evidence on that substance.

(c) This Part applies to individual substances, groups of substances, or combinations or mixtures of substances which may be found in workplaces in the United States. In individual rulemaking proceedings under this Part, the identity and range of substances and mixtures to be covered by the standard will be specified and the appropriateness of applying the available evidence to the range of substances and mixtures proposed for regulation will be subject to scientific and policy review.

(d) Potential occupational carcinogens will be identified and classified on the basis of human epidemiological studies and/or experimental carcinogenesis bioassays in mammals. Positive results in short term tests will also be used as concordant evidence.

(e) Potential occupational carcinogens will be classified and regulated in accordance with the policy. The scientific evidence as to whether individual substances meet these criteria will be considered in individual rulemakings. The issues which may be considered in these rulemakings will be limited as specified herein.

(f) This policy provides for the classification of potential occupational carcinogens into two categories depending on the nature and extent of the available scientific evidence. The two categories of potential occupational carcinogens may be regulated differently.

(g) The policy establishes a procedure for setting priorities and making them public.

(h) Worker exposure to Category I Potential Carcinogens will be reduced to the lowest feasible level, primarily through the use of engineering and work practice controls. This is predicated in part upon the finding that no methods have been demonstrated for establishing exposure levels for carcinogens, acting singly or in combination, below which risks to exposed workers would be absent.

(i) Worker exposure to Category II Potential Carcinogens will be reduced as appropriate and consistent with the statutory requirements on a case-by-case basis in the rulemaking proceedings on individual substances. Any permissible exposure level so established shall be met primarily through engineering and work practice controls.

(j) The assessment of cancer risk to workers resulting from exposure to a potential occupational carcinogen will be made on the basis of available data. Because of the uncertainties and serious consequences to workers if the estimated risk is understated, cautious and prudent assumptions will be utilized to perform risk assessments. The form and content of the risk assessment will thus depend on the Secretary's judgment of the available data.

(k) Where the Secretary determines that one or more suitable substitutes exist for certain uses of Category I Potential Carcinogens that are less hazardous to humans, a no occupational exposure level shall be set for those uses, to be achieved solely through the use of engineering and work practice controls to encourage substitution. In determining whether a substitute is suitable, the Secretary will consider the technological and economic feasibility of the introduction of the substitute, including its relative effectiveness and other relevant factors, such as regulatory requirements and the time needed for an orderly transition to the substitute.

§ 1990.112 Classification of potential carcinogens.

The following criteria for identification, classification and regulation of potential occupational carcinogens will be applied, unless the Secretary considers evidence under the provisions of §§ 1990.143, 1990.144 and 1990.145 and determines that such evidence warrants an exception to these criteria.

(a) *Category I Potential Carcinogens.* A substance shall be identified, classified, and regulated as a Category I Potential Carcinogen if, upon scientific evaluation, the Secretary determines that the substance meets the definition of a potential occupational carcinogen in (i) humans, or (ii) in a single mammalian species in a long-term bioassay where the results are in concordance with some other scientifically evaluated evidence of a potential carcinogenic hazard, or (iii) in a single mammalian species in an adequately conducted long-term bioassay, in appropriate circumstances where the Secretary determines the requirement for concordance is not necessary. Evidence of concordance is any of the following: positive results from independent testing in the same or other species, positive results in short-term tests, or induction of tumors at injection or implantation sites.

(b) *Category II Potential Carcinogens.* A substance shall be identified, classified, and regulated as a Category II Potential Carcinogen if, upon scientific evaluation, the Secretary determines that: (i) the substance meets the criteria set forth in § 1990.112(a), but the evidence is found by the Secretary to be only "suggestive"; or (ii) the substance meets the criteria set forth in § 1990.112(a) in a single mammalian species without evidence of concordance.

Priority Setting

§ 1990.121 Candidate list of potential occupational carcinogens.

(a) *Contents.* The Secretary shall prepare a list of substances (the "Candidate List") which are reported to be present in any American workplace and which, on the basis of a brief scientific review of available data, may be considered candidates for further scientific review and possible regulation as Category I Potential Carcinogens or Category II Potential Carcinogens. For the purposes of this paragraph, "available data" means:

(1) The data submitted by any person;

(2) Any data referred to by the Secretary of HHS or by the Director of NIOSH, either in the latest list entitled "Suspected Carcinogens" or any other communication;

(3) Literature referred to in U.S. Public Health Service, Publication No. 149;

(4) Data summarized and reviewed in Monographs of the International Agency for Research on Cancer (IARC) of the World Health Organization;

(5) The Toxic Substances Control Act Inventory of Chemical Substances, published by the Administrator of EPA;

(6) The Secretary of HHS's Annual Report to the President and the Congress as required by the Community Mental Health Centers Extension Act of 1978, sec. 404(a)(9), 42 U.S.C. sec. 285.

(7) Any other relevant data of which the Secretary has actual knowledge.

(b) *Tentative classification.* The Secretary may tentatively designate substances on the Candidate List as candidates for classification as Category I Potential Carcinogens or as Category II Potential Carcinogens, or may list substances without a tentative designation, based on the brief scientific review of available data for the purpose of initiating a more extensive scientific review.

(c) *No legal rights established.* The inclusion or exclusion of any substance from the Candidate List shall not be subject to judicial review nor be the basis of any legal action, nor shall the exclusion of any substance from the list prevent the regulation of that substance as a potential occupational carcinogen. The inclusion of a substance on the Candidate List and its possible tentative designation as a Category I Potential Carcinogen or a Category II Potential Carcinogen therein do not reflect a final scientific determination that the substance is, in fact, a Category I Potential Carcinogen or a Category II Potential Carcinogen. It is a policy determination based on the brief scientific review that the Secretary should conduct a thorough review of all relevant scientific data concerning the substance.

§ 1990.122 Response to petitions.

Whenever the Secretary receives any information submitted in writing by any interested person concerning the inclusion or omission of any substance from the Candidate List, the Secretary shall briefly review the information and any other available data, as defined in § 1990.121(a). The results of the Secretary's review shall be transmitted to the petitioner, together with a short statement of the Secretary's reasons therefor, and made public upon request.

§ 1990.131 Priority lists for regulating potential occupational carcinogens.

The Secretary shall establish two priority lists for regulating potential occupational carcinogens. One list should include approximately ten (10) candidates for rulemaking as Category I Potential Carcinogens; the other approximately ten (10) candidates for rulemaking as Category II Potential Carcinogens. The order of placement of substances on these lists will not reflect the Secretary's determination of the exact order in which these substances should be regulated in rulemaking proceedings but rather a policy determination that the Secretary plans to address some or all of these substances prior to proceeding with a thorough scientific review of data concerning other substances on the Candidate List. The inclusion or exclusion of any substance on these lists shall not be subject to judicial review or be the basis for any legal action. The Secretary may regulate a potential occupational carcinogen which has not been placed on these lists. The inclusion of a substance on either of these lists does not reflect a final scientific determination that the substance is, in fact, a Category I Potential Carcinogen or a Category II Potential Carcinogen.

§ 1990.132 Factors to be considered.

(a) The setting of priorities is a complex matter which requires subjective and policy judgments. It is not appropriate to establish a rigid formula or to assign predetermined weight to each factor. The identification of some of the elements is to guide the OSHA staff and inform the public on the development of priorities. It is not intended to create any legal rights with respect to the setting of priorities.

(b) Some factors which may be taken into account in setting priorities for regulating potential occupational carcinogens, when such data are available, are:

(1) The estimated number of workers exposed;

(2) The estimated levels of human exposure;

(3) The levels of exposure to the substance which have been reported to cause an increased incidence of neoplasms in exposed humans, animals or both;

(4) The extent to which regulatory action could reduce not only risks of contracting cancer but also other occupational and environmental health hazards;

(5) Whether the molecular structure of the substance is similar to the molecular structure of another substance which meets the definition of a potential occupational carcinogen;

(6) Whether there are substitutes that pose a lower risk of cancer or other serious human health problems, or available evidence otherwise suggests that the social and economic costs of regulation would be small; and

(7) OSHA will also consider its responsibilities for dealing with other health and safety hazards and will consider the actions being taken or planned by other governmental agencies in dealing with the same or similar health and safety hazards.

§ 1990.133 Publication.

(a) The Secretary shall publish the Candidate List in the **Federal Register** at least annually.

(b) The Secretary shall publish the Priority Lists in the **Federal Register** at least every six months and may seek public comment thereon.

(c) The Secretary may periodically publish in the **Federal Register** a notice requesting information concerning the classification and establishment of priorities for substances on the Candidate List together with a brief statement describing the type of information being sought.

Regulation of Potential Occupational Carcinogens

§ 1990.141 Advance notice of proposed rulemaking.

(a) Within thirty (30) days after OSHA initiates a study concerning the economic and/or technological feasibility of specific standards that might be applied in the regulation of a potential occupational carcinogen, the Secretary will normally publish, in the **Federal Register**, a notice which includes at least the following:

(1) The name of the substance(s),

(2) The scope of the study, including where possible, (i) affected industries, (ii) levels of exposure being studied, (iii) the anticipated completion date of the study;

(3) A brief summary of the available data on health effects;

(4) An estimate of when the Secretary anticipates the issuance of a proposal;

(5) An invitation to interested parties to provide relevant information;

(6) A statement that persons wishing to provide OSHA with their own study should complete it within 30 days after the anticipated proposal date; and

(7) A statement of the procedural requirements that must be met before substantial new issues or substantial new evidence will be considered in the proceeding pursuant to § 1990.145.

(b) Where the Secretary determines to discontinue a feasibility study, the Secretary should publish, within 30 days, a notice in the **Federal Register** so indicating.

§ 1990.142 Initiation of a rulemaking.

Where the Secretary decides to regulate a potential occupational carcinogen, the Secretary shall initiate a rulemaking proceeding in accordance with one of the following procedures, as appropriate.

(a) *Notice of proposed rulemakings (Section 6(b) of the Act).*—(1) *General.* The Secretary may issue a notice of proposed rulemaking in the **Federal Register**, pursuant to Section 6(b) of the Act and Part 1911 of this Chapter. The notice shall provide for no more than a sixty (60) day comment period, and may provide for a hearing, which shall be scheduled for no later than one hundred (100) days after publication of the Notice of Proposed Rulemaking. The commencement of the hearing may be postponed once, for no more than thirty (30) days, for good cause shown.

(2) *Provisions of the proposed standard for Category I Potential Carcinogens.* Whenever the Secretary issues a notice of proposed rulemaking to regulate a substance as a Category I Potential Carcinogen:

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(i) The proposed standard shall contain at least provisions for scope and application, definitions, notification of use, a permissible exposure limit, monitoring, regulated areas, methods of compliance including the development of a compliance plan, respiratory protection, protective clothing and equipment, housekeeping, waste disposal, hygiene facilities, medical surveillance, employee information and training, signs and labels, recordkeeping, and employee observation of monitoring as set forth in § 1990.151, unless the Secretary explains why any or all such provisions are not appropriate;

(ii) The model standard set forth in § 1990.151 shall be used as a guideline, and

(iii) The permissible exposure limit shall be set as low as feasible, to be achieved primarily through engineering and work practice controls, except that if a suitable substitute is available for one or more uses, no occupational exposure shall be permitted for those uses.

(3) *Provisions of the proposed standard for Category II Potential Carcinogens.* Whenever the Secretary issues a Notice of Proposed Rulemaking to regulate a substance as a Category II Potential Carcinogen:

(i) The proposed standard shall contain at least provisions for scope and application, definitions, notification of use, monitoring, respiratory protection, protective clothing and equipment, housekeeping, waste disposal, medical surveillance, employee information and training, recordkeeping and employee observation of monitoring as set forth in § 1990.151, unless the Secretary explains why any or all such provisions are not appropriate; and

(ii) The model standard set forth in § 1990.151 shall be used as a guideline; and

(iii) Worker exposure to Category II Potential Carcinogens will be reduced as appropriate and consistent with the statutory requirements on a case-by-case basis in the individual rulemaking proceedings. Any permissible exposure level so established shall be met primarily through engineering and work practice controls.

(b) *Emergency temporary standards.* (Section 6(c) of the Act).

(1) *General.* The Secretary may issue an Emergency Temporary Standard (ETS) for a Category I Potential Carcinogen in accordance with section 6(c) of the Act.

(2) *Grave Danger.* Employee exposure to Category I Potential Carcinogens constitutes a "grave danger" within the meaning of section 6(c) of the Act.

(3) *Provisions of the ETS.* (i) The ETS shall contain at least provisions for scope and application, definitions, notification of use, a permissible exposure limit, monitoring, methods of compliance including the development of a compliance plan, respiratory protection, protective clothing and equipment, housekeeping, waste disposal, medical surveillance, employee information and training, signs and labels, recordkeeping and employee observation of monitoring, unless the Secretary explains why any or all such provisions are not appropriate.

(ii) The model standard set forth in § 1990.152 shall be used as a guideline.

(iii) The permissible exposure limit shall be set as low as feasible through any practicable combination of engineering controls, work practice controls and respiratory protection.

§ 1990.143 General provisions for the use of human and animal data.

Human and animal data which are scientifically evaluated to be positive evidence for carcinogenicity shall be uniformly relied upon for the identification of potential occupational carcinogens. Arguments challenging the following provisions or their application to specific substances will be considered in individual rulemaking proceedings only if the evidence presented in support of the arguments meets the criteria for consideration specified in § 1990.144 or § 1990.145.

(a) *Positive human studies.* Positive results obtained in one or more human epidemiologic studies will be used to establish the qualitative inference of carcinogenic hazards to workers.

(b) *Positive animal studies.* Positive results obtained in one or more experimental studies conducted in one or more mammalian species will be used to establish the qualitative inference of carcinogenic hazard to workers. Arguments that positive results obtained in mammalian species should not be relied upon will be considered only if evidence is presented which meets the criteria for consideration specified in § 1990.144(c) or 1990.144(f).

(c) *Non-positive human studies.* Positive results in human or mammalian studies generally will be used for the qualitative identification of potential occupational carcinogens, even where non-positive results from human studies exist. Such non-positive results will be considered by the Secretary only if the studies or results meet the criteria set forth in § 1990.144(a).

(d) *Non-positive animal studies.* Positive results in one or more mammalian studies will be used for the qualitative identification of potential occupational carcinogens, even where non-positive studies exist in other mammalian species. Where non-positive and positive results exist in studies in the same species, the non-positive results will be evaluated.

(e) *Spontaneous tumors.* Positive results in human or mammalian studies for the induction or acceleration of induction of tumors of a type which occurs "spontaneously" in unexposed individuals will be used for the qualitative identification of potential occupational carcinogens.

(f) *Routes of exposure.* (1) Positive results in studies in which mammals are exposed via the oral, respiratory or dermal routes will be used for the qualitative identification of potential occupational carcinogens, whether tumors are induced at the site of application or distant sites.

(2) Positive results in studies in which mammals are exposed via any route of exposure and in which tumors are induced at sites distant from the site of administration will be used for the qualitative identification of potential occupational carcinogens.

(3)(i) Positive results in mammalian studies in which tumors are induced only at the site of administration, in which a substance or mixture of substances is administered by routes other than oral, respiratory or dermal, will be used as "concordant" evidence that a substance is a potential occupational carcinogen.

(ii) Arguments that such studies should not be relied upon will be considered only if evidence which meets the criteria set forth in § 1990.144(b) is provided.

(g) *Use of high doses in animal testing.* Positive results for carcinogenicity obtained in mammals exposed to high doses of a substance will be used to establish the qualitative inference of carcinogenic hazard to workers. Arguments that such studies should not be relied upon will be considered only if evidence which meets the criteria set forth in § 1990.144(d) is provided.

(h) *"Threshold" or "No-effect" Levels.* No determination will be made that a "threshold" or "no-effect" level of exposure can be established for a human population exposed to carcinogens in general, or to any specific substance.

(i) *Benign tumors.* Results based on the induction of benign or malignant tumors, or both, will be used to establish a qualitative inference of carcinogenic hazard to workers. Arguments that substances that induce benign tumors do not present a carcinogenic risk to workers will be considered only if evidence that meets the criteria set forth in § 1990.144(e) is provided.

(j) *Statistical evaluation.* Statistical evaluation will be used in the determination of whether results in human, animal or short-term studies provide positive evidence for carcinogenicity, but will not be the exclusive means for such evaluation.

(k) *Carcinogenicity of metabolites.* A substance which is metabolized by mammals to yield one or more potential occupational carcinogens will itself be identified and classified as a potential occupational carcinogen, whether or not there is direct evidence that it induces tumors in humans or experimental animals. Evidence for such metabolism will normally be derived from *in vivo* studies in mammals. In appropriate circumstances, evidence may be derived from *in vitro* studies of mammalian tissues or fractions thereof. Arguments that evidence from *in vivo* metabolic studies in mammals is not relevant to the inference of carcinogenic hazard to humans will be considered only if such evidence meets the criteria set forth in § 1990.144(c).

§ 1990.144 Criteria for consideration of arguments on certain issues.

Arguments on the following issues will be considered by the Secretary in identifying, classifying or regulating any substance pursuant to this Part, if evidence for the specific substance subject to the rulemaking conforms to the following criteria. Such arguments and evidence will be evaluated based upon scientific and policy judgments.

(a) *Non-positive results obtained in human epidemiologic studies.* Non-positive results obtained in human epidemiologic studies regarding the substance subject to the rulemaking or to a similar or closely related substance will be considered by the Secretary only if they meet the following criteria:

Criteria. (i) The epidemiologic study involved at least 20 years' exposure of a group of subjects to the substance and at least 30 years' observation of the subjects after initial exposure;

(ii) Documented reasons are provided for predicting the site(s) at which the substance would induce cancer if it were carcinogenic in humans; and

(iii) The group of exposed subjects was large enough for an increase in cancer incidence of 50% above that in unexposed controls to have been detected at any of the predicted sites.

Arguments that non-positive results obtained in human epidemiologic studies should be used to establish numerical upper limits on potential risks to humans exposed to specific levels of a substance will be considered only if criteria (i) and (ii) are met and, in addition:

(iv) Specific data on the level of exposure of the group of workers are provided, based either on direct measurements made periodically throughout the period of exposure, or upon other data which provide reliable evidence of the magnitude of exposure.

(b) *Tumors induced at site of administration.* Arguments that tumors at the site of administration should not be considered will be considered only if:

(i) The route of administration is not oral, respiratory or dermal; and

(ii) Evidence is provided which establishes that induction of local tumors is related to the physical configuration or formulation of the material administered (e.g., crystalline form or dimensions of a solid material, or matrix of an impregnated implant) and that tumors are not induced when the same material is administered in a different configuration or formula.

(c) *Metabolic differences.* Arguments that differences in metabolic profiles can be used to demonstrate that a chemical found positive in an experimental study in a mammalian species would pose no potential carcinogenic risk to exposed workers will be considered by the Secretary only if the evidence presented for the specific substance subject to the rulemaking meets the following criteria:

Criteria. (i) A complete metabolic profile, including identities of trace metabolites, is presented for the experimental animal species;

(ii) A complete metabolic profile, including identities of trace metabolites, is available for a human population group representative of those who are occupationally exposed;

(iii) Documented evidence is provided for ascribing the carcinogenic activity of the substance in the test animal species to metabolite(s) produced only in that species and not in humans; and

(iv) Documented evidence is provided to show that other metabolites produced also in humans have been adequately tested and have not been shown to be carcinogenic.

(d) *Use of high doses in animal testing.* Arguments that positive results obtained in carcinogenesis bioassays with experimental animals subjected to high doses of a substance are not relevant to potential carcinogenic risks to exposed workers will be considered by the Secretary only if the evidence for the specific substance subject to the rulemaking meets the following criteria:

Criteria. (i) Documented evidence is presented to show that the substance in question is metabolized by the experimental animal species exposed at the dose levels used in the bioassay(s) to metabolic products which include one or more that are not produced in the same species at lower doses.

(ii) Documented evidence is presented to show that the metabolite(s) produced only at high doses in the experimental animal species are the ultimate carcinogen(s) and that the metabolites produced at low doses are not also carcinogenic; and

(iii) Documented evidence is presented to show that the metabolite(s) produced only at high doses in the experimental animal species are not produced in humans exposed to low doses.

(e) *Benign tumors.* The Secretary will consider evidence that the substance subject to the rulemaking proceeding is capable only of inducing benign tumors in humans or experimental animals provided that the evidence for the specific substance meets the following criteria:

Criteria. (i) Data are available from at least two well-conducted bioassays in each of two species of mammals (or from equivalent evidence in more than two species);

(ii) Each of the bioassays to be considered has been conducted for the full lifetime of the experimental animals;

(iii) The relevant tissue slides are made available to OSHA or its designee and the diagnoses of the tumors as benign are made by at least one qualified pathologist who has personally examined each of the slides and who provides specific diagnostic criteria and descriptions; and

(iv) All of the induced tumors must be shown to belong to a type which is known not to progress to malignancy or to be at a benign stage when observed. In the latter case, data must be presented to show that multiple sections of the affected organ(s) were adequately examined to search for invasion of the tumor cells into adjacent tissue, and that multiple sections of other organs were adequately examined to search for tumor metastases.

(f) *Indirect mechanisms.* The Secretary will consider evidence that positive results obtained in a carcinogenesis bioassay with experimental animals are not relevant to a determination of a carcinogenic risk to exposed workers, if the evidence demonstrates that the mechanism by which the observed tumor incidence is effected is indirect and would not occur if humans were exposed. As examples, evidence will be considered that a substance causes a carcinogenic effect by augmenting caloric intake or that the carcinogenic effect from exposure to a substance is demonstrated to be the result of the presence of a carcinogenic virus and it is demonstrated that, in either case, the effect would not take place in the absence of the particular carcinogenic virus or the augmented caloric intake.

§ 1990.145 Consideration of substantial new issues or substantial new evidence.

(a) *Substantial new issues.* Notwithstanding any other provision of

this Part, the Secretary will consider in a rulemaking proceeding on a specific substance any substantial new issues upon which the Secretary did not reach a conclusion in the rulemaking proceeding(s) underlying this Part including conclusions presented in the preamble.

(b) *Substantial new evidence.* Notwithstanding any other provision of this Part, the Secretary will consider in a rulemaking proceeding on a specific substance any arguments, data or views which he determines are based upon substantial new evidence which may warrant the amendment of one or more provisions of this Part. For the purposes of this Part, "substantial new evidence" is evidence directly relevant to any provision of this Part and is based upon data, views or arguments which differ significantly from those presented in establishing this Part, including amendments thereto.

(c) *Petitions for consideration of substantial new evidence.*—(1) *Petition* Any interested person may file a written petition with the Secretary to consider "substantial new evidence" or one or more "substantial new issues" which contains the information specified in paragraph (c)(2) of this section. The Secretary shall treat such a petition as a request to amend this Part, as well as a petition to consider "substantial new evidence".

(2) *Contents.* Each petition for consideration of "substantial new evidence" or one or more "substantial new issues" shall contain at least the following information:

(i) Name and address of the petitioner;

(ii) All of the data, views and arguments that the petitioner would like the Secretary to consider;

(iii) The provision or provisions that petitioner believes are inappropriate or should be added to this Part in light of the new data, views, and arguments;

(iv) A statement which demonstrates that the data, views, and arguments relied upon by petitioners are directly relevant to the substance or class of substances that is the subject of a rulemaking or an Advance Notice of Proposed Rulemaking;

(v) A detailed statement and analysis as to why the petitioner believes that the data, views, and arguments presented by the petitioner:

(A) differ significantly from those presented in the proceeding(s) which establish this Part;

(B) are so substantial as to warrant amendment of this Part; and

(C) constitute a new issue or new evidence within the meaning of paragraphs (a) and (b) of this section.

(3) *Deadline for petitions.* (i) Petitions which comply with paragraph (c) above, shall be filed in accordance with the schedule set forth in the Advanced Notice of Proposed Rulemaking.

(ii) In extraordinary cases the Secretary may consider evidence submitted after the deadline if the petitioner establishes that the evidence relied upon was not available and could not have reasonably been available in whole or substantial part by the deadline and that it is being submitted at the earliest possible time.

(d) *Secretary's response.* (1) The Secretary shall respond to petitions under this paragraph in accordance with § 1990.106.

(2) Whenever the Secretary determines that the "substantial new issue" or the "substantial new evidence" submitted under this paragraph is sufficient to initiate a proceeding to amend this Part, the Secretary shall:

(i) Issue a notice to consider amendment to this Part and not proceed on the rulemaking concerning the individual substance until completion of the amendment proceeding; or

(ii) Issue a notice to consider amendment to this Part and consolidate it with the proceeding on the individual substance.

§ 1990.146 Issues to be considered in the rulemaking.

Except as provided in § 1990.145, after issuance of the advance notice of rulemaking, the proceedings for individual substances under this Part shall be limited to consideration of the following issues:

(a) Whether the substance, group of substances or combination of substances subject to the proposed rulemaking is appropriately considered in a single proceeding;

(b) Whether the substance or group of substances subject to the rulemaking meets the definition of a potential occupational carcinogen set forth in § 1990.103, including whether the scientific studies are reliable;

(c) Whether the available data can appropriately be applied to the substance, group of substances or combination of substances covered by the rulemaking;

(d) Whether information, data, and views that are submitted in accordance with § 1990.144 are sufficient to warrant an exception to this Part;

(e) Whether the data, views and arguments that are submitted in accordance with § 1990.145 are sufficient to warrant amendment of this Part;

(f) Whether the potential occupational carcinogen meets the criteria for a Category I Potential Carcinogen or a Category II Potential Carcinogen.

(g) The environmental impact arising from regulation of the substance;

(h) Any issues required by statute or executive order;

(i) The determination of the lowest feasible level to control exposures to Category I Potential Carcinogens primarily through the use of engineering and work practice controls including technological and economic considerations;

(j) The determination of the appropriate employee exposure level, consistent with the Act's requirements, for Category II Potential Carcinogens;

(k) Whether suitable substitutes are available for one or more uses of Category I Potential Carcinogens and; if so, the no occupational exposure level to be achieved solely with engineering and work practice controls and other issues relevant to substitution; and

(l) Whether the provisions of the proposal and of § 1990.151 and § 1990.152 (model standards) are appropriate, except as limited by § 1990.142 and whether additional regulatory provisions may be appropriate.

§ 1990.147 Final action.

(a) Within one hundred twenty (120) days from the last day of any hearing or ninety (90) days from the close of any post hearing comment period, whichever occurs first, the Secretary shall publish in the **Federal Register:**

(1) A final standard based upon the record in the proceeding; or,

(2) A statement that no final standard will be issued, and the reasons therefor, or

(3) A statement that the Secretary intends to issue a final rule, but that he is unable to do so at the present time, including:

(i) The reasons therefor; and

(ii) The date by which the standard will be published, which may not exceed one hundred twenty (120) days thereafter.

(iii) The Secretary may issue no more than one such notice, unless the Secretary determines that (*a*) new evidence which was unavailable during the rulemaking proceeding has just become available; (*b*) the evidence is so important that a final rule could not reasonably be issued without this evidence, and; (*c*) the record is reopened for receipt of comments and/or a hearing on this evidence. This paragraph does not require the Secretary to consider any evidence which is submitted after the dates established for the submission of evidence.

(b) The failure of the Secretary to comply with the required timeframes shall not be a basis to set aside any standard or to require the issuance of a new proposal on any individual substance.

(c) The final standard shall state whether the substance or group of substances subject to the rulemaking is classified as a Category I Potential Carcinogen or as a Category II Potential Carcinogen. If the classification differs from that in the notice of proposed rulemaking, the Secretary shall explain the reasons for the change in classification in the preamble to the final standard.

(d) If the substance is classified as a Category I Potential Carcinogen, the final standard shall conform to the provisions of section 1990.142(a)(2)(iii). If the final standard contains other provisions that substantially differ from the proposed provisions, the Secretary shall explain the reasons for the changes in the preamble to the final standard.

(e) If the substance is classified as a Category II potential carcinogen, the final standard shall conform to the provisions of section 1990.142(a)(3)(iii). If the final standard contains other provisions that substantially differ from the proposed provisions, the Secretary shall explain the reasons for the changes in the preamble to the final standard.

(f) If the substance is classified as a Category II potential carcinogen, the Secretary shall notify the applicable federal and state agencies, including the Administrator of EPA, the Director of NCI, the Director of NIEHS, the Director of NIOSH, the Commissioner of FDA and the Chairperson of CPSC of such determination and request that the applicable agencies engage in, or stimulate, further research pursuant to their legislative authority, to develop new and additional scientific data.

(g) If, after a rulemaking, the Secretary determines that the substance under consideration should not be classified as a Category I potential carcinogen or a Category II potential carcinogen, the Secretary shall publish a notice of this determination in the **Federal Register**, together with the reasons therefor.

Model Standards

§ 1990.151 Model standard pursuant to section 6(b) of the Act.

(a) *Scope and application.*

(1) *General.* This section applies to all occupational exposures to ——— or to (specify those uses or classes of uses of ——— [Chemical Abstracts Service Registry Number 0000] which are covered by the standard, including, where appropriate, the type of exposure to be regulated by the standard) except as provided in paragraph (a)(2).

(2) *Exemptions.* This section does not apply to (insert those uses or classes of uses of ——— which are exempted from compliance with the standard, including, where appropriate,

(i) workplaces where exposure to ——— results from solid or liquid mixtures containing a specified percentage of ——— or less;

(ii) workplaces where another Federal agency is exercising statutory authority to prescribe or enforce standards or regulations affecting occupational exposure to ———; or

(iii) workplaces which are appropriately addressed in a separate standard).

(b) *Definitions.*

"———" means (definition of the substance, group of substances, *or combination of substances, to be regulated*).

"Authorized person" means any person specifically authorized by the employer whose duties require the person to enter regulated areas or any person entering such an area as a designated representative of employees for the purpose of exercising the opportunity to observe monitoring procedures under paragraph (r) of this section.

"Action level" means an airborne concentration of ——— of (insert appropriate level of exposure).

Note.—Where appropriate, consider an action level as a limitation on requirements for periodic monitoring (para. (e)(3)), medical surveillance (para. (n)), training (para. (o)), labels (para. (p)(3)), and other provisions.

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee.

"Director" means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, and Health Services, or designee.

"Emergency" means in any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment which may result in a massive release of ———.

"OSHA Area Office" means the Area Office of the Occupational Safety and Health Administration having jurisdiction over the geographic area where the affected workplace is located.

(c) *Permissible exposure limits provisions.*

(1) *Inhalation.—(i) Time-weighted average limit (TWA).* Within (insert appropriate time period) of the effective date of this section, the employer shall assure that no employee is exposed to an airborne concentration of ——— in excess of: (insert appropriate exposure limit representing: (a) the lowest feasible level, except as modified by paragraph (c)(3) of this section or (b) when it is determined by the Secretary that there are available substitutes for all uses or classes of users that are less hazardous to humans, the proposal shall permit no occupational exposure) as an eight (8)-hour time-weighted average.

Where the Secretary finds that substitutes for ——— may exist, the determination of the lowest feasible level shall include consideration of the availability, practicability, relative degree of hazard, and economic consequences of the substitutes.

(ii) *Ceiling limit. (If appropriate.)* Within (insert appropriate time period) of the effective date of this section, the employer shall assure that no employee is exposed to an airborne concentration of ——— in excess of: (insert exposure limit representing the lowest feasible level of exposure as averaged over any: (insert appropriate time period) during the working day.

(2) *Dermal and eye exposure. (As appropriate.)* (i) Within (insert appropriate time period) of the effective date of this section, the employer shall (If eye exposure to ——— does not create a risk of cancer, insert exposure level or criteria which will prevent other adverse health effects of eye exposure to ——— if any. If eye exposure creates a risk of cancer, insert exposure level or criteria which represent the lowest feasible level of eye exposure to ———.)

(ii) Within (insert appropriate time period) of the effective date of this section, the employer shall (Insert exposure level or criteria which will prevent other adverse health effects from skin exposure to ———, or which represent the lowest feasible level of skin exposure to ——— or, as appropriate.)

(3) (If appropriate, specify limitations or prohibitions on consumption, storage or use of food, beverages, smoking materials, etc. in certain workplaces.)

(4) *Other restrictions.* The employer shall assure that there is no occupational exposure to ——— from the following uses or classes of uses: (Where the Secretary determines, in the proposal or upon the record of the public rulemaking, that there are available substitutes in certain applications where ——— might otherwise be used, the Secretary here may specify that no occupational exposure to ——— shall be permitted in those circumstances and uses, listing those circumstances or uses. Where the Secretary finds that substitutes for ——— exist, the

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determination of their suitability shall include consideration of the availability, practicability, relative degree of hazard, and economic consequences of the substitutes.)

(d) *Notification of use and emergencies.*—(1) *Use.* Within (*insert appropriate time period*), of the effective date of this standard or within thirty days of the introduction of ——— into the workplace, every employer who has a place of employment in which ——— is present shall report the address and location of each place of employment to the OSHA Area Office and an estimate of the number of employees exposed.

(2) *Emergencies.* Emergencies, and the facts obtainable at that time, shall be reported within (insert appropriate number) hours of, or during the first federal working day after, the time the employer becomes aware of the emergency to the OSHA Area Office, whichever is longer. Upon request of the OSHA Area Office, the employer shall submit additional information in writing relevant to the nature and extent of employee exposures and measures taken to prevent future emergencies of a similar nature.

(e) *Exposure monitoring.*—(1) *General.* (i) Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to ——— over an eight (8) hour period. Monitoring of exposure levels required under this paragraph shall be made as follows: [insert method or alternative methods to be used to meet the requirements of this paragraph].

(ii) For the purpose of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.

(2) *Initial monitoring.* Each employer who has one or more workplaces where (specify the types of workplaces subject to the monitoring requirement) shall, within (insert appropriate period) of the effective date of this section (insert requirements for initial monitoring, as appropriate).

(3) *Frequency.* (Insert, if appropriate, provisions prescribing the minimum frequency at which monitoring must be repeated, the conditions under which such frequency must be increased or may be reduced, and conditions under which such routine monitoring may be discontinued (for example, where the action level is not exceeded). Where appropriate, specify different frequency requirements for certain types of workplaces where, for example, exposure levels are subject to greater or less variability.)

(4) *Additional monitoring.* (Insert, if appropriate, provisions for monitoring, in addition to the requirements (if any) of paragraph (e)(3). This may include a production, process, control or personnel change which might result in new or additional exposure to ———, or whenever the employer has any other reason to suspect a change which might result in new or additional exposures to ———.

(5) *Employee notification.* (i) Within (insert appropriate period) after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposure.

(ii) Whenever the results indicate that the representative employee exposure exceeds the permissible exposure limits, the employer shall include in the written notice a statement that the permissible exposure limits were exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(6) *Accuracy of measurement.* (Insert requirements for accuracy of methods of measurement or detection used to comply with the paragraph).

(f) *Regulated areas.* (1) Within (insert appropriate time period) of the effective date of this section, the employer shall, where practicable, establish regulated areas where ——— concentrations are in excess of the permissible exposure limits.

(2) Regulated areas shall be demarcated and segregated from the rest of the workplace, in any manner that minimizes the number of persons who will be exposed to ———.

(3) Access to regulated areas shall be limited to authorized persons or to persons otherwise authorized by the Act or regulations issued pursuant thereto.

(4) The employer shall assure that in the regulated area, food or beverages are not present or consumed, smoking products are not present or used, and cosmetics are not applied (except that these activities may be conducted in the lunchroom, change rooms and showers required under paragraphs (m)(1)–(m)(3) of this section).

(g) *Methods of compliance.*—(1) *Engineering and work practice controls.* (i) The employer shall institute engineering or work practice controls to reduce and maintain employee exposures to ——— to or below the permissible exposure limits, except to the extent that the employer establishes that such controls are not feasible.

(ii) Engineering or work practice controls shall be implemented to reduce exposures even if they will not be sufficient to reduce exposures to or below the permissible exposure limits.

(2) *Compliance program.* (i) Within (insert appropriate period) of the effective date of this section, the employer shall establish and implement a written program to reduce exposures to or below the permissible exposure limits by means of engineering and work practice controls, as required by paragraph (g)(1) of this section.

(ii) Written plans for these compliance programs shall include at least the following:

(A) A description of each operation or process resulting in employee exposure to ———;

(B) Engineering plans and other studies contemplated or used to determine the controls for each process;

(C) A report of the technology considered or to be considered in meeting the permissible exposure limits;

(D) A detailed schedule for the implementation of engineering or work practice controls; and

(E) Other relevant information reasonably requested by OSHA.

(iii) Written plans for such a program shall be submitted, upon request, to the Assistant Secretary and the Director, and shall be available at the worksite for examination and copying by the Assistant Secretary, the Director, or any affected employee or designated representative.

(iv) The plans required by this paragraph shall be revised and updated periodically to reflect the current status of the program.

(h) *Respiratory protection.*—(1) *General.* The employer shall assure that respirators are used where required pursuant to this section to reduce employee exposures to within the permissible exposure limits and in emergencies. Compliance with the permissible exposure limits may not be achieved by the use of respirators except:

(i) During the time period necessary to install or implement feasible engineering and work practice controls; or

(ii) In work operations in which the employer establishes that engineering and work practice controls are not feasible; or

(iii) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the permissible exposure limits; or

(iv) In emergencies.

(2) *Respirator selection.* (i) Where respiratory protection is required under this section, the employer shall select and provide at no cost to the employee, the appropriate type of respirator from Table 1 below and shall assure that the employee wears the respirator provided.

Table 1.—Respiratory Protection for ———

(The table will contain a listing of the appropriate type of respirator for various conditions of exposure to ———).

(ii) The employer shall select respirators from those approved by the National Institute for Occupational Safety and Health under the provisions of 30 CFR Part 11.

(3) *Respirator program.* (i) The employer shall institute a respiratory protection program in accordance with 29 CFR 1910.134 (b), (d), (e), and (f).

(ii) Employees who wear respirators shall be allowed to wash their face and respirator facepiece to prevent potential skin irritation associated with respirator use.

(iii) The employer shall assure that the respirator issued to each employee is properly fitted (as appropriate, indicate the requirement for a qualitative or quantitative respirator fit testing program).

(i) *Emergency situations.—(1) Written plans.* (i) A written plan for emergency situations shall be developed for each workplace where ——— is present. Appropriate portions of the plan shall be implemented in the event of an emergency.

(ii) The plan shall specifically provide that employees engaged in correcting emergency conditions shall be equipped as required in paragraph (h) of this section until the emergency is abated.

(2) *Alerting employees.*—(i) *Alarms.* Where there is the possibility of employee exposure to ——— due to the occurrence of an emergency, a general alarm shall be installed and maintained to promptly alert employees of such occurrences.

(ii) *Evacuation.* Employees not engaged in correcting the emergency shall be restricted from the area and shall not be permitted to return until the emergency is abated.

(j) *Protective clothing and equipment.*—(1) *Provision and use.* Where employees are exposed to eye or skin contact with ——— (insert criteria which trigger this requirement as appropriate), the employer shall, within (insert appropriate time period) of the effective date of this section provide at no cost to such employees, and assure that such employees wear, appropriate protective clothing or other equipment in accordance with 29 CFR 1910.132 and .133 to protect the area of the body which may come in contact with ———.

(2) *Cleaning and replacement.* (i) The employer shall clean, launder, maintain, or replace protective clothing and equipment required to maintain their effectiveness.

(k) *Housekeeping.*—(1) *General.* The employer shall, within appropriate time period) of the effective date of this section, implement a housekeeping program to maximize accumulation of ———. (i) The program shall include (insert appropriate elements).

(A) Periodic scheduling of routine housekeeping.

(B) Provision for periodic cleaning of dust collection systems.

(C) Provision for maintaining clean surfaces.

(D) Provision for assigning personnel to housekeeping procedures.

(E) Provision for informing employees about housekeeping program.

(l) *Waste disposal.* (1) *General.* The employer shall assure that no waste material containing ——— is dispersed into the workplace, to the extent practicable.

(2) The employer shall label, or otherwise inform employees who may contact waste material containing ———, the contents of such waste material.

(3) (Insert specific disposal methods, as appropriate.)

(m) *Hygiene facilities and practices.* Where employees are exposed to airborne concentrations of ——— in excess of the permissible exposure limits specified in paragraph (c)(1), or where employees are required to wear protective clothing or equipment pursuant to paragraph (j) of this section, or where otherwise found to be appropriate, the facilities required by 29 CFR 1910.141 shall be provided by the employer for the use of those employees and the employer shall assure that the employees use the facilities provided. In addition, the following additional facilities or requirements may be mandated.

[Specify as appropriate additional facilities and practices such as]:

(1) *Change rooms.* The employer shall provide clean change rooms in accordance with 29 CFR 1910.141(e).

(2) *Showers.* (i) The employer shall provide shower facilities in accordance with 29 CFR 1910. 141(d)(3).

(ii) In addition, the employer shall also assure that employees exposed to ——— shower at the end of the work shift.

(3) *Lunchrooms.* (as appropriate) Whenever food or beverages are consumed in the workplace, the employer shall provide lunchroom facilities which have a temperature controlled, positive pressure, filtered air supply, and which are readily accessible to empoyees exposed to ———.

(n) *Medical surveillance.*—(1) *General.* (i) Within (insert appropriate period) of the effective date of this section, the employer shall institute a program of medical surveillance for (specify the types of employees subject to the medical surveillance requirement, for example, by specifying the level, duration, and frequency of exposure to ——— which make medical surveillance feasible and appropriate for individual employees). The employer shall provide each such employee with an opportunity for medical examinations and tests in accordance with this paragraph.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee.

(2) *Initial examinations.* At the time of initial assignment, or upon institution of the medical surveillance program, the employer shall provide each employee specified in paragraph (n)(1) of this section an opportunity for a medical examination, including at least the following elements:

(i) A work history, a medical history, and a physical examination with direct emphasis towards (insert specific bodily organs or systems), and shall include the personal history of the employee, family, and occupational background. (Specify additional factors to be considered, including, as pertinent to the specific health hazard(s) posed by ———, genetic and environmental factors.)

(ii) The medical examination shall also include the following: (insert appropriate medical protocol. Where appropriate, provide that the examining physician shall conduct such examinations and tests as are needed according to his professional judgment).

Note.—Where appropriate, require or permit different medical protocols, or different frequencies of medical examinations, for separate sub-populations of employees covered under paragraph (n)(1).

(3) *Periodic examinations.* (i) The employer shall provide the examinations specified below at least (insert appropriate time) for all employees specified in paragraph (n)(1) of this section: (insert appropriate medical protocol for periodic examinations).

(ii) If an employee has not had the examinations prescribed in paragraph (n)(2) of this section within (insert appropriate time period) prior to termination of employment, the employer shall make such examination available to the employee upon such termination.

(4) *Additional examinations.* If the employee for any reason develops signs or symptoms commonly associated with exposure to ———, the employer shall

provide appropriate examination and emergency medical treatment.

(5) *Information provided to the physician.* The employer shall provide the following information to the examining physician:

(i) A copy of this standard and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's representative exposure level;

(iv) The employee's anticipated or estimated exposure level (for preplacement examinations or in cases of exposure due to an emergency);

(v) A description of any personal protective equipment used or to be used; and

(vi) The names and addresses of physicians who, under the sponsorship of the employer, provided previous medical examinations of the affected employee, if such records are not otherwise available to the examining physician.

(6) *Physician's written opinion.* (i) The employer shall obtain a written opinion from the examining physician which shall include:

(A) The physician's certification that he has received the information from the employer required under the paragraph (n)(5) and has performed all medical examinations and tests which are in his opinion appropriate under this standard;

(B) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at an increased risk of material impairment of the employee's health for exposure to ———;

(C) Any recommended limitations upon the employee's exposure to ——— or upon the use of protective clothing and equipment such as respirators; and

(D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to ———;

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(o) *Employee Information and Training.*—(1) *Training Program.* (i) Within (*insert appropriate period*) of the effective date of this section, the employer shall institute a training program for all employees who (specify the employees subject to the training requirement), and shall require their participation in the training program.

(ii) The training program shall be provided at the time of initial assignment, or upon institution of the training program, and at least (insert appropriate time period) thereafter, and the employer shall assure that each employee is informed of the following:

Note.—Specify, as appropriate, some or all of the following information, or any other appropriate information.

(A) The information contained in the Appendices;

(B) The quantity, location, manner of use, release or storage of ——— and the specific nature of operations which could result in exposure to ———, as well as any necessary protective steps;

(C) The purpose, proper use, and limitations of respirators;

(D) The purpose and a description of the medical surveillance program required by paragraph (n) of this section;

(E) The emergency procedures developed, as required by paragraph (i) of of this section;

(F) The engineering and work practice controls, their function and the employee's relationship thereto; and

Note.—Where appropriate, require training programs with different contents, or different frequencies, for separate subpopulations of the employees specified in paragraph (o)(1).

(G) A review of this standard.

(2) *Access to training materials.* (i) The employer shall make a copy of this standard and its appendices readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the Assistant Secretary and the Director.

(p) *Signs and labels.*—(1) *General.* (i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to, or in combination with, signs and labels required by this paragraph.

(ii) The employer shall assure that no statement appears on or near any sign or label, required by this paragraph, which contradicts or detracts from the meaning of the required sign or label.

(2) *Signs.* (i) The employer shall post signs to clearly indicate all workplaces where ——— may be present or where exposures exceed the action level. The signs shall bear the following legend:

DANGER

———

(insert appropriate trade or common names)

CANCER HAZARD

AUTHORIZED PERSONNEL ONLY

(ii) The employer shall assure that signs required by this paragraph are illuminated and cleaned as necessary so that the legend is readily visible.

(iii) Where airborne concentrations of ——— exceed the permissible exposure limits, the signs shall bear the additional legend: "Respirator Required"

(3) *Labels.* (i) The employer shall assure that precautionary labels are affixed to all containers of ——— and of products containing ———, and that the labels remain affixed when the ——— or products containing ——— are sold, distributed or otherwise leave the employer's workplace.

(ii) The employer shall assure that the precautionary labels required by this paragraph are readily visible and legible. The labels shall bear the following legend:

DANGER

CONTAINS ———

CANCER HAZARD

(q) *Recordkeeping*—(1) *Exposure monitoring.*

(i) The employer shall establish and maintain an accurate record of all monitoring required by paragraph (e) of this section.

(ii) This record shall include:

(A) The dates, number, duration, and results of each of the samples taken, including a description of the samples taken, including a description of the sampling procedure used to determine representative employees exposure;

(B) A description of the sampling and analytical methods used;

(C) Type of respiratory protective devices worn, if any; and

(D) Name, social security number and job classification of the employee monitored and of all other employees monitored and of all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for (insert appropriate period) or for the duration of employment plus (insert appropriate period) whichever is longer.

(2) *Medical surveillance.* (i) The employer shall establish and maintain an accurate record of each employee subject to medical surveillance as required by paragraph (n) of this section.

(ii) This record shall include:

(A) A copy of the physicians' written opinions;

(B) Any employees medical complaints related to exposure to ———;

(C) A copy of the information provided to the physician as required by paragraph (n)(6) of this section; and

(D) A copy of the employee's work history.

(iii) The employer shall assure that this record be maintained for (insert appropriate period) or for the duration of employment plus (insert appropriate period) whichever is longer.

(3) *Availability.* (i) The employer shall assure that all records required to be maintained by this section be made available upon request to the Assistant Secretary and the Director for examination and copying.

(ii) The employer shall assure that employee exposure measurement records, as required by this section, be made available, upon request, for examination and copying to the affected employee, former employee, or designated representative.

(iii) The employer shall assure that employee medical records required to be maintained by this section, be made available, upon request, for examination and copying, to the affected employee or former employee, or to a physician designated by the affected employee, former employee, or designated representative.

(4) *Transfer of records.* (i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section.

(ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, these records shall be transmitted to the Director.

(iii) At the expiration of the retention period for the records required to be maintained pursuant to this section, the employer shall transmit these records to the Director.

(r) *Observation of monitoring.*

(1) *Employee observation.* The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of employee exposure to ——— conducted pursuant to paragraph (e) of this section.

(2) *Observation procedures.*

(i) Whenever observation of the monitoring of employee exposure to ——— requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring, observers shall be entitled to:

(A) Receive an explanation of the measurement procedures;

(B) Observe all steps related to the measurement of airborne concentrations of ——— performed at the place of exposure; and

(C) Record the results obtained.

(s) *Effective date.* This section shall become effective (insert effective date).

(t) *Appendices.* The information contained in the appendices is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligation.

Appendix A—Substance Safety Data Sheet

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Appendix B—Substance Technical Guidelines

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Appendix C—Medical Surveillance Guidelines

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§ 1910.152 Model emergency temporary standard pursuant to section 6(c).

Occupational Exposure to ———; Emergency Temporary Standard

§ 1910.1000 ———

(a) *Scope and Application.* (1) *General.* This section applies to all occupational exposures to ———, or to (specify the uses of classes of uses of ——— [Chemical Abstracts Service Registry Number 00000], which are covered by the standard, including, where appropriate, the type of exposure to be regulated by the standard) except as provided in paragraph (a)(2).

(2) *Exemption.* This section does not apply to (insert those uses or classes of uses of ——— which are exempted from compliance with the standard, including, whose appropriate,

(i) workplaces where exposure to ——— results from solid or liquid mixtures containing a specified percentage of ——— or less;

(ii) workplaces where another Federal agency is exercising statutory authority to prescribe or enforce standards or regulations affecting occupational exposure to ——— or

(iii) workplaces which are appropriately addressed in a separate standard.

(b) *Definitions.* "———" means (definition of the substance, group of substances, or combination of substances, to be regulated).

"Authorized person" means any person specifically authorized by the employer whose duties require the person to enter a regulated area or any person entering such an area as a designated representative of employees exercising the opportunity to observe monitoring procedures under paragraph (r) of this section.

"Action level" means an airborne concentration of ——— of (insert appropriate level of exposure).

[Note: where appropriate, consider an action level as a limitation on requirements for periodic monitoring (para. (e)(3)), medical surveillance (para. (n)), training (para. (o)), and other provisions.]

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee.

"Director" means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, Education and Welfare, or designee.

"Emergency" means any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment which may result in a massive release of ———.

"OSHA Area Office" means the Area Office of the Occupational Safety and Health Administration having jurisdiction over the geographic area where the affected workplace is located.

(c) *Permissible exposure limits.*—(1) *Inhalation.* (i) Time-weighted average limit (TWA). Within (insert appropriate time) from the effective date of this emergency temporary standard, the employer shall assure that no employee is exposed to an airborne concentration of ——— in excess of: (insert appropriate exposure limit representing the lowest feasible level that can be complied with immediately) as an eight (8)-hour time-weighted average.

(ii) Ceiling limit. (If appropriate.) The employer shall assure that no employee is exposed to an airborne concentration of ——— in excess of: (insert appropriate exposure limit representing the lowest feasible level that can be complied with immediately) as averaged over any: (insert appropriate time period) during the working day.

(2) *Dermal and eye exposure.* (As appropriate.) The employer shall assure that no employee is exposed to eye contact or skin contact with ———.

(i) Within (insert appropriate time period) of the effective date of this section, the employer (If eye exposure to ——— does not create a risk of cancer, insert exposure level or criteria which will prevent other adverse effects of eye exposure to ———, if any. If eye exposure creates a risk of cancer, insert exposure level or criteria which represent the lowest feasible level of eye exposure to ———.

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(ii) Within (insert appropriate time period) of the effective date of this section, the employer shall (Insert exposure level or criteria which will prevent other adverse health effects from skin exposure to ———, or which respresent the lowest feasible level of skin exposure to ———, as appropriate.)

(3) (If appropriate, specify limitations or prohibitions on consumption, storage or use of food, beverages, smoking materials, etc. in certain workplaces.)

(d) *Notification of Use.* Within (insert appropriate time) of the effective date of this section, or within fifteen (15) days following the introduction of ——— into the workplace, every employer shall report the following information to the nearest OSHA Area Office for each such workplace:

(1) The address and location of each workplace in which ——— is present;

(2) A brief description of each process or operation which may result in employee exposure to ———;

(3) The number of employees engaged in each process or operation who may be exposed ——— and an estimate of the frequency and degree of exposure that occurs; and

(4) A brief description of the employer's safety and health program as it relates to limitation of employee exposure to ———;

(e) *Exposure monitoring.* (1) *General.* (i) Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to ——— over an eight (8) hour period. Monitoring of exposure levels required under this paragraph shall be made as follows: [insert method or alternative methods to be used to meet the requirements of this paragraph].

(ii) For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.

(2) *Initial monitoring.* Each employer who has one or more workplaces where (specify the types of workplaces subject to the monitoring requirement), shall within (insert appropriate period) of the effective date of this section (insert requirements for initial monitoring, as appropriate).

(3) *Frequency.* (Insert, if appropriate, provisions prescribing the minimum frequency at which monitoring must be repeated, the conditions under which such frequency must be increased, or may be reduced, and conditions under which such routine monitoring may be discontinued (for example where the action level is not exceeded) where appropriate, specify different frequency requirements for certain types of workplaces where, for example, exposure levels are subject to greater or less variability.)

(4) *Additional monitoring.* (Insert, if appropriate, provisions for monitoring, in addition to the requirements (if any) of paragraph (e)(3). This may include a production, process, control or personnel change which might result in new or additional exposure to ——— or whenever the employer has any other reason to suspect a change which might result in new or additional exposures to ———.)

(5) *Employee notification.* (i) Within (insert appropriate period) after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposure.

(ii) Whenever the results indicate that the representative employee exposure exceeds the permissible exposure limits, the employer shall include in the written notice a statement that permissible exposure limits were exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(6) *Accuracy of measurement.* (Insert requirements for accuracy of methods of measurement or detection used to comply with the paragraph.)

(f) *(Reserved.)*

(g) *Methods of compliance.* (i) *General.* Employee exposures to ——— shall be controlled to or below the permissible exposure limits by any practicable combination of engineering controls, work practices and personal protective devices and equipment, during the effective period of this emergency temporary standard.

Note.—Where engineering controls or work practices can reduce employee exposures to ——— it is recommended that they be implemented where practicable, even where they do not themselves reduce exposures to, or below the permissible exposure limits. Work practices which can be implemented by the employer to help reduce employee exposures to ——— include limiting access to work areas to authorized personnel, prohibiting smoking and consumption of food and beverages in work areas, and establising good maintance and housekeeping practices, including the prompt clean-up of spills and repair of leaks.

(2) *Engineering and work practice control plan.* (i) Within (insert appropriate time period) of the effective date of this emergency temporary standard, the employer shall develop a written plan describing proposed means to reduce employee exposures to the lowest feasible level solely by means of engineering and work practice controls (which will be eventually required by a permanent standard for occupational exposure to ———, issued pursuant to section 1990.160(g) of this subpart).

(ii) Written plans required by this paragraph shall be submitted, upon request, to the Assistant Secretary and the Director and shall be available at the worksite for examination and copying by the Assistant Secretary, the Director, and any affected employee or designated representative.

(h) *Respiratory protection.* (1) *Required use.* The employer shall assure that respirators are used where required pursuant to this section to reduce employee exposures to within the permissible exposure limits and in emergencies.

(2) *Respirator selection.* (i) Where respiratory protection is required under this section, the employer shall select and provide at no cost to the employee, the appropriate respirator from Table 1 below and shall assure that the employee wears the respirator provided.

Table 1.—Respiratory Protection for ———

* * * * *

(The table will contain a listing of the appropriate type of respirator for various conditions of exposure to ———.)

(ii) The employer shall select respirators from those approved by the National Institute for Occupational Safety and Health under the provisions of 30 CFR Part 11.

(3) *Respirator program.* (i) The employer shall institute a respirator protection program in accordance with 29 CFR 1910.134 (b), (d), (e) and (f).

(ii) Employees who wear respirators shall be allowed to wash their face and respirator face piece to prevent potential skin irritation associated with respirator use.

(iii) The employer shall assure that the respirator issued to each employee is properly fitted (as appropriate, indicate the requirement for a qualitative or quantitative respirator fit testing program.)

(i) (Reserved.)

(j) *Protective clothing and equipment.* (1) *Provision and use.* Where employees are exposed to eye or skin contact with ——— (insert criteria which trigger this requirement as appropriate), the employer shall within (insert appropriate time period) of the effective date of this standard provide, at no cost to the employees, and assure that employees wear, appropriate protective clothing or other equipment in accordance with 29 CFR 1910.132 and 133 to protect the area of the body which may come in contact with ———.

(2) *Cleaning and replacement.* (i) The employer shall clean, launder, maintain, or replace protective clothing and equipment required by this paragraph, as needed to maintain their effectiveness.

(k) *Housekeeping.*

(1) *General.* The employer shall, within (insert appropriate time period) of the effective date of this section, implement a housekeeping program to minimize accumulations of ———.

(i) The program shall include (insert appropriate elements):

(A) Periodic scheduling of routine housekeeping procedures;

(B) Provision for periodic cleaning of dust collection systems;

(C) Provision for maintaining clean surfaces;

(D) Provision for assigning personnel to housekeeping procedures; and

(E) Provision for informing employees about housekeeping program.

(l) *Waste disposal. (1) General.* The employer shall assure that no waste material containing ——— is dispersed into the workplace, to the extent practicable.

(2) The employer shall label, or otherwise inform employees who may contact waste material containing ——— of the contents of such waste material.

(3) (Insert specific disposal methods, as appropriate.)

(m) *(Reserved).*

(n) *Medical surveillance.* (1) *General.* (i) The employer shall institute a program of medical surveillance for each employee who is or will be exposed to ———. The employer shall provide each such employee with an opportunity for medical examinations and tests in accordance with this paragraph.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee.

(2) *Initial examinations.* Within (insert appropriate time period) of the effective date of this section, or thereafter at the time of initial assignment, the employer shall provide each affected employee an opportunity for a medical examination, including at least the following elements:

(i) A work history, a medical history, and a physical examination with direct emphasis towards (insert appropriate systems) which shall include the relevant personal history of the employee, family, and occupational background. (Specify additional factors to be considered, including, as pertinent to the specific health hazard(s) posed by ——— genetic and environmental factors.)

(ii) The medical examination shall also include the following: (insert appropriate medical protocol. Where appropriate, provide that the examining physician shall conduct such examinations and tests as are needed according to his professional judgement).

[Note: Where appropriate, require or permit different medical protocols, or different frequencies of medical examinations, for separate sub-populations of employees covered under paragaph (n)(1)].

(3) *Periodic examinations.* (Insert appropriate medical protocol and time.)

(4) *Interim examinations.* If the employee for any reason develops signs or symptoms commonly associated with exposure to ———, the employer shall provide appropriate examination and emergency medical treatment.

(5) *Information provided to the physician.* The employer shall provide the following information to the examining physician:

(i) A copy of this emergency temporary standard and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's representative exposure level;

(iv) A description of any personal protective equipment used or to be used; and

(v) The names and addresses of physicians who, under the sponsorship of the employer, provided previous medical examinations of the affected employee, if such records are not otherwise available to the examining physician.

(6) *Physician's written opinion.* (i) The employer shall obtain a written opinion from the examining physician which shall include:

(A) The results of the medical tests preformed;

(B) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at an increased risk of material impairment of the employee's health from exposure to ———;

(C) Any recommended limitations upon the employee's exposure to ——— or upon the use of protective clothing and equipment such as respirators; and

(D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to ———;

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(o) *Employee information and training.* (1) Training program. (i) Within (insert appropriate time period) from the effective date of this standard, the employer shall institute a training program for all employees where there is occupational exposure to ——— and shall assure their participation in the training program.

(ii) The employer shall assure that each employee is informed of the following:

(A) The information contained in the Appendices;

(B) The quantity, location, manner of use, release, or storage of ——— and the specific nature of operations which could result in exposure to ———, as well as any necessary protective steps;

(C) The purpose, proper use, and limitations of respirators;

(D) The purpose and description of the medical surveillance program required by paragraph (n) of this section; and

(E) A review of this standard.

(2) *Access to training materials.* (i) The employer shall make a copy of this standard and its appendices readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the Assistant Secretary and the Director.

(p) (Reserved.)

(q) *Recordkeeping.*—(1) *Exposure monitoring.* (i) The employer shall establish and maintain an accurate record of all monitoring required by paragraph (e) of this section.

(ii) This record shall include:

(A) The dates, number, duration, and results of each of the samples taken, including a description of the sampling procedures used to determine representative employee exposure;

(B) A description of the sampling and analytical methods used;

(C) Type of respiratory protective devices worn, if any; and

(D) Name, social security number, and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for the effective period of this emergency temporary standard, and for any additional period required by the permanent standard.

(2) *Medical surveillance.* (i) The employer shall establish and maintain an accurate record for each employee

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subject to medical surveillance as required by paragraph (n) of this section.

(ii) This record shall include:

(A) A copy of the physicians' written opinions;

(B) Any employee medical complaints related to exposure to ———;

(C) A copy of the information provided to the physician as required by paragraph (n)(6) of this section; and

(D) A copy of the employee's work history.

(iii) The employer shall assure that this record be maintained for the effective period of this emergency temporary standard, and for any additional period required by the permanent standard.

(3) *Availability.* (i) The employer shall assure that all records required to be maintained by this section be made available upon request, for examination and copying to the affected employee, former employee, or designated representative.

(ii) The employer shall assure that employee exposure measurement records, as required by this section, be made available upon request to the Assistant Secretary and the Director for examination and copying.

(iii) The employer shall assure that employee medical records required to be maintained by this section, be made available, upon request, for examination and copying to the affected employee or former employee, or to a physician designated by the affected employee, former employee, or designated representative.

(r) *Observation of monitoring.* (1) Employee observation. The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of employee exposure to ——— conducted pursuant to paragraph (e) of this section.

(2) *Observation procedures.* (i) Whenever observation of the monitoring of employee exposure to ——— requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring, observers shall be entitled to:

(A) Receive an explanation of measurement procedures;

(B) Observe all steps related to the measurement of airborne concentrations of ——— performed at the place of exposure; and

(C) Record the results obtained.

(s) *Effective date.* This section shall become effective (insert effective date).

(t) *Appendices.* The information contained in the appendices is not intended, itself, to create any additional obligations not otherwise imposed or to detract from any existing obligation.

Appendix—Substance Safety Data Sheet

* * * * *

Appendix—Substance Technical Guidelines

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Appendix—Medical Surveillance Guidelines

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[FR Doc. 80-2031 Filed 1-18-80; 1:00 pm]

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Highlights

Briefings on How To Use the Federal Register—For details on briefings in **Washington, D.C.**, see announcement in the Reader Aids Section at the end of this issue.

5546 **Campaign Regulations** FEC publishes draft regulations to implement amendments to Federal Election Campaign Act; comments by 2–7–80 (Part V of this issue)

5480, 5512 **NO_x Emission Standards** EPA publishes Administrator's NO_x (oxides of nitrogen) waiver decision and revised exhaust emission standards for NO_x for 1981 and 1982 model year lights-duty vehicles (2 documents) (Part II of this issue)

5602 **Heat Pumps** DOE/SOLAR gives advance notice of proposed rulemaking and requests public comments on energy efficiency standards; public meeting 3–6–80; comments by 4–30–80 (Part VII of this issue)

5616 **Air Pollution** EPA amends and corrects regulations on standards of performance for new stationary sources; effective 1–23–80 (Part VIII of this issue)

5648, 5658 **Museum Services Program** HEW/ Institute of Museum Services proposes to amend regulations on program of Federal financial assistance; comments by 3–24–80, and invites applications for grants; apply by 3–7–80 (2 documents) (Part X of this issue)

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5348, 5350 **Veterans' Benefits** VA proposes regulations on medical benefits (comments by 2–21–80) and on education benefits (comments by 2–22–80) (2 documents)

5297 **Noninflationary Pay and Price Behavior** CWPS modifies questions and answers regarding periodic reporting of compliance with voluntary price standards; effective 1–23–80

5321 **Natural Gas Policy** DOE/FERC announces public discussion and requests comments by 2–1–80 on establishment of procedures for special relief

5401 **Strengthening Developing Institutions of Higher Education Program** HEW/OE extends closing date for receipt of noncompeting continuation applications; apply by 3–3–80

5351 **Grants Under Nursing Division of Health Resources Administration** HEW/PHS intends to expand regulations on Scientific Peer Review of Research Grant Applications and Research and Development Contract Projects

5400 **Occupational Safety and Health Field Research Projects** HEW/NIOSH announces projects involving collection of information from the public

5514 **Privacy Act** DOD/AF publishes document affecting systems of records (Part III of this issue)

5419 **Privacy Act** Justice publishes document affecting system of records

5299 **Municipal Securities** SEC exempts non-member brokers and dealers from certain Securities and Exchange Commission Only (SECO) fair practice rules; effective 2–22–80

5572, 5599 **Accreditation of Certain Testing Laboratories** Commerce/Sec'y issues criteria and fees for laboratories testing thermal insulation materials, freshly mixed concrete, and carpet (2 documents) (Part VI of this issue)

5432 **Sunshine Act Meetings**

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Parts 705, 706, and 707

Noninflationary Pay and Price Behavior; Modification to Questions and Answers

AGENCY: Council on Wage and Price Stability.

ACTION: Modification to Questions & Answers.

SUMMARY: The Council is replacing Questions and Answers (Q's and A's) 11 through 14 in Part III, Section B (Reports and Notifications) of its cumulative Questions and Answers (44 FR 67060, November 21, 1979) with a single Question and Answer that more clearly specifies which revenues are to be included in determining whether a compliance unit meets the $250 million threshold for periodic reporting of compliance with the voluntary price standards. The change is being made in response to advice received from the American Institute of Certified Public Accountants (AICPA) Task Force, which indicated that some of the terms used in the former Q's and A's ("domestic operations," "domestic sales," and "U.S. business operations") were potentially confusing and at variance with usage accepted by accountants.

EFFECTIVE DATE: January 23, 1980.

FOR FURTHER INFORMATION CONTACT:
Susanne Tierney, (202) 456-7107.

Issued in Washington, D.C., January 18, 1980.

Sally Katzen,
General Counsel.

Accordingly, Questions and Answers 11 through 14 are hereby deleted, and the following Question and Answer, numbered 11, is added to Part III, Section B of the Council's Questions and Answers to read as follows:

Q 11. Which sales or revenues should a company include in determining if the company meets the $250 million threshold of Sections 706.21 and 706.22?

A. U.S. and foreign companies should include all net sales or revenues from their U.S. (domestic) operations, including exports. Net sales or revenues from foreign operations should not be counted.

[FR Doc. 80-2129 Filed 1-18-80; 4:45 pm]
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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2900

Amendment of Certification of Essential Agricultural Uses and Requirements; Natural Gas Policy Act of 1978

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture hereby amends its regulations certifying essential agricultural uses and requirements under the Natural Gas Policy Act of 1978 (NGPA). This amendment adds metal crowns and closures (food related only) to the list of essential agricultural uses certified by the Secretary of Agriculture.

EFFECTIVE DATE: This amendment will become effective on January 23, 1980.

FOR FURTHER INFORMATION CONTACT:
Weldon V. Barton, Director, Office of Energy, USDA, (202) 447-2455.

SUPPLEMENTARY INFORMATION: Under section 401 of the NGPA, the Secretary of Agriculture is required to certify to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) essential-agricultural uses of natural gas and the amounts of natural gas for such essential agricultural uses necessary for full food and fiber production. A final rule containing such certification was issued by the Secretary of Agriculture on May 17, 1979 (44 FR 28782).

The Secretary of Energy and the FERC have incorporated the USDA certification in their rules promulgating and implementing agricultural priority in curtailment plans of interstate pipelines in accordance with the NGPA.

In accordance with 7 CFR 2901.5(b), on October 29, 1979, the Director, Office of Energy, USDA issued a proposed rule which would amend USDA's certification of essential agricultural uses and requirements to include metal crowns and closures (food related only) as an essential agricultural use. The proposed amendment was in response to separate petitions submitted by the Glass Packaging Institute and the Aluminum Corporation of America.

The public was invited to participate in any aspect of the proposed amendment by submitting data, views, or arguments with respect to the inclusion of metal crowns and closures (food related only) as an essential agricultural use in USDA's certification. No public comments were received during the comment period associated with the proposed rule. The USDA has based its determination on information provided in the petitions for amendment and other relevant information.

Section 401(f) of the NGPA defines "essential agriculture use" to include "when used with respect to natural gas, any use of natural gas—(s) for . . . food quality maintenance . . . which the Secretary of Agriculture determines is necessary for full food and fiber production."

As indicated in the preamble to the proposed rule, the principal argument in favor of inclusion of metal crowns and closures as an essential agricultural use, is that the metal crown or closure is actually a part of the food container requiring such closure, and that the food quality maintenance function performed by the container requires the metal crown or closure. Glass containers (SIC 3221) for food packaging are currently included in the certification, as are plastic bottles (SIC 3079).

Metal closures account for about 99 percent of the bottle closures market. Although five of the manufacturers of glass containers also manufacture crowns and closures, the bulk of the metal crowns and closures are produced by 11 other companies which do not make glass containers. This is unlike the metal can industry (SIC 3411) where both the cans and closures are produced in the same plant (and both are covered under the agricultural priority). Plastic closures (SIC 3079) are also currently included in the certification list.

Natural gas is used in the closure curing ovens, as it provides the clean-burning characteristics needed to cure the protective coatings which are vital to proper sealing and preservation of

food (as well as protecting the content identification and decorative logo).

Based on the foregoing, USDA has determined that the use of natural gas in the production of metal crowns and closures (food related only) is a use of natural gas for food quality maintenance which is necessary for full food and fiber production.

§ 2900.3 [Amended]

Accordingly, Chapter XXIX of Title 7, § 2900.3 Code of Federal Regulations is amended by adding under "Food Quality Maintenance, Food Packaging," immediately after "3411 Metal Cans (Food Related Only)": 3466 Metal Crowns and Closures (Food Related Only). (Pub. L. 95–621, November 8, 1978, 92 Stat. 3350, 15 U.S.C. 3301 *et seq.*).

Environmental and Regulatory Analysis

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044 "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. After reviewing this amendment pursuant to USDA's responsibilities under the Natural Environmental Policy Act of 1979, Pub. L. 91–190, 83 Stat. 852 (42 U.S.C. 4321), the USDA has determined that this action does not alter the impacts disclosed or conclusions drawn in the Final Economic and Environmental Impact Statement prepared by the USDA, May 14, 1979, in connection with the Essential Agricultural Uses and Requirements certification rule. The inclusion of food related metal crowns and closures adds less than 1 billion cubic feet, and less than one-tenth of 1 percent of the interstate gas component identified as essential agricultural use in the Final Economic and Environmental Impact Statement. A copy of the Final Statement is available from the Office of Energy, Room 5173, South Building, 12th and Independence, SW., U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: January 17, 1980.

Weldon V. Barton,

Director, Office of Energy.

[FR Doc. 80-2134 Filed 1-22-80; 8:45 am]

BILLING CODE 3410-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 221

[Regulation ER-1169; Economic Regulations Amendment No. 51 to Part 221

Construction, Publication, Filing and Posting of Tariffs of Air Carriers and Foreign Air Carriers; Filing Requirements; Approval by the General Accounting Office

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the General Accounting Office has approved the filing requirements contained in Part 221 of the Board's Economic Regulations. This approval is required under the Federal Reports Act, and was transmitted to the Civil Aeronautics Board by letter dated December 28, 1979.

DATES: Adopted: January 17, 1980. Effective: January 17, 1980.

FOR FURTHER INFORMATION CONTACT: Clifford M. Rand, Chief, Data Requirements Division, Office of Economic Analysis, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–6044.

Accordingly, the Civil Aeronautics Board amends Part 221 of its Economic Regulations (14 CFR 221) by adding the following note at the end of Part 221:

Note.—The filing requirements contained in this Part have been approved by the U.S. General Accounting Office under B–180226 (R0661).

This amendment is issued by the undersigned pursuant to the delegation of authority from the Board to the Secretary in 14 CFR Sec. 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-2133 Filed 1-22-80; 8:45 am]

BILLING CODE 6320-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1207

Administrative Enforcement Procedures for Alleged Violations of 18 U.S.C. 207, Post Employment Conflict of Interest Statute

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule with comments requested.

SUMMARY: This regulation establishes NASA administrative enforcement procedures for handling allegations of violations of 18 U.S.C. 207, the post employment conflict of interest statute.

EFFECTIVE DATE: January 1, 1980. Comments must be received on or before March 1, 1980.

ADDRESS: Assistant General Counsel for General Law, Code, GG–1, Office of the General Counsel, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Susan McGuire Smith, telephone 202/755–3924.

SUPPLEMENTARY INFORMATION: Title V of the Ethics in Government Act of 1978 (Pub. L. 95–521, October 26, 1978) amended 18 U.S.C. 207, a Federal criminal prohibition which relates to post employment conflicts of interest of former Government employees. The amended provision requires (18 U.S.C. 207(j)) that each agency establish administrative enforcement procedures, in consultation with the Director of the Office of Government Ethics (OGE). OGE has published guidelines for these enforcement procedures at 5 CFR 737.27 (44 FR pp. 19987–88; April 3, 1979). This regulation implements the law and the OGE guidelines and has been developed in consultation with OGE. This regulation concerns agency management and personnel and is, therefore, exempt under 5 U.S.C. 553(a)(2) from notice and public comment requirements. However, NASA has decided to invite public comment, although the procedures are effective January 1, 1980.

14 CFR Part 1207 is amended by adding a new Subpart G reading as follows:

Subpart G—Administrative Enforcement Procedures for Alleged Violations of 18 U.S.C. 207

Sec.

1207.735–700 Scope and subpart.
1207.735–701 Policy.
1207.735–702 Procedures for administrative disciplinary hearing.
1207.735–703 Appeal from initial decision.
1207.735–704 Administrative sanctions.

Authority: 18 U.S.C. 207; 5 CFR 737.27.

Subpart G—Administrative Enforcement Procedures for Alleged Violations of 18 U.S.C. 207

§ 1207.735–700 Scope of subpart.

This subpart establishes NASA's administrative enforcement procedures for handling allegations of violations of 18 U.S.C. 207, the Federal criminal prohibition against post employment conflicts of interest by former Government employees. It implements 18 U.S.C. 207(j) which requires each agency to establish such procedures, and the guidelines of the Office of Government Ethics (OGE) which appear at 5 CFR 737.27 (44 FR pp. 19987–88; April 3, 1979).

§ 1207.735–701 Policy.

Any allegation that a former NASA employee has violated 18 U.S.C. 207 will be thoroughly and impartially investigated following the guidelines of the OGE and the procedural requirements of this subpart before a final agency decision is reached.

§ 1207.735–702 Procedures for administrative disciplinary hearing.

(a) *Allegations of violations.* Any allegation that a former NASA employee has violated 18 U.S.C. 207 in connection with duties performed while the individual worked for NASA shall be referred to the NASA Insepector General for investigation. The Inspector General shall coordinate, as appropriate, with the Director of the OGE and the Criminal Division of the Department of Justice.

(b) *Initiation of hearing.* When the NASA Inspector General determines after appropriate review that there is reasonable cause to believe that a former NASA employee has violated 18 U.S.C. 207 (a), (b), or (c), or any implementing regulations, the Inspector General shall prepare and issue the notice to the former employee required by 5 CFR 737.27(a)(3).

(c) *Appointment of examiner.* The Associate Deputy Administrator shall appoint an examiner upon issuance of a notice under paragraph (b) of this section. Any duly appointed examiner is hereby delegated authority to conduct an administrative hearing and to make an initial decision under the procedures of this subpart. The examiner shall be impartial and shall not have participated in any manner in the circumstances giving rise to the proceedings or the decision to initiate the proceedings. The examiner shall have a degree in law, be admitted to the bar, and be experienced in the conduct of administrative hearings.

(d) *Time, date and place of hearing.* Upon a request for a hearing by the former employee, the examiner shall schedule a hearing as promptly as possible, with due regard for the former employee's need for adequate time to prepare a defense and expeditious resolution of potentially damaging allegations. The examiner shall observe the procedural requirements of 5 CFR 737.27 and this subpart in conducting the hearing.

(e) *Rights of the former employee.* In connection with a hearing, the former employee shall have the right:

(1) To represent oneself or to be represented by counsel;

(2) To introduce and examine witnesses and to submit evidence;

(3) To confront and cross-examine witnesses;

(4) To present argument;

(5) To request a transcript or recording of the proceedings.

(f) *Burden of proof.* The agency shall have the burden of proof and must establish by substantial evidence that a violation has occurred.

(g) *Initial decision.* (1) The examiner shall make an initial determination based exclusively on matters of record in the proceeding.

(2) When a former employee does not elect a hearing, the examiner shall consider all available evidence, including any documentary evidence submitted by the former employee, together with any written argument submitted by the parties, and shall issue an initial decision based thereon.

(3) The written initial decision shall set forth all findings of fact and conclusions of law relevant to the matter at issue.

§ 1207.735–703 Appeal from initial decision.

Within 30 days after the date of the initial decision, either party may appeal the initial decision to the Associate Deputy Administrator. The Associate Deputy Administrator will review the pertinent record of the proceedings and any written arguments submitted by the parties concerning the appeal. If the Associate Deputy Administrator modifies or reverses the initial decision, he or she shall specify the findings of fact and conclusions of law that are different than those of the examiner.

§ 1207.735–704 Administrative sanctions.

(a) The final agency decision shall be (1) the decision of the Associate Deputy Administrator on an appeal under § 1207.735–703, or (2) the decision of the examiner which shall become final if no appeal is taken within the 30 day time limit.

(b) If the final decision of the agency is that a violation of 18 U.S.C. 207 (a), (b), or (c), or of implementing regulations has occurred, the following sanctions may be ordered by the Administrator against the former employee:

(1) Prohibiting the individual from making, on behalf of any other person (except the United States), any formal or informal appearance before, or, with the intent to influence, any oral or written communication to, NASA on any matter of business for a period not to exceed five years, which may be accomplished by directing NASA employees to refuse to participate in any such communication; or to accept any such communication; or

(2) Taking other appropriate disciplinary action.

(c) Any person found to have participated in a violation of 18 U.S.C. 207 (a), (b), or (c) or implementing regulations under the procedures of this subpart may seek judicial review of the administrative determination and shall be notified of the opportunity of such review in the final decision of the agency.

Dated: January 15, 1980.

Robert A. Frosch,

Administrator.

[FR Doc. 80-2036 Filed 1-22-80; 8:45 am]

BILLING CODE 7510-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-16495]

Exemption of Nonmember Brokers and Dealers From Certain SECO Fair Practice Rules

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending the rule which exempts certain municipal securities brokers and municipal securities dealers from the fair practice requirements of the SECO program. Previously, exemption from regulation under the fair practice rules of the SECO program was based upon the type of broker or dealer effecting the transaction. The rule, as amended, exempts the municipal securities transactions of all SECO brokers and dealers from the requirements of the Commission's SECO fair practice rules.

As a result, the amendment eliminates the current dual regulation of municipal securities transactions effected by SECO brokers and dealers that conduct business in both municipal and corporate securities. It also makes the SECO fair practice rules applicable to transactions in exempted securities effected by all registered SECO brokers and dealers, including those brokers and dealers engaging exclusively in municipal and exempted securities transactions.

EFFECTIVE DATE: February 22, 1980.

FOR FURTHER INFORMATION CONTACT: D. Michael Lefever, Esq., Office of Self-Regulatory Oversight, Division of

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Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 272–2412.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced that it has amended Securities Exchange Act Rule 15b10–12 [17 CFR 240.15b10–12] in order to eliminate the current dual regulation of municipal securities transactions effected by Securities and Exchange Commission Only ("SECO") brokers and dealers conducting business in corporate as well as municipal and exempted securities ("mixed product brokers and dealers"). The rule, as amended, also makes the fair practice rules of the Commission's SECO program [1] applicable to the exempted securities transactions of all registered SECO brokers and dealers, including those brokers and dealers engaging exclusively in municipal and exempted securities transactions ("sole municipal brokers and dealers").

The Securities Acts Amendments of 1975 (the "1975 Amendments") [2] established for the first time the requirement that municipal securities brokers and dealers whose business is confined to effecting transactions in municipal and exempted securities register with the Commission. Registered sole municipal brokers and dealers which did not elect to become members of the National Association of Securities Dealers, Inc. (the "NASD") became subject to regulation under the Commission's SECO program. The program includes a series of Commission rules that establish "fair practice" standards governing such matters as general business conduct, suitability of recommendations, discretionary accounts, supervision of employees, record keeping, and fidelity bonds. The Commission, however, anticipated that the Municipal Securities Rulemaking Board (the "MSRB"), as directed by Section 15B(b)(2)(C) of the Act [15 U.S.C. 78*o*–4(b)(2)(C)], would establish rules of fair practice governing the activities of municipal securities brokers and dealers. Accordingly, the Commission adopted Rule 15b10–12 to relieve SECO sole municipal brokers and dealers of the necessity of developing and implementing compliance procedures for those SECO rules which regulated practices to be covered by anticipated MSRB fair practice rules. [3]

In contrast, SECO mixed product brokers and dealers, having been required to register with the Commission prior to the 1975 Amendments, had already been required to develop the necessary compliance procedures and, accordingly, continued to be subject to the SECO fair practice rules with respect to their transactions in corporate, municipal, and exempted securities. Consequently, when the Commission approved the MSRB fair practice rules on October 19, 1978, [4] transactions in municipal securities effected by SECO mixed product brokers and dealers became subject to regulation by both the Commission and the MSRB. In order to eliminate duplicative regulation, [5] the Commission proposed and published for comment an amendment to Rule 15b10–12. [6] No comments concerning the proposal were received.

The amendment to Rule 15b10–12 makes two changes. First it eliminates the current fair practice regulation by both the Commission and the MSRB of municipal securities transactions of mixed product brokers and dealers by exempting, with respect to their municipal securities transactions, all SECO brokers and dealers from compliance with SECO fair practice rules that are parallel to rules adopted by the MSRB. Specifically, the rule exempts municipal securities transactions from the requirements of Rules 15b10–2, 15b10–3, 15b10–4, 15b10–5, 15b10–6, and 15b10–11. The municipal securities transactions of both SECO mixed product brokers and dealers and SECO sole municipal brokers and dealers consequently will be subject only to the applicable MSRB rule.

In addition, the amendment makes SECO fair practice rules applicable to transactions in exempted securities effected by SECO sole municipal brokers and dealers. [7] Previously, Rule 15b10–12 exempted SECO sole municipal brokers and dealers from the fair practice requirements of the SECO program. The rule, as amended, converts a class exemption for SECO sole municipal brokers and dealers into a transactional exemption limited to municipal securities transactions. As a result, the amendment subjects all non-municipal transactions effected by SECO sole municipal brokers and dealers to Commission regulation, whether or not the transactions would have required the broker dealer to register with the Commission. The practical effect of the rule change is to require such persons to comply with the SECO fair practice rules with respect to their transactions in exempted securities.

Transactions in exempted securities effected by SECO mixed product brokers and dealers continue to be subject to the requirements of the SECO rules. By removing the exemption from compliance with such rules previously applicable to sole municipal brokers and dealers effecting transactions in exempted securities, uniformity within the SECO program is achieved. Although the scope of SECO regulation is broader than that of the NASD, which is not permitted to regulate exempted securities transactions of its members, [8] the Commission believes it is appropriate to utilize fully the jurisdiction granted to it in Section 15(b)(9) of the Act to assure that basic standards of fair dealing apply to all securities transactions of SECO brokers and dealers. Accordingly, the Commission has determined, pursuant to Section 23(a)(2) of the Act [15 U.S.C. 78w(a)(2)], that the amendment of Rule 15b10–12 does not impose any burdens on competition not necessary or appropriate in the furtherance of the purposes of the Act.

Statutory Basis

The Securities and Exchange Commission, acting pursuant to the Securities Exchange Act of 1934, as amended [15 U.S.C. 78a *et seq.*], and particularly Sections 2, 15, and 23 [15 U.S.C. 78b, 78*o* and 78w], hereby amends § 240.15b10–12 of Title 17 of the Code of Federal Regulations. Rule 15b10–12, as amended, becomes effective on February 22, 1980.

§ 240.15b10–12 is revised to read as follows:

§ 240.15b10–12 Exemption for municipal securities transactions of non-member brokers and dealers.

The following rules of the Commission adopted pursuant to section 15(b) of the Act shall not apply to transactions in municipal securities effected by brokers and dealers: Rule 15b10–2, Rule 15b10–3, Rule 15b10–4, Rule 15b10–5, Rule 15b10–6, Rule 15b10–11.

By the Commission.

George A. Fitzsimmons,

Secretary.

January 15, 1980.

[FR Doc. 80–3079 Filed 1–22–80; 8:45 am]

BILLING CODE 8010–01–M

[1] The SECO fair practice rules consist of Securities Exchange Act Rules 15b10–1 through 15b10–11 [17 CFR 240.15b10–1 through 15b10–11] adopted pursuant to authority granted by Section 15(b)(9) of the Securities Exchange Act of 1934 (the "Act") [15 U.S.C. 78*o*(b)(9)].

[2] Pub. L. No. 94–29 (June 4, 1975).

[3] Securities Exchange Act Release No. 11876 (Nov. 20, 1975) and Release No. 12468 (May 20, 1976).

[4] Securities Exchange Act Release No. 15247 and Release No. 15248 (Oct. 19, 1978).

[5] For example, both the SECO rules and the MSRB rules concern general business conduct, suitability of investment recommendations, supervision of persons associated with brokers and dealers, and discretionary accounts.

[6] Securities Exchange Act Release No. 16018 (July 11, 1979).

[7] Section 15(b)(9) of the Act grants the Commission rulemaking authority over any security, including exempted securities.

[8] Section 15A(f) of the Act [15 U.S.C. 78–o–3(f)], in limiting the statutory authority of the NASD, provides: "Nothing in this section shall be construed to apply with respect to any transaction by a broker or dealer in any exempted security."

DEPARTMENT OF JUSTICE

28 CFR Part 16

[Directive No. 71]

Redelegation of Authority to Deputy Assistant Attorneys General and Director of the Office of Legal Support Services to Authorize Production or Disclosure of Material or Information

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This directive redelegates to the Director of the Office of Legal Support Services the Assistant Attorney General's authority to approve production of material and disclosure of information contained in the files of the Department in response to a subpoena, order, or other demand of a court or other authority. Until now, this authority has been redelegated only to each of the Deputy Assistant Attorneys General of the Criminal Division.

EFFECTIVE DATE: January 14, 1980.

FOR FURTHER INFORMATION CONTACT: Philip T. White, Director, Office of Legal Support Services, Criminal Division, Department of Justice, Washington, D.C. 20530 (202–724–7042).

Appendix to Subpart B [Amended]

By virtue of the authority vested in me by § 16.23(b)(1) of Title 28 of the Code of Federal Regulations, the Appendix to Subpart V is amended by deleting the period after the word "Division" in the first sentence and adding the following: * * * and to the Director of the Office of Legal Support Services: *Provided however,* That if in his judgment unusual circumstances exist which warrant special consideration, the Director of Legal Support Services shall consult with a Deputy Assistant Attorney General prior to approving production of material or disclosure of information.

* * * * *

Dated: January 14, 1980.

Philip B. Heymann,

Assistant Attorney General, Criminal Division.

[FR Doc. 80–2021 Filed 1–22–80; 8:45 am]

BILLING CODE 4410–01–M

28 CFR Part 16

[Order No. 871–80]

Production or Disclosure in Response to Subpoenas or Demands of Courts or Other Authorities

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This amendment authorizes the Assistant Attorney General of the Criminal Division to redelegate to the Director of the Office of Legal Support Services the authority delegated to him to approve production of material and disclosure of information contained in the files of the Department in response to a subpoena, order or other demand of a court or other authority. Until now, this authority has been authorized to be redelegated only to Deputy Assistant Attorneys General.

EFFECTIVE DATE: January 8, 1980.

FOR FURTHER INFORMATION CONTACT: Philip T. White, Director, Office of Legal Support Services, Criminal Division, Department of Justice, Washington, D.C. 20530, (202–724–7042).

By virtue of the authority vested in me by 28 U.S.C. 509 and 510 and 5 U.S.C. 301, § 16.23 of Chapter I of Title 28 Code of Federal Regulations is amended by adding the following sentence at the end of paragraph (b)(1):

§ 16.23 Procedure in the event of a demand for production or disclosure.

* * * * *

(b) * * *

(1) * * * The Assistant Attorney General of the Criminal Division may redelegate this authority to the Director of the Office of Legal Support Services.

* * * * *

Dated: January 8, 1980.

Benjamin R. Civiletti,

Attorney General.

[FR Doc. 80–2020 Filed 1–22–80; 8:45 am]

BILLING CODE 4410–01–M

28 CFR Part 16

[AAG/A Order No. 40–80]

Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: On October 12, 1979, the Department of Justice published in the **Federal Register** a proposal to amend 28 CFR 16.96, Exemption of Federal Bureau of Investigation System—Limited Access, as it relates to the Federal Bureau of Investigation Central Records System (Justice/FBI–002), in order to explain in more clear and concise language the reasons such exemptions are necessary. On the same day, the Department of Justice published a notice in the Notice Section of the **Federal Register** modifying the system.

The purposes of these exemptions are to maintain the confidentiality and security of information compiled for the purposes of criminal investigations and civil or regulatory law enforcement, or of reports compiled at any stage of the criminal law enforcement process, and to maintain the confidentiality and security of information that is specifically authorized to be kept secret in the interests of national defense or foreign policy.

Some records contained in this system of records may not be subject to exemption. A determination will be made as to the exemption of a specific record or information at the time a request for notification or access is made.

The exemption of this system of records pursuant to the Privacy Act of 1974 is accomplished by the amendment of existing 28 CFR 16.96.

DATES: The Rule will be effective January 23, 1980.

ADDRESSES: Administrative Counsel, Justice Management Division, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: William J. Snider (202–633–3452).

SUPPLEMENTARY INFORMATION: No comments were received regarding the proposed regulations published on October 12, 1979.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a(j)(2) and (k) and delegated to me by the Attorney General Order No. 793–78, the proposed regulations published in the **Federal Register** on October 12, 1979, are adopted without change as set forth below.

Dated: January 11, 1980.

Kevin D. Rooney,

Assistant Attorney General for Administration.

Section 16.96 of 28 CFR is revised to read as follows:

§ 16.96 Exemption of Federal Bureau of Investigation Systems—limited access.

(a) The following system of records is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (2), and (3), (e)(4)(G) and (H), (e)(8), (f) and (g).

(1) *Central Records System (CRS) (JUSTICE/FBI–002).* These exemptions apply only to the extent that information

in this system is subject to exemption pursuant to 5 U.S.C. 552(j) and (k). Where compliance would not appear to interfere with or adversely affect the overall law enforcement process, the applicable exemption may be waived by the FBI.

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From paragraph (c)(3) because making available to a record subject the accounting of disclosures from records concerning him/her would reveal investigative interest by not only the FBI, but also by the recipient agency. This would permit the record subject to take appropriate measures to impede the investigation, e.g., destroy evidence, intimidate potential withnesses or flee the area to avoid the thrust of the investigation.

(2) From paragraphs (d), (e)(4) (G) and (H), (f) and (g) because these provisions concern individual access to investigative records, compliance with which could interfere with the overall law enforcement process by revealing a pending sensitive investigation, possibly identify a confidential source or disclose information which would constitute an unwarranted invasion of another individual's personal privacy. In addition, from paragraph (d)(2) because to require the FBI to amend information thought to be incorrect, irrelevant or untimely, because of the nature of the information collected and the essential length of time it is maintained, would create an impossible administrative and investigative burden by forcing the agency to continuously retrograde its investigations attempting to resolve questions of accuracy, etc.

(3) From paragraph (e)(1) because:

(i) It is not possible in all instances to determine relevancy or necessity of specific information in the early stages of a criminal or other investigation.

(ii) Relevance and necessity are questions of judgment and timing; what appears relevant and necessary when collected ultimately may be deemed unnecessary. It is only after the information is assessed that its relevancy and necessity in a specific investigative activity can be established.

(iii) In any investigation the FBI might obtain information concerning violations of law not under its jurisdiction, but in the interest of effective law enforcement, dissemination will be made to the agency charged with enforcing such law.

(iv) In interviewing individuals or obtaining other forms of evidence during an investigation, information could be obtained, the nature of which would leave in doubt its relevancy and necessity. Such information, however, could be relevant to another investigation or to an investigative activity under the jurisdiction of another agency.

(4) From paragraph (e)(2) because the nature of criminal and other investigative activities is such that vital information about an individual can only be obtained from other persons who are familiar with such individual and his/her activities. In such investigations it is not feasible to rely upon information furnished by the individual concerning his own activities.

(5) From paragraph (e)(3) because disclosure would provide the subject with substantial information which could impede or compromise the investigation. The individual could seriously interfere with undercover investigative activities and could take appropriate steps to evade the investigation or flee a specfic area.

(6) From paragraph (e)(8) because the notice requirements of this provision could seriously interfere with a law enforcement activity by alerting the subject of a criminal or other investigation of existing investigative interest.

[FR Doc. 80-2019 Filed 1-22-80; 8:45 am]

BILLING CODE 4410-02-M

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

36 CFR Part 1215

Archaeological Resources Protection Act of 1979; Notice of Permitting Procedures Pending Promulgation of New Regulations

AGENCY: Heritage Conservation and Recreation Service, Department of the Interior.

ACTION: Notice of permitting procedures pending promulgation of new regulations.

SUMMARY: This notice is to provide immediate guidance to those persons seeking permits to undertake archaeological excavation and/or exploration on lands administered by the Department of the Interior. This guidance is offered in light of a new act, the Archaeological Resources Protection Act of 1979 (Public Law 96-95) and its requirements for a permit authorizing such activities.

FOR FURTHER INFORMATION CONTACT: Charles M. McKinney, Manager, Federal Antiquities Program, Department of the Interior, Heritage Conservation and Recreation Service, 440 G Street, NW., Washington, D.C. 20243 (202) 343-7105.

SUPPLEMENTARY INFORMATION: The Archaeological Resources Protection Act of 1979 (hereafter the Act) was enacted to provide a comprehensive framework for protecting and regulating the use of archaeological resources on public and Indian lands. Formerly these resources came within the ambit of the Antiquities Act of 1906 (34 Stat. 225, 16 U.S.C. 431-3) and regulations promulgated thereunder, 43 CFR, Part 3.

The new act provides for all excavation and removal of archaeological resources on public land to be done pursuant to a permit issued by the Federal land manager. Consent of Indian tribes or individual Indians must be obtained before permits may be issued for excavation or exploration of sites on Indian lands. Archaeological resources recovered from public lands remain the property of the United States with custody and final disposition determined by the Secretary of the Interior. Removal, custody, and ultimate disposition of such archaeological resources recovered from Indian lands are determined by the individual Indian or Indian tribal authority which owns or has jurisdiction over such lands in consultation with the Secretary of the Interior.

The Act requires the uniform rules and regulations to carry out its purposes to be promulgated by the Secretaries of Interior, Agriculture, and Defense, and the Chairman of the Board of the Tennessee Valley Authority, after consultation with other Federal land managers, Indian tribes and representatives of concerned State agencies, and after public notice and hearing. Each such rule or regulation promulgated must also be sent to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs. The rule or regulation does not take effect for 90 days following its submission to these Committees.

Following the promulgation of uniform rules each Federal land manager must promulgate such rules and regulations, consistent with the uniform rules and regulations, as may be appropriate to carry out his or her function and authorities under the Act. These rules do not need to be submitted to the Congressional Committees for legislative review.

It is clear from the purpose and legislative history of the Act that it was not the intention of the Congress to discontinue legitimate archaeological exploration and excavation pending the implementation of new regulations. Maintaining legitimate archaeological activity is particularly important in light of the need to undertake archaeological surveys and exploration prior to proceeding with various pending energy projects. However, Sec. 10(a) states that "*Each* uniform rule or regulation promulgated under the Act" must be submitted for Congressional review and "*no* such uniform rule or regulation may take effect before the expiration of a period of 90 calendar days following the dates of its submission to such Committees." (Emphasis supplied). The Act makes no explicit provision for exempting interim or emergency regulations from the 90 day legislative review period, yet the Act and its permit requirements took effect immediately upon its enactment. (Sec. 6(e).)

To reconcile these provisions of the statute and to enable archaeological activity to continue pending the promulgation of new permitting regulations under the Act, the Department of Interior has determined that the most reasonable course is to continue to issue permits during this period pursuant to regulations and procedures set forth in 43 CFR, Part 3, which were promulgated under the Antiquities Act, to the extent those regulations are not incompatible with any of the provisions of the Act. The Antiquities Act has not been repealed, and the permitting regulations promulgated thereunder are primarily procedural in nature.

Notice is hereby given that applications to the Department of the Interior for permits for excavation and removal of archaeological resources subject to the Archaeological Resources Protection Act of 1979, Public Law 96-95, will be processed under regulations promulgated pursuant to Sections 3 and 4 of the Antiquities Act of 1906 (Secs. 3, 4, 34 Stat. 225, 16 USC 432) and the substantive provisions of Archaeological Resources Protection Act of 1979 (Public Law 96-95) until such time as new regulations have been promulgated. The existing regulations are to be found in 43 CFR, Part 3. To the extent any provisions of the regulations are inconsistent with the new act, the policies of the new act will govern.

Dated: January 17, 1980.

Robert L. Herbst,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 80-2265 Filed 1-22-80; 8:45 am]

BILLING CODE 4310-03-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1396-7]

Approval and Revision of the Pennsylvania Implementation Plan; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction of final rule.

SUMMARY: This notice clarifies and corrects the language contained in the preamble to EPA's approval of a revision to Pennsylvania's State Implementation Plan (SIP), published in the Federal Register on August 8, 1979, 44 Fed. Reg. 46465. The clarifications and corrections are as set forth below.

FOR FURTHER INFORMATION CONTACT: Mr. Mark E. Garrison (3AH13), Air Programs Branch, U.S. Environmental Protection Agency, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597-2745.

1. The revised SIP affects only those sources located in the Erie air basin. In its preamble EPA mistakenly equated the Erie air basin and Erie County. Pennsylvania's Department of Environmental Resources (DER) regulations, as approved, clearly identify the Erie air basin as including only the following political subdivisions of Erie County: City of Erie, Harborcreek Township, Lawrence Park Township, Millcreek Township and Wesleyville Borough (See Chapter 121, Section 121.1 of DER's regulations). EPA recognizes that only the sources located in these areas are subject to the new regulations.

2. Large solid fossil fuel-fired combustion units with a rated capacity equal to or greater than 250 million BTU's per hour heat input are required to meet an emission limitation incorporating a time averaging provision and to install a continuous emission monitoring device (See Chapter 123, Section 123.22, 123.22(b)(4)(i)). The preamble of the rulemaking notice contained language that could be interpreted as meaning that these provisions are optional; EPA is emphasizing in today's notice that these provisions are required for large boilers as indicated above.

Both of these corrections apply to the preamble of the referenced rulemaking notice, and do not affect the regulations that were submitted to and approved by EPA.

(Authority: 42 U.S.C. 7401-7642)

Dated: January 10, 1980.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 80-2070 Filed 1-22-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 85

[FRL 1394-4]

Delayed Compliance Order for Koppers Company, Inc.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to Koppers Company, Inc. (Koppers). The Order requires the Company to bring air emissions from its Boiler #3 at Youngstown, Ohio into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Koppers' compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect January 23, 1980.

FOR FURTHER INFORMATION CONTACT: Anne Swofford, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On October 31, 1979 the Regional Administrator of U.S. EPA's Region V Office published in the Federal Register (44 FR 62543) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for Koppers. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to Koppers by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1). The Order places Koppers on a schedule to bring its Boiler #3 at Youngstown/Ohio into compliance as expeditiously as practicable with Regulation AP-3-07, AP-3-11 and 40 CFR 52.1882(b), a part of the federally approved Ohio State Implementation Plan. Koppers is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet

Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Koppers to delay compliance with the SIP regulations covered by the Order until January 15, 1980.

Compliance with the Order by Koppers will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Koppers is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of the notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Koppers on a schedule for compliance with the Ohio State Implementation Plan. (Authority: 42 U.S.C. 7413(d), 7601)

Dated: January 17, 1980.

Douglas M. Costle,

Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following entry to the table in § 65.400:

§ 65.400 Federal delayed compliance orders issued under section 113(d)(1), (3), and (4) of the act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
• • •	• • •	• • •	• • •	• • •	• • •
Koppers Co., Inc.	Youngstown, Ohio	EPA-5-79-A-48	Oct. 31, 1979	AP-3-07, AP-3-11, 40 CFR 52.1882(b).	Jan. 15, 1980.
• • •	• • •	• • •	• • •	• • •	• • •

[FR Doc. 80-2121 Filed 1-23-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 3

Archaeological Resources

Cross Reference: For a document referencing the use of 43 CFR Part 3, see FR Doc. 80-2265 published elsewhere in this issue.

BILLING CODE 4310-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 78-143; RM-3020)

FM Broadcast Station in El Dorado, Ark.; Changes made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule; (Report and Order).

SUMMARY: This action assigns Channel 240A to El Dorado, Arkansas, as a third FM assignment, in response to a petition from Inspirational Radio Service. Although the Commission's population guidelines are exceeded, it found that the proposed assignment of the channel would be in the public interest since alternative use of the channel seems unlikely and a second FM and aural service will be provided.

EFFECTIVE DATE: February 29, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: January 14, 1980.

Released: January 18, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (El Dorado, Arkansas), BC Docket No. 78-143, RM-3020.

1. By *Notice of Proposed Rule Making*, 43 FR 19692, the Commission proposed to amend § 73.202(b) of its rules, the FM Table of Assignments, by assigning FM Channel 240A to El Dorado, Arkansas. The *Notice* was issued in response to a petition from Inspirational Radio Service ("petitioner"), which contends that El Dorado and surrounding Union County are beginning to develop and need an additional broadcast service. El Dorado (1970 pop. 25,283) presently has two AM and two FM stations, and under the Commission's population guidelines would not normally be awarded another FM assignment. However, the *Notice* was issued to determine if there was a basis for making the assignment anyway. In addition, petitioner was specifically requested, as part of its showing, to (1) indicate whether alternate channels were available to the precluded communities—Waldo and Smackover, Arkansas, and Bernice Louisiana, and (2) submit *Roanoke Rapids* and *Anamosa-Iowa City* showings establishing the extent of first and second FM and aural service which would be provided by the assignment.

2. Opposition comments were filed by the licensees of the two AM and FM station combinations in El Dorado: Lowery Broadcasting Company (KDMS and KRIL(FM)), and Noelmark Broadcasting Corporation (KELD and KEZU(FM)). Apart from discussing petitioner's programming plans and the asserted economic impact of an additional station, which, as we stated in the *Notice*, are not appropriate for resolution in an assignment proceeding, the opponents contend that El Dorado has actually declined slightly in population between 1960 and 1970, so that petitioner's assertion of incipient development is unsupported by facts and, unlike other cases, petitioner has offered no other special circumstances supporting a departure from the population guidelines.

3. As to the three communities which would be precluded, petitioner states that no alternate FM channels are available for Bernice or Waldo, but asserts the proposed assignment could be utilized at Smackover under the Commission's 10-mile rule, § 73.203(b). However, staff analysis indicates that Smackover is more than 10 miles from El Dorado, although Bernice could be served (under the 10-mile rule) by a recent assignment to Dubach, Louisiana. Thus, the precluded communities are Waldo (pop. 1,658) and Smackover (pop. 2,058). Each presently receives fulltime aural services from nearby communities. Also, it appears that since the overall county population has declined or remained stable over the last two decades, it would be unlikely that either Smackover or Waldo will generate demand sufficient to activate a local broadcast facility in the foreseeable future. With regard to estimates of first and second aural and FM services, petitioner submitted an inaccurate and incomplete showing. A complete study submitted jointly by the opponents indicates a second FM and second aural service would be provided to approximately 318 persons in a 186 square kilometer (72 square miles) area.

4. The record indicates that El Dorado's population remained stable or in slight decline over the 1960–1970 decade, and has not changed significantly since, after correcting for alterations in municipal boundaries. Petitioner has established no basis for expecting a change in this pattern. We think it improbable that there will be another use of Channel 240A in this area, and we are reluctant to artificially restrain the available broadcast alternatives in El Dorado. The alternative communities presently receive fulltime aural service from nearby communities, and there have been no expressions of interest in the assignment at these communities. When we also consider the second FM and aural service that will be provided by the proposed use of Channel 240A at El Dorado, we find that the public interest will be served by the assignment.

5. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's rules, it is ordered, that effective February 29, 1980, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended with respect to the community listed below:

City	Channel No.
El Dorado, Arkansas	240A, 257A, 276A.

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-2070 Filed 1-23-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[Docket Nos. 19784; RM-2036; RM-2835; RM-3089; RM-3090]

FM Broadcast Stations in Leonardtown, Md., Falmouth, Chancellor and Colonial Beach, Va.; Changes made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report and Order).

SUMMARY: This action assigns FM Channel 240A to Colonial Beach, Virginia, as its first FM channel assignment. The same channel had been requested at three other communities—Leonardtown, Maryland; Falmouth, Virginia; and Chancellor, Virginia. However, Colonial Beach was the only community which would receive a first local aural service and which would provide a first and second aural service to some areas. Also Channel 249A is reassigned from Leonardtown to Lexington Park, Maryland, to reflect its actual use.

EFFECTIVE DATE: February 29, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: January 14, 1980

Released: January 18, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Leonardtown, Maryland and Falmouth, Chancellor and Colonial Beach, Virginia), Docket No. 19784. RM-2036, RM-2835, RM-3089, RM-3090.

1. We are considering here our *Memorandum Opinion and Order and Further Notice of Proposed Rule Making*, 43 FR 3403, and timely filed comments responding to it filed by (1) Jonathan Christian Corporation ("Jonathan Christian"), (2) W. Ronald Smith ("Smith"), (3) Keith E. Angstadt ("Angstadt"), and (4) Continental Broadcasting Corporation ("Continental"). Smith, Continental, and Jonathan Christian filed reply comments.

2. *Background.* The *Memorandum Opinion and Order and Further Notice of Proposed Rule Making* recounted the lengthy history of this proceeding, which has involved several parties and several requests for different FM assignments, some of which have been disposed of. That document ended by proposing, in the alternative, to assign FM Channel 240A either to Leonardtown, Maryland, or to Falmouth, Virginia.

3. Continental, the licensee of WKIK, Leonardtown, and Jonathan Christian support a Leonardtown assignment. The party which had originally requested the Falmouth assignment, Vincent L. Carr, has not filed any comments to the *Further Notice*, so we can assume that he has no further interest in an assignment there. However, two more counterproposals were received. Angstadt proposes assigning Channel 240A to Colonial Beach, Virginia, and Smith proposes assigning it to Chancellor, Virginia, which he says is about 5 kilometers (3 miles) from Falmouth. Further, in his reply comments, Smith says that if the channel is assigned at Falmouth, he will apply for and build a station there.

4. The Commission's staff has conducted its own study and determined that Channel 240A is the only channel which can be assigned at any of the four places, and only one assignment of Channel 240A can be made.

5. *Community Data:* Leonardtown (1970 population 1,406) is the county seat of St. Mary's County. It has a fulltime AM station. According to Continental's showing, a station there with maximum facilities (3 kW at 91 meters (300 feet)) would provide a first aural service to an area of 18 square kilometers (6.75 square miles) with a population of 318 and a second aural service to an area of 205 square kilometers (79 square miles) with a population of 13,014.

6. Colonial Beach is about 18 miles west of Leonardtown across the Potomac River. It is an incorporated town with a 1970 population of 2,261. It has no local transmission service. Although Angstadt did not submit a *Roanoke Rapids* showing, our staff has determined that the 1 mV/m contour of a Colonial Beach station would encompass the same first service area and a portion of the same second service area as that of a Leonardtown station plus additional areas. The staff estimates that a Colonial Beach station with maximum Class A facilities could provide a first aural service to about 450 persons in an area of 34 square kilometers (13 square miles) and a

second service to about 3,300 persons in an area of 233 square kilometers (90 square miles).

7. Neither Falmouth nor Chancellor has a local transmission service. They are adjacent to Fredericksburg (1970 population 14,450), which has two Class B FM stations and two AM stations, one of which is fulltime. It does not appear that a station either at Falmouth or Chancellor would provide a first or second FM or aural service to any area.

8. Falmouth had a 1970 population of 2,139. While it is not an incorporated community, Smith supplied some data on churches, a school, and a fire department, to support his claim that it is an independent community. Chancellor (1970 population 3,872) is a subdivision of Spotsylvania County. Angstadt supplied some information on a school, churches, a fire department, and businesses to support his claim that it is a community with a separate need for service. While recognizing that the 1 mV/m contour of a station there would encompass Fredericksburg, he said that he would operate it as a Chancellor station and broadcast one and a half hours per week of public affairs programming directed to the needs of Chancellor. Other parties question whether Falmouth and Chancellor are communities and whether these are really proposals aimed at the Fredericksburg market.

9. We will assign channel 240A at Colonial Beach. The deciding factors are that a station there would both be a first local transmission service and would provide first and second aural service to some areas. A station at Leonardtown would provide first and second aural service to some areas, but would not be a first local transmission service. Conversely, a station at Chancellor or Falmouth would be a first local transmission service but would not provide any first or second aural service.

10. Also, to reflect the actual use of Channel 249A at Lexington Park, Maryland, under the 10-mile rule, we shall, as previously proposed, reassign the channel from Leonardtown to Lexington Park.

11. Accordingly, it is ordered, that effective February 29, 1980, § 73.202(b) of the rules, the FM Table of Assignments, is amended as follows:

City	Channel No.
Leonardtown, Maryland	----
Lexington Park, Maryland	249A
Colonial Beach, Virginia	240A

12. Authority for the action taken herein if found in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934 as amended, and § 0.281 of the Commission's rules.

13. It is further ordered, that this proceeding is terminated.

14. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-2071 Filed 1-22-80; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. MC-121]

Policy Statement on Motor Carrier Regulation; Clarification of Effective Date

AGENCY: Interstate Commerce Commission.

ACTION: Clarification of effective date.

SUMMARY: On October 19, 1979, following notice and comment, the Commission published in the **Federal Register** its final policy statement in this proceeding. 44 Fed. Reg. 60296. By its terms the policy statement was to become effective 30 days following publication. On November 19, 1979, American Trucking Associations, Inc. (ATA) filed a petition for review of the policy statement with the United States Court of Appeals for the Seventh Circuit.[1] *American Trucking Associations, Inc.* v. *United States and Interstate Commerce Commission*, 7th Cir., No. 79-2391. ATA also filed a motion to stay the policy statement pending judicial review. On November 20, 1979, the Court temporarily stayed the policy statement to allow the Commission to respond to ATA's motion before the Court decided whether to enter a permanent stay pending judicial review. On November 30, 1979, the Court denied ATA's stay request and vacated its temporary stay.

In light of the above, and because the Commission has received numerous inquiries regarding the effective date of the policy statement, we have decided to issue this notice to dispel any confusion. The Commission will apply the MC-121 policy statement to all motor common carrier application proceedings published in the **Federal Register** on or after November 30, 1979. Applications published before that date will be decided under then existing Commission precedent.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr. (202) 275-7292.

Dated: January 14, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, and Alexis. Vice Chairman Gresham dissented in part with a separate expression. Commissioner Stafford dissented.

Agatha L. Mergenovich,

Secretary.

Vice Chairman Gresham, *dissenting in part:*

I did not and still do not concur in the policy statement adopted by the majority. However, if the policy statement is to remain in effect, I would agree with the majority that the statement should not apply to applications which were published prior to November 30, 1979.

[FR Doc. 80-2068 Filed 1-22-80; 8:45 am]

BILLING CODE 7035-01-M

[1] A petition for review of the policy statement had previously been filed on October 31, 1979, in *Assure Competition Transportation* v. *United States and Interstate Commerce Commission*, 7th Cir., No. 79-2206.

Proposed Rules

Federal Register
Vol. 45, No. 16
Wednesday, January 23, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1427

Proposed Determinations Regarding 1980-Crop Extra Long Staple Cotton Loan and Payment Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed Rule.

SUMMARY: The Secretary of Agriculture proposes to determine the loan level and payment rate with respect to the 1980 crop of extra long staple lint cotton (referred to as "ELS cotton"). These determinations are to be made pursuant to the Agricultural Act of 1949 (63 Stat. 1051, 7 U.S.C. 1421), as amended (hereinafter referred to as the "Act").

This notice invites written comments on the proposed determination.

DATES: Comments must be received on or before February 19, 1980.

ADDRESS: Mail comments to Mr. Jeffress A. Wells, Director, Production Adjustment Division, ASCS, USDA, Room 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham (ASCS) (202) 447-7873.

SUPPLEMENTARY INFORMATION: On August 14, 1979, a notice of proposed determinations was published in the **Federal Register** seeking comments on the ELS cotton loan and payment program as it was then constituted (44 FR 47544). This notice is issued to solicit further public comment on the 1980 ELS cotton loan and payment program following the enactment of Pub. L. 96-176 on December 31, 1979. This law amended the Act with respect to the minimum total support and the minimum and maximum loan level for the 1980 and subsequent crops of ELS cotton. The minimum total support was reduced from 65 percent to 55 percent of the applicable parity price for ELS cotton. The minimum loan level was increased from 50 percent to 85 percent in excess of the loan level for Strict Low Middling 1 1/16 inch upland cotton. The maximum ELS cotton loan level was increased from 100 percent to 135 percent in excess of such loan level for upland cotton. Section 101(f) of the Act now requires that price support shall be made available to cooperators for the 1980 and each subsequent crop of ELS cotton, if producers have not disapproved marketing quotas therefor, through loans at a level which is not less than 85 percent or more than 135 percent in excess of the loan level established for Strict Low Middling 1 1/16 inch upland cotton of such crop at average location in the United States (except that such loan level for ELS cotton shall in no event be less than 35 cents per pound). Section 101(f) also provides for price support payments at a rate which, together with the loan level established for such crop, shall be not less than 55 percent or more than 90 percent of the parity price for ELS cotton as of the month in which the payment rate provided for is announced. Section 401 of the Act requires that, in determining the level of support in excess of the minimum level prescribed for ELS cotton, consideration shall be given to the supply of the commodity in relation to the demand therefor, the price levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through a price support operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand. The national average loan rate of 48.00 cents per pound established for 1980-crop upland cotton is basis micronaire 3.5 through 4.9. This rate includes an estimated micronaire premium of 50 points (one-half cent) per pound which must be deducted from the upland loan rate to convert the upland rate to average micronaire before it can serve as the basis for the ELS loan rate. Thus, the possible range of the loan rate for ELS cotton would be 87.88 to 111.63 cents per pound.

The January 1980 parity price for ELS cotton is $1.66 per pound. If the total support (loan level plus payment rate) were being determined during January 1980, the minimum support would be 91.3 cents per pound, or 55 percent of parity. Total support could be set as high as 149.4 cents per pound, or 90 percent of parity. If the ELS loan level for 1980 is established at less than the total support. The difference must be paid directly to ELS producers as support payments.

Prior to determining the loan and payment rates for the 1980 program, the Secretary will consider any views or recommendations relative to these items. Comments will be made available for public inspection at the Office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

This proposal is being published under emergency procedures as authorized by Executive Order 12044 and Secretary's Memorandum 1955, without a full 60-day comment period. I have determined that an emergency situation exists which warrants less than a full 60-day comment period on these proposals because producers need to know the loan level and the payment rate for the 1980 crop of ELS cotton as soon as possible so that they may complete their preparation for planting. The full 60-day period would delay the announcement of the final determination such that producers would not receive the information timely. Accordingly, the comment period is shortened and public comments must be received by February 19, 1980, in order to be assured of consideration.

The proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified as not "significant."

A Draft Impact Analysis has been prepared and is available from Charles V. Cunningham (ASCS), (202) 447-7873.

Signed at Washington, D.C., on January 17, 1980.

John W. Goodwin,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-2059 Filed 1-18-80; 12:46 pm]

BILLING CODE 3410-05-M

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Rules of Practice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its "Rules of Practice" to permit NRC Atomic Safety and Licensing Boards to use special assistants to be drawn from the membership of the Atomic Safety and Licensing Board Panel. The special assistants may be allowed to participate as technical interrogators, alternate Atomic Safety and Licensing Board members, special masters, or consultants. The purpose of the amendments is to facilitate the hearing process and improve the quality of the record produced.

DATES: Comment period expires March 24, 1980.

ADDRESSES: Written comments or suggestions for consideration in connection with the proposed amendments should be submitted to the Secretary of the Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mark Chopko, Office of General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (phone 202–634–3224); Guy H. Cunningham III, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (phone 301–492–7203).

SUPPLEMENTARY INFORMATION: On October 11, 1979, the U.S. Nuclear Regulatory Commission Task Force Study of Use of Part-Time Members of the Atomic Safety and Licensing Board Panel (referred to herein as ASLBP), recommended that the Commission continue to use part-time members on licensing boards and adopt several alternative methods of employing those members to make more effective use of their expertise. Specifically, the Task Force recommended that the presiding officer have the option of using part-time ASLBP members as technical interrogators, alternate ASLBP members, special masters, or consultants to facilitate the hearing process and improve the quality of the record produced.

The Task Force concluded that the part-time members on the ASLBP are an important asset to the Commission. It found that their use should be continued since they allow the ASLBP to even out its caseload, afford the opportunity for use of additional expertise, provide a greater range of viewpoints and attitudes, and enhance the public perception of the boards' impartiality. While the Task Force was concerned that the present trend toward longer and more intensive hearings would adversely affect the availability of part-time members, the Task Force concluded that alternate methods for their use should be developed rather than lose the benefits of their expertise. The Task Force believed that methods could be developed to facilitate the hearing process and improve the quality of the record produced through expanded use of part-time ASLBP members.

The proposed regulations respond to the Task Force recommendations for expanded use of ASLBP part-time members as special assistants to hearing boards. Although the special assistants drawn from the ASLBP will report to or advise the individual boards, the three designated members of an Atomic Safety and Licensing Board will retain all ultimate decisionmaking authority. A new section 2.722 is proposed to be added to give the presiding officer authority to designate such special assistants. Since the matters at issue would not be determined by a board in a particular proceeding until after the notice of hearing and the pre-hearing conference ruling, it would not be practical to appoint a special assistant until some later need for one were established by the board during the proceeding. Thus, the proposed regulation permits appointment at any appropriate time during a proceeding. Also, because the special assistants are indeed Panel memebers, Section 2.722(a) provides for notice of the appointment to the parties in order to permit motions for disqualification as described in 10 CFR 2.704.

Section 2.722(a)(1) provides for technical interrogators who may assist the presiding officer during the hearing by examining witnesses in the interrogators' field of expertise. As is the current practice, the board may wish to reserve its questions until the parties have completed questioning of the witnesses (unless testimony is being taken on a roundtable basis or there is some occasion for clarification of testimony as rendered), since counsel for the respective parties will generally be prepared to develop the lines of pertinent questions. (*See* 10 CFR Part 2 App. A V(11).) In questioning from the board, however, it is expected that the technical interrogator would take the lead in questioning in matters in his field, so that the record will be as complete as possible.

Section 2.722(a)(2) authorizes special masters to hear evidentiary presentations by the parties on specific technical matters, and, upon completion of the presentation of evidence, prepare a report that would become part of the record. Although the special master is authorized to conduct the evidentiary presentation at which he gathers information for his report, appeals on his evidentiary rulings may be taken to the presiding officer and the presiding officer retains final decisionmaking authority over the issues heard and reported on by the special master.

Section 2.722(a)(3) authorizes an alternate Atomic Safety and Licensing Board member to participate in that portion of the evidentiary sessions relating to his area of expertise and report his conclusions to the presiding officer. This report is advisory; the presiding officer retains final authority on the issue for which the alternate member was designated. Section 2.722(b) authorizes consultants to brief the presiding officer prior to the hearing on the general technical background of issues to be heard. Such appointment is not subject to the notice and disqualification procedures described in section 2.704.

Section 2.718 is proposed to be amended to authorize the presiding officer to appoint the special assistants described in section 2.722. Appendix A to Part 2 is amended to conform it to these proposed regulations authorizing special assistants to the ASLB's.

Because the use of special assistants as defined in these proposed rules had not been considered at the time when the NRC separation of functions regulations were put into effect (*see* 10 CFR 2.719), it is necessary to conform the NRC regulations to this newly proposed addition to Licensing Board functions. No changes to the existing NRC regulations on *ex parte* communications are necessary under this proposal because special assistants would be Panel members who are adjudicatory employees as defined in the *ex parte* rules and because adjudicatory employees may discuss proceedings with each other. (10 CFR 2.780(a), (f).)

Proposed Regulatory Changes:

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 2 are contemplated.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. A new § 2.722 is proposed to be added as follows:

§ 2.722 Special assistants to the presiding officer.

(a) In consultation with the Panel Chairman, the presiding officer may, at his discretion, appoint from the Atomic Safety and Licensing Board Panel established by the Commission, personnel to assist the presiding officer in taking evidence and preparing a suitable record for review. Such appointment may occur at any appropriate time during the proceeding but shall, at the time of the appointment, be subject to the notice and disqualification provisions as described in § 2.704. Such special assistants may function as:

(1) Technical interrogators in their individual fields of expertise. Such interrogators shall be required to study the written testimony and sit with the presiding officer to hear the presentation and cross-examination by the parties of all witnesses on the issues of the interrogators' expertise, taking a leading role in examining such witnesses to ensure that the record is as complete as possible;

(2) Special masters to hear evidentiary presentations by the parties on specific technical matters, and, upon completion of the presentation of evidence, prepare a report that would become part of the record. Special masters may rule on evidentiary issues brought before them, in accordance with §§ 2.743 and 2.757. Appeals of such rulings may be taken to the presiding officer in accordance with procedures which shall be established in the presiding officer's order appointing the special master. Special masters' reports are advisory only; the presiding officer shall retain final authority with respect to the issues heard by the special master; or

(3) Alternate Atomic Safety and Licensing Board members to sit with the presiding officer, participate in the evidentiary sessions on the issue for which the alternate members were designated by examining witnesses, and advise the presiding officer of their conclusions through an on-the-record report. This report is advisory only; the presiding officer shall retain final authority on the issue for which the alternate member was designated.

(b) The presiding officer may at his discretion informally seek the assistance of Members of the Atomic Safety and Licensing Board Panel to brief the presiding officer on the general technical background of subjects involving complex issues which the presiding officer might otherwise have difficulty in quickly grasping. Such informal briefings shall take place prior to the hearing on the subject involved and shall supplement the reading and study undertaken by the presiding officer. They are not subject to the procedures described in section 2.704.

2. Section 2.718 is proposed to be amended by redesignating paragraph (k) as (l) and paragraph (l) as (m), and inserting a new paragraph (k) as follows:

§ 2.718 Power of presiding officer.

* * * * *

(k) Appoint special assistants from the Atomic Safety and Licensing Board Panel pursuant to § 2.722.

(l) Issue initial decisions; and

(m) Take any other action consistent with the Act, this chapter, and sections 551–558 of title 5 of the United States Code.

3. Section 2.719 is proposed to be amended by revising § 2.719(b) to read as follows:

§ 2.719 Separation of functions.

(a) * * *

(b) In any adjudication, the presiding officer may not consult any person other than a member of his staff or a special assistant as provided for in § 2.722 on any fact in issue unless on notice and opportunity for all parties to participate, except (1) as required for the disposition of *ex parte* matters as authorized by law and (2) as provided in paragraph (c) of this section.

Appendix A [Amended].

4. Appendix A of 10 CFR Part 2 is proposed to be amended by inserting the following as a new third paragraph:

* * * * *

An Atomic Safety and Licensing Board may at its discretion appoint special assistants to the Board from the membership of the Atomic Safety and Licensing Board Panel established by the Commission. These special assistants are to be employed to facilitate the hearing process and improve the quality of the record produced for review. The special assistants may serve as technical interrogators in their individual fields of expertise, alternate Atomic Safety and Licensing Board members to sit with the Board and participate in the evidentiary sessions on the issue for which the alternate members were designated, special masters to hear evidentiary presentations by the parties on specific technical matter, or informal consultants to brief the board prior to the hearing on the general technical background of subjects involving complex issues.

(Secs. 161b, 191, Pub. L. No. 83–703, 68 Stat. 948 et seq. (42 U.S.C. 2201b, 2241))

Dated at Washington, D.C. this 17th day of January 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

For the Commission.

[FR Doc. 80-2138 Filed 1-22-80; 8:45]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 3 and 260

[Docket No. RM80-20]

Notice of Proposed Rulemaking to Review Report of Gas Supply and Requirements: Form No. 16

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: By this Notice, the Federal Energy Regulatory Commission proposes to amend Form No. 16 (Report of Gas Supply and Requirements). The proposed amendments include changing the number of schedules contained in the Form, the format of those schedules, and the instructions which accompany the schedules. The proposed changes are a product of the Commission's ongoing effort to eliminate unnecessary reporting burdens and to update its forms.

DATE: Comments due February 29, 1980.

ADDRESS: Comments to this Notice should be addressed to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 and should reference Docket No. RM80–20.

FOR FURTHER INFORMATION CONTACT: Robert Schroeder, Office of Pipeline and Producer Regulation, Curtailment Branch, Room 7300–B, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 (202) 357–8864.

Issued January 18, 1980.

The Federal Energy Regulatory Commission (the Commission) is engaged in an ongoing effort to eliminate unnecessary reporting burdens. This rulemaking, to amend Form No. 16, "Report of Gas Supply and Requirements," is a part of that effort and reflects an evaluation of data

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needed by the Commission to carry out its regulatory functions. The proposed amendments to the content, format and instructions of Form No. 16 should result in a significant reduction in respondent burden and improve the quality of the responses filed under Form No. 16.

A. Background

Form No. 16 is submitted by natural gas pipeline companies making sales in interstate commerce.[1] It is a semiannual report showing system-wide summary information of a pipeline's gas supplies, requirements, and curtailments. This information is given by months, for one year of actual experience and for one year of future projections. In addition, the Form requires, on the same basis, detail on deliveries, requirements and curtailments for each customer of a respondent receiving 100,000 Mcf of gas per year or more. Customers receiving less than 100,000 Mcf of gas per year report the same information on an aggregate basis.

Form No. 16 gives the Commission information necessary to provide for emergency sales and certificates and to review curtailment plans and revisions. The form, in conjunction with the biweekly telephone survey of 29 major interstate pipelines conducted during the heating season, is used to evaluate, monitor, anticipate, manage, and report on short-term gas supplies, requirements, and imbalances. The Form is also an integral part of annual proceedings to evaluate the impact of natural gas shortages of interstate pipelines.[2] Products of these proceedings include an annual publication providing a national summary and detailed pipeline-by-pipeline assessment of anticipated supply and demand problems[3] and a semiannual report providing an overview of selected elements of Form No. 16.[4] Copies of Form No. 16 must be filed with customers and state regulatory commissions, giving it wide circulation to industry, the public, and the government.

Form No. 16 was last revised in 1975.[5] Since that date the Commission has benefitted from experience in its use. Furthermore, the Commission's review of regulatory burdens indicates that revisions to the Form can significantly reduce respondent burden and make the filing of the Form more concise and facilitate its use. Finally, the Commission should revise Form No. 16 so that its definition and data requests conform to recent regulations which implement the Natural Gas Policy Act of 1978 (NGPA).[6]

B. Summary of Proposed Changes

Form No. 16 is now composed of five schedules: Schedule 1 (Summary); Schedule 1–A (Requirements of Customers of Reporting Pipeline); Schedule 2 (Sources of Present Supply Adjusted for Losses); Schedule 3 (Firm Requirements); and Schedule 4 (Storage Operations). The instructions now require that each of the five schedules must be used twice; first, to report 12 months of actual experience; and second, to report 12 months of projected experience. Thus respondends must file ten schedules. The Commission proposes to reduce the number of schedules which must be filed from ten to eight by revising the schedules and renumbering them so that Schedules 1 through 4 would depict 12 months of actual experience and Schedules 5 through 8 would depict corresponding data for 12 months of projections.

Schedule 1 now consists of two pages. Under this proposal it would be simplified by deleting an obsolete second page. In addition, certain lines would be added to reflect new delivery provisions and to clarify interpipeline deliveries. The instructions would include references to ensure that reporting under the schedule would conform to recently issued regulations respecting certain transportation by interstate pipelines under the NGPA.

Schedule 1–A would be redesignated as Schedule 4 and the information rearranged so that columns (b) through (o) would be consistent with the proposals for other schedules. In addition, major totals would be added for Deliveries, Requirements, and Net Balance to clearly show the correspondence between this schedule and proposed Schedule 1.

Schedule 2 would be revised to reflect more clearly pipeline-to-pipeline surplus or deficiency in deliveries against contracts of pipeline suppliers. Other revisions to give more specificity for additional sources, domestic and imported, are also proposed.

Current Schedule 3 would be eliminated. It is no longer used by the Commission.

Current Schedule 4 would be redesignated as Schedule No. 3. A volumetric reference, keyed to Gas-in-Place on November 1 would be added as column (p). Storage services would be included in this proposed schedule.

Each of the proposals for the revision of schedules discussed above would apply to actual experience and they would have counterparts for projected or anticipated experience. These counterparts would be designated as Schedules 5 through 8. Thus, the proposed list of new Schedules would be as follows: Schedule No. 1 (Summary of Actual Supply, Requirements and Net Deficiency or Surplus); Schedule No. 2 (Actual Sources of Supply Adjusted for Losses); Schedule No. 3 (Actual Storage Operations); Schedule No. 4 (Actual Deliveries, Requirements and Net Deficiency or Surplus by Customer); Schedule No. 5 (Summary of Projected Supply, Requirements and Net Deficiency or Surplus); Schedule No. 6 (Projected Sources of Supply Adjusted for Losses); Schedule No. 7 (Projected Storage Operations); Schedule 8 (Projected Deliveries, Requirements and Net Deficiency or Surplus by Customer). Copies of these eight schedules are supplied as an attachment to this Notice.

To facilitate the exposition and discussion of these revisions, columns (c) through (l) representing various months have been omitted from the schedules in the attachment.

The Commission also proposes revisions to the instructions and definitions of Form No. 16. The instructions would be consolidated, clarified and expanded to provide respondents with better guidelines on general filing requirements, definitions, and line items on a schedule-by-schedule basis. Some important changes in the proposed instructions include: replacing the term "curtailment" with the more accurate phrase "net deficiency or surplus" of the pipeline (this would be the difference between "net available for market" from the pipeline and "pipeline requiremerits"); the elimination of the requirement to report monthly volumes on an average daily basis; and the use of more subtotals to overcome past problems users have had with inconsistencies within and among schedules.

Finally, format changes are proposed to ease respondent preparation and to facilitate both public and regulatory uses of the data. These changes include reserving columns (b) through (m) of each schedule for the reporting of monthly volumes; assigning unique schedule numbers to overcome the present ambiguity of using the same schedule number for both actual and projected data; and a reordering of the schedules so that there is a progression from highly aggregated data to supporting detail.

The proposed changes should provide the Commission with more meaningful data in a more usable form. In that the proposed Form prescribes less information and in a more coherent format, reporting burdens should be substantially eased. Because of these advantages it is proposed that the changes described in this Notice should be implemented in time for the report due on April 30, 1980.

In addition to the just-described changes to Form No. 16, the Commission also proposes to amend those regulations which reference Form No. 16. Section 260.12(a) would be amended to designate Form No. 16 as "FERC" Form No. 16. Section 260.12(b) would be revised to reflect the necessity of filing an original and six copies with the EIA. A new section 260.12(c) would be added to provide for waiver of filing for those companies who show that there is good reason for them not to file the form. This provision conforms to past Commission practice respecting the filing of Form No. 16. Finally, a technical correction would be made to § 3.170 (Approved forms, etc.) to remove the redundant subsection (22).

C. Written Comment Procedures

The Commission invites interested persons to submit written data, views and other information concerning the matters set out in this Notice. An original and 14 copies of such comments should be filed with the Commission by February 29, 1980. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should reference Docket No. RM80–20.

All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426 during regular business hours.

Since Form No. 16 will be collected by the Energy Information Administration of the Department of Energy, these proposed revisions will be considered by the Office of Management and Budget for ultimate clearance.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; E.O. 12009, 42 FR 46267; Natural Gas Act, as amended, 15 U.S.C. 717 *et seq.*)

In consideration of the foregoing, the Commission proposes to amend Form No. 16 as set forth in the attachment to this Notice and §§ 3.170 and 260.12, Chapter I, Title 18 of the Code of Federal Regulations as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

§ 3.170 [Amended]

1. Section 3.170 is amended by deleting the text of paragraph (a)(22) and reserving § 3.170(a)(22) for future use.

2. Section 260.12 is amended to read as follows:

§ 260.12 Form No. 16, Report of gas supply and requirements.

(a) The form of Report of Gas Supply and Requirements, designated herein as FERC Form No. 16, is prescribed.

(b) Each natural gas pipeline company making sales in interstate commerce of natural gas for resale shall prepare and file with the Energy Information Administration an original and six copies of Report of Gas Supply and Requirements, FERC Form No. 16, on or before April 30 and September 30 of each year.

(c) Upon good cause being shown, the Commission will grant requests by any company for waiver of the requirement to file Form No. 16.

3. FERC Form No. 16 and accompanying instructions will be issued as shown in the Attachment of this Notice, saving that, as issued, the forms will contain columns (c) through (l) for monthly data.

Attachment

This attachment contains proposed General Instructions and schedule instructions to accompany proposed Schedules 1 through 4 of Form No. 16. The schedule instructions are identical for proposed Schedules 5 through 8. That is, the instructions for proposed Schedule 1 would be the same as for proposed Schedule 5, those for proposed Schedule 2 the same as for proposed Schedule 6, and so forth. This attachment also contains proposed Schedules 1 through 8 of Form No. 16.

Form 16—Report of Gas Supply and Requirements

I. General Instructions

1. The FERC Form 16, Report of Supply and Requirements is to be filed by interstate natural gas companies making sales in interstate commerce of natural gas for resale.

2. The schedules that are in the Form 16 show system-wide summary information concerning pipeline company supply, requirements, and surplus (or deficiency), by months, for one year of actual experience and one year of projections.

3. Each respondent pipeline will report on or before April 30 and September 30 of each year. In the April 30 filing, actual data for the past year, April through March, and the projected data for one year, April through March, shall be reported. In the September 30 filing, actual data for the past year, September through August, and projected data for one year, September through August, shall be reported.

4. Figures should reflect total MMcf per month in columns (b) through (m), annual total MMcf in column (n), and the peak day MMcf in column (o).

5. Report the peak day volumes for the day of maximum requirements during the reporting period.

6. Report all volumes at 14.73 psia at 60° F.

7. Projections shall be based on normal weather conditions, defined as the latest 30-year average temperature data reported by the U.S. Weather Bureau location nearest to the respondent's service area or areas.

8. Use parentheses () to indicate decreases in supply or deficiencies.

9. Instructions for Schedules 5–8 (projected data) are the same as Schedule 1–4 (actual data).

10. An original and six (6) copies of the report shall be filed with: U.S. Department of Energy, Energy Information Administration, Code 2908, Washington, D.C. 20461.

Each pipeline company shall also send a copy of each of its customers and to each state regulatory commission and state energy office in each state in which it operates.

Schedule No. 1—Summary of Supply Requirements and Net Deficiency or Surplus.

Line by Line Instructions:

01 Net Present Supply—These figures should be transferred from Schedule 2, Line 21.

02 Anticipated New Supply—Anticipated new supply refers to gas not presently flowing but anticipated to be attached during the projected period. An attachment to the Form 16 is to be included, if applicable, specifying anticipated new supply sources and corresponding monthly takes. List each new source by field and/or block and include docket number if certificate authority is presently being sought.

03 Exempted Purchases for System Supply—These purchases refer to gas purchases by an interstate pipeline under Sections 157.45–52, 284.141–148, or 284.161–165 of FERC Regulations for use as general system supply. An attachment is to be included for both the actual and the projected period, if applicable, detailing the seller and the volume of the purchases pursuant to each of the above sections. The aggregate of all

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[1] Form No. 16 was initially promulgated in 1973: Order No. 488, "Order Requiring Report of Supply and Requirements and Promulgating Schedule", Docket No. R–472 (issued Aug. 24, 1973), 38 FR 23516 (Aug. 31, 1973), 50 FPC 561 (1973). It has been revised but once since that date, Order 523, "Order Amending Section 260.12 of Part 260, Statement and Reports (Schedules)", Docket No. R–472 (issued Feb. 6, 1975), FR 53 FPC 352 (1975). That revision added schedule 1–A to the form and made certain conforming amendments to the accompanying instructions.

[2] These proceedings, renewed anually each spring since 1975, were recently undertaken: "Order Instituting Proceedings, Establishing Procedures and Providing for Hearings to Evaluate the Impact of Natural Gas Shortages of Interstate Pipeline Companies", Docket Nos. TC79–94, *et al.* (issued Apr. 16, 1979), *as amended*, May 2, 1979 and August 30, 1979.

[3] *See, e.g.*, Federal Energy Regulatory Commission, Office of Pipeline and Producer Regulation, *Commission Staff Reports Impact of 1979–80 Winter Curtailment for Twenty-Eight Pipeline Companies* (Sept. 1979).

[4] *See, e.g.*, Federal Energy Regulatory Commission, Office of Pipeline and Producer Regulation, *Natural Gas Deliveries, Curtailments and Requirements* (Aug. 2, 1979).

[5] *See*, note 1, *supra*.

[6] *See also* section 304(a)(1)(c) of the Natural Gas Policy Act of 1978 (NGPA) which provides that the President may look to any federal agency to obtain information to carry out his authority under that act.

such exempted purchases for system supply should be entered on Line 03.

04 SUBTOTAL—Summation of Lines 01, 02, and 03.

05 Normally Anticipated Loss of Supply (Contingency)—Report any allowances made for producer outages, weather related losses, or other losses of supply.

06 Company Use and Shrinkage—Report any company compressor fuel, losses, reductions due to gas or liquid extractions, or unaccounted for gas.

07 Exchange Gas Received or (Delivered)—Report net volume differences in exchange arrangements.

08 Net Storage: (Injection) or Withdrawal—These figures should be transferred from Schedule 3, Line 11 on a monthly basis for columns (b) through (m), as an aggregate annual injuction or withdrawal in column (n), and as a peak day withdrawal in column (o).

09 SUBTOTAL—Summation of Lines 05, 06, 07, and 08.

10 Net Available for Market—This indicates the amount of gas the respondent pipeline has as general system supply for sale to customers. Line 04 less Line 09.

11 Requirements—Each respondent is to state whether their requirements originate from: (a) base period curtailment plan, (b) current contractual obligations, or (c) actual survey of customers' requirements. Do not include transportation services. Respondent must report the requirements which it is currently utilizing to allocate gas.

12 (Deficiency) or Surplus—Refers to the net balance of gas available for market less requirements. Line 10 less Line 11.

13 to 16 Distributor or Customer Self Help Gas Transported to Respondents' Customers—This action shows the extent to which customers of a respondent pipeline are able to acquire supplemental gas supplies. These distributor or self help purchases should be reported under the section they were purchased. Lineas 13, 14, and 15 should be treated as mutually exclusive. An attachment is to be included for both the actual and projected period detailing the volumes by customer and type of purchase. This only included sales customers.

13 Exempt Purchases by Respondents' Customers for which a Respondent Pipeline is Transporting—These purchases refer to gas purchases by customers of a respondent pipeline under Sections 157.45–52, 284.141–148, or 284.200–208 of FERC Regulations. The aggregate of all exempted purchases by customers should be entered on Line 13.

14 Direct Assignments to Respondents' Customers Transported by Respondent Pipeline—This refers to assignment gas purchased under Section 284.161–165 of FERC Regulations.

15 Other Gas Purchased by Respondents' Customers and Transported by Respondent Pipeline—Additional gas volumes transported by the respondent pipeline which is purchased under arrangements other than exempt purchases or direct assignments and which is not reported in Lines 13 or 14.

16 SUBTOTAL—Summation of Lines 13, 14, and 15.

17 Total Available to Customers—Line 10 plus Line 16.

18 Other Transportations—Other transportation volumes not reported elsewhere.

19 Deliveries—Show aggregate of all deliveries to other interstate pipeline companies. A separate listing of individual deliveries to interstate pipelines is to be given in Schedule 4. Do not include transportations.

20 Contract or Delivery Obligations—Pipeline to pipeline contract or delivery obligations should be reported on the same basis as requirements stated in Line 11 of Schedule 1. If they are different, footnote the explanation for the discrepancy.

21 (Deficiency) or Surplus—Line 19 less Line 20.

Schedule No. 2—Sources of Supply.

Line by Line Instruction:

01 to 03 Producing Areas—List producing areas by state, except for Louisiana and Texas which are to be additionally broken down for onshore and offshore production.

04 SUBTOTAL—Summation of Lines 01, 02, and 03.

05 to 07 Pipeline Suppliers: Contract Volume by Pipeline—List respondent's contract volumes with each of its pipeline suppliers.

08 SUBTOTAL—Summation of Lines 05, 06, and 07.

09 to 14 Pipeline Suppliers: Deliveries by Pipeline—List actual deliveries from each of the respondent's pipeline suppliers.

15 SUBTOTAL—Summation of Lines 09, 10, 12, 13, and 14.

16 (Deficiency) or Surplus—Line 15 less Line 08.

17 to 19 Other Domestic Sources—Detail if additional domestic sources are SNG, LNG, or other (specify on schedule). Do not include any transportation or exchange volumes.

20 SUBTOTAL—Summation of Lines 17, 18, and 19.

21 to 23 Imports—Detail if imports are LNG, Pipeline, or other (specify on schedule).

24 SUBTOTAL—Summation of Lines 21, 22, and 23.

25 Net Present Supply—Summation of Lines 04, 15, 20, and 24. Transfer these figures to Schedule 1, Line 1.

Schedule No. 3—Storage Operations.

Line by Line Instructions:

01 to 05 Field Name—Include all (injections) or withdrawals of gas in fields owned, operated, leased or used by the respondent pipeline, including customer storage service volumes. Indicate an injection with parentheses.

06 SUBTOTAL—Summation of Lines 01, 02, 03, 04, and 05.

07 to 09 Adjustments—Decreases and/or increases in the above storage volumes due to changes in base storage, development of new zones, or other similar occurrences. Use parentheses () to denote decreases.

10 SUBTOTAL—Summation of Lines 07, 08, and 09.

11 Net Storage—Line 06 less Line 10. Transfer these figures onto Schedule 1, Line 08.

12 to 16 Gas Storage Service—These figures represent customer storage service (injections) and withdrawals. Respondent pipeline can report volumes according to storage service rate schedules or individual customer listings.

17 SUBTOTAL—Summation of Lines 12, 13, 14, 15, and 16.

Column (p)—Working Gas in Place on November 1 should reflect the actual level of the preceding year and forecasted level for the projected year.

Schedule No. 4—Deliveries, Requirements, and Net Deficiency or Surplus by Customer.

General Instructions:

1. List deliveries, requirements, and net (deliveries less requirements) for each direct customer within a specific state on a monthly basis. Sales to interstate pipeline companies should not be included in this section. They are to be listed separately.

2. Customers receiving 100 MMcf or more of gas per year should be listed individually. The remaining customers can be aggregated.

3. Give the total of all deliveries, requirements, and net for each individual state (excluding the sales to interstate pipeline companies).

4. Give a total of all states' deliveries, requirements, and net (again excluding the sales to interstate pipeline companies).

5. List total deliveries, requirements, and net by respondent pipeline to each interstate pipeline served, broken down according to state in which deliveries are made.

6. List total of all deliveries, requirements, and net to interstate pipeline companies.

7. A Grand Total of the Total States and the Total of Interstate Pipelines should be given. The grand total deliveries (line 31) should equal line 10, Schedule 1; the grand total requirements (line 32) should equal line 11, Schedule 1; and the grand total net (line 33) should equal line 12, Schedule 1.

BILLING CODE 6450-01-M

FEDERAL ENERGY REGULATORY COMMISSION — FERC FORM 16 — REPORT OF GAS SUPPLY AND REQUIREMENTS

SCHEDULE NO. 1 - SUMMARY OF ACTUAL SUPPLY, REQUIREMENTS AND NET DEFICIENCY OR SURPLUS

Company Name:

Company Code No.:

PERIOD COVERED: April 1, 19__ to March 31, 19__ / September 1, 19__ to August 31, 19__

Line No.	PIPELINE SUPPLY (a)	MMcf. Per Month: April September (b)	. . .	March August (m)	MMcf.: ANNUAL TOTAL (n)	PEAK DAY (o)
01	Net Present Supply: From Schedule No. 2 Line 25					
02	Anticipated New Supply					
03	Exempted Purchases for System Supply					
04	SUBTOTAL: Lines 1-3					
05	Normally Anticipated Loss of Supply -					
06	Company Use and Shrinkage					
07	Exchange Gas Received or (Delivered)					
08	Net Storage - (Injection) or Withdrawal: - Schedule 3, Line 11					
09	SUBTOTAL: Lines 5-8					
10	Net Available For Market: Line 4 Less Line 9					
	PIPELINE REQUIREMENTS					
11	Requirements As Defined By One of the Following (Check Appropriate Item) (a) Base Period Curtailment Plan (b) Current Contractual Obligations (c) Actual Survey of Customers Requirements					
	NET BALANCE					
12	(Deficiency) or Surplus: Line 10 Less 11					
	DISTRIBUTOR OR CUSTOMER SELF HELP GAS TRANSPORTED TO RESPONDENTS CUSTOMERS BY RESPONDENT					
13	Exempted Purchases					
14	Direct Assignments					
15	Other Gas					
16	SUBTOTAL: Lines 13-15					
17	Total Available to Customers: Line 10 Plus Line 16					
18	Other Transportations					
	SALES BY RESPONDENT TO OTHER INTERSTATE PIPELINES					
19	Deliveries					
20	Contract or Delivery Obligations					
21	Deficiency or Surplus: Line 19 Less Line 20					

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FEDERAL ENERGY REGULATORY COMMISSION — FPC FORM 16 — REPORT OF GAS SUPPLY AND REQUIREMENTS

SCHEDULE No. 2 - ACTUAL SOURCES OF SUPPLY ADJUSTED FOR LOSSES

Company Name:
Company Code No.:
PERIOD COVERED: April 1, 19__ to March 31, 19 / September 1, 19__ to August 31, 19__

Line No.	SOURCES OF SUPPLY (a)	MMcf. per Month: April September (b)	. . .	March August (m)	MMcf.: ANNUAL TOTAL (n)	PEAK DAY (o)
	PRODUCING AREAS					
01						
02						
03						
04	SUBTOTAL: Lines 1-3					
	PIPELINE SUPPLIERS CONTRACT VOLUME BY PIPELINE - SELLERS NAME AND CODE					
05						
06						
07						
08	SUBTOTAL: Lines 5-7					
	PIPELINE SUPPLIERS: DELIVERIES BY PIPELINE					
09						
10						
11						
12						
13						
14						
15	SUBTOTAL: Lines 9-14					
16	(DEFICIENCY) OR SURPLUS: Line 15 Less Line 8					
	OTHER DOMESTIC SOURCES					
17	SNG					
18	LNG					
19	Other _____					
20	SUBTOTAL: Lines 17-19					
	IMPORTS					
21	LNG					
22	PIPELINE					
23	Other _____					
24	SUBTOTAL: Lines 21-23					
25	NET PRESENT SUPPLY: TOTAL Lines 4, 16, 20 and 24					

FEDERAL ENERGY REGULATORY COMMISSION — FPC FORM 16 — REPORT OF GAS SUPPLY AND REQUIREMENTS

SCHEDULE NO. 3 - ACTUAL STORAGE OPERATIONS

Company Name:
Company Code No.:
PERIOD COVERED: April 1, 19 to March 31, 19 / September 1, 19__ to August 31, 19__

Line No.	STORAGE OPERATIONS (a)	MMcf. per Month (Injections) or Withdrawals: April September (b)	. . .	March August (n)	MMcf.: ANNUAL TOTAL (n)	PEAK DAY (o)	VOLUME IN PLACE ON NOV. 1 (p)
	Field Names						
01							
02							
03							
04							
05							
06	SUBTOTAL: Lines 1-5						
	ADJUSTMENTS OR CHANGES IN BASE STORAGE, DEVELOPMENT OF NEW ZONES, ETC.						
07							
08							
09							
10	SUBTOTAL: Lines 7-9						
11	NET STORAGE: Line 6 Less Line 10						
	STORAGE SERVICE SOLD OR RENDERED UNDER STORAGE SERVICE SCHEDULE BY FPC FIELD CODE						
12							
13							
14							
15							
16							
17	SUBTOTAL: Lines 12-16						

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FEDERAL ENERGY REGULATORY COMMISSION — FERC FORM 16 — REPORT OF GAS SUPPLY AND REQUIREMENTS

SCHEDULE NO 4 - ACTUAL DELIVERIES, REQUIREMENTS AND NET DEFICIENCY OR SURPLUS BY CUSTOMER

Company Name:
Company Code No.:
PERIOD COVERED
April 1, 19__ to March 31, 19__
September 1, 19__ to August 31, 19__

Line No.	NON-PIPELINE CUSTOMERS OF REPORTING PIPELINE (a)	MMcf, per Month: April September (b)	. . .	March August (m)	MMcf: ANNUAL TOTAL (n)	PEAK DAY (o)	DELIVERY POINT (State) (p)
01	Deliveries						
02	Requirements						
03	Net						
04	Deliveries						
05	Requirements						
06	Net						
07	Deliveries						
08	Requirements						
09	Net						
	STATE SUBTOTALS						
10	Deliveries: Lines 1, 4 and 7						
11	Requirements: Lines 2, 5 and 8						
12	Net: Lines 3, 6 and 9						
	NON-PIPELINE CUSTOMERS TOTAL ALL STATES						
13	Deliveries: Line 10						
14	Requirements: Line 11						
15	Net: Line 12						
	PIPELINE CUSTOMERS OF REPORTING PIPELINE						
16	Deliveries						
17	Requirements						
18	Net						
19	Deliveries						
20	Requirements						
21	Net						
22	Deliveries						
23	Requirements						
24	Net						
	STATE TOTALS						
25	Deliveries: Lines 16, 19 and 22						
26	Requirements: Lines 17, 20 and 23						
27	Net: Lines 18, 21 and 24						
	PIPELINES CUSTOMERS TOTAL ALL STATES						
28	Deliveries: Line 25						
29	Requirements: Line 26						
30	Net: Line 27						
	ALL CUSTOMERS TOTAL ALL STATES						
31	Deliveries: Lines 13 and 28						
32	Requirements: Lines 14 and 29						
33	Net: Lines 15 and 30						

FEDERAL ENERGY REGULATORY COMMISSION — FERC FORM 16 — REPORT OF GAS SUPPLY AND REQUIREMENTS

SCHEDULE NO. 5 - SUMMARY OF PROJECTED SUPPLY, REQUIREMENTS AND NET DEFICIENCY OR SURPLUS

Company Name:
Company Code No.:
PERIOD COVERED
April 1, 19__ to March 31, 19
September 1, 19__ to August 31, 19__

Line No.	PIPELINE SUPPLY (a)	MMcf, Per Month: April September (b)	. . .	March August (m)	MMcf: ANNUAL TOTAL (n)	PEAK DAY (o)
01	Net Present Supply: From Schedule No. 2 Line 25					
02	Anticipated New Supply					
03	Exempted Purchases for System Supply					
04	SUBTOTAL: Lines 1-3					
05	Normally Anticipated Loss of Supply -					
06	Company Use and Shrinkage					
07	Exchange Gas Received or (Delivered)					
08	Net Storage - (Injection) or Withdrawal: - Schedule 3, Line 11					
09	SUBTOTAL: Lines 5-8					
10	Net Available For Market: Line 4 Less Line 9					
	PIPELINE REQUIREMENTS					
11	Requirements As Defined By One of the Following (Check Appropriate Item): (a) Base Period Curtailment Plan (b) Current Contractual Obligations (c) Actual Survey of Customers Requirements					
	NET BALANCE					
12	(Deficiency) or Surplus: Line 10 Less 11					
	DISTRIBUTOR OR CUSTOMER SELF HELP GAS TRANSPORTED TO RESPONDENTS CUSTOMERS BY RESPONDENT					
13	Exempted Purchases					
14	Direct Assignments					
15	Other Gas					
16	SUBTOTAL: Lines 13-15					
17	Total Available to Customers: Line 10 Plus Line 16					
18	Other Transportations					
	SALES BY RESPONDENT TO OTHER INTERSTATE PIPELINES					
19	Deliveries					
20	Contract or Delivery Obligations					
21	Deficiency or Surplus: Lines 18 Less Line 20					

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FEDERAL ENERGY REGULATORY COMMISSION — FERC FORM 16 — REPORT OF GAS SUPPLY AND REQUIREMENTS

SCHEDULE No. 6 - PROJECTED SOURCES OF SUPPLY ADJUSTED FOR LOSSES

Company Name:
Company Code No.

PERIOD COVERED
April 1, 19__ to March 31, 19
September 1, 19__ to August 31, 19__

Line No.	SOURCES OF SUPPLY (a)	MMcf. per Month April September (b)	. . .	March August (m)	MMcf. ANNUAL TOTAL (n)	PEAK DAY (o)
	PRODUCING AREAS					
01						
02						
03						
04	SUBTOTAL: Lines 1-3					
	PIPELINE SUPPLIERS CONTRACT VOLUME BY PIPELINE - SELLERS NAME AND CODE					
05						
06						
07						
08	SUBTOTAL: Lines 5-7					
	PIPELINE SUPPLIERS: DELIVERIES BY PIPELINE					
09						
10						
11						
12						
13						
14						
15	SUBTOTAL: Lines 9-14					
16	(DEFICIENCY) OR SURPLUS: Line 15 Less Line 8					
	OTHER DOMESTIC SOURCES					
17	SNG					
18	LNG					
19	Other _____					
20	SUBTOTAL: Lines 17-19					
	IMPORTS					
21	LNG					
22	PIPELINE					
23	Other _____					
24	SUBTOTAL: Lines 21-23					
25	NET PRESENT SUPPLY: TOTAL Lines 4, 16, 20 and 24					

FEDERAL ENERGY REGULATORY COMMISSION — FERC FORM 16 — REPORT OF GAS SUPPLY AND REQUIREMENTS

SCHEDULE NO. 7 - PROJECTED STORAGE OPERATIONS

Company Name:
Company Code No.:

PERIOD COVERED
April 1, 19__ to March 31, 19
September 1, 19__ to August 31, 19__

Line No.	STORAGE OPERATIONS (a)	MMcf. per Month (Injections) or Withdrawals April September (b)	. . .	March August (m)	MMcf. ANNUAL TOTAL (n)	PEAK DAY (o)	VOLUMES IN PLACE ON NOV. 1 (p)
	Field Names						
01							
02							
03							
04							
05							
06	SUBTOTAL: Lines 1-5						
	ADJUSTMENTS OR CHANGES IN BASE STORAGE, DEVELOPMENT OF NEW ZONES, ETC.						
07							
08							
09							
10	SUBTOTAL: Lines 7-9						
11	NET STORAGE: Line 6 Less Line 10						
	STORAGE SERVICE SOLD OR RENDERED UNDER STORAGE SERVICE SCHEDULE BY FPC FIELD CODE						
12							
13							
14							
15							
16							
17	SUBTOTAL: Lines 12-16						

FEDERAL ENERGY REGULATORY COMMISSION — FERC FORM 16 — REPORT OF GAS SUPPLY AND REQUIREMENTS

SCHEDULE NO 8 - PROJECTED DELIVERIES, REQUIREMENTS AND NET DEFICIENCY OR SURPLUS BY CUSTOMER

Company Name
Company Code No.:

PERIOD COVERED
April 1, 19__ to March 31, 19__
September 1, 19__ to August 31, 19__

Line No.	NON-PIPELINE CUSTOMERS OF REPORTING PIPELINE (a)	MMcf, per Month: April September (b)	. . .	. . .	March August (m)	MMcf: ANNUAL TOTAL (n)	PEAK DAY (o)	DELIVERY POINT (State) (p)
01	Deliveries							
02	Requirements							
03	Net							
04	Deliveries							
05	Requirements							
06	Net							
07	Deliveries							
08	Requirements							
09	Net							
	STATE SUBTOTALS							
10	Deliveries: Lines 1, 4 and 7							
11	Requirements: Lines 2, 5 and 8							
12	Net: Lines 3, 6 and 9							
	NON-PIPELINE CUSTOMERS TOTAL ALL STATES							
13	Deliveries: Line 10							
14	Requirements: Line 11							
15	Net: Line 12							
	PIPELINE CUSTOMERS OF REPORTING PIPELINE							
16	Deliveries							
17	Requirements							
18	Net							
19	Deliveries							
20	Requirements							
21	Net							
22	Deliveries							
23	Requirements							
24	Net							
	STATE TOTALS							
25	Deliveries: Lines 16, 19 and 22							
26	Requirements: Lines 17, 20 and 23							
27	Net: Lines 18, 21 and 24							
	PIPELINES CUSTOMERS TOTAL ALL STATES							
28	Deliveries: Line 25							
29	Requirements: Line 26							
30	Net: Line 27							
	ALL CUSTOMERS TOTAL ALL STATES							
31	Deliveries: Lines 13 and 28							
32	Requirements: Lines 14 and 29							
33	Net: Lines 15 and 30							

[FR Doc. 80-2137 Filed 1-22-80; 8:45 am]

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18 CFR Part 271

Docket No. RM79-67

Procedures Governing Applications for Special Relief Under Sections 104, 106, and 109 of the Natural Gas Policy Act of 1978; Request for Public Comments and Notice of Public Discussion on Certain Issues Pertaining to the Final Rule Establishing Procedures for Special Relief

Issued January 16, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of request for public comments and notice of public discussion.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is soliciting further comments on certain issues related to a draft final rule establishing procedures governing applications for special relief pursuant to its authority under sections 104, 106, and 109 of the Natural Gas Policy Act. The Commission is also establishing procedures for conducting a public discussion of the issues identified in this notice.

DATES: Submission of written comments or of requests to participate in the panel discussion (accompanied by a written comment or a summary of the views to be represented in the panel discussion): February 1, 1980. Panel discussion before the Commission: February 11, 1980.

ADDRESS: Location of panel discussion: Federal Energy Regulatory Commission, Commission Meeting Room, 825 North Capitol Street, NE., Washington, D.C. 20426.

9:30 a.m.

Submission of Written Comments or Requests to Participate in the Panel Discussion: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION:

Susan Tomasky, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 8111, Washington, D.C. 20426, (202) 357-8033.

Blaine Yamagata, Office of Commissioner Hall, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 9006, Washington, D.C. 20426, (202) 357-8353.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission has issued a Notice of Proposed Rulemaking establishing procedures governing applications for special relief.[1] Public comments on this docket were received and, on September 26, 1979, a public hearing was held, as required under section 502(b) of the NGPA.

The proposed regulations would establish higher maximum lawful prices for first sales by natural gas producers subject to sections 104, 106, or 109. The special relief prices would be available to those producers that can demonstrate that the applicable price available under those sections for the well in question will not cover the necessary production costs and that prudently incurred production costs justify rates in excess of the otherwise applicable maximum lawful price under the NGPA.

The Commission is now considering a draft prepared by its staff of the final rule in this docket, attached as Appendix A. This draft is a staff proposal offered for Commission consideration and published for public information; this draft does not necessarily reflect what will be the final views of the Commission. The Commission emphasizes that the draft final rule contained in Appendix A is subject to change on the basis of the Commission's deliberations on matters in controversy about special relief.

In the course of the Commission's consideration of this draft, and of comments previously submitted on the proposed rule, four issues have emerged, upon which the Commission seeks further public comments, views, and data.

Appendix B to this Notice contains a staff memorandum setting out the four issues upon which the Commission is seeking further public response, and outlining several possible options for resolving them. To assist commenters in responding to these issues, the Commission will briefly summarize here the major questions that it is considering with respect to these four issues.

1. *Possible Limits on Special Relief.*—Under the draft final rule now being considered by the Commission, no limitation would be placed on the amount of the special relief rate that would be available to an applicant, provided that the requested rate could be justified by the formulae specified in the rule, and provided that the actual expenditures were prudently incurred. The draft final rule would delegate to the Director of the Office of Pipeline and Producer Regulation (Director) the authority to approve special relief rate applications pursuant to the Commission's regulation and other administrative instructions to the Director. The Commission is considering whether limits should be permitted on (1) the amount of any special relief rate that would be granted or (2) the discretion of the Director to approve applications for the Commission. The following questions are under deliberation:

—Should the Director be authorized to grant a special relief rate only up to some specified limit, with authority to grant special relief rates above that limit reserved to the Commission.

—If so, what would be an appropriate price level beyond which the Commission would have sole authority to grant special relief?

—Would the public interest be best served by (1) placing no upward constraints on the amount of the special relief rate available to an applicant (assuming that the rate met the prudence and other tests set forth in the proposed rule); or (2) setting some ceiling on the permissible rate?

—If upper limits were to be set on the amount of the special relief rate to be granted by the Commission, what should be the amount of the cap or caps? What public interest considerations should guide the Commission in setting caps, were it to decide to do so?

2. *Election Between a Special Relief Rate or Another NGPA Incentive Price.*—Under the rule as presently drafted, a producer that obtains a special relief rate would not be held to that rate for the life of the project. The producer would be able at any time to seek a determination enabling the producer to collect a higher incentive rate under some other section of Title I of the NGPA. The Commission is considering possible limitations on the authority of an applicant for special relief to switch to other categories.

—Should the Commission limit the opportunity of a producer applying for or collecting a special relief rate to collect an incentive price for which the producer may be eligible under sections 102, 103, 107, or 108 of the NGPA? What legal or policy considerations should guide the Commission in reaching a decision on limiting or not limiting switching of NGPA categories?

—If the Commission should decide to limit switching, how should this be accomplished? Should the Commission require a producer to elect either (1) to receive the highest maximum lawful price or (2) to seek a special relief rate? Alternatively, should the Commission deny special relief to producers of gas that qualifies for a section 104, 106, or 109 price but is also eligible for an incentive price under some other section of the NGPA? Or, should the

[1] Issued August 14, 1979. 44 Fed. Reg. 49468 (August 23, 1979).

Commission condition special relief on the existence of a contractual provision that reserves the right of the pipeline to pay the special relief rate for the life of the project? Are there other alternatives the Commission should consider? What are the issues of policy and law involved with a choice among the alternatives?

3. *Review Procedure for Future Applications.*—The draft final rule currently being considered by the Commission would require future applicants for planned investment projects to submit an initial special relief application setting forth a proposed rate computed on the basis of estimated cost data. The final rate would be set not on the basis of the cost estimates but on actual costs prudently incurred. However, the producer would be limited to a rate no higher than the proposed rate (adjusted for general price inflation) even if the producer's actual expenditures were to exceed the original estimates. Several alternative procedures are being considered by the Commission.

—Should the Commission require an applicant to submit for an initial review a proposed rate based on estimated cost and reserve data and thereafter submit for review an application for a final rate based on actual expenditures? If not, what alternative procedure would be preferable? What legal or policy consideration should guide the Commission's choice of a review procedure?

—If the procedure contained in the draft final rule were adopted, what should be the scope of the initial review? The final review?

—If the procedure contained in the draft were not adopted, which, if any, of the options set forth in the attached staff memorandum should be adopted? Are there other alternatives that are preferable?

4. *Rate of Return.*—The draft final rule proposes rule to use a fixed 15 percent rate of return for planned investment projects.

—Should the rate of return associated with a special relief rate be fixed or indexed?

—If a fixed rate is used, what rate of return should be adopted?

—If an indexed rate should be used, should the rate of return be recomputed periodically on the basis of fluctuations in interest rates on long-term Treasury bonds? If not, how should it be adjusted?

Procedures for Comments and Public Discussion

The Commission is seeking written comments on the issues outlined above. The Commission emphasizes that such comments should *succinctly* set forth the views of a commenter and should be limited to the issues outlined above and discussed more fully in the attached staff memorandum. Comments should be submitted to the Secretary no later than 4:30 p.m., February 1, 1980.

It is expected that the written comments will adequately supplement the record on these issues. However, the Commission has also decided to convene an on-the-record panel discussion before the Commission to permit exploration of these issues with representatives of various points of view about the matters in controversy. This occasion has been selected by the Commission as an opportunity to experiment with the use of a panel discussion technique as a procedure for obtaining public input and insight on issues before the Commission.

Persons wishing to participate in a panel discussion should submit to the Secretary a request to participate no later than 4:30 p.m., February 1, 1980. The request should be accompanied by a brief written summary of the views which would be represented by that person, designating the parties to be represented the amount of time requested for any prepared presentation, and the name and telephone number of the person who would make the presentation. Persons who wish to file written comments and also to participate in the panel discussion may submit the written comments as a substitute for the summary of views to be expressed in the panel discussion.

The Commission has designated Commissioner George R. Hall to select a panel of representatives of various points of view on these matters. It would assist him if persons wishing to participate would attempt to group themselves on the basis of commonality of interests or provide information that would help in structuring a panel discussion. Commissioner Hall has been given the authority to request the participation of persons whose views may not otherwise be represented but who are not filing written comments. Persons selected to participate will be notified by the Secretary, or by a representative of Commissioner Hall.

Each participant may present a *very* brief prepared statement summarizing his or her views on these issues and will be asked to respond to questions concerning his or her views on the specified issues from the Commission and from other panelists. The Commission emphasizes that it wishes to maximize the time spent in discussion of the issues and plans to limit the time spent on prepared remarks.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

Appendix A.—*Draft for Discussion*

[Docket No. RM79-67]

Staff Draft of Final Rule

Procedures governing applications for special relief under sections 104, 106 and 109 of the Natural Gas Policy Act of 1978.

I. Introduction

On August 14, 1979, the Commission issued a Notice of Proposed Rulemaking in which the Commission proposed to exercise its authority under the Natural Gas Policy Act of 1978 (NGPA) to prescribe higher maximum lawful prices which are just and reasonable under the Natural Gas Act (NGA) for first sales of natural gas subject to the maximum lawful prices applicable under sections 104, 106 and 109 of the NGPA.[1]

The proposed regulations set forth substantive rules and procedures for extending special relief to a producer of natural gas subject to sections 104, 106 or 109 who can demonstrate that its costs of producing additional gas supplies justify a rate in excess of the applicable maximum lawful price under the NGPA. The final rule embodies essentially the same regulatory scheme as that set forth in the proposed rule, which makes special relief available in two situations. Special relief is available, first, where the operation and maintenance costs of continued production from an existing well cannot be recovered if gas from the well is sold at the applicable maximum lawful price. Also, where additional planned investment is necessary before a producer can continue production from well or begin the development of a reservoir, special relief is available to encourage the additional investment which the producer would not incur if it were held to the applicable maximum lawful price.

The ratemaking mechanism employed in these regulations is designed to assure that the special relief rate comports with the statutory, judicial and

[1] Paragraph (b)(2) of section 104, paragraph (c) of section 106 and paragraph (b)(2) of section 109 each provide that:

[T]he Commission may, by rule or order, prescribe a maximum lawful price, applicable to any first sale of any natural gas (or category thereof, as determined by the Commission) otherwise subject to the preceding provisions of this section, if such price is—

(1) higher than the maximum lawful price which would otherwise be applicable under such provisions; and

(2) just and reasonable within the meaning of the Natural Gas Act.

administrative standards for determining a rate which is just and reasonable under the Natural Gas Act. The final rule also reflects certain modifications and clarifications which the Commission believes respond to many of the concerns expressed in the public comments on the proposed rule.[2]

II. Background

In implementing a program to establish just and reasonable special relief rates under sections 104, 106 and 109 of the NGPA, the history of special relief under the NGA is necessarily instructive. Initially, special relief was a by-product of the *Permian Basin Area Rate Proceeding,*[3] in which the establishment of area-wide rates found to be just and reasonable on the basis of average industry costs was challenged as a confiscatory taking of private property without due process of law. The Supreme Court held that no such constitutional infirmity existed where the Commission was prepared to extend relief from the area rate to a producer whose out-of-pocket costs exceeded the revenues to be received under the area rate.[4]

In addition to this "safety valve" type of special relief which permitted the recovery of only out-of-pocket costs,[5] the Commissin during the early 1970's initiated a program to extend special relief to certain categories of gas as an alternative to abandonment and to induce sales of gas which otherwise would be flared. These procedures permitted, on an ad hoc basis, the recovery of costs other than out-of-pocket expenses.[6]

In 1972, the Commission introduced the optional certificate procedure [7] intended to address the claims of producers that the uncertainty surrounding the area ratemaking procedures discouraged planned investment.[8] The procedure authorized a producer to seek certification to sell gas at a just and reasonable rate in excess of the applicable area rate. The optional certificate procedures were upheld, and the court, noting that the Commission had yet to prescribe standards for determining the "reasonableness" of a requested rate, indicated that it would assume that the Commission would promulgate substantive standards which assured that a rate granted under the optional procedures would be just and reasonable under the NGA.[9]

In succeeding years the Commission sought to evolve its substantive standards for optional certificate cases through the evolution of evidentiary guidelines for sorting, in each case, the mix of evidence proffered by the applicant as a basis for determining a just and reasonable rate. In 1974, the Commission indicated that a rate could be determined on a project cost basis.[10] As applied, this procedure allowed recovery of full costs of a gas supply project plus a 15 percent return.[11]

When in 1978, the Court of Appeals for the D.C. Circuit reviewed the Commission's substantive standard which permitted a total cost recovery, it found that the standard fell short of the requirements of section 4 of the NGA that the rate be "just and reasonable." [12] In so concluding the court applied three "flexible principles" to be used in testing the reasonableness of a program intended to encourage additional exploration and development:

> [T]here must be substantial evidence showing a *demonstrable connection* between the funding in the program under scrutiny and the increased gas supply which it will allegedly produce. There must be some minimum level of coordination of the program under scrutiny with national ratemaking and other programs so that they create no conflicting or unnecessarily duplicating incentives. Lastly, there must be evidence of producers' actual costs so that it can be determined whether the additional funding results in profits too huge to be reconcilable with the legislative command. [Emphasis supplied] [Citations omitted].[13]

Applying these principles, the court struck down the allowance of two categories of costs. First, the Court excluded costs incurred prior to 1972, reasoning that because these old cost were "sunk" before the availability of special relief and thus were incurred without expectation of optional pricing treatment, it could be assumed that rates available under area and nationwide rates were sufficient to induce investment. To allow an additional recovery under subsequently instituted incentive programs would grant a windfall recovery on old expenditures; further, it would bear no connection to production of additional supplies because adequate incentives existed to produce the gas to be sold at a lower rate. Second the Court excluded the cost of lease bonuses based on a detailed analysis which concluded that the full recovery of lease acquisition costs provided no incentives for the production beyond that which arises from an average lease cost recovery implicit within the nationwide rate.[14] The Court, though declining to set substantive standards for the optional pricing program, concluded that the Commission should reconsider its standards in light of this decision, giving "reasoned consideration" to the principles of this case to assure than any special relief or optional rate is "just and reasonable" under the Natural Gas Act.[15]

Contemporaneous to the court's decision in *Public* Service Commission, the Commission indicated its intent to reconsider its policy of permitting full recovery of project cost in optional certificate cases.[16] In that decision, a debate surfaced regarding the wisdom of assuring producers a 15 % return on all costs, including such costs as lease bonuses and exploration costs, which without the guarantee of full cost recovery would ordinarily be undertaken at the producer's risk.[17]

The persistent difficulties which have beset the optional certificate procedures—the problematic development of a substanive standard, the Court's decision in *Public Service Commission,* and the Commission's own doubts regarding the wisdom of its past policy—converge in the context of this rulemaking. Because the Commission's authority under the NGPA to grant special relief is to be judged under a just and reasonable standard, the Commission is compelled to follow the dictates of *Public Service Commission,* in developing standards for cost

[2] At the close of the comment period, twenty-one submissions had been filed. One untimely response has been received. Submissions were received from one state regulatory agency, one pipeline, one association representing forty-two gas distributors, nineteen producers and producer groups, and two Indicated Producer Respondents. The two Indicated Producers represent a total of twenty-eight producers and producer groups.

[3] 34 F.P.C. 159 (1965), *aff'd sub nom.* Permian Basin Area Rate Cases, 390 U.S. 747 (1968).

[4] Permian Basin Area Rate Cases, 390 U.S. 747, 770.

[5] Special relief using an out-of-pocket standard was judicially upheld as an appropriate safety valve for national rates; see Tenneco Oil Co. v. FERC, — F.2d —, — (5th Cir. 1978), and was codified at 18 C.F.R. § 2.56(g). In 1975, the Commission authorized special relief on an out-of-pocket basis for older vintage "flowing gas". Opinion No. 749, *aff'd sub nom.,* Tenneco Oil Co. v. FERC, 571 F.2d 834 (5th Cir. 1978) (codified at 18 C.F.R. § 2.56(h)).

[6] Codified at 18 C.F.R. § 2.76–.77.

[7] 18 C.F.R. § 2.75.

[8] Moss v. FPC, 424 U.S. 494, 497 (1976).

[9] *Id.* at —.

[10] William A. Jenkins, *et al.,* Order Consolidating Proceedings, mimeo at 4 (Docket Nos. CI75–119 and RI75–05) (issued October 3, 1974).

[11] *See, e.g.,* American Natural Gas Production Co., Order Granting Certificate of Public Convenience and Necessity (Docket No. CI77–657) (issued December 5, 1978).

[12] Public Service Comm. of New York v. F.E.R.C., 589 F.2d —, — (D.C. Cir. 1978).

[13] *Id.* at —.

[14] *Id.* at —.

[15] *Id.* at —.

[16] *American Natural Gas Production Co., et al.,* Order Granting Certificate of Public Convenience and Necessity, *mimeo* at 14 (Docket No. CI77–657) (issued December 5, 1978).

[17] *Id., See* dissents of Chairman Curtis and Commissioner Hall.

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recovery under the NGPA's provision for special relief. Within the confines of the NGA's just and reasonable standard,[*] however, the Commission's authority to grant special relief is permissive. The Commission has considerable latitude in developing methodologies for cost assessments and in setting limits of eligibility to be applied in evaluating applications for special relief under the NGPA, and must draw upon its experience in administering prior programs as it undertakes this task.

In the proposed rule, the Commission took the position that a special relief rate for gas from a planned investment project should guarantee the recovery of prospective costs, consistent with the directive of the D.C. Circuit that the Commission must show a "*demonstrable connection* between the funding in the [special relief] program under scrutiny and the increased supply it will allegedly produce."[18] This policy was reflected in the provisions of the proposed rule which excluded consideration of costs incurred prior to date of application for pending applications, and prior to the date of staff acceptance of the application for future applications.

Eleven public comments voiced objections to the sunk cost exclusion, citing numerous bases for the contentions that the exclusion would be contrary to the public interest, Commission precedent, the NGA, the NGPA, the Administrative Procedure Act and the United States Constitution.

The Pennzoil Group (Pennzoil) and the Gas Producer Group (Gas Producers) assert first that the sunk cost exclusion is unconstitutional because it voilates the rule of *Permian I*,[19] which, they contend, upheld the constitutionality of area just and reasonable rates on the condition that special relief be made available as a "safety valve" for producers for which sales of gas at the area rate would amount to an unconstitutional taking of private property without due process of law. They argue that in the absence of special relief which permits the recovery of all costs to a producer whose costs exceed the applicable maximum lawful price under the NGPA, a producer could be forced to sell its natural gas a confiscatory rate.

Pennzoil, the Gas Producers, the Indicated Producers, Grace Petroleum Company (Grace Petroleum), Sonat Exploration Company (Sonat) and Terra Resources Inc. (Terra Resources) argued that the provision violates the standards for computing a just and reasonable rate under Commission precedent, the NGA, and, by implication, the NGPA. They note that the Commission, in setting just and reasonable rates, has included the costs of lease acquisition and exploration, and point to the Commission's decision in *American Natural* to demonstrate that this policy has been reaffirmed within the last year.[20]

They assert that the Commission has offered no compelling reasons for changing its policy regarding sunk costs. They conclude that the NGPA explicitly incorporates by reference the whole law governing the determination of just and reasonable rates, including the *Commission* precedent permitting the recovery of sunk costs, and does not suggest that the exclusion of sunk costs is mandated by the language or policy of the NGPA.

Several respondents acknowledged that Commission policy with regard to sunk costs must be responsive to the dictates of *Public Service Commission* which reversed a Commission optional certification awarding the applicants its full costs, including lease acquisition and bonus costs, because those costs were not demonstrably connected to the production of additional natural gas supplies. However, Pennzoil, the Indicated Producers and the Gas Producers submit that the *Public Service Commission* case does not preclude the allowance of sunk costs, but rather established a three part standard by which the Commission should judge all costs claimed to be recoverable under its optional certificate program.[21] They contend that the producer was denied the recovery of sunk costs in that case because it could not offer evidence to meet the three part test, but that in any other case, the rule of *Public Service Commission* does not prohibit a producer from attempting to demonstrate that his sunk costs have a demonstrable connection to the production of increased gas supplies.

In addition, Pennzoil, the Gas Producers, the Indicated Producers and Texas Gas contended that the exclusion of sunk costs will discourage production of marginal properties because incremental costs are inadequate to induce additional investment. The Gas Producers noted that the failure to develop marginal offshore property will result in the lapse of many leases and tremendous waste of initial lease acquisition costs. Kamlock, Inc. commented that the rule discourages development of marginal properties which that producer purchases with the expectation that special relief will be available to recover all costs of acquisition and development. All these respondents conclude, therefore, that the sunk cost exclusion will decrease gas supplies and substantially disadvantage the consuming public.

Pennzoil objected to the proposed cut-off dates for sunk costs, *i.e.*, the date of application for pending applications and the date of staff acceptance of future applications. Pennzoil argued that the date was wholly arbitrary and was chosen only in the interest of administrative convenience. Mesa and the Indicated Producers commented that the exclusion of sunk costs incurred before the initiation of special relief proceedings encouraged premature filings and would result in the granting of special relief on the basis of incomplete data.

The Public Service Commission of the State of New York (New York) voiced support of the cost methodology of the proposed rule because it rejects the full project cost approach of the optional certificate procedures. New York noted that rates based on these costs have never withstood court review so that, even under the old procedures, producers had no reasonable expectation that these costs would continue to be recoverable. Associated Gas Distributors offered no additional comments on this issue, but concurred in the views of New York.

After careful consideration of these comments, the Commission continues to believe that the exclusion of sunk costs is the most appropriate means to encourage producers to undertake additional investments while limiting their recovery to a rate which is just and reasonable under the NGA.

The Commission finds little merit in the argument that there exists a constitutionally protected right to riskless investment in natural gas production. Nor does the *Permian* decision imply that a producer whose overall project costs preclude a rate of return is thereby subject to a confiscatory rate: the "safety valve" procedures, developed in response to *Permian* and upheld by the courts, provided only for out-of-pocket expenses.

Further, contrary to the view of several respondents, the Commission believes the Public Service Commission decision was not merely a reversal on the facts of that case. The Court repeatedly emphasized that the full costs standard failed to meet the just and reasonable standard of the NGA.

[18] Notice of Proposed Rulemaking, *mimeo* at 13–14.

[19] *See* supra note 3 and accompanying text.

[20] *American Natural Gas Production Co., et al.*; see *supra* note 10.

[21] *Public Service Comm.*, 589 F. 2d at —, *see supra* note — and accompanying text.

Clearly, to observe the limits drawn by that decision, the Commission must refuse to grant relief for expenditures for which the area or nationwide rate, or the NGPA maximum ceiling prices, were sufficient inducements, so that no duplication of incentives results. The Commission must also insure that the relief granted is demonstrably connected to the production of additional supplies.

In addition, the Commission must reconcile its special relief program with the statutory program established under the NGPA, to avoid imposing duplicative costs burden on the consumer. In the *Public Service Commission* case, the D.C. Circuit concluded that by providing full cost recovery in the context of the nationwide rate program consumers bore double the costs of high cost gas by paying an average cost for low cost gas in addition to paying the full costs of high cost gas.[22] At least with regard to gas priced under section 104 and 106, the same result may obtain: the Congress adopted for these categories of gas the nationwide rate in effect on April 20, 1977, a rate which was determined by the Commission to account for average investment costs for production of gas subject to that rate. The award of full costs to high cost gas similarly levies a double burden on the consumer.

Mindful of these principles, the Commission has scrutinized the types of costs which should be considered in establishing a special relief rate, and has concluded that special relief should be available at the point at which the producer must decide whether to invest in the development of a well. Development costs, clearly, are demonstrably connected to the production of additional supplies of natural gas. And if a producer anticipates that such costs would exceed his expected revenues at the applicable maximum lawful price, the additional investment incentive would be necessary to induce the added investment.

In contrast, expenditures incurred in lease acquisition and exploration are costs which the Commission believes should be undertaken at risk. Comparable sunk costs in onshore production, such as the costs of dry holes and property acquisition, should also be excluded. To the extent that such costs have already been incurred before a special relief rate has been authorized, the applicable prices under the NGPA or the NGA were obviously sufficient inducement for that investment. Further, we are of the view that an adequate incentive for these types of expenditures is assured by adopting the 15 percent rate of return employed in in the 1976 national ratemaking. Studies of industry-wide costs conducted at that time demonstrate that the 15 percent rate of return provides adequate incentive to undertake the costs of lease acquisition and exploration.

The final rule enforces this exclusion through its definition of planned project and the provision which excludes costs incurred prior to the date of application for pending application, or the date of staff acceptance of future applications. The definition limits the availability of special relief for new wells to gas from planned developmental wells or platforms. A producer's application for special relief will be accepted if, at the time of acceptance, his proposed project meets the definition of a planned investment project. The cut-off date effectively implements the Commission's decision regarding recoverable costs by working to exclude costs incurred prior to the point at which a project qualifies as a developmental well or platform.

If a producer has incurred developmental costs prior to the date of acceptance of an application, the cut-off date will work to properly exclude these costs: to permit recovery of those developmental costs, which were undertaken by a producer with only the expectation of receiving the applicable rate under the NGA or NGPA, would result in a impermissible duplication of incentives.

On the effective date of the NGPA, in view of the fact that the NGPA and its implementing regulations superseded inconsistent provisions of the NGA, the Commission ordered that producers with applications pending under the optional certificate procedures were limited to the maximum lawful price applicable under Title I of the NGPA. In that order, the Commission indicated that it would issue a transitional rule to govern the processing of any pending optional procedure case filed before the effective date of the NGPA.[23]

In accordance with that order, the Commission is deleting from its current regulations §§ 2.56a(g), 2.56b(h), 2.75, 2.76 and 2.77. However, the Commission believes that a producer who sought relief from the national rates under the optional certificate or other special relief procedures should be afforded an opportunity to demonstrate that its investment, operating, and maintenance costs justify a special relief rate under the NGPA for a well or project which is the subject of a pending application. For these reasons, the proposed rule provided for the processing of pending applications according to the same procedures and substantive standards for determining a just and reasonable rate applicable to future applications.

Several respondents objected to the applicability of this rule to pending applications, arguing that to do so constitutes impermissible retroactive rulemaking. In particular, the Indicated Producers, Pennzoil and the Gas Producers have argued that the Commission must judge pending applications on the basis of evidence of full project costs, and must provide an opportunity for evidentiary hearings before an impartial trier of fact as would have been available under the optional certificate procedures.

The Commission is very much aware of its responsibility to protect antecedent rights which have vested prior to the promulgation of a new regulation. For a number of reasons, however, the Commission must conclude that pending applicants have no vested rights to pursue their applications under the old procedures.

As noted above, the Commission's authority under the NGA to provide special relief was superseded by a permissive grant of authority to extend special relief to certain categories of gas under the NGPA. Thus, the NGPA did not extend the life of special relief and optional pricing, but merely invited the Commission to implement similar programs under the NGPA. Until the Commission exercises its new authority to extend special relief, prior applications are "pending" under the Commission's regulations but not under the NGPA.

In addition, the Commission in implementing its new procedures must follow the statutory mandate that the special relief rate be just and reasonable under the NGA. In light of the *Public Service Commission* case, the Commission has no authority to award a full cost recovery in any special relief case. Rather, the Commission is required in all cases to allow only those costs which are demonstrably connected to the production of additional gas supplies.

For purposes of processing pending applications for planned investment projects, the rule permits applicants to consider any costs incurred subsequent to the filing of an application for special relief under prior procedures. The Commission will assume that at the time an application was filed, the producer had reached a point in the investment

[22] *Id.* at 37.

[23] Appalachian Exploration and Development, Inc., *et al.*, Order with Respect to Optimal Procedures Cases (Docket Nos. C176–590 *et al.*) (issued December 1, 1978).

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project where special relief was necessary to induce further investments.

The Commission has also considered the arguments of some respondents that producers with pending applications are entitled to full evidentiary hearings in determining their special relief rate. While such a hearing may have been the appropriate forum for determining a rate on the basis of full project costs, there would be little advantage to an evidentiary hearing on facts alleged in support of an application for special relief in line with the substantive standard which permits only the recovery of incremental costs, by application of mechanical formulae and methods. For the most part, we are persuaded that the procedural changes do not inure to the prejudice of a prior applicant because the costs to which he is entitled can be fairly computed under the new rules.

The Commission acknowledges that it imposes some additional burden in requiring that pending applications be supplemented to conform to these procedures. To the extent that conforming filings are necessary to permit the Commission to evaluate the applications under the substantive standard set forth in these rules, that burden is unavoidable. However, because in many instances the necessary information is before the Commission, an applicant has the opportunity to proceed on his pending application by giving notice of his intent to do so, and stating that he believes his application to be in compliance with these procedures. Once an applicant has done so, the burden is on the Staff to inform him of any deficiencies in his application.

In the case of pending applications for wells for which there is no planned investment, the procedures for staff review set forth in the proposed rule involve only a simple determination that the applicant is eligible for special relief for the well or project, and that the costs to be recovered are within the substantive standards set forth in this rule. Applicants for planned projects which qualify as small projects are subject only to one staff review to determine their eligibility under the special provisions for small projects. The Commission continues to believe that these procedures represent the most expeditious means for determining a special relief rate for pending applicants under the new procedures.

We are persuaded, however, that the provisions for two-step review of pending applications for planned investment projects, is of little advantage in the case of pending applications. Such projects may be at varying stages of completion so that the intended benefit of the initial review—the scrutiny of costs in advance of their expenditure—would never obtain. For this reason, the Commission will require that a producer with a pending application for a planned investment project be subject to one staff review conducted at the completion of a project.

As set forth in the proposed rule, the special relief rate for gas produced from a planned investment project would be the rate which it is expected will provide the producer with a fifteen percent true yield on costs which are prudently incurred and which are in line with comparable industry expenditures. Costs would be determined by use of a discounted cash flow methodology (DCF), and the resulting rate would be effective over the life of the project, and escalated at a rate of seven percent compounded for each subsequent year.

For wells for which there is no planned investment the proposed rule set forth a method for computing a flat rate intended to permit the recovery of out-of-pocket operating and maintenance expenses reasonably assigned or allocated to gas produced from the well. The flat rate would be computed on the basis of out-of-pocket expenses estimated over the life of the project, or estimated for the first year and compounded at a rate of seven percent per year for each subsequent year. Comments were specifically solicited on the possible use of a DCF to assure that producers receive their current costs.

Comments on the rate computation method addressed a wide variety of issues. Several respondents took issue with the proposed 15 percent rate of return for planned investment products, arguing for a variety of reasons that it was too low to provide an adequate incentive for a major investment venture, because it is based on the 1976 ratemaking, and therefore fails to account for the continued rise in interest rates since that time. In addition, the Indicated Producers have argued that the appropriate rate for national ratemaking, which is based on average industry costs, is not relevant to an individual applicant for special relief.

Several respondents argued that the invariable application of a 15 percent rate is inappropriate in light of the varying capital structure of each applicant for special relief. Petro-Lewis suggested that the proposed rule be amended to guarantee a 15 percent rate of return, and the Gas Producer Group proposed that the 15% rate be adjusted monthly in line with the monthly inflation adjustments applicable to maximum ceiling prices under Title I.

New York noted that it is not uncommon for a natural gas producer, particularly one which owns an affiliate pipeline, to have a capital structure heavily weighted toward debt. The result, they argue, is that a 15 percent overall return can result in a windfall, *i.e.*, an unreasonably high return on equity. To avoid this problem, New York suggests that the Commission grant a special relief rate based on a 17 percent predicted return on equity.

The Indicated Producers found the DCF to be inadequate in several respects. They claim that the example of its application provided in the notice of proposed rulemaking was ill-defined and required further explanation. Sonat requested that the Commission use a statutory tax rate in the DCF without a reduction for percentage depletion and investment tax credit, rather than the marginal effective tax rate described in the proposed rule, arguing that the rate as proposed discriminates against a young company whose revenues are inconsiderable. Texas Gas and the Indicated Producers urge the Commission to delete the requirement that costs be prudently incurred. They believe that there exist no guidelines for its application in the context of a planned investment project.

Regarding the rate for wells for which there is no planned investment, most comments were directed to the failure of the proposed rule to allow for a return on expenditures for wells for which there is no planned investment, contending that no producer will continue to operate a well with no opportunity to realize a profit. It was urged the Commission permit a 15 percent rate of return.

Texas Gas Exploration Co. expressed concern that the 7 percent inflation factor was inadequate to meet the demands of current economic circumstances.

The use of the "tilt" for wells for which there is no planned investment was endorsed by Kamlock, Inc. New York, pointed out that a "tilted" rate based on a DCF analysis such as that applied to planned investment projects would provide recovery of "current" operating costs. They contended, therefore, that the recovery of "current costs" on top of the 7 percent inflation adjustment would represent a double recovery.

In response to the Commission's request for comments on alternative methods of rate determination, Natural Resources urged the Commission to permit applicants to use other methods of cost assessments. They claimed that the DCF is misleading when applied to remedial well work where expenditures, work, and receipt of income are spread out over time. They requested that the Commission use an economic analysis which puts more emphasis on payout time mechanism described in the preamble as an alternative to the proposed flat rate. Kamlock, Inc. endorsed the use of the "tilt" but did not give reasons for its position.

Although the Commission received little response to its request for comments on alternative methods of computation, we are of the view that a "tilted" rate, such as that outlined in the preamble in Notice of Proposed Rulemaking, is preferable to a level rate, such as that set forth in the proposed regulation. The level rate method of computation is designed to yield a constant rate over the life of the project increased by a flat inflation rate for operating expenses applied annually. The effect of this method is that during the early phases of the project's production life, when production is higher, the producer is receiving what amounts to an incentive rate in the form of an excess recovery of operating expenses. As production declines this recovery decreases, so that at some time in the production life the producer faces a negative cash flow situation. In theory, the excess recovery during the early phases of production is intended to compensate for the lesser revenues at a later time. However, it is more likely that when a producer reaches the point of lower revenues he will seek either abandonment or additional special relief, arguing that the well is in a confiscatory state.

For planned investment projects, the "tilted" rate is determined by breaking the rate computation into two components. The first component is comprised of the recovery of investments and the return on investment per unit of production and the Federal income allowance, determined by use of the DCF. The Federal income tax allowance will be the marginal effective tax rate for the project, which will be the statutory rate decreased by the amount of percentage depletion and investment tax credit.[24] It will remain constant over the life of the project.

The second component provides for a recovery of operating expenses per unit of production computed monthly on the basis of actual deliveries, increased by the amount of the monthly inflation adjustment factor published quarterly by the Commission. The effect of the tilted rate is to provide the same return on investment as the level rate, but to distribute the recovery of operating expenses over the life of the project thereby averting the possibility implicit in the flat rate method that the producer will recover an excess in the early stage of production and reach the point of negative cash flow at a later time. An example of the application of this rule to a hypothetical project is appended to these regulations.

Estimated operating expenses may include allowance for taxes, such as *ad valorem* property tax, other than state income taxes, Federal income tax (which is accounted for in DCF) and State severances as defined in subpart K of the Commission's regulations. This provision would not preclude a producer from seeking adjustments for state severance taxes under subpart K.

The proposed rule adopts the 15% rate of return on the basis of the most recently established data, amassed in connection with the 1976 area ratemaking. This rate has survived judicial review.

[An analysis of the use of the 15 percent rate of return will be supplied by the Office of Regulatory Analysis]

The out-of-pocket rate for wells for which there is no planned investment would be determined in the same way in which the operating expense component is computed for planned investment projects, based on actual production. The Commission agrees that the 7 percent annual inflation adjustment may be inadequate and thus has incorporated into its formula for determining the out-of-pocket rate the monthly GNP deflator published by the Commission. This formula would yield a return only of the current expenses.

The Commission further believes that the decision to use the "tilt" requires us to reconsider our decision to provide no incentive allowance in the rate for wells for which there is no planned investment. As noted above, the use of a flat rate to compute the recovery of out-of-pocket expenses would permit a rate in the early stages of production somewhat in excess of actual expenses; this excess would decline in concert with the decline in rate of production. When the producer reached the point of negative cash flow he could seek additional special relief, claiming quite accurately that his incremental costs exceeded his revenues under his current rate. However, the "tilted" rate would assure the continued recovery of all approved expenses, but would provide no excess. Therefore, to provide a reasonable inducement to keep such wells in operation, the Commission will permit a 5 percent incentive allowance after an allowance for Federal income tax. We have concluded that a five percent allowance is sufficient to encourage continued production based on the analysis which is attached at an appendix to this rule.

The Commission sees little wisdom in the suggestion the producers be relieved of the requirement that only costs which are prudently incurred may be considered in computing the special relief rate for planned investment projects for wells for which there is no planned investment. This standard provides the Commission with some assurance that the approved special relief rate will be a just and reasonable one. It is certainly true that this standard cannot be mechanistically applied in the same manner in which Staff can apply the rate computation formula. However, the regulation does provide some guideline in that costs will be judged to be prudent if they are in line with comparable industry expenditures for similar equipment or services. The right of Commission review, which guarantees an applicant an opportunity for the Commission to review any disputed issue of fact and offers the possibility of remand for hearing in appropriate circumstances, assures the Commission that this essential standard can be impartially administered.

The comments also contained a number of requests for clarification and suggestions for modification of various other aspects of the proposed rule. Except for the change in the rate determination methodology, the regulatory scheme set forth in the proposed rule has not been substantially modified. However, as will be noted subsequently, the Commission has modified and clarified certain aspects of the regulation in response to the public comments.

III. Section-by-Section Analysis

§ 271.1001 Applicability

This section makes special relief available to a producer of natural gas (other than Prudhoe Bay unit Alaska gas) subject to a maximum lawful price under sections 104, 106, or 109 of the NGPA. These sections apply respectively to gas committed or dedicated to interestate commerce on November 8, 1978, gas sold under rollover contracts, and gas not covered by any other maximum lawful price under Title I of the NGPA. In accordance with section 101(b)(5) of the NGPA (which provides that gas

[24] We have retained the exclusion of investment tax credits from the Federal income tax allowance; its inclusion would build an additional incentive into the tax rate which duplicates the incentive created by the investment tax credits.

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qualifying for more than one maximum lawful price or "any exemption from such a price" shall qualify for the highest applicable price), natural gas which is subject to section 104, 106, or 109 is eligible for special relief even if it qualifies for a maximum lawful price under some other section of Title I.

The Commission wishes to make clear that the exclusion of Alaskan natural gas from this rulemaking was not intended to announce a policy that special relief would never be available to producers of Prudhoe Bay Unit Alaskan natural gas. Rather, the Commission finds that special relief for Prudhoe Bay natural gas should be made available through separate procedures developed in consideration of the special circumstances surrounding the production of that type of natural gas.

In the notice of proposed rulemaking the Commission solicited comments on whether it may or should extend the rulemaking to gas priced under sections 102, 103, 105, and 108 of the NGPA, by exercise of its authority to set higher prices for high cost gas under section 107, or its authority to adjust any maximum lawful price to allow for production related costs under section 110 of the NGPA.

Several respondents offered persuasive reasons for extending special relief to other categories of gas, most particularly with reference to gas priced under section 105. They point out that a producer of gas priced under section 105 who is locked into a fixed rate contract may reach a level of marginal production before the primary term of the fixed rate contract ends, reducing the well to a confiscatory state. Also, they argue, a producer would never initiate supply enhancement projects for such a well, sacrificing the benefit to consumers of added production from that well.

It was also suggested that special relief be extended through section 107 on an incentive rather than a cost basis. They pointed to language in the Joint Explanatory Statement of the Conference Committee accompanying the NGPA Conference Report (Joint Statement), which suggests that section 107 may not be used to impose the cost-based rate methodology employed in the proposed rule. The Joint Statement explicitly provides that ceiling prices established by the Commission under section 107(c)(5) "are not intended to be cost-based in nature, and do not require cost justification." [25]

That same language in the Joint Statement leads the Commission to conclude that section 107 is a wholly inhospitable vehicle for cost-based special relief. Section 107 contemplates the establishment of a maximum price applicable to a generic category of high cost gas rather than a rate applicable to gas produced from a specific project.

Similarly, extension of special relief through section 110 presents certain substantive and procedural difficulties. To some extent the costs to be recovered under section 110 and under special relief may coincide. Section 110, however, permits the recovery of a narrower range of costs, [26] and provides for Commission approval of the pass-through of those costs at the point of sale. Under procedures for special relief, costs must be assessed and submitted to the Commission in the form of the initial application prior to expenditure of funds.

For these reasons, the Commission is not satisfied that the procedures set forth in these rules are the appropriate means by which to offer special relief to other categories of natural gas, and we will pursue such action in a separate rulemaking.

§ 271.1002 Definitions

This section defines certain terms for purposes of the regulation governing procedures for special relief.

Under this rule, special relief is limited to a "first seller" which, under paragraph (a) of this section is defined to exclude reseller as defined in the Commission's regulations. [27] These procedures, designed to compensate for production costs, are not ordinarily adaptable to the types of expenditures incurred by a reseller, and in no case would a factor such as production volumes, essential to computation of a special relief rate, be relevant to a reseller. A reseller would of course have the opportunity to seek an adjustment for production related costs under section 110 of the NGPA.

To abate the confusion which appears to have arisen from the reseller exclusion, we wish to make clear that in no way do we intend to disturb the regulatory mechanism of §270.202(a)(2)(i) of the Commission's regulations, which provides that the maximum lawful price which governs the seller's price is also the reseller's maximum lawful price.

Paragraph (b) defines a planned investment project as a planned onshore well and related production facilities, a planned offshore development well and related production facilities, offshore platforms, wells drilled on the platforms, and related productions facilities, or planned production enhancement work on a previously producing well. Paragraph (c) defines "related production facilities" as the equipment and facilities of the first seller which connect the wellhead to the purchaser's facilities. Production enhancement work is also defined.

Three respondents took issue with the Commission's proposal to define "planned investment project" as a "well or platform". The effect of this definition, they correctly point out, is to require a producer to justify his costs for each well or platform for which he seeks special relief.

Terra Resources and the Indicated Producers expressed concern that the rule is particularly disadvantageous to offshore producers whose large "up front costs" would not be recoverable except to the limited extent they could be attached to a producing well. Exploratory dry hole costs would, by definition, be excluded.

The Indicated Producers questioned the Commissioner's assumption that the data necessary to support applications for each well or platform would be readily accessible to the applicant. They claim that companies maintain records on an entire "project" rather than on the individual well, and thus that the Commission should continue its practice in optional procedure cases where the parameters of a "project" would be drawn on a case-by-case basis, with reference to the applicant's evidence as to what constitutes a project.

The New York Public Service Commission suggested that the requirements for "well-by-well" submissions was a response to an abuse which plagued special relief and optional pricing proceedings under the old rules, *i.e.*, the prarctice of seeking relief for larger numbers of wells, grouped together under the lable of "one project," when in fact only some of the wells in the grouping had costs which would justify a special relief rate.

The Commission has not modified its definition of planned investment project to permit the consideration of applications which encompass work on more than one well. It is crucial to the implementation of other provisions of the proposed regulations which limits cost recovery to incremental costs, because is assures the submission of data necessary to assess costs on this basis. We will permit producers to submit one application for a special relief rate for gas produced as a result of

[25] S. Rep. No. 1752, 95 Cong., 2d Sess. 88 (1978).

[26] i.e., State severance taxes and specifically designated production related costs. NGPA, section 110(a)(1)–(2).

[27] § 270.202(e)(1)(2) provides that a reseller means the seller in a sale of natural gas, all or a portion of which was both purchased and resold in transactions which are first sales as defined in the NGPA.

production enhancement work, such as installation of a compressor or a salt water disposal system, which serves a group of wells.

While it is true that offshore production involves large "up front costs", one of the largest of these costs—platform construction—can be recovered under these rules. While exploratory dry hole costs may not be recovered, it must be remembered that special relief is not intended to guarantee a producer against all risks but only to provide a rate which insures the availability of additional supplies which might not otherwise be produced—a purpose which is adequately served by the allowance of incremental costs.

Natural Resources has commented that the definition of "related production facilities" is too restrictive because it fails to include "production related facilities such as compressors, separators and other related equipment".

However, the Commission has chosen to employ a broad, generic definition to avoid identifying particular pieces of equipment, an approach which risks the inadvertent exclusion of equipment which might properly be considered a planned investment project. Compressors, dehydrators, and other related equipment could fall within this general difinition.

§ 271.1003 Eligibility

This section states that a first seller may apply for a special relief rate for natural gas produced from a planned investment project or from a well for which there is no planned investment, if, at the time the application is filed, the first seller has contractural authorization stated in cents per MMBtu to charge and collect the proposed rate.

Three respondents urged the Commission to permit parties to amend their contracts to provide authority to collect the special relief rate after the rate has been determined. Texas Oil & Gas Corporation suggested that the contractural authority not be required to be stated in terms of cents per MMBtu, pointing out that a price escalator clause which authorizes the collection of any rate granted the seller by the Commission in a proceeding for special relief would not meet the requirements of this section.

The Indicated Producers argued that the Commission's authority to determine an applicant's eligibility for special relief is no greater than its authority to determine a well's eligibility to receive a maximum lawful price: the determination that a well is eligible to receive an applicable maximum lawful price does not depend upon the existence of contractural authorization to charge that maximum lawful price, although the producer must have contractural authorization before he can collect the price from a purchaser. They also claim that because, at least in the case of offshore gas, the purchase and sale is often negotiated just prior to the commencement of production, a producer could file only after all major capital expenditures have been made thereby suffering the exclusion of all costs previously incurred. They argue that a producer would be forced either to abandon a project, to delay application and thereby suffer a return on a smaller amount of his capital costs, or to sign a contract committing him to undertake a planned investment which he later may discover, on the basis of information acquired during exploration, to be imprudent.

The Commission is not persuaded by these arguments. Under the proposed rule, the special relief rate is computed on a cost basis without reference to a ceiling price; so long as a producer can show that the costs incurred are prospective and prudent a rate will be granted to account for those costs, even where the ultimate cost of production exceeds the value to the public of the additional supplies. [28]

The Commission believes that this result is best avoided by reliance on the mechanisms of the natural gas market. A reasonable upper limit on the special relief rate would be effected by operation of the process of contract negotiation, in which it is assumed that a purchaser, informed by a knowledge of market circumstances and the dictates of prudent business judgment, would not contract for an unreasonably high price.

The Commission further believes that this mechanism is most effective when parties must come to terms on an appropriate fixed rate. In this way, we are assured that pipelines, as well as producers, will scrutinize the investment costs of the proposed project before negotiating a contract, we expect that the resulting price will be tempered by such a scrutiny. To permit subsequent amendment of contracts to meet this requirement negates this intended affect of the provision.

The Indicated Producers have quite correctly asserted that in many cases the pipelines will not negotiate contracts before exploration is undertaken and some assessment of reserves and production costs is available. This is particularly true, for example, where a pipeline may have to construct a lateral extension to receive new supplies, requiring Commission certification based in part on data pertaining to reserves. This presents a problem, however, only when a producer is seeking to circumvent the exclusion of sunk costs by applying for special relief well in advance of the time when expenditures are actually related to the development of additional supplies. Thus, the effect of the contractual authorization provision is not to coerce the premature negoation of contracts but to avoid the premature application for special relief by assuring that only actual costs related to enhanced production are covered, and that other initial costs, excluded because they precede the date of application, are undertaken at the producer's risk.

Also, as a practical matter, much of the gas eligible for special relief under this program is priced under section 104 or 106, which by definition is already committed to interstate commerce, in many cases under existing contracts. Although these contracts may not contain the specific authorization required by these regulations, parties to these contracts would not be precluded from amending those contracts in advance of application to comply with Commission authorization.

§ 271.1004 Special Relief Rate

This section sets out the method for computing the special rate for planned investment projects and for wells for which there is planned investment.

For planned investment projects other than small projects, the rate is determined by adding two components. [29] The first component, which is constant over the life of the project, is the rate under which it is determined that an applicant will earn a 15 percent true yield on its investment, after allowance for Federal income tax, to be computed using the discounted cash flow method (DCF). In computing investment costs under the DCF, for the reasons set forth above, the Commission will consider only those costs incurred after staff acceptance of an initial application, except that in the case of pending applications, costs shall be considered which were incurred subsequent to the date the pending application was filed under the prior procedures. The second component of the rate for planned investment projects is computed monthly on the basis of fluctutations in production volumes and inflation. To assist applicants in making

[28] For this reason, New York has urged the Commission to adopt the section 102 maximum lawful price as an absolute ceiling on special relief rates, either because it is consistent with the purpose of the NGPA to keep prices below the section 102 price until 1985, or because it is in the public interest.

[29] See supra, note — and accompanying text.

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the calculations under this section, an example is attached as an Appendix to the final rule.

As noted above, the rate for wells for which there is no planned investment will be computed in the same manner in which the operating expense component for planned investment projects are calculated.

In determining the final rate in all cases, the Commission will consider only those costs which are prudently incurred.

§ 271.1005 Application

This section sets out the procedures for submission of new applications for special relief and for providing the opportunity for applicants for special relief or optional pricing under existing Commission regulations to proceed under the new rule. Future applicants for special relief for planned investment projects must also file supplemental applications within 60 days of completing a project, reporting their costs actually incurred during the course of the project. Proceedings for special relief are considered to be commenced when an initial application for each well or project is filed and notice to purchasers is served.

Persons whose applications are now pending before the Commission must give notice of intent to go forward with the application within 30 days of the issuance of these rules in final form, or the application will be deemed withdrawn. At the same time, the applicant must submit a statement, made under oath, that it believes that these procedures are applicable to natural gas to be produced from the project or well under the provisions of § 271.1001, and that the applicant is a first seller, as defined in § 271.1002. Such applicants must also conform their pending applications to the requirements of the new regulation.

§ 271.1006 Intervention

This section authorizes intervention pursuant to § 1.8 of the Commission's regulations within 15 days of service of the application, or in the case of a person who has not been served, within 15 days of publication in the **Federal Register**. Authority is given to Staff to grant or deny petitions to intervene.

New York points out that the rule as drafted is administratively inconvenient for intervenors who usually get notice through service or from the Commission's Office of Public Information, but who do not refer to the **Federal Register**. They therefore request that the Commission issue public notice specifying a date certain by which petitions for intervention must be filed.

Although the Commission does not wish to create obstacles for intervenors, New York's request ignores the interests of potential intervenors whose resources are such that they must rely on the **Federal Register** for notice of Commission action. The provision will be retained as proposed to avoid prejudice to an intervenor that could arise by unexpected administrative delays between the date of Commission issuance of notice and its publication in the **Federal Register**.

§ 271.1007 Review by Staff

A. *The regulation.* Section 271.1007 sets forth procedures for Commission consideration of pending and future applications for special relief. A future application for special relief for a planned investment project, other than a small project, is first reviewed by the staff of OPPR, which "may" notify the applicant that it has taken one of three types of action: that staff finds the filing deficient, and is requesting additional information; that the application is rejected for failure to provide the requested additional information, or because the gas does not meet the eligibility requirements of § 271.1003, or because the proposed rate has not been computed in accordance with the provisions of § 271.1004; or, it may accept the application upon determining that applicant is entitled to special relief.

The effect of acceptance of an application is to authorize the applicant to "include in its supplemental application . . . those investments and expenses permitted under § 271.1004 which were made or incurred for the project subsequent to such acceptance, but shall not imply approval of any expenditures included in the application."

Within 60 days of the completion of a planned investment project (other than a project which is the subject of a pending application), an applicant will have submitted his supplemental application pursuant to § 271.1005 setting forth his actual costs. Under § 271.1007, the staff will review this supplemental application and may either request additional information, reject the application on any of the grounds for which initial applications may be rejected, or issue a Staff report recommending approval of a specified rate, stating the basis for the rate and any disputes with the applicant on factual issues. All persons entitled to service of the initial or supplemental applications are entitled to service of the staff report.

Finally, the staff must consider all filings made in connection with an application for special relief. The staff is accorded authority to investigate or audit statements in the application, to solicit or accept submission for intervenors and to conduct conferences under procedures the staff considers to be "most expeditious." All persons entitled to service may be present at such conferences.

Applicants for special relief for a planned investment project which is the subject of a pending application or for wells for which there is no planned investment are not required to proceed through the two step application process. Their initial applications are treated in the same manner as supplemental applications for planned investment projects.

Special provision is also made for a producer proposing to undertake a small project. The producer may receive its proposed rate, without a cost-based analysis if it meets three criteria. First, the total proposed rate for the sale of gas from the project may be no more than the applicable rate for large producer sales as established under section 106(a) of the NGPA, for gas priced under rollover contracts. The Commission has adopted this maximum rate in place of the proposed rate of 60 cents per mcf in response to persuasive arguments raised in public comments that the failure to provide periodic adjustments in the approved rate would discourage potential applicants from availing themselves of the simplified procedures.

Second, the rule requires that the enhancement work to be undertaken in a small project must result in estimated additional revenues to the applicant of less than 100,000 times that rate. This also reflects a change from the proposed rule which limited the amount of additional revenues to $60,000. The Commission is persuaded by the arguments of respondents that the limit to be imposed under the proposed rule would exclude a large number of producers whose expected revenues would be inadequate to justify pursuing an application for special relief under the procedures applicable to large projects.

The Commission has retained the third proposed requirement, that the proposed investment in the project exceed 25 percent of the estimated additional revenues to be generated by the project.

A variety of other issues were raised in public comments which require clarification, New York and the Indicated Producers note that although the acceptance of an initial application authorizes the applicant to file his supplemental application for the proposed rate, it is not clear whether the Commission thereby intends to preclude the approval of a rate based on actual costs which are in excess of the cost estimates underlying the proposed rate but which, nevertheless, are prudently incurred.

It was the Commission's intent to encourage producers to scrutinize carefully the project's costs before its undertaking by providing that an applicant may not receive a rate in excess of the proposed rate. The final rule has been amended to more clearly effectuate this intent.

The Commission was also requested to address the question of whether an applicant would be permitted to apply for an increased special relief rate at a later time. Under prior procedures, an applicant with an optional rate certificate would be held to the certificated rate for the life of the project, although no similar limitation was imposed on recipients of other forms of special relief.

Where a producer of gas already priced under a special relief rate wishes to undertake additional planned investment (for example production enhancement work) he may of course seek special relief if his project falls within the definition of a planned investment project. With regard to out-of-pocket expenses, the use of the "tilted" rate, which insures that an applicant will recover current expenses for the life of the project or well, appears to alleviate the problem of additional special relief. If, however, a producer who is subject to a special relief rate can justify a need for a higher rate to cover out-of-pocket expenses, he is not precluded from seeking additional special relief.

§ 271.1008 Determination of Rate by the Director of OPPR; and § 271.1009 Commission Review

Section 271.1008 provides that the Director of OPPR or his designee must determine the special relief rate or recommend other appropriate action to the Commission. The Director's decision is final thirty days after publication in the **Federal Register**, unless during that period appeal is taken to the Commission or the Commission directs that the order be submitted to it for review.

Section 271.1009 sets forth the procedures for Commission review. Any person adversely affected by staff acceptance or rejection of an initial application, staff action on a petition to intervene, or the Director's determination of a special relief rate, may seek Commission review. The staff, on its own motion, may seek review. Commission review shall be on the record; the Commission shall provide such opportunity for additional submissions including, hearings, as it deems necessary.

For the most part, comments on these sections concerned the delegation of decision-making authority to staff. The Indicated Producers suggested that this approach, which involves essentially a mechanistic application by staff of a formula, was appropriate for a vast number of cases; they endorse the Commission's decision to make such procedures available to applicants who choose to use them. They contend, however, that in many cases the facts are too complicated and the interests of the parties too considerable to deny a producer the right to have important issues of fact, such as "cost estimates", "prudence" or "gas reservoirs," decided by an impartial trier of fact. Pennzoil offered a similar argument with regard to pending applications.

Sonat and Texas Gas requested that the Commission establish mandatory time frames for each phase of the procedures. The same logic that persuades the Commission that evidentiary hearings are unnecessary for pending applicants gives rise to our decision that the procedures for staff review are appropriate. The computation of a rate based on incremental costs does not involve the variety of complicated or factfinding issues which the Commission believed warranted an evidentiary hearing under the prior procedure.

Contrary to the claims of the Indicated Prodcucers, the Staff ordinarily will not inquire into factual assertions of producers about "cost estimates" or "production", so that the only recurring main issue of fact to be decided by the staff is the issue of the prudence of the costs incured. In addition, a full review by the Commission is available on the record which must contain evidence of all factural disputes, thereby according the applicant all process which is due. For these reasons, we believe that these procedures accomplish a fair and full consideration of all relevant data, at the same time they reduce the possibility of unnecessary administrative delay.

The Commission understands that a producer who is entitled to special relief would prefer that the Commission act on his application by a date certain. However, until the staff and the Director acquire some experience in the implementation of these regulations, any attempt to establish a time frame for review and rate determination would be wholly arbitrary. Because the provisions for retroactive collection substantially cure the injury to the applicant arising from regulatory delays, the Commission will not establish time frames or staff review or for the Director's rate determination decision.

§ 271.1010 Retroactive Collection

In the case of future applications for special relief for wells for which there is no planned investment, the applicant may charge and collect the special relief rate for sales of gas from the well beginning on the date the application for special relief was filed. Applicants for special relief for planned investment projects, including small projects, may collect the special relief rate retroactively beginning on the date deliveries from the project were commenced.

In the case of applications now pending filed under § 2.75, the seller may collect the special relief rate retroactively beginning on either the date that notice of intent to proceed with the application is filed or the date nine months following commencement of deliveries under the contract to which such special relief rate applies, whichever is earlier. For pending applications filed under other prior procedures, collections may begin on the date notice of intent to proceed with the application is filed in the case of a well for which there is no planned investment, and, in the case of planned investment projects, the later of the date notice of intent to proceed was filed or the date deliveries commenced.

Mesa Petroleum argued that it is discriminatory to draw upon the optional pricing procedures to impose a nine month limit on retroactive collection, while denying applicants who filed under those procedures the substantive and procedural advantages available under the old rules.

However, the Commission believes that this time limitation does not prejudice parties with pending applications who, when they filed unted § 2.75, had no expectation of collecting the optional rate prior to nine months after the date deliveries commence under the contract to which such special relief rate applies. For this reason the provision is retained.

§ 271.1011 Filing Requirements

A. *The regulation.* This section sets out the various filing requirements applicable to planned investment projects, small projects, and wells for which there is no planned investment.

IV. Effective Date

The Commission is aware that the lengthy delay in the implementation of this rule has left many applications

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pending since the effective date of the NGPA. The Commission therefore finds good cause for making these rules effective immediately.

(Natural Gas Act, as amended, 15 U.S.C. § 717 *et seq.*; Natural Gas Policy Act of 1978, P.L. 95–621, 92 Stat, 3350; Department of Energy Organization Act, 42 U.S.C. § 7107 *et seq.*; Exec. Order No. 12009, 42 Fed. Reg. 46267)

In consideration of the foregoing, Parts 2 and 271 of Chapter I, Title 18, Code of Federal Regulations, are amended as set forth below, effective immediately.

By direction of the Commission.

Secretary.

§§ 2.56, 2.75, 2.76 and 2.77 [Amended]

1. Part 2 is amended in the Table of Contents where appropriate and in the text of the regulations by deleting §§ 2.56a(g), 2.56b(h), 2.75, 2.76, and 2.77. Paragraphs (h) through (p) of § 2.56a are redesignated as paragraphs (g) through (o). Paragraphs (i) through (n) of § 2.56b are redesignated as paragraphs (h) through (m).

§§ 271.1001 through 271.1011, Subpart J [Added]

2. Part 271 is amended in the Table of Contents by deleting "Subpart J—[Reserved]" and substituting the following in lieu thereof:

Subpart J—Special Relief

Sec.
271.1001 Applicability.
271.1002 Definitions.
271.1003 Eligibility.
271.1004 Special relief rate.
271.1005 Application.
271.1006 Intervention.
271.1007 Review by Staff.
271.1008 Determination by the Director of the Office of Pipeline and Producer Regulation.
271.1009 Appeals to the Commission.
271.1010 Retroactive collection.
271.1011 Filing requirements.

3. Part 271 is further amended in the text of the regulations by deleting "Subpart J—[Reserved]" and substituting the following in lieu thereof:

Subpart J—Special Relief

§ 271.1001 Applicability.

This subpart sets forth the conditions under which special relief may be obtained for any natural gas which is subject to a maximum lawful price under section 104 or 106, (whether or not such gas qualifies under any other section of the NGPA) or 109 of the NGPA except that this subpart does not apply to natural gas produced from the Prudhoe Bay unit of Alaska and transported through the natural gas transportation system approved under the Alaskan Natural Gas Transportation Act of 1976.

§ 271.1002 Definitions.

For purposes of this subpart:

(a) "Planned investment project" means:

(1) a planned onshore well and related production facilities;

(2) a planned offshore development well and related production facilities;

(3) a planned offshore platform, wells drilled thereon and related production facilities; or

(4) planned production enhancement work on a previously producing well or;

(5) planned production enhancement work serving a group of wells.

(b) "Related production facilities" means the equipment and facilities of the first seller which connect the wellhead to the purchaser's facilities.

(c) "Production enhancement work" means work in the nature of reconditioning, workover, deeper drilling, replacing or adding major equipment or related production facilities, or any other additional work necessary to prevent the loss of gas production or reserves.

(d) "First seller" means a seller in a first sale as defined in paragraph 20 of section 2 of the Natural Gas Policy Act, except that it shall exclude a reseller as defined in § 270.202(e)(2) of this chapter.

§ 271.1003 Eligibility.

(a) A first seller may apply for a special relief rate under this subpart for natural gas produced from:

(1) a planned investment project as defined in paragraph (a) of § 271.1002 of this subpart; or

(2) a well for which there is no planned investment.

(b) In order to apply for a special relief rate under this subpart, a first seller must have contractual authorization to charge and collect the specific special relief rate (in cents per MMBtu) proposed in its application at the time a filing is made under § 271.1005 (b)(1) or (d)(2) with the Commission.

§ 271.1004 Special relief rate.

(a) *For a planned investment project:*

(1) The special relief rate for a planned investment project, other than a small project as defined in § 271.1007(d)(1), shall be the rate, in cents per unit of production (MMBtu), which is the sum of the following two components:

(i) a component which is the rate under which it is predicted that the applicant will earn a 15 percent true yield on its investment in the project, after allowance for Federal income tax; and

(ii) a component which is the rate under which the applicant will recover operating expenses for the project.

(2) The component of the special relief rate described in subparagraph (1)(i) of this paragraph shall be determined using the discounted cash flow method, as described in the Appendix to this Subpart, and shall be constant over the life of the project. The values used in the discounted cash flow computation shall reflect:

(i) only that investment which is incurred in completing the eligible project, and which is incurred:

(A) on or after the date an application was filed under §§ 2.56a(g), 2.56b(h), 2.75, 2.76 or 2.77 of this chapter, provided that the applicant has complied with § 271.1005(d)(1); or

(B) on or after the date an application was accepted under §271.1007(a)(1)(iv) in the case of applications to which subclause (A) does not apply.

(ii) the net working interest (gross interest less royalty interest) production (in MMBtu's) of all hydrocarbons estimated to be produced over the life of the project;

(iii) depreciation computed on a unit of production (MMBtu) basis;

(iv) a discount rate of 15 percent;

(v) an allowance for Federal income tax which is the marginal effective Federal income tax rate attributable to income from the project. The rate shall be the statutory rate applicable to such additional taxable income of the investor minus any applicable percentage depletion allowance or investment tax credits.

(3) The component of the special relief rate described in subparagraph (1)(ii) of this paragraph shall be determined for each calendar month as follows:

(i) By using the formula

$$Rc = \frac{Rp \times I \times Vp}{Vc}$$

Where:
Rc=The rate for the current month;
Rp=The rate for the previous month;
I=The inflation adjustment for the current month as published by the Commission under § 271.107(c);
Vp=Actual gross volume (Mcf) of gas delivered during the previous month in which production occurred;
Vc=Actual gross volume (Mcf) of gas delivered during the current month occurred.

(ii) For the initial delivery period (the period prior to and including the first full calendar month) the rate for the previous month (Rp) shall be determined by dividing the first year's estimated operating expense as determined under clause (iv) of this subparagraph, by the net working interest (gross interest less royalty interest) production (in MMBtu's) of hydrocarbons estimated to be produced during the first year of the project.

(iii) For the initial delivery period (the period prior to and including the first full calendar month) the actual gross volume (Mcf) of gas delivered during the previous month (Vp) shall be the annualized (divided by 12) gross volume of gas estimated to be produced during the first year of the project.

(iv) The first year's estimated operating expense, shall be estimated for the first year in which deliveries are made under the special relief rate according to the following standards:

(A) operating expenses shall be estimated on the basis of normal, recurring operating and maintenance expenses, incurred and charged on the books and records of the producer for the production of hydrocarbons from the project;

(B) regulatory expense which shall be determined by multiplying the estimated first year's net working interest (gross interest less royalty interest) gas production (in MMBtu's) by $.001;

(C) a 15 percent return on working capital allowance which shall be determined by multiplying the estimated operating expense as defined in this clause (exclusive of regulatory expense and return on working capital allowance but inclusive of an allowance for Federal income tax) by .01875 (12.5 percent working capital allowance times a 15 percent rate of return) and dividing the product by a divisor of one minus the marginal effective tax rate applicable to the applicant under Subparagraph (2)(v) of this paragraph.

(D) Operating expense shall not include capital investment, depreciation, depletion, amortization, return on investment (profit), amounts repaid on borrowed funds, State income taxes, Federal income tax (except as allowed for in subclause (C) of this clause) any overhead which is not directly related and charged to the project, and any other adjustments allowed under Subpart K of this part.

(4) The following standards shall apply in the determination of the special relief rate under this paragraph:

(i) Only those expenditures shall be considered which are prudently incurred and which are in line with comparable industry expenditures for such equipment, services and expenses for similar projects.

(ii) Investment incurred prior to one year before the commencement of deliveries attributable to the projects shall be treated as if incurred at the time of commencement of deliveries, absent reasonable justification that a return should be allowed on investments incurred over a longer period of time.

(b) *For a well for which there is no planned investment:*

(1) The special relief rate for gas sold from a well for which there is no planned investment shall be the rate, in cents per unit of production (MMBtu's), under which it is predicted that the applicant will recover those out-of-pocket expenses which are reasonably assigned or allocated to gas production from the well and an incentive allowance of 5 percent after allowance for Federal income tax. Such rate, which will vary monthly according to changes in production and the rate of inflation, shall be determined for each calendar month as follows:

(i) By using the formula set forth in paragraph (a)(3)(i) of this section.

(ii) For the initial delivery period (the period prior to and including the first calendar month) the rate for the previous month (Rp) shall be determined by dividing the first year's estimated out-of-pocket expense as determined under paragraph (b)(2) of this section by the net working interest (gross interest less royalty interest) production (in MMBtu's) of hydrocarbons estimated to be produced during the first year of the project.

(iii) For the initial delivery period (the period prior to and including the first full calendar month) the actual gross volume (Mcf) of gas delivered during the previous month (Vp) shall be the annualized (divided by 12) gross volume of natural gas estimated to be produced during the first year of the project.

(2) The following shall apply in the determination of the special relief rate under this paragraph:

(i) Out-of-pocket expense shall be estimated for the first year on the basis of normal, recurring operating and maintenance expenses, incurred and charged on the books and records of the producer for the production of hydrocarbons from the well, and may include:

(A) regulatory expenses as defined in paragraph (a)(3)(vi)(A) of this section;

(B) an incentive allowance of 5 percent after allowing for Federal income tax shall be determined by multiplying the out-of-pocket expense as defined in this clause (exclusive of regulatory expense an incentive allowance) by .05 and dividing the product by a divisor of one minus the marginal effective tax rate applicable to the applicant under subparagraph (2)(v) of this paragraph; and

(ii) Only those out-of-pocket expenses shall be considered which are to be prudently incurred and which are in line with comparable industry expenditures for such operation and maintenance for similar wells.

(iii) Out-of-pocket expense shall not include capital investment, depreciation, depletion, amortization, return on investment (profit), amounts repaid on borrowed funds State income taxes, Federal income taxes (except as allowed for under subparagraph (2)(i)(B) of this paragraph), any overhead which is not directly related and charged to the well and any other adjustments allowed under Subpart K of this part.

§ 271.1005 Application.

(a) *Scope of application.* A first seller shall make a separate application for each planned investment project or well for which there is no planned investment for which authority to charge and collect a special relief rate is sought.

(b) *Commencement of proceedings.* Except in the case of pending applications as provided in paragraph (d) of this section, a first seller shall commence a proceeding under this subpart by filing an initial application containing the applicable information required in § 271.1011 (a) through (b).

(c) *Supplemental applications for certain planned investment projects.* In the case of a planned investment project which does not qualify as either a small project under § 271.1007(d)(1) or a project subject to the provisions of paragraph (b)(2) of this section, the first seller shall file a supplemental application containing the applicable information required in § 271.1011(e) within 60 days of completing the planned investment project.

(d) *Pending applications.* The following provisions shall apply to pending applications filed before the effective date of this subpart under §§2.56a(g), 2.56b(h), 2.75, 2.76 or 2.77 of this chapter:

(1) The application shall be deemed withdrawn for failure to go forward unless the applicant commences proceedings under this subpart by filing within 30 days of the effective date of this subpart:

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(A) a notice of intent to proceed with the application under the requirements of this subpart; and

(B) a statement that it believes that the natural gas to be produced from the project or well qualifies for special relief under §§ 271.1001 and 271.1003(a) of this subpart.

(2) Subsequent to or concurrent with the filing of the notice required in subparagraph (1) of this paragraph the applicant shall:

(i) make a filing or filings conforming the application to the requirements in this subpart; or

(ii) file a statement that it believes the application conforms to the requirements of this subpart, that it does not intend to make a conforming filing and that it wishes to have the application reviewed under the requirements of this subpart, as filed.

(3) An application shall not be considered as conforming to the requirements of this subpart unless:

(A) In the case of a planned investment project other than a small project, the application contains the applicable information required in § 271.1011(e); or

(E) in cases of small projects and wells for which there is no planned investment, the application contains the applicable information required in § 271.1011 (a) through (d).

(4) In the case of a planned investment project (other than a small project) completed prior to the date of issuance of this subpart in final form, the application shall be deemed to conform to the requirements of this subpart if it contains the information required in § 271.1011(e).

(e) *Form of submission.* Each application, supplemental application, conforming filing or notice of intent to proceed filed under this subpart shall be submitted in an original and three copies and shall be subscribed under oath by at least one working interest owner seeking special relief in the application.

(f) *Notice.* (1) Each initial application, supplemental application or conforming application filed under this subpart shall include a proposed notice which shall state the applicant's name, the date the application was filed under this subpart and the special relief rate requested. The proposed notice shall conform to the following form:

United States of America

Federal Energy Regulatory Commission

(Name of Applicant) _____

Notice of Application for Special Relief

On (date application was filed), name of applicant) filed with the Federal Energy Regulatory Commission an application for special relief under Subpart J of Part 271 wherein (name of applicant) sought (special relief rate requested) for sales of natural gas to (name of purchaser).

The procedures applicable to the processing of this special relief application are found in 18 C.F.R. §§ 271.1001–271.1011.

Any person desiring to participate in this proceeding shall file a petition to intervene in accordance with the provisions of 18 C.F.R. § 271.1006. Except as otherwise provided in § 271.1006, all petitions to intervene shall be filed within 15 days after publication of this notice in the **Federal Register.**

(2) The applicant shall serve a copy of any initial application, supplemental application or conforming filings on each purchaser to whom sales of the natural gas for which the special relief rate is sought are made.

(3) Staff may require the applicant to provide additional service and shall caused notice of any initial application, supplemental application or conforming filing to be published in the **Federal Register.**

(4) The certificate of service required under § 1.17 of this chapter shall indicate the names and addresses of all persons served.

§ 271.1006 Intervention.

(a) *Petition.* A petition to intervene shall be made under the provisions of § 1.8 of this chapter except that it shall be filed within 15 days after service of any application or conforming filing. If a person has not been served with an application, a petition to intervene under § 1.8 shall be filed within 15 days after publication of notice of the application in the **Federal Register.**

(b) *Action by Staff.* Staff shall grant or deny all petitions filed under this section.

§ 271.1007 Review by staff.

(a) *Procedures for applications for certain planned investment projects.* The following procedures shall apply to applications for planned investment projects (other than a small project) filed under § 271.1005(b):

(1) In acting on an initial application for a planned investment project filed under § 271.1005(b) the staff may:

(i) notify the applicant within 60 days of filing of deficiencies in such application;

(ii) request within 60 days that the applicant provide additional information under paragraph (f)(2) of this section;

(iii) reject the application:

(A) for filing deficiencies if the applicant has not submitted the information required under § 271.1005 within 30 days after issuance of a letter notifying the applicant of filing deficiencies in the application;

(B) for failure to provide additional information as required in paragraph (f)(2) of this section within a reasonable time after it is requested;

(C) upon determining that the natural gas to be produced from the planned investment project does not qualify for special relief under §§ 271.1001 and 271.1003, or that the proposed special relief rate has not been computed in accordance with the requirements of § 271.1004.

(iv) Accept the application upon determining that:

(A) The applicant has complied fully with the filing requirements of § 271.1005 and has supplied all additional information requested under paragraph (f)(2) of this section; and

(B) The application on its face meets the requirements of §§ 271.1001 and 271.1003, and that the special relief rate has been computed in accordance with the requirement of § 271.1004 of this subpart.

(2) Effect of acceptance of an initial application filed under § 271.1005(b) shall authorize the applicant to include in its supplemental application filed under § 271.1005(c) those investments and expenses permitted under § 271.1004 which were made or incurred for the project subsequent to such acceptance, but shall not imply approval of any expenditures included in the application.

(3) In acting on a supplemental application filed under § 271.1005(c) for a planned investment project, as described in paragraph (a) of this section the Staff may:

(i) notify the applicant within 60 days of such filing of filing deficiencies in the application or request that the applicant provide additional information under paragraph (f)(2) of this section;

(ii) reject the application for the reasons set forth in subparagraph (1)(iii) (A) through (C) of this paragraph;

(iii) issue a Staff report which shall:

(A) recommend approval of a specified special relief rate not in excess of the proposed rate, and state the basis for recommending such rate and any dispute of factual assertions made by the applicant; and

(B) be served on all persons specified in paragraph (e) of this section.

(4) Issuance of a staff report shall entitle all persons entitled to service of such report under paragraph (e) of this section to submit comments on the report within 30 days of the date of issuance of such report, and shall place the application before the Director of the Office of Pipeline and Producer Regulation (Director) for determination under § 271.1008.

(b) *Procedures for pending applications for planned investment projects.* (1) In acting on an application filed under § 2.56a(g), 2.56(h), 2.75, 2.76, or 2.77, for a planned investment project other than a small project the Staff may:

(i) notify the applicant within 60 days of the receipt of a conforming filing under § 271.1005(d)(2), of filing deficiencies in the application;

(ii) request within 60 days that the applicant provide additional information under paragraph (f)(2) of this section;

(iii) reject the application for the reasons set forth in paragraph (a)(1)(iii) (A) through (C) of this section;

(iv) issue a Staff report which shall:

(A) Recommend approval of a specified special relief rate not in excess of the proposed rate, and state the basis for recommending such rate and any dispute of factual assertions made by the applicant;

(B) Be served on all persons specified in paragraph (e) of this section.

(2) Issuance of a Staff report shall entitle all persons entitled to service of such report under paragraph (e) of this section to submit comments on the report within 30 days of the issuance of such report and shall place the application before the Director of the Office of Pipeline and Producer Regulation (Director) for-determination under § 271.1008.

(c) *Procedures for applications for wells for which there is no planned investment.* (1) In acting on an application or conforming filing made under § 271.1005(d)(2) for a well for which there is no planned investment, the Staff may:

(i) notify the applicant within 60 days of such filing of filing deficiencies in the application or request that the applicant provide additional information under paragraph (f)(2) of this section;

(ii) reject the application for the reasons set forth in paragraph (a)(1)(iii) (A) through (C) of this section;

(iii) issue a Staff report which shall:

(A) Recommend approval of a specified special relief rate not in excess of the proposed rate, and state the basis for recommending such rate and any dispute of factual assertions made by the applicant;

(B) Be served on all persons specified in paragraph (e) of this section.

(2) Issuance of a Staff report shall entitle all persons entitled to service of such report under paragraph (e) of this section to submit comments on the report within 30 days of the issuance of such report and shall place the application before the Director of the Office of Pipeline and Producer Regulation (Director) for determination under § 271.1008.

(d) *Procedures for small projects.* (1) For purposes of this subpart, a small project is defined as a planned investment project which meets the following criteria at the time an application for special relief is made under § 271.1005(b)(1), or, in the case of a pending application, at the time conforming filings are made under § 271.1005(d)(2):

(i) the total rate proposed for the sale of natural gas [exclusive of State serverance taxes as defined in § 271.1101(a)] is no more than the applicable rate for large producer sales as established under section 106(a) of the NGPA;

(ii) the planned development or production enhancement will result in estimated additional revenues over the life of the project to the applicant or less than 100,000 times that rate; and

(iii) the proposed investment in the project exceeds 25 percent of the estimated additional revenues to be generated by the project.

(2) A planned investment project which meets the requirements for a small project in subparagraph (1) of this paragraph and which otherwise qualifies for special relief under the requirements of § 271.1001 and § 271.1003 of this subpart shall receive the proposed special relief rate for the sale of gas from the project.

(3) In acting on any application described in subparagraph (1) of this paragraph, the Staff may:

(i) notify the applicant within 60 days of such filing of filing deficiencies in the application;

(ii) request that the applicant provide additional information under paragraph (f)(2) of this section;

(iii) reject the application:

(A) for the reasons set forth in paragraph (a)(1)(iii) (A) through (B) of this section; or

(B) upon determining that the application fails on its face to qualify for special relief under §§ 271.1001 or 271.1003; or

(C) upon determining that the planned investment project is not a small project under the requirements of subparagraph (1) of this paragraph; and

(iv) issue a Staff report which shall:

(A) recommend approval of the proposed special relief rate, and state the basis for recommending such rate and any dispute of factual assertions made by the applicant;

(B) Served on all persons specified in paragraph (e) of this section.

(4) Issuance of a Staff report shall entitle all persons entitled to service of such report under paragraph (e) of this section to submit comments on the report within 30 days and shall place the application before the Director of the Office of Pipeline and Producer Regulation (Director) for determination under § 271.1008.

(e) *Notice of Staff action.* Notice of all Staff action specified in paragraphs (a) through (d) of this section, except the issuance of deficiency letters or requests for additional information, shall be served upon all persons entitled to service under § 271.1005(f) and all persons granted the right to intervene under § 271.1006.

(f) *Investigation and evaluation.*

(1) All filings made in connection wih the application for special relief shall be considered in evaluating the application.

(2) The Staff may request additional information relevant to the application, and the applicant shall supply such information.

(3) The Staff may investigate the basis for any statement in the application or conforming filing, may conduct an audit, and may use in its evaluation any relevant fact obtained in such an investigation or audit.

(4) The Staff may solicit and accept written submissions from intervenors or third persons relevant to the application.

(5) If the Staff obtains information under subparagraph (3) or (4) of this paragraph and relies upon such information in making a decision under this section, the applicant shall be advised of such information and shall be given 10 days to respond to such information.

(6) The Staff may conduct a conference on the application in accordance with procedures it determines will most expeditiously further the purpose of such conference. A conference shall be convened only after actual notice of the time, place, and nature of the conference has been served upon all persons entitled to service under paragraph (e) of this section. All persons served may attend the conference, and the Staff may use in its evaluation any relevant information obtained through such conference.

(g) *Definition of "Staff".* For purposes of this subpart, "Staff" means an employee of the Commission who has been appointed by the Director, but shall not include the Director.

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§ 271.1008 Determination by the Director of the Office of Pipeline and Producer Regulation.

(a) *Determination.* The Director (or his designee) shall review a Staff report issued and all public comments filed under § 271.1007 and shall determine the special relief rate or recommend other appropriate action on the application to the Commission.

(b) *Finality.* Any determination of a special relief rate made by the Director under this section shall become final 30 days after notice is published in the **Federal Register** unless, during such period:

(1) a petition appealing the determination is filed under § 271.1009; or

(2) the Commission directs that the determination order be submitted to it for review under § 271.1009.

(c) *notice of Director's determination.* Notice of the determination or recommendation made by the Director under this section shall be served upon the Commission and upon all persons specified in § 271.1007 and shall be published in the **Federal Register.**

§ 271.1009 Appeals to the commission.

(a) *Petition for review.* A petition appealing any of the following actions shall be filed within 30 days of such action:

(1) a determination of a special relief rate made by the Director under § 271.1008;

(2) staff acceptance or rejection under § 271.1007 of an initial or supplemental application;

(3) staff denial under § 271.1006 of a petition to intervene.

(b) *Who may petition.* A person may file a petition under paragraph (a) of his section if that person:

(1) Is adversely affected by the action appealed; and

(2) except in the case of appeals regarding denial of intervention under § 271.1006, is specified in § 271.1007(e).

(c) *Contents of petition.* The petition shall include a copy of the Notice of action which is being contested and a complete statement of the petitioner's factual or legal objections to the action taken.

(d) *On motion of the Commission.* The Commission may, on its own motion, direct that the action by Staff or the Director be submitted to it for review.

(e) *Action by the Commission.* Review of actions by the Staff and the Director shall be based on the record and shall provide such opportunity for additional submissions, including hearings, as the Commission deems appropriate.

§ 271.1010 Retroactive collection.

(a) *No planned investment.* Except as provided in paragraph (c) of this section, and upon final approval of a special relief rate for a well for which there is no planned investment, the applicant may charge and collect that rate retroactively for sales of gas from the well beginning on the date the application was filed under § 271.1005(b).

(b) *Planned investment project.* Except as provided in paragraph (c) of this section, and upon final approval of a special relief rate for a planned investment project, including a small project as defined in § 271.1007(d)(1), the applicant may charge and collect that rate retroactively for sales of gas from the project beginning on the date deliveries from the project were commenced.

(c) *Pending applications.* Upon final approval of a special relief rate for a pending application filed under §§ 2.56a(g), 2.56b(h), 2.75, 2.76 or 2.77, for which a notice was filed under § 271.1005(d)(1), the applicant may charge and collect the approved rate retroactively for sales of gas from the project:

(1) beginning on the earlier of the following, if such application was filed under § 2.75 of this chapter;

(i) the date notice of intent to proceed was filed under § 271.1005(d)(1); or

(ii) the date 9 months following commencement of deliveries under the contract to which such special relief rate applies.

(2) beginning on the date such notice was filed under § 271.1005(d)(1), if such application was filed under §§ 2.56a(g), 2.56b(h), 2.76, or 2.77 for a well for which there is no planned investment;

(3) beginning on the later of the following, if such application was filed under §§ 2.56a(g), 2.56b(h), 2.76 or 2.77 for a planned investment project:

(i) the date notice was filed under § 271.1005(d)(1); or

(ii) the date on which deliveries from the project were commenced.

(d) *Verification by first purchaser.* In order to make retroactive collections contingent on commencement of deliveries, the applicant shall cause the first purchaser to submit to the Commission verification of such commencement.

§ 271.1011 Filing requirements.

(a) *For certain planned investment projects.* Except as provided in paragraph (d) of this section for small projects, a filing made under § 271.1005(b) for a planned investment project shall include the following information:

(1) the name of the applicant;

(2) the applicant's principal place of business;

(3) the name and title, mailing address, and telephone number of the person responsible for the application;

(4) the working interest owners who are covered by the application and their respective percentages in the project and identification of any interest owners not covered by the application (including full details where the working interest varies for investment, operating expense, revenue, or any other reason);

(5) the royalty, overriding royalty, and non-operating interest owners associated with the project, according to category, including their respective percentages of the project and including a statement of any relationship to the project through ownership or employment or any other relationship;

(6) for each working interest owner covered by the application, the FERC certificate docket number and the FERC gas rate schedule number under which the gas has been or will be sold (applicable only to gas qualifying under section 104 or 106(a) of the NGPA);

(7) the name and address of the first purchaser;

(8) the maximum lawful price (in cents per MMBtu) each working interest owner covered by the application would be entitled to collect under the NGPA without reference to whether a contractual right exists to charge such price;

(9) the proposed special relief rate (in cents per MMBtu) computed in accordance with § 271.1004 or § 271.1007(d)(1), if applicable;

(10) An executed copy of each document to which the purchaser is a party which provides for the payment of the proposed special relief rate, as required in § 271.1003(b);

(11) The location of all facilities associated with the proposed project (including the State, county or parish, and field and well designations);

(12) The estimated recoverable reserves of gas (in Mcf's) and liquids (in bbls.) for the project, including a schedule of the project's anticipated annual production for each type of reserve (in Mcf's or bbls.);

(13) an estimate of future operating expenses, on a 100 percent working interest basis, by year, for the first year in which deliveries are made under the special relief rate from the eligible project;

(14) if Federal income tax expenses have been claimed under § 271.1004(a)(2)(v), the calculation establishing the amount of taxes claimed;

(15) a detailed description of the project on a well-by-well or platform-by-platform basis and an estimate of the attendant costs segregated by major category, a proposed timetable for work and expenditures, and a discounted cash flow analysis showing the derivation of the special relief rate sought, consistent with § 271.1004; and

(16) at the option of the applicant, the data relating to the determination of reserves and gas deliverability required under paragraph (e)(4) of this section for supplemental applications.

(b) *Additional information for certain planned investment projects.* A filing made under § 271.1005(b) for a planned investment project consisting of planned production enhancement work on a previously producing well, or work serving a group of wells shall include the following information in addition to that required in paragraph (a) of this section:

(1) an explanation of why the work is necessary;

(2) the price currently collected (in cents/MMBtu);

(3) the average unit Btu content (as determined in accordance with § 270.204 of this chapter) of the gas at the point of measurement for payment and the location of the point of delivery of the gas to the purchaser;

(4) engineering and economic studies, equipment and service contracts and bids, and any other related documents necessary to substantiate the proposed expenditures and special relief rate;

(5) A schedule of operating expenses for the project on a 100 percent working interest basis detailed by cost item for the 2 most recent 12-month periods prior to the date of filing under § 271.1005 (b) or (d)(2), including a description of the method or basis for assigning or allocating indirect costs or overheads to the lease and well; and

(c) *For wells for which there is no planned investment.* A filing made under § 271.1005 (b) or (d)(2) for a well for which there is no planned investment shall include:

(1) the information required under paragraphs (a) (1) through (11) and (b) (2), (3), and (5), and (e)(4) (i), (v), and (viii) of this section; and

(2) an estimate of future operating expenses, on a 100 percent working interest basis, for the first year in which deliveries are made under the special relief rate from the eligible project.

(d) *For small projects.* A filing made under § 271.1005 (b) or (d)(2) for a project which qualifies as a small project under § 271.1007(d)(1) shall include the information required under paragraphs (a) (1) through (12), (b) (1) through (4) and (e)(4) of this section.

(e) *Supplemental applications and conforming filings.* A supplemental application for a planned investment project made under § 271.1005(c) or conforming filing under § 271.1005(d)(2) shall include:

(1) an estimate of the salvage value of the equipment involved in the project at the end of its useful life in the project on an item-by-item basis;

(2) a list, segregated by major category, of equipment and service contracts, invoices, and any other related documents necessary to substantiate the expenditures claimed in subparagraph (6) of this paragraph;

(3) the average unit Btu content (as determined in accordance with § 270.204) of the gas at the point of measurement for payment and the location of the point of delivery of the gas to the purchaser;

(4) the following data relating to the determination of reserves and deliverability of the gas to which the application applies:

(i) a map delineating the exact acreage in the project area and showing the location of each completed, abandoned or proposed well and other facilities associated with the project;

(ii) all electrical, acoustical, radioactive or other logs run on any well on the project acreage;

(iii) all core analyses, conventional or sidewall, from any cores taken from any well on the project acreage;

(iv) all tests, including open hole drill stem tests, wire line formation tests, initial production tests, single or multiple point backpressure tests, build-up or drawdown tests and subsurface pressure surveys run on any well drilled on the project acreage;

(v) tabulated production, by year and month, separately by products, including oil, gas, condensate and water for all well completions on the project acreage;

(vi) all well completion reports filed with the oil and gas regulatory authority having jurisdiction for wells drilled on the project acreage;

(vii) all analyses made on separator or well stream gas or separator liquids produced from the project acreage;

(viii) tabulation, by month and year, of any plant liquids credited back to the leases in the project acreage from any processing plant;

(ix) tabulated reservoir parameters by reservoir for all reservoirs that are actually producing or that have proven productive by actual formation tests on the project acreage or that can be reasonably demonstrated to underlie the project acreage;

(x) top of structure maps and isopach maps for all reservoirs that are actually productive or that have been proven productive by actual formation tests on the project acreage or that can be reasonably demonstrated to underline the project acreage; and

(xi) the current average pipeline pressure of the purchaser at each point of sale for all gas sold from the project acreage;

(5) in lieu of the information specified in subparagraph (4) of this paragraph, citation to the application for certificate authority to sell the gas or the FERC Gas Rate Schedule in which such information is filed;

(6) a detailed description of the completed project along with the actual costs incurred, segregated by major category, and a discounted cash flow study reflecting actual costs computed in accordance with § 271. 1004; and

(7) any additional information which the applicant wishes to have considered.

Special Relief Rate Determination—Prepared by the Staff of the Federal Energy Regulatory Commission

The cost calculations presented herein demonstrate the methodology the staff would use to determine a special relief rate for a project in conformance with the regulations for special relief as set forth in Subpart J of Part 271. The methodology allocates costs between natural gas and liquids by the straight Btu method.

I. The Computation of the Two-Component Rate for Planned Investment Projects Other Than Small Projects

The Hypothetical Project

The hypothetical planned investment project used in this example of the determination of a special relief rate consists of a new well drilled in a known gas field at an actual cost of $3,000,000, 70 percent of which represents intangible costs. The new well is successfully drilled and completed in a formation producing natural gas and liquids (condensate). It is estimated that the well will cost $12,000 to operate during the first year, have a productive life of 10 years, and produce for delivery and sale the gross quantities of natural gas (1030 Btu/cu. ft.) and condensate (5.448 MMBtu/Bbl) set forth in attached Schedule 1, Columns (b) and (c) subject to a 12.5 percent royalty interest.

Calculation of the Special Relief Rate

The following pages show the formulae and calculations which produce a starting special relief rate of $2.531 per MMBtu for the project. Schedules 1 through 3 show the derivation of the numbers used in the calculations. Schedule 4, the proof of the

discounted cash flow method, shows that the discounted cash flow of the investment in and Federal income tax liability of the project is zero when the rate for this component, $2.492, is used.

This is a starting special relief rate related to an annualized gross gas production of 27,046 Mcf. The actual rates for deliveries during the period prior to and including the first full calendar month of production and subsequent calendar months would be determined by recomputing the component related to operating expense ($.039) in accordance with the procedure set forth in § 271.1004(a)(3)(i) and adding the component related to investment ($2.492) which remains constant over the life of the project. An illustration of the calculation of subsequent rates appears on pages 8 and 9.

Determination of Rate Components

1. *The component reflecting a 15 percent true yield on investment.*

This component is computed using the discounted cash flow methodology. The basic equation is:

Discounted Annual Revenue—(Discounted Investment + FIT) = 0; which becomes—
R (Discounted Production) = Discounted Investment + FIT Tax Rate [R (Discounted Production)—Discounted Income Tax Deductions] − Discounted Investment Tax Credit.

For the hypothesis given, the values of the variables are:

Variable	Value	Source
R, which is the rate	(1)	
Discounted production (MMBtu)	1,254,230	Schedule 2, col. (e), line 13.
Discounted investment	$2,977,753	Schedule 2, col. (f), line 13.
FIT tax rate (percent)	46%	Current statutory rate.
Discounted income tax deductions	$2,607,962	Schedule 3, col. (g), line 12.
Discounted investment tax credit	$90,000	Schedule 3, col. (h), line 12.

[1] Unknown.

The solution of the equation follows:

1,254,230 R = 2,977,753 + .46 (1,254,230 R − 2,607,962) − 90,000
677,284 R = 1,688,090
R = $2.49244 per MMBtu (rounds to $2.492)

2. *The component reflecting recovery of operating expense.*

This component is computed using the estimated first-year's operating expense and net working interest production volume (in MMBtu). The equation is:

$$R = \frac{\text{Operating expense} + \text{return on working capital} + \text{regulatory expense}}{\text{Net working interest production}}$$

For the hypothesis given, the values of the variables are:

Variable	Value	Source
R, which is the rate	(1)	
Operating expense	$12,000	Hypothesis.
Returning on working capital	$417	($12,000 × .01875)[2] ÷ (1 − FIT tax rate).
Regulatory expense	$292	292,487 × $.001
FIT tax rate (percent)	46	Current statutory rate.
N.W.I. production (MMBtu)	325,000	Schedule 1, col. (h), line 1.

[1] Unknown.
[2] 12.5 percent working capital allowance times 15 percent rate of return.

The solution of the equation follows:

$$R = \frac{12{,}000 + 417 + 292}{325{,}000}$$

R = $0.039105 per MMBtu (rounds to $0.039)

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Schedule 1

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PRODUCTION VOLUMES

Line No.	Year	Gross Volumes Gas (Mcf)	Gross Volumes Liquids (Bbls)	N.W.I. Volumes Gas (Mcf)	N.W.I. Volumes Liquids (Bbls)	N.W.I. Production Unit Gas (MMBtu)	N.W.I. Production Unit Liquids (MMBtu)	N.W.I. Production Unit Total (MMBtu)
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
1	1	324,546	6,818	283,978	5,966	292,497	32,503	325,000
2	2	299,587	6,293	262,139	5,506	270,003	29,997	300,000
3	3	274,616	5,769	240,289	5,048	247,498	27,502	275,000
4	4	249,653	5,244	218,446	4,589	224,999	25,001	250,000
5	5	224,688	4,720	196,602	4,130	202,500	22,500	225,000
6	6	199,722	4,195	174,757	3,671	180,000	20,000	200,000
7	7	149,787	3,147	131,064	2,754	134,996	15,004	150,000
8	8	124,828	2,622	109,225	2,294	112,502	12,498	125,000
9	9	99,858	2,098	87,376	1,836	89,997	10,003	100,000
10	10	49,929	1,049	43,688	918	44,999	5,001	50,000
11	Total	1,997,214	41,955	1,747,564	36,712	1,799,991	2,000,009	2,000,000

Source:

Column (b) - Estimated Natural Gas Production.
Column (c) - Estimated Liquids (condensate) Production.
Column (d) - Column (b) times .875 net working interest.
Column (e) - Column (c) times .875 net working interest.
Column (f) - Column (d) times 1.03 MMBtu/Mcf.
Column (g) - Column (e) times 5.448 MMBtu/Bbl.
Column (h) - Sum of Columns (f) and (g).

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Schedule 2

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PRESENT VALUE OF PRODUCTION AND INVESTMENT

Line No.	Year	N.W.I. Production (MMBtu)	Investment ($)	Discount Factors	Discounted Production (MMBtu)	Discounted Investment ($)
	(a)	(b)	(c)	(d)	(e)	(f)
1	Start		3,000,000	1.00000		3,000,000
2	1	325,000		.93250	303,063	
3	2	300,000		.81087	243,261	
4	3	275,000		.70511	193,905	
5	4	250,000		.61314	153,285	
6	5	225,000		.53316	119,961	
7	6	200,000		.46362	92,724	
8	7	150,000		.40315	60,473	
9	8	125,000		.35056	43,820	
10	9	100,000		.30484	30,484	
11	10	50,000		.26508	13,254	
12	End		(90,000)	.24719		(22,247)
13	Total	2,000,000	2,910,000		1,254,230	2,977,753

Source:

Column (b) - Net Working Interest Production from Schedule 1, Column (h).
Column (c) - Line 1: Total Investment.
Line 12: Net Salvage Value of Tangible Investment.
Column (d) - Lines 2-11 are mid-year factors at 15%.
Line 12 is the end-of-year factor for year 10 at 15%.
Column (e) - Column (b) times Column (d).
Column (f) - Column (c) times Column (d).

Schedule 3

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PRESENT VALUE OF INCOME TAX DEDUCTIONS AND INVESTMENT TAX CREDIT

Line No.	Year	Intangible Drilling Costs ($)	Depreciation ($)	Total Deductions ($)	Investment Tax Credit ($)	Discount Factors	Discounted Total Deductions ($)	Discounted Investment Tax Credit ($)
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
1	Start	2,100,000		2,100,000	90,000	1.00000	2,100,000	90,000
2	1		131,625	131,625		.93250	122,740	
3	2		121,500	121,500		.81087	98,521	
4	3		111,375	111,375		.70511	78,532	
5	4		101,250	101,250		.61314	62,080	
6	5		91,125	91,125		.53316	48,584	
7	6		81,000	81,000		.46362	37,553	
8	7		60,750	60,750		.40315	24,491	
9	8		50,625	50,625		.35056	17,747	
10	9		40,500	40,500		.30484	12,346	
11	10		20,250	20,250		.26508	5,368	
12	Total	2,100,000	810,000	2,910,000	90,000		2,607,962	90,000

Source:

Column (b) - 70% of Total Investment of $3,000,000.
Column (c) - Unit-of-Production Depreciation of Net Tangible Investment ($810,000). Net Tangible Investment is 30% of Total Investment of $3,000,000 less Salvage Value of $90,000.
Column (d) - Sum of Columns (b) and (c).
Column (e) - Investment Tax Credit is 10% times Tangible Investment of $900,000. Tangible Investment is 30% times Total Investment of $3,000,000.
Column (f) - From Schedule 2, Column (d).
Column (g) - Column (d) times Column (f).
Column (h) - Column (e) times Column (f).

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Schedule 4

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DISCOUNTED CASH FLOW AT $2.49244 per MMBtu

Line No.	Year	N.W.I. Production (MMBtu)	Revenue ($)	Investment ($)	Federal Income Tax ($)	Net Cash Flow ($)	Discount Factor	Discounted Cash Flow ($)
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
1	Start			3,000,000	(1,056,000)	(1,944,000)	1.00000	(1,944,000)
2	1	325,000	810,043		312,072	497,971	.93250	464,358
3	2	300,000	747,732		288,067	459,665	.81087	372,729
4	3	275,000	685,421		264,061	421,360	.70511	297,105
5	4	250,000	623,110		240,056	383,054	.61314	234,866
6	5	225,000	560,799		216,050	344,749	.53316	183,806
7	6	200,000	498,488		192,044	306,444	.46362	142,074
8	7	150,000	373,866		144,033	229,833	.40315	92,657
9	8	125,000	311,555		120,028	191,527	.35056	67,142
10	9	100,000	249,244		96,022	153,222	.30484	46,708
11	10	50,000	124,622		48,011	76,611	.26508	20,308
12	End			(90,000)		90,000	.24719	22,247
13	Total	2,000,000	4,984,880	2,910,000	864,444	1,210,436		-0-

Source:

Column (b) - Net Working Interest Production from Schedule 1, Column (h).
Column (c) - Column (b) times $2.49244.
Column (d) - Total Investment.
Column (e) - Line 1: [(Column (c) minus Schedule 3, Column (d)) times 46%] minus Schedule 3, Column (e).
Lines 2-11: (Column (c) minus Schedule 3, Column (d)) times 46%.
Column (f) - Column (c) less Columns (d) and (e).
Column (g) - From Schedule 2, Column (d).
Column (h) - Column (f) times Column (g).

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Illustrating the Calculation of Subsequent Rates

This illustration showing the calculation of subsequent rates once the starting rate has been determined is based on the following hypothesis:

1. Deliveries under the special relief rate start in mid-March.
2. Actual gross gas deliveries in April are 26,000 Mcf.
3. The published inflation adjustment for April is 1.00690.
4. Actual gross gas deliveries in May are 24,000 Mcf.
5. The published inflation adjustment for May is 1.00875.

(a) To calculate the rate for the initial delivery period, mid-March through April, you simply:

1. Recalculate the component related to operating expense (Rc) using the formula set forth in § 271.1004(a)(3)(i) and the following values:

Variable	Value	Source
Rp	$0.039	The value of the component related to operating expense in the starting rate.
I	1.00690	The published inflation adjustment as stated in the hypothesis.
Vp (Mcf)	27,046	The annualized gross gas production related to the starting rate.
Vc (Mcf)	26,000	The actual gross gas deliveries for April as stated in the hypothesis.

Thus: $R = \frac{.039 \times 1.00690 \times 27,046}{26,000}$

= $0.040849 per MMBtu (rounds to $0.041)

2. Add the component related to investment ($2.492).

This results in a rate of $2.533 for deliveries during the period mid-March through April.

(c) To calculate the rate for deliveries during May, you simply;

1. Recalculate the component related to operating expense (Rc) using the same formula and the following values:

Variable	Value	Source
Rp	$0.041	The value of the component related to operating expense as determined above.
I	1.00875	The published inflation adjustment as stated in the hypothesis.
Vp (Mcf)	26,000	The actual gross gas deliveries for April as stated in the hypothesis.
Vc (Mcf)	24,000	The actual gross gas deliveries for May as stated in the hypothesis.

Thus: $R = \frac{.041 \times 1.00875 \times 26,000}{24,000}$

= $0.044806 per MMBtu (rounds to $0.045)

2. Add the component related to investment ($2.492).

This results in a rate of $2.537 for deliveries during May.

(b) To calculate the rate for subsequent monthly periods, simply repeat the procedure in (b), above, using the values applicable to the variables.

II. The Computation of the Rate for a Well for Which There Is No Planned Investment

The Hypothetical Project

The hypothetical well for which there is no planned investment used in this example of the determination of a special relief rate consists of a currently producing well whose revenues are insufficient to cover the out-of-pocket expense incurred in its operation. It is estimated that during the next year, an out-of-pocket expenditure of $48,000 will be required to produce gross volumes of 72,000 Mcf of 1020 Btu per cu. ft. gas (73,440 MMBtu) and 200 Bbls. of 5.448 MMBtu per Bbl. condensate (1090 MMBtu). This gross production volume of 74,530 MMBtu is subject to a 12.5 percent royalty interest.

Calculation of The Special Relief Rate

The following page shows the formula and calcuation which produce a starting special relief rate of $.805 per MMBtu. This is a starting special relief rate related to an annualized gross production of 6,000 Mcf. The actual rates for deliveries during the period prior to and including the first full calendar month of production and subsequent calendar months would be determined by recomputing this rate in accordance with the procedure set forth in § 271.1004(a)(3)(i). An illustration of the calculation of subsequent rates appears on page 12.

Determination of Rate

The starting rate is computed using the estimated first-year's out-of-pocket expense and net working interest production volume (in MMBtu). The equation is:

$$R = \frac{\text{Out-of-pocket expense + Incentive allowance + Regulatory expense}}{\text{Net working interest production}}$$

For the hypothesis given, the values of the variables are:

Variable	Value	Source
R, which is the rate	(1)	
Out-of-pocket expense	$48,000	Hypothesis
Incentive allowance	$4,444	($48,000 × .05) ÷ (1–FIT tax rate).
Regulatory expense	$54	73,440 × .875 × $.001.
FIT tax rate (percent)	46	Current statutory rate.
N.W.I. production (MMBtu)	65,214	74,530 × .875.

(1) Unknown.

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The solution of the equation follows:

$$R = \frac{48{,}000 + 4{,}444 + 84}{65{,}214}$$

R = $0.805165 per MMBtu (rounds to $0.805)

Illustrating the Calculation of Subsequent Rates

This illustration showing the calculation of subsequent rates once the starting rate has been determined is based on the following hypothesis:

1. Deliveries under the special relief rate start in mid-March.

2. Actual gross gas deliveries in April are 5,500 Mcf.

3. The published inflation adjustment for April is 1.00690.

4. Actual gross gas deliveries in May are 5,000 Mcf.

5. The published inflation adjustment for May is 1.00875.

(a) To calculate the rate for the initial delivery period, mid-March through April, you simply recalculate the starting rate (Rc) using the formula set forth in § 271.1004(a)(3)(i) and the following values:

Variable	Value	Source
Rp	$.805	The starting rate.
I	1.00690	The published inflation adjustment as stated in the hypothesis.
Vp (Mcf)	6,000	The annualized gross gas production related to the starting rate.
Vc (Mcf)	5,500	The actual gross gas deliveries for April as stated in the hypothesis.

Thus:

$$R = \frac{.805 \times 1.00690 \times 6{,}000}{5{,}500}$$

= $0.884242 per MMBtu (rounds to $0.884)

(b) To calculate the rate for deliveries during May, you simply recalculate the rate (Rc) using the same formula and the following values:

Variable	Value	Source
Rp	$.884	The rate determined above.
I	1.00875	The published inflation adjustment as stated in the hypothesis.
Vp (Mcf)	5,500	The actual gross gas deliveries for April as stated in the hypothesis.
Vc (Mcf)	5,000	The actual gross gas deliveries for May as stated in the hypothesis.

Thus:

$$Rc = \frac{.884 \times 1.00875 \times 5{,}500}{5{,}000}$$

= $0.980909 per MMBtu (rounds to $0.981)

(c) To calculate the rate for subsequent monthly periods, simply repeat the procedure in (b), above, using the values applicable to the variables.

Appendix B

January 15, 1980

Memorandum to: The Public File.
From: Office of the General Counsel.
Subject: Final Rule: Procedures Governing Applications for Special Relief Under Sections 104, 106, and 109 of the Natural Gas Policy Act of 1978, Docket No. RM79–67.

This memorandum outlines four major issues pertaining to the draft of the final rule in this docket which was presented to the Commission at the meeting of December 19, 1979. The Commission has solicited public comments and has established procedures for a panel discussion on these issues to be held before the Commission.

1. *The establishment of a ceiling for special relief rates.* The draft final rule imposes no upward limitation on a special relief rate. As a result, a producer who qualifies for special relief would be entitled to receive any rate, no matter how high, which is properly computed on the basis of actual expenditures prudently incurred using the formulae set forth in § 271.1004 of the rule. Although the contract authorization requirement was designed, in part, to impose as an indirect ceiling on the special relief rate the negotiated contract price, that purpose often may be frustrated by the failure of pipelines, who may pass through their costs to consumers, to negotiate for lower prices. The Commission may be persuaded that in some cases the special relief rate calculated on the basis of recoverable costs is simply too high to justify production of gas and therefore, that some ceiling on special relief rates should be imposed.

For this reason the Commission may wish to modify the final rule by adopting a provision which reserves to the Commission the authority to grant or to deny a special relief rate which exceeds some specified threshold. Such a provision would leave intact the delegation of authority to determine a rate to the Director of the Office of Pipeline and Producer Regulation (Director), except that the Director would have no authority to determine a rate which exceeds the higher of the maximum statutory price (natural gas priced under section 108 of the NGPA) or the maximum incentive price for high cost gas available under Commission regulation (established pursuant to Commission authority under section 107(c)(5) of the NGPA). In the event that a rate computed in accordance with the formulae and standards of this rule exceeds the statutory or regulatory ceiling, the application would be forwarded to the Commission which would grant the higher rate if it finds that to do so would be in the public interest.

Such a provision would be drafted to conform to the procedural scheme of the rule which provides a two-step review procedure for future applications for planned investment projects and a single review in the case of all other applications. In the case of future applications for planned investment projects where the proposed rate exceeds the ceiling, the Commission would determine whether to permit the higher rate at the stage of initial review, *i.e.*, at the point at which staff ordinarily "accepts" an application.[1] In all other cases, the Commission decision to permit or to deny an application for a rate which exceeds the ceiling would be made at the end of the one-step application process after the issuance of a staff report and upon a finding by the Director that the appropriate special relief rate is in excess of the ceiling.[2]

2. *The opportunity of an applicant for special relief to seek a higher maximum lawful price under some other section of the NGPA.* Under the rule as presently drafted, a producer who has obtained a special relief rate is not held to that rate for the life of the project. That is, he may at any time seek a determination enabling him to collect a higher incentive rate under some other section of Title I of the NGPA.

For example, a producer of gas from a new well may be subject to a maximum lawful price under section 109 of the NGPA if he has not sought a

[1] *See*, Final Rule, Procedures Governing Special Relief § 271.1007(a).

[2] *Id.* § 271.1007 (b), (c).

determination that he is eligible to collect a price under some other section. This producer may apply for and receive a special relief rate because the gas to be produced from the well would be subject to section 109, and later, if the final special relief rate proves to be lower than the section 103 price, seek a determination that the gas is eligible for the section 103 price. In effect, the regulation invites the use of special relief as a fallback measure in the case of the development of any new well. A producer may be tempted to seek special relief for each new well to take advantage of the possibility that the special relief rate could prove to be higher than the applicable maximum lawful price.

In other situations, the freedom to switch to other price categories may create a windfall to the producer. For example, a producer of gas subject to section 104 and also eligible to receive the section 103 price may seek a cost-based special relief rate because the section 103 price is an inadequate, or at least a lesser, incentive to undertake investment in the project. At the point of initial deliveries the cost-based special relief rate may be higher than the section 103 price. But because the section 103 price escalates more rapidly than the special relief rate, the section 103 price will catch up to and exceed the special relief rate; a producer who switches to the higher incentive rate will collect the higher cost-based rate in the early stages of production and enjoy the more rapid rate of escalation when the section 103 price comes to exceed the special relief rate.

To avoid this windfall and to prevent the use of special relief as a fallback supplanting the incentive scheme of Title I whenever the applicable incentive price yields a smaller rate of return, the Commission may wish to limit the producer's freedom to switch from special relief to another applicable maximum lawful price.

Option A—The Commission Could Require a Producer To Elect Either To Receive the Highest Maximum Lawful Price or To Seek a Special Relief Rate

Under this scheme a producer who applies for a special relief rate under these procedures would waive any right to collect a higher maximum lawful price under some other section of Title I.

Such a provision eliminates both the windfall and the recurring use of special relief as a fall-back measure. However, objections may be raised with regard to "the producer always wins rule" of section 101(5) of the NGPA, which provides that natural gas which qualifies for a maximum lawful price under more than one section of the NGPA is entitled to collect the highest of those prices.[3] Arguably, to require a producer to waive his right to collect a higher ceiling price is impermissible under section 101(5).

In answer to this objection, it must be noted that the Commission's authority to grant special relief is permissive; the essential conditions to the exercise of the Commission's authority are only that the special relief rate be higher than the maximum lawful price of section 104, 106 or 109 (whichever is applicable) and that the rate be just and reasonable within the meaning of the Natural Gas Act.[4] On this basis, it can reasonably be argued that the Commission may require a producer to elect not to seek another NGPA price as a quid pro quo for the opportunity to receive a special relief rate designed to assure him the recovery of all prospective costs plus a fifteen percent rate of return on his investment.

Beyond the question of statutory interpretation lies a further question regarding the relationship of such a waiver requirement to other policies of the NGPA. It can reasonably be argued that section 101(5) was designed with the expectation and intent that the producer would jump from one price level to another so that at any time he may collect the highest applicable maximum lawful price. Thus, although the parameters of the Commission's special relief authority may be sufficiently broad to permit the imposition of a waiver requirement, it may violate the intent of the NGPA to impose such a requirement. However, without the waiver, special relief could come to be the inevitable back-up measure supplanting the NGPA scheme of incentive pricing any time the NGPA rates yield less than the recovery of prospective costs plus a fifteen percent rate of return.[5] This use of special relief may run counter to the general purposes of the statutory scheme of the NGPA, and would justify the waiver requirement as consistent with the general scheme of the NGPA.

[3] Section 101(5) provides that: (i)f any gas qualifies under more than one provision of this title providing for any maximum lawful price or for any exemption from such a price with respect to any first sale of such natural gas, the provision which could result in the highest price shall be applicable.

[4] *See*, NGPA Sections 104(b)(2), 106(c), and 109(b)(2).

[5] Or any other rate of return which the Commission determines to be appropriate for rates set under this rulemaking. *See, infra*, Issue No. 4, at page 15.

Option B—Deny Special Relief to Producers of Gas Which Qualify for a Section 104, 106, or 109 Price But Which May Also Be Eligible To Receive an Incentive Price Under Some Other Section

Under this scheme, the producer would be required, as a condition to receiving special relief, to apply for all price determinations for which he reasonably believes the gas may be eligible. If it is determined that the gas is eligible only for the section 104, 106 or 109 price, the special relief rate may be granted. If the gas is eligible for an incentive price, or if the producer chooses not to seek any applicable determinations, special relief would be denied.

Underlying such a provision is the assumption that the maximum lawful prices under sections 102, 103, 107, and 108 were intended to establish the maximum incentives to be offered to a producer to induce him to produce the natural gas subject to the incentive price: if his costs exceed the applicable incentive price, it is Congress' intent that the gas is not worth the higher price, and its production would have to await deregulation. Thus, it would be argued, it would be consistent with the incentive pricing scheme of Title I to exclude from eligibility for special relief any natural gas which also qualifies for a maximum incentive price under some price category.

There are two difficulties with this option. First, it may prove awkward to administer insofar as staff would be required to determine from the face of the application whether the natural gas from the project is likely to be eligible for an incentive price, thereby duplicating to some extent the functions of the jurisdictional agencies. More importantly, it may, as a matter of policy, be preferable to encourage present investment in gas production rather than to encourage a producer whose developmental costs exceed even the applicable incentive price to delay development until after deregulation.

Option C–Condition Special Relief on the Existence of a Contractual Provision Which Reserves the Right of the Pipeline To Pay the Special Relief Rate for the Life of the Project

Under this option, a special relief rate would be granted only if the producer has negotiated a contract which permits the pipeline to insist upon paying the special relief rate for the life of the project. A producer who wishes to switch from a special relief rate to a higher incentive or deregulated price would be required to renegotiate the

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contract thereby providing some assurance that a windfall would be averted. This option is attractive in that it clearly would not run afoul of the producer always wins rule and, it would avoid the difficulties inherent within Option B which have been outlined above. The disadvantage of this option is that there is no guarantee that pipelines would be likely to enforce this provision for the duration of the project. Because pipelines can pass through the higher price to consumers, the producer may be able to renegotiate the contract to take advantage of the potential windfall arising from the dual qualification.

3. *The two-step ratemaking procedures for future applications for planned investment projects.* As presently drafted, the draft final rule requires future applicants for planned investment projects to submit an initial special relief application setting forth a proposed rate computed on the basis of estimated cost data. Even though the final rate is determined on the basis of actual expenditures, the proposed rate serves as a ceiling; the producer is limited to the proposed rate, even if his actual expenditures exceed the estimates which served as the basis for the proposed rate.

When staff accepts this application, the producer may safely assume that when the rate is finally determined he will be authorized to collect the proposed rate, if his actual expenditures prove to be as high as his estimates and they are prudently incurred. But, because the final rate is determined on the basis of actual expenditures, if his actual expenditures are less than the original estimates, his rate accordingly will be less than the proposed rate.

Implicit in this scheme are several problems. An applicant is subject to two review procedures. The scope of inquiry for the first review is necessarily limited by the lesser credibility of estimated data, and thus the second review, based on actual data, will tend to be more scrupulous. Nevertheless the staff has considerable discretion at both stages to determine the scope and depth of its review so that in some cases an application would be subject to two protracted reviews.

Further, this ratemaking represents a hybrid of the two ratemaking methods traditionally employed by the Commission, *i.e.*, fixed rate and cost-of-service ratemaking. It is comparable to a fixed rate method in that a producer who initially justifies his rate on the basis of estimated costs must bear the loss if his actual costs exceed his estimated costs. However, this ratemaking is also comparable to cost-of-service ratemaking, where a rate is determined on the basis of expenses prudently incurred, so that an applicant realizes no gain if his actual expenditures are less than originally estimated.

As a matter of policy it may be unfair to require a producer to endure the limits of both types of ratemaking. More importantly, this method creates a disincentive to cut costs, *i.e.*, a producer who knows that he is likely to receive the amount of the proposed rate if he actually spends as much as he estimated, first, is encouraged to present initial estimates as high as reasonably possible, and second, is encouraged to spend as much as he estimated, so that he can obtain the full proposed rate.

The following discussion outlines four options, each of which address some of these problems but none of which resolve all of them:

Option A—Employ a "Fixed Rate" Method

Under this scheme, one application would be submitted before commencement of the project supported by cost estimates. Staff would scrutinize the estimates, and upon determining that they are reasonable, set a final rate.

The advantages of this option are that the administrative burdens of a second review are eliminated, and that a producer is encouraged to spend more frugally, knowing that he may reap the benefits of any savings. However, estimated cost and reserve data are far less accurate than actual data, so that a rate computed under this scheme would reflect with considrably less precision the recovery of an appropriate return on investment. Further, this option is more likely to encourage an applicant to overstate his original cost estimates, knowing that they will not be tested against evidence of his actual costs. Also, there would be no opportunity to exclude from consideration costs which are imprudently incurred so that at best, staff could evaluate the proposed expenditures to determine whether they appear to be in line with comparable industry expenditures. Finally, perhaps most importantly, there is no mechanism by which any savings induced by use of this method would be passed on to the pipeline.

Option B—Adopt a Fixed Rate Method, With the Benefit of Any Savings To Be Shared by Producer and Pipeline

Under this approach, an applicant would be subject to two reviews. First, a fixed rate would be determined on the basis of an initial review of estimated costs. After investment has been completed, a review of actual expenditures would be made, and the producer and pipeline would split the difference between the estimated and actual costs.

This method would solve the problem arising under Option A from the failure to provide some means for passing through the cost savings to the consumer. Depending upon the circumstances of the applicant, this method could also provide some incentive to the producer to cut costs. For example, a producer whose actual costs prove less than his estimated costs would be granted a rate equal to the recovery of his costs actually incurred, plus a 15 percent rate of return, increased by half the amount of his cost savings. As a result a producer who spends less in completing a project than originally estimated would receive an actual return on his investment greater than a 15 percent rate of return, while his return at the higher proposed rate would be limited to 15 percent. If however, a producer is "cash rich" and is willing to make a considerable investment,[6] he may find that the guaranteed 15 percent return is adequate, and perhaps even more attractive when the return is received on a larger dollar amount of investment. In these cases, the producer may still be encouraged to invest up to the full amount of his estimated costs.

This option also presents two noteworthy disadvantages. First, it would require two careful staff reviews so that the estimated costs can be compared with the actual costs. This would result in administrative burdens and delays as considerable as those created by the rule or presently drafted. Second, an applicant is just as likely to overstate his costs so that the resulting increment of savings will be higher.

Option C—Permit the Producer To Recover All Costs Prudently Incurred

Under this option, the rate would be determined on the basis of actual costs prudently incurred. The initial stage of review would involve a staff acceptance of an application upon determining only that the procedures are applicable to the natural gas to be produced from the project,[7] and that the well or platform is an eligible planned investment project.[8] This review would continue to serve as a cutoff point for sunk costs.[9] Also, if the Commission determines that a ceiling on special relief rates should be imposed, provision would be made for the Commission at this initial stage of review to determine whether a rate in excess of the ceiling should be granted.

As an alternative to an initial mandatory staff review, the rule could require at the commencement of an eligible project that a producer notify the Commission that it is undertaking a planned investment project and that it intends to seek a special relief rate for natural gas produced from the project. This notice would serve as the cut-off date for sunk costs (subject, of course, to a determination by the staff at the time of final review that the actual costs included in the application are recoverable). The applicant would be able to seek a preliminary non-binding staff review of his application to provide some guidance as to whether the project is eligible for special relief, the computation is correct, and the proposed expenditures are of the type likely to be found to be prudently incurred. Also, at this time a producer would be entitled to seek Commission authority to collect a rate in excess of the special relief ceiling. a producer who wishes to proceed to invest after giving notice to the Commission without the guidance of an inital staff review would be free to do so.

Under this option, the initial staff review, whether mandatory or optional, would have no effect on the determination of a special relief rate other than to serve as the cut-off date for sunk costs. The only substantive staff review would occur when at the completion of the project a rate based on actual expenditures is determined.

The advantages of this option are that only one thorough review of the application is required, and that rate determination would be more precise, because actual rather than estimated cost data would be considered. In addition, a producer would not have to bear the risk of cost overruns if those costs are prudently incurred. Arguably, the emphasis on actual costs eliminates the disincentive to save implicit in the rule as presently drafted: because the staff would make no evaluation of the costs at the stage of initial review, the producer is not encouraged to believe that expenses prudently incurred up to that limit will ultimately be approved in determining the final rate.

As a practical matter, however, this difference between this option and present language is largely illusory. As presently conceived, initial staff review and the use of the proposed rate as a ceiling appear to encourage a producer to spend the full amount of estimated costs by suggesting to the producer that he will recover any costs within that limit which are prudently incurred, even though staff acceptance implies no approval of the estimated costs for purposes of determining the final rate. However, the elimination of staff review contemplated in this option will not wholly eliminate the incentive, because that review is merely an audit of the producer's own estimates of the maximum expenditures permissible for the project under the formula set forth in this regulation. Even absent an initial review, a producer who is seeking a return on a large amount of capital will spend to the limit set forth in this regulation. Under this option, as well as under the present language, the only meaningful regulatory limitation on expenditure other than the computation formulae is the requirement that the costs be prudently incurred. In both cases, incentives to save would arise only from the producer's own economic needs.

Option D—Determine a Rate Based on Actual Costs Prudently Incurred with Commission Review of a Proposed Rate To Be Used as a Target

This scheme would operate in essentially the same manner as Option C with two modifications. Initial staff review would involve a review of the proposed rate to determine whether on its face the rate is computed in accordance with the formula set forth in the statute. If so, the proposed rate would serve as a target for the substantive staff review to be undertaken at the completion of the project on the basis of actual cost data.

At the stage of final staff review, the rate would be determined on the basis of actual costs. Staff would have authority to determine a rate which permits the recovery of actual costs prudently incurred up to a specified percentage above the target established by the initial reiew.[10] The Commission would grant a rate substantially higher than the target if it found that the cost overruns were unavoidable. To discourage overruns, the Commission may also wish to require that the producer and the pipeline split the difference between the target and the finally determined rate.

The advantages and disadvantages of this scheme are essentially the same as those described under Option C. The rate would be determined on the basis of the more accurate data of actual costs. Staff review at the initial stage would be insubstantial in contrast with that contemplated in the rule as presently drafted, lessening the administrative burdens and delays.[11] As in the case of Option C, this option would do little to avert the creation of an incentive not to cut costs which is implicit in the rule as presently drafted, and would do nothing to discourage the overestimation of costs.

However, this formulation would work a compromise between the present language and the language of Option C with regard to the treatment of costs prudently incurred in excess of the proposed rate. Under this option, the advantage of the present language would be retained to some extent: a producer would still be somewhat at risk if his costs exceed the limits of a target, because he would have no assurance that the higher costs would be recovered, and (if he is required to split the difference with the pipeline) he may be required to assume the risk of half the cost overruns. However, this option avoids the draconian penalty for substantial cost overruns imposed by the rule as presently drafted, by providing the opportunity to justify to the Commission the allowance of all prospective costs prudently incurred.

4. *The Selection of an Appropriate Rate of Return for Planned Investment Projects.* The notice of proposed rulemaking sets forth a method for computing a 15 percent rate of return on investment based upon the prior use of a 15 percent return in the 1977 national ratemaking and in recent special relief cases. A number of public comments were received suggesting that a 15 percent return was inadequate to induce investment in light of the markedly increased long-term interest rates that the investor now faces when making investment decisions.

The Commission may be persuaded that the 15 percent return remains the appropriate rate of return for special relief. While it is true that interest rates have increased since Opinion No. 770

[6] Applicants for special relief are contemplating investment in the development of wells, rather than in higher risk activities of exploration. It is not unreasonable to assume that the lesser risk involved in development would make a large investment more attactive.

[7] *I.e.*, that the gas is subject to a maximum lawful price under sections 104, 106 or 109 of the NGPA.

[8] *See*, § 271.1003 of the final rule.

[9] *See.* § 271.1004(a) of the final rule.

[10] This would insure that Commission approval would be required only in the case of substantial overruns: for example, where the actual costs are greater than 10% above original cost estimates. As an alternative to selecting a specific percentage figure, the Commission could instead require that the Director forward to the Commission any case in which the cost overruns are so substantial that, [in the Director's discretion], a Commission determination is warranted.

[11] This staff review would necessarily be somewhat more complicated than that contemplated in the initial stage for Option C, where initial review would involve either an optional review or a summary staff determination that the proposed project is eligible for special relief under these regulations, and if necessary, a determination by the Commission as to whether a rate higher than the special relief ceiling is in the public interest.

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was issued, it is important to note that the 15 percent rate was determined as an incentive for high-risk investment in exploration as well as for the lower risk investment costs involved in development. Because special relief involves the return of and on the lower-risk costs of development, the 15 percent rate even in light of increased interest rates should be adequate for the purpose of inducing investment in gas development.

As an alternative, in light of the periodic fluctuations in interest rates, the Commission may wish to provide for the annual indexing of the rate of return in line with the fluctuation in interest rates for long-term government bonds. Under this scheme, the Commission would establish the 15 percent rate of return as the rate of return applicable to pending applications and to new applications submitted during the current calendar year. At the beginning of each calendar year, the Commission would recompute the rate of return in light of fluctuations in interest rates on long-term Treasury bonds. That rate would be published and would be the rate of return applicable to special relief applications submitted during that calendar year. This periodic adjustment would make the rate of return a more accurate reflection of the capital market conditions at the time the investment decision is made, and would insure that consumers would have the advantage of any decrease in interset rates in future years.

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VETERANS ADMINISTRATION

38 CFR Part 17

Medical Benefits; Miscellaneous Amendments

AGENCY: Veterans Administration.

ACTION: Proposed Regulations

SUMMARY: The following changes (each independent from the other) in VA regulations are proposed: (1) To clarify current VA regulations regarding the furnishing of outpatient medical services to U.S. veterans for nonservice-connected conditions in the Republic of the Philippines; (2) To increase from $265 a month to $415 a month the income an individual has for his/her use in determining eligibility for domiciliary care; (3) Adjunct dental treatment will only be provided for a condition which is associated with and is aggravating a disability resulting from some other disease or injury which was incurred in or aggravated by active military, naval or air service; (4) To delegate authority to the Chief Medical Director from the Administrator to make a determination on applications received for grants to purchase equipment or pay for maintenance or repair projects to the Veterans Memorial Center, Republic of the Philippines.

DATE: Comments must be received on or before February 21, 1980. It is proposed to make this change effective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420.

Comments will be available for inspection at the address shown above during normal business hours until March 3, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph Fleckenstein, Chief, Policies and Procedures Division, Medical Administration Service, Department of Medicine and Surgery, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202-389-3785).

SUPPLEMENTARY INFORMATION: The following additional information, in the same numerical order, is provided as supplemental to the above proposed changes. (1) As a result of an amendatory statute, changes were made to some VA regulations but inadvertently were not made to the VA regulations concerning the authority for outpatient care for U.S. veterans in the Republic of the Philippines. The purpose of this proposed change is to correct this oversight and provide that outpatient care for U.S. veterans in the Philippines may be given only in accordance with the provisions of section 624, title 38, United States Code; (2) VA regulations provide that as a condition to eligibility for domiciliary care, an individual must have no adequate means of support. This was last defined in October 1970 as meaning "$265 a month or less." The consumer cost index has increased materially since that time. It is proposed to increase that amount to "$415 a month or less," adjusting for the increased cost of living; (3) the current rule on eligibility for adjunct outpatient dental treatment, by reference, implies that such treatment may be provided as adjunct to the treatment of nonservice-connected conditions. This interpretation is in error. The purpose of this proposed change is to clarify this rule and stipulate that outpatient dental care be provided only in accordance with the provisions of section 612(b), title 38, United States Code; (4) Current VA regulations provide that applications for grants to the Republic of the Philippines will be submitted to the Chief Medical Director who will forward them to the Administrator of Veterans Affairs with final recommendations as to the nature of the action to be taken. The proposed change will expedite the processing of applications by eliminating the extra step of forwarding the applications to the Administrator for approval.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until March 3, 1980. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: January 3, 1980.

By direction of the Administrator.

Rufus H. Wilson,
Deputy Administrator.

§ 17.38 [Amended]

1. Section 17.38 is amended by deleting the word "his" from the first sentence of paragraph (e).

2. Section 17.39 is revised to read as follows:

§ 17.39 Outpatient care in the Philippines for United States veterans.

Outpatient care in the Republic of the Philippines may be authorized for any United States veteran eligible for such care under § 17.60(a), (b), (c), or (d). Care may also be provided for those conditions adjunct to or held to be aggravating a service-connected disease or disability. (38 U.S.C. 624)

§ 17.43 [Amended]

3. Section 17.43 is amended by deleting the word "his" from paragraph (b).

4. In § 17.48, paragraph (b) is revised to read as follows:

§ 17.48 Considerations applicable in determining eligibility for hospital, nursing home or domiciliary care.

* * * * *

(b) Under paragraph (c)(3) of § 17.47: "No adequate means of support"—when an applicant is receiving an income of $415 or more per month from any source for personal use, this fact will be considered prima facie evidence of adequate means of support. This is subject to rebuttal by a showing that such income is not adequate to provide the care required by reason of the veteran's disability or that the income is not available for the veteran's use because of other obligations such as contributions in whole or in part to the support of a spouse, child, mother, or father. In all such cases of alleged inadequate means of support, the circumstances will be submitted to the Director for decision.

* * * * *

5. In § 17.49, paragraphs (a)(3)(iii)(*c*), (v), (vi), (ix), (x), (b) (2)(i), (iii), (iv), (v) and (c) and the note following paragraph (c) are revised to read as follows:

§ 17.49 Veterans Administration policy on priorities for hospital, nursing home and domiciliary care.

(a) *Priorities for hospital care.* * * *

(3) *Priority groups.* * * *

(iii) Group III includes:

* * * * *

(*c*) Patients eligible under § 17.47(a) or (b) currently hospitalized in an appropriate Veterans Administration facility nearest the point of application who have requested a transfer at their own expense to an appropriate Veterans Administration facility nearer their home, provided clinical findings indicate that such patient will require hospital treatment for a period of 90 days or more in the latter facility.

* * * * *

(v) Group V includes:

(*a*) Veterans eligible under § 17.47(d) or (e) admitted to a Veterans Administration facility who subsequently are determined to require psychiatric care for more than 6 months and transfer to another Veterans Administration facility for such care has been requested.

(*b*) Patients eligible under § 17.47(c), (d) or (e) who on application were admitted to a Veterans Administration facility other than the appropriate one nearest to the point of application. These veterans may be transferred to the appropriate facility which is nearest to the point of application provided the clinical findings indicate that they will require 90 days or more of inpatient care in the latter facility.

(*c*) Patients eligible under § 17.47(c), (d) or (e) currently hospitalized in an appropriate Veterans Administration facility nearest the point of application who have requested a transfer at their own expense to an appropriate Veterans Administration facility nearer their home, provided clinical findings indicate that such patients will require hospital care for a period of 90 days or more in the latter facility.

(vi) Group VI includes veterans eligible under § 17.47(d) or (e) not hospitalized by the Veterans Administration (are not in hospitals or are in non-Veterans Administration hospitals but not under Veterans Administration authorization).

* * * * *

(ix) Group IX includes patients in Veterans Administration facilities who have requested transfer, at their own expense for personal reasons, to another appropriate Veterans Administration facility which is not nearest their home, provided the clinical findings indicate that such patients will require hospital care for a period of 6 months or more in the latter facility.

(x) Group X includes veterans eligible under § 17.47(d) or (e) requiring hospital care (*a*) for an occupational injury or disease incurred in or as a result of their employment who are entitled to necessary medical and hospital treatment elsewhere at no expense to themselves by means of some form of industrial coverage provided by their employer or under a worker's compensation statute or law or (*b*) who are entitled to necessary medical and hospital treatment elsewhere at no expense to themselves by reason of some other form of insurance. An applicant will be classified in paragraph (a)(3)(x)(*a*) or (*b*) of this section only when an employer or insurer has admitted liability and advised the Veterans Administration in writing that the veteran is eligible for the necessary medical and hospital care at no expense to himself/herself. If such information is not available, the application will be placed in group VI and no action will be taken to ascertain liability prior to admission of the veteran.

* * * * *

(b) Priorities for domiciliary care. * * *

(2) Priority for admission to domiciliary care (except as noted in paragraph (b)(1) of this section).

(i) Group I includes patients under § 17.47(c)(3), who are not absent sick in hospital from domicile status, awaiting admission from Veterans Administration medical facilities.

* * * * *

(iii) Group III includes patients eligible under § 17.47(d) who are not absent sick in hospital from domicile status, awaiting admission from Veterans Administration medical facilities.

(iv) Group IV includes applicants eligible under § 17.47(d) who are in receipt of less than $415 income a month for their own use.

(v) Group V includes applicants eligible under § 17.47(d) who are in receipt of $415 or more income a month for their own use.

* * * * *

(c) *Priorities for nursing home care.* Priorities for nursing home care will follow the same sequence as that provided in paragraph (a) of this section for hospital care, except in the case of nursing home care for a service-connected disability, priority will be given to veterans transferred from hospital care to Veterans Administration nursing home care over veterans directly admitted.

Note.—The provisions of § 17.48(b)(1) will apply in determining whether the veteran has $415 income available for his or her own use.

6. In § 17.123, the introductory portion preceding paragraph (a) is revised to read as follows:

§ 17.123 Authorization of outpatient dental treatment.

Outpatient dental treatment may be authorized by the Chief, Dental Service, for beneficiaries defined in § 17.60(a) to (d) to the extent prescribed and in accordance with the applicable classification and provisions set forth in this section.

* * * * *

§ 17.350 [Amended]

7. Section 17.350 is amended by deleting the words "Bureau of the Budget" and inserting the words "Office of Management and Budget" in the last sentence.

§ 17.351 [Amended]

8. Section 17.351 is amended by deleting the word "he" and inserting the words "the Administrator" in the first sentence.

§ 17.353 [Amended]

9. Section 17.353 is amended by deleting the word "he" and inserting the words "the Administrator" in the first sentence.

10. Section 17.355 is revised to read as follows:

§ 17.355 Awards procedures.

All applications for grants to the Republic of the Philippines under the provisions of § 17.351 or 17.353 shall be submitted to the Chief Medical Director or a designee for consideration. (38 U.S.C. 632)

(38 U.S.C. 210(c))

[FR Doc. 80-2032 Filed 1-22-80; 8:45 am]
BILLING CODE 8320-01-M

V45/16 JA23 80 UMI

V 45 / 16 JA 23 80 UMI

38 CFR Part 21

Education Benefits; Suspension of Educational Assistance Allowance Payments

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The amended regulations are intended to eliminate any implication that the Veterans Administration would subsequently have to release educational assistance payments it had suspended when the basis for the suspension is later affirmed.

State approving agencies may suspend the approval of a course for new enrollments if evidence exists that the course fails to meet a requirement for approval. Similarly, the law gives the authority to suspend or discontinue payments under certain conditions. A suspension would be pointless if, when a discontinuance follows the suspension, suspended payments had to be released.

DATES: Comments must be received on or before February 22, 1980. It is proposed to make this amendment effective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until March 3, 1980.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202–389–2092).

SUPPLEMENTARY INFORMATION: A minor change has been made to the wording of §§ 21.4008 and 21.4133, Title 38, Code of Federal Regulations to bring them into accordance with that of 38, U.S.C. 1790. Section 21.4134, Title 38 Code of Federal Regulations is amended to provide a cross-reference to § 21.4135. Section 21.4135 is amended to provide that in cases where payments of educational assistance have been suspended prior to a final discontinuance of payments or the disapproval of a course, the effective date of the discontinuance or disapproval shall be the date payments were first suspended. Section 21.4207 is amended to provide that if payments of educational assistance have been suspended and a VA field station or VA Central Office takes action which results in discontinuance of payments, the effective date of the decision will be the date the payments were first suspended. Section 21.4252 is amended to preclude approval of new enrollments of veterans in courses whose approval has been suspended.

Some examples will illustrate the effect of these amendments. If, for example, payments are suspended on August 31, 1979, from students enrolled in a course, and on October 15, 1979 the VA made a decision which results in discontinuance of payments, the effective date of the decision would be August 31. No further payments would be made.

If, in the same example, payments were not suspended before a decision resulting in the discontinuance of payments was reached, and the decision was the unanimous decision of the Committee on Educational Allowances with which the Director of the field station agreed, the effective date of the decision would be October 15. Payments would be discontinued effective the end of October.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until March 3, 1980. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: January 16, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

§ 21.4008 [Amended]

1. Section 21.4008 is amended by deleting the words "withheld pending resolution" and inserting the words "suspended pending resolution."

2. Sections 21.4133 and 21.4134 are revised to read as follows:

§ 21.4133 Notification of suspension or discontinuance.

Any eligible veteran or eligible person whose payments are suspended or discontinued pursuant to § 21.4134 or 21.4135 shall concurrently receive written notice of the suspension or discontinuance from the Veterans Administration. The notice shall state the reasons for the suspension or discontinuance of payments, and shall notify the veteran or eligible person that he or she has a right to a hearing and to present evidence why payments should not be discontinued or suspended. (38 U.S.C. 1790(b))

§ 21.4134 Suspension and discontinuance.

Notwithstanding the approval of a course by a State approving agency, educational assistance may be discontinued if it is determined that the course of education in which the individual is enrolled fails to meet, or the school has violated, any of the requirements of chapters 34, 35, or 36. Where preliminary evidence indicates that it would be to the best interests of the Government, the station head may suspend further payments to persons enrolled in the school until a determination has been made as to whether approval should be withdrawn and whether overpayments exist. Payments will be released promptly whenever the facts developed justify such action. See § 21.4135(k). (38 U.S.C. 1790)

3. In § 21.4135, paragraphs (f), (j) and (k) are revised to read as follows:

§ 21.4135 Discontinuance dates.

* * * * *

(f) *Discontinued by Veterans Administration (§§ 21.4134 and 21.4207).* (1) Date on which payments first were suspended by the Director of a Veterans Administration field station as provided in § 21.4134, if discontinuance was preceded by such a suspension. (38 U.S.C. 1790)

(2) End of the month in which the decision to discontinue, made by the Veterans Administration pursuant to § 21.4134 or 21.4207, is effective, if the Director of a Veterans Administration field station did not suspend payments prior to the discontinuance. (38 U.S.C. 1790)

* * * * *

(j) *Disapproval by State approving agency (§ 21.4259(a)).* (1) Date on which payments first were suspended by the Director of a Veterans Administration field station as provided in § 21.4134, if disapproval was preceded by such a suspension. (38 U.S.C. 1772(a), 1790)

(2) End of the month in which disapproval is effective or notice of disapproval is received in the Veterans Administration, whichever is later, provided that the Director of a Veterans Administration field station did not suspend payments prior to the disapproval. (38 U.S.C. 1772(a), 1790)

(k) *Disapproval by Veterans Administration (§§ 21.4134, 21.4207, 21.4259(c)).* (1) Date on which payments first were suspended by the Director of a Veterans Administration field station as provided in § 21.4134 if disapproval was preceded by such a suspension. (38 U.S.C. 1771(b), 1772(a), 1790)

(2) End of the month in which disapproval occurred, provided that the Director of a Veterans Administration field station did not suspend payments prior to the disapproval. (38 U.S.C. 1771(b), 1772(a), 1790)

* * * * *

4. In § 21.4207, paragraph (e) is revised to read as follows:

§ 21.4207 Reporting fee.

* * * * *

(e) *Effective date.* If the decision of the field station or of Central Office includes disapproving the school for the enrollment of any veteran or eligible person not already enrolled in the school, all enrollments which begin after the effective date of the decision shall be disapproved. If the decision includes discontinuing payments of educational assistance allowance to veterans and eligible persons, the effective date of the discontinuance shall be determined by § 21.4135. The effective date for decisions of the field station or of Central Office will be determined as follows:

(1) In all instances when, on the date a decision is reached by a field station or Central Office, no payments are being made to persons enrolled in the school because the Director of the field station has suspended the payments as provided by § 21.4134, and the decision results in the discontinuance of educational assistance to veterans and eligible persons, the effective date of the decision will be the date the Director first suspended payments unless the decision specifically provides for a later date.

(2) When the effective date of a field station or Central Office decision is not determined by paragraph (e)(1) of this section it shall be:

(i) The date the Director of the field station of jurisdiction approves the unanimous decision of the Committee on Educational Allowances, if no review by Central Office is required;

(ii) The date the Director of the field station of jurisdiction originally approved the recommendation of the Committee on Educational Allowances, if the decision is reviewed by Central Office, pursuant to paragraph (d) of this section, and approved;

(iii) The date the Director of the field station of jurisdiction originally approved the recommendation of the Committee on Educational Allowances, if the decision is reviewed by Central Office, pursuant to paragraph (d) of this section, and the station's decision is reversed by a Central Office decision; or

(iv) The date of receipt by the field station of the decision of Central Office rendered pursuant to paragraph (c) of this section. See § 21.4208. (37 U.S.C. 1790)

5. In § 21.4252, paragraph (k) is added to read as follows:

§ 21.4252 Courses precluded.

* * * * *

(k) *Courses with suspended approval.* When a State approving agency has suspended the approval of a course for new enrollments, new enrollments in the course shall not be approved until the suspense is lifted. If the State approving agency does not lift the suspense, but disapproves the course instead, new enrollments beginning on or after the date the suspense was effective shall not be approved. See § 21.4259. (38 U.S.C. 1772(a))

[FR Doc. 80–2083 Filed 1–22–80; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

42 CFR 52h

Scientific Peer Review of Research Grant Applications and Research and Development Contract Projects

AGENCY: Public Health Service, HEW.

ACTION: Notice of Decision to Amend Regulations.

SUMMARY: Final regulations are to be issued concerning the Scientific Peer Review of Research Grant Applications and Research and Development Contract Projects to incorporate the amendment mandated by Pub. L. 95–622, Section 264, enacted on November 9, 1978. The amendment simply expands the scope of the current regulations to include the Division of Nursing of the Health Resources Administration.

FOR FURTHER INFORMATION CONTACT: Mr. Lowell D. Peart, NIH Regulations Officer, Division of Management Policy, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4606.

Dated: December 31, 1979.

Charles Miller,

Acting Assistant Secretary for Health.

[FR Doc. 80–2123 Filed 1–22–80; 8:45 am]

BILLING CODE 4110–08–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FI–3722]

Revision of Proposed Flood Elevation Determinations for Alameda County, Calif., Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FIA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Alameda County, California.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 42 FR 63047 on December 14, 1977 and in *The Oakland Tribune,* published on or about November 7, 1977, and November 8, 1977, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Alameda County Flood and Water Conservation District, 399 Elmhurst Street, Hayward, California 94544.

Send comments to: Ms. Valerie Raymond, Chairperson, Board of Supervisors, Alameda County, 1221 Oak Street, Room 536, Oakland, California 94612.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5148, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in Alameda County, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the

Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
Arroyo Mocho	Corporate Limits Downstream of Arroyo La Positas.	*341
	Arroyo Road	*503
	Wente Street	*551
Arroyo Las Positas	El Charro Road	*357
	Cottonwood Creek	*374
	Airway Boulevard	*381
	Interstate Highway 580 Downstream of Cayetano Creek.	*405
	North Livermore Avenue	*446
	Interstate Highway 580 Upstream of North Livermore Avenue.	*477
	Vasco Road	*527
Arroyo Seco	Vasco Road	*595
	Greenville Road	*695
Las Positas Relocation.	Greenville Road	*620
Arroyo Del Valle	Vineyard Avenue	*365
	Isabel Avenue	*415
	East Vallecitos Road	*445
	Arroyo Road	*540
Line J-1	Dublin Boulevard	*330
	Amador Valley Boulevard	*335
Chabot Canal	Southern Pacific Railroad	*309
San Lorenzo Creek	Don Castro Dam	*258
	Confluence with Palomares Creek.	*313
Line G	Grove Way	*139
	Castro Valley Boulevard	*161
	San Miguel Avenue	*191
Line J	Pine Street	*163
	Catalina Drive	*186
	Berdina Road	*207
Bockman Canal and Line N.	Pile Trestle Bridge	*6
	Southern Pacific Railroad	*8
Alameda Creek	Sunol Dam	*233
	Interstate 680	*245
Tassajara Creek	Santa Rita Road	*248
Cayetano Creek	Hartman Road	*322
Collier Creek	Interstate 580	*416
	Collier Canyon Road	*432
Altamont Creek	Laughlin Road	*554
	North Front Road	*579
Arroyo De La Laguna	Paloma Road	*242
	Southern Pacific Railroad	*267
	Verona Road	*286
	Castlewood Drive	*301
	Bernal Avenue	*316
Palomares	Confluence with San Lorenzo Creek.	*313
Line J-3	Confluence with Line J-4	*359
Dublin Creek	Downstream Dublin Road Crossing.	*304
Line I	Castro Valley Boulevard	*166

(National Flood Insurance Act of 1968 (Title of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: January 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–1900 Filed 1–23–80; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 67

[Docket No. FEMA 5769]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Room 5148, 451 7th Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer or insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Kansas	(C), Silver Lake, Shawnee County	Kansas River	Intersection of Chestnut Street and southern corporate limits	*909
			400 feet south of intersection of Theresa Street and Maschet Street	*910

Maps available at City Hall, Silver Lake, Kansas.

Send comments to the Honorable Leonard Lee, Mayor, City of Silver Lake, City Hall, Silver Lake, Kansas 66539.

Kansas	Willard (C), Shawnee County	Kansas River	Approximately 2,640 feet downstream of Wadsbaunsee Road	*918
			Just downstream of Wadsbaunsee Road	*918

Maps available at the City Hall, RFD 8, Topeka, Kansas.

Send comments to the Honorable Oscar McKenzie, City of Willard, City Hall, RFD 8, Topeka, Kansas 66604

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Kentucky	City of Fort Wright, Kenton County.	Banklick Creek	Just upstream of Interstate 275	*504
			Just upstream of Kentucky Highway 17	*504
		Banklick Creek tributary	Just downstream of Kentucky Highway 17	*513
		Horse Branch	Approximately 200 feet downstream of I–275 Culvert Outlet	*505
			Just upstream of I–275 Culvert Inlet	*522
		Horse Branch tributary	Just upstream of SPCA Shelter Road	*504
			Just upstream of private road	*543

Maps available at the City Offices, 1661 Park Road, Fort Wright, Kentucky 41011.

Send comments to Mayor Tom Litzler, or Vice-Mayor Joe Nienaber, P.O. Box 1271, Covington, Kentucky 41012.

Kentucky	City of Silver Grove, Campbell County.	Ohio River	Just upstream of access road extended	*502
			Just upstream of Merle Road extended	*503
		Four Mile Creek	Just upstream of State Highway 8	*502

Maps available at City Clerk's Office, 104 West River Road, Silver Grove, Kentucky 41085.

Send comments to Mayor James Rice, City Offices, 104 West River Road, or Mr. W. Alven Wilson, President, Planning and Zoning Commission, West Fourth Street, Silver Grove, Kentucky 41085.

Kentucky	City of Wilder, Campbell County	Licking River	Just upstream of Chessie System Railroad Bridge	*500
			Just upstream of Interstate 275	*504
		Threemile Creek	Approximately 100 feet downstream of Threemile Road	*524
		Moock Road tributary	Beverly Drive extended	*514

Maps available at the City Office Building, 400 Licking Pike, Wilder, Kentucky 41071.

Send comments to Mayor Douglas Haney, City Office Building, 400 Licking Pike, Wilder Kentucky 41071 or Mr. James Vice, City Engineer, 466 Earlanger Road, Earlanger, Kentucky 41018.

Maine	(T), Farmington, Kennebec County.	Sandy river	Downstream corporate limit	*338
			Just upstream of State Route 41	*342
			Just downstream of the Ledges	*349
			Just upstream of the Ledges	*358
			Just upstream of the Maine Central Railroad	*362
			Upstream corporate limits	*365
		Wilson Stream	At confluence with Sandy River	*343
			Just upstream of State Route 156	*353
			Just upstream of Webster Road	*360
			Just upstream of State Route 133	*371
			Upstream corporate limit	*376
		Temple Stream	At confluence with the Sandy river	*358
			Just downstream of the dam located approximately 600 feet upstream of Morrison Hill Road.	*361
			Just upstream of the dam located approximately 600 feet upstream of Morrison Hill road.	*371
			Just upstream of Temple Road	*380
			Just downstream of Russells Mills Road	*442
			Approximately 300 feet upstream of Russells Mills Road	*447
			Upstream corporate limits	*454
Maine	(T), Farmington, Kennebec County.	Beaver Brook	At confluence with Sandy River	*360
			Just upstream lower Main Street	*361
			Approximately 300 feet downstream of High Street	*368
			Just upstream of High Street	*385
			Just upstream of Middle Street	*394
		Barker Stream	At confluence with Sandy River	*365
			Just upstream of State Route 4	*400
			Just upstream of confluence of Adams Brook	*414
			Upstream corporate limit	*245

Maps available at the Town Office, Farmington, Maine 04938.

Send comments to Mr. Alan Gove, Town Manager, Town of Farmington, Town Office, Farmington, Maine 04938.

Massachusetts	(T), Weymouth, Norfolk County	Hingham Bay	Along coastline	*12
		Herring Brook	Confluence with Weymouth Back River	*12
			Just downstream of Broad Street	*17
			Just upstream of Broad Street	*25
			Just upstream of Pleasant Street	*30
			Just downstream of Iron Hill Street	*35
			Just upstream of Iron Hill Street	*41
		Mill River	Just downstream of dam approximately 1,830 feet downstream of West Street.	*105
			Just upstream of day approximately 1,830 feet downstream of West Street.	*111
			Just downstream of West Street	*126
			Just upstream of West Street	*130
			Just upstream of Columbian Street	*139
			Just upstream of Conrail	*140
			Just downstream of Hollis Street	*156
		Mill River tributary A	Confluence with Mill River	*140
			Just upstream of Hollis Street	*144
			Just downstream of Conrail	*148
			Just upstream of Main Street	*152
		Mill River tributary B	Confluence with Mill River Tributary A	*150
			Centerline of Conrail	*153

V45/16/JA23/80 UMI

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Massachusetts	(T), Weymouth, Norfolk County	Old Swamp River	Just downstream of Libbey Industrial Parkway	*74
			Just upstream of State Route 3 northbound lane	*77
			Just upstream of Pleasant Street	*87
			Just upstream of Elm Street	*107
			Just upstream of Talbot Street	*111
			Approximately 2,700 feet upstream of Talbot Street	*112
Maps available at the Planning Board Office, Town Hall, Weymouth, Massachusetts.				
Send comments to Mr. Edward W. Owens, Jr., Chairman, Board of Selectmen, Town of Weymouth, Town Hall, Weymouth, Massachusetts 02188.				
Mississippi	City of Hattiesburg, Forrest and Lamar Counties.	Leaf River	Just upstream of bridge connecting East Hardy Street and Main Street of Petal City.	*146
			Approximately 150 feet upstream of Southern Railroad	*150
		Bowie Creek	Approximately 150 feet upstream of Glendale Road	*155
			Just downstream of Interstate Highway 59	*164
		Gordons Creek	Just upstream of bay (or Main) Street	*150
			Approximately 100 feet downstream of Front Street	*154
			Just downstream of Green Street	*159
			Just upstream of Broad Street	*163
			Just downstream of Park Avenue	*172
			Just downstream of Broad Street	*186
			Just downstream of U.S. Highway 49	*194
			Approximately 200 feet upstream of U.S. Highway 11	*200
Maps available at City Hall, Front and Forrest Streets, Hattiesburg, Mississippi 39401.				
Send comments to Mayor A. L. Gerrard, or Mr. G. D. Williamson, Comissioner, City Hall, P.O. Box 1898, Hattiesburg, Mississippi 39401.				
Mississippi	City of Mendenhall, Simpson County.	Sellers Creek	Just downstream of U.S. Highway 13	*296
			Just downstream of Rials Creek Road	*321
		Sellers Creek tributary 1	Just upstream of old U.S. Highway 49	*301
		Terrapin Creek	Just downstream of U.S. Highway 49	*325
		Patterson Branch	Just upstream of Court Avenue	*321
			Just downstream of Pine Avenue	*322
			Just downstream of Dear Drive	*535
Maps available at City Hall, 167 Maud Street, Mendenhall, Mississippi 39114.				
Send comments to Mayor Ray Layton, or Mr. Curtis McMillian, Mayor Protem, City Hall, 167 Maud Street, Mendenhall, Mississippi 39114.				
Mississippi	Unincorporated areas of Simpson County.	Strong River	Just downstream of Mississippi State Highway 540	*295
			Just downstream of U.S. Highway 49	*297
		Sellers Creek	Just upstream of Mississippi State Highway 13	*300
			Just upstream of Rials Creek Road	*323
		Terrapin Creek	Just upstream of U.S. Highway 49	*330
Maps available at County Administrator Office, Pine Street, Mendenhall, Mississippi 39114.				
Send comments to Mr. L. C. McAlpin, President, Board of Supervisors or Mr. Hugh Jack Stubs, County Administrator, Pine Street, Mendenhall, Mississippi 39114.				
Missouri	(V), Breckenridge Hills, St. Louis County.	Coldwater Creek	At downstream corporate limits	*555
			Just upstream Iselda Avenue	*557
			Just upstream Lyntown Avenue	*559
			About 400 feet downstream St. Charles Rock road	*562
			About 100 feet upstream St. Charles Rock Road	*570
			Just upstream Marvin Street	*573
			Just upstream Breckenridge Road	*577
			At upstream corporate limits	*582
Maps available at the Village Hall, 3120 Woodson Road, Breckenridge Hills, Missouri.				
Send comments to Mr. Paul L. Berry, Chairman of the Board, Breckenridge Hills, Village Hall, 3120 Woodson Road, Breckenridge Hills, Missouri 63114.				
Missouri	(C), Manchester, St. Louis County	Grand Glaize Creek	Downstream corporate limits	*473
			Just upstream Enchanted Parkway	*479
			Just upstream Meramec Station Road	*499
			Just upstream Manchester Road	*518
			Upstream corporate limits	*534
		Fishpot Creek	About 1,640 feet downstream of Lindy Boulevard	*524
			Upstream corporate limits	*535
Maps available at the City Hall, 63 Nationalway Center, Manchester, Missouri.				
Send comments to the Honorable Robert Anderson, Mayor, City of Manchester, City Hall, 63 Nationalway Center, Manchester, Missouri 63011.				
Missouri	(C), Overland, St. Louis County	River Des Peres	Just downstream of State Route 725	*552
			Just upstream of State Route 725	*554
			Just upstream of confluence with River Des Peres north tributary	*557
			Approximately 2,000 feet upstream of confluence with River Des Peres north tributary.	*565
			Approximately 2,550 feet upstream of confluence with River Des Peres north tributary.	*571
			Approximately 2,900 feet upstream of confluence with River Des Peres north tributary.	*573
			Approximately 3,750 feet upstream of confluence with north tributary River Des Peres.	*575
		North tributary River Des Peres	Approximately 470 feet upstream of confluence with River Des Peres..	*558
			Just upstream of St. Louis Belt and Terminal Railroad	*562
Maps available at the City Hall, 9119 Blackland Avenue, Overland, Missouri.				
Send comments to the Honorable Norman A. Meyers, Mayor, City of Overland, City Hall, 9119 Blackland Avenue, Overland, Missouri 63114.				

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Oklahoma	City of Chickasha, Grady County	Line Creek	Just upstream of Illinois Avenue	*1,093
			Just upstream of Twelfth Street	*1,096
			Just upstream of Iowa Avenue	*1,106
		Rock Hollow Creek	Approximately 100 feet upstream of confluence with Line Creek at west side of lake.	*1,099
		West Side Creek	Just downstream of Idaho Avenue	*1,109
			Just upstream of Georgia Avenue	*1,121
			Just downstream of Grand Avenue	*1,133
		Congo Creek	Just upstream of Second Street	*1,095
			Just upstream of Third Street	*1,109
			Just downstream of Ninth Street	*1,123
			Just downstream of Willow Creek Road	*1,177
		Middle Branch Congo Creek	Just downstream of Bailey Turnpike	*1,133
			Approximately 100 feet upstream of Country Club Road	*1,152
		Golf course tributary to Congo Creek.	Just upstream of Clubhouse Road	*1,153
			Flanders Drive (extended)	*1,178
		East Branch to Congo Creek	Approximately 75 feet upstream of Grand Avenue	*1,090
			Approximately 220 feet upstream of Bailey Turnpike	*1,109
Maps available at City Manager's Office, City Hall, 6th and Chickasha Avenue, Chickasha, Oklahoma 73018.				
Send comments to Mayor J. E. Parker or Mr. Harold Emich, City Manager, City Hall, 6th and Chickasha Avenue, Chickasha, Oklahoma 73018.				
South Carolina	Town of Arcadia Lakes, Richland County.	Jackson Creek	Just downstream of Arcadia Lakes Drive	*195
			Just upstream of Arcadia Lakes Drive	*208
Maps available at Arcadia Lakes Town Clerk's Office, 6500 Sandale Drive, Columbia, South Caroline 29206.				
Send comments to Mayor L. Henry McKellar or Ms. Pat Floyd, Town Clerk, 6500 Sandale Drive, Columbia, South Carolina 29206.				
Tennessee	City of Carthage, Simith County	Cumberland River	Jefferson Avenue extended	*485
Maps available at City Hall, 306 Spring Street, Carthage, Tennessee 37030.				
Send comments to Mayor James Clay, or Ms. Joyce Rollins, City Recorder, City Hall, 306 Spring Street, Carthage, Tennessee 37030.				
Tennessee	Unincorporated areas of Roane County.	Tennessee River	Just downstream of the confluence of Whites Creek	*745
			Just upstream of the confluence of Hines Creek	*750
		Clinch River	Just upstream of the confluence of Emory River	*747
			Just upstream of the confluence of Caney Creek	*748
		Black Creek	Just upstream of Black Creek Road	*794
			Just downstream of U.S. Highway 70	*651
		Whites Creek	Just downstream of U.S. Highway 27	*776
		Pawpaw Creek	Just upstream of Buttermilk Road	*766
		Caney Creek	Just upstream of Buttermilk Road	*750
		Indian Creek	Approximately 600 feet downstream of the southern corporate limits of the town of Oliver Springs.	*750
		Emory River	Just upstream of the confluence of Swan Pond Creek	*748
			Just upstream of the confluence of Bullard Branch	*763
		Little Emory River	Approximately 264 feet upstream of U.S. Highway 27	*752
		Poplar Creek	Approximately 600 feet downstream of the confluence of Indian Creek	*776
Maps available at Budget Director's Office, Roane County Courthouse, Kingston, Tennessee.				
Send comments to Mr. Wallace Brewer, County Judge or Mr. Eddy Bowen, Budget Director, Roane County Courthouse, P.O. Box 643, Kingston, Tennessee 37763.				
Tennessee	Town of South Carthage, Smith County.	Cumberland River	Just upstream of State Highway 25	*486
			Confluence of Cumberland River and Caney Fork River	*486
		Caney Fork River	Just upstream of U.S. Highway 70N	*487
Maps available at City Hall, Route 2, P.O. Box 52, Highway 53, South Carthage, Tennessee 37030.				
Send comments to Mayor Kenton Gibbs, or Ms. Denise Givens, City Recorder, Route 2, P.O. Box 52, Highway 53, South Carthage, Tennessee 37030.				
Texas	City of Cleburne, Johnson County	Unnamed	Just upstream of country road	*757
		McAnear Creek	Just downstream of Westhill Drive	*758
			Just upstream of West Henderson Drive	*771
			Just upstream of Woodard Street	*787
West Buffalo Creek			Just upstream of Smith Street	*750
			Just downstream of Wilson Street	*764
			Just upstream of State Highway 171	*791
		East Buffalo Creek	Just upstream of State Highway 174	*741
			Just downstream of Walters Street	*749
			Just upstream of Olive Street	*768
		Lockett Branch	Just upstream of Henderson Street (U.S. Highway 67)	*770
Maps available at Engineering Department, City Hall, Cleburne, Texas.				
Send comments to Mayor George Marty or C. W. Anderson, P.O. Box 657, Cleburne, Texas 76031.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19967; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: December 31, 1979.

Charles M. Plaxico, Jr.,

Acting Federal Insurance Administrator.

[FR Doc. 80-1991 Filed 1-22-80; 8:45 am]

BILLING CODE 6718-03-M

V45/16/JA23'80 UMI

44 CFR Part 67

[Docket No. FI-4127]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Henry County, Virginia.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 43 FR 22406 on or about May 25, 1978, and in the *Martinsville Bulletin*, published on February 27, 1978, and February 28, 1978, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Office of the County Administrator, Collinsville, Virginia.

Send comments to: Mr. John M. Richardson, County Administrator of Henry County, P.O. Box 7, Collinsville, Virginia 24078.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, Office of Flood Insurance, (202) 426-1460 or Toll Free Line (800) 424-8872, Room 5150, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in Henry County, Virginia, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)) (presently appearing at its former Title 24, chapter 10, Part 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Virginia	Henry County (unincorporated areas).	Leatherwood Creek	Confluence with Smith River	*608
			Va. Route 650 (upstream)	*649
			Va. Route 620 (upstream)	*664
			Southern Railway (upstream)	*664
			U.S. Route 58 (upstream)	*683
			Confluence of Camp Branch	*683
			Confluence of West Fork Leatherwood Creek	*687
			Confluence of Bear Branch	*736
		West Fork Leatherwood Creek	Confluence with Leatherwood Creek	*687
			Confluence of Reservoir No. 2 Branch	*714
			Va. Route 57 (upstream)	*726
			Confluence of Wet Branch	*745
			Reservoir No. 3 Dam	*747
		Wet Branch	Confluence with West Fork Leatherwood Creek	*746
			Va. Route 626 (upstream)	*748
			Reservoir No. 4 Dam	*751
		Reservior No. 2 Branch	Confluence of West Fork Leatherwood Creek	*714
			Va. Route 57 (upstream)	*716
			Va. Route 720 (upstream)	*719
			Va. Route 655 (upstream)	*771
			Reservoir No. 2 Dam	*772
		Jones Creek	Southern Railway (upstream)	*723
			U.S. Highway Business 220	*729
			Private Drive upstream of U.S. Business 220	*732
			Va. Route 657 (upstream)	*737
			Upstream corporate limits	*742
		Beaver Creek	Confluence with Smith River	*716
			Va. Route 57 (upstream)	*716
			Southern Railway (downstream)	*718
			Norfolk and Western Railway	*720
			Confluence of Jones Creek	*723
			U.S. Highway Business 220 (upstream)	*726
			Confluence of Little Beaver Creek	*742
			Irrigation Structure	*724
			Private Drive 1,480 feet downstream of Va. Route 108 (upstream)	*753
			Va. Route 108 (upstream)	*760
			Va. Route 714 (upstream)	*772
			Martinsville Reservoir Dam	*775
		Hairston Branch	Confluence of Little Beaver Creek	*759
			Va. Route 663 (downstream)	*760
		Little Beaver Creek	Confluence with Beaver Creek	*742
			Va. Route 108 (upstream)	*749

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Virginia	Henry County (unincorporated areas).	Daniels Creek	Confluence with Smith River	*724
			Va. Route 57 (upstream)	*731
			Private Drive 1,800 feet upstream of Va. Route 57 (upstream)	*752
			Private Drive 4,100 feet upstream of Va. Route 57 (upstream)	*775
			Va. Route 1142 (upstream)	*786
			Wheeler Avenue (upstream)	*805
			Va. Route 609 (upstream)	*813
			Coffman Drive (upstream)	*823
			Redd Boulevard (upstream)	*832
			Eliza Reamy Avenue (upstream)	*836
			West Paul Street (upstream)	*850
			U.S. Highway Business 220 (upstream)	*856
			Sarah Avenue (upstream)	*856
		Reed Creek	Confluence with Smith River	*729
			Norfolk and Western Railway (upstream)	*740
			Downstream crossing U.S. Highway 220 Bypass (upstream)	*741
			Confluence of Little Reed Creek	*741
			Va. Route 57 (upstream)	*745
			U.S. Highway Business 220	*758
			Va. Route 609 (upstream)	*782
			Private Road 4,900 feet upstream of Va. Route 609	*797
			Va. Route 665 (upstream)	*854
			Va. Route 657 (upstream)	*923
		Little Reed Creek	Confluence with Reed Creek	*741
			Va. Route 606 (upstream)	*741
			Edgewood Road (upstream)	*747
			Va. Route 57 (upstream)	*749
			Private Drive 1,100 feet upstream of Va. Route 57 (upstream)	*752
			Dyer Road (upstream)	*765
			Meadow Lane (upstream)	*773
			Private drive 1,800 feet upstream of Meadow Lane (upstream)	*785
			Private road 2,650 feet upstream of Meadow Lane (upstream)	*790
			Private road 1,500 feet downstream of Va. Route 669 (upstream)	*811
			Va. Route 669 (upstream)	*833
			Private road (upstream) of Va. Route 669	*839
		Town Creek	Confluence with Smith River	*730
			Va. Route 603 (upstream)	*783
			Downstream crossing Norfolk and Western Railway (upstream)	*800
			Confluence of Grassy Fork Creek	*820
			Va. Route 604 (upstream)	*856
			Upstream crossing Norfolk and Western Railway (upstream)	*874
			Va. Route 606 (upstream)	*882
			County boundary	*890
		Smith River	Downstream County boundary	*563
			Va. Route 622 (upstream)	*576
			Va. Route 636 (upstream)	*595
			Confluence of Leatherwood Creek	*608
			Confluence of Marrowbone Creek	*623
			Norfolk and Western Railway (downstream) of Va. Route 966 (upstream)	*665
			Va. Route 966 (upstream)	*676
			Martinsville Dam (downstream)	*675
			Martinsville Dam (upstream)	*704
			Confluence of Grassy Creek	*708
			Confluence of Beaver Creek	*716
			Norfolk and Western Railway (upstream)	*723
			Jordan Creek Confluence	*724
			New Va. Route 609 (upstream)	*724
			U.S. Highway Bypass #220 (upstream)	*729
			Alternate Va. Route 57 (upstream)	*736
			Va. Route 1228 (upstream)	*748
			Church Street (upstream)	*752
			Main Street (upstream)	*755
			Riverside Drive (upstream)	*758
			Va. Route 666 (upstream)	*784
			Confluence of Town Creek	*790
			Va. Route 674 (upstream)	*791
			Philpott Dam (downstream)	*817
		Blackberry Creek	Confluence with Smith River	*747
			Alternate Va. Route 57 (upstream)	*748
			Private drive 2,800 feet upstream of Alternate Va. Route 57 (upstream).	*761
			Private drive 2,000 feet downstream of Va. Route 780 (upstream)	*777
			Va. Route 780 (upstream)	*787
			Va. Route 698 (upstream)	*814
			Va. Route 778 (upstream)	*830
			Va. Route 676 (upstream)	*850
			Confluence of Hales Pond Creek	*875
			Private drive 15,850 feet upstream of Va. Route 676 (upstream)	*1,066
			Va. Route 832 (upstream)	*1,160
			Va. Route 687 (upstream)	*1,166
			Private drive 3,200 feet upstream of Va. Route 687	*1,185
			County line	*1,198
		Rangely Creek	Confluence with Jordan Creek	*740
			U.S. Highway Bypass 220 (upstream)	*744
			Va. Route 683 (upstream)	*811
			Private drive 1,500 feet upstream of Va. Route 683 (upstream)	*817
			Confluence of Valley Drive Creek	*822
			Private drive 1,5000 feet (upstream) of confluence with Valley Drive Creek.	*833

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Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Jordan Creek	Confluence with Smith River	*724
			Va. Route 682 (upstream)	*724
			Upstream crossing Norfolk and Western Railway (upstream)	*726
			Va. Route 884 (upstream)	*729
			Va. Route 1163 (upstream)	*734
			Private drive 1,450 feet upstream of Va. Route 1163 (upstream)	*738
			Confluence of Rangely Creek	*740
			U.S. Highway Bypass 220 (upstream)	*745
			Confluence of Meadows Creek	*802
			Confluence of Bassett Branch	*813
			Va. Route 683 (upstream)	*830
		Meadows Creek	Confluence with Jordan Creek	*802
			Private Road 10,200 fet above mouth	*860
		Grassy Creek	Confluence with Smith River	*708
			U.S. Highway Bypass 220 (upstream)	*842
			Abandoned road (upstream)	*852
			Va. Route 675 (upstream)	*891
			U.S. Highway 58 (upstream)	*884
		Little Marrowbone Creek	Confluence with Marrowbone Creek	*692
			Va. Route 1313 (upstream)	*696
			Va. Route 641 (upstream)	*736
			Private drive 1,100 feet upstream of Va. Route 641 (upstream)	*743
		Marrowbone Creek	Confluence with Smith River	*623
			Va. Route 641 (upstream)	*624
			Fisher Dam (downstream)	*641
			Fisher Dam (upstream)	*658
			Norfolk and Western Railway (upstream)	*660
			Va. Route 782 (upstream)	*686
			U.S. Highway 220 (upstream)	*692
			Confluence of Little Marrowbone Creek	*692
			Va. Route 687 (upstream)	*711
			Va. Route 688 (upstream)	*730
			Base of Marrowbone Reservior Dam	*739
		Camp Branch	Confluence with Leatherwood Creek	*683
			Va. Route 9964 (upstream)	*683
			Va. Route 630 (upstream)	*683
			Reservior No. 6 Dam	*700

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-1909 Filed 1-22-80; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80–6; RM–3345]

Television Broadcast Stations in Irving and Dallas, Tex.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of a first UHF television channel to Irving or Dallas, Texas, in response to a petition filed by CELA, Inc. The proposed channel could be used to provide a first local television broadcast service to Irving or an additional service to Dallas.

DATES: Comments must be filed on or before March 17, 1980, and reply comments must be filed on or before April 7, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 14, 1980.

Released: January 18, 1980.

In the matter of amendment of § 73.606(b), *Table of Assignments,* Television Broadcast Stations. (Irving and Dallas, Texas), BC Docket No. 80–6, RM–3345.

1. The Commission has before it for consideration a petition for rule making [1] filed by CELA, Inc. ("petitioner"), seeking the assignment of UHF television Channel 49 to Irving, Texas, for commercial use. Channel 49 can be assigned to Irving in compliance with the minimum distance separation requirements and other technical criteria. The only response to the proposal was a set of "comments" in support, submitted by the petitioner.

2. Irving (pop. 97,260) is located in Dallas County (pop. 1,327,695).[2] It is situated approximately 12 kilometers (8 miles) west of Dallas and 45 kilometers (28 miles) east of Fort Worth, Texas. Irving has no television assignments, although it receives city-grade service from at least one noncommercial educational and five commercial stations in Dallas and Fort Worth.

3. Petitioner states that although Irving is located in the Dallas-Fort Worth metropolitan area, it is an independent city separated from Dallas and Fort Worth both in its government and its municipal services. Petitioner claims that the proposed television station in Irving would fulfill the community's unmet need for local news, public affairs and entertainment programming.

4. The proposed assignment could provide for the establishment of a first local television service in Irving. We believe it is large enough to warrant its own television channel. However, Irving is very close to the much larger city of Dallas. If the channel is assigned to Irving, the Commission would be precluded from considering its possible use at Dallas. Since the record is incomplete in this regard, we are proposing to assign the channel to Irving and alternatively, are proposing to assign the channel to Dallas, in which case the channel could still be used at Irving under the "15-miles" rule. Accordingly, the Commission proposes to amend § 73.606(b) of the Commission's rules, the Television Table of Assignments, as follows:

City	Channel No. Present	Channel No. Proposed
Dallas, Texas	4+, 8, *13+, 27–, 33+, 39.	4+, 8, *13+, 27–, 33+, 39, 49
Irving, Texas		49

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before March 17, 1980, and reply comments on or before April 7, 1980.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

[1] Public Notice of the petition was given on March 19, 1979, Report No. 13515.

[2] Population figures are taken from the 1970 U.S. Census.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will ge given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-2072 Filed 1-23-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 79–219; RM–3099; RM–3273, FCC–80–4]

Deregulation of Radio; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order extending time for filing comments and reply comments in radio deregulation rulemaking proceedings.

SUMMARY: Action taken herein grants in part, and denies in part, requests for an extension of the comment period in BC Docket 79–219, radio deregulation. One of the requests was filed by the NAACP, the National Latino Media Coalition, the National Council of La Raza, Environmental Action and the Mexican American Legal Defense and Educational Fund. The other request was filed by an individual, Mr. David Dunaway. The new comment and reply comment dates will be March 25, 1980, and June 25, 1980, respectively.

DATES: Comments must be filed on before March 25, 1980 and Reply Comments must be filed on or before June 25, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Roger D. Holberg, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

In the Matter of Deregulation of Radio.

Adopted: January 7, 1980

Released: January 7, 1980

By the Commission: 1. Before the Commission for consideration are two requests for consideration are two requests for extensions of time in which to file comments in the above-captioned proceeding. The first of the two requests is a Motion for Extension of Time, filed by the National Association for the Advancement of Colored People, the National Latino Media Coalition, the National Council of La Raza, Environmental Action, and the Mexican American Legal Defense and Educational Fund ("NAACP"). The other request was filed by David Dunaway.

V 45 / 16 JA 23 80 UMI

2. In its Motion, NAACP requests that the comment period be extended for approximately eight months until September 26, 1980. In support of this request it points out that the *Notice* released in this matter is quite a lengthy document. Furthermore, the *Notice* is said to rely extensively on supporting documents which the Commission only voted to make available to the public on December 19, 1979. Although NAACP recognizes that the Commission has provided a thirty day period in which the public may comment with regard to the new information, regardless of when it becomes available, it asserts that such a period is insufficient. NAACP contends that absent an extension of time, the public will not have a sufficient period of time in which "to conduct thorough, sophisticated analysis of the documents, or the *Inquiry* itself." Motion, page 2. Moreover, NAACP asserts that the 120 days provided for the filing of comments is insufficient even without regard to the soon to be released documentation. It states that more time is needed for the conduct of "exhaustive studies" regarding statements made in the *Notice* relative to the amounts of minority oriented programming available, and to study the program logs of stations throughout the nation to determine the validity of the data the Commission compiled from Georgia and Alabama. Additionally, NAACP asks for an extension of time in which it and other groups can obtain the assistance of professional economists "to design and carry out studies that would help determine whether the Commission's economic assumptions are correct ans whether the Commission's economic theories may be appropriately applied to the radio market." Motion, page 3.

3. David Dunaway requests an indefinite extension of time in which to file comments. He seeks this extension for the reason that he is considering conducting "an independent inquiry into the implications (of radio deregulation) for public broadcasting."

4. In adopting the *Notice of Inquiry and Notice of Proposed Rule Making* in the radio deregulation proceeding we set an extensive period for comments and reply comments. Together, those periods spanned some seven months. However, subsequent to the release of the *Notice*, we have had occasion to revisit the entire subject area of radio deregulation as a result of a "Motion for Rescission of *Notice* and other Procedural Relief" filed by the American Civil Liberties Union and others. On December 19, 1979, we considered that Motion and granted it in part and denied it in order respects. Among the relief granted was a decision to release various materials to the public in connection with BC Docket No. 79-219. Among those materials were a description of the methodology used in preparing some of the Tables appended to the *Notice*, corrections to those Tables, material released pursuant to the Freedom of Information Act, and background material used in preparing the Tables, such as the renewal work sheets and logs utilized. Additionally, we noted in our December 19, 1979, *Order* that we would be releasing new data relative to stations in Michigan and Ohio. We provided 30 days for comment upon the newly released material, regardless of the date of its release. However, in doing so, we anticipated that these materials would all be available to the public within a matter of days subsequent to our adoption of the Order. Due to unforeseen delays, it has not been possible to have all of the data and materials assembled and placed into the record, or be made otherwise available to the public as quickly as we had initially hoped.

5. To avoid any confusion over whether there will be two widely spaced comment dates, one for the new materials and a separate one for comments on all other aspects of the *Notice*, and to provide the public with sufficient time to study the *Notice* and new materials, and to comment thereon, we believe that the public interest would be served by an extension of the date for comments on all aspects of our deregulation proposal to and including March 25, 1980. Additionally, the date for reply comments shall be extended until June 25, 1980.[1]

6. Accordingly, to the extent indicated above, NAACP's Motion for Extension of Time, and David Dunaway's request for an extension of time, are granted, and in all other respects they are denied.

Federal Communications Commission
William J. Tricarico,
Secretary.

[FR Doc. 80-2136 Filed 1-22-80; 8:45 am]
BILLING CODE 6712-01-M

[1] In this regard, we expect the corrected Alabama and Georgia data, the new data pertaining to Michigan and Ohio, and a description of the methodology used in compiling the data to be placed in the docket during the week of January 7, 1980.

Notices

Federal Register
Vol. 45, No. 16
Wednesday, January 23, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Recreation Development and Timber Sale Proposal, Gilbert Bay-Holkham Bay Area, Tongass National Forest, Juneau, Alaska; Intent To Prepare an Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an environmental impact statement for recreation and timber development in Gilbert Bay and Holkham Bay. The project area is located on the mainland of Southeast Alaska, approximately 40 miles south of Juneau within the Chatham Area of the Tongass National Forest.

The Tongass Land Management Plan has been prepared and adopted. One of the managaement decisions in the plan was to develop a timber sale in Gilbert Bay and possible marina/recreation facility in Holkham Bay. In response to this management direction, an environmental assessment was completed in October 1979. On the basis of this assessment, the decision was reached to prepare an environmental impact statement to be filed in draft form by April 1, 1980, and finalized by August 1980.

A reasonable range of alternatives for the proposal will be considered. One of these will be a no action alternative. The other alternatives will consider various degrees of recreation development and different harvesting plans, including log transfer facility and logging camp locations. Each alternative will also analyze the potential recreation impacts and benefits which may accrue to the areas affected by the transportation system.

Issues have been developed as a result of the environmental analysis; however, Federal, State, and local agencies, potential developers, and other individuals or organizations who may be interested in or affected by the decision will be invited to revalidate:

(a) Issues to be addressed,
(b) Issues to be analyzed in depth, and
(c) Elimination of insignificant issues.

To revalidate issues, an informal public meeting will be announced in local papers and held at 7 p.m., Wednesday, January 16, 1980, in Room 202 of the Bill Ray Community Center, Juneau, Alaska.

The following issues were identified during the initial assessment:

(1) Compatibility of timber harvest activities with adjaent proposed Tracy Arm-Fords Terror Wilderness.

(2) Impacts of timber harvesting activities on Sweetheart Flats.

(3) Protection of fish and other marine species habitat in Gilbert Bay.

(4) Compatibility of timber management with recreation/subsistence hunting use in the Gilbert Bay area.

(5) Compatibility of timber management activities with the State Fish hatchery project which is presently under construction at Port Snettisham, approximately 10 miles from the proposed Gilbert Bay timber sale.

(6) Development of possible logging camp, roading access, and log transfer facility at Willams Cove. This area is immediately adjacent to the proposed Gilbert Bay project and was formally withdrawn on December 1, 1978, for consideration as possible addition to the proposed Tracy Arm-Fords Terror Wilderness Area. The withdrawal, under authority of the Federal Land Policy and Management Act of 1976, temporarily prohibits any developmental activities in this withdrawal area for a two-year period, ending December 1, 1980. The Williams Cove area is also designated under the Tongass Land Management Plan for roadless management for the duration of this plan (10 years). This designation excludes: (a) Roads, except for specifically authorized uses; (b) Timber harvesting, except for controlling insect infestations or to protect other resource values.

(7) Compatibility of timber management activities with potential visitor facility development in the Gilbert Bay/Holkham Bay area.

(8) Influence of timber management transportation system proposals on future mining activities in the Gilbert Bay area.

(9) Economic effects stemming from the Independent Timber Sale Program on local communities.

(10) Type and extent of recreational development.

(11) Services to be provided by recreational development, i.e., overnight accommodations, marina, airfield, etc.

(12) Location of recreation developments.

(13) Construction and operation of recreational facilities to be by government or private enterprise.

John Sandor, Regional Forester, Alaska Region, is the responsible official. Questions concerning the proposed action and environmental impact statement should be directed to Don Fisher, the Interdisciplinary Team Leader, in the Sitka Forest Service Office (phone 907-747-6671) or Ken Mitchell, Recreation Resource Management Assistant, in the Juneau Office (phone 907-789-3111). Written comments and suggestions concerning this analysis should be sent to William Gee, Forest Supervisor, Chatham Area, Tongass National Forest, P.O. Box 1980, Sitka, Alaska 99835.

John A. Sandor,
Regional Forester.

[FR Doc. 80-2082 Filed 1-22-80; 8:45 am]
BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Docket No. 35723; Order No. 80-1-96]

Kodiak-Western Alaska Airlines, Inc., Petition To Increase Service Mail Pay; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 15th day of January, 1980.

By petition dated May 31, 1979, Kodiak-Western Alaska Airlines, Inc. (Kodiak) requested the Civil Aeronautics Board to fix the fair and reasonable rate of compensation for the transportation of mail by aircraft at $9.898 per great-circle mail ton-mile. The United States Postal Service by letters dated June 18, 1979, and August 13, 1979, requested and was granted extensions of time to September 28, 1979, in which to file an answer. On September 28, 1979, the Postal Service filed an answer requesting the Board to establish as fair and reasonable the mutually agreed

upon rate of $7.25 per great-circle mail ton-mile to be effective on and after May 31, 1979. Kodiak's existing rate of $5.23 per ton-mile has been in effect since January 11, 1977.[1]

In view of the three-month extension of time granted the Postal Service in which to file an answer, and the present heavy load of service mail rate cases which has temporarily overburdened the Board's staff, we have not been able to set a final rate in this proceeding in an expeditious manner. For these reasons, we will on our own motion, in accordance with Rule 310 of the Board's Procedural Regulations,[2] fix a temporary rate of compensation for the transportation of mail subject to upward or downward adjustment upon our determination of a final rate in this proceeding.

In its answer, the Postal Service states that it has reached agreement with, and has been authorized by, Kodiak to state that the rate of $7.25 per great-circle mail ton-mile is the fair and reasonable rate effective May 31, 1979.

Accordingly, we tentatively find and conclude that the fair and reasonable temporary rate of compensation to be paid in its entirety by the Postmaster General pursuant to the provisions of section 406 of the Federal Aviation Act of 1958, as amended, to Kodiak on and after May 31, 1979, for the transportation of mail by aircraft over its intra-Alaska routes, the facilities used and useful therefor, and the services connected therewith, is $7.25 per great-circle mail ton-mile. The compensation provided herein shall be in lieu of, and not in addition to, the service mail compensation already received by Kodiak for mail transported on and after May 31, 1979, and shall be effective until issuance of an order establishing a final mail rate in this proceeding.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 204(a) and 406, and the Board's Procedural Regulations promulgated in 14 CFR, Part 302,

1. We direct all interested persons, particularly Kodiak-Western Alaska Airlines, Inc., and the Postmaster General, to show cause why the Board should not adopt the foregoing findings and conclusions, and fix, determine and publish the temporary rate specified therein to be effective on and after May 31, 1979.

2. We direct all interested persons having objections to the rate or to the tentative findings and conclusions proposed here to file with the Board a notice of objection within eight (8) days, and a written answer and any supporting documents within 15 days, of the date of service of this order.

3. If no notice is filed, or if after notice, no answer is filed within the designated time, or if an answer timely filed raises no material issue of fact, we shall deem all further procedural steps to be waived and may enter an order incorporating the tentative findings and conclusions set forth here and fixing the temporary rate set forth above.

4. We shall serve this order upon Kodiak-Western Alaska Airlines, Inc. and the Postmaster General.

We will publish this order in the Federal Register.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-2085 Filed 1-23-80; 8:45 am]

BILLING CODE 6320-01-M

[1] See Order 77-3-129, issued March 23, 1977.

[2] 14 CFR 302.310.

[Docket No. 37543; Order No. 80-1-117]

Lake Tahoe-Los Angeles/San Francisco; Show Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (80-1-117) (Lake Tahoe-Los Angeles/San Francisco Show-Cause Proceeding), Docket 37543.

SUMMARY: The Board is proposing to grant Lake Tahoe-Los Angeles/Burbank and Lake Tahoe-San Francisco/San Jose nonstop authority to Aspen (Docket 36973), and any other fit, willing and able applicants, the fitness of which can be established by officially noticeable material. The complete text of this order is available as noted below.

DATES: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by February 21, 1980, a statement of objections together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings shall be served upon all parties listed below.

ADDITIONAL DATA: All existing and further applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) estimates of fuel to be consumed in the first year and statements of fuel availability are directed to do so no later than February 6, 1980.

ADDRESSES: Objections to issuance of a final order should be filed in the Dockets Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 37543, which we have entitled the *Lake Tahoe-Los Angeles/San Francisco Show-Cause Proceeding.*

FOR FURTHER INFORMATION CONTACT: Carol A. Szekely, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5102.

SUPPLEMENTARY INFORMATION: The complete text of Order 80-1-117 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 80-1-117 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Bureau of Domestic Aviation:
January 17, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-2086 Filed 1-22-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 36994; Order No. 80-1-111]

Peoria-Chicago/Kansas City/St. Louis; Subpart Q Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of the *Peoria-Chicago/Kansas City/St. Louis Subpart Q Proceeding,* (Docket 36994) Order 80-1-111.

SUMMARY: The Board is instituting the *Peoria-Chicago/Kansas City/St. Louis Subpart Q Proceeding* and is proposing to grant Peoria-Chicago/Kansas City/St. Louis nonstop authority to Trans World Airlines under the expedited procedures of Subpart Q of its Procedural Regulations. The tentative findings and conclusions will become final if no objections are filed. The complete text of this order is available as noted below.

DATES: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than February 21, 1980, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 36994, which we have entitled the *Peoria-Chicago/Kansas City/St. Louis Subpart Q Proceeding.* They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on Trans World Airlines, the Mayors of Peoria, Chicago, Rockford, Kansas City and St. Louis, the Director of the Illinois Division of Aeronautics, the Director of the Aviation Division of the Missouri Department of Transportation, the Directors of Greater Peoria Airport, Greater Rockford Airport, Lambert-St. Louis International Airport and Kansas City International Airport, the Commissioner of the Chicago Department of Aviation, the Greater Peoria Airport Authority and the Peoria Area Chamber of Commerce.

FOR FURTHER INFORMATION CONTACT: Philip J. Reinke, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W. Washington, D.C. 20428, (202) 673-5105.

SUPPLEMENTARY INFORMATION: The complete text of Order 80-1-111 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order to that address.

By the Bureau of Domestic Aviation:
January 16, 1980

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-2007 Filed 1-22-80; 8:45 am]

BILLING CODE 6320-01-M

COUNCIL ON WAGE AND PRICE STABILITY

Price Advisory Committee; Meeting

Authority of Committee: The Price Advisory Committee was established by the Council on Wage and Price Stability pursuant to Executive Order 12161 (44 FR 56663).

Time and Place of Meeting: The Price Advisory Committee will meet on February 13, 1980, at 10 a.m. in Room 2010 of the New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20506.

Purpose of the Meeting: The purpose of the meeting will be to continue unfinished business from the Committee's first and second meetings, held December 13, 1979, and January 8, 1980. See 44 FR 69408 and 44 FR 76575.

Public Participation: The meeting of the Price Advisory Committee will be open to the public. Public attendance will, however, be limited by available space; persons will be seated on a first-come, first-served basis. Persons attending the meeting will not be permitted to speak or participate in the Committee's deliberations. Interested persons will be permitted to file written statements with the Committee by mail or personal delivery to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street, N.W., Washington, D.C. 20506.

Additional Information: For additional information, please telephone the Office of Public Affairs at (202) 456-6756.

Dated: January 18, 1980.

Sally Katzen,

Advisory Committee Management Officer.

[FR Doc. 80-2116 Filed 1-22-80; 8:45 am]

BILLING CODE 3175-01-M

DEPARTMENT OF DEFENSE

Department of the Army

New Cumberland Army Depot, Pa; Mission Realignment at New Cumberland Army Depot, Fairview Township, Pa.

Notice is hereby given of intent to prepare an Environmental Impact Statement (EIS) concerning the realignment of the ongoing mission of New Cumberland Army Depot, Fairview Township, York County, Pennsylvania. The current mission of New Cumberland Army Depot is to operate a supply depot providing for the receipt, storage, issue, maintenance, and disposal of assigned commodities; provide installation support to attached organizations; and operate other facilities as may be assigned. The proposed action to be addressed in the EIS is the mission realignment of aircraft maintenance from New Cumberland Army Depot to Corpus Christi Army Depot, Texas. Alternatives to the proposed action expected to be considered include consolidation of aircraft maintenance at New Cumberland Army Depot, consolidation of aircraft maintenance at Harrisburg International Airport and the status quo. A public meeting will be held on February 19, 1980 at 7:30 pm, in the Post Theater, BLDG 252, New Cumberland Army Depot to discuss the scope and the significant issues to be analyzed in the EIS. Written comments on this proposed action and on the scope of the EIS should be received by March 1, 1980, in order to be considered in the scoping process. Questions about the proposed action and EIS can be answered by Mr. Robert Jameson, Directorate for Plan and Analysis, US Army Material Development and Readiness Command, 5001 Eisenhower Avenue, Alexandria, VA 22333, (202) 274-8155.

John T. Nash,

Acting Deputy for Environmental, Safety and Occupational Health OASA (IL&FM).

[FR Doc. 80-2073 Filed 1-22-80; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

NAME OF THE COMMITTEE: Army Science Board.

DATES OF MEETING: February 12 and 13, 1980.

PLACE: Room 2E715B, The Pentagon, Washington, D.C., 0830-1130, February 12, 1980 and 0830-1630, February 13, 1980; Army Research Institute, Alexandria, Va., 1230-1630, February 12, 1980.

TIME: 0830 to 1630 hours, February 12 and 13, 1980 (Open).

PROPOSED AGENDA: The ASB Human Issues Study Group will hold discussions and receive briefings to continue its review of current action to improve the integration of manpower and personnel planning and advise the Army on ways and means of improving the quality of human issues research and coupling it to high level Army policy-making.

Specifically, Group III is investigating the types of personnel maps or models which could best support the planning and execution of an integrated human research agenda in the Army. Persons desiring to attend the meeting should contact the Army Science Board (202) 697-9703 prior to 12 February 1980 to arrange entry into the Pentagon. Persons unable to make prior arrangements should call 697-9703 or 695-3039 upon arrival at the Pentagon.

Helen Pipon,

Staff Assistant.

[FR Doc. 80-2078 Filed 1-22-80; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement for Proposed Operation and Maintenance Dredging Newtown Creek, New York, N.Y.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: 1. Description of Proposed Action—Maintenance dredging of the existing Federal channel in Newtown Creek, NY, and its tributaries as follows:

Main Channel to Mussel Island Turning Basin—23 feet.

East Branch, Dutch Kill, Maspeth Creek, English Kills to the Metropolitan Ave Bridge—20 feet.
English Kills to Montrose Avenue Bridge—12 feet.

Disposal of dredged material in the approved dumping ground in the New York Bight in the Atlantic Ocean.

Note.—Disposal would be contingent on receipt of a waiver from EPA for disposal of material not in compliance with criteria established as result of the Marine Protection, Research & Sanctuaries Act of 1972.

2. Reasonable Alternatives—At present there are no reasonable alternatives to the proposed action.

3. Scoping Process.—a. Public Involvement—Two drafts were issued for this project, one in February 1972, the second in May 1976. The statements were circulated but never finalized. As per the 1978 NEPA regulations formal scoping will occur regarding the preparation of this draft. A scoping meeting will be held. Agencies and groups who commented on the previous draft will be notified directly regarding the scoping meeting.

b. Significant Issues Requiring In-depth Analysis—Impacts resulting from disposal of dredge material which have apparently failed bioassay testing.

Search for an alternative to ocean disposal with a reasonable incremental cost.

c. Assignments.—U.S. Environmental Protection Agency—assist regarding bioassay testing and related impacts.

U.S. Department of Commerce—assist in determining impacts on marine life regarding disposal of polluted dredged material.

N.Y. State & N.Y. City—assist in seeking alternative disposal sites.

d. Environmental review and consultation—None.

4. Scoping Meeting will ☐ will not ☐ be held: Date February 14, 1980. Time 10:00 a.m. Location N.Y. District Offices.

5. Estimate date of statement availability October 1980.

Address: Project Manager, Chuck Bruno, Attn: NANOP–N. Tel No. (212) 264–0175. EIS Coordinator, Joseph Debler, Attn: NANEN–E. Tel No. (212) 264–4662. U.S. Army Engineer District, New York, 26 Federal Plaza, New York, N.Y. 10007.

Dated: January 10, 1980.

P. A. Descenza,

Chief, Engineering Division.

[FR Doc. 80-2011 Filed 1-22-80; 8:45 am]

BILLING CODE 3710-06-M

Office of the Secretary of Defense

DOD Advisory Group on Electron Devices, Working Group B; Meeting

Working Group B (Mainly Low Power Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session on February 11–12, 1980, at the Air Force Space and Missile Systems Organization (AFSAMSO) Headquarters, 2400 El Segundo Boulevard East, El Sequndo, California 90245.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The low power device area includes such programs as integrated circuits, charge coupled devices and memories. The review include classified program details throughout.

In accordance with 5 U.S.C. App. 1, 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

H. E. Lofdahl,

Director, Corresondence and Directives, Washington Headquarters Services, Department of Defense.

January 17, 1980.

[FR Doc. 80-2042 Filed 1-22-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Nebraska Public Power District; Application for Presidential Permit PP–71

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Application for Presidential Permit for a 500–kV International Transmission Line: Nebraska Public Power District.

SUMMARY: Nebraska Public Power District has filed an application for a Presidential Permit, PP–71, to construct, connect, operate and maintain a 500 kV international interconnection at the United States-Canadian Boundary.

FOR FURTHER INFORMATION CONTACT: James M. Brown, Jr., System Reliability and Emergency Response Branch, Department of Energy, Room 4110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254–8247. Lise Courtney Howe, Office of General Counsel, Department of Energy, Room 5E–064, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–2900.

SUPPLEMENTARY INFORMATION: On December 21, 1979 the Nebraska Public Power District (NPPD) filed an application with the Economic Regulatory Administration (ERA) for a Presidential Permit, pursuant to Executive Order No. 10485, as amended. NPPD requests authority to construct, connect, operate and maintain a 500-kilovolt interconnection at the United States-Canadian border. In addition, NPPD proposes to construct more than 400 miles of overhead transmission line from Nebraska through South Dakota and North Dakota to interconnect with a similar line owned and operated by the Manitoba Hydro Electric Board.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the System Reliability and Emergency Response Branch, Economic Regulatory Administration, Room 4110, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with §§1.8 or 1.10 of the Rules of Practice and Procedure (18 CFR 1.8, 1.10).

Any such petitions and protests should be filed on or before March 5, 1980. Protests will be considered by ERA in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are available for public inspection and copying at the ERA Docket Room, Room B–110, 2000 M Street, N.W., Washington, D.C., and at the System Reliability and Emergency Response Branch, Room 4110, 2000 M Street, N.W., Washington, D.C.

Dated: January 17, 1980.

Howard F. Perry,

Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 80-2127 Filed 1-22-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-08-NG]

Transcontinental Gas Pipeline Corp.; Receipt of Amended Proposal

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Receipt of Amended Proposal.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy gives notice of receipt of an amendment to the application, as described in the **Federal Register** notice dated April 4, 1979 (44 FR 21697), to authorize the limited term importation of natural gas from Canada into the United States. In that application Transcontinental Gas Pipeline Corporation (Transco) request authorization to import, during a limited term commencing with first deliveries (upon receipt of all appropriate government approvals) and ending October 31, 1981, up to 75,000 Mcf of natural gas per day and 22,000,000 Mcf per year into the United States from Canada by means of existing pipeline facilities owned and operated by Tennessee Gas Pipeline Company (Tennessee), a division of Tenneco Inc., and located at the International Boundary near Niagara Falls, N.Y. The amended proposal identifies Tennessee as the purchaser and importer of one-half of the maximum daily and annual quantities proposed to be imported; extends the primary term to March 31, 1982 with an extension to November 1, 1982 upon mutual agreement; reduces the purchaser's take or pay obligation to 90 percent of the contract quantities; and reflects that the necessary transportation arrangements to deliver Transco's import quantities to its system have been finalized. The amendment and original application are filed with ERA pursuant to Section 3 of the Natural Gas Act and the Secretary of Energy's Delegation Orders Nos. 0204–25 (43 FR 47769, October 17, 1978) and 0204–54 (44 FR 56735, October 2, 1979). The April 4, 1979, **Federal Register** notice invited petitions to intervene. However, since this amendment extends the possible impact of the application, ERA will reopen the docket to accept additional petitions to intervene submitted by parties potentially affected by this amended application.

DATES: Petitions to intervene: To be filed on or before February 7, 1980.

FOR FURTHER INFORMATION CONTACT: Finn K. Neilsen, Director, Import/Export Division, Office of Petroleum Operations, Economic Regulatory Administration, 2000 M St., N.W., Room 4126, Washington, D.C. telephone (202) 254–8202. Mr. Martin S. Kaufman, Deputy Assistant General Counsel for International Trade and Emergency Preparedness, 1000 Independence Avenue, S.W., Forrestal Building, Room 5E064, Washington, D.C. 20585, telephone (202) 254–2900.

SUPPLEMENTARY INFORMATION: Tennessee, the new participant in this application, states that due to a lack of gas supply, it is currently curtailing deliveries to its customers on a system-wide basis. Tennessee also states that the additional gas available to it as a result of the proposed purchase will enhance Tennessee's system gas supply and will aid its efforts to meet its customer's requirements.

Other Information

The ERA invites petitions for intervention in this proceeding. Such petitions are to be filed with the Economic Regulatory Administration, Room 4126, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with the requirements of the rules of practice and procedure (18 CFR 1.8). Such petitions for intervention will be accepted for consideration if filed no later than 4:30 p.m., on February 7, 1980.

Any person wishing to become a party to the proceeding or to participate as a party in any hearing which may be convened herein must file a petition to intervene. Any person desiring to make any protest with reference to the petition and application for temporary certificate should file a protest with the ERA in accordance with the requirements of the rules of practice and procedure (18 CFR 1.10) for petitions to intervene. All protests filed with ERA will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

A formal hearing will not be held unless a motion for such hearing is made by any party or intervener and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required. If such hearing is required, due notice will be given.

Copies of the Transco-Tennessee application and amendment are available for public inspection and copying in Room B–110, 2000 M St., N.W., Washington, D.C. 20461 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on January 17, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-2126 Filed 1-22-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 53146-3804-04-82]

Virginia Electric & Power Co.; Notice and Issuance of Proposed Prohibition Order Pursuant to Sections 301 and 701 of the Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice pursuant to Section 701(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 *et seq.*, of the issuance of the following proposed prohibition order which would prohibit the powerplant named below from burning natural gas or petroleum as its primary energy source.

Proposed Prohibition Order

Pursuant to the authority granted it by Section 301(b) of FUA, ERA issues this proposed prohibition order to the following powerplant owned by Virginia Electric and Power Company, Richmond, Virginia (VEPCO).

ERA No.	Generating station	Powerplant No.	MW	Location
53146-3804-04-82	Possum Point	4	239	Dumfries, Va.

Statement of Basis and Rationale for Proposed Prohibition Order

ERA has issued regulations applicable to existing facilities, 10 CFR Part 504 (Regulations), to implement the prohibitions contained in Section 301(b) of Title III of FUA. Section 504.5 of the Regulations sets forth the basis upon which ERA will propose to prohibit by order the use of natural gas or petroleum as a primary energy source by a powerplant where ERA finds that the powerplant has or previously had the technical capability to use an alternate fuel as a primary energy source.

VEPCO reported to the Federal Energy Regulatory Commission (FPC Form 67), for the year ending December 31, 1978, that Possum Point Powerplant No. 4 burned an average of 5,300 barrels of oil per day (1,936,000 barrels annually). The potential oil

displacement in converting Possum Point Powerplant No. 4 to an alternate fuel (coal), assuming a capacity factor of 70 percent, is 6,740 barrels of oil per day (2,460,000 barrels annually).

Finding of Technical Capability

In accordance with section 301(b) of Title III of FUA, this proposed order is based on a finding by ERA that VEPCO's Possum Point Powerplant No. 4 has or previously had the technical capability to use an alternate fuel (coal) as a primary energy source. This finding is based upon information provided by VEPCO during a meeting at the power station site near Dumfries, Virginia, on January 7, 1980, that the unit is capable of burning coal as an alternate fuel and actually did burn coal from 1962 to 1969. VEPCO also provided ERA with copies of the original design specification for Possum Point Powerplant No. 4, dated November 27, 1961, showing the proposed fuel to be utilized in the unit to be either bituminous coal or oil.

The technical capability finding is made in accordance with the requirements of § 504.5(d) of the Regulations, taking into consideration the ability of the unit, from the point of fuel intake, to physically sustain combustion of coal and maintain heat transfer. This finding also recognizes, in accordance with § 504.5(d), that the Possum Point Powerplant No. 4 is capable of burning coal, notwithstanding the fact that minor adjustments must be made to the unit before it may burn an alternate fuel (coal) as its primary energy source or that additional pollution control equipment may be necessary to meet air quality requirements.

Other Required Findings

Section 301(b) of FUA states that prior to the issuance of a final prohibition order ERA must also find that (1) the powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without (A) substantial modification of the powerplant or (B) substantial reduction in the rated capacity of the powerplant; and (2) it is financially feasible for the powerplant to use coal or another alternate fuel as the primary energy source in such powerplant.

Proposed Prohibition Order Under Title III of FUA

Subject to the other required findings that ERA must make, ERA hereby proposes to prohibit VEPCO's Possum Point Powerplant No. 4 from burning petroleum or natural gas as its primary energy source.

Description of Prohibition Order Proceedings

Pursuant to section 301 of FUA, ERA has promulgated Regulations applicable to the issuance of prohibition orders to existing facilities, a summary of which follows:

(1) ERA has performed its initial information gathering with respect to the question of technical capability to burn alternate fuel (coal) and has informed VEPCO that it is considering issuance of a proposed prohibition order. ERA has also had informal discussions with VEPCO concerning the issuance of the proposed prohibition order.

(2) ERA has made findings that VEPCO's Possum Point Powerplant No. 4 has or previously had the technical capability of using coal as its primary energy source. ERA is publishing this finding and proposed prohibition order in the **Federal Register** as required by section 701(b) of FUA. In accordance with section 301(b) of FUA, the proposed prohibition order is not required to contain, at this point in the proceedings, the other pertinent findings that ERA must make before a final prohibition order can be issued. These are (1) that the powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without (A) substantial physical modification of the powerplant, or (B) substantial reduction in the rated capacity of the powerplant; and (2) that it is financially feasible for VEPCO to use coal or another alternate fuel as a primary energy source in such powerplant.

(3) In accordance with § 501.51(b)(3) of the Regulations, a public comment period of at least three months is to commence after publicaton of the proposed prohibition order, during which period VEPCO will be given an opportunity to challenge ERA's initial finding of technical capability contained in this proposed prohibition order. During this three month comment period, under § 501.51(b)(3) of the Regulations, VEPCO is required to furnish ERA with such additional evidence as is necessary to enable ERA to make the other statutory findings set forth above, which are required to be made by ERA prior to issuance of the final prohibition order. VEPCO will also be required, during this period, to identify but not to demonstrate its entitlement to, any exemptions for which the Possum Point Powerplant No. 4 may qualify.

(4) Subsequent to the end of this initial three month comment period, ERA will issue a notice of whether ERA intends to proceed with the prohibition order proceedings. Within three months of the issuance of the notice of intention to proceed with the prohibition order, the owner or operator of the powerplant that may be subject to the order may demonstrate prior to issuance of the final prohibition order that the powerplant would qualify for exemption if the prohibition had been established by rule.

(5) Subsequent to the end of the second three month period, ERA will, if it intends to issue the final prohibition order, prepare and publish a notice of availability of the tentative staff decision.

(6) Under the provisions of Section 701(d) of FUA, any interested person may request a public hearing on the proposed prohibition order. Under the Regulations, interested persons wishing a hearing must make their request in writing no later than 45 days after publication of the notice of availability of the tentative staff decision. If a hearing is requested, ERA shall provide interested persons with an opportunity to present oral data, views and arguments held in accordance with Subpart C of 10 CFR Part 501.

(7) At the hearing, if any, interested persons will have the opportunity to question the parties about ERA's proposed order and tentative staff decision, VEPCO's showing on any exemptions and rebuttal of ERA's proposed order, and ERA's rebuttal to any showing of potential qualification for an exemption.

(8) After the hearing, if any, and the second three-month comment period, ERA shall determine whether the final prohibition order will be issued, based upon ERA's review of the entire administrative record. Copies of the final prohibition order, if issued, together with a summary of the basis therefor, will be published in the **Federal Register**. A final prohibition order shall not take effect earlier than sixty days after publication.

Comment and Public Hearing Procedures

ERA hereby also gives notice of the opportunity to submit written comments, views, and arguments by interested persons regarding this proposed prohibition order. Comments need not be limited to ERA's technical capability finding, but may include a discussion of all three statutory findings.

The initial comment period shall remain open for a period of three months after publication of this proposed order in the **Federal Register**, unless reduced at the request of the recipient of the proposed prohibition order pursuant to 10 CFR Part 501.51(b)(8). Notice of any such change during the time for public comment will be published in the **Federal Register**. Comments should make reference to the docket number set forth in this notice and proposed order. Comments should address the adequacy and validity of the findings and any other aspects or impacts of the proposed prohibition order believed to be relevant.

Written comments on the proposed prohibition order should be directed to Public Hearing Management (Case No. 53146–3804–04–82), U.S. Department of Energy, Box 4629, Room 3214, 2000 M Street, NW., Washington, D.C. 20461, and should be received before 4:30 p.m. on April 22, 1980.

In accordance with 10 CFR 501.34, any interested person may request a public hearing on the proposed order. The request must include a description of the person's interest in the proposed prohibition order, an outline of the anticipated content of the presentation to be made at the public hearing, and an address and telephone number where the person requesting the public hearing may be reached.

Comments and other documents submitted to DOE, Public Hearing Management should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the Possum Point Powerplant No. 4." Fifteen copies should be submitted. All written comments, all oral presentations, and all other relevant information submitted to or available to ERA will be considered by ERA. Any information or data considered to be confidential by the person furnishing it must be so identified in writing in accordance with 10 CFR 303.9(f). ERA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

For further information contact: William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B–110, Washington, D.C. 20461, (202) 634–2170. Robert L. Davies (Fuels Conversion-Program Office), Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 3128L, Washington, D.C. 20461, (202) 634–6557. James Renjilian (Office of General Counsel), Department of Energy, 1000 Independence Avenue SW., Room 6G–087, Washington, D.C. 20585, (202) 252–2967.

Issued in Washington, D.C., January 17, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-2128 Filed 1-22-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[No. 133]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

January 11, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Kansas Corporation Commission

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-09216/K-79-0264
2. 15-025-00000-0000
3. 108 000 000
4. John P Booth & Associates
5. McMinimy No 1
6. Sitka (Morrow) Field
7. Clark KS
8. 3.5 million cubic feet
9. December 11, 1979
10. Northern Natural Gas Company

1. 80-09217/K-79-0265
2. 15-025-00000-0000
3. 108 000 000
4. John P Booth & Associates
5. Bick No 1
6. Sitka (Morrow) Field
7. Clark KS
8. 2.3 million cubic feet
9. December 11, 1979
10. Northern Natural Gas Company

1. 80-09218/K-79-0266
2. 15-025-00000-0000
3. 108 000 000
4. John P Booth & Associates
5. Swayze No 1
6. Sitka (Morrow) Field
7. Clark KS
8. .8 million cubic feet
9. December 11, 1979
10. Northern Natural Gas Company

1. 80-09219/K-79-0419
2. 15-151-00000-0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Armitstead B No 1
6. Brandt
7. Pratt KS
8. 109.5 million cubic feet
9. December 11, 1979

West Virginia Department of Mines

Oil and Gas Division

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-09158
2. 47-041-22169-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-98 F-64672 LEW-2169
6. Hackers Creek
7. Lewis WV
8. 78.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

1. 80-09159
2. 47-097-21682-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-37 F-62529 UPS-1682
6. Union
7. Upshur WV
8. 123.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

1. 80-09163
2. 47-013-02324-0000
3. 108 000 000
4. Francis E Cain
5. B B Ferrell No 2
6. Sheridan
7. Calhoun WV
8. 3.0 million cubic feet
9. December 11, 1979
10. Cabot Corporation

1. 80-09164
2. 47-013-02947-0000
3. 108 000 000
4. Francis E Cain
5. J M Bennett No 5
6. Center
7. Calhoun WV
8. 8.2 million cubic feet
9. December 11, 1979
10. Cabot Corporation

1. 80-09165
2. 47-013-02911-0000
3. 108 000 000
4. Francis E Cain
5. Lewis Ball No 4
6. Sherman
7. Calhoun WV
8. 4.4 million cubic feet
9. December 11, 1979
10. Cabot Corporation

1. 80-09166
2. 47-013-02446-0000
3. 108 000 000
4. Francis E Cain
5. John Ball Gas No 1
6. Sherman
7. Calhoun WV

V45/16 JA23 80 UMI

8. 7.1 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

1. 80-09167
2. 47-013-02827-0000
3. 103 000 000
4. Minuteman Drilling Fund Ltd
5. Louis Bennett No I-598
6. Orma
7. Calhoun WV
8. 40.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

1. 80-09168
2. 47-013-21001-0000
3. 108 000 000
4. Coy Robinson Oil & Gas Co
5. Coy Robinson No 4
6. Sherman District
7. Calhoun WV
8. 1.2 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

1. 80-09169
2. 47-013-28490-0000
3. 108 000 000
4. Coy Robinson Oil & Gas Co
5. Coy Robinson No 2
6. Sherman District
7. Calhoun WV
8. 1.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

1. 80-09170
2. 47-013-02909-0000
3. 108 000 000
4. Francis E Cain
5. Lewis Ball No 1
6. Sherman
7. Calhoun WV
8. 4.5 million cubic feet
9. December 11, 1979
10. Cabot Corporation

1. 80-09171
2. 47-013-02370-0000
3. 108 000 000
4. Francis E Cain
5. J M Bennett No 6
6. Sheridan
7. Calhoun WV
8. 5.8 million cubic feet
9. December 11, 1979
10. Cabot Corporation

1. 80-09172
2. 47-013-02357-0000
3. 108 000 000
4. Francis E Cain
5. B B Ferrell Gas No 4
6. Sheridan
7. Calhoun WV
8. 5.3 million cubic feet
9. December 11, 1979
10. Cabot Corporation

1. 80-09173
2. 47-013-02349-0000
3. 108 000 000
4. Francis E Cain
5. B B Ferrell Gas No 3
6. Sheridan
7. Calhoun WV
8. .3 million cubic feet
9. December 11, 1979
10. Cabot Corporation

1. 80-09174
2. 47-021-22397-0000
3. 108 000 000
4. Dennis D Blauser
5. L Bennett No 1
6. Dekalb
7. Gilmer WV
8. 3.0 million cubic feet
9. December 11, 1979
10. Equitable Gas Company

1. 80-09175
2. 47-039-02063-0000
3. 108 000 000
4. Paul Lemasters
5. George Creek Land & Mining Co
6. Malden
7. Kanawha WV
8. 5.8 million cubic feet
9. December 11, 1979
10. Columbia Gas Transmission Corp

1. 80-09176
2. 47-039-02025-0000
3. 108 000 000
4. Paul Lemasters
5. E C Harmon
6. Malden
7. Kanawha WV
8. 1.4 million cubic feet
9. December 11, 1979
10. Columbia Gas Transmission Corp

1. 80-09177
2. 47-015-00730-0000
3. 108 000 000
4. Paul Lemasters
5. E R Reed and Others
6. Henry
7. Clay WV
8. 4.7 million cubic feet
9. December 11, 1979
10. Columbia Gas Transmission Corp

1. 80-09178
2. 47-021-02882-0000
3. 108 000 000
4. Trio Petroleum Corp
5. Griffith No 1
6. Glenville North
7. Gilmer WV
8. 7.3 million cubic feet
9. December 11, 1979
10. Equitable Gas Company

1. 80-09179
2. 47-015-00729-0000
3. 108 000 000
4. Paul Lemasters
5. Kelles Nichols & Heirs
6. Henry
7. Clay WV
8. 2.7 million cubic feet
9. December 11, 1979
10. Columbia Gas Transmission Corp

1. 80-09180
2. 47-015-00715-0000
3. 108 000 000
4. Paul LeMasters
5. W S D Pierson
6. Henry
7. Clay WV
8. 8.3 million cubic feet
9. December 11, 1979
10. Columbia Gas Transmission Corp

1. 80-09181
2. 47-095-20302-0000
3. 108 000 000
4. McCombe-Conrad & Barrett
5. Eva Ice No 1
6. Lincoln District
7. Tyler WV
8. 1.5 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

1. 80-09182
2. 47-021-22311-0000
3. 108 000 000
4. Dennis D Blauser
5. P W Bartlett #18
6. Dekalb
7. Gilmer WV
8. 6.0 million cubic feet
9. December 11, 1979
10. Equitable Gas Company

1. 80-09183
2. 47-085-02471-0000
3. 108 000 000
4. H & C Oil & Gas Company
5. O K Gainer #1
6. Holbrook
7. Ritchie WV
8. .0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Corp

1. 806-09184
2. 47-001-00840-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-58 F-62863 Bar-840
6. Philippi
7. Barbour WV
8. 43.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

1. 80-09185
2. 47-001-00843-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-71 F-62905 Bar-843
6. Union
7. Barbour WV
8. 22.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

1. 80-09186
2. 47-001-00844-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-58A F-62996 Bar-844
6. Union
7. Barbour WV
8. .1 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

1. 80-09187
2. 47-001-00846-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-54 F-63034 Bar-846
6. Elk
7. Barbour WV
8. .4 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

1. 80-09188
2. 47-001-01255-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-75 F-63092 Bar-850
6. Philippi
7. Barbour WV
8. .2 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

1. 80-09189

2. 47-001-00851-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-59 F-63093 Bar-851
6. Elk
7. Barbour WV
8. 5.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

1. 80-09190
2. 47-013-20893-0000
3. 108 000 000
4. French Poling Oil & Gas Co
5. French Poling No 1
6. Sherman District
7. Calhoun WV
8. 2.1 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

1. 80-09191
2. 47-013-21772-0000
3. 108 000 000
4. French Poling Oil & Gas Co
5. French Poling No 2
6. Sherman District
7. Calhoun WV
8. 1.9 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

1. 80-09192
2. 47-013-22158-0000
3. 108 000 000
4. French Poling Oil & Gas Co
5. French Poling No 3
6. Sherman District
7. Calhoun WV
8. 2.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas

1. 80-09193
2. 47-043-21458-0000
3. 108 000 000
4. Lasco Production Co
5. Fire Well #14
6. Laurell Hill
7. Lincoln WV
8. .0 million cubic feet
9. December 11, 1979
10. Columbia Gas Co

1. 80-09220
2. 47-097-21732-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-69 F-63150 UPS-1732
6. Warren
7. Upshur WV
8. 7.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

1. 80-09221
2. 47-097-21739-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-66A F-63180 UPS-1739
6. Banks
7. Upshur WV
8. 15.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

1. 80-09222
2. 47-097-21743-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-91 F-63245 UPS-1743
6. Union
7. Upshur WV
8. 41.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

1. 80-09223
2. 47-097-21774-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-79 F-63948 UPS-1774
6. Union
7. Upshur WV
8. 34.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

1. 80-09224
2. 47-021-02802-0000
3. 108 000 000
4. Trio Petroleum Corp
5. Henderson No 1
6. Glenville North
7. Gilmer WV
8. 13.1 million cubic feet
9. December 11, 1979
10. Equitable Gas Company

1. 80-09225
2. 47-015-00294-0000
3. 108 000 000
4. Paul LeMasters
5. Newton Nichols & Heirs
6. Henry
7. Clay WV
8. 1.0 million cubic feet
9. December 11, 1979
10. Columbia Gas Transmission Corporation

1. 80-09226
2. 47-015-00685-0000
3. 1000 000 000
4. Paul LeMasters
5. W S D Pierson
6. Henry
7. Clay WV
8. 19.3 million cubic feet
9. December 11, 1979
10. Columbia Gas Transmission Corporation

1. 80-09227
2. 47-015-00632-0000
3. 108 000 000
4. Paul LeMasters
5. Kelles N Nichols et al
6. Henry
7. Clay WV
8. 6.0 million cubic feet
9. December 11, 1979
10. Columbia Gas Transmission Corporation

1. 80-09228
2. 47-015-00655-0000
3. 108 000 000
4. Paul LeMasters
5. Newton Nichols Heirs
6. Henry
7. Clay WV
8. 2.2 million cubic feet
9. December 11, 1979
10. Columbia Gas Transmission Corporation

1. 80-09229
2. 47-013-20603-0000
3. 108 000 000
4. Coy Robinson Oil & Gas Co
5. Coy Robinson No 1
6. Sherman District
7. Calhoun WV
8. 2.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

1. 80-09230
2. 47-095-20488-0000
3. 108 000 000
4. Denholm Corp DBA Grimes #1 LTD
5. Earl Grimes No 1
6. Lincoln District
7. Tyler WV
8. 12.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

1. 80-09231
2. 47-021-01484-0000
3. 108 000 000
4. Trio Petroleum Corp
5. Ball No 1
6. Glenville North
7. Gilmer WV
8. .3 million cubic feet
9. December 11, 1979
10. Equitable Gas Company

1. 80-09232
2. 47-021-01461-0000
3. 108 000 000
4. Trio Petroleum Corp
5. Ball A No 1
6. Glenville North
7. Gilmer WV
8. .7 million cubic feet
9. December 11, 1979
10. Equitable Gas Company

1. 80-09233
2. 47-021-02786-0000
3. 108 000 000
4. Trio Petroleum Corp
5. Greenlief B No 1
6. Revel
7. Gilmer WV
8. 1.2 million cubic feet
9. December 11, 1979
10. Equitable Gas Company

1. 80-09234
2. 47-021-01904-0000
3. 108 000 000
4. Trio Petroleum Corp
5. Moss No 1
6. Glenville South
7. Gilmer WV
8. 1.89 million cubic feet
9. December 11, 1979
10. Equitable Gas Company

1. 80-09235
2. 47-021-01174-0000
3. 108 000 000
4. C G & R Oil & Gas Co
5. A H Cooper #1
6. A H Cooper
7. Gilmer WV
8. 3.1 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

1. 80-09236
2. 47-021-03015-0000
3. 103 000 000
4. Minuteman Drilling Fund Ltd
5. Sandy No 1
6. Glenville North
7. Gilmer WV
8. 20.0 million cubic feet
9. December 11, 1979
10. Equitable Gas Company

1. 80-09237
2. 47-007-01127-0000
3. 108 000 000
4. Trio Petroleum Corp
5. Trio-Okey No 1
6. Heaters

V45/16 JA23 80 UMI

7. Braxton WV
8. 12.5 million cubic feet
9. December 11, 1979
10. Equitable Gas Company
1. 80-09235
2. 47-021-03019-0000
3. 103 000 000
4. Minuteman Drilling Fund Ltd
5. Sandy No 2
6. Glenville South
7. Gilmer WV
8. 20.0 million cubic feet
9. December 11, 1979
10. Equitable Gas Company
1. 80-09239
2. 47-015-00617-0000
3. 108 000 000
4. Paul Lemasters
5. Newton Nichols Heirs
6. Henry
7. Clay WV
8. 7.0 million cubic feet
9. December 11, 1979
10. Columbia Gas Transmission Corporation
1. 80-09240
2. 47-015-00590-0000
3. 108 000 000
4. Paul Lemasters
5. E R and Vera G Reed
6. Henry
7. Clay WV
8. 5.9 million cubic feet
9. December 11, 1979
10. Columbia Gas Transmission Corporation
1. 80-09241
2. 47-015-00582-0000
3. 108 000 000
4. Paul Lemasters
5. Nona Francis Ca
6. Henry
7. Clay WV
8. 3.6 million cubic feet
9. December 11, 1979
10. Columbia Gas Transmission Inc
1. 80-09242
2. 47-015-00552-0000
3. 108 000 000
4. Paul Lemasters
5. Kelles N Nichols
6. Henry
7. Clay WV
8. 5.3 million cubic feet
9. December 11, 1979
10. Columbia Gas Transmission Corporation
1. 80-09243
2. 47-013-20855-0000
3. 108 000 000
4. V B Boone Oil & Gas Co
5. V B Boone #1
6. Sherman District
7. Calhoun WV
8. 5.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas
1. 80-09244
2. 47-043-21270-0000
3. 108 000 000
4. Lane Oil & Gas Co
5. Lane Well
6. Harts Creek
7. Lincoln Co WV
8. 8.2 million cubic feet
9. December 11, 1979
10. Columbia Gas Co
1. 80-09245
2. 47-013-21088-0000
3. 108 000 000
4. Sycamore Oil & Gas Co
5. Sycamore Oil & Gas Co No 2
6. Sherman District
7. Calhoun WV
8. 1.9 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80-09246
2. 47-013-21263-0000
3. 108 000 000
4. Corel Poling
5. Hoffman-Sinnet No 1
6. Lee District
7. Calhoun WV
8. .0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80-09247
2. 47-021-02728-0000
3. 108 000 000
4. Argl
5. Paul Cox #1
6.
7. Gilmer WV
8. 3.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80-09248
2. 47-041-02102-0000
3. 108 000 000
4. Lo Par Enterprises
5. R J Messenger #1
6. Freeman Creek
7. Lewis WV
8. 15.5 million cubic feet
9. December 11, 1979
10. Carnegie Natural Gas Co
1. 80-09249
2. 47-041-02128-0000
3. 108 000 000
4. Lo Par Enterprises
5. Garrett Well #1
6. Freemans Creek
7. Lewis WV
8. 13.5 million cubic feet
9. December 11, 1979
10. Carnegie Natural Gas Co
1. 80-09250
2. 47-041-00558-0000
3. 108 000 000
4. A A Pursley
5. Doyle Butcher #2
6. G Lick (Freemans Creek District)
7. Lewis WV
8. .8 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80-09251
2. 47-039-02035-0000
3. 108 000 000
4. C C Dodd
5. Clemoth R Carnes #1
6.
7. Kanawha WV
8. 10.4 million cubic feet
9. December 11, 1979
10. Columbia Gas Transmission Corp
1. 80-09280
2. 47-097-21775-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-97 F-63949 UPS-1775
6. Warren
7. Upshur WV
8. 22.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80-09281
2. 47-097-21789-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-151 F-64365 UPS-1789
6. Warren
7. Upshur WV
8. 10.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80-09282
2. 47-097-21800-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-129 F-64633 UPS-1800
6. Warren
7. Upshur WV
8. 22.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80-09283
2. 47-097-21813-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-109 UPS-1813
6. Union
7. Upshur WV
8. 20.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80-09284
2. 47-033-21187-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-92 F-64395 HAR-1187
6. Union
7. Harrison WV
8. .0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80-09285
2. 47-041-22103-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-63A F-63076 LEW-2103
6. Skin Creek
7. Lewis WV
8. 39.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80-09286
2. 47-041-22104-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-65A F-63077 LEW-2104
6. Skin Creek
7. Lewis WV
8. 10.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80-09287
2. 47-041-22107-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-62A F-63195 LEW-2107
6. Skin Cheek
7. Lewis WV
8. 2.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80-09288

2. 47-041-22124-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-99 F-63400 LEW-2124
6. Hackers Creek
7. Lewis WV
8. 63.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80-09289
2. 47-041-22154-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-110 LEW-2154
6. Freemans Creek
7. Lewis WV
8. 92.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp
1. 80-09290
2. 47-041-02158-0000
3. 103 000 000
4. J & J Enterprises Inc
5. B-96 F-63310 LEW-2110
6. Hackers Creek
7. Lewis WV
8. 89.0 million cubic feet
9. December 11, 1979
10. Consolidated Gas Supply Corp

United States Geological Survey

Metairie, Louisiana

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-09162/G9-832
2. 17-703-40189-0000-0
3. 102 000 000
4. Shell Oil Company
5. JB-2
6. East Cameron
7. 56
8. .0 million cubic feet
9. December 10, 1979
10. Transcontinental Gas Pipe Line Comp
1. 80-09194/G9-913
2. 17-713-40041-00S1-0
3. 102 000 000
4. Mesa Petroleum Co
5. South Pelto Blk 8 B-1
6. South Pelto
7. 8
8. 365.0 million cubic feet
9. December 11, 1979
10. Columbia Gas Transmission Corp, Northern Natural Gas Co, Transcontinental Gas Pipeline Co, Michigan-Wisconsin Pipeline Co
1. 80-09195/G9-911
2. 17-713-40056-00D2-0
3. 102 000 000
4. Mesa Petroleum Co
5. South Pelto Blk 8 B-3D
6. South Pelto
7. 8
8. 550.0 million cubic feet
9. December 11, 1979
10. Columbia Gas Transmission Corp, Northern Natural Gas Co, Transcontinental Gas Pipeline Co, Michigan-Wisconsin Pipeline Co
1. 80-09197/G9-845
2. 17-725-40162-0000-0
3. 102 000 000
4. Chevron USA Inc
5. OCS-G-1629 C-2
6. Main Pass
7. 122
8. 37.2 million cubic feet
9. December 11, 1979
10. Southern Natural Gas Company
1. 80-09198/G9-863
2. 17-708-40277-0001-0
3. 102 000 000
4. Shell Oil Company
5. A-39
6. South Marsh Island
7. 130
8. .0 million cubic feet
9. December 11, 1979
10. Transcontinental Gas Pipeline Co
1. 80-09199/G9-564
2. 17-704-40419-01S1-0
3. 102 000 000
4. Tenneco Oil Company
5. F-6
6. East Cameron
7. 255
8. 350.0 million cubic feet
9. December 11, 1979
10. Tennessee Gas Pipeline Company
1. 80-09200/G9-712
2. 17-707-40246-00S1-0
3. 102 000 000
4. Placid Oil Company
5. E-2
6. South Marsh Island
7. 281
8. 427.1 million cubic feet
9. December 11, 1979
10. Trunkline Gas Company
1. 80-09201/G9-708
2. 17-707-40177-00D2-0
3. 102 000 000
4. Placid Oil Company
5. C-8D
6. South Marsh Island
7. 281
8. 54.2 million cubic feet
9. December 11, 1979
10. Trunkline Gas Company
1. 80-09202/G9-931
2. 17-702-40451-0000-0
3. 102 000 000
4. Getty Oil Company
5. West Cameron 487 A-4
6. West Cameron
7. 487
8. 3000.0 million cubic feet
9. December 11, 1979
10. United Gas Pipeline Company, Michigan-Wisconsin Pipeline Co
1. 80-09203/G9-934
2. 17-702-40482-0000-0
3. 102 000 000
4. Getty Oil Company
5. West Cameron 487 A-7
6. West Cameron
7. 487
8. 3000.0 million cubic feet
9. December 11, 1979
10. United Gas Pipeline Company, Michigan-Wisconsin Pipeline Co
1. 80-09204/G9-937
2. 17-702-40413-0000-0
3. 102 000 000
4. Getty Oil Company
5. West Cameron 487 A-9
6. West Cameron
7. 487
8. 3000.0 million cubic feet
9. December 11, 1979
10. United Gas Pipeline Company, Michigan-Wisconsin Pipeline Co
1. 80-09205/G9-567
2. 17-713-40015-01S1-0
3. 102 000 000
4. Mesa Petroleum Co
5. South Pelto Blk 13 A-2
6. South Pelto
7. 13
8. 180.0 million cubic feet
9. December 11, 1979
10. Transco Gas Supply Company, Northern Natural Gas Co, Michigan-Wisconsin Pipeline Co, Columbia Gas Transmission Co
1. 80-09206/G9-714
2. 17-707-40185-00D1-0
3. 102 000 000
4. Placid Oil Company
5. E-1
6. South Marsh Island
7. 281
8. 197.1 million cubic feet
9. December 11, 1979
10. Trunkline Gas Company
1. 80-09207/G9-881
2. 17-701-40055-0000-0
3. 102 000 000
4. Getty Oil Company
5. OCS G-3280 NMo A-4
6. West Cameron
7. 405
8. 1400.0 million cubic feet
9. December 11, 1979
10. Transco Gas Supply Company, Northern Natural Gas Co
1. 80-09208/G9-880
2. 17-701-40062-0000-0
3. 102 000 000
4. Getty Oil Company
5. OCS G-3280 No A-6D
6. West Cameron
7. 405
8. 1400.0 million cubic feet
9. December 11, 1979
10. Transco Gas Supply Company, Northern Natural Gas Co
1. 80-09209/G9-906
2. 17-708-40378-0000-0
3. 102 000 000
4. Shell Oil Company
5. A-11
6. South Marsh Island
7. 132
8. 5800.0 million cubic feet
9. December 11, 1979
10. Transcontinental Gas Pipeline Co
1. 80-09210/G9-878
2. 17-701-40060-0000-0
3. 102 000 000
4. Getty Oil Company
5. OCS G-3280 No A-5
6. West Cameron
7. 405

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8. 1400.0 million cubic feet
9. December 11, 1979
10. Transco Gas Supply Company, Northern Natural Gas Co
1. 80–09211/G9–898
2. 17–723–40050–0300–0
3. 102 000 000
4. Shell Oil Company
5. C–46
6. South Pass
7. 61
8. 82.0 million cubic feet
9. December 11, 1979
10. Southern Natural Gas
1. 80–09212/G9–899
2. 17–708–40162–0000–0
3. 102 000 000
4. Shell Oil Company
5. C–13
6. South Marsh Island 130
7.
8. 200.0 million cubic feet
9. December 11, 1979
10. Transcontinental Gas Pipeline Co
1. 80–09213/G9–900
2. 17–708–40180–0000–0
3. 102 000 000
4. Shell Oil Company
5. A–26
6. South Marsh Island
7. 130
8. 89.0 million cubic feet
9. December 11, 1979
10. Transcontinental Gas Pipeline Co
1. 80–09214/G9–905
2. 17–708–40365–0000–0
3. 102 000 000
4. Shell Oil Company
5. A–10
6. South Marsh Island
7. 132
8. 70.0 million cubic feet
9. December 11, 1979
10. Transcontinental Gas Pipeline Co
1. 80–09215/G9–904
2. 17–708–40315–0000–0
3. 102 000 000
4. Shell Oil Company
5. A–5
6. South Marsh Island
7. 132
8. .0 million cubic feet
9. December 11, 1979
10. Transcontinental Gas Pipeline Co
1. 80–09252/G9–569
2. 17–713–40019–00D2–0
3. 102 000 000
4. Mesa Petroleum Co
5. South Pelto Blk 13 A–3–D
6. South Pelto
7. 13
8. 1825.0 million cubic feet
9. December 11, 1979
10. Transco Gas Supply Company, Northern Natural Gas Company, Michigan-Wisconsin Pipeline Co, Columbia Gas Transmission Corp
1. 80–09253/G9–570
2. 17–713–40026–01S1–0
3. 102 000 000
4. Mesa Petroleum Co
5. South Pelto Blk 13 A–6
6. South Pelto
7. 13
8. 180.0 million cubic feet
9. December 11, 1979
10. Transco Gas Supply Company; Northern Natural Gas Company; Michigan Wisconsin Pipe Line Co; Columbia Gas Transmission Corp
1. 80–09254/G9–821
2. 17–719–40104–00D2–0
3. 102 000 000
4. Mesa Petroleum Co
5. West Delta Blk 61 A–1D
6. West Delta
7. 61
8. 1825.0 million cubic feet
9. December 11, 1979
10. Tennessee Gas Pipeline Company
1. 80–09255/G9–822
2. 17–719–40112–00S1–0
3. 102 000 000
4. Mesa Petroleum Co
5. West Delta Blk 61 A–2
6. West Delta
7. 61
8. 1800.0 million cubic feet
9. December 11, 1979
10. Tennessee Gas Pipeline Company
1. 80–09256/G9–820
2. 17–719–40104–00D1–0
3. 102 000 000
4. Mesa Petroleum Co
5. West Delta Blk 61 A–1
6. West Delta
7. 61
8. 350.0 million cubic feet
9. December 11, 1979
10. Tennessee Gas Pipeline Company
1. 80–09257/G9–698
2. 17–707–40224–00D2–0
3. 102 000 000
4. Placid Oil Company
5. C–11D
6. South Marsh Island
7. 281
8. 157.7 million cubic feet
9. December 11, 1979
10. Trunkline Gas Company
1. 80–09258/G9–697
2. 17–707–40241–00D1–0
3. 102 000 000
4. Placid Oil Company
5. C–12
6. South Marsh Island
7. 281
8. 116.9 million cubic feet
9. December 11, 1979
10. Truckline Gas Company
1. 80–09259/G9–703
2. 17–707–40266–00S1–0
3. 102 000 000
4. Placid Oil Company
5. D–8
6. South Marsh Island
7. 281
8. 164.3 million cubic feet
9. December 11, 1979
10. Trunkline Gas Company
1. 80–09260/G9–702
2. 17–707–40271–00S1–0
3. 102 000 000
4. Placid Oil Company
5. D–9
6. South Marsh Island
7. 281
8. 77.9 million cubic feet
9. December 11, 1979
10. Trunkline Gas Company
1. 80–09261/G9–704
2. 17–707–40298–00S1–0
3. 102 000 000
4. Placid Oil Company
5. C–16
6. South Marsh Island
7. 281
8. 821.3 million cubic feet
9. December 11, 1979
10. Trunkline Gas Company
1. 80–09262/G9–778
2. 17–710–40752–0000–0
3. 102 000 000
4. Chevron USA Inc
5. OCS–G–2108 #B–9
6. Eugene Island
7. 305
8. 148.0 million cubic feet
9. December 11, 1979
10. Natural Gas Pipeline Co of America
1. 80–09263/G9–713
2. 17–707–40185–00D2–0
3. 102 000 000
4. Placid Oil Company
5. E–10
6. South Marsh Island
7. 281
8. 394.2 million cubic feet
9. December 11, 1979
10. Trunkline Gas Company
1. 80–09264/G9–707
2. 17–707–40224–00D1–0
3. 102 000 000
4. Placid Oil Company
5. C–11
6. South Marsh Island
7. 281
8. 164.3 million cubic feet
9. December 11, 1979
10. Trunkline Gas Company
1. 80–09265/G9–919
2. 17–722–40025–0000–0
3. 102 000 000
4. Chevron USA Inc
5. OCS–G–2184 #A–2
6. South Pass
7. 78
8. 418.0 million cubic feet
9. December 11, 1979
10.
1. 80–09266/G9–903
2. 17–708–40260–0000–0
3. 102 000 000
4. Shell Oil Company
5. A–36
6. South Marsh Island
7. 130
8. 46.0 million cubic feet
9. December 11, 1979
10. Transcontinental Gas Pipeline Company
1. 80–09267/G9–836
2. 17–709–40372–00S1–0
3. 102 000 000
4. Exxon Corporation
5. OCS–G 3331 No A–3
6. Eugene Island
7. Parish, LA
8. 7000.0 million cubic feet
9. December 11, 1979
10. Columbia Gas Trans Corp
1. 80–09268/G9–820
2. 17–725–40166–0000–0
3. 102 000 000
4. Chevron USA Inc
5. OCS–G–3197 #4
6. Main Pass
7. 120
8. 730.0 million cubic feet
9. December 11, 1979
10. Southern Natural Gas Co
1. 80–09269/G9–709
2. 17–707–40177–00S1–0
3. 102 000 000
4. Placid Oil Company
5. C–8
6. South Marsh Island
7. 281
8. 238.2 million cubic feet
9. December 11, 1979
10. Trunkline Gas Company
1. 80–09270/G9–711
2. 17–707–40285–00S1–0
3. 102 000 000
4. Placid Oil Company
5. E–4
6. South Marsh Island
7. 281
8. 394.2 million cubic feet
9. December 11, 1979
10. Trunkline Gas Company
1. 80–09271/G9–701
2. 17–707–40275–00D1–0
3. 102 000 000
4. Placid Oil Company
5. D–10
6. South Marsh Island
7. 281
8. 82.4 million cubic feet
9. December 11, 1979
10. Trunkline Gas Company
1. 80–09272/G9–830
2. 17–707–40301–0000–0
3. 102 000 000
4. Placid Oil Company
5. E–6
6. South Marsh Island
7. 281
8. 1825.0 million cubic feet
9. December 11, 1979
10. Trunkline Gas Company; Southern Natural Gas Co
1. 80–09273/G9–902
2. 17–708–40267–0100–0
3. 102 000 000
4. Shell Oil Company
5. C–29
6. South Marsh Island
7. 130
8. 200.0 million cubic feet
9. December 11, 1979
10. Transcontinental Gas Pipeline Corp
1. 80–09274/G9–883
2. 17–701–40054–0000–0
3. 102 000 000
4. Getty Oil Company
5. OCS–G–3280 No A–3
6. West Cameron
7. 405
8. 1400.0 million cubic feet
9. December 11, 1979
10. Transco Gas Supply Company; Northern Natural Gas Co
1. 80–09275/G9–901
2. 17–708–40173–0000–0
3. 102 000 000
4. Shell Oil Company
5. C–11
6. South Marsh Island
7. 130
8. 51.0 million cubic feet
9. December 11, 1979
10. Transcontinental Gas Pipeline Company
1. 80–09276/G9–885
2. 17–701–40017–0000–0
3. 102 000 000
4. Getty Oil Company
5. OCS–G–3280 No A–1
6. West Cameron
7. 405
8. 1400.0 million cubic feet
9. December 11, 1979
10. Transco Gas Supply Company; Northern Natural Gas Co
1. 80–09277/G9–884
2. 17–701–40052–0000–0
3. 102 000 000
4. Getty Oil Company
5. OCS–G–3280 No A–2
6. West Cameron
7. 405
8. 1400.0 million cubic feet
9. December 11, 1979
10. Transco Gas Supply Company; Northern Natural Gas Co
1. 80–09278/G9–912
2. 17–713–40056–00D1–0
3. 102 000 000
4. Mesa Petroleum Co
5. South Pelto Blk 8 B–3
6. South Pelto
7. 8
8. 365.0 million cubic feet
9. December 11, 1979
10. Columbia Gas Transmission Corporation; Northern Natural Gas Co; Transcontinental Gas Pipeline Co; Michigan-Wisconsin Pipeline Co
1. 80–09279/G9–862
2. 17–701–40054–0000–0
3. 102 000 000
4. Getty Oil Company
5. OCS G–3280 No A–3D
6. West Cameron
7. 405
8. 1400.0 million cubic feet
9. December 11, 1979
10. Transco Gas Supply Company; Northern Natural Gas Co
1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80–09161/G9–921
2. 42–711–40193–0000–0
3. 102 000 000
4. Aminoil Development Inc
5. OCS–G–2421 No A–9
6. High Island
7. A–3330
8. 1692.0 million cubic feet
9. December 10, 1979
10. Natural Gas Pipeline Co of America; Transcontinental Gas Pipe Line Corp; Tennessee Gas P/L; United Gas P/L; National Fuel Gas Supply Corp
1. 80–09196/G9–949
2. 42–709–40169–0001–0
3. 102 000 000
4. Kerr-McGee Corporation
5. OCS G–2380 No 1–6
6. High Island
7. 1–532
8. 102.0 million cubic feet
9. December 11, 1979
10. Northern Natural Gas Company

United States Geological Survey Albuquerque, New Mexico

1. Control Number (FERC/State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80–09160/NM3319–79
2. 30–039–20214–0000–0
3. 108 000 000
4. Amoco Production Company
5. Jicarilla Contract 155 #21
6. South Blanco-Pictured Cliffs
7. Rio Arriba, NM
8. 19.0 Million cubic feet
9. December 10, 1979
10. Northwest Pipeline

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 7, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–2034 Filed 1–22–80; 8:45 am]
BILLING CODE 6450–01–M

[No. 130]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

January 11, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Colorado Oil and Gas Conservation Commission

1. Control number (FERC/State)

V45/16/JA23 80 0 UMI

2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-08437/79-404
2. 05-121-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra State #39
6. Wattenberg Sec 16-1N-65W
7. Weld CO
8. 3.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company

1. 80-08438/79-414
2. 05-123-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra State #25
6. Wattenberg Sec 32-4N-63W
7. Weld CO
8. 5.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company

1. 80-08439/79-456
2. 05-067-00000-0000
3. 108 000 000
4. Texas Oil & Gas Corp
5. Tiffany B #1
6. Ignacio Blanco (Mesaverde)
7. La Plata County
8. 10.8 million cubic feet
9. December 5, 1979
10. Northwest Pipeline Corp

1. 80-08440/79-455
2. 05-067-00000-0000
3. 108 000 000
4. Texas Oil & Gas Corp
5. McDonald #1
6. Ignacio Blanco (Mesaverde)
7. La Plata CO
8. 18.4 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas

1. 80-08441/79-508
2. 05-061-06249-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Tempel A #1
6. McClave
7. Kiowa CO
8. 120.0 million cubic feet
9. December 5, 1979
10. The Nueces Company

1. 80-08442/79-453
2. 05-009-00000-0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. State 267-S #2
6. Stonington
7. Baca CO
8. 100.0 million cubic feet
9. December 5, 1979
10.

1. 80-08443/79-416
2. 05-123-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra State #23
6. Wattenberg Sec 16-3N-65W
7. Weld CO
8. 18.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company

1. 80-08444/79-413
2. 05-123-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra State #27
6. Wattenberg Sec 28-3N-63W
7. Weld CO
8. 4.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company

1. 80-08445/79-422
2. 05-123-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra State #12
6. Wattenberg Sec 24-4N-64W
7. Weld CO
8. 3.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company

1. 80-08446/79-429
2. 05-123-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra State #2
6. Wattenberg Sec 16-3N-65W
7. Weld CO
8. 12.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company

1. 80-08447/79-465
2. 05-081-06311-0000
3. 103 000 000
4. Mountain Fuel Supply Company
5. Sugarloaf #2-St Land
6. Sugarloaf
7. Moffat CO
8. 208.1 million cubic feet
9. December 5, 1979
10. Mountain Fuel Supply Company

1. 80-08448/79-346
2. 05-001-06980-0000
3. 108 000 000
4. Amoco Production Company
5. Haake Farms Inc Gas Unit #1
6. Wattenberg
7. Weld CO
8. 4.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipeline

1. 80-08449/79-481
2. 05-125-06187-0000
3. 102 000 000
4. J-W Operating Company
5. Kitzmiller Grazing Assocation #2
6. Wildcat
7. Yuma CO
8. .0 million cubic feet
9. December 5, 1979
10. Kansas-Nebraska Natural Gas Co Inc

1. 80-08450/79-459
2. 05-125-06177-0000
3. 108 000 000
4. J-W Operating Company
5. State of Colorado #4
6. Mildred
7. Yuma CO
8. 3.0 million cubic feet
9. December 5, 1979
10. Kansas-Nebraska Natural Gas Co Inc

1. 80-08451/79-458
2. 05-125-06174-0000
3. 108 000 000
4. J-W Operating Company
5. Matilda O Murrain #1
6. Waverly
7. Yuma CO
8. 7.0 million cubic feet
9. December 5, 1979
10. Kansas-Nebraska Natural Gas Co Inc

1. 80-08452/79-462
2. 05-125-06118-0000
3. 108 000 000
4. J-W Operating Company
5. Keller Cattle Company #1
6. Mildred
7. Yuma CO
8. 9.0 million cubic feet
9. December 5, 1979
10. Kansas-Nebraska Natural Gas Co Inc

1. 80-08453/79-464
2. 05-125-06119-0000
3. 108 000 000
4. J-W Operating Company
5. Joseph P Brophy #1
6. Waverly
7. Yuma CO
8. 5.0 million cubic feet
9. December 5, 1979
10. Kansas-Nebraska Natural Gas Co Inc

1. 80-08454/79-408
2. 05-123-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra State #33
6. Wattenberg Sec 14-3N-64W
7. Weld CO
8. 6.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company

1. 80-08455/79-420
2. 05-123-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra State #16
6. Wattenberg Sec 6-4N-63W
7. Weld CO
8. 10.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company

1. 80-08456/79-423
2. 05-123-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra State #11
6. Wattenberg Sec 20-4N-63W
7. Weld CO
8. 7.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company

1. 80-08457/79-511
2. 05-011-06083-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. McClintock #1
6. Beta
7. Bent CO
8. 40.0 million cubic feet
9. December 5, 1979
10.

1. 80-08458/79-519
2. 05-011-06078-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Semmens #1

6. McClave
7. Bent CO
8. 200.0 million cubic feet
9. December 5, 1979
10. The Nueces Company

1. 80-08459/79-507
2. 05-011-06080-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Tempel D #1
6. McClave
7. Bent CO
8. 180.0 million cubic feet
9. December 5, 1979
10. The Nueces Company

1. 80-08460/79-418
2. 05-123-00000-0000
3. 108 000 000
4. Adolphs Coors Company
5. Acco-Terra State #20
6. Wattenberg Sec 18-3N-63W
7. Weld CO
8. 5.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company

1. 80-08461/79-400
2. 05-001-00000-0000
3. 108 000 000
4. Adolphs Coors Company
5. Acco McElwain #1 J Sand
6. Wattenberg Sec 17-1S-67W
7. Adams CO
8. 11.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company

1. 80-08462/79-398
2. 05-001-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco McElwain #2 J Sand
6. Wattenberg Sec 17-1S-67W
7. Adams Co
8. 7.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company

1. 80-08463/79-397
2. 05-001-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco Zarlengo #1
6. Wattenberg Sec 4-1S-67W
7. Adams Co
8. 17.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company

1. 80-08464/79-399
2. 05-001-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco Degenhart #1
6. Wattenberg Sec 5-1S-67W
7. Adams Co
8. 9.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company

1. 80-08465/79-542
2. 05-087-00000-0000
3. 102 000 000
4. Frank H Walsh
5. Frey #1
6. Tenderfoot
7. Morgan Co
8. 75.0 million cubic feet
9. December 5, 1979
10. Kansas-Nebraska Gas Co.

1. 80-08466/79-454
2. 05-009-00000-0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Commerce Ranch B #1
6. Stonington
7. Baca Co
8. 100.0 million cubic feet
9. December 5, 1979
10.

1. 80-08467/79-452
2. 05-009-00000-0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. State 267-S #1
6. Stonington
7. Baca Co
8. 30.0 million cubic feet
9. December 5, 1979
10.

1. 80-08468/79-449
2. 05-009-00000-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Hefley #2
6. Stonington
7. Baca Co
8. 100.0 million cubic feet
9. December 5, 1979
10.

1. 80-08469/79-447
2. 05-009-00000-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Moore F #1
6. Stonington
7. Baca Co
8. 35.0 million cubic feet
9. December 5, 1979
10.

1. 80-08470/79-443
2. 05-009-00000-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Hefley A. #1
6. Stonington
7. Baca Co
8. 130.0 million cubic feet
9. December 5, 1979
10.

1. 80-08471/79-442
2. 05-009-00000-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Gerk #1
6. Stonington
7. Baca Co
8. 120.0 million cubic feet
9. December 5, 1979
10.

1. 80-08472/79-451
2. 05-009-00000-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Trahern A #1
6. Stonington
7. Baca Co
8. 30.0 million cubic feet
9. December 5, 1979
10.

1. 80-08473/79-448
2. 05-009-00000-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Commerce Ranch #1
6. Stonington
7. Baca Co
8. 50.0 million cubic feet
9. December 5, 1979
10.

1. 80-08474/79-450
2. 05-009-00000-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Farmer #1
6. Walsh
7. Baca Co
8. 40.0 million cubic feet
9. December 5, 1979
10.

1. 80-08475/79-472
2. 05-077-06135-0000
3. 103 000 000
4. Norris Oil Co
5. Finch 13-3
6. Plateau
7. Mesa Co
8. 56.0 million cubic feet
9. December 5, 1979
10. Rocky Mountain Natural Gas Co Inc

1. 80-08476/79-436
2. 05-103-06208-0000
3. 103 000 000
4. Coseka Resources (USA) Ltd
5. Taiga (fee) 10-N-21
6. Thunder
7. Rio Blanco Co
8. 34.3 million cubic feet
9. December 5, 1979
10. Northwest Pipeline Corporation

1. 80-08477/79-471
2. 05-077-08104-0000
3. 103 000 000
4. Norris Oil Co
5. Currier 14-2
6. Plateau
7. Mesa Co
8. 53.0 million cubic feet
9. December 5, 1979
10. Rocky Mountain Natural Gas Co Inc

1. 80-08478/79-470
2. 05-077-06117-0000
3. 103 000 000
4. Norris Oil Co
5. Nichols 21-3
6. Plateau
7. Mesa Co
8. 20.0 million cubic feet
9. December 5, 1979
10. Rocky Mountain Natural Gas Co Inc

1. 80-08479/79-457
2. 05-067-05160-0000
3. 108 000 000
4. Dugan Production Corp
5. Thuringer #1
6. Ignacio Blanco Mesaverde
7. La Plata Co
8. 2.0 million cubic feet
9. December 5, 1979
10. Northwest Pipeline Corp., El Paso Natural Gas Co

1. 80-08480/79-544
2. 05-123-09287-0000
3. 102 000 000
4. Frank H Walsh
5. Al Croissant #1
6.
7. Weld Co
8. 75.0 million cubic feet
9. December 5, 1979

V45/16/JA23'80 UMI

10. Kansas-Nebraska Gas Co
1. 80-08481/79-468
2. 05-045-00000-0000
3. 108 000 000
4. Fuel Resources Development Co
5. B-1 Kelly-Young-Jensen
6. Carbonera
7. Garfield Co
8. 7.2 million cubic feet
9. December 5, 1979
10. Western Slope Gas Company
1. 80-08482/79-469
2. 05-009-00000-0000
3. 108 000 000
4. Worldwide Energy Corporation
5. Ratcliff #1
6. Flank N W
7. Baca Co
8. 3.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipeline Company
1. 80-08483/79-473
2. 05-001-07349-0000
3. 103 000 000
4. Energy Minerals Corporation
5. Selzer #2
6. Spindle Field
7. Adams County Co
8. .0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipeline
1. 80-08484/79-467
2. 05-067-05786-0000
3. 108 000 000
4. Centennial Oil Co
5. Ute B-1 Meter No 88196
6. Ignacio Blanco
7. Laplata Co
8. 10.0 million cubic feet
9. December 5, 1979
10. Northwest Pipeline Corporation
1. 80-08485/79-474
2. 05-007-06009-0000
3. 103 000 000
4. Sun Oil Company (Delaware)
5. Divide Creek Unit A No 15
6. Divide Creek
7. Mesa Co
8. 91.0 million cubic feet
9. December 5, 1979
10. Mountain Fuel Supply Co
1. 80-08486/79-446
2. 05-009-00000-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Commerce Ranch A #1
6. Stonington
7. Baca Co
8. 80.0 million cubic feet
9. December 5, 1979
10.
1. 80-08487/78-132
2. 05-123-07885-0000
3. 108 000 000
4. Martin Oil Service Inc
5. Gregerson #1
6. Wattenberg
7. Weld Co
8. 21.5 million cubic feet
9. December 5, 1979
10. Colorado Interstate Gas Co
1. 80-08488/79-537
2. 05-121-09286-0000
3. 102 000 000
4. Niobrara Illuminating Gas Associate
5. Price-Claypool #2 Well
6. De Nova
7. Washington Co
8. 60.0 million cubic feet
9. December 5, 1979
10. Nat Gas Pipeline Co of Amer
1. 80-08489/79-536
2. 05-121-09281-0000
3. 102 000 000
4. Niobrara Illuminating Gas Associate
5. Axsom #1 Well
6. Spear
7. Washington Co
8. 60.0 million cubic feet
9. December 5, 1979
10. Nat Gas Pipeline Co of Amer
1. 80-08490/79-538
2. 05-121-09263-0000
3. 102 000 000
4. Niobrara Illuminating Gas Associate
5. Price-Claypool #1 Well
6. De Nova
7. Washington Co
8. 60.0 million cubic feet
9. December 5, 1979
10. Nat Gas Pipeline Co of Amer
1. 80-08491/79-427
2. 05-123-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra State #5
6. Wattenberg Sec 16-1N-65W
7. Weld Co
8. 5.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company
1. 80-08492/79-401
2. 05-123-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra State No. 41
6. Wattenberg Sec 36-1N-65W
7. Weld, CO
8. 1.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company
1. 80-08493/79-396
2. 05-123-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco Jacobucci No. 1
6. Wattenberg Sec 32-1N-67W
7. Weld, CO
8. 9.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company
1. 80-08494/79-411
2. 05-123-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra Steinwald No.29
6. Wattenberg Sec 4-1N-64W
7. Weld, CO
8. 10.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company
1. 80-08495/79-409
2. 05-123-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra Arnold No. 31
6. Wattenberg Sec 30-1N-64W
7. Weld, CO
8. 4.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company
1. 80-08496/79-460
2. 05-125-06141-0000
3. 108 000 000
4. J-W Operating Company
5. Bert L Henderson No. 1
6. Waverly
7. Yuma, CO
8. 14.0 million cubic feet
9. December 5, 1979
10. Kan-Neb Nat Gas Co Inc
1. 80-08497/79-461
2. 05-125-06161-0000
3. 108 000 000
4. J-W Operating Company
5. Harry L Johnson No. 1
6. Mildred
7. Yuma, CO
8. 10.0 million cubic feet
9. December 5, 1979
10. Kan-Neb Nat Gas Co Inc
1. 80-08498/79-463
2. 05-125-06120-0000
3. 108 000 000
4. J-W Operating Company
5. Thomas E Brophy No. 1
6. Waverly
7. Yuma, CO
8. 12.0 million cubic feet
9. December 5, 1979
10. Kan-Neb Nat Gas Co Inc
1. 80-08499/79-431
2. 05-061-06246-0000
3. 103 000 000
4. Planet Associates Inc
5. Well No 24-8X Abrams
6. McClav
7. Kiowa, CO
8. 50.0 million cubic feet
9. December 5, 1979
10. Peoples Div of Northern Nat Gas Co
1. 80-08500/79-432
2. 05-061-06215-0000
3. 108 000 000
4. Planet Associates Inc
5. Well No 15-1 Pyles
6. McClave Field
7. Kiowa, CO
8. 9.0 million cubic feet
9. December 5, 1979
10. Peoples Div of Northern Nat Gas Co
1. 80-08502/79-466
2. 05-067-00000-0000
3. 108 000 000
4. Lynco Oil Corporation
5. Cox Canyon No. 1
6. Ignacio Blanco Pictured Cliffs
7. La Plata, CO
8. 15.0 million cubic feet
9. December 5, 1979
10. Northwest Pipeline Corporation
1. 80-08503/79-476
2. 05-005-06352-0000
3. 103 000 000
4. Champlin Petroleum Company
5. T Bradbury 22-35 Senw 35-4S-62W
6. Peacepipe
7. Arapahoe, CO
8. 427.0 million cubic feet
9. December 5, 1979
10. Amoco Production Company
1. 80-08504/79-430
2. 05-061-06232-0000

3. 103 000 000
4. Planet Associates Inc
5. No 1 Stark
6. McClave
7. Kiowa, CO
8. 120.0 million cubic feet
9. December 5, 1979
10. Peoples Div of Northern Nat Gas Co
1. 80-08505/79-521
2. 05-005-06339-0000
3. 103 000 000
4. Amoco Production Company
5. State-Peace Pipe 1-36
6. Peace Pipe
7. Arapahoe, CO
8. 292.0 million cubic feet
9. December 5, 1979
10. Amoco (Peoria Gas Plant), Colorado Interstate Gas Co
1. 80-08506/79-520
2. 05-123-09362-0000
3. 103 000 000
4. Amoco Production Company
5. Sidney Strear Gas Unit No 1
6. Wattenberg
7. Weld, CO
8. 200.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipeline Co
1. 80-08507/79-424
2. 05-123-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra State No. 10
6. Wattenberg Sec 12-3N-64W
7. Weld, CO
8. 5.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company
1. 80-08508/79-426
2. 05-123-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra State No. 7
6. Wattenberg Sec 16-3N-64W
7. Weld, CO
8. 3.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company
1. 80-08509/79-428
2. 05-123-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra State No. 3
6. Wattenberg Sec 36-2N-65W
7. Weld, CO
8. 5.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company
1. 80-08510/79-402
2. 05-123-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra State No. 42
6. Wattenberg Sec 30-4N-63W
7. Weld, CO
8. 5.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company
1. 80-08511/79-405
2. 05-123-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra State No. 38
6. Wattenberg Sec 24-4N-64W
7. Weld, CO
8. 2.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company
1. 80-08512/79-525
2. 05-125-06180-0000
3. 103 000 000
4. Mountain Petroleum Corp
5. Allen/Schobe 1-7
6. Beecher Island
7. Yuma, CO
8. 40.0 million cubic feet
9. December 5, 1979
10. Nat Gas Pipeline Co of Amer
1. 80-08513/79-526
2. 05-123-08371-0000
3. 103 000 000
4. Crystal Explor & Prod Co
5. Vogel No. 41-11
6. Roggen
7. Weld, CO
8. 13.0 million cubic feet
9. December 5, 1979
10. Colorado Interstate Gas Co
1. 80-08514/79-527
2. 05-075-08723-0000
3. 102 000 000
4. Exeter Exploration Company
5. State 14-24
6.
7. Logan, CO
8. 100.0 million cubic feet
9. December 5, 1979
10.
1. 80-08515/79-539
2. 05-121-09398-0000
3. 103 000 000
4. William Moss Properties Inc
5. Mitchell No 2
6. Stoney Point
7. Washington, CO
8. 110.0 million cubic feet
9. December 5, 1979
10. Kan-Neb Nat Gas Co Inc
1. 80-08516/79-529
2. 05-009-00000-0000
3. 108 000 000
4. Service Drilling Co
5. Kahler No. 1-A
6. Wildcat
7. Baca, CO
8. 14.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipeline Co
1. 80-08517/79-530
2. 05-009-06079-0000
3. 108 000 000
4. Service Drilling Co
5. Lester Hamilton No. 1-34
6. Greenwood
7. Baca, CO
8. 10.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipeline Co
1. 80-08518/79-528
2. 05-009-06075-0000
3. 108 000 000
4. Service Drilling Co
5. Holt No. 1-A
6. Greenwood
7. Baca, CO
8. 42.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipeline Co
1. 80-08519/79-545
2. 05-087-07388-0000
3. 102 000 000
4. Frank H Walsh
5. J A Farms No. 2
6. Tenderfoot
7. Morgan, CO
8. 75.0 million cubic feet
9. December 5, 1979
10. Kansas-Nebraska Gas Co
1. 80-08520/79-497
2. 05-009-05093-0000
3. 108 000 000
4. Brauce Calder Inc
5. Holmes A 1-26
6. Midway (Topeka)
7. Baca, CO
8. 11.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipe Line Co
1. 80-08521/79-495
2. 05-009-05126-0000
3. 108 000 000
4. Bruce Calder Inc
5. Neu 1-36
6. Midway (Topeka)
7. Baca, CO
8. 10.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipeline Co
1. 80-08522/79-496
2. 05-009-05121-0000
3. 108 000 000
4. Bruce Calder Inc
5. Bauman A 1-2
6. Midway (Topeka)
7. Baca, CO
8. 16.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipe Line Co
1. 80-08523/79-484
2. 05-061-06093-0000
3. 102 000 000
4. Chemco Inc
5. H C Wear No 2-3
6. Cavalry (Morrow)
7. Kiowa Co
8. 300.0 million cubic feet
9. December 5, 1979
10. Colorado Interstate Gas Company
1. 80-08524/79-493
2. 05-009-05167-0000
3. 108 000 000
4. Bruce Calder Inc
5. Eastham 1-4
6. Playa (Topeka)
7. Kiowa Co
8. 50.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipe Line Co
1. 80-08525/79-492
2. 05-009-05177-0000
3. 108 000 000
4. Bruce Calder Inc
5. Lepel 1-10
6. Playa (Topeka)
7. Baca Co
8. 6.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipe Line Co
1. 80-08526/79-489
2. 05-009-05112-0000
3. 108 000 000
4. Bruce Calder Inc
5. Cook A 1-9
6. Walsh (Topeka)

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7. Baca Co
8. 2.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipe Line Co
1. 80-08527/79-488
2. 05-009-05102-0000
3. 108 000 000
4. Bruce Calder Inc
5. Griffin 1-15
6. Walsh (Topeka)
7. Baca Co
8. 3.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipe Line Co
1. 80-08528/79-487
2. 05-009-05074-0000
3. 108 000 000
4. Bruce Calder Inc
5. State of Colorado C 1-36
6. Flank (Topeka A)
7. Baca Co
8. 3.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipe Line Co
1. 80-08529/79-490
2. 05-009-05117-0000
3. 108 000 000
4. Bruce Calder Inc
5. Cook 1-5
6. Walsh (Topeka)
7. Baca Co
8. 6.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipe Line Co
1. 80-08530/79-491
2. 05-009-05322-0000
3. 108 000 000
4. Bruce Calder Inc
5. Lepel E 1-11
6. Playa (Topeka)
7. Baca Co
8. 9.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipe Line Co
1. 80-08531/79-494
2. 05-009-05096-0000
3. 108 000 000
4. Bruce Calder Inc
5. Cogburn 1-21
6. Midway (Morrow)
7. Baca Co
8. .0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipe Line Co
1. 80-08532/79-510
2. 05-061-06072-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Stark A No 1
6. McClave
7. Bent Co
8. 65.0 million cubic feet
9. December 5, 1979
10. The Nueces Company
1. 80-08533/79-506
2. 05-011-06079-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Temple B No 1
6. McClave
7. Bent Co
8. 150.0 million cubic feet
9. December 5, 1979
10. The Nueces Company
1. 80-08534/79-515
2. 05-063-06043-0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Hicks B No 1
6. Lookout
7. Kit Carson Co
8. 600.0 million cubic feet
9. December 5, 1979
10. The Nueces Company
1. 80-08535/79-513
2. 05-063-06049-0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Champlin-Kirschmer No 1
6. Lookout
7. Kit Carson Co
8. 500.0 million cubic feet
9. December 5, 1979
10. The Nueces Company
1. 80-08536/79-514
2. 05-063-06048-0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Pierson J No 3
6. Lookout
7. Kit Carson Co
8. 150.0 million cubic feet
9. December 5, 1979
10. The Nueces Company
1. 80-08537/79-512
2. 05-063-06045-0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Champlin-Pierson No 1
6. Lookout
7. Kit Carson Co
8. 500.0 million cubic feet
9. December 5, 1979
10. The Nueces Company
1. 80-08538/79-485
2. 05-067-05605-0000
3. 108 000 000
4. Brooks Hall Oil Corp
5. Bondad 34-10 No 2-34
6. Ignacio-Blanco Mesa Verde
7. La Plata Co
8. 5.5 million cubic feet
9. December 5, 1979
10. Northwest Pipeline Corporation
1. 80-08539/79-410
2. 05-123-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra State No 3
6. Wattenberg Sec 36-3N-64W
7. Weld Co
8. 2.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company
1. 80-08540/79-425
2. 05-123-00000-0000
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra State No 9
6. Wattenberg Sec 36-3N-64W
7. Weld Co
8. 10.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company
1. 80-08541/79-500
2. 05-000-05030-0000
3. 108 000 000
4. Bruce Calder Inc
5. Jenkins 1-28
6. Greenwood (Topeka)
7. Baca Co
8. 10.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipe Line Co
1. 80-08542/79-499
2. 05-009-05034-0000
3. 108 000 000
4. Bruce Calder Inc
5. Moore A1-24
6. Greenwood (Topeka)
7. Baca Co
8. 2.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipe Line Co
1. 80-08543/79-498
2. 05-009-05104-0000
3. 108 000 000
4. Bruce Calder Inc
5. Holmes 1-14
6. Midway (Topeka)
7. Baca Co
8. 14.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipe Line Co
1. 80-08544/79-441
2. 05-001-00000-0000
3. 108 000 000
4. Texas Oil & Gas Corp
5. Flader State A No 1
6. East Leader (J Sand)
7. Adams Co
8. 15.3 million cubic feet
9. December 5, 1979
10. The Nueces Co
1. 80-08545/79-444
2. 05-001-00000-0000
3. 108 000 000
4. Texas Oil & Gas Corp
5. Italia No 1
6. Lido
7. Adams Co
8. 10.2 million cubic feet
9. December 5, 1979
10. The Nueces Co
1. 80-08546/79-445
2. 05-011-00000-0000
3. 108 000 000
4. Texas Oil & Gas Corp
5. Schwanz No 1
6. Beta (Morrow)
7. Bent Co
8. 17.1 million cubic feet
9. December 5, 1979
10. The Nueces Co
1. 80-08547/79-543
2. 05-123-00000-0000
3. 103 000 000
4. Frank H Walsh
5. Delbert Castor No 1
6. Unnamed
7. Weld Co
8. 75.1 million cubic feet
9. December 5, 1979
10. Kansas-Nebraska Gas Co
1. 80-08548/79-532
2. 05-001-00000-0000
3. 108 000 000
4. Rex Monahan
5. No 1 Leona Martin
6. Irondale
7. Adams Co
8. 3.6 million cubic feet
9. December 5, 1979
10. Halliburton Resources Management
1. 80-08549/79-531

2. 05-075-00000-0000
3. 108 000 000
4. Rex Monahan
5. No 1 Minnie Smith
6. Northwest Peetz
7. Logan Co
8. 15.1 million cubic feet
9. December 5, 1979
10. Kansas-Nebraska Nat Gas Co
1. 80-08550/79-482
2. 05-123-09655-0000
3. 102 000 000
4. Energy Minerals Corp
5. State No 4-12
6. Waite Lake
7. Weld Co
8. 95.0 million cubic feet
9. December 5, 1979
10. Crystal Gas Resources Co
1. 80-08551/79-518
2. 05-017-06193-0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Champlin-Funk No 1
6. Arapahoe
7. Cheyenne Co
8. 500.0 million cubic feet
9. December 5, 1979
10. The Nueces Company
1. 80-08552/79-517
2. 05-017-0211-0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Funk A No 1
6. Arapahoe
7. Cheyenne Co
8. 60.0 million cubic feet
9. December 5, 1979
10. The Nueces Company
1. 80-08553/79-478
2. 05-125-06159-0000
3. 102 000 000
4. Mountain Petroleum Corporation
5. Blach 1-24
6. Pony Express
7. Yuma Co
8. 60.0 million cubic feet
9. December 5, 1979
10. Natural Gas Pipeline Company of Ame
1. 80-08554/79-480
2. 05-125-06032-0000
3. 108 000 000
4. Mountain Petroleum Ltd
5. #1 State
6. Beecher Island
7. Yuma Co
8. 16.0 million cubic feet
9. December 5, 1979
10. Kansas-Nebraska Natural Gas Company
1. 80-08555/79-479
2. 05-123-09632-0000
3. 103 000 000
4. Champlin Petroleum Company
5. #1 Burkhardt 32-3
6. Spindle
7. Weld Co
8. 107.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipe Line Company
1. 80-08556/79-435
2. 05-061-06102-0000
3. 108 000 000
4. Plant Associates Inc
5. Well No 42-14 State Abrams
6. McClave
7. Kiowa Co
8. 9.0 million cubic feet
9. December 5, 1979
10. Northern Nat Gas Co
1. 80-08557/79-516
2. 05-067-00000-0000-
3. 108 000 000
4. Texas Oil & Gas Corp
5. Schalles #1
6. Ignacio Blanco (Mesaverde)
7. La Plata Co
8. 20.0 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Co
1. 80-08558/79-509
2. 05-061-06233-0000-
3. 103 000 000
4. Texas Oil & Gas Corp
5. Negley A #1
6. McClave
7. Kiowa Co
8. 60.0 million cubic feet
9. December 5, 1979
10. The Nueces Company
1. 80-08559/79-505
2. 05-061-06941-0000-
3. 103 000 000
4. Texas Oil & Gas Corp
5. Tempel #1
6. McClave
7. Kiowa Co
8. 60.0 million cubic feet
9. December 5, 1979
10. The Nueces Company
1. 80-08560/79-534
2. 05-122-09344-0000-
3. 102 000 000
4. The Sand Hills Society
5. Young #1
6. Wildcat
7. Washington Co
8. 60.0 million cubic feet
9. December 5, 1979
10. Natural Gas Pipeline Company of Ame
1. 80-08561/79-535
2. 05-121-09343-0000-
3. 102 000 000
4. The Sand Hills Society
5. Kanco #1
6. Long Knife
7. Washington Co
8. 60.0 million cubic feet
9. December 5, 1979
10. Natural Gas Pipeline Company of Ame
1. 80-08562/79-412
2. 05-123-00000-0000-
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra State #28
6. Wattenberg Sec 10-3N-64W
7. Weld, Co
8. 13.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company
1. 80-08563/79-475
2. 05-123-08764-0000
3. 102 000 000
4. Energy Minerals Corp
5. #1 Ross
6. Waite Lake
7. Weld Co
8. 100.0 million cubic feet
9. December 5, 1979
10. Crystal Gas Resources Inc
1. 80-08564/79-541
2. 05-123-00000-0000
3. 102 000 000
4. Frank H Walsh
5. Keith Ashbugh #1
6.
7. Weld Co
8. 75.0 million cubic feet
9. December 5, 1979
10. Kansas-Nebraska Natural Gas Co
1. 80-08565/79-421
2. 05-123-00000-0000-
3. 108 000 000
4. Adolph Coors Company
5. Acco—Terra Andrews #13
6. Wattenberg Sec 30-1N-64W
7. Weld Co
8. 8.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company
1. 80-08566/79-417
2. 05-123-00000-0000-
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra State #21
6. Wattenberg Sec 16-2N-64W
7. Weld Co
8. 13.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company
1. 80-08567/79-406
2. 05-123-00000-0000-
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra Stenwald #37
6. Wattenberg Sec 14-1N-65W
7. Weld Co
8. 1.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company
1. 80-08568/79-403
2. 05-123-00000-0000-
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra Boedecerk #40
6. Wattenberg Sec 22-2N-64W
7. Weld Co
8. 12.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company
1. 80-08569/79-415
2. 05-123-00000-0000-
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra State #24
6. Wattenberg Sec 36-2N-65W
7. Weld Co
8. 14.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company
1. 80-08570/79-407
2. 05-123-00000-00000-
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra State #34
6. Wattenberg Sec 30-4N-63W
7. Weld Co
8. 7.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company
1. 80-08571/79-419
2. 05-123-00000-0000-
3. 108 000 000
4. Adolph Coors Company
5. Acco-Terra State #17
6. Wattenberg Sec 16-3N-64W

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7. Weld Co
8. 4.0 million cubic feet
9. December 5, 1979
10. Adolph Coors Company
1. 80-08572/79-477
2. 05-125-06225-0000-
3. 102 000 000
4. Mountain Petroleum Corporation
5. Blach #1-19
6. Pony Express
7. Yuma Co
8. 30.0 million cubic feet
9. December 5, 1979
10. Natural Gas Pipeline Company of Ame
1. 80-08501/79-433
2. 05-061-06231-0000
3. 103 000 000
4. Planet Associates Inc
5. Well No 12-18X Negley
6. McClave
7. Kiowa Co
8. 120.0 million cubic feet
9. December 5, 1979
10. Peoples Div of Northern Nat Gas Co

Kansas Corporation Commission

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-08276/K-79-0910
2. 15-047-20157-0000
3. 108 000 000
4. Benson Mineral Group
5. Boyer #1
6. Titus Extension
7. Edwards KS
8. 7.0 million cubic feet
9. December 5, 1979
10. Kansas-Nebraska
1. 80-08277/K-79-0909
2. 15-035-20782-0000
3. 108 000 000
4. Benson Mineral Group
5. Keesey #1
6. Burden
7. Cowley KS
8. 5.0 million cubic feet
9. December 5, 1979
10. Cities Service
1. 80-08278/K-79-0907
2. 15-009-20989-0000
3. 108 000 000
4. Benson Mineral Group
5. Tindall 1-13 C
6.
7. Barton KS
8. 6.0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas
1. 80-08279/K-79-0924
2. 15-047-20005-0000
3. 108 000 000
4. F G Holl
5. Massey #1
6. Massey
7. Edwards KS
8. 2.0 million cubic feet
9. December 5, 1979
10. Northern Natural
1. 80-08280/K-79-0923
2. 15-185-20546-0000
3. 108 000 000
4. F G Holl
5. Louder No 1
6.
7. Stafford KS
8. 5.0 million cubic feet
9. December 5, 1979
10. Northern Natural
1. 80-08281/K-79-0920
2. 15-047-20408-0000
3. 103 000 000
4. F G Holl
5. Derley No 1-19
6. Enlow
7. Edwards KS
8. .0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Co
1. 80-08282/K-79-0919
2. 15-047-10061-0000
3. 108 000 000
4. F G Holl
5. Hyter No 1
6. Embry
7. Edwards KS
8. 12.0 million cubic feet
9. December 5, 1979
10. Northern Natural
1. 80-08283/K-79-0918
2. 15-047-20147-0000
3. 108 000 000
4. F G Holl
5. Hammeke No 1
6. Embry
7. Edwards KS
8. 15.0 million cubic feet
9. December 5, 1979
10. Northern Natural
1. 80-08284/K-79-0917
2. 15-047-20168-0000
3. 108 000 000
4. F G Holl
5. Massey B No 1
6. WC
7. Edwards KS
8. 14.0 million cubic feet
9. December 5, 1979
10. Northern Natural
1. 80-08285/K-79-0916
2. 15-047-00000-0000
3. 108 000 000
4. F G Holl
5. Embry No 1
6. Embry
7. Edwards KS
8. 12.0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Co
1. 80-08286/K-79-0913
2. 15-175-00003-0000
3. 108 000 000
4. Cabot Corporation
5. Massoni #1
6. Kismet-Morrow
7. Seward KS
8. 9.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipeline Co
1. 80-08287/K-79-0795
2. 15-007-20351-0000
3. 108 000 000
4. Mallonee-Mahoney Inc
5. Mallonee-Mahoney Inc McGrath No 1
6. Skinner
7. Barber KS
8. 11.0 million cubic feet
9. December 5, 1979
10. Central States Gas Company
1. 80-08288/K-79-0796
2. 15-095-20534-0000
3. 108 000 000
4. Mallonee-Mahoney Inc
5. Mallonee-Mahoney Inc Piehl No 1
6. Fannie
7. Kingman KS
8. 16.0 million cubic feet
9. December 5, 1979
10. Peoples Natural Gas Koch Oil Company
1. 80-08289/K-79-0799
2. 15-099-20890-0000
3. 102 000 000
4. Lindell R Church
5. Hendrickson No 1
6. Hendrickson
7. Labette KS
8. 190.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08290/K-79-0801
2. 15-099-20892-0000
3. 102 000 000
4. Lindell R Church
5. Hendrickson No 3
6. Hendrickson
7. Labette KS
8. 190.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08291/K-79-0802
2. 15-099-20893-0000
3. 102 000 000
4. Lindell R Church
5. Hart No 1
6. Hart
7. Labette KS
8. 190.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08292/K-79-0848
2. 15-084-20148-0000
3. 103 000 000
4. Ashland Exploration Inc
5. Collingwood #6-8
6. Panoma Council Grove
7. Haskell KS
8. 141.2 million cubic feet
9. December 5, 1979
10. Cities Service Gas Company
1. 80-08305/K-79-0081
2. 15-055-20200-0000
3. 108 000 000
4. Benson Mineral Group Inc
5. Fletcher #1B
6. Hugoton
7. Finney KS
8. 25.6 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Company
1. 80-08306/K-79-0586
2. 15-189-20361-0000
3. 102 000 000
4. Northern Natural Gas Producing Comp
5. Lemert Unit #2
6. North Walkemeyer
7. Stevens KS
8. 200.0 million cubic feet

9. December 5, 1979
10. Northern Natural Gas Company
1. 80-08307/K-79-0577
2. 15-189-20419-0000
3. 102 000 000
4. Northern Natural Gas Producing Comp
5. Flower Unit #2
6. North Walkemeyer
7. Stevens KS
8. 200.0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Company
1. 80-08308/K-79-0640
2. 15-007-00000-0000
3. 108 000 000
4. Shenandoah Oil Corporation
5. Virginia Wright #1
6. Groendyke
7. Barber KS
8. 8.3 million cubic feet
9. December 5, 1979
10. Cities Service Gas Company
1. 80-08309/K-79-0084
2. 15-189-20392-0000
3. 103 000 000
4. Northern Natural Gas Producing Comp
5. Madden #2 Unit #3
6. Panoma
7. Stevens KS
8. 70.0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Company
1. 80-08310/K-79-0800
2. 15-099-20891-0000
3. 102 000 000
4. Lindell R Church
5. Hendrickson #2
6. Hendrickson
7. Labette KS
8. 190.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08311/K-79-0305
2. 15-125-21677-0000
3. 102 000 000
4. Coffeyville Gas Company
5. Kurtz #6 (six)
6. Welsh Field Kurtz Lease
7. Montgomery County KS
8. 45.6 million cubic feet
9. December 5, 1979
10. Union Gas System
1. 80-08312/K-79-0724
2. 15-175-000000-0000
3. 108 000 000
4. Diamond Shamrock Corporation
5. Fincher A #1
6. Liberal Light
7. Seward KS
8. 7.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipeline Company
1. 80-08313/K-79-0725
2. 15-119-20299-0000
3. 103 000 000
4. Diamond Shamrock Corporation
5. Frank Classen 1-9
6. McKinney
7. Meade KS
8. 300.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipeline Company
1. 80-08314/K-79-0726
2. 15-093-00000-0000
3. 108 000 000
4. Amoco Production Company
5. Kleeman Gas Unit D #1
6. Hugoton Chase
7. Kearney KS
8. .0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08315/K-79-0728
2. 15-175-20308-0000
3. 103 000 000
4. Amoco Production Company
5. B H Lemert #1
6. Lemert
7. Seward KS
8. 73.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Company
1. 80-08316/K-79-0958
2. 15-055-00000-0000
3. 108 000 000
4. Graham-Michaelis Corporation
5. Beach #2
6. Hugoton Field
7. Finney KS
8. 9.5 million cubic feet
9. December 5, 1979
10. Colorado Interstate Gas Co
1. 80-08317/K-79-0856
2. 15-007-00000-0000
3. 108 000 000
4. Graham-Michaels Corporation
5. Farley #1
6. Aetna Field
7. Barber KS
8. 17.5 million cubic feet
9. December 5, 1979
10. Cities Service Oil Co
1. 80-08318/K-79-0792
2. 15-081-00000-0000
3. 108 000 000
4. Cities Service Co
5. Baughman C-1
6. Hugoton
7. Haskell KS
8. 18.3 million cubic feet
9. December 5, 1979
10. Colorado Interstate Gas Co
1. 80-08319/K-79-0862A
2. 15-093-20442-0000
3. 103 000 000
4. Gulf Oil Corporation
5. Doebbeleing Unit No 2-9
6. Panoma
7. Kearny KS
8. 61.0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Co
1. 80-08320/K-79-0862
2. 15-093-20439-0000
3. 103 000 000
4. Gulf Oil Corporation
5. Schaeffer No 2-35
6. Panoma
7. Kearny KS
8. 15.0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Co
1. 80-08321/K-79-0791
2. 15-129-20105-0000
3. 108 000 000
4. Cities Service Co
5. Gear A-2
6. Hemphill
7. Morton KS
8. 13.1 million cubic feet
9. December 5, 1979
10. Colorado Interstate Gas Co
1. 80-08322/K-79-0861
2. 15-019-20923-0000
3. 108 000 000
4. Gulf Oil Corporation
5. House No 1
6. Hewins
7. Chautauqua KS
8. 12.0 million cubic feet
9. December 5, 1979
10. Union Gas System Inc
1. 80-08323/K-79-0788
2. 15-129-10028-0000
3. 108 000 000
4. Cities Service Co
5. Santa Fe A #1
6. Greenwood
7. Morton KS
8. 11.0 million cubic feet
9. December 5, 1979
10. Colorado Interstate Gas Co
1. 80-08324/K-79-0787
2. 15-081-00000-0000
3. 108 000 000
4. Cities Service Co
5. Van Blaricum A #1
6. Hugoton
7. Haskell KS
8. 14.6 million cubic feet
9. December 5, 1979
10. Colorado Interstate Gas Co
1. 80-08325/K-79-0757
2. 15-093-00000-0000
3. 108 000 000
4. Amoco Production Company
5. Lohmann Gas Unit No 1
6. Hugoton Chase
7. Kearny KS
8. 17.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08326/K-79-0759
2. 15-187-20231-0000
3. 103 000 000
4. Amoco Production Company
5. L R & C E Cross #1
6. Hugoton
7. Stanton KS
8. 70.0 million cubic feet
9. December 5, 1979
10. Colorado Interstate Gas Company
1. 80-08327/K-79-0760
2. 15-093-00000-0000
3. 108 000 000
4. Amoco Production Company
5. Allen Gas Unit C #1
6. Hugoton-Chase
7. Kearny KS
8. 8.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08328/K-79-0764
2. 15-093-20483-0000
3. 103 000 000
4. Amoco Production Company
5. Bender Herman C #2
6. Panoma/Council Grove
7. Kearny KS
8. 160.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Company
1. 80-08329/K-79-0765

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2. 15-129-00000-0000
3. 108 000 000
4. Amoco Production Company
5. Kinsler Gas Unit B No1
6. Hugoton Chase
7. Morton KS
8. 5.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08330/K-79-0745
2. 15-175-20307-0000
3. 103 000 000
4. Amoco Production Company
5. Betty Lemert #1
6. Lemert
7. Seward KS
8. 160.0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Company
1. 80-08331/K-79-0746
2. 15-187-20272-0000
3. 103 000 000
4. Amoco Production Company
5. Leroy Cross #1
6. Hugoton
7. Stanton KS
8. 70.0 million cubic feet
9. December 5, 1979
10. Colorado Interstate Gas Co
1. 80-08332/K-79-0751
2. 15-093-20389-0000
3. 103 000 000
4. Amoco Production Company
5. Waechter Gas Unit L #2
6. Panoma/Council Grove
7. Kearny KS
8. 102.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Company
1. 80-08333/K-79-0752
2. 15-093-20533-0000
3. 103 000 000
4. Amoco Production Company
5. Abolt Gas Unit #2
6. Panoma/Council Grove
7. Kearny KS
8. 160.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Company
1. 80-08334/K-79-0753
2. 15-129-20330-0000
3. 103 000 000
4. Amoco Production Company
5. Cowan Gas Unit A #2
6. Panoma/Council Grove
7. Morton KS
8. 105.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Company
1. 80-08335/K-79-0755
2. 15-093-00000-0000
3. 108 000 000
4. Amoco Production Company
5. Kurz Gas Unit B No 1
6. Hugoton Chase
7. Kearny KS
8. .0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08336/K-79-0756
2. 15-129-00000-0000
3. 108 000 000
4. Amoco Production Company
5. Lemon Gas Unit E No 1
6. Hugoton Chase
7. Morton KS
8. 19.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08337/K-79-0926
2. 15-047-20347-0000
3. 108 000 000
4. F G Holl
5. Cross No 1-6
6. Garfield SW
7. Edwards KS
8. 13.0 million cubic feet
9. December 5, 1979
10. Kan-Neb Nat Gas Co Inc
1. 80-08338/K-79-0925
2. 15-185-00000-0000
3. 108 000 000
4. F G Holl
5. Krankenberg No 1
6. Farmington NW Ext
7. Stafford KS
8. 14.0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Company
1. 80-08339/K-79-0934
2. 15-077-00000-0000
3. 108 000 000
4. Lario Oil & Gas Company
5. Slagell #1
6. S W Crystal Springs Field
7. Harper KS
8. 10.0 million cubic feet
9. December 5, 1979
10. Peoples Natural Gas Company
1. 80-08340/K-79-0936
2. 15-055-00000-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Fotopoulos #2
6. Panoma
7. Finney KS
8. 100.0 million cubic feet
9. December 5, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 80-08341/K-79-0931
2. 15-007-00000-0000
3. 108 000 000
4. Lario Oil & Gas Company
5. Wheat #1
6. N E Rhodes
7. Barber KS
8. 16.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Company
1. 80-08342/K-79-0945
2. 15-081-00000-0000
3. 108 000 000
4. Gramham-Michaelis Corp
5. Wheatley #1
6. Hugoton Field
7. Haskell KS
8. 20.4 million cubic feet
9. December 5, 1979
10. Amoco Production Company
1. 80-08343/K-79-0944
2. 15-025-00000-0000
3. 108 000 000
4. Graham-Michaelis Corp
5. Tuttle #1-3
6. Harper Ranch
7. Clark KS
8. 8.5 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Co
1. 80-08344/K-79-0943
2. 15-175-00000-0000
3. 108 000 000
4. Graham-Michaelis Corporation
5. Sutton #1
6. Hugoton Field
7. Seward KS
8. 17.1 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Co
1. 80-08345/K-79-0915
2. 15-047-20131-0000
3. 108 000 000
4. F G Holl
5. Coppoc-Rudd No 1
6.
7. Edwards KS
8. 20.0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Company
1. 80-08346/K-79-0368
2. 15-055-00000-0000
3. 108 000 000
4. Kaiser Francis Oil Company
5. Gingrich #1
6. Hugoton Pool
7. Finney KS
8. 9.5 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Company
1. 80-08347/K-79-0331
2. 15-129-20351-0000
3. 103 000 000
4. Anadarko Production Company
5. Dunkle C No. 1
6. Panoma-Council Grove
7. Morton KS
8. 54.0 million cubic feet
9. December 5, 1979
10. Cimarron-Quinque a Div. of APC
1. 80-08348/K-79-0116
2. 15-081-20037-0000
3. 108 000 000
4. Benson Mineral Group Inc
5. Miller #1
6. Hugoton
7. Haskell
8. 22.6 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Company
1. 80-08349/K-78-0109
2. 15-081-20388-0000
3. 103 000 000
4. Mobil Oil Corporation
5. Kimbrel-Reynolds Unit #2
6. Panoma
7. Stevens KS
8. 70.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co.
1. 80-08350/K-78-0095
2. 15-093-20502-0000
3. 103 000 000
4. Mobil Oil Corporation
5. Tate-Unrein Unit #2
6. Panoma
7. Kearny
8. 70.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co.
1. 80-08351/K-79-0881
2. 15-007-20508-2000
3. 108 000 000
4. George R. Jones
5. ORR No. 1
6. Medicine Lodge Sec. 17-32S-12M

7. Barber KS
8. 100.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co.
1. 80-08352/K-79-0884
2. 15-001-21828-0000
3. 102 000 000
4. Chn Oil Company
5. Hale #1
6. Elsmore
7. Allen KS
8. 91.3 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co.
1. 80-08353/K-79-0882
2. 15-175-00000-0000
3. 108 000 000
4. Beren Corporation
5. DODD #1-18
6. Condit
7. Seward KS
8. 5.0 million cubic feet
9. December 5, 1979
10. Anadarko Production Company
1. 80-08354/K-79-0838
2. 15-007-00000-0000
3. 108 000 000
4. Shenandoah Oil Corporation
5. Roberts #1
6. Aetna
7. Barber KS
8. 17.7 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co.
1. 80-08355/K-79-837
2. 15-007-00000-0000
3. 108 000 000
4. Shenandoah Oil Corporation
5. Sims #1
6. Aetna
7. Barber KS
8. 7.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co.
1. 80-08368/K-79-0877
2. 15-007-00261-0000
3. 108 000 000
4. American Petrofina Company of Texas
5. Blunk No. 2
6. Aetna Gas Area
7. Barber KS
8. 14.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co.
1. 80-08369/K-79-0879
2. 15-119-10280-0000
3. 108 000 000
4. J. M. Huber Corporation
5. Merkle No. 1
6. McKinney
7. Meade KS
8. 11.0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Company
1. 80-08370/K-79-0487
2. 15-035-22026-0000
3. 103 000 000
4. W. B. Osborn Jr. (Operator)
5. Watt #1
6. Panoma
7. Cowley KS
8. 75.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co.
1. 80-08371/K-79-0880
2. 15-129-10393-0000
3. 108 000 000
4. J. M. Huber Corporation
5. USA Government No. 1
6. Greenwood
7. Morton KS
8. 12.8 million cubic feet
9. December 5, 1979
10. Colorado Interstate Gas Company
1. 80-08372/K-78-0094
2. 15-189-20408-0000
3. 103 000 000
4. Mobil Oil Corporation
5. Odea Estate Unit #2
6. Panoma
7. Stevens KS
8. 7.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co.
1. 80-08373/K-78-0093
2. 15-189-20407-0000
3. 103 000 000
4. Mobil Oil Corporation
5. Mamie L. Hogan Unit #2
6. Panoma
7. Stevens KS
8. 70.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co.
1. 80-08374/K-78-0090
2. 15-093-20504-0000
3. 103 000 000
4. Mobil Oil Corporation
5. USA-White Unit B #2
6. Panoma
7. Kearny KS
8. 70.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co.
1. 80-08375/K-78-0087
2. 15-067-20535-0000
3. 103 000 000
4. Mobil Oil Corporation
5. Walter Kuhn Unit A #2
6. Panoma
7. Grant KS
8. 70.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co.
1. 80-08376/K-79-0902
2. 15-047-00000-0000
3. 103 000 000
4. Oil Properties Company Inc.
5. Zuercher #1
6. Wil
7. Edwards KS
8. 18.0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Company
1. 80-08377/K-79-0900
2. 15-097-20441-0000
3. 103 000 000
4. Oil Properties Company Inc.
5. Livengood #1
6. Greensburg
7. Kiowa KS
8. 55.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipe Line Co.
1. 80-08378/K-79-0899
2. 15-097-20386-0000
3. 103 000 000
4. Oil Properties Company Inc.
5. Weaver-Patrick #1
6. Greensburg North
7. Kiowa KS
8. 35.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipe Line Co.
1. 80-08379/K-79-0898
2. 15-097-20380-0000
3. 103 000 000
4. Oil Properties Company Inc.
5. Barnes #1
6. I257. Kiowa KS
8. 40.0 million cubic feet
9. December 5, 1979
10. Kansas-Nebraska Natural Gas Co., Inc
1. 80-08380/K-79-0897
2. 15-047-20263-0000
3. 103 000 000
4. Oil Properties Company Inc.
5. Schmitt #1
6. Embry
7. Edwards KS
8. 15.0 million cubic feet
9. December 5, 1979
10. Central States Gas Company
1. 80-08381/K-79-0896
2. 15-097-20474-0000
3. 103 000 000
4. Oil Properties Co., Inc.
5. #1 Taylor
6. Greensburg
7. Kiowa KS
8. 75.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipe Line Co.
1. 80-08382/K-79-0895
2. 15-095-20751-0000
3. 103 000 000
4. Oil Properties Co., Inc.
5. Cox #1
6. Fannie
7. Kingman KS
8. 75.0 million cubic feet
9. December 5, 1979
10. Peoples Natural Gas
1. 80-08383/K-79-0894
2. 15-047-20252-0000
3. 103 000 000
4. Oil Properties Company, Inc.
5. Zuercher #2
6. Wil
7. Edwards KS
8. 12.0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Company
1. 80-08384/K-79-0893
2. 15-145-20243-0000
3. 108 000 000
4. Oil Properties Company, Inc.
5. Smith (Twin) #1
6.
7. Pawnee KS
8. 9.0 million cubic feet
9. December 5, 1979
10. Kansas-Nebraska Natural Gas Company
1. 80-08385/K-78-0081
2. 15-189-20367-0000
3. 103 000 000
4. Northern Natural Gas Producing Company
5. Barngrover Unit #2
6. Panoma
7. Stevens KS
8. 70.0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Company
1. 80-08386/K-78-0088

2. 15-189-20406-0000
3. 103 000 000
4. Mobil Oil Corporation
5. Dollie Reybold Unit #2
6. Panoma
7. Stevens KS
8. 70.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co.
1. 80-08387/K-79-0866
2. 15-007-20530-0000
3. 103 000 000
4. George R. Jones
5. Clark No. 1
6. Aetna C N/2 SW/4 Sec. 7-34S-13W
7. Barber KS
8. 24.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co.
1. 80-08388/K-79-0867
2. 15-007-20652-0000
3. 103 000 000
4. George R. Jones
5. Phye No. 2
6. Whelan West C SE NW Sec. 25-31S-12W
7. Barber KS
8. 38.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co.
1. 80-08389/K-79-0869
2. 15-007-00348-000
3. 108 000 000
4. American Petrofina Company of Texas
5. Newkirk No 1
6. Rhodes South
7. Barber KS
8. 9.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Company
1. 80-08390/K-79-0865
2. 15-175-20310-0000
3. 103 000 000
4. Amoco Production Company
5. Scott Edna #2
6. Lemert
7. Seward KS
8. 2.0 million cubic feet
9. December 5, 1979
10. Andarko Production Co
1. 80-08391/K-78-0071
2. 15-189-20384-0000
3. 103 000 000
4. Mobil Oil Corporation
5. Toole #1 Unit #2
6. Panoma
7. Stevens KS
8. 70.0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Company
1. 80-08392/K-78-0063
2. 15-189-20395-0000
3. 103 000 000
4. Northern Natural Gas Producing Comp
5. Paden #1 Unit #2
6. Panoma
7. Stevens KS
8. 70.0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Company
1. 80-08393/K-78-0061
2. 15-093-20503-0000
3. 103 000 000
4. Mobil Oil Corporation
5. William T Gildart Unit #2
6. Panoma
7. Kearny KS
8. 70.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08394/K-78-0059
2. 15-093-20514-0000
3. 103 000 000
4. Mobil Oil Corporation
5. White Heirs A #2
6. Panoma
7. Kearny KS
8. 70.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08395/K-78-0056
2. 15-189-20397-0000
3. 103 000 000
4. Mobil Oil Corporation
5. Hulme #2
6. Panoma
7. Stevens KS
8. 70.0 milion cubic feet
9. December 5, 1979
10. Northern Natural Gas Company
1. 80-08396/K-79-0530
2. 15-047-20220-A000
3. 103 000 000
4. Kansas-Nebraska Natural Gas Co Inc
5. Cummins 2X
6. O'Conner
7. Edwards KS
8. 13.0 million cubic feet
9. December 5, 1979
10.
1. 80-08397/K-78-0051
2. 15-189-20353-0000
3. 103 000 000
4. Mobil Oil Corporation
5. Carrie Winter Unit #2
6. Panoma
7. Stevens KS
8. 70.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08398/K-78-0089
2. 15-067-20536-0000
3. 103 000 000
4. Mobil Oil Corporation
5. Walter Kuhn Unit C #2
6. Panoma
7. Grant KS
8. 70.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08399/K-79-0323
2. 15-151-00000-0000
3. 108 000 000
4. M L Sloan
5. Covey A #1
6. Carver-Robbins
7. Pratt KS
8. 13.3 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipe Line Co
1. 80-08400/K-79-0326
2. 15-151-00000-0000
3. 108 000 000
4. M L Sloan
5. Shrack #1
6. Carver-Robbins
7. Pratt KS
8. 7.3 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipeline
1. 80-08401/K-79-0324
2. 15-151-00000-0000
3. 108 000 000
4. M L Sloan
5. Jack #1
6. Carver-Robbins
7. Pratt KS
8. 15.7 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipe Line
1. 80-08402/K-79-0327
2. 15-151-00000-0000
3. 108 000 000
4. M L Sloan
5. Thompson #1
6. Carver-Robbins
7. Pratt KS
8. 21.9 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipe Line Co
1. 80-08576/K-79-0793
2. 15-095-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Carrick AB #1
6. Spivey Grabs
7. Kingman KS
8. 16.0 million cubic feet
9. December 5, 1979
10. Kansas Power & Light
1. 80-08577/K-79-0794
2. 15-055-00000-0000
3. 108 000 000
4. Mallonee-Mahoney Inc
5. W J Coppinger-Craft No 1
6. Hugoton
7. Finney KS
8. 18.6 million cubic feet
9. December 5, 1979
10. Cities Service Gas Company
1. 80-08578/K-79-0737
2. 15-187-20228-0000
3. 103 000 000
4. Amoco Production Company
5. G Arnold Unit #1
6. Hugoton
7. Stanton KS
8. 70.0 million cubic feet
9. December 5, 1979
10. Colorado Interstate Gas Company
1. 80-08579/K-79-0736
2. 15-093-20523-0000
3. 103 000 000
4. Amoco Production Company
5. Foster Gas Unit B #2
6. Panoma/Council Grove
7. Kearny KS
8. 160.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Company
1. 80-08580/K-79-0736
2. 15-119-00000-0000
3. 108 000 000
4. Diamond Shamrock Corporation
5. Mary J Reimer No 1
6. McKinney
7. Meade KS
8. 4.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipeline Company
1. 80-08581/K-79-0942
2. 15-175-00000-0000
3. 108 000 000
4. Graham-Michaelis Corporation
5. Woodward #1
6. Hugoton Field

7. Seward KS
8. 10.0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Co
1. 80-08582/K-79-0941
2. 15-175-00000-0000
3. 108 000 000
4. Graham-Michaelis Corporation
5. Schmidt #B-1
6. Hugoton Field
7. Seward KS
8. 4.2 million cubic feet
9. December 5, 1979
10. Colorado Interstate Gas Company
1. 80-08583/K-79-0946
2. 15-081-00000-0000
3. 108 000 000
4. Graham-Michaelis Corporation
5. Reimelt #1
6. Hugoton Field
7. Haskell KS
8. 20.0 million cubic feet
9. December 5, 1979
10. Colorado Interstate Gas Co
1. 80-08584/K-79-0948
2. 15-055-00000-0000
3. 108 000 000
4. Graham-Michaelis Corporation
5. McGraw #1
6. Hugoton Field
7. Finney KS
8. 12.5 million cubic feet
9. December 5, 1979
10. Colorado Interstate Gas Co
1. 80-08585/K-79-0939
2. 15-081-00000-0000
3. 108 000 000
4. Graham-Michaelis Corporation
5. Weidner #1
6. Hugoton Field
7. Haskell KS
8. 8.0 million cubic feet
9. December 5, 1979
10. Colorado Interstate Gas Co
1. 80-08586/K-79-0940
2. 15-081-00000-0000
3. 108 000 000
4. Graham-Michaelis Corporation
5. Osborn #2
6. Hugoton Field
7. Haskell KS
8. 9.5 million cubic feet
9. December 5, 1979
10. Colorado Interstate
1. 80-08587/K-79-0731
2. 15-093-00000-0000
3. 108 000 000
4. Amoco Production Company
5. Tate Gas Unit B #1
6. Hugoton Chase
7. Kearny KS
8. 11.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08588/K-79-0732
2. 15-055-00000-0000
3. 108 000 000
4. Amoco Production Company
5. Wolf Gas Unit #1
6. Hugoton Chase
7. Finney KS
8. 9.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08589/K-79-0733
2. 15-119-00000-0000
3. 108 000 000
4. Diamond Shamrock Corporation
5. W W Langhofer No 1
6. Leslie-Stevens
7. Meade KS
8. 2.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipeline Company
1. 80-08590/K-79-0734
2. 15-119-00000-0000
3. 108 000 000
4. Diamond Shamrock Corporation
5. Edd Eckhoff No 1
6. Northeast Mohler
7. Meade KS
8. 7.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipeline Company
1. 80-08591/K-79-0735
2. 15-119-00000-0000
3. 108 000 000
4. Diamond Shamrock Corporation
5. Harvey C Feldman No 1
6. Northeast Mohler
7. Meade KS
8. 10.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipeline Company
1. 80-08592/K-79-0739
2. 15-187-20267-0000
3. 103 000 000
4. Amoco Production Company
5. Eyman Gas Unit B No. 3
6. Panoma/Council Grove
7. Stanton KS
8. 90.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Company
1. 80-08593/K-79-0740
2. 15-093-20534-0000
3. 103 000 000
4. Amoco Production Company
5. Seibert Gas Unit #2
6. Panoma/Council Grove
7. Kearny KS
8. 2.4 million cubic feet
9. December 5, 1979
10. Cities Service Gas Company
1. 80-08594/K-79-0741
2. 15-093-20542-0000
3. 103 000 000
4. Amoco Production Company
5. Sewell Gas Unit #2
6. Panoma/Council Grove
7. Kearny KS
8. 160.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Company
1. 80-08595/K-79-0742
2. 15-093-20537-0000
3. 103 000 000
4. Amoco Production Company
5. Stallman Gas Unit A #3
6. Panoma/Council Grove
7. Kearny KS
8. 160.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Company
1. 80-08596/K-79-0743
2. 15-093-20420-0000
3. 103 000 000
4. Amoco Production Company
5. Beymer Gas Unit E #2
6. Panoma/Council Grove
7. Kearny KS
8. 114.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Company
1. 80-08597/K-79-0744
2. 15-187-20270-0000
3. 103 000 000
4. Amoco Production Company
5. Walter Herrick #1
6. Hugoton
7. Stanton KS
8. 70.0 million cubic feet
9. December 5, 1979
10. Colorado Interstate Gas Co
1. 80-08598/K-79-0937
2. 15-093-00000-0000
3. 108 000 000
4. Graham-Michaelis Corporation
5. Wright #1
6. Hugoton Field
7. Kearney KS
8. 12.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Company
1. 80-08599/K-79-0951
2. 15-055-00000-0000
3. 108 000 000
4. Graham-Michaelis Corporation
5. Johnson #1
6. Hugoton Field
7. Finney KS
8. 9.5 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Co
1. 80-08600/K-79-0950
2. 15-081-00000-0000
3. 108 000 000
4. Graham-Michaelis Corporation
5. Lemon #1
6. Hugoton Field
7. Haskell KS
8. 14.5 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Co
1. 80-08601/K-79-0858
2. 15-097-00000-0000
3. 105 000 000
4. Gulf Oil Corporation
5. Roy Einsel #1
6. Einsel
7. Kiowa KS
8. 6.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern P/L Co
1. 80-08602/K-79-0857
2. 15-007-00000-0000
3. 108 000 000
4. Gulf Oil Corporation
5. Root B #2
6. Medicine Lodge
7. Barber KS
8. 6.0 million cubic feet
9. December 5, 1979
10. Zenith Natural Gas Company
1. 80-08603/K-79-0855
2. 15-097-00000-0000
3. 108 000 000
4. Gulf Oil Corporation
5. Hardy #1
6. Nichols
7. Kiowa KS
8. 6.0 million cubic feet
9. December 5, 1979
10. Panhandle Eastern Pipeline Co
1. 80-08604/K-79-0853

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2. 15-095-20497-0000
3. 108 000 000
4. Voyager Petroleums Ltd
5. A E Henning No. 1
6. Bonjour
7. Kingman KS
8. 6.0 million cubic feet
9. December 5, 1979
10. Peoples Natural Gas Company
1. 80-08605/K-79-0852
2. 15-093-20448-0000
3. 103 000 000
4. Kansas-Nebraska Nautral Gas Co Inc
5. Campbell 1A-2
6. Panoma Council Grove
7. Klarny KS
8. 33.0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Company
1. 80-08606/K-79-0851
2. 15-071-00000-0000
3. 103 000 000
4. R C Banks
5. Mangold No. 1
6. North Byers
7. Greeley KS
8. 55.0 million cubic feet
9. December 5, 1979
10. Sunflower Electric Coop Inc
1. 80-08655/K-79-0859
2. 15-097-00000-0000
3. 108 000 000
4. Gulf Oil Corporation
5. Jacob Unruh No. 1
6. Nichols
7. Kiowa KS
8. 6.0 million cubic feet
9. December 5, 1979
10. Michigan-Wisconsin P/L Co
1. 80-08656/K-79-0789
2. 15-061-00000-0000
3. 108 000 000
4. Cities Service Co
5. Iholff A-1
6. Hugoton
7. Haskell KS
8. 3.7 million cubic feet
9. December 5, 1979
10. Colorado Interstate Gas Co
1. 80-08657/K-79-0860
2. 15-145-20462-0000
3. 108 000 000
4. Gulf Oil Corporation
5. Paramore No. 2
6. Warsaw
7. Pawnee KS
8. 6.0 million cubic feet
9. December 5, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 80-08658/K-79-0790
2. 15-061-00000-0000
3. 108 000 000
4. Cities Service Co
5. Branstetter A-1
6. Hugoton
7. Haskell KS
8. 7.3 million cubic feet
9. December 5, 1979
10. Colorado Interstate Gas Co
1. 80-08659/K-79-0883
2. 15-077-20488-0000
3. 103 000 000
4. Pickrell Drilling Company
5. Banta H No. 1
6. Spivey Grabs Field
7. Harper County KS
8. 36.0 million cubic feet
9. December 5, 1979
10. Cities Service Company
1. 80-08660/K-79-0849
2. 15-191-00000-0000
3. 108 000 000
4. George R McNeish
5. Buffington No. 1
6. Murphy
7. Sumner KS
8. 5.5 million cubic feet
9. December 5, 1979
10. Eufaula Enterprises
1. 80-08661/K-79-0850
2. 15-035-00000-0000
3. 103 000 000
4. McNeish Oil Operations
5. Thompson No. 1
6. Geuda Springs
7. Cowley KS
8. 36.5 million cubic feet
9. December 5, 1979
10. Eufaula Enterprises
1. 80-08662/K-78-0085
2. 15-093-20512-0000
3. 103 000 000
4. Mobil Oil Corporation
5. White Heirs Unit C No. 2
6. Panoma
7. Kearny KS
8. 70.0 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08663/K-79-0873
2. 15-077-20430-0000
3. 103 000 000
4. National Oil Company
5. No. 1 Hostetler
6. Spivey-Grabs
7. Harper KS
8. 18.0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Co
1. 80-08664/K-79-0952
2. 15-055-00000-0000
3. 108 000 000
4. Graham-Michaelis Corporation
5. Hibbert No. 1
6. Hugoton Field
7. Finney KS
8. 11.0 million cubic feet
9. December 5, 1979
10. Cities Service Oil Co
1. 80-08665/K-79-0953
2. 15-081-00000-0000
3. 108 000 000
4. Graham-Michaelis Corporation
5. Black No. 1
6. Hugoton Field
7. Haskell County KS
8. 15.3 million cubic feet
9. December 5, 1979
10. Colorado Interstate Gas Co
1. 80-08666/K-79-0786
2. 15-129-10339-0000
3. 108 000 000
4. Cities Service Co
5. Walsh B No. 1
6. Greenwood
7. Morton KS
8. 18.3 million cubic feet
9. December 5, 1979
10. Colorado Interstate Gas Co
1. 80-08667/K-79-0775
2. 15-119-20292-0000
3. 103 000 000
4. Lee Banks
5. Cornelsen B No. 1
6. Meade
7. Meade KS
8. 130.0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Company
1. 80-08668/K-79-0773
2. 15-047-20075-0000
3. 108 000 000
4. Geo R Shaw
5. Massey A-2
6. Wil
7. Edwards KS
8. 18.2 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Company
1. 80-08669/K-79-0772
2. 15-055-20331-0000
3. 103 000 000
4. Energy Exploration & Production Inc
5. Dechant No 1
6. Hugoton
7. Finney KS
8. 45.0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Company
1. 80-08670/K-79-0771
2. 15-055-20317-0000
3. 103 000 000
4. Energy Exploration & Production Inc
5. Tate No 1
6. Hugoton
7. Finney KS
8. 45.0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Company
1. 80-08671/K-79-0770
2. 15-055-20330-0000
3. 103 000 000
4. Energy Exploration & Production Inc
5. Moler No 1
6. Hugoton
7. Finney KS
8. 45.0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Company
1. 80-08672/K-79-0854
2. 15-025-00000-0000
3. 108 000 000
4. Graham-Michaelis Corp
5. McMinimy No 1-19
6. Sitka
7. Clark KS
8. 19.5 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Company
1. 80-08673/K-79-0870
2. 15-025-00000-0000
3. 103 000 000
4. Kennedy & Mitchell Inc
5. Tuttle No 11-116
6. (NE NW 13-35S-21W)
7. Clark KS
8. 300.0 million cubic feet
9. December 5, 1979
10. Northern Natural Gas Company

Louisiana Office of Conservation

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator

5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-08575/79-2301
2. 17-101-21041-0000
3. 102 000 000
4. WWF Oil Corporation
5. SL 4801 No 2
6. Atchafalaya Bay Field
7. St Mary LA
8. 300.0 million cubic feet
9. December 5, 1979
10. Tennessee Gas Pipeline Company

Montana Board of Oil and Gas Conservation

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-08573A/10-79-276
2. 25-071-21621-0000
3. 103 000 000
4. Falcon-Colorado Exploration Inc
5. 1-20 Fisher
6. Swanson Creek
7. Phillips MT
8. 3.7 million cubic feet
9. December 7, 1979
10. Montana-Dakota Utilities Co
1. 80-08573B/10-79-277
2. 25-105-21168-0000
3. 103 000 000
4. Falcon-Colorado Exploration Inc
5. 1-4 Fisher
6. Swanson Creek
7. Valley MT
8. 5.0 million cubic feet
9. December 7, 1979
10. Montana-Dakota Utilities Co
1. 80-08574A/10-79-278
2. 25-071-21676-0000
3. 103 000 000
4. Falcon-Colorado Exploration Inc
5. 2-5 Bowman
6. Swanson Creek
7. Phillips MT
8. 9.6 million cubic feet
9. December 7, 1979
10. Montana-Dakota Utilities Co
1. 80-08574B/10-79-279
2. 25-083-21291-0000
3. 103 000 000
4. Helmerich & Payne Inc
5. Glatter No 1-25
6. North Sioux Pass
7. Richland MT
8. 73.0 million cubic feet
9. December 7, 1979
10. True Oil Company

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-08268
2. 30-025-24961-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Phillips E State No 19
6. Maljamar Grayburg-San Andres
7. Lea NM
8. 6.0 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Co
1. 80-08269
2. 30-025-26158-0000
3. 102 000 000
4. Getty Oil Company
5. State 29 J Well No 1
6. Undesignated Atoka
7. Lea NM
8. 1.5 million cubic feet
9. December 5, 1979
10. Transwestern Pipeline Company
1. 80-08270
2. 30-039-00000-0000
3. 108 000 000
4. Getty Oil Company
5. Farming E State No 3
6. Basin Dakota
7. Rio Arriba NM
8. 13.0 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Co
1. 80-08271
2. 30-025-26378-0000
3. 103 000 000
4. Phillips Petroleum Company
5. E Vacuum GB/SA Unit TR 2720 No 005
6. Vacuum Grayburg San Andres
7. Lea NM
8. 3.0 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Co
1. 80-08272
2. 30-015-22439-0000
3. 103 000 000
4. Amoco Production Company
5. State EC No 1
6. Und North Turkey Track
7. Eddy NM
8. 175.0 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Co
1. 80-08273
2. 30-025-00000-0000
3. 108 000 000
4. Harris & Walton
5. Charles Whitten B No 3
6. Jalmat
7. Lea NM
8. 4.1 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Co
1. 80-08274
2. 30-025-00000-0000
3. 108 000 000
4. Harris & Walton
5. Charles Whitten B No 4
6.
7. Lea NM
8. 4.1 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Co
1. 80-08275
2. 30-025-00000-0000
3. 108 000 000
4. Harris & Walton
5. B Davis No 1
6. Jalmat
7. Lea NM
8. 14.5 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Co
1. 80-08359
2. 30-015-22851-0000
3. 103 000 000
4. Yates Petroleum Corporation
5. Wright Ja No 3
6. Atoka Yeso
7. Eddy NM
8. .0 million cubic feet
9. December 5, 1979
10. Transwestern Pipeline Company
1. 80-08360
2. 30-015-00000-0000
3. 108,000 000
4. A Nelson Muncy
5. Warren-State No 1
6. Millman-Grayburg
7. Eddy, NM
8. 18.3 million cubic feet
9. December 5, 1979
10. Phillips Petroleum Company
1. 80-08361
2. 30-025-22003-0000
3. 108 000 000 denied
4. Wilson Oil Company
5. Leonard State No 1 (E-5890)
6. Wilson Bones Spring Sec 19 T21S R35
7. Lea, NM
8. .0 million cubic feet
9. December 5, 1979
10. Phillips Petroleum Company
1. 80-08362
2. 30-025-02593-0000
3. 108 000 000
4. Wilson Oil Company
5. Wilson State 32 (B-10792)
6. Wilson Yates 7 Rivers sec 24 T21S R
7. Lea, NM
8. 5.8 million cubic feet
9. December 5, 1979
10. Phillips Petroleum Company
1. 80-08363
2. 30-025-02591-0000
3. 108 000 000
4. Wilson Oil Company
5. Wilson State 30 (B-10792)
6. Wilson Yates 7 Rivers sec 24 T21S R
7. Lea County NM
8. 5.8 million cubic feet
9. December 5, 1979
10. Phillips Petroleum Company
1. 80-08366
2. 30-005-00000-0000
3. 103 000 000
4. El Ran Inc
5. Carroll #1
6. Chaveroo
7. Chaves, NM
8. 36.0 million cubic feet
9. December 5, 1979
10. Transwestern Pipeline Co, Cities Service Company
1. 80-08367
2. 30-025-26437-0000

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3. 103 000 000
4. John Yuronka
5. Harrison #3
6. Langlie Mattix
7. Lea, NM
8. 132.0 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Company

North Dakota Geological Survey

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-08364/175-NGPA
2. 33-007-00304-0000
3. 102 000 000
4. Gulf Oil Corporation
5. Lee Hanson 1-28-4B
6. Little Knife
7. Billings, ND
8. 32.0 million cubic feet
9. December 3, 1979
10. Montana Dakota Utilities

1. 80-08365/176-NGPA
2. 33-025-00141-0000
3. 102 000 000
4. Gulf Oil Corporation
5. Houghton Sabrosky 1-33-30
6. Little Knife
7. Dunn, ND
8. 15.0 million cubic feet
9. December 3, 1979
10. Montana Dakota Utilities

Oklahoma Corporation Commission

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-08674/00987
2. 35-007-00027-0000
3. 108 000 000
4. Texaco Inc
5. L J Barby A No 1
6. Mocane-Laverne
7. Beaver OK
8. 3.7 million cubic feet
9. November 21, 1979
10. Colorado Interstate Gas Co

West Virginia Department of Mines

Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-08610
2. 47-007-00462-0000
3. 108 000 000
4. Pond Fork Oil & Gas Co
5. A W Litton Farm No 1-124
6.
7. Braxton WV
8. 8.3 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08267
2. 47-099-00484-0000
3. 108 000 000
4. Industrial Gas Corporation
5. R & T P Maynard 5-759
6.
7. Wayne WV
8. 4.4 million cubic feet
9. November 20, 1979
10. Houdaille Industries Inc, Huntington Alloys Inc, Libby-Owens-Ford Co, Owens-Illinois Inc

1. 80-08607
2. 47-013-01283-0000
3. 108 000 000
4. Walter E & Mary L Smith
5. Lenna Stump Well No 1
6. Sherman District
7. Calhoun WV
8. 2.1 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08608
2. 47-007-00535-0000
3. 108 000 000
4. Pond Fork Oil & Gas Co
5. Phillip L Engle Farm No 7-127
6.
7. Braxton WV
8. 18.0 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08609
2. 47-007-00512-0000
3. 108 000 000
4. Pond Fork Oil & Gas Co
5. Anna Z Berry Farm No 1-125
6.
7. Braxton WV
8. 2.1 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08611
2. 47-005-00823-0000
3. 108 000 000
4. Pond Fork Oil & Gas Co
5. Pickens & Guthrie P&G No 12
6.
7. Boone WV
8. .3 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp

1. 80-08612
2. 47-005-00788-0000
3. 108 000 000
4. Pond Fork Oil & Gas Co
5. Pickens & Guthrie P&G No 11
6.
7. Boone WV
8. .4 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp

1. 80-08613
2. 47-005-00771-0000
3. 108 000 000
4. Pond Fork Oil & Gas Co
5. Pickens & Guthrie P&G No 10
6.
7. Boone WV
8. 1.3 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp

1. 80-08614
2. 47-005-00743-0000
3. 108 000 000
4. Pond Fork Oil & Gas Co
5. Pickens & Guthrie P&G No 9
6.
7. Boone WV
8. .7 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp

1. 80-08615
2. 47-013-01927-0000
3. 108 000 000
4. Walter E Smith
5. George Bigler well No 2
6. Sheridan
7. Calhoun WV
8. 1.7 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08616
2. 47-013-01910-0000
3. 108 000 000
4. Walter E Smith
5. George Bigler well No 1
6. Sheridan
7. Calhoun WV
8. 1.8 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08617
2. 47-013-01889-0000
3. 108 000 000
4. Walter E Smith
5. E W Gainer Well No 2
6. Lee District
7. Calhoun WV
8. 1.1 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08618
2. 47-013-01378-0000
3. 108 000 000
4. Walter E & Mary L Smith
5. Lenna Stump No 3
6. Sherman District
7. Calhoun WV
8. 2.7 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08619
2. 47-007-00439-0000
3. 108 000 000
4. Pond Fork Oil & Gas Co
5. Rohrbough Hines Farm No 5-122
6.
7. Braxton WV
8. 1.0 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08620
2. 47-041-01642-0000
3. 108 000 000
4. Cecil Pruitt Jr
5. Lawson No 1-047-041-1642
6. Lawson No. 1
7. Lewis WV
8. 6.1 million cubic feet

9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08621
2. 47-041-01636-0000
3. 108 000 000
4. Cecil Pruitt Jr
5. Alkire No 1 047-041-1636
6. Alkire No 1
7. Lewis WV
8. 5.0 million cubic feet
9. December 5, 1979
10. Standard Gas Company

1. 80-08622
2. 47-041-01571-0000
3. 108 000 000
4. Cecil Pruitt Jr
5. Law No 1 047-041-1571
6. Law No 1
7. Lewis WV
8. 2.7 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Co

1. 80-08623
2. 47-041-01519-0000
3. 108 000 000
4. Cecil Pruitt Jr
5. Ervin #2 047-041-1519
6. Ervin #2
7. Lewis, WV
8. 7.5 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Co

1. 80-08624
2. 47-041-01370-0000
3. 108 000 000
4. Cecil Pruitt Jr
5. Green #1 047-041-1370
6. Green #1
7. Lewis, WV
8. 6.3 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Co

1. 80-08625
2. 47-041-01330-0000
3. 108 000 000
4. Cecil Pruitt Jr
5. Martin #1 047-041-1330
6. Martin #1
7. Lewis, WV
8. 3.4 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Co

1. 80-08626
2. 47-013-01966-0000
3. 108 000 000
4. Walter E Smith
5. John G Rogers Well #3
6. Sheridan
7. Calhoun, WV
8. 1.5 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08627
2. 47-041-01716-0000
3. 108 000 000
4. Cecil Pruitt Jr
5. Alkire #2 047-041-1716
6. Alkire #2
7. Lewis, WV
8. 5.0 million cubic feet
9. December 5, 1979
10. Standard Gas Company

1. 80-08628
2. 47-007-00438-0000
3. 108 000 000
4. Pond Fork Oil & Gas Co
5. Rohrbough Hines Farm #14-121
6.
7. Braxton, WV
8. 1. 0 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08629
2. 47-005-00864-0000
3. 108 000 000
4. Pond Fork Oil & Gas Co
5. Pickens & Guthrie P&G #5
6.
7. Boone, WV
8. 1.7 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp

1. 80-08631
2. 47-005-00195-0000
3. 108 000 000
4. Pond Fork Oil # Gas Co
5. Pickens & Guthrie P&G #7
6.
7. Boone, WV
8. 1.4 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp

1. 80-08632
2. 47-005-00046-0000
3. 108 000 000
4. Pond Fork Oil & Gas Co
5. Pickens & Guthrie P&G #6
6.
7. Boone, WV
8. 4.4 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp

1. 80-08633
2. 47-013-01324-0000
3. 108 000 000
4. Walter E & Mary L Smith
5. Lenna Stump Well No 2
6. Sherman District
7. Calhoun, WV
8. 2.0 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08634
2. 47-013-01954-0000
3. 108 000 000
4. Walter E Smith
5. John G Rogers Well #2
6. Sheridan
7. Calhoun, WV
8. 1.4 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08635
2. 47-013-01935-0000
3. 108 000 000
4. Walter E Smith
5. John G Rogers Well #1
6. Sheridan
7. Calhoun, WV
8. 1.2 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08636
2. 47-007-00431-0000
3. 108 000 000
4. Pond Fork Oil & Gas Co
5. Phillip L Engle Farm #6-120
6.
7. Braxton, WV
8. 5.4 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08637
2. 47-005-00881-0000
3. 108 000 000
4. Pond Fork Oil & Gas Co
5. Pickens & Guthrie P&G #14
6.
7. Boone, WV
8. .7 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp

1. 80-08638
2. 47-005-00835-0000
3. 108 000 000
4. Pond Fork Oil & Gas Co
5. Pickens & Guthrie P&G #13
6.
7. Boone, WV
8. 1.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp

1. 80-08639
2. 47-085-01601-0000
3. 108 000 000
4. Little Mo Oil & Gas Co
5. A M Tate No 1
6. Union District
7. Ritchie, WV
8. 1.0 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08640
2. 47-085-03013-0000
3. 108 000 000
4. Little Mo Oil & Gas Co
5. A H Tate No 2
6. Union District
7. Ritchie, WV
8. 7.0 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08641
2. 47-085-01840-0000
3. 108 000 000
4. Mutual Oil & Gas Co
5. Leeke-Cunningham No 1
6. Union District
7. Ritchie, WV
8. 1.0 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08642
2. 47-013-01430-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. Roy Morgan Well #2
6. Lee District
7. Calhoun, WV
8. 1.1 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08643
2. 47-013-01401-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Company Inc
5. Roy Morgan Well #1
6. Lee District
7. Calhoun, WV
8. 1.0 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08644

2. 47-013-01308-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. J V Nester #2 (Vir Allen #2)
6. Lee District
7. Calhoun, WV
8. 2.0 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08645
2. 47-013-01356-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. J P Hick Well #1
6. Lee
7. Calhoun, WV
8. 2.9 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08646
2. 47-0130-01358-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. San Sourbourne Well #1
6. Lee District
7. Calhoun, WV
8. 1.3 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08647
2. 47-013-01334-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. Sam Shrader No 1
6. Lee District
7. Calhoun, WV
8. 4.4 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08648
2. 47-013-01317-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. H H Bennington No 1
6. Lee District
7. Calhoun, WV
8. 1.8 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08649
2. 47-013-01304-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. Cleo Summers Well #1
6. Lee District
7. Calhoun, WV
8. 2.0 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08650
2. 47-013-01301-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. Tressie Booher Well #1
6. Lee
7. Calhoun, WV
8. 1.2 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08651
2. 47-013-02918-0000
3. 108 000 000
4. Walter E Smith
5. I Parsons Martin Well #1
6. Sheridan
7. Calhoun, WV
8. 2.5 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08652
2. 47-013-02917-0000
3. 108 000 000
4. Walter E Smith
5. I Parsons Martin Well #2
6. Sheridan
7. Calhoun, WV
8. 2.8 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08653
2. 47-013-02436-0000
3. 108 000 000
4. Walter E Smith
5. M S Snider No. 1
6. Center District
7. Calhoun, WV
8. 3.4 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08654
2. 47-013-02436-0000
3. 108 000 000
4. Walter E Smith
5. M S Snider No 1
6. Center District
7. Calhoun, WV
8. 3.4 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

Wyoming Oil and Gas Conservation Commission

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-08356/NG-263-79
2. 49-009-21377-0000
3. 103 000 000
4. Petroleum Inc
5. Johnson 1-29
6. Mikes Draw (Teapot)
7. Converse, WY
8. 6.0 million cubic feet
9. November 15, 1979
10. Phillips Petroleum Company

1. 80-08357/NG-264-79
2. 49-009-21459-0000
3. 103 000 000
4. Petroleum Inc
5. Campbell Estate No. 1
6. Mikes Draw (Teapot)
7. Converse, WY
8. 25.0 million cubic feet
9. November 15, 1979
10. Phillips Petroleum Company

1. 80-083-08358/NG-265-79
2. 49-009-21523-0000
3. 103 000 000
4. Petroleum Inc
5. Conoco Mortons Inc No. 2
6. Mikes Draw (Teapot)
7. Converse, WY
8. 15.0 million cubic feet
9. November 15, 1979
10. Phillips Petroleum Company

Albuquerque, N. Mex.

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-08403/COA 4047-79
2. 05-067-05150-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Ute No. 3-A
6. Ignacio Blanco Mesaverde
7. La Plata, Co
8. 10.9 million cubic feet
9. December 5, 1979
10. Peoples Natural Gas Company

1. 80-08434/COA4051-79
2. 05-067-05194-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Ute No. 8-A
6. Ignacio Blanco MV & Dakota
7. La Plata, Co
8. 8.4 million cubic feet
9. December 5, 1979
10. Peoples Natural Gas Company

1. 80-08435/COA4050-79
2. 05-067-05042-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Ute No. 7
6. Ignacio Blanco Fruitland Pict Cliff
7. La Plata, Co
8. 8.7 million cubic feet
9. December 5, 1979
10. Peoples Natural Gas Company

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 80-08404/NM-326-78
2. 30-015-22355-0000-0
3. 103 000 000
4. Harvey E Yates Company
5. Travis Deep Com #3
6. Travis Upper Penn (Canyon Completion
7. Eddy, NM
8. 80.0 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Company

1. 80-08405/NM-326-78
2. 30-015-22355-0000-0
3. 102 000 000
4. Harvey E Yates Company
5. Travis Deep Comm #3
6. Travis Uppr Penn
7. Eddy, NM
8. 80.0 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Company

1. 80-08406/NM-325-78

2. 30-015-22117-0000-0
3. 103 000 000
4. Harvey E Yates Company
5. Travis Deep Unit #2
6.
7. Eddy, NM
8. 164.0 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Company

1. 80-08407/NM-325-78
2. 30-015-22117-0000-0
3. 102 000 000
4. Harvey E Yates Company
5. Travis Deep Unit #2
6.
7. Eddy, NM
8. 164.0 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Company

1. 80-08408/NM-323-78
2. 30-015-22370-0000-0
3. 103 000 000
4. Harvey E Yates Company
5. Travis Bassett-Birney #1
6.
7. Eddy, NM
8. 1277.0 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Company

1. 80-08409/NM-323-78
2. 30-015-22370-0000-0
3. 102 000 000
4. Harvey E Yates Company
5. Travis Bassett-Birney #1
6. South Empire
7. Eddy, NM
8. .0 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Company

1. 80-08410/NM-190-78
2. 30-045-22583-0000-0
3. 103 000 000
4. Jerome P McHugh
5. Bengal C #3
6. Undesignated Fruitland
7. San Juan, NM
8. 21.0 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Company

1. 80-08411/NM-0221-79
2. 30-045-05807-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Nickson #10
6. Basin Dakota
7. San Juan, NM
8. .0 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Company

1. 80-08412/NM-3949-79
2. 30-039-06068-0000-0
3. 108 000 000
4. Petroleum Corporation of Texas
5. Federal B #1 14-08-001-5223
6. Tapicita P C Field
7. Rio Arriba County, NM
8. 65.0 million cubic feet
9. December 5, 1979
10. Northwest Pipeline Corp

1. 80-08413A/NM-3353-79
2. 30-039-21591-0000-0
3. 108 000 000
4. Amoco Production Company
5. Valencia Canyon Unit #23
6. Choza Mesa-Pictured Cliffs
7. Rio Arriba, NM
8. 19.0 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Co

1. 80-08413B/NM-3398-79
2. 30-039-21604-0000-0
3. 108 000 000
4. Amoco Production Company
5. Valencia Canyon Unit #22
6. Choza Mesa-Pictured Cliffs
7. Rio Arriba, NM
8. 21.0 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Co

1. 80-08414/NM-3110-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Alice Bolack #13
6. West Kutz Pictured Cliffs
7. San Juan, NM
8. 15.6 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Company

1. 80-08415/NM-362-78
2. 30-015-22375-0000-0
3. 103 000 000
4. Yates Petroleum Corporation
5. Box Canyon 4A #1
6. Little Box Canyon Upper Penn
7. Eddy, NM
8. 633.5 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Co

1. 80-08416/NM-362-78
2. 30-015-22375-0000-0
3. 102 000 000
4. Yates Petroleum Corporation
5. Box Canyon 4A #1
6. Box Canyon-Upper Penn
7. Eddy, NM
8. 430.0 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Co

1. 80-08417/NM-4173-79
2. 30-039-06951-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Rincon Unit #158
6. Basin-Dakota Gas
7. Rio Arriba, NM
8. 20.0 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Company

1. 80-08418/NM-4192-79
2. 30-015-21656-0000-0
3. 108 000 000
4. Hanagan Petroleum Corporation
5. Horseshoe Bend Com No 1 NM 20053
6. Horseshoe Bend (Morrow)
7. Eddy, NM
8. 7.7 million cubic feet
9. December 5, 1979
10. Transwestern Pipeline Company

1. 80-08419/NM-4137-79
2. 30-039-21628-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. San Juan 29-7 Unit #33A
6. Blanco Mesaverde
7. Rio Arriba, NM
8. 60.0 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp

1. 80-08420/NM-4020-79
2. 30-045-23202-0000-0
3. 103 000 000
4. Dugan Production Corp
5. Sears Roebuck #2
6. Bisti Gallup
7. San Juan, NM
8. 7.5 million cubic feet
9. December 5, 1979
10.

1. 80-08421/NM-4014-79-1
2. 30-025-26201-0000-0
3. 102 000 000
4. DA&S Oil Well Servicing Inc
5. Federal B No 1
6. Undesignated
7. Lea, NM
8. 75.0 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Company

1. 80-08422/NM-3968-79
2. 30-005-20490-0000-0
3. 102 000 000
4. Holly Energy Inc
5. Union Federal No 1
6. Wildcat
7. Chaves, NM
8. 91.0 million cubic feet
9. December 5, 1979
10. Cities Service Oil Company

1. 80-08423/NM-4211-79
2. 30-045-23395-0000-0
3. 103 000 000
4. Kimbark Operating Co
5. Horton #11
6. Blanco Pictured Cliffs
7. San Juan, NM
8. 365.0 million cubic feet
9. December 5, 1979
10. Southwest Gas Corporation

1. 80-08424/NM-3950-79
2. 30-039-06060-0000-0
3. 108 000 000
4. Petroleum Corporation of Texas
5. Federal B #2 14-08-001-7341
6. Tapicita P C Field
7. Rio Arriba County, NM
8. 65.0 million cubic feet
9. December 5, 1979
10. Northeast Pipeline Corporation

1. 80-08425A/NM-4234-79A
2. 30-039-21593-0000-0
3. 103 000 000
4. Cotton Petroleum Corporation
5. Apache No 119 (Dakota West)
6. Dakota West
7. Rio Arriba, NM
8. 160.0 million cubic feet
9. December 5, 1979
10. Northwest Pipeline Corporation

1. 80-08425B/NM-4234-79B
2. 30-039-21893-0000-2
3. 103 000 000
4. Cotton Petroleum Corporation
5. Apache No 119 (Gallup)
6. Lindrith Gallop
7. Rio Arriba, NM
8. 160.0 million cubic feet
9. December 5, 1979
10. Northwest Pipeline Corporation

1. 80-08428A/NM-4235-79A
2. 30-039-21894-0000-1
3. 103 000 000
4. Cotton Petroleum Corporation
5. Apache No 118 (Dakota West)

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6. Dakota West
7. Rio Arriba, NM
8. 151.0 million cubic feet
9. December 5, 1979
10. Northwest Pipeline Corporation
1. 80-08428B/NM-4235-79B
2. 30-039-21894-0000-2
3. 103 000 000
4. Cotton Petroleum Corporation
5. Apache No 118 (Gallup)
6. Lindrith Gallop
7. Rio Arriba, NM
8. 151.0 million cubic feet
9. December 5, 1979
10. Northwest Pipeline Corporation
1. 80-08427A/NM-4386-79-3A
2. 30-039-22047-0000-1
3. 103 000 000
4. Cotton Petroleum Corporation
5. Apache No 130 (Dakota West)
6. Dakota West
7. Rio Arriba, NM
8. 30.0 million cubic feet
9. December 5, 1979
10. Northwest Pipeline Corporation
1. 80-08427B/NM-4386-79-3B
2. 30-039-22047-0000-2
3. 103 000 000
4. Cotton Petroleum Corporation
5. Apache No 130 (Gallup)
6. Lindrith Gallop
7. Rio Arriba, NM
8. 30.0 million cubic feet
9. December 5, 1979
10. Northwest Pipeline Corporation
1. 80-08428/NM-4225-79
2. 30-045-21991-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Pierce #3A
6. Blanco Mesaverde
7. San Juan, NM
8. 160.0 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Company, Southern Union Gathering Co
1. 80-08429A/NM-4228-79A
2. 30-039-21897-0000-1
3. 103 000 000
4. Cotton Petroleum Corporation
5. Apache No 122 (Dakota West)
6. Dakota West
7. Rio Arriba, NM
8. 100.0 million cubic feet
9. December 5, 1979
10. Northwest Pipeline Corp
1. 80-08429B/NM-4228-79B
2. 30-039-21897-0000-2
3. 103 000 000
4. Cotton Petroleum Corporation
5. Apache No 122 (Gallup)
6. Lindrith Gallop
7. Arriba, NM
8. 100.0 million cubic feet
9. December 5, 1979
10. Northwest Pipeline Corp
1. 80-08430/NM-4229-79
2. 30-045-21814-0000-0
3. 103 000 000
4. Cotton Petroleum Corporation
5. Apache No 113
6. Lindrith Gallop Dakota West
7. Rio Arriba, NM
8. 80.0 million cubic feet
9. December 5, 1979
10. Northwest Pipeline Corp
1. 80-08431A/NM-4231-79A
2. 30-039-21815-0000-1
3. 103 000 000
4. Cotton Petroleum Corporation
5. Apache No 115 (Dakota West)
6. Dakota West
7. Rio Arriba, NM
8. 80.0 million cubic feet
9. December 5, 1979
10. Northwest Pipeline Corp
1. 80-08431B/NM-4231-79B
2. 30-039-21815-0000-2
3. 103 000 000
4. Cotton Petroleum Corporation
5. Apache No 115 (Gallup)
6. Lindrith Gallop
7. Rio Arriba, NM
8. 80.0 million cubic feet
9. December 5, 1979
10. Northwest Pipeline Corp
1. 80-08432A/NM-4232-79A
2. 30-039-21896-0000-1
3. 103 000 000
4. Cotton Petroleum Corporation
5. Apache No 128 (Dakota West)
6. Dakota West
7. Rio Arriba, NM
8. 23.0 million cubic feet
9. December 5, 1979
10. Northwest Pipeline Corp
1. 80-08432B/NM-4232-79B
2. 30-039-21896-0000-2
3. 103 000 000
4. Cotton Petroleum Corporation
5. Apache No 128 (Gallup)
6. Lindrith Gallop
7. Rio Arriba, NM
8. 23.0 million cubic feet
9. December 5, 1979
10. Northwest Pipeline Corp
1. 80-08433/NM-4233-79
2. 30-039-21895-0000-0
3. 103 000 000
4. Cotton Petroleum Corporation
5. Apache No 121
6. Lindrith Gallop Dakota West
7. Rio Arriba, NM
8. 60.0 million cubic feet
9. December 5, 1979
10. Northwest Pipeline Corp
1. 80-08436/NM-4111-79
2. 30-025-09593-0000-0
3. 108 000 000
4. Thompson & Cone
5. Pan American (AMOCO)—Myers No 1
6. Jalmat Yates Gas Pool
7. Lea, NM
8. 20.0 million cubic feet
9. December 5, 1979
10. El Paso Natural Gas Company

Osage, Agency Bureau of Indian Affairs, Osage County, Okla.

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-08293
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 455
6.
7. Osage, OK
8. 1.1 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08294
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 458
6.
7. Osage, OK
8. 1.1 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08295
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 459
6.
7. Osage, OK
8. 1.1 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08296
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 462
6.
7. Osage, OK
8. 1.1 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08297
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 463
6.
7. Osage, OK
8. 1.1 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08298
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 464
6.
7. Osage, OK
8. 1.1 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08299
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 465
6.
7. Osage, OK
8. 1.1 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08300
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 467
6.
7. Osage, OK
8. 1.1 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08301
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 469
6.
7. Osage, OK
8. 1.1 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08302
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 471
6.
7. Osage, OK
8. 1.1 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08303
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 482
6.
7. Osage, OK
8. 1.1 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co
1. 80-08304
2. 35-113-00000-0000-0
3. 108 000 000
4. Ajax Oil & Gas Corp Inc
5. Osage Well 483
6.
7. Osage, OK
8. 1.1 million cubic feet
9. December 5, 1979
10. Cities Service Gas Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 7, 1980.

Please reference the FERC Control Number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-2035 Filed 1-22-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-56]

South Texas Natural Gas Gathering Co.; Amendment To Application

January 16, 1980.

Take notice that on December 11, 1979,[1] South Texas Natural Gas Gathering Company (Applicant), P.O. Box 1569, San Antonio, Texas 78296, filed in Docket No. CP80-56 an amendment to the application filed October 29, 1979, in the instant docket pursuant to Section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations thereunder (18 CFR 157.7(b)) so as to increase the total cost limitations to $570,000 for the construction of gas supply facilities, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is stated that Applicant filed for budget-authorization for the construction and operation of facilities to take into its certificated main pipeline system natural gas supplies prior to the issuance on November 1, 1979, of Order No. 56 in Docket Nos. RM79-37 and RM79-43. It is further stated that Order No. 56 permits budget-authorization for an indefinite duration, and increases the total annual cost limit to 3.0 percent of an Applicant's gas plant account.

Applicant proposes, therefore, to amend its October 29, 1979, application in Docket No. CP80-56 so as to limit the construction of gas supply facilities to $570,000, such amount being less than three percent of Applicant's gas plant account. Applicant further states that no single project would exceed $500,000 in cost during any calendar year.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-3033 Filed 1-22-80; 8:45 am]

BILLING CODE 6450-01-M

[1] The application was initially tendered for filing on December 11, 1979; however, the fee required by § 159.1 of the regulations under the Natural Gas Act (18 CFR 159.1) was not paid until December 14, 1979; thus, filing was not completed until the latter date.

Office of Assistant Secretary for International Affairs

Japan; Atomic Energy Agreement With the United States; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

S-JA-268, to the Power Reactor and Nuclear Fuel Development Corporation, Tokai-Mura, Japan, 26 Uranium hexafluoride standards, containing approximately 1,049 grams uranium, and 16 grams U-235 (1.62%) to be used as standard samples for mass spectrography.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than February 7, 1980.

For the Department of Energy.

Dated: January 18, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-2125 Filed 1-22-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1397-2]

Massachusetts Municipal Wholesale Electric Co.; Notice of Approval of PSD Permit

Notice is hereby given that on April 18, 1979 the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to Massachusetts Municipal Wholesale Electric Company (MMWEC) for approval to construct the Stony Brook Energy Center (SBEC), a new gas turbine electric generating source in

Ludlow, Massachusetts. EPA amended the permit on November 19, 1979 by replacements and clarifications to certain permit conditions. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations, subject to certain conditions, as amended, including:

1. Sulfur content of fuel oil to be burned shall not exceed 0.30 percent by weight.

2. Emission of nitrogen oxides from each unit shall not exceed .0095 percent by volume as specified in 40 CFR Part 60, Subpart GG, as promulgated September 10, 1979 (44 FR 52792).

3. Emissions of particulate matter shall not exceed 0.04 pound per million Btu heat input.

4. Opacity limits for emissions shall be specified by EPA not later than six months after start-up.

5. A continuous monitoring and recording system to monitor and record the fuel consumption and ratio of water/steam to fuel being fired in each simple cycle/combined cycle gas turbine, respectively, shall be installed and operated in accordance with EPA requirements.

6. The sulfur content, nitrogen content and lower heating value of fuel being fired at the gas turbines shall be recorded daily.

7. Continuous opacity monitoring and recording instruments shall be installed on each stack before commencement of operation.

8. Performance tests on each stack shall be performed not later than 180 days after commencement of operation.

9. A manual of operation and maintenance procedures shall be submitted to EPA for approval not later than 90 days after commencement of operation.

10. Reports are to be submitted to EPA of any fuel sample results which exceed the allowable sulfur content, or any visible emissions which exceed the allowable limit.

The PSD permit is reviewable under section 307(b)(1) of the Clean Air Act only in the First Circuit Court of Appeals. A petition for review must be filed on or before March 24, 1980.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency
Region I, Room 1903
J. F. K. Federal Building
Boston, Massachusetts 02203

Department of Environmental Quality Engineering
Air and Hazardous Waste Division
600 Washington Street
Boston, Massachusetts 02111

Dated: January 16, 1980.

William R. Adams, Jr.,

Regional Administrator, Region I.

[FR Doc. 80-3088 Filed 1-22-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

American Hawaiian Cruising Line, Inc., and Hawaii Hotels Boat Services, Inc.; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

American Hawaiian Cruising Line Inc. and Hawaii Hotels Boat Services Inc. c/o American Hawaii Cruises, One Embarcadero Center, Suite 611, San Francisco, California 94111.

Dated: January 18, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-2107 Filed 1-22-80; 8:45 am]

BILLING CODE 6730-01-M

Castellana Maritime, Inc., et al.; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR 540).

Castellana Maritime Inc., Royal Cruise Line Ltd. and Royal Cruise Line (U.S.A.). Inc. c/o Royal Cruise Line, One Maritime Plaza, San Francisco, California 94111.

Dated: January 18, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-2105 Filed 1-22-80; 8:45 am]

BILLING CODE 6730-01-M

Castellana Maritime, Inc., and Royal Cruise Line, Ltd.; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons or Voyages pursuant to the provisions of Section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540).

Catellana Maritime Inc. and Royal Cruise Line Ltd. c/o Royal Cruise Line, One Maritime Plaza, San Francisco, California 94111.

Dated: January 18, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-2106 Filed 1-22-80; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 80-3]

Continental Forwarding, Inc.—Independent Ocean Freight Forwarder License Application and Possible Violations of Section 44, Shipping Act, 1916; Order of Investigation and Hearing

Continental Forwarding, Inc. (Continental) has filed with the Commission an application for a license as an independent ocean freight forwarder. Continental was licensed as an independent ocean freight forwarder, License No. 457, until its license was revoked, effective December 2, 1978, for failure to file with the Commission a surety bond in the amount of $30,000 pursuant to the decision in *Licensing of Independent Ocean Freight Forwarders*, Docket No. 77-53, served July 24, 1978. During the course of the Commission's investigation of Continental's application, it was learned that the firm had apparently engaged in at least 365 instances of ocean freight forwarding for which it collected at least $5,421 in ocean freight compensation after the revocation of its license.

Section 44(b) of the Shipping Act, 1916, requires that applicants be found fit, willing and able properly to carry on the business of forwarding and to conform to the provisions of the Shipping Act, 1916, and the requirements, rules and regulations of the Commission issued thereunder. Otherwise, such application shall be denied.

The applicant's above conduct would appear to reflect adversely upon the managerial responsibility and fitness of the applicant.

By letter dated December 10, 1979, the Commission notified Continental of its intent to deny its application for a license unless the applicant requested a hearing.

In a letter dated December 31, 1979, the applicant requested that it be given a hearing on the intended denial.

Now, therefore, *it is ordered*, That pursuant to sections 22 and 44 (46 U.S.C. 821, 841(b)) of the Shipping Act, 1916, and section 510.8 of the Commission's General Order 4 (46 CFR 510.8), a proceeding is hereby instituted to determine:

1. Whether Continental Forwarding, Inc. violated section 44(a), Shipping Act, 1916 by engaging in unlicensed forwarding activities;

2. Whether Continental Forwarding, Inc. violated section 44(e) of the Shipping Act, 1916 by falsely certifying to ocean carriers that it was licensed as an independent ocean freight forwarder and entitled to receive ocean carrier compensation after its license was revoked and/or by accepting ocean carrier compensation it was not qualified to receive for shipments forwarded after its license was revoked;

3. Whether civil penalties should be assessed against Continental Forwarding, Inc. pursuant to 46 U.S.C. 831(e), for violation of the Shipping Act, 1916, and, if so, the amount of any such penalty which should be imposed taking into consideration factors in possible mitigation of such a penalty;

4. Whether, in light of the evidence adduced pursuant to the first and second issues, together with any other evidence adduced, Continental Forwarding, Inc. and its corporate officers, possess the requisite fitness, within the meaning of section 44(b), Shipping Act, 1916, to be licensed as an independent ocean freight forwarder;

It is further ordered, That Continental Forwarding, Inc. be named Respondent in this proceeding;

It is further ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the proceeding shall initially be limited to the submission of affidavits of fact and memoranda of law;

It is further ordered, That the following schedule be adhered to:

March 3, 1980: Opening Memorandum of Law, Request for Penalty, and Affidavits of Fact From Hearing Counsel;

March 31, 1980: Opening Memorandum of Law and Affidavits of Fact From Respondent;

April 21, 1980: Reply Memorandum of Law and Affidavits of Fact From Hearing Counsel;

It is further ordered, That within two weeks following the Reply Memorandum of Law of Hearing Counsel, the parties will submit to the Administrative Law Judge written statements identifying any unresolved issues of fact and specifying the type of procedure they feel is best suited to resolve them. After consideration of these recommendations, the Administrative Law Judge will issue an appropriate order establishing the procedure for their resolution. However, any additional procedure shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a showing that there are issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That any person other than Respondent and Hearing Counsel, having an interest in and desiring to become party to this proceeding and to participate therein, may do so by filing a timely petition to intervene pursuant to Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72);

It is further ordered, That a notice of this Order be published in the Federal Register and that a copy thereof be served upon Respondent and Hearing Counsel;

It is further ordered, That, except as provided in Rules 159 and 201(a) of the Commission's Rules of Practice and Procedure (46 CFR 502.159 and 502.201(a)), all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118), as well as mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-2111 Filed 1-22-80; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 406]

The Cottman Co.; Order of Revocation

On January 14, 1980, The Cottman Company, World Trade Center, Baltimore, Maryland 21203, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 406.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), § 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 406 issued to The Cottman Company, be and is hereby revoked effective January 14, 1980.

It is further ordered, that Independent Ocean Freight Forwarder License No. 406 issued to the Cottman Company be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon The Cottman Company.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 80-2112 Filed 1-22-80; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 80-4]

Matson Navigation Co.—Proposed 5.67 Percent Bunker Surcharge in the Hawaii Trade; Order of Investigation

Matson Navigation Company (Matson) has filed with this Commission, on December 14, 1979, amendments to its Tariffs, FMC-F Nos. 164, 165, 166, 167, 168 and 169.[1] These revisions, effective January 14, 1980, will result in the imposition of a 5.67 percent bunker surcharge on cargo carried by Matson in the United States Pacific Coast/Hawaii Trade (Hawaii Trade). The proposed 5.67 percent bunker surcharge is the cumulative amount of surcharge to be applied. It represents a net decrease of .99 percent under the present 6.66 percent surcharge.

No protests to Matson's proposed 5.67 percent bunker surcharge have been received.

Matson has filed the requisite financial data on Form FMC-274 of Domestic Circular Letter No. 1-79 in support of its proposed 5.67 percent bunker surcharge. The over recovery of increased fuel cost from surcharges in effect since January 1, 1979 show on Line 7 of Matson's Fuel Surcharge Justification, does not reflect the retroactive application of the methodology found to be appropriate in *Matson Navigation Company—Proposed Bunker Surcharge In The Hawaii Trade*, Docket No. 79-55, (FMC, November 23, 1979) 19 SRR 793. In that investigation, the Commission found that, in order to ascertain the amount of increased fuel cost that should be recovered by Matson's bunker surcharges, an allocation of such costs must be undertaken between sugar and molasses and all other cargo carried on combination vessels serving the Hawaii Trade in accordance with the ratio of the measurement tons of cargo carried other than sugar and molasses to the total quantity of measurement tons of cargo carried. The allocation was necessitated by Matson's election not to apply its bunker surcharge to the tariffs

[1] See Appendix A attached herein.

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governing the carriage of sugar and molasses in the Hawaii Trade.

In the calculation of its over recovery of increased fuel cost contained in its current Fuel Surcharge Justification, Matson has given effect to the Commission's decision in Docket No. 79–55 only from the effective date, May 30, 1979, of the 4.43 percent bunker surcharge that was the subject of that investigation. It is the opinion of the Commission staff that, in view of the Line 7 adjustment provision, this decision should be applied retroactively to Matson bunker surcharges in effect between January 1, 1979 and May 30, 1979 as well.

This issue may or may not be rendered moot by the ruling of the Commission on the Petition for Clarification currently pending before it in Docket No. 79–55. The petition requests that the Commission specify the nature and scope of the remedy(s) that are available in that investigation.

In addition, Matson has continued to incorporate non-regulated revenue and related fuel cost into its calculations of its bunker surcharges. It is the opinion of the staff that, in order to ascertain the amount of increased fuel cost that should be recovered by a bunker surcharge, an allocation of such cost must be undertaken between Trade and non-Trade cargo.

This latter issue is presently being considered in *Matson Navigation Company—Proposed 5.90 Percent Bunker Surcharge Increase In Tariffs FMC–F Nos. 164, 165, 166, and 167*, Docket No. 79–84, (FMC, Order of Investigation served August 24, 1979). The decision of the Commission in this investigation will determine the appropriate methodology to be used in deciding the reasonableness of Matson's proposed bunker surcharge. While there is no need to relitigate this issue, it is believed that a proceeding is necessary to apply the methodology determined to be appropriate to Matson's current filing.

Accordingly, we will institute a proceeding limited to the issues specified in the second ordering paragraph below in order to determine whether the surcharge is unjust, unreasonable or otherwise unlawful under section 18(a) of the Shipping Act, 1916, and sections 3 and 4 of the Intercoastal Shipping Act, 1933, but will waive the otherwise applicable procedural schedule in order to incorporate the Final Decision in Docket No. 79–84, and the ruling upon the Petition for Clarification in Docket No. 79–55.

Now, therefore, it is ordered, That pursuant to the authority of sections 18(a) and 22 of the Shipping Act, 1916 and sections 3 and 4 of the Intercoastal Shipping Act, 1933 (46 U.S.C. section 817, 821, 845, 845(a)), an expedited investigation is hereby instituted into lawfulness of the tariff matter listed in Appendix A for the purpose of making such findings as the facts and circumstances warrant;

It is further ordered, that this proceeding be limited to an investigation of the following areas:

1. Should the methodology found to be appropriate in Docket No. 79–55 be applied retroactively to Matson bunker surcharges in effect prior to the effective date, May 30, 1979, of the surcharge that was the subject of that investigation?
2. Should an allocation be undertaken between Trade and non-Trade cargo in order to ascertain the amount of increased fuel cost that should be recovered by Matson's proposed bunker surcharge?

It is further ordered, that in accordance with Rule 42 of the Commission's Rules of Practice and Procedure (46 CFR 502.42), Hearing Counsel shall be a party to this proceeding;

It is further ordered, that the procedural schedule specified in Rule 67 of the Commission's Rules of Practice and Procedure (46 CFR 502.67) is hereby waived pursuant to Rule 10 of the Commission's Rules of Practice and Procedure (46 CFR 502.10);

It is further ordered, That, notwithstanding our order waiving the Rule 67 procedural schedule, discovery, pursuant to subpart L of the Commission's Rules of Practice and Procedure, shall commmence no later than February 22, 1980;

It is further ordered, that the following procedural schedule be adhered to:

March 7, 1980—Respondent, Hearing Counsel and any Intervenors shall serve written testimony and exhibits constituting their direct case, together with underlying workpapers.

March 28, 1980—All parties shall submit Opening Briefs.

April 11, 1980—All parties shall submit Reply Briefs.

It is further ordered, That any requests for an evidentiary hearing must be accompanied by a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, and the reasons such data could not be submitted through written testimony;

It is further ordered, That during the pendency of this investigation, Respondent will serve all parties of record with notice of any tariff changes affecting the material under investigation at the same time such changes are filed with the Commission;

It is further ordered, That notice of this Order be published in the Federal Register, and a copy be served upon all parties of record;

It is further ordered, That any person other than parties of record having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72);

It is further ordered, That all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

It is further ordered, That except as provided in Rules 159 and 201(a) of the Commission's Rules of Practice and Procedure (46 CFR 502.159, 46 CFR 502.201(a)), all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

Appendix A

Matson Navigation Company Freight Tariff No. 1–T, Supplement No. 21 to FMC–F No. 164.

Matson Navigation Company Freight Tariff No. 30–A, Supplement No. 18 to FMC–F No. 165.

Matson Navigation Company Freight Tariff No. 15–C, Supplement No. 18 to FMC–F No. 166.

Matson Navigation Company Freight Tariff No. 14–F, Supplement No. 18 to FMC–F No. 167.

Matson Navigation Company Freight Tariff No. 12–F, Supplement No. 1 to FMC–F No. 168.

Matson Navigation Company Freight Tariff No. 23–C, Supplement No. 1 to FMC–F No. 169.

[FR Doc. 80-2104 Filed 1-22-80; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 644]

Vanguard Shipping Co.; Order of Revocation

On January 7, 1980, Vanguard Shipping Company, 17 Commerce Street, Baltimore, Maryland 21202, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 644 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 644 issued to Vanguard Shipping Company, be and is hereby revoked effective January 7, 1980.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Vanguard Shipping Company.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 80-2110 Filed 1-22-80; 8:45 am]

BILLING CODE 6730-01-M

Controlled Carriers Under the Ocean Shipping Act of 1978

AGENCY: Federal Maritime Commission.

ACTION: Listing of Controlled Carriers.

SUMMARY: The Federal Maritime Commission hereby publishes a list of "controlled carriers," as defined by the Ocean Shipping Act of 1978, that are not totally exempt from the provisions of the Act.

DATES: None.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, N.W., Washington, D.C. 20573.

SUPPLEMENTAL INFORMATION: The Ocean Shipping Act of 1978 was incorporated into sections 1 and 16(c) of the Shipping Act of 1916 (46 USC 801, 817(c)), and provides for the regulation of rates or charges by certain state-owned or controlled carriers in the foreign commerce of the United States. These provisions became effective November 17, 1978, imposing upon the Federal Maritime Commission the responsibility to regulate the rates and practices of such carriers operating as "cross-traders" in the United States ocean-borne foreign commerce.

Not all controlled carriers are subject to the provisions of the Ocean Shipping Act. Section 18(c)(6) sets forth two categories of controlled carriers which are exempt from the Act and three conditions under which controlled carriers are exempt in certain trade areas. For example, rates of controlled carriers in bilateral trades or in a trade served exclusively by controlled carriers are exempt from the rate regulation prescribed in the Ocean Shipping Act of 1978. Likewise rates which are established pursuant to an agreement among carriers, such as a conference agreement are exempt. However, rates set indepenently (such as open rates) are subject to the regulatory requirements of the Ocean Shipping Act when not related to cargo moving in the bilateral trades or a trade served exclusively by controlled carriers. In order to identify controlled carriers that are not exempt from the provisions of the Act, the Commission issued approximately eighty section 21 Orders to carriers who could meet the definition of controlled carrier as contained in the Act. The Orders required the carriers to answer questions concerning ownership, flag of their vessels, operating areas, United States trades served, and sought their opinion as to possible exemptions. Upon reviewing carrier responses to those Orders, and subsequent to further research where required, the Commission classified certain carriers as controlled, pursuant to the definition contained in the Act, which had not been totally exempted by section 18(c)(6) of the Shipping Act.

On June 8, 1979, letters were sent to those carriers that had been so classified advising them of the Commission's action and suggesting that if they believed the Commission's action was incorrect, further evidence or affidavits concerning their status should be submitted within 30 days.

While some responses were received, none contained data that would change their status from that of a controlled carrier or that would totally exempt them from the provisions of section 18(c) of the Shipping Act. Seven carriers did not submit further evidence or affidavits. Eight carriers did respond to the letter of June 8, 1979. Each of those eight carriers has been individually advised by letter why they have been classified as controlled carriers that have not been totally exempted from the provisions of section 18(c) of the Shipping Act. The remaining four carriers are Soviet carriers and are aware of the Commission's research into their status as controlled carriers since it was published in footnotes on pages 1 and 2 in the Commission's Order of Suspension and to Show Cause issued in Docket No. 79–10.

Therefore, pursuant to the Ocean Shipping Act of 1978 (Public Law 95–483), incorporated as section 18(c) of the Shipping Act, 1916, the Federal Maritime Commission is classifying the following carriers as "controlled carriers" that have not been totally exempted by section 18(c)(6) of the Shipping Act, 1916, as amended:

Baltic Shipping Co.—U.S.S.R.
Bangladesh Shipping Corp.—Bangladesh
Black Sea Shipping Company—U.S.S.R.
Black Star Line—Ghana
Compania Chilena De Navegacion Interoceania, S.A.—Chile
Compagnie Nationale Algerienne de Navigation—Algeria
Companhia de Navegacao Loide Brasileiro—Brazil
Djakarta Loyd, P.T.—Indonesia
Egyptian National Line—Egypt
Far Eastern Shipping Co. (FESCO)—U.S.S.R.
Flota Mercante Gran Centro Americana S.A. (Flomerca)—Guatemala
Murmansk Shipping Co. (Arctic Line)—U.S.S.R.
Neptune Orient Lines (NOL)—Singapore
Pakistan National Shipping Corporation—Pakistan
Peruvian State Line—Peru
Polish Ocean Lines—Poland
Shipping Corporation of India—India
South African Marine Corp. Ltd.—South Africa
Transportes Navieros Ecuatorianos (Transnave)—Ecuador

The process of identification and classification of controlled carriers is continuous. The list as shown will be amemded as such carriers enter and leave the United States trades.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-2100 Filed 1-22-80; 8:45 am]

BILLING CODE 6730-01-M

Petition for an Exemption From the Provisions of 46 CFR 528 (General Order 7, Revised) or Alternative Relief; Filing of Petition

A Petition has been filed by the Movers' and Warehousemen's Association of America, for and on behalf of the International Movers' Rate Agreement No. 8530, seeking a total exemption from the provisions of Part 528, 46 CFR, *Self-Policing Requirements For Section 15 Agreements* (General Order 7, Revised), or alternatively, to allow agreement personnel to perform the self-policing functions in lieu of an independent policing authority pursuant to Section 528.3(b)(3) of Part 528, 46 CFR (General Order 7, Revised). At the same time, petitioner has filed for Commission approval, an amendment to Agreement No. 8530, Agreement No. 8530–4 which modifies the International Movers' Rate Agreement to conform to the requirements of General Order 7, Revised.

This petition has been filed as a "petition for reconsideration" of an order of the Federal Maritime Commission in Docket 79–37, served October 17, 1979, denying the parties' first petition for exemption, because it was nonresponsive to the Commission's order to show cause in Docket 79–37. However, because of the parties' untimely filing of this "petition for reconsideration" and because the Commission's earlier denial of the

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parties' first petition for exemption was "without prejudice", this petition is being processed as a new petition without reference to Docket 79-37.

Interested parties may inspect and obtain a copy of the petition at the Washington Office of the Federal Maritime Commission, 1100 L Street N.W., Room 11101, and at the Field Offices located at New York, New York; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Comments on the petition may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before February 12, 1980. Comments should include facts and arguments concerning the requests for an exemption.

Dated: January 18, 1980.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-2113 Filed 1-22-80; 8:45 am]

BILLING CODE 6730-01-M

[Amendment No. 5 to Commission Order No. 201.1 (Revised)]

Redelegation of Authorities by the Managing Director

Commission Order 201.1 (Revised) was amended by amendment 5 on October 26, 1979, in order to redelegate special permission and rejection authority relating to domestic offshore carriers to the Compliance Board, and to except Controlled Carriers from redelegation of authority with respect to approval/disapproval of special permission petitions. The text of that amendment is as follows:

"Commission Order 201.1 (Revised) dated June 30, 1975, is hereby amended as follows:

I. Delete subsections 4.01 and 4.02 in their entirety.

II. Renumber remaining subsections 4.03 through 4.10 in numerical order from 4.01 through 4.08.

III. Amend subsection renumbered as 4.08 by adding the words 'and domestic offshore' after the word foreign to read as follows:

'4.08 Authority to appoint a Compliance Board consisting of three members to approve special permission applications and reject tariff filings of common carriers in the foreign and domestic offshore commerce of the United States, or conferences of such carriers as set forth in section 7 of this Order.'

IV. Amend subsection 7.01 to add the words 'and domestic offshore' after the word foreign to read as follows:

'7.01 Authority to accept or reject tariff filings of common carriers in the foreign and domestic offshore commerce of the United States or conferences of such carriers for failure to meet the requirements of statute or the Commission's requirements, or for lack of completeness and clarity of the rules and regulations governing the tariff, or noncompliance with special permission or other order of the Commission.'

V. Amend subsection 7.02 by adding the words 'or disapprove' after the word approve; by adding the words 'and domestic offshore' after the word foreign, and by adding, EXCEPT Controlled Carriers subject to the Ocean Shipping Act of 1978, (PL 95-483), after the words 'or conferences of such carriers,' and amended subsection to read as follows:

'7.02 Authority to approve or disapprove special permission applications submitted by carriers in the foreign and domestic offshore commerce of the United States, or conferences of such carriers, except 'Controlled Carriers' subject to the Ocean Shipping Act of 1978, (PL 95-483), for relief from statutory and/or Commission tariff requirements, when good cause is clearly stated by the applicant in terms of: (a) complete, or near-complete, lack of service; (b) lack of special service (RO/RO, heavy lift refrigerator, etc.); (c) expiration of letter of credit requiring prompt movement of cargo and nonavailability of vessel or space; (d) flag requirements of U.S. or any other government; (e) the correction of an obvious clerical or typographical error; (f) advancement of an effective date because of added cost which could not be predicted by the carriers (normally concerned with currency changes, fuel oil increases, port conditions, imposition of new or additional charges by a government or quasi-governmental authority, closing of a land or waterway which increases the length of a voyage, congestion labor shortages, poor productivity, and lack of equipment); (g) movment of relief or other special cargo; (h) filing of open rates; (i) entrance of an independent carrier into a conference; (j) waiver of Commission rules for the convenience of tariff publishing; (k) amendment of suspended tariff items to eliminate the need for litigation; (l) postponement or cancellation of the effective date of tariff changes prior to or after receipt of protests to resolve matters which may otherwise require formal Commission action; or (m) other appropriate criteria.' "

Arthur Pankopf,

Managing Director.

[FR Doc. 80-2108 Filed 1-22-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee

Authorization for Domestic Open Market Operations

In accordance with the Committee's rules regarding availability of information, notice is given that on December 20, 1979, paragraph 1(a) of the Committee's authorization for domestic open market operations was amended to raise from $3 billion to $4 billion the limit on changes between Committee meetings in System Account holdings of U.S. government and federal agency securities, effective immediately, for the period ending with the close of business on January 9, 1980.

Note.—For paragraph 1(a) of the authorization see 36 FR 22697.

By order of the Federal Open Market Committee, January 11, 1980.

Murray Altmann,

Secretary.

[FR Doc. 80-2053 Filed 1-22-80; 8:45 am]

BILLING CODE 6210-01-M

Domestic Policy Directive of November 20, 1979

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on November 20, 1979.[1]

The information reviewed at this meeting suggests that real output of goods and services is declining in the current quarter, after the third-quarter rebound, and that prices on the average are continuing to rise rapidly. Retail sales, which had expanded sharply during the third quarter in both constant and current dollars, dropped in October. Industrial production remained near its midyear level. Nonfarm payroll employment rose considerably, after three months of little growth, but the unemployment rate increased from 5.8 to 6.0 percent. Producer prices of finished goods continued to rise rapidly in October, in part because of further sharp increases in energy items and the spreading effects of earlier increases in energy costs. The rise in the index of average hourly earnings during the first 10 months of the year was close to the rapid pace during 1978.

On October 6 the Federal Reserve announced a series of complementary actions directed toward assuring control over the expansion of money and bank credit and toward curbing speculative excesses in commodity and financial markets, including foreign exchange markets. The actions included an increase in Federal Reserve Bank discount rates from 11 percent to 12 percent; establishment of a marginal reserve requirement on increases in the total of managed liabilities of member banks, Edge corporations, and U.S. agencies and branches of foreign banks; and a shift in the conduct of open market operations to an approach placing greater emphasis in day-to-day operations on the supply of bank reserves and less emphasis on confining short-term fluctuations in the federal funds rate.

Following the announcement on October 6, the downward pressure on the dollar in the exchange markets that had developed in September was reversed, and by the end of October the trade-weighted value of the dollar against major foreign currencies had risen about 3½ percent. In mid-November, however, the value of the dollar declined, reflecting in part developments concerning Iran. The U.S. foreign trade deficit increased in September as the cost of oil imports rose, but the deficit was somewhat lower for the third quarter as a whole than for the second quarter.

Growth of M-1, which had accelerated in September and was exceptionally rapid in the third quarter as a whole, slowed sharply in October to an annual rate of 2½ percent. Expansion of interest-bearing deposits included in M-2 remained strong, as a rise in net flows into time deposits at commercial banks in response to increased yields offset a contraction in savings deposits. Inflows of deposits at nonbank thrift institutions slowed somewhat. Flows into money market mutual funds accelerated. Growth of commercial bank credit moderated in October; nevertheless, banks increased their reliance on the negotiable, large-denomination CD's and other managed liabilities that became subject to the marginal reserve requirement in the statement week beginning October 11. Both short- and long-term market interest rates have risen sharply on balance since the early October announcement of the System's policy actions, although most recently rates have declined; mortgage interest rates have increased substantially further.

Taking account of past and prospective developments in employment, unemployment, production, investment, real income, productivity, international trade and payments, and prices, the Federal Open Market Committee seeks to foster monetary and financial conditions that will resist inflationary pressures while encouraging moderate economic expansion and contributing to a sustainable pattern of international transactions. At its meeting on July 11, 1979, the Committee agreed that these objectives would be furthered by growth of M-1, M-2, and M-3 from the fourth quarter of 1978 to the fourth quarter of 1979 within ranges of 1½ to 4½ percent, 5 to 8 percent, and 6 to 9 percent respectively, the same ranges that had been established in February. The range for M-1 had been established originally on the basis of an assumption that expansion of ATS and NOW accounts would dampen growth by about 3 percent points over the year. It now appears that expansion of such accounts will dampen growth by about 1½ percentage points over the year; thus after allowance for the deviation from the earlier estimate, the equivalent range for M-1 is now 3 to 6 percent. The associated range for bank credit is 7½ to 10½ percent. The Committee anticipates that for the period from the fourth quarter of 1979 to the fourth quarter of 1980, growth may be within the same ranges, depending upon emerging economic conditions and appropriate adjustments that may be required by legislation or judicial developments affecting interest-bearing transactions accounts. These ranges will be reconsidered at any time as conditions warrant.

In the short run, the Committee seeks to restrain expansion of reserve aggregates to a pace consistent with deceleration in growth of M-1, M-2, and M-3 in the fourth quarter of 1979 to rates that would hold growth of these monetary aggregates over the whole period from the fourth quarter of 1978 to the fourth quarter of 1979 within the Committee's longer-run ranges, provided that in the period before the next regular meeting the weekly average federal funds rate remains within a range of 11½ to 15½ percent.

If it appears during the period before the next meeting that the constraint on the federal funds rate is inconsistent with the objective for the expansion of reserves, the Manager for Domestic Operations is promptly to notify the Chairman who will then decide whether the situation calls for supplementary instructions from the Committee.

By order of the Federal Open Market Committee, January 11, 1980.

Murray Altman,

Secretary.

[FR Doc. 80-2052 Filed 1-22-80; 8:45 am]

BILLING CODE 6210-01-M

[1] The Record of Policy Actions of the Committee for the meeting of November 20, 1979, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Bancshares of Missouri, Inc.; Formation of Bank Holding Company

Bancshares of Missouri, Inc., Kearney, Missouri, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Kearney Commerical Bank, Kearney, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 19, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 16, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-2115 Filed 1-22-80; 8:45 am]

BILLING CODE 6210-01-M

Monticello Bancshares, Inc.; Formation of Bank Holding Company

Monticello Bancshares, Inc., Monticello, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80.1 percent of the voting shares of Wright County State Bank, Monticello, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 19, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 16, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-2051 Filed 1-22-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Tar and Nicotine Content of Cigarettes; Correction

AGENCY: Federal Trade Commission.

ACTION: Correction.

SUMMARY: This document corrects the notice published in the Federal Register for January 10, 1980 announcing the tar and nicotine content of cigarettes.

DATE: Effective immediately.

FOR FURTHER INFORMATION CONTACT: Harold C. Pillsbury, PAL–H–750, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3559.

SUPPLEMENTARY INFORMATION: In FR Doc. 80–780 appearing at page 2102 in the issue of Thursday, January 10, 1980 on page 2103 the following changes are made.

1. Delete footnote 3 and the reference thereto on page 2104.

2. Left column, line 31 from the bottom should read: Carlton—King size, filter <0.5, <0.05, (hard pack).

Carol M. Thomas,

Secretary.

[FR Doc. 80–2010 Filed 1–22–80; 8:45 am]

BILLING CODE 6750–01–M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on January 15, 1980. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before February 11, 1980, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

Nuclear Regulatory Commission

The NRC requests clearance for a new, single-time, voluntary survey questionnaire which requests information from licensees concerning a Pilot Regionalization Program for materials licensing. In March of 1977, the Commission requested a plan for regionalizing portions of the materials licensing program on a limited pilot test basis. In April 1977, a two-year pilot test was developed by MNSS. In May of 1977, the Commission concurred in the plan. The pilot test program was initiated on March 1, 1978. The purpose of the regional licensing program is to determine if it is possible in the region to expedite the handling and review of license applications and to improve communications with licensees and applicants for licenses. The objectives of a limited pilot regionalization test of portions of materials licensing are as follows: (1) to determine if better services to the licensee can be provided in the field vs. headquarters, (2) to establish a basis for determining the complement of personnel and equipment required in the field and at headquarters for a formal regional licensing program, and (3) to identify problems that could occur with full regionalization. The survey is designed to obtain information concerning field service to licensees during the pilot program. The NRC estimates that 1,800 licensees will respond to the survey questionnaire and that the burden for each licensee will average approximately 10 minutes.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80–2008 Filed 1–22–80; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute for Occupational Safety and Health

Occupational Safety and Health Field Research Projects

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, PHS, HEW.

ACTION: Notice of research projects to be initiated.

SUMMARY: This notice announces the field research projects involving the collection of information from the public which are planned for initiation by NIOSH during Fiscal Year 1980. This notice does not constitute a request for proposal.

FOR FURTHER INFORMATION CONTACT: Mr. Melvin L. Myers, Director, Office of Program Planning and Evaluation; NIOSH, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–4364.

SUPPLEMENTARY INFORMATION: The NIOSH field research projects described below will be conducted under the authority of Section 20 of the Occupational Safety and Health Act (29 U.S.C. 669) and in accordance with the provisions of Part 85a of Title 42, Code of Federal Regulations. The protocol for the conduct of these types of projects has been reviewed by the Office of Management and Budget and determined to be in compliance with the Federal Reports Act. The list of projects includes the title and (a) purpose of each project, (b) the frequency with which the information will be collected, (c) an indication of types of workers from whom information will be sought, (d) the estimated number of responses and (e) the estimated burden in reporting hours.

1. *Mortality, Morbidity and Industrial Hygiene Study of Workers Exposed to Wood Dust.* (a) The purpose of this study is to determine the possible adverse health effects of an occupational exposure to wood dust, (b) single time, (c) workers exposed to wood dust, (d) 5,000 respondents, (e) 30 minutes manhour burden per response.

2. *Mortality, Medical and Industrial Hygiene Study of Toluene Workers.* (a) The purpose of this study is to determine the possible adverse health effects of an occupational exposure to toluene, (b) single time, (c) workers exposed to toluene, (d) 500 respondents, (e) 30 minutes manhour burden per response.

3. *Medical and Industrial Hygiene Study of Workers Exposed to Dinitrobutylphenol (DNBP).* (a) The purpose of this study is to determine whether adverse health effects are associated with an occupational exposure to dinitrobutylphenol (DNBP), (b) single time, (c) workers exposed to dinitrobutylphenol, (d) 500 respondents, (e) 30 minutes manhour burden per response.

4. *Case Control Study of Goodpastures Syndrome.* (a) The purpose of this study is to determine the possible adverse health effects of workers exposed to hydrocarbon solvents, (b) single time, (c) workers in the petroleum chemical industry, (d) 1000 respondents, (e) 30 minutes manhour burden per response.

5. *Neurological Effects in Pesticide Workers.* (a) The purpose of this study is to determine whether adverse health effects, particularly subclinical neurological effects, are associated with an occupational exposure to pesticides, (b) single time, (c) workers in the pesticide industry, (d) 150 respondents, (e) 30 minutes manhour burden per response.

6. *Exporatory Evaluation of Video Display Terminal Operators Stress/Strain.* (a) The purpose of this study is to determine whether adverse health effects, particularly stress/strain effects, are associated with video display terminal operators, (b) single time, (c) video display terminal operators, (d) 300 respondents, (e) 30 minutes manhour burden per response.

Six weeks before beginning field work on any of these projects, NIOSH will publish a separate notice in the Federal Register giving specific information on the project.

Dated: January 17, 1980.

Anthony Robbins,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 80–2029 Filed 1–22–80; 8:45 am]

BILLING CODE 4110–87–M

Office of Education

Strengthening Developing Institutions Programs; Extension of Closing Date for Receipt of Noncompeting Continuation Applications

Notice is given that the December 10, 1979, deadline for filing noncompeting continuation applications under the Strengthening Developing Institutions Program is extended to March 3, 1980. This Notice was originally published in the Federal Register on October 17, 1979. (44 FR 59963).

This extension will allow the two-year public and private developing institutions who were awarded noncompeting continuation grants in fiscal year 1979 a longer implementation period on which to base progress reports and projections for the second year of operation.

Authority for this program is contained in Sections 301–306 of Title III Higher Education Act of 1965, as amended.

The purpose of the awards is to assist developing institutions of higher education to strengthen their academic quality, administrative capacity, and student services.

Closing Date for Transmittal of Applications: To be assured consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by March 3, 1980.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered by Mail: An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.454, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand delivered should be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Available Funds: It is estimated that approximately $110,000,000 will be available for the Strengthening Developing Institutions Program in FY 1980. Of that amount approximately $12 million will be available for noncompeting continuation projects.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is specified by statute or regulations.

Application Forms: Application forms and program information packages are available and may be obtained by writing to the Division of Institutional Development, U.S. Office of Education (Room 3052, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Strengthening Developing Institutions Program (45 CFR Part 169); and

(b) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a).

Note.—The Proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs (the current 45 CFR Parts 100a through d).

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of Part 100a of EDGAR: Subpart A (General); Subpart E (What Conditions Must be Met by a Grantee?); Subpart F (What are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further Information: For further information contact Dr. Charles R. Dees, Jr., Assistant Director, Division of Institutional Development, U.S. Office of Education (Room 3052, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245–2418.

(Catalog of Federal Domestic Assistance No. 13.454; Strengthening Developing Institutions Program)

Dated: January 14, 1980.

William L. Smith,

U.S. Commissioner of Education.

[FR Doc. 80–2118 Filed 1–22–80; 8:45 am]

BILLING CODE 4110–02–M

Public Health Service

National Research Service Awards, and Studies Respecting Biomedical and Behavioral Research Personnel; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of July 20, 1979 by the Secretary of Health, Education, and Welfare, to the Assistant Secretary for Health (44 FR 46318), the Assistant Secretary for Health has delegated to the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, the following authorities under Title IV (42 U.S.C. 281 *et seq.*) of the Public Health Service Act, as amended:

V45/16 JA23 80 UMI

1. Authority under Section 472 of the Public Health Service Act, as amended (42 U.S.C. 289*l*–1), for National Research Service Awards, excluding the authority to promulgate regulations; and

2. Authority under Section 473 of the Public Health Service Act, as amended (42 U.S.C. 289*l*–2), for studies respecting biomedical and behavioral research personnel, excluding the authority to submit reports to Congress or its committees.

These authorities are authorized to be exercised insofar as they pertain to the functions assigned to be carried out within the National Institute of Mental Health, Alcohol, Drug Abuse, and Mental Health Administration.

The March 29, 1977 delegation from the Acting Assistant Secretary for Health to the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the June 23, 1978 delegation by the Assistant Secretary for Health to the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, have been superseded insofar as they pertain to authorities delegated under Section 472 and Section 473 of the Public Health Service Act.

The delegation to the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, became effective on January 2, 1980.

Dated: January 2, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

[FR Doc. 80-3030 Filed 1-22-80; 8:45 am]

BILLING CODE 4110-88-M

INTERAGENCY COMMITTEE ON METRIC POLICY

Federal Metric Policy and Guidelines; Notification of "Metric Conversion Policy for Federal Agencies" and "Federal Agency Guidelines for Implementation of Metric Conversion Policy"

Correction

In the **Federal Register** of January 8, 1980, the Interagency Committee on Metric Policy (ICMP) published a Notice on the Federal Metric Policy and Guidelines. This notice corrects typographical errors on page 1840 of the Notice of January 8, 1980 as follows:

First Column

1. The first word of the third line in the first paragraph changed from "This" to "this".

2. The fourth word of the first line in the second paragraph changed from "domcments" to "documents".

3. The Office code in the first line of the address under the second paragraph changed from "DUSD(R+E)AP" to "OUSD(R+E)SS."

4. The last word in the sixteenth line of the paragraph entitled Background changed from "not" to "now".

Second Column

1. The third word in the twelfth line in the first paragraph under Purpose changed from "of" to "on".

Third Column

1. The first word of the seventh line under paragraph 8 changed from "metication" to "metrication".

2. The first word in item a under paragraph 8 changed from "Infomation" to "Information".

Dated: January 18, 1980.

Howard B. Ellsworth,

Chairman, Metrication Operating Committee of the Interagency Committee on Metric Policy.

[FR Doc. 80-2103 Filed 1-22-80; 8:45 am]

BILLING CODE 6820-64-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6670-A through AA-6670-K]

Alaska Native Claims Selections; Notice for Publication

On March 5 and November 7, 1974, Iliamna Natives Limited, for the Native village of Iliamna filed selection applications AA-6670-A through AA-6670-K under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Iliamna.

On November 14, 1978, the State of Alaska filed general purposes grant selection applications AA-21635, AA-21636, AA-21637, AA-21654 and AA-21695, all as amended, pursuant to sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, sec. 6(b)), for certain lands in the Iliamna area. The following described lands have been properly selected by Iliamna Natives Limited. Section 6(b) of the Alaska Statehood Act of July 7, 1958, provides that the State may select *vacant, unappropriated* and *unreserved* public lands in Alaska.

Therefore, the following State selection applications are hereby rejected as to the following described lands:

Seward Meridian, Alaska (Unsurveyed)

State Selection AA-21635

T. 4 S., R. 31 W.,
Secs. 11 to 14, inclusive, all;
Secs. 22 to 35, inclusive, all;
Sec. 36, excluding Mineral Survey 1510.
Containing approximately 12,140 acres.

T. 5 S., R. 31 W.,
Sec. 1, excluding Iliamna Lake;
Sec. 2, excluding Native allotment AA-7455, Mineral Survey 1510 and Iliamna Lake;
Sec. 3, excluding Native allotment AA-7455 and Iliamna Lake;
Sec. 4, excluding Native allotment AA-7108 and Iliamna Lake;
Sec. 5, excluding Native allotments AA-7101, AA-7108 and Iliamna Lake;
Secs. 6 and 7, excluding Iliamna Lake;
Secs. 24, 25 and 36, excluding Iliamna Lake.
Containing approximately 1,867 acres.

State Selection AA-21695

T. 6 S., R. 31 W.,
Sec. 31, excluding Native allotment A-061756 and Iliamna Lake;
Sec. 32, excluding Native allotments A-061756, AA-7527 Parcel A and Iliamna Lake;
Sec. 33, excluding Native allotment AA-7527 Parcel A and Iliamna Lake.
Containing approximately 559 acres.

T. 7 S., R. 31 W.,
Sec. 5, all;
Sec. 6, excluding Iliamna Lake.
Containing approximately 1,111 acres.

T. 7 S., R. 32 W.,
Sec. 1, excluding Native allotment AA-7527 Parcel B and Iliamna Lake;
Sec. 2, excluding Iliamna Lake.
Containing approximately 420 acres.

T. 4 S., R. 32 W.,
Secs. 3 to 10, inclusive, all;
Secs. 15 to 23, inclusive, all;
Secs. 25 to 36, inclusive, all.
Containing approximately 18,531 acres.

T. 5 S., R. 32 W.,
Sec. 1, excluding Native allotment AA-7124 and Iliamna Lake;
Sec. 2, excluding Native allotments AA-7111 Parcel B, AA-7124 and Iliamna Lake;
Sec. 3, excluding Native allotment AA-6622 parcel B and Iliamna Lake;
Sec. 4, excluding Native allotment AA-6533 Parcel A and Iliamna Lake;
Sec. 5, excluding Native allotments AA-6533 Parcel A, AA-6540 Parcel C, AA-7559 Parcel A and Iliamna Lake;
Sec. 6, excluding U.S. Survey 2644, Native allotment AA-7559 Parcel A and Iliamna Lake;
Sec. 7, excluding U.S. Survey 2644 and Iliamna Lake;
Secs. 8 and 9, excluding Iliamna Lake;
Sec. 10, excluding Native allotment AA-7559 Parcel B and Iliamna Lake;
Sec. 11, excluding Native allotment AA-7111 Parcel B and Iliamna Lake;
Secs. 12, 13, 14 and 16, excluding Iliamna Lake;
Secs. 17, 20, 21 and 22, excluding Iliamna Lake;
Secs. 24, 27 and 29, excluding Iliamna Lake.
And
Those portions of U.S. Survey No. 2644, Alaska, Iliamna Air Navigation Site within the following protracted sections:
Secs. 6 and 7.
Containing approximately 3,916 acres.

State Selection AA-21637

T. 4 S., R. 33 W.,
Secs. 1 and 11, excluding Newhalen River;
Sec. 12, all;
Sec. 13, excluding Native allotment AA-7495;
Sec. 14, excluding Native allotment AA-7495 and Newhalen River;
Sec. 22, excluding Newhalen River;
Sec. 23, excluding Native allotment AA-7495 and Newhalen River;
Sec. 24, excluding Native allotment AA-7495;
Secs. 25, 26 and 27, all;
Secs. 28 and 33, excluding Newhalen River;
Secs. 34, 35 and 36, all.
Containing approximately 9,475 acres.

State Selection AA-21654

U.S. Survey No. 3445, Lot 2, situated on the northerly shore of a lake at Iliamna Village, Alaska, adjoining U.S. Survey No. 2644.
Containing 1.45 acres.

T. 5 S., R. 33 W.,
Secs. 1, 2 and 3, excluding U.S. Survey 2644;
Sec. 4, excluding U.S. Survey 2644 and Native allotments AA-6468 Parcel A, AA-6622 Parcel A, AA-7125 Parcel B and AA-7347;
Secs. 10 and 11, excluding U.S. Survey 2644 and Native allotment AA-6446;
Sec. 12, excluding U.S. Survey 2383, U.S. Survey 2644, U.S. Survey 3165, U.S. Survey 3195, U.S. Survey 3445, U.S. Survey 4680, Homesite application A-067804, Native allotments AA-6373 Parcels A and B, AA-7661 Parcels A and B and Iliamna Lake;
Sec. 13, excluding U.S. Survey 2383 and Iliamna Lake;
Sec. 14, excluding U.S. Survey 2644, Native allotments AA-975 Parcel A, AA-6446 and Iliamna Lake;
Sec. 15, E½, excluding U.S. Survey 2644 and Native allotment AA-6446;
Sec. 22, E½, excluding Iliamna Lake;
Sec. 23, excluding Iliamna Lake;
And
Those portions of U.S. Survey No. 2644, Alaska Iliamna Air Navigation Site within the following protracted sections:
Secs. 1, 2 and 3;
Sec. 4, excluding Native allotment AA-7347 and Quitclaim Deed AA-8983;
Sec. 9, excluding Quitclaim Deed AA-8983;
Sec. 10;
Sec. 11, excluding Native allotment AA-6373 Parcels A, B and C and ANCSA Sec. 3(e) application AA-27374 Tract 1;
Sec. 12, excluding ANCSA Sec. 3(e) application AA-27374 Tract 2 and Quitclaim Deed AA-8983;
Sec. 14, excluding Native allotment AA-975 Parcel A and ANCSA Sec. 3(e) application AA-27374 Tract 1;
Sec. 15, E½.
Containing approximately 4,452 acres.
Aggregating approximately 52,481 acres.

The State selected lands rejected above were not valid selections and will not be charged against the village corporation as State selected lands. Further action on the subject State selection applications as to those lands not rejected herein will be taken at a later date.

Departmental order dated July 5, 1955, withdrew approximately 40 acres for the Bureau of Indian Affairs (BIA) for school purposes within Secs. 22 and 23, T. 5 S., R. 33 W., Seward Meridian. According to the BIA this land has never been used for school purposes (and they do not wish to reverse it) under sec. 3(e) of ANCSA which states:

> Public lands means all Federal lands and interest therein located in Alaska except: (1) the smallest practicable tract, as determined by the Secretary, enclosing land actually used in connection with the administration of any Federal installations.

Therefore, these lands are considered available public lands; they are properly selected by Iliamna Natives Limited and are included in this conveyance document.

As to the lands described below, the applications submitted by Iliamna Natives Limited, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing the surface estate of the following described lands, selected pursuant to sec. 12(a) of ANCSA, aggregating approximately 64,103 acres is considered proper for acquisition by Iliamna Natives Limited and is hereby approved for conveyance pursuant to sec. 14(a) of ANCSA:

U.S. Survey No. 3445, Lot 2, situated on the northerly shore of a lake at Iliamna Village, Alaska, adjoining U.S. Survey No. 2644.
Containing 1.45 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 4 S., R. 31 W.,
Secs. 11 to 14, inclusive, all;
Secs. 22 to 35, inclusive, all;
Sec. 36, excluding Mineral Survey 1510.
Containing approximately 12,149 acres.

T. 5 S., R. 31 W.,
Sec. 1, excluding Iliamna Lake;
Sec. 2, excluding Native allotment AA-7455, Mineral Survey 1510 and Iliamna Lake;
Sec. 3, excluding Native allotment AA-7455 and Iliamna Lake;
Sec. 4, excluding Native allotment AA-7108 and Iliamna Lake;
Sec. 5, excluding Native allotments AA-7101, AA-7108 and Iliamna Lake;
Secs. 6 and 7, excluding Iliamna Lake;
Secs. 24, 25 and 36, excluding Iliamna Lake.
Containing approximately 1,867 acres.

T. 6 S., R. 31 W.,
Sec. 31, excluding Native allotment A-061756 and Iliamna Lake;
Sec. 32, excluding Native allotments A-061756 AA-7527 Parcel A and Iliamna Lake;
Sec. 33, excluding Native allotment AA-7527 Parcel A and Iliamna Lake;
Containing approximately 559 acres.

T. 7 S., R. 31 W.,
Sec. 5, all;
Sec. 6, excluding Iliamna Lake.
Containing approximately 1,111 acres.

T. 3 S., R. 32 W.,
Secs. 15, 16 and 17, excluding Tazimina River;
Sec. 20, all;
Sec. 21, excluding Native allotment AA-6538 Parcel C;
Secs. 22 and 23, excluding Tazimina River;
Sec. 24, all;
Sec. 26, excluding Tazimina River;
Sec. 27, all;
Sec. 28, excluding Native allotment AA-6538 Parcel C;
Secs. 29, all;
Sec. 30, excluding Newhalen River;
Secs. 31 to 34, inclusive, all.
Containing approximately 10,567 acres.

T. 4 S., R. 32 W.,
Secs. 3 to 10, inclusive, all;
Secs. 15 to 23, inclusive, all;
Secs. 25 to 36, inclusive, all.
Containing approximately 18,531 acres.

T. 5 S., R. 32 W.,
Sec. 1, excluding Native allotment AA-7124 and Iliamna Lake;
Sec. 2, excluding Native allotments AA-7111 Parcel B, AA-7124 and Iliamna Lake;
Sec. 3, excluding Native allotment AA-6622 Parcel B and Iliamna Lake;
Sec. 4, excluding Native allotment AA-6533 Parcel A and Iliamna Lake;
Sec. 5, excluding Native allotments AA-6533 Parcel A, AA-6540 Parcel C, AA-7559 Parcel A and Iliamna Lake;
Sec. 6, excluding U.S. Survey 2644, Native allotment AA-7559 Parcel A and Iliamna Lake;
Sec. 7, excluding U.S. Survey 2644 and Iliamna Lake;
Secs. 8 and 9 excluding Iliamna Lake;
Sec. 10, excluding Native allotment AA-7559 Parcel B and Iliamna Lake;
Sec. 11, excluding Native allotment AA-7111 Parcel B and Iliamna Lake;
Secs. 12, 13, 14 and 16, excluding Iliamna Lake;
Secs. 17, 20, 21 and 22, excluding Iliamna Lake;
Sec. 24, 27 and 29, excluding Iliamna Lake;
And
Those portions of U.S. Survey No. 2644, Alaska, Iliamna Air Navigation Site within the following protracted sections:
Secs. 6 and 7.
Containing approximately 3,916 acres.

T. 7 S., R. 32 W.,
Sec. 1, excluding Native allotment AA-7527 Parcel B and Iliamna Lake;
Sec. 2, excluding Iliamna Lake.
Containing approximately 420 acres.

T. 3 S., R. 33 W.,
Secs. 25 and 36, excluding Newhalen River.
Containing approximately 1,035 acres.

T. 4 S., R. 33 W.,
Secs. 1 and 11, excluding Newhalen River;
Sec. 12, all;
Sec. 13, excluding Native allotment AA-7495;
Sec. 14, excluding Native allotment AA-7495 and Newhalen River;
Sec. 22, excluding Newhalen River;
Sec. 23, excluding Native allotment AA-7495 and Newhalen River;
Sec. 24, excluding Native allotment AA-7495;

Secs. 25, 26 and 27, all;
Secs. 28 and 33, excluding Newhalen River;
Secs. 34, 35 and 36, all.
Containing approximately 9,475 acres.
T. 5 S., R. 33 W.,
Secs. 1, 2 and 3, excluding U.S. Survey 2644;
Sec. 4, excluding U.S. Survey 2644 and Native allotments AA–6468 Parcel A, AA–6622 Parcel A, AA–7125 Parcel B and AA–7347;
Secs. 10 and 11, excluding U.S. Survey 2644 and Native allotment AA–6446;
Sec. 12, excluding U.S. Survey 2383, U.S. Survey 2644, U.S. Survey 3165, U.S. Survey 3195, U.S. Survey 3445, U.S. Survey 4880, Homesite application A–067804, Native allotments AA–6373 Parcels A and B, AA–7661 Parcels A and B and Iliamna Lake;
Sec. 13, excluding U.S. Survey 2383 and Iliamna Lake;
Sec. 14, excluding U.S. Survey 2644, Native allotments AA–975 Parcel A, AA–6446 and Iliamna Lake;
Sec. 15, E½, excluding U.S. Survey 2644 and Native allotment AA–6446;
Sec. 22, E½, excluding Iliamna Lake;
Sec. 23, excluding Iliamna Lake.
And
Those portions of U.S. Survey No. 2644, Alaska, Iliamna Air Navigation Site within the following protracted sections:
Secs. 1, 2 and 3;
Sec. 4, excluding Native allotment AA–7347 and Quitclaim Deed AA–8963;
Sec. 9, excluding Quitclaim Deed AA–8963;
Sec. 10;
Sec. 11, excluding Native allotment AA–6373 Parcels A, B and C and ANCSA Sec. 3(e) application AA–27374 Tract 1;
Sec. 12, excluding ANCSA Sec. 3(e) application AA–27374 Tract 2 and Quitclaim Deed AA–8963;
Sec. 14, excluding Native allotment AA–975 Parcel A and ANCSA Sec. 3(e) application AA–27374 Tract 1;
Sec. 15, E½.
Containing approximately 4,452 acres.
Aggregating approximately 64,103 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA–6670–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

50 Foot Proposed Powerline—The uses allowed are those activities associated with the construction, operation and maintenance of the powerline facility. All powerlines in this category must be proposed for construction within a five year period. If the powerline is not constructed, the easement will be eliminated. If, after the powerline has been constructed, a lesser width is sufficient to accommodate the powerline, the easement shall be reduced to a twenty-five (25) foot wide easement.

a. (EIN 6a D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 15, T. 5 S., R. 33 W., Seward Meridian, on the west shore of Schoolhouse Lake. The uses allowed are those listed above for a one (1) acre site.

b. (EIN 6b D9) An easement for a proposed access trail twenty-five (25) feet in width, from site EIN 6a D9 in Sec. 15, T. 5 S., R. 33 W., Seward Meridian, westerly to the Iliamna-Newhalen Road. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

c. (EIN 6e D9) An easement for a proposed access trail twenty-five (25) feet in width from the Iliamna-Nondalton road in Sec. 24, T. 4 S., R. 33 W., Seward Meridian, westerly to the shore of Newhalen River. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

d. (EIN 11d, D1, D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 31, T. 3 S., R. 32 W., Seward Meridian, on the left bank of the Newhalen River at the mouth of Alexcy Creek. The uses allowed are those listed above for a one (1) acre site.

e. (EIN 15c D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 1, T. 5 S., R. 32 W., Seward Meridian, on the east shore of Eagle Bay, at the mouth of East Eagle Bay Creek. The uses allowed are those listed above for a one (1) acre site.

f. (EIN 15f C5) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 15c D9 in Sec. 1, T. 5 S., R. 32 W., Seward Meridian, northerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

g. (EIN 22 E) A one (1) acre site easement upland of the ordinary high water mark, in Sec. 28, T. 4 S., R. 33 W., Seward Meridian, on the right bank of the Newhalen River. The uses allowed are those listed above for a one (1) acre site.

h. (EIN 22a E) An easement for a proposed access trail twenty-five (25) feet in width, from site EIN 22 E in Sec. 28, T. 4 S., R. 33 W., Seward Meridian, westerly to the public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

i. (EIN 24 D3) An easement sixty (60) feet in width, for an existing road along the south and east sides of Slopbucket Lake and the north shore of Iliamna Lake, in Sec. 12, T. 5 S., R. 33 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

j. (EIN 24a D3) A one (1) acre site easement upland of the ordinary high water mark, in Sec. 12, T. 5 S., R. 33 W., Seward Meridian, on the north shore of Iliamna Lake. The uses allowed are those listed above for a one (1) acre site.

k. (EIN 24b D3) A one (1) acre site easement, upland of the ordinary high water mark, in Sec. 12, T. 5 S., R. 33 W., Seward Meridian, on the south shore of Slopbucket Lake. The uses allowed are those listed above for a one (1) acre site.

l. (EIN 25 C5) An easement twenty-five (25) feet in width for an existing powerline, twelve and one-half (12½) feet on each side of the centerline, from the Iliamna airport control site and UHF installation, in Sec. 9, T. 5 S., R. 33 W., Seward Meridian, easterly to the NE¼ of Sec. 14, T. 5 S., R. 33 W., Seward Meridian, with a branch beginning in Sec. 11, T. 5 S., R. 33 W., Seward Meridian, heading in a northeasterly direction to the NW¼ of Sec. 12, T. 5 S., R. 33 W., Seward Meridian. The uses allowed are those activities associated with the operation and maintenance of the powerline facility. The uses are limited to the United States Government, its agents and assignees.

m. (EIN 26 C5) An easement fifty (50) feet in width, twenty-five (25) feet on each side of the centerline, for a proposed powerline from the Newhalen selection boundary in Sec. 15, T. 5 S., R. 33 W., Seward Meridian, northerly to powerline EIN 25 C5 in Sec. 10, T. 5 S., R. 33 W., Seward Meridian. The uses allowed are those listed above for a fifty (50) foot wide proposed powerline.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. A right-of-way, AA–8791, located in Secs. 30 and 31, T. 3 S., R. 32 W.; Sec. 6, T. 4 S., R. 32 W.; Secs. 1, 11, 12, 13, 23, 24, 25, 35 and 36, T. 4 S., R. 33 W.; and Secs. 4 and 15, T. 5 S., R. 33 W., Seward Meridian, and protracted Secs. 10, 11 and 12, T. 5 S., R. 33 W., Seward Meridian, within U.S. Survey No. 2644 with varying widths of thirty (30) feet to one-hundred fifty (150) feet each side of the centerline, for a Federal Aid Secondary Highway, issued to the State of Alaska, Department of Highways (now the Department of Transportation and Public Facilities), under the provisions of the Act of August 27, 1958 (72 Stat. 885; 23 U.S.C. 317); and

4. Requirements of sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Iliamna Natives Limited is entitled to conveyance of 69,120 acres of land selected pursuant to sec. 12(a) of the Alaska Native Claims Settlement Act. To date, 64,103 acres of this entitlement have been approved for conveyance. The remaining 5,017 acres will be conveyed at a later date.

Pursuant to sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance to the subsurface estate of the lands described above shall be granted to the Bristol Bay Native Corporation when conveyance is granted to Iliamna Natives Limited for the surface estate, and shall be subject to the same conditions as the surface conveyance.

The following inland water bodies, within the described lands, are considered to be navigable:

Lake Iliamna; Newhalen River; Taximina River up to Tazimina Falls in Sec. 25, T. 3 S., R. 32 W., Seward Meridian.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Times. Any party claiming a property interest in land affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate and any parties who failed or refused to sign the return receipt shall have until February 25, 1980 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served are:

State of Alaska, Department of Natural Resources, Division of Research and Development, 323 East Fourth Avenue, Anchorage, Alaska 99501.
Iliamna Natives Limited, Iliamna, Alaska 99606.
Bristol Bay Native Corporation, P.O. Box 196, Dillingham, Alaska 99576.

Sue A. Wolf,
Chief, Branch of Adjudication.

[FR Doc. 80–2056 Filed 1–22–80; 8:45 am]
BILLING CODE 4310–84–M

[Nev–056718]

Nevada

Correction

In FR Doc. 80–271, published on page 1156 on Friday, January 4, 1980, in the first column, the third and fourth lines under "Mount Diablo Meridian, Nevada" are corrected to read:

N½NE¼NW¼NE¼, N½SW¼
NW¼NW¼NE¼

BILLING CODE 1505–01–M

Tentative Sales Nos. 67 and 69; Gulf on Mexico; Call for Nominations of and Comments on Areas for Oil and Gas Leasing

Section 102 of the Outer Continental Shelf Lands Act Amendments of 1978 describes the purposes of that Act. One of the purposes is to establish policies and procedures intended to expedite exploration and development of the Outer Continental Shelf (OCS) in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade. Equally important purposes include balancing energy resource development with the protection of the human, marine and coastal environments, as well as assuring States and local governments the opportunity to review and comment on decisions relating to OCS activities. To assist the Secretary of the Interior in carrying out these purposes, and pursuant to 43 CFR 3313.1, nominations are hereby requested for areas on the Gulf of Mexico, Outer Continental Shelf for possible oil and gas leasing under the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343), as amended. The Secretary is also requesting comments on the possible environmental impacts and potential use conflicts in specified areas. Nominations for two proposed sales are being solicited in one call.

Description of Areas

Nominations will be considered for any or all of the blocks seaward of the submerged lands of the adjacent States which are to be found on the Official Protraction Diagrams and Leasing Maps listed below.

These blocks may be found on Outer Continental Shelf Official Protraction Diagrams and Leasing Maps which may be purchased from the Manager, New Orleans OCS Office, Bureau of Land Management, Hale Boggs Federal Building, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130, as follows:

OCS Leasing Maps

South Texas set [1]	Latest approval or revision date
1—South Padre Island Area	7/16/54
1A—South Padre Island Area, East Addition	5/06/65
2—North Padre Island Area	7/16/54
2A—North Padre Island Area, East Addition	5/06/65
3—Mustang Island Area	10/30/81
3A—Mustang Island Area, East Addition	1/23/57
4—Matagorda Island Area	7/16/54

East Texas set [2]	Latest approval or revision date
5—Brazos Area	7/16/54
5B—Brazos Area, South Addition	9/24/59
6—Galveston Area	7/16/54
6A—Galveston Area, South Addition	9/24/59
7—High Island Area	3/55
7A—High Island Area, East Addition	1/23/67
7B—High Island Area, South Addition	9/24/59
7C—High Island Area, East Addition, South Extension	9/24/59
8—Sabine Pass Area	3/04/77

Louisiana set [3]	Latest approval or revision date
1—West Cameron Area	7/22/54
1A—West Cameron Area, West Addition	1/30/57
1B—West Cameron Area, South Addition	9/06/59
2—East Cameron Area	8/01/73
2A—East Cameron Area, South Addition	9/06/59
3—Vermilion Area	7/22/54
3A—South Marsh Island Area	8/07/59
3B—Vermilion Area, South Addition	9/06/59
3C—South Marsh Island Area, South Addition	9/06/59
3D—South Marsh Island Area, North Addition	1/18/72
4—Eugene Island Area	7/22/54
4A—Eugene Island Area, South Addition	9/06/59
5—Ship Shoal Area	6/06/54
5A—Ship Shoal Area, South Addition	9/06/59
6—South Timbalier, South Pelto, and Bay Marchand Areas	12/06/54
6A—South Timbalier Area, South Addition	7/22/68
7—Grand Isle Area	6/06/54
7A—Grand Isle Area, South Addition	3/07/61
8—West Delta Area	6/06/54
8A—West Delta Area, South Addition	11/24/61
9—South Pass Area	5/11/73
9A—South Pass Area, South and East Addition	9/06/59
10—Main Pass and Breton Sound Areas	7/22/54
10A—Main Pass Area, South and East Addition	9/06/59
11—Chandeleur Area	7/22/54
11A—Chandeleur Area, East Addition	9/06/59
12—Sabine Pass Area	3/07/77

[1] $5.00 this set.
[2] $7.00 this set.
[3] $17.00 the set.

OCS Official Protraction Diagrams

Gulf of Mexico [1]	Latest approval or revision date
NG 14-3—Corpus Christi	1/27/76
NG 14-6—Port Isabel	1/27/76
NG 15-1—East Breaks	1/27/76
NG 15-2—Garden Banks	12/2/76
NG 15-3—Green Canyon	12/2/76
NG 15-4—Alaminos Canyon	3/26/76
NG 15-5—Keathley Canyon	12/2/76
NG 15-8—Walker Ridge	12/2/76
NG 16-1—Walker Ridge	12/2/76
NG 16-3—Walker Ridge	12/2/76
NG 16-3—The Elbow	12/2/76
NG 16-4—The Elbow	12/2/76

OCS Official Protraction Diagrams—Continued

Gulf of Mexico [1]	Latest approval or revision date
NG 16-5—The Elbow	12/2/76
NG 16-6—The Elbow	12/2/76
NG 17-1—St. Petersburg	12/2/76
NG 17-4—Charlotte Harbor	12/2/76
NG 15-12—Ewing Bank	12/2/76
NG 16-4—Mobile	12/21/77
NG 16-5—Pensacola	12/2/76
NG 16-7—Viosca Knoll	12/2/76
NG 16-8—Destin Dome	12/2/76
NG 16-9—Apalachicola	1/15/76
NG 16-10—Mississippi Canyon	12/2/76
NG 16-11—De Soto Canyon	12/2/76
NG 16-12—Florida Middle Ground	12/2/76
NG 17-7—Gainesville	1/27/76
NG 17-10—Tarpon Springs	12/2/76

[1] $2.00 per map.

Instructions on Call

Nominations must be described by referring to the Outer Continental Shelf Official Protraction Diagrams and Leasing Maps prepared by the Bureau of Land Management, Department of the Interior and referred to above. Only whole blocks may be nominated. Those nominating twelve blocks or more are requested to arrange their nominations into three groups according to the priority of their interest.

In addition to nominations, we are seeking comments about particular geological, environmental, biological, archaeological, and socioeconomic conditions or problems, or other information which might bear upon potential leasing and development of particular blocks. Comments should be as specific as possible in identifying individual blocks or areas which should receive special concern and analysis.

Nominations and comments must be submitted not later than March 14, 1980, in envelopes labeled "Nominations of Tracts for Leasing in the Outer Continental Shelf—Gulf of Mexico" or "Comments on Leasing in the Outer Continental Shelf—Gulf of Mexico," as appropriate. They must be submitted to the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Hale Boggs Federal Building, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130. Copies should be sent to the Director, Attention 541, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240 and to the Conservation Manager, U.S. Geological Survey, Gulf of Mexico Area, P.O. Box 7944, Metairie, Louisiana 70010 and to the Director, U.S. Geological Survey, National Center, Mail Stop 101, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

Use of Information From Call

Nominations will be evaluated and used along with other geologic and geophysical information to determine what, if any, tracts should be tentatively selected for further environmental analysis pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and the OCS Lands Act, as amended. Generally, because of limits on the geographic scope of areas which can be successfully planned for a single sale, only a portion of the tracts nominated are selected for further environmental analysis and possible leasing. The nominations from this call will be used to develop two proposed sales in the Gulf of Mexico, OCS Sales 67 and 69.

Comments will be considered along with other relevant information available to the Secretary to determine what tracts should be designated for further environmental analysis and study. As a general rule, tracts which are believed to have potential for the production of hydrocarbons are not excluded from further environmental study unless the Secretary has sufficient information to conclude that it is not possible for those tracts to be developed in an environmentally safe manner.

In any event, selection of tracts for futher environmental analysis does not insure that the tracts will be subsequently offered for lease or that they will be deleted for environmental or use conflicts. It simply insures that more information will be available when that decision is made. In performing the additional environmental analysis leading to a sale decision, the Department will take into account comments received as it determines particular areas and issues for attention.

Final selection of tracts for competitive bidding will be made only at a later date after compliance with established Departmental procedures and all requirements of the National Environmental Policy Act of 1969. Notice of any tracts finally selected for competitive bidding will be published in the **Federal Register** stating the conditions and terms for leasing and the place, date, and hour at which bids will be received and opened.

Ed Hastey,

Associate Director, Bureau of Land Management.

Dated: January 18, 1980.

Approved:

Heather L. Ross,

Deputy Assistant Secretary of the Interior.

[FR Doc. 80-2094 Filed 1-22-80; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Big Cypress National Preserve; Land Acquisition Plan: Public Meetings

In accordance with guidelines issued by the Director of the National Park Service in the **Federal Register** (Vol. 44, No. 82) on April 26, 1979, the Superintendent of Big Cypress National Preserve announces two public meetings and an open house for the purpose of providing a public forum to receive oral and written comment on a draft land acquisition plan for the park.

The draft plan will outline, in general terms, the overall goals and strategy for the park land acquisition program and identify specific land acquisition priorities within existing statutory limitations.

The public meetings will be held a follows: Monday, February 25, 7 p.m., Homestead Junior High School, 650, Northwest Second Avenuce, Homestead, Florida; and Friday, February 29, 7 p.m., East Naples Middle School, 4100 Estey Avenue, Naples, Florida.

The open house will be held as follows: Wednesday, February 27, 12 noon to 8 p.m., Oasis Ranger Station, Highway 41 (55 miles east of Naples), Oasis, Florida.

Persons desiring further information about the meetings or open house should call the Superintendent, Big Cypress National Preserve, P.O. Box 1247, Naples, Florida 33939, (813) 262–1066. In addition, copies of the draft plan are available from the Superintendent.

Following the public meetings, the record will remain open for 30 days to receive additional written comment. A land acquisition plan will then be completed and transmitted to the Regional Director, Southeast Region for approval.

Dated: January 10, 1980.

Neal G. Guse,

Regional Director, Southeast Region, National Park Service.

[FR Doc. 80-2014 Filed 1-22-80; 8:45 am]

BILLING CODE 4310-70-M

Chesapeake & Ohio Canal National Historical Park Commission; Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held Saturday, February 9, 1980, at 1:00 p.m. at Grace Episcopal Church in Washington, D.C.

The Commission was established by Pub. L. 91–664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Mr. Donald R. Frush, Chairman, Hagerstown, Maryland
Mrs. Bonnie Troxell, Cumberland, Maryland
Miss Nancy Long, Glen Echo, Maryland
Mrs. Constance Morella, Bethesda, Maryland
Mr. Kenneth S. Rollins, Brookmont, Maryland
Mrs. Constance Lieder, Baltimore, Maryland
Mr. Edwin F. Wesely, Jr., Brookmont, Maryland
Mr. John D. Millar, Cumberland, Maryland
Mr. James B. Coulter, Annapolis, Maryland
Mrs. Dorothy Grotos, Arlington, Virginia
Mrs. Minny Pohlmann, Dickerson, Maryland
Mrs. Margaret Dietz, Lovettsville, Virginia
Mr. William H. Ansel, Jr., Romney, West Virginia
Dr. James H. Gilford, Frederick, Maryland
Mr. Donald H. Shannon, Washington, D.C.
Mr. Silas F. Starry, Shepherdstown, West Virginia
Mr. Rockwood H. Foster, Washington, D.C.
Mr. R. Lee Downey, Williamsport, Maryland
Mr. John C. Frye, Gapland, Maryland

Matters to be discussed at this meeting include:

1. Surface Treatment of the Towpath and Structures,
2. Great Falls Development Concept Plan,
3. Boteler Cement Mill,
4. Potomac River Legislation,
5. Construction Projects,
6. Land Acquisition Plan,
7. C&O Canal Boat at Williamsport,
8. Status of Private Development in Georgetown.

The meeting will be open to the public. Any member of the public may file with the Commission, a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact William R. Failor, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782, telephone 301–948–5641 or 301–432–2231.

Minutes of the meeting will be available for public inspection four (4) weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

Dated: January 8, 1980.

Robert Stanton,

Acting Regional Director, National Capital Region.

[FR Doc. 80-2013 Filed 1-22-80; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-69 (Sub-No. 1F)]

Bessemer and Lake Erie Railroad Co. Abandonment in Butler County, Pa.; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided January 4, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees discussed in *Oregon Short Line R. Co.-Abandonment Goshen,* 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Bessemer and Lake Erie Railroad Company and the discontinuance of service on a portion of its line of railroad known as the Goff-Kirby Branch extending from Goff-Kirby Valuation Station 34+80.0 to Station 78+44.0, a distance of 0.827 mile, in Butler County, Pa. A certificate of public convenience and necessity permitting abandonment was issued to the Bessemer and Lake Erie Railroad Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than February 7, 1980. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective March 10, 1980.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-2062 Filed 1-22-80; 8:45 am]

BILLING CODE 7035-01-M

V45/16/JA23 80 UMI

[Docket No. AB-6 (Sub-No. 74F)]

Burlington Northern, Inc., Abandonment Near Streator and L&S Junction and Between L&S Junction and Lowell, Ill.; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided January 4, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co. Abandonment Goshen*, 360 I.C.C. 91 (1979), and further that BN shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts for a period of 120 days from the effective date of the certificate and decision to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity permit the abandonment by the Burlington Northern, Inc. of a line of railroad known as the Streator to L&S Junction line extending from railroad milepost 1.11 near Streator, IL, to railroad milepost 11.04 near L&S Junction, IL, including 3.70 miles of trackage between L&S Junction and Lowell, IL, a total distance of 13.63 miles, in LaSalle County, IL. A certificate of public convenience and necessity permitting abandonment was issued to the Burlington Northern, Inc. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I § 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than February 7, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective March 10, 1980.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-3001 Filed 1-22-80; 8:45 am]
BILLING CODE 7035-01-M

Fourth Section Applications for Relief

January 17, 1980.

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before February 7, 1980.

FSA No. 43789, Far Eastern Shipping Company, No. 15, general commodities in marine type trailers or containers. From rail carrier terminals on the U.S. Atlantic and Gulf coast to ports in Australia by way of ports on the west coast of the U.S., in its tariffs ICC FACU 304 and ICC FACU 600, effective February 13, 1980. Grounds for relief—water competition.

FSA No. 43790, Southwestern Freight Bureau, Agent No. B-45, petroleum and petroleum products, in carloads, from Southwestern and Mid-Continent origins to South Brunswick, NJ in Supplement 160 to its Tariff, ICC SWFB 4684, effective February 17, 1980. Grounds for relief—rate relationships.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-3068 Filed 1-22-80; 8:45 am]
BILLING CODE 7035-01-M

Fourth Section Application for Relief

January 18, 1980.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before February 7, 1980.

FSA No. 43788, Western Trunk Line Committee, Agent No. A-2762, reduced back-haul rates on general commodities, in carloads, from and to points in the U.S. Application of the rates is to be limited to unassigned equipment bearing specified western carrier ownership marks and would be restricted to exclude (1) substitution of additional cars and follow-lot provisions, (2) transit privileges, (3) any free return of pallets, platforms, racks, etc., and provide an expiration date for purpose of measuring results, and specific tariff language requiring the shipper to state on the bill of lading that movement is taking place under the backhaul rates. The rates are to be published in various agency and individual rail tariffs and are designed to improve car utilization by reducing empty return movements of rail equipment and to meet competition of other modes.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-3060 Filed 1-22-80; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29220]

Golden Triangle Railroad—Trackage Rights—Over Illinois Central Gulf Railroad and St. Louis-San Francisco Railway

Golden Triangle Railroad (GTR), P.O. Box 2288, Columbus, MS 39701, represented by Robert A. Dowdy, Attorney, Golden Triangle Railroad, c/o Weyerhaeuser Company, Tacoma, WA 98477 and John Guandolo, Macdonald & McInerny, 1000 16th Street N.W. Washington, D.C. 20006, hereby gives notice that on the 26th day of December, 1979, it filed with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. 11343 for authority to acquire trackage rights and joint use of a line of railroad of the Illinois Central Gulf Railroad and St. Louis-San Francisco Railway at Columbus in Lowndes County, MS.

The proposed transaction is a trackage rights agreement between Golden Triangle Railroad on the one hand and Illinois Central Gulf Railroad and St. Louis-San Francisco Railway.

Golden Triangle Railroad proposes to operate over Illinois Central Gulf Railroad tracks between a point 902.3 feet west of the Illinois Central Gulf Railroad's Milepost 10 (Artesia to Columbus line), and a point 100 feet west of the St. Louis-San Francisco Railway crossing of Illinois Central Gulf Railroad. GTR also proposes to operate over St. Louis-San Francisco Railway track from Milepost R-648.55 to Milepost R-645.21 in Columbus, MS.

In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—Nat'l Environmental Policy Act, 1969*, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. *See Implementation—Nat'l Environmental Policy Act, 1969, supra*, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 29220 and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20424, not later than 45 days after the date notice of the filing of the application is published in the **Federal Register**. Such written comments shall include the following: The person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-2993 Filed 1-22-80; 8:45 am]
BILLING CODE 7035-01-M

[Service Order No. 1344, I.C.C. Order No. 58]

Louisiana Midland Railway Co.; Rerouting Traffic

In the opinion of Robert S. Turkington, Agent, the Louisiana Midland Railway Company is unable to transport promptly all traffic offered for movement over its line between Georgetown, Louisiana, and Packton, Louisiana, because of the crossing diamond at Georgetown out of service.

It is ordered, (a) *Rerouting traffic.* The Louisiana Midland Railway Company, being unable to transport promptly all traffic offered for movement over its line between Georgetown, Louisiana, and Packton, Louisiana, because of the crossing diamond at Georgetown out of service, that line and its connections are authorized to divert or reroute such traffic via any available route to expedite the movement. Louisiana Midland Railway Company will continue to handle local traffic between Vidalia, Louisiana, and Georgetown, Louisiana, and will also handle traffic which interchanges with other carriers between Vidalia and Georgetown. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Acceptance of traffic in interchange.* In the event the Louisiana Midland Railway Company cannot accept traffic in interchange from a connecting carrier, the delivering carrier, after establishing such condition, may reroute or divert the traffic via any available route.

(c) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(d) *Notification of shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(e) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(f) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(g) *Effective date.* This order shall become effective at 2:00 p.m., January 8, 1980.

(h) *Expiration date.* This order shall expire at 11:59 p.m., March 31, 1980, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 8, 1980.

Interstate Commerce Commission.

Robert S. Turkington,
Agent.

[FR Doc. 80-3066 Filed 1-22-80; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29219]

Weyerhaeuser Co.—Control—Golden Triangle Railroad

Weyerhaeuser Company (Weyerhaeuser), Tacoma, WA 98477, represented by Robert A. Dowdy, Attorney, CH-2-9, Weyerhaeuser Company, Tacoma, WA 98477 and John Guandolo, Macdonald & McInerny, 1000 16th Street N.W., Washington, DC 20006, hereby give notice that on the 26th day of December, 1979, it filed with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. 11343 to acquire control of the Golden Triangle Railroad through ownership of the stock of the said corporation.

The proposed transaction is the acquisition of control of the Golden Triangle Railroad, a newly organized corporation chartered under the laws of the State of Mississippi for the purpose of engaging in transportation as a common carrier by railroad in interstate commerce through acquisition of the shares of such corporation.

The Golden Triangle Railroad has applied to the Interstate Commerce Commission for a certificate of public convenience and necessity authorizing the construction and operation of a line of railroad extending approximately 8.8 miles from the South boundary line of the Northwest ¼ of section 7, T17N, to the centerline of the Illinois Central Gulf Railroad in the North ½ of the Southwest ¼ of Section 35, T19N, R17E, Lowndes County, MS.

Weyerhaeuser controls through stock ownership the Columbia and Cowlitz Railway Company, which operates in Washington; the DeQueen and Eastern Railroad, which operates in Arkansas; the Texas, Oklahoma, and Eastern Railroad Company, which operates in Oklahoma; the Mississippi and Skuna Valley Railroad Company, which operates in Mississippi; the Curtis, Milburn and Eastern Railroad, which operates in Washington; and the Oregon, California and Eastern, which operates in Oregon.

In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act* 1969, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the

quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra* at p. 487.,

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 29216 and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20424, not later than 45 days after the date notice of the filing of the application is published in the **Federal Register**. Such written comments shall include the following: The person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-2084 Filed 1-22-80; 8:45 am]

BILLING CODE 7035-01-M

Agricultural Cooperative, Intent To Perform Interstate Transportation for Certain Nonmembers

January 18, 1980.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) A & M Agricultural Co-op, Inc.

Complete Legal Name of Cooperative Association or Federation Of Cooperative Associations: 18700 J. F. Kennedy Blvd., Houston, TX 77205.

Principal Mailing Address (Street No., City, State, and Zip Code): 18700 John F. Kennedy Blvd., Houston, TX 77205.

Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code): William W. Selman, P.O. Box 60773, Houston, TX 77205.

Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address):

(2) California Canners and Growers

Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations: 3100 Ferry Building, San Francisco, CA 94106.

Principal Mailing Address (Street No., City, State, and Zip Code): 381 Stockton Ave., San Jose, CA 95126.

Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code): Mr. Vern Bowers, 381 Stockton Ave., San Jose, CA 95126.

Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address):

(3) Imperial Agricultural Cooperative, Inc.

Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations: Route 2, Box 613, Wagener, SC 29164.

Principal Mailing Address (Street No., City, State, and Zip Code): Route 2, Box 613, Wagener, SC 29164.

Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code): David E. Dickinson, Route 2, Box 613, Wagener, SC 29164.

Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address):

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-2086 Filed 1-22-80; 8:45 am]

BILLING CODE 7035-01-M

[Released Rate Application MC 1487]

National Motor Freight Classification; Amendment of Released Rate Application

AGENCY: Interstate Commerce Commission.

ACTION: Notice, Released Rate Application No. MC-1487.

SUMMARY: The National Motor Freight Traffic Association, Inc., Agent, on behalf of carriers named as participants in its National Motor Freight Classification, ICC NMF-100-F seeks to amend Released Rates Order No. MC-439 for the purpose of expanding this authority to provide for the application of classes and/or exception ratings in tariffs which publish exceptions to such classification, and specific and/or general commodity rates, including commodity column rates on metal, NOI or metal alloys, NOI, taking precedence over said classification.

ADDRESSES: Anyone seeking copies of this application should contact: Mr. William W. Pugh, Counsel, National Motor Freight Traffic Association, Inc., Agent, 1616 "P" St., NW. Washington, D.C. 20036, Tel. (202) 797-5310.

FOR FURTHER INFORMATION CONTACT: Mr. Howard Rooney, Unit Supervisor, Informal Rates Cases Branch, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423, Tel. (202) 275-7390.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 U.S.C. 10730 and 11707 of the Interstate Commerce Act for and on behalf of the carriers named as participants in a National Motor Freight Classification ICC NMF-100-F.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-2087 Filed 1-22-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 82492 (Sub-248TA), filed September 20, 1979, and published in the **Federal Register** issue of January 7, 1980, and republished as corrected this issue. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., P.O. Box 2853, Kalamazoo, MI 49003. Representative: Jack H. Blanshan, Suite 200, W. Touhy Avenue, Park Ridge, IL 60068. *Foodstuffs* (except in bulk) from points in MN and WI to points in IL, IN, Lower Peninsula of MI, MO, OH, points in NY on and west of Interstate 81 and points in PA on and west of US 219 and Altoona and Emporium, PA, Burlington, Clinton, Davenport and Dubuque, IA and Kansas City, KS and points in their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 29 supporting shippers which can be examined at the field office listed below and at Headquarters. Send protests to: C. R. Flemming, DS, ICC, Rm. 201 Corr Bldg., 300 East Michigan Avenue, Lansing, MI 48933. The purpose of this republication is to correctly identify "WE" as "WI" as the correct destination.

MC 116763 (Sub-610TA), filed September 12, 1979, and published in the **Federal Register** issue of December 12, 1979, and republished as corrected this issue. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). (1) *Such commodities* as are manufactured, processed, distributed, or dealt in by manufacturers or converters of paper and paper products (except commodities in bulk), and (2) *equipment, materials, and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk) between the facilities of The Mead Corp. located at or near Kingsport and Gray, TN, on the one hand, and, on the other, points in ME, NH, VT, MA, CT, RI, NY, PA, NJ, AR, LA, OK and TX, for 180 days. Restricted to traffic originating at the named origins and destined to the indicated destinations. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Mead Corp., Courthouse Plaza, NE, Dayton, OH 45463. Send protests to: ICC, Federal Res. Bank Bldg., 101 North 7th Street, Rm 620, Philadelphia, PA 19106. The purpose of this republication is to correctly show the destination as "Gray, TN" in lieu of "Gary, TN" which was previously published.

MC 118202 (Sub-141TA), filed September 24, 1979, and published in the **Federal Register** issue of December 28, 1979, and republished as corrected this issue. Applicant: SCHULTZ TRANSIT, INC., 323 Bridge Street, P.O. Box 406, Winona, MN 55987. Representative: Thomas J. Beener, One State Street Plaza, New York, NY 10004. *Fertilizing compounds* (manufactured fertilizer), *NOI dry*, in bags, barrels or boxes from Maumee, Holland and Toledo, OH, to points in CT, IA, IL, IN, MA, ME, MN, NY, NJ, PA, and WI, for 180 days. Supporting shipper(s): The Andersons, P.O. Box 119, Maumee, OH 43537. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Bldg. and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401. The purpose of this republication is to correctly show the destination state as "NJ" in lieu of "NH" as previously published.

MC 138882 (Sub-322TA), filed October 17, 1979, and published December 28, 1979, and republished as corrected this issue. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: J. W. Segrest (same address as applicant). *Trailers and container chassis*, from Troy, AL, to points in the United States in and east of MN, IA, MO, AR and TX, for 180 days. An underlying ETA seeks 90 days of authority. Supporting shipper(s): Cash Trailer, Inc., P.O. Box 169, Troy, AL 36081. Send protests to: Mabel E. Holston, TA, ICC, Rm. 1616-2121 Bldg., Birmingham, AL 35203. The purpose of this republication is to correctly show the territorial authority requested.

MC 143002 (Sub-11TA), filed October 23, 1979, and published in the **Federal Register** issue of December 28, 1979, and republished as corrected this issue. Applicant: C.D.B., INCORPORATED, 155 Spaulding, SE, Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933. Contract carrier, irregular routes: *household and personal care products and materials and supplies* used in the manufacture and distribution thereof, between Ada, MI, on the one hand, and, on the other, Des Moines, IA and its commercial zone under continuing with the Amway Corporation, for 180 days. Supporting shipper(s): Amway Corporation, 7575 E. Fulton Road, Ada, MI 49301. Send protests to: C. R. Flemming, DS, ICC, 201 Corr Bldg., 300 E. Michigan Ave., Lansing, MI 48933. The purpose of this republication is to show "Des Moines, IA" in lieu of "Davenport, IA" as the destination which was previously published.

MC 143853 (Sub-10TA), filed June 20, 1979, and published in the **Federal Register** issue of November 7, 1979, and republished as corrected. Applicant: S.M.E. EXPRESS, INC., 101 East Washington Street, Upland, IN 46989. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. *Contract carrier*; irregular routes: *such commodities* as are dealt in or used by the cosmetics manufacturers (except commodities in bulk), from Newark, DE to Butler, Erie, Fayette City, Indiana, New Stanton and Pittsburgh, PA and Charleston, Huntington and Parkersburg, WV for 180 days. Restricted to a contract or continuing contracts with Avon Products, Inc. Supporting shipper(s): Avon Products, Inc., 2100 Ogletown Road, Newark, DE 19711. Send protests to: Beverly J. Williams, TA, ICC, 46 E. Ohio Street, Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority. The purpose of this republication is to correctly identify "IN" as Indiana, PA which was previously published in error.

MC 144672 (Sub-17TA), filed August 23, 1979, and published in the **Federal Register** issue of October 22, 1979, and republished as corrected this issue. Applicant: VICTORY EXPRESS, INC., 2600 Willowburn Ave., Trotwood, OH 45426. Representative: Richard Schaefer, P.O. Box 26189, Trotwood, OH 46426. *Lampblack, plastic materials and synthetic resins*, (1) from Dayton, OH, Deer Park and Houston, TX and Xenia, OH, to points in states of AL, AR, CT, CO, DE, CA, FL, GA, IL, IN, IA, KS, KY, LA, MA, MD, MI, MN, MO, MS, NC, NH, NJ, NY, OH, OK, PA, RI, TN, TX and WI, and (2) from points in KS, LA and TX, to Dayton and Xenia, OH, for 180 days. An underlying ETA seeks 90 days of authority. Supporting shipper(s): U.S. Industrial Chemicals Co., 99 Park Ave., New York, NY 10016. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106. The purpose of this republication is to completely show the territorial authority requested.

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MC 908 (Sub-10TA), filed November 2, 1979. Applicant: CONSOLIDATED CARTAGE COMPANY, INC., 4528 South McDowell Avenue, Chicago, IL 60609. Representative: Eugene L. Cohn, One North LaSalle Street, Chicago, IL 60602. *Funnels, television or television tube plates, fibreboard boxes, glassware, and material, equipment and supplies used in the manufacture and distribution of the foregoing commodities (except in bulk)* between the facilities of Corning Glass Works at Bluffton, IN and points in the Chicago, IL commercial zone (in IL only) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Corning Glass Works, P.O. Box 158, Corning, NY 14830. Send protests to: Transportation Assistant, I.C.C., 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 908 (Sub-11TA), filed December 3, 1979. Applicant: CONSOLIDATED CARTAGE COMPANY, INC., 4528 South McDowell Avenue, Chicago, IL 60609. Representative: Eugene L. Cohn, One North LaSalle Street, Chicago, IL 60602. *Kitchen Cabinets, wood, set up, and materials, equipment and supplies used in the manufacture and distribution of the foregoing commodities, (except in bulk),* between Jeffersonville, IN, on the one hand, and on the other, points, in IL for 180 days. An underlying ETA seeks for 90 days authority. Supporting shipper(s): Kitchen Kompact, Inc., KK Plaza, Jeffersonville, IN 47130. Send protests to: Transportation Assistant, ICC, S. 219 Dearborn St., Room 1386, Chicago, IL 60604.

MC 14768 (Sub-4TA), filed December 26, 1979. Applicant: LANDES OZARK TRANSFER d.b.a. OZARK TRANSFER COMPANY, P.O. Box 294, Ozark, MO 65721. Representative: Richard A. Wade (same as applicant). *General commodities,* except those of unusual value, Class A & B explosives, livestock, household goods as defined by the Commission. Commodities in bulk and commodities requiring special equipment between Springfield, MO, and Harrison, AR over highway 65, from Springfield, MO to Harrison, AR and return over same route serving no intermediate points, between Harrison, AR and Mountain Home, AR over highway 62 from Harrison, AR to Mountain Home, AR and return over same route serving all intermediate points, between Harrison, AR and Berryville, AR over highway 62 from Harrison, AR to Berryville, AR and return over same route serving all intermediate points for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): 28 shippers' statements can be viewed at Kansas City, MO field office or Washington, D.C. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 19778 (Sub-104TA), filed November 13, 1979. Applicant: THE MILWAUKEE MOTOR TRANSPORTATION COMPANY, 510 W. Jackson Boulevard, Suite 508, Chicago, IL 60606. Representative: Robert F. Munsell (same address as applicant). *Cement in Bags or Bulk,* from Rapid City and Chamberlain, SD to points and places in Burt, Cuming, Stanton, Madison, Boone, Greeley, Valley, Custer, Blaine, Loup, Garfield, Wheeler, Antelope, Pierce, Wayne, Thurston, Dakota, Dixon, Cedar, Knox, Holt, Rock, Keyapaha, Boyd and Brown Counties, NE for 180 days. Supporting shipper(s): South Dakota Cement Commission, d.b.a. South Dakota Cement Plant, P.O. Drawer 360, Rapid City, SD 57709. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 25798 (Sub-391TA), filed December 20, 1979. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). *Cheese* from Green Bay, WI, to Denver and Grand Junction, CO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Topco Associates, Inc., 7711 Gross Point Rd., Skokie, IL 60077. Send protests to: Donna M. Jones, T/A, ICC-BOp, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 47898 (Sub-7TA), filed December 13, 1979. Applicant: WISCONSIN PACIFIC EXPRESS, INC., P.O. Box 190, Weyauwega, WI 54983. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. *Cheese, empty barrels, and cheese factory supplies, in vehicles equipped with mechanical refrigeration,* between points in MN, on the one hand, and, on the other, points in WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 7 supporting shippers. Their application can be reviewed at the address below or headquarters. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 48958 (Sub-207TA), filed December 18, 1979. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 E. 51st Avenue, Denver, CO 80216. Representative: Lee E. Lucero (same address). *Stone and Stone Products, in bags, cartons or boxes, or in bulk (except loose in dump vehicles),* between all points in AZ, AR, CA, CO, ID, IL, IN, IA, KS, MN, MO, NE, NV, NM, OH, OK, TX, UT, WI and WY, for 180 days. Supporting shipper(s): Old Dutch Material Company, 350 Pfingsten Road, North Brook, IL 60062. Send protests to: District Supervisor R. L. Buchanan, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 48958 (Sub-208TA), filed December 20, 1979. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lucero (same address). *Such Merchandise as is dealt in by wholesale, retail, chain, grocery and food business houses, and agricultural feed business houses (except in bulk),* (A) from Denver, CO to points in AZ, MN and TX; (B) from Oklahoma City, OK to points in TX, and (C) between Denver, CO and Oklahoma City, OK restricted in (A), (B) and (C) to shipments originating at or destined to the facilities of Ralston-Purina Company, for 180 days. Identical 90-day ETA filed. Supporting shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: District Supervisor R. L. Buchanan, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 61788 (Sub-38TA), filed December 12, 1979. Applicant: GEORGIA-FLORIDA-ALABAMA TRANSPORTATION CO., P.O. Box 2268, Dothan, AL 36301. Representative: Maurice F. Bishop, 601–09 Frank Nelson Bldg., Birmingham, AL 35203. *General Commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Dothan, AL and Troy, AL, serving all intermediate points; from Dothan over U.S. Hwy 231 to Troy, and return over the same route, between Crestview and Bonifay, FL, serving all intermediate points: from Crestview over U.S. Hwy 90 to Bonifay, and return over the same route, between Hartford, AL and Bonifay, FL, serving intermediate points: from Hartford, AL over AL Hwy 167 to the AL–FL State line, then over FL Hwy 79 to Bonifay, FL and return over the same route, serving all intermediate points. *Applicant intends to tack the authority here applied for to authority held by it in MC 61788 and subs, and to interline with other carriers its terminal points in AL, FL, GA, and MS,* for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 100

statements in support attached to this application which may be examined at the ICC in Washington, D.C., or copies of which may be examined in the field office named below. Send protests to: Mabel E. Holston, TA, I.C.C., Room 1616, 2121 Bldg., Birmingham, AL 35203.

MC 73688 (Sub-112TA), filed December 26, 1979. Applicant: SOUTHERN TRUCKING CORPORATIONS, 1500 Orenda Ave., Memphis, TN 38107. Representative: Diane Price, Route 6, Box 15, North Little Rock, AR 72116. *Iron and steel articles,* between Birmingham, AL, on the one hand, and, on the other, points in AL, MS, LA, TN, KY, GA, FL, NC, SC, and MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Feralloy Southern Corporation, 100 Finley Ave., Birmingham, AL 35204. Send protests to: Diana J. Porter, Suite 2006, 100 N. Main St., Memphis, TN 38103.

MC 97658 (Sub-5TA), filed December 5, 1979. Applicant: N & B EXPRESS, INC., Deerfield Industrial Park, South Deerfield, MA 01373. Representative: Mr. James M. Burns, 1383 Main Street, Springfield, MA 01103. *Wood stoves, and equipment, materials and supplies used in the manufacture, sale and distribution of wood stoves,* between Rocky Hill, CT and points in MA, for 180 days. Restricted to traffic originating at or destined to the facilities of Tekton Design Corp. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tekton Design Corp., Main Street, Conway, MA 01341. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 106398 (Sub-1043TA), filed December 14, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Lumber,* from the facilities of Smith-Evans Lumber Company, at Rome, GA, to points in OH and IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Smith-Evans Lumber Company, P.O. Box 81, Rome, GA 30161. Send protests to: Connie Stanley, ICC, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-1044TA), filed December 14, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 505 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Composition board,* from the facilities of Tectum, Inc., located at Newark, OH, to points in TX, OK, FL, NC, MA, MI, IL, TN, KY, and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tectum, Inc., 102 S. 6th Street Newark, OH 43055. Send protests to: Connie Stanley, ICC, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-1045TA), filed December 17, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull (same address as applicant). *Trailers designed to be drawn by passenger automobiles,* from Conway, AR, to points in LA, MS, MO, NM, OK, TN, and TX, for 180 days. Supporting shipper(s): Castle Industries of Arkansas, Inc., P.O. Box 1141, Conway, AR 72032. Send protests to: Connie Stanley, ICC, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-1046TA), filed December 28, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Mike Wallace (same address as applicant). *Iron or steel roofing, galvanized or painted, plate of sheet,* from the facilities of Wheeling-Pittsburgh Steel Corporation located at Lenexa, KS, to points in KS, MN, NE, IL, IA, MO, CO, OK, TX, and AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wheeling-Pittsburgh Steel Corporation 9801 Alden Road, Lenexa, KS 66215. Send protests to: Connie Stanley, ICC Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-1047TA), filed January 2, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Metal prefabricated buildings, metal tanks, complete or in sections,* from the facilities of Read Steel Products, Midwest, Inc., located at Shawnee Mission, KS, to points in MO, IA, MN, WI, ND, SD, NE, MT, WY, OR, WA, ID, UT, and AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Read Steel Products, Midwest, Inc., P.O. Box 206, Shawnee Mission, KS 66201. Send protests to: Connie Stanley, ICC, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106748 (Sub-13TA), filed December 17, 1979. Applicant: GODDARD'S TRANSPORTATION, INC., Route 4, Fair Haven, VT 05743. Representative: John P. Monte, 61 Summer Street, P.O. Box 568, Barre, VT 05641. *Ground Limestone Slurries, in bulk, in tank vehicles,* from Florence, VT to points in WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Omya, Inc., 61 Main Street, Proctor, VT 05765. Send protests to: Carol A. Perry, TA, ICC, P.O. Box 548, Montpelier, VT 05602.

MC 113528 (Sub-49TA), filed December 14, 1979. Applicant: MERCURY FREIGHT LINES, INC., 67 Midtown Park, East, Mobile, AL 36606. Representative: Joy Stephenson (address same as the address of the applicant). *General Commodities* (with the usual exceptions), between the facilities of Monsanto Co. at or near Gonzalez and Pensacola, FL, on the one hand, and, on the other, points in GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Monsanto Co., 800 No. Lindbergh Blvd., St. Louis, MO 64166. Send protests to: Mabel E. Holston, TA, I.C.C., Room 1616, 2121 Bldg., Birmingham, AL 35203.

MC 113908 (Sub-489TA), filed November 26, 1979. Applicant: ERICKSON TRANSPORT CORP., 2255 N. Packer Road, P.O. Box 10068 G.S., Springfield, MO 65804. Representative: Jim G. Erickson (same as applicant). *Distilled spirits, neutral spirits, alcohol, and alcoholic liquors, in bulk* from Juneau, WI, and the commercial zone thereof to Bardstown, KY and the commercial zone thereof, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Barton Brands, Ltd., Barton Road, Bardstown, KY 40004. Send protests to: Vernon V. Coble, DS, ICC, 911 Walnut St., Kansas City, MO 64106.

MC 113908 (Sub-490TA), filed December 6, 1979. Applicant: ERICKSON TRANSPORT CORP., 2255 N Packer Road, P.O. Box 10068 G.S., Springfield, MO 65804. Representative: Jim G. Erickson (same as applicant). *Refined, hydrogenated, deodorized soybean oil and various blends thereof* in bulk, from Helena and Stuttgart, AR to Birmingham, AL; Tampa, FL; Atlanta, GA; Hutchinson, Kansas City, Wichita, KS; Kansas City, St. Joseph, Springfield, MO; Albuquerque, NM; Wellston, OH; Oklahoma City, OK; Corpus Christi, Dallas, Ft. Worth and Paris, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Riceland Foods, P.O. Box 926, Stuttgart, AR 72160, Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 113908 (Sub-491TA), filed December 6, 1979. Applicant: ERICKSON TRANSPORT CORP., 2255 N. Packer Road, P.O. Box 10068 G.S., Springfield, MO 65804. Representative: Jim G. Erickson (same as applicant). *Alcohol, neutral spirits, distilled spirits, alcoholic liquors,* in bulk, between Dayton, New Jersey, and the commercial zone thereof, on the one hand, and, on the other, Owensboro, Kentucky, and

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the commercial zone thereof, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Julius Wile Sons and Co. Inc., 3003 New Hyde Park Road, New Hyde, NY 11040. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 113908 (Sub-492TA), filed December 10, 1979. Applicant: ERICKSON TRANSPORT CORP., 2255 N. Packer Road, P.O. Box 10068 G.S., Springfield, MO 65804. Representative: Jim G. Erickson (same as applicant). *Vinegar concentrates, in bulk,* from Chicago, IL, and the commercial zones thereof to Mt. Olive, NC, and the commercial zones thereof, for 180 days, an underlying ETA seeks 90 days authority. Supporting shipper(s): Standard Brands, Midwest Vinegar Div. 999 Touhy Avenue, Suite 350, Des Plains, IL 60018. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 113908 (Sub-493TA), filed December 20, 1979. Applicant: ERICKSON TRANSPORT CORP., 2255 N. Packer Road, P.O. Box 10068 G.S., Springfield, MO 65804. Representative: Jim G. Erickson (same as applicant). *Vinegar, Vinegar stock concentrates, in bulk,* between Alton, IL, and the commercial zone thereof, on the one hand, and on the other, Hutchinson, KS; Minneapolis, MN; Houston, TX; Oklahoma City OK; Kansas City, MO; Columbus, OH; Rogers, AR; and their respective commercial zones thereof for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Egerstrom Co., 6108 Arlington, Kansas City, MO 64133. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 113908 (Sub-494TA), filed December 20, 1979. Applicant: ERICKSON TRANSPORT CORP., 2255 N. Packer Road, P.O. Box 10068 G.S., Springfield, MO 65804. Representative: Jim G. Erickson (same as applicant). *Fruit juice and fruit juice concentrates, in bulk* from points in CA to Orrville, OH, and Memphis, TN, and their commercial zones thereof, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. M. Smucker Co., P.O. Box 280, Orrville, OH 44667. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 116118 (Sub-5TA), filed December 28 1979. Applicant: GARDINER'S EXPRESS, INC., Moss Mill Road, Hammonton, NJ 08037. Representative: John R. Jacobs, Sr., Moss Mill Road, Hammonton, NJ 08037. Plastic articles. From Bargaintown, NJ to Blauvelt, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Plastic Packs, Inc., Steelmansville Road, Bargaintown, NJ. Send protests to: Joel Morrows, D/S, ICC, 744 Broad Street, Rm. 522, Newark, NJ 07102.

MC 116628 (Sub-27TA), filed December 20, 1979. Applicant: SUBURBAN TRANSFER SERVICE, INC., P.O. Box 168, Rutherford, NJ 07070. Representative: Thomas F. X. Foley, Esq., P.O. Box F, Colts Neck, NJ 07722. Contract, irregular. Bedding equipment, and material and supplies used in the manufacture of bedding equipment. Between Martinsburg, WV on the one hand and on the other, Philadelphia, PA and Newark, NJ under a continuing contract or contracts with Shifman Bros. of Newark, NJ and/or Shifman Bros., of West Virginia of Martinsburg, WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Shifman Bros., Shifman Bros. of West Virginia, 1 Mott Street, Newark, NJ 07105. Send protests to: Joel Morrows, D/S, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 118318 (Sub-51TA), filed December 28, 1979. Applicant: IDA-CAL FREIGHT LINES, INC., P.O. Drawer M, Nampa, ID 83651. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83661. *Such commodities as are dealt in by grocery and food business houses,* between points in CA, ID, OR & WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Elimination of interline with Paffile Truck Lines. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 118838 (Sub-65TA), filed December 12, 1979. Applicant: GABOR TRUCKING, INC., R.R. 4, Detroit Lakes, MN 56501. Representative: WILLIAM L. FAIRBANK, 1980 Financial Center, Des Moines, IA 50309. *Plastic articles and polystyrene products,* from the facilities of U. C. Industries, Inc. at Tallmadge, OH, to points in MN, ND and SD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Gypsum Co., 101 S. Wacker Dr., Chicago, IL 60606. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 119988 (Sub-233TA), filed December 17, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. *Pulpboard boxes* from Dallas, TX to Pryor, OK, Ft. Payne, AL, Chicago, IL, Springfield, MO, Little Rock, AR, Memphis, TN and DeWitt, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Simkins Industries, Inc., 1115 Alma Street, Dallas, TX 75215. Send protests to: John F. Mensing, DS, I.C.C., 515 Rusk Ave. #8610, Houston, TX 77002.

MC 119988 (Sub-234TA), filed December 18, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. *Chemicals* (except in bulk) from Dallas, TX to Memphis, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): DuBois Chemicals, 8770 S. Central Expressway, Dallas, TX 75239. Send protests to: John F. Mensing, DS, I.C.C., 515 Rusk Ave. #8610, Houston, TX 77002.

MC 124078 (Sub-1011TA), filed December 23, 1979. Applicant: SCHERMAN TRUCKING CO., 611 S. 28th St., Milwaukee, WI 53215. Representative: Richard H. Prevette (registered practitioner), 611 S. 28th St., Milwaukee, WI 53215. *Pelletized sawdust,* from Menominee, MI to Milwaukee, WI, for 180 days. Supporting shipper(s): Aqua-Chem, Inc., 3707 N. Richards, Milwaukee, WI 53212. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 124988 (Sub-13TA), filed December 17, 1979. Applicant: TRUCK SERVICE COMPANY, 2169 E. Blaine, Springfield, MO 65803. Representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. *Drugs, toilet preparations and other commodities shown on Appendix III "Drubs/medicines/toilet preparations; shampoo; coal tar dye o/t indigo; chemicals noi; water noi plain o/t carbonated, o/t distilled; cleaning, scouring, washing compounds; disinfectants o/t medicinal; cloth, towels or toweling non-woven synthetic fibre disposable, impregnated with cleansing agent and lanolin; paper impregnated with cleansing agent; plastic or rubber articles o/t expanded having a density of over 6 lbs. but less than 12 lbs. p.c.f."* from Myerstown, PA to Menlo Park and Vernon, CA, Dallas, TX, and Seattle, WA, under contract with Sterling Drug Inc. Restricted to shipments transported in vehicles equipped with mechanical temperature control devices, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sterling Drugs Inc., 90 Park Avenue, New York, NY 10016. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 125708 (Sub-188TA), filed November 13, 1979. Applicant:

THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 W. 152nd Street, East Chicago, IN 46312. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. *Railroad ties:* from West Frankfort and Mt. Vernon, IL to points in WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United Brokerage Corp., P.O. Box 1201, Marshalltown, IA 50158. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 125708 (Sub-190TA), filed December 5, 1979. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 W. 152nd Street, East Chicago, IN 46312. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. *Snow removal equipment and fabricated steel products:* from Waverly, IA to points in the United States (except AK and HI), restricted to traffic originating at the facilities of Henke Mfg Corp at Waverly, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Henke Mfg Corp, P.O. Box 688, Waverly, IA 50677. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 125708 (Sub-189TA), filed December 5, 1979. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 W. 152nd Street, East Chicago, IN 46312. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. *Lumber,* from Mount Sterling, IA, to KY, WI, IN, IL, TN, and MO, restricted to traffic originating at the facilities of IA hardwoods at Mount Sterling, IA, for 180 days. Supporting shipper(s): Iowa Hardwoods, Mount Sterling, IA 52573. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 129908 (Sub-22TA), filed December 21, 1979. Applicant: AMERICAN FARM LINES, INC., 8125 Southwest 15th Street, P.O. Box 75410, Oklahoma City, OK 73107. Representative: T. J. Blaylock (same address as applicant). *Manufactured tobacco products and advertising material,* from the facilities of R. J. Reynolds Tobacco Company at or near Winston-Salem, NC, to AZ, AR, CA, IL, IN, KY, LA, MO, KS, OK, OR, TX, and WA, for 180 days. Supporting shipper(s): R. J. Reynolds Tobacco Company, Fourth and Main Streets, Winston-Salem, NC 27102. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 135518 (Sub-27TA), filed December 7, 1979. Applicant: WESTERN CARRIERS, INC., 53 South Dawson, Seattle, WA 98124. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. *Frozen and perishable meat products when moving in vehicles equipped with mechanical refrigeration,* from Seattle, WA to points in OR and CA, restricted to traffic moving from the facilities of Cudahy Co., for 180 days. Supporting shipper(s): Cudahy Company, 2203 Airport Way So., Seattle, WA 98124. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 135598 (Sub-38TA), filed November 9, 1979. Applicant: Sharkey Transportation, Inc, 3803 Dye Rd., Quincy, IL 62301. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. (1) *Air compressor, air compressor parts, machine parts, internal combustion engines, internal combustion engine parts and rough castings:* from Quincy, IL to points in the U.S.; and (2) *materials, equipment and supplies used in the manufacture and distribution of the commodities listed in* (1) above, from points in the U.S. to Quincy for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Quincy Compressor Div., Colt Industries Inc., 217 Maine Street, Quincy, IL 62301. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 135728 (Sub-3TA), filed January 2, 1980. Applicant: R. J. FRANKS TRANSPORT LTD., 59 Maple Street, Alliston, Ontario, Canada. Representative: Robert D. Gunderman, Esq., 710 Statler Bldg., Buffalo, NY 14202. *Silica sand, in bags,* from North Stonington, CT to ports of entry on the International Boundary line between the United States and Canada located in NY, for furtherance to points in the Province of Ontario, Canada, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ottawa Silica Co., P.O. Box 577, Ottawa, IL 61350. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 139248 (Sub-5TA), filed December 27, 1979. Applicant: CONTRACT CARRIERS, INC., 611 N. 80th, Yakima, WA 98908. Representative: George R. LaBissoniere, 1100 Norton Bldg., Seattle, WA 98104. *Bulk feed and feed ingredients* from points in ID, OR, and WA to points in WA and OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Niderost T & A Dehy., Inc., St. Rt. 1730, RD 2 NW., Quincy, WA 98848; Spokane Rendering Co., E. 4423 Hutton, Spokane, WA; Arthur Hill Co., P.O. Box 7062, Seattle, WA 98130; Western Farmers Assoc., 201 Elliott Avenue W., Seattle, WA 98119; X-Cel Feed, 5436 S. Washington, Tacoma, WA 98409; Wilbur-Ellis Company, 1200 Westlake Ave., N. #1000; North Pacific Trading Co., P.O. Box 3915, Portland, OR 97208. Send portests to: D. Merine Galbraith, T/A, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 140028 (Sub-10TA), filed December 14, 1979. Applicant: MOULDEN & SONS, INC., P.O. Box 18, 200 Second Street, Enumclaw, WA 98022. Representative: James T. Johnson, 1610 IBM Building, Seattle, WA 98101. *Silica sand,* from Ravensdale, WA to ports of entry on the U.S.-Canada boundary at or near Lynden and Sumas, WA, for 180 days. Supporting shipper(s): Industrial Mineral Products, Inc., Ravensdale, WA 98051. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 140628 (Sub-4TA), filed December 10, 1979. Applicant: CHARLES R. PALS, d.b.a. PALS CARTAGE, 31 W. 168th St., South Holland, IL 60473. Representative: Charles R. Pals (same address as applicant). *Diapers,* from the plant site of Johnson & Johnson Baby Products in Park Forest South, IL to Indianapolis, IN on the one hand and Indianapolis, IN back to the plant site of Johnson & Johnson on the other for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Johnson & Johnson Baby Products Co., 2845 Johnson Rd., Park Forest South, IL. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 14158 (Sub-8TA), filed December 3, 1979. Applicant: INTERIOR TRANSPORT, INC., P.O. Box 3347, Spokane, WA 99220. Representative: George H. Hart, 1100 IBM Building, Seattle, WA 98101. *(1) Aluminum and steel culvert; truck beds and truck bed components; steel buildings and grain bins, K.D. and component parts; grain handling equipment, K.D. and (2) Materials used in the fabrication of (1) above,* from, to, or between the following points or areas: shipment of commodities described in (1) from the facilities of SCAFCO Corporation in Spokane County, WA to points in and west of WI, IL, MO, AR, and TX, (except WA, AK, and HI) and shipment of commodities described in (2) from points in and west of MI, PA, OH, IN, IL, MO, AR, and TX, (except WA, AK and HI) to the facilities of SCAFCO Corporation in Spokane County, WA, for 180 days. Supporting shipper(s): SCAFCO Corporation, P.O. Box 11215, Spokane,

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WA 99211. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 142288 (Sub-41TA), filed December 5, 1979. Applicant: GORSKI BULK TRANSPORT, INC., RR #4, Harrow, Ontario, Canada NOR 1GO. Representative: William H. Shawn, 1730 M. St. NW, Suite 501, Washington, D.C. 20036. *Liquid chemicals, petroleum products, and additives:* (1) from ports of entry on the International Boundary line between the United States & Canada at Niagara Falls, NY and Port Huron, MI, to points in IL, IN, MI, NJ, NY, PA, WV, and OH (2) from points in KS, NJ, NY, and PA, to ports of entry on the International Boundary line between the United States and Canada at Niagara Falls, NY and Port Huron, MI. Restricted to the transportation of traffic originating at or destined to the facilities of Imperial Oil Ltd. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Imperial Oil Limited "Esso", 111 St. Clair Ave. W., Toronto, Ontario, Canada, M5W 1K3. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 142288 (Sub-42TA), filed November 6, 1979. Applicant: GORSKI BULK TRANSPORT, INC., R.R. #4 Harrow, Ontario, Canada NOR 1GO. Representative: Robert E. McFarland, 99 W. Big Beaver Road, Suite 1002, Troy, MI 48084. *Soybean and grain products,* between points in the United States (except AK and HI) for the Archer Daniels Midland Company for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Archer Daniels Midland Company, P.O. Box 1470, 4666 Faries Parkway, Decatur, IL 62525. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 142288 (Sub-7TA), filed December 14, 1979. Applicant: HAMILTON TRUCKING COMPANY OF OKLAHOMA, INC., 12612 East Admiral Place, Tulsa, OK 74115. Representative: Virginia Hamilton (same address as applicant). *Iron ore,* in bulk, in dump vehicles, from the facilities of Tex-Iron Incorporated, at LaRue, TX, to the facilities of Martin Marietta Cement Company, (Western Division), at or near Tulsa, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Martin Marietta Cement (Western Div.), 5350 E. 46th Street, Tulsa, OK 74145. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 144168 (Sub-3TA), filed December 19, 1979. Applicant: R. E. GARRISON TRUCKING, INC., P.O. Box 186, Cullman, AL 35055. Representative: Michael M. Knight (address same as the address of the applicant). *Drug and Toilet preparations, chewing gum and confectionery products, and materials, equipment and supplies used in connection therewith,* between the facilities of Warner-Lambert Co. and its subsidiaries in MA, PA, CT, IL, NY, CA, MI, GA, and TX, on the one hand, and, on the other, points in CA, FL, GA, IL, NJ, NY, AZ, MI, OR, WA, and TX, for 180 days. Supporting shipper(s): Warner-Lambert Co., 201 Tabor Rd., Morris Plains, NJ 07950. Send protests to: Mabel E. Holston, TA, ICC, Room 1616, 2121 Bldg., Birmingham, AL 35203.

MC 144688 (Sub-41TA), filed December 13, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. (1) *Scrap plastics,* from points in AR, KY, LA, MS, MO, NC, OK, PA, SC, TN (except Murfreesboro, TN), TX, VA, and WV, to the facilities of ABC Polymers, Inc., at or near Atlanta, GA; (2) *repocessed resin,* from the facilities of ABC Polymers, Inc., at or near Atlanta, GA, to points in the states of AL, AR, FL, KY, LA, MS, MO, NC, OK, PA, SC, TN, TX, VA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): ABC Polymers, Inc., 2561 Ponte Verda Blvd., Ponte Verda Beach, FL 32082. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 144688 (Sub-42TA), filed December 19, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. *Office furniture and parts, materials and supplies used in the manufacture, sale or distribution of office furniture (except in bulk),* from the facilities of United Chair Co., a division of USI, Inc., at or near Leeds, AL, to points in the states of LA, MS, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United Chair Company, Inc., a division of USI, Inc., Benjamin Birkenfeld, Traffic Manager, P.O. Box 98, Leeds, AL 35094. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 145508 (Sub-2TA), filed December 10, 1979. Applicant: A M & M, INCORPORATED, 33 Bolivar Highway, Jackson, TN 38301. Representative: Connor Wiggins, Suite 909, 100 N. Main St., Memphis, TN 38103. *(1) Pipe, tubing and conduits; (2) Fittings, pipe, tubing and conduit; (3) Pipe hangers and pipe supports; (4) Valves and hydrants; and (5) Articles, materials, tools, equipment, supplies and accessories used in the manufacture, operations and repair of commodities in (1), (2), (3) and (4) above, and of sprinkler systems, fire prevention systems, heating systems, cooling systems, piping systems, irrigation systems, plumbing systems, water systems, sewer systems, drainage systems and refrigeration systems,* between the facilities of ITT-Grinnell Corp. at Indianapolis, IN, on the one hand, and on the other points in the United States, (excluding AK and HI), under a continuing contract or contracts with ITT-Grinnell Corp., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): ITT-Grinnell Corporation, 260 West Exchange Street, Providence, RI 02901. Send protests to: Floyd A. Johnson, Rm. 2006, 100 N. Main St., Memphis, TN 38103.

MC 145858 (Sub-3TA), filed November 28, 1979. Applicant: B & G SUPPLY COMPANY, INC., P.O. Box 748, Albertville, AL 35950. Representative: John R. Frawley, Jr., 5506 Crestwood Blvd., Birmingham, AL. *Grocery products, foodstuffs and all items and materials sold by or used in the wholesale grocery business* (except commodities in bulk), *between the facilities of Mitchell Grocery Corp. located in Albertville, AL, on the one hand, and, on the other, all points in the United States,* for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mitchell Grocery Corp., P.O. Box 748, Albertville, AL 35950. Send protests to: Mabel E. Holston, TA, ICC, Room 1616, 2121 Bldg., Birmingham, AL 35203.

MC 145858 (Sub-4TA), filed November 28, 1979. Applicant: B & G SUPPLY COMPANY, INC., P.O. Box 748, Albertville, AL 35950. Representative: John R. Frawley, Jr., 5506 Crestwood Blvd., Birmingham, AL. *Grocery products, foodstuffs and all items and materials sold by or used in the wholesale grocery business* (except commodities in bulk), *between the facilities of Mitchell Grocery Corp. located in Albertville, AL, on the one hand, and, on the other, all points in the United States,* for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mitchell Grocery Corp., P.O. Box 748, Albertville, AL 35950. Send protests to: Mabel E. Holston, TA, ICC, Room 1616, 2121 Bldg., Birmingham, AL 35203.

MC 146078 (Sub-14TA), filed December 17, 1979. Applicant: CAL-ARK, INC., 854 Moline, P.O. Box 394, Malvern, AR 72104. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. *Dockboard, iron and steel, dock levelers, and rubber bump blocks, and material and equipment used in the manufacture, assembly, and distribution of such items:* between the facilities of DLM, Inc. at Malvern, AR to points and places in AZ and CA for 180 days. Supporting shipper(s): DLM, Inc., P.O. Box 37, Malvern, AR 72104. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 146078 (Sub-15TA), filed December 17, 1979. Applicant: CAL-ARK, INC., 854 Moline, P.O. Box 394, Malvern, AR 72104. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. *Pet foods and materials, ingredients, and supplies used in the manufacture, distribution, and sale of pet foods and wooden pallets:* Between the facilities of Sunshine Mills, at or near Red Bay, AL and Tupelo, MS, on the one hand, and, on the other, points and places in AR, IA, IL, IN, KS, LA, MI, MO, OH, OK, PA, TX, and WI. for 180 days. Supporting shipper(s): Sunshine Mills, Inc., Hwy. 45 South, P.O. Box 1483, Tupelo, MS 38801. Send protests to: William H. Land, DS, 3108 Federl Bldg., Little Rock, AR 72201.

MC 146628 (Sub-4TA), filed November 16, 1979. Applicant: HUNT SUPER SERVICE, INC., 12 Cambridge St., Bourbonnais, IL 60914. Representative: Walter Kobos, 1016 Kehoe Dr., St. Louis, IL 60174. *Contract carrier:* irregular routes: *Deadener bin bulk in tank vehicles:* from Kankakee, IL to Fenton, MO; Grand Rapids and Kalamazoo, MI; Kenosha, WI; Marion, IN and Newton, IA. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mortell Company, Hobbie Ave and Big Four RR, Kankakee, IL. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 146708 (Sub-1TA), filed November 7, 1979. Applicant: W. F. DOYLE ENTERPRISES, INC., d.b.a. R. D. CARTAGE, 4720 W. 55th St., Chicago, IL 60629. Representative: Daniel F. Gallagher, 11 S. LaSalle St., Chicago, IL 60603. *Such commodities as are mined or processed by persons engaged in the mining business, except commodities in bulk or commodities which require the use of special equipment,* between Chicago, IL and points in the Chicago Commercial Zone and Danville, IL on the one hand, and, on the other Indianapolis, Marion, Arcola, Vincennes and Shelbyville, IN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kennecott Copper Corporation, 1055 W. North Temple, P.O. Box 16600, Salt Lake City, UT 84116. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 146728 (Sub-1TA), filed December 26, 1979. Applicant: AL-KEN-DALE HOLDINGS, LTD., P.O. Box 123, Bellis, AB, CD TOA OJO. Representative: Harry Shapka (same address as applicant). *Pipe insulation* from Fruita, CO and Sedalia, MO to the U.S.-Canada International Boundary line located at or near Sweetgrass, MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. K. Campbell & Associates, Ltd., #104, 14315–118 Ave., Edmonton, AB, CD T5L 4S8; Paboc Ingulation Division, Louisiana-Pacific Corp., 1110 16 Road, Fruita, CO 81521. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 146818 (Sub-3TA), filed December 21, 1979. Applicant: CARL PRINCE, d.b.a. PRINCE TRUCKING, Rt. 1, Box 159, Cane Hill, AR 72717. Representative: John C. Everett, P.O. Box A, Prairie Grove, AR 72753. *Furniture* from the facilities of Ayers Furniture Co. in Ft. Smith, AR to points and places in AZ, TX, LA, MS, AL, TN, KY, OK, IL, IA, NE, WI, MO, KS, NM, IN and OH, for 180 days. Supporting shipper(s): Ayers Furniture Industries, 1001 North 3rd St., Ft. Smith, AR 72901. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 146838 (Sub-1TA), filed November 28, 1979. Applicant: GEAUGA TRUCK LINES, INC., 705 U.S. State Route 224, Nova, OH 44859. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Contract carrier:* irregular routes: *Scrap graphite, electrodes, carbon raiser, calcined-anthracite coal, anthracite coal, graphite powder, and recycled graphite; and materials and supplies used in the manufacture, distribution and sales of the above commodities,* Between Nova, OH, on the one hand, and on the other, Bay City, Dearborn, and Pontiac, MI, Newport, KY, Denver, PA, Conroe, TX and Clarksburg, WV; Between Denver, PA, on the one hand, and on the other, Pontiac, MI and Conroe, TX; Between Conroe, TX, on the one hand, and on the other Chagrin Falls, OH and Pryor, OK; Between Bay City, MI and Chagrin Falls, OH; From Nova, OH to East Baytown, TX, Adrian, Albion, Flat Rock and Lansing, MI, Gary, IN, Lakehurst, NJ, and Pittsburgh, PA; From Chagrin Falls, OH to Newport, KY; From Newport, KY and Warren, OH to Denver, PA; From Pryor, OK to Houston, TX; From Adrian, Albion, Dearborn, Flatrock, Lansing and Pontiac, MI, Gary, IN, Lakehurst, NJ, Pittsburgh, PA and Clarksburg, WV to Chagrin Falls, OH, under continuing contract or contracts with Graphite Sales, Inc. of Chagrin Falls, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Graphite Sales, Inc., 16715 West Park Circle Dr., P.O. Box 185, Chagrin Falls, OH 44022. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 148848 (Sub-1TA), filed November 27, 1979. Applicant: UNIVERSAL DELIVERIES, INC., 2100 N. Southport Ave., Chicago, IL 60614. Representative: Joseph T. Bambrick, P.O. Box 216, Douglassville, PA 19518. *General Commodities (except classes A and B explosives, commodities in bulk, those of unusual value, and used household goods as defined by this commission),* between the following counties in IL i.e., Boone, Bureau, Cass, Champaign, Cook, Dewitt, DeKalb, DuPage, Ford, Fulton, Grundy, Henry, Iroquois, Kane, Kankakee, Kendall, Knox, Lake, LaSalle, Lee, Livingston, Logan, Macon, Marshall, McHenry, McLean, Menard, Ogle, Peoria, Piatt, Putnam for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 6 supporting shippers. Their application can be reviewed at the address below or headquarters. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604

MC 148978 (Sub-1TA), filed December 10, 1979. Applicant: OHIO SWIFTWAY, INC., 105 Jamison Ave., Cadiz, OH 43907. Representative: William J. Lavelle, Esq., 2310 Grant Bldg., Pittsburgh, PA 15219. Contract carrier-irregular routes, *such commodities as are dealt in by wholesale and retail lumber dealers and home centers (except commodities in bulk),* from points in AL, AR, GA, FL, IN, KY, LA, TX, MD, MI, MS, NY, NC, OH, PA, SC, TN, VA and WV to points in IN, KY, MD, MI, NJ, NY, OH, PA, TN and WV, restricted to a transportation service to be performed under a continuing contract, or contracts, with Lumber Wholesalers, Inc., Wilgus & Company, Truss & Panel, Incorporated, and Medina Door, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lumber Wholesalers, Inc., 318 Lincoln Ave., Cadiz, OH 43907. Truss & Panel, Incorporated, 335 Jarvis Ave., Cadiz, OH 43907. Medina Door, Inc., 345 N. State Rd., Medina, OH. Wilgus & Company, P.O. Box 186, Cadiz, OH 43907. Send

protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Philadelphia, PA 19106.

MC 148998 (Sub-1TA), filed December 12, 1979. Applicant: WALTER G. LEWIS, d.b.a. AIR CARGO TRANSPORT, 910 Stanley, Gillette, WY 82716. Representative: Thomas D. Roberts, 306 South Gillette Avenue, Gillette, WY 82716. Contract carrier, irregular routes, transporting *General Commodities* having a prior or subsequent movement via air, between points in Campbell County, WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Star Airways, Inc.; Stapleton International Airport, 3390 Syracuse Street, Denver, CO 80207. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Room 105, Federal Bldg. and Court House, 111 South Wolcott, Casper, WY 82601.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-2057 Filed 1-22-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Joint Committee for Agricultural Development of the Board for International Food and Agricultural Development

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the meetings of the Regional Work Groups (RWGs), Joint Committee for Agricultural Development (JCAD) of the Board for International Food and Agricultural Development (BIFAD). These meetings will be held on February 11, 1980.

The Purpose of the meetings is to: discuss RWG members' trip reports on Country/Mission visits; discuss plans for Country Development Strategy Statement (CDSS) reviews; review the Country Programs; and discuss plans for relating Strengthening Grants to overseas programs.

The Asia RWG will meet on February 11, 1980, and will convene at 9:30 a.m. in Room 216, Rosslyn Plaza Bldg., 1601 North Kent Street, Rosslyn, Virginia. (Mr. David Lundberg, A.I.D. Federal Designee for this meeting can be contacted at (703) 235-8870.)

The Africa RWG will meet on February 11, 1980, and will convene at 9:30 a.m. in Room 2941 New State Department Building. (Mr. William Johnson, A.I.D. Federal Designee for this meeting can be contacted at (202) 632-0196.)

The Near East RWG will meet on February 11, 1980, and will convene at 9:30 a.m. in Room 6484 New State Department Building. (Mr. Keith Sherper, A.I.D. Federal Designee for this meeting can be contacted at (202) 632-9256.)

The Latin America RWG will not meet the month of February.

The meetings are open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits. Dr. Frank H. Madden is designated A.I.D. Advisory Committee Representative for JCAD. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (202) 632-3009.

Dated: January 16, 1980.

Frank H. Madden,

AID Advisory Committee Representative, Joint Committee on Agricultural Development, Board for International Food and Agricultural Development.

[FR Doc. 80-2056 Filed 1-22-80; 8:45 am]

BILLING CODE 4710-02-M

Joint Research Committee of the Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the thirty-first meeting of the Joint Research Committee (JRC) of the Board for International Food and Agricultural Development (BIFAD) on February 13 and 14, 1980.

The purpose of the meeting is to: discuss energy issues in agricultural development in developing countries and to consider any research needs in this area; discuss training and outreach programs for improving research capabilities of institutions of developing countries; review progress of Collaborative Research Support Programs (CRSP's) being implemented and planned; and discuss plans and methods of implementing agricultural research programs in fiscal year 1980 and fiscal year 1981.

The meeting will convene at 9 a.m. and adjourn at 5 p.m. on February 13 and 14, 1980. The meeting will be held at the Holiday Inn, Dynasty Room, 1850 N. Ft. Myer Drive, Arlington, Virginia 22209. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Mr. William F. Johnson, BIFAD Support Staff, is designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, BIFAD Support Staff, State Department, Washington, D.C. 20523, or telephone him at (202) 632-7937.

Dated: January 17, 1980.

William F. Johnson,

AID Advisory Committee Representative, Joint Research Committee, Board for International Food and Agricultural Development.

[FR Doc. 80-2060 Filed 1-22-80; 8:45 am]

BILLING CODE 4710-02-M

INTERNATIONAL TRADE COMMISSION

[TA-203-6]

Color Television Receivers and Subassemblies Thereof; Prehearing Conference and Request for Prehearing Briefs

Background. The U.S. International Trade Commission on December 31, 1979, instituted investigation No. TA-203-6, Color Television Receivers and Subassemblies Thereof, and ordered a public hearing to be held in connection with the investigation on March 5, 1980 (45 FR 1950, January 9, 1980).

Prehearing conference ordered. To facilitate the hearing process, a prehearing conference will be held on February 14, 1980, at 10:00 a.m., e.s.t., in Room 117 of the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. At this time copies of the Commission's report for the fourth calendar quarter 1979 on color television receiver imports, employment, man-hours, U.S. production, shipments, inventories, and prices will be made available. The prehearing conference will deal with such matters as allocating time for oral presentations at the public hearing, agreements on statistics, and stipulations.

Prehearing briefs. To facilitate the hearing process, it is requested that persons wishing to appear at the hearing submit prehearing briefs enumerating and discussing the issues which they wish to raise at the hearing. Such prehearing briefs should be submitted to the Secretary to the Commission no later than the close of business Thursday, February 28, 1980. The Secretary will make copies of such briefs available to the public. While this does not prohibit submission of prepared statements in accordance with § 201.12(d) of the Commission's rules of practice and procedure (19 CFR 201.12(d)), it would be unnecessary to submit such a statement if a prehearing brief is submitted instead. Any such statements will, of course, be made a part of the transcript. Oral presentations, however, should, to the extent possible, be limited to issues raised in the prehearing briefs.

Persons not represented by counsel or public officials who have relevant matters to present may give testimony without regard to the suggested prehearing procedures outlined above.

Issued: January 16, 1980.

By order to the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-2022 Filed 1-22-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Consent Decree in Action To Enforce Marine Protection, Research and Sanctuaries Act of 1972 and Ocean Dumping Permits Issued Thereunder

In accordance with Departmental policy, 28 CFR §50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *County of Westchester, et al.*, Civil No. 79-2186(ADS), was lodged with the United States District Court for the Southern District of New York on January 10, 1980. The decree imposes on defendants schedules for the construction of sewage treatment facilities so that the ocean dumping of sewage sludge by the County of Westchester is terminated without delay. The case was filed to enforce the ocean dumping provisions of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, 33 U.S.C. §§ 1401-1421, and permits issued to the County pursuant to the Act.

The Department of Justice will receive, on or before February 22, 1980 written comments relating to the consent decree. Comments should be addressed to the United States Attorney, Southern District of New York, One St. Andrews Plaza, New York, New York 10007, and should refer to *United States* v. *County of Westchester et al.*, Civil No. 79-2186(ADS).

Comments received on or before February 22, 1980 will be filed with and considered by the Court before entry of the consent decree. The decree may be examined at the office of the United States Attorney, Southern District of New York, One St. Andrews Plaza, New York, New York 10007; at the Region II office of the Environmental Protection Agency, 25 Federal Plaza, New York, New York 10007; at the Office of the County Attorney, Westchester County, 600 County Office Building, 148 Martine Avenue, White Plains, New York 10601; and at the office of the Marine Resources Section, Land and Natural Resources Division, Department of Justice, Room 1258, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530.

James W. Moorman,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-2139 Filed 1-22-80; 8:45 am]

BILLING CODE 4410-01-M

[AAG/A Order No. 41-80]

Privacy Act of 1974; New System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of Justice proposes to establish a new system of records to be maintained by the Drug Enforcement Administration (DEA).

The DEA Clerical, Technical, and Professional (CTAP) Program Files (Justice/DEA-023) is a new system of records for which no public notice consistent with the provisions of 5 U.S.C. 552a(e)(4) has been published in the **Federal Register.**

5 U.S.C. 552a(e)(4) and (11) provide that the public be given a 30-day period in which to comment; the Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires a 60-day period in which to review the system before it is implemented. Therefore, the public, OMB, and the Congress are invited to submit written comments on this system. Comments should be addressed to the Administrative Counsel, Justice Management Division, Room 1214, Department of Justice, 10th and Consitution Avenue, NW., Washington, D.C. 20530. If no comments are received from either the public, OMB, or the Congress on March 24, 1980, the system will be implemented without further notice in the **Federal Register.** No oral hearings are contemplated.

A report of the proposed system has been provided to the Director, OMB, to the President of the Senate and the Speaker of the House of Representatives.

Dated: January 11, 1980.

Kevin D. Rooney,

Assistant Attorney General for Administration.

Justice/DEA-023

SYSTEM NAME:

Clerical, Technical and Professional (CTAP) Program Files.

SYSTEM LOCATION:

Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537 and field offices (see Appendix #1 for addresses).[1]

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEMS:

Clerical, technical and professional employees (GS/1-12) of DEA who volunteer to participate in the CTAP program.

CATEGORIES OF RECORDS IN THE SYSTEMS:

Biographic, educational and career development records of CTAP employees, interview and evaluation forms concerning CTAP employees and individual career development plans.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

OMB Circular No. A-48 (September 23, 1971), Federal Personnel Manual, Chapter 410.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is disclosed to DEA counselors and supervisors to develop and plan individualized career development programs for DEA employees.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise requested to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests that information on behalf of and at the request of the individual who is the subject of the record.

[1] Most recently published in the Privacy Act Issuances, 1978 Compilation, Volume III, of the Federal Register.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records in the system are maintained in manual file folders and on ADP equipment.

RETRIEVABILITY:

Records will be retrieved by employee name.

SAFEGUARDS:

The records in the system will be maintained in facilities which meet DEA security requirements. Access to the system will be restricted to DEA employees on a need-to-know basis.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGERS AND ADDRESS:

Assistant Administrator for Administration and Management, Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to Freedom of Information Division, Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

DEA employees, CTAP counselors, DEA personnel files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-2140 Filed 1-22-80; 8:45 am]

BILLING CODE 4410-09-M

Antitrust Division

United States v. Essex Group, Inc., et al.; Proposed Final Judgment, and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16 (b) through (h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with the United States District Court for the Central District of California in *United States* v. *Essex Group, Inc., et al.*, Civil Action No. 78-3659-ALS. The complaint in this case alleged that six (6) corporations that manufacture copper building wire conspired to exchange pricing and related information among themselves with the purpose and effect of restraining competition in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1. The proposed Consent Judgment enjoins each defendant for a period of 10 years from exchanging or conspiring to exchange pricing or related information on copper building wire. Each defendant is required to take affirmative steps to insure compliance with the provisions of the Final Judgment.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Barbara A. Reeves, Chief, Los Angeles Field Office, Antitrust Division, Department of Justice, 3101 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012, (telephone: 688-2500).

Dated: January 16, 1980.

Joseph H. Widmar,

Director of Operations.

U.S. District Court, Central District of California

United States of America, Plaintiff, v. *Essex Group, Inc.; Continental Copper & Steel Industries, Inc.; American Insulated Wire Corp.; Cyprus Mines Corp.; Southwire Company, Inc.; and Triangle PWC, Inc.*, Defendants.

Civil Action No. 78-3659-ALS

Date filed: January 16, 1980

Stipulation

It is hereby stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16) and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to plaintiff or the defendants in this or any other proceeding.

Dated:

For the Plaintiff: John H. Shenefield, Assistant Attorney General; Joseph H. Widmar, Barbara A. Reeves, Leon W. Weidman, Attorneys, Antitrust Division, U.S. Department of Justice.

For the Defendants: Kadison, Pfaelzer, Woodard, Quinn & Rossi, Robert C. Bonner, Attorneys for Essex Group, Inc., Law Offices of Malcolm A. Hoffmann, Malcolm A. Hoffmann, Attorney for American Insulated Wire Corp., Hall, Dickler, Lawler, Kent & Howley, Milford Fenster, Attorneys for Continental Copper & Steel Industries, Inc., Gambrell, Russell & Forbes, James Bratton, Attorneys for Southwire Company, Inc., O'Melveny & Myers, Ralph W. Dau, Attorneys for Cyprus Mines Corp., Kohn, Milstein & Cohen, Jerry S. Cohen, Attorneys for Triangle PWC, Inc.

United States District Court, Central District of California

United States of America, Plaintiff, v. *Essex Group, Inc.; Continental Copper & Steel Industries, Inc.; American Insulated Wire Corp.; Cyprus Mines Corp.; Southwire Company, Inc.; and Triangle PWC, Inc.*, Defendants.

Civil action No. 78-3659-ALS

Date filed: January 16, 1980

Final Judgment

Plaintiff, United States of America, having filed its Amended Complaint on October 25, 1978, and the defendants, Essex Group, Inc.; Continental Copper & Steel Industries, Inc.; American Insulated Wire Corp.; Cyprus Mines Corp.; Southwire Company, Inc.; and Triangle PWC, Inc., having appeared through their respective attorneys and filed their answers denying the material allegations of the complaint; and the plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment, before the taking of any testimony herein, without trial or adjudication of any issue of fact or law herein, without any admission by any party with respect to any issue of fact or law herein, and without this Final Judgment constituting any evidence against or admission by any party with respect to any issue of fact or law herein;

Now, therefore, before any testimony or evidence has been taken herein, and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto,

It is hereby ordered, adjudged and decreed as follows:

I

This Court has jurisdiction of the subject matter hereof and of the parties hereto. The Complaint states a claim against the defendants upon which relief may be granted under Section 1 of the Sherman Act, 15 U.S.C. § 1.

II

As used in this Final Judgment:

(A) "Person" means any individual, partnership, firm, corporation, association, or other business or legal entity;

(B) "Copper building wire" means copper wire and cable used for the transmission of electrical current in residential, commercial or industrial structures and commonly known in the trade as "copper building wire" or "construction wire" (including service entrance cable), utilizing 600 volts or less.

III

The provisions of this Final Judgment are applicable to each defendant and to each of its officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant is enjoined and restrained from entering into, adhering to, maintaining or furthering any contract, agreement, understanding, plan or program with any other copper building wire manufacturer to exchange or communicate information concerning prices, price differentials, bids, discounts or other terms or conditions relating to the price of copper building wire.

V

Each defendant is further enjoined and restrained from exchanging with, communicating to or requesting from any other copper building wire manufacturer, any information or intention concerning present or prospective prices, price differentials, bids, discounts, or other terms or conditions relating to the price of copper building wire.

VI

Nothing contained in this Final Judgment shall:

(A) apply to any negotiation or necessary communication between a defendant and any other defendant or between a defendant and any other person when such parties are engaged in a contemplated or actual bona fide purchase or sale of copper building wire;

(B) prohibit a defendant from communicating written copper building wire price information to any other copper building wire manufacturer after the effective date of such written copper building wire price information which has been released and circulated to a defendant's customers generally; provided that such communication is made without comment, markings, or explanation and without reference to a particular geographic region; unless such communication shall have the purpose or effect of stabilizing prices or otherwise restraining competition;

(C) apply to transactions or communications between a defendant and a parent or subsidiary of, or other person under common control with, such defendant, or between officers, directors, agents or employees thereof.

VII

Each defendant is ordered and directed:

(A) to furnish within sixty (60) days after entry of this Final Judgment a copy thereof to each of its officers and directors who has management responsibility for the manufacture or sale of copper building wire, and to each of its managing agents and employees having responsibility for or authority over the establishment of the prices of copper building wire;

(B) to furnish a copy of this Final Judgment to each person who becomes an officer, director, managing agent or employee described in Subparagraph (A) of this Paragraph, within sixty (60) days after such person is employed by or becomes associated with such defendant;

(C) to take additional affirmative steps to advise each of its officers, directors, managing agents and employees described in Subparagraph (A) of this Paragraph of its and their obligations under this Final Judgment and of the criminal penalties for violation of Paragraphs IV and V of this Final Judgment, including preparation or distribution of written directives setting forth corporate compliance policies, distribution of copies of the Final Judgment, and meetings to review its terms and the obligations it imposes;

(D) to file with the Court and serve upon the plaintiff, within ninety (90) days from the date of entry of this Final Judgment, an affidavit as to the fact and manner of its compliance with Subparagraph (A) of this Paragraph; and

(E) to obtain, from each person described in Subparagraph (A) or (B) of this Paragraph, a written statement evidencing such person's receipt of a copy of this Final Judgment, and to retain such statements in its files.

VIII

For the purpose of determining or securing compliance with this Final Judgment:

(A) any duly authorized representative of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant manufacturer made to its principal office, be permitted, subject to any legally recognized privilege:

(1) access during the office hours of the defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendant who may have counsel present, relating to any matters contained in the Final Judgment;

(2) subject to the reasonable convenience of the defendant and without restraint or interference from it, to interview officers, directors, agents, partners or employees of the defendant, who may have counsel present, regarding any such matter; and

(B) any defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing, under oath if requested, with respect to any of the matters contained in this Final Judgement as may from time to time be requested.

No information obtained by the means provided in this Paragraph VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgement, or as otherwise required by law.

If, at any time, information or documents are furnished by a defendant to plaintiff, and such defendant represents and identifies in writing the material in any such information or documents which is of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure and marks each pertinent document "Subject to claim of protection under the Federal Rules of Civil Procedure", then 10 days notice shall be given by plaintiff to the defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

IX

Each defendant shall require, as a condition of the sale or disposition of all, or substantially all, of the assets used by it in the manufacture and sale of copper building wire, that the acquiring party agree to be bound by the provisions of this Final Judgement, and that such agreement be filed with the Court.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgement to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgement or for the modification of any of the provisions herein and for the enforcement of compliance herewith and the punishment of the violation of any of the provisions contained herein.

XI

This Final Judgement shall terminate and cease to be effective 10 years from the date it is entered.

XII

Entry of this Final Judgement is in the public interest.

Dated:——

U.S. District Judge ————

U.S. District Court, Central District of California

United States of America, Plaintiff, v. *Essex Group, Inc.; Continental Copper & Steel Industries Inc.; American Insulated Wire Corp.; Cyprus Mines Corp., Southwire Company, Inc.; and Triangle PWC, Inc.*, Defendants.

Civil action No. 78-3659-ALS

Date filed: January 16, 1980

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b), the United States of America hereby files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

Nature and Purpose of the Proceeding

On September 21, 1978, the United States filed a civil antitrust action under Section 4 of the Sherman Act (15 U.S.C. § 4) alleging that the defendants and unnamed co-conspirators combined and conspired to exchange information among themselves concerning their business activities, including prices, discounts, and other terms and conditions of sale, with the purpose and effect of restraining competition among them in

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violation of Section 1 of the Sherman Act (15 U.S.C. § 1). The complaint alleges that as a result of the conspiracy competition in prices, discounts and other terms and conditions of the sale of copper building wire throughout the United States has been restrained; and that purchasers of copper building wire have been deprived of the benefit of free and open competition in the sale thereof. The United States sought a perpetual injunction prohibiting the conduct alleged to have given rise to the violation.

Entry by the Court of the proposed Final Judgment will terminate the action, except that the Court will retain jurisdiction over the matter for possible further proceedings which might be required to interpret, modify, or enforce the Final Judgment or to punish alleged violations of any of the provisions of the Final Judgment.

No criminal indictment was sought in connection with the alleged combination and conspiracy to restrain trade and commerce.

II

Description of Practices Giving Rise to the Alleged Violations

A. The Defendants

Each of the defendants listed below is incorporated and exists under the laws of the state listed opposite its name, with its principal place of business in the city listed. During all or part of the period of time covered by the complaint, each of said defendants engaged in the business of manufacturing and selling copper building wire in the United States.

Corporation, State of Incorporation, and Principal Place of Business

Essex Group, Inc., Michigan—Ft. Wayne, Ind.
Continental Copper & Steel Industries, Inc., Delaware—New York, N.Y.
American Insulated Wire Corp., Rhode Island—Pawtucket, R.I.
Cyprus Mines Corp.,[1] New York—Los Angeles, Calif.
Southwire Company, Inc., Georgia—Carrollton, Ga.
Triangle PWC, Inc., Delaware—New Brunswick, N.J.

B. Co-Conspirators

The complaint alleges that various other persons, not made defendants in this complaint, have participated as co-conspirators with the defendants in the violation alleged herein and have performed acts and made statements in furtherance thereof.

C. Trade and Commerce Involved

The industry which the complaint alleges as the subject of defendants' conspiracy is the copper building wire distribution business. Manufacturers of copper building wire distribute through either independent agents or private company sales networks, which in turn distribute the products to electrical wholesalers who in turn supply electrical contractors. In addition, a small portion of copper building wire is sold by manufacturers to "super distributors" who in turn sell to electrical wholesalers. Small amounts are sold by manufacturers to retail outlets for sale directly to the consumer.

Copper building wire is manufactured from a raw material base consisting primarily of copper and insulating materials. Copper building wire is manufactured in standardized classifications, sizes, and designs, and conforms to standards promulgated by Underwriters Laboratory. Most of the copper building wire manufactured and sold by each of the defendant corporations is substantially identical with equivalent copper building wire sold by other defendant corporations.

D. Alleged Violations

Each of the defendant corporations manufacture and sell a full range of copper building wire and distribute it on a national basis, through one or more of the channels of distribution described above. They are known in the trade as "full-line" manufacturers and are generally distinguished from "short-line manufacturers who primarily operate only in limited geographic areas and manufacture only limited types of copper building wire.

During the period of time covered by the complaint, the defendant corporations had total sales of copper building wire in excess of $150 million.

Within the period of time covered by the complaint, the defendant corporations sold and shipped in interstate commerce substantial quantities of copper building wire to customers in states other than the the state in which their plants are located and obtained in interstate commerce substantial quantities of raw materials used in the manufacture of copper building wire from states other than those where their plants are located. The sale and shipment of copper building wire to customers in interstate commerce and the purchase and shipment in interstate commerce of materials used in the manufacture of copper building wire were substantially affected by the combination and conspiracy alleged in the complaint.

The complaint alleges that beginning in approximately October 1974 and continuing thereafter up to an including the date of the filing of the complaint, the defendants and co-conspirators engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in copper building wire in violation of Section 1 of the Sherman Act (15 U.S.C. § 1). The alleged conspiratorial activity involved discussions and agreements among officials of defendants and co-conspirators concerning their business activities, including prices, discounts, and other terms and conditions of sale of copper building wire. The complaint alleged that these discussions and agreements were entered into with the purpose, and had the effect, of restraining competition.

According to the complaint, the conspiracy had the following effects: (a) competition in prices, discounts and other terms and conditions of the sale of copper building wire throughout the United States has been restrained; and (b) purchasers of copper building wire have been deprived of the benefit of free and open competition.

III

Explanation of the Proposed Final Judgment

The United States and the defendants have agreed in a stipulation that the Final Judgment in the form negotiated by the parties may be entered by the Court any time after compliance with the Antitrust Procedures and Penalties Act, provided that plaintiff has not withdrawn its consent. The Final Judgment provides that there have been no admissions by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of this Final Judgment is conditioned upon the Court's determination that it is in the public interest.

A. Prohibited Conduct

The proposed Final Judgment grants the fundamental relief the United States sought in the complaint. In Section IV of the Final Judgment, the defendants are enjoined and restrained from entering into, adhering to, maintaining or furthering any contract, agreement, understanding, plan or program with any other copper building wire manufacturer to exchange or communicate information concerning prices, price differentials, bids, discounts or other terms or conditions relating to the price of copper building wire.

The defendants are further prohibited by Section V from exchanging with, communicating to or requesting from any other copper building wire manufacturer, any information or intention concerning present or prospective prices, price differentials, bids, discounts, or other terms or conditions relating to the price of copper building wire.

B. Scope of the Proposed Final Judgment

The Final Judgment provides that its terms shall apply to each defendant and to each of its officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of the Final Judgment by personal service or otherwise. There is no geographical limitation in the Final Judgment.

The Final Judgment specifically requires that if a defendant sells the assets used by it in the manufacture and sale of copper building wire, the acquiring party agree to be bound by the provisions of the Final Judgment.

Each defendant will be required, within 60 days after entry of the Final Judgment, to furnish a copy of the Final Judgment to certain of its officers, directors, employees and agents and to take additional affirmative steps to advise them of their obligations under the Final Judgment and of the criminal penalties for violation thereof. Within 90 days of entry of Final Judgment, an Affidavit as to the fact an manner of each defendant's compliance must be filed with the Court. These provisions should help prevent future violations of the Final Judgment by making each responsible employee individually aware of the Final Judgment and its prohibitions.

The scope of the Final Judgment is limited in three ways. First, nothing contained in the Final Judgment shall apply to any negotiation or necessary communication between a defendant and any other defendant or between a defendant and any other person, when such parties are engaged in a contemplated or actual bona fide purchase or sale of copper building wire, to the extent such communications are necessary to such bona fide purchase or sale. Second, the Final Judgment does not apply to transactions or communications between a defendant and a parent or subsidiary of, or other person under common control with, such defendant, or between the officers, directors, agents or employees thereof. Third, a defendant is not prohibited from communicating written copper building wire price information after the effective date of such price sheets, without comment, markings or explanation and without reference to any particular geographic region, provided such written information has already been released and circulated to such defendant's customers generally, unless such communication shall have the purpose or effect of stabilizing prices or otherwise restraining trade.

In order to assure compliance, the Final Judgment authorizes the Department of Justice to inspect and copy records and documents in the possession or under the control of any defendant relating to any matters contained in the Final Judgment, pursuant to reasonable procedures. In addition, the Department of Justice may require any defendant to submit reports from time to time.

The Final Judgment is for a term of 10 years from the date it is entered, and the Court retains jurisdiction for that period.

C. Effect of the Proposed Final Judgment on Competition

The terms of the Final Judgment are designed to prevent any recurrence of the activities alleged in the complaint. The prohibitive language of the Final Judgment should ensure that future price actions of the defendants will be independently determined, without the restraining and artificial influences which result from communications and agreements among competitors.

The Department of Justice believes that the proposed Final Judgment provides fully adequate provisions to prevent continuance or recurrence of the violations of the antitrust laws charged in the complaint. In the Department's view, disposition of the lawsuit without further litigation is appropriate in that the proposed Final Judgment provides all the relief which the Government sought in its complaint; the additional expense of litigation would therefore not result in additional public benefit.

IV

Alternative Remedies Considered by the Government

The Antitrust Division had originally submitted a Final Judgment which contained language prohibiting the defendants from entering into agreements or understandings to fix, stabilize or maintain prices of copper building wire. The defendants objected to this provision inasmuch as the language used in the complaint alleged an agreement to exchange information rather than an agreement to fix prices. The Government agreed to delete this provision provided the Final Judgment clearly prohibited the defendants from engaging in any type of exchange or agreement to exchange price or related information which might have the purpose or effect of fixing, stabilizing or maintaining prices or otherwise restraining trade. After considerable negotiation with the defendants and two conferences with the Honorable Albert L. Stephens, the parties reached agreement on the present Paragraph VI. Paragraph VI B states that the Final Judgment does not prohibit a defendant from communicating its written price information to another defendant or person where it has already been released and circulated to customers generally, after the effective date of such written price information, and provided that the communication is not accompanied by any comments, markings or explanations, so long as such communications do not have the purpose or effect of stabilizing prices or otherwise restraining competition.

V

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney fees. Entry of the proposed Final Judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust actions. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), this Final Judgment has no *prima facie* effect in any subsequent lawsuits which may be brought against these defendants.

VI

Procedures Available for Modification of the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to Barbara A. Reeves, Antitrust Division, U.S. Department of Justice, 3101 Federal Building, 300 North Los Angeles Street, Los Angeles, California, 90012, within the 60-day period provided by the Act. These comments, and the Department's responses to them, will be filed with the Court and published in the Federal Register. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to its entry if it should determine that some modification of it is necessary. The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for such order as may be necessary or appropriate for its modification, interpretation or enforcement.

VII

Alternative to the Proposed Final Judgment

The alternative to the proposed Final Judgment considered by the Antitrust Division was a full trial of the issues on the merits and on relief. The Division considers the substantive language of the Final Judgment to be of sufficient scope and effectiveness to make litigation on the issues unnecessary, as the Final Judgment provides appropriate relief against the violations charged in the complaint.

VIII

Other Materials

No materials and documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16) were considered in formulating this proposed Final Judgment. Consequently, none are submitted pursuant to such Section 2(b).

Respectfully submitted,

Leon W. Weidman, Attorney

U.S. Department of Justice.

Dated: ——

RCD Purchase Corp.,
421 Ridge Street, Rome, N.Y., July 9, 1979.

Cyprus Mines Corporation,
555 South Flower Street, Suite 3700, Los Angeles, Calif.

Gentlemen: Reference is made to the Agreement for Sale and Purchase of Assets dated as of July 9, 1979 by and between you and the undersigned (the "Agreement"), pursuant to which the undersigned is acquiring the property, certain assets and the business of Cyprus Wire and Cable Company (the "Division"). As a condition precedent to your obligations under the Agreement, the undersigned is required to agree to be bound by the provisions of the final judgment (the "Final Judgment") to be entered by the United States District Court for the Central District of California (the "Court") in Civil Action No. 78-3659-ALS and to the filing of such agreement with the Court, so long as such judgment is substantially in the form of the proposed Final Judgment delivered by you to the undersigned upon the date of this letter.

In consideration of your transfer of the property, certain assets and the business of the Division in accordance with the terms of the Agreement and your performance of your other obligations under the Agreement, the undersigned hereby agrees to be bound by the provisions of the Final Judgment, so long as such judgment is substantially in the form

[1] On July 9, 1979 Cyprus Mines Corp. sold its assets involved in the production and sale of copper building wire to R C D Purchasing Corp., a wholly owned subsidiary of the Bankside Company. The name of R C D Purchasing Corp. was immediately changed to Rome Cable Corporation (Rome). Rome is a Delaware Corporation with its principal place of business in Rome, NY. R C D Purchasing Corp. agreed at the time of sale to be bound by the subject decree. The agreement is attached as Appendix A. As consideration for the sale, Cyprus received ownership interest in the voting stock of Bankside. Cyprus expects to be represented on the Board of Directors of Bankside and/or Rome. As long as Cyprus is not engaged in the manufacture or sale of copper building wire, the Department of Justice does not consider the decree to apply to exchanges or communication of information, requests for information or agreements to exchange information between Cyprus and Rome and/or Bankside in connection with Cyprus' participation in the ownership of Rome.

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of the proposed final judgment delivered to the undersigned by you on the date hereof. The undersigned also agrees to execute such further undertaking to such effect as may be required by the Court upon entry of the Final Judgment. The undersigned further consents to the filing with the Court of a copy of this letter agreement.

Very truly yours,

Peter D. Weisse,

President.

Agreed to:

Richard R. Grantham,

Senior Vice President and Treasurer.

[FR Doc. 80-2016 Filed 1-22-80; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 79-19]

Seelig Pharmacy, Richard Seelig, and Terry Hawkins; Hearing

Notice is hereby given that on September 20, 1979, the Drug Enforcement Administration, Department of Justice, issued to Seelig Pharmacy, Richard Seelig and Terry Hawkins, 1506 S. Hamilton Road, Columbus, Ohio, an Order To Show Cause as to why the Drug Enforcement Administration registration AS5499315 issued to Respondents pursuant to 21 U.S.C. 823 should not be revoked.

Notice is also hereby given that on September 20, 1979, the Drug Enforcement Administration, Department of Justice, issued to Seelig Pharmacy, Richard Seelig and Terry Hawkins, 2520 Summit Street, Columbus, Ohio, an Order To Show Cause as to why the Drug Enforcement Administration registration AS2795853 issued to Respondents pursuant to 21 CFR Part 823 should not be revoked.

Thirty days having elapsed since the said Orders To Show Cause were received by Respondents, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in these matters will be held commencing at 10:00 a.m. on Monday, February 4, 1980, in the Hearing Room, Room 1210, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C.

Dated: January 9, 1980.

Frederick A. Rody, Jr.,

Administrator.

Peter B. Bensinger,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 80-2077 Filed 1-23-80; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Arts; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the National Council of the Arts will be held on Friday, Feb. 8, 1980 from 9:00 a.m.–5:30 p.m.; Saturday, February 9, 1980 from 9:00 a.m.–5:30 p.m. at the Four Seasons Hotel, 2800 Pennsylvania Avenue, N.W., Georgetown, Washington, D.C.

A portion of this meeting will be open to the public on Fri., Feb. 8, 1980, from 9:00 a.m.–3:00 p.m. and Sat., Feb. 9, 1980, from 9:00 a.m.–3:30 p.m. Topics for discussion will include Guidelines for Opera-Musical Theater, Folk Arts, Special Projects Presenters, Dance Touring Program, Music (Orchestra, Choral and Professional Training), and National Endowment Fellowship Program; Reports on Inter-Agency Activity, Policy/Planning, Grants Office, Artists' Employment.

The remaining sessions of this meeting on Fri., Feb. 8, 1980 from 3:00 p.m.–5:30 p.m. and Sat., Feb. 9, 1980 from 3:30 p.m.–5:30 p.m. are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** on March 17, 1977, these sessions may be closed to the public pursuant to subsections (c)(4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80-2094 Filed 1-22-80; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Three Mile Island, Unit I, Nuclear Power Plant; Additional Information

The January 31–February 1, 1980 meeting of the ACRS Subcommittee on the Three Mile Island, Unit 1, Nuclear Power Plant will be held in the American Legion Hall, 137 East High Street, Middletown, PA 17057.

Notice of this meeting was announced in the **Federal Register** on January 16, 1980 (45 FR 3126). It should be noted that the Designated Federal Employee for this meeting is Mr. Ragnwald *Muller;* also, the first word of the last paragraph of cited notice should be corrected to read *Background.*

All other items regarding this meeting remain the same as published.

Dated: January 16, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-2091 Filed 1-22-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-255; License No. DPR-20]

Consumers Power Co. (Palisades Nuclear Power Facility); Hearing

Consumers Power Company, Jackson, Michigan is the holder of License No. DPR-20, which authorizes the company to operate the Palisades Nuclear Power Facility. The Facility consists of a pressurized light water moderated and cooled reactor (PWR), located at the Licensee's site in Covent Township, Van Buren County, Michigan.

On November 9, 1979, the Director, Office of Inspection and Enforcement, pursuant to section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282) and 10 CFR 2.205 of the Commission's regulations, served on the Licensee a Notice of Violation together with a Notice of Proposed Imposition of Civil Penalties. The Notice of Proposed Imposition of Civil Penalties, incorporating by reference the Notice of Violation, alleged that the Licensee was responsible for 426 separate items of noncompliance which were violations of the Commission's licensee conditions and set forth the civil penalty to be assessed for each violation. The alleged violations related to the operation of the facility for an extended period of time with containment violated.

The Licensee sent an answer dated November 29, 1979 to the Notice of Proposed Imposition of Civil Penalties. After consideration of the Licensee's response, the Director issued an Order Imposing Civil Penalties on December 20, 1979, in the total amount of $450,000.00. By letter dated January 8, 1980 the Licensee requested a hearing.

Pursuant to the Atomic Energy Act of 1954, as amended, and the regulations in Title 10, Code of Federal Regulations, Part 2, notice is hereby given that a hearing will be held before Honorable Ivan W. Smith, Administrative Law Judge, at a time and place to be set by the Administrative Law Judge.

The issues before the Administrative Law Judge to be considered and decided shall be:

(a) Whether the Licensee committed the violations of the technical specifications of License No. DPR-20 set forth in the November 9, 1979 Notice of Violation issued to Licensee; and

(b) Whether the December 20, 1979 Order Imposing Civil Penalties should be sustained.

A prehearing conference will be held by the Administrative Law Judge, at a date and place to be set by the Administrative Law Judge, to consider pertinent matters in accordance with the Commission's Rules of Practice. The date and place of hearing will be set at or after the prehearing conference and notice in the **Federal Register.**

Pursuant to 10 CFR 2.705, an answer to this Notice may be filed by the Licensee not later than February 12, 1980.

Required papers may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Branch, or by delivery to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555. A copy of papers filed should also be sent to the Director and Chief Counsel, Rulemaking and Enforcement Division, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Pending further order of the Administrative Law Judge, parties are required to file, pursuant to the provisions of 10 CFR 2.708, an original and twenty (20) copies of each such paper with the Commission. Pursuant to 10 CFR 2.785, the Commission authorizes an Atomic Safety and Licensing Appeal Board to exercise the authority and perform the review functions which would otherwise be exercised and performed by the Commission. The Appeal Board will be designated pursuant to 10 CFR 2.787, and notice as to membership will be published in the **Federal Register.**

For the Nuclear Regulatory Commission.

Dated in Washington, D.C., this 17th day of January, 1980.

Samuel J. Chilk,

Secretary to the Commission.

[FR Doc. 80-2090 Filed 1-22-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-395-OL; Construction Permit No. CPPR-94]

South Carolina Electric & Gas Co. and South Carolina Public Service Authority (Virgil C. Summer Nuclear Station); Reconstitution of Board

Ivan W. Smith, Esq., was Chairman of the Atomic Safety And Licensing Board established for the above proceeding. Because of a schedule conflict, Mr. Smith is unable to continue his service on this Board.

Accordingly, Herbert Grossman, Esq., whose address is Atommic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Md. this 17th day of January 1980.

Robert M. Lazo,

Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 80-2092 Filed 1-22-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

Toledo Edison Co. & Cleveland Electric Illuminating Co. (Davis-Besse Nuclear Power Station, Unit No. 1); Issuance of Director's Decision

By letters dated April 24, May 23, June 12, and July 9, 1979, the Toledo Coalition for Safe Energy (TCSE) petitioned for modification of the operating license for the Davis-Besse Nuclear Power Station, Unit No. 1. TSCE generally asserted that the Davis-Besse facility has inadequate emergency and evacuation plans. TCSE's various letters have been treated as a request for action under 10 CFR 2.206. Notice that the NRC staff was treating TCSE's April 24th letter under 10 CFR 2.206 was published in the **Federal Register,** 44 FR 33192 (1979).

Upon consideration of TCSE's letters and other relevant information, I have determined not to order modification of the Davis-Besse license at this time. Accordingly, TCSE's request for action is denied. A copy of the "Director's Decision under 10 CFR 2.206" which fully explains the reasons for this decision will be placed in the Commission's Public Document Room at 1717 H Street, Washington, D.C. 20555, and in the local public document room for the Davis-Besse facility at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio 43452. A copy of this decision will also be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations.

Dated at Bethesda, Maryland this 17th day of January, 1980.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 80-2093 Filed 1-22-80; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-16494; File No. SR-BSECC-1980-1]

Boston Stock Exchange Clearing Corp.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 19 (June 4, 1975), notice is hereby given that on January 8, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The proposed rule change is to amend the Rules of Boston Stock Exchange Clearing Corporation ("BSECC") to provide a procedure for the settlement of trades by book-entry transfer through the facilities of New England Securities Depository Trust Company ("NESDTC"). Under the proposed rule, trades being processed through BSECC may be settled either by book-entry through NESDTC or by whatever other means the parties may decide. The proposed rule establishes detailed procedures for settlements through NESDTC including BSECC's appointment as agent for Participants in giving instructions to NESDTC on behalf of the Participants in connection with the settlements.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to encourage the use by BSECC Participants of the so-called "book-entry" method of security settlements.

The proposed rule change relates to the capacity of BSECC to facilitate the prompt and accurate clearance and settlement of security transactions. The proposed rule change establishes procedures whereby book-entry transfers within a depository, NESDTC, may be used for trades clearing and settling through BSECC. The proposed rule change will simplify the clearance and settlement of those trades by removing much of the paper work previously necessary. It is also expected that the proposed rule change will

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generally encourage use of depositories by BSECC Participants.

No comments were or are to be solicited.

It is believed that the proposed rule change does not constitute a burden on competition.

On or before February 27, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 13, 1980. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

January 15, 1980.

[FR Doc. 80-2049 Filed 1-22-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21389; 70-6163]

Central and South West Corp.; Proposal To Expand List of Banks From Which Short-Term Borrowings May Be Made and To Sell Commercial Paper Directly to Certain Institutions as an Alternative to the Sale of Bank Notes or Dealer-Placed Commercial Paper

January 11, 1980.

In the matter of Central and South West Corporation, 2700 One Main Place, Dallas, Texas 75250; Central Power and Light Company, P.O. Box 2121, Corpus Christi, Texas 78403; Southwestern Electric Power Company, P.O. Box 21106, Shreveport, Louisiana 71156; Public Service Company of Oklahoma, P.O. Box 201, Tulsa, Oklahoma 74102; West Texas Utilities Company, P.O. Box 841, Abilene, Texas 79604; Central and South West Services, Inc., 2700 One Main Place, Dallas, Texas 75250.

Notice is hereby given that Central and South West Corporation ("CSW"), a registered holding company, and five of its wholly-owned subsidiaries, Central Power and Light Company, Public Service Company of Oklahoma, Southwestern Electric Power Company, West Texas Utilities Company and Central and South West Services, Inc. ("subsidiaries") have filed a post-effective amendment to an application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7, 9(a), 10, 12(b) and 12(f) of the Act and Rules 43, 45 and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to said post-effective amendment to the application-declaration which is summarized below, for a complete statement of the proposed transaction.

By orders dated June 30, 1978, October 27, 1978, March 29, 1979, May 9, 1979, June 13, 1979, July 19, 1979, July 31, 1979 and October 24, 1979 in this matter (HCAR Nos. 20608, 20749, 20978, 21041, 21097, 21150, 21166 and 21289) CSW and its subsidiaries were authorized to incur short-term borrowings through December 31, 1980 in a maximum aggregate collective amount of $200,000,000. The short-term borrowings are pursuant to a CSW System money pool under which CSW and its subsidiaries coordinate their short-term borrowings and make borrowings outside the money pool from banks and through the issuance of commercial paper. The money pool consists of funds from the following sources: (i) surplus funds of CSW; (ii) surplus funds of any of the subsidiaries; (iii) borrowings by CSW or the subsidiaries from banks; and (iv) proceeds from CSW's sales of commercial paper.

CSW administers the money pool by matching up, to the extent possible, short-term cash surplus and loan requirements of itself and its subsidiaries. Subsidiary requests for short-term loans are met first from surplus funds of the other subsidiaries which are available to the money pool and then from CSW's corporate funds, to the extent available. When these sources of funds are insufficient to meet short-term loan requests, borrowings are made from outside the system. CSW is authorized to issue and sell its commercial paper to commercial paper dealers or borrow from banks to meet short-term borrowing needs which cannot be met by the money pool.

It is now proposed to change the list of banks from which CSW and the subsidiaries may borrow by adding First City National Bank of Houston, Houston, Texas, and to increase the aggregate amounts of lines of credit with certain presently authorized banks, as set forth below:

	Amount of presently authorized line	Amount of proposed line	Compensation basis
Bank:			
Bankers Trust Co	$25,000,000	$25,000,000	Balances.[1]
First National Bank of Chicago	15,000,000	15,000,000	Balances.[1]
First National Bank of Dallas	6,500,000	6,500,000	$4,000,000 balances [1] and $2,500,000 fees.[2]
Irving Trust Co	5,000,000	10,000,000	Balances.[1]
Marine Midland Bank	5,000,000	10,000,000	Balances.[1]
Republic National Bank	5,000,000	5,000,000	$2,500,000 balances [1] and $2,500,000 fees.[2]
Mercantile-Safe Deposit & Trust Co	5,000,000	5,000,000	Fees.[3]
Security Pacific National Bank	5,000,000	5,000,000	$2,500,000 balances [1] and $2,500,000 fees.[2]
Citibank	5,000,000	5,000,000	Fees.[3]
Chemical Bank	5,000,000	5,000,000	Fees.[3]
First City National Bank of Houston		5,000,000	$2,500,000 balances [1] and $2,500,000 fees.[2]
Bank of Delaware	4,500,000	4,500,000	Balances.[1]
First City Bank of Dallas	2,000,000	4,000,000	Balances.[1]
First National Bank of Denver	3,000,000	3,000,000	Balances.[1]
Harris Trust & Savings Bank	2,000,000	2,000,000	Balances.[1]
Service area banks:			
Central Power & Light Co. (23 local banks)	39,939,000	39,939,000	Balances.[1]
Public Service Co. of Oklahoma (2 local banks)	10,000,000	10,000,000	Balances.[1]
Southwestern Electric Power Co. (37 local banks)	24,215,000	26,458,000	Balances.[1]
West Texas Utilities (6 local banks)	11,875,000	11,875,000	Balances.[1]
Total	170,029,000	196,272,000	

[1] Balances maintained in support of lines of credit are generally nonsegregated working funds of the applicants and are not restricted as to withdrawal. These nonsegregated balances generally aggregate approximately 5% to 10% of the line of credit. Substantial usage under these lines of credit could result in increased compensating balance requirements.

[2] Line or designated portion thereof is supported by fee equal annually to 7% of principal amount times the prime rate.

[3] Line or designated portion thereof is supported by fee equal annually to ½ of 1% of principal amount.

[4] Line or designated portion thereof is supported by fee equal to ¾ of 1% of principal amount.

In addition to the above, CSW and its subsidiaries have made arrangements for borrowings from funds managed by the trust departments of the following banks:

Bank	Amount of agreement	Compensation basis
Texas Commerce Bank [1]	$10,000,000	None.
Mercantile National Bank at Dallas	5,000,000	None.
Republic National Bank [1]	5,000,000	None.
First City National Bank of Houston	10,000,000	None.
First City Bank of Dallas	5,000,000	None.

[1] Agreements approved but not currently being used.

CSW also seeks authorization to sell commercial paper directly to certain approved financial institutions. Sale of commercial paper directly to such institutions would be undertaken only if the resulting cost of money was equal to or less than that available from dealer-placed commercial paper or bank borrowings. Direct sales of commercial paper would be made only to institutions on a list furnished in advance to the Commission. Terms for directly-placed notes would be indentical to those of dealer-placed notes.

The fees, commissions and expenses to be incurred in connection with the transactions proposed in the post-effective amendment are estimated at $150. It is stated that no State or Federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than February 4, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2044 Filed 1-22-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16500; File No. SR-MSTC-79-4]

Midwest Securities Trust Co.; Self-Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, June 16, 1975, notice is hereby given that on January 3, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

MSTC Proposed Pricing Effective January 1, 1980—See Exhibit A.

Basis and Purpose of the Proposed Rule Change

The proposed rule change is a revision to the Midwest Securities Trust Company (MSTC) pricing schedule. Management decisions have been made to increase costs in some areas in an effort to provide a safer, more efficient system for the settlement of trades and the safekeeping of assets. These decisions along with inflationary pressures, result in increased overall operational costs. A review of the changes set forth shows that the greatest revisions occur in those services which are involved in the physical handling of securities and which are labor intensive. Exhibit A is a listing of those services provided by MCC/MSTC for which the fees are being revised effective January 1, 1980. The fees for those services not reflected in Exhibit A are not being modified.

The proposed rule change represents an equitable schedule of services provided.

Comments have neither been solicited nor received.

The Midwest Securities Trust Company believes that no burdens have been placed on competition.

The proposed rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced above and should be submitted on or before February 13, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

January 15, 1980.

Exhibit A.—*MSTC Proposed Pricing Effective Jan. 1, 1980*

Service	Present	Revised
Service Charges:		
Primary Account	[1]$157.00	[1]$170.00
"Z" (Options) Account	[1]50.00	[1]60.00
Settlement Service:		
DDI & Third Party DDI:		
Deliver	0.89	[2]0.94
Receipt	0.79	[2]0.84
Interactivity Movements	0.75	0.80
MSTC Depository Services:		
Physical Withdrawals:		
Street	2.75	[2]3.50
Demand	3.25	[2]4.00
Transfer	1.10	1.25
Safekeeping:		
Positions (issue)	[1]0.49	[1]0.52
Shares (per 1000 shares/month)	0.025	0.035
Reorganization Processing	[2]5.00	[2]10.00
Dividend Processing	[2]0.25	[2]0.35

Exhibit A.—*MSTC Proposed Pricing Effective Jan. 1, 1980*—Continued

Service	Present	Revised
Pledge Loan Items:		
Institutional Pledge	[2]0.45	[2]0.89
Pledge Loan	[2]0.45	[2]0.65
Report Output:		
N.Y.	[1]30.00	[1]45.00
N.Y. & Chicago	[1]60.00	[1]90.00
Microfilm Copy fees:		
Current	0.50	0.75
Over 1 year old	0.50	1.00
Form Prep Service	[2]2.00	[2]4.00

[*]Keypunch $0.10 Reimbursement Discontinued.
[1] Month.
[2] Item.
[3] Order.

[FR Doc. 80-3048 Filed 1-22-80; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-16492; File No. SR-MCC-79-3]

Midwest Clearing Corp.; Self-Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on January 3, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

MCC Proposed Pricing Effective January 1, 1980—See Exhibit A.

Basis and Purpose of the Proposed Rule Change

The proposed rule change is a revision to the Midwest Clearing Corporation (MCC) pricing schedule. Management decisions have been made to increase costs in some areas in an effort to provide a safer, more efficient system for the settlement of trades and the safekeeping of assets. These decisions along with inflationary pressures, result in increased overall operational costs. A review of the changes set forth shows that the greatest revisions occur in those services which are labor intensive. Exhibit A is a listing of those services provided by MCC/MSTC for which the fees are being revised effective January 1, 1980. The fees for those services not reflected in Exhibit A are not being modified.

The proposed rule change represents an equitable schedule of services provided.

Comments have neither been solicited nor received.

The Midwest Clearing Corporation believes that no burdens have been placed on competition.

The proposed rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced above and should be submitted on or before February 13, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

January 15, 1980.

Exhibit A.—*MCC Proposed Pricing Revisions Effective Jan. 1, 1980*

Service	Current	Proposed
Service Charges:		
Specialists/Market Maker:		
Secondary Account	[1]$50.00	[1]$75.00
Collateral Loan Service	[1]25.00	[1]35.00
Trade Recording:		
MSE Non Specialist	0.55	0.57
Over the Counter (OTC)	0.55	0.57
Other Exchange:		
NYSE/ASE OAS	0.45	0.47
OCC Clrn.	0.55	0.57
Correspondent Market	0.45	0.47
MSE Odd Lot	0.40	0.42
Settlement Services:		
OTC Envelope:		
Delivery	[*][2]2.00	[*][2]2.50
Receipt	[2]1.00	[2]1.50
Dividend Item	[2]0.25	[2]0.35
Dividend Settlement Service:		
Delivery	0.50	1.00
Receipt	0.25	0.50
Trade for Trade Service:		
Delivery	2.00	[2]2.25
Reciept	[*]2.00	[2]2.25
Collateral Loan Items	2.00	[3]3.00
Form Prep Service	2.00	[3]4.00
Stock Lending Service:		
Member to Member Stock Loan:		
Item Delivery	2.00	[2]2.25
Receipt	2.00	[2]2.25
Type Voluntary	0	[3]5.00

Exhibit A.—*MCC Proposed Pricing Revisions Effective Jan. 1, 1980*—Continued

Service	Current	Proposed
Communications:		
Equipment (rebillable at cost)		
Access fee	200.00	[1]300.00
Line Drop	[*]265.00	[1]185.00
Long Distance Line Charge	N/A	[4]0.16
Tape Output:		
Daily P&S	[1]100.00	[1]125.00
Activity	[1]100.00	[1]125.00
Net Position	[1]100.00	[1]125.00
Activity & Net Position	[1]175.00	[1]210.00
Individual Request	[1]25.00	[1]40.00

[*]Revised December 20, 1979.
[1] Month.
[2] Item.
[3] Order.
[4] Mile/mo.

[FR Doc. 80-2046 Filed 1-22-80; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-16481; File No. SR-NYSE-79-51]

New York Stock Exchange, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 5, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The Exchange's Statement of Terms of Substance of the Proposed Rule Change

The following is a summary of the proposed rule changes proposed by the NYSE. The text of the proposed rule changes is attached as Exhibit I-A of this filing.

The proposed rule change rescinds the required reporting to the Exchange of members' and allied members' unsecured non-capital borrowings in excess of $20,000 and relieves member organizations from informing the Exchange of such borrowings.

The Exchange's Statement of Purpose of Proposed Rule Change

The purpose of the proposed rule change is to rescind an unnecessary reporting requirement which no longer serves a regulatory purpose. If approved, personal borrowings by members and allied members which are for non-capital purposes would no longer be reported to the Exchange. Reporting of capital borrowings remains unaffected and would still be required.

The Exchange believes that the extent to which a member organization wishes to keep abreast of the ongoing financial situation of its associated members and allied members is an internal matter that is properly defined by each member organization.

The Exchange's Statement of Basis Under the Act for Proposed Rule Change

The proposed rescissions of Rules 420(2) and .60 are consistent with Section 6(b)(5) of the Act in that they remove a reporting requirement for noncapital borrowings which does not relate to the purposes of the Act or the Administration of the Exchange.

(i) Inapplicable.
(ii) Inapplicable.
(iii) Inapplicable.
(iv) Inapplicable.
(v) Inapplicable.
(vi) Inapplicable.
(vii) Inapplicable.

The Exchange's Statement on Comments Received From Members, Participants or Others on Proposed Rule Changes

Comments were not solicited or received on this proposal.

The Exchange's Statement on Burden on Competition

This proposal will not impose any burden on competition.

On or before February 27, 1980, or within such longer period of time (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection in the Pubic Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 13, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

January 11, 1980.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2050 Filed 1-22-80; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-16493; File No. SR-PSD-80-1]

Pacific Securities Depository Trust Co.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on January 10, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule changes are amendments to the Articles of Incorporation and By-Laws of PSDTC. The amendments increase the size of the Board of Directors. The text of the proposed rule change is attached as Exhibit 1.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to expand the Board of Directors in order to provide wider banking and securities industry representation.

The proposed rule change providing for expansion of the Board of Directors is intended to bring additional expertise to management and, as such, will enhance PSDTC's capability for protection of investors commensurate with the public interest.

Comments were not solicited with respect to the proposed rule change.

PSDTC is of the opinion that the proposed rule change will not impose any burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 13, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

January 15, 1980.

Exhibit 1

Text of Proposed Rule Change

Acting pursuant to Article V, Section 1 of the By-Laws of the Pacific Securities Depository Trust Company (PSDTC), the Board of Directors of PSDTC has amended the Articles of Incorporation and the By-Laws of PSDTC to allow for an increase to the number of directors and to permit payment of fees to directors.

The changes to the PSDTC By-Laws and Articles of Incorporation are as follows:

By-Laws.—"Section 2.2 *Number and Election.* The Board of Directors (hereinafter sometimes referred to as the 'Board') shall consist of not less than twelve nor more than fifteen directors, elected as provided in Section 1.7 of these by-laws at the annual meeting of stockholders. The exact number of directors shall be thirteen, until changed by an amendment of this Section 2.2 adopted either by the stockholders or by the Board of Directors of the corporation. Each director shall be elected to hold office until the next annual meeting and until his successor shall have been elected and qualified or until his death, resignation, disqualification or removal."

Articles of Incorporation

Article Five.—"(a) The number of directors of this corporation shall be not less than twelve nor more than fifteen."

[FR Doc. 80-2047 Filed 1-23-80; 8:45 am]
BILLING CODE 8010-01-M

V 45 / 16 J A 23 8 0 UMI

[Release No. 34-16482; File No. SR-NYSE-79-46]

Self-Regulatory Organization; Proposed Rule Change By New York Stock Exchange, Inc.

Pursuant to Section 19(b) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29 (June 4, 1975), notice is hereby given that on December 28, 1979 the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The Exchange's Statement of the Terms of Substance of the Proposed Rule Change:

Deletions [bracketed], *Additions italicized*

Monthly Charges for

NYSE Bond Ticker (1)		
—Cont'l. USA First Unit (2)	[$60-80]	$65-86
—Additional Unit	[$50]	$54
NYSE Bond Ticker Display (1)(3)		
—Cont'l. USA First Unit (2)(4)	[$50-60]	$54-65
—Additional Unit (5)	[$3.50]	$3.75
Delayed Prices Service		
—Cont'l. USA	[$120]	$130
Daily Charges for		
Magnetic Tape Service		
—Equity Total Transaction Tape	[$20]	$22
—*Bond Bid-Asked Tape*		$20
—*Closing Price Tape*		$15
—*Range Tape*		$25

Notes:
(1) Charges are "per location" and do not include one time installation, relocation and other miscellaneous charges where applicable, which are generally a direct pass through from communications common carriers to subscribers.
(2) Dependent upon geographical area.
(3) Charges by vendor furnishing equipment are in addition to these charges.
(4) Only one first unit charge applies in an office subscribing to units from two or more vendors.
(5) Plus charges, if any, for interconnecting facilities required in connection with additional units.

The Exchange's Statement of Purpose of Proposed Rule Change

The purpose of the approximately 8 percent rate increase is to recover a portion of the increased operating expenses associated with providing the services since the last rate increases to the NYSE Bond Ticker, Ticker Display and Delayed Prices Service were effected in January, 1975. The Equity Total Transaction Tape fee has been in effect since 1971. The Closing Price Tape and Range Tape have been available since 1971. Since there have never been any subscribers these fees have not been changed. The new Bond Bid-Asked Tape fee was developed in line with prices for similar magnetic tape services, when interest was expressed in this type of service. There are no subscribers to the Bond Bid-Asked Tape at this time.

The Exchange's Statement of Basis Under the Act for Proposed Rule Change

The basis under the Act for the proposed rule change is the Exchange's authority under section 6(b)(4) of the Securities Exchange Act of 1934 to have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities.

The Exchange's Statement of Comments Received From Members, Participants or Others on Proposed Rule Change

The Exchange has not formally solicited comments regarding this proposed rule change, nor has the Exchange received any unsolicited written comments from members or other interested parties.

The Exchange's Statement of Burden on Competition

None.

The foregoing rule change has become effective January 1, 1980 pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934, as amended. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 8 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number SR-NYSE-79-46 and should be submitted on or before February 13, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

January 11, 1980.

[FR Doc. 80-2131 Filed 1-22-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16485; File No. SR-NYSE-79-55]

Self-Regulatory Organization; Proposed Rule Change by New York Stock Exchange, Inc.

Pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29 (June 4, 1975), notice is hereby given that on December 28, 1979, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission a proposed rule change as follows:

NYSE's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would eliminate the provision in the New York Stock Exchange, Inc.'s "Guidelines for Floor Conduct and Safety" ("Guidelines") which states: "Failure by a member to return a visitor's badge on the same day of use will result in a $100 fine."

NYSE's Statement of the Purpose of the Proposed Rule Change

The purpose of the proposed amendment is to eliminate a provision in the Guidelines which provides for the assessment of a $100 fine against any member for the failure of such member to return a Floor visitor's badge on the same day of use. The reason for this provision is to enable the Exchange to maintain control over the number of visitors that are on the Trading Floor at any one time.

Recently, the Market Performance Committee (the "Committee") approved the use of a new type of Floor visitor's badge which is designed to be kept by the guest as a souvenir of his or her visit to the Trading Floor. The new badges, which bear the date of their issuance, enable the Exchange to continue to maintain control over the number of visitors on the Floor. Since the badges, by design, are not intended to be returned, the need for the provision in the Guidelines discussed in the preceding paragraph is no longer appropriate. Accordingly, on November 8, 1979, the Committee agreed to eliminate the provision calling for the assessment of a fine for the failure to return a badge.

NYSE's Statement of the Basis Under the Act for the Proposed Rule Change

The proposed amendment does not affect the Exchange's ability to control the number of visitors on the Trading Floor. Its purpose is merely to rescind a provision which has become outmoded. Accordingly, the proposed amendment is also consistent with Section 6(b)(5) of the Act, the Section under which the Guidelines were adopted.

NYSE's Statement on Comments Received From Members, Participants or Others on the Proposed Rule Change

No comments were solicited by the Exchange on the proposed rule change nor have any written comments been received.

NYSE's Statement Concerning Burden on Competition

The exchange has determined that no burden on competition will be imposed by the proposed rule change.

The foregoing rule change has become effective, pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing, with respect to the foregoing and of all written submissions, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 13, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons

Secretary.

January 14, 1980.

[FR Doc. 80-2130 Filed 1-22-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 702]

Certain Foreign Passports; Validity

Turkey is added to the list of countries which have entered into agreements with the Government of the United States whereby their passports are recognized as valid for the return of the bearer to the country of the foreign-issuing authority for a period of at least six months beyond the expiration date specified in the passport.

This notice amends Public Notice 633 of October 19, 1978 (43 FR 48751).

Dated: January 14, 1980.

Barbara M. Watson,

Assistant Secretary for Consular Affairs.

[FR Doc. 80-2081 Filed 1-22-80; 8:45 am]

BILLING CODE 4710-06-M

VETERANS ADMINISTRATION

Ambulatory Care Addition and Renovation to Building No. 1, VAMC, Des Moines, Iowa; Finding of No Significant Impact

The Veterans Administration has assessed the potential environmental impacts that may occur as a result of the construction of an Ambulatory Care Addition and Renovation to Building No. 1, Veterans Administration Medical Center, Des Moines, Iowa.

The project consists of a one story, 9,526 gross square foot addition and 11,000 square feet of renovation to Building No. 1. Outside construction includes: a vehicle drop-off lane, a ramp and turn-around for emergency vehicles and 54 additional parking spaces.

Project development will have minimal impacts on the human and natural environment. Noise, dust, fumes and visual impacts will occur during construction.

Mitigating measures include soil and sedimentation controls, onsite noise abatement, dust and fume emission controls, landscaping and compatible architectural and open space design.

The Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Sections 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202-389-2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: January 12, 1980.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 80-2080 Filed 1-22-80; 8:45 am]

BILLING CODE 8320-01-M

V 45 / 16 JA 23 80 UMI

Sunshine Act Meetings

Federal Register
Vol. 45, No. 16
Wednesday, January 23, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

[M–265, Amdt. 1; Jan. 18, 1980]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the January 21, 1980, closed meeting.

TIME AND DATE: 10:30 a.m., January 21, 1980.

PLACE: Room 1011, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: 2. U.S.-U.K. Negotiations.

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 637–5068.

SUPPLEMENTARY INFORMATION: The Board needs to discuss this item on the January 21st Board Meeting in order that enough time will be allowed for preparation of material for the negotiations which begin January 28, 1980. Accordingly, the following Members have voted that this item be added to the January 21st meeting and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Public disclosure, particularly to foreign governments of opinions, evaluations, and strategies discussed could seriously compromise the ability of the United States Government to achieve understanding in future rate negotiations which would be in the best interests of the United States. Accordingly, the following Members have voted that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate future action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9) and 14 CFR section 310b.5(9)(B) and that any meeting on this item should be closed:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.
Assistants to Board Members.—Mr. David Kirstein, Mr. James L. Deegan, and Mr. Daniel M. Kasper.
Managing Director.—Mr. Cressworth Lander.
Executive Assistant to the Managing Director.—Mr. John R. Hancock.
Bureau of International Aviation.—Mr. Sanford Rederer, Mr. Douglas V. Leister, Mr. Ivars V. Mellups, Mr. Herbert P. Aswall, Mr. Vance Fort, Mr. James S. Horneman, Mr. John H. Kiser, Ms. Carolyn K. Coldren, Mr. Francis S. Murphy, Mr. Joseph Di Bella, Jr., Mr. Joseph R. Chesen, Mr. John A. Driscoll, and Mr. Donald L. Litton.
Office of the General Counsel.—Ms. Mary McInnis Schuman, Mr. Peter B. Schwarzkopf, and Mr. Michael Schopf.
Bureau of Domestic Aviation.—Mr. Mark S. Kahan, Mr. Albert Halprin, Mr. Robert I. Stein, and Mr. Julien R. Schrenk.
Office of Economic Analysis.—Mr. Robert H. Frank, Mr. Robert Preece, and Mr. David Sibley.
Bureau of Consumer Protection.—Mr. Reuben B. Robertson and Mr. John T. Golden.
Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9) and 14 CFR section 310b.5(9)(B) and that the meeting may be closed to public observation:

Gary J. Edles,
Deputy General Counsel.

[S–130–80 Filed 1–21–80; 2:52 pm]
BILLING CODE 6320–01–M

2

[M–266, Amdt. 1; Jan. 18, 1980]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the January 24, 1980 meeting agenda.

TIME AND DATE: 10:30 a.m., January 24, 1980.

PLACE: Room 1027 (Open), Room 1011 (Closed), 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: 4a. Dockets 37333, 37334, 37341, 37342, and 36063; Courier-accompanied baggage charges proposed by Pan American. DHL and Gelco, air couriers, complain that proposal is not cost-justified, discriminatory, and anticompetitive. (Memo 9436, BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

SUPPLEMENTARY INFORMATION: Item 4a is being added because the delay in submitting this item was due to the need for staff review. Also, the subject notation relates to a formal proceeding presently before the Board. Accordingly, the following Members have voted that Item 4a be added to the January 24, 1980 agenda and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S–131–80 Filed 1–21–80; 2:52 pm]
BILLING CODE 6320–01–M

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., February 1, 1980.

PLACE: 2033 K Street, N.W., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–124–80 Filed 1–21–80; 10:10 am]
BILLING CODE 6351–01–M

4

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 2994, January 15, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00a.m., Friday, January 18, 1980.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added: Appointment of an officer at a Federal Reserve Bank. (This matter was originally announced for a meeting on January 3, 1980).

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: January 16, 1980.

Theodore E. Allison,
Secretary of the Board.

[S–125–80 Filed 1–21–80; 10:10 am]
BILLING CODE 6210–01–M

5

NATIONAL CREDIT UNION ADMINISTRATION.

Notice of Change in Time of Two Meetings

The previously announced open meeting of the National Credit Union Administration Board, scheduled for January 24, 1980, at 9:30 a.m. has been changed to 2:00 p.m. the same day.

The previously announced closed meeting of the National Credit Union Administration Board scheduled for January 24, 1980, at 10:30 a.m. has been changed to 3:00 p.m. the same day.

The meeting will be held in the agency's Board Room at 1776 G Street, N.W., Washington, D.C., 7th Floor.

Information with regard to this meeting may be obtained from: Rosemary Brady, Secretary of the Board, (202) 357–1100.

[S–126–80 Filed 1–21–80; 10:44 am]
BILLING CODE 7535–01–M

6

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Wednesday, January 23, 1980. [NM–80–4]

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

STATUS: Closed under Exemption 9B of the Government in the Sunshine Act.

MATTER TO BE CONSIDERED: A majority of the Board has determined by recorded vote that the business of the Board requires that the following item be discussed on this date and that no earlier announcement was possible.

Discussion of Board strategy for public hearing on commuter aviation safety to be held beginning January 28, 1980.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

January 21, 1980.

[S–132–80 Filed 1–21–80; 3:52 pm]
BILLING CODE 4910–58–M

7

NEIGHBORHOOD REINVESTMENT CORPORATION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45 FR 3438, January 17, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE: Wednesday, January 23, 1980, 2:00 p.m.

PLACE: 1700 G Street, N.W., Sixth Floor, Washington, D.C.

CHANGES IN MEETING: The Status of the Meeting has been changed from "Open" to "Open and Closed." The following has been added as the first item on the agenda and will be discussed in closed session: Consideration of proposed 1981 budget of the Neighborhood Reinvestment Corporation.

No. 10, January 21, 1980.

Donnie L. Bryant,
Secretary.

[S–127–80 Filed 1–21–80; 11:16 am]

8

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: January 18 and 22, 1980 (changes).

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Friday, January 18

11:30 a.m.

Discussion of Status of Rogovin Report (approximately 5 minutes, public meeting) (additional item).

Tuesday, January 22

9:30 a.m.

Continuation of Discussion of Policy, Planning and Program Guide (continued from January 18, approximately 2 hours, public meeting).

1:30 p.m.

1. Affirmation Session (approximately 10 minutes, public meeting):
a. Sheffield,
b. Export of Minor Quantities of Nuclear Material,
c. Boston Edison Petition.

ADDITIONAL INFORMATION: By a vote of 4–0 (Chairman Ahearne not present), the Commission determined on January 17 that pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's rules that Commission business required that the meeting with OCAWIU, held that day, be held on less than one week's notice to the public.

By vote of 3–0 (Commissioners Kennedy and Hendrie not present), on January 18, the Commission determined as above, that the discussion of Status of Rogovin Report, held that day, be held on less than one week's notice to the public.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Roger M. Tweed,
Office of the Secretary.

[S–128–80 Filed 1–21–80; 2:02 pm]
BILLING CODE 7590–01–M

9

PAROLE COMMISSION.

TIME AND DATE: Wednesday, January 30, 1980, starting at 1:00 p.m.; Thursday, January 31, 1980, 9:00 a.m. to 5:30 p.m.; and Friday, February 1, 1980, 9:00 a.m. to 3:00 p.m.

PLACE: January 30—Room 818, 320 First Street, N.W., HOLC Building, Washington, D.C. 20537, January 31 and February 1—Room 221, Executive House, 1515 Rhode Island Avenue, N.W., Washington, D.C. 20005.

STATUS: Closed, pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: (1) Appeals to the Commission of approximately 28 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release. (2) An application for a Certificate of Exemption under the Employee Retirement Income Security Act of 1974.

CONTACT PERSON FOR MORE INFORMATION: A. Ronald Peterson, Analyst, National Appeals Board, U.S. Parole Commission, 320 First Street, N.W., Washington, D.C. 20537, (202) 724–3094.

[S–129–80 Filed 1–21–80; 2:47 pm]
BILLING CODE 4410–01–M

V 45 / 16 JA 23 80 UMI

federal register

Wednesday
January 23, 1980

Part II

Environmental Protection Agency

NO_x Waiver Decision of the Administrator and Revised Motor Vehicle Exhaust Emission Standards for Oxides of Nitrogen (NO_x) for 1981 and 1982 Model Year Light-Duty Vehicles

V 45 / 16 JA 23 80 UMI

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1381-4]

NO_x Waiver Decision; Decision of the Administrator

I. Introduction

Section 202(b)(1)(B) of the Clean Air Act, as amended ("Act"), establishes the standards applicable to emissions of oxides of nitrogen (NO_x) from light-duty vehicles and engines manufactured during and after model year 1977.[1] This section requires the Administrator of the Environmental Protection Agency (EPA) to promulgate regulations containing standards which provide that NO_x emissions may not exceed 2.0 grams per vehicle mile (gpm) for model years 1977 through 1980, and may not exceed 1.0 gpm for 1981 and later model years.

Section 202(b)(6)(B) of the Act authorizes the Administrator to delay implementation of the 1.0 gpm NO_x standard by waiving it under certain conditions to permit the use of diesel engine technology.[2] Section 202(b)(6)(B) of the Act provides that, upon the petition of a manufacturer, the Administrator may waive the 1.0 gpm NO_x standard to a level not to exceed 1.5 gpm, for any class or category of diesel-powered light-duty vehicles and engines manufactured during the four model year period beginning with model year 1981. In order to obtain a waiver, the manufacturer must show that it is necessary to permit the use of diesel engine technology in the class or category of vehicles or engines for which a waiver is requested. Moreover, the Administrator must determine:

(i) That such waiver will not endanger public health,

(ii) That such waiver will result in significant fuel savings at least equal to the fuel economy standard applicable in each year under the Energy Policy and Conservation Act ("EPCA"), and

(iii) That the technology has a potential for long-term air quality benefit and has the potential to meet or exceed the average fuel economy standard applicable under EPCA at the expiration of the waiver. The major consideration in providing for waiver of the NO_x standard for diesel-powered vehicles was the potential fuel economy benefits of diesel technology.[3] Because control of NO_x emissions from diesel engines appeared to be a more difficult technical problem-than NOx control in gasoline-powered vehicles, Congress did not want to preclude use of this fuel-efficient technology in light-duty vehicles due to the stringent 1.0 gpm NO_x standard. However, it is clear that Congress did not intend that consideration of fuel savings override consideration of public health and air quality.[4] While the NO_x waiver provision is intended to further the development of diesel technology, it is not intended as an unqualified endorsement of that technology. Therefore, the NO_x waiver provision, according to Senator Muskie, "is not intended to provide a loophole in the statutory standards, but only to provide an opportunity for technology development which may lead to greatly improved emissions performance in the next decade."[5]

On July 14, 1978, guidelines for the submission of applications under this waiver provision were published in the **Federal Register.**[6] The guidelines follow the language of the Act in placing an affirmative burden on the manufacturer to supply information sufficient to satisfy independently each of the waiver criteria set forth above for each engine family for which a waiver was requested,[7] and in stressing that

[1] 42 U.S.C. 7521(b)(1)(B) (Supp. I 1977). Congress first set statutory emissions standards for NO_x emissions from light duty vehicles and engines in the 1970 Amendments to the Act. Clean Air Act Amendments of 1970, Pub. L. No. 91-604, 81 Stat. 499 (1970). Section 202(b)(1)(B) of that version of the Act required that NO_x emissions standards for 1976 and later model year vehicles represent a 90 percent reduction from the average emissions of NO_x actually measured from light-duty vehicles manufactured during model year 1971 which were not subject to any Federal or State NO_x emission requirements. Section 202(b)(5)(B) permitted the Administrator to grant a one year suspension of this standard if the manufacturers could meet the statutory criteria. *See*, Clean Air Act, as amended 1970, § 202(b)(5)(B). These criteria also applied to suspension of carbon monoxide and hydrocarbon emission standards.

In 1974 Congress amended the Act and established a 2.0 gpm NO_x standard for light-duty vehicles and engines manufactured during model year 1977, and postponed the effective date of the "90 percent reduction standard" until model year 1978. Energy Supply and Environmental Coordination Act of 1974, Pub. L. No. 93-319 (1974). Although suspension provisions were retained from the 1970 version of the Act for statutory carbon monoxide and hydrocarbon emissions standards, the NO_x suspension provision was not retained by Congress. Compare the Clean Air Act, as amended, 1970, § 202(b)(5), with the Clean Air Act, as amended, June, 1974, § 202(b)(5).

In 1977, Congress again amended the Act, extending the 2.0 gpm NO_x standard for light-duty vehicles and engines through model year 1980. For model years 1981 and after, the 90 percent reduction standard of 0.4 gpm was established as a research objective, and a standard of 1.0 gpm was established, based upon the manufacturers' testimony on their ability to develop the requisite technology to meet 1.0 gpm.

[2] 42 U.S.C. 7521(b)(6)(B) (Supp. I 1977). Although the House and Senate versions of the waiver provision referred generally to "innovative technology", it is evident from the early legislative debates that the waiver was intended to further the development of diesel technology in particular because of its potential for fuel economy benefits and improved emissions. *See, e.g.*, 123 Cong. Rec. 4945 (daily ed. May 24, 1977) (remarks of Congressman Rogers); 123 Cong. Rec. 5106-7, 5117, 5119-20 (daily ed. May 26, 1977) (remarks of Congressman Dingell, Preyer and Broyhill); 123 Cong. Rec. 9294 (daily ed. June 9, 1977) (remarks of Senator Baker). The Conference Committee separated the current waiver provision dealing solely with diesels from the general provision for innovative technology, now section 202(b)(6)(A) of the Act, 42 U.S.C. 7521(b)(6)(A) (Supp. I 1977).

[3] The waiver for innovative technology contained in the Dingell-Broyhill amendment adopted by the House, which provided the basis for the statutory waiver, specified that there should be the potential for "substantial energy savings * * * as compared to conventional power trains incorporating spark ignited, gasoline, internal combustion engines." H.R. 6161, 95th Cong., 1st Sess. § 203 (1977); *see also* 123 Cong. Rec. 4958, 5106 (daily ed. May 24, 1977) (remarks of Congressman Dingell). The Senate version, originating in the amendment introduced by Senator Baker, would have allowed waivers for innovative engines systems with "fuel economy at least equivalent to the fuel economy standard applicable in such model year under the Energy Policy and Conservation Act". 123 Cong. Rec. 9299 (daily ed. June 9, 1977); H.R. 6161 (Senate version), 95th Cong. 1st Sess. § 203 at p. 326 (1977). This language was substantially incorporated in the final waiver provision as the second waiver criterion under § 202(b)(6)(B), which requires a finding of "significant fuel savings at least equal to the fuel economy standard applicable in each year under the Energy Policy and Conservation Act * * *" *See also* 123 Cong. Rec. 9294 (daily ed. June 9, 1979) (remarks of Senator Baker).

[4] H.R. Rep. No. 294, 95th Cong., 1st Sess. 250-51 (1977); 123 Cong. Rec. 5120 (daily ed. May 20, 1977) (remarks of Congressman Broyhill); 123 Cong. Rec. 13703 (daily ed. Aug. 4, 1977) (remarks of Senator Muskie).

[5] 123 Cong. Rec. 13703 (daily ed. August 4, 1977).

[6] 43 FR 30341 (July 14, 1978).

[7] GM has argued that the diesel engine waiver was intended to apply to all light-duty diesel vehicles. General Motors Application, Supplement, dated July 18, 1979 ("GM Supp.") 1-4.

I have the statutory authority to grant a waiver for individual engine families. Section 202(b)(6)(B) of the Act expressly provides: the Administrator * * * may waive the (NO_x) standard * * * *for any class or category of light-duty vehicles and engines* manufactured * * * if the manufacturer can show that such waiver is necessary to permit the use of diesel engine technology *in such class or category of vehicles or engines.* (Emphasis added.)

In order to interpret section 202(b)(6)(B) as limiting my authority to granting a waiver to all or no diesel engine families, the language emphasized above would have to be read completely out of the statute. I refuse to so read the statute. The language of section 202(b)(6)(B) indicates that Congress clearly contemplated waivers for classes or categories of diesels, not all diesels, and I have interpreted "class or category" to be synonymous with "engine family". 43 FR 30341, 30342 (July 6, 1978). The term "engine family" is defined in 40 CFR 86.077-2 (1977) as "the basic classification unit of a manufacturer's product line used for the purpose of test fleet selection as determined in accordance with" 40 CFR 86.077-24. The latter section lists the characteristics and specifications for which a group of engines must be identical in order to be considered an "engine family" and therefore a "class or category."

The legislative history supports this interpretation. In presenting the Conference Report to the Senate, Senator Muskie stated in regard to the diesel NO_x waiver provision:

This waiver is to be applied on a class or category basis, rather than across the board. It is only available for a *particular* class or category of light

Footnotes continued on next page

although the waiver might be requested for the four model year period beginning with the 1981 model year up to a NO_x level of 1.5 gpm, the waiver would be granted for a shorter period of time and to an intermediate NO_x level between 1.0 and 1.5 gpm if the manufacturer could not establish the necessity for a waiver to the maximum NO_x level for the full, four-year period.[8]

On May 2, 1979, General Motors Corporation ("GM") filed with the Administrator an application for waiver of the NO_x standard to a level of 1.5 gpm for all of its light-duty diesels to be produced in model years 1981 through 1984. Applications were received subsequently from Daimler-Benz ("D-B"), Volkswagen ("VW"), Peugeot and Volvo.[9]

A **Federal Register** notice published on June 6, 1979, announced receipt of these applications and invited public participation at hearings on the waiver requests,[10] which were held on June 18-21, 1979, in Washington, D.C.

II. Summary of Decision

I have decided to grant NO_x waivers to the following engine families for model years 1981 and 1982:

Manufacturer	Engine family	Model years	Interim standard (gpm)
Daimler-Benz	OM 616 W 123 D 24 (2.4 liter) [11]	1981	1.5
		1982	1.25
	OM 617 W 123 D 30 (3.0 liter naturally aspirated) [12]	1981, 1982	1.5
	OM 617 AW 116 D 30A (3.0 liter turbocharged) [12]	1981, 1982	1.5
General Motors Corp.	5.7 liter	1981, 1982	1.5
Volvo	6 cylinder, 2.4 liter naturally aspirated	1981, 1982	1.5

[11] This engine family includes only model 240D, and will be referred to as "D-B's 2.4 liter engine family".

[12] This engine family includes only models 300D, 300 TD and 300 CD, and will be referred to as "D-B's 3.0 liter naturally aspirated engine family".

[13] This engine family includes only model 300SD, and will be referred to as "D-B's 3.0 liter turbocharged engine family".

All other applications covering engine families for 1981 and 1982 model years and all applications for model years 1983 and 1984 vehicles are denied on the basis that insufficient information was submitted to show the need for a NO_x waiver to permit use of diesel engine technology in those engine families.

The need for waiver for model years 1981 and 1982 has been shown for GM's 5.7 liter, D-B's 3.0 liter turbocharged and Volvo's 2.4 liter naturally aspirated engine families. Waivers are necessary for model year 1981 because the data submitted by the applicants for these engine families and analyzed by EPA in accordance with the methodology utilized to assess technological feasibility has established that these engine families cannot meet the 1.0 gpm NO_x standard in 1981. A waiver for these engine families is necessary for model year 1982 to provide for production of these families incorporating advanced emission controls in California in 1982 before incorporation of such controls into the 49-state fleet in 1983. This phase-in is necessary in order to protect against the risks of using advanced NO_x controls in the 49-state fleet without smaller scale production experience. The California experience should permit the manufacture of these engine families to meet the statutory standards nationwide in model year 1983 with a minimum of in-use and production problems.

The need for a waiver has been shown for D-B's 2.4 liter and 3.0 liter naturally aspirated engine families despite the presence of control technology that might permit these engine families to meet the statutory standards for 1981. This technology has an uncertain effect on the durability of the engine (i.e., engine wear) requiring further development and phased-in production. Therefore, these engine families need waivers for model years 1981 and 1982 in order to permit their production nationwide for model year 1983 to meet statutory standards with properly minimized in-use, durability and production problems.

Applicants have failed to provide sufficient emissions data upon which I can make a determination for all other engine families. It is impossible to determine the capabilities of these engine families with or without application of available control technologies. Therefore, I must deny the applications for the remaining, "no-data" families. Of course, the manufacturers may reapply for waivers for these engine families when they can provide sufficient emission data to enable me to make the necessary determinations.

I have determined that waiving the 1.0 gpm NO_x standard for two model years for the five engine families listed above would be more protective of the public health than if I denied the waivers. As discussed more fully below, my primary concern in considering the health impact of a waiver involves emissions of diesel particulates. Existing evidence suggests that exposure to diesel particulate emissions may pose a serious health risk, of cancer, requiring me to take a cautious approach in any action that may increase those emissions. It appears that the only technology generally available to the manufacturers in 1981 which might have the possibility of achieving NO_x reductions to the statutory level of 1.0 gpm—exhaust gas recirculation (EGR)—tends to increase significantly emissions of diesel particulates. I have determined that the manufacturers have shown that the waivers are necessary for the five engine families listed above because the

Footnotes continued from last page

duty vehicle * * *. Thus, for example, it may develop that the diesel waiver is unnecessary for demonstration of the diesel technology in the lower weight classes. (123 Cong. Rec. 13703 (daily ed. Aug. 4, 1977).)

Clearly, a section 202(b)(6)(B) waiver need not cover all diesel engines and vehicles.

[8] GM argues that the diesel engine waiver was intended to last for precisely four years. GM Supp., 1-4.

I have the authority to grant a waiver for less than four years. Section 202(b)(6)(B) provides: the Administrator * * * may waive the (1.0 gpm NO_x) standard * * * for any class or category of light-duty vehicles and engines manufactured * * * *during the four model year period beginning with the model year 1981* if the manufacturer can show the waiver is necessary * * * (Emphasis added.)

The statute, on its face, does not require a four year "all or nothing" waiver. Moreover, that portion of the House bill requiring a waiver "for a period of not less than four model years" was dropped in Conference. Section 203(b)(6)(C) of H.R. 6161, printed at 123 Cong. Rec. 5100 (daily ed. May 26, 1977). An identical provision sought to be included in the Senate bill was expressly rejected by the Senate. Riegle-Griffin Amendment, Unprinted Senate Amendment No. 380, 123 Cong. Rec. 39278 (daily ed. June 9, 1977). Thus, the legislative history supports my Guidelines which stress that a NO_x waiver will be granted for a period shorter than four years if the subject diesel vehicles can meet the statutory standards prior to the 1985 model year. 43 FR 30342 (July 6, 1978). Further it is unreasonable to attribute an intent on the part of Congress to grant a waiver of the statutory NO_x standard which Congress itself established as protective of the public health, for a period greater than that which the manufacturer has shown is necessary to develop diesel technology.

[9] This decision uses the following abbreviated citations:

D-B App.—Statement of Daimler-Benz AG in Support of Request for a NO_x Waiver, dated June, 1979.

GM App.—General Motors Application for Waiver of the 1981-1984 NO_x Emission Standard for Light-Duty Diesel Engines, dated May 1, 1979.

P App.—Automobiles Peugeot Application for Waiver of the 1981-1984 NO_x Emission Standard, dated May 21, 1979.

V App.—AB Volvo Application for Waiver of Oxides of Nitrogen Emissions Standards for Light-Duty Diesel Engines for 1981 to 1984, dated June, 1979.

VW App.—Application for Waiver of the 1981-1984 NO_x Emission Standards for Light-Duty Engines submitted by Volkswagen AG, dated May, 1979.

The hearing transcripts are cited to by the day and the manufacturer testifying, e.g., "June 18 Tr. —— (D-B)."

[10] 44 FR 32470 (June 6, 1979).

record indicates that without the waivers the manufacturers probably cannot meet the NO_x standard. However, because of the range of uncertainty in the analyses used to predict vehicle emissions performance, there remains a possibility that, if I deny the waivers, the manufacturers may still be able to certify, produce and market these engine families to meet 1.0 gpm NO_x by using increased EGR. While the NO_x waiver provision authorizes me to deny waiver requests, it does not authorize me to deny applications for certification if the vehicles meet statutory standards.[14] Several manufacturers at the hearings indicated that marketing such diesel vehicles would result in significantly increased particulate emissions, increasing the risk to the public of exposure to possibly carcinogenic matter. Therefore, in making this waiver decision, I must weigh the risks of increased NO_x emissions if I grant the waiver against the risks of increased particulate emissions if I deny the waiver, but manufacturers are still able to produce diesel light-duty vehicles meeting the NO_x standard. Though increased NO_x emissions are certain to result from a waiver grant and significantly increased particulate emissions are far less certain to result from a waiver denial, the health risk to the public, if exposed to increased particulate levels, may be substantially more serious. Therefore, I think it preferable from a health standpoint to accept the risk of higher NO_x exposures and minimize the risk of greater exposure to diesel particulates. On this basis, I conclude that granting the waiver to the subject engine families will not endanger the public health and, in fact, will be more protective of the public health than waiver denial.

Each of the five engine families for which a waiver is granted will meet the fuel economy standards applicable under EPCA for model years 1981 and 1982 (22 and 24 mpg, respectively); and the diesel fleets of the three manufacturers receiving waivers (GM, D–B and Volvo) have the potential to meet, on a sales-weighted basis, the Corporate Average Fuel Economy (CAFE) standard applicable at the expiration of the waiver period in model year 1983 (26 mpg). Thus, the fuel economy criteria of section 202(b)(6)(B) are met for these engine families.

The diesel engine technology also has the potential for long-term air quality benefit. There is a substantial likelihood that each of the five engine families covered by a waiver will be capable of complying with the statutory emissions standards applicable at the expiration of the waiver period due to the additional lead time available to further develop necessary control technology.

III. Discussion

A. Assessing Need for Waivers

Section 202(b)(6)(B) of the Act expressly assigns to an applicant the burden of showing that the waiver is necessary to permit the use of diesel engine technology in a particular class or category of vehicles or engines. The major issue to be addreesed under this criterion is whether the applicant has shown that unless the waiver is granted the vehicle for which the waiver is sought will not be able to meet applicable statutory standards (i.e., 0.41 gpm HC, 3.4 gmp CO and 1.0 gpm NO_x), even with the addition of any device, equipment or aspect of diesel engine technology, presently available or available in the future.[15]

1. Applicants' Positions Summarized

As is the case with emission controls for other pollutants,[16] each automobile manufacturer has reached a state in its development of NO_x emission controls at which it has narrowed the range of strategies it comtemplates employing to meet the 1.0 gpm standard to, at most, a few alternative systems. Some of these systems are further along in development than others. To support the contention that effective control technology is not available, each waiver applicant has provided descriptions of the systems it has been considering in its efforts to meet the 1.0 gpm NO_x standard and the proposed standard for particulates.[17] Most of the applicants plan to utilize some type of EGR system to reduce NO_x emissions in diesel vehicles to 1.0 gpm.[18] The waiver applications in many cases lacked acceptable emission test data for specific engine families.[19] This paucity of data resulted in an inability to determine the technological capabilities of several engine families.[20]

a. GM

GM sought a NO_x waiver to 1.5 gpm for all of its light-duty diesel engine families for the maximum four-year period.[21] GM asserts that technology is not available to permit its engine families to meet the statutory 1.0 gpm NO_x and the 0.41 gpm hydrocarbon (HC) standards, the proposed 0.6 gpm particulate standard and minimum durability requirements.[22]

GM asserted that there is an inverse relationship between NO_x and particulate emissions because as the most effective emission controls are applied to reduce NO_x, particulates increase.[23] GM stated that the most promising approach to meeting 1.0 gpm NO_x is use of EGR.[24] GM asserted that increased use of EGR results in increased particulate emissions[25] and reduced durability, driveability, and fuel economy. GM asserted that the durability problem is due to high levels of carbon in the engine lubricating oil, these levels increasing with increased use of EGR, resulting in unacceptable wear rates on engine parts.[26] GM stated that although there is some hope of solving these problems, no practical solutions exist at this time and a four-year waiver is necessary to permit development of the technology.[27]

[14] Although section 202(b)(6)(B) does not authorize me to prevent the marketing of diesels even if I deny waivers, section 202(a)(4), 42 U.S.C. 7521(a)(4), grants me the authority to deny requests for certificates of conformity if unregulated emissions would cause or contribute to an unreasonable risk to public health. The waiver grants do not affect this authority. See discussion in note 177 *infra*.

[15] Guidelines, 43 FR 30342 (July 14, 1978).

[16] *See e.g.*, 44 FR 53376, 53378 (Sept. 13, 1979). (range of emission control strategies for carbon monoxide found to be narrowed).

[17] EPA has proposed particulate standards for light-duty vehicles of 0.6 gpm for the 1981 model year and 0.2 gpm for the 1983 and later model years. 44 FR 6650 (Feb. 1, 1979).

[18] The basic theory behind diesel EGR is that substituting inert non-combustible gas for a portion of the air intake reduces the mass flow through the engine and provides an air/exhaust gas mixture for combustion which has a higher specific heat capacity resulting from the higher specific heat capacity of the exhaust gas substituted for air. This causes the combustion temperatures in the engine and the oxygen mass in the cylinders to be reduced, resulting in lower NO_x emissions. (*See, e.g.*, D–B App., II–27 to II–28.) Diesel EGR accomplishes this substitution of non-combustible gas for air by recirculating engine exhaust gas. (*Id.* at II–28.) A primary technological problem with applying EGR to the diesel engine is that EGR cannot be used in equal amounts throughout all engine operating conditions. *See, e.g., id.* at II–28; GM App., II–27 to II–28. Thus, a system must be designed capable of determining when and at what levels EGR may be most effectively applied and of controlling the application of EGR accordingly.

[19] EPA, Summary of Technological Capability, Appendix A (hereinafter "Appendix A") § II.

[20] Appendix A. § IV.

[21] GM App., I–4.

[22] *Id.*

[23] GM App., I–2 and II–26 to II–27.

[24] GM App. I–2, II–8, II–26 to II–27. GM also stated that the proposed standards are not likely to be met only by engine modifications. GM App., II–27.

[25] GM App. II–27 to II–30; GM Supp. 15. GM also indicated that particulates are an inherent by-product of the diesel process. GM App., II–37 to II–180.

[26] GM App., II–27 to II–30. GM Supp., 15; GM App., I–2 and II–13 to II–18. GM asserted the carbon level contamination does not appear to be strictly a function of the particulate level. GM App., II–14. GM is experimenting with using different materials in engine parts to withstand wear, and with filtration, centrifugal separation and electrostatic coagulation to filter out the excess carbon. *Id.* at II–15 to II–17.

[27] GM App., I–3 to I–5, I–9.

b. Daimler-Benz

D–B requested varying waivers of the 1.0 gpm NO_x standard, depending on the engine family, the diesel particulate standard applicable in 1983 and 1984, and the capabilities of an advanced EGR system to be certified for California and that system's response in actural use.[28] D–B stated that it knows of no existing technology which would achieve simutaneously the 1.0 gpm NO_x standard, the existing HC and CO standards and the proposed 0.6 gpm particulate standard.[29] Therefore, D–B sought waivers up to 1.5 gpm NO_x for all three of its 1981 model year engine families.[30] D–B stated that in order to achieve the 1.5 gpm NO_x standard, the 3.0 liter turbocharged and naturally aspirated engine families will use a simplified EGR system now being developed, and the 3.0 liter turbocharge and natually aspirated engine families will use a simplified EGR system now being developed, and the 2.4 liter engine family may possibly be certified without EGR.[31] The simplified EGR system will be used for the first time in California in model year 1980.[32]

D–B stated that it currently is experimenting with an advanced EGR system[33] which may achieve 1.0 gpm NO_x as well as the other emissions standards (including the proposed 0.6 gpm particulate standard) with acceptable durability and driveability, and that this system may be available for use in model year 1982.[34] Although D–B must certify its 1982 California diesel fleet at a NO_x emission level of at least 1.0 gpm while meeting the federal particulate standard, if promulgated, D–B does not want to utilize the advanced EGR system in 1982 for its 49-state diesel fleet without prior serial production and in-use experience.[35] D–B asserted that such experience in California is needed as a necessary phase-in to judge the success of the system in the field.[36] Therefore, to avoid jeopardizing its 49-state fleet in model year 1982, D–B requested waivers for model year 1982 up to 1.25 gpm NO_x for its 2.4 liter engine family and to 1.5 gpm NO_x for its 3.0 liter turbocharged and naturally aspirated engine families.[37]

D–B also requested "conditional" waivers for 1983 and 1984 of up to 1.25 for its 2.4 liter engine family and up to 1.5 for all other engine families.[38] The waivers would be granted but automatically rescinded upon satisfactory experience in California in 1982 and promulgation of a diesel particulate standard of 0.6 gpm for 1983 and 1984.[39]

c. Peugeot

Peugeot requested a waiver of the NO_x standard to a level of 1.5 gpm for its light-duty diesel vehicles in the 3500 pound class for model years 1981 through 1984.[40] Peugeot stated that there is no technology presently available to enable it to meet, in production, both 1.0 gpm NO_x and the proposed diesel particulate standards for model years 1981 through 1984.[41] Peugeot is relying totally on EGR systems to reduce NO_x emissions.[42] Peugeot stated that it may be able to meet a 1.0 gpm NO_x and a particulate standard of 1.0 gpm in California in 1982,[43] and that successful compliance in 1982 California production would result in Peugeot trying to market those diesels nationwide in model year 1983, if a 1.0 gpm particulate standard is applicable.[44] Peugeot stated that without a 1.0 gpm diesel particulate standard, a waiver also is necessary for 1983 and 1984.[45]

d. VW

VW requested a waiver of the 1.0 gpm NO_x standard for 1981 through 1984 for three classes of vehicles: Rabbit, Dasher and Audi 5000.[46] VW sought interim NO_x standards that decrease over time and that vary for each vehicle class.[47]

In proposing the interim standards, VW assumed that its proposed Diesel Average Particulate Standard (DAPS) would be promulgated as the final diesel particulate standard.[48] The DAPS would set an average particulate emission standard to be met by a manufacturer's entire diesel fleet for a particular model year; however, individual engine families would not be required to meet the DAPS.[49]

VW stated that the waiver is necessary to ensure its ability to meet a 1.0 gpm NO_x standard in 1985 for all of its diesel vehicles by providing the "in use" production experience required for effective research and development.[50] VW asserted that it plans to use injection timing improvements to meet the interim standards, and does not plan to use an EGR system for any of its engine families until 1985, and then only on vehicles over 2500 pounds.[51] To achieve the proposed interim standards, VW plans to rely on: (1) Limited retardation of injection timing in model years 1981 and 1982; (2) a load controlled injection pump [52] and improved injection time distribution and injectors in model year 1983; and (3) further reduction of production tolerances in injection pumps and other parts in model year 1984.[53] For 1985 model year vehicles over 2500 pounds, VW stated that it plans to use EGR, trap oxidizers and optimized fuel injection timing to compensate for increased emissions of particulates and HC which result from the added EGR.[54] For 1985 model year vehicles under 2500 pounds, VW stated that it hopes to meet applicable standards without EGR by refining the above-described systems to be used in model years 1981 through 1984.[55] VW asserted that it could not apply EGR to its small diesel engine while retaining adequate performance

[28] *Id.* at I–20.

[29] *Id.* at I–20 and I–22. D–B stated that even if the California experience is unsatisfactory in 1982 and, thus the conditional waiver is not suspended for model year 1983, if the 1983 California experience is satisfactory (and the particulate standard remains 0.6 gpm) the conditional waiver would be suspended for model year 1984. *Id.* at II–25 to II–26. D–B indicated that it is working on advanced diesel technologies (utilizing water injection) which may reduce NO_x emissions to 0.4 gpm. *Id.* at II–57 to II–75.

[30] P App., 1.–6.

[31] P App., 1.–2.

[32] *Id.* at 2.–1 to 2.–3; June 20 Tr. 5–6, 8 (P).

[33] P App., 1.–2.

[34] *Id.*

[35] *Id.* at 1.–3.

[36] VW App., 1.–4.

[37] D–B App., I–17.

[38] *Id.* at I–3.

[39] *Id.* at I–2, I–18.

[40] *Id.* at II–17, I–16. A description of the simplified EGR system is at II–34 to II–35.

[41] D–B App., II–22.

[42] A description of the advanced EGR system is found at D–B App., I–35 to I–46.

[43] *Id.*

[44] *Id.*

[45] *Id.*; June 18, Tr. 60 (D–B).

[46] D–B App., I–2 to I–3, I–10 to I–12, and II–23 to II–24.

[47] The proposed interim NO_x standards are as follows:

	Rabbit class vehicles	Dasher class vehicles	Audi 5000 class vehicles
Model years:			
1981	1.3	1.4	1.5
1982	1.3	1.4	1.5
1983	1.15	1.3	1.4
1984	1.0	1.15	1.2

VW App., 2.–4.

[48] VW App., 1.–6. VW stated that it is able to comply with a DAPS of 0.6 gpm for model years 1981 and 1982, 0.4 gpm for 1983 and 1984, and 0.3 gpm for 1984 and thereafter. *Id.*

[49] Thus, a manufacturer could meet a DAPS where one of the average particulate emissions from one of its engine families is above the DAPS while the emissions from all of its other engine families are far below the DAPS. Each diesel engine families would be required to meet a Diesel Individual Particulate Standard. VW App., 1.–6.

[50] VW App., 1.–7.

[51] *Id.* at 1.–6 to 1.–7.

[52] According to VW this will enable it to control the benefits of retarded timing much more efficiently. VW App., 1.–6.

[53] VW App., 1.–6. VW claims that reduction of production tolerances is necessary in order to limit the high variabilities in emission behavior of diesel cars.

[54] VW App., 1.–7.

[55] *Id.* at 1.–6 to 1.–7.

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levels.[56] In 1981, VW stated that it plans to substitute a 1.8 liter engine for its 1.5 liter Rabbit and Dasher diesel engine to allow addition of automatic transmission and air conditioning.[57] The 1.8 liter engine has higher emissions than the 1.5 liter engine.[58]

d. Volvo

Volvo requested a waiver for the 1981 through 1984 model years to 1.5 gpm NO_x level for its six cylinder, 2.4 liter turbocharged and normally aspirated engines and for its five cylinder, 2.0 liter turbocharged engine.[59] The thrust of Volvo's argument is that Volvo has entered the United States diesel market only recently and lacks the ability to develop and apply technology to permit its diesel engine families to achieve the 1.0 gpm NO_x standard.[60] Volvo stated that it has purchased its diesel engines from VW since 1976 for use in European markets,[61] and does not own its own diesel engine development or manufacturing facilities.[62] Volvo also stated that it presently relies on other manufacturers for development of emission control technology—Bosch for injection systems and VW for engine modifications—and, thus, has inherent lead-time problems.[63]

Volvo does not currently market diesels in the United States but is attempting to certify diesel passenger cars for sale in the United States for model year 1980.[64] Volvo claimed that it is uncertain whether it will be able to certify its diesel engine families in model year 1981 even if it is granted a waiver if the proposed particulate standard of 0.6 gpm is ultimately promulgated.[65]

Volvo stated that it plans to meet the waiver standard of 1.5 gpm NO_x by improving injection systems and by possibly making engine modifications.[66] In order to meet the 1985 model year NO_x standard of 1.0 gpm, Volvo stated it is working on engine modifications, injection systems, high rate EGR systems, and particulate control systems.[67]

2. Decision Methodology

Appendix A to this consolidated decision contains an assessment of technology available to meet the 1.0 gpm NO_x standard for each diesel engine family in question. The assessment is derived from a review of the information contained in the waiver applications and other information contained in the public record.

In evaluating the availability of effective control technology, Appendix A assesses, where possible, the emissions performance of each diesel engine family as described in the waiver appplication and of each family after hypothetically factoring in one or more "Projected Technological Improvements" ("factors"). The factors have been applied for currently known improvements and hardware that may be implemented during the waiver period (such as advanced EGR systems, injection timing modifications, water injection, fuel additives, air pump addition and inertia weight reductions).[68]

Appendix A employs methodology which applies these few carefully selected, purposely conservative factors to emission test results supplied by waiver applicants. This methodology allows me to ascertain the NO_x emission levels each diesel engine family described in the waiver applications can attain, and what these engine families could attain had the applicants incorporated "state-of-the-art" technology in which a high level of confidence can be placed. This approach has been used by EPA's in assessing technology in conjunction with past decisions on applications for suspension or waiver of statutory motor vehicle exhaust emission standards.[69]

Appendix A addresses whether each engine family is capable of meeting emission standards of 0.41 gpm HC, 1.0 gpm NO_x and 3.4 gpm CO. The pass/fail analysis is performed only for the three regulated pollutants.[70] Consistent with the methodology used in previous suspension decisions,[71] Appendix A presents an evaluation for each engine family for which emission test data were available by using a "Monte Carlo" statistical simulation technique. The highly conservative Monte Carlo technique employs emission test data provided for a vehicle of a given engine family to generate the emission level distributions that would be expected to occur for a large fleet of durability vehicles of that engine family as measured by certification testing.[72] Appendix A assigns a "pass" or "fail" determination to each engine family scenario based on whether the applicable Monte Carlo simulation indicated that at least 80 percent of the vehicles of the engine family in question could meet certification testing requirements for each regulated pollutant if each were tested once.[73] The methodology takes into account the test-to-test, car-to-car, and deterioration factor variabilities which cause uncertainty in projecting from the few test results provided by an applicant whether an engine family can meet certification requirements when tested.[74]

[56] June 20 Tr. 78 (VW).
[57] *Id.* at 66.
[58] *Id.* at 81.
[59] V App., 1–6. Volvo stated that it is not certain it will market the five-cyclinder engine family even if the waiver is granted because Volvo is not sure that the manufacturer of the engine (VW) will sell this engine to Volvo or that this engine can be installed in a Volvo vehicle. June 21 Tr. 47 (V)
[60] June 21 Tr. 7–8 (V).
[61] App., 2–6.
[62] June 21 Tr. 7–8 (V).
[63] *Id.* at 8 and 34–37. Moreover, Volvo stated that it is presented with an additional problem because it expected the six cylinder diesel engines not in existence at the time it entered into a contract with VW to be similar to four cylinder engines then in existence. The dissimilarity is in the nature of increased emissions from the six cylinder engine. *Id.* The dissimilarity came as a surprise according to Volvo. *Id.* at 25–28.
[64] *Id.* at 7.
[65] *Id.* at 19. Volvo also stated that it appears that it will not be able to market diesel cars in California during the waiver period, 1981 through 1984. *Id.* at 43.
[66] *Id.* at 8.
[67] *Id.* However, Volvo has not done any EGR testing. *Id.* at 34.
[68] Appendix A, §V. Other factors developed but not used are EGR valve replacement, injection pump recalibration, air intake throttling, insulated prechambers and water injection-oxidation catalyst. *Id.* The paucity of data submitted by the applicants made it impossible to obtain factors capable of greater NO_x control. *Id.*
[69] *See, e.g.*, 44 FR 53376, 53380 (Sept. 13, 1979); 40 FR 11908 (March 14, 1975).
[70] Appendix A, § II.
[71] *See, e.g.*, 44 FR 53376, 53380 (Sept. 13, 1979); 43 FR 47272, 47276 (October 13, 1978).
[72] The Monte Carlo technique simulated 100 durability tests on a vehicle with available test data by statistically selecting for each simulated test a set of values for car-to-car, test-to-test, and deterioration rate variabilities over the range of values that could be expected to occur in conjunction with vehicles of the design in question. General Motors used this technique in analyzing emission test data as part of its submission for the proceedings for suspension of the 1975 model year HC and CO standards. *See* 38 FR 10323 (April 26, 1973).
[73] An engine family must have a probability of passing of 80 percent or greater for each pollutant. For example, if the probability of passing for a particular engine family is 79 percent for HC, the engine family fails even though the probabilities of passing for NO_x and CO are much higher than 80 percent. The Administrator applied this 80 percent confidence level in the methodology he used in making his final decision on applications to suspend the 1975 model year HC and CO standards. As Appendix B of that decision explains, EPA has certified many engine families which had not passed certification testing requirements until the second attempt. Because the certification regulations permit an engine family more than one attempt at certifying, the statistical chances of that engine family passing certification testing (by passing on one of the two attempts) are actually greater than 80 percent. In re: Applications for Suspension of 1975 Motor Vehicle Exhaust Emission Standards, Decision of the Administrator, April 1973, (Appendix B).
[74] Although the basic statistical analysis performed pursuant to the Monte Carlo procedure was not altered from that used in previous waiver proceedings, the Monte Carlo procedure had not contained deterioration factors or car-to-car and test-to-test variabilities for diesel-powered vehicles. These factors and variabilities were obtained by analysis of data submitted by the applicants, data

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This methodology, therefore, increases the reliability of projecting from available test results that an engine family will be able to meet certification requirements. Due to the conservative nature of the Monte Carlo simulation and the high pass rate required (80 percent), a "pass" indicates that this engine family will almost certainly meet certification testing requirements for each regulated pollutant; for the same reason, a "fail" by no means indicates that the engine family cannot meet certification requirements if the manufacturer is willing to accept the added risks.

Appendix A also evaluates the effect of NO_x emission controls on durability and on emissions of particulate matter. This evaluation relies on information supplied by applicants in this proceeding and in the diesel particulate rulemaking proceedings,[75] as well as other information contained in the record for this consolidated decision.

3. Engine Families for Which Waivers Are Necessary

I have determined that three applicants (GM, D–B and Volvo) have shown that waivers are necesary to permit the use of diesel engine technology in five engine families, (GM's 5.7 liter, D–B's 2.4 liter and 3.0 liter naturally aspirated and turbocharged, and Volvo's 2.4 liter naturally aspirated) for model years 1981 and 1982. The emission data presented for three engine families show that emission control technology to meet applicable standards is not available for incorporation into the 1981 model year. GM's 5.7 engine family,[76] D–B's 3.0 liter-turbocharged engine family[77] and Volvo's 2.4 liter naturally aspirated engine family[78] were shown to be incapable of meeting the statutory standards for HC and NO_x in model year 1981. Thus, I have determined that the applicants have met the initial criterion for receiving a waiver for these engine families for model year 1981.

The manufacturers have convinced me that the risks in applying new control technology are sufficient for me to determine that waivers are necessary for these families for model year 1982 because the applicants at this time have little, if any, experience in production of vehicles incorporating the more advanced control technologies that must be used to reduce NO_x emissions to 1.0 gpm. I must consider the risks involved if the applicants are required to incorporate this more advanced control technology into the subject vehicles in 1982. As discussed above, the applicants have raised concerns over driveability, durability, and other problems that may arise if the applicants are forced to introduce the more advanced controls nationwide without first gaining experience in limited production. D–B's position is that granting a waiver for model year 1982 would permit phase-in of the advanced NO_x controls on the subject diesel vehicles in California.[79] I agree with this position. In order to be certified in California in model year 1982, diesel-powered light-duty vehicles must meet the soon-to-be promulgated federal diesel particulate standard and a NO_x standard at least as stringent as 1.0 gpm.[80] Thus, the applicants must incorporate into the subject diesel vehicles for the 1982 California market those advanced NO_x and particulate controls necessary to meet the 1983 model year federal NO_x and particulate standards. Allowing a 1982 California phase-in would mitigate the risks inherent in incorporating advanced control technologies, previously applied only to prototype vehicles, into the production-line fleet. It is not unreasonable to expect that in-use experience of this new control technology will result in the need for adjustments to be made to the vehicles themselves as well as to the production-line operations. Adjustments to vehicles may result in a recall, causing expense and inconvenience to the applicants, their dealers and consumers. A 1982 California phase-in would decrease the potential for a recall of the national diesel fleet, and would permit the applicants to incorporate the adjustments found to be necessary in the 1982 California vehicles into the production-line operations for the model year 1983 national diesel fleet.[81]

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from California auditing, and data from Selective Enforcement Auditing monitored by the EPA. Appendix A, § IV. The diesel factors were then used in the Monte Carlo simulation for the engine families for which adequate data was submitted.
[75] Public Docket No. OMSAPC–78–3.
[76] Appendix A, § VI. A.
[77] *Id.* at § VI. B.
[78] *Id.* at § VI. E.
[79] D–B App., I–35 to I–46; June 16 Tr. 6C (D–B).
[80] Footnote 80 appears on p. 5486.
[81] The Monte Carlo procedure utilized in this technical analysis is designed to project the ability of vehicles equipped with known emission control technology to meet a specific emission standard without reference to a time frame. Hence, the Monte Carlo analysis can be considered to be restrained to a one year time period. The use of technological improvements (factors) can introduce a time element to the Monte Carlo analysis. These technological improvements can have a lead time associated with them, but information concerning the lead time may or may not have been supplied by the applicants. Therefore, the projection of the availability of these technological improvements must be restricted to the 1981–82 period because of the uncertainty of the applicants' intentions. The use of California standards as the forcing function for the introduction and proof testing of emission control technology has been an approach followed previously by EPA, as in the oxidation catalyst phase-in. It is appropriate, therefore to utilize the achieving of the 1982 California standards as the mechanism to promote the emission control technology to achieve a Federal 1.0 gpm NO_x emission standard. I have no reason to believe that the technologies described by the applicants to achieve 1.0 gpm NO_x will not be available by 1982 in California. Further, the sales fraction of California vehicles allows the applicants to concentrate on emission control technology development, application, and field assessment on a limited number of vehicles, and use these results for transfer to their Federal vehicles for model year 1983. Therefore, I have concluded that the best approach to achieving a 1.0 gpm NO_x standard on a 50 state basis in model year 1983 is to allow the applicants to concentrate on achieving the 1982 California NO_x standards.

A similar phase-in was not required for CO control technology in past decisions because that technology had been phased in by the manufacturers in advance of nationwide marketing.

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[55] This 1.0 gpm NO_x standard is optional in California for 100,000 mile certification. If this option is not chosen, a more stringent standard must be met. The California exhaust emissions standards, expressed in grams per vehicle mile, are as follows:

California Emission Standards

Exhaust Emission Standards (g/mi)
Useful life of Vehicle

Model Year	Vehicle Type(1)	IW	Non-Methane Hydrocarbons(2)	Carbon Monoxide	Oxides of Nitrogen
1981	PC	All	(0.41)	3.4	1.0
	PC(3)	All	0.39(0.41)	7.0	0.7
1982	PC	All	0.39(0.41)	7.0	0.4
	PC	All	0.39(0.41)	7.0	0.7
1983 & Subsequent	PC	All	0.39(0.41)	7.0	0.4

100,000 Mile Exhaust Emission Standards (g/mi)

1981	PC(Opt 1)	All	0.39*	3.4	1.5
	PC(Opt 2)	All	0.46	4.0	1.5
1982	PC(Opt 1)	All	(0.41)	7.0	1.0
	PC(Opt 2)	All	0.46	8.3	1.0
1983 & Subsequent	PC	All	0.39(0.41)	7.0	1.0
	PC	All	0.46	8.3	1.0

(1) "PC" means passenger cars

(2) Hydrocarbon standards in parentheses apply to total hydrocarbons

(3) The second set of passenger car standards its optional. A manufacturer must select either the primary or optional sets of standards for its full product line for the entire two-year period.

* In addition to footnote (2) - For vehicles from evaporative emissions families with projected 50,000 mile evaporative emissions values below 1.0 gm/test, an adjustment to the hydrocarbon exhaust emission standard may be granted by the Executive Officer. The adjusted standard will be calculated using the following formula:

$$HC_{ex} = .75\ [.185 - \frac{Di + 3.3\ Hs}{29.9}] + HC_0$$

Where:

HC_{ex} = adjusted exhaust hydrocarbon standard

HC_o = unadjusted exhaust hydrocarbon standard

Di = diurnal evaporative emissions

Hs = hot soak evaporative emission

Moreover, the 1982 phase-in would permit the applicants to identify and correct quality control problems that may arise with the application of the new control technology. The one-year phase-in provides ample opportunity to identify any unacceptable adverse impacts of any new techniques selected by an applicant to meet applicable standards, and to correct such impacts for the national fleet. The California phase-in gives the applicant the opportunity to gain experience in the limited mass production of diesel-powered vehicles equipped with advanced NO_x and particulate controls under conditions of careful quality control while maintaining the accelerating momentum of control technology development.

Only two engine families for which adequate data were submitted were found to be capable of meeting the statutory standards in model year 1981 or 1982 with factors. D–B's 2.4 liter engine family appears to be capable of meeting 1.0 gpm NO_x with increased EGR.[85] D–B's 3.0 liter naturally aspirated engine family appears to be capable of meeting 1.0 gpm NO_x with factors of increased or improved EGR or the Bosch EGR system.[86] However, the effects of these improvements on the durability of the engines (e.g., engine wear) is at best uncertain.[87] Therefore, I conclude that waivers are necessary for the 2.4 liter engine family up to 1.5 gpm NO_x for model year 1981 and up to 1.25 gpm NO_x for model year 1982,[88] and for the 3.0 liter naturally aspirated engine family up to 1.5 gpm NO_x for model years 1981 and 1982. The waivers are necessary for model year 1981 to permit D–B to solve the uncertainty with respect to the durability effects of its advanced NO_x control technology. Necessity for waivers is present when the application of the technology to the subject engine families when it has the potential to cause unacceptable engine wear. The waivers are necessary for model year 1982 to permit D–B to phase-in the advanced controls in California for nationwide application in 1983, as discussed above.[89]

4. Engine Families for Which Waiver Decisions Cannot Be Made

Waivers are denied for the following engine families due to presentation of insufficient data upon which to base a waiver determination:

Manufacturer	Model
D–B	Engine Family ("EF") –1
	EF–2 [90]
GM	4.3 liter
	EF–3
	EF–4
	EF–5 [91]
Peugeot	XD23
	XD33 [92]
VW	1.6 liter
	1.6 liter turbocharged
	2.0 liter [93]
Volvo	2.0 liter
	2.4 liter turbocharged [94]

[90] Appendix A, § VI.B. D–B submitted no emissions data on either of these two engine families.

[91] *Id.* at § VI.A. GM submitted no emission data on these engine families.

[92] *Id.* at § VI.D. Peugeot submitted no acceptable emissions data for either of these engine families.

[93] *Id.* at § VI.C. VW submitted no acceptable emissions data on these engine families.

[94] *Id.* at § VI.E.

The manufacturers have not presented sufficient information on the technology to be used in the above-listed engine families. They failed to provide emissions data for which the prescribed methodology could be used to evaluate the engine families' respective NO_x emission control capabilities.[95] The applicants received notice prior to and during the public hearings of the inadequacy of information supplied for these engine families.[96]

However, no evidence was presented to permit an assessment of the capabilities of the "no data" families outside the restrictions of the decision methodology.[97]

The Act clearly places the burden of establishing the need for a waiver on the applicant.[98] By failing to supply sufficient data by which I can assess adequately the NO_x emission control capabilities of particular engine families, the applicants have failed to meet the statutory burden. Moreover, no other data is available to me to make the requisite statutory determinations.

Since it is impossible to determine the capabilities of those engine families for which no acceptable emissions data is available, I cannot find that additional lead time is necessary to either develop or phase in control technologies on the subject vehicles in 1981 or later model years. It is possible that the "no data" engine families may be capable of meeting NO_x emission levels below 1.5 gpm without the addition of advanced controls such as additional EGR. Therefore, waivers are denied for those engine families for which insufficient emissions data were submitted.

Of course, the applicants may reapply at any time for waivers for the "no data" families, at which time I will re-examine the availability of effective control technology for those engine families in light of any new emission test data which an applicant may provide.

B. Endangerment to Public Health

In order to grant a waiver request, section 202(b)(6)(B)(i) requires me to determine that a waiver of the statutory standard of 1.0 gpm NO_x would not endanger the public health. This criterion was intended to address the potential health effects of unregulated pollutants from diesel engines as well as the health effects associated with increased NO_x emissions.[99]

[85] Appendix A, § VI. B.

[86] *Id.*

[87] Appendix A, § VI, B. Although D–B submitted little data on the durability issue, the data produced are considered reliable. Once an applicant produces such data that makes a prima facie showing, I bear the burden of showing the reliability of any methodology employed in reaching a decision adverse to the evidence presented by the applicant. *International Harvester Co.* v. *EPA*, 478 F.2d 615 (DC Cir. 1973). In this case I have concluded that I could not reasonably reach a determination that durability problems for D–B's 2.4 liter and 3.0 liter naturally aspirated do not exist. *See* 44 FR 53376, 53383 (Sept. 13, 1979).

[88] D–B sought a waiver up to 1.25 gpm NO_x in 1982 for its 2.4 liter engine family. D–B App., I–18. D–B believes it can certify at 1.25 gpm with no durability problems, and I have no reason to disagree with this belief.

[89] The 1982 phase-in period here is unique due to the lack of present experience with advanced NO_x control technology. However, the ever-accelerating development of technology in this area and the California production phase-in should provide sufficient experience to make phase-in periods beyond 1982 in this area unnecessary.

[90] The guidelines specifically request that such data be included in the applications. Guidelines, 43 FR 30343–45 (July 14, 1978).

[91] Letter from Benjamin R. Jackson, Deputy Assistant Administrator for Mobile Source and Noise Enforcement, EPA, [hereinafter "Letter from Jackson, EPA"] to Dr. Betsy Ancker-Johnson, Vice-President Environmental Activities Staff, GM, June 13, 1979; Letter from Jackson, EPA, to Jerome N. Sonosky, Attorney for D–B, June 14, 1979; Letter from Jackson, EPA, to W. Groth, Administrator of Emissions Regulations and Testing, VW, June 14, 1979; Letter from Jackson, EPA, to R. de Saint Quentin, Peugeot, June 19, 1979.

[92] *See*, Letter from Betsy Ancker-Johnson, Vice-President, Environmental Activities Staff, GM, to Benjamin R. Jackson, Deputy Assistant Administrator for Mobile Source and Noise Enforcement, EPA (hereinafter "to Jackson, EPA"), dated June 19, 1979; GM Supplement to Jackson, EPA, dated July 18, 1979; Letter from Jerome N. Sonosky, of Hogan & Hartson, Counsel, D–B's Supplemental Information, dated July, 1979; VW Supplement, from Wolfgang Groth, Manager, Emission Regulation and Testing, to Jackson, EPA, dated July 13, 1979; Peugeot Supplement, from M. Grossman, U.S. Factory Representative Peugeot, dated July 13, 1979, Volvo Supplement, from S. Wallman, Product Planning, Volvo, dated June 24, 1979.

[93] Clean Air Act, as amended, § 202(b)(6)(B), 42 USC § 7521(b)(6)(B) (Supp. I 1977). I have so interpreted the Act in the Guidelines. Guidelines, 43 FR 30342 (July 14, 1978).

[94] *See, e.g.*, H.R. Rep. No. 294, 95th Cong., 1st Sess. 19, 237, 250–51 (1977); S. Rep. No. 127, 95th Cong., 1st Sess. 70 (1977). The legislative history of the diesel waiver provision makes clear that despite the promising fuel economy benefits of the diesel, its effects on public health were as yet unknown and the subject for continuing concern. The House Committee on Interstate and Foreign Commerce referred to this concern as follows: The Committee points out that the diesel engine historically has had many other problems associated with it. These include: Very high particulate emissions, the

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Accordingly, in comparing the "waiver" and "no-waiver" scenarios, I must assess not only the difference in NO_x emissions levels but also the difference in emission levels of any other regulated or unregulated pollutants.[97]

EPA's waiver guidelines directed the applicants to submit air quality impact studies to quantify the difference in air quality for regulated and unregulated emissions resulting from diesels meeting an interim 1.5 gpm NO_x standard as compared to (1) diesels meeting the statutory 1.0 gpm NO_x standard, and (2) gasoline vehicles meeting statutory standards.[98] The data gathered in these studies were to be factored into health impact studies.[99]

1. Oxides of Nitrogen (NO_x)

a. Air Quality Impact

The waiver guidelines set out several NO_x-related air quality impact considerations to be assessed by the applicants in a comparison between diesels meeting the proposed interim standards and statutory standards. These are the effect on:

(1) Annual regional air quality for NO_x-related pollutants,[100] (2) short term NO_2 levels, and (3) peak NO_x exposure levels at or near roadways. The applicants' assessments were based on the assumption that light-duty diesels would be produced in 1981–84 model years at a 1.5 gpm NO_x level in order to project the effects of a "worst-case" situation in which full, four year waivers are granted to all applicants.

i. Annual Ambient Regional Air Quality Impact

The waiver applicants have claimed that the total change in annual regional NO_x and NO_2 concentrations resulting from a full four year NO_x waiver would be insignificant.[101]

GM estimated a total change in regional NO_x and NO_2 concentrations to be no more than 0.5 percent in late 1984,[102] while D–B and VW predicted a change of less than 0.3 percent from granting the waiver.[103]

EPA's own analysis showed that future ambient levels of NO_x would continue to decrease, even if NO_x waivers were granted to the maximum level (1.5 gpm) for four years.[104] This decrease would be slower than a "no waiver" case only if very high estimates of market penetration of diesels and the NO_x deterioration rates of diesels that would be produced in the period 1981–84 are made.[105] Only if it is assumed that diesel market penetration would be 25 and 50 percent in 1985 with mid-range to high NO_x deterioration rates, would the progress in annual average NO_2 level reductions be slowed by 1 to 2 percent if four year waivers to the maximum interim NO_x level were granted.[106] Since EPA's best estimate for the 1985 market share is 11.4 percent, annual average NO_2 level reductions would continue.[107] Since a two year waiver would have even less of an impact, it may be concluded that there would not be a significant change in annual average NO_2 levels.[108]

ii. Short Term Regional and Roadside NO_2 Impact

GM concluded that total short term regional change in NO_2 concentrations[109] would not exceed 0.5 percent in late 1984, the date of estimated maximum impact, even if all applicants were granted full four year waivers.[110]

EPA's analysis shows that short term NO_2 levels generally will decrease through 1990, and that this trend would be slowed by no more than 1 percent even under a high waiver diesel market penetration estimate of 25–50 percent.[111]

The waiver applicants' analyses of peak one-hour maximum NO_2 exposures from light-duty diesels granted the maximum waiver for model years 1981–84 show that there would be insignificant increases over a "no waiver" situation.[113]

EPA's comparison of waiver/no waiver cases indicates a range in NO_2 levels from no change to an increase of less than 5 percent by 1982 if a two year waiver is granted.[113]

iii. Summary

EPA is in general agreement with the industry that there would be a limited impact on absolute or percentage changes in ambient NO_2 levels resulting from a full four year diesel NO_x waiver. Depending upon the assumptions made concerning market penetration and deterioration rates, the effect of a NO_x waiver on regional, short-term and peak exposure NO_x levels would be relatively insignificant.[114]

EPA's analyses also show that granting a NO_x waiver to all applicants for the two model year period 1981–82 would have an even less significant impact on NO_2 levels.[115] Therefore, I have concluded that the potential impact on NO_x levels resulting from a NO_x waiver covering five engine families for two model years would not be significant.

b. Public Health Impact

The waiver applicants concluded that the potential increase in ambient NO_2 levels on an annual and hourly basis resulting from a full, four year waiver are insignificant, and therefore, the waiver would not endanger public health. D–B stated that its analyses showed the NO_2 levels projected to occur in a waiver situation would not exceed EPA's existing annual National Ambient Air Quality Standard (NAAQS) for NO_2, or the short-term NO_2 standard being considered by EPA.[116] GM noted that the NO_2 exposure levels used in animal studies which indicate alterations in lung biochemistry are many times greater than the projected concentrations if the diesel waiver is granted.[117]

EPA believes that an appropriate measure of the impact of a waiver on public health is the projected change in ambient NO_2 levels as compared to the NAAQS for NO_2, the level determined by EPA to be protective of the public health.[118] Since EPA's analyses show that granting the waiver would have little impact on the projected decrease in annual ambient NO_2 levels,[119] I believe that waiving the NO_x standard for certain engine families to a level of 1.5 gpm for two model years would not endanger the public health.

2. Unregulated Pollutants

The emissions data submitted by the applicants indicate the presence of several unregulated pollutants in the exhaust of diesel vehicles. D–B and VW submitted generalized (not engine specific) factors for their air quality analyses for unregulated pollutants,[120] while GM provided the results of emissions testing on an experimental 5.7 liter, 8-cylinder diesel, claimed to be representative of GM's primary 1982–84 light-duty diesel production as well as its "worst-case" control problem.[121] Emissions from the experimental vehicle were compared at a high NO_x level (1.24 gpm) and a low NO_x level (.71 gpm), and there was an increase or no change in the level of other pollutants resulting from the reduction in NO_x emissions.[122] GM noted that total aldehyde, particulate and benzo(a)pyrene ("B(a)P") emission levels are increased with the NO_x reduction, so that the waiver would tend to decrease these unregulated pollutants rather than increase them.[123] When GM compared the "statutory" diesel emissions (i.e., 1.0 gpm NO_x) to those of a pre-catalyst gasoline fueled vehicle and a gasoline fueled three-way catalyst equipped vehicle, the diesel emissions showed significantly higher levels of B(a)P, particulates, NO_2, SO_2 and sulfates.[124] However, when GM compared the "waiver" diesel emissions (i.e. 1.5 gpm NO_x) to those of "statutory gasoline" vehicles, the only unregulated pollutants exhibiting higher emission levels were particulates, B(a)P and SO_2.[125]

The generalized data submitted by other waiver applicants indicated similar emissions results. D–B and VW concluded that while NO_x emissions would be reduced by substitution of gasoline-powered vehicles diesels to meet the 1.0 gpm NO_x standard, both CO and HC emissions would increase.[126] The information provided shows that diesel vehicles contribute greater B(a)P and particulate emissions than gasoline vehicles; however, when compared to total highway vehicle emissions, the contribution of the diesel passenger fleet would be negligible. The data also shows that the particulate emissions from the diesel fleet would be approximately one-fourth greater than those of the gasoline fleet,[127] even though the diesel fleet would be relatively smaller.

My concern over increased emissions of currently unregulated pollutants focuses on the air quality and health impacts of diesel particulate emissions. The manufacturers' data show that diesels emit substantially more particulate matter and, as discussed below, of a different composition than gasoline-powered, catalyst vehicles. In addition to the potential for an increase in the incidence of respiratory ailments, there exists the potential that organic components of the diesel particulate are carcinogenic.

a. Particulates

i. Air Quality Impact

In general, diesel-powered vehicles emit 30 to 70 times more particulates than catalyst-equipped gasoline-powered vehicles.[128] Since diesel sales are projected to reach approximately 11 percent of the light-duty market in 1985 and approximately 20 percent in 1990, diesel particulate levels could have a significant impact on local air quality and on the ability of a number of urban areas to meet the primary NAAQS for Total Suspended Particulates (TSP).[129]

EPA currently does not regulate particulate emissions from new motor vehicles. However, EPA recently proposed particulate emissions standards for 1981 and later model year diesel-powered light-duty vehicles and light-duty trucks as required by section 202(a)(2)(A)(iii) of the Act.[130] The proposed standards, required by the Act

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chemical composition and potential health effects of which are poorly understood; heavy visible smoke emissions; noxious orders * * *. It is expected, therefore, that the Agency and manufacturers will make special efforts to assure that none of these problems will result in endangerment to the public health as a result of widespread use of light-duty diesels. (H.R. Rep. No. 284, 95th Cong., 1st Sess. 250–51 (1977).)

[97] 43 FR 30341, 30345 (July 14, 1978).

[98] *Id.*

[99] *Id.*

[100] This includes data on formation of photochemical oxidants (ozone), which is a result of compelx photochemical reactions involving both hydrocarbons and nitrogen oxides (NO_x). The applicants did not submit data on the effects of waiver on ozone levels. GM stated that it "is virtually impossible to estimate the effect on air quality based on an increase in NO_x emissions of such small magnitude as would result from the proposed waiver." GM App., I–7, III–4. The conclusion reached was that the magnitude of peak oxidant levels would not be affected significantly, and may even decrease as a result of increased NO_x emissions. *Id.* at II–4 and III–B–1. *See, also,* EPA, Appendix B, Air Quality Summary, December 1979 (hereinafter cited as "Appendix B"), § III. B.

[101] *See, e.g.,* GM App., III–3. GM estimated that the maximum incremental increase in NO_x emissions from granting the waiver would amount to about 0.6 percent of the estimated NO_x emissions from all sources, and this maximum level would not be reached until all "waiver vehicles" were produced and would decrease as the vehicles were removed from service. GM App., III–2.

[102] This estimate was based on the assumption that light-duty diesels would account for 5 percent of the Light Duty Diesel Miles Traveled in 1984, and took into consideration other NO_x sources, stationary and mobile. GM App., III–3. It also assumed that all waiver applicants would be granted a four year waiver to the maximum NO_x level (1.5 gpm).

[103] VW App., 1.–0; D–B App., III–121 to III–125. D–B pointed out that the slight NO_x increased due to higher new car NO_x emissions from diesels compared to gasoline vehicles would be offset over the long term due to emission deterioration in gasoline vehicles. *Id.* at III–121.

[104] Appendix B, § II–A.

[105] Appendix B, Table 3.

[106] *Id.*

[107] *Id.*

[108] Appendix B, § II.B.

[109] Approximately 20 percent of vehicular NO_x emissions are NO_2 emissions, which are not regulated separately. EPA currently is considering establishment of a standard for short-term NO_2 levels.

[110] GM also concluded that since very few Air Quality Control Regions today are out of compliance with the National Ambient Air Quality Standard (NAAQS) for nitrogen dioxide (NO_2), and projected mobile source NO_x reductions should bring all areas into compliance, the predicte NO_2 chanes from a full four year waiver for all applicants would not cause any area to be out of compliance. GM App., Vol. I, III–3, 4. *See also* VW App., I–9.

[111] Appendix B, § II. A.

[113] GM estimated the incremental increase to be .002–.004 ppm (6.5 mg/m^3) under a four year waiver. GM App., III–4. D–B estimated a maximum increase of 1 mg/m^3, and compared this increase to the most stringent hourly standard it assumed was being considered by EPA, 234 mg/m^3. D–B App., III–144. *See also* D–B App., III–154. Production of waiver vehicles was estimated to result in a one hour maximum of .041 ppm, while waiver denial would result in a level of .038 ppm if "statutory diesels" are produced and .037 ppm if no diesels are produced. GM App., III–4.

[113] *See* Cole, Henry S., "The Impact of a NO_x Diesel Waiver on NO_2 Concentrations Downwind of a Major Line Source", May 1979.

[114] Appendix B, § II. A. The same conclusion was reached for oxidant levels. Appendix B, § II. C.

[115] Appendix B, Tables 3, 4.

[116] June 16 Tr., 23 (D–B); *see* D–B App., Sec. III. EPA's NAAQS for NO_2 is 0.05 ppm, or 100 mg/m.^{3} The short-term (one hour exposure) NO_2 standard being considered is in the range of 0.3 to 0.5 ppm.

[117] GM App., III–5 to III–13. GM concluded that the weight of experimental data clearly indicates that under controlled conditions there is no change is human cardiovascular or pulmonary function for 2 hours of exposure to levels of NO_2 from .05 to 1.0 ppm, both of which are well above the projected .041 ppm concentration if the NO_x waiver is granted. GM also discounted the usefulness of infectivity experiments on the basis that levels of inhaled pathogens are almost always unrealistically high. *Id.* at III–17.

[118] Appendix B, § II. NO_2 is recognized as a respiratory irritant as well as precursor to photochemical smog formation. Existing studies suggest that existing ambient levels of NO_2 may lead to increased acute and/or chronic respiratory diseases. There is no study sufficient to establish a safe level for NO_2.

[119] *Id.* at § II. A; Table 1. EPA, "Air Quality Analysis of Waiving the NO_x Standards for Light-Duty Diesel Vehicles," February 1979.

[120] Appendix B, § III. B.

[121] GM App., III–20, III–21, Tables III–D.2, III D.3.

[122] *Id.* at III–21.

[123] *Id.*

[124] *Id.* at III–22.

[125] *Id.*

[126] D–B App., III–124, Table III–36; VW App. 1.–0. Increases in B(a)P emissions were shown to be insignificant. VW estimated that there would be no increase or negligible increases in unregulated pollutants such as sulfates, aldehydes, B(a)P and nitrosamines. VW App., 1.–0.

[127] D–B App., III–124, Table III–39.

[128] U.S. Environmental Protection Agency "Health Effects Associated with Diesel Exhaust Emissions", EPA–600/1–78–063, November 1978 (hereinafter EPA Health Effects Study"), 19–22.

[129] The ambient air quality standard for total suspended particulates (TSP) has been the most difficult for many urban areas to achieve. This is especially true for cities such as St. Louis, Denver, Dallas and Los Angeles. *See* EPA, "The Impact of Future Diesel Emissions on the Air Quality of Large Cities", EPA–450/5–79–005, May 1979. In addition, projected increases in total suspended particulate levels as a result of projected dieselization may have a significant impact on the ability of many urban areas to meet the primary national ambient air quality standard for TSP. *See* EPA, "Draft Regulatory Analysis for Light-Duty Diesel Particulate Regulations," December 22, 1978, at 22–23.

[130] 44 FR 6650 (Feb. 1, 1979). 42 U.S.C. 7521(a)(3)(A)(iii) states that: The Administrator shall prescribe regulations under paragraph (1) of this subsection applicable to emissions of particulate matter from classes or categories of vehicles manufactured during and after model year 1981 (or during any earlier model year, if practicable). Such regulations shall contain standards which reflect the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the model year to which such standards apply, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers and to noise, energy and safety factors associated with the application of such technology. Such standards shall be promulgated and shall take effect as expeditiously as practicable taking into account the period necessary for compliance.

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to reflect the best available control technology, were set at 0.6 gpm beginning with the 1981 model year and 0.2 gpm beginning with model year 1983, to reduce particulate emissions from the 1981 uncontrolled level of 1.0 gpm.[121] EPA will promulgate the final diesel particulate standards in the near future. Even if final promulgation includes the most stringent proposed standard of 0.2 gpm, diesel-powered vehicles will continue to emit many times the amount of particulates emitted by catalyst-equipped gasoline vehicles.[122]

The waiver applicants submitted data to show that there would be insignificant increases in projected one hour maximum roadside exposure levels and an insignificant annual increase in TSP levels resulting from granting a four year diesel NO_x waiver, when compared to gasoline only light-duty vehicle emission levels.[123] The manufacturers also submitted data indicating significantly higher projections in 1984 TSP levels if "statutory" diesels are built in compliance with the 1.0 gpm NO_x standard, as compared to "waiver" diesels meeting a 1.5 gpm standard.[124] D–B estimated a 12 percent increase in the 1984 mass particulate emissions inventory if waivers are granted to all applicants, as compared to waiver denial and substitution of gasoline vehicles, and a 20 percent increase if waivers are denied and diesel penetration occurs as projected by D–B.[125] GM concluded that "waiver diesels" showed a 30 percent reduction in particulate one hour roadside exposure level as compared to "statutory diesels".[126] Thus, all applicants concluded that a waiver of the NO_x standard would benefit air quality in terms of particulate levels as compared to emissions from diesels built in compliance with the 1.0 gpm NO_x standard.[127] However, it is undisputed that the projected increase in diesel light-duty vehicle production will increase human exposure to respirable particulates.

ii. Health Impact

Increased emissions of diesel particulates into the ambient air raise two public health concerns. The first is the possible increase in respiratory ailments such as emphysema, bronchitis and asthma. The second is the possibility of increased human exposure to potential carcinogens in the organics associated with/adsorbed onto the diesel particulate. The particulates are composed mainly of carbonaceous matter capable of adsorbing large quantities of extractable organic matter, including known human carcinogens such as B[a]P.[128] In addition, diesel particulates are of a size that can enter and be retained in deep lung compartments, which may enhance the carcinogenic potency of the adsorbed organic matter.[129]

Positive results from a wide variety of tests suggest that the organics emitted with the diesel particulates contain carcinogens. Extracts of diesel particulates have been shown to be mutagenic in the Ames Salmonella/microsome test, to cause *in vitro* transformation in mammalian cell structure,[130] and to cause skin cancer when painted on mice.[131] These results are only "suggestive" evidence that diesel particulates cause cancer in humans.[132] EPA's ongoing research program to determine the mutagenicity/carcinogenicity of diesel exhaust will generate more data in the future, including results from whole animal studies to determine its potency as a carcinogen.[133]

Current evidence of the risk of human cancer from diesel particulate emissions, based on epidemiological studies conducted on populations exposed to high levels of diesel particulates, is contradictory at best.[134] The manufacturers generally concluded from a review of the current epidemiological studies that there is little or no evidence of any transient or permanent health effects at the concentrations of diesel particulates predicted to occur by 1984 as a result of the waiver.[135] Although there is no definitive epidemiologic evidence suggesting cancer risk from exposure to diesel particulates, estimates have been made on the cancer risk based on assumptions made for purposes of analysis.[136] The estimate is preliminary in nature, and more information is being gathered on the chemical constituents and biological activity of diesel exhaust to form a more complete data base for future assessment of the potential cancer risk.[137]

The manufacturers assert that the growth of the light-duty diesel population does not, at our current state of knowledge, threaten any adverse effects on public health.[138] However, I conclude that the uncertainty surrounding the potential risk posed by diesel particulates warrants a cautionary approach in this proceeding.

(a) Assessment of Risks—Granting or Denying Waivers

To the extent that waivers are granted, the applicants will be able to market diesel vehicles that emit more particulates than would gasoline-powered vehicles. However my assessment of the risk posed by these emissions must be made in light of the greater risk posed by the particulate emission levels that might result from waiver denial. Section 202(b)(6)(b) does not authorize me to prevent the manufacture and sale of diesels; rather, I may grant or deny a manufacturer's request to permit a particular diesel engine family to meet a NO_x standard less stringent than 1.0 gpm. Waiver denial does not necessarily prevent a manufacturer from attempting to certify a diesel engine family for which a waiver has been denied. The manufacturer may choose not to manufacture the diesel engine family, or to attempt to certify and manufacture it in compliance with the 1.0 gpm NO_x standard. If the manufacturer chooses the former, it may replace the diesels with comparable gasoline-powered vehicles, with negligible particulate emissions. However, if the manufacturer chooses the latter and I grant a certificate of conformity so that the diesels may be marketed at 1.0 gpm NO_x, particulate emissions may be significantly higher than diesels meeting a less stringent NO_x standard. The conservative nature of the technology assessment makes this a genuine possibility notwithstanding my determination that the waiver is necessary to permit use of diesel technology in the subject vehicles.

All waiver applicants have claimed that they cannot meet both a 1.0 gpm NO_x standard and EPA's proposed 0.6 gpm diesel particulate standard with currently available technology. They stressed that if forced to meet a 1.0 gpm NO_x standard, emissions of HC, CO, particulates and other unregulated emissions would increase.[149] This is based on the assertion that the amount of EGR, the primary NO_x control technology currently available, necessary to reduce NO_x to a level in the range of 1.5 gpm to 1.0 gpm, tends to increase levels of other emissions, especially particulates.[150] Although little data was submited to demonstrate this relationship, each manufacturer stated that particulate emissions increase as a result of increasing EGR rates to reduce NO_x from 1.5 gpm to 1.0 gpm.[151] EPA's analyses show that increasing use of EGR to reduce NO_x to the statutory level of 1.0 gpm would place upward pressure on particulate emissions.[152] Regarding the extent of this effect, GM stated that particulates increase proportionately to percentage decreases in NO_x emissions.[153] Therefore, it appears that the manufacturers will use EGR to meet a NO_x standard of 1.5 gpm on most of their vehicles, and that EGR would have to be increased to approach a 1.0 gpm standard.[154] GM and D–B stressed that waiving the statutory NO_x standard would improve air quality in terms of TSP and other unregulated pollutants, while ambient NO_x levels (except NO_2) would continue to decrease.[155] DB also stressed that granting the NO_x waiver would result in an 8 percent decrease in motor vehicle particulate emissions, compared to a non-waiver situation in which diesel vehicles meet the statutory NO_x standards.[156]

Granting the waivers to the five engine families for model years 1981 and 1982 would result in an increase in NO_x emissions compared to those if the engine families were manufactured to meet 1.0 gpm Nox. However, the waiver vehicles would still be required to meet a more stringent NO_x standard in 1981 than the 1980 model year NO_x standard of 2.0 gpm. The waivers would merely delay the mandated decrease in NO_x emissions from 2.0 gpm to 1.0 gpm while still requiring a decrease to 1.5 gpm NO_x. As discussed above, the delayed decrease in NO_x emissions from a full two year waiver would merely slow the trend of decreasing NO_x emissions from all sources nationwide. Athough NO_x emissions control remains an important aspect of vehicle emissions control, I must balance the risks associated with an incremental NO_x increase with the risks from incremental particulate emissions increases.

If I were to deny the waivers, and the manufacturers were to replace the five diesel engine families with comparable gasoline-powered vehicles, diesel particulates would pose no health risk, and the balance would favor denying the waiver since both NO_x and particulate emissions would be reduced. However, there is the real possibility that the five engine families could be produced for model years 1981 and 1982 to meet 1.0 gpm NO_x. Implicit in the manufacturers' claims that air quality benefits will result from a waiver is the assumption that the light-duty diesels will be marketed regardless of the outcome of the NO_x waiver. Rather than assuming that gasoline vehicles would replace diesels in a "no waiver" scenario, the manufacturers assumed in the "no waiver" situation that diesels would emit more particulates.[157] D–B stated that if it were forced to meet the 1.0 NO_x standard, it would have to apply "Stage I EGR" to its diesels, which would increase HC, particulates and other unregulated emissions.[158] GM admitted that it could not say that if a waiver were denied it could not make diesels,[159] and assumed in the "no-waiver" case that particulates would increase to a 1.0 gpm level, rather than assuming a decrease in particulate emissions from substitution of gasoline vehicles.[160]

It also appears that the manufacturers are committed to producing light-duty diesels, at least in the short term. GM stated that it has in place the capital equipment and assembly facilities for producing diesels,[161] and claimed that significant economic disruption would result from waiver denial due to its inability to substitute gasoline-powered vehicles for its projected diesel production.[162] The foreign manufacturers also predicted economic disruption if they were unable to market diesels in the United States.[163]

Thus, there appears to be a real possibility of diesel production even if all waiver requests are denied notwithstanding EPA's evaluation of the manufacturers' technological capabilities. That manufacturers may attempt and succeed in certifying diesel vehicles capable of meeting the 1.0 gpm NO_x standard in 1981, even though the methodology employed by EPA indicates a risk of failure that they would be able to do so, does not mean that EPA's methodology is inappropriate for assessing technological feasibility. The Monte Carlo analysis is highly conservative in order to assure that an engine family that receives a "pass" would almost certainly pass certification requirements. In this sense, the methodology contains a margin of error to provide manufacturers with a cushion for the risks of production. This is necessary because the consequences of discovering at a later date that a manufacturer cannot comply after development and production

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[121] 44 FR 6680, 6681 (Feb. 1, 1979).

[122] See *supra* note 120.

[123] GM estimated that the National Ambient Air Quality Standard (NAAQS) for particulates for a 24-hour average would remain well above the projected one-hour maximum roadside particulate contributions from diesel light-duty vehicles. *Id.* at III–23. The primary National Ambient Air Quality Standard for particulates has been set at 75 mg/m^3 as an annual geometric mean over 24-hour values, and 260 mg/m^3 as a 24-hour maximum, not to be exceeded more than one per year. GM pointed out that the increase in annual TSP levels caused by diesel light-duty vehicles (estimated to be 1 percent) is very close to the reduction in lead particulate emissions that will occur between now and 1985, so that the light-duty vehicle contribution to regional TSP levels will remain relatively constant. *Id.* III–24. This ignores the qualitative difference between diesel and lead particulates. D–B concluded that projected 1984 light-duty diesel particulate emissions would constitute only about 2 percent of the 1977 national inventory of total man-made particulates. D–B App., III 118.

[124] D–B App., III–118, Table III–33; GM App., III–23 to III–24.

[125] D–B App., III–129, Table III–39.

[126] GM App., III–23, Table III–B.2.

[127] This argument is based on the manufacturers' assertions that controlling NO_x emissions increases diesel particulate levels. *See, e.g.*, GM App., III–24, 25; June 19 Tr. 267, 152.

[128] EPA Health Effects Study, 65–140, 149.

[129] EPA Health Effects Study, 12–62.

[130] Huisingh, et al., "Mutagen and Carcinogenic Potency of Extracts of Diesel and Related Environmental Emissions," Int'l Symposium on Health Effects of Diesel Engine Emissions (hereinafter "Diesel Symposium") Session V, December 3, 1979.

[131] Kotin, P., H. L. Falk, M. Thomas, "Aromatic Hydrocarbons III: Presence in the Particulate Phase of Diesel-Engine Exhausts and the Carcinogenicity of Exhaust Extracts", AAM Arch. Ind. Health *II*, 113–120 (1955).

[132] 44 FR 39836, 39881 (July 6, 1979) ("Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks").

[133] EPA, Office of Research and Development, "Mobile Source Research Plan of the Mobile Source Research Committee", January 24, 1979.

[134] Calabrese, E., "A Review of the Literature: Health Effects Associated with Exposure to Diesel Fuel Exhaust," Diesel Symposium, Session VIII, December 3, 1979.

[135] GM App., III–32; D–B App., III–6.

[136] EPA Cancer Assessment Group, Initial Review of the Potential Carcinogenic Impact of Diesel Exhaust (June 11, 1979) (hereinafter "CAG Study"), 6. The estimate was based on the assumption that 25 percent of the light-duty vehicle fleet were dieselized with uncontrolled particulate emissions (i.e., 1.08 gpm).

[137] *See* CAG Study, 2.

[138] *See e.g.*, GM App., III–34–35; D–B App., III–6; June 18 Tr. 20 (D–B).

[149] *See, e.g.*, June 18 Tr., 23 (D–B); June 19 Tr., 5 (GM).

[150] June 19 Tr. 5, 52, 86–87 (GM). GM stated that only slight additions of EGR were necessary to meet a 1.5 gpm NO_x standard (June 19 Tr., 86) but that large amounts were needed to meet a 1.0 gpm NO_x standard, resulting in increased emissions of other pollutants, especially particulates (June 19 Tr., 5). See note 146, *supra*.

[151] June 19 Tr., 5 (GM); June 18 Tr. 25–26, 130–132, 103 (D–B).

[152] When EPA applied EGR factors to no-EGR test vehicles (e.g., GM 5.7 liter; D–B's 2.4 liter), upward pressure on particulate emissions resulted in most cases. Appendix A, § V.

[153] June 19 Tr., 5–6 (GM).

[154] For example, D–B stated that if forced to meet a 1.0 gpm NO_x standard in 1981, it would have to apply "Stage I EGR", which increases HC, particulates and other unregulated emissions. June 18 Tr., 130; D–B App.: II–21 to II–27.

[155] June 18 Tr. 23–26 (D–B); June 19 Tr., 247–261 (GM).

[156] June 18 Tr. 25–26 (D–B).

[157] *See e.g.*, June 19 Tr., 240 (D–B).

[158] June 18 Tr., 130–31 (D–B).

[159] June 19 Tr., 125 (GM).

[160] June 19 Tr., 249 (GM).

[161] June 19 Tr., 123 (GM).

[162] GM App., I–3 to I–4; June 19 Tr., 125 (GM). GM's argument that it could not substitute gasoline vehicles for its projected diesel production is based on: (1) Its inability to meet the CAFE standards with its family-size cars; (2) the lack of demand for additional small-size gasoline cars; (3) its inability to tool up for the production change within the remaining lead time.

[163] D–B App., I–7 to I–8, V App., 1–3; VW App., 1–5; June 18 Tr., 61–64 (D–B).

commitments are made could have serious economic consequences.[164]

However, failing the Monte Carlo analysis does not indicate that the engine family would not actually meet certification requirements. The methodology does not and should not factor in the possibility that, despite the high risks involved, manufacturers will make an all out effort (and possibly succeed) to certify and market complying vehicles. Apparently, the economic incentives of marketing diesel vehicles have increased the magnitude of risk which the manufacturers are willing to take. Thus, there is still a substantial probability that an engine family which fails the Monte Carlo analysis can meet certification requirements. These engine families would most likely incorporate simple EGR which would increase particulate emissions in order to meet 1.0 gpm NO_x.[165]

Therefore, with respect to the three engine families that failed the Monte Carlo analysis for model year 1981 (GM's 5.7 liter, D–B's 3.0 liter turbocharged, and Volvo's 2.4 liter naturally aspirated engine families), such failure in no way prevents the manufacturers from certifying these engine families in model year 1981. Similarly, there has been no showing that the three engine families could not be manufactured for the nationwide market in model year 1982 to meet 1.0 gpm NO_x. Rather, I have determined that waivers are necessary for model year 1982 to permit a more efficient and effective phase-in of more advanced control technologies needed to meet 1.0 gpm NO_x with adequate particulate emissions control. Without a phase-in, the manufacturers might find it necessary to utilize less effective control technology in their nationwide diesel fleets, which may limit NO_x emissions to 1.0 gpm but which may also significantly increase particulate emissions.[166]

The two D–B engine families (2.4 liter and 3.0 liter naturally aspirated) that passed the Monte Carlo analysis for model year 1981 could almost certainly meet certification requirements at 1.0 gpm NO_x, and therefore the probability is high that the two engine families would be marketed in 1981 and 1982 if waivers are denied. The non-waiver diesels would emit higher levels of particulates than waiver diesels due to increased use of simple EGR.[167]

(b) Assessment of Relative Risks—Health Impact

Due to the possibility that the five engine families would be produced at a 1.0 gpm NO_x level in 1981 and 1982 with significantly higher particulate emissions, I have determined that the risk of harm to the public health from such an increase in diesel particulate emissions accompanying a waiver denial outweighs the health impact from requiring a smaller decrease in light-duty vehicular NO_x emissions from the 1980 level of 2.0 gpm. The likelihood of serious harm from an increase in diesel particulates accompanying waiver denial is more substantial than the potential harm from delaying a decrease in NO_x emissions due to the uncertainty surrounding current evidence suggesting a risk of human cancer from diesel exhaust, as well as the presence of known human carcinogens in diesel exhaust. The probability that human exposure to diesel particulates would pose a serious threat to the public health is uncertain; yet, the harm to be avoided, cancer, is sufficiently serious to justify preventative action under the "endangerment" standard.[168] Additional evidence on the levels of exposure necessary for adverse effects to occur, as well as the potency of diesel particulate matter as a human carcinogen, is necessary before any firm judgments are made.

However, I deem the preliminary evidence of a potential cancer problem sufficent to merit action that will minimize particulate emissions from the light-duty diesels. Granting the NO_x waiver to the five engine families for two model years will allow the manufacturers to achieve lower particulate levels than if required to meet the statutory NO_x standard. Although diesel particulate emissions would increase only if "statutory" diesels were built, the risk is substantial enough to cause me to choose the alternative which results in lower particulate levels, especially since preliminary scientific assessment may have underestimasted the potential health risk.[169]

I am choosing to avoid the risk that light-duty diesels will be produced at lower NO_x but higher particulate levels, in order to minimize the potential problem in the short term.[170] Thus, I believe that granting the NO_x waiver for those vehicles which would otherwise emit significantly more particulates if required to meet a 1.0 gpm NO_x standard is more protective of public health than waiver denial.[171]

(c) Limited Scope of Determination and Future Regulation

This decision turns on the data produced by the manufacturers indicating that increased use of EGR necessary to meet the 1.0 gpm NO_x standard in the waiver vehicles would force a signifficant increase in particulate emissions. In view of the incomplete but suggestive evidence that diesel particulates may pose a threat of increased incidence of human cancer, I believe that the risk of severe harm to the public health demands that I grant the subject waivers. However, my determination that the waivers would not endanger public health is limited in scope. It applies only to diesel vehicles which EPA has concluded would emit significantly more particulates if required to meet the statutory standard, and applies only for a period necessary for the manufacturers to refine the technologies needed to control NO_x and diesel particulate emissions.

I must caution the manufacturers, however, that this decision does not represent an open door to future production of light-duty diesels without great emphasis on developing methods to identify, characterize and control diesel-related emissions. First, the manufacturers should emphasize particulate emissions control while attempting to certify in California their diesel light-duty vehicles at a 1.0 gpm NO_x level. Second, they should use the "California phase-in" as an opportunity to test their most advanced NO_x control systems to avoid increasing particulate emissions while reducing NO_x emissions to the 1.0 gpm level.[172]

[164] *See International Harvester v. EPA*, 478 F.2d 616, 630 (D.C. Cir. 1973).

[165] Appendix A, § V (GM's 5.7 liter, and Volvo's 2.4 liter naturally aspirated). D–B is expected to use an advanced Exhaust Gas Recirculation (EGR) system on its 3.0 liter-turbocharged engine family to meet the 1.0 gpm NO_x standard (*Id.* at § VI), and advanced EGR may increase particulate emissions. *See also*, June 19 Tr., 124–25 (GM).

[166] *See infra* note 171.

[167] *See infra* notes 150–52.

[168] *See Ethyl Corp.* v. *EPA*, 541 F.2d at 19, *citing Reserve Mining Co.* v. *EPA*, *supra*.

[169] *See* EDF Comments, 9–10; Appendix B, § III.C.

[170] Since the manufacturers contend they cannot meet the 1.0 gpm NO_x standard and EPA's proposed 0.6 gpm diesel TP standard, it is possible that EPA's proposed diesel TP standards for 1981 and later model years would have to be changed if the manufacturers were required to meet a 1.0 gpm NO_x standard, because the TP standard is technology-based.

[171] I cannot make a determination on the public health impact of granting or denying a waiver for those engine families for which inadequate data was submitted to show need for a waiver ("no data families"). It is possible that no data families would not require use of additional EGR to reduce NO_x emissions to 1.0 gpm, so that there would be no upward pressure on particulate emissions. Therefore, granting the waiver for the no data families would not necessarily be more protective of public health than denying the waiver.

[172] The technological improvements which may enable manufacturers to met the 1.0 gpm NO_x standard without necessarily increasing particulate emissions include: EGR valve replacement, injection pump recalibration, air intake throttling, insulated prechambers, water injection-oxidation catalyst, and inertia weight reduction. *See* Appendix A, § V.

Since the manufacturers themselves have argued their need for a NO_x waiver so that they can meet EPA's proposed diesel particulate emission standards and to give them an opportunity to introduce their more effective control technologies into the 1982 California market, this decision should enable them to fully comply with the final diesel particulate standard promulgated by EPA while meeting California's 1982 emission standards.

In addition, the manufacturers should continue to study the components and health effects of diesel emissions and should work with EPA to assess and alleviate potential health problems. EPA's research program to assess the public health significance of diesel emissions [173] will continue to generate health effects data, which may indicate a need for EPA to take regulatory action in this area. As indicated above, this proceeding does not allow me to control production of light-duty diesels or emissions levels of pollutants other NO_x.[174] However, I must caution the manufacturers to proceed with the full realization that EPA has the authority to act in the future under other provisions of the Act to prevent diesel emissions from posing an unacceptable risk to public health.[175]

C. *Fuel Economy*

The fuel economy benefit of diesel vehicles was a major consideration in the enactment of the diesel NO_x waiver provision.[176] The manufacturers have stressed the fuel economy benefits in their applications [177] and at the public hearings.[178] The manufacturers estimate this benefit to be an improvement over gasoline-powered vehicles of between 25 and 50 per cent.[179]

Fuel economy considerations are contained in the second and third criteria of section 202(b)(6) (B).[180] The second criterion provides that a waiver may be granted if I determine that it will result in significant fuel savings at least equal to the fuel economy standard applicable in each year under the Energy Policy and Conservation Act [EPCA].[181] To meet this criterion, the applicant must show that the "base level" for the class or category for which a waiver is requested will meet the applicable EPCA fuel economy standard.[182] The fuel economy standard for the 1981 model year is 22 miles per gallon (mpg) and the standard for the 1982 model year is 24 mpg.[183] All of the base levels of the engine families listed in the summary will meet or exceed the fuel economy standards for 1981 and 1982.[184]

The third criterion provides that a waiver may be granted if I determine that the diesel engine technology has the potential to meet or exceed the average fuel economy standard applicable under EPCA at the expiration of the waiver. To meet this criterion, the applicant must show that there is a substantial likelihood that the average fuel economy of the applicant's diesel fleet will meet or exceed the EPCA standard.[185] The EPCA standard for 1983, the expiration year of the waivers, is 26 mpg.[186] I find that there is a substantial likelihood that the average fuel economy of the diesel fleets of the applicants listed in the summary (GM, D–B and Volvo) will meet or exceed 26 mpg.[187]

D. *Long Term Air Quality Benefit*

In order for a waiver to be granted the applicant must show that diesel engine technology has the potential for long-term air quality benefit.[188] This criterion is met if there is a substantial likelihood that the engines will be able to comply with the statutory emissions standards applicable at the expiration of the waiver period.[189] The statutory standards applicable at the expiration of the waiver period, model year 1983, are, in addition to the 1.0 gpm NO_x standard, standards of 3.4 gpm for emissions of carbon monoxide (CO) and 0.41 gpm for emissions of hydrocarbons (HC).[190]

I have found that a small-scale phase-in of the technology necessary to meet a 1.0 gpm NO_x standard in California in model year 1982 to be necessary to avoid risks in nationwide production of the 49-state fleet. As discussed previously, the California phase-in will provide an adequate proving ground for diesel emission control technologies [191] necessary to meet a 1.0 gpm NO_x standard.[192] Therefore, there is a

[173] Barth, D. and Blacker, S., "The EPA Program To Assess The Public Health Significance of Diesel Emissions", 28 *Journal of the Air Pollution Control Association* 769, August 1978.

[174] I have been urged to deny all waiver requests on the ground that I cannot make an affirmative determination that the diesel technology would not endanger public health, in view of the evidence suggesting a cancer risk. EDF Comments 9–10; Comments of the Natural Resources Defense Council, July 13, 1979; Comments of the American Lung Association, June 1979. However, I do not believe that this proceeding is the proper forumfor assessing the relative risks associated with gasoline vehicle emissions and diesel emissions for the following reasons. First, the "waiver," although presumably necessary to permit use of diesel technology in the particular vehicle class, is not a necessary condition to increased production of light-duty diesels, and waiver denial is not sufficient to ensure that gasoline vehicles would be substituted. Second, Congress made specific provision in section 202(a)(4) of the Act for the balancing of health risks from emissions of unregulated pollutants associated with competing technologies. (42 U.S.C. 7521(a)(4) (Supp. I 1977).) Applicants for vehicle certification must explore reasonably foreseeable problems or potential problems associated with unregulated pollutants emitted from the vehicle technology, and make an adequate showing that the system would not cause or contribute to an unreasonable risk to public health, welfare and safety. My assessment of the vehicle technologies for which certification is requested necessarily involves a comparison between the unregulated pollutant risks of the standard internal combustion gasoline-powered engine and those of the competing technologies (See H.R., No. 294, 95th Cong., 1st Sess. 276–79 (May 12, 1977)). This section authorizes me to deny applications for certificates of conformity if the vehicle manufacturer fails to meet the burden of proof; therefore, controlling production of a suspect vehicle technology is dealt with more appropriately under section 202(a)(4). When the manufacturers apply for certification for the 1981 model year, I will be in a position to and will decermine, as in previous model years since 1970, whether the vehicles presented for certification (diesels and other systems) will pose an unreasonable risk to public health, welfare and safety.

[175] 42 U.S.C. 7521(a)(4), 7525(a)(3) (Supp. I 1977); H.R. Rep. No. 294, 95th Cong., 1st Sess. 28, 237, 250–51 (1977).

[176] Guidelines, 43 FR 30342 (July 14, 1978); *See, supra*, note 3.

[177] GM App. I–7; D–B App. I–16 and IV–1; P App. 1–4; VW App, 1–12; V App. 1–3 to 1–4.

[178] *See, e.g.*, June 19 Tr. 138.

[179] June 19 Tr., 136 (GM) (25 percent); P App. 1–4 (30 percent for city driving); VW App. § 1–12 (50 percent). EPA is currently re-evaluating the "fuel equivalency factor" (under 40 CFR 600.510–60(b)(2)(iii)) between diesel fuel and gasoline of 1:1 in order to determine whether these estimates are accurate. Under the present ratio, the miles per gallon (mpg) of one gallon of gasoline may be directly compared to mpg of one gallon of diesel fuel for equivalent vehicles without any corrective factor.

[180] Clean Air Act, as amended, § 202(b)(6)(B)(ii) and (iii), 42 U.S.C. 7521(b)(6)(B)(ii) and (iii) (Supp. I 1977).

[181] Sections 502(a)(i) of EPCA establishes fuel economy standards for 1978–80 and 1985 and thereafter and provides the Secretary of Transportation with the authority to promulgate standards for 1981–84. 15 U.S.C. 2002(a)(1)(1975).

[182] Guidelines, 43 FR 30343 (July 14, 1978). Base level means "a unique combination of basic engine, inertia weight, and transmission class." 40 CFR 600.002–77(23) (1977).

[183] 49 CFR 531.5 (1978).

[184] Appendix A, § VII: V App. 4–1; VW App. 4–3; D–B App. 1–15 to 1–16. IV–1, Exhibit C.

[185] Average fuel economy means "the production-weighted combined fuel economy value of all passenger automobiles produced by a manufacturer in a single model year as computed in 40 CFR 600.510" 40 CFR 600.002–77 (14) (1977).

[186] 49 CFR 531.5 (1978).

[187] Appendix A, § VII: *See also*, VW App., 1.–12. 4.–1 to 4.–2; D–B App., 1–15 to 1–16. IV–1, Exhibit C. The reference to "technology" and the inclusion of the word "average" in the third criterion clearly evinces an intent on the part of Congress that I look at the entire diesel technology of an applicant at the expiration of a waiver period.

[188] 42 U.S.C. 7521(b)(6)(B)(iii) (Supp. I 1977).

[189] *See* 123 Cong. Rec. 13703 (Aug. 4, 1977) (remarks of Senator Muskie); *see also* 43 Fed. Reg. 30343, 30347 (July 14, 1978).

[190] 42 U.S.C. 7521(b)(1) (A), (B) (Supp. I 1977).

[191] See discussion of applicants' proposed emission control systems in section III. A. 1. of text.

[192] The manufacturers must meet, as a minimum, standards of 1.0 gpm NO_x, .41 gpm HC and 7.0 gpm CO for light-duty vehicles in the 1982 model year in California. Since diesel engine technology exhibits lower CO emission levels than gasoline vehicles, the manufacturers should not have any problem meeting the federal CO standard of 3.4 gpm in 1983.

Footnotes continued on next page

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substantial likelihood that these vehicles will meet the Federal statutory standards in model year 1983.

IV. Final Decision and Amended Rule

Section 202(b)(6)(B) of the Act grants me the authority to waive the statutory standard of 1.0 gpm NOx and to prescribe interim standards which provide that NOx emissions may not exceed 1.5 gpm for any class or category of diesel light-duty vehicles or engines manufactured during model years 1981, 1982, 1983 and/or 1984 which meet the statutory waiver criteria. Based upon the foregoing discussion of the classes or categories for which waiver applications were made, I hereby am prescribing the interim standards for five engine families for model years 1981 and 1982 as follows:

Manufacturer	Engine family	Model year	Interim standard (gpm)
Daimler-Benz	2.4 liter	1981	1.5
		1982	1.25
	3.0 liter naturally aspirated	1981–1982	1.5
	3.0 liter turbocharged		1.5
General Motors	5.7 liter	1981–1982	1.5
Volvo	6 cylinder, 2.4 liter naturally aspirated	1981–1982	1.5

Part 86 of Chapter I, Title 40 of the Code of Federal Regulations, as applicable to 1981 and later model year diesel-powered light-duty vehicles, is amended below. (See FR Doc. 80–1858 which follows).

Dated: December 21, 1979.

Douglas M. Costle,
Administrator.

Appendix A—Summary of Technological Capability

Contents

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I. Introduction

The existing exhaust emission standards for light duty vehicles are 0.41 grams per mile HC, 3.4 grams per mile CO, and 1.0 grams per mile NO_x for model year 1981. Section 202(b)(6)(B) of the Clean Air Act, as amended, (42 U.S.C. 7521(b)(6)(B)) provides a waiver procedure by which a manufacturer may apply for relaxation of the 1.0 gram per mile NO_x standard up to 1.5 grams per mile for some period during model years 1981 through 1984 for Diesel-powered vehicles. Five vehicle manufacturers have applied for this waiver. These manufacturers are General Motors, Daimler-Benz, Volkswagen, Peugeot, and Volvo.

This appendix reviews the technological capability of the applicant manufacturers to meet the 1981 and subsequent model year NO_x standard of 1.0 grams per mile. The analysis contained in this appendix continues and relies on analyses contained in three previous technical appendices, particularly for the discussion of the Monte Carlo similation utilized in the technological capability analysis presented in this appendix. These referenced appendices are:

1. Appendix B, Technical Appendix to the Decision of the Administrator in Remand for the United States Court of Appeals for the District of Columbia Circuit, April 11, 1973.
2. Appendix A, Technical Appendix to the Decision of the Administrator in re: Applications for Suspension of the 1976 Motor Vehicle Exhaust Emission Standards, July 30, 1973.
3. Appendix A, Technical Appendix to the Decision of the Administrator in re: Applications for Suspension of the 1977 Motor Vehicle Exhaust Emission Standards, March 5, 1975.

As indicated in Section 202(b)(6)(B), the technological feasibility evaluation performed the technical staff is made with respect to the technological capability of the applicants to determine whether or not a waiver is necessary to permit the use of Diesel engine technology.

II. Summary of Technological Capabilities

Tables II–1 through II–5 are a summary of the applicant's capabilities in achieving 0.41 HC, 3.4 CO, and 1.0 NO_x for the Diesel-powered vehicles that were submitted in the applications for the NO_x waiver.

The key to the summary tables is as follows. The first five columns refer to analysis of the vehicles in an as-received condition, i.e., without any technological improvements applied to these vehicles. The first column lists the engine families. The second column is the number of vehicles in that engine family that were evaluated through the Monte Carlo analysis. The third column is the number of vehicles that passed or failed the Monte Carlo analysis. The fourth column is the reason for these failures, that is, which of the exhaust emissions were determined to have less than an 80 per cent chance of certifying when it was evaluated in the Monte Carlo analysis. The fifth column is the probability of passing the particular standards as generated by the Monte Carlo analysis.

Columns six through ten reflect the "technological improvements" applied to the as-received vehicles. Column six refers to the vehicles that were used for the Monte Carlo analysis. Column seven is a shorthand notation of the factors that were applied to the vehicles. This notation is further developed and explained in Section V. Column eight refers to the number of vehicles again that passed or failed, this time with the improvements applied. Column nine is the reason for the failure, if the vehicle indeed failed, and whether it was a HC, CO, or NO_x failure. Column ten refers to the probabilities for HC, CO, or NO_x that go along with the indication of a failure.

The "no data" category is an abbreviated notation for the lack of acceptable data to perform EPA's technological analysis. Applicants have, for several years, known the types of data necessary for EPA to make a determination whether or not a given vehicle would be projected to pass or fail a set of standards. Unfortunately, in many cases there were a lack of acceptable data for specific engine families. This effectively precluded EPA from making a pass/fail determination for those families. In these cases, the families are called no data and no pass/fail determination was made.

In the technological analysis, data from prior year's certification programs were not used. These data were not used because the technology and calibrations employed on these vehicles were not representative of the technology and calibrations that will be used for model year 1981. Vehicles designed and calibrated for much different, more lenient, emission standards then those at issue here have little relevance to a forecast of techonological availability.

Footnotes continued from last page
Moreover, EPA's analysis indicates that application of NO_x control technology necessary to meet the 1.0 gpm NO_x standard does not increase CO emissions above a 3.4 gpm level. Appendix A. Tables II–1, II–2, II–5.

Table II–1.—*General Motors*

[0.41 HC, 3.4 CO, 1.0 NO_x]

Engine family and number of vehicles	W/O factors: Vehicles P/F		Reasons for failures			Probability			Vehicle	Factor	W/factor applied: Vehicles P/F		Reason for failures			Probability		
	P	F	HC	CO	NO_x	HC	CO	NO_x			P	F	HC	CO	NO_x	HC	CO	NO_x
4.3/									No data									
5.7/—1	0	1	X	—	X	31	100	0	1	A	—	X	X	—	X	43	100	0
										B	—	X	X	—	X	38	100	0
										C	—	X	X	—	X	86	100	0
													X	X	—	X	98	100	0
										E	—	X	X	—	—	16	100	100
Other engine families									No data									

Table II–2.—*Daimler Benz*

[0.41 HC, 3.4 CO, 1.0 NO_x]

Engine family and number of vehicles	W/O factors: Vehicles P/F		Reasons for failures			Probability			Vehicle	Factor	W/factor applied: Vehicles P/F		Reason for failures			Probability		
	P	F	HC	CO	NO_x	HC	CO	NO_x			P	F	HC	CO	NO_x	HC	CO	NO_x
2.4/—1	0	1	—	—	X	97	100	0	1	A	X	—	—	—	—	94	100	99
3.0/-NA—3	0	3	—	—	X	84	100	71	1	A	X	—	—	—	—	82	100	100
										B	X	—	—	—	—	94	100	100
			—	—	X	61	100	5	2	A	X	—	—	—	—	80	95	86
			—	—	—	41	100	97	—	B	X	—	—	—	—	80	100	100
									3	A	—	X	X	—	—	36	100	98
3.0/-TC—3	0	3	—	—	X	92	100	6	1	A	—	X	X	—	—	88	100	91
			—	—	X	87	100	0	—	B	—	X	X	—	—	47	98	99
			—	—	X	96	100	0	2	A	—	X	—	—	X	96	100	0
			—	—	—	—	—	—	—	B	X	—	—	—	—	93	100	90
										C	X	—	—	—	—	86	98	100
									3	A	—	X	—	—	X	92	100	4
										B	—	X	—	—	X	80	100	76
Other engine families									No data									

Table II–3.—*Volkswagen*

[0.41 HC, 3.4 CO, 1.0 NO_x]

Engine family and number of vehicles	W/O factors: Vehicles P/F	Reasons for failures	Probability	Vehicle	Factor	W/factor applied: Vehicles P/F	Reason for failures	Probability
2.0/				No data				
1.6/				No data				
1.6/-TC				No data				

Table II–4.—*Peugeot*

[0.41 HC, 3.4 CO, 1.0 NO_x]

Engine family and number of vehicles	W/O factors: Vehicles P/F	Reasons for failures	Probability	Vehicle	Factor	W/factor applied: Vehicles P/F	Reason for failures	Probability
2.3/-TC				No data				
XD88				No data				

Table II–5.—*Volvo*

[0.41 HC, 3.4 CO, 1.0 NO_x]

Engine family and number of vehicles	W/O factors: Vehicles P/F		Reasons for failures			Probability			Vehicle	Factor	W/factor applied: Vehicles P/F		Reason for failures			Probability		
	P	F	HC	CO	NO_x	HC	CO	NO_x			P	F	HC	CO	NO_x	HC	CO	NO_x
2.4/—1	—	1	—	—	X	88	100	0	1	A	—	X	—	—	X	86	100	0
2.4/-TC									No data									
2.0/									No data									

III. Statistical Treatment of the Data

No basic changes have been made in the Monte Carlo methodology since its last use in a technical appendix. The Monte Carlo methodology has been discussed in three previous technical appendices. These appendices are:

1. Appendix B, Technical Appendix to the Decision of the Administrator in Remand of the United States Court of Appeals for the District of Columbia Circuit, April 11, 1973.
2. Appendix A, Technical Appendix to the Decision of the Administrator in re: Applications for Suspension of the 1976 Motor Vehicle Exhaust Emission Standards, July 30, 1973.
3. Appendix A, Technical Appendix to the Decision of the Administrator in re: Applications for Suspension of the 1977 Motor Vehicle Exhaust Emission Standards, March 5, 1975.

IV. Diesel Engine Variability Update for Monte Carlo

The basic statistical analyses performed by EPA's Monte Carlo procedure were not altered, however, the prior Monte Carlo procedure did not contain deterioration factor (DF), car-to-car, or test-to-test variabilities for Diesel powered vehicles. Consequently, these Diesel powered vehicle variabilities were obtained by analysis of the data submitted by the applicants, data obtained from the California assembly line test programs, and the Selective Enforcement Audit (SEA) data available to EPA. The following discussion summarizes the variabilities utilized in to the Part I (look-up tables) of the Monte Carlo procedure.

Test-to-Test Variability

Test-to-Test variability refers to the repeatability of a vehicle when tested under FTP conditions several times. Since vehicles will not repeat exactly each time they are tested, the variability of these vehicles must be ascertained and factored into the total variability of the Monte Carlo procedure. Table IV–1 lists the test-to-test variability determined for each of the applicants by analysis of the referenced data.

Car-to-Car Variability

In addition to test-to-test variability, the test results from nominally identical vehicles constructed to the same specifications exhibits a car-to-car variability. This information was gleaned from the applicant's submissions and augmented with data from either the State of California end-of-line audit data or EPA monitoring of SEA data. Representative car-to-car variabilities are detailed in Table IV–2.

Table IV–1.—*Sigma Test to Test for Applicants*

Manufacturer	HC	CO	NO_x
GM [1]	0.029	.039	.039
VW	No data supplied		
Daimler-Benz [2]	.026	.091	.080
Peugeot [3]	.044	.232	.023
Volvo [4]	.039	.117	.041
Input σ_{t-t}	.037	.119	.041

[1] (4 at attachment 2).
[2] (5 at Tabs 2 and 3).
[3] (7 at 2–17, 2–22, 2–23).
[4] (6 at 2–20, 2–23).

The car-to-car variability has been modified by the removal of the test-to-test variability thereby not double accounting the test-to-test variability.

Table IV–2.—*Sigma Car-to-Car for Applicants*

Manufacturer	HC	CO	NO_x
GM [1]	0.345	0.165	0.159
VW [2]	.128	.169	.077
Daimler-Benz [3]	.149	.171	.152
Peugeot	No data supplied		
Volvo [4]	.166	.478	.308
σ_{c-c} [5]	.197	.245	.174
Input σ_{c-c} [5]	.194	.214	.171

[1] (4 at Attachment 4).
[2] (8 at Attachment and 4).
[3] (6 at Attachments 2, 9 at 1).
[4] (10 at 2–28, 29, 30).
[5] (adjusted for σ_{t-t}).

DF Variability

In addition to test-to-test and car-to-car variabilities, the Monte Carlo procedure also needs the deterioration factor variability entered. These variabilities indicate the DF variability exhibited by nominally identical vehicles as the applicants attempt to achieve the durability mileage accumulation needed to demonstrate compliance with the emission standards. These deterioration factor variables also include test-to-test variability which have been removed from the DF variabilities listed in Table IV–3.

Table IV–3.—*Sigma DF's for Applicants*

Manufacturer	HC	CO	NO_x
GM [1]	0.175	0.077	0.034
VW [1]	.089	.094	.034
Daimler-Benz [2]	.161	.085	178
Peugeot	No data submitted		
Volvo	No data submitted		
Mean σ_{DF+t-t}	.141	.085	.062
Input σ_{DF}	.137	.085	.076

[1] (1980 Preliminary Certification Data).
[2] (1980 Preliminary Certification Data and 6 at various unnumbered pages).
[3] (adjusted for σ_{t-t}).

V. Projected Technological Improvements (Factors)

The vehicle emission data included in the waiver applicant's submissions for EPA analyses are often obtained over durability mileage accumulation schedules without using the most advanced technology that could potentially be available to the manufacturer for certification in the 1981 model year. There are reasons why this occurred. First, such technology may not have been available in quantity when fleets of vehicles began mileage accumulation. Second, all vehicles submitted for EPA staff analysis may not have been specifically designed for the 1981 and post-1981 Federal emission standards. Thirdly, technology may not appear on durability vehicles because the manufacturers have made a decision that the technology would be too costly for production vehicles, the lead time was not sufficient to implement the technology, the technology was too complex, etc.

Therefore, in order to account for some of the deficiencies in emission hardware, projected technological improvements (factors) have been applied to all of the emission durability vehicles submitted by the manufacturers. Due to substantial lead time problem for implementation of new or additional technology by the 1981 model year, these factors have been applied only for currently known hardware that can be implemented in 1981 certification and production. These improvements have been basically limited to advanced Exhaust Gas Recirculation (EGR) systems, injection timing modifications, water injection, fuel additives, air pump addition and inertia weight reductions.

The factors that have been applied to the data are dimensionless numbers representing the improvement in emission performance that is predicted for the more effective emission control technology. The factors are derived from data that reflect the emission performance of a vehicle with and without the more effective technology. For example, a factor for NO_x of 0.90 indicates that a ten percent reduction in NO_x is projected for the use of the more effective technology.

Other factors which were developed, but not used in the following analysis include factors for:

- EGR valve replacement
- Injection pump recalibration
- Air intake throttling
- Insulated prechambers
- Water Injection—Oxidation Catalyst

It should be noted that because of the paucity of data submitted by the applicants; other factors could not be obtained. The technical analysis therefore was limited by this lack of data. Durability vehicle data for Monte Carlo simulation, and prototype emissions data vehicle results for technological improvement evaluations were, in many cases, minimal.

General Motors Timing Factor for Throttle Angle Controlled EGR Equipped Vehicles

General Motors has been experimenting with an EGR system which has the EGR rate modulated by the position of the throttle. This system is projected to be the standard production hardware by model year 1981 (I at II–8).*

While this EGR system has been designed to reduce NO_x from the engine, further reductions in NO_x formation may be realized by retardation of the basic injection timing. Therefore, a search for this type of factor was undertaken.

General Motors supplied supplemental data for the record contained data which included the injection timing sensitively for an engine equipped with a throttle angle controlled EGR. (4 at Attachments 7 and 8).

*The brackets contain the description x at y. This means the reference is located in reference number x (listed at the end of this document) at page number y.

These data are reproduced in Table V–1. The data in Table V–1, indicated that in the case of vehicle number 99324, retardation of the injection timing produces a beneficial effect on NO_x formation up to −8° retard. However, after −2° retard, there is a detrimental effect on HC and CO. The opposite effect is noted on vehicle number 88514 which has no EGR. Advancement of injection timing on VIN 88514 caused a HC and CO reduction with a corresponding increase in NO_x formation.

Table V–1.—*Timing Sensitivity Factors for 5.7l MFI—Throttle Angle Controlled EGR VIN 99324*

HC	CO	NO_x	Timing	MPG_u	MPG_h
(Factors in parentheses)					
.25	1.33	2.50	Baseline	20.0	30.1
.22	1.25	1.94	−2°	19.8	29.5
(.88)	(.95)	(.77)	.....	(.98)	(.98)
.32	1.34	1.81	−4°	18.8	28.7
(1.28)	(1.02)	(.72)	.....	(.94)	(.95)
.32	1.46	1.68	−5°	18.4	28.5
(1.28)	(1.10)	(.67)	.....	(.92)	(.95)
.68	1.95	1.49	−8°	18.0	27.4
(2.72)	(1.47)	(.60)	.....	(.90)	(.91)

5.7l wo/EGR–VIN 88514, 1980 Engine

.64	1.4	1.31	1.6° (Base ?)	
.47	1.2	1.33	2.7°	
(.73)	(.86)	(1.01)	.....	
.45	1.2	1.42	3.7°	
(.70)	(.86)	(1.08)	.....	
.30	1.0	1.80	5.1°	
(.47)	(.71)	(1.37)	.....	

Since the changing of injection timing is considered a relatively minor technological change, the conservative factor for two degree injection timing retard was applied to three of the GM 5.7l vehicles, 3BN69, 85307, and 3N69N9MZ05983 simulated in the Monte Carlo analysis. This factor was selected because, (1) this technology has a short lead time and could be implemented in model year 1981; (2) low cost, and (3) minimal impact on fuel economy. These factors are for HC, CO, NO_x MPG_u, MPG_h respectively: 0.88, 0.95, 0.77, 0.98, 0.98. The later two factors indicate a reduction in fuel economy.

There are no estimates for the impact on particulates for this technology. The reason for this is there were no corresponding particulate data given for either of the vehicles, (99324 or 88514) that were used to generate the factor.

GM Inertia Weight Reduction Factors

General Motors repeatedly claimed that the denial of the NO_x waiver would preclude, or at least jeopardize the production of "family size" cars (4 at 8). Questioning by EPA at the NO_x waiver hearings probed the impact of lowering inertia weight on the regulated exhaust emission levels. General Motors supplied data on two vehicles in the 4500 pound inertia weight class from which the technological improvements on exhaust emission levels could be ascertained. These data are given in Table V–2 and are from (4 at Attachment 12).

Table V–2.—*Inertia Weight Factors for General Motor 5.7l Engine Family*

	HC	CO	NO_x	Part	MPG_u	MPG_h	IW
VIN 88520—No EGR							
	.24	.89	1.93	.46	18.8	28.7	5500
	.24	.87	1.86	.35	20.0	26.8	4500
55/45 Factor	(1.00)	(.98)	(.96)	(.76)	(1.07)	(1.00)	.....
	.25	.91	1.80	.30	21.2	27.4	3500
55/35 Factor	(1.04)	(.91)	(.93)	(.65)	(1.13)	(1.02)	.....
45/35 Factor	(1.04)	(.94)	(.98)	(.85)	(1.06)	(1.02)	.....
VIN 78504							
	.78	1.60	1.69	.31	17.9	.....	5500
	.76	1.53	1.55	.71	20.0	.....	4500
55/45 Factor	(.97)	(.95)	(.91)	(.87)	(1.11)	.....	.....
	.81	1.50	1.53	.65	21.0	.....	3500
55/35 Factor	(.78)	(.93)	(.90)	(.80)	(1.17)	.....	.....
45/35 Factor	(.80)	(.98)	(.98)	(.91)	(1.05)	.....	.....
Average factor	(.92)	(.96)	(.97)	(.34)	(1.03)	(1.02)	.....

The average factor was applied to all four 5.7l powered vehicles simulated in the Monte Carlo. The average factor is considered by the EPA technical staff as a conservative factor with a positive improvement on fuel economy and particulates.

Because of the lead time necessary for the introduction of redesigned, more efficient vehicles, the application of this factor is not considered applicable for all GM 5.7l vehicles for model year 1981 and possibly (although not to the extent for MY81) for model year 1982 as well.

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in the technical staff's opinion. The post 1982 time frame may be a target year by which the 5.7*l* powered vehicles could be reduced to 3500 pound inertia weight. (18 at 5–2, Figure 5.2)

Fuel Modification Factors

In an attempt to ascertain the effects of fuel modifications on exhaust emissions and particulates, GM investigated over thirty additives and combinations of additives, fuel blends and water injection. These types of fuel modifications have the potential for both a reduction in NO_x and particulates.

The EPA technical staff feels that fuel additives, if successful, could be applicable in model year 1981. Fuel blending changes are longer lead items which impact not only the vehicle manufacturers, but also the fuel producers and fuel distribution systems.

Water injection is also a longer lead item and questions of engine durability, corrosion, freezing, owner compliance in refilling water container, etc., need to be addressed and answered. Answers to these questions indicate a lead time in the post 1982 model year. Because of these uncertainties, EPA technical staff picked conservative factors for application in the Monte Carlo simulation.

Table V–4 details the data general from the General Motors application for NO_x waiver (1 at Figure II.C.32)

As noted in Table V–3, the fuel blend has potential for a ten percent reduction in NO_x with a potential for twenty-seven percent reduction in particulate and a modest fuel economy impact. Additives, on the other hand, have a modest five percent NO_x benefits, seventeen percent particulate benefit, and a two percent benefit on fuel economy.

These factors were applied to the vehicle numbered 85307 in the Monte Carlo Simulation.

There may be difficulties with lead time, owner compliance, corrosion, freezing etc., which detract from the application of these technologies in the near term.

Table V–3.—Fuel Modifications Factors

Type of test	Fuel used	Emissions g/m				Economy City MPG	Tests
		Part	HC	CO	NO_x		
Fuel blends:							
Car 68425	D–2 baseline	0.667	0.475	1.82	1.67	19.63	2
5.7*l*	E–5 fuel blend	.487	.453	1.49	1.51	19.32	3
	(Factors)	(.73)	(.94)	(.82)	(.90)	(.97)	
Additives:							
Car 68425	D–2 Baseline	.769	.468	1.61	1.75	19.11	4
5.7*l*	D–2+Y–4 additive	.657	.463	1.61	1.66	19.51	2
	(Factors)	(.83)	(.99)	(1.0)	(.95)	(1.02)	
Emulsions:							
Car E567004	D–2 baseline	.219	.419	1.04	1.05	38.0	2
1.5*l*	D–2+15% H_2O+surfactant	.205	.600	1.72	.972	37.2	2
	(Factors)	(.94)	(1.43)	(1.65)	(.93)	(.98)	

A factor was developed for the use of water plus a surfactant emulsion. The data for this factor can also be seen in Table V–3. EPA technical staff decided against using this factor for the General Motors vehicles in addition to the potential problems with water injection noted earlier because; (1) it was developed on a 1.5*l* engine and there are no indications that the factors would be numerically the same for either a 5.7*l* or 4.3*l* engine, and (2) the factor for HC would exacerbate the HC problem indicated in the data entered into the Monte Carlo simulation, thereby decreasing the probability of passing.

No EGR to EGR Factor for GM 5.7l Engine

An attempt was made to determine the impact of equipping a non-EGR vehicle with EGR and to assess the impact of this addition on total particulate emissions. Data for this factor were obtained from the GM submission. These data are reproduced in Table V–4.

These data indicates a positive effect on NO_x with negative effects on HC, CO and particulates, at least from the one vehicle which included particulate measurements in the submission.

This factor was applied to vehicle numbered 85307 in the Monte Carlo simulation.

Table V–4.—*No EGR to EGR Factor for GM 5.7l Engines*

Test No.	HC	CO	NO_x	MPG_a	Part.	Remarks
For Vehicle VIN 85307						
	0.43	1.2	1.65	21.0		Baseline-VEL 50,091 miles.
	.55	1.4	1.27	21.1		W/EGR 53K miles.
(Factors)	(1.28)	(1.17)	(.77)	(1.00)		
After adjusting to 0.6 NO_x: 5143	.52	2.06	.63	20.0		W/EGR (unspecified).
(Factors)	(1.21)	(1.72)	(.38)	(.95)		
For Vehicle VIN 96558						
Date	HC	CO	NO_x	MPG_a	Part.	Remarks
Jan. 9, 1979	0.90	1.72	0.79	20.5	0.60	W/EGR (assumed TAC–EGR).
Jan. 10, 1979	.90	1.79	.75	20.9	.69	
Jan. 22, 1979	.54	2.28	.82	19.8		
Jan. 23, 1979	.43	1.69	.78	20.4		
Avg.	.39	1.92	.78	20.4	.65	
Jan. 12, 1979	.23	1.14	1.71	20.3	.31	W/O EGR.
Jan. 13, 1979	.26	1.13	1.71	20.9	.29	
Avg.	.26	1.14	1.71	20.6	.30	
(Factors)	(1.50)	(1.68)	(.46)	(0.99)	(2.17)	

Increased EGR Factor for DB2.4l Engines

Daimler-Benz, like most of the other applicants, indicated that EGR was the most promising and viable approach to the reduction of Diesel NO_x emissions (5 at II–26). Daimler-Benz plans to introduce EGR systems in phases to allow for the accumulation of EGR use experience, refinement of EGR application, and evaluation of in-use durability problem (5 at II–21 thru II–27).

In order to predict the potential for the use of higher EGR rates, the EPA technical staff developed a factor for increased EGR. This factor was developed utilizing the data from vehicle W123D24–825 with Reverse Flow Damping Valves (RFDV) and with and without EGR application (5 at unnumbered page). These data are shown in Table V–5.

Table V–5.—*Increased EGR Factor 2.4l Engine*

Test No.	HC	CO	NO_x	MPG_a	
Baseline—No EGR					
56887	0.173	1.11	1.70	25.1	
56893	.134	1.08	1.68	24.1	
Avg	.154	1.10	1.69	24.6	
EGR Added					
56951	0.135	1.03	1.44	25.1	56898
57898	.124	1.08	1.08	25.3	
56902	.132	1.06	1.34	24.6	
Avg	.130	1.05	1.28	25.0	
Increased EGR					
57645	0.174	1.45	0.81	24.5	
57650	.167	1.95	.80	24.5	
Avg	.171	1.70	.81	24.5	
Factors	(.84)	(.95)	(.75)	(1.01)	EGR
	(1.11)	(1.54)	(.48)	(1.00)	Increased EGR.

The factors selected (1.11, 1.54, 0.48) apply pressure to hydrocarbons and carbon monoxide, but show benefit for reduction in NO_x. There is no particulate factor because no baseline particulate data supplied. Data for this engine indicated that at increased EGR levels for the 2.4*l* engine, the particulate levels will be approximately 0.52 gram/mile. (6 at Table 2) This level of particulate is an increase of thirty percent over the levels of particulate associated with EGR only (0.40 grams per mile) (6 at Table 2)

These factors were applied to vehicle numbered W123D24–213 in the Monte Carlo simulation.

Bosch A/F Ratio-Controlled EGR System Factor for 3.0l Engine

Daimler-Benz has experimented extensively with the Bosch Corporation EGR system. (5 at II–51 thru II–57) Daimler-Benz has halted further development of this system due to "some significant inherent short comings in the system". (5 at II–55)

Data were evaluated to establish the potential of this system. It is felt by the technical staff that this technology may be available for model year 1982, since considerable durability mileage and development effort has been expended by Daimler-Benz on the system already.

The factors were derived from vehicle VIN W123D30–04 equipped with a 3.0*l* Diesel engine. There were no particulate data supplied. These data are outlined in Table V–6. All vehicles equipped with a 3.0*l* NA engine in the Monte Carlo simulation had these factors applied to them.

Increased EGR Factor for 3.0l Engine

Similar to the factor developed for the 2.4*l* engines, the EPA technical staff developed increased EGR rate factors for the 3.0*l* engine. These data are shown in Table V–7 and are from vehicle W123D30–828. (6 at Table 2) These factors were applied to vehicles numbered W123D30Z002 and W123D30–287 in the Monte Carlo simulation.

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The particulate data presented indicates a factor of 2.1 based on two tests which range from 0.55 to 0.70 gram per mile. The EPA staff concludes the use of technology represented by this factor could place upward pressure on particulates.

Table V–6.—Bosch A/F Ratio-Controlled EGR System Factor

Test No.	HC	CO	NO_x	MPG
54750 w/o EGR	.272	1.32	1.67	24.6
55037 w/o EGR	.272	1.23	1.59	25.2
55059 w/o EGR	.246	1.20	1.60	25.3
57636 w/EGR	.275	1.17	0.85	23.7
57625	.277	1.17	0.87	25.0
	.276	1.17	0.86	24.7
(Factors)	(1.04)	(.92)	(.49)	(1.02)

Table V–7.—Increased EGR on 300D Factor

Test No.	HC	CO	NO_x	MPG
56237	.216	1.13	1.29	25.2
56324	.242	1.14	1.26	25.3
56326	.234	1.10	1.31	25.7
	.237	1.12	1.29	25.7
56966 w/EGR	.207	1.02	1.35	25.5
57710	.218	1.03	1.29	25.9
	.212	1.03	1.32	25.7
(Factors)	(.89)	(.92)	(1.02)	(1.01)
57773 w/Increased EGR	.250	2.23	0.81	25.9
57778	.234	1.81	0.83	25.6
	.242	2.02	0.82	25.7
(Factors)	(1.02)	(1.80)	(.63)	(1.01)

Factors for EGR and Increased EGR Rate for Turbocharged 3.0l Daimler-Benz Engines

To assess the effect of EGR on the turbocharged 3.0/ Daimler-Benz engines, Daimler-Benz ran a series of tests both with and without EGR on prototype vehicles and engines. These results were described in various locations in the Daimer-Benz application for a NO_x waiver. The EPA technical staff considered these data to evaluate and perhaps develop a series of factors that could be applied to the Monte Carlo simulation vehicles which had turbocharged engines. These data are in Table V–8 which were described in references 5 and 6 at various unnumbered pages.

As noted in Table V–8, it was difficult to determine the exact emission levels, both with and without EGR, from the turbocharged Daimler-Benz engines. The approach taken was to first determine the basic emission levels from the

Table V–8.—EGR Factors for Turbocharged Engines

	Miles	HC	CO	NO_x	MPG	Test No.
Low Mileage Vehicles—Different Engines—w/o EGR VIN W116 D30A–214						
Engine No.:						
EA 02–135	7,703	0.084	0.60	1.61	24.9	10266
EA 02–153	8,947	.200	.96	1.65	24.0	10605
EA 02–159	?	.195	.94	1.69	22.3	54726
EA 79–098	?	.093	.65	1.57	24.5	10267
Average		.143	.64	1.63	23.9	
Different Engines—w/EGR—VIN W116 D30A–219						
Engine No.:						
EA 80–100	?	.100	.946	0.98	26.3	9256
EA 80–100	?	.120	.944	1.09	23.0	9260
Average		.110	.945	1.04	25.1	
Engine No.:						
EA 80–139	?	.336	1.14	1.37	24.3	10681
EA 80–139	?	.276	1.10	1.37	23.0	10688
EA 80–139	?	.323	1.08	1.32	23.7	
Average		.313	1.10	1.32	23.6	
VIN W 116 D30A–815 w/EGR—Same Engine/Vehicle Combination						
Test No.:						
55888	1,540	.112	.86	1.22	24.7	
56922	1,518	.125	.92	1.36	24.7	
55931	1,585	.109	.89	1.25	25.0	
Average		.115	.89	1.27	24.8	
Test No.:						
56231	1,650	.113	.91	1.18	24.8	
56236	1,665	.140	.86	1.206	25.4	
56322	1,680	.106	.85	1.21	25.7	
Average		.120	.87	1.19	25.2	
Improved EGR System						
Test No.:						
56955	1,720	.138	1.47	.94	23.8	
56963	1,736	.241	2.29	.86	23.8	
56969	1,754	.213	2.23	.92	23.6	
57017	1,778	.202	2.29	.86	23.9	
Average		.198	2.07	.90	23.8	

Developed Factors

	HC	CO	NO_x	MPG	Comment
	0.143	0.84	1.63	23.9	w/o EGR, Baseline, different engines.
	.313	1.10	1.32	23.6	w/EGR, different engines.
(Factors)	(2.19)	(1.31)	(.81)	(0.99)	
	.143	0.84	1.63	23.9	w/o EGR, Baseline, different engines.
	.120	0.87	1.19	25.2	w/EGR, same engine/vehicle comb.
(Factors)	(.84)	(1.03)	(.73)	(1.05)	
	.143	0.84	1.63	23.9	w/o EGR, Baseline, different engines.
	.198	2.07	.90	23.8	w/Improved EGR, same engine/vehicle comb.
(Factors)	(1.38)	(2.46)	(.55)	(1.00)	
	.115	0.09	1.27	24.0	w/EGR, same engine/vehicle comb.
	.198	2.07	.90	23.8	w/Improved EGR, same engine/vehicle comb.
(Factors)	(1.72)	(2.32)	(.71)	(.95)	

turbocharged 3.0/ engine without EGR. The low mileage/different engine data at the top of Table V–8 established these levels. The same was done for turbocharged engine equipped with EGR, the middle portion of the table. Next, an attempt to determine the emission levels from a single vehicle multiple tests was made. The emission levels from vehicle VIN W116D30A–815 with EGR and what Daimler-Benz calls improved EGR were tabulated and comprise the bottom portion of the Table.

The factor for improved EGR for both a vehicle equipped with and without EGR and a factor for EGR for a vehicle without EGR were developed from these data.

The factor for the application of EGR to a turbocharged vehicle without EGR was applied to vehicles VIN W116D30A–814 and W116 D30–215 in the Monte Carlo simulation.

The factor for improved EGR to a turbocharged vehicle without EGR was applied to vehicle the same two vehicles.

The factor for improved EGR to a turbocharged vehicle with EGR was applied to vehicles VIN W116D30A–149 and W123 D30–287 in the Monte Carlo simulation.

These factors were applied to simulate the potential EGR would have in reduction of vehicle NO_x emissions. These use of EGR is considered a technological reality and the optimization of EGR rates "improved EGR", is considered to be achieveable by model year 1981. The questions of engine durability and impact on oil change intervals remain to be answered. (11 at 35)

The particulate levels associated with EGR and increased EGR factors utilized on the turbocharged engine are derived from vehicle W116D30A–815 (6 at Table 2). For vehicle equipped with EGR, Daimler-Benz reports particulate levels of 0.47 grams per mile. For increased EGR, the particulate levels are 1.02 grams per mile. There are no particulate levels for a no-EGR vehicle available. Therefore, it is impossible to determine the effect of EGR on particulate for these factors. However, going from EGR to increased EGR will put upward pressure on particulates.

Factor for Water Injection

Daimler-Benz reported the following:

Daimler-Benz is doing extensive work in the field of modifying and refining existing and improved Diesel technology towards the target of 1.0 g/m NO_x in order to meet the statutory NO_x standard as soon as possible and eliminate the need for a waiver by at least one model year.

At the same time, a special department within Daimler-Benz is working on advanced Diesel technologies which will not be ready for production during the waiver years but might show the potential of further reducing NO_x values down to the research target of 0.4g/m. (15 at II–57)

Data were described which allowed the EPA technical staff to develop factors which could evaluate the potential for these technologies. Because these technologies are not optimized as yet, they may not be applicable to model year 1981. These data are presented in Table V–9.

The first factor developed was for a 2.0/ engine equipped with fuel injection, simplified EGR system, water injection, and an oxidation catalyst. The factors developed are clouded by the use of nonheated lines to the Flame Ionization Detector (FID). This fact prevents a true evaluation of the hydrocarbon performance of the system. There is a reduction in NO_x and CO and an increase in fuel economy. There were no particulate data submitted for this technology. This factor was *not* applied to any of the vehicles in the Monte Carlo simulation because the technical staff had no way of assessing if and when this technology, developed on a 2.0/ engine, could be translated to any of the DB engines for which waivers are sought.

Table V–9.—Advanced Technologies Factors (5 at II–58–75)

Description	HC [1]	CO	NO_x	MPG_c	MPG_h
DFI–EGR–Ox–OC Factor—200D Vehicle					
Wo/system	0.04	1.21	1.42	30.5	33.0
W/system	0.18	.58	0.34	31.6	33.8
Factors	(2.14)	(.48)	(.24)	(1.04)	(1.02)
DFI–EGR–Wi–TC Factor—300DS					
Wo/system	.094	.75	1.49	20.0	22.1
Phase I	.133	2.19	.49	20.3	

Table V–9.—Advanced Technologies Factors (5 at II–58–75)

Description	HC [1]	CO	NO_x	MPG_c	MPG_h
DFI–EGR–Wi–TC Factor—300DS					
Phase II	.322	1.95	.35	28.3	
Phase III	.158	1.93	.28	27.9	32.9
Factors:					
Phase I	2.07	2.59	.93	1.01	
Phase II	3.46	2.58	.94	1.01	
Phase III	2.43	2.55	.19	1.07	1.02
DFI–EGR–CWi Factor—240D					
Wo/system	.06	0.70	.86	25.9	33.9
W/system	.34	2.86	.36	27.9	30.7
Factors	(4.36)	(3.41)	(.41)	(.93)	(.92

[1] Nonheated lines to FID.

Volvo Timing Retard Factor

Volkswagen and Volvo are mutually developing a 2.4/, 6 cylinder Diesel engine for a 3500 IW vehicle (10 at 1–4). While Volvo presented no data to determine a timing retard factor for their applicant engines, Volkswagen reported data on a 2.4/, 6 cylinder engine with 2°, and 2½° injection retard (8 at Attachment 7).

These data indicated HC factors of .98 for 2° retard and 1.06 for 2½° retard, and no CO values, plus NO_x factors of .81 for 2° retard and .76 for 2½° retard. The technical staff assigned a 1.0 factor for CO as retarded timing usually doesn't substantially affect CO emission levels. Both injection timing changes placed upward pressure on particulates with factors of 1.07 and 1.13 respectively. The factors simulated were for 2½° retard, or factors of 1.06, 1.00, .76. The one Volvo vehicle in the Monte Carlo simulation received this factor.

Summary

A summary of the factors applied to the vehicles simulated in the Monte Carlo analysis are listed in Table V–10.

Table V–10.—Key to Factors Applied to Vehicles in Monte Carlo Simulation

	Vehicle	Factor	HC	CO	NO_x	Description
General Motors: 5.7/	4 (85307)	A	0.88	0.56	0.77	Timing, TAC, EGR.
		B	.92	.96	.97	IW factor 45/36.
		C	.94	.92	.90	Fuel blend.
		D	1.21	1.72	.39	No EGR to EGR, wo/part.
		E	1.50	1.58	.48	No EGR to EGR, w/ part.
Daimler-Benz:						
2.4/	1 (W123D24–213)	A	1.11	1.54	.48	Increased EGR.
3.0/	1 (W123D30–287)	A	1.04	.82	.49	Bosch EGR system.
		B	1.72	2.32	.71	Improved EGR from TC engine.
	2 (W123D30–295)	A	1.02	1.8	.83	Increased EGR.
		B	1.04	.82	.49	Bosch EGR system.
	3 (W123D30–256)	A	1.04	.92	.49	Bosch EGR system.
3.0/–TC	1 (W116D30A–149)	A	1.72	2.32	.71	Improved EGR, w/ [illegible]
		B	2.07	2.90	.33	DFI–EGR–Wi–TC.
	2 (W116D30A–814)	A	.84	1.03	.73	EGR for w/o EGR.
		B	1.38	2.46	.55	Improved EGR.
		C	2.07	2.90	.33	DFI–EGR–Wi–TC.
	3 (W116D30A–215)	A	0.84	1.03	.73	EGR for w/o EGR.
		B	1.38	2.46	.55	Improved, EGR.
Volvo: 2.4/	1 (80.4)	A	1.06	1.00	.76	Timing retard.

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VI. Discussion of Individual Manufacturer's Technical Capability

Discussed in this section are all the vehicles which, (1) were submitted by each of the five applicants, and (2) were also acceptable for input into the Monte Carlo simulation. Additionally, acceptability for input means. (1) that the vehicle is a durability vehicle which has accumulated a minimum of 20,000 miles with the same major emission control components, and (2) that a minimum of four valid 1975 FTP tests have been conducted on the vehicle.

A discussion of the pass/fail determinations noted in Section II are also presented in this section. To pass the 1981 emission standards of 0.41 HC, 3.4 CO, 1.0 NO_x, the probabilities of passing each individual pollutant *must* be greater than or equal to 80%. If the probability of passing HC, for example, is less than or equal to 79%, the vehicle fails—*even if the probabilities for CO and NO_x* greatly exceed the 80% cutpoint.

Pass/fail analysis is provided only for emission standards for 0.41 HC, 3.4 CO, and 1.0 NO_x. The complete data needed for a similar analysis in emission standards of 0.41 HC, 3.4 CO, 1.5 NO_x are presented in the attached Monte Carlo outputs. An analysis of a NO_x standard between 1.0 gpm and 1.5 gpm are included in the discussion of the vehicles entered into the Monte Carlo simulation where appropriate.

A. General Motors

The vehicles contained in the General Motors NO_x waiver application (References 1 and 4) which met the minimum criteria for entry into the Monte Carlo simulation are shown in Table VI–1. Only one out of the twenty (5%) of the vehicles sumbitted met the minumum requirements for simulation.

Additionally, the data that were analyzed generally indicated difficulty in achieving the 1981 HC standard and thereby may have predestined the failure to achieve a passing probability in the Monte Carlo simulation. This fact may obsure the applicant's capabilities to achieve the requisite NO_x levels and makes a decision on interim levels between 1.5 and 1.0 g/mile NO_x difficult.

Table VI–1.—*Vehicles in General Motors Waiver Application Meeting the Minimum Criteria for Entry into Monte Carlo*

Engine family	VIN	Entered in Monte Carlo	If not entered—why*
4.3/	84541	No	A
	84546**	No	B
	[3J09P9M80947]		
	94547	No	A
	94399**	No	B
	[3M47P9M437280]		
	94305	No	A
	94514	No	A
	94515	No	A
	94704	No	A
5.7/	96612	No	A
	96604**	No	B
	[3X69U9MZ50735]		
	96585	No	A
	96638**	No	B
	[3N69N9MZ05983]		
	96637**	No	B
	[3SH69]		
	86634	No	A
		86587	
		No	A
	85307	Yes	
	86601	No	A
	86638	No	A
	86600	No	A
	97383	No	A

*Reason for not entered—
A—Does not meet minimum requirement of 20,000 miles, four valid data points.
B—Data submitted by applicant insufficient to enter into Monte Carlo simulation—EPA technical staff would have had to supplement the data with 1980 Certification data from vehicle identified in brackets. Technical staff believes vehicles are indentical, dissimlar in VIN only.

Pass/Fail Analysis for 5.7l Engines

The prototype vehicle entered into the Monte Carlo simulation which was powered by the applicant's 5.7*l* engine *failed* the Monte Carlo analysis at 1.0 g/mile NO_x both with and without factors. In none of the cases simulated did the application of factors allow this engine to pass the 1.0 g/mile NO_x.

A discussion of the vehicle follows.

Vehicle, VIN 85307, represents the 1980 combustion chamber and roller cam lifters which the applicant plans to utilize in the 5.7*l* engine. Table VI–2 details the results of the Monte Carlo simulation at the 1.0 g/mile NO_x standard.

Table VI–2.—*Percent Probability of Passing 1.0 NO_x Standard*

Description	HC	CO	NO_x
Without factors	31	100	0
Factor A	43	100	0
Factor B	36	100	0
Factor C	36	100	0
Factor D	15	100	100
Factor E	2	100	86

Analysis at interim levels were reviewed and it revealed this vehicle also would not achieve inteim levels between1.0 and 1.5 g/mile NO_x. The vehicle also fails HC standard for all cases.

The above vehicle is illustrative of the applicant's progress towards meeting a NO_x level of 1.0 g/mile.

Pass/Fail Analysis for Other Engine Families

General Motors requested a NO_x waiver for other engine families, the details which they wish to have remain confidential. [4 at I–4, I–9] General Motors did not submit acceptable durability data for these engine families and hence these engine families are considered "no data" engine families. No analysis were attempted for these engine families.

B. Daimler-Benz

The Daimler-Benz applications (References 5 and 6) contained the vehicles which meet the minimum requirement for entry into the Monte Carlo analysis. These are listed in Table VI–3.

Of the eleven vehicles submitted, seven vehicles were selected for inclusion in the Monte Carlo analysis.

Table VI–3.—*Vehicles in Daimler-Benz Waiver Application Meeting the Minimum Criteria for Entry in Monte Carlo*

Engine family	VIN	Entered in Monte Carlo	If not entered-why*
2.4/	W123D24-286	No	A
	W123D24-213	Yes	
	W123D24-289	No	B
3.0/	W123D30-286	Yes	
	W123D30-214	No	B**
	W123D30-255	Yes	
	W123D30-287	Yes	
3.0/—TC	W116D30A-814	Yes	
	W116D30A-215	Yes	
	W116D30A-214	No	A
	W116D30A-149	Yes	

*Reason for not entered—
A—Does not meet minimum requirement of 20,000 miles, four valid data points
B—Excessive system modification over durability testing
**1980 Experimental California MY80 EGR system, went 100,000 miles but continual system modification throughout, plus possible DB lab-to-lab test correlation differences precluded the use of this data.

Pass/Fail Analysis for 2.4l Engines

The prototype vehicle simulated in the monte Carlo analysis failed the NO_x standards of 1.0 gram/mile. When a technological improvement of increased EGR was applied to this vehicle, the vehicle was projected to pass the 1.0 gram/mile NO_x standard. This engine family is projected to pass with an increased EGR factor. The supporting data can be found in Table VI–4.

Therefore, the EPA technical staff concludes from the Monte Carlo simulation that this engine family will pass the 1.0 gram/mile NO_x standard with increased EGR.

With respect to an interim standard, the 2.4*l* engine *cannot* pass any interim standard up to and including 1.5 gram per mile NO_x without the addition of a factor. Since this vehicle was equipped with some unspecified EGR rate, it was assumed by the technical staff this EGR rate was equivalent to the 1.5 NO_x concept EGR rate described in the DB application. (5 at II–21) The particulate levels associated with this concept is 0.04 grams per mile. Therefore, the application of increased EGR will put upward pressure on particulate levels.

Table VI–4.—*Percent Probability of Passing 1.0 NO_x Std*

Description	HC	CO	NO_x
W123D24-213:			
Without Factors	67	100	0
Factor A	94	100	99

Pass/Fail Analysis for 3.0l Engines

Of the three vehicles simulated that are equipped with the 3.0*l* naturally aspirated engine, all three failed, without factors. When the factors of increased or improved EGR system and the addition of the Bosch EGR system factors were simulated two of the three vehicles passed the 1.0 gram/mile NO_x standard. The other one failed because the HC probability was below 80%. The EPA technical staff concludes that the increased rate or improved EGR system is probably implementable by model year 1981 and the Bosch system by model year 1982. Therefore, this engine family is considered to have passed when only NO_x is considered, the 1.0 gram/mile NO_x standard with the factors of increased or improved EGR system or the Bosch EGR system factors. The particulate levels at 1.0 gram per mile NO_x are in the range of 0.55 to 0.70 gram per mile. the particulate levels at 1.5 gram per mile NO_x are in the range of 0.26 to 0.34 gram per mile. (6 at Table 2) Daimler-Benz supplied no data on a 3.0*l* equipped vehicle without EGR, but EPA data for a 1979 certification vehicle at 2.0 gram per mile NO_x was 0.83 grams per mile total particulate. The EPA technical staff concludes that going from 1.5 to 1.0 gram per mile NO_x will probably tend to put upward pressure on particulate levels. (6 at Table 2) The data concerning these vehicles are displayed in Table VI–5.

Discussion of the individual vehicles follows.

Vehicle number W123D30–286 was equipped with reverse flow damping valves and EGR. Added to the vehicle simulation were factors for increased EGR and the Bosch EGR system. With these two additions, this vehicle was projected to pass the 1.0 gram/mile NO_x standard.

Table VI–5.—*Percent Probability of Passing 1.0 gram/mile NO_x Std.*

Description	HC	CO	NO_x
W123D30–286			
Without Factors	51	100	8
Factor A	80	95	86
Factor B	80	100	100
W123D30–255			
Without Factors	41	100	92
Factor A	95	100	99
W123D30–287			
Without Factors	54	100	71
Factor A	82	100	100
Factor B	84	100	100

However, Daimler-Benz indicated there were difficulties with the Bosch system which could increase the lead time necessary for adoption of the system (5 at II–55). None of the objections to the system appear to be insurmountable and could be overcome in or by model year 1982.

The use of increased amounts of EGR appear to be Daimler-Benz's approach to achieve 1.0 gram/mile NO_x levels and appears to be consistent with the Daimler-Benz application (5 at II–10 and II–45).

The second vehicle, W123D30–255, was a durability vehicle which met the minimum requirements for inclusion in the Monte Carlo simulation but was caveated with the notation that the mileage was not accumulated under EPA conditions [6 at Tab 3]. The technical staff was not convinced that the vehicle had not received "increase" EGR system manipulation during the mileage accumulation, hence the high HC levels. This vehicle could not achieve any interim standards nor the 1.0 gram/mile NO_x standard because of its low HC probability.

The remaining vehicle, W123D30–287 was factored with improved EGR (i.e. increased EGR rates and the Bosch EGR system factors), plus No EGR to EGR factor. These factors allowed this vehicle to achieve the 1.0 gram/mile NO_x standard.

Summary—2.4l and 3.0l Technical Capability

Daimler-Benz discussed at length durability problems, both with *engines* that use high rates of EGR, and with the various EGR *systems* during the NO_x waiver hearings (11 at 15, 16, 81–87, 94–95, and 107). Unfortunately, the discussions are somewhat confused in the record by the several different EGR *systems*, with the possibility for more than one EGR *rate* for each system were under discussion. EPA technical staff have assumed that the basic difference between different EGR systems is the *rate* of EGR. It was further assumed that the system which is experiencing the durability problem or potentially causing engine durability problems was the EGR II system with an unspecified EGR rate higher than the EGR I rate. The improved NO_x performance discussed above in the Monte Carlo analysis was based on the use of increased or improved EGR.

However, the issue raised by DB concerning EGR system durability and/or engine durability concerns was for a high EGR rate system, the same one used by EPA to forecast low NO_x performance. (It is assumed that any durability problems with the EGR I system are much less, since DB has certified such a system for 100,000 miles for California).

This durability issue is one for which there is not much data. DB expressed concern over this issue, and their concerns were part of the reason why they requested a waiver, to allow more lead time to (1) become more familiar with the in-use performance of EGR—equipped Diesels (e.g. the 1980 EGR I system) and (2) perform the necessary development and durability testing to enable DB to resolve any durability problems that might show up with the higher EGR rates.

Because of the uncertainty of the EGR system durability and/or engine durability with high EGR rates the EPA technical staff concludes that the technology represented by the increased or improved EGR factors is not yet available. The time available to DB to investigate and resolve any problems, if a waiver were to be granted, should allow the generation of the needed data to resolve the uncertainty that currently exists.

Pass/Fail Analysis for 3.0l-TC Engines

The analysis of this engine family was complicated by the system utilized on the vehicle simulated in the Monte Carlo analysis. Two of the vehicles, W116D30A–814 and W116D30A–215, were not equipped with an EGR system during the durability mileage accumulation. The other vehicle, W116D30A–149, was equipped with an EGR system. It was determined that the vehicles simulated with an EGR system are more representative of the systems Daimler-Benz plans to market in California in model year 1980. Daimler-Benz states. "In model year 1980 Daimler-Benz will introduce in California its limited EGR system for achieving a 1.5 NO_x standard in its 300D and 300SD models" (5 at II–21). Therefore, the two vehicles not equipped with EGR were not considered the prime system for analysis although

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the data were included in the Monte Carlo simulation.

With the above comment, i.e. concentrating on the vehicle with EGR, the Monte Carlo simulation predicts that this engine family *fails* to achieve the 1.0 gram/mile NO_x standard with and without factors. This failure can be attributed to a failure to pass the *HC* standard of 0.41 gram/mile rather than the NO_x standard. This engine family is considered to have failed at the 1.0-gram per mile NO_x level by the technical staff.

These data are displayed in Table VI–6, and a discussion of the vehicles follows.

Vehicles numbered, W116D30A–614 and W116D30A–215, are not prime systems because they are not equipped with an EGR system. However, when simulated with an improved EGR system and an water injection factor, vehicle W116D30A–614 passed the Monte Carlo simulation at the 1.0 gram/mile NO_x standard. Vehicle numbered W116D30A–215 passed the 1.0 gram/mile NO_x standard with an improved EGR system factor.

The EPA technical staff considers this indicative of the *potential* for the 3.0/–TC engine family to eventually pass a 1.0 gram/mile NO_x standard when the advanced EGR system is developed for this engine family. Daimler-Benz stated that the development work on the prime system cannot be completed in time for model year 1981 (5 at II–22). Hence, depending on the Daimler-Benz experience in California at 1.0 gram/mile NO_x in model year 1982, the potential for this system cannot be more accurately assessed until more data is amassed. Therefore, the conclusion that this engine family will fail is still valid due to failure to pass Monte Carlo and lack of lead time to install advanced EGR systems.

Vehicle W116D30A–149 was equipped with prototype EGR systems during the mileage accumulation runs. However, when simulated with an advanced or improved EGR factors, these vehicles failed. The failure was due to the inability to achieve the HC standard of 0.41 gram/mile HC. This in indicative of the pressure on hydrocarbon emission due to increased EGR rates and may be Daimler-Benz's basis for their conservative opinion on the advanced EGR systems potential (5 at II–22, 23).

There are no particulate data given by Daimler-Benz for a non-EGR turbocharged 3.0/ engine. At the 1.5 gram per mile NO_x levels the total particulates range from 0.41 to 0.52 gram per mile. At 1.0 gram per mile NO_x, the particulate levels range from 0.96 to 1.07 gram per mile. There is upward pressure on particulates with use of increased EGR.

Table VI–6.—*Percent Probability of Passing 1.0 gram/mile NO_x Std*

Description	HC	CO	NO_x
W116D30A–149 (EGR)			
Without Factors	92	100	8
Factor A	68	100	91
Factor B	47	96	99
W116D30A–614 (No EGR)			
Without Factors	87	100	0
Factor A	66	100	0
Factor B	93	100	90
Factor C	96	96	100
W116D30A–215 (No EGR)			
Without Factors	95	100	0
Factor A	92	100	4
Factor B	80	100	78

Other Engine Families

Daimler-Benz alluded to two other engine families in a reply to Mr. Benjamin R. Jackson's letter of June 14, 1979, regarding additional data. (16 at 1) These two additional families are considered "no data" families because Daimler-Benz provided no durability vehicle data upon which an analysis could be made.

C. Volkswagen

Volkswagen has apparently not requested a waiver for their 1.5/ engine. They have requested a waiver for their 1.6/ and 1.6/ turbocharged engine, but presented only limited development data for the 1.6/ and 1.6/ turbocharged engine families. Acceptable durability data, however, were presented for only the 1.5/ engine.

The 1.5/ engine cannot be used as a surrogate for the 1.6/ engine in the opinion of the EPA technical staff, because the engines are different enough to have significantly different emission levels (13 at 81). The direction of the difference in emissions is not as important as the fact that there is a difference. However, the 1.6/ engine appears to have higher emissions than the 1.5/ engine and it is not considered appropriate to use the relatively good emission performance of the 1.5/ engine to forecast the performance of the 1.6/ engine.

Pass/Fail Analysis for 2.0l Engines

Volkswagen did not provide durability data for this engine family. This is considered a no-data engine family.

Pass/Fail Analysis for 1.6l Engines

Volkswagen did not provide durability data for this engine family. They did provide development vehicle data which was insufficient to meet the minimum qualifications for inclusion in the Monte Carlo simulation. This is considered a no data engine family.

Pass/Fail Analysis for 1.6l Turbocharged Engines

Volkswagen did not provide durability data for this engine family. This is also considered a no data engine family.

D. Peugeot

Peugeot has requested a waiver from the 1.0 gram/NO_x standard for model year 1981 through 1984 for engine families entitled XD2S and XD3S (14 at 22 and 7 at 1.3.1). The XD2S is their turbocharged version of the 2.3/ naturally aspirated engine which they plan to market in 1980. The XD3S is a derivative of the XD2S engine. There is no mention of the naturally aspirated version being produced, or a request for a NO_x waiver beyond model year 1980.

The Peugeot application contained durability data for either the XD2S or XD3S engine family. These engine families are considered no data families.

Pass/Fail Analysis for 2.3l Turbocharged Engines

Peugeot provided no durability data for this engine family. It is considered a no data family.

Pass/Fail Analysis for XD3S Engines

Peugeot provided no durability data for this engine family. It is also considered a no data family.

E. Volvo

A.B. Volvo requested a NO_x waiver for three engine families. Their initial application called for a waiver for the 2.4/ naturally aspirated engine and the 2.4/ turbocharged engine (10 at 1–5). During the hearing proceeding, they amended their application to include a 2.0/ five cylinder engine they may be able to purchase from Volkswagen (15 at 3).

Volvo supplied no acceptable durability data for either the 2.4/ turbocharged or the 2.0/ engines. These families are considered no data families.

A single durability vehicle was acceptable for Monte Carlo simulation (10 at 2–33).

Pass/Fail Analysis of the 2.4l Engines

The Monte Carlo simulation of vehicle number 80:4 indicates that the vehicle would fail, both with and without factors, at the 1.0 gram/mile NO_x standard. The probabilities of pass, without factors, for HC, CO, NO_x respectively are 88%, 100%, 0%. With an injection timing retardation factor of –2 ½°, the probabilities of passing at 1.0 gram/mile NO_x are 86%, 100%, 0% for HC, CO, NO_x.

This engine family is considered to fail at the 1.0 gram/mile NO_x standard.

Pass/Fail Analysis for 2.4l Turbocharged Engines

Volvo provided no durability data for this engine family. It is considered a no data family.

VII. Other Technological Considerations

Fuel Economy

Fuel economy is an important consideration in the statute and was emphasized in EPA'S guidelines. Two major issues can be identified (1) individual engine family fuel economy results or projections and (2) fleet sales weighted average fuel economy effects.

Individual Engine Family Fuel Economy Results

Only those engine families for which an emission control capability analysis was conducted are considered. Other, "no data" families are not considered.

Inclusion of all of the families discussed below does not imply that they have been determined to need a waiver. They are included because some of them are families for which an emission technological determination was made and therefore, the fuel economy performance is of interest.

There is general agreement that each engine family for which a waiver is granted must meet or exceed the applicable EPCA standards for the period for which the waiver is granted. This discussion is limited to those years for which it is also appropriate to forecast technology, i.e. for 1981 and 1982. The corresponding fuel economy standards are 22 and 24 miles per gallon.

Generally speaking, meeting 22 or 24 miles per gallon for a vehicle equipped with a Diesel engine is considered to be a straight forward task except for those vehicles which would be considered at the low end of the range of fuel economy capability. This low end of the capability could be due to many factors, state of engine development, vehicle weight etc., etc. Unfortunately, some of the engine families of some of the applicants (GM, DB) have tended in the past to fall near the bottom of the fuel economy performance spectrum for Diesels and require a further look.

The latest fuel economy results (as of 30 November, 1979) for all model year 1980 Diesel engine-equipped vehicles are shown below. Only the "composite" fuel economy results are shown. These values are the appropriate to compare to the 22 MPG and 24 MPG fuel economy standards for model years 1981 and 1982.

1980 Fuel Economy Results for Diesels

Manufacturer/model/displacement/transmission	MPG	MPG greater than 22 MPG?	MPG greater than 24 MPG?
VW/Dasher/90 CID/	41	Yes	Yes.
VW/Rabbit/90 CID/M4	45	Yes	Yes.
VW/Rabbit/90 CID/M5	47	Yes	Yes.
DB/240D/2.4l /M4 (Cal.)	30	Yes	Yes.
DB/240D/2.4l /M4 (Cal.)	27	Yes	Yes.
DB/300D/3.0l /A4	25	Yes	Yes.
DB/300D/3.0l /A4 (Cal.)	26	Yes	Yes.
DB/300SD/3.0l TC/A4.	27	Yes	Yes.
DB/300SD/3.0l TC/A4 (Cal.)	27	Yes	Yes.
DB/300TD/3.0l /A4	25	Yes	Yes.
DB/300TD/3.0l /A4 (Cal.)	25	Yes	Yes.
GM/Eldorado/5.7l /A3.	24	Yes	Equal.
GM/Olds 88/5.7l /A3	26	Yes	Yes.
GM/Olds 98/5.7l /A3	24	Yes	Equal.
GM/Catalina /5.7l /A3.	26	Yes	Yes.
GM/Buick/5.7l /A3	24	Yes	Equal.
GM/Deville/5.7l /A3	24	Yes	Equal.

In the table above (Cal.) denotes a vehicle intended for the California market, which could also be a "50 States" vehicle.

All of the vehicles on the above table currently meet or exceed the fuel economy standards for 1981 and 1982.

It should be pointed out that the emission standards met by the above vehicles are 0.41 HC, 7.0 CO, 2.0 NO_x for 1980. These emission standards are not the same as the standards of 0.41 HC, 3.4 CO, 1.0 to 1.5 NO_x which are under consideration for the Diesel NO_x waiver. Therefore some discussion of any changes in fuel economy due to the different emission standards for 1981 or 1982 should be included. The only standard change of interest is the change in NO_x.

Because of the technological determinations made previously, the only standard change of interest is the change from 2.0 NO_x to 1.5 NO_x.

For Daimler-Benz all of their "Cal." vehicles exceed 24 MPG and also meet 1.5 NO_x for California certification. Therefore, all the DB engine families are projected to meet or exceed the 22 MPG and 24 MPG levels in 1981 and 1982.

For the GM 5.7/ family the issue is complicated somewhat by the current lack of California certification fuel economy data at the 1.5 NO_x level. For 1981, all the 5.7/ vehicles currently exceed the 22 MPG level by 2 to 4 MPG. It is expected that any changes from the 1980 vehicles to the 1981 vehicles would not cause the fuel economy to decrease to the extent that 22 MPG would not be achievable. For example Table V–1 indicates a 2% loss for timing change, Table V–2 indicates about a 2% gain for IW changes, and Table V–4 indicates both no change and losses in fuel economy. Considering this data together it is estimated that the change from 2.0 to 1.5 NO_x need not cause any reductions below 22 MPG for the 5.7/ for 1981. Note especially the data in Table V–4, which show NO_x dropping from 1.65 NO_x to 1.27 NO_x with no negative fuel economy impact.

For 1982, some of the current 5.7/ vehicles are right at the 24 MPG level and some exceed that level by 2 MPG. Even though the difference between the fuel economy standard level and the performance of the current vehicles is less than it is for 1981, it is still concluded that at the 1.5 NO_x level the fuel economy standard will be met or exceeded for 1982. This is because the changes to go from 2.0 NO_x to 1.5 NO_x have no or small fuel economy impacts, as discussed above, but more importantly, the extra year of development time available allows the possibility of incorporating more fuel economy improvements that are not engine related and thus improve the fuel economy performance over that available today.

For Volvo the available data on fuel economy are much more limited, since no 1980 certification fuel economy label data yet exists for their 2.4/ family. However, the certification data submitted by Volvo indicated that their Diesel engine-powered vehicles typically achieve between 26 and 30 MPG and it is concluded that the changes necessary to achieve the 1.5 NO_x level need not reduce the fuel economy below 22 or 24 MPG.

Fleet Sales Weighted Average Fuel Economy Effects

Analysis by the Department of Transportation (DOT) indicates that there will be no necessity for Diesel powered vehicles in the manufacturers vehicle fleets in order to achieve the Corporate Average Fuel Economy goals for model years 1981 through 1984 (18 at ES–6). If the manufacturers have a problem with meeting the MPG standards, a procedure exists under EPCA to ask for reduction in fuel economy standards due to emission standards (17 at Section 502(d)(3), 15 U.S.C. 2002(i)). Therefore, there is no difficulty if the MPG analysis is in error or conservative, since an avenue of relief exists at DOT.

NO_x Emissions and Total Particulate Emissions

At various NO_x levels the Total Particulate (TP) emissions of Diesel engines is a subject of some interest. The applicants stressed that TP emissions were of concern to them because of EPA's pending TP rulemaking and questioned their capability to comply with 1.0 NO_x and

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the proposed TP regulations simultaneously.

However, relatively little TP data was submitted by the applicants, and in most cases the data that were submitted were not measured from the same vehicles that EPA has used to make pass/fail determinations for NO_x.

In addition, TP data were not available for about half of the predicted technological improvements utilized by EPA in its pass/fail methodology. This lack of data introduces some uncertainty in estimating what might happen to TP emissions as NO_x is reduced. For example, TP data are unavailable for the GM timing factor based on VIN 99324, the DB Bosch EGR factor, and the DB water injection factor.

The above data, coupled with the lack of data on the other technical improvements, as stated above, introduce some uncertainty into estimating what the TP emissions will be. However, it should be pointed out that the assumption to make that would be the most conservative (in terms of being potentially least harmful to the applicants) would be to assume that lowered NO_x levels put upward pressure on TP emissions.

Post-Waiver Issues

As discussed in the waiver guidelines, the Administrator may make a grant or denial decision that is applicable for a period of time up to the maximum of four years allowed by the Act. This raises the issue of what could happen at the end of the waiver period and beyond. The Act treats this issue in Section 202(b)(6)(B)(iii):

(iii) that the technology has a potential for long-term air quality benefit and has the potential to meet or exceed the average fuel economy standard applicable under the Energy Policy and Conservation Act at the expiration of the waiver.

Two post-waiver *potentials*, therefore, need to be discussed.

Long-Term Air Quality Benefit

Two considerations are germane to long-term air quality benefit, mileage effects and emission level potential. A technology would be considered to have long-term air quality benefit if the emissions at high mileage were relatively low and stable (no abrupt changes with mileage). At least two sources of information would support this potential for Diesels. First, EPA has tested several Diesel-powered vehicles in its emission factor program (Data are in the reports EPA–460/3–77–005 and EPA–460/3078–001 (a) and (b)). This data indicates low emissions compared to comparable gasoline-fueled vehicles at high mileage (some vehicles had more than 200,000 miles on them), and that the pattern shows no abrupt changes with mileage. Second, VW has recently certified a Diesel vehicle for California using California's optional 100,000 mile compliance procedure.

Therefore, in terms of high mileage emissions it can be said that Diesels have a potential for long-term air quality benefit.

The second consideration is whether or not Diesels have potential for low emission performance, especially for NO_x. Even a cursory look at the data in this document would lead to the conclusion that the potential for low NO_x exists. For example the low mileage data in Table V–9 which show NO_x values less than the 0.41 NO_x Research Goal. This performance is much better than the 1.0 NO_x level which is the subject of the waiver. Therefore, it can be concluded that on the basis of emission level, the Diesel also has a potential for long-term air quality benefit.

Fuel Economy Potential

Since it is EPA's technical judgment that fuel economy potential is the overwhelming reason for any manufacturer to investigate Diesel engine technology, the issues of fuel economy tends toward being technically obvious. One way in which the issue of fuel economy *potential* can be evaluated is to look at current technology and compare the composite fuel economy results to the most stringent sales weighted fuel economy standard now applicable, 27.5 MPG for 1985. If current technology vehicles are close to, meet, or they exceed this level the fuel economy potential is obvious.

Considering the MY 1980 data listed above, it is concluded that Diesel engine technology has potential to meet or exceed the average fuel economy standard applicable at the end of the waiver. For some engine/vehicle combinations (e.g. VW) the current 40+ MPG levels certainly indicate fuel economy potential. For the other manufacturers (GM. DB, Volvo) the current minimum MPG levels are 24 MPG and considering the lead time available, the potential for incorporating fuel economy improvements via engine technology and body redesign certainly exists, even at lower NO_x levels.

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16. Hand Delivered Letter from Mr. Jerome N. Sonosky to Mr. Benjamin R. Jackson, Deputy Assistant Administrator for Mobile Source and Noise Enforcement, dated July 3, 1979, subject "Waiver Applications for Possible Future Models."
17. Energy Policy and Conservation Act, Public Law 94–163, 42 USC 6201, December 22, 1975.
18. Rulemaking Support Paper Concerning The 1981–1984 Passenger Auto Average Fuel Economy Standards: DOT–NHTSA, July 1977, DOT HS 803 184.

19. California Exhaust Emission Standards and Test Procedures for 1981 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles, State of California Air Resources Board, as amended, May 22, 1979.

Appendix B—Air Quality Summary

I. Introduction

Section 202(a)(b)(B) of the Clean Air Act states:

"Upon the petition of any manufacturer, the Administrator, after notice and opportunity for public hearing, may waive the standard required under subparagraph (B) of paragraph (1) to not to exceed 1.5 grams of oxides of nitrogen per vehicle mile for any class or category of light-duty vehicles and engines manufactured by such manufacturer during the four model year period beginning with the model year 1981 if the manufacturer can show that such waiver is necessary to permit the use of diesel engine technology in such class or category of vehicles or engines. Such waiver may be granted if the Administrator determines—

(i) That such waiver will not endanger public health,

(ii) That such waiver will result in significant fuel savings at least equal to the fuel economy standard applicable in each year under the Energy Policy and Conservation Act, and

(iii) That the technology has a potential for long-term air quality benefit and has the potential to meet or exceed the average fuel economy standard applicable under the Energy Policy and Conservation Act at the expiration of the waiver.

This appendix deals only with subsection 202(b)(6)(B)(i) of the Act, which deals with the air quality and public health considerations in granting or denying a waiver application.

II. NO_x Impacts

The primary focus of any decision under 206(b)(6)(B) involves the grant or denial of a waiver for NO_x emissions for classes of Diesel-powered vehicles, and therefore, the impact of any NO_x waivers is the primary focus of this study.

The most appropriate measure of the impact of granting/not granting a NO_x waiver for classes of Diesels is the projected ambient levels of NO_2.

NO_2 is a pollutant for which there is a National Ambient Air Quality Standard (NAAQS). Therefore, by comparing projected NO_2 levels to the NAAQS for NO_2 (0.05 ppm, annual arithmetic mean), the impact of granting/not granting a waiver can be estimated.

The impact on public health can also be inferred by comparing projected NO_2 levels to the NAAQS for NO_2 since the NAAQS level is that level which has been determined by EPA to be protective of public health.

This analysis also includes some projections of short-term NO_2 levels. These projections were made primarily as a sensitivity study of the potential localized impact of granting/not granting a waiver. EPA has short-term NO_2 under study in another forum i.e., section 10(c) of the Clean Air Act, and the analysis reported here is only one small consideration in that effort, and is not a basis at this time for the granting/not granting of a NO_x waiver.

In addition, short-term NO_2 is only one of the issues that EPA has under study at this time under Section 108(c) of the Clean Air Act. Since the evaluation of the health impact of nitrogen oxides and their derivatives or potential derivatives is now underway under Section 108(2), this document does not treat the subject of public health impacts of oxides of nitrogen and derivatives thereof directly. That analysis is properly included in the deliberations involved in the NAAQS process. A reference for these health implications for the interested reader is the External Review Draft of *Air Quality Criteria for Oxides of Nitrogen*, EPA Office of Reseach and Development, Environmental Criteria and Assessment Office, U.S. EPA Research Triangle Park, NC, 27711, June 1979.

Therefore the NO_x impact is seen to be properly limited to a study of the potential impact of granting/not granting a NO_x waiver on NO_2 levels.

IIA. Air Quality Impact

Effect of Waiver on Yearly NO_2 Levels

EPA performed a study ("Air Quality Analysis of Waiving the NO_x Standards for Light-Duty Diesel Vehicles," prepared by Air Management Technology Branch, Monitoring and Data Analysis Division, OAQPS, EPA RTP, N.C., February, 1979) of the impact of a LD Diesel NO_x waiver, were one to be granted, on yearly NO_2 levels. The results showed little effect due to the granting of a waiver which may have been anticipated because of the relatively small number of vehicles affected by the waiver and the short period of time over which it would be applicable.

The basic approach was to compute the percentage change in air quality levels, under several combinations of scenarios and conditions, in twelve metropolitan areas and then average and present those percentage changes. The relative difference in the average percentage change for alternative strategies was used as the basis for strategy evaluation and comparisions.

The areas used were Phoeniz—Tucson, New York—New Jersey—Connecticut, Philadelphia, National Capital, Chicago, Cincinnati, Kansas City, Boston, Saginaw (Michigan), Detroit, Buffalo and Cleveland. This selection of metropolitan areas excluded California and high altitude areas, to which the waiver would not apply.

The percentage change air quality projections were made using the Linear Rollback model, which assumes that there is a proportional relationship between the rate of emission of the pollutant and its concentration in the atmosphere. It further assumes that the ratio between emitted NO_x and ambient NO_2 is fixed and that it will not change from year to year as NO_x concentrations change. The highest annual mean NO_2 concentration for the period 1974 through 1976 was selected as the base year design value for the analysis of the impacts on annual NO_2 levels.

The MOBILE 1 mobile source emission factor program was used to provide the composite emission factors for light-duty trucks, heavy-duty gasoline and heavy-duty Diesel vehicles. These emission factors remained constant over the scenarios analyzed. A computer program was developed to provide estimates of the LDV composite emission factor for the various Diesel scenarios.

The following assumptions formed the scenarios analyzed by this analysis:

1. Possible 1981–1984 model year NO_x standards for Diesel powered LDV's of 0.4, 1.0 and 1.5 grams/mile. After model year 1984, the NO_x standard is assumed to be held constant for the 0.4 gram/mile standard, whereas, for the other two cases, the appropriate standard is 1.0 grams/mile.

2. Market penetration of Diesel engines in LDV's is assumed to increase at a linear rate beginning with a two percent (2%) market share in 1978. Three maximum market shares of 10%, 25% and 50% in 1985 are examined. Following model year 1985, the market shares are assumed to remain constant at the 1985 level.

3. Two different deterioration rates for Diesel-powered LDV's are considered; the midpoint and maximum deterioration rates from the range of possible deterioration rates provided for the analysis.

The results of the analysis are summarized in Table 1. The analysis showed that for future years there are generally decreasing levels of NO_2 due to the effect of NO_x controls. Therefore, any effect that the Diesel NO_x waiver would have would be to slow this decrease.

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Table 1.—*Average Percent Reductions in Annual Average Nitrogen Dioxide Design Values*

[Linear rollback, 0.004 ppm background]

Strategy			Projection year						
LD diesel market penetration	Waiver	Deterioration rate	1978	1981	1982	1983	1984	1985	1990
Percent:									
10	No	High	1	2	3	3	3	3	6
10	Full	High	1	1	2	2	2	2	6
25	No	High	1	1	3	3	3	3	6
25	Full	High	1	1	2	2	2	1	4
50	No	High	1	1	2	2	2	2	4
50	Full	High	1	1	2	1	1	0	2
10	No	Medium	1	2	3	3	3	3	7
10	Full	Medium	1	2	3	3	3	3	7
25	No	Medium	1	2	3	3	3	3	7
25	Full	Medium	1	2	3	3	3	2	6
50	No	Medium	1	2	3	3	3	3	7
50	Full	Medium	1	1	2	2	2	1	5

NOTE.—Values are rounded to the nearest whole percentage point, i.e. 2.5% becomes 3% and 2.4% becomes 2%.

In general, the EPA analysis showed that there was no slower progress in reducing NO_x concentrations under the waiver case compared to the no waiver case. The only possible exception to this is when a non-negligible NO_x deterioration rate is assumed for light duty Diesels. The results indicate that only the scenarios for the 1.5 g/mi standard (a waiver granted) with (1) mid-range to high NO_x deterioration rates, and (2) accompanying market shares of 25 and 50 percent, respectively, showed measurably slower progress in NO_x reductions (by 1 to 2 percent) relative to 1.0 g/mi (a waiver denial level). At lower Diesel market shares, there is virtually no change in NO_x reduction progress, even at the higher deterioration rates (there is a 1% reduction in 1985 only, at the high deterioration rate). The best estimate for market share in 1985 is 11.4% and therefore it can be concluded that even if high deterioration rates are applicable to in-use light duty Diesels, then there still are no projected significant changes in annual average NO_x levels with a waiver-grant assumption.

In the GM Diesel NO_x waiver submission, the annual ambient air quality impact was computed assuming a "worse case" condition of (1) NO_x levels at the end of MY84 (the expected peak), (2) maximum waiver of 1.5 g/mi NO_x, and (3) waiver granted for 4 years. They assumed a total LD Diesel sales penetration of 4.7% for MY81, 7.5% for MY82, 8.9% for MY83 and 9.5% for MY84. They also assumed 1.5 g/mi NO_x (20% of which is assumed to be NO_2) for the waiver vehicles and 1.0 g/mi NO_x (10% of which is assumed to be NO_2) for the non-waiver case. They concluded that the total change in annual regional NO_x and NO_2 concentrations would be no more than 0.5% in late 1984. The model used is not described and therefore cannot be evaluated. No discussion was given by GM of deterioration rates.

The Daimler-Benz submission deals with longer term regional impact with virtually the same assumptions. They conclude that changes in predicted emissions with the NO_x waiver would be less than 0.3%. No consideration was given to deterioration. The model was that used during the analysis of short-term NO_2 and O_3 standard for EPA by EEA. (EEA is the contractor that prepared the air quality portions of both the Daimler-Benz and Volkswagen submission.)

As observed above, Volkswagen used the same contractor as Daimler-Benz for their air quality analysis. As such, the air quality portions are very similar. Volkswagen concludes that granting the waiver will result in a "very small" increase in regional NO_x levels.

The Volvo air quality analysis was much more simplistic wherein they considered the difference between a full waiver and no waiver NO_x (1.5 g/mi and 1.0 g/mi) and multiplied it times expected miles traveled in the New York City area. The New York City area was chosen to represent the area that would be subjected to the greatest amount of excess emissions. The basic conclusion was that granting a waiver for Volvo Diesel vehicles would result in 28.1 extra tons NO_x per year being emitted in New York City in 1984 (the peak year). This is considered by Volvo to be insignificant when compared to "all existing criteria" including the 50 ton/year limitation set for individual point sources locating in areas not meeting National Ambient Air Quality Standards. This Volvo analysis is clearly simplistic and impossible to compare with other analyses. The Peugeot submission contains no significant air quality information. Therefore, a summary of the industry analysis of annual ambient air quality impact due to "worse case" assumptions would be an increase in NO_x of 0.5% or less.

Short Term Regional NO_x Levels

EPA computed short term (second maximum hourly) NO_x impacts on air quality in the same manner as the computation for annual impact. The above discussion of models, assumptions and scenarios applies, also, to the short term regional impact computation. The results (see Table 2) show that there are generally decreasing levels of short term NO_x in each of the years through 1990. This tend is slowed by a difference of no more than one percent for a (1) the case of up to a 50% LD Diesel introduction rate and low to medium deterioration rate, and (2) the case of up to 25% introduction rate for the high deterioration rate. If there were to be a 50% introduction rate for LD Diesels and a high deterioration rate, the tend toward lower NO_x levels would be slowed by a difference of 2% in several years. However, as observed above, EPA best estimates of LCD Diesel introduction rates are less than 25% and, therefore, even if the NO_x levels from LD Diesels deteriorate rapidly (which has not been observed), the impact on the downward tend of short term regional NO_x levels would be 1 percent or less.

GM reported on some computations that they made on short term (1 hour) regional NO_x impacts of the NO_x waiver. They concluded that under the "worse case" conditions used as a computation base, that total short term regional change in NO_x concentrations should not exceed 0.5% in late 1984 (the date of estimated maximum impact). The analyses was based on the assumption that light duty Diesels would account for 5% of the LDVMT in 1984 and also considered other NO_x sources.

Short-Term, Roadside NO_x Exposure Levels

EPA performed another air quality study (Cole, Henry S., "The Impact of an NO_x Diesel Waiver on NO_x Concentrations Downwind of a Major Line Source," Source Receptor Analysis Branch, OAOPS, EPA, RTP, N.C., May, 1979) wherein the principal question examined was whether an NO_x waiver for LD Diesels will cause an appreciable increase in short-term NO_x concentration immediately downwind of roadways. The basic approach was to model a downwind site adjacent to the San Diego Freeway in Los Angeles, California. The computation was done using some actual measured data we well as scenario assumptions. The method was not computerized.

In the case of 1982 waiver/no waiver comparison (which uses a 3% market penetration) and a 0.5 NO_2/NO_x ratio, there is no change in NO_x levels under one computation and less than a 5% increase under another. The report concludes that the somewhat small influence of a LD Diesel waiver is due to (1) the impact of LD Diesels is small relative to that of other vehicles, and (2) the NO_x concentrations downwind of major freeways are likely to be high enough such that ozone and not NO_x is the factor which limits the formation of NO_2.

The Daimler-Benz submission analyses (and also the the Volkswagen analyses because Volkswagen also contracted with EEA) studied short term (peak one-hour) roadside NO_2 exposure levels. They used the Highway model and applied it to the Los Angeles Catalyst Study site. They used traffic assumptions that were chosen to simulate "worse-case" conditions. A perpendicular wind field and neutral atmospheric stability conditions were also assumed. The conclusion drawn by Daimler-Benz is that granting a NO_x waiver for all Diesels for all four years is likely to raise peak one-hour NO_2 levels near a high volume highway by no more than 10 mg/m³.

This can be compared to the most stringent hourly standard being considered by EPA (according to VW, Daimler-Benz and their contractor, EEA) for future implementation—235 mg/m³. A more probable standard (again, according to VW and Mercedes Benz and their contractor, EEA) would be approximately 470 mg/m³.

The General Motors analysis concluded that one hour maximum roadside NO_2 exposures from light duty vehicles only could increase by 6.5 µg/m³. This represents a 7.9% increase in NO_x levels and is arrived at by assuming a maximum waiver (1.5 g/mi) for the maximum length of time (1981–84), the "highest possible rate of light-duty Diesel sales", and that the waiver would be granted for all manufacturers in all classes of light-duty Diesels.

Table 2.—*Average Percent Reductions in Second Maximum Nitrogen Dioxide Hourly Design Values*

[Linear rollback, 0.004 ppm background]

Strategy			Projection year						
LD diesel market penetration	Waiver	Deterioration rate	1978	1981	1982	1983	1984	1985	1990
Percent:									
10	No	High	2	2	3	3	3	3	7
10	Full	High	2	1	3	3	3	3	6
25	No	High	2	1	3	3	3	3	6
25	Full	High	2	1	2	2	2	2	6
50	No	High	2	1	3	3	2	2	6
50	Full	High	2	1	2	1	1	0	2
10	No	Medium	2	2	3	3	4	4	7
10	Full	Medium	2	2	3	3	3	3	7
25	No	Medium	2	2	3	3	4	3	7
25	Full	Medium	2	2	3	3	3	3	7
50	No	Medium	2	2	3	3	3	3	7
50	Full	Medium	2	1	3	2	2	2	6

NOTE.—Values are rounded to the nearest whole percentage point, i.e. 2.5% becomes 3% and 2.4% becomes 2%.

II.B Summary–NO_x Impacts

The EPA, the industry, and the industry-sponsored studies are all in general agreement that the effect of a NO_x waiver will:

1. Tend to slow trends towards decreasing ambient NO_2 levels or slightly increase ambient NO_x levels, but,

2. Any change will be small in (a) absolute value or (b) as a percent of ambient levels.

Therefore, it can be concluded that even a four-year waiver for all Diesels would have only a limited impact on arithmetic annual average NO_2 levels.

In order to investigate the sensitivity to the four-year assumption, the analysis was repeated assuming that the waiver would be granted for 2 years. The results are shown below in Tables 3 and 4.

The two-year scenario results, as expected, show even less of an NO_2 impact. In fact, given the definition in the PSD regulations, the impact is less than significant (44 FR 51924, September 5, 1979). Thus for a two-year waiver it can be concluded that the change in NO_2 levels will be of such a magnitude that the public health will not be endangered.

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Table 3.—*Average Percent Reductions In Annual Average Nitrogen Dioxide Design Values; Full Waiver Assumed To Be 1.5 g/mi for 1981 and 1982 Only*

[Linear rollback, 0.004 ppm background]

Strategy			Projection years							
LD diesel market penetration	Waiver	Deterioration rate	1978	1981	1982	1983	1984	1985	1987	1990
Percent:										
10	No	High	1	2	3	3	3	3	(1)	6
10	Full	High	1	2	3	3	3	3	5	6
25	No	High	1	1	3	3	3	3	(1)	6
25	Full	High	1	2	2	3	2	2	4	5
50	No	High	1	1	2	2	2	2	(1)	4
50	Full	High	1	1	2	2	2	1	3	4
10	No	Medium	1	2	3	3	3	3	(1)	7
10	Full	Medium	1	2	3	3	3	3	5	7
25	No	Medium	1	2	3	3	3	3	(1)	7
25	Full	Medium	1	2	3	3	3	3	5	7
50	No	Medium	1	2	3	3	3	3	(1)	7
50	Full	Medium	1	2	3	3	3	3	5	6

[1] Projection not computed.

NOTE.—Values are rounded to the nearest whole percentage point, i.e., 2.5% becomes 3% and 2.4% becomes 2%.

Table 4.—*Average Percent Reductions in Second Maximum Hourly Design Values; Full Waiver Assumed To Be 1.5 g/mi for 1981 and 1982 Only*

[Linear rollback, 0.004 ppm background]

Strategy			Projection years							
LD diesel market penetration	Waiver	Deterioration rate	1978	1981	1982	1983	1984	1985	1987	1990
Percent:										
10	No	High	2	2	3	3	3	3	(1)	7
10	Full	High	2	2	3	3	3	3	5	7
25	No	High	2	1	3	3	3	3	(1)	6
25	Full	High	2	2	3	3	3	2	4	6
50	No	High	2	1	2	3	2	2	(1)	5
50	Full	High	2	1	2	2	2	1	3	4
10	No	Medium	2	2	3	3	4	3	(1)	7
10	Full	Medium	2	2	3	4	4	4	6	7
25	No	Medium	2	2	3	3	4	3	(1)	7
25	Full	Medium	2	2	3	3	3	3	5	7
50	No	Medium	2	2	3	3	3	3	(1)	7
50	Full	Medium	2	2	3	3	3	3	5	7

[1] Projection not computed.

NOTE.—Values are rounded to the nearest whole percentage point, i.e., 2.5% becomes 3% and 2.45 becomes 2%.

II.C Effect of Waiver on Oxidant Levels

The principal air quality issue that is being considered relative to the NO_x waiver issue is the impact that granting such a waiver would have on ambient NO_x levels. However, since NO_x compounds are precursors to oxidant (ozone) formation, EPA performed an analysis of the impact of a NO_x waiver on area wide (yearly and short-term) ozone levels. The senarios studied included (1) a no-Diesels base case, (2) 10%, 25% and 50% LD Diesel market penetrations, (3) low, medium and high NO_x deterioration rates for LD Diesels, and (4) waiver and no waiver cases. The overall conclusion reached was that all Diesel senarios studied showed no significant differences in ozone levels as a result of a NO_x waiver grant. The manufacturers submissions reached generally the same conclusion.

III. Other Pollutants and Other Concerns

Although the limited nature of Section 202(b)(6)(B) could be considered as constraining the analysis to only NO_x, it is appropriate to consider other areas.

A precedent exists for consideration of other pollutants (not just HC, CO, or NO_x). The precedent is the administrator's decision on the applications for suspension of the (then) 1977 standards. This decision relied heavily on EPA's concern about the potential increases in the emissions of sulfuric acid mist from vehicles that could meet the standards then required for model year 1977.

The record for the Diesel NO_x waiver requests was examined to see if there were data or discussions or issues that involved unregulated emissions. Three areas were identified; Diesel particulate emissions, other unregulated emissions and the Diesel cancer issue.

III. A. Particulate Emissions

Particulate emissions were discussed at length at the public hearing, but the discussions of particulate emissions primarily centered around the relationship(s) between NO_x and particulate emissions from the engine, and how (if) that influenced NO_x control capability.

There was some discussion of the particulate impact of granting/not granting a waiver. For example, the GM 19 June, 1979 Transcript at page 6 (19 June TR @6), GM said "until we have a better understanding of the health effects of diesel particulates, increasing them for the sake of lower NO_x would not appear to be in the public interest".

GM also discussed their air quality models for particulate (19 June TR @247–261). GM made some predictions of total particulate (TP) air quality with and without a waiver. Interestingly, GM did not assume that without a waiver there would be no Diesels. Instead, their no-waiver case assumed that the no-waiver Diesels would emit 1.0 grams per mile TP and that the waiver case Diesels would emit 0.6 grams per mile TP, (19 June TR @249). Other manufacturers (VW and Daimler-Benz) also assumed that there would be Diesels, even in a no waiver case.

However, none of the applicants indicated that the increased levels of particulates in the ambient air resulting from a no-waiver scenario would represent an unreasonable risk under Section 202(b)(6)(B) of the Act. Therefore, the Diesel particulate/health impact relationship is somewhat a diffuse issue for these NO_x waiver proceedings.

Another Diesel particulate related issue that must be mentioned here was also discussed at the Hearings. That issue is EPA's proposed total particulate standards for light-duty Diesels. In response to Section 202(a)(3)(A)(iii) of the 1977 Clean Air Act, EPA proposed emission standards for total particulates from light-duty Diesels (**Federal Register**, Vol. 44, No. 23, Thursday, February 1, 1979 Part IV). That rulemaking is now being finalized within the Agency.

It might be considered that this document would discuss the health effects of particulate emissions, TP/NO_x relationships from an air quality point of view, cost/effectiveness of the proposed regulations, comparison to other sources of TP emissions etc., etc. However, all of the above issues and more have been (1) considered by the Agency before the TP standards were proposed (2) considered at the Public Hearings held on the subject, and in the comments to the Proposed Rule, and (3) are now being considered by the Agency in its study of the Final Rule. Therefore this document will not treat these issues further.

Summary-Total Particulate Impact

To the extent that waivers of the 1.0 NO_x standard are denied, there may be some upward trend in total particulate levels in the ambient air. Conversely, to the extent that waivers of the 1.0 NO_x standard are granted there may be some lesser degree of impact.

III.B. Other Unregulated Emissions

The waiver request guidelines also asked for vehicle and health impact data comparing the LD Diesel waiver and no-waiver case on emissions such as nitrosamines, aldehydes, phenols, B(a)P, gaseous organics, organics extracted from particulates and sulfates. Very little data was submitted, which precludes a rigorous analysis of the affects of a waiver grant or denial.

The GM submission concluded that, based on their experimental data, the waiver grant case would result in unregulated pollutant emission levels (excluding NO_2) equal to or lower than those levels that would result from not granting a waiver. This data came primarily from a single vehicle, the GM experimental 5.7 liter Diesel. Since this is an experimental engine, it does not directly relate to the 5.7 liter family for which a waiver is sought and is even less related to other engine families. Therefore, it is not possible to directly relate the small amount of unregulated emissions information provided to the issue of a NO_x waiver.

In both the Daimler-Benz and Volkswagen submissions, very little vehicle specific unregulated emissions data is given that would permit an analysis of the influence of a NO_x waiver on Volkswagen or Daimler-Benz engine families. These manufacturers did submit a limited air quality analysis, but the input for the analysis was generalized emission factors instead of engine—specific data. The other waiver applications (Volvo and Peugeot) were even less detailed in the non-regulated emissions area.

Therefore, because of the inconclusive data presented, it can not be used to support either a waiver grant or denial.

III.C. The Diesel Cancer Issue

The subject of the Diesel cancer issue was discussed more directly by GM. The record (19 June TR @237–247 and again @261–263) shows that the discussion centered on the London Transport Worker's Study (LTWS), what some of the pros and cons of that study are and what can or cannot be learned from it.

GM discussed some of the limitations (19 June TR @237, 240, 241, 243), but concludes (19 June TR @244) that the results were negative even though subsequently (19 June TR @245) they modified their position somewhat by indicating that further study was needed.

Others (19 June TR @245) have indicated that the usefulness of the LTWS is questionable, and there is also certainly not agreement on the usefulness of the LTWS, even among the applicants. For example, Daimler-Benz in their application discussed in the 18 June TR @176 discussed problems with the LTWS, and Daimler-Benz indicated in a *specific* response to a specific question that they were unaware of a good study in the epidemiology area (18 June TR @179). VW also pointed that a good study was "missing" (20 June TR @135).

Based on the record of the Diesel NO_x waiver hearings, EPA concludes that there are enough problems with the LTWS to make it difficult to drawn universally acceptable and meaningful conclusions from it. This study was discussed at a symposium on diesels.[1] The London researcher concluded that there are sufficient difficulties with the current data base which do not permit any meaningful conclusions to be drawn at this time.

Other issues in this area discussed at the hearings were planned or on-going work e.g., (20 June TR @110, 115, 118, 123, 132, 133, (VW); 20 June TR @21–42, (Peugeot), etc. from which none of the applicants would draw conclusions.

[FR Doc. 80-1857 Filed 1-22-80; 8:45 am]

BILLING CODE 6560-01-M

[1] "Trends to Lung Cancer Incidence in London in Relation to Diesel Fume Exposure". International Symposium on Health Effects of Diesel Engine Emissions. Session VIII. December 3, 1979.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL 1381-4]

Revised Motor Vehicle Exhaust Emission Standards for Oxides of Nitrogen (NO_x) for 1981 and 1982 Model Year Light-Duty Vehicles

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This regulation establishes NO_x emission standards for 1981 and 1982 model year light-duty vehicles belonging to certain diesel engine families for which I have granted waivers from the standard otherwise applicable under section 202(b)(6)(B) of the Clean Air Act, 42 U.S.C. 7521(b)(6)(B).

EFFECTIVE DATE: February 22, 1980.

ADDRESS: Information relevant to this rule is contained in Public Docket EN-79-3 at the Central Docket Section of the Environmental Protection Agency (EPA), Room 2903B, 401 M Street, SW., Washington, D.C. 20460 and are available for review between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Maureen Smith, Office of Mobile Source Air Pollution Control (ANR-455), or Paul Stern, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 426-2514 or 472-9421.

SUPPLEMENTARY INFORMATION: Section 202(b)(1)(B) of the Clean Air Act ("the Act"), 42 U.S.C. 7521(b)(1)(B), requires that regulations applicable to NO_x emissions from light-duty vehicles or engines manufactured during or after the 1981 model year shall contain standards which provide that such emissions from vehicles or engines shall not exceed 1.0 gram per vehicle mile. Regulations implementing this requirement have established this NO_x standard.

Section 202(b)(6)(B) of the Act authorizes the Administrator, upon application by any manufacturer, to waive the statutory NO_x standard for the 1981 through 1984 model years for any light-duty diesel engine family for which the Administrator can make the required statutory findings. I must promulgate interim NO_x standards for those model years for which waivers are granted, applicable to the subject light-duty diesel engine families. Applications for these waivers were submitted by General Motors Corporation, Daimler-Benz AG, Volkswagen AG, AB Volvo, and Automobiles Peugeot. The statutory criteria, my determinations with respect to the vehicle models covered by the waiver applications, and my decision to grant or deny the waiver applications appear in the consolidated decision published above. In that decision, I granted waivers covering the following engine families for 1981 and 1982 model years only:

Manufacturer and Engine Family

General Motors Corporation, 5.7 liter.
Daimler-Benz AG, 2.4 liter. 3.0 liter naturally aspirated. 3.0 liter turbocharged.
AB Volvo, 2.4 liter naturally aspirated.

Having decided to grant waiver applications for these five diesel engine families, I am simultaneously promulgating regulations adopting emission standards not permitting NO_x emissions from 1981 and 1982 model year vehicles of these five engine families to exceed the prescribed levels. The public has received an opportunity to comment on the waiver applications at issue, and I have considered those comments in making the consolidated decision which requires the promulgation of this rule. Also, the 1981 certification process is underway. For these reasons, I find that providing notice and an opportunity to comment on this rulemaking before final promulgation is impracticable and unnecessary.

Note.—The Environmental Protection Agency has determined that this action does not constitute a major proposal requiring preparation of a Regulatory Analysis under Executive Order 12044.

In addition, because the decision already accompanying this rulemaking contains a detailed analysis indicating that this rulemaking will have a negligible effect on air quality, the Environmental Protection Agency has not prepared an Environmental Impact Statement to accompany this rulemaking.

Dated: December 21, 1979.

Douglas M. Costle,
Administrator.

40 CFR Part 86 is amended as follows:

Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles, 1977 and Later Model Year New Light-duty Trucks and 1977 and Later Model Year New Heavy-Duty Engines

40 CFR 86.081-8(a)(1), published at 44 FR 69416 (December 3, 1979), is revised to read as follows:

§ 86.081-8 Emissions standards for 1981 and later model year light-duty vehicles.

(a)(1) Exhaust emissions from 1981 and later model year light-duty vehicles shall not exceed the following levels for the following pollutants:

(i) Hydrocarbons—0.41 grams per vehicles mile;

(ii) Carbon monoxide—3.4 grams per vehicle mile, except that

(A) Carbon monoxide emissions from light-duty vehicles of the following 1981 and 1982 model year engine families shall not exceed 7.0 grams per vehicle mile:

Manufacturer and Engine Family

American Motors Corporation, 258 CID.
BL Cars, Ltd., TR8. XJ12.
Chrysler Corporation, 1.7 liter. 3.7 liter. 5.2 liter/4-V.
General Motors Corporation, 2.8 liter/173 CID-2V. 3.8 liter/231 CID-2V.
Toyota Motor Company, Ltd., 88.6 CID.

(B) Carbon monoxide emissions from light-duty vehicles of the following 1981 model year engine families shall not exceed 7.0 grams per vehicle mile:

Manufacturer and Engine Family

Toyo Kogyo Company, Ltd., 91 CID. 120 CID.

(iii) Oxides of nitrogen—1.0 grams per vehicle mile, except that: (A) Oxides of nitrogen emissions from 1981 and 1982 model year light-duty vehicles manufactured by American Motors Corporation shall not exceed 2.0 grams per vehicle mile; (B) oxides of nitrogen emissions from light-duty vehicles of the following 1981 and 1982 model year engine families shall not exceed the prescribed levels:

Manufacturer	Engine family	Model year	NO_x (gpm)
General Motors Corp.	5.7 liter	1981, 1982	1.5
Daimler-Benz AG	2.4 liter	1981	1.5
		1982	1.25
	3.0 liter naturally aspirated.	1981, 1982	1.5
	3.0 liter turbocharged	1981, 1982	1.5
AB Volvo	2.4 liter naturally aspirated.	1981, 1982	1.5

(Secs. 202 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7521, 7601(a) (Supp. I 1977))

[FR Doc. 80-1858 Filed 1-22-80; 8:45 am]
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federal register

Wednesday
January 23, 1980

Part III

Department of Defense

Department of the Air Force

Privacy Act of 1974; Additions, Deletions, and Amendments of Systems of Records

DEPARTMENT OF DEFENSE
DEPARTMENT OF THE AIR FORCE
Privacy Act of 1974

Notice of Systems of Records: Deletions, Addition, Amendments.

AGENCY: Department of the Air Force (AF).

ACTION: Deletions, addition and amendments to Air Force systems of records.

SUMMARY: The Air Force is deleting 23 and amending 27 and adding 1 system of records in its inventory of records subject to the Privacy Act of 1974. This is a periodic updating of the Air Force's systems of records inventory. The Act requires that any changes to a system must be published for public review and comment.

DATES: The amendments and addition shall be effective as proposed without further notice on February 22, 1980, unless comments are received on or before February 22, 1980, which would result in a contrary determination and require republication for further comments.

ADDRESS: Any public comments, including written data, views or arguments concerning the amendments should be addressed to The Air Force Privacy Office (HQ USAF/DAAD(S)), Directorate of Administration, Headquarters United States Air Force, Washington, DC 20330.

FOR FURTHER INFORMATION CONTACT: Mr. Jon E. Updike, HQ USAF/DAAD(S), Washington, DC 20330, telephone 202-694-3431.

SUPPLEMENTARY INFORMATION: The Air Force systems of records inventory subject to the Privacy Act of 1974 (5 U.S.C. 552a) P.L. 93-579 has been published in the FEDERAL REGISTER as follows: FR Doc. 79-37052 (44 FR 74145) December 17, 1979.

The proposed addition and amendments are not deemed to be within the purview of the provisions of 5 U.S.C. 552(o) of the Privacy Act which requires submission of an altered system report in accordance with Office of Management and Budget (OMB) guidance set forth in the FEDERAL REGISTER (40 FR 45877) on October 3, 1975.

JANUARY 17, 1980.

H. E. LOFDAHL,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

Deletions

F01001 OQFJXTA

System name: Office Projects/Studies (Behavioral Service Program) (44 FR 74151, Dec 17, 79).

Reason: Program and system have been discontinued.

F01001 OQKRSMA

System name: Academic Completion Record (44 FR 74153, Dec 17, 79).

Reason: Notice is incorporated with F05101 OQKRSMA, Aircrew Instruction Records (Flying Training Records), and F05101 OQKRSMB, Training Aids Usage (Simulator Student Training Records), in order to better describe records related to a single program. See F05101 MAC A, Aircrew Instruction Records, appearing in the added systems in this FEDERAL REGISTER.

F01101 OKPNQSC

System name: Individual Weight Loss Record (44 FR 74158, Dec 17, 79).

Reason: This system has been discontinued.

F01101 OUJCGJA

System name: Career Development Graduates Historical Roster/Course Enrollees (44 FR 74159, Dec 17, 79).

Reason: This system is now part of F05002, ATC TTS, Student Record of Training, appearing in the amended systems of this FEDERAL REGISTER.

F01102 OUMCBVB

System name: Visual Aid (44 FR 74166, Dec 17, 79).

Reason: This system has been discontinued.

F03501 OCGBUZB

System name: Informational Personnel Records (44 FR 74211, Dec 17, 79)

System has been discontinued.

F03501 OJ DP A

System name: Officer Status File (44 FR 74212, Dec 17, 79).

Reason: This system has been discontinued.

F03504 OYUEBLC

System name: Air Traffic Control (ATC) Personnel Reporting (44 FR 74238, Dec 17, 79).

Reason: This system has been discontinued.

F03504 OKPNQSB

System name: Air University (AU) Advanced Degree Application (44 FR 74241, Dec 17, 79).

Reason: This system has been discontinued.

F03504 OKPNQSC

System name: Officer Assignment Files (44 FR 74241, Dec 17, 79).

Reason: This system has been discontinued.

F03504B0SSGBPB

System name: Palace Chase Assignment Applications (44 FR 74243, Dec 17, 79).

Reason: This system has been discontinued.

F03506 DPMYA

System name: Military Service Inventory Research Program (44 FR 74246, Dec 17, 79).

Reason: This system has been discontinued.

F05001 AFSS A

System name: Training Summaries Graduation Roster/Course enrollees (44 FR 74268, Dec 17, 79).

Reason: This system is now part of F05002 ATC TTS, Student Record of Training, appearing in the amended systems of this FEDERAL REGISTER

F05002 OYUEBLB

System name: Air Traffic Control (ATC) Certification Documentation (44 FR 74277, Dec 17, 79).

Reason: Notice has been merged with F05002 OYUEBLA, Air Traffic Control (ATC) Certification Documentation which covers the same types of records. This notice has been republished with the amended systems of records in this FEDERAL REGISTER.

F05002 OUJCGJB

System name: Training Progress Student Data Records (44 FR 74283, Dec 17, 79).

Reason: This system has been discontinued.

F05101 OQKRSMA

System name: Aircrew Instruction Records (Flying Training Records) (44 FR 74287, Dec 17, 79).

Reason: Notice is incorporated with F01001 OQKRSMA, Academic Completion Records (Flying Training Records), and F05101 OQKRSMB, Training Aids Usage (Simulator Student Training Records), in order to better describe records related to a single program. See F05101 MAC A, Aircrew Instruction Records, appearing in the added systems in this FEDERAL REGISTER.

F05101 OQKRSMB

System name: Training Aids Usage (Simulator Student Training Records) (44 FR 74288, Dec 17, 79).

Reason: Notice is incorporated with F01001 OQKRSMA, Academic Completion Records (Flying Training Records) and F05101 OQKRSMA, Aircrew Instruction Records (Flying Training Records), in order to better describe records related to a single program. See F05101 MAC A, Aircrew Instruction Records, appearing in the added systems in this FEDERAL REGISTER.

F08002 OJMPLSA

System name: Research and Development (R&D) Projects Records (44 FR 74300, Dec 17, 79).

Reason: This system has been discontinued.

F11101 OUMCBVA

System name: Military Justice Administration (44 FR 74310, Dec 17, 79).

Reason This system has been discontinued.

F16803 SGH A

System name: OASIS (Outpatient Appointment Scheduling Information System) (44 FR 74342, Dec 17, 79).

Reason: This system was in development only and has been terminated.

F17101 SGHB B

System name: Medical Recommendation for Flying Duty (44 FR 74347, Dec 17, 79).

Reason: This system has been discontinued.

F21101 OUMCBVA

System name: Family Services Volunteer of the Year (44 FR 74384, Dec 17, 79).

Reason: This system has been discontinued.

F21301 OJ DP D

System name: Predischarge Education Program Certifying Officers (44 FR 74387, Dec 17, 79).

Reason: This system has been discontinued.

Addition

Notice is given that the system of records notice listed below is added. This notice is published to more clearly describe Air Force records and replaces other notices deleted above. Since this notice does not create any new records or change any individual rights, it is not subject to Office of Management and Budget (OMB) reporting requirements as set forth in the FEDERAL REGISTER (40 FR 45877) on October 3, 1975.

F05101 MAC A

System name: Aircrew Instruction Records.

Insert: Before system F05101 OJ DOTA.

Reason: Notice combines and better describes a single system of records formerly listed under F01001 OQKRSMA, F05101 OQKRSMA, and F05101 OQKRSMB.

F05101 MAC A

System name: Aircrew Instruction Records.

System location: 1550 Aircrew Training and Test Wing, Kirtland Air Force Base, New Mexico 87117; 314 Tactical Airlift Wing, Deputy Commander for Operations, Little Rock Air Force Base, Arkansas 72076.

Categories of individuals covered by the system: Students and instructors undergoing training; students who completed academic training.

Categories of records in the system: Academic completion records, flying training records, training aids usage records and simulator student training records.

Authority for maintenance of the system: 10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To report student performance and completion of academic training.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders.

Retrievability: Filed by name and date of completion of training.

Safeguards: Records are accessed by the custodian of the system and by person(s) responsible for servicing the records system in the performance of their official duties who are properly screened and cleared for need-to-know.

Records are stored in locked cabinets or rooms.

Retention and disposal: Training summaries are destroyed after 1 year. Training aids activity case files are destroyed when purpose has been served or after 3 years, whichever is sooner. Training system research and development material is destroyed when superseded, obsolete, or no longer needed, whichever is sooner. Training aids usage documents are destroyed 3 months after completion of training phase, provided required flying time is posted on individual flight records. Destruction is by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address: Deputy Commander for Operations, 1550 Aircrew Training and Test Wing, Kirtland AFB, New Mexico 87117.

Chief, Instructional System Development Branch, 314 Tactical Airlift Wing, Little Rock, Arkansas 72076.

Notification procedure: Requests from individuals should be directed to the systems manager.

Record access procedures: Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures: The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the system manager.

Record source categories: Information obtained from the individuals, from instructors, instructor supervisors, and personnel involved in the evaluation and analysis of training effectiveness, and from special orders and messages.

Systems exempted from certain provisions of the act: None.

AMENDMENTS

Following the identification code of the record systems and the specific changes made therein, the complete revised record systems, as amended, are published in their entirety.

F01102 DPXVH F

System name: Congressional Inquiries (44 FR 74161, Dec 17, 79).

Change:

System manager(s) and address: Change to read "Director, Housing and Services, Air Force Engineering and Services Center, Tyndall AFB, FL 32403."

F01201 OQPTFLA

System name: Information Requests—Freedom of Information Act (44 FR 74168, Dec 17, 79).

Change:

Retention and disposal: In line 2, change "four" to "two."

F03001 SAC A

System name: Drug Rehabilitation Action Management Information System (44 FR 74171, Dec 17, 79).

Changes:

Retention and disposal: Delete entry and substitute, "Computerized and manual files will be retained for 2 years from the date of identification of drug abuse, then disposed of in accordance with AFM 12-50."

Record access procedures: Delete entry and substitute, "Access to computer files is controlled by Chief of Social Actions, Headquarters Strategic Air Command. Access to manual files is controlled by Det 1, 3902 ABW/CC, McConnel AFB KS and by base level Chief, Social Actions Office."

F03001XOBXQPCB

System name: Military and Leadership Order of Merit System (44 FR 74174, Dec 17, 79).

Changes:

System name: Change to "Military, Leadership, and Basic Cadet Training Order of Merit System."

Categories of records in the system: Add at end, "Basic Cadet Training Order of Merit standings, attendance and course grades."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Delete entire entry and substitute, "Used as an input in determining Military, Leadership, and Basic Cadet Training Order of Merit standing. Used to record results from Military Order of Merit and Leadership, Order of Merit worksheet for computer processing, and to record final Military, Leadership and Basic Cadet Training Order of Merit standing. Used to record Basic Cadet Training attendance and course grade data."

System manager(s) and address: Delete entry and substitute, "Commandant of Cadets, USAF Academy CO 80840."

F03005 PRENC C

System name: Base Housing Management (44 FR 74193, Dec 17, 79).

Change:

Storage: Add at end, "computer and computer output products." This change is to correct error in original notice discovered when revising governing directive. System has been maintained on computer since 1972.

F03005 02 ALSA

System name: On/Off-Base Housing Records (44 FR 74193, Dec 17, 79).

Change:

Storage: Add at end, "computer and computer output products." This change is to correct error in original notice discovered when revising governing directive. System has been maintained on computer since 1972.

F03501 DPMAK J

System name: Separation Case Files (Officer and Airman) (44 FR 74199, Dec 17, 79).

Changes:

Categories of individuals covered by the system: Add "Individuals who, under P.L. 95-202, Sec. 401, have requested review of service

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performed with the Army Air Force or U.S. Air Force to determine if such service was equivalent to 'active duty' for purposes of laws administered by the Veterans Administration."

Authority for maintenance of the system: Change to read "11 U.S.C. Chapter 59, Separations and 38 U.S.C., Veterans Benefits."

Retention and disposal: In line 2, change "six months" to "3 years."

F03501 DP 3

System name: Unit Assigned Personnel Information File (44 FR 74194, Dec 17, 79).

Change:

Categories of records in the system: Add at end, "records of training."Change is to make the categories of records parallel the published routine uses in the notice.

F03501 OKPNQSD

System name: Air Force Junior ROTC (AFJROTC) Instructor Applicant System (44 FR 74213, Dec 17, 79).

Changes:

System name: Change to read, "Air Force Junior ROTC (AFJROTC) Instructor/Applicant System."

Categories of individuals covered by the system: Change to read "AFJROTC Instructors/applicants."

Categories of records in the system: Delete entire entry and substitute, "AFJROTC Address Form; (two pages), Application for AFJROTC Instructor Duty; AFROTC Application Form, Processing Checklist; Applicant Evaluation Forms; Applicant Interview Record; last 10 Airmen Performance Reports or Officer Effectiveness Reports or summary of last 10 reports which includes period of supervision and overall evaluation; letter requesting Defense Central Index of Investigation (DCII) name check; photograph; Report of Separation from Active Duty; Retirement Order; Commander's Recommendation (for noncommissioned officers on active duty only); miscellaneous correspondence such as resume and letter of recommendation; copy of Air Force retirement physical and Physical Evaluation Board Findings if applicant is retired with 30 percent or more disability; copy of Veterans Administration (VA) Form Letter, Medical Forms from VA, if applicant is retired with 30 percent or more disability awarded by Veterans Administration; letter requesting medical evaluation of AFJROTC instructor applicants for personnel retired with 30 percent or more disability; Letter Verifying Dependents; Instructor Preference Card; Instructor Intent Letter; Contract Data Cards; Termination Letters; Outstanding Instructor Certificate; Certification Certificates."

Storage: Delete entry and substitute, "Maintained in file folders, and on computers and computer products."

F03503 DPMMP A

System name: Air Force Enlistment/Commissioning Records System (44 FR 74232, Dec 17, 79).

Change:

Retention and disposal: In lines 2 and 4, change "destroyed after one year" to "destroyed after 2 years."

F03504 OYUEBLA

System name: Training Status Code (44 FR, Dec 17, 79).

Change:

System location: Change "Richards-Gebaur AFB MO 64030" to "Scott AFB IL 62225."

F03504 OYUEBLB

System name: Commander Identification (44 FR 74238, Dec 17, 79).

Change:

System location: Change "Richards-Gebaur AFB MO 64030" to "Scott AFB IL 62225."

F03506 OKPNQSA

System name: Air Force Reserve Officer Training Corps Qualifying Test Scoring System (44 FR 74246, Dec 17, 79).

Changes:

System location: In line 1, change "AFROTC/ACME" to "AFROTC/RRUR."

Categories of records in the system: Add at end "race, sex, marital status, education level, and program applying for."

Retention and disposal: In line 1, change "AFROTC/ACME" to "AFROTC/RRUR;" in line 3 change "five" to "six;" in line 5, change "Lackland" to "Brooks" and "78236" to "78235."

System manager(s) and address: Change "Analysis and Evaluation Division, AFROTC/ACM" to "Resource Systems and AFOQT Branch, AFROTC/RRUR."

F03500 DPMAJBA

System name: Recorder's Roster (44 FR 74250, Dec 17, 79).

Changes:

System location: Change "Air Force Military Personnel Center." to "Air Force Manpower and Personnel Center."

Categories of records in the system: Delete entry and substitute, "Listing containing record number, name, social security number, date of roster, program control number, component, promotion category, select/non-select status, FOR OFFICIAL USE ONLY statement and name and year of board."

Retrievability: Delete entry and substitute, "Records are accessed by identification of board of consideration and then by inverted social security number of subject by promotion category."

F05002 ATC TTS

System name: Student Record of Training (44 FR 74275, Dec 17, 79).

Changes:

System location: In line 3, change "3700 Technical Training Wing/TTS" to "3750 Technical Training Group/TTS; in line 6, after "78236" add "United States Air Force School of Applied Cryptologic Sciences (USAFSACS), Goodfellow AFB TX 76903."

System manager(s) and address: Beginning in line 4, change "3700 Technical Training Wing/TTS" to "3750 Technical Training Group/TTS;" in line 7, after "records" enter "; and the 3480 Technical Training Group/TTR for classes/courses conducted at Goodfellow AFB, TX 76903."

Notification procedure: In line 3, change "3700 Technical Training Wing/TTS" to "3750 Technical Training Group/TTS;"in line 6, after "records," add "and 3480 Technical Training Group/TTR, Goodfellow AFB, TX 76903 for courses taught at that base."

F05002 OYUEBLA

System name: Air Traffic Control Certification Documentation (44 FR 74276, Dec 17, 79).

Changes:

Categories of records in the system: Delete second sentence. Add at end, "Contains documentation compiled by requesting unit to justify withdrawal of certification. May include evaluation by medical authorities, legal, Office of Special Investigation results, and statements by supervisory personnel and co-workers. Contains copies of performance reports and unfavorable information files. Includes headquarters staff evaluation."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Delete first sentence and substitute, "Documentation used to evaluate request for withdrawal of ATC certification."

Retention and disposal: Delete line 5 and following sentence.

Record source categories: Add, "Information obtained from medical institutions, trade associations, police and investigating officers, state and local governments, and witnesses."

F05002 OYUEBLC

System name: Air Traffic Control Rating and Training Program Documentation (44 FR 74277, Dec 17, 79).

Change:

System manager(s) and address: Change "Deputy Chief of Staff/Flight and Aerospace Management" to "Deputy Chief of Staff, Air Traffic Services."

F05002 OYUEBLD

System name: Student Record (44 FR 74278, Dec 17, 79).

Change:

System location: Change "Richards-Gebaur AFB MO 64030" to "Keesler AFB MS 39534."

F05002 OYUEBLE

System name: Individual Academic Training Record (44 FR 74278, Dec 17, 79).

Changes:

System location: Delete entry and substitute, "C-E Systems Evaluation Training School, Deputy Chief of Staff, Operations, HQ AFCS, Scott AFB IL 62225."

System manager(s) and address: Detete entry and substitute, "Commandant, C-E Systems Evaluation Training School, DCS/Operations, HQ AFCS, Scott AFB IL 62225."

F05101 OJ DOBA

System name: Flying Training Records—Student (44 FR 74286, Dec 17, 79).

Change:

Storage: Delete last two sentences and add "Maintained on computer and computer products."

F16802 ORKNMDA

System name: Civilian Health/Medical Program of Uniformed Services (CHAMPUS) Case Claim Files (44 FR 74341, Dec 17, 79).

Change:

System location: In line 1, change "Eighth Air Force" to "Third Air Division;" in line 4, change "USAF Hosp Tachikawa (Registrar) APO 96323" to "USAF Hospital Yokota (Registrar) APO 96328."

System manager(s) and address: In line 1, change "Eighth Air Force" to "Third Air Division;" in line 5, change "USAF Hosp Tachikawa (Registrar) APO 96323" to "USAF Hospital Yokota (Registrar) APO 96328."

F17701 OBXQPCA

System name: Cadet Accounting and Finance System (44 FR 74354, Dec 17, 79).

Changes:

System manager(s) and address: Change, "Superintendent" to "Director of Accounting and Finance."

Notification procedure: Delete entry and substitute, "Requests from individuals should be addressed to the system manager."

F17709 OEACYVD

System name: Indebtedness and Claims (44 FR 74358, Dec 17, 79).

Change:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In line 7, after "United States Air Force," add "Data necessary to identify the individual involved is disclosed to commercial credit agencies whenever a financial status report is requested for use in the administration of the Federal Claims Collection Act."

F17721 OEACYVA

System name: Civilian Pay Records (44 FR 74363, Dec 17, 79).

Change:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: After "allotment" in line 16, add, "computer and accounting service centers upon request of financial organizations designated by individuals to receive monies due them; Federal Reserve Banks under procedures specified in 31 CFR 210 for Federal recurring payments by means other than check."

F17725 OEACYVA

System name: Air Reserve Pay and Allowance System (ARPAS) (44 FR 74367, Dec 17, 79).

Change:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: After "references" in line 39, add, "Pay data is released to computer and accounting service centers upon request of financial organizations designated by individuals to receive money due them. Pay data is also released to Federal Reserve Banks under procedures specified in 31 CFR 210 for Federal recurring payments by means other than by checks."

F17726 OEACYVA

System name: Pay and Allotment Records (44 FR 74368, Dec 17, 79).

Changes:

Categories of individuals covered by the system: In line 5, delete, "of dependents of military personnel."

Categories of records in the system: In line 3, delete, "for dependent travel; request for dependency determinations for Housing Allowance (HOLA) and Cost of Living Allowance (COLA); request for dependency determination for medical care," and substitute, "for benefits;" in last line, delete, "medical care," and substitute "benefits."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In line 4, delete, "BAQ, dependency, travel, HOLA, COLA," and substitute "and benefits;" in line 8, delete "medical care," and substitute "benefits," in line 15, delete, "Copies of records may on occasion be furnished Federal Bureau of Investigation (FBI) through OSI for investigation possible forgery and fraud cases;" in line 18, delete, "federal agencies including but not limited to FBI for criminal investigation:" in line 24, delete sentence; in line 32, delete sentence; in line 36, delete sentence.

Record source categories: In line 7, delete, "BAQ, dependent travel, HOLA, COLA, and medical care," and substitute, "benefits."

In all places where it appears, delete "Lowry AFB" from address.

F17734 OEACYVA

System name: USAF Retiree/Annuitant Pay System (RAPS) (44 FR 74370, Dec 17, 79).

Change:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: After "repayments" in line 41, insert, "release of data to computer and accounting service centers upon the request of a financial organization designated by individuals to receive monies due them; pay data is also released to Federal Reserve Banks under procedures specified in 31 CFR 210 for Federal recurring payments by means other than checks."

F01102 DPXVH F

System name:

01102 DPXVH F Congressional Inquiries.

System location:

Headquarters United States Air Force, Washington DC 20330 and Office of the Secretary of the Air Force Office of Legislative Liaison Congressional Inquiry Division, Washington, DC (HQ USAF/SAF/LL, Washington, DC 20330).

Categories of individuals covered by the system:

The categories of individuals on whom records are maintained: All personnel, military and civilian, who submitted a request for assistance or information to a Congressional member, the White House, Inspector General (IG), or other high level persons during the current calendar year concerning Air Force policy and/or procedures on housing.

Categories of records in the system:

Original (or copy) of individual's request for assistance or information, transmittal cover letter from the Office of the Secretary of the Air Force, Legislative Liason (SAF/LL), coordination copy of proposed response furnished to SAF/LL, and background information.

Authority for maintenance of the system:

10 U.S.C., 8012 and 8032; 44 U.S.C., 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The information in the record system is collected to provide the information requested by the individual and pertains only to that individual request. The information collected is then forwarded to SAF/LL for use in providing a response. Such information may be utilized to provide answers to requests for similar information or to provide further information in response to a follow-up inquiry on behalf of the same individual. This information is provided the Congress and is furnished through the offices of the Department of the Air Force.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in visible file binders/cabinets.

Retrievability:

Filed by Name.

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

Retention and disposal:

Retained for one year after end of year in which the case was closed, transferred to a staging area for one additional year, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

Director, Housing and Services, Air Force Engineering and Services Center, Tyndall AFB, FL 32403.

Notification procedure:

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The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Air Force policy and procedures; responses to inquiries from members of Congress, the White House, Inspector General and other high level agencies; copies of responses generated thereto.

Systems exempted from certain provisions of the act:

NONE

F01201 0QPTFLA

System name:

01201 0QPTFLA Information Requests-Freedom of Information Act.

System location:

Air Force installations.

Categories of individuals covered by the system:

All persons who have requested documents under the provisions of the Freedom of Information Act.

Categories of records in the system:

Administration of release of information to the public.

Authority for maintenance of the system:

5 U.S.C. 552.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To control administrative processing of requests for information used by freedom of information manager.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders.

Retrievability:

Filed by Name.

Safeguards:

Records are accessed by custodian of the record system. Records are stored in locked cabinets or rooms.

Retention and disposal:

Retained in office files for one year after annual cut-off, transferred to a staging area for two additional years, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

Director of Administration, Headquarters United States Air Force.

Notification procedure:

Contact the Chief central base administration at each Air Force Installation.

Record access procedures:

Contact the Chief of central base administration at each Air Force installation.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Freedom of information manager as result of requests for information from members of public.

Systems exempted from certain provisions of the act:

NONE

F03001 SAC A

System name:

03001 SAC A Drug Rehabilitation Action Management Information System.

System location:

At servicing Air Force (AF) installation Social Actions Offices, Consolidated Base Personnel Offices, Strategic Air Command Headquarters, SAC Drug Rehabilitation Center and Air Force Manpower and Personnel Center. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Categories of individuals covered by the system:

Air Force active duty military personnel who are identified as drug abusers.

Categories of records in the system:

As a minimum, the system contains computerized data and manual files related to drug abuse identification, category of abuse, acceptance of treatment, and subsequent personnel actions.

Authority for maintenance of the system:

5 U.S.C. 301, Departmental regulations; and 10 U.S.C. 8074, Commands: territorial organization.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To identify and track a person's acceptance/declination and progress in the Strategic Air Command drug rehabilitation program and ultimate disposition (retained on active duty, separated, demoted, etc). Those authorized to have access to the files are base and command level social actions staffs, drug rehabilitation instructors, and selected command staff personnel. The files are used to maintain information on drug abusers, to measure the success of program objectives, to substantiate personnel actions, provide analysis reports to concerned managers and to support separation actions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer disk/tape files and manual file folders.

Retrievability:

Filed by name, by other identification number or system identifier.

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. The computer file is secured on computer disk/tape by computer operations personnel. Manual file folders are stored in security file containers/cabinet safes.

Retention and disposal:

Computerized and manual files will be retained for two years from the date of identification of drug abuse, then disposed of in accordance with AFM 12-50.

System manager(s) and address:

Deputy Chief of Personnel, Strategic Air Command, SAC Drug Rehabilitation Center, McConnell AFB KS 67221, and base level Social Actions Offices.

Notification procedure:

Chief, Social Action, Strategic Air Command Headquarters for Computer Files or Det 1, 3902 ASW/CC/ McConnell AFB KS 67221, and base level Social Actions Offices for manual files. Requests to determine existence of record on file should include full name, grade, and unit of assignment. Personal visit proof of identification requires full name and possession of Department of Defense (DD Form 2AF) Armed Forces Identification Card, or driver's license and personrecognition of counselor.

Record access procedures:

Access to computer files is controlled by Chief of Social Actions, Headquarters Strategic Air Command. Access to manual files is controlled by Det 1, 3902 ABW/CC, McConnell AFB KS 67221 and by base level Chief, Social Actions Office.

Chief of Social Actions, Strategic Air Command Headquarters, Det 1, 3902 ABW/CC, McConnel AFB KS 67

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from medical institution, personnel records, individuals,

Systems exempted from certain provisions of the act:

NONE

F03001XOBXQPCB

System name:

03001XOBXQPCB Military, Leadership, and Basic Cadet Training Order of Merit System.

System location:

United States Air Force Academy, USAF Academy CO 80840.

Categories of individuals covered by the system:

Air Force Academy cadets.

Categories of records in the system:

Military Order of Merit System consists of AFCW Form 1, Cadet Performance Report, Work Sheet, Cadet Military Rating, Computer produced rosters listing final Military Order of Merit standing, Leadership Order of Merit. System consists of computer produced roster listing final Leadership Order of Merit standing. Basic Cadet Training Order of Merit standings, attendance and course grades.

Authority for maintenance of the system:

44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used as an input in determining Military, Leadership, and Basic Cadet Training Order of Merit standing. Used to record results from Military Order of Merit and Leadership Order of Merit worksheet for computer processing, and to record final Military, Leadership and Basic Cadet Training Order of Merit standing. Used to record Basic Cadet Training attendance and course grade data.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in note books/binders and on computer paper printouts.

Retrievability:

Filed by Name and Military Service Number.

Safeguards:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

Retention and disposal:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

Commandant of Cadets, USAF Academy CO 80840.

Notification procedure:

See Exemption

Record access procedures:

See Exemption

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

See Exemption

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under 5 U.S.C. 552a (j) or (k), as applicable. For additional information, contact the Systems Manager.

F03005 PRENC C

System name:

03005 PRENC C Base Housing Management.

System location:

Headquarters United States Air Force, Washington DC 20330. Headquarters of major commands and at all levels down to and including Air Force installations.

Categories of individuals covered by the system:

Categories of individuals on whom records are maintained: All Military members desiring base family housing and eligible Department of Defense (DOD) civilian employees.

Categories of records in the system:

Categories of records and description of data maintained in system: Application for and Assignment to Military Family Housing, contains the following data: Name, address, rank, Social Security Account Number (SSN), service data, family composition, and other information such as health problems. Other supporting documents-quarters condition inspection reports, assignment orders, etc.

Authority for maintenance of the system:

10 U.S.C. 8012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used to apply for family housing and provide information upon which eligibility can be determined. Used by base housing officials to respond to Congressional, Inspector General, and other inquiries on an individual basis pertaining to family member's housing situation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in visible file binders/cabinets, computer and computer output products.

Retrievability:

Filed by Name.

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms. Records are controlled by personnel screening.

Retention and disposal:

Advance applications are retained by losing activity and destroyed after six months. Applications received by gaining activities are destroyed one year after termination of quarters. Applications are destroyed by tearing, burning, pulping, shredding or macerating.

System manager(s) and address:

Deputy Chief of Staff/Programs and Resources, Headquarters United States Air Force, Washington, DC

Notification procedure:

Requests from individuals should be addressed to the Systems Manager. Individuals may contact agency officials at the Base Housing Office at the installation at which he completed the applicable form or the installation which will be providing military family housing.

Record access procedures:

Same procedures as for notification above.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtain from individual's voluntary application.

Systems exempted from certain provisions of the act:

NONE

F03005 02 ALSA

System name:

03005 02 ALSA On/Off-Base Housing Records.

System location:

Air Force installations.

Categories of individuals covered by the system:

Military members seeking advance applications for housing both incoming and outgoing.

Categories of records in the system:

Record contains Quarters Condition Inspection Report, Real Property Maintenance Request, and Application for and assignment to military housing.

Authority for maintenance of the system:

10 U.S.C. 9775, Quarters Assignment Guidance.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To record pertinent data required to assign and terminate family housing, report noted deficiencies in area of housing occupants responsibility, status of waiting list, and listing of personnel occupying quarters.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders, computer and computer output products and in card files.

Retrievability:

Filed by other identification number or system identifier.

Safeguards:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties.

Retention and disposal:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

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Deputy Chief of Staff/Systems and Logistics, Headquarters United States Air Force, Washington DC 20

Notification procedure:

Requests from individuals should be addressed to the Systems Manager. Send full name.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information derived from member's Permanent Change of Station Orders, Quad Leaders reports, and any other information voluntarily given by each applicant.

Systems exempted from certain provisions of the act:

NONE

F03501 DP 3

System name:

03501 DP 3 Uait Assigned Personnel Information File.

System location:

Air Force Units. Headquarters United States Air Force and major command headquarters. Headquarters of major commands and at all levels down to and including Air Force installations.

Categories of individuals covered by the system:

Active duty military personnel. Air Force Reserve and Air National Guard personnel.

Categories of records in the system:

File copies of separation actions, newcomers briefing letters, line of duty determinations, assignment actions, retirement actions, in and out processing checklists, promotion orders, credit union authorization, disciplinary actions, favorable/unfavorable communications, record of counselings, appointment notification letters, duty status changes, applications for off duty employment, applications and allocations for school training, professional military and civilian education data, private weapons storage records, locator information including names of dependents, home address, phone number, training and experience data, special recognition nominations, other personnel documents, and records of training

Authority for maintenance of the system:

10 U.S.C. 8012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Provides information to unit commanders/supervisors for required actions related to personnel administration and counseling, promotion, training, separation, retirement, reenlistment, medical examination, testing, assignment, sponsor program, duty rosters, and off duty activities.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders, note books/binders, and card files.

Retrievability:

Filed by Name and Social Security Number (SSN).

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

Retention and disposal:

Retained in office files until reassignment or separation; most records are transient in nature and are maintained only as long as required to fulfill their management purpose or until superseded, then given to the individual or destroyed by shredding, pulping, macerating or burning.

System manager(s) and address:

Deputy Chief of Staff/Personnel, Headquarters United States Air Force, Washington D.C. 20330.

Notification procedure:

Inquiries from individuals should be addressed to the respective unit commander or supervisor who maintains the records in order to exercise their rights under the Act.

Record access procedures:

Requests from individuals should be addressed to the respective unit commander or supervisor who maintains the records in order to exercise their rights under the Act. Mailing addresses are contained in the Department of Defense Directory in the appendix to the Air Force's Systems Notice.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from the individual concerned, financial institutions, educational institutionemployees, medical institutions, police and investigating officers, bureau of motor vehicles, witnesses, reports prepared on behalf of the agency, standard Air Force forms, personnel management actions, extracts from the Advanced Personnel Data System (ADPS) and records of personal actions submitted to or originated within the organization.

Systems exempted from certain provisions of the act:

NONE

F03501 DPMAK J

System name:

03501 DPMAK J Separation Case Files (Officer and Airman).

System location:

Air Force Military Personnel Center, Randolph Air Force Base, TX 78148. National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132. Duplicate copies may be retained temporarily at each level requiring review or action on the case.

Categories of individuals covered by the system:

Officers and airmen who have requested voluntary separation or who have been recommended for involuntary separation. Individuals who, under P.L. 95-202, Sec 401, have requested review of service performed with the Army Air Force or U.S. Air Force to determine if such service was equivalent to 'active duty' for purposes of laws administered by the Veteran's Administration.

Categories of records in the system:

Member's application, or letter from commander initiating separation action with indorsements, supporting documents, and record of final action taken. If congressional inquiry involved, request for information and reply provided is also filed by those offices involved.

Authority for maintenance of the system:

11 U.S.C. Chapter 59, Separations and 38 U.S.C., Veteran's Benefits.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The original copy is retained as a permanent record of action taken. The duplicate copies are retained to provide a temporary record of actions being taken for responding to inquiries concerning the status of a particular case. Occasionally, a case file is retained as a precedence file for later reference in revising separation directives.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in visible file binders/cabinets.

Retrievability:

Filed by Name. At National Personnel Records Center. Cases are filed with Master Personnel Records. Transitory copies are filed alphabetically by general subject categories, i.e., involuntary officer separations, involuntary airman separations, etc.

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms. File cabinets and power files are secured during non-duty hours.

Retention and disposal:

Master copies are retained permanently. Temporary files are disposed of within three years after final action is taken. Files are disposed of by shredding.

System manager(s) and address:

Assistant Deputy Chief of Staff Personnel for Military Personnel, Randolph Air Force Base, Texas 78148.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Member's application, or correspondence from unit commander's initiating separation action.

Systems exempted from certain provisions of the act:

NONE

F03501 0KPNQSD

System name:

03501 0KPNQSD Air Force Junior ROTC (AFJROTC) Instructor/Applicant System.

System location:

AFROTC/JRI Headquarters Air University, Maxwell Air Force Base, AL 36112.

Categories of individuals covered by the system:

AFJROTC Instructors/applicants.

Categories of records in the system:

AFJROTC Address Form; (two pages), Application for AFJROTC Instructor Duty; AFROTC Application Form, Processing Checklist; Applicant Evaluation Forms; Applicant Interview Record; last 10 Airmen Performance Reports or Officer Effectiveness Reports or summary of last 10 reports which includes period of supervision and overall evaluation; letter requesting Defense Central Index of Investigation (DCII) name check; photograph; Report of Separation from Active Duty; Retirement Order; Commander's Recommendation (for noncommissioned officers on active duty only); miscellaneous correspondence such as resume and letter of recommendation; copy of Air Force retirement physical and Physical Evaluation Board Findings if applicant is retired with 30
or more disability; copy of Veterans Administration (VA) Form Letter, Medical Forms from VA, if applicant is retired with 30
or more disability awarded by Veterans Administration; letter requesting medical evaluation of AFJROTC instructor applicants for personnel retired with 30
or more disability; Letter Verifying Dependents; Instructor Preference Card; Instructor Intent Letter; Contract Data Cards; Termination Letters; Outstanding Instructor Certificate; Certification Certificates.

Authority for maintenance of the system:

PL 88-647.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used to evaluate applicant qualifications for employment as AFJROTC instructors. Name, rank and address of applicant furnished to school when nominated for employment. Information is furnished the authority performing the DCII name check.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders, and on computers and computer products.

Retrievability:

Filed by Name, Social Security Number (SSN), and grade

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are controlled by computer system software. Building locked after duty hours.

Retention and disposal:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

Chief, instructor management division, AFROTC/JRI, Maxwell Air Force Base, AL 36112.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager. Individuals who write for information must furnish name grade, social security number and address. Visitors must show armed forces identification card and an additional source of positive identification.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from previous employers, financial institutions, educational institutions, police and investigating officers, the bureau of motor vehicles, a state or local government, witnesses, source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

Systems exempted from certain provisions of the act:

NONE

F03503 DPMMP A

System name:

03503 DPMMP A Air Force Enlistment/Commissioning Records System.

System location:

Records System is maintained at recruiting offices and Armed Forces Examining and Entrance Stations (AFEES), Liaison Noncommissioned Officer (NCO) offices in all states.

Categories of individuals covered by the system:

Applicants for enlistment or commissioning programs.

Categories of records in the system:

Individual's application, personal interview record (PIR) and supporting documents containing name, social security number, finger prints, historical background, education, medical history, physical status, employment, religious preferences (optional), marital and dependency status, linguistic abilities, aptitude and mental test results, parental consent for minors.

Authority for maintenance of the system:

44 U.S.C. 3101; and 10 U.S.C. Chapter 31 - Enlistments, Sections 504 thru 512

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information is collected by recruiters to determine enlistment/commissioning eligibility, and process qualified applicants. Personnel managers use as hard copy documentation of data entered in Advanced Personnel Data Systems (APDS). Personnel managers also use certain documents to determine classification and assignment actions after enlistment. All documents are source documents in determining benefits/ entitlements.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in visible file binders/cabinets.

Retrievability:

Filed by Name.

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

Retention and disposal:

Files of applicants not enlisted are retained in the local recruiting office and destroyed after two years. Records of enlistees that are not forwarded to Master and Unit Personnel Records files are destroyed after two years, by tearing into pieces, burning, shreding, macerating or pulping.

System manager(s) and address:

Assistant Deputy Chief of Staff Personnel for Military Personnel, Randolph Air Force Base, Texas

Notification procedure:

Individuals may contact agency officials at respective recruiting office locations

Record access procedures:

Same procedure as notification above.

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Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Individual provides through written application or personal interview.

Systems exempted from certain provisions of the act:

NONE

F03504 OYUEBLA

System name:

03504 OYUEBLA Training status Code.

System location:

At Headquarters of Air Force Communications Service (DCS/personnel), Scott AFB IL 62225.

Categories of individuals covered by the system:

Air Force active duty enlisted personnel.

Categories of records in the system:

Contains career training data, name and social security number (SSN) of individuals selected for reassignment to Air Force Communications Service (AFCS) units overseas.

Authority for maintenance of the system:

44 USC 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used to monitor the training qualifications of individuals who are selected for reassignment overseas to determine if specialized training is required enroute or if individual is presently qualified for the assignment. Also used to indicate if a training quota has been received when specialized training is required.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained on computer magnetic tappes and on computer paper printouts.

Retrievability:

Retrievability based on training status code or record status indicating individual selected for reassignment. Computerized.

Safeguards:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

Retention and disposal:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Also destroyed by degaussing.

System manager(s) and address:

Technical Training Branch Directorate of Personnel Headquarters AFCS, Scott AFB, IL 62225.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from automated system interfaces.

Systems exempted from certain provisions of the act:

NONE

F03504 OYUEBLB

System name:

03504 OYUEBLB Commander Identification.

System location:

At Headquarters Air Force Communications Service (DCS/p), Scott AFB IL 62225.

Categories of individuals covered by the system:

Air Force active duty military personnel.

Categories of records in the system:

Individuals currently performing duty as a commander and personnel selected by area commanders as possible/potential commanders.

Authority for maintenance of the system:

44 USC 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used to monitor the assignment and replacement of unit Commanders in Air Force Communications Service (AFCS).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained on computer magnetic tapes and computer paper printouts.

Retrievability:

Retrievability based on presence of commander identification code. Computerized.

Safeguards:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

Retention and disposal:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Also destroyed by degaussing.

System manager(s) and address:

Director of Assignments Directorate of Personnel Headquarters AFCS, Scott AFB IL 62225.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from automated system interfaces.

Systems exempted from certain provisions of the act:

NONE

F03506 0KPNQSA

System name:

03506 0KPNQSA Air Force Reserve Officer Training Corps Qualifying Test Scoring System.

System location:

AFROTC/RRUR, Maxwell Air Force Base, AL 36112, and portion pertaining to each AFROTC detachment located at the respective detachment. Official mailing addresses of the detachments are in the Department of Defense Directory in the appendix to the Air Force's system notice.

Categories of individuals covered by the system:

Air Forces applicants testing at Air Forces detachments.

Categories of records in the system:

Name, detachment, date of test, test scores, social security number, air science year, number of test administrations, institution category, race, sex, marital status, education level, and program applying for.

Authority for maintenance of the system:

10 USC Chapter 103; Military Selective Service Act of 1967, Section 6, (50 USC 456); and 10 USC 8012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Scores are used against criteria for entrance into AFROTC, and as a measure of quality. Scores are entered in cadet records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders, visible file binders/cabinets, and computer magnetic tapes and computer paper printouts.

Retrievability:

Filed by Name, Social Security Number (SSN), location of test administration and date of testing.

Safeguards:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are controlled by computer system software. Buildings are secured after duty hours.

Retention and disposal:

AFROTC/RRUR will maintain records of scores attained on tests administered at AFROTC detachments for a period of six years. Records are destroyed by tearing into pieces, maceration, burning or degaussing. Air Force Human Resources Laboratory, Brooks Air Force Base, TX 78235 is official repository for permanent record of all AFOQT scores.

System manager(s) and address:

Chief, Resource Systems and AFOQT Branch, AFROTC/RRUR. Air Force Base, AL 36112.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager. Requests should include full name, SSN, location of test administration, and date of testing.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Individual's knowledge of subject being tested.

Systems exempted from certain provisions of the act:

NONE

F03508 DPMAJBA

System name:

03508 DPMAJBA Recorder's Roster.

System location:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78148. Washington National Records Center, Washington DC 20409.

Categories of individuals covered by the system:

Records are maintained on all Air Force officers and E-7's and E-8's who are eligible for promotion consideration and officers considered for Regular Air Force appointment and Reserve Officers considered for involuntary separation, and any other special board directed by the Secretary of the Air Force or the Chief of Staff.

Categories of records in the system:

Listing containing record number,ber, name, social security number, date of roster, program controlcomponent, promotion category, select/non-select status, FOR OFFICIAL USE ONLY statement and name and year of board.

Authority for maintenance of the system:

The records are maintained to support selection boards convened under the authority of 10 U.S.C. 8297, 8285, 8442.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

These records are used to determine whether individuals were considered by the convening board.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in visible file binders/cabinets.

Retrievability:

Records are accessed by identification of board of consideration and then by inverted social security number of subject by promotion category.

Safeguards:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

Retention and disposal:

The records are retained in the Selection Board Secretariat for four calendar years and then retired to the National Archives, Washington, D.C.

System manager(s) and address:

Assistant Deputy Chief of Staff, Personnel for Military Personnel, Randolph Air Force Base, Texas 78148.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager. Request must include name grade Social Security Number, board identification, promotion category, and zone of consideration as applicable.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

The information in these records is extracted from the Selection Board Support File, and from data compiled from individual board member inputs.

Systems exempted from certain provisions of the act:

NONE

F05002 ATC TTS

System name:

05002 ATC TTS Student Record of Training.

System location:

All Technical Training Centers of Air Training Command (ATC); Field Training Detachments of ATC and the 3750 Technical Training Group/TTS, Sheppard AFB TX 76311; Officer Training School, Lackland AFB TX 78236; Community College of the Air Force, Lackland AFB TX 78236; United States Air Force School of Applied Cryptologic Scien(USAFSACS), Goodfellow AFB TX 76903; and the Washington National Records Center, Washington DC 20409. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's system notices.

Categories of individuals covered by the system:

Active duty military personnel and civilian employees, Air Force Reserve and Air National Guard personnel, foreign nationals, and retired Air Force military personnel who have attended a training course conducted by an ATC activity. Employees of Air Force contractors receiving training at USAF schools.

Categories of records in the system:

Records of individual training and education, subjects studied, reading proficiency training, hours, final grades, and graduation data.

Authority for maintenance of the system:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by and Executive Order 9397, 22 November 1943, Number System for Accounts Relating to individual persons.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Record individual attendance, achievement and special training progress. To evaluate student's potential for commissioning and need for remedial reaching. Used by FTDs to determine student eligibility to receive certificate of training, and by the Community College of the Air Force to grant college credits for successful completion of the course.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders.

Retrievability:

Filed by name, SSN, course number, and graduation month and year.

Safeguards:

Records are accessed by the custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets and rooms.

Retention and disposal:

Record of individual hours and final grades - held one year, then destroyed; source, support, and control data basic trainee records and special training records - retained for six months after monthly

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cutoff, then destroyed; Nelson Denny Reading Test Answer Sheets - retained for the class duration, then destroyed; Officer Training School Student Training Summaries maintained for two years after cutoff, then destroyed: Field Training Student Attendance and Rating Records - retained at Sheppard AFB TX 76311 for two years then retired to the Washington National Records Center for an additional 28 years, then destroyed; Student Record of Training - retained at the local ATC Center for two years then retired to the Washington National Records Center for an additional 28 years, then destroyed; Training Progress Reading Proficiency Case Files - destroyed three months after class/course completion. All of the above records are destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

Deputy Chief of Staff for Technical Training, Standards and Evaluation Directorate, Randolph AFB TX 78148 (for other than classes/ courses completed at ATC Field Training Detachments & Officer Training School). The 3750 Technical Training Group/TTS for classes/ courses conducted by ATC Field Training Detachments and the Commander, Officer Training School for OTS student records; and the 3480 Technical Training Group/TTR for classes/courses conducted at Goodfellow AFB, TX 76903. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's system notices.

Notification procedure:

Contact Training Department at the Air Force base where the training was conducted for ATC technical training center courses; 3750 Technical Training Group/TTS, Sheppard AFB TX 76311, for classes/ courses completed at an ATC Field Training Detachment; and Officer Training School/CC, Lackland AFB TX 78236, for OTS student records and 3480 Technical Training Group/TTR, Goodfellow AFBfor courses taught at that base. Full Name, Social Security Number, Course Number or Title and Dates of Attendance is required. For personal visits, identification card or driver's license is acceptable proof of identity.

Record access procedures:

Individuals can obtain assistance in gaining access from the system manager for OTS student records and classes/courses completed at an ATC Field Training Detachment or from the systems manager in the training department at the Air Force base in ATC where training was conducted.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Training Center Organizational Directory; Enlistment Records; Basic Military Training Records; Score from Nelson Denny Reading Test; Internal Testing and Instructor/Peer Observation; Information obtained from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

Systems exempted from certain provisions of the act:

NONE

F05002 OYUEBLA

System name:

05002 OYUEBLA Air Traffic Control (ATC) Certification Documentation.

System location:

Headquarters of major commands and at all levels down to and including Air Force installations.

Categories of individuals covered by the system:

Air Force active duty military personnel. Air Force Reserve and Air National Guard personnel.

Categories of records in the system:

Reflects individual by name and Social Security Number (SSN), certificate number, military status (active duty, reserve, or air guard), requested action (issue, reissue, or cancellation of certificate), and justification. Contains documentation compiled by requesting unit to justify withdrawal of certification. May include evaluation by medical authorities, legal, Office of Special Investigation results, and statements by supervisory personnel and co-workers. Contains copies of performance reports and unfavorable information files. Includes headquarters staff evaluation.

Authority for maintenance of the system:

10 USC 8012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Documentation used to evaluate request for withdrawal of ATC certification. Permits immediate access to name, SSN, certificate number, date of issuance, and category of service. A master roster is maintained at Headquarters AFCS and the units maintain individual certificate information in the individual's training record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders note books/binders and on computer paper printouts.

Retrievability:

Filed by Name.

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms. Records are controlled by computer system software.

Retention and disposal:

Retained for one year after end of year in which the case was closed, transferred to a staging area for one additional year, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

Deputy Chief of Staff Flight and Airspace Management at Headquarters Air Force Communications Service, Scott AFB IL 62225, and Air Traffic Control Operationunit level.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth. Information obtained from medical institutions, trade associations, police and investigating officers, state and local governments, and witnesses.

Systems exempted from certain provisions of the act:

NONE

F05002 OYUEBLC

System name:

05002 OYUEBLC Air Traffic Control Rating and Training Program Documentation.

System location:

Air Force installations, Air National Guard activities, and Air Force Reserve units. Addresses are in the appendix to the Air Force's systems notice.

Categories of individuals covered by the system:

Air Force active duty military personnel. Air Force Reserve and Air National Guard personnel.

Categories of records in the system:

Air Traffic Controller evaluation record; Air Traffic Control (ATC)/weather certification and rating record; 1631 Training Evaluation Report; special task certification and recurring training record; on-the-job training record-continuation sheet

Authority for maintenance of the system:

10 USC 8012

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used to document progression of individuals in the upgrade training program, provide estimated upgrade date to fully qualified Officer Air Force Specialty Code (AFSC), provide data base for determining program revisions, identify fast/slow progressors, permit trainee comments on program curriculum and operation, and identify deficient areas in previous technical training which impacted on

individual's performance during upgrade training. Record of position certifications and facility ratings and weather certifications, documenting special ATC training, and training problems.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in fole folders/ note books/binders.

Retrievability:

Filed by Name.

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

Retention and disposal:

Given to the individual concerned when no longer valid or the individual is no longer performing ATC duties, or torn into pieces, pulped, burned, shredded or macerated.

System manager(s) and address:

Deputy Chief of Staff, Air Traffic Services, Scott AFB IL 62225; ATC Operations Officers at all other levels.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from witnesses. Information obtained from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

Systems exempted from certain provisions of the act:

NONE

F05002 OYUEBLD

System name:

05002 OYUEBLD Student Record.

System location:

1872 School Squadron, Air Force Communications Service (AFCS), Keesler AFB MS 39534.

Categories of individuals covered by the system:

Active Duty Air Force enlisted personnel and Air National Guard personnel.

Categories of records in the system:

Student record which reflects individual's academic standing; student evaluation; reading laboratory progress record; record of individual counseling; Non-Commissioned Officer (NCO) Academy student roster.

Authority for maintenance of the system:

10 USC 8012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used to record student progress for each academic class for the AFCS NCO Academy and AFCS NCO Leadership School; reflects written examination scores, communications skills, instructor evaluations; reflects individual's reading laboratory progress; provides record of individual counseling; is a roster of students.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders and card files.

Retrievability:

Filed by student name.

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

Retention and disposal:

Some retained in office files for one year after the end of the year the individual completes or discontinues a training course, transferred to staging area for nine additional years, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. All other records are retained in office files until graduation or elimination of the student from training, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

NCO in charge of administration, 1872 School Squadron (AFCS), Keesler AFB MS 39534.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from educational institutions. and Chief Training and Education Division Directorate of Personnel Programs, Deputy Chief of Staff for Personnel, Headquarters AFCS.

Systems exempted from certain provisions of the act:

NONE

F05002 OYUEBLE

System name:

05002 OYUEBLE Individual Academic Training Record.

System location:

C-E Systems Evaluation Training School, Deputy Chief of Staff, Operations, HQ AFCS, Scott AFB IL 62225.

Categories of individuals covered by the system:

Active duty military personnel. Air Force Reserve and Air National Guard personnel. Army National Guard and Department of Defense civilian personnel who are electronics engineers, communications engineers, radio relay equipment maintenance personnel, technical control personnel, and such other individuals who might apply for this training.

Categories of records in the system:

Personnel index; absentee report; class pre-graduation/graduation roster; attendance record; record of individual training

Authority for maintenance of the system:

10 USC 8012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To record emergency data and course completion information. To report student absences to the Commandant of the school. Provides student class composition and list of graduating students to the Deputy Chief of Staff for Operations (DCS/Operations), HQ AFCS. An attendance record. Reflects student academic progress.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders and card files.

Retrievability:

Filed by student name.

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Stored in file cabinet.

Retention and disposal:

Some retained in office files until appropriate table/ rule is published in AFM 12-50. All other records retained in office file until graduation or elimination of the student from training then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

Commandant, C-E Systems Evaluation Training School, DCS/ Operations, HQ AFCS, Scott AFB IL 62225.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

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Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information from instructor.

Systems exempted from certain provisions of the act:

NONE

F05101 OJ DOTB

System name:

05101 OJ DOTB Flying Training Records - Student.

System location:

Headquarters Air Training Command, Randolph AFB TX; Washington National Records Center, Washington DC 20409; ATC Pilot and Navigator Training Wings; Official mailing addresses are in Department of Defense directory in the appendix to the USAF systems notice.

Categories of individuals covered by the system:

Students entered into Undergraduate Pilot and Navigator training.

Categories of records in the system:

Complete record of training including class number, flying and academic course completed, flying hours, whether graduated or eliminated and date, reasons for elimination, Faculty Board Proceedings, student's performance in each category of training, including grades, evaluations and performance documentation; background information including name, grade, SSAN, source of commission, college, subject matter, etc; past training unit of assignment; class standing prior to 31 Dec 74; progress records on minority students.

Authority for maintenance of the system:

44 U.S.C. 3101, 10 U.S.C. 8012, and Executive Order 93-97 22 Nov 1943.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Document and record student performance; provide background information; report to Air National Guard/Air Force Reserve and other Air Force training units on qualifications of graduates; analyze student performance in following training for the purpose of evaluating training and revising course content; also used to monitor student performance by source of entry, education level, and minority status; record and document Faculty Board proceedings.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders. Maintained in note books/binders. Maintained in card files. Maintained on computer and computer products.

Retrievability:

Filed by Name. Filed by Social Security Account Number (SSAN). Filed by other identification number or system identifier.

Safeguards:

Records are accessed by custodian of the record system. Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

Retention and disposal:

Student grade books are destroyed three months after completion of training; Summary Training Records are retained in office files for two years, then retired to Washington National Records Center, Washington, DC, for eight years; other records are retained in office files until superseded, obsolete, no longer needed for reference or on inactivation. Faculty Board Records are retained for one year. Destruction is by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

Deputy Chief of Staff Operations, Air Training Command, Randolph AFB, TX 78148.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information comes from source documents such as grade sheets, written examinations, and flight examinations; from reports by instructors and students, and from the individual, automated system interfaces.

Systems exempted from certain provisions of the act:

NONE

F16802 0RKNMDA

System name:

16802 0RKNMDA Civilian Health/Medical Program of Uniformed Services (CHAMPUS) Case Claim Files.

System location:

Commander Third Air Division USAF Clinic Andersen (Registrar) APO 96334. (For all of Guam (basic program)). USAF Hosp Clark (Registrar), APO 96274 (For all of Phillipines, Thailand, Taiwan (basic program)). USAF Hospital Yokota (Registrar), APO 96328 (For Kanto Plains, Hakata all of Korea (basic program)). USAF Hosp Misawa (Registrar), APO 96519 (For Misawa and Chitose (basic program)). USAF Clinic Kadena (Registrar), APO 96239 (For all of Okinawa (basic program)) The remainder of Air Force claims in Pacific Air Force(PACAF) command area, along with Air Force claims from India, Sri Lanka, Pakistan Nepal, and Afghanistan are processed and filed by Commander in Chief Pacific Air Forces (CINCPACAF) (SCAMF), APO San Francisco 96553 (basic program and entire handicapped program for command).

Categories of individuals covered by the system:

Dependents of Air Force personnel, retired Air Force military personnel, dependents of retired and deceased AF personnel.

Categories of records in the system:

Medical reports. invoices and receipts for treatment.

Authority for maintenance of the system:

10 U.S.C. 1071-1087.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

For determination if claim is authorized for payment, for screening against duplicate payments for same service, serves as auditable records to support computations of amount of payments made to claimants. Categories of users are: physicians for diagnosis, hospital administrative personnel for determining if care is authorized and to compute amount to be paid, accounting and finance office for supporting documents to support payment of claims, auditors to determine if payment computations were made in accordance with directives.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders.

Retrievability:

Filed by Name.

Safeguards:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are accessed by commanders of medical centers and hospitals. Records are stored in locked cabinets or rooms.

Retention and disposal:

Records are kept on a fiscal year basis and are brought forward to current year if they are still active. Records are cut off at end of fiscal year and destroyed after 5 years by tearing into pieces,shredding,pulping,macerating,or burning signed requests from individual concerned must be forwarded to office of record. Request should include full name of individual and full name of sponsor and his social security account number. with Air Force claims from India, Sri Lanka, Pakistan, Nepal, and Afghanistan is processed and filed by CINCPACAF surgeon general, APO San Francisco 96553 basic program and entire handicapped program for the command.

System manager(s) and address:

Commander Third Air Division USAF Clinic Andersen (Registrar) APO San Francisco 96334. (All of Guam (basic program)). USAF Hosp Clark (Registrar) APO San Francisco 96274. (All of Phillipines, Thailand Taiwan (basic program)). USAF Hospital Yokota (Registrar), APO San Francisco 96328. (Kanto Plains, Hakata, all of Korea (basic program)). USAF Hosp Misawa (Registrar), APO San Francisco 96519. (Misawa and Chitose (basic program)). USAF clinic Kadena (Registrar), APO 96239. (All of Okinawa (basic program)). CINCPACAF (SCAMP) APO San Francisco 96553 for the remainder of Air Force claims in Pacific Command a

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Physicians, hospitals; dentists, clinics, pharmacy, commercial medical supply houses, other providers of medical associated care.

Systems exempted from certain provisions of the act:

NONE

F17701 OBXQPCA

System name:

17701 OBXQPCA Cadet Accounting and Finance, System.

System location:

United States Air Force Academy, USAF Academy CO 80840. Air Force Accounting and Finance Center, Lowry AFB, Denver, CO 80279.

Categories of individuals covered by the system:

Air Force Academy cadets.

Categories of records in the system:

Individual computerized files containing pay data for all USAF Academy Cadets including Establishment/Change in Personal Checking Account, Monthly Report of Contingency Fund Status, Contingency Fund Loan Request, Cadet Pay Order, Document Control Log, Recapitulation of Cadet Pay Account, Cadet Pay Authorization, Cadet Pay Monthly Statement, Cadet Pay Record, Payment/Collection Vouchers, Separation Control Log, Electronic Data Processing Sheets, Microfilm Files, Cadet Pay Disk File, Quarterly FICA Report, Transmittal Letter.

Authority for maintenance of the system:

10 U.S.C. 9331, 9334, 9342, 9350; 37 U.S.C., 201.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purpose for which the information in the system is collected is to accumulate cadet pay entitlements (basic pay and subsistence), deductions (federal tax, social security, insurance premiums) in order to properly monitor the payments disbursed to the Air Force Cadet Wing (TAFCW). The only category of user is the Accounting and Finance Office, Cadet Pay Section and Paying and Collection Section. The specific uses of the information include determining the correct monthly net pay to be disbursed to each cadet, preparing TD Forms W2 for the Internal Revenue Service, reporting deductions for the Federal Insurance Contribution Act to the Social Security Administration, charging the cadets for clothing issues and miscellaneous charges from authorized USAF Academy sources, and the reporting of all expenditures to the Air Force Accounting and Finance Center.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders, in visible file binders/cabinets, in card files, on computer magnetic tapes, on disks or drums, on computer paper printouts, on roll microfilm.

Retrievability:

Filed by Military Service Number or other identification number or system identifier.

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

Retention and disposal:

The original copy of Cadet Pay Record, Cadet Pay Order, Substantiating Pay Documents and Transmittal Letter are forwarded to AFAFC, Lowry AFB, Denver, CO 80279. A microfilm copy of the Cadet Pay Record is maintained by USAF Academy Finance, Cadet Pay Section, USAF Academy, CO 80840, and is destroyed 4 years after graduation by cutting into pieces. Copies of Cadet Pay Orders, substantiating pay documents and posting media records are retained 1 year after annual cutoff in current files area and forwarded to the USAF Academy Staging Area for 2 additional years. Document Control Records are destroyed 90 days after close of FY to which they pertain. W-2 listings, quarterly FICA reports and CPITF interest distribution records are retained by Cadet Pay Section 6 years after CY to which they pertain. Audit registers are destroyed after 9 months. Financial statements, schedules and supporting data is destroyed after 4 years. Pay inquiries are destroyed after 2 years. All destruction is accomplished by tearing into pieces.

System manager(s) and address:

Director of Accounting and Finance, United States Air Force Academy, Colorado, 80840.

Notification procedure:

Requests from individuals should be addressed to the system manager.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

Systems exempted from certain provisions of the act:

NONE

F17708 0EACYVD

System name:

17708 0EACYVD Indebtedness and claims.

System location:

Air Force Accounting and Finance Center, Lowry AFB, Denver, CO 80279. Denver Federal Archives and Record Center Bldg 48 Denver Federal Center, Denver, Colorado 80225.

Categories of individuals covered by the system:

Active duty military personnel. Air Force civilian employees. Former Air Force civilian employees. Air Force Reserve and Air National Guard personnel. Retired Air Force military personnel. Air Force Academy cadets. Dependents of military personnel. Exchange Officers. Foreign nationals.

Categories of records in the system:

Records of current and former military members and civilian employees pay accounts showing entitlements, deductions, payments made, and any indebtedness resulting from deductions and payments exceeding entitlements. These records include, but are not limited to, individual military pay records, substantiating documents such as military pay orders, pay adjustment authorizations, military master pay account print out from Joint Uniform Military Pay System (JUMPS), records of travel payments, financial record data folders, miscellaneous vouchers, personal financial records, credit reports, promissory notes, individual financial statements, and correspondence. Applications for waiver of erroneous payments or for remission of indebtedness with supporting documents, including but not limited to, statements of financial status (personal income and expenses), statements of commanders, statements of Accounting and Finance Officers, correspondence with members and employees. Claims of individuals requesting additional payments for services rendered with supporting documents including, but not limited to, time and attendance reports, leave and earnings statements, travel orders, travel vouchers, statements of non-availability of quarters and mess, paid receipts, and correspondence with members and employees. Delinquent accounts receivable from base Accounting and Finance Officers including, but not limited to, returned checks, medical services billings, collection records, and summaries of the Air Force Office of Special Investigation and Federal Bureau of Investigation reports. Reports from probate courts regarding estates of deceased debtors. Reports from bankruptcy courts regarding claims of the US against debtors.

Authority for maintenance of the system:

V45/16 JA23 80 UMI

V45/16 JA23 80 UMI

31 USC 951-953; 10 USC 2774; 10 USC 9837 (d); 5 USC 5584; 12 USC 1715m.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The information is collected to determine eligibility for waiver of erroneous payments and remission of indebtedness or additional payments for services rendered. Also, information is required to attempt collection of all claims of the United States for money or property arising out of the activities of the United States Air Force. Data necessary to identify the individual involved is disclosed to commercial credit agencies whenever a financial status report is requested for use in the administration of the Federal Claims Collection Act. Claims of the United States may be compromised, terminated, or suspended when warranted by information collected. The records are used by, but not limited to, Air Force Accounting and Finance Center (AFAFC) Director of Accounting and Finance and Deputy Director of Accounting and Finance (HQ USAF/ACF), Assistant Secretary of the Air Force for Manpower and Reserve Personnel (SAF/MR), United States Air Force Comptroller (HQ USAF/AC), and the Comptroller General. AFAFC/CC uses the information to make final determinations or recommendations to SAF/MR, HQ USAF/AC, or the Comptroller General; to furnish legal advice to operating officials; to establish debts and respond to letters received from individuals. After action is completed, files are closed and filed in individual records. SAF/MR, HQ USAF/AC and the Comptroller General use the files for making final determinations. Disclosures made pursuant to the Freedom of Information Act. Disclosures to the Department of Justice for criminal prosecution, civil litigation or investigation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders and in machine - readable form.

Retrievability:

Filed by Name.

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards and controlled by personnel screening and visitor registers.

Retention and disposal:

Retained in office files for one year after annual cut-off, transferred to the Denver Federal Archives and Record Center for nine additional years, and then sold to salvage paper companies to be destroyed by shredding, tearing, masserating, pulping or burning.

System manager(s) and address:

Comptroller of the Air Force, Headquarters United States Air Force. Director Accounting and Finance United States Air Force (USAF).

Notification procedure:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Denver, CO 80279, telephone (303) 320-7553. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military status, duty station or place of employment, or other information verifiable from the record itself.

Record access procedures:

Requests from individuals should be addressed to AFAFC/DAD, Denver, CO 80279, telephone (303) 320-7553. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military status, duty station or place of employment, or other information verifiable from the record itself.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from financial and medical institutions; automated system interfaces; police and investigating officers; the public media; a state or local government; and source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth; credit bureaus; Bureau of Employees Compensation, Veterans Administration; Social Security; Internal Revenue Service; Federal Housing Administration; health insurance companies; U.S. Army Finance and Accounting Center; Navy Finance Center; Base Accounting and Finance Officers, Major Commands; Comptroller General; and correspondence with individual concerned or his representative.

Systems exempted from certain provisions of the act:

NONE

F17721 0EACYVA

System name:

17721 0EACYVA Civilian Pay Records.

System location:

Air National Guard activities. Accounting and Finance Offices at Air Force bases. Air Force Reserve units. Addresses are in the appendix to the Air Force's systems notice. Addresses of geographically dispersed units may be obtained by reference to Air Force components listed in the Department of Defense directory in the appendix to the Air Force notice.

Categories of individuals covered by the system:

Air Force civilian employees.

Categories of records in the system:

Individual pay records; Individual leave records; source documents for posting leave and attendance; individual retirement deduction records; source documents maintained in connection with retirement deduction records and control files thereon; wage and separation information files; health benefit records; income tax withholding records; allowance and differential eligibility files, such as, but not limited to clothing allowances and night rate differentials; withholding and deduction authorization files, such as, but not limited to federal income tax withholding, insurance and retirement deductions; accounting document files; input data posting media, such as, but not limited to time and attendance cards and reports and personnel actions affecting pay; accounting and statistical reports and computer edit listings; claims and waivers affecting pay; control logs and collection/disbursement vouchers; listings for administrative purposes, such as, but not limited to health insurance, life insurance, bonds, locator files and checks to financial institutions; correspondence with the Civilian Personnel Office, dependents, attorneys, survivors, insurance companies, financial institutions, other governmental agencies and others; leave and earnings statements; travel records; and separation documents; official correspondence; federal, state and tax reports and/or tapes; forms covering pay changes and deductions, and documentation pertaining to garnishment of wages.

Authority for maintenance of the system:

5 U.S.C. Chapters 53, 55 and 81.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The records are used to accurately compute individual employee's pay entitlements and to withhold required and authorized deductions and issue payroll checks for amounts due. Output products are forwarded as required to other subject matter areas to ensure accurate accounting and recording of pay to civilian employees. These records and related products are also used to verify and balance in the civilian pay office and other applicable subject matter areas and to report information to recipients, other goverament, and nongovernment agencies. Such recipients and agencies include, but are not limited to, the individual employee; banks which credit the employee's account if the employee has requested his check to be sent to the bank; financial organizations which credit the employee's account if the employee has requested a savings allotment; other approved organizations which an employee has designated for an allotment; computer and accounting service cenfinancial organizations designated by individuals to receive monies due them; Federal Reserve Banks under procedures specified in 31 CFR 210 for Federal recurring payments by means other than check; health benefit carriers to ensure proper credit for the employee authorized health benefit deductions; employee organizations for which the employee has requested a dues deduction (reasons for nondeduction of dues will be benefit deductions; disclosed to officials of labor organizations recognized under Executive Orders 11636 and 11491, as amended, when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices and matters affecting working conditions (including disclosure of reasons for nondeduction of dues, if applicable); the US Treasury, which maintains cash accountability; the Internal Revenue Service for recording withholding and social security information; the Social Security Administration and Civil Service Commission which credits the employee's account for Federal Insurance Contributions Act or Civil Service Retirement withheld; State revenue departments which credit employee's state tax withholding; State employment agencies which require wage information to determine eligibility for unemployment compensation benefits of former employees; city revenue departments of appropriate cities which credit employees for city tax withheld; any agency or component thereof that needs the information for proper accounting of funds, such as, but not limited to, for-others listings; Civil Service Commission for assistance in resolving complaints, grievances, etc. In the event of suspected fraud or other irregularity, data may be released to the Federal Bureau of Investigation, Office of Special Investigations, United States Air Force, or other investigating agencies for investigation and possible civil action or criminal prosecution. Data may also be released to a court of competent jurisdiction for court action. Disclosures are made to the Department of Justice for criminal prosecution, civil litigation, or investigation. Information is also supplied to the Civil Service Commission for computation of Civil service retirement annuity. Records are also used for extraction or compilation of data and reports for management studies and statistical analyses for use internally or externally as required by the Department of Defense or other Government agencies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders, in note books/binders, in visible file binders/cabinets, in card files, on computer magnetic tapes, disks or drums, on computer paper printouts, on roll microfilm, on microfiche, and in microfilm jackets.

Retrievability:

Filed by Name, Social Security Number (SSN), Civilian Payroll Number, Vehicle Registration or License Number, or other identification number or system identifier.

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms, protected by guards, and controlled by personnel screening, visitor registers, and computer system software.

Retention and disposal:

Records are retained for periods ranging up to 56 years.

System manager(s) and address:

Comptroller of the Air Force, Headquarters United States Air Force. Director of Accounting and Finance United States Air Force (USAF); and commanders of Air Force installations.

Notification procedure:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry AFB, Denver, CO 80279 telephone (303) 320-7553. Information pertaining to geographically dispersed elements of the record system maybe obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense directory in the appendix to Air Force system notice. Requester should be able to provide sufficient proof of identity, such as name, social security number, drivers license, civilian identity card, duty station or place of employment or other information verifiable from the record itself.

Record access procedures:

Requests from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. Information pertaining to geographically dispersed elements of the record system maybe obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense directory in the Air Force system notice. Requester should be able to provide sufficient proof of identity, such as name, social security number, drivers license civilian identity card, duty station or place of employment, or other information verifiable from the record itself.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from previous employers from financial institutions, from medical institutions, from automated system interfaces, from a state or local government, from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth, and from other Department of Defense components and other federal agencies such as, but not limited to Social Security Administration, Internal Revenue Service, State Revenue Departments, Department of the Army, Navy or State Department. Correspondence with attorneys, dependents, survivors or guardians may also furnish data for the system.

Systems exempted from certain provisions of the act:

NONE

F17725 0EACYVA

System name:

17725 0EACYVA Air Reserve Pay and Allowance System (ARPAS).

System location:

Primary system location: Air Force Accounting and Finance Center, Lowry AFB, Denver CO 80279; decentralized supporting segments are located at: Air Force Military Personnel Center, Randolph Air Force Base, TX 78148. Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280. National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132. Air National Guard activities and Air Force Reserve units. in the appendix to the Air Force's systems notice. accounting and finance offices at Air Force bases. Servicing individual Air Reserve Forces members. Denver Federal Archives and Record Center, Bldg 48, Denver Federal Center, Denver, CO 80225; and records Center annex GSA, p.o. Box 141, Neosho, MO 64850 (system back- up storage).

Categories of individuals covered by the system:

Active Air Reserve Forces members in a military pay status and Dependents of military personnel except Air Reserve Forces members on extended active duty and members of the Air Force Reserve Officer Training Corps.

Categories of records in the system:

Military pay account computer records and supporting documentations relating to Air Reserve Forces military pay and allowance entitlements, deductions, and collections. Military pay computer records, including but not limited to, master individual pay account files (containing essential check and member identification data, military pay entitlement and allowance data, accounting data, tax withholding rate and amount data, collection and indebtedness data, and performance data); wage and tax withholding records; records of Air Reserve Forces calendar day performance; check issue, control and cancellations records; transaction input, system reject, and system recycle records; disbursement and collection report records; accounting report records; and other generated records supporting, substantiating, or authorizing Air Reserve Forces military pay and allowance entitlement, deduction, or collection actions. Military pay documentation records include, but are not limited to, travel orders, requests and performance records; active military duty performance records; statements of tours or performance of military duty; payroll attendance lists and rosters; document records establishing, supporting, reducing, or cancelling entitlements to basic pay; special compensations (such as medical, dental, veterinary, and optometry); special pays (such as foreign duty, hostile fire); allowances (such as basic allowance for subsistence, basic allowance for quarters, family separations, clothing maintenance and monetary allowances); incentive pays; and other entitlements in accordance with the Department of Defense Pay and Allowance Entitlement Manual; certificates and statements changing address, name, military assignment, and other individual data necessary to identify and provide accurate and timely Air Reserve Forces military pay and performance credit; allotment start, stop, or change records; declarations of benefits and waivers; military pay and personnel orders; medical certifications and determinations; death and disability documents; check issuing and cancellation records and schedules; payroll vouchers; money lists and accounting records; pay adjustment authorization records; system input certifications; member indebtedness and tax levy documentation; earnings statements; employees wage and tax reports and statements; casual payment authorization and control logs; punch card transcripts; and other documentation supporting, authorizing, or substantiating Air Reserve Forces military pay and allowance entitlement, deduction, or collection. Inquiry files, sundry lists, reports, letters, correspondence, and rosters including, but not limited to, Congressional inquiries, Internal Revenue Service notices and reports, state tax and insurance reports, Social Security Administration reports, Veterans Administration reports, inter-Department of Defense requests, treasury reports, and health education and institution inquiries.

Authority for maintenance of the system:

37 U.S.C. 101 et. Seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information is collected in the system to ensure accurate and timely military pay and allowances to supported Air Reserve Forces members; provide timely, complete master individual pay account review; document and account for Air Reserve Force military pay and allowance disbursements and collections; and provide account

inquiry research response capability. Records are utilized to determine net military pay and allowances check issues to Air Reserve Force members; to verify and account for system input transactions; to identify, correct, and collect overpayments; to establish, control, and collect member collection and indebtedness notices and levies; to maintain complete accounting records for Air Reserve Forces military pay and allowance disbursements, collections, refunds, and reimbursement actions; and to provide internal and external managers with statistical and monetary reports. Other users of system record data include such Air Force components as Headquarters US Air Force, Major Air Force Commands, Air Force installations, Air National Guard and Air Force Reserve Consolidated Base Personnel Offices and Consolidated Reserve Personnel Offices, Air National Guard Base Comptrollers, and ARPAS payroll offices. Other users and uses include, but are not limited to, record transfers to components of the Department of Defense for system transaction validity and accuracy audit, accounting, and documentation utilization; other federal agencies such as the Internal Revenue Service for wage and tax withholding reporting, accounting, tax audits or levies; Social Security Administration for wage and tax withholding reporting, accounting, or tax audit; Civil Service Commission for personnel management functions; Comptroller General and the General Accounting Office for system transaction validity and accuracy audits; Veterans Administration for compensation and waiver reporting and audits, life insurance accounting, disbursement and benefit determinations; US Federal Courts for legal proceedings; Federal, State, or local Governmental agencies for reports and accounting utilization; state and local governments for tax and welfare information; educational institutions for verifying scholarship qualifications and performance; charitable institutions and military associations to render recognition for meritorious service; and financial institutions for deposits (checks to banks) and credit references. Pay data is released to computer and accounting service centers upon request of financial organizations designated by individuals to receive money due them. Pay data is also released to Federal Reserve Banks under procedures specified in 31 CFR 210 for Federal recurring payments by means other than by checks. Disclosure made persuant to the Freedom of Information Act. Disclosures to the Department of Justice for criminal prosecution, civil litigation or investigation. The American Red Cross and Air Force Aid Society use this information to determine needs of a member of his or her dependents in emergency situations.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders/ in note books/binders/ visible file binders/cabinets/card files on computer magnetic tapes and computer paper printouts, on roll microfilm and microfiche.

Retrievability:

Filed by Name and Social Security Number (SSN).

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets/safes/ vaults, protected by guards, and controlled by personnel screening, visitor registers and computer system software requiring special random input entry identifiers.

Retention and disposal:

The system contains differing types of records subject to varied retention of from 6 months to 56 years. Records are retired to the Denver Federal Archives and Record Center, and also are stored at the Records Center annex GSA at Neosho, MO for back-up storage. Final destruction of records is by sale to a salvage company for shredding.

System manager(s) and address:

Comptroller of the Air Force, Headquarters United States Air Force; Director Accounting and Finance United States Air Force (USAF); managers for geographically dispersed supporting elements to the system are Chief of Air Force Reserve, Headquarters United States Air Force. Director of Air National Guard, Headquarters United States Air Force. Accounting and Finance Officers, Consolidated Base Personnel Officers, Air National Guard Base Comptrollers, Consolidated Reserve Personnel Officers, ARPAS Payroll Officers, and designated representatives thereof.

Notification procedure:

Information as to whether the record system contains Information on an individual may be obtained from AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. Information pertaining to geographically dispersed elements of the record system may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force system notice. Requesters should be able to provide sufficient proof of identity, such as name, social security account number, military status, last Air Reserve Forces unit of assignment, duty status or place of employment, or other information verifiable from the system record itself.

Record access procedures:

Requests from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. Information pertaining to geographically dispersed elements of the record system may be obtained from Documentation Managers at the Air Force component listed in the Department of Defense Directory in the appendix to the Air Force system notice. Requesters should be able to provide sufficient proof of identity, such as name, social security account number, military status, last Air Reserve Force unit of assignment, duty status, or place of employment, or other information verifiable from the system record itself.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Record system sources for information include, but are not limited to, the following: Headquarters USAF, Air Force Major Commands and Air Force installations, Consolidated Base Personnel Offices and Consolidated Reserve Personnel Offices, Air National Guard Base Comptrollers, ARPAS Payroll Offices, other DoD components; the Internal Revenue Service, Social Security Administration, Veterans Administration, and other federal agencies; financial institutions, educational institutions, medical institutions, automated system interfaces, and state and local agencies.

Systems exempted from certain provisions of the act:

NONE

F17726 0EACYVA

System name:

17726 0EACYVA Pay and Allotment Records.

System location:

At Air Force Accounting and Finance Center, Denver CO 80279, and at Denver Federal Archives and Record Center, Building 48, Denver Federal Center, Denver, CO, 80225.

Categories of individuals covered by the system:

Air Force active duty officer and enlisted personnel. Air Force Reserve and Air National Guard personnel. Retired Air Force military personnel. Air Force Academy cadets.

Categories of records in the system:

Applications for Basic Allowance for Quarters (BAQ); request for dependency determinations for benefits; copies of marriage certificates, birth certificates, annulments, divorce decrees and adoption papers; certificate of residence forms; allotment documents (starts, changes and stops); special pay authorizations; copies of allotment vouchers; change of address forms; parent dependency affidavits; correspondence between the Air Force Accounting and Finance Center (AFAFC) and members and their dependents pertaining to allotments (pay information) and determinations of dependency; Comptroller General decisions; General Accounting Office opinions; Judge Advocate General opinions and interpretative memoranda; Air Force Office Special Investigation (OSI) reports, interpretative memoranda from plans and systems (XS) at AFAFC; status request from office of civilian health and medical program of the uniformed services (CHAMPUS) regarding medical care for children over age 21; correspondence with state and local agencies; American Red Cross; and other material related to dependency determination and eligibility of dependents for pay and allowance purposes and benefits.

Authority for maintenance of the system:

37 USC 401; 37 USC 403 and 10 USC 1072.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records are used to; make determinations of dependency and or relationship eligibility entitlement to pay allowances for parents, stepchildren and adopted children who have income in their own right, illegitimate children and all cases where relationship or dependency is questionable; make determinations of dependency and or eligibility entitlement to benefits for parents, parents-in-law, illegitimate children and children over age 21. Copies of affidavits, documents, related correspondence and/or information contained therein may be furnished to the service member, the claimed dependent and/or the person who furnish such information. Copies of affidavits, statements and related correspondence may be furnished OSI to verify information submitted by or in behalf of the claimed dependent. Copies of records may on occasion be furnished to Internal Revenue Service (IRS), Social Security Administration (SSA), Civil Service Commission, and the Veterans Administration (VA), and to state and local agencies for their own determinations for any obligations, benefits and privileges that come under their jurisdiction. Notify other services (Army, Navy, Marine Corps, Coast Guard) on approvals of BAQ in behalf of parents and illegitimate children to prevent duplicate claims. Notify the American Red Cross of status of claims to inform the member and/or their dependents. On occasion may send or disclose information to the Comptroller General for advance opinions. On occasion may disclose information to members of Congress on request. On occasion may disclose information to the Air Force Aid Society.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders.

Retrievability:

Filed by Name, Social Security Number (SSN), or Military Service Number.

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards and controlled by personnel screening and visitor registers.

Retention and disposal:

records for members who have been separated from the service are purged annually and retired to the Federal Archives and Records Center at Denver Federal Center with one exception, records for which claims are received and/or a dependency determination is made after separation, are retained at the AFAFC for six years after last determination and then sent to the Denver Federal Record Center. Records are destroyed six years after member:s separation from the service or last determination, whichever is latest. Destruction is accomplished by sale to a salvage Co. for shredding,tearing or burning.

System manager(s) and address:

Comptroller of the Air Force, Headquarters United States Air Force. Director Accounting and Finance United States Air Force Wash DC 20330. (USAF)

Notification procedure:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Denver CO 80279, telephone (303) 320-7553. The requester should be able to provide sufficient proof of identity, such as name, social security number, service number, military status, duty station or place of employment.

Record access procedures:

Request from individuals should be addressed to AFAFC/DAD, Denver CO 80279, telephone (303) 320-7553. The requester should be able to provide sufficient proof of identity, such as name, social security number, service number, military status, duty station or place of employment.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from previous employers, financial and medical institutions, automated system interfaces, police and investigating officers, a state or local government, source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth; applications and correspondence from members for dependency determination, COLA, and medical care; correspondence from parents, guardians and custodians of dependents, attorneys and the American Red Cross pertaining to dependency determination and support of dependents; information from other components of the Department of Defense.

Systems exempted from certain provisions of the act:

NONE

F17734 0EACYVA

System name:

17734 0EACYVA United States Air Force Retired Pay System.

System location:

Air Force Accounting and Finance Center, Lowry AFB Denver CO 80279. Federal Archives and Records Center, building 48, Denver Federal Center, Denver, Colorado 80225. Records center annex, GSA, P.O. Box 141, Neosho, Missouri 64850 (back up storage only). Air Reserve Personnel Center and Personal Affairs offices at Air Force installations. Official mailing addresses are in the Department of Defense Directory in the Appendix to the Air Force's systems notice.

Categories of individuals covered by the system:

Air Force active duty officer and enlisted personnel. Air Force Reserve and Air National Guard personnel. Retired Air Force military personnel. Dependents and survivors of military personnel.

Categories of records in the system:

Records include, but are not limited to, retired pay and annuitant pay master files with supporting documentation relating to entitlements, deductions, collections and allotments. Supporting documents include but are not limited to the following Retirement Orders, retirement pay orders, gross pay statements, statements of employment, employees: withholding exemption certificates, records of emergency data, retired pay allotment authorizations, retirees: United States savings bond authorizations, Air Reserve Forces retirement credit summaries, divorce decrees, computation of retired pay, death certificates, claims for unpaid pay and allowances of deceased members, marriage certificates, adoption papers, guardian papers, birth certificates, election certificates for retired servicemen: family protection plan (RSFPP), election certificates for survivor benefit plan (SBP), documents pertaining to status of children: schooling, and income tax withholding statements. Also included are listings of bonds, allotments, retired pay and annuitant pay checks, debts owed the government and direct remittances made by retirees for the costs of the RSFPP and SBP plans, records from dependents of retired military personnel, correspondence related to retirement entitlements such as reports from hospitals and medical review boards, print-outs of members: active duty military pay accounts from the joint uniform military pay system.

Authority for maintenance of the system:

10 U.S.C. Chapters 61, 63, 65, 67, 69, 71, 73 and 79; 5 USC Chapter 83. 37 U.S.C. 101 et. Seq.; 38 USC 410

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purpose of these records is to accurately and timely pay the retired members of the Air Force and their survivors; provide members periodic statements of pay; document and account for all disbursements and collections; and to respond to inquiries concerning the retiree and annuitant accounts. Records are used to establish, maintain and close retiree and annuitant pay accounts and prepare related reports; compute retired and annuitant pay and initiate actions for monthly pay and allotment transactions; casualty cases are established upon the death of a member and arrears of pay are computed and disbursed to survivors; upon the death of a retired member, RSFPP and/or SBP accounts are established and survival annuities are paid. Users of system record data include Headquarters US Air Force and the USAF Military Personnel Center for routine and special reports which are generally statistical in nature, but occasionally include lists of retirees with related pay data. Other users include, but are not limited to, any component of the Department of Defense for inquiries, audit and document utilization; other federal agencies such as the Internal Revenue Service for normal wage and tax withholding reporting, accounting, tax audits and levies; Comptroller General and the General Accounting Office for legal interpretations and audits. Disclosures are made to the Department of Justice for criminal prosecution, civil litigation or investigation; disclosures are made to the Veteran's Administration regarding establishments, changes and discontinuances of VA compensation to retirees and annuitants; disclosures are made to the Social Security Administration regarding wages and Federal Insurance Contributions Act Tax withholding; information is furnished the American Red Cross and the Air Force Aid Society for their use in assisting retirees and their survivors; disclosures are made pursuant to the Freedom of Information Act. Information is supplied to state and local governments for use as follow-up data in welfare cases and for tax purposes. Also, there is an automated interface with the joint uniform military pay system for data used to compute annuitant payments; checks are sent to banks for credit to the retirees and annuitant:s accounts including payments made under the Electronics Fund Transfer System (EFTS) transmitted through the Federal Reserve System; and allotments are mailed to other financial institutions for uses such as insurance premiums and loan repayments release of data to computer and accounting

System name:

service centers upon the request of a financial organization designated by individuals to receive monies due them; pay data is also released to Federal Reserve Banks under procedures specified in 31 CFR 210 for Federal recurring payments by means other than check. Information is also supplied to the Civil Service Commission when a retiree waives his military retired pay in order to use his military service for computing his Civil Service Retirement Annuity. Records are also used for extraction or compilation of statistical data and reports for management studies and statistical analyses for use internally or externally as required by Department of Defense or by other Government agencies. Information is supplied to the courts regarding retiree pay in garnishment cases. Disclosures are also made to attorneys, law firms, and other parties acting as executors or administrators of retirees estates and information is provided to trustees of mentally incompetent members and guardians of survivors (children).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders/note books/binders/visible file binders/cabinets/card files, computer magnetic tapes and paper printouts, and on roll microfilm and microfiche.

Retrievability:

Filed by Name, Social Security Number (SSN) or Military Service Number.

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets/vaults/ locked cabinets or rooms, protected by guards, and controlled by personnel screening, visitor registers and computer system software.

Retention and disposal:

the system contains differing types of records subject to varied periods of retention up to 56 years. Final destruction of records is by shredding. Records are maintained in the retired pay division office while active, and then retired to the Denver Federal Archives and Records Center. Duplicate records are maintained at the records center annex at Neosho, Missouri for storage. Destruction is accomplished by shredding or burning.

System manager(s) and address:

Comptroller of the Air Force, Headquarters United States Air Force. Director of Accounting and Finance United States Air Force Washington DC 20330 (USAF). Assistant Deputy Chief of Staff Personnel for Military Personnel, Randolph Air Force Base, TX 78148 for Survivor Benefit Plans Briefing records and spouse notification letters.

Notification procedure:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. The requester should be able to provide sufficient proof of identity, such as name, social security number, duty station or place of employment, military status, military grade or other information verifiable from the record itself. For Survivor Benefits Plans Briefing records and spouse notification data, contact the Systems Manager specified in the preceding category or Personal Affairs officials at the servicing Air Force installation. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

Record access procedures:

Requests from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. The requester should be able to provide sufficient proof of identity, such as name, social security number, duty station or place of employment, military status, military grade or other information verifiable from the record itself.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from previous employers, financial, educational, and medical institutions, automated system interfaces, a state or local government, source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth. Also record sources include but are not limited to, the following members: survivors, trustees of mentally incompetent members, guardians of survivors (children), private law firms which are executors of estates in casualty cases, the Military Personnel Center at Randolph Air Force Base, Texas, and other government agencies such as the Veterans Administration and the Social Security Administration. Information also obtained from the individual.

Systems exempted from certain provisions of the act:

NONE

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federal register

Wednesday
January 23, 1980

Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement
Geological Survey

Regulation of Coal Mining on Federal Lands in North Dakota; Federal/State Cooperative Agreement and Surface Mining Reclamation and Enforcement; Civil Penalties, Proposed Modifications

V 45 / 16 JA 23 80 UMI

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Geological Survey

30 CFR Part 211

Regulation of Coal Mining on Federal Lands in North Dakota; Federal/State Cooperative Agreement

AGENCY: Office of Surface Mining Reclamation and Enforcement and Geological Survey, Interior.

ACTION: Final rule.

SUMMARY: This final rule completes the approval and promulgation of a Federal/State cooperative agreement between the Department of the Interior and the State of North Dakota for the regulation of surface coal mining and reclamation operations on Federal lands in North Dakota.

EFFECTIVE DATE: January 23, 1980.

FOR FURTHER INFORMATION CONTACT: Donald Crane, Regional Director, Region V, Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202. (303) 837–5421.

SUPPLEMENTARY INFORMATION: The cooperative agreement modifies the prior cooperative agreement (30 CFR 211.77(d)) in accordance with the requirements of section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95–87). "Surface Mining Act," and § 211.75(b) and (c) of Title 30 CFR. This cooperative agreement was published as a proposed rule on September 20, 1979 (44 FR 54493). The purpose of the agreement is to establish conditions for State regulation of surface coal mining and reclamation operations on Federal lands, and requirements for such operations on Federal lands, including but not limited to (1) the adoption of State statutes and amended regulations containing new environmental protection standards and reclamation requirements applicable to surface coal mining and reclamation operations as substantive Federal law enforceable by the State and the United States; (2) a requirement that the State Regulatory Authority exercise State enforcement powers on Federal lands so as to achieve results consistent with those which would be achieved by Federal enforcement pursuant to section 521 of the Surface Mining Act; (3) establishing procedures for the cooperative review and approval of integrated mining and reclamation plans for surface coal mining and reclamation operations on Federal lands or which include both State-regulated lands and Federal lands; (4) providing for the termination of such agreement; and (5) requirements for the joint Federal and State approval and release of performance bonds for surface coal mining and reclamation operations which include Federal lands.

In response to the proposed rulemaking one comment was received. The comment raised only one issue. The commenter pointed out that several North Dakota laws and regulations referenced in the proposed agreement have been superseded by surface mining laws and regulations which became effective on July 1, 1979. The Office agrees that the current laws and regulations must be cited. Accordingly, changes have been made in Article IV.B.1.a and b., and Article VI.A, B.(1) and B.(2) to assure that the correct North Dakota law and regulations are referenced.

In addition, some revisions have been made to the language of Article VI.A and B to reflect the current North Dakota laws and regulations as suggested by the commenter. The revised language does not alter the substance of the paragraphs. No changes have been made to Appendix A.

OTHER INFORMATION: 1. Significance. The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. The "Determination of Significance" document prepared by the Office of Surface Mining concludes that because a State/Federal cooperative agreement between the State of North Dakota and the Department has been in effect for quite some time the modified agreement in question does not incorporate any changes or revisions which would impose a major social, economic, or recordkeeping burden on any level of Federal, State, or local government or upon industry. This document is available for public inspection in the Director's Office, Office of Surface Mining, Room 233, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

2. Pursuant to section 702(d) of the Surface Mining Act, adoption of this rule is part of the Secretary's implementation of the Federal Lands Program and is, therefore, exempt from the requirement to prepare a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

3. Because of the delay in the publication of this rule and the necessity to implement the provisions of the cooperative agreement, the Department has determined that good cause exists to make the rule effective upon the date of publication.

Dated: January 16, 1980.

Cecil D. Andrus,

Secretary of the Interior.

PART 211—COAL MINING OPERATING REGULATIONS

1. Accordingly Title 30 CFR 211.10(e)(4) is revised as follows:

§ 211.10 [Amended]

* * * * *

(e) States with § 211.75(c) agreements * * *

* * * * *

(4) *North Dakota.* A Federal coal lessee in the State of North Dakota who must submit a mining plan or permit application under both State and Federal law shall submit to the State Regulatory Authority and the Denver Regional Office, Office of Surface Mining, in lieu of the submission required in this section, a mining plan or revision or modification to an approved plan containing the information required by or necessary for the State Regulatory Authority and the Secretary to determine compliance with the statutory, regulatory and other requirements identified in paragraph B1 of Article IV of the modified Cooperative Agreement, and the statement required by paragraph B2 of Article IV of the modified Cooperative Agreement and the requirements of 30 CFR 211.10(c).

2. Title 30 CFR 211.77(d) is revised as follows:

§ 211.77 States with cooperative agreements.

* * * * *

(d) *North Dakota.* The administration and enforcement of reclamation requirements of Federal coal leases in North Dakota Subject to this Part, shall be done according to the cooperative agreement between the State of North Dakota and the Department which became effective April 5, 1977, as modified on November 20, 1978, and published on January 23, 1980.

4. The State of North Dakota and the Department enter into a modified cooperative agreement to designate the State of North Dakota as the principal party to administer surface coal mine reclamation operations on Federal lands in North Dakota to read as follows:

Cooperative Agreement

North Dakota

The state of North Dakota and the Department of the Interior enter into a State/Federal Cooperative Agreement to read as follows:

Cooperative Agreement between the United States Department of the Interior and the state of North Dakota under Section 523(c) of the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95–87 (hereinafter referred to as the "Act"), 30 U.S.C. 1273(c), between the state of North Dakota, acting by and through the North Dakota Public Service Commission and the Governor (hereinafter referred to as the State Regulatory Authority and the Governor) and the United States Department of the Interior, acting by and through the Secretary of the Interior (referred to as the Secretary).

Article I. Purpose

This Cooperative Agreement provides for a cooperative program between the United States Department of the Interior and the state of North Dakota with respect to regulation of surface coal mining and reclamation operations on Federal lands within the state of North Dakota. The basic purpose of this Agreement is to reduce duality of administration and enforcement of surface reclamation requirements by providing for State regulation of surface coal mining and reclamation operations on Federal lands within the State.

Article II. Effective Date

This Cooperative Agreement is effective following signing by the Secretary, the Governor, and the State Regulatory Authority, and upon final publication as rulemaking in the **Federal Register.** This Cooperative Agreement shall remain in effect until terminated as provided in Article IX. This Cooperative Agreement constitutes a modification to, an extension of, and supersedes that Cooperative Agreement effective May 1, 1977, 30 CFR 211.77(d).

Article III. Requirements for Cooperative Agreement

The Governor, the State Regulatory Authority, and the Secretary affirm that they will comply with all of the provisions of this Cooperative Agreement and will continue to meet all the conditions and requirements specified in this Article.

A. *Responsible Administrative Agency.* The North Dakota Public Service Commission (hereinafter referred to as the "State Regulatory Authority"), is, and shall continue to be, the sole agency responsible for administering this Cooperative Agreement on behalf of the state of North Dakota on Federal lands throughout the State.

B. *Authority of State Agency.* The State Regulatory designated in paragraph A of this Article has, and shall continue to have, authority under State law to carry out this Cooperative Agreement.

C. *State Reclamation Law.* Enforcement of the environmental performance standards and reclamation requirements of Chapter 38–14.1 of the North Dakota Century Code and the regulations promulgated pursuant thereto as set forth in Appendix A of this Cooperative Agreement will provide protection of the environment at least as stringent as would occur under the exclusive application of the standards and procedures set forth in the Act, and the regulations promulagated thereunder.

D. *Effectiveness of State Procedures.* The procedures of the State Regulatory Authority for enforcing the requirements contained in Appendix A are and shall continue to be substantially as effective as the procedures of the Department of the Interior.

E. *Inspection of Mines.* The State Regulatory Authority agrees that the State will inspect all coal mining operations on Federal lands located in the State, in accordance with the minimum schedules in Article V.

F. *Enforcement.* The State Regulatory Authority affirms that it will enforce the requirements contained in Appendix A in a manner that ensures effective protection of the environment and public health and safety consistent with the requirements of Article VI of this Agreement.

G. *Funds.* The State Regulatory Authority has devoted and will continue to devote adequate funds to the administration and enforcement of the requirements contained in Appendix A of this Cooperative Agreement. The Secretary shall reimburse the State Regulatory Authority for costs associated with carrying out responsibilities in compliance with this Cooperative Agreement to the extent that funds have been appropriated. Reimbursement shall be in the form of annual grants, and applications for said grants shall be processed and awarded in a timely and prompt manner. The Secretary shall advise the State Regulatory Authority within a reasonable period of time after the effective date of this modification of the amount the Federal Government would have expended if the State Regulatory Authority had not entered into this Cooperative Agreement.

H. *Reports and Records.* The State Regulatory Authority shall make reports to the Secretary containing information respecting its compliance with the terms of this Cooperative Agreement, as the Secretary shall from time to time require. The State Regulatory Authority and the Secretary shall exchange, upon request, information developed under the Cooperative Agreement.

I. *Equipment and Laboratories.* The State Regulatory Authority shall have equipment, laboratories, and facilities with which all studies, tests, and analyses, can be performed or determined, and which are necessary to carry out the requirements of the Cooperative Agreement, or have access to such equipment, laboratories and facilities.

Article IV. Mine and Reclamation Plans

A. State and Federal laws and regulations require the operator on Federal lands leased, permitted or licensed for surface coal mining operations, to receive approval from the State Regulatory Authority and the Secretary of a mining plan and permit prior to conducting operations.

B. *Contents of Mining Plans and Permits.* The State Regulatory Authority and the Secretary agree, and hereby require, that an operator on Federal lands shall submit an identical Federal mining and reclamation plan and State permit application to the State Regulatory Authority and the Office of Surface Mining (OSM) which shall be in the form required by the State Regulatory Authority and include any supplemental forms required by the Secretary. Such plan and application shall include the following:

1. The information required by or necessary for the State Regulatory Authority or the Secretary, where applicable, to make an independent, timely determination of compliance with:

a. North Dakota statutes, Section 38–14.1–13, 38–14.1–14, 38–14.1–15 and 38–14.1–16 of the North Dakota Century Code (N.D.C.C.);

b. North Dakota Regulations, Chapter 69–05.1–02 of the North Dakota Public Service Commission Surface Mining Regulations;

c. The Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. Section 1201 *et. seq.*; 91 Stat. 445) and the regulations promulgated pursuant thereto, to the extent it is not otherwise required by 1(a) and (b) above;

d. The Mineral Leasing Act of 1920, as amended, 30 U.S.C. Section 181 *et. seq.*, to the extent it is not otherwise required by 1(a) and (b) above;

e. The requirements of 30 CFR 211.10, to the extent it is applicable and not otherwise required by 1(a) and (b) above;

f. Applicable terms and conditions of the lease or license to the extent it is not otherwise required by 1(a) and (b) above;

g. Applicable requirements of other Federal laws, and

h. The Secretary shall advise the State in writing promptly after the effective date of this Cooperative Agreement of all of the Federal requirements addressed in 1(c), (d), (e), (f), and (g) above which are not otherwise required by 1(a) and (b) above.

2. A statement certifying that identical copies of the mining and reclamation plan and permit application have been given to both the State Regulatory Authority and the designated recipient of the Secretary.

3. The State Regulatory Authority and the Office of Surface Mining on behalf of the Secretary shall review and act upon each mining and reclamation plan and permit application, or modifications or revisions thereto, in accordance with the following procedures;

a. The State Regulatory Authority will be the point of contact for operators regarding matters subject to the requirements of the Act and Appendix A of this Cooperative Agreement. With respect to mining plans pending approval and permit applications, all correspondence from the State Regulatory Authority and the Secretary regarding matters subject to the requirements of the Act and Appendix A of the Cooperative Agreement will be coordinated and sent from the State Regulatory Authority on behalf of both.

b. The Office of Surface Mining will coordinate all activities relative to the review of mining plans and permit applications for all concerned and will act as the point of contact for communications between the State Regulatory Authority and the Department of the Interior and other Federal agencies as written agreements may permit.

c. Based upon the coordinated review and to the extent practicable, the State Regulatory Authority will draft a response letter to the operator outlining the status of the completeness and deficiencies of the plan and application, or modifications or revisions thereto with respect to the requirements of the Act and Appendix A to the Cooperative Agreement. Such draft letter will be sent to the Denver Regional Office, Office of Surface Mining, as soon as practicable after receipt of the plan and application. The Office of Surface Mining will communicate to the State Regulatory Authority within a reasonable time any proposed additions or modifications to the letter requested by Interior agencies. If any such proposed additions or modifications are objected to by the State Regulatory Authority, a meeting or telephone conference will be held between Regional Director, Office of Surface Mining, and the State Regulatory Authority to resolve the specified objections. If the Regional Director and the State Regulatory Authority cannot resolve such objections, the State Regulatory Authority and the Regional Director shall summarize their disagreement in writing and request a meeting with the Director, Office of Surface Mining, and such other representative of the Secretary as may be appropriate, to discuss a resolution of such objections. Following the resolution of such objections, the draft letter will be revised to incorporate the agreed upon changes, if any, and sent to the operator by the State Regulatory Authority, with a copy to the Regional Director, Office of Surface Mining. If such objections are not resolved, then both the State Regulatory Authority and the Secretary may communicate separately with the operator.

d. The Secretary, acting by and through the Office of Surface Mining, will be given an opportunity to consult with the State Regulatory Authority and propose additions or modifications to all significant written correspondence from the State Regulatory Authority regarding mining plans in accordance with the procedures of paragraph c hereof.

e. Copies of all significant written communications, data, or documents applicable to a pending mining plan and application, or modifications or revisions thereto received by the State Regulatory Authority from operators will be forwarded to the Office of Surface Mining by the State Regulatory Authority, or sent directly to the Office of Surface Mining by the operator when requested to do so by the State Regulatory Authority. The Secretary and the State Regulatory Authority agree to inform each other of any other significant communications received from the operator regarding any matter subject to this Agreement, including copies of any significant written correspondence.

f. Meetings with the operator regarding a substantial review of the proposed mining plan affecting Federal lands can be scheduled by either the Office of Surface Mining or the State Regulatory Authority, provided adequate advance notice is given to the other party so it has the opportunity to participate in said meeting.

g. Comprehensive site inspections as related to mining plan and permit review on Federal lands can be conducted by either representatives of the Secretary or the State Regulatory Authority, provided that when time and circumstances permit, adequate advance notice is given to the other party so it has the opportunity to participate in said inspection.

h. Upon completion of review and evaluation of the plan and application, or modifications or revisions thereto, by the State Regulatory Authority, the State Regulatory Authority shall promptly notify the Secretary and the applicant of its action on the application. If the application is disapproved, a notice shall be sent to the applicant and the Secretary along with a statement of findings and conclusions in support of the action. If the State Regulatory Authority approves the mining and reclamation plan and permit application or requests for amendment in whole or in part, it shall condition any approval on obtaining approval of the plan, permit or amendment from the Secretary, except that those lands within the plan, permit or amendment which are private or State lands can be approved for final action without Secretarial approval.

The State Regulatory Authority shall in any approved plan, permit or amendment, reserve the right to amend or rescind its action to conform with action taken or with terms or conditions imposed by the Secretary, and agreed to by the State Regulatory Authority, as a basis of his approval. The Secretary shall not delete any requirements included in the State Regulatory Authority's approval without the consent of the State. Prior to the Secretary disapproving the mining and reclamation plan, permit application or request for amendment, in whole or in part, the Secretary shall consult with the State Regulatory Authority for the purpose of attempting to reach agreement on curative revisions to the plan, permit application or amendment, to the extent allowable under State and Federal law.

4. Any final approval of a mining and reclamation plan and permit authorizing surface coal mining operations on Federal lands, or modifications or revisions thereto, by the parties which will create a right of appeal by any aggrieved person shall not be complete, except on private and State lands which is complete upon action by the State Regulatory Authority, until the document recording such action is signed by both the Secretary (or his authorized delegate) and the authorized officer of the State Regulatory Authority.

5. When acting upon a mine plan, the Secretary reserves the right to impose such additional conditions or requirements not required by the Act or Appendix A of this Cooperative Agreement which are authorized or required by law or by his general authority to supervise the activities of persons on Federal lands.

Article V. Inspections

A. The State Regulatory Authority shall inspect without prior notice to the operator, as authorized by North Dakota State law as frequently as necessary, but not less than one partial inspection per month and one complete inspection per calendar quarter, the area of operations as defined by the approved mining and reclamation plan, the permit area of the applicable State permit, and any other areas outside the area of operations which are or may be affected by the surface coal mining and reclamation operations on Federal lands. Such inspections shall be conducted for the purpose of determining whether the operator has complied with all applicable requirements of the Act and Appendix A hereof, and all applicable environmental and reclamation requirements of approved mining and reclamation plans or permits, but not to determine compliance with development, diligent production and resource recovery requirements established under the Mineral Leasing Act, as amended, or to regulate other activities on Federal lands not subject to the Act.

B. The State Regulatory Authority will, subsequent to conducting any inspection, file with the Secretary a report adequately describing (1) the general-conditions of the lands under lease, permit or license, (2) the manner in which the operations are being conducted, and (3) whether the operator is complying with applicable performance and reclamation requirements. A copy of this inspection report shall be furnished to the Secretary in accordance with regulations adopted pursuant to the Act. A copy of this report shall be furnished to the operator, upon request, and shall be made available for public inspection during normal business hours at the offices of the State Regulatory Authority and the Office of Surface Mining.

C. For the purpose of evaluating the manner in which this Cooperative Agreement is being carried out and to insure that performance and reclamation standards are being met, the Secretary may conduct inspections of surface coal mining and reclamation operations on Federal lands: Provided, That when circumstances and time permit, adequate advance notice will be given the State Regulatory Authority so its representatives have the opportunity to participate in said inspection. Subsequent to conducting any inspection, the Secretary shall provide the State Regulatory Authority with a copy of the report. Inspections by the Secretary are encouraged to be made in association with regular inspections by the State.

D. The Secretary may also conduct inspections to determine whether the operator is complying with requirements that are unrelated to environmental protection and reclamation.

E. Personnel of the State and representatives of the Secretary shall be mutually available to serve as witnesses in enforcement actions taken by either party.

Article VI. Enforcement

A. If the State Regulatory Authority finds that any condition, practice, or violation exists which also creates an imminent danger to the health or safety of the public, or is causing or can reasonably by expected to cause significant, imminent environmental harm to land, air or water resources, which would authorize the issuance of an order of cessation under Section 521(a)(2) of the Act by a representative of the Secretary, the State Regulatory Authority or its authorized representative shall immediately exercise the power authorized by subdivision a of subsection 1 of section 38-14.1-28 N.D.C.C. to cease the operations.

B. (1) When based upon an inspection, the State Regulatory Authority determines that any operator is in violation of any requirement of Appendix A, or any other applicable environmental reclamation requirements of an approved mining and reclamation plan or permit, but such violation would not require an action in accordance with paragraph A of this Article, the State Regulatory Authority, or its authorized representative, shall issue a notice of violation with remedial measures and an abatement schedule pursuant to subdivision b of subsection 1 of Section 38-14.1-28 N.D.C.C. which shall be consistent with the requirements of Section 521(a)(3) of the Act.

(2) When a notice of violation has been issued under B(1) of this Article and the State Regulatory Authority or authorized representative determines that the operator has failed to abate the violation within the time fixed or subsequently extended consistent with Section 521(a)(3) of the Act, the State Regulatory Authority or its authorized representative shall immediately issue a cessation order as authorized by paragraph 1 of subdivision b of subsection 1 of Section 38-14.1-28 N.D.C.C. to cease the operation until the violation has been abated. If the State Regulatory Authority determines that a pattern of violations exists or has existed, which is caused by the willful or unwarranted failure of the operator to comply with any requirement of Appendix A or any other applicable environmental reclamation requirements of an approved mining and reclamation plan or permit that would authorize issuing of an order to show cause under 521(a)(4) of the Act, the State Regulatory Authority shall take action as required by subdivision c of subsection 1 of Section 38-14.1-28 N.D.C.C.

C. The State Regulatory Authority shall promptly notify the Secretary of all violations of applicable laws, regulations, orders, approved mining and reclamation plans and permits subject to this Agreement and of all actions taken under State law with respect to such violations.

D. This Agreement does not limit the Secretary's authority to seek cancellation of a Federal coal lease under Federal laws and regulations, or prevent the Secretary from taking appropriate legal or other actions to correct conditions or practices that violate any requirement under Federal law or Appendix A incorporated into Federal law as a part of this Cooperative Agreement, or to suspend or revoke the right to conduct surface coal mining operations on Federal lands in accordance with 30 CFR 211.72 or assess civil penalties in accordance with 30 CFR 211.78.

E. Failure of the State Regulatory Authority to enforce approved mining and reclamation plans, permits and applicable laws and standards and regulations in accordance with this Agreement, shall be grounds for termination of this Cooperative Agreement.

Article VII. Bonds

A. *Amount of Responsibility.* The State Regulatory Authority shall require all operators on Federal lands to submit a performance bond as required by State law payable to both the State and the United States of America. The Secretary shall require a Federal performance bond sufficient to comply with the requirements of Federal law and shall reduce the portion of the Federal bond required for reclamation purposes by the amount of the bond required by the State Regulatory Authority.

B. *Notification.* Prior to releasing the bond required by State law for Federal lands, the State Regulatory Authority shall consult with and obtain the advice and consent of the Secretary.

C. *Release of Bond.* The State Regulatory Authority shall hold the operator responsible and liable for successful reclamation as required by State law.

D. *Bond Forfeiture.* Either the State Regulatory Authority or the Secretary, in consultation with one another, may forfeit the bond under the appropriate State or Federal law.

Article VIII. Opportunity to Comply with Cooperative Agreement

The Secretary may, in his sole discretion, and without instituting or commencing proceedings for withdrawal of approval of the Cooperative Agreement, notify the State Regulatory Authority that it has failed to comply with the provisions of the Cooperative Agreement. The Secretary shall specify how the State Regulatory Authority has failed to comply and shall specify and state the period of time within which the defects in administration shall be remedied and satisfactory evidence presented to him that the State Regulatory Authority has remedied the defects in administration and is in compliance with and has met the requirements of the Secretary. The period of time specified shall not be less than 30 days. Upon failure of the State Regulatory Authority to meet the requirements of the Secretary within the time specified, the Secretary may institute proceedings for withdrawal of approval of the Cooperative Agreement as set forth in Article IX.

Article IX. Termination of Cooperative Agreement

This Cooperative Agreement may be terminated as follows:

A. *Termination by the State.* The Cooperative Agreement may be terminated by the Governor or the State Regulatory Authority upon written notice to the Secretary, specifying the date upon which the Cooperative Agreement shall be terminated, but which date of termination shall not be less than 90 days from the date of the notice.

B. *Termination by the Secretary.* The Cooperative Agreement may be terminated by the Secretary pursuant to paragraphs D, E, and F of this Article whenever the Secretary finds, after giving due notice to the State Regulatory Authority and affording the State Regulatory Authority an opportunity for a hearing:

1. That the State Regulatory Authority has failed to comply substantially with a provision of this Cooperative Agreement; or

2. That the State Regulatory Authority has failed to comply substantially with any assurance given by the State upon which this Cooperative Agreement is based, or any condition or requirement which is specified in Article III.

C. *Termination by Operation of Law.* This Cooperative Agreement shall terminate by operation of law under any of the following circumstances:

1. When no longer authorized by Federal laws and regulations or North Dakota laws and regulations, provided that if the Secretary intends to make such a determination, he complies with the notice requirements of paragraph D of this Article;

2. When a State program is finally disapproved, pursuant to Section 503 of the Act;

3. If the Secretary determines that this Cooperative Agreement is not adequate for the purpose of implementing the permanent regulatory program requirements after approval of a State Program pursuant to Section 503 of the Act. Notice of this determination by the Secretary shall be given in writing to the State Regulatory Authority and shall specify the inadequacies of this Agreement. This Cooperative Agreement shall then terminate not less than 120 days after said notice is received by the State Regulatory Authority unless amended by mutual agreement of the State Regulatory Authority and the Secretary to remedy the inadequacies identified by the Secretary in his notice.

4. Following promulgation of a Federal lands program pursuant to Section 523(a) of the Act in the event the Secretary determines in writing that North Dakota lacks the necessary personnel or funding to fully implement the Federal lands program in accordance with the provisions of the Act, provided that the Secretary complies with all of the notice and hearing requirements of this Article.

D. *Notice of Proposed Termination.* Whenever the Secretary proposes to terminate the Cooperative Agreement, he shall:

1. Give written notice to the governor and to the State Regulatory Authority specified in Article III.

2. Specify and set out in the written notice the grounds upon which he proposes to terminate this Cooperative Agreement.

3. Publish a notice in the Federal Register containing Items 1 and 2 of this paragraph, and specifying a minimum 30 days for comment by interested persons.

E. *Opportunity for Hearing.* Whenever the Secretary proposes to terminate this Cooperative Agreement, except for circumstances set forth in paragraph C.1., hereof, in addition to the notice required by paragraph D, he shall:

1. Specify in the notices required by paragraph D the date and place where the State Regulatory Authority will be afforded the opportunity for hearing and to show cause why this Cooperative Agreement should not be terminated by the Secretary. The date of such hearing shall be not less than 30 days from the date of the publication in the Federal Register, and the place shall be in the State.

2. Within 30 days of the date of the written notice specifying the date of the hearing, the

State Regulatory Authority shall file a written notice with the Secretary stating whether or not it will appear and participate in the hearing. The notice shall specify the issues and grounds specified by the Secretary for the termination which the State Regulatory Authority will oppose or contest and a statement of its reasons and grounds for opposing or contesting. Failure to file a written notice in the Office of the Secretary within 30 days shall constitute a waiver of the opportunity for hearing, but the State Regulatory Authority may present or submit before the time fixed for the hearing written arguments and reasons why the Cooperative Agreement should not be terminated, and within the discretion of the Secretary may be permitted to appear and confer in person and present oral or written statements, and other documents relative to the proposed termination.

3. The hearing will be conducted by the Secretary. A record shall be made of the hearing and the State shall be entitled to obtain a copy of the transcript. The State shall be entitled to have legal and technical and other representatives present at the hearing or conference, and may present, either orally or in writing, evidence, information, testimony, documents, records, and materials as may be relevant and material to the issues involved.

F. Notice of Withdrawal of Approval of Cooperative Agreement. 1. After a hearing has been held with respect to a proposed termination of this Agreement or the right to a hearing has been waived or forfeited by the State Regulatory Authority, the Secretary, after consideration of the evidence, information, testimony, and arguments presented to him shall advise the State Regulatory Authority in writing of his decision. If the Secretary determines to withdraw approval of this Cooperative Agreement and afford the State Regulatory Authority an opportunity to present evidence satisfactory to the Secretary that the State has remedied the specified defects in its administration of this Cooperative Agreement, he shall notify the State Regulatory Authority of his intended withdrawal of approval of the Cooperative Agreement, and afford the State Regulatory Authority an opportunity to present evidence satisfactory to the Secretary that the State has remedied the specified defects in its adminstration of this Cooperative Agreement. The Secretary shall state the period of time within which the defects in administration shall be remedied and satisfactory evidence presented to him, and upon failure of the State Regulatory Authority to do so within the time stated, the Secretary may thereupon withdraw his approval of the Cooperative Agreement without any further opportunity afforded to the State for a hearing.

2. After the close of the comment period required by paragraph D.3 of this Article with respect to a proposal to terminate this Cooperative Agreement pursuant to paragraph G of this Article, the Secretary shall consider the comments received and after a review of the questions of law presented, shall publish notice of final actions, either terminating the Cooperative Agreement or withdrawing the proposed termination, and stating his reasons therefor.

G. Nothing in this Article shall be construed as a waiver of any right the State Regulatory Authority may have to seek judicial review of any decision by the Secretary to terminate this Cooperative Agreement.

Article X. Reinstatement of Cooperative Agreement

If this Cooperative Agreement has been terminated, it may be reinstated upon application by the State Regulatory Authority and upon giving evidence satisfactory to the Secretary that the State Regulatory Authority can and will comply with all the provisions of the Cooperative Agreement, and has remedied all defects in administration for which this Cooperative Agreement was terminated.

Article XI. Amendments of Cooperative Agreement

This Cooperative Agreement may be amended by mutual agreement of the State Regulatory Authority, the Governor, and the Secretary. An amendment proposed by one party shall be submitted to the other with a statement of the reasons for such proposed amendment. The amendment shall be adopted after rulemaking, and the party to whom the proposed amendment is submitted shall signify its acceptance or rejection of the proposed amendment and if rejected shall state the reasons for rejection.

Article XII. Changes in State or Federal Standards

The Secretary of the Interior or the state of North Dakota may from time to time revise and promulgate new or revised performance or reclamation requirements or enforcement and administration procedures. The Secretary and the State Regulatory Authority shall immediately inform the other of any final changes in their respective laws or regulations. Each party shall, if it determines it to be necessary to keep this Cooperative Agreement in force, change or revise its respective laws or regulations. For changes which require legislative authorization, the State Regulatory Authority has until the close of its next legislative session at which such legislation can be considered in which to make the necessary changes. For changes which may be accomplished by rulemaking, each party shall have six months in which to make such changes, unless such rulemaking is prevented by the issuance of an injunction or similar order by any court of competent jurisdiction in which event this six-month time period shall not commence until the applicable litigation has been finally resolved. If changes which are necessary for the State Regulatory Authority to have the authority to administer and enforce Federal Requirements are not made, then the termination provisions of Article IX may be invoked.

Article XIII. Conflict of Interest

The State Regulatory Authority shall require its employees to comply with the requirements of 30 CFR Part 705.

Article XIV. Exchange of Information

A. *Organizational and Functional Statements.* The State Regulatory Authority and the Secretary shall advise each other of the organization, structure, functions, and duties of the offices, departments, divisions, and persons within their organizations. Each shall promptly advise the other in writing of changes in personnel, officials, heads of department or division, or a change in the functions, or duties of persons occupying the principal offices within the organization. The State Regulatory Authority and the Secretary shall advise each other in writing of the location of its various offices, addresses and telephone numbers, and the names, locations and telephone numbers of their respective mine inspectors and the area within the State for which such inspectors are responsible, and of any changes in such.

B. *Law, Rules and Regulations.* The State Regulatory Authority and the Secretary shall provide each other with copies of their respective laws, rules and regulations and standards pertaining to the enforcement and administration of this Cooperative Agreement and promptly furnish copies of any final revision of such laws, rules, regulations and standards when the revision becomes effective.

Article XV. Reservation of Rights

This Cooperative Agreement shall not be construed as waiving or preventing the assertion of any rights the State Regulatory Authority, the Governor, and the Secretary may have under the Mineral Leasing Act, as amended, the Mineral Leasing Act for Acquired Lands, the Federal Land Policy and Management Act of 1976, the Surface Mining Control and Reclamation Act of 1977, the Constitution of the United States, the Constitution of the State or State Laws, nor shall this Agreement be construed so as to result in the transfer of the Secretary's duties under Section 2(a), 2(B), and 2(a)(3) of the Federal Mineral Leasing Act, as amended, or his duty to approve mine plans, or his responsibilities with respect to the designation of Federal lands as unsuitable for mining in accordance with Section 522 of the Act, or to regulate other activities taking place on Federal lands.

Article XVI. Definitions

Terms and phrases used in this Agreement which are defined in 30 CFR Part 700 or Part 710 shall be given the meanings set forth in said definitions.

APPROVED

Date: January 16, 1980.

Cecil D. Andrus,

Secretary of the Interior.

Date: November 27, 1979.

Arthur A. Link,

Governor, State of North Dakota.

Date: November 26, 1979.

Richard A. Elkin,

President, North Dakota Public Service Commission.

Date: November 26, 1979.

Ben J. Wolf,

Commissioner, North Dakota Public Service Commission.

Date: November 26, 1979.

Bruce Hagen,

Commissioner, North Dakota Public Service Commission.

Appendix A

This Appendix A indentifies the laws of the state of North Dakota and the regulations of the State Regulatory Authority which are incorporated into the 1979 Federal-State Cooperative Agreement between the State of North Dakota and the Secretary of the Interior pursuant to Article III.C of said Cooperative Agreement. This Appendix is approved as part of the Cooperative Agreement. The requirements contained in the laws and regulations identified in this Appendix shall be applicable to surface coal mining and reclamation operations on Federal lands in accordance with the terms of the Cooperative Agreement. Included in this Appendix are:

1. The provisions of the North Dakota Century Code, Chapter 38-14.1-Reclamation of Surface-Mined Lands, Sections 38-14.1-01 through 38-14.1-43, which are specifically identified in (i)-(xxxviii) hereof:

(i) 38-14.1-01

(ii) 38-14.1-02, except that subsection (33) shall not be applicable on Federal lands.

(iii) 38-14.1-03, except that subsection (19) and (23) shall not be applicable on Federal lands.

(iv) 38-14.1-07.

(v) 38-14.1-10.

(vi) 38-14.1-11.

(vii) 38-14.1-12.

(viii) 38-14.1-13.

(ix) 38-14.1-14.

(x) 38-14.1-15.

(xi) 38-14.1-16, provided, however, that any bond or any cash or securites posted in lieu of bond under this section applicable to the performance of duties on or affecting Federal lands shall conform to the requirements of Article VII of this Cooperative Agreement in addition to the requirements of State law, and provided further that the bond may also be forfeited by the Secretary under Federal law pursuant to Article VII of this Cooperative Agreement.

(xii) 38-14.1-17, provided, however, that any bond applicable to the performance of duties on or affecting Federal lands may be released only on consent of the Secretary in accordance with Article VII of this Cooperative Agreement.

(xiii) 38-14.1-18.

(xiv) 38-14.1-19.

(xv) 38-14.1-20.

(xvi) 38-14.1-21.

(xvii) 38-14.1-22.

(xviii) 38-14.1-23.

(xix) 38-14.1-24, provided, however, that § 38-14.1-24(3)(e) shall not be included in this Appendix A and shall not apply on Federal lands and provided, further, that the following words and phrases shall not be included in this Appendix A and shall, therefore, not apply on Federal lands: "to the extent possible using the best technology currently available" in § 38-14.1-24(8)(e); "natural" in § 38-14.1-24(8)(f); and provided further, that the State Regulatory Authority agrees to exercise the discretion contained in § 38-14.1-24(5) in a manner consistent with and as stringent as § 515(b)(5) of the Act and regulations adopted pursuant thereto.

(xx) 38-14.1-25.

(xxi) 38-14.1-26.

(xxii) 38-14.1-27.

(xxiii) 38-14.1-28.

(xxiv) 38-14.1-29, provided, however that the imposition of a civil penalty by the State pursuant to this section shall not be construed as barring the Secretary from assessing a civil penalty pursuant to 30 CFR 211.78 or 30 CFR 743.

(xxv) 38-14.1-30.

(xxvi) 38-14.1-31.

(xxvii) 38-14.1-32, provided, however, that the imposition of a civil or criminal penalty by the State pursuant to this section shall not be construed as barring the Secretary from assessing a civil penalty pursuant to 30 CFR 211.78 or 30 CFR 743, or from seeking criminal prosecutions under applicable Federal law.

(xxviii) 38-14.1-33.

(xxix) 38-14.1-34.

(xxx) 38-14.1-35, provided, however, that this section shall be limited to actions taken by the State under State law in accordance with this Cooperative Agreement, and nothing in this section or this Cooperative Agreement shall be construed so as to create jurisdiction in a state court over actions taken by the Secretary, including the denial or approval of mining plans.

(xxxi) 38-14.1-36.

(xxxii) 38-14.1-37.

(xxxiii) 38-14.1-38.

(xxxiv) 38-14.1-39.

(xxxv) 38-14.1-40.

(xxxvi) 38-14.1-41.

(xxxvii) 38-14.1-42.

(xxxviii) 38-14.1-43.

2. Rules and Regulations for Reclamation of Surface Mined Lands of the state of North Dakota, Reclamation Division of the North Dakota Public Service Commission, including amendments and revisions promulgated July 1, 1979, cited as Article 69-05.1 of the North Dakota Administrative Code provided, however, that § 69-05.1-16-02(1) and the phrase "to the extent possible" in § 69-05.1-11-10(2) shall not be included in this Appendix A and shall not be applicable on Federal lands.

[FR Doc. 2159 Filed 1-22-80; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 722, 723, 843 and 845

Civil Penalties; Proposed Rulemaking

AGENCY: Office of Surface Mining Reclamation and Enforcement U.S. Department of the Interior

ACTION: Proposed rulemaking.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement is seeking comments on proposed modifications to its interim and permanent regulations issued pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed modifications would conform the interim regulations (30 CFR Part 723) with the permanent regulations, modify the amount of penalties assessed in cases of nonabatement of violations, and mandate a review of a permittee's history of violations to determine whether a pattern of violations exists in such nonabatement cases.

DATES: Written comments must be received at the address below on or before February 22, 1980, by no later than 5 p.m. A public hearing will be held beginning at 9:30 a.m. on February 13, 1980.

ADDRESSES: Written comments must be mailed to: Office of Surface Mining, U.S. Department of the Interior, P.O. Box 7267, Benjamin Franklin Station, Washington, D.C., 20044. Alternatively, comments may be hand delivered to: Office of Surface Mining, Room 135, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, where all comments will be available for inspection. The public hearing will be held in room 8070, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT: Richard Robinson, Enforcement Specialist, Office of Surface Mining, Department of the Interior, Washington, D.C. 20240, 202–343–8061.

SUPPLEMENTARY INFORMATION: Public Hearing: Individual testimony at the hearing will be limited to 15 minutes. The hearing will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter.

The public hearing will continue on the day identified above until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and who wish to do so will be heard at the end of scheduled speakers. The hearing will end after all people scheduled to testify and persons present in the audience who wish to speak have been heard. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned unless they are present in the audience at the time all scheduled speakers have been heard.

The Office is seeking comments on the following proposed rules amending 30 CFR § 722.16, Part 723, § 843.13 and § 845.15, to modify provisions governing assessment of penalties for violations of the interim and permanent regulatory programs under SMCRA. The Director, Office of Surface Mining, has determined that the proposed rules are not significant and do not require the preparation of a regulatory analysis. The reasons for the proposed modifications are as follows:

Conforming Interim to Permanent Regulations

30 CFR Sections 723.2–723.18 would be changed to conform (except as indicated in this document) with the corresponding permanent regulations (30 CFR Section 845.2–845.20). The basis and purpose of these permanent regulations are explained in the preamble to Part 845 of the proposed permanent regulations, 43 F.R. 41796–41797 (September 18, 1978), and of the final permanent regulations, 44 F.R. 15305–15309 (March 13, 1979).

Penalties for Failure to Abate

The Office is now confronted with a problem in the assessment and the collection of civil penalties under the Act. Under Section 723.14(a) of the interim regulations, in cases where a cessation order is issued for failure to abate, the Office must assess a daily penalty equal to the amount assessed for the violation or $750, whichever is greater. Section 845.15(b) of the permanent regulations and section 518(h) of the Act provide that in such cases the Office must assess a daily penalty of not less than $750.

Under the current interim regulations, if an operator fails to abate a violation for 30 days and if that violation was assessed at $2,000 (the average penalty per violation), the penalty for nonabatement would be $60,000. If the operator fails to abate two such violations, the total penalty would be $120,000. On certain occasions, computation of failure-to-abate penalities under this scheme results in clearly excessive amounts considering the nature and effects of the underlying violations of the Act. Such penalities are unfair to those assessed, while doing nothing to further the goal of effective enforcement of the Act.

The proposed modification will reduce the potential for assessment of excessive penalities under the interim regulations by reducing the daily penalty to $750, the statutory minimum except in those cases where the Director determines that a larger amount is appropriate. Nevertheless, even with this modification, the penalty in a failure-to-abate case could quickly become excessive where there not a limitation upon the number of days for which the penalty may be assessed. The Office feels that, except in very unusual circumstances, penalties computed over great periods of time would present the same fairness and effectiveness problems mentioned above. Furthermore, failure-to-abate penalties computed over a lengthy time period might bankrupt many operators. Many operators have been operating in States where enforcement efforts have historically been weak and penalties low. Without some limitation on the period during which failure-to-abate penalties run, a small-to-medium operator might be put out of business with his first such penalty. Since this would not give such an operator a second chance, the Office believes such action would be unduly harsh. While the Congress clearly intended that recalcitrant operators who persist in defying the Act not be allowed to continue in business, the Office believes that, in most cases, the appropriate method of effectuating that intent is through an action to suspend or revoke the operator's permit, rather than through the more cumbersome and indirect method of imposing unrealistically large civil penalty assessments.

The Office is adopting certain management measures to reduce the number of cases of nonabatement, such as: using interim steps for abatement where appropriate; atempting to inspect for compliance as close as possible to the final abatement date; increasing efforts to inform operators of the penalties and sanctions for nonabatement; expediting paperwork in nonabatement cases so that the operator receives notice of the penalty accrual as soon as possible; and using injunctive, criminal and permit suspension and revocation proceedings more frequently. However, even with better management and with the modification discussed above, but without limitation on the penalty period, cases of nonabatement over lengthy periods would still occur with the consequent potential for excessive penalties.

At the inception of the interim program, the Office had no occasion to anticipate the potential for exorbitant failure-to-abate penalities generated by applying the $750 daily penalty over months, years, or an indeterminate, lengthier period of time. The Office believed that desire to avoid increasing penalties, together with the other sanctions mentioned above, would universally motivate operators to abate violations of the Act. Experience under the Act has borne out the Office's beliefs in the vast majority of cases, and the failure-to-abate penalty has proven to be an effective enforcement tool. In some cases, however, the $750 daily penalty has led to alarmingly high totals. Ironically, such high penalties may actually deter effective enforcement by forcing operators into bankruptcy and the ultimate abandonment of an unreclaimed site. To meet this problem, the Office has examined the Act to determine Congress' intent in regard to the $750 daily penalty.

Subsection (h) of section 518 of the Act, which provides for the assessment of the $750-per-day penalty for failure-to-abate violations, contains no language limiting the length of time over which the assessment is to be made. Read outside the context of the remainder of section 518, the subsection would seem to require unlimited assessment. However, subsection (c) of section 518 provides as follows:

> (c) Upon the issuance of a notice or order charging that a violation of the Act has occurred, the Secretary shall inform the operator *within thrity days* of the proposed amount of said penalty (emphasis added).

The Office is of the opinion that the language quoted above indicates Congress' intention to toll at thirty days the time over which failure-to-abate penalties may be assessed. These penalties are assessed in addition to the penalty under section 518(a) of the Act for the violation itself, which penalty maybe as much as $5,000. Thus guided by the Act, the Office now proposes to avoid uncertainty and confusion by amending the interim and permanent regulations to clearly state that failure-to-abate penalties are subject to a thirty day maximum assessment period.

The Office intends to modify any existing assessments computed without regard to the subsection (c) limitation in accordance with these regulations when they become final, and will so notify affected operators. The Office intends to grant hearing and conference requests at though such recomputations were new assessments. Also, existing cases may be settled for the amounts that would be proper under the proposed regulations.

In addition, as mentioned above, the proposed interim regulations are being modified to conform to the permanent regulations which include the requirement that the daily penalty for failure-to-abate run from the date of non-abatement, not the date on which the reinspection occured and the cessation order for failure to abate was issued. The Office recognizes that unless reinspections are carried out on the date set for abatement, an operator who believes he has abated, but who in fact has not, may be assessed unfairly. For instance, if the inspector inspects 20 days later and finds that the operator still has not completely abated, even though he thought he had, the operator would face an additional $15,000 fine, part of which could have been avoided had the inspector inspected on the abatement date.

Accordingly, the proposed regulations provide that the Office will not assess the daily penalty for failure-to-abate during the period from the abatement date set in the notice of violation or cessation order to the date of the OSM reinspection. Thus penalties will begin to accumulate on the date that the Office actually reinspects the minesite and determines that the violation cited in the notice of violation or cessation order has not been abated.

The Office recognizes that there is a potential for abuse of this modification, and that if the reinspection does not occur on the abatement date, it is a *de facto* extension of time to abate. However, the Office is coupling this modification with a policy that the Office reinspect on the date set for abatement or within 3 days thereafter.

Lastly, the Office believes that stronger enforcement action must be taken against those persons who fail to abate their violations within the periods set for such abatement. Therefore, because it is appropriate to review a permittee's history of violations when such cases arise for a pattern of violations, the Office proposes to add a new subsection (e) to 30 CFR §§ 722.16 and a new subsection (f) to 30 CFR §§ 843.13 providing for such review and for the issuance of an order to show cause where circumstances warrant.

These proposed rules have been drafted principally by Harriet B. Marple, Chief, Division of Enforcement; Richard Robinson, Enforcement Specialist, Office of Surface Mining, Reclamation and Enforcement; John Williams, Staff Attorney; and Marc McGraw, Assistant Solicitor for Enforcement.

Dated: January 14, 1980.

Joan M. Davenport,

Assistant Secretary Energy and Minerals.

1. Section 722.16 is revised by adding subsection (e) as follows:

§ 722.16 Pattern of violations.

* * * * *

(e) Whenever a permittee fails to abate a violation contained in a notice of violation or cessation order within the abatement period set in the notice or order or as subsequently extended, the Director shall review the permittee's history of violations to determine whether a pattern of violations exists pursuant to this section, and shall issue as appropriate an order to show cause.

1a. The table of contents for Part 723 is amended by revising the captions for §§ 723.2–723.19, a new § 723.20 is added.

PART 723—CIVIL PENALTIES

Sec.

* * * * *

723.2 Objective.
723.11 How assessments are made.
723.12 When penalty will be assessed.
723.13 Point system for penalties.
723.14 Determination of amount of penalty.
723.15 Assessment of separate violations for each day.
723.16 Waiver of use of formula to determine civil penalty.
723.17 Procedures for assessment of civil penalties.
723.18 Procedures for assessment conference.
723.19 Request for hearing.
723.20 Final assessment and payment of penalty.

Authority: Surface Mining Control and Reclamation Act of 1977, secs. 201, 501, 518 (30 U.S.C. 1211, 1251, 1268).

2. Part 723 is amended by revising each section, including the captions (all but § 723.1) and by adding § 723.20 to read as follows:

§ 723.2 Objective.

Civil penalties are assessed under section 518 of the Act and this Part to deter violations and to ensure maximum compliance with the terms and purposes of the Act on the Part of the coal mining industry.

§ 723.11 How assessments are made.

The Office shall review each notice of violation and cessation order in accordance with the assessment procedures described in 30 CFR 723.12, 723.13, 723.14, 723.15, and 723.16 to determine whether a civil penalty will be assessed, the amount of the penalty, and whether each day of a continuing violation will be deemed a separate violation for purposes of the total penalty assessed.

§ 723.12 When penalty will be assessed.

(a) The Office shall assess a penalty for each cessation order.

(b) The Office shall assess a penalty for each notice of violation, if the violation is assigned 31 points or more under the point system described in 30 CFR 723.13.

(c) The Office may assess a penalty for each notice of violation, assigned 30 points or less under the point system described in 30 CFR 723.13. In determining whether to assess a penalty, the Office shall consider the factors listed in 30 CFR 723.13(b).

§ 723.13 Point system for penalties.

(a) The Office shall use the point system described in this section to determine the amount of the penalty and, in the case of notices of violation, whether a mandatory penalty should be assessed as provided in 30 CFR 723.12(b).

(b) Points shall be assigned as follows:

(1) History of previous violations. The Office shall assign up to 30 points based on the history of previous violations. One point shall be assigned for each past violation contained in a notice of violations. Five points shall be assigned for each violation (but not a condition or practice) contained in a cessation order. The history of previous violations, for the purpose of assigning points, shall be determined and the points assigned with respect to a particular surface coal mining operation. Points shall be assigned as follows:

(i) A violation shall not be counted if the notice or order is the subject of pending administrative or judicial review or if the time to request such review or to appeal any administrative or judicial decision has not expired, and thereafter it shall be counted for only one year;

(ii) No violation for which the notice or order has been vacated shall be counted; and

(iii) Each violation shall be counted without regard to whether it led to a civil penalty assessment.

(2) *Seriousness.* The Office shall assign up to 30 points based on the seriousness of the violation, as follows:

(i) *Probability of Occurrence.* The Office shall assign up to 15 points based on the probability of the occurrence of the event which a violated standard is designed to prevent. Points shall be assessed according to the following schedule:

Probability of occurrence

	Points
None	0
Insignificant	1-4
Unlikely	5-9
Likely	10-14
Occurred	15

(ii) *Extent of potential or actual damage.* The Office shall assign up to 15 points, based on the extent of the potential or actual damage, in terms of area and impact on the public or environment, as follows:

(A) If the damage or impact which the violated standard is designed to prevent would remain within the permit area, the Office shall assign zero to seven points, depending on the duration and extent of the damage or impact.

(B) If the damage or impact which the violated standard is designed to prevent would extend outside the permit area, the Office shall assign eight to fifteen points, depending on the duration and extent of the damage or impact.

(iii) *Alternative.* In the case of a violation of an administrative requirement, such as a requirement to keep records, the Office shall, in lieu of paragraphs (i) and (ii), assign up to 15 points for seriousness, based upon the extent to which enforcement is obstructed by the violation.

(3) *Negligence.* (i) The Office shall assign up to 25 points based on the degree of fault of the person to whom the notice or order was issued in causing or failing to correct the violation, condition, or practice which led to the notice or order, either through act or omission. Points shall be assessed as follows:

(A) A violation which occurs through no negligence shall be assigned no penalty points for negligence;

(B) A violation which is caused by negligence shall be assigned 12 points or less, depending on the degree of negligence;

(C) A violation which occurs through a greater degree of fault than negligence shall be assigned 13 to 25 points, depending on the degree of fault.

(ii) In determining the degree of negligence involved in a violation and the number of points to be assigned, the following definitions apply:

(A) "No negligence" means an inadvertent violation which was unavoidable by the exercise of reasonable care.

(B) "Negligence" means the failure of a permittee to prevent the occurrence of any violation of his or her permit or any requirement of the Act or this Chapter due to indifference, lack of diligence, or lack or reasonable care, or the failure to abate any violation of such permit or the Act due to indifference, lack of diligence, or lack of reasonable care.

(C) "A greater degree of fault than negligence" means reckless, knowing, or intentional conduct.

(iii) In calculating points to be assigned for negligence, the acts of all persons working on the surface coal mining and reclamation site shall be attributed to the person to whom the notice or order was issued, unless that person establishes that they were acts of deliberate sabotage.

(4) *Good faith in attempting to achieve compliance.*

(i) The Office shall add points based on the degree of good faith of the person to whom the notice or order was issued in attempting to achieve rapid compliance after notification of the violation. Points shall be assigned as follows:

Degree of good faith

	Points
Rapid compliance	−1 to −10
Normal compliance	0

(ii) The following definitions shall apply under paragraph (b)(4)(i) of this Section:

(A) "Rapid compliance" means that the person to whom the notice or order was issued took extraordinary measures to abate the violation in the shortest possible time and that abatement was achieved before the time set for abatement.

(B) "Normal compliance" means the person to whom the notice or order was issued abated the violation within the time given for abatement.

(iii) If the consideration of this criterion is impractical because of the length of the abatement period, the assessment may be made without considering this criterion and may be reassessed after the violation has been abated.

§ 723.14 Determination of amount of penalty.

The Office shall determine the amount of any civil penalty by converting the total number of points assigned under 30 CFR 723.13 to a dollar amount, according to the following schedule:

Points:	Dollars
1	20
2	40
3	60
4	80
5	100
6	120
7	140
8	160
9	180
10	200
11	220
12	240
13	260
14	280
15	300
16	320
17	340
18	360
19	380
20	400
21	420
22	440
23	460
24	480
25	500
26	600
27	700
28	800
29	900
30	1,000
31	1,100
32	1,200
33	1,300
34	1,400
35	1,500
36	1,600
37	1,700
38	1,800
39	1,900
40	2,000
41	2,100
42	2,200
43	2,300
44	2,400
45	2,500
46	2,600
47	2,700
48	2,800
49	2,900
50	3,000
51	3,100
52	3,200
53	3,300
54	3,400
55	3,500
56	3,600
57	3,700
58	3,800
59	3,900
60	4,000
61	4,100
62	4,200
63	4,300
64	4,400
65	4,500
66	4,600
67	4,700
68	4,800
69	4,900
70 and above	5,000

§ 723.15 Assessment of separate violations for each day.

(a) The Office may assess separately a civil penalty for each day from the date of issuance of the notice of violation or cessation order to the date set for abatement of the violation. In determining whether to make such an assessment, the Office shall consider the factors listed in 30 CFR 723.13 and may consider the extent to which the person to whom the notice or order was issued gained any economic benefit as a result of a failure to comply. For any violation which continues for two or more days and which is assigned more than 70 points under 30 CFR 723.13(b), the Office shall assess a civil penalty for a minimum of two separate days.

(b) In addition to the civil penalty provided for in paragraph (a), whenever a violation contained in a notice of violation or cessation order has not been abated within the abatement period set in the notice or order or as subsequently extended pursuant to section 521(a) of the Act, a civil penalty of not less than $750 shall be assessed for each day during which such failure to abate continues, except that:

(1)(i) If suspension of the abatement requirements of the notice or order is ordered in a temporary relief proceeding under section 525(c) of the Act, after a determination that the person to whom the notice or order was issued will suffer irreparable loss or damage from the application of the requirements, the period permitted for abatement shall not end until the date on which the Office of Hearings and Appeals issues a final order with respect to the violation in question; and

(ii) if the person to whom the notice or order was issued initiates review proceedings under section 526 of the Act with respect to the violation, in which the obligations to abate are suspended by the court pursuant to section 526(c) of the Act, the daily assessment of a penalty shall not be made for any period before entry of a final order by the court;

(2) Such penalty for the failure to abate a violation shall not be assessed for more than 30 days for such violation.

§ 723.16 Waiver of use of formula to determine civil penalty.

(a) The Director, upon his own initiative, or upon written request received within 15 days of issuance of a notice of violation or a cessation order, may waive the use of the formula contained in 30 CFR 723.13 to set the civil penalty, if he or she determines that, taking into account exceptional factors present in the particular case, the penalty is demonstrably unjust. However, the Director shall not waive the use of the formula or reduce the proposed assessment on the basis of an argument that a reduction in the proposed penalty could be used to abate violations of the Act, this Chapter, any applicable program, or any condition of any permit or exploration approval. The basis for every waiver shall be fully explained and documented in the records of the case.

(b) If the Director waives the use of the formula, he or she shall use the criteria set forth in 30 CFR 723.13(b) to determine the appropriate penalty. When the Director has elected to waive the use of the formula, he or she shall give a written explanation of the basis for the assessment made to the person to whom the notice or order was issued.

§ 723.17 Procedures for assessment of civil penalties.

(a) Within 15 days of service of a notice or order, the person to whom it was issued may submit written information about the violation to the Office and to the inspector who issued the notice of violation or cessation order. The Office shall consider any information so submitted in determining the facts surrounding the violation and the amount of the penalty.

(b) The Office shall serve a copy of the proposed assessment and of the worksheet showing the computation of the proposed assessment on the person to whom the notice or order was issued, by certified mail, within 30 days of the issuance of the notice or order. If the mail is tendered at the address of that person set forth in the sign required under 30 CFR 715.12(b) or at any address at which that person is in fact located, and he or she refuses to accept delivery of or to collect such mail, the requirements of this paragraph shall be deemed to have been complied with upon such tender.

(c) Unless a conference has been requested, the Office shall review and reassess any penalty if necessary to consider facts which were not reasonably available on the date of issuance of the proposed assessment because of the length of the abatement period. The Office shall serve a copy of any such reassessment and of the worksheet showing the computation of the reassessment in the manner provided in paragraph (b) of this section, within 30 days after the date the violation is abated.

§ 723.18 Procedures for assessment conference.

(a) The Office shall arrange for a conference to review the proposed assessment or reassessment, upon written request of the person to whom the notice or order was issued, if the request is received within 15 days from the date the proposed assessment or reassessment is mailed.

(b)(1) The Office shall assign a conference officer to hold the assessment conference. The assessment conference shall not be governed by section 554 of Title 5 of the United States Code, regarding requirements for formal adjudicatory hearings. The assessment conference shall be held within 60 days from the date of issuance of the proposed assessment or the end of the abatement period, whichever is later.

(2) The Office shall post notice of the time and place of the conference at the regional, district or field office closest to the mine at least 5 days before the conference. Any person shall have a right to attend and participate in the conference.

(3) The conference officer shall consider all relevant information on the violation. Within 30 days after the conference is held, the conference officer shall either:

(i) Settle the issues, in which case a settlement agreement shall be prepared and signed by the conference officer on behalf of the Office and by the person assessed; or

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(ii) Affirm, raise, lower, or vacate the penalty.

(4) An increase or reduction of a proposed civil penalty assessment of more than 25 percent and more than $500 shall not be final and binding on the Secretary, until approved by the Director or his designee.

(c) The conference officer shall promptly serve the person assessed with a notice of his or her action in the manner provided in 30 CFR 723.17(b) and shall include a worksheet if the penalty has been raised or lowered. The reasons for the conference officer's action shall be fully documented in the file.

(d)(1) If a settlement agreement is entered into, the person assessed will be deemed to have waived all rights to further review of the violation or penalty in question, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a clause to this effect.

(2) If full payment of the amount specified in the settlement agreement is not recieved by the Office within 30 days after the date of signing, the Office may enforce the agreement or rescind it and proceed according to paragaph (b)(3)(ii) of this section within 30 days from the date of the rescission.

(e) The conference officer may terminate the conference when he determines that the issues cannot be resolved or that the person assessed is not diligently working toward resolution of the issues.

§ 723.19 Request for hearing.

(a) The person charged with the violation may contest the proposed penalty or the fact of the violation by submitting a petition and an amount equal to the proposed penalty or, if a conference has been held, the reassessed or affirmed penalty to the Office of Hearings and Appeals (to be held in escrow as provided in paragraph (b) of this section within 30 days from receipt of the proposed assessment or reassessment or 15 days from the date of service of the conference officer's action, whichever is later. The fact of the violation may not be contested, if it has been decided in a review proceeding commenced under § 525 of the Act and 43 CFR Part 4.

(b) The Office of Hearings and Appeals shall transfer all funds submitted under paragraph (a) of this section to the Office, which shall hold them in escrow pending completion of the administrative and judicial review process, at which time it shall disburse them as provided in 30 CFR 723.20.

§ 723.20 Final assessment and payment of penalty.

(a) If the person to whom a notice of violation or cessation order is issued fails to request a hearing as provided in 30 CFR 723.19, the proposed assessment shall become a final order of the Secretary and the penalty assessed shall become due and payable upon expiration of the time allowed to request a hearing.

(b) If any party requests judicial review of a final order of the Secretary, the proposed penalty shall continue to be held in escrow until completion of the review. Otherwise, subject to Paragraph (c) of this Section, the escrowed funds shall be tranferred to the Office in payment of the penalty, and the escrow shall end.

(c) If the final decision in the administrative and judicial review results in an order or eliminating the proposed penalty assessed under this Part, the Office shall within 30 days of receipt of the order refund to the person assessed all or part of the escrowed account, with interest from the date of payment into escrow to the date of the refund at the rate of 6 percent or at the prevailing Department of the Treasury rate, whichever is greater.

(d) If the review results in an order increasing the penalty, the person to whom the notice or order was issued shall pay the difference to the Office within 15 days after the order is mailed to such person.

3. Section 843.13 is revised by adding subsection (f) as follows:

§ 843.13 Suspension or revocation of permits.

* * * * *

(f) Whenever a permittee fails to abate a violation contained in a notice of violation or a cessation order within the abatement period set in the notice or order or as subsequently extended, the Director shall review the permittee's history of violations to determine whether a pattern of violations exists pursuant to this section, and shall issue as appropriate an order to show cause.

* * * * *

4. Section 845.15(b) is revised to read as follows:

§ 845.15 Assessment of separate violations for each day.

(b) In addition to the civil penalty provided for in paragraph (a), whenever a violation contained in a notice of violation or cessation order has not been abated within the abatement period set in the notice or order or as subsequently extended pursuant to section 521(a) of the Act, a civil penalty of not less than $750 shall be assessed for each day during which such failure to abate continues, except that:

(1)(i) If suspension of the abatement requirements of the notice or order is ordered in a temporary relief proceeding under section 525(c) of the Act, after a determination that the person to whom the notice or order was issued will suffer irreparable loss or damage from the application of the requirements, the period permitted for abatement shall not end until the date on which the Office of Hearings and Appeals issues a final order with respect to the violation in question; and

(ii) If the person to whom the notice or order was issued initiates review proceedings under section 526 of the Act with respect to the violation, in which the obligations to abate are suspended by the court pursuant to section 526(c) of the Act, the daily assessment of a penalty shall not be made for any period before entry of a final order by the court;

(2) Such penalty for the failure to abate a violation shall not be assessed for more than 30 days for each such violation.

Surface Mining Control and Reclamation Act of 1977 (the "Act"), §§ 201, 501, 518 (30 U.S.C. § 1211, 1251, 1268.)

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Part V

Federal Election Commission

Draft Regulations to Implement 1979 Amendments to the Federal Election Campaign Act

FEDERAL ELECTION COMMISSION

11 CFR Parts 100–115, 140–146, 9008, 9031–9038

[Notice 1980–2]

Draft Regulations to Implement 1979 Amendments to FECA

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission publishes for comment draft regulations to implement the 1979 Amendments to the Federal Election Campaign Act (Pub. L. 96–187). The draft regulations have been prepared by Commission staff to facilitate public comment but have not been approved by the Commission. These proposed regulations would, among other things, reduce recordkeeping and reporting requirements, expand opportunities for volunteer activity by individuals and State and local party committees, reduce the number of entities required to register with the Commission, and amend the Commission's Advisory Opinion and Enforcement Procedures.

DATES: Comments must be received on or before February 7, 1980.

ADDRESSES: Address comments to Ms. Patricia Ann Fiori, Assistant General Counsel, Federal Election Commission, 1325 K Street, NW Washington, DC 20463.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Ann Fiori, Assistant General Counsel, (202) 523–4143.

SUPPLEMENTARY INFORMATION: Pub. L. 96–187, enacted on January 8, 1980, requires that all regulations to implement changes made by the 1979 Amendments be transmitted to Congress no later than February 29, 1980. In order to meet this deadline a final draft of the regulations incorporating public comments must be submitted for Commission consideration by mid-February. To allow Commission staff adequate time to review and incorporate public comments in to the final draft, the Commission finds it necessary to reduce the public comment period from the customary 30 day period to 15 days.

In order to focus public comments on the particular changes required by the 1979 Amendments, the Commission staff has prepared the draft regulations that are being published in this notice. These draft regulations are being published to facilitate public comment within the compressed time frame required by the Amendments. They have not been approved by the Commission and are not intended to serve as interim guidelines.

It should be emphasized that to achieve a smooth transition to operation under the new law, the Commission will concentrate on only those regulations necessary to implement changes made by Pub. L. 96–187. Public comments should therefore be confined to such changes.

Although the draft regulation being published today would only contain amendments to Parts 100–106 and Parts 108–113 of Title 11, Code of Federal Regulations, public comment is also invited to changes in other Commission regulations (11 CFR Parts 100–115, 140–146, 9008, 9031–9038) which may be necessitated by the amendments in Pub. L. 96–187.

Dated: January 17, 1980.

Robert O. Tiernan,

Chairman, Federal Election Commission.

It is proposed to amend 11 CFR Parts 100 to 106 and Parts 108 to 113 by deletion of the existing regulations in those parts (except where indicated by "No Change") and replacing them with the following regulations:

PART 100—SCOPE AND DEFINITIONS

§ 100.1 Scope.

This subchapter is issued by the Federal Election Commission to implement the Federal Election Campaign Act of 1971 (Pub. L. 92–225), as amended by Public Law 93–443, Pub. L. 94–283, and Pub. L. 96–187.

§ 100.2 Candidate.

An individual becomes a candidate for Federal office, whenever any of the following events set forth at 11 CFR 100.2 (a), (b), (c) or (d) occur.

(a) The individual has received contributions aggregating in excess of $5,000 or made expenditures aggregating in excess of $5,000.

(b) The individual has given his or her consent to another person to receive contributions or make expenditures on behalf of that individual and such person has received contributions aggregating in excess of $5,000 or made expenditures aggregating in excess of $5,000.

(c) If, after written notification by the Commission that any other person has received contributions aggregating in excess of $5,000 or made exenditures aggregating in excess of $5,000 on the individual's behalf, the individual fails to disavow this activity by letter to the Commission within 30 days of receipt of the notification.

(d) The aggregate of contributions received under 11 CFR 100.2 (a), (b) and (c), in any combination thereof exceeds $5,000, or the aggregate of expenditures made under 11 CFR 100.2 (a), (b) and (c), in any combination thereof, exceeds $5,000.

(e) For purposes of determining whether an individual is a candidate under 11 CFR 100.2, contributions or expenditures shall be aggregated on an election cycle basis.

§ 100.3 Commission [no change].

§ 100.4 Contribution.

(a) The term "contribution" includes the payments, services or other things of value as set forth at 11 CFR 100.4(a) (1) through (4).

(1) A gift, subscription, loan, advance or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office is a contribution.

(i) For purposes of 11 CFR 100.4(a)(1), the term "loan" includes a guarantee, endorsement, and any other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser as well as with a political committee, candidate, or other primary obligor. A loan is a contribution to the extent that the obligation remains outstanding.

(ii) For purposes of 11 CFR 100.4(a)(1), the term "money" includes currency of the United States or of any foreign nation, checks, money orders, or any other negotiable instrument payable on demand.

(iii) (A) For purposes of 11 CFR 100.4(a)(1), the term "anything of value" includes securities, goods, facilities, equipment, supplies, personnel, advertising, services, membership lists commonly offered or used commercially, or other in-kind contributions provided without charge (other than volunteer services under § 100.4(b)(2)) or at a charge which is below the usual and normal charge for the goods or services. The amount of a contribution of a thing of value is the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount charged the candidate or political committee.

(B) For purposes of 11 CFR 100.4(a)(1)(iii), "usual and normal charge" for goods means the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution; and "usual and normal charge" for any services, othe than those provided by an unpaid volunteer, means the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services were rendered.

(2) The donation by any person of all or a portion of the costs of fundraising, such as the cost of a meal as part of a fundraising dinner, is a contribution.

(3) The payment by any person of compensation for the personal services of another person if those services are rendered to a political committee without charge for any purpose is a contribution. No compensation is considered paid to any employee under the conditions set forth at 11 CFR 100.4(a)(3) (i), (ii) or (iii).

(i) No contribution results in the case of an employee, who is paid on an hourly or salaried basis and who is expected to perform duties for an employer for a particular number of hours per period, where the employee engages in political activity during what would otherwise be a regular work period, if the taken or released time is made up or completed by that employee within a reasonable period.

(ii) No contribution results where an employee engages in political activity during what would otherwise be normal working hours if the employee is paid on a commission or piecework basis, or is paid only for work actually performed and the employee's time is considered his or her own to use as he or she sees fit.

(iii) No contribution results where the time used by the employee to engage in political activity is bona fide, although compensable, vacation time or other earned leave time.

(4) The extension of credit for by any person a length of time beyond normal business or trade practice is a contribution, unless the creditor has made commercially reasonable attempts to collect the debt. (See 11 CFR 114.10.)

(b) The term "contribution" does not include the payments, services or other things of value as set forth at 11 CFR 100.4(b) (1) through (20).

(1) Payments made solely for the purpose of determining whether an individual should become a candidate, such as those incurred in conducting a poll, are not contributions if the individual does not otherwise become a candidate. If the individual otherwise subsequently becomes a candidate, the payments are contributions, and must be reported with the first report filed by the principal campaign committee of the candidate, regardless of the date the payments were made.

(2) The value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee is not a contribution.

(3) The use of real or personal property voluntarily provided by an individual to a candidate or any political committee of a political party in rendering voluntary personal services on the individual's residential premises for candidate-related or party-related activities is not a contribution.

(4) The use of a church or community room used on a regular basis by members of a community for noncommercial purposes voluntarily provided by an individual to a candidate or any political committee of a political party in rendering voluntary personal service in the church or community room for candidate related or party related activities is not a contribution.

(5) The cost of invitations, food and beverages is not a contribution where such items are voluntarily provided by an individual in rendering voluntary personal services on the individual's residential premises or in a church or community room as specified at 11 CFR 100.4(b) (3) and (4) to a candidate or to a political committee of a political party for candidate-related or political party-related activities, to the extent that: the cumulative value of such invitations, food and beverages provided by the individual on behalf of the candidate does not exceed $1,000 with respect to any single election; and on behalf of all political committees of a political party does not exceed $2,000 in any calendar year. For purposes of 11 CFR 100.4(b)(5), such disbursements by a married individual shall not be attributed to a spouse.

(6) The sale of any food or beverage by a vendor (whether incorporated or not) for use in a candidate's campaign or for use by a political committee of a political party at a charge less than the normal or comparable commercial charge, is not a contribution provided, that the charge is at least equal to the cost of such food or beverage to the vendor, to the extent that: The cumulative value of such discount given by the vendor on behalf of any single candidate does not exceed $1,000 with respect to any single election; and on behalf of all political committees of a political party does not exceed $2,000 in a calendar year.

(7) Any unreimbursed payment for transportation expenses incurred by any individual on behalf of any candidate or any political committee of a political party is not a contribution to the extent that: the cumulative value of the payments made by such individual on behalf of a candidate does not exceed $1,000 with respect to a single election; and on behalf of all political committees of a political party does not exceed $2,000 in a calendar year. Additionally, any unreimbursed payment from a volunteer's personal funds for usual and normal subsistence expenses incident to volunteer activity is not a contribution.

(8) The payment of the costs of preparation, display, or mailing or other distribution incurred by a State or local committee of a political party with respect to a printed slate card, sample ballot, palm card, or other printed listing, of three or more candidates for any public office for which an election is held in the State in which the committee is organized is not a contribution; except that this exeption shall not apply to costs incurred by such a committee with respect to the preparation and disply of listings made on broadcasting stations, or in newspapers, magazines, and similar types of general public political advertising such as billboards, posters, and signs. However, the payment of the portion of such costs attributable to Federal candidates must be made from funds subject to the limitations and prohibitions of the Act.

(9) Any disbusement for a news story, commentary, or editorial of any broadcasting station, newspaper, magazine, or other periodical publication is not a contibution unless the facility is owned or controlled by any political party, political committee, or candidate, in which case a news story which (i) represents a bona fide news account communicated in a publication of general circulation or on a licensed broadcasting facility, and (ii) is part of a general pattern of campaign-related news accounts which give reasonably equal coverage to all opposing candidates in the circulation or listening area, shall not be a contribution.

(10) Any payment made or obligation incurred by a corporation or a labor organization is not a contribution if under the provisions of 11 CFR Part 114 such payment or obligation would not constitute an expenditure by the corporation or labor organization.

(11) Any honorarium and related expenses, within the meaning of 11 CFR 110.12 is not a contribution.

(12) Legal or accounting services rendered to or on behalf of any political committee of a political party is not a contribution if the person paying for the services is the regular employer of the individual rendering the services (other than the political committee) and the services are not attributable to activities which directly further the election of any designated candidate for Federal office. For purposes of 11 CFR 100.4(b)(12), a partnership shall be deemed to be the regular employer of a partner. Amounts paid by the regular employer for such services shall be reported as receipts by the committee receiving such services in accordance with 11 CFR 104.3(a)(1)(ix).

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(13) Legal or accounting services rendered to or on behalf of an authorized committee of a candidate or any other political committee is not a contribution if the person paying for the services is the regular employer of the individual rendering the services (other than the political committee) and if the services are solely to ensure compliance with the Act or 26 U.S.C. 9001 et seq. and 9032 et seq. Amounts paid by the regular employer for these services shall be reported as receipts by the committee receiving such services in accordance with 11 CFR 104.3(a)(1)(ix).

(14) A loan of money by a national or State bank, a federally chartered depository institution or a depository institution whose deposits and accounts are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration is not a contribution by the lending institution if such loan is made in accordance with applicable banking laws and regulations and is made in the ordinary course of business. A loan will be deemed to be made in the ordinary course of business if it: Bears the usual and customary interest rate of the lending institution for the type of loan involved; is made on a basis which assures repayment; is evidenced by a written instrument; and is subject to a due date or amortization schedule. Such loans shall be reported in accordance with 11 CFR 104.3(a)(2)(v). Such loans shall be considered a loan by each endorser or guarantor in proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors. For purposes of 11 CFR 100.4(b)(14), an overdraft made on a checking or savings account shall be considered a contribution unless: The overdraft is made on an account which is subject to automatic overdraft protection; and the overdraft is subject to a definite interest rate and a definite repayment schedule.

(15) A gift, subscription, loan, advance, or deposit of money or anything of value made to a national committee or a state committee of a political party is not a contribution if it is specifically designated to defray any cost incurred for construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office. If such gift, subscription, loan, advance, or deposit of money or anything of value is made to a group which is not a political committee under 11 CFR 100.14, the amount need not be reported. However, if such gift, subscription, loan, advance, or deposit of money or anything of value is made to a political committee, it shall be reported in accordance with 11 CFR 104.3(a)(2)(viii).

(16) A gift, subscription, loan, advance or deposit of money or anything of value made with respect to the recount of the results of a Federal election, or an election contest concerning a Federal election, is not a contribution except when made by an organization subject to the prohibitions of 11 CFR 114.2.

(17) The payment by a state or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party is not a contribution, provided that the conditions set forth at 11 CFR 100.4(b)(17) (i), (ii) and (iii) are met.

(i) Such payment is not for costs of campaign materials or activities in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising.

(ii) The payment of the portion of the cost of such materials attributable to Federal candidates is made from contributions subject to the limitations and prohibitions of the Act.

(iii) Such payment is not made from contributions designated to be spent on behalf of a particular candidate or candidates for Federal office.

(18) The payment by a candidate for any public office (including State or local office) or by such candidate's authorized committee, of the costs of campaign materials which include information on or reference to a candidate for Federal office and which are used in connection with volunteer activities (such as pins, bumper stickers, handbills, brochures, posters, and yard signs) is not a contribution to such candidate for Federal office, provided that the payment is not for the use of broadcasting, newspapers, magazines, billboards, direct mail or similar types of general public communications or political advertising. Any such payment shall be made from contributions subject to the limitations and prohibitions of the Act. For purposes of 11 CFR 100.4(b)(18), the term "direct mail" means mailings by commercial vendors or mailings made from lists which were not developed by the candidate.

(19) The payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee primarily on behalf of the Presidential and Vice-Presidential nominees of that party, is not a contribution to such candidates provided that the conditions set forth at 11 CFR 100.4(b)(19) (i), (ii) and (iii) are met.

(i) Such payment is not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, bill board, direct mail, or similar type of general public communication or political advertising.

(ii) The payment of the portion of the costs of such activities attributable to Federal candidates is made from contributions subject to the limitations and prohibitions of the Act.

(iii) Such payment is not made from contributions designated to be spent on behalf of a particular candidate or candidates for Federal office.

(iv) For purposes of 11 CFR 100.4 (b)(19) mention of any candidate for Federal office other than the Presidential or Vice-Presidential nominees of a political party in the course of voter registration and get-out-the-vote activities is not a contribution to such candidate provided such mention of that candidate is merely incidental to the overall activity.

(v) For purposes of 11 CFR 100.4(b)(19), the use of phone banks in connection with voter registration and get-out-the-vote activities is not a contribution when such phone banks are operated by volunteer workers.

(20) Payments received by any political party committee from a candidate or the authorized committee of a candidate as a condition of ballot access are not contributions.

§ 100.5 Support [no change]

§ 100.6 Election [no change]

§ 100.7 Expenditure.

(a) The term "expenditure" includes the payments, gifts, or other things of value as set forth at 11 CFR 100.7(a)(1) through (3).

(1) A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office is an expenditure.

(i) For purposes of 11 CFR 100.7(a)(1), the term "payment" includes payment of any interest on an obligation and any guarantee or endorsement by a candidate or a political committee of a loan;

(ii) For purposes of 11 CFR 100.7(a)(1), the term "payment" does not include the repayment of the principal of an outstanding obligation, the proceeds of which constituted a contribution under these regulations, except that the repayment shall be reported.

(iii) For purposes of 11 CFR 100.7(a)(1), the term "money" includes currency of the United States or of any foreign nation, checks, money orders, or any other negotiable instrument payable on demand.

(iv) The term "anything of value" includes securities, goods, facilities, equipment, supplies, personnel, advertising, services, membership lists commonly offered or used commercially, or other in-kind contributions provided without charge (other than volunteer services under § 100.4(b)(2)) or at a charge which is below the usual and normal charge for the goods or services. The amount of the expenditure of a thing of value is the difference between the usual and normal charge for the goods or services at the time of the expenditure and the amount charged for the candidate or committee.

(A) For the purposes of 11 CFR 100.7(a)(1), "usual and normal charge" for goods means the price of those goods in the market from which they ordinarily would have been purchased at the time of their contribution; and "usual and normal charge" for services, other than those provided by an unpaid volunteer, means the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services were rendered.

(2) A written contract, promise, or agreement to make an expenditure is an expenditure.

(3) An independent expenditure which meets the requirements of Part 109 is an expenditure, except that such independent expenditure is to be reported by the person making the expenditure as set forth in Part 109.

(b) The term "expenditure" does not include the payments, gifts, or other things of value as set forth at 11 CFR 100.7(b)(1) through (24).

(1) Contributions by an individual from personal funds to a political committee or candidate are not expenditures.

(2) Payments made for the purpose of determining whether an individual should become a candidate, such as those incurred in conducting a poll, if the individual does not otherwise subsequently become a candidate are not expenditures. If the individual becomes a candidate, the payments are expenditures, and must be reported with the first report filed by the principal campaign committee of the candidate, regardless of the date the payments were made.

(3) Disbursements for any news story, commentary, or editorial of any broadcasting station, newspaper, magazine, or other publication are not expenditures, unless the facility is owned or controlled by any political party, political committee or candidate, in which case a news story which (i) represents a bona fide news account communicated in a publication of general circulation or on a licensed broadcasting facility, and (ii) is part of a general pattern of campaign-related news accounts which give reasonably equal coverage to all opposing candidates in the circulation or listening area, shall not be an expenditure.

(4) Disbursements for nonpartisan activity designed to encourage individuals to register to vote or to vote are not expenditures. For purposes of 11 CFR 100.7(b)(4), nonpartisan activity means that no effort is made to determine the party or candidate preference of individuals before encouraging them to register to vote or to vote.

(5) Disbursements for any communication by a membership organization to its members or by a corporation to its stockholders or executive or administrative personnel are not expenditures, so long as the membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to Federal office, except that the costs incurred by a membership organization, including a labor organization, or by a corporation, directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate) shall if those costs exceed $2,000 per election, be reported to the Commission on FEC Form 7 in accordance with 11 CFR 104.6.

(i) For purposes of 11 CFR 100.7(b)(5), "labor organization" means an organization of any kind (any local, national, or international union, or any local or State central body of a federal of unions is each considered a separate labor organization for purposes of this section) or any agency or employee representative committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(ii) For purposes of 11 CFR 100.7(b)(5), "stockholder" means a person who has a vested beneficial interest in stock, has the power to direct how that stock shall be voted (if it is voting stock), and has the right to receive dividends.

(iii) For purposes of 11 CFR 100.7(b)(5), "executive or administrative personnel" means individuals employed by a corporation who are paid on a salary rather than hourly basis and who have policymaking, managerial, professional, or supervisory responsibilities.

(A) This definition includes—(*1*) Individuals who run the corporation's business, such as officers, other executives, and plant, division, and section managers; and

(*2*) Individuals following the recognized professions, such as lawyers and engineers.

(B) This definition does not include—(*1*) Professionals who are represented by a labor organization;

(*2*) Salaried foremen and other salaried lower level supervisors having direct supervision over hourly employees;

(*3*) Former or retired personnel who are not stockholders; or

(*4*) Individuals who may be paid by the corporation, such as consultants, but who are not employees, within the meaning of 26 CFR 31.3401(c)–(1) of the corporation for the purpose of the collection of, and liability for, employee tax under 26 CFR 31.3402(a)–1.

(C) Individuals on commission may be considered executive or administrative personnel if they have policymaking, managerial, professional, or supervisory responsibility and if the individuals are employees, within the meaning of 26 CFR 31.3401(c)–(1) of the corporation for the purpose of the collection of, and liability for, employee tax under 26 CFR 31.3402(a)–(1).

(D) The Fair Labor Standards Act, 29 U.S.C. 201, et seq. and the regulations issued pursuant to the Act, 29 CFR Part 541, may serve as a guideline in determining whether individuals have policymaking, managerial, professional, or supervisory responsibilities.

(iv) For purposes of 11 CFR 100.7(b)(5), "members" means all persons who are currently satisfying the requirements for membership in a membership organization, trade association, cooperative, or corporation without capital stock and in the case of a labor organization, persons who are currently satisfying the requirements for membership in a local, national, or international labor organization. Members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national, or international union is affiliated. A person is not considered a member

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under this definition if the only requirement for membership is a contribution to a separate segregated fund.

(v) For purposes of 11 CFR 100.7(b)(5), "election" means two separate processes in a calendar year, to each of which the $2,000 threshold described above applies separately. The first process is comprised of all primary elections for Federal office, wherever held; the second process is comprised of all general elections for Federal office, wherever held.

(vi) For purposes of 11 CFR 100.7(b)(5), "corporation" means any separately incorporated entity, whether or not affiliated.

(vii) When the aggregate costs exceed $2,000 per election, all costs of the communication shall be reported on the filing dates provided in 11 CFR 104.6, and shall include the total amount expended for each candidate supported.

(6) The use of real or personal property voluntarily provided by an individual to a candidate or any political committee of a political party in rendering voluntary personal services on the individual's residential premises for candidate-ralated or party-related activities is not an expenditure.

(7) The use of a church or community room used on a regular basis by members of a community for noncommercial purposes voluntarily provided by an individual to a candidate or any political committee of a political party in rendering voluntary personal services in the church or community room for candidate-related or party-related activities is not an expenditure.

(8) The cost of invitations, food and beverages is not an expenditure where such items are voluntarily provided by an individual in rendering voluntary personal services on the individual's residential premises or in a church or community room as specified at 11 CFR 100.7(b)(6) and (7) to a candidate or to a political committee of a political party for candidate-related or political party-related activities, to the extent that: the cumulative value of such invitations, food and beverages provided by the individual on behalf of the candidate does not exceed $1,000 with respect to any single election; and on behalf of all political committees of a political party does not exced $2,000 in any calendar year. For purposes of 11 CFR 100.7(b)(8), such disbursements by a married individual shall not be attributed to a spouse.

(9) The sale of any food or beverage by a vendor (whether incorporated or not) for use in a candidate's campaign or for use by a political committee of a political party at a charge less than the normal or comparable commercial charge, is not an expenditure, provided that the charge is at least equal to the cost of such food or beverage to the vendor, to the exent that: the cumulative value of such discount given by the vendor on behalf of any single candidate does not exceed $1,000 with respect to any single election; and on behalf of all political committees of a political party does not exceed $2,000 in a calendar year.

(10) Any unreimbursed payment for transportation expenses incurred by any individual on behalf on any candidate or political committee of a political party is not an expenditure to the extent that: the cumulative value of the payments made by such individual on behalf of a candidate does not exceed $1,000 for an election; and on behalf of all political committees of a political party does not exceed $2,000 in a calendar year. Additionally, any unreimbursed payment from a volunteer's personal funds for usual and normal subsistence expenses incident to volunteer activity is not a contribution.

(11) The payment of the costs of preparation, display, or mailing or other distribution incurred by a State or local committee of a political party with respect to a printed slate card, sample ballot, palm card, or other printed listing, of three or more candidates for any public office for which an election is held in the State in which the committee is organized is not an expenditure; except that this exemption shall not apply to costs incurred by such a committee with respect to the preparation and display of listings made on broadcasting stations, or in newspapers, magazines, and similar types of general public policitical advertising such as billboards, posters, and signs. However, the payment of the portion of such costs attributable to Federal condidates must be made from funds subject to the limitations and prohibitions of the Act.

(12) Payment for any communication by a person which is not made for the purpose of influencing the nomination for election, or election, of an individual to Federal office is not an expenditure.

(13) Any payments by the candidate from non-campaign funds for routine living expenses of the candidate which would have been incurred without candidacy, including food and residence, are not expenditures.

(14) Any payment made or obligation incurred by a corporation or labor organization which, under the provisions of 11 CFR Part 114 and 2 U.S.C. 441b, would not constitute an expenditure by the corporation or labor organization is not an expenditure.

(15) (i) Any costs incurred by a candidate or his or her authorized committees in connection with the solicitation of contributions by a candidate who has received Presidential Primary Matching Fund Payments (or a minor new party candidate receiving general election public financing under 26 U.S.C. 9004), the aggregate total of which does not exceed 20% of the expenditure limitation applicable to the candidate, are not expenditures, but these costs shall be reported as disbursements under 11 CFR Part 104.

(ii) For purposes of this paragraph, "in connection with the solicitation of contributions" means any cost reasonably related to fundraising activity, including the costs of printing and postage, the production of and space or air time for, advertisements used for fundraising, and the costs of meals, beverages, and other costs associated with a fundraising reception or dinner.

(iii) The fundraising expenditures need not be allocated on a State by State basis, except where the fundraising activity is aimed at a particular State and takes place within 28 days of a primary election, convention, or caucus. See 11 CFR 110.8(c).

(16) Legal or accounting services rendered to or on behalf of any political committee of a political party are not expenditures if the person paying for the services is the regular employer of the individual rendering the services (other than the political committee) and the services are not attributable to activities which directly further the election of any designated candidate for Federal office. For purposes of 11 CFR 100.7(b)(16), a partnership shall be deemed to be the regular employer of a partner. Amounts paid by the regular employer for such services shall be reported as receipts by the committee receiving such services in accordance with 11 CFR 104.3(a)(1)(ix).

(17) Legal or accounting services rendered to or on behalf of an authorized committee of a candidate or any other political committee are not expenditures if the person paying for the services is the regular employer of the induvidual rendering the services (other than the political committee) and if the services are solely to ensure compliance with the Act or 26 U.S.C. 9001 et seq. and 9032 et seq. Amounts paid by the regular employer for these services shall be reported as receipts by the committee receiving such services in accordance with 11 CFR 104.3(a)(1)(ix).

(18) The payment of a state or local committee or a political party of the costs of campaign materials (such as

pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party is not an expenditure, provided that the conditions set forth at 11 CFR 100.7(b)(18)(i), (ii) and (iii) are met.

(i) Such payment is not for costs of campaign materials or activities in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication political advertising.

(ii) The payment of the portion of the cost of such materials attributable to Federal candidates are made from contributions subject to the limitations and prohibitions of the Act.

(iii) Such payment is not made from contributions designated to be spent on behalf of a particular candidate or candidates for Federal office.

(19) The payment by a candidate for any public office (including state or local office), or by such a candidate's authorized committee, of the costs of campaign materials which include information on or reference to a candidate for Federal office and which are used in connection with volunteer activities (such as pins, bumper stickers, handbills, brochures, posters, and yard signs) is not an expenditure on behalf of such candidate for Federal office, provided that the payment is not for the use of broadcasting, newspapers, magazines, billboards, direct mail or similar types of general public communications or political advertising. Any such payment shall be made from contributions subject to the limitations and prohibitions of the Act. For purposes of 11 CFR 100.7(b)(19), the term "direct mail" means mailings by commercial vendors or mailings made from lists which were not developed by the candidate.

(20) The payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee primarily on behalf of the Presidential and Vice-Presidential nominees of that party, is not an expenditure for the purpose of influencing the election of such candidates provided that the conditions set forth at 11 CFR 100.7(b)(20)(i), (ii), and (iii) are met.

(i) Such payment is not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising.

(ii) The payment of the portion of the costs of such activities attributable to Federal candidates is made from contributions subject to the limitations and prohibitions of the Act.

(iii) Such payment is not made from contributions designated to be spent on behalf of a particular candidate or candidates, for Federal office.

(iv) For purposes of 11 CFR 100.7(b)(20), mention of any candidate for federal office other than the Presidential or Vice-Presidential nominees of a political party in the course of voter registration and get-out-the-vote activities is not an expenditure on behalf of such candidate provided that mention of that candidate is merely incidental to the overall activity.

(v) For purposes of 11 CFR 100.7(b)(20), the use of phone banks in connection with voter registration and get-out-the-vote activities is not an expenditure when such phone banks are operated by volunteer workers.

(21) Payments made by a political party committee to another political party committee or to the appropriate State official of fees collected from candidates or their authorized committees as a condition of ballot access are not expenditures.

(22) A loan of money by a national or State bank, a federally chartered depository institution or a depository institution whose deposits and accounts are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration is not an expenditure by the lending institution if such loan is made in accordance with applicable banking laws and regulations and is made in the ordinary course of business. A loan will be deemed to be made in the ordinary course of business if it: Bears the usual and customary interest rate of the lending institution for the type of loan involved; is made on a basis which assures repayment; is evidenced by a written instrument; and is subject to a due date or amortization schedule. Such loans shall be reported in accordance with 11 CFR 104.3(a)(2)(v). Such loans shall be considered a loan by each endorser or guarantor in proportion to the unpaid balance that each endorsor or guarantor bears to the total number of endorsors or guarantors. For the purposes of 11 CFR 100.7(b)(22), an overdraft made on a checking or savings account shall be considered an expenditure unless: the overdraft is made on an account which is subject to automatic overdraft protection; and the overdraft is subject to a definite interest rate and a definite repayment schedule.

(23) A purchase, payment, distribution, loan, advance, or deposit of money or anything of value made to a national committee or a state committee of a political party is not an expenditure if it is specifically designated to defray any cost incurred for construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office. Such gift, subscription, loan, advance, or deposit of money or anything of value shall be reported in accordance with 11 CFR 104.3(a)(2)(viii).

(24) A purchase, payment, distribution, loan, advance or deposit of money or anything of value made with respect to the recount of the results of a Federal election or an election contest concerning a Federal election is not an expenditure except when made by an organization subject to the prohibitions of 11 CFR 114.2.

§ 100.8 Federal office.

"Federal office" means the office of President or Vice President of the United States, Senator or Representative in, or Delegate or Resident Commissioner to, the Congress.

§ 100.9 File, Filed or Filing (No Change).

§ 100.10 Identification.

"Identification" means, in the case of an individual, his or her full name, including first name, middle name or initial, if any and last name; mailing address; occupation; and the name of his or her employer; and, in the case of any other person, the full name and address.

§ 100.11 Occupation (No Change).

§ 100.12 Employer.

"Employer" means the name of one's employer, but does not include the address of one's employer.

§ 100.13 Person.

"Person" means an individual, partnership, committee, association, corporation, labor organization, and any other organization, or group of persons, but does not include the Federal government or any authority of the Federal government.

§ 100.14 Political committee.

"Political committee" means any group meeting the conditions set forth at 11 CFR 100.14 (a), (b) or (c).

(a) Any committee, club, association, or other group of persons which receives contributions aggregating in excess of $1,000 or makes expenditures aggregating in excess of $1,000 during a calendar year is a political committee.

(b) Any separate segregated fund established under 2 U.S.C. 441(b)(2)(C) is a political committee.

(c) any local committee of a political party is a political committee if: It

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receives contributions aggregating in excess of $5,000 during a calendar year; it makes payments exempted from the definition of expenditure, which payments aggregate in excess of $5,000 during a calendar year; or makes contributions aggregating in excess of $1,000 or makes expenditures aggregating in excess of $1,000 during a calendar year.

(d) The following are types of political committees:

(1) *Principal campaign committee.* "Principal campaign committee" means a political committee designated and authorized by a candidate pursuant to 11 CFR 101.2.

(2) *Single candidate committee.* "Single candidate committee" means a political committee other than a principal campaign committee which makes or received contributions or makes expenditures on behalf of only one candidate.

(3) *Multicandidate committee.* "Multicandidate committee" means a political committee which (i) has been registered with the Commission, Clerk or Secretary for at least 6 months (ii) has received contributions for Federal elections from more than 50 persons; and (iii) (except for any State political party organization) has made contributions to 5 or more Federal candidates.

(4) *Party committee.* "Party committee" means a political committee which represents a political party and is part of the official party structure at the national, State, or local level.

(e) A political committee is either an authorized committee or an unauthorized committee.

(1) Authorized committee. An "authorized committee means the principal campaign committee or any other political committee authorized by a candidate under § 102.12 to receive contributions or make expenditures on behalf of such candidate, or has not been disavowed pursuant to § 100.2(c).

(2) *Unauthorized committee.* An "unauthorized committee" is a political committee which has not been authorized in writing by a candidate to solicit or receive contributions or make expenditures on behalf of the candidate, or has been disavowed pursuant to § 100.2(c).

(f) *Affiliated committee.* (1) All authorized committees of the same candidate are affiliated.

(2) All committees (including a separate segregated fund, see Part 114) established, financed, maintained, or controlled by the same corporation, labor organization, person, or group of persons, including any parent, subsidiary, branch, division, department, or local unit thereof, are affiliated.

(i) Application of the rule of this paragraph means that—

(A) All political committees set up by a single corporation and/or its subsidiaries are affiliated;

(B) All political committees set up by a single national or international union and/or its local unions or other subordinate organizations of the national or international union are affiliated;

(C) All of the political committees set up by an organization of national or international unions and all its State and/or local central bodies are affiliated;

(D) All political committees (other than party committees) established by a member organization, including a trade or professional association, see § 114.8(a), and/or by related State and local entities are affiliated.

(E) All the political committees established by the same person or group of persons are affiliated.

(ii) For organizations not covered by (i) above, indicia of establishing, financing, maintaining, or controlling, include—

(A) Ownership of a controlling interest in voting shares or securities;

(B) Provisions of bylaws, constitutions, or other documents by which one entity has the authority, power, or ability to direct another entity;

(C) The authority, power, or ability to hire, appoint, discipline, discharge, demote, or remove or otherwise influence the decision of the officers or members of an entity;

(D) Similar patterns contributions;

(E) The transfer of funds between committees which represent a substantial portion of the funds of either the transferor or transferee committee, other than the transfer of funds between the committees which jointly raised the funds so transferred.

§ 100.15 Connected Organization.

"Connected organization" means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee. A connected organization may be a corporation (including a corporation without capital stock), a labor organization, a cooperative or trade association.

§ 100.16 Political party.

"Political party" means an association, committee, or organization which or selects a candidate for election to any Federal office, whose name appears on an election ballot as the candidate of the association, committee, or organization.

§ 100.17 National committee.

"National committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of the political party at the national level.

§ 100.18 State.

"State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

§ 100.19 State committee, subordinate committee.

(a) "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of the political party at the State level.

(b) "Subordinate committee of a State committee" means any organization which is responsible for the day-to-day operation of the political party at the level of city, county, neighborhood, ward, district, precinct, or any other subdivision of a State, or any organization under the control or direction of the State committee.

§ 100.20 Act.

"Act" means the Federal Election Campaign Act of 1971, as amended by the Federal Election Campaign Act Amendments of 1974, 1976, and 1979, and, unless specifically excluded, includes chapters 95 and 96 of the Internal Revenue Code of 1954 relating to the public financing of Federal elections.

PART 101—CANDIDATE STATUS AND DESIGNATIONS

§ 101.1 Candidate designations.

(a) *Principal Campaign Committee.* Within 15 days after attaining candidate status under 11 CFR 100.2, each candidate, other than a nominee for Vice President, shall in writing designate a principal campaign committee in accordance with 11 CFR 102.12. The candidate shall designate the principal campaign committee by filing a Statement of Authorization on FEC form ———, or a letter containing the same information, with the office specified in 11 CFR Part 105.

(b) *Authorized Committees.* A candidate may designate additional political committees in accordance with 11 CFR 102.13 to serve as committees which will be authorized to accept contributions or make expenditures on behalf of the candidate. For each such authorized committee, other than a principal campaign committee, the candidate shall file a written designation with his or her principal campaign committee.

§ 101.2 Candidate as agent of authorized committee.

Any candidate who receives a contribution as defined at 11 CFR 100.4, obtains any loan, or makes any disbursement in connection with his or her campaign shall be considered as having received the contribution, obtained the loan or made the disbursement as an agent of his or her authorized committee(s).

§ 101.3 Duration of candidate status.

An individual who becomes a candidate under 11 CFR 100.2 continues to be a candidate until all debts and obligations for which the candidate is personally obligated in connection with his or her election are extinguished or otherwise disposed of in accordance with procedures established under 11 CFR 102.3(b) and (c).

PART 102—REGISTRATION AND ORGANIZATION OF POLITICAL COMMITTEES

§ 102.1 Registration of political committees.

(a) *Principal Campaign Committees.* Each principal campaign committee shall file a Statement of Organization in accordance with 11 CFR 102.2 no later than 10 days after designation pursuant to 11 CFR 101.1. In addition, each principal campaign committee shall file in accordance with 11 CFR Part 105 all designations, statements and reports which are filed with such committee.

(b) *Authorized Committees.* Each authorized committee(s) shall file a Statement of Organization in accordance with 11 CFR 102.2 no later than 10 days after designation pursuant to 11 CFR 101.1. Such Statement(s) shall be filed with the principal campaign committee of the authorizing candidate.

(c) *Separate Segregated Funds.* Each separate segregated fund established under 2 U.S.C. 441b(b)(2)(C) shall file a Statement of Organization with the Federal Election Commission no later than 10 days after establishment. This requirement shall not apply to a fund established solely for the purpose of financing political activity in connection with State or local elections.

(d) *Other Political Committees.* All other committees shall file a Statement of Organization no later than 10 days after becoming a political committee within the meaning of 11 CFR 100.14.

§ 102.2 Statement of Organization: Forms and Filing.

(a) *Forms.* (1) The Statement of Organization shall be filed in accordance with 11 CFR Part 105 on Federal Election Commission Form 1, which may be obtained from the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. The Statement shall be signed by the treasurer and shall include the following information:

(i) The name, address, and type of committee (in accordance with 11 CFR 100.14);

(ii) The name, address, relationship, and type of any connected organization or affiliated committee in accordance with 11 CFR 102.2(b);

(iii) The name, address, and committee position of the custodian of books and accounts of the committee;

(iv) The name and address of the treasurer of the committee;

(v) If the committee is authorized by a candidate, the name, address, office sought and party affiliation of the candidate;

(vi) A listing of all banks, safety deposit boxes, or other depositories used by the committee.

(2) Any change or correction in the information previously filed in the Statement of Organization shall be reported no later than 10 days following the date of the change or correction by filing an amended Statement of Organization or by filing a letter noting the change(s). The amendment need list only the change or correction.

(b)(1) "Affiliated committee" includes any committee defined in 11 CFR 100.14(f).

(i) A principal campaign committee is required to disclose the name and address of all other authorized committees which have been authorized by its candidate. Authorized committees need only disclose the name of their principal campaign committee.

(ii)(A) Only political committees established by a single parent corporation, a single national or international union, a single organization or federation of national or international unions, a single national membership organization or trade association, or any other similar group of persons (other than political party organizations) are required to disclose the names and addresses of all political committees established by any subsidiary, or by any State, local or other subordinate unit of a national or international union or federation thereof, or by any subordinate units of a national membership organization, trade association, or other group of persons (other than political party organizations).

(B) Political committee established by subsidiaries, or by State, local, or other subordinate units are required to disclose the name and address only of each political committee established by their parent or superior body, e.g., parent corporation, national or international union or organization or federation of such unions, or national organization or trade association.

(2) "Connected organization" includes any organization defined in 11 CFR 100.15.

§ 102.3 Termination of registration.

(a) A political committee (other than a principal campaign committee) may terminate only upon a Notice of Termination on FEC Form 6 or upon filing a written statement in accordance with 11 CFR Part 105. Except as provided in 11 CFR 102.3(c), only a committee which will no longer receive any contributions or make any disbursements, and which has no outstanding debts or obligations, may terminate. In addition to the Notice, the committee shall also provide a final report of receipts and disbursements, which report shall include a statement as to the disposition of residual funds.

(b) A principal campaign committee may not terminate until it has met the requirements of 11 CFR 102.3(a) and until: all debts of any other authorized committee of the candidate have been extinguished; and the candidate has terminated candidate status under 11 CFR 101.3.

(c) The Commission shall have the authority to determine when a committee becomes insolvent and to terminate the committee's reporting obligation.

§ 102.4 Identification number.

Upon receipt of a Statement of Organization under this Part, or upon Commission review of statements already filed, an identification number shall be assigned to the statement, receipt shall be acknowledged, and the political committee shall be notified of the number assigned. This identification number shall be entered by the political committee on all subsequent reports or statements filed under the Act, as well as on all communications concerning reports and statements.

§ 102.5 Federal committees and accounts; separation of Federal and non-Federal funds.

(a) Each organization or group which is a political committee under 11 CFR 100.14 and which also finances political activity in connection with State or local

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elections shall establish a committee or account which either meets the requirements of 11 CFR 102.5(a)(1) or (2).

(1) Such organization shall establish a separate Federal campaign committee which shall register as a political committee.

(2) Such organization shall establish a single committee with a single account to make contributions to Federal and non-Federal candidates, but only if all contributions received are permissible under the Act, and all contributors are informed that all contributions are subject to the limitations of 11 CFR 110.1, 110.2, and 110.5.

(b) The accounts and committees referred to in 11 CFR 102.5(a):

(1) May not receive contributions other than contributions designated for the Federal committee or account, contributions received as a result of a solicitation which expressly states that the contribution will be used for Federal elections, or contributions from contributors who are informed that all contributions are subject to the limitations of 11 CFR 110.1, 110.2, and 110.5; and

(2) May not receive transfers from an account or committee established by a State committee, subordinate committee of a State committee, or another political committee, except from a committee or account which has been established in accordance with 11 CFR 102.5(a).

(c) The Federal campaign committee or account may make transfers for any lawful purpose and may accept transfers from affiliated committees in accordance with 11 CFR 102.6.

(d) Any person which is not a political committee need not establish committees or accounts in accordance with 11 CFR 102.5, provided that where such person makes payments exempt from the definition of contribution and expenditure at 11 CFR 100.4(b) (8), (17), (18) and (19) and 11 CFR 100.7(b) (11), (18), (19) and (20), such person shall through a reasonable accounting method demonstrate that amounts used for Federal candidates and elections are derived from funds subject to the limitations and prohibitions of the Act.

§ 102.6 Transfers.

(a) Any group which is not a political committee may make transfers not in excess of $1,000 to each political committee with which such group is affiliated, exclusive of any amounts collected by the group as a fundraising agent for or in joint fundraising with its affiliate. A group which makes such transfers need not establish a separate Federal campaign committee pursuant to 11 CFR 102.5, but such group shall through a reasonable accounting method demonstrate that amounts used for the transfer are derived from funds subject to the limitations and prohibitions of the Act.

(b) Any group which makes transfers in excess of $1,000 to any political committee with which the group is affiliated, exclusive of amounts collected by the group as a fundraising agent for or in joint fundraising with its affiliate, shall register as a political committee and comply with the requirements of 11 CFR 102.5.

(c) A group which is not a political committee may engage in joint fundraising with or act as a fundraising agent for any political committee with which the group is affiliated. Such group need not establish committees or accounts pursuant to the requirements of 11 CFR 102.5 for the purpose of receiving contributions as a fundraising agent or in joint fundraising. In receiving such contributions, the group must comply with the provisions of 11 CFR 102.6.

§ 102.7 Organization of political committees.

(a) Every political committee shall have a treasurer and designate an assistant treasurer who shall assume the duties and responsibilities of the treasurer in the event of a temporary or permanent vacancy in the office.

(b) No contribution or expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of the treasurer.

(c) No expenditure shall be made for or on behalf of a political committee without the authorization of its treasurer or an agent authorized orally or in writing by the treasurer.

(d) Any candidate who receives a contribution, as defined at 11 CFR 100.4, obtains any loan or makes any disbursement in connection with his or her campaign shall be considered as having received the contribution, obtained the loan or made the disbursement as an agent of the authorized committee(s).

§ 102.8 Receipt of contribution.

(a) Every person who is not an authorized agent of the treasurer and who receives a contribution for an authorized political committee shall, no late than 10 days after receipt, forward such contribution to the treasurer or the treasurer's authorized agent. If the amount of the contribution is in excess of $50, such person shall also forward the name and address of the contributor and the date of receipt of the contribution.

(b)(1) Every person who is not an authorized agent of the treasurer and who receives a contribution of $50 or less for a political committee which is not an authorized committee shall forward such contribution to the treasurer of the political committee no later than 30 days after receipt.

(2) Every person who is not an authorized agent of the treasurer and who receives a contribution exceeding $50 for a political committee which is not an authorized committee shall, no later than 10 days after receipt of the contribution, forward to the treasurer of the political committee: the contribution; the name and address of the contributor; and the date of receipt of the contribution.

§ 102.9 Accounting for contributions and expenditures.

The treasurer of a political committee or an agent authorized by the treasurer to receive contributions and make expenditures shall fulfill all recordkeeping duties as set forth at 11 CFR 102.9.

(a) An account shall be kept of all contributions received by or on behalf of the political committee.

(1) For contributions in excess of $50, such account shall include the name and address of the contributor; and the date and amount of such contribution.

(2) For contributions from any person whose contributions aggregate more than $200 during a calendar year, such account shall include the identification of the person, and the date and amount of such contribution.

(3) For contributions from a political committee, such account shall include the identification of the political committee; and the date and amount of such contribution.

(b)(1) An account shall be kept of all disbursements made by or on behalf of the political committee. Such account shall consist of a record of:

(i) The name and address of every person to whom any disbursement is made;

(ii) The date, amount, and purpose of the disbursement; and

(iii) If the disbursement is made for a candidate, the name and address of an office sought by that candidate.

(iv) For purposes of 11 CFR 102.9(b)(1), "purpose" means a brief statement or description of why the disbursement was made.

(2) A receipt or invoice from the payee or a cancelled check to the payee shall be obtained and kept for each disbursement in excess of $200 by, or on behalf of, the committee.

(i) For purposes of 11 CFR 102.9(b)(2), "payee" means the person who provides the goods or services to the committee in return for the expenditure, except for an advance of $500 or less for travel and/or subsistence to an individual who will be the recipient of the goods or services.

(c) The treasurer shall preserve all records required to be kept under 11 CFR 102.9 and copies of all reports required to be filed under 11 CFR Part 104 for a period of not less than 3 years from the end of the year in which the report was filed.

(d) In performing recordkeeping duties, the treasurer or his or her authorized agent shall use his or her best efforts to obtain the required information and shall keep a complete record of such efforts. If there is a showing that best efforts have been made, any records of the committee shall be deemed to be in compliance with this Act or Chapter 95 or 96 of the Internal Revenue Code of 1954. With regard to the requirement at 11 CFR 102.9(b)(2) concerning receipts, invoices and cancelled checks, the treasurer will not be deemed to have exercised best efforts to obtain the records unless he or she has made at least one written effort subsequent to the transaction to obtain a duplicate copy of the invoice, receipt, or check.

§ 102.10 Disbursement By Check.

All disbursements by a political committee, except for petty cash disbursements pursuant to 11 CFR 102.11, shall be made by check drawn on account(s) established as the committee's campaign depository or depositories under 11 CFR Part 103.

§ 102.11 Petty cash fund.

A political committee may maintain a petty cash fund out of which it may make expenditures not in excess of $100 to any person in connection with a single purchase or transaction. If a petty cash fund is maintained, it shall be the duty of the treasurer of the political committee to keep and maintain a written journal of all disbursements. This written journal shall include the name and address of every person to whom any disbursement is made, as well as the date, amount, and purpose of the disbursement. In addition, if the disbursement is made for a candidate, the journal shall include the name of that candidate and the office sought by the candidate involved.

§ 102.12 Designation of principal campaign committee.

(a) Each candidate for Federal office (other than a nominee of a political party to the Office of Vice President) shall designate a political committee to serve as his or her principal campaign Committee no later than 15 days after becoming a candidate. Such designation shall be in writing. Each principal campaign committee shall register and report, in accordance with 11 CFR Parts 102 and 104.

(b) No political committee may be designated as the principal campaign committee of more than one candidate.

(c)(1) No political committee which supports or has supported more than one candidate may be designated as a principal campaign committee, except that, after nomination, a candidate for the office of President of the United States nominated by a political party may designate the national committee of such a political party as his or her principal campaign committee. A national committee which is so designated shall maintain separate books of account with respect to its function as a principal campaign committee.

(2) For purposes of 11 CFR 102.12(c), the term "support" does not include contributions to, or expenditures on behalf of, a candidate by an authorized committee in amounts not exceeding $1,000 for any election when combined with any personal contributions from the contributor candidate, except that the national committee of a political party which has been designated as the principal campaign committee of that party's Presidential candidate may contribute to another candidate in accordance with 11 CFR Part 110.

§ 102.13 Authorization of political committees.

(a)(1) Any political committee authorized by a candidate to receive contributions or make expenditures shall be authorized in writing by the candidate. Such authorization must be filed with the principal campaign committee in accordance with 11 CFR 102.1(b).

(2) If an individual fails to disavow activity pursuant to 11 CFR 100.2(c) and is therefore a candidate upon notice by the Commission, he or she shall authorize the committee in writing and designate a campaign depository in accordance with 11 CFR Part 103.

(b) A candidate is not required to authorize a national, State or subordinate State party committee which solicits funds to be expended on the candidate's behalf pursuant to 11 CFR 110.7.

(c) The name of each authorized committee shall include the name of the candidate who authorized such committee. Any political committee which is not an authorized committee shall not include the name of any candidate in its name.

(d)(1) No political committee which supports or has supported more than one candidate may be designated as an authorized committee, except that two or more candidates may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee as used in 11 CFR 102.13.

(2) For purposes of 11 CFR 102.13(d) the term "support" does not include contributions to, or expenditures on behalf of, a candidate by an authorized committee in amounts not exceeding $1,000 for any election when combined with any personal contributions from the contributor candidate, except that the national committee of a political party which has been designated as the principal campaign committee of that party's Presidential candidate may contribute to another candidate in accordance with 11 CFR Part 110.

§ 102.14 Separate segregated fund.

The name of any separate segregated fund established pursuant to 11 CFR 102.1(c) shall include the name of its connected organization. However, as an example, a separate segregated fund established by a corporation which has a number of subsidiaries will not have to include the name of each subsidiary in its name. The name of the principal corporation or commonly known organization will be sufficient.

§ 102.15 Segregated funds.

All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members or associates of that committee, or with the personal funds of any other individual.

§ 102.16 Notice: Solicitation of contributions.

Each political committee shall comply with the notice requirements for solicitation of contributions at 11 CFR 110.11(c).

PART 103—CAMPAIGN DEPOSITORIES

§ 103.1 Notification of the Commission [No Change].

§ 103.2 Depositories.

Each political committee shall designate one or more National or State banks, federally chartered depository institutions, or depository institutions the depositor accounts of which are insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration,

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as its campaign depository or depositories. One or more depositories may be established in one or more States. Each political committee shall maintain at least one checking account at one of its depositories. Additional accounts may be established at each depository.

§ 103.3 Deposit of receipts and disbursements.

(a) All receipts by a political committee, shall be deposited in such account(s) established pursuant to 11 CFR 103.2.-The treasurer of the committee, or his or her agent, shall be responsible for making such deposits. If the receipt is in excess of $50, the deposit shall be made within 10 days of the treasurer's receipt. If the receipt is $50 or less, the deposit shall be made within 30 days of the treasurer's receipt. A disbursement may be made by a committee only by check drawn on an account in a designated campaign depository, except for expenditures of $100 or less made from a petty cash fund maintained pursuant to 11 CFR 102.11. Funds may be transferred from the depository for investment purposes, but shall be returned to the depository before such funds are used to make expenditures.

(b) (*No change*)

(1) (*No change*)

(2) (*No change*)

§ 103.4 Vice-Presidential candidate campaign depositories.

The campaign depository(ies) designated by the principal campaign committee of a political party's candidate for President shall be the campaign depository(ies) for that political party's candidate for the office of Vice President.

PART 104—REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

§ 104.1 Scope.

Each treasurer of a political committee required to register under 11 CFR Part 102 shall report in accordance with 11 CFR Part 104.

§ 104.2 Forms.

(a) Each report filed by a political committee under this part shall be filed on the appropriate FEC form as set forth below at 11 CFR 104.2 (e).

(b) Forms may be obtained from the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

(c) A committee may reproduce FEC forms for its own use provided they are not reduced in size.

(d) With prior approval of the Commission, a committee may use, for reporting purposes, computer produced schedules of itemized receipts and disbursements provided they are reduced to the size of FEC forms. The committee shall submit a sample of the proposed format with its request for approval.

(e) The following forms shall be used by the indicated type of reporting committee:

(1) [Presidential committees.] The authorized committees of a candidate for President or Vice President shall file on FEC Form 3–P.

(2) [Congressional candidate committees.] The authorized committees of a candidate for the Senate or the House of Representatives shall file on FEC Form 3–C, except that for a candidate having only one authorized committee which neither receives contributions nor makes expenditures in excess of $50,000 for an election and does not make independent expenditures, FEC Form 6 may be used.

(3) [*Political Committees Other than Authorized Committees.*] Political committees other than authorized committees shall file reports on FEC Form 3–PC.

§ 104.3 Contents of reports.

(a) *Reporting of Receipts.* Except for reports filed in accordance with 11 CFR Part 104.17, each report filed under 11 CFR Part 104 shall disclose the total amount of all receipts for the reporting period and for the calendar year and shall disclose the information set forth at 11 CFR 104.3(a)(1) through (5).

(1) *Cash on hand.* The amount of cash on hand at the beginning of the reporting period, including currency, balance on deposit in banks, savings and loan institutions, and other depository institutions, checks, negotiable money orders, and other paper commonly accepted by a financial institution in a deposit shall be reported.

(2) *Categories of Receipts for All Political Committees.* For the reporting period and the calendar year, the total amount of all receipts in each of the categories set forth at 11 CFR 104.3(a)(2)(i) through (x) shall be reported.

(i)(A) Itemized contributions from persons other than political committees, including contributions from individuals, but not including contributions from a candidate to his or her authorized committee (see 11 CFR 104.3(a)(3)(i)).

(B) Unitemized contributions from persons other than political committees, including contributions from individuals, but not including contributions from a candidate to his or her authorized committee(s) (see 11 CFR 104.3(a)(3)(i)).

(ii) Contributions from political party committees;

(iii) Contributions from political committees other than political party committees;

(iv) Transfers from affiliated committees and, where the reporting committee is a political party committee, transfers from other political committees, of the same party, regardless of whether such committees are affiliated;

(v) All loans, except loans made, guaranteed, or endorsed by a candidate to his or her authorized committee (see 11 CFR 104. 3(a)(3)(iii) below);

(vi) Rebates, refunds, and other offsets to operating expenditures;

(vii) Dividends, interest, and other forms of receipts;

(viii) Gifts, subscriptions, loans, advances, or deposits of money or anything of value made to defray costs of construction or purchase of office facilities in accordance with 11 CFR 100.4(b)(15);

(ix) Amounts paid by the regular employer for legal and accounting services rendered to or on behalf of a political committee, in accordance with 11 CFR 100.4(b) (12) and (13); and

(x) The total sum of all contributions to such political committee, together with the total contributions and the total sum of all operating expenditures, for both the reporting period and the calendar year.

(3) *[Additional Categories of Receipts for Authorized Committees.]* In addition to the categories listed in 11 CFR 104.3(a)(2) (i) through (x), an authorized committee of a candidate for Federal office, shall report for the reporting period and the calendar year the total amount of receipts in each of the categories set forth at 11 CFR 104.39(a)(3) (i) through (iv).

(i) Contributions from the candidate.

(ii) Transfers from other authorized committees of the same candidate.

(iii) Loans made, guaranteed, or endorsed by the candidate.

(iv) For an authorized committee of a candidate for the office of President, Federal funds received under chapters 95 or 96 of the Internal Revenue Code of 1954 (Title 26, United States Code).

(4) *Itemization of Receipts.* The identification as defined at 11 CFR 100.10 of the contributors listed at 11 CFR 104.3(a)(4) (i) through (viii) shall be reported.

(i) Each person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount of value in excess of $200 within the calendar year, together with the date of receipt and amount of any such contribution, except that the reporting committee may elect to report such information for contributors of lesser amount(s).

(ii) Each political committee which makes a contribution to the reporting committee during the reporting period, together with the date of receipt and amount of any such contribution;

(iii) For authorized committees of a candidate for Federal office, each authorized committee which makes a transfer to the reporting committees;

(iv) For committees which are not authorized by a candidate for Federal office, each affiliated committee which makes a transfer to the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds to the reporting committee from another political party committee regardless of whether such committees are affiliated, together with the date and amount of such transfer

(v) Each person who makes a loan to the reporting committee during the reporting period, together with the identification of any endorser or guarantor of such loan, and the date and amount or value of such loan.

(vi) Each person who provides a rebate, refund or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of $200 within the calendar year, together with the date of receipt and amount of such receipt;

(vii) Each person who provides any dividend, interest, or other receipt to the reporting committee in an aggregate value or amount in excess of $200 within the calendar year, together with the date of receipt and amount of any such receipt.

(5) *Use of Pseudonyms.* A political committee may submit up to ten (10) pseudonyms on each report filed to determine whether the names and addresses of its contributors are being used to solicit contributions or for commercial purposes in violation of 11 CFR 104.15. If pseudonyms are used, such committee shall attach a list of such pseudonyms to the appropriate report. The Clerk and the Secretary shall exclude these list from both their public and private record. The Commission shall maintain the lists, but shall exclude them from the public record. A committee is not required to file a list of pseudonyms with the Secretary of State. A political committee shall not use pseudonyms for the purposes of circumventing the reporting requirements, limitations or prohibitions of the Act.

(b) *Reporting of Disbursements.* Except for reports filed in accordance with 11 CFR 104.17, each report filed under 11 CFR Part 104 shall disclose the total amount of disbursements for the reporting period and for the calendar year and shall disclose:

(1) *Categories of Disbursements for All Political Committees.* For the reporting period, and for the calendar year, the total amount of all disbursements in each of the categories set forth in 11 CFR 104.3(b)(1) (i) through (v) shall be reported.

(i) Expenditures made to meet candidate or committee operating expenses.

(ii) Transfers to affiliated committees and, where the reporting committee is a political party committee, transfers to other political party committees, regardless of whether they are affiliated.

(iii) Repayment of all loans, other than loans made, guaranteed, or endorsed by a candidate to his or her authorized committee (see 11 CFR 104.3(a)(3)(iii));

(iv) Contributions, refunds, and other offsets to contributions; and

(v) For any political committee other than an authorized committee of a candidate for Federal office all: (a) Contributions made to other political committees; (b) loans made by the reporting committee; (c) independent expenditures; (d) expenditures made under 11 CFR 110.7 (2 U.S.C. 441a(d)): and

(e) Any other disbursements.

(2) *Additional Categories of Disbursements for Authorized Committees.* In addition to the categories listed in 11 CFR 104.3(b)(1) above, for an authorized committee of a candidate for federal office, the total amount of disbursements in each of the categories set forth below at 11 CFR 104.3(b)(2) (i) through (iii) for the reporting period and for the calendar year shall be reported.

(i) Transfers to other committees authorized by the same candidate;

(ii) Repayment of loans made, guaranteed or endorsed by the candidate;

(iii) For an authorized committee of a candidate for the office of President, disbursements not subject to the limitations of 11 CFR 110.8 (2 U.S.C. 441a(b)).

(3) *Itemization of Disbursements by All Political Committees.* The name and address of each person specified below at 11 CFR 104.3(b)(3) (i) through (v) shall be reported.

(i) Each person to whom an expenditure in an aggregate amount or value in excess of $200 within the calendar year is made by the reporting committee to meet a candidate's or committee's operating expenses, together with the date, amount, and purpose of such expenditure.

(A) As used in 11 CFR 104.3(b)(3), "purpose" means a brief statement or description of why the disbursement was made. However, statements or descriptions such as "advance" "election day expenses", "other expenses", "expenses", "expense reimbursement", "miscellaneous" or "outside services" would not meet the requirements of 11 CFR 104.3(b)(3) for reporting the purpose of an expenditure.

(B) Examples of statements or descriptions which meet the requirements of 11 CFR 104.3(b)(3) include the following:

Expenditure	Purpose
Maybell's Diner	Dinner expenses.
KMOC–TV	Media.
Tim Green	Salary.
POR Corporation	Polling.
Ajax Airlines	Travel.
Beta Political Party	Party loan.
AM Social Club	Phone banks.
Tim Green	Travel expenses.
Delightful Delectables	Catering costs.

(ii) Each authorized committee to which a transfer is made by the reporting committee;

(iii) each affiliated committee to which a transfer is made by the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds by the reporting committee to another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfer;

(iv) Each person who receives a loan repayment from the reporting committee during the reporting period, together with the date and amount of such loan repayment;

(v) Each person who receives a contribution refund or other offset to contributions from the reporting committee where such contribution refund was reported under 11 CFR 104.3(b)(1)(iv), together with the date and amount of such refund or offset.

(4) *Additional Itemization for Authorized Committees.* For an authorized committee of a candidate for Federal office, the name and address of each person who has received any disbursement(s) not disclosed under 11 CFR 104.3(b)(3) in an aggregate amount or value in excess of $200 within the calendar year, together with the date and amount of any such disbursement.

(5) *Additional Itemization for Committees Other Than Authorized Committees.* For any political committee, other than an authorized committee of a candidate for Federal office, the name and address of each person specified below at 11 CFR 104.3(b)(5) (i) through (vi).

(i) Each political committee which has received a contribution from the reporting committee during the reporting

period, together with the date and amount of any such contribution.

(ii) Each person who has received a loan from the reporting committee during the reporting period, together with the date and amount of such loan.

(iii) Each person who receives any disbursement during the reporting period in an aggregate amount or value in excess of $200 within the calendar year in connection with an independent expenditure by the reporting committee, together with the date, amount, and purpose of any such independent expenditure(s).

(A) For each independent expenditure reported, the committee must also provide a statement which indicates whether such independent expenditure is in support of, or in opposition to, a candidate, as well as the name of the office sought by such candidate; and a certification, under penalty of perjury, whether such independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such committee.

(iv)(Each person who receives any expenditure from the reporting committee during the reporting period in connection with an expenditure under 11 CFR 110.7 (2 U.S.C. 441a(d)), together with the date, amount, and purpose of any such expenditure as well as the name of, and office sought by, the candidate on whose behalf the expenditure is made; and

(v) Each person who has received any disbursement within the reporting period not otherwise disclosed in accordance with 11 CFR 104.3(b) to whom the aggregate amount or value of disbursements exceeds $200 within the calendar year from the reporting committee, together with the date, amount and purpose of any such disbursement.

(vi) As used in 11 CFR 104.3(b)(5), "purpose" has the same meaning given the term at 11 CFR 104.3(b)(3)(i)(A).

(c) *Summary of Contributions and Expenditures.* Each report filed under 11 CFR Part 104 shall disclose for both the reporting period and the calendar year: (1) the total sum of all contributions to the reporting political committee; (2) the total sum of all contributions to the reporting political committee less offsets to those contributions; (3) the total sum of all operating expenditures made by the reporting political committee; (4) the total sum of all operating expenditures made by the reporting political committee less offsets to operating expenditures.

(d) *Reporting of Debts and Obligations.* Each report filed under 11 CFR Part 104 shall disclose the amount and nature of outstanding debts and obligations owed by or to the reporting committee together with a statement as to the circumstances and conditions under which any debts and obligation owed by or to such committee were extinguished and the consideration given to have the debt extinguished. In addition, each report shall disclose any written contract, promise or agreement to make an expenditure.

(e) *Consolidation Reports.* (1) Except as provided in 104.3(e)(2) below, each principal campaign committee shall consolidate in each report those reports required to be filed with it. Such consolidated reports shall include: (i) the candidate's activity and (ii) reports submitted to it by any authorized committees and (iii) the principal campaign committee's own report. The consolidation shall be made on FEC Form 3b and shall be submitted with the reports of the principal campaign committee and the reports or applicable portions of the reports of the committees shown on the consolidation.

(2) For pre-election reports, the principal campaign committee may, if necessary, file the consolidated report disclosing the total receipts and expenditures by all authorized committees with respect to that election without including all of the detailed reports of committees required to file with it.

(i) Committees required to file with a principal campaign committee shall file a copy of their report with the Commission, the Clerk of the House, or the Secretary of the Senate, as custodian for the Commission, by the 10th day preceding the election, in addition to filing with the principal campaign committee, unless the principal campaign committee files a complete consolidated report 10 days prior to the election under 11 CFR 104.3(e)(1) above.

(ii) The principal campaign committee shall then file a consolidated report no later than 5 days before the election. This report shall include the detailed report from committees required to file with it, if the detailed report was not filed 10 days prior to the election in accordance with 11 CFR 104.3(e)(1).

§ 104.4 Form and Content of Independent Expenditure Reports.

(a) *Form.* Every person (other than a political committee) who makes independent expenditures in an aggregate amount or value in excess of $250 during the calendar year shall file a report with the Commission on FEC Form 5.

(b) *Filing Dates.* Reports filed under this section shall be filed at the end of the reporting period (quarterly, pre-election, post-election, annual (See 11 CFR 104.5)) during which the expenditure is made and in any reporting period thereafter in which additional independent expenditures are made.

(c) *Content.* Each report filed under 11 CFR 104.4 shall include:

(1) The information required by 11 CFR 104.3(b)(5)(iii) indicating whether the independent expenditure is in support of, or in opposition to, the candidate involved;

(2) Under penalty of perjury, a certification whether such independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

(3) The identification of each person who made a contribution in excess of $200 to the person filing such statement which was made for the purpose of furthering an independent expenditure.

(d) *24 Hour Reports.* Any independent expenditures aggregating $1,000 or more made after the 20th day, but more than 24 hours, before any election, shall be reported within 24 hours after such independent expenditure is made. Such report shall be filed with the appropriate officers listed in 11 CFR 104.4(e) and shall contain the information required by 11 CFR 104.3(b)(5)(iii) indicating whether the independent expenditure is made in support of, or in opposition to, the candidate involved.

(e) *Where to File.* Reports of independent expenditures under 11 CFR 104.3 shall be filed as set forth at 11 CFR 104.3(e)(1) through (3).

(1) For independent expenditures in support of, or in opposition to, a candidate for President or Vice-President: with the Commissioner and the Secretary of State in which the expenditure is made.

(2) For independent expenditures in support of, or in opposition to a candidate for the Senate: with the Secretary of the Senate and the Secretary of State in which the candidate is seeking election.

(3) For independent expenditure in support of, or in opposition to, a candidate for the House of Representatives: The Clerk of the House and the Secretary of State for the State in which the candidate is seeking election.

§ 104.5 Filing Dates.

(a) Principal Campaign committee of House or Senate Candidate. Each treasurer of a principal campaign committee supporting a candidate for the House of Representatives or the Senate shall file reports on the dates specified at 11 CFR 104.5(a)(1) and (2)

(1) *Election Year Reports.* (i) *Pre-election Reports.* (A) Pre-election reports for the primary and general election shall be filed no later than 12 days before any primary or general election. If sent by registered or certified mail, the report shall be mailed no later than the 15th day before any election.

(B) The report shall disclose all receipts and disbursement as of the 20th day before a primary or general election.

(ii) *Post General Election Report.* (A) The post general election report shall be filed no later than 30 days after any general election. (B) The report shall be complete as of the 20th day after the general election.

(iii) *Quarterly Reports.* (A) Quarterly reports shall be filed no later than the 15th day following the close of the immediately preceding calendar quarter, except for the final calendar quarter, when a year-end report shall be filed.

(B) The reports shall be complete as of the last day of each calendar quarter.

(C) The requirement for a quarterly report shall be waived if under 11 CFR 104.5)(a)(1)(i) a pre-election repost is required to be filed during the period beginning on the fifth day after the close of the calendar quarter and ending on the fifteenth day after the close of the calendar quarter.

(iv) *Year-end Reports.* A year-end report shall be filed on January 31 of the year following the election year. (B) The report shall be complete as of the last day of the preceding calendar quarter.

(2) *Non Election year.* (i) Semi-annual reports. (A) The first report shall cover January 1 through June 30, and shall be filed no later than July 31.

(B) The second report shall cover July 1 through December 31, and shall be filed no later than January 31 of the following year.

(b) *Principal Campaign Committee of Presidential Candidate.* Each treasurer of a principal campaign committee of a candidate for President shall file reports on the dates specified at 11 CFR 104.5(b)(1) and (2).

(1) *Election Year Reports.* (i) If on January 1 of the election year, the committee has received or anticipates receiving contributions aggregating $100,000, or has made or anticipates making expenditures aggregating $100,000, it shall file monthly reports.

(A) Each report shall be filed no later than the 20th day after the last day of each month.

(B) The report shall be complete as of the last day of each month.

(C) In lieu of the November and December monthly reports, a pre-election report as prescribed at 11 CFR 104.5(a)(1)(i), a post general election report as prescribed at 11 CFR 104.5(a)(1)(ii), and a year end report as prescribed at 11 CFR 104.5(a)(1)(iv) shall be filed.

(ii) If on January 1 of the election year, the committee does not anticipate receiving or has not received contributions aggregating $100,000 or does not anticipate making or has not made expenditures aggregating $100,000, the committee shall file a pre-election report a post general election report, quarterly reports and a year end report as prescribed in 11 CFR 104.5(a)(1).

(iii) If during the election year, a committee receives contributions aggregating $100,000 or makes expenditures aggregating $100,000, the treasurer shall begin filing monthly reports at the next reporting period.

(2) *Non-election Year Reports.* During a non-election year, the treasurer shall file either (i) Monthly reports as prescribed at 11 CFR 104.5(b)(1)(i); or (ii) Quarterly reports as prescribed at 11 CFR 104.5(a)(1); and (iii) a year end report as prescribed in 11 CFR 104.5(a)(1)(iv).

(c) *Committees Other Than Authorized Committees of Candidates.* Each political committee which is not the authorized committee of a candidate shall file either: election year and non-election year reports as prescribed at 11 CFR 104.5(c)(1) and (2); or monthly reports as prescribed at 11 CFR 104.5(c)(3).

(1) *Election Year Reports.* (i) *Quarterly reports.* (A) Quarterly reports shall be filed no later than the 15th day following the close of the immediately preceding calendar quarter, except for the final calendar quarter.

(B) The reports shall be complete as of the last day of the preceding calendar quarter.

(C) The requirement for a quarterly report shall be waived if under 11 CFR 104.5(a)(1)(i) a pre-election report is required to be filed during the period beginning on the fifth day after the close of the calendar quarter and ending on the fifteenth day after the close of the calendar quarter.

(ii) *Year-end Reports.* (A) A year-end report shall be filed on January 31 of the year following the election year.

(B) The report shall be complete as of the last day of the preceding calendar quarter.

(iii) *Pre-election Reports.* (A) Pre-election reports for the primary and general election shall be filed no later than 12 days before any primary or general election. If sent by registered or certified mail, the report shall be mailed no later than the 15th day before any election.

(B) The report shall disclose all receipts and disbursement as of the 20th day before a primary or general election.

(iv) *Post General Election Report.* (A) The post general election report shall be filed no later than 30 days after any general election.

(B) The report shall be complete as of the 20th day after the general election.

(2) *Non Election year.* (i) *Semi-annual reports.* (A) The first report shall cover January 1 through June 30, and shall be filed no later than July 31.

(B) The second report shall cover July 1 through December 31, and shall be filed no later than January 31 of the following year.

(3) *Monthly Reports.* (i) Except as provided at 11 CFR 104.5(c)(3)(ii) below, monthly reports shall be filed no later than 20 days after the last day of the month.

(ii) In lieu of the November and December monthly reports, in any year in which a regularly scheduled general election is held, a pre-election report as prescribed at 11 CFR 104.5(a)(1)(i), a post general election report as prescribed at 11 CFR 104.5(a)(1)(ii), and a year end report as prescribed at 11 CFR 104.5(a)(1)(iv) shall be filed.

(d) *Committees supporting Vice Presidential Candidates.* The treasurer of a committee supporting a candidate for the office of Vice President (other than a nominee of a political party) shall file reports on the same basis that the principal campaign committee of a Presidential candidate must file reports under 11 CFR 104.5(b).

(e) *U.S. Post Mark.* A designation, report or statement sent by registered certified mail shall be considered filed on the date of the U.S. post mark except that a ten day pre-election report sent by certified or registered mail shall be mailed no later than the 15th day before any election.

(f) *48 Hour Notification of Contributions.* If any contribution of $1,000 or more is received by any authorized committee of a candidate after the 20th day, but more than 48 hours before 12:01 A.M. on the day of the election, the principal campaign committee of that candidate shall notify the Commission, the Clerk of the House, the Secretary of the Senate and the Secretary of State, as appropriate, within 48 hours of receipt of the contribution. The notification shall be in writing and shall include the name of the candidate and office sought by the candidate, the identification of the contributor, date of receipt of the contribution and the amount of contribution. The notification shall be in addition to the reporting of these contributions on the post-election report.

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(g) *24 hour Report of Independent Expeditures.* Any independent expenditures aggregating $1,000 or more made after the 20th day, but more than 24 hours before 12::01 A.M. on the day of the election, shall be reported within 24 hours after such independent expenditure is made. Such report shall be filed with the appropriate officers listed in 11 CFR 104.4(e) and shall contain the information required by 11 CFR 104.3(b)(5)(iii) indicating whether the independent expenditure is made in support of, or in opposition to, the candidate involved.

(h) *Cumulative Reports.* The reports required to be filed under 11 CFR 104.5 shall be cumulative for the calendar year to which they relate, but if there has been no change in an item reported in a previous report during such year, only the amount need be carried forward.

(i) *Special Election Reports.* Within 5 days of the setting of a special election, the Commission shall set filing dates for reports to be filed by principal campaign committees of candidates seeking election, or nomination for election, in special elections and for political committees, other than authorized committees, which make contributions to or expenditures on behalf of a candidate or candidates in special elections. The Commission shall publish such reporting dates in the Federal Register and shall notifiy the principal campaign committees of all candidates in such election of the reporting dates. No more than one pre-election and one post election report shall be required for a special election. The Commission may through notification of the appropriate committee waive any reporting obligations for a committee required to file for special elections. The special election report will be due for filing within 10 days of any other report required to be filed by the committee under 11 CFR 104.5

§ 104.6 Form and Content of Internal Communication Reports.

(a) *Form.* Every membership organization or corporation which makes disbursements for communications in accordance with 11 CFR 100.7(b)(5) and 114.3 shall report to the Commission on FEC Form 7 such costs which are directly attributable to any communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the election or defeat of a clearly identified candidate), if such costs exceed $2,000 for any election.

(1) For the purposes of 11 CFR 104.6(a), "election" means two separate processes in a calendar year, to each of which the $2,000 threshold described above applies separately. The first process is comprised of all primary elections for Federal office, wherever held; the second process is comprised of all general elections for Federal office, wherever held.

(b) *Filing Dates.* Organizations required to report under 11 CFR 104.6(a) shall file such reports during a calendar year in which a regularly scheduled general election is held. Such reports shall be filed quarterly in accordance with 11 CFR 104.5(a)(1)(iii) and (iv), and with respect to any general election, in accordance with 11 CFR 104.5(a)(1)(i), beginning with the first reporting period during which the aggregate cost for such communications exceeds $2,000 per election. See 11 CFR 104.6(a).

(c) Each report filed under 11 CFR 104.6 shall include, for each communication:

(1) The type of communication (such as direct mail, telephone or telegram);

(2) The class or category of persons communicated with, as defined in 11 CFR 100.7(b)(5);

(3) The date(s) of the communication;

(4) The name of the candidate, the office sought (and the district and state of the office, if applicable), and whether the communication was for the primary or general election;

(5) Whether the communication was in support of, or in opposition to, the candidate involved; and

(6) The cost of the communication.

§ 104.7 Best Efforts.

(a) When the treasurer of a political committee shows that best efforts have been used to obtain, maintain and submit the information required by this Act for the political committee, any report of such committee shall be considered in compliance with this Act.

(b) With regard to reporting the identification, as defined at 11 CFR 100.10, of each person whose contribution(s) to the committee and its affiliated committees aggregate in excess of $200 in a calendar year (pursuant to 11 CFR 104.3(a)(4)), the treasurer will not be deemed to have exercised best efforts to obtain the required information unless he or she had made at least one written effort subsequent to the initial solicitation to obtain such information from the contributor. For purposes of 11 CFR 104.7(b), such effort shall consist of a written request for any information (i.e., name, address, occupation, or name of employer) not previously supplied by the contributor.

§ 104.8 Uniform Reporting of Contributions.

(a) A reporting committee shall disclose the identification of each individual who contributes an amount in excess of $200. This identification shall include the individual's name, mailing address, occupation, the name of his or her employer, if any, and the date and amount of any such contribution. If an individual contributor's name or address is known to have changed since an earlier contribution reported during the calendar year, the exact name or address previously used shall be noted with the first subsequent entry.

(b) In each case where a contribution received from an individual in a reporting period is added to previously unitemized contributions from the same individual and the aggregate exceeds $200 in a calendar year, the reporting committee shall disclose the individual's name, mailing address, occupation, and the name of his or her employer on the prescribed reporting forms with the date and amount of any such contribution.

§ 104.9 Uniform Reporting of Expenditures.

(a) The authorized committees of a candidate shall report the name and address of each person to whom an expenditure in an aggregate amount or value in excess of $200 within the calendar year is made by the reporting committee to meet a candidate's or committee's operating expenses together with the date, amount and purpose of such expenditure. As used in 11 CFR 104.9, "purpose" means a brief statement of description of why the disbursement was made. See 11 CFR 104.3(b)(3)(i)(B).

(b) In each case when an expenditure made to a recipient in a reporting period is added to previously unitemized expenditures to the same recipient and the total exceeds $200 for the calendar year, the reporting committee shall disclose the recipient's name, and mailing address, on the prescribed reporting forms, together with the date, amount and purpose of such expenditure. As used in 11 CFR 104.9 "purpose" means a brief statement of description of why the disbursement was made. See 11 CFR 104.3(b)(3)(i)(B).

§ 104.10 Allocation of expenditures among candidates.

A political committee making an expenditure on behalf of more than one candidate for Federal office or for Federal and non-Federal office shall allocate the expenditure(s) among the candidates on a reasonable basis pursuant to Part 106, and report the allocation for each Federal candidate.

The treasurer shall retain all documents supporting the allocation in accordance with § 104.13.

§ 104.11 Continuous reporting of debts and obligations.

(a) Debts and obligations owed by or to a political committee which remain outstanding shall be continuously reported until extinguished. See 11 CFR 104.3(d). These debts and obligations shall be reported on separate schedules together with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished. Where such debts and obligations are settled for less than their reported amount or vlaue the reporting committee shall include a statement as to the circumstances and conditions under which the debt and obligation was extinguished and the amount paid.

(b) A debt, obligation, or other promise to make an expenditure of $500 or less, shall be reported as of the time payment is made or no later than 60 days after incurrence, whichever comes first. A loan of money in the ordinary course of business and any debt or obligation over $500 shall be reported as of the time of the transaction.

§ 104.12 Political committees; cash on hand.

Political committees and candidates which have cash on hand at the time of registration (which the committee or candidate anticipates using in an election) shall disclose on their first report the source(s) of these funds, including the information required by 11 CFR 104.3. The cash balances are assumed to be composed of those contributions most recently received by the committee or candidate. The committee shall exclude from funds to be used for Federal elections any contributions not permissible under the Act. See 11 CFR Parts 110, 114, and 115.

§ 104.13 Disclosure of receipt and consumption of in-kind contrigutions.

(a)(1) Each in-kind contribution shall be valued at the usual and normal charge on the date received and reported as a contribution in accordance with 11 CFR 104.3(a).

(2) Except for items noted in 11 CFR 104.13(b), each contribution shall also be reported as an expenditure at the same usual and normal charge and reported on the appropriate expenditure schedule, in accordance with 11 CFR 104.3(b).

(b) Contributions of stocks, bonds, art objects, and other similar items to be liquidated shall be reported as follows:

(1) If the item has not been liquidated at the close of a reporting period, the committee or candidate shall record as a memo entry (not as cash) the item's fair market value on the date received, including the identification (and, where in excess of $200, occupation and name of employer) of the contributor.

(2) When the item is sold, the committee or candidate shall record the proceeds. It shall also report the (i) identification (and, where in excess of $200, the occupation and name of employer) of the purchaser, if purchased directly from the candidate or committee, in which case he or she shall be considered to have made a contribution, and (ii) the identification of the original contributor.

§ 104.14 Formal requirements regarding reports and statements.

(a) Each individual having the responsibility to file a report required under this subchapter shall sign the original report.

(b) Each political committee, or other person required to file any report or statement under this subchapter shall—

(1) Retain either a receipt, invoice, cancelled check or such other records and accounts of all matters as required at 10 CFR 102.9, and provide the necessary information and data from which the filed reports and statements may be verified, explained, clarified, and checked for accuracy and completeness;

(2) Preserve a copy of each report or statement required to be filed under 11 CFR Parts 102 and 104.

(3) Keep all records, accounts and reports required to be preserved under 11 CFR 104.14 available for audit, inspection, or examination by the Commission or its authorized representatives for a period of not less than 3 years from the end of the year in which the report or statement was filed.

(c) Acknowledgements by the Commission, the Clerk of the House or by the Secretary of the Senate, of the receipt of Statements of Organization or reports or statements filed under this subchapter are intended solely to inform the person filing the report of its receipt and neither the acknowledgement nor the acceptance of a report or statement shall constitute express or implied approval, or in any manner indicate that the contents of any report or statement fulfill the filing or other requirements of the Act or of these regulations.

(d) Each treasurer of a political committee, and any other person required to file any report or statement under these regulations and under the Act shall be personally responsible for the timely and complete filing of the report or statement and for the accuracy of any information or statement contained in it.

§ 104.15 Sale or use restriction.

Any information copied, or otherwise obtained, from any report or statement, or copy, reproduction, or publication thereof, filed with the Commission, Clerk of the House, Secretary of the Senate, or any Secretary of State or other equivalent chief State election officer, shall not be sold or utilized by any person for the purpose of soliciting contributions, or for any commercial purpose other than using the name and address of any political committee to solicit contributions from such committee. For the purposes of this section, "any commercial purpose" does not include the sale of newspapers, magazines, books, or other similar communications the principal purpose of which is not to communicate lists or other information obtained from reports filed as noted above.

§ 104.16 Audits.

(a) The Commission may conduct audits of any political committee required to register under 11 CFR Part 102 and to report under 11 CFR Part 104. Prior to conducting any such audit or investigation, the Commission shall conduct an internal review of reports filed by selected committees to determine whether reports filed by a particular committee meet thresholds established by the Commission for substantial compliance with the Act. Such thresholds may vary according to the type of political committee being reviewed.

(b) The Commission may, upon affirmative vote of four members, conduct an audit and field investigation of any committee which does meet the thresholds established pursuant to 11 CFR Part 104.16(a). All such audits and investigations shall commence with 30 days of such vote except any audit or investigation of an authorized committee of a candidate shall be commenced within 6 months of the election for which such committee was authorized.

(c) All audits and field investigations concerning the verification for the receipt and use of payments under Chapter 95 and 96 of Title 26 shall be given priority over any audit or investigation of committees not receiving such payments.

§ 104.17 Content of report; Presidential and Vice-Presidential Committees.

(a) For all elections occurring prior to January 1, 1981, authorized committees of candidates for President and Vice-President may comply with the

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requirements of 11 CFR 104.17 in lieu of 11 CFR 104.3(a) and (b).

(b) Each report filed under this part shall include all receipts and disbursements from the close of the last period reported to the close of the current reporting period, and shall disclose—

(1) The amount of cash on hand at the beginning of the calendar year and at the beginning of the reporting period, including currency, balance on deposit in banks and savings and loan institutions, checks, negotiable money orders, and other paper commonly accepted by a bank in a deposit;

(2) The identification, occupation, and principal place of business, if any, of each person who has made a contribution to or for the committee or candidate during the reporting period in an amount or value in excess of $100, or in an amount of less than $100 if the person's contributions within a calendar year total more than $100, together with the amount and date of such contributions;

(3) (i) The total of contributions made to or for a committee or candidate during the reporting period and not reported under (b) (2) above;

(ii) Candidates and committees, which, in addition to the required totals, choose to itemize contributions not in excess of $100, shall itemize these by attaching a separate schedule. Contributions of $100 or less shall not be reported on the same schedule with the required itemized contributions in excess of $100;

(4) The identification of each political committee or other political organization from which the reporting committee or the candidate received, or to which the reporting committee or the candidate made, any transfer of funds in any amount during the reporting period, together with the amounts and dates of all transfers, including aggregate year to date transfers, received from non-affiliated committees, and complete disclosure, pursuant to § 110.6 of each transaction involving earmarked funds;

(5) Each loan—(i) (A) To or from any political committee; or

(B) To a candidate or his or her authorized committees which is—

(ii) (A) Over $100 in value and made during the reporting period; or

(B) Less than $100 in value and the total of the loans from one person is over $100 shall be reported together with the identification, occupation, and principal place of business, if any, of each lender, endorser, or guarantor, as the case may be. The report shall include the date and amount of the loan;

(6) The total amount of proceeds from—(i) The sale of tickets to each dinner, luncheon, rally, and other fundraising event;

(ii) Mass collections made at these events; and

(iii) Sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, jewelry, and similar materials, as long as the items are sold by the candidate or an authorized committee;

(7) Each receipt in excess of $100 received during the reporting period, not otherwise listed under (b) (2) through (6) above, together with the identification, date and amount received, occupation, and principal place of business of each such person from whom such receipts have been received during the reporting period; including—

(i) The interest or other proceeds from the investment, in an interest-bearing account, note, bill, stock, bond, or other similar device, of funds transferred out of a checking account in a campaign depository; and

(ii) Rebates and refunds received by the candidate or committee;

(8) (i) The total of all receipts by or for the committee or candidate during the reporting period and the calendar year; and

(ii) Total receipts less transfers between affiliated political committees (as defined in § 10014(c));

(9) The identification of each person to whom expenditures have been made by or on behalf of the committee or candidate within the reporting period which total more than $100, or in an amount less than $100 if the total exceeds $100 within a calendar year, together with the amount, date and particulars of each such expenditure and the name, address of, and office sought by, each candidate on whose behalf such expenditures were made.

(10) The total of expenditures made by or on behalf of the committee or candidate during the reporting period and the calendar year together with total expenditures less transfers between affiliated political committees (as defined in § 100.14(c)) of the candidate;

(11) The amount and nature of outstanding debts and obligations owed by or to the committee including any written contracts, agreements, or promises to make contributions or expenditures, see § 104.6;

(12) Independent expenditures, see Part 109.

(c)(1) Except as noted in (2) below, each principal campaign committee shall consolidate in its report for each election the reports required to be filed with it, including (i) the candidate's report (unless waived) and (ii) reports submitted to it by any authorized committees and (iii) the principal campaign committee's own report. The consolidation shall be made on FEC Form 3b and submitted with the reports of the principal campaign committee and the reports or applicable portions of the reports of the committees shown on the consolidation.

(2) For pre-election reports, the principal campaign committee may, if necessary, file the consolidated report disclosing the total receipts and expenditures by all authorized committees with respect to that election without including all of the detailed reports of committees required to file with it.

(i) Committees required to file with a principal campaign committee shall file a copy of their report with the Commission, the Clerk of the House, or the Secretary of the Senate, as custodian for the Commission by the 10th day preceding the election, in addition to filing with the principal campaign committee, unless the principal campaign committee files a complete consolidated report 10 days prior to the election under (c)(1) above.

(ii) The principal campaign committee shall then file a consolidated report no later than 5 days before the election, the report to include the detailed reports from committees required to file with it, if the detailed report was not filed 10 days prior to the election.

PART 105—DOCUMENT FILING

§ 105.1 Place of filing; House candidates and committees.

All designations, statements, and reports, and any modifications or amendments thereto, required to be filed under Parts 101, 102, and 104 of these regulations by a candidate for nomination or election to the office of Representative in or Delegate or Resident Commissioner to, the Congress, and by the candidate's principal campaign committee, shall be filed in original form with and received by the Clerk of the House of Representatives, as custodian for the Federal Election Commission.

§ 105.2 Place of filing; Senate candidates and committees.

All designations, statements, and reports, and any modifications or amendments thereto, required to be filed under 11 CFR Parts 101, 102, and 104 of these regulations by a candidate for nomination or election to the office of United States Senator and by the candidate's principal campaign committee shall be filed in original form with and received by the Secretary of the Senate, as custodian for the Federal Election Commission.

§ 105.3 Place of filing; Presidential candidates and committees.

All designations, statements, and reports, and any modifications or amendments thereto, required to be filed under Parts 101, 102 and 104 of these regulations by a candidate for nomination or election to the office of President or Vice President of the United States, and by the candidate's principal campaign committee shall be filed in original form with the Federal Election Commission.

§ 105.4 Place of filing; committees and others.

All designations, statements, and reports, and any modifications or amendments thereto, required to be filed under 11 CFR Parts 101, 102, and 104 by a political committee (other than a principal campaign committee), by all persons (other than political committees) making independent contributions or expenditures, and by all persons required to report the cost of communications under 11 CFR 104.6, shall be filed in original form with the Federal Election Commission.

§ 105.5 Transmittal of microfilm copies and photo copies of original reports filed with the Clerk of the House and the Secretary of the Senate to the Commission.

(a) The Clerk of the House and the Secretary of the Senate shall forward to the Commission a microfilm copy and a photo copy of each designation, statement, and report, or amendment thereto, filed with them pursuant to 11 CFR 105.1 and 105.2. Such copies shall be transmitted to the Commission as soon as possible, but in any case no later than two (2) working days after receiving the designation, statement, report, or amendment.

(b) The Secretary of the Senate and the Clerk of the House shall place on each designation, statement, report, or amendment received a time and date stamp reflecting the time and date of original document was received.

PART 106—ALLOCATIONS OF CANDIDATE AND COMMITTEE ACTIVITIES

§ 106.1 Allocation of expenditures among (or between) candidates and activities.

(a) *(No change)*
(b) *(No change)*
(c) *(No change)*
(1) *(No change)*
(2) *(No change)*

(3) Voter registration and get-out-the-vote activity conducted by state or local party organization on behalf of a Presidential or Vice-Presidential candidate is exempt from the expenditure provisions of the Act. However, if the State or local party organization includes House or Senate candidates, expenditures incurred for any such activity shall be attributed to each candidate in proportion to the number of candidates named in the activity. The costs attributed to the House or Senate candidates will be considered contributions to and expenditures on behalf of such candidates unless the reference to the House or Senate candidates is incidental to the overall activity; the incidental reference would not be considered a contribution to or expenditure on behalf of the House or Senate candidates.

(d) *(No change)*

§ 106.2 Allocation of expenditures among States by candidates for Presidential nomination.

(a) Expenditures made by a candidate or his or her authorized committee(s) for the purpose of influencing the nomination of a candidate for the office of President of the United States with respect to a particular State shall be attributed to that State. This allocation of expenditures shall be reported on FEC Form 3c.

(b) *(No change)*
(c) *(No change)*

§ 106.3 Allocation of expenses between campaign and non-campaign related travel.

(a) *(No change)*
(b) *(No change)*
(c) *(No change)*

(d) Costs incurred by a candidate for the United States Senate or House of Representatives for travel between Washington, D.C., and the State or district in which he or she is a candidate need not be reported herein unless the costs are paid by a candidate's authorized committee(s), or by any other political committee(s). If these costs are paid from an office account, they shall be reported under Part 113.

(e) (No change)

§ 106.4 Allocation of polling expenses [No change].

PART 108—FILING COPIES OF REPORTS AND STATEMENTS WITH STATE OFFICERS

§ 108.1 Filing requirements.

A copy of each statement and report required to be filed under the Act shall be filed with the Secretary of State (or equivalent state officer) of the appropriate State [or the officer of such State, designated by the chief executive of that state upon notifying the Commission, who is charged by State law with maintaining state election campaign reports]. For purposes of 11 CFR Part 108, the term "appropriate state" means the State or jurisdiction designated in 11 CFR 108.2 or 108.3.

§ 108.2 Filing copies of reports by Presidential and Vice Presidential candidates.

A copy of each report and statement required to be filed under the Act by the authorized committee(s) of a candidate seeking the nomination for election to the office of President or Vice-President, by a Vice-Presidential candidate who is not a nominee of a political party, or by the person making an expenditure or contribution pursuant to Part 109, shall be filed with the State office of each State or other jurisdiction in which an expenditure is made. The report shall contain all transactions pertaining to that State during the reporting period.

§ 108.3 Filing copies of reports by other Federal candidates and committees.

A copy of each report and statement required to be filed under the Act by other candidates and political committees shall be filed for each reporting period during which an expenditure is made in that State with the appropriate State officer of that State or other jurisdiction in which the candidate, or other than a candidate for the office of President or Vice President, seeks election; except that political committees other than authorized committees are only required to file and the Secretary of State only required to retain, that portion of the report applicable to candidates seeking election in that State.

§ 108.4 Time and manner of filing copies.

A copy required to be filed with a State officer under this part shall be filed at the same time as the original report is filed. Each copy of a report or statement shall be a complete, true, and legible copy of the original report or statement filed.

§ 108.5 Duties of State officers.

The Secretary of State, or the equivalent State officer shall carry out the duties set forth in 11 CFR 108.5 (a) through (d).

(a) To receive and maintain in an orderly manner all reports and statements required to be filed;

(b) To preserve such reports and statements (either in original filed form or in facsimile copy by microfilm or otherwise) as follows:

(1) Reports filed by all authorized committees shall be retained for 2 years from the date of receipt.

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(2) Reports filed by all other political committees shall be retained through April 30 of the following calendar year.

(c) To make the reports and statements filed available as soon as practicable (but within 48 hours of receipt) for public inspection and copying during office hours, and to permit copying of any such report or statement by hand or by duplicating machine, requested by any person, at the expense of such person, such per copy expense to be reasonable; and

(d) To compile and maintain a current list of all statements pertaining to each candidate.

§ 108.6 Effect on State law.

(a) The provisions of the Federal Election Campaign Act of 1971, as amended, and rules and regulations issued thereunder, supersede and preempt any provision of State law with respect to election to Federal office.

(b) Federal law supersedes State law concerning the—

(1) Organization and registration of political committees supporting Federal candidates;

(2) Disclosure of receipts and expenditures by Federal candidates and political committees; and

(3) Limitation on contributions and expenditures regarding Federal candidates and political committees.

(c) The Act does not supersede State laws which provide for the—

(1) Manner of qualifying as a candidate or political party organization;

(2) Dates and places of elections;

(3) Voter registration;

(4) Prohibition of false registration, voting fraud, theft of ballots, ans similar offenses; or

(5) Candidate's personal financial disclosure.

§ 108.7 Exemption for the District of Columbia.

Any copy of a report required to be filed with the equivalent officer in the District of Columbia shall be deemed to be filed if the original has been filed with the Clerk, Secretary, or the Commission, as appropriate.

PART 109—INDEPENDENT EXPENDITURES

§ 109.1 Definitions [No Change].

§ 109.2 Reporting of independent expenditures.

(a) *(No change)*

(1) The report shall contain, for each expenditure in excess of $200 in a calendar year, the identification of the person to whom it was made, the amount and date of the expenditure, the name of the candidate with respect to whom the expenditure was made and the office the candidate seeks, and whether the expenditure was in support of or in opposition to that candidate. The report shall also contain an identification of each person who has made a contribution of more than $200 to the committee filing such statement, which was made to further an independent expenditure.

(2) This information shall be filed on Schedule E as part of a report (monthly, quarterly, pre-election, post-election, or annual) covering any period in which any independent expenditure exceeding $200 is made. Schedule E shall also include the total of all expenditures of $200 or less.

(3) Political committees not required to report under 11 CFR 104.1(c) shall nonetheless report each independent expenditure in excess fo $200 on Schedule E at the time the report for that period would have been filed.

(b) Every other person who makes independent expenditures aggregating in excess of $250 during a calendar year shall file a statement with the Commission on FEC Form 5.

(1) The statement shall include (i) the reporting person's name, mailing address, occupation and the name of his or her employer, if any; (ii) the identification (name and mailing address) of the person to whom the expenditure was made; (iii) the amount, date and purpose of each expenditure and a statement which indicates whether such expenditure was in support of, or in opposition to a candidate, together with the candidate's name and office sought; (iv) a certification under penalty of perjury as to whether such expenditure was made in cooperation, consultation or concert with or at the request or suggestion of any candidate or any authorized committee or agent thereof; (v) the identification of each person who made a contribution in excess of $200 to the person filing the statement which was made for the purpose of furthering an independent expenditure.

(2) (No change)

(c) Independent expenditures by any person or any political committee of $1,000 or more made after the twentieth day, but more than 24 hours before, any election shall be reported within 24 hours of such independent expenditures pursuant to 11 CFR 104.5(g).

§ 109.3 Certification of independent expenditures.

Each report of independent expenditures shall be signed and shall include a notarized certification under the penalty of perjury that the expenditure was not made in cooperation, consultation or concert with or at the request or suggestion of any candidate or any authorized committee or agent thereof.

§ 109.4 Non-authorization notice.

(a)(1) Whenever any person makes an independent expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through any broadcasting station, newspaper, magazine, outdoor adverising facility, direct mailing, or any other type of general public political advertising, but not on a bumper strip, a pin, button, pen, and similar small items upon which the disclaimer cannot be conveniently printed, the communication shall clearly and conspicuously state that the communication is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication.

(2) (No change)

§ 109.5 Reporting of independent contributions.

Every person (other than a political committee or candidate) who makes a contribution for the purpose of expressly advocating the election or defeat of a clearly identified candidate, other than by contributing to a political committee or candidate, in an aggregate amount in excess of $200 during a calendar year shall file reports in the same manner as is required with respect to independent expenditures under 11 CFR 109.2.

CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

§ 110.1 Contributions by persons [No Change].

§ 110.2 Contributions by multicandidate committees.

(a) *(No change)*

(b) "Multicandidate political committee" means a committee as defined in 11 CFR 100.14(d)(3).

(c) *(No change)*

(d) *(No change)*

§ 110.3 Affiliated committees; transfers.

(a)(1)(i) For purposes of the limitations in 11 CFR.1 and 110.2, contributions shall be considered to be made by a single political committee (including a single separate segregated fund) if made by more than one political committee (including a separate segregated fund) established, financed, maintained or controlled by a corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit thereof, or by a group of those persons. See 11 CFR 100.14(f).

(ii) Application of the rule of this paragraph means—

(A) All of the political committees established by a single corporation and/or ifs subsidiaries are treated as a single political committee;

(B) All of the political committees established by a single national or international union and/or its local unions or other subordinate organizations are treated as a single political committee;

(C) All of the political committees established by an organization of national or international unions and/or all its State and local central bodies are treated as a single political committee;

(D) All of the political committees (other than party committees, see 11 CFR 110.3(b) established by a membership organization, including trade or professional associations, as defined in 11 CFR 114.8(a), and/or by related State and local entities of that organization or group, are treated as a single political committee;

(E) All of the political committees established by the same group of persons are treated as a single political committee.

(iii) (No change)

(2) (No change)

(b) (No change)

§ 110.4 Prohibited contributions [No Change].

§ 110.5 Annual contribution limitation [No Change].

§ 110.6 Earmarked contributions.

(a) (No change)

(b) (No change)

(c)(1) (No change)

(2) (No change)

(3) (No change)

(4) The reports in (1) and (2) above shall contain—

(i) The name and mailing address of the contributor and if the contribution exceeds $200, the contributor's occupation and the name of his or her employer.

(ii) (No change)

(iii) (No change)

(5) (No change)

(d) (No change)

§ 110.7 Party committee expenditure limitations.

* * * * *

(b) (No change)

(5) (deleted)

§ 110.8 Presidential candidate expenditure limitations [No Change].

§ 110.9 Miscellaneous provisions [No Change].

§ 110.10 Expenditures by candidates [No Change].

§ 110.11 Communications; advertising.

(a)(1) Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing or any other type of general public political advertising, but not on a bumper strip, pin, button, pen and similar small items upon which the disclaimer cannot be conveniently printed, the communication—

(i) If paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee, or

(ii) If paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication is paid for by such other persons and is authorized by such authorized political committee; or

(iii) If not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

(2) (No change)

(b) (No change)

(c) (deleted)

§ 110.12 Honorariums [No change].

PART 111—COMPLIANCE PROCEDURE

§ 111.1 Scope.

These regulations provide procedures for processing possible violations of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431, *et seq.*) and chapters 95 and 96 of the Internal Revenue Code of 1954 (26 U.S.C. 9001, *et seq.* and 9031 *et seq.*).

§ 111.2 Computation of time.

(a) *General rule:* In computing any period of time prescribed or allowed by this part of the regulations, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. As used in this section, the term "legal holiday" includes New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday for employees of the United States by the President or the Congress of the United States.

(b) *Special Rule for Periods Less Than Seven Days:* When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

(c) *Special Rule for Service By Mail:* Whenever the Commission or any person has the right or is required to do some act within a prescribed period after the service of any paper by or upon the Commission or such person and the paper is served by or upon the Commission or such person by mail, three (3) days shall be added to the prescribed period.

§ 111.3 Initial generation of compliance matters.

(a) Compliance matters may be initially generated on the basis of a complaint or on the basis of information ascertained by the Commission in the normal course of carrying out the Commission's supervisory responsibilities.

(b) Complaint-generated matters are subject to the provisions of 11 CFR 111.4–111.7. Commission-generated matters are subject to the provisions of 11 CFR 111.8. All matters are subject to the provisions of 11 CFR 111.9–111.23.

§ 111.4 Complaints.

(a) Any person who believes that a violation of any statute over which the Commission has jurisdiction has occurred or is about to occur may file a complaint by letter to the General Counsel, by submitting three (3) copies to the Enforcement Section, Office of General Counsel, 1325 K Street, N.W., Washington, D.C. 20463.

(b) A complaint shall comply with the following: (1) It shall be signed by the complainant and shall provide the full name and address of the complainant;

(2) It shall clearly identify as a respondent each person or entity who is alleged to have committed a violation; and

(3) The contents of the letter shall be sworn to and signed in the presence of a notary public and shall be so notarized.

(c) All statements made in a complaint are subject to the statutes governing perjury and to 18 U.S.C. 1001. The complaint should therefore

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differentiate between statements based upon personal knowledge and statements based upon information and belief.

(d) The complaint should conform to the following provisions:

(1) Statements which are not based upon personal knowledge should be accompanied by an identification of the source of information which gives rise to the complainant's belief in the truth of such statements.

(2) It should contain a clear and concise recitation of the facts which are believed to constitute a violation of a statute over which the Commission has jurisdiction;

(3) It should contain a description of or be accompanied by any documentation supporting the facts alleged if such documentation is known or available to the complainant.

§ 111.5 Initial complaint processing; notification.

Upon receipt of a complaint, the General Counsel shall review the complaint for compliance with the technical requirements of 11 CFR 111.4, and, if it complies with those requirements, shall within five (5) days after receipt serve a copy thereof upon every person or entity identified therein as a respondent, notifying them that the complaint has been filed and advising them of Commission compliance procedures.

§ 111.6 Opportunity to demonstrate that no action should be taken on complaint-generated matters.

(a) A respondent shall be afforded a reasonable opportunity to demonstrate that no action should be taken on the basis of the complaint by submitting, within fifteen (15) days from service of the copy of the complaint, a letter or memorandum setting forth reasons why the Commission should take no action.

(b) The Commission shall not take any action against or make any finding against a respondent unless it has considered such response or unless no such response has been served upon the Commission within fifteen (15) days from service of a copy of the complaint upon respondent.

§ 111.7 General Counsel's recommendation on complaint-generated matters.

(a) Following either the expiration of the fifteen (15) day period specified by 11 CFR 111.6(a) or the receipt of a response specified by 11 CFR 111.6(a), whichever occurs first, the General Counsel shall make a recommendation to the Commission on whether or not the Commission should find that there is reason to believe that respondents have violated statutes over which the Commission has jurisdiction.

(b) The General Counsel may recommend that the Commission find that there is no reason to believe that a violation has been committed or that the Commission otherwise dismiss a complaint without regard to the provisions of 11 CFR 111.6(a).

§ 111.8 Internally generated matters; referrals.

(a) The General Counsel, on the basis of information ascertained by the Commission in the normal course of carrying out the Commission's supervisory responsibilities, or on the basis of a referral from an agency of the United States or of any State, may recommend in writing that the Commission find reason to believe that a person or entity has violated a statute over which the Commission has jurisdiction.

(b) If such a recommendation results in a finding of reason to believe, the notification to respondent required by 11 CFR 111.9(a) or (b) shall include a copy of a staff report setting forth the legal basis and the alleged facts which support the Commission's action.

§ 111.9 The reason to believe finding; notification.

(a) If the Commission, either after reviewing a compliant-generated recommendation as described in 11 CFR 111.7 or after reviewing an internally-generated recommendation as described in 11 CFR 111.8, determines by an affirmative vote of four (4) of its members that it has reason to believe that a person or entity has violated a statute over which the Commission has jurisdiction, its chairman or vice chairman shall notify such person or entity of the Commission's finding by letter, setting forth the sections of the statute alleged to have been violated and the alleged factual basis supporting the finding.

(b) If the Commission finds no reason to believe or otherwise orders a termination of Commission proceedings, the General Counsel shall so advise both complainant and respondent by letter.

§ 111.10 Investigation.

(a) In any case in which the Commission finds reason to believe that a violation of a statute over which the Commission has jurisdiction has occurred or is about to occur, an investigation shall be conducted.

(b) The investigation may utilize the provisions of 11 CFR 111.11–111.15, field investigations, audits, and voluntary methods of information-gathering.

§ 111.11 Written questions under order.

The Commission may authorize its Chairman or Vice Chairman to issue an order requiring any person to submit sworn written answers to written questions and may specify a date by which such answers must be submitted.

§ 111.12 Subpoenas and subpoenas duces tecum; Depositions.

(a) The Commission may authorize its chairman or vice chairman to issue subpoenas requiring the attendance and testimony of witnesses by deposition or otherwise and to issue subpoenas duces tecum for the production of documentary or other tangible evidence, by deposition or otherwise.

(b) If oral testimony or documents are ordered to be produced by deposition, the subpoena shall so state and shall advise the witness that all testimony will be under oath. A deposition may be taken before any person having the power to administer oaths.

(c) The Federal Rules of Civil Procedure, Rule 30(e), shall govern the opportunity to review and sign depositions taken pursuant to this section.

§ 111.13 Service of subpoenas, notices of depositions, and written questions.

(a) Service of a subpoena upon a person named therein shall be made by delivering a copy to that person in the manner described by 11 CFR 111.13(b), (c), and (d). Fees for one day's attendance and mileage shall be tendered as specified in 11 CFR 111.14, except with respect to written questions for which no fee shall be required.

(b) Whenever service is to be made upon a person who has advised the Commission of representation by an attorney pursuant to 11 CFR 111.23, the service may be made upon the attorney by any of the methods specified in 11 CFR 111.13(c).

(c) Delivery of copies of subpoenas or written questions to a natural person may be made by handing them to the person, or leaving them at his or her office with the person in charge thereof, or leaving them at his or her dwelling place or usual place of abode with some person of suitable age and discretion then residing therein, or mailing them by registered or certified mail to him or her at his or her last known address, or by any method whereby actual notice is given.

(d) When the person to be served is not a natural person, delivery of copies of subpoenas, or written questions may be effected by mailing them by registered or certified mail to the person at its place of business or by handing them to a registered agent for service or to any officer, director, or agent in charge of any office of such person, or by mailing them by registered or certified mail to such representative at his or her last known address, or by any method whereby actual notice is given.

§ 111.14 Witness fees and mileage.

Witnesses subpoenaed to appear for depositions shall be paid the same fees and mileage as witnesses in the courts of the United States. Such fees may be tendered at the time the witness appears for such deposition, or within a reasonable time thereafter.

§ 111.15 Motions to quash or modify a subpoena.

(a) Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 5 days after the date of service of such subpoena, apply to the Commission to quash or modify such subpoena, accompanying such application with a brief statement of the reasons therefor. The (10) copies of such motion shall be filed with the Commission Secretary, and three (3) copies shall be filed with the General Counsel.

(b) The Commission may deny the application or quash the subpoena or modify the subpoena.

(c) The person subpoenaed and the General Counsel may informally agree to change the date, time, or place of the deposition without affecting the force and effect of the subpoena, but such agreements shall be confirmed in writing by such person or designated counsel.

§ 111.16 The probable cause to believe recommendation; briefing procedures.

(a) Upon completion of the investigation, the General Counsel shall prepare a brief setting forth the General Counsel's position on the factual and legal issues of the case and containing a recommendation on whether or not the Commission should find probable cause to believe that a violation has occurred.

(b) The General Counsel shall serve such brief upon each respondent with a letter notifying respondent of the recommendation.

(c) Within fifteen (15) days from service of such brief, respondent may file a brief with the Commission setting forth respondent's position on the factual and legal issues of the case. Ten (10) copies of such brief shall be filed with the Commission Secretary and three (3) copies shall be filed with the General Counsel.

(d) After reviewing the respondent's brief, the General Counsel shall advise the Commission in writing whether he/she intends to proceed with the recommendation or to withdraw the matter from Commission consideration pending further action by the General Counsel pursuant to the provisions of this section.

§ 111.17 The probable cause to believe finding notification.

(a) If the Commission, after having found reason to believe and after following the procedures described in 11 CFR 111.16, determines by an affirmative vote of four (4) of its members that there is probable cause to believe that a respondent has violated a statute over which the Commission has jurisdiction, the Commission shall authorize the General Counsel to so notify the respondent by letter.

(b) If the Commission finds no probable cause to believe or otherwise orders a termination of Commission proceedings, it shall authorize the General Counsel to so notify both respondent and complianant by letter.

§ 111.18 Conciliation.

(a) Upon a Commission finding of probable cause to believe, the Office of General Counsel shall attempt to correct or prevent the violation by informal methods of conference, conciliation, and persuasion, and to reach a tentative conciliation agreement with the respondent.

(b) A conciliation agreement is not binding upon a party unless and until it is signed by the respondent and by the General Counsel upon approval by the affirmative vote of four (4) members of the Commission.

(c) If the probable cause to believe finding is made within forty-five days prior to any election, such conciliation attempt shall be for at least fifteen (15) days from the date of such finding. In all other cases, such attempts shall be for at least thirty (30) days.

(d) The Commission's attempt to persuade respondent to enter into a conciliation agreement may not continue for more than ninety (90) days, but the Commission is in no way precluded from entering into a conciliation agreement with a respondent after the expiration of the ninety (90) day period if the respondent indicates a desire to do so.

(e) Nothing in these regulations should be construed to prevent the Commission from entering into a conciliation agreement with a respondent prior to a Commission finding of probable cause if a respondent indicates by letter to the General Counsel a desire to enter into negotiations directed towards reaching such a conciliation agreement, although the Commission is not required to enter into any negotiations directed towards reaching a conciliation agreement unless and until it makes a finding of probable cause to believe. Any conciliation agreement reached under this subsection is subject to the provisions of subsection (b) and shall have the same force and effect as a conciliation agreement reached after a Commission finding of probable cause to believe.

(f) If a conciliation agreement is reached between the Commission and the respondent, the General Counsel shall send a copy of the signed agreement to both complainant and respondent.

§ 111.19 Civil proceedings.

(a) If no conciliation agreement is finalized within the applicable minimum period specified by 11 CFR 111.18(c), the General Counsel may recommend to the Commission that the Commission authorize a civil action for relief in the appropriate court of the United States.

(b) Upon recommendation of the General Counsel, the Commission may, by an affirmative vote of four (4) of its members, authorize the Office of General Counsel to commence a civil proceeding in the appropriate court of the United States seeking appropriate relief.

§ 111.20 Public disclosure of Commission action.

(a) If the Commission makes a finding of no reason to believe or no probable cause to believe or otherwise orders the termination of Commission proceedings, it shall make public such action and the basis therefor no later than thirty (30) days from the date on which the required notifications are sent to complainant and respondent.

(b) If a conciliation agreement is finalized, the Commission shall forthwith make public such conciliation agreement.

§ 111.21 Confidentiality.

(a) Except as provided in 11 CFR 111.20, no complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission shall be made public by the Commission or by any person or entity without the written consent of the respondent with respect to whom the complaint was filed, the notification sent, the investigation conducted, or the finding made.

(b) Except as provided in 11 CFR 111.20, no action by the Commission or by any person, nor any information derived in connection with conciliation efforts pursuant to 11 CFR 111.18, may be made public by the Commission

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except upon a written request by respondent and approval thereof by the Commission.

(c) Nothing in this section shall be construed to prevent the Office of General Counsel from conducting a full and complete investigation or from fully representing the Commission in the courts of the United States merely because such actions may unavoidably lead to public knowledge of such investigation or litigation. However, persons subpoenaed during Commission investigations or otherwise questioned by Commission staff shall be advised of the confidentiality provisions of the Act and Regulations and are prohibited from disclosing the nature or existence of the investigation without the written consent of the respondent.

(d) Nothing in these regulations shall be construed to prevent the introduction of evidence in the courts of the United States which could properly be introduced pursuant to the Federal Rules of Evidence.

§ 111.22 Ex parte communications.

(a) In order to avoid the possibility of prejudice, real or apparent, to the public interest in enforcement actions pending before the Commission pursuant to 11 CFR Part 111, except to the extent required for the disposition of ex parte matters as required by law (for example, during the normal course of an investigation or a conciliation effort), no interested person outside the agency shall make or cause to be made to any Commissioner or any member of any Commissioner's staff any ex parte communication relative to the factual or legal merits of any enforcement action, nor shall any Commissioner or member of any Commissioner's staff make or entertain any such ex parte communications.

(b) The prohibition of this regulation shall apply from the time a complaint is filed with the Commission pursuant to 11 CFR Part 111 or from the time that the Commission determines on the basis of information ascertained in the normal course of its supervisory responsibilities that it has reason to believe that a violation has occurred or may occur pursuant to 11 CFR Part 111, and remains in force until the Commission has finally concluded all action with respect to the enforcement matter in question.

(c) Nothing in this section shall be construed to prohibit contact between a respondent or respondent's attorney and any attorney or staff member of the Office of General Counsel in the course of representing the Commission or the respondent with respect to an enforcement proceeding or civil action. No statement made by such a Commission attorney or staff member during any such communication shall bind or estop the Commission in any way.

§ 111.23 Representation by counsel; notification.

(a) If a respondent wishes to be represented by counsel with regard to any matter pending before the Commission, respondent shall so advise the Commission by sending a letter of representation signed by the respondent, which letter shall state the following:

(1) The name, address, and telephone number of the counsel;

(2) A statement authorizing such counsel to receive any and all notification and other communications from the Commission on behalf of respondent.

(b) Upon receipt of a letter of representation, the Commission shall have no contact with respondent except through the designated counsel unless authorized in writing by respondent.

PART 112—ADVISORY OPINIONS

§ 112.1 Request for advisory opinions.

(a) Any person may request in writing an advisory opinion concerning application of the Act, chapters 95 or 96 of the Internal Revenue Code of 1954, or any regulation prescribed by the Commission. An authorized agent of the requesting person may submit the advisory opinion request, but the agent shall disclose the identity of his or her principal.

(b) The written advisory opinion request shall set forth a specific transaction or activity that the requesting person plans to undertake or is presently undertaking and intends to undertake in the future. Requests presenting a general question of interpretation, or posing a hypothetical situation, or regarding the activities of third parties, do not qualify as advisory opinion requests.

(c) Advisory opinion requests shall include a complete description of all facts relevant to the specific transaction or activity with respect to which the request is made. Statutory references made within the request should be to the United States Code citations, rather than to Public Law citations.

(d) Advisory opinion requests should be sent to the Federal Election Commission, Office of General Counsel, Advisory Opinion Section, 1325 K Street, N.W., Washington, D.C. 20463.

(e) Upon receipt by the Commission, each request which qualifies as an advisory opinion request (AOR) under this 11 CFR 112.1 shall be assigned an AOR number for reference purposes.

§ 112.2 Public availability of requests.

(a) Advisory opinion requests which qualify under 11 CFR 112.1 shall be made public at the Commission promptly upon their receipt.

(b) A copy of the original request and any supplements thereto shall be available for public inspection and purchase at the Public Disclosure Division of the Commission.

§ 112.3 Written comment on requests.

(a) Any interested person may submit written comments concerning advisory opinion requests made public at the Commission.

(b) The written comments shall be submitted within 10 calendar days following the date the request is made public at the Commission. However, if the 10th calendar day falls on a Saturday, Sunday, or Federal holiday, the 10 day period ends at the close of the business day next following the weekend or holiday.

(c) Comments on advisory opinion requests should refer to the AOR number of the request, and statutory references should be to the United States Code citations, rather than to Public Law citations.

(d) Written comments shall be sent to the Federal Election Commission, Office of General Counsel, Advisory Opinion Section, 1325 K Street, N.W., Washington, D.C. 20463.

(e) Before it issues an advisory opinion the Commission shall accept and consider all written comments submitted within the 10 day comment period.

§ 112.4 Issuance of advisory opinions.

(a) Within 60 days after receiving an advisory opinion request that qualifies under 11 CFR 112.1, the Commission shall issue to the requesting person a written advisory opinion, or shall issue a written response stating that the Commission was unable to approve an advisory opinion by the required affirmative vote of 4 members.

(b) The 60 calendar day period of 11 CFR 112.4(a) is reduced to 20 calendar days for an advisory opinion request qualified under 11 CFR 112.1 provided the request:

(1) Is submitted by any candidate, including any authorized committee of the candidate (or agent of either), within 60 calendar days next preceding the date of any election for Federal office in which the candidate is seeking nomination or election; and

(2) Presents a specific transaction or activity related to the election that may

invoke the 20 day period provided the connection is explained in the request.

(c) The 60 day and 20 day periods referred to in 11 CFR 112.4(a) and 11 CFR 112.4(b) only apply when the Commission has received a qualified and complete advisory opinion request under 11 CFR 112.1, and when the 60th or 20th day occurs on a Saturday, Sunday, or Federal holiday, the respective period ends at the close of the business day next following the weekend or holiday.

(d) The Commission may issue advisory opinions pertaining only to the Federal Election Campaign Act of 1971, as amended, chapters 95 or 96 of the Internal Revenue Code of 1954, or rules or regulations duly prescribed under those statutes.

(e) Any rule of law which is not stated in the Act or in chapters 95 or 96 of the Internal Revenue Code of 1954 or in a regulation prescribed by the Commission under 2 U.S.C. 438(d) or 26 U.S.C. 9009(c) or 9039(c), may be initially proposed only as a rule or regulation pursuant to procedures established by 2 U.S.C. 438(d), or 26 U.S.C. 9009(e) or 9039(c).

(f) No opinion of an advisory nature may be issued by the Commission or any of its employees except in accordance with this Part; however, this limitation does not preclude distribution by the Commission of information consistent with the Act and chapter 95 or 96 of the Internal Revenue Code of 1954.

(g) When issued by the Commission, each advisory opinion or other response under 11 CFR 112.4(a) shall be made public and sent by mail, or personally delivered, to the person who requested the opinion.

§ 112.5 Reliance on advisory opinions.

(a) An advisory opinion rendered by the Commission under this Part 112 may be relied upon by:

(1) Any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered, and

(2) Any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(b) Notwithstanding any other provision of law, any person who relies upon an advisory opinion in accordance with paragraph (a) of 11 CFR 112.5 and who acts in good faith in accordance with that advisory opinion shall not, as a result of any such act, be subject to any sanction provided by the Federal Election Campaign Act of 1971, as amended, or by chapter 95 or 96 of the Internal Revenue Code of 1954.

§ 112.6 Reconsideration of advisory opinions.

(a) The Commission may reconsider an advisory opinion previously issued if the person to whom the opinion was issued submits a written request for reconsideration within 10 calendar days of receipt of the opinion and if, upon the motion of a Commissioner who voted with the majority that originally approved the opinion, the Commission adopts the motion to reconsider by the affirmative vote of 4 members.

(b) In addition to the reconsideration procedure set forth in 11 CFR 112.6(a), the Commission may reconsider an advisory opinion previously approved if a motion to reconsider is made by a Commissioner who voted with the majority that approved the opinion and if such motion is made no later than during the next subsequent Commission meeting open to public observation.

(c) Adoption of a motion to reconsider vacates the advisory opinion to which it relates.

PART 113—OFFICE ACCOUNTS: EXCESS CAMPAIGN FUNDS

§ 113.1 Definitions.

No change, except add:

(f) *Personal Use.* "Personal use" means utilization of funds for a private purpose unrelated to the duties connected with a Federal office.

§ 113.2 Use of funds.

Funds donated—

(a) May be used to defray any ordinary and necessary expenses incurred in connection with the recipient's duties as a holder of Federal office, if applicable; or

(b) May be given to any organization described in section 170(c) of Title 26, of the U.S. Code; or

(c) May be transferred without limitation to any national, State, or local committee or any political party; or

(d) May be used for any other lawful purpose, including contributions to another candidate, in which case the contributions shall be considered personal contributions by the officeholder, subject to the limitations of 11 CFR Part 110.

§ 113.3 Use of excess campaign funds.

Excess campaign funds—

(a) May be used to defray any ordinary and necessary expenses incurred in connection with the recipient's duties as a holder of Federal office, if applicable; or

(b) May be given to any organization described in section 170(c) of Title 26 of the U.S. Code; or

(c) May be transferred without limitation to any national, State or local committee of any political party, but

(d) May not be converted to any personal use, by any individual who is not a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress on January 8, 1980.

§§ 113.3–113.5 [Redesignated]

Renumber current 11 CFR 113.3 through 113.5 as 11 CFR 113.4 through 113.6

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January 23, 1980

Part VI

Department of Commerce

Office of the Secretary

Laboratories That Test Thermal Insulation Materials, Freshly Mixed Field Concrete, or Carpet; Accrediting Criteria; Fees

V 45 / 16 JA 23 80 UMI

DEPARTMENT OF COMMERCE

Office of the Secretary

National Voluntary Laboratory Accreditation Program; Final Criteria for Accrediting Laboratories That Test Thermal Insulation Materials, Freshly Mixed Field Concrete, or Carpet

AGENCY: Assistant Secretary of Commerce for Science and Technology.

ACTION: Announcing the final general and specific criteria that must be met by laboratories that test thermal insulation materials, freshly mixed field concrete, or carpet in order to be accredited under the National Voluntary Laboratory Accreditation Program

SUMMARY: In conformance to the procedures of the National Voluntary Laboratory Accreditation Program (NVLAP) (15 CFR Part 7a and Part 7b), this notice contains the text of the final general and specific criteria to be used by the Department of Commerce (DOC) in accrediting testing laboratories that voluntarily request accreditation. DOC is offering three laboratory accreditation programs (LAPs) covering test methods for thermal insulation materials, freshly mixed field concrete, and carpet. These final criteria to be used for all three LAPs are based upon criteria proposed in the **Federal Register** on September 28, 1979 (44 FR 56230–56261), and include modifications to the prodposed criteria in response to comments from the public. The evaluation of these public comments and the recommendations of the National Laboratory Accreditation Criteria Committee for Thermal Insulation Materials, the National Laboratory Accreditation Criteria Committee for Freshly Mixed Field Concrete, and the Department of Housing and Urban Development (HUD) submitted to the Assistant Secretary of Commerce for Science and Technology, provided valuable guidance in arriving at the final criteria. These final criteria do not differ from the proposed criteria in any significant way.

DATES: These final criteria shall go into effect on March 7, 1980. Each laboratory which requests an application package by February 29, 1980, and which submits a completed application by April 11, 1980, will be included among the initial group of laboratories to be evaluated for NVLAP accreditation during the current round of accreditation actions. Laboratories that submit completed applications after April 11, 1980, will be included in a subsequent group of laboratories to be evaluated six months to one year later. A form for requesting an application is included in Appendix 4 of this notice.

FOR FURTHER INFORMATION CONTACT:
Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, Room 3876, Department of Commerce, Washington, D.C. 20230; (202) 377–3221.

SUPPLEMENTARY INFORMATION:

Background

The National Voluntary Laboratory Accrediation Program (NVLAP) was established by notice in the **Federal Register** on February 25, 1976 (41 FR 8163–8168, 15 CFR Part 7 which has been recently redesignated 15 CFR Part 7a). That notice, amended by optional procedures published in the **Federal Register** on March 9, 1979 (44 FR 12982–12990 designated 15 CFR Part 7b), describes the procedures used for developing the three LAPs currently being implemented by this notice as follows:

(1) *Insulation LAP.* The first LAP (NVLAP–01 or the insulation LAP) is for accrediting laboratories that test thermal insulation materials. A final finding of need for this LAP was published on October 12, 1977 (42 FR 55020–55024). Subsequently the National Laboratory Accreditation Criteria Committee for Thermal Insulation Materials (NLACC–01 or the insulation LAP committee) was formed and met on several occasions to develop and recommend general and specific criteria to the Secretary. These recommendations were submitted to the Secretary on August 3, 1978 and formed the basis for proposed criteria on September 29, 1978 (43 FR 45290–45298). Comments received from the public were reviewed by the insulation LAP committee which made recommendations on how to incorporate certain of the comments into the criteria. Final general and specific criteria to be used in evaluating the capability of laboratories to test thermal insulation materials were published on January 18, 1979 (44 FR 3886–3906). In a **Federal Register** notice, October 17, 1979 (44 FR 60052–60054), the Department of Commerce (DOC) announced the accreditation of 30 testing laboratories, effective October 12, 1979.

As a result of experience gained in applying the criteria in the evaluation of these laboratories and because of different recommendations being developed by a second criteria committee (described in a succeeding paragraph), the insulation LAP committee was asked to meet again to consider recommending revised criteria to the Secretary. A report entitled, "Recommendations for Revision One of the Criteria for Accrediting Laboratories Which Test Thermal Insulation Materials" was prepared and submitted to the Secretary on August 9, 1979.

The final criteria published herein replace, as of March 7, 1980, the criteria issued in the **Federal Register** on January 18, 1979, for accrediting laboratories that test thermal insulation materials. However, the accreditation granted to the 30 laboratories in October 1979 will remain in effect until October 11, 1980, when the term of accreditation for each of the 30 laboratories expires.

(2) *Concrete LAP.* Parallel to the foregoing effort on insulation, a second LAP (NVLAP–02 or the concrete LAP) for accrediting laboratories that test freshly mixed field concrete was established with a final finding of need published on December 13, 1978 (43 FR 58223–58226). A second criteria committee, the National Laboratory Accreditation Criteria Committee for Freshly Mixed Field Concrete (NLACC–02 or the concrete LAP committee), was formed and met on four occasions to develop and recommend criteria to the Secretary. These recommendations were submitted to the Secretary on August 2, 1979.

(3) *Carpet LAP.* On May 17, 1979, the Department of Housing and Urban Development (HUD) requested that the Secretary establish a third LAP (NVLAP–03 or the carpet LAP) to accredit laboratories that test carpet according to the requirements set forth in the HUD Use of Materials Bulletin, UM–44c. This request was made on the basis that the LAP be developed using optional NVLAP procedures for use by Federal agencies (15 CFR Part 7b) published in the **Federal Register** on March 9, 1979 (44 FR 12982–12990). In accordance with these optional procedures, HUD has determined the need for such a LAP and, on August 15, 1979, forwarded recommended criteria to the Secretary to be used to accredit laboratories that test carpet.

One Set of Criteria

NVLAP was developed to provide national recognition of the capability of laboratories qualified to perform tests in product areas where such recognition is needed. DOC believes that the criteria used in conferring this national recognition should be identical or as consistent as possible among various product areas for which accreditation is granted. It is generally understood that there are certain fundamental elements relative to facilities, equipment, personnel, and quality control practices that all laboratories should possess. These new criteria reflect the basis of those fundamental elements as they apply to LAPs for insulation, concrete, and carpet. The consistent criteria for these three LAPs are expected to be applicable to future LAPs in other product areas. The use of consistent criteria will tend to assure that NVLAP accredited laboratories have been uniformly evaluated regardless of the product area. Similarly, laboratories seeking accreditation in more than one area will be less likely to be faced with different and possibly conflicting criteria. From an operational point of view, consistent evaluation criteria, regardless of the number of LAPs or test methods for which a laboratory may seek accreditation, are desirable in order to minimize accreditation costs to the laboratories and the likelihood of confusion in administering the program.

Basis of Final Criteria

The recommendations from the insulation LAP committee, the concrete LAP committee, and HUD formed the basis for the proposed criteria announced on September 28, 1979 in the **Federal Register** (44 FR 56230–56261). On the same day in a separate **Federal Register** notice (44 FR 56262–56263), DOC issued the proposed schedule of fees that laboratories would be charged if they formally apply for accreditation. Information on fees was provided to enable a laboratory to more thoroughly assess the proposed criteria.

Persons desiring to comment on the proposed criteria were invited to submit their comments to the Assistant Secretary of Commerce for Science and Technology on or before November 27, 1979. The written statements submitted during the comment period are part of the public record and are available for inspection and copying in DOC's Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230.

Persons desiring to present views at an informal hearing were invited to request such a hearing. One request was received and, accordingly, an informal, public hearing was held on November 28, 1979. A transcript of the hearing testimony is also available for inspection and copying in DOC's Central Reference and Records Inspection Facility.

The issues raised by the oral and written comments in response to the notice of proposed criteria were addressed by the insulation LAP committee and the concrete LAP committee in open meetings held on December 18, 1979. The suggestions and ideas of the committee members, including their evaluation and recommendations with respect to these comments, were presented to the Assistant Secretary of Commerce for Science and Technology in the minutes of the meeting dated January 14, 1980, and are likewise available for inspection and copying in DOC's Central Reference and Records Inspection Facility.

Evaluation of Comments

Twelve written comments and one oral comment were received in response to the proposed criteria. These comments have been carefully considered and evaluated, and a report has been prepared entitled, "Summary and Analysis Report of Public Comments Received in Response to Proposed Accrediting Criteria for Laboratories That Test Thermal Insulation Materials, Freshly Mixed Field Concrete, orCarpet." This report and a copy of the comments are part of the public record and are available for inspection and copying in DOC's Central Reference and Records Inspection Facility. Some issues relate directly to the criteria for accrediting laboratories. Other issues relate to the operating or accreditation process of NVLAP, including the content of the appendices of the proposal which is not part of the criteria. Revisions to the appendices may be necessary as the three LAPs are administered. When such revisions are developed, they will be published in the **Federal Register** and made effective immediately upon publication. DOC's consideration of the public comments as well as the recommendations of the insulation LAP and concrete LAP committees and HUD with respect to these comments follows. The comments are discussed below according to the issue addressed or the major section of the criteria to which the comment applied.

(1) *Typographical Errors.* Two significant typographical errors were identified by a number of the commenters. In exhibit 2A the short title for ASTM C173 should have read, "Air Content of Freshly Mixed Concrete by the Volumetric Method." Under the title "Data Analysis Method" section of the between laboratory program of Appendix 2, the standard deviation formula under step (5) was incorrect and has been corrected.

(2) *The Need For These Laboratory Accreditations Programs (LAPs). One commenter supported the need for a LAP for concrete testing laboratories but believed that criteria as set forth are so complex and costly that few testing laboratories would try to become accredited. Another commenter expressed concern about the additional paperwork and costs which would affect the HUD carpet certification program, possibly causing some manufacturers, particularly small businesses, to drop out of the program. Concern was also expressed about added control by government over everyday laboratory procedures used in evaluating carpet. A third commenter also questioned the credibility of the HUD rationale contained in its statement of need, particularly as related to minimization of cost to both industry and government. (The statement of need is in HUD's request for a carpet LAP which was published by DOC in a* Federal Register notice on June 18, 1979 (44 FR 35000)). This commenter was supportive of a national accreditation program for carpet testing laboratories only if the program was broadened to include additional test methods serving needs other than those of HUD.

The need for the LAP for concrete was formally established after public review under the original procedures (15 CFR Part 7a) in a separate finding as stated in the **Federal Register** of December 13, 1978 (43 FR 58223–58226) and no new issue has been raised which would warrant reopening the matter. The determination of need for the carpet LAP, having been established under the optional procedures (15 CFR Part 7b) in which the Federal agency which requests a LAP makes its own finding of need, is the responsibility of HUD. DOC's NVLAP program is intended to provide national recognition of testing laboratories which voluntarily seek such status. How HUD or any other Federal agency utilizes the DOC accredited status of laboratories to suit their own needs is a matter for them to determine.

DOC is sensitive to the costs associated with the program. The key is to provide an evaluation thorough enough that the capability of a laboratory can reliably be attested to, yet not so stringent as to cause undue expense to or disruption at the laboratory. Reaching a proper balance between these two objectives is, of course, a matter of judgment which is expected to improve with experience in DOC's administration of the program. NVLAP stresses evaluation of a laboratory in a three-phased approach: (1) Evaluation of written information; (2) on-site examination and evaluation of the laboratory; and (3) evaluation of proficiency tests performed by the laboratory. These evaluations, along with the requirement to periodically re-evaluate the laboratory, are believed to be more extensive than has been required up to now in accreditation programs administered under the HUD certification program. DOC is of the

view that the credibility of the NVLAP depends upon reasonably stringent criteria, and each of the LAPs has had that objective as a principal goal. Notwithstanding this posture, it is of interest to note that other comments have been received, to be addressed later under the scope of the criteria section, which suggest that DOC has made compromises that may diminish the credibility of the originally established accreditation process.

DOC is also sensitive to the desirability of including all appropriate test methods in a LAP, once the need for that LAP has been determined. This subject will be discussed in the next section.

(3) *Test Methods Included in the LAPs. Concrete.* One commenter suggests that the concrete LAP should be expanded to include preparation of design mixes and testing of aggregates as required in ASTM E329. This subject was originally discussed in the final finding of need for the LAP as set out in the **Federal Register** on December 13, 1978 (43 FR 58223–58226) and was discussed at subsequent meetings of the concrete LAP committee. The resulting decision has been to limit the LAP to freshly mixed field concrete. The list of test methods shown in the proposed criteria resulted. DOC concludes that since the product specified in the finding of need was expressly limited to freshly mixed field concrete, the standards and test methods in the LAP should be limited to those directly related to that product. Nevertheless, if there is a sufficient demand from the public for a LAP covering an expanded group of concrete products, DOC will be responsive and establish such a LAP. Under the NVLAP procedures such a demand can only be evidenced after a formal request to the Secretary of Commerce. In response to such a request, DOC will publish it in the **Federal Register** and call for comments to determine whether a need exists which would justify establishment of the proposed LAP. As a practical matter, rather than encouraging initiation of a formal request to make a finding of need at this time, DOC suggests that such a request be submitted after some experience with the accreditation of laboratories under the current concrete LAP has been obtained.

Another comment suggests that ASTM C192 should be eliminated from the LAP. This test method, which deals with the preparation of concrete test specimens in the laboratory, was thought to be important because the proficiency test phase for the LAP originally envisioned distribution of materials from which the laboratory was to make samples for comparison testing. Since the proficiency testing program which has evolved no longer requires the preparation of concrete test specimens in the laboratory, DOC concurs with the commenter that this test method is no longer appropriate for inclusion in the program.

One commenter suggested that ASTM C173 should not be optional because it is widely used in measuring air content of lightweight concrete structures. DOC believes, however, that some testing laboratories, particularly those specializing in tests related to road construction projects, rarely if ever test lightweight concrete, and that ASTM C173 should continue to be optional at the request of the laboratory seeking accreditation.

Two commenters addressed the issue of test method grouping. One suggested that no laboratory is likely to perform only the field tests, and an accredited laboratory should include all tests, both field and laboratory. This commenter did point out that an owner or engineer might wish to do only field testing but that he/she would not likely seek accreditation. However, DOC understands that many laboratories determine compressive strength of cylindrical concrete specimens (ASTM C39) made by others, and that the making of the specimens may account for a significant portion of testing errors. Therefore, DOC believes that accreditation of laboratories for field tests only will be a valuable service. The second commenter suggested that in order to be accredited a laboratory should be capable of performing the entire set of tests in the "field" test method group. That is the intent of the LAP.

Carpet. A number of commenters have pointed out that some of the test methods included in the carpet LAP are generally being replaced by newer test methods, and that the old methods should be replaced in the program by the newer methods. These commenters also suggest that the so-called "pill test" required by the Consumer Product Safety Commission (CPSC) to be performed on representative samples of all carpet manufactured or sold in the United States should be included in the program.

A review of the NVLAP procedures indicates that they are silent regarding the possible need for, or the method by which, standards and test methods may be added to an existing LAP. This could imply that in order to add test methods under Part 7a procedures, a new finding of need would have to be established, and the advisory committee would have to recommend criteria to evaluate the laboratories performing the additional tests. Under Part 7b procedures, the Federal agency originally requesting the LAP could request that DOC include any additional standards or test methods. HUD which requested the carpet LAP under Part 7b procedures has advised that it is not in a position to request new methods which are not now required in its program or which, as in the "pill" test, are enforced by another agency, CPSC.

After thoroughly reviewing the requests and the history of the NVLAP program, DOC has concluded that NVLAP should be responsive to requests to add standards and test methods when such desires are made known as a result of a request for comments on a LAP as published in the **Federal Register**, or if such standards and test methods are pertinent to the specific product for which the LAP was established. Having reached this conclusion, DOC decided to propose an amendment to NVLAP procedures so that in appropriate cases additions of standards and test methods to LAPs can be made. Accordingly, DOC published a proposed amendment to the NVLAP procedures in the **Federal Register** on December 28, 1979 (44 FR 76810–76811). DOC is prepared to add ASTM E648 and FF 1–70 to the carpet LAP, as requested by a number of commenters, based on the provisions stated in that proposed amendment. However, assuming that no adverse comments are received which are of such nature as to cause DOC to drop the proposed amendment, the effective date of the amendment cannot occur until February 26, 1980, the expiration date of the period for public comment. In the event that public comment convinces DOC to withdraw the proposed amendment, DOC will not be able to include the additional test methods requested for the carpet LAP.

DOC is not prepared to delete ASTM E84 or UL 992 from the carpet LAP at this time, since those test methods were explicitly requested by HUD. If no laboratory were to apply to be accredited for those two test methods, then conceivably in the interest of program efficiency, DOC may delete them sometime in the future. Under NVLAP procedures, DOC is precluded from making changes to the standards or test methods, or from judging their efficacy. However, DOC may find a test method too subjective for adequate evaluation, and therefore elect not to include such a test method in a LAP. NVLAP is designed to recognize the capabilities of laboratories which voluntarily request such recognition. It is not intended in any way to establish new standards or test methods for a product.

Another commenter, a carpet trade association, suggested that the ASTM D418 be broken into three separate tests, that tests for dry crocking and wet crocking be added to the program, and that tests for carpet with attached cushion, described in HUD Standard UM 44c Addendum 3, be added to the program. DOC has reviewed these comments in depth and examined the methods in detail, and has added and grouped test methods accordingly as shown in Appendix 3. The test methods have been added, subject to the condition that they may have to be withdrawn before actual assessment of the laboratories begins if the amendment to the procedures described earlier for adding test methods to LAPs is not made final.

(4) *Scope of the Criteria.* One commenter reviewed the proposed criteria and reorganized the information in a way thought more understandable to laboratories interested in applying for accreditation. DOC has taken note of these suggestions, implemented them in a number of instances, and wishes to express its appreciation for these suggestions.

Another commenter suggested that trying to adapt the laboratory accreditation criteria to two new product areas, concrete and carpet, would "* * * provide for the degradation of the originally established accreditation process." This commenter further suggested that widely diverse input from industry groups, testing laboratories, regulators, and users of products or services involved will likely lead to further conciliations and compromises such that the consolidated criteria would represent a "least common denominator" approach to accreditation which, if left unchecked, would eventually relegate the accreditation process to ineffectiveness.

DOC is continually faced with decisions about the adequacy of the criteria in its proposals. It does not believe that these new criteria weaken the program. In fact, almost all elements in the original criteria are addressed in a similar way in these criteria. The simplification referred to in the proposal deals more with the format by which the criteria are now presented and not the content of the criteria. For instance, in the original criteria there was confusion and overlap between the required content of the quality control manual and the responses necessary to fulfill the requirements of the specific criteria. These new criteria eliminate much of this confusion but do not materially weaken the requirements. In fact, in the sections dealing with personnel, the criteria have been materially strengthened.

DOC believes that the criteria will continue to evolve as new programs are added. This will not come from an attempt to use the "least common denominator" approach, but rather from experience gained in applying the criteria in actual practice and from ideas generated by knowledgeable persons focusing on the content of the criteria. The concrete LAP committee brought many new insights to the criteria because of the members' long association with the Cement and Concrete Reference Laboratory (CCRL) program under which laboratories have been examined for over 50 years.

DOC does not believe that persons involved in any one testing area necessarily have a unique insight into what is necessary to provide adequate criteria in that area. Very few laboratories test only in one specific product area. Normally, laboratory management must be capable of assuring that it will obtain accurate, reliable data in a number of product areas. In a similar sense, an accreditation program should be able to determine the capability of a laboratory testing in a number of areas in a reasonably consistent manner with criteria which are compatible to multifaceted operations. This is not to say that the criteria can always be uniform. For example, if NVLAP became involved in a LAP requiring bioassay or other biological test systems, significant additions to the criteria may be required relative to labratory practices in the handling of laboratory animals, certain facilities, and experimental design to assure adequate data.

This leads into two comments related to the use of "supplemental information" in implementing the criteria. The criteria describe specific requirements that a laboratory must satisfy for each test method for which accreditation is sought. A test method describes how a laboratory is to perform a particular test. The "supplemental information" simply adapts the requirements of the criteria to the requirements of each test method. For instance, section S2.2.2 of the criteria states that calibration and verification records must be maintained on the testing equipment. A test method identifies the test equipment that should be calibrated. The "supplemental information" simply states what calibration and verification records must be maintained for each piece of equipment identified in the test method. This mechanism for implementing the accreditation process was chosen by DOC because it was felt that detailed information as to how to implement the criteria for a given test method would not change the intent or substantive effect of any requirement of the criteria, as established through notice and comment procedures in the **Federal Register**. Thus, it is not necessary to follow those procedures before deciding on specific items of "supplemental information." Furthermore, DOC believes that publication of criteria specifically adapted to each of the more than 80 test methods in the program would also be impracticable; it would take hundreds of pages in the **Federal Register**, be unnecessarily redundant, require re-publication in the **Federal Register** each time a test method is changed or revised, and would possibly submerge the overall concept being proposed—namely, the determination of whether a laboratory is capable of becoming accredited.

While DOC recognizes that there is some interpretation required to establish the "supplemental information," it still believes that notice and comment procedures (in addition to those already used in issuing the criteria) are unnecessary because the degree of interpretation in most instances is "de minimus," i.e., too small to be of any significance. Given the existing constraints of the criteria and the test methods, DOC believes that most reasonable persons who are versed in the technical aspects of operating testing laboratories would agree with the decision reached in relating the requirements of the test methods to the requirements of the criteria. Nevertheless, the National Bureau of Standards (NBS), which is responsible for preparing the "supplemental information", is in constant contact with knowledgeable people versed in the procedures and economics for testing each product. Much guidance is obtained from the standards organization which contributed to the development of the test method. Furthermore, the concrete LAP committee appointed a subcommittee to advise on the preparation of the "supplemental information" for the concrete LAP. In response to one comment questioning the nature of HUD's participation, it may be stated that HUD was asked to provide technical support under Part 7b procedures to develop the "supplemental information" for the carpet LAP. However, this information has been developed under the general guidance of the NBS technical staff and

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with interaction with the affected testing community.

(5) *Requesting Accreditation.* One commenter has suggested that the "supplemental information" should be made available to laboratories interested in accreditation before the formal application is submitted. The proposal stated that an application would be published in the **Federal Register** with the final criteria and that any interested laboratories could apply for accreditation for the test methods of interest. The "supplemental information" for all test methods of interest would then be supplied to the laboratory, after which the laboratory could withdraw or modify its request if it did not wish to proceed with the accreditation for certain of the test methods. In this case the application would also require information about the laboratory relative to the general criteria. In response to this comment, and in considering that such a detailed application form may seek information which would not be used if the laboratory decided against seeking accreditation after reviewing the "supplemental information," DOC has revised the application procedures so that a laboratory interested in possible accreditation would fill out a very simple request form (Appendix 4 of this notice) listing the laboratory name and address and checking off the test methods in which it might be interested, and send it to NVLAP. In response, a formal application package will be sent to the laboratory along with a copy of the "supplemental information" for each test method checked. This formal application package includes an application form that will require the information in response to the general criteria.

When a completed application form is received, a site visit preparation form will be sent to each applicant. The site visit preparation form elicits information regarding laboratory operations as related to the specific criteria and individual test methods for which accreditation is sought. Its purpose is to provide advance information to the on-site examiner so that an efficient and cost-effective evaluation of the laboratory may be accomplished during the on-site visit. Both the insulation LAP committee and concrete LAP committee recommended that the paperwork involved in the accreditation process be reduced. The evaluation methodology used with the first round of applicant laboratories was based on gathering extensive written information for off-site evaluation by a peer evaluation at NBS, followed by verification at the laboratory by a non-peer examiner. Based on the recommendations of the two committees and the NBS experience with the initial evaluations, the methodology employed for these LAPs is being shifted to emphasize a peer on-site review. Hence, there is no longer a need for the extensive questionnaires that applicant laboratories were required to fill out for the first round of evaluations. However, the information requested in the site visit preparation form is deemed necessary to acquaint the on-site peer evaluator of what to expect in the visit to the laboratory. In the future the evaluation methodology may be shifted depending upon the experience gained and the particular evaluation needs of future LAPs.

Another commenter expressed concern that applications for accreditation would be accepted only once a year, as was the case in the insulation LAP, and that during that year accreditation would not be granted for any additional test methods available in the LAP. DOC believes that these limitations may continue to be necessary in the near term until the scope and breadth of the NVLAP program becomes large enough to sustain a diverse core of examiners and evaluators. The intent in the long term is to respond more rapidly to the new needs of laboratories accredited under the program, and to make the program available to new laboratories on a more timely basis. As soon as possible, DOC will try to make access to the program available more frequently than annually.

(6) *Basic Conditions of Accreditation.* One of the basic conditions for accreditation contained in the NVLAP procedures is that each testing laboratory that desires to participate in the program must agree to "avoid reference by itself and forbid others utilizing its services from referencing its accredited status in consumer media and in product advertising or in product labels, containers and packaging or the contents therein." Two commenters have objected strenuously to this provision indicating that, if an organization has incurred the expense of accreditation, it should receive the additional benefit associated with recognition of that accreditation. One commenter suggested that certain code groups are increasingly promulgating requirements with respect to the status of the laboratories performing tests, including provisions regarding communications of their accreditation status to inspectors, contractors, etc. Their fear is that an entirely separate and redundant accreditation program would have to be established, if vendors could not appropriately communicate the accreditation status of the laboratory they have retained to respond to testing requirements.

DOC recognizes that the process, which should lead to a credible statement that a product meets a standard, requires at least three distinct steps. First, a standard and a test method must be available by which evidence can be produced that verifies the fact that the product does indeed meet the standard. Second, some organization must perform the test. Third, unless every item of production is tested, the product upon which a test has been made must be reasonably representative of the product being offered to the consumer. The statement that a product meets a given standard is called certification. To make such a statement, the certifier must be knowledgeable of the variability in the product which could be attributed to the production process, and the variability which could be attributed to the test method. None of these ingredients is included in the NVLAP program. A testing laboratory typically has little information about the variability of a given product with the possible exception of when it is responsible for operating a certification system.

Laboratory accreditation is the process wherein a determination is made that a laboratory is *capable* of performing a test properly. There is nothing in this determination which guarantees or even states that a laboratory will always perform the test method properly. There is no formal determination of the range of values an accredited laboratory may obtain in performing a specific test although information from proficiency tests for certain test methods does enter into the evaluation of a laboratory. A laboratory need have no information about the variability in the product being tested in order to be accredited under NVLAP procedures.

A hangtag or label on a product tends to assure the consumer that a product meets a standard. This is the typical object of a certification program, not a laboratory accreditation program. A laboratory accreditation program identifies laboratories which have been examined and are found to be capable of performing the test methods properly. Such a program will assist manufacturers seeking capable laboratories to test their products periodically so that the manufacturer can credibly assert or self-certify that its product meets a standard. An accreditation program is also useful to third party certification bodies, such as trade associations, which have products tested periodically by a capable laboratory so that the certifying body can conclude that a product meets a standard.

Recognizing these distinctions and limitations, it would be appropriate for an accredited laboratory to advertise its accredited status to manufacturers and certification bodies which would have use of the laboratory's services. It would also be appropriate for manufacturers and certifiers to notify code officials that their product has been tested by an accredited laboratory, as long as the sampling conditions, which the manufacturer or certifier used in selecting the sample tested, are also specified. The mere fact that a laboratory has performed a test on a sample of a product at some point in time, and found that the sample met the standard, is no basis for certifying that a specific product sold to a consumer meets a standard. Advertising the fact of accreditation to consumers, or labeling products to this effect, is not appropriate unless there is some way (such as a certification program) which will more precisely indicate what the results of such testing mean. It is for these reasons that the limitation on advertising and labeling were included in the procedures in the first place, and why DOC sustains those provisions.

The insulation LAP and concrete LAP committees reviewed this issue extensively. On the one hand, it was clear to the members that NVLAP accreditation should not be used in such a way that government approval of a product might be implied. On the other hand, the committees felt strongly that more clarification of this issue is needed, and asked in their recommendations that DOC prepare a position statement more clearly describing how the fact of accreditation can be properly publicized. The statement that appears in the criteria is taken directly from the NVLAP procedures (41 FR 8163–8168) and is not subject to revision except by revising the procedures. DOC believes much can be accomplished by clarifying the conditions of use, by giving examples, and by exploring a wide range of ideas which might be employed to improve recognition of the meaning and significance of NVLAP. DOC is preparing a position statement and a program for improving the recognition of NVLAP accredited laboratories.

(7) *Organizational Structure (G1).* One commenter questioned the purpose of securing the name of the parent organization and the names and positions of the principal officers and board of directors of the laboratory (sections G1.1.2 and G1.1.3). DOC believes that this information is fundamental to the legal identification of a laboratory. Also, this information is important if allegations involving ethical practices are received by DOC against any NVLAP accredited laboratory. This same commenter questioned the need for submitting a statement of changes in a laboratory's organizational structure. This provision requires that a laboratory submit a statement of any *fundamental* changes. Changes in the name, address, facilities, or management of a laboratory's ownership are fundamental to that laboratory's accredited status and should be reported to DOC. The insulation LAP committee and concrete LAP committee recommended no changes to these provisions but suggested that, for identification of the parent organization, one organizational level above the laboratory was sufficient. DOC plans to make this clear in the application form.

(8) *Policy Statements (G2).* A number of comments addressed the policy statements under the professional and ethical business practices section of the general criteria. One commenter suggested that DOC should not "dictate" a laboratory's policy. The provision does not preclude a laboratory from having other policies or changing the wording of the policies suggested. It simply requires that, "as a minimum," the laboratory should abide by certain ethical business practices. The policy statements listed under this section of the criteria are meant to apply to the test methods for which a laboratory is accredited. DOC believes that NVLAP accredited laboratories should conduct those testing operations for which they are accredited in accordance with these ethical practices.

One commenter suggested that the requirements of the original criteria to submit documentary evidence showing that the laboratory complies with certain ethical practices should not be relaxed. DOC does not believe that this change is a "relaxation" of the criteria. Securing agreement to policy statements gives DOC a uniform standard for judging noncompliance. Under the original criteria each laboratory's documented evidence was different and cumbersome to analyze, thus making a judgment of compliance with the criteria far more complex and difficult.

Three different comments were expressed regarding the provision that requires a laboratory to treat test data as proprietary information (section G2.1.4). One commenter suggested that this provision be dropped because at times test data have to be promptly reported to third parties and transmittal cannot wait for paperwork. Another commenter endorsed the DOC position saying it should be the manufacturer's not the laboratory's decision to release test data. A third commenter suggested that the phrase, "unless the client agrees in writing to the release of such information" was not needed and should be deleted. The insulation LAP committee and concrete LAP committee endorsed this view and recommended that this phrase be deleted. DOC agrees and section G2.1.4h as been revised to read: "Treat test data, records, and reports as proprietary information."

Two commenters questioned the practicality of the provision for return of the certificate of accreditation if an accredited laboratory should find itself unable to conform to any of the criteria (section G2.1.8). Their concern focused on the situation where an accredited laboratory loses capability to perform one or more of the test methods for which it is accredited, but retains capability for the other test methods for which it is accredited. It was suggested that that section, G2.1.8, be revised to indicate that DOC would issue an amended certificate to cover this type of situation. DOC agrees with this suggestion and, accordingly, the language of G2.1.8 now reads, "Return to DOC its certificate of accreditation should it become unable to conform to any of these general and specific criteria for accreditation for possible revision or other action."

One of the commenters suggested that DOC circulate the latest versions of test methods to the accredited laboratories to facilitate the implementation of the change. DOC intends to periodically communicate with accredited laboratories, and informing them of revisions to the test methods would be part of such communications.

One commenter suggested that advice be secured from interested parties as changes in test methods are incorporated as part of a LAP. DOC anticipates that, when changes are made to any test methods of a given LAP, their implementation will depend upon any new requirements that the test method changes entail. DOC will seek the advice of technical experts on these matters when it is necessary.

One commenter suggested that accredited laboratories be required to identify the version of the test method used for each of its tests. DOC believes that the provision S3.1.1(f), "Identification of the test method, procedure, or specification," requires the identification of the version used.

One commenter expressed concern that in-house laboratories would be subject to discriminatory provisions of certifiers using NVLAP accredited testing services. As alluded to earlier, NVLAP is not a certification program. NVLAP accreditation is, rather, a formal recognition of competence of a laboratory to perform certain tests. Certification involves other functions and requirements beyond the testing function. How certification programs use NVLAP accredited laboratories or place additional requirements on them is not within DOC's control. DOC is governed by procedures which state that no action will be taken or criteria developed that would prohibit the accreditation of a testing laboratory solely on the basis of that laboratory's association or non-association with manufacturing, distributing, or vending organizations, or because the testing laboratory is a foreign firm.

(9) *Quality Control System (G3).* One commenter questioned the purpose of a quality control or laboratory operations control manual. The recommendations of both the insulation LAP committee and concrete LAP committee included provisions for some type of manual, suggesting that a manual was an essential element in the effective operation of a laboratory. DOC concurs with this position.

One commenter suggested that the manual should be submitted for a more in-depth analysis rather than evaluating it during the on-site examination. The first round of laboratory evaluation activities under the insulation LAP involved an in-depth analysis of submitted manuals. The exercise of reviewing the laboratories' manuals without prior knowledge of the environment in which they were used was not always meaningful. The problem of reviewing submitted manuals was made more difficult by confusion created in the original criteria regarding the expected content of the manuals. The submitted manuals varied considerably in content and style and in some cases were difficult to analyze for compliance. DOC believes that these new criteria and changes in the application procedure will now afford a more effective evaluation of a manual's content by an on-site examiner who would review certain areas of the manual to verify that it satisfies the requirements of the criteria. The changes, which are incorporated in the part of this notice entitled, "Accreditation Process," will save the laboratory time in preparing for the site visit and will assure an accurate representation of laboratory operations at the time of review for accreditation.

One commenter suggested that DOC develop a series of "uniform protocols" which could be adopted by a laboratory seeking accreditation in the preparation of its quality control and operations control manual. DOC believes that this concept has some merit. However, it has some distinct disadvantages also. By providing uniform protocols, DOC would be, in effect, prescribing one way to write the manual which may erroneously be interpreted as the best way. There may not necessarily be a *best* way to write a manual. The manual should be a clearly written document that can guide laboratory personnel in the operation of tests in the laboratory. It has to be tailored to each particular laboratory and to the preferences of the laboratory's management. DOC believes that a manual prepared by the laboratory's management would be a far more effective tool than having DOC's idea of a manual "imposed" on a laboratory. The criteria state what the manual should contain as a minimum, not how the language of the manual should read.

(10) *Technical Staff (G1.1.5 and S1).* One commenter suggested that the personnel requirements of ASTM E329 should be adopted for the concrete LAP. The concrete LAP committee discussed the issue thoroughly and concluded that such requirements were not appropriate because ASTM E329 would shortly be revised. Both the insulation LAP committee and concrete LAP committee discussed the issue of recommending minimum requirements for education, experience, and technical society activity for the laboratory's technical director and testing staff. Both committees, in general, recommended against having specific requirements listed in the criteria at this time, but believed that for the technical staff the key is demonstrated competence. Consistent with these committee recommendations, no specific requirements are stated in the criteria at this time. However, DOC will monitor standards development activities relative to testing laboratory personnel qualifications for possible adoption in the future.

One commentor suggested that closed-book examinations serve no purpose and that technicians should not be expected to memorize the test methods, but should have the ASTM books available as a continual reference. DOC agrees that in most cases memorizing the test method is impractical, and continual reference to the text of the test method is desirable. However, for some simple test methods conducted at field sites where access to the text of the test methods is not normally available and supervision is limited, a technician should have the test method memorized. In such a case, a closed-book examination is appropriate. The field test methods of the concrete LAP are examples of test methods where a closed-book examination is appropriate.

One commenter suggested that the re-examination period of one year was too frequent and should be changed to every two years. DOC believes that an annual reaffirmation of a technician's competence to perform certain test methods or parts of test methods is important and does not entail much paperwork. In most cases all that is required is: (1) An annual observation by the supervisor of the actual performance of all the test methods or parts of test methods that each technician is assigned to perform; and (2) A written statement signed by the supervisor and filed with the laboratory's personnel records attesting that each technician is competent to perform, as of the observation date, those test methods or parts of test methods that the technician is assigned to perform.

One commenter suggested that the criteria should explicitly recognize that the division of labor within each testing laboratory will vary. In some laboratories, a single individual may perform all aspects of a particular test method. In another laboratory, a different indivdual might well be responsible for certain aspects of a test method. DOC does recognize this division of labor. The criteria do not prohibit any division of labor nor do they prescribe what the division should be for a particular test method. In order to clarify the intent of the relevant criterion, two sections have been changed. The first sentence of section S1.1 has been changed to require that the laboratory shall attest to the competence of each relevant staff member "in the performance of each test method or part thereof that each member is assigned to perform." Section S1.3(a) has been revised to read, "A record, including dates and results, of the observation or examination of performance for each test method or part thereof for which each staff member is assigned to perform."

(11) *Equipment, Facilities, Procedures (S2).* Some commenters expressed concern that many provisions of criterion S2 were not required for certain test methods. Requirements such as maintaining schematics, drawings, diagrams, or photographs of equipment or facilities, and keeping elaborate calibration records were not necessary. DOC agrees that for certain test methods such provisions are inappropriate. That is why the phrase, "as applicable" is inserted in provisions, S2.1, S2.2.1, S2.2.2, and S2.3, and S2.4. The "supplemental information" for each test method indicates where such provisions are applicable.

One commenter questioned the need for test plans, claiming that the text of the test methods are sufficient for a technician to carry out the test methods. DOC believes that test plans are necessary to guide a technician in using the test method with the particular equipment and facilities available in the laboratory. The text of test methods in many cases does not clearly indicate how certain functions such as equipment maintainance and verification checks; specimen selection, handling and disposal; and data collection, analysis, and reporting are carried out. In addition, a laboratory may have particular ways of carrying out such functions which are not clearly prescribed by the text of the test methods.

One commenter suggested that provision S2.3(a), "Equipment maintenance and verification checks;" should be deleted since it is redundant with S2.2.1. It is DOC's position that these two provisions are not necessarily redundant. S2.3(a) specifically pertains to the test plan and should be guidance to the technician regarding checks of the equipment that should be made before conducting a test or series of tests. S2.2.1 is a more general provision requiring a description of the procedures for calibrating, verifying, and maintaining the laboratory's test equipment and facilities. Such procedures would be part of a laboratory's routine for checking equipment independent of the performance of specific tests.

One commenter suggested that those non-critical parts of test methods which could be done by unaccredited subcontractors (S2.3(e)) needs to be identified. DOC agrees that identification of parts that can be handled by unaccredited subcontractors is desirable. However, by specifying what parts are appropriate for subcontractors and what parts are not, DOC may preclude some unforeseen case where it is actually appropriate. Identification of such parts, where it is practical or where experience has been gained, will be handled as part of the "supplemental information." DOC desires, however, to remain flexible to make judgments on a case-by-case basis using its technical experts until more experience is gained as to what parts are appropriate for unaccredited subcontractors and what are not.

(12) *Records (S3).* In the proposed criteria document, comments on the length of time that records should be retained by accredited laboratories were specifically requested. The proposed criteria were silent on this issue. One commenter recommended that no change be made at this time with respect to maintenance of records. Another commenter suggested that there was no reason for retention of records beyond the point of each successive reaccreditation. DOC believes that for accreditation purposes records should be retained by accredited laboratories for at least that period of time which occurs between successive on-site examinations. There is no reason why accredited laboratories should not retain records for longer periods of time, particularly those time periods that may be imposed by Federal, State, or local government requirements, or other contractual requirements.

Accordingly, provision S3.5, has been added to read, "The laboratory shall retain records required by these general and specific criteria for a minimum of three years or for any longer period of time specified by Federal, State, or local government requirements, or other contractual requirements."

One commenter questioned the need for a written complaints file and expressed concern that DOC should not be entitled to examine or remove the documents contained in such a file. The criteria require that a laboratory maintain a file of written complaints and disposition thereof (S3.4). The on-site examiner would merely verify that such a file existed at the laboratory and would not require copies or removal of the file's contents.

In light of this comment, DOC reviewed the provisions relative to the responsibility of participating laboratories to provide DOC access to records and other documents required by the criteria. Accordingly, language has been added after the list of basic conditions for accreditation that requires the laboratory to permit the on-site examiner to review and examine such documents. In addition, if a hearing under 5 U.S.C. 556 has been instituted at the laboratory's request, the laboratory is required to permit DOC to review and copy such documents for possible use as evidence to be presented at such a hearing.

(13) *Proficiency Testing (Concrete LAP).* Three commenters provided many suggestions regarding the within-laboratory and between-laboratory proficiency testing programs for the concrete LAP. One commenter requested clarification of the administration of a within-laboratory program. Such a program is intended to be an on-going monitoring system for the accredited laboratory's own use in identifying problems that may arise with its testing. A laboratory, in order to maintain its accreditation, is expected to continuously administer such a program of the kind outlined in Appendix 2. In response to this comment and at the recommendation of the concrete LAP committee, DOC has revised the requirements to submit a copy of the within-test variation table of figures for five consecutive weeks rather than three weeks as originally proposed.

Two commenters made specific suggestions related to the requirements of the between-laboratory program. One commenter suggested that the 28-day test on cylindrical specimens would provide more significant results than the 7-day test. DOC agrees but believes for the purpose of making comparisons between laboratories that the 7-day test is sufficient. One commenter suggested that the interval to detect testing problems would be too long if the comparison is made every six weeks as it takes six consecutive comparisons to be significant. He suggested that one solution would be to make at least one comparison during the operating season of 6–10 sets of specimens. Another commenter suggested that the frequency of comparison be every 3 weeks instead of 6 weeks. Another commenter suggested that it would be useful to compare the coefficient of variations of the comparison tests with the coefficient of variation obtained from the laboratory's within-laboratory program. The concrete LAP committee considered these suggestions and recommended that the laboratory be allowed to use either the 7-day or 28-day test, that the 6-week frequency of comparisons be retained, and that the calculation of the coefficient of variation for the comparison tests not be required because it would not be meaningful. DOC agrees with the committee's views and has implemented them in Appendix 2. In response to one comment at the recommendation of the concrete LAP committee, one editorial revision was made to improve the readability of step number 9 of the data analysis method for a between-laboratory program.

(14) *Proficiency Testing (Carpet LAP).* A number of comments addressed the proficiency testing requirements of the carpet LAP outlined in Appendix 3. One commenter suggested that proficiency testing should be required for ASTM E84

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and UL 992. DOC does not agree that these additional proficiency tests should be required because anticipated participation is not sufficient to make the test results statistically meaningful and useful for determining the capability of the participating laboratories to perform those tests.

One commenter suggested that proficiency tests are needed for ASTM E648, the flooring radiant panel test, as well as test methods for weight, compression set, and compression resistance included under addendum 3 of HUD Use of Materials Bulletin, UM 44c, if these test methods are added to the carpet LAP. These suggestions have been accepted as indicated in Appendix 3.

Two commenters objected to the publications of desired precision figures for test methods where no industry-wide figures have been established, for two reasons: (1) Such "desired precision" figures suggests that a determination has been made that a properly operating laboratory should obtain results within the specified intervals; and (2) such figures, if published, will inevitably be used by third parties as the basis for concluding that laboratories should be able to perform the specified tests within the published "precision" figures. The original intent of publishing "desired precision" figures was to give a laboratory guidance for its own internal quality control checks. However, DOC agrees that such publication may be misleading and indeed may be cited as mandatory by other authorities. Therefore, "desired precision" figures are being deleted until such time that valid data are available.

The frequency of proficiency testing was addressed by two commenters. One commenter urged that the frequency of testing be at least twice a year. Another commenter suggested that the frequency be reduced to once a year at least subsequent to the third proficiency test round in order to reduce costs. At the present time, DOC believes that proficiency testing two times a year is the most desireble frequency for the test methods in the carpet LAP. However, changes may be made at some future date should they be deemed appropriate. All efforts will be made to reduce the costs of proficiency testing wherever possible by combining samples, reducing mailings, etc.

(15) *Examination and Audit Procedures (Concrete LAP).* One commenter suggested that the concrete LAP be implemented in two phases: (1) The first phase would emphasize the training and actual performance of technicians to conduct the tests methods, and (2) the second phase would emphasize the required documentation such as the manual and record keeping provisions of the criteria. DOC believes that NVLAP accreditation should be based on all provisions of the criteria. Some provisions may be emphasized more than others during the early stages of implementing the concrete LAP. Then, after some experience has been gained, the emphasis can be adjusted accordingly. However, no provisions of the criteria can or should be ignored. If changes to the criteria become necessary to encourage greater participation, such changes will be considered at the appropriate time.

(16) *Examination and Audit Procedures (Carpet LAP).* A number of comments addressed the proposed examination and audit procedures for the carpet LAP. One commenter suggested that the frequency of the on-site examinations for the carpet LAP occur once per year for the first two years. Because the on-site examination is the most significant factor of cost to the carpet LAP and since greater frequency would significantly increase costs, DOC believe that a frequency of every two years is adequate for the nature of the carpet LAP test methods and should be retained.

One commenter stated that the functions of the on-site examiner were unclear, but should include the witnessing of the laboratory's ability to perform the test methods as well as evaluation of equipment, manuals, etc. DOC believes that an actual demonstration of the test methods is important in determining the capability of a laboratory to conduct tests, but is aware that some complex tests are so long and involved that such witnessing is not suitable. Accordingly, the on-site examiner will witness the conduct of tests as appropriate. The other functions of the on-site examiner will be to verify compliance with provisions of the general and specific criteria including a review of the quality control or laboratory operations control manual, test equipment, procedures, and record-keeping at the laboratory.

One commenter expressed concern that the LAPs lacked a simple means of rectifying deficiencies, particularly the types which occur during the initial accreditation process. DOC plans to provide ample opportunity for applicant laboratories to correct deficiencies before any recommendation to deny accreditation is prepared. In those cases where deficiencies are identified, the applicant laboratory will be notified of those deficiencies during the on-site examination and in a subsequent letter to the laboratory. The laboratory will be asked to certify in writing, and to document, where applicable, that the deficiencies have been corrected. The correction of the deficiencies may be further confirmed by an unannounced visit. If after a specified length of time a laboratory fails to rectify deficiencies or meet other requirements of the program, DOC will send a letter to that laboratory proposing to deny accreditation. The laboratory may appeal such a proposed denial by requesting in writing a hearing under the provisons of 5 U.S.C. 556.

One commenter expressed concern that the unannounced visits could be used as a tool for harassment of accredited laboratories and suggested that DOC specifically renounce such use of unannounced visits. It is DOC's policy not to use unannounced visits as a tool for harassment. Unannounced visits will be carried out either in a random manner or because there is a clear indication that a laboratory is having problems in complying with the criteria. Since NVLAP is intended to enhance the overall quality of testing, both announced and unannounced visits will be used constructively to identify deficiencies where they may exist and to aid in improving the laboratory's operations.

(17) *Examiner Qualifications.* One commenter indicated that the on-site examiner qualifications were not actually stated under the section on examiner qualifications. Accordingly, this section has been revised and incorporated as part of the description of the NVLAP accreditation process presented in later sections of this notice.

(18) *Costs & Fees.* A number of comments addressed the cost of accreditation to participating laboratories. One commenter wanted to know whether two fees are required for two plant laboratories under a single department head. Generally, separate fees are required for laboratories that have different people, different equipment, and separate and distinct facilities. However, if the physical location of the plant laboratories are adjacent or within a few blocks of each other, they may be considered as one laboratory with one fee, particularly if they share resources (i.e., same people, etc.). Since the major cost involved in the evaluation and accreditation of laboratories is the on-site visit, two laboratories in the same location which are integrally operated may be examined at one time thus reducing the costs.

Two commenters indicated that the fee structure is unrealistic and does not totally reflect the actual costs of becoming accredited. DOC recognizes that the cost to a laboratory to apply for accreditation is greater than the fees paid because of the internal costs of preparing the documentation and performing the operations necessary to be accredited. However, DOC also recognizes that in most cases a well-operated laboratory already has documentation, such as a quality control or laboratory operations control manual, used to guide its operations. For those laboratories the additional cost is minimal. Laboratories that do not have a manual but desire accreditation generally will find that the process of preparing a manual is beneficial because it will force the laboratory's management to carefully review its procedures and operations. During such a review, deficiencies may be found, and improvements can be made which lead to the overall upgrading of the laboratory. Then, too, most laboratories regularly employ internal quality control checks which are similar to those required by the criteria. Integration of the accreditation into the routine quality control checks will minimize these costs.

One commenter suggested that the "economies of scale" built into the fee structures are not applicable to carpet testing laboratories since these laboratories would not be interested in participating in the other LAPs. DOC believes that there are some laboratories interested in accreditation under both the carpet and insulation LAPs. In order to accommodate such laboratories the fee structure provides a reduction in the fixed charge for each additional LAP under which the laboratories desire to participate.

Instructions for Making Application

Any laboratory interested in being accredited under NVLAP should fill out the request for application form attached at the end of this notice and address it to: NVLAP Coordinator, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230.

The request letter should identify the laboratory accreditation programs (LAPs) and the specific test methods under each LAP in which the laboratory is interested. No commitment by the laboratory will be implied by such a request. Likewise, the Department of Commerce will only send an application package, and will take no further action unless a formal application for accreditation is submitted by the laboratory by the date specified in the application package. The laboratory will receive an application package tailored to its request.

All requests for application postmarked by February 29, 1980 will be considered with the next group of laboratories to be examined for accreditation. The application packages will be sent out on or about March 7, 1980. All laboratories submitting applications postmarked by April 11, 1980 and accompanied by the requisite fee or purchase order will be scheduled for their on-site examination. Applications received after this date will be included in subsequent groups of laboratories to be considered for accreditation six months to one year later.

A description of the NVLAP accreditation process and laboratory accreditation criteria for the three LAPs are provided below.

Dated: January 18, 1980.

Jordan J. Baruch,

Assistant Secretary for Science and Technology.

Accreditation Process

The accreditation process of the National Voluntary Laboratory Accreditation Program (NVLAP) is comprised of four elements: (1) Requesting accreditation, (2) the on-site examination, (3) proficiency testing, and (4) the evaluation and accreditation.

(1) Requesting Accreditation

Any testing laboratory interested in becoming accredited under NVLAP should fill out the request for application form in Appendix 4 at the end of this notice and address it to: NVLAP Coordinator, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230.

The request letter should identify the laboratory accreditation programs (LAPs) and the specific test methods under each LAP in which the laboratory is interested. No commitment by the laboratory will be implied by such a request. Likewise, the Department of Commerce will only send an application package, and will take no further action unless a formal application for accreditation is submitted by the laboratory by the date specified in the application package. The NVLAP Coordinator will acknowledge each request and forward it to the National Bureau of Standards (NBS) which will assemble an application package tailored to those LAPs and specific test methods for which the laboratory is interested.

Each application package will include—

(a) Instructions describing the steps to follow for becoming accredited;

(b) An application form and test method selection list,

(c) A fee schedule,

(d) Laboratory accreditation criteria, and

(e) "Supplemental information" relevant to each test method or group of test methods for which the laboratory seeks accreditation.

The application form elicits information relative to the laboratory accreditation criteria.

The fee schedule provides the applicant laboratory with the information needed to calculate the fees required in accordance with the list of test methods for which accreditation is sought. Intent to pay the applicable fees, as evidenced by the submittal of a check or purchase order in the appropriate amount, must be demonstrated before any evaluation work can be undertaken. All fees must be paid before a certificate of accreditation can be issued. In a separate notice appearing in the **Federal Register** today, DOC announced the issuance of the fee schedule which shows how the fees will be calculated.

The criteria employed for determining whether an applicant laboratory merits accreditation are divided into two types: general and specific. The general criteria relate to general characteristics commonly found in, and generally expected of, any reputable testing laboratory. The specific criteria are those requirements for accreditation that relate specifically to individual test methods. The specific criteria are designed so that they may be applied to all test methods in any NVLAP activity without having to be changed each time a test method is added or revised. Because "universal" language is used, some portions of the criteria may not be applicable to all test methods. This is why the words, "as applicable," are used several places in the criteria.

The "supplemental information" indicates how each section of the specific criteria relates to each test method or group of test methods. It identifies those sections of the specific criteria that are not applicable, indicates how the sections which are applicable are to be interpreted and implemented, and describes how a laboratory's compliance will be assessed. In essence, the "supplemental information" tailors the specific criteria to the particular characteristics of individual test methods. It will not extend the criteria into new areas and will be revised, as necessary, each time any test method is revised.

In order for a laboratory to be accredited under the NVLAP procedures, it shall agree in writing to the following basic conditions:

(1) Be examined and audited, initially and on a continuing basis;

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(b) Pay accreditation fees and charges;

(c) Avoid reference by itself and forbid others utilizing its services from referencing its accredited status in consumer media and in product advertising or on product labels, containers, and packaging or the contents therein;

Note.—A NVLAP accredited laboratory may advertise its accredited status on its letterhead, brochures, and test reports as well as in trade publications and other laboratory services advertsing media.

(d) Maintain compliance with applicable general and specific criteria;

(e) Participate in proficiency testing programs that may be required for maintaining accreditation.

The laboratory shall permit the on-site examiner to review and examine any records or other documents required by the criteria. Also, if a hearing under 5 U.S.C. 556 has been instituted at the laboratory's request, the laboratory shall permit DOC personnel to review and copy any records or other documents required by the criteria.

In addition, each applicant laboratory should be aware that compliance with the general and specific criteria and accreditation by the Secretary of Commerce will in no way relieve the laboratory from the necessity of observing and being in compliance with existing Federal, State, and local statutes, ordinances, and regulations, including consumer protection and antitrust laws, which may be applicable to the operation of the laboratory.

(2) On-site Examination

Upon receipt of a completed application form, NBS will send a site visit preparation form that elicits information regarding the applicant laboratory's operation as related to the specific criteria and individual test method for which accreditation is sought. Its purpose is to provide advance information to the on-site examiner so that an efficient and cost-effective evaluation of the laboratory may be accomplished during the on-site visit. This advance information will also be used to acquaint the different on-site examiners with the breadth and scope of operations at the laboratories so that the accreditation criteria may be more uniformly applied from laboratory regardless of the examiner.

Once an applicant laboratory has submitted a completed site visit preparation form, NBS will arrange a visit of the on-site examiner(s) to the laboratory. The on-site examiner(s) will confirm information supplied by the laboratory and will check conformance to the specific criteria applicable to each test method or group of test methods for which the laboratory seeks acreditation. The visit may last from one to three days or even longer depending upon the number and complexity of the test methods for which accreditation is sought. The on-site examiner(s) will conduct an exit interview with the laboratory's management at the conclusion of the on-site examination to summarize the examiner(s) findings.

A scheduled on-site examination and a complete reassessment of a laboratory's compliance with the criteria will be accomplished for each LAP as follows:

(a) Insulation LAP—approximately once a year for the first two years and approximately every two years thereafter.

(b) Concrete LAP—approximately every two and one-half years.

(c) Carpet LAP—approximately every two years.

In addition to regularly scheduled laboratory visits, unannounced visits may occur at any time. These visits may be initiated by the use of a random selection scheme or in response to a specific need because in the opinion of DOC the laboratory appears to have testing problems. In general, a complete review of the laboratory is not comtemplated for the unannounced visits. In the case of randomly selected visits, key items in the laboratory will be checked. In the case of visits due to an apparent problem, items relating to the problem will be checked. Failure of the laboratory to cooperate with the DOC representatives will be grounds for revocation of accreditation.

The on-site examiners will be government employees of NBS contract employees. NBS will be responsible for the professional and technical performance of all on-site examiners. On-site examiners will receive from NBS guidelines and materials for conducting the initial and periodic on-site examinations in a consistent manner from test method to test method and from laboratory to laboratory.

(3) Proficiency Testing

Proficiency testing is an integral part of the NVLAP accreditation process. Of utmost importance to the user of laboratory services is information as to whether or not a testing laboratory consistently obtains reliable results. The existence of facilities, equipment, and personnel, verified by a laboratory's ability to meet the criteria, establishes the capability for obtaining such results. An analysis of actual test results is necessary to determine if these ingredients do in fact produce the desired results. Each LAP has specific proficiency testing requirements. Implementation of these requirements may depend on the number of laboratories applying for each testing area covered, since in some cases a sufficient number of participants are necessary to reach statistically valid conclusions about test results obtained by each participant.

Insulation LAP. Laboratories applying for accrediation must expect to participate in proficiency tests where such tests are designated in Appendix 1. It may be that fewer than a statistically significant number of laboratories will request accreditation for one or more of the test methods requiring proficiency testing. In such a case, the requirement to conduct proficiency tests for that test method may be waived, and the evaluation for accreditation will be based only on the information submitted by laboratory and on the on-site examiner's assessment.

Values for the desired precision and accuracy for the test methods under the insulation LAP are shown in Appendix. 1. For test methods requiring proficiency testing, the precision and accuracy figures represent the values required for demonstrating "good" laboratory performance and the desired degree of proficiency. Approximately 95 percent of the laboratories should be able to achieve this level of proficiency. Limits approximately 50 percent greater are used to define "acceptable" performance for accreditation purposes. The frequency of proficiency testing is also shown in Appendix 1.

Concrete LAP. The concrete LAP committee carefully considered distribution of a proficiency sample. However, because of the complexity of preparing the sample and the uncertainty about reaching statistically valid conclusions regarding the test results, such distribution was not recommended. A somewhat different approach to proficiency testing is required for the concrete LAP.

The proficiency testing requirement consists of two programs: (1) A within-laboratory program; and (2) a between-laboratory program. Implementation of the between-laboratory program will not be required for the first year of accreditation under this LAP. However, all laboratories applying for initial or renewed accreditation under this LAP after the first year of accrediation will be required to establish a between-laboratory program.These two programs are intended to give a laboratory a relatively simple means of checking the reliability of its test results. The procedures for conducting a within-laboratory program and a between-laboratory program described in Appendix 2 are minimum guidelines (i.e., any laboratory may use a more sophisticated program or statistically rigorous analysis).

The minimum scope of these two proficiency programs required for laboratories requesting accreditation under the concrete LAP is as follows:

A laboratory applying for accreditation for the field test methods group only shall—

(a) Monitor the within-test variation of compressive strength test results on cylindrical concrete specimens made from the same sample of field concrete by its personnel using compressive strength test data produced by the compression testing facilities which normally break these specimens for the applicant laboratory (the within-laboratory program); and

(b) Compare with at least one other laboratory on a periodic basis compressive strength test results for cylindrical concrete specimens made by each laboratory from the same sample of field concrete (the between-laboratory program). (Note that after initial curing, a pair of cylindrical concrete specimens made by each cooperating laboratory will be transported to a single compression testing facility for completion of curing, capping, and testing.)

A laboratory applying for accreditation for the field and laboratory test methods group shall—

(a) Monitor the within-test variation of compressive strength test results on cylindrical concrete specimens made and tested by its personnel from the same sample of concrete (the within-laboratory program); and

(b) Compare with at least one other laboratory on a periodic basis compressive strength test results for cylindrical concrete specimens made and tested by each laboratory from the same sample of field concrete (the between-laboratory program).

Carpet LAP. Proficiency tests are proposed for the test methods shown in Appendix 3. Although it is intended that proficiency must be demonstrated for all of these test methods, that may not be feasible if an insufficient number of laboratories request accreditation for a given test method. In such a case, the accreditation would be based only on the information submitted by the laboratory and the on-site examiner's assessment.

Because there are no industry-wide recognized precision and accuracy values for many of the carpet tests, the adequacy of a laboratory's performance will be based on a statistical analysis of the returned proficiency test data. Laboratories exhibiting extreme test data in the statistical analysis will be subject to closer examination during the on-site examination and may be required to perform additional proficiency testing at their cost, or may be denied accreditation.

The frequency of testing for those test methods requiring proficiency tests is shown in Appendix 3.

(4) Evaluation and Accreditation

An evaluation by NBS of the written information supplied by the laboratory, the on-site examiners' assessment, and any proficiency testing data will form the basis for DOC's decision to accredit an applicant laboratory. NBS evaluators will review the submitted information, the on-site examination report, and the results of any proficiency testing, and make an evaluation of the laboratory for the purpose of recommending the approval, denial, or revocation of accreditation. Each evaluator will be a technical expert in those fields of testing covered by one or more LAPs. For each LAP there will be at least one evaluator thoroughly knowledgeable about the specific test methods included in that LAP and in performing day-to-day laboratory operations. The evaluators will be government employees or NBS contract employees. NBS will be responsible for the professional and technical performance of all evaluators and one of its key considerations in selecting evaluators and on-site examiners will be to minimize potential conflicts of interest.

DOC will make the final accreditation decision based upon the recommedations of NBS and such other considerations as may be appropriate. When the decision is favorable, DOC will issue a certificate of accreditation to the applicant laboratory. Laboratories will be granted accreditation for one year. The yearly accreditation fee must be paid before accreditation can be renewed.

Laboratory Accreditation Criteria

The final general and specific criteria to be used to accredit laboratories that test thermal insulation materials, freshly mixed field concrete, or carpet under the National Voluntary Laboratory Accreditation Program (NVLAP) of the U.S. Department of Commerce (DOC) are set forth below. These criteria have been developed in compliance with the NVLAP procedures (15 CFR Part 7a and Part 7b) and form the basis for accrediting testing laboratories that voluntarily reques this accreditation. These criteria are believed to be appropriate for use in accrediting laboratories which test many other kinds of products should NVLAP be requested in the future to provide such accreditation.

General Criteria

General criteria include characteristics that should be found in reputable testing laboratories. They include general information about a laboratory (e.g., name, address, ownership, management structure); conditions that must be met for accreditation (e.g., agreement to adopt certain policies); and the maintenance of a quality control or a laboratory operations control manual (e.g., written procedures and information addressing the control of staff, physical plant, operational processes, testing control procedures, and quality assurance) for use by laboratory staff in the laboratory.

The minimum information to be included in a laboratory's manual is identified in the specific criteria. In responding to the provisions of the specific criteria, an applicant laboratory develops the minimum written procedures and information necessary for its manual.

For initial and continued accreditation, each applicant shall provide, in writing, information in response to the following provisions:

Criterion G1. *The laboratory has a legally identifiable organizational structure that enables it to develop and maintain a testing capability to perform satisfactorily the functions for which accreditation is sought.*

G1.1 The laboratory shall submit a description of its organization including—

G1.1.1 The name and full address of the laboratory which is seeking accreditation;

G1.1.2 If the laboratory is part of a larger organization, the complete legal name and address of that larger organization;

G1.1.3 Ownership and amanagement structure of the laboratory, including the names and positions of its principal officers and board of directors;

G1.1.4 An outline or organizational chart identifying all key management and supervisory positions in each relevant operation, support, and service unit in the laboratory's functional organization, and defining at least those reporting relationships that are relevant to this accreditation request;

G1.1.5 Position description, including the required qualifications, of the person who has technical responsibility for the laboratory in the testing area(s) for which accreditation is sought; and

G1.1.6 A general description of the laboratory, including its facilities and scope of operation.

G1.2 The laboratory shall submit a statement of any fundamental changes related to the provisions of G1.1 within 30 calendar days of such changes.

Criterion G2. *The laboratory is operated in accordance with generally accepted professional and ethical business practices.*

G2.1 The laboratory shall agree in writing that as a minimum it will be its policy to—

G2.1.1 Perform the tests for which accreditation is sought in accordance with the designated test methods, and to report and explain deviations from those test methods in its test reports;

G2.1.2 Assure that reported values accurately reflect measured data;

G2.1.3 Limit test work to that for which competence and capacity are available;

G2.1.4 Treat test data, records, and reports as proprietary information;

G2.1.5 Respond to and attempt to resolve complaints contesting test results;

G2.1.6 Be capable of performing each test for which it is accredited according to the latest version of each test method within one year after publication or within another time limit specified by the Department of Commerce (DOC);

G2.1.7 Maintain an independent decisional relationship between its clients, affiliates, or other organizations, so that the laboratory's capacity to render test reports objectively and without bias is not adversely affected; and

G2.1.8 Return to DOC its certificate of accreditation, should it become unable to conform to any of these general and specific criteria for accreditation, for possible revision or other action.

Note.—Compliance with criterion G2 will be assessed when a complaint or other evidence, which is received by DOC, questions the accredited laboratory's compliance with this criterion.

Criterion G3. *The laboratory maintains a quality control system to help assure the technical integrity of its work.*

G3.1 The laboratory's quality control system must include a quality control manual or a laboratory operations control manual containing written procedures and information in response to the applicable requirements of the specific criteria. The procedures and information may be explicitly contained in the manual or may be referenced so that their location in the laboratory is clearly identified. The written procedures and information must be adequate to guide a testing technician (who is deemed qualified by the National Bureau of Standards (NBS) or by an NBS contractor) in conducting the tests in accordance with the test methods for which accreditation is sought.

G3.2 The laboratory shall have a current copy of its quality control manual or laboratory operations control manual available in the laboratory for use by laboratory personnel and shall make the manual available for DOC review and audit.

Note.—For NVLAP purposes the terms "quality control manual" and "laboratory operations control manual" are understood as follows. A quality control manual consists of general guidelines for the quality control of the laboratory's method of operation. Specific information is provided for portions of individual test methods whenever specifics are needed to comply with the criteria or otherwise support the laboratory's operations. A laboratory operations control manual consists of specific procedures and information for each test method responding to the applicable requirements of the specific criteria.

Specific Criteria

Specific criteria are those requirements for accreditation which relate specifically to individual test methods. The specific criteria are designed so that they may be applied to all test methods in any NVLAP activity without having to be changed each time a test method is added or revised. Because "universal" language is used, some portions of the specific criteria may not be applicable for all test methods. This is why the words, "as applicable," are used in several places in the specific criteria. For the test methods for which accreditation is sought, "supplemental information" will be sent to each applicant laboratory showing how the specific criteria relate to each of those test methods. The "supplemental information" identifies those sections of the specific criteria that are not applicable, indicates how those sections which are applicable are to be interpreted and implemented, and describes how a laboratory's compliance will be assessed. In essence, the "supplemental information" tailors the specific criteria to the particular characteristics of individual test methods. It will not extend the criteria into new areas and will be revised, as necessary, each time any test method is revised.

The provisions of the specific criteria are the following:

Criterion S1. *The laboratory is staffed by personnel who are competent to perform the tests for which accreditation is sought.*

S1.1 The laboratory shall assure the competency of its staff through the observation and/or examination of each relevant staff member in the performance of each test method or part thereof that each member is assigned to perform. Staff members who perform relatively simple tests at field locations with limited on-site supervision must annually pass an examination supplied by DOC. The observations at the laboratory must be conducted at intervals not exceeding one year by one or more individuals judged qualified by the person who has technical responsibility for the laboratory. In lieu of an annual observation or examination, current approval of staff members by DOC-recognized certification or licensing organizations in areas of competence encompassing these test methods is acceptable.

S1.2 The laboratory shall make available the description of its training program for assuring that new or untrained staff will be able to perform tests properly and uniformly to the requisite degree of precision and accuracy.

S1.3 The laboratory shall maintain in its personnel files—

(a) A record, including dates and results, of the observation or examination of performance for each test method or part thereof for which each staff member is assigned to perform;

(b) Certification of competence, if any, from recognized outside agencies; and

(c) A listing of training courses completed.

Criterion S2. *The laboratory's facilities, equipment, and procedures are appropriate for accreditation.*

S2.1 The laboratory shall maintain a list of its facilities and equipment required for each test method for which accreditation is sought, and, as applicable, a description of those facilities and equipment including—

(a) Sufficient identification of test instruments to allow correlation with calibration records;

(b) Schematics, drawings, diagrams or photographs of equipment and facilities for demonstrating conformance with the requirements of the test method; and

(c) A description of environmental or sample conditioning equipment and facilities showing how compliance with the requirements of the test method is measured and maintained.

S2.2 The laboratory shall provide evidence of the calibration, verification, and maintenance of the facilities and equipment specified for each test method for which accreditation is sought, through the following:

S2.2.1 A description of the procedures used in calibrating, verifying, and maintaining the test equipment and facilities, including, as applicable—

(a) Calibration and verification equipment or services used;

(b) Reference standards and materials used;

(c) Measurement assurance, collaborative reference, or other programs in which the laboratory participates;

(d) Routine maintenance; and

S2.2.2 Calibration and verification records including, as applicable—

(a) Equipment description or name;

(b) Name of manufacturer;

(c) Model, style, and serial number, or other identification;

(d) Equipment variables subject to calibration and verification;

(e) Range of operation and range of calibration and verification;

(f) Resolution of the instrument and allowable error to tolerances on readings;

(g) Calibration or verification schedule (intervals);

(h) Date and result of last calibration or verification and date of the next calibration or verification;

(i) Name of laboratory person or outside service providing the above calibration or verification; and

(j) Traceability to NBS or other authority as required.

S2.3 The laboratory shall maintain a test plan supplementing each test method for which accreditation is sought which includes, as applicable, instructions for—

(a) Equipment maintenance and verification checks;

(b) Specimen selection, handling, and disposal;

(c) Data collection, analysis, and reporting;

(d) Quality control checks and audits; and

(e) Any subcontractors performing part of the test and a description of how the laboratory assures the required precision and accuracy.

Note.—The intent of this provision, S2.3(e), is to allow subcontractors to perform common repetitive tasks (such as making slides or taking pictures) which are required by certain test methods. However, only laboratories having the measuring equipment by which final test data are obtained can be accredited. If data obtained using one test method in this accreditation program are used as input data for a second test method, or if the test procedures for one test method affects the results obtained in a second test method, a laboratory seeking accreditation for the second method must also be accredited for the first method. An accredited laboratory may not present final test data to a client as data from an accredited laboratory unless the final test data actually were obtained from an accredited laboratory.

S2.4 The laboratory shall maintain, as applicable, documented evidence that no degradation of performance results from the use of equipment, facilities, or procedures which are not in strict conformance with each test method for which accreditation is sought.

Criterion S3. *The laboratory maintains records of its operations.*

S3.1 The laboratory shall maintain records of those testing activities associated with each test method for which accreditation is sought, including the following:

S3.1.1 Test reports containing, as applicable—

(a) Name and address of the laboratory;

(b) Pertinent dates and identifying numbers;

(c) Name of client;

(d) Description and identification of the specimen (including, as necessary, location of the batch, lot, or project of the sampled material from which the specimen was taken);

(e) An appropriate title;

(f) Identification of the test method, procedure, or specification;

(g) Known deviations, additions to, or exclusions from the test method;

(h) Measurements, examinations, derived results, and identification of test anomalies;

(i) If necessary, a statement as to whether or not the test results comply with the requirements of product or project specifications;

(j) Signature of person having technical responsibility for the test report; and

(k) All items required by the test method.

Note.—The laboratory shall make available to DOC, upon request, a typical completed test report with the name of the client and source of any product deleted.

S3.1.2 Data generated during testing if not included in the test report, such as raw data, calculations, tables, graphs, sketches, and photographs; and

S3.1.3 Specimen control forms which document the receipt, handling, storage, shipping, and testing of specimens or a written description of the procedures and separate records that are maintained to control these operations.

S3.2 The laboratory shall have copies of applicable standards and other documents referred to or used in performing each test method for which accreditation is sought.

S3.3 The laboratory shall maintain records of its quality control checks and audits for monitoring its test work including—

(a) Records of audit sampling of the test results; and

(b) Records of detected errors and discrepancies and actions taken subsequent to such detection.

S3.4 The laboratory shall maintain a file of written complaints and disposition thereof.

S3.5 The laboratory shall retain records required by these general and specific criteria for a minimum of three years or for any longer period of time specified by Federal, State, or local requirements or other contractual requirements.

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Appendix 1: Insulation LAP (NVLAP-01)

Operational Information

List of Methods, Performance Guidelines and Proficiency Testing Requirements.

The test methods and performance guidelines for this LAP for thermal insulation materials are shown in Exhibit 1. The tests are the latest versions applicable and are identified by a NVLAP Code Number, a recognized test method number, and a short title. Performance guidelines are given in the column titled, "Desired Precision and Accuracy."

Test methods which require proficiency testing are identified in the column titled, "Test Frequency (Times Per Year)." Samples for these tests will be distributed at the frequency shown. The distribution of samples and analysis of resulting data will be handled by NBS.

The performance guidelines are expressed in terms of repeatability (R), which is a measure of the ability of a laboratory to repeat its own test result on the same or essentially identical samples, and accuracy (A), which is a measure of the ability of a laboratory to obtain a test result in agreement with the "true" or target test result. The limits specified in Exhibit 1 for precision and accuracy are for "good" performance. Approximately 95% of the laboratories should be able to achieve this. Limits approximately 50% wider are used to define "acceptable" performance for accreditation purposes. The limits presented in this Exhibit are for laboratory accreditation purposes only and should not be interpreted as setting specification limits on products.

Values for precision and accuracy are listed in Exhibit 1 for some test methods even though a proficiency test is not required for those tests. This information is given as a guide to the laboratory for assessing its own testing capability in lieu of a proficiency sample. This also represents the level of capability expected by NVLAP of the laboratories performing those tests.

The column labeled "Complexity" showing the letter B followed by the subscript 1, 2 or 3 indicates the complexity of the test method for examination purposes. These are used to determine examination costs and are explained in a separate Federal Register notice describing accreditation fees.

The last column identifies footnote comments listed at the end of Exhibit 1 which pertain to individual test methods.

Exhibit 1

NVLAP Code/ Test Method Number	Complexity	Short Title (property) Subtitle (if applicable)	Desired Precision and Accuracy	Test Frequency (Times per Year)	Comments
01/C01 ASTM C739 (para. 7.7 in 77 version)	B_2	Corrosiveness; Cellulosic fiber (loose-fill)	Non-quantitative test		
01/C02 HH-I-515 (para. 4.8.5 in D version Amendment 1)	B_2	Corrosiveness; Cellulosic fiber (loose-fill)	Non-quantitative test		
01/D01 ASTM C136	B_1	Sieve or screen analysis	R = 4% aggregate A = 4.4% aggregate		
01/D02 ASTM C167	B_1	Thickness and density Blanket and batt	Thickness: A=1/16 in. (1.0 mm) Density: A = 2%		
01/D03 ASTM C209 (para. 6 in 72 version)	B_1	Thickness Board (cellulosic fiber)	A = 0.1 mm		
01/D04 ASTM C209 (para. 13 in 72 version)	B_1	Water absorption, 2 hour Board (cellulosic fiber)	A = 25% of percent water absorption	2	A
01/D05 ASTM C209 (para. 13 in 72 version) by D1037 (para.100-106 in 72 version)	B_1	Water absorption, 24 hour Board (cellulosic fiber)	A = 25% of percent water absorption	2	A
01/D06 ASTM C209 (para. 13 in 72 version) by D1037 (para. 107-110 in 72 version)	B_2	Linear expansion Board (cellulosic fiber)	A = 0.1% expansion		
01/D07 ASTM C272	B_1	Water absorption Core materials	A = 25% of percent water absorption	2	A
01/D08 ASTM C302	B_1	Density Preformed pipe insulation	Thickness: A = 1 mm Density: A = 2%		
01/D09 ASTM C303	B_1	Density Preformed block insulation	A = 2%		
01/D10 ASTM C355	B_2	Water vapor transmission Thick materials Desiccant method	A = 25%	2	

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NVLAP Code/ Test Method Number	Complexity	Short Title (property) Subtitle (if applicable)	Desired Precision and Accuracy	Test Frequency (Times per Year)	Comments
01/D11 ASTM C356	B_1	Linear shrinkage Soaking heat Preformed high temperature insulation	R = 0.5% linear shrinkage A = 0.5% linear shrinkage		
01/D12 ASTM C411	B_1	Hot-surface performance High temperature insulation	Warpage: A = 1 mm		
01/D13 ASTM C519	B_2	Density Loose-fill (fibrous)	A = 2%		
01/D14 ASTM C520	B_2	Density Granular loose-fill	A = 2%		
01/D15 ASTM D756	B_2	Weight and shape changes Accelerated service (Proc. A) Plastics	A = 0.5% weight change A = 0.5% linear dimension change A = 1.5% volume change		
01/D16 ASTM D756	B_2	Weight and shape changes Accelerated service (Proc. B) Plastics	Same as for 01/D15		
01/D17 ASTM D756	B_2	Weight and shape changes Accelerated service (Proc. E) Plastics	Same as for 01/D15		
01/D18 ASTM D1622	B_2	Apparent density Rigid cellular plastics	A = 4%		
01/D19 ASTM D2126	B_2	Response to thermal and humid Aging (Proc. B) Rigid cellular plastics	A = 0.5% weight change A = 0.5% linear dimension change		
01/D20 ASTM D2126	B_2	Response to thermal and humid Aging (Proc. D) Rigid cellular plastics	Same as 01/D19		
01/D21 ASTM D2126	B_2	Response to thermal and humid Aging (Proc. E) Rigid cellular plastics	Same as 01/D19		
01/D22 ASTM D2126	B_2	Response to thermal and humid Aging (Proc. F) Rigid cellular plastics	Same as 01/D19		
01/D23 ASTM D2842	B_2	Water absorption Rigid cellular plastics	A = 1.0% absorption (by volume)	2	
01/D24 ASTM C739 (para. 7.5 in 77 version)	B_2	Moisture absorption Cellulosic fiber (loose-fill)	A = 25% percent water absorption	2	B
01/D25 HH-I-515 (para. 4.8.3 in D version Amendment 1)	B_2	Moisture absorption Cellulosic fiber (loose-fill)	A = 25% percent water absorption	2	B

NVLAP Code/ Test Method Number	Complexity	Short Title (property) Subtitle (if applicable)	Desired Precision and Accuracy	Test Frequency (Times per Year)	Comments
01/D26 HH-I-515 (para. 4.8.1 in D version Amendment 1)	B_2	Settled density Cellulosic fiber (loose-fill)	A = 3%	2	
01/F01 ASTM D777 as modified by Federal Specification H-H-B-100B	B_1	Flammability Paper and paperboard	Char length: R = 3.6% A = 9.0% Fire Resistance permanence: R = 6% increase in char length A = 10% increase in char length		
01/F02 ASTM E84	B_3	Surface burning characteristics Building materials	Flame spread classification: A = 20% Smoke classification: A = 40%	2	
01/F05 ASTM E136	B_1	Behavior of Materials in a Vertical Tube Furnace	Primarily a non-quantitative test		
01/F06 ASTM C739 (para. 10.4 in 77 version)	B_3	Flame resistance permanency cellulosic fiber (loose-fill)	A = 20% flame spread		
01/F07 HH-I-515 (para. 4.8.7 in D version Amendment 1)	B_3	Critical radiant flux Radiant Panel (cellulosic fiber, loose-fill)	A = 14% R = 20%	2	
01/F08 HH-I-515 (para. 4.8.8 in D version Amendment 1)	B_2	Smoldering combustion cellulosic fiber (loose-fill)	A = 20% R = 20%	2	
01/S01 ASTM C165	B_2	Compressive properties Thermal Insulation Proc. A	A = 4%	2	
01/S02 ASTM C203	B_2	Breaking load/flexural strength Preformed block insulation	Breaking load: A = 2% Flexural strength: A = 10%	2	
01/S03 ASTM C209 (para. 9 in 72 version)	B_2	Transverse strength Board (cellulosic fiber)	A = 4%		C
01/S04 ASTM C209 (para. 10 in 72 version)	B_2	Deflection at specified load Board (cellulosic fiber)	A = 0.2 mm		D

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NVLAP Code/ Test Method Number	Complexity	Short Title (property) Subtitle (if applicable)	Desired Precision and Accuracy	Test Frequency (Times per Year)	Comments
01/S05 ASTM C209 (para. 11 in 72 version)	B_2	Tensile strength Parallel to surface Board (cellulosic fiber)	A = 15%		
01/S06 ASTM C209 (para. 12 in 72 version)	B_2	Tensile strength Perpendicular to surface	A = 4%		
01/S07 ASTM C273	B_2	Shear test Sandwich construction	A = 25%		
01/S08 ASTM C446	B_2	Breaking load/modulus of rupture Preformed pipe insulation	Breaking load: A = 2%		
			Modulus of rupture: A = 5%		
01/S09 ASTM D781	B_2	Puncture Test Paperboard and fiberboard	R = 7.3% A = 8.0%		
01/S10 ASTM D828	B_2	Tensile breaking strength Paper and paperboard	R = 5% A = 11%	6	
01/S11 ASTM D1621	B_2	Compressive properties Rigid cellular plastics Proc. A - Crosshead	A = 6%		E
01/T01 ASTM C177	B_3	Thermal transmission properties Low-temperature guarded hot plate	R = 1% A = 4%	2	F
01/T04 ASTM C236	B_3	Thermal conductance Guarded hot box	A = 4%	1	
01/T05 ASTM C335	B_3	Thermal conductivity Pipe insulation	A = 4%	2	
01/T06 ASTM C518	B_3	Thermal transmission properties Heat flow meter	R = 1% A = 4%	2	G
01/T09 ASTM C653	B_2	Thermal resistance (Rec. Practice) Blanket (mineral fiber)	See 01/T01 and 01/T06		H
01/T10 ASTM C687	B_2	Thermal resistance (Rec. Practice) Loose-fill (fibrous)	See 01/T01, 01/T04 and 01/T06		H
01/V02 ASTM D591	B_1	Starch in paper Qualitative test	Non-quantitative test		
01/V03 ASTM D2020	B_1	Mildew (fungus) resistance Paper and paperboard	Non-quantitative test		
01/V04 ASTM E96	B_2	Water vapor transmission Thin sheets Proc. A	R = 19% A = 25%		
01/V05 HH-I-515 (para. 4.8.6 in D version Amendment 1)	B_1	Fungus, Cellulosic fiber (loose-fill)	Non-quantitative test		
01/V06 HH-I-515 (para. 4.8.9 in D version Amendment 1)	B_1	Starch, Cellulosic fiber (loose-fill)	Non-quantitative test		

Footnotes:

A - Accreditation for one or more of 01/D04, 01/D05 and 01/D07 requires proficiency testing in only one of these tests.

B - Accreditation for 01/D24 and 01/D25 requires proficiency testing in only one of these tests.

C - Both 01/S01 and 01/S02 proficiency tests are required for accreditation of any one or all 01/S03, 01/S04, 01/S05, 01/S06, 01/S07 and 01/S08.

D - Eligible for accreditation only if accredited for 01/S03.

E - Accreditation for 01/S11 requires proficiency testing in both 01/S01 and 01/S02.

F - Proficiency test not required if performing proficiency test in 01/T06.

G - Proficiency test not required if performing proficiency test in 01/T01.

H - Eligible for accreditation only if laboratory is accredited for 01/T01, 01/T04 or 01/T06.

Appendix 2: Concrete LAP (NVLAP-02)

Operational Information

List of Test Methods and Test Method Grouping.

The test methods included in this LAP for freshly mixed field concrete are shown in Exhibit 2. The tests are the latest versions applicable and are identified by a NVLAP Code Number, a recognized test method number, and a short title. Because of the interrelationship among test methods, accreditation is granted for two groups of test methods rather than on an individual test method basis. Laboratories may seek accreditation for a Field Group (02/G01) or for a Field and Laboratory Group (02/G02) as identified in Exhibit 2. Each laboratory must have the capability of performing all of the tests in the group selected. ASTM test method C173 (NVLAP 02/A02) is optional and is not required for accreditation in either group. Evaluation of ASTM C173 is available and may be elected at no extra cost.

Exhibit 2

NVLAP Code/ Test Method Number	Short Title	Test Method Group NVLAP Code: Field 02/G01	Test Method Group NVLAP Code: Field and Laboratory 02/G02
02/M01 ASTM C31	Making and Curing Concrete Test Specimens in the Field	X	X
02/M03 ASTM C172	Sampling Fresh Concrete	X	X
02/P01 ASTM C143	Slump of Portland Cement Concrete	X	X
02/W01 ASTM C138	Unit Weight, Yield, and Air Content (Gravimetric) of Concrete	X	X
02/A01 ASTM C231	Air Content of Freshly Mixed Concrete by the Pressure Method	X	X
02/S01 ASTM C39	Compressive Strength of Cylindrical Concrete Specimens		X
02/A02 ASTM C173	Air Content of Freshly Mixed Concrete by the Volumetric Method		

On-Site Examination.

On-site examination for this LAP will be performed by an examining organization selected and appointed by NBS. The Cement and Concrete Reference Laboratory (CCRL) which is sponsored by the American Society for Testing and Materials (ASTM) has been recognized as such an examining organization. The CCRL which has provided inspection service to testing laboratories since 1929, reports its findings directly to the laboratories requesting this service. The CCRL inspection charge is customarily determined by ASTM. However, it is estimated that the cost will be $850 per inspection for the Field Test Method Group and $1000 per inspection for the Field and Laboratory Test Method Group. On-site examinations of NVLAP applicant concrete laboratories will be scheduled as part of the existing CCRL inspection tour. At the present time, the CCRL inspection tour covers all participating laboratories in about two and one-half years. Accordingly, applicant laboratories may anticipate this approximate time frame for examination.

Each applicant laboratory inspected by the CCRL since March 1, 1978, will not require reexamination in order to be accredited under the first round of accreditation for the concrete LAP provided that it authorizes review of the recent CCRL inspection report by NVLAP personnel, certifies that any deficiencies noted in the report have been corrected, provides written information confirming compliance with NVLAP criteria, and pays the NVLAP administrative charge of $500 for the concrete LAP.

Those applicants not inspected by CCRL since March 1, 1978, will be contacted by CCRL concerning the scheduling of an on-site examination. All fees associated with the inspection will be collected for the CCRL by ASTM. The CCRL inspection report will be made available for review by NVLAP personnel. The NVLAP administrative charge of $500 for the concrete LAP will be collected separately.

Proficiency Testing Requirements.

The proficiency testing requirement for the concrete LAP is composed of a "within-laboratory program" and a "between-laboratory program" for the compressive strength test.

WITHIN-LABORATORY PROGRAM

Purpose. A within-laboratory program is designed to allow a laboratory to monitor the variability of its test results produced as a normal part of its operations. More specifically, the program provides a means for measuring the ability of a laboratory to repeat its own test result on cylindrical concrete specimens made from a sample of concrete taken from a single batch. This "repeatability" characteristic is commonly referred to in the concrete standards literature as within-test variation. A statistical measure of within-test variation is the coefficient of variation. The paragraphs which follow outline procedures for calculating the coefficient of variation, and provide guidelines for interpreting the significance of the calculated values. The procedures are based on the Standard Recommended Practice for Evaluation of Strength Test Results of Concrete - American Concrete Institute (ACI) 214-77.

General Procedures. The procedures for carrying out a within-laboratory program are slightly different depending on whether a laboratory applies for accreditation for the Field Test Method Group or for the Field and Laboratory Test Method Group. For the Field Group, each applicant laboratory shall monitor the within-test variation of compressive strength test results on cylindrical concrete specimens made from the same sample of concrete by its personnel using compressive strength test data produced by the compression testing facilities which normally break these specimens for the applicant laboratory. For the Field and Laboratory Group, each applicant laboratory shall monitor the within-test variation of compressive strength test results on cylindrical concrete specimens made and tested by its personnel from the same sample of concrete.

Data Analysis Method. The following method for monitoring within-test variation applies for both test method groups:

(1) Randomly select at least ten tests per week and calculate the difference between the lowest and highest values for the companion cylindrical concrete specimens for each test. If less than ten tests were made in a given week use as many tests as were conducted. A test, as defined by ACI 214, is the average strength of all specimens--usually two or three of the same age fabricated from a sample taken from a single batch of concrete.

(2) Calculate the coefficient of variation (V) for each test using the formula:

$$V = \frac{R \times 1/d_2 \times 100}{\bar{X}} \text{ percent}$$

where: R = difference between the lowest and highest values for the companion cylindrical concrete specimens

$1/d_2$ = conversion factor:
for two companion cylindrical concrete specimens, $1/d_2 = 0.886$
for three companion cylindrical concrete specimens, $1/d_2 = 0.591$

$\bar{X}$ = average strength for the companion cylindrical concrete specimens for each test.

(3) Identify all V's that exceed 10%. Values for the coefficient of variation over 10% should occur no greater than one in twenty tests. If the frequency is greater than one in twenty, the laboratory should check its operations for possible procedural aberrations.

(4) Calculate the average of the coefficient of variation ($\bar{V}$) for all the tests randomly selected each week, using the formula:

$$\bar{V} = \frac{\sum_{1}^{n} V}{n}$$

where: n = number of tests randomly selected for sampling for the week.

(5) Calculate a five week moving average ($\bar{\bar{V}}$) of the weekly averages of the coefficient of variation ($\bar{V}$) for the five most recent weeks, using the formula:

$$\bar{\bar{V}} = \frac{\sum_{x-4}^{x} \bar{V}}{5}$$

where: x = number of weeks that have elapsed since the beginning of the within-laboratory program.

(6) Rate each moving average coefficient of variation ($\bar{\bar{V}}$) as follows:

Rating	$\bar{\bar{V}}$ (%)
Satisfactory (SAT)	below 5.0
Unsatisfactory (UNSAT)	above 5.0

(7) Prepare a table showing at least the following information:

Week Ending	Approximate Number of Tests for Week	No. of Tests Sampled for Week	No. of $\bar{V}$'s Exceeding 10%	$\bar{V}$(%)	$\bar{\bar{V}}$(%)	Rating

This table provides a check on the variability of the laboratory's testing operations. Values for the five week moving average coefficient of variation should not be greater than 5 percent. If they are greater than 5 percent, the laboratory must investigate its operations to find the possible causes for

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this wide variation and tighten its quality control accordingly. Actions taken to remove the causes of variation identified must be recorded and filed. Raw data used to compile the table for at least the five most recent weeks must be available for NVLAP audit. (Note: It is recognized that responsibility for within-test variations is shared when others test cylindrical concrete specimens.)

An example of a within-test variation table follows:

Week Ending	Approximate Number of Tests for Week	No. of Tests Sampled for Week	No. of $\bar{V}$'s Exceeding 10%	$\bar{V}$(%)	$\overline{\bar{V}}$(%)	Rating
3/3	85	10	0	4.0		
3/10	110	10	1	6.0		
3/17	100	10	0	3.0		
3/24	125	10	1	5.0		
3/31	115	10	0	3.0	4.2	SAT
4/7	90	10	1	7.0	4.8	SAT
4/14	140	10	3	11.0	5.8	UNSAT
4/21	130	10	1	8.0	6.8	UNSAT
4/28	145	10	1	5.0	6.8	UNSAT
5/5	120	10	0	3.0	6.8	UNSAT
5/12	140	10	0	2.0	5.8	UNSAT
5/19	160	10	0	4.0	4.4	SAT
5/26	180	10	0	2.0	3.2	SAT
6/2	170	10	0	2.0	2.6	SAT

Requirements. The following are the operational requirements for the within-laboratory program:

(1) The laboratory shall have its within-laboratory program implemented within 90 days after the date of application for accreditation.

(2) The laboratory shall document the procedures used to respond to problem areas of testing identified by unsatisfactory ratings under the within-laboratory program.

(3) The laboratory shall submit to NBS a copy of the within-test variation table of figures two times during its operating season with the minimum time between submissions not less than six weeks.

An on-site examiner will verify that the within-laboratory program is documented and operational. Evidence will be sought of timely action taken by the laboratory in responding to unsatisfactory ratings. The on-site examiner may verify the rating obtained by the laboratory by analyzing data sampled from the data pool used by the laboratory in its calculations. Differences in results may lead to the request for data and copies of pertinent documents for further analysis and evaluation at NBS.

BETWEEN-LABORATORY PROGRAM

Purpose. A between-laboratory program is designed to produce, for each cooperating laboratory, information related to the reliability of its test results. By periodically comparing the compressive strength test results obtained by each cooperating laboratory using the same sample of concrete tested at the same age, differences in the test results can be calculated. If such differences are too large (i.e., statistically significant), the cooperating laboratories may reasonably conclude that aberrations are present in the testing procedures of one or the other laboratory, or possibly both laboratories. In such a case, a close review of each cooperating laboratory's testing procedures is warranted so that any aberrations may be identified and corrected. The method outlined under the paragraph titled, "Data Analysis Method," provides a step-by-step procedure for calculating the differences and for interpreting the significance of such calculated values.

General Procedures. The procedures for carrying out a between-laboratory program are slightly different depending on whether a laboratory applies for accreditation for the field test method group or for the field and laboratory test method group (see Exhibit 2). For the Field Group, each applicant laboratory shall compare with at least one other laboratory on a periodic basis compressive strength test results for cylindrical concrete specimens made by each laboratory from the same sample of concrete. After initial curing, a pair of cylindrical concrete specimens made by each cooperating laboratory will be transported to a single compression testing facility for final moist curing, capping, and testing. For the Field and Laboratory Group, each applicant laboratory shall compare with at least one other laboratory on a periodic basis compressive strength test results for cylindrical concrete specimens made and tested by each laboratory from the same sample of concrete.

Each applicant laboratory shall arrange with another laboratory(ies) a periodic schedule for comparing compressive strength test results. For each comparison, the cooperating laboratories shall select a mutually convenient time and project site for obtaining concrete samples. Each sample selected must be large enough for each cooperating laboratory to make two companion cylindrical concrete specimens. The sample must be part of either laboratory's routine work. It is suggested that the laboratories alternate visits to each other's project sites so that the expense of extra trips can be equally shared. For each sample, each cooperating laboratory shall independently mold, cure, transport, ship, store, cap, and test at 7 or 28 days age its pair of cylindrical concrete specimens. The concrete should have a specified nominal compressive strength between 3,000 and 5,000 psi and a slump exceeding two inches.

Data Analysis Method. The following method for two cooperating laboratories making the comparison applies for both test method groups:

(1) Test the two cylindrical concrete specimens in accordance with ASTM C39.

(2) Calculate the average strength ($\bar{X}$).

(3) Calculate the difference, D, between each laboratory's results:

$$D = (\bar{X}_a - \bar{X}_b)$$

where: D = the difference between each laboratory's average strength

$\bar{X}_a$ = average strength of laboratory A's cylindrical concrete specimens

$\bar{X}_b$ = average strength of laboratory B's cylindrical concrete specimens

(Note: Always keep the laboratory identification the same since "D" may be either plus or minus.)

(4) Calculate the average difference of the current and previous 5 comparisons, or the total number of comparisons if fewer than six but more than three as follows:

$$\bar{D} = \frac{\Sigma D}{n}$$

where: $\bar{D}$ = average difference

ΣD = algebraic sum of differences using the sign of each difference

n = number of differences.

(5) Calculate the standard deviation of "n" differences as follows:

$$S = \left[\left[(\Sigma D^2) - (\Sigma D)^2/n\right] \div (n-1)\right]^{1/2}$$

where: ΣD^2 = algebraic sum of squared differences.

(Note: These calculations are easily made on inexpensive hand-held calculators.)

(6) Calculate the significant difference, (sig. dif.) as follows:

$$\text{sig. dif.} = (tS) \div (n)^{1/2}$$

where: t = Student "t" statistic from Table 1 below.

Table 1. Values of Student "t" at $\alpha = .01$

n	t
3	9.92
4	5.84
5	4.60
6	4.03

(7) Compare the average difference $\bar{D}$ and the significant difference (sig. dif). Conclude that: the cooperating laboratories are probably obtaining significantly different results if the absolute value of $\bar{D}$ exceeds the significant difference (sig. dif.). (Note: $\bar{D}$ and S are recomputed each time a comparison is made and the consecutive values of $\bar{D}$ and S are not statistically independent or random. Therefore, significant differences will be indicated more often than once in 100 ($\alpha = .01$) when no real difference exists. Also, since the values are not statistically independent, there will be a tendency for the magnitude of $\bar{D}$ to exceed sig. dif. on consecutive comparisons.)

(8) Examine the sign of consecutive individual differences D and conclude: (a) that it is likely that the cooperating laboratories are obtaining different results if five consecutive differences have the same sign, and (b) that it is certain that the laboratories are obtaining different results if seven consecutive differences have the same sign.

(9) When new data (after the first six sets of data have been recorded) are obtained, examine each individual difference (D) in a group of seven consecutive differences ($D_1 - D_7$). If any one of the D values appears to be in gross error use the following method to check your assumption. Using six of the seven D values, not including the D under investigation, calculate the average D and the standard deviation S_1 as defined in step 5 for the six D values. If the D under investigation differs from the average D by more than 3S, then it can be concluded that a gross error has occurred. This value of D should be recorded but not used in future calculations.

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(10) Tabulate the results as follows:

Item	Date
1. Sample Description	
2. Class Concrete	
3. Lab A, $\bar{X}_a$	
4. Lab B, $\bar{X}_b$	
5. $\bar{D}$	
6. D	
7. S	
8. n	
9. sig. dif.	
10. 3S	
11. Action required?	

(11) When any excessive differences are detected using the methods in paragraphs 7 (D exceeding sig. dif.), 8 (5 to 7 consecutive values of D are the same sign), and 9 (D exceeding 3S), a careful review of each cooperating laboratory's testing procedures must be done to identify any aberrations that may be present. Generally, an additional between-laboratory comparison should be scheduled to verify that aberrations have been eliminated. However, no mandatory rules can be established since either or both laboratories may contribute to the difficulty and the cooperating laboratory may not be an accredited laboratory. In some instances the cause for an errant result may become clearly apparent such as an error in report transcription or an error in labeling a specimen.

"Other" Cooperating Laboratory Qualifications. Each applicant laboratory shall select its "other" cooperating laboratory(ies) which must meet at least one of the following qualifications:

(1) Be a NVLAP accredited laboratory.

(2) Be a nonaccredited commercial testing laboratory.

(3) Be a laboratory administered by a state, municipality, or other governmental agency.

(4) Be a laboratory operated by a representative of a contractor, engineer, architect, concrete producer, or other agency on a job.

(5) Consist of two different laboratories (one of which does the field tests and the other of which does the laboratory tests). The field tests consist of making the cylindrical concrete specimens, providing initial curing, and transporting the specimens to the laboratory. The laboratory tests consist of curing, capping, and testing the cylindrical concrete specimens.

In unusual circumstances under which no other qualified laboratory is available, different groups of employees of the same laboratory can perform as the "other" laboratory provided:

(a) The two groups are employed by different divisions of the same laboratory and report to persons other than those responsible for the supervision and operation of the laboratory seeking accreditation.

(b) The testing operations are carried out separately with initial curing, transporting, stripping, final curing, capping and testing being done by different personnel using facilities and equipment physically remote and clearly distinct from one another.

In circumstances where there is no laboratory with acceptable curing, capping, and testing facilities in a convenient geographical area, it may be necessary for the cooperating laboratories to carefully pack and ship or transport the specimens by truck, bus, or other means to a laboratory with appropriate facilities. Preliminary contacts with individual state highway and transportation departments have indicated that they may be receptive to requests for their participation as an agency to receive, cure, cap, and test cylindrical concrete specimens.

There is no mandatory requirement for the period of time the "other" cooperating laboratory should remain with the accredited laboratory. However, a minimum period of one year is recommended.

Requirements. The following are the operational requirements for the between-laboratory program:

(1) Each applicant laboratory shall implement the between-laboratory program before July 1, 1981.

(2) Each applicant laboratory shall be responsible for obtaining the "other" cooperating laboratory.

(3) Each applicant laboratory shall arrange a comparison test on an average of every six weeks of the laboratory's annual operating season with the maximum period between comparison tests not to exceed ten weeks.

(4) Each applicant laboratory shall submit to NVLAP a copy of the comparison test results table at least once every six months during its operating season. A minimum of two submissions per operating season is required with the minimum time between submissions not less than six weeks.

An on-site examiner will verify that the between-laboratory program is documented and operational. Evidence will be sought of timely actions taken by the laboratory to identify and correct any causes of aberrations. If questions arise regarding the validity of the between-laboratory program, copies of pertinent documents may be requested for further examination and evaluation at NBS.

Appendix 3: Carpet LAP (NVLAP-03)

Operational Information

List of Methods and Proficiency Testing Requirements.

The test methods for this LAP for carpet are shown in Exhibit 3. The tests are the latest versions applicable and identified by a NVLAP Code Number, a recognized test method number, and a short title.

Test methods which require proficiency testing are identified in the column titled, "Test Frequency (Times per Year)." Samples for these tests will be distributed at the frequency shown. The adequacy of a laboratory's performance will be based on a statistical analysis of returned proficiency test data. Laboratories exhibiting extreme test results will be subject to closer examination during the on-site examination and may be required to perform additional proficiency testing at their cost, or may be denied accreditation. The column labeled "Complexity" showing the letter B followed by the subscript 1, 2, 3 or 4 indicates the complexity of the test method for examination purposes. These are used to determine examination costs and are explained in a separate Federal Register notice describing accreditation fees.

Exhibit 3

NVLAP Code/ Test Method Number	Complexity	Short Title Subtitle (if applicable)	Test Frequency (Times per Year)
03/C01 AATCC 16E	B_2	Colorfastness to Light (Xenon Arc)	2
03/C02 AATCC 8	B_1	Colorfastness to Crocking	
03/D01 ASTM D418	B_2	Methods of Testing Woven and Tufted Pile Floor Coverings	
		Pile Weight - Uncoated (Para. 10-19)	
		Pile Weight - Coated (Para. 20-29) as modified by UM 44C	2
		Pile Thickness - (Para. 30-36)	2
		Tuft Height - (Para. 37-45) as modified by UM 44C	
03/D02 DDD-C-95A	B_1	Shrinkage	
03/S01 ASTM D1335	B_2	Tuft Bind of Floor Coverings	2
Federal Test Method Standard 191-5100		Textile Test Method - Breaking Strength	
191-5950		Textile Test Method - Delamination	2
03/E01 AATCC 134/ CRI 102	B_2	Electrostatic Propensity of Carpets	
03/F01 ASTM E84	B_3	Surface Flammability (Carpet)	X/A
03/F02 UL 992	B_3	Surface Flammability	
03/F03 DoC FF1-70	B_1	Methenamine Pill Test	
03/F04 ASTM E648	B_3	Radiant Panel (Carpet)	2
03/B01 UM 44C Addendum 3	B_3	Attached Cushion Tests	
03/B02 UM 44C Addenda 2 and 3	B_4	Attached Cushion Tests	

/A Proficiency testing requirements dependent on the number of LAPs in which laboratory is enrolled for this test.

Appendix 4: Request for Application

TO RECEIVE A NVLAP APPLICATION PACKAGE COMPLETE THIS FORM (OR A PHOTOCOPY) AND SEND TO:
NVLAP Coordinator
Room 3876
U.S. Department of Commerce
Washington, D.C. 20230

THE NVLAP APPLICATION PACKAGE INCLUDING SUPPLEMENTARY INFORMATION WHICH DESCRIBES REQUIREMENTS FOR NVLAP ACCREDITATION FOR EACH TEST METHOD SHOULD BE SENT TO:

Laboratory Name _____

Street _____

City _____ State _____ Zip Code _____

Attention: (Requestor's Name) _____

CHECK EACH ACCREDITATION PROGRAM AND TEST METHOD LISTED BELOW FOR WHICH INFORMATION IS DESIRED (refer to Appendices 1, 2, and 3 of this notice for the title of each test method). THIS REQUEST POSES NO OBLIGATION TO PARTICIPATE IN THE PROGRAM.

_____NVLAP 01 - Thermal Insulation Materials

___01/C01	___01/D10	___01/D21	___01/F08	___01/S11
___01/C02	___01/D11	___01/D22	___01/S01	___01/T01
___01/D01	___01/D12	___01/D23	___01/S02	___01/T04
___01/D02	___01/D13	___01/D24	___01/S03	___01/T05
___01/D03	___01/D14	___01/D25	___01/S04	___01/T06
___01/D04	___01/D15	___01/D26	___01/S05	___01/T09
___01/D05	___01/D16	___01/F01	___01/S06	___01/T10
___01/D06	___01/D17	___01/F02	___01/S07	___01/V02
___01/D07	___01/D18	___01/F05	___01/S08	___01/V03
___01/D08	___01/D19	___01/F06	___01/S09	___01/V04
___01/D09	___01/D20	___01/F07	___01/S10	___01/V05
				___01/V06

_____NVLAP 02 - Freshly Mixed Field Concrete

_____ Field Group - 02/G01 (ASTM C31, C172, C143, C138, C231)

_____ Field and Laboratory Group - 02/G02 (ASTM C31, C172, C143, C138, C231, C39)

_____ 02/A02 (ASTM C173)

_____NVLAP 03 - Carpet

___03/C01	___03/D02	___03/F01	___03/F04
___03/C02	___03/S01	___03/F02	___03/B01
___03/D01	___03/E01	___03/F03	___03/B02

Signature_____ Phone_____ Date_____

TO BE INCLUDED IN THE UPCOMING ROUND OF ACCREDITATIONS, THIS FORM SHOULD BE MAILED BY FEBRUARY 29, 1980

[FR Doc. 80-2300 Filed 1-22-80, 8:45 am]
BILLING CODE 3510-13-C

National Voluntary Laboratory Accreditation Program; Fees To Accredit Laboratories That Test Thermal Insulation Materials, Freshly Mixed Field Concrete, and Carpet

In a separate notice appearing in this issue of the Federal Register, the Department of Commerce announced the issuance of criteria for accrediting testing laboratories which test thermal insulation materials, freshly mixed field concrete, and carpet. In conformance with paragraph (a) of both section 7a.10 and section 7b.10 of the Procedures for the National Voluntary Laboratory Accreditation Program (NVLAP) (15 CFR Parts 7(a) and 7(b)) and under a delegation of the Secretary of Commerce (41 FR 26593), notice is hereby given of the fees which have been established for the three laboratory accreditation programs (LAPs) (i.e., insulation LAP, concrete LAP, and carpet LAP).

Basis for Fees. The fees are based on the premise that all of the operational costs incurred by the National Bureau of Standards (NBS) in evaluating laboratories seeking accreditation are recovered from fees charged to the applicant laboratories. This includes the work-hours, travel, and per diem costs of examiners and evaluators used in the evaluation process. Administrative costs associated with preparing LAPs, establishing criteria, and developing examination procedures are not recovered from applicants' laboratory fees at this time but are paid from NVLAP's budget of appropriated funds.

The fees will vary, depending on: (a) examiner time requirements caused by the complexity of the test methods and (b) the frequency with which the examiners must visit the laboratories in each of the LAPs. In the insulation LAP, for example, laboratory visits are required to be made once a year for the first two years, while for the concrete LAP visits are requird to be made, on the average, only once every two and one-half years. The fees also include a contingency factor to cover the costs associated with conducting unannounced additional visits for up to one-third of the participating laboratories. The purposes of these unannounced visits are to verify the effectiveness of the LAPs by randomly selecting laboratories for reexamination, and also to reexamine those laboratories which have received complaints concerning their performance.

Fees for Evaluating a Laboratory. The NVLAP fee model is composed of several components shown in the following equation:

$$F = A + B_1(N_1) + B_2(N_2) + B_3(N_3) + \ldots C + P$$

Some of these components do not apply for certain LAPs. For identification of those components that apply for every LAP, see Table 1, "Applicability of Cost Components by LAP."

Component A. Component A is a fixed charge that covers NVLAP travel expenses of on-site examiners and preliminary technical review and person-hour costs associated with the LAP operation. The value of the fixed charge A is dependent upon the particular LAP in which the laboratory is involved. For laboratories wishing accreditation for more than one LAP, see the section entitled, "Multiple LAP Enrollment." The values are:

A_1 = $750 per year (insulation LAP)
A_2 = $500 per year (concrete LAP)
A_3 = $350 per year (carpet LAP)

Component B. Component B is a variable charge which covers NVLAP examination and evaluation costs related to each test method for the complete technical review of written information submitted by the laboratory, on-site examination, and the integration of proficiency testing performance results for that test method.

Subscripts 1, 2, 3, and 4 for Component B represent the four levels of complexity into which the test methods fall when considered for examination purposes. The fee per method for the simpler test methods is represented as B_1. N_1 is the number of such test methods. B_2 is the fee per method for test methods of intermediate complexity and N_2 is the number of such test methods. The most complex test methods and the number of each are represented by B_3 and N_3, respectively. B_4 is a fee associated with groups of test methods. The values are:

B_1 = $50
B_2 = $100
B_3 = $150
B_4 = $200

The level of complexity for each test method in the insulation and carpet LAPs is shown in Exhibits 1 and 3 in the appendices to the **Federal Register** notice referenced in the first sentence of this notice.

Component C. Component C represents the charges associated with laboratory examinations performed by examining organizations selected by NBS. Usually, this cost will be payable directly to the examining organizations by the laboratories being examined. At the present time, the component C charge would be applicable only to the concrete LAP.

The Cement and Concrete Reference Laboratory (CCRL), which is sponsored by the American Society for Testing and Materials (ASTM), is an example of such an examining organization that may be used by NBS. The CCRL which has provided inspection service to testing laboratories since 1929, reports its findings directly to the laboratories requesting this service. NBS plans to use CCRL services for performing the on-site examination function for the concrete LAP. The CCRL inspection charge will ultimately be determined by ASTM. However, it is estimated that the cost will be $850 per inspection for the Field Test Method Group and $1,000 per inspection for the Field and Laboratory Test Method Group. NVLAP on-site examinations of applicant concrete laboratories will be scheduled as part of the existing CCRL inspection tour. At the present time, the CCRL nation-wide inspection tour covers all participating laboratories in about two and one-half years. Accordingly, applicant laboratories may anticipate this approximate time frame for examination.

Each applicant laboratory which has had a CCRL inspection since March 1, 1978 does not have to be reexamined in order to be accredited under the first round of accreditations for the concrete LAP provided that it:

(1) Submits the latest CCRL inspection report and certifies, in a letter from the technical director of the laboratory, or other person who is responsible for the technical operation of the laboratory and who is authorized to so certify, that any deficiencies noted in that report have been corrected;

(2) Provides written information; confirming compliance with NVLAP criteria;

(3) Pays the component A_2 annual NVLAP administrative charge of $500 for the concrete LAP.

Those applicants not inspected by CCRL since March 1, 1978, will be contacted by CCRL concerning the scheduling of an on-site examination. All fees associated with the inspection will be collected for the CCRL by ASTM. The CCRL inspection report will be made available for review by NVLAP personnel. The annual NVLAP administrative charge of $500 (component A_2) will be collected separately.

Component P. Component P represents the charges associated with proficiency testing. These charges cover the cost of samples and their distribution, the analysis of test data supplied by the applicant laboratory, and the reporting of results. Component

P charges are applicable only to the insulation and carpet LAPs.

Proficiency testing services may be provided by NBS itself or by an organization selected by NBS to carry out such services for NVLAP. When proficiency testing services are provided by an organization selected by NBS to carry out such tests for NVLAP, this cost is payable directly to that organization by the applicant laboratory. The NBS/CTS Collaborative Reference Program operated through Collaborative Testing Services, Inc. (CTS), a nonprofit corporation, is an example of such an organization which has been used to provide proficiency samples for the insulation LAP.

The costs associated with proficiency tests are a function of the cost to NVLAP for obtaining appropriate sample materials, distributing the samples, and analyzing test data. The costs in the past for the insulation LAP were $100 per year for each test method requiring proficiency testing. Exhibits 1 and 3 in the appendices of the Federal Register announcement cited in the first sentence of this notice identify those test methods for which proficiency testing is required.

Multiple LAP Enrollment. When a laboratory wishes accreditation for more than one LAP, component A, the fixed charge component, will be prorated since many of the administrative costs for each LAP cover the same operations as in other LAPs. The total fixed charge will be determined by selecting the largest component A value from the relevant LAPs and adding 20 percent of the remaining component A values for the other LAPs involved.

If a laboratory requests accreditation for a test method which is essentially the same in two different LAPs (e.g., ASTM E 84 in the insulation and carpet LAPs) there will be no additional cost, with the possible exception for proficiency tests, for the laboratory to be accredited for the test in the second LAP once it is accredited for that test in the first LAP. Component B, the variable charge component, will be applied only once. However, the laboratory must indicate at the time of its application that it wants accreditation for the test method in both LAPs and must be prepared to demonstrate for an on-site examiner the performance of the test for either product. Also, a separate test report for each product must be available (see Criterion S3.1.1 in the Federal Register notice cited in the first sentence of this notice). In addition, the laboratory must be prepared to participate in separate proficiency tests if such tests are specified.

Fee Summary. The fee structure distribution is demonstrated by Table 1 for the insulation, concrete, and carpet LAPs. The applicable cost components are shown by the letter X.

Table 1—Applicability of Cost Components

	Components			
	A	B	C	P
Insulation LAP	X	X		X
Concrete LAP	X		X	
Carpet LAP	X	X		X

Example Calculations. In order to illustrate the annual fees for accreditation, the following examples are provided:

Example 1: If a laboratory chooses to be accredited under the insulation LAP only for 5 simple test methods (B_1), 7 intermediate test methods (B_2), and 2 complex test methods (B_3), and if proficiency tests are required for 6 of these 14 test methods at a cost of $100 each per year, the annual fee (F) would be:

$F = A_1 + B_1(N_1) + B_2(N_2) + B_3(N_3) + P$

$F = \$750 + \$50(5) + \$100(7) + \$150(2) + \$100(6) = \$2,600$

Example 2: If a laboratory chooses to be accredited under the concrete LAP for the field and laboratory groups, the equivalent annual fee (F) would be:

$F = A_2 + C$

Where C is the pro-rata share of the CCRL inspection costs ($1,000 ÷ 2.5 = $400), and

$F = \$500 + \$400 = \$900.$

Example 3: if a laboratory chooses to be accredited under the carpet LAP for 8 test methods (5 simple test methods and 3 complex test methods for carpet), and if proficiency tests are required for 4 of the 8 test methods at a cost of $100 each per year, the annual fee (F) would be:

$F = A_3 + B_1(N_1) + B_2(N_2) + P$

$F = \$350 + \$50(5) + \$150(3) + \$100(4) = \$1,450$

Example 4: If a laboratory chooses to be accredited under the insulation and carpet LAPs for 14 test methods (5 simple carpet test methods, 7 intermediate insulation test methods, one complex insulation test method, and one complex carpet test method), and if proficiency tests are required for 6 of the 14 test methods at a cost of $100 each per year, the annual fee (F) would be:

$F = A_4 + A_3(.20) + B_1(N_1) + B_2(N_2) + B_3(N_3) + P$

$F = \$750 + \$350(.20) + \$50(5) + \$100(7) + \$150(2) + \$100(6) = \$2,670$

Example 5: If a laboratory chooses to be accredited under all three LAPs (insulation, concrete, and carpet) for the following test methods: 4 simple insulation test methods, 5 simple carpet test methods, 7 intermediate insulation test methods, 2 complex insulation test methods, and all concrete test methods in the Field and Laboratory Test Method Group, and if proficiency tests are required for 6 of the 22 test methods at a cost of $100 each per year, the equivalent annual fee (F) would be:

$F = A_1 + A_2(.20) + A_3(.20) + B_1(N_1) + B_2(N_2) + B_3(N_3) + C + P$

$F = \$750 + \$500(.20) + \$350(.20) + \$50(9) + \$100(7) + \$150(2) + \$400 + \$100(6) = \$3,370$

Inquiries. Any inquiries should be addressed to Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-3221.

Dated: January 16, 1980.

Jordan J. Baruch,

Assistant Secretary for Science and Technology.

[FR Doc. 80-2101 Filed 1-23-80; 8:45 am]

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January 23, 1980

Part VII

Department of Energy

Office of Conservation and Solar Energy

Energy Conservation Program for Consumer Products

V45/16 JA23 80 UMI

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Part 430

[Docket No. CAS-RM-79-115]

Energy Conservation Program for Consumer Products; Advance Notice of Proposed Rulemaking and Request for Public Comments Regarding Energy Efficiency Standards for Heat Pumps

AGENCY: Department of Energy.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act, requires that the Department of Energy prescribe energy efficiency standards for heat pumps no later than January 1982. The purpose of this advance notice of proposed rulemaking is to facilitate the gathering of information, to provide interested persons an opportunity to become familiar with the standards program, and to invite interested persons to participate in formulating the proposed energy efficiency standards.

DATES: Written comments in response to this advance notice by April 30, 1980; requests to speak by February 25, 1980; statements by March 4, 1980; public meeting to be held on March 6, 1980. Speakers to be notified by 4:30 p.m., February 28, 1980.

ADDRESSES: Public meeting to be held at: Department of Energy, Room 3000A, 12th and Pennsylvania Avenue, N.W., Washington, D.C., at 9:00 a.m. on March 6, 1980.

Comments, requests to speak at the meeting and statements to: U.S. Department of Energy, Office of Conservation and Solar Energy, Energy Efficiency Standards for Consumer Products, Docket No. CAS–RM–79–115, Mail Station 2221C, 20 Massachusetts Avenue NW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

James A. Smith, U.S. Department of Energy, Office of Conservation and Solar Energy, Division of Buildings and Community Systems, Consumer Products Efficiency Branch, Room 2248, 20 Massachusetts Avenue NW., Washington, D.C. 20585, (202) 376–4814.

Carol A. Snipes (Hearing Procedures), U.S. Department of Energy, Office of Conservation and Solar Energy, Hearings and Dockets, Room 3235, Mail Station 2221C, 20 Massachusetts Avenue NW., Washington, D.C. 20585, (202) 376–1651.

William J. Dennison, U.S. Department of Energy, Office of General Counsel, Room 3226, 20 Massachusetts Avenue NW., Washington, D.C. 20585, (202) 376–4100.

SUPPLEMENTARY INFORMATION:

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I. Introduction

A. Planned Regulatory Action

Section 325 of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94–163), as amended by section 422 of the National Energy Conservation Policy Act (NECPA) (Pub. L. 95–619), requires that the Department of Energy (DOE) prescribe energy efficiency standards for the types of consumer products listed in Section 322(a) of the Act.[1] These consumer products are sometimes referred to as "covered products." Standards for heat pumps are required to be prescribed no later than December 1981. Standards for refrigerators and refrigerator-freezers, freezers, clothes dryers, water heaters, room air conditioners, home heating equipment (not including furnaces), kitchen ranges and ovens, central air conditioners (other than heat pumps), and furnaces are required to be prescribed no later than December 1980. An advance notice of proposed rulemaking for these nine types of consumer products appeared in the Federal Register of January 2, 1979 (44 FR 49). That advance notice did not apply to heat pumps, which are central air conditioners that provide heating and may also provide cooling, because DOE had not at that time developed test procedures applicable to heat pumps. Standards for dishwashers, television sets, clothes washers, humidifiers and dehumidifiers are required by Section 325 to be prescribed in the Federal Register no later than November 1981. An advance notice of proposed rulemaking for these five types of consumer products appeared in the Federal Register of December 13, 1979 (44 FR 72276).

The Act defines energy efficiency standards as performance standards, which means that they will establish the minimum energy efficiency level required to be achieved by each unit of a covered product type or class, but will not prescribe the methods, processes, or materials to be used to achieve any particular efficiency level. The standards will apply only to new products manufactured after the effective date of the final rule.

B. Purpose and Scope of This Notice

Section 325(l)(3) of the Act requires DOE, as the first step in establishing energy efficiency standards for heat pumps, to publish this advance notice of proposed rulemaking which is rquired to specify the product classes to which standards are likely to apply, and to invite comments from interested persons relevant to establishing energy efficiency standards.

DOE expects that the comments received as a result of this advance notice will provide additional technical and economic information which will assist DOE in developing a notice of proposed rulemaking that is expected to be published in August of 1980.

Accordingly, this notice presents a discussion of DOE's approach to the development and implementation of the standards. Ensuing sections deal with the legislative background, the standards implementation process, the probable phase-in period for the standards, the development of proposed standards, a listing of the product classes to which standards are likely to apply, the enforcement program, DOE's present views regarding the maximum technologically feasible efficiency levels for each class of product, and a request for data from manufacturers. A more detailed discussion of these subjects will be provided in the "Regulatory Analysis Statement for Appliance Energy Efficiency Standards" which will be available upon request from Mr.

[1] This and subsequent references to the "Act", and to sections of the Act, refer to EPCA as amended by NECPA.

James A. Smith, at the address indicated at the beginning of this advance notice, and the DOE *Freedom of Information* Office, mail station GB–145, U.S. Department of Energy, Forrestal Building, Independence Avenue and L'Enfant Plaza, SW., Washington, D.C., 20585, at the time the proposed rule is published.

Interested persons are invited to provide views, written presentations of data, and arguments relevant to establishing energy efficiency standards for heat pumps.

II. Legislative Framework

A. Background

The energy conservation program for consumer products is designed to encourage manufacturers to produce, and consumers to purchase, significantly more efficient consumer products. The legislative plan enacted by Congress sets forth two interrelated strategies for accomplishing this objective. The first strategy is to require manufacturers to produce more efficient products, and the second is to enhance consumer acceptance of more efficient products.

The first strategy, as contained in section 325 of EPCA prior to amendment by NECPA in November 1978, called for the promulgation of voluntary efficiency improvement targets representing aggregate industry levels of efficiency improvement that were to be achieved by 1980. As an incentive for the industry to achieve these targets, as reporting and monitoring systems was to be established by DOE to track industry progress. In the event that achievement of a target for a particular product appeared unlikely, DOE would have been required to initiate an administrative proceeding to prescribe a mandatory minimum efficiency standard for the product in question.

In the National Energy Plan proposed by the President in April 1977, the voluntary target program was to be replaced with a mandatory minimum efficiency standards program because of the voluntary nature of the targets and the anticipated long delays in establishing standards if the target levels were not achieved. Section 422 of NECPA amends section 325 of EPCA to provide for a program similar to the mandatory standards program requested by the President in the National Energy Plan.

The second strategy, set forth in section 324 of the Act, involves the development of a labeling program to require that manufacturers label covered products with energy consumption information which will assist consumers in making purchasing decisions. The Federal Trade Commission (FTC) has the responsibility for developing the labeling rules and for administering the labeling program. The final rule for labeling of consumer products appeared in the Federal Register of November 19, 1979 (44 FR 66466).

In conjunction with the issuance of the labeling rules, section 337 of the Act requires DOE to develop a consumer education program that will enhance consumer awareness of the labels and create a better understanding of the information provided on the labels. This is intended to encourage comparison shopping and to generate consumer demand for the more efficient products. As a consequence, it is anticipated that manufacturers will be influenced to expedite efficiency improvements for their various product lines to meet the market demand.

In order to support these dual strategies, section 323 of the Act requires that DOE develop test procedures for the determination of estimated annual operating costs and at least one other measure of energy consumption for each covered product which will assist consumers in making purchasing decisions. DOE recently amended its central air conditioner test procedures to include a methodology for testing heat pumps (44 FR 76700 December 27, 1979). Testing by manufacturers in accordance with these test procedures will serve as a basis for: (1) the energy cost and consumption information that may be required to be included on product labels under the FTC labeling program and (2) representations by manufacturers regarding the energy consumption of their product. Also, measurements of efficiency which are derived from the test procedures will be used as the basis for energy efficiency standards. Manufacturers will be required to establish that their products are in conformance with the standards by testing in accordance with the test procedures.

Further, compliance with the standards will be determined by using these procedures.

Test procudure design must be flexible enough to allow for technological variation among different product lines within a product type, yet standardized enough to assure that different manufacturers' product lines will be subject to the ssame measurement critieria in order to provide comparable measurements of energy consumption characteristics. DOE is aware that new products or designs will be developed which (1) do not fall under the product test procedure definitions (10 CFR 430.2) or (2) do fall under the definitions but which, when tested, reflect inaccurate efficiencies. DOE intends to address this issue in the notice of proposed rulemaking relating to energy efficiency standards.

B. Energy Efficiency Standards

The Act requires that standards be prescribed for all the consumer product types listed in section 322(a). Priority is required by the Act to be given to refrigerators and refrigerator-freezers, freezers, clothes dryers, water heaters, room air conditioners, home heating equipment, kitchen ranges and ovens, central air conditioners, and furnaces.

As noted above, those product types were the subject of an advance notice published in the Federal Register on January 2, 1979 (44 FR 49). An advance notice of proposed rulemaking for dishwashers, television sets, clothes washers, humidifiers and dehumidifiers appeared in the Federal Register on December 13, 1979 (44 FR 72276). In addition to those product types and heat pumps, which are covered by today's advance notice, the Act also permits DOE to prescribe standards for other product types which meet certain criteria stated in section 325(a)(2). A list of such products which DOE considers may be subject to standards is required to be published no later than November 1980, but the list may be revised thereafter.

The standards prescribed, including any intermediate standards, are required by section 325(c) to be designed so as to achieve the maximum improvement in energy efficiency which is technologically feasible and economically justified. Under section 326(b), however, no standard can be prescribed for a particular type of class of covered product if (1) there is no DOE test procedure for the type or class; or (2) DOE determines, by rule, that the establishment of a standard for the particular type or class would not result in significant conservation of energy or is not technologically feasible or economically justified.

Section 325(d) provides that before DOE determines whether a standard is economically justified, it must first solicit comments on a proposed standard in accordance with the procedure set forth in sections 336(a) and 325(i). After reviewing comments on the proposal, DOE must then determine that the benefits of the standard exceed its burdens based, to the greatest extent practicable, on a weighing of the following seven factors:

(1) The economic impact of the standard on the manufacturers and on

the consumers of the products subject to such standard;

(2) The savings in operating costs throughout the estimated average life of the covered products in the type (or class), compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products which are likely to result from the imposition of the standard;

(3) The total projected amount of energy savings likely to result directly from the imposition of the standard;

(4) Any lessening of the utility or the performance of the covered products likely to result from the impostion of the standard;

(5) The impact of any lessening of competiton, determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

(6) The need of the Nation to conserve energy; and

(7) Any other factors which DOE considers relevant.

Section 325(f) provides that minimum energy efficiency levels do not have to be identical for all products within a type or class. Products that consume different kinds of energy, or that have a capacity or other performance-related feature different from other products within the same type or class, can be required to have higher or lower energy efficiency levels.

Section 325 (e) provides that manufacturers having annual gross revenues of less than $8,000,000 (within the meaning of that paragraph) may apply to DOE for exemption for up to 24 months from any standards requirement. This authority may not be exercised unless DOE, after obtaining the written views of the Attorney General, determines that failure to allow the exemption would likely result in a lessening of competition.

Other provisions provide for: (1) a review of test procedures within three years of NECPA enactment, section 323(a)(7); (2) reevaluation of the standards within five years of prescription, section 325(h); (3) supression of state energy efficiency regulations under the conditions and procedures specified in section 327; and (4) authority to use the powers otherwise available to the Secretary to collect information relating to the energy efficiency of products or the economic impact of compliance with the proposed standards requirements, section 326(d).

Section 325(j) of the Act provides for enforcement provisions to assure that each covered product to which a standard applies meets the required minimum energy efficiency level. DOE expects that such provisions will include testing by the manufacturer and submission of information to DOE before a manufacturer introduces products into commerce.

Section 333 provides that any person who knowingly violates any provision of section 332 (which lists prohibited acts) shall be subject to civil penalties.

Other enforcement-related provisions of the Act provide for: (1) DOE to prescribe rules requiring manufacturers to allow DOE to observe and inspect results of testing conducted by the manufacturer or his agent, section 326(b)(5); (2) a manufacturer to supply to DO a reasonable number of products for testing purposes, section 326(b)(3); (3) a manufacturer to submit information or reports necessary to ensure compliance, section 326(d); and (4) injunctive relief against any prohibited act, including distribution of non-complying products, section 334.

C. Implementation Process

Section 325(i) outlines the process by which the standards are to be prescribed. This process differs from that followed in the target program in one important respect. Section 325(i)(3) requires DOE to identify, in the proposed rule, the maximum improvement in energy efficiency that is technologically feasible for each type (or class) of product, and to justify any decision not to propose a standard designed to achieve such efficiency.

DOE will hold a public meeting during the comment period following publication of this advance notice in order to familiarize the public with the standards program and to achieve the highest possible degree of industry and consumer awareness, involvement, and comment.

Based upon comments and specific data received from this advance notice and information otherwise available, DOE will issue a notice of proposed rulemaking proposing specific standards for heat pumps. The proposal is scheduled to be issued in August 1980. The final rule is required by the Act to be published no later than two years after publication of this advance notice. Under section 325(i), the standards may not become effective earlier than 180 days after publication of the final rule in the **Federal Register.**

To inform interested citizens who may wish to contribute information, DOE will make available a background document (Regulatory Analysis Statement for Appliance Energy Efficiency Standards) at the time the notice of proposed rulemaking is published. This will contain a discussion of the product classes, levels of efficiency, and the analytical concepts used in preparing the standards described in that notice.

D. Planned Phase-In of Standards

Section 325(c) allows for the phasing-in of standards over a period of up to five years through the establishment of intermediate standards. Use of the full five-year period would provide manufacturers with the greatest possible planning and development time, and thus, it would appear that they would be better able to meet higher final standards than might otherwise be the case were a shorter period adopted. Accordingly, DOE tentatively plans to utilize the full phase-in period and will probably propose final standards which are to be achieved by November 1986. To assure that manufacturers make steady progress toward the 1986 standards, intermediate standards are likely to be proposed, to be effective in May 1982. These standards will take into account the short lead time that manufacturers will have had to make design changes.

Another option which DOE is exploring would be to have different phase-in periods for the various product classes. This alternative might permit maximum efficiency levels to be reached over shorter time periods, but DOE lacks the information about the efficiency improvement possibilities for individual classes of products that is needed in order to consider this approach at this time.

III. Product Types, Likely Product Classes and Tentative Determination of the Maximum Technologically Feasible Energy Efficiency

A. Definitions

For purposes of this notice: "Energy efficiency standard" means a performance standard (as opposed to a design standard) which prescribes for each unit of a covered product a minimum energy efficiency level. Energy efficiency standards include test procedures prescribed in 10 CFR Part 430, Subpart B, and any requirements on manufacturers which DOE determines are necessary to assure that each covered product to which a standard applies meets the required minimum energy efficiency level specified in the standard.

"Minimum energy efficiency level" means the minimum value of the measure of efficiency (i.e., heating seasonal performance factor or annual performance factor, defined and measured according to DOE test procedures in 10 CFR Part 430, Subpart B), which each unit of a covered product must meet or exceed in order to be in compliance with an energy efficiency standard.

"Type" of covered products means one of the categories of consumer products designated in Section 322(a) of the Act. For example, central air conditioners are a type of covered product.

"Class" of covered products means a group of covered products, the functions or intended uses of which are similar. A class of coverd products is subject to a single energy efficiency standard. Such standard may prescribe either the same minimum energy efficiency level of all of the basic models of the class, or different minimum energy efficiency levels for basic models which are distinguished by capacity or other performance-related features that affect efficiency and utility. For example, air source single package heat pumps are a class of covered product.

B. Tentative Determinations of the Maximum Technologically Feasible Energy Efficiency

In the proposed rule, DOE is required to identify the maximum improvement in energy efficiency that is technologically feasible for each class of covered products. In order to facilitate the gathering of data, views and arguments, DOE is offering for consideration a definition of the term "maximum technologically feasible energy efficiency" and presenting in Table I DOE's tentative determination of such efficiencies based on 1978 data. The values in Table I may be modified in the proposed rule as a result of either modifying the definition, obtaining better information regarding the highest levels of energy efficiency of basic models commercially available, or identifying efficiency improvements that occur in commercially available products prior to the time of the proposal.

For purposes of this advance notice, the term "maximum technologically feasible energy efficiency" means, for each class of covered products, the highest value of the measure of energy efficiency (i.e., heating seasonal performance factor or annual performance factor, defined and measured according to DOE test procedures) of any basic model that is commercially available at the time of proposal. Based on this definition, DOE's tentative determinations of the maximum technologically feasible energy efficiency for each product class are listed in Table I. As mentioned, earlier, those efficiency figures are based on products commercially available in 1978.

Table I. Likely Classes and Tentative Determination of Maximum Technologically Feasible Energy Efficiencies

COVERED PRODUCT TYPE	CLASS	PRELIMINARY MAXIMUM TECHNOLOGICALLY FEASIBLE ENERGY EFFICIENCY
CENTRAL AIR CONDITIONERS (HEAT PUMPS)	AIR SOURCE, SINGLE PACKAGE HEAT PUMP	7.65 Btu/watt-hr (APF), for minimum design heating requirements*
		6.37 Btu/watt-hr (APF), for maximum design heating requirements*
	AIR SOURCE, SPLIT SYSTEM HEAT PUMP	8.29 Btu/watt-hr (APF), for minimum design heating requirements*
		6.94 Btu/watt-hr (APF), for maximum design heating requirements*
	AIR SOURCE, SPLIT SYSTEM HEATING ONLY HEAT PUMP	9.52 Btu/watt-hr (HSPF), for minimum design heating requirements*
		7.68 Btu/watt-hr (HSPF), for maximum design heating requirements*

* Based on best data available to DOE.

APF = Annual Performance Factor, for climatic region No. IV.
HSPF = Heating Seasonal Performance Factor, for climatic region No. IV.

In this advance notice, DOE has identified two separate "maximum technologically feasible efficiency" values for each class of heat pump: "minimum design heating requirements" and "maximum design heating requirements." The DOE test methodology for heat pumps defines design heating requirement as "the amount of heating required to maintain a given indoor temperature at a particular outdoor design temperature." The procedure for calculating "minimum design heating requirements" and "maximum design heating requirements" are specified in Section 5.2 of 10 CFR part 430, subpart B, appendix M. The specified values of "maximum technologically feasible efficiency" are for climatic region No. IV, which is defined in section 6 of the same appendix. Climatic region No. IV is representative of typical heat pump usage.

C. Criteria for Selection of Classes

DOE has segregated the basic models of heat pumps into classes to which different energy efficiency standards are likely to apply. These classes are tentative, and different classes may be specified in the proposed rule if DOE receives data, views and arguments which justify changes. The classes identified in Table I have been derived on the basis of performance-related features which affect efficiency and utility. For each class, the discussion which follows states the rationale for establishing minimum energy efficiency levels different from those which apply to other classes within the same product type. The same minimum energy efficiency level is likely to apply to each basic model within a particular class.

D. Product Class Rationale

Central Air Conditioners (Heat Pumps). Separate classes of central air conditioners which provide heating (heat pumps) are specified because of

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their different utility and performance characteristics.

Three classes of air source heat pumps (air source single package heat pumps, air source split system heat pumps and air source split system heating only heat pumps) are specified in this notice. These classes are distinguished by their configuration, or by performance-related features, either of which may affect utility and efficiency. This advance notice applies only to air source units since DOE has presently prescribed test procedures only for air source heat pumps.

Heat pumps are segregated according to whether they are single package systems or split systems (separated indoor and outdoor components connected by refrigerant and electrical lines). The split systems are further segregated by whether they have the capability for both heating and cooling, or for heating only.

Single package systems are located entirely outside the building, and provide increased useful interior space. This can be an important advantage in a location where space availability is a significant problem. Technical information available to DOE indicates that the efficiency of single package systems tends to be lower than that of split systems. Minimum efficiency levels appropriate for split systems may not be achievable by single package systems. For these reasons, DOE is specifying separate classes for single package and split system heat pumps.

Split systems have been further segregated into those which provide both heating and cooling and those which provide heating only. Heating only units offer a distinct advantage in climates that do not need a cooling unit, but the split system heating and cooling units have greater utility in temperate climates. Minimum efficiency levels appropriate for heating only split systems may not be achievable by heating and cooling split systems operating in their heating mode. For these reasons, DOE is specifying a separate class for heating only split systems.

IV. Data Needed for the Development of Proposed Energy Efficiency Standards

A. Development of Proposed Energy Efficiency Standards

Section 325(i) of the Act requires DOE to determine the maximum improvement in energy efficiency that is technologically feasible for each type (or class) of covered product in proposing a standard. If the proposed standard is not designed to achieve such efficiency, DOE is required to state in the proposed rule the reasons therefor. If any standard is proposed at a level below that which is the maximum technologically feasible, the reasons for such a proposal are expected to be primarily economic, i.e., related to the seven factors identified by Congress in section 325(d) of the Act which must be considered to the extent practicable in determining whether a standard is economically justified. In order to supplement available data for identifying any reasons for not proposing a standard at the maximum technologically feasible level, DOE has developed Forms CS–179(A) and CS–179(B) as shown below. Comments received in response to this advance notice will also be used in identifying those areas which require additional data prior to determining final standards.

B. Specific Data Requested From Manufacturers

Each private labeler, importer or manufacturer of heat pumps is requested to complete a Form CS–179(A) and Form CS–179(B) for each separate class of product (per Table II below). These forms, which have been reviewed by the Office of Management and Budget (OMB), are requested to be completed in accordance with the detailed instructions set forth below. Data can be submitted individually or in aggregated format, which aggregation for DOE's purposes may be performed by trade associations or other groups at commenters' discretion, in accordance with applicable anti-trust laws.

Any questions regarding the manner in which these forms should be completed or the type of aggregation useful to DOE should be directed to Mr. James A. Smith of DOE, at the address and phone number shown at the beginning of this notice

C. Classes of Consumer Products for Which Data Are Requested.

Table II below shows the tentative classes of consumer products for which Form CS–179(A) and Form CS–179(B) are requested.

TABLE II.—Tentative Product Classes

Product type	Product class	Code
Central Air Conditioners—(Heat Pumps).	Air Source, Single Package Heat Pump.	SP
	Air Source, Split System Heat Pump.	SS
	Air Source, Split System Heating Only Heat Pump.	SSHO

Instructions for Completing Reporting Form CS–179(A) Survey of Consumer Product Manufacturers

1. *Product Type.*—Refer to Table II. Select the generic name for the type of the consumer product being reported. Enter this name in the space provided.

2. *Product Class.*—Refer to Table II. For the appropriate product type, select the generic name for the class of the consumer product being reported. Enter this name in the space provided.

3. *Corporate Name.*—Self-explanatory.

4. *Corporate Address.*—Self-explanatory.

5. *Model Number.*

Enter the model numbers for all of the models manufactured during calendar year 1978 which fall under the type and class of consumer product being reported.

Please note.—You are requested to select, at your option, one of the two reporting procedures described below to follow for the purposes of reporting on such products.

(1). Report on each major component of the product separately. If a major component of a product has not been assigned its own model number, identify it by the product's model number enclosed by parentheses.

(2). Report on the product as a whole. In this case, items 5 through 9 and 18 are to be reported for the product as a whole and items 10 through 17, and 19 through 22 are to be reported for the major components of the product. Each component-specific entry is to be followed by the code letters for the applicable product class for the component, enclosed by parentheses. The code letters for the product classes taken from the title of the product class are taken from the second column of Table III For example, the code letters for an air source single package heat pump are SP.

6. *Domestic Shipments.*—Enter the number of units (in thousands) of each model shipped by the manufacturer directly to wholesalers and/or retailers during calendar year 1972. If the model was not in production in 1972 but replaces a model which was in production in 1972, enter the number of units of the preceding model so shipped enclosed by parentheses; otherwise, enter zero.

7. Enter the number of units of each model shipped by the manufacturer directly to wholesalers and/or retailers during calender year 1978. In cases where a new model was introduced after January 1, 1978, enter the total number of units of that model so shipped during the year followed by the date (month and day) that the first unit was so shipped.

8. Enter the projected number of units of each model that would be shipped by the manufacturer directly to wholesalers and/or retailers during calendar year 1980 if there were no DOE Consumer Product Efficiency Standards Program.

9. Same as 8, but for 1985 instead of 1980.

10. *Energy Consumption per DOE Test.*—Enter the estimated yearly energy consumption of the calendar year 1972 production version of the model had it been tested in accordance with the DOE test procedures. If the model being reported was not in production in 1972, enter the estimated yearly energy consumption of the preceding model enclosed by parentheses.

11. Enter the yearly energy consumption of the calendar year 1978 production version of the model determined in accordance with the DOE test procedures. If test data are not available, enter estimated figures and note as an "estimate."

12. Enter the projected yearly energy consumption of the calendar year 1980 production version of the model determined in accordance with the DOE test procedures if there were no DOE Consumer Product Efficiency Standards Program.

13. Same as 12, but for 1985 instead of 1980.

14. *Energy Efficency per DOE Test.*—Enter the estimated energy efficiency (heating seasonal performance factor or annual performance factor as appropriate) of the calendar year 1972 production version of the model had it been tested in accordance with the DOE test procedures. If the model was not in production in 1972 but replaces a model which was in production in 1972, enter the estimated efficiency of the preceding model enclosed by parentheses.

15. Enter the efficiency of the calendar year 1978 production version of the model being reported determined in accordance with the DOE test procedures. If test data are not available, enter estimated figures and note as an "estimate."

16. Enter the projected efficiency of the calendar year 1980 production version of the model being reported determined in accordance with the DOE test procedures, assuming there were no DOE Consumer Product Efficiency Standards Program.

17. Same as 16, but for 1985 instead of 1980.

18. *Estimated Average Retail Price.*—List estimated average retail price in 1978 dollars.

19. *Design Options.*—List the features of the design of the model that make it a more energy efficient unit than other models of comparable utility. Refer to Table IV for a listing of the type of design options to be identified.

20. Enter the estimated "real-life" energy savings associated with each design option as the percentage difference between the energy consumption of model and what the actual or projected energy consumption of the model is or would be if it did not incorporate the design option into its design.

21. Enter the energy savings associated with each design option determined in accordance with the DOE Test procedures. Quantify this energy savings in terms of a percentage as described in 20.

22. *Product Characteristics.*—Refer to Table IV. Provide, for each model, the product characteristics listed. Whenever a measure is requested, e.g., capacity, wattage, etc., it is to be understood that the measure requested is that determined in accordance with the Department of Energy's test procedures for consumer products.

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CS FORM 179 (A)
SURVEY OF CONSUMER PRODUCT MANUFACTURERS
PAGE _____ OF _____ PAGES

(1) Product Type _____
(2) Product Class _____
(3) Corporate Name _____
(4) Address _____

(5) Model Number	(6) Domestic Shipments (1,000's) Est. '72	'78	Est. '80	Est. '85	(7) (8) (9)	(10) Energy Consumption per DOE Test Est. '72	Est. '78	Est. '80	Est. '85	(11) (12) (13) (14) (15) (16) (17) (18) (19) (20) (21) (22) Efficiency per DOE Test Est. '72	Est. '78	Est. '80	Est. '85	Est. Average Retail Price '78	Design Options Type Est. Energy Savings per DOE Test(1)	Product Characteristics Energy Savings per DOE Test(1)

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INSTRUCTIONS FOR COMPLETING REPORTING FORM CS–179(B) SURVEY OF CONSUMER PRODUCT MANUFACTURERS

This form has been developed by the U.S. Department of Energy for the purpose of collecting information on consumer products manufactured during calendar year 1978. The information requested will serve as input to the technological and economic assessments to be performed by DOE in the process of developing energy efficiency standards for consumer products.

Important Note: Complete Reporting Form #CS–179(A) before completing this form.

1. *Product Type.*—Refer to Table II. Select the generic name for the type of consumer product being reported. Enter this name in the space provided.

2. *Product Class.*—Refer to Table II. For the appropriate product type, select the generic name for the class of the consumer product being reported. Enter this name in the space provided.

3. *Corporate Name.*—Self-explanatory.

4. *Corporate Address.*—Self-explanatory.

5. *Unit Model Number(s).*—Enter the model number of the 1978 model being reported.

6. *Doe Test Procedure Efficiency.*—Enter the energy efficiency of the model (heating seasonal performance factor or annual performance factor, as appropriate) determined in accordance with the Department of Energy's test procedures for consumer products. If test data are not available, enter estimated figures and note as a "estimate."

7. *Product Characteristics.*—Refer to Table III, column C. Provide, for each model, the product characteristics listed. Whenever a measure is requested, e.g., capacity, wattage, etc., it is to be understood that the measure requested is that determined in accordance with the Department of Energy's test procedures for consumer products.

Special Note for Item 8–13.—One purpose of this section of the form is to obtain manufacturer's projections of the changes that they would effect in the design of the model being reported in order to achieve certain energy efficiency levels. The other purpose is to obtain manufacturer's projections of the timing and impacts (price and investment) of effecting these changes in design if they were to be adopted.

8. *Energy Efficiency Level.*—Refer to Table IV. Three or more energy efficiency levels have been identified for each product type and class listed. Identify the levels that pertain to the model being reported based on the product type and class entries made in items 1 and 2 of this form. Enter the lowest level listed at the top of the column for this item unless this level is lower than that of the model being reported (item 6) in which case enter the lowest level listed which is greater than the model's efficiency. Proceed to complete items 9 through 13 for this entry then return to the listing of energy efficiency levels, select the next higher level listed, and enter this level in the column for this item. Proceed to complete items 9 through 13 for this next higher energy efficiency level. Repeat this procedure for the remainder of the energy efficiency levels listed.

9. *Design Options Required.*—Refer to Table III, column B. A list of design options is presented for each product type. Using this list, identify the design options or combination of design options that, if incorporated into the design of the model being reported, are projected to achieve the energy efficiency level identified in item 8 at the lowest cost to the manufacturer. Enter the code letters which correspond to the design options identified in this item in columnar form.

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Table III. Design Options and Product Characteristics

(COLUMN A) PRODUCT	(COLUMN B) DESIGN OPTIONS	(COLUMN C) PRODUCT CHARACTERISTICS
CENTRAL AIR CONDITIONERS (HEAT PUMPS)	A - Improve Heat Exchanger Efficiency B - Improve Compressor Efficiency C - Improve Outdoor Fan Motor Efficiency D - Improve Indoor Fan Motor Efficiency E - Improve Defrost Performance	a) Cooling capacity in Btu per hour b) Heating capacity in Btu per hour

Table IV. Energy Efficiency Levels

(COLUMN A) PRODUCT TYPE	(COLUMN B) PRODUCT CLASS	(COLUMN C) ENERGY EFFICIENCY LEVEL (SEE BOTTOM OF PAGE FOR EXPLANATION OF SYMBOLS)		
		APF 1	APF 2	APF 3
CENTRAL AIR CONDITIONERS (HEAT PUMPS)	AIR SOURCE, SINGLE PACKAGE HEAT PUMP	4.93*	6.28*	7.65*
		4.72**	5.66**	8.37**
	AIR SOURCE, SPLIT SYSTEM HEAT PUMP	7.75*	8.02*	8.29*
		6.27**	6.60**	6.94**
		HSPF 1	HSPF 2	HSPF 3
	AIR SOURCE, SPLIT SYSTEM HEATING ONLY HEAT PUMP	7.64*	8.58*	9.52*
		6.55**	7.12**	7.68**

*Minimum design heating requirements
**Maximum design heating requirements

APF = Annual Performance Factor (Btu/watt-hr) for climatic region No. IV
HSPF = Heating Seasonal Performance Factor (Btu/watt-hr) for climatic region No. IV

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If there are design options which the manufacturer would employ to achieve levels which do not appear in the list in Table III, column B, identify them specifically on the form.

If the model cannot be modified to achieve an energy efficiency level, enter the abbreviation "NA" for not applicable in this item for the level. No further entries need be made on the form for the model being reported.

10. *Actual Efficiency Level Achieved.*—When applying design changes from (9) to achieve certain efficiency levels in (8), it is likely that exact levels will not be achieved. Record the level of efficiency that will be achieved when certain options are added to the individual basic models.

11. *Lead Time for Production.*—For each design option listed in item 9, enter the year and month that the first production unit of the model incorporating the design option would be manufactured.

12. *Increase in Suggested Retail Price.*—For each design option listed in item 9, enter the estimated increase in the retail price of the model if the design option were incorporated into its design.

13. *Change in Investment.*—For each design option listed in item 9, estimate, on a per unit basis, the cost of the new structures, machinery, and equipment that would be required for production of the model if the design option is incorporated into its design. Express such estimates in terms of 1978 dollars.

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CS FORM 179 (B)
SURVEY OF CONSUMER PRODUCT MANUFACTURERS
PAGE ____ OF ____ PAGES

(1) Product Type: _____
(2) Product Class: _____
(3) Corporate Name: _____
(4) Corporate Address: _____
(5) Unit Model Number(s) _____
(6) DOE Test Procedure Efficiency _____
(7) Product Characteristics: _____

(8) Energy Efficiency Level	(9) Design Options Required	(10) Actual Efficiency Level Achieved	(11) Lead Time for Production	(12) Increase in Retail Price	(13) Change in Investment

BILLING CODE 6450-01-C

V. Enforcement

An enforcement program is expected to be included in the notice of proposed rulemaking, specifying proposed requirements on manufacturers for demonstrating compliance with a standard, as well as proposing the actions DOE could take to assure compliance.

DOE has begun an analysis of enforcement program alternatives which evaluates ongoing Federal, State and industry programs. The different approaches are being analyzed according to the overall program costs and benefits, including costs to manufacturers, consumers, and the Government. An important part of this evaluation includes contact with manufacturers and trade associations.

The programs that have been evaluated include the following:

1. Environmental Protection Agency;
   a. Product Noise Enforcement Program
   b. Automobile Exhaust Emission Certification Program
2. National Highway Traffic Safety Administration; Enforcement of Motor Vehicle Safety Standards
3. Department of Defense/Fleet Ballistic missiles; Procurement Standards
4. State of California; Enforcement of Appliance Energy Efficiency Standards
5. Association of Home Appliance Manufacturers; Certification Program for Room Air Conditioners
6. Air Conditioning and Refrigeration Institute; Certification of Unitary Air Conditioners
7. Underwriters Laboratory; Product Safety Certification

In providing any comments or alternative approaches, commenters should focus on the enforcement authority granted in the Act (discussed in section II B of this notice) and the potential impacts of implementing various approaches available pursuant to this authority.

VI. Consumer Participation

Because of the direct impact of the standards on individual consumers, DOE wishes to achieve in the standards development process the maximum level of consumer participation possible. To assist the Department in achieving this goal, a public meeting will be held in Washington, D.C., at the time and place specified at the beginning of this notice.

Representatives of consumer groups and individual consumers are urged to attend this meeting and to make oral or written statements regarding the standards program. DOE is mailing copies of this advance notice to all individuals and consumer organizations identified as having an interest in standards development.

Additional information regarding consumer preference is expected to be received from a survey to be conducted under DOE direction. The survey will be used to determine, with respect to energy efficiency, what products have been purchased and what products consumers expect to purchase. Data from this survey will be used in DOE's demand analysis studies to determine the economic impacts of proposed standards.

DOE requests interested persons to submit suggestions and comments regarding the methods that DOE should consider in order to maximize consumer participation in the development of standards.

VII. Environmental Review

This advance notice of proposed rulemaking is being published primarily to invite comments from the public regarding the establishment of energy efficiency standards for certain consumer products. This action is informational in nature, and does not commit the agency to any specific course of action at this time. DOE has therefore determined that this advance notice does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 43 U.S.C. 4321 *et seq.* Consequently, an environmental analysis is not necessary in connection with its publication.

An appropriate environmental analysis will be made in connection with the proposed rulemaking and information regarding the environmental analysis will be issued concurrently with publication of the Notice of Proposed Rulemaking.

VIII. Comments on Issues

Issues and questions relating to the development of standards are found throughout this notice. The following list of issues, while highlighting some of the major areas of interest to DOE, is not intended to be comprehensive and should not be construed as limiting the scope of comments relating to this notice.

1. DOE intends to *phase in the standards* over a five-year period, as described in this notice, with the final standards becoming effective no later than November 1986. DOE is interested in comments relating to this schedule and other alterntive phase-in schedules.

2. DOE has identified the product types and classes to which standards are likely to apply. Product classes were selected on the basis of utility and performance-related features. DOE would like to receive comments pertaining to the *proposed classes.* If additional classes are recommended, the recommendations should include the rationale for the establishment of such classes based on the class selection criteria discussed above.

3. For purposes of this notice, DOE has defined the *"maximum technologically feasible energy efficiency"* in section III B. DOE invites comments on this definition and on the preliminary efficiency levels listed in Table I.

4. DOE's approach to the development of an energy efficiency standard enforcement program has been discussed in section V. Suggestions relating to a compliance and enforcement program would be most valuable in the early stages of program development. In providing any comments or alternative approaches, manufacturers, trade associations and the general public should focus on the enforcement authority granted in the Act (discussed in section II B) and the effectiveness and potential impacts of implementing various approaches pursuant to this authority.

5. DOE believes, on the basis of information currently available, that retail prices vary widely for products of similar efficiencies produced by different manufacturers. Further, retail prices of identical products manufactured by a single manufacturer vary widely. DOE is interested in quantifying the economic factors that are most important in accounting for the numerous *retail pricing* strategies found in the marketplace.

6. Costs to operate consumer products vary widely across the Nation due to different costs of energy, climatic variations, and the different ways in which consumers use these products. DOE is interested in receiving comments regarding methods that could be used to assess the impact of these *variable costs* on the minimum level of energy efficiency that should be reflected in the standards.

7. DOE has identified the data requested from manufacturers in Section IV B. DOE invites comments on the data requested in Form CS–179(A) and Form CS–179(B).

IX. Comment Procedures

Interested persons are invited to participate in the development of standards by submitting, to the address indicated at the beginning of this notice, data, views or arguments with respect to the subjects set forth in this notice.

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Comments should be identified on the outside of the envelope, and on documents submitted to DOE, with the designation, "Energy Efficiency Standards for Consumer Products (Docket No. CAS–RM–79–115)." Fifteen copies are requested to be submitted, but this is not a requirement for submitting comments.

Persons responding to this advance notice may consider part or all of their comments to be of a confidential nature, because the release of certain types of information might be deemed to cause substantial competitive injury. If any person believes that any information submitted is covered by the exemption to the Freedom of Information Act dealing with trade secrets and commercial or financial information obtained from a person and considered privileged or confidential (5 U.S.C. 552(b)(4)), the person should so state at the time of submission and request that DOE treat this information as confidential. Factors of interest to DOE when evaluating requests to treat as confidential information that has been submitted include: (1) a description of the item; (2) and indication as to whether and why such items of information have been treated by the submitting party as confidential, and whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; and (6) an indication as to when such information might lose its confidential character due to the passage of time.

DOE is also interested in obtaining views on what specific types of information warrant consideration under the exemption set forth in 5 U.S.C. 552(b)(4). Examples of specific types of information might include:

1. Number of units produced annually, by model.
2. Factory shipment price of each model.
3. Total employment, by product type.
4. Estimated cost increase to meet a proposed standard, by model.
5. Annual capital investment, by product type.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information or data which he believes to be confidential and exempt by law from public disclosure should submit one complete copy, and fifteen copies from which the information believed to be confidential has been deleted. In accordance with the procedures established at 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure.

All comments received on or before the date specified at the beginning of this advance notice will be considered by DOE in developing the proposed standards. The comment period will extend beyond the 45 day comment period specified in section 325(i)(1)(B) of the Act because DOE's policy pursuant to Executive Order 12044 requires at least a 60 day comment period. Further, DOE believes that the additional time will result in more meaningful response to this notice, and this extension will not result in delay of the legislated timetable for the prescription of standards.

X. Oral Presentation: Conduct of Meeting

Any person who has an interest in this proceeding, or who is a representative of a group of persons having an interest, may make a written request for an opportunity to make an oral presentation at the public meeting to be held on the date indicated at the beginning of this notice. Such requests should be labeled both on the document and on the envelope, "Energy Efficiency Standards for Consumer Products (Docket No. CAS–RM–79–115)," and should be sent to the address indicated at the beginning of this notice, by the time there specified.

The person making the request should briefly describe the interest concerned and, if appropriate, state why he is a proper representative of a group that has an interest, and give a phone number where he may be contacted.

DOE reserves the right to select the persons to be heard at the meeting, to schedule the respective presentations, and to establish the procedures governing the conduct of the meeting. The length of each presentation may be limited, due to the number of persons requesting to be heard. If time permits, the official conducting the meeting may accept additional comments or questions from those attending.

The meeting will not be a judicial or evidentiary-type hearing. Except during those periods when comments or questions are requested from the floor, questions will be asked only by the persons conducting the meeting. Any further procedural rules needed for the proper conduct of the meeting will be announced by the presiding officer.

A transcript of the meeting will be made, and the entire record of the meeting, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office in the Forrestal Building, Independence Avenue and L'Enfant Plaza, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the transcribing reporter.

Issued in Washington, D.C., January 15, 1980.

T. E. Stelson,

Assistant Secretary, Conservation and Solar Energy.

[FR Doc. 80–2124 Filed 1–22–80; 8:45 am]

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federal register

Wednesday
January 23, 1980

Part VIII

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Modification, Notification, and Reconstruction; Amendment and Correction

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL 1374-2]

Standards of Performance for New Stationary Sources; Modification, Notification, and Reconstruction; Amendment and Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This amendment revokes the bubble concept as a means of determining what constitutes a "modified" source for the purpose of applying new source performance standards promulgated under the Clean Air Act. The United States Court of Appeals for the District of Columbia Circuit rejected the bubble concept in ASARCO v. EPA, 578 F.2d 319. The intent of this action is to comply with the Court's ruling. This action also amends the definition of "capital expenditure" and updates a statutory reference.

EFFECTIVE DATE: January 23, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Don R. Goodwin, Director, Emission Standards and Engineering Division (MD–13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5271.

SUPPLEMENTARY INFORMATION:

Background

On December 16, 1975 (40 FR 58416), EPA promulgated amendments to the general provisions of 40 CFR Part 60. The purpose of those amendments was, in part, to clarify the definition of "modification" in the Clean Air Act (hereafter referred to as the Act) with regard to a stationary source. The general provisions of 40 CFR Part 60 apply to all standards of performance for new, modified, and reconstructed stationary sources promulgated under section 111 of the Act.

"Modification" is defined in those amendments as any physical change in the method of operation of an existing facility which increases the amount of any air pollutant (to which a standard applies) emitted into the atmosphere by that facility or which results in the emission of any air pollutant (to which a standard applies) into the atmosphere not previously emitted. "Existing facility" means any apparatus of the type for which a standard of performance is promulgated in 40 CFR Part 60, but the construction or modification of which was commenced before the date of proposal of that standard. Upon modification, an existing facility becomes an "affected facility," the basic unit to which a standard of performance applies. Depending on the circumstances of each particular regulation, EPA may designate an entire plant as an affected facility or an individual production process or piece of equipment within a plant as an affected facility.

The amendments to the general provisions of 40 CFR Part 60 also expanded the statutory definition of "stationary source" to reflect EPA's interpretation of the language of the Act. "Stationary source" is defined in the Act as a "building, facility, or installation which emits or may emit any air pollutant" [section 111(a)(3)]. The amendments expanded this definition with the addition, "and which contains any one or combination of the following:

(1) Affected facilities.

(2) Existing facilities.

(3) Facilities of the type for which no standards have been promulgated in this part."

Thus, a distinction was made between "affected facility," any apparatus to which a standard applies, and "stationary source," which could be a combination of affected, existing, and other facilities.

Based on these interpretive definitions, § 60.14(d) of the amendments allowed an existing facility to undergo a physical or operational change but not be considered modified if emission increases associated with the physical or operational change were offset by emission decreases of the same pollutant from other affected and existing facilities at the same stationary source. This is referred to as the "bubble concept."

In effect, a "bubble" could be placed over an entire plant when determining if a physical or operational change to an existing facility within the plant constituted a modification. Emissions of a pollutant from an existing facility could increase as a result of a physical or operational change but that facility would not be deemed "modified" as long as emissions of that pollutant coming out of the "bubble" over all affected and existing facilities at the plant did not increase.

EPA did not extend the bubble concept to new-facility construction at existing plant sites.

Challenges to the bubble concept

The Sierra Club challenged EPA's use of the bubble concept in determining if a modification of an existing facility had taken place for the purpose of applying standards of performance for new, modified, and reconstructed stationary sources promulgated under section 111 of the Act. The Sierra Club contended that the interpreted definition of "stationary source" promulgated by EPA, and essential to EPA's use of the bubble concept, was inconsistent with the language of section 111 of the Act. Sierra Club argued that the Act defines a stationary source as an individual building, structure, facility or installation as distinguished from a combination of such units. Sierra Club claimed that once EPA had chosen the affected facility to which standards of performance apply, it could not subsequently examine a combination of existing and affected facilities for the purpose of determining if a particular existing facility had been modified, and was therefore subject to standards.

ASARCO also challenged this use of the bubble concept by EPA, but for a different reason. ASARCO claimed that the bubble concept should be extended to cover new source construction at existing plant sites rather than to modifications only.

In a decision rendered January 27, 1978, the United States Court of Appeals for the District of Columbia Circuit agreed with the Sierra Club and rejected the bubble concept as a means of determining if a modification to an existing facility had occurred for the purpose of applying standards of performance under section 111 of the Act (ASARCO v. EPA, 578 F.2d 319). The Court held that EPA had no authority to change the basic unit to which the NSPS apply from a single building, structure, facility or installation as specified in the Act to a combination of such units. In addition, the Court ruled that since EPA's use of the bubble concept for determining modifications was illegal to begin with, the bubble concept could not be extended to cover new sources as requested by industry.

In response to the Court's decision, EPA is, with this action, deleting the portions of § 60.14 of the general provisions of 40 CFR Part 60 which implement the bubble concept. The definition of "stationary source" in § 60.2 is also deleted. For the purposes of regulations promulgated in 40 CFR Part 60, the term "stationary source" will hereafter have the same meaning as in the Act.

Miscellaneous

The definition of "capital expenditure" in § 60.2 is being amended with the qualification that when computing the total expenditure for a physical or operational change to an existing facility, it must not be reduced by any "excluded additions" as defined in IRS Publication 534, as would be done for tax purposes. This qualification was noted in the preamble to the original regulation but not included in the regulation text as intended.

Finally, the reference to "section 119(d)(5)" of the Act in § 60.14(e)(4) is changed to "section 111(a)(8)" to reflect changes in the 1977 Clean Air Act Amendments (Public Law 95–95, August 7, 1977).

Since these actions reflect the mandate of the Court, correct an unintentional omission, and update a statutory reference, notice and public comment thereon is unnecessary and good cause exists for making them effective immediately.

Dated: January 16, 1980.

Douglas M. Costle,

Administrator.

40 CFR Part 60 is amended as follows:

1. Section 60.2 is amended by deleting the definition of "Stationary source" and by revising the definition of "Capital expenditure" as follows:

§ 60.2 Definitions.

* * * * *

"Capital expenditure" means an expenditure for a physical or operational change to an existing facility which exceeds the product of the applicable "annual asset guideline repair allowance percentage" specified in the latest edition of Internal Revenue Service (IRS) Publication 534 and the existing facility's basis, as defined by section 1012 of the Internal Revenue Code. However, the total expenditure for a physical or operational change to an existing facility must not be reduced by any "excluded additions" as defined in IRS Publication 534, as would be done for tax purposes.

* * * * *

§ 60.7 [Amended]

2. In § 60.7, the first sentence in paragraph (a)(4) is amended by deleting the phrase, " and the exemption is not denied under § 60.14(d)(4)."

§ 60.14 [Amended]

3. In § 60.14, the first sentence of paragraph (a) is amended, paragraph (d) is revoked and reserved, the last sentence of paragraph (e)(4) is amended, and paragraph (g) is amended as follows:

§ 60.14 Modification.

(a) Except as provided under paragraphs (e) and (f) of this section, any physical or operational change to an existing facility which results in an increase in the emission rate to the atmosphere of any pollutant to which a standard applies shall be considered a modification within the meaning of section 111 of the Act. * * *

* * * * *

(d) [Reserved]

(e) * * *

(4) * * * Conversion to coal required for energy considerations, as specified in section 111(a)(8) of the Act, shall not be considered a modification.

* * * * *

(g) Within 180 days of the completion of any physical or operational change subject to the control measures specified in paragraph (a) of this section, compliance with all applicable standards must be achieved.

(Sec. 111, 301(a) of the Clean Air Act as amended [42 U.S.C. 7411, 7601(a)]).

[FR Doc. 80-2122 Filed 1-22-80; 8:45 am]

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January 23, 1980

Part IX

Department of Energy

Office of Conservation and Solar Energy

Federal Energy Management and Planning Programs; Methodology and Procedures for Life Cycle Cost Analyses

V 45 / 16 JA 23 80 UMI

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Part 436

[Docket No. CAS-RM-79-107]

Federal Energy Management and Planning Programs; Methodology and Procedures for Life Cycle Cost Analyses

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is issuing a final rule to establish a methodology and procedures to conduct life cycle cost analyses, involving estimation and comparison of the cost effects of replacing building systems with energy-saving alternatives in existing Federal buildings, or of selecting among alternative building designs containing different energy-using building systems for a new Federal building. This methodology will be Subpart A of the new Part 436 of Title 10 of the Code of Federal Regulations and will be used in accordance with the guidelines for Federal building plans to reduce consumption of scarce fossil fuels for building energy use and with the rule for solar demonstration project proposals which are Subparts C and D of Part 436, respectively.

EFFECTIVE DATE: January 23, 1980.

FOR FURTHER INFORMATION CONTACT:

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Neal J. Strauss, Office of the General Counsel, Department of Energy, 20 Massachusetts Ave., N.W., Washington, D.C. 20585 (202/376-4723).

SUPPLEMENTARY INFORMATION:

A. Introduction

On April 30, 1979, the Department of Energy (DOE) published a proposed rule (44 FR 25366) to establish the methodology and procedures for conducting life cycle cost analyses. The purpose of these analyses is to evaluate and compare the estimated cost effects of investments in existing and new Federal buildings. The purpose of these investments is to substitute renewable or more plentiful non-renewable energy for scarce resources or reduce consumption of non-renewable resources. The proposed methodology would involve a systematic comparison of the estimated cost effects (measured in dollars) of investment decisions, using a discount factor to relate future to present values.

DOE received 17 written comments and eight persons testified at hearings held in San Francisco, California; Kansas City, Missouri; and Washington, D.C.; May 17, June 4 and 19, 1979, respectively. The total of 25 comments were from a broad spectrum of interests representing both the governmental (Federal and state) and the private sectors.

The final rule incorporates a number of changes which reflect DOE's consideration of the comments, as well as information from other sources.

With the issuance of this final rule, DOE amends Chapter II, Title 10 of the Code of Federal Regulations to establish life cycle costing methodology and procedures pursuant to Section 381(a)(2) of the Energy Policy and Conservation Act (EPCA) as amended, 42 U.S.C. 6361(a)(2), Section 10 of the Executive Order 11912, as amended by Executive Order 12003 (Executive Order), and Title V, Part 3, of the National Energy Conservation Policy Act (NECPA), 92 Stat. 3275.

Part 436 comprises the DOE rules for Federal energy management and planning programs under Section 381 of EPCA, the Executive Order, and Title V of NECPA. The subparts which are expected to be included are:

- Subpart A–Methodology and Procedures for Life Cycle Cost Analyses;
- Subpart B–Procedures for Preliminary Energy Audits;
- Subpart C–Guidelines for Buildings Plans;
- Subpart D–Solar in Federal Buildings Demonstration Program Rules;
- Subpart E–Federal Photovoltaic Utilization Program Rules; and
- Subpart F–Guidelines for Energy Management in General Operations of the Federal Government.

The life cycle costing methodology and procedures of Subpart A will be used to evaluate and compare the estimated cost effects of non-renewable energy-saving and renewable energy-saving investments during the formulation and execution of Buildings Plans under Subpart C. Subpart A will also be used to evaluate and compare the estimated cost effects of solar demonstration projects and photovoltaic utilization projects under Subparts D and E. It should be emphasized, however, that the result of a life cycle cost analysis will be treated differently under Subparts C, D and E as provided under law. The result of an analysis will determine investments under the planning guidelines of Subpart C, whereas, under Subparts D and E, it will merely be a factor to be considered in evaluating a proposed solar demonstration project.

Both the Executive Order and Title V of NECPA set requirements for the life cycle costing methodology and procedures promulgated today. Read together, they require that the methodology and procedures be practical, effective, and suitable for estimating:

- Whether retrofitting an alternative building system to an existing Federal building is cost-effective and tends to minimize the life cycle cost of that building;
- Relative cost-effectiveness of retrofit investments in buildings;
- Whether an alternative building design for a new Federal building will minimize the life cycle cost of that building;
- Payback time for solar demonstration projects; and
- Present value of net benefits or excess costs of a solar demonstration project compared to a substitute conventional non-solar alternative building system in an existing Federal building or in the design of a new Federal building.

NECPA requires the Secretary, in consultation with the heads of other agencies, to establish practical and effective methods for estimating and comparing life cycle costs for Federal buildings and to develop and prescribe the procedures to be followed in applying the methods.

Today's rule was developed in consultation with the Office of Management and Budget (OMB), the National Bureau of Standards (NBS), the General Services Administration (GSA), the Department of Defense (DOD), the Veterans Administration (VA) and other Federal agencies, which, among other things, provided information on existing analytical techniques used to estimate life cycle costs. The Director of OMB concurred in the final rule.

Substantial technical assistance was provided by the experts at NBS who are conversant with the technical aspects of life cycle cost analysis and are established consultants in the field. NBS was instrumental in the development of a manual for Federal agencies to use in applying the rule. The manual is entitled "Life Cycle Costing Manual for the Federal Energy Management Program." It will be provided to Federal agencies.

Today's rule will promote standardization of life cycle costing techniques already in use by Federal agencies. This final rule is expected to result in non-renewable energy-conserving and renewable energy

investment decisions which are more consistent and rational among agencies.

B. Summary of Comments on the Proposed Rules and DOE Responses

1. Energy Conservation and Solar Incentives.

The proposed rule requested comments about inclusion of special adjustments to emphasize certain long term social and economic benefits of energy conservation and the use of renewable technologies, such as solar. These benefits are often referred to as "external benefits" because they are not directly reflected (i.e., internalized) in market prices. They are usually difficult to quantify and accrue to society generally. They include avoidance of the negative economic impacts of importing oil on the balance of payments, on domestic employment, and on inflation driven by escalating energy prices. They also include the enhancement of national security by reducing the need to consume relatively insecure fuel supplies, as well as the environmental and health benefits of reduced pollution.

Seven commentors recommended that externality adjustments be included in the methodology. The main points in support of the recommendation were:

- The Federal Government should be the showcase for demonstrating renewable energy technologies and the applications of conservation methods;
- NECPA's purpose is to promote the use of solar heating and cooling in Federal buildings;
- The Federal Government, with a mandate to consider the consequences to the public welfare, must consider the external benefits of various energy options.

In view of the comments, DOE decided to modify the methodology to take account of external benefits by requiring Federal agencies to assume an investment credit of 10 percent of the initial investment cost of both conservation and renewable energy investments as a proxy for externality adjustments. That is to say, each analysis will assume that the initial cost is 90 percent of the actual investment cost. The 10 percent figure was selected after surveying Federal and state tax credits which represent legislative valuations of the external benefit of fossil fuel conserving investments. DOE was especially influenced by the provisions of the Energy Tax Act of 1978 (Public Law 95-618) which distinguished between credits to homeowners and credits to businesses. Because most of the existing building space to be retrofitted and new buildings to be built under this program will be similar to the larger facilities used by businesses, DOE decided to model the investment credit provision of the final rule on the business energy tax credit which is 10 percent of the cost of a conservation or renewable energy investment.

2. Discount Rate.

For the purpose of calculating the present worth of future benefits and costs, the proposed rule provided for the use of a real 10 percent discount rate, that is, a rate not including inflation. This rate was chosen to reflect the opportunity cost of capital in the private sector. It has been in general use since 1972 by Federal agencies for the analysis of most kinds of government investment.

A number of comments were received which suggested a reduced discount rate for conservation and solar investment. Generally, the comments argued that use of the 10 percent rate discriminated against the installation of many conservation measures and alternative energy technologies, such as solar, since their benefits are realized over a long future period while their initial costs are high.

In commenting on the proposed rule, the U.S. Congress Office of Technology Assessment (OTA) examined the behavior of individuals in making their own investment decisions and concluded that the average investor is willing to accept an after-tax return of 0–4 percent in constant dollars allowing for inflation. More importantly, OTA also pointed out that the 0–4 percent figure is close to the discount rate (1.9 percent) used by privately owned electric utilities to make energy-related investment decisions. These discount rates are not directly comparable to the discount rate established in the Office of Management and Budget (OMB) Circular No. A–94, which is a before-tax rate of return.

Executive Order 12003 requires that the life cycle cost methodology shall be consistent with the OMB Circular No. A–94, which establishes a standard discount rate to be used in evaluating time-distributed costs and benefits. A standard discount rate is provided so the many investments considered by various Federal agencies are analyzed using a consistent methodology to the maximum extent possible. The discount rate is selected so Federal investments are made using investment criteria which reflect the opportunity cost of diverting resources from the private sector to the public sector. The current 10 percent discount rate is derived from an estimate of the real before-tax rate of return in the corporate sector of the economy. Circular A–94 is being reviewed. Until that review is complete, no change will be made in the 10 percent discount rate. As part of that review, OMB will consider the appropriateness of the 10 percent discount rate.

3. Energy Price Forecasts

The energy price projections included in the proposed rule were based on average retail prices. Several comments were received pointing out that the average prices were unrealistically low, and that many worthwhile energy conservation and renewable energy projects would be disapproved as the direct result.

DOE has given extensive consideration to alternative concepts of price projections. It has been argued that changes in Federal energy use have an impact at the margin and, therefore, the prices should be based on marginal prices rather than average prices. Marginal prices would approximate the price of fuel that would result if Federal price controls on oil and gas were removed. DOE believes that such marginal prices would more accurately reflect the true value of energy savings to the Nation. In addition to its consideration of marginal cost prices, DOE is considering proposing the further adjustment of prices to reflect the premium value to the nation of saving energy, particularly oil and gas. This adjustment may be proposed as a substitute for the externality adjustment factor required by the rule and discussed above.

While much progress has been made in developing marginal price projections and estimates of the premium value of energy savings above such marginal prices, they were not completed for publication as a proposal for inclusion in this rule. Such projections and estimates will be completed in the near future so they can be published in the Federal Register not later than March 31, 1980 as a proposed amendment to this rule. DOE believes that it is important to provide an adequate opportunity to the public to comment on marginal price projections because they will be a significant development in price forecasting.

As an interim measure, pending development of marginal prices by fuel type, the final rule provides for the use of the updated and more realistic average retail price projections and escalation rates contained in Appendix C. Subject to certain exceptions, the rule requires each agency to use the base year 1980 prices given in Appendix C, tables C–1 and C–2. With an exception for liquid gas, these 1980 prices are based on projections from price data

available through the second quarter of 1979. The method for projecting the 1980 prices is described in the DOE Energy Information Administration (EIA) "Short-Term Energy Outlook, October 1979" which is available upon request. The 1980 national average prices thus derived were then converted to regional and sectoral values on the basis of conversion factors developed from 1977 price data set forth in Supplement I to Volume III of EIA's Annual Report to Congress, 1978. These conversion factors represent calculated regional and sectoral proportions.

The 1980 prices for Liquid Gas (LG) were estimated from 1977 reported LG prices and 1985 projected LG prices by assuming that the percentage of the total 1977–1985 growth that occurred in LG prices between 1977 and 1980 was the same as that which occurred in U.S. average Natural Gas (NG) prices for the residential sector. For example, based on the 1977, 1980, and 1985 average U.S prices for residential natural gas of $4.01, $5.80, and $8.45, respectively, it can be calculated that 73.4 percent of the total growth projected to occur during the 1977–85 period occurred between 1977 and 1980. Assuming that. this same percentage of the total growth in LG prices from 1977 to 1985 for the Residential Sector in DOE Region 2 occurred between 1977 and 1980, one can derive 1980 LG prices as follows: multiply the increase in price of $1.88 per MBtu (obtained by finding the difference between the 1985 price of $6.43 and the 1977 price of $4.55) by 73.4 percent to find $1.38, the estimated increase in price between 1977 and 1980. Now, add the $1.38 to the 1977 price to obtain the 1980 estimated price of $5.93.

The exception from the requirement to use the given base year prices permits agencies to use the most recent purchase price in cases where a time of day or demand charge for electricity is involved, or in cases where the actual price is higher.

The prices and escalation rates used in this final rule for years subsequent to 1980, were developed from the December, 1979, results of the Mid-Term Energy Forecasting System (MEFS), developed by DOE's EIA.

MEFS is an integrated computer model of the domestic energy system with explicit representation at the regional level of the supplies of and demand for petroleum products, natural gas and coal; cost of petroleum refining, electricity generation, and transportation; and price sensitivity of energy demands. In forecasting future energy supply, demand and prices, MEFS simulates the effects of a number of different variables, such as economic growth, world oil prices and the discovery of additional domestic energy resources. In order to reflect the uncertainty of such forecasts, EIA developed a range of forecasts based on different assumptions about key variables.

The projected energy prices used in this final rule represent the preliminary results of a forecast based on a series of "pessimistic" assumptions regarding long term world and domestic energy supplies. These "pessimistic" assumptions result in energy price projections on the high end of the range of forecasts developed by EIA. For example, this high price case assumes that the price in 1990 of a barrel of crude oil on the world market (in 1980 dollars) will be $40.78. This is contrasted by a mid-price case which assumes the 1990 world oil price to be $32.98 (in 1980 dollars). For purposes of comparison, the proposed rule was based on a projected 1990 world oil price of $23.50 per barrel (in 1978 dollars).

As can be seen from recent movement in world oil prices, the "high" case more closely reflects actual price trends than does the mid price case. Therefore, DOE has selected the high price case as the most suitable at this time for use in developing estimates and making energy conserving investments in Federal Buildings.

Specific assumptions upon which the high price case is based include:

1. Real (inflation adjusted) annual growth rate for the Gross National Product (GNP) will average 3.9 percent a year from 1980 to 1985 and about 3.3 percent per year thereafter.

2. The world oil price per barrel increases linearly to $34.15 in 1985, to $40.78 in 1990, to $46.22 in 1995.

3. The provisions of the National Energy Act are fully implemented.

4. Domestic oil prices are decontrolled by September 30, 1981.

5. There is no oil pipeline from the West Coast to eastern portions of the U.S.

6. A gas pipeline from Alaska would be in place by 1985.

7. The United States Geological Survey low domestic resource base exists.

8. The utility reserve margin may not exceed 35%. As a result, utilities might retire some oil-fired units before the end of their useful life regardless of oil price.

A more detailed description of the assumptions underlying the price forecasts is contained in an EIA service report entitled, "Modified MEFS Runs Describing Alternative Implementation of the Powerplant and Industrial Fuel Use Act (SR/1A/70–11) Oct., 1979." This document also sets forth the assumptions for scenarios other than the high price case.

4. Computer Applications

A number of comments were made concerning the use of computer programs and models that various agencies and consultants have been using. One commentor stated that the proposed rule does not effectively encourage the use of computer programs for energy and life cycle cost analysis. Another recommended mandatory computer modeling to include life cycle analysis where over a million dollars of building construction is involved. Another commentor suggested that computer models be updated in light of recent price realities.

DOE wishes to stress the following points relating to the use of computer and computer models for life cycle costing analysis:

Computer modeling for major retrofit or new buildings projects is desirable, but is not a mandatory requirement;

The rules do not preclude the use of computer analysis provided the basic cost factors are those contained in the Tables accompanying the rule, and the computer algorithms conform to the procedures and methodology of the rule;

The rule, § 436.14(b), describes the step-by-step calculation procedures to facilitate computer programming; and

A simple computer program has been written in BASIC language to follow the methodology and procedures of the rule. It is provided in the manual entitled "Life Cycle Costing Manual for the Federal Energy Management Program."

5. § 436.11—Definitions

Section 436.11 defined "replacement cost" to mean "future costs to replace a building system or any component thereof which wears out." One comment criticized the definition because it appeared to exclude obsolete systems or components. In response to this comment, DOE deleted the limiting words "which wears out."

Another commentor suggested a narrower definition of "alternative building systems" which would require that the energy savings be a percentage of the overall cost savings. The purpose of the suggestion was to ensure that retrofit projects to be analyzed under this rule are primarily energy conservation projects. DOE carefully considered this suggestion but decided that it would not be desirable since some projects such as fuel switching and energy management systems may not save energy but nonetheless may be beneficial to the Nation's energy activities.

A final suggestion was made to add a definition for energy costs which would include costs associated with kilowatt hour consumption, demand charges, and other special utility provisions such as time-of-day rates. It was stated that without inclusion of these utility cost features, a life cycle cost analysis may ignore important factors in the energy cost of a building. DOE has adopted this suggestion and has made appropriate changes in the final rule.

6. § 436.13—Presuming Cost-Effective Results

Three comments were made concerning § 436.13(b)(2), which states that retrofitting a building is not life cycle cost-effective when occupied under a lease that excludes the cost of utilities. One commentor pointed out that the wording appeared to preclude energy-saving investments in leased buildings when the Government does not pay the utility bills.

The intent of this provision is to specify that the Federal Government should not make energy-saving investments in leased buildings unless there is a provision for a pass-through of savings to the Government.

A comment was made concerning that portion of § 436.13(a) which states that where investment and other costs for retrofitting an existing building are insignificant, then the agency may presume it is life cycle cost-effective without further analysis. The commentor pointed out that there are also situations in the design of a new building where alternative building system costs are insignificant and the benefits substantial.

DOE is in agreement with this comment and has made the necessary change to § 436.13(a) of the rule so as to treat alternative building systems for new building designs the same as retrofits to existing buildings.

Two commentors suggested that DOE include a dollar value threshold for projects below which a life cycle cost analysis as required under this rule would not be necessary. One commentor recommended a threshold of $200,000 while the other recommended a threshold of $1,000,000. The reason given for the suggestion was that it would be too burdensome and uneconomical to perform analysis on projects with low dollar costs.

DOE has not adopted this suggestion. The final rule retains the provision of the proposed rule which allows agencies to presume life cycle cost-effectiveness without analysis when investment and other costs are insignificant. DOE believes the suggested threshold of $1,000,000 or even $200,000 would effectively eliminate life cycle cost analysis as an analytical tool in evaluating most investments, and would be inconsistent with the intent of both the Executive Order and NECPA.

7. § 436.14—Methodological Assumptions

Two comments were received on § 436.14(c) concerning the requirement that the fuel prices given in Appendix C be utilized, or if higher, the actual known costs. The intention was to eliminate the words "if higher" thus allowing agencies to use actual known costs if higher or lower. DOE did not accept the suggestion. Some agencies are able to purchase energy at artificially low prices, e.g., hydroelectric power in the northwest. Using the actual costs in these situations would certainly build in a bias toward energy sources which are not significantly expandable to meet future demand.

Section 436.14(d)(2) imposes a maximum constraint of 30 years on the evaluation period for retrofit projects and new building designs. One commentor urged that the 30-year maximum be strengthened to a 30-year standard time frame for analysis to increase uniformity in the evaluations. Another suggested that a maximum time period should not be imposed because it would "penalize longevity."

Prior to issuance of the final rules, a survey of agency practices revealed that a wide range of periods were being used in calculating the life of a building; some as low as 10 years, others as great as 40 years. Several agencies established a uniform number of years, such as 25 years, to be used for all buildings, while others specified a maximum length for the economic evaluation period.

In formulating the rules for building life, DOE considered the following possibilities: (1) not specifying a life and leaving the choice to agency discretion, (2) setting a common building life to be used by all agencies for all buildings, and (3) setting a maximum time constraint, but giving agencies discretion to designate building life within the confines of the limit imposed. The life cycle costing task force was asked to consider these alternatives. The first possibility, not giving any guideline on building life, was rejected because of the desirability of promoting uniformity and consistency among agencies.

The second, the designation of a simple, uniform life to be used by all agencies, was rejected because it was too narrow to meet the diverse circumstances of the many different agencies. Greater uniformity in approach is sought, but not at the sacrifice of accuracy in the estimation of key variables.

The third possibility, setting flexible study period guidelines with 30 years as a maximum time constraint, was adopted because it offers the following advantages: It recognizes the diversity of buildings and building life and, within limits, leaves it up to the individual agencies to predict the life of their buildings; and it provides a degree of uniformity by preventing the use of building lives in excess of 30 years which would involve extremely unreliable estimates of future cash flows.

There were two comments made with respect to § 436.14(e) which required that the useful life of any major building renewal or overhaul be estimated by the "manufacturer or any other reliable source." The commentors stated that professional engineers or architects might be better qualified under some circumstances to make such estimates. DOE has changed the final rule to read "manufacturer, engineer or architect or other reliable source."

In response to an agency's request that continuous compounding be allowed to accommodate its existing practice, DOE compared alternative compounding procedures under appropriately selected scenarios. The comparisons revealed that the net effect of continuous compounding, starting with the DOE-stipulated annual discount rate and the DOE-stipulated energy price escalation rates, is to increase the present value of energy savings, both by lowering the effective discount rate and by raising the effective price escalation rates. With a low discount rate (like 3 percent) and low price escalation rates, this biasing effect will tend to be quite small, but with a higher discount rate (i.e., 10 percent) and higher price escalation rates (i.e., 8 and 9 percent), the effect could be significant.

Although increases in the present value of future costs—which would also result from continuous compounding—would, to some extent, offset the increases in present value savings, the increases in savings could be expected to be substantially greater than the increases in costs for most projects, thereby tending to raise net present value.

The net effect of continuous compounding would be to give an advantage under the rule to agencies employing it. DOE does not believe that the rule should provide for such an advantage since agencies not using continuous compounding would suffer discrimination in competing for budgetary funds. Moreover, the

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additional accuracy in estimates to be gained from continuous compounding is more than offset by the complexity added to the analysis.

8. § 436.16—Establishing Non-Fuel Cost Data

Several persons commented that labor, maintenance, and replacement costs related to construction have increased over the past few years at a faster rate than general price inflation and recommended that price escalation factors be provided for these cost categories, as well as for energy. This issue was investigated but it does not appear that there is a reasonable basis for non-fuel construction cost escalation factors because the behavior of construction prices does not indicate a clear long-run trend of increases higher than the rate of inflation.

9. § 436.17—Establishing Energy Cost Data

One commentor proposed that specific formats for costs be required rather than merely encouraged and that agencies use them in the two-step procedure which uses uniform present worth factors pre-adjusted to reflect energy price escalation. DOE considers it unnecessary to mandate the use of specific formats in developing life cycle costs. Appropriately, the actual development of the data is left to each agency to perform in accordance with its own internal procedures and formats, but each must comply with these DOE-established methods, procedures and assumptions.

To aid those commentors who expressed a desire to utilize computers for their life cycle cost calculations, DOE is providing in § 436.14(b) an optional step-by-step method of calculating present value energy costs.

10. § 436.21—Savings-to-Investment Ratio

Some commentors suggested that in lieu of a savings-to-investment ratio, it would be more appropriate to rank retrofit projects on the basis of Btu's saved per investment dollar. Although it is a common measure of the desirability of some conservation investments, it is not consistent with the requirements of NECPA and the Executive Order. The Btu's saved per dollar invested method gives weight to the annual quantity of energy saved, but does not take into account the relative scarcities of different types of energy. This deficiency could result in an analysis concluding that it would be advisable to switch from coal to oil. Moreover, the Btu per investment dollar measure does not account for non-energy savings over the expected life of the project and the time value of money. In the short run, it will yield the largest Btu energy savings (if based on energy consumption at the source) though not necessarily the largest dollar energy savings. In the long run, it may not even yield the largest Btu savings because of lower program efficiency and smaller dollar savings.

Although the Executive Order specifically requires that highest priority be given to the most cost-effective projects, DOE does approve of the use of energy savings per dollar invested for a further ranking of measures which are equally cost-effective. DOE believes that any greater emphasis on Btu's saved per dollar invested would be inappropriate.

11. § 436.23—Sensitivity Analysis

One person recommended an additional requirement which would compel each agency to conduct a sensitivity analysis with respect to every investment. Assumptions as to the availability of energy supplies or the existence of government policies mandating use of certain forms of energy would vary accordingly. DOE decided not to accept this recommendation because the burden of performing such analyses would be high and the results would be too speculative to be of substantial value in evaluating investments at this time.

11. Miscellaneous

There were a number of comments of a technical or editorial nature which have been considered but not specifically discussed. In some instances, these comments led to minor changes in the provisions of the rule. Similar changes were also made in the case of technical or clerical errors that were discovered by DOE in reviewing the proposed rule.

This rulemaking was determined to be "significant" but not "major" under Executive Order 12044, 43 FR 12661. It was also determined that the promulgation of these rules would not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act, as amended, 42 U.S.C. 4321, *et seq.* Notice of that determination was published in the **Federal Register** on April 30, 1979 (44 FR 25366). As described previously, this will become Subpart A of 10 CFR Part 436. Proposed actions to implement this rule under Part 436 will be reviewed on a specific project-by-project basis to determine the need for further environmental review.

In consideration of the foregoing, the DOE hereby amends Chapter II of Title 10, Code of Federal Regulations, by adding Subpart A to Part 436 as set forth below.

Issued in Washington, D.C., January 15, 1980.

T. E. Stelson,

Assistant Secretary, Conservation and Solar Energy, Department of Energy.

Subpart A—Methodology and Procedures for Life Cycle Cost Analyses

Sec.

436.10 Purpose.
436.11 Definitions.
436.12 Life cycle Cost Methodology.
436.13 Presuming Cost-Effectiveness Results.
436.14 Methodological Assumptions.
436.15 Formatting Cost Data.
436.16 Establishing Non-Fuel Cost Data.
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Table C–1—Base Year Energy Prices.
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Table C–6—Energy Price Escalation Rates 1980–1985.
Table C–7—Energy Price Escalation Rates 1985–1990.
Table C–8—Energy Price Escalation Rates 1990–1995 and Beyond.

Authority: Energy Policy and Conservation Act, as amended, (42 U.S.C. 6361); Executive Order 11912, as amended, 42 FR 37523 (July 20, 1977); National Energy Conservation Policy Act, Title V, Part 3, 92 Stat. 3275; Department of Energy Organization Act, (42 U.S.C. 7254).

Subpart A—Methodology and Procedures for Life Cycle Cost Analyses

§ 436.10 Purpose.

This Subpart establishes a methodology for estimating and comparing the life cycle costs of Federal buildings and for determining life cycle cost-effectiveness. The methodology evaluates the economic consequences of investments in alternatives building systems for existing Federal buildings and alternative building designs for new Federal buildings under Subpart C of this Part, and in solar hot water, solar heating or solar heating and cooling projects, and photovoltaic utilization projects, for Federal buildings under Subparts D and E of this Part.

§ 436.11 Definitions.

As used in this Subpart—

"Alternative building system" means an energy conservation measure, as defined by this section, including a renewable energy system, for an existing Federal building, or a primarily energy saving building system, including a renewable energy system, for consideration as part of the design for a new Federal building.

"Base Year" means the year in which a life cycle cost analysis is conducted.

"Building" means any structure with a roof and walls designed for storage or human use.

"Building system" means any portion of the structure of the building or of any energy-using system in the building.

"Demand charge" means that portion of the charge for electric service based upon the plant and equipment costs associated with supplying the electricity consumed.

"Energy conservation measure" means an installation or modification of an installation in a building which is primarily intended to reduce energy consumption or allow the use of a renewable energy source, including, but not limited to—

(a) Insulation of the building structure and systems within the building;

(b) Storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area and other window and door system modifications;

(c) Automatic energy control systems;

(d) Equipment required to operate variable steam, hydraulic and ventilating systems adjusted by automatic energy control systems;

(e) Solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

(f) Solar water heating systems;

(g) Furnace or utility plant and distribution system modifications including—

(1) Replacement burners, furnaces, boilers, or any combination thereof, which substantially increases the energy efficiency of the heating system;

(2) Devices for modifying flue openings which will increase the energy efficiency of the heating system;

(3) Electrical or mechanical furnace ignition systems which replace standing gas pilot lights; and

(4) Utility plant system conversion measures including conversion of existing oil- and gas-fired boiler installations to alternative energy sources, including coal;

(h) Caulking and weatherstripping;

(i) Replacement or modification of lighting fixtures which increases the energy efficiency of the lighting system;

(j) Energy recovery systems; and

(k) Cogeneration systems which produce steam or forms of energy such as heat, as well as electricity for use primarily within a building or a complex of buildings.

"Existing Federal building" means a Federal building the construction of which was complete by November 9, 1978, or the design of which cannot feasibly be modified after the effective date of Subpart C of this Part.

"Facility" means any group of closely located buildings, none of which is individually metered for all energy sources and for which the actual rate of use of all energy sources can be determined.

"Federal agency" means an Executive agency under 5 U.S.C. 105 (1970), the United States Postal Service, and each entity specified in 5 U.S.C. 5721(1) (B)–(H) (1970).

"Federal building" means any building, structure or facility which is contructed, renovated, leased or purchased in whole or in part for use by the United States, and which includes a heating system, or cooling system, or both.

"Investment costs" means the initial costs of design, engineering, purchase, and installation exclusive of sunk costs.

"Life Cycle Cost" means the total cost of owning, operating and maintaining a building over its useful life, including its fuel and energy costs, determined on the basis of a systematic evaluation and comparison of alternative building systems; except that in the case of leased buildings, the life cycle cost shall be calculated over the effective remaining term of the lease.

"Liquid gas" means propane, butane, ethane, pentane, or natural gasoline.

"New Federal building" means a Federal building for which construction was not completed prior to November 9, 1978, and the design of which can be feasibly modified after the effective date of Subpart C of this Part.

"Non-recurring costs" means costs that are not uniformly incurred annually over the study period.

"Non-fuel operation and maintenance costs" means material and labor costs for routine upkeep, repair and operation exclusive of energy cost.

"Recurring costs" means costs that are incurred uniformly and annually over the study period.

"Replacement costs" means future costs to replace a building system or any component thereof.

"Retrofit" means installation of an alternative building system in an existing Federal building.

"Salvage value" means the value of any building system removed or replaced during the study period, or remaining at the end of the study period, or recovered through resale at the end of the study period.

"Study period" means the time period covered by a life cycle cost analysis.

"Sunk costs" means costs incurred prior to the year in which the life cycle cost analysis occurs.

"Time-of-day rate" means the charge for service during periods of the day based on the cost of supplying services during various times of the day.

§ 436.12 Life cycle cost methodology.

The life cycle cost methodology for this Part is a systematic analysis of relevant costs, excluding sunk costs, over a study period, relating initial costs to future costs by the technique of discounting future costs to present values.

§ 436.13 Presuming cost-effectiveness results.

(a) If the investment and other costs for an alternative building system considered for retrofit to an existing Federal building or for incorporation into a new building design are insignificant, a Federal agency may presume that such a system is life cycle cost-effective without further analysis.

(b) A Federal agency may presume that an investment in an alternative building system for retrofit to an existing Federal building is not life cycle cost-effective if the Federal building is—

(1) Occupied under a short-term lease without a renewal option or with a renewal option which is not likely to be exercised;

(2) Occupied under a lease which includes the cost of utilities in the rent and does not provide a pass-through of energy savings to the government; or

(3) Scheduled to be demolished or retired from service within three years.

§ 436.14 Methodological assumptions.

Except in determining estimated simple payback time, each Federal agency shall assume:

(a) That the annual discount rate is 10 percent, without inflation, and shall adjust cost data accordingly by applying

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the appropriate present worth factors from the tables in Appendices A and B;

(b) That energy prices will rise at rates different from the rate of increase in the general price level, and shall adjust energy cost data accordingly either by a simplified approach whereby the appropriate modified present worth factors based on the 10 percent discount rate and adjusted for energy price escalation for the applicable region, sector, fuel type, and study period from Tables B–1 through B–11 of Appendix B are multiplied by the base-year energy costs, or by a lengthier, step-by-step approach whereby the year-by-year prices of energy are determined by applying the annual compound price growth factors given in Appendix C, Tables C–6, C–7 and C–8 to the price of energy in the preceding year, beginning with the base year price, and then multiplying each year's price by each year's quantity of energy, prior to discounting yearly savings to present value using appropriate single present worth factors given in Table A–1;

(c) That the price of energy in the base year is the price for the appropriate region, sector, and fuel type given in Tables C–1 and C–2 in Appendix C; except that the actual price to the Federal agency of energy delivered to the Federal building shall be assumed when—

(1) That price is highest; or

(2) The alternative building system would affect a component of the price of electricity such as a time of day rate or a demand charge.

(d) That the appropriate study period—

(1) For evaluating or ranking alternative building system retrofits for an owned existing Federal building, is either the lesser of 30 years or the estimated life of the alternative building system or the estimated life of the building;

(2) For determining the total life cycle costs or net savings of mutually-exclusive alternatives for a given building system is an equivalent study period which may be:

(i) The estimated useful life of one of the alternatives with replacement or salvage values estimated for the other alternatives as necessary;

(ii) A common multiple of the useful lives of both alternatives; or

(iii) The lesser of 30 years or the useful life of the building;

(3) For evaluating alternative designs for a new owned Federal building; is the lesser of 30 years or the period of intended use for that building; and

(4) For a leased Federal building, is the lesser of 30 years or effective remaining term of the lease which may include renewal options likely to be exercised;

(e) That the useful life of any building system is the period of service without major renewal or overhaul estimated by a qualified engineer or architect, as appropriate, or any other reliable source;

(f) That the investment costs are a lump sum occurring at the beginning of the base year and constituting 90 percent of the actual investment costs;

(g) That energy costs and non-fuel operation and maintenance costs begin accruing at the end of the base year; and

(h) That non-investment costs in any year occur in a lump sum at the end of the year in which they are incurred.

§ 436.15 Formatting cost data.

In establishing cost data under § 436.16 and § 436.17 and measuring cost effectiveness by the modes of analysis described by § 436.19–436.22, a format for accomplishing the analysis which includes all the essential elements of the procedure shall be used. Federal agencies are encouraged to use formats such as those set forth in the "Life Cycle Costing Manual for the Federal Energy Management Program."

§ 436.16 Establishing non-fuel cost data.

(a) The revelant non-fuel cost categories are—

(1) Investment costs;

(2) Non-fuel operation and maintenance costs;

(3) Replacement costs; and

(4) Salvage value.

(b) The investment costs are assumed to be a present value under § 436.14(g).

(c) The present value of recurring costs is the product of the base year value of recurring costs as multiplied by the appropriate uniform present worth factor for the applicable study period from Table 2 in Appendix A.

(d) The present value of non-recurring costs under § 436.16(a)(2)–(a)(4) is the product of the non-recurring costs as multiplied by appropriate single present worth factors from Table A–1 of Appendix A for the respective years in which the costs are expected to be incurred.

§ 436.17 Establishing energy cost data.

(a) Each Federal agency shall establish energy costs in the base year by multiplying the total units of energy used in the base year by the price per unit of energy in the base year as determined in accordance with § 436.14(c).

(b) The present value of energy costs over the study period shall be calculated by multiplying the energy costs in the base year as established under § 436.17(a) by the appropriate modified uniform present worth factor adjusted for energy price escalation for the applicable region, sector, fuel type, and study period from Tables B–1 through B–11 of Appendix B; or, by using the step-by-step approach detailed in § 436.14(b).

§ 436.18 Measuring cost-effectiveness.

(a) In accordance with this section, each Federal agency shall measure cost-effectiveness by combining cost data established under § 436.16 and § 436.17 in the appropriate mode of analysis as described in § 436.19–436.22.

(b) Replacement of a building system with an alternative building system by retrofit to an existing Federal building or substitution in the design for a new Federal building shall be deemed cost-effective if—

(1) Total life cycle costs, as described by § 436.19, are estimated to be lower; or

(2) Net savings, as described by § 436.20, are estimated to be positive; or

(3) The savings-to-investment ratio, as described by § 436.21, is estimated to be greater than one.

(c) As a rough measure, each Federal agency may determine estimated simple payback time under § 436.22, which indicates whether a retrofit is likely to be cost-effective under § 436.18(b). An alternative system is likely to be cost-effective if estimated payback time is significantly less than the useful life of that system and of the Federal building in which it is installed.

(d) Mutually exclusive alternatives for a given building system considered in determining such matters as the optimal size of a solar energy system, the optimal thickness of insulation, or the best choice of double-glazing or triple-glazing for windows, shall be compared and evaluated on the basis of total life cycle costs or net savings over equivalent study periods. The alternative which is estimated to result in the lowest total life cycle costs or the highest net savings shall be deemed the most cost-effective because it tends to minimize the life cycle cost of the Federal building.

(e) Cost-effective alternative building systems shall be ranked in descending order of their savings-to-investment ratios.

(f) Alternative building designs for new Federal buildings shall be evaluated on the basis of total life cycle costs. The alternative design which results in the lowest total life cycle costs for a given new building shall be deemed the most cost-effective.

§ 436.19 Total life cycle costs.

Total life cycle costs are the sum of the present values of—

(a) Investment costs less salvage values at the end of the study period;

(b) Non-fuel operation and maintenance costs;

(c) Replacement costs less salvage costs of replaced building systems; and

(d) Energy costs.

§ 436.20 Net savings.

Net savings is the difference in the present values of savings and costs of an alternative building system as compared with the existing building system or with the basic design for a new building. For a retrofit project, net savings may be found by calculating the total life cycle costs for an existing building system and the total life cycle costs for the proposed retrofit system, and then subtracting the total life cycle costs for the proposed system from the total life cycle costs for the existing system. For a new building design, net savings is the difference between the life cycle costs of one alternative compared with the system in the basic design.

§ 436.21 Savings-to-investment ratio.

The savings-to-investment ratio is the ratio of the present value savings of an alternative building system to its increase in present value costs during the study period. The numerator of the ratio is the net difference in present value energy and non-fuel operation and maintenance costs between the proposed alternative and the existing building system or basic design alternative. The denominator of the ratio is the net difference between the proposed alternative and the existing building system or the basic design alternative in present value investment and replacement costs less salvage value.

§ 436.22 Estimated simple payback time.

The estimated simple payback time is the number of years required for the cumulative value of energy cost savings less future non-fuel costs to equal the investment costs of the building system, without consideration of future fuel price increases or discount rates.

§ 436.23 Sensitivity analysis.

If there is uncertainty regarding particular items of cost data, a sensitivity analysis may be performed by varying the analysis under § 436.19–§ 436.21 for those items to determine whether the variation has a significant impact on the result of an analysis.

§§ 436.24–436.29 [Reserved]

Appendix A to Subpart A of Part 436

Table A–1.—SPW Factors, Based on a 10 Percent Discount Rate, for Finding the Present Value of Future Non-Fuel, Non-Recurring Costs

Study period	Factor
1	0.91
2	0.83
3	0.75
4	0.68
5	0.62
6	0.57
7	0.50
8	0.47
9	0.42
10	0.39
11	0.35
12	0.32
13	0.29
14	0.26
15	0.24
16	0.22
17	0.20
18	0.18
19	0.16
20	0.15
21	0.14
22	0.12
23	0.11
24	0.10
25	0.09
26	0.08
27	0.08
28	0.07
29	0.06
30	0.06

The formula for finding the present value (P) of a future amount (F) is the following:

$$P = \frac{F}{(1+d)^n}$$

where d = the discount rate, and n = the year in which F occurs.

Table A–2.—UPW Factors, Based on a 10 Percent Discount Rate, for Finding the Present Value of Future Non-Fuel, Recurring Costs

Study Period	Factor
1	0.91
2	1.74
3	2.49
4	3.17
5	3.79
6	4.36
7	4.87
8	5.34
9	5.76
10	6.15
11	
12	6.81
13	7.10
14	7.37
15	7.61
16	7.82
17	8.02
18	8.20
19	8.37
20	8.51
21	8.65
22	8.77
23	8.88
24	8.99
25	9.08
26	9.16
27	9.24
28	9.31
29	9.37
30	9.43

The formula for finding the present value (P) of an annually recurring uniform amount (A) is the following:

$$P = A\,\frac{(1+d)^n - 1}{d\,(1+d)^n}$$

where d = the discount rate, and n = the number of compounding periods over which A occurs.

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APPENDIX B TO SUBPART A OF PART 436

TABLE B-1 – UPW* DISCOUNT FACTORS ADJUSTED FOR ENERGY PRICE ESCALATION[a]
DOE REGION 1
(MAINE, NEW HAMPSHIRE, VERMONT, MASSACHUSETTS, CONNECTICUT, RHODE ISLAND)
STUDY PERIOD 1 IS 1980

	RESIDENTIAL SECTOR				COMMERCIAL SECTOR				INDUSTRIAL SECTOR				
STUDY PERIOD	ELECTRICITY	NATURAL GAS	DISTILLATE	LIQUID GAS	ELECTRICITY	NATURAL GAS	DISTILLATE	RESIDUAL	ELECTRICITY	NATURAL GAS	DISTILLATE	LIQUID GAS	COAL
1	0.93	0.87	0.91	0.92	0.93	0.87	0.92	0.98	0.94	0.92	0.92	0.92	0.90
2	1.80	1.62	1.75	1.78	1.80	1.62	1.77	1.94	1.83	1.77	1.77	1.78	1.71
3	2.60	2.28	2.51	2.57	2.61	2.28	2.55	2.89	2.67	2.54	2.55	2.57	2.44
4	3.35	2.85	3.21	3.29	3.36	2.85	3.27	3.82	3.47	3.26	3.27	3.30	3.10
5	4.04	3.34	3.85	3.97	4.07	3.35	3.93	4.72	4.22	3.92	3.93	3.97	3.69
6	4.67	3.80	4.44	4.59	4.70	3.81	4.56	5.58	4.89	4.54	4.55	4.59	4.24
7	5.23	4.23	5.01	5.18	5.26	4.25	5.14	6.39	5.49	5.13	5.12	5.17	4.74
8	5.73	4.64	5.53	5.69	5.77	4.67	5.69	7.15	6.02	5.68	5.65	5.70	5.21
9	6.19	5.02	6.03	6.18	6.23	5.06	6.21	7.87	6.50	6.20	6.13	6.19	5.63
10	6.59	5.37	6.49	6.63	6.64	5.42	6.70	8.54	6.93	6.70	6.58	6.64	6.03
11	6.96	5.70	6.92	7.07	7.01	5.76	7.15	9.17	7.32	7.16	7.02	7.08	6.39
12	7.29	6.00	7.32	7.49	7.34	6.07	7.57	9.75	7.67	7.58	7.42	7.51	6.73
13	7.59	6.28	7.70	7.89	7.65	6.36	7.96	10.30	7.98	7.96	7.80	7.91	7.04
14	7.87	6.54	8.04	8.28	7.92	6.63	8.32	10.81	8.27	8.30	8.16	8.31	7.33
15	8.11	6.78	8.36	8.66	8.17	6.88	8.66	11.28	8.53	8.70	8.49	8.69	7.59
16	8.34	7.01	8.66	9.02	8.39	7.11	8.97	11.72	8.77	9.03	8.81	9.06	7.84
17	8.54	7.21	8.94	9.37	8.60	7.32	9.26	12.13	8.98	9.33	9.11	9.42	8.07
18	8.72	7.40	9.19	9.71	8.78	7.52	9.53	12.51	9.17	9.61	9.39	9.76	8.27
19	8.88	7.58	9.43	10.03	8.95	7.70	9.78	12.87	9.34	9.87	9.66	10.10	8.47
20	9.03	7.74	9.65	10.35	9.10	7.87	10.02	13.20	9.50	10.12	9.91	10.42	8.65
21	9.17	7.89	9.86	10.65	9.23	8.03	10.24	13.51	9.64	10.34	10.14	10.73	8.81
22	9.29	8.03	10.05	10.94	9.36	8.18	10.44	13.80	9.77	10.55	10.37	11.03	8.97
23	9.40	8.16	10.23	11.22	9.47	8.31	10.62	14.07	9.88	10.75	10.57	11.32	9.11
24	9.50	8.27	10.39	11.50	9.57	8.44	10.80	14.32	9.99	10.94	10.77	11.61	9.24
25	9.59	8.38	10.54	11.76	9.66	8.56	10.96	14.55	10.08	11.11	10.96	11.88	9.36
26	9.68	8.48	10.69	12.01	9.75	8.66	11.11	14.77	10.17	11.27	11.13	12.14	9.47
27	9.75	8.58	10.82	12.25	9.82	8.76	11.25	14.97	10.25	11.42	11.30	12.40	9.57
28	9.82	8.67	10.94	12.49	9.89	8.86	11.38	15.16	10.32	11.56	11.45	12.64	9.67
29	9.88	8.75	11.05	12.72	9.95	8.94	11.50	15.33	10.38	11.69	11.60	12.86	9.76
30	9.93	8.82	11.16	12.94	10.01	9.02	11.61	15.49	10.44	11.81	11.74	13.11	9.84

a. These "modified" uniform present worth discount (UPW*) factors are based on a 10% discount rate and include the EIA projected real escalation rates in energy prices developed from the Mid-Term Energy Forecasting System (MEFS), for the periods 1980–1985, 1985–1990, and 1990–1995 and beyond. The formula for calculating these UPW* factors is the following: For i = 1 to k escalation periods,

$$UPW^* = \sum_{j=1}^{n_1}\left(\frac{1+e_1}{1+d}\right)^j + \left(\frac{1+e_1}{1+d}\right)^{n_1}\sum_{j=1}^{n_2}\left(\frac{1+e_2}{1+d}\right)^j + \left(\frac{1+e_1}{1+d}\right)^{n_1}\left(\frac{1+e_2}{1+d}\right)^{n_2}\sum_{j=1}^{n_3}\left(\frac{1+e_3}{1+d}\right)^j + \cdots + \left(\frac{1+e_1}{1+d}\right)^{n_1}\left(\frac{1+e_2}{1+d}\right)^{n_2}\cdots\left(\frac{1+e_{k-1}}{1+d}\right)^{n_{k-1}}\left(\frac{1+e_k}{1+d}\right)^j.$$

where n_i = the length of the period for a given escalation rate in a given period, and the subscript i indicates the escalation period;

d = the discount rate; and $\sum_{j=1}^{n}\left(\frac{1+e}{1+d}\right)^j = \left(\frac{1+e}{d-e}\right)\left(1-\left(\frac{1+e}{1+d}\right)^n\right)$

TABLE B-2 – UPW* DISCOUNT FACTORS ADJUSTED FOR ENERGY PRICE ESCALATION[a]
DOE REGION 2
(NEW YORK, NEW JERSEY, PUERTO RICO, VIRGIN ISLANDS)
STUDY PERIOD 1 IS 1980

	RESIDENTIAL SECTOR				COMMERCIAL SECTOR				INDUSTRIAL SECTOR				
STUDY PERIOD	ELECTRICITY	NATURAL GAS	DISTILLATE	LIQUID GAS	ELECTRICITY	NATURAL GAS	DISTILLATE	RESIDUAL	ELECTRICITY	NATURAL GAS	DISTILLATE	LIQUID GAS	COAL
1	0.90	0.89	0.92	0.93	0.90	0.89	0.93	0.99	0.92	0.97	0.91	0.93	0.94
2	1.70	1.69	1.77	1.78	1.72	1.68	1.78	1.98	1.77	1.92	1.74	1.78	1.82
3	2.42	2.40	2.56	2.57	2.46	2.39	2.58	2.97	2.55	2.84	2.49	2.57	2.65
4	3.07	3.04	3.28	3.30	3.13	3.01	3.31	3.94	3.26	3.74	3.17	3.30	3.43
5	3.65	3.61	3.94	3.98	3.73	3.57	3.99	4.82	3.92	4.51	3.80	3.98	4.16
6	4.19	4.14	4.57	4.61	4.28	4.10	4.63	5.63	4.54	5.43	4.38	4.61	4.83
7	4.68	4.65	5.16	5.18	4.80	4.60	5.23	6.70	5.11	6.21	4.93	5.18	5.45
8	5.13	5.12	5.70	5.72	5.27	5.07	5.79	7.51	5.64	6.95	5.45	5.72	6.03
9	5.55	5.57	6.22	6.21	5.70	5.52	6.32	8.27	6.13	7.64	5.93	6.21	6.55
10	5.94	5.99	6.71	6.66	6.10	5.94	6.82	8.99	6.59	8.30	6.39	6.66	7.04
11	6.29	6.38	7.15	7.10	6.46	6.33	7.28	9.66	7.00	8.91	6.81	7.10	7.49
12	6.60	6.74	7.57	7.52	6.79	6.70	7.71	10.28	7.36	9.48	7.20	7.53	7.91
13	6.89	7.08	7.96	7.93	7.08	7.04	8.11	10.86	7.69	10.01	7.57	7.94	8.30
14	7.14	7.39	8.32	8.32	7.35	7.36	8.48	11.41	7.99	10.51	7.91	8.33	8.66
15	7.37	7.68	8.65	8.69	7.59	7.65	8.82	11.91	8.26	10.97	8.22	8.72	8.99
16	7.58	7.95	8.96	9.06	7.80	7.92	9.14	12.38	8.50	11.40	8.52	9.09	9.30
17	7.77	8.20	9.25	9.41	8.00	8.18	9.44	12.81	8.71	11.80	8.79	9.44	9.59
18	7.94	8.43	9.52	9.74	8.17	8.41	9.71	13.22	8.91	12.17	9.04	9.79	9.86
19	8.09	8.64	9.77	10.07	8.33	8.63	9.97	13.60	9.08	12.52	9.28	10.12	10.10
20	8.23	8.84	10.00	10.38	8.48	8.84	10.21	13.95	9.24	12.85	9.50	10.44	10.33
21	8.35	9.02	10.21	10.69	8.60	9.03	10.43	14.28	9.37	13.16	9.70	10.76	10.54
22	8.46	9.19	10.41	10.98	8.72	9.20	10.63	14.59	9.50	13.43	9.89	11.05	10.74
23	8.56	9.35	10.59	11.26	8.83	9.37	10.82	14.87	9.61	13.69	10.07	11.34	10.92
24	8.66	9.50	10.76	11.53	8.92	9.52	11.00	15.14	9.71	13.94	10.23	11.62	11.09
25	8.74	9.63	10.92	11.79	9.01	9.66	11.17	15.38	9.81	14.17	10.38	11.90	11.24
26	8.81	9.76	11.07	12.04	9.08	9.79	11.32	15.61	9.89	14.38	10.52	12.16	11.39
27	8.88	9.87	11.20	12.28	9.15	9.92	11.46	15.83	9.96	14.58	10.66	12.41	11.52
28	8.94	9.98	11.33	12.51	9.21	10.03	11.59	16.03	10.03	14.76	10.78	12.65	11.64
29	8.99	10.08	11.45	12.74	9.27	10.14	11.72	16.21	10.09	14.94	10.89	12.89	11.76
30	9.04	10.18	11.56	12.95	9.32	10.23	11.83	16.38	10.14	15.10	11.00	13.12	11.87

a. These "modified" uniform present worth discount (UPW*) factors are based on a 10% discount rate and include the EIA projected real escalation rates in energy prices developed from the Mid-Term Energy Forecasting System (MEFS), for the periods 1980–1985, 1985–1990, and 1990–1995 and beyond. The formula for calculating these UPW* factors is the following: For i = 1 to k escalation periods,

$$UPW^* = \sum_{j=1}^{n_1}\left(\frac{1+e_1}{1+d}\right)^j + \left(\frac{1+e_1}{1+d}\right)^{n_1}\sum_{j=1}^{n_2}\left(\frac{1+e_2}{1+d}\right)^j + \left(\frac{1+e_1}{1+d}\right)^{n_1}\left(\frac{1+e_2}{1+d}\right)^{n_2}\sum_{j=1}^{n_3}\left(\frac{1+e_3}{1+d}\right)^j + \cdots + \left(\frac{1+e_1}{1+d}\right)^{n_1}\left(\frac{1+e_2}{1+d}\right)^{n_2}\cdots\left(\frac{1+e_{k-1}}{1+d}\right)^{n_{k-1}}\left(\frac{1+e_k}{1+d}\right)^j.$$

where n_i = the length of the period for a given escalation rate in a given period, and the subscript i indicates the escalation period;

d = the discount rate; and $\sum_{j=1}^{n}\left(\frac{1+e}{1+d}\right)^j = \left(\frac{1+e}{d-e}\right)\left(1-\left(\frac{1+e}{1+d}\right)^n\right)$

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TABLE B-3 – UPW* DISCOUNT FACTORS ADJUSTED FOR ENERGY PRICE ESCALATION[a]
DOE REGION 3
(PENNSYLVANIA, MARYLAND, WEST VIRGINIA, VIRGINIA, DISTRICT OF COLUMBIA, DELAWARE)
STUDY PERIOD 1 IS 1980

	RESIDENTIAL SECTOR				COMMERCIAL SECTOR				INDUSTRIAL SECTOR				
STUDY PERIOD	ELECTRICITY	NATURAL GAS	DISTILLATE	LIQUID GAS	ELECTRICITY	NATURAL GAS	DISTILLATE	RESIDUAL	ELECTRICITY	NATURAL GAS	DISTILLATE	LIQUID GAS	COAL
1	0.91	0.90	0.93	0.93	0.90	0.89	0.93	1.01	0.92	0.93	0.91	0.93	0.94
2	1.73	1.72	1.79	1.79	1.72	1.68	1.79	2.02	1.78	1.80	1.75	1.79	1.84
3	2.47	2.45	2.58	2.59	2.45	2.39	2.58	3.04	2.57	2.60	2.52	2.58	2.68
4	3.15	3.11	3.32	3.33	3.12	3.02	3.32	4.07	3.30	3.35	3.22	3.32	3.47
5	3.76	3.71	4.01	4.02	3.72	3.58	4.00	5.10	3.97	4.05	3.86	4.00	4.22
6	4.32	4.27	4.65	4.66	4.27	4.11	4.65	6.07	4.58	4.73	4.46	4.63	4.92
7	4.82	4.80	5.26	5.24	4.76	4.61	5.25	6.98	5.14	5.30	5.02	5.22	5.56
8	5.28	5.30	5.82	5.78	5.21	5.08	5.82	7.84	5.64	6.04	5.55	5.76	6.15
9	5.70	5.77	6.35	6.28	5.62	5.53	6.35	8.65	6.10	6.67	6.05	6.25	6.70
10	6.08	6.21	6.85	6.74	5.99	5.95	6.85	9.41	6.52	7.29	6.51	6.71	7.21
11	6.42	6.62	7.31	7.18	6.33	6.34	7.32	10.11	6.90	7.88	6.95	7.15	7.68
12	6.74	6.99	7.74	7.60	6.64	6.70	7.75	10.77	7.24	8.44	7.35	7.56	8.12
13	7.02	7.34	8.14	8.01	6.92	7.04	8.15	11.38	7.56	8.98	7.72	7.90	8.52
14	7.29	7.67	8.51	8.40	7.18	7.35	8.52	11.94	7.85	9.50	8.07	8.26	8.90
15	7.53	7.96	8.85	8.78	7.41	7.64	8.87	12.47	8.12	10.00	8.39	8.76	9.25
16	7.74	8.24	9.16	9.14	7.63	7.91	9.19	12.96	8.36	10.47	8.68	9.13	9.57
17	7.94	8.50	9.46	9.49	7.82	8.16	9.49	13.42	8.58	10.92	8.97	9.49	9.88
18	8.13	8.74	9.73	9.83	8.00	8.39	9.77	13.84	8.78	11.36	9.23	9.83	10.16
19	8.29	8.96	9.99	10.15	8.17	8.60	10.03	14.23	8.97	11.77	9.47	10.16	10.41
20	8.44	9.16	10.22	10.46	8.31	8.80	10.27	14.60	9.14	12.17	9.69	10.48	10.66
21	8.58	9.35	10.44	10.76	8.45	8.98	10.49	14.94	9.29	12.55	9.90	10.78	10.88
22	8.71	9.52	10.64	11.04	8.57	9.16	10.70	15.26	9.43	12.91	10.09	11.08	11.09
23	8.82	9.68	10.83	11.32	8.69	9.32	10.89	15.55	9.56	13.26	10.27	11.37	11.28
24	8.93	9.83	11.00	11.58	8.79	9.46	11.07	15.82	9.68	13.59	10.44	11.64	11.46
25	9.03	9.97	11.16	11.84	8.89	9.60	11.23	16.08	9.78	13.91	10.59	11.91	11.62
26	9.11	10.10	11.31	12.09	8.97	9.73	11.39	16.32	9.88	14.22	10.74	12.16	11.78
27	9.19	10.22	11.45	12.32	9.05	9.84	11.53	16.54	9.96	14.51	10.87	12.41	11.92
28	9.27	10.33	11.58	12.55	9.12	9.95	11.66	16.74	10.05	14.79	10.99	12.65	12.05
29	9.33	10.43	11.70	12.77	9.19	10.05	11.78	16.93	10.13	15.05	11.11	12.88	12.17
30	9.39	10.52	11.81	12.97	9.25	10.15	11.90	17.11	10.20	15.31	11.21	13.10	12.29

a. These "modified" uniform present worth discount (UPW*) factors are based on a 10% discount rate and include the EIA projected real escalation rates in energy prices developed from the Mid-Term Energy Forecasting System (MEFS), for the periods 1980–1985, 1985–1990, and 1990–1995 and beyond. The formula for calculating these UPW* factors is the following: For i = 1 to k escalation periods,

$$UPW^* = \sum_{j=1}^{n_1}\left(\frac{1+e_1}{1+d}\right)^j + \left(\frac{1+e_1}{1+d}\right)^{n_1}\sum_{j=1}^{n_2}\left(\frac{1+e_2}{1+d}\right)^j + \left(\frac{1+e_1}{1+d}\right)^{n_1}\left(\frac{1+e_2}{1+d}\right)^{n_2}\sum_{j=1}^{n_3}\left(\frac{1+e_3}{1+d}\right)^j + \cdots + \left(\frac{1+e_1}{1+d}\right)^{n_1}\left(\frac{1+e_2}{1+d}\right)^{n_2}\cdots\left(\frac{1+e_{k-1}}{1+d}\right)^{n_{k-1}}\left(\frac{1+e_k}{1+d}\right)^j,$$

where n_i = the length of the period for a given escalation rate in a given period, and the subscript i indicates the escalation period;

d = the discount rate; and $\sum_{j=1}^{n}\left(\frac{1+e}{1+d}\right)^j = \left(\frac{1+e}{d-e}\right)\left(1-\left(\frac{1+e}{1+d}\right)^n\right)$

TABLE B-4 – UPW* DISCOUNT FACTORS ADJUSTED FOR ENERGY PRICE ESCALATION[a]
DOE REGION 4
(KENTUCKY, TENNESSEE, NORTH CAROLINA, SOUTH CAROLINA, MISSISSIPPI, ALABAMA, GEORGIA, FLORIDA, CANAL ZONE)
STUDY PERIOD 1 IS 1980

	RESIDENTIAL SECTOR				COMMERCIAL SECTOR				INDUSTRIAL SECTOR				
STUDY PERIOD	ELECTRICITY	NATURAL GAS	DISTILLATE	LIQUID GAS	ELECTRICITY	NATURAL GAS	DISTILLATE	RESIDUAL	ELECTRICITY	NATURAL GAS	DISTILLATE	LIQUID GAS	COAL
1	0.91	0.92	0.94	0.93	0.92	0.91	0.93	1.01	0.94	1.00	0.92	0.93	0.96
2	1.75	1.76	1.81	1.80	1.76	1.74	1.81	2.04	1.82	1.99	1.77	1.80	1.89
3	2.50	2.53	2.63	2.60	2.53	2.49	2.62	3.08	2.64	2.99	2.54	2.60	2.78
4	3.20	3.24	3.39	3.35	3.23	3.18	3.38	4.13	3.42	3.98	3.28	3.35	3.64
5	3.83	3.89	4.11	4.05	3.88	3.81	4.10	5.19	4.14	4.97	3.92	4.05	4.46
6	4.41	4.49	4.78	4.70	4.47	4.39	4.76	6.20	4.81	5.96	4.54	4.69	5.23
7	4.94	5.04	5.41	5.29	5.01	4.93	5.39	7.14	5.42	6.95	5.12	5.29	5.94
8	5.43	5.56	6.00	5.84	5.51	5.43	5.98	8.04	5.98	7.93	5.66	5.84	6.59
9	5.87	6.03	6.55	6.35	5.96	5.89	6.54	8.88	6.49	8.90	6.18	6.35	7.20
10	6.28	6.47	7.07	6.82	6.38	6.32	7.06	9.67	6.97	9.88	6.66	6.82	7.76
11	6.65	6.86	7.55	7.27	6.76	6.72	7.55	10.41	7.40	10.79	7.10	7.27	8.28
12	6.99	7.26	8.00	7.70	7.11	7.10	8.00	11.10	7.80	11.64	7.52	7.71	8.76
13	7.30	7.62	8.41	8.11	7.42	7.46	8.41	11.74	8.16	12.43	7.90	8.13	9.20
14	7.59	7.95	8.80	8.51	7.72	7.78	8.80	12.34	8.50	13.17	8.26	8.53	9.61
15	7.85	8.26	9.16	8.90	7.98	8.09	9.16	12.89	8.80	13.86	8.60	8.92	9.99
16	8.09	8.55	9.49	9.27	8.23	8.38	9.50	13.41	9.09	14.51	8.91	9.30	10.34
17	8.31	8.81	9.79	9.62	8.45	8.65	9.81	13.89	9.34	15.11	9.19	9.66	10.66
18	8.51	9.06	10.08	9.96	8.66	8.90	10.10	14.34	9.58	15.67	9.46	10.01	10.95
19	8.69	9.30	10.34	10.29	8.84	9.14	10.37	14.76	9.80	16.20	9.71	10.35	11.23
20	8.86	9.52	10.59	10.60	9.01	9.36	10.62	15.15	10.00	16.69	9.94	10.67	11.48
21	9.01	9.72	10.82	10.90	9.17	9.57	10.85	15.51	10.18	17.15	10.15	10.96	11.71
22	9.16	9.91	11.03	11.19	9.31	9.76	11.07	15.86	10.35	17.58	10.35	11.26	11.93
23	9.28	10.09	11.22	11.47	9.44	9.94	11.27	16.16	10.50	17.98	10.54	11.57	12.13
24	9.40	10.25	11.40	11.74	9.56	10.11	11.46	16.45	10.64	18.35	10.71	11.85	12.31
25	9.51	10.40	11.57	12.00	9.67	10.27	11.63	16.72	10.77	18.70	10.87	12.12	12.48
26	9.61	10.55	11.73	12.24	9.77	10.42	11.79	16.98	10.89	19.03	11.02	12.38	12.64
27	9.70	10.68	11.88	12.48	9.86	10.56	11.94	17.21	11.00	19.33	11.16	12.63	12.78
28	9.78	10.80	12.01	12.71	9.94	10.69	12.08	17.43	11.09	19.61	11.28	12.87	12.91
29	9.86	10.92	12.13	12.93	10.02	10.81	12.21	17.64	11.19	19.88	11.40	13.10	13.04
30	9.93	11.03	12.25	13.14	10.09	10.93	12.33	17.83	11.27	20.13	11.51	13.33	13.15

a. These "modified" uniform present worth discount (UPW*) factors are based on a 10% discount rate and include the EIA projected real escalation rates in energy prices developed from the Mid-Term Energy Forecasting System (MEFS), for the periods 1980–1985, 1985–1990, and 1990–1995 and beyond. The formula for calculating these UPW* factors is the following: For i = 1 to k escalation periods,

$$UPW^* = \sum_{j=1}^{n_1}\left(\frac{1+e_1}{1+d}\right)^j + \left(\frac{1+e_1}{1+d}\right)^{n_1}\sum_{j=1}^{n_2}\left(\frac{1+e_2}{1+d}\right)^j + \left(\frac{1+e_1}{1+d}\right)^{n_1}\left(\frac{1+e_2}{1+d}\right)^{n_2}\sum_{j=1}^{n_3}\left(\frac{1+e_3}{1+d}\right)^j + \cdots + \left(\frac{1+e_1}{1+d}\right)^{n_1}\left(\frac{1+e_2}{1+d}\right)^{n_2}\cdots\left(\frac{1+e_{k-1}}{1+d}\right)^{n_{k-1}}\left(\frac{1+e_k}{1+d}\right)^j,$$

where n_i = the length of the period for a given escalation rate in a given period, and the subscript i indicates the escalation period;

d = the discount rate; and $\sum_{j=1}^{n}\left(\frac{1+e}{1+d}\right)^j = \left(\frac{1+e}{d-e}\right)\left(1-\left(\frac{1+e}{1+d}\right)^n\right)$

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TABLE B-5 – UPW* DISCOUNT FACTORS ADJUSTED FOR ENERGY PRICE ESCALATION[a]
DOE REGION 5
(MINNESOTA, WISCONSIN, MICHIGAN, ILLINOIS, INDIANA, OHIO)
STUDY PERIOD 1 IS 1980

	RESIDENTIAL SECTOR				COMMERCIAL SECTOR				INDUSTRIAL SECTOR				
STUDY PERIOD	ELECTRICITY	NATURAL GAS	DISTILLATE	LIQUID GAS	ELECTRICITY	NATURAL GAS	DISTILLATE	RESIDUAL	ELECTRICITY	NATURAL GAS	DISTILLATE	LIQUID GAS	COAL
1	0.91	0.93	0.92	0.93	0.91	0.93	0.93	0.95	0.93	0.96	0.91	0.93	0.91
2	1.73	1.79	1.77	1.79	1.75	1.79	1.78	1.85	1.80	1.89	1.74	1.79	1.76
3	2.48	2.59	2.56	2.59	2.53	2.59	2.57	2.71	2.60	2.79	2.49	2.59	2.51
4	3.16	3.33	3.28	3.33	3.22	3.34	3.31	3.53	3.35	3.65	3.18	3.33	3.21
5	3.78	4.02	3.94	4.02	3.86	4.03	3.98	4.30	4.05	4.48	3.80	4.02	3.85
6	4.35	4.66	4.57	4.65	4.44	4.67	4.62	5.03	4.69	5.30	4.39	4.66	4.44
7	4.86	5.25	5.16	5.24	4.97	5.26	5.22	5.72	5.27	6.11	4.94	5.26	4.99
8	5.34	5.79	5.71	5.79	5.46	5.80	5.79	6.37	5.81	6.90	5.46	5.81	5.49
9	5.77	6.29	6.23	6.30	5.91	6.30	6.32	6.98	6.30	7.67	5.96	6.32	5.96
10	6.16	6.75	6.72	6.77	6.31	6.77	6.82	7.56	6.74	8.44	6.41	6.79	6.39
11	6.52	7.17	7.17	7.22	6.68	7.20	7.29	8.10	7.15	9.14	6.84	7.24	6.79
12	6.84	7.57	7.60	7.66	7.02	7.60	7.72	8.60	7.53	9.79	7.24	7.68	7.16
13	7.14	7.94	7.99	8.08	7.33	7.98	8.13	9.07	7.87	10.39	7.61	8.11	7.51
14	7.42	8.29	8.35	8.48	7.62	8.33	8.50	9.51	8.18	10.95	7.95	8.52	7.83
15	7.67	8.61	8.69	8.87	7.87	8.66	8.86	9.91	8.47	11.48	8.27	8.92	8.12
16	7.90	8.92	9.01	9.25	8.11	8.97	9.17	10.29	8.74	11.93	8.57	9.30	8.39
17	8.11	9.20	9.30	9.62	8.33	9.26	9.47	10.64	8.98	12.37	8.84	9.67	8.65
18	8.30	9.46	9.57	9.97	8.53	9.52	9.75	10.97	9.20	12.77	9.10	10.03	8.88
19	8.47	9.70	9.83	10.30	8.71	9.77	10.01	11.28	9.40	13.15	9.34	10.38	9.10
20	8.63	9.93	10.06	10.63	8.87	10.01	10.26	11.56	9.58	13.49	9.56	10.71	9.30
21	8.78	10.14	10.28	10.94	9.02	10.23	10.48	11.83	9.75	13.81	9.77	11.04	9.48
22	8.91	10.34	10.48	11.25	9.16	10.43	10.69	12.08	9.91	14.10	9.96	11.35	9.66
23	9.03	10.52	10.67	11.54	9.29	10.62	10.89	12.31	10.05	14.37	10.14	11.65	9.82
24	9.14	10.69	10.85	11.82	9.40	10.80	11.07	12.52	10.18	14.62	10.31	11.94	9.97
25	9.24	10.85	11.01	12.09	9.51	10.96	11.24	12.72	10.30	14.85	10.46	12.22	10.10
26	9.34	11.00	11.16	12.36	9.60	11.12	11.39	12.91	10.41	15.06	10.61	12.50	10.23
27	9.42	11.14	11.30	12.61	9.69	11.26	11.54	13.09	10.51	15.25	10.74	12.76	10.35
28	9.50	11.27	11.43	12.85	9.77	11.40	11.67	13.25	10.60	15.44	10.87	13.01	10.46
29	9.57	11.39	11.56	13.09	9.84	11.52	11.80	13.40	10.68	15.61	10.98	13.26	10.56
30	9.64	11.50	11.67	13.31	9.91	11.64	11.92	13.54	10.76	15.76	11.09	13.49	10.65

a. These "modified" uniform present worth discount (UPW*) factors are based on a 10% discount rate and include the EIA projected real escalation rates in energy prices developed from the Mid-Term Energy Forecasting System (MEFS), for the periods 1980–1985, 1985–1990, and 1990–1995 and beyond. The formula for calculating these UPW* factors is the following: For i = 1 to k escalation periods,

$$UPW^* = \sum_{j=1}^{n_1}\left(\frac{1+e_1}{1+d}\right)^j + \left(\frac{1+e_1}{1+d}\right)^{n_1}\sum_{j=1}^{n_2}\left(\frac{1+e_2}{1+d}\right)^j + \left(\frac{1+e_1}{1+d}\right)^{n_1}\left(\frac{1+e_2}{1+d}\right)^{n_2}\sum_{j=1}^{n_3}\left(\frac{1+e_3}{1+d}\right)^j + \cdots + \left(\frac{1+e_1}{1+d}\right)^{n_1}\left(\frac{1+e_2}{1+d}\right)^{n_2}\cdots\left(\frac{1+e_{k-1}}{1+d}\right)^{n_{k-1}}\cdot\left(\frac{1+e_k}{1+d}\right)^j,$$

where n_i = the length of the period for a given escalation rate in a given period, and the subscript i indicates the escalation period;

d = the discount rate; and $\sum_{j=1}^{n}\left(\frac{1+e}{1+d}\right)^j = \left(\frac{1+e}{d-e}\right)\left(1-\left(\frac{1+e}{1+d}\right)^n\right)$.

TABLE B-6 – UPW* DISCOUNT FACTORS ADJUSTED FOR ENERGY PRICE ESCALATION[a]
DOE REGION 6
(TEXAS, NEW MEXICO, OKLAHOMA, ARKANSAS, LOUISIANA)
STUDY PERIOD 1 IS 1980

	RESIDENTIAL SECTOR				COMMERCIAL SECTOR				INDUSTRIAL SECTOR				
STUDY PERIOD	ELECTRICITY	NATURAL GAS	DISTILLATE	LIQUID GAS	ELECTRICITY	NATURAL GAS	DISTILLATE	RESIDUAL	ELECTRICITY	NATURAL GAS	DISTILLATE	LIQUID GAS	COAL
1	0.95	0.93	0.94	0.93	0.96	0.96	0.94	1.02	0.99	1.02	0.93	0.93	0.93
2	1.85	1.81	1.83	1.80	1.88	1.88	1.84	2.06	1.97	2.05	1.79	1.80	1.79
3	2.71	2.62	2.67	2.60	2.76	2.76	2.68	3.12	2.94	3.10	2.59	2.60	2.59
4	3.53	3.38	3.46	3.35	3.60	3.61	3.47	4.21	3.90	4.17	3.33	3.35	3.33
5	4.31	4.09	4.21	4.05	4.41	4.42	4.22	5.32	4.86	5.26	4.01	4.05	4.02
6	5.02	4.76	4.91	4.69	5.15	5.19	4.93	6.36	5.73	6.29	4.68	4.70	4.65
7	5.67	5.39	5.57	5.29	5.83	5.91	5.59	7.34	6.54	7.27	5.27	5.30	5.24
8	6.27	5.98	6.19	5.84	6.45	6.60	6.21	8.27	7.28	8.19	5.84	5.85	5.78
9	6.82	6.54	6.77	6.35	7.03	7.25	6.80	9.14	7.97	9.07	6.38	6.37	6.28
10	7.32	7.07	7.31	6.83	7.56	7.87	7.35	9.96	8.59	9.90	6.88	6.84	6.74
11	7.78	7.55	7.82	7.29	8.03	8.44	7.87	10.73	9.17	10.68	7.35	7.31	7.16
12	8.20	8.01	8.29	7.73	8.47	8.97	8.34	11.44	9.69	11.40	7.79	7.75	7.55
13	8.58	8.43	8.73	8.15	8.87	9.47	8.78	12.11	10.16	12.06	8.19	8.18	7.91
14	8.93	8.82	9.13	8.56	9.23	9.94	9.20	12.73	10.60	12.71	8.57	8.60	8.24
15	9.24	9.18	9.51	8.95	9.56	10.37	9.58	13.31	10.99	13.30	8.92	9.00	8.54
16	9.53	9.52	9.86	9.34	9.86	10.77	9.94	13.84	11.35	13.85	9.25	9.39	8.82
17	9.79	9.83	10.18	9.71	10.13	11.14	10.27	14.34	11.68	14.36	9.55	9.76	9.09
18	10.03	10.13	10.48	10.06	10.38	11.49	10.57	14.81	11.98	14.84	9.83	10.12	9.31
19	10.25	10.40	10.76	10.41	10.61	11.82	10.86	15.24	12.25	15.29	10.09	10.47	9.53
20	10.44	10.65	11.02	10.74	10.82	12.12	11.12	15.65	12.50	15.70	10.34	10.81	9.73
21	10.62	10.88	11.27	11.05	11.00	12.41	11.37	16.02	12.72	16.09	10.56	11.14	9.92
22	10.79	11.10	11.49	11.36	11.17	12.67	11.60	16.37	12.93	16.46	10.77	11.45	10.08
23	10.94	11.31	11.70	11.66	11.33	12.91	11.81	16.70	13.11	16.80	10.97	11.76	10.24
24	11.07	11.49	11.89	11.94	11.47	13.14	12.01	17.00	13.28	17.12	11.15	12.05	10.38
25	11.20	11.67	12.07	12.21	11.60	13.36	12.20	17.28	13.44	17.41	11.32	12.33	10.52
26	11.31	11.83	12.24	12.48	11.72	13.56	12.37	17.55	13.58	17.69	11.48	12.61	10.64
27	11.41	11.98	12.39	12.74	11.83	13.74	12.53	17.79	13.71	17.95	11.62	12.87	10.75
28	11.50	12.12	12.54	12.98	11.92	13.91	12.67	18.02	13.83	18.19	11.76	13.13	10.85
29	11.59	12.25	12.67	13.22	12.01	14.07	12.81	18.24	13.93	18.41	11.89	13.38	10.94
30	11.67	12.37	12.80	12.45	12.09	14.22	12.94	18.43	14.03	18.62	12.00	13.61	11.03

a. These "modified" uniform present worth discount (UPW*) factors are based on a 10% discount rate and include the EIA projected real escalation rates in energy prices developed from the Mid-Term Energy Forecasting System (MEFS), for the periods 1980–1985, 1985–1990, and 1990–1995 and beyond. The formula for calculating these UPW* factors is the following: For i = 1 to k escalation periods,

$$UPW^* = \sum_{j=1}^{n_1}\left(\frac{1+e_1}{1+d}\right)^j + \left(\frac{1+e_1}{1+d}\right)^{n_1}\sum_{j=1}^{n_2}\left(\frac{1+e_2}{1+d}\right)^j + \left(\frac{1+e_1}{1+d}\right)^{n_1}\left(\frac{1+e_2}{1+d}\right)^{n_2}\sum_{j=1}^{n_3}\left(\frac{1+e_3}{1+d}\right)^j + \cdots + \left(\frac{1+e_1}{1+d}\right)^{n_1}\left(\frac{1+e_2}{1+d}\right)^{n_2}\cdots\left(\frac{1+e_{k-1}}{1+d}\right)^{n_{k-1}}\left(\frac{1+e_k}{1+d}\right)^j,$$

where n_i = the length of the period for a given escalation rate in a given period, and the subscript i indicates the escalation period;

d = the discount rate; and $\sum_{j=1}^{n}\left(\frac{1+e}{1+d}\right)^j = \left(\frac{1+e}{d-e}\right)\left(1-\left(\frac{1+e}{1+d}\right)^n\right)$.

TABLE B-7 – UPW* DISCOUNT FACTORS ADJUSTED FOR ENERGY PRICE ESCALATION[a]
DOE REGION 7
(KANSAS, MISSOURI, IOWA, NEBRASKA)
STUDY PERIOD 1 IS 1980

	RESIDENTIAL SECTOR				COMMERCIAL SECTOR				INDUSTRIAL SECTOR				
STUDY PERIOD	ELECTRICITY	NATURAL GAS	DISTILLATE	LIQUID GAS	ELECTRICITY	NATURAL GAS	DISTILLATE	RESIDUAL	ELECTRICITY	NATURAL GAS	DISTILLATE	LIQUID GAS	COAL
1	0.90	0.93	0.92	0.93	0.91	0.94	0.93	1.01	0.91	1.02	0.91	0.93	0.91
2	1.71	1.79	1.77	1.78	1.73	1.83	1.79	2.02	1.76	2.05	1.74	1.79	1.74
3	2.43	2.59	2.56	2.59	2.46	2.67	2.59	3.04	2.52	3.10	2.49	2.59	2.49
4	3.09	3.33	3.29	3.33	3.16	3.46	3.33	4.07	3.22	4.16	3.18	3.34	3.18
5	3.68	4.02	3.94	4.02	3.79	4.20	4.01	5.10	3.86	5.24	3.80	4.03	3.80
6	4.21	4.67	4.57	4.68	4.34	4.81	4.66	6.08	4.44	6.31	4.39	4.67	4.38
7	4.69	5.29	5.18	5.26	4.85	5.50	5.27	6.98	4.97	7.37	4.94	5.26	4.92
8	5.13	5.88	5.71	5.80	5.31	6.24	5.84	7.86	5.45	8.41	5.46	5.81	5.42
9	5.53	6.44	6.24	6.31	5.73	6.95	6.38	8.67	5.88	9.45	5.95	6.32	5.88
10	5.90	6.97	6.72	6.77	6.11	7.44	6.89	9.44	6.28	10.47	6.41	6.79	6.31
11	6.22	7.46	7.18	7.23	6.45	7.89	7.36	10.16	6.63	11.46	6.84	7.25	6.70
12	6.52	7.91	7.60	7.67	6.77	8.50	7.80	10.82	6.96	12.40	7.24	7.69	7.07
13	6.79	8.34	8.00	8.09	7.05	8.97	8.21	11.44	7.24	13.31	7.61	8.12	7.40
14	7.03	8.73	8.38	8.50	7.30	9.40	8.59	12.02	7.51	14.18	7.95	8.53	7.71
15	7.25	9.09	8.70	8.89	7.53	9.81	8.94	12.56	7.74	15.01	8.27	8.93	8.00
16	7.45	9.42	9.02	9.27	7.74	10.19	9.27	13.06	7.96	15.81	8.57	9.32	8.27
17	7.63	9.74	9.31	9.64	7.92	10.54	9.58	13.53	8.15	16.58	8.85	9.69	8.51
18	7.79	10.03	9.58	10.00	8.09	10.87	9.86	13.98	8.32	17.32	9.11	10.05	8.74
19	7.93	10.29	9.84	10.34	8.24	11.17	10.13	14.37	8.47	18.03	9.36	10.40	8.95
20	8.06	10.54	10.07	10.67	8.38	11.45	10.37	14.74	8.61	18.71	9.57	10.74	9.15
21	8.18	10.77	10.29	10.90	8.51	11.71	10.60	15.08	8.74	19.37	9.78	11.06	9.32
22	8.29	10.99	10.50	11.30	8.62	11.96	10.82	15.42	8.86	20.00	9.97	11.38	9.49
23	8.39	11.18	10.69	11.60	8.72	12.18	11.02	15.72	8.96	20.60	10.15	11.68	9.64
24	8.48	11.37	10.86	11.89	8.81	12.39	11.20	16.01	9.05	21.18	10.32	11.96	9.78
25	8.56	11.54	11.03	12.16	8.90	12.59	11.37	16.27	9.13	21.73	10.48	12.26	9.92
26	8.63	11.69	11.18	12.43	8.97	12.77	11.53	16.52	9.21	22.27	10.62	12.54	10.04
27	8.69	11.84	11.32	12.69	9.04	12.94	11.68	16.74	9.28	22.78	10.76	12.81	10.15
28	8.75	11.98	11.45	12.94	9.10	13.09	11.82	16.96	9.34	23.27	10.88	13.06	10.25
29	8.80	12.10	11.57	13.18	9.15	13.24	11.95	17.15	9.39	23.74	11.00	13.31	10.35
30	8.85	12.22	11.69	13.42	9.20	13.37	12.07	17.34	9.44	24.20	11.11	13.55	10.43

a. These "modified" uniform present worth discount (UPW*) factors are based on a 10% discount rate and include the EIA projected real escalation rates in energy prices developed from the Mid-Term Energy Forecasting System (MEFS), for the periods 1980–1985, 1985–1990, and 1990–1995 and beyond. The formula for calculating these UPW* factors is the following: For i = 1 to k escalation periods,

$$UPW^* = \sum_{j=1}^{n_1}\left(\frac{1+e_1}{1+d}\right)^j + \left(\frac{1+e_1}{1+d}\right)^{n_1}\sum_{j=1}^{n_2}\left(\frac{1+e_2}{1+d}\right)^j + \left(\frac{1+e_1}{1+d}\right)^{n_1}\left(\frac{1+e_2}{1+d}\right)^{n_2}\sum_{j=1}^{n_3}\left(\frac{1+e_3}{1+d}\right)^j + \cdots + \left(\frac{1+e_1}{1+d}\right)^{n_1}\left(\frac{1+e_2}{1+d}\right)^{n_2}\cdots\left(\frac{1+e_{k-1}}{1+d}\right)^{n_{k-1}}\left(\frac{1+e_k}{1+d}\right)^j,$$

where n_i = the length of the period for a given escalation rate in a given period, and the subscript i indicates the escalation period;

d = the discount rate; and

$$\sum_{j=1}^{n}\left(\frac{1+e}{1+d}\right)^j = \left(\frac{1+e}{d-e}\right)\left(1-\left(\frac{1+e}{1+d}\right)^n\right)$$

TABLE B-8 – UPW* DISCOUNT FACTORS ADJUSTED FOR ENERGY PRICE ESCALATION[a]
DOE REGION 8
(MONTANA, NORTH DAKOTA, SOUTH DAKOTA, WYOMING, UTAH, COLORADO)
STUDY PERIOD 1 IS 1980

	RESIDENTIAL SECTOR				COMMERCIAL SECTOR				INDUSTRIAL SECTOR				
STUDY PERIOD	ELECTRICITY	NATURAL GAS	DISTILLATE	LIQUID GAS	ELECTRICITY	NATURAL GAS	DISTILLATE	RESIDUAL	ELECTRICITY	NATURAL GAS	DISTILLATE	LIQUID GAS	COAL
1	0.92	0.99	0.92	0.93	0.93	1.01	0.93	0.99	0.96	1.04	0.92	0.93	0.90
2	1.78	1.98	1.78	1.79	1.81	2.04	1.80	1.98	1.89	2.11	1.76	1.79	1.71
3	2.57	2.96	2.57	2.58	2.62	3.06	2.61	2.95	2.78	3.23	2.54	2.59	2.43
4	3.29	3.94	3.30	3.32	3.38	4.13	3.37	3.92	3.63	4.38	3.25	3.33	3.08
5	3.97	4.91	3.98	4.00	4.09	5.20	4.08	4.88	4.45	5.58	3.90	4.01	3.67
6	4.57	5.80	4.62	4.64	4.73	6.19	4.74	5.78	5.19	6.70	4.52	4.65	4.21
7	5.12	6.64	5.21	5.23	5.30	7.11	5.37	6.64	5.85	7.74	5.09	5.24	4.69
8	5.61	7.41	5.78	5.77	5.82	7.96	5.96	7.44	6.43	8.71	5.64	5.76	5.14
9	6.05	8.13	6.31	6.27	6.28	8.76	6.51	8.21	6.96	9.61	6.16	6.30	5.55
10	6.45	8.80	6.80	6.74	6.70	9.50	7.03	8.92	7.42	10.46	6.63	6.76	5.92
11	6.81	9.41	7.26	7.19	7.08	10.18	7.52	9.59	7.85	11.24	7.08	7.22	6.27
12	7.14	9.98	7.69	7.62	7.42	10.81	7.97	10.22	8.24	11.96	7.50	7.66	6.59
13	7.44	10.51	8.09	8.03	7.74	11.39	8.39	10.80	8.60	12.63	7.89	8.06	6.88
14	7.71	10.99	8.46	8.44	8.03	11.93	8.78	11.34	8.93	13.26	8.25	8.49	7.15
15	7.96	11.43	8.81	8.82	8.29	12.42	9.14	11.86	9.23	13.82	8.58	8.88	7.39
16	8.19	11.84	9.13	9.19	8.53	12.88	9.48	12.32	9.50	14.36	8.89	9.26	7.62
17	8.40	12.22	9.42	9.56	8.75	13.30	9.80	12.76	9.76	14.84	9.18	9.63	7.83
18	8.59	12.57	9.70	9.90	8.95	13.69	10.09	13.16	9.99	15.29	9.45	9.98	8.02
19	8.77	12.89	9.96	10.23	9.14	14.05	10.36	13.55	10.20	15.71	9.70	10.32	8.20
20	8.93	13.19	10.20	10.56	9.30	14.38	10.61	13.90	10.39	16.10	9.94	10.65	8.37
21	9.07	13.46	10.42	10.86	9.46	14.68	10.85	14.23	10.56	16.45	10.16	10.97	8.52
22	9.20	13.71	10.62	11.15	9.60	14.97	11.06	14.54	10.72	16.78	10.35	11.26	8.66
23	9.32	13.95	10.81	11.44	9.72	15.23	11.27	14.83	10.87	17.09	10.54	11.57	8.79
24	9.43	14.16	10.99	11.72	9.84	15.47	11.46	15.09	11.01	17.38	10.72	11.86	8.90
25	9.53	14.36	11.16	11.98	9.95	15.69	11.63	15.34	11.13	17.64	10.88	12.13	9.01
26	9.63	14.54	11.31	12.24	10.04	15.89	11.80	15.57	11.24	17.88	11.03	12.40	9.11
27	9.71	14.71	11.45	12.48	10.13	16.08	11.96	15.79	11.35	18.11	11.17	12.66	9.21
28	9.79	14.86	11.59	12.72	10.21	16.26	12.09	15.99	11.44	18.31	11.30	12.91	9.29
29	9.86	15.01	11.71	12.95	10.29	16.42	12.22	16.18	11.53	18.50	11.42	13.15	9.37
30	9.92	15.14	11.82	13.17	10.36	16.56	12.34	16.36	11.61	18.68	11.53	13.38	9.44

a. These "modified" uniform present worth discount (UPW*) factors are based on a 10% discount rate and include the EIA projected real escalation rates in energy prices developed from the Mid-Term Energy Forecasting System (MEFS), for the periods 1980–1985, 1985–1990, and 1990–1995 and beyond. The formula for calculating these UPW* factors is the following: For i = 1 to k escalation periods,

$$UPW^* = \sum_{j=1}^{n_1}\left(\frac{1+e_1}{1+d}\right)^j + \left(\frac{1+e_1}{1+d}\right)^{n_1}\sum_{j=1}^{n_2}\left(\frac{1+e_2}{1+d}\right)^j + \left(\frac{1+e_1}{1+d}\right)^{n_1}\left(\frac{1+e_2}{1+d}\right)^{n_2}\sum_{j=1}^{n_3}\left(\frac{1+e_3}{1+d}\right)^j + \cdots + \left(\frac{1+e_1}{1+d}\right)^{n_1}\left(\frac{1+e_2}{1+d}\right)^{n_2}\cdots\left(\frac{1+e_{k-1}}{1+d}\right)^{n_{k-1}}\left(\frac{1+e_k}{1+d}\right)^j,$$

where n_i = the length of the period for a given escalation rate in a given period, and the subscript i indicates the escalation period;

d = the discount rate; and

$$\sum_{j=1}^{n}\left(\frac{1+e}{1+d}\right)^j = \left(\frac{1+e}{d-e}\right)\left(1-\left(\frac{1+e}{1+d}\right)^n\right)$$

TABLE B-9 – UPW* DISCOUNT FACTORS ADJUSTED FOR ENERGY PRICE ESCALATION[a]
DOE REGION 9
(CALIFORNIA, NEVADA, ARIZONA, HAWAII, TRUST TERRITORY OF THE PACIFIC ISLANDS, AMERICAN SAMOA, GUAM)
STUDY PERIOD 1 IS 1980

	RESIDENTIAL SECTOR				COMMERCIAL SECTOR				INDUSTRIAL SECTOR				
STUDY PERIOD	ELECTRICITY	NATURAL GAS	DISTILLATE	LIQUID GAS	ELECTRICITY	NATURAL GAS	DISTILLATE	RESIDUAL	ELECTRICITY	NATURAL GAS	DISTILLATE	LIQUID GAS	COAL
1	0.93	1.00	0.91	0.92	0.93	0.97	0.92	1.02	0.94	0.99	0.90	0.93	1.03
2	1.81	2.01	1.74	1.78	1.78	1.91	1.76	2.07	1.82	1.97	1.71	1.78	2.08
3	2.63	3.01	2.50	2.57	2.58	2.82	2.53	3.15	2.65	2.93	2.45	2.58	3.15
4	3.39	4.02	3.19	3.29	3.31	3.71	3.24	4.25	3.43	3.89	3.11	3.32	4.26
5	4.10	5.03	3.82	3.97	3.99	4.58	3.88	5.38	4.16	4.83	3.71	4.00	5.39
6	4.75	5.96	4.41	4.59	4.61	5.36	4.50	6.44	4.81	5.72	4.27	4.63	6.43
7	5.33	6.81	4.97	5.16	5.16	6.07	5.07	7.45	5.41	6.58	4.80	5.21	7.39
8	5.85	7.59	5.49	5.69	5.66	6.74	5.61	8.39	5.94	7.38	5.29	5.75	8.27
9	6.33	8.31	5.96	6.19	6.11	7.35	6.12	9.29	6.42	8.14	5.76	6.25	9.07
10	6.75	8.97	6.44	6.64	6.51	7.91	6.60	10.13	6.85	8.86	6.21	6.72	9.81
11	7.14	9.57	6.87	7.08	6.88	8.42	7.05	10.92	7.24	9.53	6.62	7.17	10.49
12	7.49	10.10	7.27	7.51	7.21	8.88	7.47	11.66	7.59	10.16	7.00	7.61	11.12
13	7.80	10.59	7.64	7.93	7.51	9.29	7.86	12.34	7.91	10.74	7.36	8.03	11.69
14	8.08	11.03	7.99	8.33	7.78	9.67	8.22	12.98	8.19	11.29	7.69	8.45	12.21
15	8.34	11.43	8.31	8.72	8.02	10.01	8.55	13.58	8.45	11.80	8.00	8.85	12.69
16	8.57	11.79	8.61	9.10	8.24	10.31	8.87	14.13	8.68	12.28	8.28	9.24	13.13
17	8.78	12.12	8.89	9.47	8.43	10.59	9.16	14.65	8.88	12.72	8.55	9.63	13.53
18	8.97	12.41	9.14	9.82	8.61	10.84	9.43	15.14	9.07	13.14	8.80	10.00	13.90
19	9.14	12.68	9.38	10.17	8.77	11.07	9.68	15.59	9.24	13.53	9.03	10.36	14.24
20	9.29	12.92	9.61	10.51	8.91	11.27	9.91	16.01	9.39	13.89	9.25	10.71	14.55
21	9.43	13.14	9.81	10.83	9.04	11.46	10.13	16.40	9.53	14.23	9.45	11.05	14.84
22	9.55	13.34	10.01	11.15	9.16	11.63	10.33	16.77	9.65	14.54	9.63	11.39	15.10
23	9.67	13.52	10.19	11.46	9.27	11.78	10.52	17.11	9.76	14.84	9.81	11.71	15.34
24	9.77	13.68	10.36	11.76	9.36	11.91	10.70	17.43	9.86	15.11	9.97	12.03	15.56
25	9.86	13.83	10.51	12.05	9.45	12.04	10.86	17.72	9.95	15.37	10.12	12.33	15.76
26	9.94	13.96	10.65	12.33	9.53	12.15	11.01	18.00	10.03	15.61	10.26	12.63	15.94
27	10.02	14.08	10.79	12.60	9.60	12.25	11.15	18.26	10.11	15.83	10.39	12.92	16.11
28	10.08	14.19	10.91	12.86	9.66	12.34	11.28	18.50	10.17	16.04	10.51	13.20	16.27
29	10.15	14.29	11.03	13.12	9.72	12.43	11.41	18.72	10.23	16.24	10.62	13.48	16.41
30	10.20	14.37	11.14	13.37	9.77	12.50	11.52	18.93	10.28	16.42	10.73	13.75	16.54

a. These "modified" uniform present worth discount (UPW*) factors are based on a 10% discount rate and include the EIA projected real escalation rates in energy prices developed from the Mid-Term Energy Forecasting System (MEFS), for the periods 1980–1985, 1985–1990, and 1990–1995 and beyond. The formula for calculating these UPW* factors is the following: For i = 1 to k escalation periods,

$$UPW^* = \sum_{j=1}^{n_1}\left(\frac{1+e_1}{1+d}\right)^j + \left(\frac{1+e_1}{1+d}\right)^{n_1}\sum_{j=1}^{n_2}\left(\frac{1+e_2}{1+d}\right)^j + \left(\frac{1+e_1}{1+d}\right)^{n_1}\left(\frac{1+e_2}{1+d}\right)^{n_2}\sum_{j=1}^{n_3}\left(\frac{1+e_3}{1+d}\right)^j + \cdots + \left(\frac{1+e_1}{1+d}\right)^{n_1}\left(\frac{1+e_2}{1+d}\right)^{n_2}\cdots\left(\frac{1+e_{k-1}}{1+d}\right)^{n_{k-1}}\left(\frac{1+e_k}{1+d}\right)^j,$$

where n_i = the length of the period for a given escalation rate in a given period, and the subscript i indicates the escalation period;

d = the discount rate; and

$$\sum_{j=1}^{n}\left(\frac{1+e}{1+d}\right)^j = \left(\frac{1+e}{d-e}\right)\left(1-\left(\frac{1+e}{1+d}\right)^n\right)$$

TABLE B-10 – UPW* DISCOUNT FACTORS ADJUSTED FOR ENERGY PRICE ESCALATION[a]
DOE REGION 10
(WASHINGTON, OREGON, IDAHO, ALASKA)
STUDY PERIOD 1 IS 1980

	RESIDENTIAL SECTOR				COMMERCIAL SECTOR				INDUSTRIAL SECTOR				
STUDY PERIOD	ELECTRICITY	NATURAL GAS	DISTILLATE	LIQUID GAS	ELECTRICITY	NATURAL GAS	DISTILLATE	RESIDUAL	ELECTRICITY	NATURAL GAS	DISTILLATE	LIQUID GAS	COAL
1	0.90	0.96	0.91	0.92	0.91	0.97	0.92	0.96	0.98	1.01	0.91	0.93	0.94
2	1.72	1.89	1.74	1.78	1.76	1.92	1.77	1.89	1.94	2.02	1.78	1.79	1.81
3	2.46	2.79	2.50	2.56	2.52	2.83	2.55	2.79	2.87	3.04	2.47	2.58	2.63
4	3.13	3.65	3.19	3.29	3.22	3.72	3.27	3.65	3.79	4.07	3.14	3.32	3.39
5	3.74	4.49	3.82	3.96	3.86	4.59	3.93	4.48	4.65	5.10	3.75	4.01	4.11
6	4.30	5.25	4.41	4.58	4.45	5.39	4.55	5.27	5.52	6.06	4.32	4.65	4.78
7	4.82	5.96	4.97	5.16	4.99	6.12	5.14	6.01	6.30	6.95	4.86	5.23	5.41
8	5.29	6.60	5.49	5.69	5.49	6.80	5.69	6.71	7.03	7.77	5.37	5.76	5.99
9	5.73	7.20	5.96	6.18	5.95	7.42	6.21	7.36	7.71	8.54	5.85	6.28	6.54
10	6.14	7.75	6.44	6.63	6.38	7.99	6.71	8.00	8.34	9.25	6.30	6.75	7.05
11	6.51	8.24	6.87	7.07	6.77	8.51	7.16	8.59	8.93	9.89	6.72	7.20	7.53
12	6.85	8.70	7.27	7.50	7.13	8.99	7.59	9.14	9.47	10.48	7.11	7.64	7.96
13	7.17	9.11	7.64	7.91	7.46	9.42	7.98	9.64	9.96	11.01	7.47	8.07	8.35
14	7.46	9.49	7.99	8.32	7.77	9.82	8.35	10.12	10.45	11.49	7.81	8.49	8.71
15	7.73	9.84	8.31	8.71	8.05	10.18	8.69	10.56	10.88	11.93	8.13	8.89	9.04
16	7.97	10.15	8.61	9.09	8.31	10.51	9.01	10.98	11.28	12.32	8.42	9.29	9.35
17	8.20	10.44	8.89	9.45	8.54	10.81	9.31	11.36	11.65	12.69	8.69	9.67	9.63
18	8.40	10.70	9.14	9.81	8.76	11.09	9.58	11.72	11.99	13.01	8.96	10.05	9.88
19	8.59	10.94	9.38	10.15	8.96	11.34	9.84	12.06	12.31	13.31	9.18	10.41	10.11
20	8.77	11.16	9.61	10.49	9.14	11.57	10.08	12.37	12.61	13.58	9.40	10.76	10.33
21	8.93	11.36	9.81	10.82	9.31	11.78	10.30	12.67	12.88	13.83	9.61	11.11	10.52
22	9.08	11.54	10.01	11.13	9.46	11.97	10.51	12.94	13.13	14.05	9.80	11.44	10.70
23	9.21	11.71	10.19	11.44	9.61	12.15	10.70	13.19	13.37	14.25	9.97	11.77	10.87
24	9.34	11.86	10.36	11.74	9.76	12.31	10.88	13.43	13.58	14.44	10.14	12.09	11.02
25	9.45	12.00	10.51	12.02	9.88	12.46	11.05	13.65	13.79	14.60	10.29	12.39	11.15
26	9.56	12.12	10.65	12.30	9.97	12.59	11.20	13.86	13.97	14.75	10.43	12.69	11.28
27	9.65	12.24	10.79	12.58	10.07	12.71	11.35	14.05	14.14	14.89	10.57	12.90	11.40
28	9.74	12.34	10.91	12.84	10.16	12.82	11.48	14.23	14.30	15.02	10.69	13.27	11.50
29	9.82	12.44	11.03	13.10	10.25	12.92	11.61	14.40	14.45	15.13	10.80	13.55	11.60
30	9.90	12.53	11.14	13.34	10.33	13.02	11.72	14.56	14.59	15.23	10.91	13.82	11.69

a. These "modified" uniform present worth discount (UPW*) factors are based on a 10% discount rate and include the EIA projected real escalation rates in energy prices developed from the Mid-Term Energy Forecasting System (MEFS), for the periods 1980–1985, 1985–1990, and 1990–1995 and beyond. The formula for calculating these UPW* factors is the following: For i = 1 to k escalation periods,

$$UPW^* = \sum_{j=1}^{n_1}\left(\frac{1+e_1}{1+d}\right)^j + \left(\frac{1+e_1}{1+d}\right)^{n_1}\sum_{j=1}^{n_2}\left(\frac{1+e_2}{1+d}\right)^j + \left(\frac{1+e_1}{1+d}\right)^{n_1}\left(\frac{1+e_2}{1+d}\right)^{n_2}\sum_{j=1}^{n_3}\left(\frac{1+e_3}{1+d}\right)^j + \cdots + \left(\frac{1+e_1}{1+d}\right)^{n_1}\left(\frac{1+e_2}{1+d}\right)^{n_2}\cdots\left(\frac{1+e_{k-1}}{1+d}\right)^{n_{k-1}}\left(\frac{1+e_k}{1+d}\right)^j,$$

where n_i = the length of the period for a given escalation rate in a given period, and the subscript i indicates the escalation period;

d = the discount rate; and

$$\sum_{j=1}^{n}\left(\frac{1+e}{1+d}\right)^j = \left(\frac{1+e}{d-e}\right)\left(1-\left(\frac{1+e}{1+d}\right)^n\right)$$

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TABLE B-11 – UPW* DISCOUNT FACTORS ADJUSTED FOR ENERGY PRICE ESCALATION*
UNITED STATES AVERAGE
STUDY PERIOD 1 IS 1980

	RESIDENTIAL SECTOR				COMMERCIAL SECTOR				INDUSTRIAL SECTOR				
STUDY PERIOD	ELECTRICITY	NATURAL GAS	DISTILLATE	LIQUID GAS	ELECTRICITY	NATURAL GAS	DISTILLATE	RESIDUAL	ELECTRICITY	NATURAL GAS	DISTILLATE	LIQUID GAS	COAL
1	0.92	0.93	0.92	0.93	0.92	0.93	0.93	0.98	0.94	0.99	0.92	0.93	0.94
2	1.75	1.79	1.77	1.79	1.77	1.80	1.79	1.97	1.83	1.96	1.75	1.79	1.82
3	2.52	2.60	2.55	2.59	2.55	2.62	2.59	2.94	2.66	2.96	2.52	2.59	2.65
4	3.23	3.34	3.28	3.34	3.28	3.37	3.33	3.90	3.44	3.94	3.22	3.33	3.43
5	3.87	4.04	3.94	4.03	3.92	4.08	4.01	4.85	4.18	4.91	3.86	4.02	4.16
6	4.46	4.69	4.56	4.67	4.52	4.74	4.66	5.74	4.85	5.85	4.46	4.68	4.83
7	5.00	5.29	5.16	5.26	5.07	5.36	5.27	6.59	5.47	6.75	5.03	5.28	5.46
8	5.48	5.84	5.70	5.80	5.57	5.93	5.84	7.38	6.04	7.61	5.57	5.80	6.04
9	5.93	6.36	6.22	6.31	6.03	6.47	6.38	8.13	6.55	8.45	6.07	6.31	6.57
10	6.34	6.84	6.70	6.78	6.45	6.96	6.88	8.83	7.03	9.25	6.54	6.78	7.07
11	6.71	7.29	7.16	7.23	6.83	7.43	7.35	9.49	7.46	10.01	6.98	7.23	7.53
12	7.04	7.70	7.57	7.66	7.17	7.86	7.78	10.10	7.85	10.71	7.38	7.67	7.95
13	7.35	8.09	7.96	8.08	7.48	8.25	8.19	10.67	8.21	11.36	7.76	8.10	8.34
14	7.63	8.44	8.32	8.46	7.77	8.62	8.57	11.20	8.54	11.97	8.11	8.51	8.69
15	7.88	8.77	8.66	8.87	8.03	8.97	8.92	11.69	8.84	12.55	8.44	8.90	9.02
16	8.11	9.08	8.97	9.25	8.27	9.28	9.24	12.15	9.11	13.08	8.74	9.28	9.33
17	8.32	9.36	9.26	9.61	8.49	9.58	9.54	12.58	9.36	13.58	9.03	9.65	9.61
18	8.52	9.62	9.53	9.96	8.68	9.85	9.83	12.98	9.59	14.05	9.29	10.01	9.87
19	8.69	9.86	9.78	10.29	8.86	10.10	10.09	13.36	9.80	14.48	9.53	10.35	10.11
20	8.85	10.09	10.01	10.61	9.03	10.34	10.33	13.69	9.99	14.89	9.76	10.69	10.33
21	8.99	10.29	10.23	10.93	9.17	10.56	10.56	14.01	10.16	15.27	9.97	11.01	10.53
22	9.12	10.49	10.43	11.23	9.31	10.76	10.76	14.31	10.32	15.62	10.17	11.32	10.72
23	9.24	10.67	10.61	11.52	9.43	10.95	10.96	14.59	10.46	15.95	10.35	11.62	10.89
24	9.35	10.83	10.78	11.80	9.54	11.12	11.14	14.85	10.60	16.26	10.52	11.91	11.06
25	9.45	10.98	10.96	12.06	9.65	11.28	11.31	15.09	10.72	16.55	10.68	12.19	11.19
26	9.54	11.13	11.10	12.32	9.74	11.43	11.47	15.32	10.83	16.82	10.82	12.46	11.33
27	9.62	11.26	11.24	12.57	9.82	11.57	11.61	15.53	10.93	17.07	10.96	12.72	11.46
28	9.70	11.38	11.37	12.81	9.90	11.70	11.75	15.72	11.02	17.31	11.08	12.96	11.57
29	9.76	11.49	11.49	13.05	9.97	11.82	11.87	15.91	11.10	17.53	11.20	13.22	11.67
30	9.83	11.60	11.60	13.27	10.03	11.93	11.98	16.07	11.18	17.73	11.31	13.46	11.77

a. These "modified" uniform present worth discount (UPW*) factors are based on a 10% discount rate and include the EIA projected real escalation rates in energy prices developed from the Mid-Term Energy Forecasting System (MEFS), for the periods 1980–1985, 1985–1990, and 1990–1995 and beyond. The formula for calculating these UPW* factors is the following: For i = 1 to k escalation periods,

$$UPW^* = \sum_{j=1}^{n_1}\left(\frac{1+e_1}{1+d}\right)^j + \left(\frac{1+e_1}{1+d}\right)^{n_1}\sum_{j=1}^{n_2}\left(\frac{1+e_2}{1+d}\right)^j + \left(\frac{1+e_1}{1+d}\right)^{n_1}\left(\frac{1+e_2}{1+d}\right)^{n_2}\sum_{j=1}^{n_3}\left(\frac{1+e_3}{1+d}\right)^j + \cdots + \left(\frac{1+e_1}{1+d}\right)^{n_1}\left(\frac{1+e_2}{1+d}\right)^{n_2}\cdots\left(\frac{1+e_{k-1}}{1+d}\right)^{n_{k-1}}\left(\frac{1+e_k}{1+d}\right)^j.$$

where n_i = the length of the period for a given escalation rate in a given period, and the subscript i indicates the escalation period;

d = the discount rate; and $\sum_{j=1}^{n}\left(\frac{1+e}{1+d}\right)^j = \left(\frac{1+e}{d-e}\right)\left(1-\left(\frac{1+e}{1+d}\right)^n\right)$

APPENDIX C TO SUBPART A OF PART 436

TABLE C-1. BASE YEAR ENERGY PRICES
(1980 PRICES PER MILLION BTU IN 1980 DOLLARS)

DOE Region and Fuel Type	DOE 1	DOE 2	DOE 3	DOE 4	DOE 5	DOE 6	DOE 7	DOE 8	DOE 9	DOE 10	U.S. Average
RESIDENTIAL SECTOR											
Electricity (kWh.)	19.14	23.17	16.89	13.16	15.55	13.60	14.80	12.56	16.00	7.03	14.95
Natural Gas (cu. ft.)	7.09	5.81	4.70	3.87	3.87	3.79	3.42	2.97	3.42	5.03	4.12
Distillate (gal.)	6.76	6.57	6.57	6.37	6.24	5.79	6.18	6.18	6.44	6.44	6.50
Liquid Gas (gal.)	5.93	5.99	6.23	6.17	5.72	5.69	5.58	5.90	5.26	5.27	5.80
COMMERCIAL SECTOR											
Electricity (kWh.)	18.60	22.41	16.26	13.33	14.80	12.16	13.33	10.55	15.09	6.89	14.65
Natural Gas (cu. ft.)	6.05	5.12	4.40	3.40	3.51	2.83	2.76	2.54	3.58	4.33	3.58
Distillate (gal.)	6.22	6.16	6.16	5.92	5.92	5.50	5.80	5.68	5.92	5.80	5.98
Residual (gal.)	3.81	3.63	3.63	3.26	4.48	3.15	3.40	3.52	2.89	3.77	3.70
INDUSTRIAL SECTOR											
Electricity (kWh.)	14.07	12.85	11.16	8.54	9.76	8.25	9.86	6.28	12.10	2.63	9.38
Natural Gas (cu. ft.)	4.94	3.71	3.46	2.48	3.06	1.93	2.03	1.96	3.16	3.14	2.51
Distillate (gal.)	6.22	6.70	6.70	6.50	6.44	5.99	6.38	6.18	6.44	6.31	6.44
Liquid Gas (gal.)	5.66	5.70	5.87	5.80	5.51	5.45	5.40	5.64	4.92	4.89	5.53
Coal (ton)	2.96	2.13	1.82	1.84	1.92	2.09	1.75	1.44	1.71	2.05	1.92

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TABLE C-2. BASE YEAR ENERGY PRICES[a]
(1980 PRICES PER UNIT OF ENERGY PURCHASED IN 1980 DOLLARS)

DOE Region and Fuel Type	DOE 1	DOE 2	DOE 3	DOE 4	DOE 5	DOE 6	DOE 7	DOE 8	DOE 9	DOE 10	U.S. Average
RESIDENTIAL SECTOR											
Electricity (kWh.)	0.065	0.079	0.058	0.045	0.053	0.046	0.051	0.043	0.055	0.024	0.051
Natural Gas (cu. ft.)	0.007	0.006	0.005	0.004	0.004	0.004	0.004	0.003	0.004	0.005	0.004
Distillate (gal.)	0.938	0.911	0.911	0.883	0.865	0.803	0.857	0.857	0.893	0.893	0.901
Liquid Gas (gal.)	0.566	0.572	0.595	0.589	0.546	0.543	0.533	0.563	0.502	0.503	0.554
COMMERCIAL SECTOR											
Electricity (kWh.)	0.063	0.076	0.055	0.045	0.051	0.042	0.045	0.036	0.052	0.024	0.050
Natural Gas (cu. ft.)	0.006	0.005	0.005	0.004	0.004	0.003	0.003	0.003	0.004	0.004	0.004
Distillate (gal.)	0.863	0.854	0.854	0.821	0.821	0.763	0.804	0.788	0.821	0.804	0.829
Residual (gal.)	0.570	0.543	0.543	0.488	0.671	0.472	0.509	0.527	0.433	0.564	0.554
INDUSTRIAL SECTOR											
Electricity (kWh.)	0.048	0.044	0.038	0.029	0.033	0.028	0.034	0.021	0.041	0.009	0.032
Natural Gas (cu. ft.)	0.005	0.004	0.004	0.003	0.003	0.002	0.002	0.002	0.003	0.003	0.003
Distillate (gal.)	0.863	0.929	0.929	0.901	0.893	0.831	0.885	0.857	0.893	0.875	0.893
Liquid Gas (gal.)	0.541	0.544	0.561	0.554	0.526	0.520	0.516	0.539	0.470	0.467	0.528
Coal (ton)	72.520	52.185	44.580	45.080	47.040	51.205	42.875	35.280	41.895	50.225	47.040

[a]Note that prices in Tables C-1 and C-2 are equivalent prices stated in different units of energy.
Table C-1 prices are per million Btu (MBtu); Table C-2 prices are per unit of energy typically sold, e.g., kWh of electricity and cubic feet of natural gas.

Prices in Table C-2 were derived from the prices in Table C-1 by multiplying the price per MBtu times the Btu content per sales unit of energy divided by 1 MBtu.

TABLE C-3. PROJECTED 1985 ENERGY PRICES

DOE Region and Fuel Type	DOE 1	DOE 2	DOE 3	DOE 4	DOE 5	DOE 6	DOE 7	DOE 8	DOE 9	DOE 10	U.S. Average
RESIDENTIAL SECTOR											
Electricity (kWh.)	21.45	21.67	16.65	13.40	15.50	17.08	14.01	13.62	18.39	6.87	15.52
Natural Gas (cu. ft.)	5.64	5.32	4.53	4.04	4.30	4.34	3.79	4.63	5.57	6.75	4.61
Distillate (gal.)	6.94	7.04	7.26	7.34	6.69	6.96	6.63	6.74	6.52	6.52	6.96
Liquid Gas (gal.)	6.43	6.54	6.91	6.94	6.34	6.38	6.19	6.50	5.70	5.70	6.45
COMMERCIAL SECTOR											
Electricity (kWh.)	21.05	21.76	15.72	13.88	15.25	15.82	13.25	12.07	16.55	7.10	15.57
Natural Gas (cu. ft.)	4.83	4.60	3.97	3.43	3.91	3.70	3.31	4.36	4.94	6.04	4.08
Distillate (gal.)	6.64	6.74	6.78	6.78	6.47	6.64	6.42	6.45	6.18	6.18	6.62
Residual (gal.)	5.58	5.69	6.04	5.59	5.59	5.61	5.66	5.44	5.25	5.05	5.66
INDUSTRIAL SECTOR											
Electricity (kWh.)	16.96	13.66	12.12	9.98	10.97	12.66	10.18	8.32	14.23	3.79	11.13
Natural Gas (cu. ft.)	5.24	5.21	3.89	3.96	4.10	3.38	3.53	3.78	4.81	5.22	3.92
Distillate (gal.)	6.64	6.71	6.90	6.89	6.47	6.63	6.41	6.50	6.18	6.18	6.65
Liquid Gas (gal.)	6.15	6.22	6.47	6.51	6.12	6.12	6.00	6.24	5.40	5.40	6.15
Coal (ton)	2.82	2.51	2.20	2.45	1.97	2.32	1.76	1.36	3.12	2.36	2.26

Fuel prices per million Btu in 1980 dollars.
Prices based on DOE Mid Range Energy Forecasting System (MEFS) Projection Series "B" (High Case).

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TABLE C-4. PROJECTED 1990 ENERGY PRICES

DOE Region and Fuel Type	DOE 1	DOE 2	DOE 3	DOE 4	DOE 5	DOE 6	DOE 7	DOE 8	DOE 9	DOE 10	U.S. Average
RESIDENTIAL SECTOR											
Electricity (kWh.)	20.15	23.20	16.57	13.90	15.84	17.78	13.94	12.92	17.71	7.40	15.77
Natural Gas (cu. ft.)	6.52	6.35	5.37	4.41	4.61	5.15	4.69	5.14	5.84	7.13	5.15
Distillate (gal.)	8.14	8.25	8.47	8.57	7.92	8.18	7.85	7.97	7.72	7.72	8.18
Liquid Gas (gal.)	6.94	7.04	7.41	7.49	6.96	7.01	6.80	7.13	6.21	6.21	7.03
COMMERCIAL SECTOR											
Electricity (kWh.)	19.74	23.30	15.65	14.37	15.59	16.61	13.18	11.37	15.86	7.62	15.84
Natural Gas (cu. ft.)	5.72	5.63	4.81	3.79	4.22	4.52	4.21	4.87	5.21	6.42	4.63
Distillate (gal.)	7.85	7.94	8.00	8.01	7.69	7.87	7.64	7.69	7.39	7.39	7.82
Residual (gal.)	6.67	6.77	7.14	6.71	6.71	6.73	6.77	6.56	6.34	6.13	6.76
INDUSTRIAL SECTOR											
Electricity (kWh.)	15.66	15.21	12.03	10.47	11.32	13.45	10.11	7.62	13.55	4.33	11.51
Natural Gas (cu. ft.)	6.32	6.31	5.53	6.26	6.06	4.16	5.39	4.29	5.90	5.78	5.24
Distillate (gal.)	7.32	7.92	8.11	8.11	7.69	7.85	7.62	7.73	7.39	7.39	7.87
Liquid Gas (gal.)	6.65	6.73	6.97	7.07	6.75	6.75	6.82	6.87	5.91	5.91	6.74
Coal (ton)	3.03	2.69	2.40	2.68	2.15	2.49	1.94	1.39	3.29	2.73	2.47

Fuel prices per million Btu in 1980 dollars.
Prices based on DOE Mid Range Energy Forecasting System (MEFS) Projection Series "B" (High Case).

TABLE C-5. PROJECTED 1995 ENERGY PRICES

DOE Region and Fuel Type	DOE 1	DOE 2	DOE 3	DOE 4	DOE 5	DOE 6	DOE 7	DOE 8	DOE 9	DOE 10	U.S. Average
RESIDENTIAL SECTOR											
Electricity (kWh.)	19.70	22.32	16.90	14.37	16.25	17.93	13.52	13.17	17.09	7.82	15.85
Natural Gas (cu. ft.)	7.10	7.01	5.87	5.00	5.22	5.76	5.18	5.52	5.70	7.26	5.66
Distillate (gal.)	9.05	9.16	9.39	9.49	8.84	9.10	8.77	8.89	8.64	8.64	9.11
Liquid Gas (gal.)	9.33	9.43	9.81	9.88	9.35	9.41	9.20	9.52	8.59	8.59	9.42
COMMERCIAL SECTOR											
Electricity (kWh.)	19.30	22.40	15.97	14.83	16.00	16.75	12.77	11.62	15.25	8.05	15.95
Natural Gas (cu. ft.)	6.30	6.29	5.32	4.39	4.82	5.11	4.69	5.25	5.07	6.56	5.12
Distillate (gal.)	8.76	8.85	8.91	8.94	8.62	8.79	8.57	8.62	8.30	8.30	8.75
Residual (gal.)	7.53	7.64	7.99	7.56	7.60	7.59	7.64	7.42	7.20	6.99	7.62
INDUSTRIAL SECTOR											
Electricity (kWh.)	15.22	14.31	12.36	10.93	11.73	13.59	9.70	7.87	12.93	4.75	11.74
Natural Gas (cu. ft.)	7.16	7.15	7.15	7.16	6.55	4.75	7.08	4.68	6.74	5.74	5.99
Distillate (gal.)	8.76	8.84	9.03	9.04	8.62	8.77	8.56	8.65	8.30	8.30	8.79
Liquid Gas (gal.)	9.04	9.11	9.36	9.46	9.15	9.14	9.01	9.27	8.30	8.30	9.14
Coal (ton)	3.29	2.97	2.66	2.90	2.36	2.65	2.10	1.49	3.43	2.84	2.65

Fuel prices per million Btu in 1980 dollars.
Prices based on DOE Mid Range Energy Forecasting System (MEFS) Projection Series "B" (High Case)

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TABLE C-6. ENERGY PRICE ESCALATION RATES 1980-1985[a]
(PERCENTAGE CHANGE COMPOUNDED ANNUALLY)

DOE Region and Fuel Type	DOE 1	DOE 2	DOE 3	DOE 4	DOE 5	DOE 6	DOE 7	DOE 8	DOE 9	DOE 10	U.S. Average
RESIDENTIAL SECTOR											
Electricity (kWh.)	2.31	−1.33	−0.28	0.37	−0.07	4.56	−1.10	1.63	2.83	−0.47	0.75
Natural Gas (cu. ft.)	−4.48	−1.75	−0.75	0.88	2.14	2.74	2.10	9.30	10.24	6.06	2.27
Distillate (gal.)	0.52	1.41	2.01	2.88	1.40	3.76	1.42	1.74	0.26	0.26	1.38
Liquid Gas (gal.)	1.63	1.76	2.11	2.38	2.07	2.32	2.11	1.96	1.61	1.57	2.16
COMMERCIAL SECTOR											
Electricity (kWh.)	2.51	−0.59	−0.67	0.81	0.60	5.40	−0.12	2.73	1.86	0.61	1.22
Natural Gas (cu. ft.)	−4.39	−2.13	−2.03	0.16	2.19	5.51	3.70	11.42	6.66	6.88	2.64
Distillate (gal.)	1.32	1.81	1.95	2.76	1.78	3.85	2.05	2.59	0.87	1.28	2.05
Residual (gal.)	7.93	9.39	10.72	11.39	4.53	12.25	10.74	9.09	12.67	6.01	8.88
INDUSTRIAL SECTOR											
Electricity (kWh.)	3.81	1.24	1.66	3.16	2.36	8.94	0.63	5.79	3.30	7.61	3.49
Natural Gas (cu. ft.)	1.17	7.04	2.36	9.81	6.03	11.86	11.73	14.05	8.77	10.72	9.35
Distillate (gal.)	1.32	0.04	0.60	1.18	0.08	2.05	0.08	1.02	−0.81	−0.41	0.66
Liquid Gas (gal.)	1.66	1.75	1.95	2.35	2.13	2.36	2.15	2.05	1.89	2.01	2.14
Coal (ton)	−0.93	3.30	3.85	5.87	0.56	2.08	0.13	−1.15	12.78	2.89	3.29

[a]Derived from DOE Mid Range Energy Price Forecasts shown in Tables C-1 and C-3.

TABLE C-7. ENERGY PRICE ESCALATION RATES 1985-1990[a]
(PERCENTAGE CHANGE COMPOUNDED ANNUALLY)

DOE Region and Fuel Type	DOE 1	DOE 2	DOE 3	DOE 4	DOE 5	DOE 6	DOE 7	DOE 8	DOE 9	DOE 10	U.S. Average
RESIDENTIAL SECTOR											
Electricity (kWh.)	−1.24	1.38	−0.10	0.73	0.44	0.90	−0.10	−1.05	−0.76	1.50	0.32
Natural Gas (cu. ft.)	2.96	3.60	3.46	1.75	1.39	3.51	4.34	2.10	0.96	1.10	2.25
Distillate (gal.)	3.26	3.21	3.15	3.15	3.43	3.28	3.43	3.41	3.42	3.42	3.28
Liquid Gas (gal.)	1.53	1.51	1.40	1.55	1.90	1.89	1.87	1.86	1.72	1.72	1.73
COMMERCIAL SECTOR											
Electricity (kWh.)	−1.28	1.37	−0.09	0.71	0.45	0.98	−0.11	−1.18	−0.84	1.42	0.35
Natural Gas (cu. ft.)	3.42	4.12	3.91	2.05	1.52	4.06	4.92	2.23	1.08	1.22	2.59
Distillate (gal.)	3.39	3.35	3.36	3.39	3.54	3.45	3.53	3.58	3.63	3.63	3.40
Residual (gal.)	3.63	3.56	3.40	3.73	3.73	3.68	3.65	3.83	3.84	3.98	3.61
INDUSTRIAL SECTOR											
Electricity (kWh.)	−1.58	2.17	−0.14	0.98	0.64	1.22	−0.14	−1.74	−0.98	2.66	0.67
Natural Gas (cu. ft.)	3.85	3.90	7.30	9.61	8.13	4.24	8.81	2.55	4.16	2.04	5.94
Distillate (gal.)	1.95	3.36	3.27	3.31	3.54	3.43	3.54	3.52	3.63	3.63	3.42
Liquid Gas (gal.)	1.60	1.58	1.52	1.65	1.97	1.97	1.97	1.93	1.81	1.81	1.85
Coal (ton)	1.38	1.47	1.76	1.86	1.74	1.49	1.94	0.52	1.04	2.92	1.82

[a]Derived from DOE Mid Range Energy Price Forecasts shown in Tables C-3 and C-4.

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TABLE C-8. ENERGY PRICE ESCALATION RATES 1990–1995 AND BEYOND[a]
(PERCENTAGE CHANGE COMPOUNDED ANNUALLY)

DOE Region and Fuel Type	DOE 1	DOE 2	DOE 3	DOE 4	DOE 5	DOE 6	DOE 7	DOE 8	DOE 9	DOE 10	U.S. Average
RESIDENTIAL SECTOR											
Electricity (kWh.)	−0.45	−0.78	0.40	0.67	0.52	0.17	−0.60	0.38	−0.70	1.12	0.10
Natural Gas (cu. ft.)	1.72	2.00	1.83	2.55	2.53	2.24	1.99	1.43	−0.49	0.36	1.90
Distillate (gal.)	2.14	2.11	2.06	2.06	2.23	2.16	2.25	2.21	2.28	2.28	2.19
Liquid Gas (gal.)	6.09	6.01	5.77	5.69	6.07	6.06	6.23	5.95	6.73	6.73	6.02
COMMERCIAL SECTOR											
Electricity (kWh.)	−0.45	−0.78	0.40	0.63	0.53	0.17	−0.64	0.43	−0.79	1.09	0.13
Natural Gas (cu. ft.)	1.95	2.25	2.03	2.94	2.71	2.49	2.20	1.51	−0.55	0.44	2.01
Distillate (gal.)	2.22	2.19	2.18	2.20	2.29	2.24	2.33	2.29	2.35	2.35	2.25
Residual (gal.)	2.46	2.43	2.28	2.42	2.51	2.44	2.43	2.50	2.59	2.63	2.43
INDUSTRIAL SECTOR											
Electricity (kWh.)	−0.56	−1.21	0.54	0.87	0.70	0.21	−0.81	0.64	−0.92	1.89	0.39
Natural Gas (cu. ft.)	2.52	2.53	5.27	2.72	1.55	2.69	5.61	1.76	2.70	−0.12	2.74
Distillate (gal.)	3.66	2.23	2.18	2.20	2.29	2.25	2.34	2.28	2.35	2.35	2.24
Liquid Gas (gal.)	6.32	6.26	6.07	5.99	6.27	6.25	6.35	6.18	7.02	7.02	6.28
Coal (ton)	1.66	1.94	2.08	1.54	1.90	1.20	1.65	1.32	0.85	0.77	1.40

[a]Derived from DOE Mid Range Energy Price Forecasts shown in Tables C–4 and C–5, and assumed to extend up to 15 years beyond 1995.

[FR Doc. 80–2090 Filed 1–22–80; 8:45 am]
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federal register

Wednesday
January 23, 1980

Part X

Health, Education, and Welfare

Institute of Museum Services

Museum Services Program

V 45 / 16 JAN 23 1980 UMI

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Institute of Museum Services

45 CFR Part 64

Museum Services Program

AGENCY: Institute of Museum Services, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Institute of Museum Services proposes amendments to its regulation governing a program of Federal financial assistance to museums. The regulation implements the Museum Services Act. It states eligibility conditions, application requirements and funding criteria and other rules for the administration of the program.

DATES: Comments must be received on or before March 24, 1980.

ADDRESSES: Comments should be addressed to: Mrs. Lee Kimche, Room 328–H, Hubert Humphrey Building, 200 Independence Ave., S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Ms. Peggy Loar, (202) 245–6753.

SUPPLEMENTARY INFORMATION:

Nature of program. The Museum Services Act ("the Act"), which is Title II of the Arts, Humanities and Cultural Affairs Act of 1976, was enacted on October 8, 1976.

The purpose of the Act is stated in section 202 as follows:

"It is the purpose of this title to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and postsecondary education and with programs of nonformal education for all age groups; to assist museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage; and to ease the financial burden borne by museums as a result of their increasing use by the public."

The Act establishes an Institute of Museum Services (IMS) consisting of a National Museum Services Board and a Director. IMS is presently located within the Department of Health, Education, and Welfare. The Department of Education Organization Act provides for the transfer of IMS to the new Department of Education. A more detailed description of the structure of the Institute and the provisions of the Act may be found in 43 FR 45166 (September 29, 1978). (This document was reprinted in the package of application materials sent to museums for the FY 1979 competition.)

Current Program Regulation

Following discussions of the National Museum Services Board meeting in public sessions and a subsequent opportunity for public participation, on September 29, 1978 IMS issued a regulation governing the administration of the museum services program under the Act. (The minutes of the National Museum Services Board are available to the public.) This regulation for the museum services program (program regulation) was published at 43 FR 45166 and is codified as part 64 of Title 45 Code of Federal Regulations. The program regulation provides rules regarding the definition of the term "museum" for purposes of the program; the eligibility of museums for assistance; the types of assistance available; the requirements which applicants must meet; and the criteria used to judge applications. The program regulation provides for assistance to museums for general operational support and for project support. A discussion of the reasons for adoption of the major provisions of the program regulation is contained in Appendix B to the **Federal Register** document containing the program regulation published at 43 FR 45170. This appendix was also included in the application materials distributed by IMS to museums for the fiscal year 1979 competition.

Need for Changes

IMS has now applied the program regulation during two funding cycles. While the basic policy decisions reflected in the program regulation remain sound, experience with the regulation has indicated the need for certain substantive, clarifying and technical changes. These changes were made with the advice and consent of the National Museum Services Board meeting in public sessions. (The minutes of the National Museum Services Board are available to the public.) A number of these changes would respond to specific problems or issues which IMS staff has faced in the administration of the program or to comments or concerns expressed by applicants. Other changes are proposed to enable the program to be more responsive to the current needs of museums.

A number of conforming changes are necessitated by the development of a set of general administrative regulations for the Education Division of the Department of Health, Education, and Welfare. IMS is a part of that Division. The administrative regulations are known as the Education Division General Administrative Regulations (EDGAR). They were published in proposed form for public comment at 44 FR 26298 (May 4, 1979). These general regulations, when final, will be applicable to the museum services program. In the event of publication of the Institute's program regulation before final publication of EDGAR, the Institute's program regulation will be consistent with the applicable final EDGAR regulations. The proposed regulation published below invites further attention to the EDGAR, proposes amendments to the museum services program regulation that would conform it to EDGAR, and excepts the museum services program from certain provisions of EDGAR. (IMS expects to make available to applicants in application packages copies of EDGAR and related appendices including the cost principles in 45 CFR part 74 mentioned in § 64.10(a) of this program regulation.)

The changes in the program regulation which IMS recommends are reflected in the proposed regulation set forth below and are summarized in the following paragraphs of this preamble. In addition, for the convenience of readers and potential commenters, a print of the current program regulation indicating additions and deletions that would be made by the proposed regulation is set forth in Appendix A. It is anticipated that these changes will be applicable to the FY 1980 competition under the museum services program.

Major Changes Proposed

The proposed regulation would make the following major changes in the current program regulation published on September 29, 1978.

1. *Related institutions.* A provision designed to state factors IMS uses in deciding whether two or more "related institutions" are separate museums would be added as new § 64.6. IMS has confronted this problem in connection with eligibility or funding determinations on frequent occasions and believes that clarifying language would be helpful in informing museums of the factors IMS will use in dealing with it.

2. *Cooperative education projects.* Additional emphasis is placed on the funding of projects involving cooperation between museums and local educational agencies (school districts) to develop and carry out model museum education programs through a proposed addition to § 64.8(a), which is the list of activities eligible for special project assistance (§ 64.8(a)(7)). IMS believes that there is a need to support projects of this nature.

3. *Planning projects.* Museums may seek project assistance to develop in depth, long range institutional plans as a result of language which would be added as (§ 64.8(a)(9). Priority would be given to such project applications in the fiscal year 1980 competition by language proposed as § 64.12(b)(2).

4. *Higher ceiling.* The current program regulation informs applicants that individual museums should not expect an award in excess of $25,000. IMS proposes to increase this anticipated amount from $25,000 to $35,000. The proposed language reads: "In view of limited funds, it is anticipated that no museum will receive more than $35,000 under the Act for fiscal year 1980 and that most museums which are funded will receive a smaller amount." This change is proposed in order to reflect higher operating costs which museums face and to make the program more responsive to the current needs of museums.

5. *IMS assistance in relation to total museum budget.* Section 64.16 of the program regulation, which deals with the IMS share of the cost of a proposal, would provide that IMS *normally* does not make general operational support grants for more than 30 percent of a museum's operating budget. It has been the experience of IMS, given current and anticipated funding levels, that awards in excess of this amount are unlikely and, in any event, would involve a degree of potential dependence on Federal funding which would run counter to the purposes of the Act.

6. *Conforming regulations to EDGAR.* Various amendments are proposed to conform the IMS regulation to the Education Division General Administrative Regulation, published as a proposed rule on May 4, 1979 at 44 FR 26298. In particular EDGAR, 45 CFR § 100a.500, would inform applicants that assistance under the program is subject to the following civil rights requirements—Title VI of the Civil Rights Act of 1964 (prohibiting discrimination on the basis of race, color, or national origin); Title IX of the Education Amendments of 1972 (prohibiting discrimination on the basis of sex); Section 504 of the Rehabilitation Act of 1973 (prohibiting discrimination on the basis of handicap); and the Age Discrimination Act (prohibiting discrimination on the basis of age).

A summary and explanation of EDGAR is contained in that document.

Section-by-Section Summary of Changes

The following paragraphs describe briefly the clarifying and substantive changes proposed to be made in the current regulations (45 CFR Part 64) and the reasons for making them. The explanatory paragraphs are arranged in order of the sections of the current program regulation. See also Appendix A (comparative print).

1. *Section 64.3 Definition of museum.*

Section 64.3(c). Language would be added to make clear that the full-time equivalent of a staff member suffices to meet the "professional staff" requirement of the statute. For example, several part time staff members may constitute the equivalent of a full-time staff member. The current policy of recognizing "unpaid" staff would be retained.

Section 64.3(d). A change would be made to simplify the language in this paragraph. No change in effect is intended.

Section 64.3(e). This paragraph would be revised to reflect the position that a museum must own or operate exhibition facilities in order to be eligible. Support for museums which lack these facilities is considered beyond the scope of the Act, particularly in view of limited appropriations.

2. *Section 64.5 Eligibility—who may apply.*

Section 64.5(a). Clarifying language would be added to the sentence dealing with municipal and university applicants to make clear that such institutions, when responsible for the operation of a museum, may apply on its behalf.

Section 64.5(b). A new sentence would be added to make clear that applicants have the burden of proving eligibility. This reflects the normal practice of the Education Division of the Department.

3. *Section 64.6 Joint submissions.*

This section in the current regulation would be deleted since the subject is adequately covered in the proposed EDGAR (see §§ 100a.127–100a.129, p. 26315 of the EDGAR proposed rule, 44 FR 26315).

New Section 64.6. A new section is proposed to deal with the problem of "related institutions" or "related museums". This section states standards which IMS applies in determining whether such institutions constitute more than one museum for purposes of the program. An institution need not meet all factors to establish that it is separate. IMS is particularly interested in how the provision will affect institutions operated by State agencies.

4. *Section 64.8 Other types of assistance—project support.*

Section 64.8. Language would be added to explain that IMS assists only "exemplary" or "model" projects.

Section 64.8(a)(7). Language would be added to provide additional encouragement for submission of projects involving cooperation between museums and school districts. It is hoped that this provision will particularly stimulate exemplary projects of this nature by zoos, botanical gardens, and science museums. The activity is particularly stressed in the Act, and it is believed that IMS should be facilitating greater linkages between schools and museums.

Section 64.8(a)(8). The restriction on the use of funds for construction projects which is contained in the current program regulation would, in view of limited appropriations, be continued through fiscal year 1980.

Section 64.8(a)(9). Provision would be made to invite special project applications from museums for projects to "develop in-depth, long-range institutional plans."

5. *Section 64.9 Likely size of grants, etc.*

As indicated above, the anticipated maximum amount for grants to individual museums would be lifted from $25,000 to $35,000.

6. *Section 64.11 Basic requirements which a museum must meet to be considered for funding.*

Section 64.11(a). Language would be added to alert applicants that they must be prepared to demonstrate compliance with regulations in application materials filed with IMS. (This is already implicit in the current program regulations.)

Section 64.11(c). This paragraph, dealing with *financial statements*, would be rewritten to respond to a complaint from a State museum that the current regulation on financial statements cannot be met by State museums which have no separate, annual audits.

7. *Section 64.12 How applications are judged; priorities.*

Section 64.12(b)(2). This sentence would give priority in the special projects category to applications for in-depth, long-range institutional planning as well as for cooperative education projects between museums and local educational agencies for the FY 1980 competition.

New Section 64.12(d). A new paragraph would be added to establish a basis for making grants to meet emergency situations outside the normal review procedure for grant applications. Discussions with grant policy officials in the Department indicate the need for language in the regulation in order to facilitate prompt processing of grants of this nature.

8. *Sections 64.13 and 64.14 Criteria for the evaluation of applications.*

A clarifying change is made to § 64.13(a) and (b) to conform these paragraphs to § 64.7 which provides for general operational support to assist a

museum to maintain as well as to increase or improve its services. Changes would be made to § 64.14 to conform the criteria for evaluation of project grant applications to the new EDGAR criteria. These EDGAR criteria are made applicable to project grants, but not to general operating support grants. These changes make little substantive change in the project grant criteria in the program regulation and bring that regulation into conformity with regulations for other components of the Education Division of the Department of Health, Education, and Welfare.

9. *Section 64.15 Duration of grant.* The reference multi-year awards is eliminated since IMS does not plan to make such awards in FY 1980.

10. *Section 64.16 IMS share of cost.* *Section 64.16(a).* This paragraph would be rewritten to reflect the general policy of awarding a grant of not in excess of 30 percent of a museum's budget in the GOS category.

Section 64.16(c). Examples contained in current regulation would be eliminated to shorten the document. Examples may be set forth in program application materials.

11. *Section 64.17 Criteria for applying exceptions.* This paragraph is deleted. The criteria in question have generated confusion and it is believed that few applications in this category will be received.

12. *Section 64.18 Applicable grant administration provisions.* This section is rewritten to cross reference EDGAR provisions and to render inapplicable to the GOS program certain provisions of EDGAR which relate to a project grant rather than a general operating support program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed regulation. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments received on or before March 24, 1980 will be considered in the development of the final regulation.

All written comments submitted in response to this notice will be available for public inspection, both during and after the comment period, in Room 326–H, Hubert Humphrey Building, 200 Independence Ave., S.W., Washington, D.C. between the hours of 9:00 a.m. and 4:00 p.m. Monday through Friday of each week except Federal holidays.

Dated: November 21, 1979.

George Seybolt,

Chairman, National Museum Services Board.

Lee Kimche,

Director, Institute of Museum Services.

Approved: January 11, 1980.

Patricia Roberts Harris,

Secretary of Health, Education, and Welfare.

(Catalog of Federal Domestic Assistance No. 13.923, Museum Services Program)

Part 64 of Title 45 of the Code of Federal Regulations is proposed to read as follows:

PART 64—INSTITUTE OF MUSEUM SERVICES

Subpart A—General

Sec.

64.1 Purpose of museum services program.
64.2 Scope of this document.
64.3 Definition of museum.
64.4 Other definitions.
64.5 Eligibility—Who may apply.
64.6 Related institutions.
64.7 General operational support.
64.8 Other types of assistance—project support.
64.9 Likely size grants and allocation of funds among activities.
64.10 Allowable costs.
64.11 Basic requirements which a museum must meet to be considered.
64.12 How applications are judged; priorities.
64.13 Criteria for evaluation of applications for general operational support.
64.14 Criteria for evaluaton of applications for project support.
64.15 Duration of grant.
64.16 IMS share of the cost of a proposal.
64.17 Applicable grant administration provisions.
64.18 Reports.

Authority: Secs. 201–210, Pub. L. 94–462, 90 Stat. 1975, (20 U.S.C. 961–968); (5 U.S.C. 552b).

Subpart A—General

§ 64.1 Purpose of museum services program.

The purpose of this program of Federal financial assistance is to ease the financial burden borne by museums as a result of their increasing use by the public and to encourage and assist them to carry out their educational and conservation roles as well as other functions and to modernize their methods and facilities.

§ 64.2 Scope of this document.

This document sets forth rules for the award of grants to museums from funds appropriated under the Museum Services Act including rules governing the eligibility of applicant institutions, the type of assistance which may be provided, requirements which applicant must meet and criteria to be used in judging applications.

§ 64.3 Definition of museum.

(a) As used in this document, "museum" means a public or private nonprofit institution which is organized on a permanent basis for essentially educational or aesthetic purposes and which, using a professional staff:

(1) Owns or uses tangible objects, whether animate or inanimate;

(2) Cares for these objects; and

(3) Exhibits them to the public on a regular basis.

(b) As used in this document, the term "museum" includes (but is not limited to) the following institutions if they satisfy the provisions of this section:

(1) Aquariums and zoological parks;

(2) Botanical gardens and arboretums;

(3) Museums relating to art, history (including historic building museums), natural history, science and technology; and

(4) Planetariums.

(c) For the purposes of this section, an institution uses a professional staff if it employs at least one staff member, or the fulltime equivalent, whether paid or unpaid, primarily engaged in the acquisition, care, or exhibition to the public of objects owned or used by the institution. The Institute encourages museums to use paid professional staff.

(d) An institution does not exhibit objects to the public for the purposes of this section if the display or use of the objects is secondary to its overall purpose.

(e) For the purposes of this section, an institution exhibits objects to the public if it exhibits the objects through facilities which it owns or operates.

§ 64.4 Other definitions.

The following other definitions apply in this document:

"Act" means the Museum Services Act, Title II of the Arts, Humanities and Cultural Affairs Act of 1976, Pub. L. 94–462. (20 U.S.C. 961–968).

"Applicant" means an institution which is eligible and applies for assistance under the Act and this document.

"Board" means the National Museum Services Board established under section 204 of the Act.

"Collection" includes objects owned, used or loaned by a museum as well as literary, archival and documentary resources required for the study and interpretation of these objects.

"Conservation" includes, but is not limited to, the following functions, as applied to animate as well as inanimate objects: Technical examnination of materials, techniques, and conditions; provision, insofar as practicable, of optimum environmental conditions for housing, exhibition, monitoring, nurturing and transportation of objects; the physical treatment of objects for the purpose of stabilizing, conserving and preserving their condition, removal of inauthentic additions or accretions, and compensation for losses; the systematizing of collections and development of effective data retrieval processes; research and training in conservation; and establishment of the facilities to do research in or practice conservation.

"Department" means the United States Department of Health, Education, and Welfare.

"Director" means the Director of the Institute of Museum Services.

"Grantee" means the recipient of a grant under the Act.

"Institute" means the Institute of Museum Services ("IMS") established under section 203 of the Act.

"Museum services" means services provided by a museum including but not limited to preserving and maintaining its collections, exhibiting its collections to the public, and providing educational and other programs to the public through the use of its collections and other resources.

§ 64.5 Eligibility—Who may apply.

(a) A museum located in the fifty States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands may apply for a grant under the Act. A public or private nonprofit agency, such as a State or local public agency or an institution of higher education, which is responsible for the operation of a museum may apply on behalf of the museum. A museum operated by a department or agency of the Federal Government may apply only to the extent authorized by general principles of law applicable to the receipt of Federal assistance by these departments or agencies.

(b) An applicant has the burden of establishing that it is eligible for assistance under this document.

§ 64.6 Related institutions.

(a) If two or more institutions under the common control of one agency or institution or otherwise organizationally related apply for assistance under the Act, IMS determines, under all the relevant circumstances, whether they are separate museums for the purposes of establishing eligibility for assistance under this document. See §§ 64.5; 64.9.

(b) IMS regards the following factors as tending to show that a related institution is a separate museum:

(1) The institution has its own governing body;

(2) The institution has budgetary autonomy; and

(3) The institution has administrative autonomy.

§ 64.7 General operational support.

In order to maintain, increase or improve museum services, a museum may apply for a grant under the Act to meet its administrative, staff and operating costs.

§ 64.8 Other types of assistance—project support.

(a) In order to increase or improve museum services through exemplary projects which are additional to its operating program, a museum may apply for a grant to:

(1) Develop training programs for its staff;

(2) Obtain technical assistance to carry out its functions or provide technical assistance to other museums;

(3) Develop or demonstrate methods of conservation;

(4) Develop and carry out museum programs for specific segments of the public, such as persons in urban neighborhoods, rural areas, Indian reservations, penal and other State institutions, senior citizens, handicapped persons and educationally deprived or economically disadvantaged persons;

(5) Develop and carry out educational programs;

(6) Cooperate with other museums in developing traveling exhibitions, meeting transportation costs for these exhibitions, and identifying and locating collections available for loan;

(7) Cooperate with local educational agencies to develop and carry out model museum education programs;

(8) Modernize or preserve its facilities or structures (except in fiscal years 1978, 1979, and 1980); and

(9) Develop in depth, long range institutional plans.

(b) By notice published in the **Federal Register** and applicable to a particular fiscal year, IMS may limit the types of activities to be funded under this section.

(c) An applicant may apply for one or more types of assistance under § 64.7 and this section.

§ 64.9 Likely size of grants and allocation of funds among activities.

(a) In view of limited funds, it is anticipated that no museum will receive more than $35,000 under the Act for fiscal year 1980 and that most museums which are funded will receive a smaller amount. For future fiscal years, similar limitations may be specified by notice published in the **Federal Register.**

(b) Not less than 75 percent of funds available under the Act for grants in a fiscal year will be reserved for grants under § 64.7 (general operational support).

§ 64.10 Allowable costs.

(a) Determinations of costs allowable under a grant are made in accordance with government wide cost principles in Appendix C to 45 CFR Part 74 (in the case of applicants which are State or local government agencies), Appendix D (in the case of applicants which are institutions of postsecondary education), and Appendix F (in the case of applicants which are other nonprofit institutions).

(b) Costs of purchasing objects to be included in the collection of a museum are not allowable (except library, literary or archival material incident to an activity under §§ 64.7 or 64.8).

§ 64.11 Basic requirements which a museum must meet to be considered for funding.

(a) *Application.* To apply for a grant, a museum must submit the designated application form containing the information requested in the form. Instructions as to application contents are generally contained in the program announcement published in the **Federal Register** when applications are invited. An application generally requires a museum to demonstrate that it meets the requirements described in this section and other applicable application requirements in the Education Division General Administrative Regulations (EDGAR).

(b) *IRS letter.* A museum applying as a private, nonprofit institution must supply a letter from the Internal Revenue Service indicating the applicant's eligibility for nonprofit status under the Internal Revenue Code of 1954.

(c) *Financial statements.* Each applicant museum must supply its financial statement for its most recent completed fiscal year for which information is available. IMS prefers an audited statement. If the applicant has previously received an IMS award, IMS requires that the statement be audited. If the Director finds that a museum cannot meet this requirement because it customarily does not receive audited financial statements separate from those of its parent organization, and if the applicant is periodically audited, the Director may waive or modify the requirement with respect to that museum.

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(d) *Long-range plan.* Each applicant museum must include long-range plans for program and financial development.

(e) *Maintenance of effort.* Each applicant museum must assure that it will maintain its fiscal effort for museum services. An applicant complies with this assurance if its aggregate expenditures for museum services (exclusive of Federal assistance) for the grant period are at least equal to those expenditures for the equivalent preceding period.

§ 64.12 How applications are judged; priorities.

(a) To select grantees and determine the amount of their awards, IMS rates competitive applications under the applicable criteria stated in §§ 64.13 and 64.14. Normally, these applications are first evaluated by readers, panels of experts, or both. Final determinations as to the award of grants are made by the Director after review by the Board.

(b)(1) Priority is given to museums which have been providing museum services for at least 2 years prior to applying to IMS.

(2) In the case of applications under § 64.8 for fiscal year 1980, priority is given to applications for in-depth long range institutional planning and cooperative education projects between museums and local educational agencies.

(c) To achieve diversity in the distribution of assistance, the Institute considers the location, size, and discipline of the applicaant in addition to the criteria in §§ 64.13 and 64.14.

(d)(1) When the Director finds the circumstances described in 45 CFR 100a.219 of the Education Division General Administrative Regulations (relating to emergencies and other special circumstances), the Director may make a grant to a museum under the procedures described in 45 CFR 100a.220 of those regulations. The Director intends to invoke this authority only in emergency situations involving fires, floods or other natural disasters. The selection procedures in paragraph (a) of this section do not apply to the making of such a grant.

(2) A grant to a museum under this paragraph may not exceed $10,000 in a fiscal year.

(3) Grants under this paragraph may not exceed (in the aggregate) $300,000 in a fiscal year.

(4) The Director may not make a grant under this paragraph unless the Board (or a subcommittee of the Board) approves it.

§ 64.13 Criteria for evaluation of applications for general operational support.

The following criteria apply to the evaluation of all applications for general operational support submitted in Fiscal Year 1979 and succeeding fiscal years. In applying these criteria, the total operation of the applicant museum is assessed, especially the museum's operation as it would be if the general operational support is granted. This assessment is based primarily on the information supplied in the museum's application. A positive answer to the questions below favors the applicant.

(a) *Museum Services.* Are the applicant's museum services of high quality? How will their quality be improved or maintained by the general operational support requested?

(b) *Collection and exhibits.* Are the museum's collections and exhibits of high quality and important? How will the conservation of the collections be enhanced or maintained if the general operational support is granted?

(c) *Accessibility.* How accessible to the public are the museum's services, collections, and exhibits? How accessible will they be if the general operational support is granted?

(d) *Population served.* To what extent does the museum serve persons who otherwise have limited access to the type of services which it provides?

(e) *Financial management.* What is the quality of the financial management of the museum?

(f) *Long-range plans.* What is the quality of the museum's long-range plans for financial and program development?

(g) *Community commitment.* How committed to the museum are its users and supporters? Does the museum have a substantial base of non-Federal support?

(h) *Use of IMS funds (when applicable).* Has the museum used effectively its IMS funds, if it has received any?

§ 64.14 Criteria for evaluation of applications for project support.

The following criteria apply to the evaluation of all applications for project support. Criteria (a)–(e) of this section are based on EDGAR 45CFR 100a.202–100a.206.

(a) *Plan of operation.* (Based on EDGAR 45CFR 100a.202). What is the quality of the plan of operation for the project? In applying this criterion, IMS looks for information that shows:

(1) High quality in the design of the project;

(2) An effective plan of management that insures proper and efficient administration of the project;

(3) A clear description of how the objectives of the project relate to the purpose of the program; and

(4) The way the applicant plans to use its resources and personnel to achieve each objective.

(b) *Quality of key personnel.* (Based on EDGAR 45CFR 100a.203). What is the quality of the key personnel the applicant plans to use on the project? In applying this criterion, IMS looks for information that shows:

(1) The qualifications of the project director (if any);

(2) The qualifications of each of the other key personnel used in the project;

(3) The time that each person referred to in paragraphs (b) (1)–(2) of this section plans to commit to the project; and

(4) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally under-represented, such as members of racial or ethnic minority groups, women, handicapped persons, and the elderly.

(c) *Budget and cost effectiveness.* (Based on EDGAR 45CFR 100a.204). Does the project have an adequate budget and is the project cost effective? In applying this criteria, IMS looks for information that shows:

(1) The budget for the project is adequate to support the project activities; and

(2) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (Based on EDGAR 45 CFR 100a.205). What is the quality of the evaluation plan for the protect? In applying this criterions IMS looks for information that shows an objective, quantifiable method of evaluation under 45 CFR 100a.590.

(e) *Adequacy of resources.* (Based on EDGAR 45 CFR 100a.206). Does the applicant plan to devote adequate resources to the project?

In applying this criterion, IMS look for information that shows:

(1) The facilities that the applicant plan to use are adequate; and

(2) The equipment and supplies that the applicant plans to use are adequate.

(f) *General applicability.* To what extent does the application address a problem which is general to a number of museums but has not been adequately addressed?

(g) *Model or exemplary project.* To what extent does the project represent a model or exemplary approach to the problem addressed? To what extent may this approach, if successful, be replicated?

(h) *Other Federal support.* Does the applicant lack alternative sources of Federal support for the project?

(i) *Dissemination.* Has the applicant made satisfactory provision for disseminating the results of the project to other interested persons?

§ 64.15 Duration of grant.

Grants under the Act normally permit the grantee to use the funds for a period of up to 12 months from the start of the grant period. The grantee may use grant funds during the period specified in the grant document unless the grant is suspended or terminated. If, in the case of grant under § 64.8, the grantee needs additonal time to complete the grant project, the grantee may apply for an extension of the grant period without additional funds. The Director may approve this extension at his or her discretion.

§ 64.16 IMS share of the cost of a proposal.

(a) Subject to § 64.9(a) and the applicable requirements in 45 CFR part 74 relating to allowable costs, a museum may receive a grant for up to 50 percent of its proposed operating or activity budget for museum services in the case of a grant under § 64.7, or up to 50 percent of its approved project costs, in the case of a grant under § 64.8. However, IMS normally does not make grants for more than 30 percent of a museum's operating or activity budget in the case of a grant under § 64.7.

(b) An applicant requesting general operational support under § 64.7 may submit a total operating budget, including volunteer and other contributed services, which shows that the applicant will satisfy the requirements of paragraph (a) (relating to cost sharing) but which need not identify the particular operating costs for which IMS funds will be used. An applicant which receives general operational support on this basis must be prepared to show that its actual operation conformed to the operating proposal on which its applicaton was judged.

§ 64.17 Applicable grant administration provisions.

(a) Except as stated in paragraph (b) of this section, the provisions of the Education Division General Administrative Regulations (EDGAR), 45 CFR Parts 100a and 100c, apply to the award and administration of grants under the Act. EDGAR contains general administrative and fiscal requirements related to grant programs administered by the Education Division of the Department of Health, Education, and Welfare of which IMS is a part. Part 45 CFR 100a contains regulations covering how to apply for a grant, information that must be included in applications, general criteria for the selection of applications, grant conditions, administrative responsibilities of those who receive a grant, and compliance procedures. Part 45 CFR 100c contains general definitions which apply to all Education Division programs. EDGAR also makes applicable to the Museum Services Program certain other general regulations including 45 CFR Part 74 (Departmental grant administration provisions) and provisions prohibiting discrimination on the basis of race, sex, handicap or age. Applicants should consult EDGAR and other applicable regulations which EDGAR cross-references.

(b) The following provisions of EDGAR 45 CFR Part 100a do not apply to general operational support grants under this document:

(1) Sections 100a.201–100a.206 (selection criteria);

(2) Sections 100a.110–100a.115 (application contents); and

(3) Sections 100a.560–100a.568 (indirect cost rates).

§ 64.18 Reports.

In its final report a grantee shall briefly describe how the performance of the grant has satisfied the objectives of the recipient museum as stated in its application and how assistance under the Act has served the purpose of the Act as reflected in the applicable evaluation criteria.

Attention

The tests of the following proposed regulations are using ►◄arrows to indicate additions and [] to indicate deletions.

Attachment A to Part 64—Changes in Regulation for Museum Services Program Proposed for Fiscal Year 1980

§ 64.1 Purpose of museum services program.

The purpose of this program of Federal financial assistance is to ease the financial burden borne by museums as a result of their increasing use by the public and to encourage and assist them to carry out their educational and conservation roles as well as other functions and to modernize their methods and facilities.

§ 64.2 Scope of this document.

This document sets forth rules for the award of grants to museum from funds appropriated under the Museum Services Act including rules governing the eligibility of applicant institutions, the type of assistance which may be provided, requirements which applicants must meet and criteria to be used in judging applications.

§ 64.3 Definition of museum.

(a) As used in this document, "museum" means a public or private nonprofit institution which is organized on a permanent basis for essentially educational or aesthetic purposes and which, using a professional staff:

(1) Owns or uses tangible objects, whether animate or inanimate;

(2) Cares for these objects; and

(3) Exhibits them to the public on a regular basis.

(b) As used in this document, the term "museum" includes (but is not limited to) the following institutions if they satisfy the provisions of this section:

(1) Aquariums and zoological parks;

(2) Botanical gardens and [arboreta] ►arboretums;◄

(3) Museums relating to art, history (including historic building museums), natural history, science and technology; and

(4) [Planeteriums] ►Planetariums.◄

(c) For the purposes of this section, an institution uses a professional staff if it employs at least one staff member, ►or the full-time equivalent,◄ whether paid or unpaid, [who devoted his or her time] primarily [to] ►engaged◄ in the acquisition, care, or exhibition to the public of objects owned or used by the institution. The Institute encourages museums to use paid professional staff.

(d) An institution does not exhibit objects to the public for the purposes of this section if the display or use of the objects is [incidental] ►secondary to its overall purpose.◄ [to an overall purpose of the institution which is other than their exhibition to the public.]

(e) [An institution which exhibits objects it owns through other facilities exhibits objects to the public for the purposes of this section. See § 64.12(c).]

►For the purposes of this section, an institution exhibits objects to the public if it exhibits the objects through facilities which it owns or operates.◄

§ 64.4 Other definitions.

The following other definitions apply in this document:

"Act" means the Museum Services Act, Title II of the Arts, Humanities and Cultural Affairs Act of 1976, Pub. L. 94–462 (20 U.S.C. 961–966).

"Applicant" means an institution which is eligible and applies for assistance under the Act and this document.

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"Board" means the National Museum Services Board established under section 204 of the Act.

"Collection" includes objects owned, used or loaned by a museum as well as literary, archival and documentary resources required for the study and interpretation of these objects.

"Conservation" includes, but is not limited to, the following functions, as applied to animate as well as inanimate objects: Technical examination of materials, techniques, and conditions; provisions, insofar as practicable, of optimum environmental conditions for housing, exhibition, monitoring, nurturing and transportation of objects; the physical treatment of objects for the purpose of stabilizing, conserving and preserving their condition, removal of inauthentic additions or accretions, and compensation for losses; the systematizing of collections and development of effective data retrieval processes; research and training in conservation; and establishment of the facilities to do research in or practice conservation.

"Department" means the United States Department of Health, Education, and Welfare.

"Director" means the Director of the Institute of Museum Services.

"Grantee" means the recipient of a grant under the Act.

"Institute" means the Institute of Museum Services ("IMS") established under section 203 of the Act.

"Museum services" means services provided by a museum including but not limited to preserving and maintaining its collections, exhibiting its collections to the public, and providing educational and other programs to the public through the use of its collections and other resources.

§ 64.5 Eligibility—who may apply.

(a) A museum located in the fifty States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands may apply for a grant under the Act. A public or private nonprofit agency, such as a [municipality, college, or university,] ►State or local public agency or an institution of higher education,◄ which is responsible for the operation of a museum may apply on behalf of the museum. A museum operated by a department or agency of the Federal Government may apply only to the extent authorized by general principles of law applicable to the receipt of Federal assistance by these departments or agencies.

►(b) An applicant has the burden of establishing that it is eligible for assistance under this document.◄

[§ 64.6 Joint submissions.

Two or more museums may submit a joint application for a grant under the Act.]

►§ 64.6 Related institutions.

(a) If two or more institutions under the common control of one agency or institution or otherwise organizationally related apply for assistance under the Act, IMS determines, under all relevant circumstances, whether they are separate museums for the purposes of establishing eligibility for assistance under this document. See §§ 64.5; 64.9.

(b) IMS regards the following factors as tending to show that a related institution is a separate museum:

(1) The institution has its own governing body;

(2) The institution has budgetary autonomy; and

(3) The institution has administrative autonomy.◄

§ 64.7 General operational support.

In order to maintain, increase or improve museum services, a museum may apply for a grant under the Act to meet its administrative, staff and operating costs.

§ 64.8 Other types of assistance—project support.

(a) In order to increase or improve museum services through exemplary projects which are additional to its operating program, a museum may apply for a grant to:

(1) Develop training programs for its staff;

(2) Obtain technical assistance to carry out its functions or provide technical assistance to other museums;

(3) Develop or demonstrate methods of conservation;

(4) Develop and carry out museum programs for specific segments of the public, such as persons in urban neighborhoods, rural areas, Indian reservations, penal and other State institutions, senior citizens, handicapped persons or educationally deprived or economically disadvantaged persons.

(5) Develop and carry out [exemplary] educational programs;

(6) Cooperate with other museums in developing traveling exhibitions, meeting transportation costs for these exhibitions, and identifying and locating collections available for loan; [and]

►(7) Cooperate with local educational agencies to develop and carry out model museum education programs;◄

[(7)] ►(8)◄ Modernize or preserve its facilities or structures (except in fiscal years 1978►,◄ [and] 1979►, and 1980; and

(9) Develop in depth, long range institutional plans.◄

(b) By notice published in the Federal Register and applicable to a particular fiscal year, IMS may limit the types of activities to be funded under this section.

(c) An applicant may apply for one or more types of assistance under § 64.7 and this section.

§ 64.9 Likely size of grants and allocation of funds among activities.

(a) In view of limited funds, it is anticipated that no museum will receive more than [$25,000] ►$35,000◄ under the Act for fiscal year [1978] ►1980◄ and that most museums which are funded will receive a smaller amount. For future fiscal years, similar limitations may be specified by notice published in the Federal Register.

(b) Not less than 75 percent of funds available under the Act for grants in a fiscal year will be reserved for grants under § 64.7 (general operational support).

§ 64.10 Allowable costs.

(a) Determinations of costs allowable under a grant are made in accordance with government wide cost principles in Appendix C to 45 CFR Part 74 (in the case of applicants which are State or local government agencies), Appendix D (in the case of applicants which are institutions of postsecondary education), and Appendix F (in the case of applicants which are other nonprofit institutions).

(b) Costs of purchasing objects to be included in the collection of a museum are not allowable (except library, literary or archival material incident to an activity under § 64.7 or § 64.8).

§ 64.11 Basic requirement which a museum must meet to be considered for funding.

(a) *Application.* To apply for a grant, a museum must submit the designated application form containing the information requested in the form. Instructions as to application contents are generally contained in the program announcement published in the Federal Register when applications are invited. ►An application generally requires a museum to demonstate that it meets the requirements described in this section and other applicable application requirements in the Education Division General Administrative Regulations (EDGAR).◄ [(For fiscal year 1978, they are contained in § 64.11 of the proposed regulations.43 FR 13012).]

(b) *IRS letter.* A museum applying as a private, non-profit institution must supply a letter from the Internal Revenue Service indicating the applicant's eligibility for nonprofit status under [section 501(c)(3) of] the Internal Revenue Code of 1954.

(c) *Financial statements.* ►Each applicant museum must supply its financial statement for its most recent completed fiscal year for which information is available. IMS prefers an audited statement. If the applicant has previously received an IMS award, IMS requires that the statement be audited. If the Director finds that a museum cannot meet this requirement because it customarily does not receive audited financial statements separate from those of its parent organization, and if the applicant is periodically audited, the Director may waive or modify the requirement with respect to that museum.◄ [Each applicant museum must supply a financial statement for the museum's most recent completed fiscal year for which information is available (an audited statement is preferred; if the applicant has previously received an IMS Award, the statement must be audited).]

►(d)◄ *Long range plan.* Each applicant museum must [have] ►include◄ a long range plan for program and financial development.

►(e)◄ *Maintenance of effort.* Each applicant museum must assure that it will maintain its fiscal effort for museum services. An applicant complies with this assurance if its aggregate expenditures for museum services (exclusive of Federal assistance) for the grant period are at least equal to those expenditures for the equivalent preceding period.

§ 64.12 How applications are judged; priorities.

(a) To select grantees and determine the amount of their awards, IMS rates competitive applications under the applicable criteria stated in §§ 64.13 and 64.14. Normally, these applications are first evaluated by readers, panels of experts, or both. Final determinations as to the award of grants are made by the Director after review by the Board.

(b)►(1)◄ Priority is given to museums which have been providing museum services for at least 2 years prior to applying to IMS.

[(c)(2) In the case of applications for general operational support made after September 30, 1978, priority is given to museums which have operated exhibition facilities.]

►(2) In the case of applications under § 64.8 for fiscal year 1980, priority is given to applications for in depth long range institutional planning and cooperative education projects between museums and local educational agencies.◄

[(d)] (c) To achieve diversity in the distribution of assistance, the Institute considers the location, size, and ►discipline◄ [category] of the applicant in addition to the criteria in §§ 64.13 and 64.14.

►(d)(1) When the director finds the circumstances described in 45 CR 100a.219 of the Education Division General Administrative Regulations (relating to emergencies and other special circumstances), the Director may make a grant to a museum under the procedures described in 45 CFR 100a.220 of the regulations. The Director intends to invoke this authority only in emergency situations involving fire, floods, and other natural disasters.

(2) A grant to a museum under this paragraph may not exceed $10,000 in a fiscal year.

(3) Grants under this paragraph may not exceed (in the aggregate) $300,000 in a fiscal year.

(4) The Director may not make a grant under this paragraph unless the Board (or a subcommittee of the Board) approves it.◄

§ 64.13 Criteria for evaluation of applications for general operational support.

The following criteria apply to the evaluation of all applications for general operational support submitted in fiscal year 1979 and succeeding fiscal years. In applying these criteria, the total operation of the applicant museum is assessed, especially the museum's operation as it would be if the general operational support is granted. This assessment is based primarily on the information supplied in the museum's application. A positive answer to the questions below favors the applicant.

(a) *Museum services.* Are the applicant's museum services of high quality? How will their quality be improved ►or maintained◄ by the general operational support requested?

(b) *Collection and exhibits.* Are the museum's collections and exhibits of high quality and importance? How will the conservation of the collections be enhanced ►or maintained◄ if the general operational support is granted?

(c) *Accessibility.* How accessible to the public are the museum's services, collections, and exhibits? How accessible will they be if the general operational support is granted?

(d) *Population served.* To what extent does the museum serve persons who otherwise have limited access to the type of services which it provides?

(e) *Financial management.* What is the quality of the financial management of the museum?

(f) *Long range plans.* What is the quality of the museum's long range plans for financial and program development?

(g) *Community commitment.* How committed to the museum are its users and supporters? Does the museum have a substantial base of non-Federal support?

(h) *Use of IMS funds (when applicable).* Has the museum used effectively its IMS funds, if it has received any?

[§ 64.14 Criteria for evaluation of applications for project support.

The following criteria apply to the evaluation of all applications for project support submitted in fiscal year 1979 and succeeding fiscal years.

(a) *General applicability.* To what extent does the application address a problem which is general to a number of museums but has not been adequately addressed?

(b) *Model or exemplary project.* To what extent does the project represent a model or exemplary approach to the problem addressed? To what extent may this approach, if successful, be replicated?

(c) What is the quality of the project as measured by:

(1) The qualifications and experience of personnel designated to carry it out;

(2) The appropriateness of size and scope of the project to achieve productive results; and

(3) The reasonableness of estimated cost in relation to anticipated results?

(d) How sound is the project, taking into account:

(1) The extent to which the objectives of the project are sharply defined, clearly stated and capable of being achieved by the proposed procedures; and

(2) The extent to which provision is made for adequate evaluation of the project and for disseminating the results of the project to other interested persons.

(e)(c) *Other federal support.* Does the applicant lack alternative sources of Federal support for the project?]

►§ 64.14 Criteria for evaluation of applications for project support.

The following criteria apply to the evaluation of all applications for project support. Criteria (a)–(e) of this section are based on EDGAR 45 CFR 100a.202–100a.206.

(a) *Plan of operation.* [Based on EDGAR 45 CFR 100a.202]. What is the quality of the plan of operation for the

project? In applying this criterion, IMS looks for information that shows:

(1) High quality in the design of the project;

(2) An effective plan of management that insures proper and efficient administration of the project;

(3) A clear description of how the objectives of the project relate to the purpose of the program; and

(4) The way the applicant plans to use its resources and personnel to achieve each objective.

(b) *Quality of key personnel.* (Based on EDGAR 45 CFR 100a.203). What is the quality of the key personnel the applicant plans to use on the project? In applying this criterion, IMS looks for information that shows:

(1) The qualifications of the project director (if any);

(2) The qualifications of each of the other key personnel used in the project;

(3) The time that each person referred to in paragraphs (b) (1)–(2) of this section plans to commit to the project; and

(4) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally under-represented, such as members of racial or ethnic minority groups, women, handicapped persons, and the elderly.

(c) *Budget and cost effectiveness.* (Based on EDGAR 45 CFR 100a.204). Does the project have an adequate budget and is the project cost effective? In applying this criteria, IMS looks for information that shows:

(1) The budget for the project is adequate to support the project activities; and

(2) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (Based on EDGAR 45 CFR 100a.205). What is the quality of the evaluation plan for the project? In applying this criterion IMS looks for information that shows an objective, quantifiable method of evaluation under 45 CFR 100a.590.

(e) *Adequacy of resources.* (Based on EDGAR 45 CFR 100a.206). Does the applicant plan to devote adequate resources to the project?

In applying this criterion, IMS looks for information that shows:

(1) The facilities that the applicant plans to use are adequate; and

(2) The equipment and supplies that the applicant plans to use are adequate.

(f) *General applicability.* To what extent does the application address a problem which is general to a number of museums but has not been adequately addressed?

(g) *Model or exemplary project.* To what extent does the project represent a model or exemplary approach to the problem addressed? To what extent may this approach, if successful, be replicated?

(h) *Other Federal support.* Does the applicant lack alternative sources of Federal support for the project?

(i) *Dissemination.* Has the applicant made satisfactory provision for disseminating the results of the project to other interested persons?◄

§ 64.15 Duration of grant.

Grants under the Act normally permit the grantee to use the funds for a period of up to 12 months from the start of the grant period. The grantee may use grant funds during the period specified in the grant document unless the grant is suspended or terminated. If, in the case of a grant under § 64.8, the grantee needs additional time to complete the grant project the grantee may apply for an extension of the grant period without additional funds. The Director may approve this extension at his or her discretion. [In exceptional cases, applicants may receive grants for multi-year projects in accordance with applicable procedures of the Department.]

§ 64.16 IMS share of the cost of a proposal.

(a) Subject to § 64.9(a) and the applicable requirements in 45 CFR part 74 relating to allowable costs, a museum may receive a grant for up to 50 percent of its proposed operating or activity budget for museum services in the case of a grant under § 64.7, or up to 5 percent of its approved project costs, in the case of a grant under § 64.8. ►However, IMS normally does not make grants for more than 30 percent of a museum's operating or activity budget in the case of a grant under § 64.7.◄ [In exceptional cases, when clearly justified under the criteria in § 64.17, a museum may receive a grant for an amount in excess of this 50 percent of limitation. No more than 20 percent of funds appropriated for grants under the Act for a fiscal year may be used by IMS for grants in that fiscal year which exceed the 50 percent limitation.]

(b) An applicant requesting general operational support under § 64.7 may submit a total operating budget, ►including volunteer and other contributed services,◄ which shows that the applicant will satisfy the requirements of paragraph (a) (relating to cost sharing) but which need not identify the particular operating costs for which IMS funds will be used. An applicant which receives general operational support on this basis must be prepared to show that its actual operation conformed to the operating proposal on which its application was judged.

[(c) Examples include: (1) Museum X has an operating budget of $100,000. After assessing its program, Museum X concludes that adequate performance of museum services, including the exhibition of its collection to the public for an additional day each week, requires an operating budget of $120,000. Museum X applies for $20,000 of general operational support under § 64.7 to partially support this budget. Its total operating budget includes more than $40,000 of costs which are considered allowable under applicable costs principles in 45 CFR part 74. Museum X's application for $20,000 is eligible for consideration.

(2) Museum Y applies for funding a staff member for a conservation laboratory and for costs incidental to developing a new method of paper conservation. The total cost of the project is $25,000. Museum Y applies for $12,500 to cover this cost. It undertakes to furnish the other $12,500 from non-Federal sources. Its application may be considered.]

[§ 64.17 Criteria for applying exceptions.

In determining whether a proposal which has been selected for an award qualifies for Federal funds in excess of the 50 percent limitation described in § 64.16, the Director applies the following criteria:

(a) The financial condition of the museum to be assisted;

(b) The inability of the museum to obtain other funds due to factors beyond its control;

(c) The quality of the proposal;

(d) The quality of the museum's collection; and

(e) The extent to which the museum serves populations otherwise unserved by museums.]

[§ 64.18 Applicable grant administration provisions.

(a) The provisions of part 74 of title 45 CFR (45 CFR part 74) and related appendixes apply to the award and administration of grants under the Act. Part 74 contains general rules about fiscal and administrative matters pertaining to grants awarded by the Department, including rules about retaining records, accounting for grant-related income, cost-sharing (including rules for valuation of in kind contributions), grantee financial management systems, fiscal and performance reports, grant payment requirements, budget revisions, grant closeout, suspension and termination of a grant, preapplication and application forms, standards for procurement under grants and other pertinent matters.

(b) 45 CFR part 16, relating to a department grant appeals process, applies to the resolution of particular disputes arising under grants awarded under the Act.]

►§ 64.17 Applicable grant administration provisions.

(a) Except as stated in paragraph (b) of this section, the provisions of the Education Division General Administrative Regulations (EDGAR), 45 CFR Parts 100a and 100c, apply to the award and administration of grants under the Act. EDGAR contains general administrative and fiscal requirements related to grant programs administered by the Education Division of the Department of Health, Education, and Welfare of which IMS is a part. 45 CFR Part 100a contains regulations covering how to apply for a grant, information that must be included in applications, general criteria for the selection of applications, grant conditions, administrative responsibilities of those who receive a grant, and compliance procedures. 45 CFR Part 100c contains general definitions which apply to all Education Division programs. EDGAR also makes applicable to the Museum Services Program certain other general regulations including 45 CFR Part 74 (Departmental grant administration provisions) and provisions prohibiting discrimination on the basis of race, sex, handicap or age. Applicants should consult EDGAR and other applicable regulations which EDGAR cross-references.

(b) The following provisions of EDGAR 45 CFR Part 100a do not apply to general operational support grants under this document.

(1) Sections 100a.201–100a.206 (selection criteria);

(2) Sections 100a.110–100a.115 (application contents);

(3) Sections 100a.560–100a.568 (indirect cost rates).◄

§ 64.19 Reports.

In its final report [submitted under § 74.82 of title 45,] a grantee shall briefly describe how the performance of the grant has ►satisfied◄ [served] the objectives of the recipient museum as stated in its application and how assistance under the Act has served the purpose of the Act as reflected in the applicable evaluation criteria.

[§ 64.20 Applicable civil rights requirements.

Federal financial assistance under the Act is subject to:

(a) Title VI of the Civil Rights Act of 1964 (relating to discrimination on the basis of race) and accompanying regulations (45 CFR part 80);

(b) Title IX of the Education Amendments of 1972 (relating to discrimination on the basis of sex) and accompanying regulations (45 CFR part 86);

(c) Section 504 of the Rehabilitation Act of 1973 (relating to discrimination on the basis of handicap) and accompanying regulations (45 CFR part 84).]

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Institute of Museum Services

Museum Services Program

AGENCY: Institute of Museum Services.

ACTION: Notice of Closing Date for Receipt of Applications for Fiscal Year 1980.

CLOSING DATE: March 7, 1980.

The Institute of Museum Services (Institute) invites applications for grants to museums under the Museum Services Program.

Section 206 of the Museum Services Act, Title II of Pub. L. 94-462 (20 U.S.C. 965), contains authority for this program.

This program provides Federal financial assistance to museums to ease the financial burden borne by museums as a result of their increased use by the public and to help them carry out their educational and conservation roles as well as other functions. Under this program, the Institute makes grants to museums to maintain, increase, or improve museum services.

CLOSING DATE FOR TRANSMITTAL OF APPLICATIONS: An application for a grant must be mailed or hand delivered by *March 7, 1980.*

APPLICATIONS DELIVERED BY MAIL: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.923, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the Director of the Institute.

If an application is sent through the U.S. Postal Service, the Director does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

APPLICATIONS DELIVERED BY HAND: An application that is hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

PROGRAM INFORMATION: See this notice below for information about "applicable regulations."

For the fiscal year 1980 grant program, the Institute gives priority to museums which have been providing museum services for at least two years before applying to the Institute under the Museum Services Program. In the case of applications for assistance in carrying out special projects, the Institute gives priority to applications for in-depth long range institutional planning and to applications for projects involving cooperation with local educational agencies to develop and carry out model museum education programs.

AVAILABLE FUNDS: The Institute estimates that about $10,400,000 will be available for the Museum Services Program in FY 1980 to support grants to museums. The Institute will use not less than 75 percent of this amount for grants for general operational support. The Institute will use the rest of the funds for grants for special projects that are model or exemplary and address a problem which is general to a number of museums.

The Institute expects to make about 650 grants to museums in fiscal year 1980, most of which will be in the general operational support category.

A museum may apply for both general operational support and project support. It is anticipated that no museum will receive more than $35,000 under the program for fiscal year 1980 and that most museums which are funded will receive a smaller amount.

These estimates do not bind the Institute except as may be required by the applicable statute and regulations.

APPLICATION FORMS: The Institute is mailing application forms and program information packages to over 5,000 museums and other institutions and service organizations on the Institute's mailing list. Applicants may obtain application forms and program information packages by writing to the Institute of Museum Services, Room 326H, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

APPLICABLE REGULATIONS: Regulations applicable to this program include the following:

(a) Regulations governing the Museum Services Program (45 CFR Part 64) (program regulations).

These program regulations were published as a notice of proposed rulemaking published elsewhere in this **Federal Register.** (That notice proposes amendments to the final program regulations published on September 29, 1978, 43 FR 45166.) *Applicants should base their applications on the notice of proposed rulemaking.* When they are published as final regulations and become effective, the program regulations in the notice of proposed rulemaking will govern applications and grants under the program.

The program regulations set forth the definition of "museum" for purposes of the program and other conditions of eligibility. They also govern the types of assistance which may be provided under the program, the requirements which must be met by applicants, and the criteria to be used in judging applications.

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c).

EDGAR was published in proposed form in the **Federal Register** on May 1, 1979 (44 FR 26298). When it becomes effective, EDGAR will contain *general* provisions governing applications and grants under this program. Certain provisions of EDGAR are made inapplicable to applications and grants under the Museum Services Program for general operational support. The program regulations in the notice of proposed rulemaking identify these provisions. That notice also gives further information about EDGAR.

If material changes are made in the final regulations governing this program that relate to the preparation of applications for the current fiscal year, the Institute may extend the closing date or permit applicants to amend their applications.

FURTHER INFORMATION: For further information, contact Mr. Tom Litkowski, Program Officer, Institute of Museum Services, Room 326H, Hubert H. Humphrey Building, 200 Independence Ave., S.W., Washington, D.C. 20201, telephone (202) 245-6753.

(Catalog of Federal Domestic Assistance No. 13.923; Institute of Museum Services)

Dated: January 18, 1980.

Lee Kimche,

Director, Institute of Museum Services.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of Rules Going Into Effect Today.

Next Week's Deadlines for Comments on Proposed Rules

AGRICULTURE DEPARTMENT

Food and Nutrition Service—

1041 1–4–80 / National School Lunch Program and State Administrative Expense Funds; comments by 2–1–80

[Originally published at 44 FR 62441, 10–30–79]

69254 11–30–79 / Special supplemental food program for women, infants and children; proposed changes; comments by 1–28–80

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

1112 1–4–80 / Atlantic groundfish permit sanctions; comments by 2–1–80

61983 10–29–79 / Draft fishery management plan for Bering Sea-Chukchi Sea Herring; comments by 1–31–80

[Amended at 44 FR 68001; 11–28–79]

CONSUMER PRODUCT SAFETY COMMISSION

77196 12–31–79 / Procedures for disclosure or production of information under the Freedom of Information Act; proposed revisions for briefing packages and draft documents; comments by 1–30–80

57352 10–4–79 / Public playground equipment; safety guidelines; comments by 2–1–80

COST ACCOUNTING STANDARDS BOARD

40 1–2–80 / Capitalization of tangible assets; change in minimum acquisition cost criterion; comments by 1–31–80

DEFENSE DEPARTMENT

Engineers Corps—

75407 12–20–79 / Hood Canal, Wash.; navigation regulations; comments by 2–1–80

ENERGY DEPARTMENT

Economic Regulatory Administration—

59952 12–5–79 / Motor gasoline allocation; adjustments and downward certification; comments by 1–31–80

59602 12–3–79 / Resellers' and reseller-retailers' price rules for gasoline; comments by 2–1–80

Federal Energy Regulatory Commission—

67170 11–23–79 / Rule required under Section 202 of the Natural Gas Policy Act of 1978; comments by 1–31–80

ENVIRONMENTAL PROTECTION AGENCY

69464 12–3–79 / Guidelines establishing test procedures for the analysis of pollutants; comments by 2–1–80

68710 11–29–79 / Gum and wood chemicals; effluent limitations; comments by 1–28–80

67675 11–27–79 / Minnesota; State implementation plan; comments by 1–28–80

67938 11–27–79 / Standards of performance for new stationary sources; incinerators; review of standards; comments by 1–28–80

67934 11–27–79 / Standards of performance for new stationary sources; sewage treatment plants; review of standards; comments by 1–28–80

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

68482 11–29–79 / Handicapped; nondiscrimination in federally assisted programs; comments by 1–28–80

68858 11–30–79 / Proposed interpretations: Age Discrimination in Employment Act; comments by 1–29–80

FEDERAL COMMUNICATIONS COMMISSION

61230 10–24–79 / Commercial television network practices, preliminary report; reply comments by 1–29–80

70201 12–6–79 / Use of subcarrier frequencies in the aural baseband of television transmitters; reply comments by 1–28–80

FEDERAL MARITIME COMMISSION

806 1-3-80 / Security for the protection of the public; increase in maximum amount of required evidence of financial responsibility; comments by 2-1-80

FEDERAL RESERVE SYSTEM

75393 12-20-79 / Assessing financial factors in formation of small one-bank holding companies; comments by 1-31-80

67995 11-28-79 / Collection of checks and other items and transfers of funds; automated clearing house items; establishment of duties of banks; comments by 1-31-80

FEDERAL TRADE COMMISSION

68502 11-19-79 / Tank vessels of 20,000 DWT or more carrying oil in bulk; design, equipment, operating, and personnel standards; comments by 2-1-80

GENERAL SERVICES ADMINISTRATION

74832 12-18-79 / Acquisition of fuel-efficient light trucks by the Federal government; comments by 2-1-80

72200 12-13-79 / Management of buildings and grounds; accident and fire prevention standards; comments by 1-31-80

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—

75024 12-18-79 / Instruction media for the handicapped; comments by 2-1-80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

63474 11-2-79 / Endangered status for five species of foreign reptiles; comments by 1-31-80

Office of the Secretary—

876 1-3-80 / Nondiscrimination on the basis of age in programs and activities receiving Federal financial assistance; comments by 1-31-80

Surface Mining Reclamation and Enforcement Office—

77456 12-31-79 / Surface coal mining and reclamation operations interim and permanent regulatory programs; sediment control performance standards; comments by 1-30-80

INTERSTATE COMMERCE COMMISSION

55 1-2-80 / Standards for determining commuter rail service subsidies; comments by 1-31-80

73132 12-17-79 / Tariff improvement provisions; comment period extended to 1-31-80

[Originally published at 44 FR 60122, October 16, 1979]

LIBRARY OF CONGRESS

Copyright Office—

69977 12-5-79 / Registration of claims to copyright; blank forms inquiry; reply comments by 1-31-80

MANAGEMENT AND BUDGET OFFICE

68872 11-30-79 / Availability of draft Federal acquisition regulation; comments by 1-30-80

62311 10-30-79 / Federal acquisition regulation project; comments by 1-30-80

POSTAL SERVICE

76825 12-28-79 / Rates to Republic of Korea; comments by 1-28-80

SECURITIES AND EXCHANGE COMMISSION

70349 12-6-79 / Tender offers; comments by 2-1-80

TRANSPORTATION DEPARTMENT

Coast Guard—

73627 12-26-79 / Casualty reporting requirements; comments by 2-1-80

Federal Aviation Administration—

63048 11-1-79 / Aircraft and airport security; air carrier operations; comments by 1-28-80

[Corrected at 44 FR 64843, 11-8-79]

National Highway Traffic Safety Administration—

77199 12-31-79 / Light truck average fuel economy standards for model year 1982; comments by 1-30-80

WAGE AND PRICE STABILITY COUNCIL

76748 12-28-79 / Pay standards, low-wage exemption; comments by 1-28-80

Next Week's Meetings

ACTUARIES, JOINT BOARD FOR THE ENROLLMENT

77274 12-31-79 / Actuarial Examinations Advisory Committee, New York, N.Y. (open), 1-29-80

AGRICULTURE DEPARTMENT

Forest Service—

77226 12-31-79 / Humboldt National Forest Grazing Advisory Board, Elko, Nevada (open), 1-30-80

76836 12-26-79 / National Forest System Advisory Committee, Washington, D.C. (open), 1-28 and 1-29-80

75434 12-20-79 / Pacific Crest National Scenic Trail Advisory Council, Washington Subcommittee, Seattle, Wash. (open), 1-31-80

AIR QUALITY, NATIONAL COMMISSION

1709 1-8-80 / Meeting, Washington, D.C., 1-28-80

ARTS AND HUMANITIES NATIONAL FOUNDATION

73170 12-17-79 / Humanities Panel Advisory Committee, Washington, D.C. (closed), 1-28 and 1-29-80

860 1-3-80 / Office for Partnership Panel (Partnership Coordination), Washington, D.C. (open), 1-31 and 2-1-80

CIVIL RIGHTS COMMISSION

2675 1-14-80 / Arizona Advisory Committee, Phoenix, Ariz. (open), 2-2-80

1124 1-4-80 / Florida Advisory Committee, Miami, Fla. (open), 2-1-80

COMMERCE DEPARTMENT

International Trade Administration—

2678 1-14-80 / Microcircuit Subcommittee of the Semiconductor Technical Advisory Committee, Washington, D.C. (closed), 2-1-80

2678 1-14-80 / Semiconductor Manufacturing Materials and Equipment Subcommittee of the Semiconductor Technical Advisory Committee, Washington, D.C. (partially open) 2-1-80

2679 1-14-80 / Semiconductor Technical Advisory Committee, Washington, D.C. (partially open), 1-31-80

1656 1-8-80 / Telecommunications Equipment Technical Advisory Committee, Washington, D.C. (partially open), rescheduled from 1-24-80 to 2-7-80

[See also 45 FR 60, 1-2-80]

Maritime Administration—

76837 12-28-79 / U.S. Merchant Marine Academy Advisory Board, Kings Point, N.Y. (open), 1-28-80

National Marine Fisheries Service—

77229 12-31-79 / Interjurisdictional resource management, Alexandria, Va. (open), 1-29 through 1-31-80

National Oceanic and Atmospheric Administration—

3092 1-16-80 / Coastal Zone Management Advisory Committee, Washington, D.C. (open), 1-31 and 2-1-80

National Telecommunications and Information Administration—

2680 1-14-80 / Grant Appeals Board of the Public Telecommunications Facilities Program, Washington, D.C. (open), 1-31-80

DEFENSE DEPARTMENT

Corps of Engineers, Department of the Army—

76388 12-26-79 / National Waterways Study Technical Workshops, Ft. Belvoir, Va. (open), 1-30-80

Office of the Secretary—

67494 11-26-79 / DoD Wage Committee, Washington, D.C. (closed), 1-29-80

75203 12-19-79 / Defense Science Board Task Force on Cruise Missiles, San Diego, Calif. (closed), 1-28 and 1-29-80

[Location changed at 45 FR 3631, 1-18-80]

ENERGY DEPARTMENT

Conservation and Solar Energy Office—

68120 11-28-79 / Energy performance standards for new buildings, Bethesda, Md., 1-28 through 1-30-80

Office of the Secretary—

71859 12-12-79 / Environmental statement on Cattaraugus County, N.Y., radioactive waste processing facility, scoping meeting, West Valley, N.Y. (open), 2-2-80

FEDERAL COMMUNICATIONS COMMISSION

2395 1-11-80 / Radio Technical Commission for Marine Services (RTCM), Special Committee No. 73, "Minimum Performance Standards (MPS)—Marine Omega Receiving Equipment, Linthicum Heights, Md. (open), 1-29 and 1-30-80

2395 1-11-80 / Second meeting of the Advisory Committee on AM Broadcasting in Region 2, Wash., D.C. (open), 1-28-80

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

76858 12-28-79 / Meeting, Washington, D.C. (partially open), 1-31-80

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Alcohol, Drug Abuse, and Mental Health Administration—

72233 12-13-79 / National Advisory Council on Alcohol Abuse, and Alcoholism, Wash., D.C. (partially open), 1-28 and 1-29-80

Assistant Secretary for Health—

2109 1-10-80 / President's Council on Physical Fitness and Sports, Washington, D.C. (open), 1-31-80

Disease Control Center—

77263 12-31-79 / Ethics Advisory Board, Washington, D.C. (open), 2-1 and 2-2-80

Food and Drug Administration—

2909 1-15-80 / Consumer participation meeting, Washington, D.C. (open), 1-30-80

2904 1-15-80 / Gastrointestinal Drugs Advisory Committee, hepatotoxicity Subcommittee, Rockville, Md. (open), 2-1-80

72651 12-14-79 / Miscellaneous External Drug Products Panel, Rockville, Md. (open), 1-27 and 1-28-80

72651 12-14-79 / Psychopharmacologic Drugs Advisory Committee, Rockville, Md. (open), 1-28-80

Health Resources Administration—

1941 1-9-80 / National Advisory Council on Health Professions Education, Hyattsville, Md. (partially open), 1-26 through 1-31-80

National Institutes of Health—

73161 12-17-79 / Board of Scientific Counselors of the National Institute of Environmental Health Sciences, Research Triangle Park, N.C. (closed), 1-30 and 1-31-80

76408 12-26-79 / Cancer Research Manpower Review Committees, Bethesda, Md. (closed), 1-31, 2-1 and 2-2-80

76406 12-26-79 / National Advisory Allergy and Infectious Diseases Council, Bethesda, Md. (open), 1-31 and 2-1-80

73162 12-17-79 / National Advisory Council on Aging, Bethesda, Md. (partially open), 1-31 and 2-1-80

73162 12-17-79 / National Advisory Environmental Health Sciences Council, Research Triangle Park, N.C. (partially open), 1-28 and 1-29-80

74608 12-26-79 / National Advisory General Medical Sciences Council, Bethesa, Md. (open), 1-31 and 2-1-80

2400 1-11-80 / National Advisory Research Resources Council, Bethesda, Md. (open), 1-31 and 2-1-80

76863 12-28-79 / Workshop on Assays for Identification of High Risk Individual in Autosomal Dominant Gene Cancer Family Members, Bethesda, Md. (open), 1-29 and 1-30-80

IMMIGRATION AND REFUGEE POLICY, SELECT COMMISSION

2455 1-11-80 / Organizational and business matters, Washington, D.C. (open), 1-30-80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

70680 12-7-79 / Reproposal of critical habitat for two species of turtles, Muscatine, Iowa, 1-31-80

70680 12-7-79 / Reproposal of critical habitat for two species of turtles, St. George, Utah, 1-30-80

National Park Service—

2713 1-14-80 / Kaluapapa National Historical Park Advisory Commission, Kaluapapa, Hawaii (open), 1-29-80

INTERNATIONAL COMMUNICATION AGENCY

2913 1-15-80 / United States Advisory Commission on Public Diplomacy, Washington, D.C. (open), 1-30-80

LIBRARY OF CONGRESS

1709 1-8-80 / American Folklife Center Board of Trustees, Washington, D.C. (open), 1-29-80

NATIONAL SCIENCE FOUNDATION

1952 1-9-80 / Advisory Council Task Group No. 11, Washington, D.C. (open), 2-1-80

1461 1-7-80 / Advisory Committee for Behavioral and Neural Sciences, Subcommittee for Sensory Physiology and Perception, Washington, D.C. (closed), 1-31 and 2-1-80

1461 1-7-80 / Advisory Committee for Environmental Biology, Subcommittee on Population Biology and Physiological Ecology, Washington, D.C. (closed), 1-31 and 2-1-80

1460 1-7-80 / Advisory Committee for Physiology, Cellular and Molecular Biology, Cell Biology Subcommittee, Washington, D.C. (closed), 1-28 through 1-30-80

2424 1-11-80 / Physics Advisory Committee, Washington, D.C. (open), 1-31, 2-1 and 2-2-80

3122 1-16-80 / Task Group No. 11 of the NSF Advisory Council, Washington, D.C. (open), 2-1-80

1952 1-9-80 / Subcommittee on Civil and Mechanical Engineering of the Advisory Committee for Engineering and Applied Sciences, Washington, D.C. (partially open), 1-28 and 1-29-80

NUCLEAR REGULATORY COMMISSION

3126 1-16-80 / Advisory Committee on Reactor Safeguards, Subcommittee on Three Mile Island, Unit 1 Nuclear Power Plant, Middletown, Pa. (partially open), 2-1-80

STATE DEPARTMENT

Office of the Secretary—

2723 1-14-80 / Secretary of State's Advisory Committee on Private International Law, Bankruptcy Study Group, Washington, D.C. (open), 2-1-80

2132 1-10-80 / Study Group D of the U.S. Organization for the ITT Consultative Committee (open), 1-31-80

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

76813 12-27-79 / Radio Technical Commission for Aeronautics (Special Committee 143—Ground Based Automated Weather Observation Equipment), Washington, D.C. (open), 1-31 and 2-1-80

TREASURY DEPARTMENT

Office of the Secretary—

74957 12-18-79 / Debt Management Advisory Committees, Washington, D.C. (open), 1-29 and 1-30-80

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Office of the Secretary—
2725 1–14–80 / U.S. Tax Court Nominating Commission, Washington, D.C. (closed), 1–29–80

WOMEN, PRESIDENT'S ADVISORY COMMITTEE
3127 1–16–80 / Washington, D.C. (open), 1–29–80

Next Week's Public Hearings

ENERGY DEPARTMENT
Economic Regulatory Administration—
799 1–3–80 / Motor gasoline allocation, Washington, D.C., 1–31 and 2–1–80
790 1–3–80 / Resellers' and reseller-retailers' price rules for gasoline, Washington, D.C., 1–29 and 1–30–80
Federal Energy Regulatory Commission—
77198 12–31–79 / Proposed implementation of section 202 of Natural Gas Policy Act, Washington, D.C., 1–29–80

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Food and Drug Administration—
2908 1–15–80 / Aspartame, hearing; Rockville, Md. 1–30–80

INTERIOR DEPARTMENT
Fish and Wildlife Service—
73133 12–17–79 / Reproposal of critical habitat for the Plymouth Red-bellied Turtle, Plymouth, Mass., 1–29–80
Land Management Bureau—
2114 1–10–80 / Shivwits Resource Area, Mohave County, Ariz., proposed grazing management, St. George, Utah, 1–30–80

INTERSTATE COMMERCE COMMISSION
1511 1–7–80 / Chicago, Rock Island, and Pacific Railroad Co., Reorganizaton Plan; hearing, Washington, D.C., 1–28–80

NATIONAL TRANSPORTATION SAFETY BOARD
70245 12–6–79 / Commuter airline industry; hearing, Washington, D.C., 1–28 through 1–30–80

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

DEADLINES FOR COMMENTS ON PROPOSED RULES
3530 1–17–80 / HEW/HDSO—Child abuse and neglect grant program priorities, fiscal year 1980; research, demonstration and service improvement grants; comments by 3–17–80
2008 1–14–80 / Justice/LEAA—Formula grants for criminal and juvenile justice; comments by 2–28–80

APPLICATIONS DEADLINES
3388 1–17–80 / HEW/HDSO—Establishment and operation of centers for independent living rehabilitation services; fiscal year 1980 grant funds; apply by 3–15 and 7–15–80
3526 1–17–80 / HEW/HDSO—Special projects for severely disabled individuals; apply by 3–14–80
3110 1–16–80 / HEW/OE—Gifted and Talented Children's Education Program—Discretionary Program for Educational Service or Model Projects; apply by 2–15–80
2716 1–14–80 / Justice/LEAA—Use of fines in sentencing competitive research; apply by 3–1–80
3686 1–18–80 / National Institute of Corrections—Development of Staff Training Materials; submit concept papers by 3–15–80

MEETINGS
2680 1–14–80 / Commerce/NTIA—Grant Appeals Board of the Public Telecommunications Facilities Program, Washington, D.C. (open), 1–31–80
2682 1–14–80 / Commerce/NTIA—Grant Appeals Board of the Public Telecommunications Facilities Program, Washington, D.C. (open), 2–20–80
[Originally published at 44 FR 70513, December 7, 1979]
3671 1–18–80 / HEW/HSA—Maternal and Child Health Research Committee, Rockville, Md. (partially open), 2–6 through 2–8–80
2707 1–14–80 / HEW/NIH—Cancer Clinical Investigation Review Committee, Bethesda, Md. (partially open), 2–25 and 2–26–80
2707 1–14–80 / HEW/NIH—Cancer Special Program Advisory Committee, Bethesda, Md. (partially open), 3–13 and 3–14–80
2709 1–14–80 / HEW/NIH—Communicative Disorders Review Committee, Bethesda, Md. (partially open), 2–3 through 2–5–80
2707 1–14–80 / HEW/NIH—General Clinical Research Centers Committee, Carmel-by-the-Sea, Calif. (partially open), 2–11 and 2–12–80
3684 1–18–80 / Marine Mammal Commission—Marine Mammal Commission and Committee of Scientific Advisors on Marine Mammals, Tampa, Fla. (partially open), 2–21 through 2–23–80
3686 1–18–80 / NASA—Space Science Steering Committee, Solar Terrestrial Theory Program Ad Hoc Advisory Subcommittee, Greenbelt, Md. (closed), 2–4 through 2–6–80
2718 1–14–80 / NFAH—Humanities Panel Advisory Committee, Washington, D.C. (closed), 2–4, 2–5, 2–11, 2–14 and 2–15–80
2718 1–14–80 / NFAH—Media Arts Panel (AFI/Archival), Washington, D.C. (closed), 3–5–80
2709 1–14–80 / HEW/NIH—National Advisory Eye Council, Bethesda, Md. (partially open), 2–4 through 2–6–80
2707 1–14–80 / HEW/NIH—National Cancer Advisory Board Subcommittees, Bethesda, Md. (partially open), 1–20 through 1–23–80
2709 1–14–80 / HEW/NIH—National Institute of Allergy and Infectious Diseases, Board of Scientific Counselors, Bethesda, Md. (partially open), 2–28 and 2–29–80
3121 1–16–80 / NSF—Subcommittee for Geography and Regional Science of the Advisory Committee for Social and Economic Science, Washington, D.C. (closed), 2–11–80
3121 1–16–80 / NSF—Subcommittee on Molecular Biology (Group A) of the Advisory Committee for Physiology, Cellular, and Molecular Biology, Washington, D.C. (closed), 2–14 and 2–15–80
3122 1–16–80 / NSF—Subcommittee on Psychobiology of the Advisory Committee for Behavioral and Neural Sciences, Washington, D.C. (closed), 2–4 and 2–5–80

OTHER ITEMS OF INTEREST
3368 1–17–80 / CSA—Availability of the CFR for all CSA grantees
2716, 2717 1–14–80 / LSC—Grants and contracts; soliciting comments or recommendations for:
Pennsylvania (2 documents)
Virginia (5 documents)

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: Feb. 22; March 7 and 21; at 9 a.m. (identical sessions)

WHERE: Office of the Federal Register, Room 9409, 1100 L Street N.W., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235. Gwendolyn Henderson, Assistant Coordinator, 202–523,5234.

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[A Cumulative checklist of CFR issuances for 1979 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).]

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1-24-80
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federal register

Thursday
January 24, 1980

Highlights

Principles of Regulations Writing Seminar—See the Reader Aids section at the end of this issue

5659 **American Heart Month, 1980** Presidential proclamation

6058 **Health Maintenance Organizations** HEW/PHS amends rules with respect to grants and loan guarantees for planning and initial development costs and to loans and loan guarantees for initial costs of operation; comments by 3–24–80; effective 1–24–80

6044, 5838 **Indochinese Refugee Children** HEW/OE issues rules providing grants to state educational agencies to assist local educational agencies in providing educational services and announces closing date for grant applications for the Indochina Refugee Children Assistance Program (2 documents) (Part VII of this issue for 1st document)

5747 **Natural Gas Policy Act** DOE/FERC proposes rules to provide for treatment of State severance taxes imposed on sales of gas, comments by 2–19–80

5677, 5678 **Natural Gas Policy Act** DOE/FERC amends rules concerning first sales of natural gas subject to existing and successor intrastate contracts and intrastate rollover contracts and adopts rules implementing incremental pricing provisions; effective 2–15–80 and 1–18–80 (2 documents)

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5934, 5943, 5963, 5972 **Securities** SEC proposes changes to annual report form and issuance of short form for registration and proposes uniform instructions with respect to financial statements, comments by 4–15 and 4–30–80 (4 documents) (Part II of this issue)

6028 **Surface Coal Mining and Reclamation Operations** Interior/SMRE proposes to amend permanent regulatory program relating to bond and insurance requirements, comments by 3–24–80; hearings to be held on 2–13–80 (Part VI of this issue)

5754 **Income Tax** Treasury/IRS proposes rules concerning limitations on benefits and contributions under qualified plans, comments by 4–23–80

5688 **Income Tax** Treasury/IRS issues temporary rules concerning treatment of certain gains of regulated investment companies and real estate investment trusts

5986 **Air Pollution From Motor Vehicles** EPA proposes high-altitude emission standards for 1982 and 1983 model year light-duty motor vehicles (Part III of this issue)

6012 **Air Pollution From Motor Vehicles** EPA proposes rules for the submission of altitude performance adjustments for motor vehicles (Part IV of this issue)

5858 **Privacy Act** OMB publishes reports of agency systems of records

5840 **Privacy Act** HUD/SEC'Y publishes documents affecting systems of records

5698 **U.S. Treasury Checks** Treasury/FS issues rules concerning forms of indorsement; effective 2–1–80

6062 **Fishermen's Contingency Fund** Commerce/NOAA adopts final rules (Part X of this issue)

5897 **Sunshine Act Meetings**

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5934 **Part II, SEC**
5986 **Part III, EPA**
6012 **Part IV, EPA**
6020 **Part V, USDA/SEC'Y**
6028 **Part VI, Interior/SMRE**
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Presidential Documents

Title 3—
The President

Proclamation 4716 of January 22, 1980

American Heart Month, 1980

By the President of the United States of America

A Proclamation

Diseases of the heart and blood vessels remain our Nation's leading cause of death and disability and one of our most serious health problems. Collectively, cardiovascular diseases affect more than 40 million Americans, visiting partial or complete disability on several millions of them and causing nearly 980,000 deaths each year.

Since 1948, this Nation has been engaged in a concerted effort to acquire new knowledge about the cardiovascular system and the diseases that afflict it; to disseminate that knowledge to the research and medical communities and to the general public; and to mobilize resources, facilities, and research and medical manpower toward the goal of reducing illness, disability, and premature death from cardiovascular disorders.

Leading this national effort have been the National Heart, Lung, and Blood Institute—a federal agency—and the American Heart Association, supported by private contributions; but it has been a cooperative endeavor involving the participation of a great many agencies and groups and enjoying the confidence and continued support of the American people.

Widespread application of research and clinical advances stemming from this effort is having substantial and salutary effects on cardiovascular disease mortality rates, which have declined by 34 percent since 1950. These mortality-rate decreases extend across the whole spectrum of cardiovascular diseases and, in most categories, have accelerated during recent years.

Since 1968, for example, the mortality rate for coronary heart disease has declined by 26 percent and that for stroke by 37 percent. These reductions represent more than three hundred thousand lives saved each year, because these two disorders account for nearly 84 percent of all cardiovascular disease deaths.

Recognizing the need for all Americans to help in the continuing battle against cardiovascular disease, the Congress, by joint resolution approved December 30, 1963 (77 Stat. 843; 36 U.S.C. 169b) has requested the President to issue annually a proclamation designating February as American Heart Month.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim the month of February, 1980, as American Heart Month. I invite the Governors of the States, the appropriate officials of all other areas subject to the jurisdiction of the United States and the American people to join with me in reaffirming our commitment to the search for new ways to prevent, detect and control cardiovascular disease in all its forms.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of January, in the year of our Lord Nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 80–2561
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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 102

Grain Inspection Appeals

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action specifies appeal procedures for grain inspected under various authorities as permitted by regulations under the U.S. Warehouse Act. The purpose is to clarify present regulations on how, where and at what cost an interested party may make an appeal from the grade assigned to grain on original inspection. Appeal procedures will vary according to the authority under which the original inspection was performed.

EFFECTIVE DATE: January 24, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. Orval Kerchner, Chief, Warehouse Development Branch, Warehouse Division, Agricultural Marketing Service, Department of Agriculture, Washington, D.C. 20250 (202–447–3821).

SUPPLEMENTARY INFORMATION: In a notice published at 44 FR 54514, September 20, 1979, the Department announced that it was proposing to amend the regulations pertaining to appeal procedures for grain inspected under various authorities as permitted under the Act. This was to be accomplished by replacing §§ 102.80 through 102.95 of the regulations governing "Grain Appeals" with new §§ 102.80 through 102.85 and corresponding amendments to other provisions of the regulations were made to conform these provisions to the changes. The public was given until November 19, 1979, to file written comments. Only one written comment from the public was received to this proposal.

The commentator was concerned as to the practicability of the proposal stating that, "the potential damage from delay in moving the harvest is appreciably greater under the proposed rules. It is quite possible that all depositors would choose automatically to avail themselves of the proposals and would, therefore, delay grain handling operations many-fold. Handling and transportation capacity have already been strained to the limit by the size of recent harvests."

This problem is recognized and received consideration in the regulations with the following provisions, (1) that the "warehouseman need not preserve the identity of the lot in the original carrier; but with the knowledge and consent of the depositor or agent may use other means to preserve such identity," and (2) "if compliance with such requests would adversely affect receiving, storing or delivering the grain of other depositors, the warehouseman may defer unloading such grain until such time as would not disrupt service to other depositors."

We believe a depositor's right to an appeal grade and necessary mechanics therefor outweigh the chances of certain depositors abusing the privilege. But if practice should prove otherwise, the Department would not hesitate to recommend further changes; we agree with the commentator that the harvest movement must not be slowed by this procedure.

The amendments were discussed with officials administering the U.S. Grain Standards Act who under the proposed regulations would hear appeals on grain inspected, graded and certificated under the Warehouse Act for which there are official standards under the Grain Standards Act, and inspected, graded and certificated under the Warehouse Act for which there are official standards under the AMA of 46.

Owing to the lack of specific regulations under the United States Grain Standards Act providing for hearing such appeals, some minor changes were made in proposed regulation 102.82. Those changes are in language not in procedure. Offices charged with providing official inspection service under the U.S. Grain Standards Act and/or the Agricultural Marketing Act of 1946 will grade the grain which is the subject of an appeal in accordance with appropriate regulations. Therefore, these changes are not significant. Accordingly, Part 102, Title 7, Code of Federal Regulations is amended in the following respects:

Said regulations, therefore, are amended to read:

1. Section 102.2(u) is amended to read as follows:

§ 102.2 Terms defined.

* * * * *

(u) *Official Standards of the United States.* The standards of the quality or condition for grain, fixed and established under the U.S. Grain Standards Act or the Agricultural Marketing Act of 1946.

* * * * *

2. Section 102.18(d) is amended to read as follows:

§ 102.18 Form.

* * * * *

(d) The grade stated in a receipt shall be stated in accordance with § 102.76 as determined by the inspector who last inspected and graded the grain or if an appeal has been taken, the grade shall be stated on such receipt in accordance with the grade as finally determined in such appeal.

* * * * *

3. Section 102.44 is amended to read:

§ 102.44 Grades and weights; bulk grain.

Except as provided in § 102.27 each warehouseman shall accept all storage and nonstorage grain and shall deliver out all storage and nonstorage grain, other than specially binned grain, in accordance with the grades of such grain as determined by a person duly licensed to inspect and grade such grain and to certificate the grade thereof and in accordance with the weights of such grain as determined by a person duly licensed to weigh such grain and to certificate the weight thereof, under the Act, and the regulations in this part; or if an appeal from the determination of an inspector has been taken, such grain shall be accepted for and delivered out of storage in accordance with the grades as finally determined in such appeal.

* * * * *

4. Section 102.65(a)(9) is amended to read as follows:

§ 102.65 Inspection certificate; form.

(a) * * *

(9) The grade of the grain, as determined by such duly licensed inspector, in accordance with § 102.76, and, in the case of grain for which no official standards of the United States are in effect, the standards or description in accordance with which such grain is graded.

* * * * *

5. Section 102.77 is amended to read:

§ 102.77 Official Standards of the United States.

The Official Standards of the United States are hereby adopted as the official grain standards for the purposes of the Act and the regulations in this part.

6. Section 102.78 is amended to read:

§ 102.78 Standards of grades for other grain.

Until official standards of the United States are fixed and established for the kind of grain to be inspected, the grade of the grain shall be stated, subject to the approval of the Administrator, (a) in accordance with the State standards, if any, established in the State in which the warehouse is located, (b) in the absence of any State standards, in accordance with the standards, if any, adopted by the local board of trade, chamber of commerce, or by the grain trade generally in the locality in which the warehouse is located, or (c) in the absence of the standards mentioned in paragraphs (a) and (b) of this section, in accordance with any standards approved for the purpose by the Service.

7. Sections 102.80 through 102.95 are deleted in their entirety and the following §§ 102.80 through 102.85 substituted therefor:

Grain Appeals

Sec.
102.80 Appeal procedure.
102.81 Request for appeal.
102.82 Appeal sample—obtaining, preservation, delivery and examination.
102.83 Dismissal of appeal.
102.84 Freedom of appeal.
102.85 Owner not compelled to store.

Authority: August 11, 1916, ch. 313, part C sec. 28, 39 Stat. 490 (7 U.S.C. 268).

Grain Appeals

§ 102.80 Appeal procedure.

The depositor, holder of receipt or the warehouseman may make an appeal as to the grade of a lot of grain stored or to be stored in a licensed warehouse. If the original grade certificate was issued by an inspector licensed under, or authorized by, the U.S. Grain Standards Act or the Agricultural Marketing Act, the appeal, including the amount of fees, shall be governed by the regulations issued under those Acts respectively; otherwise the appeal, including fees shall be governed by §§ 102.81 through 102.83.

§ 102.81 Request for appeal.

A request for an appeal inspection by a depositor or holder of receipt must be made by written notice to the warehouseman before the identity of the lot of grain has been lost and not later than the close of business on the first business day following furnishing of the statement of original grade or if the appeal is requested by the warehouseman, notice must be given promptly to the owner of the grain. Oral notice may be made if followed by written notice. Where is it not practical for a warehouseman to maintain the identity of all grain being received for storage until depositors receive a statement of grade and consequently opportunity for appeal, any depositor or his agent before or at the time of delivery of his grain may request the warehouseman to retain the identity of such lot until said depositor has been furnished with a statement of grade for the lot and has waived or requested and received an appeal inspection grade. The warehouseman need not preserve the identity of the lot in the original carrier; but with the knowledge and consent of the depositor or agent may use other means to preserve such identity. Further, if compliance with such request would adversely affect receiving, storing or delivering the grain of other depositors, the warehouseman may defer unloading such grain until such time as would not disrupt service to other depositors but without unnecessary delay to the party making such request.

§ 102.82 Appeal sample—obtaining, preservation, delivery and examination.

(a) The lot of grain for which an appeal is requested shall be resampled in such manner and quantity as the depositor or holder of receipt and the warehouseman agree results in a representative sample of the lot acceptable to each for appeal purposes. Should they be unable to agree on such a sample, a sample drawn by a duly licensed inspector in the presence of both shall be deemed binding. In no case shall the sample be of less than 2000 grams by weight.

(b) The sample shall be packaged, to the satisfaction of the interested parties, so as to preserve its original condition.

(c) For grains for which there are official U.S. Standards the sample shall be secured and delivered to the nearest office charged with providing official inspection service under the U.S. Grain Standards Act and/or the Agricultural Marketing Act of 1946. At this point procedures as set forth in regulations issued under the U.S. Grain Standards Act or under the Agricultural Marketing Act of 1946 shall govern. For grain for which there are no official U.S. Standards the party requesting the appeal shall apply directly to the Administrator for relief. The Administrator or delegate thereof shall promptly determine the appeal based on approved standards and set the required fees. Such determination shall be binding on all concerned parties.

(d) The sample shall be accompanied by (1) a copy of the written request for appeal, (2) the grain inspection certificate originally issued, and (3) an agreement to pay the costs of such inspection as prescribed by the U.S. Grain Standards Act, the Agricultural Marketing Act or the Administrator.

(e) The sample of the grain involved in the appeal shall be examined as soon as possible. Such tests shall be applied as are necessary; and, unless the appeal is dismissed, a grade certificate shall be issued by the person determining the grade, showing the grade assigned by him to such grain. This certificate shall supersede the inspection certificate originally issued for the grain involved. The original or a copy of the new grade certificate shall be sent to the depositor or holder of receipt, the licensed warehouseman and the licensed inspector making the original determination of grade.

§ 102.83 Dismissal of appeal.

The departmental agency to whom the appeal has been made may dismiss such appeal without its determination upon request of the party initiating the appeal or for noncompliance with the regulations in this part.

§ 102.84 Freedom of appeal.

(a) No person licensed under the Act, shall, directly or indirectly by any means whatsoever, deter or prevent or attempt to deter or prevent any party from taking an appeal.

(b) No rule, regulation, bylaw, or custom of any market, board of trade, chamber of commerce, exchange, inspection department or similar organization nor any contract, agreement, or understanding, shall be ground for refusing to determine any appeal.

§ 102.85 Owner not compelled to store.

Nothing in these regulations shall require the owner or his agent to store such grain with the licensed warehouseman after the appeal inspection, but if the grain is stored it shall be accepted for and delivered out of storage in accordance with the grade as finally determined in such appeal.

§§ 102.86–102.95 [Reserved]

8. Section 102.86 through 102.95.

These sections are reserved for future use.

(August 11, 1916, ch. 313, part C secs. 28, 39 Stat. 490 (7 U.S.C. 268))

Done at Washington, D.C., January 18, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80-2281 Filed 1-23-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 907

[Navel Orange Reg. 476, Amdt. 1; Navel Orange Reg. 477]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 25–January 31, 1980, and increases the quantity of such oranges that may be so shipped during the period January 18–24, 1980. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective January 25, 1980, and the amendment is effective for the period January 18–24, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C 601–674). The action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on January 22, 1980, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges has improved over recent weeks.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, phone (202) 447–5975.

1. Section 907.777 is added as follows:

§ 907.777 Navel Orange Regulation 477.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period January 25, 1980, through January 31, 1980, are established as follows:

(1) District 1: 1,246,000 cartons;
(2) District 2: 126,000 cartons;
(3) District 3: Unlimited;
(4) District 4: 28,000 cartons.

(b) As used in this section, "handle," "District 1," "District 2," "District 3," "District 4" and "carton" mean the same as defined in the marketing order.

2. Paragraph (a) in § 907.776 Navel Orange Regulation 476, (45 FR 3249), is hereby amended to read:

§ 907.776 Navel Orange Regulation.

(a) * * *

(1) District 1: 1,380,000 cartons;
(2) District 2: 139,000 cartons;
(3) District 3: Unlimited;
(4) District 4: 31,000 cartons.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 23, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-2587 Filed 1-23-80; 12:20 pm]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

10 CFR Part 205

Administrative Procedures and Sanctions; 1979 Interpretations of the General Counsel

AGENCY: Department of Energy.

ACTION: Notice of Interpretations.

SUMMARY: Attached is an interpretation and a response to a petition for reconsideration issued by the Office of General Counsel of the Department of Energy under 10 CFR Part 205, Subpart F, during the period December 1, 1979 through December 31, 1979.

Appendix C identifies those requests for interpretation which have been dismissed during the same period.

FOR FURTHER INFORMATION CONTACT: Diane Stubbs, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW, Room 5E052, Washington, D.C. 20585 (202) 252–2948.

SUPPLEMENTARY INFORMATION:

Interpretations issued pursuant to 10 CFR Part 205, Subpart F, are published in the **Federal Register** in accordance with the editorial and classification criteria set forth in 42 FR 7923 (February 8, 1977), as modified in 42 FR 46270 (September 15, 1977).

These interpretations depend for their authority on the accuracy of the factual statement used as a basis for the interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom interpretations are addressed and other persons upon whom interpretations are served are entitled to rely on them (§ 205.85(c)). An interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). The interpretation published below is not subject to appeal.

Issued in Washington, D.C., January 18, 1980.

Everard A. Marseglia, Jr.,
Assistant General Counsel for Interpretations and Rulings.

Appendix A—Interpretations

No.	To	Date	Category	File No.
1979–26	Consumers Power Company	December 21	Allocation	A–76

Interpretation 1979–26

To Consumers Power Company.

Regulations Interpreted 10 CFR 211.51, 211.62, 211.67.

Code GCW—AI—Entitlements Program; Definitions of Crude Oil Runs to Stills, Refined Petroleum Product, Refiner.

Facts

Consumers Power Company of Jackson, Michigan (Consumers) owns and operates a synthetic natural gas (SNG) manufacturing plant located at Marysville, Michigan.[1] The Marysville plant, which began commercial operation in September 1973, has an input capacity of more than 50,000 barrels per day of feedstock. Approximately 70 percent of the feedstock purchased by Consumers is condensate (pentanes and heavier hydrocarbons). The condensate portion of the feedstock stream is processed through a "feedstock preparation unit" which results in at least three petroleum products. One of the products resulting from the feedstock preparation process is sold, and another is used by Consumers as fuel. The remaining products are used as feedstocks in the gasification units of the Marysville SNG processing plant.

The feedstock preparation unit, which is the focus of Consumers' request, processes plant condensate and lease condensate. Of the condensate processed by Consumers at the feedstock preparation unit, between 92 and 98 percent is plant condensate imported from Canada. The condensate processed at Marysville also includes "significant amounts of lease condensates" from the northern part of Michigan's lower peninsula.[2]

Consumers receives the lease condensate processed at Marysville by pipeline. Approximately 60 gas wells located near Kalkaska, Michigan "may inject lease condensate into a common wet header pipeline system that supplies Consumers Power Company."[3] This lease condensate is the liquid separated from the gas stream at the lease production unit and separators. It is injected into the pipeline using high pressure gas from the facility or lease, or it is pumped into the pipeline. The lease condensate received by Consumers also "develops as unprocessed natural gas flows into the wet header pipeline system and condenses out due to the relatively high content of heavy components (C3 and heavier hydrocarbons)."[4] The lease condensate liquid is gravity separated from the gas stream and temporarily stored in an underground piping system from which it is piped to two Kalkaska, Michigan gas processing plants operated by Amoco Production Company and Shell Oil Company, respectively. The lease condensate liquids received by the Amoco plant are stabilized through a purely mechanical process by controlling temperature and pressure. "The processing units which stabilize these liquids [at the Kalkaska plant] do not use absorption, adsorption, compression, refrigeration cycling or a combination of these processes."[5] The stabilization of the lease condensate at the Amoco Kalkaska plant removes "the more volatile ends [but] does not transform the condensate."[6] After being stabilized, the lease condensate liquids are transported by truck from the Amoco plant to Consumers' feedstock preparation unit at Marysville.

After salt is removed, the condensate is delivered to a feed splitter tower for fractionation into an unstabilized naphtha-LPG mixture and fuel oil. This middle distillate fuel oil undergoes further desulfurization and constitutes one of the petroleum products resulting from the operation of Consumers' feedstock preparation unit.[7]

The naphtha-LPG mixture is vaporized, superheated, mixed with hydrogen gas, and fed to a naphtha hydrodesulfurization (HDS) unit, subjected to a cobalt-molybdenum catalyst and delivered to an HDS debutanizer. Desulfurized naphtha, with a boiling range typical of gasolines, results from this process. This naphtha product is pumped into a storage tank for later delivery to the Marysville SNG plant for conversion to SNG.[8]

Sour LPG, which also results from the HDS debutanizer, is processed further. The condensed, desulfurized LPG product which results from this final treatment process is also delivered to the Marysville SNG plant for conversion to SNG.

Consumers contends that the feedstock preparation unit it operates to process feedstocks for the SNG plant at the same site is unique and that "no other utility owns and operates a similar facility."[9] This feedstock preparation unit consists mainly of fractionation equipment and hydrodesulfurization and cold sieve testing for sulfur removal. The unit is designed to fractionate blends of condensate and natural gas liquids (NGL's) to produce a separate naphtha-like feed and LPG feed for gasification. It does not have the capability of cracking or saturating to upgrade feedstocks for gasification use.[10]

On September 12, 1977, the Federal Energy Administration (FEA, a predecessor agency to the Department of Energy, DOE) issued a notice inviting public comments on Consumers' request for interpretation. (42 FR 46580, September 16, 1977.) Twelve comments were received in response to this notice and were considered along with Consumers' submissions in resolving the issue addressed in this interpretation.[11]

Issue

Does the lease condensate and Canadian plant condensate run into the feedstock preparation unit, operated by Consumers Power Company in connection with its Marysville, Michigan synthetic natural gas plant, qualify as crude oil runs to stills under the entitlements program, 10 CFR 211.67?

Interpretation

Pursuant to the provisions of the Mandatory Petroleum Allocation Regulations, 10 CFR Part 211, the lease condensate and Canadian plant condensate that is run into the feedstock preparation unit, operated by Consumers in connection with its Marysville, Michigan synthetic natural gas plant, qualifies as crude oil runs to stills. Thus, Consumers may participate in the entitlements program in accordance with the provisions of 10 CFR 211.67 effective June 17, 1976, the date Consumers requested inclusion in the entitlements program.

The provisions of § 211.67 govern the issuance of entitlements, and § 211.67(d)(3) specifically determines a refiner's volume of crude oil runs to stills. This section establishes the criteria a firm must meet to be eligible for entitlements. Section 211.67(d)(3) provides that:

The volume of a refiner's crude oil runs to stills in a particular month for purposes of the calculations in paragraph (a)(1) of this section and the calculations for the national domestic crude oil supply ratio shall include the total number of barrels of plant condensate and the total number of barrels of synthetic crude oil made from tar sands which are imported from Canada and are utilized in that month as inputs to distillation units by a refiner, measured in accordance with the Bureau of Mines Form 6–1300–M. Neither plant condensate nor synthetic crude oil made from tar sands which are imported from Canada shall be eligible for inclusion in the volume of a refiner's crude oil runs to stills under this subparagraph (3) unless payment has been made in accordance with Presidential Proclamation No. 3279, as amended, of any import license fees applicable to crude oil as defined for purposes of this section, which is imported for refining.[12]

Thus, a firm must use crude oil as inputs to distillation units and qualify as a refiner to meet the requirements of this section. Consumers qualifies for participation in the entitlements program because it meets all the applicable requirements as defined in 10 CFR Part 211.

Consumers' feedstock preparation unit processes "crude oil," inasmuch as a portion of the condensate processed by the Marysville unit is lease condensate. For the purposes of the allocation regulations, 10 CFR 211.51 provides:

"Crude oil" means a mixture of liquid hydrocarbons *including lease condensate* that exists in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities. [Emphasis added.]

According to Consumers, the lease condensate processed in the feedstock preparation unit is liquid and is not transformed in any significant respect by the stabilization (or removal of the more volatile ends) that occurs prior to processing of the lease condensate by Consumers.[13] Therefore, the lease condensate purchased by Consumers for its Marysville unit qualifies as crude oil.

Section 211.51 contains definitions of general applicability under the Mandatory Petroleum Allocation Regulations and defines "refineries" as:

Those industrial plants, regardless of capacity, processing crude oil feedstock and manufacturing refined petroleum products, except when such plant is a petrochemical plant.

Section 211.51 then defines "refiners" as "those firms that own, operate or control the operations of one or more refineries."

Additional definitions specifically applicable to the entitlements program are set forth in § 211.62. Section 211.62 provides:

"Refinery" means an industrial plant, regardless of capacity, processing crude oil feedstock and manufacturing refined petroleum products, residual fuel oil or petrochemicals, and shall include a petrochemical plant.

The definition of "refiner" in § 211.62 is essentially identical to the definition of "refiners" in § 211.51.

Consequently, in order for Consumers to qualify as a refiner under the entitlements program, it must own, operate or control a refinery which processes crude oil feedstock[14] and manufactures refined petroleum products. Because Consumers' feedstock preparation unit meets the qualifications of a refinery, Consumers qualifies as a refiner.

The fact that Consumers' Marysville feedstock preparation unit produces refined petroleum products provides additional support for the conclusion that Consumers qualifies as a refiner for purposes of the entitlements program. According to Consumers, its feedstock preparation unit produces LPG and middle distillate fuel oil. These products are expressly included in the definition of "refined petroleum product" in § 211.51. In addition, the unit produces a naphtha product which, according to Consumers, is similar to gasoline. Subpart J of the Mandatory Petroleum Allocation Regulations covers naphtha products.[15] Therefore, each of the principal products produced by Consumers in the Marysville feedstock preparation unit is a "refined petroleum product" within the scope of 10 CFR Part 211. Accordingly, Consumers owns and operates a unit which processes crude oil and manufactures refined petroleum products. Thus, it qualifies as a refiner pursuant to the definitions set forth in §§ 211.51 and 211.62.

Because Consumers qualifies as a refiner eligible to participate in the entitlements program, the provisions of 10 CFR 211.67 apply. Pursuant to § 211.67(d)(3), quoted above, Consumers may include the Michigan lease condensate in its calculations of crude oil runs to stills[16] since it is considered to be "crude oil" under the definition of that term for purposes of Part 211.[17] Consumers may also include the total number of barrels of Canadian plant condensate processed by the unit in its volume of crude oil runs to stills in accordance with the express provisions of § 211.67(d)(3).[18] Since Consumers first submitted information demonstrating that the Marysville feedstock preparation unit processes lease condensate on June 17, 1976, it may qualify as a refiner of crude oil that may participate in the entitlements program only after that date.

The majority of the public comments received by the DOE regarding Consumers' request for interpretation expressed an objection to the classification of the feedstock preparation unit as a refinery and Consumers' participation in the entitlements program. The most frequently expressed objection was that Consumers does not sell the principal products produced from the unit and thus, does not fall within the intended scope of the entitlements program. However, Consumers' participation in the entitlements program is consistent with the policy and objectives of that program. The purpose of the entitlements program is to allocate the benefits of access to price-controlled domestic crude oil and the burdens of dependence on uncontrolled crude oil among all sectors of the petroleum industry and among all consumers of petroleum products in order to prevent competitive advantages or disadvantages resulting from the Mandatory Petroleum Price Regulations.[19] To withhold the benefits of the entitlements program from Consumers would be incompatible with the intent of the program since other refiners of LPG, naphtha, and fuel oil receive such benefits. Excluding the Marysville unit from the entitlements program merely because Consumers does not market its principal refined petroleum products would penalize Consumers for having invested in the feedstock preparation unit, which performs the same function that a commercial refinery would normally perform in preparing feedstocks for other SNG plants.

Other firms in a position similar to Consumers have been permitted or required to participate in the entitlements program, thus lending support for Consumers' participation. Consumers relies upon *Glacier*

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[1] This statement of facts reflects Consumers' representation of conditions prevailing at the time the interpretation request was filed.

[2] Letter from Consumers to Federal Energy Administration, June 17, 1976.

[3] Deposition of Robert J. Odlevak, Executive Manager of Gas Production and Transmission for Consumers Power Company, submitted June 17, 1976.

[4] *Id.; see also* Response by Consumers Power Company, Exhibit A, November 29, 1977.

[5] Affidavit of Don H. Pendleton, Gas Operations Supervisor for Consumers Power Company, submitted December 19, 1977.

[6] Response by Consumers Power Company, November 29, 1977, p. 8.

[7] Letter from Consumers, attachment (a), to the Department of Energy, November 7, 1977.

[8] *Id.*

[9] Response by Consumers Power Company, November 29, 1977, p. 6.

[10] Response to Request for Information p. 2, Consumers, Federal Energy Administration Office of Exceptions and Appeals Case No. FEE–2267, received May 14, 1976.

[11] Amoco Oil Company, September 27, 1977; Cities Service Company, September 28, 1977; Clark Oil & Refining, October 7, 1977; Continental Oil Company, October 10, 1977; Little America Refining Company, September 28, 1977; Michigan Public Service Commission, September 28, 1977; Mobil Oil Corporation, September 27, 1977; National LP-Gas Association, September 26, 1977; Petrochemical Energy Group, September 30, 1977; Powerine Oil Company, October 5, 1977; Shell Oil Company, September 27, 1977; Texaco, Inc., October 4, 1977.

[12] 10 CFR 211.67(d)(3) originated in 40 FR 14738 (April 2, 1975), effective March 28, 1975, was amended in 40 FR 30847 (August 29, 1975), effective August 1, 1975, and was amended to its present form in 41 FR 13699 (April 1, 1976), effective March 29, 1976. Bureau of Mines Form 6–1300–M was superseded by Form FEA–P320–M–O, which was superseded by Form EIA–67.

[13] *Cf. Mobil Oil Corporation*, Interpretation 1977–31, 42 FR 46273 (September 15, 1977), where the facts that condensate facilities spanned an area of 20 miles, recovery was completed at a loading port, and the condensate liquids were reheated in the final stage prior to marine shipment did not alter the conclusion that the liquids were properly classified as lease, rather than plant, condensate. The lease condensate in question was classified as crude oil under the definition of that term in Part 211.

[14] Crude oil is defined differently for purposes of the Mandatory Petroleum Price Regulations. Section 212.31 specifies that " '[c]rude oil' includes condensate recovered in associated or non-associated production by mechanical separators, whether located on the lease, at central field facilities, or at the inlet side of a gas processing plant."

For purposes of the price regulations, crude oil includes both lease and plant condensate. However, for purposes of the allocation regulations, crude oil generally includes only lease, not plant, condensate. *Southern Union Production Co. v. FEA*, Civil No. CA–3–75–1375–D (N.D. Tex., June 20, 1977), CCH Federal Energy Guidelines [1974–1978 Court Decisions] ¶ 26,076 at 26,596, *aff'd*, 569 F.2d 1147 (TECA 1978).

[15] "Notwithstanding the provisions of Subpart J of this part, naphthas and gas oils are excluded from this part *except with respect to the use of naphtha for synthetic natural gas plant feedstock* pursuant to §§ 211.103 and 211.29." (Emphasis added.) 10 CFR 211.1(b)(7). *See also* 10 CFR 210.35(d)(1).

[16] " 'Crude oil runs to stills,' means, in the case of a refiner other than a petrochemical producer, the total number of barrels of crude oil input to distillation units processed by a refiner and measured in accordance with Bureau of Mines Form 6–1300–M and, in the case of a petrochemical producer, the total number of barrels of crude oil input to processing units for conversion into petrochemicals." 10 CFR 211.62. *See* n. 12 *supra*.

[17] *See Standard Oil Company (Indiana)*, Interpretation 1978–4, 44 FR 16893 (March 20, 1979) and *Mobil Oil Company*, Interpretation 1977–31, 42 FR 46273 (September 15, 1977).

[18] Inasmuch as Consumers imports substantial amounts of Canadian plant condensate, its inclusion of such plant condensate in its calculation of crude oil runs to stills is subject to the prerequisites of § 211.67(d)(3) regarding measurement of crude oil runs to stills and payment of import license fees.

[19] *Cities Service Co. v. FEA*, 529 F.2d 1016 (TECA 1975).

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Park Co., 5 FEA ¶ 83,074 (February 25, 1977), to support the position advanced in its request for interpretation. In that case the FEA discussed the purpose of the entitlements program in relation to a refinery owned and operated by Glacier Park, a wholly-owned subsidiary of Burlington Northern, Inc., producing fuel oils and naphtha used directly by Burlington and exchanged for additional diesel fuel oil supplies. Glacier Park's application for exception requested exclusion from the operation of the entitlements program. In denying the firm's application for exception, the FEA stated:

[A]lthough Glacier Park may not be in direct competition with other refiners, the effective cost of the refined petroleum products which it produces for Burlington's use significantly affect[s] that firm's competitive position.

Therefore, the firm was not excluded from the entitlements program.

This decision was affirmed on appeal, *Glacier Park Co.*, 6 FEA ¶ 80,552 (July 18, 1977), where the FEA noted:

[E]ven if Glacier were not engaged in competition within the petroleum industry, we are not persuaded that Glacier's participation in the Entitlements Program constitutes a gross inequity. . . . It is undisputed that Glacier is a refiner and that the firm therefore falls within the express scope of the Entitlements Program.

Like Glacier Park, Consumers qualifies as a refiner and therefore falls within the express scope as well as the purpose of the entitlements program.

The DOE's Alaskan refineries rule further supports the inclusion of Consumers in the entitlements program. 43 FR 55322 (November 27, 1978). In its consideration of facilities designed to produce fuel used exclusively for vehicles and machinery associated with the Trans-Alaska Pipeline System, the DOE acknowledged that the products of these facilities are not sold commercially. Nevertheless, the DOE concluded:

[T]he facilities are encompassed by the definition of "refinery" contained in 10 CFR 211.62, since the facilities process crude oil and manufacture at least some refined petroleum products, and thus qualify to participate in the entitlements program. . . .

* * * * *

. . . We believe the benefits of the entitlements program should be available to all firms owning facilities which qualify as refineries, as that term is defined in DOE regulations and as that term is interpreted by the Department.

43 FR 55322–23 (November 27, 1978). With respect to such facilities, regardless whether there was an impact on competition among refiners of petroleum products, the DOE focused on the qualification of a firm as a refiner to determine whether inclusion in the entitlements program was appropriate. Accordingly, Consumers' demonstrable qualifications as a refiner similarly require its participation in the entitlements program.

For the reasons set forth above, we have determined that the proper application of the Mandatory Petroleum Allocation Regulations to the factual situation presented by Consumers is as follows:

(1) The Marysville feedstock preparation unit distills crude oil and qualifies as a refinery;

(2) Consumers is a refiner eligible to participate in the entitlements program after June 17, 1976, the date on which Consumers first submitted information demonstrating that the Marysville feedstock preparation unit processes lease condensate; and

(3) Consumers may include its entire volume of Michigan lease condensate and Canadian plant condensate in its calculations of crude oil runs to stills, subject to the provisions of 10 CFR 211.67(d)(3).

Consumers should contact the Office of Petroleum Operations, Economic Regulatory Administration, in order to effect Consumers' participation in the entitlements program in a manner that is consistent with the determinations made in this interpretation.

Issued in Washington, D.C. on December 21, 1979.

Everard A. Marseglia, Jr.,

Assistant General Counsel for Interpretations and Rulings.

Appendix B—Responses to Petition for Reconsideration

Petitioner	Interpretation	Date of response
Arizona Fuels Corporation.	Arizona Fuels Corporation, 1979-18, 44 FR 60286 (December 18, 1979).	December 14

Petition for Reconsideration

Arizona Fuels Corporation Interpretation 1979–18

Petitioner: Arizona Fuels Corporation

Date: December 14

This responds to your petition for reconsideration of *Arizona Fuels Corporation*, Interpretation 1979–18, issued on August 13, 1979. For the reasons discussed below, I have concluded that the petition for reconsideration must be denied.

Interpretations issued by the Office of General Counsel of the Department of Energy (DOE) may be reconsidered only in certain limited circumstances. In such cases the burden is on the petitioner to demonstrate that the interpretation was erroneous in fact or in law, or that the result reached in the interpretation was arbitrary or capricious. 10 CFR 205.85(f)(3).

The result reached in Interpretation 1979–18 is that Arizona Fuels was entitled to a continued supply of the crude oil in question under the plain meaning of 10 CFR 211.63(b)(2) because that crude oil had been the subject of a previous supplier/purchaser relationship, and Arizona Fuels, the subsequent purchaser of that crude oil, was not its purchaser on January 1, 1976. Accordingly, inasmuch as a supplier/purchaser relationship was established as though it has been in effect on January 1, 1976, the relationship could be terminated only as provided in 10 CFR 211.63(d). In the interpretation now challenged by Trans World Oil Corporation, we determined that the 65-day notice of cancellation provision in the termination clause of Arizona Fuels' agreement was insufficient to meet the requirements of § 211.63(d)(1) because no termination date had been specified.

Your petition for reconsideration raises several arguments to support your view that the interpretation is erroneous. You contend first that no supplier/purchaser relationships were created under § 211.63. Yet, the affidavits which you have submitted do not establish that the interpretation was based upon an erroneous factual premise, and we disagree with your interpretation that § 211.63 applies only to pre-January 1, 1976 contracts.

We also do not agree that the requirement of a specific termination date constitutes a rulemaking rather than an interpretation of an existing regulation, and is therefore void for failure to comply with statutory and regulatory requirements. This argument fails to take into account the plain language of § 211.63(d)(1) which requires written notice of "the termination date."

Inasmuch as Trans World has failed to demonstrate that the interpretation is erroneous in fact or in law, or that the interpretation is arbitrary or capricious, the petition for reconsideration is hereby denied. The denial of Trans World's petition for reconsideration is a final order of the Department of Energy from which the petitioner may seek judicial review.

Appendix C—Cases Dismissed

File No.	Requestor	Category	Date dismissed
A–449	Stephens Engineering.	Price	December 3
A–428	Dow Chemical U.S.A.	Price	December 27
A–413	LaJet, Inc.	Price and Allocation.	December 5

[FR Doc. 80–2198 Filed 1–23–80; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79–EA–58; Amdt. 39–3676]

Airworthiness Directives; Piper Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment establishes an airworthiness directive, applicable to Piper PA–31 type aircraft, which requires an inspection and alteration of the elevators. Cracks have been found in the elevator butt ribs and contiguous areas which, if permitted to propagate, could cause elevator control problems.

EFFECTIVE DATE: January 29, 1980. Compliance is required as set forth in the AD.

ADDRESSES: Piper Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745.

FOR FURTHER INFORMATION CONTACT: J. Maher, Airframe Section, AEA–212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212–995–2875.

SUPPLEMENTARY INFORMATION: Cracks have been found in the specified areas which the manufacturer concludes may result from a greater load being carried by the elevator spar and false spar than was previously estimated. The alteration required by this rule will strengthen the load path between the butt rib skin and the butt rib elevator spar. In view of the continuing air safety problem, notice and public procedure hereon are impractical, and the amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by establishing an airworthiness directive, as follows:

Piper: Applies to Model PA–31P, Serial Nos. 31P–1 thru 31P–7730012, Model PA–31T, Serial Nos. 31T–7400002 thru 31T–7920075 and Model PA–31T1, Serial Nos. 31T–7804001 thru 31T–7904036 and 31T–7904038 thru 31T–7904044 certificated in all categories except aircraft incorporating Piper Kit No. 763 943.

To prevent possible hazards in flight associated with cracks in the elevator butt ribs and adjoining area accomplish the following:

a. Within the next 100 hours in service from the effective date of this AD or upon the attainment of 400 hours in service, whichever is later, inspect and alter the elevators in accordance with Piper Kit No. 763 943 or equivalent.

b. Equivalent inspections or alterations must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

c. Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region may adjust the inspection intervals specified in this AD.

(Piper Service Bulletin No. 658 dated July 31, 1979, refers to this subject)

Effective Date: This amendment is effective January 29, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

Issued in Jamaica, New York, on January 14, 1980.

Murray E. Smith,

Director, Eastern Region.

[FR Doc. 80–2016 Filed 1–23–80; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 19949; Amdt. to 39–3679]

Airworthiness Directives; Short Brothers Ltd. Model SD3–30 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts an airworthiness directive (AD) that requires replacement of life limited main landing gear beam subassembly on Short Brothers Ltd. Model SD3–30 airplanes. The AD is prompted by the landing gear manufacturer's fatigue testing program, which established that failure of the beam could occur if left in service beyond 6000 landings. Failure of the beam could result in collapse of the affected gear.

DATES: Effective February 7, 1980.

Compliance schedule—as prescribed in body of AD.

ADDRESSES: The applicable service bulletins may be obtained from: Manager-Spares and Support, Product Support Department, Short Brothers Limited, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland.

Copy of the service bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone: 513.38.30, or C. Christie, Chief, Technical Analysis Branch, AWS–110, Federal Aviation Administration, 800 Independence Ave., S.W., Washington, D.C. 20591, Telephone 202–426–8374.

SUPPLEMENTARY INFORMATION: The FAA has determined that failure of the main landing gear beam subassembly on Short Brothers Ltd. Model SD3–30 airplanes could occur if left in service beyond 6000 landings. The life limit has been established by the manufacturer of the landing gear (Menasco Manufacturing) as a part of a continuing fatigue testing program.

Since this condition is likely to exist or develop on other airplanes of the same type design, and AD is needed to require replacement of the original beam with an improved standard beam prior to accumulating 6000 landings.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive.

Short Brothers Ltd. Applies to Model SD3–30 airplanes, certificated in all categories.

Compliance is required as indicated unless already accomplished.

To prevent possible failure of the main landing gear beam sub-assembly, accomplish the following:

Prior to the accumulation of 6000 landings or within 25 landings after the effective date of this AD, whichever occurs later, replace the beam sub-assembly, Menasco P/N 17604–5 or 17604–7, with a new beam sub-assembly, Menasco P/N 17604–13 or 17604–15, in accordance with Section 10, "Accomplishment Instructions," of Menasco Manufacturing Service Bulletin 32–15, revision 1, dated January 11, 1978, or an equivalent approved by the Chief, Aircraft Certification Staff, AEU–100, FAA, Europe, Africa, and Middle East Region, c/o American Embassy, Brussels, Belgium. Upon replacement of the beam sub-assembly, make appropriate logbook entry indicating compliance with the provisions of this AD.

Note.—Short Brothers Ltd. Service Bulletin SD3–32–28, revision 2, dated March 6, 1978, covers this same subject.

This amendment becomes effective February 7, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the evaluation prepared for this action will be placed in the regulatory docket. A copy of it may be obtained by writing to C. Christie, Chief, Technical Analysis Branch, AWS–110, Federal Aviation Administration,

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800 Independence Avenue, S.W., Washington, D.C. 20591.

Issued in Washington, D.C. on January 15, 1980.

M. C. Beard,

Director, Office of Airworthiness.

[FR Doc. 80-2013 Filed 1-23-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-CE-1-AD; Amendment 39-3675]

Airworthiness Directives; Cessna Model 441 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) applicable to Cessna Model 441 airplanes. This AD supersedes and incorporates the requirements of AD 79-10-08. It also includes an alternate action for airplanes equipped with engines having Garrett AiResearch P/N 897110-8 fuel control assemblies, which, if accomplished, restores approval of aviation gasoline as an alternate fuel for airplanes modified in the field and manufactured in compliance with AD 79-10-08. This action is taken to enable operators who desire to do so to make modifications to their airplanes which will enable them to safely use aviation gasoline as an alternate fuel.

EFFECTIVE DATE: January 29, 1980.

Compliance: Prior to further flight.

ADDRESSES: Cessna Propjet (Customer Care) Service Information Letters Number PJ 79-8, dated April 2, 1979, and PJ 80-1 dated January 11, 1980, and Garrett AiResearch Service Bulletin TPE 331-73-0093, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201, telephone (316) 685-9111. Copies of these Service Letters are contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and at Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

L. L. Edwards, Aerospace Engineer, Engineering and Manufacturing District Office No. 43, Federal Aviation Administration, Room 238, Mid-Continent Airport, Wichita, Kansas 67209, telephone (316) 942-7927.

SUPPLEMENTARY INFORMATION: The FAA issued AD 79-10-08 to rescind approval of avgas fuel, grades 80/87 and 100LL as alternate fuels for the Cessna Model 441 airplane because some engines would not develop minimum takeoff power under certain ambient conditions on these fuels. Subsequent to this action, the aircraft and engine manufacturers have developed for engines having a Garrett AiResearch P/N 897110-8 fuel control assembly a one-time fuel control and computer adjustment and operating procedures which assure safe operation on these alternate fuels. The operating procedures incorporate a simple overspeed governor check and installation of a two-sided reversible placard so that wording corresponding to the fuel for which the engine is adjusted is displayed over the torque indicators on the instrument panel. These instructions, placard and related Pilot's Operating Handbook and FAA Approved Airplane Flight Manual Revision have been made available to the owners/operators of the affected airplanes by the airplane manufacturer per its Propjet Customer Care Service Information Letter PJ 80-1 including Garrett AiResearch Service Bulletin TPE 73-0093, and Service Kit SK 441-28. Accordingly, the FAA is issuing a new AD superseding AD 79-10-08 and incorporating the above information as an alternate action.

Since the amendment is relieving in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days after the date of its publication in the **Federal Register.**

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR Section 39.13) is amended by adding the following new Airworthiness Directive.

Cessna: Applies to Model 441 (S/Ns 441-0001 thru 441-0106 and 441-0109 airplanes).

Compliance: Required as indicated unless already accomplished. To preclude accidents resulting from the inability of the airplane to meet flight manual performance data, prior to further flight accomplish either paragraph (A) or (B) below:

(A) Install Revision 5 dated March 26, 1979, in the Pilot's Operating Handbook and FAA Approved Airplane Flight Manual and operate the airplane in accordance with this revision. (This action was required by AD 79-10-08 on S/Ns 441-0001 through 441-0097 airplanes and incorporated in Airplanes S/Ns 441-0098 through 441-0106 and S/N 441-0109 by the manufacturer).

Note.—This does not prohibit incorporation of later non-conflicting revisions in the Pilot's Operating Handbook and FAA Approved Airplane Flight Manual.

(B) If the engines are equipped with AiResearch P/N 897110-8 fuel control assemblies, modify the airplane and Pilot's Operating Handbook and FAA Approved Airplane Flight Manual in accordance with the following:

(1) Adjust the Engine Fuel Controls and Computers in accordance with Garrett AiResearch Service Bulletin TPE 331-73-8893 Cessna Customer Care Service Information Letter PJ 80-1.

(2) Install a two-sided reversible instrument panel placard in accordance with Cessna Service Kit SK 441-28 and operate the airplane in accordance with this placard.

(3) Perform an overspeed governor check in accordance with Cessna Service Kit SK 441-28.

(4) Install Revision 8 in the Pilot's Operating Handbook and FAA Approved Flight Manual and operate the airplane in accordance with this revision.

(C) The airplane may be flown to a location where paragraphs (A) or (B) can be accomplished, provided it is not operated with aviation gasoline fuel, grades 80/87 or 100LL.

(D) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering & Manufacturing District Office No. 43, Federal Aviation Administration, Room 220, Mid-Continent Airport, Wichita, Kansas 67209. Telephone (316) 942-4285.

Cessna Propjet Customer Care Service Information Letters PJ 79-8 dated April 2, 1979, and PJ 80-1 dated January 11, 1980, including Garrett AiResearch Service Bulletin TPE 331-73-8893, cover the subject matter of this AD.

The AD supersedes AD 79-10-08, Amendment 39-3470 (44 FR 27977).

This amendment becomes effective January 29, 1980.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89).)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to John L. Fitzgerald, Jr., Attorney, Office of the Regional Counsel, Room 1558, Federal Aviation Administration, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, telephone (816) 374-5446.

Issued in Kansas City, Missouri on January 14, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-2144 Filed 1-23-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-WE-44-AD; Amdt. 39-3674]

Airworthiness Directives; McDonnell Douglas DC-9 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires x-ray inspections of the auxiliary emergency exit door shear pin fitting assemblies. This AD is necessary to prevent failure of the door which will result in depressurization of the airplane.

DATES: Effective January 28, 1980.

Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60)

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, S.W., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT:

Kyle L. Olsen, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: During the repair to the aft pressure bulkhead plug door as required by telegraphic AD T79WE20, cracked shear pin fitting assemblies were found by one operator. Two airplanes had one fitting cracked and a third airplane had a completely failed fitting. In all three cases the cracks have occurred through the outboard row of fasteners which attach the door stiffener, fitting, door web and frame together. The cracks have been attributed to fatigue.

Undetected failure of the fittings could result in loss of retention of the aft pressure bulkhead auxiliary emergency exit door and allow depressurization of the airplane. Inspection and replacement of failed fittings will ensure the structural integrity of this door.

Therefore, the FAA is issuing a new AD to require an x-ray inspection of each auxiliary emergency exit door shear pin fitting assembly within the next 500 landings after the effective date of this AD and thereafter at intervals not to exceed 4,000 landings or one year.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-9 Series airplanes, certificated in all categories, equipped with the aft pressure bulkhead auxiliary emergency exit door, Part No. (P/N) 5910367.

Compliance required as indicated, unless already accomplished.

To detect fatigue cracks and prevent failure of the auxiliary emergency exit door, accomplish the following:

(a) Within 500 landings after the effective date of this AD and thereafter at intevals not to exceed 4,000 landings or one (1) year whichever comes first, inspect by x-ray each auxiliary emergency exit door shear pin fitting assembly in accordance with McDonnell Douglas DC-9 Alert Service Bulletin A52-116, dated December 12, 1979.

(b) Any shear pin fitting assembly found cracked must be replaced with an FAA approved assembly prior to further flight.

(c) New shear pin fitting assemblies installed in accordance with paragraph (b), of the same type design, must be inspected initially before 20,000 landings after installation and thereafter at intervals not to exceed 4,000 landings or one (1) year whichever comes first, in accordance with paragraph (a).

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

(e) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(f) For the purposes of complying with this AD, subject to the acceptance by the assigned FAA Maintenance Inspector, the number of landings may be determined by dividing each airplane's hours' time in service by the operator's fleet average time from takeoff to landing for the DC-9 airplane.

This amendment becomes effective January 28, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Issued in Los Angeles, California on January 14, 1980.

W. R. Frohse,

Acting Director, FAA Western Region.

[FR Doc. 80-2143 Filed 1-23-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-WE-1-AD; Amdt. 39-3678]

Airworthiness Directives; Robinson Helicopter Company Model R-22 Helicopters

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive inspections of main rotor blade trailing edges on Robinson Helicopter Company Model R-22 series helicopters. The AD is needed to detect delamination which, if uncorrected, could progress to produce loss of main rotor blade stiffness.

DATES: Effective January 24, 1980.

Compliance schedule—Initial compliance required within 10 hours of the effective date of this AD.

FOR FURTHER INFORMATION CONTACT:

Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P. O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: The FAA has received reports of delamination of main rotor blade trailing edge and root doubler structure on Robinson Helicopter Company Model R-22 helicopters. This delamination, if uncorrected, could progress to produce loss of structural stiffness in the main rotor blades of the helicopter. Since this condition is likely to exist and develop on other helicopters of the same type design, an airworthiness directive is being issued which requires daily inspection of the main rotor blade trailing edges for delamination and removal from service if delamination is found on Robinson Helicopter Company Model R-22 helicopters.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

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Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

Robinson Helicopter Company: Applies to Model R–22 series helicopters certificated in all categories.

Compliance is required as indicated.

To prevent loss of structural integrity of the main rotor blades, accomplish the following:

(a) Within the next 10 hours' time in service from the effective date of this AD, and once each day the helicopter is to be operated thereafter, accomplish the following:

(1) Visually check the trailing edges of the main rotor blades for any indication of separation due to an adhesive failure.

(2) Visually check the edges of the two small external doublers located near the root end of the blades, (one on top and one on bottom), for any evidence of delamination.

(3) If delamination of the doublers and/or trailing edge are found, the main rotor blades must be replaced with like serviceable parts prior to further flight.

The checks required by this AD may be performed by the pilot.

Note.—a maintenance record entry showing compliance and method of compliance with this AD is required by FAR 91.173.

(b) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective January 24, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Issued in Los Angeles, California on January 16, 1980.

W. R. Frehse,

Acting Director, FAA Western Region.

[FR Doc. 80-2145 Filed 1-23-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 61 and 63

[Docket No. 19300; Amdt. Nos. 61-67 and 63-20]

Certification: Pilots and Flight Instructors and Certification: Flight Crewmembers Other Than Pilots; Special Purpose Pilot, Flight Engineer, and Flight Navigator Certificates

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These regulations provide for the issuance of special purpose airman certificates to foreign pilots and other foreign flight crewmembers. They permit those persons to operate certain U.S.-registered civil airplanes, leased to persons not citizens of the United States, for the carriage of persons and property for compensation or hire. They are being issued in response to numerous petitions for exemptions requesting that foreign pilots and other flight crewmembers be eligible for the issuance of U.S. airman certificates to enable them to operate these airplanes.

EFFECTIVE DATE: February 25, 1980.

FOR FURTHER INFORMATION CONTACT:

Raymond E. Ramakis, Regulatory Projects Branch (AVS–24), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755–8716.

SUPPLEMENTARY INFORMATION:

Background

The FAA has received numerous petitions for exemptions requesting that foreign pilots and other foreign flight crewmembers be eligible for the issuance of U.S. airman certificates, so that they may act as flight crewmembers on certain U.S.-registered civil airplanes, leased to persons not citizens of the United States, for the purpose of carrying persons and property for compensation or hire. Although these foreign airmen hold current appropriate certificates, licenses, or authorizations issued by contracting States to the Convention on International Civil Aviation, they may not operate U.S.-registered aircraft, because under section 610(a) of the Federal Aviation Act of 1958 (the Act) only persons holding appropriate U.S. airman certificates may serve as required flight crewmembers on U.S.-registered aircraft in air commerce.

While §§ 61.75 and 63.42 of the Federal Aviation Regulations allow the holders of current foreign pilot and foreign flight engineer licenses issued by contracting States to the Convention on International Civil Aviation to have certificates issued to them for the operation of U.S.-registered civil aircraft, certificates issued under these sections do not allow the airmen to operate aircraft if they carry persons or property for compensation or hire.

Notice of Proposed Rule Making No. 79–12 (44 FR 38563; July 2, 1979) proposed regulations to provide for the issuance of special purpose airman certificates to allow these foreign airmen to operate certain U.S.-registered civil aircraft carrying persons or property for compensation or hire. By facilitating the lease of these aircraft the FAA is acting within its statutory mandate, under section 305 of the Act, to encourage and foster the development of civil aeronautics and air commerce in the United States and abroad.

Discussion of Comments

The FAA received 12 public comments in response to Notice 79–12. Six commenters, consisting of three air carriers, two aviation organizations, and one individual, supported the proposal. They agreed that the proposal would reduce administrative delay and facilitate arrangements between U.S. and foreign operators.

One of these commenters argued that the issuance of special purpose certificates should not be limited to airplane types that can have a maximum passenger seating configuration, excluding any flight crew seat, of more than 30 seats or a maximum payload capacity of more than 7,500 pounds. It contended that this would limit the ability of foreign air carriers using smaller aircraft to lease aircraft to meet their short-term, peak season needs. As an example, the carrier, which uses some DC–3 aircraft, noted that many DC–3 aircraft of U.S. registry are configured for 30 passenger seats or less.

However, the FAA is not aware of a significant demand for the lease of smaller U.S.-registered aircraft to foreign operators, for which special purpose certificates would be needed. If a need arises for issuance of special purpose certificates to operate these aircraft, and this need cannot be efficiently met through the exemption process, the FAA will consider expanding the applicability of these regulations to meet such a need.

Moreover, in the commenter's case, special purpose certificates would be available for the operation of DC–3 aircraft configured for 30 passenger seats or less, since the aircraft can be configured for more than 30 passenger seats. The rule is keyed to the possible, not the actual, seating configuration of the aircraft.

Three commenters opposed the proposed regulations because they do not limit the issuance of special purpose certificates to pilots from countries that offer the same privilege to U.S. pilots. It is true that some countries do not offer special purpose airman certificates to foreign pilots for operating an aircraft registered in those countries. However, the FAA expects that this regulation will encourage other countries to extend this privilege to U.S. pilots, while at the same time facilitating the lease of U.S.-owned aircraft.

Two commenters took the position that special purpose certificates should not be issued unless these airmen are first examined by the FAA. However, the requirements imposed on an applicant for pilot, flight engineer, and flight navigator licenses issued by contracting States to the Convention on International Civil Aviation are now substantially the same as those which must be met for certificates issued under Parts 61 and 63 of the Federal Aviation Regulations. Accordingly, it is not necessary for the FAA to require examinations for these airmen in addition to those required by the contracting State for the issuance and retention of its license.

This regulation simplifies the regulatory process by eliminating the requirements that those individuals wishing to utilize the authority contained herein from having to submit petitions for exemptions each time the authority was sought. This will also lessen the agency's regulatory workload and enable the agency to concentrate on safety related issues. This is part of the continuing effort to review and simplify the agency's regulations and procedures. This is consistent with Executive Order 12044.

Discussion of the Amendments

These amendments add two new sections to the Federal Aviation Regulations. Section 61.77 provides for special purpose pilot certificates, and § 63.23 provides for special purpose flight engineer and flight navigator certificates. To avoid confusion, § 63.42 has been amended to change its title from "Special purpose flight engineer certificate" to "Flight engineer certificate issued on basis of a foreign flight engineer license." The title change more accurately reflects the contents of the section and makes it consistent with § 61.75, a parallel section for pilot certificates.

Under these rules, the pilot, flight engineer, or flight navigator (or a representative of that person) applying for the special purpose certificate must present to the Administrator a current foreign pilot, flight engineer, or flight navigator certificate, license, or authorization issued by a foreign contracting State, or a facsimile acceptable to the Administrator. The applicant must present a current certification by the lessee of the airplane stating: (1) that the applicant is employed by the lessee; (2) the airplane type on which the applicant will perform the flight crewmember duties; and (3) that the applicant has received appropriate ground and flight instruction. Finally, the applicant (or a representative of the applicant) must submit documentation showing that the applicant currently meets the medical standards required by the foreign certificate, license, or authorization on which the application is based, and, in the case of a pilot, that the applicant has not reached the age of 60.

The special purpose certificate will be based solely upon the applicant's foreign certificate, license, or authorization. They are valid only while that document is valid and current, and while the holder meets the medical requirements for that document. Issuance of a medical certificate under Part 67 of the Federal Aviation Regulations does not meet this requirement unless the State issuing the foreign certificate, license, or authorization accepts a Part 67 medical certificate as evidence of the applicant's medical fitness.

The holder of a special purpose certificate may exercise the same privileges as those shown on his or her foreign certificate or license.

The certificate holder is not required to comply with § 61.55 (Second in command qualifications: Operation of large airplanes or turbojet-powered multiengine airplanes), § 61.57 (Recent flight experience: Pilot in command), and § 61.58 (Pilot in command proficiency check: Operation of aircraft requiring more than one required pilot). The FAA has determined that it is not necessary to prescribe currency and checking requirements, in addition to those prescribed by the contracting State for the issuance and retention of a pilot license, in order to maintain a level of safety equivalent to that provided by these sections.

A special purpose certificate issued under proposed § 61.77 or § 63.23 is only valid for flights between foreign countries and for flights in foreign air commerce. These certificates may not be used for operating U.S.-registered airplanes, leased to persons not citizens of the U.S., for flights in interstate, intrastate, or overseas air commerce. Flights of these airplanes within a foreign country are covered in §§ 61.3(a) and 63.3 (a) and (b) which permit those flights if the pilot, flight engineer, or flight navigator has a current appropriate license issued by the country in which the airplane is operated.

A special purpose certificate is conditioned on the validity of the airman's foreign certificate, license, or authorization and on the existence of the lease agreement. A special purpose certificate is valid while the holder: (1) has in his or her personal possession the special purpose pilot certificate and the current foreign certificate, license, or authorization upon which the special purpose certificate is based; (2) is employed by the person to whom the aircraft is leased; (3) is performing the duties of a pilot, flight engineer, or flight navigator, as appropriate, on the specific airplane type described in the certification required for issuance of the certificate; and (4) has in his or her personal possession the current medical documentation required for the issuance of the certificate. The certificate issued contains a specific reference to these limitations. Finally, the certificate is subject to any necessary additional limitations placed on the certificate by the Administrator.

The certificates issued under proposed §§ 61.77 and 63.23 automatically terminate when one of the following occurs: (1) when the lease agreement terminates; (2) when the foreign certificate, license, or authorization, or the medical documentation is suspended, revoked, or no longer valid for whatever reason; (3) after 24 months after the month in which the special purpose certificate was issued; or (4), in the case of a pilot, when the certificate holder reaches the age of 60. The requirements for renewal of a special purpose certificate are the same as for issuance of the original certificate.

Finally, the certificate holder is required to surrender the special purpose certificate to the Administrator within 7 days after the date it terminates.

The Amendment

Accordingly, Parts 61 and 63 of the Federal Aviation Regulations (14 CFR Parts 61 and 63) are amended, effective February 25, 1980, as follows:

1. By adding a new § 61.77 to read as follows:

§ 61.77 Special purpose pilot certificate: Operation of U.S.-registered civil airplanes leased by a person not a U.S. citizen.

(a) *General.* The holder of a current foreign pilot certificate or license issued by a foreign contracting State to the Convention on International Civil Aviation, who meets the requirements of this section, may hold a special purpose pilot certificate authorizing the holder to perform pilot duties on a civil airplane of U.S. registry, leased to a person not a citizen of the United States, carrying persons or property for compensation or hire. Special purpose pilot certificates are issued under this section only for airplane types that can have a maximum passenger seating configuration, excluding any flight crewmember seat, of more than 30 seats or a maximum payload capacity (as defined in

§ 135.2(e) of this chapter) of more than 7,500 pounds.

(b) *Eligibility.* To be eligible for the issuance or renewal of a certificate under this section, an applicant or a representative of the applicant must present the following to the Administrator:

(1) A current foreign pilot certificate or license, issued by the aeronautical authority of a foreign contracting State to the Convention on International Civil Aviation, or a facsimile acceptable to the Administrator. The certificate or license must authorize the applicant to perform the pilot duties to be authorized by a certificate issued under this section on the same airplane type as the leased airplane.

(2) A current certification by the lessee of the airplane—

(i) Stating that the applicant is employed by the lessee;

(ii) Specifying the airplane type on which the applicant will perform pilot duties; and

(iii) Stating that the applicant has received ground and flight instruction which qualifies the applicant to perform the duties to be assigned on the airplane.

(3) Documentation showing that the applicant has not reached the age of 60 and that the applicant currently meets the medical standards for the foreign pilot certificate or license required by paragraph (b)(1) of this section, except that a U.S. medical certificate issued under Part 67 of this chapter is not evidence that the applicant meets those standards unless the State which issued the applicant's foreign pilot certificate or license accepts a U.S. medical certificate as evidence of medical fitness for a pilot certificate or license.

(c) *Privileges.* The holder of a special purpose pilot certificate issued under this section may exercise the same privileges as those shown on the certificate or license specified in paragraph (b)(1), subject to the limitations specified in this section. The certificate holder is not subject to the requirements of §§ 61.55, 61.57, and 61.58 of this part.

(d) *Limitations.* Each certificate issued under this section is subject to the following limitations:

(1) It is valid only—

(i) For flights between foreign countries or for flights in foreign air commerce;

(ii) While it and the foreign pilot certificate or license required by paragraph (b)(1) of this section are in the certificate holder's personal possession and are current;

(iii) While the certificate holder is employed by the person to whom the airplane described in the certification required by paragraph (b)(2) of this section is leased;

(iv) While the certificate holder is performing pilot duties on the U.S.-registered civil airplane described in the certification required by paragraph (b)(2) of this section;

(v) While the medical documentation required by paragraph (b)(3) of this section is in the certificate holder's personal possession and is currently valid; and

(vi) While the certificate holder is under 60 years of age.

(2) Each certificate issued under this section contains the following:

(i) The name of the person to whom the U.S.-registered civil aircraft is leased.

(ii) The type of aircraft.

(iii) The limitation: "Issued under, and subject to, § 61.77 of the Federal Aviation Regulations."

(iv) The limitation: "Subject to the privileges and limitations shown on the holder's foreign pilot certificate or license."

(3) Any additional limitations placed on the certificate which the Administrator considers necessary.

(e) *Termination.* Each special purpose pilot certificate issued under this section terminates—

(1) When the lease agreement for the airplane described in the certification required by paragraph (b)(2) of this section terminates;

(2) When the foreign pilot certificate or license, or the medical documentation, required by paragraph (b) of this section is suspended, revoked, or no longer valid;

(3) When the certificate holder reaches the age of 60; or

(4) After 24 months after the month in which the special purpose pilot certificate was issued.

(f) *Surrender of certificate.* The certificate holder shall surrender the special purpose pilot certificate to the Administrator within 7 days after the date it terminates.

(g) *Renewal.* The certificate holder may have the certificate renewed by complying with the requirements of paragraph (b) of this section at the time of application for renewal.

2. By adding a new § 63.23 to read as follows:

§ 63.23 Special purpose flight engineer and flight navigator certificates: Operation of U.S.-registered civil airplanes leased by a person not a U.S. citizen.

(a) *General.* The holder of a current foreign flight engineer or flight navigator certificate, license, or authorization issued by a foreign contracting State to the Convention on International Civil Aviation, who meets the requirements of this section, may hold a special purpose flight engineer or flight navigator certificate, as appropriate, authorizing the holder to perform flight engineer or flight navigator duties on a civil airplane of U.S. registry, leased to a person not a citizen of the United States, carrying persons or property for compensation or hire. Special purpose flight engineer and flight navigator certificates are issued under this section only for airplane types that can have a maximum passenger seating configuration, excluding any flight crewmember seat, of more than 30 seats or a maximum payload capacity (as defined in § 135.2(e) of this chapter) of more than 7,500 pounds.

(b) *Eligibility.* To be eligible for the issuance, or renewal, of a certificate under this section, an applicant must present the following to the Administrator:

(1) A current foreign flight engineer or flight navigator certificate, license, or authorization issued by the aeronautical authority of a foreign contracting State to the Convention on International Civil Aviation or a facsimile acceptable to the Administrator. The certificate or license must authorize the applicant to perform the flight engineer or flight navigator duties to be authorized by a certificate issued under this section on the same airplane type as the leased airplane.

(2) A current certification by the lessee of the airplane—

(i) Stating that the applicant is employed by the lessee;

(ii) Specifying the airplane type on which the applicant will perform flight engineer or flight navigator duties; and

(iii) Stating that the applicant has received ground and flight instruction which qualifies the applicant to perform the duties to be assigned on the airplane.

(3) Documentation showing that the applicant currently meets the medical standards for the foreign flight engineer or flight navigator certificate, license, or authorization required by paragraph (b)(1) of this section, except that a U.S. medical certificate issued under Part 67 of this chapter is not evidence that the applicant meets those standards unless the State which issued the applicant's foreign flight engineer or flight navigator certificate, license, or authorization accepts a U.S. medical certificate as evidence of medical fitness for a flight engineer or flight navigator certificate, license, or authorization.

(c) *Privileges.* The holder of a special purpose flight engineer or flight navigator certificate issued under this section may exercise the same privileges as those shown on the certificate, license, or authorization specified in paragraph (b)(1), subject to the limitations specified in this section.

(d) *Limitations.* Each certificate issued under this section is subject to the following limitations:

(1) It is valid only—

(i) For flights between foreign countries and for flights in foreign air commerce;

(ii) While it and the certificate, license, or authorization required by paragraph (b)(1) of this section are in the certificate holder's personal possession and are current;

(iii) While the certificate holder is employed by the person to whom the airplane described in the certification required by paragraph (b)(2) of this section is leased;

(iv) While the certificate holder is performing flight engineer or flight navigator duties on the U.S.-registered civil airplane described in the certification required by paragraph (b)(2) of this section; and

(v) While the medical documentation required by paragraph (b)(3) of this section is in the certificate holder's personal possession and is currently valid.

(2) Each certificate issued under this section contains the following:

(i) The name of the person to whom the U.S.-registered civil airplane is leased.

(ii) The type of airplane.

(iii) The limitation: "Issued under, and subject to, § 63.23 of the Federal Aviation Regulations."

(iv) The limitation: "Subject to the privileges and limitations shown on the holder's foreign flight (engineer or navigator) certificate, license, or authorization."

(3) Any additional limitations placed on the certificate which the Administrator considers necessary.

(e) *Termination.* Each special purpose flight engineer or flight navigator certificate issued under this section terminates—

(1) When the lease agreement for the airplane described in the certification required by paragraph (b)(2) of this section terminates;

(2) When the foreign flight engineer or flight navigator certificate, license, or authorization, or the medical documentation required by paragraph (b) of this section is suspended, revoked, or no longer valid; or

(3) After 24 months after the month in which the special purpose flight engineer or flight navigator certificate was issued.

(f) *Surrender of certificate.* The certificate holder shall surrender the special purpose flight engineer or flight navigator certificate to the Administrator within 7 days after the date it terminates.

(g) *Renewal.* The certificate holder may have the certificate renewed by complying with the requirements of paragraph (b) of this section at the time of application for renewal.

3. By amending § 63.42 by deleting the words "Special purpose flight engineer certificate" in the title and substituting in their place the words "Flight engineer certificate issued on basis of a foreign flight engineer license."

(Secs. 313(a), 601, and 602, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1422); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The Federal Aviation Administration has determined that this document involves regulations which are not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT:".

Issued in Washington, D.C., on January 18, 1980.

Langhorne Bond,

Administrator.

[FR Doc. 80-2148 Filed 1-23-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-ASW-65]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area: Many, La.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is an alteration of the transition area at Many, La. The intended effect of the action is to provide controlled airspace for aircraft executing instrument approach procedures to the Hart Airport. The circumstance which created the need for the action is that a review of the current transition area revealed the controlled airspace is not properly described and a reduction of controlled airspace will adequately serve the airport.

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Review of the transition area at Many, La., revealed that the intermediate approach area was misaligned and in excess of that required for the protection of aircraft executing the nondirectional radio beacon (NDB) to the Hart Airport. This requires amendment to the designated airspace for the protection of aircraft executing instrument approach procedures to the Hart Airport. Since this reduces the airspace required for aircraft executing instrument approach procedures, circulation and public notice of this action is not considered necessary.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) alters the Many, La., transition area. This action provides controlled airspace for the protection of aircraft executing instrument approach procedures to the Hart Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) is amended, effective 0901 GMT, March 20, 1980, as follows.

In Subpart G, 71.181 (44 FR 442), the Many, La., transition area is altered as follows:

Many, La.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Hart Airport (latitude 31°32'45"N., longitude 93°29'30"W.) and within 2 miles each side of the 328° bearing from the NDB (latitude 31°34'16"N., longitude 93°32'29"W.) extending from the 6.5-mile radius area to 5 miles northwest of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

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Issued in Fort Worth, Tex., on January 10, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80-2142 Filed 1-23-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-SW-42]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Alternate VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates north alternate Victor Airway V-212N between Alexandria, La., and McComb, Miss. This action reduces controller workload by permitting more route flexibility in the area. Also, a charted route aids flight planning and improves traffic flow between Alexandria and McComb.

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D. C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION: On October 29, 1979, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate north alternate Victor Airway V-212N between Alexandria, La., and McComb, Miss. (44 FR 61973).

This alternate airway provides more flexibility for traffic operations in the area and reduces traffic congestion. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.123 was republished in the **Federal Register** on January 2, 1980 (45 FR 307).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates V-212N from Alexandria, La., to McComb, Miss., via Natchez, Miss. This action reduces controller workload by providing a reliever route, thereby improving traffic flow between Alexandria and McComb.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 307) is amended, effective 0901 GMT, March 20, 1980, as follows:

Under V-212, "Alexandria, La.; McComb, Miss." is deleted and "Alexandria, La.; to McComb, Miss., including a north alternate via Natchez, Miss." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on January 17, 1980.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-2145 Filed 1-23-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-WA-14]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of VOR Airways, and Extension of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates two airway segments north of Molokai and Maui, Hawaii, and also enlarges the Hawaiian Islands, 5,500 feet transition area out to the new Honolulu FIR/Oceanic CTA boundary. This action reduces the congestion on the present routes northeast of Hawaii and improves the air traffic flow to and from Hawaii.

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

History

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) makes the following changes:

1. Adds a separate route segment to V-7 from the INT of Koko Head, Hawaii, 050°T(039°M) and Molokai, Hawaii, 358°T(347°M) radials to the INT of Molokai 358°T(347°M) and the Honolulu FIR/Oceanic CTA boundary.

2. Adds a separate route segment to V-17 from the INT of Koko Head, Hawaii, 071°T(060°M) and Maui, Hawaii, 348°T(337°M) radials to the INT Maui, 348°T(337°M) and Lihue, Hawaii, 065°T(054°M) radials.

3. Enlarges the Hawaiian Islands 5,500 feet transition area from the former boundary of the Honolulu FIR/Oceanic CTA to its present location.

These actions help to improve the traffic flow and reduce the congestion by providing additional northeast arrival and departure routes. The additional 5,500 feet of controlled airspace provides for domestic type of control to the Oceanic Control boundary.

Since these actions involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.127 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 344, 445) is amended, effective 0901 GMT, March 20, 1980, as follows:

In § 71.127, under V-7 "From Koko Head 050° and Molokai 358° radials to INT Molokai 358° and the Honolulu FIR/Oceanic CTA boundary." is added.

Under V-17 "From INT Koko Head 071° and Maui 348° radials to INT Maui 348° and Lihue 065° radials." is added.

In § 71.181, under Hawaiian Islands, all before "and the airspace upward from 1,200 feet" is deleted and "The airspace extending upward from 5,500 feet above the surface within an area bounded by a line beginning at Lat. 23°57'N., Long. 160°46'W.; to Lat. 24°19'N., Long. 157°17'W.; to Lat. 24°03'N., Long. 156°19'W.; to Lat. 23°32'N., Long. 155°29'W.; to Lat. 23°00'N., Long. 154°39'W.; to Lat. 22°22'N., Long. 153°53'W.; to Lat. 21°43'N., Long. 153°09'W.; to Lat. 20°49'N., Long. 153°00'W.; to Lat. 20°16'N., Long. 152°14'W.; to Lat. 19°14'N., Long. 151°54'W.; to Lat. 18°19'N., Long. 157°49'W.; to Lat. 18°26'N., Long. 158°54'W.; to Lat. 18°53'N., Long. 159°53'W.; to Lat. 19°32'N., Long. 160°36'W.; to Lat. 20°06'N., Long. 161°52'W.; to Lat. 21°01'N., Long. 162°14'W.; to Lat. 21°56'N., Long. 162°29'W.; to Lat. 22°50'N., Long. 162°14'W.; to Lat. 23°32'N., Long. 161°35'W.; to the point of beginning;" is substituted therefor.

(Secs. 307(a), 313(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and CFR 11.69.)

The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on January 16, 1980.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-1903 Filed 1-23-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 73

[Airspace Docket No. 79-SW-53]

Special Use Airspace; Alteration of Restricted Area; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In a rule published in the **Federal Register** on December 13, 1979, (44 FR 72106) the designated altitudes were incorrectly published in Restricted Areas R-5103B and R-5103C. Also, there is a minor correction to a coordinate under R-5103B. This action corrects those errors, thereby conforming to the original intent of allowing portions of this restricted area to be returned to the public when not being utilized by the military.

EFFECTIVE DATE: January 24, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION: **Federal Register** Document 79-37872 was published on December 13, 1979, which altered Restricted Area R-5103 by subdividing the area as R-5103A, R-5103B and R-5103C. There are no changes to the current lateral and vertical limits of this restricted area. However, the altitude limits of R-5103B and R-5103C were incorrectly published. Also, there is a minor correction to a coordinate under R-5103B. This action corrects those errors.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, **Federal Register** Document 79-37872 as published in the **Federal Register** on December 13, 1979, is amended as follows:

Under R-5103B McGregor, N. Mex., in the seventh line "Long. 106°00'00"W.;" is deleted and "Long. 106°10'00"W.;" is substituted therefor.

Designated altitudes. "Surface to unlimited" is deleted and "Surface to 12,500 feet MSL" is substituted therefor.

Under R-5103C McGregor, N. Mex., designated altitudes. "Surface to unlimited" is deleted and "12,500 feet MSL to unlimited" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on January 16, 1980.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-1904 Filed 1-23-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 19851; Amdt. No. 1158]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAPs is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Gary W. Wirt, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation

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Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR/VOR/DME SIAPs identified as follows:

** * * Effective March 20, 1980*

Bettles, AK—Bettles, VOR/DME-B, Original
Bettles, AK—Bettles, VOR/DME Rwy 19, Original, cancelled
Huntingburg, IN—Huntingburg, VOR Rwy 9, Original
Huntingburg, IN—Huntingburg, VOR Rwy 27, Original
Indianapolis, IN—Indianapolis Terry, VOR Rwy 36, Amdt. 4
Albert Lea, MN—Albert Lea Muni, VOR Rwy 16, Amdt. 4
Austin, MN—Austin Muni, VOR Rwy 17, Amdt. 10
Austin, MN—Austin Muni, VOR Rwy 35, Amdt. 10
Minneapolis, MN—Flying Cloud, VOR Rwy 9R, Original
Scottsbluff, NE—Scotts Bluff County, VOR/DME Rwy 5, Amdt. 1
Scottsbluff, NE—Scotts Bluff County, VOR Rwy 23, Amdt. 9
Springfield, OH—Springfield Muni, VOR Rwy 6, Amdt. 4
Springfield, OH—Springfield Muni, VOR Rwy 24, Amdt. 4

** * * Effective March 6, 1980*

Hammonton, NJ—Hammonton Muni, VOR-A, Amdt. 4

** * * Effective February 21, 1980*

Rialto, CA—Rialto Muni/Miro Field/, VOR-A, Original

** * * Effective January 10, 1980*

Malden, MO—Malden Muni, VOR Rwy 31, Amdt. 7

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

** * * Effective March 20, 1980*

Indianapolis, IN—Indianapolis Terry, LOC Rwy 36, Original
Muskegon, MI—Muskegon County, LOC Rwy 23, Amdt. 2
Scottsbluff, NE—Scotts Bluff County, LOC BC Rwy 12, Amdt. 4

** * * Effective February 21, 1980*

New Orleans, LA—New Orleans Intl (Moisant Field), LOC BC Rwy 19, Amdt. 6

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

** * * Effective March 20, 1980*

Huntingburg, IN—Huntingburg, NDB Rwy 27, Original
Huntingburg, IN—Huntingburg, NDB Rwy 27, Amdt. 4, cancelled
Indianapolis, IN—Indianapolis Terry, NDB Rwy 36, Original
Covington, KY—Greater Cincinnati Intl., NDB Rwy 9R, Amdt. 7
Covington, KY—Greater Cincinnati Intl., NDB Rwy 18, Amdt. 12
Covington, KY—Greater Cincinnati Intl., NDB Rwy 36, Amdt. 26
Scottsbluff, NE—Scotts Bluff County, NDB Rwy 12, Amdt. 4
Springfield, OH—Springfield Muni, NDB Rwy 24, Amdt. 11

** * * Effective March 6, 1980*

Plattsmouth, NE—Plattsmouth Muni, NDB Rwy 34, Amdt. 1

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

** * * Effective March 20, 1980*

Covington, KY—Greater Cincinnati Intl., ILS Rwy 9R, Amdt. 8
Covington, KY—Greater Cincinnati Intl., ILS Rwy 18, Amdt. 12
Covington, KY—Greater Cincinnati Intl., ILS Rwy 27L, Amdt. 6
Covington, KY—Greater Cincinnati Intl., ILS Rwy 36, Amdt. 28
Scottsbluff, NE—Scotts Bluff County, ILS Rwy 30, Amdt. 6

** * * Effective February 21, 1980*

New Orleans, LA—New Orleans Intl. (Moisant Field), ILS Rwy 1, Amdt. 9

** * * Effective January 16, 1980*

Kodiak, AK—Kodiak, ILS/DME-1 Rwy 25, Amdt. 1

5. By amending § 97.31 RADAR SIAPs identified as follows:

** * * Effective March 20, 1980*

Covington, KY—Greater Cincinnati Intl., RADAR-1, Amdt. 19

** * * Effective March 6, 1980*

McGregor, TX—McGregor Muni, RADAR-1, Original
Waco, TX—James Connally, RADAR-1, Original
Waco, TX—Waco-Madison Cooper, RADAR-1, Original

6. By amending § 97.33 RNAV SIAPs identified as follows:

** * * Effective March 20, 1980*

Indianapolis, IN—Indianapolis Terry, RNAV Rwy 18, Amdt. 2
Scottsbluff, NE—Scotts Bluff County, RNAV Rwy 12, Amdt. 1
Scottsbluff, NE—Scotts Bluff County, RNAV Rwy 30, Amdt. 2

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C. on January 16, 1980.

James M. Vines,
Chief, Aircraft Programs Division.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 80-2147 Filed 1-23-80; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Parts 121, 127, 135, and 145

[Docket No. 17551; SFAR No. 36-1; Operations Review Program Amdt. No. 2B]

Development of Major Repair Data

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends the effectivity of a current Special Federal Aviation Regulation (SFAR) which provides for the use of data for accomplishing major repairs that have been developed by repair stations, air carriers, air taxis, and commercial operators of large aircraft but which have not been specifically approved by the FAA.

EFFECTIVE DATE: January 23, 1980.

FOR FURTHER INFORMATION CONTACT: Eli S. Newberger, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Telephone: (202) 755-8716.

SUPPLEMENTARY INFORMATION: SFAR 36, which became effective January 23, 1978, was issued to relieve qualifying certificated air carriers, operators, and repair stations of the burden of obtaining FAA approval of data developed by them for major repairs on a case-by-case basis. The certificate holders eligible for authorization under the SFAR are those employing adequately trained personnel and complying with specified procedural requirements.

SFAR 36 was adopted as an interim rulemaking action to obtain information upon which to base a permanent rule change. The termination date for SFAR 36 is January 23, 1980, and authorizations issued to date under SFAR 36 are effective for a period of 2 years.

At the time the termination date of SFAR 36 was established, it was anticipated that sufficient experience would be accumulated in 2 years and the termination date for SFAR 36 and each authorization issued under this SFAR was so established. However, most of the affected certificate holders did not utilize the provisions of this SFAR until recently and the FAA, therefore, does not currently have sufficient information upon which to base a permanent rule change. The reasons which justified the adoption of SFAR 36 still exist, and in order to gain the necessary experience it is in the public interest to extend the termination date of SFAR 36 from January 23, 1980, to January 23, 1982. So that previously authorized certificate holders will not be subjected to the unnecessary burden of requalifying upon expiration of the initial 2-year period, the amendment provides that each authorization issued under this SFAR has an effective period from the date of issuance until January 23, 1982. This rule extension should provide ample time for an effective evaluation of the need for, and provisions to be incorporated into, a permanent rule change.

Since this amendment continues in effect the provisions of a currently effective SFAR and imposes no additional burden on any person, I find that notice and public procedure hereon are unnecessary and it may be made effective in less than 30 days.

In consideration of the foregoing, effective January 23, 1980, Special Federal Aviation No. 36 is amended by changing the termination date from "January 23, 1980" to "January 23, 1982", and by revising paragraph 5. to read as follows:

5. *Duration of Authorization.* Each authorization issued under this Special Federal Aviation Regulations is effective from the date of issuance until January 23, 1982, unless it is surrendered or the Administrator suspends, revokes, or otherwise terminates it at an earlier date.

* * * * *

(Secs. 313(a), 601, 604 and 607, Federal Aviation Act of 1958 as amended (49 U.S.C. 1354(a), 1421, 1424, and 1427); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C., on January 18, 1980.

Langhorne Bond,
Administrator.

[FR Doc. 80-2141 Filed 1-23-80; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 201 and 282

[Docket No. RM79-14]

Regulations Implementing the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978

January 18, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Technical Amendments to Order No. 49-A.

SUMMARY: On December 27, 1979, the Federal Energy Regulatory Commission (Commission) issued Order No. 49-A, an order on rehearing in Docket No. RM 79-14 (44 FR 767, January 3, 1980). In order to implement fully the modifications to the accounting regulations as described in the preamble in Order No. 49-A, the Commission hereby adopts the technical amendments set forth below.

EFFECTIVE DATE: January 18, 1980.

FOR FURTHER INFORMATION CONTACT: Barbara K. Christin, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8113, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357-8079.

SUPPLEMENTARY INFORMATION:

I. Discussion

On December 27, 1979, the Federal Energy Regulatory Commission (Commission) issued an order on rehearing in Docket No. RM79-14, captioned as Order No. 49-A (45 FR 767, January 3, 1980). The order included, in part, certain amendments to the

accounting provisions of the incremental pricing program regulations.

The amendments adopted to the accounting regulations were discussed in the preamble in Order No. 49–A in Section II.G, "Accounting Regulations" (pgs. 23–25 of the mimeo, 45 FR 772–73). In order to implement fully the modifications to the accounting regulations as described in the preamble, the Commission adopts the amendments set forth below (in addition to those adopted in Order No. 49–A).

II. Effective Date

The Commission makes the regulations below effective immediately for the reason that they are technical in nature and, in addition, are accounting regulations, which the Commission views as analogous to rules of practice and procedure, and thus not subject to the notice requirement of section 553(d) of the Administrative Procedure Act.

(Natural Gas Act, as amended, 15 U.S.C. 717 *et seq.*; Natural Gas Policy Act of 1978, Pub. L. 95–621, 92 Stat. 3350, 15 U.S.C. 3301, *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.*)

In consideration of the foregoing, the commission amends Parts 201 and 282 of Title 18, Code of Federal Regulations, as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

Part 201 [Amended]

1. Part 201, account 191 is amended in paragraph A to read as follows:

191 Unrecovered purchased gas costs.

A. This account shall include purchased gas costs related to Commission approved purchased gas adjustment clauses when such costs are not included in the utility's rate schedule on file with the Commission. This account shall also include such other costs as authorized by the Commission. Incremental costs of purchased gas as defined in the incremental pricing regulations of the Commission shall be excluded from this account and included in Account 192.1, Unrecovered Incremental Gas Costs, until such costs are determined not subject to incremental pricing surcharge passthrough because of alternative fuel price ceilings. Once such determination is made those costs which are related to Commission approved purchased gas adjustment clauses shall be included in this account to the extent not yet recovered.

* * * * *

2. Section 282.501 is amended by revising paragraph (d) to read as follows:

§ 282.501 General rule.

* * * * *

(d) Each month, in the case of interstate pipelines, the amount accumulated in the natural gas supplier's unrecovered incremental gas costs account which cannot be recovered by way of incremental pricing surcharges shall be cleared from that account to account 805.2, Incremental Gas Cost Adjustments, in accordance with § 282.502.

[FR Doc. 80–2229 Filed 1–23–80; 8:45 am]

BILLING CODE 6450–01–M

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18 CFR Parts 270 and 271

[Docket No. RM80–14; Order No. 68]

Rules Generally Applicable to Regulated Sales of Natural Gas and Ceiling Prices; Final Regulations

January 18, 1980.

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Order issuing final rules.

SUMMARY: The Federal Energy Regulatory Commission gives notice that it is amending and issuing as final rules, the interim regulations in subparts E and F of Part 271 concerning first sales of natural gas subject to existing and successor intrastate contracts and intrastate rollover contracts under sections 105 and 106(b) of the Natural Gas Policy Act of 1978. The interim regulations in Part 270, concerning the definition of "successor to an existing intrastate contract" and resales are also amended and issued as final rules.

EFFECTIVE DATE: February 15, 1980.

FOR FURTHER INFORMATION CONTACT: Scott E. Koves, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capital Street NE, Washington, DC 20426, (202) 357–8317.

I. Introduction

This order issues final regulations under sections 105 and 106(b) of the Natural Gas Policy Act of 1978 (NGPA). These regulations replace the interim regulations in Subparts E and F of Part 271 which implement sections 105 and 106(b) of the NGPA (December 1, 1978, 43 FR 56448). The order also amends final regulations in Part 270. The following is a description of interim regulations formerly contained in Subparts E and F:

A. *Subpart E—Existing Intrastate Contracts.* Subpart E of Part 271 of the interim rules sets forth the procedures for determining maximum lawful prices under section 105 of the NGPA. These prices cover gas sold under existing intrastate contracts and successors to existing intrastate contracts. The maximum lawful price of any section 105 gas depends on the "contract price" applicable on November 9, 1978. If the contract price that was paid (or would have been paid had deliveries occurred) on November 9, 1978, was equal to or less than $2.06, then, pursuant to section 105(b)(1), the maximum lawful price is the lower of the section 102 maximum lawful price or the "price under the terms of the existing contract" as those terms were in effect on November 9, 1978. As provided in § 270.205(b), fixed and indefinite price escalator terms in the existing contract on November 9, 1978, can operate to increase the price up to the new natural gas price. Section 105(b)(1) was implemented by § 271.502(a) of the interim regulations.

If the contract price that was paid (or would have been paid had deliveries occurred) on November 9, 1978, exceeded $2.06, then, pursuant to section 105(b)(2), the maximum lawful price is the higher of the section 102 maximum lawful price, or the contract price actually charged on November 9, 1978, escalated each month by the inflation adjustment factor applicable to such month. (*See* NGPA section 101(a)). Section 271.502(b) of the interim regulations implements section 105(b)(2) of the NGPA.

The regulations under Subpart E also refer to the applicable reporting obligations under Part 276 [1] (*see* § 271.503); provide an explanation of how the "contract price" is to be determined (*see* § 271.504); and contain a special rule generally prohibiting contract modifications that shift "production-related costs" to the purchaser or that provide for an earlier date of deliveries (*see* § 271.505).

B. *Subpart F—Intrastate Rollover Contracts.* Subpart F of Part 271 implements section 106(b) of the NGPA which establishes maximum lawful prices for first sales of natural gas under "intrastate rollover contracts." The term "rollover contract" is defined in section 2(12) of the NGPA and can generally be described as a contract, other than a "successor contract",[2] that replaces an "existing contract" which expired of its own terms on or after November 9, 1978.

[1] Final Part 276 Regulations Under the Natural Gas Policy Act of 1978, Docket No. RM79–30, Order Amending Part 276, Issuing Part 276 as Final Regulations and Promulgating FERC Forms 122, 123, and 124 and Accompanying Affidavits and Instructions. (Issued March 23, 1979) (44 FR 18647)

[2] *See* NGPA section 2(14); § 270.101(b)(9).

Contract term extensions taking effect on or after November 9, 1978, are to be ignored for purposes of determining whether gas qualifies as section 105 or 106 gas.

Pursuant to section 106(b)(1) of the NGPA, the maximum lawful price for first sales under intrastate rollover contracts is set at the higher of the highest price actually paid under the expired contract in the month in which the rollover occurs, escalated by the inflation adjustment factor for each succeeding month, or $1.00 escalated by the inflation adjustment factor since April, 1977. Section 271.602(a) implements section 106(b)(1) of the NGPA.[3]

Like Subpart E, Subpart F also refers to the applicable filing requirements in Part 276 (*See* § 271.603), and contains a special rule dealing with contract modifications which shift production-related costs to the purchaser (*See* § 271.604).

II. Summary of Comments and Discussion.

A. *Prior Determinations—Sections 105 and 106(b).* Neither Subpart E nor Subpart F requires producers to seek a prior determination of eligibility. Several comments assert that section 501(c) of the NGPA places on the Commission a responsibility to make prior determinations of eligibility respecting sales subject to sections 105 and 106(b), and that the Commission has abrogated that responsibility.[4] Section 501(c), entitled "Delegation of Certain Determinations," gives the Commission the authority to delegate to a State agency any of its "functions" with respect to, *inter alia*, sections 105 and 106(b). The comments argue that, because we have made no such delegations, we are required to make determinations of eligibility under sections 105 and 106(b) ourselves.

We believe that the comments improperly construe the term "determination" in the title to section 501(c). Section 501 gives the Commission its general rulemaking authority under the NGPA and gives it the authority to delegate its rulemaking functions relating to sections 105, 106(b), and 109(a) (1) and (3) to State agencies. Such a delegation authority cannot be turned into a Congressional mandate to conduct a prior determination of eligibility to determine maximum lawful prices under section 105 or 106(b) for each of the thousands of sales made under existing intrastate contracts and intrastate rollover contracts. The NGPA and its legislative history are silent as to how section 105 or section 106(b) is to be administered by the Commission and do not specifically provide for or require prior determinations for section 105 or 106(b) gas. We had considered and rejected use of such a prior determination process in issuing interim regulations.[5] In our order issued December 1, 1978, in Docket No. RM79–3, (43 FR 56518) we stated:

> Given the administrative burdens attendant on making such determinations, the delay which such a determination process would cause, and the efficacy of the current reporting system in providing the information necessary for auditing to ensure compliance with the pricing limitations in the statute, the Commission can foresee no valid reason for instituting such a determination procedure.

We affirm that finding today.

Requiring prior determinations for each of the tens-of-thousands of section 105 or 106(b) contracts would prove to be an administrative impossibility.

B. *Determination of "Contract Price" and "Price Under the Terms of the Existing Contract"—Section 105.* The term "contract price" in section 105 is used to determine whether a contract qualifies under paragraph (b)(1) or (b)(2) and to determine the maximum lawful price in paragraph (b)(2).

Several parties requested clarification of how "contract price" is to be determined under section 105, particularly with regard to severance taxes. Part of this confusion may be based on the fact that many contracts designate a specific "price" for the gas and, in addition, designate other expenses, such as taxes, for which the purchaser is responsible. They may provide for the reimbursement of severance taxes in a separate section. On the other hand, they may also be silent as to taxes or provide that the seller will pay all severance taxes.

The definition of "contract price" in section 105 reads:

> (c) Definition of Contract Price.— For purposes of this section, the term "contract price," when used with respect to any specific date, means—
> (1) The price paid, per million Btu's under a contract for deliveries of natural gas occurring on such date; or
> (2) If no deliveries of natural gas occurred under such contract on such date, the price, per million Btu's, that would have been paid had such deliveries occurred on such date.

We believe that the word "price" in the definition of "contract price," as well as the phrase "price under the terms of the existing contract" means the total amount of proceeds paid by the purchaser to obtain the subject gas. Therefore, the term "price" would include all proceeds paid or payable to the seller even if specifically earmarked as reimbursement for State severance taxes or production-related costs.[6]

Consequently, in determining the maximum lawful price under section 105 the total proceeds paid or payable on November 9, 1979, are to be compared to $2.06. If the total proceeds exceeds $2.06, then section 105(b)(2) applies. If not, then section 105(b)(1) applies. If section 105(b)(2) applies, then the total proceeds paid or payable on November 9, 1978, are used as the base to which the inflation adjustments of section 105(b)(2)(B) are applied. If section 105(b)(1) applies, then the total proceeds receivable under the contract may increase pursuant to the terms of the contract in effect on November 9, 1978, up to the section 102 level.

However, several parties inquired whether State severance taxes, as defined under section 110 of the NGPA, should be subtracted from the "contract price" on November 9, 1978. The comments focused on the Statement of Managers at page 90,[7] which, in the context of explaining section 110 of the NGPA,[8] states that all ceiling prices are "exclusive" of State severance taxes borne by the seller and certain production-related cost adjustments.[9] The commenters inquire whether the

[3] Section 271.602(b) implements section 106(b)(2) which establishes the maximum lawful price applicable to certain State or Indian production or royalty shares under rollover contracts at the new natural gas price under section 102 of the NGPA.

[4] These comments were also directed at section 106(b) of the NGPA. Our conclusions, *infra*, respecting the administrative infeasibility of such a prior determination process apply equally to that section of the NGPA. Accordingly we conclude that a prior determination is not required for section 106(b) either.

[5] *See* note 1, *supra*. Part 276, now issued as final regulations, implements a reporting system covering first sales under section 105, 106(b) and 109 of the NGPA.

[6] For example, if the contract provided as of November 9, 1979, for the payment of $1.50 and that buyer shall pay severance taxes (which amounts to 11 cents for that day), the contract price would be $1.61 because that is the total amount that the purchaser actually pays for the gas. However, if the seller were obligated to pay all taxes, then the contract price would be only $1.50—again the amount paid.

[7] H.R. Rep. No. 95–1752, 95th Cong., 2d Sess. 90 (1978).

[8] Section 110(a) of the NGPA provides in pertinent part that "a price for the first sale of natural gas *shall not be considered to exceed the maximum lawful price* applicable to the first sale of such natural gas under this subtitle if such *first sale price* exceeds the maximum lawful price *to the extent necessary to recover* * * * State severance taxes * * * borne by the seller."

[9] As we shall explain in more detail, *infra* footnote 10, commenters have incorrectly created a link between the statement which refers to "ceiling prices" and the phrase "contract price" which is only partially determinative of the ceiling price in section 105 and is not, except in a limited number of cases, the same as the "ceiling price" in that section.

Manager's use of the term "exclusive" could indicate an intent that such items be subtracted from the contract price in order to compute ceiling prices under section 105.

The Commission does not interpret section 110 of the NGPA and the Statement of Managers at page 90 as requiring the subtraction of any expenditures referred to in section 110(a)(1) of the NGPA from any maximum lawful price under any section of Title I of the NGPA or, more particularly, from an intrastate "contract price" in order to establish the "ceiling price" under section 105. The words of the statute are clear: the price charged "will not be considered to exceed" the applicable maximum lawful price if the excess represents the amount "necessary to recover" State severance taxes "borne by the seller." What ambiguity exists in the Statement of Managers must be resolved in light of the plain meaning of the statute.

We believe that the Managers simply were indicating that ceiling prices were formulated without consideration of severance taxes, and logically so because severance taxes vary from state to state. Adjustments of ceiling prices to take account of severance taxes were to be considered only in the context of section 110.

Based on these general considerations, we do not find reason to reduce ceiling prices in general or prices under the terms of existing intrastate contracts in effect on date of enactment of the NGPA, in particular, by the amount representing State severance taxes levied on the production.[10] Furthermore, we do not believe that Congress intended such "contract prices" for existing intrastate contracts to be dissected. To do so would require that we dissect each existing intrastate contract price in order to excise certain of those reimbursed expenses, such as severance taxes. The emphasis Congress placed on negotiated prices in section 105 reflects the policy that historical contractural arrangements in the intrastate market were to be preserved. The NGPA and section 105 in particular were written so as to disturb contractual arrangements, for the most part, only minimally and only prospectively by limiting the rate of increases in prices subsequent to the date the NGPA was enacted. They should not be interpreted to involve retroactive downward adjustments of contract prices that were actually effective as of the date of enactment.

Acknowledging that State severance taxes should not be subtracted from the section 105 contract price, the question arises as to whether the seller may add the amount of any such taxes borne by him to the section 105 ceiling price under section 110 of the NGPA and under § 271.1102 of the Commission's regulations. This is the question which the Commission addresses in a notice of proposed rulemaking (RM80–21) which accompanies this final rule.

We received one comment suggesting that the introductory language of § 271.504(a), which defines "contract price," be amended to read: "Contract price or prices paid * * *," since one contract may contain more than one price for different areas. We do not believe an amendment is necessary. However, we shall clarify our intent that the rules governing the determination of "contract price" apply to each separate price in a contract. Each sale is considered a separate sale under the NGPA and is to be regulated accordingly.

One comment requested clarification of the mechanism for determining maximum lawful prices under section 105 when certain section 102 sales (*i.e.*, new natural gas sales) are deregulated pursuant to section 121.[11] Section 105 keys maximum lawful prices to the relationship between contract prices and the section 102 price. However, reference to section 102 is used simply to provide a benchmark price for use in section 105. Therefore, the price mechanism in section 102(b) shall continue to be used to determine maximum lawful prices under section 105 (as well as section 102(d)) regardless of the impact of section 121.

C. *Contract Modifications—Section 105.* Many comments were received suggesting various amendments to § 271.505 to allow contract modifications to shift "production-related costs" to the purchaser. The comments characterized the suggested changes as a form of "special relief," similar to that provided in §§ 2.75 and 2.76 of the Commission's Regulations under the Natural Gas Act. Section 271.505 generally prohibits contract modifications that have the effect of shifting production-related costs, which are defined in § 271.1101 and section 110 of the NGPA, to the purchaser.

The comments suggested three situations in which it would be appropriate to provide special relief-type treatment in § 271.505: (1) installation of compression, cathodic protection, or treating facilities, (2) reworking wells or removal of water, and (3) recompletions, deeper drilling and new drilling.

The Commission issued on August 14, 1979 in Docket No. RM79–67 a Notice of Proposed Rulemaking relating to special relief under the NGPA. In that Notice we requested comments on whether the proposed special relief regulations can be extended to sections 102, 103, *105*, and 108 of the NGPA through use of our authority to specify maximum lawful prices for and to define "high cost natural gas" under section 107 or through use of section 110. Accordingly, we will defer decision on this issue and will resolve it within the context of the special relief proceeding.

Two sets of comments take contrary positions on the validity of the exception in § 271.505(b). Paragraph (b) of § 271.505 provides an exception to the general rule in paragraph (a) prohibiting contract modifications which shift production-related costs to the purchaser. In paragraph (b), we provided that a new purchaser could agree to pay for increased production-related costs in order to take delivery of the gas. One group alleges that § 271.505(b) discriminates against intrastate purchasers. The other group suggests that § 271.505(b) should be clarified or amended to allow contract amendments covering all future increases in production-related costs that are to be borne by the purchaser; *i.e.*, not just a one-time allowance to permit delivery of the gas. Notably, the latter group is comprised of interstate pipelines.

We disagree with the suggestions of both groups. The purpose behind § 271.505(b) was to permit new purchasers to "hook up." No suggestion was made that a new intrastate pipeline purchaser could not take advantage of this rule. The only arguable discrimination in the rule is between new and old purchasers, not intrastate versus interstate purchasers. Accordingly, we shall retain § 271.505(b) in its present form. However, we wish to clarify that § 271.505(b) is intended to cover only the additional costs necessary for an initial hook-up with a new purchaser and not later increases in production-related costs. Once initial hookup is achieved and the new purchaser commences receipt of gas under the existing intrastate contract, there is no longer any reason to allow the seller to shift production-related costs to such a purchaser. It should be noted, however, that applications for adjustment may be made under § 271.1106 for allowance of production-related costs in cases of hardship, inequity, or unfair distribution of burdens.

One other comment questioned whether § 271.505(b), as well as § 271.604(b), is restricted to only those "production-related" costs required to physically take delivery to the exclusion of others such as the cost of installing conditioning facilities. Sections 271.505(b) and 271.604(b) are not so restrictive. For example, if new conditioning facilities must be installed to permit the changeover to a new purchaser,[12] then § 271.505(b) (or § 271.604(b), whichever is applicable) would permit the seller to shift to the new purchaser any obligation to pay for the new facilities. However, in that case the seller may not use a changeover to a new purchaser as a pretext to shift other "production-related" costs, such as costs of gathering that have not increased because of that changeover.

We caution that, while the special rules in §§ 271.505 and 271.604 relating to shifting production-related costs are issued and effective as final regulations, we may wish to reexamine these rules and the principles on which they are based when we deal with the question of final regulations under section 110 of the NGPA. We would also caution that these rules relate only to sections 105 and 106(b) of the NGPA and are not intended to impact on or circumscribe any policies or positions the Commission may take with respect to other sections of the NGPA or other acts.

Several comments were also received which suggested that, in any case in which an existing intrastate contract provides that the purchaser shall reimburse the seller for 85 percent of increased severance taxes, and in the event of such a tax increase, the parties should be allowed to amend the contract to provide for 100 percent reimbursement of such taxes. Section 271.1102, unless modified in accordance with the proposed rule which accompanies this final rule, permits full recovery of State severance taxes. Section 270.205(c) makes it clear that the NGPA does not prohibit contract modifications necessary in order to collect maximum lawful prices.

D. *Miscellaneous Comments on Subpart E.* One comment suggests that § 271.502(a)(1) be amended to read as follows:

(1) The price for such month under the terms of the existing intrastate contract, *including the price determined by any fixed or indefinite price escalator clauses, including price redetermination provisions, contained in such existing contract,* to which such natural gas was subject on November 9, 1978, as such contract was in effect on November 9, 1978 * * *" (Added language italicized.)

This amendment is unnecessary in light of § 270.205(b), as issued in Order No. 23, which describes the operation of provisions in section 105 contracts governing changes in price.

Another comment suggests adding the word "if" before "required" in § 271.503 so that § 271.503 would read as follows:

Any person who collects a price under this subpart shall file reports *if* required by § 276.101. (Added word italicized.)

This suggestion is rejected because under § 276.101, all first sellers are required to file reports under Part 276 even though the report may consist only of a title page and the attached oath statement.

It was suggested that the definition of "successor to an existing intrastate contract" in § 270.102(b)(9) be clarified to include successors that are interstate contracts. It was noted that the current definition is restricted to successor "intrastate" contracts. We believe that this suggestion has merit. An interstate contract may succeed an existing intrastate contract and in so doing become a "successor to an existing intrastate contract." Accordingly, we shall amend § 270.102(b)(9) to remove this restriction.

E. *Contract Modifications—Section 106(b).* Many commenters suggested that we should permit the modification of rollover contracts to allow for higher prices otherwise applicable under other sections of the NGPA, as well as add-ons permitted under section 110. This argument is identical to that made with respect to section 105 of the NGPA. With respect to recovery of State severance taxes, a rollover contract may provide for collection of the applicable maximum lawful price, including any allowance for State severance taxes permitted under section 110 of the NGPA. With respect to section 110 production-related cost allowances, the Commission's policy regarding section 106(b) is the same as its policy regarding section 105; *i.e.*, section 110 production-related cost allowances generally will not be permitted. With respect to contract modifications, the Commission addressed the issue in Order No. 23–A,[13] but restricted discussion in that order to section 105. However, the same principles discussed in Order No. 23–A apply with respect to section 106(b) gas. With regard to either the terms of the rollover contract as originally executed or any modifications in a rollover contract, the contractual provisions may not operate to authorize a seller to charge and collect an amount in excess of the applicable maximum lawful price. However, as in the case of existing intrastate contracts, a seller under an intrastate rollover contract is not bound by the maximum lawful price under that section when the gas otherwise qualifies for a higher maximum lawful price under another section of the NGPA. Order No. 23–A promulgated § 270.205(c) which summarized these principles regarding "existing contracts." Section 270.205(c) will be amended in order to emphasize that the Commission wishes to apply this regulation to rollover contracts under section 106 as well as to any other contract.

The comments also suggested that Subpart F as well as Subpart E provide for special relief procedures; for example, provisions for higher prices to fund workovers or new drilling. Unlike section 105, subsection (c) of section 106 authorizes the Commission to establish higher "just and reasonable" prices for *any* sales under that section, including sales made under section 106(b). Accordingly, the mechanism for special relief is already provided for in section 106. As noted above, the Commission has issued a Notice of Proposed Rulemaking requesting comments on proposed regulations governing the granting of special relief under sections 104, 106 and 109 of the NGPA.

Several intrastate companies suggested that § 271.604(b), which provides an exception to the general rule in paragraph (a) prohibiting shifting production-related costs to new purchasers, creates the same unfair advantage for interstate pipelines as is created by § 271.505(b). The same answer obtains for the reasons discussed with respect to § 271.505(b). Section 271.604(b) only concerns a shifting of costs associated with the *initial* hook-up of a new purchaser. Contract modifications concerning subsequent, additional production-related costs will be prohibited under the general rule of paragraph (a) (except to the extent necessary to collect allowances for production-related costs which are permitted pursuant to an adjustment issued under § 271.1106).

[10] Indeed there is no direct linkage between the explanation at page 90, which refers to "ceiling prices," and the suggestion that severance taxes should be subtracted from "contract prices" subject to section 105. While "contract prices" do play an integral role in the ceiling price computation mechanism of section 105, they do not necessarily constitute the "ceiling price" under that section. For example, while the price under a contract subject to section 105(b)(1) might rise above the section 102 level, the ceiling price under that section remains at the section 102 price.

[11] It should be noted that sales under section 102(d) are not deregulated under section 121.

[12] For example, to meet more stringent quality standards.

[13] Docket No. RM79–22, issued June 12, 1979.

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Finally, one commenter mistakenly construed § 271.604(a) to prohibit any terms of a rollover contract from differing in any respect from those of the existing contract. This was not our intent. Section 271.604(a) relates to only those particular terms which deal with production-related costs. (*See* § 271.1105.)

F. Definition of a "Rollover"—Section 106. One commenter asks the following question: if an existing contract expires on a date certain but nevertheless would be indefinitely extended on a month to month basis unless cancelled by one of the parties, is the contract which is entered into after the prior contract is cancelled a rollover contract under section 106(b)? Other commenters ask the more general question: when does a rollover "occur" for purposes of section 106(b)(1)(A) of the NGPA?

Before we can define when a rollover "occurs," we must consider the definition of "rollover contract" in section 2(12) of the NGPA in light of the Statement of Managers. Section 2(12) of the NGPA defines a "rollover contract" as follows:

> The term "rollover contract" means any contract entered into on or after [November 9, 1978], for the first sale of natural gas that was previously subject to an existing contract which expired at the end of a fixed term (not including any extension thereof taking effect on or after [November 9, 1978]) specified by the provisions of such existing contract, as such contract was in effect on [November 9, 1978] whether or not there is an identity of parties or terms with those of such existing contract.

Section 2(12) requires several conditions before a contract can be deemed a rollover contract for purposes of section 106(b): (1) the rollover-contract must be "entered into" on or after November 9, 1978; (2) the rollover contract must cover sales of gas "previously subject" to an "existing contract," *i.e.*, a contract in existence on November 8, 1978; and (3) the previous existing contract must have "expired" at the end of a "fixed term" pursuant to the provisions of the contract in effect on November 9, 1978, including fixed term extensions which took effect prior to that date.

Under the Natural Gas Act, a rollover contract was not "entered into" until the parties executed an extension of the contract's term or a new contract. Therefore a rollover could not occur until the fixed term of the existing contract expired, and the parties executed the extension of the new contract.[14] Section 2(12) of the NGPA could be read to make the definition of "rollover contract" consistent under both the NGPA and the NGA by requiring some affirmative action of the parties to effect a rollover.

However, language in the Statement of Managers at page 70, injects an element of confusion. At page 70, the Statement indicates that:

> An existing contract which expires at the end of a fixed term qualifies as a rollover contract. An existing contract may have a specified term of five years which will be extended by operation of the contract for one or more years unless the producer gives notice of his intention to terminate the contract within a specified period of time in advance. Such a contract will qualify as a rollover contract at the end of the fixed five year term without regard to the extensions occurring after the date of enactment.

Taken literally, this language suggests that a roll-over automatically occurs upon the expiration of the primary term of the existing intrastate contract. Thus, a rollover could occur even if the "existing contract" remained in existence by virtue of automatic "evergreen"-type contract term extensions,[15] and would not require some affirmative action on the part of the parties such as entering into a new contract or modifying the price terms.

The Commission interprets the Statement of Managers at page 70 as intended only to clarify the intent behind the parenthetical in section 2 (12), which reads:

> * * * "[R]ollover contract" means any contract, entered into * * * for the first sale of natural gas that was previously subject to an existing contract which expired at the end of a fixed term (*not including any extension thereof taking effect on or after such date of enactment*) * * *. (Emphasis added.)

The simplest reading of this parenthetical and the one which resolves rather than creates contradictions between the statute and the Statement of Managers suggests that a rollover can "occur" even if a contract term extension which took effect on or after November 9, 1978, has not yet expired. Therefore, as long as the fixed term of the existing contract (as may be extended prior to November 9, 1978) has expired and a new contract is "entered into" on or after November 9, 1978, the sales may become subject to maximum lawful prices under section 106(b) of the NGPA.

Accordingly, we shall define a "rollover" for purposes of section 106(b) to require that the fixed term of the "existing intrastate contract" must expire and a new contract or amendment must be entered into. A rollover may not "occur" until both prerequisites have been met.

These prerequisites apply equally to contracts containing evergreen clauses. Under evergreen clauses a rollover contract will not automatically occur merely upon expiration of the fixed term on or after November 9, 1978. The parties must take some action to enter into a new contract or contract amendment on or after November 9, 1978. However, especially with respect to intrastate contracts, we believe the characterization of such contracts as "existing," "successor," or "rollover" contracts requires close scrutiny of the contractual provisions as well as the timing of certain key events.[16] Accordingly, we are presenting here only the general principles to be followed in characterizing such contracts. Specific interpretations must be handled and may be requested pursuant to 18 CFR 1.42 on a case-by-case basis.

G. Percentage-of-Proceeds Sales. We have received requests for clarification of how percentage-of-proceeds sales [17] are to be regulated under Subparts E and F of Part 271. The Commission first focused on the status of such sales when faced with the question of how percentage sellers or purchasers were to report under Part 276. The following is an excerpt from the order promulgating final regulations under Part 276:

> In this regard we perceive the need to clarify how percentage sellers are to report their "contract price" on November 9, 1978, for purposes of Part 276 reports and oath statements. Percentage sale contracts have no specific price stipulated under the terms of the contract. Rather, they are generally based on the recovery of a fixed or volumetrically-determined percentage of net proceeds received from the sale at a plant tailgate of a mix of residue gas derived from many different producers. A "contract price" on November 9, 1978, might be computed by dividing sales volumes attributable to the percentage seller on that date. Such a computed "contract price" could change from day-to-day depending on various factors including the mix of resale prices at the plant tailgate and the price of liquids.
>
> Accordingly, we find it appropriate to simplify the reporting of percentage proceeds sales by permitting the percentage received from the plant to be reported in lieu of a "contract price". Volumes to be reported shall be residue gas volumes.[18]

It appears that the NGPA did not specifically address the regulation of intrastate percentage-of-proceeds-sale contracts. The pricing mechanism under sections 105 and 106(b) appears to assume a specific price as stipulated by terms of the contract. A contract price for percentage of proceeds sales calculated on the basis of sales volumes attributable to the percentage seller on a given date does not appear to be within the scope of the term "contract price" as it is used in sections 105 and 106(b). In addition, nothing in the Statement of Managers indicates how first sales under such contracts that are subject to section 105 or 106(b) are to be regulated. Under these circumstances we believe the following to be the only practical course. Because resellers, usually processors or gatherers, are themselves regulated under the reseller rules contained in § 270.202, the same system of indirect regulation which has been used under the Natural Gas Act should be used to provide a pragmatic solution to this problem.[19] This will eliminate the problem of establishing "contract prices" in order to apply section 105 or 106(b) maximum lawful prices to sales to resellers. Moreover, under this procedure, no change in reporting obligations under Part 276 would be required.

The argument against indirect regulation is that each first sale, including percentage sales, is regulated at prices established by Congress. But as noted above, Congress gave no direction for applying maximum lawful prices under section 105 or 106(b) in the case of such percentage sales. As we recognized in our order promulgating final Part 276 regulations, it would simply be too arbitrary and burdensome to calculate contract prices on a continuous, even day-to-day basis.

Instead of attempting to impose such an arbitrary and burdensome method of establishing maximum lawful prices for such percentage-of-proceeds sales, we shall apply the maximum lawful price only to the sale by the reseller. As long as the reseller complies with the reseller rules of § 270.202(a)(1), the amount of proceeds received by the percentage-of-proceeds sellers will not affect the price paid by consumers. Because the percentage-of-proceeds sellers only receive a percentage (less than 100 percent) of the proceeds from the resale, the price of which may not exceed the applicable NGPA maximum lawful price, the total price received by these sellers as a group, cannot exceed the maximum lawful price. Distribution of proceeds derived from the resale of such gas will be deemed a matter of private contract law to be resolved by the parties. This policy is similar to that governing distribution of proceeds from a fixed-price sale by the operator of a well to the often numerous working interest owners. In order to effect this policy, we are adding a new subparagraph (3) to paragraph (e) of § 270.202 which defines "percentage-of-proceeds sale" and a new paragraph (h) to § 270.202. New paragraph (h) clarifies the rule that the resale of the portion of gas purchased under a percentage-of-proceeds sale subject to section 105 or 106(b) is governed by § 270.202(a) and that such percentage sales will not be deemed to be first sales for purposes of Subchapter H. We wish to emphasize that, for administrative purposes, we will not attempt to apply the section 105 and 106(b) ceiling price provisions at the point of the percentage-of-proceeds sale. Rather we shall focus on the point of resale. We are not, however, creating any general exemption from the NGPA for such percentage sales.

Although we have discussed only intrastate sales subject to section 105 or 106(b) of the NGPA we believe that the amendment to the reseller rules that we promulgate in new paragraph (h) to § 270.202, should also apply to interstate percentage-of-proceeds sales which are subject to § 154.91(e) of the Commission's Regulations under the Natural Gas Act. Because such sales are already only indirectly regulated, no modification of our Natural Gas Act regulations is required.

III. Summary of Amendments

The following amendments have been made to the interim rules:

A definition and special rules for percentage-of-proceeds sales have been added to § 270.202. The maximum lawful price for a percentage-of-proceeds sale is applicable at the point the gas is sold by the reseller.

All references to "existing" contracts have been deleted from § 270.205(c), so that the paragraph applies to all sales and permits sellers to modify any contract to collect any applicable NGPA prices other than section 105(b)(1) gas which does not also qualify for another maximum lawful price set by reference to the contract price.

The determinations of contract price and the price under the terms of the existing contract have been clarified by an amendment to § 271.504 to reflect the effect of State severance taxes.

The definition of "successor to an existing intrastate contract" at § 271.102 has been corrected to clarify the fact that successors to existing intrastate contracts include interstate contracts.

Paragraph (b) of § 271.802 has been corrected to include a reference to State or Indian royalty interests as well as production interests.

IV. Public Procedures and Effective Date

Parts 270 and 271 were originally proposed for comment in November of 1978 and issued as interim regulations on December 1, 1978 (43 FR 56448; December 1, 1978). For 60 days thereafter comments were received and during that period public hearings were held on these regulations. By this process the Commission complied with the provision of section 502(b) of the NGPA which requires that "[t]o the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments" be afforded for certain regulations under the NGPA. The amendments to Part 270 and Subparts E and F of Part 271 contained in this order rest upon considerations given to the information received during the comment and hearing process. Therefore, the Commission believes that no further notice of public procedure is required under 5 U.S.C. 553.

(Natural Gas Act, as amended, 15 U.S.C. 717, *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 42 FR 46267; Natural Gas Policy Act of 1978; 15 U.S.C. 3301–3432)

In consideration of the foregoing, the interim regulations in Part 270, Subchapter H, Chapter I of Title 18, Code of Federal Regulations, are amended as set forth below. In addition, Subparts E and F of Part 271 are amended and issued as final regulations as set forth below. These amendments are effective with respect to natural gas delivered on or after December 1, 1978, except that the application of the effective date shall not cause the impositon of any refund obligation with respect to any deliveries made prior to February 15, 1980.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 270.102(b)(9) is amended in the first sentence to read as follows:

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[14] See § 271.402(b) (3) and (4).

[15] "Evergreen clauses" provide that the term of the contract will be extended for some specified period beginning with the date of expiration of the primary term. The contract would remain in effect until terminated by action of one of the parties after giving the required notice prior to the anniversary date. Other variations of this type of clause also prevail in the industry.

[16] Gas subject to section 104 and 106(a) will continue to be subject to the requirement of execution of a new contract for amendment, so that the Commission may obtain adequate evidence of the parties' consent.

[17] The typical percentage-of-proceeds sales occur between a producer and a processing plant. The producer normally sells raw gas to the plant which, after processing it, sells the residue gas, which is of a lesser volume and BTU content than the raw gas, to a pipeline at the plant tailgate. Rather than receiving a fixed price for the gas, the producer recovers a percentage of the net proceeds received by the plant from the resale of gas and, perhaps, natural gas liquids.

[18] Final Part 276 Regulation Under the Natural Gas Policy Act of 1978, Docket No. RM79-30, Order Amending Part 276, Issuing Part 276 as Final Regulations and Promulgating FERC Forms 122, 123, and 124 and Accompanying Affidavits and Instructions, (issued March 23, 1979, 44 FR 18047) at mimeo pages 12–13 (44 FR 18060).

[19] *See*, 18 CFR 154.91(e).

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§ 270.102 Definitions.

* * * * *

(b) *Subchapter H definitions.* * * *

(9) "Successor to an existing intrastate contract" means any contract, other than a rollover contract, entered into on or after November 9, 1978, for the first sale of natural gas which was previously subject to an existing intrastate contract, whether or not there is an identity of parties or terms with those of such existing intrastate contract.* * *

2. Section 270.202 is amended in paragraph (e) by adding a new subparagraph (3) and a new paragraph (h) to read as follows:

§ 270.202 Resales.

* * * * *

(e) *Definition.* * * *

(3) "Percentage-of-proceeds sale" means a sale of natural gas the price for which is computed as a percentage of the proceeds from the resale of natural gas attributable to such sale.

* * * * *

(h) *Special rules for percentage-of-proceeds sales.* In the case of natural gas purchased by a reseller in a percentage-of-proceeds sale, if the maximum lawful price for the resale is determined under paragraph (a)(1) of this section, then any sale to such reseller in such percentage of proceeds sale shall not be treated as a first sale for purposes of this subchapter.

§ 270.205 [Amended]

3. Section 270.205 is amended in paragraph (c) by deleting "*existing*" in the heading for such paragraph; and by deleting the phrase "an existing" in the text of such paragraph and inserting in lieu thereof the word "a".

4. Part 271 is amended in Subpart E to read as follows:

Subpart E—Sales Under Existing Intrastate Contracts

§ 271.501 Applicability.

This subpart implements section 105 of the NGPA and applies to the first sale of natural gas under an existing intrastate contract or under a successor to an existing intrastate contract. This subpart is not applicable to sales made under an intrastate rollover contract as defined in § 270.102(b)(11) of this part.

§ 271.502 Maximum lawful prices.

(a) *November 9, 1978, contract price at or below $2.060 per MMBtu.* In the case of a first sale of natural gas to which this subpart applies (other than a first sale to which paragraph (b) applies), the maximum lawful price for natural gas delivered in any month shall be the lower of:

(1) The price for such month under the terms of the existing intrastate contract to which such natural gas was subject on November 9, 1978, as such contract was in effect on November 9, 1978; or

(2) The maximum lawful price per MMBtu for such month specified for new natural gas (Subpart B of Part 271) in Table I of § 271.101(a).

(b) *November 9, 1978, contract price greater than $2.060 per MMBtu.* In the case of a first sale of natural gas to which this subpart applies, if the contract price applicable on November 9, 1978, was greater than $2.060 per MMBtu, the maximum lawful price for natural gas delivered in any month shall be the higher of:

(1) The maximum lawful price per MMBtu for such month specified for new natural gas (Subpart B of Part 271) in Table I of § 271.101(a); or

(2) The contract price per MMBtu on November 9, 1978, adjusted for inflation in accordance with § 271.102 of this part.

§ 271.503 Filing requirements.

Any person who collects a price under this subpart shall file reports required by § 276.101 of this chapter.

§ 271.504 Determination of contract price.

For purposes of this subpart:

(a) *Contract price.* "Contract price," when used with respect to any specific date and contract, means:

(1) The price paid per MMBtu under a contract for deliveries of natural gas occurring on that date; including any State severance taxes which are levied on gas subject to the contract (whether such taxes are borne by the seller or reimbursed by the purchaser).

(2) If no deliveries of natural gas occurred under such contract on that date, the price per MMBtu that would have been paid had such deliveries occurred on that date, including any State severance taxes which would have been levied on gas subject to the contract (whether such taxes would have been borne by the seller or reimbursed by the purchaser).

(b) *Price under the terms of the existing contract.* "Price under the terms of the existing contract" when used with respect to any specific date and contract means the price under the terms of the existing contract, as such contract was in effect on November 9, 1978; including any State severance taxes which are levied on the sale of natural gas subject to the contract (whether such taxes are borne by the seller or reimbursed by the purchaser).

(c) *Take-or-pay clauses.* If the contract contains a take-or-pay clause and payments were made under such clause for deliveries on November 9, 1978, the contract price on November 9, 1978, shall be determined as if volumes obligated to be taken were taken.

§ 271.505 Contract modifications.

(a) *General rule.* Except as provided in paragraph (b) of this section, for purposes of this subpart, no successor to an existing intrastate contract or modification executed after November 9, 1978, of an existing intrastate contract may:

(1) Alter the terms of the existing intrastate contract in a manner which has the effect of requiring the purchaser to bear any production-related costs (as defined in § 271.1101(b)) which were allocated to the seller under the existing intrastate contract; or

(2) Provide for an earlier date for deliveries than provided for under the existing contract.

(b) *Exception.* Nothing in paragraph (a) of this section shall preclude a purchaser who was not a party to the existing intrastate contract on November 9, 1978, from agreeing, by modifications of the existing intrastate contract, or otherwise, to bear responsibility and pay for any increase (or portion thereof) in production-related costs, incurrence of which is necessary in order for such person to take delivery of the natural gas subject to the existing intrastate contract.

6. Part 271 is amended by revising Subpart F to read as follows:

Subpart F—Intrastate Rollover Contracts

§ 271.601 Applicability.

This subpart implements section 106(b) of the NGPA and applies to the first sale of natural gas under an intrastate rollover contract.

§ 271.602 Maximum lawful price.

(a) *General rule.* The maximum lawful price for a first sale of natural gas under an intrastate rollover contract to which section 106(b)(1) of the NGPA applies shall be the higher of:

(1)(i) The maximum lawful price, per MMBtu, paid under the expired contract, in the case of the month in which the effective date of such rollover contract occurs; and

(ii) In the case of any month thereafter, the maximum lawful price, per MMBtu, prescribed under this paragraph for the preceding month adjusted for inflation in accordance with § 271.102; or

(2) The alternative maximum lawful price specified in Table I of § 271.101(a) for certain intrastate rollover gas.

(b) *Certain State or Indian production or royalty shares.* The maximum lawful price, per MMBtu, for natural gas to which section 106(b)(2) of the NGPA (relating to certain State or Indian natural gas production or royalty interests) applies shall be the price specified for new natural gas (Subpart B of Part 271) in Table I of § 271.101(a).

§ 271.603 Filing requirements.

Any person who collects a price under this subpart shall file reports required by § 276.101 of this chapter.

§ 271.604 Special rule.

(a) *General rule.* Except as provided in paragraph (b), for purposes of this subpart no intrastate rollover contract may contain terms which differ from the terms of the expired contract and which have the effect of requiring the purchaser to bear any production-related costs (as defined in § 271.1101(b)).

(b) *Exception.* Nothing in paragraph (a) of this section shall preclude a purchaser who was not a party to the expired contract from agreeing in the intrastate rollover contract to bear responsibility and pay for any increase (or portion thereof) in production-related costs, the incurrence of which is necessary in order for such person to take delivery of the natural gas subject to the intrastate rollover contract.

[FR Doc. 80-2235 Filed 1-23-80; 8:45 am]

BILLING CODE 6450-01-M

18 CFR Part 271

[Docket No. RM80-19; Order No. 64]

Order Reissuing Part 271, Subpart D of the Commission's Regulations as Final Regulations; Correction

January 18, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Erratum notice.

SUMMARY: On January 3, 1980, the Commission reissued Subpart D of Part 271 of its regulations under the Natural Gas Policy Act of 1978, 45 FR 1862 (January 9, 1980). This subpart provides for first sales of natural gas which was committed or dedicated to interstate commerce as of November 8, 1978. In that issuance, an error occurred in the definition of "1973–1974 biennium gas". By this Notice that error is corrected.

EFFECTIVE DATE: January 3, 1980.

FOR FURTHER INFORMATION CONTACT: John Conway, Federal Energy Regulatory Commission, Office of the General Counsel, Room 8106–K, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357–8150.

In the Commission's Order of January 3, 1980, reissuing Part 271, Subpart D of the Commissioner's Regulations as Final Regulations, 45 FR 1862 (January 9, 1980), a typographical error occurred on page 47 (*mimeo*), 45 FR at 1871, col. 2, under the definition of "1973–1974 biennium gas" of § 271.402(b)(2). That subsection should read as follows:

§ 271.402 Maximum lawful prices.

* * * * *

(b) *Definitions.* * * *

(2) "1973–1974 biennium gas" means natural gas, to which this subpart applies, from a well the surface drilling of which commenced on or after January 1, 1973, and prior to January 1, 1975.

* * * * *

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-2234 Filed 1-23-80; 8:45 am]

BILLING CODE 6450-01-M

RAILROAD RETIREMENT BOARD

20 CFR Part 260

Procedure for Notification of Initial Decisions; Correction

AGENCY: Railroad Retirement Board.

ACTION: Correction to Final Rule.

SUMMARY: The Railroad Retirement Board published final rules concerning procedure for notification of initial decisions on January 17, 1980 in the Federal Register. This document corrects an inadvertent typographical error in the final rule.

EFFECTIVE DATE: January 24, 1980.

FOR FURTHER INFORMATION CONTACT: James E. Lanter, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, 312–751–4943.

In FR Doc. 80–1608 appearing at page 3259 in the Federal Register of Thursday, January 17, 1980, subparagraph (3)(vii) of § 260.1(c) appearing on page 3260 in the center column is corrected from "that if information * * *" to read "that if no information * * *".

Dated: January 18, 1980.

R. F. Butler,

Secretary of the Board.

[FR Doc. 80-2236 Filed 1-23-80; 8:45 am]

BILLING CODE 7905-01-M

OVERSEAS PRIVATE INVESTMENT CORPORATION

22 CFR Part 710

Administrative Enforcement Procedures of Post-Employment Restrictions

AGENCY: Overseas Private Investment Corporation.

ACTION: Final rule.

SUMMARY: In its regulations (44 FR 19967) implementing the restrictions on post-employment activities of former federal agency employees (18 U.S.C. 207(a), (b) and (c)), the Office of Government Ethics has required each federal agency to adopt procedures providing for the administrative enforcement of such restrictions. The following procedures are adopted by the Overseas Private Investment Corporation (OPIC) to satisfy this requirement.

DATE: Effective on January 21, 1980.

ADDRESS: 1129 20th Street, NW, Washington, DC 20527.

FOR FURTHER INFORMATION CONTACT: Office of General Counsel (202) 632–1766.

A new Part 710 is added to 22 CFR to read as follows:

PART 710—ADMINISTRATIVE ENFORCEMENT PROCEDURES OF POST-EMPLOYMENT RESTRICTIONS

Sec.

710.1 General.
710.2 Action on receipt of information regarding violation.
710.3 Initiation of administrative disciplinary proceeding.
710.4 Notice.
710.5 Failure to request hearing.
710.6 Appointment and qualifications of examiner.
710.7 Time, date and place of hearing.
710.8 Rights of parties at hearing.
710.9 Burden of proof.
710.10 Findings.
710.11 Appeal.
710.12 Finding of violation.
710.13 Appropriate action.
710.14 Judicial review.
710.15 Delegation of authority.

Authority: 18 U.S.C. 207(j)

§ 710.1 General.

The following procedures are hereby established with respect to the administrative enforcement of restrictions on post-employment activities (18 U.S.C. 207(a), (b) or (c) and implementing regulations (44 FR 19967 and 19968, April 3, 1979) published by the Office of Government Ethics.

§ 710.2 Action on receipt of information regarding violation.

On receipt of information regarding a possible violation of the statutory or regulatory post-employment restrictions by a former OPIC employee and after determining that such information does not appear to be frivolous, the President of OPIC or the President's designee shall provide such information to the Director of the Office of Government Ethics and to the Criminal Division, Department of Justice. Any investigation or administrative action shall be coordinated with the Department of Justice to avoid prejudicing possible criminal proceedings. If the Department of Justice informs OPIC that it does not intend to institute criminal proceedings, such coordination shall no longer be required and OPIC shall be free to pursue administrative action.

§ 710.3 Initiation of administrative disciplinary proceeding.

Whenever the President of OPIC or the President's designee determines after appropriate review that there is reasonable cause to believe that a former OPIC employee had violated the statutory or regulatory post-employment restrictions, an administrative disciplinary proceeding shall be initiated.

§ 710.4 Notice.

The President of OPIC or the President's designee shall initiate an administrative disciplinary hearing by providing the former OPIC employee with notice of an intention to institute a proceeding and an opportunity for a hearing. Notice must include:

(a) A statement of allegations and the basis thereof sufficiently detailed to enable the former employee to prepare an adequate defense;

(b) Notification of the right to a hearing; and

(c) An explanation of the method by which a hearing may be requested.

§ 710.5 Failure to request hearing.

The President of OPIC may take appropriate action referred to in § 710.13 in the case of any former OPIC employee who has failed to make a written request to OPIC for a hearing within 30 days after receiving adequate notice.

§ 710.6 Appointment and qualifications of examiner.

When a former OPIC employee after receiving adequate notice requests a hearing, a presiding official (hereinafter referred to as "examiner") shall be appointed by the President of OPIC to make an initial decision. The examiner shall be a responsible person who is a member of the bar of a State or of the District of Columbia, who is impartial and who has not participated in any manner in the decision to initiate the proceedings. The examiner may or may not be an OPIC employee.

§ 710.7 Time, date and place of hearing.

The examiner shall establish a reasonable time, date and place to conduct the hearing. In establishing a date, the examiner shall give due regard to the former employee's need for:

(a) Adequate time to prepare a defense properly; and

(b) An expeditious resolution of allegations that may be damaging to the individual's reputation.

§ 710.8 Right of parties at hearing.

A hearing shall include, at a minimum, the following rights for both parties to:

(a) Represent oneself or be represented by counsel;

(b) Introduce and examine witnesses and submit physical evidence (including the use of interrogatories);

(c) Confront and cross-examine adverse witnesses;

(d) Present oral argument; and

(e) Receive a transcript or recording of the proceedings on request.

§ 710.9 Burden of proof.

In any hearing under this part, OPIC shall have the burden of proof and must establish substantial evidence of a violation of the statutory or post-employment restrictions.

§ 710.10 Findings.

The examiner shall make a determination exclusively on matters of record in the proceeding and shall set forth in the written decision all findings of fact and conclusions of law relevant to the matters in issue.

§ 710.11 Appeal.

(a) Within 20 days of the date of the initial decision, either party may appeal the decision to the President of OPIC. The President's decision on such appeal shall be based solely on the record of the proceedings or those portions thereof cited by the parties to limit the issues.

(b) If the President modifies or reverses the examiner's decision, the President shall specify such findings of fact and conclusions of law as are different from those of the examiner.

(c) The decision of the President on appeal, shall constitute final administrative decision. An initial decision of the examiner which has not been appealed during the 20-day period provided shall become a final administrative decision on the twenty-first day.

§ 710.12 Finding of violation.

The President of OPIC shall take appropriate action referred to in § 710.13 in the case of an individual who is found in violation of the statutory or regulatory post-employment restrictions, after a final administrative decision.

§ 710.13 Appropriate action.

Appropriate action referred to in paragraphs 6 and 13 above, included:

(a) Prohibiting the individual from making, on behalf of any other person (except the United States), any formal or informal appearance before, or with the intent to influence, any oral or written communication to, OPIC on any matter or business for a period not to exceed five years, which may be accomplished by directing OPIC employees to refuse to participate in any such appearance or to accept any such communicaiton.

(b) Taking other appropriate disciplinary action.

§ 710.14 Judicial review.

Any person found to have participated in a violation of statutory or regulatory post-employment restrictions (18 U.S.C. 207(a), (b) or (c) or the regulations compiled at 44 FR 19987 and 19988, April 3, 1979) may seek judicial review of the administrative determination.

§ 710.15 Delegation of authority.

The functions of the President of OPIC specified in §§ 710.2, 710.4 and 710.5 above are delegated to the General Counsel of OPIC. An examiner shall be delegated authority on an *ad hoc* basis.

Dated: January 17, 1980.

J. Bruce Llewellyn,

President.

[FR Doc. 80-2224 Filed 1-23-80; 8:45 am]

BILLING CODE 3210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 233

San Carlos Indian Irrigation Project, Ariz.

January 15, 1980.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final rules.

SUMMARY: The purpose of the final rules is to increase the power rates for the San Carlos Irrigation Project, Arizona, to provide adequate revenues to meet expenses. A provision (§ 233.54) has been added which authorizes the Director of the Phoenix Area Office, Bureau of Indian Affairs, to change the power rate schedules § 233.51, § 233.52, and § 233.53 by unilateral action when necessary due to the changes in costs of labor, materials, supplies, equipment, purchased power or other causes.

EFFECTIVE DATE: These final rules shall become effective on January 24, 1980.

FOR FURTHER INFORMATION CONTACT: James L. McCabe, San Carlos Irrigation Project, P.O. Box 456, Coolidge, Arizona 85228, telephone (602) 723-5439.

SUPPLEMENTARY INFORMATION: Beginning on page 61208 of the Wednesday, October 24, 1979, **Federal Register**, Vol. 44, No. 297, there was published a notice of proposed revision of rates. All interested persons were given until November 23, 1979, to submit comments regarding the proposed revision of rates. Notice of the proposed changes had been published in the local newspapers several weeks prior to the publication in the **Federal Register**. A number of comments were received from a variety of consumers. The principal concern was the increased cost to the consumer, especially since there is an unusual amount of stored water in Coolidge Reservoir for the generation of power at Coolidge Dam. The generation capacity at Coolidge Dam is about ten percent of power distributed by the Project and due to the unusual amount of stored water at this time this was a factor in determining the power rates. After a careful analysis of the power rates it was determined there was no alternative but to place the rates in effect to provide the revenue required for proper operations and maintenance of the Power System and meet the obligations of the San Carlos Irrigation Project. The effective date of this rule will be the date of publication in the **Federal Register** as provided for in 0 BIAM Supplement 1, 2.4J(d)(3) that is in conformance with the following exception of 5 U.S.C. 553(d):

(d) The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except—

(3) As otherwise provided by the agency for good cause found and published with the rule.

Since this revision is for good cause, the 30-day deferred effective date is dispensed with under the exception provided in subsection (d)(3) of 5 U.S.C. 553 (1970). Accordingly, these regulations will be effective on January 24, 1980.

The principal author of this document is Cecil A. Wright, Bureau of Indian Affairs, Phoenix Area Office, P.O. Box 7007, Phoenix, Arizona 85011, telephone (602) 261-4184.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

This regulation is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Authority: Sec. 5, 43 Stat. 476; 45 Stat. 210, 211; 5 U.S.C. 301.

Accordingly Title 25 CFR, Part 233 is amended as follows:

PART 233—SAN CARLOS INDIAN IRRIGATION PROJECT

1. The table of contents is amended by adding the following entry:

* * * * * * *

Sec.

233.54 Rate adjustments due to purchased power cost changes.

* * * * * * *

2. Sections 233.7, 233.51, 233.52 (b)–(d), (g) and 233.53 are revised and § 233.54 is added to read as follows:

§ 233.7 Installation or extension financed by consumer.

If funds are not otherwise available for an installation or extension, or if an extension to a prospective consumer will require new construction beyond the distances specified in § 233.6, the consumer or prospective consumer may, after executing an appropriate contract satisfactory to the Project Engineer, construct the needed installation or extension, or arrange to pay the Project to construct the needed installation or extension. Payment for construction by the Project shall be advanced prior to commencement of construction. Installations or extensions to be constructed by the consumer or prospective consumer shall be constructed in accordance with suitable plans and specifications approved by the Project Engineer. All installations or extensions when constructed shall be and remain the property of the United States.

§ 233.51 Rate schedule No. 1—residential rate.

(a) *Application of schedule.* This schedule is applicable to single-phase or three-phase service for residences and small, non-commercial users. Unless specifically permitted by the contract, use must be limited to the consumer's own premises and power supplied must not be resold. If more than one meter is required by the customer's installation or for the customer's convenience, bills will be independently calculated for each meter.

(b) *Monthly rate.* (1) $8.00, minimum which includes the first 50 kilowatt-hours;

(2) 8.0 cents per kilowatt-hour for the next 100 kilowatt-hours;

(3) 5.1 cents per kilowatt-hour for the next 350 kilowatt-hours;

(4) 4.4 cents per kilowatt-hours for all additional kilowatt-hours.

(c) *Minimum bill.* The minimum bill shall be $8.00 per month except when a higher minimum bill is stipulated in the contract.

(d) *Purchased power adjustment.* An adjustment shall be added to each KWH used equal to the estimated average purchased power adjustment (rounded to the nearest $0.0001) paid by the Project to Project's power suppliers.

§ 233.52 Rate schedule no. 2—General rate.

* * * * * * *

(b) *Monthly rate.* (1) $8.00 minimum which includes the first 50 kilowatt-hours;

(2) 9.6 cents kilowatt-hour for the next 350 kilowatt-hours;

(3) 5.7 cents per kilowatt-hour for the next 600 kilowatt-hours;

(4) 3.1 cents per kilowatt-hour for the next 9,000 kilowatt-hours.

(5) When use is 10,000 kilowatt-hours or more: First 10,000 kilowatt-hours $354.80.

(6) Additional kilowatt-hours at 3.1 cents per kilowatt-hour, less a credit of .6 cents per kilowatt-hour for each kilowatt-hour above 200 times the billing demand (50 KW minimum).

(c) *Minimum bill.* The minimum bill shall be $1.75 per month per kilowatt of billing demand, except where the customer's requirements are of a distinctly recurring seasonal nature. Then the minimum monthly bill shall not be more than an amount sufficient to make the total charges for the twelve (12) months ending with current month, equal to twelve times the highest monthly minimum computed for the same twelve month period. However, no monthly billing shall be less than $8.00.

(d) *Contract demand.* Each contract for 15 KW or over shall state the number of kilowatts which the customer expects to require and desires to have reserved for his service. This quantity is called the contract demand.

* * * * * * *

(g) *Purchased power adjustment.* An adjustment shall be added for each KWH used equal to the estimated average purchased power adjustment (rounded to the nearest $0.0001) paid by the Project to the Project's power suppliers.

§ 233.53 Rate schedule No. 3—Street and area lighting.

(a) *Application of schedule.* This rate schedule applies to service for yard lighting, lighting streets, alleys, thorough-fares, parks, schoolyards, industrial areas, parking lots, and similar areas where such dusk-to-dawn service is desired. The Project will own and operate lighting systems and provide normal lamp replacements.

(b) *Monthly rate.* (1) Lamps:

	1	Each 2 to 5	5 or more
200 W or less, incandescent (2,800 lm or less)	5.30	5.20	5.20
175 W mercury vapor (approximately 6,500 lm)	8.50	7.80	8.50
250 W mercury vapor (approximately 10,000 lm)	10.50	9.40	8.50
400 W mercury vapor (approximately 18,000 lm)	13.70	12.00	10.30

The minimum term of a service contract will be 12 months, payable in advance. The advance payment may be waived in special cases by the Project Engineer. Installation charges, the cost of wood poles or special steel, aluminum, or other supports, special fixtures, and the cost of underground service will be charged as determined by the Project Engineer.

§ 233.54 Rate adjustments due to purchased power cost changes.

The rate schedules given in §§ 233.51, 233.52 and 233.53 shall be adjusted as necessary and appropriate to defray increases in costs of power and energy purchased from the power supplier(s) of the Project. Rate adjustments pursuant to this provision shall become effective upon unilateral action of the Area Director; however when a rate adjustment is determined to be necessary, the Area Director shall give sufficient notice to customers and other interested parties.

Rick Lavis,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 80-2135 Filed 1-23-80; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 5

[T.D. 7667]

Temporary Income Tax Regulations Under the Revenue Act of 1978; Treatment of Certain Capital Gains of Regulated Investment Companies and Real Estate Investment Trusts

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to the treatment of certain capital gains by regulated investment companies, real estate investment trusts, and their shareholders. Changes to the applicable tax law were made by the Revenue Act of 1978. These regulations affect regulated investment companies, real estate investment trusts, and their shareholders and provide them with guidance needed to comply with the law.

EFFECTIVE DATES: The temporary regulations are effective for taxable years of a regulated investment company or a real estate investment trust beginning before November 1, 1978, and ending after October 31, 1978, or beginning before January 1, 1979, and ending after December 31, 1978. They are also effective for a regulated investment company or real estate investment trust with any taxable year paying dividends after October 31, 1978, under sections 855, 858, 859 (as in effect prior to enactment of the Revenue Act of 1978) and 860 of the Internal Revenue Code of 1954.

FOR FURTHER INFORMATION CONTACT: Kent J. Schreiner of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T, 202-566-3289).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to the treatment of certain capital gains by regulated investment companies, real estate investment trusts, and their shareholders. The temporary regulations are necessary because of the amendments made to sections 1202 and 1201 by sections 402 and 403 of the Revenue Act of 1978 (Pub. Law 95-600, 92 Stat. 2867, 2868. These temporary regulations replace the temporary regulations relating to the treatment of capital gains by regulated investment companies, real estate investment trusts and their shareholders adopted by T.D. 7586 published in the **Federal Register** for January 4, 1979 (44 FR 1106).

Statutory Provisions

Section 402 of the Revenue Act of 1978 amends section 1202 of the Code (relating to deduction for capital gains) by increasing the deduction for capital gains from 50 percent to 60 percent of the amount of net capital gain. Section 1202(c) provides a transitional rule for determining the applicable deduction for capital gains for a taxpayer other than a corporation. Under the transitional rule, a deduction is allowed equal to 60 percent of the lesser of the net capital gain for the taxable year or the net capital gain taking into account only sales and exchanges after October 31, 1978. The transitional rule also provides for a deduction equal to 50 percent of the excess of the net capital gain for the taxable year over the amount taken into account in computing the 60 percent deduction.

Section 403 of the Revenue Act of 1978 reduces the alternative rate of tax on the net capital gain of a corporation from 30 percent to 28 percent. Section 1201(c), as amended by the Revenue Act of 1978, provides a transitional rule for determining the applicable rate of tax on the net capital gain of a corporation. Under the transitional rule, a tax is provided equal to 28 percent of the lesser of the net capital gain for the taxable year or the net capital gain taking into account only sales and exchanges after December 31, 1978. In addition, the transitional rule provides for a tax of 30 percent on the excess of the net capital gain for the taxable year over the amount subject to the 28 percent tax.

Replacement of T.D. 7586

Temporary regulations (T.D. 7586) were published in the **Federal Register** for January 4, 1979 (44 FR 1106), to provide taxpayers with guidance needed to comply with the changes made by section 402 of the Revenue Act of 1978. That temporary regulation provided rules that were limited to the treatment of certain capital gains of regulated investment companies and real estate investment trusts with respect to their shareholders that are not corporations and with respect to taxable years ending before January 1, 1979. It also announced that additional temporary regulations would be adopted for taxable years ending after December 31, 1978, and for dividends paid after that date.

This new temporary regulation replaces T.D. 7586 without changing the rules provided by that Treasury decision. However, this temporary regulation incorporates the transitional rules provided by both sections 402 and 403 of the Revenue Act of 1978. Thus, rules are provided for all capital gains realized by the regulated investment company or real estate investment trust during the transitional periods, regardless of the time that the gains are actually distributed, and regardless of whether or not the shareholder is a corporation.

Explanation of Provisions

Under sections 852(b)(3)(B) and 857(b)(3)(B), capital gain dividends received by shareholders of a regulated investment company and real estate investment trust are treated as gain from the sale or exchange of a capital asset held for more than 1 year and are included in income in the taxable year of the shareholder in which the dividend is received. The temporary regulations require that the regulated investment company or real estate investment trust designate the portion of a shareholder's capital gain dividend that is to be taken into account in computing the 60 percent capital gain deduction and the amount subject to the 28 percent capital gains tax. In making the designation, the regulated investment company or real estate investment trust must allocate their capital gain dividends to specified periods during which the capital gains were realized. The temporary regulations contain rules for determining the shareholder's proportionate share of the capital gain dividend.

Under section 852(b)(3)(D) a regulated investment company may designate an amount of undistributed capital gains that shareholders must include in gross income as gain from the sale or exchange of a capital asset held for more than 1 year. The temporary regulations prescribe similar rules for designated undistributed capital gains as those prescribed for capital gain dividends.

The Income Tax Regulations (26 CFR Part 1) under subchapter M, chapter 1 of the Code continue to apply while the temporary regulations provided by this document are effective. However, where the temporary regulations contained in this document are inconsistent with such Income Tax Regulations, the temporary regulations are to apply.

Technical Corrections Bill of 1979

The Technical Corrections Bill of 1979 (S. 614, 96th Cong., 1st Sess. (1979); H.R. 2797, 96th Cong., 1st Sess. (1979)) was passed by the House of Representatives on July 16, 1979. If enacted into law in the form passed by the House of Representatives, then these temporary regulations would not apply to (a) dividends includible in gross income of shareholders, other than corporations, with taxable years beginning after October 31, 1979, or (b) dividends includible in gross income of shareholders that are corporations with taxable years beginning after December 31, 1979.

Waiver of Certain Procedural Requirements

There is need for expeditious adoption of the provisions contained in this document because regulated investment companies, real estate investment trusts and their shareholders must be provided with immediate guidance in applying the transitional rules provided by sections 402 and 403 of the Revenue Act of 1978. For this reason, Jerome Kurtz, Commissioner of Internal Revenue, has determined that the provisions of parargaphs 8 through 14 of the Treasury Department directive implementing Executive Order 12044 must be waived.

Drafting Information

The principal author of this regulation is Kent J. Schreiner of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments of the Regulations

Accordingly, 26 CFR Part 5 is amended by deleting § 5.852-1, § 5.852-2, § 5.857-1 and § 5.857-2 and inserting in lieu thereof the following new sections:

§ 5.852-1 Treatment of certain capital gains of regulated investment companies.

(a) *Taxation of certain capital gains of regulated investment companies.* Section 403 of the Revenue Act of 1978 reduces the alternative rate of tax imposed by section 1201(a) on the net capital gain of a corporation from 30 percent to 28 percent for taxable years ending after December 31, 1978. Section 1201(c), as amended by the Revenue Act of 1978, provides a transitional rule for determining the applicable rate of tax under section 1201(a) on net capital gain for a corporation with a taxable year beginning before January 1, 1979, and ending after December 31, 1978. A regulated investment company that is taxable under part I, subchapter M, chapter 1 of the Code (hereinafter regulated investment company) must pay a tax on its capital gains under section 852(b)(3)(A). The tax is determined at a rate provided in section 1201(a) on the excess of the company's net capital gain over its deduction for dividends paid (as defined in section 561) determined with reference to capital gain dividends only. For a regulated investment company with a taxable year beginning before January 1, 1979, and ending after December 31, 1978, in computing the deduction for dividends paid, any capital gain dividends (including any capital gain dividends declared after the close of the taxable year but considered as having been paid during the taxable year under section 855) shall be considered made first from the company's post-1978 capital gain, to the extent thereof, and then from its pre-1979 capital gain. For definitions of "pre-1979 capital gain" and "post-1978 capital gain", see paragraph (e) of this section.

(b) *Capital gain dividends—(1) Designation of capital gain dividends.* In general, under section 852(b)(3)(C) a capital gain dividend is any dividend, or part thereof, that is designated by a regulated investment company as a capital gain dividend in a written notice mailed to its shareholders not later than 45 days after the close of its taxable year. A regulated investment company with a taxable year beginning before November 1, 1978, and ending after October 31, 1978, or beginning before January 1, 1979, and ending after December 31, 1978, designating capital gain dividends with respect to such years, or a regulated investment company with any taxable year distributing capital gain dividends after October 31, 1978, under sections 855 or 860, also must include in its written notice to its shareholders a statement showing the shareholder's proportionate share of the dividend that is post-October 1978 capital gain (for use by the shareholder if the shareholder is not a corporation) and post-1978 capital gain (for use by the shareholder if the shareholder is a corporation). For the definition of "post-October 1978 capital gain", see paragraph (e) of this section.

(2) *Special procedural requirements.* In determining the portion of the capital gain dividend that is post-October 1978 capital gain in the hands of shareholders other than corporations, the regulated investment company shall consider that capital gain dividends for the taxable year are made first from its post-October 1978 capital gain, to the extent thereof, and then from its pre-November 1978 capital gain. For the definition of "pre-November 1978 capital gain", see paragraph (e) of this section. In determining the portion of the capital gain dividend that is post-1978 capital gain in the hands of shareholders that are corporations, the regulated investment company shall consider that capital gain dividends for the taxable year are made first from its post-1978 capital gain, to the extent thereof, and then from its pre-1979 capital gain. For purposes of this paragraph (b)(2), the company's post-October 1978 capital gain and post-1978 capital gain shall

each be allocated first to capital gain dividends (taking into account dividends under section 855 first), to the extent thereof, second to designated undistributed capital gains, to the extent thereof, and third to other capital gains retained by the company. The proportionate share of post-October 1978 capital gain designated for a shareholder other than a corporation is the amount that bears the same ratio to the amount paid to the shareholder as a capital gain dividend for the year as (i) the aggregate amount of the company's post-October 1978 capital gain paid to all shareholders (including shareholders that are corporations) bears to (ii) the aggregate amount of the capital gain dividend paid for the year. The proportionate share of post-1978 capital gain designated for a shareholder that is a corporation is the amount that bears the same ratio to the amount paid to it as a capital gain dividend for the year as (i) the aggregate amount of the company's post-1978 capital gain paid to all shareholders (including shareholders that are not corporations) bears to (ii) the aggregate amount of the capital gain dividend paid for the year. Every regulated investment company shall keep a record of the proportion of each capital gain dividend (to which this paragraph (b) applies) that is post-October 1978 capital gain and post-1978 capital gain.

(c) *Undistributed capital gains*—(1) *In general.* A regulated investment company that designates undistributed capital gains shall notify its shareholders of the designation according to the provisions of § 1.852-9(a)(1). In addition, a regulated investment company with a taxable year beginning before November 1, 1978, and ending after October 31, 1978, or beginning before January 1, 1979, and ending after December 31, 1978, that designates undistributed capital gains for such year shall also show on Form 2439 the shareholder's proportionate share of the designated undistributed capital gains that is considered post-October 1978 capital gain (for use by the shareholder if the shareholder is not a corporation) and post-1978 capital gain (for use by the shareholder if the shareholder is a corporation), the tax paid with respect to the company's designated undistributed capital gains deemed to have been paid by the shareholder, and the amount (determined pursuant to paragraph (c)(3) of this section) by which the shareholder's adjusted basis in its shares shall be increased.

(2) *Special procedural requirements.* In determining the portion of the designated undistributed capital gains that is post-October 1978 capital gain for shareholders other than corporations, the regulated investment company shall consider the designated amount as being first from its post-October 1978 capital gain, to the extent thereof, and then from its pre-November 1978 capital gain. In determining the portion of the designated undistributed capital gains that is post-1978 capital gain for shareholders that are corporations, the regulated investment company shall consider the designated amount as being first from its post-1978 capital gain, to the extent thereof, and then from its pre-1979 capital gain. For purposes of this paragraph (c)(2), the company's post-October 1978 capital gain and post-1978 capital gain shall each be allocated first to capital gain dividends, to the extent thereof, second to designated undistributed capital gains, to the extent thereof, and third to other capital gains retained by the company. For a shareholder other than a corporation, the proportionate share of undistributed capital gains for a taxable year that is from post-October 1978 capital gain is the amount that bears the same ratio to the amount included in the shareholder's income as designated undistributed capital gains for the year as (i) the aggregate amount of the company's post-October 1978 capital gain for the year designated as undistributed capital gains (including amounts designated for shareholders that are corporations) bears to (ii) the aggregate amount of the company's gains for the year that are designated as undistributed capital gains. For a shareholder that is a corporation, the proportionate share of undistributed capital gains for a taxable year that is from post-1978 capital gain is the amount that bears the same ratio to the amount included in its income as designated undistributed capital gains for the year as (i) the aggregate amount of the company's post-1978 capital gain for the year designated as undistributed capital gains (including amounts designated for shareholders other than corporations) bears to (ii) the aggregate amount of the company's gains for the year that are designated as undistributed capital gains. Every regulated investment company shall keep a record of the proportion of undistributed capital gains (to which this paragraph applies) that is from post-October 1978 capital gain and post-1978 capital gain.

(3) *Increase in adjusted basis.* Each shareholder's adjusted basis in its shares shall be increased by the amount includible in its gross income under section 852(b)(3)(D)(i), minus the tax that the shareholder is deemed to have paid under section 852(b)(3)(D)(ii). The tax that each shareholder is deemed to have paid is the amount that bears the same ratio to the amount of the tax imposed by section 852(b)(3)(A) on the aggregate amount of the undistributed capital gains designated for the year as the amount of such gains includible in the shareholder's gross income bears to the aggregate amount of undistributed capital gains designated for all shareholders.

(4) *Effect of certain undistributed capital gains on earnings and profits.* If a regulated investment company designates an amount as undistributed capital gains for a taxable year under section 852(b)(3)(D), its earnings and profits for the year are reduced by the total amount of the designated undistributed capital gains. The company's capital account shall be increased by the total amount designated minus the amount of tax imposed by section 852(b)(3)(A) with respect to the designated amount. For purposes of determining the tax imposed by section 852(b)(3)(A) for amounts designated under section 852(b)(3)(D), for taxable years beginning before January 1, 1979, and ending after December 31, 1978, after taking into account capital gain dividends according to the rules of paragraph (b) of this section, the designated amount shall be treated as being first from post-1978 capital gain, to the extent thereof, and then from pre-1979 capital gain.

(d) *Taxation of certain capital gains of shareholders of regulated investment companies*—(1) *In general.* Section 402 of the Revenue Act of 1978 increases the deduction for capital gains from 50 percent to 60 percent of the amount of net capital gain for taxable years ending after October 31, 1978. Section 1202(c), as amended by the Revenue Act of 1978, provides a transitional rule for determining the applicable deduction for capital gains for a taxpayer, other than a corporation, with a taxable year beginning before November 1, 1978, and ending after October 31, 1978. Section 403 of the Revenue Act of 1978 reduces the rates of tax imposed by section 1201(a) on the net capital gain of a corporation from 30 percent to 28 percent for taxable years ending after December 31, 1978. Section 1201(c), as amended by the Revenue Act of 1978, provides a transitional rule for determining the applicable rate of tax under section 1201(a) on the net capital gain of a corporation with a taxable year beginning before January 1, 1979, and ending after December 31, 1978.

(2) *Capital gain dividends.* Under section 852(b)(3)(B), capital gain dividends received by shareholders of a regulated investment company are treated as gain from the sale or exchange of a capital asset held for more than 1 year and are included in income in the taxable year of the shareholder in which the dividend is received.

(i) *Shareholders other than corporations.* In the case of a regulated investment company with a taxable year beginning before November 1, 1978, and ending after October 31, 1978, paying capital gain dividends with respect to such year, or in the case of a regulated investment company with any taxable year distributing capital gain dividends after October 31, 1978, under sections 855 or 860, the portion of the capital gain dividend of a shareholder other than a corporation that is post-October 1978 capital gain is only the portion of the total dividend designated by the regulated investment company pursuant to paragraph (b) of this section. Any capital gain dividend, or portion thereof, not designated post-October 1978 capital gain is to be considered pre-November 1978 capital gain. For dividends paid before November 1, 1978, for taxable years ending before November 1, 1978, see § 1.852-4.

(ii) *Shareholders that are corporations.* In the case of a regulated investment company with a taxable year beginning before January 1, 1979, and ending after December 31, 1978, paying capital gain dividends with respect to such year, or in the case of a regulated investment company with any taxable year distributing capital gain dividends after December 31, 1978, under sections 855 or 860, the portion of the capital gain dividend of a shareholder that is a corporation that is post-1978 capital gain is only the portion of the total dividend designated by the regulated investment company pursuant to paragraph (b) of this section. Any capital gain dividend, or portion thereof, not designated post-1978 capital gain is to be considered pre-1979 capital gain. For dividends paid before January 1, 1979, for taxable years ending before January 1, 1979, see § 1.852-4.

(3) *Undistributed capital gains.* (i) A shareholder of a regulated investment company at the close of the company's taxable year shall include in its gross income as gain from the sale or exchange of a capital asset held for more than 1 year any amount of undistributed capital gains designated by the company under section 852(b)(3)(D). The amount shall be included in the shareholder's gross income for the taxable year that includes the last day of the taxable year of the regulated investment company for which the undistributed capital gains were designated. However, for undistributed capital gains designated for any taxable year of a regulated investment company beginning before November 1, 1978, and ending after October 31, 1978, or beginning before January 1, 1979, and ending after December 31, 1978, the portion of each shareholder's designated undistributed capital gains that is post-October 1978 capital gain or post-1978 capital gain is only the portion designated by the regulated investment company pursuant to paragraph (c) of this section. Any designated undistributed capital gains, or portion thereof, not designated post-October 1978 capital gain is to be considered pre-November 1978 capital gain. Any designated undistributed capital gains, or portion thereof, not designated post-1978 capital gain is to be considered pre-1979 capital gain. For undistrubuted capital gains designated for taxable years ending before November 1, 1978, for shareholders other than corporations, and for undistributed capital gains designated for taxable years ending before January 1, 1979, for shareholders that are corporations, see § 1.852-9.

(ii) Any shareholder required to include an amount of undistributed capital gains in gross income under section 852(b)(3)(D)(i) and paragraph (d)(3)(i) of this section shall be deemed to have paid, for its taxable year for which the amount is includible, a tax equal to the tax designated under paragraph (c)(1) of this section as the shareholder's proportionate share of the capital gains tax paid with respect to such amount by the regulated investment company.

(iii) Any shareholder required to include an amount of undistributed capital gains in gross income under section 852(b)(3)(D)(i) and paragraph (d)(3)(i) of this section shall increase the adjusted basis of the shares of stock in respect of which such amount is includible by the amount designated under paragraph (c)(3) of this section by the regulated investment company.

(e) *Definitions*—(1) *Pre-November 1978 capital gain.* For purposes of this section, the term "pre-November 1978 capital gain" means net capital gain described in section 1202(c)(2), as amended by the Revenue Act of 1978.

(2) *Post-October 1978 capital gain.* For purposes of this section, the term "post-October 1978 capital gain" means net capital gain described in section 1202(c)(1), as amended by the Revenue Act of 1978.

(3) *Pre-1979 capital gain.* For purposes of this section, the term "pre-1979 capital gain" means net capital gain that is subject to tax at a rate of 30 percent as provided by section 1201(c), as amended by the Revenue Act of 1978.

(4) *Post-1978 capital gain.* For purposes of this section, the term "post-1978 capital gain" means net capital gain that is subject to tax at a rate of 28 percent as provided by section 1201(c), as amended by the Revenue Act of 1978.

(f) *Example.* The rules of this section are illustrated by the following example:

Example. (1) *Facts.* XYZ Company, a regulated investment company, makes its return using a fiscal year. Its taxable year begins on June 1 and ends on May 31. During its taxable year ending on May 31, 1979, XYZ Company realized the following capital gains and losses:

	August	December	February
Long-term capital gain	$1600	$2400	$5200
Long-term capital loss	200	400	600
Short-term capital gain	800	200	0
Short-term capital loss	0	600	200

Net capital gain for the year = $6000.

Under section 855, XYZ Company elects to treat $3400 as a capital gain dividend that will be distributed in the following taxable year. XYZ Company distributes $800 as a dividend during its taxable year ending on May 31, 1979, to its shareholders and designates the amount as capital gain. The company also designates $2800 as undistributed capital gains and retains the remaining $1200 of capital gains.

(2) *Application of definitions*—(i) *Post-October 1978 capital gain.* Under paragraph (e)(2) of this section, post-October 1978 capital gain is defined as the net capital gain described in section 1201(c)(1) or $6000 (the lesser of $8000 net capital gain for the taxable year or $6000 net capital gain taking into account only sales and exchanges after October 31, 1978).

(ii) *Pre-November 1978 capital gain.* Under paragraph (e)(1) of this section, pre-November 1978 capital gain is defined as the net capital gain described in section 1201(c)(2) or $2000 (the excess of $8000 net capital gain for the taxable year over $6000 taken into account in computing post-October 1978 capital gain).

(iii) *Post-1978 capital gain.* Under paragraph (e)(4) of this section, post-1978 capital gain is defined as the net capital gain that is subject to tax at a rate of 28 percent as provided by section 1201 (c) or $4400 (the lesser of $8000 net capital gain for the taxable year or $4400 net capital gain taken into account only sales and exchanges after December 31, 1978).

(iv) *Pre-1979 capital gain.* Under paragraph (e)(3) of this section, pre-1979 capital gain is defined as net capital gain that is subject to tax at a rate of 30 percent as provided by section 1201(c) or $3600 (the excess of $8000 net capital gain for the taxable year over $4400 taken into account in computing post-1978 capital gain).

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(3) *Allocation of capital gains*—(i) *Capital gain dividends.* Under paragraph (b)(2) of this section, of the $4,200 capital gain dividend ($3,400 treated under section 855 plus $800 distributed), $4,200 is post-October 1978 capital gain. Similarly, under paragraph (b)(2) of this section, $4,200 is post-1978 capital gain.

(ii) *Undistributed capital gains.* Under paragraph (c) (2) of this section, of the $2,600 designated as undistributed capital gains, $1,800 (the excess of $6,000 total post-October 1978 capital gain over $4,200 taken into account in computing capital gain dividends) is post-October 1978 capital gain and the remaining $800 is pre-November 1978 capital gain. Similarly, under paragraph (c) (2) of this section, of the $2,600 designated as undistributed capital gain, $200 (the excess of $4,400 total post-1978 capital gain over $4,200 taken into account in computing capital gain dividends) is post-1978 capital gain and the remaining $2,400 is pre-1979 capital gain.

(iii) *Other capital gains.* The $1,200 of capital gains retained by the company is pre-1979 capital gain.

(4) *Determination of proportionate share*—(i) *Capital gain dividends.* Under paragraph (b) (2) of this section, each shareholder's proportionate share of post-October 1978 capital gain is 100 percent of the total capital gain dividend received ($6,000 total post-October 1978 capital gain dividend divided by $6,000 total capital gain dividends for the taxable year). Similarly, each shareholder's proportionate share of post-1978 capital gain is 100 percent of the total capital gain dividends.

(ii) *Undistributed capital gains.* Under paragraph (c) (2) of this section, each shareholder's proportionate share of post-October 1978 designated undistributed capital gains is 69.23 percent of the undistributed capital gains designated for him ($1,800 total post-October 1978 designated undistributed capital gains divided by $2,600 total designated undistributed capital gains). Similarly, under paragraph (c) (2), each shareholder's proportionate share of post-1978 designated undistributed capital gains is 7.69 percent of the undistributed capital gains designated for him ($200 total post-1978 designated undistributed capital gains dividend by $2,600 total designated undistributed capital gains).

(g) *Other applicable regulations.* In general, the Income Tax Regulations (26 CFR Part 1) under part I, subchapter M, chapter 1 of the Code are to apply to the treatment of capital gains by regulated investment companies. However, where this section is inconsistent with such Income Tax Regulations, this section is to apply.

§ 5.857–1 Treatment of certain capital gains of real estate investment trusts.

(a) *Taxation of certain capital gains of real estate investment trusts.* Section 403 of the Revenue Act of 1978 reduces the alternative rate of tax imposed by section 1201(a) on the net capital gain of a corporation from 30 percent to 28 percent for taxable years ending after December 31, 1978. Section 1201(c), as amended by the Revenue Act of 1978, provides a transitional rule for determining the applicable rate of tax under section 1201(a) on the net capital gain of a corporation with a taxable year beginning before January 1, 1979, and ending after December 31, 1978. A real estate investment trust that is taxable under part II, subchapter M, chapter 1 of the Code (hereinafter real estate investment trust) is provided with an alternative tax on its capital gains under section 857(b)(3)(A). The alternative tax is determined, in part, at a rate provided in section 1201(a) on the excess of the trust's net capital gain over its deduction for dividends paid (as defined in section 561) determined with reference to capital gain dividends only. For a real estate investment trust with a taxable year beginning before January 1, 1979, and ending after December 31, 1978, in computing the deduction for dividends paid, any capital gain dividends (including any dividends declared after the close of such taxable year but considered as having been paid during such taxable year under section 858) shall be considered made first from the trust's post-1978 capital gain, to the extent thereof, and then from its pre-1979 capital gain. For definitions of "pre-1979 capital gain" and "post-1978 capital gain", see paragraph (d) of this section.

(b) *Capital gain dividends*—(1) *Designation of capital gain dividends.* In general, under section 857(b)(3)(C) a capital gain dividend is any dividend, or part thereof, that is designated by a real estate investment trust as a capital gain dividend in a written notice mailed to its shareholders (or holders of beneficial interests) not later than 30 days after the close of its taxable year. A real estate investment trust with a taxable year beginning before November 1, 1978, and ending after October 31, 1978, or beginning before January 1, 1979, and ending after December 31, 1978, designating capital gain dividends with respect to such years, or a real estate investment trust with any taxable year distributing capital gain dividends under sections 858, 859 (as in effect prior to enactment of the Revenue Act of 1978) or 860 after October 31, 1978, also must include in its written notice to its shareholders a statement showing the shareholder's proportionate share of the dividend that is post-October 1978 capital gain (for use by the shareholder if the shareholder is not a corporation) and post-1978 capital gain (for use by the shareholder if the shareholder is a corporation). For the definition of "post-October 1978 capital gain", see paragraph (d) of this section.

(2) *Special procedural requirements.* In determining the portion of the capital gain dividend that is post-October 1978 capital gain in the hands of shareholders other than corporations, the real estate investment trust shall consider that capital gain dividends for the taxable year are made first from its post-October 1978 capital gain, to the extent thereof, and then from its pre-November 1978 capital gain. For the definition of "pre-November 1978 capital gain", see paragraph (d) of this section. In determining the portion of the capital gain dividend that is post-1978 capital gain in the hands of shareholders that are corporations, the real estate investment trust shall consider that capital gain dividends for the taxable year are made first from its post-1978 capital gain, to the extent thereof, and then from its pre-1979 capital gain. For purposes of this paragraph (b)(2), the trust's post-October 1978 capital gain and post-1978 capital gain shall be allocated first to capital gain dividends (taking into account dividends under section 858 first), to the extent thereof, and second to other capital gains retained by the trust. The proportionate share of post-October 1978 capital gain designated for a shareholder other than a corporation is the amount that bears the same ratio to the amount paid to him as a capital gain dividend for the year as (i) the aggregate amount of the trust's post-October 1978 capital gain paid to all shareholders (including shareholders that are corporations) bears to (ii) the aggregate amount of the capital gain dividend paid for the year. The proportionate share of post-1978 capital gain designated for a shareholder that is a corporation is the amount that bears the same ratio to the amount paid to it as a capital gain dividend for the year as (i) the aggregate amount of the trust's post-1978 capital gain paid to all shareholders (including shareholders that are not corporations) bears to (ii) the aggregate amount of the capital gain dividend paid for the year. Every real estate investment trust shall keep a record of the proportion of each capital gain dividend (to which this paragraph applies) that is post-October 1978 capital gain and post-1978 capital gain.

(c) *Taxation of certain capital gains of shareholders of real estate investment trust*—(1) *In general.* Section 402 of the Revenue Act of 1978 increases the deduction for capital gains from 50 percent to 60 percent of the amount of net capital gain for taxable years ending after October 31, 1978. Section 1202(c), as amended by the Revenue Act of 1978, provides a transitional rule for determining the applicable deduction for

capital gains for a taxpayer, other than a corporation, with a taxable year beginning before November 1, 1978, and ending after October 31, 1978. Section 403 of the Revenue Act of 1978 reduces the alternative rate of tax imposed by section 1201(a) on the net capital gain of a corporation from 30 percent to 28 percent for taxable years ending after December 31, 1978. Section 1201(c), as amended by the Revenue Act of 1978, provides a transitional rule for determining the applicable rate of tax under section 1201(a) on the net capital gain of a corporation with a taxable year beginning before January 1, 1979, and ending after December 31, 1978.

(2) *Capital gain dividends.* Under section 857(b)(3)(B), capital gain dividends received by shareholders of a real estate investment trust are treated as gain from the sale or exchange of a capital asset held for more than 1 year and are included in income in the taxable year of the shareholder in which the dividend is received.

(i) *Shareholders other than corporations.* In the case of a real estate investment trust with a taxable year beginning before November 1, 1978, and ending after October 31, 1978, paying capital gain dividends with respect to such year, or in the case of a real estate investment trust with any taxable year distributing capital gain dividends after October 31, 1978, under sections 858, 859 (as in effect prior to enactment of the Revenue Act of 1978) or 860, the portion of the capital gain dividend of a shareholder other than a corporation that is post-October 1978 capital gain is only the portion of the total dividend designated by the real estate investment trust pursuant to paragraph (b) of this section. Any capital gain dividend, or portion thereof, not designated post-October 1978 capital gain is to be considered pre-November 1978 capital gain. For dividends paid before November 1, 1978, for taxable years ending before November 1, 1978, see § 1.857–4.

(ii) *Shareholders that are corporations.* In the case of a real estate investment trust with a taxable year beginning before January 1, 1979, and ending after December 31, 1978, paying capital gain dividends with respect to such year, or in the case of a real estate investment trust with any taxable year distributing capital gain dividends after December 31, 1978, under sections 858, 859 (as in effect prior to enactment of the Revenue Act of 1978) or 860, the portion of the capital gain dividend of a shareholder that is a corporation that is post-1978 capital gain is only the portion of the total dividend designated by the real estate investment trust pursuant to paragraph (b) of this section. Any capital gain dividend, or portion thereof, not designated post-1978 capital gain is to be considered pre-1979 capital gain. For dividends paid before January 1, 1979, for taxable years ending before January 1, 1979, see § 1.857–4.

(d) *Definitions*—(1) *Pre-November 1978 capital gain.* For purposes of this section, the term "pre-November 1978 capital gain" means net capital described in section 1202(c)(2), as amended by the Revenue Act of 1978.

(2) *Post-October 1978 capital gain.* For purposes of this section, the term "post-October 1978 capital gain" means net capital gain described in section 1202(c)(1), as amended by the Revenue Act of 1978.

(3) *Pre-1979 capital gain.* For purposes of this section, the term "pre-1979 capital gain" means net capital gain that is subject to tax at a rate of 30 percent as provided by section 1201(c), as amended by the Revenue Act of 1978.

(4) *Post-1978 capital gain.* For purposes of this section, the term "post-1978 capital gain" means net capital gain that is subject to tax at a rate of 28 percent as provided by section 1201(c), as amended by the Revenue Act of 1978.

(e) *Example.* The rules of this section are illustrated by the following example:

Example. (1) *Facts.* XYZ, a real estate investment trust, makes its return using a fiscal year. Its taxable year begins on June 1 and ends on May 31. During its taxable year ending on May 31, 1979, XYZ realized the following capital gains and losses:

	August	December	February
Long-term capital gain	$1000	$4400	$2000
Long-term capital loss	500	200	400
Short-term capital gain	0	100	300
Short-term capital loss	500	100	200

Net capital gain for the year = $5600

Under section 858, XYZ elects to treat $3000 as a capital gain dividend that will be distributed in the following taxable year. XYZ distributes $500 as a dividend during its taxable year ending on May 31, 1979, and designates the amount as capital gain. The trust retains the remaining $2100 of capital gains.

(2) *Application of definitions*—(i) *Post-October 1978 capital gain.* Under paragraph (d)(2) of this section, post-October 1978 capital gain is defined as the net capital gain described in section 1202(c)(1) of $5600 (the lesser of $5600 net capital gain for the taxable year or $5800 net capital gain taking into account only sales and exchanges after October 31, 1978).

(ii) *Pre-November 1978 capital gain.* Under paragraph (d)(1) of this section, pre-November 1978 capital gain is defined as the net capital gain described in section 1202(c)(2) or $0 (the excess of $5600 net capital gain for the taxable year over $5600 taken into account in computing post-October 1978 capital gain).

(iii) *Post-1978 capital gain.* Under paragraph (d)(4) of this section, post-1978 capital gain is defined as the net capital gain that is subject to tax at a rate of 28 percent as provided by section 1201(c) or $1600 (the lesser of $5600 net capital gain for the taxable year or $1600 net capital gain taking into account only sales and exchanges after December 31, 1978).

(iv) *Pre-1979 capital gain.* Under paragraph (d)(3) of this section, pre-1979 capital gain is defined as net capital gain that is subject to tax at a rate of 30 percent as provided by section 1201(c) or $4000 (the excess of $5600 new capital gain for the taxable year over $1600 taken into account in computing post-1978 capital gain).

(3) *Allocation of capital gains*—(i) *Capital gain dividends.* Under paragraph (b)(2) of this section, of the $3500 capital gain dividend ($3000 treated under section 858 plus $500 distributed) $3500 is post-October 1978 capital gain and $0 is pre-November 1978 capital gain. Similarly, under paragraph (b)(2) of this section, of the $3500 capital gain dividend, $1600 is post-1978 capital gain and the remaining $1900 is pre-1979 capital gain.

(ii) *Other capital gains.* The $2100 retained by the trust is pre-1979 capital gain.

(4) *Determination of proportionate share.* Under paragraph (b)(2) of this section, each shareholder's proportionate share of post-October 1978 capital gain is 100 percent of the total capital gain dividend ($3500 total post-October 1978 capital gain divided by $3500 total capital gain dividends for the taxable year). Similarly, each shareholder's proportionate share of post-1979 capital gain is 45.71 percent of the total capital gain dividends ($1600 total post-1978 capital gain divided by $3500 total capital gain dividends for the taxable year).

(f) *Other applicable regulations.* In general, the Income Tax Regulations (26 CFR Part 1) under part II, subchapter M, chapter 1 of the Code are to apply to the treatment of capital gains by real estate investment trusts. However, where this section is inconsistent with such Income Tax Regulations, this section is to apply.

There is need for the immediate guidance provided by the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the

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Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: January 2, 1980.

Donald C. Lubick,
Assistant Secretary of the Treasury.

[FR Doc. 80-2288 Filed 1-23-80; 8:45 am]

BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 170, 231 and 240

[T.D. ATF-63; Ref: Notice No. 319]

Elimination and Simplification of Certain Public Use Forms Prepared by the Wine Industry

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Final rule (Treasury decision).

SUMMARY: This rule eliminates seven winery forms, simplifies the monthly bonded winery report, changes the currently required semi-annual wine inventories and reporting of losses to an annual requirement and simplifies affected regulation sections. This rule will ease a reporting burden and lighten the paperwork required for wine industry members.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, 202-566-7626.

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Alcohol, Tobacco and Firearms found that a number of wine industry forms required by regulations (1) duplicate recordkeeping and reporting requirements, (2) are prepared in a format not compatible with a proprietor's operations or commercial records systems, and (3) are no longer necessary since the required information is available to ATF through other source records. Also, the wine report, ATF F 5120.17, submitted monthly by industry members was found difficult to prepare and requested information no longer necessary in some cases.

On April 10, 1979, a notice of proposed rulemaking was published in the **Federal Register** (44 FR 22473), which proposed to amend 27 CFR Parts 231 and 240, by eliminating seven winery forms and simplifying the monthly bonded winery report. The information required by the eliminated forms was to be replaced by commercial records of the proprietor's operations. The notice also proposed a reduction in the required wine inventories from semi-annual to annual.

Interested persons were given until June 15, 1979, to submit relevant data, views, or arguments regarding the proposals.

Discussion of Comments

Several written comments were received in response to the proposed regulations. In addition to the briefs submitted by individual industry members, the Wine Institute, a trade association whose members produce approximately 75 percent of all wine produced in California, submitted a comment letter. The comments received are discussed below according to the subject areas they addressed.

Elimination of Required Forms

Most of the commenters favored the elimination of all seven of the forms as proposed. Two commenters favored keeping the Form 2056, Record of Still Wine, and one of these commenters favored retaining the Form 2621, Record of Bottled Wine, combined into the Form 2056. One commenter favored retaining the Form 2059, Record of Distilling Materials or Vinegar Stock.

Many constructive suggestions were made on the proposed regulations which specify the record information to be maintained. If the suggestion improved the understanding of the regulation or eliminated duplicate recordkeeping, the suggestion was incorporated into this final rule. The following forms are therefore eliminated by this final rule: Form 2056, Record of Still Wine; Form 2621, Record of Bottled Wine; Form 2057, Record of Effervescent Wine; Form 2058, Special Natural Wine Production Record; Form 2059, Record of Distilling Materials or Vinegar Stock; Form 2060, Record of Cases Filled; and Form 702-C, Inventory of Wine.

Revised Report

The revision proposed for simplifying the monthly report of winery operations, ATF F 5120.17, received many favorable comments. However, many commenters objected to changing the Form 702 to the ATF Subject Classification No. 5120.17. Therefore, we have added a "(702)" to the new form number because it is well known to ATF regulatory personnel and those in the wine industry involved with Government regulations.

Change of Semi-Annual to Annual Inventory

Only one commenter opposed changing the required semi-annual wine inventory to an annual requirement. The objection was based on a possible difficulty in resolving problems discovered during an audit. While we agree inventory differences might be difficult to resolve at wineries taking only an annual inventory, we believe most proprietors' inventory controls, including full or partial periodic counts, are adequate.

Other Comments

A number of suggestions were offered by commenters which were not the subject of the notice of proposed rulemaking. These suggestions have been added to the comments received on an advance notice of proposed rulemaking for revising all wine regulations. Some of the suggestions requested the use of metric system on tax returns and reports, allowing monthly or quarterly tax returns for wineries paying under a given tax amount, and the dropping of fractional parts of a gallon for reports.

Authority and Issuance

The regulations are issued under 68A Stat 917; 26 U.S.C. 7805. Accordingly, 27 CFR is amended as follows:

PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

§ 170.687 [Amended]

1. Section 170.687 is amended to change Form 702 to Form 5120.17(702) whenever found in the section.

2. Section 170.690(b) is revised to reflect the elimination of Form 2056 and the change of Form 702 to Form 5120.17(702). As amended, § 170.690(b) reads as follows:

§ 170.690 Bonded wine cellar records.

* * * * *

(b) *Summaries and reports.* The quantity of wine, or wine products made from wine, used to produce nonbeverage wine shall be recorded daily in records prescribed by 27 CFR 240.908. At the close of each month, the quantities shall be totaled and the total recorded as a credit on Form 5120.17(702). The quantities of nonbeverage wine produced and withdrawn each month shall be summarized each month by tax class and reported on Form 5120.17(702) for that month.

3. Section 170.691 is revised to reflect the elimination of Form 702-C and the change of Form 702 to Form 5120.17(702). Also, the required inventory is changed from semi-annual to annual and no inventory report is submitted to the regional regulatory administrator. As amended, § 170.691 reads as follows:

§ 170.691 Inventories.

Each proprietor producing nonbeverage wines shall take a physical inventory of all nonbeverage wines in bond at the same time as the inventory required under 27 CFR 240.903. The nonbeverage wine inventory record shall show the total quantity of wine in each tax class by formula number. The inventory record shall be retained as required under 27 CFR 240.903.

PART 231—TAXPAID WINE BOTTLING HOUSES

1. Section 231.111 is revised to reflect the elimination of Form 2060. As amended, § 231.111 reads as follows:

§ 231.111 Record of cases filled.

Each proprietor of a taxpaid wine bottling house shall maintain a daily record, by tax class, of wine cases filled. The record shall contain the following information:

(a) The bottling tank number;
(b) The kind of wine bottled;
(c) The date the cases were filled;
(d) the size of the bottles and the number of cases filled;
(e) The serial numbers of the cases filled; and
(f) The total quantity bottled in liters or wine gallons.

(72 Stat. 1381; 26 U.S.C. 5367)

2. Section 231.113 is revised to change the required semi-annual inventory to an annual inventory. As amended, § 231.113 reads as follows:

§ 231.113 Inventories.

Each proprietor of a taxpaid wine bottling house shall take an inventory of all wine on their premises on June 30 of each year or where a different period has been established, the inventory shall be taken at the end of that period. (proprietors who want to establish a different annual inventory period from the period beginning on July 1 and ending on June 30 shall submit a notice, in duplicate, to the regional regulatory administrator. The notice shall set the date the inventory year will begin and end.) The proprietor's inventory record shall include:

(a) The serial numbers, if any, of all containers (except filled cases);
(b) Description of wine;
(1) State the generic name (i.e., port, claret) or designate as white or red table or dessert wine; or
(2) Wine intended to be marketed with a vintage, varietal and/or geographical claim shall be appropriately identified (i.e., 1977 Napa Valley Pinot Noir).
(c) Inventory summary;
(1) Bulk and bottled wines shall be totaled in liters or wine gallons separately by tax class; and
(2) All wines shall be summarized by kind.
(d) Inventory record;
(1) All inventory pages shall be numbered consecutively;
(2) The last inventory page shall be dated and signed after the statement, "Under penalties of perjury, I declare that I have examined this inventory record and to the best of my knowledge and belief, it is a true, correct and complete record of all wines required to be inventoried;" and
(3) The proprietor shall retain the record of inventory and the working papers available for inspection by ATF officers at any reasonable hour.

(72 Stat. 1381; 26 U.S.C. 5369)

PART 240—WINE

1. Table of Contents Subpart UU—Records and Reports is amended to reflect the change of a form number and the elimination of six forms. As amended, the Table of Contents Subpart UU reads as follows:

Subpart UU—Records and Reports

Sec.
240.900 Form 5120.17(702).
240.901 Form 2050.
240.902 Form 2052.
240.903 Inventories.
* * * * *
240.905 Prescribed forms.
* * * * *
240.908 Record of bulk still wines.
240.909 Record of effervescent wine.
240.910 Record of special natural wine and other wine production.
240.911 Record of distilling material or vinegar stock.
240.912 Record of bottled wine.
240.913 (Deleted).
240.914 Sugar record.
* * * * *

§ 240.320 [Amended]

2. Section 240.320 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.321 [Amended]

3. Section 240.321 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.362 [Amended]

4. Section 240.362 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.367 [Amended]

5. Section 240.367 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.383 [Amended]

6. Section 240.383 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.402 [Amended]

7. Section 240.402 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.408 [Amended]

8. Section 240.408 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.443 [Amended]

9. Section 240.443 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.486 [Amended]

10. Section 240.486 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.487 [Amended]

11. Section 240.487 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.491 [Amended]

12. Section 240.491 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.620 [Amended]

13. Section 240.620 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.633 [Amended]

14. Section 240.633 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.662 [Amended]

15. Section 240.662 is revised to reflect the elimination of Form 2056 and the change of Form 702 to Form 5120.17(702). As revised, § 240.662 reads as follows:

§ 240.662 Records.

Soured wine removed as vinegar shall be recorded and reported on the proprietor's record of bulk still wine and on Form 5120.17(702).

(72 Stat. 1381; (26 U.S.C. 5367))

§ 240.672 [Amended]

16. Section 240.672 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.722 [Amended]

17. Section 240.722 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

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§ 240.726 [Amended]

18. Section 240.726 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.730 [Amended]

19. Section 240.730 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.732 [Amended]

20. Section 240.732 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.753 [Amended]

21. Section 240.753 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.763 [Amended]

22. Section 240.763 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.773 [Amended]

23. Section 240.773 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

24. Section 240.783 is revised to reflect the change Form 702 to Form 5120.17(702) and a change in inventory requirements. As revised, § 240.783 reads as follows:

§ 240.783 Losses during a year.

Any losses on bonded wine cellar premises during the year shall be entered on monthly report Form 5120.17(702) when determined. The proprietor shall take an actual inventory of all untaxpaid wine on-hand in the bonded wine cellar as of the close of business June 30 of each year or where a period different from July 1 to June 30 has been established, the inventory shall be taken at the end of that period. The inventory shall be recorded as required by § 240.903, and losses disclosed by an inventory shall be reported on Form 5120.17(702) for the appropriate month. No claim for allowance of loss is required for losses in production or storage provided (a) there are no circumstances indicating that all or a part of the wine reported lost was unlawfully removed, and (b) the loss did not exceed 3 percent of the aggregate quantity of wine on-hand at the beginning of the year and received in bond during the year, 6 percent of the still wine produced by fermentation, 6 percent of the sparkling wine produced by fermentation in bottles, 3 percent of the special natural wine produced under § 240.444 or wine produced under § 240.488, 3 percent of the artificially carbonated wine produced, and 3 percent of the bulk process sparkling wine produced, at the bonded wine cellar during the annual period.

(72 Stat. 1381; 26 U.S.C. 5367)

§ 240.785 [Amended]

25. Section 240.785 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.786 [Amended]

26. Section 240.786 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.787 [Amended]

27. Section 240.787 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.802 [Amended]

28. Section 240.802 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.808 [Amended]

29. Section 240.808 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.836 [Amended]

30. Section 240.836 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

§ 240.837 [Amended]

31. Section 240.837 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

32. Section 240.900 is revised to reflect the change of Form 702 to Form 5120.17(702). As revised, § 240.900 reads as follows:

§ 240.900 Form 5120.17.

The proprietor of each bonded wine cellar shall submit Form 5120.17(702), Monthly Report of Wine Cellar Operations, to the regional regulatory administrator as per instructions on the form. Bonded wine cellar operations shall be summarized and reported on Form 5120.17(702) as indicated by the headings of lines and columns, and in accordance with the instructions printed on the form. The information reported on Form 5120.17(702) shall be obtained from the wine cellar records maintained in accordance with the requirements of this part. Where fractional parts of a gallon are involved, they shall be expressed in decimals to the nearest one-tenth gallon, five hundredths gallon being converted to the next full one-tenth gallon.

(72 Stat. 1381; 26 U.S.C. 5367)

33. Section 240.903 is revised to reflect the elimination of Form 702–C and the change of Form 702 to Form 5120.17(702). Also, the required inventory is changed from semi-annual to annual and no inventory report is submitted to the regional regulatory administrator. As revised, § 240.903 reads as follows:

§ 240.903 Inventory.

Each proprietor of a bonded wine cellar shall prepare a record of the inventory taken of all wine in storage at the close of business on June 30 of each year or where a different period has been established, the inventory shall be taken at the end of that period. (Proprietors who want to establish a different annual inventory period from the period beginning on July 1 and ending on June 30 shall submit a notice, in duplicate, to the regional regulatory administrator.) The inventory record shall be retained on file with the proprietor's Form 5120.17(702) for the month the inventory was taken. If at other times complete inventories of wine are taken and losses disclosed are reported on the monthly report, Form 5120.17(702) an inventory record shall be prepared and remain on file with the proprietor's Form 5120.17(702) for that month. The proprietor's inventory record shall include:

(a) Serial number of containers;

(1) Where barrels or puncheons are involved, list as "barrels" or "puncheons;" and

(2) Total volume of one kind of wine in bottles or cases may be entered as one item appropriately identified.

(b) Description of wine;

(1) State the generic name (i.e., port, claret) or designate as a white or red table or dessert wine; or

(2) Wine intended to be marketed with a vintage, varietal and/or geographical claim shall be appropriately identified (i.e., 1977 Napa Valley Pinot Noir); or

(3) If the wine is other than grape wine, state the type (i.e., orange, honey).

(c) Inventory summary—Bulk and bottled wines shall be totaled separately in wine gallons or in liters, by tax class, and reported on Form 5120.17(702);

(d) Inventory record;

(1) All inventory pages shall be numbered consecutively; and

(2) The last inventory page shall be dated and signed after the statement, "Under penalties of perjury, I declare that I have examined this inventory record and to the best of my knowledge and belief, it is a true, correct and complete record of all wines required to be inventoried."

(72 Stat. 1381; 26 U.S.C. 5367, 5369)

34. Section 240.905 is revised to reflect the elimination of all prescribed cellar record forms (Forms 2056, 2057, 2058, 2059 and 2621). As revised, § 240.905 reads as follows:

§ 240.905 Prescribed forms.

All reports required by this part shall be submitted on forms prescribed by the Director. Entries shall be made as indicated by the headings of the columns and lines and as required by the instructions on the form. Form reports filed with the regional regulatory administrator are furnished free of cost.

(72 Stat. 1381; 26 U.S.C. 5367)

35. Section 240.906 is revised to reflect the change of Form 702 to Form 5120.17(702) and to reflect the elimination of Forms 702–C, 2056, 2057, 2058, 2059 and 2621. As revised, § 240.906 reads as follows:

§ 240.906 Records and reports under the metric system.

Each proprietor of a bonded wine cellar shall maintain records in wine gallons or in liters. Required reports, tax returns, and transaction records submitted to the regional regulatory administrator shall have quantities reported in wine gallons.

(72 Stat. 1381; 26 U.S.C. 5367)

36. Section 240.908 is revised to reflect the elimination of Form 2056 and the change of Form 702 to Form 5120.17(702). As revised, § 240.908 reads as follows:

§ 240.908 Record of bulk still wine.

Each proprietor of a bonded wine cellar who produces or receives still wine, other than distilling material or vinegar stock made with excess water, shall maintain a daily record of transactions for bulk still wine. A separate record (verifiable by source records) shall be maintained for each tax class of still wine. The record shall contain the following:

(a) The quantity produced, received, shipped taxpaid, removed (i.e., in bond, export, family use, samples), and used in effervescent wine production;

(b) The specific type of production method used (i.e., natural fermentation, sweetening, addition of wine spirits, amelioration, blending);

(c) The quantity of wine produced by fermentation determined by actual measurement;

(d) The quantity used and produced by sweetening, amelioration or addition of wine spirits established by measurements taken before and after production. In addition, the record shall contain the kind and quantity of any materials added to these wines;

(e) The quantity of wine used and produced by blending (record only if wine of different tax classes are blended together);

(f) The quantity of standard wine or wine lees removed to fermenters for refermentation or removed directly to the production facilities of a distilled spirits plant or vinegar plant; and

(g) An explanation of any unusual transaction.

At the end of each month the totals of the daily records shall be reported on Form 5120.17(702).

(72 Stat. 1381; 26 U.S.C. 5367)

37. Section 240.909 is revised to reflect the elimination of Form 2057 and the change of Form 702 to Form 5120.17(702). As revised, § 240.909 reads as follows:

§ 240.909 Record of effervescent wine.

Each proprietor of a bonded wine cellar producing or receiving effervescent wine shall maintain a daily record showing the details of production, receipt, storage, removal and loss. A separate record (verifiable by source records) shall be maintained for each specific process used (bulk or bottle fermented or artificially carbonated) and by the specific kind of wine (i.e., grape, pear, cherry). The record shall contain the following:

(a) Quantity of still wine put into bottles or pressure tanks prior to secondary fermentation;

(b) Quantity of first dosage used;

(c) In process bottling losses (i.e., refilling, spillage, breakage);

(d) Transfer and receipts of effervescent wines in process;

(e) Quantity of effervescent wines in process returned to still wine;

(f) Quantity of finishing dosage used;

(g) Quantity of wine contained in bottles of finished effervescent wine (amount produced);

(h) Quantity of each item used in the production of dosages (i.e., wine, syrup, wine spirits); and

(i) An explanation of any unusual transaction. At the end of each month all daily entries shall be totaled and entered on Form 5120.17(702).

(72 Stat. 1381; 26 U.S.C. 5367)

38. Section 240.910 is revised to reflect the elimination of Form 2058 and the change of Form 702 to Form 5120.17(702). As revised, § 240.910 reads as follows:

§ 240.910 Record of special natural wine and other wine production.

Each proprietor of a bonded wine cellar producing special natural wine or wine under § 240.488 shall maintain a daily record showing the details of production. The record shall contain the following:

(a) A number for each lot of wine produced;

(b) The approved formula number for each lot of wine;

(c) The quantity of wine used in the production of special natural wine, wine under § 240.488 and essences;

(d) The quantity of essences produced or purchased by the proprietor (whether made with wine spirits or other alcohol) and the use, transfer or other disposition of those essences;

(e) The date each lot of wine is finished;

(f) The gain or loss resulting from the production of each lot of wine as determined by comparing the quantity finished with the quantity used (report the total monthly loss or gain in Part I Section A of Form 5120.17(702));

(g) An explanation of any unusual loss or gain (report in Part X of Form 5120.17(702));

(h) A record of the production of essences showing date of production, formula number, quantities of wine spirits and herbs used and the amounts produced; and

(i) A separate record shall be maintained of the receipt and use or other disposition of all herbs, aromatics, or other flavoring materials to be used in the production of special natural wine or wine under § 240.488.

Proprietors producing special natural wine or wine under § 240.488 shall maintain a separate record of herbs and similar products, and in addition, keep the same records as are required in the production of natural wine.

(72 Stat. 1381; 26 U.S.C. 5367)

39. Section 240.911 is revised to reflect the elimination of Form 2059 and the change of Form 702 to Form 5120.17(702). As revised § 240.911 reads as follows:

§ 240.911 Record of distilling material or vinegar stock.

Each proprietor of a bonded wine cellar producing or receiving wine with excess water expressly for use as distilling material or vinegar stock shall maintain a daily record showing the amount and kind produced, received (and from whom), and removed (and to whom). The proprietor shall keep a separate record by each type of material used from which the distilling material or vinegar stock was fermented (i.e., grape, berry). All distilling material or vinegar stock produced, including wine lees refermented for use as distilling material, shall be recorded upon removal from fermenting tanks. At the end of each month the proprietor shall record the total of daily transactions in Part VI of Form 5120.17(702). This section shall not apply to standard wine or unwatered wine lees recorded on the proprietor's record of bulk still wine and removed for use as distilling material or vinegar stock.

(72 Stat. 1381; 26 U.S.C. 5367)

40. Section 240.912 is revised to reflect the elimination of Form 2621 and the change of Form 702 to Form 5120.17(702). As revised, § 240.912 reads as follows:

§ 240.912 Record of bottled wine.

Each proprietor of a bonded wine cellar who bottles wine or receives bottled wine in bond shall keep a daily record of bottled wine, by tax class, showing the quantity of wine bottled, the quantity of bottled wine received in bond, the quantity of taxpaid bottled wine returned to bond, and the quantity of bottled wine removed (i.e., taxpaid removals, transfers in bond, dumped to bulk or destroyed, breakage, used for tasting). At the end of each month the proprietor shall record the total of daily transactions in Part I Section B of Form 5120.17(702) and shall explain any unusual transactions in Part X of the form. The quantity bottled shall be based on the number and size of bottles filled. The quantity recorded as bottled for bottle fermented sparkling wine shall be determined after the disgorging and refilling process.

(72 Stat. 1381; 26 U.S.C. 5367)

§ 240.913 [Deleted]

41. Section 240.913 is deleted due to the elimination of all prescribed cellar record forms (Forms 2056, 2057, 2058, 2059 and 2621).

§ 240.915 [Amended]

42. Section 240.915 is revised to change Form 702 to Form 5120.17(702) whenever found in the section.

43. Section 240.916 is revised for purposes of clarification. As revised, § 240.916 reads as follows:

§ 240.916 Varietal and vintage wine records.

A proprietor of a bonded wine cellar removing wine under a varietal, vintage, appellation of origin, or any other designation shall maintain complete records so that any designation claimed may be verified by audit.

(72 Stat. 1381; 26 U.S.C. 5367)

44. Section 240.923 is revised to reflect the elimination of Form 702–C and the change of Form 702 to Form 5120.17(702). As revised, § 240.923 reads as follows:

§ 240.923 Filing of forms.

Each proprietor of a bonded wine cellar shall file records and retained copies of reports in chronological order and in bound or other secure form. An inventory record shall be filed with the Form 5120.17(702) for the month the inventory was taken.

(72 Stat. 1381; 26 U.S.C. 5367)

Signed: November 2, 1979.

G. R. Dickerson,

Director.

Approved: January 7, 1980.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 80-2220 Filed 1-23-80; 8:45 am]

BILLING CODE 4810-31-M

Fiscal Service

31 CFR Part 240

Forms of Indorsement on U.S. Treasury Checks

AGENCY: Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: On January 4, 1980 (45 FR 1020), a final rule was published concerning forms of indorsement on U.S. Treasury checks. One of the changes made to the pre-existing regulation, 31 CFR 240 concerned Social Security benefit checks issued jointly to individuals of the same family. The pre-existing regulation made it possible for the surviving co-payee(s) to negotiate the check after the death of the other co-payee(s). The final rule, published on January 4, 1980, eliminated the procedure allowing the surviving co-payee(s) to negotiate the check. The applicable re-numbered section is 240.8(a)(5). This rule reinstates the previously applicable wording, and again allows the surviving co-payee(s) to negotiate the check. The Social Security Administration and others have advised that the pre-existing wording was necessary to continue a procedure beneficial to the public. For that reason, the previous wording is being reinstated, prior to the effective date of the final rule.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Michael D. Serlin, Assistant Commissioner, Disbursement and Claims, Room 416, Annex Building, Pennsylvania Avenue and Madison Place, NW., Washington, D. C. 20226, (202) 566–2392.

SUPPLEMENTARY INFORMATION: It is not deemed necessary to invite comment on this issue, since the net effect is not to change an existing regulation, and particularly since this change is favorable to those most likely to be affected.

Accordingly, Part 240, Title 31 of the Code of Federal Regulations is amended as follows:

By revising Section 240.8(a)(5), to read as follows:

§ 240.8 [Amended]

(a) * * *

(5) *Social Security benefit checks issued jointly to individuals of the same family.* A social security benefit check issued jointly to two or more individuals of the same family shall, upon the death of one of the joint payees prior to the negotiation of such check, be returned to the Social Security District Office or to the Treasury Disbursing Office. Payment of the check to the surviving payee or payees may be authorized by placing on the face of the check a stamped legend signed by an official of the Social Security Administration or the Treasury Disbursing Office, redesignating such survivor or survivors as the payee or payees of the check. A check bearing such stamped legend, signed as herein prescribed, may be indorsed and negotiated by the person or persons named as if such check originally had been drawn payable to such person or persons.

Signed this 18th day of January 1980.

D. A. Paglini,

Commissioner.

[FR Doc. 80-2158 Filed 1-23-80; 8:45 am]

BILLING CODE 4810-35-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1398-1]

Approval and Promulgation of Implementation Plans; Georgia 1979 Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today announces its approval of the Georgia 1979 implementation plan revisions providing for attainment of the 8-hour national ambient air quality standard for carbon monoxide in the Atlanta nonattainment area (those portions of Clayton, DeKalb, and Fulton Counties within perimeter highway I–285).

EPA today also announces its approval of a five year extension, until December 31, 1987, of the deadline for attaining the CO standard in the Atlanta nonattainment area.

DATE: This action is effective January 24, 1980.

ADDRESS: Copies of the materials submitted by Georgia and the comments received in response to the proposal notice of August 24, 1979 (44 FR 49702), may be examined during normal

business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30308.

Air Protection Branch, Environmental Protection Division, Georgia Department of Natural Resources, 270 Washington Street, SW, Atlanta, Georgia 30334.

FOR FURTHER INFORMATION CONTACT: Melvin Russell, Region IV, Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30308, 404/881–3286 (FTS 257–3286).

SUPPLEMENTAL INFORMATION: On May 9, 1979 [44 FR 27184], EPA described the Georgia 1979 implementation plan revisions submitted pursuant to the requirements of Part D of Title I of the Clean Air Act. In that notice, certain deficiencies were noted in the transportation control measures needed to assure attainment of the 8-hour carbon monoxide standard in the Atlanta nonattainment area.

The Georgia Environmental Protection Division, on June 29, 1979, submitted materials designed to correct the deficiencies noted in the Agency's proposal notice. On August 24, 1979 (44 FR 49702), EPA discussed in a second proposal notice the additional materials submitted by the Georgia Environmental Protection Division and invited public comment on the Georgia revisions for the Atlanta CO nonattainment area.

Listed below are the deficiencies noted in 44 FR 27184 and the corrections noted in 44 FR 49702.

1. *Deficiency:* A memorandum of agreement between the state and the metropolitan planning organization, which delineates responsibilities under the Transportation Control Program, is not included in the SIP.

Correction: A memorandum of agreement signed by the appropriate agencies and submitted to EPA by letter of June 29, 1979, signed by Mr. Ledbetter, which identifies the responsibilities of each agency under the Transportation Control Program pursuant to the requirements of Section 174 of the CAAA.

2. *Deficiency:* The current 1979 TIP/AE must be reviewed for projects that have a positive air quality impact. Measures that are found to have benefits and are feasible must be submitted with implementation dates. The implementation dates should correspond to the dates shown in the TIP/AE. Those measures selected from the 1979 TIP/AE for incorporating into the State Implementation Plan must also include a commitment to the implementation and enforcement of such measures by the responsible agencies.

Correction: A list of projects, committed to implementation by July 1980, in the Atlanta area, which will have air qualify benefits was submitted by the State by letter of June 29, 1979 signed by Mr. Ledbetter. The projects were taken from the current Annual Element of the area's Transportation Improvement Program. The list of projects are to numerous too itemize here, but this list is available for inspection at the EPA Region IV Library. Letters of commitments to these projects by the State Department of Transportation, City of Atlanta, Clayton County Commission, Cobb County Commission, DeKalb County Commission, Fulton County Commission, and the Gwinnett County Commission were also submitted in the letter of June 29, 1979. Implementation dates are consistent with the Annual Element of the Transportation Improvement Program.

3. *Deficiency:* Section 108(f) requires EPA to publish and make available information documents on transportation control measures that are reasonably available for implementation in order to reduce emissions from transportation sources. EPA considers all Section 108(f) measures to be reasonably available. However, if through analysis some measures are found to be infeasible EPA will allow these measures to be withdrawn. The submittal does not contain the schedule for analysis of packages of 108(f) measures with a commitment to implement expeditiously the measures that are found feasible for implementation.

Correction: The 1979–1982 work program for the Atlanta Regional Commission, was submitted by the State and includes the schedule for analysis of Section 108(f) alternative transportation control measures. The Georgia Environmental Protection Division also submitted to EPA a letter dated June 29, 1979, commitments from the appropriate agencies to program those measures found feasible for expeditious implementation.

4. *Deficiency:* The submittal does not identify the financial and manpower allocations to accomplish the tasks required under Section 108(e) of the CAAA and other transportation system management elements and air quality related projects which are or will be incorporated into the Unified Planning Work Program (UPWP) and the Transportation Improvement Program/Annual Element (TIP/AE). The UPWP must also be modified to include provisions for progress reporting as required by the "Transportation/Air Quality Guidelines," issued pursuant to Section 108(e) of the CAAA. The SIP must contain only those measures from the modified UPWP and TIP/AE that are related to transportation air quality planning under Section 108(e) of the CAAA.

Correction: The 1979–1982 work program for the Atlanta Regional Commission submitted June 29, 1979, identifies the financial and manpower allocations to accomplish the analysis and to provide EPA with periodic progress reporting of the analysis.

5. *Deficiency:* The CAAA of 1977, Section 110(a)(3)(D), requires that a SIP which provides for attainment later than December 31, 1982, pursuant to Section 172(a)(2), shall be revised to include comprehensive measures and requirements referred to in subsection 110(c)(5)(B). The measures should: "establish, expand, or improve public transportation measures to meet basic transportation needs as expeditiously as practicable; and implement transportation control measures to attain and maintain national ambient air quality standards." EPA will accept a commitment to comply with this requirement.

Correction: A commitment from the Metropolitan Atlanta Rapid Transit Authority (MARTA) submitted by the State in the June 29, 1979, letter committing to the continued improvement and expansion of public transportation including implementation of appropriate projects from the annual element of the TIP and the expeditious implementation of future transportation control measures which are found feasible.

The public comments which were received are now discussed:

Comment: The Atlanta Coalition on the Transportation Crisis questions the commitment to increased public transit as contained in the Georgia Implementation Plan.

Agency Response: EPA considers the commitment adequate in that the plan contains commitments to improve public transportation by the Atlanta Regional Commission (planning) and by the Metropolitan Atlanta Rapid Transit Authority (implementation).

Comment: The National Wildlife Federation questioned the use of linear rollback modeling to determine the percent reduction in transportation related emissions required to attain the ambient standards.

Agency Response: EPA guidance permits linear rollback as an approved modeling technique for the 1979 plan

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revisions in the absence of the monitoring data that is required by more sophisticated modeling techniques. EPA is currently working with the Georgia Environmental Protection Division to upgrade the monitoring network in preparation for the 1982 revision which will require a modeling technique more sophisticated than linear rollback.

The plan submitted by the Georgia Environmental Protection Division for the purpose of attaining the Carbon Monoxide (CO) standard in the Atlanta Area, does not demonstrate attainment by December 31, 1982. Therefore an inspection/maintenance (I/M) program must be implemented in order to comply with Part D of Title I of the Clean Air Act.

"Inspection/Maintenance" (I/M) refers to a program whereby motor vehicles receive periodic inspections to assess the functioning of their exhaust emission control systems. Vehicles which have excessive emissions must then undergo mandatory maintenance. Generally, I/M programs include passenger cars, although other classes can be included as well. Enforcement can be accomplished by requiring proof of compliance to purchase license plates or to register a vehicle. In certain cases, a windshield sticker system can be used, much like many safety inspection programs.

Section 172 of the Clean Air Act requires that State Implementation Plans for States which include non-attainment areas must meet certain criteria. For areas which demonstrate that they will not be able to attain the ambient air quality standards for ozone or carbon monoxide by the end of 1982, despite the implementation of all reasonably available control measures, an extension to the end of 1987 will be granted. In such cases Section 172 (b)(11)(B) requires that: "the plan provisions shall establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program . . ." EPA issued guidance on February 24, 1978, on the general criteria for SIP approval including I/M, and on July 17, 1978, regarding the specific criteria for I/M SIP approval. Both of these notices are part of the SIP guidance material referred to in the General Preamble for proposed Rulemaking 44 FR 20373, n 6. Although the July 17, 1978, guidance should be consulted for details, the key elements for I/M SIP approval are as follows:

• *Legal Authority.* States or local governments must have adopted the necessary statutes, regulations, ordinances, etc., to implement and enforce the inspection/maintenance program. (Section 172 (b)(10).)

• *Commitment.* The appropriate governmental unit(s) must be committed to implement and enforce the I/M programs (Section 172(b)(10)).

• *Resources.* The necessary finances and resources to carry out the I/M program must be identified and committed (Section 172(B)(7)).

• *Schedule.* A specific schedule to establish the I/M program must be included in the State Implementation Plan. (Section 172(b)(11)(b)). Interim milestones are specified in the July 17, 1978, memorandum in accordance with the general requirement of 40 CFR 51.15(c).

• *Program Effectiveness.* As set forth in July 17, 1978, guidance memorandum, the I/M program must achieve a 25% reduction in passenger car exhaust emissions of hydrocarbons and a 25% reduction for carbon monoxide. This reduction is measured by comparing the levels of emission projected to December 31, 1987, with and without the I/M program. This policy is based on Section 172(b)(2) which states that "the plan provisions * * * shall * * * provide for the implementation of all reasonably available control measures * * *"

Specific detailed requirements of these five provisions are discussed below.

To be acceptable, I/M authority must be adequate to implement and effectively enforce the program and must not be conditioned upon further legislative approval or any other substantial contingency. However, the legislation can delegate certain decision making to an appropriate regulatory body. For example, a State department of environmental protection or department of transportation may be charged with implementing the program, selecting the type of test procedure as well as the type of program to be used, and adopting all necessary rules and regulations. I/M legal authority must be included with any plan revision which must include I/M (i.e., a plan which established an attainment date beyond December 31, 1982) unless an approved extension to certify legal authority is granted by EPA. The granting of such an extension, however, is an exceptional remedy to be utilized only when a State legislature has had no opportunity to consider enabling legislation.

Written evidence is also required to establish that the appropriate governmental bodies are "committed to implement and enforce the appropriate elements of the plan." (Section 172(b)(10).) Under Section 172(b)(7), supporting commitments for the necessary financial and manpower resources are also required.

A specific schedule to establish an inspection/maintenance program is required. (Section 172(b)(11)(B).)

The July 17, 1978, guidance memorandum established an EPA policy the key milestones for the implementation of the various I/M programs. These milestones meet the general SIP requirement for compliance schedules as governed by 40 CFR 51.15(c). That section requires that increments of progress be contained in compliance schedules of over one year in length.

To be acceptable an I/M program must achieve the requisite 25% reductions in both hydrocarbon (HC) and carbon monoxide (CO) exhaust emissions from passenger cars by the end of calendar year 1987. The Act mandates "Implementation of all reasonably available control as expediously as practicable." Section 172(b)(2). At the time of passage of the Clean Air Act Amendments of 1977, several inspection/maintenance programs were already operating, including mandatory programs of New Jersey and Arizona operating at about a 20% stringency. (The stringency of a program is defined as the initial proportion of vehicles which would have failed the program's standards if the affected fleet has not undergone I/M before initial testing. Because some motorists tune their vehicles before I/M tests, the actual proportion of vehicles failing is usually a smaller number than the stringency of the program.) Depending on program type (private garage or centralized inspection) a mandatory I/M program may be implemented as late as December 13, 1982 and the attainment date may be as late as December 31, 1987.

Based on an implementation date of December 31, 1982 and a 20% stringency factor, EPA predicts the reductions of both CO and HC exhaust emissions of 25% can be achieved by December 31, 1987. Earlier implementation of I/M will produce greater emission reductions. Thus, because of the Act's requirement for the implementation of all reasonably available control measures and because New Jersey and Arizona have effectively demonstrated practical operation of I/M programs with 20% stringency factors, it is EPA policy to use a 25% emission reduction as the criteria to determine compliance of the I/M portion with Section 172 (b)(2).

Inspection and Maintenance legislation, as signed by Governor Busbee on April 16, 1979, establishes legal authority for a mandatory program in counties with a vehicle registration of 200,000 or greater. In the Metro Atlanta area, these are Dekalb, Cobb, and Fulton Counties. The duties and powers of the Commissioner of the Public Safety and the Board of Natural Resources with respect to the I/M legislation are outlined in Section 10, page 20 and Section 8, page 14 respectively, of the bill. The program is to begin on April 1, 1981 (Ref. Section 7, page 10 of the bill) with mandatory repair of failed vehicles to begin April 1, 1982 (Ref. Section 9, page 18 of the bill).

In its State Implementation Plan, Georgia included provisions for an I/M program. This program would cover cars and light trucks, and provides for inspection each year. Inspections would be carried out by private licensed garages. Vehicles failing inspection must be repaired and reinspected. enforcement will be carried out through window stickers. Vehicles over ten years old will be excluded. Also, a vehicle exceeding the standards after its third inspection could be granted a waiver, if the cost of repairs exceeded fifty dollars ($50.00).

The complete I/M schedule is now listed:

State of Georgia—*Inspection/Maintenance Implementation Schedule

Decentralized—Private Garage Operated

Action	Completion Date
1. Initiation and continuation of public information through a voluntary I/M program.	July 1978
2. Preparation of a draft legislative package and submittal of legislation package to legislature.	January 1979
3. Certification of adequate legal authority by appropriate State official.	April 1979
4. Adoption of procedures and guidelines for testing and quality control including emission analyzer requirements.	April 1980
5. Development and adoption of cutpoints.	April 1980
6. Initial notification of garages explaining program and schedule of implementation.	January 1980
7. Notification of and explanation to garages of procedures and guidelines for testing and quality control including emission analyzer requirements.	May 1980
8. Initiation of licensing of garages	October 1980
9. Initiation of mechanics training and/or information program.	October 1980
10. Completion of equipment purchase and delivery of equipment.	January 1981
11. Initiation of mandatory inspection/voluntary maintenance.	April 1981
12. Initiation of mandatory repair for failed vehicles.	April 1982

*AUTHORITY—H.B. 424, signed into law on April 16, 1979.

Based on information in the SIP, the program will achieve a 25 percent reduction in HC and a 25 percent reduction in CO by December 31, 1987, thus complying with EPA's requirement for minimum emission reductions.

EPA is approving the I/M portion of the State of Georgia's SIP. The plan is complete and meets all requirements of the Clean Air Act of 1977, as outlined in the May 9, 1979 FR (44 FR 27184).

Actions

EPA has determined that the Georgia 1979 revisions for the Atlanta CO nonattainment area now satisfy all the requirements of the 1977 Clean Air Act Amendments and the Agency's implementing guidelines and that they are adequate to assure attainment of the national ambient air quality standards for that pollutant by the end of 1987. Accordingly, they are hereby approved.

Also, the conditions under which a five-year extension may be granted have been met in this case and the State's request for the extension is hereby granted. These actions are effective immediately.

(Sections 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502).)

Dated: January 18, 1980.

Douglas M. Costle,

Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart L—Georgia

1. In § 52.570, paragraph (c)(17) is revised to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.* * *

(17) 1979 Implementation plan revisions for nonattainment areas, submitted on January 17, March 9, 16, 20, and June 29, 1979, by the Georgia Department of Natural Resources. (No action is taken on the TSP plan for Sandersville. Conditional approval is given to the TSP plans for Atlanta and Savannah.)

2. Section 52.577 is revised to read as follows:

§ 52.577 Extensions.

(a) The Administrator hereby extends for 18 months (until July 1, 1980) the statutory timetable for submission of Georgia's plans for attainment and maintenance of the secondary standards for particulate matter in the Atlanta and Savannah areas (40 CFR 81.311).

(b) The Administrator hereby extends until December 31, 1987, the attainment date for the 8-hour national ambient air quality standard for carbon monoxide in the Atlanta area (40 CFR 81.311).

3. Section 52.575 is revised to read as follows:

§ 52.575 Attainment dates for national standards.

The following table presents the latest dates by which the national standards are to be attained. The dates reflect the information presented in Georgia's plan.

Air quality control region and nonattainment area	Pollutant						
	TSP		SO_2		NO_2	CO	O_3
	Primary	Secondary	Primary	Secondary			
Augusta (Georgia)-Aiken (South Carolina Interstate)	c	c	a	c	b	b	b
Metropolitan Atlanta Intrastate:							
a. Atlanta non-attainment areas*	d	f	c	c	b	e	d
b. Rest of AQCR	c	c	c	c	b	b	b
Chattanooga Interstate:							
a. Rossville*	d	f	a	c	b	b	b
b. Rest of AQCR	c	c	a	c	b	b	b
Columbus (Georgia)-Phenix City (Alabama) Interstate:							
a. Muscogee County	c	c	b	b	b	b	d
b. Rest of AQCR	c	c	b	b	b	b	b
Central Georgia Intrastate	c	c	c	c	b	b	b
Jacksonville (Florida)-Brunswick (Georgia) Interstate	c	c	a	c	b	b	b
Northeast Georgia Intrastate	a	c	b	b	b	b	b
Savannah (Georgia)-Beaufort (South Carolina) Interstate:							
a. Savannah*	d	f	c	c	b	b	b
b. Rest of AQCR	c	c	c	c	b	b	b
Southwest Georgia Intrastate	a	c	a	c	b	b	b

a. Air quality levels presently below primary standards or area is unclassifiable.
b. Air quality levels presently below secondary standards or area is unclassifiable.
c. July 1975.
d. December 31, 1982.
e. December 31, 1987.
f. 18-month extension granted.
*For more precise delineation, see 81.311 of this chapter.

NOTE.—Dates or footnotes which are italicized are prescribed by the Administrator because the plan did not provide a specific date or the date provided was not acceptable.

[FR Doc. 80-2225 Filed 1-23-80; 8:45 am]

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

41 CFR Parts 3–16 and 3–55

Procurement Forms; Service Contracts

AGENCY: Department of Health, Education, and Welfare.

ACTION: Final rule.

SUMMARY: The Office of the Secretary, Department of Health, Education, and Welfare is amending 41 CFR Chapter 3 to delete the outdated Part 3–55, Services Contracts, and to amend Part 3–16, Procurement Forms, by deleting § 3–16.5112, Representations and Certifications, and replacing it with a revised version of that section.

The following changes are being made to the referenced section in accordance with recently issued amendments to the Federal Procurement Regulations: (1) Replacement of three Cost Accounting Standards (Disclosure Statement—Cost Accounting Practices and Certifications; Cost Accounting Standards—Exemption; and Additional Cost Accounting Standards Applicable to Existing Contracts—Certification) with the Cost Accounting Standards—Certification—Nondefense Applicability; and (2) Replacement of the DHEW Equal Opportunity provision with that contained in the Standard Form 33 (Solicitation, Offer and Award). In addition, the representations and certifications have been renumbered to put them in a more orderly sequence.

EFFECTIVE DATE: January 24, 1980.

FOR FURTHER INFORMATION CONTACT: David Eskenazi, Division of Procurement Policy and Regulations Development, Office of Grants and Procurement, OASMB–OS, Department of Health, Education, and Welfare, 200 Independence Avenue, S.W., Washington, D.C. 20201 (202–245–0481).

SUPPLEMENTARY INFORMATION: It is the general policy of the Department of Health, Education, and Welfare to utilize the rulemaking process to solicit comments from the general public. However, because of the administrative nature of the changes, the issuance of a notice of proposed rulemaking is deemed unnecessary. The provisions of these amendments are issued under 5 U.S.C. 301 and 40 U.S.C. 486(c).

Dated January 16, 1980.

E. T. Rhodes,

Deputy Assistant Secretary for Grants and Procurement.

PART 3–55—[DELETED]

1. Part 3–55—Service Contracts, is deleted in its entirety.

2. Section 3–16.5112 is deleted and the following substituted therefor:

PART 3–16—PROCUREMENT FORMS

Subpart 3–16.51—Standardized Request for Proposal (RFP) Format and Checklist for Solicitation Documents

* * * * *

§ 3–16.5112 Representations and certifications.

The representations and certifications shown below shall be included as attachments to all RFP's which do not contain the Standard Form 33 or 33A:

(a) The request for proposal shall provide that copies of the Representations and Certifications must be executed by an official authorized to bind the offeror and made a part of the business proposal.

(b) The heading of the Representations and Certifications should be as follows:

Representations and Certifications

(The offeror makes the following representations and certifications as part of the proposal and must check or complete appropriate boxes or blanks.)

(c) The following note should be inserted at the bottom of the first page (separate from the text of any Representation or Certification) of the attachment:

Note.—The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

(d) The required Representations and Certifications are as follows:

1. Type of Organization

The offeror operates as an ( ) individual, ( ) state or local agency, ( ) partnership, ( ) joint venture, ( ) nonprofit, ( ) educational institution, ( ) corporation, organized and existing under the laws of the State of _____.

2. Employer's Identification Number

The offeror's Internal Revenue Service "Employer's Identification Number" is _____.

3. Small Business Representation

This firm ( ) is, ( ) is not, a small business concern. If the firm is a small business concern and is not the manufacturer of the supplies to be furnished hereunder, the firm also represents that all such supplies ( ) will; ( ) will not, be manufactured or produced by a small business concern in the United States, its possessions, or Puerto Rico. (A small business concern for the purpose of Government procurement is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is contracting and can further qualify under the criteria concerning number of employees, average annual receipts, or other criteria, as prescribed by the Small Business Administration). (See Code of Federal Regulations, Title 13, Part 121, as amended, which contains detailed definitions and related procedures.

4. Minority Business Enterprise

The offeror represents that it ( ) is, ( ) is not, a minority business enterprise. A minority business enterprise is defined as a "business at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members." For the purpose of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American-Eskimos, and American-Aleuts.

5. Woman-Owned Business

This firm ( ) is, ( ) is not, a woman-owned business. A woman-owned business is a business which is, at least, 51 percent owned, controlled, and operated by a woman or women. Controlled is defined as exercising the power to make policy decisions. Operated is defined as actively involved in the day-to-day management.

For the purposes of this definition, businesses which are publicly owned, joint stock associations, and business trusts are exempted. Exempted businesses may voluntarily represent that they are, or are not, woman-owned if this information is available.

6. Regular Dealer-Manufacturer Representation

(Applicable only to supply contracts exceeding $10,000.)

The offeror is a ( ) regular dealer in, ( ) manufacturer of, the supplies covered by this proposal.

7. Contingent Fee Representation

(Applicable only to proposals in which the aggregate amount involved exceeds $10,000.)

Offeror represents (a) that it ( ) has, ( ) has not, employed or retained any company or person (other than a full-time bona fide employee working solely for the offeror) to solicit or secure this contract, and (b) that it ( ) has, ( ) has not, paid or agreed to pay any company or person (other than a full-time bona fide employee working solely for the offeror) any fee, commission, percentage or brokerage fee, contingent upon or resulting from the award of this contract; and agrees to furnish information relating to (a) and (b) above as requested by the contracting officer.

(Note.—For interpretation of representation, including the term "bona fide employee," see Code of Federal Regulations, Title 41, Chapter 1, Subpart 1–1.5).

8. Percent of Foreign Content

The offeror/contractor will represent (as an estimate), immediately after the award of a contract, the percent of the foreign content of the item or service being procured expressed as a percent of the contract award price (accuracy within plus or minus 5 percent is acceptable).

9. Equal Opportunity Certification

The bidder (or offeror) ( ) has, ( ) has not, participated in a previous contract or subcontract subject either to the Equal Opportunity clause herein or the clause originally contained in section 301 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114; that it ( ) has, ( ) has not, filed all required compliance reports; and that representations, indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained prior to subcontract awards. (The above representation need not be submitted in connection with contracts or subcontracts which are exempt from the equal opportunity clause.)

The bidder (or offeror) represents that (1) it ( ) has developed and has on file, ( ) has not developed and does not have on file, at each establishment affirmative action programs as required by the rules and regulations of the Secretary of Labor (41 CFR 60–1 and 60–2) or (2) it ( ) has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor. *(The above representations shall be completed by each bidder (or offeror) whose bid (offer) is $50,000 or more and who has 50 or more employees.)*

10. Certification of Nonsegregated Facilities

By submission of this offer, the offeror or subcontractor certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. It certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The offeror, or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification the term "Segregated Facilities" means any waiting room, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise. It further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause; that it will retain such certifications in its files, and that it will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

Notice to Prospective Subcontractors of Requirement for Certifications of Nonsegregated Facilities

A Certification of Nonsegregated Facilities, as required by the May 9, 1967, order (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities, by the Secretary of Labor, must be submitted prior to the award of a subcontract exceeding $10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

Note.—Failure of an offeror to agree to the Certification of Nonsegregated Facilities shall render its offer nonresponsive to the terms of solicitations involving awards of contracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause.

11. Buy American Certificate

(Applies to proposals involving end products as defined by FPR 1–6.101.)

The offeror hereby certifies that each end product, except the end product listed below, is a domestic source and end product (as defined in the clause entitled "Buy American Act"), and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States:

Excluded end products (show country of origin for each excluded end product).

_____

12. Duplication of Cost

The Contractor represents and certifies that any charges contemplated and included in its estimate of cost for performance are not duplicative of any charges against any other Government contract, subcontract, or other Government source.

13. Place of Performance

Following is the name and location of the plant or place of business where the item(s) will be produced or supplied from stock or where the service will be performed.

_____

(Name of plant)

_____

(City and State)

_____

(County and Congressional District)

14. Certification of Independent Price Determination

a. By submission of this proposal, each offeror certifies and in the case of a joint bid or proposal, each party thereto, certifies as to its own organization, that in connection with this procurement:

(1) The prices in this proposal have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other offeror or with any competitor.

(2) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the offeror and will not knowingly be disclosed by the offeror prior to award directly or indirectly to any other offeror or to any competitor; and

(3) No attempt has been made or will be made by the offeror to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

b. Each person signing this proposal certifies that:

(1) He/she is the person in the offeror's organization responsible within that organization for the decision as to the prices being offered herein and that he/she has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above; or

(2) He/she is not the person in the offeror's organization responsible within that organization for the decision as to prices being offered herein but that he/she has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above, and as their agent does hereby so certify; and (b) he/she has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above.

c. This certification is not applicable to a foreign offeror submitting a proposal for a contract which requires performance or delivery outside the United States, its possessions and Puerto Rico.

d. A proposal will not be considered for award where (a)(1), (a)(3), or (b) above has been deleted or modified. Where (a)(2) above has been deleted or modified, the proposal will not be considered for award unless the offeror furnishes with the proposal a signed statement which sets forth in detail the circumstances of the disclosure and the head of the agency, or its designee, determines that such disclosure was not made for the purpose of restricting competition.

15. Cost Accounting Standards—Certification—Nondefense Applicability

(Certification No. 15 is not applicable to solicitations: (1) where the price is based on established catalog or market prices of commercial items sold in substantial

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quantities to the general public; (2) where the price is set by law or regulation; (3) sent to the Canadian Commercial Corporation; and (4) where the resulting contract will be executed and performed in their entirety outside the United States, its territories and possessions.)

Any negotiated contract in excess of $100,000 resulting from this solicitation shall be subject to the requirements of the clauses entitled Cost Accounting Standards—Nondefense Contract (FPR § 1–3.1204–2(a)) and Administration of Cost Accounting Standards (FPR § 1–3.1204–1(b)) if it is awarded to a contractor's business unit that is performing a national defense contract or subcontract which is subject to cost accounting standards (CAS) pursuant to 4 CFR 331 at the time of award, except contracts which are otherwise exempt (see FPR § 1–3.1203–2(a) and (c)(4)). Otherwise, an award resulting from this solicitation shall be subject to the requirements of the clauses entitled Consistency of Cost Accounting Practices—Nondefense Contract (FPR § 1–3.1204–2(b)) and Administration of Cost Accounting Standards (FPR § 1–3.1204–1(b)) if the award is (i) the first negotiated contract over $500,000 in the event the award is to a contractor's business unit that is not performing under any CAS covered national defense or nondefense contract or subcontract, or (ii) a negotiated contract over $100,000 in the event the award is to a contractor's business unit that is performing under any CAS covered national defense or nondefense contract or subcontract, except contracts which are otherwise exempt (see FPR § 1–3.1203–2(a) and (c)(4)). This solicitation notice is not applicable to small business concerns.

Certificate of CAS Applicability

The Offeror hereby certifies that:

a. ( ) It is currently performing a negotiated national defense contract or subcontract that contains a CAS Clause (4 CFR Part 331), and it is currently required to accept that clause in any new negotiated national defense contracts it receives that are subject to CAS.

b. ( ) It is currently performing a negotiated national defense or nondefense contract or subcontract that contains a CAS clause required by 4 CFR Part 331 or 332 or by FPR Subpart 1–3.12, but it is not required to accept the 4 CFR 331 clause in new negotiated national defense contracts or subcontracts which it receives that are subject to CAS.

c. ( ) It is not performing any CAS covered national defense or nondefense contract or subcontract. The offeror further certifies that it will immediately notify the Contracting Officer in writing in the event that it is awarded any negotiated national defense or nondefense contract or subcontract containing any CAS clause subsequent to the date of this certificate but prior to the date of the award of a contract resulting from this solicitation.

d. ( ) It is an educational institution receiving contract awards subject to FPR Subpart 1–15.3 (FMC 73–8, OMB Circular A–21).

e. ( ) It is a State or local government receiving contract awards subject to FPR Subpart 1–15.7 (FMC 74–4, OMB Circular A–87).

f. ( ) It is a hospital.

Note.—Certain firm fixed-price negotiated nondefense contracts awarded on the basis of price competition may be determined by the Contracting Officer (at the time of award) to be exempt from CAS (FPR § 1–3.1203–2(c)(4)(iv)).

Additional Certification—CAS Applicable Offerors

g. ( ) The offeror, subject to CAS but not certifying under d, e, or f above, further certifies that practices used in estimating costs in pricing this proposal are consistent with the practices disclosed in the Disclosure Statement(s) where they have been submitted pursuant to CAS regulations (4 CFR Part 351).

Data Required—CAS Covered Offerors

The offeror certifying under a or b above, but not under d, e, or f above, is required to furnish the name, address (including agency or department component), and telephone number of the cognizant Contracting Officer administering the offeror's CAS covered contracts. If a above is checked, the offeror will also identify those currently effective CAS, if any, which upon award of the next negotiated national defense contract or subcontract will become effective upon the offeror.

Name of contracting officer _____
Address _____

Telephone number _____
Standards not yet applicable _____

16. Clean Air and Water Certification

(Applicable if the bid or offer exceeds $100,000, or the Contracting Officer has determined that orders under an indefinite quantity contract in any year will exceed $100,000, or a facility to be used has been the subject of a conviction under the Clean air Act (42 U.S.C. 1857C–8(C)(1)) or the Federal Water Pollution control Act (33 U.S.C. 1319(c)) and is listed by EPA, or is not otherwise exempt). The bidder or offeror certifies as follows:

a. Any facility to be utilized in the performance of this proposed contract has ( ), has not ( ), been listed on the Environmental Protection Agency List of Violating Facilities.

b. It will promptly notify the Contracting Officer, prior to award, of the receipt of any communication from the Director, Office of Federal Activities, Environmental Protection Agency, indicating that any facility which it proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities.

c. It will include substantially this certification, including this paragraph (c), in every nonexempt subcontract.

17. Certificate of Current Cost or Pricing Data

When a certificate of cost or pricing data is required to be submitted in accordance with Federal Procurement Regulations (FPR) 1–3.807–3, the Contracting Officer will request that the Offeror complete, execute, and submit to the Contracting Officer a certification in the format shown in the following Certificate of Current Cost or Pricing Data. The certification shall be submitted only at the time negotiations are concluded. Offerors should complete the certificate set forth below and return it when requested by the Contracting Officer.

Certificate of Current Cost or Pricing Data

This is to certify that to the best of my knowledge and belief, cost or pricing data [1] submitted in writing or specifically identified in writing if actual submission of the data is impracticable (see § 1–3.807–3(h)(2)), to the Contracting Officer or representative in support of _____[2] are accurate, complete, and current as of (date)_____.[3]

Firm _____
Name _____
Title _____
_____[4]

(Date of execution)

[FR Doc. 80-2221 Filed 1-23-80; 8:45 am]

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[1] For definition of "cost or pricing data," see FPR § 1–3.807–3.

[2] Describe the proposal, quotation, request for price adjustment, or other submission involved, giving appropriate identifying number (e.g., RFP No. _____).

[3] This date shall be the date when the price negotiations were concluded and the contract price was agreed to. The responsibility of the contractor is not limited by the personal knowledge of the contractor's negotiator if the contractor has information reasonably available (see § 1–3.807–5(a)) at the time of agreement showing that the negotiated price is not based on accurate, complete and current data.

[4] This date should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed upon.

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–11

[FPMR Amdt. B–44]

Records Management; Disposition of Federal Records

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation informs Federal agencies of their responsibilities under title 44 U.S.C. chapter 33 relating to the disposition of their records. It also includes the procedures Federal agencies are to follow in transferring records to a Federal records center.

EFFECTIVE DATE: January 24, 1980.

FOR FURTHER INFORMATION CONTACT: George N. Scaboo, Deputy Assistant Archivist for Federal Records Centers, Office of Federal Records Centers (202–724–1614).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044. FPMR Temporary Regulation B–2 (44 FR 4950, January 24, 1979) is canceled and deleted from the appendix at the end of Subchapter B in 41 CFR Chapter 101.

1. The table of contents for Part 101–11 is amended by revising or adding the following entries:

Sec.
101–11.401 Scope of subpart.
101–11.402 Definition.
101–11.403 Records disposition programs.
101–11.403–2 Basic elements of disposition programs.
101–11.404 Records disposition schedules and disposal lists.
101–11.404–1 Comprehensive agency records disposition schedules.
101–11.404–3 Records disposal lists.
101–11.405 Disposition of permanent records.
101–11.405–1 Authority.
101–11.405–2 Definition of permanent records.
101–11.405–3 Submission of recommendations for the permanent retention of records.
101–11.405–4 Approval of the permanent retention of records.
101–11.405–5 Disapproval of the permanent retention of records.
101–11.406 Disposition of temporary records.
101–11.406–2 Definition of temporary records.
101–11.406–3 Requests for authorization to dispose of temporary records.
101–11.406–4 General Accounting Office clearance.
101–11.406–5 Approval of requests for disposal authority.
101–11.406–6 Withdrawal of disposal authority.
101–11.406–7 Request to change disposal authority.
101–11.406–8 Temporary extension of retention periods.
101–11.406–9 Methods of disposal.
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101–11.412 Agency records centers.
101–11.412–1 Authority.
101–11.412–2 Facility standards for agency records centers.
101–11.412–3 Requests for authority to establish or relocate records centers.

Subpart 101–11.1—Federal Records; General

2. Section 101–11.102–6 is revised to read as follows:

§ 101–11.102–6 Liaison offices.

Responsibility for the development of the records management program shall be specifically assigned to an office or offices within each Federal agency. The office to which the major responsibility is assigned shall be reported for liaison purposes to the National Archives and Records Service. The name and title of the official who is authorized by the head of the agency to approve disposition schedules and transfers of records to the custody of the National Archives should be submitted to the General Services Administration (NC), Washington, DC 20408.

Subpart 101–11.4—Disposition of Federal Records

3. Sections 101–11.401 through 101–11.410 are revised to read as follows:

§ 101–11.401 Scope of subpart.

This subpart prescribes policies and promulgates standards, procedures, and techniques for the disposition of all Federal records in accordance with 44 U.S.C. chapters 21, 29, 31, and 33.

§ 101–11.402 Definition.

Disposition refers to the actions taken with regard to records following their appraisal by the National Archives and Records Service. No disposition of any series of records is authorized before its appraisal. 44 U.S.C. 2901 defines "records disposition" as "any activity with respect to:

(a) Disposal of temporary records no longer necessary for the conduct of business by destruction or donation;

(b) Transfer of records to Federal agency storage facilities or records centers;

(c) Transfer to the National Archives of the United States of records determined to have sufficient historical or other value to warrant continued preservation; or

(d) Transfer of records from one Federal agency to any other Federal agency."

§ 101–11.403 Records disposition programs.

§ 101–11.403–1 Authority.

The head of each agency (in accordance with 44 U.S.C. 2904, 3102, and 3301) is required to establish and maintain a records disposition program to ensure efficient, prompt, and orderly reduction in the quantity of records and to provide for the proper maintenance of records deemed appropriate for permanent preservation.

§ 101–11.403–2 Basic elements of disposition programs.

The primary steps in the development of a records disposition program are given below. Details of each element are contained in the GSA Records Management Handbook, Disposition of Federal Records (NSN 7610–01–055–8704).

(a) Inventory of all records in the custody of the agency.

(b) Develop disposition standards for each type or series of records which specify whether the records are of permanent or temporary value.

(c) Formulate specific disposition instructions for each series of records based on the disposition of standards, including instructions for the retirement of records to Federal records centers and/or transfer to the National Archives when applicable.

(d) Assemble the disposition standards and instructions for each series of records into a comprehensive agency records disposition schedule.

(e) Obtain approval of the records disposition schedule from the Archivist of the United States.

(f) Apply the approved records disposition schedule to all records of the agency.

§ 101–11.404 Records disposition schedules and disposal lists.

§ 101–11.404–1 Comprehensive agency records disposition schedules.

Agency records schedules approved by the Archivist of the United States specify the proper disposition for all agency records. Recurring series of records of continuing value will be scheduled for permanent retention and eventual transfer to the custody of the National Archives, and recurring series of all other records will be scheduled for destruction after a specific period of time based on administrative, fiscal, and legal values. Formulation and application of these schedules is mandatory (44 U.S.C. 3303 and 3303a). Agencies shall forward 20 copies of all formally published schedules to the General Services Administration (NCD), Washington, DC 20408 (Stop 220).

(a) Formulation of comprehensive schedules. Each Federal agency shall prepare a comprehensive records schedule for all records in its custody. New Federal agencies shall complete comprehensive schedules within 1 year of their establishment. All schedules

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schedules and schedule revisions in GSA bulletins.

§ 101-11.404-3 Records disposal lists.

By submitting a Standard Form 115, Request for Records Disposition Authority, agencies may request from NARS a one-time approval to dispose of records which no longer accumulate and have no further operational or other value. This type of request is known as a disposal list and must be applied to the records listed when approved (44 U.S.C. 3303 and 3303a).

§ 101-11.405 Disposition of permanent records.

§ 101-11.405-1 Authority.

The head of each agency shall direct the creation and preservation of records containing adequate and accurate documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency (44 U.S.C. 3101). The National Archives and Records Service shall establish standards for the retention of those records having continuing value, and assist Federal agencies in applying the standards to records in their custody (44 U.S.C. 2905).

§ 101-11.405-2 Definition of permanent records.

A permanent record is any record that has been determined by NARS to have sufficient value to warrant its preservation by the National Archives and Records Service. Such a determination may take the form of:

(a) An approved offer to transfer records to the National Archives and Records Service (§ 101-11.405-4);

(b) A series of records designated "permanent" in an agency records schedule approved by NARS after May 14, 1973 (§ 101-11.404-1(b)). Records so designated need not be appraised for accessioning at the time the records are offered to the National Archives and Records Service.

§ 101-11.405-3 Submission of recommendations for the permanent retention of records.

Federal agencies may recommend the permanent retention of records by a formal offer of records to the National Archives following procedures described under § 101-11.411 or by submitting Standard Form 115, Request for Records Disposition Authority, and Standard Form 115-A, Request for Records Disposition Authority—Continuation, to the General Services Administration. (NCD).

§ 101-11.405-4 Approval of the permanent retention of records.

The National Archives and Records Service will determine whether or not records are of permanent value. If the recommendation is submitted on a Standard Form 115, NARS will notify the agency that the records may be offered after a stated period to the National Archives and Records Service by returning one copy of the approved Standard Form 115. If the recommendation is made on a Standard Form 258, Request to Transfer, Approval, and Receipt of Records to National Archives of the United States, offering the records to the National Archives and Records Service, the agency will be given written notice of the final decision.

§ 101-11.405-5 Disapproval of the permanent retention of records.

If the National Archives and Records Service determines that records are not of permanent value, the agency will be given written notice of this decision. Within 6 months of the decision, the agency must submit a Standard Form 115 in accordance with § 101-11.406-3 requesting authorization to dispose of the records.

§ 101-11.406 Disposition of temporary records.

§ 101-11.406-1 Authority.

No records of the Government shall be destroyed or otherwise alienated from the Government except in accordance with 44 U.S.C. 3314. The Administrator of General Services will establish procedures to be followed by Federal agencies in compiling and submitting lists or schedules of records for disposal (44 U.S.C. 3302).

§ 101-11.406-2 Definition of temporary records.

A temporary (nonarchival) record is any record which has been determined by the Archivist of the United States to have insufficient value (on the basis of current archival standards) to warrant its preservation by the National Archives and Records Service. This determination may take the form of:

(a) A series of recurring records designated as disposable in an agency records disposition schedule approved by NARS (§ 101-11.404-1);

(b) A series of records designated as disposable in a General Records Schedule (§ 101-11.404-02); and

(c) An approved one-time authorization to dispose of records identified on a disposal list (§ 101-11.404-3).

§ 101-11.406-3 Request for authorization to dispose of temporary records.

Requests for authorization to dispose of records shall be initiated by Federal agencies by submitting records disposal lists or schedules to the National Archives and Records Service on Standard Form 115, Request for Records Disposition Authority. A Standard Form 115 is used for submitting a schedule (§ 101-11.404-1) or a list (§ 101-11.404-3). Item 6A of the Standard Form 115 should be checked if a list is being submitted or item 6B if a schedule is being submitted. Authority contained in an approved disposal list is limited to records already in existence. A schedule is a continuing authorization and should be used in all instances where the types of records described in the request continue to accumulate.

§ 101-11.406-4 General Accounting Office clearance.

Each Federal agency shall obtain the approval of the Comptroller General for the disposal of program records less than 3 years old and for certain classes of records relating to claims and demands by or against the Government, or to accounts in which the Government is concerned in accordance with the GAO Manual for Guidance of Federal Agencies, Title 8—Records Management (44 U.S.C. 3309). This approval must be obtained before the approval of the disposal request by the National Archives and Records Service.

§ 101-11.406-5 Approval of requests for disposal authority.

The Archivist of the United States will determine whether or not records may be destroyed. If the Archivist approves the request for authority to dispose of records, the National Archives and Records Service will notify the agency by returning one copy of the completed Standard Form 115. This shall constitute mandatory authority to dispose of the records (for withdrawal of disposal authority or the extension of retention periods, see §§ 101-11.406-6 and 101-11.406-8). This authorized disposal shall be accomplished as prescribed in § 101-11.406-9. Agencies shall forward 20 copies of all formally published records schedules containing disposition instructions which have been approved on a Standard Form 115 to the General Services Administration (NCD).

§ 101-11.406-6 Withdrawal of disposal authority.

In an emergency or in the interest of efficiency of Government operations, GSA will withdraw disposal authorizations in approved disposal schedules (44 U.S.C. 2909). This

must follow the guidelines provided below:

(1) Schedules shall identify and describe clearly each series of records and shall contain disposition instructions that can be readily applied. Schedules must be prepared so that each office will have standing instructions detailing the destruction, transfer, or retention of records in its custody. Upon request by NARS, records recommended for retention longer than 10 years solely for administrative purposes must be justified in accordance with the procedures in § 101-11.406-10.

(2) Each item describing a permanent series of records shall include an arrangement statement, an estimate of the volume of records accumulated annually, as well as the total volume to date.

(3) All schedules shall take into account the existing filing system so that destruction or transfer can be handled in blocks.

(4) The disposition of nonrecord materials should be controlled by instructions in the comprehensive schedule. Nonrecord materials, such as extra copies of documents preserved solely for reference, stocks of processed documents, preliminary worksheets, and similar papers, shall be maintained separately from official agency files to facilitate records disposition.

(5) Schedules shall be reviewed and, if necessary, updated annually. Agencies shall schedule the records of new programs within 1 year of their implementation. Certification of this review shall be included on Standard Form 136, Annual Summary of Records Holdings, in accordance with § 101-11.102-7.

(b) Provisions of comprehensive schedules. Records schedules shall provide for:

(1) The destruction of records that have served their statutory, fiscal, or administrative uses and no longer have sufficient value to justify further retention. Procedures for obtaining disposal authorizations are prescribed in § 101-11.406-3;

(2) The removal to a Federal records center (or to an agency records center approved under § 101-11.412) of records not eligible for immediate destruction or other disposition which are no longer needed in office space and equipment. These records are maintained by the records center until they are eligible for further disposition action;

(3) The retention of the minimum volume of current records in office space and equipment consistent with efficient operations; and

(4) The identification of permanent records, in accordance with § 101-11.405, and the establishment of cutoff periods after which permanent records are offered to the National Archives and Records Service.

(c) Certification. The signature of the authorized agency representative on the Standard Form 115, Request for Records Disposition Authority, shall constitute certification that the records recommended for disposal do not or will not have sufficient administrative, legal, or fiscal value to the agency to warrant retention beyond the expiration of the specified period and that records described as permanent will be offered to the National Archives of the United States upon expiration of the stated period.

(d) Disapproval of requests for disposition authority. Requests for records disposition authority may be returned to the agency if the Standard Form 115 is improperly prepared. The agency shall make the necessary corrections and resubmit the form to the General Services Administration (NCD). The disposition request for any item may be disapproved and the agency notified in writing if after appraisal of the records the National Archives determines that the proposed disposition is not consistent with the value of the records.

(e) Application of comprehensive schedules. The head of each Federal agency shall direct the application of records schedules in order to ensure maximum economy of space, equipment, and personnel. Three copies of each directive or other issuance affecting an agency's records disposition program at the bureau of higher organizational level shall be sent to the General Services Administration (NCD).

§ 101-11.404-2 General Records Schedules.

General Records Schedules, issued by the General Services Administration (NARS), govern the disposition of certain types of records common to many or all agencies. Application of the disposition instructions in these schedules is mandatory.

(a) Authority.

(1) The Administrator of General Services shall issue schedules authorizing the disposal, after specified periods of time, of records of a prescribed form or character common to several or all agencies if these records do not have sufficient legal, fiscal, administrative, or other value to warrant their further preservation by the U.S. Government (44 U.S.C. 3303a).

(2) General Records Schedules constitute authority to dispose of certain records described therein. Guidelines are also provided for identifying certain permanent records which should be offered to the National Archives.

(3) When records covered by the General Records Schedules are incorporated into an agency's comprehensive schedule, the General Records Schedule and item number shall be cited in column 9 of Standard Form 115, Requests for Records Disposition Authority.

(4) Provisions of the General Records Schedules may be applied to records in the custody of the Archivist of the United States at his or her discretion.

(5) Agencies desiring authority to deviate from the disposition instructions prescribed in the General Records Schedules shall request this authority in accordance with § 101-11.406-3 and justify the request in accordance with § 101-11.406-8.

(b) Current schedules. The following General Records Schedules governing the disposition of records common to several or all agencies were developed by the National Archives and Records Service following consultation with the Office of Personnel Management, the U.S. General Accounting Office, and other appropriate agencies. They have been approved by the Archivist of the United States.

Schedule Number and Type of Records Governed

1—Civilian Personnel Records
2—Payrolling and Pay Administration Records
3—Procurement, Supply, and Grant Records
4—Property Disposal Records
5—Budget Preparation, Presentation, and Apportionment Records
6—Accountable Officers' Accounts Records
7—Expenditure Accounting Records
8—Stores, Plant, and Cost Accounting Records
9—Travel and Transportation Records
10—Motor Vehicle Maintenance and Operation Records
11—Space and Maintenance Records
12—Communication Records
13—Printing, Binding, Duplication, and Distribution Records
14—Informational Services Records
15—Housing Records
16—Administrative Management Records
17—Cartographic, Remote Sensing Imagery, and Related Records
18—Security and Protective Service Records
19—Research and Development Records
20—Machine-Readable Records
21—Audiovisual Records
22—Design and Construction Drawings and Related Records

(c) Availability. General Records Schedules and instructions for their use are available from the General Services Administration (NCD). The Archivist of the United States announces all new

withdrawal may apply to particular items on schedules submitted by agencies or may apply to all existing authorizations for the disposal of a specified type of record obtained by any or all agencies of the Government. If the withdrawal is applicable to only one agency, that agency will be notified of this action by letter signed by the Archivist; if applicable to more than one agency, notification may be by GSA bulletin issued and signed by the Archivist.

§ 101-11.406-7 Request to change disposal authority.

Agencies desiring to change the approved disposition of a series of records should submit a Standard Form 115. Disposal authorizations contained in approved disposal schedules automatically are superseded by approval of a later schedule applicable to the same records unless the later schedule specifically provides that both the earlier and later schedules shall be applicable at the agency's discretion. Agencies submitting records schedules must indicate in entry 9 of the Standard Form 115 the relevant schedule and item which is being superseded, and/or the General Records Schedule item which covers the records.

§ 101-11.406-8 Temporary extension of retention periods.

(a) Approved agency records schedules and General Records Schedules are mandatory (44 U.S.C. 3303a). Records approved for disposal shall not be maintained longer without the prior written approval of the National Archive and Records Service (NC).

(b) Upon submission of adequate justification, NARS may authorize a Federal agency to extend the retention period of a series of records (44 U.S.C. 2909). These extensions of retention periods will be granted for records which are required to conduct Government operations because of special circumstances which affect the normal administrative, legal, or fiscal value of the records.

(c) The head of a Federal agency may request approval of a temporary extension of a retention period by addressing a letter to the General Services Administration (NC), Washington, D.C. 20408. The request shall include:

(1) A concise description of the records for which the extension is requested;

(2) A complete citation of the specific provisions of the agency records schedule or the General Records Schedule currently governing disposition of the records;

(3) A statement of the estimated period of time that the records will be required; and

(4) A statement of the current and proposed physical location of the records, including information on whether the records have been or will be transferred to one or more Federal records centers.

(d) Approval of a request for extension of retention periods may apply to records in the custody of one Federal agency or records common to several or all Federal agencies. If approval of a request is applicable to records in the custody of one agency, that agency will be notified by letter. If approval is applicable to records common to several agencies, notification may be made by GSA FPMR bulletin.

(e) Upon approval of a request for a change in retention periods applicable to records that have been or will be transferred to one or more Federal records centers, centers will be notified of the change and agencies will be furnished a copy of the notification. Agencies shall forward to GSA (NC) 20 copies of all formally issued instructions which extend retention periods.

(f) Upon expiration of an approved extension of retention periods, NARS will notify all affected agencies to apply normal retention requirements.

§ 101-11.406-9 Methods of disposal.

(a) Authority. Federal agencies are required to follow regulations issued by the Administrator of General Services governing the methods of disposing of records (44 U.S.C. 3314). Only the methods described in § 101-11.406-9 shall be used.

(b) Sale or salvage. Paper records to be disposed of normally shall be sold as wastepaper. If the records are defense classified, their disposal is governed by Executive Order 12065. If the records are restricted; that is, if laws or regulations forbid their use by the public, the wastepaper contractor shall be required to pulp, macerate, or shred the records and a Federal employee must witness the disposal. The contract for sale shall prohibit the resale of all other records for use as records or documents. Records other than paper records (film and plastic recording, etc.) may be salvaged or sold in the same manner and under the same conditions as paper records. All sales shall be in accordance with the established procedures for the sale of surplus personal property. (See Part 101-45, Sale, Abandonment, or Destruction of Personal Property.)

(c) Donation for preservation and use.

(1) When the public interest will be served, a Federal agency may propose the transfer of records authorized for disposal to an eligible person, organization, institution, corporation, or government (including a foreign government) that has made application for them. Records will not be transferred without prior written approval of the National Archives and Records Service.

(2) The head of a Federal agency shall request the approval of such a transfer by addressing a letter to the General Services Administration (NC), Washington, DC 20408. The request shall include:

(i) The name of the department or agency, and subdivisions thereof, having custody of the records;

(ii) The name and address of the proposed recipient of the records;

(iii) A list containing (A) an identification by series of the records to be transferred, (B) the inclusive dates of each series, (C) the NARS disposition job and item numbers that authorize disposal of the records as indicated on the approved Standard Form 115, the agency records schedule citation, or other disposal authority;

(iv) A statement providing evidence (A) that the proposed transfer is in the best interests of the Government, (B) that the proposed recipient agrees not to sell the records as records or documents, and (C) that the transfer will be made without cost to the U.S. Government;

(v) A certification that (A) the records contain no information the disclosure of which is prohibited by law or contrary to the public interest, and/or (B) that records proposed for transfer to a person or commercial business are directly pertinent to the custody or operations of properties acquired from the Government, and/or (C) that a foreign government desiring the records has an official interest in them.

(3) NARS will consider each request and determine whether these donations are in the public interest and upon approval will notify the requesting agency in writing. If NARS determines such a proposed donation is contrary to the public interest, the request will be denied and the agency will be notified that the records must be destroyed in accordance with the appropriate disposal authority.

(d) Destruction. If the records cannot be sold advantageously or otherwise salvaged, the records may be destroyed by burning or pulping.

§ 101-11.407 Emergency authorization to destroy records.

§ 101-11.407-1 General provisions.

Under certain conditions, records may be destroyed without regard to the provisions of § 101-11.406.

§ 101-11.407-2 Menaces to human life or health or to property.

(a) Disposal is authorized whenever it is determined that records constitute a continuing menace to human health or life or to property (44 U.S.C. 3310). Whenever the head of an agency has determined that records constitute such a menace, he or she shall notify the National Archives and Records Service, specifying the nature of the records, their location and quantity, and the nature of the menace. If the National Archives and Records Service concurs in the determination, the immediate removal of the menace by the destruction of the records or by other appropriate means will be directed. However, if the determination is with respect to still or motion picture film on nitrocellulose base that has deteriorated to the extent described in paragraph (b) of this section, the head of the agency may follow the procedure therein provided.

(b) Whenever any radar scope, aerial, or other still or motion picture film on nitrocellulose base has deteriorated to the extent that it is soft, is emitting a noxious odor, contains gas bubbles, or has retrograded into an acrid powder, and the head of the agency having custody of it determines that it constitutes a menace to human health or life or to property, he or she may cause such menace to be eliminated immediately by:

(1) Arranging for its destruction in a manner that will salvage its silver content;

(2) Burning, in the event the quantity is not sufficiently large to justify the salvaging of its silver content; or

(3) Other appropriate methods in the event that the methods provided in paragraph (b) (1) or (2) of this section are not feasible.

(c) These films should be removed from inhabited buildings as soon as possible.

(d) Those to be burned should be submerged in water-filled drums and conveyed to a remote spot approved by fire authorities for burning. Preferably, only one reel should be burned at a time, but in no event should more than 25 pounds be burned at the same time. The rapid production of gases by burning is extremely dangerous, particularly if burned in a furnace or other confined space. Within 30 days after the destruction of the film as provided in this section, the head of the agency who directed its destruction shall submit a written statement to the National Archives and Records Service describing the film and showing when, where, and how the destruction was accomplished.

(e) This report has been cleared in accordance with FPMR 101-11.11 and assigned Interagency Report Control Number 1095-GSA-AR.

§ 101-11.407-3 State of war or threatened war.

(a) Destruction of records outside the territorial limits of the continental United States is authorized whenever, during a state of war between the United States and any other nation or when hostile action by a foreign power appears imminent, the head of the agency that has custody of the records determines that their retention would be prejudicial to the interest of the United States, or that they occupy space urgently needed for military purposes and are without sufficient value to warrant preservation (44 U.S.C. 3311).

(b) Within 6 months after the disposal of any records under this authorization, a written statement describing the character of the records and showing when and where the disposal was accomplished shall be submitted to the National Archives and Records Service by the agency official who directed the disposal.

§ 101-11.408 Damage to and unauthorized disposition of records.

§ 101-11.408-1 Responsibilities.

(a) The Administrator of General Services and the heads of Federal agencies are responsible for preventing unauthorized disposition of records, including all forms of mutilation and alienation of records. Unauthorized disposition is the removal from Federal custody or destruction of records without regard to the provisions of agency disposition lists and schedules that have been approved by NARS or the General Records Schedules issued by NARS (44 U.S.C. 2095, 3106, and 3303a).

(b) The heads of Federal agencies are responsible for ensuring that all employees are aware of the provisions of the law relating to unauthorized disposal, alienation, or mutilation of records, and should direct that any such action be reported to them.

§ 101-11.408-2 Penalties.

The penalties for willful and unlawful destruction, damage, or alienation of Federal records are contained in 18 U.S.C. 2071.

§ 101-11.408-3 Reporting.

(a) The head of a Federal agency shall report any unlawful removal, defacing, alteration, or destruction of records in the custody of that agency to the General Services Administration (NCD). The report shall include:

(1) A complete description of the records with volume and dates if known;

(2) The office of origin;

(3) A statement of the exact circumstances surrounding the alienation, defacing, or destruction of the records; and

(4) A statement of the safeguards with specific procedures to be instituted to prevent further instances of loss of documentation.

(b) This report has been cleared in accordance with FPMR 101-11.11 and assigned Interagency Report Control Number 1096-GSA-AR.

(c) The Administrator of General Services will assist the head of the agency in contacting the Attorney General for the recovery of any unlawfully removed records.

§ 101-11.408-4 Exclusions.

Private or personal files are not governed by these provisions. Section 101-11.202-2(d) provides the legal definition of personal papers and prescribes standards for their maintenance.

§ 101-11.409 Transfer of records from the custody of one executive agency to another

§ 101-11.409-1 Authority.

The Administrator will issue regulations governing the transfer of records from the custody of one executive agency to another (44 U.S.C. 2908).

§ 101-11.409-2 Approval.

No records shall be transferred from the custody of one executive agency to another without the prior written approval of the National Archives and Records Service except as provided in § 101-11.409-9.

§ 101-11.409-3 Agency request.

The head of any executive agency may request the transfer of records to or from his or her agency. Approval shall be requested by letter addressed to the National Archives and Records Service (NCD), in which are included:

(a) A concise description of the records to be transferred, including the volume in cubic feet;

(b) A statement of the restrictions imposed on the use of records;

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(c) A statement of the agencies and persons using the records and the purpose of this use;

(d) A statement of the current and proposed physical and organizational locations of the records;

(e) Information as to why the proposed transfer is in the best interests of the Government; and

(f) A justification for the transfer of records more than 5 years old.

§ 101-11.409-4 Agency concurrences.

Copies of the concurrence or nonconcurrence in the transfer by the heads of any agencies concerned shall be attached to the agency request.

§ 101-11.409-5 Records of terminated agencies

Transfers of records of executive agencies whose functions are terminated or are in process of liquidation are expressly subject to this Subpart 101-11.4 and no such transfers shall be made except in accordance with its provisions.

§ 101-11.409-6 Equipment.

Records storage equipment shall be transferred with the records contained therein in accordance with arrangements previously agreed to by the agencies concerned.

§ 101-11.409-7 Costs of transfers.

Approved transfers shall be made without reimbursement to the agency of original custody for any cost involved, except when this reimbursement is previously agreed to by the agencies concerned.

§ 101-11.409-8 Restrictions on use of records.

Whenever any records that are transferred are subject to restrictions upon their use imposed under a statute, Executive order, or agency determination, these restrictions shall continue in effect after the transfer. Restrictions imposed by agency determination may be removed by agreement between the agencies concerned.

§ 101-11.409-9 Exceptions.

Prior written approval of the National Archives and Records Service is not required when:

(a) Records are transferred to the Federal records centers or the National Archives in accordance with §§ 101-11.410 and 101-11.411.

(b) Records are loaned for official use.

(c) The transfer of records or functions or both is required by statute, Executive order, or Presidential reorganization plan, or by specific determinations made thereunder.

§ 101-11.410 Transfer of records to Federal records centers.

§ 101-11.410-1 Authority.

The Administrator of General Services is authorized to establish, maintain, and operate records centers for the storage, processing, and servicing of records for Federal agencies (44 U.S.C. 2907). These centers are known as Federal records centers. In addition, a National Personnel Records Center is maintained for designated records of the Department of Defense and the Office of Personnel Management and for other designated records pertaining to former Federal civilian employees. A list of these records centers follows:

GSA region	Areas served	Mailing addresses
	National Centers	
	District of Columbia, Maryland, West Virginia, and Virginia (except U.S. Court records).	Washington National Records Center, Washington, DC 20409.
	Designated records of the Military Departments and the U.S. Coast Guard	National Personnel Records Center (Military Personnel Records), 9700 Page Boulevard, St. Louis, MO 63132.
	The entire Federal Government personnel records of separated Federal employees; medical and pay records of all Federal employees; designated medical records of Army and Air Force military personnel and their dependents; and records of agencies in the St. Louis area (Missouri only), of Scott AFB, IL, and of the Memphis Service Center, Internal Revenue Service.	National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118.
	Regional Centers	
1	Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island	Federal Archives and Records Center, 380 Trapelo Road, Waltham, MA 02154.
2	New York, New Jersey, Puerto Rico, and the Virgin Islands	Federal Archives and Records Center, Military Ocean Terminal, Building 22, Bayonne, NJ 07002.
3	Delaware, Pennsylvania, and U.S. court records for Maryland, Virginia, and West Virginia.	Federal Archives and Records Center, 5000 Wissahickon Ave., Philadelphia, PA 19144.
4	North Carolina, South Carolina, Tennessee, Mississippi, Alabama, Georgia, Florida, and Kentucky.	Federal Archives and Records Center, 1557 St. Joseph Ave., East Point, GA 30044.
5	Illinois, Wisconsin, Minnesota, and U.S. court records for Indiana, Michigan, and Ohio.	Federal Archives and Records Center, 7358 South Pulaski Rd., Chicago, IL 60629.
5	Indiana, Michigan, and Ohio except U.S. court records	Federal Records Center, 3150 Berwynn Drive, Dayton, OH 45439.
6	Kansas, Iowa, Nebraska, and Missouri except greater St. Louis area	Federal Archives and Records Center, 2306 East Bannister Rd., Kansas City, MO 64131.
	Greater St. Louis area (Missouri only)	National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118.
7	Texas, Oklahoma, Arkansas, Louisiana, and New Mexico	Federal Archives and Records Center, P.O. Box 6216, Fort Worth, TX 76115.
8	Colorado, Wyoming, Utah, Montana, North Dakota, and South Dakota	Federal Archives and Records Center, Bldg. 48, Denver Federal Center, P.O. Box 25307, Denver, CO 80225.
9	Nevada except Clark County, California except southern California, American Samoa.	Federal Archives and Records Center, 1000 Commodore Drive, San Bruno, CA 94066.
9	Arizona; Clark County, Nevada; and southern California (counties of San Luis Obispo, Kern, San Bernadino, Santa Barbara, Ventura, Orange, Los Angeles, Riverside, Inyo, Imperial, and San Diego).	Federal Archives and Records Center, 24000 Avila Road, Laguna Niguel, CA 92677.
10	Washington, Oregon, Idaho, Alaska, Hawaii, and Pacific Ocean area (except American Samoa).	Federal Archives and Records Center, 6125 Sand Point Way, Seattle, WA 98115.

§ 101-11.410-2 Procedures for transfers to Federal records centers.

This section prescribes general procedures for the transfer of records to Federal records centers. For greater detail consult the GSA Records Management Handbook, Federal Archives and Records Centers (NSN 7610-00-298-6904).

(a) Federal records centers will accept for transfer any records of Federal agencies, subject to the following conditions:

(1) The records are properly scheduled. If the records are not scheduled, an exception to this regulation must be obtained by submitting a request in writing to the General Services Administration (NC), Washington, DC 20408.

(2) The records are not authorized for immediate destruction and transportation costs are not in excess of the resulting savings.

(3) Facilities for storing and providing reference on the records are available.

(b) Priority will be given to the removal of records from office space, from space convertible to office use, from leased space, and from filing equipment that can be reused.

(c) Inquiries concerning the appropriateness of transfers may be sent to the Director of the Federal records center in the GSA region in which the records are located. Inquiries shall specify the nature and quantity of the records proposed for transfer.

(d) Tranfers of records on an agencywide basis may be initiated by submitting a request to the General Services Administration (NC), Washington, D.C. 20408. Requests shall specify the nature and quantity of the records proposed for transfer.

(e) Transfers to Federal records centers shall be preceded by the submission of Standard Form 135, Records Transmittal and Receipt. An agency shall prepare an original and three copies of the Standard Form 135. One of the copies is retained by the agency as a file copy, and the original and two other copies are sent to the Federal records center to arrive at least 2 weeks (10 workdays) before the desired date of the records shipment. The records center will review the Standard Form 135 for completeness to determine the appropriateness of the transfer. If the transfer is approved, the records center may annotate block 6j of the Standard Form 135 with the Federal records center shelf location where each accession will be stored. The Federal records center returns two copies of the Standard Form 135 to the agency indicating that the records may be transferred. One of these copies shall be placed in the first carton of the shipment when the records are shipped to the center.

(f) The physical transfer of records to the center shall be accomplished as soon as possible after the agency has received the annotated copies of the Standard Form 135. Delay in shipment of more than 30 days will result in the return of the Standard Form 135 requiring the resubmission of transfer paperwork.

(g) Upon receipt of the records shipment at the center, the cartons are matched against the copy of the Standard Form 135 submitted with the transfer. That copy is signed by center officials and returned to the agency for its files. Any changes in location designation will be noted on this receipt copy before it is returned to the agency. This is the only receipt the center will provide for transferred material, including records having security classifications up to and including "Secret."

§ 101-11.410-3 Transfers to the National Personnel Records Center.

General Records Schedules 1 and 2 specify that certain civilian personnel and pay records shall be centralized at the National Personnel Records Center (Civilian Personnel Records) at St. Louis.

(a) The following three types of records are so specified:

(1) Official personnel folders of separated employees;

(2) Service record cards of employees who separated or transferred on or before December 31, 1947; and

(3) Audited individual earnings and pay cards and comprehensive payrolls.

(b) Official personnel folders should be transferred to the center in a sealed envelope or container. No advance notification or transmittal document is required from the transferring agency, and receipts will not be furnished for official personnel folders, loose papers intended for inclusion in these folders, or pay records.

(c) Agencies should make every effort to locate all documents required to be in the folder and file them before the folder is transferred to the National Personnel Records Center. Loose papers being prepared for transfer to the National Personnel Records Center for inclusion in official personnel folders previously sent to the records center must be thoroughly screened by the transferring agency of all temporary material, as defined in the Federal Personnel Manual. Only those papers specifically prescribed in the Federal Personnel Manual for permanent inclusion in each individual's folder should be forwarded. Each document must show the following identifying information: Current name and the name under which formerly employed (if different), date of birth and social security number, and date of separation. The transmittal should clearly identify the agency personnel office and address.

(d) Transfer of fiscal records shall be in accordance with the procedures outlined in § 101-11.410-2.

(e) Standard Form 127, Request for Official Personnel Folder (Separated Employee), shall be used by agencies in requesting transmission of personnel records of separated employees from the National Personnel Records Center. Use of this form ensures prompt transmission of the desired folders. It should be submitted to the National Personnel Records Center in duplicate.

§ 101-11.410-4 Transferring vital records to Federal records centers.

GSA provides for the storage and protection of rights and interests vital records under the dispersed concept as described in § 101-11.7. The facilities of all GSA Federal records centers (FRC) without regard to geographical location are now available for agencies desiring to store these records. Each GSA Federal records center has areas with suitable temperature and humidity controls allowing the safe storage of paper records, magnetic tape, and photographic film. Agencies may make arrangements through the General Services Administration (NC), Washington, D.C. 20408, for the transfer of indispensable vital records to these depositories and for their use.

§ 101-11.410-5 Surveying records for transfer to records centers.

The appropriate regional National Archives and Records Service facility will conduct surveys of the records accumulations of field offices of those agencies not operating approved records centers and recommend records to be transferred to Federal records centers. These recommendations will be submitted to the field office concerned and to the National Archives and Records Service (NC) for coordination with the appropriate agency headquarters. Surveys of records of agency headquarters normally will be made by the National Archives and Records Service (NC).

§ 101-11.410-6 Release of equipment.

File equipment received with the transfer of records to a Federal records center will normally be disposed of in accordance with applicable excess personal property regulations. An agency desiring return of the equipment should make this request before transfer of the records to the records center.

§ 101-11.410-7 Use of records in Federal records centers.

Each agency record which is accepted by the Administrator of General Services for storage, processing, and servicing in accordance with 44 U.S.C.

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3103 shall, for the purposes of this section, be considered to be maintained by the agency which deposited the record. The Administrator of General Services will not disclose the record except to the agency which maintains the record, or under rules established by that agency which are not inconsistent with existing laws.

(a) Standard Form 180, Request Pertaining to Military Records, shall be used by Federal agencies to obtain information from military service records in the National Personnel Records Center (Military Personnel Records). Agencies may furnish copies of that form to the public to aid in inquiries and may direct non-Government organizations to the Superintendent of Documents to purchase quantities of the form.

(b) Requests for official civilian personnel files shall be made in accordance with § 101–11.410–3.

(c) For any other requests, agencies should use Optional Form 11, Reference Request—Federal Records Centers, or a form jointly designated by that agency and NARS.

§ 101–11.410–8 Disposal clearances for records in Federal records centers.

(a) Records at the National Personnel Records Center covered by General Records Schedules 1 and 2 will be destroyed in accordance with those schedules without further agency clearance.

(b) Other records of Federal agencies held by Federal records centers will be disposed of with the concurrence of the agency concerned by use of GSA Form 3170, Notice of Intent to Destroy Records, or other written concurrence for each disposal action. If an agency is notified of the eligibility of its records for disposal and the agency fails to respond to this notification within 90 calendar days, the records will be disposed of in accordance with the appropriate authority.

4. Section 101–11.412 is revised to read as follows:

§ 101–11.412 Agency records centers.

§ 101–11.412–1 Authority.

Federal agencies are authorized to maintain and operate records centers for the storage, processing, and servicing of appropriate records when these centers are approved by the Administrator (44 U.S.C. 3103). Centers operated by Federal agencies are referred to in this Part 101–11 as "agency records centers."

§ 101–11.412–2 Facility standards for agency records centers.

Inspection of agency records centers by GSA shall include an evaluation of the agency's compliance with the facility standards for records centers specified below:

(a) General.

(1) The facility should be a single-story building constructed with noncombustible materials.

(2) A floor load limit shall be established for the records storage area by a structural engineer. The allowable load limit shall be posted in a conspicuous place and shall not be exceeded.

(3) Steel shelving or other open-shelf records storage equipment shall be braced to prevent collapse under full load in accordance with Federal Specifications AS–S–271 or AA–S–1047. The records storage height shall not exceed 15 feet. Agencies operating records centers which have storage heights in excess of 15 feet may apply in writing to the General Services Administration (NC), Washington, DC 20408, for an exemption to this requirement. If a request for exemption is denied, agencies will be required to remodel existing centers to meet the 15-foot requirement.

(4) The area occupied by the center shall be equipped with an anti-intrusion alarm system, or equivalent, to protect against unlawful entry after hours.

(b) Fire safety.

(1) All walls separating records storage areas from each other and from other portions of the building shall be 4-hour fire resistant. Two-hour-rated firewalls shall be provided between the records storage areas and other auxiliary spaces. Penetrations in the walls shall not reduce the specified fire-resistance ratings.

(2) Openings in firewalls separating records storage areas shall be avoided as far as possible but if openings are necessary they shall be protected by self-closing or automatic Class A firedoors, or equivalent, on each side of the wall openings.

(3) Roof support structures that cross or penetrate firewalls shall be cut and supported independently on each side of the firewall.

(4) If firewalls are erected with expansion joints, the joints shall be protected to their full height with No. 10 iron astragals lapping the opening on each side of the firewall.

(5) Building columns in the records storage areas shall be 2-hour fire resistant from the floor to the point where they meet the ceiling or roof framing system.

(6) Automatic roof vents shall not be designed into new or existing buildings.

(7) Where light steel roof or floor supporting members; e.g., bar joists having top chords with angles 2 by 1½ inches or smaller, thickness one-fourth inch or smaller, and web diameters thirteen-sixteenths inch or smaller are present, they shall be provided with a 10-minute fire-resistant coating. The coating will be applied only to the top chords.

(8) Furnace or boiler rooms shall be separated from records storage areas by 4-hour-rated firewalls, with no openings directly from these rooms to the records storage areas. No open flame (oil or gas) equipment or unit heaters shall be installed or used in any records storage area.

(9) The arrangement of the records storage equipment shall be such that there shall be no dead-end aisles. Equipment rows running perpendicular to the wall shall terminate at least 18 inches from the wall.

(10) No oil-type electrical transformers, regardless of size, except thermally protected devices included in fluorescent light ballasts, shall be installed in the records storage areas. All electrical wiring shall be in metal conduit, except that armored cable may be used where flexible connections to light fixtures are required.

(11) All records storage and adjoining areas shall be protected by automatic wetpipe sprinklers. Automatic sprinklers are specified herein because they provide the most effective fire protection for high-piled storage of paper records on open-type shelving.

Note.—Other automatic extinguishing systems or protective measures may provide an acceptable level of fire-loss risk depending upon specific conditions, such as type or importance of the records, the type of storage equipment used, or how the space is designed, controlled, and operated. For a discussion of these measures, refer to the guides on records protection available from the National Fire Protection Association (NFPA 232 and NFPA 232AM). Also, consult the Chief of the Accident and Fire Prevention Branch in the GSA regional office about these systems and protective measures.

(12) The sprinkler system shall be rated at 286 degrees Fahrenheit and designed to provide 0.30 gpm per square foot for the most remote 1,500 square feet of floor area with a minimum flowing pressure of 7.0 psi at the most remote sprinkler head. Installation shall be in accordance with Standard Number 13 of the National Fire Protection Association.

(13) Maximum spacing of the sprinkler heads shall be on a 10-foot grid and the positioning of the heads shall provide complete, unobstructed coverage, with a clearance of not less than 18 inches from the top of the highest stored materials.

(14) The sprinkle system shall be equipped with a water-flow alarm connected to a continuously staffed fire department or central station, with responsibility for immediate response.

(15) A manual fire alarm system shall be provided with central station service or other automatic means of notifying the municipal fire department. A manual alarm pull station shall be located adjacent to each exit. Supplemental manual alarm stations are permitted within the records storage areas.

(16) All water cutoff valves in the sprinkler system shall be equipped with automatic closure alarm connected to a continously staffed station, with responsibility for immediate response.

(17) A dependable water supply free of interruption shall be provided. This normally requires a backup supply system having sufficient pressure and capacity to meet both firehose and sprinkler requirements for 2 hours.

(18) Interior firehose stations shall be provided in the records storage areas, equipped with 1½-inch diameter rubber or latex hose, enabling any point in the records storage area to be reached by a 50-foot hose stream from a 100-foot hose lay.

(19) In addition to the designed sprinkler flow demand, 500 gpm shall be provided for hose stream demand. The hose stream demand shall be calculated into the system at the base of the main sprinkler riser.

(20) Fire hydrants should be located within 250 feet of each exterior entrance or other access to the records center that could be used by firefighters. All hydrants should be at least 50 feet away from the building walls and adjacent to a roadway usable by fire apparatus.

(21) Portable water-type fire extinguishers (2½-gallon stored pressure-type) shall be provided at each fire alarm striking station.

(22) Catwalks may be provided in the aisles between the metal stacks in high-activity records storage areas without provision of sprinklers under the walkway. Where provided, the walking surface of the catwalks shall be of expanded metal at least 0.09-inch thickness with a 2-inch mesh length. The surface opening ratio shall be equal to or greater than that outlined in Military Specification (MIL–M–17194C) of March 8, 1955. The sprinkler water demand for protection over bays with catwalks where records are not oriented perpendicular to the aisles shall be calculated hydraulically to give 0.3 gpm per square foot for the most remote 2,000 square feet.

(23) Storage of hazardous cellulose nitrate film requires special facilities not covered by the above standards. (See NFPA 40 and NFPA 232.)

§ 101–11.412–3 Requests for authority to establish or relocate records centers.

No agency records center shall be established or relocated from one city to another without the prior written approval of GSA.

(a) Exclusions.

(1) Staging areas containing less than 5,000 square feet of space used by agencies for the temporary storage of materials preparatory to their transfer to a records center or other disposition, provided no records are held in staging areas in excess of 5 years. The facility standards in § 101–11.412–2 apply to these staging areas.

(2) Areas of less than 5,000 square feet used solely for the storage of records to which occasional reference is made but on which no processing activity (screening and microfilming, etc.) is performed. The facility standards in § 101–11.412–2 apply to these records areas.

(b) Content of requests. Requests for authority to establish or relocate an agency records center shall be submitted in writing to the Administrator of General Services. These requests shall specify:

(1) Proposed location of the agency records center,

(2) Space to be occupied in gross square feet,

(3) Nature and quantity of records to be stored,

(4) Total personnel to be employed, and

(5) Justification for the proposed center which shall include a comparison between the annual cost per cubic foot to store the records in the agency records centers and the cost to store the same records in a GSA Federal records center. An analysis of GSA's Federal records center space and equipment cost may be obtained from the Office of Federal Records Centers (NC), General Services Administration, Washington, DC 20408. The justification also should indicate whether the records to be stored in the agency center have high security classification, require specialized processing or high-cost indexing, or are to be used by technical agency personnel stationed at the records center.

(c) Approval of requests. Requests for the establishment or relocation of an agency records center will be approved by the Administrator of General Services when greater economy or efficiency can be achieved through its operation than by the use of a Federal records center operated by GSA.

(d) Annual agency records center report. Each Federal agency operating one or more agency records centers shall submit to the General Services Administration (NC) a report on Standard Form 137, Agency Records Center Annual Report (see § 101–11.4905), for each center within 60 days after the close of each fiscal year.

(e) This annual report has been cleared in accordance with FPMR 101–11.11 and assigned Interagency Report Control Number 1097–GSA–AN.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c))

Dated: January 11, 1980.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80–2237 Filed 1–23–80; 8:45 am]

BILLING CODE 6820–26–M

DEPARTMENT OF THE INTERIOR

43 CFR Part 4

Special Rules Applicable to Public Lands, Hearings and Appeals; Regulations To Produce More Effective Participation

AGENCY: Department of the Interior.

ACTION: Final rulemaking.

SUMMARY: This document amends the regulations pertaining to appeals to the Interior Board of Land Appeals to require service of notices of appeal, statements of reason, written arguments and briefs upon the Associate Solicitor, division of Energy and Resources. This change will enable the Associate Solicitor to participate more effectively in appeals proceedings.

EFFECTIVE DATE: February 25, 1980.

ADDRESS: Any inquiries should be addressed to: Chief Administrative Judge, Interior Board of Land Appeals, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Mr. James L. Burski, (703) 557–9040, or Mr. Paul B. Smyth, (202) 343–4036.

SUPPLEMENTARY INFORMATION: The regulations at 43 CFR Part 4, Subpart E provide an appeal process to the Interior Board of Land Appeals. Section 4.413 of 43 CFR provides than an appellant must serve a copy of the notice of appeal and of any statement of reasons, written arguments, or briefs upon each adverse party named in the decision to be appealed. The amendment set forth below will also require service of such documents upon the Associate Solicitor, Division of Energy and Resources. This change will enable the Associate Solicitor to participate more effectively in appeals proceedings.

The regulation is being published as a final rulemaking under 5 U.S.C. 553(b)(3)(A) since it pertains to rules of

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agency practice and procedure. A thirty day effective date for implementation of the regulation has been chosen to allow the public to become familiar with this change. The principal author of this rulemaking is Paul B. Smyth, Office of the Solicitor, Department of the Interior, Washington, D.C.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

It is hereby determined that publication of this rulemaking is not a major federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (43 U.S.C. 4332(2)(C)) is required.

Accordingly, under the authority of 43 U.S.C. 1201, Part 4, Subtitle A, Title 43 of the Code of Federal Regulations is amended as follows:

§ 4.413 Service of notice of appeal and of other documents.

The appellant must serve a copy of the notice of appeal and of any statement of reasons, written arguments, or briefs on the Associate Solicitor, Division of Energy and Resources (Address: Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240) and each adverse party named in the decision appealed from, in the manner prescribed in § 4.401(c), not later than 15 days after filing the document. * * *

Dated: January 16, 1980.

James A. Joseph,

Under Secretary.

[FR Doc. 80-2340 Filed 1-23-80; 8:45 am]

BILLING CODE 4310-17-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free (800) 424-9080), Room 5150, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67.4(a) (presently appearing at its former Title 24, Chapter 10, Part 1917.4(a) of the Code of Federal Regulations). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60 (formerly 24 CFR Part 1910).

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	San Joaquin County (unincorporated Areas), FI-2977.	San Joaquin River	State Highway 4 at centerline	*11
			Interstate Highway 5 at centerline	*15
			Airport Way at centerline	*33
			Confluence with Stanislaus River	*38
		Mokelumne River	Confluence with Dry Creek	*21
			Lower Sacramento Road 100 feet upstream of centerline	*41
			Central California Traction Railroad 100 feet upstream of centerline	*52
			Elliot Road at centerline	*71
		Bear Creek	Interstate Highway 5 at centerline	*9
			Eightmile Road at centerline	*36
			State Highway 88 200 feet upstream of centerline	*66
			Jack Tone Road at centerline	*68
		Paddy Creek	Confluence with Bear Creek	*69
			Jack Tone Road at centerline	*83
		South Paddy Creek	Hibbard Road at centerline	*70
			Jack Tone Road at centerline	*74
		Middle Paddy Creek	Jack Tone Road at centerline	*81
		Lower Mosher Creek	Confluence with Disappointment Slough	*7
			Thornton Road at centerline	*10
			State Highway 99 at centerline	*32
			Alpine Road at centerline	*48
		Mosher Creek	Confluence with Bear Creek	*57
			Jack Tone Road 200 feet upstream of centerline	*74
			Tully Road at centerline	*87
			Clements Road at centerline	*104
		Calaveras River	Interstate Highway 5 at centerline	*15
			McAllen Road 100 feet upstream of centerline	*26
			Ashley Lane 180 feet upstream of centerline	*44
			State Highway 99 at centerline	*59
			Jack Tone Road at centerline	*72
			Messick Road at centerline	*96
			Escalon-Bellota Road at centerline	*118
			Confluence with Mormon Slough	*125
			Shelton Road at centerline	*159

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Stockton Diverting Canal	Sanguinetti Lane 30 feet upstream of centerline	*27
			Southern Pacific Railroad at centerline	*39
		Mormon Slough	Panella Road 60 feet upstream of centerline	*53
			Duncan Road approximately 150 feet upstream of centerline	*60
			Flood Road at centerline	*100
			Escalon-Bellota Road 200 feet upstream of centerline	*123
		French Camp Slough	Confluence with San Joaquin River	*12
			Western Pacific Railroad approximately 140 feet upstream of centerline.	*16
			Tidewater Southern Railroad at centerline	*25
		Walker Slough	Interstate Highway 5 at centerline	*12
			Southern Pacific Railroad at centerline	*12
		Duck Creek	Airport Way at centerline	*17
			Atchison, Topeka, and Santa Fe Railroad at centerline	*30
			Panella Road 50 feet upstream of centerline	*55
			Drais Road 200 feet upstream of centerline	*79
			Hewitt Road at centerline	*92
			Escalon-Bellota Road 40 feet upstream of centerline	*106
		South Fork South Littlejohns Creek.	Confluence with French Camp Slough	*28
			Austin Road at centerline	*41
			Jack Tone Road 50 feet upstream of centerline	*55
		South Littlejohns Creek	Mariposa Road approximately 200 feet upstream of centerline	*56
			Van Allen Road approximately 200 feet upstream of centerline	*91
		Littlejohns Creek	Stanley Road at centerline	*96
			Southern Pacific Railroad at centerline	*110
		North Fork South Littlejohns Creek.	State Highway 99 200 feet upstream of centerline	*30
			Kaiser Road at centerline	*49
			Atchison, Topeka, and Santa Fe Railroad at centerline	*57
		Lone Tree Creek	State Highway 99 approximately 200 feet upstream of centerline	*31
			Murphy Road at centerline	*59
			Lone Tree Road 150 feet upstream of centerline	*74
			Atchison, Topeka, and Santa Fe Railroad at centerline	*93
			Escalon-Bellota Road 75 feet upstream of centerline	*115
		Temple Creek	Jack Tone Road approximately 200 feet upstream of centerline	*50
			Murphy Road approximately 200 feet upstream of centerline	*67
			Van Allen Road at centerline	*85
			Escalon-Bellota Road at centerline	*106
		Corral Hollow Creek	Chrisman Road at centerline	*124
			McArthur Drive at centerline	*158
			Private Road (1.57 mile above Chrisman road) 100 feet downstream of centerline.	*174
			Private Road (1.57 mile above Chrisman Road) 60 feet upstream of centerline.	*188
			Private Road (1.715 mile above Chrisman Road) 50 feet downstream of centerline.	*189
			Private Road (1.715 mile above Chrisman Road) 25 feet upstream of centerline.	*197
			Jefferson Road at centerline	*201
			Western Pacific Railroad upstream of centerline	*208
			California Aqueduct at downstream side	*209
			California Aqueduct at upstream side	*226
			Interstate Highway 580 140 feet upstream of centerline	*226
			Downstream crossing of Coral Hollow Road 45 feet upstream of centerline.	*265
		Jahant Slough	Southern Pacific Railroad at centerline	*36
			North Cherokee Road at centerline	*52

Maps are available at 1810 East Hazleton Street, Stockton, California.

Massachusetts	Chelmsford (Town), Middlesex County, FI-4696.	River Meadow Brook	U.S. Route 3 at centerline	*103
			Billerica Road 50 feet upstream of centerline	*108
			Power Line Access Road 50 feet upstream of centerline	*113
		Beaver Brook	Confluence with River Meadow Brook Summer Street	*111
			Summer Street at centerline	*121
			State Route 4 100 feet upstream of centerline	*128
		Putnam Brook	Confluence with River Meadow Brook	*111
			Boston Road 20 feet upstream of centerline	*127
			Hall Road 20 feet upstream of centerline	*136
		Merrimack River	Confluense with Deep Brook	*102
		Stony Brook	Middlesex Road at centerline	*102
			U.S. Route 3 at centerline	*105
			Meadowbrook Road at centerline	*109
		Hales Brook	Interstate Highway 495 (Upstream Culvert) at centerline	*103
			Rivernack Road 80 feet upstream of centerline	*106
		Concord River	Downstream Corporate Limits	*100

Maps are available at Town Hall, 1 North Road, Chelmsford, Massachusetts.

Texas	Fort Worth, City, Tarrant County (Docket No. FI-4286).	Big Fossil Creek	Upstream side of Alta Vista Road	*576
			Upstream side of Watauga-Saginaw Road	*606
			A. T. & S. F. Railroad	*700
			Wagley Roberston Road	*730
		Cement Creek	Mouth	*560
			35th Street	*554
			Upstream side of I. H. 820	*583
			Upstream Corporate Limits	*587
		Clear Fork Trinity River	Mouth	*535

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Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Trinity River	Henderson Street	*539
			Lancaster Street	*544
			I. H. 20	*549
			University Drive	*556
			Hulen Street	*569
			Bryant Erwin Road	*587
			Loop 820	*602
			Upstream Corporate Limits	*611
		Cottonwood Creek	Mouth	*480
			Randol Mill Road	*489
			Upstream side Dallas-Fort Worth Turnpike	*506
			Cooke Lane	*522
			Sandy Lane	*570
			Muse Street	*582
			Milam Drive	*598
		Dry Branch	Mouth	*506
			Upstream side of Lower Birdville Road	*523
			Marsalis Street	*547
			Upstream side Beach Street (Extended)	*556
			Upstream side Robinwood Street	*565
			Carnation Drive	*570
			Hollis Street	*588
		Farmer's Branch	Upstream side I. H. 820	*715
			Upstream side Alamed Street	*749
		King's Branch	Downstream Corporate Limits	*591
			Ridgemar Road	*603
			Green Oaks Road	*619
		Little Fossil Creek	Beach Street	*563
			Upstream side of Texas & Pacific Railroad	*575
			Upstream side of St. Louis & Southwestern Railroad	*579
			Sylvania Avenue	*590
			I. H. 35 West	*602
			Great Southwest Parkway	*606
			Upstream side Forth Worth & Denver Railroad	*619
			Loop I. H. 820	*625
			Upstream side of Old Richey Airport Road	*630
			Upstream Corporate Limits	*650
		Live Oak Creek	Mouth	*600
			Silver Creek Road	*604
			Upstream Corporate Limits	*662
		Lorean Branch	Trinity Boulevard	*498
			Chicago, Rock Island & Pacific Railroad	*507
		Marine Creek	Mouth	*528
			St. Louis & Southwestern Railway	*529
			Upstream side of Exchange Avenue	*539
			Upstream side of Clinton Avenue	*547
			Upstream side of N. W. 30th Street	*567
			Downstream side of N. W. 33rd Street	*574
			N. W. 35th Street	*590
			Rock Island Avenue	*598
			Upstream side of Sherman Avenue	*614
			Upstream side of Frontage Road	*706
			Upstream Corporate Limits	*706
		Mary's Creek	Mouth	*608
			Ridglea Country Club Drive	*612
			Upstream side of Old Benbrook Road	*632
			Upstream side of I. H. 820	*674
			Longvue Road	*697
			New F.M. 2871	*701
			Downstream side of U.S. Route 80	*717
			Upstream side of U.S. Route 180	*722
			Upstream Corporate Limits	*738
		Silver Creek	Mouth	*600
			Silver Creek Road	*612
		Sulpher Branch	Mouth	*475
			Arlington-Bedford Road	*475
			State Route 183	*478
		Sycamore Creek	E. Lancaster Avenue	*524
			Vickery Boulevard	*534
			Upstream side of E. Rosedale Street	*543
			Upstream side of Polytechnic Freeway	*547
			Colvin Avenue	*559
			S. Riverside Drive	*573
			Southern Pacific Railroad	*582
			Elva Warren Street	*588
			Upstream side of Seminary Drive	*601
			Texas & Pacific Railroad	*619
			Oak Grove Road	*625
			Downstream side I. H. 820	*639
			North-South Freeway	*649
			Hemphill Street	*660
			Sycamore School Road	*700
		Valley View Creek	Upstream side of Trinity Boulevard	*487
			Upstream side of Chicago, Rock Island & Pacific Railroad	*504
			State Route 183	*506

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Village Creek	Mouth	*476
			Fort Worth-Dallas Turnpike	*483
			Randol Mill Road	*486
		Weiher's Branch	Downstream side of U.S. Route 80 and 180	*487
			Soldier Hurst Road	*487
			Trinity Boulevard	*488
			Downstream side of Lower Precinct Line Road	*503
			Upstream Corporate Limits	*600
		Walnut Creek	Mouth	*633
			Upstream side of Texas & Pacific Railroad	*647
			Upstream Corporate Limits	*693
		West Fork Trinity River	Downstream Corporate Limits	*472
			Arlington-Bedford Road	*475
			Lower Precinct Line Road	*480
			Upstream side Loop I. H. 820	*500
			Downstream side of E. First Street	*509
			Beach Street	*513
			Riverside Drive	*516
			4th Street	*520
			I. H. 35	*524
			Samuels Avenue	*528
			N. Main Street	*535
			University Drive	*540
			State Route 183	*555
			Meandering Road	*561
			Upstream side of Lake Worth Dam	*599
			Upstream Corporate Limits	*599
		Whitcat Branch	Mouth	*564
			I. H. 820	*568
			Radford Road	*574
			Statlcup Road	*582
			Village Creek Road	*610
		Stream 1	Mouth	*668
			State Route 156	*674
			Atcheson, Topeka & Santa Fe Railroad	*716
		Stream 2	Mouth	*695
			Hicks Road	*734
			Upstream Corporate Limits	*740
		Stream 3	Mouth	*662
			FM 156—First Crossing	*692
			U.S. Route 287 & 81	*720
		Stream 4	Mouth	*638
			Harman Road	*686
		Stream 5	Mouth	*566
			Downstream side of Watauga-Saginaw Road	*583
			Old Denton Road	*610
			Upstream side of I. H. 35	*645
			Frontage Road	*670
			Upstream Corporate Limits	*683
		Stream 6	Mouth	*632
			Upstream Corporate Limits	*654
		Stream 7	Mouth	*666
			Upstream Corporate Limits	*667
		Stream 8	North Shore Drive	*605
			Upstream Corporate Limits	*628
		Stream 9	Mouth	*605
			Nine Mile Bridge Road	*633
		Stream 10	Upstream side of North Shore Drive	*611
			Shelby Lane	*616
			Joe Elle Lane	*620
		Stream 11	Mouth	*543
			Upstream side of Ohio Gardens Road	*548
			River Oaks Boulevard	*563
		Stream 12	Mouth	*527
			Downstream side of Burlington Northern Railroad	*533
			Upstream side of Peak Street (Extended)	*546
			Upstream side of 28th Street	*552
			Upstream side of Dewey Street	*554
			Swartz Street	*580
			32nd Street	*595
			St. Louis & Southwestern Railway	*595
			Long Avenue	*604
			36th Street	*617
			Upstream side of Beaumont Street	*625
			Jasper Street	*630
			Upstream side of Michael Terminal Street	*636
			Hardy Street	*643
			Decatur Avenue	*650
		Stream 13	Mouth	*563
			Meachum Boulevard	*601
		Stream 14	Mouth	*576
			St. Louis & Southwestern Railway	*578
			Upstream side of Meachum Boulevard	*609

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Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Stream 15	Mouth	*595
			Upstream side of Randol Mill Road	*524
			Downstream side of Lawrence Road	*564
			Downstream side of Dallas-Fort Worth Turnpike	*573
			Downstream side of McNeer Road	*576
		Stream 16	Mouth	*504
			Boca Ration Boulevard	*510
			Upstream side of Dallas-Fort Worth Turnpike	*520
			Edenville Road	*524
		Stream 17	Mouth	*489
			Upstream side of Randol Mill Road (1st crossing)	*505
			Upstream side of Randol Mill Road (3rd crossing)	*526
		Stream 18	Mouth	*539
			Downstream side of John T. White Road	*575
		Stream 19	Mouth	*678
			Upstream side of Mary's Creek Road	*702
			Upstream side of FM 2871	*716
		Stream 20	Mouth	*702
			Upstream side Chapin Road	*707
			Downstream side of U.S. Route 80	*748
		Stream 21	Downstream Corporate Limits	*682
			Upstream side of Chapin Road	*697
			Downstream side of Dr. Harris Road	*717
		Stream 22	Chapin Road	*699
			Downstream side of U.S. Highway 80	*728
		Stream 23	Mouth	*606
			Shadow Drive	*651
			Floyd Drive	*657
			Upstream side of Fortune Road	*688
			Upstream side of Clayton Road	*692
		Stream 24	Mouth	*584
			Bryant Irvin Road	*595
			Upstream side of Texas & Pacific Railroad	*600
			Stove Foundary Road	*610
			Upstream side of Spring Road	*637
			Upstream side of Clayton Road	*672
		Stream 25	Mouth	*569
			Upstream side of Texas & Pacific Railroad	*573
		Stream 26	Mouth	*591
			Bryant Irvin Road	*612
			Upstream side Loop 820	*617
		Stream 27	Downstream Corporate Limits	*709
			W. Clevurne Road	*746
		Stream 28	Mouth	*653
			Upstream side of Edgecliff Road	*670
			Upstream side of Southcrest Drive	*682
		Stream 29	Upstream side of Edgecliff Road	*687
			James Avenue	*694
			Old Crowley Road	*697
			Upstream side Crowley Road	*707
		Stream 30	Mouth	*562
			Mockingbird Land	*575
			Colonial Parkway	*579
		Stream 31	Mouth	*557
			Upstream side of Colonial Parkway	*560
			Glenco Terrace	*571
			Upstream side of Forest Park Boulevard	*595
			Downstream side of Warner Street	*611
		Stream 32	Mouth	*583
			Weinsenberger Street	*585
			Butler Street	*588
		Stream 33	Mouth	*561
			East Berry Road	*574
		Stream 34	Mouth	*568
			Riverside Drive	*575
			Upstream side of Yuma Avenue	*592
			Downstream side of Texas & Pacific Railroad	*601
		Stream 35	Mouth	*526
			Upstream side of Woodrow Street	*527
			Upstream side of Beach Street	*538
			Upstream side of Connor Street	*545
		Stream 36	Mouth	*526
			Upstream side of Polytechnic Freeway	*536
			Upstream side of Vickery Boulevard	*548
			Exeter Street	*546
		Stream 37	Mouth	*564
			I. H. 820	*568
			Upstream side of Fitzhugh Street	*586
			Stallcup Road	*597
		Stream 38	Mouth	*564
			Upstream side of Cravens Road	*569
			Upstream side of I. H. 820	*574
			Upstream side of Carey Street	*589
			Hildale Street	*593

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Stream 39	Mouth	*584
			Upstream side I. H. 820	*571
			Parker-Henderson Road	*600
		Stream 40	Mouth	*585

Maps available at the City hall, Forth Worth, Texas.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 25, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: December 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2084 Filed 1-23-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT:

Mr. R. Gregg Chappell, National Flood Insurance Program (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Room 5150, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a) (presently appearing at its former Title 24, Chapter 10, Part 1917.4(a) of the Code of Federal Regulations)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60 (formerly 24 CFR Part 1910).

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arkansas	Town of Huttig, Union County (Docket No. FI-5713).	Quachita River	Intersection of Fourth Street Eastern Corporate limits	*91
Maps available at Mayor's Office, Town Hall, Huttig, Arkansas 71747.				
California	Anaheim (City), Orange County (Docket No. FI-5673).	Santa Ana River	Imperial Highway Bridge 100 feet downstream from centerline	*253
			Confluence with Walnut Canyon Channel 25 feet upstream from centerline.	*292
			Corporate limits upstream from confluence with Walnut Canyon Channel 250 feet downstream from centerline.	*312
			Most upstream limit of flooding within the City of Anaheim	*323
		Carbon Creek Channel	Intersection of Tola Avenue and Tola Place	*81
			Intersection of Sunrise Via and Ocean Via	*81
			Area south of Lincoln Avenue and west of Stinson Street	*58
			Area west of the intersection of Chippewa Street and Crescent Avenue.	*120
		Atwood Channel	Intersection of McDowhill Avenue and Burbech Street	*259
			Intersection of Glenview Avenue and Greenwood Drive	*261
			Intersection of Holbrook Street and Tanglewood Avenue	*262
		East Richfield Channel	Intersection of Kellogg Drive and Marita Lane	*274
			Intersection of Oak Knoll Road and Pine Ridge Road	*283
		Atwood Channel	Area along Orangethrope Avenue, south of intersection with Burbeck Street.	#1

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Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Area along Orangethrope Avenue, south of Holbrook Street	#1
			Area north of Atchison, Topeka and Santa Fe Railroad, and north of Kellogg Drive.	#1
		East Richfield Channel	Intersection of Orangethrope Avenue and Oak Knolls Drive	#2
			Intersection of Orangethrope Avenue and Willow Woods Drive	#2
		Carbon Creek Channel	Areas east and west of Magnolia Avenue, north of Lincoln Avenue and south of Crescent Avenue.	#1
			Area west of Southern Pacific Railroad at the intersection of Julianna Street and Pauline Street.	#2
			Area between Orange Avenue and Bridgeport Avenue	#3
		Carbon Creek Channel	Intersection of Westhaven Drive and Westhaven Circle	#3
		Santa Ana River	Intersection of Orangewood Avenue and Levee	#1
Maps available at the City Hall, 204 East Lincoln, Anaheim, California.				
California	Willows (City), Glenn County (Docket No. FI-5444).	South Fork Willow, Wilson, and Walker Creeks.	At the intersection of Laurel Street and Yolo Street	*129
			At the intersection of Willow Street and Ventura Street	*130
			At the intersection of Lassen Street and French Street	*136
		South Fork Willow and Wilson Creeks.	At the intersection of French Street and Shasta Street	*136
Maps are available at City Hall, 201 Lassen Street, Willows, California.				
Colorado	Breckenridge (Town), Summit County (Docket No. FI-5688).	Blue River	Watson Road 50 feet down stream from centerline	*9,543
			Watson Road 50 feet upstream from centerline	*9,551
			Village Road 50 feet downstream from centerline	*9,597
			Village Road 30 feet upstream from centerline	*9,606
			Upstream corporate limit	*9,633
		Lehman Gulch	Confluence with Blue River 30 feet upstream from centerline	*9,620
			Upstream corporate limit 10 feet from crossing	*9,620
		Lehman Gulch Ponding Area	150 feet west of the Blue River and 125 feet south of Lehman Gulch	*9,632
		Illinois Gulch	Broken Lance Road at centerline	*9,646
			Upstream corporate limit	*9,683
		Sawmill Gulch	Confluence with Blue River	*9,563
			4 O'Clock Road 50 feet downstream from centerline	*9,704
			4 O'Clock Road at centerline	*9,712
			Upstream corporate limit	*9,787
		Blue River Sheet Flow	50 feet north of Watson Road and 200 feet west of Main Street	#2
		Illinois Gulch Sheet Flow	Intersection of Village Road and Columbine Road	#1
		Sawmill Gulch Sheet Flow	350 feet north of 4 O'Clock Road and 150 feet west of Park Street	#1
		Sawmill Gulch Sheet Flow	4 O'Clock Road 300 feet west of intersection with Kings Crown Road	#2
		Lehman Gulch Sheet Flow	200 feet north of Lehman Gulch and 180 feet west of Blue River	#3
Maps available at Town Hall, 150 Ski Hill Road Breckenridge, Colorado.				
Colorado	Redcliff (Town), Eagle County (Docket No. FI-5536).	Eagle River	Denver and Rio Grande Western Railroad 40 feet upstream from centerline.	*8,573
			Colorado State Highway 293 20 feet upstream from centerline	*8,589
			Railroad Access Road 20 feet upstream from centerline	*8,597
			Pine Street 40 feet upstream from centerline	*8,629
			Eagle Street 70 feet upstream from centerline	*8,655
		Turkey Creek	Colorado State Highway 293:	
			60 feet downstream from centerline	*8,633
			30 feet upstream from centerline	*8,638
			Eagle Street 20 feet upstream from centerline	*8,644
			Private Bridge:	
			70 feet downstream from centerline	*8,647
			30 feet upstream from centerline	*8,651
			Shrine Pass Road:	
			60 feet downstream from centerline	*8,659
			20 feet upstream from centerline	*8,665
Maps available at City Hall, Redcliff, Colorado 81649.				
Connecticut	(T) of Coventry, Tolland County (Docket No. FI-5688).	Willimantic River	Downstream corporate limits	*250
			Just upstream of Cider Mill Road	*251
			Approximately 500 feet upstream of Route 31	*255
			Just upstream of Central Vermont Railroad	*265
			Just upstream of Coventry Road	*266
			Just downstream of Eagleville Dam	*275
			Just upstream of Eagleville Dam	*284
			Just upstream of Plains Road	*291
			Just upstream of Route 44A	*295
			Just upstream of Merrow Road	*316
			Just upstream of Tolland Road	*325
			Upstream corporate limits	*330

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Skungamaug River	Downstream corporate limits	*343
			Just downstream of Dam	*345
			Approximately 100 feet upstream of Dam	*349
			Approximately 3,600 feet downstream of Woodbrige Road	*390
			Approximately 200 feet downstream of Woodbridge Road	*394
			Approximately 200 feet upstream of Woodbridge Road	*396
			Approximately 100 feet downstream of South Street Dam	*407
			Just upstream of South Street Dam	*437
			Just upstream of Sagraves Road	*443
			Just upstream of Route 31	*456
			Just upstream of Route 44A	*474
			Just upstream of Broadway	*485
			Just downstream of Dam near Folley Brook Road	*497
			Just upstream of Folley Brook Road	*501
			Upsteam corporate limits	*503
		Ash Brook	Confluence with Hop River	*344
			Approximately 1,500 feet upstream of confluence with Hop River	*377
			Approximately 3,000 feet upstream of confluence with Hop River	*437
			Just upstream of Brewster Street	*486
			Approximately 1,500 feet upstream of Brewster Street	*536
			Approximately 4,000 feet upstream of Brewster Street	*586
			State Route 44A	*686
		Hop River	Downstream County Boundary	*248
			Approximately 100 feet upstream of Flanders River Road	*249
			Just upstream of Conrail	*250
			Just upstream of Pucker Street	*261
			Just upstream of Hop River Road	*272
			Just upstream of Conrail	*278
			At upstream corporation limits	*283
Maps available at Planning Office or Town Library, Town Hall, Coventry, Connecticut 06238.				
Florida	City of Palatka, Putnam County (FEMA-5713).	St. Johns River	Just downstream of U.S. Highway 27	*6
			Golf Road extended	*6
Maps available at City Hall, Palatka, Florida 32077.				
Idaho	Moscow (City), Latah County (Docket No. FI-5092).	Paradise Creek	Perimeter Drive—50 feet upstream from centerline	*2,545
			White Avenue—50 feet upstream from centerline	*2,579
			Eisenhower Street—25 feet upstream from centerline	*2,606
		South Fork Palouse River	U.S. Highway 95—10 feet upstream from centerline	*2,546
Maps available at City Hall, 122 East 4th Street, Moscow, Idaho.				
Illinois	(V) Alorton, St. Clair County (Docket No. FI-5614).	Interior Flooding within community (Ponding AH Zones).	300 feet northeast of the intersection of Missouri Avenue and 45th Street.	*411
			300 feet northeast of the intersection of Missouri Avenue and Jarvis Place.	*410
			200 feet north of the intersection of Route 163 and Mary Street	*410
			200 feet east of the intersection of Route 163 and Mary Street	*410
			300 feet north of the intersection of Missouri Avenue with Harding Ditch.	*410
			300 feet east of the intersection of Missouri Avenue with Harding Ditch.	*410
Maps available at Village Hall, Village Clerk's Office, 4821 Bond Avenue, Alorton, Illinois 62007.				
Illinois	(V) Bensenville, DuPage County (Docket No. FI-5207).	Bensenville Ditch	Approximately 800 feet downstream of Orchard Avenue	*662
			Just downstream of Chicago and North Western Railroad	*662
			Just upstream of Chicago and North Western Railroad	*665
			Just upstream Church Road	*667
		Addison Creek	Just downstream Third Avenue	*656
		Tributary 1	Just upstream of Evergreen Avenue	*658
			At Field Road	*680
		Tributary 2	At Confluence with Tributary 3	*662
			Downstream of York Road	*663
			At Church Road	*681
		Tributary 3	Confluence with Tributary 2	*662
			Just upstream of George Street	*662
			Just upstream of Private Driveway	*666
			1,200 feet upstream of Private Drive	*676
		Tributary 4	Approximately 700 feet downstream of Church Road	*670
			Just upstream of Church Road	*663
		Addison Creek	2,050 feet downstream of Diana Court	*656
			At George Street	*656
Maps available at Village Hall, Engineering Department, 700 West Irving Park Road, Bensenville, Illinois 60106.				
Illinois	(V) Dixmoor, Cook County (Docket No. FI-5683).	Little Calumet River	Approximately 317 feet downstream from the Indiana Harbor Belt Railroad (Northern Corporate Limits of Dixmoor).	*691
			Approximately 1,400 feet upstream from Ashland Avenue (Eastern Corporate Limit).	*692
		Calumet Union Drainage Ditch	Area North of Sibley Boulevard (147th Street), East of Dixie Highway, South of Interstate Route 57 and Grand Trunk Western Railroad and West of Robey Street.	*2
Maps available at the Village Engineer's Office, Village Hall, Dixmoor, Illinois 60426.				

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Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(V) Fox River Grove, McHenry County (Docket No. FI-5665).	Fox River	Western corporate limit	*736
			Eastern corporate limit	*737
Maps available at Village President's Office, Fox River Grove, Illinois 60021.				
Illinois	(V) Grayslake, Lake County (Docket No. FI-5683).	Avon Freemont Ditch	Downstream corporate limits	*775
			Just downstream of Old Center Street	*776
			Just upstream of Old Center Street	*781
			Just upstream of Center Street	*782
			Just upstream of Soo Line Railroad	*792
			250 feet upstream of Milwaukee, St. Paul, and Pacific railroad	*795
		Shallow Ponding Areas	Northwest Retention Basin	*793
			Berry Avenue, near sewage disposal plant	*772
Maps available at the Village Hall, P.O. Box 325, Grayslake, Illinois 60030.				
Illinois	(V) North Pekin, Tazewell County (Docket No. FEUA-5702).	Illinois River	Approximately 2,700 feet downstream of confluence of Lick Creek	*459
			Approximately 4,000 feet upstream of confluence of Lick Creek	*459
		Lick Creek	Approximately 700 feet upstream of Illinois Central Gulf Railroad	*460
			Approximately 500 feet upstream of State Highway 98	*467
			Approximately 1,050 feet upstream of State Highway 98	*469
Maps available at the Village Hall, 318 North Main Street, North Pekin, Illinois 61554.				
Illinois	(C) Pekin, Peoria County and Tazewell County (Docket No. FEMA-5702).	Illinois River	Just upstream of Chicago and North Western Railroad	*458
			Approximately 5,000 feet upstream of Peoria and Pekin Union Railroad.	*459
		Lick Creek	Just upstream of State Highway 98	*465
			Approximately 500 feet upstream of State Highway 98	*467
			Approximately 1,050 feet upstream of State Highway 98	*469
Maps available at the City Hall, 400 Margaret Street, Pekin, Illinois 61554.				
Illinois	(V) Round Lake Park Lake County (Docket No. REMA-5683).	Round Lake	Shoreline	*765
		Squaw Creek	About 1,100 feet downstream of Timber Creek Road (Downstream corporate limit).	*775
			Just downstream of Belvidere Road	*779
			Just upstream of Belvidere Road	*783
			Just downstream of State Route 60 (Upstream corporate limit)	*786
Maps available at Village Hall, 203 E. Lake Shore Drive, Round Lake Park, Illinois 60073.				
Illinois	(C) Savanna; Carroll County (Docket No. FI-5683).	Plum River	Downstream corporate limit	*595
			Upstream corporate limit	*596
		Mississippi River	Downstream corporate limit	*596
			U.S. Route 52	*596
			Upstream corporate limit	*596
Maps available at the Mayor's Office, Village Hall, 101 Main Street, Savanna, Illinois 61074.				
Illinois	(V) Spring Bay Woodford County (Docket No. FI-5702).	Illinois River	Downstream corporate limit	*460
			Upstream corporate limit	*460
Maps available at 200 Missouri Street, Box 210, Spring Bay, Illinois 61611.				
Illinois	Village of Westchester, Cook County (Docket No. FI-5688).	Salt Creek	Southeast of intersection of Preston Street and Hawthorne Avenue (entire reach within Village of Westchester).	*628
		Addnon Creek	Upstream side of Gardner Road	*625
			Upstream side of Roosevelt Road	*627
			At upstream corporate limits	*627
		Salt Creek Tributary	Downsteam of diversion orifice for Mayfair Reservoir	*637
			Upstream of diversion orifice for Mayfair Reservoir	*640
			Area of shallow flooding downstream of culvert entrance above Mayfair Avenue Avenue. Ave. #1.	
		South Fork	Downstream side of Wolf Road	*641
			Upstream of Wolf Road	*644
			*Upstream corporate limits	*644
		Middle Fork	Upstream side of Wolf Road	*644
			Upstream corporate limits	*644
Maps available at the Village Hall, Westchester, Illinois.				
Indiana	(C) East Chicago, Lake County (Docket No. FI-5344).	Grand Calumet River	Western corporate limits	*585
			Just upstream of Kennedy Avenue	*585
			Eastern corporate limits	*586
		Indiana Harbor Canal	Mouth at Lake Michigan	*584
			Confluence with Grand Calumet River	*585
		Lake George Canal	Confluence with Indiana Harbor Canal	*584
			Western corporate limits	*584
		Lake Michigan	Shoreline	*584
		Indiana Harbor	Shoreline	*584
Maps available at City Hall, Planning Office, East Chicago, Indiana 46312.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Iowa	(C) Lake View, Sac County (Docket No. FI-5665).	Blackhawk Lake	Entire shoreline	*1,224
		Provost Slough	Entire shoreline	*1,224
		Arrowhead Lake	Entire shoreline	*1,224
Maps available at City Hall, City Clerk's Office, 305 Main Street, Lakeview, Iowa 51450.				
Kentucky	Bloomfield (City), Nelson County (Docket No. FI-5668).	East Fork Simpson Creek	Railroad Street 50 feet upstream from centerline	*636
			State Highway 48 50 feet upstream from centerline	*653
			Upstream Corporate Limits	*665
		Hinkle Creek	State Highway 55 50 feet upstream from centerline	*655
			State Highwdy 62 75 feet upstream from centerline	*672
Maps available at City Hall, Main Street, Bloomfield, Kentucky.				
Kentucky	Unincorporated areas of McCracken County (FI-5546).	Black Branch	Just downstream of Mayfield Metropolis Road (KY. 780)	*354
			Just downstream of New Hinkleville Road (U.S. HWY 60)	*362
			Approximately 250 feet upstream of Lightfoot Road	*376
		Camp Creek	Just downstream of Harmoney Road	*349
			Approximately 100 feet upstream of Old Mayfield Road	*361
			Just downstream of Illinois Central Gulf Railroad	*369
			Approximately 180 feet downstream of Old Houser Road (Davis Road).	*383
		Champion Creek	Approximately 40 feet upstream of Illinois Central Gulf Railroad	*334
			Just downstream of Old Mayfield Road	*343
			Approximately 120 feet upstream of Clark Line Road	*362
		Island Creek	Lane Road	*330
			Just downstream of Husbands Road	*330
		Massac Creek	Approximately 500 feet upstream of Illinois Central Gulf Railroad	*336
			Approximately 300 feet downstream of Hinkleville Road (US 60)	*344
			Confluence of Middle Fork Massac Creek	*351
			Approximately 150 feet upstream of Blandville Road (US 62)	*361
			Just downstream of Lovelaceville Road	*379
			Approximately 50 feet upstream of Clinton Road	*390
		Middle Fork, Massac Creek	Approximately 150 feet upstream of Blandville Road	*368
			Approximately 120 feet upstream of Hines Road	*381
			Approximately 130 feet upstream of Lovelaceville Road	*389
			Approximately 50 feet downstream of New Hope Church Road	*415
		West Fork, Massac Creek	Approximately 100 feet upstream of Steel Road	*349
			Approximately 180 feet upstream of Woodville Road	*358
			Just upstream of Hinkleville Road (US 60)	*377
			Just upstream of Old Hinkleville Road	*387
			Approximately 70 feet downstream of the upstream crossing of Bigge Road.	*412
		Crooked Creek	Approximately 30 feet upstream of Buckner Lane	*372
			Just upstream of Pecan Drive	*384
			Approximately 200 feet upstream of Interstate 24	*399
		Ohio River	At the Westen County Limits (River Mile 956.2)	*301
			Approximately 200 feet upstream of Paducha and Illinois Railroad	*305
			At Interstate 24	*306
			At Jacobs Lane (Extended)	*337
		Perkins Creek	Approximately 200 feet upstream of Paducah and Illinois Railroad	*349
			Just upstream of Hinkleville Road	*355
			Approximately 270 feet upstream of Interstate 24	*360
			Approximately 120 feet upstream of Heneon Road	*369
			Approximately 100 feet upstream of Friendship Church Road	*377
Maps available at County Engineer's Office, McCracken County Courthouse, Paducah, Kentucky 42001.				
Louisiana	Town of Jackson, East Feliciana Parish (FI-5688).	Asylum Creek	250 feet downstreamn of LA Highway #10	*132
		Asylum Creek and Unnamed Tributary.	Confluence of Asylum Creek and Unnamed Tributary	*114
			125 feet upstream of southern corporate limits	*100
		Unnamed Tributary	250 feet upstream of LA Highway 951	*144
			100 feet upsteam of Wooden Bridge Field Road	*121
Maps available at Town Hall, 1610 Charter Street, Jackson, Louisiana 70748.				
Maine	City of Auburn; Androscoggin County (Docket No. FI-5668).	Androscoggin River	Downstream Corporate Limits	*125
			Main Turnpike (Upstream)	*133
			North Bridge (Upstream)	*137
			Main Central Railroad Bridge (Upstream)	*176
			Vietnam Veterans' Memorial Bridge (Downstream)	*179
			Deer Rips Dam (Downstream)	*187
			Deer Rips Dam (Upstream)	*213
			Gulf Island Dam (Downstream)	*215
			Gulf Island Dam (Upstream)	*203
			Upstream Corporate Limits (approximately 7,000 feet above Gulf Island Dam).	*203
		Little Androscoggin River	Barker Mills Dam (Downstream)	*160
			Barker Mills Dam (Upstream)	*170
			Breached Dam (Downstream), located approximately 4,000 feet downstream of Maine Central Railroad Bridge.	*190

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Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Breached Dam (Upstream), located approximately 4,000 feet downstream of Maine Central Railroad Bridge.	*195
			Maine Central Railroad Bridge (Upstream)	*200
			U.S. Route 202 North Bound (Upstream)	*205
			Breached Dam (Downstream), located approximately 4,000 feet upstream of Southbound U.S. Route 202.	*207
			Breached Dam (Upstream) located approximately 4,000 feet upstream of Southbound U.S. Route 202.	*211
			Old Trolley Bridge (Upstream)	*217
			Old Hotel Road (Upstream)	*222
			Upstream Corporate Limits	*231
		Taylor Brook	Dead End Road and Dam (Downstream)	*240
			Dead End Road and Dam (Upstream)	*242
			Limit of Detailed Study (located approximately 400 feet upstream of Old Hotel Road).	*247
		Lapham Brook	Beginning of detailed Study (located approximately 2,850 feet downstream of Young's Corner Road).	*247
			Young's Corner Road (Upstream)	*248
			Limit of Detailed Study (approximately 3,150 feet upstream of Young's Corner Road).	*256
Maps available at the Auburn Community Development Office.				
Maine	(T) Chelsea, Kennebec County, (Docket No. FI-5685).	Kennebec River	At Chelsea-Randolph Townline	*30
			Just downstream of Farmingdale Townline	*31
			At mouth of Vaughn Brook	*31
			Approximately 4,600 feet upstream of mouth of Vaughn Brook	*32
		Togus Stream	At Chelsea-Pittson Townline	*80
			Approximately 300 feet upstream Chelsea-Pittson Townline	*84
			Approximately 2,500 feet upstream Chelsea-Pittson Townline	*87
			Approximately 3,050 feet upstream Chelsea-Pittson Townline	*96
			Approximately 6,000 feet upstream Chelsea-Pittson Townline	*102
			Approximately 6,900 feet upstream Chelsea-Pittson Townline	*106
			Approximately 250 feet upstream Searles Mill Road	*110
			Approximately 1,000 feet upstream Searles Mill Road	*115
			Just upstream of Windsor Road	*131
			Approximately 1,300 feet downstream of confluence of Chase Meadow Brook.	*133
			Approximately 750 feet downstream of confluence of Chase Meadow Brook.	*137
			Just upstream confluence of Chase Meadow Brook	*141
			Approximately 175 feet downstream of Gravel Pit Road	*144
			Approximately 300 feet upstream of Gravel Pit Road	*150
			Approximately 500 feet upstream of Gravel Pit Road	*155
			Approximately 100 feet downstream of Wellman Road	*158
			Approximately 500 feet upstream of Wellman Road	*165
			Just downstream of Route 17 By-pass	*166
			Just upstream of Route 17 By-pass	*169
			Just downstream of Route 17	*175
			Just upstream of Route 17	*178
Maps available at Town Office, Town of Chelsea, Chelsea, Maine 04345.				
Maine	Town of Fort Kent, Aroostook County, (Docket No. FI-5686).	St. John River	Corporate Limits Downstream	*492
			Confluence of Daigle Brook	*496
			20,600' upstream of Corporate Limit	*500
			Confluence of Audibert Brook	*508
			Confluence of Fish River	*519
			Upstream side of International Bridge	*520
			Confluence of Camel Brook	*526
			Corporate Limits Upstream	*531
		Fish River	Confluence with St. John River	*519
			Main Street (U.S. Route 1)	*519
			Confluence of Perley Brook	*521
			200' Upstream of Bradbury's Bridge	*524
			Upstream crossing of Bangor and Aroostook Railroad (Downstream side).	*531
			5,700' Upstream of Upstream crossing of Bangor and Aroostook Railroad.	*541
			12,700' Upstream of Upstream crossing of Bangor and Aroostook Railroad.	*547
			15,700' Upstream of Upstream crossing of Bangor and Aroostook Railroad.	*559
			Upstream Corporate Limits	*563
		Perley Brook	Confluence with Fish River	*521
			Upstream side of Route 161	*523
			Bangor and Aroostook Railroad (Upstream)	*531
			2,300' Upstream of Bangor and Aroostook Railroad	*535
			4,300' Upstream of Bangor and Aroostook Railroad	*549
			5,800' Upstream of Bangor and Aroostook Railroad	*559
			7,300' Upstream of Bangor and Aroostook Railroad	*570
			8,600' Upstream of Bangor and Aroostook Railroad	*580
Maps available at the Fort Kent Town Hall.				
Massachusetts	Chelmsford (Town), Middlesex County FI-4698.	River Meadow Brook	U.S. Route 3 at centerline	*103
			Billerica Road 50 feet upstream of centerline	*108
			Power Line Access Road 50 feet upstream of centerline	*113
		Beaver Brook	Confluence with River Meadow Brook	*111

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Summer Street at centerline	*121
			State Route 4 100 feet upstream of centerline	*128
		Putnam Brook	Confluence with River Meadow Brook	*111
			Boston Road 20 feet upstream of centerline	*127
			Hill Road 20 feet upstream of centerline	*136
		Merrimack River	Confluence with Deep Brook	*102
		Stony Brook	Middlesex Road at centerline	*102
			U.S. Route 3 at centerline	*105
			Meadowbrook Road at centerline	*109
		Hales Brook	Interstate Highway 495 (Upstream Culvert) at centerline	*103
			Riverneck Road 60 feet upstream of centerline	*106
		Concord River	Downstream Corporate Limits	*106
Maps are available at Town Hall, 1 North Road, Chelmsford, Massachusetts.				
Massachusetts	(T) Conway, Franklin County (Docket No. FI-5678).	Deerfield River	Downstream corporate limit	*170
			Just upstream of confluence of South River	*178
			Upstream corporate limit	*186
		South River	About 0.45 mile upstream of Reeds Bridge Road	*474
			Just downstream of dam located 1.63 miles upstream of Reeds Bridge Road.	*494
			Just upstream of dam located 1.63 miles upstream of Reeds Bridge Road.	*511
			Just downstream of State Route 116 (near the confluence of Pumpkin Hollow Brook).	*545
			About 0.2 mile upstream of confluence of Pumpkin Hollow Brook	*563
			About 0.41 mile upstream of confluence of Pumpkin Hollow Brook	*590
			About 0.44 mile upstream of confluence of Pumpkin Hollow Brook (upstream of State Route 116).	*605
			Just upstream of Ashfield Road Bridge (near Deleberre Avenue)	*625
			Just upstream of Main Poland Road	*643
			Approximately 1.33 miles upstream of Main Poland Road	*682
		Pumpkin Hollow Brook	Confluence with South River	*561
			About 50 feet upstream of Academy Road	*553
			About 50 feet downstream of Hill View Road	*579
			About 50 feet upstream of Hill View Road	*585
			About 100 feet downstream of Old Cricket Hill Road	*587
			Just upstream of Cricket Hill Road	*591
			Approximately 1,025 feet upstream of Cricket Hill Road	*593
Maps available at Selectmen's Office, Town Office, Conway, Massachusetts 01340.				
Massachusetts	Georgetown (Town), Essex County, FI-5053.	Bullord Brook	Confluence with Penn Brook	*81
			East Main Street—at centerline	*81
				*81
		Jackman Brook	Parish Road—at centerline	*18
			Jewett Street—at centerline	*57
		Parker River	Thurlow Street—at centerline	*65
			Mill Street—at centerline	*74
			Confluence with Penn Brook	*75
			Pond Street—175 feet downstream from centerline	*77
			Pond Street—50 feet upstream from centerline	*89
			Bailey Lane—at centerline	*85
		Penn Brook	North Street—at centerline	*75
			Summer Street—at centerline	*79
			Confluence with Bulford Brook	*81
			East Street—50 feet downstream from centerline	*88
			State Highway 97 (Central Street)—at centerline	*88
Maps available at Town Clerk's Office, Town Hall, 1 Library Street, Georgetown, Massachusetts.				
Massachusetts	Gosnold, (Town), Dukes County (Docket No. FI-5686).	Buzzards Bay	North Shoreline	*13
		Vineyard Sound	South Shoreline	*13
Maps available at the office of the Town Clerk, Gosnold, Massachusetts.				
Massachusetts	Lakeville (Town), Plymouth County (Docket No. FI-5054).	Long Pond River	State Routes 18 and 105—50 feet upstream from centerline	*89
		Nemasket River	Bituminous Road 40 feet upstream from centerline	*62
			Vaugh Street 90 feet upstream from centerline	*62
Maps available at Town Hall, Bedford Street, Lakeville, Massachusetts.				
Massachusetts	Leverett (Town), Franklin County.. FI-5368.	Sawmill River	Downstream Corporate Limits 25 feet upstream from crossing	*407
			Dam (approximately ¾ mile upstream from corporate limits): 80 feet downstream from centerline	*460
			80 feet upstream from centerline	*472
			Dam (approximately ⅝ mile upstream from corporate limits): 25 feet downstream from centerline	*475
			150 feet upstream from centerline	*484
			Old Coke Kiln Road 50 feet upstream from centerline	*537
			Old Mill Yard Road at centerline	*548
			Rattlesnake Gutter Road at centerline	*570
			Dam (approximately 160 feet upstream from Dudleyville Road): 50 feet downstream from centerline	*624
			55 feet upstream from centerline	*631
			Confluence with Red Brook	*794
			Upstream Corporate Limit	*804

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Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Doolittle Brook	Teewaddle Hill Road 55 feet upstream from centerline	*342
			Shuteebury Road 55 feet upstream from centerline	*360
			Farm Road at centerline	*379
		Roaring Brook	Confluence with Doolittle Brook	*342
			Cushman Road 65 feet upstream from centerline	*385
		Long Plain Brook	Downstream Corporate Limits	*272
			Bull Hill Road 200 feet upstream from centerline	*317
			Central Vermont Railroad 105 feet upstream from centerline	*331
Maps are available at Town Hall, Leverett, Massachusetts.				
Massachusetts	Shrewsbury (Town); Worcester (County) (Docket No. FI-5139).	Big Summit Brook	State Highway 140 (downstream crossing)—at centerline	*364
			Grafton Street—at centerline	*391
			State Highway 140 (upstream crossing)—at centerline	*397
			State Highway 20—feet upstream from centerline	*398
			Gold Street—at centerline	*449
		West Brook	Melvin Avenue—at centerline	*398
			Everett Avenue—at centerline	*400
			Old Mill Road—225 feet downstream from centerline	*403
			Old Mill Road—50 feet upstream from centerline	*416
			Main Street—25 feet upstream from centerline	*425
		Meadow Brook	Oak Street—at centerline	*362
		Rawson Hill Brook	Prospect Street—90 feet upstream from centerline	*533
			Rawson Hill Dam—50 feet upstream from centerline	*545
			Deerfield Road—100 feet upstream from centerline	*586
			Deerfield Road—25 feet upstream from centerline	*591
			Rawson Hill Drive—at centerline	*599
			Intersection Highway 290—at centerline	*604
			Colonial Drive—at centerline	*609
Maps available at Town Engineer's Office, Municipal Office Building, 100 Maple Street, Shrewsbury, Massachusetts.				
Massachusetts	Topsfield (Town), Essex County (Docket No. FI-4797).	Ipswich River	Newburyport Turnpike	*38
			Rowley Bridge Street	*40
		Branch of Ipswich River	Dirt Road	*38
			Boston and Maine Railroad	*41
			Newburyport Turnpike	*42
		Fish Brook	Washington Street	*45
			River Road	*46
			Corporate Limits	*47
		Mile Brook	Newburyport Turnpike	*46
			Dirt Road	*50
		Pye Brook	Haverhill Road—40 feet downstream from centerline	*59
			Haverhill Road—at centerline	*54
		Howlett Brook	Newburyport Turnpike	*50
			North Street	*51
			Stage Coach Road	*54
Maps available at Town Clerk's Office, Town Hall, 8 West Common Street Topsfield, Massachusetts.				
Massachusetts	Williamsburg, Town, Hampshire County (Docket No. FI-5102).	Joe Wright Brook	Driveway Bridge 919 feet upstream from Route 9 Bridge (Upstream)	*483
			Route 9 Bridge (Upstream)	*482
		East Branch Mill River	Confluence of Bradford Brook	*711
			Wooden Footbridge 11,066 feet upstream from Bullard Road Bridge (Upstream).	*706
			Timber Footbridge 9,788 feet upstream from Bullard Road Bridge (Upstream).	*685
			Footbridge 9,240 feet upstream from Bullard Road Bridge (Upstream)	*681
			Wooden Footbridge 6,969 feet upstream from Bullard Road Bridge (Upstream).	*663
			Bullard Road Bridge (Upstream)	*558
			Nash Hill Road Bridge (Upstream)	*523
		West Branch Mill River	Graham Pond Dam (Upstream)	*737
			Graham Pond Dam (Downstream)	*724
			Stone Dam (Upstream)	*718
			Route 9 Bridge (Upstream)	*702
			Route 9 Bridge 1,837 feet downstream from Village Hill Road Bridge (Upstream).	*685
			Route 9 Bridge 1,214 feet upstream from Chesterfield Road Bridge (Upstream).	*605
			Chesterfield Road Bridge (Upstream)	*580
			Route 9 Bridge 792 feet upstream from North Street Bridge (Upstream).	*559
			North Street Bridge (Upstream)	*539
			Confluence with Mill River and East Branch Mill River	*514
		Unquomonk Brook	South Street Culvert	*555
			Driveway Bridge 1,900 feet downstream from South Street Culvert (Upstream).	*543
			Confluence of Mill River	*470
		Bradford Brook	Ashfield Williamsburg Valley Road Culvert	*715
			Confluence of East Branch Mill River	*711

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Beaver Brook	Mountain Street Culvert	*439
			Wooden Footbridge 1,795 feet downstream from Mountain Street Culvert (Upstream).	*431
			Mountain Street Bridge (Upstream)	*421
			Wooden Footbridge 4,646 feet downstream from Mountain Street Bridge (Upstream).	*385
			Wooden Footbridge 5,860 feet downstream from Mountain Street Bridge (Upstream).	*364
			Downstream Corporate Limits	*379
		Mill River	Confluence of East and West Branches of Mill River	*514
			Route 9 Bridge (Upstream)	*488
			Confluence of Unquomonk Brook	*470
			Driveway Bridge 3,590 feet downstream from Route 9 Bridge (Upstream).	*438
			Stone Dam (Upstream)	*442
			Stone Dam (Downstream)	*434
			South Main Street Bridge (Upstream)	*424
			High Street Bridge (Upstream)	*416
			Beached Dam (Upstream)	*403
			Downstream Corporate Limits	*389
Maps available at the Town Clerk's Office, Williamsburg, Massachusetts.				
Michigan	(TWP) Casco, Allegan County (Docket No. FI-5607).	Middle Fork, Black River	Upstream confluence with North Branch Black River	*588
			Just downstream 70th Street	*589
		North Branch, Black River	At downstream southern corporate limits	*585
			About 250 feet upstream of Baseline Road	*588
			400 feet upstream confluence of Middle Fork Black River	*588
		Lake Michigan	Located on west boundary of the Township of Casco	*584
Maps available at the Office of the Zoning Administrator, 6800 109th Avenue, South Haven, Michigan 49090.				
Michigan	(TWP) Laketown, Allegan County (Docket No. FEMA-5702).	Lake Michigan	Shoreline	*584
		Hutts Lake	Shoreline	*624
		Goshorn Lake	Shoreline	*617
		Tibbie Lake	Shoreline	*607
Maps available at Township Hall, A-6242 West 144th Street, Holland, Michigan 49423.				
Minnesota	(C) Granite Falls, Chippewa County (Docket No. FI-5678).	Minnesota River	Downstream of corporate limits	*893
			Just upstream of U.S. Highway 212	*896
			Just downstream of City Dam	*899
			Just upstream of City Dam	*908
			Just upstream of Oak Street	*909
			Upstream corporate limits	*917
		Minnesota River overflow channel	Mouth at Minnesota River	*895
			Just upstream of State Highway 67	*896
			Just upstream of Burlington Northern	*905
			Upstream corporate limits	*905
Maps available at City Hall, 685 Prentice Street, Granite Falls, Minnesota 56241.				
Minnesota	(C) Grasston, Kanabec County (Docket No. FI-5617).	Snake River	Downstream corporate limit	*946
			Downstream of Burlington Northern Railroad	*949
			500 feet upstream of State Highway 107	*951
			Upstream corporate limit	*952
Maps available at City Hall, Grasston, Minnesota 55030.				
Minnesota	Unincorporated Areas of Lac Qui Parle County (Docket No. FEMA-5702).	Lac Qui Parle River	Just upstream of U.S. Highway 212	*1,039
			Just downstream of Chicago and North Western railroad	*1,044
			Just upstream of Chicago and North Western railroad	*1,045
			7,000 feet upstream of Chicago and North Western railroad	*1,046
		West Branch Lac Qui Parle River	Confluence with Lac Qui Parle River	*1,042
			Eastern corporate limit, City of Dawson	*1,043
			Western corporate limit, City of Dawson	*1,048
			7,200 feet upstream of western corporate limit, City of Dawson	*1,049
			14,700 feet downstream of U.S. Highway 212	*1,065
			Just downstream of U.S. Highway 75	*1,069
			Just upstream of U.S. Highway 75	*1,070
			2,900 feet upstream of U.S. Highway 75	*1,071
Maps available from Ray Olsen, County Auditor, County Courthouse, Auditor's Office, Madison, Minnesota 56212.				
Mississippi	Unincorporated Areas of Panola County (FI-5688).	Little Tallahatchie River	Just downstream of Mississippi State Highway 6	*165
			Confluence of McIvor Drainage Canal	*186
			Confluence of Cole Creek	*190
			Just downstream of Panola Avenue	*193
			Confluence of Whitten Creek	*195
			Just downstream of U.S. Highway 51	*198
			Confluence of Stream D	*201
			Just downstream of I-55 Southbound Lane	*202
			Confluence of Hotophia Creek	*206
			Just downstream of Belmont Road	*207
		Running Slough Ditch	Confluence with Little Tallahatchie River	*166
			Confluence with Stream A	*168
			Confluence of Stream B	*167
			Confluence of Stream C	*167

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Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Stream A	Confluence with Running Slough Ditch	*186
			Just downstream of Unnamed Road No. 1	*192
			Just downstream of Mississippi State Highway 6	*199
		Stream B	Confluence with Running Slough Ditch	*187
			Just downstream of Mississippi State Highway 6	*206
		Stream C	Confluence with Running Slough Ditch	*187
			Just downstream of Mississippi State Highway 6	*207
		McIvor Canal	Confluence with Little Tallahatchie River	*186
			Just downstream of Unnamed Road Number 2	*196
			Just downstream of Unnamed Road Number 3	*214
			Confluence of Black's Creek	*215
			Just downstream of Unnamed Road Number 4	*223
			Just downstream of Mississippi Highway 315	*248
			Just downstream of Unnamed Road Number 6	*254
			Just downstream of Unnamed Road Number 7	*267
		Black's Creek	Confluence with McIvor Canal	*215
			Just downstream of Unnamed Road Number 8	*219
			Just downstream of Unnamed Road Number 9	*244
		Cole Creek	Confluence with Little Tallahatchie River	*190
			Just downstream of Unnamed Road Number 10	*201
			Just downstream of Tubb Street	*210
			Just downstream of Mississippi State Highway 6	*217
		Stream C	Confluence with Running Slough Ditch	*187
			Just downstream of Mississippi State Highway 6	*207
		McIvor Canal	Confluence with Little Tallahatchie River	*186
			Just downstream of Unnamed Road Number 2	*196
			Just downstream of Unnamed Road Road Number 3	*214
			Confluence of Black's Creek	*215
			Just downstream of Unnamed Road Number 4	*223
			Just downstream of Mississippi Highway 315	*248
			Just downstream of Unnamed Road Number 6	*254
			Just downstream of Unnamed Road Number 7	*267
		Black's Creek	Confluence with McIvor Canal	*215
			Just downstream of Unnamed Road Number 8	*219
			Just downstream of Unnamed Road Number 9	*244
		Cole Creek	Confluence with Little Tallahatchie River	*190
			Just downstream of Unnamed Road Number 10	*201
			Just downstream of Tubb Street	*210
			Just downstream of Mississippi State Highway 6	*217
			Just downstream of Unnamed Road Number 15	*249
			Just downstream of Unnamed Road Number 16	*255
		Jones Creek	Confluence with Little Tallahatchie River	*209
			Just downstream of Mississippi State Highway 35	*218
			Just downstream of Unnamed Road Number 17	*228
			Just downstream of Unnamed Road Number 18	*234
			Just downstream of Unnamed Road Number 19	*240
			Just downstream of Unnamed Road Number 20	*245
			Just downstream of Unnamed Road Number 21	*260
		Peters Creek	Just downstream of Unnamed Road Number 22	*210
			Just downstream of Illinois Central Gulf Railroad	*226
			Just downstream of U.S. Highway 51	*229
			Just downstream of I-55 Southbound Lane	*234
		Long Creek	Confluence with Peters Creek	*235
			Just downstream of Unnamed Road Number 23	*241
			Just downstream of Unnamed Road Number 24	*257
			Just downstream of Unnamed Road Number 25	*269
			Just downstream of Unnamed Road Number 26	*284
		Johnson Creek	Confluence with Peters Creeks	*235
			Just downstream of Unnamed Road Number 27	*238
			Just downstream of Unnamed Road Number 28	*254
			Just downstream of Unnamed Road Number 29	*279
			Just downstream of Unnamed Road Number 30	*298
			Just downstream of Unnamed Road Number 31	*304
			Just downstream of Unnamed Road Number 32	*322
		Goodwin Creek	Confluence with Lone Creek	*235
			Just downstream of Unnamed Road Number 23	*238
			Just downstream of Unnamed Road Number 28	*256
			Just downstream of Unnamed Road Number 33	*280

Maps available at Panola County Courthouse, Sardis, Mississippi 38666.

Missouri	(C) Edgerton, Platte County (Docket No. FI-5678).	Grove Creek	At west corporate limit	*817
			300 feet downstream of county road "B"	*821
			At county road "B"	*825
			750 feet downstream of Clark Street	*826
			At Clark Street	*828
			At east corporate limit	*831

Maps available at City Clerk's Home, Becky Sellers, Edgerton, Missouri 64444.

Missouri	(C) Kennett, Dunklin County (Docket No. FI-5678).	Snipe Slough	Upstream of State Highway 25	*263
			Upstream of Seventh Street	*264
		Buffalo Ditch No. 39	Downstream of State Highway 25	*257
			Upstream of State Highway 25	*258
			Upstream of Third Street	*259
			Upstream of First Street	*261
		Shipley Slough	Downstream of Ely Street	*262
			Western Corporate limit	*260
			Northwestern corporate limit at Ely Street	*261

Maps available at City Hall, 200 Cedar Street, Kennett, Missouri 63857.

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Missouri	(C) Republic, Greene County (Docket No. FI-5683).	Schuyler Creek	At eastern corporate limits	*1,226
			Approximately 390 feet upstream from eastern corporate limits	*1,230
			Just downstream from South Lynn Avenue	*1,240
			Approximately 380 feet upstream from corporate limits at Field Road	*1,225
			Just upstream from East Miller Road	*1,270
			Just upstream from Ritter Street	*1,290
			Approximately 100 feet downstream from South Main Street	*1,295
			Just upstream from South Main Street	*1,298
			Just upstream from West Charles Street	*1,308
			Just upstream from West Miller Road	*1,313
		North Fork, Schuyler Creek	At eastern corporate limits	*1,221
			Just upstream from East Hines Street	*1,238
			Just downstream from U.S. Route 60	*1,254
			Approximately 80 feet upstream from U.S. Route 60	*1,261
		Dry Branch	At western corporate limits	*1,254
			Just upstream from West Hines Street	*1,273
			100 feet upstream from West Logan Street	*1,276
			100 feet upstream from State Route 174	*1,300
			Just upstream from West Elm Street	*1,308
		West Fork Dry Branch	At northern corporate limits	*1,272
			Approximately 210 feet downstream from State Route 174	*1,274
			Approximately 240 feet upstream from State Route 174	*1,283
			Just downstream from Kansas Street	*1,293
			80 feet upstream from Kansas Street	*1,295
			Approximately 1,270 feet upstream from Kansas Street	*1,309
		Evergreen Creek	At northern corporate limits	*1,249
			Just downstream from State Route 174	*1,267
			Just upstream from State Route 174	*1,270
			Approximately 130 feet downstream from North Hampton Avenue	*1,272
			Approximately 60 feet upstream from North Hampton Avenue	*1,275
			Just upstream from East Hines Street	*1,287

Maps available at City Hall, 146 North Main, Republic, Missouri 65738.

Montana	East Helena (City), Lewis & Clark County (Docket No. FI-5673).	Prickley Pear Creek	Groschell Street 100 feet upstream from centerline	*3,870
			Main Street at centerline	*3,874
			Burlington Northern Railroad 60 feet upstream from centerline	*3,883

Maps available at City Hall, 7 East Main, East Helena, Montana.

New Hamphsire	Lebanon (City), Grafton County (Docket No. FI-5688).	Connecticut River	Interstate Route 89 50 feet upstream from centerline	*351
			U.S. Route 4–10 feet upstream from centerline	355
		Mascoma River	South Main Street 10 feet upstream from centerline	*351
			Seminary Hill Road 10 feet upstream from centerline	*450
			Mechanic Street 100 feet upstream from centerline	*470
			Hanover Street 10 feet upstream from centerline	*576
			Upstream crossing of Interstate Route 89 10 feet upstream from centerline	*606
			Mascona Lake Dam 50 feet upstream from centerline	*755

Maps available at City Hall, 51 North Park Street, Lebanon, New Hampshire.

New Jersey	Franklin (Township), Somerset County (Docket No. FI-5509).	Raritan River	Corporate Limits at centerline	*18
			Foot of De Mott Lane (100 feet) upstream from centerline	*23
			Fieldville Dam (100 feet) upstream from centerline	*30
			Calco Dam (100 feet) upstream from centerline	*38
		Millstone River	Dam upstream from confluence with Raritan River (100 feet) upstream from centerline.	*40
			Dam at Manville Causeway (100 feet) upstream from centerline	*41
			Amwell Road (100 feet) downstream from centerline	*44
			U.S. Geological Survey Gaging Station Weir at Blackwell Mills Causeway (100 feet) upstream from centerline.	*46
			Griggstown Causeway (100 feet) upstream from centerline	*49
			Route 518 (100 feet) upstream from centerline	*52
		Simonson Brook	Delaware and Rarital Canal (100 feet) upstream from centerline	*46
			Melbern Lake Dam (100 feet) downstream from centerline	*60
		Tennille Road	Canal Road (100 feet) upstream from centerline	*47
			Butler Road (100 feet) downstream from centerline	*56

Maps Available at Township Hall, 207 Berger Street, Somerset, New Jersey.

New Jersey	Roselle Park, Borough, Union County (Docket No. FI-5637).	Morses Creek	Conrail Culvert Opening	*75
			West Westfield Avenue	*75
			Upstream Corporate Limits	*75
		Morses Tributary 9–1–7	Shallow flooding is found from the downstream corporate limits to 200 feet beyond Colfax Avenue.	#1
		Peach Orchard Brook	Shallow flooding is found from the downstream corporate limits to Dalton Street.	#2

Maps available at the Municipal Building, Roselle Park, New Jersey.

New Jersey	South River (Borough), Middlesex County (Docket No. FI-5673).	South River	Intersection of Main and Reid Streets	#12
			Intersection of Herman and Water Streets	#12

Maps available at the Borough Clerk's Office, 61–63 Main Street, South River, New Jersey.

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Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New Jersey	Wallington, Borough, Bergen County (Docket No. FI–5638).	Passaic River	Main Avenue Upstream	*17
			Eighth Street Upstream	*18
			Upstream Corporate Limits	*19
		Saddle River	Confluence with Passaic River	*19
			Conrail Bridge	*19
	Maps available at the Municipal Building.			
New York	Brunswick (Town), Rensselaer County (Docket No. FI–5673).	Poesten Kill	Most downstream limit of detailed study 200 feet upstream from centerline.	*415
			Corporate limits at centerline	*423
			Confluence with Quacken Kill 100 feet upstream from centerline	*426
		Quacken Kill	Corporate limits 60 feet downstream from centerline	*433
			Darter Hill Road 75 feet downstream from centerline	*451
			Darter Hill Road 40 feet upstream from centerline	*453
			Deerstyne Road 25 feet downstream from centerline	*461
			Deerstyne Road 70 feet upstream from centerline	*463
			White Church Road 140 feet downstream from centerline	*494
			White Church Road 75 feet upstream from centerline	*497
			County Highway 77 200 feet downstream from centerline	*514
			County Highway 77 100 feet upstream from centerline	*519
			Private Road upstream of County Highway 77 100 feet downstream from centerline.	*529
			Private Road upstream of County Highway 77 50 feet upstream from centerline.	*536
		Wynatts Kill	Most downstream limit of flooding affecting the Town of Brunswick	*324
			Most upstream limit of flooding affecting the Town of Brunswick	*327
	Maps available at the Brunswick Town Office, Center Brunswick, Eagle Mills Road, Brunswick, New York.			
New York	Lewiston, Town, Niagara County (Docket No. FI 4985).	Fish Creek	120 feet upstream of Robert Moses Parkway	*562
			310 feet upstream of Robert Moses Parkway	*567
			530 feet upstream of Robert Moses Parkway	*571
			930 feet upstream of Robert Moses Parkway	*575
			85 feet upstream of U.S. Route 104	*580
			1,265 feet upstream of U.S. Route 104	*585
			60 feet upstream of State Route 265	*595
			720 feet upstream of State Route 265	*595
			3,580 feet upstream of State Route 265	*595
			Approximately 45 feet upstream of Bronson Drive	*595
		Gil Creek	Approximately 100 feet upstream of Hewitt Drive	*603
			Approximately 4,500 feet upstream of Hewitt Drive	*611
			Approximately 6,500 feet upstream of Hewitt Drive	*615
			Approximately 8,500 feet upstream of Hewitt Drive	*621
	Maps available at the Town Hall, 1375 Ridge Road, Lewiston, New York.			
New York	Town of Mount Pleasant, Westchester County (Docket No. FI–5678).	Saw Mill River	Downstream corporate limit	*191
			First crossing Saw Mill River Parkway upstream from corporate limit	*202
			Confluence of Fly Kill Brook	*231
			Upstream corporate limit	*253
		Nanny Hagen Brook	Confluence with Saw Mill River	*250
			Culvert approximately 300 feet upstream from Kensico Road crossing.	*257
		Fly Kill Brook	Confluence with Saw Mill River	*231
			Crossing of Chelsea Street	*250
			Conrail crossing just upstream from Bridge	*255
		Clove Brook	Confluence with Davis Brook	*244
			Wall Road crossing	*250
	Maps available at the Town Hall.			
New York	Sanford (Town), Broome County (Docket No. FI–5689).	West Branch Delaware River	Hales-Eddy Road 200 feet upstream from centerline	*900
		Oquaga Creek	State Highway 17, most downstream crossing at centerline	*1,015
			Alternate State Highway 17 50 feet upstream from centerline	*1,081
			Old Plank Road most downstream crossing at centerline	*1,114
			Loomis Hill Road 150 feet upstream from centerline	*1,166
			Clark Road 50 feet upstream from centerline	*1,262
		Marsh Creek	State Highway 41 20 feet upstream from centerline	*1,119
		Dry Brook	Clark Road 100 feet upstream from centerline	*1,306
		Sanford Tributary	At confluence with Oquaga Creek	*1,166
		Deer Lake	Western Corporate Limit	*1,522
	Maps available at Town Hall, 148 Front Street, Deposit, New York.			
New York	Youngstown, Village, Niagara County (Docket No. FI–5679).	Lake Ontario	Backwater affecting reach of Niagara River in the Village of Youngstown, New York.	*249
	Maps available at the Village Hall, 240 Lockport Street, Youngstown, New York.			
North Carolina	Unincorporated areas of Guilford County (FI–5666).	Haw River	Just downstream of State Highway 2712	*634
			Approximately 1,000 feet upstream of State Highway 2711	*640
			Confluence of Mear's Fork Creek (at just upstream of State Highway 1001).	*707
			Just upstream of State Highway 2347	*746

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of U.S. Highway 220	*762
			Approximately 400 feet upstream of State Highway 68	*792
			Just upstream of State Highway 2022	*825
		Big Alamance Creek	Just downstream of State Highway 61	*544
			Just upstream of State Highway 3056	*558
			Just downstream of State Road 3045	*583
			Approximately 200 feet upstream of State Highway 3092	*590
			Just upstream of State Highway 3088	*597
			Just downstream of Highway 3386	*629
			Just upstream of State Highway 3549	*649
			Just upstream of Dam near State Highway 3396	*656
			Just upstream of Dam at State Highway 3412	*685
		Big Alamance Creek Tributary No. 1.	Confluence with Big Alamance Creek	*687
		Big Alamance Creek Tributary No. 2.	Just upstream of U.S. Highway 421	*686
		Back Creek Tributary	Just downstream of Sanitary Landfill Road	*624
		South Little Alamance Creek	Just upstream of State Highway 1005	*626
			Just upstream of State Highway 3370	*685
			Just upstream of U.S. Highway 421	*716
		North Little Alamance Creek	Just upstream of State Highway 61	*536
			Just upstream of State Highway 3056	*571
			Just downstream of State Highway 3045	*603
			Just upstream of Stewart Mill Dam	*619
			Just upstream of Dam at 600 upstream of Highway 3029	*647
			Approximately 300 feet upstream of Highway 1006	*665
			Just upstream of U.S. Highway 421	*728
		Tributary 2 of North Little Alamance Creek.	Just upstream of State Highway 1005	*666
		Tributary 4 of North Little Alamance Creek.	Just upstream of State Highway 3048	*632
			Just upstream of Dam	*657
		Tributary 5 of North Little Alamance Creek.	Just upstream of U.S. I–85	*670
			Just upstream of State Highway 2826	*635
		Rock Creek	Just upstream of I–85	*560
			Just upstream of Southern Railroad	*630
		Rock Creek Tributary 1	Approximately 400 feet downstream of State Highway 2808	*626
		Tributary to Tributary 1	Just downstream of State Highway 2808	*600
		East Beaver Creek	Just upstream of State Highway 1005	*674
			Just upstream of Masonry Dam	*585
		Reedy Fork	Approximately 1000 feet upstream of State Highway 2719 and just downstream of Masonry Dam.	*646
			Just downstream of U.S. Highway 29	*687
			Lake Townsend	*720
			Lake Brandt	*743
			Just upstream of State Highway 68	*803
			Just upstream of State Highway 1856	*842
			Just upstream of State Highway 2001	*866
		Buffalo Creek	Just downstream of State Highway 2719	*652
			Just downstream of State Highway 2795	*665
		North Buffalo Creek	Just downstream of State Highway 2784	*682
			Just upstream of State Highway 2832	*696
		South Buffalo Creek	Just upstream of U.S. Highway 70A	*699
			Just upstream of State Highway 300 (McConnell Road)	*709
		Richland Creek (Tributary of Reedy Fork).	Just upstream of Dam of Lake Richland	*752
		Squirrel Creek	Just upstream of State Highway 2519	*723
			Just upstream of State Highway 1001	*750
		Long Branch (Tributary of Reedy Fork).	Just upstream of State Highway 2324	*723
		Horse Pen Creek	Just upstream of Southern Railroad	*744
			Just upstream of State Highway 2182	*772
			Just upstream of State Highway 2136	*777
			Just downstream of State Highway 2145	*811
		Brush Creek	Just upstream of State Highway 2136	*783
			Just downstream of State Highway 2137	*802
		Moore's Creek	Approximately 400 feet upstream of State Highway 2134	*779
		West Beaver Creek	Just upstream of Dam, approximately 200 feet upstream of Highway 66.	*826
			Just upstream of State Highway 2018	*847
		Benaja Creek	Just upstream of Southern Railroad	*709
		Mear's Fork	Just upstream of State Highway 2369	*762
			Just upstream of State Highway 2317	*763
		Troublesome Creek	Just upstream of State Highway 2103	*655
		Deep River	Approximately 200 feet downstream of State Highway 62	*675
			Just upstream of State Highway 1129	*684
			Approximately 600 feet upstream of U.S. Highways 29 and 70	*709
			Just upstream of U.S. Highway 1355	*705
		Polecat Creek	Just upstream of State Highway 62	*713
			Just upstream of U.S. Highway 220	*745
		Polecat Creek Tributary	Just upstream of Dam at State Highway 3426	*770
		Hickory Creek	Just upstream of State Highway 1140	*680
			Just upstream of State Highway 1132	*689
			Just upstream of State Highway 1113	*712
		Hickory Creek Tributary No. 2	Just upstream of State Highway 1132	*740

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Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Register Creek	Just upstream of State Highway 1129	*714
			Just upstream of State Highway 1113	*726
			Just upstream of U.S. Highways 29 and 70	*747
			Just upstream of Cumberland Road (1372)	*775
		Richard Creek (Tributary of Deep River).	Approximately 300 feet upstream of a Private Road	*653
		Bull Run	Just upstream of U.S. Highways 29A and 70A	*744
			Just upstream of State Highway 1549	*770
			Just upstream of Concrete Dam	*798
		Bull Run Tributary	Just upstream of Horse Path	*778
		East Fork Deep River	Just upstream of State Highway 1541	*780
			Just upstream of State Highway 1556	*807
			Just upstream of Interstate Highway I–40	*829
		Long Branch (Tributary East Fork Deep River).	Just upstream of State Highway 1549	*789
		West Fork Deep River	Just upstream of State Highway 1818	*817
			Just upstream of State Highway 1850	*821
		Tributary No. 1 (West Fork Deep River).	Just upstream of State Highway 1859	*846
			Just upstream of State Highway 1858	*854
		Tributary to Tributary No. 1	Approximately 1,200 feet downstream of Interstate Highway I–40	*866
		Tributary No. 2 (West Fork Deep River).	Approximately 600 feet upstream of State Highway 1834	*908
Maps available at Guilford County Manager's Office, Greensboro, North Carolina 27402.				
Ohio	(V) Canal Winchester, Fairfield County, and Franklin County (Docket No. FI–5678).	Little Walnut Creek	Downstream corporate limits	*741
			Just downstream of Gender Road	*748
			About 630 feet upstream of State Route 674	*760
			Upstream corporate limits	*762
		Tussing Ditch	At downstream corporate limits	*741
			Just upstream of Groveport Road	*752
			About 710 feet upstream of Walnut Street	*753
			Just downstream of Chessie System	*754
			About 100 feet downstream of Waterloo Street	*761
			Just upstream of Waterloo Street	*764
			Just upstream of U.S. Route 33	*766
		George Creek	About 1,270 feet downstream of U.S. Route 33	*751
			Just upstream of U.S. Route 33	*755
			At upstream corporate limits	*759
Maps available at Village Hall, 10 North High Street, Canal Winchester, Ohio 43110.				
	(V) Dublin, Franklin and Delaware County (Docket No. FI–5678).	Scioto River	Downstream corporate limits	*771
			400 feet upstream of confluence of Indian Run	*777
			Just upstream of Interstate 270	*779
			Just upstream of confluence of Tributary S2	*780
			Just upstream of confluence of Tributary S4	*793
			Upstream corporate limits	*795
		Indian Run	250 feet upstream of High Street	*777
			At confluence with South Fork Indian Run	*804
		North Fork Indian Run	400 feet upstream of confluence with South Fork Indian Run	*805
			Just upstream of Interstate 270	*838
			1,100 feet upstream of Interstate 270	*853
			Just upstream of Coffman Road	*864
			Just upstream of Brand Road	*880
			Just upstream of Ashbaugh Road	*895
			Just upstream of Muirfield Drive	*902
			Upstream corporate limits	*920
		South Fork Indian Run	Just upstream of access road, 1,025 feet upstream of confluence with Indian Run.	*853
			Just upstream of Interstate 270	*870
			100 feet upstream of access road, 2,260 feet upstream of Coffman Road	*886
			Just upstream of access road 4,460 feet upstream of Coffman Road	*897
			About 1,300 feet upstream of Avery Road	*914
		Tributary S–1	Mouth at Scioto River	*773
			600 feet upstream of mouth at Scioto River	*776
			Just upstream of High Street	*802
			Just upstream of access road, 1,520 feet upstream of High Street	*843
			Just upstream of Frantz Road	*864
			Just upstream of Interstate 270	*894
			Upstream corporate limits	*899
Maps available at Village Hall, Dublin, Ohio 43217.				
Ohio	(V) Grafton, Lorain County (Docket No. FI–5683).	East Branch Black River	Downstream corporate limits	*778
			Just upstream of Parsons Road	*783
			Just upstream of Conrail	*786
Maps available at the Village Hall, 1009 Chestnut Street, Grafton, Ohio 44044.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Ohio	(C) North Ridgeville, Lorain County (Docket No. FI–5678).	Ridgeway Ditch	Just downstream Case Road	*695
			About 900 feet upstream Case Road	*700
			Just downstream Center Ridge Road	*716
			About 1700 feet upstream Center Ridge Road	*719
		Shallow flooding (overflow from Ridgeway Ditch).	Intersection of Maddock Road and Ridgeway Ditch	#1
		Shallow flooding (overflow from French Creek).	Intersection of French Creek and Center Ridge Road	#1
		Shallow flooding (overflow from Robinson Ditch).	Intersection of Root Road and Robinson Ditch	#1
		Shallow flooding (overflow from Mills Creek).	Intersection Chestnut Ridge Road and Mills Creek	#1
			Intersection Center Ridge Road and Mills Creek	#1
Maps available at City Hall, 7307 Avon-Belden Road, North Ridgeville, Ohio 47039.				
Ohio	(V) Ottawa Hills, Lucas County (Docket No. FI–5620).	Ottawa River	Just upstream Talmadge Road	*597
			Upstream corporate limit	*602
Maps available at Village Hall, 2125 Richards Road, Toledo, Ohio 43606.				
Ohio	(C) Toledo, Lucas County (Docket No. FI–5678).	Maumee Bay	Shoreline	*579
		Halfway Creek	Just downstream of State Line Road	*591
			Just upstream of Lewis Avenue	*597
			Upstream side of Jackman Road	*603
			Upstream Corporate limits	*605
		Silver Creek	Downstream Corporate limits	*579
			Downstream side of Hagman Road	*580
			Downstream side of Ann Arbor Railroad	*585
			Upstream side of Ann Arbor Railroad	*589
			Upstream side of Bennet Road	*594
			Just upstream of Lewis Avenue	*600
			Just upstream of Detroit Toledo Ironton Railroad 0.52 mile downstream of Jackman Road	*606
			Just upstream of Rowland Drive West	*612
			Downstream side of Clegg Street	*617
			Upstream side of Whitmer Drive	*626
			Just upstream of Acoma Drive	*634
		Shantee Creek	Confluence with Silver Creek	*583
			Just upstream of Stickney Avenue	*589
			Upstream side of Conrail	*594
			Downstream of Bennett Road	*597
			Downstream side of Willys Parkway	*602
			Downstream side of Toledo Terminal Railroad 896 feet upstream of Jackman Road	*610
			Upstream side of Toledo Terminal Railroad 896 feet upstream of Jackman Road.	*614
			Upstream side of Tremainsville Road	*614
		Tift Ditch	Confluence with Shantee Creek	*614
			Upstream side of Douglas Road	*618
			Upstream side of Secor Road	*624
			Upstream side of Fox Glove Road	*629
			300 feet upstream of Paddington Drive	*637
		Eisenbraum Ditch	Confluence with Tift Ditch	*618
			Downstream side of Laskey Road	*625
			Just upstream of Clover Lane	*635
			Upstream side of Talmadge Road 840 feet downstream of Private Drive.	*642
			Upstream Corporate limit	*651
		Jamieson Ditch	Confluence with Silver Creek	*598
			Just upstream of Regina Parkway	*600
			Downstream side of Lewis Avenue	*602
		Ketchem Ditch	Confluence with Silver Creek	*606
			Upstream side of Jackman Road	*611
			Just upstream of Oldham Drive	*615
			Downstream side of Douglas Road	*620
		Ottawa River	Downstream Corporate limit	*579
			Just upstream of Lagrange Street	*587
			Upstream side of Berdan Avenue	*596
			Upstream of Upton Avenue	*595
			Upstream Corporate limits	*595
		Peterson Ditch	Confluence with Ottawa River	*588
			Just downstream of Algonquin Parkway	*613
			500 feet upstream of Cheltenham Road	*615
			200 feet upstream of Manchester Boulevard	*623
			Upstream side of Woodley Road	*626
		Williams Ditch	200 feet upstream of Dorr Street	*610
			Upstream side of Wamba Avenue	*617
			Just downstream of Hill Avenue	*620
			300 feet upstream of Marine Drive	*622
			0.56 mile upstream of Marine Drive	*624
		Schneider Ditch	Confluence with Williams Ditch	*619
			Downstream side of Hill Avenue	*620
		Heldman Ditch	Downstream Corporate limits	*596
			Upstream side of Inverdale Avenue	*603
			Upstream side of Hill Avenue	*614
			Upstream side of Holland-Sylvania Road	629
			Upstream Corporate limit	*634

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Dennis Ditch	Confluence with Heldman Ditch	*595
			Just upstream of Whitegate Drive	*603
			Upstream side of Hill Avenue	*613
			Downstream side of Wenz Road	*625
		Hill Ditch	Confluence with Heldman Ditch	*598
			Upstream side of Terrace View South	*605
			Just upstream of Bancroft Street	*613
			Just upstream of Reynolds Road	*620
			Downstream side of Elmer Drive	*626
		Haefner Ditch	Confluence with Hill Ditch	*598
			Just upstream of Penn Road	*610
			300 feet downstream of Atwood Road	*615
			750 feet downstream of Olimphia Drive	*630
			Upstream Corporate limits	*638
		Define Ditch	Confluence with Heldman Ditch	*601
			Upstream side of St. Andrews Drive	*604
			Just downstream of Reynolds Road	*620
			Upstream side of Reyholds Road	*626
			Downstream side of Hill Avenue	*628
		Mayer Ditch	Confluence with Heldman Ditch	*631
			Just upstream of Nebraska Avenue	*636
			Upstream Corporate limit	*637
		Swan Creek	Mouth at Maumee River	*579
			Upstream side of Collingwood Boulevard	*586
			Just upstream of Hawley Street	*592
			Upstream side of Byrne Road	*598
			Upstream side of Reynolds Road	*605
			Just upstream of Garden Road	*613
		Wolf Creek	Confluence with Swan Creek	*606
			Upstream Corporate limit	*606
		Good Ditch	Confluence with Wolf Creek	*606
			Just upstream of Airport Highway	*611
			Upstream Corporate limit	*618
		Delaware Creek	Mouth at Maumee River	*580
			100 feet upstream of Wildwood Road	*583
			Just upstream of Detroit Avenue	*598
			400 feet downstream of Toledo Terminal Railroad	*598
			Confluence with Gerdes Ditch	*606
			Downstream side of Glanzman Road	*606
		Maumee River	Mouth at Maumee Bay	*579
			Upstream Corporate limits	*581

Maps available at Planning Commission, 415 North St. Clair Street, Toledo, Ohio 43624.

Ohio	(V) Wellington, Lorain County (Docket No. FI-5678).	Wellington Creek	Approximately 1,050 feet downstream of downstream corporate limit	*834
			At the downstreamcorporate limit	*836
			Approximately 2,300 feet downstream of Cemetery Road	*840
			Just downstream of Cemetery Road	*843
			Approximately 150 feet upstream of Cemetery Road	*844

Maps available at Village Hall, Willard Memorial Square, Wellington, Ohio 44090.

Oregon	Phoenix (City), Jackson County (Docket No. FI-5673).	Bear Creek	Fern Valley Road 150 feet upstream from centerline	*1,472
			Phoenix Corporate Limits approximately 3470 feet upstream from Fern valley Road at centerline.	*1,488
		Coleman Creek	Phoenix Corporate Limits approximately 1000 feet upstream from mouth at centerline.	*1,471
			U.S. Highway 99 30 feet downstream from centerline	*1,485

Maps available at City Hall, 510 West First Street, Phoenix, Oregon.

Pennsylvania	Township of Bethlehem, Northampton County (Docket No. FI-5676).	Lehigh River	Downstream corporate limits	*209
			Upstream corporate limits	*220
		Nancy Run	Washington Street	*259
			Keystone Street	*267
			Middletown Road	*272
			Willow Park Road	*293
		Monocacy Creek	Private Bridge	*316
			U.S. Route 22	*318
			Broadhead Road	*319
			Nazareth Pike (Pennsylvania Route 191)	*321

Maps available at the Township Building, Bethlehem, Pennsylvania.

Pennsylvania	Township of Conoy, Lancaster County (Docket No. FI-5678).	Susquehanna River	Downstream corporate limits	*272
			Upstream corporate limits	*291
		Conoy Creek	At mouth	*278
		Tributary A	Confluence of Tributary A	*286
			At mouth	*286
		Conewago Creek—East	State Route 441 bridge	*325
			At mouth	*284
			Township Route 300 bridge	*309
			Township Route 304 bridge	*322

Maps available at the Township Building, Conoy, Pennsylvania.

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	South Waverly, Borough Bradford County (Docket No. FI-4892).	Dry Brook	Downstream Corporate Limits	*795
			U.S. Route 220 Downstream	*807
			U.S. Route 220 Upstream	*817
			Elmira Street (L. R. 08114)	*821
			Foot Bridge	*826
			Southern Tier Expressway Downstream	*827
			Southern Tier Expressway Upstream	*833
			Bradford Street Downstream	*833
			Bradford Street Upstream	*837
			Upstream Corporate Limits	*837
		Chemung River	Downstream Corporate Limits	*778
			Upstream Corporate Limits	*778

Maps available at the Borough Office of South Waverly, Pennsylvania.

Pennsylvania	Tremont, Borough, Schuylkill County (Docket No. FI-5603).	Good Spring Creek	Downstream Corporate Limits	*753
			East Line Street—Upstream	*762
			East Main Street—Upstream	*767
			Footbridge 480 feet downstream of North Pine Street	*768
			North Pine Street—Upstream	*776
			Washington Street—Upstream	*780
			Upstream Corporate Limits	*814

Maps available at the Borough Office, Main Street, Tremont, Pennsylvania.

South Carolina	Abbeville (City), Abbeville County (Docket No. FI-5688).	Blue Hill Creek	South Main Street at centerline	*480
			Brooks Street 50 feet downstream from centerline	*480
			Brooks Street 20 feet upstream from centerline	*486
			West Greenwood Road 70 feet upstream from centerline	*486
			Vienna Street 20 feet upstream from centerline	*492
		Blue Hill Creek Tributary	Filter Plant Drive 60 feet upstream from centerline	*495
			Ferry Street 60 feet upstream from centerline	*524
			Haigler Street 70 feet downstream from centerline	*545
			Haigler Street 20 feet upstream from centerline	*556
		Parker Creek	Washington Street 60 feet upstream from centerline	*484
			South Carolina Highway 20–30 feet upstream from centerline	*513
			Sunset Drive 60 feet downstream from centerline	*536
			Sunset Drive 40 feet upstream from centerline	*545

Maps available at City Hall, Court Square, Abbeville, South Carolina.

South Carolina	City of Newberry, Newberry County (FI-5673).	North Fork, Scotts Creek	Just downstream of Drayton St	*450
			Just downstream of Caldwell St	*462
			Just downstream of Calhoun St	*465
		South Fork- Scotts Creek	Just downstream of Caldwell St	*460
			Just downstream of Glenn St	*474

Maps available at City Hall, 1201 McKebben Street, Newberry, South Carolina 29128.

South Dakota	Mission Hill (Town), Yankton County (Docket No. FI-5673).	Unnamed Stream	Finotti Avenue at centerline	*1,175
			Nichols Avenue 30 feet upstream from centerline	*1,179

Maps available at the home of Ms. Paula Gunderson, Town Clerk, Town of Mission Hill, Mission Hill, South Dakota.

South Dakota	Pierre (City), Hughes County (Docket No. FI-5665).	Hilgers Gulch	Confluence with Missouri River	*1,427
			Wells Avenue centerline	*1,466
			Church Street 50 feet downstream from centerline	*1,486
			U.S. Highway 14/83–200 feet upstream from centerline	*1,608
			Most upstream corporate limits at centerline	*1,639

Maps available at City Hall, 222 East Dakota Avenue, Pierre, South Dakota.

South Dakota	Trent (Town), Moody County (Docket No. FI-5673).	Big Sioux River	Downstream Corporate Limits	*1,502
			Third Street at centerline	*1,504
			Upstream Corporate Limits	*1,505

Maps available at the home of Mr. LeRoy Allen, President of the Town Board, Town of Trent, Trent, South Dakota.

Texas	City of El Campo, Wharton County (FEMA-5713).	Tres Palacios Creek	Just upstream of Pinchot Street	*101
			Just downstream of West Nom's Street1	*106
		Tres Palacios Tributary	Just downstream of South Meadow Street	*102
		Stage Stand Creek	Just upstream of U.S. Highway 71	*100
		Blue Creek	Just upstream of Oliva Street	*109
			Just upstream of Earl Street	*112

Maps available at City Hall, El Campo, Texas 77437

Texas	Sherman, City, Grayson County (FI-5683).	Post Oak Creek	Just upstream of Old U.S. Highway 75	*662
			Just upstream of Center Street	*677
			Just upstream of Lamberth Street	*717
		Sand Creek	Just upstream of State Highway 82	*691
		East Fork Post Oak Creek	Just upstream of Travis Street	*708
			Just downstream of McLain Drive	*740
		Choctaw Creek	Just upstream of Southern Pacific Railroad	*655
		Stream B	Just upstream of Texas and Pacific Railroad	*725
		Stream E	Just upstream of Vancouver Street	*722
			Just downstream of Pecan Grove Road	*748

Maps available at City Clerk's Office, City Hall, 400 N. Rusk, Sherman, Texas 75090.

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Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Texas	City of Spring Valley, Harris County (Docket No. FI-5678).	Spring Branch	Westview Drive	*62
			Bingle Road	*65
			Voss Road	*74
			Upstream Corporate Limits	*78
		Briar Branch	Bingle Road	*54
			Voss Road	*69
			Campbell Road	*75
			Adkins Road	*77
Maps available at the Spring Valley City Hall.				
Texas	City of Wylie, Collin County (FI-5686).	Rush Creek	Approximately 70 feet downstream of New State Highway 78	*502
			Just downstream of East Stone Road	*473
		Rush Creek Tributary	Approximately 40 feet downstream of New State Highway 78	*511
		Muddy Creek Tributary	Just upstream of Martinez Lane	*496
			Approximately 140 feet downstream of Martinez Lane	*495
Maps available at City Hall, Wylie, Texas 75098.				
Utah	Mapleton (City), Utah County (Docket No. FI-5673).	Hobble Creek	3,200 East Utah County at centerline	*4,703
			Diversion Structure (east of Main Street) 50 feet downstream of centerline.	*4,712
			Diversion Structure (east of Main Street) 50 feet upstream of centerline.	*4,719
			Unnamed Road upstream of confluence with Mapleton Lateral Canal 50 feet upstream of centerline.	*4,771
			Upstream Corporate limits at centerline	*4,794
		Maple Creek	Area 2,300 feet southeast of the intersection of 1,200 North and 1,700 East.	#1
Maps available at City Hall, 35 East Maple, Mapleton, Utah.				
Utah	Moab (City), Grand County (Docket No. FI-5686).	Mill Creek	Corporate Limits (first crossing)	*3,964
			500 West Street 30 feet upstream from centerline	*3,986
			Main Street 55 feet upstream from centerline	*4,030
			300 South Street 25 feet downstream from centerline	*4,050
			300 South Street 25 feet upstream from centerline	*4,056
			400 East Street 25 feet upstream from centerline	*4,062
			Mill Creek Drive 20 feet upstream from centerline	*4,128
			Intersection of Main Street and Center Street	#1
			300 feet south along 100 East Street from intersection of 300 South Street and 100 East Street.	#1
		Pack Creek	Confluence with Mill Creek	*3,995
			Main Street Bridge 25 feet upstream from centerline	*4,058
			Corporate Limits (third crossing)	*4,165
Maps available at City Hall, 121 East Center, Moab, Utah.				
Vermont	Town of Burke, Caledonia County (Docket No. FI-5688).	Calendar Brook	Downstream Corporate Limits	*737
			Sutton Road (Upstream)	*742
			Upstream Corporate Limits	*822
		Dish Mill Brook	Confluence with East Branch Passumpsic River	*820
			State Route 114 (Upstream)	*827
			Town Highway 48 (Upstream)	*884
		East Branch Passumpsic River	Downstream Corporate Limits	*798
			Lunge Road (Upstream)	*872
			State Route 114 (Upstream)	*916
			Upstream Corporate Limits (County Boundary)	*963
		Roundy Brook	1,230 feet downstream of Burke Hollow Road	*917
			Burke Hollow Road (Upstream)	*956
			2,300 feet upstream of Burke Hollow Road	*1,026
		West Branch Passumpsic River	Bugbee Road (Upstream)	*788
			Town Highway 31 (Upstream)	*850
			Town Highway 54 (Downstream)	*896
			Town Highway 54 (Upstream)	*904
			Upstream Corporate Limits	*955
		Sutton River	Confluence with West Branch Passumpsic River	*894
			U.S. Route 5 (Upstream)	*911
			Upstream Corporate Limits	*925
Maps available at the office of the Town Clerk, Burke, Vermont.				
Vermont	Lyndon (Town), Caledonia County (Docket No. FI-2685).	Passumpsic River	Canada Pacific Railroad Bridge	*689
			U.S. Route 5 75 feet upstream from centerline	*707
			Center Street	*708
			U.S. Route 5 100 feet downstream from centerline	*709
			Vermont Route 114 100 feet downstream from centerline	*711
			Canada Pacific Railroad Bridge	*716
			Vermont Route 114 25 feet downstream from centerline	*717
			Town Highway 36	*716
			Town Highway 40	*741
			Vermont Route 114	*752

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Calendar Brook	U.S. Route 5 475 feet upstream from centerline	*795
		Hawkins Brook	Town Highway 69 275 feet upstream from centerline	*667
			Town Highway 6 100 feet downstream from centerline	*706
		Millers Run	Interstate Highway 91	*714
			Town Highway 31	*718
		Wheelock Branch Brook	Town Highway 1 *706	
			Cross Street 150 feet upstream from centerline	*709
Maps available at Town Hall, 24 Main Street, Lyndonville, Vermont.				
Washington	Duvall (Town), King County (Docket No. FI-5673).	Snoqualmie River	County Road 1126 100 feet upstream from centerline	*45
			Most upstream limit of flooding affecting the Town of Duvall at centerline.	*46
Maps available at Town Hall, Corner of Main and Stella, Duvall, Washington.				
Washington	Tenino (Town), Thurston County (Docket No. FI-5688).	Scatter Creek	McDuff Road at centerline	*253
			Olympia-Tenino Highway 100 feet upstream of centerline	*259
		Scatter Creek Tributary	Confluence with Scatter Creek	*275
Maps available at City Hall, 306 Hodgen Street, Tenino, Washington.				
Wisconsin	(V) Cambridge, Dane County and Jefferson County (Docket No. FI-5632).	Koshkonong Creek	Just upstream from southern corporate limit	*826
			280 feet upstream from Water Street	*827
			Approximately 160 feet upstream from Main Street	*828
			Approximately 1,000 feet upstream from Main Street	*828
			Just downstream of corporate limit (Approximately 2,500 feet upstream of Main Street).	*830
			Downstream from the most northern corporate limit	*833
Maps available at Office of Village Clerk, Box 89, Cambridge, Wisconsin 53523.				
Wisconsin	(V) Sturtevant, Racine County (Docket No. FI-5633).	Waxdale Tributary	Downstream most corporate limits	*679
			Just downstream of 90th Street	*686
			Just upstream of 90th Street	*691
			0.2 mile upstream of 90th Street	*692
			Just downstream of Wisconsin Street	*708
			Just upstream of Wisconsin Street	*710
			At upstream corporate limits	*712
		Unnamed Tributary to Waydale Tributary.	At mouth	*696
			Just upstream of Charles Street	*712
			Approximately 130 feet upstream Wisconsin Street	*715
			At upstream corporate limits	*725
Maps available at the Office of the Village Clerk, 2555 Wisconsin Street, Sturtevant, Wisconsin 53177.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 26, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: January 3, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2066 Filed 1-23-80; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 173

[Docket No. HM-139B; Amdt. Nos. 172-55, 173-133, 174-35, 177-46, 178-58]

Conversion of Individual Exemptions to Regulations of General Applicability; Revision of Amendment 173-133

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Revision of previous amendment 173-133.

SUMMARY: This revision to Amendment No. 173-133 (44 FR 60097, October 18, 1979) pertains to the "Salvage Drum" and changes the wording in § 173.3(c) and § 173.3(c)(1) by: (1) removing the words "during transportation" each time they appear in § 173.3(c). In addition, the words "that is compatible with the lading," have been added to emphasize safety precautions; and (2) the word "drum" has been changed to read "package" where it appears near the end of the first sentence in § 173.3(c)(1). The need for this action has been created by public demand to allow the use of salvage drums for the shipment of damaged or leaking packages in addition to those which are found to be damaged or leaking during transportation. The intended effect of these amendments is to provide wider access to the benefits of transportation innovations recognized and shown to be effective and safe.

EFFECTIVE DATE: January 24, 1980 except that the effective date of § 173.3(c)(3) is February 15, 1980.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Office of Hazardous Materials Regulations, 400 7th Street SW., Washington, D.C. 20590, 202-472-2726.

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V 45/17 JA 24 80 UMI

SUPPLEMENTARY INFORMATION: On October 18, 1979, the MTB published a final rule under Docket HM–139B in the **Federal Register** [44 FR 60097], which revised § 173.3(c). Since that publication, the MTB has received six petitions for reconsideration in accordance with the provisions of 49 CFR 106.35.

All six petitioners requested removal of the words "during transportation" in § 173.3(c). One of the petitioners recommended that a phrase regarding drum and lading compatibility be included in § 173.3(c).

Five of the six petitioners also requested that the word "package" be substituted for "drum" in the last part of § 173.3(c)(1) in order to overpack defective boxes or bags containing hazardous materials for which a DOT specification drum does not exist.

Finally, one petitioner requested that a sentence be added at the end of § 173.3(c)(3) to read "Other markings that clearly indicate the drum is being used for recovery purposes under this section are also authorized."

Except for the final recommendation, the MTB agrees with the six petitioners and this amendment includes their recommended changes. The MTB does not agree with the last petitioner's request because it would allow the drum to be marked with various names depending on the choice of the user. The required marking "SALVAGE DRUM" will serve to tie the authorization provided in § 173.3 to the conditions and requirement of that section. For this reason, the marking requirements in § 173.3(c)(3) have not been changed.

This amendment only revises the introductory text of § 173.3 (c) and (c)(1), however the entire paragraph (c) is being republished for clarity.

In consideration of the foregoing, the introductory text of paragraph (c) and paragraph (c)(1) are revised. The remainder of the paragraph is repeated for clarity.

§ 173.3 Packaging and exceptions.

* * * * *

(c) Packages of hazardous materials that are damaged or found leaking and hazardous materials that have been spilled or leaked may be placed in a metal removable head salvage drum that is compatible with the lading and shipped for repackaging or disposal under the following conditions.

(1) The drum utilized may be either a DOT specification or a non-DOT specification drum as long as the drum has equal or greater structural integrity than a package that is authorized for the respective material in this subchapter. Maximum capacity shall not exceed 110 gallons.

(2) Each drum must be provided with adequate closure and, when necessary, provided with sufficient cushioning and absorption material to prevent excessive movement of the damaged package and to absorb all free liquid. All cushioning and absorbent material used in the drum must be compatible with the hazardous material.

(3) Each drum must be marked with the proper shipping name of the material inside the defective packaging and the name and address of the consignee. In addition, the drum must be marked "Salvage Drum".

(4) Each drum must be labeled as prescribed for the respective material.

(5) The shipper shall prepare shipping papers in accordance with Subpart C of Part 172 of this subchapter.

(6) The overpack requirements of § 173.25, and the reuse provisions of § 173.28(h) and § 173.28(m) do not apply to drums used in accordance with this paragraph.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53 and App. A to Part 1)

Note.—The Materials Transportation Bureau has determined that this document will not have a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034), nor an environmental impact under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C. on January 14, 1980.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 80-1935 Filed 1-23-80; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. LVM 77-07; Notice 4]

Passenger Automobile Average Fuel Economy Standards; Exemption From Average Fuel Economy Standards

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Technical Amendment.

SUMMARY: In the **Federal Register** of March 1, 1979 (44 FR 11548), this agency published a notice exempting Officine Alfieri Maserati, S.p.A. (Maserati) from the generally applicable average fuel economy standard of 18.0 miles per gallon (mpg) for 1978 model year passenger automobiles, and established an alternative average standard for Maserati at its maximum feasible level of 12.6 mpg. Upon recalculating Maserati's maximum feasible average fuel economy level, this agency discovered that it had made an error in rounding the number to the nearest tenth of a mile per gallon. The actual maximum feasible fuel economy for 1978 Maserati automobiles was 12.5 mpg, and this notice amends Maserati's alternative standard for the 1978 model year to 12.5 mpg.

DATE: This amendment is effective January 24, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Mercure, Office of Automotive Fuel Economy Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–755–9384).

SUPPLEMENTARY INFORMATION: In a notice published at 44 FR 11548, March 1, 1979, the National Highway Traffic Safety Administration, (NHTSA) announced the final determination exempting Maserati from the generally applicable passenger automobile average fuel economy standard for the 1978 model year, and establishing an alternative standard of 12.6 mpg for Maserati for the 1978 model year. This alternative standard was set at the level which NHTSA determined was Maserati's maximum feasible average fuel economy for its two model types, as NHTSA is required to do by section 502(c) of the Motor Vehicle Information and Cost Savings Act, as amended (15 U.S.C. 2002(c)). Determination of that level involved assessing the extent to which the fuel economy of Maserati's two model types could be improved and then averaging the fuel economy values for those model types in accordance with the procedure of the Environmental Protection Agency.

A recent re-examination by the agency of its computation of Maserati's maximum average fuel economy for model year 1978 revealed a significant mathematical error. The agency had erroneously rounded off the fuel economy values for that company's two model types. When those values are properly rounded and the average is recomputed, the average is 12.5 mpg instead of the 12.6 mpg originally computed by the agency.

To correct this error, the agency is amending the alternative standard for Maserati for model year 1978 to change it from 12.6 mpg to 12.5 mpg.

Accordingly, 49 CFR § 531.5(b)(7) is amended to read as follows:

§ 531.5 Fuel economy standards.

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

* * * * *

(7) Officine Alfieri Maserati, S.p.A.: Model Year 1978, average fuel economy standard (miles per gallon), 12.5.

Issued on January 15, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80-1935 Filed 1-23-80; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1011 and 1100

[Ex Parte No. MC–55 (Sub-No. 39)]

Suspension Board Matters; Revisions to Existing Delegations and Procedural Rules

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Interstate Commerce Commission has revised its general rules and regulations to reflect the change in name of its Suspension Board; to remove the term "Fourth Section" from its rules; and to effect other changes of a strictly procedural nature. These actions were taken because the nonsubstantive revisions of the Interstate Commerce Act last year make inappropriate the continued reference to the long and short haul and the aggregate-of-intermediate restrictions as "Fourth Section" matters. It is expected that this action will effectively update its rules and procedures in matters pertaining to suspension, investigation, and long and short haul restrictions.

EFFECTIVE DATE: January 24, 1980.

FOR FURTHER INFORMATION CONTACT: Martin E. Foley, Director, Bureau of Traffic, 202–275–7348.

SUPPLEMENTARY INFORMATION: Former Section 4 of the Interstate Commerce Act (49 U.S.C. 4) contained provisions which prohibited railroads from charging more to intermediate points than to more distant points over the same route and for the same service. The former Section also prohibited a greater charge under a through rate than under the aggregate-of-intermediate rates. Applications for relief from these restrictions are filed with the Commission and decisions on these matters delegated to an employee board named the Suspension and Fourth Section Board (49 CFR 1011.6).

The Interstate Commerce Act was recodified without substantive change last year. The revision has eliminated Section 4 and the provisions formerly placed there are now contained in 49 U.S.C. 10726. Internally, we changed the employee board's name to "the Suspension Board," but it still is authorized to decide long and short haul and aggregate-of-intermediate rail rate matters.

The action taken here now is simply to tidy up the housekeeping aspects of making our Organization and General Rules of Practice current with respect to the Board's name and to adopt other minor procedural changes to those rules. See the appendix for details.

Notice and hearing are not required under the provisions of the Administrative Procedure Act nor 49 U.S.C. Subtitle IV (formerly the Interstate Commerce Act). This decision does not significantly affect the quality of the human environment nor have any impact on energy consumption.

This action is taken under authority contained in 5 U.S.C. 553, 559 and 49 U.S.C. 10321 and 10501.

A note of caution is added here to alert interested persons to the fact that the changes adopted here will not be reflected in the "Green Book" which contains the Commission's rules of practice, but they will, of course, be incorporated into 49 CFR Parts 1000 to 1199 when that volume is updated. Beyond that the Commission is required by law to review its rules of practice not less than once every three years. Since the Interstate Commerce Act was revised subsequent to the last general revision of our Rules of Practice that will be undertaken to bring about conformity. In the interim, all persons should take care to follow the rules in 49 CFR.

Decided: December 12, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners, Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis.

Agatha L. Mergenovich,

Secretary.

PART 1011—COMMISSION ORGANIZATION; DELEGATIONS OF AUTHORITY

1. 49 CFR Part 1011 is amended by revising § 1011.5(b)(2), the paragraph heading for § 1011.6(a) and § 1011.6(a)(2) as follows:

§ 1011.5 Delegations to individual commissioners.

* * * * *

(b) * * *

(2) Reduced rates authorizations in cases of calamitous visitation under 49 U.S.C. 10721 and, in related matters, relief from the provisions of 49 U.S.C. 10730 and the long and short haul restrictions of 49 U.S.C. 10726.

* * * * *

§ 1011.6 Employee Boards.

* * * * *

(a) Suspension Board. * * *

(2) Matters arising under the long and short haul restrictions of 49 U.S.C. Subtitle IV, except proceedings made the subject of formal hearing, matters prompted by an order of requirement of the Commission or a division or matters arising from general increase proceedings.

* * * * *

PART 1100—GENERAL RULES OF PRACTICE

2. 49 CFR Part 1100 is amended by revising § 1100.40 (d), (e), (g), and (h) and § 1100.200 as follows:

§ 1100.40 Protests against tariffs or schedules.

* * * * *

(d) *Copies; Service.* In connection with proceedings involving proposals subject to the special procedures in Ex Parte No. MC–82, "New Procedures in Motor Carrier Rev. Proc.," 339 I.C.C. 324, and set forth in Part 1104 of this subchapter, an original and 11 copies of every protest or reply filed under this section shall be furnished for the use of the Commission. Except as provided for proposals subject to the special procedures in Ex Parte No. MC–82, the original and six copies of each protest, except as provided in paragraph (e) of this section, or of each reply filed under this section, must be filed with the Commission, and one copy of the protest simultaneously must be served upon the publishing carrier, freight forwarder, or agent, and upon other persons known by protestants to be interested. These pleadings should be directed to the attention of the Suspension Board.

(e) *Passenger fare increases.* The original only of each protest or request for investigation and suspension of increased passenger fares need be filed with the Commission. Requests for suspension of changes in rail passenger fares must include a verified (notarized) complaint.

* * * * *

(g) *Special requirements for protests against revisions to rail rates and charges and replies thereto.* (1) Protests against, and requests for suspension of, tariffs or schedules filed by rail carriers or the publishing agents that result in revisions of rates, charges or rules shall also include a verified complaint containing specific facts showing: (i) That without suspension the protested tariffs or schedules will cause substantial injury to the complainant or the party represented by the complainant, (ii) that it is likely that complainant or the party represented by the complainant will prevail on the merits pursuant to any applicable provisions of 49 U.S.C. Subtitle IV, and (iii) where protestants allege that a rate is unreasonably high in violation of 49 U.S.C. 10701, they must submit evidence relating to market dominance as set forth at 49 CFR 1109.1, (2) Replies to verified complaints filed under this section shall be verified. Protests against, and requests for suspension of, tariffs or schedules filed by rail carriers or the publishing agents for rail carriers that fail to include verified complaints may be accepted and construed as requests for investigation without suspension.

(h) Except in extraordinary circumstances, the Suspension Board will act on protests against or requests for suspension of tariffs applicable on household goods as defined in 49 CFR 1056.1(a), when published for the account of household goods carriers as defined in 49 CFR 1040.2(b) on not less than 45 days' notice, no later than 18 days before the effective dates of the tariffs, schedules, or parts thereof to which they refer.

§ 1100.200 Rules of practice governing procedure in certain suspension and long and short haul restriction matters.

(a) The proceedings of the Suspension Board shall be informal. No transcriptions of such proceedings will be made. Subpoenas will not be issued and, except when applications or petitions are required to be attested, oaths will not be administered.

(b) Petitions for reconsideration of orders of the following may be filed by any interested person within 20 days after the date of the service of the orders:

(1) Of the Suspension Board,

(2) Of an Appellate Division reversing, changing, or modifying a previous determination of an employee board, and

(3) Of the Commission or a Division suspending schedules or granting or denying relief from long and short haul restrictions prior to hearing in proceedings not subject to a prior determination by an employee board.

In connection with proceedings involving proposals subject to the special procedures in Ex Parte No. MC–82, "New Procedures in Motor Carrier Rev. Proc.," 339 I.C.C. 324, and set forth in Part 1104 of this subchapter, an original and 11 copies of every protest or reply filed under this section shall be furnished for the use of the Commission. Except as provided for proposals subject to the special procedures in Ex Parte No. MC–82, the original and six copies of every pleading, document or paper filed under this section shall be furnished for the use of the Commission. Any interested person may file and serve a reply to any petition for reconsideration permitted under this paragraph within 20 days after the filing of such petition with the Commission but if the facts stated in any such petition disclose a need for accelerated action, such action may be taken before expiration of the time allowed for reply. In all other respects, such petitions and replies thereto will be governed by the Commission's rules of practice.

(c) When the Suspension Board has declined to suspend a proposed tariff or schedule, or any part thereof, a petition in writing by any protestant or protestants may be filed with the Commission for reconsideration by the designated appellate division provided it reaches the Commission at least two work days prior to the effective date of the tariff or schedule in question. For the purposes of this section, a work day shall be considered as any day except Saturday, Sunday, or a legal holiday in the District of Columbia. (A legal holiday of less than one day shall be considered a work day within the meaning of this section.) Petitions submitted under this section shall be filed with the Secretary of the Commission by 4:00 p.m., United States Standard Time (or by 4:00 p.m., Local Daylight Saving Time if that time is observed in the District of Columbia). Telegraphic notice or the equivalent thereof must be given by the petitioners to the respondent or respondents. As no replies to the petitions for reconsideration are contemplated under this rule, petitioners will be expected, except in unusual circumstances, to rely wholly on the information previously filed with the Suspension Board. Written or telegraphic communication in intelligible form requesting reconsideration will be sufficient. Such request shall contain the following prefatory statement: "This matter requires expedited handling under Rule 200 of the Commission's Rules of Practice." A petition not timely filed is subject to rejection.

(d) When the Suspension Board has declined to suspend a proposed tariff or schedule applicable on household goods as defined in 49 CFR 1056.1(a) published for the account of a household goods carrier as defined in 49 CFR 1040.2(b) on not less than 45 days' notice, the designated appellate division will, except in extraordinary circumstances, act on petitions for reconsideration no later than 2 work days after the petition is filed.

[FR Doc. 80-2290 Filed 1-23-80; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register

Vol. 45, No. 17

Thursday, January 24, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79–WE–10–AD]

McDonnell Douglas DC–10 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes an airworthiness directive that would supersede AD 79–15–03 (Amdt. 39–3513 as amended by Amdt. 39–3557) and require certain design changes to DC–10 series airplane wing-mounted pylons. In addition, a revised wing-pylon inspection program is proposed. This AD is necessary to ensure integrity of the wing pylon structure, to reduce the possibility of inflicting internal structural damage during maintenance operations, and to eliminate inspections shown to be redundant.

DATES: Comments must be received on or before March 23, 1980.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The applicable service infromation may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training CI–750 (54–60).

FOR FURTHER INFORMATION CONTACT: Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone (213) 536–6351.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of the proposed AD will be filed in the Rules Docket.

The DC–10 series aircraft type certificate was restored with the restriction that, until more detailed data were available to FAA for analysis, a strict inspection program would be rigorously followed in order to ensure the safety of the traveling public. A damage tolerance study mandated and specified by FAA has been performed by Douglas Aircraft. The reports of this study have been placed in the public docket established for this proposed rulemaking action (Douglas Reports Nos. J8543 and J8545, approximately 5,000 pages). The criteria for this study were specified by FAA in consultation with the U.S. Air Force who, together, formed a "DC–10 Pylon Damage Tolerance Team". These criteria are reproduced in Section 1 of Report MDC J8543. The Final Report of the DC–10 Plyon Damage Tolerance Team has also been placed in the public docket. Independently, a team of non-Government consultants reviewed these results. The report of this team, led by Dr. Raymond Bisplinghoff, has also been placed in the docket. The results of a supplementary study which addressed the specific need to rationally explain the failure mode of the pylon upper spar web experienced by Fuselage No. 198 (aircraft registration N1827U) were reviewed by Dr. Bisplinghoff's team. This report is available in the public docket. Finally, a summary of the damage tolerance and related studies has been placed in the docket.

These data, taken together, form a solid basis for modification of the present DC–10 inspection program. Accordingly, modifications are proposed as described below.

The new program would supersede that specified in AD 79–15–03, as amended by Amendment 39–3557, and applies to Model DC–10, –10, –10F, –30, –30F, and –40 series airplanes certificated in all categories. Modification of the inspection program is based, in part, on timely completion of several design changes, including:

1. Installation of "flush-head" bolts in the two center fastener locations on the forward flange of the aft pylon bulkhead, immediately below the forward lug of the wing clevis to replace "raised-head" bolts;

2. Use of a pylon removal/installation procedure which incorporates a mechanical device intended to minimize the possibility of bulkhead lug to clevis assembly contact, thus further reducing the possibility of recurrence of the maintenance-induced damage which caused the loss of American Airlines Flight 191 (Fuselage No. 22, aircraft registration N110AA);

3. Replacement of titanium thrust links with steel thrust links on all DC–10 wing-mounted engine pylons.

The first two modifications are specifically directed at prevention of maintenance-induced damage which has occurred in the past when the pylon and engine were installed as a unit. While it is true that this specific maintenance practice is prohibited by FAA AD (AD 79–15–03), the post-accident investigations of both FAA and the National Transportation Safety Board (NTSB) indicate that the structural modifications proposed are necessary to significantly reduce the vulnerability of the pylon to similar damage in the future from other reinstallation maintenance practices that may be followed. The nature of the modifications makes it prudent to adopt them as soon as practicable as an added measure of safety. Since the "flush-head" bolts can readily be installed with the pylon removed from the aircraft, this change is mandated at the next pylon removal. Procurement and supply lead-times make it impractical to require adoption

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of change (2) prior to June 30, 1980. In its stead, three special postinstallation nondestructive inspections are required for those few pylons which may be removed and reinstalled in the interim. These inspections are designed to insure that, in the remote chance that flange cracking did occur, its existence would be detected well before the crack could present any service difficulties. The third modification makes mandatory compliance with an existing Douglas service bulletin (SB54047), requiring replacement of the wing pylon titanium thrust links. Suggested compliance time for the service bulletin, which covered only DC–10–30/40 aircraft, was "prior to the accumulation of 16,000 flights" (48,000 flight hours) based on fatigue tests which produced a failed thrust link at about 32,000 flights (96,000 hours). A review of the fatigue test results confirms the reasonable nature of that recommendation based on the test data and remaining strength of the pylon in the event of a failed thrust link. The damage tolerance results, however, suggest that it would be prudent to replace titanium thrust links much sooner. Thrust link replacement requires a complex pylon removal and reinstallation procedure which is subject to human error. This could in itself present difficulties outweighing the small benefit to be gained by early precautionary replacement of the thrust link (in view of the large safety margin provided by the thrust link backup load path). An alternative to requiring thrust link replacement is, of course, inspection at relatively frequent intervals to preclude extended periods of operation with a failed link. The proposed rule requires, therefore, replacement of all DC–10 series aircraft titanium thrust links at the next pylon removal, but no later than prior to the accumulation of 48,000 flight hours. In situ X-ray or other approved nondestructive inspection of titanium thrust links is required at 3,600-hour intervals until replacement, to insure the load-bearing integrity of the assembly until they are replaced by steel thrust links.

With those changes taken into account, and in view of the technical information developed since July 1979, the inspection program is proposed to be modified as follows.

Within 3,600 hours (approximately 1 year), and each successive 3,600 hours, inspections are required of the upper and lower surfaces of the pylon upper spar, the wing and pylon attach fitting lugs, and titanium thrust links; in addition, an overall inspection of the exterior pylon surfaces and the major internal pylon structural elements is required; finally, it is required that the pylon aft spherical bearing and attaching handle be inspected to verify security of the nut and attach bolt.

The pylon upper spar is subject to failure similar to that which occurred on Fuselage No. 198 as a result of improper fastener installation. Though it appears that the cause of this problem, a quality control breakdown which has since been corrected, has been eliminated, it cannot be denied that such failure may recur. The Damage Tolerance Study did not treat this failure mode in a manner satisfactory to FAA, but supplementary information developed by Douglas and reviewed by FAA served to confirm our understanding of the mode and speed with which such failures develop. These data, taken together with service experience showing major spar web damage after 11,500 hours in service, establish an appropriate inspection interval. Three opportunities to detect this damage prior to reaching the stage seen in Fuselage No. 198 would be provided if inspection intervals were set at about 3,800 hours. Approximately annually, the typical air carrier aircraft undergoes a "C check," which is a time during which the aircraft is removed from revenue service and subjected to major maintenance and inspection. A typical interval for this maintenance is 3,600 hours, at which time the aircraft is prepared in such a way that an inspection of the upper spar web can be conducted with optimum efficiency. Accordingly, it is recommended that the inspections be conducted at those intervals.

Because of the ease of accessibility to the wing and pylon attach fitting lugs during the conduct of the upper spar web inspection, and in view of the fact that in an otherwise well structure the thrust link attachments here represent the next weakest link in the thrust load-path for the pylon, inspection of these fittings would also be recommended at this time.

The proposed rule would require nondestructive inspection of all DC–10 wing pylon titanium thrust links at 3,600-hour intervals to provide assurance that an aircraft does not operate for an extended period of time with a broken thrust link. The Damage Tolerance Study shows that failure of an initially damaged thrust link could occur in 1,200 hours for the DC–10–40, and 3,700 hours in the DC–10–10. On the other hand, the vast service experience and extensive data base available on DC–10 inspection results show that there have been no in-service failures of the thrust link, even when it was subjected to the extraordinarily aberrant load encountered in the Chicago accident. These factors taken together, in combination with the damage tolerance study finding that the alternate load path can carry the service loads intended for the thrust link for 90,000 hours, lead to the conclusion that in situ X-ray or other approved nondestructive test inspection of the titanium thrust link is satisfactory at 3,600-hour intervals. In addition, this interval coincides with the "C" check and therefore imposes no substantial burden.

Finally, a comprehensive general pylon inspection is mandated every 3,600 hours. At this time, visual examination and inspection of the complete external skin of the pylon structure is called for, and a general visual inspection of all major internal elements is specified. To eliminate any possible misinterpretation, this inspection requirement is quite specific about verifying the security of the nut and attach bolt at the aft pylon attach point.

The data available to FAA indicate that the remaining elements of the pylon do not require the type of special consideration for inspection described above. FAA has concluded that the remaining elements of the pylon may be expected to adequately perform the intended function during the normal service life of the aircraft provided they are subjected to the normal precautionary maintenance required of all U.S. air carriers in accordance with Parts 121 and 43 of the Federal Aviation Regulations. However, the FAA recognizes, from its investigation over the past 6 months, that significant structural failure of many elements of a wing pylon assembly such as that on the DC–10 may not manifest itself in external signs. Thus, the practice of inspecting only a sample of these significant structural elements during conduct of an internal inspection is not acceptable. Rather, the FAA proposes to require that 100 percent of the U.S. air carrier DC–10 fleet be inspected as described below at 20,000-hour intervals.

Twenty thousand hours is approximately the interval at which aircraft "D checks" are conducted. This is a period of heavy maintenance which has been adopted as a result of service experience on turbojet air carrier aircraft in general as appropriate for inspection of internal structural elements which are not expected to have a high probability of failure during an aircraft life. Since the design life of the DC–10 aircraft is about 70,000 to 90,000 hours, depending on model, this frequency provides for 3 or 4 such inspections. It should be noted that, as service experience builds up and the aircraft fleet ages, service history will better be able to identify elements, including elements in the pylon, which present maintenance problems associated with their older age. Accordingly, it is recognized that there may in the future develop justification to require more frequent inspection on some elements of the pylon based on service experience not presently available. Accordingly, the proposed provision in the new inspection program will provide for the following.

Each operator of DC–10 aircraft is to reestablish a normal pylon maintenance program to be approved by FAA within 30 days from the effective date of the airworthiness directive. The inspection program must as a minimum include inspections of a specified nature on the pylon items listed below on each aircraft at a maximum interval of 20,000 hours.

The inspections proposed at intervals no greater than 20,000 hours include a detailed visual and eddy current inspection of the aft pylon bulkhead; visual inspection of the front spar bulkhead, the wing front spar attach fitting, and the lower spherical bearing; ultrasonic inspection of the bulkhead lug and wing clevis to wing attachment bolt; and, disassembly and visual inspection of the upper forward spherical bearing, the thrust link attach fitting, and the aft pylon attach fitting. Finally, an X-ray or other approved in situ inspection of steel thrust links would be required. This requirement provides sufficient flexibility to permit each operator to accommodate its own special circumstances in developing the inspection program.

The proposed inspection program retains a number of special inspections for particular circumstances, including, for example, hard or oveweight landings, ground damage, and installation of a pylon with a titanium upper forward spherical bearing.

With one exception, these inspections are carried over from the existing airworthiness directive (AD 79–15–03) prescribing the DC–10 inspection program because circumstances which require these inspections have not changed. The exception is that in order to avoid any possibility of misinterpretation, a special inspection of the integrity of the aft pylon attach bolt and nut is specifically required before further flight following pylon reinstallation.

Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to Model DC–10–10, –10F, –30, –30F, and –40 series airplanes, certificated in all categories. Compliance required as indicated.

To ensure integrity of the wing engine pylon structure and attachment, accomplish the following on both the right and left wing:

(a) At each pylon removal and installation after the effective date of this AD, remove and install the engine and pylon separately unless removal or installation as an assembly is in accordance with a method approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(b) At the next pylon reinstallation after the effective date of this amendment, unless already accomplished, install two flush-head bolts in place of the two raised head bolts adjacent to the pylon aft bulkhead upper flange centerline, in accordance with data approved by the Chief, Aircraft Enginering Division, FAA Western Region.

(c) At each pylon reinstallation after June 30, 1980, protect the pylon aft bulkhead lug from contact with the clevis to wing attach bolt heads in accordance with a method approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(d) Before further flight following any pylon reinstallation after the effective date of this AD, (1) inspect the aft pylon bulkhead in accordance with paragraph H of McDonnell Douglas Alert Service Bulletin (ASB) 54–71 dated July 6, 1979 (hereinafter referred to as ASB 54–71); (2) inspect the pylon aft spherical bearing and attaching hardware to verify security of nut and bolt; and (3) inspect torque stripe for alignment. If compliance with (c) above was not required, repeat the inspection within the next 300 hours' time in service after the reinstallation inspection, and again within the next 600 hours' time in service following the second inspection.

(e) At next pylon reinstallation after the effective date of this AD or before the accumulation of 48,000 hours' total time in service, whichever comes sooner, unless already accomplished, install steel thrust links in place of titanium thrust links on all DC–10–10, –30, and –40 series aircraft in accordance with Part 2 of McDonnell Douglas Service Bulletin (SB) 54–47, dated August 18, 1975.

(f) Before the accumulation of 3,600 hours' time in service, or within the next 3,600 hours' time in service since the last such inspection, whichever occurs sooner, and thereafter at intervals not to exceed 3,600 hours' time in service since the last inspection, inspect as follows:

1. Inspect wing and pylon attach fitting lugs in accordance with Part 2, paragraph K of ASB 54–71.

2. Visually inspect the upper surface of pylon upper spar in accordance with Part 2, paragraph E (except (2)) of ASB 54–71.

3. Visually inspect lower surface of upper spar and spar cap angles in accordance with Part 2, paragraph F of ASB 54–71.

4. Inspect pylon in accordance with paragraph Q of ASB 54–71. In addition, inspect the pylon aft spherical bearing and attaching hardware to verify security of nut and bolt; inspect torque stripe for alignment.

5. Perform an in situ X-ray or other nondestructive inspection of titanium thrust links to insure integrity, in accordance with a method approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(g) Within the next 30 days following the effective date of this amendment, submit a pylon maintenance program to FAA for approval, specifying that before the accumulation of 20,000 hours' time in service or within the next 20,000 hours' time in service since the last inspection, whichever occurs sooner, and thereafter at intervals not to exceed 20,000 hours' time in service since the last inspection, the operator will, at a minimum—

1. Inspect pylon aft bulkhead visually in accordance with Part 2, paragraph D(1) through D(5) of ASB 54–71, and by eddy current in accordance with Part 2, paragraph P of ASB 54–71;

2. Visually inspect front spar bulkhead in accordance with Part 2, paragraph 2, paragraph M of ASB 54–71;

3. Inspect wing front spar attach fitting (foot stool) in accordance with Part 2, paragraph P of ASB 54–71;

4. Inspect lower forward spherical bearing in accordance with Part 2, paragraph 0(2) and 0(3) of ASB 54–71;

5. Inspect upper forward spherical bearing in accordance with Part 2, paragraph N of ASB 54–71;

6. Inspect thrust link installations in accordance with Part 2, paragraph K of ASB 54–71;

7. Inspect the aft spherical bearing in accordance with Part 2, paragraph I of ASB 54–71;

8. Ultrasonically inspect the bulkhead lung and wing clevis to wing attachment including bolts in accordance with Part 2, paragraph D(6) of ASB 54–71; and,

9. Perform an X-ray or other in situ inspection of steel thrust links to ensure integrity, in accordance with a method approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(h) After a pylon has been subjected to vertical or horizontal misalignment, or both, before further flight, inspect in accordance with Part 2, paragraph H of ASB 54–71.

(i) After each installation of a pylon with a titanium upper forward spherical bearing plug, after the effective date of this AD, after 200 hours' time in service from time of installation and not later than 400 hours' time in service after installation, ultrasonically inspect titanium plug in place in accordance with McDonald Douglas NDT Manual 54–10–11, dated December 1, 1979.

(j) Inspect pylon for structural integrity in accordance with McDonnell Douglas DC–10 Maintenance Manual TR5–20, dated June 14, 1979, before further flight after events producing high pylon loads including, but not limited to:

1. Hard or overweight landings
2. Severe turbulence encounters
3. Engine vibration which requires engine removal or critical engine failure, or both
4. Ground damage (workstands, etc.)
5. Compressor stalls requiring engine removal

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6. Excursions from the runway

(k) Whenever fasteners are replaced as a result of the inspections specified in ASB 54-71, Part 2, paragraph E, prior to installing new fasteners, inspect the holes and the area around adjacent fasteners (without removing fasteners) for cracks using eddy current or equivalent NDT methods.

(l) All discrepancies found as a result of inspections required by this AD which exceed limitations specified in FAA approved data must be corrected prior to further flight.

(m) Alternative inspections, modifications or other actions which provide equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(n) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

This supersedes Amendment 39-3513 (44 FR 45375), AD 79-15-03, as amended by 39-3557 (44 FR 53735).

[Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85]

Note.—The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044 and set forth in interim Department of Transportation Guidelines.

Issued in Los Angeles, California on January 21, 1980.

W. R. Frehse,

Acting Director, FAA Western Region.

[FR Doc. 80-2388 Filed 1-23-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 79-WA-14]

Alteration of Restricted Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to rescind one restricted area and alter three restricted areas in the Hawaiian Islands. This action and associated changes to warning areas would reduce necessary intergency coordination time and thereby improve the air traffic handling capability in the Pacific-Asia Region. This proposal is the result of an extensive study of the use of airspace in this area.

DATES: Comments must be received on or before Feburary 20, 1080.

ADDRESSES: Send comments on the proposal in triplicte to: Director, FAA Pacific-Asia Region, Attention: Chief, Air Traffic Division, Docket No. 79-WA-14 P.O. Box 50109 Honolulu, Hawaii 96850.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Pacific-Asia Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 50109, Honolulu, Hawaii 96850. All communications recieved on or before Feburary 20, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Section 73.31 of the Federal Aviation Regulations (14 CFR Part 73) to alter R-3101 A-B, R3104 A-B-C, R-3107 A-B and to rescind R-3120. The proposed action combined with associated warning area changes would improve airspace use and air traffic operations in the Hawaiian air traffic control area. Changes to the restricted areas are proposed to be as follows:

1. In R-3101 the designated altitudes would be changed to "Surface to unlimited," and all of Subarea B would be rescinded.

2. In R-3104A the designated altitudes would be changed to "Surface to 18,000 feet MSL" and the title would be changed from R-3104A to R-3104.

3. All of R-3104B would be rescinded.

4. All of R-3104C would be rescinded.

5. R-3107 would be designated within 3 NM of the Island of Kaula (lat. 21°39'30" N., long. 160°32'30" W) from the surface to 18,000 feet MSL replacing R-3107A.

6. All of R-3107A and B would be rescinded.

7. All of R-3120 would be rescinded.

Proposed changes to nonregulatory warning area airspace includes rescinding present areas and establishing new areas in some of that airspace. Changes to warning areas are proposed to be as follows: W-319 Area A, Hawaii; W-320 Area B, Hawaii; W-321A, Hawaii; W-321B, Hawaii; W-321 Area C, Hawaii; W-322 Area D, Hawaii; W-324A Lanai, Hawaii; W-324B Lanai, Hawaii; W-324C Lanai, Hawaii; W-442A Kaula Rock, Hawaii; W-442B Kaula Rock, Hawaii; W-510 PMRFAC Barking Sands Two; W-511 PMRFAC Barking Sands One; W-512A PMRFAC Barking Sands Three Alfa and W-512B PMRFAC Barking Sands Three Bravo, would be rescinded. W-181 would be established as follows:

Name. W-181, Hawaii.

Boundaries. Beginning at lat. 20°56'00" N., long. 157°54'00" W., to lat. 20°46'30" N., long. 157°50'00" W., thence clockwise along the arc of a circle radius of 35 NM centered at lat. 21°20'00" N., long. 158°02'00" W., (Honolulu VORTAC) to lat. 20°48'00" N., long. 158°18'00" W., to lat. 20°57'30" N., long. 158°14'00" W., thence counter-clockwise along the arc of a circle radius of 25 NM centered at lat. 21°20'00" N., long. 158°02'00" W., (Honolulu VORTAC) to point of beginning.

Altitude. Surface to 3,000 feet MSL.

Time of use. Sunrise to sunset daily, other time by NOTAM.

Controlling agency. FAA, Honolulu ARTC Center.

Using agency. COMFLETRAGRU Pearl Harbor.

W-182 would be established as follows:

Name. W-182 Hawaii.

Boundaries. Beginning at lat. 20°46'30" N., long. 157°50'00" W., to lat. 20°41'00" N., long. 157°50'00" W., to lat. 20°41'00" N., long. 157°28'00" W., to lat. 19°48'00" N., long. 156°36'00" W., to lat. 19°13'00" N., long. 156°36'00" W., thence clockwise along the arc of a circle radius of 150 NM centered at lat. 21°20'00" N., long. 158°02'00" W., (Honolulu VORTAC) to lat. 18°52'00" N., long. 158°32'00" W., to lat. 20°45'00" N., long. 158°08'00" W., thence counter/clockwise along the arc of a circle radius of 35 NM centered at lat. 21°20'00" N., long. 158°02'00" W., (Honolulu VORTAC) to point of beginning.

Altitude. Surface to unlimited.

Time of use. Sunrise to sunset daily, other time by NOTAM.

Controlling agency. FAA, Honolulu ARTC Center.

Using agency. COMFLETRAGRU Pearl Harbor.

W-183 would be established as follows:

Name. W-183 Hawaii.

Boundaries. Beginning at lat. 20°45'00"N., long. 158°08'00"W., to lat. 18°52'00"N., long. 158°32'00"W., thence clockwise along the arc of a circle radius of 150 NM centered at lat. 21°20'00"N., long. 158°02'00"W., (Honolulu VORTAC) to lat. 19°06'00"N., long. 159°15'00"W., to lat. 20°48'00"N., long. 158°18'00"W., thence counter-clockwise along the arc of a circle radius of 35 NM centered at lat. 21°20'00"N., long. 158°02'00"W., (Honolulu VORTAC) to point of beginning.

Altitude. Surface to unlimited.

Time of use. Sunrise to sunset daily, other time by NOTAM.

Controlling agency. FAA, Honolulu ARTC Center.

Using agency. COMFLETRAGRU Pearl Harbor.

W-184 would be established as follows:

Name. W-183 Hawaii.

Boundaries. Beginning at lat. 20°34'00"N., long. 156°44'00"W., thence counter-clockwise along the southern boundary of R-3104 to lat. 20°28'00"N., long. 156°32'00"W., to lat. 20°18'00"N., long. 156°41'00"W., to lat. 20°31'00"N., long. 156°58'00"W., to point of beginning.

Altitude. Surface to 18,000 feet MSL.

Time of use. Sunrise to sunset daily, other time by NOTAM.

Controlling agency. FAA, Honolulu ARTC Center.

Using agency. COMFLETRAGRU Pearl Harbor.

W-185 would be established as follows:

Name. W-185 Hawaii.

Boundaries. Beginning at lat. 20°31'00"N., long. 156°58'00"W., to lat. 20°18'00"N., long. 156°41'00"W., to lat. 20°05'00"N., long. 156°53'00"W., to (abutting W-182) lat. 20°28'00"N., long. 157°15'30"W., to point of beginning.

Altitude. Surface to 18,000 feet MSL.

Time of use. Sunrise to sunset daily, other time by NOTAM.

Controlling agency. FAA, Honolulu ARTC Center.

Using agency. COMFLETRAGRU Pearl Harbor.

W-186 would be established as follows:

Name. W-186 Hawaii.

Boundaries. Beginning at lat. 21°55'00"N., long. 159°44'00"W., to lat. 21°33'00"N., long. 159°33'00"W., thence clockwise along the arc of a circle radius of 32 NM centered at lat. 22°02'26"N., long. 159°47'15"W., (Barking Sands TACAN) to lat. 22°00'00"N., long. 160°21'45"W., to lat. 21°58'30"N., long. 159°48'40"W., thence counter-clockwise 3 NM from and parallel to the shoreline of the Island of Kauai to the point of beginning, excluding the airspace within 3 NM of the Islands of Niihau and Lehua.

Altitude. Surface to 9,000 feet MSL.

Time of use. Continuous.

Controlling agency. FAA, Honolulu ARTC Center.

Using agency. CO PMRFAC HAWAREA.

W-187 would be established as follows:

Name. W-187 Hawaii.

Boundaries. A circular area with a radius of 5 NM centered at lat. 21°39'30"N., long. 160°32'30"W., excluding the airspace within 3 NM of the Island of Kaula.

Altitude. Surface to 18,000 feet MSL.

Time of use. Continuous.

Controlling agency. FAA, Honolulu ARTC Center.

Using agency. COMFLETRAGRU Pearl Harbor.

W-188 would be established as follows:

Name. W-188 Hawaii.

Boundaries. Beginning at lat. 21°58'30"N., long. 159°48'40"W., to lat. 21°58'40"N., long. 160°00'00"W., to lat. 22°05'00"N., long. 161°35'00"W., (excluding the airspace over and within 3 NM of the Islands of Lehua and Niihau) thence clockwise along the arc of a circle radius of 100 NM centered at lat. 22°02'26"N., long. 159°47'15"W., (Barking Sands TACAN) to lat. 22°45'00"N., long. 161°25'00"W., to lat. 22°56'00"N., long. 161°49'00"W., thence clockwise along the arc of a circle radius of 125 NM centered at lat. 22°02'26"N., long. 159°47'15"W., (Barking Sands TACAN) to lat. 23°57'00"N., long. 160°41'00"W., to lat. 25°41'00"N., long. 161°36'00"W., thence clockwise along the arc of a circle radius of 240 NM centered at lat. 22°02'26"N., long. 159°47'15"W., (Barking Sands TACAN) to lat. 25°47'00"N., long. 158°15'00"W., to lat. 23°54'00"N., long. 158°15'00"W., to lat. 22°20'30"N., long. 159°09'00"W., thence counter-clockwise along the arc of a circle radius of 25 NM centered at lat. 21°58'06"N., long. 159°20'27"W., (Lihue VORTAC) to lat. 22°13'00"N., long. 159°42'00"W., thence counter-clockwise 3 NM from and parallel to the shoreline of the Island of Kauai to point of beginning.

Altitude. Surface to unlimited.

Time of use. Continuous.

Controlling agency. FAA, Honolulu ARTC Center.

Using agency. CO PMRFAC HAWAREA.

W-189 would be established as follows:

Name. W-189 Hawaii.

Boundaries. Beginning at lat. 23°54'00"N., long. 158°15'00"W., thence clockwise along the arc of a circle radius of 130 NM centered at lat. 21°58'06"N., long. 159°20'27"W., (Lihue VORTAC) to lat. 23°18'00"N., long. 157°30'00"W., to lat. 21°59'00"N., long. 157°30'00"W.; thence counter-clockwise along the arc of a circle radius of 35 NM centered at lat. 21°27'04"N., long. 157°45'35"W., (Kaneohe Bay TACAN) to lat. 22°01'00"N., long. 157°56'00"W., to lat. 21°45'00"N., long. 157°53'00"W., to lat. 21°47'00"N., long. 158°00'00"W., to lat. 21°44'00"N., long. 158°04'00"W., to lat. 21°38'00"N., long. 158°09'00"W., thence counter-clockwise 3 NM from and parallel to the shoreline of Oahu to lat. 21°36'00"N., long. 158°20'00"W., to lat. 21°59'00"N., long. 158°54'00"W., thence counter-clockwise along the arc of a circle radius of 25 NM centered at lat. 21°58'06"N., long. 159°20'27"W., (Lihue VORTAC) to lat. 22°20'00"N., long. 159°09'00"W., to point of beginning.

Altitude. Surface to unlimited.

Time of use. Sunrise to sunset daily, other time by NOTAM.

Controlling agency. FAA, Honolulu ARTC Center.

Using agency. COMFLETRAGRU Pearl Harbor.

W-190 would be established as follows:

Name. W-190 Hawaii.

Boundaries. Beginning at lat. 23°00'00"N., long. 157°30'00"W., to lat. 23°00'00"N., long. 157°09'00"W., to lat. 22°36'00"N., long. 157°00'00"W., to lat. 22°11'00"N., long. 157°00'00"W., to lat. 21°49'00"N., long. 157°17'00"W., thence counter-clockwise along the arc of a circle radius of 35 NM centered at lat. 21°27'04"N., long. 157°45'35"W., (Kaneohe Bay TACAN) to lat. 21°59'00"N., long. 157°30'00"W., to point of beginning.

Altitude. Surface to unlimited.

Time of use. Sunrise to sunset daily, other time by NOTAM.

V 45 / 17 JA 24 80 UMI

Controlling agency. FAA, Honolulu ARTC Center.

Using agency. COMFLETRAGRU Pearl Harbor.

The Department of the Navy will serve as the lead agency for purposes of compliance with the National Environmental Policy Act for this proposal. Comments on environmental aspects relating to the proposed area changes should be directed to: Commander Knapp, APC–590, 300 Ala Moana Blvd., P.O. Box 50109, Honolulu, Hawaii 96850, Telephone: (808) 546–8349.

ICAO Considerations

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Section 73.31 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (45 FR 897) as follows:

1. Under R–3101 "Subarea A" title, is deleted. "Surface to 5,000 feet MSL." is deleted and "Surface to unlimited." is substituted therefor. Subarea B title and text is deleted.
2. Under R–3104A "R–3104A" title is deleted and "R–3104" is substituted therefor. "Surface to 10,000 feet MSL." is deleted and "Surface to 18,000 feet MSL." is substituted therefor.
3. R–3104B title and text is deleted.
4. R–3104C title and text is deleted.
5. Under R–3107A "R–3107A" title is deleted and "R–3107" is substituted therefor. "A circular area with a 3 NM radius centered at lat. 21°39'30" N., long. 160°32'30" W." is deleted and "The airspace within 3 NM of the Island of Kaula (lat. 21°39'30" N., long. 160°32'30" W.)" is substituted therefor. "Surface to FL 180" is deleted and "Surface to 18,000 feet MSL" is substituted therefor.
6. R–3107B title and text is deleted.
7. R–3120 title and text is deleted.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on January 16, 1980.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-2917 Filed 1-23-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 79–SO–79]

Alteration of Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign jet route J–89 from Lakeland, Fla., direct to Atlanta, Ga., and extend J–91 from Atlanta, Ga., via an intersection to Cross City, Fla. This action would reduce congestion of air traffic to and from south Florida.

DATES: Comments must be received on or before February 20, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 79–SO–79, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC–24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before February 20, 1980 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) that would realign J–89 between Lakeland, Fla., and Atlanta, Ga., to be direct rather than via Cross City, Fla., and to extend J–91 to begin at Cross City and extend to its present beginning at Atlanta via the intersection of Cross City 338°T(337°M) and Atlanta 169°T(169°M) radials. This action would provide a direct and an alternate route between Atlanta and southern Florida. Congestion of air traffic would be reduced in this area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (45 FR 732) as follows:

Under Jet Route No. 89 "Cross City, Fla.; Atlanta, Ga.;" is deleted and "Atlanta, Ga.;" is substituted therefor.

Under Jet Route No. 91 "From Atlanta, Ga., via" is deleted and "From Cross City, Fla.; via INT Cross City 338° and Atlanta, Ga., 169° radials; Atlanta;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on January 16, 1980.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-1602 Filed 1-23-80 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM80–21]

Proposed Regulations Under Section 110 of the Natural Gas Policy Act of 1978

January 16, 1980.

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission gives notice of proposed amendments to the regulations which implement section 110 of the Natural Gas Policy Act of 1978 (NGPA) at Part 271 in the Commission's regulations. These proposals would affect the treatment of State severance taxes in the case of sales of natural gas regulation under section 105 of the NGPA.

DATE: Written comments due by February 19, 1980.

ADDRESS: Send 14 copies of the comments to: The Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, DC 20426. Reference Docket No. RM80–21.

FOR FURTHER INFORMATION:

Scott E. Koves, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, Washington, DC 20426, (202) 357–8317; or Teresa Ponder, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, Washington, DC 20426, (202) 357–8151.

I. Introduction

The Commission in Order No. 68, (Docket No. RM80–14) which accompanies this notice of proposed rulemaking, issued final regulations under sections 105 and 106(b) of the Natural Gas Policy Act of 1978 (NGPA). This order gives notice of a proposal to amend the interim regulations under section 110 of the NGPA to provide for the treatment of State severance taxes imposed on gas subject to section 105(b)(1).

The Commission's final regulations under subpart E of Part 271 set forth the procedures for determining maximum lawful prices under section 105 of the NGPA. These prices cover gas sold under existing intrastate contracts and successors to existing intrastate contracts. The maximum lawful price of any section 105 gas depends on the "contract price" applicable on November 9, 1978. If the contract price that was paid (or would have been paid had deliveries occurred) on November 9, 1978, was equal to or less than $2.06, then, pursuant to section 105(b)(1), the maximum lawful price is the lower of the section 102 maximum lawful price or the "price under the terms of the existing contract" as those terms were in effect on November 9, 1978. As provided in § 270.205(b), fixed and indefinite price escalator terms in the existing contract on November 9, 1978, can operate to increase the price up to the new natural gas price. Section 105(b)(1) is implemented by § 271.502(a) of the final regulations.

If the contract price that was paid (or would have been paid had deliveries occurred) on November 9, 1978, exceeded $2.06, then, pursuant to section 105(b)(2), the maximum lawful price is the higher of the section 102 maximum lawful price, or the contract price actually charged on November 9, 1978, escalated each month by the inflation adjustment factor applicable to such month. (*See* NGPA section 101(a)).

This proposed rule applies to natural gas subject to section 105(b)(1) of the NGPA and would prescribe the extent to which State severance taxes may be recovered by the seller both under that section and section 110 of the NGPA.

II. Discussion

A. Determination of "Contract Price" and "Price Under the Terms of the Existing Contract"—Section 105

The Commission addressed the severance tax issue in Order No. 68, in which is explained:

> The term "contract price" in section 105 is used to determine whether a contract qualifies under paragraph (b)(1) or (b)(2) and to determine the maximum lawful price in paragraph (b)(2) * * *. We believe that the word "price" in the definition of "contract price," as well as the phrase "price under the terms of existing contract" means the total amount of proceeds paid by the purchaser to obtain the subject gas. Therefore, the term "price" would include all proceeds paid or payable to the seller even if specifically earmarked as reimbursement for State severance taxes or production-related costs.
>
> Consequently, in determining the maximum lawful price under section 105 the total proceeds paid or payable on November 9, 1978, are to be compared to $2.06. If the total proceeds exceeds $2.06, then section 105(b)(2) applies. If not, then section 105(b)(1) applies.

If section 105(b)(2) applies, then the total proceeds paid or payable on November 9, 1978, are used as the base to which the inflation adjustments of section 105(b)(2)(B) are applied. If section 105(b)(1) applies, then the total proceeds receivable under the contract may increase pursuant to the terms of the contract in effect on November 9, 1978, up to the section 102 level. (mimeo pages 6–7)

The Commission also examined the question of whether State severance taxes should be subtracted from the section 105 contract price. It determined they should not, and stated that the further question "as to whether the seller may add the amount of any such taxes borne by him to the section 105 ceiling price under section 110 of the NGPA and under § 271.1102 of the Commission's regulations" would be addressed in this separate rulemaking proceeding.

Section 271.1102 of the Commission's interim regulations as it is presently written, speaks in terms of making additions to maximum lawful prices, without specifically referring to the section 105 price. Several comments on the interim regulations asserted that the Commission must amend § 271.1102 to clearly permit the addition of State severance taxes borne by the seller to the section 105 ceiling price. The Commission is tentatively of the view that it should in most cases decline to extend the provsions of § 271.1102 to section 105(b)(1) because there is an essential difference between the nature of the section 105(b)(1) price and other maximum lawful prices in Title I.

While most maximum lawful prices are tied to one specific ceiling price established by Congress, the maximum lawful price for section 105(b)(1) references negotiated prices established by the parties to intrastate contracts in existence on November 9, 1978. These contracts number in the thousands. Accordingly, there are potentially many thousands of individual maximum lawful prices under section 105(b)(1) of the NGPA. Moreover, many of these contracts contain provisions under which the seller clearly agrees to pay all severance taxes. Other provide that the buyer agrees to pay all severance taxes. Other contracts may provide that buyer and seller share the obligation to pay either existing or increased severance taxes. Still others may be silent as to severance taxes. However, in all cases, we believe it is reasonable to presume that when the seller negotiated the contract, he took into consideration the amount of severance tax for which he was to be liable.[1] The total proceeds to be received under the contract, therefore, are presumably sufficient to repay the seller for all severance taxes he may be obligated to pay. Because the section 105(b)(1) price is based on this consideration, it is our tentative view that no additional allowance under section 110 is necessary to allow the seller to "recover" severance taxes paid by him because the seller is already recovering all such taxes in the proceeds he receives.

In considering this issue, we would propose to apply section 110 in the manner which is most consistent with Congressional intent that price regulation of the intrastate market reflect the prices and provisions originally bargained for.[2] Assuming the seller is already reimbursed for State severance taxes under the contract, an additional adjustment under section 110 would arguably permit double recovery of State severance taxes. Permitting such double recovery of State severance taxes would under this view be inequitable and would be inconsistent with Congressional treatment of the intrastate market. Therefore, we do not propose to amend § 271.1102 as commenters suggest. In Order No. 68, the Commission has already amended the definition of "contract price" in § 271.504(a) to clarify that "contract price" includes State severance taxes levied on the sale and which are either borne by the seller or reimbursed by the purchaser. A similar amendment was made to the definition of "price under the terms of the existing contract" in § 271.504(b). In this notice of proposed rulemaking we would also add a new paragraph (c) to § 271.1102 which clarifies that ceiling prices under section 105 include reimbursement for certain State severance taxes and which limit the State severance taxes which under section 110 may be added to the section 105 ceiling price.

The Commission's proposed rule limiting the section 110 allowance for State severance taxes would prevent "double recovery" of severance taxes borne by the seller. However, under the proposed rule, if the section 105(b)(1) maximum lawful price constrains the seller from collecting the full price specified under the terms of his contract (as in effect on date of enactment of the NGPA), then, to the extent he is so constrained, he may collect the allowance for State severance tax under section 110.

The proposed rule recognizes that simply because a seller's contract price on date of enactment might have been sufficient to ensure payment of all State severance taxes levied on the sale, there may be cases in which he will not be permitted to collect the negotiated "contract price." For example, if the seller's contract provided for an indefinite price escalator increase from $1.50 to $5.00, effective December 1, 1978, his ceiling price under section 105(b)(1) for December 1978 would only be $2.078. His total proceeds could not lawfully exceed that amount.

The following amendment to § 271.1102 will permit a seller under an existing intrastate contract subject to section 105(b)(1) to fully recover State severance taxes levied on the sale of natural gas subject to such contract:

(c) Under § 271.502(a) of Subpart E, the price under the terms of the contract (as those terms were in effect on November 8, 1978) is deemed to be sufficient to recover State severance taxes (whether borne by the seller or reimbursed by the buyer). State severance taxes may not be recovered under this section except to the extent the price under the terms of the contract as those terms were in effect on November 8, 1978, exceeds the maximum lawful price specified for new natural gas (Subpart B of Part 271) in Table 1 of § 271.101(a).

However, we do not believe that the same treatment of severance taxes can be implemented in the case of sales under section 105(b)(2) contracts because of a fundamental distinction between section 105(b)(1) and (b)(2).

Section 105(b)(1) focuses on the terms of the contract on November 9, 1978. Presumably these were bargained for on an arms-length basis prior to enactment of the NGPA. In effect, each contract which falls under section 105(b)(1) imposes an individual set of pricing regulations superceded only in the event that the price under such terms exceeds the section 102 ceiling price (*See*, section 105(b)(1)(B)). Ceiling prices under section 105(b)(1) are *continuously* circumscribed by the pre-NGPA negotiated provisions of the contract, which, with certain exceptions noted above, provide a continuous recoupment of all existing State severance taxes borne by the seller.

This pricing mechanism is to be contrasted with that of section 105(b)(2). Under section 105(b)(2), while the negotiated "contract price" on date of enactment of the NGPA forms the base to which inflation adjustments are later applied, that is the one and only occasion on which the terms of the contract affect the ceiling price.[3] After the date of enactment, as is the case with all other Title I ceiling prices (except section 105(b)(1)(A)), numerical price limitations are mechanically applied to the previous month's ceiling price. All Title I ceiling prices (except section 105(b)(1)(A)), are arrived at in essentially the same way: a base price per MMBtu on a given date is adjusted upward each month with inflation related increments. For example, after December 1, 1978, all ceiling prices under sections 103, 104, 106(a), 106(b)(1), 109 and 105(B)(2) escalate upward at exactly the same rate of increase.

Based on these considerations, we find no practical difference between section 105(b)(2) and other Title I ceiling price sections (except 105(b)(1)) with respect to the method of computing ceiling prices. As such, we also can perceive of no reason why the recovery of State severance taxes under section 110(a)(1) should be handled differently in the case of section 105(b)(2) than the other Title I ceiling price provisions. Accordingly, as a general rule, the price under a section 105(b)(2) contract would be permitted to increase above the section 105(b)(2) ceiling price to the extent necessary to recovery State severance taxes borne by the seller. *See* § 271.1102(a).

However, because our policy respecting the treatment of State severance taxes is only a proposal at this juncture, we specifically invite comments on this issue in the context of both sections 105 and 106(b).

There may be circumstances to which the proposed § 271.1102(c) would not apply and which, due to special hardship, inequity, or unfair distribution of burdens, it would be appropriate to permit a section 110 allowance (or other form of relief) for severance taxes paid by the seller under a section 105 contract. However, these matters are more properly considered in the context of an application for an adjustment in a section 502(c) proceeding.

The Commission also recognizes that some gas subject to section 105 pricing may subsequently receive a determination of eligibility under section 102, 103, 107 or 108, and, contract permitting, may receive a maximum lawful price under one of those sections, to which severance taxes may then be added. Once gas has become eligible to move into an "incentive" pricing category, the contract price or terms as of November 9, 1978, are no longer instrumental in determining the maximum lawful price and the gas becomes eligible for all of the benefits Congress intended to give other Title I gas. Because the base prices for other Title I gas were not based on private negotiations and therefore cannot be assumed to provide compensation for individual severance taxes (with the exception of Permian Basin gas, see § 271.102(b)), the proposed rule would permit the addition of State severance taxes. Therefore, contract permitting[4] gas qualifying under sections 102, 103, 107 or 108 could be sold at a higher base ceiling price and the applicable severance tax allowance may be added to that price.

B. Contract Modification

In Order No. 68, at page 14, we noted:

Several comments were also received which suggested that, in any case in which an existing intrastate contract provides that the purchaser shall reimburse the seller for 85 percent of increased severance taxes, and in the event of such a tax increase, the parties should be allowed to amend the contract to provide for 100 percent reimbursement of such taxes. Section 271.1102, unless modified in accordance with the proposed rule which accompanies this final rule, permits full recovery of State severance tax. Section 270.205(c) makes it clear that the NGPA does not prohibit contract modifications necessary in order to collect maximum lawful prices.

However, a different result would be reached under the proposed rule. If the contract is subject to section 105(b)(1) of the NGPA, the parties may not increase the price under the terms of the contract as those terms were in effect on November 9, 1978. If section 105(b)(2) applies, then the amendment may not result in a price in excess of the ceiling imposed by paragraph (b)(2)(B)(ii) of section 105, plus applicable section 110 allowances. As long as contract amendments do not cause the price paid to exceed the applicable ceiling price, the parties may allocate the obligation to pay for such taxes in any manner they wish.

III. Summary of Amendments

The proposed rule would make the following amendments to the Commission's rules:

Section 271.1102 would be amended to explain the treatment of State severance taxes with reference to section 105(b)(1) gas.

IV. Public Procedures and Effective Date

The Commission requests comment on the proposed rule, and specifically requests comment on whether § 271.1102 should prohibit any allowance for State severance tax under section 110 of the NGPA with respect to all natural gas subject to sections 105(b)(1), 105(b)(2), and 106(b). The Commission also requests comment on whether provision should be made for special treatment of increases in State severance taxes after November 9, 1978. In addition, comment is requested on the issue of the relationship between the ceiling price for intrastate rollover contracts and the allowance for severance taxes for the expired existing intrastate contract, as well as the general question of the interaction between the section 105 and 106(b) ceiling prices and the allowance for State severance taxes under section 110.

Interested persons may submit comments by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before February 19, 1980. Each person submitting a comment should include his name and address, identify Docket No. RM80–21, and give reasons for any recommendations. An original and 14 conformed copies shoud be filed with the Secretary of the Commission. Comments should indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. Written comments will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426, during regular business hours.

The Commission intends to hold a public hearing on the proposals, as required by section 502 of the NGPA. The date and location of such hearing will be announced shortly. The regulations proposed in this notice shall not become final until the Commission has had an opportunity to receive oral presentation of relevant data, views and arguments.

(Natural Gas Act, as amended, 15 U.S.C. 717, *et seq.*; Department of Energy Organization Act, 47 U.S.C. 7101–7352; E.O. 12009, 42 FR 46267; Natural Gas Policy Act of 1978; 15 U.S.C. 3301–3432)

The Commission proposes to amend § 271.1102, as set forth below. Such proposed amendments are proposed to become effective April 1, 1980.

[1] Severance taxes are among many costs of providing service that a producer will take into consideration when he negotiates price terms.

[2] This approach is in accord with our position disallowing the shifting of production-related costs to the purchaser in sales of natural gas subject to existing intrastate contracts. In the Preamble to the Interim Regulations (43 F.R. 56448) we noted, "It would be contrary to the intent of Congress to permit a change in such prices and terms that would have the effect of increasing the total costs borne by the purchaser for acquiring the very same commodity as he was acquiring for a lower price before date of enactment.

[3] Except of course, that the contract terms always override ceiling prices if the contract does not permit the collection of the ceiling price. *See*, section 101(b)(9) of the NGPA. This applies to *all* ceiling prices, not just those under section 105.

[4] See section 101(b)(9) of the NGPA.

V 45 / 17 JA 24 80 UMI

By the direction of the Commission.
Kenneth F. Plumb,
Secretary.

1. Section 271.1102 is amended in paragraph (a) by deleting the phrase "paragraph (b)" and inserting in lieu thereof the phrase "paragraphs (b) and (c)," and by adding a new paragraph (c) to read as follows:

§ 271.1102 State severance taxes.

* * * * *

(c) Under § 271.502(a) of Subpart E, the price under the terms of the contract (as those terms were in effect on November 9, 1978) is deemed to be sufficient to recover State severance taxes (whether borne by the seller or reimbursed by the buyer). State severance taxes may not be recovered under this section except to the extent the price under the terms of the contract as those terms were in effect on November 9, 1978, exceeds the maximum lawful price specified for new natural gas (Subpart B of Part 271) in Table 1 of § 271.101(a).

[FR Doc. 80-2238 Filed 1-23-80; 8:45 am]
BILLING CODE 6450-85-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 625, 655 Subpart F

[FHWA Docket No. 79-35]

National Standards for Traffic Control Devices: Manual on Uniform Traffic Control Devices.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed amendments to the Manual on Uniform Traffic Control Devices

SUMMARY: The FHWA is requesting comments on proposed amendments to the Manual on Uniform Traffic Control Devices (MUTCD). These proposals affect markers, railroad-highway grade crossings, bicycle facilities, and traffic signals, among others. They are intended to improve safety standards and provide a uniform approach to traffic control devices. The MUTCD is incorporated by reference in title 23 of the Code of Federal Regulations. It contains the standards for traffic control devices which have been approved by the FHWA for use on all streets and highways open to public travel.

DATE: Comments must be received on or before March 24, 1980.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 79-35, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed stamped postcard. The MUTCD is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D. It may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 ($18.00).

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Conner, Chief, Traffic Control Systems Division, 202-426-0411, or Mr. Lee J. Burstyn, Office of the Chief Counsel, 202-426-0754, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration (FHWA) prepares and issues the national standards for traffic control devices used on all streets and highways open to public travel. These standards are published in the Manual on Uniform Traffic Control Devices (MUTCD), which has been incorporated by reference into title 23 of the Code of Federal Regulations, Parts 625 and 655 Subpart F. Prior to June 12, 1979, the National Advisory Committee on Uniform Traffic Control Devices (NACUTCD) provided advice and recommendations to FHWA on requests for changes in the national standards in the MUTCD.

The FHWA terminated its sponsorship of NACUTCD on June 12, 1979, and will now process all revisions to the MUTCD in accordance with the informal rulemaking procedures of 5 U.S.C. 553 and Department of Transportation procedures issued pursuant to Executive Order 12044.

Alternative methods for assuring the availability of the variety of interests, viewpoints, and technical skills formerly provided by NACUTCD, which are essential to the standards development process, were the subject of a public meeting held on June 20, 1979. The notice for this public meeting was published in the **Federal Register** on May 22, 1979 (44 FR 29787). Final action on development of the alternative methods to be used will be taken following a detailed review and consideration of all comments received in response to Docket 79-19. This will require the revision of Section 1A-6 of the MUTCD, which describes a general procedure for processing requests for changes in the national standards for traffic control devices.

Prior to termination of the NACUTCD, the proposals discussed in this notice were submitted to that organization, reviewed, and recommendations submitted to the Federal Highway Administration for consideration.[1] These recommendations form the basis of the actions proposed in this notice.

Each request for a change to the 1978 edition of the MUTCD has been assigned an identification number which indicates the organizational part of the MUTCD affected, by Roman numeral, and the sequence in which the request was received, by Arabic numeral. For example, Request III-7 is the seventh request for a change to Part III of the MUTCD, which deals with markings. Prior to publication of the 1978 edition, identification numbers were assigned using subject abbreviations. For example, Request Sg-86 is the 86th request received for a change to Part IV of the MUTCD, which deals with signals ("Sg").

Part A contains a discussion of five requests for changes or additions to the MUTCD which are being proposed as amendments by FHWA. Part B discusses those requests that, for the reasons stated, are not being proposed by FHWA.

This notice is issued as a proposal, with publication in the **Federal Register**, so that interested persons may have an opportunity to participate in the processing of proposed amendments to the MUTCD. The FHWA will consider all written comments received on Parts A and B prior to taking final action on the proposed amendments. Final amendments to the MUTCD will be published in the **Federal Register** and incorporated by reference in the Code of Federal Regulations.

Part A—Proposed Changes to the MUTCD. 1. *Markings (Part III)—Request III-7—Object Markers.* Section 3C-1 of the MUTCD provides that Type 3 object markers shall have either alternating black and reflectorized yellow stripes or alternating black and reflectorized white stripes. The MUTCD makes no distinction between these differently colored markers in the provisions and requirements for their use. The mounting height for Type 3 object markers is not specified in Section 3C-1.

The FHWA asked the NACUTCD to provide an interpretation and recommendations clarifying the use of Type 3 object markers based on the two different color combinations and to recommend a mounting height. Due to factors developed during its study, NACUTCD and FHWA determined that this request for an interpretation should be reclassified as a request for a change.

The black and yellow Type 3 object marker was added to the MUTCD in 1971 as an alternative to the black and white marker. A survey conducted by FHWA in 1978-79 showed that 30 States use only the black and white object marker, 13 States use only the black and yellow marker, and eight States use both. There has been insufficient effort among the States and even within some States to adopt the exclusive use of one of the two permissible color combinations. The use of two different warning signs for the same purpose is neither necessary nor desirable. The NACUTCD recommended that since the Type 3 object marker is a warning device, it should conform to the standard color code of black and yellow which is established in the MUTCD for warning devices. The FHWA concurred with this recommendation and proposes the following change in Section 3C-1 of the MUTCD to provide for the exclusive use of black and yellow stripes on Type 3 object markers with a recommended compliance date of December 31, 1984, for this change.

Revise the fourth paragraph of Section 3C-1 to read as follows: Type 3—Striped marker consisting of a vertical rectangle approximately 1 foot by 3 feet in size with alternating black and reflectorized yellow stripes sloping downward at an angle of 45° toward the side of the obstruction on which traffic is to pass. The minimum width of the yellow stripe shall be 3 inches. A better appearance can be achieved if the black stripes are wider than the yellow stripes.

The NACUTCD also determined that the mounting height for object markers shown on Figure 2-1 of the MUTCD, together with the results of an engineering study of the specific sign location as recommended in Section 1A-4 and other sections of the MUTCD, constituted sufficient guidance. The FHWA concurred with that interpretation.

This change would eliminate black and white Type 3 object markers as standard devices. Many of the existing black and white markers could be replaced by black and yellow markers through routine maintenance procedures. Other black and white markers could be refurbished at the convenience of the highway agencies within the proposed period. Material costs for white and yellow sheeting are comparable and screening costs identical.

2. *Signals (Part IV)—(a) Request IV-8—Alternative to Full Signalization at School Pedestrian Crossings.* This request for a change in the MUTCD was initiated by the city of Seattle in 1974 to allow the use of traffic signals on the main street approaches and STOP signs only on the side street approaches at intersections with school pedestrian crossings. In January 1975, NACUTCD recommended denial of this request by a vote of 21-3. Following a review of this action, including a meeting with advocates from several cities where the concept is used, the Federal Highway Administrator denied the request but suggested additional research and the development of alternative specialized pedestrian control techniques for consideration.

Of five alternatives studied under a subsequent research contract, the use of a crossing guard and the proposed STOP sign-signal concept were considered the most desirable as an alternative to full signalization by the contractor. The NACUTCD reviewed this additional data in January 1979, and again recommended 21 to 6 against granting a request for use of the concept and a change to the MUTCD. Primary considerations were the degradation of the meaning of a green traffic signal on a national basis and that widespread use could result in a deterioration in the authority and effectiveness of traffic signals and pedestrian safety in general. Proponents indicated that the concept has been utilized successfully in several cities in the West and Midwest and that conversion of these intersections to full signalization in compliance with MUTCD standards would require considerable funding resources.

Considering all factors, it is the recommendation of FHWA that: where State standards permit, local jurisdictions desiring to utilize the concept at school crossings where MUTCD Warrant 4, School Crossings (Sec. 4C-6),[2] is met should be permitted to do so as an alternative to full signalization at these locations. This alternative would not mandate any direct action by highway agencies but would provide local highway agencies an alternative method of control for school crossings to that specified in current standards.

(b) *Request Sg-96—Pedestrian WALK Color.* Section 4D-4, MUTCD, provides that when illuminated the WALK indication signal shall be lunar white conforming to the Standard for Adjustable Face Pedestrian Signal Heads, 1975.[3]

Since the introduction of lunar white lenses, there have been several complaints of lack of visibility of the new lunar white in comparison to clear white, especially from those agencies changing from "clear" to lunar white. Following the request of its Signals Subcommittee, the NACUTCD recommended that the MUTCD be changed to delete the word lunar from lunar white and allow lunar white, clear white or white for pedestrian WALK indications and to delete the reference to the Institute of Transportation Engineers (ITE) Standard for Adjustable Face Pedestrian Heads, 1975, insofar as it pertains to the WALK color. The recommended change would provide for a wider range of color limits and, in addition to lunar white, allow for clear white and white, both of which are not currently defined in the ITE Standard. When the ITE Standard does define all three color limits it will again be referenced. The FHWA concurs in this change and proposes a change in the MUTCD, as follows:

Revise 4D-4 Design Requirements, Item 3, and 7D-23 Pedestrian Indications, paragraph 3, to read as follows: When illuminated, the WALK indication shall be white with all except the letters or symbols obscured by an opaque material.

This change would not mandate any direct action by highway agencies. It would provide highway agencies with an additional voluntary method for improving guidance for pedestrians.

3. *Traffic Control Systems for Railroad-Highway Grade Crossings (Part VIII)—Request VIII-3—Crossbuck Border.* Section 8B-2 of the MUTCD provides that the railroad crossing sign, commonly identified as the "crossbuck" sign, as a minimum, shall be reflectorized white, with the words RAILROAD CROSSING in black lettering. This sign consists of rectangular sections arranged in a shape similar to a capital letter "X" with one word on each segment of the "X."

This request, originating within the FHWA, proposed a change in the MUTCD to provide a 4-inch black border around the periphery of the sign to improve its visibility or target value. Although the use of a border on a sign to improve target value is a fundamental principle of good sign design, the

[1] Copies of the materials which form the basis for this rulemaking action are available for inspection and copying by contacting Mr. Robert E. Conner at the address provided above.

[2] The MUTCD (IV-C) prescribes warrants or conditions which should be met before a traffic control signal is installed. Warrant 4 prescribes a study of the frequency and adequacy of gaps in the vehicular traffic stream and a study of the number of school children crossing at the intersection.

[3] Available from the Institute of Transportation Engineers, 525 School Street, SW., Washington, D.C. 20024.

standard railroad crossbuck sign (sign R15–1 in the MUTCD) does not have a border. Direct observation of railroad crossbuck signs mounted on overhead mastarms showed a need for improving the target value of a white sign viewed against a light sky background. Post-mounted crossbucks viewed against a light background also need improved target value. Railroad flashing light signals, which are often mounted near to or in conjunction with crossbucks, have 4-inch black backplates around them to provide the needed target value. The NACUTCD recommended that Section 8B–2 of the MUTCD should be changed to permit a 2-inch wide black border around the standard crossbuck sign when there is a need to improve target value. The FHWA concurred in the recommendation and proposes a change in the MUTCD to that effect, as follows:

Add the following at the end of the first paragraph of Section 8B–2: Where there is a need to improve the target value of the crossbuck, a uniform black border, not exceeding 2 inches in width, may be added. Where used, this border shall be applied as an addition to the dimensions specified for crossbucks without borders.

This change would not mandate any direct action by highway agencies. It would provide highway agencies with an additional voluntary method of improving safety at railroad grade crossings.

4. *Traffic Controls for Bicycle Facilities (Part IX)—Request IX–2—Bike Parking Sign.* Part IX of the MUTCD provides the standards for traffic control devices for bicycle facilities but does not include a standard sign to guide bicyclists to designate bicycle parking areas.

This request, submitted by the Department of Transportation, Montgomery County, Maryland, proposed the adoption of a 24 by 18 inch, green on white, bicycle parking area sign. The sign, as proposed, was similar to the standard Parking Area sign (D4) with a large capital P and an upward sloping arrow, but with a bicycle profile symbol in lieu of the letters "ARKING." An educational plaque was included as part of the proposed sign. The sign would be used primarily in large parking areas to direct bicyclists to their designated parking areas.

The NACUTCD determined that there is a need for a standard bicycle area parking sign but that in order to avoid confusion, it should not be similar to the D4 Parking Area sign. The NACUTCD recommended the adoption of a standard 12 by 18 inch, green on white, Bicycle Area Parking sign. The sign should have a bicycle symbol, the word "Parking," and a directional arrow at the bottom. The FHWA concurred in this recommendation and proposes a change in the MUTCD to this effect, as follows:

—Add the following paragraph and an appropriate illustration [4] to Section 9B: 9B–23 Bicycle Parking Area Sign (XX). The Bicycle Parking Area sign may be used where it is desired to show the direction to a designated bicycle parking area within a parking facility or at other locations. The sign shall be a vertical rectangle of a standard size of 12 by 18 inches. It shall carry a standard bicycle symbol, the word PARKING, and an arrow. The legend and border shall be green on a reflectorized white background.

This change would not mandate any direct action by highway agencies. It would provide highway agencies with an additional voluntary method for improving guidance for bicyclists.

Part B—No Changes in MUTCD Proposed. The following requests for changes in the MUTCD were either received by the FHWA or originated within the FHWA. All were then reviewed by the NACUTCD, which subsequently recommended against their adoption. Based upon the recommendations of the NACUTCD and the FHWA's own review, no changes in the MUTCD are being proposed by the FHWA for these items.

1. *Signs (Part II)*—(a) *Request II–12/Sn–237 (Chng.)—Channel 9 Monitored Sign.* This request, which originated within the FHWA, was to develop a standard sign to notify citizen band (CB) operators that Channel 9 is monitored by various responsible agencies. Although it is common knowledge to CB operators that Channel 9 is the emergency channel, this channel is not monitored everywhere on a 24-hour basis by a responsible agency.

This change is not recommended for the following reasons:

(1) It is common knowledge to CB operators that Channel 9 is the emergency channel.

(2) An informal survey revealed that there are CB sign installations, with various formats, currently in use.

(3) Current signing having a white legend and border on a blue background with the legend CHANNEL 9 MONITORED and the name of an official monitoring agency should be permitted using existing sign format.

(b) *Request II–16/Sn–241—Accessibility to Handicapped Persons for Logo Businesses.* This request, originated by the Virginia Developmental Disabilities Planning and Advisory Council, an Office of the Commonwealth of Virginia, is to establish accessibility to handicapped persons as a criterion for logo signing (motels, restaurants, etc.). The requester feels that if a facility is inaccessible to the handicapped then this is a form of discrimination.

This revision to MUTCD sign criteria is not recommended for the following reasons:

(1) Establishing such criteria for the logo signing program is a State legal matter.

(2) The MUTCD requirements cover design of the sign to be used as needed.

(c) *Request II–18—Use of the Terms Parking, Standing and Stopping.* This request by a private individual is to add clarifying language on the terms "Parking," "Standing," and "Stopping" to Section 2B–31 of the MUTCD. The individual feels that since the Uniform Vehicle Code defines each of the terms separately, each being a progressively more restrictive prohibition, only one of the three terms need be used on a Parking Prohibition sign.

The recommendation is that the MUTCD text not be changed for the following reasons:

(1) The MUTCD already permits the use of individual messages on a particular sign.

(2) The example in the MUTCD has been modified to illustrate only one of the terms on the sign.

(3) Engineers should have the prerogative to use two or three of the terms on a single sign to provide emphasis.

(d) *Request II–19—Spacing of Chevron Alignment Signs.* This request, originated by the Michigan Department of Transportation, is to revise Section 2C–10 of the MUTCD to include a suggested spacing for chevron alignment signs. The requesting agency feels that the guidelines established for the use and application of chevron alignment signs do not address the question of recommended spacing.

Adoption of this requested revision is not recommended for the following reasons:

(1) This sign should be used for added emphasis to denote the sharpness of a road curve. Because of its use in special situations, there must be some flexibility in spacing.

(2) Field observations have found that the present MUTCD spacing guide is adequate.

(e) *Request II–20—Symbol for Police Assistance.* The Alaska Department of Public Safety requested development of a standard symbol sign for police assistance. It was felt that the need for a uniform symbol is evident in the fact that police agencies use different terms (trooper, patrol, police, etc.). A traveler going from State to State is not sure if the terms have the same connotation.

The development of a special symbol sign is not recommended for the following reasons:

(1) The Symbols Task Force of NACUTCD and the International Association of Chiefs of Police reviewed several different symbols but determined that the word message POLICE is the most appropriate.

(2) The word POLICE is fairly well understood in any language.

(3) The letters of the word POLICE are noticeable in whatever language used.

(f) *Request II–21—Motorcycle and/or Trail Bike Symbol.* The American Motocyclist Association requested establishment of a uniform motorcycle symbol. The association feels that such a symbol can be used to designate road vehicle trails or to restrict motorcycle use in certain areas. The symbol might also be used in a warning format to advise motorcyclists of a hazardous condition.

The addition of a new symbol is not recommended for the following reasons:

(1) The National Park Service already has a symbol for motorcycles which is being used nationally.

(2) The National Park Service symbols are included in the MUTCD by reference.

(g) *Request II–22—Noise Ordinance Sign.* The Environmental Protection Agency proposed adoption of a national standard for a noise ordinance sign. This sign is currently being used by several cities from coast to coast.

The proposal is not recommended as a change in the MUTCD for the following reasons:

(1) The noise ordinance sign is not an appropriate traffic control device.

(2) Such a sign is a notification of a blanket regulation and as such is permitted where specific ordinances are enforced.

(3) The general nature of the sign does not identify the noise level limit.

2. *Markings (Part III)—Request III–5/M–46—No-Passing Zone Markings.* This request, originated by the United Traffic Service Corporation, is to make eight specific changes to the procedure for the determination of No-Passing Zone Markings.

More specifically, these changes are:

(1) vertical and horizontal curve criteria,

(2) definition of object size,

(3) minimum passing distance,

(4) lowering of target height,

(5) revise vertical sight line,

(6) minimum marking on no-passing zones,

(7) no-passing zones for narrow bridges, and

(8) no-passing zones for intersections.

The recommendation is not to adopt these changes to the MUTCD for the following reasons:

(1) The MUTCD adequately covers the vertical and horizontal curve criteria.

(2) The object size is not considered a problem.

(3) Research is needed to change the minimum passing distance.

(4) The subject of lowering the target height was addressed in another ruling (M–42).

(5) The introduction of the technical term "vertical sight line" may increase confusion.

(6) The proposed lengths for minimum no-passing zones are not supported by research data.

(7) Neither narrow bridges nor intersections warrant a blanket policy.

3. *Signals (Part IV)*—(a) *Request IV–9/Sg–80 (chng.)—Flashing Red Signals Facing the Median Crossover.* This request from the Delaware Department of Highways and Transportation would allow the concurrent display of flashing and steady signal indications in the particular case of a two-phase traffic signal at a wide median crossing. This change to the MUTCD is not recommended for the following reasons:

(1) There was a previous ruling that where a median is greater than 30 feet in width each accompanying roadway is to have a separate intersection for signalization purposes.

(2) The circular green signal indication being displayed to the divided roadway through traffic would not have the same meaning as it would at other roadway intersections due to the possibility of right angle crossings by vehicles making left turns from the main highway through the wide median area.

(b) *Request IV–10—Prohibit Straight Ahead Green Arrow.* The request from a private individual would preclude the use of the straight ahead green arrow in favor of the circular green signal at intersections. This change to the MUTCD is not recommended for the following reasons:

(1) The straight ahead green arrow serves a purpose at many complex intersections, signifying "No Turns."

(2) The correct interpretation of the MUTCD does not allow indiscriminate use of straight ahead green arrow.

(3) Prohibiting its use would unnecessarily limit flexibility of control device uses.

(4) Problems with glare in the use of an arrow display could be corrected with shields, back plates or by adjustment of signal intensity.

(5) The 12" green arrow indication is readily visible when installed properly.

(c) *Request IV–11—Left-Turn Lane Signal Displays For Permissive Left Turn.* The request from a private individual would preclude display of the circular green signal in separate signal faces which controls an exclusive turn lane during intervals when a circular green signal is displayed to oncoming straight through traffic from the opposite direction.

The basis for not recommending this change in the MUTCD is that traffic capacity would be unnecessarily reduced by eliminating permissive left turns, especially during off-peak hours and low-volume traffic flows.

(d) *Request Sg-104—Pedestrian Indications at T-Intersection.* The Arizona Department of Transportation requested elimination of a specific indication (DW–W or R–Y–G) for pedestrians crossing from the top of the T toward the stem, by changing "shall" to "should" in Section 4D–3(3). This request is not considered proper or reasonable in the safe control of traffic at signalized intersections and is not recommended.

In consideration of the foregoing, and under the authority of 23 U.S.C. 109 (b) and (d), 315, and 402(a), and the delegation of authority in 49 CFR 1.48(b), it is proposed to amend the MUTCD as set forth in Part A herein.

Note.—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. Due to the fact that four of the five amendments proposed would not mandate any direct action by highway agencies, and the remaining amendment would be phased in over a proposed five-year period, the economic impact of these amendments is so minimal as to not require preparation of a full regulatory evaluation.

Issued on: January 16, 1980.

L. P. Lamm,

Executive Director.

[FR Doc. 80-3803 Filed 1-23-80; 8:45 am]

BILLING CODE 4910-22-M

[4] Available from Mr. Robert E. Conner, Chief, Traffic Control Systems Division, FHWA, 400 Seventh Street, SW., Washington, D.C. 20590.

V45/17 JA24 80 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 200

[Docket No. R-80-765]

Transmittal of Proposed Rule to Congress Under Section 7(o) of the Department of HUD Act

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of proposed rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document: 24 CFR Part 200 Introduction—Subpart S—Minimum Property Standards (MPS)—Addition of Water Conservation Requirements.

This proposed rule would make changes to the Minimum Property Standards (MPS) for One- and Two-Family Dwellings (Handbook 4900.1), the MPS for Multifamily Housing (Handbook 4910.1) and the MPS for Care-Type Housing (Handbook 4920.1) to add requirements for flow controls on shower heads and aerators on faucets of lavatories and kitchen sinks in order to conserve water. HUD MPS are published in handbooks and incorporated by reference into 24 CFR Part 200, and notice of changes to the MPS must be published in the Federal Register.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978).

Issued at Washington, D.C., January 10, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-2161 Filed 1-23-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 43a

Preparation of a Roll of Pyramid Lake Paiute Indians; Preparation, Certification and Approval of Roll; Correction

January 21, 1980.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Correction to a proposed rule.

SUMMARY: In the Federal Register of January 14, 1980, on page 2665, the phone number listed under "FOR FURTHER INFORMAITON CONTACT:" should read "(602) 261-4112; after February 4, 1980, 602-241-2314." In the same issue, on page 2666, the ninth line in the first column should read "§ 43a.1 Definitions."

FOR FURTHER INFORMATION CONTACT: Tribal Information Officer, Bureau of Indian Affairs, Phoenix Area Office, Phoenix, Arizona (602) 241-2314.

Rick Lavis,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 80-2363 Filed 1-23-80; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE-24-78]

Income Tax; Limitations on Benefits and Contributions Under Qualified Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to limitations on benefits and contributions under qualified pension plans, etc. Changes in the applicable tax law were made by the Employee Retirement Income Security Act of 1974, the Tax Reform Act of 1976 and the Revenue Act of 1978. The regulations would provide the public with the guidance needed to comply with those Acts and would affect all qualified plans.

DATES: Written comments and requests for a public hearing must be delivered or mailed by April 23, 1980. Except as otherwise indicated, the amendments are proposed to be effective for plan years beginning after 1975 and for limitation years ending with or within plan years beginning after 1975.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-24-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Norman J. Misher of the Employee Plans and Exempt Organizations Division of the Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3433) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 401(a)(16), 403(b)(2) and 415 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 2004 (a) and (c)(4) of the Employee Retirement Income Security Act of 1974 ("ERISA") (88 Stat. 979 and 986), to sections 803(f)(1), 1501(b)(3), 1502(a)(1) and 1511 of the Tax Reform Act of 1976 (90 Stat. 1589, 1735, 1737 and 1741) and to section 153(a) of the Revenue Act of 1978 (92 Stat. 2800). They are to be issued under the authority contained in sections 415(j) and 7805 of the Internal Revenue Code of 1954 (68 Stat. 985, 68A Stat. 917; 26 U.S.C. 415(j) and 7805).

This document also contains a proposed amendment to the Income Tax Regulations (26 CFR Part 1) under section 401(f) of the Internal Revenue Code of 1954. This amendment is proposed to conform the regulations to section 1505(b) of the Tax Reform Act of 1976 (90 Stat. 1738) and is to be issued under the authority contained in section 7805(b) of the Code (68A Stat. 917; 26 U.S.C. 7805).

Treatment of Contract as Qualified Trust

Prior to the Tax Reform Act of 1976, section 401(f) provided that a custodial account or an annuity contract would be treated as a qualified trust provided that certain requirements were met. The Tax Reform Act of 1976 amended section 401(f) to provide that a contract (other than a life, health or accident, property, casualty or liability insurance contract) issued by an insurance company qualified to do business in a state will also be treated as a qualified trust provided that the contract would, except for the fact that it is not a trust, constitute a qualified trust under section 401.

General Application of Section 415

The limitations on benefits and contributions under section 415 apply to all qualified pension, profit-sharing, annuity, bond purchase and stock bonus plans, including "H.R. 10" plans, as well as so-called "tax sheltered annuities" described in section 403(b) and individual retirement arrangements described in sections 408 and 409. The limitations of section 415 also apply to simplified employee pensions described in section 408(k).

Plan Provision

The regulations do not require that a plan contain a specific plan provision for section 415 purposes in order to establish or maintain its qualification. However, the plan provisions must preclude the possibility that the limitations imposed by section 415 will be exceeded.

Plans Maintained by More Than One Employer

Under the regulations, the limitations of section 415 are applied with respect to a participant of a plan described in section 413(c) or section 413(b) (other than a plan described in section 414(f)) by taking into account all of the benefits or contributions attributable to the participant from all of the employers maintaining the plan. However, with respect to a participant of an employer maintaining a plan described in section 414(f), only the benefits or contributions provided by the employer of the participant are required to be taken into account for section 415 purposes.

Effective Date

Section 415 and these regulations are applicable for plan years beginning after 1975 and for limitation years ending with or within plan years beginning after 1975. However, besides those provisions that have special effective dates which are authorized by statute, the regulations provide a special effective date for excess contributions to section 403(b) annuity contracts and for the rules relating to a change in the limitation year.

Supersession of Temporary Regulations

These regulations supersede the Temporary Income Tax Regulations under section 415(c)(4), which related to special elections for section 403(b) annuity contracts purchased by educational organizations, hospitals and home health service agencies.

Limitation Year

Under the regulations, the limitation year with respect to any qualified plan maintained by the employer is the calendar year unless the employer elects to use any other consecutive twelve month period. The regulations provide that this election is made by the adoption of a written resolution by the employer.

In the event that an employer elects to change the limitation year, the regulations provide a special rule for applying the limitations of section 415 in this situation. This rule is different than the rule set forth in section 2.01(4) of Rev. Rul. 75-481, 1975-2 C.B. 188 with respect to such a change and therefore has a special effective date.

Compensation

For purposes of applying the limitations of section 415, the regulations provide that the compensation actually paid or made available to a participant within a limitation year is controlling. However, under the regulations, an employer may elect to use the compensation accrued during the limitation year instead of the compensation paid or made available.

In determining what is compensation for section 415 purposes, the regulations set forth a list of items which are includable as compensation and a list specifying those items which are not includable as compensation. The items listed are only for illustrative purposes and are not intended to be all-inclusive.

The regulations also provide a special rule for employees of a controlled group of employers. In such a case, an employee's compensation includes compensation from all employers which are members of the group, regardless of whether the employee's particular employer has a qualified plan.

Limitation for Defined Benefit Plans

Under the regulations, a participant's projected annual benefit under a qualified defined benefit plan may not, at any time during the limitation year, exceed the lesser of $75,000 (subject to cost-of-living increases) or 100 percent of the participant's average compensation for his high three years of service with the employer. The regulations provide that a participant's high three years of service is the period of three consecutive calendar years during which the employee had the greatest aggregate compensation from the employer.

The regulations define a participant's projected annual benefit as the annual benefit to which the participant is entitled under the terms of the plan based upon specified assumptions. An annual benefit is a benefit which is payable annually in the form of a straight life annuity under the plan. If the plan provides a benefit which is not payable in the form of a straight life annuity, the regulations require that the benefit be adjusted in accordance with rules determined by the Commissioner for purposes of applying the benefit limitations of section 415(b). The regulations also provide specific rules relating to certain benefits to which no such adjustment is required.

Under the regulations, employee contributions, whether mandatory or voluntary, are considered a separate defined contribution plan maintained by the employer which is subject to the limitations on contributions and other additions under section 415(c). However, the regulations provide that these contributions will not be considered a separate defined contribution plan maintained by the employer for purposes of the special $10,000 limitation under section 415(b)(4). Thus, a contributory defined benefit plan may utilize this special dollar limitation.

With respect to the special $10,000 limitation under section 415(b)(4), the regulations make it clear that in applying the $10,000 limit, no upward adjustment is required for early retirement provisions and benefits which are not in the form of a straight life annuity. The regulations also make it clear that the rule requiring a reduction of the limitations on benefits for less than 10 years of service under section 415(b)(5) applies only where a participant has less than 10 years of service with the employer at the time the participant begins to receive retirement benefits under the plan.

Transitional Rule for Defined Benefit Plans

Section 2004(d)(2) of ERISA and the regulations provide a special transitional rule for any individual who was a participant in a defined benefit plan before October 3, 1973. Under this transitional rule, if certain conditions are satisfied, the annual benefit payable to such individual will not be considered to exceed the benefit limitation of section 415(b). Under the regulations, the special transitional rule is also available in the case of an individual who was a participant in more than one defined benefit plan at any time before October 3, 1973.

In determining a participant's compensation for purposes of the transitional rule, the regulations provide a special rule under which the

compensation which would be used to determine benefits under the plan if the employee separated from service on October 2, 1973, may be taken into account, if that is greater than the otherwise applicable compensation for the participant. The regulations also make it clear that any cost-of-living increase in the $75,000 limitation may not be taken into account under the transitional rule.

Cost of Living Adjustments for Defined Benefit Plans

Under section 415(d)(1)(A) and the regulations, the $75,000 limitation is adjusted annually to take into account increases in the cost of living. The regulations provide that the adjusted dollar limitation is effective as of January 1 of each calendar year and applies with respect to limitation years ending with or within that calendar year. The regulations also state that the adjusted dollar limitation is applicable not only to employees who are participants in a plan, but also to employees who have retired or otherwise terminated their service under the plan with a nonforfeitable right to accrued benefits.

The regulations allow a defined benefit plan to include a provision which provides for an annual automatic cost-of-living adjustment of the $75,000 limitation. Accordingly, a defined benefit plan will not have to be amended each year to reflect the increased dollar limitation. However, under the regulations, such a provision may only provide for scheduled annual increases in the $75,000 limitation which take effect no sooner than the effective date of the applicable adjusted dollar limitation. The effect of this limitation will preclude the making of deductible contributions based on anticipated increases of the dollar limitation.

The regulations also set forth the procedure for adjusting the compensation limitation to take into account increases in the cost of living with respect to participants who have separated from service with a nonforfeitable right to an accrued benefit.

Limitation for Defined Contribution Plans

Under section 415(c) and the regulations, the amount of annual additions that may be made to a participant's account under a qualified defined contribution plan for any limitation year may not exceed the lesser of $25,000 (subject to cost-of-living increases) or 25 percent of a participant's compensation for the limitation year. The regulations provide special rules with respect to determining when certain items are considered annual additions as well as specifically excluding certain items from being considered annual additions. For purposes of applying the limitations of section 415, the regulations make it clear that a money purchase pension plan, such as a target benefit plan, is considered a defined contribution plan.

For purposes of the limitations of section 415, the regulations state that an annual addition will be credited to a participant's account for a limitation year if it is allocated to the participant's account under the terms of the plan as of any date within that limitation year. However, the regulations specifically provide that in order for employer contributions to be considered credited for a limitation year, the contributions must actually be made to the plan no later than 30 days after the end of period described in section 404(a)(6). Moreover, under the regulations, employee contributions will not be considered credited for a limitation year, unless the contributions are actually made to the plan within that limitation year.

If the allocation of forfeitures or a reasonable error in estimating a participant's annual compensation causes the annual additions for a participant to exceed the limitations of section 415 for a limitation year, the regulations provide that the excess amounts will not be considered annual additions in that limitation year if they are treated in accordance with one of three alternative methods. The first method requires the allocation of the excess amounts to other participants in the plan with the availability of a suspense account if such allocation causes the limitations of section 415 to be exceeded with respect to each plan participant. Under the second method, the excess amounts in the participant's account must be used to reduce future employer contributions for that participant. Finally, under the third method, the excess amounts must be held in a suspense account for the limitation year, allocated to all participants in the plan in the next limitation year and used to reduce employer contributions for all such participants.

Section 415(c)(6) and the regulations provide a special dollar limitation for certain employee stock ownership plans ("ESOP's"). Generally, if an ESOP meets the requirements described in section 415(c)(6) and the regulations, the applicable dollar limitation will be equal to twice the normal amount. However, this special rule is available only if the amounts contributed in excess of the normal dollar limitation consist solely of certain qualifying employer securities. Moreover, even if this special dollar limitation is taken advantage of, the amount of annual additions that may be allocated to a participant's account is subject to the 25 percent limitation of section 415(c)(1)(B). The regulations also provide special rules concerning the treatment of cash contributions as contributions of employer securities and the amount that is considered an annual addition in the context of a leveraged ESOP.

Special Rules for Section 403(b) Annuity Contract Under Defined Contribution Plan Limitations

For purposes of the limitations of section 415, the regulations provide that an annuity contract described in section 403(b) is treated as a defined contribution plan. These annuity contracts are also subject to the exclusion allowance described in section 403(b)(2)(A). In general, the excludable amount of a contribution towards the purchase of a section 403(b) annuity contract is the lesser of the exclusion allowance or the limitation imposed by section 415(c)(1). To the extent that the amount of contributions under a section 403(b) annuity contract exceeds the limitation of section 415(c)(1), the regulations provide that for future taxable years, the exclusion allowance is reduced by the amount of the excess contribution even though that amount was not excludable from the employee's gross income in the taxable year when it was made. Because this rule is different than the rule set forth under the temporary regulations under section 415(c)(4) with respect to such excess contributions, the regulations provide a special effective date for the rule.

Under section 415(c)(4) and the regulations, certain employees may elect to be subject to special alternative limitations which permit larger excludable contributions to be made on their behalf for the section 403(b) annuity contracts. The regulations do not require that a formal election be made in order to take advantage of an alternative limitation. Rather, the regulations state that the election is made by determining income tax liability for the taxable year in a way which is consistent with one of the alternative limitations.

The election made by an individual under these regulations will be controlling for all prior taxable years in which the individual had taken advantage of an alternative limitation under the temporary regulations under section 415(c)(4), even if inconsistent with the alternative limitation used under the temporary regulations in determining income tax liability for those taxable years. The regulations provide that if such inconsistency exists, it may be corrected for each prior open taxable year in either of two ways. The individual may redetermine income tax liability as though none of the alternative limitations applied for that taxable year. Alternatively, the individual may recompute income tax liability for the particular taxable year in a way consistent with the alternative limitation elected under these regulations.

In the case of an individual who took advantage of an alternative limitation under the temporary regulations under section 415(c)(4) for prior taxable years, the election made under these regulations will only be effective if it is made in the individual's income tax return for the taxable year in which final regulations under section 415 are first published in the Federal Register. Moreover, if the alternative limitation elected under these regulations is different from the limitation used under the temporary regulations for prior taxable years, the regulations provide that the individual must correct this inconsistency by recomputing income tax liability for all such prior open taxable years. The regulations also contain special rules for an individual who had taken advantage of an alternative limitation under the temporary regulations in prior taxable years, but does not elect any of the alternative limitations for the taxable year in which final regulations under section 415 are first published in the Federal Register.

If the election under these regulations to use an alternative limitation different from the limitation used under the temporary regulations under section 415(c)(4) or prior taxable years results in an excess contribution to a section 403(b)(7) custodial account within the meaning of section 4973, the tax imposed by that section will not be assessed.

Limitation in Case of Defined Benefit Plan and Defined Contribution Plan for Same Employee

Under section 415(e) and the regulations, in any case in which an individual has at any time participated in a defined benefit plan and also has at any time participated in a defined contribution plan maintained by the same employer, the sum of the defined benefit plan fraction and the defined contribution plan fraction may not exceed 140 percent.

In computing the defined benefit plan fraction with respect to a participant who is using the transitional rule described in section 2004(d)(2) of ERISA, the regulations make it clear that the fraction applicable to such participant will not be considered to exceed 100 percent for any limitation year to which the limitations of section 415 are applicable. Additionally, for purposes of determining the denominator of the defined contribution plan fraction, the regulations provide that all of the participant's years of service with the employer are taken into account, regardless of whether a plan was in existence during those years. The regulations also contain special rules for computing the defined contribution plan fraction in those cases in which past records are unavailable.

If the sum of the defined benefit plan fraction and the defined contribution plan fraction applicable to a participant for the limitation year during which September 2, 1974, falls, exceeded 140 percent, the regulations provide that the sum of such fractions may continue to exceed 140 percent for future limitation years but only if certain conditions are satisfied. The first condition is that the defined benefit plan fraction of the participant as of the limitation year during which September 2, 1974, falls, is not increased. The second condition is that, after September 2, 1974, no employer contributions and forfeitures are allocated to the participant's account under any defined contribution plan and, except for mandatory employee contributions to a defined benefit plan, no employee contributions are made under any plan.

Special Rules for Section 403(b) Annuity Contract Under Overall Limitation

If an individual is a participant in a qualified defined benefit plan and also has a section 403(b) annuity contract purchased on his behalf, the regulations contain special rules concerning the question of whether the annuity contract must be aggregated with the defined benefit plan for purposes of applying the overall limitation of section 415(e). In general, the regulations provide that because only the participant and not the employer that purchased the annuity contract will be considered to be maintaining the annuity contract, aggregation is not required. However, under the regulations, if the participant is in control of an employer or has elected to have the provisions of section 415(c)(4)(C) apply to the annuity contract, the employer will be considered to be maintaining the annuity contract and therefore aggregation will be required. The regulations also provide special rules which are applicable upon the aggregation of the annuity contract with the defined benefit plan as well as after the annuity contract is no longer subject to aggregation.

In computing the defined contribution plan fraction applicable to an individual with respect to a section 403(b) annuity contract, the regulations provide that the denominator of the fraction is the maximum amount which could have been contributed under the limitations of section 415(c). This is so, even if that limitation is greater than the exclusion allowance. If, however, the individual elects an alternative limitation described in either section 415(c)(4)(A) or section 415(c)(4)(B), the denominator is modified in accordance with the alternative limitation elected.

Combining and Aggregating Plans

Under section 415(f) and the regulations, for purposes of applying the limitations of section 415, all defined benefit plans ever maintained by an employer will be treated as a single defined benefit plan and all defined contribution plans ever maintained by an employer will be treated as a single defined contribution plan. This aggregation is required without regard to whether a plan has been terminated.

For purposes of applying the limitations of section 415, the regulations provide that a group of employers which constitutes a controlled group of corporations or which constitutes trades or businesses (whether or not incorporated) which are under common control will be treated as a single employer.

The regulations also contain rules concerning the combining of a section 403(b) annuity contract and a qualified defined contribution plan. These rules are identical to the rules set forth in the regulations under the overall limitation of section 415(e) with respect to the aggregation of a section 403(b) annuity contract with a qualified defined benefit plan.

Disqualification of Plans and Trusts

Under section 415(g) and the regulations, a plan (and the trust forming part of the plan) is disqualified if the applicable limitations of section 415 are exceeded in a particular limitation year with respect to any participant in the plan. The regulations provide that any plan that is disqualified in a particular limitation year is disqualified as of the first day of the first plan year containing any portion of the particular limitation year.

If there are two plans, the regulations contain special rules for determining the

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plan that is disqualified. Under the regulations, if one of the plans has been terminated, the plan which has not been terminated will be disqualified. The regulations further provide that if neither plan has been terminated and one of the plans is a multiemployer plan described in section 414(f), the plan which is not a multiemployer plan will be disqualified.

If neither of the two plans has been terminated or determined to be a multiemployer plan described in section 414(f), under the regulations the employer may elect the plan that is disqualified. In the case of a controlled group of employers, all of the employers within the controlled group must make the election in order for the election to be effective. If the election is not made, the regulations provide that the Commissioner, taking into account all of the facts and circumstances, will have the discretion to determine the plan that is disqualified. The regulations state that some of the factors that will be taken into account in making this determination are the number of participants in each plan and the amount of benefits provided on an overall basis by each plan.

The regulations also contain a special rule with respect to the disqualification of a simplified employee pension described in section 408(k).

Finally, the regulations contain special rules relating to the disqualification of amounts contributed for a section 403 (b) annuity contract where the combining or aggregating of the annuity contract with a qualified plan causes the applicable limitations of section 415 to be exceeded. Under the regulations, any contribution which is treated as a disqualified contribution is currently includable in the gross income of the participant. Moreover, the regulations provide that for future taxable years, the exclusion allowance for the participant (as determined under section 403(b)(2)(A)) will be reduced by the amount of the disqualified contribution even though such amount was not excludable from the participant's gross income in the taxable year when it was made.

Special Aggregation Rules

The regulations provide special rules for those situations in which two or more existing plans, which previously were unaggregated, are aggregated during a particular limitation year resulting in the limitations of section 415(b), (c) or (e) being exceeded for that limitation year. The regulations also make it clear that these special rules are applicable with respect to the aggregation of benefits under a multiemployer plan described in section 414(f) which previously were not required to be aggregated.

Under the regulations, plans which are not aggregated as of the first day of a limitation year will not be considered aggregated for that limitation year. However, the regulations contain a special rule in this context if the aggregation of a section 403(b) annuity contract and a qualified plan is the result of the election to have the provisions of section 415(c)(4)(C) apply for the taxable year.

If the aggregation of two or more defined benefit plans causes the limitations of section 415(b) to be exceeded for a limitation year, the regulations provide that these limitations may be exceeded for that limitation year as well as future limitation years provided that there is no increase in the participant's accrued benefit derived from employer contributions during that period. Similarly, if the aggregation of a defined benefit and defined contribution plan causes the limitations of section 415(e) to be exceeded for a limitation year, the regulations provide that these limitations may be exceeded for that limitation year and for future limitation years if certain specified conditions are complied with during that period.

The regulations also set forth special rules for determining the applicable limitation year if the plans which are aggregated have different limitation years.

Comments and Requests for a Public Hearing

Before adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations is Norman J. Misher of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Paragraph (a)(1) of § 1.401–2 is amended by adding a sentence at the end thereof. The new sentence reads as follows:

§ 1.401–2 Impossibility of diversion under the trust instrument.

(a) *In general.* (1) * * * For rules permitting reversion to the employer of amounts held in a section 415 suspense account, see § 1.401(a)–2(b).

* * * * *

§ 1.401.8 [Redesignated as § 1.401(f)–1]

§ 1.401–8A [Redesignated as § 1.401–8 and amended]

Par. 2. Present § 1.401–8 is redesignated at § 1.401(f)–1. Section 1.401–8A is redesignated as new § 1.401–8 and is amended by deleting the reference to "§ 1.401–8" in paragraph (a) and inserting in lieu thereof, "§ 1.401(f)–1".

Par. 3. The following new sections are added immediately before § 1.401(a)–11:

§ 1.401(a)–1 Post-ERISA qualified plans and qualified trusts; in general.

(a) *Introduction*—(1) *In general.* This section and the following regulation sections under section 401 reflect the provisions of section 401 after amendment by the Employee Retirement Income Security Act of 1974 (Pub. L. 93–406) ("ERISA").

(2) [Reserved]

(b) *Requirements for pension plans*—(1) *Definitely determinable benefits.* (i) In order for a pension plan to be a qualified plan under seciton 401(a), the plan must be established and maintained by an employer primarily to provide systematically for the payment of definitely determinable benefits to its employees over a period of years, usually for life, after retirement.

(ii) Section 1.401–1(b)(1)(i), a pre-ERISA regulation, provides rules applicable to this requirement, and that regulation is applicable except as otherwise provided.

(iii) The use of the type of plan provision described in § 1.415–1(d)(1) which automatically freezes or reduces the rate of benefit accrual or the annual addition to insure that the limitations of section 415 will not be exceeded, will not be considered to violate the requirements of this subparagraph provided that the operation of such provision precludes discretion by the employer.

(2) [Reserved]

§ 1.401(a)–2 Impossibility of diversion under qualified plan or trust.

(a) *General rule.* Section 401(a)(2) requires that in order for a trust to be qualified, it must be impossible under the trust instrument (in the taxable year and at any time thereafter before the satisfaction of all liabilities to employees or their beneficiaries covered by the trust) for any part of the trust corpus or income to be used for, or diverted to, purposes other than for the exclusive benefit of those employees or their beneficiaires. Section 1.401–2, a pre-ERISA regulation, provides rules under section 401(a)(2) and that regulation is applicable except as otherwise provided.

(b) *Section 415 suspense account.* Paragraph (a) of this section does not apply to amounts properly allocated to a suspense account pursuant to § 1.415–6(b)(6). The plan, or the trust forming part of the plan, may provide for the reversion to the employer, upon termination of the plan, of amounts held in the suspense account.

Par. 4. The following new section is added immediately after § 1.401(a)–15:

§ 1.401(a)–16 Limitations on benefits and contributions under qualified plans.

A trust will not be a qualified trust and a plan will not be a qualified plan if the plan provides for benefits or contributions which exceed the limitations of section 415. Section 415 and the regulations thereunder provide rules concerning these limitations on benefits and contributions.

Par. 5. Section 1.401(f)–1 as redesignated in paragraph 2 is amended by (1) deleting the reference to "§ 1.401–8A" in paragraph (a) and inserting in lieu thereof "§ 1.401–8" and (2) redesignating paragraph (e) as paragraph (f) and adding a new paragraph (e). New paragraph (e) reads as follows:

§ 1.401(f)–1 Certain custodial accounts and annuity contracts.

* * * * *

(e) *Other contracts.* For purposes of this section, other than the non-transferability restriction of paragraph (d)(2), a contract issued by an insurance company qualified to do business in a state shall be treated as an annuity contract. For purposes of the preceding sentence, the contract does not include a life, health or accident, property, casualty or liability insurance contract. For purposes of this paragraph, a contract which is issued by an insurance company will not be considered a life insurance contract merely because the contract provides incidental life insurance protection. The provisions of this paragraph are effective for taxable years beginning after December 31, 1975.

(f) *Cross reference.* * * *

Par. 6. Paragraph (b)(3) of 1.403(b)–1 is amended by (1) revising the fourth sentence of subdivision (i), (2) redesignating subdivision (ii) and subdivision (iii) and revising so much thereof as precedes the example, and (3) adding a new subdivision (ii) following subdivision (i). These revised and added provisions read as follows:

§ 1.403(b)–1 Taxability of beneficiary under annuity purchased by a section 501 (c)(3) organization or public school.

* * * * *

(b) *Amounts paid by employer during taxable years beginning after December 31, 1957.* * * *

(3) *Agreement to take a reduction in salary or to forego an increase in salary.* (i) * * * Except as provided in subdivision (ii) of this subparagraph, the employee must not be permitted to make more than one agreement with the same employer during any taxable year of such employee beginning after December 31, 1963; the exclusion provided by this paragraph shall not apply to any amounts which are contributed under any further agreement made by such employee during the same taxable year beginning after such date. * * *

(ii) An individual who is employed by an organization described in section 415(c)(4) may make a salary reduction agreement for his taxable year beginning in 1976 or 1977 at any time before the end of the 1976 or 1977 taxable year, respectively, without the agreement's being considered a new agreement within the meaning of this subparagraph. The agreement for 1976 may be made on or before June 15, 1977, and the agreement for 1977 may be made on or before April 17, 1978. This special rule only applies if the individual makes a statement of intention in accordance with § 11.415(c)(4)–1(b) electing, or determines his income tax liability for the taxable year in a way which is consistent with, one of the alternative limitations under section 415(c)(4) for 1976 or 1977 (as the case may be). The salary reduction agreement for 1976 may be made effective with respect to any amount earned during the taxpayer's most recent one-year period of service (as defined in paragraph (f) of this section) ending not later than the end of the 1976 taxable year, notwithstanding subdivision (i) of this subparagraph. Similarly, the salary reduction agreement for 1977 may be made effective with respect to such period of service ending not later than the end of the 1977 taxable year. If the salary reduction agreement for 1976 is entered into at any time after December 31, 1976, or if the salary reduction agreement for 1977 is entered into at any time after December 31, 1977, an amended Form W–2 must be filed on behalf of the individual.

(iii) The rules of subdivision (i) of this subparagraph may be illustrated by the following example:

* * * * *

Par. 7. Paragraph (d) of § 1.403(b)–1 is amended by (1) deleting the period at the end of subparagraph (3)(iv)(*c*) and inserting in lieu thereof "; or"; (2) adding a new subdivision (v) following subdivision (iv) of subparagraph (3); and (3) adding a new subparagraph (5) at the end thereof. The added provisions read as follows:

§ 1.403(b)–1 Taxability of beneficiary under annuity purchased by a section 501(c)(3) organization or public school.

* * * * *

(d) *Exclusion allowance.* * * *

(3) *Amounts previously contributed by the employer which were excludable from the employee's gross income.* * * *

(v) Which were contributions to a section 403(b) annuity contract for a prior taxable year and which exceeded the limitations of section 415(c)(1) applicable to the employee. See § 1.415–6(e)(1)(ii) for a more detailed discussion of this rule. See also § 1.415–9(c) for rules relating to the treatment of certain contributions to a section 403(b) annuity contract which are excess contributions because of the aggregation of the annuity contract with a qualified plan.

* * * * *

(5) *Election to have allowance determined under section 415 rules.* Under section 415(c)(4)(D), an employee may elect to have the provisions of section 415(c)(4)(C) (relating to special limitations for annuity contracts purchased by educational organizations, hospitals and home health service agencies) apply for a taxable year. If the empoyee so elects, his exclusion allowance is the maximum amount under section 415 that could be contributed by the employer for the benefit of the employee if the annuity contract for the benefit of the employee were treated as a defined contribution plan maintained by the employer. Thus, the exclusion allowance for the taxable year of an employee who makes the election may not exceed the limitation on contributions and other additions (as described in § 1.415–6) applicable to the employee for that taxable year. See § 1.415–7 for provisions applicable in the event an employer maintains a defined benefit plan and a defined contribution

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plan for the same employee. See § 1.415–8 for provisions applicable in the event an employer maintains more than one defined contribution plan covering the same employee.

* * * * *

§ 1.405–1(b)(1) [Amended]

Par. 8. Section 1.405–1(b)(1) is amended by deleting "and (8)" in the third sentence and inserting in lieu thereof "(8), (16), and (19)".

Par. 9. The following new §§ 1.415–1 through 1.415–10 are added at the appropriate place:

§ 1.415–1 General rules with respect to limitations on benefits and contributions under qualified plans.

(a) *Trusts.* Under sections 415 and 401(a)(16), a trust which forms part of a pension, profit-sharing or stock bonus plan will not be qualified under section 401(a) if any one of the following conditions exists:

(1) The projected annual benefits under a defined benefit plan with respect to any participant for any limitation year exceed the limitations of section 415(b) and § 1.415–3.

(2) The contributions and other additions actually made or allocated under a defined contribution plan with respect to any participant for any limitation year exceed the limitations of section 415(c) and § 1.415–6.

(3) Where an individual has at any time participated in a defined benefit plan and also has at any time participated in a defined contribution plan maintained by the same employer, the trust has been disqualified under section 415(g) and § 1.415–9.

(b) *Certain annuities and accounts*—(1) *In general.* Except as provided in paragraph(c) of this section, an annuity, account, etc., listed in section 415 (a)(2) will not be considered to be described in the otherwise applicable section unless—

(i) It satisfies the requirements of § 1.415–3 (relating to limitations on benefits), § 1.415–6 (relating to limitations on contributions and other additions) or § 1.415–7 (relating to limitations where an individual has at any time participated in a defined contribution plan and also has at any time participated in a defined benefit plan maintained by the same employer), whichever is applicable, and

(ii) It has not been disqualified under § 1.415–9 (relating to disqualification of plans and trusts).

(2) *Special rule for section 403 (b) annuity contracts.* (i) With respect to an annuity contract described in section 403(b), the provisions of subparagraph (1) of this paragraph apply only to that portion of the contract which exceeds the limitations of § 1.415–3, § 1.415–6 § 1.415–7, whichever is applicable.

(ii) In addition, where the amount of the contribution under the section 403(b) annuity contract exceeds the applicable limitation, the exclusion allowance described in section 403(b)(2)(A) is reduced in the manner described in § 1.415–6(e)(1)(ii).

(3) *Cross references to additional rules for section 403(b) annuity contracts.* For additional rules relating to section 403(b) annuity contracts, see—

(i) Section § 1.415–1(f)(2) (relating to the plan year for such annuity contracts),

(ii) Section § 1.415–2(b)(7) (relating to the limitation year for such annuity contracts),

(iii) Section § 1.415–6(e) (relating to the applicability of the alternative limitations described in section 415(c)(4) to such annuity contracts),

(iv) Sections § 1.415–7(c)(2) and 1.415–7(h) (relating to rules for such annuity contracts for purposes of computing the defined contribution plan fraction),

(v) Section § 1.415–8(d) (relating to rules for such annuity contracts for purposes of combining plans), and

(vi) Section § 1.415–9(c) (relating to rules for such annuity contracts for purposes of determining the amount of a disqualified contribution to the annuity contract).

(c) *Certain accounts, annuities and bonds established for non-employed spouse.* Paragraph (b) of this section is not applicable to an account, annuity or bond as described in section 408(a), 408(b) or 409, respectively) established for the benefit of the spouse of the individual who contributes to it for any year for which a deduction is allowable for the individual under section 220. For a special effective date with respect to this paragraph, see paragraph(f)(3) of this section.

(d) *Plan provisions*—(1) *In general.* Although no specific plan provision is required under section 415 in order for a plan to establish or maintain its qualification, the plan provisions must preclude the possibility that the limitations imposed by section 415 will be exceeded. For example, a plan may include provisions which automatically freeze or reduce the rate of benefit accrual (in the case of a defined benefit plan) or the annual addition (in the case of a defined contribution plan) to a level necessary to prevent the limitations from being exceeded with respect to any participant. For rules relating to this type of plan provision and the definitely determinable benefit requirement for pension plans, see § 1.401(a)–1(b)(1).

(2) *Special rule for profit-sharing and stock bonus plans.* The use of the type of plan provision described in subparagraph (1) of this paragraph which automatically freezes or reduces the amount of annual additions to a profit-sharing or stock bonus plan to insure that the limitations of section 415 will not be exceeded will be effective only if the operation of such provision precludes discretion by the employer.

(e) *Rules for plans maintained by more than one employer*—(1) *Plans described in section 413(b) or section 413(c).* This subparagraph provides for participants of a plan described in section 413(c) or section 413(b) (other than a plan described in section 414(f). For purposes of applying the limitations of section 415 with respect to a participant of an employer maintaining the plan, benefits or contributions attributable to such participant from all of the employers maintaining the plan must be taken into account.

(2) *Plans described in section 414(f).* (i) This subparagraph provides rules for participants of a multiemployer plan described in section 414(f). For purposes of applying the limitations of section 415 with respect to a participant of an employer maintaining the plan, only the benefits or contributions provided by the employer of such participant shall be taken into account. The benefits provided by an employer under such a plan shall equal the excess of the plan benefit over the plan benefit computed as if the participant had no covered service with that employer.

(ii) For rules relating to the limitation year for a multiemployer plan, see § 1.415–2(b)(6). See also § 1.415–8(e) for a special rule relating to the aggregation of multiemployer plans.

(f) *Rules relating to the effective date of section 415*—(1) *In general.* Except as otherwise provided in this paragraph, §§ 1.415–1 through 1.415–10 are applicable for plan years beginning after 1975 and for limitation years ending with or within plan years beginning after 1975.

(2) *Plan year for certain annuity contracts and individual retirement plans.* For purposes of section 415 and §§ 1.415–1 through 1.415–10—

(i) An annuity contract described in section 403(b) shall be considered to have a plan year coinciding with the taxable year of the individual on whose behalf the contract has been purchased, and

(ii) An individual retirement plan (as described in section 7701(a)(37)) shall be considered to have a plan year coinciding with the taxable year of the individual on whose behalf the plan is maintained,

unless the individual demonstrates to the satisfaction of the Commissioner that a different 12 month period should be considered to be the plan year.

(3) *Special effective date for certain accounts, annuities and bonds established for non-employed spouse.* Notwithstanding subparagraph (1) of this paragraph, the provisions of section 415(a)(3) and paragraph (c) of this section are not applicable until taxable years beginning after December 31, 1976.

(4) *Special rules for certain defined contribution plans with respect to the first limitation year to which section 415 applies.* In the case of a defined contribution plan whose plan year does not coincide with the limitation year, the rules of this subparagraph shall be effective with respect to applying the limitations described in section 415(c) and § 1.415–6 for the first limitation year to which section 415 and §§ 1.415–1 through 1.415–10 apply.

(i) Annual additions (as defined in section 415(c)(2) and § 1.415–6(b)) which are allocated under the plan prior to the first day of the first plan year to which section 415 and §§ 1.415–1 through 1.415–10 are effective do not have to be taken into account.

(ii) The amount of compensation (as defined in § 1.415–2(d)) taken into account in applying the limitations may include compensation for the entire limitation year.

(5) *Special effective date for special benefit limitation with respect to certain collectively bargained plans.* Notwithstanding subparagraph (1) of this paragraph, section 415(b)(7) is not applicable until limitation years beginning after December 31, 1978.

(6) *Special effective date for excess contributions to section 403(b) annuity contracts.* (i) Notwithstanding subparagraph (1) of this paragraph, the provisions of § 1.415–6(e)(1)(ii) (relating to the manner in which contributions to a section 403(b) annuity contract which exceed the limitations of section 415(c)(1) are treated) are only applicable to taxable years beginning after January 24, 1980.

(ii) For all prior taxable years for which the limitations of section 415 are applicable to section 403(b) annuity contracts, any contribution to the account of an individual under a section 403(b) annuity contract for a taxable year which exceeds the limitations of section 415(c)(1), instead of being treated in the manner described in § 1.415–6(e)(1)(ii), shall reduce the exclusion allowance under section 403(b)(2) for such taxable year to the extent of the excess.

(7) *Special effective date for rules relating to change of limitation year.* Notwithstanding subparagraph (1) of this paragraph, the provisions of § 1.415–2(b)(4) (relating to the effect of a change of the limitation year) are only applicable to changes in limitation years which occur after January 24, 1980. For all prior changes in limitation years, the requirements of section 2.01(4) of Rev. Rul. 75–481, 1975–2 C.B. 188, shall be applicable.

(8) *Special effective date for TRASOP's.* The limitations of section 415 apply to an Employee Stock Ownership Plan under section 301(d) of the Tax Reduction Act of 1975 ("TRASOP"). The earliest date on which the first plan year of a TRASOP may begin is January 22, 1974. Therefore, notwithstanding subparagraph (1) of this paragraph, the limitations of section 415 are applicable for TRASOP plan years beginning before 1975 and for limitation years ending with or within plan years beginning before 1975. However, the aggregation rules of § 1.415–8 do not apply to a limitation year of a TRASOP ending with or within a plan year beginning before 1975.

(9) *Transitional rules.* For special transitional rules, see—

(i) Section 1.415–4 (relating to a transitional rule for defined benefit plans),

(ii) Section 1.415–7(b)(2) (relating to the defined benefit plan fraction applicable to certain participants),

(iii) Section 1.415–7(d) (relating to transitional rules for the defined contribution plan fraction), and

(iv) Section 1.415–7(g) (relating to a special rule for certain plans in effect on September 2, 1974).

(g) *Supersession.* Section 11.415(c)(4)–1 (relating to special elections for section 403(b) annuity contracts purchased by educational organizations, hospitals and home health service agencies) of the Temporary Income Tax Regulations under the Employee Retirement Income Security Act of 1974 is superseded by this section and §§ 1.415–2 through 1.415–10.

§ 1.415–2 Definitions and special rules.

(a) *General application.* Unless otherwise provided in the appropriate section, for purposes of §§ 1.415–1 through 1.415–10, the following definitions and special rules shall apply.

(b) *Limitation year*—(1) *In general.* (i) Unless the election described in subdivision (ii) of this subparagraph is made, the limitation year, with respect to any qualified plan maintained by the employer, is the calendar year.

(ii) Instead of using the calendar year, an employer may elect to use any other consecutive twelve month period as the limitation year. This includes a fiscal year with an annual period varying from 52 to 53 weeks, so long as the fiscal year satisfies the requirements of section 441(f). If the case of a group of employers which constitute either a controlled group of corporations (within the meaning of section 414(b) as modified by section 415(h)) or trades or businesses (whether or not incorporated) which are under common control (within the meaning of section 414(c) as modified by section 45(h)), the election to use a consecutive twelve month period other than the calendar year as the limitation year must be made by all members of the group that maintain a qualified plan.

(2) *Method of election to use a limitation year other than the calendar year or to change limitation year.* (i) The election described in subparagraph (1)(ii) of this paragraph shall be made by the adoption of a written resolution by the employer.

(ii) This resolution will not be considered a change of the limitation year, if it is adopted or modified on or before the later of the adoption date of the first amendment conforming an existing plan to the Employee Retirement Income Security Act of 1974, or December 31, 1976.

(3) *Election of multiple limitation years.* Any employer that maintains more than one qualified plan may elect to use different limitation years for each such plan in accordance with rules determined by the Commissioner.

(4) *Effect of change of limitation year.* (i) Once established, the limitation year may be changed only by making the election in the manner described in subparagraph (2) of this paragraph.

(ii) Any change in the limitation year must be a change to a twelve-month period commencing with any day within the current limitation year.

(iii) For purposes of this paragraph, the limitations of section 415 are to be applied in the normal manner to the new limitation year. Moreover, the limitations of section 415 are to be separately applied to a "limitation period" which begins with the first day of the current limitation year and which ends on the day before the first day of the first limitation year for which the change is effective. The dollar limitation with respect to this limitation period is determined by multiplying (A) the applicable dollar limitation for the calendar year in which the limitation period ends by (B) a fraction, the numerator of which is the number of months (including any fractional parts of a month) in the limitation period, and the denominator of which is 12. This adjustment of the dollar limitation only applies to a defined contribution plan.

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(iv) For a special effective date with respect to this paragraph, see § 1.415–*1(f)(7).

(v) The provisions of this subparagraph may be illustrated by the following example:

Example. In 1981, an employer with a qualified defined contribution plan using the calendar year as the limitation year elects to change the limitation year to a period beginning July 1 and ending June 30. Because of this change, the plan must satisfy the limitations of section 415(c) for the limitation period beginning January 1, 1981 and ending June 30 of that year. In applying the limitations of section 415(c) to this limitation period, the amount of compensation taken into account may only include compensation for this period. Furthermore, the dollar limitation for this period is the otherwise applicable dollar limitation for calendar year 1981, multiplied by ½.

(5) *Limitation year for years prior to effective date.* The limitation year for all years prior to the effective date of section 415 is the consecutive twelve-month period which corresponds to the first limitation year of a plan after the effective date of section 415. (See paragraph (b)(1) of this section for rules relating to the determination of a plan's limitation year.)

(6) *Limitation year for multiemployer plans.* In the case of a multiemployer plan (as defined in section 414(f)), the limitation year is the calendar year unless the plan administrator elects otherwise under paragraph (b)(2) of this section.

(7) *Limitation year for individuals on whose behalf section 403(b) annuity contracts have been purchased.* (i) The limitation year of an individual on whose behalf a section 403(b) annuity contract has been purchased by an employer is determined in the following manner.

(ii) If the individual is not in control (within the meaning of section 414 (b) or (c) as modified by section 415(h)) of any employer, the limitation year is the calendar year. However, the individual may elect to change the limitation year to another twelve-month period. To do this, the individual must attach a statement to his income tax return filed for the taxable year in which the change is made. Any change in the limitation year must comply with the rules set forth in paragraph (b)(4) of this section.

(iii) If the individual is in control (within the meaning of section 414 (b) or (c) as modified by section 415(h)) of an employer, the limitation year is to be the limitation year of that employer.

(8) *Limitation year for individuals on whose behalf individual retirement plans are maintained.* The limitation year of an individual on whose behalf an individual retirement plan (as described in section 7701(a)(37)) is maintained shall be determined in the manner described in paragraph (b)(7) of this section.

(c) *Defined benefit and defined contribution plan*—(1) *Defined benefit plan.* A "defined benefit plan" means a plan described in section 414(j).

(2) *Defined contribution plan.* A "defined contribution plan" means a plan described in section 414(i). It includes a money purchase pension plan (as described in § 1.401–1(b)(1)(i)), such as a target benefit plan (as described in § 1.410(a)–4(a)(1)). A hybrid plan (as defined in section 414(k)) is to be treated as a defined contribution plan to the extent that benefits payable under the plan are based upon the individual account of the participant.

(d) *Compensation*—(1) *Items includable as compensation.* For purposes of applying the limitations of section 415, the term "compensation" includes—

(i) The participant's wages, salaries, fees for professional service and other amounts received for personal services actually rendered in the course of employment with an employer (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips and bonuses).

(ii) In the case of a participant who is an employee within the meaning of section 401(c)(1) and the regulations thereunder, the participant's earned income (as described in section 401(c)(2) and the regulations thereunder).

(iii) For purposes of subdivisions (i) and (ii) of this subparagraph, earned income from sources outside the United States (as defined in section 911(b)), whether or not excludable from gross income under section 911 or deductible under section 913.

(iv) Amounts described in sections 104(a)(3), 105(a) and 105(h), but only to the extent that these amounts are includable in the gross income of the employee.

(v) Amounts described in section 105(d), whether or not these amounts are excludable from the gross income of the employee under that section.

(vi) Amounts paid or reimbursed by the employer for moving expenses incurred by an employee, but only to the extent that these amounts are not deductible by the employee under section 217.

(vii) The value of a non-qualified stock option granted to an employee by the employer, but only to the extent that the value of the option is includable in the gross income of the employee for the taxable year in which granted.

(viii) The amount includable in the gross income of an employee upon making the election described in section 83(b).

(2) *Items not includable as compensation.* The term "compensation" does not include items such as—

(i) Contributions made by the employer to a plan of deferred compensation (even if the plan is not qualified under, for example, section 401, 403(a), 405 or 408(k)).

(ii) Amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by an employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture (see section 83 and the regulations thereunder).

(iii) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option.

(iv) Other amounts which receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are not includable in the gross income of the employee), or contributions made by an employer (whether or not under a salary reduction agreement) towards the purchase of an annuity contract described in section 403(b) (whether or not the contributions are excludable from the gross income of the employee).

(3) *Compensation in limitation year.* The compensation (as defined in subparagraph (1) of this paragraph) actually paid or made available to a participant within the limitation year is the compensation used for purposes of applying the limitations of section 415.

(4) *Election to use compensation accrued during limitation year.* Instead of using the compensation actually paid or made available to a participant during the limitafion year, an employer may elect to use the compensation accrued for an entire limitation year for purposes of applying the limitations of section 415. In the case of a group of employers which constitute either a controlled group of corporations (within the meaning of section 414(b) as modified by section 415(h)) or trades or businesses (whether or not incorporated) which are under common control (within the meaning of section 414(c) as modified by section 415(h)), the election to use accrued compensation must be made by all members of the group that maintain a qualified plan. Once an election is made, it remains in effect until it is revoked by the employer or group of employers. The election is made or revoked by the adoption of a written resolution by the employer or group of employers. The rule described in this subparagraph does not apply to a section 403(b) annuity contract or to an individual retirement plan (as described in section 7701(a)(37)).

(5) *Effect of change in method of determining compensation.* If, in a particular limitation year, a previously effective election to use accrued compensation is revoked or an election to use accrued compensation is made, any amounts taken into account for compensation purposes for any preceding limitation year may not be counted again in determining compensation for the particular limitation year.

(6) *Special rule for employees of controlled group of corporations or trades or businesses under common control.* In the case of an employee of two or more corporations which are members of a controlled group of corporations (as defined in section 414(b) as modified by section 415 (h)), the term "compensation" for such employee includes compensation from all employers which are members of the group, regardless of whether the employee's particular employer has a qualified plan. This special rule is also applicable to an employee of two or more trades or businesses (whether or not incorporated) which are under common control (as defined in section 414(c) as modified by section 415(h)).

§ 1.415–3 Limitation for defined benefit plans.

(a) *General rules*—(1) *Maximum limitations.* Under section 415(b) and this section, to satisfy the provisions of section 415(a) for any limitation year, the projected annual benefit (as defined in paragraph (b)(2) of this section) of a participant in a defined benefit plan may not, at any time during the limitation year, exceed the lesser of—

(i) $75,000, or

(ii) 100 percent of the participant's average compensation for his high 3 years of service.

(2) *Adjustment to dollar limitation.* The dollar limitation described in section 415(b)(1)(A) and paragraph (a)(1)(i) of this section is adjusted for cost of living increases under section 415(d) and § 1.415–5(a). The adjusted figure is effective as of January 1 of each calendar year and is applicable to limitation years that end during that calendar year.

(3) *Average compensation for high 3 years of service.* For purposes of applying the limitations on benefits described in this section, a participant's high 3 years of service is the period of 3 consecutive calendar years during which the employee had the greatest aggregate compensation (as defined in § 1.415–2 (d)) from the employer.

(b) *Definitions of terms*—(1) *Annual benefit.* (i) The term "annual benefit" means a benefit which is payable annually in the form of a straight life annuity under a plan. Such benefit does not include any benefits attributable to either employee contributions or rollover contributions (as defined in sections 402(a)(5), 403(a)(4), 408(d)(3) and 409(b)(3)(C)).

(ii) If the plan provides for a benefit which is not payable in the form of a straight life annuity, the benefit is adjusted in accordance with paragraph (c) of this section for purposes of applying the limitations on benefits described in paragraph (a)(1) of this section.

(iii) If rollover contributions are made to the plan, the annual benefit attributable to these contributions is determined on the basis of reasonable actuarial assumptions. See paragraph (d) of this section for rules relating to employee contributions.

(iv) For puroses of this paragraph, when there is a transfer of assets or liabilities from one qualified plan to another, the annual benefit attributable to the assets transferred does not have to be taken into account by the transferee plan in applying the limitations of section 415. The annual benefit payable on account of the transfer for any individual that is attributable to the assets transferred will be equal to the annual benefit transferred on behalf of such individual multiple by a fraction, the numerator of which is the total assets transferred and the denominator of which is the total liabilities transferred.

(2) *Projected annual benefit.* For purposes of paragraph (a) of this section, a participant's "projected annual benefit" is equal to the annual benefit to which a participant in a defined benefit plan would be entitled under the terms of the plan based upon the following assumptions—

(i) The participant will continue employment until reaching normal retirement age as determined under the terms of the plan (or current age, if that is later).

(ii) The participant's compensation for the limitation year under consideration will remain the same until the date the participant attains the age described in paragraph (b)(2)(i) of this section.

(iii) All other relevant factors used to determine benefits under the plan for the limitation year under consideration will remain constant for all future limitation years.

(3) *Retirement benefit.* For purposes of this section, the term "retirement benefit" means a benefit provided under the terms of a defined benefit plan which is subject to the limitations of section 415(b) and this section.

(c) *Adjustment where form of benefit is other than straight life annuity*—(1) *In general.* (i) Where a defined benefit plan provides a retirement benefit in any form other than a straight life annuity, the plan benefit is adjusted to a straight life annuity beginning at the same age which is the actuarial equivalent of such benefit in accordance with rules determined by the Commissioner. This adjustment is for purposes of applying the limitations on benefits described in paragraph (a)(1) of this section to the projected annual benefit.

(ii) Examples of benefits that are not in the form of a straight life annuity are an annuity which includes a post-retirement death benefit and an annuity providing for a guaranteed number of payments.

(2) *Certain benefits to which no adjustment is required.* For purposes of the adjustment described in subparagraph (1) of this paragraph, the following values are not taken into account:

(i) The value of a qualified joint and survivor annuity (as defined in section 401(a)(11)(G)(iii) and the regulations thereunder) provided by the plan to the extent that such value exceeds the sum of (A) the value of a straight life annuity beginning on the same date and (B) the value of any post-retirement death benefits which would be payable even if the annuity was not in the form of a joint and survivor annuity.

(ii) The value of benefits that are not directly related to retirement benefits (such as pre-retirement disability and death benefits and post-retirement medical benefits).

(iii) The value of benefits provided by the plan which reflect post-retirement cost of living increases to the extent that such increases are in accordance with section 415(d) and § 1.415–5.

(3) *Examples.* The provisions of subparagraph (2)(i) of this paragraph may be illustrated by the following examples:

Example (1). (i) Corporation ABC maintains a defined benefit plan that provides a benefit in the form of a joint and 100% survivor annuity with a 10 year certain feature. The value of this benefit is equal to 126% of the value of the same amount payable as a straight life annuity beginning on the same date. If the benefit were payable in the form of a joint and 100% survivor annuity, without a 10 year certain feature, its value would be equal to only 123% of the value of the same amount payable as a

straight life annuity beginning on the same date. If the benefit were payable with a 10 year certain feature, but without the joint and 100% survivor aspect, its value would equal 110% of the value of the same amount payable as a straight life annuity beginning on the same date. Thus, the value of the post-retirement death benefits which would be payable even if the annuity were not in the form of a joint and survivor annuity is 10%.

(ii) Under subparagraph (2)(i) of this paragraph, the values which may be excluded for purposes of the adjustment required by subparagraph (1) of this paragraph are as follows: The value of the joint and survivor annuity provided by the plan (126%) to the extent that such value exceeds the sum of, the value of the straight life annuity beginning on the same date (100%) and the value of the post-retirement death benefits (10%). Therefore, the value of the joint and survivor annuity provided by the plan exceeds the value of the straight life annuity with the 10 year certain feature by 16% (126%–110%).

(iii) Although 16% of the excess benefit attributable to the annuity provided by this plan may, consequently, be ignored, 10% of such excess benefit must be taken into account for purposes of adjusting the benefit under the plan to an actuarially equivalent straight life annuity. Thus, for example, if ABC Corporation were to provide a benefit equal to 95% of a participant's compensation for the high three years of service, the limitation of section 415(b)(1)(B) would be exceeded because the benefit under the plan would be the actuarial equivalent of a straight life annuity equal to 105% of a participant's compensation for the high three years.

Example (2). Corporation XYZ maintains a nondiscriminatory defined benefit plan that provides a benefit which is equal to 100% of a participant's compensation for his high 3 years of service. For married participants, the benefit is payable in the form of a joint and 100% survivor annuity, while for participants who are not married, the benefit is payable in the form of a straight life annuity. The plan also provides that married participants can elect to receive their benefits in the form of a lump sum distribution which is the actuarial equivalent of a joint and 100% survivor annuity. The special rule set forth in subparagraph (2)(i) of this paragraph only applies, however, if the benefit is payable in the form of a qualified joint and survivor annuity. Any other forms of optional benefits must be adjusted to a straight life annuity in accordance with subparagraph (1) of this paragraph. Accordingly, because the benefit payable under the plan in the form of a lump sum distribution is the actuarial equivalent of a straight life annuity which is greater than 100% of a participant's compensation for his high 3 years, the limitation of section 415(b)(1)(B) has been exceeded.

(d) *Employee contributions*—(1) *Mandatory contributions.* Where a defined benefit plan provides for mandatory employee contributions (as defined in section 411(c)(2)(C)), the annual benefit attributable to such contributions is not taken into account for purposes of applying the limitations on benefits described in paragraph (a) of this section. The annual benefit attributable to mandatory contributions is determined by using the factors described in section 411(c)(2)(B) and the regulations thereunder, regardless of whether section 411 applies to that plan, based on the assumption that the employee continues to make such contributions at the same rate as in effect during the limitation year under consideration until the age described in paragraph (b)(2)(i) of this section. However, the mandatory employee contributions are considered a separate defined contribution plan maintained by the employer that is subject to the limitations on contributions and other additions described in § 1.415–6. (See § 1.415–7 for provisions relating to the limitations applicable where an employer maintains a defined benefit and defined contribution plan for the same employee.)

(2) *Voluntary contributions.* Where a defined benefit plan provides for voluntary employee contributions, these contributions are considered a separate defined contribution plan maintained by the employer which is subject to the limitations on contributions and other additions described in § 1.415–6. (See § 1.415–7 for provisions relating to the limitations applicable where an employer maintains a defined benefit and defined contribution plan for the same employee.)

(3) *Example:* The provisions of this paragraph may be illustrated by the following example:

Example. A is a participant in a defined benefit plan maintained by his employer. Under the terms of the plan A must make contributions to the plan in a stated amount to accrue benefits derived from employer contributions. These contributions are mandatory employee contributions within the meaning of section 411(c)(2)(C) and, thus, the annual benefit attributable to these contributions does not have to be taken into account for purposes of testing the projected annual benefit derived from employer contributions against the applicable limitation on benefits. However, these contributions are considered a separate defined contribution plan maintained by A's employer. Accordingly, with respect to the current limitation year: (1) The limitation on benefits (as described in paragraph (a)(1) of this section) is applicable to the projected annual benefit attributable to employer contributions to the defined benefit plan; (2) the limitation on contributions and other additions (as described in § 1.415–6) is applicable to the defined contribution plan consisting of A's mandatory contributions; and (3) the provisions of § 1.415–7 (relating to the limitations where the employer maintains a defined benefit and defined contribution plan for the same employee) are applicable to the defined benefit and defined contribution plan in which A participates. These same limitations would also apply, if, instead of providing for mandatory employee contributions the plan permitted voluntary employee contributions, since both voluntary and mandatory employee contributions are treated as separate defined contribution plans maintained by the employer.

(e) *Adjustment where benefit begins before age 55.* Where a defined benefit plan provides a retirement benefit beginning before age 55, the plan benefit is adjusted to the actuarial equivalent of a benefit beginning at age 55 in accordance with rules determined by the Commissioner. This adjustment is only for purposes of applying the dollar limitation described in section 415(b)(1)(A) to the projected annual benefit.

(f) *Total annual benefits not in excess of $10,000*—(1) *In general.* The projected annual benefit (without regard to the age at which benefits commence) payable with respect to a participant under any defined benefit plan is not considered to exceed the limitations on benefits described in section 415(b)(1) and in paragraph (a)(1) of this section if—

(i) The retirement benefits derived from employer contributions payable with respect to the participant under the plan and all other defined benefit plans of the employer do not in the aggregate exceed $10,000 for the limitation year, or for any prior limitation year, and

(ii) The employer has not at any time, either before or after the effective date of section 415, maintained a defined contribution plan in which the participant participated.

(2) *Special rule with respect to employee contributions.* For purposes of subparagraph (1)(ii) of this paragraph, if a defined benefit plan provides for employee contributions, whether voluntary or mandatory, these contributions will not be considered a separate defined contribution plan maintained by the employer. Thus, a contributory defined benefit plant may utilize the special dollar limitation provided for in this paragraph.

(3) *Computation of $10,000 amount.* For purposes of subparagraph (1)(i) of this paragraph, the value of the retirement benefit payable under the plan is not adjusted upward for early retirement provisions and benefits which are not in the form of a straight life annuity (whether or not directly related to retirement benefits).

(4) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). B is a participant in a defined benefit plan maintained by his employer, X Corporation, which provides for a benefit payable in the form of a straight life annuity beginning at age 65. B's compensation for his high 3 years of service is $6,000. The plan does not provide for employee contributions and at no time has B been a participant in a defined contribution plan maintained by X. With respect to the current limitation year, B's retirement benefit under the plan is $9,500. Because B's retirement benefit does not exceed $10,000 and because B has at no time participated in a defined contribution plan maintained by X, the benefits payable under the plan are not considered to exceed the limitation on benefits otherwise applicable to B ($6,000). This result would remain the same, even if, under the terms of the plan, B's normal retirement age were age 50 or if the plan provided for employee contributions.

Example (2). Assume the same facts as in example (1), except that the plan provides for a benefit payable in the form of a life annuity with a 10 year certain feature. Assume that after the adjustment described in paragraph (c) of this section, B's projected annual benefit under the plan for the current limitation year is $10,500. However, for purposes of applying the special rule provided in this paragraph for total benefits not in excess of $10,000, there is no adjustment required if the retirement benefit payable under the plan is not in the form of a straight life annuity. Therefore, because B's retirement benefit does not exceed $10,000, B may receive the full $9,500 benefit without the otherwise applicable benefit limitations of this section being exceeded.

(g) *Special rule for service of less than 10 years*—(1) *In general.* Where a participant has less than 10 years of service with the employer at the time the participant begins to receive retirement benefits under the plan, the benefit limitations described in section 415(b)(1) and (4) and paragraphs (a)(1) and (f)(1) of this section are to be reduced by multiplying the otherwise applicable limitation by a fraction—

(i) The numerator of which is the number of years of service with the employer as of, and including, the current limitation year, and

(ii) The denominator of which is 10.

For purposes of this subparagraph, the term "year of service" is to be determined on a reasonable and consistent basis.

(2) *Examples.* The provision of this paragraph may be illustrated by the following examples:

Example (1). C begins employment with Acme Corporation on January 1, 1977, at the age of 58. Acme maintains only a noncontributory defined benefit plan which provides for a straight life annuity beginning at age 65 and uses the calendar year for the limitation and plan year. Acme has never maintained a defined contribution plan. C becomes a participant in Acme's plan on January 1, 1978 and works through December 31, 1983, when he is age 65. C begins to receive benefits under the plan in 1984. C's average compensation for his high 3 years of service is $20,000. Furthermore, under the terms of Acme's plan, for purposes of computing C's nonforfeitable percentage in his accrued benefit derived from employer contributions, C has only 7 years of service with Acme (1977–1983). Therefore, because C has less than 10 years of service with Acme at the time he begins to receive benefits under the plan, the maximum permissible annual benefit payable with respect to C is only $14,000 ($20,000 × 7/10).

Example (2). Assume the same facts as in example (1), except that C's average compensation for his high 3 years is $8,000. Because C has less than 10 years of service with Acme at the time he begins to receive benefits, the maximum benefit payable with respect to C would be reduced to $5,600 ($8,000 × 7/10). However, the special rule for total benefits not in excess of $10,000, provided in paragraph (f) of this section, is applicable in this case. Accordingly, C may receive an annual benefit of $7,000 ($10,000 × 7/10) without the benefit limitations of this section being exceeded.

Example (3). ABC corporation maintains a defined benefit plan. Instead of adjusting the benefit limitations in accordance with the method described in subparagraph (1) of this paragraph, the plan provides that the plan administrator may make the necessary adjustment by multiplying the otherwise applicable limitation by a fraction—(1) the numerator of which is the number of completed months of service with the employer, and (2) the denominator of which is 120. The plan further provides that a completed month of service with the employer is any calendar month in which the employee is credited with at least 83 hours of service. Provided that an hour of service is determined in a manner that is reasonable and consistent, the plan may use this alternative rule for making the adjustment required when a participant has less than 10 years of service with the employer at the time he begins to receive benefits under the plan.

(h) *Benefits under certain collectively bargained plans.* For a special rule affecting the compensation limitation described in section 415 (b) (1) (B) and paragraph (a) (1) (ii) of this section, see section 415 (b) (7). For a special effective date with respect to this rule, see § 1.415–1 (f) (5).

§ 1.415–4 Transitional rule for defined benefit plans.

(a) *In general.* If all of the conditions described in paragraph (b) of this section are satisfied, the annual benefit payable to an individual who was a participant in a defined benefit plan at any time before October 3, 1973, will not be considered to exceed the limitations of section 415 (b) and § 1.415–3 (a). This special transitional rule is also applicable with respect to the projected annual benefit payable to an individual who was a participant at any time before October 3, 1973, and after the effective date of section 415. In the case of an individual who was a participant in more than one defined benefit plan at any time before October 3, 1973, the annual benefit or projected annual benefit (whichever is applicable) payable to that individual from each plan will be deemed not to exceed the limitations of section 415 (b) and § 1.415–3 (a) if the benefit from each plan satisfies all of the conditions described in paragraph (b) of this section.

(b) *Conditions for application of transitional rule.* The conditions are—

(1) The annual benefit or projected annual benefit (whichever is applicable) payable to the participant does not exceed 100 percent of that participant's annual rate of compensation (as defined in paragraph (c) of this section) on October 2, 1973, or, if earlier, as of the date the participant separated from the service of the employer.

(2) The annual benefit or projected annual benefit (whichever is applicable) payable to the participant does not exceed the annual benefit which would have been payable to the participant at any time if—

(i) All the terms and conditions of the plan which were actually in effect on October 2, 1973 (or if earlier, on the date the participant separated from the service of the employer) had remained in effect, and

(ii) The participant's compensation taken into account for determining benefits under the plan for any period after October 2, 1973, did not exceed his annual rate of compensation (as defined in paragraph (c) of this section) on that date.

(3) The annual benefit payable to a participant who separated from the service of the employer before October 2, 1973, does not exceed the participant's nonforfeitable accrued benefit under the plan as of the date he separated from service.

(c) *Special rules*—(1) *Annual rate of compensation.* For purposes of this section, a participant's annual rate of compensation for a particular calendar year shall be the greater of—

(i) The participant's compensation for that calendar year as determined in accordance with the rules provided in § 1.415–2(d), or

(ii) The compensation which would be used to determine benefits under the plan if the employee separated from the service of the employer on October 2, 1973, or, if earlier, the employee's actual date of separation from the service of the employer.

(2) *Cost of living adjustments.* (i) If the plan, as in existence on October 2, 1973, provided for a post-retirement cost of living adjustment to benefits, the

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adjustment may be taken into account in determining the participant's allowable benefit under paragraph (b) of this section. However, under paragraph (b)(2) of this section, if a plan is amended after October 2, 1973 to provide for cost-of-living benefit increases for retired participants, the transitional rule of this section will not apply to any increased benefit attributable to the amendment.

(ii) Any cost-of-living increase in the dollar limitation described in section 415(b)(1)(A) under 415(d) and § 1.415–5(a) may not be taken into account for purposes of determining the benefit limitations applicable to a participant under the transitional rule set forth in this section.

(3) *Retirement benefit beginning before age 55.* If a defined benefit plan provides a retirement benefit beginning before age 55, no actuarial adjustment of the benefit which can be provided under the transitional rule of this section is required to be made.

(4) *Retirement benefit payable in a form other than a straight life annuity.* If a defined benefit plan, as in existence on October 2, 1973, provided a retirement benefit in a form other than a straight life annuity, no actuarial adjustment (as otherwise required under § 1.415–3(c)) of the benefit which can be provided under the transitional rule of this section is required to be made. However, if the plan is amended after October 2, 1973, to provide a benefit of greater value than the benefit provided under the plan as of October 2, 1973, the transitional rule of this section will not apply to the increase in the value of the benefit attributable to the amendment. (See paragraph (b)(2)(i) of this section.)

(d) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). N, a participant in a noncontributory defined benefit plan maintained by his employer, retired on February 17, 1969, and became eligible to receive benefits under the plan. At that time, N had attained age 65, the normal retirement age under the plan. N's annual rate of compensation on February 17, 1969, was $90,000. Under the terms of the plan, as in effect on February 17, 1969, N was entitled to an annual benefit of $86,000, which was N's accrued nonforfeitable benefit as of that date. Because the annual benefit payable with respect to N (i) does not exceed 100 percent of N's compensation on February 17, 1969, (ii) does not exceed the annual benefit to which N was entitled on retirement, and (iii) did not exceed N's nonforfeitable accrued benefit on retirement, the plan may provide an annual benefit of $86,000 with respect to N for limitation years to which section 415 applies without violating the limitations imposed by section 415(b) and § 1.415–3.

Example (2). Assume the same facts as in example (1) except that on February 17, 1969, when N retired and became eligible to receive benefits under the plan, N had not attained the age of 55. Because the adjustment required under section 415(b)(2)(C) for retirement benefits beginning before age 55 is only applicable to the dollar limitation described in section 415(b)(1)(A), under paragraph (c)(3) of this section, no actuarial adjustment of the annual benefit of $86,000 payable with respect to N is required to be made. Therefore, the plan may pay annual benefits of $86,000 to N, even though N retires and is eligible to receive benefits before age 55.

§ 1.415–5 Cost of living adjustments for defined benefit plans.

(a) *Dollar limitation*—(1) *In general.* Under section 415(d)(1)(A), the dollar limitation described in section 415(b)(1)(A) applicable to defined benefit plans for limitation years to which section 415 applies is adjusted annually to take into account increases in the cost of living. The adjustment of the dollar limitation is made by multiplying an annual adjustment factor by $75,000. For purposes of this paragraph, the annual adjustment factor is to be determined by the Commissioner.

(2) *Effective date of adjustment.* The adjusted dollar limitation applicable to defined benefit plans is effective as of January 1 of each calendar year and applies with respect to limitation years ending with or within that calendar year.

(3) *Application of adjusted figure.* The adjusted dollar limitation is applicable to employees who are participants in a defined benefit plan and to employees who have retired or otherwise terminated their service under the plan with a nonforfeitable right to accrued benefits, regardless of whether they have actually begun to receive such benefits.

(b) *Average compensation for high 3 years of service limitation*—(1) *In general.* Under section 415(d)(1)(C), with regard to participants who have separated from service with a nonforfeitable right to an accrued benefit, the compensation limitation described in section 415(b)(1)(B) applicable to limitation years to which section 415 applies may be adjusted annually to take into account increases in the cost of living. For any limitation year beginning after the separation occurs, the adjustment of the compensation limitation is made by multiplying the annual adjustment factor (as defined in paragraph (b)(2) of this section) by the compensation limitation applicable to the participant in the limitation year he separated from the service of the employer.

(2) *Annual adjustment factor for compensation limitation.* For any limitation year beginning after the separation occurs, the annual adjustment factor is a fraction, the numerator of which is the adjusted dollar limitation for the limitation year in which the compensation limitation is being adjusted and the denominator of which is the adjusted dollar limitation for the limitation year in which the participant separated from service. In determining the adjusted dollar limitation for purposes of computing the annual adjustment factor under this subparagraph, the rule provided in paragraph (a)(2) of this section (relating to the effective date of the adjusted dollar limitation) shall be applicable.

(3) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. X is a participant in a qualified defined benefit plan maintained by his employer. The plan has a calendar year limitation year. Under the terms of the plan, X is entitled to a benefit consisting of a straight life annuity equal to 100 percent of X's compensation for his high 3 years of service. X's average compensation for his high 3 years is $20,000. X separates from the service of his employer on October 3, 1980, with a nonforfeitable right to his accrued benefit, and begins to receive benefit payments on November 1, 1980. Assume that the adjusted dollar limitation for 1980 is $100,000 and that the adjusted dollar limitation for 1981 is $110,000. For the limitation year beginning January 1, 1981 (the first limitation year beginning after X separates from service), the compensation limitation applicable to X may be adjusted for cost of living increases by multiplying the annual adjustment factor by $20,000. The annual adjustment factor for this limitation year is a fraction, the numerator of which is $110,000 (the adjusted dollar limitation for the limitation year in which the compensation limitation is being adjusted) and the denominator of which is $100,000 (the adjusted dollar limitation for the limitation year in which X separates from service). Thus, for the limitation year beginning January 1, 1981, if the plan provides for post-retirement cost of living adjustments, X's maximum annual benefit could be increased to $22,000 ($110,000/$100,000×$20,000).

(c) *Automatic cost of living adjustments of dollar limitation*—(1) *General rule.* A defined benefit plan may include a provision which provides for an annual automatic cost-of-living adjustment of the dollar limitation described in section 415(b)(1)(A) in accordance with paragraph (a) of this section. However, the provision may only provide for scheduled annual increases in the dollar limitation which become effective no sooner than the date determined in accordance with paragraph (a)(2) of this section.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. Plan A is a defined benefit plan. Effective January 1, 1976, the plan was amended to limit all participants' annual plan benefits, determined on a straight life annuity basis, to $75,000. The amendment also provides that, "as of January 1 of each calendar year, the dollar limitation as determined by the Commissioner of Internal Revenue for that calendar year will become effective as the Maximum Permissible Dollar Amount of the plan for that calendar year. The Maximum Permissible Dollar Amount for a calendar year applies to limitation years ending with or within that calendar year." The automatic cost-of-living adjustment of the dollar limitation of plan A satisfies the requirements of paragraph (c)(1) of this section.

§ 1.415–6 Limitation for defined contribution plans.

(a) *General rules*—(1) *Maximum limitations.* Under section 415(c) and this section, to satisfy the provisions of section 415(a) for any limitation year, the annual additions (as defined in paragraph (b) of this section) made with respect to the account of a participant in a defined contribution plan (as defined in section 414(i)) for the limitation year may not exceed the lesser of—

(i) $25,000, or

(ii) 25 percent of the participant's compensation (as defined in subparagraph (3) of this paragraph) for the limitation year.

(2) *Adjustment to dollar limitation.* The dollar limitation described in section 415(c)(1)(A) and subparagraph (1)(i) of this paragraph is adjusted for cost of living increases under section 415(d) and paragraph (d) of this section. The adjusted figure is effective as of January 1 of each calendar year and applies to limitation years that end during that calendar year.

(3) *Participant's compensation.* For purposes of this section, the term "participant's compensation" for any limitation year has the same meaning as set forth in § 1.415–2(d). The term "participant's compensation" includes all compensation actually paid or made available to the individual for the entire limitation year even though the individual may not have been a participant for the entire limitation year.

(4) *Section 403(b) annuity contracts.* For special rules with respect to section 403(b) annuity contracts purchased by educational organizations, hospitals and home health service agencies, see paragraph (e) of this section.

(b) *Annual additions*—(1) *In general.* For purposes of this section, the term "annual additions" means the sum, credited to a participant's account for any limitation year, of—

(i) Employer contributions,

(ii) The lesser of the amount of employee contributions in excess of 6% of his compensation (as defined in paragraph (a)(3) of this section) for the limitation year, or one half of the employee contributions for that year, and

(iii) Forfeitures.

(2) *Employer contributions.* (i) For purposes of paragraph (b)(1)(i) of this section, the term "annual additions" includes employer contributions which are made under the plan. Furthermore, the Commissioner may in an appropriate case, considering all of the facts and circumstances treat transactions between the plan and the employer or certain allocations to participants' accounts as giving rise to annual additions.

(ii) If, in a particular limitation year, an employer contributes an amount to a participant's account because of an erroneous forfeiture in a prior limitation year, or because of an erroneous failure to allocate amounts in a prior limitation year, the contribution will not be considered an annual addition with respect to the participant for that particular limitation year, but will be considered an annual addition for the limitation year to which it relates. An example of a situation in which an employer contribution might occur under the circumstances described in the preceding sentence is a retroactive crediting of service for an employee under 29 CFR 2530.200(b)–2(a)(3) (regulations promulgated by the Department of Labor) in accordance with an award of back pay. For purposes of this subdivision, it is immaterial whether the amount so contributed in the particular limitation year takes into account investment gains or losses or other gains or losses attributable to the period subsequent to the year to which the contribution relates. The rule described in this subdivision is only applicable for purposes of applying the limitations of section 415.

(iii) The restoration of an employee's accrued benefits by the employer in accordance with section 411(a)(3)(D) or section 411(a)(7)(C) will not be considered an annual addition for the limitation year in which the restoration occurs. (See § 1.411(a)–7(d)(6)(iii)(B).)

(iv) The transfer of funds from one qualified plan to another will not be considered an annual addition for the limitation year in which the transfer occurs.

(v) In the case of a defined contribution plan (such as a money purchase pension plan) to which an employer makes a contribution in order to reduce an accumulated funding deficiency (as defined in section 412(a)), the contribution will be considered an annual addition for the limitation year when the contribution was otherwise required to have been made. The special rule provided in the preceding sentence is available however, only if the contribution is allocated to those participants who would have received an addition if the contribution had been timely made. For purposes of determining the amount of the annual addition under this subdivision, any reasonable amount of interest paid by the employer is disregarded. However, any interest paid by the employer that is in excess of a reasonable amount, as determined by the Commissioner, is taken into account as an annual addition.

(vi) In the case of a defined contribution plan (such as a money purchase pension plan) for which there has been a waiver of the minimum funding standard in a prior limitation year in accordance with section 412(d), that portion of an employer contribution in a subsequent limitation year which, if not for the waiver, would have otherwise been required in the prior limitation year under section 412(a) will be considered an annual addition for the prior limitation year. For purposes of determining the amount of such annual addition for the prior limitation year, any reasonable amount of interest paid by the employer in addition to the actual make-up contribution is disregarded. However, any interest paid by the employer that is in excess of a reasonable amount, as determined by the Commissioner, is taken into account as an annual addition for the prior limitation year.

(3) *Employee contributions.* For purposes of paragraph (b)(1)(ii) of this section, the term "annual additions" includes, to the extent employee contributions would otherwise be taken into account under this section as an annual addition, mandatory employee contributions (as defined in section 411(c)(2)(C) and the regulations thereunder) as well as voluntary employee contributions. The term "annual additions" does not include—

(i) Rollover contributions (as defined in section 402(a)(5), 403(a)(4), 408(d)(3) and 409(b)(3)(C)),

(ii) Repayments of loans made to a participant from the plan,

(iii) Repayments of amounts described in section 411(a)(7)(B) (in accordance with section 411(a)(7)(C)) and section 411(a)(3)(D) (see § 1.411(a)–7(d)(6)(iii)(B)).

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However, the Commissioner may in an appropriate case, considering all of the facts and circumstances, treat transactions between the plan and the employee or certain allocations to participants' accounts as giving rise to annual additions.

(4) *Contributions other than cash.* For purposes of this paragraph, a contribution by the employer or employee of property other than cash will be considered to be a contribution in an amount equal to the fair market value (as defined in § 20.2031-1 of the Estate Tax Regulations) of the property on the date the contribution is made. The contribution described in this subparagraph may, however, constitute a prohibited transaction within the meaning of section 4975(c)(1).

(5) *Forfeitures.* With respect to a particular limitation year, forfeitures will be considered to be an annual addition to the plan if such forfeitures are allocated to the account of the participant as of any day within that limitation year.

(6) *Excess annual additions.* If as a result of either the allocation of forfeitures or a reasonable error in estimating a participant's annual compensation, the annual additions under the terms of a plan for a particular participant would cause the limitations of section 415 applicable to that participant for the limitation year to be exceeded, the excess amounts shall not be deemed annual additions in that limitation year if they are treated in accordance with any one of the following subdivisions:

(i) The excess amounts in the participant's account must be allocated and reallocated to other participants in the plan. However, if the allocation or reallocation of the excess amounts pursuant to the provisions of the plan causes the limitations of section 415 to be exceeded with respect to each plan participant for the limitation year, then these amounts must be held unallocated in a suspense account. If a suspense account is in existence at any time during a particular limitation year, other than the limitation year described in the preceding sentence, all amounts in the suspense account must be allocated and reallocated to participants' accounts (subject to the limitations of section 415) before any employer contributions and employee contributions which would constitute annual additions may be made to the plan for that limitation year.

(ii) The excess amounts in the participant's account must be used to reduce employer contributions for the next limitation year (and succeeding limitation years, as necessary) for that participant if that participant is covered by the plan of the employer as of the end of the limitation year. However, if that participant is not covered by the plan of the employer as of the end of the limitation year, then the excess amounts must be held unallocated in a suspense account for the limitation year and allocated and reallocated in the next limitation year to all of the remaining participants in the plan in accordance with the rules set forth in paragraph (b)(6)(i) of this section. Furthermore, the excess amounts must be used to reduce employer contributions for the next limitation year (and succeeding limitation years, as necessary) for all of the remaining participants in the plan. For purposes of this subdivision, excess amounts may not be distributed to participants or former participants.

(iii) The excess amounts in the participant's account must be held unallocated in a suspense account for the limitation year and allocated and reallocated in the next limitation year to all of the participants in the plan in accordance with the rules provided in paragraph (b)(6)(i) of this section. The excess amounts must be used to reduce employer contributions for the next limitation years (and succeeding limitation years, as necessary) for all of the participants in the plan. For purposes of this subdivision, excess amounts may not be distributed to participants or former participants.

If a suspense account is in existence at any time during the limitation year in accordance with this subparagraph, investment gains and losses and other income may, but need not, be allocated to the suspense account. See § 1.401(a)-2(b) for provisions relating to the disposition of a suspense account in existence upon termination of a plan.

(7) *Time when annual additions credited.* (i) For purposes of this paragraph, an annual addition is credited to the account of a participant for a particular limitation year if it is allocated to the participant's account under the terms of the plan as of any date within that limitation year. However, an amount is not deemed allocated as of any date within a limitation year if such allocation is dependent upon participation in the plan as of any date subsequent to such date.

(ii) For purposes of this subparagraph, employer contributions shall not be deemed credited to a participant's account for a particular limitation year, unless the contributions are actually made to the plan no later than 30 days after the end of the period described in section 404(a)(6) applicable to the taxable year with or within which the particular limitation year ends. If, however, contributions are made by an employer exempt from Federal income tax under section 501(a), the contributions must be made to the plan no later than the 15th day of the sixth calendar month following the close of the taxable year (or fiscal year, if no taxable year) with or within which the particular limitation year ends.

(iii) For purposes of this paragraph, employee contributions, whether voluntary or mandatory, shall not be deemed credited to a participant's account for a particular limitation year, unless the contributions are actually made to the plan within that limitation year.

(iv) For purposes of this paragraph, amounts contributed to an individual retirement plan (as described in section 7701(a)(37)) are treated as allocated to the individual's account as of the last day of the limitation year ending with or within the taxable year for which the contribution is made.

(c) *Examples.* The provisions of paragraphs (a) and (b) of this section may be illustrated by the following examples:

Example (1). P is a participant in a qualified profit-sharing plan maintained by his employer, ABC Corporation. The limitation year for the plan is the calendar year. P's compensation (as defined in paragraph (a)(3) of this section) for the current limitation year is $20,000 consisting exclusively of salary. Because the compensation limitation described in section 415 (c)(1)(B) applicable to P for the current limitation year is lower than the dollar limitation described in section 415(c)(1)(A) (as adjusted for cost of living increases), the maximum annual addition which can be allocated to P's account for the current limitation year is $5,000 (25 percent of $20,000).

Example (2). Assume the same facts as in Example (1), except that P's compensation for the current limitation year is $140,000. The maximum amount of annual additions that may be allocated to P's account in the current limitation year may not exceed the lesser of $35,000 (25 percent of $140,000) or the dollar limitation as in effect as of January 1 of the calendar year in which the current limitation year ends.

Example (3). Assume the same facts as in Example (1), except that P's compensation for the current limitation year consists of $20,000 salary and a bonus which is paid to P after the end of the current limitation year. Because the bonus was not actually paid or made available to P within the current limitation year, P's compensation for that year, for purposes of computing the compensation limitation described in section 415(c)(1)(B), may not include the bonus. However, if ABC Corporation had elected under § 1.415-2(d)(4) to use the compensation accrued for the current limitation year, then the amount of the bonus which accrued within the current limitation year could have been taken into account.

Example (4). Employer N maintains a qualified profit-sharing plan which uses the calendar year as its plan year and its limitation year. N's taxable year is a fiscal year beginning June 1 and ending May 31. Under the terms of the profit-sharing plan maintained by N, employer contributions are made to the plan two months after the close of N's taxable year and are allocated as of the last day of the plan year ending within that taxable year. Thus, employer contributions for the 1977 calendar year limitation year are made on July 31, 1978 (the date that is two months after the close of N's taxable year ending May 31, 1978) and are allocated as of December 31, 1977. Because the employer contributions are actually made to the plan no later than 30 days after the end of the period described in section 404(a)(6) with respect to N's taxable year ending May 31, 1978, the contributions will be considered annual additions for the 1977 calendar year limitation year.

Example (5). Assume the same facts as in example (4), except that the plan year for the profit-sharing plan maintained by N is the 12-month period beginning on March 1 and ending on February 28. Under the terms of the plan, an employer contribution which is made to the plan on July 31, 1978, is allocated to participants' accounts as of February 28, 1978. Because the last day of the plan year is in the 1978 calendar year limitation year, and because, under the terms of the plan, employer contributions are allocated to participants' accounts as of the last day of the plan year, the contributions are considered annual additions for the 1978 calendar year limitation year.

Example (6). XYZ Corporation maintains a profit-sharing plan to which a participant may make voluntary employee contributions for any year not to exceed 10 percent of the participant's compensation for the year. The plan permits a participant to make retroactive make-up contributions for any year for which he contributed less than 10 percent of compensation. XYZ uses the calendar year as the plan year and the limitation year. Under the terms of the plan, voluntary employee contributions are credited to a participant's account for a particular limitation year if such contributions are allocated to the participant's account as of any date within that limitation year. Participant A's compensation is as follows:

Limitation year and compensation

1976	$10,000
1977	$12,000
1978	$14,000
1979	$16,000

Participant A makes no voluntary employee contributions during limitation years 1976, 1977 and 1978. On October 1, 1979, participant A makes a voluntary employee contribution of $5,200 (10 percent of A's aggregate compensation for limitation years 1976, 1977, 1978 and 1979 of $52,000). Under the terms of the plan, $1,000 of this 1979 contribution is allocated to A's account as of limitation year 1976; $1,200 is allocated to A's account as of limitation year 1977; $1,400 is allocated to A's account as of limitation year 1978, and $1,600 is allocated to A's account as of limitation year 1979. However, under the rule set forth in paragraph (b)(7)(iii) of this section, employee contributions will not be considered credited to a participant's account for a particular limitation year for section 415 purposes unless the contributions are actually made to the plan within that limitation year. Thus, A's voluntary employee contribution of $5,200 made on October 1, 1979 would be considered as credited to A's account only for the 1979 calendar year limitation year, notwithstanding the plan provisions. (See section 415(c)(2)(B) and paragraph (b)(1)(ii) of this section for provisions relating to the amount of A's contribution that would be considered an annual addition to A's account for the 1979 calendar year limitation year.)

(d) *Cost-of-living adjustment for defined contribution plans*—(1) *In general.* Under section 415(d)(1)(B), the dollar limitation described in section 415(c)(1)(A) applicable to limitation years to which section 415 applies is adjusted annually to take into account increases in the cost of living. See § 1.415-5(a) for the procedure for making this adjustment and the effective date of the adjusted dollar limitation.

(2) *Automatic adjustments with respect to dollar limitation.* A defined contribution plan may include a provision which provides for an annual automatic cost of living adjustment of the dollar limitation described in section 415(c)(1)(A).

(e) *Special election for section 403(b) contracts purchased by educational organizations, hospitals and home health service agencies*—(1) *In general.* (i) An annuity contract described in section 403(b) is treated as a defined contribution plan for purposes of the limitations on contributions imposed by section 415. Thus, section 403(b) annuity contracts are subject to the rules regarding the amount of annual additions which may be made to a participant's account for any limitation year under section 415(C)(1) and paragraph (a)(1) of this section. Section 403(b) annuity contracts are also subject to the limitations imposed by section 403(b)(2)(A) with respect to the amount of employer contributions for the purchase of an annuity contract that may be excluded from the gross income of the employee on whose behalf the annuity contract is purchased. Therefore, unless a special election has been made as described in section 415(c)(4) and subparagraph (2) of this paragraph, the excludable amount of a contribution toward the purchase of a section 403(b) annuity contract for a particular taxable year is the lesser of the exclusion allowance computed under section 403(b)(2)(A) for that taxable year or the limitation imposed by section 415(c)(1) for the limitation year ending with or within that taxable year.

(ii) If the amount of contributions for an individual under a section 403(b) annuity contract for a taxable year exceeds the limitation of section 415(c)(1), then for purposes of computing the exclusion allowance under section 403(b)(2)(A) for future taxable years, the excess contribution is considered as an amount contributed by the employer for an annuity contract which was excludable from the employee's gross income for a prior taxable year under section 403(b)(2)(A)(ii). Thus, for future taxable years, the exclusion allowance under section 403(b)(2)(A) is reduced by the amount of the excess contribution even though that amount was not excludable from the employee's gross income in the taxable year when it was made. For a special effective date for the rule provided in this subdivision, see § 1.415-1(f)(6).

(iii) For purposes of the limitation imposed by section 415(c)(1), the amount contributed toward the purchase of a section 403(b) annuity contract is treated as allocated to the employee's account as of the last day of the limitation year ending with or within the taxable year during which the contribution is made.

(iv) For rules relating to the limitation year applicable to an individual on whose behalf a section 403(b) annuity contract has been purchased, see § 1.415-2(b)(7).

(2) *Alternative limitations.* (i) Under section 415(c)(4) and this paragraph, a special election is permitted with respect to section 403(b) annuity contracts (including custodial accounts treated as section 403(b) annuity contracts) purchased by educational organizations (as described in section 170(b)(1)(A)(ii)), home health service agencies (as described in paragraph (e)(2)(vi) of this section) and hospitals. Instead of the compensation limitation described in section 415(c)(1)(B) otherwise applicable to the amount of annual additions that may be made to the account of a participant in a defined contribution plan in any limitation year, an individual on whose behalf a section 403(b) annuity contract has been purchased may elect to have substituted for such limitation the amounts described in subparagraph (3) ("(A) election limitation") or (4) ("(B) election limitation") of this paragraph. Instead of the exclusion allowance determined under section 403(b)(2)(A) otherwise applicable for the taxable year with or within which the limitation year ends to an individual on whose behalf a section 403(b) annuity contract has been purchased, an individual may elect to

have substituted for such exclusion allowance the amount described in paragraph (e)(5) ("(C) election limitation") of this section. The election shall be made at the time and in the manner prescribed in subparagraph (6) of this paragraph.

(ii) With respect to any limitation or taxable year, an election by an individual to have any one of the alternative limitations described in paragraph (e) (3), (4) or (5) of this section apply to contributions made on his behalf by the employer with respect to any section 403(b) annuity contract precludes an election to have any other of the alternative limitations apply for any future limitation or taxable year with respect to any section 403(b) annuity contract purchased by any employer of such individual.

(iii) With respect to any limitation year, an election by an individual to have paragraph (e)(3) of this section ("(A) election limitation") apply to contributions made on his behalf by the employer with respect to any section 403(b) annuity contract precludes an election to have any of the alternative limitations apply for any future limitation or taxable year with respect to any section 403(b) annnuity contract purchased by any employer of such individual.

(iv) Any election made under this paragraph is irrevocable.

(v) The election made by the individual under this paragraph shall be controlling for all prior taxable years in which, in accordance with § 11.415(c)(4)–1(b), the individual had taken advantage of an alternative limitation, even if inconsistent with the alternative limitation used in determining income tax liability for those taxable years under that section. An individual, who took advantage of an alternative limitation under § 11.415(c)(4)–1(b) which is inconsistent with the one finally elected, may correct this inconsistency for each prior open taxable year in either of two ways. The individual may redetermine income tax liability as though none of the alternative limitations applied for that taxable year. Alternatively, the individual may recompute income tax liability for the particular taxable year in a manner consistent with the alternative limitation elected by the individual under this paragraph rather than the limitation originally used in accordance with § 11.415(c)(4)–1(b). Furthermore, if an individual, who had taken advantage of an alternative limitation in prior taxable years under § 11.415(c)(4)–1(b), elects under this paragraph not to have any of the alternative limitations apply, the individual, will, nevertheless, be considered to have elected the alternative limitation used under § 11.415(c)(4)–1(b). However, the rule described in the preceding sentence is not applicable if the individual recomputes income tax liability for all prior open taxable years in which an alternate limitation was taken advantage of under § 11.415(c)(4)–1(b) as though none of the alternative limitations applied for those taxable years. For purposes of section 6654 (relating to the failure of an individual to pay estimated tax), a difference in tax for such years resulting from a difference in these limitations is not treated as an underpayment. This rule only applies to the extent the difference in tax is due to the election of one of the alternative limitations or to a final election not to use one of the alternative limitations.

(vi) For purposes of this paragraph, a home health service agency is an organization described in section 501(c)(3) which is exempt from tax under section 501(a) and which has been determined by the Secretary of Health, Education and Welfare to be a home health service agency under section 1395x(o) of Title 42 of the United States Code.

(3) *"(A) election limitation."* For the limitation year that ends with or within the taxable year in which an individual eligible to make a special election separates from the service of his employer (and only for that limitation year), the "(A) election limitation" is the exclusion allowance computed under section 403(b)(2)(A) for the individual's taxable year in which the separation occurs (without regard to section 415). However, in determining this limitation, there may only be taken into account the individual's years of service for the employer (as defined in section 403(b)(4) and the regulations thereunder) and contributions made by the employer (as described in section 403(b)(2)(A)(ii) and regulations thereunder) during the period of years (not exceeding 10) ending on the date of separation. For purposes of this subparagraph, all service for the employer performed within the period beginning ten years before the date of separation and ending on the separation date must be taken into account. However, the "(A) election limitation" may not exceed the dollar limitation described in section 415(c)(1)(A) (as adjusted for cost-of-living increases under section 415(d)(1) and paragraph (d) of this section) applicable to the individual for the limitation year.

(4) *"(B) election limitation."* For any limitation year with respect to an individual eligible to make a special election, the "(B) election limitation" is equal to the least of the following amounts—

(i) $4,000, plus 25 percent of the participant's includible compensation (as defined in section 403(b)(3) and the regulations thereunder) for the taxable year with or within which the limitation year ends.

(ii) The amount of the exclusion allowance determined under section 403(b)(2)(A) and the regulations thereunder for the taxable year with or within which the limitation year ends.

(iii) $15,000.

(5) *"(C) election limitation."* For any taxable year with respect to an individual eligible to make a special election, the "(C) election limitation" is the lesser of the dollar limitation described in section 415(c)(1)(A) (as adjusted for cost-of-living increases under section 415(d)(1) and paragraph (d) of this section) or the compensation limitation described in section 415(c)(1)(B) applicable to the individual for the limitation year ending with or within that taxable year. For purposes of determining the compensation limitation under this subparagraph for a particular limitation year, the term "compensation" has the same meaning as set forth in § 1.415–2(d).

(6) *Time and method of making election.* (i) With respect to any taxable year, an election by an individual to take advantage of any of the alternative limitations described in subparagraphs (3), (4) or (5) of this paragraph is made by determining income tax liability for that taxable year in a way which is consistent with one of the alternative limitations.

(ii) In the case of an individual who, in accordance with § 11.415 (c)(4)–1 (b), took advantage of one of the alternative limitations for prior taxable years, the election described in this paragraph to take advantage of an alternative limitation will be effective only if the following two conditions are satisfied. The first condition is that the election must be made (in the manner described in subdivision (i) of this subparagraph) in the individual's income tax return for the taxable year in which final regulations under section 415 are first published in the Federal Register. The second condition is that if the individual's election is different from the limitation used under § 11.415 (c)(4)–1 (b) in determining income tax liability for prior taxable years, the individual must correct this inconsistency by recomputing income tax liability for all such prior open taxable years in accordance with paragraph (e)(2)(v) of this section. See paragraph (e)(2)(v) of this section for rules relating to an individual who had taken advantage of an alterntive limitation in prior taxable years under § 11.415 (c)(4)–1 (b) but does not elect any of the alternative limitations for the taxable year in which final regulations under section 415 are first published in the Federal Register.

(7) *Examples:* The provisions of this paragraph may be illustrated by the following examples:

Example (i). Doctor M is an employee of H Hospital (an organization described in section 501(c)(3) and exempt from taxation under section 501(a)) for the entire 1976 calendar year. M is not in control of H within the meaning of section 414 (b) or (c), as modified by section 415(h). M uses the calendar year as the taxable year and limitation year. M has includible compensation (as defined in section 403(b)(3) and the regulations thereunder) and compensation (as defined in paragraph (a)(3) of this section) for taxable year 1976 of $30,000, and M has 4 years of service (as defined in § 1.403 (b)–1 (f)) with H as of December 31, 1976. During M's prior service with H, H had contributed a total of $12,000 on M's behalf for annuity contracts described in section 403(b), which amount was excludable from M's gross income for such prior years. Thus, for the limitation year ending with or within taxable year 1976, M's exclusion allowance determined under section 403(b)(2)(A) is $12,000 ((.20 × $30,000 × 4) − $12,000). The limitation imposed by section 415(c)(1) that is applicable to M for limitation year 1976 is the lesser of $26,825 (the amount described in section 415(c)(1)(A) adjusted under section 415 (d)(1) (b) for limitation year 1976) or $7,500 (the amount described in section 415(c)(1)(B)). Absent the special elections provided in section 415(c)(4) and this paragraph, $7,500 would be the maximum contribution H could make for annuity contracts described in section 403(b) on M's behalf for limitation year 1976 without increasing M's gross income for taxable year 1976. However, because H is an organization described in section 415(c)(4), M may make a special election with respect to amounts contributed by H on M's behalf for section 403(b) annuity contracts for 1976. Assumne that M does not separate from the service of H during 1976 and that, therefore, the "(A) election limitation" described in section 415(c)(4)(A) and subparagraph (3) of this paragraph is not available to M. If M elects the "(B) election limitation" for 1976, H could contribute $11,500 on M's behalf for annuity contracts described in section 403(b) for that year (the least of $11,500 (the amount described in section 415 (c)(4)(B) (i))); $12,000 (the amount described in section 415 (c)(4)(B) (ii)); and $15,000 (the amount described in section 415 (c)(4)(B) (iii)). If M elects the "(C) election limitation" for 1976, H could only contribute up to $7,500 (the lower of the amounts described in section 415(c)(1) (A) or (B)) for section 403(b) annuity contracts on M's behalf for 1976 without increasing M's gross income for that year.

Example (2). Assume the same facts as in example (1) except that H had contributed a total of $18,000 on M's behalf for annuity contracts in prior years, which amount was excludable from M's gross income for such prior years. Accordingly, for 1976, M's exclusion allowance determined under section 403(b)(2)(A) is $6,000 ((.20=×$30,000×4)=$18,000). The limitation imposed by section 415(c)(1) applicable to M for 1976 is $7,500 (the lesser of the amount described in section 415(c)(1) (A) or (B)). Absent the special elections provided in section 415(c)(4) and this paragraph, $6,000 would be the maximum amount H could contribute for annuity contracts described in section 403(b) on M's behalf for 1976 without increasing M's gross income for that year. However, if M elects the "(c) election limitation" for 1976, H may contribute up to $7,500 without increasing M's gross income for that year.

Example (3). G, a teacher, is an employee of E, an educational organization described in section 170(b)(1)(A)(ii). G uses the calendar year as the taxable year and G uses the 12-month consecutive period beginning July 1 as the limitation year. G has includible compensation (as defined in section 403(b)(3) and the regulations thereunder) for taxable year 1976 of $12,000 and G has compensation (as defined in paragraph (a)(3) of this section) for the limitation year ending with or within taxable year 1976 of $12,000. G has 20 years of service (as defined in § 1.403(b)–1(f)) as of May 30, 1976, the date G separates from the service of E. During G's service with E before taxable year 1976, E had contributed $34,000 toward the purchase of a section 403(b) annuity contract on G's behalf, which amount was excludable from G's gross income for such prior years. Of this amount, $19,000 was so contributed and excluded during the 10 year period ending on May 30, 1976. For the taxable year 1976, G's exclusion allowance determined under section 403(b)(2)(A) is $14,000 ((.20×$12,000×20)=$34,000). Absent the special elections described in section 415(c)(4) and this paragraph, $3,000 (the lesser of G's exclusion allowance for taxable year 1976 or the section 415(c)(1) limitation applicable to G for the limitation year ending with or within such taxable year) would be the maximum excludable contribution E could make for section 403(b) annuity contracts on G's behalf for the limitation year ending with or within taxable year 1976. However, because E is an organization described in section 415(c)(4), G may make a special election with respect to amounts contributed on G's behalf by E for section 403(b) annuity contracts for the limitation year ending with or within taxable year 1976. Because G has separated from the service of E during such taxable year, G may elect the "(A) election limitation" as well as the "(B) election limitation" or the "(C) election limitation." If G elects the "(A) election limitation" for the limitation year ending with or within taxable year 1976, E could contribute up to $5,000 ((.20×$12,000×10)=$19,000) on G's behalf for section 403(b) annuity contracts for such limitation year without increasing G's gross income for the taxable year with or within which such limitation year ends. If G elects the "(B) election limitation" for such limitation year, E could contribute $7,000 (the least of $7,000 (the amount described in section 415(c)(4)(B)(i)); $14,000 (the amount described in section 415(c)(4)(B)(ii)); and $15,000 (the amount described in section 415(c)(4)(B)(iii)). If G elects the "(C) election limitation" for taxable year 1976, E could contribute $3,000 (the lesser of the amounts described in section 415(c)(1) (A) or (B)).

(f) *Special rules with respect to the application of section 415(c)(1)(B) with section 404(e)(4).* For special rules relating to the application of the compensation limitation described in section 415(c)(1)(B) with the minimum allowable deduction described in section 404(e)(4) in the case of a plan which provides contributions for employees, some or all of whom are employees within the meaning of section 401(c)(1), see the regulations under section 404(e).

(g) *Special rules for employee stock ownership plans*—(1) *General definitions.* For purposes of this paragraph—(i) An employee stock ownership plan is a plan which meets the requirements of either section 4975(e)(7) and the regulations thereunder, or whichever of the following is applicable: section 301(d) of the Tax Reduction Act of 1975 (89 Stat. 38, 26 CFR 1.46–7) and the regulations thereunder (26 CFR 1.46–8) or section 409A and the regulations thereunder.

(ii) The term "employer securities" means, in the case of an employee stock ownership plan within the meaning of section 4975(e)(7) and the regulations thereunder, qualifying employer securities within the meaning of section 4975(e)(8), that are also described in section 301(d)(9)(A) of the Tax Reduction Act of 1975 and the regulations thereunder or section 409A(l) and the regulations thereunder, whichever is applicable. In the case of an employee stock ownership plan described in section 301(d)(2) of the Tax Reduction Act of 1975 or section 409A, whichever is applicable, such term means employer securities within the meaning of section 301(d)(9)(A) of that Act and the regulations thereunder or section 409A(l) and the regulations thereunder, whichever is applicable.

(iii) An individual is considered to own more than 10 percent of the employer's stock if, without regard to stock held under the employee stock ownership plan, the individual owns (after application of section 1563(e), relating to constructive ownership of stock) more than 10 percent of the total combined voting power of all classes of stock entitled to vote or more than 10 percent of the total value of shares of all classes of stock.

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(2) *Special dollar limitation.* In the case of an employee stock ownership plan which meets the requirements of paragraph (g)(3) of this section, the applicable dollar limitation for a limitation year equals the sum of—

(i) The dollar amount described in section 415(c)(1)(A) (as so adjusted for that limitation year), and

(ii) The lesser of the amount determined under paragraph (g)(2)(i) of this section or the amount of employer securities within the meaning of paragraph (g)(1)(ii) of this section contributed to the employee stock ownership plan.

(3) *Employee stock ownership plans to which the special dollar limitation applies.* For purposes of this paragraph, the special dollar limitation is only applicable to an employee stock ownership plan for a particular limitation year for which no more than one-third of the employer contributions for the limitation year are allocated to employees who are officers, shareholders owning more than 10 percent of the employer's stock (as determined under subparagraph (1)(iii) of this paragraph), or whose compensation for the limitation year exceeds twice the dollar amount described in section 415(c)(1)(A) (as adjusted for cost-of-living increases under section 415(d)(1) and paragraph (d) of this section).

(4) *Cash contributions treated as contributions of employer securities.* For purposes of the special dollar limitation—

(i) In the case of an employee stock ownership plan in which the employer makes cash contributions which are used in a direct acquisition of employer securities, the cash contributions are treated as a contribution of employer securities for the limitation year, provided that the securities are employer securities within the meaning of paragraph (g)(1)(ii) of this section and are allocated to participants under the terms of the plan as of any date within that limitation year. However, this subdivision is not applicable unless the employer securities are purchased no later than 30 days after the end of the period described in section 404(a)(6) applicable to the taxable year with or within which the limitation year ends.

(ii) In the case of an employee stock ownership plan to which an exempt loan as described in § 54.4975–7(b) has been made, the employer's contribution of both principal and interest used to repay the exempt loan for the limitation year will be treated as a contribution of employer securities for that limitation year, provided that the securities allocated to participants are employer securities within the meaning of paragraph (g)(1)(ii) of this section.

(5) *Amounts considered as annual additions.* For purposes of applying the limitations of section 415(c)(1) and this section and for the special dollar limitation, in the case of an employee stock ownership plan to which an exempt loan as described in § 54.4975–7(b) has been made, the amount of employer contributions which is considered an annual addition for the limitation year is calculated with respect to employer contributions of both principal and interest used to repay the exempt loan for that limitation year.

(6) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). Employee N is a participant in an employee stock ownership plan maintained by his employer, M Corporation, which meets the requirements of section 4975(e)(7) and the regulations thereunder. The plan also meets the requirements set forth in subparagraph (3) of this paragraph. M does not maintain any other qualified plan. The limitation year for the plan is the calendar year. For 1977, N has compensation (as defined in paragraph (a)(3) of this section) of $160,000. Without the special dollar limitation described in subparagraph (2) of this paragraph, under section 415(c)(1), N could only have annual additions of $28,175 (the lesser of the dollar limitation described in section 415(c)(1)(A) as adjusted for cost of living increases ($28,175) or the compensation limitation described in section 415(c)(1)(B) (25% of $160,000 = $40,000)) made to his account for the 1977 limitation year. Under the special dollar limitation, N would be able to have annual additions of $56,350 ($28,175×2) made to his account for the 1977 limitation year, provided that amounts contributed in excess of $28,175 consist solely of employer securities. However, N is also subject to the compensation limitation described in section 415(c)(1)(B). Therefore, even under the special dollar limitation, N may only have annual additions of $40,000 made to his account for the 1977 limitation year: *Provided,* That amounts contributed in excess of $28,175 consist solely of employer securities within the meaning of paragraph (g)(1)(ii) of this section.

Example (2). Assume the same facts as in example (1), except that N's compensation for 1977 is $300,000. Because the compensation limitation (25% of $300,000 = $75,000) is greater than the special dollar limitation of $56,350, N can have annual additions of $56,350 made to his account for the 1977 limitation year, provided that amounts contributed in excess of $28,175 consist solely of employer securities.

(h) *Special rules for level premium annuity contracts under plans benefiting owner-employees*—(1) *In general.* The compensation limitation described in section 415(c)(1)(B) will not be less than the contribution described in section 401(e) which is made for the benefit of an owner-employee (within the meaning of section 401(c)(3)) for a limitation year provided that—

(i) The annual additions with respect to such owner-employee for the limitation year consist solely of the contributions described in this paragraph, and

(ii) The owner-employee is not a participant at any time during the limitation year in a defined benefit plan maintained by the employer.

(2) *Application of the non-discrimination rules.* In the case of a plan which provides contributions for employees who are not owner-employees, that plan will not be treated as failing to satisfy the non-discrimination rules of section 401(a)(4) merely because contributions made on behalf of employees who are not owner-employees are not permitted to exceed the compensation limitation described in section 415(c)(1)(B).

(3) *Additional rules.* For additional rules concerning contributions described in section 401(e), see § 1.401(e)–4.

§ 1.415–7 Limitation in case of defined benefit and defined contribution plan for same employee.

(a) *Overall limitation*—(1) *In general.* Under section 415(e) and this section, in any case in which an individual has at any time participated in a defined benefit plan and also has at any time participated in a defined contribution plan maintained by the same employer, to satisfy the provisions of section 415(a), the sum of the defined benefit plan fraction (as defined in paragraph (b) of this section) and the defined contribution plan fraction (as defined in paragraph (c) of this section) with respect to that participant for any limitation year may not exceed 1.4.

(2) *Application of overall limitation to employee stock ownership plan.* An employee stock ownership plan which qualifies for, and takes advantage of, the special dollar limitation provided in section 415(c)(6) and § 1.415–6(g) is still subject to the 1.4 limitation of paragraph (a)(1) of this section.

(b) *Defined benefit plan fraction*—(1) *In general.* For purposes of paragraph (a) of this section, the defined benefit plan fraction applicable to a participant for any limitation year is a fraction—

(i) The numerator of which is the projected annual benefit (as defined in § 1.415–3(b)(2)) of the participant under the plan (determined as of the close of the limitation year), and

(ii) The denominator of which is the projected annual benefit (as defined in § 1.415–3(b)(2)) of the participant under the plan (determined as of the close of the limitation year) if the plan provided such participant the maximum benefit allowable under § 1.415–3.

In the event a participant has participated in more than one defined benefit plan maintained by the employer, the numerator of the defined benefit plan fraction is the sum of the projected annual benefits under all of the defined benefit plans.

(2) *Participants described in section 2004(d)(2) of the Employee Retirement Income Security Act of 1974.* For purposes of this paragraph, in the case of a participant described in section 2004(d)(2) of the Employee Retirement Income Security Act of 1974 (Pub. L. No. 93–406, 88 Stat. 987), the defined benefit plan fraction applicable to such participant is deemed not to exceed 1.0 for any limitation year to which section 415 and this section apply.

(c) *Defined contribution plan fraction*—(1) *In general.* For purposes of paragraph (a) of this section, the defined contribution plan fraction applicable to a participant for any limitation year is a fraction—

(i) The numerator of which is the sum of the annual additions to the participant's account as of the close of the limitation year and for all prior limitation years, and

(ii) The denominator of which is the sum of the maximum amount of annual additions which could have been made under section 415(c) § 1.415–6(a) (determined without regard to the special dollar limitation provided for employee stock ownership plans under section 415(c)(6) and § 1.415–6(g)) for the limitation year and for each prior limitation year of the participant's service with the employer (regardless of whether a plan was in existence during those years).

For purposes of this paragraph, the term "annual additions" has the same meaning as set forth in § 1.415–6(b).

(2) *Special rules for certain annuity contracts and individual retirement plans.* (i) Except as provided in subdivision (ii) of this subparagraph, in computing the defined contribution plan fraction applicable to an individual on whose behalf a section 403(b) annuity contract has been purchased, the amount which is included in the denominator of such fraction for a particular limitation year is the maximum amount which could have been contributed under the limitations of section 415(c) and § 1.415–6(a) applicable to the individual for the particular limitation year. However, if the individual elects an alternative limitation described in either section 415(c)(4)(A) or section 415(c)(4)(B) for a particular limitation year, the denominator of the fraction for such limitation year is the maximum amount which could have been contributed under the applicable limitations of section 415(c) and § 1.415–6(a), as modified by the alternative limitation elected.

(ii) This subdivision provides a rule for computing the defined contribution plan fraction with respect to an individual on whose behalf a section 403(b) annuity contract has been purchased for each limitation year in which the individual did not have a year of service with the employer (within the meaning of subparagraph (1)(ii) of this paragraph) that is now considered to be maintaining the section 403(b) annuity contract with the individual under the rules of paragraph (h)(2) of this section. In this situation, for each such limitation year, the denominator of the defined contribution plan fraction applicable to the individual is deemed to equal the numerator of that fraction.

(iii) The rules described in this paragraph also apply to an individual on whose behalf an individual retirement plan (as described in section 7701(a)(37)) has been maintained.

(iv) See paragraph (h)(4) of this section for special rules relating to the aggregation of a section 403(b) annuity contract and a qualified plan.

(d) *Special transitional rules for defined contribution plan fraction.* For purposes of determining the defined contribution plan fraction under paragraph (c) of this section for any limitation year beginning after December 31, 1975, the following rules shall apply with respect to limitation years before the first limitation year to which section 415 and this section apply.

(1) The aggregate amount taken into account under paragraph (c)(1)(i) of this section in determining the numerator of the defined contribution plan fraction is deemed not to exceed the aggregate amount taken into account under paragraph (c)(1)(ii) of this section in determining the denominator of the fraction.

(2) The amount taken into account under section 415(c)(2)(B)(i) for each such limitation year is an amount equal to—

(i) The amount by which the aggregate amount of employee contributions (whether voluntary or mandatory) for all limitation years beginning before January 1, 1976, during which the employee was a participant in the plan exceeds 10 percent of the employee's aggregate compensation from the employer for all such limitation years, divided by

(ii) The number of full limitation years (counting any part of a limitation year as a full limitation year) beginning before January 1, 1976, during which the employee was a participant in the plan.

Therefore, for purposes of computing the numerator of a participant's defined contribution plan fraction for limitation years beginning after December 31, 1975, no employee contributions made to the plan before the first limitation year to which section 415 and this section apply are taken into account as annual additions if the aggregate amount of the contributions does not exceed 10 percent of the employee's aggregate compensation from the employer for all limitation years prior to the first such limitation year.

(3) The special transitional rule concerning employee contributions provided for in paragraph (d)(2) of this section does not apply to any employee contributions (whether voluntary or mandatory) made on or after October 2, 1973, to the extent that these contributions exceed the maximum amount of employee contributions permitted under the plan as in effect on October 2, 1973. For purposes of the preceding sentence, plan amendments approved by the Internal Revenue Service before October 2, 1973, and actually put into effect before January 1, 1974, are considered in effect on October 2, 1973. Therefore, for purposes of computing the numerator of the defined contribution plan fraction for limitation years beginning after December 31, 1975, employee contributions made between October 2, 1973 and prior to the first limitation year to which section 415 and this section apply which exceed the maximum amount the employee was permitted to contribute under the provisions of the plan as in effect on October 2, 1973, are taken into account as annual additions (within the meaning of § 1.415–6(b)(1)(ii)).

(4) For purposes of this paragraph, the participant's aggregate compensation for all years (whichever are applicable under either paragraph (d)(1) or (2) of this section) with the employer before the first limitation year to which section 415 applies equals the product of the participant's compensation during the first limitation year to which section 415 applies times the number of such applicable years. However, this special rule is available only if records necessary for the determination of the participant's aggregate compensation for all such applicable years with the employer before the first limitation year to which section 415 applies are not available.

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(e) *Examples.* The provisions of paragraphs (a) through (d) of this section may be illustrated by the following examples:

Example (1). (i) S is an employee of T Corporation and is a participant in both the noncontributory defined benefit plan and noncontributory defined contribution plan maintained by the corporation. S became an employee of T on July 1, 1966. S became a participant in the defined benefit plan maintained by T on January 1, 1968 and he became a participant in the defined contribution plan maintained by T on January 1, 1970. T uses the calendar year as the limitation year for both plans. The current limitation year is 1978. S's compensation (as defined in § 1.415–2(d)) from T is as follows:

Limitation year	Compensation
1966	$3,000
1967	5,000
1968	6,000
1969	8,000
1970	8,000
1971	8,000
1972	9,000
1973	10,000
1974	10,000
1975	11,000
1976	11,000
1977	12,000
1978	12,000

(ii) S's projected annual benefit (as defined in § 1.415–3(b)(2)) as of the close of the current limitation year under the terms of the plan is $9,000. S's compensation for the current limitation year is $12,000. Therefore, the defined benefit plan fraction applicable to S for the current limitation year is .75 or 75 percent (9,000÷12,000). S's defined contribution compensation limitation (as described in section 415(c)(1)(B)) for the current limitation year is $3,000 (25 percent of $12,000). For all limitation years beginning before January 1, 1978, the maximum aggregate amount of annual additions which could have been allocated to S's account under the defined contribution plan is $25,500 (aggregate compensation of $102,000 for all years of service with T Corporation × 25 percent). Assume that annual additions totaling $11,400 have been allocated to S's account as of the end of the current limitation year. Therefore, S's defined contribution plan fraction as of the end of the current limitation year equals

$$\frac{\$11,400}{\$25,500+\$3,000} = \frac{\$11,400}{\$28,500} = .40 \text{ or } 40 \text{ percent.}$$

Because the sum (115 percent) of the defined benefit plan fraction (75 percent) and the defined contribution plan fraction (40 percent) applicable to S for the current limitation year does not exceed 140 percent, the limitations of section 415(e) and this section are not exceeded.

Example (2). Assume the same facts as in example (1) except that the defined contribution plan maintained by T Corporation provides for mandatory employee contributions of 6% of compensation and voluntary employee contributions of 10% of compensation. Assume further that S made the maximum allowable employee contributions under the plan for each limitation year (including the current limitation year) during which he was a participant. For limitation years beginning before January 1, 1976, S made total employee contributions of $8,960. However, because of the special transitional rule applicable to the defined contribution plan fraction with respect to employee contributions for limitation years beginning before January 1, 1976 (as described in paragraph (d)(2) of this section), only $560 of the total employee contributions of $8,960 made by S will be considered an annual addition for each of those limitation years in which S was a participant in the plan (total employee contributions for limitation years in which S participated in the plan beginning before January 1, 1976 of $8,960 minus $5,600 (10 percent of total compensation of $56,000 for such years) divided by 6 (the number of such years in which S was a participant in the plan). Thus, in determining the numerator of the defined contribution plan fraction applicable to S, because S was a participant in the plan for 6 limitation years beginning before January 1, 1976, the total amount of employee contributions that must be taken into account as annual additions for such limitation years is $3,360 ($560 × 6). For limitation years beginning after January 1, 1976, S made contributions of $1,760 (for limitation year 1976), $1,920 (for limitation year 1977) and $1,920 (for limitation year 1978, the current limitation year). The amount of annual additions attributable to such contributions under section 415(c)(2)(B) is $880 (for limitation year 1976), $960 (for limitation year 1977) and $960 (for the current limitation year), for a total of $2,800. Thus, the defined contribution plan fraction applicable to S for the current limitation year is

$$\frac{\$3,360+\$2,800+\$11,400}{\$28,500} = \frac{\$17,560}{\$28,500} = .62 \text{ or } 62 \text{ percent.}$$

Because the sum (137 percent) of the defined benefit plan fraction (75 percent) and the defined contribution plan fraction (62 percent) applicable to S for the current limitation year does not exceed 140 percent, the limitations of section 415(e) and this section are not exceeded.

Example (3). (i) A is an employee of M Corporation and is a participant in both the noncontributory defined benefit plan and noncontributory defined contribution plan maintained by the corporation. A became an employee of M on January 1, 1969 and immediately became a participant in both plans. M uses the calendar year as the limitation year for both plans. The current limitation year is 1978. A's compensation (as defined in § 1.415–2(d)) from M is as follows:

Limitation year	Compensation
1969	$100,000
1970	120,000
1971	130,000
1972	160,000
1973	200,000
1974	240,000
1975	280,000
1976	320,000
1977	400,000
1978	460,000

(ii) A is a participant described in section 2004(d)(2) of the Employee Retirement Income Security Act of 1974. A's projected annual benefit (as defined in § 1.415–3(b)(2)) as of the close of the current limitation year under the terms of the defined benefit plan is $100,000. The defined benefit dollar limitation (as described in section 415(b)(1)(A)) applicable to A for the current limitation year is $90,150. Absent the provisions of paragraph (b)(2) of this section, the defined benefit plan fraction applicable to A for the current limitation year would be 1.11 or 111 percent. However, under the provisions of paragraph (b)(2) of this section, for purposes of computing the overall 1.4 limitation imposed by section 415(e) and this section applicable to A for the current limitation year and all future limitation years, A's defined benefit plan fraction is considered to equal 1.0 or 100 percent.

(iii) A's defined contribution dollar limitation (as described in section 415(c)(1)(A)) for the current limitation year is $30,050. For the 9 limitation years ending before January 1, 1978, the maximum amount of annual additions which could have been allocated to A's account under the defined contribution plan is $230,000 ($25,000×7, plus $26,825 (adjusted figure for 1976) and $28,175 (adjusted figure for 1977)). Assume that annual additions totaling $60,000 ($10,000 of this amount being attributable to the current limitation year) have been allocated to A's account as of the close of the current limitation year. A's defined contribution plan fraction computed as of the end of the current limitation year is .23 or 23 percent

$$\frac{\$60,000}{\$230,000+\$30,050} = .23 \text{ or } 23 \text{ percent.}$$

Because the sum (123 percent) of the defined benefit plan fraction (1.0 or 100 percent) and the defined contribution plan fraction (.23 or 23 percent) for the current limitation year does not exceed 1.4 or 140 percent, the limitations of section 415(e) and this section are not violated.

(f) *Special rules where records are not available for past periods*—(1) *In general.* The rules described in paragraph (f) (2) and (3) of this section apply only if the plan is unable to compute the defined contribution plan fraction because of the unavailability of records with respect to limitation years ending before the first limitation year to which section 415 applies to the plan.

(2) *Defined contribution plan fraction for first limitation year to which section 415 applies to a plan.* For purposes of paragraph (c) of this section, the defined contribution plan fraction for the first limitation year to which section 415 and this section apply to a plan equals the following fraction:

(i) The numerator of the fraction is the sum of the participant's account balance as of the valuation date under the plan immediately preceding November 2, 1975, plus any additions made to the participant's account through the end of the first limitation year to which section 415 applies to the plan. In determining the participant's account balance as of the valuation date under the plan immediately preceding November 2, 1975, for purposes of this subdivision, one-half of all employee contributions (whether voluntary or mandatory) are not taken into account.

(ii) The denominator of the fraction is the sum of the maximum allowable annual additions under section 415(c) and § 1.415–6 for each limitation year, including the first limitation year to which section 415 applies to the plan, in which the participant had a year of service with the employer (see § 1.415–3(g)(1) for rules relating to the determination of a year of service). In determining the maximum allowable annual additions for purposes of this subdivision, the compensation limitation (as described in section 415(c)(1)(B)) taken into account for all of such limitation years is the applicable compensation limitation for the first limitation year to which section 415 applies to the plan and the dollar limitation taken into account for each such limitation year is the dollar limitation described in section 415(c)(1)(A), as adjusted for cost-of-living increases under section 415(d)(1)(B).

(3) *Defined contribution plan fraction for future limitation years.* For purposes of paragraph (c) of this section, with respect to all limitation years after the first limitation year to which section 415 applies to the plan, the defined contribution plan fraction for the current limitation year equals a fraction. The numerator of the fraction is the amount determined under paragraph (g)(2)(i) of this section, plus any subsequent annual additions made to the participant's account through the end of the current limitation year. The denominator of the fraction equals the sum of—

(i) The amount determined under subparagraph (2)(ii) of this paragraph, plus

(ii) The sum of the maximum allowable annual additions under section 415(c) and § 1.415–6 for the current limitation year and all prior limitation years beginning after the end of the first limitation year to which section 415 applies to the plan.

(g) *Special rule for certain plans in effect on date of enactment.* In the case of an individual who, on September 2, 1974, was a participant in a defined benefit and defined contribution plan maintained by the same employer and with respect to whom the sum of the defined benefit plan fraction and the defined contribution plan fraction for the limitation year during which such date falls (determined as of the close of that limitation year) exceeded 140 percent, the sum of such fractions may continue to exceed 140 percent for any particular future limitation year, but only if the conditions set forth in paragraph (g) (1) and (2) of this section are satisfied:

(1) The defined benefit plan fraction of the participant computed as of the close of the particular limitation year does not exceed such fraction computed as of the close of the limitation year during which September 2, 1974, falls.

(2) After September 2, 1974,

(i) No employer contributions are allocated to the participant's account under any defined contribution plan,

(ii) No forfietures arising under any defined contribution plan are allocated to the participant's account,

(iii) No voluntary employee contributions are made by the participant under any defined contribution or defined benefit plan, and

(iv) No mandatory employee contributions are made by the participant under any defined contribution plan.

(h) *Special rules for section 403(b) annuity contracts*—(1) *In general.* For purposes of section 415, the following rules shall apply:

(i) In the case of an annuity contract described in section 403(b), the participant, on whose behalf the annuity contract is purchased, is considered to have exclusive control of the annuity contract. Accordingly, the participant, and not the participant's employer who purchased the section 403(b) annuity contract, is deemed to maintain the annuity contract.

(ii) Any contributions by the employer for an annuity contract described in this subparagraph are not taken into account in computing the defined contribution plan fraction applicable to the participant for the limitation year.

(2) *Special rules under which the employer is deemed to maintain the annuity contract.* (i) The provisions of this paragraph and not paragraph (h)(1) of this section apply for a particular limitation year with respect to a participant on whose behalf a section 403(b) annuity contract is purchased, if that participant is in control of any employer within the meaning of section 414 (b) or (c), as modified by section 415(h). Under these circumstances, the section 403(b) annuity contract for the benefit of the participant is treated as a defined contribution plan maintained by both the controlled employer and the participant for that limitation year.

(ii) The provisions of this paragraph also apply for a particular limitation year if a participant on whose behalf a section 403(b) annuity contract is purchased has elected, under section 415(c)(4)(D) and § 1.415–6(e)(6), to have the provisions of section 415(c)(4)(C) and § 1.415–6(e)(5) apply for the taxable year with or within which such limitation year ends. In such a case, the exclusion allowance determined under section 403(b)(2)(A) is not applicable to the annuity contract for the particular limitation year, and the annuity contract is treated as a defined contribution plan maintained by both the employer and the participant for that limitation year.

(iii) For purposes of the limitations of section 415(e) and this section, where a section 403(b) annuity contract is treated as a defined contribution plan maintained by the employer under this subparagraph, any contributions made for the annuity contract for a participant are taken into account in computing the defined contribution plan fraction applicable to that participant for the limitation year. Thus, for example, if a doctor is employed by an educational organization which provides him with a section 403(b) annuity contract and also maintains a private practice as a shareholder owning at least 50 percent of a professional corporation, any qualified defined benefit plan of the professional corporation must be aggregated with the section 403(b) annuity contract for purposes of

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applying the limitations of section 415(e) and this section.

(3) *Special rule with respect to salary reduction agreements.* The rules provided in this paragraph are applicable whether or not the section 403(b) annuity contract is purchased in connection with a salary reduction agreement between the emloyer and participant.

(4) *Special rules relating to the aggregation of the annuity contract with a qualified plan.* (i) Where a section 403(b) annuity contract is aggregated with a qualified defined benefit plan in a limitation year because of the application of the rules of paragraph (h)(2) of this section, all contributions made to the annuity contract for a participant in prior limitation years shall be taken into account in computing the participant's defined contribution plan fraction. However, the rule described in the preceding sentence is not applicable if the aggregation is solely attributable to the participant's election to have the provisions of section 415(c)(4)(C) apply. Accordingly, in any case in which aggregation is required as a result of the application of paragraph (h)(2)(ii) of this section, all contributions made to the annuity contract for a participant in prior limitation years in which paragraph (h)(1) of this section was applicable do not have to be taken into account in computing the defined contribution plan fraction applicable to the participant.

(ii) Any contributions made to a section 403(b) annuity contract for a participant in any limitation year in which the rules of paragraph (h)(2) of this section are applicable shall be taken into account in subsequent limitation years even though the rules of such paragraph are no longer applicable.

(iii) See paragraph (c)(2) of this section for special rules relating to the defined contribution plan fraction for a participant on whose behalf a section 403(b) annuity contract has been purchased.

(5) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). A is employed by a hospital which is described in section 501(c)(3) and exempt from tax under section 501(a). The hospital purchases an annuity contract described in section 403(b) on A's behalf for the current limitation year. The hospital also maintains a qualified defined benefit plan during the current limitation year in which A is a participant, but it does not maintain a qualified defined contribution plan during that limitation year. With respect to the annuity contract, A does not elect to have the provisions of section 415(c)(4)(C) apply for the current limitation year. Also, A is not in control of the hospital within the meaning of section 414 (b) or (c), as modified by section 415(h). For purposes of section 415, under subparagraph (1) of this paragraph, A is considered to have exclusive control of the annuity contract. Therefore, because A (and not the hospital) is treated as maintaining the annuity contract, because the hospital does not maintain any defined contribution plan, and because A is not in control of the hospital within the meaning of section 414 (b) or (c), as modified by section 415(h), the limitations of section 415(e) and this section are not applicable to A for either the annuity contract or the hospital's defined benefit plan for the current limitation year.

Example (2). Assume the same facts as in example (1), except that the hospital also maintains a qualified defined contribution plan during the limitation year in which A is a participant. Because the hospital is not considered to be maintaining the section 403 (b) annuity contract, contributions made to the annuity contract on behalf of A during the current limitation year by the hospital are not taken into account in computing the defined contribution plan fraction applicable to A for the plans maintained by the hospital for that limitation year.

Example (3). Assume the same facts as in example (1), except that A has elected to have the provisions of section 415(c)(4)(C) apply to the annuity contract for the current limitation year. Under the special rules contained in subparagraph (2) of this paragraph, the annuity contract is treated as a defined contribution plan maintained by the hospital as well as a defined contribution plan maintained by A. Accordingly, because the hospital is also maintaining a qualified defined benefit plan, the limitations of section 415(e) and this section are applicable to A for the annuity contract and the defined benefit plan maintained by the hospital in the current limitation year.

Example (4). Assume the same facts as in example (1), except that A is in control of the hospital within the meaning of section 414 (b) or (c), as modified by section 415(h). Under the special rules contained in subparagraph (2) of this paragraph, the annuity contract is treated as a defined contribution plan maintained by the hospital as well as a defined contribution plan maintained by A. Therefore, because the hospital is also maintaining a qualified defined benefit plan, the limitations of section 415(e) and this section are applicable to A for the annuity contract and the defined benefit plan maintained by the hospital in the current limitation year.

(i) *Special rules for individual retirement plans.* For purposes of section 415, and individual on whose behalf an individual retirement plan (as described in section 7701(a)(37)) is maintained is considered to have exclusive control of such plan. Therefore, the individual is treated as maintaining such plan. However, if that individual is in control of any employer within the meaning of section 414 (b) or (c), as modified by section 415(h), the individual retirement plan for the benefit of such individual is treated as a defined contribution plan maintained by both the controlled employer and such individual.

§ 1.415–8 Combining and aggregating plans.

(a) *In general.* Under section 415(f) and this section, for purposes of applying the limitations of section 415 (b), (c), and (e) applicable to a participant for a particular limitation year—

(1) All qualified defined benefit plans (without regard to whether a plan has been terminated) ever maintained by the employer will be treated as one defined benefit plan, and

(2) All qualified defined contribution plans (without regard to whether a plan has been terminated) ever maintained by the employer will be treated as one defined contribution plan.

(b) *Annual compensation taken into account for defined benefit plans.* With respect to a particular limitation year, if more than one qualified defined benefit plan is being aggregated under paragraph (a) of this section during that year, the defined benefit compensation limitation (as described in section 415(b)(1)(B)) applicable with respect to any participant is applied separately to the projected annual benefit (as defined in § 1.415–3(b)(2)) payable to the participant under each qualified defined benefit plan. In applying the defined benefit compensation limitation to the projected annual benefit of a participant under each plan, the participant's high 3 years of compensation is determined in accordance with § 1.415–3(a)(3).

(c) *Affiliated employers.* Any qualified defined benefit plan or qualified defined contribution plan maintained by any member of a controlled group of corporations (within the meaning of section 414(b) as modified by section 415(h)) or by any trade or business (whether or not incorporated) under common control (within the meaning of section 414(c) as modified by section 415(h)) is deemed maintained by all such members or such trades or businesses.

(d) *Section 403(b) annuity contracts—*(1) *In general.* in the case of an annuity contract described in section 403(b), except as provided in subparagraph (2) of this paragraph, the participant on whose behalf the annuity contract is purchased is considered to have exclusive control of the annuity contract. Accordingly, the participant, and not the participant's employer who purchased the section 403(b) annuity contract, is deemed to maintain the annuity contract.

(2) *Special rules under which the employer is deemed to maintain the annuity contract.* If a participant on whose behalf a section 403(b) annuity contract is purchased has elected to have the provisions of section 415(c)(4)(C) and § 1.415–6(e)(5) apply for a taxable year, the annuity contract is treated as a defined contribution plan maintained by both the employer that purchased the annuity contract and the participant on whose behalf it was purchased for the limitation year which ends during such taxable year. Even if the election under section 415(c)(4)(C) is not made, where a participant, on whose behalf a section 403(b) annuity contract is purchased, is in control of any employer within the meaning of section 414 (b) or (c) as modified by section 415(h) for a limitation year, the annuity contract for the benefit of the participant is treated as a defined contribution plan maintained by both the controlled employer and the participant for that limitation year. Thus, for example, if a doctor is employed by an educational organization which provides him with a section 403(b) annuity contract and also maintains a private practice as a shareholder owning at least 50 percent of a professional corporation, any qualified defined contribution plan of the professional corporation must be combined with the section 403(b) annuity contract for purposes of applying the limitations of section 415(c) and § 1.415–6. For purposes of this paragraph, it is immaterial whether the section 403(b) annuity contract is purchased as a result of a salary reduction agreement between the employer and the participant.

(e) *Multiemployer plans.* Multiemployer plans, as defined in section 414(f), shall not be aggregated with other multiemployer plans. However, where an employer maintains both a plan which is not a multiemployer plan and a multiemployer plan, the plan which is not a multiemployer plan shall be aggregated (based on its limitation year) with the multiemployer plan to the extent that benefits provided under the multiemployer plan are provided by such employer with respect to a common participant. See § 1.415–1(e)(2) for a rule relating to the computation of the benefits provided by an employer under a section 414(f) multiemployer plan.

(f) *Special rules for combining certain plans, etc.* If a plan, annuity contract or arrangement is subject to a special limitation in addition to, or instead of, the regular limitations described in section 415 (b) or (c), and is combined under this section with a plan which is subject only to such limitations, the following rules shall apply:

(1) Each plan, annuity contract or arrangement must meet the applicable specific limitations.

(2) The combined limitations shall be the larger of the applicable specific limitations.

(g) *Special priority rule for TRASOP's.* For a special rule concerning allocations to a participant's account under an Employee Stock Ownership Plan under section 301(d) of the Tax Reduction Act of 1975, see § 1.46–8(d)(6)(v).

(h) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). M is an employee of ABC Corporation and XYZ Corporation. ABC maintains a qualified noncontributory defined benefit plan in which M participates and XYZ maintains a qualified defined contribution plan in which M participates. ABC Corporation and XYZ Corporation are members of a controlled group of corporations within the meaning of section 414(b) as modified by section 415(h). Because ABC Corporation and XYZ Corporation are members of a controlled group of corporations within the meaning of section 414(b) as modified by section 415(h), M is treated as being employed by a single employer. Thus, M's projected annual benefit under the defined benefit plan maintained by ABC may not exceed the limitations of section 415(b) and § 1.415–3; the annual additions to M's account under the defined contribution plan maintained by XYZ may not exceed the limitations of section 415(c) and § 1.415–6; and, in addition, the two plans may not exceed the limitations of section 415(e) and § 1.415–7.

Example (2). Assume the same facts as in example (1), except that the qualified defined benefit plan maintained by ABC Corporation provides for employee contributions (whether mandatory or voluntary). Under § 1.415–3(d), ABC Corporation will be considered to be maintaining a defined contribution plan consisting of M's contributions to the defined benefit plan. For purposes of applying the limitations of section 415(e) and § 1.415–7, the qualified defined benefit plan maintained by ABC must be combined with the defined contribution plan which ABC is considered to maintain. In addition, because corporations ABC and XYZ are members of a controlled group of corporations (within the meaning of section 414(b), as modified by section 415(h)), for purposes of applying the limitations of section 415(c) and § 1.415–6, the qualified defined contribution plan maintained by XYZ must be combined with the define contribution plan which ABC is considered to be maintaining and the defined contribution plans (as combined) must be aggregated with the qualified defined benefit plan maintained by ABC for purposes of the limitations imposed by section 415(e) and § 1.415–7.

§ 1.415–9 Disqualification of plans and trusts.

(a) *In general.* Under section 415(g) and this section, with respect to a particular limitation year, a plan (and the trust forming part of the plan) is disqualified in accordance with the rules provided in paragraph (b) of this section, if any of the following conditions exist:

(1) Annual additions (as defined in § 1.415–6(b)) with respect to the account of any participant in a qualified defined contribution plan maintained by the employer exceed the limitations of section 415(c) and § 1.415–6.

(2) The projected annual benefit (as defined in § 1.415–3(b)(2)) payable with respect to any participant in a qualified defined benefit plan maintained by the employer exceeds the limitations of section 415(b) and § 1.415–3.

(3) The combination of annual additions with respect to the account of any participant in a qualified defined contribution plan and the projected annual benefit payable with respect to such participant in a qualified defined benefit plan maintained by the employer exceeds the limitations of section 415(e) and § 1.415–7.

For purposes of this paragraph, the determination of whether a plan or a combination of plans exceeds the limitations imposed by section 415 for a particular limitation year is, except as otherwise provided, made by taking into account the aggregation of plan rules provided in sections 415(f) and 414 (b) and (c) (as modified by section 415(h)).

(b) *Rules for disqualification of plans and trusts—*(1) *In general.* Any plan (including a trust which forms part of such plan) that is disqualified in a particular limitation year under the rules set forth in this paragraph, shall be disqualified as of the first day of the first plan year containing any portion of the particular limitation year.

(2) *Single plan.* In the case of a single qualified defined benefit plan maintained by the employer that provides a projected annual benefit (as defined in § 1.415–3(b)(2)) payable with respect to any participant in excess of the limitations of section 415(b) and § 1.415–3 for any particular limitation year, such plan is disqualified in that limitation year. Similarly, if the employer only maintains a single defined contribution plan under which annual additions (as defined in § 1.415–6(b)) allocated to the account of any participant exceed the limitations of section 415(c) and § 1.415–6 for any particular limitation year, such plan is also disqualified in that limitation year.

(3) *More than one plan.* In the event that the limitations of section 415(b) and

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§ 1.415–3, or section 415(c) and § 1.415–6 are exceeded for a particular limitation year with respect to any participant because of the application of the aggregation rules of section 415(f)(1) or section 414 (b) or (c), as modified by section 415(h), one or more of the plans shall be disqualified in accordance with the rules set forth in this subparagraph. Similarly, if the limitations of section 415(e) and § 1.415–7 are exceeded for a particular limitation year with respect to any participant because of the application of such aggregation rules (although if an individual participates in a defiend contribution and defined benefit plan maintained by the same employer, these limitations may be exceeded even without the application of such aggregation rules), one or more of the plans shall be disqualified in accordance with the following rules:

(i) If there are two plans and one of the plans has been terminated at any time including the last day of the particular limitation year, the plan which has not been so terminated (whether or not that plan is a multiemployer plan described in section 414(f)) is disqualified in that limitation year.

(ii) If there are two plans and neither plan has been terminated at any time including the last day of the particular limitation year, and if one of the plans is a multiemployer plan described in section 414(f), the plan which is not a multiemployer plan is disqualified in that limitation year. For purposes of the preceding sentence, the determination of whether a plan is a multiemployer plan described in section 414(f) is made as of the last day of the particular limitation year.

(iii) If there are two plans of an employer and neither plan has either been terminated at any time including the last day of the particular limitation year or determined to be a multiemployer plan described in section 414(f) as of such day, the employer may elect, in a manner determined by the Commissioner, the plan that is disqualified. If the two plans described in this subdivision are involved because of the application of section 414 (b) or (c), as modified by section 415(h), the employers of the controlled group may elect, in a manner determined by the Commissioner, the plan that is disqualified. However, the election described in the preceding sentence is not effective unless made by all of the employers within the controlled group. For purposes of this subdivision, the elected plan is disqualified in the particular limitation year.

(iv) If the election described in subdivision (b)(3)(iii) of this paragraph is not made with respect to the two plans described in such subdivision, the Commissioner, taking into account all of the facts and circumstances, shall have the discretion to determine the plan that is disqualified in the particular limitation year. In making this determination, some of the factors that will be taken into account include, but are not limited to, the number of participants in each plan and the amount of benefits provided on an overall basis by each plan.

(v) If more than two plans are involved, a plan or plans shall be disqualified in the particular limitation year in accordance with the principles contained in this subparagraph.

(4) *Special rules for simplified employee pension.* If there are two or more plans and if one of the plans is a simplified employee pension (as defined in section 408(k)), the simplified employee pension shall not be disqualified until all of the other plans have been disqualified. However, if one of the plans has been terminated, the simplified employee pension shall be disqualified before the terminated plan. For purposes of this subparagraph, the disqualification of a simplified employee pension means that the simplified employee pension is no longer described under section 408(k).

(c) *Special rules concerning section 403(b) annuity contracts*—(1) *In general.* If aggregating or combining a section 403(b) annuity contract and a qualified plan causes the applicable limitations of section 415 to be exceeded, the exclusion allowance under section 403(b)(2) shall be adjusted first to the extent necessary to satisfy such limitations.

(2) Aggregating section 403(b) annuity contract and qualified defined benefit plan. In the event that aggregating a section 403(b) annuity contract and a qualified defined benefit plan causes the limitations of section 415(e) and § 1.415–7 to be exceeded with respect to a participant for a particular limitation year, the amount of the contribution to the annuity contract in excess of such limitations is treated as a disqualified contribution and therefore includable in the gross income of the participant for the taxable year with or within which that limitation year ends. Furthermore, for purposes of computing the exclusion allowance under section 403(b)(2)(A) for future taxable years with respect to such participant, the disqualified contribution is treated as an amount contributed by the employer for an annuity contract which was excludable from the participant's gross income under section 403(b)(2)(A)(ii). Thus, for future taxable years, the exclusion allowance will be reduced by the amount of the disqualified contribution even though such amount was not excludable from the participant's gross income in the taxable year when it was made. See § 1.415–7(c)(2) for special rules relating to the defined contribution plan fraction applicable to an individual on whose behalf a section 403(b) annuity contract has been purchased.

(3) *Combining section 403(b) annuity contract and qualified defined contribution plan.* In the event that combining a section 403(b) annuity contract and a qualified defined contribution plan under the provisions of section 415(f)(1)(B) causes the limitations of section 415(c) and § 1.415–6 applicable to a participant under the defined contribution plan to be exceeded for a particular limitation year, the excess of the contributions to the annuity contract plus the annual additions to the plan over such limitations is treated as a disqualified contribution to the annuity contract and therefore includable in the gross income of the participant for the taxable year with or within which that limitation year ends. Furthermore, for purposes of computing the exclusion allowance under section 403(b)(2)(A) for future taxable years with respect to such participant, the disqualified contribution is treated as an amount contributed by the employer for an annuity contract which was excludable from the participant's gross income under section 403(b)(2)(A)(ii). Thus, for future taxable years, the exclusion allowance will be reduced by the amount of the disqualified contribution even though such amount was not excludable from the participant's gross income in the taxable year when it was made.

(4) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). N is employed by a hospital which purchases an annuity contract described in section 403(b) on N's behalf for the current limitation year. The current limitation year is N's first year of service with the hospital. N is in control of the hospital within the meaning of section 414 (b) or (c), as modified by section 415(h). Therefore, under section 415(e)(5), the section 403(b) annuity contract is treated as a defined contribution plan maintained by the hospital and N. The hospital also maintains a qualified defined contribution plan during the current limitation year in which N participates, but it does not maintain any other qualified plan. N's compensation (within the meaning of § 1.415–2(d)) from the hospital for the current limitation year is $20,000. N does not elect any of the alternative limitations provided in section 415(c)(4) for the section 403(b) annuity contract. For the current limitation year, the hospital contributes $3,000 for the section 403(b) annuity contract on N's behalf, which is within the limitations applicable to N under the annuity contract (i.e., the lesser of the exclusion allowance under section 403(b)(2)(A) ($4,000) or the limitations of section 415(c)(1) ($5,000)). The hospital also contributes $3,000 to the qualified plan on N's behalf for the current limitation year (which represents the only annual additions allocated to N's account under the plan for such year), which is within the $5,000 limitation of section 415(c)(1) applicable to N under the plan. However, under section 415(f)(1)(B), for purposes of applying the limitations of section 415(c) and § 1.415–6, the hospital is considered to be maintain only one defined contribution plan and thus, all contributions to the annuity contract and to the regular plan must be combined. Because the total combined contributions ($6,000) exceed the section 415(c) limitation applicable to N under the plan ($5,000), under the special rules contained in this paragraph, $1,000 of the $3,000 contributed to the section 403(b) annuity contract is considered a disqualified contribution and therefore currently includable in N's gross income. Furthermore, in computing N's exclusion allowance for the section 403(b) annuity contract for future taxable years, besides the $3,000 contributed to the qualified plan, the $3,000 contributed for the section 403(b) annuity contract is also considered an amount contributed by the employer and excludable from N's gross income for purposes of section 403(b)(2)(A)(ii), even though only $2,000 of this amount was excludable from N's gross income.

Example (2). Assume the same facts as in example (1), except that instead of the defined contribution plan the hospital maintains a qualified defined benefit plan during the current limitation year in which N participates. Because the hospital is considered to be maintaining a defined contribution plan (in the form of a section 403(b) annuity contract) in addition to its defined benefit plan, the limitations of section 415(e) and § 1.415–7 are applicable to N for the current limitation year. If N's defined benefit plan fraction for the current limitation year is 1.0, then to satisfy the limitations of section 415(e) and § 1.415–7, N's defined contribution plan fraction may not exceed .4 for the current limitation year. This means that only $2,000 (i.e. 40% of $5,000—the applicable limitation to N for the annuity contract under the special rule set forth in § 1.415–7(c)(2)(i)) could have been contributed to the annuity contract on N's behalf for the current limitation year without violating the 1.4 limitation of section 415(e) and § 1.415–7. However, because the hospital contributed $3,000 to the section 403(b) annuity contract on N's behalf, under the special rules contained in this paragraph, $1,000 of this amount is considered a disqualified contribution and therefore currently includable in N's gross income. Furthermore, in computing N's exclusion allowance for the section 403(b) annuity contract for future taxable years, the $3,000 contributed to the annuity contract is considered the amount contributed by the employer and excludable from N's gross income for purposes of section 403(b)(2)(A)(ii), even though only $2,000 of this amount was excludable from N's gross income.

§ 1.415–10 Special aggregation rules.

(a) *General rules relating to aggregation of plans during limitation year*—(1) *Scope of aggregation rules.* This section provides rules for those situations in which two or more existing plans, which previously were unaggregated, are aggregated during a particular limitation year after the effective date of section 415 and these regulations, and as a result, the limitations of section 415 (b), (c) or (e) are exceeded for that limitation year. The rules described in this section are also applicable with respect to the aggregation of benefits under a multiemployer plan described in section 414(f) that previously were not required to be aggregated.

(2) *Controlling date of aggregation.* For purposes of this section, plans which are not aggregated as of the first day of a limitation year will not be considered aggregated for that limitation year. Notwithstanding the preceding sentence, if a section 403(b) annuity contract is aggregated with a qualified plan because of the election by the individual on whose behalf the annuity contract is purchased to have the provisions of section 415(c)(4)(C) apply for the taxable year, the annuity contract and the plan are deemed to be aggregated as of the first day of the limitation year ending with or within such taxable year.

(3) *Aggregation of additions and benefits.* If plans are aggregated under this section, the following rules shall apply:

(i) All annual additions credited to a participant's account under a defined contribution plan prior to the aggregation of such plan shall be taken into account in computing the participant's defined contribution plan fraction for purposes of applying the limitations of section 415(e) to the aggregated plans.

(ii) The projected annual benefit of a participant under a defined benefit plan prior to the aggregation of such plan shall be taken into account for purposes of applying the limitations of section 415(b) or section 415(e) to the aggregated plans.

(iii) For a special rule relating to the aggregation of contributions to a section 403(b) annuity contract upon the aggregation of the annuity contract with a qualified plan, see § 1.415–7(h)(4)(i).

(b) *Aggregation of defined benefit plans.* In the case of an individual who is a participant in two or more defined benefit plans and with respect to whom the limitations of section 415(b) and § 1.415–3 are exceeded for a particular limitation year because of the aggregation of the plans for that limitation year, the limitations of section 415(b) and § 1.415–3 may be exceeded for that limitation year and for future limitation years provided that there is no increase in the participant's accrued benefit derived from employer contributions during the period within which these limitations are being exceeded.

(c) *Aggregation of defined benefit and defined contribution plan.* In the case of an individual who has at any time participated in a defined benefit plan and also has at any time participated in a defined contribution plan and with respect to whom the limitations of section 415(e) and § 1.415–7 are exceeded for a particular limitation year because of the aggregation of the plans for that limitation year, the limitations of section 415(e) and § 1.415–7 may be exceeded for that limitation year and for future limitation years provided that the following conditions are complied with during that period:

(1) The participant's accrued benefit derived from employer contributions in the defined benefit plan is not increased.

(2) No employer contributions are allocated to the participant's account under any defined contribution plan.

(3) No forfeitures arising under any defined contribution plan are allocated to the participant's account.

(4) No voluntary employee contributions are made by the participant under any defined benefit or defined contribution plan.

(5) No mandatory employee contributions are made by the participant under any defined contribution plan.

(d) *Limitation year for aggregated plans.* If the plans which are aggregated under this section have different limitation years, subparagraph (1) or (2) of this paragraph must be complied with.

(1) The relevant employer or employers must elect the limitation year that is to be controlling. This election shall be made by the adoption of a written resolution by the employer or employers. See § 1.415–2(b)(4) for rules relating to a change in the limitation year.

(2) The employer or employers may continue to use different limitation years for each plan in accordance with rules determined by the Commissioner.

If, in accordance with paragraph (d)(1) of this section, one limitation year is elected, and if the plans which are aggregated covered at least one common

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participant prior to being aggregated, that limitation year shall be applicable for past years for purposes of computing the defined contribution fraction for those years. For special rules relating to the computation of the defined contribution plan fraction where records are not available for past periods, see § 1.415–7(f).

(e) The provisions of this section may be illustrated by the following examples:

Example (1). J is an employee of two unrelated corporations, N and M. Each corporation has a qualified defined benefit plan in which J participates. Each plan provides a benefit which is equal to 75 percent of a participant's average compensation for his high 3 years of service and is payable in the form of a straight life annuity beginning at age 65. J's average compensation (within the meaning of § 1.415–2(d)) for his high three years of service from each corporation is $80,000. Each plan uses the calendar year for the limitation and plan year. In July, 1978, N Corporation becomes a wholly owned subsidiary of M Corporation, and as a result, J is treated as being employed by a single employer under section 414(b). Therefore, because section 415(f)(1)(A) requires that all defined benefit plans of an employer be treated as one defined benefit plan, the two plans must be aggregated for purposes of applying the limitations of section 415. (Although, under paragraph (a)(2) of this section, since the plans were not aggregated as of the first day of the 1978 limitation year (January 1, 1978), they will not be considered aggregated until the limitation year beginning January 1, 1979.) As a result of such aggregation, J becomes entitled to a combined benefit which is equal to $120,000, which is in excess of the section 415(b) dollar limitation for 1979 of $96,100. However, under paragraph (b) of this section, the limitations of section 415(b) and § 1.415–3 applicable to J may be exceeded in this situation without plan disqualification, so long as J's accrued benefit derived from employer contributions is not increased during the period within which the limitations are being exceeded.

Example (2). A, age 30, owns all of the stock of X Corporation and also owns 10 percent of the stock of Z Corporation. F, A's father, directly owns 75 percent of the stock of Z Corporation. Both corporations have qualified defined contribution plans in which A participates and both plans use the calendar year for the limitation and plan year. A's compensation (within the meaning of § 1.415–6(a)(3)) for 1976 is $40,000 from Z Corporation and $150,000 from X Corporation. During 1976, annual additions of $10,000 are credited to A's account under the plan of Z Corporation, while annual additions of $26,825 are credited to A's account under the plan of X Corporation. In both instances, the amount of annual additions represent the maximum allowable under section 415(c) and § 1.415–6. On July 15, 1976, F dies, and A inherits all of F's stock in Z in 1976. Because under section 414(b), A is considered to be in control of X and Z Corporation, the two plans must be aggregated for purposes of applying the limitations of section 415. However, even though A's total annual additions for 1976 are $36,825, the limitations of section 415(c) and § 1.415–6 are not violated for 1976, because, under paragraph (a)(2) of this section, the two plans are considered separate plans for that year since they were not aggregated as of the first day of that year.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80–20046 Filed 1–16–80; 11:41 am]

BILLING CODE 4830–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–5725]

National Flood Insurance Program; Withdrawal of Proposed Flood Elevation Determinations for City of Elmira, Chemung County, N.Y.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Federal Insurance Administration has erroneously published at 44 FR 64459 on November 7, 1979, the proposed flood elevation determinations for the City of Elmira, Chemung County, New York. This notice will serve to withdraw that publication. A new notice of proposed flood elevation determinations will be published in the near future.

EFFECTIVE DATE: January 24, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872, (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Room 5150, 451 Seventh Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: As the result of a recent engineering analysis, the Federal Insurance Administration has determined that the notice of proposed rule for the City of Elmira, Chemung County, New York, published at 44 FR 64459 on November 7, 1979, should be withdrawn. After a technical review, a new notice of proposed flood elevation determination will be published.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

FR Doc. 80–2291 Filed 1–23–80; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 67

[Docket No. FI–5665]

National Flood Insurance Program; Proposed Flood Elevation Determinations Revision; Winnebago County, Ill.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Revision of proposed rule.

SUMMARY: The notice published on July 23, 1979, at 44 FR 43008 should be revised in part to correctly correspond with the Flood Insurance Study for Winnebago County, Illinois.

EFFECTIVE DATE: January 24, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872, (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Room 5150, 451 Seventh Street, S.W., Washington, D. C. 20410.

SUPPLEMENTARY INFORMATION: The notice previously published on July 23, 1979, at 44 FR 43008 should be revised in part to correctly correspond with the Flood Insurance Study for Winnebago County, Illinois. The revisions, which reflect a lowering of elevations, are as follows:

Source of Flooding	Location	*Elevation in Feet (NGVD)
South Branch Dry Creek	Confluence with Dry Creek	*733
North Branch Otter Creek	Upstream Field Road.....	*770
	Upstream of Rock Grove Road	*783

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: January 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–2292 Filed 1–23–80; 8:45 am]

BILLING CODE 6718–03–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 42 and 93

[CGD 76–080]

Hopper Dredges; Load Line and Stability Requirements

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This supplemental notice corrects an inadvertent deletion from the proposed rule published under this docket number at 44 FR 70791 on December 10, 1979. This supplemental notice reflects what the Coast Guard proposes regarding bottom penetration damage stability calculations.

DATES: Comments must be received on or before March 10, 1980.

ADDRESSES: Comments should be mailed to Commandant (G–CMC/24), (CGD 76–080), U.S. Coast Guard, Washington, D.C. 20593. Between the hours of 7:30 a.m. and 4:30 p.m., Monday through Thursday; comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G–CMC/24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: Mr. Donald L. Ewing, Commandant (G–MMT–5), U.S. Coast Guard, 2100 Second St., SW., Washington, D.C. 20593 (202) 426–2187.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this rulemaking in submitting written data, views, or arguments. Each comment should include the name and address of the person submitting the comments, reference the docket number (CGD 76–080), identify the specific section of the proposal to which each comment applies, and include sufficient detail to indicate the basis on which each argument is made. If an acknowledgment is desired, a stamped, addressed postcard should be enclosed. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this proposal are Mr. D. L. Ewing, Project Manager, Office of Merchant Marine Safety, and LT Jack Orchard, Project Counsel, Office of the Chief Counsel.

Discussion of the Notice

At 44 FR 70795, published on December 10, 1979, bottom penetration damage stability calculations were published regarding penetrations made at any position forward of a point 0.3L aft of the forward perpendicular. A paragraph containing information regarding bottom penetrations at positions aft of a point 0.3L aft of the forward perpendicular was inadvertently omitted. This information is provided by this supplemental notice.

In consideration of the foregoing, the Coast Guard proposes to amend Chapter I of Title 46, Code of Federal Regulations as follows:

1. By adding a new § 93.40–20(d)(2)(ii) to read as follows:

§ 93.40–20 Damage stability calculations.

* * * * *

(d) * * *

(2) * * *

(ii) At any position aft of a point 0.3L aft of the forward perpendicular:

(A) Longitudinal extent: L/10 or 5 m (16.4 ft.), whichever is shorter.

(B) Transverse extent: B/6 or 5 m (16.4 ft.), whichever is shorter.

(C) Vertical extent (from the molded line of the shell at the center line): B/15 or 2m (6.6 ft), whichever is shorter.

* * * * *

(Sec. 1, 49 Stat. 888; as amended (46 U.S.C. 88); sec. 1, 33 Stat. 1022, as amended (46 U.S.C. 375); sec. 1, 2, 49 Stat. 1544, 1545, as amended, (46 U.S.C. 367); 49 CFR 1.46(b).)

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

January 17, 1980.

[FR Doc. 80–2299 Filed 1–23–80; 8:45 am]

BILLING CODE 4910–14–M

Federal Highway Administration

49 CFR Part 395

[BMCS Docket No. MC–90; Notice No. 80–1]

Hours of Service of Drivers

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Request for public comments.

SUMMARY: A petition was filed in September of 1979 with the Federal Highway Administration by owner-operator participants of a White House established Ad Hoc Working Group. The petitioning truck drivers requested that the Administrator take action to suspend the present log book requirements and expand the present hours of service. The petitioners further requested that these changes be made immediately. The purpose of this Notice is to announce denial of the immediacy of the petition, but at the same time give the public an opportunity to comment on the merit of the petition to expand the present hours of service limits.

DATE: Comments must be received on or before May 23, 1980.,

ADDRESS: Submit comments, preferably in triplicate, to BMCS Docket No. MC–90. Notice No. 80–1, Room 3402, Bureau of Motor Carrier Safety (BMCS), 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald J. Davis, Chief, Development Branch, Regulations Division, Bureau of Motor Carrier Safety, (202) 426–0767, or Mr. Gerald M. Tierney, Attorney, Motor Carrier and Highway Safety Law Division, (202) 426–0346, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The cut off of Iranian crude oil coming on top of an already tight fuel supply situation produced serious widespread shortages of both gasoline and diesel fuel. These shortages and the accompanying escalation in fuel prices created severe economic pressures on a number of industries, including the independent owner-operators of the motor carrier industry. As a result, several representatives of the independent truck owner-operators were invited to the White House to discuss their problems.

To follow-up on those discussions the White House directed that working parties of owner-operator representatives and the appropriate Government officials be established by the Department of Transportation (DOT). Consequently, and Ad Hoc Working Group on Truck Owner-Operator Problems was formed. The DOT was charged with examining the general problems of all independent truckers.

One of the actions developed as a result of meetings of the working group was a petition filed by the owner-operator participants. The petition requested that the Administrator of the Federal Highway Administration take emergency action to suspend the present log book requirements and replace them with a check-off, time-in and time-out, system on bills of lading and to expand the permissible driving hours not to exceed 12 hours in one 24-hour period and no more than 96 hours spent on duty in an 8-day period. It was further stipulated that these changed be acted upon immediately without complying with the notice and comment requirements of the Administrative Procedures Act (APA), 5 U.S.C. 553.

The petitioners request that the scope would be "those independent truck

operators involved in the transport of interstate commerce, whether they be leased to a carrier, are a small fleet carrier or drive for a small fleet, are a company driver *or* to any of those drivers who are governed by present regulations that this emergency authority would suspend whether they be regulated or unregulated."

It is the opinion of the owner-operators that the (1) rise in cost of fuel (2) cost of maintaining, servicing and driving their vehicles and (3) cost of complying with Federal regulations forced 20 percent of the owner-operators out of business, and that these are reasons to evoke emergency administrative action.

With respect to log book requirements, the petitioners claim the log books are unwieldy, cost money, are not in the present spirit of paperwork reduction, cannot be complied with, constitute an invasion of individual privacy under the Fifth Amendment, and are unenforceable since thousands of owner-operators as well as other truckers violate the requirements daily and are not investigated.

The petitioners feel that increasing the allowable hours of service they could drive would result in increased revenue. Their figure for the increased revenue is roughly figured at "$100 per day for one owner-operator; $20,000 per driver a year; and 4.4 billion dollars per year over the entire industry."

The petitioners feel that the 55 m.p.h. speed limit has hurt the owner-operator especially and that they have suffered due to unfair competitive practices. They also feel that driving conditions have improved over the years due to wider highways, improved roads, and improved vehicles thereby reducing accidents.

Accordingly, comments are respectfully requested on the issues set forth above. The petition is available in its entirety in the public docket and may be reviewed by contacting Mr. Gerald J. Davis of the program office at the address specified above.

With respect to the request that the proposed amendments be acted upon immediately, the Administrative Procedures Act (5 U.S.C. 551 et seq.), Executive Order 12044 (43 FR 12661, Mar. 23, 1978), and agency policy dictate an opportunity for public comment whenever it can be reasonably accomplished. In addition, although the safety implications of the "emergency" action requested are not yet fully understood, they could be significant and need to be evaluated further.

Accordingly, the immediacy of the petition is hereby denied. However, while the immediate nature of the petitioners' demands is not felt to be justified, the FHWA is still open to considering whether any remedial action is necessary on the basis of the points presented in the petition.

Specifically, comments are requested from motor carriers, company drivers, other owner-operators and the public on the following:

1. The safety effects of expanding the hours of service not to exceed 12 hours in one 24-hour period and no more than 98 hours spent on duty in an 8-day period.

2. The petitioners' suggestion of using a check-off time-in and time-out system on bills of lading for controlling the driver's hours to ensure that limits are not exceeded.

3. The petitioners' financial references set forth in the petition concerning the opinion that increasing the allowable hours of service would generate increased revenue for the industry.

(49 U.S.C. 304 and 1655; 49 CFR 1.48(b) and 301.60)

Issued on: January 14, 1980.

Robert A. Kaye,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 80-1983 Filed 1-23-80; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Withdrawal of Three Expired Proposals for Listing of Nine Species of Fishes and one Species of Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of withdrawal of three expired proposed rules.

SUMMARY: As amended November 10, 1978, the Endangered Species Act mandatorily withdraws proposed rules to list species which have not been finalized within two years of the proposal. The amended Act also authorized a one-year suspension of all withdrawals, until November 10, 1979. The time limits have expired for 9 fishes and one toad and this constitutes notice of their withdrawal.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

Section 4(f)(5) of the Endangered Species Act of 1973, as amended November 10, 1978, states that:

A final regulation adding a species to any list published pursuant to subsection (c) shall be published in the **Federal Register** not later than two years after the date of publication of notice of the regulation proposing such two year period, the Secretary shall withdraw the proposed regulation and shall publish notice of such withdrawal in the **Federal Register** not later than 30 days after the end of such period. The Secretary shall not propose a regulation adding to such a list any species for which a proposed regulation has been withdrawn under this paragraph unless he determines that sufficient new information is available to warrant the proposal of a regulation. No proposed regulation for the listing of any species published before the date of the enactment of the Endangered Species Act Amendment of the Endangered Species Act Amendments of 1978 shall be withdrawn under this paragraph before the end of the one-year period beginning on such date of enactment.

The two-year time limit on proposals and one-year period on suspension of withdrawals which were established in this subsection have expired for the three proposed rules indicated below:

—Proposed Threatened status and Critical Habitat for the black toad * * * March 11, 1977 * * * 42 FR 13567-12.

—Proposed Endangered status and Critical Habitat for 4 fishes * * * November 29, 1977 * * * 42 FR 60765-68.

—Proposed Endangered status and Critical Habitat for 5 fishes * * * December 30, 1977 * * * 42 FR 65209-12.

In accord with section 4(f)(5), all species in these proposed rules were withdrawn on November 10, 1979, November 29, 1979 and December 30, 1979 respectively.

This action gives notice of the withdrawal of 9 fishes and one toad. These species occur in the states of Alabama, Arkansas, California, Georgia, North Carolina and Tennessee.

This notice is issued under the authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*: 87 Stat. 884, 92 Stat. 3751).

The primary author of this notice is Dr. James D. Williams, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1975).

Dated: January 21, 1980.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 80-3264 Filed 1-23-80; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 45, No. 17
Thursday, January 24, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Loans and Grants; Rural Rental Housing Policies, Procedures, and Authorizations; Memorandum of Understanding Between Farmers Home Administration and Administration on Aging

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: The Farmers Home Administration (FmHA) gives notice of reopening competition for participation in the joint Farmers Home Administration (FmHA) and Administration on Aging (AoA) demonstration effort to provide congregate housing with adequate support services for Carroll County, New Hampshire.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence D. Hammond, Room 5325, South Agriculture Building, 14th and Independence, SW., Washington, D.C. 20250, telephone 202-447-7207.

SUPPLEMENTARY INFORMATION: On May 18, 1979, FmHA published in the **Federal Register** (44 FR 29131) the selection of the 10 counties for a demonstration effort and invited interested parties to participate in this program as applicants under FmHA's Section 515 rural rental housing program. Applications were received, evaluated and selections made by the Administrator, Farmers Home Administration. Subsequent to the conclusion of this competition, the selected applicant for Carroll County, New Hampshire, withdrew from this demonstration effort. Therefore, FmHA has decided to readvertise for participation in this demonstration effort for Carroll County, New Hampshire and has reserved $1,000,000 for this purpose. AoA has also reserved $85,000 for each year of the 3-year program to support the services component of the Congregate Housing project.

Parties interested in participating in this program as applicants under FmHA's Section 515 rural rental housing program should contact the State Director with jurisdiction for New Hampshire at 141 Main Street, Post Office Box 588, Montpelier, VT 05602.

A. All applicants proposals for funding shall be submitted to the FmHA District Office or County Office for Carroll County.

B. All applications must contain the information prescribed in Exhibits F-6 and F-7 of Subpart D of Part 1822, Chapter XVIII, Title 7, Code of Federal Regulations.

C. The following additional requirements must be met and submitted with the preapplication to assure that housing facilities and the applicant can meet the requirements needed for this National demonstration effort:

1. *Community Involvement in the Planning and Development of the Project:* Each applicant must provide a letter from the chief elected official of the proposed community indicating that community's support of the proposed project. The applicant will also provide a narrative on the manner in which it will work with local concerned citizens, prospective occupants, local lenders and public officials in the planning, design, location and support services program for the project.

2. *Involvement of the Area Agency on Aging.*—Each applicant will be required to cooperate fully with the Area Agency on Aging in the developmental stages of the application and later in the operational stages of the project. Each applicant will, at the time the preapplication is submitted, indicate how it plans to work with the Area Agency on Aging. In New Hampshire, the State Agency on Aging serves also as an Area Agency. That Agency may be contacted by writing or calling: Mrs. Claire A. Monier, Director, New Hampshire Council on Aging, 14 Depot Street, Concord, NH 03301, 603-271-2751.

3. *Site Location.*—Each site for this National Demonstration Program must be identified and owned, optioned or otherwise under the control of the applicant at the time the preapplication is submitted. Thus, proof of this requirement must be included. Furthermore, a site analysis must be submitted showing where the site is located relative to services within the general areas such as shopping center, medical facilities, banks, etc., and activities immediately surrounding the site. Evidence from the appropriate local official will be provided indicating that the proposed site is in compliance with zoning regulations and is otherwise acceptable to the community for the proposed purpose. Utilities that will be available to the site will be identified (public sewer, water, natural gas, etc).

4. *Architectural Design Concepts.*—Each applicant is required to obtain the services of a qualified architect to design the project. For the preapplication, complete working drawings should not be developed. However to provide FmHA and AoA with basic understanding of how the architect proposes to design the project, preliminary (schematic) drawings, submitted with the preapplication should be detailed enough to show how the building(s) will be located on the site, the number and size of units, and the location and size of space(s) that will be provided for the support services.

This information must be accompanied by an Architectural Program Narrative that describes the characteristics of the elderly population being served by the specific facility as well as the methodology by which specific user needs will be addressed by the architect in the development of the preliminary plans. At a minimum, these needs should address issues of the use of: interior and exterior space, security, recreation, provisions for individuality within living units, access to facilities from surrounding areas, and how the design will provide an aesthetically pleasing environment—thus preventing a sense of institutionalization on the part of the residents and promoting independent life styles. Further, the applicant should include a statement of qualifications and experiences of the architect in the design of similar or comparable facilities with the preapplication.

5. *Management Plans.*—A detailed management plan identifying the manager and his/her background and qualifications must be provided. The management plan should address the goals, objectives and operations of a congregate facility. The management plan should include the working

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agreement with the Area Agency on Aging, tenant selection criteria, characteristics of the supported services to be provided, provisions for assessing the needs of the tenants, staffing patterns and functions, and planned social and recreational services.

6. *Support Services.*—The applicant should identify the support services to be provided and how they will cooperate with the Area Agency on Aging in accordance with the Memorandum of Understanding both initially and after the 3-year demonstration period. As a minimum each project must provide the following support services:

(a) Meal service—full or partial.

(b) Housekeeping elements for those unable to perform these responsibilities.

(c) Personal care and services for those who need assistance in daily care.

(d) Transportation and other access to essential services; and

(e) Social and Recreational activities.

D. *Selection Criteria.* Preapplications submitted to FmHA must meet the requirements of Subpart D of Part 1822, Chapter XVIII, Title 7, Code of Federal Regulations. Evaluation will be based on the Memorandum of Understanding and the following weighted criteria:

1. Management plan and demonstrated management experience	25
2. Site evaluation, (location, public utilities available, accessibility to essential services; etc)	25
3. Architectural design with specific relevance to the needs of elderly persons	20
4. Support Services plan and the ability of the applicant to work with the Area Agency on Aging	20
5. Overall innovativeness and efficiency of entire proposal	10
Maximum rating	100

E. *Estimated Timetable for funding and final Selection Process.*—

1. January—Interested parties investigate and discuss program with FmHA State Director and State and Area Agency on Aging.

2. February 22—All preapplications to be submitted to FmHA State Director in Final form. FmHA State Director, with the assistance of the State and Area Agency on Aging will perform site visits and prepare written report on each application.

3. March 17—FmHA State Director to submit all preapplications with individual written comments to the National Office.

4. A review committee consisting of persons from FmHA and AoA will review, evaluate, and submit recommendation to Administrator FmHA.

5. FmHA Administrator shall make selection of finalist and notify FmHA State Director. The decision of the Administrator, FmHA shall be final and is not subject to appeal.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by Asst Sec. for Rural Development, 7 CFR 2.70)

Dated: January 15, 1980.

James E. Thornton,

Associate Administrator, Farmers Home Administration.

[FR Doc. 80-2226 Filed 1-23-80; 8:45 am]

BILLING CODE 3410-07-M

Forest Service

Targhee National Forest; Bonneville, Butte, Clark, Fremont, Lemhi, Madison, and Teton Counties, Idaho, and Lincoln and Teton Counties, Wyo.; Intent To Prepare an Environmental Impact Statement for Proposed Forest Land and Resource Management Plan

Pursuant to the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture will prepare an Environmental Impact Statement for the proposed Forest Land and Resource Management Plan for the Targhee National Forest. The Management Plan for the Targhee will encompass 1,797,620 acres.

Preparation of the Plan will follow direction outlined in the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976. The Forest Plan will be prepared according to regulations promulgated by the Secretary of Agriculture. The regulations implement section 6 of the National Forest Management Act of 1976.

The resulting Plan will provide for multiple use and sustained yield of products and services from the Targhee National Forest. The Plan will guide all natural resource management activities and establish management standards and guidelines. It will determine resource management practices, harvesting levels and procedures under the principles of multiple use and sustained yield, and the availability and suitablility of lands for resource management.

The Forest Plan will be selected from among representative alternatives which will include at least: (1) A no-change in existing resource outputs alternative, (2) A range of alternatives that displays possible outputs of resources available at each of several expenditure levels, and (3) Alternatives designed to resolve the identified major public issues and management concerns.

Public participation will be an integral part of the planning process. Small "scoping" meetings to identify issues to be addressed will be held early in the process. Times and places for these meetings will be announced by notices in area newspapers, news releases to news media, and announcements mailed to other agencies, organizations, and individuals known to have interest in management of the Targhee National Forest. Four general meetings will be held in 1980 at the following places: Dubois, Dubois County Courthouse, March 24; St. Anthony, Fremont High School, March 25; Idaho Falls, Eagle Rock Jr. High School, March 26; and Driggs, Driggs Armory, March 27.

Vern Hamre, Regional Forester, is the reponsible official for this plan.

Further information about the planning and Environmental Impact Statement process or comments on the Notice of Intent should be directed to: Robert Williams, Forest Planning Staff Officer, Targhee National Forest, 420 N. Bridge St., St. Anthony, ID 83445, (208) 624-3151.

The estimated date for filing the Draft Environmental Impact Statement is April 1981; and the anticipated date for filing the Final Environmental Statement is October 1981.

Dated: January 14, 1980.

Vern Hamre,

Regional Forester.

[FR Doc. 80-2239 Filed 1-23-80; 8:45 am]

BILLING CODE 3410-11-M

Sugarbush Ski Area Expansion; Green Mountain National Forest, Washington County, Vt.; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of Agriculture, Forest Service, will prepare an environmental impact statement in response to a proposal for expansion of the Sugarbush Ski Area. This proposed expansion involves National Forest and adjacent private lands within the Rochester Ranger District.

Sugarbush Valley, Inc., owns and operates two separate ski areas, Sugarbush and Sugarbush North, with the combined capacity for 5,400 skiers at one time (SAOT). The proposal for expansion decribes linking the two sites by additional development and increasing the capacity to 11,700 SAOT. The expansion is planned to occur over a 15 to 20 year period. An important objective is the creation of a highly focused, destination ski resort with emphasis upon trailside development.

A range of alternatives, broad enough to respond to major issues, concerns and opportunities, will be considered. One alternative will be no additional development on National Forest land. Other alternatives will vary with regard to the level of development and will range from 5,400 to 18,550 SAOT. Alternative locations for ski lifts, ski trails and support facilities will be considered.

Before the environmental analysis is started, Federal, State and local agencies, potential developers and other individuals or organizations who may be interested in or affected by the decision will be invited to participate in identification of: (a) issues to be addressed; (b) issues to be analyzed indepth; and (c) issues which are not significant, or which have been covered by prior environmental review and should be eliminated from detailed study.

It is anticipated that the analysis will require about 18 months. The draft environmental impact statement is scheduled for completion by March 1981 and the final environmental impact statement is scheduled for filing in July 1981.

Steve Yurich, Regional Forester of the Eastern Region, is the responsible official. Questions about the proposed action and environmental impact statement should be directed to Jack Blackwell, Rochester District Ranger (802-767-4777).

Written comments and suggestions concerning this Notice of Intent or on the proposal are encouraged and should be sent to the Forest Supervisor, Green Mountain National Forest, Rutland, Vermont 05701, by April 15, 1980.

James H. Freeman,

Director, Planning, Programming and Budgeting.

January 14, 1980.

[FR Doc. 80-2349 Filed 1-23-80; 8:45 am]

BILLING CODE 3410-11-M

Intermountain Region Land and Resource Management Plan; Intent To Prepare and Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969, the Department of Agriculture, Forest Service, will prepare an environmental impact statement for the Intermountain Region Land and Resource Management Plan.

The Plan will be developed in accordance with the National Forest Management Act of 1976 and will discuss the following:

1. Broad, long range policy, goals, and objectives for the Intermountain Region as assigned by the National RPA Program.

2. The ability of the Intermountain Region to achieve the assigned RPA output levels of goods and services.

3. Land and resource objectives for national forests of the Intermountain Region.

4. Guidelines and alternative strategies to resolve public issues and management concerns.

A reasonable range of alternatives including a no-action alternative will be formulated by the interdisciplinary team. All alternatives will reflect a range of resource outputs and expenditure levels. Alternatives will address major public issues and management concerns. Each alternative will represent to the extent practicable the most cost efficient combination of management practices.

As part of the scoping process, a preliminary list of issues was presented to the public in March 1979. Input was received from Forest Service officials, intersted Federal, State, county and local government officials as well as the public. This input has been summarized and evaluated and will be discussed in the draft environmental impact statement. Issues as well as concerns and opportunities will be addressed in the plan. Opportunities to comment on the draft environmental impact statement (DEIS) will be made available to the public. Specific dates, times and places for future public participation will be published in the Federal Register prior to release of the DEIS.

The filing of the draft environmental impact statement for the Intermountain Region Land and Resource Management Plan with the Environmental Protection Agency is expected in August 1980. The proposed release of the final environmental impact statement and plan is February 1981.

Mr. R. Max Peterson, Chief, Forest Service, USDA, is the responsible official who will approve the plan. Vern Hamre, Regional Forester, Intermountain Region, is responsible for preparation of the plan.

Comments or questions regarding this Notice of Intent or the planning process should be addressed to Warren Thiem, Planning and Budget Ofice, Intermountain Region, Forest Service, 324-25th Street, Ogden, Utah 84401 (Phone: 801-626-3502).

Dated: January 17, 1980.

Philip L. Thornton,

Acting Chief, Forest Service.

[FR Doc. 80-2171 Filed 1-23-80; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Docket No. 37278]

American Airlines, Inc., New York-San Juan Cargo Service, Enforcement Proceeding; Prehearing Conference

Notice is hereby given that a prehearing conference will be held in the above-entitled proceeding on February 13, 1980, at 10:30 a.m. (local time), in Hearing Room 1003B, North Universal Building, 1875 Connecticut Avenue, N.W., Washington, D.C. before me.

Parties are expected to be prepared to discuss simplification of the issues, stipulations as to facts, authentication of documents, future procedural dates, and such other matters as will contribute to the orderly and prompt conduct of this proceeding.

Dated at Washington, D.C., January 21, 1980.

Marvin H. Morse,

Administrative Law Judge.

[FR Doc. 80-2270 Filed 1-23-80; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended January 18, 1980 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR Part 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

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Subpart Q Applications

Date filed	Docket No.	Description
Jan. 16, 1980	37452	Southwest Airlines Co., c/o Paul Y. Seligson, Wilner & Scheiner, 2021 L Street, N.W., Washington, D.C. 20036. Application of Southwest Airlines Co. requests under Section 401 of the Act and Subpart Q requests a certificate of public convenience and necessity authorizing it to perform scheduled air transportation of persons and property between and among the terminal point New Orleans, Louisiana, on the one hand, and the alternate terminal points Daytona Beach, Fort Lauderdale, Fort Myers, Gainesville, Miami, Orlando, Sarasota, and West Palm Beach, Florida, on the other hand. Answers may be filed January 30, 1980.

Phyllis T. Kaylor,
Secretary.
[FR Doc. 80-2270 Filed 1-23-80; 8:45 am]
BILLING CODE 6320-01-M

[Order No. 80-1-121; Docket No. 37472]

Chicago-Phoenix; Show Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 80-1-121, (Docket 37472) Chicago-Phoenix Show-Cause Proceeding.

SUMMARY: The Board is proposing to grant nonstop air route authority between Chicago and Phoenix to United Air Lines, USAir, and any other fit, willing and able applicant whose fitness can be established by officially noticeable data. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by February 22, 1980, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings shall be served upon all parties listed below.

ADDRESSES: Objections to the issuance of a final order, or additional data as described above, should be filed in Docket 37472, which we have entitled the *Chicago-Phoenix Show-Cause Proceeding.* They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C., 20428.

In addition, copies of such filings should be served on United Air Lines; USAir; Trans World Airlines; the Mayors of Chicago and Phoenix; Airport Managers of Chicago and Phoenix; and the Aeronautical Commissions of Arizona and Illinois.

FOR FURTHER INFORMATION CONTACT: Neil G. Whitehouse, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., 20428, (202) 673-5328.

SUPPLEMENTARY INFORMATION: The complete text of Order 80-1-121 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 80-1-121 to the Distribution Section, Civil Aeronautics Board, Washington, D.C., 20428.

By the Bureau of Domestic Aviation:
January 18, 1980.

Phyllis T. Kaylor,
Secretary.
[FR Doc. 80-2276 Filed 1-23-80; 8:45 am]
BILLING CODE 6320-01-M

[Dockets Nos. 33363, 33688, and 33689]

Former Large Irregular Air Service Investigation Phase III, Applications of Lone Star Airways, Inc.; Reassignment of Proceeding

This proceeding, insofar as it involves the applications of Lone Star Airways, Inc., Dockets 33688 and 33689, has been reassigned to Administrative Law Judge Richard M. Hartsock. Future communications should be addressed to Judge Hartsock.

Dated at Washington, D.C., January 18, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.
[FR Doc. 80-2274 Filed 1-23-80; 8:45 am]
BILLING CODE 6320-01-M

[Dockets Nos. 33363, 34281, and 34282]

Former Large Irregular Air Service Investigation Phase III, Applications of Robert G. Rutkowski, d.b.a. Northeastern International Airways; Reassignment of Proceeding

This proceeding, insofar as it involves the applications of Robert G. Rutkowski d/b/a Northeastern International Airways, Dockets 34281 and 34282, has been reassigned to Chief Administrative Law Judge Joseph J. Saunders.

Dated at Washington, D.C., January 18, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.
[FR Doc. 80-2273 Filed 1-23-80; 8:45 am]
BILLING CODE 6320-01-M

[Dockets Nos. 33363, 36183, and 36184]

Former Large Irregular Air Service Investigation Phase III, Applications of Sunland Airlines Inc.; Reassignment of Proceeding

This proceeding, insofar as it involves the applications of Sunland Airlines, Inc., Dockets 36183 and 36184, has been reassigned to Administrative Law Judge Richard M. Hartsock. Future communications should be addressed to Judge Hartsock.

Dated at Washington, D.C., January 18, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.
[FR Doc. 80-2275 Filed 1-23-80; 8:45 am]
BILLING CODE 6320-01-M

[Order No. 80-1-83; Docket No. 37441]

Sacramento-San Francisco/Oakland/San Jose; Show Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of *Sacramento-San Francisco/Oakland/San Jose Show-Cause Proceeding* (Docket 37441) (Order 80-1-83).

SUMMARY: The Board is proposing to award nonstop air route authority to Pan American World Airways and any other fit, willing and able applicants the fitness of which can be established by officially noticeable material, between Sacramento, on the one hand, and San Francisco, Oakland, and San Jose, on the other.

The complete text of this order is available as noted below.

DATES: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by February 25, 1980, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings shall be served upon all parties listed below.

Additional Data: All further applicants are directed to file applications, motions to consolidate, illustrative service proposals, environmental evaluations, and estimates of fuel to be consumed in the first year and statements of fuel availability no later than February 8, 1980.

ADDRESSES: Objections to the issuance of a final order, or additional data as described above, should be filed in Docket 37441, which we have entitled the *Sacramento-San Francisco/Oakland/San Jose Show-Cause Proceeding.* They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C., 20428.

In addition, copies of such filings should be served on Pan American World Airways; Governor of California; the California Public Utilities Commission; California Department of Transportation, Division of Aeronautics; County of Sacramento; and the mayors and airport managers of Sacramento, San Francisco, Oakland, and San Jose.

FOR FURTHER INFORMATION CONTACT: Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428, (202) 673-5198.

SUPPLEMENTARY INFORMATION: The complete text of Order 80-1-83 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80-1-83 to that address.

By the Bureau of Domestic Aviation:
January 14, 1980.

Phyllis T. Kaylor,
Secretary.
[FR Doc. 80-2277 Filed 1-23-80; 8:45 am]
BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

New Mexico Advisory Committee to the U.S. Commission on Civil Rights; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Mexico Advisory Committee (SAC) of the Commission will convene at 2:00 p.m. and will end at 5:00 p.m., on February 21, 1980, at the Holiday Inn of Taos (Padre Martinez), P.O. Box 1409, Taos, New Mexico.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, 418 South Main Street, San Antonio, Texas 78204.

The purpose of this meeting is full SAC planning and community meeting.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 18, 1980.

Thomas L. Neumann,
Advisory Committee Management Officer.
[FR Doc. 80-2269 Filed 1-23-80; 8:45 am]
BILLING CODE 6335-01-M

Missouri Advisory Committee to the U.S. Commission on Civil Rights; Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a planning meeting of the Missouri Advisory Committee (SAC) of the Commission originally scheduled for February 8, 1980, in St. Louis, Missouri, (FR Doc. 80-1169 on page 2675) has been cancelled.

Thomas L. Neumann,
Advisory Committee Management Officer.
[FR Doc. 80-2270 Filed 1-23-80; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Survey of Retail Sales and Inventories; Determination

In accordance with Title 13, United States Code, sections 182, 224 and 225, and due notice of consideration having been published November 15, 1979, (44 FR 65802) I have determined that certain 1979 annual data for retail trade are needed to provide a sound statistical basis for the formation of policy by various governmental agencies, and that these data are also applicable to a variety of public and business needs. This annual survey is a continuation of similar surveys conducted each year since 1951 (except 1954). It provides, on a comparable classification basis, data covering 1978 and 1979 year-end inventories and 1979 annual sales. These data are not publicly available on a timely basis from nongovernmental or other governmental sources.

Reports will be required only from a selected sample of firms operating retail restablishments in the United States. The sample will provide, with measurable reliability, statistics on the subjects specified above. Reports will be requested from a sample of stores with probability of selections based on their sales size.

Report forms will be furnished to the firms covered by the survey and will be due 20 days after receipt. Copies of the forms are available on written request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that an annual survey be conducted for the purpose of collecting these data.

Dated: January 18, 1980.

Vincent P. Barabba,
Director, Bureau of the Census.
[FR Doc. 80-2176 Filed 1-23-80; 8:45 am]
BILLING CODE 3510-07-M

International Trade Administration

Hardware Subcommittee of the Computer Systems Technical Advisory Committee; Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Hardware Subcommittee of Computer Systems Technical Advisory Committee will be held on Wednesday, February 13, 1980, at 1:30 p.m. in Room B841, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Hardware Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the Charter of the Committee. And, on October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls

applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (1) maintenance of the processor performance tables and further investigation of total systems performance; and (2) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The Subcommittee meeting agenda has four parts:

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of improved method of submitting supporting information for export license applications and development of methods of reporting performance values.

Executive Session

4. Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public; a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, P.L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Execution Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Subcommittee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any Subcommittees thereof, was published in the **Federal Register** on September 14, 1978 (43 FR 41073).

Copies of the minutes of the General Session can be obtained by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, phone 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: January 18, 1980.

Kent N. Knowles,

Director, Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 80-2155 Filed 1-23-80; 8:45 am]

BILLING CODE 3510-25-M

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, February 13, 1980, at 9:30 a.m. in Room B841, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 13, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee was established on February 4, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee, pursuant to the charter of the Committee. And, on October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

The Subcommittee meeting agenda has four parts:

(1) Opening remarks by the Subcommittee Chairman.
(2) Presentation of papers or comments by the public.
(3) Pending items of business:
a. Technical Data rewrite
b. Qualifed License concept
(4) Discussion of improved method and format for submitting export license applications.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: January 18, 1980.

Kent Knowles,

Director Office of Export Administration, International Trade Administration, Department of Commerce.

[FR Doc. 80-2156 Filed 1-23-80; 8:45 am]

BILLING CODE 3510-25-M

Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee; Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, February 12, 1980, at 1:00 p.m. in Room 5811, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. app. Sec. 2404(c)(1) (1976 and Supp. I 1977), and the Federal Advisory Committee Act. The Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975. October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

The Subcommittee meeting agenda has six parts:

General Session

(1) Opening remarks by the Subcommittee Chairman.
(2) Presentation of papers or comments by the public.
(3) Distribution of Moscow picture book.
(4) Discussion of progress on foreign availability activities of the Office of Export Administration.
(5) New business.

Executive Session

(6) Discussion of matters properly classified under Executive Order 11652, 3 CFR 678 (1971-1975 Compilation), or 12065, 3 CFR 191 (1979), dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public; a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (6), the Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 7, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. Sec. 552b(c)(1) (1976). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Subcommittee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any Subcommittees thereof, was published in the Federal Register on September 14, 1978 (43 FR 41073).

Copies of the minutes of the open portions of the meeting will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: January 21, 1980.

Kent N. Knowles,

Director, Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 80-2283 Filed 1-23-80; 8:45 am]

BILLING CODE 3510-25-M

Numerically Controlled Machine Tool Technical Advisory Committee; Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Numerically Controlled Machine Tool Technical Advisory Committee will be held on Tuesday, February 12, 1980, at 10:00 a.m. in Room 3708, Main Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C.

The Numerically Controlled Machine Tool Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. app. Sec. 2404(c)(1) (1976 and Supp. I 1977), and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production of technology, (C) licensing procedures which affect the level of export controls applicable to numerically controlled machine tools, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has six parts:

General Session

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Continued discussion of accuracy parameters for numerically controlled machine tools.
Review of information regarding foreign availability of numerical controlled technology.
(5) New business.

Executive Session

(6) Discussion of matters properly classified under Executive Order 11652, 3 CFR 678 (1971-1975 Compilation), and 12065, 3 CFR 191 (1979), dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the

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public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (6), the Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. Sec. 552(b)(c)(1)(1976). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Numerically Controlled Machine Tool Technical Advisory Committee and of any Subcommittees thereof, was published in the **Federal Register** on October 25, 1978 (43 FR 49828).

Copies of the minutes of the General Session will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202–377–2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: January 21, 1980.

Kent N. Knowles,

Director, Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 80–2282 Filed 1–23–80; 8:45 am]

BILLING CODE 3510–25–M

Ohio State University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666–11th Street, N.W. (Room 735) Washington, D.C.

Docket No.: 79–00261. Applicant: The Ohio State University, Department of Pharmacology, 5066 Graves Hall, 333 W. 10th Avenue, Columbus, Ohio 43210. Article: Double Focusing High Resolution Gas Chromatograph/Mass Spectrometer System, Model MAT 311A and Accessories. Manufacturer: Varian MAT GmbH, West Germany. Intended use of article: The article is intended to be used to perform studies of a variety of endogenous and exogenous organic compounds in biological fluids (urine, blood, cerebrospinal fluid, and tissues) from man and animal.

The experiments to be conducted will include the following: (1) Mapping of the contents of the cerebrospinal fluid and identification and quantification of abnormal constituents, (2) Analysis of blood and tissue in a similar way, (3) Investigations of functional changes in cellular processes, which will bring mass spectrometric analysis down to the cellular level, and (4) Study of turn-over rates and metabolism of some endogenous compound labeled with stable isotopes. The article will also be used in courses 794 Pharmacology: Biomedical Mass Spectrometry and Chromatography and 999 Pharmacology: Dissertation Research for demonstration of the different techniques and principles, training in the operation of the system and use of the system in solving research problems.

Comments: No comments have been received with respect to this application. Decision: Application approved. No domestic manufacturer was both able and willing to manufacture an instrument or apparatus of equivalent scientific value to the foreign article for such purposes as the foreign article is intended to be used, and have it available to the applicant without unreasonable delay in accordance with Subsection 301.11(c) of the regulations at the time the foreign article was ordered (June 28, 1978). Reasons: This application is a resubmission of Docket No. 78–00368 which was denied without prejudice to resubmission on January 8, 1979, for informational deficiencies. A request for quote (RFQ) dated April 27, 1978, including a comprehensive list of the applicant's technical requirements in a mass spectrometer, was sent to domestic manufacturer's of instruments comparable to the foreign article. E. I. DuPont de Nemour and Company, Inc., Instrument Product Division, (DuPont) bid on these requirements offering its Model 21–491BR. The Department of Health, Education, and Welfare advises in its memorandum dated September 12, 1979, that the DuPont Model 21–491BR is inadequate for the applicant's purposes. Noting that guaranteed resolution and the sensitivity of the foreign article is far superior to the resolution and sensitivity of the 21–491BR the Department concurs and finds that the Model 21–491BR was not of equivalent scientific value to the foreign article at the time of order. Nuclide Corporation (Nuclide) received its RFQ on May 1, 1979, but did not respond.

Mass Spectrometers fall in a category of instruments that are produced on order. Section 301.11(b) of the Department's regulations provide that in determining whether a produced on order instrument is "manufactured in the United States" the Department shall determine whether a U.S. manufacturer is *able* and *willing* to produce the instrument and have it available without unreasonable delay, taking into account "the normal commerical practices applicable to the production and delivery of instruments, apparatus, or accessories of the same general category."

In failing to respond to the formal request for bid, the Department has determined that the domestic manufacturer that may have had the capability to produce an instrument scientifically equivalent to the foreign article was not willing to do so. The Department by letter dated November 5, 1979, requested the domestic manufacturer in question to supply evidence, if such be the case, that it was both willing and able to offer its instrument (notwithstanding the fact that an employee of the firm advised the Department by telephone that the firm did not respond to the formal bid request). No such evidence was forthcoming.

Accordingly, the Department of Commerce finds that with respect to this importation no domestic manufacturer was both "able and willing" to manufacture a domestic instrument of equivalent scientific value to the foreign article for such purposes as the foreign article is intended to be used at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Progams Staff.

[FR Doc. 80–2250 Filed 1–23–00; 8:45 am]

BILLING CODE 3510–25–M

Uniformed Services University of Health Sciences, et al.; Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register**.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 735 at 666-11th Street N.W. Washington, D.C.

Docket No. 80–00072. Applicant: Uniformed Services University of the Health Sciences, School of Medicine, 4301 Jones Bridge Road, Bethesda, Maryland 20014. Article: Scanning Transmission Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used primarily to support a variety of clinical and basic science medical research projects in high resolution transmission electron microscopy, scanning transmission electron microscopy and high resolution scanning electron microscopy. The article will also be used for teaching graduate students and staff advanced techniques in electron microscopy. It will be used in graduate school courses including an interdepartmental laboratory course on electron microscopic techniques, a course on Ultrastructure of the Central Nervous System and elective tutorial courses in Special Projects in Transmission Electron Microscopy. Application received by Commissioner of Customs: December 12, 1979.

Docket No. 80–00073. Applicant: National Aeronautics and Space Administration, Lyndon B. Johnson Space Center, R&T Procurement Branch/BC7, Houston, Texas 77058. Article: Monohud Pilots' Display Unit, Video Signals Unit, Electronic Drive Unit, Electronic Unit and Accessories. Manufacturer: Marconi Avionics Elliott Bros. Ltd., United Kingdom. Intended use of article: The article is intended to be used in the study, in-flight development, and verification of Head-Up Display (HUD) symbology formats and algorithms for Space Shuttle Orbiter approach and landing. Application received by Commissioner of Customs: December 12, 1979.

Docket No.: 80–00074. Applicant: University of California, Mechanical Engineering Department, 2020 Bainer Hall, Davis, CA 95616. Article: Ion Milling Machine. Manufacturer: Ion Tech., United Kingdom. Intended use of article: The article is intended to be used to prepare specimens of glass and ceramic materials for observation in the transmission electron microscope. The article will also be used in the course Fundamentals of Transmission Electron Microscopy for training students in the principles and techniques of electron microscopy used in the study of materials. Application received by Commissioner of Customs: December 12, 1979.

Docket No.: 80–00075. Applicant: Ricks College, P.O. Box 38, Rexburg, Idaho 83440. Article: Sound Mixing Console. Manufacturer: Richmond Sound Design, Ltd., Canada. Intended use of article: The article is intended to be used for dramatic arts production. Application received by Commissioner of Customs: December 12, 1979.

Docket No.: 80–00076. Applicant: University of Hawaii, Honolulu, Hawaii 96822. Article: Rotating Anode X-Ray Generator and Accessories. Manufacturer: Rigaku, Japan. Intended use of article: The article is intended to be used with a well-established high pressure-high temperature apparatus, and energy dispersive X-ray diffraction system as an intense X-ray source to investigate several very important problems in the area of (i) equation of state, (ii) phase relationships and (iii) melting phenomena for mantle minerals such as olivines $(Mg,Fe)_2SiO_4$; pyroxenes $(Mg,Fe)SiO_3$; garnets $(Mg,Fe)_3Al_2Si_3O_{12}$; and stishovite (SiO_2) and their analogs (i.e., MgF_2, FeF_2, MnF_2, CoF_2, NiF_2 and ZnF_2) under *in situ* high pressure (up to 600 kbar) and high temperature (up to 2000°C). Experimental data obtained will be used to refine the earth model and thus will be of great value in understanding of geothermal and geodynamics processes in the earth's interior. Application received by Commissioner of Customs: December 12, 1979.

Docket No.: 80–00078. Applicant: The Johns Hopkins University School of Medicine, Department of Ophthalmology, 720 Rutland Avenue, Baltimore, Maryland 21205. Article: Automatic Visual Perimeter. Manufacturer: Bara Elektronik, Sweden. Intended use of article: The article is intended to be used for research studies including evaluation of the instrument in the diagnosis of visual field loss. Medical doctors of the ophthalmic residency program will be instructed in the use of the article for the diagnosis of visual field loss. Application received by Commissioner of Customs: December 12, 1979.

Docket No.: 80–00079. Applicant: Northwest Community Hospital, 800 W. Central, Arlington Heights, Ill. 60005. Article: Electron Microscope, Model H–300 and Accessories. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article is intended to be used for studies of biological materials, especially human tissues of products. Ultrastructural studies on human tissues, cells, or byproducts will be performed for the purposes of diagnosis of disease and elucidation of disease mechanisms. Membrane changes, alterations in subcellular organellae and subcellular tumor markers will be studied. The article will also be used for various educational purposes. Application received by Commissioner of Customs: December 12, 1979.

Docket No.: 80–00080. Applicant: St. Paul Hospital, Daughters of Charity, 5909 Harry Hines Blvd., Dallas, Texas 75235. Article: 20 MeV Electron Linear Accelerator and Accessories. Manufacturer: Atomic Energy of Canada Ltd., Canada. Intended use of article: The article is intended to be used in clinical trials in which patients treated on this unit will have treatment results and incidence of complications, evaluated and compared with treatment from conventional units that use scattering foils that must be carefully matched with a range of fixed dimension field applicators designed for field flatness. Through the treatment programs for deep seated tumors as well as those lying within a few centimeters of the skin, care of patients with cancer will be taught to physicians; training will then persist on what benefits will be expected for the patient in terms of reduced morbidity and hence tumor controls through the use of this new generation of equipment. Application received by Commissioner of Customs: December 12, 1979.

Docket No.: 80–00081. Applicant: Municipality of Metropolitan Seattle (Metro), 821 Second Avenue, Seattle, Washington 98104. Article: Gas Chromotagraph/Mass Spectrometer,

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Model MS80. Manufacturer: Kratos Ltd., United Kingdom. Intended use of article: The article is intended to be used for identification and quantitation of trace levels of organic compounds in environmental samples, including publicly owned, treatment plant wastewater and sludges. The compounds of interest to be studied are mostly synthetic organic compounds identified as anthropogenically derived environmental contaminants. Organic compounds other than these will be searched for and identified where possible. Industrial spills of unidentified or potentially hazardous organic compounds, and illegal dumps of unknown pesticides and herbicides, will be characterized and quantitated. Additional objectives include identifying unknown compounds coming from industrial spills into the Metro sewage collection system, identifying unknown pesticides and herbicides illegally dumped into environmental waters, and monitoring the fates and distributions of those organic compounds introduced to the environment. Application received by Commissioner of Customs: December 12, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 80-2249 Filed 1-23-80; 8:45 am]

BILLING CODE 3510-25-M

Minority Business Development Agency

Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA) formerly the Office of Minority Business Enterprise (OMBE), announces that it is seeking applications under its program to operate one project for a 12 month period beginning March 1, 1980 in the eleven State Dallas Region which includes: Montana, North Dakota, South Dakota, Wyoming, Utah, Colorado, New Mexico, Oklahoma, Texas, Arkansas and Louisiana. The cost of the project is estimated to be $372,000 and the Project Number is 06-10-40163-00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to minority business enterprises. This proposed project is specifically designed to provide specialized assistance to satisfy the needs of the minority business firms; management and technical assistance; and to develop special impact projects in growth and high leverage industries.

Eligibility Requirements: There are no restrictions. Any for-profit firm or not-for-profit institution is eligible to submit an application.

Application Materials: An application kit for each of the projects may be requested by writing to the following address: U.S. Department of Commerce, Minority Business Development Agency, Dallas Regional Office, 1100 Commerce Street, Room 7B26, Dallas, Texas 75242.

In requesting an application kit, the applicant must specify its profit status (i.e., a State or local government, Federally recognized Indian Tribunal Unit, Educational Institution, Hospital, other type of non-profit organization, or if the applicant is a for-profit firm). This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked as to their understanding of minority business problems, approach and program methodology, responsiveness to questions, organizational structure, quality of personnel, experience, capacity, and cost. Specific criteria will be included in the application kit. If an application is approved, an initial award will be made for a period specified for that award. Continuation awards may be made on a noncompetitive basis when detemined by the Awards Office to be in the best interest of the Government.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of February 11, 1980. Detailed submission procedures are outlined in each application kit.

(11.800 Minority Business Development; Catalog of Federal Domestic Assistance)

Dated: January 18, 1980.

Allan A. Stephenson,

Deputy Director.

[FR Doc. 80-2248 Filed 1-23-80; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), has established a Scientific and Statistical Committee (SSC), which will meet to discuss: Sea Scallop Fishery Management Plan (FMP); Groundfish, the process of developing attainable objectives for fishery management; and other Council related business.

DATES: The meeting will convene on Wednesday, February 13, 1980, at approximately 10 a.m. and will adjourn at approximately 5 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at Best Western Motel, Green Airport, Providence, Rhode Island.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Massachusetts, Telephone: (617) 535-5450.

Dated: January 21, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-2288 Filed 1-23-80; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council and Scientific and Statistical Committee and Advisory Panel; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The North Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) and its Scientific and Statistical Committee (SSC) and Advisory Panel (AP) will hold joint and separate meetings.

DATES: The Council meeting will convene on Thursday, February 7, 1980, at 8:30 a.m. and will adjourn on Friday, February 8, 1980, at 5 p.m. at the Anchorage/Westward/Hilton Hotel, 3rd & E Streets, Anchorage, Alaska, in the Alaska Room. The SSC meeting will convene on Wednesday, February 6, 1980, at 9:30 a.m. and will adjourn at 5 p.m. at the Council Conference Room, 333 W. 4th Avenue, Suite 32, Anchorage, Alaska. The AP meeting will convene on Wednesday, February 6, 1980, at 9 a.m. and will adjourn at 5 p.m. at the Anchorage/Westward/Hilton Hotel. The meetings will be lengthened or shortened depending upon progress on the agenda. The meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, Telephone: (907) 274-4563.

Proposed Agenda:

Council

Special Note: Preregistration (except in special or unusual cases) will be required for all public comments which pertain to a specific agenda topic. Preregistration is accomplished by informing the Agenda Clerk as early as possible of the agenda item to be addressed and the time requested. Preregistration and public comment may be scheduled for: F. Old Business: G. Fishery Management Plans: H. New Business agenda items. The following agenda items will be discussed by the Council: A. *Call to Order.* B. *Approval of Agenda.* C. *Approval of Minutes.* D. *Executive Director's Report.* E. *Special Reports:* E-1. The Alaska Department of Fish & Game (ADFG) Report on Domestic Fisheries. E-2. National Marine Fisheries Service (NMFS) Report on Foreign Fisheries, including Joint Ventures. E-3. U.S. Coast Guard Report of Enforcement and Surveillance. E-4. Special SSC and AP Reports. E-5. A Report from Mike Hunter, Associate Director, International Fisheries Relations Branch, Canada, on U.S./Canada relations and halibut issues. F. *Old Business.* F-1. Old business as appropriate. G. *Fishery Management Plans.* G-1. High Seas Salmon Fishery Off the Coast of Alaska East of 175° East Longitude Fishery Management Plan (FMP). Discussion of the recent Council/State management decisions and chinook management issues. G-2. Gulf of Alaska Groundfish FMP. Proposed list of Amendments. Consideration of release of Reserves. G-3. Bering Sea/Aleutian Islands Groundfish FMP. Proposed list of Amendments and issues. G-4. Tanner Crab Off Alaska FMP. H. *New Business:* H-1. A discussion of foreign allocations with reciprocal proposals. H-2. A proposal to expand the NPFMC office. H-3. Other New Business as needed. I. *Reports, Contracts, Proposals.* I-1. Proposed Contract Amendment; Domestic Groundfish Observer Contract. I-2. A proposal for: The Expansion and Enhancement of the Alaska Commercial Fisheries Catch Data Reporting System. I-3. Contract Final Report 78-5. Assessment of Spawning Herring and Capelin Stocks in Selected Coastal Areas in the Eastern Bering Sea. I-4. A proposal for a domestic groundfish observer program in the Bering Sea. J. *Finance Report.* K. *General Comment Period.* L. *Chairman's Closing Comments.* M. *Adjournment.* SSC/AP Agenda Same as Council.

Dated: January 21, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-2289 Filed 1-23-80; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council's Herring Advisory Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), has established a Herring Advisory Subpanel (AP) which will meet to review proposed objectives for the Fishery Management Plan (FMP).

DATES: The meeting will convene on Tuesday, February 12, 1980, at 1 p.m. adjourning at 5 p.m.; reconvene on Wednesday, February 13, 1980, at 8 a.m. adjourning at 12 noon. The meeting is open to the public.

ADDRESS: The meeting will take place at the Cosmopolitan Hotel, 1030 N.E. Union, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

Dated: January 21, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-2287 Filed 1-23-80; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

Commerce Technical Advisory Board; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice is hereby given that the Commerce Technical Advisory Board will hold a meeting on Thursday, January 31, 1980 from 9:00 a.m. until 5:00 p.m. and on Friday, February 1, 1980 from 9:00 a.m. until 12 o'clock Noon in Room 6802, Main Commerce Building, 14th and Constitution Avenue N.W., Washington, D.C.

The Board was established to study and evaluate the technical activities of the Department of Commerce and recommend measures to increase their value to the business community.

Tentative agenda items include:

1. Implementation of Selected Industrial Innovation Initiatives
2. Management of Innovation in Other Countries; e.g., China and the European Community
3. Status Report on Cooperative Technology
4. Progress Report on Development of Human Resources for Technological Innovation

The meeting will be open to public observation. The public may submit written statements or inquiries to the Chairman before or after the meeting. A limited number of seats will be available to the public and to the press on a first-come, first-served basis.

Copies of minutes and materials distributed will be made available for reproduction following certification by the Chairman, in accordance with the Federal Advisory Committee Act, in Room 3867, U.S. Department of Commerce, Washington, D.C. 20230.

Further information may be obtained from Mrs. Florence Feinberg, Administrator, Room 3867, U.S. Department of Commerce, Washington, D.C. 20230. Telephone (202) 377-5065.

Dated: January 7, 1980.

Jordan J. Baruch,

Assistant Secretary for Science and Technology.

[FR Doc. 80-2153 Filed 1-23-80; 8:45 am]

BILLING CODE 3510-18-M

THE COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts will next meet in open session on Tuesday, February 12, 1980, at 10:00 a.m. in the Commission's offices at 708 Jackson Place, N.W., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington, D.C.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

Dated in Washington, D.C. January 11, 1980.

Charles H. Atherton,

Secretary.

[FR Doc. 80-2240 Filed 1-23-80; 8:45 am]

BILLING CODE 6330-01-M

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DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee meeting:

Name of the Committee: Army Science Board.

Dates of Meeting: February 12, 13, and 14, 1980.

Place: February 12, 1980, Fort Rucker, Alabama; February 13, 1980, Washington, DC; February 14, 1980, Washington, DC.

Time: 0800 to 1400 hours, February 12, 1980 (Open); 0800 to 1600 hours, February 13, 1980 (Open); 0800 to 1200 hours, February 14, 1980 (Open).

Proposed Agenda: The Army Science Board Ad Hoc Sub-Group on Blast Overpressure will conduct visits to acquire scientific and technical information relevant to human biophysical and physiological response to blast overpressure. Specific schedule of events includes:

12 Feb 0800–1400—Visit blast overpressure staff and facilities at the US Army Aeromedical Research Laboratory, Ft. Rucker, AL; receive description of auditory program.

13 Feb 0800–1600—Visit blast overpressure staff and facilities at the Walter Reed Army Institute of Research Washington, DC; receive description of nonauditory program.

14 Feb 0800–1200—Sub-Group working meeting at the Walter Reed Army Institute of Research Washington, DC.

Persons desiring to attend the meetings should contact the Army Science Board, (202) 697–9703, for specific meeting locations.

Helen Pipon,

Staff Assistant.

[FR Doc. 80-2196 Filed 1-23-80; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

National Petroleum Council, Task Group of the Committee on Unconventional Gas Sources; Meeting

Notice is hereby given that a task group of the Committee on Unconventional Gas Sources will meet in February 1980. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Unconventional Gas Sources will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The task group scheduling a meeting is the Tight Gas Reservoirs Task Group. The time, location and agenda of the meeting follows:

The fourteenth meeting of the Tight Gas Reservoirs Task Group will be held on Tuesday, February 5, 1980, starting at 9:00 a.m., Room 3228, Mobil Oil Corporation, First International Building 1201 Elm Street, Dallas, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Discussion of the report outline of the Tight Gas Reservoirs Task Group.
3. Review the preliminary results of the Tight Gas Reservoirs Task Group.
4. Review of the Tight Gas Reservoirs Task Group's assignments.
5. Discussion of any other matters pertinent to the overall assignment of the Tight Gas Reservoirs Task Group.

The meeting is open to the public. The chairman of the task group is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lucio A. D'Andrea, Office of Resource Applications, 202/633–8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on January 11, 1980.

R. Dobie Langenkamp,

Deputy Assistant Secretary, Resource Development and Operations Resource Applications.

January 11, 1980.

[FR Doc. 80-2295 Filed 1-23-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

F. M. Buxton; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to F. M. Buxton, 1019 Fidelity Plaza, Oklahoma City, Oklahoma 73102. This Proposed Remedial Order charges Buxton with pricing violations in the amount of $50,285.18, relative to Buxton's sale of certain domestic crude oil at free market prices which the firm characterized as "stripper well" crude oil during the period January 1, 1975 through October 31, 1977.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager, Southwest District Enforcement, Department of Energy, Economic Regulatory Administration, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 749–7626. On or before Feburary 8, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 18th day of January, 1980.

Wayne I. Tucker,

District Manager, Southwest District Enforcement.

[FR Doc. 80-2298 Filed 1-23-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-79-012; OFC Cases Nos. 55119-9044-01-11, 55119-9044-02-11, and 55119-9044-03-11]

General Motors Corp.; Acceptance of Petition

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Acceptance of Petition for Exemptions Pursuant to the Interim Rules Implementing the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On December 17, 1979, the General Motors Corporation (GM) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order temporarily exempting three major fuel burning installations (MFBI's) from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*), which prohibits the use of petroleum and natural gas as a primary energy source in new MFBI's. GM is requesting temporary public interest exemptions to permit the immediate use of a mixture of natural gas and coal in the three boilers until ERA completes its analyses and makes a final determination on GM's pending petition for a permanent fuel mixtures exemption for each of the three boilers. Criteria for petitioning for exemptions from the prohibitions of FUA are published at 44 FR 28530 (May 15, 1979) and at 44 FR 28950 (May 17, 1979) (Interim Rules).

The MFBI's for which the petition is filed are three field-erected boilers (identified as Boilers Number 1, 2 and 3) installed at GM's Assembly Division (GMAD), Oklahoma City, Oklahoma. Each boiler has a design heat input rate of 182 million Btu's per hour with a steam generating capacity of 150,000 pounds per hour and is capable of burning fuel oil, coal, and natural gas. Under § 505.15 of the Interim Rules, GM has requested a temporary public interest exemption to permit the burning of certain fuel mixtures in each of the three units.

ERA has determined that GM's petition requesting a temporary public interest exemption for each of the three subject units is complete and, in accordance with Section 501.3(c) of the Interim Rules, GM is hereby notified that its petition is accepted on the basis that GM states in its Compliance Plan that it intends to comply with any applicable prohibitions of the Act at the termination of the temporary exemption by ceasing use of natural gas in each of the three subject boilers. ERA retains the right to request additional relevant information from GM at any time during the pendency of these proceedings where circumstances or procedural requirements may so require. A review of the petition is provided in the Supplementary Section below.

FUA imposes statutory prohibitions against the use of natural gas and petroleum as a primary energy source by new MFBI's which consist of a boiler. ERA's decision in this matter will determine whether under the Act and the Interim Rules, it is in the public interest to permit GM to operate the three boilers with a natural gas-coal fuels mixture on a temporary basis.

As provided for in section 701 (c) and (d) of FUA and §§ 501.31 and 501.33 of the Interim Rules, interested persons are invited to submit written comments in regard to this matter, and any interested person may submit a written request that ERA convene a public hearing.

DATES: Written comments are due on or before March 10, 1980. A request for public hearing must also be made within this same 45 day public comment period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Economic Regulatory Administration, Case Control Unit, box 4629, Room 2313, 2000 M Street NW., Washington, D.C. 20461.

Docket Number ERA–FC–79–012 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street NW., Room 3128, Washington, D.C. 20461, Phone (202) 254–7614.

Edward Jiran, Office of General Counsel, Department of Energy, Forrestal Building, Room 6G–087, 1000 Independence Avenue SW., Washington, D.C. 20585, Phone (202) 252–2967.

Kathleen Ewing, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3319, Washington, D.C. 20461, Phone (202) 254–3252.

SUPPLEMENTARY INFORMATION: ERA published in the **Federal Register** on May 15 and 17, 1979, its Interim Rules implementing the provisions of Title II of FUA. The Act prohibits the use of natural gas and petroleum as a primary energy source in certain new MFBI's unless an exemption to do so has been granted by ERA.

The MFBI's for which the temporary public interest exemptions are requested are three identical field-erected boilers installed at GMAD in Oklahoma City, Oklahoma; Each boiler has a design heat input rate of 182 million Btu's per hour, a steam generating capacity of 150,000 pounds per hour and is designed to burn coal, natural gas and fuel oil. GM states that the steam generated will be used for process equipment in the Assembly Building, for auxiliary powerhouse steam, and for building heating and air conditioning.

Section 505.15 of the Interim Rules provides that a temporary public interest exemption may be granted if the petitioner can demonstrate to the satisfaction of ERA that it is unable to comply with the applicable prohibitions imposed by the Act, except in extraordinary circumstances, during the period for which the exemption is requested, but will be capable of compliance at the end of the proposed exemption period; and that the granting of the petition would be in accord with the purposes of the Act and would be in the public interest.

GM is requesting temporary public interest exemptions to permit the immediate use of a mixture of natural gas and coal in the three boilers until ERA completes its analyses and makes a final determination on GM's pending petition for a permanent fuel mixtures exemptions for each of the three boilers. GM contends that granting such exemptions will be consistent with the purposes of the Act and in the public interest.

In addressing the eligibility and evidentiary requirements of § 505.15, GM states that although it has obtained all necessary permits to consume coal at this facility, the design limitations of the boilers require the use of natural gas during periods of low production. Burning only coal during such periods creates opacity problems, results in the unavoidable production of unneeded steam, and creates noise pollution problems caused by exhausting excess steam into the atmosphere. GM contends that by using natural gas in the boilers during periods of low steam demand, the opacity and noise problems would be reduced and the waste of coal energy would be eliminated.

GM's compliance plan contains a discussion of alternate methods by which GM proposes, at the expiration of a temporary exemption, to be in compliance with the prohibitions of the Act. One of the alternatives proposed is that ultimate compliance will be achieved by the exclusive combustion of coal as a primary energy source. This alternative is consistent with the concept of compliance with FUA prohibitions upon the expiration of a temporary exemption. The other alternative proposed is that ultimate compliance will occur upon the granting by ERA of a permanent mixtures exemption.

ERA does not agree that, in the absence of significantly changed circumstances, obtaining a permanent exemption constitutes compliance with the applicable FUA prohibition upon the expiration of a temporary exemption. In other words, ERA rejects the idea that a temporary exemption should be used as a preliminary step in ultimately acquiring a permanent exemption as being inconsistent with the language of FUA and with the intent of Congress. Furthermore, simultaneous consideration of petitions for both a temporary and a permanent exemption might result in the granting of the temporary exemption prior to the completion of the processing of the petition for the permanent exemption. In individual cases, the granting of the temporary exemption would preclude further consideration of the petition for permanent exemption.

ERA has determined that the petition of GM, as filed, containing a commitment to use coal exclusively at the end of the exemption period, is complete in accordance with the Interim Rules and GM is hereby notified of ERA's acceptance of its petition for temporary public interest exemptions.

As set forth in § 501.3(g) of the Interim Rules, the acceptance of the petition by ERA does not constitute a determination

that GM is entitled to the exemptions requested.

Prior to the filing of this petition, GM had filed on October 29, 1979, petitions requesting a temporary public interest exemption and a permanent fuel mixtures exemption for each of the subject boilers. ERA determined that GM's petition for temporary exemptions was incomplete and, in accordance with § 501.3(d) of the Interim Rules, ERA notified GM by letter dated November 28, 1979, that its petition for temporary public interest exemptions, as filed, was not acceptable. ERA's decision was based upon GM's failure to simultaneously submit with the petition the Compliance Plan required by Section 505.15(d) of the Interim Rules. GM also failed to address the Fuel Mixtures demonstration required by Section 505.15(c) of the Interim Rules. However, inasmuch as the thrust of the temporary public interest exemption requested by GM is to permit the use of a fuel mixtures, ERA, in its letter of November 28, 1979, notified GM that the Fuel Mixtures Demonstration is waived.

ERA determined that GM's petition for permanent fuel mixtures exemptions for the same three MFBI's, to permit, under Section 505.28 of the Interim Rules, the use of a coal and natural gas mixture as a primary energy source in each of the units, was complete. ERA's acceptance of that petition was published in the **Federal Register** on December 18, 1979, at 44 FR 74901.

The 45 day public comment period on GM's petition for permanent fuel mixtures exemptions expires on February 1, 1980. The petition accepted herein was resubmitted by GM on December 17, 1979. The resubmitted petition contained the required Compliance Plan and was determined by ERA to be complete.

The public file containing documents on these proceedings and supporting materials is available for inspection upon request at: ERA, Room B-110, 2000 M Street, NW, Washington, DC, Monday through Friday, 8:00 am to 4:30 pm.

Issued in Washington, D.C. on January 16, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-2284 Filed 1-23-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-79-013; OFC Cases Nos. 67014-9136-11-77 and 67014-9136-12-77]

Texas Utilities Generating Co.; Request for Classification

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Requests for Classification as Existing Installations Pursuant to the Final Rule, Part 515—Transitional Facilities.

SUMMARY: On December 19, 1979, the Texas Utilities Generating Company (TUGCo), Dallas, Texas, filed requests with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) to classify Auxiliary Boilers A and B to be installed at its Twin Oak Steam Electric Station, Franklin, Texas, as existing installations pursuant to Section 515.13 of ERA's Final Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Final Rule) and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA). The Final Rule, which became effective November 30, 1979, was published in the **Federal Register** October 19, 1979 (44 FR 60690). An amendment to the Final Rule was issued by ERA on November 29, 1979, and published in the **Federal Register** on December 5, 1979 (44 FR 69919). FUA, which was effective May 8, 1979, imposed certain statutory prohibitions against the use of natural gas and petroleum as a primary energy source by new major fuel burning installations (MFBI's) consisting of a boiler.

ERA's decision in this matter will determine whether Auxiliary Boilers A and B are new or existing MFBI's. The prohibitions which apply to existing MFBI's are different from those which apply to new MFBI's.

As provided for in § 515.26 of the Final Rule, interested persons are invited to submit written comments in regard to this matter, however, no public hearing will be held.

DATES: Written comments are due on or before February 14, 1980.

ADDRESSES: Ten copies of written comments shall be submitted to: Economic Regulatory Administration, Case Control Unit, Box 4629, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Docket Number ERA-FC-79-013 should be printed clearly on the outside of the envelope and on the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, (Office of Public Information), Economic Regulatory Administration, 2000 M Street NW., Room B-110, Washington, D.C. 20461, Phone (202) 634-2170.

Constance Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street NW., Room 3128, Washington, D.C. 20461, Phone (202) 254-7814.

Edward Jiran, Office of General Counsel, Department of Energy, Forrestal Building, Room 6G-087, 1000 Independence Avenue SW., Washington, D.C. 20585, Phone (202) 252-2967.

Robert L. Davies, Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street NW., Room 3128, Washington, D.C. 20461, Phone (202) 634-6557.

SUPPLEMENTARY INFORMATION: The MFBI's for which the requests for classification were filed are two packaged boilers (designated Auxiliary Boilers A and B by TUGCo) having a design capability to consume fuel at a fuel heat input rate of 260 million Btu's per hour each and will be used at the Twin Oak Station for startup of the two main coal-fired steam generators and for plant protection during shutdown of the main units. The boilers will use No. 2 fuel oil and natural gas as the primary energy source and are scheduled to be placed in operation on October 1, 1983.

Section 515.10 of the Final Rule requires that to be eligible to submit a request to have a transitional facility classified as existing, a contract for the construction or acquisition of the installation must have been signed prior to November 9, 1978. TUGCo states in its requests that a contract for the acquisition of Auxiliary Boilers A and B was signed on March 23, 1976.

In accordance with the provisions of § 515.13 of the Final Rule, ERA will classify an eligible installation as existing if it is demonstrated to the satisfaction of ERA that the cancellation, rescheduling, or modification of the construction or the acquisition of the installation would result in substantial financial penalty or a significant operational detriment.

TUGCo bases its requests for classification of Auxiliary Boilers A and B as existing on a demonstration of significant operational detriment. Pursuant to § 515.13(b), ERA will classify a facility as existing upon demonstration that significant operational detriment would have incurred if on November 9, 1978, the installations had been cancelled, rescheduled, or modified to burn an alternate fuel or fuel mixture.

In accordance with § 515.15(c), TUGCo has provided the following information to demonstrate that it would incur significant operational detriment if the construction or acquisition of Auxiliary Boilers A and B were to be cancelled, rescheduled, or modified:

The two auxiliary boilers would have to be completely redesigned to burn coal or coal oil slurry. Coal handling and pulverizing equipment will have to be designed and ash handling systems will have to be provided. Additionally, environmental protection systems, including a high stack, scrubber and baghouse filters and a pollutant discharge elimination system for the boiler ash disposal will be required. TUGCo states these requirements would delay the project by at least 15 months.

Without Auxiliary Boilers A and B, the main steam electric generators (two lignite/western coal-fired boilers) cannot be started and the plant's production of 750 MW of electricity would be lost.

Without Auxiliary Boilers A and B, the Twin Oak Steam Electric Station could not be operated and there would be 100 jobs lost during the period the project is delayed.

Auxiliary Boilers A and B will be utilized for startup and plant shutdown purposes only and are expected to be operated for only 5 percent of the time. TUGCo contends that installation of pollution controls and coal and ash handling systems in order to burn coal or slurries in auxiliary units that are used about 20 time a year would not be economical. Additionally, TUGCo states use of coal or slurries in auxiliary boilers would jeopardize the capability to provide fast starts, thus causing unreliable operation of the generating station.

ERA hereby invites all interested persons to submit written comments on this matter. The public file containing documents on these proceedings and supporting materials is available for inspection upon request at: ERA Room B-110, 2000 M Street NW., Washington, D.C., Monday-Friday 8 a.m.-4:30 p.m.

Issued in Washington, D.C. on January 21, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-2283 Filed 1-23-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-79-014; OFC Cases Nos. 67014-9137-11-77 and 67014-9137-12-77]

Texas Utilities Generating Co.; Request for Classification

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Requests for Classification as Existing Installations Pursuant to the Final Rule, Part 515—Transitional Facilities.

SUMMARY: On December 19, 1979, the Texas Utilities Generating Company (TUGCo), Dallas, Texas, filed requests with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) to classify Auxiliary Boilers A and B to be installed at its Forest Grove Steam Electric Station, Athens, Texas, as existing installations pursuant to Section 515.13 of ERA's Final Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Final Rule) and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA). The Final Rule, which became effective November 30, 1979, was published in the **Federal Register** October 19, 1979 (44 FR 60690). An amendment to the Final Rule was issued by ERA on November 29, 1979, and published in the **Federal Register** on December 5, 1979 (44 FR 69919). FUA, which was effective May 8, 1979, imposes certain statutory prohibitions against the use of natural gas and petroleum as a primary energy source by new major fuel burning installations (MFBI's) consisting of a boiler.

ERA's decision in this matter will determine whether Auxiliary Boilers A and B are new or existing MFBI's. The prohibitions which apply to existing MFBI's are different from those which apply to new MFBI's.

As provided for in Section 515.26 of the Final Rule, interested persons are invited to submit written comments in regard to this matter; however, no public hearing will be held.

DATES: Written comments are due on or before February 14, 1980.

ADDRESSES: Ten copies of written comments shall be submitted to: Economic Regulatory Administration, Case Control Unit, Box 4629, Room 2313, 2000 M Street NW., Washington, D.C. 20461.

Docket Number ERA-FC-79-014 should be printed clearly on the outside of the envelope and on the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street NW., Room B-110, Washington, D.C. 20461, Phone (202) 634-2170.

Constance Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 200 M Street NW., Room 3128, Washington, D.C. 20461, Phone (202) 254-7814.

Edward Jiran, Office of General Counsel, Department of Energy, Forrestal Building, Room 6G-087, 1000 Independence Avenue SW., Washington, D.C. 20585, Phone (202)252-2967.

Robert L. Davies, Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street NW., Room 3128, Washington, D.C. 20461 Phone (202) 634-6557.

SUPPLEMENTARY INFORMATION: The MFBI's for which the requests for classification were filed are two packaged boilers (designated Auxiliary Boilers A and B by TUGCo) having a design capability to consume fuel at a fuel heat input rate of 365 million Btu's per hour each and will be used at the Forest Grove Station for startup of the coal-fired main steam generator and for plant protection during shutdown of the main unit. The boilers will use No. 2 fuel oil and natural gas as the primary energy source and are scheduled to be placed in operation on September 1, 1982.

Section 515.10 of the Final Rule requires that to be eligible to submit a request to have a transitional facility classified as existing, a contract for the construction or acquisition of the installation must have been signed prior to November 9, 1978. TUGCo states in its requests that a contract for the acquisition of Auxiliary Boilers A and B was signed on August 18, 1976.

In accordance with the provisions of § 515.13 of the Final Rule, ERA will classify an eligible installation as existing if it is demonstrated to the satisfaction of ERA that the cancellation, rescheduling, or modification of the construction or the acquisition of the installation would result in substantial financial penalty or a significant operational detriment.

TUGCo bases its requests for classification of Auxiliary Boilers A and B as existing on a demonstration of significant operational detriment. Pursuant to § 515.13(b), ERA will classify a facility as existing upon demonstration that significant operational detriment would have incurred if on November 9, 1978, the installations had been cancelled, rescheduled, or modified to burn an alternate fuel or fuel mixture.

In accordance with § 515.15(c), TUGCo has provided the following information to demonstrate that it would incur significant operational detriment if the construction or acquisition of Auxiliary Boilers A and B were to be cancelled, rescheduled, or modified:

The two auxiliary boilers would have to be completely redesigned to burn coal or coal oil slurry. Coal handling and pulverizing equipment will have to be designed and ash handling systems will have to be provided. Additionally,

environmental protection systems, including a high stack, scrubber and baghouse filters and a pollutant discharge elimination system for the boiler ash disposal will be required. TUGCo states these requirements would delay the project by at least 15 months.

Without Auxiliary Boilers A and B, the main steam electric generator (a lignite/western coal-fired boiler) cannot be started and the plant's production of 750 MW of electricity would be lost.

Without Auxiliary Boilers A and B, the Forest Grove Steam Electric Station could not be operated and there would be 100 jobs lost during the period the project is delayed.

Auxiliary Boilers A and B will be utilized for startup and plant shutdown purposes only and are expected to be operated for only 5 percent of the time. TUGCo contends that installation of pollution controls and coal and ash handling systems in order to burn coal or slurries in auxiliary units that are used about 20 times a year would not be economical. Additionally, TUGCo states use of coal or slurries in auxiliary boilers would jeopardize the capability to provide fast starts, thus causing unreliable operation of the generating station.

ERA hereby invites all interested persons to submit written comments on this matter. The public file containing documents on these proceedings and supporting materials is available for inspection upon request at: ERA, Room B-110, 2000 M Street NW., Washington, D.C., Monday-Friday, 8:00 a.m.-4:30 p.m.

Issued in Washington, D.C. on January 21, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-2297 Filed 1-23-80; 8:45 am]

BILLING CODE 6450-01-M

B. F. Goodrich Co.; Petrochemical Feedstock Use of Propane

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Request for Comments.

SUMMARY: On August 3, 1979 the B. F. Goodrich Company petitioned the Department of Energy, Economic Regulatory Administration (ERA) for an adjustment to its base period use of propane for use as petrochemical feedstock. This notice requests public comments to assist the ERA in evaluating B. F. Goodrich Company's petition under ERA's Regulations for the allocation of propane and other natural gas liquids for petrochemical feedstock use.

DATES: Written comments to be submitted by February 19, 1980.

ADDRESS: Comments should be submitted to: Box XP, Economic Regulatory Administration, Office of Public Hearings Management, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Bruce D. Starns (Office of Petroleum Operations), Department of Energy, Economic Regulatory Administration, 2000 M Street NW., Room 6318, Washington, D.C. 20461, (202) 254-6030.

Verlette Gatlin (Freedom of Information Reading Room), Department of Energy, Forrestal Building, 1000 Independence Avenue SW., Room GA-142, Washington, D.C. 20585, (202) 252-5966.

SUPPLEMENTAL INFORMATION: B. F. Goodrich Company anticipated the need to increase its production of petrochemicals to meet an anticipated increase in demand for petrochemicals. Accordingly, the B. F. Goodrich Company has requested that the ERA adjust its base period volume of 4,884,461 barrels of propane to 5,577,930 barrels of propane, or an increase of 693,469 barrels of propane (an increase of 1900 barrels per day).

B. F. Goodrich Company has petitioned the ERA for an adjustment to its base period volume of propane pursuant to 10 CFR 211.84 (44 FR 60638, October 19, 1979).

A file containing all pertinent information and data filed in conjunction with the B. F. Goodrich Company's petition, other than confidential information which ERA has determined to be exempt from the disclosure requirements of 5 USC 552, is available for public inspection and copying at the DOE Freedom of Information Reading Room, Room GA-142, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Written comments regarding the B. F. Goodrich Company's petition will be accepted and considered if filed by 4:30 p.m. on February 19, 1980. Any person submitting written comments with respect to the B. F. Goodrich Company's petition should submit ten (10) copies to the ERA and should comply with the requirements of the ERA procedural regulations set forth at 10 CFR 205.9 *et seq.* Comments should be submitted to the Office of Public Hearings Management, Room 2313, 2000 M Street NW., Washington, D.C. 20461, Attention: Box XP. Comments should be identified on the outside of the envelope and on the documents submitted to ERA with the designation "Petrochemical Feesstock Use of Propane by the B. F. Goodrich Company". One copy of each comment with confidential information deleted should be submitted to each of the following: The B F. Goodrich Company, 500 South Main Street, Akron, Ohio 44318, Attention: Tucker W. Peterson; and Baker and Botts, Counsel for the B. F. Goodrich Company, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006, Attention: Bruce F. Kiely and David T. Douthwaite. Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing in one copy only, in accordance with procedures set forth in 10 CFR 205.9(f). Any material not accompanied by a statement of confidentiality will be considered to be nonconfidential. The Economic Regulatory Administration reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Issued in Washington, D.C., January 17, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-2191 Filed 1-23-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-CERT-106]

Energy Systems Division of Northern Natural Gas Co.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

Energy Systems Division of Northern Natural Gas Company (Energy Systems) filed an application for certification of an eligible use of natural gas to displace fuel oil at its Howard Street Plant facility in Omaha, Nebraska with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 on October 17, 1979. Notice of that application was published in the **Federal Register** (44 FR 60983 December 5, 1979) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed Energy System's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Energy System's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C., on January 18, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Appendix I

Department of Energy,
Washington, D.C. 20461, January 18, 1980.

Re ERA Certification of Eligible Use ERA Docket No. 79-CERT-106 Energy Systems Division of Northern Natural Gas Company Company

Mr. Kenneth F. Plumb,
Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426.

Dear Mr. Plumb: Pursuant to the provisions of 10 CFR Part 595, I am hereby transmitting to the Commission the enclosed certification of an eligible use of natural gas to displace fuel oil. This certification is required by the Commission as a precondition to interstate transportation of fuel oil displacement gas in accordance with the authorizing procedures in 18 CFR Part 284, Subpart F. As noted in the certificate, it is effective for one year from the date of issuance, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. A copy of the enclosed certification is also being published in the **Federal Register** and provided to the applicant.

Should the Commission have any further questions, please contact Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street, N.W., Room 4126, Washington, D.C. 20461, telephone (202) 254-8202. All correspondence and inquiries regarding this certification should reference ERA Docket No. 79-CERT-106.

Sincerely,

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Enclosure.

Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the Energy Systems Division of Northern Natural Gas Com., ERA Docket No. 79-Cert-106

Application for Certification

Pursuant to 10 CFR Part 595, Energy Systems Division of Northern Natural Gas Company (Energy Systems) filed an application for certification of an eligible use of 550,000 Mcf of natural gas at its Howard Street Plant facility in Omaha, Nebraska with the Administrator of the Economic Regulatory Administration (ERA) on October 17, 1979. On January 4, 1980, Energy Systems amended its original application to reflect a new eligible seller and transporting pipeline. The amended application states that the eligible seller of the gas is Peoples Natural Gas Division of Northern Natural Gas Company (Peoples) and that the gas will be transported by the Northern Natural Gas Company, the Metropolitan Utilities District, and the Panhandle Eastern Pipeline Company. The application and supplemental information indicates that the use of this natural gas is estimated to displace approximately 4,000,000 gallons of No. 2 home heating oil (0.2-0.3 percent sulfur) before April 1, 1980. The application also indicates that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the application, as well as other information available to ERA, the ERA hereby certifies, pursuant to 10 CFR Part 595, that the use of 550,000 Mcf of natural gas at Energy System's Howard Street Plant facility purchased from Peoples is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. It is effective during this period of time for the use of up to the same certified volume of natural gas at the same facility purchased from the same eligible seller.

Issued in Washington, D.C., on January 18, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-2192 Filed 1-23-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders; December 24 Through December 28, 1979

Notice is hereby given that during the period December 24 through December 28, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conslusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m. e.s.t., except federal holidays.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

January 17, 1980.

Proposed Decisions and Orders

City of Wilson, Wilson, N.C., BEE-0422, reporting requirements.

The City of Wilson, North Carolina filed an Application for Exception from the reporting requirements of Form EIA-149 ("Natural Gas Supply, Requirements and Usage"). The exception request, if granted, would relieve the city of the obligation to file the form with the Energy Information Administration. On December 20, 1979, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that Wilson should be granted an extension of time in which to file the form and that the city should be permitted to submit its data in a simplified format.

Liberty Hill Oil Corp., Denver, Colo., DEE-6132, crude oil.

Liberty Hill Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at market prices a certain portion of the crude oil produced for the benefit of the working interest owners from the Spur Ranch "A" Lease, located in Chautauqua County, Kansas. On December 26, 1979, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that exception relief should be granted.

Midwest Solvents Co., Atchison, Kans., DEE-7741, motor gasoline.

V45/17 JA 24 80 UMI

Midwest Solvents Company filed an Application for Exception from the provisions of 10 CFR, Part 211, Subpart F. The exception request, if granted, would assign to the firm a base period volume and supplier of unleaded gasoline for use in blending gasohol. On December 27, 1979, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

O'Meara Brothers, New Orleans, La., BXE–0317, crude oil.

O'Meara Brothers filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell at market price levels not to exceed $32.26 per barrel a certain portion of the crude oil which it produces for the benefit of the working interest owners from the Louisiana State Lease 2192. On December 28, 1979, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that an extension of exception relief should be granted.

Paradee Oil Co., Dover, Del., DEE–7527, motor gasoline.

Paradee Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 211, Subpart F. The exception request, if granted, would permit the firm to receive an increased allocation of unleaded motor gasoline for use in blending gasohol. On December 27, 1979, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted in part.

Pennzoil Producing Co., Houston, Tex., BXE–0348, crude oil.

Pennzoil Producing Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell at upper tier ceiling prices a certain portion of the crude oil which it produces for the benefit of the working interest owners from the Woodruff Sand Waterflood Unit. On December 28, 1979, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that an extension of exception relief should be granted.

Priest Explorations, Inc., Oklahoma City, Okla., DEE–8068, crude oil.

Priest Explorations, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at market prices a certain portion of the crude oil produced for the benefit of the working interest owners from the Choate Wells 3A and 4A, located in Seminole County, Oklahoma. On December 26, 1979, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that exception relief should be granted.

Priest Explorations, Inc., Oklahoma City, Okla., DEE–8067. crude oil.

Priest Explorations, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at market prices a certain portion of the crude oil produced for the benefit of the working interest owners from the Barnes Wells 2A and 3A, located in Seminole County, Oklahoma. On December 26, 1979, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request for Barnes Well 3A should be denied and that exception relief should be granted with respect to the applicant's Barnes Well 2A.

Southland Oil Co./VGS Corp., Washington, D.C. BXE–0003, crude oil.

Southland Oil Company/VGS Corporation filed an Application for Exception from the provisions of 10 CFR 211.67 (Entitlements Program). The exception request, if granted, would relieve the firm of a portion of its entitlement purchase obligations during the period December 1979 through May 1980. On December 27, 1979, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

Warrior Asphalt Co. of Alabama, Inc., Washington, D.C., BXE–0004, crude oil.

Warrior Asphalt Company of Alabama, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67 (Entitlements Program). The exception request, if granted, would relieve the firm of a portion of its entitlement purchase obligations during the period December 1979 through May 1980. On December 27, 1979, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

Young Refining Corp., Washington, D.C., BXE–0005, crude oil.

Young Refining Corporation filed an Application for Exception from the provisions of 10 CFR 211.67 (Entitlements Program). The exception request, if granted, would relieve the firm of a portion of its entitlement purchase obligations during the period December 1979 through May 1980. On December 27, 1979, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case Number, and Location

North Side Center, DEE–7919, Hamilton, MT.
Rousseau's Texaco, DEE–7348, Meriden, CT.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case Number, and Location

Boardwalk Regency Texaco, DEE–8673, Atlantic City, NJ.

[FR Doc. 80–2196 Filed 1–23–80; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Proposed Decisions and Orders; December 17 Through December 21, 1979

Notice is hereby given that during the period December 17 through December 21, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m. e.s.t., except federal holidays.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

January 17, 1980.

Proposed Decisions and Orders

American Air Filter Co., Inc., Louisville, Ky., DEE–7639, emergency building temperature restrictions.

The American Air Filter Company, Inc. (AAF) filed an Application for Exception from the provisions of 10 CFR, Part 490. The exception request, if granted, would permit AAF to set its thermostats at a uniform temperature during periods of the year when the building in which the firm is located must be both heated and cooled in the course of a single day. On December 21, 1979, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be denied.

City of Long Beach, Calif., Long Beach, Calif., BXE–0341, crude oil.

City of Long Beach, California filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell at upper tier ceiling prices a certain portion of the crude oil which it produces for the benefit of the working interest owners from the Fault Block II Unit. On December 21, 1979, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that an extension of exception relief should be granted.

John P. Davis, Stephens, Ark., DEE–7364, crude oil.

John P. Davis filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Davis to receive upper tier ceiling prices for the crude oil which was produced and sold from the J. P. Davis #1 well during the period August 1977 through August 1979 by recertification of the well's output as upper tier crude oil. On December 18, 1979, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that exception relief should be denied.

E. I. du Pont de Nemours & Co., Seaford, Del., Gibbstown, N.J., BEE–0309, BEE–0310, emergency building temperature restrictions.

E. I. du Pont de Nemours and Co. filed Applications for Exception from the provisions of 10 CFR, Part 490. The exception requests, if granted, would permit the firm to raise the maximum heating temperature above 65 degrees fahrenheit in the locker facilities of two of its industrial plants. On December 21, 1979, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception requests should be denied.

City of Pleasant Grove, Pleasant Grove, Ala., BEE–0211, reporting requirements.

City of Pleasant Grove, Alabama filed an Application for Exception from the reporting requirements of Form EIA–149 ("Natural Gas Supply, Requirements, and Usage"). The exception request, if granted, would relieve the city of the obligation to file the form with the Energy Information Administration. On December 18, 1979, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that Pleasant Grove should be granted an extension of time in which to file Form EIA–149 and that the city should be permitted to submit its data in a simplified format.

Elaine Powers Figure Salons, Inc., Milwaukee, Wis., DEE–7542, emergency building temperature restrictions.

Elaine Powers Figure Salons, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 490. The exception request, if granted, would permit the firm to maintain the temperature in its facilities below 78 degrees fahrenheit. On December 17, 1979, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be denied.

Energy Cooperative, Inc., East Chicago, Ind., DEX–8112, crude oil.

Energy Cooperative, Inc. filed an Application for Temporary Exception from the provisions of 10 CFR 211.65 (Crude Oil Buy/Sell Program) and 10 CFR 211.67 (Entitlements Program). On October 3, 1979, the Department of Energy issued a Decision and Order in which it determined that temporary exception relief should be granted to the firm in the form of a crude oil allocation of 3,034,896 barrels under the Buy/Sell Program for the period October through December, 1979. The Order also directed the Permian Corporation to supply Energy Cooperative Inc. with 1,835,000 barrels of crude oil during the same period. The directive to the Permian Corporation was later stayed pending a further Decision by the DOE. On December 21, 1979, the DOE issued a Proposed Supplemental Decision and Order in which it tentatively determined that the portion of the October 3 Decision and Order relating to The Permian Corporation should be rescinded.

Great River Gas Co., Hannibal, Mo., BEE–0087, natural gas.

Great River Gas Company filed an Application for Exception from the reporting requirements of Form EIA–149 ("Natural Gas Supply, Requirements and Usage"). The exception request, if granted, would relieve the firm of the obligation to prepare and submit Parts III and IV of the form with the Energy Information Administration. On December 17, 1979, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted in part.

Gulf Oil Corp., Tulsa, Okla., BXE–0350, crude oil.

Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell at upper tier ceiling prices and certain portion of the crude oil which it produces for the benefit of the working interest owners from the N.W. Graylin "D" Sand Unit. On December 17, 1979, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that an extension of exception relief should be granted.

Milner Super Gas, Inc., Aiken, S.C., BEE–0252, motor gasoline.

Milner Super Gas, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211, Subpart F. The exception request, if granted, would permit the firm to receive an increased allocation of unleaded motor gasoline for use in blending gasohol. On December 17, 1979, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

Oil Products Co., Inc., Council Bluffs, Iowa, BEE–0258, motor gasoline.

Oil Products Company, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211, Subpart F. The exception request, if granted, would permit the firm to receive an increased allocation of unleaded motor gasoline for use in blending gasohol. On December 17, 1979, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

Union Oil Co. of California, Los Angeles, Calif., DEE–5748, crude oil.

The Union Oil Company of California filed an Application for Exception from the provisions of the Mandatory Petroleum Allocation Regulations. The exception request, if granted, would permit Union to purchase crude oil from other domestic refiners in order to reduce its entitlement-adjusted crude oil acquisition costs. On December 21, 1979, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted in part.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case Number and location

Advanced Sales Corp., DEE–8251, St. Petersburg, FL.
Berry's Garage, DEE–6819, Tyngsboro, MA.
Handi-Car, Inc., Chevron USA Inc., DEE–4605, Tucson, AZ.
Harrison Gas & Oil, BXE–0245, Los Angeles, CA.
John's Standard Serv., DEE–7520, College Pk, GA.
Midway Pet, Inc., DEE–3851, Dundalk, MD.
Stonewall City, TX, DEE–8248, Aspermont, TX.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor

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Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case Number and Location

Buh, Inc., DEE–5232, Pierz, NM.
Center 66 Service, DEE–7588, Columbus, NE.
James R. Stiltner d/b/a Arco Mini Mart, DEE–6040, Yakima, MA.
Leo's One Stop Mart, DEE–4764, Chehalis, WA.
Otis Jones Oil Co., DEE–6355, Newman, CA.
Parkview Exxon, DEE–6348, New Iberia, LA.
Prospect Auto Repair, DEE–6383, Cambridge, MA.
Town & Country Oil, DEE–2799, Overland Pk., KS.

[FR Doc. 80-2198 Filed 1-23-80; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Dockets Nos. CS 72-883 and CS 72-950]

Application for "Small Producer" Certificates[1]

January 17, 1980.

Take notice that each of the applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before January 25, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission in its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb
Secretary.

Docket No., Date Filed and Applicant

CS72–883, 12/10/79,[2] Tommy and Terry Bolack, Co-Personal Representatives of the Estate of Alice N. Bolack, deceased and Tom Bolack (Tom and Alice N. Bolack) P.O. Box 268, Farmington, New Mexico 87401.

CS72–950, 12/14/79,[2] Maurice L. Brown Company (Formerly the Maurice L. Brown Company), P.O. Box 11320, Kansas City, Missouri 64112.

[FR Doc. 80-2218 Filed 1-23-80; 8:45 am]
BILLING CODE 6450-01-M

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[2] Being notified to reflect designation of small producer certificate.

[2] Being noticed to reflect an amendment to small producer certificate so as to reflect a change in status from a Missouri limited partnership to a corporate entity on October 1, 1979.

[Docket Nos. RP73–107, *et al.*]

Consolidated Gas Supply Corp., et al., Filing of Pipeline Refund Reports and Refund Plans

January 17, 1980.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 4, 1980. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

Appendix

Filing date	Company	Docket No.	Type filing
Dec. 28, 1979	Consolidated Gas Supply Corp	RP73–107, *et al*	Report.
Jan. 7, 1980	Tennessee Gas Pipeline Company	G–11980	Plan.
Jan. 11, 1980	Northern Natural Gas Company	RP78–56	Report.
Jan. 11, 1980	Natural Gas Pipe Line Company of America	RP77–88	Report.

[FR Doc. 80-2199 Filed 1-23-80; 8:45 am]
BILLING CODE 6450-01-M

[No. 131]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

January 11, 1980.

The Federal Energy Regulatory Commission received notices from the Jurisdictional Agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Kansas Corporation Commission

1. Control number (F.E.R.C./STATE)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchasers(s)

1. 80–08674/K–79–0262
2. 15–075–20155–0000
3. 108 000 000
4. Johnson-Mizel Oil Company
5. Salvation Army #1
6. Bradshaw
7. Hamilton County, KS
8. 4.2 million cubic feet
9. December 11, 1979
10. Kansas-Nebraska Natural Gas Co Inc

Ohio Department of Natural Resources, Division of Oil and Gas

1. Control number (F.E.R.C./STATE)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchasers(s)

1. 80–08675/01152
2. 34–059–21246–0014
3. 108 000 000
4. Guernsey Petroleum Corp
5. Fehrman Whitehair #1
6.
7. Guernsey, OH
8. 1.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Co

1. 80–08676/02220
2. 34–155–20453–0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2007) J & M FEJKO Unit #1
6.
7. Trumbull, OH
8. 6.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company

1. 80–08677/02223
2. 34–155–20506–0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2023) V Bacon Unit #1
6.
7. Trumbull, OH
8. 1.8 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company

1. 80–08678/02224
2. 34–155–20563–0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2027) BJH Inc Unit #2
6.
7. Trumbull, OH
8. 6.3 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company

1. 80–08679/02225
2. 34–155–20562–0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2015) BJH Inc Unit #1
6.
7. Trumbull, OH
8. 6.3 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company

1. 80–08680/02226
2. 34–155–20454–0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2006) M Cribbs Unit #1
6.
7. Trumbull, OH
8. 5.4 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company

1. 80–08681/02227
2. 34–155–20456–0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2004) FEJKO Unit #1
6.
7. Trumbull, OH
8. 12.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company

1. 80–08682/02228
2. 34–155–20464–0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2007) J & M Lammon #1
6.
7. Trumbull, OH
8. 4.1 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company

1. 80–08683/02230
2. 34–155–20560–0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2028) Thomas Pindur #1
6.
7. Trumbull, OH
8. 10.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company

1. 80–08684/02232
2. 34–155–20507–0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2026) S Millik Unit #1
6.
7. Trumbull, OH
8. 5.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company

1. 80–08685/02234
2. 34–155–20472–0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2013) Shaffer Unit #1
6.
7. Trumbull, OH
8. 6.8 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company

1. 80–08686/02236
2. 34–155–20495–0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2011) R Papp Unit #1
6.
7. Trumbull, OH
8. 1.4 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company

1. 80–08687/02238
2. 34–155–20458–0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2009) W & E Downs Unit #1
6.
7. Trumbull, OH
8. 8.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company

1. 80–08688/02239
2. 34–155–20457–0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2008) Martinek Unit #1
6.
7. Trumbull, OH
8. 5.3 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company

1. 80–08689/02240
2. 34–155–20559–0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2036) Wilcox Unit #2
6.
7. Trumbull, OH
8. 4.9 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company

1. 80–08690/02242
2. 34–155–20633–0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2056) N Sutliff Unit #1
6.
7. Trumbull, OH
8. 6.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company

1. 80–08691/02243
2. 34–155–20643–0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2055) Harry Clisby #1
6.
7. Trumbull, OH
8. 3.7 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company

1. 80–08692/02244
2. 34–155–20595–0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2054) C Perkins Unit #1
6.
7. Trumbull, OH
8. 1.6 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company

1. 80–08693/02249
2. 34–155–20564–0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2035) Ackerman Unit #1
6.
7. Trumbull, OH
8. 6.7 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company

1. 80–08694/02250
2. 34–155–20579–0014–
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2034) F Sutliff Unit # 1
6.
7. Trumbull, OH
8. 15.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company

1. 80–08695/02251
2. 34–155–20763–0014–
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2094) Jeanette Farmer # 1
6.
7. Trumbull, OH
8. 16.4 million cubic feet

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9. December 5, 1979
10. East Ohio Gas Company
1. 80–08696/02255
2. 34–155–20645–0014–
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2040) J Maurice # 1
6.
7. Trumbull, OH
8. 9.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80–08698/02260
2. 34–155–20775–0014–
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2121) Frank Doan Et Ux # 1
6.
7. Trumbull, OH
8. 13.1 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80–08699/02262
2. 34–155–20716–0014–
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2099) R & J Baugher # 1
6.
7. Trumbull, OH
8. 15.2 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80–08700/02265
2. 34–155–20714–0014–
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2096) Bill Baugher # 1
6.
7. Trumbull, OH
8. 8.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80–08701/02266
2. 34–155–20701–0014–
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2081) Schweikert Unit # 1
6.
7. Trumbull, OH
8. 2.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80–08702/02267
2. 34–155–20640–0014–
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2070) F Clark Unit # 1
6.
7. Trumbull, OH
8. 5.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80–08703/03291
2. 34–169–21567–0014–
3. 108 000 000
4. Wenner Petroleum Corporation
5. Lois I Shisler # 1
6. Smithville—Hermanville
7. Wayne, OH
8. 5.3 million cubic feet
9. December 5, 1979
10. Columbia Gas Trans Corp
1. 80–08704/03297
2. 34–169–22028–0014–
3. 108 000 000
4. Wenner Petroleum Corporation
5. L Geiser # 1
6. Smithville Gas Field
7. Wayne, OH
8. 2.5 million cubic feet
9. December 5, 1979
10. Columbia Gas Trans Corp
1. 80–08705/03353
2. 34–167–22991–0014–
3. 107 000 000
4. Cline Oil & Gas Co
5. Roff #1
6.
7. Washington, OH
8. 2.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80–08706/03354
2. 34–167–23966–0014
3. 107 000 000
4. Cline Oil & Gas Co
5. Hughey #1
6.
7. Washington, OH
8. 24.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80–08707/03356
2. 34–167–22908–0014–
3. 107 000 000
4. Cline Oil & Gas Co
5. Snodgrass #1
6.
7. Washington, OH
8. 7.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80–08708/03972
2. 34–169–21204–0014–
3. 108 000 000
4. Buckeye Oil Producing Co
5. Lengacher #2
6.
7. Wayne, OH
8. 2.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Trans Corp
1. 80–08709/03979
2. 34–169–21250–0014–
3. 108 000 000
4. Buckeye Oil Producing Co
5. Enkeman #1
6.
7. Wayne, OH
8. 2.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80–08710/03982
2. 34–133–20090–0014–
3. 108 000 000
4. Buckeye Oil Producing Co
5. Geiger #1
6.
7. Portage, OH
8. 12.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80–08711/03984
2. 34–099–20122–0014–
3. 108 000 000
4. Buckeye Oil Producing Co
5. Hartzell #1
6.
7. Mahoning, OH
8. 10.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80–08712/03986
2. 34–133–20105–0014–
3. 108 000 000
4. Buckeye Oil Producing Co
5. Hormell #1
6.
7. Portage, OH
8. 12.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80–08713/03992
2. 34–133–20089–0014–
3. 108 000 000
4. Buckeye Oil Producing Co
5. Tennefoss #1
6.
7. Portage, OH
8. 12.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80–08714/03993
2. 34–133–20096–0014–
3. 108 000 000
4. Buckeye Oil Producing Co
5. Van Camp #1
6.
7. Portage, OH
8. 9.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80–08715/03994
2. 34–151–21037–0014–
3. 108 000 000
4. Buckeye Oil Producing Co
5. Volkmann #1
6.
7. Stark, OH
8. 6.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80–08716/03996
2. 34–075–21765–0014–
3. 108 000 000
4. Buckeye Oil Producing Co
5. Lecky #1
6.
7. Holmes, OH
8. .1 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80–08717/03998
2. 34–075–21613–0014–
3. 108 000 000
4. Buckeye Oil Producing Co
5. Flack #1
6.
7. Holmes, OH
8. 13.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80–08718/04001
2. 34–075–21667–0014–
3. 108 000 000
4. Buckeye Oil Producing Co
5. McGrady #1–A
6.
7. Holmes, OH
8. 13.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80–08719/04002

2. 34–075–21979–0014–
3. 108 000 000
4. Buckeye Oil Producing Co
5. McGrady #2
6.
7. Holmes, OH
8. 13.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80–08720/04003
2. 34–075–21702–0014–
3. 108 000 000
4. Buckeye Oil Producing Co
5. Bigler #1
6.
7. Holmes, OH
8. 5.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80–08721/04005
2. 34–169–21950–0014–
3. 108 000 000
4. Buckeye Oil Producing Co
5. Willour #1
6.
7. Wayne, OH
8. 3.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80–08722/04007
2. 34–075–21691–0014–
3. 108 000 000
4. Buckeye Oil Producing Co
5. Kaufman #1
6.
7. Holmes, OH
8. 1.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80–08723/04010
2. 34–169–21323–0014–
3. 108 000 000
4. Buckeye Oil Producing Co
5. Uhler #1
6.
7. Wayne, OH
8. 3.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80–08724/04013
2. 34–133–20116–0014–
3. 108 000 000
4. Buckeye Oil Producing Co
5. Ball #1
6.
7. Portage, OH
8. 7.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80–08725/04018
2. 34–151–21040–0014
3. 108 000 000
4. Buckeye Oil Producing Co
5. Bowers #1
6.
7. Stark, OH
8. 4.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80–08726/04560
2. 34–167–24054–0014
3. 108 000 000
4. Energy Unlimited Inc
5. G Curry #3
6.
7. Washington, OH
8. 3.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission
1. 80–08727/04569
2. 34–167–24052–0014
3. 108 000 000
4. Energy Unlimited Inc
5. Larry Curry #1
6.
7. Washington, OH
8. 6.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission
1. 80–08728/04570
2. 34–167–24048–0014
3. 108 000 000
4. Energy Unlimited Inc
5. G Curry #2
6.
7. Washington, OH
8. 1.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission
1. 80–08729/04571
2. 34–167–24051–0014
3. 108 000 000
4. Emergy Unlimited Inc
5. Gibson Barnes #2
6.
7. Washington, OH
8. 3.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Co Inc
1. 80–08730/04961
2. 34–059–21635–0014
3. 108 000 000
4. Guernsey Petroleum Corp
5. Cowden-McCreary #1–C
6.
7. Guernsey, OH
8. 12.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80–08731/05922
2. 34–155–20107–0014
3. 108 000 000
4. William N Tipka
5. Blackson #1
6.
7. Trumbull, OH
8. 10.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Trans Corp
1. 80–08732/06123
2. 34–155–20499–0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2016) R Lance Unit #1
6.
7. Trumbull, OH
8. 19.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80–08733/06127
2. 34–155–20500–0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2017) R Lance Unit #2
6.
7. Trumbull, OH
8. 19.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80–08734/06231
2. 34–155–20460–0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2001) S & H Glass Unit #2
6.
7. Trumbull, OH
8. 18.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80–08735/06332
2. 34–155–20793–0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2137) J Church Unit #1
6.
7. Trumbull, OH
8. 18.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80–08736/06233
2. 34–155–20794–0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2138) J Church Unit #2
6.
7. Trumbull, OH
8. 18.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80–08737/06304
2. 34–105–20879–0014
3. 108 000 000
4. William H Putnam
5. Anchorage-Ohio #55031
6.
7. Meigs, OH
8. 1.7 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission
1. 80–08738/06318
2. 34–105–20944–0014
3. 108 000 000
4. W H Putnam
5. Anchorage-Ohio #35031
6.
7. Meigs, OH
8. .8 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission
1. 80–087739/06396
2. 34–009–21580–0014
3. 108 000 000
4. Paul A Grim Inc c/o Hays & Com
5. R Mead Kayser #1
6.
7. Athens, OH
8. 4.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission
1. 80–08740/06399
2. 34–009–21615–0014
3. 108 000 000
4. Paul A Grim Inc c/o Hays & Com
5. M H Flanders #1
6.
7. Athens, OH
8. 5.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission
1. 80–08741/06400
2. 34–009–21614–0014
3. 108 000 000
4. Paul A Grim Inc c/o Hays & Com
5. R Mead Kayser #2
6.

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7. Athens, OH
8. 4.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission
1. 80-08742/08401
2. 34-009-21016-0014
3. 100 000 000
4. Paul A Grim Inc c/o Hays & Com
5. Coke Lawson #1
6.
7. Athens, OH
8. 4.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission
1. 80-08743/08584
2. 34-155-20650-0014
3. 106 000 000
4. Flint Oil & Gas Inc
5. (2057) Neal Sutliff Unit #2
6.
7. Trumbull, OH
8. 8.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80-08744/08585
2. 34-155-20700-0014
3. 106 000 000
4. Flint Oil & Gas Inc
5. (2089) C Fansler #1
6.
7. Trumbull, OH
8. 16.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80-08745/08586
2. 34-155-20699-0014
3. 106 000 000
4. Flint Oil & Gas Inc
5. (2090) C Fansler #2
6.
7. Trumbull, OH
8. 16.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80-08746/08858
2. 34-009-21126-0014
3. 106 000 000
4. Cameron Brothers
5. Henry #1
6.
7. Athens, OH
8. 1.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Trans Corp
1. 80-08747/07280
2. 34-121-22127-0014
3. 103 000 000
4. J P Sigler Inc
5. Monroe #2
6.
7. Noble, OH
8. 40.0 million cubic feet
9. December 5, 1979
10. Columbia Gas
1. 80-08748/07281
2. 34-121-22126-0014
3. 103 000 000
4. J P Sigler Inc
5. Monroe #1
6.
7. Noble, OH
8. 40.0 million cubic feet
9. December 5, 1979
10. Columbia Gas
1. 80-08749/07426
2. 34-127-24376-0014
3. 103 000 000
4. Barton A Holl Estate
5. Chas Kishler et al #1
6.
7. Perry, OH
8. 182.0 million cubic feet
9. December 5, 1979
10. National Gas & Oil Corp
1. 80-08750/07445
2. 34-155-21288-0014
3. 103 000 000
4. Berea Oil and Gas Corp
5. Mosora #1
6.
7. Trumbull, OH
8. 54.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission
1. 80-08751/07455
2. 34-119-24827-0014
3. 103 000 000
4. Pemco Gas Inc
5. Sara Fliger No 3
6.
7. Muskingum, OH
8. 7.2 million cubic feet
9. December 5, 1979
10.
1. 80-08752/07456
2. 34-167-25053-0014
3. 103 000 000
4. Appalachian Petroleum Corp
5. D Baker #1
6.
7. Washington, OH
8. 3.5 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80-08753/07457
2. 34-167-24987-0014
3. 103 000 000
4. Appalachian Petroleum Corp
5. Perry #1
6.
7. Washington, OH
8. 3.5 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80-08754/07458
2. 34-167-25004-0014
3. 103 000 000
4. Appalachian Petroleum Corp
5. Jarrell #1
6.
7. Washington, OH
8. 3.5 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80-08755/07459
2. 34-167-25009-0014
3. 103 000 000
4. Appalachian Petroleum Corp
5. Wilbur C Baker #1
6.
7. Washington, OH
8. 3.5 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80-08756/07470
2. 34-031-23569-0014
3. 103 000 000
4. Energy Investment Company
5. Masielle #3
6.
7. Coshocton, OH
8. 36.0 million cubic feet
9. December 5, 1979
10.
1. 80-08757/07471
2. 34-115-21852-0014
3. 103 000 000
4. Fortune Gas and Oil Inc
5. Roberts #2
6.
7. Morgan, OH
8. 30.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80-08758/07472
2. 34-115-21854-0014
3. 103 000 000
4. Fortune Gas and Oil Inc
5. Roberts #1
6.
7. Morgan, OH
8. 30.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80-08759/07473
2. 34-121-22177-0014
3. 103 000 000
4. Tiger Oil Inc
5. Lee Crock #3
6.
7. Noble, OH
8. 20.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Co
1. 80-08760/07474
2. 34-119-24771-0014
3. 103 000 000
4. Tiger Oil Inc
5. Steven Sims #1 well
6.
7. Muskingum, OH
8. 10.0 million cubic feet
9. December 5, 1979
10. National Gas & Oil Corp
1. 80-08761/07475
2. 34-059-22632-0014
3. 103 000 000
4. Charles L Wood
5. Wood #1
6.
7. Guernsey, OH
8. 12.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Co
1. 80-08762/07476
2. 34-151-23060-0014
3. 103 000 000
4. Lomak Petroleum Inc
5. D Rohr #1
6.
7. Stark, OH
8. 50.0 million cubic feet
9. December 5, 1979
10.
1. 80-08763/07477
2. 34-119-24815-0014
3. 103 000 000
4. Carl E Smith
5. Thompson (Eleanor Smith Carrick #2)
6.
7. Muskingum, OH
8. 5.0 million cubic feet
9. December 5, 1979
10. National Gas & Oil Corp
1. 80-08764/07478

2. 34-127-24128-0014
3. 103 000 000
4. Altheirs Oil Inc
5. Seidell #1
6.
7. Perry, OH
8. 8.0 million cubic feet
9. December 5, 1979
10. Columbia Gas of Ohio Inc
1. 80-08765/07488
2. 34-119-24793-0014
3. 103 000 000
4. Clinton Oil Co
5. M Schweitzer #3
6.
7. Muskingum, OH
8. 20.0 million cubic feet
9. December 5, 1979
10.
1. 80-08766/07489
2. 34-119-24863-0014
3. 103 000 000
4. The Clinton Oil Co
5. M Schweitzer #4
6.
7. Muskingum, OH
8. 20.0 million cubic feet
9. December 5, 1979
10.
1. 80-08767/07490
2. 34-059-22435-0014
3. 103 000 000
4. New Frontier Exploration Inc
5. B Blaine Lowe #1
6.
7. Guernsey, OH
8. 26.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80-08768/07491
2. 34-031-23593-0014
3. 103 000 000
4. Jadoil Inc
5. Victor R Croft #1
6.
7. Coshocton, OH
8. 18.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80-08769/07492
2. 34-157-23414-0014
3. 103 000 000
4. Floyd E Kimble dba Red Hill Dev
5. W Myers #1
6.
7. Tuscarawas, OH
8. 30.0 million cubic feet
9. December 5, 1979
10.
1. 80-08770/07493
2. 34-157-23404-0014
3. 103 000 000
4. Floyd E Kimble dba Red Hill Dev
5. C Newton #1
6.
7. Tuscarawas, OH
8. 30.0 million cubic feet
9. December 5, 1979
10.
1. 80-08771/07494
2. 34-111-21897-0014
3. 103 000 000
4. Drillers Petroleum Corp
5. Homer J Burkhart #2
6.
7. Monroe, OH
8. 52.0 million cubic feet
9. December 5, 1979
10.
1. 80-08772/07495
2. 34-155-21261-0014
3. 103 000 000
4. Tower Energy Corp
5. T Johnson #1
6.
7. Trumbull, OH
8. 50.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80-08773/07496
2. 34-155-21218-0014
3. 103 000 000
4. Tower Energy Corp
5. A Zelenak #1
6.
7. Trumbull, OH
8. 50.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80-08774/07497
2. 34-155-21262-0014
3. 103 000 000
4. Tower Energy Corp
5. T Johnson #2
6.
7. Trumbull, OH
8. 50.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80-08775/07498
2. 34-053-20453-0014
3. 103 000 000
4. Altheirs Oil Inc
5. Lewis Scott #1
6. Cheshire Tup
7. Gallia, OH
8. 9.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80-08776/07499
2. 34-053-20463-0014
3. 103 000 000
4. Altheirs Oil Inc
5. Harold Mack #1
6. Cheshire Tup
7. Gallia, OH
8. 8.5 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80-08777/07500
2. 34-127-24401-0014
3. 103 000 000
4. Altheirs Oil Inc
5. Frank Folk #1
6. Clayton Tup
7. Perry, OH
8. 7.0 million cubic feet
9. December 5, 1979
10. Foraker Gas
1. 80-08778/07501
2. 34-127-24336-0014
3. 103 000 000
4. Altheirs Oil Inc
5. Sunday Creek Coal Co #5
6. Coal Twp
7. Perry, OH
8. 5.0 million cubic feet
9. December 5, 1979
10. Nico-Fibers Inc
1. 80-08779/07502
2. 34-127-24421-0014
3. 103 000 000
4. Altheirs Oil Inc
5. Frank Folk #3
6. Clayton Twp
7. Perry, OH
8. 8.0 million cubic feet
9. December 5, 1979
10. Foraker Gas
1. 80-08780/07503
2. 34-053-20431-0014
3. 103 000 000
4. Altheirs Oil Inc
5. Roy Herman #1
6. Cheshire Twp
7. Gallia, OH
8. 8.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80-08781/07504
2. 34-053-20490-0014
3. 103 000 000
4. Altheirs Oil Inc
5. Charles Wise #1
6. Cheshire Twp
7. Gallia, OH
8. 7.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80-08782/07505
2. 34-127-24348-0014
3. 103 000 000
4. Oak Dale Drilling Co
5. Hanson #5
6.
7. Perry, OH
8. 10.0 million cubic feet
9. December 5, 1979
10. National Gas & Oil Corp
1. 80-08783/07506
2. 34-155-21237-0014
3. 103 000 000
4. Janco Ltd Partnership 1979-2
5. Goldberg Farms Inc #1
6.
7. Trumbull, OH
8. 450.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Trans Corp
1. 80-08784/07507
2. 34-155-21236-0014
3. 103 000 000
4. Janco Ltd Partnership 1979-2
5. Goldberg Farms Inc #2
6.
7. Trumbull, OH
8. 400.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Trans Corp
1. 80-08785/07508
2. 34-155-21184-0014
3. 103 000 000
4. Janco Ltd Partnership 1979-1
5. Windsor Ford #3 A
6.
7. Trumbull, OH
8. 300.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Trans Corp
1. 80-08786/07509
2. 34-075-22263-0014
3. 103 000 000
4. Ohio Titan Energy Ltd Ptnr 1979-2
5. Owen D Yoder #1
6.

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7. Holmes, OH
8. 400.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Trans Corp
1. 80-08787/07510
2. 34-075-22209-0014
3. 103 000 000
4. Ohio Titan Energy Ltd Ptnr 1979-1
5. Atlee J Miller #1
6.
7. Holmes, OH
8. 500.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Trans Corp
1. 80-08788/07511
2. 34-155-21182-0014
3. 103 000 000
4. Janco Ltd Partnership 1979-1
5. Windsor Ford #5A
6.
7. Trumbull, OH
8. 300.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Trans Corp
1. 80-08789/07512
2. 34-155-11830-0140
3. 103 000 000
4. Janco Ltd Partnership 1979-1
5. Windsor Ford 4-A
6.
7. Trumbull, OH
8. 285.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Trans Corp
1. 80-08790/07513
2. 34-075-22212-0014
3. 103 000 000
4. Oiltech Inc
5. Paul Moritz #2-A
6.
7. Holmes, OH
8. 400.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Trans Corp
1. 80-08791/07514
2. 34-075-22190-0014
3. 103 000 000
4. Oiltech Inc
5. Paul Moritz #1
6.
7. Holmes, OH
8. .0 million cubic feet
9. December 5, 1979
10. Columbia Gas Trans Corp
1. 80-08792/07515
2. 34-075-22286-0014
3. 103 000 000
4. Ohio Titan Energy Ltd Ptnr 1979-2
5. Atlee J Miller #2
6.
7. Holmes, OH
8. 450.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Trans Corp
1. 80-08793/07516
2. 34-075-22285-0014
3. 103 000 000
4. Ohio Titan Energy Ltd Ptnr 1979-2
5. Raymond J Miller #1
6.
7. Holmes, OH
8. 370.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Trans Corp
1. 80-08794/07517
2. 34-169-21977-0014
3. 103 000 000
4. Oiltech Inc
5. Joseph Strazan #2
6.
7. Wayne, OH
8. 750.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80-08795/07518
2. 34-169-21976-0014
3. 103 000 000
4. Oiltech Inc
5. Joseph Strasan #1
6.
7. Wayne, OH
8. 500.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Co
1. 80-08796/07519
2. 34-075-22164-0014
3. 103 000 000
4. Discovery Oil Ltd
5. Smith Flying S Ranch-Priority #6
6.
7. Holmes, OH
8. 350.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Trans Corp
1. 80-08797/07520
2. 34-075-22191-0014
3. 103 000 000
4. Oiltech Inc
5. Paul Moritz #3-A
6.
7. Holmes, OH
8. 750.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Trans Corp
1. 80-08798/07550
2. 34-169-22213-0014
3. 103 000 000
4. Kenoil
5. Farmers Sportsmans Assoc Inc #1
6.
7. Wayne, OH
8. 5.9 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80-08799/07551
2. 34-083-22480-0014
3. 103 000 000
4. Kenoil
5. G & T Reynolds #3
6.
7. Knox, OH
8. 4.5 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80-08800/07552
2. 34-007-20986-0014
3. 103 000 000
4. Petroleum Energy Producing Corp
5. S Norton #1
6.
7. Ashtabula, OH
8. 25.0 million cubic feet
9. December 5, 1979
10.
1. 80-08801/07553
2. 34-167-23208-0014
3. 108 000 000
4. Carl Heinrich
5. R Pottmeyer—1
6.
7. Washington, OH
8. .0 million cubic feet
9. December 6, 1979
10. River Gas Co
1. 80-08802/07554
2. 34-167-22837-0014
3. 108 000 000
4. Carl Heinrich
5. H Reichardt—1
6.
7. Washington, OH
8. 2.8 million cubic feet
9. December 5, 1979
10. River Gas Co
1. 80-08803/07555
2. 34-167-12800-0140
3. 108 000 000
4. Carl Heinrich
5. H C Christy—1
6.
7. Washington, OH
8. 2.8 million cubic feet
9. December 5, 1979
10. River Gas Co
1. 80-08804/07556
2. 34-167-21534-0014
3. 108 000 000
4. Carl Heinrich
5. E E Bender—1
6.
7. Washington, OH
8. .5 million cubic feet
9. December 5, 1979
10. River Gas Co
1. 80-08805/07557
2. 34-167-21514-0014
3. 108 000 000
4. Carl Heinrich
5. Z Vadakin—1
6.
7. Washington, OH
8. 2.6 million cubic feet
9. December 5, 1979
10. River Gas Co
1. 80-08806/07558
2. 34-167-23202-0014
3. 108 000 000
4. Carl Heinrich
5. H F Wittekind—1
6.
7. Washington, OH
8. 3.5 million cubic feet
9. December 5, 1979
10. River Gas Co
1. 80-08807/07559
2. 34-167-22916-0014
3. 108 000 000
4. Carl Heinrich
5. P Ulmer—1
6.
7. Washington, OH
8. 4.1 million cubic feet
9. December 5, 1979
10. River Gas Co
1. 80-08808/07560
2. 34-167-23211-0014
3. 108 000 000
4. Carl Heinrich
5. J E Becker—1
6.
7. Washington, OH
8. 2.1 million cubic feet
9. December 5, 1979
10. River Gas Co
1. 80-08809/07561
2. 34-167-22251-0014
3. 108 000 000
4. Carl Heinrich
5. Schott 3
6.
7. Washington, OH
8. .6 million cubic feet
9. December 5, 1979
10. River Gas Co
1. 80-08810/07562
2. 34-167-21902-0014
3. 108 000 000
4. Carl Heinrich
5. Schott #1
6.
7. Washington, OH
8. .6 million cubic feet
9. December 5, 1979
10. River Gas Co
1. 80-08811/07563
2. 34-167-21939-0014
3. 108 000 000
4. Carl Heinrich
5. R E Dickson—2
6.
7. Washington, OH
8. 1.0 million cubic feet
9. December 5, 1979
10. Dickson Rendering Co
1. 80-08812/07564
2. 34-167-27900-0140
3. 108 000 000
4. Carl Heinrich
5. R E Dickson—1
6.
7. Washington, OH
8. 2.0 million cubic feet
9. December 5, 1979
10. Dickson Rendering Co
1. 80-08813/07565
2. 34-151-22990-0014
3. 103 000 000
4. Orion Energy Corp
5. Ruegg #1
6.
7. Stark, OH
8. 14.0 million cubic feet
9. December 5, 1979
10.
1. 80-08814/07566
2. 34-151-23006-0014
3. 103 000 000
4. Orion Energy Corp
5. Speicher #1
6.
7. Stark, OH
8. 10.0 million cubic feet
9. December 5, 1979
10.
1. 80-08815/07567
2. 34-127-24414-0014
3. 103 000 000
4. John Tansky
5. George Patrick #1
6.
7. Perry, OH
8. 8.0 million cubic feet
9. December 5, 1979
10.
1. 80-08816/07
2. 34-073-22190-0014
3. 103 000 000
4. Reliance Management Co
5. E Bailey Strong #1
6.
7. Hocking, OH
8. 8.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80-08817/07569
2. 34-127-24429-0014
3. 103 000 000
4. Jerry C Olds
5. Adcock #5
6.
7. Perry, OH
8. .0 million cubic feet
9. December 5, 1979
10. Enterprise Gas & Oil Inc
1. 80-08818/07570
2. 34-169-22205-0014
3. 103 000 000
4. Jerry C Olds
5. D Schrock #1-A
6.
7. Wayne, OH
8. .0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission
1. 80-08819/07584
2. 34-031-23406-0014
3. 103 000 000
4. Cameron Limited Partnership
5. Fred Weekley #1
6.
7. Coshocton, OH
8. 28.0 million cubic feet
9. December 5, 1979
10.
1. 80-08820/07585
2. 34-167-24629-0014
3. 103 000 000
4. Farrell Oil Company
5. Matheny #2
6.
7. Washington, OH
8. 10.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80-08821/07603
2. 34-053-20457-0014
3. 103 000 000
4. Adams Drilling Company
5. James Shaver #1
6.
7. Gallia, OH
8. 4.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80-08822/07604
2. 34-053-20454-0014
3. 103 000 000
4. Adams Drilling Company
5. Francis Rife #1
6.
7. Gallia, OH
8. 4.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80-08823/07610
2. 34-151-23000-0014
3. 103 000 000
4. Orion Energy Corp
5. Ruegg #2
6.
7. Stark, OH
8. 11.0 million cubic feet
9. December 5, 1979
10.
1. 80-08824/07611
2. 34-167-24814-0014
3. 103 000 000
4. Whipple Run Oil & Gas Corp
5. R Hille #1
6. Archers Fork
7. Washington, OH
8. 73.0 million cubic feet
9. December 5, 1979
10.
1. 80-08825/07612
2. 34-167-24813-0014
3. 103 000 000
4. Whipple Run Oil & Gas Corp
5. H Patterson #1
6. Archers Fork
7. Washington, OH
8. 182.5 million cubic feet
9. December 5, 1979
10.
1. 80-08826/07613
2. 34-031-23584-0014
3. 103 000 000
4. John C Mason
5. Russel McGrady #1
6.
7. Coshocton, OH
8. 18.0 million cubic feet
9. December 5, 1979
10. Cincinnati Gas & Electric
1. 80-08827/07614
2. 34-059-22634-0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Roberts #2
6.
7. Guernsey, OH
8. 36.5 million cubic feet
9. December 5, 1979
10.
1. 80-08828/07615
2. 34-019-21290-0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Clark-Morrison #5-E
6.
7. Carroll, OH
8. 36.5 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80-08829/07616
2. 34-019-21283-0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. E Smith #1
6.
7. Carroll, OH
8. 18.3 million cubic feet
9. December 5, 1979
10. East Ohio Gas Co
1. 80-08830/07653
2. 34-167-24677-0014
3. 103 000 000
4. C W Riggs Inc
5. Johnson-Thornley #1
6. Reno Field
7. Washington, OH
8. 14.0 million cubic feet
9. December 5, 1979
10.
1. 80-08831/07654
2. 34-167-24569-0014
3. 103 000 000
4. C W Riggs Inc
5. R Hill #1
6. Reno Field

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7. Washington, OH
8. 18.0 million cubic feet
9. December 5, 1979
10.
1. 80-08832/07655
2. 34-167-24557-0014
3. 103 000 000
4. C W Riggs Inc
5. W Hiener #1
6. Reno Field
7. Washington, OH
8. 10.0 million cubic feet
9. December 5, 1979
10.
1. 80-08833/07656
2. 34-111-21880-0014
3. 103 000 000
4. Washington Energy Ltd
5. Donald Howell #1
6.
7. Monroe, OH
8. 23.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Co
1. 80-08834/07657
2. 34-167-24556-0014
3. 103 000 000
4. C W Riggs Inc
5. W Hiener #2
6. Reno Field
7. Washington, OH
8. 14.0 million cubic feet
9. December 5, 1979
10.
1. 80-08835/07659
2. 34-167-24837-0014
3. 103 000 000
4. C W Riggs Inc
5. Strickler Unit #1
6. Reno Field
7. Washington, OH
8. 13.0 million cubic feet
9. December 5, 1979
10.
1. 80-08836/07660
2. 34-167-24660-0014
3. 103 000 000
4. C W Riggs Inc
5. D Ullman #1
6. Reno Field
7. Washington, OH
8. 18.0 million cubic feet
9. December 5, 1979
10.
1. 80-08837/07661
2. 34-167-24884-0014
3. 103 000 000
4. C W Riggs Inc
5. Zoller #1
6. Reno Field
7. Washington, OH
8. 18.0 million cubic feet
9. December 5, 1979
10.
1. 80-08838/07665
2. 34-075-22237-0014
3. 103 000 000
4. Bands Company Inc
5. Clinton Johnston #1
6.
7. Holmes, OH
8. 300.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80-08839/07666
2. 34-153-20705-0014
3. 103 000 000
4. K S T Oil & Gas Co Inc
5. Hevener Unit #1
6.
7. Summit, OH
8. 36.0 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company
1. 80-08840/07671
2. 34-167-24475-0014
3. 103 000 000
4. C W Riggs Inc
5. E Theobald #1
6. Reno Field
7. Washington, OH
8. 20.0 million cubic feet
9. December 5, 1979
10.
1. 80-08841/07672
2. 34-167-24476-0014
3. 103 000 000
4. C W Riggs Inc
5. E Theobald #2
6. Reno Field
7. Washington, OH
8. 18.0 million cubic feet
9. December 5, 1979
10.
1. 80-08842/07674
2. 34-167-24535-0014
3. 103 000 000
4. C W Riggs Inc
5. McKitrick #3
6. Reno Field
7. Washington, OH
8. 17.5 million cubic feet
9. December 5, 1979
10.
1. 80-08843/07675
2. 34-167-24834-0014
3. 103 000 000
4. C W Riggs Inc
5. G McGregor #1
6.
7. Washington, OH
8. 36.0 million cubic feet
9. December 5, 1979
10.
1. 80-08844/07676
2. 34-167-24580-0014
3. 103 000 000
4. C W Riggs Inc
5. J Riley #1
6.
7. Washington, OH
8. 73.0 million cubic feet
9. December 5, 1979
10.
1. 80-08845/07677
2. 34-167-24916-0014
3. 103 000 000
4. C W Riggs Inc
5. R Long #1
6.
7. Washington, OH
8. 14.0 million cubic feet
9. December 5, 1979
10.
1. 80-08846/07678
2. 34-167-24609-0014
3. 103 000 000
4. C W Riggs Inc
5. P Smith #2
6. Reno Field
7. Washington, OH
8. 15.0 million cubic feet
9. December 5, 1979
10.
1. 80-08847/07679
2. 34-167-24333-0014
3. 103 000 000
4. L&M Exploration Inc
5. Bernard Strahler #4
6.
7. Washington, OH
8. 12.8 million cubic feet
9. December 5, 1979
10. Gas Transport Inc
1. 80-08848/07680
2. 34-167-24332-0014
3. 103 000 000
4. L&M Exploration Inc
5. Bernard Strahler #3
6.
7. Washington, OH
8. 12.8 million cubic feet
9. December 5, 1979
10. Gas Transport Inc
1. 80-08849/07681
2. 34-167-24331-0014
3. 103 000 000
4. L&M Exploration Inc
5. Bernard Strahler #5
6.
7. Washington, OH
8. 12.8 million cubic feet
9. December 5, 1979
10. Gas Transport Inc
1. 80-08850/07682
2. 34-167-24330-0014
3. 103 000 000
4. L&M Exploration Inc
5. Bernard Strahler #6
6.
7. Washington, OH
8. 12.8 million cubic feet
9. December 5, 1979
10. Gas Transport Inc
1. 80-08851/07683
2. 34-119-24770-0014
3. 103 000 000
4. The Benatty Corporation
5. Mabel Dailey #6
6.
7. Muskingum, OH
8. 25.0 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission
1. 80-08852/07684
2. 34-083-22655-0014
3. 103 000 000
4. The Oxford Oil Co
5. Bolen-Barker #1
6.
7. Knox, OH
8. 10.0 million cubic feet
9. December 5, 1979
10.
1. 80-08853/07685
2. 34-119-24282-0014
3. 103 000 000
4. The Oxford Oil Co
5. Richard & Wanda Watson #4
6.
7. Muskingum, OH
8. 9.0 million cubic feet
9. December 5, 1979
10.
1. 80-08854/07686

2. 34-119-24878-0014
3. 103 000 000
4. The Oxford Oil Co
5. Ross Wise #1
6.
7. Muskingum, OH
8. 10.0 million cubic feet
9. December 5, 1979
10.
1. 80-08855/07689
2. 34-075-22230-0014
3. 103 000 000
4. Morgan-Pennington Inc
5. Snyder & Fishinger No 1
6.
7. Holmes, OH
8. 7.3 million cubic feet
9. December 5, 1979
10. Columbia Gas Transmission Corp
1. 80-08856/07690
2. 34-115-21835-0014
3. 103 000 000
4. Temple Oil & Gas Co
5. Ernest Bell #6
6.
7. Morgan, OH
8. 9.0 million cubic feet
9. December 5, 1979
10.
1. 80-08697/02259
2. 34-155-20776-0014
3. 105 000 000
4. Flint Oil & Gas Inc
5. (2122) Florence Baugher #1
6.
7. Trumbull, OH
8. 16.8 million cubic feet
9. December 5, 1979
10. East Ohio Gas Company

Oklahoma Corporation Commission

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-08858/00821
2. 35-009-20243-0000
3. 102 103 000
4. El Paso Natural Gas Company
5. Evans #1
6. Elk City
7. Beckham, OK
8. 385.0 million cubic feet
9. December 6, 1979
10. El Paso Natural Gas Company
1. 80-08859/01174
2. 35-071-00000-0000
3. 108 000 000
4. Kansas Gas Purchasing
5. Glenny B #1
6. Blackwell
7. Kay, OK
8. 16.6 million cubic feet
9. December 6, 1979
10. Cities Service Gas Company
1. 80-08860/01147
2. 35-047-21371-0000
3. 103 000 000
4. Harper Oil Company
5. Hoge #2
6. Sooner Trend
7. Garfield, OK
8. 91.0 million cubic feet
9. December 6, 1979
10. Arkansas Louisiana Gas Co
1. 80-08861/01128
2. 35-047-21382-0000
3. 103 000 000
4. Harper Oil Company
5. Noble Long #1
6. Sooner Trend
7. Garfield, OK
8. 73.0 million cubic feet
9. December 6, 1979
10. Arkansas Louisiana Gas Company Exxon Corp
1. 80-08862/01107
2. 35-073-22093-0000
3. 103 000 000
4. Harper Oil Company
5. Fred Brown #1
6. Sooner Trend
7. Kingfisher, OK
8. 58.0 million cubic feet
9. December 6, 1979
10. Phillips Petroleum Company
1. 80-08863/01074
2. 35-017-21049-0000
3. 102 000 000
4. Continental Oil Company
5. Wilds 1-2
6. E El Reno
7. Canadian, OK
8. 100.3 million cubic feet
9. December 6, 1979
10. Cities Service Gas Company
1. 80-08864/01073
2. 35-017-21016-0000
3. 102 000 000
4. Continental Oil Company
5. Wilds 1-1
6. E El Reno
7. Canadian, OK
8. 91.2 million cubic feet
9. December 6, 1979
10. Cities Service Gas
1. 80-08865/01067
2. 35-129-20248-0000
3. 102 000 000
4. Arkla Exploration Company
5. Hickey #1-32
6. Midway
7. Roger Mills, OK
8. 653.0 million cubic feet
9. December 6, 1979
10. Arkansas Louisiana Gas Company
1. 80-08866/01086
2. 35-129-20323-0000
3. 102 000 000
4. Arkla Exploration Company
5. Selby Hooper #2-4
6. Midway
7. Roger Mills, OK
8. 389.0 million cubic feet
9. December 6, 1979
10. Arkansas Louisiana Gas Company
1. 80-08867/01085
2. 35-129-20305-0000
3. 102 000 000
4. Arkla Exploration Company
5. Selby Hooper #1-5
6. Midway
7. Roger Mills, OK
8. 414.0 million cubic feet
9. December 6, 1979
10. Arkansas Louisiana Gas Company
1. 80-08868/01015
2. 35-007-21319-0000
3. 103 000 000
4. J M Huber Corporation
5. Heintz B #1
6. N W Greenough
7. Beaver, OK
8. 15.6 million cubic feet
9. December 6, 1979
10. Panhandle Eastern Pipe Line Co
1. 80-08869/01171
2. 35-151-35303-0000
3. 105 000 000
4. Texaco Inc
5. Bertha Miller Unit #1
6. Waynoka NE
7. Woods, OK
8. 12.0 million cubic feet
9. December 6, 1979
10. Cities Service Gas Company
1. 80-08870/00783
2. 35-029-20182-0000
3. 103 000 000
4. Tenneco Oil Company
5. English Robert 1-9
6. Centrahoma
7. Coal, OK
8. 190.0 million cubic feet
9. December 6, 1979
10. Arkansas Louisiana Gas Company
1. 80-08871/00691
2. 35-047-21669-0000
3. 103 000 000
4. Rodman Petroleum Corporation
5. Amy #24-1
6. Sooner Trend
7. Garfield, OK
8. .0 million cubic feet
9. December 6, 1979
10. Phillips Petroleum Company
1. 80-08872/00378
2. 35-151-00000-0000
3. 103 000 000
4. S Keith Tuthill & Bill J Barbee
5. Miller #1-16
6. East Brace
7. Woods, OK
8. 120.0 million cubic feet
9. December 6, 1979
10. Panhandle Eastern Pipe Line
1. 80-08873/00656
2. 35-073-22075-0000
3. 103 000 000
4. Rodman Petroleum Corporation
5. Oppel #29-1
6. Sooner Trend
7. Kingfisher, OK
8. 109.5 million cubic feet
9. December 6, 1979
10. Phillips Petroleum Company

South Dakota Department of Natural Resource Development

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchasers(s)

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1. 80–08857
2. 40–083–20197–0000
3. 108 000 000
4. Alma McCutchin
5. 1–28 Heikkila
6. West Short Pine Hills
7. Harding, SD
8. 9.0 million cubic feet
9. November 21,, 1979
10. Montana Dakota Utilities Co

West Virginia Department of Mines, Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–08875
2. 47–059–20806–0000
3. 108 000 000 Denied
4. Lasco Production Co
5. Mingo Well #1
6. Harvey
7. Mingo, WV
8. .0 million cubic feet
9. November 5, 1979
10. Columbia Gas

1. 80–08876
2. 47–043–21381–0000
3. 108 000 000 Denied
4. Ed Smith & D F Smith
5. UFG MIN N–1–1
6. Harts CR
7. Lincoln, WV
8. 8.8 million cubic feet
9. November 5, 1979
10. Columbia Gas

1. 80–08877
2. 47–043–20621–0000
3. 108 000 000 Denied
4. F D Smith & D F Smith
5. Well No 5666
6. Jefferson
7. Lincoln, WV
8. .0 million cubic feet
9. November 5, 1979
10. Columbia Gas Co

1. 80–08878
2. 47–013–01406–0000
3. 108 000 000 Denied
4. Roy G Hildreth et al
5. Wiant Gas Company #1
6. Lee District
7. Calhoun, WV
8. .0 million cubic feet
9. November 5, 1979
10. Consolidated Gas Supply Co

1. 80–08879
2. 47–085–04309–0000
3. 108 000 000 Denied
4. Perkins Oil & Gas Inc
5. Creed Collins #1–4342
6. Bunds Creek
7. Ritchie, WV
8. 3.0 million cubic feet
9. November 5, 1979
10. Equitable Gas

1. 80–08880
2. 47–047–00506–0000
3. 108 000 000 Denied
4. Consolidated Gas Supply Corp
5. Pocohontas Linnd Corp 11380
6. Pineville Field Area A–59442
7. McDowell, WV
8. 15.0 million cubic feet
9. November 8, 1979
10. General System Purchasers

1. 80–08881
2. 47–021–01108–0000
3. 108 000 000 Denied
4. Consolidated Gas Supply Corp
5. Louis Bennett 10170
6. West Virginia other A–65772
7. Gilmer, WV
8. 20.0 million cubic feet
9. November 8, 1979
10. General System Purchasers

1. 80–08882
2. 47–005–00150–0000
3. 108 000 000 Denied
4. Pennzoil Company
5. Hopkins T J #3
6. Washington
7. Boone, WV
8. .2 million cubic feet
9. November 26, 1979
10. Consolidated Gas Supply Corp

1. 80–08883
2. 47–005–00558–0000
3. 108 000 000 Denied
4. Pennzoil Company
5. White Minnie #2
6. Crook
7. Boone, WV
8. .0 million cubic feet
9. November 26, 1979
10. Consolidated Gas Supply Corp

1. 80–08884
2. 47–045–01026–0000
3. 108 000 000 Denied
4. Penzoil Company
5. Yawkey-Freeman #9
6. Logan District
7. Logan, WV
8. .0 million cubic feet
9. November 26, 1979
10. Consolidated Gas Supply Corp

1. 80–08885
2. 47–005–01222–0000
3. 108 000 000 Denied
4. Pennzoil Company
5. A B Chambers #2
6. Scott District
7. Boone, WV
8. .3 million cubic feet
9. November 26, 1979
10. Consolidated Gas Supply Corp

1. 80–08886
2. 47–005–01223–0000
3. 108 000 000 Denied
4. Pennzoil Company
5. A B Chambers #3
6. Scott District
7. Boone, WV
8. .9 million cubic feet
9. November 26, 1979
10. Consolidated Gas Supply Corp

1. 80–08887
2. 47–033–01806–0000
3. 108 000 000 Denied
4. Pennzoil Company
5. B F Nuzum #3
6. Clay
7. Harrison, WV
8. .0 million cubic feet
9. November 26, 1979
10. Consolidated Gas Supply Corp

1. 80–08888
2. 47–033–01848–0000
3. 108 000 000 Denied
4. Pennzoil Company
5. App Thompson #2
6. Clay
7. Harrison, WV
8. .0 million cubic feet
9. November 26, 1979
10. Consolidated Gas Supply Corp

1. 80–08889
2. 47–033–01854–0000
3. 108 000 000 Denied
4. Pennzoil Company
5. J H Thompson #5
6. Clay
7. Harrison, WV
8. .0 million cubic feet
9. November 26, 1979
10. Consolidated Gas Supply Corp

1. 80–08890
2. 47–017–02191–0000
3. 108 000 000 Denied
4. Pennzoil Company
5. J A Bode No 1
6. Cove
7. Doddridge, WV
8. .5 million cubic feet
9. November 26, 1979
10. Consolidated Gas Supply Corp

1. 80–08891
2. 47–021–03362–0000
3. 108 000 000 Denied
4. Pennzoil Company
5. Scott Mason #4
6. Troy
7. Gilmer, WV
8. .0 million cubic feet
9. November 26, 1979
10. Consolidated Gas Supply Corp

1. 80–08892
2. 47–085–04077–0000
3. 108 000 000 Denied
4. Pennzoil Company
5. L M Parks #1
6. Murphy District
7. Ritchie, WV
8. .0 million cubic feet
9. November 26, 1979
10. Consolidated Gas Supply Corp

1. 80–08893
2. 47–039–00301–0000
3. 108 000 000 Denied
4. Devon Corporation
5. #0–20 E E Walker
6. Sissonsville
7. Kanawha, WV
8. 2.5 million cubic feet
9. December 4, 1979
10. Cities Service

1. 80–08894
2. 47–007–70634–0000
3. 108 000 000 Denied
4. Jones Oil and Gas Company
5. William Brown No 3
6. Gilmer
7. Braxton, WV
8. 2.0 million cubic feet
9. December 4, 1979
10. Consolidated Gas Supply Corp

1. 80–08895
2. 47–085–20080–0000
3. 108 000 000 Denied
4. R & S Gas Company
5. J W Hefner No 1
6. Murphy District
7. Ritchie, WV
8. 8.0 million cubic feet
9. December 4, 1979
10.

1. 80–08896
2. 47–085–24312–F000
3. 108 000 000 Denied
4. R & S Gas Company
5. A D Riddle No 2
6. Murphy District
7. Ritchie, WV
8. 18.0 million cubic feet
9. December 4, 1979
10. Cabot Corporation

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 8, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–2203 Filed 1–23–80; 8:45 am]

BILLING CODE 6450–01–M

[No. 132]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

January 11, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Kansas Corporation Commission

1. Control Number (FERC/State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or Block NO.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–08897/K–79–0411
2. 15–151–20144–0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Schumacher #1
6. Harper Ranch
7. Comanche, KS
8. 109.5 million cubic feet
9. December 7, 1979
10. Northern Natural Gas

1. 80–08898/K–79–0359
2. 15–175–20336–0000
3. 102 000 000
4. Anadarko Production Company
5. Shuck A No 1
6. Shuck
7. Seward, KS
8. 38.0 million cubic feet
9. December 7, 1979
10. Cimarron-Quinque

1. 80–08899/K–79–0355
2. 15–129–20353–0000
3. 102 000 000
4. Anadarko Production Co
5. E P Lewis B No 1
6. Taloga
7. Morton, KS
8. 48.0 million cubic feet
9. December 7, 1979
10. Panhandle Eastern Pipeline Co

1. 80–08900/K–79–0361
2. 15–175–20364–0000
3. 102 000 000
4. Anadarko Production Co
5. Cosgrove A No 1
6. Shuck
7. Seward, KS
8. 34.0 million cubic feet
9. December 7, 1979
10. Cimarron-Quinque A Div of APC

1. 80–08901/K–79–0405
2. 15–175–20344–0000
3. 102 000 000
4. Anadarko Production Co
5. Guttridge B No 1
6. Shuck
7. Seward, KS
8. 43.0 million cubic feet
9. December 7, 1979
10. Cimarron-Quinque A Div of APC

1. 80–08902/K–79–0456
2. 15–175–00000–0000
3. 102 000 000
4. Anadarko Production Company
5. Guttridge A–4
6. Shuck
7. Seward, KS
8. .0 million cubic feet
9. December 7, 1979
10. Cimarron-Quinque a Div of APC

1. 80–08903/K–79–0462
2. 15–129–20313–0000
3. 102 000 000
4. Anadarko Production Company
5. Cheokee B No 1
6. Santa Fe Trail—Cimarron Valley
7. Morton, KS
8. 35.0 million cubic feet
9. December 7, 1979
10. Cimarron-Quinque a Div of APC

1. 80–08904/K–79–0406
2. 15–129–20221–0000
3. 102 000 000
4. Anadarko Production Company
5. Low H No 1
6. Cimarron Valley
7. Morton, KS
8. .0 million cubic feet
9. December 7, 1979
10. Cimarron-Quinque a Div of APC

1. 80–08905/K–79–0408
2. 15–129–20021–0000
3. 102 000 000
4. Anadarko Production Company
5. Low H No 1
6. Cimarron Valley
7. Morton, KS
8. 21.0 million cubic feet
9. December 7, 1979
10. Cimarron-Quinque a Div of APC

1. 80–08906/K–79–0403
2. 15–175–20356–0000
3. 102 000 000
4. Anadarko Production Company
5. Shuck A No 2
6. Shuck
7. Seward, KS
8. 50.0 million cubic feet
9. December 7, 1979
10. Cimarron-Quinque a Div of APC

1. 80–08907/K–79–0415
2. 15–151–20589–0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Armitstead B #1
6. Brandt
7. Pratt, KS
8. 109.5 million cubic feet
9. December 7, 1979
10.

1. 80–08908/K–79–1414
2. 15–151–20578–0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Armitstead A #1
6. Brandt
7. Pratt, KS
8. 109.5 million cubic feet
9. December 7, 1979
10.

1. 80–08909/K–79–0402
2. 15–175–20361–0000
3. 102 000 000
4. Anadarko Production Company
5. Fincham A No 3
6. Shuck
7. Seward, KS
8. 23.0 million cubic feet
9. December 7, 1979
10. Cimarron-Quinque

1. 80–08910/K–79–0401
2. 15–175–20370–0000
3. 102 000 000
4. Anadarko Production Company
5. Guttridge C–2
6. Shuck
7. Seward, KS
8. .0 million cubic feet
9. December 7, 1979
10. Cimarron-Quinque

1. 80–08911/K–79–0418
2. 15–007–20670–0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Hull B #1
6. W Skinner
7. Barber, KS
8. 4380.0 million cubic feet
9. December 7, 1979
10.

1. 80–08912/K–79–0416

V 45 / 17 JA 24 80 UMI

2. 15-151-30600-0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Armitstead C #1
6. Brandt
7. Pratt, KS
8. 109.5 million cubic feet
9. December 7, 1979
10.
1. 80-08913/K-79-0459
2. 15-175-00000-0000
3. 102 000 000
4. Anadarko Production Company
5. Guttride A No 4
6. Shuck
7. Seward, KS
8. .0 million cubic feet
9. December 7, 1979
10. Cimarron-Quinque
1. 80-08928/K-79-0523
2. 15-059-20159-0000
3. 102 000 000
4. Glacier Petroleum Co Inc
5. Hudelson #1
6. Pomona
7. Franklin, KS
8. 44.4 million cubic feet
9. December 7, 1979
10. Cities Service Gas Co., Franklin Pipeline Inc
1. 80-08958/K-79-0461
2. 15-129-30313-0000
3. 102 000 000
4. Anadarko Production Company
5. Cherokee B No 1
6. Santa Fe Trail—Cimarron Valley
7. Morton, KS
8. 83.4 million cubic feet
9. December 7, 1979
10. Cimarron-Quinque
1. 80-08959/K-79-0360
2. 15-175-20376-0000
3. 102 000 000
4. Anadarko Production Company
5. Pitman A-1
6. Shuck
7. Seward, KS
8. 30.0 million cubic feet
9. December 7, 1979
10. Cimarron-Quinque
1. 80-08964/K-79-0407
2. 15-175-20327-0000
3. 103 000 000
4. Anadarko Production Company
5. Gutridge A No 3
6. Shuck
7. Seward, KS
8. 105.0 million cubic feet
9. December 7, 1979
10. Cimarron-Quinque a Div of APC
1. 80-08965/K-79-0413
2. 15-033-20721-0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. McMoran #2
6. NW Yellowstone
7. Comanche, KS
8. 912.5 million cubic feet
9. December 7, 1979
10. Delhi Gas Pipeline Corp

Michigan Department of Natural Resources

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchasers(s)
1. 80-08914
2. 21-099-32480-0000
3. 102-000-000
4. Reef Petroleum Corporation
5. Bolen-Belzyt #1-32
6. Richmond 32
7. Macomb, MI
8. 182.5 million cubic feet
9. December 6, 1979
10. Southeastern Michigan Gas Company
1. 80-08915
2. 21-025-33128-0000
3. 102-000-000
4. Reef Petroleum Corporation
5. Frederick Schmidt #1-27
6. Clarence 27
7. Calhoun, MI
8. 54.8 million cubic feet
9. December 6, 1979
10. Southeastern Michigan Gas Company
1. 80-08916
2. 21-147-32293-0000
3. 102-000-000
4. Reef Petroleum Corporation
5. Anna Wronski #1-4
6. Columbus 4
7. St Clair, MI
8. 182.5 million cubic feet
9. December 6, 1979
10. Michigan Consolidated Gas Company

New Mexico Department od Energy and Minerals, Oil Conservation Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchasers(s)
1. 80-09022
2. 30-025-26377-0000
3. 103-000-000
4. Phillips Petroleum Company
5. E Vac GB/SA Unit TR 2717 #007
6. Vacuum Grayburg/San Andres
7. Lea, NM
8. 21.0 million cubic feet
9. December 10, 1979
10. El Paso Natural Gas Company
1. 80-09023
2. 30-025-26376-0000
3. 103-000-000
4. Phillips Petroleum Company
5. E Vac GB/SA Unit TR 2622 #001
6. Vacuum Grayburg/San Andres
7. Lea, NM
8. 8.0 million cubic feet
9. December 10, 1979
10. El Paso Natural Gas Company
1. 80-09024
2. 30-025-26388-0000
3. 103-000-000
4. Phillips Petroleum Company
5. E Vac GB/SA Unit TR 3236 #005
6. Vacuum Grayburg/San Andres
7. Lea, NM
8. 14.0 million cubic feet
9. December 10, 1979
10. El Paso Natural Gas Company
1. 80-09025
2. 30-025-26425-0000
3. 103-000-000
4. Warren Petroleum Co A Div of Gulf
5. Scarborough Estate Well #9
6. Brunson Granite Wash South
7. Lea, NM
8. .0 million cubic feet
9. December 10, 1979
10. El Paso Natural Gas Company
1. 80-09026
2. 30-025-26286-0000
3. 103-000-000
4. Warren Petroleum Co A Div of Gulf
5. Alice Paddock Well #8
6. Wantz Granite Wash
7. Lea, NM
8. .0 million cubic feet
9. December 10, 1979
10. El Paso Natural Gas Company

Oklahoma Corporation Commission

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchasers(s)
1. 80-08960/00435
2. 35-009-35590-0000
3. 108-000-000
4. El Paso Natural Gas Co
5. Bliss No 1
6. Erick South
7. Beckham, OK
8. .0 million cubic feet
9. December 7, 1979
10. El Paso Natural Gas Co
1. 80-08961/03098
2. 35-149-20048-0000
3. 107-000-000
4. El Paso Natural Gas Co
5. Kilhoffer #1
6. Elk City Springer
7. Washita, OK
8. 3650.0 million cubic feet
9. December 7, 1979
10. El Paso Natural Gas Co
1. 80-089620/03287
2. 35-009-20273-0000
3. 107-000-000
4. ElPaso Natural Gas Co
5. Coy #2
6. Elk City Morrow Upper
7. Beckham, OK
8. 823.0 million cubic feet
9. December 7, 1979
10. El Paso Natural Gas Co
1. 80-08963/01030
2. 35-111-20483-0000
3. 108-000-000
4. Tamarack Petroleum Company Inc
5. Kerr #2
6. Henryetta District
7. Okmulgee, OK
8. 25.0 million cubic feet

9. December 7, 1979
10. Phillips Petroleum Company
1. 80-08964/01117
2. 35-047-21328-0000
3. 103-000-000
4. Texaco Inc
5. Lee Eckhardt No 2
6. Sooner Trend
7. Garfield, OK
8. 18.0 million cubic feet
9. December 7, 1979
10. Panhandle Eastern Pipe Line Co Oklahoma Natural Gas Co
1. 80-08965/01181
2. 35-059-20648-0000
3. 103-000-000
4. Sun Oil Company (Delaware)
5. State of Oklahoma Q Well No 2
6. Mocane-Laverne
7. Harper, OK
8. 28.0 million cubic feet
9. December 7, 1979
10. Colorado Interstate Gas Company
1. 80-08967/01119
2. 35-093-21329-0000
3. 103-000-000
4. Pacific Oil & Gas Co
5. Boston No 1
6. Bado
7. Major, OK
8. 85.0 million cubic feet
9. December 7, 1979
10. Phillips Petroleum Company
1. 80-08968/01173
2. 35-059-20697-0000
3. 103-000-000
4. Sunrise Exploration
5. Miller C #1-26
6. Boiling Springs
7. Harper, OK
8. .0 million cubic feet
9. December 7, 1979
10. Michigan-Wisconsin Pipeline Co
1. 80-08969/01182
2. 35-059-20620-0000
3. 103-000-000
4. Arco Oil and Gas Company
5. Cady Wilmot #2
6. Laverne
7. Harper, OK
8. 365.0 million cubic feet
9. December 7, 1979
10. Michigan Wisconsin Pipeline Company
1. 80-08970/01184
2. 35-059-20621-0000
3. 103 000 000
4. Sun Oil Company (Delaware)
5. Robertson A Well #1-L
6. Mocane-Laverne
7. Harper OK
8. 660.0 million cubic feet
9. December 7, 1979
10. Michigan Wisconsin Pipeline Company
1. 80-08971/01170
2. 35-151-50027-0000
3. 108 000 000
4. Texaco Inc
5. Viola Clemence Unit No 1
6. Waynoka NE
7. Woods OK
8. 12.0 million cubic feet
9. December 7, 1979
10. Cities Service Gas Co
1. 80-08972/00373
2. 35-047-21383-0000
3. 103 000 000
4. Ladd Petroleum Corporation
5. Hays Everett #2
6. Enid NE
7. Garfield OK
8. 46.0 million cubic feet
9. December 7, 1979
10. Cities Service Gas Company
1. 80-08974/00366
2. 35-047-21247-0000
3. 103 000 000
4. Ladd Petroleum Corporation
5. Click #2D
6. Enid NE
7. Garfield OK
8. 217.0 million cubic feet
9. December 7, 1979
10. Cities Service Gas Company
1. 80-08975/01101
2. 35-045-20705-0000
3. 103 000 000
4. C F Braun & Co
5. State 1-5
6. S E Harmon Section 5-18N-22W
7. Ellis OK
8. 100.0 million cubic feet
9. December 7, 1979
10. Northern Natural Gas Company
1. 80-08976/00613
2. 35-071-21157-0000
3. 103 000 000
4. Demco Oil & Gas Company
5. Fender #1
6. Unnamed
7. Kay OK
8. 27.4 million cubic feet
9. December 7, 1979
10. Chase Exploration Corporation Chase Gathering Systems Inc Cities Service Gas Co
1. 80-08977/01161
2. 35-003-20591-0000
3. 103 000 000
4. Arco Oil and Gas Company
5. Mary Pekrul #1
6. Ringwood
7. Alfalfa OK
8. 21.5 million cubic feet
9. December 7, 1979
10. Union Texas Petroleum Co
1. 80-08978/01118
2. 35-047-21327-0000
3. 103 000 000
4. Texaco Inc
5. R R Glass No 2
6. Sooner Trend
7. Garfield OK
8. 18.0 million cubic feet
9. December 7, 1979
10. Panhandle Eastern P/L Co Oklahoma Natural Gas Corp
1. 80-08979/01118
2. 35-047-21325-0000
3. 103 000 000
4. Texaco Inc
5. Theresa Strain No 2
6. Sooner Trend
7. Garfield OK
8. 175.0 million cubic feet
9. December 7, 1979
10. Panhandle Eastern P/L Co Oklahoma Natural Gas Co
1. 80-08980/04891
2. 35-015-20789-0000
3. 107 000 000
4. Continental Oil Company
5. Moore No 1
6. Ft Cobb
7. Caddo OK
8. 196.2 million cubic feet
9. December 7, 1979
10.
1. 80-08981/01185
2. 35-059-20621-0000
3. 103 000 000
4. Sun Oil Company (Del)
5. Robertson A Well #1-U
6. Mocane-Laverne
7. Harper OK
8. 1645.0 million cubic feet
9. December 7, 1979
10. Michigan Wisconsin P/L Co
1. 80-08982/04279
2. 35-039-20222-0000
3. 107 000 000
4. Natomas North America Inc
5. Schmidt No 1
6. Wildcat
7. Custer OK
8. .0 million cubic feet
9. December 7, 1979
10. Delhi Gas Pipeline Corporation
1. 80-08983/01103
2. 35-045-20634-0000
3. 103 000 000
4. Natomas North America Inc
5. McCarter #1-1
6. Peek NE
7. Ellis OK
8. 66.0 million cubic feet
9. December 7, 1979
10. Northern Natural Gas Company
1. 80-08986/00367
2. 35-047-00000-0000
3. 103
4. Ladd Petroleum Corp
5. Click #3
6. Enid NE
7. Garfield OK
8. 144.0 million cubic feet
9. December 7, 1979
10. Cities Service Gas Co
1. 80-08973/00375
2. 35-047-21551-0000
3. 103
4. Ladd Petroleum Corp
5. Maxey #2
6. Enid NE
7. Garfield OK
8. 37.8 million cubic feet
9. December 7, 1979
10. Cities Service Gas Co

Texas Railroad Commission, Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-08917/06899
2. 42-179-00000-0000
3. 108 000 000
4. R W Adams & Son

V 45 / 17 JA 24 80 UMI

5. Evans Well ID #28444
6. East Panhandle Field
7. Gray TX
8. 15.2 million cubic feet
9. December 7, 1979
10. Phillips Petroleum

1. 80-08918/08520
2. 42-421-00000-0000
3. 108 000 000
4. Adams & McGahey
5. Eck Well ID #31327
6. Panhandle Field
7. Sherman TX
8. 7.3 million cubic feet
9. December 7, 1979
10. Phillips Petroleum

1. 80-08919/08519
2. 42-179-00000-0000
3. 108 000 000
4. Adams & McGahey
5. Rob Well ID #25785
6. East Panhandle Field
7. Gray TX
8. 9.1 million cubic feet
9. December 7, 1979
10. Coltexo

1. 80-08920/08518
2. 42-179-00000-0000
3. 108 000 000
4. Adams & McGahey
5. Haynes Well ID #25784
6. East Panhandle Field
7. Gray TX
8. 4.4 million cubic feet
9. December 7, 1979
10. Coltexo

1. 80-08921/08517
2. 42-179-00000-0000
3. 108 000 000
4. Adams & McGahey
5. Taylor #1 Well ID #43039
6. West Panhandle Field
7. Gray TX
8. 21.2 million cubic feet
9. December 7, 1979
10. Phillips Petroleum Company

1. 80-08922/08476
2. 42-421-00000-0000
3. 108 000 000
4. Adams & McGahey
5. Smitty Well ID #27816
6. Panhandle Field
7. Sherman TX
8. 9.4 million cubic feet
9. December 7, 1979
10. Phillips Petroleum

1. 80-08923/08475
2. 42-421-00000-0000
3. 108 000 000
4. Adams & McGahey
5. Hamilton Well ID #27815
6. Panhandle Field
7. Sherman TX
8. 6.2 million cubic feet
9. December 7, 1979
10. Phillips Petroleum

1. 80-08924/08474
2. 42-195-00000-0000
3. 108 000 000
4. Adams & McGahey
5. Jo Well ID #27313
6. Panhandle Field
7. Hansford TX
8. 14.0 million cubic feet
9. December 7, 1979
10. Phillips Petroleum

1. 80-08925/00801
2. 42-421-00000-0000
3. 108 000 000
4. Adams & McGahey
5. Hardy #1 Well ID #27361
6. Panhandle Field
7. Sherman TX
8. 9.3 million cubic feet
9. December 7, 1979
10. Phillips Petroleum Company

West Virginia Department of Mines, Oil and Gas Division

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchase(s)

1. 80-08927
2. 47-013-02422-0000
3. 108 000 000
4. E M and W E Smith
5. Solomon Holpp No 2
6. Sheridan District
7. Calhoun WV
8. 2.5 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08928
2. 47-013-02330-0000
3. 108 000 000
4. Walter E Smith
5. George Bigler No 4
6. Sheridan District
7. Calhoun WV
8. 2.1 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08929
2. 47-013-02309-0000
3. 108 000 000
4. Walter E Smith
5. George Bigler Well No 3
6. Sheridan
7. Calhoun WV
8. 2.1 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08930
2. 47-013-02284-0000
3. 108 000 000
4. Walter E Smith
5. E W Gainer well No 3
6. Sherman District
7. Calhoun WV
8. 1.3 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08931
2. 47-013-02257-0000
3. 108 000 000
4. Walter E Smith
5. John G Rogers well No 4
6. Sheridan
7. Calhoun WV
8. 1.7 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08932
2. 47-013-02189-0000
3. 108 000 000
4. Walter E Smith
5. I Parson Martin well No 3
6. Sheridan
7. Calhoun WV
8. 2.6 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08933
2. 47-013-02300-0000
3. 108 000 000
4. Smith and Barker Oil & Gas Co Inc
5. Francis Earlewine No 4
6. Sherman District
7. Calhoun WV
8. 1.4 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08934
2. 47-013-02382-0000
3. 108 000 000
4. Smith and Barker Oil & Gas Co Inc
5. Emma Francis well No 4
6. Sherman District
7. Calhoun WV
8. 1.3 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08935
2. 47-013-02323-0000
3. 108 000 000
4. Smith and Barker Oil & Gas Co Inc
5. Fred Kelley well No 3
6. Sherman District
7. Calhoun WV
8. 1.8 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-08936
2. 47-013-02472-0000
3. 108 000 000
4. Smith and Barker Oil & Gas Co Inc
5. S P Bell No 3
6. Sherman District
7. Calhoun WV
8. 2.9 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08937
2. 47-013-02414-0000
3. 108 000 000
4. Smith and Barker Oil & Gas Co Inc
5. S P Bell well No 2
6. Sherman District
7. Calhoun WV
8. 5.3 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08938
2. 47-059-20046-0000
3. 108 000 000
4. W E Burchett Jr
5. Damron No 1
6. Kermit District
7. Mingo WV
8. 13.4 million cubic feet
9. December 7, 1979
10. Columbia Gas Transmission Corp

1. 80-08939
2. 47-059-20210-0000
3. 108 000 000
4. W E Burchett Jr
5. Logan Cannel No 2
6. Harvey District

7. Mingo WV
8. 14.3 million cubic feet
9. December 7, 1979
10. Columbia Gas Transmission Corp

1. 80-08940
2. 47-013-02062-0000
3. 108 000 000
4. Smith and Barker Oil & Gas Co Inc
5. Okey & Lewis Ball well No 1
6. Sherman District
7. Calhoun WV
8. 1.8 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08941
2. 47-013-02313-0000
3. 108 000 000
4. Smith and Barker Oil & Gas Co Inc
5. Fred Kelley No 2
6. Sherman District
7. Calhoun WV
8. 2.1 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08942
2. 47-059-20439-0000
3. 108 000 000
4. W E Burchett Jr
5. Logan Cannel No 15
6. Harvey District
7. Mingo WV
8. 2.9 million cubic feet
9. December 7, 1979
10. Columbia Gas Transmission Corp

1. 80-08943
2. 47-013-01765-0000
3. 108 000 000
4. Smith and Barker Oil & Gas Co Inc
5. S P Bell Well No 1
6. Sherman District
7. Calhoun WV
8. 2.4 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08944
2. 47-013-01817-0000
3. 108 000 000
4. Smith and Barker Oil & Gas Co Inc
5. Emma Francis No 1
6. Sherman District
7. Calhoun WV
8. 1.6 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08945
2. 47-013-01874-0000
3. 108 000 000
4. Smith and Barker Oil & Gas Co Inc
5. Emma & Barker well No 2
6. Sherman District
7. Calhoun WV
8. 1.2 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08946
2. 47-013-01961-0000
3. 108 000 000
4. Smith and Barker Oil & Gas Co Inc
5. Emma Francis well No 3
6. Sherman District
7. Calhoun WV
8. 1.5 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08947
2. 47-013-01790-0000
3. 108 000 000
4. Smith and Barker Oil & Gas Co Inc
5. Francis Earlewine No 2
6. Sherman District
7. Calhoun WV
8. 1.4 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08948
2. 47-013-02296-0000
3. 108 000 000
4. Smith and Barker Oil & Gas Co Inc
5. Francis Earlewine No 3 (John Ward No 3)
6. Sherman District
7. Calhoun WV
8. 1.3 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08949
2. 47-059-20144-0000
3. 108 000 000
4. W E Burchett Jr
5. Nighbert No 2
6. Kermit District
7. Mingo WV
8. 4.9 million cubic feet
9. December 7, 1979
10. Columbia Gas Trahsmission Corp

1. 80-08950
2. 47-059-20194-0000
3. 108 000 000
4. W E Burchett Jr
5. Logan Cannel No 1
6. Harvey District
7. Mingo WV
8. 14.3 million cubic feet
9. December 7, 1979
10. Columbia Gas Transmission Corp

1. 80-08951
2. 47-059-20126-0000
3. 108 000 000
4. W E Burchett Jr
5. Farley No 1
6. Kermit District
7. Mingo WV
8. 13.9 million cubic feet
9. December 7, 1979
10. Columbia Gas Transmission Corp

1. 80-08952
2. 47-059-20277-0000
3. 108 000 000
4. W E Burchett Jr
5. Logan Cannel No 10
6. Harvey District
7. Mingo WV
8. .8 million cubic feet
9. December 7, 1979
10. Columbia Gas Transmission Corp

1. 80-08953
2. 47-059-20322-0000
3. 108 000 000
4. W E Burchett Jr
5. Logan Cannel No 11
6. Kermit District
7. Mingo WV
8. 12.9 million cubic feet
9. December 7, 1979
10. Columbia Gas Transmission Corp

1. 80-08954
2. 47-059-20348-0000
3. 108 000 000
4. W E Burchett Jr
5. Logan Cannel No 12
6. Harvey District
7. Mingo WV
8. 12.9 million cubic feet
9. December 7, 1979
10. Columbia Gas Transmission Corp

1. 80-08955
2. 47-059-20431-0000
3. 108 000 000
4. W E Burchett Jr
5. Logan Cannel No 16
6. Harvey District
7. Mingo WV
8. 12.9 million cubic feet
9. December 7, 1979
10. Columbia Gas Transmission Corp

1. 80-08956
2. 47-059-20053-0000
3. 108 000 000
4. W E Burchett Jr
5. Preece #1
6. Kermit District
7. Mingo, WV
8. 6.5 million cubic feet
9. December 7, 1979
10. Columbia Gas Transmission Corp

1. 80-08957
2. 47-059-20125-0000
3. 108 000 000
4. W E Burchett Jr
5. Nighbert #1
6. Kermit District
7. Mingo, WV
8. 4.9 million cubic feet
9. December 7, 1979
10. Columbia Gas Transmission Corp

1. 80-08985
2. 47-013-02641-0000
3. 108 000 000
4. Walter S Smith
5. Solomon Holpp Well #4
6 Sheridan
7. Calhoun, WV
8. 3.3 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08987
2. 47-013-01764-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. Laverne Marris No 1
6. Sherman District
7. Calhoun, WV
8. 2.9 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08988
2. 47-013-01763-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. D A Kimble No 1
6. Sherman District
7. Calhoun, WV
8. 4.9 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08989
2. 47-013-01736-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. William Yoak No 1
6. Sherman
7. Calhoun, WV
8. 3.3 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08990

2. 47-013-01665-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. Francis Earlewine No 1
6. Sherman District
7. Calhoun, WV
8. 1.2 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08991
2. 47-013-01814-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. D A Kimble No 2
6. Sherman District
7. Calhoun, WV
8. 2.8 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08992
2. 47-013-01634-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. Fred Kelley No 1
6. Sherman District
7. Calhoun, WV
8. 1.8 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08993
2. 47-013-01598-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. Carr Shaffer Well #1
6. Lee District
7. Calhoun, WV
8. 2.3 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08994
2. 47-013-01596-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. J T McWilliams No 1
6. Sherman District
7. Calhoun, WV
8. 1.5 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08995
2. 47-013-01560-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. Willis Divers No 1
6. Sherman District
7. Calhoun, WV
8. .9 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08996
2. 47-013-01560-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. Willis Divers No 1
6. Sherman District
7. Calhoun, WV
8. .9 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08997
2. 47-013-01534-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. Carr Shaffer Well #1
6. Lee District
7. Calhoun, WV
8. 1.0 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08998
2. 47-013-01520-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. A M Bennett #3
6. Sherman District
7. Calhoun, WV
8. 1.0 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-08999
2. 47-013-01492-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. A M Bennett No 2
6. Sherman District
7. Calhoun, WV
8. 1.0 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-09000
2. 47-013-01479-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. Mae Leach Well #2
6. Lee District
7. Calhoun, WV
8. 1.0 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-09001
2. 47-013-01452-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. A M Bennett No 1
6. Sherman District
7. Calhoun, WV
8. 1.0 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-09002
2. 47-013-01434-0000
3. 108 000 000
4. Smith & Barker Oil & Gas Co Inc
5. Tressie Booher Well #2
6. Lee District
7. Calhoun, WV
8. .7 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-09003
2. 47-039-00636-0000
3. 108 000 000
4. Jackson Development Co Inc
5. H C Dickinson #21
6. Malden
7. Kanawha, WV
8. 3.4 million cubic feet
9. December 5, 1979
10. Consolidated Gas Supply Corp

1. 80-09004
2. 47-039-00046-0000
3. 108 000 000
4. Jackson Development Co Inc
5. H C Dickinson #11
6. Malden
7. Kanawha, WV
8. 3.4 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-09005
2. 47-039-00047-0000
3. 108 000 000
4. Jackson Development Co Inc
5. H C Dickinson #10
6. Malden
7. Kanawha, WV
8. 3.4 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-09006
2. 47-039-00151-0000
3. 108 000 000
4. Jackson Development Co Inc
5. H C Dickinson #17
6. Malden
7. Kanawha, WV
8. 3.4 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-09007
2. 47-039-00176-0000
3. 108 000 000
4. Jackson Development Co Inc
5. H C Dickinson #13
6. Malden
7. Kanawha, WV
8. 3.4 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-09008
2. 47-039-00601-0000
3. 108 000 000
4. Jackson Development Co Inc
5. H C Dickinson #20
6. Malden
7. Kanawha, WV
8. 3.4 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-09009
2. 47-059-20209-0000
3. 108 000 000
4. W E Burchett Jr
5. Logan Cannel #3
6. Harvey District
7. Mingo, WV
8. 14.3 million cubic feet
9. December 7, 1979
10. Columbia Gas Transmission Corp

1. 80-09010
2. 47-059-20223-0000
3. 108 000 000
4. W E Burchett Jr
5. Logan Cannel #4
6. Harvey District
7. Mingo, WV
8. 2.7 million cubic feet
9. December 7, 1979
10. Columbia Gas Transmission Corp

1. 80-09011
2. 47-059-20224-0000
3. 108 000 000
4. W E Burchett Jr
5. Logan Cannel #5
6. Harvey District
7. Mingo, WV
8. 2.7 million cubic feet
9. December 7, 1979
10. Columbia Gas Transmission Corp

1. 80-09012
2. 47-059-20274-0000
3. 108 000 000
4. W E Burchett Jr
5. Logan Cannel #7
6. Harvey District
7. Mingo, WV
8. .8 million cubic feet
9. December 7, 1979
10. Columbia Gas Transmission Corp

1. 80-09013
2. 47-059-20273-0000
3. 108 000 000
4. W E Burchett Jr
5. Logan Cannel #6
6. Harvey District
7. Mingo, WV
8. .8 million cubic feet
9. December 7, 1979
10. Columbia Gas Transmission Corp

1. 80-09014
2. 47-59-20275-0000
3. 108 000 000
4. W E Burchett Jr
5. Logan Cannel #8
6. Harvey District
7. Mingo WV
8. .8 million cubic feet
9. December 7, 1979
10. Columbia Gas Transmission Corp

1. 80-09015
2. 47-059-00276-0000
3. 108 000 000
4. W E Burchett Jr
5. Logan Cannel #9
6. Harvey District
7. Mingo WV
8. .8 million cubic feet
9. December 7, 1979
10. Columbia Gas Transmission Corp

1. 80-09016
2. 47-039-02014-0000
3. 108 000 000
4. Jackson Development Co Inc
5. Margaret Y Dickinson #27
6. Malden
7. Kanawha WV
8. 3.4 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-09017
2. 47-039-02024-0000
3. 108 000 000
4. Jackson Development Co Inc
5. Margaret Y Dickinson #28
6. Malden
7. Kanawha WV
8. 3.4 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-09018
2. 47-039-01924-0000
3. 108 000 000
4. Jackson Development Co Inc
5. Margaret Y Dickinson #25
6. Malden
7. Kanawha WV
8. 3.4 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-09019
2. 47-039-01903-0000
3. 108 000 000
4. Jackson Development Co Inc
5. Margaret Y Dickinson #22
6. Malden
7. Kanawha WV
8. 3.4 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-09020
2. 47-039-01854-0000
3. 108 000 000
4. Jackson Development Co Inc
5. Prichard #23
6. Malden
7. Kanawha WV
8. 8.1 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-09021
2. 47-039-01973-0000
3. 108 000 000
4. Jackson Development Co Inc
5. Margaret Y Dickinson #25
6. Malden
7. Kanawha WV
8. 3.4 million cubic feet
9. December 7, 1979
10. Consolidated Gas Supply Corp

1. 80-09027
2. 47-013-02634-0000
3. 108 000 000
4. Midget Oil Co
5. Bennington Well No 3
6. Rush Run
7. Calhoun WV
8. 3.0 million cubic feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09028
2. 47-013-02639-0000
3. 108 000 000
4. Midget Oil Co
5. Parsons Well No 6
6. Rush Run
7. Calhoun WV
8. 2.3 million cubic feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09029
2. 47-079-20574-0000
3. 108 000 000
4. Spartan Gas Company
5. Layton-Simms 1-S-99
6. Scott
7. Putnam WV
8. 13.2 million cubic feet
9. December 10, 1979
10. Union Oil & Gas Inc

1. 80-09030
2. 47-079-20646-0000
3. 108 000 000
4. Spartan Gas Company
5. Elizabeth Ford 1-S-105
6. Buffalo
7. Putnam WV
8. 12.7 million cubic feet
9. December 10, 1979
10. Union Oil & Gas Inc

1. 80-09031
2. 47-079-20686-0000
3. 108 000 000
4. Spartan Gas Company
5. H E Fruth 1-S-108
6. Union
7. Putnam WV
8. 5.1 million cubic feet
9. December 10, 1979
10. Union Oil & Gas Inc

1. 80-09032
2. 47-079-20680-0000
3. 108 000 000
4. Spartan Gas Company
5. Cabot McLean 1-S-111
6. Buffalo
7. Putnam WV
8. 12.0 million cubic feet
9. December 10, 1979
10. Union Oil & Gas Inc

1. 80-09033
2. 47-079-20691-0000
3. 108 000 000
4. Spartan Gas Company
5. Cleve Dunlap #1-S-118
6. Buffalo
7. Putnam WV
8. 8.4 million cubic feet
9. December 10, 1979
10. Union Oil & Gas Inc

1. 80-09034
2. 47-079-20809-0000
3. 108 000 000
4. Spartan Gas Company
5. Cabot Amherst 1-S-174
6. Red House
7. Putnam WV
8. 14.0 million cubic feet
9. December 10, 1979
10. Devon Corporation

1. 80-09035
2. 47-079-20811-0000
3. 108 000 000
4. Spartan Gas Company
5. Cabot Amherst 2-S-175
6. Red House
7. Putnam WV
8. 14.0 million cubic feet
9. December 10, 1979
10. Devon Corporation

1. 80-09036
2. 47-079-20813-0000
3. 108 000 000
4. Spartan Gas Company
5. Cabot Amherst 4-S-177
6. Red House
7. Putnam WV
8. 14.0 million cubic feet
9. December 10, 1979
10. Devon Corporation

1. 80-09037
2. 47-079-20834-0000
3. 108 000 000
4. Spartan Gas Company
5. Charles Casto 1-S-182
6. Union
7. Putnam WV
8. 10.4 million cubic feet
9. December 10, 1979
10. Devon Corporation

1. 80-09038
2. 47-079-20832-0000
3. 108 000 000
4. Spartan Gas Company
5. Cleve Dunlap 2-S-181
6. Buffalo
7. Putnam WV
8. 4.8 million cubic feet
9. December 10, 1979
10. Union Oil & Gas Inc

1. 80-09039
2. 47-079-20841-0000
3. 108 000 000
4. Spartan Gas Company
5. Elton Maddox 1-S-183
6. Scott
7. Putnam WV
8. 9.5 million cubic feet
9. December 10, 1979
10. Union Oil & Gas Inc

1. 80-09040

V 45/17 JA 24 80 UMI

2. 47-013-01989-CALO
3. 108 000 000
4. C G & R Oil & Gas Co
5. Schoolcraft #1
6. Schoolcraft
7. Calhoun WV
8. 3.3 million cubic feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09041
2. 47-021-01153-GILO
3. 108 000 000
4. C G & R Oil & Gas Co
5. Cooper & Fling #1
6. Cooper-Fling
7. Gilmer WV
8. 4.8 million cubic feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09042
2. 47-021-01156-GILO
3. 108 000 000
4. C G & R Oil & Gas Co
5. Ansel B Byrd #1
6. Ansel B Byrd
7. Gilmer WV
8. 2.6 million cubic feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09043
2. 47-079-20842-0000
3. 108 000 000
4. Spartan Gas Company
5. Henry Parsely 1-S-184
6. Scott
7. Putnam WV
8. 5.3 million cubic feet
9. December 10, 1979
10. Union Oil & Gas Inc

1. 80-09044
2. 47-079-20814-0000
3. 108 000 000
4. Spartan Gas Company
5. Cabot Amherst 5-S-178
6. Red House
7. Putnam WV
8. 14.0 million cubic feet
9. December 10, 1979
10. Devon Corporation

1. 80-09045
2. 47-079-20812-0000
3. 108 000 000
4. Spartan Gas Company
5. Cabot Amherst 3-S-176
6. Red House
7. Putnam WV
8. 14.0 million cubic feet
9. December 10, 1979
10. Devon Corporation

1. 80-09046
2. 47-079-20701-0000
3. 108 000 000
4. Spartan Gas Company
5. Cabot McLean #2-S-119
6. Union
7. Putnam WV
8. 9.8 million cubic feet
9. December 10, 1979
10. Union Oil & Gas Inc

1. 80-09047
2. 47-079-20653-0000
3. 108 000 000
4. Spartan Gas Company
5. Jane Abbott 1-S-106
6. Scott
7. Putnam WV
8. 5.4 million cubic feet
9. December 10, 1979
10. Union Oil & Gas Inc

1. 80-09048
2. 47-021-01174-GILO
3. 108 000 000
4. C G & R Oil & Gas Co
5. A H Cooper #1
6. A H Cooper
7. Gilmer WV
8. 3.1 million cubic feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09049
2. 47-021-01222-GILO
3. 108-000-000
4. C G & R Oil & Gas Co
5. Matella Cooper #1
6. Matella Cooper
7. Gilmer, WV
8. 2.4 million cubic feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09050
2. 47-021-01237-GILO
3. 108-000-000
4. C G & R Oil & Gas Co
5. Matella Cooper #2
6. Matella Cooper
7. Gilmer, WV
8. .8 million cubic feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09051
2. 47-021-01270-GILO
3. 108-000-000
4. C G & R Oil & Gas Co
5. A H Cooper #2
6. A H Cooper
7. Gilmer, WV
8. 1.0 million cubic feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09052
2. 47-021-01312-GILO
3. 108-000-000
4. C G & R Oil & Gas Co
5. Russell McQuain #2
6. Russell McQuain
7. Gilmer, WV
8. 1.9 million cubic feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09053
2. 47-021-01313-GILO
3. 108-000-000
4. C G & R Oil & Gas Co
5. Russell McQuain #1
6. Russell McQuain
7. Gilmer, WV
8. 2.5 million cubic feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09054
2. 47-099-20615-0000
3. 108-000-000
4. W E Burchett Jr
5. Ezra Adkins #3
6. Grant District
7. Wayne, WV
8. 2.4 million cubic feet
9. December 10, 1979
10. Columbia Gas Transmission Corp

1. 80-09055
2. 47-099-20614-0000
3. 108-000-000
4. W E Burchett Jr
5. Ezra Adkins #2
6. Grant District
7. Wayne, WV
8. 2.4 million cubic feet
9. December 10, 1979
10. Columbia Gas Transmission Corp

1. 80-09056
2. 47-099-20613-0000
3. 108-000-000
4. W E Burchett Jr
5. Ezra Adkins #1
6. Grant District
7. Wayne, WV
8. 2.4 million cubic feet
9. December 10, 1979
10. Columbia Gas Transmission Corp

1. 80-09057
2. 47-099-20552-0000
3. 108-000-000
4. W E Burchett Jr
5. Honaker #3
6. Grant District
7. Wayne, WV
8. 6.9 million cubic feet
9. December 10, 1979
10. Columbia Gas Transmission Corp

1. 80-09058
2. 47-099-20531-000
3. 108-000-000
4. W E Burchett Jr
5. Adkins #2
6. Grant District
7. Wayne, WV
8. 6.4 million cubic feet
9. December 10, 1979
10. Columbia Gas Transmission Corp

1. 80-09059
2. 47-099-20530-0000
3. 108-000-000
4. W E Burchett Jr
5. Honaker #2
6. Grant District
7. Wayne, WV
8. 6.9 million cubic feet
9. December 10, 1979
10. Columbia Gas Transmission Corp

1. 80-09060
2. 47-085-00857-RED0
3. 108-000-000
4. Perkins Oil & Gas Inc
5. Dolly Thomas (C Wilson) #5
6. Bonds Creek
7. Ritchie, WV
8. 2.8 million cubic feet
9. December 10, 1979
10. Equitable Gas

1. 80-09061
2. 47-039-00016-0000
3. 108-000-000
4. Jackson Development Co Inc
5. H C Dickinson #12
6. Malden
7. Kanawha, WV
8. 3.4 million cubic feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09062
2. 47-043-21085-0000
3. 108-000-000
4. Jackson Development Corp
5. A C Pauley #1
6. Duval
7. Lincoln, WV
8. 3.8 million cubic feet
9. December 10, 1979
10. Pennzoil

1. 80-09063
2. 47-039-21803-0000
3. 108-000-000
4. Jackson Development Co Inc
5. Floyd B Conner #1
6. Elk
7. Kanawha, WV
8. 3.9 million cubic feet
9. December 10, 1979
10. Columbia Gas Transmission Corp

1. 80-09064
2. 47-039-21797-0000
3. 108-000-000
4. Jackson Development Co Inc
5. M W Stricker #1
6. Elk
7. Kanawha, WV
8. 1.4 million cubic feet
9. December 10, 1979
10. Columbia Gas Transmission Corp

1. 80-09065
2. 47-085-00508-DD00
3. 108-000-000
4. Perkins Oil & Gas Inc
5. Bryson Garner #1
6. Bryson Garner (North Fork Hughes R)
7. Ritchie, WV
8. 1.3 million cubic feet
9. December 10, 1979
10. Consolidated Gas Supply

1. 80-09066
2. 47-085-04295-0000
3. 108-000-000
4. Perkins Oil & Gas Inc
5. Dolly Thomas #4 (or Wilson #4)
6. Bonds Creek
7. Ritchie, WV
8. 4.0 million cubic feet
9. December 10, 1979
10. Equitable Gas

1. 80-09067
2. 47-085-04012-0000
3. 108-000-000
4. Perkins Oil & Gas Inc
5. Margaret Thomas Well #4112
6. Marsh Run
7. Ritchie, WV
8. 3.0 million cubic feet
9. December 10, 1979
10. Equitable Gas

1. 80-09068
2. 47-085-02224-0000
3. 108-000-000
4. Perkins Oil & Gas Inc
5. J H Poole #1 RIT-2224-DD
6. Buck Run
7. Ritchie, WV
8. 2.8 million cubic feet
9. December 10, 1979
10. Equitable Gas

1. 80-09069
2. 47-039-00017-0000
3. 108-000-000
4. Jackson Development Co Inc
5. H C Dickinson #9
6. Malden
7. Kanawha, WV
8. 3.4 million cubic feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09070
2. 47-007-00434-0000
3. 108-000-000
4. Gerald D Jones
5. G B Howell #2
6. Rosedale
7. Braxton, WV
8. 6.3 million cubic feet
9. December 10, 1979
10. Equitable Gas Company

1. 80-09071
2. 47-007-00442-0000
3. 108-000-000
4. Gerald D Jones
5. G B Howell #3
6. Rosedale
7. Braxton, WV
8. 7.0 million cubic feet
9. December 10, 1979
10. Equitable Gas Company

1. 80-09072
2. 47-021-22863-0000
3. 108-000-000
4. Industrial Gas Associates
5. Bowyer Heirs No. 1—GIL 2863
6. Troy District
7. Gilmer, WV
8. 7.0 million cubic feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09073
2. 47-085-23777-0000
3. 108-000-000
4. Industrial Gas Associates
5. H L Brissey No. 1—RIT 3777
6. Union District
7. Ritchie, WV
8. 6.0 million cubic feet
9. December 10, 1979
10. Equitable Gas

1. 80-09074
2. 47-085-23786-0000
3. 108-000-000
4. Industrial Gas Associates
5. Russell Wilson No. 2—RIT 3786
6. Union District
7. Ritchie, WV
8. 6.0 million cubic feet
9. December 10, 1979
10. Carnegie Natural Gas Co

1. 80-09075
2. 47-085-03785-0000
3. 108-000-000
4. Industrial Gas Associates
5. C Simmons No. 1—RIT 3785
6. Union District
7. Ritchie, WV
8. 6.0 million cubic feet
9. December 10, 1979
10. Columbia Gas Transmission Corp

1. 80-09076
2. 47-015-20517-0000
3. 108-000-000
4. A A Pursley
5. W M Manshaw #1
6. Big Seyemore
7. Clay, WV
8. .4 million cubic feet
9. December 10, 1979
10. Southeastern Gas Company

1. 80-09077
2. 47-017-21662-0000
3. 108-000-000
4. A A Pursley
5. Bernard Fisher (Fisher Musk) #1
6. Lower Run
7. Doddridge, WV
8. 3.1 million cubic feet
9. December 10, 1979
10. Equitable Gas

1. 80-09078
2. 47-007-00433-0000
3. 108-000-000
4. Gerald D Jones
5. G B Howell #1
6. Rosedale
7. Braxton, WV
8. 5.7 million cubic feet
9. December 10, 1979
10. Equitable Gas Company

1. 80-09079
2. 47-013-01207-0000
3. 108 000 000
4. Roy G Hildreth Et Al
5. A B Starcher #1
6. Lee District
7. Calhoun, WV
8. .3 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09080
2. 47-085-03778-0000
3. 108 000 000
4. Industrial Gas Associates
5. K Godfrey No 1 RIT 3778
6. Union District
7. Richie, WV
8. 5.5 Million Cubic Feet
9. December 10, 1979
10. Carnegie Natural Gas Co

1. 80-09081
2. 47-085-23779-0000
3. 108 000 000
4. Industrial Gas Associates
5. Russell Wilson No 1—RIT 3779
6. Union District
7. Richie, WV
8. 6.0 Million Cubic Feet
9. December 10, 1979
10. Carnegie Natural Gas Co

1. 80-09082
2. 47-105-20162-0000
3. 108 000 000
4. A A Pursley
5. Jehu McVey #1
6. Right Reedy
7. Wirt, WV
8. 2.7 Million Cubic Feet
9. December 10, 1979
10. Cabot Corporation

1. 80-09084
2. 47-097-20725-0000
3. 108 000 000
4. A A Pursley
5. C R Wilson
6. Banks
7. Upsher, WV
8. 7.5 Million Cubic Feet
9. December 10, 1979
10. Columbia Gas Transmission Corp

1. 80-09085
2. 47-013-01214-0000
3. 108 000 000
4. Gerald D Jones
5. H F Deweese #1
6. Sams Run
7. Calhoun, WV
8. 2.8 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09086

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2. 47-013-02583-0000
3. 108 000 000
4. Gerald D Jones
5. Curtis Wallbrown #3
6. Sams Run
7. Calhoun, WV
8. 3.6 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09087
2. 47-013-02557-0000
3. 108 000 000
4. Midget Oil Company
5. Butler Well No 4
6. Rush Run
7. Calhoun, WV
8. 2.3 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09088
2. 47-013-02556-0000
3. 108 000 000
4. Midget Oil Company
5. Parsons Well No 5
6. Rush Run
7. Calhoun, WV
8. 2.3 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09089
2. 47-013-02532-0000
3. 108 000 000
4. Midget Oil Company
5. Parsons Well No 4
6. Rush Run
7. Calhoun, WV
8. 2.3 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09090
2. 47-013-02534-0000
3. 108 000 000
4. Midget Oil Company
5. Bennington Well No 2
6. Rush Run
7. Calhoun, WV
8. 3.0 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09091
2. 47-013-02526-0000
3. 108 000 000
4. Midget Oil Company
5. Butler Well No 3
6. Rush Run
7. Calhoun, WV
8. .2 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09092
2. 47-013-02521-0000
3. 108 000 000
4. Midget Oil Company
5. Jones No 1
6. Rush Run
7. Calhoun, WV
8. 8.6 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09093
2. 47-013-00364-0000
3. 108 000 000
4. Midget Oil Company
5. Bennington Well No 1
6. Rush Run
7. Calhoun, WV
8. 2.6 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09094
2. 47-021-01337-Gilo
3. 108 000 000
4. C G & R Oil & Gas Co
5. Angus Frederick #1
6. Chlories Bennett
7. Gilmer, WV
8. 1.3 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09095
2. 47-021-01349-Gilo
3. 108 000 000
4. C G & R Oil & Gas Co
5. Clay Lang #1
6. Rosa Langford
7. Gilmer, WV
8. 1.1 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09096
2. 47-021-01527-Gilo
3. 108 000 000
4. C G & R Oil & Gas Co
5. Aubra Cunningham #1
6. Audrey Cunningham
7. Gilmer, WV
8. 2.1 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09097
2. 47-021-01393-Gilo
3. 108 000 000
4. C G & R Oil & Gas Co
5. Ansel B Byrd #2
6. Asel B Byrd #2
7. Gilmer, WV
8. .9 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09098
2. 47-021-01545-Gilo
3. 108 000 000
4. C G & R Oil & Gas Co
5. Willie Lang #1
6. Willie Lang
7. Gilmer, WV
8. 2.1 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09099
2. 47-085-02628-Rito
3. 108 000 000
4. C G & R Oil & Gas Co
5. Hayhurst Heirs #2
6. Hayhurst
7. Ritchie, WV
8. 4.0 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09100
2. 47-085-02646-Rito
3. 108 000 000
4. C G & R Oil & Gas Co
5. Hayhurst Heirs #3
6. Hayhurst
7. Ritchie, WV
8. 1.6 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09101
2. 47-085-02856-Rito
3. 108 000 000
4. C G & R Oil & Gas Co
5. Hayhurst Heirs #1
6. Hayhurst
7. Ritchie, WV
8. 1.0 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09102
2. 47-015-20657-0000
3. 108 000 000
4. Seneca Upshur Petroleum Co
5. Lydin Lee Harrison #1
6. Henry
7. Clay, WV
8. 8.0 Million Cubic Feet
9. December 10, 1979
10. Columbia Gas Supply Corp

1. 80-09103
2. 47-041-21934-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. Doris Kerns #1
6. Collins Settlement
7. Lewis, WV
8. 2.0 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09104
2. 47-041-21935-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. Robert E Smith #1
6. Collins Settlement
7. Lewis, WV
8. 9.0 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09105
2. 47-041-21939-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. Robert E Smith #1
6. Collins Settlement
7. Lewis, WV
8. 8.0 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09106
2. 47-041-21942-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. Robert E Smith #1
6. Collins Settlement
7. Lewis, WV
8. 4.0 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09107
2. 47-041-21949-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. John S Groves #1
6. Court House
7. Lewis, WV
8. 13.0 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09108
2. 47-097-21527-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. Stickley Casto #1
6. Warren

7. Upshur, WV
8. 2.0 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09109
2. 47-097-21535-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J L Tenney #1
6. Washington
7. Upshur, WV
8. .4 Million Cubic Feet
9. December 10, 1979
10. Equitable Gas Co

1. 80-09110
2. 47-097-21538-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. R E Norval #1
6. Washington
7. Upshur WV
8. 4.0 Million Cubic Feet
9. December 10, 1979
10. Equitable Gas Co

1. 80-09111
2. 47-097-21539-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. Lelah Wamsley #1
6. Washington
7. Upshur WV
8. 4.0 Million Cubic Feet
9. December 10, 1979
10. Equitable Gas Co

1. 80-09112
2. 47-097-21544-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. Paul Shaw #1
6. Washington
7. Upshur WV
8. 4.0 Million Cubic Feet
9. December 10, 1979
10. Equitable Gas Co

1. 80-09113
2. 47-097-21574-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J M Huber #3
6. Washington
7. Upshur WV
8. 5.0 Million Cubic Feet
9. December 10, 1979
10. Equitable Gas Co

1. 80-09114
2. 47-097-21589-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J H Hinkle #1
6. Washington
7. Upshur WV
8. 14.0 Million Cubic Feet
9. December 10, 1979
10. Equitable Gas Co

1. 80-09115
2. 47-097-21591-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J M Huber #1
6. Washington
7. Upshur WV
8. 6.0 Million Cubic Feet
9. December 10, 1979
10. Equitable Gas Co

1. 80-09116
2. 47-097-21592-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J M Huber #2
6. Washington
7. Upshur WV
8. 6.0 Million Cubic Feet
9. December 10, 1979
10. Equitable Gas Co

1. 80-09117
2. 47-097-21595-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J M Huber #5
6. Washington
7. Upshur WV
8. 2.0 Million Cubic Feet
9. December 10, 1979
10. Equitable Gas Co

1. 80-09118
2. 47-097-21596-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J M Huber #4
6. Washington
7. Upshur WV
8. 4.0 Million Cubic Feet
9. December 10, 1979
10. Equitable Gas Co

1. 80-09119
2. 47-097-21601-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J M Huber #6
6. Washington
7. Upshur WV
8. 2.0 Million Cubic Feet
9. December 10, 1979
10. Equitable Gas Co

1. 80-09120
2. 47-097-21602-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J M Huber #7
6. Washington
7. Upshur WV
8. 3.0 Million Cubic Feet
9. December 10, 1979
10. Equitable Gas Co

1. 80-09121
2. 47-097-21606-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J M Huber #9
6. Washington
7. Upshur WV
8. .2 Million Cubic Feet
9. December 10, 1979
10. Equitable Gas Co

1. 80-09122
2. 47-097-21607-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J M Huber #10
6. Washington
7. Upshur WV
8. 1.0 Million Cubic Feet
9. December 10, 1979
10. Equitable Gas Co

1. 80-09123
2. 47-097-21620-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. Harrison-Ritchie #1
6. Washington
7. Upshur WV
8. 4.0 Million Cubic Feet
9. December 10, 1979
10. Equitable Gas Co

1. 80-09124
2. 47-097-21611-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. Albert F Linger #1
6. Washington
7. Upshur WV
8. 2.0 Million Cubic Feet
9. December 10, 1979
10. Equitable Gas Co

1. 80-09125
2. 47-097-21621-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. Harrison-Ritchie #2
6. Washington
7. Upshur WV
8. 4.0 Million Cubic Feet
9. December 10, 1979
10. Equitable Gas Co

1. 80-09126
2. 47-097-21627-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J M Huber #13
6. Washington
7. Upshur WV
8. 2.0 Million Cubic Feet
9. December 10, 1979
10. Equitable Gas Co

1. 80-09127
2. 47-099-20497-0000
3. 108 000 000
4. W E Burchett Jr
5. Adkins #1
6. Grant District
7. Wayne WV
8. 6.4 Million Cubic Feet
9. December 10, 1979
10. Columbia Gas Transmission Corp

1. 80-09128
2. 47-095-00349-0000
3. 108 000 000
4. Perkins Oil & Gas Inc
5. Lelia Washburn #1
6. Short Run
7. Tyler WV
8. 1.7 Million Cubic Feet
9. December 10, 1979
10. Equitable Gas Co

1. 80-09129
2. 47-039-22640-0000
3. 108 000 000
4. Jackson Development Co Inc
5. Margaret Dickinson #1-10
6. Malden
7. Kanawha WV
8. 15.4 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09130
2. 47-013-01826-0000
3. 108 000 000
4. Smith & Baker Oil & Gas Co Inc
5. G B Francis Well #1
6. Sherman District
7. Calhoun WV
8. .6 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp

1. 80-09131

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2. 47-059-20462-0000
3. 108 000 000
4. W E Burchett Jr
5. Nighbert #3
6. Kermitt District
7. Mingo WV
8. 14.6 Million Cubic Feet
9. December 10, 1979
10. Columbia Gas Transmission Corp
1. 80-09132
2. 47-059-20494-0000
3. 108 000 000
4. W E Burchett Jr
5. Honaker #1
6. Grant District
7. Wayne WV
8. 6.9 Million Cubic Feet
9. December 10, 1979
10. Columbia Gas Transmission Corp
1. 80-09133
2. 47-013-00544-0000
3. 108 000 000
4. Midget Oil Company
5. Butler Well No 1
6. Rush Run
7. Calhoun WV
8. 2.0 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp
1. 80-09134
2. 47-013-00976-0000
3. 108 000 000
4. Midget Oil Company
5. Parsons Well No 3
6. Rush Run
7. Calhoun WV
8. 2.0 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp
1. 80-09135
2. 47-013-00459-0000
3. 108 000 000
4. Midget Oil Company
5. Parsons Well No 2
6. Rush Run
7. Calhoun WV
8. 2.0 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp
1. 80-09136
2. 47-013-00448-0000
3. 108 000 000
4. Midget Oil Company
5. Parsons Well No 1
6. Rush Run
7. Calhoun WV
8. 2.0 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp
1. 80-09137
2. 47-013-22615-0000
3. 108 000 000
4. Industrial Gas Associates
5. Frank Bell #1 Cal 2815
6. Sheridan District
7. Calhoun WV
8. 2.5 Million Cubic Feet
9. December 10, 1979
10. Cabot Corporation
1. 80-09138
2. 47-099-00847-0000
3. 108 000 000
4. H H Lusher
5. Harlan & J B Booten Way-847
6. Millers Fork
7. Wayne WV
8. 8.3 Million Cubic Feet
9. December 10, 1979
10. Gas Supply Corporation
1. 80-09139
2. 47-099-00799-0000
3. 108 000 000
4. H H Lusher & Sons
5. Lonnie Booten Way-799
6. Millers Fork
7. Wayne WV
8. .0 Million Cubic Feet
9. December 10, 1979
10. Gas Supply Corporation
1. 80-09140
2. 47-099-00722-0000
3. 108-000-000
4. H H Lusher
5. Roy Lockhart Way-722
6. Wilson Creek
7. Wayne WV
8. .0 Million Cubic Feet
9. December 10, 1979
10. Gas Supply Corporation
1. 80-09141
2. 47-099-00638-0000
3. 108-000-000
4. H H Lusher & Sons
5. William Booten Way-638
6. Millers Fork
7. Wayne WV
8. 3.0 Million Cubic Feet
9. December 10, 1979
10. Gas Supply Corporation
1. 80-09142
2. 47-041-20170-PFRA
3. 108-000-000
4. James H Hall
5. Bitner No. 1
6. Hackers Creek
7. Lewis WV
8. 17.8 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp.
1. 80-09143
2. 47-021-02599-0000
3. 108-000-000
4. D W Stonestreet
5. Kate Woofter No. 3 47-021-2599
6. Kate Woofter No. 3
7. Gilmer (021) WV
8. 7.4 Million Cubic Feet
9. December 10, 1979
10. Carnegie Natural Gas Company
1. 80-09144
2. 47-013-00799-0000
3. 108-000-000
4. Gerald D Jones
5. P G Deweese No. 1
6. Sams Run
7. Calhoun WV
8. 2.8 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp.
1. 80-09145
2. 47-035-21049-0000
3. 108-000-000
4. A A Pursley
5. Virgil L Finch No. 1
6. Copper Fork
7. Jackson WV
8. 13.6 Million Cubic Feet
9. December 10, 1979
10. Gas Transport Inc.
1. 80-09146
2. 47-013-00607-0000
3. 108-000-000
4. Roy G Hildreth Jr.
5. Edwin Starcher Heirs No. 1
6. Lee District
7. Calhoun WV
8. .6 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply
1. 80-09147
2. 47-013-00775-0000
3. 108-000-000
4. Gerald D Jones
5. Curtis Wallbrown No. 1
6. Sams Run
7. Calhoun WV
8. 1.8 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp.
1. 80-09148
2. 47-013-01184-0000
3. 108-000-000
4. Gerald D Jones
5. Curtis Wallbrown No. 2
6. Sams Run
7. Calhoun WV
8. 8.2 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp.
1. 80-09149
2. 47-013-20929-0000
3. 108-000-000
4. A A Pursley
5. J B Huffman
6. Russett
7. Calhoun WV
8. 4.4 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Corporation
1. 80-09150
2. 47-041-20587-0000
3. 108-000-000
4. James H Hall
5. Maxwell No. 1
6. Hackers Creek
7. Lewis WV
8. 2.9 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp.
1. 80-09151
2. 47-013-01093-0000
3. 108-000-000
4. Roy G Hildreth Jr
5. E Starcher No. 1
6. Lee District
7. Calhoun WV
8. 4.5 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas
1. 80-09152
2. 47-013-01074-0000
3. 108-000-000
4. Roy G Hildreth Jr
5. Everest Starcher Lease
6. Lee District
7. Calhoun WV
8. 4.2 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply
1. 80-09153
2. 47-021-21645-0000
3. 108-000-000
4. A A Pursley
5. J W Cunningham No. 1
6. Dekalb District
7. Gilmer WV
8. 5.0 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp.
1. 80-09154
2. 47-041-20359-0000
3. 108-000-000
4. A A Pursley
5. D B Wilfong
6. Court House
7. Lewis WV
8. 6.4 Million Cubic Feet
9. December 15, 1979
10. Consolidated Gas Supply Corp.
1. 80-09155
2. 47-041-20367-0000
3. 108-000-000
4. A A Pursley
5. M McLaughlin (Marie Daggett Et. al.)
6. Court House
7. Lewis WV
8. 8.7 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp.
1. 80-09156
2. 47-041-21386-0000
3. 108-000-000
4. A A Pursley
5. S B Mullinex No. 2-A
6. Canoe Run (Collins Settlement)
7. Lewis WV
8. 3.6 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp.
1. 80-09157
2. 47-013-00274-0000
3. 108-000-000
4. Roy G Hildreth Jr
5. C C Starcher No. 1
6. Lee District
7. Calhoun WV
8. 1.4 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply
1. 80-09083
2. 47-085-22809
3. 108
4. A A Pursley
5. A H Tate No. 2
6. Union District
7. Ritchie WV
8. 0.8 Million Cubic Feet
9. December 10, 1979
10. Consolidated Gas Supply Corp.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission, on or before February 8, 1980.

Please reference the Ferc control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-2204 Filed 1-23-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-56]

Grand Bay Co.; Proposed Changes in FERC Gas Tariff

January 17, 1980.

Take notice that Grand Bay Company, on January 11, 1978, tendered for filing proposed changes in its FERC Gas Tariff for compression service rendered. The proposed changes would increase revenues from jurisdictional service by $813,890 based on the 12-month period ending October 31, 1978.

Grand Bay states that this filing reflects rate increases in accordance with Article III of the contract between Grand Bay Company and its jurisdictional customers tendered for filing as the Grand Bay Company rate schedule on November 15, 1977.

Grand Bay requests that the Commission waive the regulation requiring 30-day notice, and requests an effective date for the rate change of the date of filing.

Grand Bay further requests a waiver of any of the Commission's rules and regulations as may be required.

Copies of the filing were served on the company's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 1.10). All such petitions should be filed on or before January 31, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kennth F. Plumb,

Secretary.

[FR Doc. 80-2200 Filed 1-23-80; 8:45 am]

BILLING CODE 6450-01-M

[Dockets Nos. E-9520 and ER77-531]

Illinois Power Co.; Order on Remand Directing the Refund of Rate Increase Payments

Issued: January 9, 1980.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, Matthew Holden, Jr., and George R. Hall.

On August 21, 1979, the United States Court of Appeals for the District of Columbia Circuit issued an opinion in *City of Oglesby* v. *FERC*, No. 76-1585, reversing in part and remanding certain orders of the Federal Power Commission in Docket No. E-9520 which had accepted for filing, suspended and made effective as of January 1, 1976, a rate increase proposed by Illinois Power Company for its wholesale customers, the City of Oglesby and the Village of Ladd.[1] The Commission rejected the customers' arguments that they have fixed-rate contracts with Illinois Power which, under the *Serra-Mobile* doctrine,[2] protect them from rate increases.

The court of appeals found that the FPC's construction of Oglesby's and Ladd's wholesale power contracts was in error and held that no rate increase could become effective as to these customers until its justness and reasonableness had first been determined by the Commission pursuant to Section 206 of the Federal Power Act. *City of Oglesby* v. *FERC, supra* (mimeo at 25-29). An opinion on the justness and reasonableness of the rate increase proposed in Docket No. E-9520 was issued by this Commission, as successor to the FPC, on August 1, 1977.[3] According to the mandate of the court of appeals, all increased rate revenues collected from Ladd prior to that date must be refunded, with interest computed pursuant to Commission Order Nos. 47 and 47-A. Refunds with interest to Oglesby extend to May 18, 1977, the date on which its contract expired.

While the customers' petition for review of orders in Docket No. E-9520 was *pendente lite*, Illinois Power

[1] Order accepting and suspending proposed rate increase, allowing intervention and setting procedures (October 28, 1975).

[2] *United Gas Pipe Line Co.* v. *Mobile Service Co.*, 350 U.S. 332 (1956); and *Federal Power Commission* v. *Sierra Pacific Power Co.* 350 U.S. 348 (1956). The FPC made this determination in a separate order denying the customers' motion to reject the filing (March 8, 1976), *rehearing granted in part and denied in part*, (May 7, 1976), *rehearing denied* (June 25, 1976).

[3] Opinion No. 816. A subsequent order was issued on January 9, 1979, which granted the intervenors' application for rehearing concerning restrictive terms and conditions of the Illinois Power tariff unrelated to rate level.

V45/17 JA24 80 UMI

tendered a second rate increase with the FPC in Docket No. ER77-531. By order of September 23, 1977, the FPC accepted this second increase for filing and made it effective, after suspension, on March 1, 1978, subject to refund at the outcome of the proceeding. Relying on the precedent of Docket No. E-9520, the FPC again rejected the contentions of Oglesby and Ladd that the filing should be rejected pursuant to the *Sierra-Mobile* doctrine. Thereafter, by order issued on July 25, 1978, this Commission permitted Illinois Power to implement, as of March 1, 1978, lower rates contained in a settlement offer made by the utility to its wholesale customers, pending resolution of Docket No. ER77-531 by settlement or by Commission opinion. The lower rates were, of course, implemented subject to refund. As of today, Docket No. ER77-531 has neither been settled nor decided by Commission opinion. Under the mandate of *City of Oglesby v. FERC, supra*, therefore, Illinois Power is not entitled to any increased rate revenues collected from Ladd pursuant to either Commission order in that docket.

Accordingly, we shall order the immediate refund of increased rate revenues collected by Illinois Power from Oglesby and Ladd pursuant to the proposed rate increase in Docket No. E9520 prior to May 18, 1977, and August 1, 1977, respectively.[4] Also, we shall act *sua sponte* to vacate the orders of September 23, 1977, and July 25, 1978, which permitted Illinois Power to collect any rate increase, tendered in Docket No. ER77-531 for application to Ladd, prior to the issuance of a Commission opinion in that proceeding. Appropriate refunds must also be made of increased revenues relating to this proposed rate increase, with interest computed pursuant to Order Nos. 47 and 47-A.[5]

The Commission orders: (A) The orders of September 23, 1977, and July 25, 1978, issued in Docket No. ER77-531, are hereby vacated insofar as they made any rate proposed by Illinois Power Company effective to the Village of Ladd, subject to refund during the pendency of that case, before expiration of the Ladd contract.

(B) Within 14 days of the issuance of this order Illinois Power Company shall refund to the City of Oglesby and the Village of Ladd, with interest calculated pursuant to Commission Order Nos. 47 and 47-A, all increased revenues unlawfully collected pursuant to proposed rate increases filed in Docket Nos. E-9520 and ER77-531. Simultaneously, Illinois Power Company shall file with the Commission a complete report of these refunds.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-2201 Filed 1-23-80; 8:45 am]

BILLING CODE 6450-01-M

[4] August 1, 1977, the date of the final Commission opinion on rate level, is the date as of which increased rates for Ladd may become effective. *See, Federal Power Commission* v. *Sierra Pacific Power Company, supra* note 2 350 U.S. at 353. The hearing record on which this opinion is based was compiled pursuant to Section 206 of the Act, as well a Sections 205, 307, 308 and 309 thereof.

[5] On December 27 and 28, 1979, Illinois Power filed so-called statements of compliance in Docket Nos. ER77-531 and E-9520, respectively. However, no refunds have been made and interest calculations in these documents are either lacking or incomplete. The company is directed to make the refunds, with interest, and to file refund reports for each customer which show interest amounts and interest compounding calculations for each month's excess revenues.

[Docket No. ER80-183]

Indiana & Michigan Electric Co.; Changes in Rates and Charges

January 18, 1980.

The filing company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on Jan. 14, 1980 tendered for filing on behalf of its affilitate Indiana & Michigan Electric Company (I&M), Modification No. 13 dated January 1, 1980 to the Interconnection Agreement dated December 30, 1960 between Indianapolis Power & Light Company and Indiana & Michigan Electric Company, I&M's Rate Schedule FERC No. 21.

Sections 1 and 3 of Modification No. 13 provide for an increase in the demand charge for Short Term Power and Limited Term Power from $0.70 to $0.85 per kilowatt per week and $3.75 to $4.50 per kilowatt per month respectively. Sections 2 and 4 provide for an increase in the Short Term Power and Limited Term Power transmission charges from $0.175 to $0.240 per kilowatt per week and $0.75 to $1.00 per kilowatt per month respectively both schedules proposed to become effective January 7, 1980.

Applicant states that since the use of Short Term Power cannot be accurately estimated, for the twelve months period succeeding the date of filing, it is impossible to estimate the increase in revenues resulting from its modification for such period. Applicant's Exhibit I which was included with the filing of this modification, demonstrate that the increase in revenues which would have resulted had the modification been in effect during the twelve-month period ending October 1979 would have been $1,181,785.71 (i.e., from $24,482,620.93 to $25,664,406.64).

Copies of the filing were served upon Indianapolis Power & Light Company, the Public Service Commission of Indiana and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825, N. Capitol Street, Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-2202 Filed 1-23-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-65]

Michigan Wisconsin Pipe Line Co.; Petition for Issuance of an Order

January 17, 1980.

Take notice that on January 10, 1980, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) filed a Petition for Issuance of an Order pursuant to Section 16 of the Natural Gas Act as amended and Section 1.7 of the Commission's Rules of Practice and Procedure (18 CFR 1.7) thereunder, to authorize it to continue rate base treatment of certain advance payments which it made to Cities Service Oil Company and Cities Service Company (Cities Service) in 1974 and 1976, all as more fully set forth in the petition which is on file with the Commission and available for public inspection.

The petition indicates that Michigan Wisconsin advanced an aggregate of $2,197,863 to Cities Service to obtain the dedication of gas reserves underlying High Island Area Blocks A-355 and A-356 in offshore Texas. The petition further indicates that commencement of production from the aforementioned blocks has been delayed beyond the expiration of a five year period, and that absent the order requested by the instant petition, Michigan Wisconsin will be required to transfer the advances from Account No. 166 and cease rate base treatment thereof.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 1, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-2205 Filed 1-23-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-642, et al.]

Missouri Utilities Co.; Filing of Contract Revisions

January 17, 1980.

The filing Company submits the following:

Take notice that Missouri Utilities Company on December 27, 1979, tendered for filing revised pages of the existing electric service agreements between Missouri Utilities Company and the Missouri Cities of Kennett and Malden.

The revised pages were tendered for filling pursuant to ordering paragraph (E) of the Commission's November 5, 1979, Order Accepting For Filing And Suspending Proposed Service Agreement And Consolidating Procedures issued in docket No. ER79-642, *et al.*, to eliminate language that restricted the Cities' resale of power and energy supplied under the agreements to regain users only.

Copies of the filing were served upon Missouri Utilities Company's jurisdictional customers and the Missouri Public Service Commission.

Any person desiring to be heard or to protest should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-2206 Filed 1-23-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-182]

Northern Indiana Public Service Co.; Tariff Change and Supplements to Service Agreements

January 17, 1980.

The filing company submits the following:

Take notice that on January 11, 1980, Northern Indiana Public Service Company (NIPSCo) tendered for filing Second Revised Sheet No. 3 to its FERC Electric Service Tariff—Third Revised Volume No. 1 which has been revised to include the additional delivery points for Kosciusko County Rural Electric Membership Corporation—Webster South and for the City of Rensselaer. Northern Indiana Public Service Company also tendered for filing the following:

Exhibit B-7, a supplement to the Service Agreement between NIPSCo and Jasper County Rural Electric Membership Corporation, which covers the supply of electric energy for resale at a delivery point located in Keener Township, Jasper County, Indiana.

Copies of this filing were served upon all customers receiving electric service under NIPSCO's FERC Electric Service Tariff—Third Revised Volume No. 1 and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-2207 Filed 1-23-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-186]

Ohio Power Co.; Changes in Rates and Charges

January 18, 1980.

The filing company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on January 15, 1980 tendered for filing on behalf of its affiliate, Ohio Power Company (Ohio), Supplement No. 8 dated November 9, 1979 to the Interconnection Agreement dated January 1, 1952, between Ohio and Ohio Edison Company, designated Ohio Rate Schedule FERC No. 25.

Supplement No. 8 provides for an increase in the Demand Charge for Short Term Power and Limited Term Power from $0.70/kW-week and $3.75/kW-month to $0.85/kW-week and $4.50/kW-month respectively. Supplement No. 8 also provides for an increase in the transmission charges for third party Short Term and Limited Term Power transactions from $0.175/kW-week and $0.75/kW-month to $0.240/kW-week and $1.00/kW-month respectively, both schedules proposed to become effective March 10, 1980. Applicant states that since the use of Short Term Power cannot be accurately estimated, for the twelve-month period succeeding the date of filing, it is impossible to estimate the increase in revenues resulting from this supplement for such period. Applicant's Exhibit I and II which were included with the filing of this Supplement, demonstrate that the increase in revenues which would have resulted had the Supplement been in effect during the twelve-month period ending December 1979, would have been a) for Short Term Power $648,142.85 i.e., from $15,238,057.10 to $15,886,199.95 and b) for Limited Term Power $75,000.00 i.e., from $1,235,755.50 to $1,310,755.50.

Copies of the filing were served upon Ohio Edison Company and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest said application with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such

petitions or protests should be filed on or before February 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-2208 Filed 1-23-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No ER80-187]

Ohio Power Co.; Changes in Rates and Charges

January 18, 1980.

The filing company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on January 15, 1980, tendered for filing on behalf of its affiliate Ohio Power Company (Ohio Power), Modification No. 3 dated November 15, 1979 to the Operating Agreement dated December 1, 1965, between Ohio Power Company and the Toledo Edison Company designated Ohio Power Rate Schedule FERC No. 35.

Section 1 of Modification No. 3 provides for an increase in the demand charge for Short Term Power from $0.70 to $0.85 per kilowatt per week and Section 3 provides for an increase in the demand charge for Limited Term Power from $3.75 to $4.50 per kilowatt per month. Section 2 of Modification No. 3 provides for an increase in the transmission charge for third party Short Term Power transactions from $0.175 per kilowatt per week to $0.240 per kilowatt per week and Section 4 provides for an increase in the transmission charge for third party Limited Term transactions from $0.75 per kilowatt per month to $1.00 per kilowatt per month, both changes proposed to become effective March 10, 1980.

Applicant states that since the use of Short Term Power and Limited Term Power Service cannot be accurately estimated, it is impossible to estimate the increase in revenues resulting from the Modification. Applicant's Exhibits I and II which were included with the filing of this Modification, demonstrate that the increase in revenues, which would have resulted had the modification been in effect during the twelve-month period ending December 1979, would have been (a) for Short Term Power $493,750.00 (i.e., from $12,918,197.76 to $13,411,947.75) and (b) for Limited Term Power $150,000.00 (i.e., from $3,550,536.20 to $3,700,536.20).

Copies of the filing were served upon The Toledo Edison Company and Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before February 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-2209 Filed 1-23-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-184]

Oklahoma Gas & Electric Co.; Superseding Contract Filing

January 18, 1980.

The filing company submits the following:

Take notice that on January 15, 1980, Oklahoma Gas and Electric Company (OG&E) tendered for filing a new Agreement intended to supersede OG&E's Rate Schedule FERC No. 105. This Agreement is the contract between OG&E and Gulf States Utilities Company (GSU). The new Agreement is identical to the old Agreement, except for the demand charge, and provides for the sale of 150 MW of Contract Capacity from OG&E to GSU for the year 1980.

OG&E proposes an effective date of January 1, 1980, and therefore requests waiver of the Commission's notice requirements.

OG&E states that copies of the filing were served upon Gulf States Utilities Company, Arkansas Power & Light Company, Louisiana Power & Light Company, Central Louisiana Electric Company, the Corporation Commission of the State of Oklahoma, and the Arkansas Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1. 10). All such petitions or protests should be filed on or before February 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intenvene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-2210 Filed 1-23-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-185]

Oklahoma Gas & Electric Co.; Superseding Contract Filing

January 18, 1980.

The filing company submits the following:

Take notice that on january 15, 1980, Oklahoma Gas and Electric Company (OG&E) tendered for filing a new Agreement intended to supersede OG&E's Rate Schedule FERC No. 104. This Agreement is the contact between OG&E and the Southwestern Power Administration (SWPA). The new Agreement is identical to the old Agreement, and provides for the sale of Replacement Energy and Emergency Service by OG&E to SWPA.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Feb. 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-2211 Filed 1-23-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RE80-29]

Power Authority of the State of New York; Application for Exemption

January 17, 1980.

Take notice that Power Authority of the State of New York (Power Authority), on November 20, 1979, filed an application for exemption from certain requirements of Part 290 of the Commission's regulations (Order 48, 44 FR 58687). Exemption is souight from the requirement to file, on or before November 1, 1980, information on the costs of providing electric service as specified in Sections 290.202(a), 290.303(a)(c), 290.401(a), 290.402(b), and 290.403(a)(4) of Part 290 of the Commission's regulations issued pursuant to Section 133 of PURPA.

In its application for exemption, Power Authority states that it should not be required to file the specified data for the following reasons:

(1) Under Section 290.202(a): "The Authority simply does not have the wherewithal to perform the massive analytical work necessitated by the provision. The Authority proposes instead to select one or more weekdays and weekend days for each month of the reporting period which are representative of cost incurrence."

(2) Under Section 290.303(a) & (c): "Despite the massive amount of work necessary to perform these calculations, the results may not be 'typical,' as the resulting averages may be distorted by the inclusion of unrepresentative data. The purposes of § 133 can be achieved at far less cost by allowing the Authority to select one or more weekdays and weekend days for each month of the reporting period which are representative of cost incurrence."

(3) Under Section 290.401(a): "The Authority's system load data are reported on a 60-minute integrated basis; however, a substantial number of its various customer groups have load data which are metered on a 30-minute integrated basis. Reprocessing of the customer data to yield 60-minute integrated demands would be a time consuming, expensive computational task and would lessen the accuracy of the data."

(4) Under Section 290.402(b): "For the same reasons given in support of the request for exemption from § 290.303(c) above with respect to pool marginal energy cost data, the Authority submits that it would be inappropriate to require the Authority to file New York Power Pool load data, which is not relevant to the Authority's own operations."

(5) Under Section 290.403(a)(4): "The Authority requests an exemption from adherence to the definition of typical day loads for the reporting period for the same reasons set forth above in its request for exemption from reporting marginal energy cost data for typical days in the reporting period."

Copies of the application for exemption are on file with the Commission and are available for public inspection. The commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that a summary of the application be published in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 29, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-2212 Filed 1-23-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-180]

Public Service Electric & Gas Co.; Filing

January 18, 1980.

The filing Company submits the following:

Take notice that Public Service Electric and Gas Company on January 2, 1980, tendered for filing an Electric Service Agreements with the Boroughs of Milltown and South River dated January 3, 1980.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before February 8, 1980. Protests will be considered by the Commission in determining the appropriate actions to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-2213 Filed 1-23-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. G-11762, et al.]

Sun Oil Co., et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

January 17, 1980.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before January 25, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.³	Pressure base
C–11762 B, Feb. 22, 1977	Sun Oil Co., P.O. Box 20, Dallas, Tex. 75221	Northern Natural Gas Co., Harper Ranch field, Clark County, Kans.	Depleted	
C179–629 A, Aug. 24, 1979	Marathon Oil Co., 539 South Main Street, Findlay, Ohio 45840.	Michigan Wisconsin Pipe Line Co., Blocks A–474 and A–489, High island area, offshore Louisiana.	1	15.025
C179–633 A, Aug. 30, 1979	Cotton Petroleum Co., 4200 One Williams Center, Tulsa, Okla. 74103.	Michigan Wisconsin Pipe Line Co., Caddo County, Okla.	2	14.65
C180–152 B, Dec. 31, 1979	Jack M. Allen and Johnye M. Voiles, a partnership, Allen Building, Box 1046, Perryton, Tex. 79070.	Natural Gas Pipeline Co. of America, Lips field, Roberts and Ochiltree Counties, Tex.	3	
C180–153 B, Dec. 31, 1979	Jack M. Allen and Johnye M. Voiles, Allen Building, Box 1046, Perryton, Tex. 79070.	Natural Gas Pipeline Co. of America, Lips field, Roberts and Ochiltree Counties, Tex.	3	
C180–154 B, Dec. 31, 1979	Jack M. Allen and Johnye M. Voiles	Natural Gas Pipeline Co. of America, Lips field, Roberts and Ochiltree Counties, Tex.	3	

[1] Applicant is filing under gas purchase contract dated July 19, 1979.
[2] Applicant is filing under gas purchase contract dated Sept. 27, 1978.
[3] No sales have been made under contract; pipeline unable to take gas due to low well pressures; dwindling reserves make compression unfeasible. Applicant expresses urgency because gas is being vented to atmosphere in conjunction with oil production; wells face risk of being ordered shut-in by Texas Railroad Commission which would result in loss of oil and gas leases.

Filing code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 80–2314 Filed 1–23–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. GP80–26]

Trunkline Gas Co.; Third Party-Protests [1]

January 18, 1980.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23–B [2] and "Order on Rehearing of Order No. 23–B [3] the staff of the Commission protested on October 15, 1979, the assertion by the Trunkline Gas Company (Trunkline) and certain producers that the contracts identified in staff's protest constitute contractual authority for the producers to charge and collect certain applicable maximum lawful prices under the Natural Gas Policy Act of 1978 (NGPA).

Staff stated that the language of the contracts listed in Appendix A of this notice does not constitute contractual authority for the producer to increase prices to the extent claimed by Trunkline in the evidentiary submission it filed pursuant to 18 CFR § 154.94(j).

Take further notice that the State of Michigan (Michigan) and the Michigan Public Service Commission (Michigan P.S.C.) filed a joint third-party protest on November 5, 1979. This joint protest asserts that the contracts listed in Appendix B do not constitute contractual authority for the producers to increase prices to the applicable NGPA maximum lawful price. The position taken by Michigan and Michigan P.S.C. has been adopted and incorporated in a protest filed by Associated Gas Distributors on November 5, 1979.

In addition, the Kansas State Corporation Commission filed on November 5, 1979, a protest (1) adopting and incorporating the protest of Michigan and Michigan P.S.C. and (2) further requesting that certain clauses added by amendment to contracts listed in Appendix B be declared null and void for lack of consideration.

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the Commission, on or before February 4, 1980, a petition to intervene in acordance with 18 C.F.R. § 1.8. The seller need not file for intervention because under 18 C.F.R. § 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Kenneth F. Plumb,

Secretary.

Appendix A

Producer	Rate schedule No. or contract date
AGOIL Inc	8–22–78
Anadarko Production Co	4–4–77
Anadarko Production Co	241
Anadarko Production Co	249
Anadarko Production Co	251
Chevron USA, Inc	44
Crystal Oil Co	12–20–77
Davis Oil Co	6–24–78
Diamond Shamrock	87
Diamond Shamrock	4–4–77
Diamond Shamrock	92
Diamond Shamrock	97
Florida Gas Exploration Co	27
Gulf Oil Company	548
Hamilton Brothers Oil Co	1, 2 and 5
Ocean Production Co	17
Placid Oil Co	59
Sunny Field Oil & Gas, Ltd	6–7–71
Great Southern Oil & Gas Co. Inc	1–4–71
Getty Oil Co	251
Resources Investment Group	7–11–78
Harvey V. Risien	12–15–77
Shell Oil Co	336
Sun Oil Co	587
Sun Oil Co	602
TEPCO Engineering Inc	5–28–76
Texas Pacific Oil Co., Inc	123
Duer Wagner, Jr	10–22–76
Exxon Co. U.S.A	468

Appendix B

Seller	Rate schedule number	Date
Regis Gas Systems, Inc	3	12/1/58
Atlantic Richfield Co	326	9/26/66
Mullins & Prichard	SPC	8/1/66
Hunt Industries	11	5/31/74
Chevron U.S.A., Inc	44	4/4/69
Shell Oil Co	256	11/1/68
Amoco Production Co	509	12/21/67
Chevron U.S.A., Inc	52	1/5/70
Superior Oil Co	148	1/15/71
Trans-Ocean Oil, Inc	23	2/3/71
Amoco Production Co	29	4/1/73
Amoco Production Co	259	9/2/58
Exxon Co., U.S.A	291	1/22/60
Exxon Co., U.S.A	272	2/10/61
Exxon Co., U.S.A	347	3/6/64
Exxon Co., U.S.A	373	1/29/65
Mobil Oil Corp	411	9/20/65
Mobil Oil Exploration & Production SE Inc	391	11/11/68
Mobil Oil Exploration & Production SE Inc	510	2/27/76
Mobil Oil Exploration & Production SE Inc	518	4/2/76
Exxon Co., U.S.A	571	8/11/76
Exxon Co., U.S.A	568	9/3/76
Exxon Co., U.S.A	606	10/11/77
Exxon Co., U.S.A	608	10/31/77
Exxon Co., U.S.A	621	4/12/78
Centura Inc	SPC	7/20/78
Shell Oil Co	426	1/11/78
Amerada Hess Corp	14	8/20/48
Superior Oil Co	1	1/19/49
Gen'l Crude Oil Co	SPC	2/14/53
Prairie Production Company	SPC	4/10/72
Amoco Production Co	747	8/8/77
Mobil Oil Corp	52	1/1/76
Mobil Oil Exploration & Production SE Inc	521	8/8/76
Superior Oil Co	3	6/11/48
Superior Oil Co	222	7/21/48
Superior Oil Co	222	8/2/48
Tenneco Oil Co	141	11/3/54
Sohio Nat'l Resouces Co	5	5/26/52
Fred W. Shield	SPC	3/10/61
Penzoil Producing Co	70	2/9/55

[1] The term "third party protest" refers to a protest filed by a party who is not a party to the contract which is protested.
[2] "Order Adopting Final Regulations and Establishing Protest Procedure", Docket No. RM79–22, issued June 21, 1979.
[3] Docket No. RM79–22, issued August 6, 1979.

Seller	Rate schedule number	Date
Union Oil Co. of Cal	42	6/17/58
Union Oil Co. of Cal	61	6/17/58
Union Oil Co. of Cal	85	6/17/58
Gulf Oil Corp	215	2/27/61
Sun Oil Co	201	6/22/65
Union Oil Co. of Cal	158	8/1/66
Superior Oil Co	29	2/28/66
Superior Oil Co	121	2/13/67
Ladd Petroleum Co	11	4/19/67
Amoco Production Co	503	9/1/67
Crystal Oil Co 1/29/67	SPC	
Superior Oil Co	120	2/15/68
Exchange Oil & Gas	9	5/2/68
Getty Oil Co	176	12/9/68
Continental Oil Co	346	12/5/68
Atlantic Richfield Co	625	12/23/68
Cities Service Oil Co	312	12/23/68
Solatex Petroleum Co	SPC	1/29/69
Prairie Producing Co	3	3/21/69
George Mitchell & Assc. Inc	97	5/11/70
Tenneco Oil Co	270	1/1/71
Great Southern Oil & Gas Co	SPC	1/4/71
Getty Oil Co	186	1/5/71
Sunnyfield Oil & Gas Ltd	SPC	6/7/71
McMoran Exploration Co	SPC	7/19/71
Continental Oil Co	373	9/21/71
Cities Service Oil Co	360	9/21/71
Paul M. Tace	SPC	9/28/71
Norwegian Oil Corp	SPC	10/22/71
Texas Oil & Gas Corp	87	11/19/71
Logue & Patterson, Inc	SPC	1/6/72
Monsanto Co	103	1/11/72
Mitchell Energy & Development Corp	41	2/4/72
West Petroleum Corp	SPC	7/12/72
Victoria Equipment & Supply Co	SPC	11/20/72
Sun Oil Co	516	4/6/73
Sun Oil Co	519	4/16/73
Sun Oil Co	517	4/18/73
Lewis B. Howard	SPC	5/16/73
Clark Oil Producing Co	SPC	6/15/73
Diamond Shamrock Corp	68	7/16/73
Diamond Shamrock Corp	66	7/16/73
Diamond Shamrock Corp	67	7/16/73
Anadarko Production Co	205	7/19/73
Anadarko Production Co	204	7/19/73
Anadarko Production Co	203	7/19/73
EIF Aquitaine Inc	SPC	8/15/73
Neil E. Hanson	SPC	8/8/73
Placid Oil Co	59	5/31/74
Getty Oil Co	251	5/31/74
Highland Resources, Inc	SPC	5/31/74
Hamilton Bros. Oil Co	1	5/31/74
Hamilton Bros. Oil Co	5	5/31/74
Hamilton Bros. Exploration Co	3	5/31/74
Hamilton Bros. Exploration Co	2	5/31/74
Gulf Oil Co	548	5/31/74
Atlantic Richfield Co	664	8/19/74
Continental Oil Co	412	8/23/74
Cities Service Oil Co	410	9/3/74
Kirby Petroleum Co	SPC	8/27/74
Continental Oil Co	284	12/22/75
Clark Oil Producing Co	SPC	5/3/76
Clark Oil Producing Co	SPC	11/11/76
Sun Oil Co	587	4/4/77
Diamond Shamrock Corp	78	4/4/77
Anadarko Production Co	232	4/4/77
Texas Pacific Oil Co. Inc	123	4/4/77
Ocean Production Co	17	5/25/77
Furth Oil Co	SPC	7/7/77
Florida Gas Exploration Co	27	8/29/77
Sun Oil Co	602	2/10/78
Anadarko Production Co	241	2/15/78
Diamond Shamrock Corp	87	4/18/78
Sun Oil Co	pending	5/23/78
Tepco Engineering, Inc	SPC	5/25/78
Resources Investment Corp	SPC	7/11/78
Andarko Production Co	249	7/25/78
Sun Oil Co	pending	8/17/78
Diamond Shamrock Corp	92	9/12/78
Andarko Production Co	pending	1/11/79
Diamond Shamrock Corp	97	4/2/79
Anadarko Production Co	251	4/30/79
Cities Service Oil Co	1	1/26/49
Nicklos Oil & Gas Co	SPC	5/20/78
Tribel Oil Co	SPC	7/15/74
Dameon Oil Corp	SPC	3/10/75
C. F. Brown & Co	SPC	5/19/76
Northcott Exploration Co., Inc	SPC	5/31/76
William F. Powell	SPC	9/1/76
Duer Wagner, Jr	SPC	10/22/76
Tee Oil, Inc	SPC	11/1/76
Beverly Miller Somners	SPC	7/6/76
C & K Marine Production Co	SPC	6/20/77
H. C. Price Co	SPC	7/15/77
Dinero Oil Co	SPC	11/29/77
Harvey V. Risien	SPC	12/15/77
Crystal Oil Co	SPC	12/20/77
Atlantic Richfield Co	516	3/20/52
Atlantic Richfield Co	517	6/2/52
American Petro-Fina Co. of Texas	30	4/13/76
Coastal States Gas Producing Co	47	4/14/76
Coastal States Gas Producing Co	1	4/14/76
Pennzoil Producing Co	80	3/9/56
Sun Oil Co	89	3/21/75
Cities Service Oil Co	134	9/4/59
Signal Petroleum	5	6/3/68
Sun Oil Co	347	8/1/65
Prairie Producing Co	SPC	7/24/67
Getty Oil Co	211	8/21/74
Cities Service Oil Co	425	6/1/75
Getty Oil Co	213	6/11/75
Atlantic Richfield Co	663	6/12/75
Continental Oil Co	420	8/12/75
Union Oil Co. of Cal	222	7/23/75
Atlantic Richfield Co	375	8/8/75
Texas Oil & Gas Corp	SPC	8/1/77
Torro Resources, Inc	43	10/27/77
Loe Pipe Yard, Inc	SPC	12/1/77
Davis Oil Co	SPC	4/24/78
Forest Oil Corp	48	5/20/78
Don H. Ford	SPC	7/27/78
Nimrod R. Price	SPC	8/15/78
Agoil Inc	SPC	8/22/78
J. N. Pratt & W. R. Dean DBA Pool & Hooper Oil Properties	SPC	4/29/52
J. N. Pratt & W. R. Dean DBA Pool & Hooper Oil Properties	SPC	7/2/52
Estate of H. L. Hunt	1	1/1/76
Estate of H. L. Hunt	2	1/1/76
Estate of H. L. Hunt	13	1/1/76
Estate of H. L. Hunt	525	1/1/76
Mobil Oil Corp	41	1/1/77
Amoco Production Co	258	6/26/58
Amoco Production Co	386	6/26/58
Amoco Production Co	393	6/26/58
Aminoil Development Inc	2	10/26/75
Mesa Petroleum Co	71	10/26/75
Chevron U.S.A. Inc	95	5/4/76
Chevron U.S.A. Inc	97	7/30/76
Getty Oil Co	142	8/4/65
Phillips Petroleum Co	489	3/15/71
Phillips Petroleum Co	488	4/29/77
Exxon Co., U.S.A	452	7/9/69
Exxon Corp	564	7/9/75

[FR Doc. 80–2216 Filed 1–23–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ER80–186]

Vermont Electric Power Co., Inc.; Rate Schedule Filing

January 18, 1980.

The filing company submits the following:

Take notice that on January 15, 1980, Vermont Electric Power Company, Inc. (VELCO) tendered for filing a rate schedule for transmission service between VELCO and Washington Electric Cooperative, Inc. for the period May 1, 1978 through June 30, 1985, Vermont Marble Company for the period July 1, 1978 through June 30, 1985, the Village of Swanton for the period November 1, 1979 through June 30, 1985, for the transmission of electricity purchased by the buyer other than from the State of Vermont or VELCO.

VELCO states that the service to be rendered under this rate schedule is the provision of VELCO's transmission facilities to the Electric Power Department of the three Vermont utilities named in the rate schedule for the transmission of bulk power purchased by the Vermont utilities from utilities outside of Vermont from points of interconnection of VELCO's facilities with the transmission facilities of other companies. The quantities of power transmitted by VELCO under this rate schedule and the "estimated monthly charges" are as follows:

Purchasers	Kilowatts	Estimated monthly charges
Washington Electric Cooperative, Inc	1,000	$1,250
Vermont Marble Co	2,000	2,500
Village of Swanton	1,200	1,500

VELCO further states that as a result of unavoidable delay in resolving certain aspects of negotiations for this rate schedule, VELCO was not able to file the schedule in a timely manner. In addition, the need to submit the contracts, which make up this rate schedule, to the Vermont Public Service Board for approval by the Board pursuant to § 2.5 of the Power Transmission Contract. As a result of these circumstances, VELCO could not comply with the notice requirements of § 35.3 of the regulations. Therefore, VELCO requests that the Commission waive the notice requirements under § 35.11 since the circumstances described constitute a good cause for a waiver. According to VELCO, approval of these contracts was granted by the Vermont Public Service Board.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–2217 Filed 1–23–80; 8:45 am]

BILLING CODE 6450–01–M

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ENVIRONMENTAL PROTECTION AGENCY

[FRL 1397-5]

Data Collection Activities

The purpose of this notice is to identify certain data collection activities to be undertaken by the United States Environmental Protection Agency (EPA) during the six month period January 1, 1980 through June 30, 1980 for specific industrial point source categories. Prior notification will alert affected industries that potential questionnaires and/or analytical sampling surveys are forthcomng and enable them to participate in the rulemaking activities.

The following list of industrial categories is organized by type of data collection activity; i.e., economic assessment, analytical sampling, or technical assessment. Data collected through these surveys will be used in supporting and establishing effluent limitations guidelines as required under Sections 301, 304, 306 and 307 of the Clean Water Act.

These activities are subject to Office of Management and Budget (OMB) approval in accordance with OMB Clearance No. 158–R–0160 and are published twice yearly in the **Federal Register**. Notification is also a requirement for OMB concurrence under the federal Reports Act (144 U.S.C. 3501 et seq.)

Several data collection activities mentioned in this notice were contained in EPA's **Federal Register** notice of Data Collection Activities dated August 1, 1979. Data collection activities repeated in this notice did not commence during the previous reporting period August 1, 1979 through December 31, 1979.

Questions concerning economic surveys should be directed to the appropriate project officer at the following address: U.S. Environmental Protection Agency, Office of Water Planning and Standards, Office of Analysis and Evaluation (WH–586), 401 M Street SW., Washington, D.C. 20460.

Questions concerning technical or analytical sampling surveys should be directed to the appropriate project officer at the following address: U.S. Environmental Protection Agency, Office of Water Planning and Standards, Effluent Guidelines Division (WH–552), 401 M Street SW., Washington, D.C. 20460.

Dated: January 18, 1980.

James N. Smith,

Acting Assistant Administrator for Water and Waste Management.

Economic Assessment

Copper and Brass Fabricating
Estimated Number of Plants in Sample: 150
Approximate Response Burden in Total Manhours Per Plant: 40
Project Officer: Harold D. Lester (202) 426–6217
Mechanical Products/Electroplating
Estimated Number of Plants in Sample: 3000
Approximate Response Burden in Total Manhours Per Plant: 0.25
Project Officer: Louis DuPuis (202) 755–7733

Analytical Sampling

Asbestos Self Sampling
Estimated Number of Plants in Sample: 200
Approximate Response Burden in Total Manhours Per Plant: 6
Project Officer: Priscilla Holtzclaw (202) 426–7770
Canned and Preserved Fruits and Vegetables processing
Estimated Number of Plants in Sample: 10
Approximate Response Burden in Total Manhours Per Plant: 40
Project Officer: Donald F. Anderson (202) 426–2497
Coal Mining
Subcategory: Regrade-Revegetation
Estimated Number of Mines in Sample: 30
Approximate Response Burden in Total Manhours Per Mine: 150
Project Officer: Dennis Ruddy (202) 426–2707
Electrical and Electronic Components
Estimated Number of Plants in Sample: 15
Approximate Response Burden in Total Manhours Per Plant: 12
Project Officer: Richard J. Kinch (202) 426–4617
Iron and Steel Manufacturing
Estimated Number of Plants in Sample: 15
Approximate Response Burden in Total Manhours Per Plant: 30
Project Officer: Edward L. Dulaney (202) 426–2586
Iron and Steel Manufacturing
Estimated Number of Plants in Sample: 15
Approximate Response Burden in Total Manhours Per Plant: 50
Project Officer: Edward L. Dulaney (202) 426–2586
Mineral Mining (40 CFR 426)
Subcategory: Crushed Stone
Estimated Number of Mines in Sample: 10
Approximate Response Burden in Total Manhours Per Mine: 4
Project Officer: Ronald M. Kirby (202) 426–7770
Nonferrous Metals
Estimated Number of Plants in Sample: 25
Approximate Response Burden in Total Manhours Per Plant: 20
Project Officer: Patricia E. Williams (202) 426–2586
Nonferrous Metals Forming
Estimated Number of Plants in Sample: 20
Approximate Response Burden in Total Manhours Per Plant: 20
Project Officer: Patricia E. Williams (202) 426–2586
Organic Chemicals Manufacturing
Estimated Number of Plants in Sample: 20
Approximate Response Burden in Total Manhours Per Plant: 40
Project Officer: Paul Fahrenthold (202) 426–2497
Organic Chemicals Manufacturing (Phase II)
Estimated Number of Plants in Sample: 50
Approximate Response Burden in Total Manhours Per Plant: 30
Project Officer: Paul Cassidy (202) 426–2497
Plastics Forming
Estimated Number of Plants in Sample: 20
Approximate Response Burden in Total Manhours Per Plant: 20
Project Officer: Robert Hardy (202) 426–2586
Plastics and Synthetics
Estimated Number of Plants in Sample: 20
Approximate Response Burden in Total Manhours Per Plant: 40
Project Officer: Hugh Wise (202) 426–2497
Publicly Owned Treatment Works
Estimated Number of Plants in Sample: 22
Approximate Response Burden in Total Manhours Per Plant: 5
Project Officer: Authur Shattuck (202) 426–2497
Textile Mills
Estimated Number of Mills in Sample: 15
Approximate Response Burden in Total Manhours Per Mill: 8
Project Officer: James R. Berlow (202) 426–2554

Technical Assessment

Canned and Preserved Fruits and Vegetables Processing
Estimated Number of Plants in Sample: 400
Approximate Response Burden in Total Manhours Per Plant: 8
Project Officer: Donald F. Anderson (202) 426–2497
Coal Liquefaction and Gasification
Estimated Number of Plants in Sample: 50
Approximate Response Burden in Total Manhours Per Plant: 40
Project Officer: John Lum (202) 426–2707
Dairy Products Processing Industry
Estimated Number of Plants in Sample: 650
Approximate Response Burden in Total Manhours Per Plant: 1
Project Officer: William M. Sonnett (202) 426–2407
Electrical and Electronic Components
Estimated Number of Plants in Sample: 200
Approximate Response Burden in Total Manhours Per Plant: 4
Project Officer: Richard J. Kinch (202) 426–4617
Electrical and Electronic Components
Subcategory: Basis Material manufacturers (SIC 3339 and 3674)
Estimated Number of Plants in Sample: 17
Approximate Response Burden in Total Manhours Per Plant: 10
Project Officer: Richard J. Kinch (202) 426–4617
Electrical and Electronic Components
Subcategory: Capacitors
Estimated Number of Plants in Sample: 150
Approximate Response Burden in Total Manhours Per Plant: 8
Project Officer: Richard J. Kinch (202) 426–4617
Electrical and Electronic Components
Subcategory: Carbon and Graphite Products
Estimated Number of Plants in Sample: 42
Approximate Response Burden in Total Manhours Per Plant: 0.50
Project Officer: Richard J. Kinch (202) 426–4617
Electrical and Electronic Components
Subcategory: Crystals and Crystal Devices (SIC 3679)

Estimated Number of Plants in Sample: 50
Approximate Response Burden in Total Manhours Per Plant: 8
Project Officer: Richard J. Kinch (202) 426–4617
Electrical and Electronic Components
Subcategory: Electron Tubes, Incandescent Lamps, Fluorescent Tubes
Estimated Number of Plants in Sample: 50
Approximate Response Burden in Total Manhours Per Plant: 8
Project Officer: Richard J. Kinch (202) 426–4617
Electrical and Electronic Components
Subcategories: Insulated Wire and Cable, Switchgear (Motors, Generators, and Alternators), Ferrite Devices, Resistance Heaters, Electrical and Electronic Components Assembly, Filled Transformers, Insulators (Excluding Mica and Ceramic)
Estimated Number of Plants in Sample: 250
Approximate Response Burden in Total Manhours Per Plant: 0.50
Project Officer: Richard J. Kinch (202) 426–4617
Electrical and Electronic Components
Subcategory: Resistance Heaters
Estimated Number of Plants in Sample: 45
Approximate Response Burden in Total Manhours Per Plant: 1
Project Officer: Richard J. Kinch (202) 426–4617
Electrical and Electronic Components
Subcategory: Semiconductor Device Manufacturers (SIC 3674)
Estimated Number of Plants in Sample: 210
Approximate Response Burden in Total Manhours Per Plant: 16
Project Officer: Richard J. Kinch (202) 426–4617
Electrical and Electronic Components
Subcategory: TV Picture Tubes
Estimated Number of Plants in Sample: 40
Approximate Response Burden in Total Manhours Per Plant: 8
Project Officer: Richard J. Kinch (202) 426–4617
Electroplating
Estimated Number of Plants in Sample: 150
Approximate Response Burden in Total Manhours Per Plant: 8
Project Officer: Richard J. Kinch (202) 426–4617
Gasohol
Estimated Number of Plants in Sample: 40
Approximate Response Burden in Total Manhours Per Plant: 40
Project Officer: John Lum (202) 426–2707
Meat Products
Subcategory: Simple Slaughterhouse, Complex Slaughterhouse, Low-Processing Packinghouse, High-Processing Packinghouse
Estimated Number of Plants in Sample: 250
Approximate Response Burden in Total Manhours Per Plant: 0.25
Project Officer: Calvin Dysinger (202) 426–7770
Mechanical Products
Estimated Number of Plants in Sample: 50
Approximate Response Burden in Total Manhours Per Plant: 8
Project Officer: Richard J. Kinch (202) 426–4617
Mechanical Products
Subcategory: Metal Powder Production
Estimated Number of Plants in Sample: 75
Approximate Response Burden in Total Manhours Per Plant: 10
Project Officer: Richard J. Kinch (202) 426–4617
Nonferrous Metals
Subcategory: Secondary Precious Metals
Estimated Number of Plants in Sample: 350
Approximate Response Burden in Total Manhours Per Plant: 1
Project Officer: Patricia E. Williams (202) 426–2586
Nonferrous Metals Forming
Estimated Number of Plants in Sample: 500
Approximate Response Burden in Total Manhours Per Plant: 4
Project Officer: Patricia E. Williams (202) 426–2586
Ore Mining and Dressing
Estimated Number of Plants in Sample: 20
Approximate Response Burden in Total Manhours Per Plant: 8
Project Officer: B. Matthew Jarret (202) 426–2707
Organic Chemicals Manufacturing
Estimated Number of Plants in Sample: 40
Approximate Response Burden in Total Manhours Per Plant: 40
Project Officer: Paul Fahrenthold (202) 426–2497
Organic Chemicals, Plastics, and Synthetics Manufacturing
Estimated Number of Plants in Sample: 400
Approximate Response Burden in Total Manhours Per Plant: 10
Project Officer: Elwood Forsht (202) 426–2497
Pesticide Manufacturing
Estimated Number of Plants in Sample: 125
Approximate Response Burden in Total Manhours Per Plant: 10
Project Officer: Elwood Forsht (202) 426–2497
Pesticide Manufacturing
Subcategory: Pesticide Formulators and Packagers
Estimated Number of Plants in Sample: 200
Approximate Response Burden in Total Manhours Per Plant: 20
Project Officer: George Jett (202) 426–2497
Pesticide Manufacturing
Estimated Number of Plants in Sample: 70
Approximate Response Burden in Total Manhours Per Plant: 10
Project Officer: George Jett (202) 426–2497
Petroleum Refining
Estimated Number of Plants in Sample: 45
Approximate Response Burden in Total Manhours Per Plant: 80
Project Officer: John Lum (202) 426–2707
Pharmaceutical Manufacturing
Estimated Number of Plants in Sample: 50
Approximate Response Burden in Total Manhours Per Plant: 30
Project Officer: Joseph S. Vitalis (202) 426–2497
Pharmaceutical Manufacturing
Estimated Number of Plants in Sample: 200
Approximate Response Burden in Total Manhours Per Plant: 10
Project Officer: Elwood Forsht (202) 426–2497

Identify sources and quantify volumes of hazardous waste, identify management and waste disposal practices.

Photographic Equipment and Supplies
Estimated Number of Plants in Sample: 27
Approximate Response Burden in Total Manhours Per Plant: 8
Project Officer: Richard J. Kinch (202) 426–4617
Plastics and Synthetics
Estimated Number of Plants in Sample: 40
Approximate Response Burden in Total Manhours Per Plant: 40
Project Officer: Hugh Wise (202) 426–2497
Rubber Manufacturing
Estimated Number of Plants in Sample: 30
Approximate Response Burden in Total Manhours Per Plant: 30
Project Officer: Joseph Vitalis (202) 426–2497
Rubber Manufacturing
Estimated Number of Plants in Sample: 200
Approximate Response Burden in Total Manhours Per Plant: 10
Project Officer: Elwood Forsht (202) 426–2497

Identify sources and quantify volumes of hazardous waste, identify management and waste disposal practices.

Soap and Detergent Manufacturing
Estimated Number of Plants in Sample: 300
Approximate Response Burden in Total Manhours Per Plant: 8
Project Officer: Calvin Dysinger (202) 426–7770
Steam Electric
Estimated Number of Plants in Sample: 40
Approximate Response Burden in Total Manhours Per Plant: 20
Project Officer: John Lum (202) 426–2707
Textile Mills
Estimated Number of Mills in Sample: 214
Approximate Response Burden in Total Manhours Per Mill: 0.20
Project Officer: James R. Berlow (202) 426–2554
Timber Products Processing
Estimated Number of Plants in Sample: 30
Approximate Response Burden in Total Manhours Per Plant: 1
Project Officer: Richard E. Williams (202) 426–2554

[FR Doc. 80-2219 Filed 1-23-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1396-3]

Science Advisory Board, Ecology Committee; Meeting

Under Pub. L. 92–463, notice is hereby given that a meeting of the Ecology Committee of the Science Advisory Board will be held on February 11 and 12, 1980, beginning at 9:00 a.m., in the Administrator's Conference Room, Room 1101, West Tower, Waterside Mall, 401 M Street, S.W., Washington, D.C.

This is the twenty-first meeting of the Ecology Committee. The agenda includes a briefing on the organizational structure of the Office of Environmental Processes and Effects Research and the tasks assigned; a discussion of the potentials for strengthening the Office of Environmental Processes and Effects Research activities; an update on the Integrated Pest Management Program; a briefing on the Chesapeake Bay Research Program; a report on the Acid Rain Coordination Committee, Council

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for Environmental Quality; a discussion on the use of artificial substrates in monitoring; consideration of monitoring marine ecosystems; and member items of interest.

The meeting is open to the public. Because of the limited seating capacity of the meeting room, all members of the public desiring to attend must preregister no later than February 6, 1980, and receive a confirmed reservation from Dr. J. Frances Allen, Executive Secretary, Ecology Committee, or Ms. Anita Najera (202) 472-9444.

Dated: January 17, 1980.

Richard M. Dowd,

Staff Director.

[FR Doc. 80-2228 Filed 1-23-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1207]

Petitions for Reconsideration of Actions in Rulemaking Proceedings Filed

Correction

In FR Doc. 80-1295, published on page 2902, on Tuesday, January 15, 1980, the following corrections should be made:

(1) The heading should be corrected to read as above;

(2) In the "NOTE" at the end of the table, in the second line, the last sentence should be corrected to read: "Replies to an opposition must be filed within 10 days after time for filing oppositions has expired."

BILLING CODE 1505-01-M

FEDERAL RESERVE SYSTEM

American National Corp.; Formation of Bank Holding Company

American National Corporation, Omaha, Nebraska, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 100 percent (less directors' qualifying shares) of the voting shares of American National Bank, Omaha, Nebraska. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 19, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 18, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-2255 Filed 1-23-80; 8:45 am]

BILLING CODE 6210-01-M

The Bank Holding Co. of Santa Fe; Formation of Bank Holding Company

The Bank Holding Company of Santa Fe, Santa Fe, New Mexico, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of the Bank of Santa Fe, Santa Fe, New Mexico. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than February 19, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 18, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-2254 Filed 1-23-80; 8:45 am]

BILLING CODE 6210-01-M

First Ohio Bancshares, Inc.; Formation of Bank Holding Company

First Ohio Bancshares, Inc., Toledo, Ohio, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 100 per cent (less directors' qualifying shares) of the voting shares of successor by merger to The National Bank of Toledo, Toledo, Ohio. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 19, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 27, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-2258 Filed 1-23-80; 8:45 am]

BILLING CODE 6210-01-M

Van Buren Bancorporation; Formation of Bank Holding Company

Van Buren Bancorporation, Keosauqua, Iowa, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Farmers State Bank, Keosauqua, Iowa. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 19, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 18, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-2261 Filed 1-23-80; 8:45 am]

BILLING CODE 6210-01-M

Deutsche Bank AG et al.; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than February 19, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

Deutsche Bank AG, Frankfurt, West Germany (financing activities; continental United States): to open five new regional offices for its 50% owned indirect subsidiary, Fiat Credit Corporation (which is presently engaged in the business of dealer inventory financing for dealers of affiliates of Fiat S.p.A in the United States and retail financing for purchasers and lessees of products from such dealers), as follows: (a) an office in the Pittsburgh, Pennsylvania metropolitan area serving the Eastern Region consisting of the states of Maine, Vermont, Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Ohio, West Virginia, Virginia, Maryland, Delaware, District of Columbia and Kentucky; (b) an office in the Atlanta, Georgia metropolitan area serving the Southeastern Region consisting of the states of Tennessee, North Carolina, South Carolina, Georgia, Alabama, Arkansas, Florida, Mississippi and Louisiana; (c) an office in the Chicago, Illinois metropolitan area serving the Central Region consisting of the states of North Dakota, South Dakota, Kansas, Nebraska, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Michigan and Indiana; (d) an office in the Dallas, Texas metropolitan area serving the Southeastern Region consisting of the states of Colorado, Arizona, New Mexico, Oklahoma and Texas; and (e) an office in the San Francisco, California metropolitan area serving the Western Region consisting of the states of California, Oregon, Nevada, Idaho, Washington, Montana, Wyoming and Utah.

B. *Federal Reserve Bank of Cleveland* (Harry W. Hunning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

Pittsburgh National Corporation, Pittsburgh, Pennsylvania, (finance activities; Indiana, Kentucky, Michigan, Ohio): to engage through its subsidiary, Pittsburgh National Leasing Corporation, Pittsburgh, Pennsylvania, in making or acquiring for its own account or for the accounts of others, loans and other extensions of credit principally in the form of finance leasing. Such activities will be conducted in Pittsburgh, Pennsylvania, and Columbus, Ohio serving Springfield, Cincinnati, Toledo, Dayton, and Lancaster, Ohio; Louisville, Kentucky; Indianapolis and Ft. Wayne, Indiana and Detroit, Michigan.

C. *Federal Reserve Bank of Kansas City* (John F. Zoellner, Vice President) 925 Grant Avenue, Kansas City, Missouri 64198:

Peoples Savings, Inc., Ottowa, Kansas (portfolio investment advising activities; Kansas): to engage in acting as investment or financial advisor to the extent of providing portfolio investment advice to other persons pursuant to 12 CFR 225.4(a)(5)(iii). These activities would be conducted at an office in Ottowa, Kansas, serving Franklin County, Kansas.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, January 16, 1980.

Theodore E. Allision,

Secretary of the Board.

[FR Doc. 80-2256 Filed 1-23-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Devon Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain of its assets by Southland Royalty Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Devon. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: January 16, 1980.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-2107 Filed 1-23-80; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: The Marley Company is granted early termination of the waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of certain voting securities of Wylain, Inc. The

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grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to requests for early termination submitted by both parties to the transaction. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: January 11, 1980.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and require that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-2106 Filed 1-23-80; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

[E-80-1]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the Public Service Commission of Maryland involving electric and gas utility rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Public Service Commission of Maryland involving the application of the Baltimore Gas and Electric Company for gas and electric rate increases. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: January 11, 1980.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80-2241 Filed 1-23-80; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

Indian Education; Acceptance of Nominations for Membership on the National Advisory Council on Indian Education; Closing Date

1. *Introduction.* In accordance with 20 U.S.C. 1221g, "National Advisory Council on Indian Education", notice is hereby given that nominations of Indians, as defined below, will be accepted by the Commissioner of Education from Indian tribes and organizations in order to make to the President of the United States recommendations of individuals for membership on the National Advisory Council on Indian Education. The Council consists of fifteen (15) members appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations, and who must represent diverse geographic areas of the country.

(Pub. L. 92–318, section 442(a), 20 U.S.C. 1221g(a))

Nominations submitted to the Commissioner of Education by Indian tribes and organizations must be received no later than March 7, 1980. Nominations are being requested in order to make recommendations for five (5) membership positions, which will begin on September 30, 1980. Each Presidential appointment will be for a term of three years ending September 29, 1983.

(20 U.S.C. 1233b(a)(1))

2. *Definition.* "Indian" means any individual who (a) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (b) is considered by the Secretary of the Interior to be an Indian for any purpose, or (c) is an Eskimo or Aleut or other Alaska Native.

(Pub. L. 92–318, section 453(a), 20 U.S.C. 1221h(a))

3. *Functions of the Council.* The Council is directed to: (a) Submit to the Commissioner of Education a list of nominees for the position of Deputy Commissioner of Indian Education;

(20 U.S.C. 1221f(a))

(b) Advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including Title III of the Act of September 30, 1950 (Pub. L. 81–874) and section 1005 of Title X of the Elementary and Secondary Education Act of 1965 (both as added by Title IV of Pub. L. 92–318 and as amended), and with respect to adequate funding thereof;

(c) Review applications for assistance under Title III of the Act of September 30, 1950 (Pub. L. 81–874), section 1005 of Title X of the Elementary and Secondary Education Act of 1965, and section 316 of the Adult Education Act (all as added by Title IV of Pub. L. 92–318 and as amended), and make recommendations to the Commissioner with respect to their approval;

(d) Evaluate programs and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(e) Provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(f) Assist the Commissioner in developing criteria and regulations for the administration and evaluation of grants made under section 303(b) of the Act of September 30, 1950 (Pub. L. 81–874) (as added by Title IV, Part A, of Pub. L. 92–318); and

(g) Submit to the Congress not later than June 30 of each year a report on its activities, including any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children or adults participate, or from which they can benefit, and including a statement of the Council's recommendations to the Commissioner with respect to the funding of any such programs.

(Pub. L. 92–318, section 442(b); 20 U.S.C. 1221g(b))

4. *Nomination categories.* Nominations submitted to the Commissioner of Education should be made according to the following categories: (a) *Professional educators.* Indians with active experience as professionals in the areas of early childhood, elementary, secondary, higher, special, vocational, and adult education, such as, teachers, professors, administrators, specialists (e.g., curriculum, language, math, etc.), counselors, and researchers.

(b) *Laypersons involved in education.* Indians with active experience as laypersons involved with education such as school board members, Parent-Teacher association members, parents of school-age children, or those with other lay involvement.

(c) *Students.* Indians who are college students or who have reached their junior year of high school at the time of nomination.

(d) *Individuals with other than education experience.* Indians who do not have education experience, preferably those individuals who have experience in a field involving Indian affairs.

5. *Nomination review procedure.* The Deputy Commissioner of Indian Education will gather members of the Office of Indian Education staff to screen nominations received and address appropriate criteria including those set out below. A list of recommended individuals will be compiled as a result of this screening and will be forwarded to the Commissioner of Education for review. This list will be accompanied by a list of all individuals nominated.

The Commissioner of Education will make recommendations to the Secretary of Health, Education, and Welfare and forward the list of recommended individuals, as well as the complete list of all individuals nominated.

The Secretary of Health, Education, and Welfare will then make recommendations to the President of the United States and forward a list of recommended individuals, as well as the complete list of all individuals nominated, for the President's review and necessary action.

6. *Criteria for recommendations.* To maintain a balanced representation on the Council, priority consideration will be given to nominees in categories other than professional educators. Every effort will be made to recommend individuals representing diverse geographic areas of the country, particularly from those areas with large Indian populations. Consideration will also be given to the balance on the Council in terms of sex, and urban and rural (reservation and non-reservation) representation during the screening process.

The following factors will be considered in selecting individuals to be recommended for appointment: Indian education experience; general education experience; education expertise in the areas of early childhood, elementary, vocational, special and adult education; education background; previous council or committee experience; honors and awards received; and organizational memberships.

Nominees will also be considered on the basis of their knowledge of an experience with both local community and national issues.

7. *Nomination procedure.* Nominations must be submitted to the Commissioner of Education on Office of Education Form OE–543, which may be obtained by writing or telephoning the Office of Indian Education, U.S. Office of Education, FOB–6, Room 2177, 400 Maryland Avenue, S.W., Washington, D.C. 20202, telephone 202–245–8060.

(a) Nominations delivered by mail. A nomination sent by mail must be addressed as above and mailed on or before March 7, 1980. The use of registered or at least first class mail is encouraged. Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

Note.—The U.S. Postal Service does not uniformly provide a dated postmark. Nominating Indian tribes or organizations should check with the local post office before relying on this method.

Each late nominating Indian tribe or organization will be notified that its nomination will not be considered in the current recommendations.

(b) Nominations delivered by hand. A nomination to be hand delivered must be taken to the Office of Indian Education, Room 2177, Federal Office Building Six, 400 Maryland Avenue, S.W., Washington, D.C. Hand-delivered nominations will be accepted daily between the hours of 7:30 a.m. and 4:00 p.m., Washington, D.C., time, except Saturdays, Sundays, and Federal holidays. Nominations will not be accepted after 4:00 p.m. on March 7, 1980.

8. *Incomplete forms.* Incomplete forms will be returned to the nominating Indian tribe or organization accompanied by a checklist detailing informaton necessary for completion. Completed forms must be returned to the Office of Indian Education no later than March 7, 1980, or fifteen (15) days after the date on the checklist (whichever is later), in order to be considered for recommendation by the Commissioner. Proof of mailing will be the same as stated in paragraph 7 above.

William L. Smith,

U.S. Commissioner of Education.

[FR Doc. 80-2247 Filed 1-23-80; 8:45 am]

BILLING CODE 4110-02-M

National Advisory Council on the Education of Disadvantaged Children; Committee Meeting

Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, section 10(a)(2), notice is hereby given that the Committee on Special Projects of the National Advisory Council on the Education will meet on Sunday, February 10, 1980 from 9 a.m. until 4:30 p.m. The meeting will be held in the Council office, Suite 1012, 425-13th Street, N.W., Washington, D.C.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Education Act (20 U.S.C. 2652) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

This committee meeting is for the purpose of reviewing the Council's first draft of the Special Report on the Federal Administration of Title I, ESEA: HEW's Response to Changes Set Forth in the Education Amendments of 1978.

The committee meeting will be open to the public. Because of limited space all persons wishing to attend should call for reservations by February 1, 1980, area code 202/724–0114 and speak with Mrs. Haywood.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the National Advisory Council on the Education of Disadvantaged Children, located at 425-13th St., N.W., Suite 1012, Washington, D.C. 20004.

V 45 / 17 JAN 24 80 UMI

Signed at Washington, D.C. on January 21, 1980.

Gloria B. Strickland,

Acting Executive Director.

[FR Doc. 80-2286 Filed 1-23-80; 8:45 am]

BILLING CODE 4110-02-M

Teacher Centers Program; Extended Closing Dates for Transmittal of Applications for Fiscal Year 1980 and for Appeals to the Commissioner

On August 23, 1979, a notice of closing dates for transmittal of applications for grants awarded by the U.S. Office of Education was published in the **Federal Register.** That notice, which covered most Office of Education programs including the Teacher Centers Program, stated that application forms and program information packages, for grants under the Teacher Centers Program, were expected to be ready for mailing by November 30, 1979. However, those materials were not ready for mailing on that date. Therefore, in order to give prospective applicants at least 60 days during which to prepare and submit their applications, the Office of Education is now amending the August 23, 1979 notice of closing dates for grants under the Teacher Centers Program. Apart from the changed dates in this amended notice, the information contained in the August 23, 1979 notice of closing dates remains unchanged.

I. *Extended Closing Dates for New Projects under the Teacher Centers Program and for Projects that first received funding under the Teacher Centers Program in Fiscal Year 1979.*

A. *Closing date for transmittal of applications to State educational agencies:* To be assured of consideration for funding, applications for new awards and non-competing continuation awards (for projects that first received funding in Fiscal Year 1979) must be mailed or hand delivered to the appropriate State educational agency by March 17, 1980. All applications must be submitted to the State educational agency of the State in which the applicant is located, for review by that agency.

B. *Closing date for transmittal of applications to USOE:* To be assured of consideration for funding, applications referred to in "A" above must be mailed or hand delivered to the Office of Education by April 7, 1980.

II. *Extended Closing Dates for Projects that first received funding under the Teacher Centers Program in Fiscal Year 1978.*

A. *Closing dates for transmittal of applications for non-competing continuation awards to State educational agencies:* Applications for non-competing continuation awards (for projects that first received funding in Fiscal Year 1978) must be mailed or hand delivered to the appropriate State educational agency by March 31, 1980.

B. *Closing date for transmittal of applications to USOE:* To be assured of consideration for funding, applications referred to in "A" above must be mailed or hand delivered to the Office of Education by April 21, 1980.

III. *Appeals to the Commissioner.* Applicants whose applications are not transmitted to the U.S. Office of Education by the appropriate State educational agency may appeal to the U.S. Commissioner of Education to request further consideration by the State educational agency. In the event of such an appeal, the Commissioner must request further consideration and the State educational agency must then transmit the application to the Commissioner.

A. Such an appeal, by an applicant for a new project or a project that first received funding under the Teacher Centers Program in Fiscal Year 1979, must be signed by an authorized individual for the applicant, and must be received at the address given below under "Further Information" by April 14, 1980. A copy of the appeal should be sent simultaneously to the appropriate State educational agency.

B. Such an appeal, by an applicant that first received funding under the Teacher Centers Program in Fiscal Year 1978, must be signed by an authorized official for the applicant, and must be received at the address given below under "Further Information" by April 28, 1980. A copy of the appeal should be sent simultaneously to the appropriate State educational agency.

C. The Commissioner hereby requests further consideration, by the appropriate State educational agencies, of any and all applications for which an appeal is taken, and further requests the State educational agencies to transmit those applications for new projects or for projects that first received funding in FY 1979, to the U.S. Office of Education Application Control Center by April 21, 1980; and request the State educational agencies to transmit those applications for projects that first received funding in FY 1978, to the same application control center by May 5, 1980.

D. *Further Information and Application Forms:* For further information and application forms contact Dr. Allen Schmieder, Teacher Centers Program, Division of Educational Systems Development, U.S. Office of Education (Room 819, Riviere Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202 Telephone (202) 653-5839.

(20 U.S.C. 1119a)

Dated: January 21, 1980.

(Catalog of Federal Domestic Assistance No. 13.416; Teacher Centers Program)

William L. Smith,

U.S. Commissioner of Education.

[FR Doc. 80-2185 Filed 1-23-80; 8:45 am]

BILLING CODE 4110-02-M

Indochina Refugee Children Assistance Program

AGENCY: Office of Education, HEW.

ACTION: Notice of Closing Date for Transmittal of Applications for Fiscal Year 1980.

Applications are invited for grants under the Indochina Refugee Children Assistance Program.

Authority for this program is contained in Title II of the Indochina Refugee Children Assistance Act of 1976, as amended by Pub. L. 95-561 (20 U.S.C. 1211b)

Eligible applicants are State educational agencies (SEAs).

The purpose of this program is to provide grants to SEAs to assist local educational agencies (LEAs) to provide educational services to eligible Indochinese refugee children.

CLOSING DATE FOR TRANSMITTAL OF APPLICATIONS: Applications for grants must be mailed or hand delivered on or before February 27, 1980.

APPLICATIONS DELIVERED BY MAIL: An application sent by mail must be addressed to Mr. James H. Lockhart, Acting Director, Indochinese Refugee Children Assistance Staff, U.S. Office of Education, 400 Maryland Avenue S.W. (FOB-6, Room 2189), Washington, D.C. 20202.

An applicant SEA must show proof of mailing consisting of one of the following:

(a) A legibility dated U.S. Postal Service postmark.

(b) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(c) A dated shipping label, invoice, or receipt from a commercial carrier.

(d) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing:

(a) A private metered postmark.

(b) A mail receipt that is not dated by the U.S. Postal Service.

An applicant SEA should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant SEA is encouraged to use registered or at least first class mail. Each late applicant SEA will be notified that its application will not be considered.

APPLICATIONS DELIVERED BY HAND: An application that is hand delivered must be taken to the U.S. Office of Education, Indochinese Refugee Children Assistance Staff, U.S. Office of Education, 400 Maryland Avenue, S.W. (FOB-6, Room 2189), Washington, D.C. 20202.

The Indochinese Refugee Children Assistance Staff will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

PROGRAM INFORMATION: Grants are made to SEAs generally for the purpose of making subgrants to the local educational agencies to provide educational services to eligible Indochinese refugee children. Grants are made available under authority of Pub. L. 94-405, as amended by Pub. L. 95-561, and the program regulations, as revised in Fiscal Year 1980 (45 CFR Part 122a).

AVAILABLE FUNDS: It is expected that approximately $12,000,000 will be available for the Indochina Refugee Children Assistance Program in FY 1980.

APPLICATION FORMS: Application forms and instructions will be mailed to all SEAs. Additional forms and instructions may be obtained by writing to the U.S. Office of Education, Indochinese Refugee Children Assistance Staff, 400 Maryland Avenue, S.W. (FOB-6, Room 2189), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program application package.

SPECIAL PROCEDURES: In accordance with § 122a.6 of the final regulations, notice is hereby given that State education agencies shall count eligible children in the State as of January 17, 1980.

APPLICABLE REGULATIONS: The regulations applicable to this program are:

(a) General Provisions Regulations for Office of Education Programs (45 CFR 100b.55), as in effect October 1, 1979; and

(b) Indochina Refugee Children Assistance Program Regulations (45 CFR Part 122a).

FURTHER INFORMATION: For further information, contact: Mr. James H. Lockhart, Acting Director, Indochinese Refugee Children Assistance Staff.

Citation of Legal Authority

The reader will find a citation of statutory or other legal authority in parentheses on the line following each substantive provision.

(Catalog of Federal Domestic Assistance No. 13.596, Indochina Refugee Children Assistance Act)

Dated: January 18, 1980.

William L. Smith,

U.S. Commissioner of Education.

[FR Doc. 80-2263 Filed 1-23-80; 8:45 am]

BILLING CODE 4110-02-M

Health Services Administration

Interagency Committee on Emergency Medical Services; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of February 1980:

Name: Interagency Committee on Emergency Medical Services.

Date and time: February 20, 1980, 9:00 a.m.

Place: Conference Room F, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open for entire meeting.

Purpose: The Committee coordinates and provides for the communication and exchange of information among all Federal programs and activities relating to emergency medical services, and carries out its responsibilities under section 1208(c).

The Committee will develop and publish: (1) A coordinated, comprehensive Federal emergency medical services funding and resource-sharing plan, designed to promote the coordination between, and enhance the effectiveness of Federal, State, and local funding and operation of programs and agencies relating to emergency medical services and related activities (including communication and transportation systems of public safety agencies). (2) A description of sources of Federal support for the purchase of vehicles and communications equipment and for training activities related to emergency medical services. (3) Recommended uniform standards of quality, health, and safety with respect to all equipment (including communications and transportation equipment) and training related to emergency medical services.

Agenda: The items include: (1) Status report on the new EMS Legislation (Pub. L. 96-142); (2) Outline of the specific responsibility of the EMS Work Groups (Training, Communication, and Transportation); (3) Briefing by Federal Emergency Management Administration; (4) Briefing on preliminary planning between EMS and the Human Organ Transplant Program; and (5) A review of issues impacting EMS Systems Development Conference, January 30-February 1, Baltimore, Maryland, with emphasis on the issues discussed.

The meeting is open to the public for observation. Anyone wishing to attend, obtain the roster of members, minutes of meeting, or other relevant information should contact Mr. Lee Shuck, Division of Emergency Medical Services, Bureau of Medical Services, Suite 11-84D, 6525 Belcrest Road, Hyattsville, Maryland 20782, Telephone (301) 436-6284. Public seating is limited to forty (40). Please contact at least 72 hours before the meeting.

Agenda items are subject to change as priorities dictate.

Dated: January 16, 1980.

William H. Aspden, Jr.,

Associate Administrator for Management.

[FR Doc. 80-2253 Filed 1-23-80; 8:45 am]

BILLING CODE 4110-84-M

Office of the Secretary

Secretary's Advisory Committee on the Rights and Responsibilities of Women; Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health, Education, and Welfare on the impact of the policies, programs, and activities of the Department on the status of women, will meet on Thursday, February 21, 1980, from 9:30 A.M. to 5:00 P.M., and Friday, February 22, 1980 from 10:00 A.M. to 8:00 P.M., in Room 1063 Federal Building, 19th and Stout Streets, Denver, Colorado 80294. The agenda will include a discussion of domestic violence, adolescent pregnancy and HEW programs with Federal Regional officials.

Further information on the Committee may be obtained from: Cheryl Yamamoto, Executive Secretary, telephone 202 245-8454. These meetings are open to the public.

Dated: January 18, 1980.

Cheryl Yamamoto,

Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc. 80-2187 Filed 1-23-80; 8:45 am]

BILLING CODE 4110-12-M

Delegation of Authority

The following memorandum was issued by the Secretary of the Department of Health, Education, and Welfare to the Commissioner of Education for the purpose of delegating

V45/17 JA24 80 UMI

the authority for issuing education regulations.

The text of the memorandum is reprinted below for public information.

Dated: January 17, 1980.

Glenn Kamber,

Director, Regulations Management Unit Executive Secretariat.

January 16, 1980.

Memorandum for the Commissioner of Education

Subject: Issuance of Regulations.

Effective immediately, I will no longer exercise the authority of the Secretary to approve regulations issued by the Commissioner of Education to carry out functions vested by statute in the Commissioner. You may, therefore, issue such regulations, in accordance with law, without the approval of the Secretary.

Patricia Roberts Harris

[FR Doc. 80-2132 Filed 1-23-80; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-80-970]

Privacy Act of 1974; New Systems of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notification of new systems of records.

SUMMARY: The Department is giving notice of two new systems of records it intends to maintain which are subject to the Privacy Act of 1974.

EFFECTIVE DATE: The systems shall become effective without further notice 30 calendar days from the publication date of this notice unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Robert English, Departmental Privacy Act Officer, Telephone 202-557-0605. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The systems are: (1) Mobile Home Standards Complaint, Production and Compliance Analysis System (HUD/DEPT-61) which will contain information about consumers who have registered complaints regarding mobile homes, (2) Income Certification Evaluation Data Files (HUD/PD&R-8) which will contain information on tenants of Section 8, Section 236, and Public Housing projects. A new system report was filed with the Speaker of the House, the President of the Senate and the Office of Management and Budget on November 5, 1979. The prefatory statement containing General Routine Uses applicable to all of the Department's systems of records was published at 44 FR 72288 (December 13, 1979). Appendix A, which lists the addresses of HUD's field offices was published at 44 FR 72307 (December 13, 1979).

HUD/DEPT-61

SYSTEM NAME:

Mobile Home Standards Complaint, Production and Compliance Analysis System

SYSTEM LOCATION:

Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Consumers who have registered complaints regarding mobile homes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, telephone number of purchaser; information on mobile home purchased (make, model, serial number, date of purchase, location, dealer's name, and complaints or problems).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See routine uses paragraphs of preferatory statement. Other routine uses: to HUD-approved State Administrative Agencies who participate in enforcement of the Federal Mobile Home Construction and Safety Standards Program—for assisting in the enforcement of the Mobile Home Construction and Safety Standards Act, and handling of consumer complaints.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders, card boxes, and on magnetic tape/disc/drum.

RETRIEVABILITY:

By purchaser name; by mobile home make, model, serial number, date of purchase, location, dealer's name, complaint or problem.

SAFEGUARDS:

Manual records are kept in lockable file cabinets; computer records are maintained in secured facilities. Access to either type of record is limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are retained during active status, a period not to exceed five years. Following the active period, hard-copy records may be disposed of or retired to a Federal Records Center. Automated data will be erased or retired to storage.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals who have registered complaints.

HUD/PD&R-8

SYSTEM NAME:

Income Certification Evaluation Data Files.

SYSTEM LOCATION:

Applied Management Science, Inc., Silver Spring, MD.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Tenants of Section 8, Section 236, and Public Housing projects. Projects are selected randomly from a subset of all projects, tenants are selected randomly from the set of all tenants of the projects thus sampled.

CATEGORIES OF RECORDS IN THE SYSTEM:

Family identification (name, address, Social Security Number), household demographics (age, sex, family size, income and income sources, length of tenure), verification of income data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title V, Sections 501 and 502 of the Housing and Community Development Act of 1970, P.L. 91-609.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See routine uses paragraphs of prefatory statement. Other routine uses: Applied Management Science, Inc.—to carry out objectives of study.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders and on magnetic tape/disc/drum.

RETRIEVABILITY:

Name, address, Social Security Number.

SAFEGUARDS:

Manual files will be kept in lockable cabinets in a secured area; computer records will be maintained in a separate secured area. Access to either type of record will be limited to authorized personnel.

RETENTION AND DISPOSAL:

All records will be destroyed at the completion of the study.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Organization and Management Information, Dept. of HUD, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject, Income Sources.

Authority: 5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., January 17, 1980.

William A. Medina,

Assistant Secretary for Administration.

[FR Doc. 80-2284 Filed 1-23-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. I-841]

Idaho; Partial Termination of Proposed Withdrawal and Reservation of Lands

January 15, 1980.

Notice of an application Serial No. I-841, for withdrawal and reservation of lands was published as Federal Register Document No. 67-1770 on page 2979 of the issue for February 16, 1967. The Bureau of Reclamation has canceled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR, Subpart 2091, such lands will be at 10:00 a.m. on February 22, 1980, relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

Boise Meridian, Idaho

T. 11 S., R. 16 E.
Sec. 34, NE¼NW¼NE¼, S½NW¼NE¼, SW¼NE¼, NE¼SE¼, N½NW¼SE¼, E½SE¼NW¼SE¼, E½W½SE¼NW¼SE¼;
Sec. 35, W½W½NW¼, W½E½W½NW¼, NW¼SW¼, N½N½N½SW¼SW¼,N½NE¼SW¼, N½S½NE¼SW¼, N½S½S¼NE¼SW¼, W½NW¼SE¼, W½E½NW¼SE¼.
T. 12 S., R. 16 E.
Sec. 1, S½NE¼, SE¼NW¼, NE¼SW¼NW¼, NE¼NW¼SW¼NW¼, NE¼SE¼SW¼NW¼,N½SE¼, N½NE¼SW¼SE¼, NE¼NE¼SW¼, N½NW¼NE¼SW¼, NE¼SE¼NE¼SW¼, SE¼SE¼;
Sec. 2, SE¼NE¼, N½NE¼SW¼NE¼, SE¼NE¼SW¼NE¼, NE¼SE¼SW¼NE¼, N½NW¼NE¼SE¼, NE¼NW¼NE¼SE¼, S½SW¼SE¼, SE¼NW¼SE¼, E½NW¼NW¼SE¼, SW¼SE¼;
Sec. 3, W½E½SE¼NW¼, W½SE¼NW¼, NE¼SW¼, N½NW¼SW¼, N½S½NW¼SW¼, W½SE¼, SE¼NE¼SE¼, E½SE¼SE¼;
Sec. 10, S½S½NE¼, S½N½S½NE¼, S½N½NW¼, S½N½N½NW¼, N½NW¼NW¼NW¼, SE¼NW¼;
Sec. 11, E½SE¼NE¼, SW¼NE¼NW¼, S½NW¼NW¼, W½SE¼NW¼, NE¼SE¼, W½SE¼SW¼SE¼, W½NE¼SW¼;
Sec. 13, W½NW¼SW¼NW¼, SW¼SW¼NW¼, NW¼NE¼NW¼SW¼, S½NE¼NW¼SW¼, SE¼NW¼SW¼, W½NW¼SW¼, S½SE¼SW¼, S½N½SE¼SW¼.
T. 11 S., R. 17 E.
Sec. 19, S½NE¼SE¼, S½N½NE¼SE¼;
Sec. 20, SW¼SE¼SE¼, W½SE¼SW¼, W½SE¼SE¼SW¼, S½NW¼NW¼SW¼, SW¼NW¼SW¼, W½SE¼NW¼SW¼, SE¼SE¼NW¼ SW¼;
Sec. 34, W½NE¼, E½NE¼NW¼, NE¼SE¼NW¼, N½SE¼SE¼NW¼, N½S¼SE¼SE¼NW¼, W½W½SW¼NW¼, SE¼NE¼SW¼, E½SW¼NE¼SW¼, E½W½SW¼NE¼SW¼, W½NW¼SW¼, W½SE¼NW¼SW¼, SE¼SW¼SW¼, S½SW¼SW¼SW¼, SE¼SW¼, S½NW¼SE¼, NE¼NW¼SE¼, E½NW¼NW¼SE¼, SW¼SE¼;
Sec. 35, SW¼NE¼, N½NE¼SW¼, N½S½NE¼SW¼, N½S½S¼NE¼SW¼, W½NW¼SE¼, W½E½NW¼SE¼.
T. 12 S., R. 17 E.
Sec. 3, N½NE¼, SE¼SW¼, SE¼;
Sec. 6, E½SE¼SW¼;
Sec. 7, E½NE¼NW¼;
Sec. 8, W½E½SE¼NE¼, W½SE¼NE¼;
Sec. 9, NW¼NE¼NW¼, N½SW¼NE¼ NW¼, SW¼SW¼NE¼NW¼;
Sec. 10, E½SE¼NE¼, E½W½SE¼NE¼, NE¼SE¼, E½SE¼NW¼SE¼, E½W½SE¼NW¼SE¼, E½SW¼SE¼;
Sec. 12, E½NW¼NE¼, SW¼NE¼, E½NE¼SW¼, SE¼SW¼;
Sec. 13, NE¼;
Sec. 14, N½NE¼, NE¼NW¼, SW¼;
Sec. 15, SE¼SE¼, E½NW¼NE¼.
T. 12 S., R. 19 E.
Sec. 2, N½SW¼;
Sec. 3, NW¼SE¼, N½SW¼;
Sec. 4, S½NW¼, NE¼SE¼;
Sec. 5, S½NE¼, SE¼NW¼.

The area described aggregates 3372.50 acres in Twin Falls County.

Vincent S. Strobel,

Chief, Branch of L&M Operations.

[FR Doc. 80-2242 Filed 1-23-80; 8:45 am]

BILLING CODE 4310-84-M

Intergovernmental Planning Program; South Atlantic Regional Technical Working Group; Meeting

As authorized by the Secretary of the Interior and pursuant to 43 CFR 1784 and 43 U.S.C. 1739(d), a meeting of the Intergovernmental Planning Program's (IPP) South Atlantic Regional Technical Working Group will be held on February 26, 27, and 28, 1980. The meeting

location is Room 556, The Peachtree Baker Federal Building, 275 Peachtree Street, NE, Atlanta, Georgia. Meeting times are as follows:

A. February 26: 1:00 p.m.–4:00 p.m.
B. February 27: 8:30 a.m.–4:30 p.m.
C. February 28: 8:30 a.m.–11:00 a.m.

Agenda items are: The Regional Studies Plan; Update of South Atlantic Leasing Activities; Other Information Bases; Oil and Gas Resource Development; Post-Sale Activities; Mexican Oil Spill; South Atlantic Oil Spill Planning; Summary of Intergovernmental Planning Program for South Atlantic Region; and the Regional Transportation Management Plan for CY 1980.

The meeting is open to the public and interested persons may make oral or written presentations. Summary minutes and a taped transcript of the meeting will be available for public inspection 60 days after the meeting at the New Orleans OCS Office, Hale Boggs Federal Building, 500 Camp Street, Suite 841, New Orleans, La. 70130.

Further information in regard to this meeting can be obtained from Sydney H. Verinder at the above office, telephone number (504) 589–6541.

John L. Rankin,

Manager, New Orleans Outer Continental Shelf Office.

January 16, 1980.

[FR Doc. 80–2243 Filed 1–23–80; 8:45 am]

BILLING CODE 4310–84–M

[OR 12177]

Oregon; Opportunity for Public Hearing and Publication of Corrected Notice of Proposed Withdrawal

The Bureau of Land Management, Department of the Interior, on February 13, 1974, filed application Serial No. OR 12177 for the withdrawal of lands to establish the Albert Rim scenic corridor. A notice of the proposed withdrawal was published in the **Federal Register** on May 14, 1974, Vol. 39, page 94, FR Doc. 74–11065.

The notice is hereby corrected as to the approximate total acreage and as to the land described in Section 15, T. 33 S., R. 22 E.

The lands proposed for withdrawal are described as follows:

Willamette Meridian

T. 34 S., R. 21 E.,
Sec. 1, lots 1, 2, and 3;
Sec. 12, lots 1 to 4, inclusive;
Sec. 13, lots 1 to 4, inclusive;
Sec. 24, lots 1 to 4, inclusive;
Sec. 25, lots 1 to 4, inclusive;
T. 35 S., R. 21 E.,
Sec. 1, lot 1, S½NE¼, and S½;
Sec. 2, lots 1 and 2, and SE¼SE¼;
Sec. 11, lots 1 to 4, inclusive, NE¼NE¼, S½NE¼, E½SW¼, and SE¼;
Sec. 12, NW¼NE¼, NW¼, NE¼SW¼, and W½SW½;
Sec. 13, W½NW¼;
Sec. 14, N½, N½S½, and S½SW¼;
Sec. 15, lots 1 to 4, inclusive, SE¼NE¼, and SE¼;
Sec. 22, lots 1, 2, NE¼, E½NW¼, and S½;
Sec. 23, N½NW¼;
Sec. 27, lots 1 to 4, inclusive, SW¼NE¼, S½NW¼, SW¼, and W½SE¼;
Sec. 28, E½, SE¼NW¼, and NE¼SW¼;
Sec. 33, E½;
Sec. 34, W½E½, and W½.
T. 36 S., R. 21 E.,
Sec. 3, lots 2, 3, SW¼NE¼, SE¼NW¼, E½SW¼, and W½SE¼;
Sec. 10, E½, and E½NW¼;
Sec. 11, lot 4;
Sec. 15, E½.
T. 33 S., R. 22 E.,
Sec. 3, lots 2, 3, SW¼NE¼, SE¼NW¼, E½SW¼, and W½SE¼;
Sec. 9, E½SW¼, and SE¼;
Sec. 10, NE¼, E½NW¼, SW¼, and W½SE¼;
Sec. 15, NE¼NW¼, and W½W½;
Sec. 16, E½, and E½W½;
Sec. 20, lot 6, SE¼NE¼, SE¼SW¼, and SE¼;
Sec. 21, NE¼NE¼, W½NE¼, NW¼, N½SW¼, and SW¼SW¼;
Sec. 29, NE¼NE¼, W½NE¼, and W½;
Sec. 30, lots 1 to 4, inclusive, and SE¼SE¼;
Sec. 31, lots 1 to 4, inclusive, NE¼NE¼, S½NE¼, and SE¼;
Sec. 32, N½NW¼, SW¼NW¼, and NW¼SW¼.
T. 34 S., R. 22 E.,
Sec. 6, lots 2 to 8, inclusive, SW¼NE¼, SE¼NW¼, E½SW¼, and NW¼SE¼;
Sec. 7, lots 1 to 4, inclusive, and E½W½;
Sec. 18, lots 1 to 4, inclusive, SW¼NE¼, E½W½, and W½SE¼;
Sec. 19, lots 1 to 4, inclusive, NW¼NE¼, and E½W½;
Sec. 30, lots 1 to 4, inclusive, and E½W½;
Sec. 31, lots 1 to 4, inclusive, and E½W½.
T. 35 S., R. 22 E.,
Sec. 6, lots 3 to 7, inclusive, and SE¼NW¼.

The areas described aggregate 12,477.49 acres in Lake County, Oregon.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, at the address shown below, on or before March 3, 1980. Notice of the public hearing will be published in the **Federal Register**, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before March 3, 1980.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, but not the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except public hearing requests) in connection with this pending withdrawal application should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

Dated: January 10, 1980.

David E. Sinclair,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80–2244 Filed 1–23–80; 8:45 am]

BILLING CODE 4310–84–M

[Wyoming 70518]

Wyoming; Order Providing for Opening of National Forest Lands

January 16, 1980.

The Federal Power Commission and its successor, the Federal Energy Regulatory Commission, issued the following orders vacating withdrawals of National Forest lands for power projects made pursuant to section 24 of The Federal Power Act:

Order of July 6, 1967 (FR 32, Page 10395; FR Doc. 67–8100)—Project Nos. 104 and 1314.
Order of August 6, 1976 (FR 41, Page 31858; FR Doc. 76–23757)—Project No. 1307.
Order of February 6, 1978 (FR 43, Pages 6311–6312; FR Doc. 78–3987)—Project Nos. 1021, 1228, 1606, and 1772.
Order of February 13, 1978 (FR 43, Page 7359; FR Doc. 78–4615)—Project Nos. 220 and 691.
Order of March 29, 1978 (FR 43, Pages 14354–14355; FR Doc. 78–8912)—Project Nos. 1203 and 1241.

National Forest Lands affected by the above orders include:

Sixth Principal Meridian, Wyoming

Shoshone National Forest

1. Project Nos. 104 and 1314.
T. 52 N., R. 108 W.,
Sec. 21, SE¼NE¼, N½SE¼, SE¼SE¼;
Sec. 22, W½SW¼.

The area described contains 240 acres, more or less.

2. Project No. 1307.
T. 52 N., R. 109 W.,
Approximately 2 acres lying within the NW¼ of Section 12 along Grinnell Creek, a tributary of the Shoshone River, as depicted on the map designated Exhibit "F", submitted to The Federal Power Commission for Project FPC No. 1307–1.

3. Project No. 1021.
T. 52 N., R. 109 W.,
Approximately 3 acres lying within the following described lands as depicted on filings submitted to The Federal Power Commission for Project No. 1021: Sec. 2, SW¼SW¼;
Sec. 3, SE¼SE¼;
Sec. 10, NE¼NE¼;
Sec. 11, NW¼NW¼.

4. Project No. 1606.

The application for Project No. 1606 was incomplete. The only land description given was that the project was to be located on Spring Creek, a small tributary of the Shoshone River, 47 miles west of Cody, in Park County, Wyoming.

5. Project Nos. 1203 and 1241.
T. 30 N. R. 100 W.,
Sec. 5, lots 1, 2, 3, S½SW¼, W½SW¼;
Sec. 6, lot 7, E½SW¼.
T. 31 N., R. 100 W.,
Sec. 28, S½SW¼;
Sec. 32, SE¼SE¼;
Sec. 33, NE¼NW¼, W½W½.
T. 30 N., R. 101 W.,
Sec. 1, lots 3, 4, 6, 7, 9, 10, 11, S½NW¼, SW¼NE¼;
Sec. 2, lots 1, 2, 3;
Sec. 11, NE¼NE¼, NE¼SE¼, S½SW¼.
Sec. 12, lots 1, 2, 3, 4, 5, SW¼.

The area described contains approximately 1722 acres.

Big Horn National Forest

6. Project No. 1228.
T. 53 N., R. 89 W.,
Sec. 7, NW¼SE¼, N½SW¼.
T. 53 N., R. 90 W.,
Sec. 12, N½SE¼.

The area described contains 200 acres, more or less.

7. Project No. 1772.
T. 48 N. R. 87 W.,
Sec. 34, NW¼SW¼.

The project includes approximately 1 acre within the above described subdivision.

Medicine Bow National Forest

8. Project Nos. 220 and 691.
T. 15 N., R. 78 W.,
Sec. 8, SE¼NW¼, SW¼ (excluding patented mineral lands).

The area described contains approximately 200 acres.

The Forest Service has prepared an Environmental Assessment for this opening order and the Regional Forester, Rocky Mountain Region, issued a Decision Notice and Finding of No Significant Impact on November 13, 1979.

At 10:00 a.m. on March 1, 1980, the above described lands shall be open to such forms of appropriation as may by law be made of National Forest land.

Inquiries concerning the lands should be addressed to the U.S.D.A. Forest Service, 11177 West 8th Avenue, P.O. Box 25127, Lakewood, Colorado 80225.

Harold G. Stinchcomb,

Chief of Lands and Minerals Operations.

[FR Doc. 80–2245 Filed 1–23–80; 8:45 am]

BILLING CODE 4310–84–M

[OR 16905 (Wash.)]

Washington; Proposed Withdrawal and Reservation of Lands

The Department of Agriculture, U.S. Forest Service, on October 12, 1976, filed application Serial No. OR 16905 (Wash.) for withdrawal of the following described lands from location and entry under the mining laws, subject to valid existing rights:

Willamette Meridian, Gifford Pinchot National Forest

Steamboat Mountain Research Natural Area

A tract of land lying within small portions of unsurveyed Tps. 7 and 8 N., R. 8 E., and 7 and 8 N., R. 9 E., the boundary of which is described as follows:

Beginning at the Steamboat Mountain Lookout Station in SE¼SE¼NE¼, Sec. 31, T. 8 N., R. 9 E., Willamette Meridian;
Thence southerly along a spur ridge to a point where Steamboat Mountain trail crosses the spur ridge;
Thence easterly along Steamboat Mountain trail to the Steamboat Mountain quarry road;
Thence southwesterly along the Steamboat Mountain quarry road, 200 feet from the centerline, approximately 2⅛ miles to its junction with Forest Road 123;
Thence westerly along Forest Road 123, 200 feet from the centerline, approximately 1 mile to its junction with Forest Road N819;
Thence northwesterly along Forest Road N819, 200 feet from the centerline, for approximately ½ mile to its junction with Forest Road N845;
Thence northerly along Forest Road N845, 200 feet from the centerline, approximately ⅛ mile to its junction with Forest Road N846;
Thence northerly along a line N. 73° E. for about ½ mile to a point on Forest Road N846;
Thence easterly along Forest Road N846, 200 feet from the centerline, for approximately ¾ mile to its terminus (end of gravelled road on the eastern edge of the clearcut in the SE¼ of Sec. 25, T. 8 N., R. 8 E., W.M.);
Thence northerly along the edge of the clearcut to the 4,400 foot contour;
Thence easterly along the 4,400 foot contour for approximately ⅝ mile to the top of a rock escarpment;
Thence along the top of the escarpment for approximately 1 mile to the Steamboat Mountain Lookout site and the place of beginning.

The area described contains approximately 1,400 acres in Skamania County, Washington.

The site is a mountain peak, established in 1973 as a research natural area for observation and study of the natural, undisturbed ecological succession in the ponderosa pine and larch-pine-fir forest types. The applicant desires the withdrawal for protection of the scientific and educational values of the area.

On or before March 4, 1980, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer to the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below, on or before March 4, 1980. Notice of the public hearing will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicants needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The

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determination of the Secretary on the application will be published in the Federal Register. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

The above-described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. The segregative effect of the application shall terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except public hearing requests) in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

Dated: January 15, 1980.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-2151 Filed 1-23-80; 8:45 am]

BILLING CODE 4310-84-M

Utah and Colorado; Correction Notice

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice to change the location of the Uinta-Southwestern Utah Regional Coal Team meeting.

SUMMARY: In the Federal Register of December 21, 1979, a notice appeared on pages 75730–75731 announcing that the Uinta-Southwestern Utah Regional Coal Team would meet February 5–7, 1980, at the Utah State Office, Bureau of Land Management, Room 1400, University Club Building, 136 East South Temple, Salt Lake City, Utah. This correction notice is to inform the public that the location of the regional coal team meeting has been changed to Room 128, Salt Palace, 100 South West Temple, Salt Lake City, Utah. The time, dates, and purpose of the meeting remain unchanged.

FOR FURTHER INFORMATION CONTACT: Edward F. Spang, Regional Coal Team Chairperson, (702) 784–5451.

Ed Hastey,

Associate Director.

[FR Doc. 80-2154 Filed 1-23-80; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

National Institute of Justice; Solicitation of Proposals

The National Institute of Justice is soliciting preliminary proposals for research on the program of crime causation. A single 18-month grant or cooperative agreement of $445,000 (maximum) will be awarded to support research aimed at building and testing theories of crime causation. Additional support beyond the initial 18-month period is anticipated. The long-range goal of the research is the development of knowledge that is relevant to the prevention of crime and delinquency.

To maximize competion for this award, both profit-making and non-profit organizations are eligible to apply. Preliminary proposals must be post-marked no later than May 1 to be eligible for the competitive award. Copies of the solicitation may be obtained by sending a mailing label to: Solicitation Request, Interdisciplinary Research on the Causes of Crime and Delinquency (Solicitation No. 80–112), National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850.

Additional information may be obtained by contacting: Dr. Patrick Langan, National Institute of Justice, 633 Indiana Ave., N.W., Washington, D.C. 20531, (301) 492–9126.

Dated: January 15, 1980.

Harry M. Bratt,

Primary and Principal Assistant to the Acting Director, NIJ.

[FR Doc. 80-2150 Filed 1-23-80; 8:45 am]

BILLING CODE 4410-18-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Graphics Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Federal Graphics Advisory Panel to the National Council on the Arts will be held February 21, 1980, from 9:30 a.m.-4:30 p.m., in Room 1125 or 1426, Columbia Plaza Office Building, 2401 E St. NW, Washington, D.C.

This meeting will be open to the public on a space available basis. The topic for discussion will be graphic material of the Department of Education (formerly of the Department of Health, Education, and Welfare).

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80-2246 Filed 1-23-80; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Behavioral and Neural Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee for Anthropology.
Date and time: February 14–15–16, 1980—9:00 a.m. til 5:00 p.m.
Place: National Science Foundation, 1800 G Street NW., Room 628, Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. John E. Yellen, Program Director for Anthropology NSF, Room 320, Washington, D.C. 20550 (202) 632–4208.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in anthropology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature—including technical information, financial data (such as salaries), and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) & (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

January 21, 1980.

[FR Doc. 80-2164 Filed 1-23-80; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for PCM, Subcommittee on Genetic Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting.

Name: Subcommittee on Genetic Biology of the Advisory Committee for Physiology, Cellular & Molecular Biology.
Date and time: February 14–16, 1980—9:00 a.m.–5:00 p.m.
Place: Room 321, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Philip D. Harriman, Program Director, Genetic Biology Program, Room 326, National Science Foundation, Washington, D.C. 20550, telephone (202) 632–5985.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in genetic biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reasons for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

January 21, 1980.

[FR Doc. 80-2165 Filed 1-23-80; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Science Education; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Science Education.
Date and time: February 14, 1980—9:00 a.m. to 5:00 p.m.; February 15, 1980—9:00 a.m. to 12:30 p.m.
Place: National Science Foundation, Room 730, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Open.
Contact person: Dr. Alphonse Buccino, Director, Office of Program Integration, Room W–660, National Science Foundation, Washington, D.C. 20550 (202) 282—7947.
Purpose of committee: To provide advice on science education activities.
Agenda: Results of the January presentation to the National Science Board and implications for planning; progress of program oversight activities.
Summary Minutes. May be obtained from contact person, Dr. Alphonse Buccino, at the above address.

M. Rebecca Winkler,

Committee Management Coordinator.

January 21, 1980.

[FR Doc. 80-2166 Filed 1-23-80; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee on Special Research Equipment (2-Year and 4-Year Colleges); Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee on Special Research Equipment (2-Year and 4-Year Colleges).
Date and time: February 14 and 15, 1980, 9:00 a.m.—5:00 p.m. each day.
Place: National Science Foundation, 1800 G Street, N.W. Rooms 421, 338 and 543, Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Howard H. Hines, Science Associate, Office of Planning and Resources Management, Division of Budget and Program Analysis, Room 428, National Science Foundation, Washington, D.C. (202) 632–5876.
Purpose of subcommittee: To provide advice and recommendations concerning support for research equipment for colleges and universities without doctoral program in sciences and engineering (or having only very small doctoral programs).
Agenda: To review and evaluate research equipment proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: January 21, 1980.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 80-2169 Filed 1-23-80; 8:45 am]

BILLING CODE 7555-01-M

International Decade of Ocean Exploration Ad Hoc Subcommittee; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting.

Name: Ad Hoc Subcommittee on the Shelf Sediment Dynamics Project, of the Advisory Committee for Ocean Sciences.
Date and time: February 13 and 14, 1980—8:30 a.m. to 5:00 p.m.
Place: Room 643, National Science Foundation, Washington, D.C.
Type of meeting: Closed.
Contact person: Dr. Bruce Malfait, International Decade of Ocean Exploration Section, Room 605, National Science Foundation, Washington, D.C. 20550, telephone (202) 632–7356.
Purpose of ad hoc subcommittee: To provide the IDOE Ad Hoc Subcommittee members with additional expertise in the review and evaluation of proposals relating to oceanographic research related to Sediment Dynamics Project.
Agenda: Detailed review and evaluation of proposals for support of the Shelf Sediment Dynamics Project.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

January 21, 1980.

[FR Doc. 80-2167 Filed 1-23-80; 8:45 am]

BILLING CODE 7555-01-M

Subcommittee for Earthquake Hazards Mitigation (EHM) of the Advisory Committee for Engineering and Applied Science; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee for Earthquake Hazards Mitigation of the Advisory Committee for Engineering and Applied Science.
Date and time: February 14, 1980, 9:00 A.M. to 3:30 P.M.
Place: Room 540, National Science Foundation, 1800 G Street N.W., Washington, D.C. 20550.
Type of meeting: Open.
Contact person: Dr. William Hakala, Program Manager, Division of Problem-Focused Research, Room 1132, NSF, Washington, D.C. 20550 (202) 632–3116.
Summary minutes: May be obtained from the Contact Person at the above address.

Agenda: 9:00–9:30 a.m.: Welcome by Dr. Jack Sanderson and Introduction—9:30–10:15 a.m.: Examination of Total Federal Research Efforts in Earthquake Research; 10:15–11:00 a.m.: Discussion of FY 1980 EHM Program Initiatives; 11:00–12:00 a.m.: Outlook for EHM Program for Fiscal Years 1981–1984; 12:00–1:00 p.m.: Lunch; 1:00–2:30 p.m.: Subcommittee Recommendations Regarding Fiscal Year 1981–1984 Initiatives; 2:30–3:30 p.m.: Definition of Issues to be addressed by the EHM Subcommittee at future meetings; 3:30: Adjournment.

M. Rebecca Winkler,

Committee Management Coordinator.

January 21, 1980.

[FR Doc. 80-2160 Filed 1-23-80; 8:45 am]

BILLING CODE 7555-01-M

Subcommittee on Metabolic Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463 the National Science Foundation announces the following meeting:

Name: Subcommittee on Metabolic Biology of the Advisory Committee for Physiology, Cellular, and Metabolic Biology.

Date and time: February 14, and 15, 1980; 9:00 a.m. to 5:00 p.m. each day.

Place: Room 643, National Science Foundation, 1800 G St. NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Elijah B. Romanoff, Program Director, Metabolic Biology Program, Room 331, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 632-4312.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Metabolic Biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section (10)d of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

January 21, 1980.

[FR Doc. 80-2162 Filed 1-23-80; 8:45 am]

BILLING CODE 7555-01-M

Subcommittee on Political Science of the Advisory Committee for Social and Economic Science; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Political Science of the Advisory Committee for Social and Economic Science.

Date and time: February 15–16, 1980—9:00 a.m. to 5:00 p.m. each day.

Place: Room 628, National Science Foundation, 1800 G St. NW., Washington, D.C. 20050.

Type of meeting: Closed, 9:00 a.m. to 5:00 p.m., February 15–16, 1980.

Contact person: Dr. Gerald C. Wright, Jr., Program Director, Political Science Program, Room 312, National Science Foundation, Washington, D.C. 20550, Telephone (202) 632–4348.

Purpose of subcommittee: To provide advice and recommendations concerning research in Political Science.

Agenda: Closed: to review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: January 21, 1980.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 80-2163 Filed 1-23-80; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-528A, STN 50-529A and STN 50-530A]

Arizona Public Service Co., et al.[1]; Receipt of Operating License Application and Request for Antitrust Information

Arizona Public Service Company, et al,[1] acting for itself and the four other owners of the Palo Verde Nuclear Generating Station, Units 1, 2 and 3, filed the general information portion and antitrust information of an application for operating licenses. This information was filed pursuant to Part 2.101 of the Commission Rules and Regulations and is in connection with the owners' plans to operate three pressurized water reactors in Maricopa County, Arizona. The portion of the application filed contains antitrust information for review pursuant to NRC Regulatory Guide 9.3 to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage.

On completion of staff antitrust review of the above-named application, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Act. A copy of this finding will be published in the **Federal Register** and will be sent to the Washington and local public document rooms and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, requests for reevaluation may be submitted for a period of 60 days after the date of the **Federal Register** notice. The results of any reevaluations that are requested will also be published in the **Federal Register** and copies sent to the Washington and local public document rooms.

A copy of the general information portion of the application for operating licenses and the antitrust information submitted is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC 20555 and in the local public document room at the Phoenix Public Library, Science and Industry Section, 12 East McDowell Road, Phoenix, Arizona.

Any person who desires additional information regarding the matter covered by this notice or who wished to have his views considered with respect to significant changes related to antitrust matters which have occurred in the licensees' activities since the construction permit antitrust reviews for the above-named plant should submit such requests for information or views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation, on or before March 3, 1980.

Dated at Bethesda, Maryland, this 17th day of December 1979.

[1] Salt River Project Agricultural Improvement and Power District, Southern California Edison Company, El Paso Electric Company, Public Service Company of New Mexico.

For the Nuclear Regulatory Commission.

Olan D. Parr,

Chief, Light Water Reactors, Branch No. 3, Division of Project Management.

[FR Doc. 80-3 Filed 1-2-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-373 and 50-374]

Commonwealth Edison Co., LaSalle County Station, Units No. 1 and No. 2; Order Extending Construction Completion Dates

Commonwealth Edison Company is the holder of Construction Permits Nos. CPPR–99 and CPPR–100 issued by the Atomic Energy Commission* on September 10, 1973, for the construction of the LaSalle County Station, Units No. 1 and No. 2, presently under construction at the applicant's site in Brookfield Township, LaSalle County, Illinois.

On September 24, 1979, the applicant requested an extension of the latest completion dates because construction has been delayed due to:

(1) A labor strike and work stoppage;

(2) Insufficient craft manpower;

(3) Modifications in the suppression pool as a result of staff criteria, and

(4) Additional requirements by the staff in the area of fire protection and testing.

This action involves no significant hazards consideration; good cause has been shown for the delay; and the requested extension is for a reasonable period, the bases for which are set forth in the staff's evaluation dated January 11, 1980.

The preparation of an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the actions authorized by the Order other than that which has already been predicted and described in the Commission's Final Environmental Statement-Operating License Stage for the LaSalle facility, published in November 1978, and the Final Environmental Statement-Construction Permit Stage, published in February 1973. A Negative Declaration and an Environmental Impact Appraisal have been prepared and are available, as are the above stated documents, for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the local public document room established for the LaSalle facility in the Illinois Valley Community College Library, Rural Route No. 1, Oglesby, Illinois 16348.

It is hereby ordered that the latest completion date for CPPR–99 be extended from March 31, 1980 to June 30, 1981 and for CPPR–100 from December 31, 1980 to March 31, 1982.

Date of Issuance: January 17, 1980.

For the Nuclear Regulatory Commission.

D. F. Ross, Jr.,

Acting Director, Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 80-2230 Filed 1-23-80; 8:45 am]

BILLING CODE 7590-01-M

*Effective January 20, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and permits in effect on that day were continued under the authority of the Nuclear Regulatory Commission.

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, TP 914–4 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Measurement of Radiation Levels on Surfaces of Packages of Radioactive Materials" and is intended for Division 7, "Transportation." This guide is being developed to describe a method acceptable to the NRC staff for measuring radiation levels on surfaces of packages of radioactive materials as required by the Commission's regulations. It includes a simple correction for the package-detector geometry.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by March 25, 1980.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 17th day of January 1980.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering Standards, Office of Standards Development.

[FR Doc. 80-2232 Filed 1-23-80; 8:45 am]

BILLING CODE 7590-01-M

Memorandum of Understanding Between NRC and FEMA To Accomplish a Prompt Improvement in Radiological Emergency Planning and Preparedness

The Nuclear Regulatory Commission (NRC) and the Federal Emergency Management Agency (FEMA) have entered into a memorandum of understanding which delineates each agency's lead responsibilities in radiological emergency preparedness. This memorandum responds to a directive from the President dated December 7, 1979 which defined areas of responsibility for emergency preparedness for the two agencies.

Copies of the memorandum are available for public inspection at the NRC Public Document Room, 1717 H Street, N.W., Washington, D.C. Copies of the memorandum may be obtained by writing to Joseph M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: 301–492–7211. Included with

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the memorandum, but not published herewith, are two attachments, (A) FEMA/NRC Steering Committee and (B) Duties of NRC Personnel Detailed to FEMA through June, 1980.

The text of the memorandum of understanding is set forth below:

Background and Purpose

This memorandum of understanding establishes a framework of cooperation between the Federal Emergency Management Agency (FEMA) and the Nuclear Regulatory Commission (NRC) in radiological emergency response planning matters, so that their mutual efforts will be directed toward more effective plans and related preparedness measures at and in the vicinity of nuclear reactors, fuel cycle facilities which are subject to 10 CFR Part 50 Appendix E, and certain other fuel cycle and materials licensees which have potential for significant accidental off-site radiological releases. The memorandum is responsive to the President's decision of December 7, 1979, that FEMA will take the lead in off-site planning and response, his request that NRC assist FEMA in carrying out this role and the NRC's continuing statutory responsibility for the radiological health and safety of the public.

Separate memoranda will be negotiated covering NRC/FEMA cooperation and responsibilities in response to an actual emergency and Public Information activities. In addition, an agreement has already been reached between the NRC and FEMA on September 11, 1979, that chairmanship of the Federal Interagency Central Coordinating Committee should be transferred from NRC to FEMA. This agreement was transmitted to other Federal agencies by a joint letter from the Chairman of NRC and the Director of FEMA. The NRC and FEMA also agreed in principle on September 11, 1979, to the idea of joint participation in the review, assessment and concurrence with regard to State and local emergency response plans. That agreement will be implemented by FEMA coordinating all Federal planning and by FEMA's taking the lead for developing a program for assessing State and local emergency response plans in all elements of off-site radiological emergency planning, and for making findings and determinations as to the adequacy and capability of implementing State and local plans, and to make those findings and determinations available to NRC. The NRC shall review those FEMA findings and determinations for the purpose of making determinations on the overall state of emergency preparedness for issuance of licenses or shutdowns of operating reactors. The NRC proposal to require concurrence in State and local emergency response plans is described in the proposed emergency planning rule (44 FR 75167, December 19, 1979). This arrangement will make the FEMA staff responsible for evaluating the adequacy of State and local plans and for assuring that the plans are capable of implementation on a continuing basis, and will therefore substantially avoid duplicative efforts by NRC staff.

II. Authorities and Responsibilities

FEMA—Executive Order 12148 charges the Director, FEMA, with establishing policy for and coordinating all civil emergency planning and assistance functions for Executive agencies (Section 2–101). It also provides that "The Director shall represent the President in working with State and local governments and private sector to stimulate vigorous participation in civil emergency preparedness mitigation, response, and recovery programs." (Section 2–104).

On December 7, 1979, the President, in response to the recommendations of the Kemeny Commission on the accident at Three Mile Island, directed that FEMA assume lead responsibility for all off-site nuclear emergency planning and response.

Specifically, the FEMA responsibilities with respect to emergency preparedness as they relate to NRC are:

1. To take the lead in off-site emergency planning and review and assess State and local emergency plans for adequacy.
2. To complete by June 1980, the review of State and local emergency plans in those States affected by operating reactors.
3. To complete, as soon as possible, the review of State and local emergency plans in those States affected by plants scheduled for operation in the near future.
4. To make findings and determinations as to whether State and local emergency plans are adequate and capable of implementation (e.g., adequacy and maintenance of procedures, training, resources, staffing levels and qualifications and equipment adequacy).
5. To assume responsibility for emergency preparedness training of State and local officials.
6. To develop and issue an updated series of interagency assignments which would delineate respective agency capabilities and responsibilities and define procedures for coordination and direction for emergency planning and response.

NRC—The Atomic Energy Act of 1954, as amended, requires that the NRC grant licenses only if the health and safety of the public is adequately protected. While the Atomic Energy Act does not specifically require emergency plans and related preparedness measures, the NRC has required consideration of overall emergency preparedness as a part of the licensing process.

10 CFR 50.34 and Appendix E to 10 CFR Part 50 include requirements for the licensee emergency plans. In a Federal Register Notice dated December 24, 1975, entitled "Radiological Incident Emergency Response Planning: Fixed Facilities and Transportation" (40 FR 59494), the Federal Preparedness Agency, a predecessor of FEMA, outlined responsibilities of various Federal agencies in providing assistance to State and local governments in their radiological emergency response planning. Both FEMA and NRC recognize that these responsibilities are undergoing reevaluation and that this memorandum of understanding will require reissuance of that Federal Register Notice.

Specifically, the NRC responsibilities for emergency preparedness are:

1. To assess licensee emergency plans for adequacy.
2. To verify that licensee emergency plans are adequately implemented (e.g., adequacy and maintenance of procedures, training, resources, staffing levels and qualifications and equipment adequacy).
3. To review the FEMA findings and determinations on the adequacy and capability of implementation of State and local plans.
4. To make decisions with regard to the overall state of emergency preparedness (i.e., integration of emergency preparedness on-site as determined by the NRC and off-site as determined by FEMA and reviewed by NRC) and issuance of operating licenses or shut down of operating reactors.

III. Areas of Cooperation

A. NRC Licensing Reviews

FEMA will provide support for NRC reactor, fuel facility and material licensing reviews, as requested, with regard to the assessment of the adequacy of State and local response plans for accidental radiological releases. This will include timely submittal of a letter evaluation suitable for inclusion in NRC safety evaluation reports.

FEMA will provide NRC with an independent assessment of evacuation times around 12 reactor sites which have the highest population density within the 10 mile emergency planning zone or are mutually agreed upon by FEMA and NRC. FEMA and NRC agree to discuss future arrangements for similar assessments to be performed by FEMA at other sites with operating reactors and at points currently under construction.

Substantially prior to the time that a FEMA evaluation is required with regard to fuel facility and material license review, NRC will supply FEMA with a listing of all fuel and material licensees, identify those with potential for significant accidental off-site radiological releases and for those NRC will submit to FEMA the emergency plans as they are completed.

FEMA routine support will include providing assessments of State and local plans related to reactor Construction Permit and Operating License reviews and continuing assessments of State and local plans during the facility lifetime. To support its findings and assessments, FEMA will make expert witnesses available before the Commission, the NRC Advisory Committee on Reactor Safeguards, NRC hearing boards and administrative law judges, any court actions, and during any related discovery proceedings. Nothing in this document shall be construed in any way to diminish NRC's responsibility for protecting the radiological health and safety of the public.

B. FEMA Review of State and Local Plans

NRC will assist in the development and review of State and local plans through its membership on the Regional Advisory Committees. FEMA will chair the Regional Advisory Committees.

C. Evaluation of Exercises

FEMA and NRC will cooperate in determining exercise requirements for joint licensee, State, local and Federal exercises and will jointly observe and evaluate such exercises. NRC and FEMA will also jointly agree upon the set of exercise scenarios from which the scenario for a particular exercise will be selected.

D. Emergency Preparedness Guidance

NRC has lead responsibility for the development of emergency preparedness guidance for licensees. FEMA has lead responsibility for the development of emergency preparedness guidance for State and local agencies.

NRC and FEMA recognize the need for an integrated assessment of the degree of emergency preparedness by NRC licensees and State and local governments. NRC and FEMA will each, therefore, provide opportunity for the other agency to review and comment on emergency preparedness guidance prior to adoption as formal agency guidance.

E. Training of State and Local Officials

FEMA will assume lead responsibility for emergency preparedness training of State and local officials. NRC will cooperate in assuring existing NRC sponsored training programs are impacted to the minimum extent during the period January to June, 1980. NRC will inform OMB in writing of its intention to pass responsibility to FEMA for its current training program for State and local officials during FY 1980 and will support FEMA in requesting OMB to transfer the training budget to FEMA in years after FY 1980.

F. Ongoing NRC Programs

Ongoing NRC programs that are related to State and local emergency planning and preparedness that are supported by FY 80 funds, will continue without interruption unless modifications are recommended to the NRC by the FEMA/NRC Steering Committee. (See IV.4 below).

G. Public Information Programs

FEMA will take the lead in developing public information programs. NRC will assist FEMA by reviewing for accuracy educational materials concerning radiation and its hazards for information regarding appropriate actions to be taken by the general public in the event of an accident involving radioactive materials. A separate memorandum of understanding will be negotiated for Public Information activities.

IV. Near-Term Cooperative Measures

In order to achieve a prompt improvement in the state of emergency preparedness at and around nuclear power facilities, and because of the need for an integrated assessment of the degree of preparedness, FEMA and NRC recognize the need for especially close working relationship over the next six months. To this end, FEMA and NRC agree to the following mode of operation through June of 1980.

1. NRC staff will proceed with the evaluation team review of emergency preparedness at each power reactor and will publish Safety Evaluations on each plant.
2. FEMA will provide members to participate with NRC staff on the evaluation teams. The FEMA team members will participate in the preparation of assessments of the off-site plans along with NRC. Team members will perform according to the procedures described in NRC Steering Committee Memorandum dated November 23, 1979, subject: Guidance on Team Reviews.
3. FEMA will provide an interim evaluation of the adequacy of State and local preparedness associated with each power reactor suitable for attachment to the NRC Safety Evaluation. FEMA will report to NRC on the schedules of State and local governments to upgrade their plans and will prepare a final evaluation when the upgraded plans are completed.
4. The NRC interoffice Steering Committee on Emergency Preparedness will be expanded to an NRC/FEMA Steering Committee consisting of equal number of members to represent each agency with one vote per agency. Where the Steering Committee cannot agree on the resolution of an issue, the issue will be referred to NRC and FEMA management. The NRC members will have lead responsibility for licensee preparedness and the FEMA members will have lead responsibility for State and local preparedness. The Steering Committee will oversee the evaluation team review activities and develop upgraded acceptance criteria for licensee, State and local emergency preparedness. NRC and FEMA will then consider and adopt criteria, as appropriate, in their respective jurisdictions. (See Attachment 1).
5. To permit the orderly transfer from NRC to FEMA of the lead responsibility for evaluating State and local plans and preparedness, the NRC staff who had been performing this function will be assigned through June 1980 to work directly with FEMA. Those incidental activities, such as responding to correspondence that would normally be handled by the NRC's State Programs Emergency Preparedness Staff will continue to be handled by these personnel while assigned to FEMA. (See Attachment 2).
6. NRC will ensure continuation of NRC computer and automatic data processing support (including TERA record keeping system support) to the NRC staff personnel detailed to FEMA.
7. NRC Program Support funds specifically identified in the FY 80 budget (including supplemental), for the emergency preparedness function of NRC's Office of State Programs, and NRC FY 80 travel funds in the amount of $25,000 will be maintained as is, and continue to be managed by the NRC staff detailed to FEMA, to ensure that ongoing programs affecting State and local government emergency preparedness are not interrupted.

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V. Working Arrangements

A. The normal point of contact for implementation of the points in this agreement will be the NRC/FEMA Steering Committee.

B. The Steering Committee will establish the day-to-day procedures for carrying out the arrangements of this memorandum.

VI. Term of Agreement

A. This agreement shall be effective as of January 14, 1980 and shall continue in effect through September, 1980, unless terminated by either party upon 120 days' notice in writing.

B. Amendments or modifications to this Agreement may be made upon written agreement by both parties to the Agreement.

Approved for the U.S. Nuclear Regulatory Commission.

Lee V. Gossick,

Executive Director for Operations.

Dated: January 11, 1980.

Approved for the U.S. Federal Emergency Management Agency.

Frank Camm,

Associate Director for Plans and Preparedness.

Dated: January 11, 1980.

Attachments:

1. FEMA/NRC Steering Committee
2. Duties of NRC Personnel Detailed to FEMA through June 1980.

(5 U.S.C. 552(a))

Dated at Bethesda, Md., this 17th day of January 1980. For the Nuclear Regulatory Commission.

Lee V. Gossick,

Executive Director for Operations.

[FR Doc. 80-2233 Filed 1-23-80; 8:45 am]

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[Dockets Nos. 50-373 and 50-374]

Negative Declaration Supporting an Order Extending Construction Completion Dates for LaSalle County Station Unit Nos. 1 and 2

The U.S. Nuclear Regulatory Commission (the Commission) has issued an Order amending Construction Permits CPPR-99 and CPPR-100, issued to Commonwealth Edison Company for the LaSalle County Station, Unit Nos. 1 and 2, located in LaSalle County, Illinois. The Order extends the latest constuction completion dates from March 31, 1980 to June 30, 1981 for Unit No. 1 and from December 31, 1980 to June 30, 1982 for Unit No. 2.

The Commission has prepared an environmental impact appraisal for the amendment and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated February 1973 and as amended through subsequent hearings.

For further details with respect to this action, see (1) the application for amendment dated September 24, 1979, and (2) the Commission's Environmental Impact Appraisal. Both items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, DC and at the Illinois Valley Community College, Rural Route #1, Oglesby, Illinois 61348. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland this 26th day of December, 1979.

Ronald L. Ballard,

Chief, Environmental Projects Branch 1, Division of Site Safety and Environmental Analysis.

[FR Doc. 80-2231 Filed 1-23-80; 8:45 am]

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NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 80-4]

Accident Reports, Safety Recommendations and Responses; Availability

Aircraft Accident Reports

American Airlines, Inc., DC-10-10, N110AA, Chicago-O'Hare International Airport, Chicago, Illinois, May 25, 1979 (NTSB-AAR-79-17).—The National Transportation Safety Board on January 14 made available copies of its formal investigation report on the Nation's worst aviation disaster. About 1504 c.d.t. last May 25, American Airlines, Inc., Flight 191, a McDonnell-Douglas DC-10-10 aircraft, crashed into an open field just short of a trailer park about 4,600 ft northwest of the departure end of runway 32R at O'Hare. All 271 persons on board were killed; two persons on the ground were killed, and two others were injured.

Investigation showed that Flight 191 was taking off from runway 32R. The weather was clear and the visibility was 15 miles. During the takeoff rotation, the left engine and pylon assembly and about 3 ft of the leading edge of the left wing separated from the aircraft and fell to the runway. Flight 191 continued to climb to about 325 ft above the ground and then began to roll to the left. The aircraft continued to roll to the left until the wings were past the vertical position, and during the roll, the aircraft's nose pitched down below the horizon. Flight 191 crashed into the open field and the wreckage scattered into an adjacent trailer park. The aircraft was destroyed in the crash and subsequent fire. An old aircraft hangar, several automobiles, and a mobile home were destroyed.

The Safety Board determined that the probable cause of this accident was the asymmetricall stall and the ensuing roll of the aircraft because of the uncommanded retraction of the left wing outboard leading edge slats and the loss of stall warning and slat disagreement indication systems resulting from maintenance-induced damage leading to the separation of the No. 1 engine and pylon assembly at a critical point during takeoff. The separation resulted from damage by improper maintenance procedures which led to failure of the pylon structure.

Contributing to the cause of the accident were the vulnerability of the design of the pylon attach points to maintenance damage; the vulnerability of the design of the lading edge slat system to the damage which produced asymmetry; deficiencies in Federal Aviation Administration surveillance and reporting systems which failed to detect and prevent the use of improper maintenance procedures; deficiencies in the practices and communications among the operators, the manufacturer, and the FAA which failed to determine and disseminate the particulars regarding previous maintenance damage incidents; and the intolerance of prescribed operational procedures to this unique emergency.

As a result of its investigation of this accident, the Safety Board issued 12 recommendations to the Federal Aviation Administration—four last summer during the early phases of the investigation and eight on December 21 at the time of adoption of the investigation report. Recommendation A-79-41, calling for immediate inspection of pylon attach points on all DC-10s, was issued last May 21 (44 FR 32756, June 7, 1979). A-79-45 and 46, issued last June 4, called for immediate inspection of all DC-10s in which an engine pylon assembly had been removed and reinstalled for damage to the wing-mounted pylon aft bulkhead (A-79-45) and for FAA maintenance inspectors to immediately discontinue lowering and raising the pylon with the engine still attached (A-79-46). (44 FR 34222, June 14, 1979.) Recommendation A-79-52 called for immediate notification of States responsible for regulating foreign air carriers operating DC-10s to require appropriate structural inspections of engine pylons following engine failures involving significant imbalance conditions or severe side loads. (44 FR 39319, July 5, 1979.) Recommendations A-79-98 through 105 concerned certification, surveillance, maintenance and operational procedures. (See 45 FR 862, January 3, 1980.)

Aircraft Accident Reports, Brief Format, U.S. Civil Aviation, Issue No. 1, 1979 Accidents (NTSB-BA-79-5).—Now available are copies of the Safety Board's first volume in its series of brief reports on general aviation accidents which occurred last year. The 299 accidents contained in this publication represent a random selection. This publication is issued irregularly, normally 15 times each year. The brief format presents the facts, conditions circumstances, and probable cause(s) for each accident. Additional statistical information is tabulated by injury index, injuries, and causal factors.

The Safety Board, in Press Release SB 79-103 covering Issue No. 1, reminded general aviation pilots once again that this is the season of potential dangers in winter weather flying. High winds, freezing temperatures, ice, or snow, singly or in combination, are causal factors found in most winter accidents. Cited was the crash involving a Cessna Citation jet aircraft at Logan Airport, Boston, Mass., last February. In addition to the pilot's failure to maintain directional control during takeoff, the Safety Board also found that blowing snow, which obscured the pilot's vision during the night takeoff, was a factor in that accident. The Board said that the "blowing snow" factor in the Boston accident can occur at any snow-covered airport in the northern States and that wind forces on some snow compositions can create "instant instrument" conditions during otherwise visual takeoffs and landings.

Note.—The brief reports in Issue No. 1 contain essential information; more detailed date may be obtained form the original factural reports on file in the Washington office of the Safety Board. Upon request, factual reports will be reproduced commercially at an average cost of 7 cents per page for printed matter, $1 per page for black-and-white photographs, and $1.50 per page for color photographs, plus postage. Requests concerning aircraft accident report briefs should include (1) date and place of occurrence, (2) type of aircraft and registration number, and (3) name of pilot. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Copies of Issue No. 1 May be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

Safety Recommendation Letters

Aviation

A-80-1 and 2.—Last March 10 a Swift Aire Line, Inc., Aerospatiale Nord 262 ditched in Santa Monica Bay after experiencing the loss of both engines shortly after takeoff form Los Angeles (Calif.) International Airport. After liftoff from runway 24L, the right propeller autofeathered and the right engine shut down. Seconds later the pilot apparently mis-identified the filed engine and inadvertently shut down the left engine.

During its investigation, the Safety Board found that the pilots were not able to restart the left engine because they had failed to place the propeller lever in the feather position. Propeller feathering is necessary before an engine can be restarted successfully on the Nord 262 aircraft. At the time of the accident, there was no guidance in the company's Nord 262 operations manual indicating the urgency of setting the propeller control lever at "feather" while performing the post-autofeather procedure in order to perform a successful engine restart. After the accident this deficiency was correct in Swift Aire's operations manual; however, to the Board's knowledge, no other Nord 262 operators have initiated manual changes of this nature. This accident might have been prevented had the flightcrew been aware of the need to place the propeller lever in the feather position after engine shutdown since sufficient time was available for a successful restart.

Also during investigation of the Swift Aire accident, the Safety Board learned that during cold weather operations Ransome Airlines had experienced numerous autofeather problems during Nord 262 engine runups and ground rolls for takeoff. Corrective action for some of these incidents required draining water from the autofeather propeller pressure hose. As a result of these autofeather checks before the first flight of the day when the air temperature is below 0° C. This procedure reportedly has greatly reduced the number of autofeather problems previously experienced by this airline. Use of the procedure indicates to the pilot that there is no blockage of the propellet feathering system and minimizes an inadvertent activation of the autofeather system during takeoff which could be caused by trapped pressure in the airframe pitot system.

Accordingly, on January 11 the Safety Board recommended that the Federal Aviation Administration:

Require changes to the Nord 262 operations manuals that (1) alert the flightcrew to the fact that an airborne engine restart is not possible unless the propeller has been feathered, and (2) provide guidance to the flightcrew regarding the urgency of completing the full engine shutdown procedure after the loss of an engine. (A-80-1)

Require a change to the Nord 262 operations manuals that specifies an engine runup and autofeather check before any flight when the air temperature is below 0° C. (A-80-2)

A-80-3 and 4.—A Tennessee Airways Cessna 402, being operated as an air taxi, was in cruising flight last May 30 when the pilot felt a "shudder" in the airframe. He reduced power and as the airspeed slowed to 110 mph the shudder stopped. The pilot diverted to Shelby, N.C., and during the landing approach, with the landing gear down and full flaps extended, the shudder began again at 95 mph and continued throughout the landing. Examination of the aircraft revealed that the elevator trim tab actuator jackscrew, Part Number 1260074-4, could be moved in and out without rotating it. The trim tab actuator assembly was taken to Cessna Aircraft Company, Wichita, Kans., and examined. Examination revealed that the jackscrew o-ring packing had deteriorated and the jackscrew threads were rusted and badly worn because of a lack of lubrication.

The Safety Board notes that the Service Manual requires a trim tab "free play" inspection every 100 hours. However, the condition of the packing is not ascertained during this inspection procedure. The interval between actuator lubrication is 1,500 hours; this long interval is adequate only if the packing remains in good condition. Examination of the aircraft records indicated that the total aircraft time was 2,042 hours. The Safety Board could not determine when the actuator was last lubricated. A check of service difficulty records showed four other possible cases of this type of distress on Cessna model 402 aircraft. Also, the Board understands that similar actuators are used in the aileron and rudder systems on this aircraft and on other Cessna aircraft. Since a divergent tail flutter with subsequent aircraft damage can be caused by a free tab, the Safety Board on January 10 recommended that the Federal Aviation Administration:

Inform all operators about the possibility and effects of a deteriorated o-ring packing on trim tab actuators on Cessna aircraft in

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General Aviation Airworthiness Alerts, Advisory Circular 43-16. (A-80-3)

Review the present inspection criteria for inspection and lubrication of the elevator trim tab actuators and other similar actuators on Cessna 402's and prescribe more stringent criteria if they are not adequate to prevent failure of the actuator due to corrosion or inadequate lubrication. (A-80-4)

A-80-5 through 7.—In another recommendation letter also forwarded to the Federal Aviation Administration on January 11, the Safety Board noted that during 1978 there were at least 19 accidents or incidents involving various models of high wing Cessna aircraft in which engine power was lost because of water in the fuel. Many of these are documented at the FAA Maintenance Analysis Center in Oklahoma City.

Typical of these is an accident which occurred at Cape Girardeau, Mo., on August 30, 1978. The Cessna 182 crashed while maneuvering for an emergency landing after loss of engine power. Investigation revealed water in both the carburetor and fuel strainer. This model airplane had the fuel strainer drain control knob located inside the cabin so that the operator could not see the fuel as it was drained. Also there were no quick-drain valves installed in the sumps. The pilot stated that he "drained the strainer three times"; however, it was apparent that he did not have a full understanding of the proper way to eliminate water from the fuel lines and sumps.

Owners' manuals for Cessna 160, 172, 182, 210 for model years from 1957 to 1977 were reviewed. This review showed that there are inadequate instructions and descriptions as to the proper method of eliminating water from the fuel system.

The Safety Board discussed fuel contamination in some detail in its 1974 Special Study of General Aviation Accidents Involving Fuel Starvation. At that time, the Board made recommendations to FAA (A-74-35 and A-74-36) directed to making more specific, detailed information available to pilots. Both FAA and the General Aviation Manufacturers Association agreed with the intent of the recommendations. However, except for reissuance of Advisory Circular 20-43C in October 1976 in limited distribution, the Safety Board is not aware of any effort on the part of either FAA or the manufacturers to make such information available. The Board believes that Advisory Circular 20-43C presents the kind of explanation and details which pilots need in order to properly purge water from their airplane's fuel systems. The Board also believes that the same type of information should be provided in Airplane Flight Manuals or Owner's manuals. Accordingly, the Safety Board recommends that FAA:

Distribute among general aviation pilots and operators the information in Advisory Circular 20-43C concerned with eliminating water from fuel. (A-80-5)

Require that all Accident Prevention Specialists in FAA Distribution Offices make elimination of water from fuel systems an item for special emphasis in their contacts with general aviation pilots and operators. (A-80-6)

Require that Cessna include in Pilots Operating Handbooks or Flight Manuals for all its aircraft models a detailed discussion of, and specific instructions for, the detection and elimination of water from the fuel systems of these aircraft. (A-80-7)

All of the above aviation safety recommendations are designated "Class II, Priority Action."

Highway

H-80-2 through 4 and H-80-5 and 6.—On February 7, 1979, the driver of a tractor-semitrailer traveling east on I-70 at New Stanton, Pa., lost control of his vehicle and plunged down an embankment just east of a bridge spanning Legislative Route 117. The driver was killed and the truck was destroyed. It was snowing at the time and the temperature was below freezing. Below-freezing temperatures and precipitation had resulted in frost heaves throughout the area. At the bridge, the ice lifted the concrete pavement adjacent to the expansion joints 3 to 4 inches above the bridge deck. The condition was accentuated by the 40° skew of the bridge. The usual short-term maintenance practice is to feather the rise with bituminous material. No such feathering was in place at this location nor were there signs warning of the hazardous condition. Two other accidents occurred at this site within 2 days as a result of the frost heave.

Investigation showed that supervisory highway maintenance personnel had ridden over the bridge at the accident site daily and had failed to notice or report the condition. After the accident, only the eastbound lanes were feathered; the westbound lanes were not feathered until after Safety Board investigators visited the Pennsylvania Department of Transportation's county maintenance office the week after the fatal accident. Had feathering or adequate warning devices been in place, these accidents might have been prevented.

Since frost heaves at specific locations cannot be predicted, active surveillance by highway personnel during winter months is vital. The State's regional highway office has a night patrol, which is basically responsible for reporting on snow and ice conditions and aiding disabled or stranded motorists. Safety benefits could be increased significantly by instructing and training patrolmen to report existing and potentially hazardous highway conditions. Likewise, all other employees of the Pennsylvania Department of Transportation, especially maintenance personnel in supervisory positions, should be aware of the importance of recognizing in their everyday activities, and reporting, existing or potentially hazardous highway conditions.

In the Safety Board's October 9, 1979, response to notice of proposed rulemaking, "Interstate Maintenance Guidelines," FHWA Docket No. 78-43 Notice 2, the Safety Board supported the American Association of State Highway and Transportation Officials (AASHTO) Yellow Book statement that maintenance personnel are frontline observers of highway conditions and they can and should become more active in improving highway safety. The Board's review of the training courses available to the States through Federal Highway Administration, Institute of Transportation Engineers, and AASHTO did not identify any that will serve this purpose. Therefore, on January 10 the Safety Board recommended that the Federal Highway Administration:

Require the States to establish a program which will assure prompt identification, reporting and correction of hazardous highway conditions. (H-80-2)

Develop a course for use by State and local highway officials to train maintenance personnel to recognize hazardous highway conditions and the need to report them. (H-80-3)

Require the States to include in their annual interstate maintenance program a description of the planned training for maintenance personnel. (H-80-4)

Also on January 10, and as a result of the same accident, the Safety Board by separate letter recommended that the Pennsylvania Department of Transportation:

Establish a program which will assure prompt identification, reporting and correction of hazardous highway conditions. (H-80-5)

Establish a program which will ensure that the State's maintenance and night patrol personnel are trained to recognize hazardous highway conditions as they develop. (H-80-6)

Each of the above highway safety recommendations is designated "Class II, Priority Action."

Railroad

R-79-78 through 81 and R-79-82 through 85.—Last July 31 Union Pacific Railroad Company (UPRR) freight train No. GRX 31 derailed at Granite, Wyo. The train was moving on main track No. 2 at 75 mph when the second and third locomotive units derailed and overturned in a 3°05.8' curve, separated from the lead locomotive unit, destroyed the track, and caused the following 81 freight cars to derail. Two locomotive units were damaged heavily, 80 freight cars were destroyed, and two overpass bridges of Interstate 80 were damaged extensively. Total damage was estimated at $5 million.

The Safety Board notes that after cresting Sherman Hill, the engineer was not able to control the speed of the train. An engineer working in Granite Yard observed the train passing him at an estimated speed of 65 mph with brakes applied on only the three locomotive units and first six cars. The Board believes that a closed angle cock existed in the trainline which prevented the passage of air and an application of the train brakes from the lead locomotive unit beyond the sixth car. According to UPRR timetable instructions, air brake retainer valves were required to be used on the train. However, the engineer did not request their use, and the conductor did not require them.

Removal of the brake pipe flow indicators from UPRR locomotives eliminated a tool the engineer had to inform him about the air flow in the brake pipe. With proper monitoring of the brake pipe flow indicator during the application and release of the automatic brake, the Safety Board believes that the engineer could have detected a blockage in the air brake system and could have corrected it before descending Sherman Hill.

UPRR rules hold the conductor and engineer equally responsible for the safety of the train and for compliance with the rules. The railroad also requires that other crewmembers take immediate action to stop the train, using the emergency brake valve if the speed of the train must be reduced and the engineer and conductor fail to do so. As the train descended Sherman Hill, the train attained a speed of 40 mph within 6 miles and 50 mph within 8 miles. The speed continued to increase to 60 mph and then to 75 mph, 15 miles below the top of Sherman Hill. Tests conducted after derailment indicated that if the conductor or flagman had applied the train brakes in emergency from the caboose, even when the train was traveling at 60 mph—40 mph over the authorized speed—the train would have stopped.

The Safety Board noted during the investigation that the conductor appeared to be confused on the proper allowable speed for the train. The Board believes that the failure of the crewmembers to understand and apply the rules indicates a lack of monitoring by UPRR supervision of crew compliance with the train operating rules.

As a result of its investigation of this accident, the Safety Board on January 10 recommended that the Union Pacific Railroad Company:

Instruct employees who make train brake tests in the test requirements of the Federal Power Brake Regulations, 49 CFR Part 232, and establish monitoring procedures to insure that the tests are conducted properly. (R-79-78)

Review the operating rules examination and retesting procedures to insure that employees properly understand the requirements of the operating rules and timetable instructions. (R-79-79)

Establish a monitoring system for rule compliance of employees operating trains. (R-79-80)

Equip locomotives with brake pipe flow indicators to enable engineers to measure trainline air flow. (R-79-81)

In a separate letter, also forwarded January 10, to the Federal Railroad Administration, the Safety Board stated that observations made of car inspectors performing brake tests at Rawlins following the accident disclosed that they drove alongside the train in a motorized vehicle at a speed too fast to check the angle cock handles and brake valve cutout cock handles. They were unable to observe the brake cylinders mounted in the brake beams or on the opposite side of the car. The vehicle was driven on a road which ended about six cars behind the locomotive, and no one was observed making inspections of the cars beyond the road. After interviewing the car inspector who performed the air brake test on GRX 31 and his supervisor, it was obvious that the employees were not trained thoroughly in their duties nor did the supervisors require them to perform the air brake test in accordance with Federal Power Brake Regulations, 49 CFR Part 232. Accordingly, the Safety Board recommended that the Federal Railroad Administration:

Enforce the requirements for testing train brakes in accordance with the Federal Power Brake Regulations, 49 CFR Part 232, on the Union Pacific Railroad. (R-79-82)

Issue regulations to require railroads to establish a system for regular instruction and testing of employee's knowledge of the operating rules. (R-79-83)

Review the monitoring system for rule compliance on the Union Pacific Railroad to insure that their supervision can adequately enforce the rules to provide a safe and efficient operation. (R-79-84)

Study the feasibility of requiring locomotives to be equipped with brake pipe flow indicators to enable engineers to measure trainline air flow. (R-79-85)

Each of the above railroad safety recommendations is designated "Class II, Priority Action." Copies of the Safety Board's formal report on investigation of this accident are being prepared for distribution and will be available in the near future.

R-80-1.—A "Class I, Urgent Action" recommendation was directed on January 11 by the Safety Board to the Southeastern Pennsylvania Transportation Authority (SEPTA) in connection with the ongoing investigation of the fire which occurred November 12, 1979, in the passenger compartment of SEPTA car No. 204 near the 69th Street Terminal in Upper Darby, Pa. The single-unit car had just departed the terminal in northbound service to Bryn Mawr on the former Philadelphia and Western Railroad's high-speed rapid transit line. The motorman and 72 passengers were aboard the 62-seat car. Of the 53 passengers injured, 30 were hospitalized.

Car No. 204 is one of 10 cars designated as "Bullet" cars that SEPTA is using. They are of aluminum construction and have wooden floors and were manufactured by the Brill Company in 1931. Double seats with reversible backs are located along each side. Electric car heaters are located along the bottom of each side wall near the floor. Access to the car is by folding doors located at each end of the car which are controlled by the motorman.

The Safety Board notes that the cars are electrically propelled by 600-volt direct current collected from a third rail adjacent to the track by contact shoes mounted on each truck. A 25,000 circular mil copper cable covered with rubber insulation, located within the passenger compartment in the left side wall behind the electric heaters, transmits the 600-volt direct current to the controller for operation of the car. The seats and heaters must be removed from the left side to repair or inspect the cable.

The motorman stated that when the car departed the 69th Street Terminal, smoke was detected in the passenger compartment along the left side near the front of the car. In the past, SEPTA has had problems with heaters smoking on these cars, and the motorman assumed that a heater was causing the smoke. The motorman did not believe the problem to be serious and thought that he would be able to continue to the next station, about 1.5 miles away, for an inspection to determine the cause. However, the car filled rapidly with smoke and fire was detected, leading the motorman to stop and discharge the

V 45 / 17 JA 24 80 UMI

passengers before reaching the next station.

The Board stated that an examination of the car after the fire was extinguished disclosed that the power cable was burned rearward from where it entered the car for a distance of 18 inches. The first and second seats along the left side were burned and the side of the car was damaged. An examination of the remaining portion of the cable disclosed that the insulation was deteriorated. It is apparent that the fire started in the power cable and quickly spread to the car's interior. If this cable had been placed in a conduit and mounted on the outside of the car, as is done on other self-propelled cars, the failure of the cable most probably would not have set the interior of the car on fire. Accordingly, the Safety Board has recommended that SEPTA:

Remove the 600-volt d.c. power cables from the interiors of all Brill Electric cars, mount them on the cars' exteriors, and take any necessary additional steps so that a failure of the cable will not ignite combustible materials. (R-80-1)

Responses to Safety Recommendations

Aviation

A-79-73 and 74.—Letter of January 8 from the Federal Aviation Administration is in response to recommendations issued as a result of investigation of the midair collision involving a Pacific Southwest Airlines Boeing 727 and a Cessna 172 at San Diego, Calif., September 25, 1978. (See 44 FR 60181, October 18, 1979.) The recommendations addressed the issue of pilots' understanding the relationship of their responsibility and the air traffic controller's responsibility when a pilot accepts a maintain-visual-separation clearance.

Recommendation A-79-73 asked FAA to require all air carrier companies and commercial operators to test their pilots recurrently on ATC radar procedures, radar services, pilot/controller relationships, and ATC clearances. FAA agrees that pilots must be aware of their responsibilities when they accept a "maintain visual separation" clearance, but believes that FAA's control of air carrier and commercial operators' training programs is adequate through the principal operations inspectors (POI) assigned to the individual operators. FAA proposes to issue appropriate bulletins requesting the POI's to ensure that interrelationships of the pilot and controller roles and responsibilities are covered in each operator's recurrent training program. The bulletins will be issued by the end of March 1980.

Recommendation A-79-74 called for a method to ensure that all general aviation pilots are tested periodically on ATC radar procedures, radar services, pilot/controller relationships, and ATC clearances as appropriate to their operations. FAA notes that 14 CFR 61.57, "Recent Flight Experience: Pilot in Command," presently includes language which provides for a flight review, including ATC procedures which adequately covers pilot/controller relationships while still providing flexibility to the person giving the review to deal with the pilot's individual needs. This individual treatment is further emphasized by industry guidance material on the Biennial Flight Review (BFR) such as that published by the National Association of Flight Instructors, widely used for the conduct of BFR's by flight instructors.

FAA reports that its Office of Flight Operations will work with the Air Traffic Service in developing a presentation for the Accident Prevention Program to educate general aviation pilots on available radar services and will discuss pilot/controller relationships and ATC clearances for pilots operating under visual flight rules.

Absent additional information indicating a significant shortcoming in general aviation pilot/controller relationships, FAA believes that the current regulations provide a satisfactory level of regulation and flexibility to permit the intent of recommendation A-79-74 to be accomplished.

A-79-106 and 107.—The Federal Aviation Administration on January 7 responded to recommendations issued by the Safety Board following two near inflight collisions last November near Lindbergh Airport in the San Diego, Calif., Terminal Radar Service Area (TRSA). Recommendation A-79-106 asked FAA to immediately exercise its emergency authority and impose mandatory requirements that all pilots communicate with San Diego approach control and receive an appropriate ATC clearance, on a first-come, first-served basis, before entering the San Diego TRSA—this to be identified as an interim action until a Terminal Control Area (TCA) is implemented. Recommendation A-79-107 asked FAA to expedite the establishment and implementation of a Group II TCA at San Diego, with the special requirement that aircraft utilizing the airspace be equipped with an operating Mode-C Altitude Encoding Transponder. The recommendations were issued December 28, 1979. Both near inflight collisions cited involved airliners and private aircraft. (See 45 FR 2116, January 10, 1980.)

FAA's January 7 response notes that earlier—October 18, 1978—the Safety Board had recommended a TRSA at Lindbergh Airport and establishment of TCA's in San Diego and wherever else they were needed. FAA followed these recommendations by putting a TRSA into operation at Lindbergh Field on April 19, 1979, and setting out to install TCAs at 38 locations throughout the country. One of these was San Diego, and the **Federal Register** of December 6, 1979, carried a notice of proposed rulemaking to that effect; public comment period was 60 days. The FAA Administrator states:

The law does not provide us the luxury of moving more rapidly than this. Perhaps this is just as well, for public participation in the deliberative process allows us to come up with the safest and least burdensome TCA configuration for each site, as well as letting us weigh environmental and economic factors. It also lets us make major changes in the air traffic rules with safety, by giving us the time to educate pilots and controllers in their new responsibilities.

But I am afraid that your December recommendation for an immediate TRSA at San Diego risks creating confusion that would detract from safety, not add to it. Your recommendation would create what amounts to a new form of controlled airspace, with unfamiliar requirements suddenly laid on both pilots and controllers. I don't feel we should undertake so drastic a change without a period of public education. There should be time, too, for changes in charts and other aeronautical publications.

Even then there would be problems. Before planes could enter this new type of airspace, controllers would have to identify and issue clearance to them, although many of the aircraft would not be carrying transponders. This would lead to dangerous concentrations of uncontrolled aircraft just outside the TRSA, waiting for controllers to identify them on the radar screen by ordering their pilots to perform turns. This would be greatly increase the burden on contollers, as well as causing inconveniences and waste of fuel.

Concerning the Board's recommendations regarding mandatory carriage of an altitude reporting (Mode C) transponder, FAA says this is a separate issue, and states, "To adopt it for San Diego now would only slow down the current regulatory process. Besides, if it is a good idea for San Diego, it should apply to other Group II TCAs as well, and should be considered in a broader context." This issue is a part of FAA's overall airspace review now underway.

On January 11 the Safety Board provided FAA with comments on the January 7 response to recommendations A-79-106 and 107, as well as comments on the Airline Owners and Pilots Association (AOPA) Petition Notice No. PR 79-13 (Docket No. 19829, 44 FR 70177, December 6, 1979) which proposes the establishment and use of safety corridors by terminal area traffic operating and to and from San Diego.

The Safety Board does not share AOPA's belief that the proposal is a better alternative than FAA's TCA proposal. The corridor concept is too restrictive for practical use and does not provide the flexibility needed by Air Traffic Control (ATC) to effectively control all air traffic utilizing the San Diego airspace. The safety hazard requires that separation service be provided to all users of the terminal airspace operating under ATC. The board believes that the narrow confines of the proposed corridors would restrict the controller's capability to provide such services, increase his workload, and under certain circumstances create more operational problems for ATC than the proposed corridors would resolve.

With reference to recommendation A-79-107, the Safety Board believes that the policy followed by FAA over the years of developing TCA's has proven to be effective, and the Board supports noice of proposed rulemaking No. 79-17, "Proposed Group II Terminal Control Area—San Diego, California," published December 6, 1979, 44 FR 70181. However, the Board continues to believe that promulgation of the final rule should be expedited and that an additional requirement for Mode-C altitude encoding transponders for all aircraft should be adopted. The Board's emergency recommendations were prompted by the belief that a particularly hazardous condition exists in the San Diego area. Both AOPA's Petition No. PR 79-13 and FAA's NPRM No. 79-17 are consistent with the Board's contention that there is a need for operational changes in the San Diego terminal area to assure safe and efficient use of the local airspace.

The Board does not agree with FAA's contention that the subject recommendations would create a new form of controlled airspace. The Board proposes no changes in the dimensions of the present TRSA or the proposed Group II TCA. With regard to the recommendation A-79-106, the only "unfamiliar requirement" which would be levied on both pilots and controllers would be a requirement that pilots establish communications with the controllers before entering the TRSA. The Board's recent investigations of near collisions at San Diego reveal that these incidents more usually have involved pilots who either do not choose to avail themselves of the operational separation service or enter the TRSA before contact ATC, leaving the controller little time to react should a conflict arise. The Board notes that its recommended mandatory communications requirement does not constitute a drastic change nor would the change require an extended period of public education—it involves only the San Diego terminal area where the existence of a serious problem is unduly recognized. Changes in charts and other aeronautical publications would certainly be needed, but the need for such changes does not, in the Board's opinion, constitute sufficient cause to maintain the status quo in the San Diego area.

The Board notes that an AOPA official has estimated that 90 percent of all general aviation pilots who operate in the San Diego area communicate with ATC. The other 10 percent may never choose to use the TRSA airspace for one reason or another, such as not having radios aboard or not needing to transit the airspace. However, the Board states, even a full 10 percent increase in communications workload should neither result in an intolerable burden on controllers no an inconvenience and waste of fuel for the users of the airspace. With reference to the incidents cited in safety recommendations A-79-106 and 107, both small airplanes departed Montgomery Airport and climbed into the TRSA, and this seems to be the source of most of the conflicts. The Board says that FAA's concern for the probalbility of "dangerous concentrations of uncontrolled aircraft just outside of the TRSA" would seem to be speculative. The Board's concern for the probability of a collision between controlled and uncontrolled traffic just inside the TRSA is based on the Board's review of actual near collisions in the San Diego area.

In three cases involving mid-air near collision reports at San Diego, an air carrier aircraft was descending under ATC control in the TRSA on a downwind leg for a landing on runway 27 at Lindbergh Field. In each case a general aviation aircraft had departed Montgomery Airport and was climbing eastbound on approximately the same heading as the air carrier. In each of the three incidents, the general aviation aircraft was being overtaken by the air carrier aircraft and conflict occurred within the designated TRSA airspace. In two of these incidents, the pilots of the general aviation aircraft had penetrated the TRSA airspace and contacted approach control just before the reported incident. In one instance, the pilot was not in radio contact with approach control.

If this potentially dangerous situation is to be resolved, the Safety Board believes it is essential that pilots who find it necessary to enter the TRSA airspace communicate with San Diego Approach Control before entering so that their presence is known to the controller. The knowledge of their impending presence would allow the controller sufficient time to provide traffic advisories or to issue appropriate instructions to the aircraft so that effective separation is maintained.

The Safety Board believes that the needs of the users would be better served by a mandatory requirement or an altitude reporting (Mode-C) transponder at San Diego. If a need for this requirement should arise at other Group II TCA's, the Board is confident that normal rulemaking procedures will identify such a need.

While FAA fulfillment of the Board's recommendations may require withdrawing the current NPRM, the Board believes that in view of the dangerous situation at San Diego, FAA should choose to expedite this action by whatever means are at its disposal. Meanwhile, The Board considers FAA's response to recommendations A-79-106 and 107 as "open—Unacceptable Action."

Note.—Single copies of the Safety Board's accident reports are available without charge, as long as limited supplies last. Copies of recommendation letters issued by the Board, response letters and related correspondence are also available free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports issued by the Board may be purchased from the Naitonal Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

January 21, 1980.

[FR Doc. 80-2272 Filed 1-23-80; 8:45 am]

BILLING CODE 4910-58-M

OFFICE OF MANAGEMENT AND BUDGET

President's Commission for a National Agenda for the Eighties; Meetings

January 18, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given that the third

meeting of the President's Commission for a National Agenda for the Eighties is scheduled to be held from 9 a.m. to 6 p.m., February 5, 1980, in the Amphitheatre, 2nd Floor, East, Federal Home Loan Bank Building, 17th and G Streets, Northwest, Washington, D.C.

The purpose of the meetings is to complete formulation of an agenda identifying issues for further study by the Commission.

Because of limited space, those interested in attending are asked to call the Commission's office beforehand. Available seats will be assigned on a first-come basis.

The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Mr. Dick Wegman or Mr. Claude Barfield, President's Commission for a National Agenda for the Eighties, 744 Jackson Place NW., Washington, D.C. (202) 275–0616.

David R. Leuthold,

Budget and Management Officer.

[FR Doc. 80-2172 Filed 1-23-80; 8:45 am]

BILLING CODE 3110-01-M

Agency Forms Under Review

Background

January 21, 1980.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least 10 working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447–6201

Revisions

Food Safety and Quality Service
Standards and Weight Classes for shell eggs (7 CFR 2856)
Other (see SF–83)
Egg packers and dealers, 52,077 responses; 1,296 hours
Charles A. Ellett, 395–5080

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377–3627

New Forms

National Bureau of Standards
Message Format Standard Survey of Users
NBS–1137B
Single time
Commercial users of computer based message service, 12 responses; 21 hours
Richard Sheppard, 395–3211

National Bureau of Standards
ADP Floppy Disk System Parameter Standards and Market Survey
NBS–1136 sector 1 & 2
Single time
Floppy disks system vendors, 75 responses; 150 hours
Richard Sheppard, 395–3211

National Bureau of Standards
Message Format Standard Survey of Vendors
NBS–1137A
Single time
Computer based message service vendors, 18 responses; 32 hours
Richard Sheppard, 395–3211

Revisions

Bureau of the Census
Converted Flexible Materials for Packaging and Other Uses
MQ–26F
Quarterly
Paper, film, foil converters (manufacturers), 1,300 responses; 650 hours
Office of Federal Statistical Policy and Standard, 673–7974

Bureau of the Census
Construction Machinery (shipments)
MQ–35D
Quarterly
Construction machinery manufacturers, 776 responses; 518 hours
Office of Federal Statistical Policy and Standard, 673–7974

Bureau of the Census
Current Trade Report
B–300 & B–301

Monthly
Merchant wholesalers, 65,980 responses, 11,876 hours
Office of Federal Statistical Policy and Standard, 673–7974

Reinstatements

Bureau of the Census
Fibrous Glass (production and shipments)
MA–32J
Annually
Manufacturers of fibrous glass, 37 responses; 19 hours
Office of Federal Statistical Policy and Standard, 673–7974

Bureau of the Census
Survey of Builder Production Plans
SOC–900B
Single time
Builders of residential construction, 1,400 responses; 235 hours
Office of Federal Statistical Policy and Standard, 673–7974

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697–1195

New Forms

Department of the Air Force
Request for Supply Item Identification Information
On Occasion
Air Force Contractors, 35 responses; 175 hours
Richard Sheppard, 395–3211

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—633–9118

Extensions

Initial Report of First Sales of Natural Gas Under Section 105 of the Natural Gas Policy Act, Existing Intrastate Contracts
FERC–123
Single time
Natural gas producers and pipelines, 50,000 responses; 12,500 hours
Jefferson B. Hill, 395–5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—William Riley—245–6511

Revisions

Health Services Administration
Evaluation of Applicant (for residency training)
HSA–201
On occasion
Individuals in medical and dental professions, 1,000 responses; 175 hours
Richard Eisinger, 395–3214

Social Security Administration
Quality Review Questionnaires and Desk Review
SSA–2930, 2931, 2932, 4659, and L9292
Semi-annually
Beneficiaries receiving title II payments, 4,400 responses; 1,686 hours
Barbara F. Young, 395–6132

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755–5184

Extensions

Housing Production and Mortgage Credit
Application for Insurance—Supplementary Loan
FHA–3201–A
On occasion
Cooperative project mortgagors, 190 responses; 95 hours
Arnold Strasser, 395–5080

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755–5184

Reinstatements

Housing Management
Recertification of Family Income and Composition—Section 235(J)
FHA–3161
Other (see SF–83)
Homeowners receiving financial assistance, 2,750 responses; 1,375 hours
Arnold Strasser, 395–5080

Housing Production and Mortgage Credit
Supplement to Subscription Agreement for Cooperative Housing Applicants Under Sections 213 and 221(D)(3)
FHA 3232A
On occasion
Applicants for membership in a housing cooperative, 10,000 responses; 5,000 hours
Arnold Strasser, 395–5080

Housing Production and Mortgage Credit
Application—Project Mortgage Insurance/NH–ICF
FHA 2013 2013–NH–ICF 2013 Hosp
On occasion
Project Sponsors, 8,000 responses; 24,000 hours
Arnold Strasser, 395–5080

Housing Production and Mortgage Credit
Requisition for Advance of Flexible Subsidy Funds
HUD–9823A, 9823B, and 9824A
On occasion
Project owners/managers, 14,000 responses; 9,500 hours
Arnold Strasser, 395–5080

Office of the Secretary
Project Improvement Program, Budget Worksheet, and Review Report
9835, 9835A and B, 9824, 9834, and 9834A and B
Annually
Project owners/managers, 3,500 responses; 7,000 hours
Arnold Strasser, 309–5080

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. Larue—633–3526

New Forms

Law Enforcement Assistance Administration
Correctional Standards Accreditation Program Personnel
Survey
LEAA 3400
Single time
Adult correctional facility personnel, 550 responses; 385 hours
Lavern V. Collins, 395–3214

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523–6341

Reinstatements

Bureau of International Labor Affairs
Standard Questionnaire for Manufacturing Firms
ILAB–235 A/B
On occasion
Manfacturers, 1,000 responses; 10,000 hours
Arnold Strasser, 395–5080

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Floyd I. Sandlin—376–0436

Revisions

Bureau of Customs
Certificate of Origin
Customs 3229
On occasion
Importers/exporter and their representatives, 1,880 responses; 465 hours
Susan B. Geiger, 395–5867

UNITED STATES INTERNATIONAL TRADE COMMISSION

Agency Clearance Officer—Charles Ervin—523–0267

New Forms

Producers' Questionnaire for Inv—Corn Starch and Potato Starch [1]

[1] These reports will be acted on before normal 10-day period. The clearance of these questionnaires on an expedited basis is necessary in order for the International Trade Commission to complete its investigation concerning these products within the statutory time limits.

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Single time
Potato and corn processors, 24 responses; 432 hours
Marsha D. Traynham, 395–6140

Importers' Questionnaires-Certain Scales and Weighing Machinery from Japan (inv. 701–TA–7) [1]
Single time
Importers of certain scales and weighing machinery, 14 responses; 140 hours
Marsha D. Traynham, 395–6140

Importers' Questionnaire for Inv—Corn Starch and Potato Starch [1]
Single time
Importers of Corn and Potato Starch derivatives, 42 responses; 840 hours
Marsha D. Traynham, 395–6140

Importers' Questionnaire for Inv—Corn Starch and Potato Starch [1]
Single time
Purchasers of dextrines and either corn or potato products, 58 responses; 580 hours
Marsha D. Traynham, 395–6140

Importers' Questionnaire of Melamine Crystals [1]
Single time
Importers of melamine crystals, 20 reponses; 100 hours
Marsha D. Traynham, 395–6140

Producers' Questionnaire Certain Scales and Weighing Machinery (Inv. 701–TA–7) [1]
Single time
Producers of certain scales and weighing machinery, 36 responses; 360 hours
Marsha D. Traynham, 395–6140

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—389–2282

Revisions

Veterans Application for Compensation and Pension
21–526
On occasion
Veterans, 250,000 responses; 250,000 hours
Richard Eisinger, 395–3214

[FR Doc. 80–2286 Filed 1–23–80; 8:45 am]
BILLING CODE 3110–01–M

Privacy Act; New Systems

The purpose of this notice is to give members of the public an opportunity to comment on Federal agency proposals to establish or alter personal data systems subject to the Privacy Act of 1974.

The Act states that "each system shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effects on such proposal on the privacy and other personal or property rights of individuals . . ."

OMB policies implementing this provision require agencies to submit reports on proposed new or altered systems to Congress and OMB 60 days prior to the issuance of any data collection forms or instructions, 60 days before entering any personal information into the new or altered systems, or 60 days prior to the issuance of any requests for proposals for computer and communications systems or services to support such systems—whichever is earlier.

The following reports on new or altered systems were received by OMB between December 31, 1979 through January 11, 1980. Inquiries or comments on the proposed new systems or changes to existing systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. The 60 day advance notice period begins on the report date indicated.

Department of Commerce

System Name:

Property Accountability Files.

Report Date:

December 18, 1979.

Point-of-Contact:

Mr. John S. Boyd, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

Summary:

The National Bureau of Standards proposes to amend a system of records because it is automating its Library book inventory system. After manual file conversion, subsequent borrowing information will be collected, stored and retrieved by machine.

System Name:

Personnel, Payroll, Travel, and Attendance Records of the Regional Fishery Management Councils.

Report Date:

December 13, 1979.

Point-of-Contact:

Mr. Donald S. Budowsky, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

Summary:

The Department of Commerce proposes to establish a new system of records for the collection and maintenance of personal data in the administrative records of the Regional Fishery Management Councils. Records will include personnel, payroll, travel, and time and attendance records.

Federal Emergency Management Agency

System Name:

Student Application Records, National Fire Academy.

Point-of-Contact:

Mr. Bill Combs, Director, Office of Public Affairs, Federal Emergency Management Agency, 1725 I Street NW., Washington, D.C. 20472.

Report Date:

December 27, 1979.

Summary:

The Federal Emergency Management Agency proposes to establish a new system of records to contain forms and other information submitted by prospective students of the National Fire Academy. The agency will use the information to determine student eligibility. FEMA is asking for a waiver of the 60 day period for advance notice to the Office of Management and Budget and the Congress to enable them to operate the system at once. The agency asserts that delay in operating the system would delay the initial class of the Academy, denying the public trained fire prevention specialists.

Department of Housing and Urban Development

System Name:

Claims Collection Records System.

Report Date:

December 21, 1979.

Point-of-Contact:

Mr. Robert English, Departmental Privacy Act Officer, Department of Housing and Urban Development, Washington, D.C. 20410.

Summary:

The Department of Housing and Urban Development proposes to establish a new system of records to contain information about individuals who are delinquent in their debts to the Department. The purpose of the system is to accumulate necessary documentation to reflect the basis of each claim, the collection actions taken, and responses received from the debtor. The claim file will serve as the basis for establishing, recording, and reporting claims HUD has against others under the Federal Claims Collection Act of 1966. It will be the basis for claims collection activity by Claims Collection Officers throughout the Department.

David R. Leuthold,
Budget and Management.

[FR Doc. 80–2285 Filed 1–23–80; 8:45 am]
BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–16513; File No. SR–BSE–79–3]

Boston Stock Exchange, Inc.; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on December 26, 1979, the Boston Stock Exchange, Inc. ("BSE") filed with the Securities and Exchange Commission a proposed rule change as follows:

Text of the Proposed Rule Change

Chapter II of the Rules of the BSE would be amended by the addition of a New Section 32, as follows:

Section 32. Orders subject to section 11(a) of the Securities Exchange Act of 1934

(a) No member or member organization shall effect any transaction in any security on the Exchange for his or its account, the account of an associated person, or an account with respect to which the member, member organization or an associated person thereof exercises investment discretion. For the purposes of this Rule, the term "associated person" has the meaning set forth in Section 3(a)(21) of the Securities Exchange Act of 1934 (the Act).

(b) The provisions of paragraph (a) of this Rule shall not apply to transactions effected pursuant to the exemptions contained in Section 11(a)(1)(A) through (H) of the Act, or a rule adopted thereunder.

(c) No bid or offer made by a member on an order for the account of such member or member organization subject to Section 11(a)(1)(G) of the Act and Rule 11a1–1(T) thereunder shall be entitled to priority over, parity with or precedence based on size over any order which is for the account of a person who is not a member, member organization or an associated person thereof.

(d) Immediately before executing an order pursuant to Section 11(a)(1)(G) of the Act and Rule 11a1–1(T) thereunder, a member (other than the specialist in such security) shall clearly announce or otherwise indicate to the specialist and to other members then present in the trading Crowd in such security that he is representing an order to be executed pursuant to Section 11(a)(1)(G) of the Act and Rule 11a1–1(T) thereunder.

(e) Every order subject to the provisions of Section 11(a)(1)(G) of the Act and Rule 11a1–1(T) thereunder shall bear an identifying notation on the board slip that will enable the executing member to disclose to other members that the order is subject to those provisions.

BSE's Statement of the Purpose of the Proposed Rule Change

The purpose of this proposal is to conform the Rules of the Exchange to the requirements of Section 11a(1) of the Securities Exchange Act of 1934.

BSE's Statement of the Basis Under the Act of the Proposed Rule Change

The basis under the Act for the proposed change is Section 6(b)(5). The proposed rule change deals with effecting transactions on the Exchange Floor by members for their own accounts, the account of an associated person, or for an account over which a member organization or associated person thereof exercises investment discretion.

BSE's Statement on Comments Received From Members, Participants or Others on the Proposed Rule Change

No comments were solicited or received with respect to the proposed rule change.

BSE's Statement on Burden on Competiton

No burden on competition is preceived by adoption of the proposed rule change.

On or before February 28, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

January 17, 1980.

[FR Doc. 80–2182 Filed 1–23–80; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 16504; SR–CSE–79–6]

Cincinnati Stock Exchange; Order Approving Proposed Rule Change

January 16, 1980.

On December 11, 1979, the Cincinnati Stock Exchange ("CSE"), 205 Dixie Terminal Building, Cincinnati, Ohio 45202, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(a)(b)(1) ("Act") and Rule 19b–4 thereunder, copies of proposed rule change which provides criteria for delisting securities from the CSE where such delisting is desired by the issuer.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by issuance of a Commission Release (Securities Exchange Act Release No. 16411, December 7, 1979), 18 SEC Docket 1318 (December 26, 1979) and by publication in the **Federal Register** (44 FR 72684, December 14, 1979). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to securities exchanges and in particular, the requirement of Section 6 and the rules and regulations thereunder. In particular, the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act in that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to facilitate transactions in

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securities, and, in general, to protect investors and the public interest.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2180 Filed 1-23-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 16503; SR-MSE-79-17]

Midwest Stock Exchange, Inc.; Order Approving Proposed Rule Change

January 16, 1980.

On November 1, 1979, the Midwest Stock Exchange, Incorporated ("MSE"), 120 South LaSalle Street, Chicago, Illinois 60603, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) ("Act") and Rule 19b–4 thereunder, copies of a proposed rule change which adopts a set of rules that would conform its present rules on arbitration [1] to the Uniform Code of Arbitration ("Code") [2] which was drafted by the Securities Industry Conference on Arbitration ("SICA") [3] and which provides arbitration procedures for the settlement of disputes arising between customers and broker-dealers.

The SICA members consist of: the American Stock Exchange, Inc.; the Boston Stock Exchange, Incorporated; the Chicago Board Options Exchange, Incorporated; the Cincinnati Stock Exchange; the Midwest Stock Exchange, Incorporated; the Municipal Securities Rulemaking Board; the National Association of Securities Dealers, Inc.; the New York Stock Exchange, Inc.; the Pacific Stock Exchange, Incorporated; the Philadelphia Stock Exchange, Inc., as well as the Securities Industry Association and three public representatives. The proposal revokes the present MSE arbitration rules and adopts the entire Code as new MSE Rule 24. The proposal also incorporates the simplified arbitration procedures that were drafted by the SICA and adopted by the MSE on December 8, 1978, [4] regarding small claims not exceeding $2,500. [5] Additionally, new MSE Rule 23 provides that the Code shall apply to resolve disputes between MSE members.

A primary purpose of this proposal is to provide investors with a simple and inexpensive procedure for resolution of their controversies with broker-dealers who are members of the CSE. Further, the proposal anticipates that the Code will be adopted by other self-regulatory organizations thereby providing a uniform system of arbitration throughout the securities industry. [6]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by issuance of a Commission Release (Securities Exchange Act Release No. 16440 (December 19, 1979), 18 SEC Docket 13864 (January 2, 1980)), and by publication in the **Federal Register** (44 FR 26899 (December 28, 1979)). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to securities exchanges and in particular, the requirements of Section 6(b)(5) of the Act that the rules of an exchange be designed to promote just and equitable principles of trade. [7]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2179 Filed 1-23-80; 8:45 am]

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[1] For the MSE's current arbitration rules, *see* MSE Rules 23–24.

[2] The Code was published on December 28, 1979, as the *Second report of the Securities Industry Conference on Arbitration to the Securities and Exchange Commission.*

[3] The SICA was organized on April 5, 1977, pursuant to the Commission's stated position that there was a need to implement a nationwide investor dispute resolution system. *See* Securities Exchange Act Release No. 12528 (June 8, 1976), 9 SEC Docket 633 (June 23, 1976), 41 FR 23803 (June 11, 1976); Securities Exchange Act Release No. 13470 (April 28, 1977), 12 SEC Docket 186 (May 10, 1977), 42 FR 23692 (May 11, 1977).

[4] Securities Exchange Act Release No. 15390, 14 SEC Docket 985 (December 26, 1978).

[5] *See* new MSE Rule 24, Section 2.

[6] The Code has already been adopted by the New York Stock Exchange, Inc. *See* Securities Exchange Act Release No. 16390 (November 30, 1979), 18 SEC Docket 1197 (December 18, 1979), 44 FR 70616 (December 7, 1979). Several other self-regulatory organizations are now in the process of adopting it.

[7] The Commission emphasizes, however, that notwithstanding the proposed rule change, arbitration clauses contained in customers' agreements that purport to bind customers to arbitrate all future disputes raising claims under the Federal securities laws cannot be enforced against those customers who choose to obtain a judicial determined of such claims. *See* Securities Exchange Act Release No. 15864 (July 2, 1979), 17 SEC Docket 1167 (July 17, 1979), 44 FR 40462 (July 10, 1979).

[Release No. 16488; SR-MSE-79-22]

Midwest Stock Exchange, Inc.; Filing of Proposed Rule Change and Order Approving Proposed Rule Change

January 4, 1980.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) ("Act"), notice is hereby given that on December 28, 1979, the Midwest Stock Exchange, Inc. ("MSE") 120 South LaSalle Street, Chicago, IL 60603 filed with the Commission copies of a proposed rule change which would provide for a full-time compensated Chairman of the Board of Governors, appointed by the Board to serve at its pleasure, as Chief Executive Officer of the MSE. Currently, the Chairman is elected annually by a membership vote. The chairman would appoint the President, subject to Board approval, to serve as Chief Operating Officer at the pleasure of the Board. Presently, the President is appointed annually and acts as the Chief Executive Officer of the MSE. Neither the Chairman nor the President may be a member of the MSE, or affiliated in any way with a member organization, during his incumbency.

The following sections of the MSE Constitution would be amended to accomplish these changes, and other modifications necessary to ensure internal consistency: Article II, section 6, Article III, sections 1, 2 and 6, Article IV, section 2, 4, 5, 8, 9, 18, 21 and 22, Article V, sections 1 and 4, Article VI, sections 1, 2, 3, 4 and 5, Article VI, section 1.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–MSE–79–25.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

The Commission finds that the proposed rule change is consistent with

the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6(b)(1) of the Act relating to the organization of the Exchange and its capacity to carry out the purposes of the Act, and Section 6(b)(3) of the Act relating to assuring fair representation of exchange members in the selection of directors and the administration of its affairs, and the rules and regulations thereunder. The proposed rule change is intended to provide for continuity of executive leadership at the MSE and was necessitated by the demands of conducting the business of the MSE in a manner conducive to making a smooth transition to the national market system.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in order enable the MSE to select a new Chairman under the proposed amendments at its Board Meeting on January 18, 1980.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2181 Filed 1-23-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16505; File No. SR-PHLX 79-10]

Philadelphia Stock Exchange, Inc.; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 June 4, 1975), notice is hereby given that on November 14, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change, as follows:

Exchange's Statement of Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX"), pursuant to Rule 19b–4 of the Securities Exchange Act of 1934 ("Act"), proposes a rule change concerning the listing, or admission to dealings and delisting or removal from dealings of securities it trades.

Basis and Purpose Under the Act for Proposed Rule Change

The purpose of the proposed rule change is to file, pursuant to Rule 19b–4, the standards PHLX uses to list or admit to dealings and delist or remove from dealings the securities it trades.

The basis for the proposed rule change is found in Section 6(b)(5) of the Act which provides, in pertinent part, that the rules of the Exchange be designed to facilitate transactions in securities and to protect investors and the public interest.

Comments were neither solicited nor received.

The PHLX has determined that the proposed rule change will not impose any burden on competition.

Within 35 days of the date of publication of this notice in the **Federal Register**, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 14, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

January 16, 1980.

Exhibit A—File No. SR–PHLX 79–10

(Brackets indicate words to be deleted and italics indicate words to be added.)

Rule 801 (Old Rule 801 is renumbered 802)

Only such securities, rights or warrants pertaining to securities and securities on a "when issued" or "when distributed" basis as shall have been approved by the Board of Governors for listing or admission to unlisted trading privileges shall be dealt in on the Exchange.

Rule 802

[The Committee may list or admit to dealings on an "issued", "when issued" or "when distributed" basis

(a) direct obligations of or obligations guaranteed as to principal or interest by the United States, or any State or political subdivision thereof;

(b) direct obligations of any agency or instrumentality of the United States, or of any State or political subdivision thereof;

(c) securities of an issuer having securities already listed on the Exchange;

(d) certificates of deposit, rights to subscribe, and other securities issued in exchange for or growing out of securities already listed or admitted to dealings on the Exchange;

(e) securities listed and registered on another national securities exchange.]

The Committee shall receive and consider all applications for the listing of securities and the admitting of securities to dealings.

Rule 803

[The Committee shall submit to the Board of Governors with its recommendations any application acceptable to the Committee for the listing or admission to dealings of a security which the Committee is not authorized by these Rules to list or to admit to dealings.]

All applications for admitting securities to the list shall be in the form prescribed by the Board. In order for securities of any class to be considered for listing, the issuer shall have:

(a)(1) In the case of common stock, at least 250,000 shares issued and outstanding and a minimum market value of issued and outstanding shares of at least $500,000, exclusive of concentrated holdings and those of officers and directors;

(2) At least 1,000 holders of record;

(3) Demonstrated net earnings after taxes for two of the last three years immediately preceding the listing application;

(4) Total net tangible assets of $1,000,000.

(b)(1) In the case of warrants, at least 250,000 outstanding, exclusive of

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concentrated holdings and those of officers and directors;

(2) At least 500 holders of a class of equity securities which would otherwise be eligible for listing.

(c)(1) In the case of preferred stock, at least 200,000 shares outstanding, exclusive of concentrated holdings and those of officers and directors;

(2) At least 250 holders of record;

(3) At least 500 holders of a class of equity securities which would otherwise be eligible for listing.

(d)(1) In the case of bonds, a principal amount outstanding of at least $1,000,000;

(2) An aggregate market value of at least $1,000,000;

(3) At least 250 holders of record and, in the case of convertible debt, a larger distribution may be required.

The foregoing standards are guidelines and are not mandatory in each case. They will be considered by the Exchange in judging the qualifications of each applicant.

Rule 804. [The Committee may remove from the List or suspend from dealings] (Sections (a) through (g) of old Rule 804 are renumbered as Sections (b)(1) through (7) of Rule 805)

(a) The Board may suspend dealings in any security admitted to the list or institute proceedings to remove a security from the list.

(b) An issuer proposing to withdraw a security from listing on the Exchange shall submit the following:

A certified copy of a resolution adopted by the Board of Directors of the issuer authorizing withdrawal from listing and registration and a statement setting forth in detail the reasons for the proposed withdrawal and the facts in support thereof.

The issuer may be required to submit the proposed withdrawal to the security holders for their vote at a meeting for which proxies are solicited provided the stock is not also listed on another Exchange having similar requirements.

Rule 805

[In the absence of special circumstances, a security considered by the Exchange to be eligible for continued listing will not be removed from the list upon request or application of the issuer, unless the proposed withdrawal from listing is approved by the security holders at a meeting at which a substantial percentage of the outstanding amount of the particular security is represented, without objection to the proposed withdrawal from a substantial number of individual holders of the particular security; provided, however, that the Exchange will not oppose delisting action by the issuer of a security listed on the Exchange if

(1) The Exchange shall have denied the listing of an additional amount of such security within the preceding 30 days, and

(2) following such action by the Exchange, delisting has been approved by a majority of the company's directors then in office and the company has notified stockholders, in form satisfactory to the Exchange, of the proposed delisting prior to the filing of the delisting application and at least 30 days in advance of the date delisting is effected.]

The Exchange does not rate or evaluate any security dealt in on the Exchange. In making a determination concerning listing and delisting it acts upon information furnished it by the issuer and it does not verify this information from independent sources or gather independent information about issuers whose securities are dealt in on the Exchange. The securities of a company will be subject to suspension and/or withdrawal from listing and registration as a listed issue if any of the following conditions are found to exist:

(b)(1) matured or redeemed securities, including securites which have come to evidence merely the right to receive cash or other securities;

(2) securities in substitution for which other securities are being listed;

(3) securities of which the outstanding amount has, in the opinion of the Committee, been so reduced as to make further dealings therein on the Exchange inadvisable;

(4) securities as to which notice deemed by [said] *the* Committee to be authoritative has been received that they are without value;

(5) securities for which facilities for transfer or registration are no longer available;

(6) securities as to which registration or exemption pursuant to the Securities Exchange Act of 1934 is no longer effective;

(7) securities the distribution of which [in the opinion of the Committee] is so inadequate as to make further dealings therein on the Exchange inadvisable.

(c)(1) In the case of common stock, publicly held shares, exclusive of concentrated holdings and those of officers and directors, are less than 100,000 shares held by less than 300 shareholders of record;

(2) Aggregate market value of publicly held shares is less than $250,000 for a period of a year;

(3) Total assets are less than $1,000,000.

(d)(1) In the case of preferred stock, publicly held shares, exclusive of concentrated holdings and those of officers and directors, are less than 50,000 shares held by less than 100 shareholders of record with an aggregate market value of less than $500,000;

(2) Issuer does not have a class of equity securities held by 500 or more persons;

(3) Issuer does not have total assets of at least $1,000,000.

(e)(1) In the case of bonds, publicly held aggregate prinicpal amount outstanding is less than $500,000, having a market value of less than $250,000;

(2) Issuer does not have a class of equity securities held by 500 or more persons;

(3) Issuer does not have total assets of at least $1,000,000.

The foregoing standards are guidelines and are not mandatory in each case. The Exchange may determine that the suspension or withdrawal of a security may be deferred for good cause.

Rule 806. *Pursuant to Rules 802 through 805, the Board may delegate to the Committee, in respect to securities, the authority to list, admit to dealings, suspend from dealings and remove from the list*

The Committee is authorized to certify to the Securities and Exchange Commission the approval of the Exchange of the listing and registration of securities and the admission of securities to dealings, and to file applications on behalf of the Exchange for the removal of securities from listing and registration and from dealings.

[FR Doc. 80-2183 Filed 1-23-80; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-5729]

Vulcan, Inc.; Common Stock, Par Value $1.50; Application To Withdraw From Listing and Registration

January 16, 1980.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex") and the Philadelphia Stock Exchange, Inc. ("Phlx").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. Vulcan, Inc. (the "Company") common stock became listed and registered on Amex on October 5, 1967, and as of December 29, 1969, became listed and registered on Phlx.

2. As of December 7, 1978, the Company's common stock also became listed and registered on the New York Stock Exchange, Inc. ("NYSE"). Simultaneously, Amex and Phlx suspended trading in the issue pursuant to rule 12d2-1 of the Act.

3. The Company determined that the direct and indirect costs and the possibility of market fragmentation do not justify maintaining listings of the shares on all three exchanges.

This application relates solely to withdrawal of the common stock from listing and registration on both the Amex and Phlx, and shall have no effect upon the continued listing of such stock on the NYSE. Neither Amex or Phlx has posed any objection in this matter.

Any interested person may, on or before January 30, 1980, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2179 Filed 1-23-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 16502; SR-AMEX-79-15]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

January 16, 1980.

In the matter of American Stock Exchange, Inc., 86 Trinity Place, New York, N.Y. 10006.

On November 7, 1979, the American Stock Exchange ("Amex") filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) ("Act") and Rule 19b-4 thereunder, copies of a proposed rule change which adopts a set of rules that would conform its present rules on arbitration[1] to the Uniform Code of Arbitration ("Code")[2] which was drafted by the Securities Industry Conference on Arbitration ("SICA")[3] and which provides arbitration procedures for the settlement of disputes arising between customers and broker-dealers.

The proposal revokes the present Amex arbitration rules and adopts the entire Code as new Amex Rules 601-619. The proposal also incorporates the simplified arbitration procedures that were drafted by the SICA and adopted by the Amex on May 4, 1978,[4] regarding small claims not exceeding $2500.[5]

A primary purpose of this proposal is to provide investors with a simple and inexpensive procedure for resolution of their controversies with broker-dealers who are members of the Amex. Further, the proposal anticipates that the Code will be adopted by other self-regulatory organizations thereby providing a uniform system of arbitration throughout the securities industry.[6]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by issuance of a Commission Release (Securities Exchange Act Release No. 16442 (December 19, 1979), 18 SEC Docket 1386 (January 2, 1980)), and by publication in the **Federal Register** (44 FR 76896 (December 28, 1979)). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to securities exchanges and, in particular, the requirements of Section 6(b)(5) of the Act that the rules of an exchange be designed to promote just and equitable principles of trade.[7]

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2334 Filed 1-23-80; 8:45 am]

BILLING CODE 8010-01-M

[1] For the Amex's current arbitration rules, *see* Amex Rules 601-610.

[2] The Code was published on December 28, 1979, as the *Second Report of the Securities Industry Conference on Arbitration to the Securities and Exchange Commission.*

[3] The SICA was organized on April 5, 1977, pursuant to the Commission's stated position that there was a need to implement a nationwide investor dispute resolution system. *See* Securities Exchange Act Release No. 12528 (June 9, 1976), 9 SEC Docket 833 (June 23, 1976), 41 FR 23803 (June 11, 1976); Securities Exchange Act Release No. 13470 (April 26, 1977), 12 SEC Docket 186 (May 10, 1977), 42 FR 23882 (May 11, 1977).

The SICA members consist of: the American Stock Exchange, Inc.; the Boston Stock Exchange, Incorporated; the Chicago Board Options Exchange, Incorporated; the Cincinnati Stock Exchange; the Midwest Stock Exchange, Incorporated; the Municipal Securities Rulemaking Board; the National Association of Securities Dealers, Inc.; the New York Stock Exchange, Inc.; the Pacific Stock Exchange, Incorporated; the Philadelphia Stock Exchange, Inc., as well as the Securities Industry Association and three public representatives.

[4] Securities Exchange Act Release No. 14737, 14 SEC Docket 985 (May 10, 1978), 43 FR 20585 (May 12, 1978).

[5] *See* new Amex Rule 619.

[6] The Code has already been adopted by the New York Stock Exchange, Inc. *See* Securities Exchange Act Release No. 16390 (November 30, 1979), 16 SEC Docket 1197 (December 18, 1979), 44 FR 70616 (December 7, 1979). Several other self-regulatory organizations are now in the process of adopting it.

[7] The Commission emphasizes, however, that notwithstanding the proposed rule change, arbitration clauses contained in customers' agreements that purport to bind customers to arbitrate all future disputes raising claims under the federal securities laws cannot be enforced against those customers who choose to obtain a judicial determination of such claims. *See* Securities Exchange Act Release No. 15984 (July 2, 1979), 17 SEC Docket 1167 (July 17, 1979), 44 FR 40462 (July 10, 1979).

[Release No. 21397; 70-5838]

Arkansas-Missouri Power Co.; Notice of Post-Effective Amendment Regarding Issuance and Sale of Short-Term Bank Notes

January 17, 1980.

Notice is hereby given that Arkansas-Missouri Power Company ("Arkansas-Missouri"), 405 West Park Street, Blytheville, Arkansas 72315, a wholly-owned subsidiary of Middle South Utilities, Inc., a registered holding company, has filed with this Commission a further post-effective amendment to the declaration in this proceeding pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to the amended declaration, which is summarized below, for a complete statement of the proposed transactions.

By orders in this proceeding dated May 4, 1976, April 19, 1977, April 12, 1978, and February 23, 1979 (HCAR Nos. 19511, 19993, 20501, and 20929), Arkansas-Missouri was authorized to issue and sell, from time to time until February 23, 1980, up to $5,500,000 of unsecured, short-term promissory notes to Worthen Bank & Trust Company, Little Rock, Arkansas, for the account of a group of participating banks. As of January 7, 1980, $5,000,000 of such notes were outstanding.

It is now proposed that Arkansas-Missouri issue and sell to Worthen Bank & Trust Company, for the account of a

group of participating banks, from time to time during the period commencing on the effective date of the supplemental order herein and continuing for one year thereafter, up to $5,500,000 of unsecured, short-term promissory notes. The notes will be payable in not more than 270 days from the date of issuance and may be renewed from time to time, but will mature not later than one year from said effective date. As the notes mature, they will be renewed or repaid out of funds then available to the company. The notes will, at the option of the company, be prepayable in whole or in part, at any time without premium or penalty. The names of the participating banks and the estimated maximum amounts of their respective participations in the new borrowings to be made by Arkansas-Missouri are to be supplied by amendment.

It is stated that the notes will bear interest, payable quarterly and at maturity, on the unpaid principal amount thereof at the prime commercial loan rate of Chemical Bank, New York, New York, in effect from time to time on borrowings having a 90-day maturity by responsible and substantial corporate borrowers; provided, however, that such rate will not exceed the maximum rate of interest chargeable to corporate borrowers under applicable laws. On the basis of Chemical Bank's prime commercial loan rate of 15¼ percent per annum in effect on January 7, 1980, Arkansas-Missouri's cost of money in respect to the proposed borrowings would be 15¼ percent per annum. Arkansas-Missouri will not be required to maintain any compensating balances with, or pay any commitment fee to, any of the participating banks in connection with the proposed borrowings.

Arkansas-Missouri will apply the net proceeds received from the new borrowings to the payment at or prior to maturity of the then outstanding bank borrowings referred to above (estimated at that time to aggregate $5,000,000), to the company's construction program, and to other corporate purpose. It is stated that the proposed new borrowings will be in addition to other bank borrowings by the company from the First National Bank in Little Rock, Arkansas, which will total not in excess of $10,500,000 outstanding at any one time (File Nos. 70–6255 and 70–6388). Arkansas-Missouri presently intends to repay the proposed notes with the proceeds of permanent financing or with other available funds.

It is represented that no special or separable expenses are anticipated in connection with the proposed notes and that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than February 15, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the post-effective amendment which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2335 Filed 1-23-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21398; 70–6255]

Arkansas-Missouri Power Co.; Notice of Post-Effective Amendment Regarding Issuance and Sale of Short-Term Bank Notes

January 17, 1980.

Notice is hereby given that Arkansas-Missouri Power Company ("Arkansas-Missouri"), 405 West Park Street, Blytheville, Arkansas 72315, a wholly-owned subsidiary of Middle South Utilities, Inc., a registered holding company, has filed with this Commission a post-effective amendment to the declaration in this proceeding pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to the amended declaration, which is summarized below, for a complete statement of the proposed transactions.

By order in this proceeding dated February 23, 1979 (HCAR No. 20930), Arkansas-Missouri was authorized to issue and sell from time to time until February 23, 1980, up to $5,500,000 of unsecured, short-term promissory notes to the First National Bank in Little Rock, Arkansas, for the account of a group of participating banks. As of January 7, 1980, $4,000,000 of such notes were outstanding.

It is now proposed that Arkansas-Missouri issue and sell to the First National Bank in Little Rock, for the account of a group of participating banks, from time to time during the period commencing on the effective date of the supplemental order herein and continuing for one year thereafter, up to $5,500,000 of unsecured, short-term promissory notes. The notes will be payable in not more than 270 days from the date of issuance and may be renewed from time to time, but will mature not later than one year from said effective date. As the notes mature, they will be renewed or repaid out of funds then available to the company. The notes will at the option of the company, be prepayable in whole or in part, at any time without premium or penalty. The names of the participating banks and the estimated maximum amounts of their respective participations in the new borrowings to be made by Arkansas-Missouri are to be supplied by amendment.

It is stated that the notes will bear interest, payable quarterly and at maturity, on the unpaid principal amount thereof at the prime commercial loan rate of Chemical Bank, New York, New York, in effect from time to time on borrowings having a 90-day maturity by responsible and substantial corporate borrowers; provided, however, that such rate will not exceed the maximum rate of interest chargeable to corporate borrowers under applicable laws. On the basis of Chemical Bank's prime commercial loan rate of 15¼ percent per annum in effect on January 7, 1980, Arkansas-Missouri's cost of money in respect to the proposed borrowings would be 15¼ percent per annum. Arkansas-Missouri will not be required to maintain any compensating balances with, or pay any commitment fee to, any of the participating banks in connection with the proposed borrowings.

Arkansas-Missouri will apply the net proceeds received from the new borrowings to the payment at or prior to maturity of the then outstanding bank borrowings referred to above (estimated at that time to aggregate $4,000,000), to the company's construction program, and to other corporate purpose. It is stated that the proposed new borrowings will be in addition to other bank borrowings by the company from the First National Bank in Little Rock, Arkansas, which will total not in excess of $5,000,000 outstanding at any one time (File No. 70–6388) and from Worthen Bank and Trust Company, Little Rock, Arkansas, which will total not in excess of $5,500,000 outstanding at any one time (File No. 70–5838). Arkansas-Missouri presently intends to repay the proposed notes with the proceeds of permanent financing or with other available funds.

It is represented that no special or separable expenses are anticipated in connection with the proposed notes and that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than February 15, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the post-effective amendment which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2330 Filed 1-23-80; 8:45 am]

BILLING CODE 8010-01-M

Dynamics Research Corp.; Notice of Application To Withdraw From Listing and Registration

January 16, 1980.

In the matter of Dynamics Research Corporation Common Stock, Par Value $.10, File No. 1–7348; Securities Exchange Act of 1934 Section 12(d).

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Boston Stock Exchange, Inc. ("BSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. Dynamics Research Corp. (the "Company") common stock became listed and registered on the Boston Stock Exchange in June 1967.

2. Company management has determined that its shareholders' interest will be adequately served if trading in its common stock reverts to the over-the-counter market because of the limited volume of trading on its common stock on the BSE and the expenses of maintaining the common stock listing thereon.

Any interested person may, on or before January 30, 1980, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2332 Filed 1-23-80; 8:45 am]

BILLING CODE 8010-01-M

Hi-Shear Industries, Inc.; Notice of Application To Withdraw From Listing and Registration

January 16, 1980.

In the matter of Hi-Shear Industries, Inc. Common Stock, Par Value $.10; File No. 1–7633; Securities Exchange Act of 1934 section 12(d).

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. Hi-Shear Industries, Inc. (the "Company") common stock became listed and registered on the Amex on March 12, 1977, and, as of December 4, 1979, also became listed and registered on the New York Stock Exchange, Inc. ("NYSE"). On the latter date, Amex suspended trading in the issue pursuant to Rule 12d2–1 of the Act.

2. The Company determined that the direct and indirect costs and the possibility of market fragmentation do not justify maintaining listings of the shares on both the Amex and NYSE.

This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before January 30, 1980, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2331 Filed 1-23-80; 8:45 am]

BILLING CODE 8010-01-M

Napco Industries, Inc.; Notice of Application To Withdraw From Listing and

January 16, 1980.

In the matter of Napco Industries, Inc. Common Stock, Par Value $1.00; File No. 1–1281; Securities Exchange Act of 1934 Section 12(d).

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The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. Napco Industries, Inc. (the "Company") common stock became listed and registered on Amex on January 13, 1958, and, as of December 10, 1979, also became listed and registered on the New York Stock Exchange, Inc. ("NYSE"). On the latter date, Amex suspended trading in the issue pursuant to Rule 12d2–1 of the Act.

2. The Company determined that the direct and indirect costs and the possibility of market fragmentation do not justify maintaining listings of the shares on both the Amex and NYSE.

This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before January 30, 1980, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2330 Filed 1-23-80; 8:45 am]

BILLING CODE 8010-01-M

[Release 34-16508; File No. SR-NASD-79-14]

National Association of Securities Dealers, Inc.; Proposed Rule Change by Self-Regulatory Organization

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975) notice is hereby given on December 4, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

Text of Proposed Rule Change

The following is the full text of a proposed amendment to the Uniform Practice Code of the National Association of Securities Dealers, Inc. (Association). This amendment constitutes a completely new section of the Uniform Practice Code. New languager is underlined:

Section 64: Liability for Uncompared Transactions

(a) All Association members which are participants, as defined in section 3(a)(24) of the Securities Exshagne Act of 1934, or clear through a participant in a registered clearing agency with a continuous net settlement capability shall be subject to this section.

(b) A participant which is an Association member or any participant clearing for a firm which is an Association member shall have no further liability for an over-the-counter transaction which it submits for comparison to a registered clearing agency with a continuous net settlement capability either for the Association member participant's own account or for the account of an Association member, if the transaction does not compare within fifteen (15) business days after the trade date. "No further liability" shall mean that, after fifteen (15) business days after the trade date of the transaction, the submitting participant shall have no obligation to make delivery if the transaction was a sale, or no obligation to receive and pay for delivery, if the transaction was a buy. Notwithstanding this, the submitting participant and the offsetting participant shall not be prevented from continuing, after fifteen (15) business days after the trade date, to take any available steps to compare the transaction.

(c) During the period between the trade date of the transaction and fifteen (15) business days thereafter, the submitting participant shall in good faith utilize all the rules and procedures of the respective registered clearing agencies to compare the transaction and shall additionally follow the usual industry practices to do so.

(d) The submitting participant during and after the period of the trade date and the fifteen (15) business days thereafter shall keep and preserve adequate records pursuant to applicable Securities and Exchange Commission rules in order to identify the transaction and its disposition.

Purpose of Proposed Rule Change

The proposed amendment to the Uniform Practice Code will accomplish the following:

The OTC comparison process at clearing corporations is the activity whereby brokers on both sides of a trade submit their OTC member to member trade information to the clearing agency to ascertain whether the trade information matches. If the purchasing and selling participants submit matching trade information there is a comparison of the trade. If one side fails to submit trade information or inaccurate trade information is submitted, an uncompared trade results. In addition, clearing corporations have procedures describing the steps to be taken to adjust the uncompared trade status to compared trade status. However, these procedures, as well as street practice, fail to provide an ultimate resolution for uncompared trades after the usual steps have been exhausted. Usually, the reason one side fails to submit to comparison is benign; however, occasionally the inaction is based on the desire of one party to unfairly position themselves to their financial advantage during the period of uncertainty (e.g., if the quoted price declines, they fail to bring the trade in for comparison). The proposed section fills the gap in existing practices and procedures by removing the confusion and uncertainty that currently exists in these instances and reducing any resultant opportunity to take unfair advantage.

Proposed section 64 is designed to establish an acceptable resolution for uncompared or problem trades after a reasonable amount of time, i.e., fifteen (15) business days, after the trade date. Under the proposed section, members are given protection against future financial liability after the 15 business day period, but are also permitted after this period to use any available steps to compare the trade. Members may also use any available grievance procedure, including arbitration, to resolve any dispute which may arise in connection with the proposed rule.

Basis Under the Act for Proposed Rule Change

Section 15A(b)(6) of the Act provides in pertinent part that the rules of the Association be designed "to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. . . ." section 17A(a)(1) of the Act states the Congressional findings that the "prompt and accurate clearance and settlement of securities transactions . . . are necessary for the protection of investors and persons facilitating transactions by and acting on behalf of investors" and that "[i]nefficient procedures for clearance and settlement impose unnecessary costs on investors and persons facilitating transactions by and acting on behalf of investors." The Commission is directed by section 17A(a)(2) of the Act "to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities" and to carry out the aforementioned Congressional findings. The proposed amendment will facilitate the statutory objectives stated hereinabove by eliminating the uncertainty which relates to an uncompared trade after a reasonable period of time has elapsed, thereby facilitating the work of registered clearing agencies and encouraging the prompt comparison of all trades. Specifically, it will promote just and equitable principles of trade, coordinate the prompt, accurate and efficient clearing and settling of securities transactions and facilitate securities transactions.

Comments Received From Members, Participants or Others of the Proposed Rule Change

Because Article XIV, Section 1 of the Association's By-Laws authorizes the Board of Governors alone to prescribe the rule amendments proposed herein, comments of the membership on the proposed amendment were not solicited nor received.

Burden on Competition

The proposed rules will provide greater certainty in the securities processing system and otherwise will meet the statutory goals of promoting just and equitable principles of trade, coordination in the prompt, accurate and efficient clearing and settling of securities transactions and facilitating securities transactions in general. The Association does not perceive any burden on competition resulting from the proposed rule change.

On or before February 28, 1980, or within such longer period (i) as the Commission may designate up to ninety (90) days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 14, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

January 16, 1980.

[FR Doc. 80-2329 Filed 1-23-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16514; File No. SR-NSCC-79-18]

National Securities Clearing Corp.; Proposed Rule Changes by Self-Regulatory Organization

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 14 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on January 3, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change, which shall only be effective for one year from the date of publication in the **Federal Register**, consists of the procedures attached hereto as Exhibit 1, which procedures describe how National Securities Clearing Corporation (NSCC) will now effect borrowing of securities to meet system needs.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

NSCC's general corporate powers permit NSCC to borrow securities. NSCC presently borrows securities to meet certain needs of its system to clear and settle securities transactions. Situations arising under NSCC's Rules where such borrowing occurs include the Order Out Service (Section VI of the SCC Division Procedures) and CNS buy-ins (Section 7 of Rule 11 of the SCC Division).

NSCC is automating the procedures attendant to the actual mechanics of borrowing securities under these circumstances in the manner detailed in the attached procedures.

The proposed rule change relates to NSCC's capacity to facilities the prompt and accurate clearance and settlement of securities transactions for which it is responsible by providing specific procedures to be followed in connection with NSCC borrowing securities, under existing authority, to meet the needs of the NSCC system for clearance and settlement. All participants were advised by Important Notice dated November 23, 1979 of the proposed procedures.

No comments on the proposed rule change have been received.

The Corporation does not perceive that the proposed rule change would constitute a burden on competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions

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should refer to the file number referenced in the caption above and should be submitted on or before February 14, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

January 18, 1980.

Exhibit 1.—NSCC Automated Stock Borrow Procedures

In the course of daily operations, NSCC's CNS System often has a priority need for stock (or bonds) that exceeds the shares made available via participant deliveries to clearing. This need can arise from several sources, including the satisfaction of participants priority requests for allocation, buy-ins submitted by participants, and the need to deliver against omnibus positions with other clearing corporations created as a result of interface transactions.

In order to improve the efficiency of the clearing system in dealing with these situations, NSCC's Board has authorized the implementation of limited automated stock borrow procedures (the Stock Borrow Program) to satisfy priority needs for stock that are not filled via normal deliveries from participants.

Firms wishing to participate in the program will notify NSCC each day of the securities they have on deposit at DTC that are available to be borrowed by the Clearing Corporation. After NSCC's nighttime processing of regular deliveries, any priority needs remaining unsatisfied will be borrowed from participants. Any shares borrowed will be entered into a special CNS sub-account and the participant will be advanced the full market value of the shares borrowed until they are returned. Borrowed stock will be returned through normal long allocation against the special sub-account as shares become available.

More specifically, the processing steps will be as follows:

1. Each day, firms wishing to participate in the program will inform NSCC of the number of shares of each security in their general unpledged account at DTC that are available to be borrowed. This information, in the form of blotters, cards or magnetic tape, must be submitted to the Clearing Corporation by the time set by the Clearing Corporation. To facilitate the borrowing of physical securities for the settlement of interface balance orders, NSCC will also accept availability information on non-DTC eligible securities that are in the participant's possession. Data to be submitted to indicate availability will be broker number, CUSIP number, available shares, and a location code to indicate whether DTC or physical. Availability information submitted earlier in the day can be modified up until the cut-off time set by the Clearing Corporation by completing and returning a special change form.

2. After regular nighttime allocation processing, NSCC will attempt to borrow any priority needs for stock that still remain unsatisfied. Borrowing will be done versus the participants that have indicated an availability in each security. The full amount indicated as available by a participant will be untilized prior to borrowing anything from the next selected participant in sequence.

3. When stock is borrowed, NSCC will create miscellaneous activity updates to the participant's CNS account to record the borrow. The number of shares borrowed will be journaled short against the participant's 9000 sub-account and long versus the participant's 6000 sub-account. A CNS short cover from the participant's 9000 sub-account will automatically occur against the shares on deposit in its DTC account, thus advancing the participant the market value of the stock. The long position in the participant's 6000 sub-account will reflect the shares borrowed by NSCC, and will be marked to the market daily.

4. Shares borrowed will be paid back, and the participant charged back at current market prices, through normal allocation to the participant's 6000 sub-account. Borrows will be returned when regular short deliveries for a day exceed all priority needs and all regular fails of the same age or older.

5. In addition to the regular return of borrowed stock, the Stock Borrow Program will provide a priority close-out procedure where a participant requires the return of securities borrowed by NSCC in order to meet the "customer securities segregation" requirements of SEC Rule 15c3–3. In such instances, members will issue manual recall instructions to NSCC and put themselves on high allocation priority. If the borrow has not been returned by the fifth day after the participant submits the recall instructions, the broker may initiate buy-in procedures by submitting a Notice of Buy-In.

6. The only fees to participants for this program will be normal short cover (when a borrow is made) and long allocation (when a borrow is returned) charges.

[FR Doc. 80-2336 Filed 1-23-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16507; File No. SR-NYSE-79-49]

New York Stock Exchange, Inc.; Proposed Rule Change by Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on December 5, 1979, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission a proposed rule change as follows:

NYSE's Statement of the Terms of Substance of the Proposed Rule Change

Under the proposed changes to Article XI, Sections 3, 5(a) and 5(b) of the NYSE Constitution, and to NYSE Rules 313, 314.12 and 475, the proceeds of the transfer of a membership of an equity member (one of the 1366 seatholders), who is associated as a member with a member organization, will no longer be subjected by Exchange Rule to the claims of all creditors of such member organization, but will continue to be available for sums owed the Exchange and debts arising from Floor contracts.

NYSE's Statement of the Purpose of the Proposed Rule Change

Pursuant to the present so-called "use and proceeds" requirement, each equity member who is associated with a member organization as a member is required to agree in writing, in a document filed with the Exchange, that he contributes the use of his membership to the organization and that, insofar as may be necessary for the protection of creditors of the organization and subject to the Constitution and Rules of the Exchange, the proceeds of the transfer of his membership shall be an asset of the member organization. The proposed rule change amends the requirement, to remove the claims of creditors of member organizations from its scope, thereby limiting its applicability to sums owed the Exchange and debts arising from Floor contracts of the member and any member organization with which such member is associated.

The Exchange believes that the amendment is warranted by the changing nature of the Exchange community and securities industry in general for the following reasons:

(1) Annual and leased memberships are not subject to the "use and proceeds" requirement because they are not transferrable and generate no proceeds to be placed at the risk of a member organization's business. Instead, they are currently required to satisfy a $25,000 financial responsibility requirement which is available exclusively for sums due the Exchange or arising from Floor contracts. Third party creditors are not beneficiaries of this financial responsibility requirement. The resulting unequal treatment of different categories of membership would be alleviated by the proposed amendments.

(2) The Exchange does not feel it should be placed in the position of determining the validity of general creditor claims and establishing priorities for payment. It believes such claims are more properly disposed of by the courts.

(3) The creation of the Securities Investor Protection Corporation (SIPC) as well as industry wide standards such as the SEC Uniform Net Capital Rule, provide customers with effective and uniform protection.

(4) The exposure of a membership to the full risk of a member organization's business, i.e. to matters which extend beyond its direct relationship with the Exchange or which directly arise from Floor contracts, is more properly a business decision to be determined by negotiation between a member and his member organization.

Such determination should more appropriately be made on a voluntary rather than a compulsory basis.

In addition to the above substantive changes to the "use and proceeds" requirements, the proposed rule change would make certain minor technical changes to Article XI of the NYSE Constitution and to NYSE Rule 313.

NYSE's Statement of the Basis Under the Act for the Proposed Rule Change

The bases under the Act for the proposed Constitutional and Rule changes are Sections 6(b)(2) and 6(b)(5). As indicated above, inequities presently exist in the application of the "use and proceeds" requirement among different categories of Exchange membership. This is likely to cause reluctance on the part of certain equity members to associate themselves or continue association with a member organization. The proposed change would alleviate these inequities and remove impediments to members' association and continuation of association with member organizations.

The present inequities in the application of the "use and proceeds" requirement between equity and annual/lessee members may be inconsistent with Section 6(b)(5) in that unfair discrimination among the different categories of Exchange members is likely. The proposed change would remove this impediment. Determining the validity of general creditor claims and establishing priorities for payment is a matter which should more properly be governed by operation of law rather than Exchange Rule. Such determinations are not related to the purposes of the Act or the administration of the Exchange. In addition, whether or not a membership is placed fully at the risk of a member organization's business is a business decision properly to be determined by negotiation between a member and his organization which also does not relate to the purposes of the Act or the administration of the Exchange.

NYSE's Statement on Comments Received from Members, Participants or Others

No comments were solicited or received by the NYSE with respect to the Constitutional or Rule amendments.

NYSE's Statement of Burden on Competition

The NYSE believes that the proposed rule change imposes no burden on competition.

On or before February 28, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 14, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

January 16, 1980.

[FR Doc. 80-2184 Filed 1-23-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16512; File No. SR-OCC-30-1]

Options Clearing Corporation; Proposed Rule Change By Self-Regulatory Organizations

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on January 3, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would delete certain obsolete provisions in OCC Rules 803 and 804, dealing with assignment and allocation of exercise notices, and would set forth in the form of a rule, OCC's policy of not assigning exercise notices to short positions for which closing transactions have been executed.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The primary purpose of the proposed rule change is to delete certain obsolete provisions from OCC Rules 803 and 804, which deal with the assignment and allocation of exercise notices, respectively.

Rule 803, which requires OCC to assign exercise notices to Clearing Members on a random basis, currently permits OCC to depart from a purely random assignment procedure in two respects. Under Rule 803(a), OCC may use its best efforts to assign block-size exercise notices (25 or more contracts) to block-size short positions, and to assign exercise notices of less than block size to short positions of less than block size. Under Rule 803(b), OCC may classify short positions, for assignment purposes, into separate sub-groups based on form of margin (*i.e.*, specific deposits, escrow deposits, etc.). OCC does not currently utilize the assignment procedures contemplated by Rules 803(a) and (b), and has no intention of doing so within the foreseeable future. OCC therefore proposes to delete those provisions.

In addition, the proposed amendment to Rule 803 would specifically set forth, in the form of a rule, OCC's policy (disclosed at p. 28 of OCC's prospectus dated October 29, 1979) of not assigning exercise notices to short positions for which closing transactions have been executed and are awaiting settlement, but have not yet reached settlement.

Rule 804, which governs the allocation of exercise notices by Clearing Members, currently requires that exercise notices be assigned on a first in, first out basis, a random selection basis, "or another allocation method that is fair and equitable . . . and consistent with Exchange Rules." In response to paragraph I.A.1.m. of Securities Exchange Act Release No. 15575 (February 22, 1979), the Exchanges have each filed proposed rule changes that would prohibit Exchange members from using any allocation method other than first in, first out or random

selection. Upon approval of those rule changes, the reference in OCC's Rule 804 to other allocation methods will become obsolete. OCC therefore proposes to delete that reference.

The proposed rule change relates to the protection of investors and the public interest.

Comments were not and are not intended to be solicited with respect to the proposed rule changes.

OCC does not believe that the proposed rule changes would impose any burden on competition.

On or before February 28, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C., 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 14, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

January 17, 1980.

Exhibit 1.—Text of Proposed Rule Change

Amendment to Rule 803[1]

Assignment of Exercise Notices to Clearing Members

Rule 803. Exercise notices accepted by the Corporation shall be assigned in accordance with the Corporation's procedures of random selection to Clearing Members with open short positions in the series of options involved, provided that: [the Corporation may:

(a) use its best efforts to assign an exercise notice of block size to a Clearing Member with an open short position of block size and to assign an exercise notice of less than block size to a Clearing Member with an open short position of less than block size;

(b) classify each short position into separate sub-groups based on the form of margin (i.e., escrow deposits, specific deposits or other); and

(c)] *(a) the Corporation may* assign an exercise notice to a Clearing Member in respect of an opening writing transaction made by such Clearing Member on the day on which the exercise notice was accepted by the Corporation[.]; *and*

(b) the Corporation shall not assign an exercise notice to a Clearing Member in respect of any open short position after the Corporation has received a report of a matched trade for a closing purchase transaction which, upon acceptance by the Corporation, will eliminate such short position, unless and until such closing purchase transaction is rejected by the Corporation.

[As used herein an exercise notice in respect of 25 or more option contracts of the same series shall be deemed to be of block size and that portion of an open short position that resulted from one Exchange transaction in respect of 25 or more option contracts of the same series shall be deemed to be of block size.

Subject to the provisions of the By-Laws, exercise notices accepted by the Corporation shall be assigned at or before 7:00 A.M. Chicago Time (8:00 A.M. Eastern Time) on the following business day. Assignments shall be dated and effective as of such following business day. A Clearing Member to which an exercise notice is assigned shall be notified thereof, and the Clearing Member submitting such exercise notice shall (subject to the provisions of Rule 913) be notified of the identity of the Assigned Clearing Member, through deposit of Delivery Advices in their respective locked boxes as soon as practicable after such notice is assigned by the Corporation.

Amendment to Rule 804[2]

Allocation of Exercise Notice

Rule 804. Each Clearing Member shall establish fixed procedures for the allocation of exercise notices assigned in respect of short positions in the Clearing Member's accounts to specific option contracts included in such short positions. The allocation shall be on a "first in, first out" basis[,], *or* on a basis of random selection [, or another allocation method that is fair and equitable to the persons for whom such accounts are maintained and] consistent with Exchange Rules. During the term of any restriction imposed on a Clearing Member pursuant to Rule 305, the Chairman or the President may require the Clearing Member to report to the Corporation, not later than 8:00 A.M. Central Time (9:00 A.M. Eastern Time) on each business day, the name and address of each writer to whom the Clearing Member allocated an exercise notice assigned to the Clearing Member on the preceding business day. Such reports shall indicate, for each writer, the series of options for which an exercise notice was allocated and the number of contracts included in the allocation, and shall state whether any specific deposit or escrow deposit has been made in respect of such writer's short position in such series of options.

[FR Doc. 80-2335 Filed 1-23-80; 8:45 am]

BILLING CODE 8010-01-M

[1] The only prior rule filings under 19b-4 with respect to rule 803 were File No. SR-OCC-75-2, approved in Release No. 34-12188 (March 10, 1976) and File No. SR-OCC-78-8, approved in Release No. 34-12337 (October 25, 1976).

[2] The only prior rule filings under 19b-4 with respect to Rule 804 were File No. SR-OCC-75-6, approved in Release No. 34-12060 (January 28, 1976) and File No. SR-OCC-78-8, approved in Release No. 34-16180 (September 11, 1979).

[Release No. 34-16515; File No. SR-PSE-79-18]

Pacific Stock Exchange, Inc.; Proposed Rule Change By Self-Regulatory Organization

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-24, 16 (June 4, 1975), notice is hereby given that on December 18, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Exchange's Statement of the Terms of Substance of the Proposed Rule Change

Equity Floor Procedure Advice 1-A

Subject: Floor Decorum

In accordance with the Basic Principles, Policies, and Procedures adopted by the Exchange to facilitate trading on its Equity Trading Floors, the Joint Floor Trading Committee has directed that all Trading Floor Personnel wear appropriate business attire. It is, therefore, necessary that the following requirements be adhered to:

(1) All male floor personnel shall wear appropriate slacks, shirt, tie and appropriate footwear.

(2) All female floor personnel shall wear either an appropriate dress, coordinated pantsuit, or skirt and blouse/sweater and appropriate footwear.

(3) Sun dresses, blue jeans, tank top shirts, tennis shoes, beach sandals or similar leisure attire shall not be considered appropriate business attire.

The Joint Floor Trading Committee with the approval of the Board of Governors has authorized the staff of the Exchange to implement, enforce and maintain a Fine Schedule for noncompliance with the Policy requiring male Trading Floor Personnel to wear a tie at all times while on the Trading Floor as follows:

First Offense, $25.00.
Second Offense, $100.00.
Third and Subsequent Offenses, $500.00.

In the event that a Floor Official determines that the policies and procedures adopted by the Exchange have been violated he may issue a Floor Citation which (1) will apprise the person accused of violating Exchange rules and/or procedures of the offense charged, and (2) the Floor Official will ask the person to indicate by his signature on the Citation whether he consents to the imposition of the fine set forth on the Citation.

A Floor Official may in his discretion request the Compliance Department to issue a Floor Citation in accordance with the procedure set forth in this rule.

The following procedures apply for persons who do not consent to the imposition of the fine set forth on the Floor Citation:

(a) Submission of Application to Exchange.—A person who does not consent to the imposition of a fine set forth on a Floor Citation and who desires to have an opportunity to be heard with respect to such action or to have such action reviewed shall file a written application with the Secretary of the Exchange within five days after such action has been taken. The application shall state the action complained of, the specific reasons why the applicant takes exception to such action, and the relief sought. In addition, the application shall indicate whether the applicant requests a hearing in connection with the action taken by the Exchange. If the applicant does not request a hearing, the application shall be considered a request for review only.

(b) Procedure Following Application for Hearing and Review:

(1) Applications for hearing and review in connection with the issuance of Floor Citations shall be referred to the Floor Trading Committee of the Exchange empowered with the authority to review the matter. The Committee shall appoint a hearing panel composed of three members of the Committee. The panel so appointed shall be furnished with all material considered by the Exchange in connection with its initial action.

(2) The decision of the panel following the hearing shall be made in writing and shall be sent to the persons requesting a hearing or review. Such decision shall contain a concise statement setting forth the specific grounds on which the decision of the panel is based as well as a statement setting forth the reasons supporting the conclusions of the panel.

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the advice is to prescribe standards for appropriate dress and to set forth in specific terms the amounts of fines to be imposed on male Floor personnel for failure to wear ties while on the trading floor.

The advice has been adopted in order to further promote just and equitable principles of trade as set forth in section 6(b)(5) of the Securities Exchange Act of 1934 as amended. The procedures set forth will further assure the maintenance of a fair and orderly market and the protection of investors and the public interest by promoting public confidence in the operations of the Exchange.

Comments have neither been solicited nor received from members, participants or others on the proposed rule change.

The proposed rule change imposes no burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 14, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

January 18, 1980.

[FR Doc. 80-2337 Filed 1-23-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16506; File No. SR-PHLX 79-14]

Philadelphia Stock Exchange, Inc.; Proposed Rule Change by Self-Regulatory Organization

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 June 4, 1975, notice is hereby given that on December 21, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Exchange's Statement of Terms and Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. hereby proposes to amend, pursuant to PHLX Rule 1058, the Regulation and Assessment Schedule.

Basis and Purpose Under the Act for Proposed Rule Change

The purpose of the proposed rule change is to provide for the general health, safety, and welfare of those who work on the PHLX options trading floor by prohibiting smoking at all times and alcoholic beverages during regular business hours.

The proposed rule relates solely to the working conditions on the PHLX options trading floor and is not inconsistent with the Securities Exchange Act of 1934 ("Act").

Comments were neither solicited nor received concerning the proposed rule change.

The PHLX believes that the proposed rule change does not impose any burden on competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Secuirities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 "L" Street, N.W., Washington, D.C.

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Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 14, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

January 16, 1980.

[FR Doc. 80-2393 Filed 1-23-80; 8:45 am]

BILLING CODE 8010-01-M

[Release 11021; (812-4568)]

Putnam Daily Dividend Trust, et al.; Notice of Filing of Application Pursuant to Section 17(b) of the Act To Exempt a Proposed Merger From Section 17(a) of the Act, Pursuant to Section 17(d) of the Act and Rule 17d-1 Thereunder To Permit Participation in Such Merger and Pursuant to Section 6(c) of the Act To Exempt an Issuance of Securities From Rule 22c-1 Thereunder

January 15, 1980.

Notice is hereby given that Putnam Daily Dividend Trust ("Putnam"), 265 Franklin Street, Boston, Massachusetts 02110, and Trinwall Cash Reserve, Inc. ("Trinwall"), 61 Broadway, New York, New York 10006, both open-end, diversified management investment companies registered under the Investment Company Act of 1940 ("Act"), Marsh & McLennan Management Company ("Marsh & McLennan") and Eberstadt Fund Management, Inc. ("Eberstadt") (collectively "Applicants") filed an application on November 9, 1979, and an amendment thereto on January 7, 1980, for an order (1) pursuant to section 17(b) of the Act, exempting the proposed purchase by Putnam of the assets of Trinwall from the provisions of section 17(a) of the Act, (2) pursuant to section 17(d) of the Act and Rule 17d-1 thereunder, permitting Marsh & McLennan and Eberstadt to assume certain expenses and liabilities of Putnam and Trinwall incurred in connection with the transaction, and (3) pursuant to section 6(c) of the Act, exempting the issuance of Putnam shares from Rule 22c-1 under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants represent that, on September 30, 1979, the total net assets of Putnam were approximately $51 million. Putnam's investment adviser is The Putnam Management Company, Inc. ("Putnam Management"), which is a wholly-owned subsidiary of Marsh & McLennan, a holding company. According to the application, Putnam Management charges Putnam a fee which, on an annual basis, is .5 of 1% of Putnam's average net assets but that during Putnam's start-up period, Putnam Management has agreed voluntarily to limit Putnam's expenses to .75% of average daily net assets for each year, or shorter period, if such limitation is terminated. For the fiscal year ending December 31, 1978, Applicants state that the compensation payable by Putnam to Putnam Management was reduced from $68,049 to $4,764 because of such expense limitation. The application states that Putnam's investment objectives is to seek a high rate of current income consistent with preservation of capital and maintenance of liquidity.

Applicants further represent that, on September 30, 1979, the total net assets of Trinwall were approximately $17 million. Trinwall's investment adviser is Eberstadt, which is also a wholly-owned subsidiary of Marsh & McLennan. According to the application, Eberstadt charges Trinwall a fee, which on an annual basis, is .5 of 1% of the first $100 million of average net assets but that through July 31, 1980, Eberstadt has undertaken to reduce its fee or reimburse Trinwall to the extent that for any month Trinwall's expenses exceed one-twelfth of .75% of average daily net assets. According to the application, for fiscal years ending July 31, 1977, 1978 and 1979, Eberstadt absorbed expenses of Trinwall amounting to $49,849, $39,787 and $39,432, respectively. Eberstadt has advised Trinwall that it is unwilling to continue to manage Trinwall's assets on the same basis because of the expenses Eberstadt has been required to absorb. The application states that Trinwall's investment objective is to preserve capital and to maximize liquidity and current income yield.

Applicants represent that they have entered into an agreement whereby Putnam proposes to acquire substantially all of the assets of Trinwall (expected to exceed 95%) in exchange for Putnam shares. Applicants state that Trinwall will dissolve and liquidate following the exchange. Trinwall will distribute to its shareholders, in exchange for their shares of Trinwall, the Putnam shares it receives upon the transfer of its assets to Putnam, together with the assets not transferred, if any. Applicants state that each Trinwall shareholder will be entitled to receive that portion of the Putnam shares to be received by Trinwall that the number of Trinwall shares owned by each shareholder bears to the number of Trinwall shares outstanding on the exchange date. The exchange will be done on the basis of net asset value and such computation with respect to Trinwall's assets will be made at the close of business on the business day next preceding the exchange date. The application states that Putnam's shares have a constant net asset value of $1.00 per share. According to the application, the value of the Trinwall assets to be acquired by Putnam and the value of Putnam shares to be issued therefor will be determined in the manner in which Putnam determines the value of its own assets. According to the application, no adjustments will be made in the basis of the exchange to account for realized and unrealized gains and losses because (1) neither Trinwall nor Putnam experiences significant realized or unrealized gains or losses on its investments and (2) each fund's daily declaration of net income includes all realized short-term gains and losses on each fund's portfolio investments. Applicants state that the reorganization will be submitted to Trinwall's shareholders for approval. Applicants represent that the reorganization is subject to several further conditions, including satisfactory opinions of counsel and any necessary approvals by the Commission.

Applicants state that Eberstadt will reimburse Putnam and Trinwall for expenses incurred in connection with the transaction other than expenses which Putnam customarily incurs in connection with the issuance and sale of its shares and other than expenses of Trinwall incident to an annual shareholder meeting. Eberstadt has also agreed to indemnify and save harmless Trinwall and its officers, directors and shareholders against all expenses, losses, claims, damages and liabilities arising before or after the exchange date, other than any Trinwall liability or obligation reflected on its statement of net assets as of the valuation date. Applicants state that there are no such known expenses, losses, claims, damages or liabilities. The application further states that, notwithstanding the foregoing, Eberstadt shall not be obligated to make aggregate payments pursuant to the above indemnity to the extent such payments, together with all payments made by Eberstadt with respect to expenses of Trinwall, exceed the lesser of (a) $1,000,000 or (b) the excess of (i) the fair market value of the Trinwall assets conveyed to Putnam over (ii) 80% of the fair market value of all the properties and assets of Trinwall immediately prior to the exchange. Eberstadt has also agreed to indemnify, without limit, Putnam and Trinwall with respect to state securities laws liabilities, if any, although no such liabilities are known to exist. The application states that Marsh & McLennan will unconditionally guarantee Eberstadt's performance of its obligations noted above. The application states further that no liabilities for which Eberstadt has agreed to indemnify any person as aforesaid, are known to exist.

Section 17(a) of the Act provides that it is unlawful for any affiliated person of a registered investment company or affiliated person of such person, acting as principal, knowingly to sell to or purchase from such company any security or other property. Section 17(b) of the Act, however, provides that the Commission may exempt a proposed transaction from section 17(a) if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act. Section 2(a)(3) of the Act provides, in part, that an affiliated person of another person means any person directly or indirectly controlling, controlled by, or under common control with, such other person. Applicants state, without conceding, that Putnam and Trinwall may be affiliated persons of each other because the investment advisers of each fund are wholly-owned subsidiaries of Marsh & McLennan.

Applicants submit that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned. Applicants submit that the exchange will be done on the basis of the asset values of Putnam and Trinwall, that the costs of the transaction will be borne by Eberstadt, as described above, and that Marsh & McLennan will guarantee such obligations of Eberstadt's. Applicants also assert that Trinwall's directors, including a majority of directors who are not interested persons of Trinwall or Eberstadt, have determined that the transaction is in the best interests of Trinwall's shareholders. It is submitted that such shareholders will become shareholders in a fund approximately three times larger than Trinwall and that such greater size will tend to result in lower expense ratios for Trinwall shareholders. Applicants state further that Trinwall shareholders will benefit indirectly from greater diversification possible by Putnam's larger portfolio. According to the application, the Putnam trustees, including a majority who are not interested persons of Putnam or Putnam Management, have determined that the transaction is in the best interests of Putnam and will not result in any dilution of existing shareholders' interests. Applicants assert that the transaction will increase the size of Putnam's assets by approximately one-third and will result in certain economies of scale, tending to reduce Putnam's expense ratio. Applicants submit that the proposed merger is consistent with the investment objectives and policies of Putnam and Trinwall.

Section 17(d) of the Act and Rule 17d-1 thereunder prohibit, in part, any affiliated person of a registered investment company or any affiliated person of such person, from effecting any transaction in which such investment company is a joint participant, unless an application has been filed with the Commission and has been granted by order. In passing upon such application, the Commission will consider whether the participation of such registered company in such arrangement, on the basis proposed, is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from, or less advantageous than, that of other participants. Section 2(a)(3) of the Act also provides, in part, that an affiliated person of an investment company means any investment adviser thereof.

Applicants state that Eberstadt and Putnam Management are affiliated persons of Trinwall and Putnam, respectively, and that since Eberstadt is also an affiliated person of Putnam Management, Eberstadt is an affiliated person of an affiliated person of Putnam. Applicants state further that Marsh & McLennan is an affiliated person of Eberstadt and Putnam Management and is thus an affiliated person of an affiliated person of Putnam and Trinwall. Applicants submit that Trinwall and Putnam may be deemed affiliated persons of each other.

Applicants submit that, as to the expense reimbursements, indemnification provisions and guarantee arrangements, summarized above, to the extent the participation by Putnam and Trinwall is different from that of Marsh & McLennan and Eberstadt and that of each other, Putnam's and Trinwall's participation is at least as advantageous as that of Marsh & McLennan and Eberstadt and that of each other. Accordingly, Applicants request that the Commission issue an order permitting the transaction to the extent necessary.

Section 22(c) of the Act and Rule 22c-1 thereunder prohibit registered investment companies from issuing redeemable securities except at a price based on the current net asset value of such securities which is next computed after receipt of an order to purchase. Section 6(c) authorizes the Commission, upon application, to exempt any transaction from any provision of the Act or any rule thereunder, if it finds that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Putnam states that the valuation of Trinwall's assets will be determined as of the close of business on the business day next preceding the exchange date, which procedure may be in violation of Rule 22c-1. According to the application, such computation can be made only after the close of business when both portfolios can be fully valued. The application states that the computation of the value of Trinwall's shares at such time will not present any of the potential for abuse that Rule 22c-1 is intended to avoid. Applicants assert that the grant of the order requested is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the Act.

Notice is further given that any interested person may, not later than February 6, 1980 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and

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Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2328 Filed 1-23-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11022; (812-4567)]

Putnam Income Fund, Inc., et al.; Notice of Filing of Application Pursuant to Section 17(b) of the Act To Exempt a Proposed Merger From Section 17(a) of the Act, Pursuant to Section 17(d) of the Act and Rule 17d-1 Thereunder To Permit Participation In Such Merger and Pursuant to Section 6(c) of the Act To Exempt an Issuance of Securities From Rule 22c-1 Thereunder

January 15, 1980.

Notice is hereby given that The Putnam Income Fund, Inc. ("Putnam"), 265 Franklin Street, Boston, Massachusetts 02110, Trinwall Bond Fund, Inc. ("Trinwall"), 61 Broadway, New York, New York 10006, Marsh & McLennan Management Company ("M & M Management") 265 Franklin Street, Boston, Massachusetts 02110, and Eberstadt Fund Management, Inc. ("EFM"), 61 Broadway, New York, New York 10006, (collectively, "Applicants") filed an application of November 9, 1979, and an amendment thereto on January 7, 1980, for an order (1) pursuant to section 17(b) of the Act, exempting the proposed purchase by Putnam of the assets of Trinwall from the provisions of section 17(a) of the Act, (2) pursuant to section 17(d) of the Act and Rule 17d-1 thereunder, permitting M & M Management and EFM to assume certain expenses and liabilities of Putnam and Trinwall incurred in connection with the transaction, and (3) pursuant to section 6(c) of the Act, exempting the issuance of Putnam shares from Rule 22c-1 under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that, as of July 31, 1979, Putnam had net assets of approximately $172 million. Putnam's investment adviser is The Putnam Management Company, Inc. ("Putnam Management"), which is a wholly-owned subsidiary of M & M Management, a holding company.

Applicants state that, as of July 31, 1979, Trinwall had net assets of approximately $9.1 million. Trinwall's investment adviser is EFM, also a wholly-owned subsidiary of M & M Management. According to the application, EFM charges Trinwall a fee equal to .5 of 1% of the first $100 million of average net assets (which is reduced for average net assets in excess of $100 million); provided, however, EFM has undertaken that for the period through July 31, 1980, if Trinwall's total expenses for any month exceed one-twelfth of .75% of average daily net assets, EFM will reduce its fee or reimburse Trinwall by the amount of such excess. Applicants represent that, for Trinwall's fiscal years ending July 31, 1977, 1978 and 1979, EFM absorbed expenses of Trinwall of $26,793, $26,196 and $25,965, respectively. According to the application, EFM has advised Trinwall that, because of the expenses it has been required to absorb, it is unwilling to continue to manage Trinwall's assets.

Applicants state that pursuant to the Articles of Transfer and Agreement and Plan of Reorganization dated October 31, 1979 ("Agreement"), Putnam will acquire substantially all of the assets and properties of Trinwall in exchange for shares of Putnam and that, following the exchange of Trinwall's assets for Putnam's stock, Trinwall will dissolve and liquidate. Applicants further state that, as part of the liquidation distribution, Trinwall will distribute to its shareholders in exchange for their shares of Trinwall capital stock the Putnam shares it receives upon the transfer of its assets to Putnam, together with the assets which it has not transferred to Putnam, if any. The Agreement states that the value of the assets of Trinwall to be acquired by Putnam and the value of Putnam shares to be issued therefor will be determined by Putnam in the manner in which Putnam would determine the value of its own assets. The application states that the reorganization will be submitted for approval by the holders of a majority of the outstanding shares of Trinwall and that the acquisition would be consummated shortly thereafter. In addition to such approval, consummation of the reorganization is subject to other conditions, including satisfactory opinions of counsel, and any necessary approvals of the Commission.

The Agreement further provides that Putnam will not assume any liabilities of Trinwall in connection with the acquisition of Trinwall's assets and the subsequent dissolution of Trinwall or otherwise, but that, whether or not the transactions contemplated by the Agreement are consummated, EFM will pay, or cause to be paid, all expenses incurred by Trinwall and Putnam in connection with the reorganization, other than those expenses which Putnam customarily incurs in connection with the issuance and sale of its shares and except that EFM shall not be required to pay or cause to be paid those expenses of Trinwall incident to an annual meeting of shareholders involving the election of directors and appointment of auditors.

The Agreement also states that EFM will indemnify and hold harmless Trinwall and its directors, officers and shareholders against expenses, losses, claims, damages and liabilities relating to any liability or obligation of Trinwall existing on the exchange date or arising thereafter, other than any liability or obligation of Trinwall reflected in Trinwall's statement of net assets as of the valuation time and except that EFM shall not be obligated to make aggregate payments pursuant to the foregoing indemnity to the extent that such payments, together with all payments made by EFM with respect to expenses of Trinwall (as described above), exceed the lesser of (a) $1,000,000 or (B) the excess of (i) the fair market value of the properties and assets of Trinwall acquired by Putnam over (ii) 80% of the fair market value of all of the properties and assets of Trinwall immediately prior to the exchange. EFM will also indemnify and hold harmless Putnam and Trinwall against any expenses, losses, claims, damages, and liabilities incurred by Putnam or Trinwall relating to any violations or alleged violations by Trinwall, EFM or Putnam Fund Distributors, Inc. of any state securities laws.

The Agreement states that M & M Management will unconditionally guarantee the performance by EFM of its obligations as aforesaid. Applicants represent that no such liabilities, contingent or otherwise for which EFM has agreed to so indemnify any person are known to exist.

Section 22(c) of the Act and Rule 22c-1(a) thereunder prohibit registered investment companies from issuing redeemable securities except at a price based on the current net asset value of such securities which is next computed after receipt of an order to purchase.

Section 6(c) of the Act authorizes the Commission, upon application, to exempt any transaction from any provision of the Act or of any rule thereunder, if it finds that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The Agreement contemplates that the assets of Trinwall and Putnam would be valued on a Friday and that the issuance of shares of Putnam in exchange for assets of Trinwall would occur on the following Monday. Thus, for purposes of the application only, Applicants submit that the "forward pricing" requirement of Rule 22c-1 may not be met.

Applicants contend that it would be impracticable to comply with Rule 22c-1, because the number of Putnam shares to be issued on the exchange date will be determined by dividing the net asset value per share of Putnam into the total net assets of Trinwall available for acquisition. Such computation can be made only after the close of business when both portfolios can be fully valued. Applicants further contend that valuation of Putnam's assets at the close of business on the business day next preceding the exchange date will be fair to the shareholders of Putnam and Trinwall, and will not present any of the potential for abuse that Rule 22c-1 is intended to avoid. Pursuant to section 6(c) of the Act, Applicants request that the Commission issue and order exempting Putnam from the provisions of Rule 22c-1 to the extent necessary to enable valuations to be made at the time set forth above.

Section 17(a) of the Act provides that it is unalwful for any affiliated person of a registered investment company, or any affiliated person of such an affiliated person, acting as principal, knowingly to sell to or purchase from such registered company any security or other property. Section 17(b) of the Act, however, provides that the Commission may exempt a proposed transaction from section 17(a) if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Applicants assert that, under certain circumstances, it is possible that two or more investment companies having the same investment adviser, or investment advisers under common control, may be deemed to be affiliated persons of each other by virtue of section 2(a)(3)(C) of the Act. Putnam's and Trinwall's investment advisers are wholly-owned subsidiaries of M & M Management. Applicants state, however, that Putnam and Trinwall are managed separately by their respective investment advisers (EFM and Trinwall being located in New York and Putnam Managment and Putnam being located in Boston) without consultation with each other and have no directors or officers in common. Applicants further state that EFM and Putnam Management have no directors in common and, except for the Treasurer, Controller, Secretary and Assistant Secretary of each company (none of whom has responsibility for investments or related matters), have no officers in common. Nevertheless because Trinwall and Putnam might be deemed "affiliated persons" of each other and any disposition of portfolio securities by Trinwall to Putnam or any acquisition by Putnam of portfolio securities of Trinwall pursuant to the Agreement might be deemed to be prohibited by section 17(a) of the Act, Applicants, without admitting that Trinwall and Putnam are affiliated persons of each other, ask that the Commission exempt the transaction from the prohibition of section 17(a) of the Act pursuant to section 17(b) of the Act.

The terms of the Agreement provide that the acquisition of Trinwall's assets by Putnam shall be accomplished on the basis of the relative net assets values of the funds. Applicants represent that no adjustment is to be made in the computation of Putnam or Trinwall's net asset value on account of any relative differences between unrealized depreciation in each fund, or other relevant factors, it having been determined that there was no identifiable and quantifiable detriment to the shareholders of either fund that would warrant such adjustment. Applicants state that all costs of the transaction (with the exception of those expenses of Trinwall's incident to an annual meeting of shareowners involving the election of directors and appointment of auditors and those expenses of Putnam normally incurred in connection with the issuance and sale of its shares) will be borne by EFM, and that its obligation is guaranteed by M & M Management.

Applicants expect that the shareholders of Trinwall will benefit from certain economies of scale inherent in becoming shareholders of Putnam and, in addition, that Trinwall shareholders will indirectly benefit from the greater diversification of security holdings possible in Putnam's larger portfolio. Although the Trinwall shareholders who desire to make additional investments will experience an increase in sales charge, the Trinwall directors believe that the advantages to Trinwall shareholders outweigh any disadvantage represented by the increased sales charge for further investments.

Applicants state that the transaction is considered to be in the interest of the Putnam shareholders because (a) many of Putnam's expenses are fixed in nature and the increase in size of Putnam's assets by approximately 5% will tend to result in certain economies of scale tending to further reduce Putnam's expense ratio; (b) Putnam is currently in a net redemption posture with respect to the sale of its shares—the assets to be acquired from Trinwall will be useful in meeting such redemptions without the necessity of raising cash by selling off portions of large round lot units of bonds which are generally owned by Putnam; and (c) under current market conditions, the sale by Putnam of any securities acquired by Trinwall will result in the realization of losses which will be available to offset possible future realized gains at a time when Putnam's current carryforward losses will have expired. Applicants state that Putnam's directors, including a majority of its disinterested directors, have determined that the transaction is in the interests of its shareholders. Applicants assert that the proposed merger is consistent with the investment objectives and policies of both Putnam and Trinwall. Putnam's investment objective is to seek high current income consistent with what is believed to be prudent risk, while Trinwall's objective is to provide a high current income yield consistent with preservation of capital.

Applicants state that the Trinwall directors have evaluated certain policies and practices utilized by or available to Putnam in seeking its investment objective which differ from certain of Trinwall's policies and practices and do not believe that such policies and practices, in light of Putnam's record of performance, represent material differences in Putnam's investment objective as compared to that of Trinwall or are disadvantageous to Trinwall shareholders. Further, Trinwall's board of directors, including a majority of its disinterested directors, has determined that the proposed transaction is in the best interests of Trinwall.

Applicants assert that in accordance with section 17(b) of the Act, the terms

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of the proposed transaction are reasonable and fair to Putnam and Trinwall and do not involve overreaching by any person concerned, and that the proposed transaction is consistent with the investment policies of each fund, and with the purposes of the Act.

Rule 17d–1 under the Act provides, in pertinent part, that no affiliated person of any registered investment company and no affiliated person of such person shall participate in, or effect any transaction in connection with a joint enterprise in which such registered investment company is a participant unless an application regarding such joint enterprise has been filed with the Commission and has been granted by an order. In passing upon such application, the Commission will consider whether the participation of such registered investment company is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of the other participants.

EFM and Putnam Management are affiliated persons of Trinwall and Putnam, respectively, under section 2(a)(3)(E) of the Act. Because EFM is also an affiliated person of Putnam Management under section 2(a)(3)(C) of the Act, it is an affiliated person of an affiliated person of Putnam. M & M Management is an affiliated person of EFM and Putnam Management under section 2(a)(3) (A) and (C) of the Act and is thus an affiliated person of an affiliated person of both Putnam and Trinwall. In addition, Applicants state that it is possible that Trinwall and Putnam may be deemed affiliated persons of each other.

Applicants assert that to the extent that Putnam's and Trinwall's participation in the transaction will be different from that of M & M Management and EFM and that of each other, Putnam's and Trinwall's participation will be at least as advantageous as that of M & M Management, EFM and that of each other. In this regard, Applicants state that, while M & M Management and EFM will be relieved indirectly and directly, respectively, of a management obligation which has proved unprofitable to fulfill, M & M Management and EFM, as described above, will bear substantially all the expenses of the transaction. Further, with respect to Putnam and Trinwall, Applicants consider the transaction to be advantageous to Putnam and Trinwall for the reasons set forth above. Accordingly, Applicants request that the Commission issue an order permitting the transaction to the extent necessary.

Notice is further given that any interested person may, not later than February 6, 1980 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–2327 Filed 1–23–80; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 80–06]

Intent To Prepare an Environmental Impact Statement—Proposed Mississippi River Bridge, Gramercy-Wallace, St. James and St. John the Baptist Parishes, La.

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the U.S. Coast Guard, as lead agency, is preparing an Environmental Impact Statement (EIS) for the proposed bridge project over the Mississippi River at mile 146.0. The Corps of Engineers will be a cooperating agency.

This notice of intent is published as required by regulations of the Council on Environmental Quality in Title 40, Code of Federal Regulations, § 1501.7.

The proposed project involves construction of a truss-span bridge and uncontrolled access approaches, extending from LA 3127 on the west bank to U.S. 61 on the east bank, for a distance of 6.14 miles. Primary reason for the project is to greatly increase the safety of cross-river travel by eliminating the passenger/vehicular ferries currently operating on this reach of the river. Other reasons are to:

(a) Establish a dependable and fully available river crossing for use at any time.

(b) Realize increased mobility and reduced travel times for cross-river vehicular traffic, both private and public.

(c) Achieve a more equitable economic and social balance between the east bank and west bank communities of the river parishes of St. James and St. John the Baptist.

(d) Strengthen the bonds between portions of the river parishes separated by the Mississippi.

(e) Facilitate on-going commercial and industrial development on the west bank.

Significant issues to be evaluated, based upon the completed scoping process, include displacement of residents and disturbance of existing settlement patterns, changes in land use and traffic access patterns, taking of habitat, and impacts on cultural resources and navigation.

Alternates being considered are no-build; ferry removal; and, three alignment alternates, two downstream and one upstream. The alignment alternates are located at Reserve-Edgard, mile 137.5; Garyville-Columbia, mile 140.8; and, Paulina-Vacherie, mile 148.1. Each alignment alternate would involve a bridge and approaches similar to the proposed alignment.

The official responsible for the preparation of the EIS and to whom comments should be addressed is: Joseph Irico, Chief, Bridge Administration Branch, Eighth Coast Guard District, 500 Camp Street, New Orleans, Louisiana 70130. Telephone: FTS 682–2965; Commercial (504) 589–2965.

Dated: January 15, 1980.

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 80–2271 Filed 1–23–80; 8:45 am]

BILLING CODE 4910–14–M

National Highway Traffic Safety Administration

National Accident Sampling System Advisory Committee; Establishment and First Public Meeting

Notice is hereby given of the establishment of the National Accident Sampling System (NASS) Advisory Committee under the sponsorship of the National Highway Traffic Safety Administration (NHTSA). The objectives of the Committee are to periodically review the status of the NASS program providing the Administrator, NHTSA, with guidance on highway safety data needs and making recommendations concerning NASS data collection, storage, retrieval, analysis, and future plans. The Committee is composed of members selected from among representatives from automobile manufacturers, insurance companies, the medical and legal professions, State enforcement and highway safety offices, highway safety researchers, statistical sampling experts, traffic engineers, State and local agencies responsible for the design, construction, and maintenance of highways, and other users of highway safety data.

The members appointed to the NASS Committee are: Susan P. Baker, Associate Professor, The Johns Hopkins School of Public Health, Baltimore, Maryland, who will be the Committee's Chairperson; Dr. B. J. Campbell, Director, Highway Safety Research Center, The University of North Carolina, Chapel Hill, North Carolina; John W. Garrett, Manager, Accident Research Division, Calspan Field Services, Inc., Buffalo, New York; Marie D. Eldridge, Administrator, National Center for Education Statistics, U.S. Department of Health, Education and Welfare, Washington, D.C.; Garrie John Losee, Deputy Associate Director, Cooperative Health Statistics System, National Center for Health Statistics, Hyattsville, Maryland; Jack L. Recht, Manager of the Statistics Department, National Safety Council, Chicago, Illinois; Dr. Basil Y. Scott, Statistician and Research Analyst, Education Department, Albany, New York; Harold L. Michael, Head, School of Civil Engineering, Purdue University, West Lafayette, Indiana; Woodrow W. Rankin, Director, Transportation and Safety Division, Highway Users Federation, Washington, D.C.; Lana R. Batts, Director, Economics and Planning, American Trucking Associations, Inc., Washington, D.C.; Ralph V. Durham, Director, Safety and Health Department, International Brotherhood of Teamsters, Washington, D.C.; Honorable John E. Moss, Chairman of the Board, First Commercial Bank, Sacramento, California; Archie G. Richardson, Jr., President, Automobile Owners Action Council, Washington, D.C.; Arline R. Rininger, Section Engineer, Supervisor of Field Accident Research, General Motors Corporation, Milford, Michigan; John Versace, Executive Engineer, Safety Research, Ford Motor Company, Dearborn, Michigan; Brian O'Neill, Vice President, Research, Insurance Institute for Highway Safety, Washington, D.C.; Dr. Brian D. Blackbourne, Deputy Chief Medical Examiner, D.C. Department of Human Resources, Washington, D.C.; Dr. Alan M. Nahum, Professor of Surgery/Chief, Division of Otholarynogology, University of California School of Medicine, San Diego, California; Dr. Julian A. Waller, Chairman, Department of Epidemiology and Environmental Health; University of Vermont, Burlington, Vermont; Thomas K. Wilka, Attorney, Burns, Hagen & Wilka, Sioux Falls, South Dakota; John J. Zogby, Deputy Secretary for Safety Administration, Pennsylvania Department of Transportation, Harrisburg, Pennsylvania; Gerald W. Clemons, Deputy Commissioner, California Highway Patrol, Sacramento, California; Thomas S. Smith, Superintendent, Maryland State Police, Pikesville, Maryland.

All meetings of the Committee will be open to the public. Notice of time and place and outline agenda of all meetings will be published in the **Federal Register** well in advance of all meetings.

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. I), notice is hereby given of the first meeting of the NASS Advisory Committee to be held on February 25 and 26, 1980, at the Sheraton National Hotel, Columbia Pike and Washington Boulevard, Arlington, Virginia. The meetings will start at 9:00 a.m. on both days and the agenda will consist of NHTSA staff briefings on the NASS program status on the first morning, followed by special interest subcommittee meetings thereafter.

Attendance is open to the interested public, but limited to the space available. With the approval of the Chairperson, members of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretary, Room 5221, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone 202–426–2872.

Issued in Washington, D.C. on: January 21, 1980.

Wm. H. Marsh,

Executive Secretary.

[FR Doc. 80–2231 Filed 1–23–80; 8:45 am]

BILLING CODE 4910–59–M

National Highway Safety Advisory Committee; Field Trip

The National Highway Safety Advisory Committee's Special Study Group on Emergency Medical Services (EMS) is planning field trips to Atlanta, Georgia, on February 11; Omaha, Nebraska, on February 13; and Sacramento, California, on February 15. The members will meet with legislators; State EMS Directors and representatives of Fireman and Ambulance Associations (volunteer and paid); fire and police officials; safety committees, interested consumer groups and individuals. The members are exploring the feasibility of recommending that EMS be established as a third emergency service (police and fire being the other two), so that they can make recommendations to the U.S. Department of Transportation on future departmental policy regarding EMS.

A report on the field trips will be made by the Chairperson at the June meeting of the full Advisory Committee. The arrangements for the visits are being made by the appropriate NHTSA Regional Offices and the States Governors' Highway Safety Representatives.

These field trips are subject to the approval of the appropriate DOT officials.

Additional information may be obtained from the NHTSA Executive Secretary, Room 5221, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone 202–426–2872.

Issued in Washington, D.C.: January 21, 1980.

Wm. H. Marsh,

Executive Secretary.

[FR Doc. 80–2232 Filed 1–23–80; 8:45 am]

BILLING CODE 4910–59–M

Midas Series 2000 Motorhomes; Rescheduling of Public Proceeding

On January 3, 1980 (45 FR 869), the NHTSA published notice of a public proceeding in the above-captioned matter, to be held on Wednesday, January 30, 1980. Due to prior commitments of the manufacturers and its attorneys, the NHTSA has rescheduled the proceeding for February 5, 1980 at 10:00 a.m. in room 2230, Department of Transportation Building, 400 7th Street, SW., Washington, D.C.

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Interested persons are invited to participate through written or oral presentations. Persons wishing to make oral presentations are requested to notify Mrs. Gail Willis, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, room 6113, Nassif Building, 400 7th Street, SW., Washington, D.C. 20590, telephone 202–426–2832, before close of business on January 31, 1980.

(Sec. 113, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1402); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.)

Issued on January 15, 1980.

Lynn L. Bradford,

Associate Administrator for Enforcement.

[FR Doc. 80-1916 Filed 1-22-80; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Technical Pipeline Safety Standards Committee; Notice of Advisory Committee Charter

This notice announces the renewal of the Technical Pipeline Safety Standards Committee under section 14 of the Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770) and sets forth the new charter of the Committee prepared in accordance with section 9 of that Act.

The purpose of the Technical Pipeline Safety Standards Committee is to review proposed gas pipeline safety standards and report to the Associate Director for Pipeline Safety Regulation, on the technical feasibility, reasonableness, and practicability of each such proposal. The Committee may propose safety standards to the Associate Director for his consideration for gas pipeline facilities.

It has been determined that renewal of the Technical Pipeline Safety Standards Committee is in the public interest in connection with the performance of duties imposed by law on the Department under section 4 of the Natural Gas Pipeline Safety Act of 1968 (82 Stat. 720; 49 U.S.C. 1671 *et seq.*).

The new charter reflects recent amendments to section 4 of that Act made by the Pipeline Safety Act of 1979 (Pub. L. 96–129, November 30, 1979), in regard to Committee objectives and duties, qualification for membership, frequency of meetings, and compensation. In addition, the new charter contains administrative changes in regard to tenure of members and appointment of officers.

The charter of the Committee is set forth below.

Charter—Technical Pipeline Safety Standards Committee

1. *Purpose.* This charter of the Technical Pipeline Safety Standards Committee is prepared and renewed in accordance with the Federal Advisory Committee Act enacted October 6, 1972.

2. *Background.* Section 4 of the Natural Gas Pipeline Safety Act of 1968 (NGPSA) authorizes the establishment and prescribes the duties of the Technical Pipeline Safety Standards Committee. The Committee was established on January 2, 1969, by the appointment of 15 members. Since its establishment, the Committee has met from time to time to review and report on proposed Federal gas pipeline safety standards submitted to it by the Department.

3. *Sponsor.* The Office of Pipeline Safety Regulation is the Committee sponsor. The Associate Director for Pipeline Safety Regulation of the Materials Transportation Bureau is designated the Executive Director of the Committee and shall be the Department of Transportation (DOT) official authorized to call or adjourn meetings, approve the agenda, and otherwise monitor the Committee's meetings and progress.

4. *Committee Objectives and Duties.* The Associate Director for Pipeline Safety Regulation shall submit to the Committee for its consideration any notice of proposed gas pipeline safety standards published in the Federal Register (including both new standards and amendments to existing standards). Within 90 days after receipt by the Committee of any such proposal, the Committee shall prepare a report on the technical feasibility, reasonableness, and practicability of the proposal. Each report by the Committee, including any minority views, shall, if timely made, be published and form a part of the proceedings for the promulgation of standards. The Director, Materials Transportation Bureau, may prescribe a final standard at any time after the 90th day after a proposal's submission to the Committee, whether or not the Committee has reported on such proposal. The Committee may propose safety standards to the Associate Director for his consideration for gas pipeline facilities. The Associate Director shall not be bound by conclusions of the Committee, but in the event that the conclusions of the majority of the current members of the Committee are rejected, the reasons for rejection shall be incorporated in the preamble published with the final rule (NGPSA, Section 4, and 49 CFR 1.53). The Committee may also review and report on other matters related to the Department's gas pipeline safety rulemaking function as are presented by the Associate Director.

5. *Membership.*—a. The Committee shall be composed of 15 members, each of whom shall be appointed by the Secretary, after consultation with public and private agencies concerned with the technical aspect of the transportation of gas or the operation of pipeline facilities. Members shall be appointed on the basis of the experience in the safety regulation of the transportation of gas and of pipeline facilities, or their training, experience, or knowledge in one or more fields of engeering applied in the transportation of gas or the operation of pipeline facilities to evaluate gas pipeline safety standards, as follows:

(1) Five members shall be selected from Federal, State, or local governmental agencies, and two of the five shall be State commissioners selected after consultation with representatives of the national organization of State commissions;

(2) Four members shall be selected from the natural gas industry, after consultation with industry representatives, and not less than three of the four shall be currently engaged in the active operation of natural gas pipelines; and

(3) Six members shall be selected from the general public.

b. The membership shall be fairly balanced in terms of the points of view represented, and the advice and recommendations of the Committee shall be the result of its independent judgment (FACA, section 5(b)(2) and (3)).

c. Members are appointed for a term of 3 years except that a member may serve until his successor is appointed, but for not more than a total of 6 years.

6. *Appointment of officers.* At the first meeting of each calendar year, the Associate Director shall appoint a Chairman and Vice-Chairman, and the Committee shall, by majority vote of the members present, elect a Secretary. These three officers, who will serve until their successors are appointed, shall constitute an executive committee.

7. *Meetings and procedures.*

a. *Calling meetings.* The Associate Director for Pipeline Safety Regulation shall approve in advance the scheduling and agenda of each Committee meeting (FACA, section 10(f)). The Committee may recommend agenda items to the Associate Director. A designated officer or employee of the Federal government shall attend each Committee meeting, and is authorized to adjourn the meeting whenever he determines it to be in the public interest (FACA, section 10(e)).

b. *Presiding at meetings.* The Chairman shall preside at all meetings of the Committee and of the Executive Committee, except that the Associate Director or his delegate may preside whenever the Committee is, at the request of an official of the Department of Transportation, advising the Department on matters other than notices of proposed rulemaking. The Vice-Chairman shall assume and perform the duties of the Chairman in the event of his absence. A majority of the current members of the Committee must be present at a meeting to perform the Committee's statutory duties.

c. *Duties of Secretary.* The Committee Secretary shall, as directed by the Chairman, monitor records, summarize activities, prepare and process letter ballots, and prepare reports for submission to the Associate Director. In the absence of the Secretary, the Chairman appoints a member of the Committee to perform the duties of the Secretary.

d. *Notice of meetings.* Notice of each Committee meeting shall be published in the Federal Register at least 15 days in advance of the meeting, except in emergency situations. Other forms of notice are to be used to the extent practicable (FACA, section 10(a)(2)).

e. *Frequency of Committee meetings.* The Committee meets at least once every 6 months. In addition, Committee members may be polled or asked for comments on notices of proposed rulemaking or other matters at any time without formally assembling at one place.

f. *Public participation.* Each Committee meeting shall be open to the public, and interested persons shall be permitted to attend, appear before, or file written statements with the Committee, subject to the limitations contained in the exceptions to the Freedom of Information Act (5 U.S.C. 552(b)), and also subject to reasonable rules prescribed concerning availability of space, time, etc. (FACA, section 10(a)(1) and (3)).

g. *Minutes.* Detailed minutes of each Committee meeting shall be kept and certified to by the Committee Chairman. The minutes shall contain a record of the persons participating, a complete and accurate description of the matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the Committee (FACA, section 10(c)).

h. *Availability of records.* The records, reports, transcripts, minutes, and other documents of the Committee shall be available for public inspection and copying at the Office of Pipeline Safety Regulation, 400 Seventh Street, S.W., Washington, D.C. 20590, subject to the limitations contained in the exceptions to the Freedom of Information Act, 5 U.S.C. 552(b) (FACA, section 10(b)).

8. *Compensation.* Members of the Committee other than Federal employees shall be compensated at the rate of $150 per day (including travel time) when engaged in the actual duties of the Committee. All members, while away from their homes or regular places of business, shall be allowed travel expenses, including per diem in lieu of subsistence.

9. *Duration of the Committee.* Under the provisions of the Natural Gas Pipeline Safety Act, the Committee's purposes are continuing in nature; therefore, the Committee has an indefinite duration. The Committee itself must be renewed at successive 2-year intervals by the appropriate action of the Secretary (FACA, section 14(c)).

10. *Administrative Support.* The Associate Director for Pipeline Safety Regulation is responsible for providing office space, equipment, supplies, clerical help, and other administrative and financial support for the Committee.

11. *Annual Operating Cost.* Estimated annual operating cost is approximately $15,000 for salaries, travel, and recording the proceedings, plus about one-eighth person-year of staff support.

12. *Public Interest.* The formation and use of the Technical Pipeline Safety Standards Committee is determined to be in the public interest in connection with the performance of duties imposed on the Department by law. In fact, the Natural Gas Pipeline Safety Act of 1968 specifically requires the DOT to submit all proposed gas pipeline safety standards to the Committee as part of the proceedings for the promulgation of such standards.

13. *Filing Date. December 16, 1979*—This is the effective date of the charter which will expire 2 years from that date unless sooner terminated.

Cesar De Leon,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 80-1914 Filed 1-22-80; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 4 (Rev. 10)]

Revenue Representatives; Delegation of Authority

AGENCY: Internal Revenue Service, Department of the Treasury.

ACTION: Delegation of Authority.

SUMMARY: Limits to Grade GS–7 the authority of Revenue Representatives to serve any properly issued summons. The text of the delegation order appears below.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Donald R. Schumacher, Internal Revenue Service, 1111 Constitution Avenue, NW., Room 7527, Washington, DC 20224

J. R. Starkey,

Director, Collection Division.

February 1, 1980.

Subject

Authority to Issue Summonses, to Administer Oaths and Certify, and to Perform Other Functions

1(a) The authorities granted to the Commissioner of Internal Revenue by 26 CFR 301.7602–1(b), 301.7603–1, 301.7604–1 and 301.7605–1(a) and the authorities contained in Section 7609 of the Internal Revenue Code of 1954 and vested in the Commissioner of Internal Revenue Service by Treasury Department Order No. 150–37, dated March 17, 1955, to issue summonses; to set the time and place for appearance; to serve summonses; to take testimony under oath of the person summoned; to receive and examine books, papers, records or other data produced in compliance with the summons; to enforce summonses; to apply for court orders approving the service of John Doe Summonses issued under Section 7609(f) of the Internal Revenue Code; and to apply for court orders suspending the notice requirements in the case of summonses issued under Section 7609(g) of the Internal Revenue Code, are delegated to the officers and employees of the Internal Revenue Service specified in paragraphs 1(b), 1(c), and 1(d) of this Order and subject to the limitations stated in paragraphs 1(b), 1(c), 1(d), and 6 of this Order.

(b) The authorities to issue summonses and to perform the other functions related thereto specified in paragraph 1(a) of this Order, are delegated to all District Directors, the Director of International Operations, and the following officers and

employees, provided that the authority to issue a summons in which the proper name or names of the taxpayer or taxpayers is not identified because unknown or unidentifiable (hereinafter called a "John Doe" summons) may be exercised only by said officers and employees and by them only after obtaining preissuance legal review by Regional Counsel, Deputy Regional Counsel (General Litigation) or District Counsel, or the Director, General Litigation Division in the case of Inspection.

(1) *Inspection:* Assistant Commissioner and Director, Internal Security Division.

(2) *District Criminal Investigations:* Chief of Division, except this authority in streamlined districts is limited to the District Director.

(3) *International Operations:* Chiefs of Divisions.

(4) *District Collection Activity:* Chief of Division, except this authority in streamlined districts is limited to the District Director.

(5) *District Examination:* Chief of Division, except this authority in streamlined districts is limited to the District Director.

(6) *District Employee Plans and Exempt Organizations:* Chief of Division.

(c) The authorities to issue summonses except "John Doe" summonses, and to perform other functions related thereto specified in paragraph 1(a) of this Order, are delegated to the following officers and employees:

(1) *Inspection:* Regional Inspectors and Assistant Regional Inspectors (Internal Security) and Chief, Investigations Branch.

(2) *District Criminal Investigation:* Assistant Chief of Division; Chiefs of Branches; and Group Managers.

(3) *International Operations:* Assistant Director; Chiefs of Branches; Case Managers; and Group Managers.

(4) *District Collection Activity:* Assistant Chief of Division; Chiefs of Collection Section; Chiefs of Field Branches and Office Branches; Chiefs, Special Procedures Staffs; Chiefs Technical and Office Compliance Branches and Groups and Group Managers.

(5) *District Examination:* Chiefs of Branches, Case Managers, Group Managers and, in streamlined districts Chiefs, Examination Section.

(6) *District Employee Plans and Exempt Organizations:* Group Managers.

(d) The authority to issue summonses except "John Doe" summonses and to perform the other functions related thereto specified in paragraph 1(a) of this Order is delegated to the following officers and employees except that in the instance of a summons to a third party witness, the issuing officer's case manager, group manager, or any supervisory official above that level, has in advance personally authorized the issuance of the summons. Such authorization shall be manifested by the signature of the authorizing officer on the face of the original and all copies of the summons or by a statement on the face of the original and all copies of the summons, signed by the issuing officer, that he/she had prior authorization to issue said summons and stating the name and title of the authorizing official and the date of authorization.

(1) *International Operations:* Internal Revenue Agents; Attorneys, Estate Tax; Estate Tax Examiners; Special Agents; Revenue Service and Assistant Revenue Service Representatives; Tax Auditors; and Revenue Officers, GS–9 and above.

(2) *District Criminal Investigation:* Special Agents.

(3) *District Collection:* Revenue Officers, GS–9 and above.

(4) *District Examination:* Internal Revenue Agents; Tax Auditors; Attorneys, Estate Tax; and Estate Tax Examiners.

(5) *District Employee Plans and Exempt Organizations:* Internal Revenue Agents; Tax Law Specialists; and Tax Auditors.

(e) Each of the officers and employees referred to in paragraphs 1(b), 1(c) and 1(d) of this Order may serve a summons whether it is issued by him/her or another official.

(f) Revenue Representatives, GS–7, and Revenue Officers, who are assigned to the District Collection Activity and to International Operations may serve any summons issued by the officers and employees referred to in paragraphs 1(b), 1(c) and 1(d) of this Order.

2. Each of the officers and employees referred to in paragraphs 1(b), 1(c), and 1(d) of this Order authorized to issue summonses, is delegated the authority under 26 CFR 301.7602–1(b) to designate any other officer or employee of the Internal Revenue Service referred to in paragraph 4(b) of this Order, as the individual before whom a person summoned pursuant to Section 7602 of the Internal Revenue Code shall appear. Any such other officer or employee of the Internal Revenue Service when so designated in a summons is authorized to take testimony under oath of the person summoned and to receive and examine books, papers, records or other data produced in compliance with the summons.

3. Internal Security Inspectors are delegated the authority under 26 CFR 301.7603–1 to serve summonses issued in accordance with this Order by any of the officers and employees of the Inspection Service referred to in paragraphs 1(b)(1) and 1(c)(1) of this Order even though Internal Security Inspectors do not have the authority to issue summonses.

4(a). The authorities granted to the Commissioner of Internal Revenue by 26 CFR 301.7602–1(a), and 301.7605–1(a) to examine books, papers, records or other data, to take testimony under oath and to set the time and place of examination are delegated to the officers and employees of the Internal Revenue Service specified in paragraphs 4(b), 4(c), and 4(d) of this Order and subject to the limitations stated in paragraphs 4(c) and 6 of this Order.

(b) *General Designations.* (1) *Inspection:* Assistant Commissioner; Director, Internal Security Division; Director, Internal Audit Division; Regional Inspectors; Internal Auditors; and Internal Security Inspectors.

(2) *District Criminal Investigation:* Chief and Assistant Chief of Division; Chiefs of Branches; Group Managers; and Special Agents.

(3) *International Operations:* Director, Assistant Director; Chief of Divisions and Branches; Special Agents; Case Managers; Group Managers, Internal Revenue Agents; Attorneys, Estate Tax; Estate Tax Examiners; Revenue Service and Assistant Revenue Service Representatives; Tax Auditors; and Revenue Officers.

(4) *District Collection Activity:* Chiefs and Assistant Chiefs of Division; Chiefs of Field Branches and Office Branches; Chiefs, Special Procedures Staffs; Chiefs, Technical and Office Compliance Branches; Chiefs, Collection Section; Chiefs, Technical and Office Compliance Branches and Groups; Group Managers and Revenue Officers.

(5) *District Examination:* Chiefs of Division; Chiefs of Examination Sections; Chiefs of Examination Branches; Case Managers; Group Managers; Internal Revenue Agents; Tax Auditors; Attorneys, Estate Tax; and Estate Tax Examiners.

(6) *District Employee Plans and Exempt Organization:* Chief of Division; Chief, Examination Branch; Chief, Technical Staff; Group Managers; Internal Revenue Agents; Tax Law Specialists; and Tax Auditors.

(7) *Service Center:* Chief, Compliance Division; Chief, Examination Branch; Chief, Collection Branch; Chief, Criminal Investigation Branch; Revenue Agents; Tax Auditors; Tax Examiners in the correspondence examination function; and Special Agents.

(c) District Directors, Service Center Directors, Regional Inspectors, the Chief of Investigation Branch, and the Director of International Operations may redelegate the authority under 4(a) of this Order to Law Clerks (Estate Tax), aides or trainees, respectively, for the positions of Revenue Agent, Tax Auditor, Tax Examiner in the Service Center Correspondence and Processing function, Tax Law Specialists, Revenue Officer, Internal Auditor, Internal Security Inspector, Attorney (Estate Tax) and Special Agent, provided that each such Law Clerk (Estate Tax), aide or trainee shall exercise said authority only under the direct supervision, respectively, as applicable of a Revenue Agent, Tax Auditor, Tax Examiner in the Service Center Correspondence and Processing function, Tax Law Specialist, Revenue Officer, Special Agent, Internal Auditor or Internal Security Inspector or Attorney (Estate Tax).

(d) District Directors may redelegate the authority under 4(a) of this Order to Revenue Representatives and Office Collection Representatives.

5. Under the authority granted to the Commissioner of Internal Revenue by 26 CFR 301.7622–1, the officers and employees of the Internal Revenue Service referred to in paragraphs 1(b), 1(c), 1(d), and 4(b) and 4(c) of this Order are designated to administer oaths and affirmations and to certify to such papers as may be necessary under the internal revenue laws and regulations *except* that the authority to certify shall not be construed as applying to those papers or documents the certification of which is authorized by separate order or directive. Revenue Representatives and Office Collection Representatives referred to in paragraph 4(d) of this Order are not designated to administer oaths or to perform the other functions mentioned in this paragraph, except that Revenue Representatives, GS–7, are authorized to certify the method and manner of service, and the method and manner of giving notice, when performing the functions and duties contained in paragraph 1(f) of this order.

6. The authority delegated herein may not be redelegated except as provided in paragraphs 4(c) and 4(d).

7. This Order supersedes Delegation Order No. 4 (Rev. 9), issued June 27, 1979.

Jerome Kurtz,

Commissioner.

[FR Doc. 80-2287 Filed 1-23-80; 8:45 am]

BILLING CODE 4830-01-M

Office of the Secretary

United States and Austria To Discuss Income and Estate and Gift Tax Treaties

The Treasury Department today announced that representatives of the United States and Austria will conduct exploratory talks in Austria during the week of February 18 with a view to beginning negotiations of an estate and gift tax treaty between the two countries. Discussions will be based upon the United States Model Estate and Gift Tax Treaty of 1979 and will consider the allocation of taxing jurisdiction between the two countries on the basis of citizenship, domicile, and location of property, in order to avoid double taxation. Rules for resolving the issue of domicile will also be discussed.

Representatives will also discuss modernization of the existing income tax treaty between the United States and Austria, which has been in effect since 1957, with a view to bringing it into line with the 1977 U.S. and OECD model treaties.

The Treasury invites persons wishing to submit comments concerning either the income tax convention or the proposed estate and gift tax convention to write to H. David Rosenbloom, International Tax Counsel, U.S. Department of the Treasury, Room 3064, Washington, D.C. 20220.

Dated: January 18, 1980.

Donald C. Lubick,

Assistant Secretary (Tax Policy).

[FR Doc. 80-2100 Filed 1-23-80; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby hiven pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on February 19, 1980, at 1 p.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Estes Kefauver Federal Building—U.S. Courthouse, Room A–220, 110 Ninth Avenue, South, Nashville, Tennessee, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Millington Beauty School, 7905 "C" Street, Millington, Tennessee, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: January 16, 1980.

R. S. Rielak,

Director, VA Regional Office, 110 Ninth Avenue, South Nashville, Tennessee.

[FR Doc. 80-2182 Filed 1-23-80; 8:45 am]

BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

[I.C.C. Order No. 59 Under Service Order No. 1344]

Chesapeake & Ohio Railway Co.; Rerouting Traffic

To: All railroads.

In the opinion of Joel E. Burns, agent, The Chesapeake and Ohio Railway Company, Operator, is unable to promptly transport traffic offered for movement over its line between Ludington, Michigan, and Milwaukee, Wisconsin, via car ferry, because of adverse weather conditions on Lake Michigan.

It is ordered, (a) *Rerouting traffic.* The Chesapeake and Ohio Railway Company, Operator, being unable to promptly transport traffic offered for movement over its lines between Ludington, Michigan, and Milwaukee, Wisconsin, via car ferry, because of adverse weather conditions on Lake Michigan, that line and its connections are authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were

applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11:30 a.m., January 11, 1980.

(g) *Expiration date.* This order shall expire at 11:59 p.m., January 13, 1980, unless otherwise modified, amended or vacated.

This order shall be served upon the association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 11, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80-2177 Filed 1-23-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

Correction

In FR Doc. 79-39541, appearing on page 76903, in the issue of Friday, December 28, 1979, make the following correction:

In "MC 107012 (Sub-458TA)," page 76903, third column, last paragraph, sixth line, the word "*cartridge*", should have read "*cartridges*".

BILLING CODE 1505-01-M

Permanent Authority Decisions; Decision—Notice

Correction

In FR Doc. 79-33792, appearing on page 62990, in the issue of Thursday, November 1, 1979, make the following correction:

In "MC 138882 (Sub-258F)", page 62992, third column, last paragraph, thirteenth line, "Harrisburg" should read "Harrisonburg".

BILLING CODE 1505-01-M

[Vol. No. 199]

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 79-36709, published at page 68544, on Thursday, November 29, 1979, on page 68558, in the third column, in the second paragraph "MC 145425 (Sub-2F)" should be corrected to read "MC 145420 (Sub-2F)".

BILLING CODE 1505-01-M

Permanent Authority Decisions

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited trafic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act.]

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All application are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 106

Decided: June 22, 1979.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

MC 488 (Sub-11F), filed January 30, 1979, previously noticed in FR issue of July 25, 1979. Applicant: BREMAN'S EXPRESS CO., a corporation, 318 Haymaker Road, Monroeville, PA 15146. Representative: Edward Goldberg, 1408 Law & Finance Building, Pittsburgh, PA 15219. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *refractory products* (except in bulk), and (2) *materials and supplies* used in the manufacture and installation of refractories, between (a) those points in WV on and north of U.S. Hwy 50, and (b) those points in OH on and east of a line beginning at Cleveland, OH, and extending over Interstate Hwy 77 to junction U.S. Hwy 21 near Akron, then over U.S. Hwy 21 to, junction Interstate Hwy 77, near Strasburg, then over Interstate Hwy 77 to the OH–WV State line, on the one hand, and on the other, the facilities of North American Refractories in Clearfield County, PA. (Hearing site: Pittsburgh, PA.)

Note.—This republication changes the territory from nonradial to radial.

Volume No. 258

Decided: Dec. 20, 1979.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

MC 1824 (Sub-99F), filed June 25, 1979. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Blvd., Preston, MD 21655. Representative: Charles S. Perry (same address as applicant). Transporting *petroleum, petroleum products, vehicle body sealer,* and *sound deadener compounds* (except commodities in bulk), from Congo and St. Marys, WV, and Elenton, Farmers Valley, and New Kensington, PA, to points in IL, IN, MD, MI, OH, VA, and WI. (Hearing site: Washington, DC.)

MC 1824 (Sub-100F), filed June 25, 1979. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Blvd., Preston, MD 21655. Representative: Charles S. Perry (same address as applicant). Transporting *petroleum and petroleum products* (except commodities in bulk), from Rouseville, Reno, and Oil City, PA, to points in MD, VA, and DC. (Hearing site: Washington, DC.)

MC 14215 (Sub-53F), filed June 25, 1979. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Representative: John L. Alden, 1396 West Fifth Ave., P.O. Box 12241, Columbus, OH 43212. Transporting (1) *iron and steel articles,* (a) from the facilities of Wheeling-Pittsburgh Steel Corporation, at (i) Canfield, Martins Ferry, Mingo Junction, Steubenville, and Yorkville, OH, and (ii) Beech Bottom, Benwood, Follansbee, and Wheeling, WV, to points in KY, MD, VA, and WV, and (b) from the facilities of Wheeling-Pittsburgh Steel Corporation, at Allenport and Monessen, PA, to points in KY, MD, VA, and WV, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above (except commodities in bulk, in tank vehicles), in the reverse direction. (Hearing site: Columbus, OH, or Washington, DC.)

MC 60014 (Sub-127F), filed June 25, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. Transporting *concrete roof tile,* and *accessories* for concrete roof tile, from the facilities of Monier Company, at or near (a) Duncanville, TX, and (b) Lakeland, FL, to those points in the United States in and east of MT, WY, CO, and NM. (Hearing site: Washington, DC.)

MC 61825 (Sub-110F), filed June 25, 1979. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Drive, P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone (same address as applicant). Transporting (1) *paper and paper products, chemicals, building materials, and plastic and plastic products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Union Camp Corporation. (Hearing site: Washington, DC.)

MC 71593 (Sub-51F), filed December 14, 1979. Applicant: FORWARDERS TRANSPORT, INC., 1608 East Second Street, Scotch Plains, NJ 07076. Representative: John Duncan Varda, 121 South Pinckney Street, Madison, WI 53703. Transporting *such commodities* as are dealt in and used by manufacturers and converters of paper and paper products (except commodities in bulk), from the facilities of Nekoosa Papers Inc., in Little River County, AR, to points in IA and KY. (Hearing site: Chicago, IL, or Washington, DC.)

MC 105984 (Sub-24F), filed June 24, 1979. Applicant: JOHN B. BARBOUR TRUCKING COMPANY, a Corporation, P.O. Box 577, Iowa Park, TX 76367. Representative: Bernard H. English, 6270 Firth Rd., Fort Worth, TX 76116. Transporting *bentonite clay,* in bags, from the facilities of Dresser Industries, Inc., at or near Greybull, WY, to points in AR, IL, IN, KS, KY, LA, MI, NM, OH, OK, TX, GA, WV, and RI. (Hearing site: Dallas or Houston, TX.)

MC 106674 (Sub-402F), filed June 25, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting *sand, gravel, and stone,* from points in the United States (except AK and HI), to points in CA, and those points in the United States in and east of TX, OK, KS, NE, SD, and ND. (Hearing site: Chicago, IL, or Indianapolis, IN.)

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MC 106674 (Sub-403F), filed June 25, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting *lime, limestone, and limestone products,* from the facilities of Pfizer, Inc., and Quigley Co., in Sandusky County, OH, to points in IL, IN, KY, MD, MI, PA, VA, WV, and DC. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 109124 (Sub-87F), filed June 25, 1979. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad Street, Suite 1800, Columbus, OH 43215. Transporting *lime, limestone, and limestone products,* from Carey, OH, to points in AL, DE, GA, KS, MD, MN, NC, SC, RI, TX, VA, and DC. (Hearing site: Columbus, OH.)

MC 111545 (Sub-288F), filed June 21, 1979. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: Robert E. Born (same address as above). Transporting (1) *plastic pipe, plastic fittings, and plastic connections, and (2) materials, supplies and accessories used in the manufacture and installation of (1) above* (except commodities in bulk, in tank vehicles) between Cleveland, OH, Stone Mountain, GA and Sun Valley, Bakersfield and Santa Ana, CA, on the one hand, and, on the other, points in CA, and those points in the United States in and east of MN, IA, NE, KS, OK, and TX. (Hearing site: Washington, DC, or Los Angeles, CA.)

MC 112304 (Sub-197F), filed June 25, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John D. Herbert (same address as applicant). Transporting (1)(a) *metal products, agriculture implements,* and *buildings,* and (b) *parts and accessories* for the commodities named in (1)(a) above, from the facilities of The Binkley Company, in Montgomery and Warren Counties, MO, to points in the United States (except AK and HI), and (2) *materials and supplies* used in the manufacture, distribution, and installation of the commodities named in (1) above, in the reverse direction, restricted in (1) above to the transportation of traffic originating at the named facilities. (Hearing site: St. Louis, MO, or Washington, DC.)

MC 113434 (Sub-131F), filed April 24, 1979. Applicant: GRA-BELL TRUCK LINE, INC., A–5253 144th Ave., Holland, MI 49423. Representative: Wilhemina Boersma, 1600 First Federal Bldg., Detroit, MI 48226. Transporting *such commodities* as are dealt in by manufacturers of glass and glass products, between the facilities of (a) Anchor Hocking Corporation; (b) Amerock Corporation; (c) Plastics, Inc.; (d) Shenango China; (e) Phoenix Glass Co.; and (f) Moldcraft, Inc., at points in IL, IN, MD, OH, PA, and WV, on the one hand, and, on the other, points in IA, IL, IN, KY, MD, MI, OH, PA, WI, and WV. (Hearing site: Columbus, OH, or Detroit, MI.)

MC 114725 (Sub-104F), filed June 25, 1979. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 N. 11th St., Omaha, NE 68110. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. Transporting *tallow,* from the (1) facilities of Iowa Beef Processors, Inc., at or near (a) Dakota City and West Point, NE, (b) Denison and Fort Dodge, IA, (c) Emporia, KS, and (d) Luverne, MN, to points in IL, IN, OH, TN, and TX, and (2) from the facilities of Iowa Beef Processors, Inc., at or near Emporia, KS, to points in OK, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Omaha, NE, or Sioux City, IA.)

MC 119315 (Sub-28F), filed June 25, 1979. Applicant: FREIGHTWAY CORPORATION, 131 Matzinger Rd., Toledo, OH 43612. Representative: Paul F. Berry, 275 East State St., Columbus, OH 43215. Transporting (1) *pentaerythritol* and *sodium formate* (except commodities in bulk), and (2) *equipment, materials, and supplies* used in the manufacture of the commodities named in (1) above (except commodities in bulk), between Toledo, OH, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Columbus, OH.)

MC 119384 (Sub-32F), filed June 25, 1979. Applicant: MORTON TRUCK LINES, INC., 101 West Willis Avenue, Perry, IA 50220. Representative: Robert R. Rydell, 1020 Savings and Loan Bldg., Des Moines, IA 50220. Transporting *meats, meat products and meat by-products, articles distributed by meat-packing houses,* and *such commodities* as are used by meat packers in the conduct of their business when destined to and for use by meat packers, as described in sections A, C, and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except commodities in bulk and hides), between the facilities of (a) Lauridsen Foods, Inc., at or near Britt, IA, and (b) Armour and Company, at Mason City, IA, on the one hand, and, on the other, points in MN, WI, MI, OH, IN, IL, MO, KS, and NE, restricted to the transportation of traffic originating at and destined to the indicated points. (Hearing site: Des Moines, IA, or Minneapolis, MN.)

MC 125985 (Sub-30F), filed June 25, 1979. Applicant: AUTO DRIVEAWAY COMPANY, a Corporation, 310 S. Michigan Ave., Chicago, IL 60604. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. Transporting *trucks,* in initial and secondary movements, in driveaway service, (a) from points in Cook County, IL, to points in Suffolk County, NY, and (b) from points in Suffolk County, NY, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 125985 (Sub-31F), filed June 25, 1979. Applicant: AUTO DRIVEAWAY COMPANY, 310 S. Michigan Avenue, Chicago, IL 60604. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. Transporting *motor homes* and *automobiles,* in secondary movements, in truckaway service, between points in Adams County, IN, on the one hand, and, on the other, points in the United States (including AK, but excluding HI). (Hearing site: Chicago IL.)

MC 125985 (Sub-32F), filed June 25, 1979. Applicant: AUTO DRIVEAWAY COMPANY, a Corporation, 310 S. Michigan Ave., Chicago, IL 60604. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. Transporting *self-propelled motor vehicles* in secondary movements, in driveaway service, between points in AR, CA, LA, NM, OK, UT, and WY. (Hearing site: Houston, TX.)

MC 127705 (Sub-86F), filed June 20, 1979. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Drawer J, Knox, PA 16232. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *such commodities* as are dealt in by manufacturers and distributors of glass, chinaware, and plastic products, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in NJ, MD, VA, WV, KY, IL, IN, OH, PA, DE, NY, MO, IA, WI, and MI, restricted to the transportation of traffic originating at or destined to the facilities of Anchor Hocking Corporation, Mold Craft, Inc., Amerock Corporation, and The Phoenix Glass Company. (Hearing site: Columbus, OH, or Washington, DC.)

MC 128235 (Sub-24F), filed June 25, 1979. Applicant: AL JOHNSON TRUCKING, INC., 1516 Marshall N.E., Minneapolis, MN 55413. Representative: Earl Hacking, 1700 New Brighton Blvd., Minneapolis, MN 55413. Transporting *malt beverages,* in containers, from Chippewa, Falls, WI, to Raleigh, NC. (Hearing site: Minneapolis or St. Louis, MN.)

MC 129455 (Sub-39F), filed June 21, 1979. Applicant: CARRETTA TRUCKING INC., South 160, Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front St., Scotch Plains, NJ 07076. To operate as a *contract carrier,* by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting (1) *drugs* and *toilet preparations* (except commodities in bulk) and (2) *materials, equipment, and supplies* used in the manfacture and distribution of the commodities named in (1) above, (except commodities in bulk), (a) between St. Louis, MO, Raleigh, NC, and Hillside, NJ, and (b) from points in the United States (except AK and HI), to Raleigh, NC, under continuing contract(s) with Briatol-Myers Products, of Hillside, NJ. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 133095 (Sub-256F), filed May 21, 1979. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Kim G. Meyer, P.O. Box 56387, Atlanta, GA 30343. Transporting (1) *paper* and *paper products,* and (2) *materials* used in the manufacture and distribution of the commodities named in (1) above, from the facilities of Scott Paper Company (a) at or near Pennsauken, NJ, and (b) in PA and WI, to points in MS, LA, and TX, restricted to the transportation of traffic originating at the named origins. (Hearing site: Mobile, AL, or Atlanta, GA.)

MC 133095 (Sub-280F), filed June 25, 1979. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. Transporting *rough iron pipe fittings,* from Eastland and Frisco, TX, to points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 135154 (Sub-6F), filed March 28, 1979, published in the Federal Register issue of December 6, 1979. Applicant: BADGER LINES, INC., 3109 West Lisbon Ave., Milwaukee, WI 53208. Representative: William C. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. Transporting (1) *malt beverages* and *carbonated beverages,* (a) from Milwaukee, WI, to Davenport and Dubuque, IA, St. Louis, MO, and points in IL, and (b) from St. Louis, MO, to Milwaukee, WI; (2) *malt beverage containers,* and *carbonated beverage containers,* (a) from Davenport and Dubuque, IA, and points in IL, to Milwaukee, WI, and (b) between Milwaukee, WI, and St. Louis, MO; (3) *fermented malt beverages,* in containers, from Columbus, OH, to Milwaukee, WI; and (4) *malt beverages,* in containers, from the facilities of Miller Brewing Co., at Milwaukee, WI, to St. Charles, MO. Condition: Issuance of a certificate in this proceeding is subject to the prior or coincidental cancellation of permits in Nos. MC 29990 and MC 29990 Subs 1, 9, and 11. (Hearing site: Milwaukee, WI, to Chicago, IL.)

Note.—Dual operations may be involved. The purpose of this application is to convert the above noted motor contract carrier permits to a motor common carrier certificate. This republication corrects the first commodity description.

MC 135884 (Sub-18F), filed June 25, 1979. Applicant: CALDWELL TRUCKING, INC., Holdman Route, Pendleton, OR 97801. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *kitchen and bathroom cabinets,* from Caldwell, ID, to Burney, CA, under continuing contract(s) with Heritage Woodworking Co., of Burney, CA. (Hearing site: Portland, OR.)

MC 138875 (Sub-211F), filed June 22, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, a Corporation, 11900 Franklin Rd., Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). Transporting *lime, masonry materials, and masonry supplies* (except commodities in bulk), from points in UT, to points in ID, restricted to the transportation of traffic originating at the indicated origins and destined to the indicated destinations. (Hearing site: Boise, ID, or Washington, DC.)

MC 140665 (Sub-58F), filed June 25, 1979. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Transporting (1) *roof coatings, roofing cement, paint, petroleum oil and grease, rust preventing compounds, and caulking compounds,* and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), from Elkhart, IN, to points in AZ, CA, CO, NM, UT, NV, WY, MT, ID, OR, TX, and WA. (Hearing site: Cleveland, OH, or Washington, DC.)

MC 140665 (Sub-59F), filed June 25, 1979. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in WA, to those points in the United States in and east of ND, SD, NE, CO, OK, and TX, restricted to the transportation of traffic having a prior movement by water. (Hearing site: Seattle, WA, or Washington, DC.)

MC 140835 (Sub-3F), filed June 25, 1979. Applicant: A. C. WRIGHT TRUCKING INC., Route 1, P.O. Box 35, Booneville, MS 38829. Representative: Johnny Davidson, Jr., Box 1456, 111 Highway 72 West, Corinth, MS 38834. Transporting *limestone, gravel, rock, sand, basic slag,* and *fertilizer,* in bulk, in dump vehicles, between points in AL, MS, and TN. CONDITION: Issuance of a certificate is subject to prior or coincidental cancellation of Certificate No. MC 140835 Sub 2, served March 28, 1977, at applicant's written request. (Hearing site: Corinth or Iuka, MS.)

MC 142315 (Sub-2F), filed June 18, 1979. Applicant: MEISLER CARTAGE, INC., 1103 East Franklin Street, Evansville, IN 47711. Representative: Warren C. Moberly, 777 Chamber of Commerce Building, 320 North Meridian Street, Indianapolis, IN 46204. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between points in Sullivan, Greene, Monroe, Lawrence, Washington, Harrison, Crawford, Orange, Perry, Daviess, Martin, Dubois, Pike, Warrick, Spencer, Knox, Gibson, Vanderburgh, Posey, Floyd, and Clark Counties, IN, Clark, Coles, Cumberland, Effingham, Fayette, Marion, Jefferson, Franklin, Williamson, Johnson, Massac, Pope, Saline, Hamilton, Wayne, Clay, Jasper, Richland, Edwards, White, Gallatin, Hardin, Wabash, Lawrence, Crawford, Pulaski, Union, Jackson, and Perry Counties, IL, and Marshall, Trigg, Todd, Logan, Edmonson, Grayson, Breckinridge, Meade, Hancock, Ohio, Daviess, McLean, Hopkins, Muhlenburg, Butler, Christian, Webster, Henderson, Union, Crittenden, Caldwell, Livingston, Lyon, and McCracken Counties, KY, (2) between Evansville, IN, and St. Louis, MO, and restricted in both (1) and (2) above to the transportation of traffic

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having a prior or subsequent movement by rail. (Hearing site: Indianapolis, IN, or Louisville, KY.)

MC 143464 (Sub-7F), filed June 25, 1979. Applicant: JOHN M. CHRISTOPHER, 3444 McCarty Lane, Lafayette, IN 47905. Representative: Brent E. Clary, P.O. Box 469, 66 Lafayette Bank & Trust Bldg., Lafayette, IN 47902. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, between St. Louis, MO, points in IN, IL, KY, and OH, and those in the lower peninsula of MI, under continuing contract(s) with Midwest Steel, Division of National Steel Corporation, of Portage, IN. (Hearing site: Chicago, IL.)

MC 142894 (Sub-2F), filed June 18, 1979. Applicant: MILLER DELIVERY SERVICE, INC., 227 North Main Street, Findlay, OH 15840. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. To operate as a *contract* carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Findlay and Fostoria, OH, on the one hand, and, on the other, points in MI and OH, under continuing contract(s) with Bendix Autolite Corp., of Fostoria, OH, Centrex Corp., of Findlay, OH, and Superior Trim Company, of Findlay, OH. (Hearing site: Columbus, OH.)

MC 145054 (Sub-22F), filed June 25, 1979. Applicant: COORS TRANSPORTATION Co., a corporation, 5101 York St., Denver, CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264. Transporting *foodstuffs* (except commodities in bulk), from St. Louis, MO, to Kansas City, KS, Lincoln and Omaha, NE, and points in CO. (Hearing site: St. Louis, MO.)

Note.—Dual operations may be involved.

MC 145654 (Sub-1F), filed June 25, 1979. Applicant: RICAR, INC., 739 Mulberry, P.O. Box 07817, Columbus, OH 43207. Representative: Robert W. Gardier, jr., 100 East Broad Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *black steel sheets, tinplate*, and *rolled steel*, in coils, (a) from Yorkville, Canton, and Massillon, OH, and Weirton and Wheeling, WV, to Detroit, MI, and Chicago, IL, and (b) from Detroit, MI, to Chicago, IL, under continuing contract(s) with the Dana Corporation, Victor Division, of Chicago, IL. (Hearing site: Columbus, OH.)

MC 147364 (Sub-2F), filed June 25, 1979. Applicant: P. W. McCULLERS TRUCK BROKERS, INC., 6010 Avery St., Orlando, FL 32808. Representative: Elbert Brown, jr., P.O. Box 1378, Altamonte Springs, FL 32701. To operate as a *contract carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *frozen fruit* and *frozen vegetables*, in vehicles equipped with mechanical refrigeration, between ports of entry on the international boundary line between the United States and Canada, at or near Houlton and Calais, ME, on the one hand, and, on the other, points in ME, MA, CT, NJ, NY, PA, RI, MD, VA, NC, SC, OH, GA, FL, AL, TN, MS, LA, TX, NM, AZ, CO, CA, MO, DE, NH, KS, and DC, under continuing contract(s) with C. M. McLean, Limited, of Charlottetown, Prince Edward Island, Canada. (Hearing site: Orlando or Jacksonville, FL.)

MC 147454F, filed June 18, 1979. Applicant: JAMES CONDOSTA, 807 Exeter Ave., West Pittston, PA 18643. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Transporting *scrap metal*, in dump vehicles, from Ellenville, NY, to Milton and Easton, PA. (Hearing site: New York, NY.)

MC 147594F, filed June 22, 1979. Applicant: SUNBIRD TRANSPORT INC., 990 Washington, St., Dedham, MA 02026. Representative: Francis W. McInerny, 1000 16th St., NW, Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials, plastic articles, and paper articles*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities named in (1) above (except commodities in bulk), between the facilities of Bird & Son, Inc., at or near (a) E. Walpole, Norwood, and Lawrence, MA, (b) Lewiston, ME, (c) Phillipsdale, RI, (d) Perth Amboy, NJ, (e) Franklin, OH, (f) Chicago, IL, (g) Bardstown and St. Matthews, KY, (h) Rockhill, MO, (i) Charleston Heights, SC, and (j) Shreveport, LA, on the one hand, and, on the other, those in the United States in and east of MN, IA, MO, KS, AR, and LA, under continuing contract(s) with Bird & Son, Inc., of Walpole, MA. (Hearing site: Washington, DC.)

MC 147624 (Sub-1F), filed June 25, 1979. Applicant: J C T, INC., 3176 Fir Oak Dr., Albany, OR 97321. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *wood products* and *lumber*, (2) *building materials* (except wood products and lumber), and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between the facilities of Willamette Industries, Inc., at or near, Vancouver, WA, and in OR, on the one hand, and, on the other, points in CA, under continuing contract(s) with Willamette Industries, Inc., of Albany, OR. (Hearing site: Portland, OR.)

MC 148614 (Sub-1F), filed March 15, 1979, published in the Federal Register issue of August 30, 1979 as MC-135684 Sub 16F. Applicant: CALDWELL TRUCKING, INC., Holdman Route, Pendleton, OR 97801. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic foam insulation* and *insulation supplies*, from the facilities of Vertex, Inc., at Oakland and Los Angeles, CA, to points in WA and OR. (Hearing site: Portland, OR.)

Note.—This republication indicates applicant's correct docket number and that dual operations may be involved.

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Decided: December 27, 1979.
By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 69052 (Sub-37F), filed June 28, 1979. Applicant: REED TRUCKING CO., a corporation, P.O. Box 216, Milton, DE 19968. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th St., NW, Washington, DC 20004. Transporting *dry chemicals* (except in bulk), from Syracuse, Buffalo, Niagara Falls and Seneca Falls, NY, to the facilities of Robinson Chemical Company, Inc., at Cambridge, MD. (Hearing site: Cambridge, MD, or Washington, DC.)

MC 80443 (Sub-26F), filed June 27, 1979. Applicant: OVERNITE EXPRESS, INC., 2550 Long Lake Road, Roseville, MN 55113. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Transporting *Bentonite clay* from the facilities of American Colloid Company at or near Malta, MT, to points in the United States (except AK and HI). (Hearing site: Minneapolis or St. Paul, MN.)

MC 114273 (Sub-622F), filed June 27, 1979. Applicant: CRST, INC., P.O. Box 68, 3930 16 Avenue, SW., Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting *plastic articles* from Louisiana, MO, to Cedar Rapids, IA, and Toledo, OH. (Hearing site: Chicago, IL, or Washington, DC.)

MC 123272 (Sub-37F), filed June 29, 1979. Applicant: FAST FREIGHT, INC., 9651 S. Ewing Avenue, Chicago, IL 60617. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Transporting (1) *foodstuffs* (except in bulk), from St. Henry, OH, to points in the United States in and east of ND, SD, NE, CO and NM, and (2) *materials and supplies* used in the manufacture of the commodities in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Chicago, IL.)

MC 128302 (Sub-14F), filed June 29, 1979. Applicant: THE MANFREDI MOTOR TRANSIT CO., a corporation, 11250 Kinsman Road, Newbury, OH 44065. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Transporting *liquid concrete admixtures*, in bulk, in tank vehicles, from Richmond, VA, to points in CT, DE, FL, GA, KY, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, and DC. (Hearing site: Columbus, OH.)

Note.—Dual operations may be involved.

MC 139852 (Sub-3F), filed June 28, 1979. Applicant: E. C. BLACK, d.b.a. BLACK TRUCKING CO., Route 1, York, SC 29745. Representative: Joseph M. Epting, 1338 Main St., P.O. Box 11414, Columbia, SC 29211. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chain link fence, fencing accessories, wire, pipes, tubing, gates and reinforcing concrete wire mesh*, from Rock Hill, SC, to points in GA and NC, and to those points in TN on and east of Interstate Hwy 65, under continuing contract(s) with National Fence Manufacturing Co., Inc., of Rock Hill, NC. (Hearing site: Columbia, SC, or Charlotte, NC.)

MC 144162 (Sub-9F), filed March 19, 1979. Applicant: TIME CONTRACT CARRIERS, INC. 17734 Sierra Hwy, Canyon Country, CA 91351. Representative: Milton W. Flack, 4311 Wilshire Blvd, Suite 300 Los Angeles, CA 90010. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *steel* office chairs, and wood office chairs, from the facilities of Ed Pauly & Associates, Inc., of Vernon, CA, to points in AZ, ID, NV, OR and WA, and (2) *materials, equipment and supplies* used in the manufacture, sale and distribution of the commodities named in (1) above, from points in IN, MI, OH and TN to points in AZ, CA, ID, NV, OR and WA, under continuing contract(s) with Ed Pauly & Associates, Inc., of Vernon, CA. (Hearing site: Los Angeles, CA.)

MC 144503 (Sub-17F), filed June 28, 1979. Applicant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box F, Forest Park, GA 30050. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Swift & Company at Marshalltown, Sioux City, and Glenwood, IA, to points in AL, FL, GA, LA, MS, NC, SC, and TN. (Hearing site: Atlanta, GA).

MC 144682 (Sub-23F), filed June 29, 1979. Applicant: R. R. STANLEY, 1738 Empire Central, Dallas, TX 75235. Representative: D. Paul Stafford, P.O. Box 45538, 1125 Exchange Park, Dallas, TX 75245. Transporting *foodstuffs* (except in bulk), from the facilities of American Home Foods, Division of American Home Products Corporation, at or near Vacaville, CA, to points in CO, OK, and TX. (Hearing site: Dallas, TX.)

Note.—Dual operations may be involved.

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Decided: Dec. 21, 1979.
By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

MC 107403 (Sub-1230F), filed June 26, 1979. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). Transporting *liquid chemicals*, in bulk, in tank vehicles, from Midland and Bay City, MI, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 111812 (Sub-855F), filed June 26, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks (same address as applicant). Transporting *printed matter*, from the facilities of Quad/Graphics, Inc., at or near Pewaukee, WI, to points in the United States (except AK and HI). (Hearing site: Chicago, IL or Milwaukee, WI.)

MC 111812 (Sub-856F), filed June 26, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks (same address as applicant). Transporting (1) *foodstuffs* (except commodities in bulk), from (a) Waukesha, WI, (b) Albany, GA, (c) Navasota, TX, and (d) points in Johnson County, KS, to points in the United States (except AK and HI); and (2) *materials, supplies, and equipment* used in the manufacture and distribution of foodstuffs (except commodities in bulk) in the reverse direction. (Hearing site: Chicago, IL or Milwaukee, WI.)

MC 114273 (Sub-621F), filed June 27, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting *plastic articles* from the facilities of Louisiana Plastics, Inc., a subsidiary of Bemis Co., Inc., at Louisiana, MO, to Chambersburg, PA. (Hearing site: Chicago, IL, or Washington, DC.)

MC 119493 (Sub-307F), filed June 26, 1979. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same address as applicant). Transporting (1) *electrical equipment and lighting equipment*, (2) *parts for the commodities in (1) above*, and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, (except commodities in bulk), between Carthage, MO, on the one hand, and, on the other, those points in the United States in and east of MT, WY, CO, and NM. (Hearing site: Kansas City or Springfield, MO.)

MC 119493 (Sub-309F), filed June 26, 1979. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same address as applicant). Transporting *lumber*, and *wood products*, between points in KS and MO, on the one hand, and, on the other, points in AL, AR, GA, KY, LA, MS, NC, OK, SC, and TN. (Hearing site: Kansas City or Springfield, MO.)

MC 119522 (Sub-44F), filed June 27, 1979. Applicant: McLAIN TRUCKING, INC., 2425 Walton Street, P.O. Box 2159, Anderson, IN 46011. Representative: John B. Leatherman, jr. (same address as applicant). Transporting *castings* between Indianapolis, IN and Dayton, OH. (Hearing site: Indianapolis, IN, or Dayton, OH.)

MC 123872 (Sub-106F), filed June 26, 1979. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. Transporting *new furniture and furniture parts*, (1) from points in

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Rutherford County, NC, to points in CA, CO, IL, IA, KS, MN, NE, NM, OK, TX, and WI, and (2) from points in Caldwell County, NC, to points in OK, TX, and NM. (Hearing site: Charlotte, NC.)

Note.—Dual operations may be involved.

MC 136512 (Sub-16F), filed June 26, 1979. Applicant: SPACE CARRIERS, INC., 444 Lafayette Road, St. Paul, MN 55101. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Transporting *such commodities* as are used in the manufacture of motor vehicles, from Syracuse and Ellicottville, NY, to St. Paul, MN. (Hearing site: Detroit, MI, or St. Paul, MN.)

MC 138882 (Sub-276F), filed June 26, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: John J. Dykema (same address as applicant). Transporting *construction materials*, and *supplies* used in the manufacture and distribution of construction materials (except commodities in bulk), between the facilities of the Celotex Corporation, at or near Quincy, IL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Tampa, FL, or Birmingham, AL.)

MC 138882 (Sub-278F), filed June 26, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: John J. Dykema (same address as applicant). Transporting *construction materials*, and *supplies* used in the manufacture and distribution of construction materials (except commodities in bulk), from the facilities of the Celotex Corporation, at or near L'Anse, MI, to points in the United States (except AK and HI). (Hearing site: Tampa, FL or Birmingham, AL.)

MC 138882 (Sub-279F), filed June 26, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: John J. Dykema (same address as applicant). Transporting *construction materials*, and *supplies* used in the manufacture and distribution of construction materials, (except commodities in bulk), from the facilities of the Celotex Corporation, at or near Peoria, IL, to points in the United States (except AK and HI). (Hearing site: Tampa, FL or Birmingham, AL.)

MC 138882 (Sub-280F), filed June 26, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: John J. Dykema (same address as applicant). Transporting *construction materials*, and *supplies* used in the manufacture and distribution of construction materials, (except commodities in bulk), from the facilities of the Celotex Corporation, at or near Paris, TN, to points in the United States (except AK and HI). (Hearing site: Tampa, FL or Birmingham, AL.)

MC 138882 (Sub-281F), filed June 26, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: John J. Dykema (same address as applicant). Transporting *construction materials*, and *materials and supplies* used in the manufacture and distribution of construction materials (except commodities in bulk), between the facilities of the Celotex Corporation, at or near Pittston, PA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Tampa, FL or Birmingham, AL.)

MC 142863 (Sub-3F), filed June 26, 1979. Applicant: SPRINGBROOK TRANSPORT, INC., P.O. Box 422, Springfield, PA 19064. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *chemicals, drugs, petroleum and petroleum products, and plastics* (except commodities in bulk), from Wilmington and Newark, DE, Pasadena and Signal Bill, CA, Wheeling, IL, Baton Rouge, LA, Dighton, MA, Charlotte, NC, Bayonne and Linden, NJ, West Chester, PA, Memphis, TN, Marshall and Houston, TX, and Hopewell, VA, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction, under continuing contract(s) with ICI Americas, Inc., of Wilmington, DE. (Hearing site: Philadelphia, PA.)

MC 142743 (Sub-15F), filed June 26, 1979. Applicant: FAST FREIGHT SYSTEMS, INC., P.O. Box 132C, Tupelo, MS 38801. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Transporting (1) *refractories*, from points in Audrain and Callaway Counties, MO, to points in AL, AR, MS, and TN, and (2) *materials and supplies* used in the manufacture and installation of refractories, in the reverse direction. (Hearing site: Washington, DC or Atlanta, GA.)

MC 144442 (Sub-6F), filed June 26, 1979. Applicant: ESSEX EXPRESS, INC., 1200 Hammondville Road, Pompano Beach, FL 33060. Representative: Don A. Allen, 2550 M Street, NW, Washington, DC 20037. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fresh meats*, from Miami and Tampa, FL, to points in NC, OH, PA, SC, VA, WI, GA, IL, IN, MI, NJ, NY, and MA, under continuing contract(s) with United Beef Packers, of Miami, FL. (Hearing site: Miami, FL or Washington, DC.)

Note.—Dual operations may be involved.

MC 145282 (Sub-2F), filed June 22, 1979. Applicant: FALCON TRANSPORT, INC., 666 Tifft Street, Buffalo, NY 14220. Representative: Robert D. Gunderman, Suite 710 Statler Building, Buffalo, NY 14202. Transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, and those requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, and (2) empty containers and trailer chassis, between the ports of entry on the international boundary line between the United States and Canada, on the Niagara River in NY, on the one hand, and, on the other, points in MD, OH, PA, NJ, NY, and WV. (Hearing site: Buffalo, NY.)

MC 147343 (Sub-2F), filed June 26, 1979. Applicant: TREADWAY CARRIERS, INC., P.O. Box 364, Westfield, IN 46074. Representative: Orville G. Lynch (same address as applicant). Transporting *electronic data processing machines, and materials* used in the manufacture of electronic data processing machines, between Westbrook, ME, Westboro, MA, Los Angeles and San Francisco, CA, Chicago, IL, Evansville, IN, New York, NY, Clayton, NC, and Austin, TX. Condition: The person or persons engaged in common control of applicant and other regulated carriers must file an application for approval of the common control under 49 U.S.C. 11343 or submit an affidavit indicating why such approval is necessary. (Hearing site: Indianapolis, IN or Boston, MA.)

MC 147552 (Sub-4F), filed June 27, 1979. Applicant: CAJUN CARTAGE AND WAREHOUSING CORP., 1205 St. Louis St., New Orleans, LA 70150. Representative: Thomas N. Willess, 1000 16th St., NW., Washington, DC 20036. Transporting *cleaning, scouring and washing compounds, and soap powder*, from the facilities of Procter and Gamble Distributing Company, at or near Alexandria, LA, to Lake Charles, LA, restricted to the transportation of traffic having a subsequent movement by water. (Hearing site: New Orleans, LA, or Washington, DC.)

(1) MC 32882 (Sub-110F), filed April 28, 1979. Applicant: MITCHELL BROS. TRUCK LINES, a corporation, 3841 North Columbia Boulevard, Portland, OR 97217. Representative: Michael J. Norton, Suite 100–Commercial Club Building, P.O. Box 2135, Salt Lake City, UT 84110. (2) MC 125433 (Sub-249F), filed April 26, 1979. Applicant: F-B TRUCK LINE CO., a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104 Representative: Michael J. Norton, Suite 100–Commercial Club Building, P.O. Box 2135, Salt Lake City, UT 84110. (3) MC 141532 (Sub-51F), filed October 22, 1979. Applicant: PACIFIC STATES TRANSPORT, INC., 3328 East Valley Road, Renton, WA 98055. Representative: Michael J. Norton, Suite 100–Commercial Club Building, P.O. Box 2135, Salt Lake City, UT 84110. (4) MC 141804 (Sub-214F), filed May 3, 1979. Applicant: WESTERN EXPRESS, division of INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Michael J. Norton, Suite 100–Commercial Club Building, P.O. Box 2135, Salt Lake City, UT 84110. (5) MC 143941 (Sub-3F), filed May 21, 1979. Applicant: UTILITIES INTERSTATE SERVICE, INC., 6899 Cherry Avenue, Long Beach, CA 90803. Representative: Michael J. Norton, Suite 100–Commercial Club Building, P.O. Box 2135, Salt Lake City, UT 84110. Transporting (1) *Aluminum, copper and steel wire*, (2) *aluminum, copper and steel cable*, (3) *aluminum, copper, and steel strands*, (4) *aluminum, copper, and steel rods*, (5) *reels* used in the distribution of the commodities in (1) through (4) above, and (6) equipment materials and supplies used in the manufacture of the commodities in (1) through (5) above, between Orange, Buena Park, Long Beach, Commerce, and San Jose, CA, Portland, OR, Arlington, TX, Harrisonville, MO, Sycamore, IL, Marion, IN, LaGrange, KY, Forest Park and Watkinsville, GA, and Eden and Tarboro, NC, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Anaconda Company. (Hearing site: Los Angeles, or San Francisco, CA.)

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Decided: Jan. 14, 1980.

By the Commission, Review Board Number 1, Members Carleton and Jones. Member Joyce participating in part.

MC 200 (Sub-360F), filed June 20, 1979. Applicant: RISS INTERNATIONAL CORP., 903 Grand Ave., Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). Transporting *brass, bronze, and copper sheet*, in coils, from Cleveland, OH, to Trenton, MO. (Hearing site: Kansas City, MO.)

MC 42261 (Sub-147F), filed June 19, 1979. Applicant: LANGER TRANSPORT CORP., Box 305, Jersey City, NJ 07303. Representative: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017. Transporting *petroleum products*, in bulk, in tank vehicles, from Paulsboro, NJ, to points in NC, SC, and WV. (Hearing site: New York, NY, or Washington, DC.)

MC 48441 (Sub-50F), filed June 18, 1979. Applicant: R.M.E. INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW, Washington, DC 20001. Transporting *glass containers*, from Lincoln, IL, to points in IA, IN, KY, MI, MO, and OH. (Hearing site: Chicago, IL.)

MC 52460 (Sub-247F), filed June 14, 1979. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th St., P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *canned foodstuffs*, from points in Benton, Crawford and Washington Counties, AR, and Adair and Haskell Counties, OK to points in AL, FL, GA, KS, MO, MS, NC, SC, TN, and TX, restricted to the transportation of traffic originating at the facilities of Allen Canning Company. (Hearing site: Tulsa, OK.)

MC 60430 (Sub-28F), filed June 6, 1979. Applicant: FRIEDMAN'S EXPRESS, INC., P.O. Box 480, Wilkes-Barre, PA 18703. Representative: Stanley J. Gutkowski (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Northumberland and Williamsport, PA, (a) from Northumberland over PA Hwy 147 to junction U.S. Hwy 220, then over U.S. Hwy 220 to Williamsport and return over the same route, serving all intermediate points and serving Hughesville, Montgomery, Turbotville, and Watsontown, PA) as off-route points, and (b) from Williamsport over U.S. Hwy 15 to junction U.S. Hwy 11, then over U.S. Hwy 11 to Northumberland and return over the same route, serving all intermediate points, and (2) between Schuylkill Haven and Pine Grove, PA, over PA Hwy 443, serving all intermediate points. (Hearing site: Williamsport or Wilkes-Barre, PA.)

MC 67450 (Sub-90F), June 18, 1979. Applicant: PETERLIN CARTAGE CO., a corporation, 9651 S. Ewing Ave., Chicago, IL 60617. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603. Transporting *sugar*, from points in LA, to St. Louis, MO, and points in IL, IN, KY, and OH. (Hearing site: Chicago, IL.)

MC 95490 (Sub-50F), June 15, 1979. Applicant: UNION CARTAGE COMPANY, a Corporation, 9A Southwest Cutoff, Worcester, MA 01604. Representative: Edward J. Kiley, 1730 M St., NW, Washington, DC 20036. Transporting *plastic articles*, from Leominster, MA, to Bridgeport, CT, Bethlehem and Scranton, PA, Baltimore and Halethorpe, MD, and Washington, DC. (Hearing site: Boston, MA, or Washington, DC.)

MC 103051 (Sub-480F), June 18, 1979. Applicant: FLEET TRANSPORT COMPANY, INC., 934—44th Ave., N. Nashville, TN 37209. Representative: Russell E. Stone, P.O. Box 90406, Nashville, TN 37209. Transporting *commodities*, in bulk, in tank vehicles, (1) between points in AL, FL, GA, NC, SC, and TN, and (2) between points in AL, FL, GA, NC, SC, and TN, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. Dual operations may be involved. (Hearing site: Nashville, TN, or Atlanta, GA.)

MC 110420 (Sub-822F), June 14, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg. 425—13th St., NW., Washington, DC 20004. Transporting *liquid chemicals*, in bulk, in tank vehicles, from the facilities of Sherex Chemical Company, Inc., at or near Mapleton, IL, to points in the United States (except AK and HI). (Hearing site: Chicago, IL., or Washington, DC.)

MC 111071 (Sub-16F), June 15, 1979. Applicant: CARROLL TRANSPORT, INC., 1702 Frick Bldg., Pittsburgh, PA 15219. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *iron and steel articles*, from (1) the facilities of Jones & Laughlin Steel Corporation, at Cleveland and Youngtown, OH, to points in the lower peninsula of MI, and (2) Warren, MI, to the facilities of Jones & Laughlin Steel Corporation, at Cleveland, OH. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 111320 (Sub-74F), filed June 15, 1979. Applicant: KEEN TRANSPORT, INC., P.O. Box 1417, Hudson, OH 44236.

Representative: Michael Spurlock, 275 East State St., Columbus, OH 43215. Transporting (1) *construction and earth-moving equipment*, and (2) *parts* of the commodities described in (1) above, between Cleveland, OH, on the one hand, and, on the other, points in AZ, CA, CO, ID, MN, NM, NV, OR, UT, WA, and WY. (Hearing site: Columbus, OH.)

MC 112750 (Sub-351F), filed June 14, 1979. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park, New Hyde Park, NY 11042. Representative: Elizabeth L. Henoch (same as the applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commercial papers, documents* and *written instruments*, (except currency, and negotiable securities), as are used in the business of banks and banking institutions, between Cincinnati, OH, on the one hand, and, on the other, points in Bell, Breathitt, Clay, Elliot, Estill, Floyd, Harlan, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, McCreary, Magoffin, Martin, Menifee, Morgan, Owsley, Perry, Pike, Powell, Pulaski, Rockcastle, Whitley and Wolfe Counties, KY. Under continuing contract(s) with banks and banking institutions. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 113300 (Sub-12F), filed June 14, 1979. Applicant: WILLIAM T. HERRON TRUCKING, INC., R.F.D. 3, Marietta, OH 45750. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. Transporting *lime*, in bulk, from points in VA, KY, and WV (except those in Hancock, Brook, Ohio, and Marshall Counties), to points in OH and PA. (Hearing site: Columbus, OH.)

MC 113651 (Sub-307F), filed June 14, 1979. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Muncie,-IN 47305. Representative: Glen L. Gissing (same address as applicant). Transporting *meats, meat products, meat by products*, and *articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and 766, (except commodities in bulk) between points in AL, FL, GA, LA, and MS, on the one hand, and, on the other, points in IA, IL, IN, MA, MI, MO, NJ, NY, OH, PA, and WI. (Hearing site: Dallas, TX, or Washington, DC.)

MC 114890 (Sub-96F), filed June 14, 1979. Applicant: COMMERCIAL CARTAGE CO., a corporation, 343 Axminster Dr., Fenton, MO 63026. Representative: David A. Cherry, P.O. Box 1540, Edmond, OK 73034. Transporting *barium sulfide slurry*, in bulk, in tank vehicles, from Coffeyville, KS, to Memphis, TN. (Hearing site: St. Louis or Joplin, MO.)

MC 117940 (Sub-349F), filed June 18, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. Transporting *foodstuffs* (except in bulk), from the facilities of General Mills, Inc., at Chicago, IL, to Buffalo, NY, Mechanicsburg, PA, and points in IN, IA, MI, MN, MO, SD, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Minneapolis or St. Paul, MN.)

MC 119560 (Sub-21F), filed June 19, 1979. Applicant: SOUTHERN BULK HAULERS, INC., P.O. Box 278, Harleyville, SC 29448. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave., and 13th St., NW, Washington, DC 20004. Transporting *lumber and fiberboard*, from the facilities of Holly Hill Lumber Company, at Holly Hill and Walterboro, SC, to those points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada. (Hearing site: Columbia, SC, or Washington, DC.)

MC 119641 (Sub-17OF), filed June 14, 1979. Applicant: RINGLE EXPRESS, INC., 450 East Ninth St., Fowler, IN 47944. Representative: Robert A. Kriscunas, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting (1) *zinc, zinc dross, zinc residue, and zinc skimmings*, and (2) *materials, equipment and supplies* used in the manufacture of zinc and zinc products, between the facilities of St. Joe Zinc Company, at Josephtown (Potter Township), PA, on the one hand, and on the other, points in IA, IL, IN, MI, MN, MO, OH, and WI. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 119641 (Sub—173F), filed June 20, 1979. Applicant: RINGLE EXPRESS, INC., 450 E. Ninth St., Fowler, IN 47944. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting *lumber, lumber products, lumber mill products, forest products, and wood products*, from Greenville and Madison, GA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Indianapolis, IN or Chicago, IL.)

MC 120631 (Sub-5F), filed June 15, 1979. Applicant: STEPHENS TRUCK LINE, INC., P.O. Box 484, Dickson, TN 37055. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. Transporting (1) *pneumatic tire valves*, (2) *parts* for pneumatic tire valves, (3) *materials and supplies* used in the manufacture of the commodities in (1) and (2) above, between the facilities of Scovill, Schrader Division at or near Dickson, TN, and Gadsden, AL, (4) *poly film and poly bags*, and (5) *materials and supplies* used in the manufacture of the commodities in (4) above, between LaGrange, GA, and points in Dickson County, TN. (Hearing site: Nashville, TN.)

MC 120761 (Sub-55F), filed June 20, 1979. Applicant: NEWMAN BROS. TRUCKING COMPANY, a Corporation, 6559 Midway Rd., P.O. Box 18728, Ft. Worth, TX 76118. Representative: R. E. Newman (same address as applicant). Transporting (1) *automotive lifts*, from Ft. Worth, TX, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of automotive lifts, in the reverse direction. (Hearing site: Dallas, TX, or Washington, DC.)

MC 120761 (Sub-57F), filed June 19, 1979. Applicant: NEWMAN BROS. TRUCKING COMPANY, a Corporation, 6559 Midway Rd., P.O. Box 18728, Fort Worth, TX 76118. Representative: Clint Oldham, 1108 Continental Life Bldg., Fort Worth, TX 76102. Transporting *iron and steel articles*, from the facilities of A. M. Castle & Co., at or near Franklin Park, IL, to Los Angeles, San Francisco and Fresno, CA, Wichita, KS, Baltimore, MD, Kansas City, MO, Galion and Cleveland, OH, Tulsa, OK, Salt Lake City, UT, and Milwaukee, WI. (Hearing site: Dallas, TX.)

MC 121101 (Sub-3F), filed June 19, 1979. Applicant: FORGE VILLAGE TRANSPORTATION CO., INC., 39 Central Ave., Ayer, MA 01432. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Transporting (1) *general commodities* (except commodities in bulk, household goods as defined by the Commission, classes A and B explosives, wool, wool products, those of unusual value, and those requiring special equipment), between points in MA, (2) *wool and wool products*, between Newton, MA, on the one hand, and, on the other, Brighton, Newton, Waltham, and Watertown, MA, (3) *paper*, from Tewksbury, MA, to points in CT and RI,

and (4) *printed matter, materials, equipment and supplies* used in the manufacture and distribution of printed matter (except commodities in bulk), between Brattleboro, VT, and points in MA, on the one hand, on the other, points in CT, IL, IN, KY, MA, MD, MI, MO, NJ, NY, OH, PA, RI, TN, VT, and VA. NOTE: The purpose of this application is (A) to convert applicant's Certificate of Registration in MC–121101 Sub 1, to a Certificate of Public Convenience and Necessity in parts (1) and (2) above, and (B) to apply for an extension of authority in parts (3) and (4) above. (Hearing site: Boston, MA.)

MC 124821 (Sub-49F), filed June 14, 1979. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd. Camp Hill, PA 17011. Transporting (1) *television picture tubes*, (2) *parts for television picture tubes* and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between Dunmore, PA, and Bloomington, IN. (Hearing site: Harrisburg, PA.)

MC 127651 (Sub-48F), filed April 28, 1979. Applicant: EVERETT G. ROEHL, INC., East 29th St., Box 7, Marshfield, WI 54449. Representative: Richard A. Westley, 4506 Regent, Suite 100, Madison, WI 53705. Transporting *malt beverages*, from St. Louis, MO, to Marshfield, WI. (Hearing site: Minneapolis, MN, or Milwaukee, WI.)

MC 127651 (Sub-49F), filed April 30, 1979. Applicant: EVERETT G. ROEHL, INC., East 29th St., Box 7, Marshfield, WI 54449. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting (1) *lawn and garden lime and gypsum*, and (2) *sand*, from the facilities of F. Hurlbut Company, at or near Green Bay, WI, to points in IL, IN, and MI. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 127651 (Sub-50F), filed April 30, 1979. Applicant: EVERETT G. ROEHL, INC., East 29th St., Box 7, Marshfield, WI 54449. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting *particleboard*, from the facilities of Weyerhaeuser Company, at or near Marshfield, WI, to points in IN, MI, and OH. (Hearing site: Chicago, IL.)

MC 128030 (Sub-123F), filed June 18, 1979. Applicant: THE STOUT TRUCKING CO., INC., P.O. Box 98, Urbana, IL 61801. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60802. Transporting (1) *plastic containers*, from Danville, IL and Springdale, OH, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Chicago, IL.)

MC 128940 (Sub-41F), filed June 18, 1979. Applicant: RICHARD A. CRAWFORD, d.b.a. R. A. CRAWFORD TRUCKING SERVICE, P.O. Box 303, Gambrils, MD 21054. Representative: Edward N. Button, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *laboratory reagents and culture media*, from Cockeysville, MD, to points in AR, CO, IL, IA, KS, MN, NE, NM, NV, OK, OR, SC, UT, WA, WI, WV, and DC, under continuing contract(s) with BBL Micro Biological Systems, of Cockeysville, MD. (Hearing site: Washington, DC, or Baltimore, MD.)

MC 135410 (Sub-69F), filed June 14, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting (1) *welding materials and supplies*, (2) *electric motors, electric welders, and hand trucks*, and (3) *parts and accessories* for the commodities in (2) above, from the facilities of The Lincoln Electric Company, at Cleveland and Mentor, OH, to points in IA, IL, IN, MI, MO, PA, and WI. (Hearing site: Chicago, IL.)

MC 135410 (Sub-70F), filed June 14, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting *canned and preserved foodstuffs*, from the facilities of Heinz USA, Division of H. J. Heinz Company, at or near Muscatine and Iowa City, IA, to points in IL, IN, MI, MO, OH and PA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 135410 (Sub-72F), filed June 20, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting (1) *paper and paper products*, and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between the facilities of International Paper Company, at or near Indianapolis, IN, on the one, hand, and, on the other, points in IL, IA, MI, MO, and OH, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: New York, NY or Washington, DC.)

MC 136841 (Sub-16F), filed June 15, 1979. Applicant: BLACK HILLS TRUCKING CO., a corporation, P.O. Box 2130, Rapid City, SD 57709. Representative: James W. Olson, P.O. Box 1552, Rapid City, SD 57709. Transporting (1) *beer and malt beverages*, from St. Louis, MO, and points in IL, NJ, MN, and WI, to Rapid City, SD, and (2) *soda pop*, from points in IL, NJ, MN, and WI, to Rapid City, SD. (Hearing site: Rapid City, SD.)

MC 143540 (Sub-18F), filed June 15, 1979. Applicant: MARINE TRANSPORT COMPANY, a corporation, P.O. Box 2142, Wilmington, NC 28402. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. Transporting *soybean flour*, in bags, from the facilities of Ralston Purina Company, at or near (a) Hager City, WI, (b) Louisville, KY, (c) Memphis, TN, and (d) Red Wing, MN, to Wilmington, NC. (Hearing site: Wilmington, NC.)

MC 143621 (Sub-40F), filed June 15, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Ave. North, P.O. Box 5748, Nashville, TN 37208. Representative: Sidney T. Stanley (same address as applicant). Transporting (1) *central heating and air conditioning units*, and (2) *accessories and parts* for the commodities in (1) above, from the facilities of Heil-Quaker Corp., at or near Nashville, TN, to points in the United States (except AK and HI). (Hearing site: Nashville, TN.)

MC 144330 (Sub-70F), filed June 18, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218 Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same address as applicant). Transporting *lumber, lumber mill products, and wood products* (except commodities in bulk), from points in ID, MT, OR, and WA to points in AR, AZ, CO, IL, IN, KS, MO, NM, OK, TX, UT, and WY, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Denver, CO.)

MC 144330 (Sub-71F), filed June 18, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218 Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same address as applicant). Transporting *lumber*, from points in TN, to points in CO, MT, and WY, restricted to the transportation of traffic originating at the named origins

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and destined to the indicated destinations. (Hearing site: Denver, CO.)

MC 144570 (Sub-3F), filed June 18, 1979. Applicant: DIVERSIFIED CARRIERS, INC., 903 Sixth St., Rochester, MN 55901. Representative: D. Douglas Titus, Suite 510 Benson Bldg., Sioux City, IA 51101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles distributed by meatpacking houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Luverne, MN, to points in FL, under continuing contract(s) with Iowa Beef Processors, Inc., of Dakota City, NE. (Hearing site: Minneapolis/St. Paul, MN, or Omaha, NE.)

MC 145950 (Sub-27F), filed June 14, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Waco, TX 76706. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, D.C. 20001. Transporting *fruit juices concentrates*, in vehicles equipped with mechanical refrigeration, from Ontario, CA, to points in AL, CT, GA, IA, IL, IN, LA, MA, MD, MI, MO, MS, NC, NJ, NY, OH, PA, SD, TX, VA, and WI. (Hearing Site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 146071 (Sub-13F), filed June 15, 1979. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Straum, WI 54770. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CA. 80203. Transporting *such commodities* as are dealt in or used by manufacturers, converters, and printers of paper and paper products (except commodities in bulk), between the facilities of Brown Company, at Eau Clair and Ladysmith, WI, on the one hand, and, on the other, points in the United States (except AK, HI and WI), restricted to the transportation of traffic originating at or destined to the named origins. (Hearing site: Chicago, IL.)

MC 146461 (Sub-2F), filed June 15, 1979. Applicant: J H TRUCKING, INC., Route 4, Box 112, Amarillo, TX 79119. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. Transporting *meats, meat products and meat by-products* and *articles distributed by meat-packing houses* as described in sections A and C of Appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the facilities of Thies Packing Co., Inc., at Great Bend and Wichita, KS, to points in AR, AZ, CA, CO, CT, DE, IA, ID, IL, IN, KY, MA, MD, MI, MN, MO, MT, NE, NH, NJ, NM, NV, NY, OH, OK, OR, PA, RI, TN, TX, UT, VA, VT, WA, WI, WV, WY, and DC, restricted to the transportation of traffic originating at named origins and destined to the indicated destinations (except traffic moving in foreign commerce). (Hearing site: Wichita, KS.)

MC 146890 (Sub-7F), filed June 19, 1979. Applicant: C & E TRANSPORT, INC., d.b.a. C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Transporting (1) *such commodities* as are dealt in by grocery and food business houses, and (2) *materials* and *supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Ralston Purina Company, at or near (a) Minneapolis, MN, (b) Clinton and Davenport, IA, (c) Battle Creek, MI, (d) Lancaster and Sharonville, OH, (e) Mechanicsburg, PA, (f) Dunkirks, NY, (g) Louisville, KY, and (h) Jersey City, NJ, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, LA (except LA, MS, AL, GA, FL, and SC). (Hearing site: St. Louis, MO.)

Note.—Dual operations may be involved.

MC 147581F, filed June 13, 1979. Applicant: RKM, INC., P.O. Box 201, 107 Eastman St., Easton, MA 02334. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *toilet preparations, cleaning compounds*, and *motor fuel water absorption and anti-icing compounds* (except commodities in bulk), from Holbrook, MA, to points in CT, GA, IL, MD, ME, NH, NJ, NY, PA, RI, VA, VT, WV, and DC, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities described in (1) above (except commodities in bulk), from points in NJ, NY, and PA, to Holbrook, MA, under continuing contract(s) with the Barcolene Company, of Holbrook, MA. (Hearing site: Boston, MA.)

MC 147571F, filed June 14, 1979. Applicant: TWIN RIVERS TRANSPORTATION COMPANY, a corporation, 500 Waukegan Road, Deerfield, IL 60015. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *frozen foodstuffs, and materials, equipment and supplies* used in the manufacture and distribution of frozen foodstuffs (except commodities in bulk), (a) between the facilities of Kitchens of Sara Lee, Inc., at or near (i) Deerfield and Chicago, IL, and (ii) New Hampton, IA, on the one hand, and, on the other, points in the United States (except AK or HI), and (b) between the facilities of Idaho Frozen Food, Corp., at or near (iii) Nampa and Twin Falls, ID, and (iv) Clearfield, UT, on the one hand, and, on the other, points in the United States (except AK and HI), (2) *foodstuffs and materials, equipment and supplies* used in the manufacture and distribution of foodstuffs (except commodities in bulk), (a) between the facilities of Booth Fisheries Corporation, at (i) Portsmouth, NH, (ii) Lubec, ME, and (iii) Brownsville, TX, on the one hand, and, on the other, points in the United States (except AK and HI) and (b) between the facilities of Chef Pierre, Inc., at or near (iv) Traverse City and Grand Rapids, MI, and (v) Forest, MS, on the one hand, and, on the other, points in the United States (except AK and HI), (3) *flavorings, stabilizers, chocolate coatings, sticks, and paper products*, (except commodities in bulk), from Englewood, NJ, and City of Industry, CA, to Des Plaines, IL, Boston, MA, Green Bay, WI, Dallas, TX, Los Angeles, CA, and Tampa, FL, (4) *chocolate cocoa powder* (except in bulk) from Pennsauken, NJ, to City of Industry, CA, and (5) *sticks, fruit, fruit juice, and applesauce* (except commodities in bulk), from points in FL, ME, and WA, to Englewood, NJ, and City of Industry, CA, under continuing contracts in (1)(a) above with Kitchens of Sara Lee, Inc., of Deerfield, IL, in (b) with Idaho Frozen Foods Corp., of Twin Falls, ID, in (2)(a) with Booth Fisheries Corporation of Chicago, IL, in (b) with Chef Pierre, Inc., of Traverse City, MI, and in (3), (4), and (5) with Popsicle Industries, Inc., of Englewood, NJ. (Hearing site: Chicago, IL.)

MC 147580F, filed June 14, 1979. Applicant: DAVID ESPY TRUCKING, INC., 7007 Hudson River Dr., Tampa, FL 33619. Representative: David A. Townsend, 100 Madison St., Suite 301, Tampa, FL 33602. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting, *expandable polystyrene, in bulk* from Monaca, PA, to Mulberry and Sun City, FL, under a continuing contract(s) with

(1) Master Containers, Inc., of Mulberry, FL, and (2) Speedling, Inc., of Sun City, FL. (Hearing site: Tampa, FL.)

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Decided: Jan. 4, 1980.
By the Commission. Review Board Number 1, Members Carleton, Joyce and Jones.

MC 3466 (Sub-172F), filed June 25, 1979. Applicant: F. J. BOUTELL DRIVEAWAY CO., INC., 705 South Dort Highway, Flint, MI 48501. Representative: Harry C. Ames, Jr., Suite 805, 666 Eleventh Street NW., Washington, DC 20001. Transporting *automobiles, trucks, and chassis*, in secondary movements, from Providence, RI, to points in DE, MD, MA, MI, NJ, NY, OH, PA, WV, and DC. (Hearing site: New York, NY, or Washington, DC.)

MC 6078 (Sub-91F), filed June 22, 1979. Applicant: D. F. BAST, INC., 1425 North Maxwell Street, P.O. Box 2288, Allentown, PA 18001. Representative: James F. Maher, 1100 Four Penn Center Plaza, Philadelphia, PA 19103. Transporting *graphite, foundry facings, coke, and ground coal*, from Detroit, MI, to points in OH, PA, NY, NJ, DE, MD, CT, RI, MA, VT, NH, and ME. (Hearing site: Philadelphia, PA or Washington, DC.)

MC 73688 (Sub-98F), filed June 25, 1979. Applicant: SOUTHERN TRUCKING CORPORATION, P.O. Box 7195, 1500 Orenda Avenue, Memphis, TN 38107. Representative: Diane Price, Route 6, Box 15, North Little Rock, AR 72118. Transporting *iron and steel articles*, from the facilities of Arkansas Foundry Company at Little Rock, AR, to points in AL and GA. (Hearing site: Little Rock, AR.)

MC 78728 (Sub-4F), filed June 25, 1979. Applicant: EVERETT EXPRESS, INC., Hwy. 258, North Tarboro, NC 27886. Representative: James D. Dorn, P.O. Box 6274, Chesapeake, VA 23323. Transporting *building materials*, between Morehead City, NC, on the one hand, and, on the other, points in VA. (Hearing site: Raleigh, NC.)

MC 108119 (Sub-166F), filed June 21, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 100 First National Bank Building, Minneapolis, MN 55402. Transporting *energy recovery equipment*, from the facilities of Sunstrand Aviation, Division of Sunstrand Corporation, at or near Rockford, IL, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 113678 (Sub-821F), filed June 25, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). Transporting *washing, cleaning, and scouring compounds, drugs and toilet preparations, paper articles, plastic articles, health care products, beauty products, health care equipment, beauty equipment, and foodstuffs*, (except commodities in bulk in tank vehicles), from La Mirada, CA to points in ID, MT, OR, UT, and WA. (Hearing site: Los Angeles, CA.)

MC 125689 (Sub-5F), filed June 25, 1979. Applicant: PEATTYVILLE TRANSPORT, INC., P.O. Box 357, Catlettsburg, KY 41129. Representative: Oakie G. Ford (same address as applicant). Transporting *roofing asphalt*, in packages, from Leach, KY, to points in IN, MD, OH, PA, TN, VA, and WV. (Hearing site: Charleston, WV.)

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 126679 (Sub-13F), filed June 21, 1979. Applicant: DENNIS TRUCK LINES, INC., P.O. Box 189, Vidalia, GA 30474. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Transporting *lumber, lumber products, wood, wood products, poles, pilings, and posts*, from points in NC and SC to points in AL, FL, and MS. (Hearing site: Atlanta, GA.)

MC 133189 (Sub-25F), filed June 22, 1979. Applicant: VANT TRANSFER, INC., 5075 Northeast Mulcare Drive, Minneapolis, MN 55421. Representative: John B. Van de North, Jr., 2200 First National Bank Building, St. Paul, MN 55101. Transporting (1) *iron and steel articles*, from the facilities ofc North Star Steel Company, at Monroe, MI, to points in the United States (excluding AK and HI); and (2) *materials, equipment and supplies* used in the manufacture of iron and steel articles (except commodities in bulk), in the reverse direction. (Hearing site: Minneapolis, MN, or Detroit, MI.)

MC 135598 (Sub-25F), filed June 22, 1979. Applicant: SHARKEY TRANSPORTATION, INC., P.O. Box 3156, Quincy, IL 62301. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Transporting (1) *air compressors, air compressor parts, power pumps, power pump parts, machine parts, internal combustion engines and rough castings* from the facilities of Gardner-Denver Company, at or near Quincy, IL, to points in CO, KS, NE, OK, TX, MN, MO, IA, LA, AR, MS, WI, TN, MI, IN, KY, AL, GA, SC, NC, VA, WV, OH, PA, NY, NJ, MD, CT, MA, and DC, and (2) *materials* used in the manufacture of air compressors, air compressor parts, power pumps, and power pump parts in the reverse directions. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 140829 (Sub-274F), filed June 25, 1979. Applicant: CARGO, INC., P.O. Box 206, US Highway 20, Sioux City, IA 51102. Representative: David King (same address as applicant). Transporting (1) *petroleum and petroleum products*, in packages, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of petroleum and petroleum products (except commodities in bulk, in tank vehicles), from the facilities used by the Pennzoil Company, at or near Maryland Heights, MO, to points in AR, CO, IA, IL, KS, LA, MS, MO, NE, NM, ND, SD, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 141628 (Sub-3F), filed June 22, 1979. Applicant: OVEROAD CONTAINER SERVICE, INC., 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). Transporting *games, toys, and children's vehicles* from the facilities of The ERTL Company, at Dyersville, IA to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY. (Hearing site: Des Moines, IA or Denver, CO.)

MC 142508 (Sub-86F), filed June 25, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. Transporting *canned goods*, from the facilities of Campbell Soup Company, at Chicago, IL to points in IN, KY, and MO, restricted to the transportation of traffic originating at named origin and destined to indicated destinations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 144188 (Sub-7F), filed June 25, 1979. Applicant: P. L. LAWTON, INC., P.O. Box 325, Berwick, PA 18603. Representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. Transporting *such commodities* as are dealt in or used by grocery and food business houses (except commodities in bulk and frozen foods); between the facilities of Wise Foods Division of Borden Foods, Borden, Inc., in Columbia, Luzerne, and Lycoming Counties, PA, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the

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transportation of traffic originating at or destined to named points. (Hearing site: Harrisburg, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 146729 (Sub-2F), filed June 22, 1979. Applicant: JAMES S. HELWIG AND ALLEN L. GRIMLAND, d.b.a. H & G LEASING, 6331 Melody Lane, No. 1720, Dallas, TX 75231. Representative: Paul S. Angenend, P.O. Box 2207, 1806 Rio Grande, Austin, TX 78768. Transporting *motor truck coupler parts and trailer coupler parts*, from Holland, MI, and Denmark, SC, to the facilities of Holland Hitch of Texas, Inc., at or near Wylie, TX. (Hearing site: Dallas, TX, or Washington, DC.)

Note.—Dual operations may be involved.

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Decided: Jan. 11, 1980.
By the Commission, Review Board Number 1, Members, Carleton, Joyce and Jones.

MC 13134 (Sub-70F), filed June 22, 1979. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Oak Hill, OH 45656. Representative: James M. Burtch, 100 E. Broad St., Suite 1800, Columbus, OH 43215. Transporting (1) *Building materials* and *insulating materials*, and (2) *materials* used in the manufacture and distribution of the commodities named in (1) above, between the facilities of CertainTeed Corporation, in Granville County, NC, on the one hand, and, on the other, points in KY, MD, OH, VA, WV, and DC. (Hearing site: Washington, D.C.)

MC 30844 (Sub-650F), filed: June 27, 1979. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. Transporting *Frozen foodstuffs* between Indianapolis, IN, on the one hand, and, on the other, points in AL, AR, CO, CT, DE, FL, GA, IL, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and DC, restricted to the transportation of traffic originating at or destined to the facilities of Monument Distribution Warehouse, Inc., at Indianapolis, IN. (Hearing: Chicago, IL.)

MC 39414 (Sub-18F), filed June 26, 1979. Applicant: TYLER TRUCK LINES, INC., 2824 Judge Rd., Oakfield, NY 14125. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *adhesives, building materials, composition boards, fabricated metal products, mineral fiber and mineral fiber products, paper, gypsum and gypsum products, paint and paint products*, and *lime* (except liquid in bulk), and (2) *materials and supplies* used in the manufacture, installation and distribution of the commodities in (1) above, (except commodities in bulk), between points in CT, DE, IL, IN, KY, MD, ME, MA, MI, NH, NJ, NY, NC, OH, PA, RI, VT, VA, WV, WI, and DC, under a continuing contract(s) with United States Gysum Company, of Chicago, IL. (Hearing site: Chicago, IL, or Buffalo, NY.)

MC 73165 (Sub-483F), filed June 27, 1979. Applicant: EAGLE MOTOR LINES, INC., 830 33rd St., North, Birmingham, AL 35202. Representative: R. CAMERON ROLLINS, P.O. Box 11086, Birmingham, AL 35202. Transporting *aircraft engines*, and *parts* for aircraft engines, between Millville, NJ, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Philadelphia, PA, or New Orleans, LA.)

MC 73165 (Sub-484F), filed June 27, 1979. Applicant: EAGLE MOTOR LINES, INC., 830 33rd St., North, Birmingham, AL 35202. Representative: R. CAMERON ROLLINS, P.O. Box 11086, Birmingham, AL 35202. Transporting *pipe and pipe fittings*, from Phillipsburg, NJ, to points in DE, MD, VA, WV, NC, SC, KY, TN, GA, AL, MS, FL, OH, and DC. (Hearing site: Philadelphia, PA, or New Orleans, LA.)

MC 73165 (Sub-485F), filed June 26, 1979. Applicant: EAGLE MOTOR LINES, INC., 830 33rd St., North, Birmingham, AL 35202. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting (1) *aerators*, and (2) *parts and accessories* for aerators, from the facilities of DeLoach Plastics, at Sarasota, FL, to point in the United States (except IN, MI, and OH), and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction. (Hearing site: Tampa, FL, or New Orleans, LA.)

MC 73165 (Sub-486F), filed June 26, 1979. Applicant: EAGLE MOTOR LINES, INC., 830 33rd St., North, Birmingham, AL 35202. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting *pipe and pipe fittings*, from the facilities of Charlotte Pipe & Foundry Co., at Charlotte and Bakers, NC, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX (except IN, MI, and OH). (Hearing site: Charlotte, NC, or Atlanta, GA.)

MC 101474 (Sub-26F), filed June 26, 1979. Applicant: RED TOP TRUCKING COMPANY, INC., 7020 Cline Ave., Hammond, IN 46323. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting (1) *commodities*, the transportation of which because of size or weight, requires the use of special equipment, and (2) *iron, steel, and aluminum articles*, (a) between points in IL, IN, IA, KY, MI, MN, MO, OH, and WI, and (b) between points in IL, IN, IA, KY, MI, MN, MO, OH, and WI, on the one hand, and, on the other, points in AL, AR, DE, FL, GA, KS, LA, MD, MS, NJ, NY, NC, OK, PA, SC, TN, TX, VA, and WV. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 107295 (Sub-927F), filed June 26, 1979. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. Transporting *storage racks and storage rack parts*, from Pontiac, IL, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 111375 (Sub-112F), filed June 27, 1979. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, WI 53704. Representative: Warren W. Wallin, 10 S. LaSalle Street, Suite 1600, Chicago, IL 60603. Transporting *chemicals, toilet preparations, personal care products, buffing and polishing compounds* (except commodities in bulk), (a) between Melrose Park, IL, and Sparks, NV, and (b) between Sparks, NV, on the one hand, and, on the other, points in CA, OR, and WA. (Hearing site: Chicago, IL, or Madison, WI.)

MC 125254 (Sub-60F), filed June 11, 1979. Applicant: MORGAN TRUCKING CO., a corporation, P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *grain products* (except commodities in bulk), from Muscatine, IA, to points in the United States (except AK and HI). (Hearing site: Des Moines, IA.)

MC 125335 (Sub-70F), filed June 28, 1979. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting *Cheese and cheese products*, in vehicles equipped with mechanical refrigeration, from the facilities of Swift & Company, at or near Green Bay, Wausau, Marathon, Medford, Monroe, and Algoma, WI, to points in CT, DE, GA, KY, FL, MA, MD, ME, MI, NC, NH, NJ, NY, PA, RI, SC, TN, VA, VT, WV, AND DC. (Hearing site: Chicago, IL, or Harrisburg, PA.)

MC 134755 (Sub-195F), filed June 27, 1979. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting (1) *iron, steel, zinc, and lead, articles* (except commodities in bulk) and (2) *construction materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in AL, AR, CO, CT, DE, GA, IL, IN, IA, KS, KY, LA, MS, MD, MA, MI, MN, MO, NE, NJ, NM, NY, OH, OK, PA, TX, VA, WI, WV, and DC, restricted to the transportation of traffic originating at or destined to the facilities of Penn-Dixie Steel Corp. (Hearing site: Kansas City, MO.)

Note.—Dual operations may be involved.

MC 135725 (Sub-20F), filed June 28, 1979. Applicant: FRY TRUCKING INC., 507 W. 5th Street, Wilton, IA 52778. Representative: Kenneth F. Dudley, 1501 East Main Street, P.O. Box 279, Ottumwa, IA 52501. Transporting *feed and feed ingredients*, from Cedar Rapids, IA, to points in CA, KY, NC, SC, and TX. (Hearing site: Chicago, IL or Minneapolis, MN.)

MC 138885 (Sub-4F), filed June 22, 1979. Applicant: BALDWIN LEASING COMPANY, INC., 801 Industrial Blvd., Bay Minette, AL 36507. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cabinets, moulding*, and *lumber*, and (2) *materials* used in the manufacture of cabinets, between Bay Minette, AL, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract(s) with (a) Southern Kitchens, division of W. N. Stuckey Moulding, of Bay Minette, AL, and (b) W. N. Stuckey Moulding, of Bay Minette, AL. (Hearing site: Mobile or Birmingham, AL.)

Note.—Dual operations may be involved.

MC 142715 (Sub-68F), filed June 26, 1979. Applicant: LENERTZ, INC., P.O. Box 141, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). Transporting *frozen foodstuffs*, from Lake Odessa and points in Barry, Allegan and Oceana Counties, MI, to Philadelphia, PA, and points in Cumberland and Salem Counties, NJ, and (2) from points in Cumberland and Salem Counties, NJ, to points in OH, MI, IN, and IL, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: St. Paul, MN.)

MC 144584 (Sub-5F), filed June 27, 1979. Applicant: WASHINGTON-CALIFORNIA EXPRESS, INC., 919 South McGarry St., Los Angeles, CA 90029. Representative: Joseph F. Hoary, 121 South Main St., Taylor, PA 18517. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *masonry supplies*, from Bethany, CT, to points in VA, WV, PA, MD, and DC, under continuing contract(s) with Laticrete International, Inc., of Woodbridge, CT. (Hearing site: Hartford, CT.)

Passengers

MC 145224 (Sub-8F), filed June 27, 1979. Applicant: ALL-CAL TOURS, INC., 1415 Sebastopol Rd., Santa Rosa, CA 95401. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at Gridley, CA, and points in Nevada County, CA, and extending to points in the United States (including AK but excluding HI). (Hearing site: San Francisco or Sacramento, CA.)

MC 145765 (Sub-3F), filed June 18, 1979. Applicant: WIEST TRUCKLINE, INC., 1305 6th Ave. SW., Jamestown, ND 58401. Representative: Charles E. Johnson, 418 East Rosser Ave., P.O. Box 1982, Bismarck, ND 58501. Transporting (1) *iron and steel articles*, (a) from the facilities of United States Steel Corporation, at or near (i) Gary, IN, and (ii) South Chicago, Joliet, and Waukegan, IL, to points in MN, (b) from Chicago, Sterling and Granite City, IL, Minneapolis and Duluth, MN, Wilton and Sioux City, IA, Green Bay, WI, Omaha, NE, Ashland, KY, and Sioux Falls, SD, to points in ND, and (c) from Fargo, ND, to Omaha, NE, Sioux Falls, SD, and Sioux City, IA, restricted in part (b) against the transportation of traffic destined to the facilities of Haybuster Manufacturing, Inc., at or near Jamestown, ND, and Summers Manufacturing Co., Inc., at Maddock, ND. (Hearing site: Fargo, SD, or Minneapolis, MN.)

Note.—Dual operations may be involved.

MC 147595F, filed June 25, 1979. Applicant: LYLE GUENTZEL TRUCKING, INC., d.b.a. G AND A TRUCKING, P.O. Box 316, Hibbing, MN 55746. Representative: John B. Van de North, Jr., 2200 First National Bank Building, St. Paul, MN 55101. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Minneapolis, MN, on the one hand, and, on the other, points in St. Louis County (except Duluth) and Itasca County (except Grant Rapids), MN. (Hearing site: Duluth or Minneapolis, MN.)

Volume No. 268

Decided: January 7, 1980.
By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 47583 (Sub-101F), filed June 27, 1979. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hults, P.O. box 225, Lawrence, KS 66044. Transporting *petroleum products* (except commodities in bulk), from the facilities of Mobil Oil Corporation, at or near Kansas City, KS, to points in AR, CA, CO, IL, IN, IA, KY, LA, MN, MO, NE, ND, OK, TN, TX, SD, and WY. (Hearing site: Kansas City, MO.)

MC 117883 (Sub-247F), filed June 11, 1979. Applicant: SUBLER TRANSFER, INC., P.O. Box 62, One Vista Drive, Versailles, OH 45380. Representative: Neil E. Hannan (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of Louisville Freezer Center at Louisville, KY, on the one hand, and, on the other, points in CT, DE, IL, IN, IA, KS, KY, ME, MD, MA, MI, MO, NE, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC, restricted to the transportation of traffic originating at or destined to the facilities of Louisville Freezer Center. (Hearing site: Louisville, KY, or Washington, DC.)

MC 127303 (Sub-65F), filed June 27, 1979. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Transporting *plastic articles* and *materials, equipment, and supplies* used in the manufacture of plastic articles (except commodities in bulk), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Mobil Chemical Company, Plastics Division of Macedon, NY. (Hearing site: Washington, DC.)

MC 138762 (Sub-35F), filed June 19, 1979. Applicant: MUNICIPAL TANK LINES LIMITED, P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Representative: Richard H. Streeter, 1729 H Street NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in foreign commerce

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only, over irregular routes, transporting *nepheline syenite*, in bulk, in tank vehicles, from ports of entry on the international boundary line between the United States and Canada in MI to Hillsboro, IL. (Hearing site: Buffalo, NY or Washington, DC.)

MC 142083 (Sub-3F), filed June 26, 1979. Applicant: SPECIALTY CARRIER, INC., 596 Christman Street, P.O. Box 11229, Atlanta, GA 30310. Representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce only, over irregular routes, transporting *foodstuffs and articles* used in the manufacture, packaging, and distribution of foodstuffs (except in bulk, in tank vehicles), between the facilities of Country Home Bakery of the West, Inc., d/b/a/ Sue Ellen Hi-Country Kitchen at Denver, CO, to points in the United States (except AK and HI), under continuing contract(s) with Country Home Bakery of the West, Inc., d/b/a/ Sue Ellen Hi-Country Kitchen, of Denver, CO. (Hearing site: Washington, DC or Chicago, IL.)

MC 143183 (Sub-9F), filed June 27, 1979. Applicant: L. M. ROACH, d.b.a. D & L TRUCKING COMPANY, P.O. Box 1741, 145 Sampson Road, Wilmington, NC 28401. Representative: Ralph McDonald, P.O. box 2246, Raleigh, NC 27602. Transporting *urea* (except in bulk, in tank vehicles), from Wilmington, NC, to points in SC and VA. (Hearing site: Wilmington, NC.)

MC 147152 (Sub-4F), filed June 26, 1979. Applicant: GENERAL CARRIERS CORPORATION, 12425 East Florence Avenue, Santa Fe Springs, CA 90670. Representative: Miles L. Kavaller, 315 So. Beverly Drive, Suite 315, Beverly Hills, CA 90212. Transporting *materials and supplies* used in the manufacture of carpeting (except in bulk), from Turnersburg, NC, to Spartanburg, SC, Covington, VA, and points in GA to the facilities of Ozite Division, Brunswick Corporation, at Anaheim and Culver City, CA. (Hearing site: Los Angeles, CA.)

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-2178 Filed 1-23-80; 8:45 am]
BILLING CODE 7035-01-M

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Sunshine Act Meetings

Federal Register
Vol. 45, No. 17
Thursday, January 24, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Thursday, January 24, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special closed meeting.

CHANGES IN THE MEETING: Change in time of meeting on WNAC-TV, Boston, Massachusetts (Docket Nos. 18759-18761).

The Federal Communications Commission previously announced on January 17, 1980, its intention to hold a closed meeting on Thursday, January 24, 1980, commencing at 9:30 A.M.

The time has been changed. The Special Closed meeting will commence at 10:30 A.M.

The prompt and orderly conduct of Commission business requires this change and no earlier announcement of the change was possible.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: January 18, 1980.

[S-134-80 Filed 1-22-80; 10:58]
BILLING CODE 6712-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION. Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, January 28, 1980, to consider the following matters:

Disposition of minutes of previous meetings.
Request by the Comptroller of the Currency for a report on the competitive factors involved in the proposed merger of The First National Bank of Ashland, Ashland, Ohio, and The Polk State Bank, Polk, Ohio.
Reports of committees and officers:
Report of the Comptroller regarding the Corporation's securities portfolio inventory as of December 31, 1979.
Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.
Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: January 21, 1980.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[S-137-80 Filed 1-22-80; 11:33 am]
BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION. Notice of Changes in Subject Matter of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, January 21, 1980, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following applications for Federal deposit insurance of United States branches of foreign banks:

National Bank of Greece, S.A., Athens, Greece, for its branches located at 168 North Michigan Avenue, Chicago, Illinois and 33 State Street, Boston, Massachusetts.

Bank of India, Bombay, India, for its branch located at 277 Park Avenue, New York, New York.

State Bank of India, Bombay, India, for its branches located at 10 South La Salle Street, Chicago, Illinois; 460 Park Avenue, New York, New York; and 42-08 Main Street, Flushing, New York.

Korea Exchange Bank, Seoul, Korea, for its Branch located at 33 Dearborn Street, Chicago, Illinois.

Standard Chartered Bank Limited, London, England, for its branch located at 9200 Sears Tower, 233 South Wacker Drive, Chicago, Illinois.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: January 21, 1980.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[S-136-80 Filed 1-22-80; 11:32 am]
BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION. Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, January 28, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of title 5, United States Code, to consider the following matters:

Application for Federal deposit insurance:
Asian International Bank, a proposed new bank, to be located at One World Trade Center, New York (Manhattan), New York, for Federal deposit insurance.

Application for consent to establish a branch:
Banco Commercial de Mayaguez, Mayaguez, Puerto Rico, for consent to establish a branch at 75 Corchado Street, Isabela, Puerto Rico.
Applications for consent to merge and establish branches:
The Pennsylvania Bank and Trust Company, Warren, Pennsylvania, an insured State nonmember bank, for reconsideration of a request for consent to merge under its charter and title with The Farmers National Bank of Conneautville, Conneautville, Pennsylvania, and to establish the sole office of The Farmers National Bank of Conneautville as a branch of the resultant bank.
The Buffalo Savings Bank, Buffalo, New York, an insured mutual savings bank, for consent to merge with Fillmore Savings and Loan Association, Buffalo, New York, under the charter and title of The Buffalo Savings Bank, and to establish the existing office and the approved, but unopened office of Fillmore Savings and Loan Association as branches of the resultant bank.
Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:
Case No. 44,203–L—Franklin National Bank, New York, New York.
Case No. 43,648–L (amended)—The Drovers' National Bank of Chicago, Chicago, Illinois.
Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:
Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).
Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:
Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation at (202) 389–4425.

Dated: January 21, 1980.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S–138–80 Filed 1–23–80; 11:24 am]
BILLING CODE 6714–01–M

5

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, January 29, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Compliance. Personnel.
* * * * *

DATE AND TIME: Wednesday, January 30, 1980 at 10 a.m.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: Special meeting for discussion of regulations.
* * * * *

DATE AND TIME: Thursday, January 31, 1980 at 10 a.m.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:
Setting of dates for future meetings.
Correction and approval of minutes.
Certifications.
Advisory Opinions:
Draft AO 1979–79—Michael A. Fernandez, Assistant Treasurer, the National Committee for an Effective Congress.
Draft AO 1980–4—Robert Strauss, Chairman, Carter/Mondale Presidential Committee, Inc.
1980 Election and related matters.
Appropriations and budget.
Pending legislation.
Classification actions.
Routine administrative matters.

PERSON TO CONTACT FOR INFORMATION:
Mr. Fred Eiland, Public Information Officer, telephone: 202–523–4065.
Marjorie W. Emmons,
Secretary to the Commission.
[S–144–80 Filed 1–22–80; 3:18 pm]
BILLING CODE 6715–01–M

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[FR No. 94]

FEDERAL ELECTION COMMISSION.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, January 24, 1980 at 10 a.m.

CHANGE IN MEETING: The following item has been added:

AOR 1979–58—Evan S. Dobelle, Carter/Mondale Presidential Committee, Inc.

PERSON TO CONTACT FOR INFORMATION:
Mr. Fred Eiland, Public Information Officer, telephone: 202–523–4065.
Marjorie W. Emmons,
Secretary to the Commission.
[S–143–80 Filed 1–22–80; 12:50 pm]
BILLING CODE 6715–01–M

7

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, FR Page 3695, January 18, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., January 23, 1930.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Frank O. Bolling (202–377–6677).

CHANGES IN THE MEETING: The following items have been added to the agenda for the open meeting:

Amendment to Charter—County Federal Savings and Loan Association of Westport, Westport, Connecticut.
Kaneb Services Inc. (Southwestern Group Financial Inc.) Acquisition of World Savings of San Antonio and Merge with United Savings, Houston, Texas.

Announcement is being made at the earliest practicable time.

No. 311, January 22, 1980.

[S–140–80 Filed 1–22–80; 2:56 pm]
BILLING CODE 6720–01–M

8

[USITC SE–80–8]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, February 7, 1980.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Microwave ovens (Inv. 731–TA–4)—briefing and vote (if necessary).
2. Rail passenger cars (Inv. 731–TA–5 and –6)— briefing and vote (if necessary).
3. Frozen potato products (Inv. 701–TA–3)—briefing and vote (if necessary).
4. Electric motors (Inv. 731–TA–7)—briefing and vote (if necessary).

CONTACT PERSON FOR MORE INFORMATION:
Kenneth R. Mason, Secretary (202) 523–0161.

[S–140–80 Filed 1–22–80; 11:40 am]
BILLING CODE 7020–02–M

9

[USITC SE–80–7]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, February 5, 1980.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:
   a. Poultry disk picking machines (Docket No. 621).
5. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–141–80 Filed 1–22–80; 11:40 am]
BILLING CODE 7020–02–M

10

[NM–80–5]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Tuesday, February 5, 1980.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTER TO BE CONSIDERED: *Oral Argument* on the question of the Board's jurisdiction to consider, as an affirmative defense of a respondent, the filing of a report pursuant to the Aviation Safety Reporting Program (ASRP).

CONTACT PERSON FOR MORE INFORMATION:
Sharon Flemming 202–472–6022.

January 22, 1980.

[S–139–80 Filed 1–22–80; 11:39 am]
BILLING CODE 4910–58–M

11

[OP0401]

PAROLE COMMISSION.

TIME AND PLACE: 9:30 a.m., Friday, January 25, 1980.
PLACE: Room 828A, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 18 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSONS FOR MORE INFORMATION:
A. Ronald Peterson, Analyst (202) 724–3094.

[S–135–80 Filed 1–22–80; 10:58 am]
BILLING CODE 4410–01–M

12

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of January 28, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Tuesday, January 29, 1980, at 9:30 a.m. Closed meetings will be held on Tuesday, January 29, 1980, immediately following the 9:30 a.m. open meeting and Wednesday, January 30, 1980, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402 (a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the open meeting scheduled for Tuesday, January 29, 1980, at 9:30 a.m., will be:

1. Consideration of whether to authorize the issuance of an interpretive release on the application of the Securities Act of 1933 to employee benefit plans. For further information, please contact Peter J. Romeo at (202) 272–2573.
2. Consideration of whether to authorize publication of a release announcing the adoption of amendments to Rule 12b–25 under the Securities Exchange Act of 1934. For further information, please contact Bruce Mendelsohn at (202) 272–2589.
3. Consideration of whether to grant a request by Dresser Industries, Inc. that the Commission review the Division of Corporation Finance's determination concerning a shareholder proposal submitted to the Company by the Protestant Episcopal Church. For further information, please contact Michael Connell at (202) 272–2570.
4. Consideration of whether to grant a final order exempting Oppenheimer & Co., Inc. from provisions of Section 9(a) of the Investment Company Act of 1940. For further information, please contact Seigfreid Schoedel at (202) 272–2253.
5. Consideration of whether to grant a request by Skadden, Arps, Slate, Meagher & Flom for a waiver of imputed disqualification pursuant to 17 CFR 200.735–8(e). For further information, please contact Myrna Siegel at (202) 272–2430.

The subject matter of the closed meeting scheduled for Tuesday, January 29, 1980, immediately following the 9:30 a.m. open meeting, will be:

Personnel matter.

The subject matter of the closed meeting scheduled for Wednesday, January 30, 1980, at 10:30 a.m., will be:

Formal orders of investigation.
Litigation matter.
Settlement of administrative proceeding of an enforcement nature.
Institution of administrative proceeding of an enforcement nature.
Institution of injunctive action.
Freedom of Information Act appeal.
Administrative proceding of an enforcement nature.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Lowenstein at (202) 272–2092.

January 22, 1980.

[S–145–80 Filed 1–22–80; 3:53 pm]
BILLING CODE 8010–01–M

13

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES. Notice of deletion of item to the January 14, 1980, agenda.

TIME AND DATE: 8:00 a.m., January 14, 1980.

PLACE: Uniformed Services University of the Health Sciences, 4301 Jones Bridge Road, Bethesda, Maryland 20014.

SUBJECT: Deletion: (7)—Departmental Program Review.

STATUS: Open.

PERSON TO CONTACT: Frank M. Reynolds, Executive Secretary, 202–295–2111.

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SUPPLEMENTARY INFORMATION: The Departmental Program Review scheduled for the January 14, 1980 agenda was deleted because of the illness of the speaker. Notice of the speaker's inability to appear was received at the time of the meeting and no earlier announcement was possible. Accordingly, this matter was announced at the time of the meeting and deleted from the agenda without objection.

January 18, 1980

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[S-133-80 Filed 1-23-80; 9:25 am]

BILLING CODE 3810-70-M

V 45 / 17 JA 24 80 UMI

federal register

Thursday
January 24, 1980

Part II

Securities and Exchange Commission

Business Combination Transactions, Short Form for Registration and Amendment of Related Rules; General Revision of Regulation S-X; Uniform Instructions as to Financial Statements, Regulations S-X; and Integration of Securities Acts Disclosure Systems, Proposed Amendments to Annual Report Form

V 45 / 17 J A 24 80 UMI

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 201, 230, 239, and 240

[Release, Nos. 33-6177 and 34-16497; File No. S7-617]

Business Combination Transactions—Proposed Short Form for Registration and Proposed Amendments of Related Rules

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is publishing for comment a proposed short form which may be used to register under the Securities Act of 1933 securities issued in business combination transactions which meet certain criteria. Specifically, the Commission is proposing for comment: (1) proposed Form S–15, an optional short form for registration under the Securities Act of securities issued in certain business combination transactions; (2) proposed amendments to certain provisions of Regulations 14A and 14C under the Securities Exchange Act of 1934 to provide that the informational and filing requirements of those regulations would be satisfied when Form S–15 is used to register securities under the Securities Act; and (3) proposed amendments to Rule 24 of the Commission's Rules of Practice and Rule 411 under the Securities Act of 1933 to permit the incorporation by reference of material contained in annual reports to shareholders furnished to the Commission pursuant to Rules 14a–3 and 14c–3 under the Exchange Act. These proposals are part of a coordinated rulemaking effort designed to further integrate disclosure requirements under the Federal securities laws.

DATE: Comments should be submitted on or before April 15, 1980.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7–617. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Catherine Collins (202–272–2589), Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The proposed Form S–15 and related amendments being published for comment today represent part of the Commission's continuing efforts to simplify the disclosure provided to investors, to reduce the burdens and costs which registration of securities under the Securities Act of 1933 (the "Securities Act") [15 U.S.C. 77a et seq.] imposes on issuers, and to integrate further the corporate disclosure requirements of the Securities Act and the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq.]. This rulemaking action is being proposed simultaneously with the Commission's publication for comment of (i) proposed amendments to Form 10–K [17 CFR 249.310] and Rule 14a–3 [17 CFR 240.14a–3] under the Exchange Act; (ii) proposed amendments to Regulation S–K [17 CFR 229.20] under the Securities Act and the Exchange Act; and (iii) a proposed addition to Regulation S–X [17 CFR Part 210] which would establish uniform financial statement instructions for certain forms and reports required to be filed pursuant to the Securities Act and the Exchange Act and various amendments to Regulation S–X which would eliminate, to the extent possible, the differences between the requirements of Regulation S–X and the requirements of Generally Accepted Accounting Principles. These proposals taken together constitute a major effort to achieve an integrated disclosure system under the Securities Act and the Exchange Act. Proposed Form S–15 relies to a great extent upon the amendments proposed in these three releases; accordingly, attention is directed to Securities Exchange Act Release No. 6176, January 15, 1980, Securities Act Release No. 6178, January 15, 1980, and Securities Act Release No. 6179, January 15, 1980, for a fuller understanding of proposed Form S–15 and its relationship with the Commission's move toward integrated and simplified disclosure requirements.

Proposed Form S–15 provides for an abbreviated prospectus to be delivered to security holders together with copies of the issuer's latest annual report to security holders, certain portions of which would be incorporated by reference into the registration statement. The form would be available for Securities Act registration of securities issued in certain business combination transactions where the acquiring company meets the conditions as to the use of Form S–7 (17 CFR 239.27).[1] This and the other conditions to the form's availability, the requirements of the proposed form, and the related rule amendments being proposed are discussed in greater detail below under "Synopsis of the Proposals."

Background

On September 27, 1976 (Securities Act Release No. 5744, 41 FR 43876), the Commission proposed for comment Form S–14A, an optional short form for registration under the Securities Act of securities to be issued in certain reclassification or business combinations. The Commission, mindful of the unwieldy (often 150 page) disclosure document involved in registration statements on Form S–14, had two goals in proposing Form S–14A: (1) simplifying the disclosure provided to investors and (2) reducing unnecessary burdens on issuers. The form was designed to be available where the issuer met the conditions for the use of Form S–7 and the securities were to be issued in a transaction of the type specified in Rule 145(a) (17 CFR 230.145(a)). The proposed form was based on the concept of "differential disclosure," that is, that investors need not be directly furnished all material information about an issuer before making an investment decision so long as other information is available to the markets and to investors in the form of annual, quarterly and periodic reports and proxy statements filed with the Commission. The concept would have been implemented by the use of a bifurcated prospectus. A short prospectus would have been required to be delivered to all security holders and would principally contain information involving the transaction in which the securities registered were to be issued. The second part of the registration statement would be filed with the Commission and would contain more detailed information about the issuer and the transaction. The second part would be incorporated by reference into the prospectus and delivered to shareholders upon request.

The public comments received on the 1976 proposal overwhelmingly supported the Commission's objectives. Several commentators furnished specific reasons why the full scale disclosure of Form S–14 (17 CFR 239.23) frequently imposes a burden not outweighed by corresponding benefits to investors.

[1] These conditions include a minimum earnings test and a requirement that the registrant has provided continuous disclosure to investors pursuant to the reporting requirements of Sections 13, 14 and 15(d) of the Exchange Act. *See* Note 6, *infra*.

Among the reasons mentioned were that: (1) individual investors may be better served by delivery of a readable and understandable disclosure document; (2) security holders are protected by state and federal law from over-reaching by the majority or by members of management or the Board of Directors; (3) the acquired company's shareholders are the beneficiaries of an agreement which is the result of extended negotiations; (4) adequate public information about the issuer may already be available; and (5) the transaction may not require the vote of shareholders of the acquired company or there may be a relatively small number of such shareholders.

The 1976 commentators did not believe, however, that the form as proposed would have achieved the goals of simplified disclosure and reduced costs because (1) the two part format would actually increase printing and preparation costs to issuers and (2) the uncertain potential liability for a short prospectus not itself containing all material information would discourage issuers from taking advantage of the short form.[2] Accordingly, the Commission decided not to adopt the form as proposed, or the amendments to related rules, and announced instead its intention to develop a new short registration form for the same purpose. This determination was announced in Securities Act Release No. 5806 (February 16, 1977) [42 FR 10855], which described the contemplated new form generally as one which would consist of a single abbreviated prospectus incorporating by reference substantial information already filed with the Commission pursuant to the reporting requirements of the Exchange Act and/or information contained in the issuer's annual report to security holders.

The proposed Form S–15 being published today reflects the Commission's on-going reexamination and reformulation of the disclosure requirements under the Securities Act and the Exchange Act with a view to further integrating those requirements. Specifically, the proposal would integrate the applicable disclosure provisions of these Acts in the registration of securities issued in certain types of business combination transactions. As was the case in Securities Act Release Nos. 5744 and 5806, *supra*, the Commission's intent in proposing Form S–15 is to provide a means for reducing registrants' costs in registering securities to be issued in business combinations and at the same time to provide to investors a simplified and more understandable disclosure document upon which to make decisions. The proposals published herein would accomplish these dual goals by restricting the use of the short form to those transactions in which the security holder's need for disclosure may be met by delivery of an abbreviated prospectus accompanied by the issuer's annual report to security holders. For liability purposes, pertinent information such as financial statements would be incorporated by reference into the registration statement from the annual report to security holders.

These proposals also reflect in part the recommendation of the Advisory Committee on Corporate Disclosure (the "Advisory Committee") that registration statements relating to the public offering of securities in an exchange offer or Rule 145(a) transaction should be shortened and simplified.[3] The Advisory Committee concurred with the Commission's objectives in proposing Form S–14A in 1976, stating that it saw no need for a detailed registration statement repeating information already available about the companies involved in the transaction and of which the professional investor/analyst is already aware. Further, the Advisory Committee pointed out that where the disclosure document actually reaches the individual investor, and requests him to make an investment decision without the benefit of an intermediary adviser, it should not be of a type which would overwhelm and confuse him.[4]

The Advisory Committee recommended that the Commission could achieve its objectives through further integration of the securities acts by incorporating Exchange Act reports by reference into the statutory prospectus under the Securities Act.

While the proposals published today take this approach, they do not go as far as was recommended by the Advisory Committee. Form S–15 is an interim measure and would only be available for registration of securities issued in the limited types of transactions discussed below, not in all business combinations and exchange offers.

If adopted, proposed Form S–15 would be in the nature of an experiment. The Commission will carefully watch the use and effects of the form to determine whether it is consistent with the Commission's responsibility to protect investors and safeguard the public interest in connection with the purchase and sale of securities. This will enable the Commission to consider the advisability of either expanding the types of transactions for which the form may be used or, if the protection of investors so requires, limiting the availability of the form.

Synopsis of the Proposals

The following brief synopsis is intended to assist interested parties in their understanding of the form and amendments proposed. Attention is directed to the text of the proposals for a more complete understanding.

I. *Availability of Form S–15.*— Proposed Form S–15 would be available only for registration of securities issued in transactions of the character specified in Rule 145 (a)(2) and (a)(3) or in an exchange offer for securities of another person where the exchange offer will result in acquisition of the other person by the issuer. The transaction must also meet the five conditions set forth in General Instruction A.

The first two conditions are designed to allow the form to be used only where relatively small companies are acquired by substantially larger companies. Under the first condition, the effect of the transaction must not be a change of more than 10% between the items listed in General Instruction A. 1(a) (gross sales and operating revenues, net income, etc.) for the issuer on a pro forma combined consoldiated basis giving effect to the transaction in question.[5] In addition, the total purchase price must not exceed 10% of the aggregate market value of voting stock held by unaffiliated shareholders.

The latter limitation, on the precentage of the non-affiliate "float," reflects the Commission's concern that an abbreviated prospectus may not be

[2] The commentators expressed concern that, where information summarized in or omitted from the short prospectus actually delivered but contained in the second part of the prospectus filed with the Commission is later found to be material, the issuer may be exposed to liability because the information was not contained in the distributed document.

[3] Report of the Advisory Committee on Corporate Disclosure to the Securities and Exchange Commission ("Report"), House Committee on Interstate and Foreign Commerce, 95th Cong., 1st Sess. (1977), Committee Print 95–29 at 440–450.

[4] The Advisory Committee noted a study conducted by the Division of Corporation Finance in 1976 which found that the average length of Form S–14 registration statements filed with the Commission was 110 pages, with some exceeding 200 pages.

[5] The test for the effect of the transaction used in General Instruction A to proposed Form S–15 is similar in some respects to the tests set forth in Securities Act Release No. 4950 (February 20, 1969) for determining whether relief should be granted from the requirement for 3 year certified financial statements of companies acquired or to be acquired. It should be noted, however, (1) that the standards are not identical, (2) that the test in General Instruction A to proposed Form S–15 is to be used only for purposes of determining the availability of such form, and (3) that for all purposes other than Form S–15 availability and disclosure requirements the standards and positions expressed in Release No. 4950 remain changed.

appropriate when a transaction does not result in greater than a 10% change for the issuer on a pro forma basis but nevertheless may be large in terms of publicly traded shares and thus have a significant impact on the market price of the issuer's stock. Such disparity may indicate that the issuer is not sufficiently followed by market professionals to assure that previously filed material is reflected in the market price of the issuer's stock or that the sheer volume of shares issued in the proposed business combination may affect the market price of the issuer's securities. The Commission's concern is similar to that which prompted the limitation on the availability of Form S–16 (17 CFR 239.27) for primary offerings to offerings by issuers whose voting stock held by non-affiliates has an aggregate market value of at least $50 million. This limitation was imposed because the Commission believed that such a condition would provide some assurance that information about such companies would be widely disseminated in the market place and that securities analysts would follow such companies (*See* Securities Act Release No. 5923, April 11, 1978). These expected consequences of the "float" requirement were seen as was to help assure market reaction to material information about a company and thereby to reduce the need to provide that information directly to offerees at the time of the offering.

The Commission invites specific comment as to whether Form S–15 use should be prohibited where there is this disparity, and, if so, as to which condition would best achieve this end: (1) the proposed requirement, which is of an experimental nature, that would make the form unavailable if the total purchase price of the company being acquired exceeds 10% of the aggregate market value of the issuer's voting stock held by unaffiliated shareholders; (2) a flat requirement that the aggregate market value of the issuer's voting stock held by non-affiliates be of a certain minimum amount; or (3) any other condition which commentators may suggest. In addition, commentators are specifically invited to suggest what additional items of disclosure not required to be presented in the prospectus pursuant to proposed Form S–15 would be appropriate where such disparities exist.

Under the second condition, the issuer must meet the requirements for the use of Form S–7 [8] and must have furnished an annual report to its security holders pursuant to and meeting the requirements of Rule 14a–3 [17 CFR 240.14a–3] or Rule 14c–3 [17 CFR 240.14c–3] for its latest fiscal year.

The other conditions which must be met in order for propposed Form S–15 to be available are designed generally to ensure that the abbreviated prospectus is only used in transactions and under conditions where security holders will not suffer as a result of streamlined disclosure. These additional conditions are as follows.

(1) The boards of directors of both companies involved in the transaction must have approved the transaction.

(2) The prospectus must be delivered to security holders at least 20 days prior to the meeting date or, if there (General Instruction A 1.): (1) registration on Form S–14 or (2) registration on Form S–15 as proposed but with an additional requirement for presentation of pro forma summary information (Item 1(c)) and financial statements with respect to the transaction.

Because a Form S–15 prospectus would consist largely of information concerning the business combination itself and would contain only limited information concerning the issuer and other parties to the transaction, the Commission believes that such a prospectus would not be appropriate for use in connection with offers or sales of the registered securities to persons who are not security holders of a party to the transaction. Accordingly, proposed Form S–15 includes an instruction prohibiting use of the form for reoffers or resales by any affiliate of the issuer or any other persons who may be deemed to be underwriters of the securities. Instead, reoffers or resales of securities by such persons would have to be made pursuant to a registration statement under the Securities Act or pursuant to an appropriate exemption from the registration requirements of the Securities Act, such as Regulation A (17 CFR 230.251 to 262) or Rule 145(d) (17 CFR 230.145(d)). Because the issuer of the securities being registered must meet the requirements for the use of Form S–7 in order to use Proposed Form S–15, Form S–16 (17 CFR 239.27) would be available for secondary distributions of securities issued pursuant to the business combination transaction. Form S–16 imposes only abbreviated prospectus disclosure requirements and relies upon incorporation by reference of the issuer's Exchange Act filings. It is contemplated that, since the boards of directors of both companies will have approved the proposed transaction, arrangements can be made during negotiation for future Form S–16 registration for reoffers and resales by affiliates.

Proposed Form S–14A (Securities Act Release No. 5744, *supra*) contained a similar prohibition on use for reoffers and resales, and the Commission continues to believe such a restriction appropriate, especially in light of the experimental nature of proposed Form S–15. Comments are specifically invited, however, on the necessity for and any undue burdens imposed by this prohibition.

Proposed Form S–15 would not be available to registered investment companies. The Commission believes that the special circumstances of those companies warrant specific consideration as to their use of the proposed form. Comments are specifically invited as to whether proposed Form S–15 should be available to investment companies and, if so, how the conditions for their use of the form should be stated and what, if any, modifications would be appropriate in the items of proposed Form S–15.

II. *Relationship with Proxy or Information Rules.*—The proposed Form S–15 prospectus may serve as the proxy or information statement used in connection with the transaction and would be deemed to meet the informational and filing requirements of the proxy or information rules under Section 14 of the Exchange Act, and Regulations 14A and 14C (17 CFR 240.14a–1 to 14a–101 and 40.14c.1 to 14c–101) thereunder, where applicable to the transaction. All other provisions of those regulations will still apply.

III. *Information Required in the Prospectus.*—Proposed Form S–15 is designed to provide for a short, simpler prospectus which will be more comprehensible to ordinary investors. Registrants are used to present information in the prospectus as clearly and concisely as possible.

The proposed Form S–15 prospectus may be streamlined primarily because the issuer's latest annual report to security holders would be required to be delivered along with the prospectus. Disclosure regarding the issuer's business description, financial statements, industry segments, market price of securities and dividend policy, selected financial data, and management's discussion and analysis would be incorporated by reference from the annual report rather than presented in the prospectus itself. In addition, if the acquired company is also a reporting company with a class of securities registered pursuant to Section 12 of the Exchange Act, its latest annual report to security holders also would be required to be delivered with the prospectus and the same items of disclosure would be incorporated by reference into the prospectus from that report.

The prospectus itself would be required to present only: a summary of the transaction placed in the front of the prospectus (Item 1); information regarding the terms of the transaction (Item 2); financial and other information concerning the acquired company if it is not a reporting company with a class of securities registered pursuant to Section 12 of the Exchange Act (Item 3); voting information and information on dissenters' rights, beneficial ownership of the issuer's securities, and the identity of both companies' executive officers and directors (Item 4); a description of the interests of any affiliates in the transaction (Item 5); and additional information as to subsequent material changes, changes in control and availability of reports and other information similar to that required by Item 8 of Form S–16 (17 CFR 239.27) (Item 6 and 7).

The disclosure called for by Item 4(c)(2) of the proposed form with respect to beneficial ownership is that required by Item 6(a) and 6(b) of Regulation S–K. The Commission invites specific comment on whether the beneficial ownership disclosure required in Proposed Form S–15 should be limited to voting power alone instead of both voting and investment power as required by Item 6 of Regulation S–K.

The Commission recognizes that material changes or events, such as significant acquisitions, may have occurred subsequent to the close of the latest fiscal year reflected in the issuer's latest annual report to security holders. In such cases, the annual report required to be delivered with the prospectus may no longer adequately describe the business and financial status of the issuer. Accordingly, the Commission invites specific comment on which of the following alternatives would be preferable in such event: (1) require the issuer to use Form S–14; (2) require disclosure of the subsequent changes in the prospectus (proposed Item 6(a)) and delivery of the annual report with the prospectus; (3) provide issuers with the option of either (a) delivering the annual report and diclosing the subsequent material changes or (b) delivering only a prospectus, which would contain the same type of disclosure with respect to the issuer as is required by Rule 14a–3(b); or (4) provide any other means to address this matter.

Proposed Form S–15 would allow material being incorporated by reference to be dealt with in the prospectus only by means of the statement required by item 8 to the effect that the prospectus is accompanied by the annual report(s) to security holders and that certain information therefrom is incorporated by reference into the registration statement. As proposed, the detailed description of which pages and/or portions of the annual report(s) are incorporated by reference would be contained in Part II (Item 10) of the registration statement. While the Commission believes that this will help keep the prospectus a simple, readable document, specific comment is invited, however, on whether this detailed description of material incorporated by reference should be presented in the prospectus itself rather than in Part II.

IV. *Information Not Required in the Prospectus.*—Part II of proposed Form S–15 would be similar to the section part of other registration statement forms adopted for Securities Act registration of securities. It would be a part of the registration statement filed with the Commission but not delivered to security holders. In addition to the statement incorporating by reference required portions of the annual report(s) to security holders (Item 10(a)) as well as that incorporating portions of quarterly reports delivered with the prospectus (Item 10(b)), Part II also would require that the issuer's latest 10–K and other recent filings filed with the Commission, as well as those of the acquired company if the latter is subject to Exchange Act reporting requirements, be incorporated by reference (Item 10(c)). Part II also would require an undertaking by the issuer to deliver with each prospectus a copy of its latest annual report to security holders, a copy of the acquired company's annual report if material contained therein has been incorporated by reference and copies of the latest of any later quarterly reports on Form 10–Q distributed by the issuer or by the acquired company to security holders for periods subsequent to the end of the last fiscal year. Forms 10–K would only be required to be delivered upon the written request of the security holder. The remaining requirements of Part II would be a statement as to the interests of experts named in the registration statement (Item 11) and the listing and furnishing of certain exhibits (Item 12).

Proposed Form S–15 does not require that the issuer's latest proxy statement must be delivered along with the annual report to security holders and the prospectus. The proxy statement would contain disclosure concerning directors and executive officers (Item 3 of Regulation S–K), management remuneration (Item 4 of Regulation S–K), and security ownership of certain beneficial owners and management (Item 6 of Regulation S–K) that is not required to be included in the annual report to security holders. Item 4 of proposed Form S–15 would call for the same disclosure as to directors and executive officers and security ownership which would be contained in the proxy statement. Since disclosure as to management remuneration would not be delivered to security holders, however, the Commission invites specific comment on whether the issuer's latest proxy statement should be delivered with the prospectus.

The rationale for requiring Form(s) 10–K and 10–Q to be incorporated by reference into the registration statement is similar to that for the corresponding requirement in Form S–16 (17 CFR 239.27). Where companies are subject to and comply with the continuous reporting requirements of Section 13 of the Exchange Act, and the market's awareness of the information contained in such Exchange Act filings serves as a basis for abbreviated disclosure requirements in a Securities Act registration statement, then Securities Act liability should attach to those Exchange Act filings.

Proposed Form S–15 assumes that the Commission's presently outstanding proposal to incorporate uniform exhibit requirements into Item 8 of Regulation S–K will be adopted.[9] If for any reason this is not the case, or such adoption has not occurred at the time Form S–15 is considered for adoption, changes would be made in Item 12 of Form S–15 which would set forth exhibit requirements which are substantially the same as those contained in proposed Item 8 of Regulation S–K. These requirements are outlined in the following paragraph.

If proposed Item 8 of Regulation S–K relating to exhibit requirements has been adopted at such time as the Commission decides to adopt proposed Form S–15, then new Item 8 of Regulation S–K would be amended by adding a new column to Table I thereof

[8] Generally, an issuer may use Form S–7 if it (a) has a class of securities registered under Section 12 (15 U.S.C. 78*l*) or is required to file reports pursuant to Section 15(d) (15 U.S.C. 78m) of the Exchange Act; (b) has been subject to the requirements of Section 12 or 15(d), and has filed all applicable reports, for 36 calendar months prior to the filing of the registration statement and has timely filed all required reports for the past twelve calendar months; (c) has not defaulted in payments on preferred stock, indebtedness for borrowed money or long-term leases during the past 36 months; and (d) has had consolidated net income of at least $250,000 for three of the last four fiscal years, including the most recent fiscal year.

[9] *See* Securities Act Release No. 6149 (November 16, 1979).

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indicating that the following exhibits would be required for filings on Form S–15: underwriting agreement; plan of acquisition, reorganization arrangement, liquidation or succession; instruments defining the rights of security holders; opinion re legality; opinion re tax matters; and material contracts.

V. *Proposed Related Amendments*—A. *Rules on Incorporation by Reference.*—Proposed Form S–15 requires incorporation by reference into the registration statement of certain information contained in the annual report to security holders. That report, prepared pursuant to Regulation 14A or 14C, particularly Rules 14a–3 or 14c–3 thereof, is furnished to the Commission for its information but is not deemed "filed" with the Commission.[9] The Commission is proposing amendments to Rule 24 of its Rules of Practice (17 CFR 201.24) and to Rule 411 (17 CFR 230.411) which would make clear that information contained in such reports, though the reports are not deemed filed with the Commission, nevertheless may be incorporated by reference into a registration statement filed pursuant to the Securities Act.

B. *Rules 14a–3, 14a–6, 14a–12, 14c–2, 14c–5.*—Exchange Act Rule 14a–3(a) (17 CFR 240.14a–3(a)) provides that no solicitation subject to the proxy rules shall be made unless each person solicited is concurrently furnished or has previously been furnished a written proxy statement containing the information specified in Schedule 14A (17 CFR 240.14a–101) under that Act. The Commission proposes to amend Rule 14a–3 to provide that material filed in a Form S–15 registration statement under the Securities Act containing the information required by that form would satisfy the requirements of the rule.

The Commission proposes to amend Exchange Act Rule 14a–6(j) (17 CFR 240.14a–6(j)) to provide that material filed in an S–15 registration statement under the Securities Act would satisfy the filing requirements of the proxy rules under the Exchange Act. This amendment would enable registrants to avoid filing copies of the registration statement as a proxy statement under the Exchange Act and paying a proxy filing fee.

Rule 14a–12 under the Exchange Act (17 CFR 240.14a–12) provides that solicitations in opposition to prior solicitations may be made before furnishing security holders a written proxy statement containing the information specified in Schedule 14A if certain conditions are met, including that no form of proxy be furnished to security holders prior to the time the written proxy statement required by Rule 14a–3(a) is furnished. Where a proxy statement then meeting the requirements of Schedule 14A has already been furnished to security holders, however, this latter condition is inapplicable.

Since the proposed amendment to Rule 14a–3(a) would provide that a proxy statement included in a registration statement filed under the Securities Act on Form S–15 could contain the information specified in that form in lieu of the information specified in Schedule 14A, the Commission proposes to amend Exchange Act Rule 14a–12(a) to refer to Rule 14a–3(a) and to delete the reference to Schedule 14A.

Rule 14c–2(a) under the Exchange Act (17 CFR 240.14c–2(a)) requires an issuer subject to the information rules to transmit to its security holders a written information statement containing the information specified in Schedule 14C. To provide similar treatment for proxy material and information statements, the Commission proposes to amend Rule 14c–2 to provide that material filed in a Form S–15 registration statement would satisfy the requirements of the rule.

In order to provide similar treatment for proxy material and information statements, the Commission proposes to amend Exchange Act Rule 14c–5(e) (17 CFR 240.14c–5(e)), to provide that material filed in a Form S–15 registration statement under the Securities Act would satisfy the filing requirements of Regulation 14C under the Exchange Act. In such instances, no information statement filing fee would be required.

[9] Rule 14a–3(c) (17 CFR 240.14a–3(c)) provides that: "Seven copies of the report sent to security holders pursuant to this rule shall be mailed to the Commission, solely for its information . . . . The report is not deemed . . . to be "filed" with the Commission or subject to this regulation otherwise than as provided in this rule, or to the liabilities of section 18 of the Act, except to the extent that the issuer specifically requests that it be treated as a part of the proxy soliciting material or incorporates it in the proxy statement by reference." Rule 14c–3(b) (17 CFR 240.14c–3(b)) contains a similar provision.

Text of Proposals

It is proposed to amend 17 CFR Chapter II as follows:

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

1. By adding § 239.29 to read as follows:

§ 239.29 Form S–15, optional form for registration of securities to be offered in certain business combination transactions.

Securities and Exchange Commission Form S–15, Registration Statement Under the Securities Act of 1933

(Exact name of issuer as specified in its charter)

(State or other jurisdiction of incorporation or organization)

(Standard industrial classification code number)

(I.R.S. Employer Identification No.)

(Address of principal executive offices, including Zip Code)

(Address of principal place of business)

Issuer's telephone number, including area code

(Name and address of agent for service)

Approximate date of commencement of the proposed sale of the securities to the public

Calculation of Registration Fee

Title of securities to be registered	Amount to be registered	Proposed maximum offering price per unit	Proposed maximum aggregate offering price	Amount of registration fee

Form S–15—General Instructions

A. Rule as to Use of Form S–15

In addition to Form S–1 (§ 239.11) or Form S–14 (§ 239.23), Form S–15 may be used for registration under the Securities Act of 1933 of securities to be issued either (a) in a transaction of the type specified in Rule 145(a) (2) and (3); or (b) in an exchange offer for securities of another person if the voting securities sought to be acquired together with any securities owned by the issuer at the time of the filing of the registration statement will aggregate at least 80% of the outstanding voting power of each class of outstanding securities of the other person; if each of the following conditions is met:

1. (a) The change in each of the following items for the issuer on an historical basis compared to those for the issuer on a pro forma consolidated basis giving effect to the transaction does not exceed 10 percent for the latest fiscal year (with respect to items (i) and (ii)) and as of the end of the latest fiscal year (with respect to items (iii) and (iv)):

(i) gross sales and operating revenues;
(ii) net income;
(iii) total assets; and
(iv) total shareholder's equity.

(b) The total purchase price (market value of the securities being registered as of the date of filing the registration statement plus any additional cash consideration being offered) does not exceed 10% of the aggregate market value of the issuer's voting stock held by non-affiliates. The latter value shall be computed as of a date which is not more than 30 days prior to the date of filing the registration statement.

2. At the time of filing the registration statement, the issuer meets the requirements for the use of Form S–7 (§ 239.26), and has furnished an annual report to security holders pursuant to Rule 14a–3 (§ 240.14a–3) or Rule 14c–3 (§ 240.14c–3) for its latest fiscal year.

3. The transaction has been approved by the board of directors of the issuer and of the company being acquired.

4. The prospectus is delivered to the security holders whose vote, consent, or authorization is solicited at least 20 days prior to the date on which the meeting of such security holders is held or, if no such meeting is held, the date of such vote, consent, or authorization.

5. Neither the issuer nor the company being acquired engages in oil and gas related operations which exceed the criteria for exemption specified in § 210.3–16(k) of Regulation S–X.

6. Neither the issuer nor the acquired company is a registered investment company.

B. Application of General Rules and Regulations

Attention is directed to the General Rules and Regulations under the Act, particularly those comprising Regulation C [17 CFR 230.400 to 230.494]. That regulation contains general requirements regarding the preparation and filing of the registration statement. Rules 405, 411, 412, and 439 should be especially noted.

C. Documents Comprising Registration Statement

The registration statement shall consist of the facing sheet of the form, a prospectus containing the information called for by Part I, the information and undertaking called for by Part II, signatures, consents of experts, exhibits and any other information or documents filed as a part of the registration statement.

D. Compliance With Proxy or Information Rules

(a) If a corporation or other person submits to its security holders entitled to vote or consent a proposal to approve the transaction in which the securities being registered are to be issued, and such person's submission to its security holders is subject to Regulation 14A (§§ 240.14a–1 to 14a–101 of this chapter) or 14C (§§ 240.14c–1 to 14c–101) under the Securities Exchange Act of 1934, then the provisions of such regulations shall apply in all respects to such person's submission, except that (1) the prospectus may be in the form of a proxy or information statement and shall contain the information required by this form in lieu of that required by Schedule 14A (§ 240.14a–101 of this chapter) or 14C (§ 240.14c–101) of Regulation 14A or 14C under the Securities Exchange Act of 1934; and (2) copies of the preliminary and definitive proxy or information statement, form of proxy or other material filed as a part of the registration statement shall be deemed filed pursuant to the requirements of such regulations. All other soliciting material shall be filed in accordance with such regulations.

(b) If the proxy or information material sent to such security holders is not subject to Regulation 14A or 14C, all such material shall be filed as a part of the registration statement at the time the statement is filed or as an amendment thereto prior to the use of such material.

E. Unavailability of the Prospectus for Reoffers or Resales

The Form S–15 prospectus will not be available for reoffers or resales of securities acquired pursuant to this registration statement by affiliates of the issuer or any other persons who may be deemed underwriters of such securities.

F. Notice of Intention to File the Registration Statement

The issuer is requested to advise the Branch Chief in the Division of Corporation Finance who regularly reviews issuer's filings, by letter, of the intention to file a registration statement on Form S–15 as soon as possible prior to the actual filing thereof, and to indicate a contemplated filing date for such registration statement. Such pre-filing notice, which is intended to assist the Commission staff in its processing of registration statements, is optional on the part of the issuer and is not a condition to the use of Form S–15.

Part I. Information Required in the Prospectus

Item 1. Summary

Immediately following the cover page of the prospectus, set forth a summary containing the following:

(a) a brief description of the general nature of the business conducted by the issuer and by the acquired company;

(b) a brief description of the transaction pursuant to which the securities being registered are to be offered; and

(c) in comparative columnar form, comparative per share data adjusted to be presented on an equivalent share basis of the issuer and the acquired company, for the following items: (i) book value per share as of the date of the most recent balance sheet presented in response to Item 3 or incorporated by reference in response to Item 10; (ii) cash dividends declared per share during the last full fiscal year for which financial statements are presented in response to Item 3 or incorporated by reference in response to Item 10; (iii) net earnings per share; and (iv) market value of securities as of the day preceding public announcement of the proposed transaction, or, if none, as of the day preceding the day the agreement with respect to the transaction was entered into.

Item 2. Terms of the Transaction

(a) Give the name of the issuer of the securities to be registered, its complete mailing address, including the zip code, and the telephone number, including the area code, of its principal executive offices.

(b) Give the name of the acquired company, its complete mailing address, including the zip code, and the telephone number, including the area code, of its principal executive offices.

(c) Outline briefly the material features of the proposed transaction, including a description of the securities to be issued pursuant thereto. State the acquired company's reasons for engaging in the transaction, the federal income tax consequences thereof to the security holders of the acquired company, and the significant differences between the rights of those security holders and the rights of holders of the securities being offered.

(d) Briefly describe any restrictions on the issuer's present or future ability to pay dividends with respect to any class of securities. Disclose whether any dividends are in arrears or whether any defaults exist with respect to payment of principal or interest on any securities of the issuer or of the company being acquired and disclose the effect of the transaction pursuant to which the securities registered are to be offered on such arrears or defaults.

(e) Include a brief description by the company to be acquired or whose shares are subject to the exchange offer of any matter, not otherwise disclosed pursuant to another item of this form, which is material to the fairness of the transaction to unaffiliated security holders of the acquired company.

Item 3. Description of the Acquired Company

(a) If the company being acquired has a class of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934 and has furnished an annual report to security holders pursuant to Rule 14a–3 (§ 240.14a–3) or Rule 14c–3 (§ 240.14c–3) for its latest fiscal year, then portions of such annual report to security holders shall be incorporated by reference and shall be delivered in accordance with the provisions of Items 9 and 10 of this form.

(b) If the company being acquired either does not have a class of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934 or has not furnished an annual report to security holders pursuant to Rule 14a–3 (§ 240.14a–3) or Rule 14c–3 (§ 240.14c–3) for its latest fiscal year, then the following shall be set forth with respect to the acquired company:

(i) a brief description of the acquired company's business which indicates its general nature and scope;

(ii) market prices of securities and statement of dividend policy as required by Item 9 of Regulation S–K;

(iii) selected financial data as required by Item 10 of Regulation S–K;

(iv) management's discussion and analysis as required by Item 11 of Regulation S–K;

(v) financial statements as would have been required to be included in an annual report furnished to security holders pursuant to Rule 14a–3 (§ 240.14a–3) or Rule 14c–3

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(§ 240.14c-3) had the company being acquired been required to prepare such a report; provided, however, the balance sheet for the year preceding the latest full fiscal year and the income statements for the two years preceding the latest full fiscal year need not be audited if they have not previously been audited; and

(vi) such quarterly financial information as would have been required had the acquired company been required to file reports on Form 10–Q (§ 249.308a) for the most recent quarter for which such a report would have been on file at the time the registration statement becomes effective.

Item 4. Voting Information

(a) If proxies, consents, or authorizations are to be solicited, include, where applicable, the information called for by the following items of Schedule 14A (§ 240.14a–101 of this chapter) of Regulation 14A under the Securities Exchange Act of 1934:

Item 1. Revocability of proxy;

Item 3. Persons making the solicitation;

Item 5. Voting securities and principal holders thereof;

Item 22. Vote required for approval.

(b) If proxies, consents, or authorizations are not to be solicited, include where applicable, the information called for by Items 5 and 22 of Schedule 14A and the following items of Schedule 14C (§ 240.14c–101 of this chapter) of Regulation 14C under the Securities Exchange Act of 1934:

Item 2. Statement that proxies are not solicited;

Item 3. Date, time and place of meeting.

(c) In addition to the information called for by paragraphs (a) and (b) above, in all cases include the following:

(i) *Dissenters' Rights of Appraisal.* Outline briefly appraisal or other similar rights of dissenters with respect to the proposed transaction and indicate any statutory procedure required to be followed by dissenting security holders in order to perfect such rights. Where such rights may be exercised only within a limited time after the date of adoption of a proposal, the filing of a charter amendment or other similar act, state whether the person solicited will be notified of such date.

Instruction. Indicate whether or not a security holder's failure to vote against a proposal will constitute a waiver of his appraisal or other similar rights and whether or not a vote against a proposal will be deemed to satisfy any notice requirements under State law with respect to appraisal rights. If the State law is unclear, state what position will be taken in regard to these matters.

(ii) *Beneficial Ownership.* Provide the information required by Items 6(a) and 6(b) of Regulation S–K (§ 229.20) with respect to both the issuer of the securities being registered and the company being acquired. No response to this paragraph (c)(2) is necessary to the extent that this information is already provided pursuant to paragraph (a) of this Item.

(iii) *Executive Officers and Directors.* With respect to the issuer, provide the information required by Item 3 of Regulation S–K. With respect to the company being acquired, identify each of the executive officers and directors and indicate the principal occupation or employment of each such person and the name and principal business of any organization by which such person is so employed.

Item 5. Interest of Certain Persons in the Transaction

Describe briefly any material interest, direct or indirect, by security holdings or otherwise, of affiliates of the issuer and of the company being acquired, in the proposed transaction.

Instruction.—This item shall not apply to any interest arising from the ownership of securities of the issuer where the security holder receives no extra or special benefit not shared on a pro rata basis by all other holders of the same class.

Item 6. Addtional Information With Respect to the Issuer

(a) Describe any and all material changes in the issuer's affairs which have occurred since the end of the latest fiscal year for which certified financial statements were included in the annual report to security holders and which have not been described in the issuer's most recent report on Form 10–Q (§ 249.308a). Financial information may be required in the prospectus if the financial statements in the annual report to security holders do not reflect the results of a significant business combination accounted for as a pooling of interests or a change in accounting principles where such change requires a substantial retroactive restatement of financial statements.

(b) State that reports, proxy statements and other information filed by the issuer can be inspected and copied at the public reference facilities maintained by the Commission in Washington, D.C., and at certain of its Regional Offices, and state the current address of each such facility, and that copies of such material can be obtained from the Public Reference Section of the Commission, Washington, D.C. 20549 at prescribed rates.

(c) Name any national securities exchange on which the issuer's securities are listed, and state that reports, proxy statements and other information concerning the registrant can be inspected at such exchanges.

(d) Include an undertaking to provide without charge to each person to whom a prospectus is delivered, on the written request of such person, a copy of the issuer's Form 10–K(s) (§ 249.310) information from which is incorporated by reference in response to any item and indicate the name and address of the person to whom a written request is to be directed.

Item 7. Additional Information With Respect to the Acquired Company

(a) Describe any and all changes in the acquired company's affairs which have occurred since the end of the latest fiscal year for which certified financial statements have been included either:

(i) in the acquired company's annual report to shareholders incorporated by reference and delivered pursuant to Items 9 and 10 of this form; or

(ii) in the prospectus as a result of the provisions of paragraph (b)(v) of Item 3 of this form.

Financial information may be required in the prospectus if such financial statements do not reflect the results of a significant business combination accounted for as a pooling of interests or a change in accounting principles where such change requires a substantial retroactive restatement of financial statements.

(b) Describe any changes in control of the acquired company which have occurred within thirty-six months prior to the filing date of the registration statement.

(c) If the acquired company has a class of securities registered under Section 12 of the Securities Exchange Act of 1934 or is required to file reports under Section 15(d) of that Act:

(i) state that reports and other information filed by the acquired company can be inspected and copied at the public reference facilities maintained by the Commission in Washington, D.C., and at certain of its Regional Offices, and state the current address of each such facility, and that copies of such material can be obtained from the Public Reference Section of the Commission, Washington, D.C. 20549 at prescribed rates;

(ii) name any national securities exchange on which the acquired company's securities are listed, and state that reports, proxy statements and other information concerning the acquired company can be inspected at such exchange; and

(iii) include an undertaking to provide without charge to each person to whom a prospectus is delivered, on the written request of such person, a copy of the acquired company's Form 10–K(s) (§ 249.310) information from which is incorporated by reference in response to any item and indicate the name and address of the person to whom such a written request is to be directed.

Item 8. Information Delivered and Incorporation by Reference

(a) A statement shall be made indicating that the prospectus is accompanied by the following documents:

(i) the issuer's annual report to security holders for its latest fiscal year and latest Form 10–Q, if any, filed with the Commission after the latest fiscal year; and

(ii) if the acquired company has a class of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934 and has furnished an annual report to security holders pursuant to and meeting the requirements of Rule 14a–3 (§ 240.14a–3) or Rule 14c–3 (§ 240.14c–3) for its latest fiscal year, such annual report and the latest Form 10–Q filed by the acquired company with the Commission after the latest fiscal year.

(b) A statement shall be made that certain information has been incorporated by reference, including but not limited to specified portions of the documents which accompany the prospectus. The issuer may also state, if it so chooses, that specifically described portions of documents which are not incorporated by reference are not a part of the registration statement. The description of portions which are incorporated by reference or which are excluded shall be made with clarity and in reasonable detail.

Part II. Information Not Required in Prospectus; Undertakings

Item 9. Undertaking To Transmit Certain Material

(a) The registration statement shall contain an undertaking, dated as of a date which is not more than twenty days prior to the effective date of the registration statement, substantially as follows:

"The undersigned issuer hereby undertakes to deliver or cause to be delivered with the prospectus to each person to whom the prospectus is sent or given by the issuer or by the acquired company:

(i) the issuer's annual report to security holders for its latest fiscal year;

(ii) the acquired company's annual report to security holders furnished pursuant to and meeting the requirements of Rule 14a–3 or Rule 14c–3 for its latest fiscal year;

(iii) the issuer's latest Form 10–Q; and

(iv) the acquired company's latest Form 10–Q."

However, if the issuer is not required to indicate in the prospectus in response to Item 8(a)(ii) of this form that the acquired company's annual report to security holders and latest Form 10–Q will accompany the prospectus, then paragraphs (ii) and (iv) of this undertaking may be omitted.

(b) All Form 10–Q(s) which accompany the prospectus and which are referred to in the issuer's undertaking made in accordance with paragraph (a) of this item shall be filed with the Commission on or before the earlier of the date of such undertaking or two business days prior to the effective date of the registration statement.

Item 10. Incorporation of Certain Information by Reference

(a) There shall be specifically incorporated by reference into the registration statement, by means of a statement to that effect in Part II filed with the Commission, the following information contained in the issuer's and acquired company's annual report(s) to security holders delivered with the prospectus pursuant to Item 9:

(1) description of business;

(2) certified financial statements furnished in accordance with the provisions of Rule 14a–3(b);

(3) information relating to industry segments, classes of similar products or services, foreign and domestic operations and export sales furnished in accordance with the provisions of paragraphs (b), (c)(1)(i) and (d) of Item 1 of Regulation S–K (§ 229.20);

(4) market price of the issuer's securities and statement of dividend policy furnished in accordance with Item 9 of Regulation S–K;

(5) selected financial data furnished in accordance with Item 10 of Regulation S–K; and

(6) Management's discussion and analysis furnished in accordance with Item 11 of Regulation S–K.

(b) There shall be specifically incorporated by reference into the registration statement, by means of a statement to that effect in Part II filed with the Commission, the issuer's and acquired company's Form 10–Q(s) delivered with the prospectus pursuant to Item 9.

(c) The following documents shall be specifically incorporated by reference into the registration statement, by means of a statement to that effect in Part II filed with the Commission:

(i) the issuer's Form 10–K for its latest fiscal year;

(ii) the acquired company's Form 10–K, if any, for its latest fiscal year; and

(iii) any reports filed pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 by the issuer or by the acquired company, other than Form 10–Q(s) incorporated under paragraph (b) of this item, on or after the end of the issuer's latest fiscal year and prior to the date the vote or consent solicited pursuant to the registration statement is final under applicable state law or, if no such vote or consent is solicited, the date the transaction described in the registration statement is fully consummated.

Item 11. Interest of Experts Named in Registration Statement

If any expert named in the registration statement as having prepared or certified any part thereof was employed for such a purpose on a contingent basis or, at the time of such preparation or certification or at any time thereafter, had a substantial interest in the issuer or any of its parents or subsidiaries or was connected with the registrant or any of its subsidiaries as a promoter, underwriter, voting trustee, director, officer or employee, furnish a brief statement of the nature of such contingent basis, interest or connection.

Instruction. In the case of an accountant, any direct financial interest or any material indirect financial interest held during the period covered by the financial statements prepared or certified shall be deemed a "substantial interest" for the purpose of this Item.

Item 12. Exhibits

Subject to the rules regarding incorporation by reference, the exhibits as required by Item 8 of Regulation S–K (17 CFR 229.20) shall be filed as a part of the registration statement. List all exhibits so filed and appropriately letter or number each exhibit for convenient reference. Exhibits incorporated by reference may bear the designation given in the previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits.

Signatures

Pursuant to the requirements of the Securities Act of 1933, the issuer has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of ————, State of ————, on ————, 19—.

(Issuer) ————

By (Signature and Title)————

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

(Signature) ————

(Title) ————

(Date) ————

Instructions

1. The registration statement shall be signed by the issuer, its principal executive officer or officers, its principal financial officer, it controller or principal accounting officer and by at least the majority of the board of directors or persons performing similar functions.

2. The name of each person who signs the registration statement shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the registration statement.

(Attention—the text of the following proposed amendments uses ►◄ arrows to indicate additions and [ ] bracket to indicate deletions.)

PART 201—RULES OF PRACTICE

2. By amending § 201.24 to read as follows:

§ 201.24 Incorporation by reference.

Where rules, regulations, or instructions to forms of the Commission permit incorporation by reference, a document may be so incorporated by reference to the specific document and ►, where the document being incorporated by reference has been filed with the Commission, ◄ to the prior filing in which such document was physically filed. Reference may not be made to any document which incorporates another document by reference if the pertinent portion of the document containing the information or financial statements to be incorporated by reference includes an incorporation by reference to another document. No document on file with the Commission for more than five years may be incorporated by reference except—

(a) Documents contained in registration statements which may be incorporated by reference as long as the registrant has a reporting requirement with the Commission;

(b) Documents that the registrant specifically identifies by physical location and by SEC file number reference, provided such materials have not been disposed of by the Commission pursuant to its Records Control Schedule (17 CFR 200.80f).

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

3. By amending paragraph (b) of § 230.411 to read as follows:

§ 230.411 Incorporation of certain information by reference.

* * * * *

(b) Any financial statement or part thereof filed with the Commission pursuant to any Act administered by the Commission ►, or any financial statement or part thereof contained in an annual report to security holders

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prepared in compliance with Rule 14a–3 (§ 240.14a–3) or Rule 14c–3 (§ 240.14c–3), and furnished to security holders and mailed to the Commission in compliance with those rules, ◄ may be incorporated by reference in any registration statement if it substantially conforms to the requirements of the appropriate form and is not required to be included in the prospectus. However, a financial schedule incorporated by reference to an annual report filed with the Commission pursuant to any Act administered by it need not be certified, if such schedule was not required to be certified in connection with the filing of the annual report, any requirement of any registration form to the contrary notwithstanding.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1940

4. By amending paragraph (a) of § 240.14a–3 to read as follows:

§ 240.14a–3 Information to be furnished to security holder.

(a) No solicitation subject to this regulation shall be made unless each person solicited is concurrently furnished or has previously been furnished with a written proxy statement containing the information specified in Schedule 14A (§ 240.14a–101), ► or with a written proxy statement included in a registration statement filed under the Securities Act of 1933 on Form S–15 (§239.29 of this chapter) and containing the information specified in such form. ◄

* * * * *

5. By amending paragraph (j) of § 240.14a–6 to read as follows:

§ 240.14a–6 Material required to be filed.

* * * * *

(j) Notwithstanding the foregoing provisions of this section, any proxy statement, form of proxy or other soliciting material included in a registration statement filed under the Securities Act of 1933 on Form S–14 (§ 239.23 of this chapter) ► or Form S–15 (§ 239.29 of this chapter) ◄ shall be deemed filed both for the purposes of that Act and for the purposes of this section, but separate copies of such material need not be furnished pursuant to this section nor shall any fee be required under paragraph (i) of this section. However, any additional soliciting material used after the effective date of the registration statement on Form S–14 ► or Form S–15 ◄ shall be filed in accordance with this section but separate copies of such material need not be filed as an amendment of such registration statement.

* * * * *

6. By amending paragraph (a) of § 240.14a–12 to read as follows:

§ 240.14a–12 Solicitation prior to furnishing required proxy statement.

(a) Notwithstanding the provisions of Rule 14a–3(a) (§ 240.14a–3(a)), a solicitation (other than one subject to Rule 14a–11 (§ 240.14a–11)) may be made prior to furnishing security holders a written proxy statement meeting the requirements of Rule 14a–3(a) if—

(1) * * *

(2) No form of proxy is furnished to security holders prior to the time the written proxy statement required by Rule 14a–3(a) (§ 240.14a–3(a)) is furnished to security holders: *Provided, however,* That this paragraph (2) shall not apply where a proxy statement then meeting the requirements of [Schedule 14A (§ 240.14a–101)] ►Rule 14a–3(a)◄ has been furnished to security holders by or on behalf of the person making the solicitation.

* * * * *

7. By amending paragraph (a) of § 240.14c–2 to read as follows:

§ 240.14c–2 Distribution of information statement.

(a) In connection with every annual or other meeting of the holders of a class of securities registered pursuant to section 12 of the Act, including the taking of corporate action with the written authorization or consent of the holders of a class of securities so registered, the issuer of such securities shall transmit a written information statement containing the information specified in Schedule 14C (17 CFR 240.14c–1 et seq.)►, or a written information statement included in a registration statement filed under the Securities Act of 1933 on Form S–15 (§ 239.29 of this chapter) and containing the information specified in such form,◄ to every such security holder who is entitled to vote or give an authorization or consent in regard to any matter to be acted upon and from whom a proxy, authorization or consent is not solicited on behalf of the management of the issuer pursuant to section 14(a) of the Act: *Provided,* That in the case of a class of securities in unregistered or bearer form, such statement need be transmitted only to those security holders whose names are known to the issuer.

* * * * *

8. By amending paragraph (e) of § 240.14c–5 to read as follows:

§ 240.14c–5 Filing of information statement.

* * * * *

(e) Notwithstanding the foregoing provisions of this section, any information statement or other material included in a registration statement, filed under the Securities Act of 1933 on Form S–14 (§ 239.23 of this chapter) ►or Form S–15 (§ 239.29 of this chapter)◄ shall be deemed filed both for the purposes of that Act and for the purposes of this section, but separate copies of such material need not be furnished pursuant to this section, nor shall any fee be required under paragraph (a) of this section. However, any additional material used after the effective date of the registration statement on Form S–14 ►or Form S–15◄ shall be filed in accordance with this section but separate copies of such material need not be filed as an amendment of such registration statement.

(Secs. 6, 7, 10, 19(a), 48 Stat. 78, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; 15 U.S.C. 77f, 77g, 77j, 77s(a); secs. 14(a), 23(a), 48 Stat. 985, 901; sec. 203(a), 49 Stat. 704; sec. 8, 49 Stat. 1379; sec. 5, 78 Stat. 569, 570; sec. 18, 89 Stat. 155; 15 U.S.C. 78n(a), 78w(a); secs. 12(e), 38(a), 54 Stat. 822, 841; 15 U.S.C. 80a–20(a), 80a–37(a).)

Statutory Authority for Proposals

The foregoing amendments to 17 CFR Parts 201, 230, 239, and 240 are proposed pursuant to the Securities Act of 1933, particularly Sections 6, 7, 10 and 19(a) thereof, and pursuant to Sections 14(a) and 23(a) of the Securities Exchange Act of 1934, Sections 12(e) and 20(a) of the Public Utility Holding Company Act of 1935, and Sections 20(a) and 38(a) of the Investment Company Act of 1940.

Pursuant to Section 23(a) of the Exchange Act, the Commission has considered the effect that the proposals would have on competition and is not aware, at this time, of any burdens that the proposals, if adopted, would impose on competition not necessary or appropriate in furtherance of the purposes of that Act. However, the Commission specifically invites comment as to the anti-competitive effects, if any, the proposals would likely engender.

By the Commission.

George A. Fitzsimmons,

Secretary.

January 15, 1980.

[FR Doc. 80–2026 Filed 1–23–80; 8:45 am]

BILLING CODE 8010–01–M

17 CFR Parts 210, 229 and 240

[Releases Nos. 33–6178, 34–16496, and 35–21293; IC–11918; File No. S7–818]

General Revision of Regulation S–X

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is proposing a general revision of Articles 3 and 5 and the related sections of Article 12 of Regulation S–X ("S–X"). The changes in the content of S–X are being proposed to (i) eliminate rules which are presently duplicative of generally accepted accounting principles ("GAAP"), (ii) effect changes to recognize predominant current practice and changes in circumstances, (iii) clarify and modify requirements which are presently subject to differing interpretations, and (iv) expand certain requirements to improve financial reporting. These proposed changes have been structured in a manner to facilitate the integration of the Securities Act of 1933 and the Securities Exchange Act of 1934 by attaining greater uniformity between financial statements included in annual reports to shareholders and those prepared in accordance with S–X.

DATE: Comments should be submitted on or before April 30, 1980.

ADDRESSES: Comments should refer to File S7–818 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, N.W., Washington, D.C. (File No. S7–818).

FOR FURTHER INFORMATION CONTACT: Arthur J. Schmeiser or Rita J. Gunter, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202–272–2133).

SUPPLEMENTARY INFORMATION:

I. Background

General

In 1940, the Securities and Exchange Commission issued Accounting Series Release ("ASR") No. 12, "Adoption of Regulation S–X." This regulation was a substitute for the several existing sets of accounting instructions which applied to the various forms. In general, it constituted a codification of existing instructions as to the form and content of financial statements. The regulation did not prescribe accounting methods, but rather stated requirements which were intended to elicit informative disclosures. In 1940, there was little available authoritative accounting literature. Indeed, the predecessor of the American Institute of Certified Public Accountants ("AICPA") only two years earlier had instituted a research program resulting in the publication of accounting principles in the form of Accounting Research Bulletins ("ARB's"). This was the first attempt by the accounting profession to formally promulgate standards. Consequently, the Commission considered it beneficial to have a regulation, such as S–X, with condensed requirements contained in one authoritative source.

Regulation S–X is subdivided into twelve articles. The first four articles contain rules of general application; namely, Application of Regulation S–X, Qualifications and Reports of Accountants, Rules of General Application and Consolidated and Combined Financial Statements. The next six articles prescribe the form and content of financial statements for, respectively, commercial and industrial companies (including companies in a development stage), investment companies, insurance companies, committees issuing certificates of deposit, bank holding companies and banks, and natural persons. The remaining two articles deal with the form and content of statements of shareholders' equity and source and application of funds and with the supplemental schedules.

Private Sector Initiatives

As previously mentioned, S–X was conceived at a time when GAAP was perceived to be less than a complete guide for financial accounting and reporting. However, since the initiation of S–X, the private sector through various organized bodies—the Accounting Principles Board ("APB"), other units of the AICPA and, most recently, the Financial Accounting Standards Board ("FASB")—has demonstrated an appropriate initiative in establishing and improving accounting standards. This initiative is supported by ASR No. 150, in which the Commission stated that financial statements which conform to standards set by the FASB will be presumed to have substantial authoritative support. Additionally, in its 1978 and 1979 "Report to Congress on the Accounting Profession and the Commission's Oversight Role," the Commission indicated that it continues to believe that the initiative for establishing and improving accounting standards should remain in the private sector, subject to Commission oversight.

The advances being made by the FASB toward improved financial accounting and reporting are evident in documents such as Statements of Financial Accounting Standards ("SFAS") Nos. 12, 14 and 33, addressing marketable securities, segments of a business, and the effects of changing prices, respectively. Further, the FASB has also initiated a Conceptual Framework Project which is anticipated to "establish the objectives and concepts . . . [to be] used in developing standards of financial accounting and reporting." [1] This endeavor includes projects such as "Reporting Earnings," "Funds Flow and Liquidity," "Elements of Financial Statements of Business Enterprises," "Accounting Recognition Criteria," and "Financial Statements/Financial Reporting." The Commission continues to support the efforts of the FASB in developing a conceptual framework.

Need for Revision

Similarly, the Advisory Committee on Corporate Disclosure [2] supported private sector standard setting in its report to the Commission, issued in November 1977, in which it recommended among other things, that:

A continuing goal of the Commission should be the elimination of rules of general applicability which cause differences between financial statements prepared in accordance with Regulation S–X and those prepared in accordance with GAAP. When the Commission requires an extension of disclosures beyond those required by GAAP because of an emerging problem, the reasons for the extension and the underlying accounting issues involved should be stated. The Commission should then ask the FASB to consider the issue. . . . the Commission should undertake the following:

1. Eliminate all financial statement disclosures required by Regulation S–X which duplicate those required in financial statements prepared in accordance with codified GAAP.

2. Critically review all disclosures of general applicability which are supplementary to those required by GAAP with the objective of eliminating disclosures which may not be necessary to users in making investment decisions.

In recent years, the Commission has pursued a policy of integration of

[1] "Statement of Financial Accounting Concepts No. 1, Objectives of Financial Reporting by Business Enterprises," issued in November 1978, is the first in a series of concept statements.

[2] An *ad hoc* committee established by the Securities and Exchange Commission for the purpose of assessing the adequacy of the corporate disclosure system.

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registration and reporting requirements under the Securities Act of 1933 and Securities Exchange Act of 1934. The Commission believes integration of the requirements of these two Acts not only benefits registrants but also offers a more coherent reporting structure. In this connection, the Commission has recently undertaken the task of reexamining the present reporting and disclosures system focusing principally on the form, content and use of Form 10–K. This reexamination process has resulted in four separate but related projects. In addition to this project the other three endeavors are: (1) a project directed toward identification and deletion of duplicative and outmoded requirements of the present Form 10–K[2] and a reassessment of the present management's discussion and analysis included in Form 10–K as well as in other registration and reporting forms; (2) a project to consider the feasibility of establishing uniform financial statement instructions applicable to most registration and reporting forms and to annual reports to security holders; and (3) a project to introduce a new streamlined disclosure form, Form S–15, for the registration of securities issued in certain merger and reorganization transactions.[3]

The most recent comprehensive revision of S–X was in 1972, which was prior to the last seven opinions issued by the APB and the establishment of the FASB. During the ensuing seven year period, the authoritative accounting literature has expanded dramatically and many of the requirements of S–X are now outdated. Accordingly, this proposed revision has been undertaken to:

1. Eliminate rules which are presently duplicative of GAAP;
2. Effect changes to recognize predominant current practice and changes in circumstances;
3. Clarify and modify requirements which are presently subject to differing interpretations; and
4. Expand certain requirements to improve financial reporting.

These proposed changes have been structured in a manner to facilitate the integration of the Securities Act of 1933 and the Securities Exchange Act of 1934 by attaining greater uniformity between financial statements included in annual reports to shareholders and those prepared in accordance with S–X.

Uniformity

Certain of the disclosure requirements of S–X presently exceed those of GAAP. Consequently, the content of the financial statements filed with the Commission frequently is somewhat different from that included in annual reports to shareholders. As mentioned previously, these proposed changes have been structured in a manner to facilitate the integration of the Securities Act of 1933 and the Securities Exchange Act of 1934 by attaining greater uniformity between financial statements included in annual reports to shareholders and those prepared in accordance with S–X. Therefore, this release addresses whether the disclosure requirements of S–X are of such significance and relevance that they should be required uniformly or, alternatively, that they do not have sufficient disclosure value to be retained.

S–X presently requires information which can be grouped into three distinct classes; namely, (i) disclosures which are important to all users of financial statements, (ii) disclosures which are important to a more limited, sophisticated group of users, and (iii) disclosures which have become of lesser value to any users or which duplicate GAAP. The Commission is proposing the following respective disposition in its rules of the requirements falling into these classifications: (i) required in all annual reports filed with the Commission or furnished to security holders; (ii) required in all annual reports filed with the Commission, but included in supplemental schedules; and (iii) not required at all.

Uniformity in the content of financial statements is a desirable objective which should result in decreased cost to preparers and increased understanding of users. The Commission believes that annual reports to shareholders should not be overburdened with information which, although important to meaningful analysis, is of little interest to the majority of users. A logical and accessible place for such supplemental information is the annual report on Form 10–K filed with the Commission. This analytical data would be included outside the primary financial statements; that is, in the supplemental schedules. By including the information in the Form 10–K schedules, it is available to those who require or desire such detail, and the cost of dissemination is reduced.

Accordingly, all disclosure requirements to be retained in present Articles 3 and 5 of S–X, other than the supplemental schedules, are proposed to be included in the annual reports to shareholders required by Rule 14a–3 of the Commission's proxy rules. The following are examples of items, which are not currently specifically required to be disclosed under GAAP although they often are presented in annual reports to shareholders, which would require disclosure:

(1) Restrictions on the payment of dividends.
(2) Types and amounts of income-tax timing differences, and a reconciliation of reported income and the provision for income taxes to taxable income and the income tax shown on tax returns.
(3) Warrants and rights.
(4) Disagreements with accountants.
(5) Separate presentation of and disclosures regarding redeemable preferred stock.
(6) Excess of replacement or current cost over the stated LIFO value of inventories.
(7) Weighted average interest rates on short term debt, maximum and average amounts outstanding, and unused lines of credit.
(8) Five year maturities of long-term debt.
(9) Related party transactions.
(10) Information regarding proved oil and gas reserves.
(11) Earnings applicable to common stock.
(12) Supplementary income statement information.

Certain other financial information is considered to be of significant importance to a limited number of users, as discussed above. Since these users (frequently analysts, investment advisers, etc.) are intermediaries for individuals who might otherwise be primary users, the needs of these users are also important. However, since this group is limited in size, it is not considered appropriate to require this information in annual reports to shareholders. It is proposed that such information only be required in the supplemental schedules to the Commission's forms thus making it accessible while at the same time holding costs to a minimum.

The following are examples of items which would be included in the schedules to the financial statements:

(1) Detailed information regarding marketable securities.
(2) Details of certain borrowings by related parties and others, including employees.
(3) Investments in and amounts due to or from affiliates.
(4) Components of property, plant and equipment (assets and accumulated depreciation, depletion or amortization) including additions and deletions by depreciation method, major classifications or other homogenous groups, as appropriate.
(5) Details of valuation accounts.

Supplemental Information

As mentioned previously the FASB is currently working on a project which is expected to identify operational criteria for use in determining the information to be disclosed inside or outside financial statements. Although this project is in its early stages, one attribute which may be associated with the distinction between financial statements and the broader issue of financial reporting is the level of auditor association.

Based upon the premise that information contained within the financial statements should be audited, the proposed rules would remove from S–X the requirement relating to unaudited information concerning selected quarterly financial data and place this requirement under Regulation S–K[4]

* * * * *

The next four sections discuss the proposed changes in the content of S–X.

Duplication of GAAP

The primary objective of this revision of S–X involves those requirements which are presently a direct or indirect duplication of GAAP. Consistent with the conclusions of the Advisory Committee, the Commission believes that S–X should provide a format outline for the preparation of financial statements.

A detailed discussion of those rules proposed to be eliminated because they duplicate GAAP is included in Section II of this proposal.

Predominant Current Practice and Changes in Circumstances

The significance of certain mandated disclosures may fade with the passage of time and changes in circumstances. Additionally, requirements included in rules other than GAAP may eliminate the need for a requirement. An example of this in Rule 3–16(n) with regard to stock option disclosures. The stock option information presently requires by S–X is very detailed. The rule was adopted in 1953 and since that time the APB, New York Stock Exchange, American Stock Exchange, and the Commission (management remuneration) have adopted rules that address this topic. The incremental disclosure value of the information required by S–X on stock options has become minimal. Therefore, this requirement is being proposed for elimination from S–X.

Clarification and Modification of Rules

A comprehensive revision of S–X provides the oportunity to clarify, modify and condense rules. The changes that are being proposed in this area are minor and involve such items as relocating and combining related rules, and making cosmetic changes to improve consistency. These proposed modifications are designed to simplify S–X and make it more understandable.

Expansion of Requirements

The Commission believes that there are certain disclosure areas that should be expanded beyond the present requirements of GAAP because of the informational value of the additional disclosures. The three principal items being proposed involve property, plant and equipment, income taxes and related party transactions.

Property, Plant and Equipment

Presently, with regard to property, plant and equipment, GAAP requires that enterprises disclose:

(1) Depreciation method.
(2) Asset balances by major class.
(3) Asset additions in the aggregate.
(4) Accumulated depreciation in the aggregate.
(5) Depreciation expense in the aggregate.

In addition, S–X requires disclosures of:[5]

(1) Method of valuation.
(2) Treatment of maintenance, repairs, renewals, and betterments.
(3) Method of adjusting accumulated depreciation at retirement or disposal including treatment of gain or loss.
(4) Depreciation rates by major class.
(5) Asset additions by major class.
(6) Asset deletions and other changes by major class and in the aggregate.
(7) Accumulated depreciation by major class.
(8) Depreciation expense by major class.
(9) Changes in accumulated depreciation from other than depreciation expense by major class and in the aggregate.

Although the data required is quite extensive, it frequently falls short of fulfilling the objectives of financial reporting set forth by the FASB in Concepts Statement No. 1.[6] There are several reasons for this deficiency. First, companies use different methods of depreciation (e.g. straight line, double declining balance or sum of the years digits) without identifying the classes of property, or the amounts of depreciation computed, using each method. Second, the classes of assets are often quite broad with regard to type of asset and depreciable life, especially for registrants with diversified business interests. For example, items classified as buildings may include one-level prefabricated structures with an estimated useful life of 10 years, and multi-floor steel and concrete structures with an estimated useful life of 50 years. In the area of equipment, heavy industrial equipment with a life of 20 years may be combined with high technology equipment such as computers, whose estimated useful life may not exceed 5 years. Third, much of the disclosure with regard to property, plant and equipment has become very general, resulting in loss of informational value. Fourth, policy disclosures with regard to asset lives and treatment of maintenance, repairs, renewals and betterments have been substantially ineffective.

Accordingly, the Commission is proposing rules which it believes will improve the quality of the information being presented. These proposed rules will conform the required financial statement disclosures for property, plant and equipment in S–X with GAAP, with any additional disclosures being included in the supplemental schedules. The proposed rules for the supplemental schedules would require disclosure of:

(1) Assets classified by depreciation, depletion or amortization method and thereunder by major classification.
(2) Fully depreciated, depleted or amortized assets which are still in use.
(3) By classification, the rate used in computing depreciation, depletion or amortization, and if more than one rate is used, the range and weighted average rate.
(4) Any asset or group of homogeneous assets (such as, computers, equipment used in a specific manufacturing process, warehouses, and office buildings) which comprises 25 percent or more of a major class of property, plant and equipment and the depreciation, depletion or amortization rate. This requirement, however, does not apply if the asset or group of homogeneous assets constitutes less than five percent of total assets.

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[2] Refer to Securities Act Release Nos. 33–6176, 33–6178, and 33–6177, respectively.

[4] This proposed change does not pertain to present rule 210.3–18 concerning disclosures of certain oil and gas reserve information for which the audit requirement has been postponed for one year.

[5] Certain information is not required based on percentage calculations: these calculations primarily relate to Schedules V and VI, and Rules 12–06 and 12–07.

[6] "Financial reporting should provide information that is useful to present and potential investors and creditors and other users in making rational investment, credit, and similar decisions . . . [it] should provide information to help investors, creditors, and others assess the amounts, timing, and uncertainty of prospective net cash flows to the related enterprise." para. 34 and 37.

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The disclosures which are being proposed are more detailed than the previous requirements. However, the Commission believes that property, plant and equipment is of such significance to most enterprises that this information should be available to sophisticated users to assist in making informed investment decisions. Accordingly, the proposed rules would require this information from registrants where such amounts are significant in relation to the size of the enterprise.

Income Taxes

In 1973 the Commission issued ASR No. 149 which adopted rules for improved disclosure of income tax expense. The requirements of that release include disclosure of the components of income tax expense, the reasons for timing differences between book and tax reporting resulting in deferred income taxes, and a reconciliation between the effective income tax rate indicated by the income statement and the statutory Federal income tax rate. These requirements have had a positive impact in enabling users of financial statements to better understand the basis for the registrant's tax accounting, including the degree to which, and the reasons why, the level of income tax expense incurred differs from the statutory rate. However, after observing the disclosures made by registrants under this rule, the Commission believes that certain refinements are appropriate in order to make the disclosure more comprehensive and understandable. In discussing these proposals, it is worthwhile to identify the missing information and the shortfalls of the present rule.

First, the present rule requires a reconciliation of a hypothetical amount (taxes derived by multiplying pretax book income by the Federal statutory rate, which is almost never comparable to the calculation that an enterprise makes in computing its taxes) to actual reported income tax expense, often in percentage terms only. Further, this reconciliation uses the accounting income tax provision which includes both domestic and foreign income tax expense, and although this analysis can be informative, it is frequently confusing.

Second, the required information regarding foreign income taxes is frequently insufficient for a thorough understanding of a company's current tax position. Although the amount of foreign income tax expense is presented, the amount of income related to that expense and the accompanying effective income tax rate are usually not disclosed. The Commission believes that information concerning foreign income and related taxes are of importance to investors.

Additionally, the available information related to items of permanent and timing differences between book income and tax income are frequently not presented in a comprehensible manner. These differences can significantly affect the amount of taxes payable currently or postponed to the future and, accordingly, affect the cash flow of an enterprise. Utilization of the comprehensive allocation method,[1] as required by APB Opinion No. 11, "Accounting for Income Taxes," makes it important that users understand both the components of the income tax provision and the related income amounts. Accordingly, information about items which create differences between book and tax income is important.

The proposed rule would require registrants to reconcile pretax income and income tax expense for both their Federal and foreign components, as reported in their financial statements, to Federal (foreign) taxable income and related income taxes anticipated to be reported on the registrant's Federal (foreign) income tax return. A summary of the actual tax computation showing amounts taxed at various rates, statutory, capital gains, etc., and the effect of offsetting credits, would be required. This reconciliation will provide the information discussed above in a more comprehensive, coherent and understandable manner. The Commission believes that this proposal should not have a significant cost burden since the information which would be required is already available because registrants need such information to calculate their current and deferred income tax provisions for purposes of financial reporting.

The following example of the reconciliation proposed to to be required is provided to assist in appraising the proposal.

Assumptions

The following facts apply to a hypothetical business corporation:

(1) Book income before tax—$2,000,000, comprised of the following:

Federal—$1,000,000
Foreign—$1,000,000

(2) Currently taxable income is computed as follows:

	Federal	Foreign
Book income	$1,000,000	$1,000,000
Less:		
Tax exempt income	100,000	
State & local taxes	50,000	
Timing differences:		
Accelerated depreciation	250,000	500,000
Deferred compensation	50,000	10,000
Other	5,000	
Taxable income	$545,000*	$490,000

*$100,000 of this amount is a result of capital gains.

(3) Reported income tax expense—$845,000, comprised of the following:

	Federal	State and local	Foreign
Current	$155,000	$50,000	$245,000
Deferred	140,000		255,000

(4) Available U.S. investment tax credits amount to $80,000. The entire amount can be utilized in the current year and the flow through method is used.

(5) Federal income tax rate is 46% on ordinary income and 30% on capital gains. The foreign income tax rate is 50% on all taxable income.

Proposed Reconciliation

	Income	Income tax expense
Per Books	$2,000,000	$845,000
Less:		
Foreign	1,000,000	500,000
Permanent differences		
Tax exempt income	100,000	
State and local taxes	50,000	50,000
Subtotal	850,000	295,000
Less:		
Timing differences:		
Accelerated depreciation	250,000	115,000
Deferred compensation	50,000	23,000
Other	5,000	2,000
	305,000	140,000
Per Federal tax return	545,000	155,000
Federal currently taxable income:		
At statutory rate (46%)	445,000	205,000
At capital gains rate (30%)	100,000	30,000
Less:		
Investment tax credits		80,000
Estimated to be reported on Federal income tax return	$545,000	$155,000
Components of Foreign:		
Per Books	$1,000,000	$500,000
Less:		
Permanent differences		
Timing differences:		
Accelerated depreciation	500,000	250,000
Other	10,000	5,000
	510,000	255,000
Per foreign tax return(s)	$490,000	$245,000

Related Party Transactions

In 1975 the Auditing Standards Executive Committee of the American Institute of Certified Public Accountants issued Statement on Auditing Standards No. 6 ("SAS No. 6"), "Related Party Transactions," which "provides guidance on procedures that should be considered by the auditor when he is performing an examination of financial statements in accordance with generally accepted auditing standards to identify related party transactions and to satisfy himself as to the substance of and accounting for such transactions, including financial statement disclosure."

The current accounting literature refers to certain types of transactions between related parties in SFAS Nos. 13 and 14, "Accounting for Leases" and "Financial Reporting for Segments of a Business Enterprise," respectively; however, GAAP does not include any general accounting or reporting guidelines for these types of transactions. As a result, the Commission believes that it would be beneficial to integrate the disclosure requirements of SAS No. 6 into S–X and therefore these requirements are being proposed for inclusion in S–X. The definition of a related party (as set forth in SAS No. 6) is proposed to be included in the definition section of Article 1. It should be pointed out that the term "principal owner" as used in this definition looks only to the voting interest of the registrant, whereas the present S–X definition of "principal holder" looks to any class of equity security. While this difference in terms would appear to unduly limit the persons covered by the related party rule, such is not the case since the related party definition also covers a person who can exercise significant influence.

II. Discussion of Proposed Changes to the Rules

Article 3. Rules of General Application

In a concurrent release, the Commission is proposing to establish uniform financial statement instructions for most registration and reporting forms and annual reports to shareholders. To achieve a logical sequence, these instructions are proposed; to be included in a new Article 3 in addition to the requirements for consolidated financial statements, presently Article 4, which are proposed to be moved without amendment. The rules addressing general application, present Article 3, are proposed to be relocated to Article 4. Other changes are being proposed to the rules of general application and are discussed in the paragraphs which follow.

Article 3 is the section of S–X which now contains rules on the general content of financial statements for all registrants. The specific rules applicable to companies in certain specialized industries are contained in successive articles of the Regulation and such rules include both general and specific references to the rules in Article 3. As discussed above, significant changes are being proposed concerning the individual rules contained in Article 3. The following is a discussion of the proposed changes according to the type (four categories identified previously) of change. The tabular guide preceding the revised rules provides a summary of the changes which are being proposed.

Certain changes are being proposed to delete rules in Article 3 which duplicate requirements of GAAP. Some of the rules being proposed for deletion were included in S–X prior to the time GAAP contained a specific requirement for such disclosure. The present rules in Article 3 which are proposed for deletion (or partial deletion) since such requirement is also included in GAAP are as follows (designated by the present rule numbers):

1. Rule 3–07—*Changes in accounting principles and practices and retroactive adjustment of accounts.* Such requirements are contained in APB Opinion Nos. 9, "Reporting the Results of Operations," and 20, "Accounting Changes," and SFAS No. 16, "Prior Period Adjustments."

2. Rule 3–08—*Summary of accounting principles and practices.* Currently, disclosure of accounting principles and practices is required by APB Opinion No. 22, "Disclosure of Accounting Policies."

3. Rule 3–11—*Current assets* and Rule 3–12—*Current liabilities.* Definitions of these terms are contained in ARB No. 43, Chapter 3, "Working Capital." Additionally, the use of an operating cycle in excess of one year is also provided for otherein and the requirement to disclose such is contained in APB Opinion No. 22, "Disclosure of Accounting Policies." Other disclosures required by Rules 3–11 and 3–12 are proposed to be combined into one rule.

4. Rule 3–16(b)—*Principles of translation of items in foreign currencies.* SFAS No. 8, "Accounting for the Translation of Foreign Currency Transactions and Foreign Currency Financial Statements," now prescribes the accounting and reporting requirements for the translation of foreign currencies.

5. Rule 3–16(d)—*Intercompany profits and losses.* ARB No. 51, "Consolidated Financial Statements," and APB Opinion No. 18, "The Equity Method of Accounting for Investments in Common Stock," require that intercompany profits and losses be eliminated with respect to consolidated subsidiaries and equity investees. Disclosure of profits or losses not eliminated with respect to related parties, as well as affiliates, is a requirement of proposed Rule 4–11(1).

6. Rule 3–16(e)—*Defaults.* The portion of this rule dealing with the classification of an obligation to which a default or breach relates is proposed to be deleted since ARB No. 43, Chapter 3, "Working Capital," defines the term "current liabilities." There does not appear to be a sufficient reason to retain the second and third sentences of this rule since the current practice is to look to the terms of the agreement to determine the proper classification in the particular circumstances. However, commentators are specifically requested to comment on whether these two sentences do serve a clarifying purpose and should appropriately be retained.

7. Rule 3–16(f)—*Preferred shares.* The requirement to disclose the dividend rates, participation rights, call prices and dates, conversion terms and voting rights of securities outstanding is contained in APB Opinion No. 15, "Earnings per Share." Disclosure of arrearages of cumulative dividends is required by APB Opinion No. 9, "Reporting the Results of Operations." APB Opinion No. 10, "Omnibus Opinion–1966," requires disclosure of the liquidation preference of stocks; however, such disclosure is not required on the face of the balance sheet. Thus, this portion of the present rule is retained since the Commission believes this disclosure is of sufficient importance to be required on the face of the statement. The requirement to disclose any restriction upon retained earnings that arises from the fact that upon involuntary liquidation the aggregate preferences of preferred shares exceeds the par or stated value is also retained since there is no such requirement currently included in GAAP.

8. Rule 3–16(g)—*Pension and retirement plans.* This rule duplicates present GAAP requirements except for the requirement to disclose unfunded past service costs. APB Opinion No. 8, "Accounting for the Cost of Pension Plans," contains the present GAAP disclosure requirements for pension plans. An exposure draft entitled "Disclosure of Pension and Other Post-Retirement Benefit Information," has been issued by the FASB as a proposed amendment to APB Opinion No. 8. This proposal would require expanded disclosures about the financial status of pension plans. Accordingly, the existing rule in S–X is proposed to be deleted in its entirety with the expectation that the

[1] Comprehensive allocation is a concept which requires allocation of taxes to all timing differences in determining the income tax expense for the period.

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FASB will adopt an acceptable final standard prior to the Commission's final action on these proposed rules.

9. Rule 3-16(l)—*Commitments and contingent liabilities.* The requirement to disclose commitments and contingencies is contained in SFAS No. 5, "Accounting for Contingencies."

10. Rule 3-16(l)—*Bases of revenue recognition.* APB Opinion No. 22, "Disclosure of Accounting Policies," requires disclosure of the significant accounting policies followed by a company, including disclosure of the principles relating to recognition of revenues.

11. Rule 3-16(q)—*Leased assets and lease commitments.* SFAS No. 13, "Accounting for Leases," established standards of financial accounting and reporting for leases. The Commission's rule is consistent with SFAS No. 13 requirements, except that it provides for an earlier effective date and for certain disclosures by rate-regulated enterprises. The proposed revisions to this rule simply eliminate the portions of the rule which duplicate the requirements of SFAS No. 13. The accelerated implementation requirements of the rule make its retention necessary since the effective date for retroactive application of SFAS No. 13 is for years beginning after December 31, 1980. The rule is also required because of the "as if" disclosures by rate-regulated companies.

The second type of proposed change which is being proposed in Article 3 results from predominant current practices and/or changes in circumstances. In some instances, reporting practices have changed or become better established; thus, the significance of certain rules has diminished. Therefore, the following rules are proposed for revision or deletion:

1. Rule 3-01(b)—*Form, order, and terminology.* The rule presently specifies that amounts be expressed in whole dollars, in thousands of dollars or in hundred thousands of dollars. A change is being proposed to specify that amounts be stated in whole dollars or in multiples thereof since some of the larger companies are beginning to present some disclosures in millions of dollars.

2. Rule 3-05—*Omission of names of certain subsidiaries.* In a concurrent release the Commission proposes to move to an exhibit the present Form 10-K requirement to list all subsidiaries. For this reason, this rule seems unnecessary.

3. Rule 3-06—*Additional information.* The first sentence of the present rule is proposed to be moved to Rule 3-01(a) and is discussed below (under the third type of proposed change). The second sentence of this rule is proposed for deletion since registrants are no longer allowed to use statements filed with other governmental agencies in lieu of the financial statements prescribed by S-X.

4. Rule 3-16(j)—*Bonus, profit sharing, and other similar plans.* This disclosure is being proposed for deletion because it is not generally of financial significance. If, in an unusual situation, this information is of significance to the financial statements, disclosure would be required by GAAP. When it affects management remuneration, this disclosure is substantially required outside the financial statements by Item 4 of Regulation S-K.

5. Rule 3-16(n)—*Capital stock optioned, sold, or offered for sale to directors, officers, and key employees.* Some of the disclosures required by this rule are presently required by GAAP and the remaining disclosures appear to be no longer necessary. This rule was adopted in 1953, a time when uniform accounting and disclosure requirements were much less complete. The Commission considered it inappropriate to prescribe the amount, if any, to be charged against income representing compensation to recipients of stock options since at that time there was no unanimity of opinion on this question. However, since that time APB opinion No. 25, "Accounting for Stock Issued to Employees," has been issued on the appropriate accounting method for stock options issued to employees. That opinion specifies the amount to be included in income statements and the timing of such charges. The supplemental disclosures are proposed for deletion because they are not generally of financial significance. If, in an unusual situation, this information is of significance to the financial statements, disclosure would be required by GAAP. When it affects management remuneration, this disclosure is substantially required outside the financial statements by Item 4 of Regulation S-K.

The third type of proposed change is that made to clarify the present rules which may be subject to various interpretations and/or to modify the rules or the location of such rules to enhance their simplicity and readability. The following proposed changes are of this type:

1. Rule 3-01(a)—*Form, order, and terminology.* The word "may" in the first sentence of this paragraph is proposed to be changed to "should" in an effort to be more definitive. An additional sentence is proposed to be added to this paragraph; however, this is simply a transfer of the first sentence from Rule 3-06 and does not represent a change in the present requirements.

2. Rule 3-03—*Inapplicable captions and omission of unrequired or inapplicable financial statements.* In paragraphs (a) and (b) of this rule the work "need" is proposed to be changed to "should" in an effort to be more definitive. The wording of paragraph (c) is also proposed to be revised to delete the specification of where the reason for the omission of a financial statement must be presented.

3. Rule 3-09—*Valuation and qualifying accounts.* An addition to this rule is being proposed to allow valuation and qualifying accounts to be presented parenthetically on the face of the balance sheet rather than requiring a separate deduction from assets to which they apply. The Commission continues to believe that disclosure of such amounts is of sufficient importance to be required on the face of the statement.

4. Rule 3-14—*Reacquired shares.* The wording in this rule has been revised to conform to the position taken in ASR No. 268, "Presentation in Financial Statements of 'Redeemable Preferred Stocks.'"

5. Rule 3-15—*Discount on capital shares.* This rule has also been revised to conform to the position taken in ASR No. 288.

6. Rule 3-16(t)—*Disclosure of selected quarterly financial date in notes to financial statements.* The Commission is proposing to relocate the disclosure required by this rule to Item 12 of Regulation S-K. Also related Rule 2-02(e) is proposed for deletion. This information would no longer be part of the financial statements; however, the Commission believes this information should be included in annual reports to shareholders, thus the Commission is also proposing an amendment to the proxy rules to accommodate this change. The Commission continues to believe that auditor association with this information is desirable and therefore is proposing this rule change with the expectation that the existing auditor association and review of this information will remain unchanged and that appropriate amendments to the auditing literature will be recommended and adopted.

The final type of proposed change to Article 3 is that made to improve certain financial reporting and disclosures. After considering certain disclosure rules presently in effect, the Commission believes that improvements can be made to the present requirements. The following is a discussion of the proposed changes:

1. Rule 3-13—*Reacquired evidences of indebtedness.* The wording of this rule has been proposed for modification including the addition of a requirement to state the purpose for which reacquired evidences of indebtedness, shown as an asset in the balance sheet, were acquired. The presentation of reacquired evidences of indebtedness as an asset is rare in practice; however, in such cases, complete explanations should be provided.

2. Rule 3-16—*General notes to financial statements.* The introductory paragraph to this rule is being proposed to be expanded to require appropriate note references on the face of the financial statements for disclosures contained in footnotes. The current rule requires note references for only the disclosures specifically required by Rule 3-16; however, the proposed rule would also apply to disclosures required by GAAP.

3. Rule 3-16(h)—*Restrictions which limit the availability of retained earnings for dividend purposes.* This rule is being proposed to be expanded to include a specific requirement to disclose any restriction on the payment of dividends including, (i) restrictions dependent on the achievement of certain levels of net income and (ii) payments by a subsidiary to its parent. The Commission believes that the current rule requires these disclosures; however, contrary positions have been argued. The expansion of this rule will clarify the Commission's intended requirements.

4. Rule 3-16(m)—*Depreciation, depletion, obsolescence and amortization.* This specific rule is proposed for deletion; however, certain of the present requirements, as well as certain disclosure requirements from Article 5, have been combined and included in a proposed schedule. The specifics of the proposed requirements are discussed below in connection with the schedule revisions. The requirement to disclose the accounting treatment for maintenance, repairs, renewals and betterments is proposed to be deleted. The Commission believes the general practice is for companies to expense maintenance and repairs and to capitalize renewals and betterments; however, if any other method is used, disclosure should be provided under the requirements of APB Opinion No. 22, "Disclosure of Accounting Policies." Thus, the present specific requirement is considered unnecessary.

5. Rule 3-16(o)—*Income tax expense.* The present rule is proposed to be revised to modify the format and expand the content of the disclosures. As discussed in section I (Background—Income Taxes, see example), the proposed revision is intended to present the composition of the company's current tax liability and to specifically associate with each component the income amounts that give rise to such tax provision. This proposed tax disclosure requires a reconciliation of the total tax expense and income before tax amounts to the currently payable Federal income tax expense and the income to be taxed currently. Aside from that change, the proposed rule requires information similar to that which is currently required in subparagraphs (1) and (3) of the existing rule.

The Commission is also inviting commentators to consider and respond to whether subparagraph (2) of Rule 3-16(o) should be retained and, if so, in what form. The Commission believes that information concerning future cash outlays for income taxes, that are anticipated to substantially exceed income tax expense, is important. Information concerning future cash requirements and an enterprise's liquidity are essential to users who are attempting to make rational investment or similar decisions. Although important, this is a difficult rule to enforce, since the omission of disclosure cannot be recognized until the year after the disclosure should have been presented. Therefore, in an attempt to make this rule more effective, comments with regard to retention and alteration are specifically requested.

6. Rule 4-11(l)(new)—*Transactions with related parties.* The purpose of this new proposed rule is to (1) incorporate the disclosure requirements of SAS No. 6, "Related Party Transactions," into S-X and (2) to combine within one rule all the current S-X requirements related to balances due to or from affiliates and to other transactions with affiliates. The Commission believes that this proposal will not change current disclosure practices concerning related party transactions. The present S-X requirements deal only with affiliates and are contained in Rules 3-16(d), 5-02.3, .10, .11, .25, .29, .31, and .32; and 5-03.1A, B, and C, .2A, B and C, .7, .8, and .17 of S-X. The disclosure requirements are now included in the proposed rule since the definition of related parties includes affiliates. The disclosure requirements contained in SAS No. 6 are being proposed to be included in S-X since GAAP does not include disclosure guidelines for transactions with related parties.

It should also be pointed out that Rule 3-16(r) (Interest cost) reflects the changes effected in Accounting Series Release No. 272, dated November 6, 1979. Reference is made to that release for a discussion of the recently adopted changes. With respect to Rule 3-17 (Current replacement cost information), reference is made to Accounting Series Release No. 271, dated October 23, 1979, in which the Commission announced its intention to delete the replacement cost rule for fiscal years ending on or after December 25, 1980. Since the deletion has been announced, the rule is not included in the text of the proposed rules below.

Article 5. Commercial and Industrial Companies

Article 5 contains line items for balance sheets and income statements which are to be filed by all registrants, except for registrants in certain specialized industries. (See Rule 5-01 for a list of excepted businesses.) As discussed above, the outline of the items to be included in the financial statements is being retained; however, significant changes are being proposed herein concerning the individual rules of Article 5. These proposed changes fall into the same four categories as used for Article 3 and are discussed below according to the type of change. The present rule numbers are used in this discussion; however, the tabular guide presented in section III of this release summarizes the proposed changes and sets forth the proposed new rule numbers.

The following is a discussion of the changes which are being proposed to delete the rules in Article 5 which duplicate GAAP:

1. Rule 5-02.2—*Marketable securities.* SFAS No. 12, "Accounting for Certaining Marketable Securities," prescribes the accounting required for certain marketable equity securities, thus obviating the need for such portion of this rule. Also, the first two sentences of this rule are unnecessary since GAAP defines a current asset. The proposed rule is revised specifically to cover current marketable securities which are other than equity securities (which are covered by SFAS No. 12).

2. Rule 5-02.5—*Unearned income.* APB Opinion No. 6, "Status of Accounting Research Bulletins," contains the requirement that such amounts be deducted from the related receivable.

3. Rule 5-02.6—*Inventories.* The first sentence of the first paragraph and the second paragraph under subparagraph (b) of this rule car proposed for deletion since such information is presently required by ARB No. 43, Chapter 4, "Investory Pricing."

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4. Rule 5-02.12—*Other securities investments* and Rule 5-02.13—*Other investments.* The requirements of Rule 5-02.13 are being proposed for combination with Rule 5-02.12. Also, since SFAS No. 12, "Accounting for Certain Marketable Securities," prescribes the accounting and disclosure requirements for marketable equity securities, the rule has been revised to so indicate. The proposed rule is also revised to specify the disclosure necessary for non-current security investments (other than marketable equity securities) and other investments.

5. Rule 5-02.30—*Unamortized debt discount and premium.* APB Opinion No. 21, "Interest on Receivables and Payables," contains a disclosure requirement similar to this present rule.

6. Rule 5-02.35—*Deferred credits.* The last sentence of this rule is being proposed for deletion since separate current classification of deferred taxes is required by APB Opinion No. 11, "Accounting for Income Taxes."

7. Rule 5-02.36—*Reserves.* SFAS No. 5, "Accounting for Contingencies," sets forth the accounting and reporting requirements for loss contingencies.

8. Rule 5.03 (a) and (b). The nature of items to be included in the income statement is governed by APB Opinion Nos. 9 and 30, both titled "Reporting the Results of Operations," and also by SFAS No. 16, "Prior Period Adjustments."

9. Rule 5-03.3A—*Research and development expenses.* SFAS No. 2, "Accounting for Research and Development Costs," requires disclosure of research and development costs.

10. Rule 5-03.4—*Selling, general and administrative expenses.* The requirement to disclose unusual items is contained in APB Opinion No. 30, "Reporting the Results of Operations."

11. Rule 5-03.9—*Profits on securities* and Rule 5-03.12—*Losses on securities.* The requirements of these rules are contained in SFAS No. 12, "Accounting for Certain Marketable Securities," and APB Opinion No. 30, "Reporting the Results of Operations."

12. Rule 5-03.10—*Miscellaneous other income* and Rule 5-03.13—*Miscellaneous incomne deductions.* The information required by the last sentence of both these rules is presently contained in APB Opinion No. 30, "Reporting the Results of Operations."

13. Rule 5-03.11—*Interest and amortization of debt discount and expense.* The FASB recently issued SFAS No. 34, "Capitalization of Interest Cost," which established standards for capitalizing and disclosing interest costs; thus, the present requirement to separately disclose different types of interest expense appears to be no longer necessary or appropriate.

14. Rule 5-03.17—*Equity in earnings of unconsolidated subsidiaries and 50 percent or less owned persons.* APB Opinion No. 18, "The Equity Method of Accounting for Investments in Common Stock," prescribes the disclosures that are required when the equity method of accounting is used.

15. Rule 5-03.19—*Extraordinary items, less applicable tax.* The accounting and disclosure requirements for extraordinary items is contained in APB Opinion No. 30, "Reporting the results of Operations," and SFAS No. 4, "Reporting Gains and Losses from Extinguishment of Debt."

16. Rule 5-03.20—*Cumulative effects of changes in accounting principles.* APB Opinion No. 20, "Accounting Changes," enumerates the disclosure requirements of the cumulative effects of accounting changes.

17 Rule 5-03.22—*Earnings per share data.* The requirements for computing and disclosing earnings per share are contained in APB Opinion No. 15, "Earnings per Share," and No. 30, "Reporting the Results of Operations."

The second type of proposed change results from the changes necessitated by predominant current practices and/or changes in circumstances. The following proposed revisions or deletions are of this type:

1. Rule 5-02.1—*Cash and cash items.* The first two sentences of this rule are proposed to be revised to delete the list of cash items required to be separately disclosed. Disclosure of cash which is restricted as to withdrawal or usage and the description of the provisions of such restrictions continue to be considered relevant disclosures. This proposed rule has been revised accordingly.

2. Rule 5-02.4—*Allowances for doubtful accounts and notes receivable.* It common practice for companies to exclude from their receivables amounts which are known to be uncollectable; thus, this specific requirement is no longer necessary.

3. Rule 5-03.7—*Dividends.* The requirement to separately disclose dividends from different sources is being proposed for deletion since the amounts are not usually significant, but, if significant, current practice would necessitate disclosure. Also, if dividends from related parties are material, disclosure will be required by the proposed rule on related party transactions.

4. Rule 5-03.8—*Interest on securities.* The reasoning for proposing to delete the requirements of this rule is the same as for Rule 5-03.7 above.

The third type of proposed change is that made to clarify the present rules which may be subject to various interpretations and/or to modify the rules or the location of such rules to enhance the simplicity and readability of such requirements. The following proposed changes are of this type:

1. Rule 5-02.3—*Accounts and notes receivable.* Paragraphs (a) and (c) of this rule are being proposed to be revised to reflect the changes which result from adding a separate rule in Article 4 concerning related party transactions. Paragraph (b) is being proposed for transfer to revised Rule 4-07. Paragraphs (e), (f) and (g) are being proposed for revision to be presented in a more concise format; however, the requirements are unchanged.

2. Rule 5-02.7—*Other current assets.* The last sentence of this rule is proposed for deletion as being unnecessary.

3. Rule 5-02.16—*Intangible assets.* The list of the different types of intangible assets has been removed and the rule is proposed to require separate disclosure of items which exceed 5% of total assets. This proposed change is consistent with other rules in this article which use a 5% significance test. Also the proposed rule would add a specific requirement to explain significant additions or deletions during the period. This represents predominant practice and, therefore, should not require new disclosures. With the addition of this provision to the rule, the provisions of Schedules VII and VIII are being proposed for deletion.

4. Rule 5-02.18—*Other assets;* Rule 5-02.19—*Prepaid expenses and deferred charges;* Rule 5-02.20— *Preoperating expenses and similar deferrals;* Rule 5-02.21—*Deferred organization expense;* Rule 5-02.22—*Deferred debt expense;* and Rule 5-02.23—*Deferred commissions and expense on capital shares.* The rule concerning other assets is being proposed to combine all the above noted rules into one by simply requiring disclosure of any other asset (not includable in other captions) which exceeds 5% of total assets. The proposed rule would also require disclosure of significant additions or deletions during the period. The reason for such a proposed requirement is explained in the paragraph above.

5. Rule 5-02.25—*Accounts and notes payable.* Paragraph (a) of this rule is proposed for revision as a result of adding a separate rule in Article 4 on related party transactions.

6. Rule 5-02.28—*Accrued liabilities* and Rule 5-02.27—*Other current liabilities.* These two rules are effectively combined in a proposed rule,

and any item which exceeds 5% of total current liabilities would require separate disclosure.

7. Rule 5-02.32—*Other long-term debt,* and Rule 5-02.33—*Other liabilities.* These two rules are combined; thus, any other long-term liability in excess of 5% of total liabilities would require separate disclosure.

8. Rule 5-03(c). This proposed subparagraph has been rewritten as a result of the changes made in Rules 5-03.1 and .2 (see discussion below), but no change in the requirement is being proposed.

9. Rule 5-03.1A—*Net sales of tangible products;* Rule 5-03.1B—*Operating revenues of public utilities;* and Rule 5-03.1C—*Other revenues.* These present rules are proposed to be combined primarily to make the rules more readable and understandable. Additionally, a change is being proposed to lower the present percentage test for disclosing excise taxes from 10% to 1% of total sales and revenues. This change is being proposed since excise tax amounts which are less than 10% of sales and revenues are frequently significant to the reported tax amount which includes the corresponding excise tax expense.

10. Rule 5-03.2A—*Cost of tangible goods sold;* Rule 5-03.2B—*Operating expenses of public utilities,* and Rule 5-03.2C—*Costs and expenses applicable to other revenues.* The combination of these rules are for the same reason as stated in the paragraph above.

11. Rules 5-03.14 and 5.03.15 (new rule numbers) give effect to the GAAP requirements to disclose "income or loss from continuing operations" and "discontinued operations."

12. Rule 5-03.20 (new rule)—*Earnings applicable to common stock.* The requirement to disclose this amount is presently contained in the "Summary of Operations" items of the various Securities Act and Securities Exchange Act forms; however, the current requirements to present the summary of operations are proposed for deletion in a concurrent release. The Commission believes that disclosure of earnings applicable to common stock is important information and that such disclosure should be made in the income statement; therefore, this requirement is proposed to be transferred to Article 5. (It should also be noted that the requirement to present the ratio of earnings to fixed charges is also contained in the "Summary of Operations" items to certain forms. The Commission's staff is presently reviewing the existing requirements and expects to recommend that the Commission issue a concept release focusing on the calculation and utility of this ratio.)

The fourth type of proposed change to Article 5 is that made to improve present financial reporting and disclosure. The following changes are of this type:

1. Rule 5-02.10—*Securities of affiliates and other persons,* and Rule 5-02.11—*Indebtedness of affiliates and other persons—not current.* The specific requirements of these rules are proposed to be deleted and replaced with a reference to the proposed rule on related party transactions. This proposed rule significantly expands the present requirement to separately disclose investments in and receivables from affiliates.

2. Rule 5-02.14—*Property, plant and equipment.* The specific requirements relating to property, plant and equipment have been transferred to a proposed schedule and expanded. See the discussion below regarding the changes proposed to be made in Schedules V and VI.

3. Rule 5-02.29—*Bonds, mortgages and similar debt.* The specific requirement to separately disclose amounts owed to affiliates is being proposed to be deleted and replaced with a reference to the proposed rule on related party transactions.

4. Rule 5-02.31—*Indebtedness to affiliates and other persons—not current.* The specific requirements of this rule are being proposed to be deleted and replaced with a reference to the proposed new rule on related party transactions.

It should also be poined out that Rule 5-04 (What schedules are to be filed) is also proposed to be revised as a result of the changes proposed for Article 12. See below for a discussion of such proposed changes to the schedules except for Schedule XV (Other Securities) for which there is no corresponding rule in Article 12. This schedule is being proposed for deletion which is consistent with the elimination of Rules 12-10, 12-14 and 12-15. Schedule XV was intended to provide disclosures similar to those required by the above rules, but for other classes of securities.

Article 12. Form and Content of Schedules

Article 12 of the S-X prescribes the form and content of the schedules required by other Articles of S-X. The proposed changes to Article 12 fall into four categories discussed previously and are treated below according to the reason for the change. Corresponding changes are being proposed to other Articles of S-X and the Forms which are affected by the changes proposed to Article 12. Generally, the proposed revisions to other Articles of S-X and the Forms, as a result of changes in Article 12, involve the elimination of a requirement to provide disclosure required by a rule proposed for deletion or to otherwise conform disclosure requirements. The present rules in Article 12 which are proposed for deletion (or partial deletion) for this reason are as follows (designated by present rule numbers):

1. Rule 12-08—*Intangible Assets, Preoperating Expenses and Similar Deferrals* and Rule 12-09—*Accumulated Depreciation and Amortization of Intangible Assets.* APB Opinion No. 17, "Intangible Assets," establishes accounting and disclosure standards for intangible assets. Rule 12-08 is proposed to be deleted since proposed Rules 5-02.15 and 5-02.17 have been expanded to require disclosure of any significant additions or deletions of intangible assets or deferred charges, and proposed Rule 4-11(m) requires disclosure of depreciation and amortization of intangible assets, preoperating costs and similar deferrals.

The second type of change involves changes to conform to predominant current practice. The title of Rule 12-13 is being proposed for revision to eliminate the words "and reserves." The use of the word "reserve" to designate valuation and qualifying accounts is not consistent with current usage of terminology.

The third type of change being proposed is that made to enhance the simplicity and readability of the rule requirements by clarifying the rules which are presently subject to various interpretations. It is proposed that the following requirements be deleted from Article 12 since the disclosures sought are adequately provided by other rules:

1. Rule 12-10—*Bonds, mortgages and similar debt.* The Commission believes the disclosures required by Rule 5-02.29 and the proposed rule on related party transactions will adequately provide the relevant information presently sought by Rule 12-10.

2. Rule 12-14—*Capital shares.* The Commission believes that the disclosures prescribed by present Rules 5-02.38, .39, .40, .41 and the proposed rule on related party transactions will generally provide the disclosures sought by the present rule.

3. Rule 12-15—*Warrants or rights.* The essential requirements of this Rule are presently contained in Rule 3-16(p).

4. Rule 12-16—*Supplementary income statement information.* Rule 12-16 is

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proposed for deletion; however, the present requirements which are not required by GAAP are proposed to be transferred to a disclosure rule in Article 4. The requirements to report rents and depreciation, depletion and amortization of property, plant and equipment are presently required by SFAS No. 13, "Accounting for Leases," and APB Opinion No. 12, "Omnibus Opinion-1967," respectively, and therefore are proposed to be deleted.

The fourth type of proposed change to Article 12 is being made to improve present financial reporting and disclosure. After considering the disclosure rules presently in effect, the Commission believes that improvements can be made in the disclosures provided. The following is a discussion of such proposed changes:

1. Rule 12–03—*Amounts receivable from underwriters, promoters, directors, officers, employees, and principal holders* and Rule 12–04—*Investment in, equity in earnings of, and dividends received from affiliates and other persons.* The scope of these rules are being proposed for expansion to encompass a broader group of persons defined as related parties in the auditing literature and to be consistent with new Rule 4–11(1) and the definition of related parties proposed in Rule 1–02(t). The Commission is also proposing that the reporting level of Rule 12–03 be revised from an aggregate indebtedness of $20,000 or 1 percent of total assets, whichever is less, to an aggregate indebtedness of $100,000 or 1 percent of total assets, whichever is less.

2. Rule 12–05—*Indebtedness of affiliates and other persons—not current.* Rule 12–05 is being proposed for expansion to also include the disclosures presently prescribed by Rule 12–11 and to require an analysis of changes in balances. The combination of the schedules prescribed by Rules 12–05 and 12–11 places related disclosures in juxtaposition. The analysis of the change in balances provides increased information concerning transactions between affiliates and other persons.

3. Rule 12–06—*Property, plant and equipment.* This rule is being proposed for expansion in several areas. Disclosure of additional information is being proposed concerning composition of assets, and the methods and rates of depreciation, depletion or amortization. In addition to disclosing property, plant and equipment by major classification, assets or homogeneous groups which comprise 25 percent or more of a major class of property, plant and equipment, and material amounts of fully depreciated assets still in service and idle assets are being proposed for disclosure in the schedule. By obtining a more detailed analysis of the composition of assets, more specific information will be provided with respect to additions and retirements or other dispositions of assets. More specific disclosure of the rates and methods of depreciation, depletion or amortization and the related charges to income in relationship to the related assets is also being proposed.

The proposed requirements of Rule 12–06 are intended to provide more meaningful information concerning investments in property, plant and equipment and charges for depreciation, depletion and amortization.

III. Reference Table of Rule Changes

The table which follows is presented to enable the reader to trace each of the current rules to its proposed rule number or to identify which current rules are being proposed for deletion. Very brief indications of the proposed changes are also provided. The discussions in section II of this release provide the detailed explanation of each proposed change and deletion. No discussion is provided for rules in which no changes are proposed. The table is intended only as a guide to go from the present to the proposed rule numbers; therefore, the proposed rules and the discussion of changes should also be read in conjunction with this table.

Present rule	Proposed rule
Article 3:	
210.3–01(a)	210.4–01(a) Minor wording revisions in the first sentence. Second sentence moved from present rule 210.3–06.
210.3–01(b)	210.4–01(b) First sentence revised. Second sentence deleted.
210.3–01(c)	210.4–01(c) No change.
210.3–02	210.4–02 No change.
210.3–03	210.4–03 Minor wording revision in paragraph (a). Paragraph (c) also revised
210.3–04	210.4–04 No change.
210.3–05	Deleted.
210.3–06	First sentence moved to 210.4–01(a). Second sentence deleted.
210.3–07	Deleted.
210.3–08	Deleted.
210.3–09	210.4–05 Minor revisions to rule.
210.3–10	210.4–06 No change.
210.3–11	210.4–07 Revised and present rule 210.3–12 combined with this rule.
210.3–12	Combined with present rule 210.3–11.
210.3–13	210.4–08 Minor revisions to rule.
210.3–14	210.4–09 Minor revisions to recognize changes made in ASR No. 256.
210.3–15	210.4–10 Minor revisions to recognize changes made in ASR No. 268.
210.3–16	210.4–11 Expanded to recognize GAAP requirements and to require appropriate cross-referencing to footnote disclosures.
210.3–16(a)	210.4–11(a) No change.
210.3–16(b)	Deleted.
210.3–16(c)	210.4–11(b) No change.
210.3–16(d)	Deleted.
210.3–16(e)	210.4–11(c) Minor revisions to rule.
210.3–16(f)	210.4–11(d) Subparagraphs (1), (2), (3)(i), and (3)(ii) deleted. Minor revisions to remainder of rule.
210.3–16(g)	Deleted.
210.3–16(h)	210.4–11(e) Requirements of the rule are clarified.
210.3–16(i)	Deleted.
210.3–16(j)	Deleted.
210.3–16(k)	210.4–11(f) No change.
210.3–16(l)	Deleted.
210.3–16(m)	Deleted.
210.3–16(n)	Deleted.
210.3–16(o)	210.4–11(g) Subparagraphs (1) and (3) revised and expanded.
210.3–16(p)	210.4–11(h) No change.
210.3–16(q)	210.4–11(i) Most of the rule is deleted but the references to SFAS No. 13, "Accounting for Leases," continue the current requirements.
210.3–16(r)	210.4–11(j) No change from the rule adopted in Accounting Series Release No. 272 (November 6, 1979).
210.3–16(s)	210.4–11(k) No change.
210.3–16(t)	Moved to Item 12 of Regulation S–K.
210.3–17	210.4–12 No change but also see Accounting Series Release No. 271 (October 23, 1979).
210.3–18	210.4–13 No change.
Article 5:	
210.5–01	210.5–01 No change.
210.5–02	210.5–02 No change.
210.5–02.1	210.5–02.1 Minor revisions to the rule.
210.5–02.2	210.5–02.2 Revised to recognize current GAAP requirements
210.5–02.3	210.5–02.3 Subparagraphs (a) revised; (b) deleted; (c) deleted; (d) through (g) combined.
210.5–02.4	210.5–02.4 Caption only retained.
210.5–02.5	210.5–02.5 Caption only retained.
210.5–02.6	210.5–02.6 A portion of the first and second paragraphs of subparagraph (b) deleted.
210.5–02.7	210.5–02.7 Last sentence deleted.
210.5–02.8	210.5–02.8 Reference deleted.
210.5–02.9	210.5–02.9 No change.
210.5–02.10	210.5–02.10 Caption only retained with a reference to proposed rule 210.4–11(1) being added.
210.5–02.11	210.5–02.11 Caption only retained with a reference to proposed rule 210.4–11(1) being added.
210.5–02.12	210.5–02.12 Revised to recognize current GAAP requirements and to combine the requirements of present rule 210.5–02.13.
210.5–02.13	Deleted. Requirement combined with 210.5–02.12.
210.5–02.14	210.5–02.13 Subparagraph (a) revised; subparagraph (b) revised to delete part of next to last sentence and all of last sentence.
210.5–02.15	210.5–02.14 No change.
210.5–02.16	210.5–02.15 Present requirement revised and expanded.
210.5–02.17	210.5–02.16 No change.
210.5–02.18	210.5–02.17 Present requirement revised and expanded.
210.5–02.19	Deleted.
210.5–02.20	Deleted.
210.5–02.21	Deleted.
210.5–02.22	Deleted.
210.5–02.23	Deleted.
210.5–02.24	210.5–02.18 No change.
210.5–02.25	210.5–02.19 Minor revisions to subparagraph (a). No change in subparagraphs (b) and (c).
210.5–02.26	Deleted. Requirement combined with present rule 210.5–02.27.
210.5–02.27	210.5–02.20 Revised to also include the present requirements of 210.5–02.26.
210.5–02.28	210.5–02.21 No change.
210.5–02.29	210.5–02.22 Minor revisions in subparagraph (a); no change in subparagraph (b).
210.5–02.30	Deleted.
210.5–02.31	210.5–02.23 Caption only retained with a reference to proposed rule 210.4–11(l) being added.
210.5–02.32	Deleted.
210.5–02.33	210.5–02.24 No change.
210.5–02.34	210.5–02.25 No change.
210.5–02.35	210.5–02.26 Revised to delete last sentence.
210.5–02.36	Deleted.
210.5–02.37	210.5–02.27 No change.
210.5–02.38	210.5–02.28 No change.
210.5–02.39	210.5–02.29 No change.
210.5–02.40	210.5–02.30 No change.
210.5–02.41	210.5–02.31 No change.
210.5–02.42	210.5–02.32 No change.
210.5–03	210.5–03 Subparagraphs (a) and (b) deleted; minor revisions made to subparagraph (c).
210.5–03.1A	210.5–03.1 Minor revisions made and combined with present rules 210.5–03.1B and .1C.
210.5–03.2A	210.5–03.2 Minor revisions made and combined with present rules 210.5–03.2B and .2C.
210.5–03.3A	Deleted.
210.5–03.1B	210.5–03.1 See 210.5–03.1A above.
210.5–03.2B	210.5–03.2 See 210.5–03.2A above.
210.5–03.1C	210.5–03.1 See 210.5–03.1A above.
210.5–03.2C	210.5–03.2 See 210.5–03.2A above.
210.5–03.3	210.5–03.3 No change except for reference to preceding rules.
210.5–03.4	210.5–03.4 Caption only retained.
210.5–03.5	210.5–03.5 No change.
210.5–03.6	210.5–03.6 No change.
210.5–03.7	210.5–03.7 Revised and combined with present Rules 210.5–03.8, .9, and .10.
210.5–03.8	See 210.5–03.7 above.
210.5–03.9	See 210.5–03.7 above.
210.5–03.10	See 210.5–03.7 above.
210.5–03.11	210.5–03.8 Caption only retained.
210.5–03.12	210.5–03.9 Revised and combined with present rule 210.5–03.13.
210.5–03.13	210.5–03.9 Revised and combined with present rule 210.5–03.12.
210.5–03.14	210.5–03.10 No change.
210.5–n03.15	210.5–03.11 No change.
210.5–03.16	210.5–03.12 No change.
210.5–03.17	210.5–03.13 No change.
210.5–03.18	210.5–03.16 No change.
210.5–03.19	210.5–03.17 Caption only retained.
210.5–03.20	210.5–03.18 Caption only retained.
210.5–03.21	210.5–03.19 No change.
210.5–03.22	210.5–03.21 Caption only retained.
210.5–04	210.5–04 The changes made to this rule are as a result of the revisions made in Article 12 (see below) and a renumbering of schedules.
Article 12:	
210.12–01	210.12–01 No change.
210.12–02	210.12–02 No change.
210.12–03	210.12–03 Revised and expanded to include related parties.
210.12–04	210.12–04 Expanded to include related parties.
210.12–05	210.12–05 Format of schedule changed and combined with present 210.12–11.
210.12–06	210.12–06 Expanded and format revised.
210.12–07	210.12–07 No change.
210.12–08	Deleted.
210.12–09	Deleted.
210.12–10	Deleted.
210.12–11	Combined with 210.12–05 above.
210.12–12	210.12–08 No change.
210.12–13	210.12–09 Revised title.
210.12–14	Deleted.
210.12–15	Deleted.
210.12–16	Eliminated part of present disclosures and moved remaining requirements to proposed rule 210.4–11(m).
210.12–17	Previously revoked.
210.12–18	Previously revoked.
210.12–19	210.12–10 No change.
210.12–20	Previously revoked.
210.12–21	210.12–11 No change.
210.12–22	210.12–12 No change.
210.12–23	Previously revoked.
210.12–24	Previously revoked.
210.12–25	Previously revoked.
210.12–26	Previously revoked.
210.12–27	210.12–13 No change.
210.12–28	Previously revoked.
210.12–29	210.12–14 No change.
210.12–30	Previously revoked.
210.12–31	210.12–15 No change.
210.12–31a	210.12–16 No change.
210.12–32	Previously revoked.
210.12–33	210.12–17 No change.
210.12–34	210.12–18 No change.
210.12–35	210.12–19 No change.
210.12–36	210.12–20 No change.
210.12–37	210.12–21 No change.
210.12–38	210.12–22 No change.
210.12–39	210.12–23 No change.
210.12–40	210.12–24 No change.
210.12–41	210.12–25 No change.
210.12–42	210.12–26 No change.
210.12–43	210.12–27 No change.

The Commission recognizes that there are numerous cross-references in other articles of S–X to the rules which are proposed to be deleted, revised or renumbered in this release. Changes in such cross references are not being made in this release, but instead such changes will be made in conjunction with the adoption of final rules.

IV. Requests for Comments

All interested persons are invited to submit their views and comments concerning the amendments proposed herein in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments should be received no later than April 30, 1980. Such communications should refer to File S7–818 and will be available for public inspection.

V. Text of Proposed Amendments

The Commission hereby proposes to amend 17 CFR Chapter II as follows:

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

1. By adding a new paragraph (t) to § 210.1–02 and by redesignating the former paragraphs (t) through (y).

§ 210.1–02 Definitions of terms used in Regulation S–X (17 CFR Part 210).

* * * * *

(t) *Related parties.* The term "related parties" means the registrant; its affiliates; principal owners, management, and members of their immediate families; entities for which investments are accounted for by the equity method; and any other party with which the reporting entity may deal when one party has the ability to significantly influence the mangement or operating policies of the other, to the extent that one of the transacting parties might be prevented from fully pursuing its own separate interests. Related parties also exist when another entity has the ability to significantly influence the management or operating policies of the transacting parties or when another entity has an ownership interest in one of the transacting parties and the ability to significantly influence the other, to the extent that one or more of the transacting parties might be prevented from fully pursuing its own separate interests. For purposes of this definition, the terms (1) "principal owner" means the owner(s) of record or known beneficial owner(s) of more than 10% of the voting interests of the reporting entity, and (2) "management" means any person(s) having responsibility for achieving the objectives of the organization and the concomitant authority to establish the policies and to make the decisions by which such objectives are to be pursued.

(u) No change from former paragraph (t).

(v) No change from former paragraph (u).

(w) No change from former paragraph (v).

(x) No change from former paragraph (w).

(y) No change from former paragraph (x).

(z) No change from former paragraph (y).

2. By deleting § 210.2–02(e).

§ 210.2–02 Accountants' reports.

* * * * *

(e) [Deleted.]

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3. By revising Article 4, §§ 210.4–01 thru 210.4–13, to read as follows:

Rules of General Application

§ 210.4–01 Form, order, and terminology.

(a) Financial statements should be filed in such form and order, and should use such generally accepted terminology, as will best indicate their significance and character in the light of the provisions applicable thereto. The information required with respect to any statement shall be furnished as a minimum requirement to which shall be added such further material information as is necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.

(b) All money amounts required to be shown in financial statements may be expressed in whole dollars or multiples thereof, as appropriate: *Provided,* That, when stated in other than whole dollars, an indication to that effect is inserted immediately beneath the caption of the statement or schedule, at the top of the money columns, or at an appropriate point in narrative material.

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(c) Negative amounts (red figures) shall be shown in brackets or parentheses and so described in the related caption, columnar heading or a note to the statement or schedule, as appropriate.

§ 210.4-02 Items not material.

If the amount which would otherwise be required to be shown with respect to any item is not material, it need not be separately set forth (but see Release No. AS-41).

§ 210.4-03 Inapplicable captions and omission of unrequired or inapplicable financial statements.

(a) No caption should be shown in any financial statement as to which the items and conditions are not present.

(b) Financial statements not required or inapplicable because the required matter is not present should not be filed.

(c) The reasons for the omission of any required financial statements shall be indicated.

§ 210.4-04 Omission of substantially identical notes.

If a note covering substantially the same subject matter is required was respect to two or more financial statements relating to the same or affiliated persons, for which separate sets of noted are presented, the required information may be shown in a note to only one of such statements: *Provided,* That a clear and specific reference thereto is made in each of the other statements with respect to which the note is required.

§ 210.4-05 Valuation and qualifying accounts.

Valuation and qualifying accounts shall be shown separately in financial statements as deductions from the specific assets to which they apply or parenthetically on the face of the statements.

§ 210.4-06 Basis of determining amounts—book value.

If an instruction requires a statement as to "the basis of determining the amount," the basis shall be stated specifically. The term "book value" will not be sufficiently explanatory unless, in a particular instruction, it is stated to be acceptable with respect to a particular item.

§ 210.4-07 Current assets and current liabilities.

If a company's normal operating cycle is longer than one year, generally recognized trade practices should be followed with respect to the inclusion or exclusion of items in current assets or current liabilities. An appropriate explanation of the circumstances should be made and, if practicable, an estimate given of the amount not realizable or payable within one year. The amounts maturing in each year (if practicable) along with the interest rates or range of rates shall also be disclosed. (See also Release No. AS-102.)

§ 210.4-08 Reacquired evidence of indebtedness.

Reacquired evidences of indebtedness shall be deducted from the appropriate liability caption. However, reacquired evidence of indebtedness held for pension and other special funds not related to the particular issues may be shown as assets: *Provided,* That there be stated the amount of such evidences of indebtedness, the cost thereof, the amount at which stated, and the purpose for which acquired.

§ 210.4-09 Reacquired shares.

Reacquired shares not retired shall be shown separately as a deduction from the applicable account(s) at either par, stated value, or cost, as appropriate or as circumstances require.

§ 210.4-10 Discount on shares.

Discount on shares, or any unamortized balance thereof, shall be shown separately as a deduction from the applicable account(s) as circumstances require.

§ 210.4-11 General notes to financial statements.

(See Release No. AS-4.)

It should be recognized that generally accepted accounting principles must be followed in preparing financial statements filed with the Commission. However, certain additional disclosures are required by this rule and other rules in this Regulation and, therefore, must also be included in the financial statements being filed.

If applicable to the person for which the financial statements are filed, the following shall be set forth on the face of the appropriate statement or in appropriately captioned notes. If disclosure is provided in a note, appropriate cross-references to the applicable notes should be contained on the face of the statement. Appropriate cross-references should also be made to the disclosures required by generally accepted accounting principles. The information shall be provided for each statement required to be filed, except that the information required by items (b), (c), (d), (e), (f), and (h) shall be provided as of the most recent audited balance sheet and any subsequent unaudited balance sheet being filed. When specific statements are presented separately, the pertinent notes shall accompany such statements unless cross-referencing is appropriate.

(a) *Principles of consolidation or combination.* With regard to consolidated or combined financial statements, refer to §§ 210.3A-01 to 3A-08 for requirements for supplemental information in notes to the financial statements.

(b) *Assets subject to lien.* Assets mortgaged, pledged, or otherwise subject to lien, and the approximate amounts thereof, shall be designated and the obligations collateralized briefly identified.

(c) *Default.* The facts and amounts concerning any default in principal, interest, sinking fund, or redemption provisions with respect to any issue of securities or credit agreements, or any breach of covenant of a related indenture or agreement, which default or breach existed at the date of the most recent balance sheet being filed and which has not been subsequently cured, shall be stated in the financial statements. If a default or breach exists but acceleration of the obligation has been waived for a stated period of time beyond the date of the most recent balance sheet being filed, state the amount of the obligation and the period of the waiver.

(d) *Preferred shares.* (1) Aggregate preferences on involuntary liquidation, if other than par or stated value, shall be shown parenthetically in the equity section of the balance sheet. (2) Disclosure shall be made of any restriction upon retained earnings that arises from the fact that upon involuntary liquidation the aggregate preferences of the preferred shares exceeds the par or stated value of such shares.

(e) *Restrictions which limit the availability of retained earnings or net income for dividend purposes (see Release No. AS-35).* Describe the most restrictive of any such restrictions, other than as reported in paragraph (d) of this section, but including any restriction on the payment of dividends of a subsidiary to the parent, indicating briefly its source, its pertinent provisions, and, where appropriate and determinable, the amount of retained earnings or net income (1) so restricted, or (2) free of such restrictions.

(f) *Significant changes in bonds, mortgages and similar debt.* Any significant changes in the authorized or issued amounts of bonds, mortgages and similar debt since the date of the latest balance sheet being filed for a particular person or group shall be stated.

(g) *Income tax expense.* (1) Amounts applicable to United States Federal income taxes, to foreign income taxes and to other income taxes shall be stated separately for each major component of income tax expense. Amounts applicable to foreign or other income taxes each of which are less than five percent of the total of the major component need not be separately disclosed.

(2) If it is expected that the cash outlay for income taxes with respect to any of the succeeding three years will substantially exceed income tax expense for such year, that fact should be disclosed together with the approximate amount of the excess, the year (or years) of occurrence and the reasons therefor.

(3) Provide a reconciliation in comparative form between items (i) and (ii) (below) showing the estimated dollar amount for each of the items comprising the differences between such amounts.

(i) Reported income (loss) before income tax expense (benefit) and the related income tax expense (benefit).

(ii) Current Federal taxable income (loss) (anticipated to be reported on the appropriate tax form; this amount may be other than that which is applicable to U.S. Federal taxable income if the reporting entity is not a U.S. corporation) and the related current tax expense (benefit).

The reconciliation should commence with income and related income tax expense as reported in the financial statements; from these amounts should be deducted foreign income and related taxes, state and local income taxes, permanent differences, etc., arriving at a subtotal which constitutes reported income upon which taxes, relating to the reporting company's country of incorporation, are provided in the financial statements. From these totals, timing differences and their related tax effects should be deducted, arriving at the amounts identified in (ii) above. The components (i.e., permanent differences, timing differences, etc.) of foreign income and the related taxes, if applicable, should be shown separately. [An example of this format, see section I of this proposal, will be included with the final rules, if adopted.] The calculation of current tax expense should be presented indicating income multiplied by the applicable rate(s) (i.e., statutory rate, capital gains rate, or applicable foreign rates if the reporting person is a foreign entity) less applicable credits. If no individual reconciling item amounts to more than five percent of the amount computed by multiplying income before tax by the applicable statutory Federal income tax rate, and the total difference to be reconciled is less than five percent of such amount, no reconciliation need be provided unless it would be significant in appraising the trend of earnings. However, the calculation of the current tax expense should be presented. Reconciling items that are individually less than five percent of the computed amount may be aggregated in the reconciliation.

(h) *Warrants or rights outstanding.* Information with respect to warrants or rights outstanding at the date of the related balance sheet shall be set forth as follows:

(1) Title of issue of securities called for by warrants or rights.

(2) Aggregate amount of securities called for by warrants or rights outstanding.

(3) Date from which warrants or rights are exercisable.

(4) Price at which warrant or right is exercisable.

(i) *Leased assets and lease commitments.* (1) leased assets and lease commitments of regulated enterprises subject to the rate-making process. (i) Paragraph (1) of this section is applicable to all regulated enterprises subject to the rate-making process that do not record capital leases as assets with associated liabilities.

(ii) The following information shall be provided for capital leases covered by this rule:

(A) As of the date for each required balance sheet, the aggregate amounts of the assets and liabilities that would have been recorded in the accounts had all leases meeting the definition of a capital lease been recorded.

(B) For each period for which an income statement is required, the aggregate effect on expenses had all assets obtained through leases meeting the definition of a capital lease been recorded as assets with associated liabilities and any additional information management believes is necessary as to the rate-making process.

(2) Leased assets and lease commitments of enterprises which are not covered by paragraph (1). The financial statement requirements in SFAS No. 13, "Accounting for Leases," shall be applied in financial statements filed for fiscal years ended after December 24, 1978 with regard to all leases except for companies where a problem, as defined below, exists. The problem and its potential impact should be disclosed in the footnotes to the financial statements. For purposes of this paragraph "problem" is defined as: that situation where capitalization of capital leases as defined in SFAS No. 13 would result in the violation or probable future violation expected to occur prior to fiscal years beginning after December 31, 1980 of a restrictive clause in an existing loan indenture or other agreement.

(j) *Interest cost.* Disclosure shall be provided for each period for which an income statement is presented of the amount of interest cost incurred and the respective amounts expensed or capitalized.

(k) *Disagreements on accounting and financial disclosure matters.* If, (1) within the twenty-four months prior to the date of the most recent financial statements, a Form 8-K has been filed reporting a change of accountants, (2) included in the Form 8-K there was a reported disagreement on any matter of accounting principles or practices or financial statement disclosure, (3) during the fiscal year in which the change of accountants took place or during the subsequent fiscal year there have been any transactions or events similar to those which involved the reported disagreement, and (4) such transactions or events were material and were accounted for or disclosed in a manner different from that which the former accountants apparently would have concluded was required, state the existence and nature of the disagreement and also state the effect on the financial statements if the method had been followed which the former accountants apparently would have concluded was required. These disclosures need not be made if the method asserted by the former accountants ceases to be generally accepted because of authoritative standards or interpretations subsequently issued.

(l) *Transactions with related parties.*

(1) The financial statements filed shall disclose transactions with, investments in, and balances due to or from related parties that are material, individually or in the aggregate. This disclosure should include the following:

(i) The nature of the relationship(s).

(ii) A description of the transactions (summarized when appropriate) for the periods for which an income statement is presented, including amounts, if any, and such other information as is deemed necessary to an understanding of the effects on the financial statements.

(iii) The dollar volume of transactions and the effects of any change in the method of establishing terms from that used in the preceding period.

(iv) Amounts due to or from related parties and, if not otherwise apparent, the terms and manner of settlement.

(v) Amount of investments in related parties.

(2) In cases where separate financial statements are presented for the registrant, certain investees, or subsidiaries, separate disclosure shall

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be made in such statements of the amounts in the related consolidated financial statements which are (i) eliminated and (ii) not eliminated. Also, any intercompany profits or losses resulting from transactions with related parties and not eliminated and the effects thereof shall be disclosed.

(3) Disclosure should be made on the face of the balance sheet, income statement, or statement of changes in financial position for any material related party receivable or payable; revenue, expense, gain or loss; or cash flows, respectively. Relevant details regarding these amounts should be provided in the footnotes.

(4) With respect to the classification of current amounts due from related parties, consideration should be given to the intent and the net current asset position of such related parties in determining whether such receivable justifies a current classification.

(m) *Supplementary income statement information.* The following information with respect to certain income statement items shall be disclosed in a note to the financial statements, if such item exceeds one percent of total sales and revenues as reported in the related income statement:

(1) Maintenance and repairs.

(2) Depreciation and amortization of intangible assets, preoperating costs and similar deferrals. (State separately each category of cost itemized.)

(3) Taxes, other than income taxes. (State separately each category of tax which exceeds one percent of total sales and revenues.)

(4) Royalties.

(5) Advertising costs. (Include all costs related to advertising the company's name, products or services in newspapers, periodicals or other advertising media.)

§ 210.4-12

No change from present Rule § 210.3-17.

§ 210.4-13

No change from present Rule § 210.3-18.

* * * * *

4. By amending Article 5 §§ 210.5-01 thru 210.5-04 to read as follows:

Commercial and Industrial Companies

§ 210.5-01 Application of §§ 210.5-01 to 210.5-04.

(a) Section 210.5-01 to 210.5-04 shall be applicable to financial statements filed for all persons except——

(1) Management investment companies (see §§ 210.6-01 to 210.6-10).

(2) Unit investment trusts (see §§ 210.6-10a to 210.6-13).

(3) Face amount certificate investment companies (see §§ 210.6-20 to 210.6-24).

(4) employee stock purchase, savings and similar plans (see §§ 210.6-30 to 210.6-34).

(5) Insurance companies other than title insurance companies (see §§ 210.7-01 to 210.7-06 and §§ 210.7a-01 to 210.7a-06).

(6) Committees issuing certificates of deposit (see §§ 210.8-01 to 210.8-03).

(7) Bank holding companies and banks (see §§ 210.9-01 to 210.9-05).

(8) Brokers and dealers when filing Forms X-17A-5 and X-17A-10 [§ 249.617[(see §§ 240.17a-5 and 240.17a-10 under the Securities Exchange Act of 1934).

(b) Companies in the development stage. Section 210.5A-02 prescribes additional information to be included in financial statements filed by companies in the development stage.

§ 210.5-02 Balance sheets.

Except as otherwise permitted by the Commission, the balance sheets filed for persons to whom this article is applicable shall comply with the following provisions [see § 210.4-01(a) and Release No. AS-41].

Assets and Other Debits

Current Assets, When Appropriate (see § 210.4-07)

§ 210.5-02.1 Cash and cash items.

Separate disclosure shall be made of the cash and cash items which are restricted as to withdrawal or usage. The provisions of any restrictions shall be described in a referenced footnote. Restrictions may include legally restricted deposits held as compensating balances, contracts entered into with others, or company statements of intention with regard to particular deposits (see also Release No. AS-148); however, time deposits and short-term certificates of deposit are not generally included in legally restricted deposits. In cases where compensating balance arrangements exist but are not agreements which legally restrict the use of cash amounts shown on the balance sheet, describe in the notes to the financial statements these arrangements and the amount involved, if determinable, for the most recent audited balance sheet required and for any subsequent unaudited balance sheet required in the notes to the financial statements. Compensating balances that are maintained under an agreement to assure future credit availability shall be disclosed in the notes to the financial statements along with the amount and terms of such agreement.

§ 210.5-02.2 Marketable securities.

The accounting and disclosure requirements for current marketable equity securities are specified by generally accepted accounting principles. With respect to all other current marketable securities, state, parenthetically or otherwise, the basis of determining the aggregate amount shown in the balance sheet, along with the alternatives of the aggregate cost or the aggregate market value at the balance sheet date.

§ 210.5-02.3 Accounts and notes receivable.

(a) State separately amounts receivable from (1) customers (trade); (2) related parties (see § 210.4-11(1); (3) underwriters, promoters, and employees (other than related parties) which arose in other than the ordinary course of business; and (4) others. (b) If the aggregate amount of notes receivable, exceeds 10 percent of the aggregate amount of receivables, the above information shall be set forth separately for accounts receivable and notes receivable. (c) If receivables include amounts due under long-term contracts (see § 210.5-02.6(d)), state separately in the balance sheet or in a note to the financial statements the following amounts:

(1) Balances billed but not paid by customers under retainage provisions in contracts.

(2) Amounts representing the recognized sales value of performance and such amounts that had not been billed and were not billable to customers at the date of the balance sheet. Inculde a general description of the prerequisites for billing.

(3) Billed or unbilled amounts representing claims or other similar items subject to uncertainty concerning their determination of ultimate realization. Include a description of the nature and status of the principal items comprising such amount.

(4) With respect to (1) through (3) above, also state the amounts included in each item which are expected to be collected after one year. Also state, by year, if practicable, when the amounts of retainage (see (1) above) are expected to be collected.

§ 210.5-02.4 Allowances for doubtful accounts and notes receivable.

§ 210.5-02.5 Unearned income.

§ 210.5-02.6 Inventories.

(a) State separately here, or in a note referred to herein, if practicable, the major classes of inventory such as: (1) finished goods; (2) inventoried costs relating to long-term contracts or programs (see (d) below and § 210.4-07); (3) work in process (see § 210.4-07); (4) raw materials; and (5) supplies.

(b) The basis of determining the amounts shall be stated.

If "cost" is used to determine any portion of the inventory amounts, the description of this method shall include the nature of the cost elements included in inventory.

The method by which amounts are removed from inventory (e.g., "average cost," "first-in, first-out," "last-in, first-out," "estimated average cost per unit") shall be described. If the estimated average cost per unit is used as a basis to determine amounts removed from inventory under a total program or similar basis of accounting, the principal assumptions (including, where meaningful, the aggregate number of units expected to be delivered under the program, the number of units delivered to date and the number of units on order) shall be disclosed.

If any general and administrative costs are charged to inventory, state in a note to the financial statements the aggregate amount of the general and administrative costs inclurred in each period and the actual or estimated amount remaining in inventory at the date of each balance sheet.

(c) If the LIFO inventory method is used, the excess of replacement or current cost over stated LIFO value shall, if material, be stated parenthetically or in a note to the financial statements.

(d) For purposes of §§ 210.5-02.3 and 210.5-02.6, long-term contracts or programs include (1) all contracts or programs for which gross profits are recognized on a percentge-of-completion method of accounting or any variant thereof (e.g., delivered unit, cost to cost, physical completion), and (2) any contracts or programs accounted for on a completed contract basis of accounting where, in either case, the contracts or programs have associated with them material amounts of inventories or unbilled receivables and where such contracts or programs have been or are expected to be performed over a period of more than twelve months. Contracts or programs of shorter duration may also be included, if deemed appropriate.

For all long-term contracts or programs, the following information, if applicable, shall be stated in a note to the financial statements:

(i) The aggregate amount of manufacturing or production costs and any related deferred costs (e.g., initial tooling costs) which exceeds the aggregate estimated cost of all in-process and delivered units on the basis of the estimated average cost of all units expected to be produced under long-term contracts and programs not yet complete, as well as that portion of such amount which would not be absorbed in cost of sales based on existing firm orders at the latest balance sheet date. In addition, if practicable, disclose the amount of deferred costs by type of cost (e.g., initial tooling, deferred production, etc.).

(ii) The aggregate amount representing claims or other similar items subject to uncertainty concerning their determination or ultimate realization, and include a description of the nature and status of the principal items comprising such aggregate amount.

(iii) The amount of progress payments netted against inventory at the date of the balance sheet.

§ 210.5-02.7 Other current assets.

State separately any amounts in excess of five percent of total current assets.

§ 210.5-02.8 Prepaid expenses.

§ 210.5-02.9 Total current assets, when appropriate.

§ 210.5-02.10 Securities of related parties.

(See § 210.4-11(1).)

§ 210.5-02.11 Indebtedness of related parties—not current.

(See § 210.4-11(1).)

§ 210.5-02.12 Other investments.

The accounting and disclosure requirements for non-current marketable equity securities are specified by generally accepted accounting principles. With respect to other security investments and any other investment, state, parenthetically or otherwise, the basis of determining the aggregate amounts shown in the balance sheet, along with the alternate of the aggregate cost or aggregate market value at the balance sheet date.

§ 210.5-02.13 Property, plant and equipment.

(a) State the basis of determining the amounts.

(b) Tangible and intangible utility plant of a public utility company shall be segregated so as to show separately the original cost, plant acquisition adjustments, and plant adjustments, as required by the system of accounts prescribed by the applicable regulatory authorities. This rule shall not be applicable in respect to companies which are not required to make such a classification.

§ 210.5-02.14 Accumulated depreciation, depletion, and amortization of property, plant and equipment.

§ 210.5-02.15 Intangible assets.

State separately each class of such assets which is in excess of five percent of the total assets, along with the basis of determining the respective amounts. Any significant addition or deletion shall be explained in a note.

§ 210.5-02.16 Accumulated depreciation and amortization of intangible assets.

§ 210.5-02.17 Other assets.

State separately any other item not properly classed in one of the preceding asset captions which is in excess of five percent of total assets. Any significant addition or deletion should be explained in a note. With respect to any significant deferred charge, state the policy for deferral and amortization.

§ 210.5-02.18 Total assets and, when appropriate, other debits.

Liabilities and Stockholders' Equity

Current Liabilities, When Appropriate (See § 210.4-07)

§ 210.5-02.19 Accounts and notes payable.

(a) State separately amounts payable to (1) banks for borrowings; (2) factors or other financial institutions for borrowings; (3) holders of commercial paper; (4) trade creditors; (5) related parties (see § 210.4-11(1)); (6) underwriters, promoters, and employees (other than related parties); and (7) others.

(b) The weighted average interest rate and general terms (as well as formal provisions for the extension of the maturity) of each category of aggregate short-term borrowings (the sum of items (a)(1), (a)(2) and (a)(3) above) reflected on each balance sheet required shall be disclosed along with the maximum amount of aggregate short-term borrowings outstanding at any month end (or similar time period) during each period for which an end-of-period balance sheet is required. In addition, the approximate average aggregate short-term borrowings outstanding during the period and the approximate weighted average interest rate (and a brief description of the means used to compute such averages) for such aggregate short-term borrowings shall be disclosed in the notes to the financial statements.

(c) The amount and terms (including commitment fees and the conditions under which lines may be withdrawn) of unused lines of credit for short-term financing shall be disclosed, if

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significant, in the notes to the financial statements. The amount of these lines of credit which support a commercial paper borrowing arrangement or similar arrangement shall be separately identified.

§ 210.5–02.20 Other current liabilities.

State separately any item in excess of 5 percent of total current liabilities. Such items may include, but are not limited to, ge a24ja2.041[11,32]accrued payrolls, accrued interest, taxes, indicating the current portion of deferred income taxes, and the current portion of long-term debt. Remaining items may be shown in one amount.

§ 210.5–02.21 Total current liabilities, when appropriate.

Long-Term Debt

§ 210.5–02.22 Bonds, mortgages and other long-term debt, including capitalized leases.

(a) State separately here, or in a note referred to herein, each issue or type of obligation and such information as will indicate (see § 210.4–08): (1) the general character of each type of debt including the rate of interest; (2) the date of maturity, or, if maturing serially, a brief indication of the serial maturities, such as "maturing serially from 1980 to 1990"; (3) if the payment of principal or interest is contingent, an appropriate indication of such contingency; (4) a brief indication of priority; (5) if convertible, the basis; and (6) the combined aggregate amount of maturities and sinking fund requirements for all issues, each year for the five years following the date of the balance sheet. For amounts owed to related parties, see § 210.4–11(1).

(b) The amount and terms (including commitment fees and the conditions under which commitments may be withdrawn) of unused commitments for long-term financing arrangements that would be disclosed under this rule if used shall be disclosed in the notes to the financial statements if significant.

§ 210.5–02.23 Indebtedness to related parties—noncurrent.

Include under this caption indebtedness to related parties as required under § 210.4–11(1).

§ 210.5–02.24 Other liabilities.

State separately any item not properly classified in one of the preceding liability captions which is in excess of 5 percent of total liabilities.

§ 210.5–02.25 Commitments and contingent liabilities.

§ 210.5–02.26 Deferred credits.

State separately amounts for (a) deferred income taxes, (b) deferred tax credits, and (c) material items of deferred income.

Minority Interests

§ 210.5–02.27 Minority interests in consolidated subsidiaries.

State separately in a note referred to herein amounts represented by preferred stock and the applicable dividend requirements if the preferred stock is material in relation to the consolidated stockholders' equity.

Redeemable Preferred Stocks

§ 210.5–02.28 Preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer.

(a) Include under this caption amounts applicable to any class of stock which has any of the following characteristics: (1) it is redeemable at a fixed or determinable price on a fixed or determinable date or dates, whether by operation of a sinking fund or otherwise; (2) it is redeemable at the option of the holder; or (3) it has conditions for redemption which are not solely within the control of the issuer, such as stocks which must be redeemed out of future earnings. Amounts attributable to preferred stock which is not redeemable or is redeemable solely at the option of the issuer shall be included under § 210.5–02.29 unless it meets one or more of the above criteria.

(b) State on the face of the balance sheet the title of each issue, the carrying amount, and redemption amount. Show also the dollar amount of any shares subscribed but unissued, and show the deduction of subscriptions receivable therefrom. If the carrying value is different from the redemption amount, describe the accounting treatment for such difference in the note required by § 210.5–02.28(c). State on the face of the balance sheet or in the note, referred to herein, for each issue, the number of shares authorized and the number of shares issued or outstanding, as appropriate [See §§ 210.4–09 and 210.4–10].

(c) State in a separate note captioned "Redeemable Preferred Stocks" (1) a general description of each issue, including its redemption features (e.g. sinking fund, at option of holders, out of future earnings) and the rights, if any, of holders in the event of default, including the effect, if any, on junior securities in the event a required dividend, sinking fund, or other redemption payment(s) is not made; (2) the combined aggregate amount of redemption requirements for all issues each year for the five years following the date of the latest balance sheet; and (3) the changes in each issue for each period for which an income statement is required to be filed. (See also § 210.4–11(d).)

(d) Securities reported under this caption are not to be included under a general heading "stockholders' equity" or combined in a total with items described in captions 29, 30 or 31 which follow.

Non-Redeemable Preferred Stocks

§ 210.5–02.29 Preferred stocks which are not redeemable or are redeemable solely at the option of the issuer.

State on the face of the balance sheet the title of each issue and the dollar amount thereof. Show also the dollar amount of any shares subscribed by unissued, and show the deduction of subscriptions receivable therefrom. State on the face of the balance sheet or in a note, for each issue, the number of shares authorized and the number of shares issued or outstanding, as appropriate [see §§ 210.4–09 and 210.4–10]. Show in a note or statement referred to herein the changes in each class of preferred shares reported under this caption for each period for which an income statement is required to be filed. (See also § 210.4–11(d).]

Common Stocks

§ 210.5–02.30 Common stocks.

For each class of common shares state, on the face of the balance sheet, the title of the issue, the number of shares authorized, the number of shares issued or outstanding, as appropriate (see §§ 210.4–09 and 210.4–10), and the dollar amount thereof, and, if convertible, the basis of conversion [see also § 210.4–11(d)]. Show also the dollar amount of any common shares subscribed but unissued, and show the deduction of subscriptions receivable thereform. Show in a note or statement referred to herein the changes in each class of common shares for each period for which an income statement is required to be filed.

Other Stockholders' Equity

§ 210.5–02.31 Other stockholders' equity.

(a) Separate captions shall be shown for (1) additional paid-in capital, (2) other additional capital and (3) retained earnings (i) appropriated and (ii) unappropriated. [See § 210.4–11(e).]

(b) If undistributed earnings of unconsolidated subsidiaries and 50 percent or less owned persons are included, state the amount in each category parenthetically or in a note referred to herein.

(c) For a period of at least 10 years subsequent to the effective date of a quasi-reorganization, any description of retained earnings shall indicate the point in time from which the new retained earnings dates and for a period of at least three years shall indicate the total amount of the deficit eliminated.

(d) A summary of each account under this caption setting forth the information prescribed in Rule 11–02 [§ 210.11–02] shall be given in a note or statement referred to herein, for each period for which an income statement is required to be filed.

§ 210.5–02.32 Total liabilities and stockholders' equity.

§ 210.5–03 Income statements.

Except as otherwise permitted by the Commission, the income statements filed for persons to whom this article is applicable shall comply with the provisions of this rule (see § 210.4–01(a) and Release No. AS–41).

If income is derived from more than one of the subcaptions described under § 210.5–03.1, each class which is not more than 10 percent of the sum of the items may be combined with another class. If these items are combined, related costs and expenses as described under § 210.5–03.2 shall be combined in the same manner.

§ 210.5–03.1 Net sales and gross revenues.

State separately (a) net sales of tangible products (gross sales less discounts, returns and allowances), (b) operating revenues of public utilities or others; (c) income from rentals; (d) revenues from services; and (e) other revenues. Amounts earned from transactions with related parties shall be disclosed as required under § 210.4–11(1). A public utility company using a uniform system of accounts or a form for annual report prescribed by federal or state authorities, or a similar system or report, shall follow the general segregation of operating revenues and operating expenses reported under § 210.5–03.2 prescribed by such system or report. If the total of sales and revenues reported under this caption includes excise taxes in an amount equal to 1 percent or more of such total, the amount of such excise taxes shall be shown parenthetically or otherwise.

§ 210.5–03.2 Costs and expenses applicable to sales and revenues.

State separately the amount of (a) cost of tangible goods sold, (b) operating expenses of public utilities or others, (c) expenses applicable to rental income, (d) cost of services, and (e) expenses applicable to other revenues. Merchandising organizations, both wholesale and retail, may include occupancy and buying costs under caption 2(a). Amounts of costs and expenses incurred from transactions with related parties shall be disclosed as required under § 210.4–11(1).

§ 210.5–03.3 Other operating costs and expenses.

State separately any material amounts not included under caption 2 above.

§ 210.5–03.4 Selling, general and administrative expenses.

§ 210.5–03.5 Provision for doubtful accounts and notes.

§ 210.5–03.6 Other general expenses.

Include items not normally included in caption 4 above. State separately any material item.

§ 210.5–03.7 Non-operating income.

State separately amounts earned from (a) dividends, (b) interest on securities, (c) profits on securities (net of losses), and (d) miscellaneous other income. Amounts earned from transactions in securities of related parties shall be disclosed as required under § 210.4–11(1). Material amounts included under miscellaneous other income shall be separately stated, indicating clearly the nature of the transactions out of which the items arose.

§ 210.5–03.8 Interest and amortization of debt discount and expense.

§ 210.5–03.9 Non-operating expenses.

State separately amounts of (a) losses on securities (net or profits) and (b) miscellaneous income deductions. Material amounts included under miscellaneous income deductions shall be separately stated, indicating clearly the nature of the transactions out of which the items arose.

§ 210.5–03.10 Income or loss before income tax expense and appropriate items below.

§ 210.5–03.11 Income tax expense.

Include under this caption only taxes based on income (see § 210.4–11(g)).

§ 210.5–03.12 Minority interest in income of consolidated subsidiaries.

§ 210.5–03.13 Equity in earnings of unconsolidated subsidiaries and 50 percent or less owned persons.

State, parenthetically or in a note referred to herein, the amount of dividends received from such persons. If justified by the circumstances, this item may be presented in a different position and a different manner (see § 210.4–01(a)).

§ 210.5–03.14 Income or loss from continuing operations.

§ 210.5–03.15 Discontinued operations.

§ 210.5–03.16 Income or loss before extraordinary items and cumulative effects of changes in accounting principles.

§ 210.5–03.17 Extraordinary items, less applicable tax.

§ 210.5–03.18 Cumulative effects of changes in accounting principles.

§ 210.5–03.19 Net income or loss. (See § 210.5–02.31).

§ 210.5–03.20 Earnings applicable to common stock.

§ 210.5–03.21 Earnings per share date.

§ 210.5–04 What schedules are to be filed.

(a) Except as expressly provided otherwise in the applicable form—

(1) The schedules specified below in this section as Schedules I, VII, IX, X, and XI shall be filed as of the dates of the most recent audited balance sheet and any subsequent unaudited balance sheet being filed for each person or group.

(2) The schedules specified below in this section as Schedules II, III, IV, V, VI, and VIII shall be filed for each person or group for each of the latest two fiscal years preceding the date of the most recent audited balance sheet and for the interim period, if any, between the end of the most recent such fiscal year and the date of the most recent balance sheet being filed.

(b) When information is required in schedules for both the registrant and the registrant and its subsidiaries consolidated it may be presented in the form of a single schedule; *Provided,* That items pertaining to the registrant are separately shown and that such single schedule affords a properly summarized presentation of the facts. If the information required by any schedule (including the notes thereto) may be shown in the related financial statement or in a note thereto without making such statement unclear or confusing, that procedure may be followed and the schedule, ommitted.

(c) The schedules shall be examined by the independent accountant if the related financial statements are so examined.

Schedule I—Marketable securities—other investments. The schedule prescribed by § 210.12–02 shall be filed—

(1) In support of caption 2 of a balance sheet, if the greater of the aggregate cost or the aggregate market value of

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marketable securities as of the balance sheet date constitutes 10 percent or more of total assets.

(2) In support of caption 12 of a balance sheet, if the greater of the aggregate cost or the aggregate market value of other investments as of the balance sheet date constitutes 10 percent or more of total assets.

(3) In support of captions 2 and 12 of a balance sheet, if the greater of the aggregate cost or aggregate market of other investments plus the greater of the aggregate cost of the aggregate market value of marketable securities as of the balance sheet date constitutes 15 percent or more of total assets.

(4) In support of captions 2 and 12 of a balance sheet, if the greater of the aggregate cost or aggregate market value of the securities as of the balance sheet date of any issuer reported under either caption 2 or caption 12 constitutes 2 percent or more of total assets.

Schedule II—Amounts receivable from related parties, and underwriters, promoters, and employees other than related parties. The schedule prescribed by § 210.12–03 shall be filed with respect to each person among related parties, and underwriters, promoters, and employees other than related parties, from whom an aggregate indebtedness of more than $100,000 or 1 percent of total assets, whichever is less, is owed, or at any time during the latest two fiscal years or for the interim period, if any, between the end of the most recent fiscal year and the date of the most recent balance sheet being filed, was owed. This schedule shall not include information which is prescribed by § 210.12–05. for the purposes of this schedule, exclude in the determination of the amount of indebtedness all amounts receivable from such persons for purchases subject to usual trade terms, for ordinary travel and expense advances and for other such items arising in the ordinary course of business.

Schedule III—Investments in, equity in earnings of, and dividends received from related parties. The schedule prescribed by § 210.12–04 shall be filed in support of caption 10 of each balance sheet. This schedule may be omitted if (1) neither the sum of captions 10 and 11 in the related balance sheet nor the amount of caption 23 in such balance sheet exceeds 5 percent of total assets as shown by the related balance sheet at either the beginning or end of the period or (2) there have been no material changes in the information required to be filed from that last previously reported.

Schedule IV—Indebtedness of and to related parties—not current. The schedule prescribed by § 210.12–05 shall be filed in support of captions 11 and 23 of each balance sheet; however, the required information may be presented separately on Schedule III. This schedule may be omitted if: (1) neither the sums of captions 10 and 11 in the related balance sheet nor the amount of caption 23 in such balance sheet exceeds 5 percent of total assets as shown by the related balance sheet at either the beginning or end of the period, or (2) there have been no material changes in the information required to be filed from that last perviously reported.

Schedule V—Property, plant and equipment. The schedule prescribed by § 210.12–06 shall be filed in support of caption 13 of each balance sheet, provided that this schedule may be omitted if the total shown by caption 13 does not exeed 5 percent of total assets as shown by the related balance sheet at both the beginning and end of the period and if neither the additions nor the deductions during the period exceeded 5 percent of total assets as shown by the related balance sheet at either the beginning or end of the period.

Schedule VI—Accumulated depreciation, depletion, and amortization of property, plant and equipment. The schedule prescribed by § 210.12–07 shall be filed in support of caption 14 of each balance sheet. This schedule may be omitted if Schedule V is omitted.

Schedule VII—Guarantees of securites of other issuers. The schedule prescribed by § 210.12–08 shall be filed with respect to any guarantees of securities of other issuers by the person for which the statement is filed.

Schedule VIII—Valuation and qualifying accounts. The schedule prescribed by § 210.12–09 shall be filed in support of valuation and qualifying accounts included in each balance sheet but not included in Schedule VI. (See § 210.4–02.)

Schedule IX—Real estate and accumulated depreciation. The schedule prescribed by § 210.12–26 shall be filed for real estate (and the related accumulated depreciation) held by persons a substantial portion of whose business is that of acquiring and holding for investment real estate or interests in real estate, or interests in other persons a substantial portion of whose business is that of acquiring and holding real estate or interests in real estate for investment. Real estate used in the business shall be excluded from the schedule.

Schedule X—Mortgage loans on real estate. The schedule prescribed by § 210.12–27 shall be filed by persons specified under Schedule X for investments in mortgage loans on real estate.

Schedule XI—Other investments. If there are any other investments, under caption 12 of § 210.5–02 or elsewhere in a balance sheet, not required to be included in Schedule I or III, there shall be set forth in a separate schedule information concerning such investments corresponding to that prescribed by Schedule I. This schedule may be omitted if the total amount of such other investments does not exceed 5 percent of total assets as shown by such balance sheet.

* * * * *

5. By amending Article 12, §§ 210.12–01 through 210.12–27 as follows:

Form and Content of Schedules

General

§ 210.12–01 Application of § 210.12–01 to § 210.12–27.

These sections prescribe the form and content of the schedules required by §§ 210.5–04, 210.6–10, 210.6–13, 210.6–24, 210.6–34, 210.7–06, 210.7A–06 and 210.9–05.

§ 210.12–02 Marketable securities—other investments.

No change from former schedule format.

§ 210.12–03 Amounts receivable from related parties and underwriters, promoters, and employees other than related parties.

No change from former schedule format.

§ 210.12–04 Investment in, equity in earnings of, and dividends from related parties.

No change from former schedule format. However, the term "related parties" is proposed to be substituted for "affiliates and other persons."

§ 210.12–05 Indebtedness of and to related parties—non current.

Col. A	Col. B	Col. C	Col. D	Col. E	Col. F	Col. G	Col. H	Col. I
		Indebtedness of				Indebtedness to		
Name of person (Note 1)	Balance at beginning	Additions (Note 2)	Deductions (Note 3)	Balance at end	Balance at beginning	Additions (Note 2)	Deductions (Note 3)	Balance at end

NOTE 1.—The person named shall be grouped as in the related schedule required for investments in related parties. The information called for shall be shown separately for any persons whose investments were shown separately in such related schedule.

NOTE 2.—For each person named in column A, explain in a note the nature and purpose of any increase during the period that is in excess of 10 percent of the related balance at either the beginning or end of the period.

NOTE 3.—If deduction was other than a receipt or disbursement of cash, explain.

§ 210.12–06 Property, plant and equipment (Note 1).

Col. A	Col. B	Col. C	Col. D	Col. E	Col. F	Col. G	Col. H
Classification (Note 2)	Depreciation method (Note 3)	Depreciation rate range/average (Note 4)	Balance at beginning of period (Notes 2 and 5)	Additions at cost (Note 6)	Retirements (Note 7)	Other changes add (deduct) describe (Note 8)	Balance at end of period

NOTE 1.—Comment briefly on: (a) any significant and unusual additions, abandonments, or retirements, or any significant and unusual changes in the general character and location, of principal plants and other important units, which occurred within the period. (b) the adjustment of accumulated depreciation, depletion, obsolescence and amortization at the time the properties are retired or otherwise disposed of, including the disposition of any gain or loss on sale of such properties.

NOTE 2.—(a) Show separately nondepreciable assets and assets under construction; then show depreciable assets by depreciation, depletion, or amortization method used and thereunder by major classifications, such as buildings, machinery and equipment, leaseholds, or functional grouping. If such classification is not present or practicable, such classification as is present and practicable shall be used. The additions included in column E, however, shall be segregated in accordance with an appropriate classification. If property, plant and equipment abandoned is carried at other than a nominal amount indicate, if practicable, the amount thereof and state the reasons for such treatment. Property, plant and equipment which is fully depreciated, depleted or amortized or is carried at net estimated salvage value but is still being used, should either be included with the appropriate major classification or disclosed as one amount with the amount for each major classification stated in a note. Property, plant and equipment which is idle (other than temporarily), or is expected to be idle in excess of an operating cycle, should be stated separately, if material. Items of minor importance may be included under a miscellaneous caption. (b) Show separately any asset or homogeneous group of assets (such as computers, equipment used in a specific manufacturing process, warehouses, office buildings, etc.), which comprises 25 percent or more of a major class of property, plant and equipment. Provided, however, that the item need not be shown separately if it does not exceed 5 percent of total assets. (c) Public utility companies.—A public utility company shall classify, to the extent practicable, utility plant by the type of service rendered (such as electric, gas, transportation and water) and shall state separately under each of such service classifications the major subclassifications of utility plant accounts.

NOTE 3.—State the method(s) used in computing depreciation, depletion or amortization and the amount determined by each method. If more than one method of depreciation, depletion or amortization is used, the categorization specified in Note #2 shall be shown unless the method is used for less than 5 percent of total property, plant and equipment.

NOTE 4.—(a) State the rate used in computing depreciation, depletion or amortization if more than one rate is used, state the range and weighted average rate. If a unit of production method is used, state in a note (i) the percentage of original cost charged to expense in each of the past two years (ii) the amount of expense taken in the current period and (iii) the total original cost and remaining undepreciated, undepleted, or unamortized asset balances, or each such major class. (b) State for any asset or homogeneous group of assets (such as computers, equipment used in a specific manufacturing process, warehouses, office building, etc.), which comprises 25 percent or more of a major class of property, plant and equipment, the rate used in computing depreciation, depletion or amortization. If more than one rate is used for such assets, state the range and weighted average rate. If a unit of production method is used, state the percentage of original cost charged to expense in each of the past two years. This section (b) shall not apply if the asset or homogeneous group of assets constitutes less than five percent of total assets.

NOTE 5.—If neither the total additions nor total deductions during any of the periods covered by the schedules amount to more than 10 percent of the ending balance of that period and a statement to that effect is made, the information required by columns D, E, F, and G may be omitted for that period, provided that the totals of columns E and F are given in a note hereto and provided further that any information required by instructions 6, 7, and 8 shall be given and may be in summary form.

NOTE 6.—For each change in accounts in column E that represents anything other than an addition from acquisition, and for each change in that column that is in excess of 2 percent of total assets, at either the beginning or end of the period, state clearly the nature of the change and the other accounts affected. If cost of property additions represents other than cash expenditures, explain. If acquired from an affiliate at other than cost to the affiliate, show such cost, provided the acquisition by the affiliate was within two years prior to the acquisition by the person for which the statement is filed.

NOTE 7.—If changes in column F are stated at other than cost, explain if practicable.

NOTE 8.—State clearly the nature of the changes and the other accounts affected. If provision for depreciation, depletion and amortization of property, plant and equipment is credited in the books directly to the asset accounts, the amounts shall be stated in column G with explanations, including the accounts to which charged.

§ 210.12–07 Accumulated depreciation, depletion and amortization of property, plant and equipment.

No change from former schedule format.

§ 210.12–08 Guarantees of securities of other issuers.

No change from format of schedule formerly prescribed by § 210.12–12.

§ 210.12–09 Valuation and qualifying accounts.

No change from format of schedule formerly prescribed by §210.12–13.

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For Management Investment Companies

§ 210.12-10 Investments in securities of unaffiliated issuers. [For management investment companies only]

No change from format of schedule formerly prescribed by § 210.12-19.

§ 210.12-11 Investments; other than securities. [For management investment companies only]

No change from format of schedule formerly prescribed by § 210.12-21.

§ 210.12-12 Investments in affiliates. [For management investment companies only]

No change from format of schedule formerly prescribed by § 210.12-22.

§ 210.12-13 Summary of investments—other than investments in affiliates. [For insurance companies]

No change from format of schedule formerly prescribed by § 210.12-27.

§ 210.12-14 Premiums, losses and claims, and policy acquisition costs. [For insurance companies other than life and title insurance companies]

No change from format of schedule formerly prescribed by § 210.12-29.

§ 210.12-15 Future policy benefits and insurance in force. [For insurance companies]

No change from format of schedule formerly prescribed by § 210.12-31.

§ 210.12-16 Deferred policy acquisition costs. [For insurance companies]

No change from format of schedule formerly prescribed by § 210.12-31a.

For Unit Investment Trusts, and for Those Unincorporated Management Investment Companies Which Are Issuers of Periodic Payment Plan Certificates

§ 210.12-17 Investments in securities.

No change from format of schedule formerly prescribed by § 210.12-33.

§ 210.12-18 Trust shares. [For all unit investment trusts, and for those unincorporated management investment companies which are issuers of periodic payment plan certificates].

No change from format of schedule formerly prescribed by § 210.12-34.

For Face-Amount Certificate Investment Companies

§ 210.12-19 Investments in securities of unaffiliated issuers.

No change from format of schedule formerly prescribed by § 210.12-35.

§ 210.12-20 Investments in and advances to affiliates and income thereon.

No change from format of schedule formerly prescribed by § 210.12-36.

§ 210.12-21 Mortgage loans on real estate and interest earned on mortgages.

No change from format of schedule formerly prescribed by § 210.12-37.

§ 210.12-22 Real estate owned and rental income.

No change from format of schedule formerly prescribed by § 210.12-38.

§ 210.12-23 Supplementary profit and loss information.

No change from format of schedule formerly prescribed by § 210.12-39.

§ 210.12-24 Certificate reserves.

No change from format of schedule formerly prescribed by § 210.12-40.

§ 210.12-25 Qualified assets on deposit.

No change from format of schedule formerly prescribed by § 210.12-41.

For Certain Real Estate Companies

§ 210.12-26 Real estate and accumulated depreciation [for certain real estate companies].

No change from format of schedule formerly prescribed by § 210.12-42.

§ 210.12-27 Mortgage loans on real estate [for certain real estate companies].

No change from format of schedule formerly prescribed by § 210.12-43.

* * * * *

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S-K

The Commission hereby proposes to add a new Item 12 to Regulation S-K.

§ 229.20 Information required in document.

* * * * *

Item 12. Supplementary financial information.

(a) *Selected quarterly financial data.*

(1) Exemption. This rule shall not apply to any registrant that does not meet both of the two following tests:

(i) First test. The registrant:

(A) Has securities registered pursuant to section 12(b) of the Securities Exchange Act of 1934 (other than mutual life insurance companies); or

(B) Is an insurance company that is subject to the reporting requirements of section 15(d) of that Act and has securities which also meet the tests set forth in paragraphs (1)(i) (C)(*1*) and (C)(*2*) of this section; or

(C) Has securities registered pursuant to section 12(g) of that Act which also

(*1*) Are quoted on the National Association of Securities Dealers Automated Quotation System, and

(*2*) Meet the following criteria:

(*i*) Three or more dealers stand willing to, and do in fact make a market in such stock including making regularly published bona fide bids and offers for such stock for their own accounts; or the stock is registered on a securities exchange that is exempted by the Commission from registration as a national securities exchange pursuant to section 5 of the Securities Exchange Act of 1934.

(a–1) For purposes of this subsection, the insertion of quotations into the National Association of Securities Dealers Automated Quotation System by three or more dealers on at least 10 business days during the six month period immediately preceding the fiscal year for which the financial statements are required shall satisfy the requirement that three dealers be making a market.

(*ii*) There continue to be 800 or more holders of record as defined in Rule 12g5–1 (§ 240.12g5–1) under the Exchange Act, of the stock who are not officers, directors, or beneficial owners of 10 percent or more of the stock.

(*iii*) The issuer continues to be a U.S. corporation.

(*iv*) There are 300,000 or more shares of such stock outstanding in addition to shares held beneficially by officers, directors, or beneficial owners of more than 10 percent of the stock.

(*v*) In addition, the issuer shall meet two of the three following requirements:

(a–1) The shares described in paragraph (1)(i)(C)(*2*)(*iv*) continue to have a market value of at least $2.5 million.

(a–2) The minimum representative bid price of such stock is at least $5 per share.

(a–3) The issuer continues to have at least $2.5 million of capital, surplus, and undivided profits.

Instructions. 1. The computation required by (*v*)(a–1) and (*v*)(a–2) shall be based on the average of the closing representative bid prices as reported by NASDAQ for the 20 business days immediately preceding the fiscal year for which the financial statements are required.

2. The computation required by (*v*)(a–3) shall be as at the last business day of the fiscal year immediately preceding the fiscal year for which the financial statements are required.

(ii) Second test. The registrant and its consolidated subsidiaries (A) have had a net income after taxes but before extraordinary items and the cumulative effect of a change in accounting, of at least $250,000 for each of the last three fiscal years; or (B) had total assets of at least $200,000,000 for the last fiscal year-end.

(2) Disclosure shall be made of net sales, gross profit (net sales less costs and expenses associated directly with or allocated to products sold or services rendered), income before extraordinary items and cumulative effect of a change in accounting, per share data based upon such income, and net income for each full quarter within the two most recent fiscal years and any subsequent interim period for which income statements are presented.

(3) When the data supplied in paragraph (2) of this section vary from the amounts previously reported on the Form 10–Q [17 CFR 249.308a] filed for any quarter, such as would be the case when a pooling of interests occurs or where an error is corrected, reconcile the amounts given with those previously reported describing the reason for the difference.

(4) Describe the effect of any disposals of segments of a business, and extraordinary, unusual or infrequently occurring items recognized in each full quarter within the two most recent fiscal years and any subsequent interim period for which income statements are presented, as well as the aggregate effect and the nature of year-end or other adjustments which are material to the results of that quarter.

(5) Paragraphs (1) through (4) of this rule shall not apply to a foreign private issuer not required to report quarterly financial information on Form 10–Q; *Provided, however,* That a foreign registrant which reports or is required to report interim financial information on Form 6–K shall disclose such data in the matter provided in paragraphs (1) through (4) with respect to the financial information reported on Form 6–K.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. By revising paragraph (b)(3) of § 240.14a–3 to read as follows:

§ 240.14a–3 Information to be furnished to security holders.

* * * * *

(b) * * *

(3) The report shall contain the supplementary financial information specified by Item 12 of Regulation S–K (17 CFR 229.20).

* * * * *

2. By revising paragraph (a)(3) of § 240.14c–3 to read as follows:

§ 240.14c–3 Annual report to be furnished security holders.

(a)* * *

(3) The report shall contain the supplementary financial information specified by Item 12 of Regulation S–K (17 CFR 229.20).

* * * * *

These amendments are proposed to be effective with respect to annual and interim periods ending after December 15, 1980, although earlier application is encouraged.

(Sections 6, 7, 8, 10, and 19(a) [15 U.S.C. 77f, 77g, 77h, 77j, 77s] of the Securities Act of 1933; Sections 12, 13, 15(d), and 23(a) [15 U.S.C. 78*l*, 78m, 78o(d), 78w] of the Securities Exchange Act of 1934; Sections 5(b), 14, and 20(a) [15 U.S.C. 79e, 79n, 79t] of the Public Utility Holding Company Act of 1935; Sections 8, 30, 31(c) and 38(a) [15 U.S.C. 80a–8, 80a–29, 80a–30(c), 80a–37(a)] of the Investment Company Act of 1940)

Pursuant to Section 23(a)(2) of the Securities Exchange Act, the Commission has considered the impact of these proposals on competition and is not aware at this time of any burden that such rule amendments, if adopted, would impose on competition. However, the Commission specifically invites comments as to the competitive impact of these proposals, if adopted.

In addition, the Commission is mindful of the cost to registrants and others of its proposals and recognizes its responsibilities to weigh with care the costs and benefits which result from its rules. Accordingly, the Commission specifically invites comments on the costs to registrants and others of the adoption of the proposals published herein.

By the Commission.

George A. Fitzsimmons,

Secretary.

January 15, 1980.

[FR Doc. 80–2027 Filed 1–23–80; 8:45 am]

BILLING CODE 8010–01–M

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17 CFR Parts 210, 239, 240 and 249

[Releases Nos. 33–6179, 34–16499, and 35–21394; IC–11020; File No. S7–819]

Uniform Instructions as to Financial Statements—Regulation S–X

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is proposing for comment amendments which, if adopted, would establish uniform instructions governing the periods to be covered by financial statements included in (1) most registration and reporting forms filed with the Commission under the Securities Act of 1933 and the Securities Exchange Act of 1934, and (2) annual reports to security holders furnished pursuant to the proxy rules. The proposed amendments would remove substantially all present instructions as to financial statements from the various registration and reporting forms and establish a centralized set of instructions in Regulation S–X. In addition, amendments are being proposed which would allow, in most cases, interim financial information included in registration statements to be presented in the same degree of detail as is required in quarterly reports filed on Form 10–Q under the Exchange Act. The proposed rules are intended to simplify the registration and reporting requirements under the Federal securities laws and further the integration of reporting under the 1933 and 1934 Acts.

DATE: Comments should be received by the Commission on or before April 30, 1980.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File S7–819. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Lawrence C. Best, Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549 (202–272–2130).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is proposing for public comment amendments to existing rules which, if adopted, would (1) establish uniform instructions governing the periods to be covered by financial statements; (2) position a centralized set of instructions as to financial statements in a new Article 3 of Regulation S–X; and (3) reduce the burden of registration by allowing most reporting companies filing unaudited interim data under the Securities Act to provide condensed financial statements, in a Form 10–Q format, in lieu of complete financial statements and schedules.

Adoption of the rules proposed under this release would result in amendments to Forms S–1 [17 CFR 239.13], S–2 [17 CFR 239.12], S–3 [17 CFR 239.13], S–7 [17 CFR 239.26], S–8 [17 CFR 239.16b], S–11 [17 CFR 239.18], 10 [17 CFR 249.210], 10–K [17 CFR 249.310], Rule 14a–3 [17 CFR 240.14a–3], Schedule 14a [17 CFR 240.14a–1 *et seq.*], Rule 14c–3 [17 CFR 240.14c–3], and Regulation S–X [17 CFR 210] under the Securities Act of 1933 or the Securities Exchange Act of 1934.

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I. Background

A. Integration of Reporting Under the Securities Acts

In recent years, the Commission has pursued a policy of integration of registration and reporting requirements under the Securities Act of 1933 ("Securities Act") and the Securities Exchange Act of 1934 ("Exchange Act," together, the "securities acts"). The Commission believes integration of the securities acts not only benefits registrants, but also offers a more coherent reporting structure. In this connection, the Commission has recently undertaken the task of reexamining the present reporting and disclosure system focusing principally on developing ways to improve and simplify the registration and reporting process. Initiatives to date have resulted in four separate but related projects: (1) a project directed toward developing the fundamental blueprints for a system of integration using principally the annual report to security holders as the key disclosure document; (2) a project to reevaluate requirements for financial statements focusing on issues such as the periods to be covered, the entities separately reported upon, and pro forma financial statements; (3) a review of Regulation S–X to identify ways to facilitate the integration of the securities acts and eliminate requirements which are unnecessary or duplicative when compared to existing generally accepted accounting principles; and (4) a project to design a short form for registration of securities in certain merger and reorganization transactions using concepts of integration envisoned by the project outlined in (1) above.

Each of these projects have progressed to the extent that the Commission, in four concurrent releases, is publishing for comment proposed rules which, if ultimately adopted, would have a significant impact on the overall registration and reporting process. The releases can be distinguished by the projects from which they evolve. One release encompasses the proposed revisions to Form 10–K, Regulation S–K and the proxy rules, and introduces the fundamental design of the integrated reporting system as currently envisioned by the Commission.[1] Another release contains proposed changes to Regulation S–X pertaining to those articles reexamined to date (Articles 3, 5 and related sections of 12).[2] A third release introduces a new streamlined disclosure form, Form S–15, designed as a short form for registration of securities in certain merger and reorganization transactions.[3] And, as the fourth, this release proposes amendments to establish uniform instructions to govern the periods for which financial statements are provided. All four releases relate to the overall goal of achieving a single integrated disclosure system. Each invites public comment and each should be read in the context of the proposed format for an integrated disclosure system as described more fully in the concurrent release on revision of Form 10–K.

B. Reexamination of Requirements To Provide Financial Statements

The integrated disclosure system envisioned by the Commission and introduced in the concurrent release on revision of Form 10–K would serve to combine the two present disclosure systems under the securities acts into a single disclosure framework. When fully operative it would eliminate duplicative disclosure by allowing periodic and other reports filed under the Exchange Act to also be used in registration statements filed under the Securities Act. In proposing such an integrated system, the Commission recognizes that the basic financial statement disclosures under the securities acts should not differ significantly and that present rules require revision to being about the degree of consistency needed for an integrated reporting structure.

Accordingly, with the objective of integration and therefore consistency in mind, the Commission is in the process of reexamining the present rules governing the financial statements included in (1) registration statements filed under the Securities Act; (2) periodic reports filed under the Exchange Act; and (3) annual reports to security holders furnished pursuant to the proxy rules. The principal issues being focused on include the appropriate periods for which financial statements should be provided; the significance and utility of separate financial statements for the parent company only, subsidiaries not consolidated, 50 percent or less owned persons, consolidated majority-owned subsidiaries engaged in diverse financial activities, and affiliates whose securities are pledged as collateral; and the objectives of pro forma financial statements, the appropriate methods to be used in their preparation, and the degree of detail necessary for sufficient disclosure of the effects of past and future successions to other businesses.

The first of these areas, the periods for which financial statements should be provided, has been given careful consideration and is the principal subject of the amendments proposed in this release. Studies of the other issues, regarding the requirements for separate financial statements and pro forma statements, have not yet been completed. To assist in its reevaluation of present rules regarding these other areas, the Commission, in addition to soliciting comments on the proposed amendments under this release, encourages commentators to also provide their views on existing rules governing preparation of parent company only financial statements, other separate financial statements referred to above, and pro forma financial statements. In providing comments, commentators should take into consideration the basic needs of investors as well as the proposed format for an integrated reporting system.

II. Discussion of Proposed Rules

A. Uniform Requirement for Periods To Be Covered by Financial Statements

Presently, the periods for which financial statements are required to be filed with the Commission vary depending on the particular registration or reporting form being filed. A registrant, for example, filing a registration statement on Form S–1 under the Securities Act is required to include statements of income and changes in financial position for three years and a balance sheet as of a recent date. A registrant filing a registration statement under the same act on Form S–7 is required to provide statements of income and changes in financial position for five years and a balance sheet as of a recent date. For registration of securities using Form S–8, a registrant must provide the financial statements required to be included in Form 10–K (under the 1934 Act) or in the annual report to security holders which include statements of income and changes in financial position for two years plus balance sheets as of the end of the most recent two fiscal years.

As registration and reporting requirements have evolved, differences in the rules have been created as to the periods for which financial disclosures are required. These differences, in part, have resulted from attempts to tailor disclosure requirements to the particular circumstances surrounding the use of the respective forms. Such differences in requirements have been a source of confusion for many and have contributed to the complexity of the present disclosure system.

The Commission, in connection with its reassessment of the present reporting and disclosure requirements, has questioned the necessity for these differences among various forms. Common to all investment decisions involving securities is the need for sufficient information to assess the financial health of the underlying issuer. Whether a potential investor is considering investing in a security traded on the open market or in one being registered for the first time, his method of analysis and evaluation is most likely very similar and his basic informational needs the same. It is, therefore, difficult to draw meaningful distinctions among the various registration and reporting forms to support the need for the financial statements to encompass differing periods of time. Although the nature of securities and the purpose of registration may differ in many respects and thus require certain disclosures tailored to the specific circumstances of the filing, the Commission believes that such varying circumstances may not warrant a variation among forms as to the periods to which primary financial statements relate.

The Commission believes that the present differences in requirements among the various forms, as to the periods to be covered by financial statements, may not be necessary and that a uniform requirement may be appropriate. The establishment of a uniform requirement would contribute significantly to the simplification of the present disclosure framework and would enhance the ability to further integrate reporting under the securities acts.

Accordingly, the Commission in connection with the other proposed changes to the present disclosure system, as contemplated by the concurrent release on revision of Form 10–K, is proposing for comment uniform instructions to govern the periods to which financial statements relate. The proposed rule would require, in all disclosure documents affected by this release, the inclusion of audited statements of income and changes in financial position for the most recent three fiscal years and audited balance sheets as of the end of the most recent two fiscal years. The proposed amendments would also remove substantially all of the present instructions as to financial statements from the individual forms and would position the revised requirements in Regulation S–X. The centralization of these instructions should serve to simplify present rules and enhance the ability to further integrate reporting under the securities acts.

In proposing a uniform requirement, the Commission recognizes that the views of investors may vary as to the appropriate number of years necessary for an informed investment decision. Some investors may view financial statements covering five years as a minimum while others may be satisfied with financial statements covering a lesser number of years. Still others may believe that the more historical information presented in a disclosure document the better protected they are as investors.

The Commission's responsibility, and therefore its objective, in structuring a disclosure framework is to ensure that the investing public is provided sufficient information upon which to premise investment decisions. The determination of what constitutes a sufficient degree of disclosure, given the broad application of a uniform requirement, is a difficult one. Moreover, any uniform rule based on sufficiency of disclosure must take into consideration the practical implications of compliance and refrain from mandating financial disclosure in excess of the minimum necessary to meet the needs of investors in general.

Two principal alternatives have been considered. Alternative one would require audited statements of income and changes in financial position for the most recent five fiscal years while alternative two, which is proposed in this release, would require such statements for only the three most recent fiscal years. In approving the proposal of a three-year income statement, the Commission considered the proposed changes to Regulation S–K contemplated by the concurrent release on revision of Form 10–K. In that release, the Commission is proposing to refocus "Management's Discussion and Analysis" from the results of operations, as presently disclosed in the summary of operations, to financial position, changes in financial position and results of operations as presented in the audited financial statements. Accordingly, the release also proposes the elimination of the present requirement to provide a five-year summary of operations.

Because the Commission believes that disclosure of five years of certain data, in many cases, may be necessary for an evaluation of trends, it proposes to retain a requirement for companies to supply certain data for a five-year period. On the other hand, the Commission believes that the information necessary for a disclosure of trends may be less than that encompassed by a complete set of financial statements. As a consequence, the Commission is proposing, in the concurrent release on revision of Form 10–K, an amendment to Regulation S–K requiring registrants to provide a summary of selected financial data which management believes best portrays trends in a company's operations. At a minimum, registrants would be required to include in the summary of selected financial data, for five years: net sales or operating revenue; income (loss) from continuing operations; income (loss) from continuing operations per common share; total assets; long-term obligations (including long-term debt, capital leases and redeemable preferred stock); working capital or some other appropriate measure of liquidity; and cash dividends declared per common share.

The proposed summary of selected financial date should generally provide investors sufficient information upon which to assess trends. It should also serve to eliminate the need for requiring complete financial statements for the earliest two years. Although the rules proposed herein would require an income statement covering the three most recent fiscal years, specific comments on the propriety of a five-year income statement requirement are invited.

Consideration was also given to the notion of using two years as a uniform requirement for statements of income and changes in financial position. A two-year requirement, however, was rejected on the basis that statements for two years would most likely not satisfy the needs of most users. To evaluate a company's operations in any given year, in terms of changes in operations, comparative data for the immediately preceding year is required. Accordingly, it is the Commission's view that a three-year requirement provides the minimum data necessary for an understanding of changes in performance for two years. A three-year requirement is also consistent with the periods presently required to be covered by "Management's Discussion and Analysis" and with the provision of the Securities Act of 1933.

Consistent with the emphasis being placed on increased use of annual reports and the integration of reporting under the securities acts, the proposed amendments extend to the proxy rules governing the distribution of annual reports to security holders. Since the proposed amendments represent an expansion of present requirements for reporting in annual reports to security holders, commentators are specifically invited to provide their views on any

[1] Securities Act Release No. 6176.
[2] Securities Act Release No. 6178.
[3] Securities Act Release No. 6177.

anticipated increased costs which may be incurred in complying with the rules as proposed. In providing comments, consideration should be given to the proposed changes discussed in the concurrent releases on revision of Form 10–K and Regulation S–X and the emphasis which is being placed on the use of the annual report as a key document in integrating reporting under the securities acts.

B. Interim Financial Information—Age, Form and Content

In addition to proposing a uniform requirement for periods to be covered by audited financial statements, revisions are being proposed relating to the age, form and content of unaudited interim financial information required to be provided in registration statements. Under existing requirements of the various forms, a "90 day" or "six-month" rule must be followed to determine the age of financial information required to be filed. The proposed rules would revise and update these requirements to recognize quarterly reporting requirements under the Exchange Act and would ensure that information provided in registration statements under the Securities Act is at least as current as the data already required to be filed under the Exchange Act. As to form and content, changes are being proposed which should greatly reduce the burden on most registrants who are required to file interim financial information. The proposed amendments would in most cases eliminate the need to provide complete financial statements and schedules for interim periods and would allow interim data to be provided in the same degree of detail as is required under Form 10–Q.

Age of Financial Statements

The proposed uniform financial statement requirement would require audited balance sheets as of the end of the two most recent fiscal years and audited statements of income and changes in financial position for each of the most recent three fiscal years. Exceptions to this would occur under the proposed rules when filings, other than of Forms 10–K or 10, are made within 90 days after the registrant's fiscal year and the audited financial statements for the most recent fiscal year are not available. In these circumstances, the audited balance sheets may be as of the end of the two preceding years and audited statements of income and changes in financial position may be presented for each of the three fiscal years preceding the date of the most recent audited balance sheet presented. However, under these circumstances, an additional balance sheet would be required (which may be unaudited) as of a date within 90 days of the date of filing and unaudited statements of income and changes in financial position would be required on a comparative basis for the interim period between date of most recent audited balance sheet presented and date of most recent balance sheet filed.

Where a filing is not made within 90 days after the end of the registrant's fiscal year (or 120 days fort a filing on Form 10), the filing would be required to include an additional balance sheet (which may be unaudited) as of an interim date within 90 days prior to the date of filing, or 135 days if the tests described below are met. There would also be included unaudited statements of income and changes in financial position for the interim period between the end of the most recent fiscal year and the date of the most recent balance sheet filed as well as for the corresponding interim period of the preceding year.

Under the proposed amendments, if the registrant meets the "135 day" tests described below, (i) an additional balance sheet need not be provided for filings made after 90 days but before 135 days after the end of the fiscal year and (ii) the most recent balance sheet included in a filing, made after 134 days subsequent to the end of the fiscal year, may be as of a date within 135 days prior to the date of filing.

"135-Day" Tests:

(a) the filing includes audited financial statements as of the registrant's most recent fiscal year end;

(b) the registrant files annual and other reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and all reports (10–K, 10–O and 8–K) due at the time of filing have been filed; and

(c) no debt of the registrant is in default as to principal, interest or sinking fund provisions.

This new 135 day rule is being proposed primarily to update present rules to recognize quarterly reporting requirements under the Exchange Act. The existing six-month rule under Forms S–1, S–7, and S–11 has never been updated in recognition of requirements to file interim data on Form 10–Q. Applicable to registrants meeting certain conditions more restrictive than those proposed above, the six-month rule was originally adopted with Form S–1 prior to the inception of quarterly reporting requirements and was subsequently incorporated into Forms S–7 and S–11 without modification.

Presently, reporting companies are required to file unaudited interim financial information on Form 10–Q within 45 days of the end of each of the first three quarters of their fiscal year. Under present registration requirements a filing could conceivably be filed under the Securities Act with financial information less current than that already filed under the Exchange Act. Under the proposed amendments financial statements included in a registration statement would be required to be at least as current as any financial statements filed under the Exchange Act. Although the proposed amendments would require more current information than is required under the six-month rule, they would not require reporting companies to provide information any more current than is now required under the Exchange Act.

In addition to the above proposal of a 135 day rule, applicable to financial statements as of the filing date of a registration statement, financial statement updating requirements are also being proposed which focus on the age of financial statements at the effective date of a registration statement or at the proposed mailing date in the case of a proxy statement. Where the financial statements in a filing are as of a date more than 135 days prior to the expected effective date of the filing, or proposed mailing date in the case of a proxy statement, the proposed updating requirement would require the financial statements to be updated through the end of the latest fiscal quarter, on a comparative basis, in the same detail as required in quarterly reports filed pursuant to Section 13 or 15(d) of the Exchange Act. The Commission believes that such an updating requirement is needed to ensure that registration statements under the Securities Act contain information at least as current as that required to be filed under the Exchange Act. Moreover, the proposed updating requirement is generally consistent with present provisions included in "Guide 23" of "Guides for Preparation and Filing or Registration Statements." If the proposed amendments are ultimately adopted, "Guide 23" would be revised or eliminated.

Form and Content

In order to achieve a fully integrated disclosure system the Commission recognizes that the requirements under the Securities Act and the Exchange Act must ultimately be made consistent as to the form and content of financial statements presented for interim periods. Presently, the disclosure requirements for interim data under the two acts are significantly different. Interim or stub period information included in registration statements under the Securities Act is required to be presented in full compliance with Regulation S–X, including complete financial statements and schedules. If separate financial statements, for annual periods, for the parent company only, unconsolidated subsidiaries or any 50 percent or less owned persons are required, complete financial statements and schedules for these entities are also required for interim periods. Under the Exchange Act the disclosure required for interim periods is significantly different as to the degree of detail and entities for which financial statements are provided. On a Form 10–Q only condensed financial statements, without schedules, are required for the registrant and its subsidiaries consolidated. In most cases parent company only financial statements are omitted and only summarized data is provided for significant unconsolidated subsidiaries and 50 percent or less owned persons.

To move toward greater consistency in requirements for disclosure of unaudited interim information, the Commission is proposing to allow reporting companies which meet the new 135 day tests to present financial statements for interim periods, in Securities Act filings, in the same degree of detail as is required by form 10–Q under the Exchange Act—condensed financial statements with schedules omitted. This proposed reduction in detail, however, would not eliminate the need to provide separate financial statements for entities for which annual financial statements may be required—parent company only, subsidiaries not consolidated, 50 percent or less owned persons, consolidated majority-owned subsidiaries engaged in diverse financial activities, and affiliates whose securities are pledged as collateral. As referred to earlier in this release, the Commission has not completed its studies regarding the significance and utility of these separate financial statements and therefore it would not be appropriate to eliminate the requirements for separate financial statements at this time. Consequently, under the proposed rules separate financial statements would continue to be required, but could be presented in the same degree of detail as is required by Form 10–Q. Other registrants, not meeting the new 135 day tests, would continue to be required to present complete financial statements and schedules for interim periods, as currently specified. Comments are specifically requested on whether this new 135 day test should be extended to all registrants.

Although the proposed rules regarding interim financial information would not result in total uniformity in disclosure under the Securities Act and the Exchange Act, they should significantly reduce the burden on most registrants required to prepare registration documents.

C. Instructions to Financial Statements Centralized in Regulation S–X

Instructions as to the financial statements to provided in a filing and the periods to be covered are presently located in the various registration and reporting forms. As previously mentioned, the proposed amendments would remove substantially all these instructions from the various forms and would position a centralized set of instructions in a new Article 3 of Regulation S–X. The Commission believes that the centralization of these instructions would facilitate the establishment of a uniform requirement for periods to be covered by financial statements and would simplify adoption of future amendments needed to further integrate reporting under the securities acts. If the proposed amendments are ultimately adopted, Regulation S–X which is now titled "Form and Content of Financial Statements" would be revised as "Form and Content of and Requirements for Financial Statements."

In proposing to relocate the instructions as to financial statements to Regulation S–X, it should be noted that no significant changes are being proposed at this time other than those relating to the periods to be covered by financial statements and those regarding the form and content of interim data in registration statements. One minor change however that should be considered by commentators relates to financial statements of development stage companies.

The proposed amendments would revise the present rules applicable to financial statements of development stage companies required to be filed on Form 10–K. Presently, when receipts and expenditures of a development stage company, each, do not exceed $5,000, the financial statements may be unaudited. The proposed rules would encompass financial statements of any inactive company and would raise the receipts and expenditures levels, each to $100,000. This proposal broadens and updates the present rules.

Text of Proposed Rules

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

* * * * *

Articles 3 and 4 are proposed to be amended by (1) renumbering the present Article 3 as Article 4, (2) renumbering the present § 210.4–01 through § 210.4–08 as § 210.3A–01 through § 210.3A–08, and (3) inserting new § 210.3–01 through § 210.3–16 as set forth below:

General Instructions as to Financial Statements

These instructions specify the balance sheets and statements of income and changes in financial position to be included in disclosure documents prepared in accordance with Regulation S–X. Other portions of Regulation S–X govern the examination, form and content of such financial statements, including the basis of consolidation and the schedules to be filed. The financial statements described below shall be audited unless otherwise indicated.

For filings under the Securities Act of 1933, attention is directed to § 230.411(b) regarding incorporation by reference to financial statements and to section 10(a)(3) of the Act regarding information required in the prospectus.

For filings under the Securities Exchange Act of 1934, attention is directed to § 240.12b–23 regarding incorporation by reference and § 240.12b–36 regarding use of financial statements filed under other acts.

§ 210.3–01 Balance sheets of the registrant.

There shall be filed for the registrant and its predecessors audited balance sheets as of the end of each of the two most recent fiscal years.

If the filing, other than a filing on Form 10–K or Form 10, is made within 90 days after the end of the registrant's fiscal year and the audited financial statements for the most recent fiscal year are not available, the balance sheets may be as of the end of the two preceding fiscal years and the filing shall include an additional balance sheet (which may be unaudited) as of a date within 90 days of the date of filing.

If the filing is not made within 90 days after the end of the registrant's fiscal year (or 120 days for filings on form 10), the filing shall also include an additional balance sheet (which may be unaudited)

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as of a date within 90 days prior to the date of filing. If the registrant meets the tests set forth below, (a) an additional balance need not be provided for filings made after 90 days but before 135 days after the end of the fiscal year, and (b) the most recent balance sheet included in a filing, made after 134 days subsequent to the end of the fiscal year, may be as of a date within 135 days prior to the date of filing and need not be presented in greater detail than is required for quarterly reports filed pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934:

(1) The filing includes audited financial statements as of the registrant's most recent fiscal year end;

(2) The registrant files annual and other reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 and all reports due at the time of filing have been filed; and

(3) No debt of the registrant is in default as to principal, interest or sinking fund provisions.

Notwithstanding the above requirements, the most recent interim balance sheet included in a filing shall be at least as current as the most recent balance sheet filed with the Commission on form 10–Q.

§ 210.3–02 Statements of income and changes in financial position of the registrant.

There shall be filed for the registrant and its predecessors audited statements of income and changes in financial position for each of the three fiscal years preceding the date of the most recent audited balance sheet being filed.

In addition, for any interim period between the end of the most recent of such fiscal years and the date of the most recent balance sheet being filed, and for the corresponding period of the preceding fiscal year, statements of income and changes in financial position shall be provided. These interim financial statements may be unaudited. If the registrant meets all the tests under § 210.3–01 for inclusion of the most recent balance sheet as of a date within 135 days prior to the date of filing, the statements of income and changes in financial position required for interim periods need not presented in greater detail than is required for quarterly reports filed pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

See also the instructions under § 210.3–06.

§ 210.3–03 Omission of registrant's financial statments in certain cases.

Notwithstanding §§ 210.3–01 and 3–02 above, the individual financial statements of the registrant may be omitted if (a) consolidated financial statements of the registrant and one or more of its subsidiaries are being filed, (b) the conditions specified in either of the following paragraphs are met, and (c) the basis for the omission is stated in the index of financial statements filed.

(1) The registrant is primarily an operating company and all subsidiaries included in the consolidated financial statements being filed, in the aggregate, do not have minority equity interest and/or indebtedness to any person other than the registrant or its consolidated subsidiaries in amounts which together exceed 5 percent of the total assets as shown by the most recent year end consolidated balance sheet. Indebtedness incurred in the ordinary course of business which is not overdue and which matures within one year from the date of its creation, whether evidenced by securities or not, and indebtedness of subsidiaries which is collateralized by the registrant by guarantee, pledge, assignment or otherwise are to be excluded for the purpose of this determination.

(2) The registrant's total assets, exclusive of investments in and advances to its consolidated subsidiaries, as would be shown by its most recent year-end balance sheet if it were filed, constitute 75 percent or more of the total assets as shown by the most recent year-end consolidated balance sheet; and the registrant's total sales and revenues, exclusive of interest and dividends received from or its equity in the income of the consolidated subsidiaries, as would be shown by its income statement, for the most recent fiscal year if it were filed, constitute 75 percent or more of the total sales and revenues shown by the most recent annual consolidated income statement.

§ 210.3–04 Consolidated balance sheets.

There shall be filed consolidated balance sheets of the registrant and its subsidiaries as of the same dates and in the same detail as each balance sheet of the registrant filed pursuant to § 210.3–01. The consolidated balance sheets shall be audited if the registrant's balance sheet as of the same date is audited. If the registrant's balance sheets are omitted pursuant to § 210.3–03, the consolidated balance sheets being filed shall be as of the same dates and in the same detail as the balance sheets of the registrant which otherwise would be required and shall be audited if the corresponding balance sheet of the registrant would otherwise be required to be audited.

§ 210.3–05 Consolidated statements of income and statements of changes in financial position.

There shall be filed for the registrant and its subsidiaries audited statements of income and changes in financial position for each of the three fiscal years preceding the date of the most recent audited balance sheet being filed.

In addition, for any interim period between the end of the most recent of such fiscal years and the date of the most recent balance sheet being filed, and for the corresponding period of the preceding fiscal year, statements of income and changes in financial position shall be provided. Such interim financial statements may be unaudited. Further, if the registrant meets all the tests under § 210.3–01 for inclusion of the most recent balance sheet as of a date within 135 days prior to the date of filing, the statements of income and changes in financial position required for interim periods need not be presented in greater detail than is required for quarterly reports filed pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

§ 210.3–06 Instructions to registrant and consolidated income statement requirements.

(a) The statements required shall be prepared in compliance with the applicable requirements of this Regulation.

(b) If the registrant is engaged primarily (1) in the generation, transmission or distribution of electricity, the manufacture, mixing, transmission or distribution of gas, the supplying or distribution of water, or the furnishing of telephone or telegraph service; or (2) in holding securities of companies engaged in such businesses, it may at its option include statments of income and changes in financial position (which may be unaudited) for the twelve-month period ending on the date of the most recent balance sheet being filed, in lieu of the income statements for the interim periods specified.

(c) If a period or periods reported on include operations of a business prior to the date of acquisition, or for other reasons differ from reports previously issued for any period, the statements shall be reconciled as to sales or revenues and net income in the statement or in a note thereto with the amounts previously reported; *Provided, however,* That such reconciliations need not be made (1) if they have been made in filings with the Commission in prior years or (2) the financial statements which are being retroactively adjusted

have not previously been filed with the Commission or otherwise made public.

(d) In connection with any unaudited statement for an interim period a statement shall be made that all adjustments necessary to a fair statement of the results for such period have been included. If all such adjustments are of a normal recurring nature, a statement to that effect shall be made; otherwise, there shall be furnished information describing in appropriate detail the nature and amount of any adjustments other than normal recurring adjustments entering into the determination of the results shown.

§ 210.3–07 Past successions to other businesses.

If, during the period for which its income statements are required, the registrant has by purchase or polling of interests suceeded to one or more businesses, the additions, eliminations and other changes effected in the succession shall be appropriately set forth in a note or supporting schedule to the balance sheets being filed, and, if a purchase has been effected during the most recent fiscal year or in a subsequent period, pro forma statements of income reflecting the combined operations of the entities shall be furnished in columnar form for the latest fiscal year and any comparable interim periods. In addition, if any purchased business or businesses, singly or in the aggregate, had major significance in relation to the registrant, audited income statements, separate or combined as appropriate, for such business or businesses shall be filed for such periods prior to the purchase as may be necessary when added to the time, if any, for which audited income statements after the purchase are filed to cover the equivalent of the period specified in §§ 210.3–02 and 3–05 above. The test of major significance shall be based on the tests used in the term "significant subsidiary" with substituted percentages (determined in comparison to the most recent annual consolidated financial statements of the registrant being filed) being utilized in relation to the period the businesses have been merged prior to the date of the registrant's most recent audited balance sheet as follows: (1) for one full year or less, no substitution; (2) more than one but less than two full years, 25 percent; and (3) two full years or more, 45 percent. If financial statements for an acquired business would not be required in the year of acquisition, they would not be required subsequently. (See Release No. 33–4950 with regard to audit requirements for such financial statements.)

This instruction shall not apply with respect to the registrant's succession to the business of any totally held subsidiary or to the succession of one or more businesses if such businesses, considered in the aggregate, would not meet the test of a significant subsidiary.

Information required by the foregoing instruction is nor required to be included in a filing on Form 10–K.

§ 210.3–08 Future successions to other businesses.

(a) If, after the date of the most recent balance sheet filed pursuant to § 210.3–01 or 3–04 above, the registrant by purchase or by pooling of interests has succeeded to or is about to succeed to one or more businesses or has acquired or is about to acquire an investment in a business the investment in which is required to be accounted for by the equity method, there shall be filed for such businesses financial statements, combined if appropriate, prepared in accordance with Regulation S–X. In addition, to reflect the succession to any businesses, there shall be filed in columnar form (1) a balance sheet of the registrant (or the registrant and its subsidiaries consolidated, if appropriate), (2) the balance sheets of the constituent businesses, (3) the changes to be effected in the succession, and (4) the pro forma balance sheet of the registrant giving effect to the plan of succession. There shall also be filed in columnar form pro forma statements of income for the periods for which the results of operations of the acquired business would have been included in the registrant's income statement for a pooling of interests or would have been presented on a pro forma basis for a purchase had the succession occurred on the date of the latest balance sheet filed. By a note to the financial statements or otherwise, a brief explanation of the changes shall be given.

(b) The acquisition of securities shall be deemed to be the acquistion of business if such securities give control of the business or combined with securities already held give such control. In addition, the acquisition of securities which will extend the registrant's control of a business shall be deemed the acquisition of the business if any of the securities being registered hereunder are to be offered in exchange for the securities to be acquired.

(c) No financial statements need be filed, however, for any business acquired or to be acquired or for any business in which an investment acquired or to be acquired is required to be accounted for by the equity method, from a totally held subsidiary. In addition, the statements of any one or more such businesses may be omitted if the businesses, considered in the aggregate, would not meet the test of a significant subsidiary; *Provided,* That the statements of any business may not be omitted where any of the securities being registered are to be offered in exchange for securities representing such business or for assets of such business.

Information required by the foregoing instruction is not required to be included in a filing on Form 10–K.

§ 210.3–09 Financial statements of subsidiaries not consolidated and 50 percent or less owned persons.

(a)(1) Subject to § 210.3A–03 regarding group financial statements and paragraphs (b) and (c) below, there shall be filed for each majority-owned subsidiary not consolidated and each 50 percent or less owned person for which the investment is accounted for by the equity method by the registrant or a consolidated subsidiary of the registrant the financial statements which would be required if each such subsidiary or other person were a registrant. Insofar as practicable, these financial statements shall be as of the same dates or for the same periods as those of the registrant.

(2) If it is impracticable to file financial statements of any subsidiary not consolidated or 50 percent or less owned person accounted for by the equity method as of a date within 90 days, or within 135 days if registrant's financial statements are permitted pursuant to § 210.3–01 to be filed as of a date within 135 days prior to the date of filing, there may be filed in lieu thereof audited financial statements of such subsidiary or other person as of the end of its most recent annual or semi-annual fiscal period preceding the date of filing the registration statement for which it is practicable to do so.

(b) *Summarized financial information.* Notwithstanding paragraph (a) above, summarized information as to assets, liabilities and results of operations may be presented on an individual or group basis in notes to the financial statements for all subsidiaries not consolidated and 50 percent or less owned persons accounted for by the equity method, except such subsidiaries or 50 percent or less owned persons which are individually significant under the tests specified in paragraph (c) below.

(c) *Omission of financial statements required by (a) and (b) above.* Notwithstanding paragraphs (a) and (b) there may be omitted all financial

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statements of any one or more consolidated subsidiaries or 50 percent or less owned persons accounted for by the equity method, if in the aggregate (1) neither the registrant's and its other subsidiaries' investments in and advances to, nor their proportionate share of the total assets (after intercompany eliminations) of, such subsidiaries and other persons exceed 10 percent of the total assets as shown by the most recent year-end consolidated balance sheet; (2) the total sales and revenues (after intercompany eliminations) of such subsidiaries or other persons, reduced to the percentages of equity interests held by the registrant and its subsidiaries in such subsidiaries and other persons, do not exceed 10 percent of the total sales and revenues as shown by the most recent annual consolidated income statement; and (3) the registrant's and its other subsidiaries' equity in the income before income taxes and extraordinary items of the subsidiaries and other persons does not exceed 10 percent of such income of the registrant and consolidated subsidiaries for the most recent fiscal year; *Provided* That, if such income of the registrant and its consolidated subsidiaries for the last fiscal year is at least 10 percent lower than the average of such income for the last five fiscal years, such average income may be substituted in the determination.

§ 210.3-10 Financial statements of affiliates whose securities collateralize and issue registered or being registered.

(a) For each entity whose securities constitute a substantial portion of the collateral for any class of securities registered or being registered, there shall be filed the financial statements that would be required if the affiliate were a registrant. However, statements need not be filed pursuant to this instruction for any person whose statements are otherwise filed with the registration statement on an individual, consolidated or combined basis.

(b) For the purposes of this instruction, securities of a person shall be deemed to constitute a substantial portion of collateral if the aggregate principal amount, par value, or book value as shown by the books of the registrant, or market value, whichever is the greatest, of such securities equals 20 percent or more of the principal amount of the class secured thereby.

§ 210.3-11 Financial statements of an inactive registrant.

If a registrant is an inactive entity as defined below, the financial statements required by this regulation may be unaudited. An inactive entity is one meeting all of the following conditions:

(a) Gross receipts from all sources for the fiscal year are not in excess of $100,000;

(b) The registrant has not purchased or sold any or its own stock, granted options therefore, or levied assessments upon outstanding stock;

(c) Expenditures for all purposes for the fiscal year are not in excess of $100,000;

(d) No material change in the business has occurred during the fiscal year, including any bankruptcy, reorganization, readjustment or succession or any material acquisition or disposition of plants, mines, mining equipment, mine rights or leases; and

(e) No exchange upon which the shares are listed, or governmental authority having jurisdiction, requires the furnishing to it or the publication of, audited financial statements.

§ 210.3-12 Age of financial statements at effective date of registration statement or at mailing date of proxy statement.

If the financial statements in a filing are as of a date more than 135 days prior to the date the filing is expected to become effective, or proposed mailing data in the case of a proxy statement, the financial statements shall be supplemented with condensed financial statements through the end of the latest fiscal quarter on a comparative basis. Such condensed financial statements shall be presented in the same degree of detail as is required for quarterly reports filed pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

§ 210.3-13 Filing of other financial statements in certain cases.

The Commission may, upon the informal written request of the registrant, and where consistent with the protection of investors, permit the omission of one or more of the financial statements herein required or the filing in substitution therefor of appropriate statements of comparable character. The Commission may also by informal written notice require the filing of other financial statements in addition to, or in substitution for, the statements herein required in any case where such statements are necessary or appropriate for an adequate presentation of the financial condition of any person whose financial statements are required, or whose statements are otherwise necessary for the protection of investors.

§ 210.3-14 Special instructions for real estate operations to be acquired.

If, during the period for which income statements are required, the registrant (a) has acquired one or more properties which in the aggregate are significant, or (b) since the date of the latest balance sheet required has acquired or proposes to acquire one or more properties which in the aggregate are significant, the following shall be furnished with respect to such properties:

(1) Audited income statements, for the three most recent fiscal years, which shall exclude items not comparable to the proposed future operation of the property such as mortgage interest, leasehold rental, depreciation, corporate expenses and Federal and state income taxes. Earnings per unit shall not be given in these statements.

(2) If the property is to be operated by the registrant, there shall be furnished a statement showing the estimated taxable operating results of the registrant based on the most recent twelve month period including such adjustments as can be factually supported. If the property is to be acquired subject to a net lease the estimated taxable operating results shall be based on the rent to be paid for the first year of the lease. In either case, the estimated amount of cash to be made available by operations shall be shown. There shall be stated in an introductory paragraph the principal assumptions which have been made in preparing the statements of estimated taxable operating results and cash to be made available by operations.

(3) If appropriate under the circumstances, there shall be given in tabular form for a limited number of years the estimated cash distribution per unit showing the portion thereof reportable as taxable income and the portion representing a return of capital together with an explanation of annual variations, if any. If taxable net income per unit will become greater than the cash available for distribution per unit, that fact and approximate year of occurrence shall be stated, if significant.

Information called for by the foregoing instruction is not required to be included in filings on Form 10-K.

§ 210.3-15 Special provision as to real estate investment trusts.

In lieu of the income statements required by § 210.5-03 there shall be filed statements of income and expense and statements of realized gain or loss on the properties and investments which shall generally conform with the requirements of §§ 210.6-04 and 6-05. In place of the balance sheet caption prescribed by § 210.5-02-39(a)(3) there shall be shown separately (a) the balance of undistributed net income and (b) accumulated net realized gain or loss on investments, and the statements of other stockholders' equity shall generally conform to the requirements of § 210.6-07.

The trust's status as a "real estate investment trust" under applicable provisions of the Internal Revenue Code as amended shall be stated in a note referred to in the appropriate statements. Such note shall also indicate briefly the principal present assumptions on which the trust has relied in making or not making provisions for Federal income taxes.

The tax status of distributions per unit shall be stated (e.g., ordinary income, capital gain, return of capital).

§ 210.3-16 Reorganization of registrant.

(a) If, during the period for which its income statements are required, the registrant has emerged from a reorganization in which substantial changes occurred in its asset, liability, capital shares, other stockholders' equity or reserve accounts, a brief explanation of such changes shall be set forth in a note or supporting schedule to the balance sheets filed.

(b) If the registrant is about to emerge from such a reorganization, there shall be filed, in addition to the balance sheets of the registrant otherwise required, a balance sheet giving effect to the plan of reorganization. These balance sheets shall be set forth in such form, preferably columnar, as will show in related manner the balance sheet of the registrant prior to the reorganization, the changes to be effected in the reorganization and the balance sheet of the registrant after giving effect to the plan of reorganization. By a footnote or otherwise a brief explanation of the changes shall be given.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

* * * * *

1. Form S-1 is proposed to be amended by deleting Instructions as to Financial Statements and revising Item 19 to read as follows:

§ 239.11 Form S-1, registration statement under the Securities Act of 1933.

* * * * *

Item 19. Financial Statements

Include in the prospectus the financial statements required by Regulation S-X. Although all schedules required by Regulation S-X are to be included in the registration statement, all such schedules other than those prepared in accordance with Rules 12-27, 12-42 and 12-43 of the Regulation, may be omitted from the prospectus.

* * * * *

2. Form S-2 is proposed to be amended by revising Item 13 to read as follows:

§ 239.12 Form S-2, for shares of certain corporations in the development stage.

* * * * *

Item 13. Financial Statements

Include in the prospectus the financial statements required by Regulation S-X. Although all schedules required by Regulation S-X are to be included in the registration statement, all such schedules may be omitted from the prospectus.

* * * * *

3. Form S-3 is proposed to be amended by revising Item 12 to read as follows:

§ 239.13 Form S-3, for shares of mining corporations in the development stage.

* * * * *

Item 12. Financial Statements

Include in the prospectus the financial statements required by Regulation S-X. Although all schedules required by Regulation S-X are to be included in the registration statement, all such schedules may be omitted from the prospectus.

* * * * *

4. Form S-8 is proposed to be amended by revising Item 17 and paragraph (b) of Item 11 to read as follows:

§ 239.16b Form S-8, for registration under the Securities Act of 1933 of securities to be offered to employees pursuant to certain plans.

* * * * *

Item 17. Financial Statements of the Issuer

Include in the prospectus the financial statements required by Regulation S-X for the issuer and its subsidiaries consolidated. All schedules may be omitted from the registration statement except those prepared in accordance with Rules 12-27, 12-42 and 12-43 which shall be included in the prospectus.

Instruction. If the annual report of the issuer to its security holders for its last fiscal year includes audited financial statements substantially meeting the above requirements, such statements may be incorporated by reference in the prospectus. If such financial statements are incorporated by reference in the prospectus, copies of the annual report shall be filed as an exhibit of the registration statement and the accountant's certificate shall be manually signed on one of such copies.

* * * * *

(b) An audited statement of income and changes in plan equity for each of the latest three fiscal years of the plan (or such lesser period as the plan has been in existence).

* * * * *

5. Form S-11 is proposed to be amended by deleting Instructions to Financial Statements and revising Item 24 to read as follows:

§ 239.18 Form S-11, for registration under the Securities Act of 1933 of securities of certain real estate companies.

* * * * *

Item 24. Financial Statements

Include in the prospectus the financial statements required by Regulation S-X. Although all schedules required by Regulation S-X are to be included in the registration statement, all such schedules other than those prepared in accordance with Rules 12-19 (which replaces Rule 12-02 for this form), 12-42 and 12-43 of the Regulation may be omitted from the prospectus.

* * * * *

6. Form S-7 is proposed to be amended by deleting Item 6 and revising Item 11 to read as follows:

§ 239.26 Form S-7, for registration under the Securities Act of 1933 of securities of certain issuers.

* * * * *

Item 11. Financial Statements

Include in the prospectus all financial statements required by Regulation S-X. All schedules may be omitted from the registration statement except those prepared in accordance with rules 12-27, 12-42 and 12-43 which shall be included in the prospectus.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

* * * * *

1. Form 10 is proposed to be amended by deleting Instructions to Financial Statements and adding a new Item 17 to read as follows:

§ 249.210 Form 10, general form for registration of securities pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934.

* * * * *

Item 17. Financial Statements

Include in the registration statement all financial statements required by Regulation S-X.

* * * * *

2. Form 10-K is proposed to be amended by deleting the Instructions as to Financial Statements and revising the present Item 12. See proposed technical

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amendments in the concurrent release on revision of Form 10–K (Securities Act Release No. 6176).

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

* * * * *

1. Rule 14a–3 is proposed to be amended by revising paragraphs (b)(1), (b)(2) and (b)(3). For proposed revision to paragraph (b)(3), see concurrent Securities Act Release No. 6178. Paragraphs (b)(1) and (b)(2) are proposed to be revised to read as follows:

§ 240.14a–3 Information to be furnished to security holders.

* * * * *

(b) * * *

(1) The report shall include the financial statements required by Regulation S–X for the registrant and its subsidiaries consolidated. Any financial statement schedules or exhibits which may otherwise be required in filings with the Commission may be omitted. Investment companies registered under the Investment Company Act of 1940 need include financial statements only for the last fiscal year.

(2) Financial statements and notes thereto shall be presented in roman type at least as large and as legible as 10-point modern type. If necessary for convenient presentation, the financial statements may be in roman type as large and as legible as 8-point modern type. All type shall be leaded at least 2-point.

* * * * *

2. Rule 14a–101 is proposed to be amended by revising Item 15 of Schedule 14A (§ 240.14a–101) to read as follows:

§ 240.14a–101 Schedule 14A. Information required in proxy statement.

* * * * *

Item 15. Financial Statements

If action is to be taken with respect to any matter specified in Item 12, 13 or 14 above, furnish the financial statements required by Regulation S–X. One copy of the definitive proxy statement filed with the Commission shall include a manually signed copy of the accountant's certificate.

The financial statements of an acquired company not subject to the reporting provisions of the Exchange Act required to be furnished pursuant to Regulation S–X shall be certified to the extent practicable. However, if the proxy statement is to be included in a filing on Form S–14, the financial statements of the acquired business must be certified for three years or must comply with the requirements of Securities Act Release No. 4950.

Notwithstanding the provisions of Regulation S–X, no schedules other than those prepared in accordance with Rules 12–27, 12–42 and 12–43 of that regulation need be furnished in the proxy statement.

Parent company only financial statements are not required to be filed unless necessary to make the financial statements not misleading.

* * * * *

3. Rule 14c–3 is proposed to be amended by revising paragraphs (a)(1), (a)(2) and (a)(3). For proposed revision to paragraph (a)(3), see concurrent Securities Act Release No. 6178. Paragraphs (a)(1) and (a)(2) are proposed to be revised to read as follows:

§ 240.14c–3 Annual report to be furnished security holders.

(a) * * *

(1) The report shall include the financial statements required by Regulation S–X for the registrant and its subsidiaries consolidated. Any financial statement schedules or exhibits which may otherwise be required in filings with the Commission may be omitted. Investment companies registered under the Investment Company Act of 1940 need include financial statements only for the last fiscal year.

(2) Financial statements and notes thereto shall be presented in roman type at least as large and as legible as 10-point modern type. If necessary for convenient presentation, the financial statements may be in roman type as large and as legible as 8-point modern type. All type shall be leaded at least 2-point.

* * * * *

Statutory Authority for Proposed Amendments

(Sections 6, 7, 8, 10 and 19(a) [15 U.S.C. 77f, 77g, 77h, 77j, 77s] of the Securities Act of 1933; Sections 12, 13, 15(d) and 23(a) [15 U.S.C. 78l, 78m, 78o(d), 78w] of the Securities Exchange Act of 1934; Sections 5(b), 14 and 20(a) [15 U.S.C. 79e, 79n, 79t] of the Public Utility Holding Company Act of 1935; Sections 8, 30, 31(c) and 38(a) [15 U.S.C. 80a–8, 80a–29, 80a–30(c), 80a–37(a)] of the Investment Company Act of 1940.)

The Commission is mindful of the cost to registrants and others of its proposals and recognizes its responsibilities to weigh with care the costs and benefits which result from its rules. Accordingly, the Commission specifically invites comments on the costs to registrants and others of the adoption of the proposals published herein.

Pursuant to Section 23(a)(2) of the Securities Exchange Act, the Commission specifically invites comments as to the competitive impact of these proposals, if adopted.

These amendments are proposed to be effective for filings made after December 15, 1980 with the provision that registrants may, at their option, apply the amended rules upon adoption.

All interested persons are invited to submit 10 copies of their views and comments on the foregoing to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 on or before April 30, 1980. Such communications should refer to File S7–819 and will be available for public inspection.

By the Commission.

George A. Fitzsimmons,

Secretary.

January 15, 1980.

[FR Doc. 80–2028 Filed 1–23–80; 8:45 am]

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17 CFR Parts 229, 231, 239, 240, 241, and 249

[Releases Nos. 33–6178 and 34–16496; File No. S7–816]

Proposed Amendments to Annual Report Form; Integration of Securities Acts Disclosure Systems

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is requesting comments on proposed amendments to the present annual report form required to be filed by most publicly-owned companies, Form 10–K, and on related forms, rules and guides under the Securities Act of 1933 and the Securities Exchange Act of 1934. The proposed revisions are part of a series of proposals intended to reduce disclosure burdens and to facilitate the integration of the disclosure systems under the two acts.

DATE: Comments must be received on or before April 15, 1980.

ADDRESS. All communications on the matters discussed in this release should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comments should refer to File No. S7–816 and will be available for public inspection.

FOR FURTHER INFORMATION CONTACT: William H. Carter (202/272–2804), or Mary Margaret W. Hammond (202/272–3059), Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission announced today the publication for comment of a revised Form 10–K, the annual report form required to be filed by most publicly-owned companies, and a number of related rule changes. The rule changes include amendments to Rules 14a–3 and Rule 14c–3, with respect to annual reports to security holders, and expansion of Regulation S–K to include three new items: Management's Discussion and Analysis of Financial Condition and Results of Operations, Selected Financial Data, and Market Price of the Registrant's Securities and Statement of Dividend Policy, an amendment to Regulation S–K Item 1, Description of Business, as well as proposed amendments to related forms, rules, and guides under the Securities Act of 1933 ("Securities Act") [15 U.S.C. 77a et seq.] and the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. 78a et seq.]. The proposed revisions of Form 10–K and related rule changes are part of a series of proposals intended to reduce the burdens of disclosure under the Securities Act and the Exchange Act. Three other releases also propose (1) uniform financial statement instructions for certain forms and reports required to be filed pursuant to the Securities Act and the Exchange Act; (2) amendments to Regulations S–X designed to eliminate, to the extent possible, the differences between the requirements of generally accepted accounting principles and those of Regulation S–X; and (3) a new simplified form for the registration of securities issued in certain merger and reorganization transactions.

Form 10–K

Introduction

The Commission is today proposing major changes in the Securities Act and Exchange Act disclosure systems. These changes are designed both to facilitate the integration of these two systems into the single disclosure system long advocated by many commentators [1] and to reduce current impediments to combining informal shareholder communications, such as annual reports to shareholders, with official Commission filings.

This release deals with format and content changes in the Form 10–K annual report. Under the proposed combined system it is anticipated that certain information called for by this form will be set forth in the registrant's annual report to shareholders. The annual report will become the principal resource for use in connection with most filings required for the registration of securities. This release also describes briefly how the integrated disclosure system will operate if the modifications proposed are adopted and where present duplicative disclosure will be eliminated.

Two separate releases being issued concurrently with this one contain proposals for changes in accounting disclosure requirements. One release proposes certain uniform instructions as to financial statements included in annual reports to security holders and in most registration and reporting forms filed under the securities Act and the Exchange Act.[2] The second release proposes changes to Regulation S–X designed to eliminate, to the extent possible, the differences between the requirements of Regulation S–X and generally accepted accounting principles.[3] These accounting proposals, if implemented, would eliminate a large number of technical impediments to integration, would reduce the need to duplicate or repeat substantially identical financial information in various filings and reports and would complement the related changes in the Form 10–K.

Finally, under cover of a fourth release a new simplified form for the registration of securities issued in certain merger and reorganization transactions has been proposed. This form, designated Form S–15, would be the first to utilize the annual report to shareholders as the principal integrating disclosure document.[4]

As currently envisioned by the Commission, an integrated disclosure system would eliminate duplicative disclosure by allowing periodic and other reports filed under the Exchange Act to be used in connection with the registration of securities under the Securities Act. One way to permit such use is by incorporating a filed Exchange Act report by reference into a Securities Act registration statement, as is permitted in the case of present Form S–16. Incorporation by reference, however, has limitations; there is not assurance that the mere reference to incorporated information will be meaningful to the recipient of a prospectus. With respect to seasoned, exchange-traded companies the disadvantages of the incorporation by reference technique generally appear to be outweighed by the likelihood that the informatics in the incorporated filings has been thoroughly analyzed and has been reflected in the price or rating of the securities which are being offered. Thus, the cost savings of incorporation is justified. However, the Commission has been reluctant to extend the incorporation by reference technique to offerings by companies which are neither seasoned nor exchange-traded because the analysis may be less thorough.

The Structure of the New Form 10–K

The proposed Form 10–K has been structured to permit integrated disclosure concepts to be implemented to some extent with respect to all registered companies, whether or not they are exchange-traded and whether or not they qualify to use Form S–16. In this regard, the principal feature of the proposed Form 10–K is the requirement that certain basic financial information must be set forth in a registrant's annual report to shareholders and that this information, in turn, must be incorporated by reference into the Form 10–K. this procedure assures that the annual report to shareholders will contain information which the Commission believes should be given maximum public exposure. If this information is then available to supplement other documents describing offerings, it will not be necessary to duplicate the information in those other documents.

Although the proposed Form 10–K is designed to promote the integration of the Securities Act and Exchange Act disclosure systems, which was the basic goal set forth in the report of the Advisory Committee on Corporate Disclosure ("Advisory Committee"), the restructured format of the proposed form does not follow that suggested by the Advisory Committee. The Advisory Committee recommended a relatively unstructured document which would encourage registrants to combine informal annual and quarterly reports to shareholders into single documents to be filed as Form 10–K's and 10–Q's. The proposed form continues to encourage the combination of formal and informal reports. However, by mandating that some information must be in a registrant's annual report to shareholders, some of the flexibility

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[1] *See generally* Cohen, "Truth in Securities" Revisited, 79 Harv. L. Rev. 1340 (1966); SEC, *Disclosure to Investors (Wheat Report)* (1969); Report of the Advisory Committee on Corporate Disclosure to the Securities and Exchange Commission, Committee Print 95–29, House Committee on Interstate and Foreign Commerce, 95th Cong., 1st sess., November 3, 1977 (Advisory Committee).

[2] Securities Act Release No. 6179, January 15, 1980.

[3] Securities Act Release No. 6178, January 15, 1980.

[4] Securities Act Release No. 6177, January 15, 1980.

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advocated by the Advisory Committee will not be available. Moreover, the proposed form changes the emphasis from the Form 10–K to the shareholder report. As a result, where the Advisory Committee envisioned the Form 10–K as the document to be integrated with the Securities Act filing, the proposed form now looks to the shareholder report as the critical integrating document.

The principal reasons for changing the emphasis from the Form 10–K to the shareholder report have been twofold. First, the presently existing annual report to shareholders is a readable document which is designed to be delivered to shareholders. In contrast, since the present Form 10–K has not been primarily designed for delivery to shareholders, it has a structure and technical quality which, though useful for analytical purposes, is not generally considered to be as readable as the annual report to shareholders. Second, the Commission does not believe it would be appropriate at this time to mandate a totally combined Form 10–K and annual report to shareholders in order to produce the readable Form 10–K which would be needed to form the basis for integration. Such a mandate might be overly burdensome on some registrants and also might make Commission staff review more difficult.[5] Under these circumstances the Commission believes that it would be wise to move slowly while still encouraging combination on a voluntary basis. In the meantime, the detailed disclosure will remain available in the filed Form 10–K in order to supplement the more abbreviated presentation in the shareholder's report.

The Content of the New Form 10–K

To some extent the Commission's decision to refocus attention on the annual report to shareholders has resulted from an increasing conviction that the quality of such reports is generally high and that few changes would be required to meet existing disclosure standards. In this regard, an examination of existing Form 10–K requirements and the requirements of Rule 14a–3 (17 CFR 240.14a–3) indicate that only two major innovations are necessary to insure minimum content would be in the shareholder report so that it could be used in connection with Securities Act filings. First, the requirements for financial statements in Regulation S–X and in Commission forms must be standardized and any major differences with generally accepted accounting principles must be resolved. The Commission believes that the changes proposed under cover of the two separate releases which are being promulgated concurrently address these needs.[6] Second, a more meaningful analysis of the registrant's business and financial condition must be presented in order to capture, at least in summary form, some of the essential qualities of the detailed business description which is presently only set forth in the Form 10–K and in most Securities Act forms. The proposed form addresses the business description in two ways. First, it is expected that reliance on the abbreviated description in the annual report required under Rule 14(a)(3) (17 CFR 240.14a–3) in connection with Securities Act filings should result in some additional attention and detail. Second, a totally revised management's discussion and analysis of the issuer's financial statements, liquidity and capital resources is expected to add needed analysis.

It should be emphasized that the minimal content changes proposed by the Commission are not intended to change the basic structure or quality of existing shareholder reports. Indeed, the Commission believes that the communicative style of these reports is generally excellent and that, by and large, these reports do not include the type of boilerplate disclosures and disclaimers which frequently do appear in formal Commission filings. It is hoped that the type of attention to style which is evidenced by better examples of shareholder reports will continue to have a salutary effect on all of the report content whether or not the particular information is also a part of the Form 10–K.

Since implementation of the requirements needed to insure that the annual report to shareholders will have the required minimum content does not involve combining all of the information in the Form 10–K with that in the annual report to shareholders, the proposed Form 10–K has been divided into three information packages. The first package consists of the information which is to be included in the annual report to shareholders. This information includes market price data for the registrant's shares, a summary of selected financial data, three years of audited financial statements and management's discussion and analysis of the issuer's financial statements. The requirements relating to this information package are set forth in Part II of the revised form. The second package consists of the traditional proxy disclosure information relating to beneficial ownership, directors and executive officers, and management remuneration. Requirements relating to this informational package are set forth in Part III of the form. Finally, the third information package retains the detailed disclosure requirements relating to business, properties and legal proceedings and, in accordance with the Commission's recent proposals, includes scaled down requirements for exhibits.[7] This last package, which is detailed in Parts I and IV of the revised form, is to a great extent supplemental to the first two packages.

While the three packages of information set forth in the four parts of the proposed Form 10–K do not fully implement the Advisory Committee's recommendations as to information content, the basic content advocated by the Advisory Committee has been preserved. The Advisory Committee suggested a five part form including: (1) a fact sheet consisting principally of capsule financial data and a brief description of the registrant's business; (2) background information intended to report special risks and uncertainties and special or distinct features of the registrant's operations or industry; (3) an analysis of financial statements and forward-looking information; (4) information relating to management currently found in proxy materials; and (5) audited financial statements. The proposed Form 10–K would require substantially all of the information in parts (1), (3) and (5) of the Advisory Committee's form to be in the annual report to shareholders. Although a separate discussion of risk factors would not be required in the proposed Form 10–K,[8] Some of the other features of part (2) of the Advisory Committee report have been incorporated into a proposed new management's discussion and analysis of the financial statements. Finally, part (4) of the Advisory Committee form relating to information usually contained in the registrant's proxy materials, which is Part II of the present form, becomes Part III of the proposed form.

The Proposed New Integrated Disclosure System

It is currently anticipated that the integrated disclosure concept with respect to registered companies will be implemented in three general categories or levels. The degree of disclosure and to some extent the means of dissemination of the disclosure documents would vary with respect to each level. First, with respect to certain exchange or other widely traded, solvent companies, a short form registration similar to the present S–16 form would be available. This form would incorporate the 10–K and subsequent reports by reference. These disclosure requirements would be premised upon a finding that more extensive disclosure requirements are neither necessary nor appropriate in the public interest or for the protection of investors, since information concerning the issuer is generally available in the marketplace and is properly reflected in the price of the securities being distributed. In light of this finding, there would be little need to gather the information into a single comprehensive document or package of documents or to make physical delivery of the entire information package to offerees or purchasers.

The second level would be solvent companies which had been subject to the reporting requirements of the Exchange Act for three or more years.[9] Securities Act registration could be accomplished by preparing a prospectus describing the distribution and by delivering that prospectus together with the issuer's most recent shareholder's annual and quarterly reports to offerees and purchasers, rather than delivering a prospectus combining all the information required by Form S–1.[10] These types of disclosure and delivery requirements would attempt to minimize duplicative reporting under the Securities Act and the Exchange Acts, but would not assume that previously reported information was necessarily reflected in securities prices or had otherwise reached offerees and purchasers.[11]

Finally, with respect to financially troubled companies and those which had been subject to the Exchange Act reporting requirements for less than three years, a full Securities Act registration statement along the lines of either present Form S–1 or Form S–18 would be required. This approach would reflect differing concerns relating to each of the two classes of companies for which full disclosure and delivery of a detailed propectus would be required. First, insofar as financially troubled companies would be involved, the concern would be that Exchange Act reports would be rapidly outdated and that risks relating to the possibility of insolvency would call for enhanced disclosure. Second, with respect to companies which did not have three years of reports under the Exchange Act reporting system, the concern would be that there would have been an inadequate opportunity to evaluate the quality and sophistication of those reports.[12]

Obviously, under the integrated disclosure system, there would be some exceptions which would not fit precisely into the three levels outlined above. For example, there is no doubt that the Commission's ongoing program to assist and to reduce the burdens upon small business would be continued. Accordingly, it is anticipated that in some cases even the lowered burdens of the new system might be modified and abbreiviated.

It is contemplated that the integrated disclosure system, utilizing the new Form 10–K and the annual report to shareholders, will neither increase nor decrease the liability of any person under current securities laws. Although the new Form 10–K does call for signatures from the registrant's principal executive officer or officers, its principal financial officer, its controller or principal accounting officer and by a majority of the board of directors, current legal authorities indicate that under certain circumstances these persons are presently responsible for inaccurate information filed under the existing Exchange Act disclosure system.[13] Additionally, because the type of information which is to be contained in the annual report to shareholders under the new system is not significantly more extensive than that presently required under Rule 14a–3 (17 CFR 240.14a–3), the new system is not expected to increase liability in this area but instead should merely reduce the duplicated disclosure in the Form 10–K. Finally, to the extent that the annual report to shareholders is to be used in connection with Securities Act filings, it should be understood that only those portions of the report which are also a part of the Form 10–K Would be incorporated into the filing and would therefore be subject to the liability provisions of Section 11 of the Securities Act.[14]

Background

In response to the recommendation of the Advisory Committee that Form 10–K be amended to eliminate unnecessary requirements, add new requirements, and present the information in more effective format, the Commission issued a release on August 16, 1978 [15] requesting comments both on Part I of the Existing Form 10–K and on the substantially revised Form 10–K format recommended by the Committee. One hundred and eight letters of comment were received.

While the comments were obviously carefully conceived and drafted, and a number of them are reflected in the provisions which follow (with express notations where such is the case), as a

[5] The inability to assure in all cases that there will be a single document which will be usable as a combined report to shareholders and Form 10–K arises primarily because of the Business, Properties and Legal Proceedings disclosures called for under Items 1, 2 and 5 of Regulation S–K and because of certain parent and subsidiary financial statements required by Regulation S–X. Although it is hoped that most registrants will have little difficulty in presenting these items in a combined document, there is considerable evidence that in some cases the sheer volume of the disclosure called for by these items would adversely impact the readability of the registrant's annual reports to shareholders.

[6] Securities Act Release Nos. 6179 and 6178, January 15, 1980.

[7] Securities Act of 1933 Release No. 6149 (November 16, 1979) [44 FR 67143].

[8] Notwithstanding the decision to exclude the discussion of risk factors in the Form 10–K which is applicable to all registrants, such a discussion may be included in certain of the revised Securities Act forms. In this context, however, the focus would be on the particular issuer and the circumstances of the offering.

[9] The three year qualification requirement would correspond to the uniform three year requirement for financial statements proposed in Release No. 33–6170.

[10] Comments from interested persons are also requested at this time as to whether delivery of the most recent proxy statement of the issuer concerning the election of directors should also be required in this situation. *See* the accompanying release proposing the new Form S–13, Securities Act Release No. 6177.

The Commission is aware that subsequent events may require issuers to include updating disclosures as to such events in the prospectus in addition to delivery of the annual and quarterly reports. *Id.* Release No. 33–6177.

[11] As has been previously indicated, under cover of a separate release the Commission concurrently has proposed for comment a new Form S–15 which incorporates many of the features which it is envisioned would be applied to second level companies. Thus, the new proposed Form S–15, which would cover securities registered in certain merger and acquisition transactions, contemplates streamlined disclosure of the transaction and relies on annual and quarterly reports to shareholders for specific business and financial information relating to the individual participants in the transaction.

[12] Although no final determination has been made, at the present time it is contemplated that the integrated disclosure forms would not continue present distinctions as to the size of the registered eptity, except to the extent that small business considerations might be involved. Instead, the new system would focus on the quality of the information concerning the registrant and the degree to which that information had been disseminated to shareholders and to potential investors.

[13] *See, e.g., Securities and Exchange Commission v. Kalvex,* 425 F. Supp. 310 (S.D.N.Y. 1975); *Blakely v. Lisac,* 357 F. Supp. 255 (D. Ore. 1972); Exchange Act § 20, 15 U.S.C. 78t.

[14] The Commission also believes that the commonly stated perception that disclosures made under the Securities Act must be more legalistic and less communicative is misperception. Differences in the Securities Act and the Exchange Act with respect to liability do not relate to the form or the lucidity of disclosure but only to the degree of care taken in making the disclosure. On balance, the Commission believes that the slight increased cost associated with a higher standard of care in some circumstances will be more than offset by corresponding general reductions in the volume of required disclosure.

[15] Securities Exchange Act of 1934 Release No. 15088 (August 16, 1978) [43 FR 37660].

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whole there was not sufficient focus or agreement among the commentators to enable the Commission to draw any broad conclusions concerning either the existing Form 10–K or that recommended by the Advisory Committee.

The resultant proposed Form 10–K, described and set forth below, is a combination of changes resulting from the comments, staff studies, and other information sources. As is indicated above, the revisions were designed primarily to facilitate the implementation of an integrated disclosure system. However, may changes are also designed to promote a number of other important purposes, including:

(1) Elimination of unnecessary disclosure;

(2) Reduction of Commission staff review time;

(3) Preservation of Form 10–K as the basic information repository on a particular company; and

(4) Improvement of the quality of disclosure in shareholder communications to the extent consistent with registrants' prerogative to exercise reasonable discretion with respect to the format and content of the annual report to shareholders.

The following table presents, in outline form, the changes proposed in the existing Form 10–K:

Item and Status

General Instructions. Revised.

Part I

Item 1. Business. Revised [In revised S–K Item 1].
Item 2. Summary of Operations. Deleted [Replaced by Selection Financial Data, New Item 5].
Item 3. Properties. Unchanged.
Item 4. Parents and Subsidiaries. Deleted [But Replace by an Exhibit].
Item 5. Legal Proceedings. Unchanged.
Item 6. Increases and Decreases in Outstanding Securities and Indebtedness. Deleted.
Item 7. Changes in Securities and Changes in Security for Registered Securities. Deleted.
Item 8. Defaults Upon Senior Securities. Deleted.
Item 9. Approximate Number of Equity Security Holders. Deleted [But Repinced by a Requirement in New S–K Item 9].
Item 10. Submission of Matters to a Vote of Security Holders. Deleted.
Item 11. Indemnification of Directors and Officers. Deleted.
Item 12. Financial Statements, Exhibits filed, and Reports on Form 8–K. Revised.

Part II

Item 13. Security Ownership of Certain Beneficial Owners and Managers. Unchanged.
Item 14. Directors and Executive Officers of the Registrant. Unchanged.
Item 15. Management Remuneration and Transactions. Unchanged.
Signatures Revised.
Instructions as to Financial Statements. Deleted [Replaced by New Item 7].
Instructions as to Exhibits. Revised [Per New Regulation S–K Item 8]
Supplemental Information. Unchanged.

The proposed new Form 10–K consists of four parts containing the items outlined below. The information required by Part I, at the registrant's option, may be supplied by incorporating the information from an annual report to shareholders furnished to the Commission pursuant to Rule 14a–3(b) or Rule 14c–3(a), provided the report contains the required disclosure. Conversely, the information required by Part II must be supplied by incorporating by reference from the annual report to shareholders if such report is available, and the information required by Part III must be supplied by incorporating by reference from the election of directors proxy statement (or information statement), if such statement is available.

Outline of Proposed Form 10–K

General Instructions

Part I

Item 1. Business.
Item 2. Properties.
Item 3. Legal Proceedings.

Part II

Item 4. Market for the Registrant's Securities and Statement of Dividend Policy.
Item 5. Selected Financial Data.
Item 6. Management's Discussion and Analysis of Financial Condition and Results of Operations.
Item 7. Financial Statements.

Part III

Item 8. Directors and Executive Officers of the Registrant.
Item 9. Management Remuneration and Transactions.
Item 10. Security Ownership of Certain Beneficial Owners and Management.

Part IV

Item 11. Exhibits and Reports on Form 8–K.
Signatures
Supplemental Information

Discussion of Items in Proposed Form 10–K Which are Unchanged From Current Form 10–K

Item 2. Properties. [Item 3 of Current Form 10–K]

Except for the numbering this Item is unchanged from the existing Item 3, "Properties."

A thorough analysis was made of Item 2 of Regulation S–K. Consideration was made of such factors as the comments received on the Item when it was originally proposed for comment in May of 1977, as well as comments received on the existing Form 10–K in the Commission's release of August 16, 1978.[16] Accordingly, on the bases of the careful work that went into drafting Item 2, the Commission's short experience with the Item (since March 31, 1978), and the importance of maintaining the integrity of Regulation S–K with its attendant value to the integration of Form 10–K into Securities Act filings, the Commission believes Item 2 should not be revised at this time.

Item 3. Legal Proceedings. [Item 5 of Current Form 10–K]

Except for the numbering the Item is unchanged from the existing Item 5, "Legal Proceedings." The underlying Regulation S–K Item 5, "Legal Proceedings," was recently adopted (July 28, 1978) [17] and the Commission accordingly does not believe it is necessary to revisit this disclosure at the present time.

Item 8. Directors and Executive Officers of the Registrant. [Item 14 of Current Form 10–K]

Item 9. Management Remuneration and Transactions. [Item 15 of Current Form 10–K]

Item 10. Security Ownership of Certain Beneficial Owners and Management. [Item 13 of Current Form 10–K]

All three of these items have recently been the subject of the comment process, Item 9 (Item 15 of current Form 10–K; also Item 4 of Regulation S–K) having been adopted as recently as December 4, 1978.[18] Certain aspects of these items are still being reconsidered at the present time. Accordingly, the Commission does not feel it appropriate or necessary to propose amending these Items at this time.

Discussion of Items in Current Form 10–K Which are Deleted from Proposed Form 10–K

Item 2. Summary of Operations

The basis for deleting this Item is contained in the discussion of the new replacement Item 5 relating to selected financial data. Briefly, however, it is proposed to delete this item as a consequence of two basic decisions. First, the Commission believes that five year information is relevant primarily where it can be related to trends in the registrant's business. The current summary is not limited to this type of

[16] Securities Exchange Act of 1934 Release No. 15088 (August 16, 1978) [43 FR 37460].
[17] Securities Act of 1933 Release No. 5949 (July 28, 1978) [43 FR 34402].
[18] Securities Act of 1933 Release No. 6003 [43 FR 58161].

information about trends. Second, as a result of the change of focus of Management's Discussion and Analysis to a discussion of the financial statements, the summary of operations is no longer the subject of that discussion. Therefore, its presentation is no longer needed.[19]

Item 4. Parents and Subsidiaries

While the Advisory Committee's Form 10–K contains only a "list of all subsidiaries" as contrasted with the more detailed parent and subsidiary disclosure of Item 4 of the existing Form 10–K, a number of commentators felt that the list of all subsidiaries should not be required. After consideration the Commission has determined that the value of parent and subsidiary data is not sufficient to warrant its inclusion in Form 10–K itself and accordingly proposes the deletion of Item 4. On the other hand, the Commission does believe that occasional references to this data may be useful. Accordingly, a new exhibit requiring a list of all subsidiaries in the form suggested by the Advisory Committee has been proposed.

Item 6. Increases and Decreases in Outstanding Securities and Indebtedness

Item 7. Changes in Securities and Changes in Security for Registered Securities

Item 8. Defaults Upon Senior Securities

Item 10. Submission of Matters to a Vote of Security Holders

Item 11. Indemnification of Directors and Officers

The above five Items were omitted by the Advisory Committee from their Form 10–K and were the subject of an express inquiry in release No. 34–15068 as to their usefulness. A significant number of commentators agreed with the Advisory Committee that all of these Items should be deleted, either because the information called for is not generally useful (this was felt to be particularly true of Item 12, Indemnification of Directors and Officers) or because the information is available elsewhere (i.e., in Form 10's or in the financial statements). Several commentators indicated that this information would have to be disclosed either in the text or in the notes to the financial statements, if material, even if there is no specific item requirement covering the particular event or transaction. The Commission agrees with these commentators and accordingly proposes omitting these items from the revised Form 10–K.

Item 9. Approximate Number of Equity Security Holders

This item has been deleted, but the substance has been added to new Item 9 of Regulation S–K, which deals with market information concerning the registrant's securities and the registrant's dividend policy. The Commission believes that the information concerning the number of security holders will have greater utility in this context.

Discussion of Proposed Form 10–K Items and Instructions which Are New or are Revised From Current Form 10–K

General Instruction D. Signatures and Filing of Report

This instruction is proposed to be expanded to require that the Form now be signed on behalf of the issuer by the registrant's principal executive officer or officers, its principal financial officer, its controller or principal accounting officer, and by a least the majority of the board of directors or persons performing similar functions.

While the Commission is aware that this proposed change constitutes a significant expansion of the existing signature requirements, it does not believe that this expansion will have substantial legal effect. In the Commission's view the persons who would be required to sign the revised form are presently legally responsible for the information content of the existing form. Although it does appear that in most cases these persons are aware of their present responsibilities, there have been cases where a lack of awareness may have existed. Accordingly, it is believed that the proposed signature requirement will enhance director awareness of and participation in the preparation of the Form 10–K information.[20]

The Commission believes that an enhanced quality of disclosure in the Form 10–K and in shareholder reports will be necessary if the integration of disclosure under the Securities Act and the Exchange Act is to be achieved in a successful manner. To some extent increased director participation in the preparation of these documents should contribute to this goal. The Commission acknowledges, however, that director participation alone may not be enough. In this regard, the Division of Corporation Finance has recently announced its intention to devote greater resources to a review of filings made under the Exchange Act, including in particular Form 10–K's.

General Instruction H. Form 10–K Information Required To Be Incorporated by Reference

Three proposed revisions are set forth in this instruction. The first revision requires that the financial statements and certain other disclosures called for by Rule 14a–3 (17 CFR 240.14a–3) [or Rule 14c–3(17 CFR 240.14c–3)] contained in the annual report to shareholders must be incorporated by reference into the Form 10–K.[21] The second requires that the proxy or information statement for election of directors must be incorporated by reference into the Form 10–K. The third requires that any annual report to shareholders or proxy statement (information statement) incorporated by reference must be furnished to everyone who receives a copy of the Form 10–K from the registrant.

The required incorporation by reference of the annual report to shareholders and proxy statement (information statement) is motivated by a desire to reduce the number of different documents companies must file, to concurrently reduce the number of documents the Commission staff must review, and to make portions of the annual report to shareholders available for use in connection with Securities Act filings. The policy behind the delivery requirement for the annual report to the shareholders and the proxy statement (information statement) is simply to assure adequate dissemination of the

[19] If the Summary of Operations is deleted from Form 10–K, it is anticipated that technical changes will be adopted which also delete the Summary of Operations from the various other forms where it appears. Examples would be deletion of Item 6 of Form S–1 under the Securities Act and Item 2 of Form 10 under the Exchange Act.

[20] The Commission, of course, is aware that specific signature requirements are imposed under Section 6(a) of the Securities Act and that the Exchange Act contains no corresponding specific signature provision. The Commission does not believe that this omission in the Exchange Act precludes signature requirements for Exchange Act reports. Indeed, signature requirements have long been imposed with respect to filings made under Section 13(a), including the Form 10–K. In this regard it should be noted that the proposed Form 10–K requires each person to sign on behalf of the registrant and indicates that each person separately shall set forth the position held with the registrant.

[21] Pursuant to the proposed revised Rule 14a–3 (Rule 14c–3) and Items 7 and 11 of this proposed new Form 10–K, all financial statements required by Regulation S–X shall be included in the annual report to security holders (which is then incorporated by reference into the Form 10–K) except: (1) separate financial statements of the registrant only (where consolidated financial statements of the registrant and its subsidiaries are included); (2) separate financial statements of subsidiaries not consolidated and fifty percent or less owned persons; (3) separate financial statements of consolidated majority owned subsidiaries of the registrant engaged in diverse financial activities; (4) separate financial statements of affiliates whose securities are pledged as collateral; and (5) financial statement schedules.

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information contained in those documents.

Item 1. Business

As presently constituted this item consists of the information required by Item 1 of the Regulation S–K, except that the discussion of the development of a registrant's business need only include developments since the beginning of the fiscal year.

It is proposed to amend paragraph (b) of Item 1 of S–K to reduce from five to three the number of years for which specific industry segment data must be supplied. This change is proposed to conform to the general decision to require financial statement and related information for a uniform three year period. Notwithstanding this proposed change, however, it should be noted that significant trend data might still be presented in the Selected Financial Data called for under Item 5 of the proposed Form 10–K, and some registrants might find it advisable to include five year selected segment data in that context.

A thorough analysis was made of the other provisions of Item 1 of Regulation S–K. Consideration was given to such factors as the comments received on the Item when it was originally proposed for comment in May of 1977, [23] as well as comments received on the existing Form 10–K in the Commission's release of August 16, 1978. While the terms of the Item are quite detailed and lengthy, a factor which has not gone unnoticed by some commentators, the actual disclosure required is not that rigid, as can be seen from an excerpt from part c(1) of the Item which provides: "The description of each such segment shall include the information specified in paragraphs (i) through (x) below *to the extent material to an understanding of the registrant's business taken as a whole.*" (Emphasis supplied). Accordingly, on the bases of the careful work that went into drafting Item 1, the Commission's short experience with the Item (since March 31, 1978), and the importance of maintaining the integrity of Regulation S–K into Securities Act filings, the Commission believes that no major revisions other than the one referred to above should be made at this time.

Notwithstanding the foregoing, however, the Commission believes that it would be appropriate for commentators to suggest any changes in the form or content of the business description which they may feel would be appropriate. In particular, commentators who do wish to suggest changes should consider the advisability of (1) requiring Item 1 disclosure to be included in annual reports to shareholders in its current form or as modified by proposed changes; or (2) conforming the present detailed segments reporting requirements in paragraph (b) of Item 1 to the similar but somewhat less extensive requirements in SFAS 14. [24]

Item 4. Market for the Registrant's Securities and Statement of Dividend Policy

Although this item is new to the Form 10–K and to Regulation S–K its contents are similar to that of paragraph (8) of Rule 14a–3 [17 CFR 240.14a–3] (which requires market price information to be included in the annual report to shareholders), to Guide 26 of the Guides for Preparation and Filing of Registration Statements under the Securities Act (which requires a statement of a registrant's dividend policy) and to Item 9 of present Form 10–K (which requires information as to the approximate number of equity security holders.) The language setting forth the proposed disclosure on market price information has been slightly amended to conform to identical disclosure requirements in Schedule 13E–3 (17 CFR 240.13e–100). Otherwise, the principal change which would be implemented if this item were adopted would be to move the item to Form S–K where it can more easily be referenced into other forms, if at a later date such a reference appears to be advisable.

The Commission is aware that the information requirements presently set forth in paragraph (8) of Rule 14a–3 (17 CFR 240.14a–3) have been criticized for not also requiring the presentation of industry or market data which may be used for comparison purposes. In light of this criticism the Commission would like commentators to consider whether the item should be expanded to require the presentation of market data either of a general nature or of an industry specific nature and whether, if such data were required, it should be presented in one or more specific graphic forms. For example, one such possibility might require the presentation in graphic form of individual company market data together with data relating to a standardized market performance index.

Item 5. Selected Financial Data

The summary of operations presently called for under Item 2 of Form 10–K has been deleted and in lieu thereof there has been inserted as Item 5 to the proposed form a requirement calling for Selected Financial Data. This new requirement is designed to present significant five year trend data relating to a registrant's revenues, income from continuing operations, liquidity and capital resources. Although a registrant would be permitted to include other financial information in addition to that specified, it would be expected that any presentation of additional information would not unnecessarily emphasize income or revenues as opposed to liquidity or capital resources.

The deletion of the present summary and the substitution of selected financial data reflects the Commission's concern that operations summaries have duplicated information otherwise available in income statements, have not presented significant trend information and may have unduly emphasized income over other enterprise performance measures. The Commission recognizes that a detailed specification of the contents or format of a summary might not cure the perceived deficiences. Accordingly, it is hoped that the proposal will strike a reasonable balance between specified content and a flexible approach which permits registrants to select that data which best indicates performance. In particular, those registrants who present the information relating to the impact of inflation and current prices on their business required by SFAS 33 [24] would be encouraged to combine the summary information required by SFAS 33 with the information by the proposed new item.

To a great extent the revised selected financial data follows the format suggested by the Advisory Committee and presented in Release 34–15068. The few revisions included have been made in response to the commentators' requests for increased flexibility in the form and content of the presentation. In particular, instructions relating to working capital have been included in response to suggestions that a traditional working capital measure may not always be appropriate for all businesses.

Item 6. Management's Discussion and Analysis of Financial Condition and Results of Operations

The proposed Form 10–K incorporates an entirely restructured management's discussion and analysis. Additionally, this item has been moved from the

[23] Securities Act of 1933 Release No. 5828 (May 10, 1977) [42 FR 28010]

[24] "Financial Reporting For Segments of A Business Enterprise."

[24] "Financial Reporting and Changing Prices."

Guides to become new Item 9 in Regulation S–K. [25]

The major features of the new proposal are as follows:

(1) The discussion is to be focused on the financial statements, and is no longer centered upon a summary of operations. Indeed, as has been indicated above, the summary of operations has been eliminated.

(2) The new item calls for inclusion in the discussion of three financial aspects of the registrant's business—liquidity, capital resources and results of operations.

(3) Within each area of the discussion there is emphasis upon favorable or unfavorable trends and upon the identification of significant events or uncertainties.

(4) Segment information is required only if, in the registrant's judgment, it is appropriate to an understanding of the registrant's business.

(5) Information concerning the effects of inflation and changing prices is required. However, those registrants which also are required to comply with SFAS 33 relating to the same subject may satisfy both the SFAS 33 requirements and the requirements of the proposed item with a single presentation.

(6) The percentage tests and line by line analysis encouraged by the present requirements contained in Guides 1 and 22 have been eliminated. However, instruction 4 to the proposed item does indicate that the causes for material changes in line items should be discussed.

(7) The new item would not specifically require projections or other forward-looking information, although instruction 7 would encourage the presentation of this type of information on a voluntary basis.

(8) No specific provisions with respect to the location of management's discussion have been included, except for the general requirement that the discussion must be included within the annual shareholders report.

The Commission is concerned that the disclosure elicited by the present requirements of Guides 1 and 22 is not fulfilling originally contemplated objectives. A statement of corporate objectives can be helpful to investors. The management discussion and analysis affords to management an opportunity to discuss the implication of numerical results on a realistic basis. In general, however, a disclosure format has developed whereby a discussion of implications is not presented. Instead, the percentage tests are applied without regard to any concept of materiality or significance to the registrant's business. Accordingly although some portions of the resulting discussion may be meaningful, the meaningful discussion is obscured by the inclusion of material which is of little relevance.

Secondly, the Commission is concerned that the focus of the requirements of Guides 1 and 22 is too narrow. In today's environment there is a growing need to analyze enterprise liquidity and capital resources, in addition to revenues and income. The narrow approach presently set forth in Guides 1 and 22 does not necessarily produce a discussion which will focus upon the financial condition of the enterprise as a whole.

Finally, the Commission, as it has indicated on a number of occasions, is concerned about the adequacy of disclosures with respect to the impact of inflation and changing prices on individual registrant's businesses. Although the Commission does not believe that it would be appropriate at this time to expand the applicability of SFAS 33 beyond that established by the Financial Accounting Standards Board, it does believe that all registrants, including those which are not required to present SFAS 33 information, should make some textual presentation with respect to these matters. In this regard the Commission believes that management's discussion and analysis should focus on translating what some believe to be potentially confusing information into a meaningful discussion of the effects of changing prices on the registrant's business. In some cases those registrants which are required to report under 33 may determine to display data in addition to that required in order to make the required data more meaningful. In any event, however, all registrants should take advantage of the opportunity to present the additional quantitative and qualitative information that they believe will be useful to investors in evaluating their companies.

The Commission believes that the revised discussion and analysis will be responsive to at least some of the concerns raised by the commentators in response to specific inquiries numbered 9, 10 and 11 set forth in Release No. 34–15068. For example, the commentators generally favored a structure that would broaden the scope of the analysis and which would eliminate the percentage tests. There were, however, dissenters from this view who felt that such a broadening of scope or the elimination of the percentage tests would leave registrants with insufficient guidance as to the matters requiring discussion. The revised proposal indicates the Commission's concurrence with the majority view. In response to the concerns of the minority, though, considerable detail as to the matters to be discussed has been included.

The commentators responding to Release No. 34–15068 also resisted the suggestion that the location of management's discussion should be specified. Again, the current proposals would follow the majority view. The Commission believes, however, in light of the new focus and substantial changes in the item, that it would be appropriate for the commentators to again address the issue as to whether or not a specific location of management's discussion and analysis should be prescribed.

The Commission is aware that several of the concepts included in the revised item may be controversial and that the proposed item requires the discussion of complex questions where no definitive answers may be available. Accordingly, it may be helpful for the commentators to address alternatives which might better achieve the Commission's goals or which would eliminate some of the controversy or complexity without decreasing the usefulness of the proposed discussion. In particular, commentators should address the following issues:

(1) In light of the fact that working capital is not always an appropriate measure of liquidity, should the Commission be more specific as to possible alternative presentations which would describe a registrant's liquidity position? If so, what alternatives should be offered?

(2) Is the requirement as to the presentation of segment information appropriate? Should this requirement be deleted or, conversely, should it be expanded?

In presenting comments it is hoped that the basic objectives of the revised discussion will be recognized. The management discussion gives the registrant an unusual opportunity to articulate its objectives and financial policies; to describe where it is headed and how it hopes to get there; and to establish and maintain credibility. Included in the management discussion should be factors about the particular business which management is in the best position to know. For each business, there is a limited set of critical variables which presents the pulse of the business. Management is in the best position to know what it is about its company that is important to the users

[25] Should the approach be adopted with regard to the Form 10–K it is expected that the new Item 9 of Regulation S–K will also be made a part of other Securities Act and Exchange Act forms, such as Form S–1 and Form 10.

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of its reports, and management need not await the development of specific disclosure requirements by the Commission.

Item 7. Financial Statements

Concurrently with the publication of this release the Commission, under cover of a separate release, has proposed for comment uniform financial statement instructions and various amendments to Regulation S–X which are designed to facilitate the implementation of the proposed integrated disclosure system.[26] Although reference should be made to the two releases setting forth these proposals for full details, the principal goals of the proposed amendments are to adopt uniform three year income statement and statement of changes in financial position and two year balance sheet requirements for all registration forms and to eliminate, to the extent possible, the differences between the requirements of generally accepted accounting principles and those of Regulation S–X.

Although the Commission will consider these issues separately in the context of the two accounting releases, commentators should be aware that the issues raised by those releases are intimately related to those raised by the proposed amendments to Form 10–K.

Item 11. Exhibits and Reports on Form 8–K

Recently in Release No. 33–6149 [27] the Commission proposed extensive revisions in the general exhibit requirements applicable to all forms including the Form 10–K. The proposed form set forth below assumes the adoption of the proposed exhibit changes. Naturally, should the Commission decide not to implement some or all of the proposed exhibit changes a corresponding revision would be made in proposed Item 11. An addition has been made to this Item as proposed in Release No. 33–6149 to require that the financial statements and schedules which are required in the Form 10–K but which are not required in the annual report to shareholders pursuant to Rule 14a–3 (or Rule 14c–3), be filed as exhibits to the Form. The purpose of this change is to facilitate integration of the annual report to shareholders and the Form 10–K.

Finally, a new exhibit requiring the preparation of a list of the registrant's subsidiaries and setting forth limited data concerning subsidiaries has been added to the proposed new Item 6, Exhibits, of Regulation S–K. This list replaces Item 4 in the present Form 10–K. It is contemplated that this list would be repeated in each annual filing or an express reference to the most recent list filed would be included.

Amendments to Rule 14a–3 and Rule 14c–3—Discussion

The proposed changes in Rule 14a–3 and Rule 14c–3 are minimal and are basically technical in nature, that is, they are made to reflect other substantive rule and regulation amendments proposed in this release and the two accounting releases.[28] Subparagraphs (b)(1), (b)(2), and (b)(3) of Rule 14a–3 and subparagraphs (a)(1), (a)(2), and (a)(3) of Rule 14c–3 are amended to reflect the proposed new uniform Regulation S–X financial statement instructions. Subparagraph (b)(4) of Rule 14a–3 and subparagraph (a)(4) of Rule 14c–3 are revised to delete the reference to the summary of operations and to replace it with proposed Items 10 and 11 of Regulation S–K, Selected Financial Data and Management's Discussion and Analysis of Financial Condition and Results of Operations, respectively. The disclosure presently contained in subparagraph (b)(8) of Rule 14a–3 and subparagraph (a)(8) of Rule 14c–3 is deleted and a reference to the new Regulation S–K Item 9, Market Price of the Registrant's Securities and Statement of Dividend Policy, which is a revised and expanded version of that subparagraph, is inserted. Subparagraph (b)(9) of Rule 14a–3 and subparagraph (a)(9) of rule 14c–3 is expanded to indicate that if a registrant prepares an annual report to shareholders which meets all the Form 10–K disclosure requirements, it need not also supply a Form 10–K to requesting shareholders. Finally, subparagraph (c) of rule 14a–3 and subparagraph (b) of Rule 14c–3 are revised to reflect the fact that General Instruction H to the proposed Form 10–K requires that certain information from the annual report to shareholders be incorporated by reference into the Form 10–K and that such parts of the annual report are therefore "filed" for purposes of Section 18 of the Exchange Act.

Amendments to Guides for Preparation and Filing of Reports and Registration Statements Under the Securities Exchange Act of 1934

Guide No. 1 Summary of Operations

If the proposal to delete Item 2, Summary of Operations, from the Form 10–K is adopted, appropriate deletions would also be made from other Exchange forms and this Guide would be concurrently rescinded.

Guide No. 4 Integrated Reports to Shareholders

Depending upon the proposed changes to Form 10–K that are finally adopted, corresponding changes may be made in this Guide.

Amendments to Guides for Preparation and Filing of Registration Statements Under the Securities Act of 1933

Guide No. 22 Summary of Operations

If the proposal to delete Item 2, Summary of Operations, from the form 10–K is adopted, appropriate deletions would be made from other Securities Act forms and this Guide would be concurrently rescinded.

Guide No. 28 Statement of Dividend Policy

If proposed Item 9 of Regulation S–K, Market Price of the Registrant's Securities and Statement of Dividend Policy, is adopted, this Guide would be concurrently rescinded.

Text of Proposed Form and Rules

17 CFR Chapter II is proposed to be amended as follows:

1. By amending § 249.310 to read as follows:

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

§ 249.310 Form 10–K, annual report pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

General Instructions

* * * * *

C. Preparation of Report.

(a) This form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the report on paper meeting the requirements of Rule 12b–12. Except as provided in General Instruction H, the report shall contain the item numbers and captions of all items but the text of such items may be omitted. The answers to the items shall be prepared in the manner specified in Rule 12b–13.

* * * * *

D. Signature and Filing of Report.

* * * * *

The report shall be signed by the registrant, and on behalf of the registrant by its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer, and by at least the majority of the board of directors or persons performing similar functions. If the registrant is a foreign person, the registration statement shall also be signed by its authorized representative in the United States. The name of each person who signs the report shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the report.

* * * * *

H. Form 10–K Information Required to be Incorporated by Reference.

(a) The information called for by Part II of this form (Items 4 through 7) shall be incorporated by reference from the registrant's annual report to security holders furnished to the Commission pursuant to Rule 14a–3(b) or Rule 14c–3(a). The information so incorporated by reference shall be furnished to everyone who receives a copy from the registrant of its Form 10–K (except for security holders who have previously received the incorporated information).

(b) The information called for by Part III (Items 8 through 10) shall be incorporated by reference from the registrant's definitive proxy statement (filed pursuant to Regulation 14A) or definitive information statement (filled pursuant to Regulation 14C) which involves the election of directors. However, the information regarding executive officers called for by Item 3 of Regulation S–K may be included in Part I of Form 10–K. *See* Instruction 4 to Item 3(b) of Regulation S–K (17 CFR 229.20). The Part III information may, at the option of the registrant, be filed as an amendment to the report not later than 120 days after the end of the fiscal year covered by the report. Such amendment shall be filed under cover of Form 8. The information so incorporated by reference shall be furnished to everyone who receives from the registrant a copy of its Form 10–K (except for security holders who have previously received the incorporated information).

(c) The information required by Part I of this form (Items 1 through 3) may, at the registrant's option, be incorporated by reference from the registrant's annual report to security holders furnished to the Commission pursuant to Rule 14a–3(b) or Rule 14c–3(a).

(d) If, at the time the Form 10–K is due, the registrant is not required to furnish the Commission with an annual report to security holders pursuant to Rule 14a–3(b) or Rule 14c–3(a) or a proxy statement pursuant to Regulation 14A or an information statement pursuant to Regulation 14C which involves the election of directors, the information required by Parts II and III of this form (Items 4 through 10) shall be set forth in the form.

(e) No item numbers or captions of items need be contained in the material incorporated by reference into the report. However, the registrant's attention is directed to Rule 12b–23(e) regarding the specific disclosure required in the report concerning information incorporated by reference. When the registrant combines all of the information in Parts I and II of this form (Items 1 through 7) by reference from the registrant's annual report to security holders furnished to the Commission pursuant to Rule 14a–3(b) or Rule 14c–3(a) and all of the information in Part III of this form (Items 8 through 10) by reference from a definitive proxy statement or information statement involving the election of directors, then notwithstanding General Instruction C(a), this form shall consist of the facing page, the annual report to security holders, the proxy or information statement and the information, if any, required by Part IV of this form, signatures, and a cross reference sheet setting forth the item numbers and captions in Parts I, II and III of this form and the page or pages in the referenced materials where the corresponding information appears.

* * * * *

J. Issuers Filing on Form S–18.

If the issuer . . . in lieu of the information called for by Item 1, Business, and Item 9, Management Remuneration and Transactions, herein. Item 5, Selected Financial Data, may be omitted at the election of such issuer.

* * * * *

K. Omission of Information by Certain Wholly-Owned Subsidiaries.

(a) * * *

(1) All of the registrant's equity securities . . . as applicable, and which is named in conjunction with the registrant's description of its business;

(b) * * *

(1) Such registrants may omit the information called for by Item 5, Selected Financial Data, and Item 6, Management's Discussion and Analysis of Financial Condition and Results of Operations . . . .

(2) Such registrants may omit the list of subsidiaries exhibit called for by Item 6 of Regulation S–K (17 CFR 229.20).

(3) Such registrants may omit the information called for by the following otherwise required Items: Item 8, Directors and Executive Officers of the Registrant; Item 9, Management Remuneration and Transactions; and Item 10, Security Ownership of Certain Beneficial Owners and Management.

(4) In response to Item 1 . . . and in response to Item 2, Properties . . . .

Part I

[See General Instruction H(c)]

* * * * *

Item 2. Properties.

Information relating to properties shall be furnished in accordance with the provision of Item 2 of Regulation S–K (17 CFR 229.20).

Item 3. Legal Proceedings.

The description of legal proceedings shall include the information required by Item 5 of Regulation S–K (17 CFR 229.20).

Part II

[See General Instruction H(a)]

Item 4. Market for the Registrant's Securities and Statement of Dividend Policy.

Information relating to the market for the registrant's securities and the statement of dividend policy shall be furnished in accordance with the provisions of Item 9 of Regulation S–K (17 CFR 229.20).

Item 5. Selected Financial Data.

Selected financial data shall be furnished in accordance with the provisions of Item 10 of Regulation S–K (17 CFR 229.20).

Item 6. Management's Discussion and Analysis of Financial Condition and Results of Operations.

The management's discussion and analysis of financial condition and results of operations shall be furnished in accordance with the provisions of Item 11 of Regulation S–K (17 CFR 229.20).

Item 7. Financial Statements.

Financial statements meeting the requirements of Regulation S–X (17 CFR 210.1–02) shall be filed. Financial statements of the registrant and its subsidiaries consolidated [as required by Rule 14a–3(b)] shall be filed under this Item. Other financial statements and schedules required under Regulation S–X shall be filed as an exhibit pursuant to Item 11, Exhibits and Reports on Form 8–K, of this Form.

Part III

[See General Instruction H(b)]

Item 8. Directors and Executive Officers of the Registrant.

The description of directors and executive officers shall include the information required by Item 3 of Regulation S–K (17 CFR 229.20).

Item 9. Management Remuneration and Transactions.

The description of remuneration of directors and officers shall include the

[26] Securities Act Release Nos. 6178 and 6179, January 15, 1980.

[27] November 16, 1979 [44 FR 67143].

[28] Securities Act Release Nos. 6178 and 6179, January 15, 1980.

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information required by Item 4 of Regulation S–K (17 CFR 229.20).

Item 10. Security Ownership of Certain Beneficial Owners and Management.

The description of principal security holders and security holdings of management shall include the information required by Item 6 of Regulation S–K (17 CFR 229.20).

Part IV

Item 11. Exhibits and Reports on Form 8–K.

(a) * * *

(2) Exhibits, as required by Item 8 of Regulation S–K (17 CFR 229.20).

(b) * * *

(c) Registrants shall file, as exhibits to this Form, the financial statements required by Regulation S–X which are excluded from the annual report to shareholders by Rule 14a–3(b)(1), including (1) separate financial statements of the registrant only (where consolidated financial statements of the registrant and its subsidiaries are included); (2) separate financial statements of subsidiaries not consolidated and fifty percent or less owned persons; (3) separate financial statement of consolidated majority-owned subsidiaries of the registrant engaged in diverse financial activities; (4) separate financial statements of affiliates whose securities are pledged as collateral; and (5) financial statement schedules.

Signatures

[See General Instruction D]

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

(Registrant) _____

By (Signature and Title)* _____

Date _____

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

(Signature and Title)* _____

(Date) _____

* * * * *

(Signature and Title)* _____

(Date) _____

* Print the name and title of each signing officer and director under his signature.

Supplemental Information To Be Furnished With Reports Filed Pursuant to Section 15(d) of the Act by Issuers Which Have Not Registered Securities Pursuant to Section 12 of the Act

* * * * *

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATIONS S–K

* * * * *

§ 229.20 [Amended]

2. By amending § 229.20 to amend Item 1 to read as follows:

Item 1. Description of business

(a) * * *

(b) Financial information about industry segments.

(1) Industry segments. State for each of the registrant's last three fiscal years or for each fiscal year the registrant has been engaged in business, whichever period is shorter * * *

* * * * *

3. By amending § 229.20 to amend Item 8 [as proposed in Securities Act of 1933 Release No. 6149 (November 16, 1979)] to read as follows:

Item 8. Exhibits.

(a) * * *

Table II Securities Exchange Act of 1934—Frequently Used Forms

* * * * *

(21) Subsidiaries of the registrant 10–K/x

(b) * * *

(21) List all subsidiaries of the registrant, the state or other jurisdiction of incorporation or organization of each, and the names under which such subsidiaries do business.

* * * * *

4. By amending § 229.20 by adding Item 9 to read as follows:

Item 9. Market price of the registrant's securities and statement of dividend policy.

Identify the principal market or markets in which the registrant's securities are being traded and, if a principal market for a class of securities is an exchange, state the high and low sales prices for the securities as reported in the consolidated transaction reporting system or, if not so reported, on such principal exchange for each quarterly period during the past two years. If the principal market for a class of securities is not an exchange, state the range of high and low bid quotations for each quarterly period during the past two years, the source of such quotations and, if there is no market for such securities (excluding limited or sporadic quotations), furnish a statement to that effect.

Set forth the approximate number of holders of each class of equity securities of the registrant as of a recent date.

State the frequency and amount of any dividends paid during the past two years with respect to each class of equity securities and briefly describe any restriction on the issuer's present or future ability to pay such dividends.

Instructions

1. Information need not be given with respect to outstanding non-transferable options and interests in employee plans or with respect to classes of securities which neither are registered under section 12 of the Exchange Act nor have given rise to a reporting requirement under section 15(d) of the Exchange Act.

2. The computation of the approximate number of holders of a class of equity securities may be based upon the number of record holders or may also include individual participants in security position listings. *See* Rule 17Ad–8 (17 CFR 240.17Ad–8). The method of computation which is chosen should be indicated.

3. Where a registrant has a record of paying no dividends although earnings indicate an ability to do so, the registrant should consider the question of its intention to pay cash dividends in the foreseeable future, and if no such intention exists, a statement of that fact should be set forth in the filing. Registrants which have a history of paying dividends are also strongly encouraged to indicate whether dividends will continue to be paid in the future. Such forward-looking information is expressly covered by the safe harbor rule for projections. *See* Securities Act Release No. 6084 (June 25, 1979) [44 FR 38810].

5. By amending § 229.20 by adding Item 10 to read as follows:

Item 10. Selected financial data.

Furnish in comparative columnar form a summary of selected financial data for the registrant, for

(1) each of the last five fiscal years of the registrant (or for the life of the registrant and its predecessors, if less), and

(2) any additional fiscal years necessary to keep the summary from being misleading.

Instructions

1. The purpose of the summary of selected financial data shall be to supply in a convenient and readable format selected data which highlights significant trends in the registrant's financial condition and results of operations.

2. Subject to appropriate variation to conform to the nature of the registrant's business, the following items shall be included in the summary: net sales or operating revenues; income (loss) from continuing operations; income (loss) from continuing operations per common share; working capital (except as is indicated in Instruction 3); total assets; and long-term obligations (including long-term debt, capital leases and redeemable preferred stock as defined in ASR 268) and cash dividends declared per common share. Registrants may include additional items which they believe would enhance an understanding of and would highlight trends in their financial condition and results of operations.

3. If the registrant believes that working capital is not a meaningful measure of liquidity, working capital may be omitted from the summary and in lieu thereof some other indicator or indicators shall be included.

4. Those registrants which are required to provide five year summary information in accordance with SFAS 33 may combine such information with the selected data and may modify the information presented to conform to the requirements of SFAS 33.

5. All references to the registrant in the summary and in these instructions shall mean the registrant and its consolidated subsidiaries.

6. By amending §229.20 by adding Item 11 to read as follows:

Item 11. Management's discussion and analysis of financial condition and results of operations.

Discuss registrant's financial condition, changes in financial condition and results of operations. The discussion shall provide information as specified in paragraphs (a), (b) and (c) of this section with respect to liquidity, capital resources and results of operations, and may provide such other information which the registrant believes to be relevant to an understanding of its financial condition, changes in financial condition and results of operations. Where in the registrant's judgment a discussion of segment information would be appropriate to an understanding of the registrant's business, the discussion should focus on each reportable segment of the business and on the registrant as a whole.

(a) *Liquidity.*

State registrant's views of the extent to which working capital (the excess of current assets over current liabilities) is an appropriate indicator of the liquidity of its business. If working capital is not an appropriate indicator, state the basis or bases used by the registrant to measure its liquidity. Identify any known trends or any unusual demands, commitments, events or uncertainties resulting in or which are reasonably likely to result in liquidity increasing or decreasing in any material way. If a deficiency is identified, indicate the course of action which the registrant proposes to take to remedy the deficiency. Identify the separately describe internal and external sources of liquidity, and identify any unused sources of liquidity.

(b) *Capital resources.*

Describe any favorable or unfavorable trends in the registrant's capital resources. Indicate any changes in the mix and the relative cost of such resources. This discussion should consider changes between equity, debt and any off balance sheet financing arrangements.

Describe the registrant's material commitments for capital expenditures as of the end of the latest fiscal period, and indicate the general purpose of such commitments and the anticipated source of funds needed to fulfill such commitments.

(c) *Results of operations.*

Describe any unusual or infrequent events or transactions or any significant economic changes which materially affected the amount of reported income from continuing operations and, in each case, indicate the extent to which income was so affected. In addition, describe any other significant components of revenues or expense which, in the registrant's judgment, should be described in order to understand the registrant's results of operations.

Describe any identified trends or uncertainties which have had or which the registrant expects will have a favorable or unfavorable impact on net sales or revenues or income from continuing operations. If the registrant knows of events which will cause a material change in the relationship between costs and revenues (such as known future increases in costs of labor or materials or price increases or inventory adjustments) the change in the relationship should be disclosed.

To the extent that the financial statements disclose material increases in net sales or revenues, indicate the extent to which such increases are attributable to increases in prices or to increases in the volume or amount of goods or services being sold or to the introduction of new products or services.

For the most recent three year period, indicate the effect of inflation and changing prices on the registrant's net sales and revenues and on income from continuing operations.

Instructions.

1. The registrant's discussion and analysis should be of the financial statements and of other statistical data which the registrant believes will enhance a reader's understanding of financial condition, changes in financial condition or results of operations. Generally, the discussion should cover the three year period covered by the financial statements. However, where trend information is relevant, reference to the five year selected financial data appearing elsewhere may be helpful.

2. The purpose of the discussion and analysis should be to provide to investors and other users information relevant to an assessment of the financial condition and results of operations of the registrant as determined by evaluating the amounts and certainty of cash flows from operations and, if material, from outside sources. The information provided should include that which is available to the registrant without undue effort or expense but which is not obvious from the registrant's financial statements.

3. The registrant's discussion and analysis should specifically focus on events and uncertainties known to management which would cause reported financial information not to be necessarily indicative of future operating results or of future financial condition. This would include description and amounts of (a) matters which could have an impact on future operations and have not had an impact in the past, and (b) matters which have had an impact on reported operations and are not expected to have an impact upon future operations. When focusing on unusual events or transactions or significant economic changes the registrant should consider such items as unusually large promotion or research and development expenses or large price increases or decreases in basic resources.

4. Where the consolidated financial statements reveal material changes from year to year in one or more line items, the causes for the changes should be described; *provided, however,* if the causes for a change in one line item also relate to other line items, no repetition is required. Registrants need not recite the amounts of changes from year to year which are readily computable from the financial statements. The discussion should not merely repeat numerical data contained in the consolidated financial statements.

5. The term "liquidity" as used in paragraph (a) of this section refers to an

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assessment of the ability of an enterprise to generate adequate amounts of cash to meet the enterprise's needs for cash. Liquidity should be assessed on both a long-term and short-term basis. Since liquidity relates directly to cash flows, it is recognized that balance sheet indicators such as "working capital" or "quick assets" may be inadequate. Registrants are asked to address the issue of liquidity in the context of their business or businesses. If the registrant believes that working capital may be a misleading measure of its liquidity, working capital need not be discussed but in lieu thereof some other indicator or indicators shall be presented.

6. Registrant's discussion of results of operations should identify any significant elements of the registrant's income or loss from continuing operations which do not arise from or are not necessarily representative of the registrant's ongoing business. Such items might include unusually large promotion or research and development expenses, unusually high or low export activities, identifiable costs associated with a business interruption caused by labor strikes or other events, or significant gains or losses from disposition of assets.

7. Registrants are encouraged but are not required to address future periods. It should be noted, however, that the disclosure of presently existing firm commitments for future material expenditures may be required, and such information should be distinguished from planned and uncommittted expenditures. Such forward-looking information is expressly covered by the safe harbor rule for projections. *See* Securities Act Release No. 6084 (June 25, 1979) [44 FR 38810].

8. Registrants which are required to provide explanations of supplementary information disclosed in accordance with SFAS 33 may combine such explanations with the registrant's discussion and analysis required pursuant to this provision. If such statement is combined, the supplementary information required by SFAS 33 shall be located in reasonable proximity to the discussion and analysis.

9. Registrants which are not required to provide explanations of supplementary information disclosed in accordance with SFAS 33 may discuss the effects of inflation and changes in prices in whatever manner appears appropriate under the circumstances. Although voluntary compliance with SFAS 33 is encouraged, it is not required.

10. All references to the registrant in the discussion and in these instructions shall mean the registrant and its consolidated subsidiaries.

7. By amending § 240.14a–3 to read as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

§ 240.14a–3 Information to be furnished to security holders.

* * * * *

(b) * * *

(1) The report shall include the financial statements required by Regulation S–X for the registrant and its subsidiaries consolidated. Any financial statement schedules or exhibits which may otherwise be required in filings with the Commission may be omitted. Investment companies registered under the Investment Company Act of 1940 need include financial statements only for the last fiscal year.

(2) Financial statements and notes thereto shall be presented in roman type at least as large and as legible as 10-point modern type. If necessary for convenient presentation, the financial statements may be in roman type as large and as legible as 8-point modern type. All type shall be leaded at least 2-point.

(3) The report shall contain the supplementary financial information specified by Item 12 of Regulation S–K (17 CFR 229.20).

(4)(i) The report shall contain selected financial data in accordance with the provisions of Item 10 of Regulation S–K (17 CFR 229.20).

(ii) The report shall contain management's discussion and analysis of the issuer's financial condition and results of operations in accordance with the provisions of Item 11 of Regulation S–K (17 CFR 229.20).

* * * * *

(8) The report shall contain the market price of the issuer's securities and its statement of dividend policy in accordance with the provisions of Item 9 of Regulation S–K (17 CFR 229.20).

(9) * * * If the issuer's annual report to security holders complies with the the disclosure requirements of Form 10–K and is filed with the Commission in satisfaction of its Form 10–K filing requirements, such issuer need not furnish a separate Form 10–K to security holders who receive a copy of such annual report.

Note: * * *

* * * * *

(c) Seven copies of the report sent to security holders pursuant to this rule shall be mailed to the Commission, solely for its information, not later than the date on which such report is first sent or given to security holders or the date on which preliminary copies of solicitation material are filed with the Commission pursuant to Rule 14a–6(a), whichever date is later. The report is not deemed to be "soliciting material" or to be "filed" with the Commission or subject to this regulation otherwise than as provided in this rule, or to the liabilities of Section 18 of the Act, except to the extent that the issuer specifically requests that it be treated as a part of the proxy soliciting material or incorporates it in the proxy statement or other filed report by reference.

8. By amending § 240.14c–3 to read as follows:

§ 240.14c–3 Annual report to be furnished to security holders.

(a) * * *

(1) The report shall include the financial statements required by Regulation S–X for the registrant and its subsidiaries consolidated. Any financial statement schedules or exhibits which may otherwise be required in filings with the Commission may be omitted. Investment companies registered under the Investment Company Act of 1940 need include financial statements only for the last fiscal year.

(2) Financial statements and notes thereto shall be presented in roman type at least as large and as legible as 10-point modern type. If necessary for convenient presentation, the financial statements may be in roman type as large and as legible as 8-point modern type. All type shall be leaded at least 2-point.

(3) The report shall contain the supplementary financial information specified by Item 12 of Regulation S–K (17 CFR 229.20).

(4)(i) The report shall contain selected financial data in accordance with the provisions of Item 10 of Regulation S–K (17 CFR 229.20).

(ii) The report shall contain management's discussion and analysis of the issuer's financial condition and results of operations in accordance with the provisions of Item 11 of Regulation S–K (17 CFR 229.20).

* * * * *

(8) The report shall contain the market price of the issuer's securities and its statement of dividend policy in accordance with the provisions of Item 9 of Regulation S–K (17 CFR 229.20).

(9) * * * If the issuer's annual report to security holders complies with the disclosure requirements of Form 10–K and is filed with the Commission in satisfaction of its Form 10–K filing requirements, such issuer need not furnish a separate Form 10–K to security holders who receive a copy of such annual report.

Note: * * *

* * * * *

(b) Seven copies of the report sent to security holders pursuant to this rule shall be mailed to the Commission, solely for its information, not later than the date on which such report is first sent or given to security holders or the date on which preliminary copies of the information statement are filed with the Commission pursuant to Rule 14c–5, whichever date is later. The report is not deemed to be "filed" with the Commission or subject to this regulation otherwise than as provided in this rule, or to the liabilities of Section 18 of the Act, except to the extent that the issuer specifically requests that it be treated as a part of the information statement or incorporates it in the information statement or other filed report by reference.

Comments

Any interested persons wishing to submit written comments on the proposals, as well as on other matters which might have an impact upon the proposals contained herein, are invited to do so. Mindful of its responsibilities to weigh with care the costs and benefits which result from its rules and form requirements, the Commission specifically invites comments on the cost to registrants and others of these proposals. In light of Section 23(a)(2) of the Exchange Act, the Commission also specifically invites comments as to any competitive impact of any changes in the disclosure requirements.

Authority

The amendments to the forms and guides prescribed under the Securities Act of 1933 are being proposed pursuant to the authority in Sections 6, 7, 8, 10 and 19(a) of the Act. The amendments to Rule 14a–3, Rule 14c–3, and the forms and guides prescribed under the Securities Exchange Act of 1934 are being proposed pursuant to the authority in Sections 12, 13, 15(d) and 23(a) of that Act. The amendments to Regulation S–K are being proposed pursuant to all of the 1933 and 1934 Act provisions referred to above.

(Secs. 6, 7, 8, 10, and 19(a), 48 Stat. 78, 79, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; sec. 308(a)(2), 90 Stat. 57; secs. 12, 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901; secs. 1, 8, 49 Stat. 1375, 1379; sec. 203(a), 49 stat. 704; sec. 202, 68 Stat. 686; secs. 3, 4, 6, 78 Stat. 565–568, 569, 570–574; secs. 1, 2, 82 Stat. 454; sec. 28(c), 84 Stat. 1435; secs. 1, 2, 84 Stat. 1497; sec. 105(b), 88 Stat. 1503, secs. 8, 9, 10, 89 Stat. 117, 118, 119; sec. 306(b), 90 Stat. 57; secs. 202, 203, 204, 91 Stat. 1494, 1498, 1499, 1500; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78*l*, 78m, 780(d), 78w(a))

By the Commission.

George A. Fitzsimmons,

Secretary.

January 15, 1980.

[FR Doc. 80–2025 Filed 1–23–80; 8:45 am]

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federal register

Thursday
January 24, 1980

Part III

Environmental Protection Agency

Proposed High-Altitude Emission Standards for 1982 and 1983 Model Year Light-Duty Motor Vehicles

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL-1378-5; Docket No. A-79-14]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Proposed High-Altitude Emission Standards for 1982 and 1983 Model Year Light-Duty Motor Vehicles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The EPA is proposing to establish new exhaust and evaporative emission standards which are mandatory for 1982 and 1983 model year light-duty vehicles (LDVs) and light-duty trucks (LDTs) when sold for principal use at altitudes above 4,000 feet (1,219 meters). The Agency expects to promulgate, in the near future, a voluntary program for compliance with these standards by 1981 model year LDVs and LDTs. These vehicles shall be capable of complying with the applicable high altitude standards if tested at 5,400 feet (1,650 meters). Beginning in the 1982 model year, all vehicles manufactured for sale in the United States shall comply with these high-altitude standards or be capable of being modified to do so. All vehicles sold for principal use at high altitude must be in the configuration that provides for compliance with the high-altitude standards. Exemptions are to be allowed for low-power, high-fuel economy vehicles designed for use at low altitude and incapable of safe operation at high altitudes. The vehicle certification procedure proposed in this regulation requires manufacturers to assure compliance at 1,650 meters (5,400 feet).

DATES: EPA will hold two days of public hearings in Denver, Colorado, beginning at 9:30 a.m. (30 days or more after this Notice of Proposed Rulemaking is published in the **Federal Register**). Additional information on the hearing is contained in the Supplementary Information section of this NPRM.

EPA will consider comments received on or before 30 days from the date of the public hearing.

ADDRESSES: Interested persons may participate in this rulemaking by submitting written comments to: U.S. Environmental Protection Agency, Central Docket Section (A-130), ATTN: A-79-14, Waterside Mall, Room 2903B (EPA Library), 401 M Street SW., Washington, D.C. 20460.

Copies of material relevant to this rulemaking action are contained in Public Docket No. A-79-14 at the U.S. Environmental Protection Agency, Central Docket Section, Waterside Mall, Room 2903B (EPA Library), 401 M Street SW., Washington, D.C. 20460. The docket may be inspected between the hours of 8:00 a.m. to 4:00 p.m., Monday through Friday. A reasonable fee may be charged for copying services.

The exact location of the public hearing will be announced in a future issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Richard Wilcox, Emission Control Technology Division, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, 313-668-4390.

SUPPLEMENTARY INFORMATION: EPA has found that motor vehicles which demonstrate compliance with emission standards at low altitude produce as much as 50 percent more exhaust hydrocarbons (HC) and nearly 100 percent more carbon monoxide (CO) when tested at 5,000 feet above sea level. The Agency has also learned that, in most high-altitude urban areas, motor vehicles account for more than half of the total HC emissions and almost all of the CO emissions. These emission levels combine with summer sunlight and stable winter atmospheric conditions to cause numerous violations of the ambient air quality standards for oxidant and CO in high-altitude metropolitan areas.

During model year 1977, EPA regulations required that new light-duty motor vehicles intended for sale at high-altitude demonstrate compliance with the applicable emission standards at high altitude. One result of this requirement was that some motor vehicle manufacturers either chose not to or failed to certify for sale at high altitude, all of the models in their product lines. The limitation in the number of models available for sale in these areas generated an adverse reaction among the affected vehicle purchasers and automobile dealerships. With passage of the Clean Air Amendments of 1977, the Congress, in section 213 of those amendments (section 202(f) of the Clean Air Act, as amended), revoked the EPA high-altitude motor vehicle certification regulations, prohibited the establishment of any other regulations governing the sale or distribution of motor vehicles at high altitude before 1981, and required that, beginning with the 1984 model year, all new light-duty vehicles (LDVs) comply with the applicable emission standards regardless of the altitude at which they are sold.

For the interim period between model years 1981 and 1983, the Congress has given EPA authority to promulgate regulations affecting the distribution and sale of new motor vehicles at high altitude, including the establishment of high-altitude emission standards. Such standards, however, may not require a percentage reduction in vehicle emissions at high altitude that exceeds the comparable percent reduction provided by section 202(b) of the Act for LDV's (generally for HC and CO these standards could represent a 90 percent reduction from the 1970 high-altitude base-level). In no event, however, may numerically more stringent standards be established for high-altitude areas than are applicable under non-high-altitude conditions. For example, the EPA may not require an oxides of nitrogen (NO_x) standard numerically lower than the 1.0 gram per mile (g/mile) standard that will be in effect at low altitude in model year 1982.

Standards

The Clean Air Act Amendments established the limiting guideline for the value of the high-altitude LDV standards as a 90 percent reduction from uncontrolled vehicles tested at high altitude, but in no case may the numerical value of the standard be less than the low-altitude standard. Since NO_x emissions decrease as uncontrolled vehicles are driven to higher altitudes, a 90 percent NO_x reduction from these vehicles would be lower than the NO_x values determined for low altitude. Because the high-altitude standards may not be numerically less than the low-altitude standards, the present NO_x standards for the applicable model year and class of vehicle shall apply at all altitudes. For the HC and CO standards, a method for determining the 90 percent reduction was required.

EPA believes that Congress, in amending the high-altitude provisions of the Clean Air Act, intended that high-altitude LDV emission standards be determined by simply establishing a 90 percent reduction from a baseline fleet of representative high-altitude vehicles. Ideally, the same vehicle fleet which was used to establish the low-altitude standards should be used to determine the high-altitude baseline. Since this fleet no longer exists as tested, an alternate method was necessary.

Recent testing of a 1970 fleet of 25 light-duty vehicles was performed under the direction of the Motor Vehicle Manufacturers Association (MVMA) at low altitude (St. Louis, 600 feet), and at high altitude (Denver, 5,400 feet).[1] The results of the MVMA tests yielded average fleet emissions of 2.85 g/mi HC and 20.45 g/mi CO at low altitude, and 4.47 g/mi HC and 64.4 g/mi CO at high altitude. The MVMA low-altitude baseline values compare with 4.1 g/mi HC and 34 g/mi CO which are generally accepted as the low altitude LDV baseline values. Because of the disparity between the two sets of low-altitude baseline values, EPA proposes determining the high-altitude exhaust emission standards by deriving a low-to-high altitude correction factor, which then can be applied to the existing low-altitude standards. Without using this factor, a simple 90 percent reduction from the MVMA baseline data would yield potential high-altitude standards of 0.45 g/mi HC and 6.4 g/mi CO. EPA believes that these standards would be more stringent than Congress envisioned.

In developing the correction factor, EPA assumes that the change in vehicle exhaust emissions is directly proportional to the change in altitude. Therefore, the relationship between light-duty vehicle emissions and altitude can be described by the equation:

$$\text{Emissions at altitude} = \text{Emissions at base altitude} + \left[\left(\frac{\text{Change in emission}}{\text{Change in altitude}}\right) \times \text{Change in altitude}\right]$$

If the emissions at low altitude are assumed to be the low-altitude baseline value, then high-altitude baselines can be established from:

$$\text{Baseline at altitude} = \text{Baseline at low altitude} + \left[\left(\frac{\text{Change in emission}}{\text{Change in altitude}}\right) \times \text{Change in altitude}\right]$$

As previously stated, the generally accepted low-altitude LDV baseline values are 4.1 g/mi HC and 34 g/mi CO. The average emissions for the MVMA fleet are 2.85 g/mi HC and 20.45 g/mi CO at the St. Louis altitude (600 feet), and 4.47 g/mi HC and 64.4 g/mi CO at the Denver altitude. Substituting the appropriate values into the equation yields:

$$\text{HC baseline at altitude} = 4.1 + \left[\left(\frac{4.47 - 2.85}{5400 - 600}\right)(5400 - 600)\right]$$

$$\text{HC high-altitude baseline} = 5.7$$

Taking a 90 percent reduction from this baseline yields a high-altitude HC standard of 0.57 g/mi (at 5400 feet).

Similarly for CO:

$$\text{CO baseline at altitude} = 34 + \left[\left(\frac{64.4 - 20.4}{5400 - 600}\right)(5400 - 600)\right]$$

$$\text{CO high-altitude baseline} = 78$$

Again, taking a 90 percent reduction yields a high-altitude CO standard of 7.8 g/mi.

The proposed high-altitude standards for LDTs are determined in a different manner from the LDV high-altitude standards. EPA is proposing an alternative approach partially because Congress did not mandate, in the Clean Air Act, that the same methodology which is followed for LDVs must also be used to set equally stringent standards for LDTs. In addition, a different approach had to be found because no 1970 LDT baseline fleet tested at both high and low altitudes was available; therefore, the necessary data do not exist. The Agency's alternative methodology fully responds to the Congressional intent of significantly reducing high-altitude motor vehicle emissions.

The high-altitude LDT standards are found by using (1) data from a 1969 LDT baseline fleet which was tested at low-altitude, and (2) the absolute difference in the emissions of a 1970 LDV baseline fleet (MVMA vehicles) when tested at both high and low altitudes. If a proportional relationship is assumed between the standards and baseline emissions at high altitude, and the standards and baseline emissions at low altitude, the high-altitude standards can be determined from the following equation:

$$\text{Standards at altitude} = \frac{\left(\text{LDT baseline at low altitude} + \text{Change in LDV emissions}\right)}{\text{LDT low altitude standard}} \Big/ \text{LDT low altitude baseline}$$

By deriving the LDT standards in this manner, EPA assumes that the absolute change in LDT and LDV exhaust emissions with altitude is the same. This assumption implies that the change in emissions with altitude is simply a function of enriching the fuel-air mixture of the carburetor, and is not significantly affected by the differences in weight or road load between the two categories of vehicles.

It is possible that this method could underestimate the increase in emissions from LDTs as a function of altitude and, therefore, result in a standard which is somewhat more stringent than the corresponding LDV standard. However, this small potential error is offset by the choice of the 1969 LDT baseline fleet. First, the LDT baseline vehicles were uncontrolled, while the LDV baseline vehicles were partially controlled. This means that the high-altitude LDTs will be less stringently controlled relative to high-altitude LDVs. Second, the LDT baseline vehicles were all heavier than 6,000 pounds gross vehicle weight (GVW), although the LDT class includes vehicles below this weight. Therefore, the baseline emissions upon which the LDT high-altitude standards are based, are relatively lenient compared to that which was used in the LDV regulations. Both of the above factors would make the high-altitude standards somewhat less stringent, thereby offsetting any potential error in the other direction.

The proposed LDT high-altitude standards can be determined with the following information. The 1969 LDT baseline emissions were 8 g/mi HC and 102 g/mi CO.[2] As previously stated, the 1970 LDV baseline values were 2.85 g/mi MC and 20.45 g/mi CO at low altitude, and 4.47 g/mi HC and 64.4 g/mi CO at high altitude. The high-to-low absolute differences are, therefore, 1.6 g/mi HC and 44 g/mi CO. For the 1982 LDT model year, the low-altitude standards will be 1.7 g/mi HC and 18 g/mi CO. Substituting these values into the above equation yields the following high-altitude standards for 1982 LDTs:

$$\text{HC high altitude standard} = (8 + 1.6)\frac{1.7}{8} = 2.0$$

$$\text{CO high altitude standard} = (102 + 44)\frac{18}{102} = 28$$

For the 1983 LDT model year, the low-altitude standards have been proposed to be 0.8 g/mi HC and 10 g/mi CO. Therefore, the proposed 1983 LDT high-altitude standards are:

$$\text{HC high altitude standard} = (18 + 1.6)\frac{0.8}{8} = 1.9$$

$$\text{CO high altitude standard} = (102 + 44)\frac{10}{102} = 14$$

The Agency derived the required evaporative emission standards for high altitude by using a ratio concept. This ratio was obtained from a theoretical analysis rather than vehicle tests data.[3] The high-to-low ratio for evaporative emissions was determined to be 1.3. The following table summarizes the proposed standards at the reference altitude.

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[1] Draft Society of Automotive Engineers paper by J. B. Edwards, et al., dated June 11, 1979 and entitled "1970 Passenger Car High Altitude Emission Baseline."

[2] EPA Report No. SDSB-79-23 by L. D. Ragsdale, dated July 1979 and entitled "1969 Light-Duty Truck Baseline Program and 1983 Emission Standards Development."

[3] Technical Report by M. Leiferman, SDSB, ECTD, OMSAPC dated January 1979.

Proposed Standards at Reference Altitude of 5,400 Feet (Denver Test Site)

	HC[4]	CO[4]	NO_x[5]	Evap.[5]
LDV 1982-1983	0.57	7.8	[6]1.0	2.6
LDT 1982	2.1	26	2.3	2.6
LDT 1983	1.1	14	[7]LAS	2.6

[4] Grams per mile.
[5] Grams per test.
[6] For 1982, vehicles made by American Motors Corporation must meet a standard of 2.0 g/mi NO_x.
[7] LAS—Low-altitude standard (standards to be determined in a separate action).

It should be noted that the LDT standards being proposed by EPA under a separate rulemaking action for the 1983 model year may extend the definition of useful life for LDTs. If EPA adopts those proposed regulations as final, the 1983 high-altitude standards would also apply over the extended useful life.

In an analysis of the leadtime which is currently available to manufacturers, the Agency concluded that high-altitude regulations cannot be fully implemented before the 1981 model year vehicles begin initial certification. This short lead time will make it impossible for some manufacturers to certify every model which they expect to offer for sale in high-altitude areas. However, the severity of atmospheric pollution in these areas justifies control of high-altitude vehicle emissions as early as is feasible. Therefore, recognizing the lead time situation, and at the same time the need to take immediate action to safeguard the public health, EPA will shortly promulgate a voluntary compliance program for the 1981 model year, followed by full implementation of the high-altitude regulations in the 1982 and 1983 model years as proposed here.

Control Strategy

For model year 1977, EPA regulations required manufacturers to certify motor vehicles sold for principal use at high altitude (above 4,000 feet) to conform with the applicable standards under high-altitude test conditions. One result of this requirement was that manufacturers produced separate vehicle configurations for sale at high altitude. Due to the low percentage of sales represented in high-altitude areas (approximately 3.0 percent of nationwide volume), manufacturers chose to produce for sale at high altitude, only a portion of their total product line. As a result, although total sales were not affected, there was a limit to the number of models which were made available by manufacturers to dealers in these areas. Adverse reaction to this situation was one of the reasons Congress revoked the 1977 model year EPA high-altitude regulations.

To avoid this problem with the 1982 and 1983 regulations, EPA is proposing an alternative control strategy. The Agency proposes to require essentially all subject vehicles, regardless of where they are sold, to meet or to be *capable* of being modified at a reasonable cost to meet high-altitude standards. Some vehicles may be capable of meeting the applicable standards at all altitudes, while others may require an adjustment, different calibration, new part, or replacement of parts before being sold at high altitude. Since every new vehicle would be certified for sale at high altitude, there should be no reason for manufacturers not to make their full product line available, and the hardware costs of the controls will be applied only to those vehicles sold for principal use at high altitude.

It is possible, however, that some low-power vehicles would drive satisfactorily and give good fuel economy at low altitude, but would not have sufficient power to perform safely or meet emission requirements at high altitude. These vehicles are not normally sold at high altitude at present. To avoid this potential loss of fuel-efficient vehicles, certain criteria for exemptions are being proposed which will allow low-powered, high fuel economy vehicles to be certified for principal use at low altitude only. Exemptions could occur when:

1. Such vehicles would be designed specifically for low altitude application and would not be offered for sale at high altitudes even in the absence of the requirements of this regulation (due to unacceptable performance, such as safety problems when operated at high altitude);

2. The performance (acceleration) of such vehicles would be worse when tested at high altitude than the vehicles with minimum performance offered by the manufacturers when tested at low altitude; and

3. The manufacturer must provide a warning to the ultimate purchaser that the vehicle has insufficient power for safe operation at high altitude.

EPA invites comments, with supporting evidence, addressing the degree to which manufacturers might actually be required to stop producing those vehicles if specific allowances are not made. Comments are also requested on the appropriateness of the proposed approach or alternative criteria that would allow the continued sale of such vehicles at low altitude.

The definition of "high altitude" used in the 1977 high-altitude regulations has been adopted for this proposed action. Namely, the regulations require that vehicles sold for principal use in designated high-altitude areas comply with the stated emission standards when tested at 1,650 meters (5,400 feet). A designated high-altitude area is any county with a substantial portion of its area located above 1,219 meters (4,000 feet).

Light-Duty Trucks

The Agency has included light-duty trucks in this action because they represent a significant proportion of the light-duty motor vehicle fleet. In the mountain states where these emission controls are needed, new truck registrations represent 35 percent of the total new motor vehicle registrations, and approximately 85 percent of all truck sales are light-duty trucks. With this large a truck population in the high-altitude states and the fact that their emissions are much greater than light-duty vehicles, it is important that this class be included in the 1982 and 1983 regulations if the desired air quality improvements are to be realized.

Technology Requirements

In model year 1982, EPA expects the automobile industry to employ emission control systems which use three-way catalytic converters ("catalysts") with oxygen-sensor controlled feedback fuel systems on 90 percent of the light-duty vehicles. The three-way catalyst is a device which operates in the exhaust stream of the vehicle. It employs noble metals (typically Platinum and Rhodium) to act as catalysts to chemical reactions which aid in lowering the emission levels of all three regulated pollutants (HC, CO, and NOx), thus the term three-way catalyst. The noble metals promote the oxidation of HC and CO to form H_2O (water) and CO_2 (carbon dioxide). At the same time, NOx emissions are reduced (oxygen is taken away) to result in emissions of N_2 (nitrogen) and O_2 (oxygen).

For this emission control system to operate properly, it is necessary to control the air-fuel ratio which enters the combustion chamber to approximately stoichiometric conditions. (That is, the proportion of fuel-to-air is kept as close as possible to the mixture [approximately 1 part of fuel to 15 parts of air] at which, under ideal conditions, complete combustion of the fuel would take place and would yield only carbon dioxide and water as combustion products). Therefore, manufacturers have developed fuel metering systems to maintain the air-fuel ratio near stoichiometric. This has been accomplished by placing a sensor in the engine exhaust which monitors the air-fuel ratio by measuring oxygen in the exhaust (O_2 sensor signals the fuel system either to add or substract fuel to regain the stoichiometric air-fuel ratio). This is the oxygen sensor controlled feedback fuel system.

The combination of the three-way catalyst and the O_2 sensor feedback fuel system is very effective at lowering emissions. At the same time, this system tends to be effective at compensating for changes in altitude. As altitude increases, less air will enter for each part of fuel than would occur at sea level. The O_2 sensor will note this excursion from a stoichiometric air-fuel ratio, and the fuel system will then be directed to meter less fuel until the stoichiometric ratio is once again attained. Thus, the emissions of the vehicle will be maintained at a low level even as the air density changes with altitude changes. EPA believes that the high-altitude standards will assure that these emission control systems are designed and calibrated for the full range of altitudes where emission reductions are required.

The Agency anticipates that the balance of the model year 1982 fleet (i.e., 10 percent of the light-duty vehicles and all light-duty trucks) will use either oxidation catalysts or no catalyst at all to control emissions.

Oxidation catalysts are located in the exhaust stream, as are the three-way catalysts. However, the catalytic properties of this device do not promote the reduction of NO_x emissions. Instead, this device only aids in the oxidation of HC and CO.

Because this catalyst does not control emission of NO_x, for which precise air-fuel metering is essential, the air-fuel ratio entering the engine does not have to be maintained at stoichiometric. Therefore, manufacturers do not use oxygen-sensor controlled feedback fuel systems on these vehicles, and generally the fuel metering is calibrated for optimum performance at a fixed barometric pressure.

Similarly, those vehicles which do not use catalysts at all generally employ a fixed calibration fuel system. These vehicles rely upon a combination of other devices to assure that emissions of HC, CO, and NO_x are minimized.

Because these non-three-way systems use fixed-point calibrations for their fuel metering systems, the air-fuel ratio becomes richer (more fuel per unit of air) as the altitude increases. This tends to result in higher emissions of HC and CO at higher altitude. Thus, for these vehicles to comply with emission standards at high altitude, the manufacturers will need to add compensating devices which will maintain the air-fuel ration at a constant value as altitude varies.

Economic Impact

EPA believes that compliance with the proposed high-altitude standards under the two-vehicle strategy will not require extensive redevelopment of the emission control devices presently planned by the manufacturers for use in 1982 and 1983.

It is expected that a simple recalibration of the open-loop portion of the three-way systems (i.e., those operating modes such as cold start and power enrichment when the feed-back control is disengaged), to account for high-altitude operation will be sufficient to assure compliance with the standards. Thus, EPA anticipates no additional compliance costs for the three-way systems. Non-three-way systems, however, do not have the inherent capabilities to modulate the air-fuel ratio in response to changing altitude. Therefore, the non-three-way vehicles sold at high altitude must use aneroid (pressure sensing) devices to assure compliance with the standards at high altitude.

Generally, EPA believes that one aneroid will operate an air bleed to the engine which will assure a proper air-fuel ratio; this device will be attached to the intake system and will provide additional air. In addition to the aneroid used to modulate the air-fuel ratio, some vehicles will require additional compensation (e.g., spark advance, transmission shift speeds, deceleration devices, EGR system). EPA has assumed in its analysis that one-half of these vehicles will require an average of two such devices in addition to the fuel control aneroid for a total of three. Thus, for the total fleet of non-three-way equipped vehicles, EPA projects that each vehicle will need an average of two aneroid devices.

EPA estimates that the aneroid devices for non-three-way systems will cost an average of $10 each including development, manufacturing, installation and profit. No additional cost is required for development of the three-way systems since manufacturers are already demonstrating the capability of achieving the proposed high-altitude standards. Sales projections indicate a total national sale of 23 million light-duty vehicles and 6.6 million light-duty trucks during model years 1982 and 1983; approximately 3 percent of these sales will be made at high altitude, and one-third of those sales will be non-three-way equipped vehicles. Based on these projections, EPA estimates the total cost of the devices on non-three-way vehicles will be $8.0 million. Additionally, the Agency projects a maximum certification cost of $2.3 million for the two-year life of the standards, giving a total program cost of $10.3 million. Based on this estimate of the economic impact, EPA does not believe that the proposed standards will have any significant effect on the supply of, or demand for, motor vehicles in the nation, or in high-altitude regions. The Agency also does not expect the capital requirements of the industry to be adversely impacted. The aneroid devices are not significantly different from devices already in existence, and will probably be purchased from independent vendors with existing capacity. Comments are invited on this issue.

As stated earlier, this proposed regulation includes the provision that all vehicles manufactured for sale in the United States shall comply with the high-altitude standards or be capable of being modified to do so. A maximum charge of $40 (1979 dollars) is being established by EPA for modifying a motor vehicle to comply with the applicable standards at high altitudes. This upper limit will ensure that the owner of such a vehicle will not be burdened with excessive costs. The maximum fee will include the costs of parts and labor which may be required to modify new cars before they are sold or to modify in-use vehicles whether the changes are performed at a dealership or an independent repair facility. In the future, as the value of money changes, the maximum allowable charge must also change so that the relative cost of modifying a vehicle remains the same. After reviewing several alternatives, the Agency concluded that the Consumer Price Index for all Urban Consumers (CPI–U) is the most appropriate time-value escalator.

High-altitude modifications can be made either when a motor vehicle is new, or after it has already been in service. Therefore, it is important that the price index reflect these categories. The CPI–U includes suitable indices for both new cars, and automobile maintenance and repairs. Relative to one another, these indices were weighted about 70% and 30%, respectively, in the January 1979 CPI.[8] This proportion is used in the following equation to find the maximum allowable cost (C) in any future year (i).

[8] The consumer price index is published monthly by the Bureau of Labor Statistics, Department of Labor. Weighting factors are published in January of each calendar year.

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$$C_i = 40\,\frac{(0.3 \times R_i) + (0.7 \times N_i)}{(0.3 \times R_{1979}) + (0.7 \times N_{1979})}$$

Where:

C_i = Maximum allowable cost to the consumer for modifying a vehicle that had its emission-data vehicle fleet selected in the [i]th calendar year;
R_i = automobile maintenance and repair consumer price index for January of the calendar year in which the emission-data vehicles are selected;
N_i = new car consumer price index for January of the calendar year in which the emission-data vehicles are selected;
R_{1979} = automotive maintenance and repair consumer price index (CPI–U) for January 1979; and
N_{1979} = new car consumer price index for January 1979.

Comments which address the appropriateness of this cost escalating procedure are invited.

Air Quality Benefits

The severity of the air pollution problems in the larger, high-altitude cities dictates the need for the regulation. According to the Council on Environmental Quality, Denver was second only to Los Angeles in the number of days in 1975 when national ambient air quality standards were violated. Albuquerque was tied for third. Denver, Salt Lake City, and Albuquerque are rapidly growing, automobile-oriented cities. The meteorological conditions for these cities, frequent winter inversions and abundant summer sunshine, in combination with the high altitude and extensive dependence on the automobile, result in air quality problems that belie the size of the cities. (Denver, largest of the three, is only the 24th largest metropolitan area in the nation.) It is important that the emission control systems used on high-altitude vehicles be designed and calibrated to operate as efficiently as possible to reduce the severity of high-altitude air quality problems.

Projected emissions of CO and HC for Denver with and without the proposed standards are shown below for selected years. These are based on vehicle-miles-traveled per day (VMT) of 20.5 million for 1980, 21 million for 1982, and 24 million for 1987, in addition to the fleet emission rates presented in Table IV–11 of the Environmental Impact Statement—Background Document (VMT/Day × Emission Rates = Daily Emissions). The years 1982 and 1987 were chosen because the Clean Air Act requires attainment of the CO and oxidant standards by 1982. An extension of up to 1987 can be allowed if all reasonable control measures will not attain the standards by that date. In calculating emissions with the 1982 and 1983 high-altitude standards, light-duty vehicles and light-duty trucks are affected by the standards, heavy-duty trucks are not. Forty tons per day of stationary source hydrocarbon emissions are included in the hydrocarbon emission totals for all years.

Denver Area Emissions

[Tons per day]

	1980		1982		1987	
	HC	CO	HC	CO	HC	CO
Baseline	236.1	1930.2	195.8	1633.5	135.0	984.9
With Side	236.1	1930.2	195.3	1625.9	134.2	965.1
Reductions:						
Tons per day			0.5	7.7	0.8	19.8
Percent			0.3	0.5	0.6	2.0

These estimated reductions are comparable in magnitude with other control strategies, which combined together provide a significant reduction in emissions. The estimates assumed the introduction of nationwide control technology designed to meet low-altitude standards but providing some degree of control when the vehicles are operated at high altitudes. Should other technologies, which do not have high-altitude compensation, be utilized for achieving future low-altitude standards, or should the compensating systems not be developed to their full control capability, the uncontrolled high-altitude emissions would be much higher. This would result in substantially higher air quality benefits for the proposed action.

Cost Effectiveness

The cost effectiveness of the high-altitude standards was determined by dividing the total cost by the expected emissions reduction. The cost per ton of emissions reduced by these proposed standards is $5 for CO and $170 for HC. These figures are substantially lower than comparable figures for other implemented or proposed control strategies which range up to about $150 per ton for CO and $955 per ton for HC.

Vehicle Compliance

The effect of the proposed regulations is to require that all new vehicles meet both high- and low-altitude emission standards for their useful life, or at least be capable of being modified to do so. EPA examined three possible options for requiring demonstration of compliance with the standards. The first and simplest option considered by EPA would require only that manufacturers provide statements of compliance. The second option would require manufacturers to provide supporting data and/or technical evaluations with their statements of compliance. The third option would require a demonstration of compliance at high altitude. The Agency concluded that the most appropriate approach to assuring compliance of vehicles at high altitude is to require testing at 5,400 feet ± 300 feet (1,620 meters ± meters) only. This alternative takes advantage of the availability of existing test facilities in the Denver area. Manufacturers of vehicles requiring adjustments or modifications to meet the high-altitude standards must submit descriptions of the recommended changes to the Administrator for approval as part of the certification process.

The proposed regulation provides the Administrator with two options in selecting emission-data vehicles for testing at high altitude. Vehicles may be chosen from any of the vehicles selected for low-altitude testing, or one additional vehicle per engine system combination for high-altitude testing may be selected if certain configurations are not represented in the low-altitude selections. While the proposed rules provide broad selection criteria, EPA expects that the number of vehicles actually chosen for testing will be small and limited to vehicles which, in the Agency's engineering judgment, are likely to have poor emission performance at high altitude. Comments are invited regarding more specific selection criteria and certification options.

The Agency may also require manufacturers to perform assembly-line testing (Selective Enforcement Audits) at high-altitude locations.

The regulations would provide that one certificate of conformity covers a vehicle regardless of whether it is to be sold for principal use at high or low altitude. The regulations would provide, however, that a vehicle sold to an ultimate purchaser, for principal use at high altitude, would not be covered by a certificate of conformity if not actually equipped and adjusted to meet high-altitude standards. Therefore, such a sale or delivery by a vehicle manufacturer or its agent would constitute a violation of section 203(a)(1) of the Act.

A violation would not occur upon sale of a low-altitude vehicle at a high-altitude location where the manufacturer or its agent has taken reasonable and prudent steps to ascertain that the place of principal use is not a designated high-altitude location, or upon the sale of such a vehicle at a low-altitude location where the manufacturer or his agent has no reason to believe that the vehicle will be used principally in a designated high-altitude location.

The Agency will not consider it a violation of section 203(a)(1) of the Act for a vehicle manufacturer to sell a high-altitude vehicle for principal use at low-altitude locations. However, the Agency intends to monitor high-altitude vehicles which are operating at low-altitude. Recall investigations will be initiated if there are data to indicate that high-altitude vehicles do not comply with emission standards at low altitude, and recalls will be considered where appropriate. Moreover, any such vehicle which does not meet applicable emission standards at low altitude will render the manufacturer liable under the emission warranties of section 207 of the Act.

Parameter Adjustment

EPA anticipates that some interested parties may be concerned with the effect parameter adjustment regulations could have on the production of high-altitude vehicle configurations. The Agency finds the two sets of regulations are completely compatible, although the existence of parameter adjustment regulations may increase the cost of the high-altitude regulations in some instances.

Manufacturers are expected to produce high- and low-altitude configurations which comply with both sets of regulations in one of three ways:

1. Automatic altitude compensating devices (aneroids) and control systems (three-way catalyst) will reduce emissions without adjustable parameters;
2. In instances where the Administrator has designated a parameter as an "adjustable parameter," the high- and low-altitude standards will be met within the range of adjustability; and
3. In instances where the standards cannot be met within the range of adjustability for a designated parameter, separate high-altitude parts will be be allowed and made available provided the service can be performed at a dealership or an independent repair facility for less than the $40 (1978 dollars) maximum charge.

Comments are invited with regard to implementing high-altitude regulations when parameter adjustment regulations are in effect.

Advance Notice of Proposed Rulemaking.

On May 11, 1979 an Advance Notice of Proposed Rulemaking (ANPRM) was published in the **Federal Register** (44 CFR 27700) for the purpose of informing the public that the EPA was developing high-altitude emission standards. The ANRPM solicited comments from the public relevant to such actions. During the latter stages of the EPA review process for this NPRM, comments were received from Ford Motor Company and the Recreation Vehicle Industry Association. The comments generally concerned the need for the high-altitude standards, the levels of the standards, their applicability, and lead time. All of the issues had been addressed to some extent in the NPRM development process prior to receiving the comments. The comments will be reviewed again later along with the NPRM comments. To delay publication of the NPRM for a more detailed evaluation would cause substantial delay and significantly compromise the effectiveness of this limited model year regulation.

Public Hearings and Comment Procedures

The first day of public hearings will be devoted exclusively to the provisions of this NPRM, i.e., the interim high-altitude standards for 1982 and 1983 light-duty motor vehicles. The second day of public hearings will be held to gather additional information concerning the high-altitude emission regulations for light-duty motor vehicles manufactured during or after model year 1984 as mandated by Congress in Section 206 of the Clean Air Act, as amended. The hearing on the 1984 high-altitude regulations is not part of a formal rulemaking action; it is intended to increase public partcipation in the initial stages of developing the future standards. Additional information on the hearings will be announced soon in the **Federal Register.**

During the final rulemaking on the 1982 and 1983 interim high-altitude regulations, EPA will consider comments received on or before 30 days from the date of the public hearing.

We request that, to the extent possible, comments be submitted prior to the hearing. It is EPA's intention to assure all interested parties an opportunity to study all information which may become the basis for EPA's final action in this proceeding. Accordingly, the Agency will not consider in this rulemaking any information which cannot be made publicly available. Parties who wish to submit information in response to this Notice of Proposed Rulemaking are cautioned that EPA will not consider, but will return to the commentor, any comments which are claimed, in whole or in part, to be confidential.

Evaluation Plan

Because of the fixed three-year life span of the regulations proposed in this action, the Agency is not planning to review it subsequent to its ultimate promulgation. However, at the time when regulations pertaining to high-altitude emission standards for 1984 and subsequent model years are promulgated, the Agency will put forward a plan for the review of the efficacy of that rulemaking action, to be completed within five years after its promulgation.

Reporting and Recordkeeping Requirements

Under the EPA's new "sunset" policy for reporting requirements in regulations, the reporting requirements in this regulation will automatically expire five years from the date of promulgation, unless EPA takes affirmative action to extend them. To accomplish this, a provision automatically terminating the reporting requirements at that time will be included in the text of the final regulation.

Regulatory Analysis

The Administrator has determined that this action is a "significant" regulation. The Agency has prepared a document entitled: "Draft Environmental Impact Statement/Background Document: 1982–1983 High-Altitude Emission Standards," which satisfies the requirements for analyses called for by Executive Order 12044, and sections 202(f)(3) and 317 of the amended Clean Air Act. Anyone may review and reproduce this document in the EPA Central Docket Section. Copies are also available upon request from the Office of Mobile Source Air Pollution Control, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

1. The table of contents for Subpart A of Part 86 is amended by the addition of the following sections:

Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles, 1977 and Later Model Year New Light-Duty Trucks, and for 1977 and Later Model Year New Heavy-Duty Engines

* * * * *

Sec.

86.082–1 General applicability.
86.082–2 Definitions.
86.082–8 Emission standard for 1982 Model Year Light-Duty Vehicles.
86.082–9 Emission standard for 1982 Model Year Light-Duty Trucks.
86.082–21 Application for certification.
86.082–24 Test vehicles and engines.
86.082–26 Mileage and service accumulation; emission measurements.

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86.082–28 Compliance with emission standards.
86.082–30 Certification.
86.082–35 Labeling.
86.082–36 Maintenance instructions.
* * * * *

The text of the proposed rule reads as follows:

Subpart A—General Provisions for Emission Regulations for 1977 Later Model Year New Light-Duty Vehicles, 1977 and Later Model Year New Light-Duty Trucks, and for 1977 and Later Model Year New Heavy-Duty Engines

1a. A new § 86.082–1 is added. This section is identical to § 86.078–1 except that paragraph (c) is deleted.

§ 86.082–1 General applicability.

(a) The provisions of this subpart apply to 1982 and later model year new gasoline-fueled and Diesel light-duty vehicles, 1982 and later model year new gasoline-fueled and Diesel light-duty trucks and 1982 and later model year new gasoline-fueled and Diesel heavy-duty engines.

(b) *Optional applicability.* A manufacturer may request to certify any heavy-duty vehicle 10,000 pounds GVWR or less as a light-duty truck: Heavy-duty vehicle provisions do not apply to such a vehicle.

2. Section 86.082–2 is added. This section is identical to § 86.080–2 with the addition of the term "high-altitude reference points."

§ 86.082–2 Definitions.

(a) The definitions in this section apply to this subpart and also to Subparts B, D, H, I, and J.

(b) As used in this subpart all terms not defined herein shall have the meaning given them in the Act:

"Accuracy" means the difference between a measurement and true value.

"Act" means Part A of title II of the Clean Air Act, 42 U.S.C. 1857 f–1 through f–7, as amended by Pub. L. 91–604.

"Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

"Auxiliary Emission Control Device (ADCD)" means any element of design which senses temperature, vehicle speed, engine RPM, transmission gear, manifold vacuum, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission control system.

"Basic engine" means a unique combination of manufacturer, engine displacement, number of cylinders, fuel system (as distinguished by number of carburetor barrels or use of fuel injection), catalyst usage, and other engine and emission control system characteristics specified by the Administrator.

"Basic vehicle frontal area" means the area enclosed by the geometric projections of the basic vehicle along the longitudinal axis, which includes tires but excludes mirrors and air deflectors, onto a plane perpendicular to the longitudinal axis of the vehicle.

"Body style" means a level of commonality in vehicle construction as defined by number of doors and roof treatment (e.g., Sedan, Convertible, Fastback, Hatchback).

"Body type" means a name denoting a group of vehicles that are either in the same car line or in different car lines provided the only reasons the vehicles qualify to be considered in different car lines is that they are produced by separate divisions of a single manufacturer.

"Calibration" means the set of specifications, including tolerances, unique to a particular design, version, or application of a component or components assembly capable of functionally describing its operation over its working range.

"Calibrating gas" means a gas of known concentration which is used to establish the response curve of an analyzer.

"Carline" means a name denoting a group of vehicles within a make or car division which has a degree of commonality in construction (e.g., body, chassis). Carline does not consider any level of decor or opulence and is not generally distinguished by characteristics as roof line, number of doors, seats or windows except for station wagons or light-duty trucks. Station wagons and light-duty trucks are considered to be different carlines than passenger cars.

"Configuration" means a subclassification of an engine-system combination on the bais of engine code, inertia weight class, transmission type and gear ratios, real axle ration, and other parameters which may be designated by the Administrator.

"Crankcase emissions" means airborne substances emitted to the atmosphere from any portion of the engine crankcase ventilation or lubrication systems.

"Curb-idle" for manual transmission code heavy-duty engines means the manufacturer's recommended engine speed with the transmission in neutral or with the clutch disengaged. For Automatic transmission code heavy-duty engines, curb-idle means the manufacturer's recommended engine speed with the automatic transmission in gear and the output shaft stalled.

"Defeat device" means an AECD that reduces the effectiveness of the emission control system under conditions which may reasonably be expected to be encountered in normal urban vehicle operation and use, unless (1) such conditions are substantially included in the Federal emission test procedure, or (2) the need for the AECD is justified in terms of protecting the vehicle against damage or accident, or (3) the AECD does not go beyond the requirements of engine starting.

"Diurnal breathing loss" means fuel evaporative emissions as a result of the daily range in temperature

"Drivetrain configuration" means a unique combination of engine code, transmission configuration and axle ration.

"Dynamometer-idle" for automatic transmission code heavy-duty engines means the manufacturer's recommended engine speed without a transmission that simulates the recommended engine speed with a transmission and with the transmission in neutral.

"Engine code" means a unique combination, within an engine-system combination, of displacement, carburetor (or fuel injection) calibration, choke calibration, distributor calibration, auxiliary emission control devices and other engine and emission control system components specified by the Administrator.

"Engine family" means the basic classification unit of a manufacturer's product line used for the purpose of test fleet selection and determined in accordance with § 86.077–24.

"Engine-system combination" means an engine family-exhaust emission control system combination.

"EPA Enforcement Officer" means any officer or employee of the Environmental Protection Agency so designated in writing by the Administrator (or by his designee).

"Exhaust emissions" means substances emitted to the atmosphere from any opening from the exhaust port of a motor vehicle engine.

"Evaporative emission code" means a unique combination in an evaporative emission family-evaporative emission control system combination, of purge system calibrations, fuel tank and carburetor bowl vent calibrations and other fuel system and evaporative emission control system components and calibrations specified by the Administrator.

"Evaporative emissions" means hydrocarbons emitted into the atmosphere from a motor vehicle, other than exhaust and crankcase emissions.

"Evaporative vehicle configuration" means a unique combination of basic engine, engine code, body type, and evaporative emission code.

"Fuel evaporative emissions" means vaporized fuel emitted into the atmosphere from the fuel system of a motor vehicle.

"Fuel system" means the combination of fuel tank, fuel pump, fuel lines, and carburetor, or fuel injection components, and includes all fuel system vents and fuel evaporative emission control systems.

"Gross vehicle weight" means the value specified by the manufacturer as the loaded weight of a single vehicle.

"Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the maximum design loaded weight of a single vehicle.

"Hang-up" refers to the process of hydrocarbon molecules being absorbed, condensed, or by any other method removed from the sample flow prior to reaching the instrument detector. It also refers to any subsequent desorption of the molecules into the sample flow when they are assumed to be absent.

"Heavy-duty engine" means any engine which the engine manufacturer could reasonably expect to be used for motive power in a heavy-duty vehicle.

"Heavy-duty vehicle" means any motor vehicle rated at more than 8,500 pounds GVWR or that has a vehicle curb weight of more than 6,000 pounds or that has a basic vehicle frontal area in excess of 45 square feet.

"High-altitude" means any elevation over 1,219 meters (4,000 feet).

"High-altitude conditions" means a test altitude of 1,585 meters (5,200 feet), plus or minus 274 meters (900 feet), or equivalent observed barometric test conditions of 83.48 kPa (24.72 inches Hg), plus or minus 2.77 kPa (0.82 inches Hg): *Provided,* That the Administrator may approve conditions other than those specified herein on the basis of a written application by the manufacturer.

"High-altitude reference point" means an elevation of 1,620 meters (5,400 feet) plus or minus 100 meters (330 feet), or equivalent observed barometric test conditions of 82 kPa (24.2 inches Hg), plus or minus 1 kPa (0.30 inches Hg).

"Hot soak losses" means evaporative emissions after termination of engine operation.

"Incomplete truck" means any truck which does not have the primary load carrying device or container attached.

"Inertia weight class" means the class, which is a group of test weights, into which a vehicle is grouped based on its loaded vehicle weight in accordance with the provisions of Part 86.

"Intermediate speed" means peak torque speed if peak torque speed occurs between 60 and 75 percent of rated speed. If the peak torque speed is less than 60 percent of rated speed, intermediate speed means 60 percent of rated speed. If the peak torque speed is greater than 75 percent of rated speed, intermediate speed means 75 percent of rated speed.

"Light-duty truck" means any motor vehicle rated at 8,500 pounds GVWR or less which has a vehicle curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

(1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or

(2) Designed primarily for transportation of persons and has a capacity of more than 12 persons, or

(3) Available with special features enabling off-street or off-highway operation and use.

"Light-duty vehicle" means a passenger car or passenger car derivative capable of seating 12 passengers or less.

"Loaded vehicle weight" means the vehicle curb weight of a light-duty vehicle or light-duty truck plus 300 pounds.

"Malfunction" means not operating according to specifications (e.g., those specifications listed in the application for certification).

"Maximum rated horsepower" means the maximum brake horsepower output of an engine as stated by the manufacturer in his sales and service literature and his application for certification under § 86.077–21.

"Maximum rated torque" means the maximum torque produced by an engine as stated by the manufacturer in his sales and service literature and his application for certification under § 86.077–21.

"Military engine" means any engine manufactured solely for the Department of Defense to meet military specifications.

"Model" means a specific combination of carline, body style, and drivetrain configuration.

"Model type" means a unique combination of carline, basic engine, and transmission class.

"Model year" means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year: *Provided,* That if the manufacturer has no annual production period, the term "model year" shall mean the calendar year.

"Nominal fuel tank capacity" means the volume of the fuel tank(s), specified by the manufacturer to the nearest tenth of a U.S. gallon, which may be filled with fuel from the fuel tank filler inlet.

"Opacity" means the fraction of a beam of light, expressed in percent, which fails to penetrate a plume of smoke.

"Option" means any available equipment or feature not standard equipment on a model.

"Oxides or nitrogen" means the sum of the nitric oxide and nitrogen dioxide contained in a gas sample as if the nitric oxide were in the form of nitrogen dioxide.

"Peak torque speed" means the speed at which an engine develops maximum torque.

"Percent load" means the fraction of the maximum available torque at a specified engine speed.

"Precision" means the standard deviation of replicated measurements.

"Rated speed" means the speed at which the manufacturer specifies the maximum rated horsepower of an engine.

"Running loss" means fuel evaporative emissions resulting from an average trip in an urban area or the simulation of such a trip.

"Scheduled maintenance" means any adjustment, repair, removal, disassembly, cleaning, or replacement of vehicle components or systems which is performed on a periodic basis to prevent part failure or vehicle (if the engine were installed in a vehicle) malfunction.

"Smoke" means the matter in the exhaust emissions which obscures the transmission of light.

"Span gas" means a gas of known concentration which is used routinely to set the output level of an analyzer.

"Standard equipment" means those features or equipment which are marketed on a vehicle over which the purchaser can exercise no choice.

"System" includes any motor vehicle engine modification which controls or causes the reduction of substances emitted from motor vehicles.

"Tank fuel volume" means the volume of fuel in the fuel tank(s), which is determined by taking the manufacturer's nominal fuel tank(s) capacity and multiplying by 0.40, the result being rounded using ASTM E29–67 to the nearest tenth of a U.S. gallon.

"Test weight" means the weight, within an inertia weight class, which is used in the dynamometer testing of a vehicle, and which is based on its loaded vehicle weight in accordance with the provisions of Part 86.

"Throttle" means the mechanical linkage which either directly or indirectly controls the fuel flow to the engine.

"Transmission class" means the basic type of transmission, e.g., manual, automatic, semi-automatic.

"Transmission configuration" means a unique combination, within a transmission class, of the number of the forward gears and, if applicable, overdrive. The Administrator may further subdivide a transmission configuration (based on such criteria as gear ratios, torque convertor multiplication ratio, stall speed and shift calibration, etc.), if he determines that significant fuel economy or exhaust emission differences exist within that transmission configuration.

"Unscheduled maintenance" means any adjustment, repair, removal, disassembly, cleaning, or replacement of vehicle components or systems which is performed to correct a part failure or vehicle (if the engine were installed in a vehicle malfunction.

"Useful life" means:

(1) For light-duty vehicles and light-duty trucks a period of use of 5 years or 50,000 miles, whichever first occurs.

(2) For gasoline-fueled heavy-duty engines a period of use of 5 years or 50,000 miles of vehicle operation or 1,500 hours of engine operation (or an equivalent period of 1,500 hours of dynamometer operation), whichever first occurs.

(3) For diesel heavy-duty engines a period of use of 5 years or 100,000 miles of vehicle operation or 3,000 hours of engine operation (or an equivalent period of 1,000 hours of dynamometer operation), whichever first occurs.

"Van" means a light-duty truck having an integral enclosure, fully enclosing the driver compartment and load-carrying device, and having no body sections protruding more than 30 inches ahead of the leading edge of the windshield.

"Vehicle configuration" means unique combination of basic engine, engine code, inertia weight class, transmission configuration and axle ratio.

"Vehicle curb weight" means the actual or the manufacturer's estimated weight of the vehicle in operational status with all standard equipment, and weight of fuel at nominal tank capacity, and the weight of optional equipment computed in accordance with § 86.082–24; incomplete light-duty trucks shall have vehicle curb weight specified by the manufacturer.

"Zero (0) hours" means the point after normal assembly line operations and adjustments are completed and before one (1) additional operating hour has been accumulated.

"Zero (0) miles" means that point after initial engine starting (not to exceed 10 miles of vehicle operations, or one hour of engine operation) at which normal assembly line operations and adjustments are completed.

3. Section 86.082–8 is added. This section is identical to § 86.081–8 with the addition of high-altitude standards in paragraphs (d) through (h).

§ 86.082–8 Emission standards for 1982 model year light-duty vehicles.

(a)(1) Exhaust emissions from 1982 and later model year light-duty vehicles shall not exceed:

(i) *Hydrocarbons.* 0.41 grams per vehicle mile;

(ii) *Carbon monoxide.* 3.4 grams per vehicle mile;

(iii) *Oxides of nitrogen.* 1.0 gram per vehicle mile, except that oxides of nitrogen emissions from 1982 light-duty vehicles manufactured by American Motors Corporations shall not exceed 2.0 grams per vehicle mile.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in subpart B of this part and measured and calculated in accordance with those procedures.

(b)(1) Fuel evaporative emissions from 1982 and later model year gasoline-fueled light-duty vehicles shall not exceed:

(i) *Hydrocarbons.* 2.0 grams per test.

(2) The standard set forth in paragraph (b)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in subpart B of this part and measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any 1982 and later model year gasoline-fueled light-duty vehicle.

(d) The standards set forth in paragraphs (a) through (c) of this section shall apply for vehicles sold by dealers for principal use below 1,219 meters (4,000 feet) altitude.

(e)(1) Model year 1982 and 1983 light-duty vehicles sold for principal use at designated high-altitude locations shall be capable of meeting the following exhaust emission standards when tested at the high-altitude reference point.

(i) *Hydrocarbons.* 0.57 grams per vehicle mile;

(ii) *Carbon monoxide.* 7.8 grams per vehicle mile;

(iii) *Oxides of nitrogen.* 1.0 gram per vehicle mile, except that oxides of nitrogen emissions from 1982 light-duty vehicles manufactured by American Motors Corporation shall not exceed 2.0 grams per vehicle mile.

(2) The standards set forth in paragraph (e)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part and measured and calculated in accordance with those procedures.

(f)(1) Fuel evaporative emissions from 1982 and 1983 model year gasoline-fueled light-duty vehicles sold for principal use at designated high-altitude areas shall not exceed 2.6 gram per test when tested at the high-altitude reference point.

(2) The standard set forth in paragraph (f)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

(g) No crankcase emissions shall be discharged into the ambient atmosphere from any 1982 and 1983 model year gasoline-fueled light-duty vehicles sold by dealers for principal use at or above 1,219 meters (4,000 feet) altitude.

(h)(1) All light-duty vehicles shall be capable (by initial design, adjustment, or modification) of meeting the applicable emission standards set forth in this section for any altitude of operation. Such adjustments and modifications shall:

(i) Be capable of being effectively performed by commercial repair facilities.

(ii) Not exceed an incremental cost to the ultimate purchaser or any subsequent purchaser of $40 in 1979 dollars, whether incurred as an additional cost of the new high-altitude vehicle, or incurred through modifications performed after initial purchase. The maximum allowable charge for each vehicle shall be calculated by using the Consumer Price Index for all Urban Consumers (CPI–U) published by the Bureau of Labor Statistics, U.S. Department of Labor, as follows:

$$C_t = 40 \frac{(0.3 \times R_t) + (0.7 \times N_t)}{(0.3 \times 231.3) + (0.7 \times 161.2)}$$

Where:

C_t = maximum allowable cost to the consumer for modifying a vehicle that had its emission-data vehicle fleet selected in the tth calendar year;

R_t = automobile maintenance and repair consumer price index (CPI–U) for January of the calendar year in which the emission-data vehicles are selected; and

N_t = new car consumer price index (CPI–U) for January of the calendar year in which the emission-data vehicles are selected.

(iii) All adjustments and modifications recommended by the manufacturer to be performed on vehicles to satisfy this requirement must be approved in advance by EPA in accordance with § 86.078–22.

(2) Waivers exempting vehicles from the high-altitude compliance requirement may be granted by the Administrator for vehicles designed for high fuel economy through the application of low-power engines. Such waivers will be granted based on a petition by the manufacturer that:

(i) Such vehicles were designed specifically for low altitude application and would not be offered for sale at high altitudes even in the absence of the requirements of this section (due to unacceptable performance (i.e., safety problems) when operated at high altitude);

(ii) The performance (acceleration) of such vehicle would be worse when tested at 1,650 meters (5,400 feet) elevation, than the vehicle with the minimum performance offered by the manufacturer when tested at low altitude.

(iii) The manufacturer must state to EPA that the vehicle has insufficient power to operate safely at high altitudes and provide such warning to the ultimate purchaser via a label on the vehicle and in the owner's manual.

4. Section 86.082–9 is added. This section is identical to § 86.081–9 with the addition of high-altitude standards in paragraphs (d) through (h).

§ 86.082–9 Emission standards for 1982 model year light-duty trucks.

(a)(1) Exhaust emissions from 1982 and later model year light-duty trucks shall not exceed:

(i) *Hydrocarbons.* 1.7 grams per vehicle mile;

(ii) *Carbon monoxide.* 18 grams per vehicle mile;

(iii) *Oxides of nitorgen.* 2.3 grams per vehicle mile.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in subpart B of this part and measured and calculated in accordance with those procedures.

(b)(1) Evaporative emissions from 1982 and later model year gasoline-fueled light-duty trucks shall not exceed:

(i) *Hydrocarbons.* 2.0 grams per test.

(2) The standard set forth in paragraph (b)(1) of this section refers to a composite sample of the evaporative emissions collected under the conditions set forth in subpart B of this part and measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any 1982 and later model year gasoline-fueled light-duty truck.

(d) The standards set forth in paragraphs (a) through (c) of this section shall apply for trucks sold by dealers for principal use below 1,219 meters (4,000 feet) altitude.

(e)(1) Model year from 1982 light-duty trucks sold for principal use at designated high-altitude locations shall be capable of meeting the following exhaust emission standards when tested at the high-altitude reference point.

(i) *Hydrocarbons.* 2.0 grams per vehicle mile;

(ii) *Carbon monoxide.* 26.0 grams per vehicle mile;

(iii) *Oxides of nitrogen.* 2.3 grams per vehicle mile.

(2) Exhaust emissions from 1983 model year light-duty trucks sold for principal use at designated high-altitude locations shall be capable of meeting the following standards when tested at the high-altitude reference point.

(i) *Hydrocarbons.* 1.0 grams per vehicle mile;

(ii) *Carbon monoxide.* 14 grams per vehicle mile;

(iii) *Oxides of nitrogen.* 2.3 grams per vehicle mile.

(3) The standards set forth in paragraph (e)(1) and (2) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part and measured and calculated in accordance with those procedures.

(f)(1) Fuel evaporative emissions from 1982 and 1983 model year gasoline-fueled light-duty trucks sold for principal use at designated high-altitude areas shall not exceed 2.6 grams per test when tested at the high-altitude reference point.

(2) The standard set forth in paragraph (f)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

(g) No crankcase emissions shall be discharged into the ambient atmosphere from any 1982 and 1983 model year gasoline-fueled light-duty trucks sold by dealers for principal use at or above, 1,219 meters (4,000 feet) altitude.

(h) All light-duty trucks shall be capable (by initial design, adjustment, or modification) of meeting the applicable emission standards set forth in this section for any altitude of operation. Such adjustments and modifications shall:

(i) Be capable of being effectively performed by commercial repair facilities;

(ii) Not exceed an incremental cost to the ultimate purchaser or any subsequent purchaser of $40 in 1979 dollars, whether incurred as an additional cost of the new high-altitude vehicle, or incurred through modifications performed after initial purchase. The maximum allowable charge for each vehicle shall be calculated by using the Consumer Price Index for all Urban Consumers (CPI–U) published by the Bureau of Labor Statistics, U.S. Department of Labor, as follows.

$$C_t = 40 \frac{(0.3 \times R_t) + (0.7 \times N_t)}{(0.3 \times 231.3) + (0.7 \times 161.2)}$$

Where:

C_t = maximum allowable cost to the consumer for modifying a vehicle that had its emission-data vehicle fleet selected in the tth calendar year;

R_t = automobile maintenance and repair consumer price index (CPI–U) for January of the calendar year in which the emission-data vehicles are selected; and

N_t = new car consumer index (CPI–U) for January of the calendar year in which the emission-data vehicles are selected.

(iii) All adjustments and modifications recommended by the manufacturer to be performed on vehicles to satisfy this requirement must be approved in advance by EPA in accordance with § 86.078–22.

5. Section 86.082–21 is added. This section is identical to § 86.079–21 except for paragraphs (a), (b)(2), (5)(i), and (5)(ii).

§ 86.082–21 Application for certification.

(a) A separate application for a certification of conformity shall be made for each set of standards (except for high-altitude standards) and each class of new motor vehicle engines. Such application shall be made to the Administrator by the manufacturer and shall be updated and corrected by amendment.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1)(i) *All vehicles and engines.* Identification and description of the vehicles (or engines) covered by the application and a description of their engine (vehicles only), emission control system and fuel system components. This shall include a detailed description of each auxiliary emission control device (AECD) to be installed in or on any certification test vehicle (or certification test engine).

(ii) *Light-duty vehicles and light-duty trucks only.* (A) The manufacturer shall

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provide to the Administrator in the preliminary application for certification:

(*1*) A list of those parameters which are physically capable of being adjusted (including those adjustable parameters for which access is difficult) and that, if adjusted to settings other than the manufacturer's recommended setting, may affect emissions;

(*2*) A specification of the manufacturer's intended physically adjustable range of each such parameter, and the production tolerances of the limits or stops used to establish the physically adjustable range;

(*3*) A description of the limits or stops used to establish the manufacturer's intended physically adjustable range of each adjustable parameter, or any other means used to inhibit an adjustment;

(*4*) The nominal or recommended setting, and the associated production tolerances, for each such parameter.

(B) the manufacturer may provide, in the preliminary application for certification, information relating to why certain parameters are not expected to be adjusted in actual use and to why the physical limits or stops used to establish the physically adjustable range of each parameter, or any other means used to inhibit adjustment, are expected to be effective in preventing adjustment of parameters on in-use vehicles to settings outside the manufacturer's intended physically adjustable ranges. This may include results of any tests to determine the difficulty of gaining access to an adjustment or exceeding a limit as intended or recommended by the manufacturer.

(C) The Administrator may require to be provided detailed drawings and descriptions of the various emission related components, and/or hardware samples of such components, for the purpose of making his determination of which vehicle or engine parameters will be subject to adjustment for new certification and Selective Enforcement Audit testing and of the physically adjustable range for each such vehicle or engine parameter.

(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the vehicles (or engines) for which certification is requested, including the altitude of intended sale for light-duty vehicles and light-duty trucks.

(3) A description of the test equipment and fuel proposed to be used.

(4)(i) A description of the proposed mileage (or service) accumulation procedure for durability testing.

(ii) A description of the test procedures to be used to establish the evaporative emission deterioration factors required to be determined and supplied in § 86.079–23(a)(2).

(5)(i) A statement of recommended maintenance and procedures necessary to assure that the vehicles (or engines) covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(ii) A description of vehicle adjustments or modifications necessary, if any, to assure that light-duty vehicles and light-duty trucks covered by a certificate of conformity, conform to the regulations while being operated at any altitude.

(6) At the option of the manufacturer, the proposed composition of the emission-data and durability-data test fleet.

(c) Complete copies of the application and of any amendments thereto, and all notifications under §§ 86.079–32, 86.079–33, and 86.079–34 shall be submitted in such multiple copies as the Administrator may require.

(d) Incomplete light-duty trucks shall have a maximum completed curb weight and maximum completed frontal area specified by the manufacturer.

6. Section 86.082–24 is added. This section is identical to § 86.079–24 except for paragraphs (b)(1)(v) and (b)(1)(vii)(D).

§ 86.082–24 Test vehicles and engines.

(a)(1) The vehicles or engines covered by an application for certification will be divided into groupings of engines which are expected to have similar emission characteristics throughout their useful life. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) To be classed in the same engine family, engines must be identical in all the following respects:

(i) The cylinder bore center-to-center dimensions.

(ii) The dimension from the centerline of the crankshaft to the centerline of the camshaft.

(iii) The dimension from the centerline of the crankshaft to the top of the cylinder block head face.

(iv) The cylinder block configuration (air cooled or water cooled; L–6, 90° V–8, etc.).

(v) The location of intake and exhaust valves (or ports) and the valve (or port) sizes (within a ¼-inch range on the valve head diameter or within 10 percent on the port area).

(vi) The method of air aspiration.

(vii) The combustion cycle.

(viii) Catalytic converter characteristics.

(ix) Thermal reactor characteristics.

(x) Type of air inlet cooler (e.g., intercoolers and after-coolers) for diesel-duty engines.

(3) Engines identical in all the respects listed in paragraph (a)(2) of this section may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine:

(i) The bore and stroke.

(ii) The surface-to-volume ratio of the nominally dimensioned cylinder at the top dead center position.

(iii) The intake manifold induction port size and configuration.

(iv) The exhaust manifold port size and configuration.

(v) The intake and exhaust valve sizes.

(vi) The fuel system.

(vii) The camshaft timing and ignition or injection timing characteristics.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in paragraphs (a) (2) and (3) of this section, the Administrator will establish families for those engines based upon the features most related to their emission characteristics.

(5) The gasoline-fueled vehicles covered by an application for certification will be divided into groupings which are expected to have similar evaporative emission characteristics throughout their useful life. Each group of vehicles with similar evaporative emission characteristics shall be defined as a separate evaporative emission family.

(6) To be classed in the same evaporative emission family, vehicles must be similar with respect to:

(i) Type of vapor storage device (e.g., canister, air cleaner, crankcase).

(ii) Basic canister design.

(iii) Fuel system.

(7) Where vehicles are of a type which cannot be divided into evaporative emission families based on the criteria listed above, the Administrator will establish families for those vehicles based upon the features most related to their evaporative emission characteristics.

(b) Emission data. (1) *Emission-data vehicles.* Paragraph (b)(1) of this section applies to light-duty vehicle and light-duty truck emission-data vehicles.

(i) Vehicles will be chosen to be operated and tested for emission data based upon the engine family groupings. Within each engine family, the requirements fo this paragraph must be met.

(ii) Vehicles within an engine family will be divided into engine displacement-exhaust emission control system combinations as applicable. A projected sales volume will be established for each combination for the model year for which certification is sought. One vehicle of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's sales of a manufacturer's total production of vehicles of that engine family is represented, or until a maximum of four vehicles is selected. If any single combination represents over 70 percent, then two vehicles of that combination may be selected. The vehicle selected for each combination will be specified by the Administrator as to such features as engine code, transmission type, fuel system, inertia weight class, and test weight.

(iii) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Administrator will consider such features as the emission control system combinations, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, compression ratio, inertia weight class, test weight, transmission options, and axle ratio.

(iv) If the vehicles selected in accordance with paragraphs (b)(1) (ii) and (iii) of this section do not represent each engine-system combination, then one vehicle of each engine-system combination not represented will be selected by the Administrator. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with the control system combination in the engine family and will be designated by the Administrator as to such features as engine code, transmission type, fuel system, inertia weight class, and test weight.

(v) The Administrator may select one vehicle for each engine-system combination within an engine family if such a vehicle is expected to have high exhaust emissions when operated at high altitude.

(vi) The Administrator may combine testing requirements for any vehicle selected under paragraph (b)(1)(v) or (b)(1)(vii)(D) of this section with the testing requirements for any similar vehicle in the same engine-system combination selected under paragraph (b)(1) (ii), (iii), or (iv) of this section or any similar vehicle in the same engine-system, evaporative emission family evaporative emission control system combination selected under paragraph (b)(1)(vii) (A) or (B) of this section. The testing requirements may be combined by the Administrator by requiring a vehicle selected for testing under paragraphs (b)(1) (ii), (iii), (iv), (vii)(A), or (vii)(B) of this section to be modified (if necessary) after mileage accumulation and emission testing for the purpose of demonstrating compliance with § 86.079–23(c)(1)((ii).

(vii)(A) Vehicles of each evaporative emission family will be divided into evaporative emission control systems. One vehicle of each evaporate emission control system within the evaporative emission family will be selected.

(B) The Administrator may select a maximum of four additional vehicles within each evaporative emission family based upon features indicating that they may have the highest evaporative emission levels of vehicles in that family.

(C) The Administrator may determine that the vehicles selected under paragraphs (b)(1) (ii) through (iv) of this section may be used to satisfy the requirements of paragraphs (b)(1)((vii) (A) and (B) of this section.

(D) The Administrator may select one vehicle for each evaporative emission control system within each evaporative emission family if such a vehicle is expected to have high evaporative emissions when operated at high altitude.

(E) Vehicles selected under (b)(1)(v) may be used to satisfy the requirements of (b)(1)(vii)(D).

(2) *Gasoline-fueled heavy-duty emission-data engines.* Paragraph (b)(2) of this section applies to gasoline-fueled heavy-duty engines.

(i) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into engine displacement-exhaust emission control system combinations. A projected sales volume will be established for each combination for the applicable model year. One engine of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of engines of that family is represented, or until a maximum of four engines is selected. The engines selected for each combination will be specified by the Administrator as to fuel system.

(iii) The Administrator may select a maximum of two additional engines within each engine family based upon features indicating that they may have the highest emission levels of the engines in that engine family. In selecting these engines, the Administrator will consider such features as the exhaust emission control system, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, and compression ratio.

(iv) If the engines selected in accordance with paragraphs (b)(2) (ii) and (iii) of this section do not represent each engine displacement-exhaust emission control system combination, then one engine of each engine displacement-exhaust emission control system combination not represented shall be selected by the Administrator.

(3) *Diesel heavy-duty emission-data engines.* Paragraph (b)(3) of this section applies to Diesel heavy-duty emission-data engines.

(i) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into groups based upon exhaust emission control system. One engine of each engine-system combination shall be run for smoke emission data and gaseous emission data as prescribed in § 86.082–28(c)(3). Either the complete gaseous emission test or the complete smoke test may be conducted first. Within each combination, the engine that features the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed, will usually be selected. If there are military engines with higher fuel rates than other engines in the same engine-system combination, then one military engine shall also be selected. The engine with the highest fuel feed per stroke will usually be selected.

(iii) The Administrator may select a maximum of one additional engine within one engine-system combination based upon features indicating that it may have the highest emission levels of the engines of that combination. In selecting this engine, the Administrator will consider such features as the injection system, fuel system, compression ratio, rated speed, rated horsepower, peak torque speed, and peak torque.

(c) Durability data. (1) *Durability-data vehicles.* Paragraph (c)(1) of this section applies to light-duty vehicle and light-duty truck durability-data vehicles.

(i) A durability-data vehicle will be selected by the Administrator to represent each engine-system

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combination. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with that control system combination in that engine family and will be designated by the Administrator as to transmission type, fuel system, inertia weight class, and test weight.

(ii) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same engine displacement, transmission type, fuel system, inertia weight class, and test weight as the vehicle selected for that engine-system combination in accordance with the provisions of paragraph (c)(1)(i) of this section. Notice of an intent to operate and test additional vehicles shall be given to the Administrator no later than 30 days following notification of the test fleet selection.

(2) *Gasoline-fueled heavy-duty durability-data engines.* Paragraph (c)(2) of this section applies to gasoline-fueled heavy-duty durability-data engines.

(i) A durability-data engine will be selected by the Administrator to represent each engine-system combination.

(ii) [Reserved]

(iii) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same engine displacement and fuel system as the engine selected for that combination in accordance with the provisions of paragraph (c)(2)(i) of this section. Notice of an intent to run additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection. Deterioration factors calculated for each engine-system combination shall be applied separately to military and non-military engines within the same engine-system combination.

(3) *Diesel heavy-duty durability-data engines.* Paragraph (c)(3) of this section applies to Diesel heavy-duty durability-data engines.

(i) One engine from each engine-system combination shall be tested as prescribed in § 86.082–26(c)(3)(ii). At each test point, either the complete gaseous emission test or the complete smoke test may be conducted first. Within each combination, the engine which features the highest fuel feed per stroke, primarily at rated speed and secondarily at the speed of maximum rated torque, will usually be selected for durability testing. In the case where more than one engine in an engine-system combination has the highest fuel feed per stroke, the engine with the highest maximum rated horsepower will usually be selected for durability testing. If an engine system combination includes both military and nonmilitary engines, then the nonmilitary engine with the highest maximum rated horsepower will usually be selected for durability testing.

(ii) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same model and fuel system as the engine selected in accordance with the provisions of paragraph (c)(3)(i) of this section. Notice of an intent to test additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection. Deterioration factors calculated for each engine-system combination shall be applied separately to military and nonmilitary engines within the same engine-system combination.

(d) For purposes of testing under § 86.082–26 (a)(9), (b)(9) or (c)(11), the Administrator may require additional emission-data vehicles (or emission-data engines) and durability-data vehicles (or durability-data engines) identical in all material respects to vehicles (or engines) selected in accordance with paragraphs (b) and (c) of this section: *Provided*, That the number of vehicles (or engines) selected shall not increase the size of either the emission-data fleet or the durability-data fleet by more than 20 percent or one vehicle (or engine), whichever, is greater.

(e) Any manufacturer whose projected sales for the model year in which certification is sought is less than

(1) 2,000 gasoline-fueled light-duty vehicles, or

(2) 2,000 diesel light-duty vehicles, or

(3) 2,000 gasoline-fueled light-duty trucks, or

(4) 2,000 diesel light-duty trucks, or

(5) 2,000 gasoline-fueled heavy-duty engines, or

(6) 2,000 diesel heavy-duty engines, may request a reduction in the number of test vehicles (or engines) determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines would meet the objectives of this procedure.

(f) In lieu of testing an emission-data or durability-data vehicle (or engine) selected under paragraph (b) or (c) of this section, and submitting data therefor, a manufacturer may, with the prior written approval of the Administrator, submit exhaust emission data and/or fuel evaporative emission data, as applicable on a similar vehicle (or engine) for which certification has previously been obtained or for which all applicable data required under § 86.079–23 has previously been submitted.

(g) (1) This paragraph applies to light-duty vehicles and light-duty trucks.

(2) Where it is expected that more than 33 percent of a car line, within an engine-system combination, may be equipped with an item (whether that item is standard equipment or an option), the full estimated weight of that item shall be included in the curb weight computation of each vehicle available with that item in that carline, within that engine-system combination. Where it is expected that 33 percent or less of the carline, within an engine-system combination, will be equipped with an item (whether that item is standard equipment or an option) no weight for that item will be added in computing the curb weight for any vehicle in that carline, within that engine system combination, unless that item is standard equipment on the vehicle. In the case of mutually exclusive options, only the weight of the heavier option will be added in computing the curb weight. Optional items weighing less than three pounds per item need not be considered.

(3) Where it is expected that more than 33 percent of a carline, within an engine-system combination, will be equipped with an item (whether that item is standard equipment or an option) that can reasonably be expected to influence emissions, then such items shall actually be installed, unless specifically excluded by the Administrator, on all emission data and durability data vehicles of that carline, within that engine-system combination, on which the items are intended to be offered in production. Items that can reasonably be expected to influence emissions are: air conditioning, power steering, power brakes, and other items determined by the Administrator.

(4) Where it is expected that 33 percent or less of a carline within an engine-system combination, will be equipped with an item (whether that item is standard equipment or an option) that can reasonably be expected to influence emissions, that item shall not be installed on any emission data vehicle or durability data vehicle of that carline, within that engine-system combination, unless that item is standard equipment on that vehicle or specifically required by the Administrator.

7. Section 86.082–26 is added. This section is identical to § 86.080–26 except for paragraphs (a)(3)(i)(C), (a)(3) (i)(D), (a)(3)(ii)(C), (a)(3)(ii)(D), and (a)(3)(iii)(A).

§ 86.082–26 Mileage and service accumulation; emission measurements.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The procedure for mileage accumulation will be the durability driving schedule as specified in appendix IV to this part. A modified procedure may also be used if approved in advance by the Administrator. Except with the advance approval of the Administrator, all vehicles will accumulate mileage at a measured curb weight which is within 100 pounds of the estimated curb weight. If the loaded vehicle weight is within 100 pounds of being included in the next higher inertia weight class as specified in § 86.129, the manufacturer may elect to conduct the respective emission tests at the test weight corresponding to the higher loaded vehicle weight.

(3) *Emission-data-vehicles.* Unless as otherwise provided for in § 86.079–23(a), emission-data vehicles shall be operated and tested as follows:

(i) *Gasoline-fueled.* (A) Each gasoline-fueled emission-data vehicle shall be driven 4,000 miles with all emission control systems installed and operating. Complete exhaust emission tests shall be conducted at zero and 4,000 miles on those vehicles selected under § 86.082–24 (b)(1)(ii) through (b)(1)(v). Complete exhaust and evaporative emission tests shall be conducted at zero miles and 4,000 miles on those vehicles selected under § 86.082–24(b)(1)(vii). The manufacturer may at his option test the vehicles selected under § 86.082–24(b)(1)(vii) up to three times at the 4,000-mile test point as long as the ±250-mile test tolerance is adhered to. The Administrator may determine under § 86.082–24(f) that no testing is required.

(B) The emission-data vehicle(s) selected for testing under § 86.082–24 (b)(1)(v) or (b)(1)(vii)(D) shall be driven 6,436 kilometers (4,000 miles) at any altitude. Emission tests shall be conducted at zero kilometers (zero miles) at any altitude and 6,436 kilometers (4,000 miles) under high-altitude conditions.

(C) Exhaust and evaporative emission tests at 6,436 kilometers (4,000 miles) for vehicles selected under § 86.082–24(b)(1)(ii) through (b)(1)(iv) shall be conducted under low-altitude conditions.

(D) The Administrator may designate any vehicles selected under § 86.082–24 (b)(1)(ii) through (b)(1)(vii) to be tested under high-altitude conditions. If the manufacturer recommends adjustments or modifications in order to conform to emission standards at high altitude, such adjustments or modifications shall be made to the test vehicle (in accordance with the instructions to be provided to the ultimate purchaser) before being tested at high altitude.

(ii) *Diesel.* (A) Each diesel emission-data vehicle shall be driven 6,436 kilometers (4,000 miles) with all emission control systems installed and operating. Emission tests shall be conducted at zero kilometers (zero miles) and 6,436 kilometers (4,000 miles).

(B) The emission-data vehicle(s) selected for testing under § 86.082–24(b)(1)(v) shall be driven 6,436 kilometers (4,000 miles) at any altitude. Emission tests shall be conducted at zero kilometers (zero miles) at any altitude and 6,436 kilometers (4,000 miles) under high-altitude conditions.

(C) Exhaust emission tests at 6,436 kilometers (4,000 miles) shall be conducted under low-altitude conditions.

(D) The Administrator may designate any vehicles selected under § 86.082–24 (b)(1)(ii) through (b)(1)(vii) to be tested under high-altitude conditions. If the manufacturer recommends adjustments or modifications in order to conform to emission standards at high altitude, such adjustments or modifications shall be made to the test vehicle (in accordance with the instructions to be provided to the ultimate purchaser) before being tested at high altitude.

(iii)(A) Vehicles tested for compliance under high-altitude conditions shall be tested at an elevation of 1,620 meters±100 meters (5,400 feet±300 feet) or the equivalent observed barometric test conditions of 82±1 kilopascal.

(4) *Durability-date vehicles.* Unless as otherwise provided for in § 86.079–23(a), durability-data vehicles shall be operated and tested as follows:

(i) *Gasoline-fueled.* Each gasoline-fueled durability-data vehicle selected by the Administrator or elected by the manufacturer under § 86.082–24(c)(1) shall be driven, with all emission control systems installed and operating for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objective of this procedure. Complete exhaust emission tests shall be made on all durability-data vehicles selected by the Administrator or elected by the manufacturer under § 86.082–24(c) at the following mileage points: 0; 5,000; 10,000; 15,000; 20,000; 25,000; 30,000; 35,000; 40,000; 45,000; 50,000. The Administrator may determine under § 86.082–24(f) that no testing is required.

(ii) *Diesel.* Each diesel durability-data vehicle shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objectives of the procedure. Complete emission tests (see § § 86.100 through 86.145) shall be made at the following mileage points: 0; 5,000; 10,000; 15,000; 20,000; 25,000; 30,000; 35,000; 40,000; 45,000; 50,000.

(5) All tests required by this subpart to be conducted after every 5,000 miles of driving for durability-data vehicles and 4,000 miles for emission-data vehicles must be conducted at any accumulated mileage within 250 miles of each of those test points.

(6)(i) The results of each emission test shall be supplied to the Administrator immediately after the test. The manufacturer shall furnish to the Administrator explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. If a manufacturer conducts multiple test at any test point at which the data are intended to be used in the calculation of the deterioration factor, the number of tests must be the same at each point and may not exceed three valid tests. Tests between tests points may be conducted as required by the Administrator. Data from all tests (including voided tests) shall be air posted to the Administrator within 24 hours (or delievered within 3 working days). In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.079–23. Where the Administrator conducts a test on a durability-data vehicle at a prescribed test point, the results of that test will be used in the calculation of the deterioration factor.

(ii) The results of all emission tests shall be rounded, using the "rounding off method" specified in ASTM E29–67, to the number of places to the right of the decimal point indicated by expressing applicable emission standards of this subpart of three significant figures.

(7) Whenever the manufacturer proposes to operate and test a vehicle which may be used for emission or durability data, he shall provide the zero-mile test data to the Administrator (except for those vehicles for which the zero-mile test requirement has been waived under § 86.079–23(a)(2)) and make the vehicle available for such testing under § 86.079–29 as the Administrator may require before beginning to accumulate mileage on the vehicle. Failure to comply with this requirement will invalidate all test data submitted for this vehicle.

(8) Once a manufacturer begins to operate an emission-data or durability-data vehicle, as indicated by compliance

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with paragraph (a)(7) of this section, he shall continue to run the vehicle to 4,000 miles or 50,000 miles, respectively, and the data from the vehicle will be used in the calculations under § 86.082-28. Discontinuation of a vehicle shall be allowed only with the written consent of the Administrator.

(9)(i) The Administrator may elect to operate and test any test vehicle during all or any part of the mileage accumulation and testing procedure. In such cases, the manufacturer shall provide the vehicle(s) to the Administrator with all information necessary to conduct this testing.

(iii) The test procedures in §§ 86.106 through 86.145 will be followed by the Administrator. The Administrator will test the vehicles at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(iii) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other vehicles of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(10) Emission testing of any type with respect to any certification vehicle other than that specified in this part is not allowed except as such testing may be specifically authorized by the Administrator.

(11) This section does not apply to testing conducted to meet the requirements of § 86.079-23(b)(2).

(b)(1) Paragraph (b) of this section applies to heavy-duty engines.

(2)(i) For gasoline-fueled engines, the dynamometer service accumulation schedule will consist of several operating conditions which give the percent loads and the modes as specified in the following chart. The percentage of time in each mode must be held within the limits specified. The maximum observed torque for each mode in the service accumulation cycle must be determined at the rpm at which the mode is being conducted. The percent load for that mode will be determined from the maximum torque at the rpm at which the mode is being conducted.

Mode	Observed torque (percentage of maximum observed)	Percentage of time
Idle	Idle	23 (22-24)
CT	CT	14 (13-15)
PTD	10	6 (5-7)
Cruise	25	31 (26-32)
PTA	55	15 (14-16)
FL	90	11 (10-12)

(ii) The equivalent control parameter for engine loading will be manifold vacuum, manifold pressure, or torque. Usage of one of the three parameters will require approval in advance by the Administrator. The control parameter values that correspond to the appropriate percent loads as specified in the emission test cycle will be initially determined at the zero-hour point or after an appropriate break-in procedure. The control parameter values determined initially will be used for the entire service accumulation schedule. If at any time during the service accumulation, the 90 percent torque value cannot be attained, the engine shall be operated at wide-open throttle.

(iii) The average speed shall be between 1,650 and 1,700 rpm. Subject to the requirements as to average speed, there must be operation at speeds in excess of 3,200 rpm (but not in excess of governed speed for governed engines or rated speed for nongoverned engines) for a cumulative maximum of 0.5 percent of the actual cycle time, excluding time in transient conditions. Maximum cycle time shall be 15 minutes. A cycle approved in advance by the Administrator shall be used.

(3)(i) For diesel engines, the following criteria must be met before service accumulation can begin. Failure to comply with these requirements shall invalidate all test data submitted for an engine.

(A) Each engine shall produce at least 95 percent of the maximum horsepower, corrected to rating conditions, at 95 to 100 percent of the rated speed.

(B) The fuel rate at maximum horsepower shall be within manufacturer's specifications.

(ii) During service accumulation, hours can be credited toward the required service accumulation hours when the following criteria are met. If these criteria cannot be met, engine operation shall be discontinued and the Administrator shall be notified immediately. (Adjustments to the fuel rate can be approved under the provisions of § 86.079-25).

(A) Each engine shall produce at least 95 percent of the maximum horsepower, at 95 to 100 percent of the rated speed, observed at the zero-hour point. Horsepower values shall be corrected to the rating conditions.

(B) The engine shall be operated at 75 percent of the inlet and exhaust restrictions specified in § 86.079-3 except that the tolerance will be ±3 inches of water and ±0.5 inch of Hg respectively.

(C) During each emission test the inlet and exhaust restrictions shall be as specified in § 86.079-8.

(4) If a break-in procedure is used, the procedure must be the same as recommended to the ultimate purchaser. Prior approval by the Administrator is required for use of any break-in procedure. The hours accumulated during the break-in procedure will not be counted as part of the service accumulation.

(5) Emission-data engines: Each emission-data engine shall be operated for 125 hours with all emission control systems installed and operating. An emission test shall be conducted at 125 hours. A zero-hour emission may be performed after the engine has been approved by the Administrator to begin service accumulation. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system.

(6) Durability-data engines: Each gasoline-fueled durability-data engine shall be operated, with all emission control systems installed and operating, for 1,500 hours. Each diesel durability-data engine shall be operated for 1,000 hours. Emission measurement, as prescribed, shall be made at 125-hour intervals beginning at 125 hours of operation. A zero-hour emission test may be performed after the engine has been approved by the Administrator to begin service accumulation. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system.

(7) All tests required by this subpart to be conducted after 125 hours of operation or at any multiple of 125 hours may be conducted at any accumulated number of hours within 8 hours of 125 hours or the appropriate multiple of 125 hours respectively.

(8)(i) Data from all emission tests (including voided tests) shall be air posted to the Administrator within 72 hours (or delivered within 5 working days). The manufacturer shall furnish to the Administrator an explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. If a manufacturer conducts multiple tests at any test point at which the data

are intended to be used in the calculation of the deterioration factor, the number of tests must be the same at each point and may not exceed 3 valid tests. Tests between test points may be conducted as required by the Administrator. In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.079-23. Where the Administrator conducts a test on a durability-data engine at a prescribed test point, the results of that test will be used in the calculation of the deterioration factor, the number of tests must be the same at each point and may not exceed 3 valid tests. Tests between test points may be conducted as required by the Administrator. In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.079-23. Where the Administrator conducts a test on a durability-data engine at a prescribed test point, the results of that test will be used in the calculation of the deterioration factor.

(ii) The results of all emission tests shall be recorded and reported to the Administrator using two places to the right of the decimal point. These numbers shall be rounded in accordance with the "Rounding Off Method" specified in ASTM E 29-67.

(9) Whenever the manufacturer proposes to operate and test an engine which may be used for emission or durability data, he shall provide such information concerning components used on the engine as the Administrator may require and make the engine available for such testing under § 86.079-29 as the Administrator may require, before beginning to accumulate hours on the engine. Failure to comply with this requirement will invalidate all test data later submitted of this engine.

(10) Once a manufacturer begins to operate an emission-data or durability-data engine, as indicated by compliance with paragraph (b)(9) of this section, he shall continue to run any emission-data engine to 125 hours, any gasoline-fueled durability-data engine to 1,500 hours, and any diesel durability-data engine to 1,000 hours. The data from the engine will be used in the calculations under § 86.345. Discontinuation of an engine shall be allowed only with the prior written consent of the Administrator.

(11)(i) The Administrator may elect to operate and test any test engine during all or any part of the service accumulation and testing procedure. In such cases the manufacturer shall provide the engine(s) to the Administrator with all information necessary to conduct the testing.

(ii) The test procedures (Subparts D or H of this part for gasoline-fueled engines, and subparts I and D or I and J of this part of diesel engines) will be followed by the Administrator. The Administrator will test the engines at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(iii) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other engines of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(12) Emission testing of any type with respect to any certification engine other than that specified in this subpart is not allowed except as such testing may be specifically authorized by the Administrator.

8. Section 86.082-28 is added. This section is identical to § 86.079-28 except for paragraph (a)(4)(i)(B).

§ 86.082-28 Compliance with emission standards.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The applicable exhaust and fuel evaporative emission standards of this subpart apply to the emissions of vehicles for their useful life.

(3) Since it is expected that emission control efficiency will change with mileage accumulation on the vehicle, the emission level of a vehicle which has accumulated 50,000 miles will be used as the basis for determining compliance with the standards.

(4) The procedure for determining compliance of a new motor vehicle with exhaust emission standards is as follows:

(i) Separate emission deterioration factors shall be determined from the exhaust emission results of the durability-data vehicles(s) for each engine-system combination. A separate factor shall be established for exhaust HC, exhaust CO, and exhaust NO_x for each engine-system combination. A separate evaporative emission deterioration factor shall be determined for each evaporative emission family-evaporative emission control system combination from the testing conducted by the manufacturer.

(A) The applicable results to be used in determining the exhaust emission deterioration factors for each engine-system combination shall be:

(1) All valid exhaust emission data from the tests required under § 86.082-26(a)(4) except the zero-mile tests. These shall include the official test results, as determined in § 86.079-29 for all tests conducted on all durability-data vehicles of the combination selected under § 86.082-24(c) (including all vehicles elected to be operated by the manufacturer under § 86.082-24(c)(1)(ii)).

(2) All exhaust emission data from the tests conducted before and after the scheduled maintenance provided in § 86.079-25

(3) All exhaust emission data from tests required by maintenance approved under § 86.079-25, in those cases where the Administrator conditioned his approval for the performance of such maintenance on the inclusion of such data in the deterioration factor calculation.

(B) All applicable exhaust emission results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through all these data points. The interpolated 4,000- and 50,000-mile points on this line must be within the low-altitude standards provided in § 86.082-6 or § 86.082-9 as applicable, or the data will not be acceptable for use in calculation of a deterioration factor, unless no applicable data point exceeded the standard. An exhaust emission deterioration factor shall be calculated for each engine-system combination as follows:

Factor = Exhaust emissions interpolated to 50,000 divided by exhaust emissions interpolated to 4,000 miles.

These interpolate values shall be carried out to a minimum of four places to the right of the decimal point before dividing one by the other to determine the deterioration factor. The results shall be rounded to three places to the right of the decimal point in accordance with ASTME 29-67.

(C) An evaporative emission deterioration factor shall be determined from the testing conducted as described in § 86.082-21(b)(4)(ii), for each evaporative emission family-evaporative emission control system combination to indicate the evaporative emission level at 50,000 miles relative to the evaporative emission level at 4,000 miles as follows:

Factor = Evaporative emission level at 50,000 miles minus the evaporative emission level at 4,000 miles.

The factor shall be established to a minimum of two places to the right of the decimal.

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(ii)(A) The official exhaust emission test results for each emission-data vehicle at the 4,000 mile test point shall be multiplied by the appropriate deterioration factor: *Provided,* That if a deterioration factor as computed in paragraph (a)(4)(i)(B) of this section is less than one, that deterioration factor shall be one for the purposes of this paragraph.

(B) The official evaporative emission test results for each evaporative emission-data vehicle at the 4,000 mile test point shall be adjusted by addition of the appropriate deterioration factor: *Provided,* That if a deterioration factor as computed in paragraph (a)(4)(i)(C) of this section is less than zero, that deterioration factor shall be zero for the purposes of this paragraph.

(iii) The emissions to compare with the standard shall be the adjusted emissions of paragraph (a)(4)(ii) (A) and (B) of this section for each emission-data vehicle. Before any emission value is compared with the standard, it shall be rounded, in accordance with ASTM E 29–67, to two significant figures. The rounded emission values may not exceed the standard.

(iv) Every test vehicle of an engine family must comply with the exhaust emission standards, as determined in paragraph (a)(4)(iii) of this section, before any vehicle in that family may be certified.

(v) Every test vehicle of an evaporative emission family must comply with the evaporative emission standards, as determined in paragraph (a)(4)(iii) of this section, before any vehicle in that family may be certified.

(b)(1) Paragraph (b) of this section applies to heavy-duty engines.

(2) The exhaust emission standards for gasoline-fueled engines in § 86.080–11 or for Diesel engines in § 86.080–11 apply to the emissions of engines for their useful life.

(3) Since emission control efficiency decreases with the accumulation of hours on the engine, the emission level of a gasoline-fueled engine which has accumulated 1,500 hours of dynamometer operation or a diesel engine which has accumulated 1,000 hours of dynamometer operation will be used as the basis for determining compliance with the standards.

(4) The procedure for determining compliance of a new engine with exhaust emission standards is as follows:

(i) Separate emission deterioration factors shall be determined from the emission results of the durability-data engine for each engine-system combination. Separate factors shall be established for HC, CO, and for the combined emissions of HC and NO_x. For Diesel engines, separate factors shall also be established for the acceleration mode (designated as "A"), the lugging mode (designated as "B"), and the peak opacity (designated as "C").

(A) The applicable results to be used in determining the deterioration factors for each combination shall be:

(*1*) All valid emission data from the tests required under § 86.079–28(b). These shall include the official test results, as determined in § 86.079–29, for all tests conducted on all gasoline-fueled durability-data engines of the combination selected under § 86.082–24(c)(2) or on all Diesel durability-data engines of the combination selected under § 86.082–24(c)(3) (including all engines elected to be operated by the manufacturer under § 86.082–24(c)(2)(iii) for gasoline-fueled engines or under § 86.082–24(c)(3)(ii) for Diesel engines).

(*2*) All emission data from the tests conducted before and after maintenance provided in § 86.079–25(c)(2)(i)(A) for gasoline-fueled engines or in § 86.079–25(c)(2)(i)(B) for Diesel engines.

(*3*) All emission data from the tests conducted before and after maintenance provided in § 86.079–25(c)(2)(v)(C) for Diesel engines if emission tests were conducted.

(B) All applicable emission results for (1) HC, (2) CO, (3) $HC+NO_x$, (4) acceleration smoke ("A"), (5) lugging smoke ("B"), and (6) peak smoke ("C") shall be plotted as a function of durability hours which shall be consistently rounded to the nearest hour. Emission data shall have two figures to the right of the decimal. The best fit straight lines, fitted by the method of least squares, shall be drawn through these data points. The interpolated 125-hour and 1,500-hour points for gasoline-fueled engines or the 1,000-hour point for Diesel engines on each line, rounded to whole numbers in accordance with ASTM E 29–67, must be within the standards specified in § 86.080–10 for gasoline-fueled engines or in § 86.080–11 for Diesel engines or the data shall not be used in the calculation of a deterioration factor, unless no applicable data points exceed the standards.

(C) The interpolated values shall be used to calculate a deterioration factor as follows:

Factor = Exhaust emissions interpolated to 1,500 hours for gasoline-fueled engines or to 1,000 hours for Diesel engines minus the exhaust emissions interpolated to 125 hours. (Negative deterioration factors shall be considered zero).

(ii) The appropriate deterioration factor, carried out to two places to the right of the decimal point, shall be added to the exhaust emission test results, carried out to two places to the right of the decimal point, for each emission-data engine.

(iii) The emission values to compare with the standards shall be the adjusted emission values of paragraph (b)(4)(ii) of this section rounded to two significant figures in accordance with ASTM E 29–67 for each emission-data engine.

(iv) Every test engine of engine family must comply with all applicable standards, as determined in paragraph (b)(4)(iii) of this section, before any engine in that family will be certified.

9. Section 86.082–30 is added. This section is identical to § 86.079–30 except for paragraphs (a)(3), (a)(4), (a)(5), (a)(6), (b)(1)(i)(B), and (b)(1)(i)(C).

§ 86.082–30 Certification.

(a)(1) If, after a review of the test reports and data submitted by the manufacturer, data derived from any inspection carried out under § 86.078–7(c), and any other pertinent data or information, the Administrator determines that a test vehicle(s) (or test engine(s)) meet(s) the requirements of the Act and of this subpart, he will issue a certificate of conformity with respect to such vehicle(s) (or engine(s)) except in cases covered by paragraph (c) of this section.

(i) Each certificate of conformity shall state the altitude(s) at which the vehicle(s) covered by the certificate has demonstrated compliance with the applicable emission standards.

(2) Such certificate will be issued for such period not to exceed one model year as the Administrator may determine and upon such terms as he may deem necessary to assure that any new motor vehicle (or new motor vehicle engine) covered by the certificate will meet the requirements of the Act and of this part. Each such certificate shall contain the following language:

This certificate covers only those new motor vehicles (or new motor vehicle engines) which conform, in all material respects, to the design specifications that applied to those vehicles (or engines) described in the application for certification and which are produced during the —— model year production period of the aid manufacturer, as defined in 40 CFR 86.082–2.

It is a term of this certificate that the manufacturer shall consent to all inspections described in 40 CFR 86.078–7 (c) which concern either the vehicle (or engine) certified, or any production vehicle (or production engine) which when completed will be claimed to be covered by this certificate. Failure to comply with all the requirements of § 86.078–7(c) with respect to any such vehicle (or engine) may lead to revocation or suspension of this certificate as specified in 40 CFR § 86.082–30(c). It is also a term of this certificate that this certificate may be revoked or suspended for the other reasons stated in § 86.082–30 (c) or (d).

(3) One such certificate will be issued for each engine family. For gasoline-fueled light-duty vehicles and light-duty trucks, one such certificate will be issued for each engine family-evaporative emission family combination. Each certificate will certify compliance with no more than one set of standards except for low-altitude standards and high-altitude standards. The certificate shall state that it covers vehicles sold or delivered to an ultimate purchaser for principal use at high altitude only if the vehicle conforms, in all material respect to the design in the application for certification at high altitude.

(4) The adjustment or modification of any light-duty vehicle or light-duty truck in accordance with instructions provided by the manufacturer as approved by EPA for the altitude of the dealership selling or leasing the vehicle will not be considered violation of section 203(a)(3) of the Clean Air Act. A violation of section 203(a)(1) of the Clean Air Act occurs when any manufacturer sells or delivers to an ultimate purchaser any light-duty vehicle or light-duty truck, subject to the regulations under the Act which is not configured to meet high-altitude standards:

(i) At a designated high altitude location, unless such manufacturer has substantial reason to believe that such motor vehicle will not be sold to an ultimate purchaser for principal use at a designated high-altitude location; or

(ii) At an other than designated high-altitude location, when such manufacturer has reason to believe that such motor vehicle is intended by the ultimate purchaser to be used principally at a designated high-altitude location.

(5) For the purpose of paragraph (a) of this section, "designated high-altitude location" is any county which has substantially all of its area located above 1,219 meters (4,00 feet) and which is identified below:

Counties Located Substantially Above 1,219 Meters (4,000 Feet) in Elevation

State of Arizona

Apache, Navajo

State of Colorado

Adams, Alamosa, Arapahoe, Archuleta, Boulder, Chaffee, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Lake, La Plata, Larimer, Las Animas, Lincoln, Mesa, Mineral, Moffat, Montezuma, Montrose, Morgan, Ouray, Park, Pitkin, Pueblo, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Summit, Teller, Washington, Weld

State of Idaho

Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Camas, Caribou, Cassia, Clark, Custer, Franklin, Fremont, Jefferson, Madison, Minidoka, Oneida, Power, Teton, Valley

State of Montana

Beaverhead, Deer Lodge, Gallatin, Jefferson, Madison, Meagher, Park, Silver Bow

State of Nebraska

Banner, Kimball, Sioux

State of Nevada

Carson City, Douglas, Elko, Esmeralda, Eureka, Humboldt, Lander, Lyon, Mineral, Storey, White Pine

State of New Mexico

Bernalillo, Catron, Colfax, Curry, De Baca, Grant, Guadalupe, Harding, Lincoln, Los Alamos, Luna, McKinley, Mora, Rio Arriba, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socurro, Taos, Torrance, Union, Valencia

State of Oregon

Lake

State of Utah

Beaver, Box Elder, Cache, Carbon, Daggett, Davis, Duchesne, Emery, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, salt Lake, San juan, Sanpete, Sevier, Summit, Tocele, Uintah, Utah, Wasatch, Wayne, Weber

State of Wyoming

Albany, Carbon, Converse, Fremont, Goshen, Hot Springs, Johnson, Laramie, Lincoln, Natrona, Niobrara, Park, Platte, Sobletts, Sweetwater, Teton, Uinta, Weston

(6) The provisions of paragraph (a)(4) of this section shall not apply to any light-duty vehicle or light-duty truck sold, offered for sale, introduced,or delivered for intorduction into commerce in California provided that the vehicle is covered by a certificate of conformity with emission standards in effect in California.

(7) Certificates issued for light-duty vehicles or light-duty trucks certified with catalytic converters shall be subject to the following term in addition to the term in paragraph (a)(2) of this section: "Catalyst-equipped vehicles, otherwise covered by this certificate, which are driven outside the United States, Canada, and Mexico will be presumed to have been operated on leaded gasoline resulting in deactivation of the catalysts. If these vehicles are imported or offered for the importation without retrofit of the catalyst, they will be considered not to be within the coverage of this certificate unless included in a catalyst control program operated by a manufacturer or a United States Government Agency and approved by the Administrator."

(8) Certificates issued for incomplete light-duty trucks shall be subject to the following term in addition to the term in paragraph (a)(2) of this section: "For incomplete light-duty trucks, this certificate covers only those new motor vehicles which when completed by having the primary load-carrying device or container attached, conform to the maximum curb weight and frontal area limitations described in the application for certification as required in 40 CFR 86.082–21(d)."

(9) Certificates issued for heavy-duty engines shall be subject to the following term in addition to the term in paragraph (a)(2) of this section: "For heavy-duty engines, this certificate covers only those new motor vehicle engines installed in heavy-duty vehicles which conform to the minimum gross vehicle weight rating, curb weight, or frontal area limitations for heavy-duty vehicles described in 40 CFR 86.082–2."

(b)(1) The Administrator will determine whether a vehicle (or engine) covered by the application complies

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with applicable standards by observing the following relationships:

(i) *Light-duty vehicles and light-duty trucks.* (A) The durability-data vehicle(s) selected under § 86.082–24(c)(1)(i) shall represent all vehicles of the same engine-system combination.

(B) The emission-data vehicle(s) selected under § 86.082–24(b)(1)(ii) through (b)(1)(v) shall represent all vehicles of the same engine-system combination as applicable.

(C) The emission-data vehicle(s) selected under§ 86.078–24(b)(1)(vii)(A) and (b)(1)(vii)(B) shall represent all vehicles evaporative emission family, as applicable.

(D) [Deleted]

(E) [Deleted]

(ii) *Gasoline-fueled heavy-daty engines.* (A) A test engine selected under § 86.082–24(b)(2)(ii) and (iv) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(B) A test engine selected under § 86.082–24(b)(2)(iii) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(C) A test engine selected under § 86.082–24(c)(2)(i) shall represent all engines of the same engine-system combination.

(iii) *Diesel heavy-duty engines* (A) A test engine selected under § 86.082–24(b)(3)(ii) shall represent all engines of the same engine-system combination.

(B) A test engine selected under § 86.082–24(b)(3)(iii) shall represent all engines of that emission control system at the rated fuel delivery of the test engines.

(C) A test engine selected under § 86.082–24(c)(3)(i) shall represent all engines of the same engine-system combination.

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the vehicles (or engines) belonging to an engine family or engine family-evaporative emission family combination (as applicable), all of which comply with all applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer, data derived from any additional testing conducted pursuant to § 86.079–29, data or information derived from any inspection carried out under § 86.078–7(c) or any other pertinent data or information, the Administrator determines that one or more test vehicles (or test engines) of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing of the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078–6 with respect to such issue.

(4) For light-duty vehicles and light-duty trucks the manufacturer may, at his option, proceed with any of the following alternatives with respect to an emission-data vehicle determined not in compliance with all applicable standards for which it was tested:

(i) Request a hearing under § 86.078–6; or

(ii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed, from his application;

(A) If the failed vehicle was tested for compliance with exhaust emission standards only: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle to be tested for exhaust emission compliance only.

(B) If the failed vehicle was tested for compliance with both exhaust and evaporative emission standards: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle which will be tested for compliance with both exhaust and evaporative emission standards. If one vehicle cannot be selected in accordance with the selection criteria employed in selecting the failed vehicle, then two vehicles may be selected (i.e., one vehicle to satisfy the exhaust emission vehicle selection criteria and one vehicle to satisfy the evaporative emission vehicle selection criteria). The vehicle selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicle selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards; or

(iii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed from the application and add a vehicle configuration(s) (or evaporative vehicle configuration(s), as applicable) not previously listed. The Administrator may require, if applicable, that the failed vehicle be modified to the new engine code (or evaporative emission code, as applicable) and demonstrate by testing that it meets applicable standards for which it was originally tested. In addition, the Administrator may select, in accordance with the vehicle selection criteria given in § 86.082–24(b), a new emission-data vehicle or vehicles. The vehicles selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicles selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards; or

(iv) Correct a component or system malfunction and show that with a correctly functioning system or component the failed vehicle meets applicable standards for which it was originally tested. The Administrator may require a new emission-data vehicle, of identical vehicle configuration (or evaporative vehicle configuration, as applicable) to the failed vehicle, to be operated and tested for compliance with the applicable standards for which the failed vehicle was originally tested.

(5) For heavy-duty engines the manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test engine(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 86.078–6; or

(ii) Delete from the application for certification the engines represented by the failing test engine. (Engines so deleted may be included in a later request for certification under § 86.079–32.) The Administrator will then select in place of each failing engine an alternate engine chosen in accordance with selection criteria employed in selecting the engine that failed; or

(iii) Modify the test engine and demonstrate by testing that it meets applicable standards. Another engine which is in all material respects the same as the first engine, as modified, shall then be operated and tested in accordance with applicable test procedures.

(6) If the manufacturer does not request a hearing or present the required data under paragraphs (b)(4) or (b)(5) (as applicable) of this section, the Administrator will deny certification.

(c)(1) Not withstanding the fact that any certification vehicle(s) (or certification engine(s)) may comply with other provisions of this subpart, the Administrator may withhold or deny the issuance of a certificate of conformity (or suspend or revoke any such certificate which has been issued) with respect to any such vehicle(s) (or engine(s)) if:

(i) The manufacturer submits false or incomplete information in his application for certification thereof;

(ii) The manufacturer renders inaccurate any test data which he submits pertaining thereto or otherwise circumvents the intent of the Act, or of this part with respect to such vehicle (or engine);

(iii) Any EPA Enforcement Officer is denied access on the terms specified in § 86.078–7(c) to any facility or portion thereof which contains any of the following:

(A) The vehicle (or engine);

(B) Any components used or considered for use in its modification or buildup into a certification vehicle (or certification engine);

(C) Any production vehicle (or production engine) which is or will be claimed by the manufacturer to be covered by the certificate;

(D) Any step in the construction of a vehicle (or engine) described in (C) of this subdivision;

(E) Any records, documents, reports, or histories required by this part to be kept concerning any of the above;

(iv) Any EPA Enforcement Officer is denied "reasonable assistance" (as defined in § 86.078–7(c)) in examining any of the items listed in paragraph (c)(1)(iii) of this section.

(2) The sanctions of withholding, denying, revoking, or suspending of a certificate may be imposed for the reasons in paragraphs (c)(1)(i), (ii), (iii), or (iv) of this section only when the infraction is substantial.

(3) In any case in which a manufacturer knowingly submits false or inaccurate information or knowingly renders inaccurate or invalid any test data or commits any other fraudulent acts and such acts contribute substantially to the Administrator's decision to issue a certificate of conformity, the Administrator may deem such certificate void ad initio.

(4) In any case in which certification of a vehicle (or engine) is proposed to be withheld, denied, revoked, or suspended under paragraph (c)(1)(iii) or (c)(1)(iv) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.078–7(c) in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle (or engine) in question was not involved in the violation to a degree that would warrant withholding denial, revocation, or suspension of certification under either paragraph (c)(1)(iii) or (c)(1)(iv) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(5) Any revocation or suspension of certification under paragraph (c)(1) of this section shall:

(i) be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.078–6 hereof.

(ii) Extend no further than to forbid the introduction into commerce of vehicles (or engines) previously covered by the certification which are still in the hands of the manufacturer, except in cases of such fraud or other misconduct as makes the certification invalid ab initio.

(6) The manufacturer may request in the form and manner specified in paragraph (b)(3) of this section that any determination made by the Administrator under paragraph (c)(1) of this section to withhold or deny certification be reviewed in a hearing conducted in accordance with § 86.078–6. If the Administrator finds, after a review of the request and supporting data, that the request raises a substantial factual issue, he will grant the request with the respect to such issue.

(d)(1) Notwithstanding the fact that any vehicle configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of conformity in whole or in part with respect to such vehicle configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 86.603; or

(ii) The manufacturer refuses to comply with any of the requirements of § 86.603; or

(iii) The manufacturer submits false or incomplete information in any report or information provided pursuant to the requirements of § 86.609; or

(iv) The manufacturer renders inaccurate any test data which he submits pursuant to § 86.609; or

(vi) Any EPA Enforcement Officer is denied the opportunity on the terms specified in § 86.606, to:

(A) Monitor vehicle selection pursuant to § 86.607, or

(B) Select vehicles for testing pursuant to § 86.607, or

(C) Monitor vehicle testing performed to satisfy any of the requirements of this part; or

(vii) Any EPA Enforcement Officer is denied "reasonable assistance" as defined in § 86.606 in examining any of the items listed in that section; or

(viii) The manufacturer refuses to comply with the requirements of §§ 86.604(a), 86.605, and 86.607, 86.608, 86.610, or 86.611.

(2) The sanction of suspending a certificate may not be imposed for the reasons in paragraphs (d)(1)(i), (ii), or (viii) of this section where such refusal is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with those requirements. Such conditions and circumstances shall include, but not be limited to, any uncontrollable factors which results in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanctions of suspending a certificate may be imposed for the reasons in paragraphs (d)(1)(iii), (iv), (v), (vi), or (vii) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submitted false or inaccurate information or knowingly rendered inaccurate any test data or committed any other fraudulent acts, and such acts contributed substantially to the Administrator's original decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the date of such fraudulent act.

(5) In any case in which certification of a vehicle is proposed to be suspended under paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.606 in fact occurred, the manufacturer, if he wishes to contend that even though the violation occurred, the vehicle configuration or engine family in question was not involved in the violation to the degree that would warrant suspension of certification under either paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

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(6) Any suspension of certification under paragraph (d)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.613 hereof, and

(ii) Not apply to vehicles no longer in the hands of the manufacturer.

10. Section 86.082–35 is added. This section is identical to § 86.079–35 except for paragraphs (a)(1)(iii)(D) and (a)(1)(iii)(F), (a)(1)(iii)(G).

§ 86.082–35 Labeling.

(a) The manufacturer of any motor vehicle (or motor vehicle engine) subject to the applicable emission standards of this subpart, shall, at the time of manufacture, affix a permanent legible label, or the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles (or engines) available for sale to the public and covered by a certificate of conformity under § 86.082–30(a).

(1) *Light-duty vehicles and light-duty trucks.* (i) A permanent, legible label shall be affixed in a readily visible position in the engine compartment.

(ii) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label. The label shall not be affixed to any equipment which is easily detached from such vehicle.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(A) The label heading: Vehicle Emission Control Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches), engine, family identification and evaporative family identification;

(D) Engine tune-up specifications and adjustments, as recommended by the manufacturer in accordance with the altitude at which the vehicle is to be sold for principle use to the ultimate purchaser, including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable), as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tune-up and what accessories (e.g., air conditioner), if any, should be in operation. If adjustments or modifications to the vehicle are necessary to insure compliance with emission standards at either high or low altitude, the manufacturer shall either include the instructions for such adjustments on the label, or indicate on the label where instructions for such adjustments may be found. The label shall indicate whether the engine tune-up or adjustment specifications are applicable to elevation below or above 4,000 feet.

(E) An unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations which apply to light-duty vehicles or light-duty trucks;

(F) A statement, if applicable, that the adjustments or modifications indicated on the label are necessary to assure emission control compliance at the altitude specified.

(G) For high-altitude vehicles, a statement indicating that the vehicle was sold to the ultimate purchaser for principal use at high altitude.

(2) *Heavy-duty engines.* (i) A permanent legible label shall be affixed to the engine in a position in which it will be readily visible after installation in the vehicle.

(ii) The label shall be attached to an engine part necessary for normal engine operation and not normally requiring replacement during engine life.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals which shall be a color that contrasts with the background of the label:

(A) The label heading: Engine Exhaust Emission Control Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches) and engine family and model designations;

(D) Date of engine manufacture (month and year);

(E) Engine specifications and adjustments as recommended by the manufacturer. These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air conditioner), if any, should be in operation;

(F) For gasoline-fueled engines the label should include the idle speed, ignition timing, and the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), and valve lash.

(G) For Diesel engines the label should include the advertised hp at rpm, fuel rate at advertised hp in mm^3 stroke, valve lash, initial injection timing, and idle speed.

(H) An unconditional statement of compliance with appropriate model year (e.g., 1979) U.S. Environmental Protection Agency regulations applicable to heavy-duty engines.

(iv) The label may be made up of one or more pieces; *Provided,* That all pieces are permanently attached to the same engine or vehicle part as applicable.

(b) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such vehicle (or engine) conforms to any applicable State emission standards for new motor vehicles (or new motor vehicle engines) or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the vehicle (or engine).

(c)(1) The manufacturer of any light-duty vehicle or light-duty truck subject to the emission standards of this subpart, shall, in addition and subsequent to setting forth those statements on the label required by the Department of Transportation (DOT) pursuant to 49 CFR 567.4, set forth, on the DOT label or on an additional label located in proximity to the DOT label and affixed as described in 49 CFR 567.4(b), the following information in the English language, lettered in block letters and numerals not less than three thirty-seconds of an inch high, of a color that contrasts with the background of the label:

(i) The heading: "Vehicle Emission Control Information";

(ii) The statement: "This Vehicle Conforms to U.S. EPA Regulations Applicable to 1979 Model year New Motor Vehicles."

(iii) One of the following statements, as applicable, in letters and numerals not less than six thirty-seconds of an inch high and of a color that contrasts with the background of the label:

(A) For all vehicles certified as non-catalyst-equipped: "NON-CATALYST";

(B) For all vehicles certified as catalyst-equipped which are included in a manufacturer's catalyst control program for which approval has been given by the Administrator: "CATALYST-APPROVED FOR IMPORT";

(C) For all vehicles certified as catalyst-equipped which are not included in a manufacturer's catalyst control program for which prior approval has been given by the Administrator: "CATALYST."

(2) In lieu of selecting either of the labeling options of paragraph (c)(1) of this section, the manufacturer may add the information required by paragraph (c)(1)(iii) of this section to the label required by paragraph (a) of this section. The required information will be set forth in the manner prescribed by paragraph (c)(1)(iii) of this section.

(d) Incomplete light-duty trucks or incomplete heavy-duty vehicles optionally certified as light-duty trucks shall have the following statement printed on the label required in paragraph (a)(1) of this section in lieu of the statement required by paragraph (a)(1)(iii)(E) of this section: "This vehicle conforms to U.S. EPA regulations applicable to 19— Model year New Motor Vehicles when completed at a maximum curb weight of ———— pounds and a maximum frontal area of ———— square feet."

(e) Incomplete heavy-duty vehicles having an 8,500 pound gross vehicle weight rating or less shall have the following statement printed on the label required in paragraph (a)(2) or (a)(3) of this section in lieu of the statement required by paragraph (a)(2)(iii)(F) or (a)(3)(iii)(F) of this section: "This engine conforms to U.S. EPA regulations applicable to 19— Model Year New heavy-Duty Engines when installed in a vehicle completed at a curb weight of more than 6,000 pounds or with a frontal area greater than 45 square feet."

(f) The manufacturer of any incomplete vehicle shall notify the purchaser of such vehicle of any curb weight, frontal area, or gross vehicle weight rating limitations affecting the emissions certificate applicable to that vehicle. This notification shall be transmitted in a manner consistent with National Highway Traffic Safety Administration safety notification requirements published in 49 CFR Part 568.

11. Section 86.082–38 is added. This section is identical to § 86.079–38 except for paragraphs (c)(2) and (d)(2).

§ 86.082–38 Maintenance instructions

(a) The manufacturer shall furnish or cause to be furnished to the purchaser of each new motor vehicle (or motor vehicle engine) subject to the standards prescribed in §§ 86.082–8, 86.082–9, 86.080–10, or 86.080–11, as applicable, written instructions for the maintenance and use of the vehicle (or engine) by the purchaser as may be reasonable and necessary to assure the proper functioning of emission control systems.

(1) Such instructions shall be provided for those vehicle and engine components listed in Appendix VI to this part (and for any other components) to the extent that maintenance of these components is necessary to assure the proper functioning of emission control systems.

(2) Such instructions shall be in clear, and to the extent practicable, nontechnical language.

(b) The maintenance instructions required by this section shall contain a general description of the documentation which the manufacturer will require from the ultimate purchaser or any subsequent purchaser as evidence of compliance with the instructions.

(c) *For gasoline-fueled light duty vehicles and light-duty trucks.* (1) Such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 86.079–25(a) and shall explain the conditions under which EGR system and catalytic converter maintenance are to be performed (e.g., what type of warning device is being employed and whether the device is activated by component failure or the need for periodic maintenance).

(2) Such instructions shall indicate what adjustments or modifications, if any, are necessary to allow the vehicle to meet applicable emission standards at elevations above or below 4,000 feet.

(3) [Reserved]

(d) *For Diesel light-duty vehicles and light-duty trucks.* (1) Such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 86.079–25(a) and shall explain the conditions under which EGR system and catalytic converter maintenance are to be performed (e.g., what type of warning device is being employed and whether the device is activated by component failure or the need for periodic maintenance).

(2) Such instructions shall indicate what adjustments or modifications, if any, are necessary to allow the vehicle to meet applicable emission standards at elevations above or below 4,000 feet.

(e) For gasoline-fueled heavy-duty engines, such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 86.079–25 (c)(2). Scheduled maintenance in addition to that performed on the durability-data engine under § 86.079–25(c)(2) may be recommended for reasons such as to offset the effects of operating conditions which differ from the dyamometer durability cycle or to increase the life of the engine beyond 1,000 hours (or the equivalent). The instructions may schedule maintenance on a calendar time basis, mileage basis, engine service time basis, or combination of each.

(f) For Diesel heavy-duty engines, such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 86.079–25(c)(2). Scheduled maintenance in addition to that performed on the durability-data engine under § 86.079–25(c)(2) may be recommended for reasons such as to offset the effects of operating conditions which differ from the dyamometer durability cycle or to increase the life of the engine beyond 1,000 hours (or the equivalent). The instructions may schedule maintenance on a calendar time basis, mileage basis, engine service time basis, or combination of each.

(Secs. 202, 206, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7521, 7525, and 7601 (a)).

Dated: January 15, 1980.

Douglas M. Costle,

Administrator, U.S. EPA.

[FR Doc. 80-2173 Filed 1-23-80; 8:45 am]

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Part IV

Environmental Protection Agency

Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines; Submission of Altitude Performance Adjustments

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL-1383-2; Docket No. A-79-42]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Proposed Regulations for the Submission of Altitude Performance Adjustments for Motor Vehicles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The EPA is proposing this rulemaking to establish requirements for manufacturers to provide altitude performance adjustment instructions for motor vehicles. This action is intended to improve the emission control performance of vehicles at various altitudes. Section 215 of the Clean Air Act as amended in 1977 (the Act) provides the authority for this section.

DATES: *Public Hearing:* EPA will hold a public hearing on the provisions of the proposed action at least 30 days from the date of **Federal Register** publication. The date this hearing will be announced in the **Federal Register**.

Public Comment: During final rulemaking, EPA will consider comments received on or before 30 days from the date of public hearing.

ADDRESSES: Interested persons may participate in this rulemaking by submitting written comments to: U.S. Environmental Protection Agency, Central Docket Section (A-130), Attn: A-79-42, Waterside Mall, Room 2903B (EPA Library), 401 M Street SW., Washington, D.C. 20460.

Ten copies of the comments are requested but not required.

The public hearing will be held at the U.S. Post Office Auditorium, 1823 Stout Street, Denver, Colorado.

FOR FURTHER INFORMATION: Thomas M. Ball, Certification Division, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, 313-668-4280.

SUPPLEMENTARY INFORMATION: Section 215 of the Act mandates this action and establishes the authority to require manufacturers to submit to the Administrator instructions for the adjustment or modification of vehicles being operated at elevations other than the altitude for which the vehicle was originally designed. Section 215 also requires that EPA establish regulations to require these submissions. EPA will not consider adjustments or modifications (hereafter "adjustments") made to vehicles in accordance with instructions (approved under these regulations) as being in violation of the tampering provisions of Section 203(a)(3) of the Act. Although Section 215 does not require specific emission reductions to be achieved as a result of the adjustments, EPA believes the intent of Congress when it enacted Section 215 was to bring about a reduction in emissions from in-use motor vehicles.

Light-duty vehicles (LDV's) and light-duty trucks (LDT's) that are not designed for operation at high altitude (over 4,000 feet above sea level) emit significantly more hydrocarbons (HC) and carbon monoxide (CO) per mile at high altitude than at low altitude. For the 1977 model year, EPA regulations required that manufacturers of LDV's sold at high altitude certify those vehicles to meet emission standards at high altitude. These regulations were revoked for 1978 and later model years by the 1977 Clean Air Act Amendments. As a result of that congressional action, vehicles that comply with emission standards only at low altitude may now be legally sold at high altitude. This proposed regulation will provide procedures for manufacturers to provide instructions to adjust these in-use vehicles in order to reduce vehicle emissions at high altitude.

As required by Section 215(b)(3), this proposed regulation will also require instructions to adjust for low-altitude operation in-use vehicles that are designed for operation only at high altitude. These vehicles may not perform acceptably at low altitude and may emit more pollutants if not adjusted for low-altitude use.

Air quality improvements resulting from this regulatory action will depend on how many vehicles are adjusted in practice. Inspection and maintenance (I/M) programs in the affected areas would provide the greatest incentive to the vehicle owner to have the adjustments performed. Recent data collected in Denver show that 95 percent of the vehicles sampled had incorrect adjustments.[1] We assume that many of these adjustments to other-than-recommended specifications were deliberately performed to improve vehicle performance at high altitude. Thus, even without I/M, vehicles owners may have sufficient incentive to have their vehicles adjusted to compensate for high-altitude operating conditions. However, the possiblity of improved driveability may not be adequate incentive if the costs of adjustments are unreasonable. Therefore, EPA is proposing that approvals of adjustments be dependent on a reasonable projected cost of the adjustment.

Section 215(d) prohibits high-altitude performance adjustments after December 31, 1980 in any states in which I/M programs have not been implemented for their nonattainment areas. This may provide states with added incentives to implement I/M programs. EPA anticipates that nearly all high-altitude states will meet the December 31, 1980 deadline.

General Applicability

Section 215(b)(1) requires instructions for "each class or category of vehicles or engines to which this subchapter [Title II] applies." This language requires that instructions be provided for all model years in which a given class or category of vehicles or engines was regulated under Title II. Thus, this regulation applies to the following:

—1968 and later model year light-duty vehicles and light-duty trucks,

—1970 and later model year heavy-duty engines built after December 31, 1969, and

—1978 and later model year motorcycles built after December 31, 1977.

Because some vehicles have been designed for high-altitude operation (through fixed design or automatic altitude compensation), not all vehicles within the above categories are affected. The regulations include provisions to exempt these vehicles from the high-altitude performance adjustment requirements since they do not need further adjustment for high-altitude operation. However, the regulations still require that manufacturers provide adjustment instructions for the low-altitude operation of vehicles with fixed high-altitude designs.

Emission Requirements

The congressional intent of Section 215 was to reduce emissions from vehicles being operated at high altitude. Section 215 does not specify requirements for minimum reductions in emission levels. In the development of these regulations, EPA considered requiring certain emission reductions, but the approach was rejected since EPA could not find the authority needed in Section 215 and since the Agency could not accurately predict the effect of typical adjustments on emission levels when such a wide range of vehicle types and designs are currently in use. EPA also determined that such requirements are not necessary since emission level reductions are easily obtained by relatively simple adjustments at high altitude. In keeping with the intent of Section 215, EPA will not approve

[1] EPA-460/3-78-001, March 1978, Colorado Motor Vehicle Emission Inspection Pilot Program.

altitude performance adjustments that result in emission level increases, with one exception: EPA will allow any pollutant emission level that is below the low-altitude standard to rise to the level of the standard without jeopardizing the approval of the adjustment (since vehicles need only meet the applicable standards in order to achieve the necessary benefit to air quality).

If the Section 215 language were read as precluding the Administrator from approving instructions which might result in a slight emission increase for one of the pollutants, the effectiveness of Section 215 would be destroyed and the very purpose for enacting it (i.e., to improve emission control and fuel economy in high-altitude areas) would not be achieved. This is because it is practically impossible to reduce HC and CO emissions without experiencing some increase in oxides of nitrogen (NO_x) emissions.

The apparent conflict between the language and the purpose of Section 215 can be reconciled by interpreting the language "equivalent emission control performance with respect to each standard" as permitting slight increases in emissions of one pollutant provided that the applicable standard is not exceeded and that the overall emission performance of the vehicle is improved. While such an interpretation is not the most obvious reading of the statutory language, EPA believes that it is the most sensible interpretation and totally consistent with the purposes of Section 215.

Because of engine combustion characteristics, EPA feels that it is technically appropriate to allow emission levels to increase as long as they stay below the emission standard as described above. NO_x emissions tend to decrease when the air-fuel mixture in the combustion chamber becomes more fuel-abundant (rich) in relation to the available oxygen. At increasingly higher elevations, the density of air decreases, thus decreasing the available oxygen. Since the amount of fuel used does not change in engines not equipped to compensate for the air density change, the air-fuel mixture becomes increasingly rich at high elevations. These rich mixtures create excess fuel combustion products which result in increased HC and CO emission levels. High-altitude adjustments will involve decreasing the amount of fuel into the combustion chamber, or increasing the amount of air, in order to decrease HC and CO emissions. However, in the process of reducing the HC and CO emissions, NO_x emissions nearly always increase from their initial depressed level at high altitude. In order that high-altitude performance adjustments for the reduction of HC and CO pollutants are not made technically impossible, EPA will allow the NO_x level to increase to the level of the standard. EPA expects the benefits from reductions in grams per mile HC and CO emissions to offset any increase in NO_x emissions.

Performance Requirements

In addition to the emission restrictions discussed above, this regulation also contains other restrictions on how altitude performance adjustments may affect the performance of the vehicle. While Section 215 allows EPA to establish performance standards for the approval of altitude adjustment instructions, EPA has determined that specific performance improvement requirements are not necessary since some improvement should naturally result from most adjustments. Such requirements would also be difficult to define and may be unreasonably burdensome for manufacturers to prove. However, in order for altitude performance adjustments to be accepted by the public, the adjustments should not cause poorer fuel economy or vehicle driveability. EPA feels that it is important that these conditions do not occur since no air quality improvements will be realized without public participation. It is unlikely, however, that these restrictions will be difficult to meet since vehicles adjusted for better emission control performance at high altitude should also improve in fuel economy and driveability as a result.

Cost Restrictions

In the development of this regulation, EPA has established altitude performance adjustment cost acceptance criteria intended to assure successful field implementation through vehicle owner participation. EPA believes that if the cost of the adjustments are too high in relation to the driver perceived benefits (e.g., driveability and fuel economy), the program may fail or be less effective due to lack of consumer participation. EPA is proposing what it considers a reasonable cost restriction ($20) based on information currently available on altitude performance adjustments. With ths NPRM, however, EPA solicits comments and pertinent information from vehicle and engine manufacturers (and any other interested party) as to the appropriateness of a cost restriction and to the amount of the restriction.

Reasonable Adjustments

As discussed earlier, EPA chose not to impose minimum emission reduction requirements for altitude performance adjustments. EPA is confident that such requirements are not necessary since EPA expects manufacturers to comply with the spirit and intent of Section 215. This intent is to bring about the maximum possible emission reductions from vehicles at high altitude through adjustments or modifications of reasonable cost and complexity.

Neither Section 215 nor these proposed regulations impose requirements for specific types of adjustments. EPA feels that the manufacturer is in the best position to determine the most effective adjustments within cost limitations. However, manufacturers are cautioned that EPA will only approve adjustments that are reasonably considered as altitude performance adjustments as defined in these regulations. Readjustments that do not change parameter specifications from original specifications *and* are part of normal scheduled maintenance will not be considered as altitude performance adjustments.

An example of this type of adjustment is setting idle fuel/air mixture to specification at high altitude with no accompanying adjustments to other parameters. If this adjustment is already required as part of normal scheduled maintenance, it is likely that most in-use vehicles have had this adjustment done previously. Idle mixture specifications are usually performance specifications such as idle CO, lean best idle speed, or propane injection idle speed. A vehicle brought from low altitude to high altitude should be readjusted to the same specifications to compensate for the air density change. If this is normally done by dealer preparation of new vehicles, or if normal scheduled maintenance calls for this adjustment periodically, EPA does not intend to consider this adjustment alone as an altitude performance adjustment.

At the other extreme, EPA will not accept modifications that are too complex to be properly performed in the field. EPA is particularly concerned about modifications that change emission control systems (as defined in MSPAC Advisory Circular No. 20-B) since these may jeopardize the useful life emission control of some vehicles. For this reason, EPA does not intend to approve altitude performance adjustments that result in different emission control systems.

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Data Requirements

Section 215 requires altitude performance adjustment approvals to be "based upon minimum engineering evaluations consistent with good engineering practice." EPA expects that manufacturers will submit a potentially large number of separate altitude adjustment instructions that will cover a wide range of vehicle designs, types, and model years. EPA has determined that specific test data requirements to evaluate this range of vehicles is burdensome and unnecessary. These regulations instead require that the manufacturer provide EPA with information (which may include test data or technical evaluations) that the manufacturer contends is adequate demonstration that the emission and fuel economy acceptance criteria are met. EPA may require additional information if the information is judged to be insufficient to show compliance with the emission acceptance criteria. The emission standards that EPA will use to determine emission control performance acceptability will be the standards in place for the model year and vehicle type for which the adjustments apply. For example, if an adjustment applies to 1973 light-duty vehicles, and if the NO_x emission level increases as a result of the altitude adjustment, the after-adjustment NO_x emission level will be compared to the 1973 light-duty vehicle NO_x emission standard. Deterioration factors will not be applied to emission data to determine acceptability.

Schedule for Submissions

These regulations impose a deadline of July 1, 1981 for the submission of altitude adjustment instructions for in-use vehicles. EPA anticipates that this will provide manufacturers one year from the final promulgation of these regulations to submit adjustment instructions. For new vehicles, manufacturers must submit adjustment instructions within 30 days from the date which the vehicles were certified by EPA. EPA invites comments as to whether the leadtimes provided in these schedules are appropriate.

Manufacturers should take note that if they fail to submit altitude performance adjustment instructions by the applicable deadline, EPA may impose the penalties specified in Section 205 of the Clean Air Act. However, in cases where EPA finds certain adjustment instructions unacceptable, EPA will allow an extra 30 days for a new submission.

Effect on Parameter Adjustments

EPA has promulgated regulations for LDV's and LDT's beginning in the 1981 model year that will allow EPA to adjust certain parameters to the limits of their adjustability on vehicles before testing. These regulations have the intended effect of inducing designs that have no or limited adjustability. Parameter adjustment regulations are also in effect for model year 1980 and later motorcycles.

The parameter adjustment regulations for 1981 model year and later LDV's and LDT's require that idle mixture and choke adjustments must cost more than 20 dollars and take more than ½ hour to perform in order to be deemed nonadjustable. (This same limitation will apply to idle speed in ignition timing beginning in the 1982 model year.)

The simple adjustable parameters of idle mixture, choke, and ignition timing are, therefore, eliminated for simple altitude adjustments. However, a number of vehicles beginning in the 1981 model year will be exempt from the proposed Section 215 regulations because they are altitude compensated to some extent. Most feedback control systems will be included in this category. EPA has proposed rules effective beginning in the 1982 model year that will impose high-altitude emission standards and require that all new LDV's and LDT's be at lease capable of being modified to meet the high-altitude standards. Under those requirements all 1982 and subsequent model year LDV's and LDT's will be exempt from the requirements of these proposed regulations. It is apparent that only a portion of 1981 model year vehicles will have an adjustability problem to meet the Section 215 requirements. Under this proposed rule, manufacturers must still recommend adjustments or modifications that any service facility can perform for 20 dollars or less.

In order to remedy the adjustability problem for 1981 model year vehicles, EPA may consider a provision in this rulemaking that would allow vehicle manufacturers to recommend more costly adjustments, but that the amount in excess of 20 dollars must not be charged to the customer. If this provision is adopted, the vehicle manufacturer would be required to provide a means for independent repair establishments to perform the adjustment at the same cost to a vehicle owner as will be charged by a franchised repair facility (unless a waiver is granted under Section 207(c)(3)(B) of the Act). The Agency believes that, in most instances, allowing manufacturers to provide subsidized adjustments only at their franchised dealerships would be contrary to the congressional intent of Section 207 of the Act to allow all repair facilities to be able to participate in all nonwarranty emission-related maintenance not exceeding 2 percent of the retail purchase price of the vehicle.

The Agency requests comments from any interested party on the appropriateness of a provision as described above, and requests comments from vehicle manufacturers (or any other interested party) on the types of altitude performance adjustments that can be recommended for vehicles subject to parameter adjustment regulations. The comments should also provide the estimated cost to perform the adjustments.

EPA does not anticipate any problems for 1980 and subsequent model year motocycles to meet the requirements of this proposed regulation. Even though these motorcycles are subject to parameter adjustment regulations, modifications can be made (such as changing carburetor jet sizes) for high-altitude operation that do not involve parameter adjustments or exceed the 20-dollar limit.

Air Quality Benefits

The severity of the air pollution problems in the larger, high-altitude cities confirms the need for the regulation. Denver, Salt Lake City, and Albuquerque are rapidly growing, automobile-oriented cities. The weather conditions in these cities, in combination with the high altitude and extensive dependence on the automobile, result in air quality problems that are not normally characteristic of the size of the cities. (Denver, the largest city of the three, is only the 24th largest metropolitan area in the nation.) It is important that the emission control systems used on high-altitude vehicles be adjusted to operate as efficiently as possible to reduce the severity of high-altitude air quality problems.

In December of 1978, EPA issued a policy (MSAPC Advisory Circular No. 80) to allow manufacturers to obtain altitude performance adjustment approvals voluntarily. The limited data obtained from this program show that HC and CO emissions can be reduced by up to 40 percent at high altitude through simple adjustments.

As mentioned earlier, a very large portion of in-use vehicles at high altitude are adjusted incorrectly. When EPA initiated a study to correct the maladjustments, the average emission levels decreased by 22 percent for HC, 30 percent for CO, and 5 percent for NO_x. Under this regulation, manufacturers are likely to recommend adjustments that will incidentally correct some maladjustments. These readjustments will also set the devices to new specifications which may further reduce emission levels at high altitude. The benefits from this regulation will thus be twofold, and in-use vehicle emissions may improve beyond what is indicated by data from test vehicles that were not initially maladjusted.

Costs

EPA does not anticipate that this regulation will result in significant costs to motor vehicle manufacturers. The techniques for reducing emissions from vehicles at high altitude are established and well-known for past and current vehicle designs. EPA estimates that manufacturers [1] development, testing, and administrative costs for altitude adjustment instructions to apply to all applicable past model years will not exceed $2 million. The subsequent annual cost to all manufacturers to provide adjustments for new vehicles is not expected to exceed $500,000. This annual cost may be reduced considerably (by as much as 60 percent) if light-duty vehicles and light-duty trucks are exempted from the Section 215 requirement because of the high-altitude emission standards regulation beginning in model year 1982. The cost for high-altitude adjustments or modifications will then be attributed to that regulation. EPA invites comments from any interested party as to these cost estimates.

The cost of this regulation to the general public will depend on the level of participation of vehicle owners and on the amount charged to vehicle owners for the adjustments. Even though the adjustments costing as much as 20 dollars would be allowed, information received from manufacturers taking part in the voluntary program (through MSAPC Advisory Circular No. 80) indicates that adjustment costs will average about 10 dollars. There is an estimated population of 4 million in-use vehicles that are subject to this regulation in high-altitude areas. Assuming that a maximum of 50 percent of in-use vehicles are adjusted in the first year of this program, the cost to consumers to adjust in-use vehicles will not likely exceed 20 million dollars (1979 dollars) in the first year of operation. Annual consumer costs following the first year should be considerably less since new light-duty vehicles light-duty trucks will likely be exempt under the high-altitude standards regulation. If annual high-altitude sales of nonexempt vehicles (including heavy-duty trucks and motorcycles) are about 200,000 vehicles, the annual cost to consumers should not exceed $2 million. EPA invites comments from any interested party regarding consumer costs.

The cost of the adjustments to consumers may be partially or fully offset by fuel economy improvements. Data from the voluntary altitude performance adjustment program indicate that average fuel economy improvements may be as much as 3.5 percent for light-duty vehicles and light-duty trucks. Assuming that the average fuel economy improvement will be between 1 percent and 3 percent and that the average fuel economy for these vehicles (1968 through 1980 model years) is 15 miles per gallon, the fuel savings for the average vehicle per year will be between 8 and 23 gallons. With the price of gasoline at about $1.10 per gallon, the fuel economy improvement may pay for the altitude adjustment in the first 12,000 miles of operation. For light-duty vehicles and light-duty trucks alone, the fuel savings could amount to between 14 million and 40 million gallons in the first year of operation with 50 percent participation.

COMMENTS AND THE PUBLIC DOCKET: We request that, to the extent possible, comments be submitted prior to the hearing. EPA intends to assure that all interested parties have an opportunity to study all information that may become the basis for EPA's final action in this proceeding. Accordingly, the Agency will not consider in this rulemaking any information that the Agency cannot make publicly available. Anyone who wishes to submit information responding to this Notice of Proposed Rulemaking is cautioned that EPA will not consider any comments which are claimed, in whole or in part, to be confidential. EPA will return such comments to the commenter.

Copies of material relevant to this rulemaking action are contained in the Public Docket No. A–79–42 at the U.S. Environmental Protection Agency, Central Docket Section, Waterside Mall, Room 2903B (EPA Library), 401 M Street, S.W., Washington, D.C. 20460. The docket may be inspected between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday. A reasonable fee may be charged for copying services.

EVALUATION PLAN: EPA intends to review the effectiveness and need of the provisions contained in this action after initial implementation of the final regulation. EPA will provide an evaluation plan at the time of issuance of the final rule.

REPORTING AND RECORDKEEPING REQUIREMENTS: Under the EPA's "sunset" policy for reporting requirements in regulation, the reporting requirements in this regulation will automatically expire 5 years from the date of promulgation, unless EPA takes affirmative action to extend them. To accomplish this, a provision automatically terminating the reporting requirements at that time will be included in the text of the final regulation.

REGULATORY ANALYSIS: The Administrator has determined that this is a "significant routine" regulation. The impact of the regulation will be significant, in that Agency resources will be required to develop and implement the regulation and because an air quality improvement may be expected as a result of the regulation. However, because of the limited number of vehicles that will be affected by the regulations, the limited geographical area in which the primary impact of the regulations will be felt, and the failure of the regulation to trigger any of the criteria governing the preparation of a regulatory analysis, the proposal is not a "major" regulation.

This regulation does not require preparation of an Environmental Impact Study (EIS) under the National Environmental Policy Act, although the environmental effects of the regulation will be considered during the rulemaking. Similarly, an Economic Impact Assessment (EIA) is not required since the proposal does not meet the criteria of Section 317(a) of the Act, and the action does not meet the criteria requiring preparation of a Regulatory Analysis.

Accordingly, it is proposed to amend 40 CFR Part 86 by adding a new Subpart K to read as follows:

Subpart K—Regulations for Altitude Performance Adjustments for New and In-Use Motor Vehicles and Engines

Sec.

86.1001 General applicability.
86.1002 Definitions.
86.1003 General requirements.
86.1004 Conditions for disapproval.
86.1005 Information to be submitted.
86.1006 Labeling.

Subpart K—Regulations for Altitude Performance Adjustments for New and In-Use Motor Vehicles and Engines

§ 86.1001 General applicability.

This subpart applies to manufacturers of motor vehicles and motor vehicle engines (hereafter referred to as vehicles) which are subject to the requirements of title II of the Clean Air

Act. This subpart applies to the following vehicles:

(a) 1968 and later model year light-duty vehicles and light-duty trucks.

(b) 1970 and later model year heavy-duty engines built after December 31, 1969.

(c) 1978 and later model year motorcycles built after December 31, 1977.

§ 86.1002 Definitions.

The definitions provided in Subpart A also apply in this subpart. Additional definitions that apply in this subpart are as follows:

"Altitude performance adjustments" are adjustments or modifications made to vehicle, engine, or emission control functions in order to improve emission control performance at altitudes other than those for which the vehicles were designed.

"Low altitude" means any elevation less than or equal to 1219 meters (4,000 feet).

"Manufacturer parts" are parts produced or sold by the manufacturer of the motor vehicle or motor vehicle engine.

§ 86.1003 General requirements.

(a) Manufacturers of vehicles specified in § 86.1001 shall submit to the Administrator for approval altitude adjustment instructions for all of those vehicles except the vehicles described in paragraph (b) of this section.

(b) The following vehicle exemptions apply to the requirements of this subpart:

(1) Manufacturers are not required to submit *high*-altitude adjustment instructions for vehicles that are certified as meeting the appropriate emission standards at high altitude. However, manufacturers *are* required to submit *low*-altitude adjustment instructions for these vehicles if they are not certified to meet the appropriate emission standards at low altitude and do not meet the exemption criterion described in paragraph (b)(2) of this section.

(2) Manufacturers are not required to submit altitude adjustment instructions for vehicles equipped with systems or devices that compensate (in full or in part) the engine fuel metering system for air density changes, *and* if further emission reductions cannot be obtained by adjusting the vehicle at a cost of 20 dollars (1979 dollars) or less (including parts and labor). Manufacturers claiming this exemption must submit to the Administrator a notification of the claim specifying the affected vehicles. The notification must also describe the compensating system used, and must contain a statement that further emission reductions cannot be obtained for 20 dollars or less, or that the adjustments would be too complex for the average mechanic to perform.

(c) Manufacturers shall meet the requirements of paragraph (a) according to the following schedule:

(1) Altitude adjustment instructions for all 1980 and earlier model year vehicles or engines shall be submitted to the Administrator by July 1, 1981.

(2) Altitude adjustment instructions for 1981 and later model year vehicles or engines shall be submitted to the Administrator within 30 days of the issuance of the certificate of conformity for those vehicles or engines. For vehicles or engines certified for the 1981 model year before the publication of this regulation, altitude adjustment instructions shall be submitted within 30 days of the publication of this regulation.

(d) Failure to submit altitude performance adjustment instructions in accordance with this section is a violation of Section 203(a)(3) of the Clean Air Act and may result in penalties as specified in Section 205 of the Clean Air Act. The Administrator may grant extensions of the schedule in paragraph (c) of up to 30 days if the manufacturer submits a written request to the Administrator specifying the reasons for the need for the extension.

(e) The adjustment instructions (including labels) that the Administrator approved under this subpart shall be made available by the manufacturer at no cost to service outlets and the general public. EPA encourages manufacturers to notify vehicle owners in high-altitude areas of the availability of high-altitude adjustments.

(f) If altitude adjustments are performed according to the instructions approved by the Administrator, they will not be treated as violations of the tampering provisions of Section 203(a) of the Act except as described below:

(1) A violation may occur when high-altitude adjustments are performed on vehicles at low-altitude locations. High-altitude adjustments performed at the designated high-altitude locations specified in § 86.079–30(a)(5) will not be considered violations.

(2) In accordance with Section 215(d) of the Act, after December 31, 1980, the Administrator will only permit high-altitude adjustments in high-altitude areas of states in which inspection and maintenance programs have been instituted for their nonattainment areas. After December 31, 1980, high-altitude adjustments performed in any other state may be considered a violation.

§ 86.1004 Conditions for disapproval.

(a) The Administrator shall *not* approve altitude performance adjustments that will:

(1) Cause any regulated pollutant emission level to increase if the emission level exceeded the appropriate emission standard before adjustment was made.

(2) Cause any regulated pollutant emission level to exceed the appropriate emission standard if the emission level did not exceed the emission standard before the adjustment was made.

(3) Cause decreases in fuel economy as measured by the procedures in Part 86.

(4) Cause any reduction of vehicle performance (as evaluated by the manufacturer) such that vehicle drivers will likely complain.

(5) Result in a total cost to the vehicle owner of more than 20 dollars (1979 dollars) including parts and labor.

(6) Be of such technical complexity or require such complex, expensive, or exclusive equipment that a competent mechanic in an average service establishment cannot perform the adjustments correctly. Adjustment procedures should not require knowledge or training beyond that required to perform normal engine tuneups. All required equipment must be available to any service establishment at competitive cost.

(7) Require the use of manufacturer parts, unless they are necessary to ensure emission control performance and unless the Administrator grants a waiver under Section 207(c)(3)(B) of the Act.

(b) If the Administrator determines that the altitude performance adjustment instructions cannot be approved, the Administrator shall notify the manufacturer in writing of the disapproval. This notification shall explain the reasons for the disapproval.

(1) Within 20 days of receipt of a notification of disapproval, the manufacturer may file a written appeal to the Administrator. The Administrator may allow additional oral or written testimony prior to rendering a final decision.

(2) If the manufacturer files no appeal with the Administrator, the disapproval becomes final.

(3) Within 30 days following the Administrator's final decision of disapproval, the manufacturer must submit new altitude performance adjustment instructions applying to all of the vehicles for which the disapproved instructions applied. If these new instructions are not submitted within 30 days, EPA may take action under Sections 203(a)(3) and 205 of the Act.

(i) If the new altitude performance adjustment instructions are disapproved by the Administrator, the manufacturer may follow the appeal procedures under paragraphs (b)(1) and (b)(2) of this section.

(ii) If the Administrator makes a final decision to disapprove the new instructions, EPA may take action under Sections 203(a)(3) and 205 of the Act.

§ 86.1005 Information to be submitted.

(a) Manufacturers shall submit to the Administrator the text of the altitude performance adjustment instructions to be provided to vehicle owners and service establishments. Each set of altitude performance adjustment instructions must set forth the adjustment procedure (including the installation of the label required by § 86.1006) to be followed and identify the vehicles for which the instructions are applicable. At a minimum, each set of instructions shall identify the vehicle applicability by manufacturer, car line, model year, engine displacement, engine family, and exhaust emission control systems. Manufacturers may specify further, if necessary, but such specifications must be identifiable to the public and the service industry through vehicle marking or codes.

(b) The manufacturer shall submit to the Administrator the following information about the adjustments:

(1) Specifications of changes in calibrations of any component, including the original and new calibration values or curves;

(2) Descriptions of component additions, including a full description of the new components along with the configurations (sketch or drawing), calibration values, and part numbers;

(3) Descriptions of component replacements, including all items in paragraph (2), above, for the new parts. Also, a description of the differences between the original component and the new component with respect to design, calibration, and function;

(4) The estimated amount (in dollars) to be charged to vehicle owners for the performance of the adjustments. This amount must include the cost to the vehicle owner of labor and parts; and

(5) Descriptions of any special tools necessary to perform the adjustments and the estimated retail cost of such tools.

(c) The manufacturer shall submit to the Administrator the following evaluations of the adjustments:

(1) Information that shows that the conditions of § 86.1004 (a)(1) through (a)(3) are not caused by the adjustment. The manufacturer may submit engineering evaluations instead of test data if the effects of the adjustment on emissions are well known. (EPA encourages manufacturers to submit test data in *all* cases so that the Administrator can make more efficient judgments, and so that the benefits of this program may be better evaluated.)

(2) A statement that vehicle performance is generally unchanged or improved as a result of the adjustments, and supporting information for this statement consisting of technical evaluations or driver evaluations.

(3) Information that shows compliance with Section 202(a)(4)(A) of the Act (which prohibits vehicles from causing unreasonable risks to public health, welfare, and safety).

(d) The manufacturer shall submit to the Administrator for approval a copy or sample of the label required by § 86.1006 and a copy of the instructions for installation of the label.

§ 86.1006 Labeling.

(a) The manufacturer shall make available to the public as part of the altitude performance adjustment instructions the labels described in this section. Instructions for installing the labels according to the requirements of this section shall be provided with each label.

(b) The label installation instructions shall indicate that the label should be placed in a readily visible position in the engine compartment and beside (to the extent possible) the existing label which is required under § 86.079–35. The instructions shall also indicate that the label should not be put on any equipment that can be easily detached from the vehicle.

(c) The label must be constructed such that if installed properly, it cannot be removed without destroying or defacing the label.

(d) The label shall contain the following information lettered in the English language in block letters and numerals, which must be of a color that contrasts with the background of the labels:

(1) The label heading: Vehicle Emission Control Information Update;

(2) Full corporate name and trademark of the vehicle manufacturer;

(3) The statement: "This vehicle has been (adjusted) (modified) to improve emission control performance when operated at (high) (low) altitude";

(4) Information on where altitude performance adjustment instructions may be obtained or include the actual altitude performance adjustment instructions;

(5) The new tuneup specifications (if changed from the original label specifications) at the applicable altitude.

(Sections 215 and 301 of the Clean Air Act, as amended, 42 U.S.C. §§ 7550 and 7601.)

Dated: January 15, 1980.

Douglas Costle,

Administrator.

[FR Doc. 80-2174 Filed 1-23-80; 8:45 am]

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January 24, 1980

Part V

Department of Agriculture

Office of the Secretary

Reimbursement of Participants in Rulemaking Proceedings

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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 12

Reimbursement of Participants in Rulemaking Proceedings

AGENCY: Department of Agriculture.

ACTION: Final Rule.

SUMMARY: These regulations govern the reimbursement of individuals and groups for certain of the costs of participation in rulemaking proceedings of the Department. They provide for reimbursement of applicants, within budget constraints, when the applicants' participation can reasonably be expected to contribute substantially to a full and fair determination of the issues covered at public proceedings; they are otherwise financially unable to appear; they are from the area affected; and the interest they seek to represent is not otherwise adequately represented.

EFFECTIVE DATE: February 25, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. Linley Juers, Acting Associate Director of Public Participation and Decision System, Office of Budget, Planning and Evaluation, Room 118–A, United States Department of Agriculture, Washington, D.C. 20250, Phone (202) 447–6667.

SUPPLEMENTARY INFORMATION: The Department published proposed regulations governing the reimbursement of participants in USDA rulemaking proceedings on March 22, 1979 (44 FR 17507), requesting public comment and scheduling hearings to take oral testimony. The proposed regulations were issued in response to a directive by the conferees on Agricultural appropriations for fiscal year 1979 which indicated that such reimbursement of participants in USDA rulemaking proceedings be done only under regulations which comply with the Comptroller General's rulings on this matter.

One hundred written comments were received and 39 witnesses presented oral testimony at public hearings held in Denver, Colorado, Emeryville, California, and Washington, D.C. The comments and testimony have been thoroughly reviewed and considered in the preparation of this final rule. The discussion below reviews the comments received as they apply to particular aspects of these regulations and explains changes made in response to the comments and testimony.

Legal Authority for the Program

Several comments stated that there was no explicit or implicit authority in law for this program and that, therefore, regulations should not be issued. Some argued that the Department has misinterpreted *Greene County Planning Board* v. *Federal Power Commission*, 559 F. 2d 1237 (2nd cir. 1977), *cert. den.* 434 U.S. 1086 (1978) and attempted to distinguish the application of *Chamber of Commerce of the United States, et al.* v. *United States Department of Agriculture, et al.*, 459 F. Supp. 216 (D.D.C. 1978). We have responded to these comments by reexamining the authorities involved in detail and are satisfied that the conclusion reached in the discussion of authority presented with the proposed regulations is correct.

Need for the Program

A number of comments were received regarding the need or advisability of establishing a program under which participants would be reimbursed in connection with rulemaking proceedings. Those opposing the regulations argued that existing mechanisms for public involvement in the rulemaking process are adequate. Some argued that existing interest groups already represent the broad range of public interests affected by USDA actions. It was contended that the degree of public support for a viewpoint could be measured by the amount of money and resources that an organization could raise to make an appearance. Consequently, there would be no need for reimbursement.

Other comments contended that reimbursement would create additional burdens and delays in the administrative process and would add to the cost of regulations, diverting funds from other programs.

Some comments supporting the regulations argued that they are necessary because existing means for obtaining public input are not adequate and are biased in favor of better financed and business-related special interest groups. Many comments noted that consumers and the poor historically have not been able to involve themselves effectively. It was also commented that there are numerous proceedings before the Department entailing complex investigation, analysis and development of a factual record by participants. These factors conspire against the limited resources of individual citizens and grass roots organizations and for the most part preclude their making a substantive input. Studies were cited indicating the extent to which industry participants outnumbered public representatives and the limited representation of consumer interests in particular USDA proceedings. Participants often need Lawyers and other experts to advocate a viewpoint effectively in view of the growing need to have substantial analytic support for regulatory decisions.

Two important considerations lead us to issue these regulations. First, in the absence of regulations allowing reimbursement, there is evidence that certain groups in the public are disadvantaged in having their views adequately represented in certain proceedings of the Department due to lack of resources. Second, the issuance of regulations will not necessarily commit agencies to any greater program costs. Reimbursement would be used only where needed to obtain information and views which the Department needs to carry out its responsibilities. The use of reimbursement would be discretionary and in each case the use would be based on an analysis showing that reimbursement will help achieve program goals and be more cost effective than alternative means of obtaining the same information and views. The absence of these regulations would, on the other hand, foreclose the use of reimbursement when a potential for cost saving or improved decisions existed.

Another category of comments by both opponents and proponents of the regulations cited potential abuses under a reimbursement program. These concerns included agency favoritism of certain views, use of government funds where private resources could be used, and use of the program by an agency to develop new advocates for its programs.

The Department is cognizant of various types of abuse to be avoided and has included in the regulations stringent requirements for independent review of all agency reimbursement actions and a specific provision for avoiding financing applicants who may have contrived an appearance of eligibility through sham organizations.

Comments on Proposed § 12.1 *Purpose of Regulations:* Some comments were received suggesting we clarify the purpose of these regulations in the body of the regulation itself. The thrust of these comments was to clarify that the purpose of providing reimbursement to participants is to enable those who might not otherwise be able to appear to make "substantial" and "effective" contributions to rulemaking proceedings. Other comments questioned whether reimbursement would place greater emphasis on oral appearances than

written comment. Many comments focused on the word "appear" contained in the proposed regulation and objected to using reimbursement as a means of enabling people to attend proceedings and present views which "could be sent in with a 15¢ stamp."

The Department agrees with these comments. Accordingly, section 12.1 has been changed to make clear that to receive reimbursement participants must be able to "contribute substantially and effectively"; and the word "appear" has been changed to "participate". Furthermore, these regulations do not replace already existing travel regulations which might permit reimbursement of private individuals for travel to meetings "for the benefit of the government". It is also not intended to finance participation which would only add to the record views or information obtainable from other existing sources and which could be submitted for the record without further study or organization of data.

Under these regulations, applications for reimbursement would be evaluated on the basis of whether a substantial contribution is being offered and whether an applicant can make that contribution effectively. Participation would not be limited to appearances at hearings; an applicant could also be reimbursed for costs related to the preparation of a written comment.

Comments on Proposed § 12.2 *Definitions:* Comments on the definition of "applicant" in paragraph (c) suggested that profit-making organizations should be precluded from applying for reimbursement. The Department believes that the regulations provide for sufficient tests of need, and that small business or farming concerns may make profits but still have insufficient resources to represent themselves effectively in an administrative proceeding.

Some comments objected to exclusion of government agencies which may also have limited resources. Recognizing this, the Department believes that the views of these agencies are nevertheless reasonably likely to be represented through existing channels, and that inclusion of such agencies would create substantial administrative problems, particularly in regard to judgments as to lack of resources.

Comments on the definition of "Evaluation Board or Board" in paragraph (f) focused on various ways to maintain independence in the approval of applications and to avoid conflicts of interest or recruitment of participants supporting an Agency viewpoint. To assure independent review the section is amended to provide that no member of the Board shall be from the agency responsible for a given proceeding.

Many issues were raised with respect to the application of the definition of "locality to be affected" in paragraph (g) of § 12.2, particularly in regard to decisions involving natural resources, wilderness areas, and the scope of the impact of an action as opposed to its immediate physical location. Other comments raised questions about the role of organizations which may represent members or contributors or do business in an area but are headquartered elsewhere.

The Department recognizes that certain actions pose unique questions and believes that the best way to administer the requirement that an applicant be from the locality to be affected is to allow the Agency Head to define "locality to be affected" in the notice of proposed rulemaking.

Comments on the definition of "proceeding" in paragraph (h) of § 12.2 were generally critical of limiting coverage to rulemaking. It was pointed out that many important decisions with significant policy implications are made in proceedings which are not technically rulemaking. The need to exercise caution in implementing a new program led us to conclude that this definition should be maintained. However, the Department will have the option of extending the regulation to other proceedings in the light of experience under the program.

A comment stated that the publication requirement in paragraph (h) of § 12.2 was overly restrictive and irrelevant and recommended deletion. It has been deleted.

The addition of various new definitions were suggested in several comments to allow for simplified consideration of certain types of applicants, such as low-income recipients of benefits of Federal programs, or representatives of such recipients. While no single definition of eligibility exists for all USDA programs, it may be possible for agencies to accommodate this idea in their application procedures for actions under particular programs.

Additional definitions were suggested which were tied to a reordering of the entire regulation to clarify the application process. As proposed, the regulations state the requirements for an application and then the standards by which they will be evaluated. We believe this is a logical ordering.

Comments on Other Sections: In response to a comment suggesting that organizational affiliation be identified in case there is a parent group with sufficient resources, paragraph (d)(1) of § 12.4 has been changed to add that requirement for organizations.

Paragraph (d)(3) of § 12.4 in the proposed regulation has been eliminated as an unnecessary reporting burden inasmuch as the essential information is required in the following paragraphs.

Comments on paragraph (d)(4) of § 12.4 [now renumbered (d)(3)] in the proposed regulations, ranged from the opinion that the requirements were excessively burdensome to suggestions for requiring substantial additional information about the structure and purpose of the organization applying and the justification of the need for reimbursement. The paragraph has been amended to add the requirement that the applicant describe which issues to be addressed are "substantive." The remaining comments related more to the quality of applications submitted and methods of reviewing applications than to the regulation itself. Paragraph (d)(3) currently requires information in regard to the specific factors referred to in the Comptroller General's rulings on reimbursement. To go beyond these factors and require, for example, information on officer selection and voting procedures for members could be overly restrictive. While this additional information would not be appropriate to require in every case, an applicant would not be precluded from offering such information to strengthen its demonstration of interest or capability.

Many comments on paragraph (d)(6) [now renumbered (d)(5)] of § 12.4 objected to the complexity of the financial disclosure requirements and suggested various means of simplifying them. Among the comments were: "the requirements are an invasion of privacy"; they "could be met by a simple declaration of need"; they should "clarify that a person need not be destitute" or "that funds need not be diverted from other commitments of the applicant in order to qualify."

The Comptroller General has specified that reimbursement should be made only where there is a finding that the applicant lacks sufficient resources available to participate. The House Appropriations Committee additionally has stressed stringency and caution in implementing this program. We believe that the financial information required here represents the minimum information necessary to comply with those instructions.

The Comptroller General's rulings are not specific as to the exact test to be applied in each instance, nor do they imply that the sacrifice or curtailment of other activities is necessary. It is not possible to set forth a simple standard

which would be universally applicable; therefore, each application must be judged on its merits.

Paragraph (d)(8)(iii) of § 12.4 [now renumbered (d)(5)(C)] of the proposed regulations has been amended in response to a suggestion to waive the requirement of submitting financial records for the last three prior fiscal years where for good reason they may not exist.

A number of comments stated that paragraph (d)(7) of § 12.4 [now renumbered (d)(6)] represented an excessive and burdensome reporting requirement. This provision has been modified by limiting it to those proceedings for which applicants were previously reimbursed.

Several comments on paragraph (b) of § 12.5 urged that applications be reviewed as quickly as possible to avoid financial hardship and to avoid delays in the rulemaking process. The regulation as proposed directed the agencies to process applications as soon as practicable. Further, paragraph (j) of § 12.5 in the proposed regulations [now renumbered (g)] allows the Agency Head to extend any filing period and postpone hearings and directs the Agency Head in making such a decision to balance an applicant's need for time against the need for a speedy resolution of the proceeding. We believe it sufficient protection for an Agency Head to determine when the reimbursement process can be constructively used in a given rulemaking proceeding. This determination is complementary to the discretion granted to the Agency Head in paragraph (b) of § 12.4 to determine that reimbursed participation will provide a substantive contribution to the Agency's decisionmaking process. In light of the discretion granted to an Agency Head, we believe that the suggestion in a comment that a grandfather clause be added to preclude reimbursement in proceedings substantially underway is neither necessary nor desirable.

Additional comments were directed to the role of the Evaluation Board as described in paragraph (c) of § 12.5, toward making the role of the Board more specific. In response to these comments, the language in that paragraph has been amended to make it clear that the Board be presented with the docket of all applications received, and changes the Agency Head's role to that of presenting the Board with his analysis of the application. Provision is made in paragraph (f) of § 12.5 for reconsideration of the Evaluation Board's decision.

One comment proposed that the Department be compelled to approve an application if the eligibility requirements are met. We believe that this recommendation, which implies a right to reimbursement, is inconsistent with the Comptroller General's rulings.

Three comments were received relating to how the Department would decide among competing qualified applications. These suggestions, if adopted, would seem to limit the implied authority of the Department as described by the Comptroller General to determine whether reimbursed participation is appropriate, and to determine parties eligible for such reimbursement. We believe that it is impossible to prescribe in advance criteria which would be useful in all instances in resolving such questions.

A comment suggested that the Department should authorize funding of certain groups for particular aspects of an issue; this would encourage groups representing similar interests to pool their resources when possible and avoid duplication. The regulations do not specifically provide for this, but would not preclude such pooling of resources if properly described in the application.

Paragraph (d) of § 12.5 as presented in the notice of proposed rulemaking has been deleted as repetitive of agency discretion as to availability of funding.

Paragraph (e) of § 12.5 [now renumbered (d)] has been reordered to clarify the tests of need, residence, interest not otherwise adequately represented, and substantiality of contribution. With respect to substantiality, paragraphs (C) and (E) of § 12.5(e)(1) [now renumbered 12.5(d)(3)] have been eliminated. The test in this paragraph must clearly be the quality and substance of the contribution to the proceeding, not such outside considerations as the desirability of new participants or an implied numerical balancing of interests on the record as a whole.

Comments received on paragraph (e)(2)(ii) of § 12.5 [now renumbered (d)(1)(A)] of the proposed regulations requested clarification on the need to indicate the use of applicant's funds. The purpose of the provision is not to imply or require that applicant's own funds be used, but rather to give a fuller description of the total effort the applicant is proposing to make.

One comment on paragraph (e)(3) of § 12.5 [now renumbered (d)(2)] objected that the criteria concerning representation did not specifically refer to the Department. We believe that the language, "not otherwise adequately represented" is sufficient.

Another comment suggested that a comparison of the economic stake of the interest involved with the costs of participation be included as a factor in determining whether an applicant is qualified. We believe that this consideration may have some qualitative importance with respect to particular actions, and can be taken into account within the context of the revised language of the proposed section.

Paragraph (e)(1)(ii) of § 12.5 [now renumbered (d)(3)(B)] provides for a broader description of how an applicant's interest may be affected. It must be understood, however, that this is only a factor which may bear on the selection of a qualified applicant but is not a legal standard on which qualification will be based.

One comment suggested that all awards should be published in the **Federal Register**, and public comment allowed. The Department disagrees. This suggestion runs counter to the many comments expressing concern about added procedural steps and delays.

Two comments were received on paragraph (g) of § 12.5 [now renumbered (f)] in the proposed regulations, one recommending a right of appeal with a hearing before the Board, and a second raising the question of whether paragraph 12.5(f) applies to any appeal to the Evaluation Board. The Department believes that a complex appeals' process going beyond paragraph 12.5(f) would cause undue delays in implementing programs.

Some comment stated that objectivity requires full disclosure of all contacts between the agency and applicants during the pre-application and post-application periods as well as during the application process itself. To require a record of "all" contacts would be excessively burdensome because it could entail a record of contacts having no relation to a party becoming an applicant; moreover, an agency would have no way of knowing whether a party were planning to become an applicant. Protections of the objectivity of the approval procedure lie in the requirement of filing in the docket the records of all written and oral communications that bear on the selection and review process and the further requirement that all dockets will be maintained for public inspection.

Comments on paragraph (j) of § 12.5 [now renumbered (g)] in the proposed regulations urged revisions to require adequate notice of schedule changes and that the term "applicant" used here be changed to "participant" to assure that all parties are treated equally. Those changes have been adopted.

A wide range of comment was received concerning which costs could or should be reimbursed as set forth in § 12.6. Those who felt that the expenses covered should be narrowed recommended limitations on experts, attorneys, and staff salaries, and urged that the least expensive travel and subsistence costs be covered. Other comments urged that the range of reimbursable expenses be broadened to cover such items as child care, lost wages, and payment for services of volunteers.

The regulation has been written broadly to cover the range of expenses which might conceivably be incurred in preparing to participate in complex proceedings. Whether all such expenses would be allowable with respect to a particular proceeding must be judged on a case-by-case basis. The Comptroller General's ruling in dealing with this question states that ". . . where an appropriation is made for a particular object, purpose or program, it is available for expenses which are reasonably necessary and proper. . . ." (Opinion of the Comptroller General, *Costs of Intervention—Food and Drug Administration*, December 3, 1978, 56 Comp. Gen. 111). The decision quoted an earlier decision that held that the responsibility for determining whether the payment of expenses of intervenors may be considered "necessary expenses" rests with the administering agency. With respect to specific allowable rates, the Department will apply the standards common to the reimbursement of experts consulted by the Government.

Several comments raised questions with respect to reimbursability of certain costs—specifically, existing staff, fringe benefits, overhead, and costs incurred prior to approval.

We believe the only fair and equitable standard to apply is that stated in paragraph (a) of § 12.6: "Reimbursement is limited to the actual, and reasonable costs authorized and incurred by the applicant's participation." Expenses for existing staff or overhead expenses will be reimbursed (to the extent incurred as a result of the applicant's participation). Fringe benefits associated with the employment of persons working under an approved application would be included in the compensation paid the employee and itemized as a part of direct costs. Costs incurred prior to the approval of an application could not be construed as being "necessary expenses" within the discretion of the Department.

Comments received on § 12.7 expressed concern that it could be liable to abuse, for instance, the ease of obtaining additional funds might encourage an inadequate or inefficient performance. The section has, therefore, been revised to require valid reason for any supplementary reimbursement.

A number of comments on § 12.8 noted that to be eligible an applicant must lack resources, yet reimbursement is made only after work is completed. The Comptroller General refers only to reimbursement, suggesting payment for work completed. The regulations do provide, however, that "for good cause shown, partial payment may be made as an applicant's work progresses."

Several comments addressed the problem of presenting bills or receipts for all costs over $10 and requiring proof of cost. The language of paragraph (a) of § 12.8 has been modified in response to these comments substituting "itemized statement" for "other proof" but adding that a claim for reimbursement must be certified as correct.

Several comments were received with respect to paragraph (b) of § 12.8 which provides for a denial of payment if the applicant has "clearly" not provided the representation for which the reimbursement was intended. The concern expressed in many of the comments seems to imply that reimbursement might be jeopardized by even minor misunderstandings or misinterpretations. The inclusion of this provision is intended for use only when there has been clear misrepresentation of the applicant's purpose.

Several comments were received on § 12.9 regarding the retention of records for audit and the procedure for such audits. This section does not require that all records will be audited, but is designed to assure adequate recordkeeping. The retention of records is a protection for recipients of reimbursement in the event an audit should call their claim into question.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "significant." An Approved Final Impact Statement is available from Dr. Linley E. Juers, U.S. Department of Agriculture, Room 118–A, 14th and Independence Avenue, SW., Washington, D.C. 20250.

(The reporting and/or recordkeeping requirements contained herein will be submitted for approval by the Office of Management and Budget in accordance with the Federal Reports Act of 1942)

Dated: January 18, 1980.

Bob Bergland,

Secretary of Agriculture.

Accordingly, a new Part 12 is added to Title 7, Code of Federal Regulations, to read as follows:

PART 12—REIMBURSEMENT OF PARTICIPANTS IN RULEMAKING PROCEEDINGS

Sec.

12.1 Purpose.
12.2 Definitions.
12.3 Scope and applicability.
12.4 Applications for reimbursement.
12.5 Processing of applications and criteria for reimbursement.
12.6 Reimbursable costs.
12.7 Supplementary reimbursement.
12.8 Payments to applicants.
12.9 Audits.
12.10 Availability of dockets.
12.11 Authority for the program.

Authority: 5 U.S.C. 301.

§ 12.1 Purpose.

This part sets forth the Department's regulations governing the reimbursement of individuals and groups for certain of the costs of participation in rulemaking proceedings of the Department. Applicants are eligible to be reimbursed, within budget constraints, when their participation can reasonably be expected to contribute substantially and effectively to a full and fair determination of the issues; they are otherwise financially unable to participate; they are from the area affected; and the interest they seek to represent is not otherwise adequately represented.

§ 12.2 Definitions.

As used in this part:

(a) "Agency" means each agency of the United States Department of Agriculture.

(b) "Agency Head" means the administrator or director of any Agency, and his or her delegate.

(c) "Applicant" means any person requesting compensation under this part to present views as a participant in a rulemaking proceeding, including individuals or any profit or nonprofit group, association, partnership, or corporation. This does not include a local, state, or Federal agency.

(d) "Department" means the U.S. Department of Agriculture.

(e) "Docket" means the file of material relevant to requests for reimbursement under this part.

(f) "Evaluation Board" or "Board" means a panel composed of three members including a Chairperson designated by the USDA Director of Public Participation. No member shall be from the Agency which is responsible for the proceeding out of which the application arises.

(g) "Locality to be affected" means the United States in the case of proceedings which may have a nationwide impact; and the State or States affected in the

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case of proceedings which do not have a nationwide impact; or as defined by the Agency Head in the notice of the agency proceeding.

(h) "Proceeding" means any phase of a Department rulemaking process that is open to public participation, including any advance notice or notice of proposed rulemaking, or any meeting, hearing, or invitation to comment in contemplation of rulemaking, except that this does not include adjudications.

(i) "Secretary" means the Secretary of Agriculture or his or her delegate.

§ 12.3 Scope and applicability.

(a) This part applies to any individual or group seeking financial assistance to participate in a rulemaking proceeding of the Department. It does not, however, create any new right to intervene or otherwise participate in any proceeding. The availability of funds and the program need for reimbursement of participants will be determined by the Department.

(b) This regulation is solely for the purpose of establishing internal procedures to assist agencies in determining applicants' eligibility for the reimbursement provided by the Department under this regulation. Nothing in this regulation shall be construed to create a cause of action or to preclude any cause of action which might exist without this regulation.

§ 12.4 Applications for reimbursement.

(a) Any person may submit an application for reimbursement for participation in an agency proceeding. The application should be submitted as early as practicable after a proceeding begins.

(b) If the Agency anticipates that reimbursed participation would contribute substantially and effectively to it in a particular proceeding, it may invite applications for reimbursement. The invitation, including a description of the particular issues the proceeding will address, the locality affected and a closing date for the submission of applications, will be published in the **Federal Register** and may also be publicized in any other way.

(c)(1) Applications shall be submitted to the Agency Head responsible for the proceeding: (Agency Head), United States Department of Agriculture, Washington, D.C. 20250.

(2) Alternatively, an applicant may send the application to the Director of Public Participation, United States Department of Agriculture, Washington, D.C. 20250. The Director will promptly send any applications he or she receives to the appropriate Agency Head.

(3) Instructions on preparing applications for reimbursement and an application form will be available from the agency responsible for the proceeding.

(d) Each applicant shall provide, in a signed statement, the information requested below in the order specified. Failure to include the requested information may delay the consideration of the application and may disqualify the applicant.

(1) The applicant's name and address. In the case of an organization, the names, addresses, and titles of the members of its governing body, organizational affiliation with other groups and a description of the organization's general purposes, size, structure, and Federal income tax status.

(2) The proceeding for which funds are requested.

(3) The issues the applicant plans to address and how they affect the applicant's interest in the proceeding. This discussion should explain which ideas or viewpoints the applicant believes are substantive, novel, or significant, and why the applicant believes that the presentation of these ideas and viewpoints would contribute to a full and fair determination of the issues involved in the proceeding.

(4) A statement of the amount of funds requested, including an itemized statement of the services and expenses to be covered by the requested funds.

(5) Financial status, including:

(i) A listing of annual gross income for the current and prior year, plus current assets and liabilities and long-term assets and liabilities of the applicant as of the date of the application.

(ii) An explanation of why the applicant cannot use any assets it may have in excess of liabilities, to cover its costs of participating in the agency proceeding. An applicant should list any commitment of such assets which may preclude their use for the proceeding in question.

(iii) If the applicant is a group, association, partnership, or corporation, the official budget for the current fiscal year of the applicant. A statement of revenues and expenses for the last three fiscal years or an explanation of why such information is not available should also be provided.

(6) A list of all proceedings of the Federal Government in which the applicant has been reimbursed for participation during the past year (including the interest represented and the presentation made) and the amount of such financial assistance received from agencies of the Federal Government.

§ 12.5 Processing of applications and criteria for reimbursement.

(a) The Agency Head will process applications. He or she may request applicants to provide additional written or oral information necessary for full consideration of the application. The Agency Head shall file such additional written information, and summaries of oral information with a copy of each application in the docket.

(b) The Agency Head will process applications as soon as practicable after they are received. If the Agency has invited applications for reimbursement in a particular proceeding, the Agency Head will make every effort to process the applications within 15 working days after the closing date announced in the invitation.

(c) The Agency Head shall present the docket containing all applications together with his or her analysis to the Evaluation Board for approval or rejection.

(d) The Evaluation Board may approve an application only if it finds that:

(1) The applicant has demonstrated that is does not have sufficient resources available to participate effectively in the proceeding in the absence of an award under this part. In making this determination, the Evaluation Board may consider, but is not limited to, the following factors:

(i) The amount of an applicant's assets that are firmly committed for other expenditures;

(ii) The amount of its own funds the applicant will spend on its participation; and

(iii) Whether an appearance of being impecunious is achieved by establishing a sham organization to receive reimbursement under this part or other similar Federal reimbursement programs.

(2) Except for expert witnesses whose technical expertise is required, the applicant is a resident of the locality to be affected, and seeks to represent an interest that is not otherwise adequately represented.

(3) The applicant's participation would, or could reasonably be expected to, contribute substantially to a full and fair determination of the issues involved in the proceeding, taking into consideration the following factors:

(i) The ability of the applicant to represent in a timely and competent manner the interest it espouses, including the applicant's or its consultant's or attorney's experience and expertise in the substantive area at issue in the proceeding;

(ii) How the applicant's interest is affected or evidence of the applicant's relation to the affected interest it seeks to represent;

(iii) The novelty, complexity, and significance of the issues to be addressed by the applicant at the proceeding.

(e) The Agency Head shall mail each applicant the written decision of the Department, stating either that reimbursement has been granted and the amount of funding approved or the basis for denial in light of the criteria in paragraph (d) of this section. A copy of the decision shall be filed in the docket.

(f) The Evaluation Board may, for good and timely reason given by an applicant, reconsider its approval or disapproval of all or part of an application. The decision of the Evaluation Board shall be final.

(g) Upon request and where practicable the Agency Head may publish notice to extend any filing period for all parties or reschedule any hearings, in order to afford participants adequate time to prepare their presentations. The Agency Head in deciding whether to make such a decision shall balance the need to give time to applicants or participants against the need for a speedy resolution of the proceeding.

§ 12.6 Reimbursable costs.

(a) Reimbursement is limited to the actual and reasonable costs authorized and incurred as a result of the applicant's participation.

(1) Expenses compensable under this regulation include but are not limited to reasonable costs of attorneys, experts, the expense of clerical services, studies, displays, travel and subsistence costs, and other reasonable costs associated with the participation and actually incurred. Except as otherwise provided the total costs reimbursed cannot exceed the amount authorized when the application is approved.

(2) Compensation of an applicant is limited to the actual and reasonable costs of its participation. Compensation paid to the staff of any participating group or organization is limited to the rate of reimbursement normally paid by the participant for staff services and may not exceed the rates paid to Department employees for providing comparable services. Compensation of a participant's contractor may be valued at the prevailing market rates for the kind and quality of service provided, but may not exceed the rates paid to Department employees for providing comparable services.

(3) Reimbursement for travel, subsistence, and miscellaneous expenses must not exceed the rates authorized by Department travel regulations.

(4) Compensation will not be provided for work performed or costs incurred prior to approval of an application by the Evaluation Board. Compensation will not be provided for negotiating claims, answering Department inquiries, or preparing an application.

§ 12.7 Supplementary reimbursement.

Applicants may apply to the Agency Head for supplementary reimbursement if for valid reason the costs of completion were underestimated or if additional funds would improve substantially the applicant's ability to contribute. The disbursement of supplementary funds will be closely regulated.

§ 12.8 Payments to applicants.

(a) An applicant shall submit a claim for reimbursement, for approved costs to the relevant Agency within 90 days of the applicant's completion of participation in the proceeding. The claim shall be certified as correct by the applicant. Such claims shall include bills, receipts, or itemized statements of costs incurred for each item of expense exceeding $10. The relevant agency will authorize payment of the approved expenses within 30 days of receipt of the applicant's claim. For good cause shown, partial payments may be made as an applicant's work progresses.

(b) Payment may be denied if the applicant clearly has not provided the representation for which the application was approved.

§ 12.9 Audits.

The Secretary and the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of audit and examination to any pertinent books, documents, papers, and records of a participant receiving reimbursement or applicant under this section. The Secretary shall establish additional guidelines for accounting, recordkeeping, audit, and other administrative procedures which Agencies will follow in granting reimbursement. Approved applicants shall retain all relevant records supporting a claim for reimbursement for a period of 3 years after receipt of such reimbursement.

§ 12.10 Availability of dockets.

All dockets concerning reimbursement for participation in Department proceedings will be available for inspection and copying through the Department Public Participation Staff at Department Headquarters, 14th and Independence Avenue, S.W., Washington, D.C. 20250.

§ 12.11 Authority for the program.

(a) **The following statutes provide implicit authority for the reimbursement of participants in rulemaking proceedings under these statutes:** United States Grain Standards Act, 7 U.S.C. 71 *et seq.;* Federal Plant Pest Act, 7 U.S.C. 150aa *et seq.;* Plant Quarantine Act, 7 U.S.C. 151–165, 167; Packers and Stockyards Act, 1921, 7 U.S.C. 181 *et seq.;* Agricultural Marketing Agreement Act of 1937, 7 U.S.C. 601 *et seq.;* Rural Electrification Act of 1936, 7 U.S.C. 901 *et seq.;* Bankhead-Jones Farm Tenant Act, 7 U.S.C. 1010, 1011e; Agricultural Adjustment Act of 1938, 7 U.S.C. 129; Agricultural Act of 1949, 7 U.S.C. 1421 *et seq.;* Federal Crop Insurance Act, 7 U.S.C. 1501 *et seq.;* Agricultural Marketing Act of 1946, 7 U.S.C. 1621 *et seq.;* Agricultural Trade Development and Assistance Act of 1954, P.L. 480, 7 U.S.C. 1691 *et seq.;* Consolidated Farm and Rural Development Act, 7 U.S.C. 1921 *et seq.;* Food Stamp Act, 7 U.S.C. 2011–2027; Cotton Research and Promotion Act, 7 U.S.C. 2101 *et seq.;* Animal Welfare Act, 7 U.S.C. 2131 *et seq.;* Potato Research and Promotion Act, 7 U.S.C. 2611 *et seq.;* Egg Research and Consumer Information Act, 7 U.S.C. 2611 *et seq.;* Beef Research and Information Act, 7 U.S.C. 2901 *et seq.;* Wheat and Wheat Foods Research and Nutrition Education Act, 7 U.S.C. 3401 *et seq.;* Commodity Credit Corporation Charter Act, 15 U.S.C. 714 *et seq.;* Multiple Use-Sustained Yield Act, 16 U.S.C. 528–531; Soil Conservation and Domestic Allotment Act, 16 U.S.C. 590a–f; Flood Control Act of 1944 (Sec. 13); Watershed Protection and Flood Prevention Act, 16 U.S.C. 1001 *et seq.;* Wilderness Act, 16 U.S.C. 1131 *et seq.;* National Forest Management Act of 1976, 16 U.S.C. 1600 *et seq.;* Forest and Rangeland Renewable Resources Planning Act of 1974, 16 U.S.C. 1600 *et seq.;* Forest and Rangeland Renewable Resources Research Act of 1978, 16 U.S.C. 1641 *et seq.;* Soil and Water Resources Conservation Act of 1977, 16 U.S.C. 2001 *et seq.;* Cooperative Forestry Assistance Act of 1978, 16 U.S.C. 2101 *et seq.;* Animal Quarantine Laws, 21 U.S.C. 102, 111, 120; Poultry Products Inspection Act, 21 U.S.C. 451 *et seq.;* Federal Meat Inspection Act, 21 U.S.C. 601 *et seq.;* Housing Act of 1949, 42 U.S.C. 1471 *et seq.;* Rural Clean Water Act of 1977 (Sec. 35) 33 U.S.C. 1288; National School Lunch Act, 42 U.S.C. 1751–1768; Child Nutrition Act of 1966, 42 U.S.C. 1771–1778.

(b) Prior to the implementation of a reimbursement plan for rulemaking

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proceedings conducted under other statutes, the Office of the General Counsel (OGC) will review the relevant statute or statutes and determine whether there is explicit or implicit authority for reimbursement for public participation. OGC will make this determination in response to a request from an Agency Head. Such request shall be made:

(1) prior to inviting applications for reimbursement; or

(2) where such an invitation is not made, after receiving an application for reimbursement for a specific rulemaking proceeding.

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Thursday
January 24, 1980

Part VI

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; Performance Bonding

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 800, 801, 805, 806, 807, and 808

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; Performance Bonding

AGENCY: Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior.

ACTION: Proposed amendment to rules and notice of public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) proposes to amend portions of its permanent regulatory program (30 CFR Chapter VII, Subchapter J) relating to bond and insurance requirements for surface coal mining and reclamation operations. The proposed changes would revise provisions concerning the period of liability, the form of the performance bond, performance bond requirements for long-term facilities and disturbances, and release and forfeiture of the bond. Several of the changes are in direct response to a petition for rulemaking filed with OSM, while others were generated from comments received during the petition review process.

DATES: The comment period of the proposed amendments will extend until March 24, 1980. Public hearings will be held on February 13, 1980.

ADDRESSES: Written comments must be mailed or hand-delivered to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record Office, Room 135, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240. All comments will be available for inspection at Room 135, South Interior Building.

Public hearings will be held at the following locations:

Washington—Department of the Interior Auditorium, 18th and C Sts. N.W., Washington, D.C.
Indianapolis—Indiana War Memorial, 431 North Meridan St., Indianapolis, Ind.
Denver—Court House, 1961 Stout St., Rm. C–503, Denver, Colo.

For addresses where additional copies of these proposed amendments are available, see "Availability of Copies" under Supplementary Information.

FOR FURTHER INFORMATION CONTACT: David R. Maneval, Assistant Director, Technical Services and Research, Office of Surface Mining, U.S. Department of the Interior; 202–343–4264.

SUPPLEMENTARY INFORMATION:

Public Comment Period

The comment period on these proposed amendments will extend until March 24, 1980. All written comments must be received at OSM Headquarters, U.S. Department of the Interior, South Building, Room 135, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, by 5:00 p.m. on that date. Comments received after that hour will not be considered or included in the administrative record for the final rulemaking. OSM cannot ensure that written comments received or delivered during the comment period to locations other than that specified above will be considered and included in the administrative record for the final rulemaking.

Availability of Copies

Copies of these proposed amendments may be obtained from the following OSM offices:

Headquarters, U.S. Department of the Interior, South Building, Room 135, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; 202–343–4728.
Region I, Thomas and Hill Building, 1st Floor, 950 Kanawha Boulevard, East Charleston, WV 25301; 303–342–6125.
Region II, Suite 500, 530 Gay Street, S.W., Knoxville, TN 37902; 615–637–8060.
Region III, Room 502, Federal Building & U.S. Courthouse, 46 East Ohio Street, Indianapolis, IN 46204; 317–269–2600.
Region IV, Scarritt Building, 5th Floor, 818 Grand Avenue, Kansas City, MO 64106; 816–374–2518.
Region V, Brooks Towers, 1020 15th Street, Denver, CO 80202; 303–837–5511.

Public Hearings

Public hearings on these regulations will be held on February 13, 1980, to hear all those who wish to testify. The hearings will be held at the following locations and will begin at 9:30 a.m. local time at each location.

Washington—Department of the Interior Auditorium, 18th and C Sts. N.W., Washington, D.C.
Indianapolis—Indiana War Memorial, 431 North Meridan St., Indianapolis, Ind.
Denver—Court House, 1961 Stout St., Rm. C–503, Denver, Colo.

Persons wishing to testify at the public hearings on these proposed amendments should contact persons listed under "PUBLIC MEETINGS" for the appropriate location on or before February 11, 1980. Individual testimony at these hearings will be limited to 15 minutes. The hearings will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter. Submission of written statements in advance of the hearings would greatly assist OSM officials who will attend the hearings. Advance submissions will give these officials an opportunity to consider appropriate questions which could be asked for clarification or to request more specific information from the person testifying.

The public hearings will continue on the day identified above until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and wish to do so will be heard following the scheduled speakers. Each hearing will end after all persons scheduled to testify and persons present in the audience who wish to speak have been heard. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned unless they are present in the audience at the time all scheduled speakers have been heard.

Public Meetings

Representatives of OSM will be available to meet between January 24, 1980 and March 24, 1980, at the request of members of the public, State representatives, and industry organizations to receive their advice and recommendations concerning the content of these proposed amendments. Persons wishing to meet with representatives of OSM during this time period may request a meeting at the Washington office or any of the five regional offices. Persons to contact to schedule or attend such meetings are as follows:

Washington—Russ Price, 202–343–4022.
Charleston—Jesse Jackson, 304–345–4720.
Knoxville—Roger Calhoun, 615–637–8060, ext. 311.
Indianapolis—William Bye, 317–269–2604.
Kansas City—Kerry Cartier, 816–374–3409.
Denver—Roberta Jones, 303–837–5656.

OSM representatives will be available for these meetings between 9:00 a.m. and noon and 1:00 and 4:00 p.m., local time, Monday through Friday excluding holidays, at the OSM regional offices. All such meetings are open to the public. Notices of the meetings will be publicly posted in advance as to the location of the meeting. A written summary of the meetings will be a part of the administrative record and will be available to the public.

Public Comments

Written and oral comments should be as specific as possible. OSM will appreciate any and all comments, but those most useful and likely to influence decisions on these amendments will be those which include a rationale based on fact, not opinion, for any given recommendation. Written comments

will be accepted until 5:00 p.m. on March 24, 1980 at the address indicated above under "ADDRESSES". OSM cannot assure that comments received after that time will be considered.

Statements of Significance and Environmental Impact

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. The Department of the Interior has determined that amendment of the rules within the scope of this document will not significantly affect the quality of the human environment. Accordingly, this action is not subject to the environmental impact statement requirements of the National Environmental Policy Act.

On March 13, 1979, OSM promulgated permanent program regulations as required by Section 501(b) of the Surface Mining Control and Reclamation Act of 1977. Subchapter J, Parts 800–809, of the permanent program regulations pertain to bond and insurance requirements for surface coal mining and reclamation operations. References to Subchapter J have been published as follows: 44 FR 15385–15393, with corrections published at 44 FR 15485 (March 14, 1979), 44 FR 49673–49687 (August 24, 1979), 44 FR 53507–53509 (September 14, 1979), and 44 FR 66195 (November 19, 1979). Portions of the bonding rules, as well as other permanent program rules were suspended by announcements appearing at 44 FR 67942 (November 27, 1979) and 44 FR 77455 (December 31, 1979). These provisions were suspended in response to reevaluation of the provisions in the context of pending litigation *(In Re: Permanent Surface Mining Regulation Litigation,* filed May 9, 1979, D.D.C.—Civil Action 79–1144).

As a result of comments received on a petition for rulemaking filed by the Mining and Reclamation Council of America (MARC), Travelers Indemnity Company, and Green Mountain Company, ("the peritioners"), OSM has concluded that several Sections of Subchapter J need revision. Refer to 44 FR 28005–28008 (May 14, 1979) and 44 FR 52098 (September 6, 1979), respectively.

Explanation of Proposed Amendments

Part 800—General Requirements for Bonding of Surface Coal Mining and Reclamation Operations Under Regulatory Programs

§ 800.5 Definitions.

Revised definitions of collateral bond and self-bond are proposed to agree with proposed amendments to §§ 806.11 and 806.12. These changes would include a security interest in real or personal property as a form of collateral bond and eliminate it as a form of self-bond.

Commenters on the petition suggested that self-bonding should not require separate collateral, such as real and personal property. The rationale for changing the definitions is presented as part of the discussion of proposed §§ 806.12(h) and 806.14, which were derived from redesignating portions of existing § 806.11(b).

§ 800.11 Requirements to file a bond.

The petitioners requested addition of a new Paragraph allowing bond amount under § 805.11 to be calculated on a cumulative basis in addition to the existing incremental basis.

Two options concerning cumulative bonding were considered: (1) Retain the current language of §§ 800.11 and 805.11, which allows full bonding of the permit area or incremental bonding as approved by the regulatory authority in the bond schedule; or (2) Adopt revised regulations that will calculate a bond amount on a cumulative basis. The second alternative would authorize increases or decreases in the total bond amount as portions of the permit area reach different phases of reclamation under a single bond.

Performance-bonding liability as defined in Section 509(a) of the Act covers that land within the permit area during the initial term of the permit. Succeeding increments require additional bonding. The amount of bond must be sufficient to assure that the reclamation plan can be completed by the regulatory authority. Therefore, the Act provides for the filing of new bond as new increments are about to be disturbed and for the release of bonds on reclaimed increments. This process, if administered under a single bond that covers successive increments, is called cumulative bonding under the proposed revisions. In review of this proposal, OSM feels that the most important factor in applying a cumulative bond is the achievement of the proposed schedule by which affected areas, in various phases of reclamation, and areas not yet disturbed, are included or excluded in the amount of bond coverage. OSM proposes inserting this provision in § 800.11 rather than in § 805.11.

Section 805.11 sets forth the responsibility of the regulatory authority for determination of performance-bond amounts. The regulatory authority must estimate the cost of reclamation considering complexity of terrain, soil characteristics, proposed vegetation, and hydrologic data in order that adequate funds will be available to contract for the reclamation if it must be completed by the regulatory authority. Section 800.11(b)(1)(ii) currently provides for the incrementation of performance bonding as the operator undertakes mining on successive incremental areas within the permit area. Each incremental area is considered to be independent for purposes of bonding, revegetation, and bond release. Therefore, in considering this proposal, cumulative bonding has been provided in § 800.11 concerning bond coverage and scheduling.

The following example illustrates the use of a cumulative bond:

Cumulative bonding is to be applied to a surface coal mining operation during which the operator intends to disturb 10 percent of the permit area each year for 10 consecutive years.

At year 1 the bond required for increment 1 is 10 percent of the total estimated reclamation cost.

At year 2 the operator begins to distrub increment 2, and the bond required for both increments combined increases to 20 percent of the total reclamation cost.

At year 3 the operator begins to disturb increment 3 but requests partial release on increment 1, which has been backfilled, graded, and seeded during year 2 so that reclamation phase I is complete. Upon approval of the release, the bond required for increment 1 is reduced to 4 percent (40 percent of the reclamation cost on 10 percent of the total permit area). The total amount of bond required for increments 1, 2, and 3 is 4 percent, 10 percent, and 10 percent, respectively, or 24 percent of the total reclamation cost.

At year 4 the operator disturbs increment 4, increment 1 is ready for further release and adjustment of bond, increment 2 is ready for initial release and adjustment of bond based on completion of reclamation phase II, and increment 3 still requires a full bond. Upon approval of the releases, the bond required for increment 1 is reduced to 1.5 percent, the bond for increment 2 is reduced to 4 percent, and the bond for increment, 3 and 4 is 10 percent each, or 25.5 percent of the total reclamation cost.

The bond amount increases 1.5 percent per year between year 4 and year 10. The total bond required at year 10, assuming no increment has been released totally from its liability period, is 34.5 percent.

Probably the most important factor in the effective implementation of a cumulative bond is the control of the disturbed acreage and contemporaneous

reclamation, thereby allowing bond release on schedule. In the example, only 20 percent of the permit area is disturbed by active mining at any one time, and a constant 10 percent is in the backfilling, grading, and seeding phase. The key element in successfully reducing the bond amount is to attain successful reclamation in a timely manner.

To implement cumulative bonding fully, conditions may be specified in the regulatory program that either (a) authorize a constant bond face amount but limit the amount of the bond which may be forfeited at any one time to the amount of bond required at that time under the approved schedule, or (b) that allow for variable bond face amount in accordance with the approved schedule. Of course, variation of bond face amount must not be allowed in a manner which would ever have the amount forfeitable fall below the actual estimated full cost of completing reclamation on all distrubed area.

Many commenters felt that adequate latitude is already provided in the regulations to allow cumulative bonding through adopting standards at the State regulatory level. Such interpretation of the bonding requirements would give the regulatory authority the ability to work with bonding companies to control reclamation costs, provide accurate estimates, and avoid bonds which are excessive. Some commenters felt that due to the requirements for contemporaneous reclamation, no more than 50 percent of the total bond amount would be required if all permit increments were in some phase of mining or reclamation effort.

Operators and sureties testified that, due to the uncertain effects of the permanent regulations and their enforcement by OSM and the States, bonding for coal operations will quickly become unobtainable. It was pointed out that most sureties writing bonds today require 100-percent collateral bonding. Even operators who claim to have records of long-standing solvency and good reputations in reclamation reported that it is difficult to obtain bonds. The provisions for cumulative bonding may improve this situation by controlling the total area disturbed at any given time.

In view of the favorable comments on cumulative bonding in support of § 805.11(b) as proposed in the petition, and in light of the inspection frequency required by the Act in the permanent program, OSM has selected option 2 and is proposing aspects of cumulative bonding for the regulations.

OSM has inserted the Section allowing cumulative bonding under Part 800 as § 800.11(b)(ii). This provision will allow an operator to provide a single bond for a permit area including all or part of the increments at differing levels of mining activity. Unlike bonds on separate increments, the forfeitable amount of the cumulative bond may vary as incremental areas are added or deleted. As in incremental bonding, the total bond posted must be sufficient for the regulatory authority to complete the reclamation plan in accordance with Section 509 of the Act.

§ 800.13 Regulatory authority responsibility.

One commenter requested addition of two paragraphs to this Section which would (1) require the regulatory authority to establish bonding-amount rate guidelines, and (2) recommend that the regulatory authority apply the proceeds of forfeitures in a timely manner. The proposed text which was requested is as follows:

"(g) The regulatory authority shall establish bonding-amount rate guidelines based on the estimated maximum cost to the regulatory authority for completing the reclamation requirements of the Act, this Chapter, the regulatory program, and the provisions of the reclamation plan. These guidelines shall form a part of the regulatory authority's program and shall be subject to approval by the Office of Surface Mining Reclamation and Enforcement. These guidelines shall be reviewed and revised periodically to reflect the current cost of reclamation to the regulatory authority. These guidelines shall be based on best estimates by a certified professional engineer of such cost for the State or Indian lands in which the permit area is located.

"(h) The regulatory authority shall apply the proceeds of bond forfeitures toward the reclamation, restoration, abatement, and revegetation of the permit area within a reasonable period of time."

OSM agrees that a cost-estimating guide is essential for developing reclamation costs for operation and reclamation plans, as well as for estimating bond amount. Each State may want to develop and utilize its own guidelines and techniques in estimating the cost of reclamation. OSM feels that no Federal regulations are necessary covering this issue.

The proposal recommending use of proceeds from bond forfeitures in a timely manner has not been included, because it does not appear to add any conditions which are not already covered under existing provisions of bond forfeitures in Part 806. It is the intent of these regulations that reclamation of an area on which bond has been forfeited be conducted in a timely manner, in accordance with the reclamation plan, and in a manner that avoids potential environmental degradation.

The same commenter recommended changing bond "form" to "forms" in § 800.13(a). In developing procedures for filing performance bonds, OSM has developed information forms. The various bonding methods require different information and thus different forms. Therefore, Paragraph (a) is proposed to be amended to reflect the use of multiple forms in bond submission.

Self-bonding, originally in § 806.11, is proposed to be moved to § 806.14. Therefore, the reference in Paragraph 800.13(d) to the self-bonding Section has been changed to § 806.14.

Part 801—Bonding Requirements for Underground Coal Mines, Coal-Processing Plants, Associated Structures, and Other Coal-Related Long-Term Facilities and Structures

The petitioners requested addition of a new Section covering underground mines, coal-processing plants, refuse areas, and associated structures and facilities. Many comments were received which supported a separate Section addressing underground mining and long-term coal-related facilities.

Section 516(d) of the Act requires that standards relating to bonding shall be applicable to both surface mines and the surface effects of underground mines, with modifications necessary to accommodate the distinct difference between the two mining methods.

OSM has proposed Part 801 to deal with bombing regulations of long-term disturbances at such facilities as underground coal mines, coal-processing plants, refuse areas, and other coal-related facilities. Other provisions of Subchapter J would also apply to long-term facilities, except to the extent that specific differences is bonding of long-term facilities have been considered and enacted in Part 801.

Sureties have resisted issuing performance bonds for long-term facilities because of the length of time the bond must remain posted. However, the Act requires bonding coverage sufficient to complete the reclamation plan throughout the life of coal operations. Therefore, a long-term facility must be bonded initially to obtain a permit. One solution recommended in the proposed Part 801 is that surety companies provide bond coverage during the first years of operation, and that production-generated escrow collateral replace the surety bond early in the facility's life and extend throughout the remainder of the facility's life. Further, at a predetermined time the surety responsibility may cease to be necessary, under a replacement method agreed upon by the operator, surety, and regulatory authority.

Several commenters felt that the liability period associated with an underground mine or coal-processing plant would be prohibitive to surety bonding. Such facilities commonly have a 30-to 50-year life. Therefore, Part 801 provides for short-term liability periods with specific renewal requirements for continuing bond coverage for continuous operations or coverage of the reclamation phases and period of liability. In considering the applicability of this new Part, it was felt that most facilities to which it applied would have multiple-term permits. However, in the transition from interim to permanent program some long-term facilities may be reaching the end of their useful life. Therefore, OSM has inserted certain time constraints on the applicability of Part 801 under proposed Section 801.11 to determine to which facilities and disturbances the provisions of this Part would apply. Operators not covered by Part 801 would require bond liability continously until reclamation has been completed in accordance with Section 805.13(a). In addition, in considering possible situations, a long-term facility may be located on land which is part of a surface mining permit with other shorter term facilities. Such facilities could be bonded with continuous liability until reclamation is completed as part of the total permit area or be treated as a separate permit under Part 801, depending on the most appropriate bond agreeable to the operator and the regulatory authority.

For underground mining operations, specific attention should be given to applying performance standards from Part 817, performance standards for underground mines. The following Sections differ materially from the surface mining performance standards of Part 816: §§ 817.13, 817.14, 817.15, 817.50, 817.71–817.74, 817.101-817.103 and 817.121-817.126.

For long-term facilities and structures, speical attention should be directed to Part 827, "Special Permanent Program Performance Standards—Coal Processing Plants and Support Facilities Not Located at or Near the Minesite or Not Within the Permit Area for a Mine".

Surface disturbances at underground operations and long-term processing facilities do not usually change appreciably during the life of the facility. Therefore, the bond amount can be relatively constant. The amount must cover the total reclamation cost for the disturbed surface area during the permit term. Subsequent coverage is proposed to be required for each permit renewal. Upon completion of the useful life of the facility, bond or other security will cover the reclamation phases including the applicable period of extended revegetation liability of § 816.116.

The bonding requirements for an underground operation as proposed would not include coverage of long-term potential unplanned subsidence or unforeseen mine drainage. However, the proposed regulations detail the applicability of performance bond coverage to any proposed surface measures to control subsidence or in relocating structures and for the construction of facilities associated with mine drainage treatment facilities identified in the permit application.

The preamble to the permanent regulatory program (44 FR 15112) further addresses the bonding of surface effects of underground mines. As stated there, the protection of surface owners from damaging effects of subsidence and environmental problems of acid mine drainage are the subject of further study by OSM. In the meantime, the provisions which provide surface-owner protection detailed in § 817.124 shall continue to apply.

The petition also requested a provision for retention of long-term facilities and structures if they present no potential danger to public health and safety. OSM, in considering this issue, refers to its rationale for § 816.132 regarding cessation of operations found at 44 FR 15415 (March 13, 1979). Unless the structures are approved for retention by the regulatory authority as part of the reclamation plan and support the postmining land use, they cannot remain.

In determining the bond amount in accordance with § 805.11, the procedures for estimating the cost to complete the reclamation plan for surface and underground mines will be basically the same. However, the estimator must consider the differences, complexity, and performance standards of Part 817 in computing bond amount for underground mines.

Part 805—Amount and Duration of Performance Bond

§ 805.13 Period of liability.

The petitioners requested that the regulations be revised to consider the issue that augmented seeding, fertilization, irrigation, or other work often constitutes good husbandry practice and should not require the area to begin its 5- or 10-year liability period again. Many commenters argued that operators should not be penalized for using good husbandry techniques to maintain the area. Revegetation regulations of § 816.116 require the liability period to begin after successful vegetation has been established following augmentation. Work considered beyond normal husbandry practices for a region would require extension of the applicable liability period. However, if normal conservation practices as determined by the regulatory authority are conducted, no extension should be required. The conservation practices which are acceptable to the regulatory authority should be documented prior to undertaking corrective action, to avoid potential controversy. OSM invites comments as to the need to establish specific acceptable practices in the permit process and procedures for amendment if supported by local experience.

Commenters noted that the Act explicitly prohibits seeding, fertilizing, or irrigating during the extended period of liability unless the postmining land-use plan provides for ongoing management. Section 816.116(b)(1) states that "The period of extended responsibility under the performance bond requirements of Subchapter J initiates when ground cover equals the approved standard after the last year of augmented seeding, fertilizing, irrigation or other work". Several commenters noted that the bond should not be held for the entire permit area if only a small portion of the permit area requires additional maintenance. They suggested that the bond be released on the portions of the permit area that meet the requirements of proper revegetation and on which the liability period has expired. Only the portion of land requiring further maintenance should retain its bond for an additional 5- or 10-year period.

To allow some latitude in the extension of the liability period, § 805.13(c) is proposed to allow separation of a portion of the area from the original bonded increment if augmentation is required under certain circumstances upon approval of the regulatory authority. The period of liability on the new portion will begin when a vegetation cover has been established in accordance with § 816.116 of the regulations.

Several comments were received suggesting that the 5- or 10-year period of liability is too long. Section 515(b)(20) of the Act (30 U.S.C. 1265(b)(10))

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specifies that the liability period shall be 5 or 10 years. Because the period of liability is set by the Act, no change is proposed.

Section 805.13(c) is proposed to be redesignated as § 805.13(d) to allow for addition of new § 805.13(c).

Section 805.13(d) is proposed to be redesignated as § 805.13(e) and revised to reflect the exception to general revegetation standards of § 816.111(a) in contrast to those under § 816.116. The existing language appears to allow an exception to § 816.116, which was not intended.

A new section § 805.13(f) has been added in response to the petitioners' request to limit the liability of the surety company in the event that an approved postmining land use is not completed. One commenter contended that performance by a third-party landowner or person other than the coal operator cannot be guaranteed as part of the bond for reclamation of the original permit area. OSM agrees that the bond liability of the permittee cover only completion of the reclamation plan so the land will be capable of supporting the approved postmining land use. The regulatory authority must determine during the permitting process the reclamation responsibilities necessary to assure there is a reasonable likelihood that the approved postmining land use will be achieved. Bonding liability may be extended for not attaining the approved land uses under certain circumstances. These include land-use requirements on prime farmlands, alluvial valley floors, and areas where intensive agricultural postmining land use is planned or mining and reclamation methods are approved under a variance.

§ 805.14 Adjustment of amount.

The petitioners contended that the surety, as well as the permittee, should be notified of adjustments in bond amounts. Currently, only the permittee is required to be notified, and many commenters recommended that the surety should also be notified.

OSM agrees and is proposing a revision to § 805.14 to include surety notification. The request for bond adjustment being proposed in § 805.14(b) also includes other persons who may have an interest in the bond. It is being proposed that, in addition to the permittee and surety, any person with property interest in collateral offered as bond coverage may receive notification of adjustment of bond amount if a request is submitted in writing to the regulatory authority. It is felt that all persons involved in bond coverage should be aware of actions in order to protect their interests. Notification of surety is consistent with involvement of surety companies in bond coverage as found in Section 509(b) of the Act, and provides for coordination in bond matters with surety firms.

Several commenters stated that bond amounts should not be adjusted as required in § 805.14(a). However, Section 509(e) of the Act requires the regulatory authority to adjust bond amounts as the acreage in the permit area changes or where the future cost of reclamation changes. No change has been proposed regarding such adjustments.

Part 806—Form, Conditions, and Terms of Performance Bonds and Liability Insurance

§ 806.11 Form of the performance bond.

Section 806.11 prescribes the types of performance bonding which may be used to assure an operator's performance. This section has three parts: form of the bonds, self-bonding, and bonding alternatives.

The first Paragraph lists two types of bonds—surety and collateral, the specifics of which are discussed in § 806.12. Self-bonding is covered in detail in Paragraph (b), and bonding alternatives are discussed in Paragraph (c). From the many comments received in regard to self-bonding requirements, it was determined that the specific requirements of self-bonding in § 806.11(b) should be treated separately for clarity, as self-bonding is a separate subsection (509(c)) of the Act. In addition to separating self-bonding, which is proposed as new § 806.14, the provision for requiring a security interest in real and personal property as collateral under self-bonding has been redesignated § 806.12. The proposed revision to Section 806.11 contains reference to the following bonding alternatives: (1) Surety bonding, (2) Collateral bonding, (3) Escrow bonding (a form of collateral bonding), (4) Self-bonding, and (5) The provision for a combination of methods. The criteria by which these various bonding methods may be applied are described in the discussion of §§ 806.12, 806.13, and 806.14. Alternatives to bonding as allowed by Section 509(c) of the Act under the Secretary's authority, which are currently found in § 806.11(c), are proposed as § 806.11(b). OSM in conjunction with this provision invites comments and recommendations on alternatives to bonding methods to further implement Section 509(c) of the Act. A new section, "Escrow Bonding," is proposed as § 806.13. Existing §§ 806.13, "Replacement of Bonds," and 806.14, "Terms and Conditions for Liability Insurance," are proposed to be redesignated as §§ 806.15 and 806.16, respectively.

The petition proposed that § 806.11(b) on self-bonding should be deleted and rewritten to require only the information specified in the Act. Three options were considered: (1) Accept the portion of the petition dealing with Section 806.11(b) and propose the petitioners' suggestions for rulemaking. (2) Reject the portion of the petition dealing with § 806.11(b) and continue the requirements now extant, and (3) Propose a revised and refined § 806.11(b) responsive to concerns of various commenters.

In requesting deletion of § 806.11(b) in its entirety, the petitioners cited two requirements that they consider to be beyond the intent of Section 509(c) of the Act. One is the requirement in § 806.11(b)(2) of the regulations for the operator to show a net worth of six times the total self-bond amount. Another is the requirement in §§ 806.11(b) (3) and (4) for a mortgage or security interest in real or personal property. Two commenters requested that the Sections be rewritten, for as presently written they did not allow self-bonding as a practical matter.

Another commenter stated that the self-bonding regulations did not exceed the authority of OSM under the Act, that the regulations should not be eliminated and rewritten to require only the information required in the Act.

Another commenter said that § 806.11(b) should not be deleted, as proposed by the petitioners, but should be revised to better achieve the purposes of the Act.

Other commenters specified areas, in addition to those of the petition, which should be considered for revision. A commenter pointed out that the Surety Association of America had submitted a statement which would support a regulation that required that the total bond obligation not exceed a multiple of company's net worth, instead of requiring the company's net worth to be a multiple of the bond obligation. Another commenter suggested an amount not exceeding two times the applicant's net worth. Another commenter felt that an audited statement representing a "six times" ratio does not reflect either a residual equity value or a demonstrated ability to pay. Another comment received concerning this Section raised the point that certification by a Certified Public Accountant (CPA) of the net worth added a cost burden on the unaudited independent operator.

Other comments were received on §§ 806.11(b)(3) and (4). One commenter proposed eliminating indemnity agreements. Another had no problem with the indemnity requirements but felt that a mortgage or security was unnecessary. Two commenters pointed out that a first mortgage cannot be given to the regulatory authority because it would have been required as collateral to borrow money for company expansion. Another commenter stated that the determination of fair market value not subjected to the test of an established active market will present problems for the regulatory authority. Another commenter suggested that § 806.11(b)(4)(iii)(C) be changed to include mine lands at the permit site as eligible bond collateral. Another commenter suggested the deletion of §§ 806.11(b)(4)(iii) and (iv) since they prevent most public utilities from providing self-bonding. Another commenter stated that the definition of collateral property in § 806.11(b)(4)(iv)(D) should not be limited to U.S. Government bonds. Another commenter felt that the requirement in § 806.11(b)(4)(iv)(E), that personal property in which a security interest may be granted shall not include certificates of deposit which are not federally insured, directly interferes with the permittee's right to choose financial institutions.

Several commenters proposed changes to § 806.11(b)(5). One commenter felt that detailed financial statements are unnecessary to assure reclamation. Another commenter felt that new operators should not be disqualified from self-bonding. Another commenter proposed that the regulatory authority could consider the financial records of operators with less than 10 years of continuous experience in § 806.11(b)(5).

Two commenters proposed that the requirement be changed in § 806.11(b)(5)(v)(A) for an operator to provide a financial statement including audited financial statements prepared by a disinterested independent CPA and including a final determination by the CPA regarding the operator's ability to meet all obligations and costs under the reclamation plan for the life of the mine. They suggested that CPA's probably would not issue an opinion that would expose their firms to any liability.

Another commenter proposed that there was no need for curent-to-total asset ratios in § 806.11(b)(5)(v)(A)(3)(i).

Another commenter proposed deletion of the requirement in § 806.11(b)(6)(i)(D) for a spouse's signature unless the spouse is involved in the business on a regular, bona fide basis. Clarification of § 806.11(b)(6)(ii) was also requested by a commenter.

OSM has selected option 3, reopening § 806.11(b) to rulemaking, and proposes various revisions and refinements. OSM feels that Sections 102, 201, 501, and 503 of the Act require guidance in the regulations regarding the parameters of accepting self-bonds to implement the concept granted in the Act. The evidence submitted by the petitioners and others did not seem to support the request to have the regulations completely deleted and the words of the Act submitted in their place.

Further details of the changes made in self-bonding and other areas of § 806.11 are discussed in connection with §§ 806.12(h) and 806.14.

These amendments propose to (1) eliminate real and personal property as a requirement of self-bonding and relocate those provisions as a part of collateral bonding; and (2) create a new Section dealing with self-bonding. The proposed Sections were developed by redesignating and revising portions of § 806.11(b) as follows:

Current	Proposed
Sec.:	
806.11(b) redesignated as	806.14(a)
806.11(b)(1) redesignated as	806.14(a)(1)
806.11(b)(2) deleted	
806.11(b)(3) redesignated and revised as	806.12(h)(1)
806.11(b)(4) redesignated as	806.12(h)(2)
806.11(b)(4)(iii)(C) redesignated and revised as	806.12(h)(2)(iii)(C)
806.11(b)(5) redesignated as	806.14(a)(2)
806.11(b)(6) redesignated as	806.14(a)(3)
806.11(b)(6)(i)(D) redesignated and revised as	806.14(a)(3)(i)(D)
806.11(b)(7) redesignated as	806.14(a)(4)

Only those paragraphs of § 806.11(b) indicated as revised are open for comment unless specific comments regarding other issues are requested as part of this preamble. Other portions of the proposed Sections are printed only as an aid to the reader.

§ 806.12 Terms and conditions of the bond.

Section 806.12 sets forth the criteria by which a regulatory authority may accept performance bonds. This Section covers the requirements for surety bonds, collateral bonds, letters of credit, and the requirements for the use of real and personal property as collateral. Several comments were received on several paragraphs of § 806.12, and they are discussed below.

Section 806.12(e)(4). A surety comment referring to § 806.12(e)(4) asserted that equity in settlement is prohibited to the surety company. This commenter recommended that the surety be able to decide whether to complete the reclamation plan or forfeit the bond. The Act requires that the bond amount must be sufficient for a third party to complete the reclamation plan. If the surety agrees to complete the reclamation in a manner acceptable to the regulatory authority and the bond coverage is considered adequate, OSM feels that surety could meet the requirements of the Act by completing the reclamation plan. Bond coverage and subsequent releases would remain in effect for the surety with bond releases and liability periods as required by other parts of Subchapter J. This provision is proposed as a new § 808.11(c). The regulatory authority may allow the surety to complete the reclamation plan if the surety can demonstrate a contract for services which will meet the requirement of the regulations and the reclamation plan. No bond shall be released, except for partial releases authorized under Part 807, until successful completion of all reclamation under the terms of the permit including the applicable liability period of Part 805.

Sections 806.12(e)(6)(iii) and 806.12(g)(7)(iii). One commenter recommended elimination of the requirement in §§ 806.12(e)(6)(iii) and 806.12(g)(7)(iii) that in the event of insolvency of a surety or a bank, the permittee is deemed without bond and should immediately discontinue surface mining, or a change in the regulation to allow the permittee a 90-day grace period. Section 509(a) of the Act requires that a bond be filed before a permit is issued. An operator losing bonding, whether due to the operator's financial situation or that of the operator's bank or surety, is technically without bonding. However, cessation of operations due to the latter situation, where the operator is not at fault, may prove to be more detrimental to the environment, the public, and reclamation than continuing operations for a brief period without a bond. In additon, in some cases, requiring cessation of operations would ensure operator failure and bankruptcy, since the operator's source of income would cease to exist. Therefore, OSM proposes to amend the regulations to allow a grace period in which an operator must reinstitute bonding. The proposed regulations would require the regulatory authority to issue a notice of violation if this situation occurs and to maintain stringent inspection and monitoring of the operation during the unbonded period.

The proposed amendment allows up to a 90-day period for bond replacement. Since operating without a bond is a permit violation, an operator would be cited as in violation but would be allowed a grace period to abate the condition and replace bond coverage.

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Failure to operate in compliance with other performance standards or an unwillingness of an operator to diligently seek bond replacement may require cessation of operations. Operators complying with the abatement period and replacing the bond within the time period would not have the notice of violation count adversely on their records in the event of future, unrelated violations or future permit applications.

Section 806.12(g)(2). A commenter pointed out that § 806.12(g)(2), requiring letters of credit to be irrevocable prior to release by the regulatory authority, cannot be satisfied under current banking policies. Various State and Federal banking regulations prohibit a bank from issuing a letter of credit with an open-ended commitment as to maturity date, and many states prohibit the issuance of such letters of credit with a maturity date in excess of 1 year. Furthermore, in the absence of State regulations, the issuance of open-ended maturity-date obligations still would often not qualify as prudent credit judgment.

OSM has considered the issue of open-ended letters of credit and has decided that the regulations must remain basically unchanged. In response to requests from several commenters, irrevocable letters of credit were added to the permanent-program regulations in 44 FR 15119. These letters of credit are required to be irrevocable during the life of the mine. Their irrevocable nature allows for the same degree of assurance as is required of other collateral. For the purpose of bonding, collateral must retain its value continually. However, they need not be open-ended. The regulations provide for bond replacement, substitution, and adjustment. In these cases, letters of credit used as collateral could be reissued or replaced with the approval of the regulatory authority. A letter of credit might be for a specific time period if an alternative, such as an escrow account or new letter of credit, is to replace it at a specific time during the life of the mine. Accordingly, revisions to the requirements for irrevocable letters of credit are proposed to allow for withdrawal upon written approval of the regulatory authority. Letters of credit subject to withdrawal, if not replaced by other suitable bond, will be forfeited and collected before the date of revocation.

The operator and bank issuing the letter of credit would agree upon the date to replace the letter of credit with another form of bond. A schedule would be approved at the time the permit is issued. The bank would remind the regulatory authority, 90 days in advance of the predetermined date, that the letter of credit was to be withdrawn and collateral substituted. Upon written approval by the regulatory authority, the letter of credit could be withdrawn as long as adequate alternative bonding was first provided.

New Section 806.12(h). It is proposed that real and personal property be deleted from self-bonding to allow its consideration under new § 806.12(h) as collateral. The acceptance of real and personal property will be subject to the regulations developed for the State and Federal lands programs. Although the Act does not mention the use of real or personal property as bonds, both constitute tangible assets of most operators. The provision for acceptance of real and personal property has been included under collateral bonds, as a "perfected first-lien security interest," to ensure the regulatory authority an unconditional judgment if forfeiture occurs. The use of real and personal property as collateral will allow the regulatory authority greater latitude in accepting bond coverage. This aspect of collateral may create some problems in cases of forfeiture, where land or personal property would require liquidation into cash assets to complete reclamation work. Comments by States, in particular, are requested regarding the problems faced in liquidating real or personal property and if it can be handled within their administrative operations.

Section 806.12(h)(2)(iii)(C), which replaces current § 806.11(b)(4)(iii)(C). This section has been modified to allow lands under the permit to be used as collateral after reclamation phase II has been achieved. The value of this collateral must be restricted to its value after reclamation, less the cost of revegetation; this value is proposed to be set at 85 percent of its reclaimed value. Other land on the permit area which has not yet been mined has not been included as collateral for bonding since its value, although equal to other land in the permit area, would not be subject to the conditions of regulatory review which would be afforded land in reclamation Phase III.

Comments were received objecting to limiting collateral to U.S. Government bonds and federally insured certificates of deposit under § 806.12(f). The regulatory authority must be confident that collateral offered is from a solvent and secure financial institution. Requiring Federal or municipal general obligation bonds meets this standard. Certificates of deposit from federally insured institutions also meet the necessary standards of secured collateral. Therefore, the requirement remains unchanged.

§ 806.13 Escrow bonding.

Section 806.13 has been added to present the option of escrow bonding as an alternative method allowed by the Act. Escrow bonding is a form of collateral bonding, developed over a period of time through funds deposited with the regulatory authority or into an account payable only to the regulatory authority, on a coal-production, acreage-affected, or other similar basis. Escrow bonding is expected to supplement other bonding methods by replacing or adding bond coverage at a rate increasing with mining operations. The concept of escrow bonding as a supplement to other methods would provide the operator with (1) a method to develop a bond alternative which could be used to cover the liability period, (2) a method to develop a collateral bond in a short period to cover long-term facilities over the life of the operations and the subsequent liability period without imposing long-term involvement of surety companies, and (3) a method to compensate for bond increases due to inflation without renegotiating with the surety on all bond adjustments. An example of an escrow situation would occur if an operator posted a surety bond on the initial increment to be mined. By depositing an amount into an escrow account based on production, the operator could establish collateral for the next increment. The original surety bond could remain constant throughout the life of the mine. At the time mining operations ended and the entire permit area was in varying phases of reclamation, the escrow account could be sufficient to cover the bond amount during the extended period of liability.

This perhaps would eliminate a surety's role during the extended liability period. After reaching the end of the liability period, and approval by the regulatory authority, the balance of the escrow account may be released to the operator as with other collateral bonds.

Escrow accounts may be deposited in federally insured (FDIC/FSLIC) accounts payable to the regulatory authority or as cash deposited on a scheduled basis with the regulatory authority. An escrow account may be converted to a certificate of deposit as a bond replacement if it is agreeable to the regulatory authority. As a certificate of deposit, the escrow becomes a collateral bond and subject to conditions in § 806.12(f). Interest paid on escrow accounts may be applied to the account balance and become part of the bond amount, or released to the operator if arrangements have been made during the bond-submission process.

§ 806.14 Self-bonding.

The proposed amended regulations for self-bonding, § 806.14, contain much of the language from § 806.11(b) of the permanent program regulations with respect to the information required to apply for a permit under self-bonding. Commenters on this Section recommended that the minimum period necessary to provide financial history and demonstrate continuous operation be reduced from 10 years to 5 years, in order to allow the regulatory authority to consider applications from additional operators for self-bonding. OSM, in review of business-failure rates provided by the Small Business Administration, feels that a period of 10 years of continuous operation is necessary to support assurance of financial solvency. Also, the coal industry faced speculation during the oil embargo of 1974, when many companies were formed to take advantage of inflated coal prices. OSM feels that several more years are necessary to demonstrate the capability of such operators to self-bond. OSM requests comments on this issue.

The requirement for an operator to show a net worth of six times the total self-bond amount is proposed to be deleted. This provision would be covered by the requirement of a financial statement in sufficient detail to allow the regulatory authority to determine an operator's ability to perform under the provision of the permit. The regulatory authority may wish to set standards for evaluating net worth and ratios of bond value to net worth in determining an operator's qualifications.

Proposed § 806.14(a)(3)(i)(D), formerly § 806.11(b)(6)(i)(D), would be revised to require a spouse's signature on self-bond indemnity agreement only if he or she is directly involved as a part of the business. The current provision was designed to avoid transfer of an operator's assets to his or her spouse, thereby leaving the operator judgment proof. However, OSM feels that laws regarding fraudulent transfers and provisions of the Fair Credit Act would provide necessary assurances that the potential for isolating attachable assets from the regulatory authority would be minimal.

One comment stated that detailed financial statements are unnecessary to assure reclamation. The intent of financial statements under self-bonding is (1) to provide the regulatory authority with a documented basis over a period of time by which to evaluate an applicant's financial stature, and (2) to test the financial credibility of the applicant to issue an indemnity agreement, which upon forfeiture would provide adequate funds for the regulatory authority to complete the reclamation plan as required under § 805.11(a). Therefore, OSM proposes that financial statements which meet the provisions listed in the regulations must continue to be provided.

Part 807—Procedures, Criteria, and Schedule for Release of Performance Bond

§ 807.12 Criteria and schedule for release of performance bond.

The petitioners requested that § 807.12 be deleted in its entirety and replaced by a new Section presented as part of the petition. OSM, in considering this request, evaluated two options: (1) Retain the current language of § 807.12 which establishes a formula to determine the maximum liability to be released at any time prior to release of the entire permit area, or (2) Adopt revised regulations to clarify the inconsistencies apparently found in existing § 807.12. Option 2 was selected due to the many comments regarding the bond-release provisions and in support of the petition. The proposed new bond-release schedule retains the basic percentages from the previous version, but eliminates the formula of Paragraph (c), which might be interpreted as not allowing any bond release until the entire mine has been reclaimed.

Section 807.12(a) was revised for editorial reasons and to add consistency to the revisions in Paragraph (b) and (c).

Many commenters suggested that a contradiction exists between §§ 807.12(b) and 807.12(c). Section 807.12(b) allows for the release of a portion of the bond liability, contingent on the completion of either phase I or phase II reclamation. A formula is established to determine the maximum liability which may be released at any time prior to the release of all acreage from the permit area. Acreage release occurs only after phase III reclamation has been completed. However, commenters felt that the language was unclear and appeared to nullify the formula established in § 807.12(b), and therefore partial bond release might not be possible until phase III reclamation has been completed. To eliminate this possible confusion, the formula has been deleted and provisions for bond release set forth.

In regard to the percentages used, several commenters recommended that up to 95-percent release should be allowed in phase II; another figure suggested was 70 percent. Another commenter suggested that if the 25-percent phase II bond release comes before initiating the 5- to 10-year liability period, then a 25-percent release is excessive. OSM invites comments on the percentage of release and justification for why a particular percentage is reasonable.

A new § 807.12(c) is proposed regarding incremental bond release and to make bond release and forfeiture consistent with Section 816.133 regarding postmining land uses. OSM believes that capability to support the postmining land use of an increment needs to be self-supporting and not dependent upon the future reclamation of other portions of the permit area; otherwise, bond liability must be retained for all related increments of a permit area prior to any release from phase III. For example, pasture or row crops could probably be released independently, whereas airport hangars, without the completion of an associated runway, probably could not.

With respect to implementing the postmining land use under § 807.12(e)(3), OSM believes that, in most cases, the liability of the permittee, and the surety's risk, is only the reclamation to a capability of supporting the approved postmining land use, not its implementation by a third party.

In view of proposed § 805.13(f), limiting the liability of the permittee to completion of the reclamation plan so that the land will support the postmining land use, it is felt that the definition of phase III reclamation under Part 807 should be amended for consistency. Therefore, the requirement to implement any postmining land use has been eliminated, and the permittee need only perform reclamation so that the land supports the approved postmining land use.

Part 808—Performance Bond Forfeiture Criteria and Procedures

§ 808.11 General.

A new Paragraph 808.11(c) is proposed to allow the regulatory authority to authorize a surety to complete the reclamation plan. The background for this provision is discussed under § 808.12(e)(4).

§ 808.12 Procedures.

Comments were received on § 808.12(c) regarding use of bonds for specific increments to cover adverse effects anywhere on the entire permit

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area. As first proposed (43 FR 41872, September 18, 1978) the regulations would have required any bond on "a permit area to be applicable under forfeiture to an entire permit area." During the comment period that followed, a sentence was added restricting any bond from use on the entire permit area except for the protection of the hydrologic balance. Several commenters requested that the Section be returned to its original intent. Review of Section 509 of the Act reveals that bonds "must be conditional upon faithful performance of all the requirements of the Act and the permit." Furthermore, the bond amount must be sufficient to assure the completion of the reclamation plan. In many cases, the complete reclamation plan may apply to the entire permit area. Therefore, the Section is proposed to be amended to clarify that any bond deposited for an entire permit area or any increment may be forfeited to assure all aspects of reclamation of any portion of the permit area.

Paragraph 808.12(d) has been added under procedures of bond forfeiture to ensure that funds in the amount forfeited are made available by the regulatory authority for completion of the reclamation plan for the specific permit area covered by a bond. The Act requires that the bond amount be sufficient to complete the reclamation plan for the specific permit area covered. In complying with this provision, it is assumed that assets resulting from bond forfeiture would be available to contract for reclamation. To provide for uniform application of assets received from bond forfeiture, § 808.12(d) has been added requiring a regulatory authority to use forfeited assets to fund the completion of the reclamation plan.

§ 808.13 Criteria for forfeiture.

Several issues were raised concerning § 808.13. One issue in § 808.13(a) concerns whether to give the regulatory authority more flexibility to determine forfeiture criteria. The decision on this issue is discussed in the preamble of the permanent regulations at 44 FR 15123 (March 13, 1979), which is incorporated herein by reference.

A second issue raised concerning § 808.13 is whether to include a paragraph providing for a notice of intent of forfeiture in this Section. The alternatives were to add another paragraph or to allow procedures of § 808.12 to address this issue. The commenter proposed that, prior to forfeiture of bond, all parties to the contract, including the surety, be issued a notice of intent of forfeiture in order to allow either the operator or surety to come forward with a compromise agreement of compliance. OSM believes that adequate notification to the surety is provided in § 808.12, which will serve notice of forfeiture on the surety. A dissatisfied surety or permittee may avail itself of its rights of appeal as referred to in § 808.12(a)(2), (3), and (4). Therefore, OSM feels that no additional notice of intent is necessary. In addition, § 808.11(b) gives the regulatory authority the option to accept a schedule for compliance, and withhold forfeiture.

An issue raised regarding § 808.13(a)(3) was whether to restrict permittees who fail to conduct surface mining and reclamation operations to those who *refuse* to conduct operations in accordance with the Act, the permit, the regulations, and the regulatory program. It was determined that an operator unable to conduct surface mining and reclamation operations in accordance with the Act, permit, regulations, and regulatory program should face forfeiture regardless of whether he or she specifically refuses.

In order to clarify the issue of an operator failing or refusing to comply, another issue must be raised; that is, whether a bond must be forfeited for minor infractions of a permit or the regulations. One commenter felt that since the regulations establish a separate penalty procedure for violations, bond forfeiture should not be a threat for violations or other deviations from the regulations.

OSM agrees with the commenter and proposes to add the clarifying phrase "and the regulatory authority has determined that it may be necessary, in order to fullfill the requirements of the permit and applicable program, to have someone other than the operator correct or complete the operation."

Dated: January 17, 1980.

Joan M. Davenport,

Assistant Secretary, Energy and Minerals.

Proposed Revisions

SUBCHAPTER J—BOND AND INSURANCE REQUIREMENTS FOR SURFACE COAL MINING AND RECLAMATION OPERATIONS

PART 800—GENERAL REQUIREMENTS FOR BONDING OF SURFACE COAL MINING AND RECLAMATION OPERATIONS UNDER REGULATORY PROGRAMS

A. In § 800.5 the definitions of collateral bond and self-bond are proposed to be amended as set forth below.

§ 800.5 Definitions.

* * * * *

Collateral bond means an indemnity agreement in sum certain deposited with the regulatory authority or executed by the permittee and supported by: (1) The deposit of cash in one or more federally insured accounts payable only to the regulatory authority upon demand; (2) Negotiable bonds of the United States or a municipality endorsed to the order of, and in the possession of, the regulatory authority; (3) Negotiable certificates of deposit payable only to the regulatory authority and in its possession; (4) An irrevocable letter of credit of any bank organized or authorized to transact business in the United States payable upon presentation by the regulatory authority only; or (5) A perfected, first-lien security interest in real or personal property, in favor of the regulatory authority only.

Self-bond means an indemnity agreement in sum certain payable upon demand to the regulatory authority.

* * * * *

B. Section 800.11(b)(1) is proposed to be amended as follows:

1. A new Paragraph (ii) would be added to read in its entirety as set forth below.

2. Original Paragraph (ii) would be redesignated as Paragraph (iii).

§ 800.11 Requirements to file a bond.

* * * * *

(b)(1) * * *

(ii) A cumulative bond schedule listing the areas covered by the bond and the sequence for release of acreage as it progresses through varying reclamation phases and the addition of other acreage as it is affected. The amount of bond required to obtain a permit shall include the full reclamation cost of the initial area being affected; or

* * * * *

C. Section 800.13 is proposed to be amended as follows:

1. Paragrpah (a) would be revised to read in its entirety as set forth below.

2. Paragraph (d) would be revised to read in its entirety as set forth below.

§ 800.13 Regulatory authority responsibilities.

(a) The regulatory authority shall prescribe and furnish forms for filing performance bonds.

* * * * *

(d) The regulatory authority may not accept a self-bond in lieu of a surety or collateral bond, unless the permittee meets the requirements of § 806.14 and any additional requirements in the State or Federal program.

* * * * *

A new Part 801 is proposed to be added to read as follows:

PART 801—BONDING REQUIREMENTS FOR UNDERGROUND COAL MINES, COAL-PROCESSING PLANTS, ASSOCIATED STRUCTURES, AND OTHER COAL-RELATED LONG-TERM FACILITIES AND STRUCTURES

Sec.
801.1 Scope.
801.2 Objective.
801.4 Responsibilities.
801.11 Applicability.
801.12 Amount of bond required.
801.13 Period of liability.
801.14 Form of bond.
801.15 Applicability of other Sections.
801.16 Subsidence and mine drainage.
801.17 Bond forfeiture.

Authority: Sections 102, 201, 501, 503, 504, 507, 508, 509, 510, 515, 516, 519, and 701 of Pub. L. 95–87; 91 Stat. 448, 449, 467, 468, 470, 471, 477, 479, 480, 486, 495, 498, 501, and 516 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1257, 1258, 1259, 1260, 1265, 1266, 1267, and 1289).

§ 801.1 Scope.

This Part establishes bonding procedures applicable to long-term facilities, such as underground mines, coal-processing plants, refuse areas, and other long-term facilities and structures associated with surface and underground coal mining. Such permits may have several renewal terms, or have a single permit term in excess of 5 years, but the surface area affected during the facility life remains basically unchanged.

§ 801.2 Objective.

The objective of this Part is to set forth special bonding regulations for long-term operations to account for differences between short-term and long-term operations and between surface and underground mines.

§ 801.4 Responsibilities.

The regulatory authority shall ensure that bond coverage is provided for long-term surface facilities and surface areas of underground mines subject to the requirements of this Chapter. Specific reclamation techniques required for underground mines and long-term facilities, such as the removal of deposits of coal fines, sealing of shafts and portals, and removal of structures, shall be considered in determining the extent of reclamation and associated cost estimated.

§ 801.11 Applicability.

(a) Operations subject to the provisions of this Part are—

(1) Portions of underground coal mines which will continuously disturb the surface for a period in excess of 5 years;

(2) Coal-processing plants to be operated for more than 5 years from the date a permit is first issued under the regulatory program;

(3) Coal-refuse areas to be operated for more than 5 years;

(4) Coal-loading facilities to be operated for more than 5 years from the date a permit is first issued for it under the regulatory program; and

(5) Long-term coal-related facilities to be permitted for operation longer than 5 years in accordance with § 785.21.

(b) Facilities listed in Paragraph (a) of this Section, conducted within a permit area for a mine includes areas or facilities not subject to this Part, may be bonded as a separate increment of the surface mine permit area. If bonded separately, provisions of this Part shall apply to that increment. If bonded as part of the permit area which included areas or facilities not subject to this Part, bond liability shall continue in accordance with § 805.13.

§ 801.12 Amount of bond required.

(a) regulatory authority shall determine the bond amount necessary to complete reclamation of the area in accordance with § 805.11.

(b) The area considered in the reclamation plan shall include the entire area disturbed.

(c) The amount of bond necessary to obtain a permit is the entire performance bond required during the term of the permit.

§ 801.13 Period of liability

(a) The period of liability for performance-bond coverage shall commence with issuance of a permit and continue for the full term of the permit as established under Section 786.25.

(b) An operator seeking to renew a permit shall file a performance bond as part of the application for permit renewal no less than 120 days prior to the expiration of an existing permit in accordance with § 768.14. The new bond shall commence upon the expiration of the existing permit and continue throughout the term of the new permit, regardless of the issuance date.

§ 801.14 Form of bond.

Performance bonding may be authorized by the regulatory authority in accordance with the methods listed in § 806.11. An escrow account may be established on the basis of a coal-production rate, periodic deposit schedule, or other similar schedule, so that replacement in whole or part of surety bond with collateral bond may be authorized in accordance with § 806.13. Upon development of full bond coverage under an escrow account, any surety bond or self-bond may be terminated. All bonding methods shall comply with provisions and conditions set forth in this Part.

§ 801.15 Applicability of other sections.

Except to the extent that provisions of other Parts of Subchapter J conflict with this Part, all other portions of Subchapter J shall apply to bonding requirements for underground coal mining operations and long-term coal-related facilities subject to this Part.

§ 801.16 Subsidence and mine drainage.

(a) Sections 784.20 and 817.121–817.126 shall apply to the protection of surface-owner property rights against potential damage caused by unplanned subsidence. All measures undertaken to conform with § 784.20(b) in the prevention of damage to surface facilities through planned subsidence shall be subject to performance-bond coverage and the estimated cost of reclamation in the event of failure of such measures included under § 805.11. In addition, the bond liability shall extend to performance of the construction, site preparation, and relocations approved by the regulatory authority under § 784.20(b). Release of bond coverage for damage from planned subsidence shall be authorized only after final inspection, acceptance, and approval by the regulatory authority, and shall not be subject to the liability period of § 805.13 or the bond-release criteria of § 807.12. Procedures for seeking bond release for damage from planned subsidence shall be conducted in accordance with § 807.11.

(b) Performance-bond liability shall include construction of planned impoundments, conveying systems, and treatment facilities for mine drainage in accordance with standards of §§ 816.42, 816.46, 816.50, 817.42, 817.46, and 817.50. Bond release for such facilities shall be authorized only after final inspection, acceptance, and approval by the regulatory authority and is not subject to the period of liability of § 805.13 or the bond-release criteria of § 807.12. Procedures for seeking bond release shall be conducted in accordance with § 807.11. Bond liability with respect to mine drainage shall extend to the construction and ultimate removal of facilities described in the permit application or reclamation plan as associated with the treatment of mine drainage. The estimated bond amount computed under § 805.11 shall not include continuous treatment, monitoring, or potential unpredictable expenses as a result of mine drainage.

§ 801.17 Bond forfeiture.

The regulatory authority shall forfeit a bond pursuant to this Part if—

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(a) The operator has not filed a performance bond or other security as required under this Part 120 days prior to permit renewal; or

(b) The regulatory authority determines that a permittee is subject to forfeiture under the criteria of § 808.13(a).

PART 805—AMOUNT AND DURATION OF PERFORMANCE BOND

A. Section 805.13 is proposed to be amended as follows:

1. Paragraph (b) would be revised to read in its entirety as set forth below.

2. A new Paragraph (c) would be added to read in its entirety as set forth below.

3. Original Paragraph (c) would be redesignated as Paragraph (d).

4. Original Paragraph (d) would be redesignated as Paragraph (e) and would be revised as set forth below.

5. New Paragraphs (f) and (g) would be added to read in their entirety as set forth below.

§ 805.13 Period of liability.

* * * * *

(b)(1) In addition to the period necessary to achieve compliance with all requirements of the Act, this Chapter, the regulatory program, and the permit, including the standards for the success of revegetation as required by §§ 816.116 and 817.116, the period of liability under performance bond shall continue for a minimum period in accordance with Paragraph (b)(2) of this Section, beginning when ground cover equals the approved standard after the last year of augmented seeding, fertilizing, irrigation, or other work.

(2) The minimum period of liability shall continue for not less than 5 years in areas of more than 26.0 inches average annual precipitation, and for not less than 10 years in areas of 26.0 inches or less average annual precipitation. The period of liability shall begin again upon achievement of success of vegetation whenever augmented seeding, fertilization, irrigation, or other work is required or conducted on the site prior to bond release.

(3) The regulatory authority may approve selective husbandry practices including seeding, fertilization, or irrigation without extending the period of bond liability, if such practices are normal within the region for unmined lands having land uses similar to the approved postmining land use of the area covered by the bond.

(c) A portion of a bonded area requiring extended liability because of augmentation may be separated from the original area and bonded separately upon approval by the regulatory authority. Before determining that extended liability should apply to only a portion of the original bonded area, the regulatory authority shall determine that such area portion—

(1) Is not significant in extent in relation to the entire area under bond, and

(2) Is limited to a distinguishable contiguous portion of the bonded area.

* * * * *

(e) If the regulatory authority issues a written finding approving a long-term intensive agricultural land use, the operation shall be exempt from the requirements of § 816.111(a). Such a finding shall not constitute a grant of an exception to the bond-liability periods of this Section.

(f) The bond liability of the permittee shall include only those actions which the operator is obliged to take under the permit, including completion of the reclamation plan in such a manner that the land will be capable of supporting a postmining land use approved under § 816.133(c). Actions of third parties which are beyond the control and influence of the operator and for which the operator is not responsible under the permit need not be covered by the bond.

(g) If an area is separated under Paragraph (c) of this Section, that portion shall be bonded separately and the applicable period of liability, in accordance with § 805.13(b), shall commence anew. The period of liability for the remaining area shall continue in effect without extension. The amount of bond on the original bonded area may be adjusted in accordance with § 805.14.

B. Section 805.14 is proposed to be amended as follows:

1. The second sentence of Paragraph (a) would be amended to be two sentences as set forth below.

2. The first sentence of Paragraph (b) would be amended to read as set forth below.

§ 805.14 Adjustment of amount.

(a) * * * The regulatory authority shall notify persons involved in bond coverage of any proposed bond adjustments and provide those persons an opportunity for an informal conference on the adjustment. For purposes of this Section, a person involved in bond coverage shall include the permittee, and surety, and any other person with a property interest in collateral posted under this Subchapter who has in writing to the regulatory authority requested such notification at the time the collateral is posted or the interest is acquired, whichever occurs later. * * *

(b) A permittee, or other persons involved in bond coverage, may request reduction of the required performance-bond amount upon submission of evidence to the regulatory authority proving that the permittee's method of operation or other circumstances will reduce the maximum estimated cost to the regulatory authority if it has to complete the reclamation. * * *

PART 806—FORM, CONDITIONS, AND TERMS OF PERFORMANCE BONDS AND LIABILITY INSURANCE

A. Part 806 is proposed to be amended as follows:

1. Section 806.11(a) would be revised to read as set forth below.

2. Current § 806.11(b) would be repealed in total.

3. The current § 806.11(c) would be redesignated as § 806.11(b)

§ 806.11 Form of the performance bond.

(a) The form of the performance bond shall be prescribed by the regulatory authority in accordance with the provisions of 30 CFR Parts 805 and 806. The regulatory authority may allow for—

(1) A surety bond,

(2) A collateral bond,

(3) Establishment of an escrow account,

(4) Self-bonding, or

(5) A combination of these bonding methods.

(b) The Secretary may approve, as part of a State or Federal program, an alternative bonding system, if it will achieve the following objectives and purposes of the bonding program:

(1) The alternative shall assure that the regulatory authority will have available sufficient money to complete the reclamation, restoration, and abatement provisions for all permit areas which may be in default at any time.

(2) The alternative shall provide a substantial economic incentive for the permittee to comply with all reclamation provisions.

B. Section 806.12 is proposed to be amended as follows:

1. Paragraph 806.12(e)(6)(iii) would be revised to read as set forth below.

2. Paragraph 806.12(g)(2) would be revised to read as set forth below.

3. Paragraph 806.12(g)(7)(iii) would be revised to read as set forth below.

4. A new § 806.12(h) relating real and personal property to collateral bonds would be added. Many of the provisions of the Section currently are found in 806.11(b)(4).

§ 806.12 Terms and conditions of the bond.

* * * * *

(e) * * *

(6) * * *

(iii) Upon the incapacity of a surety by reason of bankruptcy, insolvency, or suspension or revocation of its license, the permittee shall be deemed to be without bond coverage in violation of § 800.11(b). The regulatory authority shall issue a notice of violation against any operator who is without bond coverage. The notice shall specify a reasonable period to replace bond coverage, not to exceed 90 days. During this period the regulatory authority shall conduct weekly inspections to ensure continuing compliance with other permit requirements, the regulatory program, and the Act. Such notice of violation, if abated within the period allowed, shall not be counted as a notice of violation for purposes of determining "pattern of willful violations" under 30 CFR 843.13 and need not be reported as a past violation in permit applications under 30 CFR 778.14. If such a notice of violation is not abated in accordance with the schedule, a cessation order shall be issued.

* * * * *

(g) * * *

(2) Letters of credit shall be irrevocable. The regulatory authority may approve withdrawal of a letter of credit as security in accordance with a schedule approved with the permit. Such withdrawal may not occur less than 90 days after written notice has been given to the regulatory authority. Those letters of credit approved for withdrawal on areas requiring continued bond coverage shall be forfeited and collected by the regulatory authority if not replaced by other suitable collateral at least 30 days before the earliest day of withdrawal authorized by the regulatory authority.

* * * * *

(7) * * *

(iii) Upon the incapacity of a bank by reason of bankruptcy, insolvency, or suspension or revocation of its charter or license, the permittee shall be deemed to be without performance bond coverage in violation of § 800.11(b). The regulatory authority shall issue a notice of violation against any operator who is without bond coverage.

The notice shall specify a reasonable period to replace bond coverage, not to exceed 90 days. During this period the regulatory authority shall conduct weekly inspections to ensure continuing compliance with other permit requirements, the regulatory program, and the Act. Such notice of violation, if abated within the period allowed, shall not be counted as a notice of violation for purposes of determining "pattern of willful violations" under § 843.13 and need not be reported as a past violation in permit applications under § 778.14. If such a notice of violation is not abated in accordance with the schedule, a cessation order shall be issued.

* * * * *

(h) Real and personal property posted as a collateral bond shall meet the following criteria:

(1) The applicant shall grant the regulatory authority a mortgage or perfected first-lien security interest in real or personal property located in the State in which mining will be conducted.

(2) The instrument creating such mortgage or security interest shall vest such interest in the regulatory authority so as to secure the right and power in the regulatory authority to immediately attach said property concurrent with the issuance of a notice of forfeiture under 30 CFR Part 808 and to sell or otherwise dispose of the property by a public or private transaction, and to establish the regulatory authority as the sole secured creditor with respect to such property, so as to assure the regulatory authority of a preferred claim over all other creditors in case of bankruptcy. For classes of property with respect to which a preferred claim cannot be maintained against subseqent bona fide purchasers for value under the Uniform Commercial Code, the instrument shall require possession of the property by the regulatory authority. The property subject to the security interest shall not be subject to any conflicting or prior security interest. The instrument creating the interest in real property shall be recorded as authorized for fee interests. The instrument creating the security interest in personal property shall be recorded in accordance with, and otherwise conform to, the requirements of the Uniform Commercial Code for perfecting a security interest in the State. In order for the regulatory authority to evaluate the adequacy of the property offered to satisfy this requirement, the applicant shall submit a schedule of the real or personal property which will be pledged to secure the obligations under the indemnity agreement. The schedule shall include—

(i) A description of the property;

(ii) The value of the property. The property shall be valued at fair market value as determined by an appraisal conducted by appraisers appointed by the regulatory authority. The appraisal shall be expeditiously made, and a copy thereof furnished to the regulatory authority and the permittee. The reasonable expense of the appraisal shall be borne by the permittee; and

(iii) Proof of the mortgagor's possession of, and title to, the unencumbered real property within the State which is offered to secure the obligations under the bond. Such proof shall include—

(A) If the interest arises under a Federal or State lease, a status report prepared by an attorney, satisfactory to the regulatory authority as disinterested and competent to so evaluate the asset, and an affidavit from the owner in fee establishing that the leasehold could be transferred to the regulatory authority upon forfeiture;

(B) If title is in fee, a title certificate or similar evidence of title and encumbrances prepared by an abstract office authorized to transact business within the State and satisfactory to the regulatory authority; and

(C) The property may include lands which are part of the permit area, only after reclamation standards of phase II are complete on such lands. The bonding value of land within a permit area may not exceed 85 percent of the appraised value if reclaimed to standards of phase III reclamation, based on the value of surrounding lands, less the value for any coal in place, and their current uses. Land pledged as security shall not be mined under any permit; and

(iv) Proof the person granting the security interest holds possession of, and title to, personal property within the State which is offered to secure the obligation of the permittee under the bond. Evidence of such ownership shall be submitted in a form satisfactory to the regulatory authority. The personal property offered shall not include—

(A) Property in which a security interest is held by any person;

(B) Goods which the operator sells in the ordinary course of his or her business;

(C) Fixtures;

(D) Securities which are not negotiable bonds of the U.S. Government or general revenue bonds of the State; or

(E) Certificates of deposit which are not federally insured or where the depository is unacceptable to the regulatory authority.

C. Current § 806.13 is proposed to be redesignated as § 806.15.

D. Current § 806.14 is proposed to be redesignated as § 806.16.

E. A new § 806.13, "Escrow Bonding", is proposed to be added to read in its entirety as set forth below.

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§ 806.13 Escrow bonding.

(a) The regulatory authority may authorize the operator to supplement a bonding program through the establishment of an escrow account deposited in one or more federally insured accounts payable on demand only to the regulatory authority or deposited with the regulatory authority directly. Contributions to the account may be based on acres affected or tons of coal produced or any other rate approved by the regulatory authority. In all cases, as long as the total bond including the escrow amount, as determined by the regulatory authority in the bonding schedule, shall not be less than the amount required under Part 805, less amounts released under Part 807.

(b) Escrow funds deposited in federally insured accounts shall not exceed the maximum insured amount under applicable Federal insurance program such as by FDIC or FSLIC.

(c) Interest paid on escrow accounts shall be retained in the escrow account and applied to the bond value of the escrow account unless the regulatory authority has approved that the interest be paid to the operator. In order to qualify for interest payment the operator must request such action in writing during the permit-application process under § 800.11.

(d) Certificates of deposit may be substituted for escrow accounts upon approval of the regulatory authority. Provisions of § 806.12(f) shall apply to certificates of deposit as a collateral bond.

F. A new § 806.14, "Self-bonding," is proposed to be added to include redesignated and revised portions of § 808.11(b). Only the new language under new § 806.14(a)(3)(i)(D) is open for comment, unless specific comments regarding other issues are requested as part of the preamble. Other portions of existing Paragraph 806.11(b) have been printed only as an aid to the reader.

§ 806.14 Self-bonding.

(a) The regulatory authority may accept a self-bond from the applicant under the following conditions:

(1) The applicant shall designate the name and address of a suitable agent to receive service of process in the State where the surface coal mining operation is located.

(2) The applicant, or the applicant's parent organization, in the event the applicant is a subsidiary corporation, shall have demonstrated to the satisfaction of the regulatory authority a history of financial solvency and continuous operation as a business entity for 10 years prior to filing the application. For purposes of this Paragraph, such demonstration shall include a financial statement in sufficient detail to allow the regulatory authority to determine whether it is reasonable to predict from the ownership patterns and financial history of the applicant that it will be financially capable of completing all reclamation requirements throughout the life of the surface coal mining and reclamation operations. Such statement shall include, at a minimum—

(i) Identification of operator by—

(A) For corporations, name, address, telephone number, State of incorporation, principal place of business, principal office in the State where the operation is located, the name, title, and authority of persons signing the application, and a statement of authority to do business in the State where the operation is located; and

(B) For all other forms of business enterprises, name, address, and telephone number and statement of how the enterprise is organized, law of the State under which it is formed, place of business, and relationship and authority of the person signing the application, and principal office in the State where the operation is located;

(ii) Estimated amount of bond likely to be required after approval of the permit which will be determined in accordance with 30 CFR Part 805, and the estimated maximum liability likely to be required during the life of the mine;

(iii) History of other bonds procured by the operator for mining operations in any State, including—

(A) Name of sureties, if any, for outstanding bonds;

(B) Amounts of outstanding bonds;

(C) Name of any surety which denied any bond; and

(D) Unsatisfied claims against any bond;

(iv) Brief chronological history of business operations conducted within the last 10 years including information showing—

(A) Continuous operations; and

(B) The jurisdiction within which each such operation has been conducted;

(v) A financial statement, including—

(A) Audited financial statements prepared and certified by a disinterested independent Certified Public Accountant. All statements shall be prepared following generally accepted principles of accounting and shall include—

(1) A common-size comparative balance sheet which shows assets, liabilities, and owner's equity for 10 years. The regulatory authority shall have the discretion to increase this length of time to any period which is necessary to show financial solvency and continuous operation. The common-size comparative balance sheet shall be detailed with regard to owner's equity, especially retained earnings, so as to set forth a series of retained-earning statements showing the changes that have occurred in retained earnings during the requied period of time;

(2) A common-size comparative income statement which shows all revenues and expenses for 10 years or for such longer time as is required for the common size comparative balance sheet; and

(3) A statement of the operator's working capital and an analysis of assets and liabilities calculated for each year covered by the common-size comparative balance sheet and income statement that show—

(i) A schedule of the percentage of each classification of current assets to total current assets,

(ii) The current ratio,

(iii) The acid-test ratio,

(iv) The liquidity ratio,

(v) The asset ratio, and

(vi) The return on investment.

(4) In addition to the above, all ratios must be calculated with the bond amount added to the operator's current or total liabilities;

(5) A ratio of the operator's capital assets subject to a mortgage or security interest to those liabilities to which the assets are subject. If the offer of real property or collateral for the bond will alter this ratio, this must be illustrated.

(B) A satisfactory basis to compare all ratios submitted pursuant to Paragraph (A) above.

(C) The regulatory authority shall have the right to challenge, prohibit, or prescribe the inclusion of any specific item or the value thereof within any of the above statements or ratios. If the value is challenged, the regulatory authority shall appoint an appraiser or appraisers to value the item. Any such appraisal shall be expeditiously made, and a copy thereof furnished to the regulatory authority and the permittee. The reasonable expense of the appraisers shall be borne by the operator. The findings of the appraisal shall be final and binding.

(D) A final determination by the independent Certified Public Accountant regarding the operator's ability to satisfactorily meet all obligations and costs under the proposed reclamation plan for the life of the mine.

(E) If the regulatory authority deems necessary, evidence of financial responsibility through letters of credit, or a rating of securities issued to the applicant by a recognized national securities rating company.

(vi) A statement listing any liens filed on the assets of the permittee or applicant in any jurisdiction in the United States, actions pending or judgments rendered within the last 10 years against the permittee or applicant but not satisfied, and petitions or actions in bankruptcy including actions for recorganization. Each such lien, action, petition, or judgment shall be identified by the named parties, the jurisdiction in which the matter was filed, the case, file or docket number, the date of filing, and the final disposition or current status of any action still pending.

(vii) A statement listing any notices issued by the Securities and Exchange Commission or proceedings initiated by any party alleging a failure to comply with any public disclosure or reporting requirement under the securities laws of the United States. Such statement shall include a summary of each such allegation, including the date, the requirment alleged to be violated, the party making the allegation, and the disposition or current status thereof.

(3)(i) The idemnity agreement has been executed by the applicant, said agreement has also been executed by—

(A) If a corporation, then by two corporate officers who are authorized to sign the agreement by a resolution of the board of directors, a copy of which shall be provided.

(B) To the extent the history or assets of a parent organization are relied upon to make the showings of this Part, then the parent organization and every parent organization of which it is a subsidiary, whether first-tier, second-tier, or further removed, in the form of Paragraph (A) above;

(C) If the applicant is a partnership, all of its general partners and their parent organization or principal investors; and

(D) If the applicant is married, the applicant's spouse if directly involved as part of the business on a regular bona fide basis or as an officer of the organization.

(ii) The name of each person who signs the indemnity agreement shall be typed or printed beneath the signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he or she signs the indemnity agreement.

(iii) The indemnity agreement shall be a binding obligation, jointly and severally, on all who execute it.

(iv) For purposes of this paragraph, *principal investor* or *parent organization* means anyone with a 10-percent or more beneficial ownership interest, directly or indirectly, in the applicant.

(4) If at any time the conditions upon which the self-bond was approved no longer prevail, the regulatory authority shall require the posting of a surety or collateral bond before mining operations may continue.

PART 807—PROCEDURES, CRITERIA, AND SCHEDULE FOR RELEASE OF PERFORMANCE BOND

A. Section 807.12 is proposed to be amended as follows:

1. Paragraph (a) would be revised as set forth below.

2. Paragraph (b) would be revised as set forth below.

3. Paragraph (c) would be revised as set forth below.

4. Paragraph (d) would be revised as set forth below.

5. Paragraph (e)(3) would be revised as set forth below.

§ 807.12 Criteria and schedule for release of performance bond.

(a) The regulatory authority may release portions of the liability under performance bonds applicable to the permit area following the completion of reclamation phases as defined in Paragraph (e) of this Section.

(b) The maximum liability of performance bonds applicable to an increment or permit area which may be released shall be calculated on the following basis:

(1) Release of an amount not to exceed 60 percent of the total bond amount on the increment or permit area upon completion of phase I reclamation.

(2) Release of an additional amount not to exceed 25 percent of the total original bond amount on the permit area or an increment upon completion of phase II reclamation based on an amount of bond coverage sufficient to reestablish vegetation and reconstruct any drainage structures on the entire permit area or the increment.

(3) Release of the remaining portion of the total performance bond on the increment or permit area after standards of phase III reclamation have been attained and final inspection and procedures of § 807.11 have been satisfied.

(c) The regulatory authority may choose to release all bond liability for an increment if the phase III reclamation of the increment is complete. The portion of the permit area being released from bond coverage shall be capable of supporting the proposed postmining land use independent of the successful completion of the reclamation of portions of the permit area still under bond or not yet initially disturbed. If capability to support the postmining land use for an increment can be achieved only after successful reclamation of an additional portion of the permit area, no increment shall be totally released from bond liability to release of the phase III bond for the last increment on which it is dependent.

(d) The regulatory authority shall require performance-bond liability applicable, to the permit area, or an increment, in the amount necessary to—

(1) Allow someone other than the operator to complete the approved reclamation plan, achieving compliance with the Act, this Chapter, the regulatory program, and permit requirements;

(2) Allow someone other than the operator to abate any significant environmental harm to air, water, or land resources, or danger to public health and safety prior to release of the lands under the terms of the permit;

(3) Achieve the capability of supporting any alternative postmining land-use plan proposed in the permit, consistent with §§ 816.116, 816.133, 817.116, and 817.133 of this Chapter, including such measures as may be necessary in the event the permittee fails to undertake development within the 2 years required by § 806.116(b)(3)(ii), or § 817.116(b)(3)(ii) of this Chapter; and

(iv) Fulfill the minimum bond amount of $10,000 as required by § 805.12.

(e) * * *

(3) Reclamation phase III shall be deemed to have been completed when—

(i) The permittee has successfully completed all surface coal mining and reclamation operations in accordance with the approved reclamation plan, such that the land is capable of supporting any postmining land use approved pursuant to § 816.133 or 817.133;

(ii) The permittee has achieved compliance with the requirements of the Act, this Chapter, the regulatory program, and the permit; and

(iii) The applicable liability period under Section 515(b)(20) of the Act and § 805.13(b) of this Subchapter has expired.

PART 808—PERFORMANCE BOND FORFEITURE CRITERIA AND PROCEDURES

A. Section 808.11(c) is proposed to be added to read as set forth below.

§ 808.11 General.

* * * * *

(c) The regulatory authority may allow the surety to complete the reclamation plan, if the surety can demonstrate the ability to complete the

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reclamation plan, including achievement of the capability to support the alternative postmining land use approved by the regulatory authority. No bond released, except for partial releases authorized under § 807.11, until successful completion of all reclamation under the terms of the permit including applicable liability periods of Part 807.

B. Section 808.12 is proposed to be amended as follows:

1. Paragraph (c) would be revised as set forth below.

2. A new paragraph (d) would be added as forth below.

§ 808.12 Procedures.

* * * * *

(c) The regulatory authority may forfeit any or all bond deposited for an entire permit area or any increment thereof, in order to satisfy §§ 808.11–808.14. Liability under any bond covering any increment of the permit area may extend to the entire permit area.

(d) The regulatory authority shall utilize funds collected from bond forfeiture to complete the reclamaiton plan on the permit area on which bond coverage applied, and to cover associated administrative expenses.

C. Section 808.13(a) is proposed to be amended as follows:

1. Paragraph (a)(1) would be revised to read as set forth below.

2. Paragraph (a)(2) would be revised to read as set forth below.

3. Paragraph (a)(3) would be revised to read as set forth below.

§ 808.13 Criteria for forfeiture.

(a) * * *

(1) The permittee has violated any of the terms or conditions of the bond and has failed to take corrective action;

(2) The permittee has failed to conduct the surface mining and reclamation operations in accordance with the Act, the conditions of the permit, this Chapter, and the regulatory program within the time required, and the regulatory authority has determined that it is necessary, in order to fulfill the requirements of the permit and the reclamation plan, to have someone other than the operator correct or complete reclamation;

(3) The permit for the area under the bond has been revoked, unless the operator or surety assumes liability for completion of reclamation work and is, in the opinion of the regulatory authority, diligently and satisfactorily performing such work; or

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Thursday
January 24, 1980

Part VII

Department of Health, Education, and Welfare

Office of Education

Indochina Refugee Children Assistance Program

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

45 CFR Part 122a

Indochina Refugee Children Assistance Program

AGENCY: Office of Education, HEW.

ACTION: Final Regulations.

SUMMARY: The Commissioner of Education issues final regulations implementing Title II of the Indochina Refugee Children Assistance Act, as reauthorized by Title XIII of the Education Amendments of 1978. These regulations provide grants made from current Fiscal Year 1980 appropriations to State educational agencies (SEAs) to help local educational agencies (LEAs) provide educational services to certain Indochinese refugee children.

DATES: These regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the **Federal Register**. The effective date is changed by statute if Congress disapproves the regulations or takes certain adjournments. If you want to know the effective date of these regulations, call or write the Office of Education contact person.

FOR FURTHER INFORMATION CONTACT: James H. Lockhart, Director, Indochina Refugee Assistance Staff, U.S. Office of Education, 400 Maryland Avenue, S.W. (Room 2189, FOB–6), Washington, D.C. 20202. Telephone (202) 245–3081.

SUPPLEMENTARY INFORMATION: On November 20, 1979, Pub. L. 96–123 was enacted, which provides $12,000,000 for Indochina refugee children assistance to be carried out under Title II of the Indochina Refugee Children Assistance Act. Legislative history of Pub. L. 96–123 states that the funds are designed principally to meet the educational needs of refugee students entering school in this country for the first time during the 1979–80 school year. These regulations only apply to current fiscal year 1980 funds.

Title II of the Indochina Refugee Children Assistance Act authorizes grants to SEAs to help LEAs provide educational services to Vietnamese, Cambodian, and Laotian children admitted into the United States (U.S.) on or after January 1, 1977, under the special parole authority of the Attorney General.

For each eligible child, aged 5 through 17, receving public educational services under the supervision of an LEA, the SEA may receive a maximum grant of $450 for subgrants to LEAs. Priority in providing services will be given to those children entering school for the first time during the 1979–80 school year.

Title II of the Indochina Refugee Children Assistance Act (Pub. L. 94–405) as amended by Title XIII of the Education Amendments of 1978 (Pub. L. 95–561), and modified by the enactment of Pub. L. 96–123 on November 20, 1979. These Acts are attached as Appendix A to these regulations.

These final regulations implement changes made by the 1978 amendments as follows:

(a) Limit eligibility under the Act exclusively to Indochinese refugee children admitted into the U.S. on or after January 1, 1977.

(b) Set $450 as the maximum grant that an SEA may receive for each Indochinese refugee child aged 5 to 17 who receives public educational services under the supervision of an LEA within the State. The maximum amount of the grant is ratably reduced if appropriations are less than $450 for each child.

(c) Require SEAs to distribute funds in proportion to the costs incurred to serve eligible children using a formula which provides double weight to newly enrolled children and allows the SEAs to reserve up to 20 percent of its allotment to meet unforeseen needs within the State occasioned by new concentrations of eligible children who enroll in an LEA after the formula subgrants are distributed.

In response to suggestions by the public and other interested parties, these final regulations make certain changes to provisions that were in the notice of proposed rulemaking.

Summary of Comments and Responses

A notice of proposed rulemaking for the Indochina Refugee Children Assistance Program (45 CFR Part 122a) was published in the **Federal Register** on June 25, 1979, and public meetings were held in 10 cities on August 3, 1979. During the 60-day comment period, more than 150 individuals and groups offered comments and recommendations.

The following is a summary of the comments that requested changes in the regulations and the Commissioner's reponse. The comments and responses are identified by the section number of the notice of proposed rulemaking to which they refer. A brief summary of comments beyond the scope of these regulations concludes this section.

§ 122a.1 Description.

Comment. A commenter pointed out that the description of the Indochina Refugee Children Assistance Program states that services under the program are to be provided to Indochinese refugee children in elementary or secondary schools, while other sections of the proposed rules state that eligibility is limited to children 5 to 17 years of age. The commenter recommended that the question of eligibility be more clearly stated.

Response. A change has been made. Sections 122a.6 and 122a.10 of these final regulations have been revised in order to clarify the statutory requirement that a State's *count* of eligible children for the purpose of computing grant amounts is to be based on those children, 5 through 17 years of age, who are receiving or will receive public educational services under the supervision of an LEA. However, subject to the priority under § 122a.26(a), services may be provided under the supervision of an LEA to all eligible children enrolled in the elementary and secondary schools of the State, without regard to age.

§ 122a.3 Definitions.

Comment. One commenter questioned why the definition of "supplementary educational services," did not include the concept that these services are "necessary to enable those children to achieve a satisfactory level of performance." This commenter also questioned the provision in the proposed rules that these services "focus on" language and instruction, when the legislation says that the services "include" language and instruction.

Response. A change has been made. The definition of supplementary educational services now states that these services include instructional services, special materials and supplies used for instruction, and guidance and counseling services. In addition, the concept that supplementary educational services are those necessary to enable eligible children to achieve a satisfactory level of performance has been added to the definition.

Comment. A commenter asked if the definition of Indochinese refugee children includes refugee children from Vietnam, Cambodia, and Laos regardless of ethnicity (e.g. Chinese-Vietnamese children who are among the current group of incoming refugees).

Response. No change has been made. The definition of Indochinese refugee children includes all refugee children from Vietnam, Cambodia, and Laos regardless of ethnicity who are admitted into the U.S. under the special parole authority of the Attorney General under Section 212(d)(5) of the Immigration and Naturalization Act.

Comment. One commenter believed that the definition of "Indochinese refugee children" seemed cumbersome as it proposes to enumerate all specific groups that could be eligible. The commenter suggested that in order to avoid the delay involved in amending the definition in the future that the definition be written as follows:

"Eligible children include those who were admitted under the Act as currently provided, or as may be amended."

Response. No change has been made. The Commissioner feels that the definition in these final regulations is comprehensive and understandable. A more vague definition of Indochinese refugee children, as suggested by the commenter, could lead to misunderstanding of the intent of the Act.

§ 122a.10 State eligibility for maximum grant.

Comment. A commenter questioned why the proposed rules provided that a State might count children who are provided "nonpublic educational services," when the legislation states that only children receiving public educational services are to be counted.

Response. Clarifying changes have been made to §§ 122a.6 and 122a.10. The reference to providing "nonpublic educational services," has been deleted. Section 202(a) of the statute provides that the maximum grant an SEA is eligible to receive is based on the "number of Indochinese refugee children aged 5 to 17, inclusive, receiving public educational services under the supervision of each local educational agency within that State during the period for which the determination is made. . . ." The regulations provide that a child shall be counted if that child is or will be receiving public educational services—assisted under this part or from some other source—under the supervision of a local educational agency, during the fiscal year for which the grant is made. To require a child to be receiving public educational services at the time of the count would make it virtually impossible to give effect to the statutory mandate that non-public school children be afforded an opportunity to participate. In many cases these children will not actually receive public educational services until they receive services assisted under this part. However, a State may not include in its count, estimates of children who are not enrolled in the schools on the child count date, but are expected to enter this country in the future.

Comment. Commenters suggested that the requirements under § 122a.10, relating to an annual count, be modified to permit an SEA to make two or more counts, since there is a constantly increasing enrollment of refugee children as well as a continuous shifting of the target population, resulting from in-migration and secondary migration.

Response. No change is made. The Commissioner requires SEAs to count Indochinese refugee children in order to make funding decisions under this program. Nothing in these regulations prohibits SEAs from counting eligible children at any time. However, funds will not be reallocated from State to State on the basis of additional counts by SEAs. Section 122a.16(c) allows the SEAs to reserve up to 20 percent of its allotment to meet unforeseen needs occasioned by new concentrations of eligible children in an LEA.

§§ 122a.11 and 122a.20 Disapproval of SEA and LEA applications.

Comment. A commenter referred to the two sections cited above pertaining to the disapproval of an SEA and LEA application, respectively, and suggested that before an application is disapproved the Commissioner should provide applicants with the technical assistance to remedy any weaknesses in the application.

Response. No change has been made. The applicant is the SEA. It is within the general policy of the Office of Education to provide technical assistance to an applicant for Federal program funds upon request, subject to the Commissioner's ability to provide this technical assistance within the personnel and financial constraints of the agency.

§ 122a.12 State administration.

Comment. One commenter was concerned that much of the LEA allocation would be "siphoned off" to be used by the SEA for monitoring the program.

Response. A change has been made. SEAs may use up to 5 percent of its total allocation for administration costs. If an SEA proposes to use more than $150,000 for administration costs, however, a complete budget justification and prior approval of the Commissioner is required. In addition, SEA administration includes those costs necessary to award grants, conduct child counts as required by the Commissioner, and monitor LEAs, to ensure that the provisions of the Act and these regulations are carried out.

§ 122a.13 Eligibility for services.

Comment. A commenter asked if the provision restricting eligible children to those enrolled in school was intended to preclude the use of program funds for "outreach" programs to locate and place refugee children who are not yet enrolled in school.

Response. No change has been made. Section 103 of the Act authorizes the use of funds for ". . . supplementary educational services" and "basic instructional services." The Commissioner does not interpret this language to include "outreach" activities. A broader interpretation of the term "educational services", to include "outreach" activities, would inappropriately divert program funds away from critical instructional programs such as English language instruction.

§ 122a.16 Disapproval—LEA applications. (This section has been renumbered and is now § 122a.20)

Comment. A commenter questioned why the proposed rules did not require the SEA to provide notice of its decision to an LEA, when the authorizing legislation requires such notice.

Response. A change has been made. This section has been revised to require an SEA to provide a notice of its decision to disapprove an LEA application for a subgrant under this program.

§ 122a.17 Amount of a subgrant. (This section has been renumbered and is now § 122a.16)

Comment. Three commenters stated that an LEA's eligibility for a FY 1980 subgrant above that of the State's maximum grant of $450 per child (up to 150 percent or the $450 allotment) should be determined by the LEA's activities during both school years 1978–79 and 1979–80.

Response. Changes have been made. The Commissioner believes that a formula should be used to ensure that LEAs receive assistance to meet the higher costs of the newly enrolled eligible children. Note the changes to limitations on subgrant amounts which are discussed below in the response to the next comment. A paragraph (f) has been added to § 122a.16 which requires a State to adjust the amount of the subgrant to conform to limitations imposed by § 122a.16, paragraph (a).

Comment. A commenter asked why this section restricted the amount of subgrants to LEAs. This commenter took the view that these restrictions were not authorized by the legislation.

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Response. A change has been made. However, there will continue to be restrictions on the amount of subgrants to LEAs. The limits on subgrant amounts prescribed by § 122a.16 have been revised to delete the $450 and 150 percent ceiling. An SEA must distribute at least 80 percent of its allocation to LEAs on the basis of a weighted formula giving proportionately more funds to LEAs on behalf of newly enrolled eligible children. The remaining 20 percent may be used to award discretionary subgrants to meet unforeseen needs in LEAs. The SEA may distribute all of its allocated funds on the basis of the formula. However, the total subgrant may not exceed the LEA's actual additional expenditures. The authority for subgrant limitations is in the Act. Section 103 of the Act limits financial assistance to State and local agencies to the actual additional expenditures incurred by those agencies for providing educational services for eligible children and authorizes the Commissioner to set limits on expenditures. Section 205 of the Act, as amended by the Education Amendments of 1978, requires an SEA to provide in its application "such data and assurances as the Commissioner may prescribe . . . to demonstrate that such payments are distributed between the State educational agency and the local educational agencies within the State in proportion to the contribution to such costs by each agency." The rules are meant to ensure that in keeping with section 205 of the Act, LEAs receive funds in some proportion to their respective costs of providing services.

Comment. A commenter stated that the law places a one percent limitation on each grant. This point is not mentioned in the regulations.

Response. A change has been made. The one percent limitation imposed by the Act (section 202(c)(2)) applies only to American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. A new paragraph (b) has been added to § 122a.10 to clarify the requirement that these territories are allotted an aggregate total of one percent of the amount that is received by the remaining States, Territories, and the District of Columbia.

§ 122a.19 Actual expenditures. (This section has been renumbered and is now § 122a.18)

Comment. One commenter suggested that the language in this section be revised to make it more understandable.

Response. A change has been made. Parts of § 122.18 have been revised to clarify the language relating to actual expenditures.

§ 122a.20 Additional expenditures. (This provision has been deleted in these regulations)

Comment. Several commenters questioned or objected to the rule which, with respect to Indochinese refugee children who have been in the U.S. more than two years, restricts use of program funds to expenditures in excess of the LEA average per pupil expenditure. These commenters made the point that two years after a refugee child's arrival in the U.S. is too short a period to alleviate the impact on State and local resources.

Response. A change has been made. While the Commissioner believes that the Act provides the legal authority for prescribing a time limit on use of program funds for expenditures in excess of the average per pupil expenditure, the time limit has no practical effect on services provided with current FY 80 funds. Since these regulations only apply to current FY 80 funds, the provision has been deleted.

Comment. A commenter suggested that the Commissioner consider that actual additional expenditures be based upon the school aid formula of the Commonwealth of Massachusetts which would provide that all of the Indochinese students would qualify as transitional bilingual students. This would provide that each refugee student would be counted toward a pupil weight factor of 5.4 times the average cost of educating a student in Massachusetts, less the average per pupil cost, which would amount to more than $450 per child.

Response. No change has been made. The Commissioner does not consider that the formula as described above reflects the intent of Congress and the Act.

§ 122a.26 Restrictions.

Comment. Commenters asked why, if basic services are acceptable for eligible children enrolled in public school, are they restricted for private school children if the services are secular, neutral, and non-ideological.

Response. A change has been made. The restriction questioned by the commenter has been deleted. Eligible children enrolled in non-public schools may receive all of the services authorized by the Act, subject to the restrictions imposed by section 205 of the Act.

Comment. One commenter suggested that the wording in § 122a.26(a)(5) regarding equipment should be the same as that found in the regulations for Title IV–B, ESEA, which refers to equipment that "can be removed from private school facilities without remodeling." He further suggests that this wording is clearer than the "mobile or portable" restrictions used in the NPRM.

Response. A change has been made to § 122a.26. Language has been added similar to the requirement stated in the proposed rule published for Title IV–B, ESEA on May 14, 1979 (45 CFR 134.77) regarding equipment.

§ 122a.27 Parental involvement.

Comment. Several commenters asked what is the significance of the effective date for this section.

Response. A change has been made. The date of September 30, 1979 is now obsolete and has been deleted from these regulations.

§ 122a.28 Withholding funds.

Comment. Commenters pointed out that the regulations seem to suggest that a hearing must actually take place, whereas, the law requires only reasonable notice and opportunity for a hearing.

Response. A change has been made. The provision has been revised to be consistent with the Act.

§ 122a.29 Waivers.

Comment. One commenter asked if there were sanctions that a SEA could impose on a participating LEA in its State if the LEA either refused or failed substantially to provide educational services to non-public school children.

Response. No change has been made. The Act does not authorize the Commissioner to waive requirements pertaining to non-public school children in cases where an LEA refuses or fails substantially to comply. However, from sections 205 and 207 of the Act, the SEA has the obligation to withhold funds from participating LEAs which fail to comply with the requirements mandating the opportunity for non-public school children to participate.

Comments for Changes Beyond the Scope of These Regulations

§ 122a.1 Description of program.

Comment. Several commenters stated that the provision to restrict eligibility under the program solely to those refugee children admitted into the country on or after January 1, 1977, is unfair to those refugee children who arrived in the country prior to that date who presently need additional educational assistance.

Response. No change has been made. This is a statutory provision—see sections 201 and 203 of the Act.

§ 122a.10 Maximum grant.

Comment. Commenters expressed the opinion that the maximum grant of $450 per child is inadequate for heavily impacted districts.

Response. No change has been made. This is a statutory provision—see sections 202(b) and 204 of the Act.

§ 122a.19 Actual expenditures.

Comment. Three commenters stated that allowable costs under the program should include a provision for regional training centers for the purpose of providing inservice training to school personnel who provide educational services to Indochinese refugee children.

Response. No change has been made. The statute does not provide for regional training centers to be directly funded under the program. However, it is possible for a participating LEA to subcontract with a regional training center to assist in providing services under the program. (See section 206(b) of the Act.)

§ 122a.26 Restrictions.

Comment. Commenters stated that transportation should be an allowable cost if an LEA has to establish a totally new school bus route to serve only those qualified children residing in a remote area, or provide transportation to a central educational facility specifically established to meet the educational needs of the Indochinese children.

Response. No change has been made. This a statutory provision—see section 103(a) of the Act.

Citation of Legal Authority

The reader will find a citation of statutory or other legal authority in parentheses on the line following each substantive provision.

(Catalog of Federal Domestic Assistance No. 13.596, Indochina Refugee Children Assistance Act)

Dated: January 16, 1980.

William L. Smith,

U.S. Commissioner of Education.

Accordingly, Part 122a of Title 45 of the Code of Federal Regulations is added to read as follows:

PART 122a—INDOCHINA REFUGEE CHILDREN ASSISTANCE PROGRAM

Subpart A—General

Sec.

122a.1 A description of the Indochina Refugee Children Assistance Program.
122a.2 What regulations apply to the Indochina Refugee Children Assistance Program?
122a.3 What are the definitions that apply to this program?

Subpart B—How Does a State Apply for a Grant?

122a.4 How does a State apply for funds?
122a.5 When does a State apply for funds?
122a.6 What is included in the State application?
122a.7 Amending the State application.
122a.8 Effective date of the State application.

Subpart C—How Is a Grant Made to a State?

122a.9 Under what conditions does the Commissioner approve a State application?
122a.10 What is the maximum grant for which a State is eligible?
122a.11 Procedures for disapproving a State application.
122a.12 What funds may a SEA use for administration?

Subpart D—How Does an LEA Apply to the State for a Subgrant?

122a.13 Who is eligible for educational services under this program?
122a.14 Who is eligible to receive a subgrant under this program?
122a.15 What are the application requirements for subgrantees?

Subpart E—How Is a Subgrant Made to an LEA?

122a.16 Amount of a subgrant.
122a.17 [Reserved]

Subpart F—What Conditions Must Be Met by the State and Its Subgrantees?

122a.18 How are actual expenditures determined?
122a.19 [Reserved]
122a.20 Procedures for disapproving an LEA application.

Subpart G—What Are the Administrative Responsibilities of the State and Its Subgrantees?

122a.21 What are the State's responsibilities in administering the program?
122a.22 Who controls and supervises funds, services, and materials provided under this program?
122a.23 When are costs allowable under this program?
122a.24 When may an SEA make a subgrant?
122a.25 [Reserved]
122a.26 What restrictions are there on the use of funds?
122a.27 What constitutes parental involvement in the program?

Subpart H—What are the Compliance Procedures Used by the Commissioner?

122a.28 Under what conditions does the Commissioner withhold funds?
122a.29 Under what circumstances does the Commissioner permit waivers of requirements for serving non-public school children?

Authority: Title II, Pub. L. 94–405, 90 Stat.1229, as amended by Pub. L. 95–561, 92 Stat. 2363 unless otherwise noted.

(20 U.S.C. 1211b note)

Subpart A—General

§ 122a.1 A description of the Indochina Refugee Children Assistance Program.

The Indochina Refugee Children Assistance Program provides Federal financial assistance to States for educational services to Indochinese refugee children:

(a) Paroled into the United States on or after January 1, 1977; and

(b) Receiving public educational services under the supervision of an LEA in one of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(Sections 201–203 of the Act)

§ 122a.2 What regulations apply to the Indochina Refugee Children Assistance Program?

(A) Regulations that apply to the Indochina Refugee Children Assistance Program are—

(1) 45 CFR 100b.55 as in effect October 1, 1979;

(2) 45 CFR Part 74; and

(3) This part 122a.

(4) If any provision in other regulations conflicts with any provision in this part, the provision in this part applies.

(b) These regulations only apply to current funds appropriated in fiscal year 1980 for use primarily during the 1979–1980 school year. If any of these funds are carried over into 1981 fiscal year, these regulations will continue to apply to activities carried out with those funds.

(Title II of the Act; 20 U.S.C. 1221e–3(a)(1); 1232c (a) and (b); 1232d; 31 U.S.C. 200; 42 U.S.C. 2000d; Pub. L. 96–123)

§ 122a.3 What are the definitions that apply to this program?

(a) *Definitions specific to these regulations.*

As used in this part:

"Act" means the Indochina Refugee Children Assistance Act of 1976 (Pub. L. 94–405), as amended by Title XIII of the Education Amendments of 1978 (Pub. L. 95–561).

"Basic instructional services" means those instructional services regularly provided to non-refugee children. These services may include those provided by regular personnel and the acquisition of regularly provided books and other instructional materials.

(Sections 103, 203 of the Act)

"Eligible children" means Vietnamese, Cambodian, and Laotian children who are—

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(1) Refugees within the meaning given that term in section 3 of the Indochina Migration and Refugee Assistance Act of 1975;

(2) Admitted into the United States on or after January 1, 1977, under the special parole authority of the Attorney General granted by Section 212(d)(5) of the Immigration and Naturalization Act; and

(3) Within the age limits for which the applicable State is required or permitted to provide free public elementary and secondary education in kindergarten through grade 12.

(Sections 201(b)(3), 203, and 205 of the Act)

"Parent" means a natural or adoptive parent, legal guardian, or other person having primary responsibility for an eligible child.

(20 U.S.C. 1231d)

"Supplementary educational services" means instructional services, special materials and supplies used for instruction, and guidance and counseling services—

(1) That are necessary to enable eligible children to achieve a satisfactory level of performance; and

(2) That are in addition to the basic instructional services provided by an LEA to non-eligible children of similar age. Supplementary educational services includes, but is not limited to, English language instruction in such forms as English as a second language, English for speakers of other languages, or bilingual education.

(Section 103(a) of the Act)

(b) *Definitions found elsewhere that apply to this program.*

The following terms, as used in this part, have the meaning given to them in section 201(b) of the Act:

Commissioner
Elementary school
Local educational agency (LEA)
Secondary school
State
State educational agency (SEA)
Elementary or secondary non-public schools

(Section 201(b) of the Act)

Subpart B—How Does a State Apply for a Grant?

§ 122a.4 How does a State apply for funds?

A State educational agency (SEA) wishing to participate in this program shall submit to the Commissioner—

(a) A general application, as required by Section 435 of the General Education Provisions Act (GEPA).

(b) A State application, as required by section 205(a) of the Act and by part 100b of this chapter.

(20 U.S.C. 1232d)

§ 122a.5 When does a State apply for funds?

(a) The Commissioner publishes a closing date in the **Federal Register** for submittal of SEA applications.

(b) An SEA wishing to apply for funds under this program shall submit the documents required by § 122a.4 to the Commissioner no later than the closing date published in the **Federal Register.**

(Section 205 of the Act; 20 U.S.C. 1221e-3(a))

§ 122a.6 What is included in the State application?

(a) The State application submitted by an SEA shall fulfill all application requirements of—

(1) Section 205 of the Act; and

(2) Section 435 of the GEPA.

(b) *Child Count.* The State application must also contain a statement showing the following:

(1)(i) The total number of eligible children (as defined in § 122a.3) in the State, aged 5 to 17, who in school year 1979–80 are receiving or will receive under the supervision of a local educational agency, public educational services assisted under this part or funded from some other source (these are the children who are counted for funding purposes); and

(ii) The number of eligible children aged 5 to 17 who are not or will not receive educational services under this program.

(2) The number of eligible children described in paragraph (b)(1) (i) and (ii) from—

(i) Vietnam;

(ii) Laos;

(iii) Cambodia.

(3) The total number of eligible children described in paragraph(b)(1) (i) and (ii) who have enrolled in school for the first time in this country during the 1979–1980 school year.

(4) The total number of eligible children described in paragraph(b)(1) (i) and (ii) who have enrolled in a school in this country prior to the 1979–1980 school year.

(c) The State application must contain a statement showing for each of the categories listed in paragraph (b) of this section—

(1) The total number of children enrolled in public schools; and

(2) The total number of children enrolled in non-public schools.

(d) The State application shall describe procedures the SEA will use for approving LEA applications and for the allocation of the non-formula setaside subgrants in § 122a.16 among participating LEAs within the State.

(e) The number of children counted under paragraphs (b) and (c) is determined by the State and reported to the Commissioner in accordance with a notice published in the **Federal Register.**

(f) A State may not include in its count, for purposes of this section, estimates of the number of Indochinese refugee children who are not enrolled in any school on the child count date but are expected to enter this country in the future.

(Section 205 of the Act; 20 U.S.C. 1221e-3(a)(1), 1232d)

§ 122a.7 Amending the State application.

A State shall amend the State application if required under part 100b. The Commissioner may establish a closing date for amendments to the State application by publishing a notice in the **Federal Register.**

(20 U.S.C. 1221e-3(a)(1))

122a.8 Effective date of the State application.

(a) The effective date of a State's application is October 1, 1979.

(b) This date is the earliest date on which costs may be paid with funds provided under this program.

(Section 201(a) of the Act; 20 U.S.C. 1221e-3(a)(1); 1232c(a)(1))

Subpart C—How is a Grant Made to a State?

§ 122a.9 Under what conditions does the Commissioner approve a State application?

The Commissioner approves each State application that satisfies the requirements of the Act, the regulations of this part, and the applicable regulations of part 100b.

(Section 205(b) of the Act; 20 U.S.C. 1221e3(a)(1))

§ 122a.10 What is the maximum grant for which a State is eligible?

(a) A State is eligible for a maximum annual grant equal to $450 multiplied by the number of eligible children counted in § 122a.6.

(b) The aggregate grant which the jurisdictions listed in section 202(c)(1) of the Act may receive is equal to one percent of the total amount received by the remaining States, Territories and the District of Columbia. The maximum grant may not exceed $450 per child.

(c) If funds appropriated are not adequate to provide $450 for each eligible child served, the Commissioner ratably reduces the amount for which applicant SEAs are eligible to the extent necessary to keep total grants within the limits of the funds appropriated.

(Sections 202, 204, of the Act)

§ 122a.11 Procedures for disapproving a State application.

The Commissioner does not finally disapprove an SEA application without first providing the SEA with reasonable notice of the proposed disapproval and an opportunity for a hearing on the record.

(Section 205(b) of the Act)

§ 122a.12 What funds may an SEA use for administration?

(a) The funds used by the SEA may not exceed 5 percent of the State allocation or the actual costs for administration—whichever is less.

(b) For purposes of this part, administration costs include those costs necessary for—

(1) Disbursement of funds including receiving and approving LEA applications;

(2) Conducting counts of eligible children required by the Commissioner in response to a notice in the **Federal Register;** and

(3) Monitoring LEAs to ensure that the provisions of the Act and these regulations are met.

(20 U.S.C. 1221e-3(a)(1))

(c) A complete budget justification and prior approval of the Commissioner is required before an SEA may use more than $150,000 for administration costs.

(20 U.S.C. 1221e-3(a)(1); Section 206(b) of the Act)

Subpart D—How Does an LEA Apply to the State for a Subgrant?

§ 122a.13 Who is eligible for educational services under this program?

Eligible children, who are enrolled in a public or non-public elementary or secondary school may receive educational services supported with Federal funds provided under this program if those services are provided under the supervision of a local educational agency.

(Sections 103, 202(b)(1)(A), 203 of the Act)

§ 122a.14 Who is eligible to receive a subgrant under this program?

Any LEA or consortium of two or more LEAs with eligible children within a State is eligible to receive a subgrant under this program.

(Sections 205(a) (1), (3), (6) of the Act)

§ 122a.15 What are the application requirements for subgrantees?

(a) An LEA or consortium of LEAs that desires to receive a subgrant under this program shall submit an application to the SEA in the form and manner prescribed by the SEA as contained in the State application.

(b) Each LEA application must comply with the relevant application requirements of GEPA.

(c) Each LEA application must contain assurances that it will comply with the applicable provisions of GEPA.

(Section 205(a)(4) of the Act; 20 U.S.C. 1231d, 1232e)

Subpart E—How is a Subgrant Made to an LEA?

§ 122a.16 Amount of a subgrant.

(a) *General.*

(1) The SEA shall allocate funds among LEAs in accordance with the provisions of (b) and (c) of this section, which requires payments to be distributed in proportion to the costs of providing additional services for eligible children.

(2) In no event shall payments to LEAs exceed the actual expenditures described in § 122a.18.

(b) *Formula Subgrants.* The SEA shall allocate at least 80 percent of its funds remaining after administration costs to LEAs according to the procedure in paragraphs (d) and (e) of this section. The procedure involves two categories of eligible children described in § 122a.6(b)—

(1) *Category I.* Those who have enrolled in a school in this country prior to the 1979–1980 school year; or

(2) *Category II.* Those who have enrolled in a school in this country for the first time during the 1979–1980 school year.

(20 U.S.C. 1221e-3(a)(1))

(c) The SEA may reserve up to 20 percent of its funds remaining after administration costs for subgrants to LEAs to meet unforeseen or unusual costs such as these occasioned by new concentrations of eligible children who enroll in an LEA after the formula subgrants in paragraph (b) of this section are distributed.

(d) *Procedure.*

(1) The SEA determines the number of children in the State in each category ((c) (1) and (2)).

(2) The SEA—

(i) Multiplies the number of children in Category I by one (1); and

(ii) Multiplies the number of children in Category II by two (2).

(3) The SEA adds the products of paragraph (d)(2) (i) and (ii) of this section to obtain the total weighted count.

(4) The SEA divides the total funds available for LEA formula subgrants (at least 80 percent of the total funds less administrative costs) by the weighted child count in paragraph (d)(3) of this section to determine the weighted child allocation.

(e) *Example.* (1) An LEA reports 10 Category I children and 10 Category II children. By applying the procedure in paragraph (d) of this section the total weighted child count equals 30;

(i) Ten multiplied by 1 in Category I equals 10; and

(ii) Ten multiplied by 2 in Category II equals 20.

(2) The LEA payment equals the product of the weighted total in paragraph (e)(1) of this section (which is 30) multiplied by the average weighted child allocation in paragraph (d)(4). If weighted child allocation equals $200 and the weighted child count total in paragraph (e)(1) is 30, the total LEA payment in this example would be $6,000.

(20 U.S.C. 1221e-3(a)(1))

(f) A State making a subgrant to an LEA in accordance with the provisions of paragraphs (b) and (c) of this section must adjust the amount of the subgrant if, upon the receipt of subsequent information, it is determined that the amount of the original subgrant does not conform to the limitations imposed by this section.

(Section 203, 205(a)(3) of the Act; 20 U.S.C. 1221e-3(a)(1))

§ 122a.17 [Reserved]

Subpart F—What Conditions Must Be Met by the State and Its Subgrantees?

§ 122a.18 How are actual expenditures determined?

(a) The Commissioner considers actual expenditures allowed by the Act to—

(1) Be limited to the cost of basic instructional services and supplementary educational services that an LEA or SEA provides either directly or by contract; and

(2) Be only those costs that would not have been incurred except for the presence of eligible children.

(b) Generally, these expenditures include—

(1) Personnel costs necessary to provide supplementary educational services to eligible children;

(2) Personnel costs necessary to keep basic instructional services at normal or average levels established by either existing practice or formal policy;

(3) Instructional materials, supplies, and guidance and counseling services necessary to permit participation by eligible children in regular school programs; and

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(4) Inservice training of personnel who provide educational services for Indochinese refugee children.

(Sections 103, 203 of the Act)

§ 122a.19 [Reserved]

Subpart G—What Are the Administrative Responsibilities of the State and Its Subgrantees?

§ 122a.20 Procedures for disapproving an LEA application.

The SEA shall not finally disapprove an LEA application for funds under this program, either in whole or in part, without first providing the LEA with a reasonable notice of its decision and an opportunity for a hearing on the record.

(Section 205(a)(4) of the Act)

§ 122a.21 What are the State's responsibilities in administering the program?

Subject to the provision of § 122a.12, an SEA receiving funds under this program is responsible for—

(a) Complying with its assurances to the Commissioner;

(b) Reviewing and approving of its LEA applications; and

(c) Monitoring the performance of LEAs to which it has awarded subgrants under this program to ensure that the provisions of the Act and these regulations are met.

(Sections 205(a), 205(b) of the Act; 20 U.S.C. 1221e–3(a)(1))

§ 122a.22 Who controls and supervises funds, services, and materials provided under this program?

Grantees and subgrantees shall be responsible for maintaining public supervision and control over funds provided under this program and over services or materials acquired with those funds.

(Section 205(a) (1), (6) of the Act; 20 U.S.C. 1221e–3(a))

§ 122a.23 When are costs allowable under this program?

SEAs and LEAs shall use funds provided under this program for costs incurred only on or after October 1, 1979.

(Sections 103, 201(a) of the Act)

§ 122a.24 When may an SEA make a subgrant?

An SEA shall make a subgrant to an LEA—

(a) On or after the date on which the SEA application to the Commissioner is effective;

(b) If all the applicable requirements of the Act, the General Educational Provisions Act, and applicable regulations are met; and (Sections 203, 205(a) of the Act; 20 U.S.C. 1221e–3(a)(1), 1231d);

(c) No sooner than the first day that the SEA application has been approved by the Commissioner.

(Sections 201(a), 203, 205 of the Act; 20 U.S.C. 1221e–3(a)(1))

§ 122a.25 [Reserved]

§ 122a.26 What restrictions are there on the use of funds?

(a) FY 1980 funds shall be used to principally deal with eligible children entering school in this country for the first time during the 1979–1980 school year. Each grantee and subgrantee shall use funds available under its subgrant first to ensure that these children receive necessary services. If funds are available after serving those children, subgrantees may use remaining funds to serve other eligible children.

(b) Grantees and subgrantees shall not use funds provided under this program for—

(1) Programs, services, and expenditures that are not authorized under section 103 and 205(a)(6) of the Act;

(2) Overhead costs, construction costs, acquisition or rental of space, or transportation costs; and

(3) Salaries for teachers or other employees of non-public schools.

(c) The public agency may place materials or equipment acquired with program funds on the premises of a private school as needed for the period of the project.

(d) The public agency shall ensure that the materials or equipment placed on the premises of a private school—

(1) Are used only for the purposes of this program; and

(2) Can be removed from the private school without remodeling its facilities.

(e) The public agency shall remove the materials or equipment from the premises of a private school if—

(1) The materials or equipment are no longer needed for the purposes of the project; or

(2) Removal is necessary to avoid use of the materials or equipment for other than the purposes of this program.

(Sections 103, 205(a)(b) of the Act; 602 (1971), Pub. L. 96–123)

§ 122a.27 What constitutes parental involvement in the program?

(a) Each SEA shall take steps to ensure that LEAs provide parents of eligible children opportunities to become effectively involved in the planning, implementation, and evaluation of LEA services provided or assisted under this program.

(b) Each participating LEA shall establish policies and procedures to ensure adequate dissemination of program plans and evaluations to parents of eligible children and to the general public.

(20 U.S.C. 1231d)

Subpart H—What Are the Compliance Procedures Used by the Commissioner?

§ 122a.28 Under what conditions does the Commissioner withhold funds?

The Commissioner may withhold payments under this part to an SEA if the Commissioner, after reasonable notice and the opportunity for a hearing, finds that there has been a failure to meet the requirements of the Act.

(Section 207 of the Act)

§ 122a.29 Under what circumstances does the Commissioner permit waivers of requirements for serving non-public school children?

(a)(1) If a State is prohibited by law from providing public educational services to eligible children enrolled in non-public elementary or secondary schools, the Commissioner—

(i) Waives this requirement; and

(ii) Arranges for services to affected eligible children by contracting with organizations or individuals within the State qualified to provide educational services in accordance with the Act and this part

(2) For the purpose of determining if the conditions described in paragraph (a)(1) of this section exist in the State, the Commissioner requires the SEA to furnish an opinion of the Attorney General of the State.

(b) If the Commissioner arranges for services to eligible children attending non-public schools, the Commissioner reduces the grant to the SEA, including administrative funds, by the amount of funds for which the SEA would have been eligible on behalf of those children.

(c) Even if an SEA is prohibited by law from providing public educational services for children enrolled in non-public elementary and secondary schools, the SEA shall identify and separately enumerate these children in the count required under § 122a.6.

(Section 208(c) of the Act; 20 U.S.C. 1221e–3(a)(1))

Appendix

Note.—This Appendix will not be codified in the Code of Federal Regulations

Title II—Program for the Transition Period

Applicability; Definitions

Sec. 201. (a) The provisions of this title shall be applicable for the period beginning July 1, 1976, and ending September 30, 1977, and for the period beginning October 1, 1978, and ending September 30, 1981.

(b) As used in this title—

(1) The term "Commissioner" means the Commissioner of Education.

(2) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(3) The term "Indochinese refugee children" means children who are refugees within the meaning of that term as defined in section 3 of the Indochina Migration and Refugee Assistance Act of 1975, and who are paroled into the United States by the Attorney General pursuant to section 212(d)(5) of the Immigration and Naturalization Act on or after January 1, 1977.

(4) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(5) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law.

(6) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(7) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(8) The term "elementary or secondary nonpublic schools" means schools which comply with the compulsory education laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

(20 U.S.C. 1211b note) Enacted September 10, 1976, P. L. 94–405, sec. 201, 90 Stat. 1229, 1230.

State Entitlements

Sec. 202. (a) The Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for the period July 1, 1976, through September 30, 1977 and for the period October 1, 1978, through September 30, 1981 for the purpose set forth in section 203.

(b)(1) Except as provided in subsection (d) of this section, the maximum amount of the grant to which a State educational agency is eligible to receive under this title, for the period beginning July 1, 1976, and ending September 30, 1977, and for fiscal year 1979 and for each year ending prior to October 1, 1981 shall be equal to the sum of—

(A) the number of Indochinese refugee children aged 5 to 17, inclusive, receiving public educational services under the supervision of each local educational agency within that State during the period for which the determination is made; multiplied by—

"(B) an amount not to exceed $450.".

(2) For the purpose of this subsection, the term "State" does not include American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(c)(1) The jurisdictions to which this subsection applies are American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(2) Each jurisdiction to which this subsection applies shall be entitled to a grant for the purposes set forth in section 203 in an amount equal to an amount determined by the Commissioner in accordance with criteria established by him, except that the aggregate of the amount to which such jurisdictions are so entitled for any period shall not exceed an amount equal to 1 percentum of the aggregate of the amounts to which all States are entitled under subsection (b) of this section for that period. If the aggregate of the amounts, determined by the Commissioner pursuant to the preceding sentence, to be so needed for any period exceeds an amount equal to such 1 per centum limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such 1 per centum limitation.

(d) Notwithstanding any other provision of this section, no State educational agency shall be entitled to receive a grant for any period in excess of the amount equal to the amount to which such agency would otherwise be entitled under this section for that period minus the sum of the amounts received by the local educational agencies of that State and by that State educational agency for that period under the Indochina Migration and Refugee Assistance Act of 1975.

(e) Determinations with respect to the number of Indochinese refugee children by the Commissioner under this section for any period shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate because of an underestimate, to deprive any State educational agency of its entitlement to any payment (or the amount thereof), under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

(20 U.S.C. 1211b note) Enacted September 10, 1976, P.L. 94–405, Sec. 202, 90 Stat. 1230, 1231.

Uses of Funds

Sec. 203. Payments made under this title to any State may be used *"only in accordance with the provisions of section 103".*

Allocation of Appropriations

Sec. 204. (a) If the sums appropriated for the period from July 1, 1976, to September 30, 1977, *"and for the period October 1, 1978, through September 30, 1981"* for making the payments provided for in this title are not sufficient to pay in full the total amounts which State educational agencies are entitled to receive under this title for such period, the allocations to such State educational agencies shall be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated.

(b) In the event that funds become available for making payments under this title for such period after allocations have been made under subsection (a) for that period, the amounts reduced under subsection (a) shall be increased on the same basis as they were reduced.

(20 U.S.C. 1271b note) Enacted September 10, 1976 P.L. 94–405, Sec. 204, 90 Stat. 1231, 1232.

Applications

Sec. 205. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Commissioner at such time, in such manner, and containing or accompanied by such information, as the Commissioner may reasonably require. Each such application shall—

(1) provide that the educational programs, services, and activities for which payments under this title are made will be administered by or under the supervision of the agency;

(2) provide that payments under this title will be used for purposes set forth in section 203;

"(3) provide such data and assurances as the Commissioner may prescribe—

"(A) to demonstrate that the costs of the additional services for which the payment will be made are the direct result of the presence of Indochinese refugee children and that those additional instructional services will actually be provided to those children for the duration of the period for which assistance is made available under this title; and

"(B) to demonstrate that such payments are distributed between the State educational agency and the local educational agencies within the State in proportion to the contribution to such costs by each such agency;".

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

(5) provide for making periodic reports to the Commissioner evaluating the effectiveness of the payments made under this title, and such other reports as the Commissioner may reasonably require to perform his functions under this title; and

(6) provide assurances—

(i) that to the extent consistent with the number of Indochinese refugee children enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services materials, and equipment necessary for the education of such children;

(ii) that the control of funds provided under this paragraph and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property; and

(iii) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency,and the funds provided under this paragraph shall not be commingled with State or local funds.

(b) The Commissioner shall approve an application which meets the requirements of subsection (a). The Commissioner shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

(20 U.S.C. 1211b note) Enacted September 10, 1976, P.L. 94-405, Sec. 205, 90 Stat. 1232, 1233.

Payments

Sec. 206. (a) The Commissioner shall pay to each State educational agency having an application approved under section 205 the amount which that State is entitled to receive under this title.

(b) The Commissioner is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this title, except that the total of such payments for any period shall not exceed *"5 per centum"* of the amounts which that State educational agency is entitled to receive for that period under this title.

(c) If a State is prohibited by law from providing public educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 205(a) (6), the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this title.

(20 U.S.C. 1211b note) Enacted September 10, 1976, P.L. 94-405, sec. 206, 90 Stat. 1233.

Withholding

Sec. 207. Whenever the Commissioner, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of this title, the Commissioner shall notify that agency that further payments will not be made to the agency under this title, or in his discretion, that the State educational agency shall not make further payments under this title to specified local educational agencies (whose actions cause or are involved in such failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State educational agency under this title or payments by the State educational agency under this title shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

(20 U.S.C. 1211b note) Enacted September 10, 1976, P.L. 94-405, sec. 207, 90 Stat. 1233.

Authorization of Appropriations

Sec. 208. There are authorized to be appropriated for the period beginning July 1, 1976, and ending September 30, 1977, and for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1982, such sums as may be necessary to make payments to which State educational agencies are entitled under this title and payments for administration under section 206(b).

(20 U.S.C. 1211b note) Enacted September 10, 1976, P.L. 94-405, sec. 208, 90 Stat. 1233.

Uses of Funds

Sec. 103. (a) Financial assistance to State and local educational agencies under this title shall be available only to meet the cost of providing Indochinese refugee children—

(1) supplementary educational services necessary to enable those children to achieve a satisfactory level of performance including, but not limited to—

(A) English language instruction,

(B) other bilingual educational services, and

(C) special materials and supplies;

(2) additional basic instructional services which are directly attributable to the presence in the school district of Indochinese refugee children, including the cost of providing additional classroom teachers and additional teaching materials and supplies, but not including overhead costs, costs of construction, acquisition or rental of space, or costs of transportation; and

(3) special inservice training for personnel who will be providing instruction described in either paragraph (1) or (2).

(b) The Commissioner shall by regulation prescribe standards for the determination of the actual additional expenditures incurred by State and local educational agencies in providing educational services for Indochinese refugee children. Such standards may include—

(1) maximum incremental costs for providing basic educational services in relation to the number of additional children;

(2) maximum allowable costs for particular types of supplementary educational services; and

(3) to the extent consistent with this section, categories of programs, services, and expenditures for which funds provided under this title may be used.

(20 U.S.C. 1211b note) Enacted September 10, 1976, P.L. 94-405, sec. 103, 90 Stat. 1227.

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Thursday
January 24, 1980

Part VIII

Department of the Interior

Bureau of Land Management

Financial Assistance, Local Governments Payments in Lieu of Taxes

V 45 / 17 JA 24 80 UMI

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 1880

Financial Assistance, Local Governments Payments in Lieu of Taxes

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: These proposed regulations would make the provisions of the regulations for payments in lieu of taxes under the Act of October 20, 1976 (90 Stat. 2662, 31 U.S.C. §§ 1601–1606), commonly referred to as the Payment in Lieu of Taxes Act, applicable to new entitlement lands identified in the Act of October 17, 1978 (92 Stat. 1319). The proposal would also incorporate into the regulations provisions relating to (1) payments for lands acquired for addition to the Redwood National Park pursuant to section 106 of the Act of March 27, 1978 (92 Stat. 171), (2) Decision B–187553 of the Office of the Comptroller General of the United States (October 16, 1978) and (3) the findings of the General Accounting Office and recommendations of the Office of the Inspector General covering verification of data submitted by States for computation of payments.

DATE: Comments by March 24, 1980.

ADDRESS: Send comments to: Director (650), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Edward P. Greenberg (202) 343–3624
or
Eleanor R. Schwartz (202) 343–8735

SUPPLEMENTARY INFORMATION: The Act of October 17, 1978 (92 Stat. 1321) contains an amendment which provides that for fiscal years occurring after September 30, 1978, "reserve areas", that is, any area of land withdrawn from the public domain and administered solely or primarily by the Secretary through the Fish and Wildlife Service, shall be deemed entitlement lands for which payments are to be made under the Act of October 20, 1976 (31 U.S.C. 1601–1607), commonly referred to as the Payments in Lieu of Taxes Act. It provides, further, that reserve area payments received by any unit of local government under the Refuge Revenue Sharing Act (16 U.S.C. 715s) are to be included among the payments to be deducted in computing payments to units of local government under section 2 of the Payments in Lieu of Taxes Act.

In addition, the same Act amends the Payments in Lieu of Taxes Act to provide that: (1) effective on October 1, 1978, lands on which are located semi-active or inactive military installations, not including industrial installations, retained by the Army for mobilization purposes and for support of reserve component training, shall be included in the definition of entitlement lands for which payments are to be made under the Act; (2) beginning with fiscal year 1979, lands owned and/or administered by a State or unit of local government and exempt from payment of real estate taxes at the time such lands are or were conveyed to the United States are to be considered entitlement lands if they are or were acquired by a State or unit of local government from private parties for the purpose of donation to the Federal Government and are or were so donated within eight years of acquisition; and (3) beginning in fiscal year 1979, a unit of local government in Alaska located outside the boundaries of an organized borough which acts as the collecting and distributing agency for real property taxes is eligible to receive payments under section 3 of the Act.

Section 106 of the Act of March 27, 1978 (92 Stat. 171) amends the Payments in Lieu of Taxes Act in two respects: (1) payments authorized in section 3 of the Act for lands or interests therein acquired for addition to the Redwood National Park under authority of the Act of March 27, 1978 (92 Stat. 163), but not paid because of the payment limitations of that section are to be deferred and applied, until the amount is exhausted, to future years in which the annual payments would not otherwise equal the amount of real property taxes assessed and levied on such property during the last full fiscal year before the fiscal year in which such lands or interests were acquired; and (2) the Redwoods Community College District is to be considered an affected school district qualifying for payments under section 3(a) of the Act.

This proposed rulemaking would change the wording in § 1881.1–3(b) of the regulations regarding the distribution of Section 3 payments by the counties to affected units of local government and affected school districts. The proposed regulations would require that such distribution be made in proportion to the "taxes assessed and levied" by the affected units of local government and affected school districts, instead of in proportion to "tax revenues received". This change is in response to communications received from units of local government which indicate that because of the amount of delinquent taxes incurred or past delinquencies paid, the amount of revenues received could be significantly different from the potential tax loss as evidenced by taxes assessed and levied.

These proposed rules would add the requirment that information reported by State governments in accordance with section 2(a)(2) of the Act be verified by Certified Public Accountants or State Auditors prior to submission to BLM and that these submissions include an auditor's certification respecting the accuracy of the information submitted. Both the General Accounting Office and the Interior Department's Office of the Inspector General have stated that information being supplied by the States has been inaccurate, and these offices recommend that all future submissions be verified through audit. The Office of the Inspector General has further recommended that this certification of audit should be a condition precedent to payment. Similar requirements would be imposed for State submitted data used for prior fiscal year adjustments. Report No. 96–374 of the House of Representatives in the 96th Congress, on p. 13, noted that the General Accounting Office informed the Bureau of Land Management that data submitted by States must be verified prior to being used in the year-end computation of payments under the Payments in Lieu of Taxes Act.

These requirements of audit verification could be waived by the authorized officer where the information has been verified by the General Accounting Office, the Office of the Inspector General or other qualified Federal official, or where such audit certification is determined to be unnecessary. The Office of the Inspector General would have oversight responsibility for these audit requirements under the authority of the Inspector General Act of 1978 (95 Stat. 452).

The Office of the Inspector General and the Office of the Solicitor have also recommended that portions of the definition of "Entitlement Lands" be clarified. This matter is currently under review by the concerned Bureaus and agencies and will be covered by future amendment to these regulations or by recommendations for statutory change.

The regulations would be further amended to conform the definition of "money transfers" to Comptroller General Decision No. B–167553, of October 16, 1978. That decision concluded that Federal revenue sharing payments which are not actually received by a unit of local government, or over which the unit of local government has no control when they are paid to a single-purpose government entity, such as a school district, are not to be deducted in the computation of section 1 payments as prescribed by subsection 2(a)(1) of the Payments in Lieu of Taxes Act. This proposed rulemaking would incorporate these changes and amendments into the regulations relating to payments in lieu of taxes in 43 CFR Part 1880.

The principal author of this proposed rulemaking is Eleanor R. Schwartz, Chief, Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that the publication of this document is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C) is required.

The Department of the Interior has determined that this doucment is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Under the authority of the Act of October 20, 1976 (31 U.S.C. 1601–1607), sections (a)(4) and (b) of the Act of October 17, 1978 (92 Stat. 1319, 1321–1322), and section 106 of the Act of March 27, 1978 (92 Stat. 171), it is proposed to amend Subpart 1881, Part 1800, Subchapter A, Chapter 2 of Title 43 of the Code of Federal Regulations as follows:

PART 1880—FINANCIAL ASSISTANCE, LOCAL GOVERNMENTS

1. Section 1881.0–5 is amended, by amending paragraph (b)(1)(iii), by amending paragraphs (c)(1) (iv), and (v), adding new paragraphs (c)(1) (vi), and (vii), by amending paragraph (c)(2)(i), and by revising paragraph (d), all to read as follows:

§ 1881.0–5 Definitions.

* * * * *

(b) * * *

(1) * * *

(iii) Alaskan boroughs in existence on October 20, 1976, and, beginning October 1, 1978, for purposes of payment under section 3 of the Act, a unit of local government in Alaska located outside of boundaries of an organized borough which acts as the collecting and distributing agency for real property taxes.

* * * * *

(c)(1) * * *

(iv) Water resource projects administered by the Bureau of Reclamation or Corps of Engineers;

(v) Dredge disposal areas administered by the Corps of Engineers;

(vi) Beginning October 1, 1978, lands on which are located semiactive or inactive installations, not including industrial installations, retained by the Army for mobilization purposes and for support of reserve component training; or

(vii) Beginning October 1, 1978, lands designated as "reserve areas", which means any area of land withdrawn from the public domain and administered, either solely or primarily, by the Secretary through the United States Fish and Wildlife Service.

(c)(2) * * *

(i) Lands that were owned or administered by a State or unit of local government and which, at the time title was conveyed to the United States, were exempt from payment of real estate taxes. However, beginning October 1, 1978, this exclusion shall not apply to any entitlement land which is or was acquired by a State or unit of local government from private parties for the purpose of donation of such land to the Federal Government and which is or was donated within eight years of the date of acquisition thereof by the State or unit of local government.

(d) "Money transfers" means money or cash payments received by units of local government under the statutes in section 4 of the Act, 31 U.S.C. § 1604. The term does not include payments made to a State and distributed by the State directly to a school district or other single or special purpose governmental entities, or payments distributed by the State to the unit of local government which the unit of local government is required by State law to pass on to a school district or other independent single or special purpose governmental entity.

2. Section 1881.1–2 is amended by revising paragraph (d)(2) and adding new paragraph (e) to read as follows:

§ 1881.1–2 Procedures, Section 1 Payments.

* * * * *

(d) * * *

(2) a written certification by a State Auditor, an independent Certified Public Accountant or an independent public accountant, licensed on or before December 31, 1970, that the statements furnished by the Governor or his delegate have been audited in accordance with auditing standards established by the Comptroller General of the United States in *Standards for Audit of Governmental Organizations, Programs, Activities and Functions,* available through Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, and in accordance with the audit guide for payments in lieu of taxes issued by the Department of the Interior. Such audit certifications will be required for statements submitted for the computation of payments authorized by section 1 of the Act for:

(i) payments to be made for fiscal years beginning on or after October 1, 1979; and

(ii) prior fiscal year payments as may be required by the Office of the Inspector General, Department of the Interior.

The Authorized Officer may waive the requirement for audit certifications where information contained in statements furnished by the Governor or his delegate is verified by the General Accounting Office, the Office of the Inspector General, or other qualified Federal Officials, or where such verification is determined to be unnecessary.

(e) The Office of the Inspector General, United States Department of the Interior, will provide appropriate assistance to the Director, Bureau of Land Management to facilitate the implementation and administration of the audit requirements specified in paragraph (d)(2) of this section pursuant to the provisions of sections 4 and 6 of the Inspector General Act of 1978 (92 Stat. 1102–1103, and 1104–1105). The Office of the Inspector General will develop appropriate audit guides to be used by State auditors, independent Certified Public Accountants or an independent public accountant, licensed on or before December 31, 1970, for auditing the statements of the Governors or their delegates and submitting audit certifications specified in paragraph (d)(2) of this section. Copies of the audit guides will be furnished to the Governor or his delegate each year. Questions pertaining to the use or application of this guide should be referred to the Office of Inspector General, U.S. Department of the Interior, Washington, D.C. 20240.

3. Section 1881.1–3 is amended by revising paragraph (b) and adding a new paragraph (d) to read as follows:

§ 1881.1–3 Procedures, Section 3 Payments.

* * * * *

(b) Counties receiving payments in excess of $100 shall distribute those payments to affected units of local government and affected school districts, in accordance with section 3 of the Act, within 90 days of the receipt of such payment. Distribution shall be in proportion to the tax revenues assessed and levied by the affected units of local government and school districts in the Federal fiscal year prior to acquisition of

the entitlement lands by the Federal Government. The Redwoods Community College District in California shall be considered an affected school district.

* * * * *

(d) In accordance with 166(c) of the Act of March 27, 1978 (92 Stat. 171), payment of the difference, if any, between the amounts actually paid during each of the five fiscal years immediately following the fiscal year in which lands or interests therein were acquired for addition to the Redwoods National Park pursuant to said Act of March 27, 1978, and 1% of the fair market value of such lands and interests therein at the time of their acquisition shall be deferred, unless the amount not paid, or any part of such amount, was not paid due to an insufficiency of appropriated funds, commencing with the sixth fiscal year following acquisition, the amount deferred shall be paid to eligible counties annually in amounts that reflect the limitations of section 3(c)(2) of the Act. Such payments shall be made until the total amount deferred during the first five years has been paid.

Daniel P. Beard,

Acting Assistant Secretary of the Interior.

January 21, 1980.

[FR Doc. 80-2341 Filed 1-23-80; 8:45 am]

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V45/17 JA24 80 UMI

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Thursday
January 24, 1980

Part IX

Department of Health, Education, and Welfare

Public Health Service

Health Maintenance Organizations; Final Regulations Regarding Grants and Loan Guarantees

V 45 / 17 JA 24 80 UMI

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

42 CFR Part 110

Health Maintenance Organizations

AGENCY: Public Health Service, HEW.

ACTION: Final regulations.

SUMMARY: These rules amend the Public Health Service (PHS) regulations by implementing certain changes made by the HMO Amendments of 1978 with respect to grants and loan guarantees for planning and initial development costs (Subpart D) and to loans and loan guarantees for initial costs of operation (Subpart E). These regulations change Subpart D by including projects for the "expansion of services" of an HMO among the projects eligible for initial development assistance. In addition, they change the limits on the amount of assistance permitted for initial development projects. These regulations also change Subpart E by substituting the words "costs of operation" for the words "operating costs," thereby expanding the scope of assistance for initial operations (1) to include costs of certain small capital expenditures for equipment and alterations and renovations of facilities and (2) to incorporate into the regulations a long-standing policy which specifies the amount of preaward balance sheet liabilities which may be paid for with funds under operating loans (whether made directly or guaranteed by the Secretary).

EFFECTIVE DATE: These regulations are effective on January 24, 1980. However, comments are invited through March 24, 1980.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building—3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301–443–4106.

ADDRESSES: Interested persons are invited to submit written comments or suggestions on these rules to the person and office listed above. The comments will be available for public inspection and copying at the above address between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except for Federal holidays.

SUPPLEMENTARY INFORMATION: The Health Maintenance Organization Amendments of 1978 (Pub. L. 95–559) (the Amendments) revised and extended the provisions of Title XIII of the Public Health Service Act (the Act), as amended, to include, among other changes, provisions affecting grants and loan guarantees for planning and initial development of HMOs (section 1304 of the Act) and loans and loan guarantees for initial operating costs of HMOs (section 1305 of the Act). Final regulations to implement sections 1304 and 1305 of the Act were adopted in the **Federal Register** on October 27, 1978 (43 FR 50182–3, Subparts D and E). On February 22, 1979, certain amendments were made to Subpart E to conform to the HMO Amendments of 1978 (44 FR 10602–3). At that time, it was indicated that a number of other changes would be made in the regulations as a result of the Amendments. The regulations promulgated in this document make those changes and ones similarly needed for Subpart D.

For the reasons described below, the Secretary has determined that public participation in rulemaking prior to issuance of these regulations is unnecessary, impractical and contrary to public interest, and accordingly, that good cause exists for making these regulations effective on January 24, 1980.

With respect to Subpart D, the HMO Amendments of 1978 added projects for the "expansion of services" of an HMO to section 1304(b)(2) of the Act, which describes projects for which initial development assistance may be awarded. The revised Subpart B regulations, published in the **Federal Register** on July 18, 1979 (44 FR 42074–9), now provide a definition of "expansion of services" (§ 110.202) which can be used as a basis for awarding assistance under Subpart D. In addition, the Amendments increased the amount which may be awarded for initial development projects. A delay in the effective date would be detrimental to applicants for initial development assistance who need the increased award amounts and to HMOs which, in order to preserve or enhance their fiscally sound operation, urgently need financial support to expand their services.

With respect to Subpart E, the HMO Amendments of 1978 substituted, as a basis for assistance, the words "costs of operation" for the words "operating costs" in section 1305(a). In enacting this amendment, Congress authorized the Secretary to expand the scope of the costs that could be paid for with loan assistance under section 1305 of the Act. (See H.R. Rep. No. 95–1479, 95th Cong. 2nd Sess., Aug. 11, 1978, p. 58.) A delay in the effective date of Subpart E would be detrimental to HMOs which, in order to preserve or enhance their fiscally sound operation, urgently need the expanded basis for assistance to pay for the additional costs which may now be supported with loan assistance under section 1305.

Accordingly, the Secretary has determined that good cause exists for making these regulations effective upon publication. However, the Secretary invites public comments on these revisions and will consider them if received on or before March 24, 1980, in determining whether future revisions are appropriate. After the comment period, the Secretary intends to republish Subparts D and E in their entirety. The republication will take into account the comments received and will further simplify and clarify the regulations in accordance with the Department's Operation Common Sense.

The Secretary notes that the "costs of operation" which may now be supported under Subpart E are related only to the assistance provided under section 1305 of the Act. This term includes some costs which are characterized differently under the reimbursement principles of other programs administered by the Department, including the Medicare and Medicaid programs of Titles XVIII and XIX of the Social Security Act. As noted above, the broad definition of "costs of operation" under Subpart E implements a specific Congressional intent to provide assistance under section 1305 not only for "operating costs", as previously defined in the regulations, but also for certain small capital expenditures.

Set forth below is a summary of the amendments made in these regulations:

1. Sections 110.401(a), 110.402, and 110.404(f) are amended to include projects for the "expansion of services," as defined in § 110.202 of the revised subpart B regulations, among the projects eligible for initial development.

2. Section 110.405(b) is amended to delete any reference to dollar limitations for projects for initial development. Instead, reference is made to sections 1304(f)(2) and (f)(3) of the Act, which state respectively the amount authorized for any initial development project for an HMO and the cumulative total authorized for initial development projects for any HMO. This amendment permits the Secretary to implement the amendment to section 1304(f)(2), which increases the amount of initial development funds which may be awarded to an HMO for a particular project from a maximum of $1 million to $2 million effective October 1, 1979. These amendments will also facilitate the prompt implementation of any future legislative changes in the amounts authorized for initial development awards.

3. Section 110.405(b)(2) is amended to change the period for which an initial development grant can be made from 1 year to 3 years, as provided by an amendment to section 1304(b)(3).

4. Section 110.405(b)(4) is revised by changing the reference from "§ 110.104(b)" to "§ 110.404(b)." The original reference was a typographical error.

5. The term "costs of operation" is substituted for "operating costs" and is defined to mean any cost incurred during the HMO's first 60 months of operation or expansion which:

a. Under generally accepted accounting principles or under accounting practices prescribed or permitted by State regulatory authority is not a capital cost;

b. Is required by State regulatory authority to meet reserve or tangible net equity requirements;

c. Is for a payment made to reduce balance sheet liabilities existing at the beginning of the 60 month period, but only if (i) the payment has been approved in writing by the Secretary and (ii) the total of these payments does not exceed 20 percent of the amount of the loan; or

d. Is for small capital expenditures (as defined in paragraph 6 below), but only if (i) this cost has been approved in writing by the Secretary, and (ii) the total of these costs does not exceed $200,000 in any 12 month period and $400,000 during the first 60 months of operation or expansion.

This definition covers those terms previously covered by the more limited operating costs definition (items a, b, and c), incorporates into the regulations the long-standing policy of the Department's Office of Health Maintenance Organizations as to the amount of balance sheet liabilities which may be covered by operating assistance (the limitations stated for item c), and adds language providing for payments from operating loan or loan guarantee funds for small capital expenditures (item d). The Secretary decided to impose the aggregate dollar limits on small capital expenditures in order to allow enough flexibility to cover the needs of HMOs, while insuring that sufficient funds would continue to be available to cover HMO operating deficits.

6. "Small capital expenditures" is defined in § 110.502(d) as expenditures for:

a. Equipment (as defined in 45 CFR Part 74.132, the Department's general regulation on grants administration); and

b. Alterations and renovations required to change the interior arrangements or other physical characteristics of an existing facility or installed equipment, so that it may be more effectively used for its currently designated purpose, or adapted to a changed use.

The Secretary has adopted definitions of equipment and alterations and renovations which are the same as those used in HEW grant programs in order to have uniform requirements for the various types of financial assistance available to HMOs. The limitation to "small" capital expenditures is consistent with the Congressional intent that major capital costs should be covered by the new Section 1305A authority for loans and loan guarantees for acquisition and construction of ambulatory facilities, rather than by funds for initial costs of operation. (See H.R. Rep. No. 95–1479, 95th Cong. 2nd. Sess., Aug. 11, 1978, p. 58.)

The Assistant Secretary for Health for the Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, hereby amends 42 CFR Part 110, Subparts D and E, as set forth below.

(Sec. 215, 58 Stat. 690 (42 U.S.C. 216); secs. 1301–1318, as amended, 92 Stat. 2131–2141 (42 U.S.C. 300e–300e–17)).

Dated: September 28, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: January 17, 1980.

Patricia Roberts Harris,

Secretary.

1. Section 110.401 is revised to read as follows:

§ 110.401 Applicability.

(a) The regulations of this subpart, in addition to the regulations of Subpart B of this part, apply to:

(1) Grants awarded under section 1304 of the Act for projects for the planning and for the initial development of HMOs.

(2) Guarantees made under section 1304 of the Act to non-Federal lenders of payment of the principal of and the interest on loans made for projects for the planning and initial development of HMOs.

(b)(1) Planning projects include projects for (i) the establishment of an HMO, and (ii) the significant expansion (as defined in § 110.202) of the membership or of the area served by an HMO.

(2) Initial development projects include projects for (i) the establishment of an HMO, (ii) the significant expansion (as defined in § 110.202) of the membership or of the area served by an HMO, and (iii) the expansion of the services (as defined in § 110.202) of an HMO.

2. Section 110.402 is revised to read as follows:

§ 110.402 Eligible applicants.

Any public entity or nonprofit private entity which is, or which proposes to become, an HMO is eligible to apply for a grant or a loan guarantee under this subpart. A for-profit private entity which is, or which proposes to become, an HMO is only eligible to apply for a loan guarantee under this subpart.

(a) In the case of a for-profit private entity, the applicant must demonstrate that at least 10 percent of the projected membership of the HMO to be established or expanded will be from medically underserved populations.

(b) Only HMOs qualified under Subpart F of this part are eligible to apply for projects for the significant expansion of their membership or of their service areas or for the expansion of their services.

§ 110.404 [Amended]

3. Section 110.404(f) is revised by deleting the word "significant" in the first sentence and by amending subparagraph (4) to read as follows:

* * * * *

(f) * * *

(4) The plans for the proposed expansion which demonstrate that the definition of "expansion of services" or of "significant expansion" of membership or service area in § 110.202 will be met.

§ 110.405 [Amended]

4. Section 110.405(b) is revised by amending subparagraphs (1) and (2) to read as follows:

* * * * *

(b) * * *

(1) The aggregate amount of loan guarantees and grants for any initial development project may not exceed the amount specified by section 1304(f)(2) of the Act. The cumulative total of grants made to and the principal of loans guaranteed for an HMO for initial development projects may not exceed the amount specified by section 1304(f)(3) of the Act.

(2) A grant may only be made for initial development costs incurred in a period not to exceed three years.

* * * * *

§ 110.405 [Amended]

5. Section 110.405(b)(4) is revised by changing the reference to "§ 110.104(b)" to read "§ 110.404(b)".

§ 110.502 [Amended]

6. Section 110.502(a) is revised to read as follows:

(a) "Costs of operation" means any cost incurred in the first 60 months of operation or expansion which:

(1) Under generally accepted accounting principles or under accounting practices prescribed or permitted by State regulatory authority is not a capital cost;

(2) Is required by State regulatory authority to meet reserved or tangible net equity requirements;

(3) Is for a payment made to reduce balance sheet liabilities existing at the beginning of the 60 month period, but only if (i) the payment has been approved in writing by the Secretary, and (ii) the total of these payments does not exceed 20 percent of the amount of the loan; or

(4) Is for a small capital expenditure, but only if (i) the cost has been approved in writing by the Secretary, and (ii) the total of these costs does not exceed $200,000 in any 12 month period and $400,000 during the first 60 months of operation or expansion.

* * * * *

§ 110.502 [Amended]

7. Section 110.502(d) is added, as follows:

* * * * *

(d) "Small capital expenditures" means expenditures for (1) equipment (as defined in 45 CFR 74.132); and (2) alterations and renovations required to change the interior arrangements or other physical characteristics of an existing facility or installed equipment, so that it may be more effectively used for its currently designated purpose, or adapted to a changed use.

§ 110.503 [Amended]

8. Section 110.503(b) is revised by replacing the words "operating costs", each time they appear, with the words "costs of operation".

§ 110.505 [Amended]

9. Section 110.505 is revised by replacing the words "operating costs" in the first sentence with the words "costs of operation".

Subpart E [Title Amended]

10. The title of Subpart E is amended by replacing the words "operating costs" with the words "costs of operation".

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January 24, 1980

Part X

Department of Commerce

National Oceanic and Atmospheric Administration

Fishermen's Contingency Fund

V 45 / 17 JA 24 80 UMI

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 296

Fishermen's Contingency Fund

AGENCY: National Marine Fisheries Service/National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final regulations.

SUMMARY: These regulations implement Title IV of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 629, Pub. L. 95–372, 43 U.S.C. Section 1841 *et seq.* (Title IV).) Title IV establishes a Fishermen's Contingency Fund (Fund) to compensate fishermen for eligible claims for actual and consequential damages, including lost profits, due to damages to, or loss of, fishing vessels or fishing gear by items associated with oil and gas exploration, development, or production on the Outer Continental Shelf (OCS). These regulations establish procedures for administering the Fund, and for filing, processing, reviewing, adjudicating and paying claims.

EFFECTIVE DATE: Sections 296.1 through 296.3, §§ 296.5 through 296.9 and § 296.15 are effective on January 24, 1980. Section 296.4 and §§ 296.11 through 296.14 are effective February 25, 1980. Any lease, exploration permit, easement or right-of-way in effect on January 24, 1980 shall be assessed under §§ 296.4 (a) and (c)(1).

FOR FURTHER INFORMATION CONTACT: Mr. Michael L. Grable or Ms. Kathryn E. Hensley, Financial Services Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235. Telephone (202) 634–4688.

SUPPLEMENTARY INFORMATION:

I. Response to Public Comments.

A notice of proposed rulemaking for implementation of the Fund was published on May 24, 1979, (44 FR 30292). We received a number of detailed comments in response to the notice of proposed rulemaking. Many comments raised questions or made suggestions which have resulted in changes in these final rules. The comments and the resulting changes in these final rules are discussed below.

A. Section 296.2. Definitions

"Area affected by Outer Continental Shelf exploration, development or production activities." The proposed definition included any area of the OCS in which such activities "have taken place or are taking place."

Comment: One commenter stated that this definition is too broad and bears no reasonable relationship to areas in which oil and gas obstructions might be encountered. Each area should be defined by coordinates and landward areas should be limited to specified traffic corridors leading to areas where oil or gas activities are taking place or to pipeline corridors.

Response: The definition is important, since it controls one of the criteria of a claim's presumed cause. In order to more realistically limit availability of the presumption of causation to probable areas of OCS oil and gas related obstructions, these final rules have been changed to redefine the term as any area which is: (1) Under oil and gas lease on the OCS, (2) within one-half geographical mile of a lease, pipeline, easement or right-of-way on the OCS, or (3) otherwise associated with OCS oil and gas activities (such as expired lease areas, relinquished rights-of-way and easements, and areas used extensively by surface vessels supporting oil and gas activities). Determinations about the third part of the redefined term will be made on a case-by-case basis by the Chief, Financial Services Division, NMFS, based upon information supplied by the Department of the Interior. The Chief's decision is subject to review by an administrative law judge (ALJ).

"Commercial Fishing Vessel"

The term "commercial fishing vessel," as defined in the proposed regulations, inadvertently included recreational fishing vessels.

Comment: Commenters suggested the following changes to the definition:

Recreational fishermen fishing for their own consumption should be excluded;

Eligible commercial fishermen should be required to earn some minimum percentage of their livelihood from commercial fishing; and

Only casualties occurring when a commercial fishing vessel is being used for commercial fishing purposes should be eligible for compensation.

Response: Commercial passenger carrying fishing vessels are within the meaning of the term "commercial fishing vessel" as that term is defined in the Title IV statute. Fishing vessels operated for non-commercial recreational purposes are not within the statutory definition. The final rules have been changed to exclude recreational vessels.

"Holder"—The term "holder" was defined to mean the record holder of any lease, exploration permit, easement or right-of-way.

Comment: One commenter suggested the definition of the term "holder" should include such holder's assignee of rights or such "holder's" designated agent.

Response: These final rules have been changed as suggested by the comment.

"Respondent"—Sections 296.2, 296.4, 296.8, and 296.11 deal with the definition of "respondent," assessable persons, admission or denial of responsibility, and payment of costs.

Comment: Several commenters suggested that time limits should be established so that oil and gas companies are not perpetually exposed to assessments or other liabilities simply because they had operated in a particular area at some time in the past.

Response: Assessments for the purpose of funding the area accounts will be based by the Department of the Interior on current inventories of leases, easements, rights-of-way, and permits in effect. Abandoned, relinquished, cancelled, or otherwise non-effective leases, easements, rights-of-way, or permits will not be included for the purpose of assessment, but will be included in Interior's notices of claims and requests for admission or denial of responsibility. Additionally, the concept of a "respondent" has been replaced by a concept of an "interested person", as explained elsewhere in this Preamble.

B. Section 296.3. Fishermen's Contingency Fund

This section excludes from the geographical area of all area accounts any area under State, rather than Federal, jurisdiction.

Comment: One commenter suggested the final rules strike the phrase "any portion of the OCS which is" in § 296.3(b) and substitute "submerged lands" in its place.

Response: These final fules have been changed as suggested by the comment. Section 296.3(b) is redesignated as § 296.3(c).

In addition, the definition of "outer continental shelf" has been changed in these final regulations, to track the statutory definition in 43 U.S.C. section 1331.

Although the statutory definition is not very helpful to the average fisherman, NOAA believes the definition used in the proposed regulations could have created confusion in some cases about which geographic areas are assessed to pay into the Fund.

C. Section 296.4. Payments into the Fund

Assessments to Maintain Accounts

Section 296.4(b) provides for reassessments when the amount remaining in any area account is less than one-half its total capitalizable amount.

Comment: Commenters suggested: Reassessment should occur whenever monies in an area account are insufficient to pay adjudicated claims; and

Reassessment should occur whenever monies in an area account are less than 90 percent of its total capitalizable cost.

Response: Since lack of monies to pay a claim would create a debt of the Fund, and since payment of reassessments is due within thirty days of billing, NOAA believes the present provisions are sufficient.

Calculation of Amount

Section 296.4(c) established the assessment for exploration permits at $25.00.

Comment: One commenter suggested that the proposed assessment for exploration permits was too low. At a fee of $25.00 per exploration permit, there would have to be 4,000 exploration permits to fund one area account at the $100,000 level.

Response: The concern is that there would be no way of adequately funding an area account prior to the time leasing and development or production takes place, since Fund income from exploration permits would be negligible. NOAA does not believe that this will be a significant problem. In these final rules the assessment for exploration permits is increased from $25.00 to $50.00 in order to better defray the cost of administering such assessments.

Comment: One commenter observed that § *296.4(c)(1)(iii)* allows escapement from assessment by new permits, leases, rights-of-way, or easements which come into existence between assessments, until the next assessment. The commenter apparently believes new permits, leases, rights-of-way, and easements should be assessed as soon as they exist.

Response: New assessments will occur whenever an area account's capital is less than $50,000. If claims are paid on a continuing basis from any area account, virtually all persons liable to pay assessments will eventually pay as reassessments are made. NOAA believes no change in these final rules is warranted.

Section 296.4(c)(1)(v) deals with the exclusion of certain flow and gathering lines from the assessment of pipeline easements.

Comment: One commenter suggested the word "operation" as it appears immediately before the period at the end of this section should be stricken and the word "operator" should be inserted in lieu thereof;

A second commenter suggested the phrase should read "under unitized operation or a single operation."

Response: These final rules have been changed to refer to either contiguous unitized leases or contiguous leases under a single operator.

Billing

Comment: One commenter suggested the Department of the Interior's assessment billing under § *296.4(d)* should include an itemized statement of assessment.

Response: The Department of the Interior intends each billing to contain an itemized statement of assessment. These final rules have been changed accordingly.

By Whom and When Payable

Section 296.4(e) requires assessments to be paid within thirty days after billing.

Comment: One commenter suggested that assessment payments should be due sixty days after the assessment.

Response: NOAA believes thirty days is a reasonable period for responding to a billing.

D. Section 296.5. Claims Eligible for Compensation

Damage or Loss of Fishing Gear

Section 296.5(b) deals with the type of damage eligible for Fund compensation and specifically provides that casualties occurring in waters under State jurisdiction may nevertheless be eligible for Fund compensation if the obstructions causing the casualties were associated with oil and gas exploration, development or production activities on the Federal Outer Continental Shelf.

Comment: One commenter suggested deleting the provision allowing Fund compensation for damage occurring in waters under State jurisdiction caused by obstructions related to Federal OCS oil and gas activities.

Response: Debris and other obstructions directly related to Federal OCS oil and gas activities might be deposited in waters under State jurisdiction. For example, a supply vessel bound for an OCS site may lose overboard, in waters under State jurisdiction, a large piece of equipment hazardous to commercial fishing operations. Additionally, the Fund's authorizing legislation provides that damage need not have occurred in the geographic area of a specific area account in order to be the liability of that area account. In many cases, however, the OCS-related nature of obstructions causing damage in waters under State jurisdiction will have to be specifically proven, since the presumption of causation contained in § 296.9(b) will apply to casualties occurring in waters under State jurisdiction only if that particular area is an "area affected by OCS exploration, development or production activities" (one of the criteria of the presumption's availability). No change in these final rules is warranted.

Exceptions

Section 296.5(c) restates the Title IV statute's requirement that claims are not eligible for Fund compensation in certain cases, including if the damages claimed are caused by items attributable to a "financially responsible party".

Comment: Commenters suggested: Claimants should be able to claim against the Fund as an alternative to litigation against financially responsible parties;

A denial of responsibility on the part of oil and gas companies notified by the Department of the Interior should, thereafter, enable claimants to collect from the Fund even if such companies are found by a hearing examiner (administrative law judge) to be responsible; and

Claimants should be allowed to recover compensation from the Fund even if financially responsible oil and gas companies admit responsibility for claimants' damages because it may be difficult to recover from oil and gas companies.

Response: The Fund's authorizing legislation makes damages attributable to financially responsible parties ineligible for compensation. No change in these final rules as to that issue is therefore permissible.

The final regulations define a "financially responsible party" as, generally, a financially solvent person who is responsible for damage to or loss of commercial fishing vessels or gear by items associated with OCS oil and gas activities. NOAA believes this definition is consistent with Congressional intent that the Fund not be an alternate remedy when the oil or gas—related company responsible for the damage is known and able to pay for the damage.

The final regulations also expand § 296.5(c), attempting to include in one list the Title IV statute's requirements prohibiting or limiting payment of awards by the Fund, and to cross-reference the statutory requirements to the appropriate sections of the final

regulations. E. section 296.6. *Amount of awards.*

Fishing Gear

Section 296.6(b) establishes replacement cost, less salvage value, as the measure of Fund compensation for irreparable fishing gear damage.

Comment: Commenters suggested using depreciated replacement cost or fair market value, rather than replacement cost less salvage value, as the measure of Fund compensation for irreparable fishing gear damage.

Response: We believe replacement cost less salvage value is the fairest criterion since (1) fishing gear often does not depreciate normally due to constant repair (for example, nets) and (2) a fair market value for different components of fishing gear is often impossible to establish. The final rules clarify that "replacement cost" means the cost of new fishing gear, without consideration of wear and tear on the damaged or lost gear.

Consequential damage

Comment: One commenter suggested there is a possibility that § 296.6(c) may allow consequential damages without actual damages.

Response: The only such possibility we can foresee is a claim for lost profits incurred as a result of disengaging fishing gear in such a way as to prevent actual damage of the gear involved. This will encourage claimants to mitigate or altogether avoid actual damages, but may result in damage in the form of lost profits as a result of such mitigation or avoidance. In response to an additional comment on this section, this type of consequential damage ordinarily will be limited to the replacement cost, minus salvage value, of the gear involved, unless the fisherman can show that his efforts to free the gear were reasonable and that abandonment of the gear would have resulted in greater economic loss (see final § 296.6(c)(2)(ii)).

Loss of Profits

Section 296.6(c)(2) limits claims for lost profits to a period of six months or less.

Comment: One commenter suggested claims for lost profits beyond six months should be allowed if a claimant can produce substantiating records.

Response: The Fund's authorizing legislation limits lost profits compensation to a maximum of six months. No change in these final rules is permissible.

Section 296.6(c)(2) also specifies that the ordinary measure of compensation is the net profits lost.

Comment: Commenters had the following suggestions: One commenter questioned how net profits will be determined and pointed out that certain fixed expenses continue whether vessels are fishing or not;

Crew members should not be able to claim compensation for their losses, either on their own or through vessel owners;

The determination of economic loss will be difficult. Income, for example, fluctuates greatly according to season, type of fishery, and what processors are willing to purchase. Income tax returns reflect aggregate annual income, which might be too low when applied to any specific activity at any specific point in a year. Fish tickets for a given period would more accurately reflect gross income for that period but would not contain evidence of expenses;

It will be difficult to determine income or profits in newly developing fisheries;

Compensation for economic loss should be based upon average performance for comparable quarters of at least two years prior to a casualty. The variable nature of fishing makes income averaging over longer periods the fairest method of measuring compensation for lost profits; and

Compensation for economic loss which includes profits greater than net profits is outside the purview of the Fund's authorizing legislation.

Response: The determination of reasonable compensation for economic loss will be difficult. Attempting to make fine distinctions might often result in a considerable expenditure of time and money on the part of the claimant, the Government, and the Fund. We believe, consequently, that a pre-hearing administrative standard should be established in the interest of efficiency.

Crew members' claims for economic loss are eligible under the Fund's authorizing legislation. To facilitate resolution of multiple claims resulting from one casualty, these final rules do suggest that the claims of all crew members be aggregated and submitted by the owner or operator on behalf of the crew members (see § 296.7(d)).

To facilitate resolution of claims, we intend to propose settlements and make other agency recommendations for economic loss compensation based upon the vessel owner or operator's latest Federal income tax return where such return reflects the operation of the vessel involved in the casualty, or a similar vessel. The annual net profit in such a return will be used to make a pro rata computation of the vessel owner or operator's loss of net profit for a reasonable period during which vessel operation was prevented by the casualty. The annual income and expense data in such a return will be used to compute the crew members' shares of lost profits (when crew member claims are filed relating to the casualty) according to the contractual share to which each crew member was entitled (see also § 296.7(e)(11)).

We believe this is a fair and efficient resolution of an otherwise difficult evidentiary problem. The claimant or an "interested person" disagreeing with the application of this standard has the opportunity, subject to certain standards, to present evidence at any hearing before an administrative law judge (ALJ) for the purpose of rebutting this standard for determining compensation in particular cases. The ALJ has the discretion to consider any and all other evidence in determining the measure of compensation for economic loss.

These final rules have been changed accordingly.

Other

Section 296.6(c)(3) of the proposed regulations allowed Fund compensation for consequential damage, including personal injury resulting from damaged fishing gear.

Comment: One commenter suggested deleting personal injury compensation because the Fund's authorizing legislation does not contemplate it.

Response: The Fund's authorizing legislation provides for "reasonable compensation for damages to, or loss of, fishing gear and any resulting economic loss to commercial fishermen". We agree that this language does not explicitly include compensation for personal injury. Additionally, compensation for personal injury is provided for in commercially available marine protection and indemnity insurance, and remedies are available under admiralty law. We believe that title IV was intended to provide compensation for damages not normally compensable under other systems of remedies. Accordingly, these final rules have been changed to exclude Fund compensation for personal injury.

Attorneys' fees

Section 296.6(d) authorizes Fund compensation of reasonable attorneys' fees.

Comment: Commenters submitted the following comments: Allow recovery of actual, rather than reasonable, attorneys' fees;

Make payment of attorneys' fees discretionary;

There should be no recovery for attorneys' fees if claim is unsuccessful; and

If claimant's claim is reduced to reflect claimant's contributory negligence, recovery for claimant's attorneys' fees should be reduced proportionately.

Response: It would not be proper under the Title IV statute to allow Fund compensation of actual, but unreasonable, attorneys' fees. The title IV statute requires payment of reasonable attorneys' fees if claimant is successful. We believe that reducing attorneys' fees proportionately to reflect reductions of claims due to claimant's contributory negligence is not in accordance with normal standards for computation of fees, and would be difficult to administer.

We agree that unsuccessful claimants should not recover attorneys' fees.

These final rules have been changed accordingly.

Negligence of claimant

Section 296.6(e) establishes negligence factors and provides for reduction of compensation based upon a comparative negligence standard.

Comment: The following comments were submitted: Claimants' duty to mitigate damages should be modified by inclusion of the word "diligently";

Claimant negligence should constitute an absolute bar to recovery, rather than only a partial bar under comparative negligence theory;

Negligence factors should include (1) failure to abide by established rules of the road and (2) failure to use proper care. Oil and gas companies should be provided some legal protection against fishermen negligently damaging pipelines or subsea wells in such a way that materials from them subsequently become obstructions;

Claimants' negligence should be restricted to intentional acts;

The criterion for navigation safety zones is too general and should be more specifically defined with care being taken to assure that not too large an area is removed from traditional fishing grounds.

Response: These final rules have been changed to (1) require "due diligence" in the mitigation of damages and (2) include failure to use proper care and failure to abide by established rules of the road as additional negligence factors.

The comparative negligence standard is in the Title IV statute, and we do not agree that claimants' contributory negligence should be an absolute, rather than a partial, bar.

Providing oil and gas companies legal protection against damage caused by fishermen is outside the scope of the Fund's authorizing legislation. If, however, a fisherman's conflict with oil and gas property results in the spread of materials which subsequently become obstructions, some consolation is provided by the fact that a Fund claim for the first conflict probably will result in the obstruction site being charted or noted in Notices to Mariners, thereby likely removing it from the possibility of producing further Fund claims.

Navigational safety zones are established for the safety of all ocean users. Since they may vary with different conditions, the criterion should be kept general.

We see no good reason why unintentionally negligent acts should be excluded.

Section 296.6(e)(2)(ii) has been changed in these final rules to add the phrase "(casualties occurring within a one-quarter mile radius of obstructions so recorded or marked are presumed to involve negligence or fault of the claimant)". The effect of this change is to presume negligence or fault in the case of a vessel's incurring a casualty within a one-quarter mile radius of obstructions previously recorded on National Ocean Survey charts or in the Notice to Mariners, or marked by a buoy. This new provision may reduce, but usually will not eliminate, an award. The fishermen may provide evidence to show that his action was not negligent, or that the obstruction he encountered was not the one charted.

Comment: One commenter suggested that negligence of vessel owners or operators which bars or reduces their Fund claims should likewise bar or reduce claims from crew members relating to the same casualty.

Response: NOAA agrees that imputing the vessel owner or operator's negligence to the crew is reasonable. The Fund should not pay the crew for losses caused by such negligence. These final rules have been changed as suggested.

Insurance Proceeds

Section 296.6(f) disallows recovery from the Fund of any portion of a claim which will be covered by insurance and requires a claimant to first seek recovery from such insurance of that portion of the casualty which may be covered by such insurance.

Comment: One commenter suggested the rules should not require a claimant to first seek recovery from insurance.

Response: We do not believe Congress intended the Fund to become a substitute for currently available marine insurance. This section largely excludes from Fund compensation damage to vessels, since such damage is generally recoverable under commercially available marine insurance. Since, however, damage to fishing gear is not generally recoverable under such insurance, fishing gear damage generally would not be subject to the requirement first to seek recovery from insurance. The final rules require that claimants provide a copy of any insurance policies covering the vessel, so the Chief, FSD and the ALJ may determine whether the damage claimed may be compensable by insurance (see § 296.7(e)(13)).

F. Section 296.7. Instructions for filing claims

(a) Five-day report required to gain presumption of validity.

Section 296.7(a) requires the reports upon which the presumption of validity depends to be made within five days. In these final regulations, the presumption of "validity" is changed to a presumption of "causation" by obstructions associated with OCS oil or gas activities.

Comment: One commenter suggested increasing the time period of the report from five days to ten days.

Response: The Fund's authorizing legislation specifies only five days for the submission of the report. No change in these final rules is therefore permitted concerning this issue. The final regulations allow the owner or operator of the fishing vessel to file a five-day report on behalf of the entire crew, owner, and operator of the vessel.

Where to radiotelephone file the five-day report

Section 296.7(a)(3) of the proposed regulations established that five-day reports (required for the presumption of validity) must be made to specific National Marine Fisheries Service (NMFS) representatives at the NMFS Regional Offices.

Comment: One commenter stated claimants far distant from the NMFS Regional Offices would be unable to make contact by radiotelephone (the example given is a claimant in the Beaufort Sea trying to reach Juneau, Alaska, by radiotelephone). Other allowable reporting contacts should be: Coast Guard offices, local marine operators, or local National Marine Fisheries Service representatives;

Notification of Coast Guard by radio would be a better alternative, since radiotelephone reports are sometimes difficult or impossible when large incidence of radiotelephone traffic closer to shore blocks communication.

Response: Although it may sometimes prove difficult or impossible for a claimant to radiotelephone a National Marine Fisheries Service Regional

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Office from the casualty site, some control must be maintained over the receipt of five-day reports if they are to serve their proper purpose. Since the world at large cannot be expected to be familiar with either the requirements of a five-day report or their proper processing, the report destination must be limited to the National Marine Fisheries Service. The Coast Guard informs NMFS that they are concerned that the message of traffic from Title IV claims might hinder their ability to conduct their primary functions, such as search and rescue. Accordingly, the final regulations require that the five-day report be made to the local NMFS Regional Office.

Section 296.7(a)(2)(ii) of the proposed regulations would have required claimants who had made five-day radiotelephone or oral reports to confirm them in writing within five days of their first return to port. This has been modified to strongly recommend (rather than require) that written confirmation be made to the Chief, Financial Services Division, NMFS, as soon as possible (see § 296.7(a)(3) of the final regulations).

Contents

Section 296.7(e)(10) deals with proof of ownership of damaged fishing gear, estimates of its replacement or repair cost, the facts of the damage or loss, etc.

Comment: Commenters submitted the following comments:

Owners of homemade nets will have difficulty proving possession because they do not have purchase invoices or sales receipts;

Provisions should be made to include reasonable value of makers' labor involved in homemade nets;

Claimants who cannot prove purchase or ownership of damaged fishing gear because they no longer have purchase invoices or sales receipts should be allowed to substitute affidavits from sellers; and

Lessees of fishing vessels or gear may have difficulty proving their lease rights.

Response: The best available evidence of possession or ownership must be submitted. Purchase invoices, sales receipts, income tax depreciation schedules, and the like are the best evidence. Where these are unavailable, affidavits from sellers, crew members, claimants, or other persons will be considered. Unwritten lease rights may be proven by an affidavit from the lessor.

Reasonable labor charges for net makers may be included, unless this is a normal duty for which crew members are compensated by their regular share of vessel income.

All comments can be accommodated by the section as presently written and no change in these final rules is warranted.

Section 296.7(e)(27) deals with acceptable means of fixing the position of obstructions causing loss or damage. The section specifically states that radar bearings are not an acceptable means to locate an obstruction.

Comment: One commenter stated radar bearings are accurate and should be an acceptable means of fixing the position of an obstruction;

A commenter suggested several technical errors be corrected.

Response: The most accurate method generally available for fixing positions is Loran C time delay readings, and § 296.7(e)(27) lists Loran C as the most preferable method. Other methods, in descending order of preference, are noted. Some of these other methods allow radar distance readings when used in conjunction with compass bearings to visually obaerved fixed objects. Radar bearings by themselves are, however, inadequate for fixing the position of obstructions since the radar equipment generally used aboard fishing vessels is not sophisticated enough to allow accurate position fixing by the use of radar bearings alone. The final regulations allow use of radar bearings alone only if no better method of position-fixing is available.

Certain technical errors have been corrected by appropriate changes in these final rules.

G. Section 296.8. NMFS processing of claims.

Public Notice of Claims.—Actions by the Chief, FSD

Section 296.8(d) of the proposed regulations specified when the Government will assign a hearing examiner to a Fund claim.

Comment: One commenter suggested the Government should determine that a Fund claim is valid with respect to the purposes of the Title IV statute before assigning an administrative law judge (ALJ). Another commenter suggested the establishment of a 5-day maximum period during which the Government must determine if a claim is complete and timely filed, assign an ALJ, and issue a notice.

Response: NOAA believes that the statute requires that the ALJ determine whether a Fund claim is eligible. The final rules provide that the ALJ makes the final decisions on eligibility. The final regulations (see §§ 296.8 (b) and (d)(1)) include a procedure for expedited review by the ALJ of claims which the Chief, FSD, and the NOAA General Counsel believe are incomplete, untimely filed, or clearly ineligible for compensation.

NOAA believes the suggested 5-day maximum limitation of the time in which these actions must be accomplished is neither practical nor necessary. No change in these final rules has been made to reflect this suggestion.

Action by the Secretary of the Interior

Section 296.8(d)(2) of the proposed regulations (§ 296.8(a)(2) in the final regulations) required the Secretary of the Interior to send a notice of each claim to all persons known to have engaged in Outer Continental Shelf oil and gas activities in the vicinity of the casualty.

Comments: The following comments were received in this section: The word "vicinity" is too vague and should be more specifically defined; and

All persons who contributed to an area account should receive notice of a claim relating to a casualty in that area account. Such persons would not, otherwise, have an opportunity to investigate casualties or object to claims for them. Lack of notice might constitute an unlawful taking and be a violation of due process.

Response: These final rules have been changed so that "vicinity" is defined as all lease blocks either wholly or partially within a 3-mile radius of the casualty. Wider notice may, however, be made if, in the judgment of the Interior Department, the casualty or the nature of OCS oil and gas operations where the casualty occurred reasonably require wider notification. NOAA does not believe it is necessary or appropriate routinely to require giving actual notice to all persons who contribute to an area account. Since notice of all claims will be published in the Federal Register with an opportunity for interested persons to submit evidence and request to participate in any hearing on the claim, due process of law will be adequately addressed.

Responses to Notice of Claims

Section 296.8(d)(3) of the proposed regulations (§ 296.8(a)(3) of the final regulations) required persons intending to submit evidence at a hearing to first notify the ALJ and the Chief, MNFS Financial Services Division, within thirty days after a notice of a claim is published in the Federal Register. This section limits the persons who may submit evidence at a hearing to those persons engaged in activities associated with Outer Continental Shelf oil and gas activities in the vicinity of a claimant's casualty.

Comment: The following comments were submitted on this section:

The thirty-day rule should be waived if a person can show why he did not have knowledge that he would be an interested party to the claim; and

Anyone who contributes to the Fund should have standing to submit evidence at any hearing.

Response: These final rules have been changed to enable the Chief, FSD or the ALJ, at their discretion and for good cause shown, to waive the thirty-day rule and allow an "interested person" to submit evidence which might have a significant bearing upon the claim.

"Interested person" is defined in these final regulations to mean a person (including a lessee or permittee or such person's contractor or subcontractor) known to have engaged in activities associated with OCS oil and gas exploration, development or production in the vicinity where the claimant's damage or loss occurred. This definition is derived from 43 U.S.C. section 1845(c), which provides that certain persons may submit evidence at any hearing concerning a claim.

The final rules allow any pesons to send evidence to the Chief, FSD, for use in preparing a proposed settlement or other agency recommendation. The ALJ's powers will allow the ALJ to let any person present evidence as a witness, since the ALJ will able to submit evidence.

Recommended settlement.

Agency recommendation.

Objection to Recommended Settlement

Sections 296.8(e), (f) and (g) of the proposed regulations would allow the Government to file with the ALJ appointed to decide a claim either (1) a recommended settlement, if the Government and the claimant can agree that the claim can be settled without an evidentiary hearing before the ALJ, or (2) an agency recommendation, if such a settlement cannot be agreed upon. Any person disagreeing with a recommended settlement could request a hearing under 5 U.S.C. section 554.

Comment: The following comments were received on these sections:

Limit recommended settlements to claims for $5,000 or less and dispense altogether with agency recommendations; and

If a person forces a recommended settlement to an evidentiary hearing and the ALJ subsequently adopts the recommended settlement, such person should pay the cost of the hearing.

Response: Where (1) a claim appears eligible and reasonable and (2) the claimant and the Government can agree on a recommended settlement amount, the cost savings to the Fund of avoiding an evidentiary hearing will be considerable. NOAA does not believe a dollar ceiling on the amount of a recommended settlement is necessary or appropriate.

Although the Government may not always file an agency recommendation where the claimant and the Government cannot agree on a recommended settlement, the Government will do so when, in its judgment, the claim may in any respect be unreasonable or ineligible. NOAA believes that the Government, with the Fund's interest in mind, has a duty to advise the ALJ in such instances.

Whether or not a request for an oral hearing on a recommended settlement is granted depends, generally, upon the ALJ's judgment whether the hearing would aid in fairly adjudicating the claim. If, in the ALJ's judgement, a hearing would be an aid, the person making the request should not be held liable for the cost of the hearing. Under the final regulations, any interested person objecting to a proposed settlement may request the ALJ to conduct an oral hearing concerning the claim. Such requests are filed with the NOAA General Counsel, who sends them to the ALJ along with the claim.

No change in these final rules has been made in response to these comments. (See §§ 296.8 (b), (c), (d), (e), and (f) of these final regulations).

H. Section 296.9. Burden of Proof and Presumptions

Presumption

Section 296.9(b) deals with the factors required for a presumption of claim validity. A claim is presumed to be caused by OCS oil and gas activities if the claimant establishes that: (1) The commercial fishing vessel was being used for fishing in an area affected by Outer Continental Shelf oil and gas activities, (2) the location of the obstruction and the nature of the casualty was reported within five days of its occurrence, (3) the obstruction was not marked on nautical charts or published in a Notice to Mariners, and (4) there was no surface marker or lighted buoy. If the criteria are fulfilled, a claimant need not establish the nature of the obstruction.

Comments: Comments submitted on this section included the following:

The section should be changed to require a claimant to establish that an obstruction was (1) man-made and (2) resulted from oil and gas activities. The section, as proposed, is a severe extension beyond statutory authority.

Each presumably valid claim should be subjected to on-site investigation by the Government. If at least five survey passes with magnetometer and side-scan sonar revealed no obstruction, the presumption of validity should be rebutted;

The presumption of causation should be overcome by subsequent evidence, including that required to be submitted in claims;

Only obstructions appearing in the Notice to Mariners current on the date of the casualty should operate to deny the presumption;

Pipelines should be specifically excluded as charted or noted obstructions which can operate to deny the presumption; and

One commenter stated the Notice to Mariners issued by the Defense Mapping Agency is not a proper means of notifying fishermen of obstructions, since Defense Mapping Agency publications are neither intended for fishermen nor read by them.

Response: In these final rules, the presumption is called a presumption of "causation," not of "validity." The presumption of causation is provided for in the Fund's authorizing legislation. Although the presumption may sometimes result in the payment of claims that might not in fact be eligible, its absence would sometimes result in the nonpayment of claims that in fact are eligible. Since fishing gear is often damaged by underwater obstructions which can neither be retrieved nor identified by fishermen, nor located and identified by the Government, Congress decided to presume that such obstructions were related to oil and gas activities when they occurred in areas affected by oil and gas activities. The basic presumption has, consequently, been retained in these final rules.

Two other changes in these final rules, should, however, result in a more reasonable restriction of the presumption's availability. First, the term "area affected by Outer Continental Shelf oil and gas exploration, development, or production activities" has been more specifically defined so as to limit availability of the presumption to specific geographic areas where it is reasonably likely that obstructions resulted from OCS oil and gas activities. Second, § 296.9(c) has been added, to deny the presumption for any casualty occurring within a one-quarter mile radius of any obstruction which had been marked on National Ocean Survey nautical charts, listed in Notices to Mariners, or marked by a buoy or other surface marker.

NOAA believes fishermen should avoid all obstructions which have been

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properly marked on current nautical charts, noted in current or past Notices to Mariners or marked by a buoy. Fishermen who encounter an obstruction within one-quarter mile of such known obstructions may regain the presumption of causation by showing that the obstruction involved in the casualty is different than the previously known obstruction. Note also that failure to qualify for the presumption of causation does not bar a claim, but the fisherman would have to prove that the obstruction causing the damage was OCS oil or gas related.

Greater certainty about the identity of an object could be obtained if, as the comments suggested, the Government made investigations at the site of each casualty. The Government does not presently have the means of doing so, but nothing prevents other persons from doing so and submitting the results as evidence in the disposition of a claim.

NOAA believes that the presumption of causation is available only if the preponderance of the evidence favors the presumption. We do not think it necessary to specify in the final rules that contrary evidence may rebut the presumption.

Pipelines are expected to be installed in such a way as not to pose a hazard to commercial fishing. The ownership of pipelines is generally known and the owners are generally "financially responsible parties." This will make most casualties caused by pipelines ineligible for Fund compensation under the provisions of the Fund's authorizing legislation which excludes Fund compensation for casualties caused by obstructions attributable to "financially responsible parties." In addition, the new restriction on the geographic availability of the presumption of causation will operate to reduce claims due to pipelines or obstructions near them which are charted, on Notices to Mariners, or marked by a buoy.

There are two types of Notices to Mariners: Local notices issued by the U.S. Coast Guard for each Coast Guard District; and a weekly notice issued by the Defense Mapping Agency, Hydrographic/Topographic Center, for the entire offshore State waters and Outer Continental Shelf surrounding the United States. Both notices primarily give notice of hazards to surface navigation and neither are designed to give notice of bottom hazards to commercial fishing. The notice issued by the Defense Mapping Agency was selected as the primary vehicle for the statutory notification of obstructions posing bottom hazards to commerical fishing because it covers the entire range of marine State waters and the Outer Continental Shelf surrounding the United States. The local notices issued by the U.S. Coast Guard, on the other hand, cover only the Coast Guard District where the notice is issued and relate primarily to coastal and near-shore areas. Since fishermen often fish in more than one Coast Guard District, they would have to read more than one Coast Guard notice to be informed about obstructions in the total area in which they might fish. Since fishermen often fish both within and outside the ocean area covered by the Coast Guard notices, they would have to read both the Coast Guard notices and the Defense Mapping Agency notices to be informed about obstructions in the total ocean area in which they fish. Exclusive usage of the Defense Mapping Agency notice would remove these problems since all fishermen in all areas would need to read only one weekly notice to be informed about all obstructions in all areas. This would also be a more efficient use of Government resources since the extra distribution of notices occasioned by the Fund would be confined to one weekly notice. Accordingly, these final rules have been changed to make the weekly Notice to Mariners issued by the Defense Mapping Agency the exclusive standard for determining whether official notification of Outer Continental Shelf obstructions has been given in a Notice to Mariners. NMFS will be reporting the location of claimed obstructions to the National Ocean Survey, which sends the information to the Defense Mapping Agency for inclusion in the Notice to Mariners.

I. Section 296.10. Hearings. [Reserved]

NOAA is temporarily reserving publication of final regulations governing the process for adjudicating claims. We expect that the final regulations will encourage resolution of claims without costly and time-consuming oral hearings. We believe the ALJ should have adequate powers to expedite the proceedings, for example by requiring all evidence to be submitted in written or documentary form. We also believe the ALJ should have some control over the degree of participation allowed for affected, or potentially affected, members of the OCS oil and gas industry and other persons. Reserving this section should not hinder the process of funding the area accounts or the processing of claims by NMFS to prepare them for referral to the ALJ. We expect that issuance of § 296.10 at a future date will result in few, if any, changes to the other regulations in this Part 296.

Section 296.11 Payment of Costs

This section describes circumstances under which either claimants or oil and gas entities denying responsibility for claimants' damages may be required to pay hearing costs.

Comment: The following comments were submitted concerning this section:

The Fund's authorizing legislation does not authorize an ALJ to find any person liable for the casualty, thus liable for payment of hearing costs;

The ALJ has no jurisdiction over oil and gas entities and, therefore, may not assess hearing costs against oil and gas entities until a court of law has found such entities responsible; and

If both claimants and oil and gas entities denying responsibility are found to have joint responsibility for the damage or loss incurred, then hearing costs should be apportioned between them.

Response:

NOAA believes that the Title IV statute authorizes the ALJ to make the finding of responsibility.

The final rules have been changed to provide that when both claimants and oil and gas entities denying responsibility are found to have joint responsibility for the damage or loss incurred, hearing costs will be apportioned equitably between them.

K. Section 296.14. *Subrogation.*

This section requires claimants to sign subrogation agreements before receiving compensation from the Fund and subsequently to assist the Government in any reasonable way to pursue the subrogated rights.

Comment:

One commenter stated the word "reasonable" should be specifically defined so as to guard against claimants' spending undue amounts of time or money.

Response:

The variety of possibilities precludes specifically defining the word "reasonable", but every attempt possible will be made to minimize claimants' time and expense in assisting the Government to pursue subrogated rights.

L. *General.*

Several general comments were received in response to the proposed rulemaking. These comments and the NMFS responses follow.

Comment:

One commenter suggested including a provision for a Government advocate to represent the Fund.

Response:

We believe the statutory provision for adjudication by the ALJ indicates Congressional intent to provide an impartial forum for the weighing of all available evidence. The Government will, however, analyze claims and, where appropriate, forward either a proposed settlement or agency recommendation to the ALJ. These final regulations provide for review of NMFS recommendations on claims by the NOAA Office of General Counsel, to assure that proposed settlements or other agency recommendations forwarded to the ALJ fairly consider the interests of the Fund. Generally, the Office of the General Counsel, rather than the Chief, Financial Services Division, will be responsible for the Government's handling of the claim from the time it is ready to be submitted to an ALJ until the time an ALJ issues a decision.

Comment:

One commenter stated that lack of diligence in locating the obstruction involved in a casualty, and marking it by buoy if possible, should have a bearing on the claim's outcome and could reflect negligence.

Response:

The Fund's authorizing legislation established no duty for claimants to mark obstructions by the placement of buoys. To do so would often be impractical because it would require all fishermen to sail with an assortment of buoys and anchoring components sufficient to provide for buoy placement under different ocean conditions. All fishermen will be expected to accurately fix the position of obstructions causing them damage. No change in these final rules is warranted.

II. *Other Changes.*

NOAA has made numerous other changes in various sections of the final rules. These changes and the reasons for them are listed below.

A. Throughout the regulations, the term "hearing examiner" has been changed to "administrative law judge" or "ALJ", to reflect current usage in 5 U.S.C. section 3105.

B. Paragraph (e)(7) of § 296.7 has been changed in these final rules to require claims to be more specific about the nature of the fishing operation being conducted at the time of the casualty.

C. Proposed § 296.8(d)(1)(iii)(C) has been deleted from these final rules. This paragraph would have required the name and address of the hearing examiner to have been included in the Federal Register notice of claim published by the Chief, Financial Services Division, National Marine Fisheries Service. This deletion has been made because the name and address of the hearing examiner may be unknown at the time this notice is required to be published (see § 296.8(a)(1)(iii)). Requests to submit evidence at a hearing will be made to the Chief, FSD, who will include the request in the case file for action by the ALJ.

D. Proposed § 296.8(d)(3)(iv) has been modified in these final rules (see § 296.8(a)(3)(iv)). An admission of responsibility for the casualty removes it from the possibility of Fund compensation, regardless of whether or not the claimant and the person admitting responsibility are able to settle the matter. However, if such a person later denies responsibility, the casualty should again become eligible for Fund compensation.

Note.—The Assistant Administrator for Fisheries made an initial determination that these regulations are not significant under Executive Order 12044. The Assistant Administrator has also determined that these regulations do not require the preparation of an environmental impact statement under the National Environmental Policy Act.

The Assistant Administrator for Fisheries, NOAA, finds that there is good cause to make certain sections of these regulations effective immediately, in order to formalize procedures for receiving claims, and to allow processing of claims that already have been received. Sections effective on January 24, 1980, are §§ 296.1 through 296.3, §§ 296.5 through 296.9, and § 296.15. Section 296.4 and §§ 296.11 through 296.14 will become effective February 25, 1980. Any lease, exploration permit, easement or right-of-way in effect on January 24, 1980, shall be assessed under § 296.4(a) and (c)(1). Section 296.10 is reserved.

January 21, 1980.

Winfred H. Meibohm,

Executive Director, NMFS.

(92 Stat. 629, Pub. L. 95-372, (43 U.S.C. 1841 *et seq.*))

Accordingly, 50 CFR Part 296 is promulgated, as follows:

PART 296—FISHERMEN'S CONTINGENCY FUND

Sec.
296.1 Purpose.
296.2 Definitions.
296.3 Fishermen's Contingency Fund.
296.4 Payments into the Fund.
296.5 Claims Eligible for Compensation.
296.6 Amounts of Awards.
296.7 Instructions for Filing Claims.
296.8 NMFS Processing of Claims.
296.9 Burden of Proof and Presumption of Causation.
296.10 Hearings. [Reserved]
296.11 Payment of Costs.
296.12 Appeals.
296.13 Payment of Award for Claim.
296.14 Subrogation.
296.15 Computation of Time.

Authority: Pub. L. 95-372, 92 Stat. 629 (43 U.S.C. 1841 *et seq.*)

§ 296.1 Purpose.

These regulations implement Title IV of the Outer Continental Shelf Lands Act Amendments of 1978 ("Title IV"). Title IV establishes a Fishermen's Contingency Fund to compensate commercial fishermen for eligible claims for actual and consequential damages, including loss of profits, due to damage to, or loss of, fishing gear by materials, equipment, tools, containers, or other items associated with oil and gas exploration, development, or production activities on the Outer Continental Shelf.

§ 296.2 Definitions.

Unless the context otherwise requires, the terms used in this Part have the following meanings:

"ALJ" means an administrative law judge or hearing examiner appointed under 5 U.S.C. section 3105.

"Area account" means an account, within the Fishermen's Contingency Fund, for a specific area of the Outer Continental Shelf, as described in § 296.3.

"Area affected by OCS oil and gas exploration, development, or production activities" means any geographic area which is:

(1) Under oil or gas lease on the OCS;

(2) Within one-half geographical mile of an oil or gas lease, pipeline, easement, or right-of-way which is on the OCS; or

(3) Otherwise associated with OCS oil and gas activities (such as expired lease areas, relinquished rights-of-way and easements, and areas used extensively by surface vessels supporting OCS oil and gas activities).

Determinations about areas which are "otherwise associated with OCS oil and gas activities" under paragraph (3) of this definition will be made on a case-by-case basis by the Chief, FSD, based upon information supplied by the Secretary of the Interior; such determinations are subject to review by the ALJ when the ALJ adjudicates the claim.

Areas landward of the Outer Continental Shelf are included under this definition when such areas meet the criteria of this definition.

"Chief, Financial Services Division, NMFS" or "Chief, FSD" means the Chief

of the Financial Services Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, 3300 Whitehaven St., N.W., Washington, D.C., 20235.

"Citizen of the United States" means (1) any person who is a United States citizen by law, birth, or naturalization; (2) any State, any agency of a State, or a group of States; (3) any partnership or association organized under the laws of any State; or (4) any corporation organized under the laws of any State which has as its president or other chief executive officer and as its chairman of the board of directors, or holder of a similar office, a person who is a United States citizen by law, birth, or naturalization, and which has at least seventy-five percent (75%) of the interest in the corporation owned by citizens of the United States. Seventy-five percent (75%) of the interest in the corporation shall not be deemed to be owned by citizens of the United States if:

(a) The title of seventy-five percent (75%) of its stock is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; .

(b) Seventy-five percent (75%) of the voting power in such corporation is not vested in citizens of the United States;

(c) Through any contract or understanding it is so arranged that more than twenty-five percent (25%) of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or

(d) By any other means whatsoever, control of any interest in the corporation in excess of twenty-five percent (25%) is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.

"Claimant" means a commercial fisherman who files a claim under this Part.

"Commercial fisherman" means any citizen of the United States who owns, operates, or derives income from being employed on a commercial fishing vessel.

"Commercial fishing vessel" means any vessel, boat, ship, or other craft which is (1) documented under the laws of the United States or, if under five net tons, registered under the laws of any State, and (2) used for, equipped to be used for, or of a type which is normally used for commercial purposes for the catching, taking, or harvesting of fish or the aiding or assisting at sea of any activity related to the catching, taking, or harvesting of fish, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

"Easement" means a right of use of easement granted under 30 CFR 250.18.

"Exploration permit" means the "permit" defined in 30 CFR Part 251.

"Financially responsible party" means a financially solvent person who is responsible for damage to or loss of a commercial fishing vessel or fishing gear by materials, equipment, tools, containers or other items associated with OCS oil and gas exploration, development, or production activities.

"Fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals, birds, and highly migratory species.

"Fishing gear" means (1) any commercial fishing vessel, and (2) any equipment of such vessel, whether or not such equipment is attached to the vessel.

"Fund" means the Fishermen's Contingency Fund established under 43 U.S.C section 1842.

"General Counsel" means the General Counsel, National Oceanic and Atmospheric Administration, or a designee.

"Holder" means the record owner of each lease, exploration permit, easement, or right-of-way or any agent or assignee of such record owner.

"Interested person" means a person (including a lessee or permittee or such person's contractor or subcontractor) known to have engaged in activities associated with OCS oil and gas exploration, development or production in the vicinity where the claimant's damage or loss occurred.

"Lease" means any form of authorization issued under section 8 or maintained under section 6 of the Outer Continental Shelf Lands Act and which authorizes exploration for, and development and production of, oil and gas resources.

"Natural obstruction" means any object or thing not made or caused by humans which hinders or prevents the operation of fishing gear.

"NMFS" means the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

"National Ocean Survey" means the National Ocean Survey, National Oceanic and Atmospheric Administration, Department of Commerce.

"Outer Continental Shelf" or "OCS" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in 43 U.S.C. section 1301, and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

"Outer Continental Shelf Lands Act" means 43 U.S.C. section 1331 *et seq.*, as amended.

"Person" means an individual, partnership, corporation, association, public or private organization, government, or other entity.

"Right-of-way" means a right-of-way granted under section 5(e) of the Outer Continental Shelf Lands Act (43 U.S.C. section 1334(e)) or under 43 CFR 3340.0–5.

"Secretary of the Interior" means the Secretary of the Department of the Interior or a designee.

"Title IV" means Title IV of the Outer Continental Shelf Lands Act Amendments of 1978, 92 Stat. 629, Pub. L. 95–372, 43 U.S.C. section 1841 *et seq.*

"USGS" means the United States Geological Survey, Department of the Interior.

§ 296.3 Fishermen's Contingency Fund.

(a) *General.* There is established in the Treasury of the United States a Fishermen's Contingency Fund consisting of the area accounts designated in paragraph (b) of this section.

(b) *Area accounts.* The following area accounts are established within the Fund:

(1) *North Atlantic Area Account.* This account is for the area of the OCS in the Atlantic Ocean which is bounded by the U.S.-Canadian boundary on the north, 39° N. latitude on the south, and 71° W. longitude on the west.

(2) *Mid-South Atlantic Area Account.* This account is for those areas of the OCS in the Atlantic Ocean which are:

(i) Both north of 39° N. latitude and west of 71° W. longitude;

(ii) South of 39° N. latitude and east of 80°15′ W. longitude (off the southern coast of Florida); or

(iii) Adjacent to any U.S. territory, commonwealth, or possession in the Atlantic Ocean or the Caribbean Sea to which the Outer Continental Shelf Lands Act applies.

(3) *Pacific Area Account.* This account is for the area of the OCS adjacent to Washington, Oregon, California, Hawaii, or any U.S. territory, commonwealth, or possession in the Pacific Ocean to which the Outer Continental Shelf Lands Act applies.

(4) *Alaska Area Account.* This account is for the area of the OCS adjacent to Alaska.

(5) *Freeport Area Account.* This account is for the area of the OCS in the Gulf of Mexico as described in section A of Appendix I of this part. This area is identical to the USGS Freeport District.

(6) *Lake Charles Area Account.* This account is for the area of the OCS in the Gulf of Mexico as described in section B of Appendix I of this part. This area is identical to the USGS Lake Charles District.

(7) *Lafayette Area Account.* This account is for the area of the OCS in the Gulf of Mexico as described in section C of Appendix I of this part. This area is identical to the USGS Lafayette District.

(8) *Houma Area Account.* This account is for the area of the OCS in the Gulf of Mexico as described in section D of Appendix I of this part. This area is identical to the USGS Houma District.

(9) *Metairie Area Account.* This account is for the area of the OCS in the Gulf of Mexico as described in section E of Appendix I of this Part. This area is identical to the USGS Metairie District.

(c) *Exclusion.* The geographic area for each area account described in paragraph (b) of this section does not include submerged lands recognized by the United States as being under the jurisdiction of any State under the Submerged Lands Act (43 U.S.C. section 1301 *et seq.*).

(d) *Amounts.* Each area account shall be funded initially at $100,000. Amounts in any area account may not exceed $100,000.

§ 296.4 Payments into the Fund.

(a) *Initial assessments.* Each lease issued or maintained under the Outer Continental Shelf Lands Act for any tract in any geographical area for which there is an area account, each easement or right-of-way for the construction of a pipeline in such area, and each exploration permit in such area, in effect at any time on or after January 24, 1980 shall be assessed in accordance with paragraph (c) of this section so that $100,000 will be collected in each area account.

(b) *Assessments to maintain accounts.*—(1) *When depleted.* If the total amount in any area account is less than $50,000, the Chief, FSD, may determine that the account is depleted. After making the determination, the Chief, FSD, will notify the Secretary of the Interior that an assessment is needed to maintain the area account.

(2) *Amounts.* Each lease, permit, easement, and right-of-way which is both (i) in the geographical area for which there is a depleted area account (as determined under paragraph (b)(1) of this section) and (ii) in effect on the date an assessment is effective, shall be assessed such amount as is necessary to increase the total amount in the area account to $100,000.

(c) *Calculation of amount.*—(1) *Criteria.* The amount to be paid under paragraphs (a) and (b) of this section by each holder of a lease, exploration permit, easement, and right-of-way in any geographical area for which there is an area account shall be determined as follows:

(i) Each exploration permit in effect on the date an assessment is effective is assessed $50.00.

(ii) Leases, easements, and rights-of-way are assessed equally on a per-unit basis based on the number of leases and pipeline segments in effect on the date an assessment is effective.

(iii) New permits, leases, rights-of-way, and easements, that come into existence after an assessment is made, escape assessment until the next assessment, at which time all permits, leases, rights-of-way, and easements in effect are assessed.

(iv) Pipeline rights-of-way and easements in the Gulf of Mexico are credited to the area account in which the pipeline segment originates.

(v) Pipeline easements to be assessed do not include flow or gathering lines within the confines of a single lease or group of contiguous leases under unitized operation or a single operator.

(2) *By whom calculated.* The Secretary of the Interior will calculate the amounts to be paid by each holder.

(d) *Billing.*

(1) The Chief, FSD, will inform the Secretary of the Interior each time there is to be an assessment under this section.

(2) The Secretary of the Interior will notify each appropriate holder of the assessments and in what amount and where payable. Such notification shall include an itemized statement of the assessment.

(e) *To whom, by whom and when payable.* Each assessment under this section shall be paid to the Secretary of the Interior by the holder no later than 30 days after the Secretary of the Interior sends notice of the assessment under paragraph (d)(2) of this section.

(f) *Maximum payment.* No lease, exploration permit, easement, or right-of-way shall be assessed more than a total of $5,000 in any calendar year under this section.

§ 296.5 Claims eligible for compensation.

(a) *Claimants.* To be eligible for compensation under this Part, the damage or loss must be suffered by a commerical fisherman.

(b) *Damage or loss of fishing gear.* Except as provided in paragraph (c) of this section, any actual or consequential damage (including loss of profits) due to damage to or loss of fishing gear caused by materials, equipment, tools, containers, or other items associated with oil and gas exploration, development, or production activities in a geographical area for which an area account has been established under § 296.3 is eligible for compensation under this part. Damage or loss may be eligible for compensation even if it did not occur in the waters above the OCS, if the item causing the damage or loss was associated with OCS oil and gas exploration, development, or production activities.

(c) *Exceptions.* As specified by the Title IV statute, damage or loss is not eligible for compensation under this part:

(1) If the damage or loss with respect to which the claim is filed was caused by materials, equipment, tools, containers, or other items attributable to a financially responsible party;

(2) To the extent that damages were caused by the negligence or fault of the commercial fisherman making the claim (see also § 296.6(e));

(3) If the event causing the damage or loss with respect to which the claim is filed occurred before September 18, 1978;

(4) In the case of a claim for damage to, or loss of, fishing gear, in an amount in excess of the replacement value of the fishing gear with respect to which the claim is filed;

(5) In the case of a claim for loss of profits (i) for any period in excess of 6 months, and (ii) unless such claim is supported by records with respect to the claimant's profits during the previous 12-month period (see also §§ 296.6(c)(2) and 296.7(e)(11));

(6) For any portion of the damages claimed with respect to which the claimant has or will receive compensation from insurance (see also § 296.6(f));

(7) If the claim is not filed within 60 days after the date the claimant discovers the damage or loss with respect to which the claim is filed (see also §§ 296.7(c) and 296.8(b)); and

(8) If the damage or loss was caused by a natural obstruction or an obstruction unrelated to OCS oil and gas exploration, development, or production activities.

§ 296.6 Amount of awards.

(a) *General.* The amount of the award under this part is the total of the amounts under paragraphs (b), (c) and (d) of this section, minus any reductions under paragraphs (e) and (f) of this section and minus any reduction under § 296.11 (if applicable).

(b) *Fishing gear.* If the fishing gear with respect to which the claim is filed can be repaired to a condition substantially similar to its condition.

immediately before the damage was suffered, at a cost less than its replacement cost minus its salvage value, then the amount of compensation is its repair cost. In all other cases (including loss of the fishing gear), the amount of compensation is the lost or damaged gear's replacement cost minus its salvage value. For the purposes of this § 296.6, the term "replacement cost" means the cost of supplying new fishing gear of the same or substantially similar size, type, and materials, without reference to the age or condition of the gear damaged or lost.

(c) *Consequential damage.*—(1) *Expenses.* The amount of an award under this Part will include compensation for any reasonable expenses actually incurred by the claimant to ascertain the cause and extent of the damage or loss caused to fishing gear and to obtain a decision in the claimant's favor. The ALJ will determine what expenses are reasonable and their amounts.

(2) *Loss of profits.* (i) The amount of an award under this Part will include compensation for any loss of profits due to damage to, or loss of, fishing gear with respect to which the claim is filed.

(ii) A claim for loss of profits due to loss of time spent in disengaging fishing gear from any item described in § 296.5(b) may be eligible for compensation under this part even if the fishing gear involved was not damaged or lost. Compensation for this type of lost profits ordinarily will not exceed what would have been the replacement cost, less salvage value, of the fishing gear disengaged, unless the claimant can show that his efforts to disengage the gear were of reasonable duration and that abandonment of the gear would have resulted in a greater economic loss.

(iii) No award may be made under this Part for loss of profits for any period in excess of 6 months from the date when the damage or loss of the fishing gear was discovered.

(iv) A claim for loss of profits must be supported by records with respect to the claimant's profits during the 12-month period immediately preceding the date of the discovery of the damage to or loss of the fishing gear (if the claimant was not a commercial fisherman for all of the 12-month period or if the fishery involved is a new one, estimates of profit may be based on NMFS statistics or other reliable evidence);

(v) In determining the amount awarded under this paragraph (c)(2), the ALJ may consider any evidence concerning:

(A) Profits from the corresponding quarter of the previous year;

(B) Profits from trips immediately before and after the loss or damage which is the subject of the claim;

(C) Such other evidence as the claimant may submit; and

(D) Such other evidence as the hearing examiner may deem appropriate.

(vi) The measure of compensation for loss of profit ordinarily is the net profit lost. If the ALJ determines that a different measure of compensation for loss of profit is appropriate because the facts of the claim are sufficiently extraordinary, and states the reasons for the determination, the ALJ may apply the measure of compensation which the ALJ deems to be most appropriate.

(vii) In making either an agency recommendation or a proposed settlement under § 296.8(c), the Chief, FSD, will use an administrative standard to determine lost profit. The administrative standard will be based on the latest Federal income tax return which best establishes the annual income and expenses of the vessel involved in the loss or damage (or in the discretion of the Chief, FSD, a similar vessel). The annual net profit in such a return will be used to compute the vessel owner or operator's loss of net profit for a reasonable period during which vessel operation was precluded by the damage or loss with respect to which the claim is filed. With respect to claims filed by crew members, the annual income and expense data in such a return will be used to compute the crew member's share according to the contractual share to which each crew member was entitled. The Chief, FSD, ordinarily will not attempt to settle a claim for loss of profits if the Federal income tax return pertaining to the vessel involved (or a similar vessel) is not made available. In such cases, the compensation for lost profits will be determined by the ALJ.

(3) *Other.* An award under this part may include compensation for any other consequential damage resulting from the damage or loss of fishing gear, but may not include compensation for personal injury resulting from damaged fishing gear.

(d) *Attorneys' fees.* An award under this part will include compensation for reasonable attorneys' fees incurred by the claimant in obtaining a decision in the claimant's favor. Claimants will not be compensated for attorneys' fees if the claim is denied.

(e) *Negligence of claimant.* (1) The amount of an award under this part is reduced to the extent that the ALJ finds that the loss or damage (including consequential damages) was caused by the negligence or fault of the claimant. (For example, a claimant who sustained $10,000 in damages and whose negligence or fault was found to be responsible for 40% of the damage would receive $6,000 in compensation. If the same claimant were responsible for 99% of the negligence or fault that caused the damage, the claimant would receive $100 in compensation).

(2) Negligence or fault of the claimant includes, but is not limited to, failure to:

(i) Remain outside of any navigation safety zone established around oil and gas rigs and platforms by any responsible Federal agency;

(ii) Avoid obstructions recorded on nautical charts or in the Notice to Mariners, or marked by a buoy or other surface marker (casualties occurring within a one-quarter mile radius of obstructions so recorded or marked are presumed to involve negligence or fault of the claimant);

(iii) Abide by established rules of the road;

(iv) Use proper care; or

(v) Attempt to mitigate, or to use due care and diligence mitigating the damage to, or loss of, the fishing gear and any resulting economic loss.

(3) With respect to the actions described in paragraph (e)(2) of this section, negligence of the owner or operator of the commercial fishing vessel involved in a claim shall bar or reduce an award to the vessel's crew members with a claim arising from the same damage or loss to the same extent that it bars or reduces an award to such owner or operator.

(f) *Insurance proceeds.* (1) The amount of any award under this part will be reduced by the amount of any compensation the claimant received, or will receive, from insurance for the damage or loss with respect to which the claim against the Fund is filed.

(2) If the claimant has insurance which covers the damage, or any portion of it, the claimant must seek compensation from the insurance. No award will be made from the Fund for damage which is covered by the claimant's insurance.

§ 296.7 Instructions for filing claims.

Five-Day Report

(a) *Five-day report required to gain presumption of causation.*—(1) *General.* Under § 296.9(b) damages or losses are presumed to be caused by items associated with OCS oil and gas exploration, development, or production activities if certain requirements are satisfied. One requirement is that a report on the location of the obstruction which caused the damage or loss, the nature of the damage or loss, and certain other information specified in paragraph (a)(4) of this section, *must be made to the NMFS within five (5) days after the date when the damage or loss is discovered.* If more than one commercial fisherman suffers loss from the same incident, the owner or operator of the commercial fishing vessel involved may file a five-day report on behalf of the entire crew, owner, and operator of the vessel. Note that filing of a five-day report must be followed up by filing of a detailed claim under paragraphs (b), (c), (d), and (e) of this section.

(2) *When and how to file a five-day report.* To qualify for the presumption of causation, a five-day report must be made to the nearest NMFS Regional Office within 5 days after the date the claimant discovered the loss or damage. Satisfaction of the five-day requirement is determined by the date of postmark, if the report is mailed; by the date of receipt of a call, if the report is telephoned or radio-telephoned; or, by the date of appearance, if the report is made in person at the nearest NMFS Regional Office. NMFS addresses and telephone numbers to use for making a five-day report are listed below:

Chief, Financial Services Branch, Northeast Region, National Marine Fisheries Service, Post Office Building, Box 1109, Gloucester, Massachusetts 01930 (617) 281–3600

Chief, Fisheries Development Analysis Branch, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, Duval Building, St. Petersburg, Florida 33702 (813) 893–3271

Chief, Fisheries Development Division, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731 (213) 548–2575

Chief, Financial Services Branch, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109 (206) 442–5532

Chief, Fisheries Development, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802 (907) 586–7224

(3) *Written confirmation of oral five-day report.* The Chief, FSD, strongly recommends that claimants confirm, in writing, as soon as possible, the substance and accuracy of each five-day report that is made by telephone, radiotelephone or other oral communication. Address the written confirmation to:

Chief, Financial Services Division, National Marine Fisheries Service, 3300 Whitehaven St., N.W., Washington, D.C. 20235.

(4) *Contents of five-day report.* Each five-day report must include the following information:

(i) The claimant's name and address;

(ii) The name and identifying number of the commercial fishing vessel involved;

(iii) The location of the obstruction which caused the damage or loss (see paragraph (e)(27) of this section for the methods of position fixing);

(iv) A statement concerning the activities, at the time the damage or loss occurred, of the vessel involved;

(v) A description of the nature of the damage or loss;

(vi) The date such damage or loss was discovered;

(vii) A description of the obstruction, if known; and

(viii) A statement concerning whether or not a surface marker or lighted buoy was attached to or near the obstruction.

Detailed Claim Form

(b) *Form of claim.* Claims must be in writing and include the information specified in paragraphs (e)(1) through (29) of this section. When available, claim forms may be obtained from any NMFS Regional Office or from the Chief, FSD.

(c) *Who must file, and when and where to file claims. Each claimant must file a claim (even those who filed five-day reports to gain the presumption of causation).* Each claim must be filed, in writing, with the Chief, Financial Services Division, National Marine Fisheries Service, 3300 Whitehaven St. N.W., Washington, D.C. 20235, *no later then 60 days after the date the claimant discovers the damage or loss* with respect to which the claim is made. For the purpose of this paragraph (c), the term "filed" means delivered in person, or mailed (as determined by the date of postmark), to the Chief, FSD. The Chief, FSD, suggests that a claim which is mailed be sent by registered or certified mail, return receipt requested, so the claimant will have a record that the claim was received by the Chief, FSD.

(d) *Aggregating claims.* If more than one commercial fisherman suffers loss or damage arising from the same incident (for example, when several members of the crew lost income due to loss of fishing time), the claims of all such fishermen should be aggregated into one claim and the claim should be submitted on their behalf by the owner or operator of the commercial fishing vessel or vessels involved.

(e) *Contents.* Each claim shall be signed by the claimant and shall accurately and completely provide the following information:

General Identification

(1) The name, mailing address, telephone number, citizenship, and occupational status (for example, vessel owner, operator, or crew member on a vessel) of each claimant;

(2) The name, address, and telephone number of each person (for example, an attorney) retained to act on behalf of any claimant in pursuing the claim;

(3) The name of the commercial fishing vessel involved in the damage or loss for which the claim is submitted;

(4) The vessel's U.S. Coast Guard documentation number (or State registration number, if the vessel is not documented under Federal law);

(5) The home port of the vessel;

(6) The date when the claim is written;

Type and Extent of Damage or Loss

(7) A statement of: The type of fishing operation being conducted (for example, trawling for shrimp), the type and size of vessel involved, a full description of the fishing gear involved (including a list of all components);

(8) The nature and extent of the damage or loss suffered or expected;

(9) Photographs (when available) of any physical damage to fishing gear (including a commercial fishing vessel);

(10) The amount, if any, claimed for physical damage to, or loss of, fishing gear. If an amount is claimed, the claim shall include:

(i) Proof that the claimant owns the fishing gear damaged or lost (submit copies of the best evidence of ownership available, for example, sales receipts, affidavits, or other evidence);

(ii) A list of all components of fishing gear damaged or lost, together with the size, type, grade, material of construction, age, and the estimated remaining useful economic life of each component damaged or lost;

(iii) The date, place, and cost of acquisition of all fishing gear damaged or lost;

(iv) Estimates, from two different commercial fishing gear repair or supply companies, of the present replacement cost of the fishing gear and the repair cost of the fishing gear (if it is repairable). If fishing gear of the type lost or damaged is usually made or repaired by the claimant, a detailed estimate prepared by the claimant identifying the repair or replacement cost of the fishing gear may be included in place of one of the estimates from commercial fishing gear repair or supply companies;

(v) If the fishing gear is repaired or replaced before an award is made under this part, a copy of the invoice or receipt for the repair or replacement of the fishing gear; and

(vi) The estimated salvage value of the fishing gear, if it is not repairable;

(11) The amount, if any, claimed for loss of profits. If an amount is claimed,

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the claim shall include copies of all records, including catch logs and landing receipts documenting the claimant's profits during the 12-month period immediately preceding the date when the damage or loss of the fishing gear was discovered. The claimant shall also include the latest Federal income tax return or other suitable evidence for the operational income of the vessel involved in the loss or damage for which the claim is submitted (or, in the discretion of the Chief, FSD, a similar vessel). [One use of the Federal tax return is described in § 296.6(c)(2)(vii).] If the claim involves a claim for a crew member's lost share of profits, include a full statement of the contractual arrangements governing determination of the shares of vessel income to which each crew member is entitled (including a copy of the contract if in writing). The claimant shall describe fully the basis upon which the amount claimed is calculated. The claimant should include whatever additional data might support, or be pertinent to, the amount claimed (for example, the duration of an average fishing trip, and the duration of the average time in port between fishing trips). Each claim shall contain a full statement of why the length of time claimed for loss of profits is justified and what action, if any, the claimant took to mitigate the amount of lost fishing time;

(12) The amount, if any, claimed for consequential damages under § 296.6(c)(1) and (3), together with a full description of what each amount claimed represents;

(13) Copies of all insurance policies covering the vessel (unless the loss or damage is to the vessel's fishing gear rather than the vessel itself) and a statement whether a claim has been, or will be, made against any insurance policy which may cover the damage or loss with respect to which the claim against the Fund is filed;

(14) The name and mailing address of each person, if any, to whom the claimant has given oral or written notice that such person caused, or may have caused, the damage or loss; together with a copy of any written notice given each person and a statement whether each such person has paid, or will pay, the claimant for any portion of the damage or loss;

Circumstances of the Damage or Loss

(15) The date and time of day, if known, when the damage or loss occurred;

(16) The date when the damage was first discovered by the claimant;

(17) The depth of the water, if known, at the time and site where the damage or loss occurred;

(18) The visibility at the time and site the damage or loss occurred;

(19) The depth at which the fishing gear was being operated when the damage or loss occurred;

(20) The direction, speed, and activities of the claimant's fishing vessel immediately before, during, and after the damage or loss occurred (including a full description of both the deployment of any fishing gear which is the subject of the claim and all attempts at the retrieval of the gear);

(21) The amount and type of vessel traffic in the general vicinity at the time the damage or loss occurred;

(22) A full description (including any identification markings) of the item or obstruction which caused the damage or loss, if known. If the item or obstruction was physically recovered, it should be retained. If photographs of the item or obstruction are available, they shall be submitted with the claim;

(23) A description of any lighted buoy or surface marker attached to or anchored by the item or obstruction;

(24) A full statement of the claimant's reason or believing that the obstruction which caused the damage or loss is associated with oil and gas exploration, development, or production on the Federal OCS rather than with similar oil and gas activities within State waters, other ocean users, or natural causes;

(25) The names and addresses of all known witnesses to the incident which caused the damage or loss (statements from the witnesses should be submitted);

(26) If applicable, a statement concerning when and how the claimant notified NMFS within 5 days of the damage or loss as provided in § 296.7(a);

(27) The position of the commercial fishing vessel when the damage or loss occurred and the position of the obstruction causing the damage or loss (if the obstruction was dragged, give positions for both before and after it was dragged, if known), to be specified by using one or more of the following methods of position fixing. Claimants should use the most reliable method available aboard the vessel at the time of discovery of the damage or loss, such as: [1]

(i) Loran-C readings. Provide time delay readings from at least two Loran-C pairs (e.g., 7980–W and 7980–Y). Readings from additional pairs should be provided if available from the particular Loran-C receiver installed. If a coordinate converter is being used, the latitude and longitude readings may be furnished, but the actual Loran-C time delay readings are more useful because they are generally more accurate.

(ii) Distance (range) and direction (bearing) to fixed offshore objects such as lighthouses, light towers, and oil drilling or production platforms. Specify the name of each such object used (for example, Ambrose Light Tower, Shell Oil Platform No. 4281, etc.).

(iii) Distance (range) and direction (bearing) to fixed aids to navigation and landmarks which are identified on National Ocean Survey charts, such as radio towers, jetty lights, etc.

(iv) Distance (range) and direction (bearing) to prominent landmarks which are not identified on National Ocean Survey charts, but are readily identifiable for future reference.

(v) Loran-A readings. Provide time delay readings from at least two Loran-A rates. Readings from additional rates should be provided if available. Identify any skywave time delay readings as such.

(vi) Direction (bearing) to radiobeacons using a radio direction finder. Give each station's identifying call letters. Provide a copy of the radio direction finder deviation table if prepared for the fishing vessel.

(vii) Distance [range) and direction (bearing) to floating navigational aids, such as buoys. Identify any buoy by name, number, color, type and Light List number, if known.

(viii) Alternate navigation methods may be used if they are available. These include Raydist, Decca, and similar electronic navigation systems that may be in use. A celestial fix or line-of-position may be used if no other navigation method is available. In this case all calculations shall be included.

[1] The methods are listed in descending order of accuracy. Fixes obtained by combining lines-of-position from two systems are acceptable if no single system will provide an accurate, unambiguous fix. An example is a Loren-C line-of-position and a radar range.

The use of dead reckoning, or running fixes, or both, to determine the vessel's position at the time of the damage or loss is acceptable only if no more accurate method were available. In this case, the claim shall include information sufficient to allow recalculation of the vessel position.

Bearings to shore and/or offshore objects shall be visually observed and provided in degrees. Radar bearings generally are not considered to be acceptable unless other methods are not available. If bearings are taken using a magnetic compass, they shall be converted to true by applying deviation and variation. The conversion calculation, including all figures used, must accompany the claim.

Brand name and model of all electronic and navigation equipment used in determining the geographic position of the incident should be included.

(28) A list of all crew members aboard the vessel at the time the loss or damage occurred; and

(29) Any other information which the claimant believes is relevant to the claim.

(f) *Other evidence.* The Chief, FSD, or the ALJ may require the submission of additional information, affidavits, estimates, or other evidence.

(g) *Amendment of claims.* A claimant may amend the claim at any time before the claim is referred to the ALJ.

(h) *Criminal penalty for fraudulent claim.* Any person who files a fraudulent claim is subject to criminal prosecution under 18 U.S.C. sections 287 and 1001, each of which, upon conviction, imposes a penalty of not more than a $10,000 fine and 5 years' imprisonment, or both.

§ 296.8 NMFS Processing of Claims.

(a) *Public Notice of Claims.*—(1) *Action by the Chief, FSD.* Upon receipt of a claim, the Chief, FSD, will promptly:

(i) Request an ALJ to be assigned;

(ii) Transmit an abstract of the claim to the Secretary of the Interior;

(iii) Transmit the reported location of any obstruction to the National Ocean Survey, which will inform the Defense Mapping Agency Hydrographic/Topographic Center; and

(iv) Publish notice of the claim in the Federal Register. Each Federal Register notice published under this paragraph (a)(1) will contain:

(A) A brief statement of the nature and dollar amount of the claim, and the location where the damage or loss occurred;

(B) A statement that the Chief, FSD, may seek a proposed settlement agreement under paragraph (c) of this section; and

(C) A statement that an interested person or any other person may, within thirty (30) days following publication of the notice in the Federal Register, submit to the Chief, FSD, any evidence concerning either the claim or a proposed settlement agreement.

(2) *Action by the Secretary of the Interior.* (i) After receiving an abstract of the claim under paragraph (a)(1) of this section, the Secretary of the Interior will promptly send written notice of the claim to all persons known to have engaged in activities associated with OCS oil and gas exploration, development, or production in the vicinity where the damage or loss occurred.

(ii) Persons to be notified under paragraph (a)(2)(i) of this section shall include all persons known to have engaged in activities associated with OCS oil and gas exploration, development or production in all lease blocks either wholly or partially contained within a 3-mile radius of the reported location of the damage or loss, and such other persons as the Secretary of the Interior determines should receive notice of the damage or loss. In determining whether or not to notify such other persons, the Secretary of the Interior shall consider the nature of the damage or loss and the nature of OCS oil and gas exploration, development, or production activities (including surface supply traffic) in the vicinity of the damage or loss.

(3) *Responses to notice of claim.* (i) Any interested person may submit evidence at any hearing concerning a claim under this Part in accordance with § 296.10(d) [Reserved], or concerning any proposed settlement under paragraph (c) of this section. Any such person who intends to submit evidence at a hearing or concerning any settlement under paragraph (c) of this section must notify the Chief, FSD, in writing, describing specifically the evidence to be submitted, not later than 30 days after publication of notice of the claim in the Federal Register under paragraph (a)(1) of this section. Where evidence concerns any proposed settlement or hearing on a claim, the Chief, FSD or the ALJ, respectively, may waive the 30-day rule for good cause, such as if the interested person first requesting, after the expiration of the 30 days, to submit evidence shows that such person did not previously have knowledge that such person would have an interest in the claim and that such person has evidence which may significantly affect the outcome of the proposed settlement or any hearing on the claim, or if the evidence first became available to such person after the expiration of the 30-day period.

(ii) Each person notified by the Secretary of the Interior under paragraph (a)(2) of this section shall, within thirty (30) days after the Secretary of the Interior sends the notice, notify the Chief, FSD, and the Secretary of the Interior whether that person admits or denies responsibility for the damages claimed.

(iii) Each person who is notified by the Secretary of the Interior under paragraph (a)(2) of this section and fails to give timely and proper notice of admission or denial of responsibility under paragraph (a)(3)(ii) of this section, shall be conclusively presumed for the purposes of § 296.11 to deny responsibility for the damages claimed.

(iv) If any person admits responsibility under paragraph (a)(3)(ii) of this section or otherwise, the Chief, FSD, will so inform the claimant, and will not take any further action on the claim. If the person admitting responsibility later denies, or withdraws the admission of, responsibility, the Chief, FSD, will resume processing of the claim.

(v) Any interested person may request to be admitted as a party to any hearing concerning the claim. Such request must be filed with the Chief, FSD, in writing, not later than thirty (30) days after publication of notice of the claim in the Federal Register under paragraph (a)(1) of this section. Such request will be ruled on by the ALJ under § 296.10(c)(3)(ix) [Reserved].

(b) *NMFS review of claims.*—(1) *General.* The Chief, FSD, will promptly review each claim filed under § 296.7 and determine whether it is timely filed within the 60-day period specified in § 296.7(c), properly completed under § 296.7(e), and eligible on its face.

(2) *Timeliness of claims.* (i) The 60-day filing requirement of § 296.7(c) is satisfied by the filing of an improperly completed or incomplete claim.

(ii) If the Chief, FSD, finds that the claim was not timely filed under § 296.7(c), the Chief, FSD, will refer the matter to the General Counsel.

(3) *Completeness of claims.* (i) If the Chief, FSD, finds that the claim is not properly completed or is incomplete, the Chief, FSD, will send to the claimant a written notice stating the deficiency in the claim.

(ii) If the claimant fails to correct the deficiency within 60 days after the date the notice of the deficiency is sent to the claimant, the claim is not eligible for compensation under this part unless the Chief, FSD, for good reason extends the period for correcting deficiencies.

(iii) If the Chief, FSD, finds that the claim is ineligible under paragraph (b)(3)(ii) of this section, the Chief, FSD, will refer the matter to the General Counsel.

(4) *Factual eligibility of claims.* If the Chief, FSD, finds that a claim is not eligible on its face (for example, because the claim states facts which make it ineligible under §§ 296.5(c)(1), (3), (5)(ii), (7) or (8)), the Chief, FSD, will refer the matter to the General Counsel.

(c) *Proposed settlement or other agency recommendation.* (1) After determining that the claim is timely filed, properly completed, and eligible on its face, the Chief, FSD, may contact the claimant and negotiate a proposed settlement of the claim.

(2) If the Chief, FSD, and the claimant agree to a proposed settlement, the Chief, FSD, will forward the proposed settlement to the General Counsel for action under paragraph (d) of this section.

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(3) The Chief, FSD, will not forward any proposed settlement to the General Counsel sooner than thirty (30) days after publication of notice of the claim in the **Federal Register** under paragraph (a)(1) of this section.

(4) The Chief, FSD, may forward to the General Counsel an agency recommendation concerning the claim. The agency recommendation may be, among other things, to:

(i) Approve the claim;

(ii) Approve a proposed settlement of the claim; or

(iii) Deny the claim.

(d) *Action by General Counsel—(1) Concerning timeliness, completeness and eligibility of claims.* If the General Counsel concurs in the finding of the Chief, FSD, under paragraphs (b)(2), (3), or (4) of this section, the General Counsel will send the claim, together with a recommendation that the claim be denied, to the ALJ for an expedited hearing under § 296.10(1)(4) [Reserved].

(2) *Concerning proposed settlement or other agency recommendation.* If the General Counsel concurs in the agency recommendation of the Chief, FSD, under paragraph (c) of this section, the General Counsel will:

(i) In the case of an agency recommendation to approve either the claim or a proposed settlement of the claim,

(A) Publish a notice of the agency recommendation in the **Federal Register**, and

(B) Not sooner than 15 days after publication of the notice referred to in paragraph (d)(2)(i)(A) of this section, refer the claim to the ALJ under paragraph (f) of this section for consideration under § 296.10(j) [Reserved];

(ii) In the case of an agency recommendation to deny a claim, promptly refer the claim to the ALJ under paragraph (f) of this section.

(e) *Objection to certain agency recommendations.* Any interested person who objects to an agency recommendation to approve either the claim or a proposed settlement of the claim may request the ALJ to conduct an oral hearing concerning the claim. Any such request for an oral hearing must be filed in writing with the General Counsel within fifteen (15) days after the **Federal Register** notice is published under paragraph (d)(2) of this section and must state the interested person's reason for requesting an oral hearing.

(f) *Referral of a claim to the ALJ.* Upon expiration of the fifteen (15) day period following publication of the **Federal Register** notice (if any) under paragraph (d)(2) of this section, the General Counsel will refer to the ALJ the following items:

(1) The claim;

(2) Any agency recommendation under paragraph (d)(2) of this section;

(3) Any request, under paragraph (a)(3)(i) of this section, by an interested person to submit evidence at a hearing;

(4) Any request, under paragraph (a)(3)(v) of this section, by an interested person to be admitted as a party to any hearing; and

(5) Any request, under paragraph (e) of this section, by an interested person that an oral hearing be conducted.

§ 296.9 Burden of proof and presumption of causation.

(a) *Burden of proof.* The claimant has the burden to establish, by a preponderance of the evidence, all facts necessary to demonstrate eligibility for, and the amount of, compensation under this part, including, but not limited to:

(1) The identity or nature of the item which caused the damage to or loss of the fishing gear which is the subject of the claim; and

(2) That the item described in paragraph (a)(1) of this section is associated with oil and gas exploration, development, or production activities on the Outer Continental Shelf.

(b) *Presumption of Causation.* Paragraph (a) of this section notwithstanding, damages or losses are presumed to be caused by items associated with oil and gas exploration, development, or production activities on the OCS if the claimant establishes that:

(1) The claimant's commercial fishing vessel was being used for commercial fishing and was located in an area affected by OCS oil and gas exploration, development, or production activities (the damage or loss need not occur in one of the geographic areas described in § 296.3(b));

(2) A report on the location of the obstruction which caused such damage or loss, and the nature of such damage or loss, was properly made under § 296.7(a) within five days after the date when such damage or loss was discovered;

(3) There was no record on the most recent nautical charts issued by the National Ocean Survey, NOAA, or in any weekly Notice to Mariners issued by the Defense Mapping Agency Hydrographic/Topographic Center on or before the date such damage or loss was suffered, that an obstruction existed in the immedate vicinity where the damage or loss occurred; and

(4) There was no proper surface marker or lighted buoy attached, or closely anchored, to such obstruction.

(c) *Geographic exclusion from presumption of causation.* Damage or loss occurring within a one-quarter mile radius of obstructions recorded on charts or in a Notice to Mariners, or properly marked, as described in paragraphs (b)(3) and (b)(4) of this section, is presumed to involve the recorded obstruction.

§ 296.10 Hearings. [Reserved]

§ 296.11 Payment of costs.

(a) *By person denying responsibility for damage.* Any person who:

(1) Is notified by the Secretary of the Interior under § 296.8(a);

(2) Denies, or fails to either affirm or deny, responsibility for the damages claimed; and

(3) Is found by the ALJ or by a court of law to be responsible for the damage, shall pay the costs of the proceedings under this part with respect to such claim.

(b) *By the claimant.* Any claimant who files a claim under this Part and is found by the ALJ or by a court of law to be responsible for such damage, shall pay the costs of the proceedings under this part with respect to such claim.

(c) *By person denying responsibility for damage and the claimant.* If the ALJ or a court of law finds both the claimant and a person described in paragraphs (a) (1) and (2) of this section to have responsibility for such damage, then the cost of proceedings under this part shall be apportioned equitably between them.

§ 296.12 Appeals.

(a) *General.* Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of an ALJ under this part may, no later than sixty (60) days after the ALJ issues a decision under § 296.10(m) [Reserved], seek judicial review of such decision in the United States Court of Appeals for the Federal judicial circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States Court of Appeals for the nearest circuit.

(b) *Notice.* Any person who appeals a decision of an ALJ under this section shall so notify the claimant, the Chief, FSD, the General Counsel, and any other party in writing at the same time the appellant files an appeal with the appropriate United States Court of Appeals.

§ 296.13 Payment of award for claim.

(a) *Amount.* The Chief, FSD, will pay the amount of the award certified in the decision of the ALJ under § 296.10(m) [Reserved].

(b) *Area account.* The payment will be disbursed from the area account or accounts specified in the decision of the ALJ under § 296.10(m) [Reserved].

(c) *Time of payment.* (1) No payment will be made under this section until the claimant has signed a subrogation agreement under § 296.14.

(2) No payment will be made under this section if an appeal has been filed under § 296.12.

§ 296.14 Subrogation.

(a) *Agreement.* Before receiving payment under this part, a claimant shall sign a subrogation agreement in a form satisfactory to the General Counsel which:

(1) Assigns to the Fund all rights the claimant has, and might have, to proceed against any person for damages with respect to any part of the damage or loss for which the award is being made; and

(2) Provides that the claimant will assist the Fund in any reasonable way to pursue collection of the subrogated rights.

(b) *Collection of subrogated rights.* In those instances in which it appears that a reasonable chance of successful collection exists, the General Counsel will refer the subrogated rights to the Department of Justice for collection.

§ 296.15 Computation of time.

Saturdays, Sundays, and Federal Government holidays shall be included in computing the time period allowed for filing any document or paper under this part (including the five-day report and claim referred to in §§ 296.7 (a) and (c), respectively), but when such time period expires on such a day, such time period shall be extended to include the next following Federal Government working day.

Appendix 1

A. *Freeport District*—The U.S. Geological Survey's Freeport District incorporates all, or the indicated portions, of the OCS areas shown on the following official maps:

1. OCS Leasing Map, South Padre Island Area, Texas Map. No. 1 (Approved July 16, 1954). That portion seaward of the 3-league line.

2. OCS Leasing Map, South Padre Island Area, East Addition, Texas Map. No. 1A (Approved May 6, 1965).

3. OCS Leasing Map, North Padre Island Area, Texas Map. No. 2 (Approved July 16, 1954). That portion seaward of the 3-league line.

4. OCS Leasing Map, North Padre Island Area, East Addition, Texas Map. No. 2A (Approved May 6, 1965).

5. OCS Leasing Map, Mustang Island Area, Texas Map No. 3 (Approved July 16, 1954; Revised October 30, 1961). That portion seaward of the 3-league line.

6. OCS Leasing Map, Mustang Island Area, East Addition, Texas Map No. 3A (Approved January 23, 1967).

7. OCS Leasing Map, Matagorda Island Area, Texas Map No. 4 (Approved July 16, 1954). That portion seaward of the 3-league line.

8. OCS Leasing Map, Brazos Area, Texas Map No. 5 (Approved July 16, 1954). That portion seaward of the 3-league line.

9. OCS Leasing Map, Brazos Area, South Addition, Texas Map No. 5B (Approved September 24, 1959).

10. OCS Leasing Map, Galveston Area, Texas Map No. 6 (Approved July 16, 1954). That portion seaward of the 3-league line.

11. OCS Leasing Map, Galveston Area, South Addition, Texas Map No. 6A (Approved September 24, 1959).

12. OCS Leasing Map, High Island Area, Texas Map No. 7 (Approved July 16, 1954; Revised August 1955). That portion seaward of the 3-league line.

13. OCS Leasing Map, High Island Area, East Addition, Texas Map No. 7A (Approved January 23, 1967). That portion seaward of the 3-league line.

14. OCS Leasing Map, High Island Area, South Addition, Texas Map No. 7B (Approved September 24, 1959).

15. OCS Leasing Map, High Island Area, East Addition, South Extension, Texas Map No. 7C (Approved September 24, 1959).

16. OCS Leasing Map, Sabine Pass Area, Texas Map No. 8 (Approved March 7, 1977). That portion on the Texas side of the Texas-Louisiana Line that is seaward of the 3-league line.

17. OCS Official Protraction Diagram, Corpus Christi NG 14-3 (Approved June 5, 1974; Revised January 27, 1978).

18. OCS Official Protraction Diagram, Port Isabel NG 14-6 (Approved June 5, 1974; Revised January 27, 1978).

19. OCS Official Protraction Diagram, East Breaks NG 15-1 (Approved June 6, 1973; Revised January 27, 1978).

20. OCS Official Protraction Diagram, Alaminos Canyon NG 15-4 (Approved June 5, 1974; Revised March 26, 1976).

21. OCS Official Protraction Diagram, Garden Banks NG 15-2 (Approved February 15, 1973; Revised December 2, 1976). That portion west of a north-south line formed by the east line of block 142 at the northeast corner and block 978 at the southeast corner.

22. OCS Official Protraction Diagram, Keathley Canyon NG 15-5 (Approved June 5, 1974; Revised December 2, 1976). That portion west of a north-south line formed by the east line of block 10 at the northeast corner and block 978 at the southeast corner.

B. *Lake Charles District*—The U.S. Geological Survey's Lake Charles District incorporates all, or the indicated portions, of the OCS areas shown on the following official maps:

1. OCS Leasing Map, West Cameron Area, Louisiana Map No. 1 (Approved June 8, 1954; Revised July 22, 1954). That portion more than three geographical miles seaward from the lines described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).

2. OCS Leasing Map, West Cameron Area, West Addition, Louisiana Map No. 1A (Approved November 15, 1955; Revised January 30, 1957).

3. OCS Leasing Map, West Cameron Area, South Addition, Louisiana Map No. 1B (Approved September 8, 1959).

4. OCS Leasing Map, East Cameron Area, Louisiana Map No. 2 (Approved June 8, 1954; Revised August 1, 1973). That portion more than three geographical miles seaward from the lines described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).

5. OCS Leasing Map, East Cameron Area, South Addition, Louisiana Map No. 2A (Approved September 8, 1959).

6. OCS Leasing Map, Vermilion Area, Louisiana Map No. 3 (Approved June 8, 1954; Revised June 25, 1954; Revised July 22, 1954). That portion more than three geographical miles seaward from the lines described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).

7. OCS Leasing Map Vermilion Area, South Addition, Louisiana Map No. 3B.

8. OCS Leasing Map, Sabine Pass Area, Louisiana Map No. 12 (Approved March 7, 1977). That portion on the Louisiana side of the Texas-Louisiana line, more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).

9. OCS Official Protraction Diagram, Garden Banks NG 15-2 (Approved February 15, 1973; Revised December 2, 1976). That portion bordered on the west by a north-south line formed by the west line of block 143 at the northwest corner and the west line of block 979 at the southwest corner and bordered on the east by a north-south line formed by the east line of block 80 at the northeast corner and the east line of block 1004 at the southeast corner.

10. OCS Official Protraction Diagram, Keathley Canyon NG 15-5 (Approved June 15, 1974; Revised December 2, 1976). That portion bordered on the west by a north-south line formed by the west line of block 11 at the northwest corner and the west line of block 979 at the southwest corner and bordered on the east by a north-south line formed by the east line of block 36 at the northeast corner and the east line of block 1004 at the southeast corner.

C. *LaFayette District*—The U.S. Geological Survey's Lafayette District incorporates all, or the indicated portions, of the OCS areas shown on the following official maps:

1. OCS Leasing Map, South Marsh Island Area, Louisiana Map No. 2A (Approved August 7, 1959).

2. OCS Leasing Map, South Marsh Island Area, South Addition, Louisiana Map No. 3C (Approved September 8, 1959).

3. OCS Leasing Map, South Marsh Island Area, North Addition, Louisiana Map No. 3D (Approved April 16, 1971; Revised January 16, 1972). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court, June 16, 1975 (U.S. versus Louisiana, 422 US 13).

4. OCS Leasing Map, Eugene Island Area, Louisiana Map No. 4 (Approved June 8, 1954; Revised July 22, 1954). That portion more than three geographical miles seaward from the

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line described in the supplemental decree of the United States Supreme Court. June 16, 1975 (U.S. versus Louisiana, 422 US 13).

5. OCS Leasing Map. Eugene Island Area. South Addition. Louisiana Map No. 4A (Approved September 8, 1959).

6. OCS Official Protraction Diagram. Ewing Bank NH 15–12 (Approved February 15, 1973; Revised December 2, 1976). That portion that consists of blocks 932, 933, 937, 938, 975, 976, 977, 978, 979, 981, 982.

7. OCS Official Protraction Diagram. Green Canyon NG 15–3 (Approved February 15, 1973; Revised December 2, 1976). That portion west of a north-south line formed by the east line of block 12 at the northeast corner and the east line of block 960 at the southeast corner.

8. OCS Official Protraction Diagram. Walker Ridge NG 15–6 (Approved June 5, 1974; Revised December 2, 1976). That portion west of a north-south line formed by the east line of block 12 at the northeast corner and the east line of block 960 at the southeast corner.

9. OCS Official Protraction Diagram. Garden Banks. NG 15–2 (Approved February 15, 1976; Revised December 2, 1976). That portion east of a north-south line formed by the west line of block 61 at the northwest corner and the west line of block 1005 at the southwest corner.

10. OCS Official Protraction Diagram. Keathley Canyon NG 15–5 (Approved June 5, 1974; Revised December 2, 1976). That portion east of a north-south line formed by the west line of block 37 at the northwest corner and the west line of block 1005 at the southwest corner.

D. *Houma District*—The U.S. Geological Survey's Houma District incorporates all, or the indicated portions, of the OCS areas shown on the following official maps:

1. OCS Leasing Map. Ship Shoal Area. Louisiana Map No. 5 (Approved June 8, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court. June 16, 1975 (U.S. versus Louisiana, 422 US 13).

2. OCS Leasing Map. Ship Shoal Area. South Addition. Louisiana Map No. 5A (Approved September 8, 1959).

3. OCS Leasing Map. South Pelto Area. Louisiana Map No. 6 (Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court. June 16, 1975 (U.S. versus Louisiana, 422 US 13).

4. OCS Leasing Map. Bay Marchand Area. Louisiana Map No. 6 (Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court. June 16, 1975 (U.S. versus Louisiana, 422 US 13).

5. OCS Leasing Map. South Timbalier Area. Louisiana Map No. 6 (Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court. June 16, 1975 (U.S. versus Louisiana, 422 US 13).

6. OCS Leasing Map. South Timbalier Area. South Addition. Louisiana Map No. 6A (Approved September 8, 1959; Revised July 22, 1968).

7. OCS Leasing Map. Grand Isle Area. Louisiana Map No. 7 (Approved June 8, 1954). That portion more than three geographical miles seaward from the line described in the supplemental decree of the United States Supreme Court. June 16, 1975 (U.S. versus Louisiana, 422 US 13).

8. OCS Leasing Map. Grand Isle Area. South Addition. Louisiana Map No. 7A (Approved September 8, 1959; Revised March 7, 1961).

9. OCS Official Protraction Diagram. Ewing Bank NH 15–12 (Approved February 15, 1973; Revised December 2, 1976). That portion that does not include blocks 932, 933, 937, 938, 975, 976, 978, 979, 981, 982.

10. OCS Official Protraction Diagram. Green Canyon NG 15–3 (Approved February 15, 1973; Revised December 2, 1976). That portion east of a north-south line formed by the west line of block 13 at the northwest corner and the west line of block 961 at the southwest corner.

11. OCS Official Protraction Diagram. Walker Ridge NG 15–6 (Approved June 5, 1974; Revised December 2, 1976). That portion east of a north-south line formed by the west line of block 13 at the northwest corner and the west line of block 961 at the southwest corner.

11. OCS Official Protraction Diagram. NG 16–2 (Approved December 2, 1976).

12. OCS Official Protraction Diagram. The Elbow NG 16–3 (Approved October 10, 1972; Revised August 1, 1973; Revised December 2, 1976).

13. OCS Official Protraction Diagram. NG 16–4 (Approved December 2, 1976).

14. OCS Official Protraction Diagram. NG 16–5 (Approved December 2, 1976).

15. OCS Official Protraction Diagram. NG 16–6 (Approved June 5, 1974; Revised December 2, 1976).

16. OCS Official Protraction Diagram. St. Petersburg NG 17–1 (Approved October 10, 1972; Revised December 2, 1976).

17. OCS Official Protraction Diagram. Charlotte Harbor NG 17–4 (Approved October 10, 1972; Revised December 2, 1976).

18. OCS Official Protraction Diagram. Mobile NH 16–4 (Approved October 10, 1972; Revised December 21, 1977).

19. OCS Official Protraction Diagram. Pensacola NH 16–5 (Approved October 10, 1972; Revised December 2, 1976).

20. OCS Official Protraction Diagram. Viosca Knoll NH 16–7 (Approved October 10, 1972; Revised February 15, 1973; Revised August 1, 1973; Revised December 2, 1976).

21. OCS Official Protraction Diagram. Destin Dome NH 16–8 (Approved October 10, 1972; Revised August 1, 1973; Revised December 2, 1976).

22. OCS Official Protraction Diagram. Apalachicola NH 16–9 (Approved October 10, 1972; Revised August 1, 1973; Revised January 15, 1976).

23. OCS Official Protraction Diagram. Mississippi Canyon NH 16–10 (Approved February 15, 1973; Revised December 2, 1976).

24. OCS Official Protraction Diagram. De Soto Canyon NH 16–11 (Approved June 5, 1974; Revised December 2, 1976).

25. OCS Official Protraction Diagram. Florida Middle Ground NH 16–12 (Approved October 10, 1972; Revised August 1, 1973; Revised December 2, 1976).

26. OCS Official Protraction Diagram. Gainesville, NH 17–7 (Approved October 10, 1972; Revised December 2, 1976).

27. OCS Official Protraction Diagram. Tarpon Spring NH 17–10 (Approved October 10, 1972; Revised December 2, 1976).

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WHEN: April 16, 1980
May 14, 1980

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REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws. A complete listing for the first session of the 96th Congress was published in the Reader Aid section of the issue of January 17, 1980.

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6079 **Red Cross Month, 1980** Presidential proclamation

6189 **Improving Police Services: The Impact of Socio-Economic Trends** Justice announces competitive applications; apply by 3–28–80

6176 **Public Health Traineeships** HEW/PHS/HRA announces competitive applications; apply by 3–3–80

6104 **Declassification of and Public Access to National Security Information** GSA/NARS issues regulations to extend the expiration date of FPMR Temporary Regulation B–3; effective 1–25–80, expiration date 3–1–80

6314 **Nutrients** HEW/FDA establishes policy for nutrient fortification of foods; effective 2–25–80 (Part V of this issue)

6326, 6331, 6333 **Medicaid** HEW/HCFA/SSA issues regulations on fiscal disallowance for erroneous payment in aid to families with dependent children; effective 1–25–80 and 10–1–80 (3 documents) (Part VI of this issue)

6338 **Geological and Geophysical Explorations of the Outer Continential Shelf** Interior/GS issues regulations to incorporate required modifications; effective 3–25–80 (Part VII of this issue)

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Area Code 202–523–5240

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6088 **Taxes** Treasury/IRS removes verbatim statutory sections from regulations; effective 1–25–80

6165 **Federal Home Loan Bank Board** FHLBB issues interpretations relating to recent temporary statutory preemption of state usury laws; 12–28–79

6159 **Premanufacture Notice** EPA requires any person who intends to manufacture or import a new chemical substance to submit a PMN

6115 **Foreign Investment in Agriculture Land** USDA/ASCS proposes to amend regulations accompanying interpretation of term "combination"; comments by 3–25–80

6133 **Soil and Water Resources Conservation** USDA/Sec'y advises the public of the availability for review; comments by 3–28–80

6088 **Mobile Home Loans** HUD issues regulations permitting increases in loans; effective 1–25–80

6120 **Labeling Standards** HEW/FDA proposes to amend biological product standards regulation concerning placement and prominence of the product's name; comments by 3–25–80

6252 **FD&C Red No. 2** HEW/FDA denies petition for permanent listing as a color additive; effective 4–24–80 (Part II of this issue)

6165 **Broadcast Stations** FCC revises financial qualifications for station modification applicants; effective 1–25–80

6081 **Peanuts** USDA/ASCS issues regulations setting forth rules for assessment of marketing quota penalties; effective 1–25–80

6227 **Sunshine Act Meetings**

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6276 **Part III, IRLG**
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Vol. 45, No. 18
Friday, January 25, 1980

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Title 3—

The President

Proclamation 4717 of January 23, 1980

Red Cross Month, 1980

By the President of the United States of America

A Proclamation

For nearly a century now, the American Red Cross has been an expression of the brotherhood of man. Its humanitarian efforts transcend not only geographical boundaries but also those of political ideology. This past year our Red Cross could be found at work among the hundreds of thousands of Cambodians who sought refuge from hunger and disease in Thai refugee camps. Similarly, it provided aid, through the International Red Cross, to the civilian population of strife-torn Nicaragua and it brought assistance to the "boat people" of Southeast Asia.

Here at home, the Red Cross mobilized a vast relief program along the Gulf Coast to help the thousands of our fellow citizens whose homes were destroyed or damaged by a series of hurricanes. In so doing it strained its financial resources, expending in a three-month period a budget meant to last for a year.

In addition to easing the suffering of disaster victims, the Red Cross provides more than one-half of our need for blood; teaches us first aid, water safety, and proper care of the ill and injured; and comes to the aid of the men and women in our armed forces and of veterans and their families.

The month of March is traditionally observed as Red Cross Month. It is a time to honor those who make this precious humanitarian work possible: the Red Cross volunteer, our neighbor.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America and Honorary Chairman of the American National Red Cross, do hereby designate March 1980 as Red Cross Month. I urge all Americans to "Help Keep Red Cross Ready" by giving generous support to their local Red Cross Chapter.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of January, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 80-2553
Filed 1-23-80; 4:08 pm]
Billing code 3195-01-M

Editorial Note: The President's memorandum dated Jan. 23, 1980, on Red Cross Month, is printed in the Weekly Compilation of Presidential Documents (Vol. 16, No. 4).

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Rules and Regulations

Federal Register
Vol. 45, No. 18
Friday, January 25, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 729

[Amdt. 2]

Acreage Allotments, Marketing Quotas, and Poundage Quotas for 1978 and Subsequent Crops of Peanuts

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: These regulations set forth the rules for assessment of marketing quota penalties at a reduced rate when it is determined that a producer unintentionally or unknowingly marketed peanuts as quota peanuts in excess of the farm's poundage quota. The county ASC committee will determine if the excess marketings were unintentional or unknowingly made. These regulations also provide the amount of quota a producer may carry over as undermarketings into the following year.

EFFECTIVE DATE: January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Paul P. Kume, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013 (202) 447–4695.

SUPPLEMENTARY INFORMATION: A notice that the Department was preparing to make determinations with respect to these provisions was published in the **Federal Register** on October 5, 1979 (44 FR 57416). The comment period expired on November 5, 1979; however, all written comments received were considered. There were 90 written responses: 48 from peanut growers; 10 from sheller and grower association representatives; 19 from members of Congress; 5 from State and county ASC committees; 4 from State farm organizations; 2 from national farm organizations; 1 from the First National Bank of Birmingham and 1 from the North Carolina Agricultural Extension Service. The following is a summary of the comments received:

Penalty for unintentional error: 48 commentators. Three Commentators agreed with the penalty of 2.1 cents per pound for 1978 and 4.2 cents per pound for 1979 for unintentional errors in peanut marketings. Two commentators agreed with the 1978 rate of 2.1 cents per pound. Fourteen commentators recommended no penalty for 1978 and 1979 and authority be given to the Secretary to reduce the penalty rate to zero for honest errors. Twenty-three individuals recommended no penalty for honest errors in 1978. Two commentators recommended that the 1978 rate be the difference between the contract price and the quota support level or the difference between the additional loan support level and the quota support level. Two commentators recommended that the 1978 rate of 2.1 cents per pound remain the same for all years. One commentator stated that the proposed rates were too high and one recommended more flexibility be given to the county ASC committees if a penalty is to be imposed for honest errors.

Undermarketings: 73 commentators. One commentator agreed with limiting the amount a producer may carry over as undermarketings into the following year. Sixty-nine commentators recommended that producers be permitted to carryover undermarketings from year to year without any restrictions. Two commentators recommended undermarketings be permitted to be carried forward from the immediate 2 successive years instead of just the immediate preceding year. One commentator recommended that the change in undermarketings be made effective for the 1980 crop.

After considering the comments received and the applicable provisions of the Agricultural Adjustment Act of 1983, as amended, the following determinations are being made.

1. *Penalty for unintentional errors.* Section 359 of the Food and Agriculture Act of 1977 was amended on July 7, 1979 (Pub. L. 96–31) to authorize the Secretary to issue regulations to reduce the amount of penalty (120 percent of the support price for quota peanuts) if the Secretary determines that the excess marketings were done unintentionally or unknowingly and that a reduction in the amount of penalty would not impair the effective operation of the price support program for peanuts. In hearings before the Subcommittee on Oilseeds and Rice of the House Agriculture Committee, the Department offered testimony in favor of the bill stating that the authority provided by the bill in the assessment of penalties was desirable in order to provide fair and equitable treatment to producers and handlers. The Department also stated that it expected to issue regulations to establish penalties for excess marketings because of unintentional errors at such a level that would deter violations.

No objections were made to the Department's views. The proposed penalty rates published in the October 5, 1979 **Federal Register**, would absorb any gain a grower might realize by marketing quota peanuts in excess of the effective farm poundage quota and deter violations. After consideration of the comments received and the above legislative history, it has been determined that the penalty rate for unintentional errors for 1978 shall be 10 percent of the quota support rate which is $42 per ton or 2.1 cents per pound and for 1979 the rate shall be 20 percent of the quota support rate which is $84 per ton or 4.2 cents per pound.

2. *Undermarketings.* Section 358(o) of the Food and Agriculture Act of 1977 provided a "disaster" provision in the new two-tiered peanut adjustment program as follows:

For each farm, a farm poundage quota shall be established by the Secretary for each marketing year equal to the farm base production poundage multiplied by a factor determined by the Secretary, such that the total of all farm poundage quotas will equal the national poundage quota for each marketing year. The poundage quota as determined, beginning with the 1979 crop for any farm, shall be increased by the number of pounds by which marketings of quota peanuts from the farm during the immediately preceding marketing year were less than the farm poundage quota: *Provided,* That total marketings shall not exceed actual production from the farm acreage allotment: *Provided further,* That the grower must have planted in such preceding marketing year that part of the farm allotment estimated on the

basis of the farm yield to be sufficient to produce the total farm poundage quota: *Provided further,* That if the total of all such increases in individual farm poundage quotas exceed 10 per centum of the national poundage quota for the marketing year, the Secretary shall adjust such increases so that the total of all increases does not exceed 10 per centum of the national poundage quota.

Current regulations provide that undermarketings be computed based upon the effective farm poundage quota which would include undermarketings carried over from the previous crop years. This causes a "pyramiding" effect with respect to the poundage quota and section 358(o) has been interpreted not to permit this type of continued carryover or "pyramiding" of undermarketings.

The first sentence of section 358(o) quoted above established an annual farm poundage quota for each farm and the second sentence provides for a temporary one year increase in such quota by the amount of undermarketings of quota peanuts from the production of the "immediately preceding marketing year." There is no indication in the statutory language that the temporary increase in the annual quota resulting from the carryover of undermarketings is to be cumulative.

Such a position with respect to the carryover of undermarketings is confirmed by the substance of the three provisos, all marketings in any given year may not exceed the actual production from the farm acreage allotment for that year. Such a limitation is inconsistent with the concept of "pyramiding," since adding the undermarketings for several years would probably result in excessively large total farm poundage quotas. The actual production of peanuts from the farm acreage allotment would probably be insufficient to cover this quota, and as a result, undermarketings would continue to be carried forward.

Similarly, it is implicit in the second proviso of section 358(o) that growers are expected to plant a sufficient amount of peanuts in each marketing year to produce the total farm poundage quota. Such an expectation is not consistent with the concept of "pyramiding," since the accumulation of carryover quota would produce situations in which the grower would have insufficient acreage (within the acreage allotment) to produce the necessary volume of peanuts to meet the cumulative total farm poundage quota in any one year.

Finally, the third proviso in section 358(o) is a limitation on the overall amount of the national carryover of poundage quota for each marketing year. If "pyramiding" were contemplated, such a limitation would not have been provided since its application would result in inequities in the case of producers who were not involved in undermarketing situations until after the ceiling was reached as the result of the "pyramiding" of undermarketings of other producers in prior marketing years.

Accordingly, it has been determined that the regulations governing the carryover of undermarketings will be adopted as published in the **Federal Register** on October 5, 1979.

Final Rule

Effective for the 1978 and subsequent crop of peanuts, the regulations in 7 CFR Part 729 are amended to read as follows:

(1) Section 729.3(ll)(1) is revised to read as follows:

§ 729.3 Definitions.

* * * * *

(ll) *Undermarketings* (1) *Actual undermarketings.* The pounds by which the effective farm poundage quota (minus any undermarketings from the preceding year which were added to such quota) exceeds the larger of (i) the total production of segregation 1 peanuts on the farm or (ii) the total amount of quota peanuts which are marketed from the farm.

* * * * *

(2) Section 729.46 is amended by adding a new paragraph (d) which reads as follows:

§ 729.46 Penalty rate.

* * * * *

(d) *Penalty for unintentional error.* The penalty rate for the (i) 1978 crop of peanuts shall be 10 percent of the basic support price for quota peanuts which is determined to be $42 per ton or 2.1 cents per pound, (ii) 1979 crop of peanuts shall be 20 percent of the basic support price for quota peanuts which is determined to be $84 per ton or 4.2 cents per pound.

(3) Section 729.47(a)(1) is revised to read as follows:

§ 729.47 Peanuts on which penalty is due.

(a) * * *

(1) The quantity of peanuts which is marketed or considered to be marketed from a farm for domestic edible use in excess of the effective farm poundage quota for the farm: *Provided,* That if the marketing of quota peanuts for which a penalty is to be assessed was done unintentionally or unknowingly by the producer and/or handler, the penalty shall be assessed at a reduced rate provided for in § 729.46(d), upon a determination by the county ASC committee that the error in excess marketing was unknowingly or unintentionally made and that a reduction in the amount of penalty would not impair the effective operation of the price support program for peanuts. The provisions of this subparagraph shall be applicable only to producers or handlers who made a good faith effort to comply fully with the terms and conditions of the program and review of the assessment of such penalties shall be handled in accordance with Part 711 of this chapter.

* * * * *

(Secs. 301, 358, 358a, 359, 361–368, 373, 375, 377, 52 Stat. 36, as amended, 55 Stat. 88, as amended, 81 Stat. 658, 55 Stat. 90, as amended, 70 Stat. 206, as amended (7 U.S.C. 1301, 1358, 1358a, 805, 806, 91 Stat. 944) (7 U.S.C. 1358, 1358a, 1359, 1373, 1377); and Sec. 359, 93 Stat. 81 (7 U.S.C. 1359 note).)

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Paul P. Kume (ASCS) 202–447–4095.

Signed at Washington, D.C. on January 21, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-2491 Filed 1-24-80; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 236]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period January 27–February 2, 1980. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: January 27, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on January 22, 1980, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, 202–447–5975.

§ 910.536 Lemon Regulation 236.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period January 27, 1980, through February 2, 1980, is established at 200,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Dated: January 23, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-2746 Filed 1-24-80; 12:09 pm]

Animal and Plant Health Inspection Service

9 CFR Part 79

Scrapie in Sheep; Area Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to quarantine a portion of Tulsa County in Oklahoma because of the existence of vectors of scrapie in such area. Therefore, in order to prevent the dissemination of scrapie it is necessary to quarantine this area.

EFFECTIVE DATE: January 18, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. J. R. Pitcher, Chief Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Federal Building, Room 737, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8321.

SUPLEMENTARY INFORMATION: This amendment quarantines a portion of Tulsa County in Oklahoma because of the existence of vectors of scrapie in such area. The restrictions pertaining to the interstate movement of sheep from quarantined areas, contained in 9 CFR Part 79, as amended, apply to the quarantined area.

Section 1 of the Act of March 3, 1905, as amended, (21 U.S.C. 123), authorizes the Secretary of Agriculture to quarantine any State, Territory, or the District of Columbia or any portion thereof, when he determines that any animals and/or live poultry in such area are affected with any contagious, infectious, or communicable disease of livestock or poultry, or that the contagion of any such disease exist in such area or that vectors which may disseminate the disease exist in such area. Consequently, § 79.2 is revised to better reflect this statutory authority.

Accordingly, Part 79, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of sheep because of scrapie, is hereby amended in the following respect:

Section 79.2, is revised to read as follows:

§ 79.2 Notice of quarantine.

(a) Notice is hereby given that the contagion or vectors of scrapie, a contagious, infectious and communicable disease, exist in the following areas or that sheep affected with scrapie exist in the following areas, and, therefore, the following areas are hereby quarantined because of said disease:

(1) The premises of Duane Smith, Route 1, Box 332A, Bixby, Tulsa County, Oklahoma, S½ of the SW¼ of the NW¼ of Sec. 32, T. 17 N., R. 14 E.

(Sec. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

The amendment imposes certain further restrictions necessary to prevent the interstate spread of scrapie in sheep from such area and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to this Department.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 79. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 18th day of January 1980.

J. K. Atwell,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-2280 Filed 1-24-80; 8:45 am]

BILLING CODE 3410-34-M

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DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 507

[Docket No. ERA-R-78-19E]

Powerplant and Industrial Fuel Use Act of 1978; Deferral of Reports Required Under 10 CFR Part 507

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Deferral of Deadline for Filing Certain Reports.

SUMMARY: On May 8, 1979, the Economic Regulatory Administration (ERA) of the Department of Energy issued interim rules which would exclude certain fuels from the terms "natural gas" and "petroleum" for purposes of the Powerplant and Industrial Fuel Use Act. (Part 507, Fuel Classification and Reporting Requirement; 44 FR 29016, May 17, 1979). Incorporated in Part 507 are several reporting requirements due January 30 and 31, 1980, relating to natural gas and petroleum which are considered to be commercially unmarketable (§§ 507.6 and 507.7) and natural gas produced from small wells and used by powerplants (§ 507.5).

We believe that it would be in the public interest to defer filing the reports pursuant to 10 CFR Parts 507.5, 507.6 and 507.7 for such time as is necessary to gain experience in implementing the remaining provisions of Part 507. Such reports will be deferred until further notice is published in the Federal Register.

DATES: The January 30 and 31, 1980 deadlines for filing the appropriate reports pursuant to Part 507 are deferred until further notice.

FOR FURTHER INFORMATION CONTACT:

John Dean (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 3322–H, Washington, D.C. 20461 (202) 634–6526.

Issued in Washington, D.C. January 19, 1980

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 80-2427 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Parts 182, 184 and 186

[Docket No. 78N-0013]

Sulfuric Acid and Ammonium, Calcium, Potassium, and Sodium Sulfates; Affirmation of Gras Status

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that sulfuric acid and ammonium, calcium, and potassium sulfates are generally recognized as safe (GRAS) as direct human food ingredients. The agency also affirms that sodium sulfate is GRAS as an indirect human food ingredient. The safety of these ingredients has been evaluated under the agency's comprehensive safety review.

EFFECTIVE DATE: February 25, 1980.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF–335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–472–4750.

SUPPLEMENTARY INFORMATION: In the Federal Register of March 28, 1978 (43 FR 12874), FDA proposed to affirm that sulfuric acid and ammonium, calcium, potassium, and sodium sulfates are GRAS when used as direct and/or indirect human food ingredients. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on sulfates, a mutagenic evaluation report on potassium sulfate, which was not available at the time the proposal was published, and the report of the Select Committee on GRAS Substances (the Select Committee) have been made available for public review in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

In addition to proposing the above actions, the FDA gave public notice that it was unaware of any prior-sanctioned food ingredient uses for sulfuric acid and ammonium, calcium, potassium, and sodium sulfates for other than the proposed conditions of use. Persons asserting additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of the sanction so that the safety of any prior-sanctioned uses could be determined at this time. That notice was also an opportunity to have prior-sanctioned uses of sulfuric acid and ammonium, calcium, potassium, and sodium sulfates approved by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181), if the prior-sanctioned use could be affirmed as safe on the basis of information and data now available to FDA. Notice was also given that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert the sanction at any future time.

No reports of prior-sanctioned uses for sulfuric acid and ammonium, calcium, potassium, and sodium sulfates were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for use of sulfuric acid or ammonium, calcium, potassium, and sodium sulfates under conditions different from those set forth in this regulation has been waived.

One comment was submitted in response to the FDA proposal on sulfuric acid and ammonium, calcium, potassium, and sodium sulfates. The comment requested that sodium sulfate be listed under Part 184 as a GRAS substance for direct food use on the grounds that its toxicity is similar to the toxicity of sodium chloride, and it is currently used in the manufacture of starch and in caramel production. To support GRAS status further, the comment stated that sodium sulfate also occurs naturally in foods. The comment more specifically requested GRAS affirmation for sodium sulfate as a processing aid in the chemical modification of food starch by propylene oxide. Sodium sulfate is used to inhibit swelling of the starch granules during chemical modification and is allegedly the safest, most effective, and most economical agent for this purpose. The comment was concerned that if this use of sodium sulfate does not receive GRAS affirmation, then any residual sodium sulfate remaining in food starch after chemical modification would be an unapproved food additive.

FDA agrees with the comment that, because direct food uses of sodium sulfate were not addressed in the proposal, the regulatory status of sodium sulfate as a processing aid in starch modification needs to be clarified. An existing FDA food additive regulation (§ 172.892 (21 CFR 172.892)) deals with a starch modification process employing phosphorus oxychloride, propylene, propylene oxide, and sodium sulfate. That process (§ 172.892(f)) involves the use of sodium sulfate at levels up to 5 percent, followed by thorough washing of the modified starch product to remove residues of sodium sulfate and other reaction ingredients. At the time FDA approved the propylene oxide-phosphorus oxychloride procedure, it considered the use of sodium sulfate in that procedure to be GRAS and thus not a food additive use. Sodium sulfate was not listed specifically in § 172.892(e) because, at the time that regulation was published, FDA policy was to list only food additives in food additive regulations, not substances whose use was considered to be GRAS. FDA still considers sodium sulfate, when used in the chemical modification of food starch by propylene oxide authorized in § 172.892(f), to be GRAS and, thus, not a food additive. Rather than formally list this restricted direct food use of sodium sulfate in the GRAS regulations at this time, the agency plans to cover this and other unlisted direct food uses of sodium sulfate in the forthcoming cyclic review of direct food additives.

In its original proposal, FDA proposed to establish food-grade specifications for the indirect use of sodium sulfate. Since then, however, the agency has reconsidered the necessity for imposing food-grade specifications on indirect GRAS substances, such as sodium sulfate. The agency has concluded that, as a general rule, food-grade specifications are not necessary to ensure the safety of an indirect GRAS substance, provided the substance is of a purity suitable for its intended use in accordance with § 170.30(h)(1). This conclusion is based on the fact that indirect uses generally result in extremely low levels of consumer exposure to the additive and correspondingly low levels of exposure to any impurities that may be present. If food-grade specifications are found necessary in a particular case to ensure the safety of an indirect GRAS ingredient, the agency will include them in the regulation. In the case of sodium sulfate, FDA concludes that specifications are not necessary. Therefore, the final regulation governing the use of sodium sulfate as an indirect GRAS ingredient has been modified in proposed § 186.1797(b) by removing the specifications. The agency intends to publish a proposal in the near future to amend its procedural regulations in Part 186 to reflect this new policy regarding specifications for indirect GRAS substances.

Consistent with its traditional practice, FDA proposed originally to establish separate regulations for sulfuric acid and calcium sulfate in Parts 184 and 186 to govern their direct and indirect GRAS uses, respectively. Under § 184.1(a), however, ingredients affirmed as GRAS for direct food use in Part 184 are considered to be GRAS for indirect uses without there being a separate listing in Part 186. In light of § 184.1(a), FDA has reconsidered its traditional practice of establishing separate listings in Part 186 for substances it affirms as GRAS for direct use in Part 184 and has concluded that the duplicative listing in Part 186 is unnecessary, as a general rule, and may cause confusion. Thus, unless it is necessary based on safety considerations to impose specific purity specifications or other restrictions on the indirect use of a GRAS substance, FDA will no longer list in Part 186 substances that are affirmed as GRAS for direct use in Part 184. In keeping with this change in policy, FDA will not promulgate § 186.1095 and 186.1230 as originally proposed. The indirect uses of sulfuric acid and calcium sulfate proposed for inclusion in §§ 186.1095 and 186.1230 are authorized under §§ 184.1095 and 184.1230, respectively, and § 184.1(a).

The agency also has determined that an indirect substance whose GRAS status for indirect use is based on its affirmation as GRAS in Part 184 need not comply, as a general rule, with the purity specifications made applicable to the direct use of the substance in the Part 184 regulation, as long as it is of a purity suitable for its intended indirect use in accordance with § 170.30(h)(1). This conclusion is based on the fact that indirect uses generally result in extremely low levels of consumer exposure to the additive and correspondingly low levels of exposure to any impurities that may be present. As noted in the preceding paragraph, however, if specific purity specifications for the indirect use of a GRAS substance are necessary based on safety considerations, a regulation establishing such specifications will be promulgated in Part 186. In the case of sulfuric acid and calcium sulfate, no specific purity specifications are necessary for their indirect use.

Although the policies discussed in the two preceding paragraphs are not inconsistent with FDA's current regulations, FDA will publish a proposal in the near future to amend its procedural regulations in Parts 184 and 186 to reflect clearly the current policies.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Parts 182, 184, and 186 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. Part 182 is amended:

§ 182.70 [Amended]

a. In § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by deleting the entry for "Sodium sulfate."

§ 182.90 [Amended]

b. In § 182.90 *Substances migrating to food from paper and paperboard products* by deleting the entries for "Calcium sulfate," "Sodium sulfate," and "Sulfuric acid."

§§ 182.1095, 182.1143, 182.1643, and 182.5230 [Deleted]

c. By deleting § 182.1095 *Sulfuric acid*, § 182.1143 *Ammonium sulfate*, § 182.1643 *Potassium sulfate*, and § 182.5230 *Calcium sulfate*.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new §§ 184.1095, 184.1143, 184.1230, and 184.1643, to read as follows:

§ 184.1095 Sulfuric acid.

(a) Sulfuric acid (H_2SO_4, CAS Reg. No. 7664–93–9), also known as oil of vitriol, is a clear, colorless, oily liquid. It is prepared by reacting sulfur dioxide (SO_2) with oxygen and mixing the resultant sulfur trioxide (SO_3) with water, or by reacting nitric oxide (NO) with sulfur dioxide and water.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972),[1] which is incorporated by reference.

(c) The ingredient is used as a pH control agent as defined in § 170.3(o)(23) of this chapter and processing aid as defined in § 170.3(o)(24) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in a maximum level, as served, of 0.014 percent for alcoholic beverages as defined in § 170.3(n)(2) of this chapter and 0.0003 percent for cheeses as defined in § 170.3(n)(5) of this chapter.

(e) Prior sanctions for this ingredient different from the uses established in

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

this section do not exist or have been waived.

§ 184.1143 Ammonium sulfate.

(a) Ammonium sulfate ($(NH_4)_2SO_4$, CAS Reg. No. 7783–20–2) occurs naturally and consists of colorless or white, odorless crystals or granules. It is prepared by the neutralization of sulfuric acid and with ammonium hydroxide.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d. Ed. (1972) as amended by the first supplement (1974),[1] which are incorporated by reference.

(c) The ingredient is used as a dough strengthener as defined in § 170.3(o)(6) of this chapter, firming agent as defined in § 170.3(o)(10) of this chapter, and processing aid as defined in § 170.3(o)(24) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in a maximum level, as served, of 0.15 percent for baked goods as defined in § 170.3(n)(1) of this chapter and 0.1 percent for gelatins and puddings as defined in § 170.1(n)(22) of this chapter.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1230 Calcium sulfate.

(a) Calcium sulfate ($CaSO_4$, CAS Reg. No. 778–18–9 or $CaSO_4 \cdot 2H_2O$, CAS Reg. No. 10101–41–4), also known as plaster of Paris, anhydrite, and gypsum, occurs naturally and exists as a fine, white to slightly yellow-white odorless powder. The anhydrous form is prepared by complete dehydration of gypsum, below 300° C. in an electric oven.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972) as amended by the first supplement (1974),[1] which are incorporated by reference.

(c) The ingredient is used as an anticaking agent as defined in § 170.3(o)(1) of this chapter, color and coloring adjunct as defined in § 170.3(o)(4) of this chapter, dough strengthener as defined in § 170.3(o)(6) of this chapter, drying agent as defined in § 170.3(o)(7) of this chapter, firming agent as defined in § 170.3(o)(10) of this chapter, flour treating agent as defined in § 170.3(o)(13) of this chapter, formulation aid as defined in § 170.3(o)(14) of this chapter, leavening agent as defined in § 170.3(o)(17) of this chapter, nutrient supplement as defined in § 170.3(o)(20) of this chapter, pH control agent as defined in § 170.3(o)(23) of this chapter, processing aid as defined in § 170.3(o)(24) of this chapter, stabilizer and thickener as defined in § 170.3(o)(28) of this chapter, synergist as defined in § 170.3(o)(31) of this chapter, and texturizer as defined in § 170.3(o)(32) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in a maximum level, as served, of 1.3 percent for baked goods as defined in § 170.3(n)(1) of this chapter, 3.0 percent for confections and frostings as defined in § 170.3(n)(9) of this chapter, 0.5 percent for frozen dairy desserts and mixes as defined in § 170.3(n)(20) of this chapter, 0.4 percent for gelatins and puddings as defined in § 170.3(n)(22) of this chapter, 0.5 percent for grain products and pastas as defined in § 170.3(n)(23) of this chapter, 0.35 percent for processed vegetables as defined in § 170.3(n)(36) of this chapter, and 0.07 percent or less for all other food categories.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1643 Potassium sulfate.

(a) Potassium sulfate (K_2SO_4, CAS Reg. No. 7778–80–5) occurs naturally and consists of colorless or white crystals or crystalline powder having a bitter, saline taste. It is prepared by the neutralization of sulfuric acid with potassium hydroxide or potassium carbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972) as amended by the first supplement (1974),[1] which are incorporated by reference.

(c) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in a maximum level, as served, of 0.015 percent for nonalcoholic beverages as defined in § 170.3(n)(3) of this chapter.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. Part 186 is amended by adding new § 186.1797 to read as follows:

§ 186.1797 Sodium sulfate.

(a) Sodium sulfate (Na_2SO_4, CAS Reg. No. 7757–82–6), also known as Glauber's salt, occurs naturally and exists as colorless crystals or as a fine, white crystalline powder. It is prepared by the neutralization of sulfuric acid with sodium hydroxide.

(b) The ingredient is used as a constituent of paper and paperboard used for food packaging, and cotton and cotton fabric used for dry food packaging.

(c) The ingredient is used at levels not to exceed good manufacturing practice in accordance with § 186.1(b)(1).

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation is effective February 25, 1980.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: January 16, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

Note.—Incorporations by reference were approved by the Director of the Office of the Federal Register on July 10, 1973, and June 27, 1977, and are on file in the Federal Register Library.

[FR Doc. 80–2037 Filed 1–24–80; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Levamisole Hydrochloride Effervescent Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Cyanamid Agricultural de Puerto Rico, Inc., providing for safe and effective use of levamisole hydrochloride effervescent tablets in swine drinking water for treating nematode infections.

EFFECTIVE DATE: January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV–138), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3410.

SUPPLEMENTARY INFORMATION: Cyanamid Agricultural de Puerto Rico, Inc. (CAPRI), Manati, PR 00701, is the sponsor of an NADA (107–085) filed by

American Cyanamid Co. The application provides for use of levamisole hydrochloride effervescent tablets in swine drinking water for treating large roundworm, nodular worm, lungworm, and intestinal threadworm infections. The basic data supporting this use of the drug are contained in CAPRI's NADA 45–513 for levamisole hydrochloride soluble powder. Provisions for use of the powder are codified in 21 CFR 520.1242a. Additional data generated for NADA 107–085 have demonstrated swine acceptability of the tablet-solution and its bioequivalency to the soluble powder-solution. The regulations are amended to provide for use of the new dosage form.

Approval may be granted for a new dosage form without a complete review of the underlying data if the new dosage form does not involve a change in the route of administration, does not require increased dosage, does not introduce variables expected to affect the safety of residues left by the drug, and is demonstrated to be bioequivalent to the approved product. These conditions have been met by CAPRI in this application. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy, issued in the **Federal Register** of December 23, 1977 (42 FR 64367), the approval of this NADA has been treated as would an approval of a Category II supplement and did not require reevaluation of the safety and effectiveness data in related NADA 45–513.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is available for public examination at the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by adding new § 520.1242e to read as follows:

§ 520.1242e Levamisole hydrochloride effervescent tablets.

(a) *Specifications.* Each tablet contains 907 milligrams of levamisole hydrochloride.

(b) *Sponsor.* See No. 043781 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.350 of this chapter.

(d) *Conditions of use.* It is used for swine as follows:

(1) *Amount.* The equivalent of 8 milligrams of levamisole hydrochloride per kilogram of body weight, as a single dose.

(2) *Indications for use.* See § 520.1242a(f)(3)(ii).

(3) *Limitations.* Withholding water from pigs before treatment is not necessary. Add one tablet for each 2½ gallons of water; mix thoroughly. Allow 1 gallon of medicated water for each 100 pounds body weight of pigs to be treated. No other source of water should be offered. After pigs have consumed medicated water, resume use of regular water. Pigs maintained under conditions of constant worm exposure may require re-treatment within 4 to 5 weeks. Consult your veterinarian before administering to sick swine. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism. Do not administer within 72 hours of slaughter for food.

Effective date. This regulation is effective January 25, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 11, 1980.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 80–2041 Filed 1–24–80; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Elanco Products Co., providing for safe and effective use of a 10-gram-per-pound tylosin premix for making cattle feeds.

EFFECTIVE DATE: January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Elanco Products Co., a Division of Eli Lilly & Co., 740 South Alabama St., Indianapolis, IN 46206, holds approval for an NADA (12–491) providing for use of a 10-gram-per-pound tylosin (as tylosin phosphate) premix for manufacturing feeds for broiler chickens, chickens, laying hens, replacement hens, and swine. Elanco submitted a supplemental NADA providing for use of the premix in manufacturing beef cattle feed in addition to the preceding uses. This use is already provided for in § 558.625(f)(1)(i) (21 CFR 558.625(f)(1)(i)). The regulation is amended to reflect approval of this supplement.

This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy, issued in the **Federal Register** of December 23, 1977 (42 FR 64367), the approval of this supplemental NADA did not require reevaluation of the safety and effectiveness data in NADA 12–491.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information supporting approval of this application is available for public examination at the office of the Hearing Clerk (HFA–305), Rm. 4–65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.625 by revising paragraph (b)(1) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(1) To 000986: 10 and 40 grams per pound, paragraph (f)(1) (i) through (vi) of this section; 100 grams per pound, paragraph (f)(1) (ii) through (vi) of this section.

* * * * *

Effective date. This regulation is effective January 25, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 17, 1980.

Terence Harvey,

Acting Director, Bureau Veterinary Medicine.

[FR Doc. 80-2227 Filed 1-24-80; 8:45 am]

BILLING CODE 4110-83-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 201

[Docket No. R-80-762]

Property Improvement and Mobile Home Loans

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: This rule permits the following increases: (1) On a single-wide mobile home, the maximum loan amount is increased from $16,000 to $18,000 and the maximum maturity period remains the same; (2) On a double-wide mobile home, the maximum loan amount is increased from $24,000 to $27,000 and the maximum maturity period remains the same. The subject increases regarding mobile home loan amounts were authorized by Sec. 313 of the Housing and Community Development Amendments of 1979.

EFFECTIVE DATE: January 25, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Brady, Director, Title I Insured and 312 Loan Servicing Division, Room 9172, 451 7th Street, S.W., Washington, D.C. 20410. (202) 755-6880. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The subject increases regarding mobile home loan amounts were authorized by Sec. 313 of the Housing and Community Development Amendments of 1979.

The Secretary has determined that, in light of the current economic situation, it is urgent that the benefits afforded by these increases be made available as soon as possible. Publishing a notice of proposed rulemaking and giving the public an opportunity to comment on these increases would cause a substantial delay in making the benefits available. Therefore, the Secretary finds that notice and public procedure on these increases would be contrary to the public interest. Since this rule relieves restrictions contained in the present regulations, it is not necessary to delay the effective date of the rule for the 30-day period provided in 5 U.S.C. § 533(d). Accordingly, this rule will become effective upon publication in the **Federal Register**.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding is available in the Office of the Rules Docket Clerk at the above cited address.

Accordingly, 24 CFR Part 201 is amended by revising § 201.530(a) as follows:

§ 201.530 Maximum loan amount.

(a) Basic limitation. The mobile home loan proceeds shall not exceed the lesser of $18,000 ($27,000 where the mobile home is composed of two or more modules) * * *

* * * * *

(Authority: Section 7(d) 79 Stat. 670 (12 U.S.C. 3535(d); Section 2, 48 Stat. (12 U.S.C. 1703) as amended.)

Issued at Washington, D.C., January 16, 1980.

Morton A. Baruch,

Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-2523 Filed 1-24-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 15, 16, 20, 25, 31, 36, 41, 44, 45, 46, 47, 48, 49, 53, 144, 145, 154, 301 and 400

[T.D. 7665]

Removal of Statutory Sections From Title 26 of the Code of Federal Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document removes from Title 26 of the Code of Federal Regulations those regulation sections which recite verbatim provisions of the Internal Revenue Code of 1954. The purpose of this document is to complete the process, initiated about 2 years ago, of removing Internal Revenue Code provisions from Title 26 of the Code of Federal Regulations. The reproduction of Code provisions in Title 26 is considered to be unnecessary and their removal will significantly reduce the volume of Internal Revenue Service regulations. No substantive change in the rules is intended by this document. Certain conforming changes to other sections of the regulations, made necessary by this removal of Code provisions, are also made.

DATE: These amendments to the regulations are effective January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Jonathan P. Marget of the Employee Plans and Exempt Organizations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3651 (not a toll-free number).

DRAFTING INFORMATION: The principal author of this document was Jonathan P. Marget of the Employee Plans and Exempt Organizations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service participated in developing this document.

Adoption of Amendments to the Regulations

Accordingly, amendments to the regulations (26 CFR) are hereby adopted as set forth below:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The following sections are deleted from 26 CFR, Part 1: §§ 1.1, 1.2, 1.3, 1.4, 1.11, 1.21, 1.31, 1.32, 1.33, 1.34, 1.35, 1.36, 1.37, 1.38, 1.39, 1.40, 1.44, 1.45, 1.46, 1.47, 1.48, 1.49, 1.50, 1.50A, 1.50B, 1.51, 1.61, 1.71, 1.72, 1.73, 1.74, 1.75, 1.76, 1.77, 1.78, 1.79, 1.82, 1.101, 1.102, 1.103, 1.104, 1.105, 1.106, 1.107, 1.108(a), 1.108(b), 1.109, 1.110, 1.111, 1.112, 1.113, 1.114, 1.115, 1.116, 1.117, 1.118, 1.119, 1.120, 1.121, 1.123, 1.124, 1.141, 1.142, 1.143, 1.144, 1.145, 1.151, 1.152, 1.153, 1.161, 1.162, 1.163, 1.164, 1.166, 1.167(a), 1.167(b), 1.167(c), 1.167(d), 1.167(e), 1.167(f), 1.167(g), 1.167(h), 1.167(i), 1.167(j), 1.167(*l*), 1.167(m), 1.168, 1.169, 1.170, 1.170A, 1.171, 1.172, 1.173, 1.174, 1.175, 1.176, 1.177, 1.178, 1.179, 1.180, 1.182, 1.183, 1.185, 1.186, 1.187, 1.211, 1.212, 1.213, 1.214, 1.214A, 1.215, 1.216, 1.217, 1.218, 1.241, 1.242, 1.243, 1.244, 1.245, 1.246, 1.247, 1.248, 1.249, 1.250, 1.261, 1.262, 1.263(a), 1.263(b), 1.263(c), 1.263(d), 1.263(e), 1.263(f), 1.264, 1.265, 1.266, 1.267(a), 1.267(b), 1.267(c), 1.267(d), 1.268, 1.269, 1.270, 1.271, 1.272, 1.273, 1.274, 1.275, 1.276, 1.278, 1.279, 1.281, 1.301, 1.302, 1.303, 1.304, 1.305, 1.307, 1.311, 1.312, 1.316, 1.317, 1.318, 1.331, 1.332, 1.333, 1.334, 1.336, 1.337, 1.338, 1.341, 1.342, 1.346, 1.351, 1.355, 1.357, 1.361, 1.362, 1.363, 1.367, 1.368, 1.381(a), 1.381(b), 1.381(c)(1), 1.381(c)(2), 1.381(c)(3), 1.381(c)(4), 1.381(c)(5), 1.381(c)(6), 1.381(c)(7), 1.381(c)(8), 1.381(c)(9), 1.381(c)(10), 1.381(c)(11), 1.381(c)(12), 1.381(c)(13), 1.381(c)(14), 1.381(c)(15), 1.381(c)(16), 1.381(c)(17), 1.381(c)(18), 1.381(c)(19), 1.381(c)(20), 1.381(c)(21), 1.381(c)(22), 1.381(c)(23), 1.381(c)(24), 1.381(d), 1.382(a), 1.382(b), 1.382(c), 1.383, 1.402(a), 1.402(b), 1.402(c), 1.402(d), 1.402(e), 1.403(a), 1.403(b), 1.404(f), 1.405, 1.421, 1.422, 1.423, 1.424, 1.425, 1.441, 1.442, 1.443, 1.446, 1.454, 1.455, 1.456, 1.461, 1.471, 1.472, 1.481, 1.482, 1.483, 1.501(a), 1.501(b), 1.501(c)(1), 1.501(c)(2), 1.501(c)(3), 1.501(c)(4), 1.501(c)(5), 1.501(c)(6), 1.501(c)(7), 1.501(c)(8), 1.501(c)(9), 1.501(c)(10), 1.501(c)(11), 1.501(c)(12), 1.501(c)(13), 1.501(c)(14), 1.501(c)(15), 1.501(c)(16), 1.501(c)(17), 1.501(c)(18), 1.501(c)(19), 1.501(d), 1.501(e), 1.502, 1.503(a), 1.503(b), 1.503(c), 1.503(d), 1.503(e), 1.503(f), 1.507, 1.508, 1.509(a), 1.509(b), 1.509(c), 1.509(d), 1.509(e), 1.511, 1.512(a), 1.512(b), 1.512(c), 1.513, 1.514(a), 1.514(b), 1.514(c), 1.514(d), 1.514(e), 1.514(f), 1.514(g), 1.514(h), 1.515, 1.521, 1.522, 1.526, 1.531, 1.532, 1.533, 1.534, 1.535, 1.536, 1.537, 1.541, 1.542, 1.543, 1.544, 1.545, 1.546, 1.547, 1.551, 1.552, 1.553, 1.554, 1.555, 1.556, 1.557, 1.558, 1.561, 1.562, 1.563, 1.564, 1.565, 1.581, 1.582, 1.583, 1.584, 1.586, 1.591, 1.592, 1.594, 1.595, 1.596, 1.601, 1.611, 1.612, 1.613, 1.614, 1.615, 1.616, 1.617, 1.621, 1.631, 1.632, 1.636, 1.638, 1.641(a), 1.641(b), 1.642(a)(1), 1.642(a)(2), 1.642(a)(3), 1.642(b), 1.642(c), 1.642(d), 1.642(e), 1.642(f), 1.642(g), 1.642(h), 1.642(i), 1.643(a), 1.643(b), 1.643(c), 1.643(d), 1.651(a), 1.651(b), 1.652(a), 1.652(b), 1.652(c), 1.661(a), 1.661(b), 1.661(c), 1.662(a), 1.662(b), 1.662(c), 1.663(a), 1.663(b), 1.663(c), 1.664, 1.665(a)A, 1.665(b)A, 1.665(c)A, 1.665(d)A, 1.665(e)A, 1.665(f)A, 1.665(g)A, 1.665(a), 1.665(b), 1.665(c), 1.665(d), 1.665(e), 1.666(a)A, 1.666(b)A, 1.666(c)A, 1.666(d)A, 1.666(a), 1.666(b), 1.666(c), 1.667, 1.667(a)A, 1.667(b)A, 1.668(a)A, 1.668(b)A, 1.668(a), 1.668(b), 1.669(a)A, 1.669(b)A, 1.669(c)A, 1.669(d)A, 1.669(e)A, 1.669(f)A, 1.669(a), 1.669(b), 1.671, 1.672(a), 1.672(b), 1.672(c), 1.672(d), 1.673(a), 1.673(b), 1.673(c), 1.673(d), 1.674(a), 1.674(b), 1.674(c), 1.674(d), 1.675, 1.676(a), 1.676(b), 1.677(a), 1.677(b), 1.678(a), 1.678(b), 1.678(c), 1.678(d), 1.681(a), 1.681(b), 1.682(a), 1.682(b), 1.682(c), 1.683, 1.691(a), 1.691(b), 1.691(c), 1.691(d), 1.691(e), 1.691(f), 1.701, 1.702, 1.703, 1.704, 1.705, 1.706, 1.707, 1.708, 1.721, 1.722, 1.723, 1.731, 1.732, 1.733, 1.734, 1.735, 1.736, 1.741, 1.742, 1.743, 1.751, 1.752, 1.753, 1.754, 1.755, 1.761, 1.771, 1.801, 1.802, 1.803, 1.804, 1.805, 1.806, 1.807, 1.809, 1.810, 1.811, 1.812, 1.813, 1.815, 1.816, 1.817, 1.818, 1.819, 1.820, 1.821, 1.822, 1.823, 1.824, 1.825, 1.826, 1.831, 1.832, 1.841, 1.842, 1.843, 1.851, 1.852, 1.853, 1.854, 1.855, 1.856, 1.857, 1.858, 1.863, 1.864, 1.871A, 1.871, 1.872, 1.873, 1.874, 1.875, 1.876, 1.877, 1.878, 1.881, 1.882, 1.883, 1.884, 1.892, 1.893, 1.894, 1.895, 1.896, 1.902, 1.903, 1.904, 1.905, 1.911, 1.912, 1.921, 1.922, 1.931, 1.932, 1.933, 1.934, 1.935, 1.941, 1.942, 1.943, 1.951, 1.952, 1.953, 1.954, 1.955, 1.956, 1.957, 1.958, 1.959, 1.960, 1.961, 1.962, 1.963, 1.964, 1.970, 1.971, 1.972, 1.981, 1.991, 1.992, 1.993, 1.994, 1.995, 1.996, 1.997, 1.1001, 1.1002, 1.1011, 1.1012, 1.1013, 1.1014, 1.1015, 1.1016, 1.1017, 1.1018, 1.1019, 1.1020, 1.1021, 1.1022, 1.1031(a), 1.1031(b), 1.1031(c), 1.1031(d), 1.1031(e), 1.1032, 1.1033(a), 1.1033(b), 1.1033(c), 1.1033(d), 1.1033(e), 1.1033(f), 1.1033(g), 1.1033(h), 1.1034, 1.1035, 1.1036, 1.1037, 1.1038, 1.1039, 1.1051, 1.1052, 1.1053, 1.1054, 1.1055, 1.1056, 1.1071, 1.1081, 1.1082, 1.1083, 1.1091, 1.1101, 1.1102, 1.1103, 1.1201, 1.1202, 1.1212, 1.1221, 1.1222, 1.1223, 1.1231, 1.1232, 1.1233, 1.1234, 1.1235, 1.1236, 1.1237, 1.1238, 1.1240, 1.1241, 1.1242, 1.1243, 1.1244(a), 1.1244(b), 1.1244(c), 1.1244(d), 1.1244(e), 1.1245, 1.1247, 1.1248, 1.1249, 1.1250, 1.1251, 1.1252, 1.1301, 1.1302, 1.1303, 1.1304, 1.1305, 1.1311(a), 1.1311(b), 1.1312, 1.1313(a), 1.1313(b)–(c), 1.1314(a), 1.1314(b), 1.1314(c), 1.1314(d)–(e), 1.1315, 1.1321, 1.1331, 1.1332, 1.1333, 1.1334, 1.1335, 1.1336, 1.1337, 1.1341, 1.1342, 1.1346, 1.1347, 1.1348, 1.1361, 1.1371, 1.1372, 1.1374, 1.1375, 1.1376, 1.1377, 1.1378, 1.1381, 1.1382, 1.1383, 1.1385, 1.1388, 1.1401, 1.1402(a), 1.1402(b), 1.1402(c), 1.1402(d), 1.1402(e), 1.1402(f), 1.1402(g), 1.1402(h), 1.1403, 1.1441, 1.1442, 1.1443, 1.1451, 1.1461, 1.1462, 1.1463, 1.1464, 1.1465, 1.1471, 1.1481, 1.1491, 1.1492, 1.1493, 1.1494, 1.1501, 1.1503, 1.1504, 1.1505, 1.1551, 1.1552, 1.1562, 1.1563, 1.1564, 1.6001, 1.6012, 1.6013, 1.6014, 1.6015(a), 1.6015(b), 1.6015(d), 1.6015(e), 1.6015(f), 1.6015(g), 1.6015(h), 1.6015(i), 1.6015(j), 1.6016, 1.6017, 1.6031, 1.6032, 1.6034, 1.6035, 1.6036, 1.6037, 1.6038, 1.6039, 1.6041, 1.6042, 1.6043, 1.6044, 1.6045, 1.6046, 1.6049, 1.6050, 1.6052, 1.6056, 1.6061, 1.6062, 1.6063, 1.6065, 1.6071, 1.6073, 1.6074, 1.6102, 1.6151, 1.6152, 1.6153, 1.6154, 1.6161, 1.6162, 1.6164, 1.6165, 1.6302, 1.6411, 1.6414, 1.6425, 1.6428, 1.6655, and 1.7476.

PART 15—TEMPORARY INCOME TAX REGULATIONS RELATING TO EXPLORATION EXPENDITURES IN THE CASE OF MINING

§ 15.1 [Deleted]

Par. 2. Section 15.1 is deleted.

PART 16—TEMPORARY REGULATIONS UNDER THE REVENUE ACT OF 1962

§ 16.3 [Deleted]

Par. 3. Section 16.3 is deleted.

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Par. 4. Section 20.0–1(c) is revised to read as follows:

§ 20.0–1 Introduction.

* * * * * *

(c) *Arrangement and numbering.* Each section of the regulations in this part (other than this section and § 20.0–2) is designated by a number composed of the part number followed by a decimal point (20.); the section of the Internal Revenue Code which it interprets; a hyphen (-); and a number identifying the section. By use of these designations one can ascertain the sections of the regulations relating to a provision of the Code. For example, the regulations pertaining to section 2012 of the Code are designated § 20.2012–1.

Par. 5. Sections 20.2001, 20.2002, 20.2011, 20.2012, 20.2013, 20.2014, 20.2015, 20.2016, 20.2031, 20.2032, 20.2033, 20.2034, 20.2035, 20.2036, 20.2037, 20.2038, 20.2040, 20.2041, 20.2042, 20.2043, 20.2044, 20.2051, 20.2052, 20.2053, 20.2054, 20.2055, 20.2056(a), 20.2056(b), 20.2056(c), 20.2056(d), 20.2056(e), 20.2101, 20.2102, 20.2103, 20.2104, 20.2105, 20.2106, 20.2107, 20.2108, 20.2201, 20.2202, 20.2203, 20.2204, 20.2205, 20.2206, 20.2207, 20.2208, 20.2209, 20.6001, 20.6011, 20.6018, 20.6036, 20.6081, 20.6065, 20.6071, 20.6075, 20.6081, 20.6091, 20.6151, 20.6161, 20.6163, 20.6165, 20.6166, 20.6314, 20.6322, 20.6323, 20.6324, 20.6325, 20.6601, 20.6905, 20.7101, and 20.7404 are deleted.

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Par. 6. Section 25.0–1(d) is revised to read as follows:

§ 25.0–1 Introduction.

* * * * * *

(d) *Arrangement and numbering.* Each section of the regulations in this part (other than this section) is designated by a number composed of the part number followed by a decimal point (25.); the section of the Internal Revenue code which it interprets; a hyphen (-); and a number identifying the section. By use of these designations one can ascertain the sections of the regulations relating to a provision of the Code. For example, the regulations pertaining to section 2521 of the Code are designated § 25.2521–1.

Par. 7. Sections 25.2501, 25.2502, 25.2503, 25.2504, 25.2511, 25.2512, 25.2513, 25.2514, 25.2515, 25.2516, 25.2521, 25.2522(a), 25.2522(b), 25.2522(c), 25.2522(d), 25.2523(a), 25.2523(b), 25.2523(c), 25.2523(d), 25.2523(e), 25.2523(f), 25.2524, 25.6001, 25.6011, 25.6019, 25.6061, 25.6065, 25.6075, 25.6081,

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25.6091, 25.6151, 25.6161, 25.6165, 25.6321, 25.6322, 25.6323, 25.6324, 25.6601, 25.6905, and 25.7101 are deleted.

PART 31—EMPLOYMENT TAXES; APPLICABLE ON OR AFTER JANUARY 1, 1955

Par. 8. The following sections are deleted: §§ 31.3101, 31.3102, 31.3111, 31.3112, 31.3113, 31.3121(a), 31.3121(a)(1), 31.3121(a)(2), 31.3121(a)(3), 31.3121(a)(4), 31.3121(a)(5), 31.3121(a)(6), 31.3121(a)(7), 31.3121(a)(8), 31.3121(a)(9), 31.3121(a)(10), 31.3121(a)(11), 31.3121(a)(12), 31.3121(a)(13), 31.3121(a)(14), 31.3121(a)(15), 31.3121(b), 31.3121(b)(1), 31.3121(b)(2), 31.3121(b)(3), 31.3121(b)(4), 31.3121(b)(5), 31.3121(b)(6), 31.3121(b)(7), 31.3121(b)(8), 31.3121(b)(9), 31.3121(b)(10), 31.3121(b)(11), 31.3121(b)(12), 31.3121(b)(13), 31.3121(b)(14), 31.3121(b)(15), 31.3121(b)(16), 31.3121(b)(17), 31.3121(b)(18), 31.3121(b)(19), 31.3121(c), 31.3121(d), 31.3121(e), 31.3121(f), 31.3121(g), 31.3121(h), 31.3121(i), 31.3121(j), 31.3121(k), 31.3121(*l*), 31.3121(m), 31.3121(n), 31.3121(o), 31.3121(p), 31.3121(q), 31.3121(r), 31.3122, 31.3123, 31.3124, 31.3125, 31.3126, 31.3201, 31.3202, 31.3211, 31.3212, 31.3221, 31.3231(a), 31.3231(b), 31.3231(c), 31.3231(d), 31.3231(e), 31.3231(f), 31.3231(g), 31.3232, 31.3233, 31.3301, 31.3302(a), 31.3302(b), 31.3302(c), 31.3302(d), 31.3302(e), 31.3308, 31.3304, 31.3305, 31.3306(a), 31.3306(b), 31.3306(b)(1), 31.3306(b)(2), 31.3306(b)(3), 31.3306(b)(4), 31.3306(b)(5), 31.3306(b)(6), 31.3306(b)(7), 31.3306(b)(8), 31.3306(b)(9), 31.3306(b)(10), 31.3306(c), 31.3306(c)(1), 31.3306(c)(2), 31.3306(c)(3), 31.3306(c)(4), 31.3306(c)(5), 31.3306(c)(6), 31.3306(c)(7), 31.3306(c)(8), 31.3306(c)(9), 31.3306(c)(10), 31.3306(c)(11), 31.3306(c)(12), 31.3306(c)(13), 31.3306(c)(14), 31.3306(c)(15), 31.3306(c)(16), 31.3306(c)(17), 31.3306(c)(18), 31.3306(d), 31.3306(e), 31.3306(f), 31.3306(g), 31.3306(h), 31.3306(i), 31.3306(j) 31.3306(k), 31.3306(*l*), 31.3306(m), 31.3306(n), 31.3307, 31.3308, 31.3309, 31.3401(a), 31.3401(a)(1), 31.3401(a)(2), 31.3401(a)(3), 31.3401(a)(4), 31.3401(a)(5), 31.3401(a)(6), 31.3401(a)(6)A, 31.3401(a)(7), 31.3401(a)(8)(A), 31.3401(a)(8)(B), 31.3401(a)(8)(C), 31.3401(a)(9), 31.3401(a)(10), 31.3401(a)(11), 31.3401(a)(12), 31.3401(a)(13), 31.3401(a)(14), 31.3401(a)(15), 31.3401(a)(16), 31.3401(b), 31.3401(c), 31.3401(d), 31.3401(e), 31.3401(f), 31.3402(a), 31.3402(b), 31.3402(c), 31.3402(d), 31.3402(e), 31.3402(f)(1), 31.3402(f)(2), 31.3402(f)(3), 31.3402(f)(4), 31.3402(f)(5), 31.3402(f)(6), 31.3402(g), 31.3402(h)(1), 31.3402(h)(2), 31.3402(h)(3), 31.3402(h)(4), 31.3402(i), 31.3402(j), 31.3402(k), 31.3402(*l*), 31.3402(m), 31.3402(n), 31.3402(o), 31.3402(p), 31.3403, 31.3404, 31.3501, 31.3502, 31.3503, 31.3504, 31.3505, 31.6001, 31.6011(a), 31.6011(b), 31.6051, 31.6053, 31.6061, 31.6065(a), 31.6071(a), 31.6081(a), 31.6091, 31.6101, 31.6109, 31.6151, 31.6157, 31.6161(a)(1), 31.6201(b), 31.6205, 31.6302(b), 31.6302(c), 31.6317, 31.6402(a), 31.6404(a), 31.6413(a), 31.6413(b), 31.6413(c), 31.6413(d), 31.6414, 31.6513(e), 31.6601(k), 31.6652, 31.6674, 31.6682, and 31.7805.

PART 36—CONTRACT COVERAGE OF EMPLOYEES OF FOREIGN SUBSIDIARIES

§ 36.3121 [Amended]

Par. 9. Section 36.3121(l)–O(c) is revised by deleting the third sentence thereof which reads: "Each section of the regulations is preceded by the provision of the Code which it interprets."

Par. 10. Sections 36.3121(*l*)(1), 36.3121(*l*)(2), 36.3121(*l*)(3), 36.3121(*l*)(4), 36.3121(*l*)(5), 36.3121(*l*)(6), 36.3121(*l*)(7), 36.3121(*l*)(8), 36.3121(*l*)(9), and 36.3121(*l*)(10) are deleted.

PART 41—EXCISE TAX ON USE OF CERTAIN HIGHWAY MOTOR VEHICLES

Par. 11. Section 41.0–1(c) is revised to read as follows:

§ 41.0–1 Introduction.

* * * * *

(c) *Arrangement and numbering.* Each section of the regulations in this part (other than subpart A) is designated by a number composed of the part number followed by a decimal point (41.); the section of the Internal Revenue Code which it interprets; a hyphen (-); and a number identifying the section. By use of these designations one can ascertain the sections of the regulations relating to a provision of the Code. For example, the regulations pertaining to section 4481 of the Code are designated § 41.4481–1, § 41.4481–2, and § 41.4481–3.

Par. 12. Sections 41.4483, 41.4484, 41.6001, 41.6011(a), 41.6071(a), 41.6081(a), 41.6091, 41.6101, 41.6109, 41.6151(a), 41.6156, 41.6161(a)–(1), 41.6302(b), 41.7701, and 41.7805 are deleted.

PART 44—TAXES ON WAGERING; EFFECTIVE JANUARY 1, 1955

Par. 13. Section 44.0–1(c) is revised to read as follows:

§ 44.0–1 Introduction.

* * * * *

(c) *Arrangement and numbering.* Each section of the regulations in this part (other than subpart A) is designated by a number composed of the part number followed by a decimal point (44.); the section of the Internal Revenue Code which it interprets; a hyphen (-); and a number identifying the section. By use of these designations one can ascertain the sections of the regulations relating to a provision of the Code. For example, the regulations pertaining to section 4401 of the Code are designated § 44.4401–1, § 44.4401–2, and § 44.4401–3.

Par. 14. Sections 44.4401, 44.4402, 44.4403, 44.4404, 44.4405, 44.4411, 44.4412, 44.4413, 44.4414, 44.4421, 44.4422, 44.4423, 44.4901, 44.4902, 44.4904, 44.4905, 44.4906, 44.6001, 44.6011(a), 44.6071, 44.6091, 44.6151, 44.6419, 44.7282, 44.7272, 44.7701, and 44.7805 are deleted.

PART 45—MISCELLANEOUS STAMP TAXES

Par. 15. Section 45.0–1(c) is revised to read as follows:

§ 45.0–1 Introduction.

* * * * *

(c) *Arrangement and numbering.* Each section of the regulations in this part (other than subpart A) is designated by a number composed of the part number followed by a decimal point (45.); the section of the Internal Revenue Code which it interprets, a hyphen (-); and a number identifying the section. By use of these designations one can ascertain the sections of the regulations relating to a provision of the Code. For example, the regulations pertaining to section 4901 of the Code are designated § 45.4901–1.

Par. 16. Sections 45.4461, 45.4462, 45.4463, 45.4464, 45.4591, 45.4592(a), 45.4593(a), 45.4801, 45.4802, 45.4803, 45.4804, 45.4805, 45.4806, 45.4811, 45.4812, 45.4813, 45.4814, 45.4815(a), 45.4815(b), 45.4816, 45.4817, 45.4818, 45.4819, 45.4821, 45.4822, 45.4826, 45.4831, 45.4832, 45.4833, 45.4834, 45.4836, 45.4841, 45.4842, 45.4846, 45.4851, 45.4852, 45.4853, 45.4854, 45.4861, 45.4862, 45.4863, 45.4864, 45.4865, 45.4871, 45.4872, 45.4873, 45.4874, 45.4875, 45.4876, 45.4877, 45.4901, 45.4902, 45.4903, 45.4904, 45.4905, 45.4906, 45.4907, 45.6001, 45.6061, 45.6065, 45.6071, 45.6081(a), 45.6091, 45.6101, 45.6109, 45.6151, 45.6161(a)(1), 45.6804, 45.6805, 45.6806, 45.7011, 45.7208, 45.7209, 45.7233, 45.7234, 45.7235, 45.7236, 45.7239, 45.7263, 45.7264, 45.7265, 45.7266, 45.7267, 45.7271, 45.7272, 45.7273, 45.7274, 45.7303, 45.7326(a), 45.7328, 45.7492, 45.7493, 45.7510, 45.7641, 45.7701, and 45.7805 are deleted.

PART 46—REGULATIONS RELATING TO MISCELLANEOUS EXCISE TAXES PAYABLE BY RETURN

Par. 17. Section 46.0–1(c) is revised to read as follows:

§ 46.0–1 Introduction.

* * * * *

(c) *Arrangement and numbering.* Each section of the regulations in this part (other than subpart A) is designated by a number composed of the part number followed by a decimal point (46.); the section of the Internal Revenue Code which it interprets, a hyphen (-); and a number identifying the section. By use of these designations one can ascertain the sections of the regulations relating to a provision of the Code. For example, the regulations pertaining to section 4371 of the Code are designated § 46.4371–0, § 46.4371–1, and § 46.4371–2.

Par. 18. Sections 46.4371, 46.4372, 46.4373, 46.4374, 46.4375, 46.4501, 46.4502, 46.4503, 46.4504, 46.4881, 46.4882, 46.4883, 46.4884, 46.4885, 46.4886, 46.6001, 46.6011(a), 46.6061, 46.6065, 46.6071(a), 46.6081(a), 46.6091, 46.6101, 46.6109, 46.6151, 46.6161(a)(1), 46.6302(b), 46.6302(c), 46.6402(a), 46.6404(a), 46.6412(d), 46.6417, 46.6418, 46.6511(e), 46.7420, 46.7654, 46.7701, and 46.7805 are deleted.

PART 47—DOCUMENTARY STAMP TAXES

Par. 19. Section 47.0–1(c) is revised to read as follows:

§ 47.0–1 Introduction.

* * * * *

(c) *Arrangement and numbering.* Each section of the regulations in this part (other than subpart A) is designated by a number composed of the part number followed by a decimal point (47.); the section of the Internal Revenue Code which it interprets; a hyphen (-); and a number identifying the section. By use of these designations one can ascertain the sections of the regulations relating to a provision of the Code. For example, the regulations pertaining to section 4371 of the Code are designated § 47.4371–0, § 47.4371–1, and § 47.4371–2.

Par. 20. Sections 47.4301, 47.4302, 47.4303, 47.4304, 47.4305, 47.4311, 47.4312, 47.4313, 47.4314, 47.4315, 47.4321, 47.4322, 47.4323, 47.4324, 47.4331, 47.4332, 47.4333, 47.4341, 47.4342, 47.4343, 47.4344, 47.4345, 47.4346, 47.4351, 47.4352, 47.4353, 47.4354, 47.4361, 47.4362, 47.4363, 47.4371, 47.4372, 47.4373, 47.4374, 47.4375, 47.4381, 47.4382, 47.4383, 47.4384, 47.6001, 47.6801, 47.6802, 47.6804, 47.6805, 47.7208, 47.7209, 47.7270, 47.7271, 47.7701, and 47.7805 are deleted.

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

§§ 48.4218 and 48.4219 [Deleted]

Par. 21. Sections 48.4218 and 48.4219 are deleted.

PART 49—FACILITIES AND SERVICES EXCISE TAXES

Par. 22. Section 49.0–1(c) is revised to read as follows:

§ 49.0–1 Introduction.

* * * * *

(c) *Arrangement and numbering.* Each section of the regulations in this part (other than subpart A) is designated by a number composed of the part number followed by a decimal point (49.); the section of the Internal Revenue Code which it interprets, a hyphen (-); and a number identifying the section. By use of these designations one can ascertain the sections of the regulations relating to a provision of the Code. For example, the regulations pertaining to section 4261 of the Code are designated § 49.4261–1, § 49.4261–2, § 49.4261–3, § 49.4261–4, § 49.4261–5, § 49.4261–6, § 49.4261–7, § 49.4261–8, § 49.4261–9, and § 49.4261–10.

Par. 23. Sections 49.4241, 49.4242, 49.4243, 49.4251, 49.4252, 49.4253, 49.4254, 49.4261, 49.4262(a), 49.4262(b), 49.4262(c), 49.4263, 49.4264(a), 49.4264(b), 49.4264(c), 49.4264(d), 49.4264(e), 49.6264(f), 49.4286, 49.4287, 49.6011(a), 49.6071(a), 49.6091, 49.6109, 49.6151, and 49.6302(c) are deleted.

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

Par. 24. Sections 53.4941(a), 53.4941(b), 53.4941(c), 53.4941(d), 53.4941(e), 53.4942, 53.4944, 53.4945, 53.4946, 53.4947, 53.4948, 53.6001, 53.6011, 53.6061, 53.6065, 53.6071, 53.6081, 53.6091, 53.6151, 53.6161, 53.6165, 53.6601, 53.6651, and 53.7101 are deleted.

PART 144—TEMPORARY EXCISE TAX REGULATIONS RELATING TO TAX ON TIRES AND TUBES DELIVERED TO MANUFACTURER'S RETAIL OUTLET (26 CFR Part 144)

§ 144.1 [Deleted]

Par. 25. Section 144.1 is deleted.

PART 145—TEMPORARY REGULATIONS IN CONNECTION WITH THE EXCISE TAX REDUCTION ACT OF 1965

§§ 145.3 and 145.4 [Deleted]

Par. 26. Sections 145.3 and 145.4 are deleted.

PART 154—TEMPORARY REGULATIONS IN CONNECTION WITH THE AIRPORT AND AIRWAY REVENUE ACT OF 1970

§§ 154.1–154.4 [Deleted]

Par. 27. Sections 154.1, 154.2, 154.3 and 154.4 are deleted.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 28. The following sections are deleted: §§ 301.6001, 301.6011, 301.6012, 301.6013, 301.6014, 301.6015, 301.6016, 301.6017, 301.6018, 301.6019, 301.6020, 301.6021, 301.6031, 301.6032, 301.6033, 301.6034, 301.6035, 301.6036, 301.6037, 301.6038, 301.6039, 301.6040, 301.6041, 301.6042, 301.6043, 301.6044, 301.6045, 301.6046, 301.6047, 301.6048, 301.6049, 301.6050, 301.6051, 301.6052, 301.6061, 301.6062, 301.6063, 301.6064, 301.6065, 301.6071, 301.6073, 301.6074, 301.6075, 301.6081, 301.6091, 301.6096, 301.6101, 301.6102, 301.6103(a), 301.6103(b), 301.6103(c), 301.6103(d), 301.6103(e), 301.6103(f), 301.6104, 301.6105, 301.6106, 301.6108, 301.6109, 301.6111, 301.6151, 301.6152, 301.6153, 301.6154, 301.6155, 301.6156, 301.6157, 301.6161, 301.6162, 301.6163, 301.6164, 301.6165, 301.6166, 301.6201, 301.6202, 301.6203, 301.6204, 301.6205, 301.6206, 301.6207, 301.6211, 301.6212, 301.6213, 301.6214, 301.6215, 301.6216, 301.6301, 301.6302, 301.6303, 301.6304, 301.6311, 301.6312, 301.6313, 301.6314, 301.6315, 301.6316, 301.6317, 301.6321, 301.6322, 301.6323(a), 301.6323(b), 301.6323(c), 301.6323(d), 301.6323(e), 301.6323(f), 301.6323(g), 301.6323(h), 301.6323(i), 301.6324, 301.6325, 301.6326, 301.6331, 301.6332, 301.6333, 301.6334, 301.6335, 301.6336, 301.6337, 301.6338, 301.6339, 301.6340, 301.6341, 301.6342, 301.6343, 301.6344, 301.6401, 301.6402, 301.6403, 301.6404, 301.6405, 301.6406, 301.6407, 301.6411, 301.6412, 301.6413, 301.6414, 301.6415, 301.6416, 301.6417, 301.6418, 301.6419, 301.6420, 301.6421, 301.6422, 301.6423, 301.6425, 301.6501(a), 301.6501(b), 301.6501(c), 301.6501(d), 301.6501(e), 301.6501(f), 301.6501(h), 301.6501(i), 301.6501(j), 301.6501(k), 301.6501(l), 301.6501(m), 301.6501(o), 301.6502, 301.6503(a), 301.6503(b), 301.6503(c), 301.6503(d), 301.6503(e), 301.6503(f), 301.6503(g), 301.6504, 301.6511(a), 301.6511(b), 301.6511(c), 301.6511(d), 301.6511(e), 301.6511(f), 301.6512, 301.6513, 301.6514(a), 301.6514(b), 301.6515, 301.6521, 301.6531, 301.6532, 301.6533, 301.6601, 301.6602, 301.6611, 301.6612, 301.6621, 301.6651, 301.6652, 301.6653, 301.6654, 301.6655, 301.6656, 301.6657, 301.6658, 301.6659, 301.6671, 301.6672, 301.6673, 301.6674, 301.6675, 301.6676, 301.6678, 301.6679, 301.6682, 301.6684, 301.6685, 301.6688, 301.6801, 301.6802, 301.6803, 301.6804, 301.6805, 301.6806, 301.6807, 301.6808, 301.6851, 301.6861, 301.6862, 301.6863, 301.6864, 301.6871(a), 301.6871(b), 301.6872, 301.6873, 301.6901, 301.6902, 301.6903, 301.6904, 301.6905, 301.7001, 301.7011, 301.7012, 301.7101, 301.7102, 301.7103, 301.7121, 301.7122, 301.7123, 301.7201,

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PART 400—TEMPORARY REGULATIONS UNDER THE FEDERAL TAX LIEN ACT OF 1966

§§ 400.1–400.5 [Deleted]

Par. 29. Sections 400.1, 400.2, 400.3, 400.4, and 400.5 are deleted.

This Treasury decision removes recitations of provisions of the Internal Revenue Code of 1954 from Title 26 of the Code of Federal Regulations and makes necessary conforming changes in the regulations to reflect this action. Because this Treasury decision does not change any existing rules, it is found unnecessary to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: January 8, 1980.

Donald C. Lubick,
Assistant Secretary of the Treasury.

[FR Doc. 80-2301 Filed 1-24-80; 8:45am]
BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 511

Wage Order Procedure for Puerto Rico, the Virgin Islands, and American Samoa; Compensation of Committee Members

AGENCY: Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This document increases from $130 to $146 a day the per diem allowance to which members of industry committees in Puerto Rico, the Virgin Islands and American Samoa are entitled. The industry committees, whose members include representatives of employees, employers and public as appointed by the Secretary of Labor, meet periodically to review the wage rates in various industries and to recommend wage increases where appropriate. The Committees meet pursuant to the Fair Labor Standards Act, which authorizes the establishment of minimum wage rates in Puerto Rico, the Virgin Islands and American Samoa which are lower than the mainland minimum wage rate.

EFFECTIVE DATE: January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Josephine C. Stein, Labor Economist, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S-3028, Washington, DC 20210, 202–523–7642.

SUPPLEMENTARY INFORMATION: It is the standard practice to adjust compensation for industry Committee members in accordance with changes in General Schedule salary rates. The purpose of this amendment is to increase the compensation of each member of an industry committee from $130 to $146 for each day spent in the work of the committee. It accords with changes in General Schedule salary rates effective October 7, 1979, for regular employees of the U.S. Department of Labor.

As this amendment concerns only a rule of agency practice, and is not substantive notice of proposed rule making, opportunity for public participation and delay in effective date are not required by 5 U.S.C. 553. It does not appear that such participation or delay would serve a useful purpose. Accordingly, this revision shall be effective immediately.

This document was prepared under the direction and control of the Administrator, Wage and Hour Division.

Pursuant to authority in section 5 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, as amended; 29 U.S.C. 205) and Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp. p. 1004), I hereby revise 29 CFR 511.4 to read as follows:

§ 511.4 Compensation of committee members.

Each member of an industry committee will be allowed a per diem of $146 for each day actually spent in the work of committee, and will, in addition, be reimbursed for necessary transportation and other expense incident to traveling in accordance with Standard Government Travel Regulations then in effect. All travel expenses will be paid on travel vouchers certified by the Administrator or his authorized representative. Any other necessary expenses which are incidental to the work of the committee may be incurred by the committee upon approval of, and shall be paid upon certification of the Administrator or his authorized representative.

(Sec. 5, 52 Stat. 1062, as amended; 29 U.S.C. 205)

Signed at Washington, D.C. this 18th day of January, 1980.

C. Lamar Johnson,
Deputy Administrotor, Wage and Hour Division.

[FR Doc. 80-2328 Filed 1-24-80; 8:45 am]
BILLING CODE 4510-27-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1398-6]

Approval and Promulgation of Implementation Plans; Kentucky: Approval of 1979 Ozone Revisions

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today announces its approval of the State Implementation Plan (SIP) revisions which the Kentucky Department of Natural REsources and Environmental Protection submitted pursuant to requirements of Part D of Title I of the Clean Air Act, as amended in 1977, for ozone nonattainment areas. EPA's approval is given on condition that certain deficiencies be corrected by June 1980. If the deficiencies are not corrected by June 1980, EPA will then disapprove the affected portions of the revisions.

DATE: These actions are effective January 25, 1980.

ADDRESSES: Copies of the materials submitted by Kentucky and the comments received in response to the proposal notice of November 15, 1979 (44 FR 65781), may be examined during normal business hours at the following locations:

Public Information Reference Unit Library Systems Branch Environmental Protection Agency 401 M Street, SW., Washington, D.C. 20460

Library Environmental Protection Agency Region IV 345 Courtland Street, NE., Atlanta, Georgia 30308

FOR FURTHER INFORMATION CONTACT: Barry Gilbert, EPA, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30308, 404/881–3286 or FTS 257–3286.

SUPPLEMENTARY INFORMATION:

Background

In the November 15, 1979, Federal Register (44 FR 65781) EPA proposed approval of the Kentucky SIP revisions for the following areas designated nonattainment for ozone:

A. Northern Kentucky (Cincinnati Area)—Boone, Kenton, and Campbell Counties
B. Daviess County
C. Fayette County
D. Henderson County
E. Jefferson County
F. McCracken County
G. Boyd County

EPA on November 2, 1979 (44 FR 63104), redesignated Daviess and McCracken Counties attainment. Revisions for the remaining areas were submitted for EPA's approval on June 29, 1979.

The Kentucky revisions have been reviewed by EPA in light of the Clean Air Act (CAA), EPA regulations, and additional guidance materials. The criteria utilized in this review were detailed in the Federal Register on April 4, 1979 (44 FR 20372), and need not be repeated in detail here. Supplements to the April 4 notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53716), and November 23, 1979 (44 FR 67182); these involve, among other things, conditional approval.

EPA is conditionally approving the revisions since the deficiencies are minor and the Commonwealth has provided assurance that it will submit corrections by the June 1980 deadline specified (June 30 for I/M legislation, June 1 for other corrections needed).

A discussion of conditional approval and its practical effect appears in supplements to the General Preamble, 44 FR 38583 (July 2, 1979) and November 23, 1979 (44 FR 67182). The conditional approval requires the Commonwealth to submit additional materials by the deadline specified in today's notice. EPA will follow the procedures described below when determining if the Commonwealth has satisfied the conditions.

1. If the Commonwealth submits the required additional documentation according to schedule, EPA will publish a notice in the Federal Register announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submission.

2. EPA will evaluate the Commonwealth's submission to determine if the condition is fully met. After review is complete, a Federal Register notice will be published proposing or taking final action either to find the condition has been met and approve the plan, or to find the condition has not been met, withdraw the conditional approval and disapprove the plan. If the plan is disapproved the Section 110(a)(2)(I) restrictions on construction will be in effect.

3. If the Commonwealth fails to submit in a timely manner the required materials needed to meet a condition, EPA will publish a Federal Register notice shortly after the expiration of the time limit for submission. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved and Section 110(a)(2)(I) restrictions on growth are in effect.

In addition to the implementation plan revisions for the nonattainment areas required under Part D of Title I of the CAA, the Commonwealth's submittal contains changes related to other portions of the CAA, including changes in the New Source Performance Standard (NSPS) regulations, regulations concerning prevention of significant deterioration, and other emission standards. Thus, Kentucky has identified other measures necessary to provide for attainment before the end of 1987. These topics will be dealt with in a separate Federal Register notice.

General Discussion

Section 172(b) of the CAA contains the requirements for nonattainment State Implementation Plans. The following is a listing of these requirements accompanied by a discussion of the contents and adequacies of the Kentucky submittals.

172(b)(1) (SIP provision shall) be adopted by the State (or promulgated by the Administrator under Section 110(c)) after reasonable notice and public hearing;

Public hearings were held throughout the Commonwealth on the adopted material following 30 days public notice. Public hearings were conducted January 9, 10, and 17, April 16, and June 7, 1979. These SIP provisions were adopted by the Commonwealth on June 6 and 29, 1979, and by the Jefferson County Board on June 18, 1979.

172(b)(2) (SIP provision shall) provide for the implementation of all reasonably available control measures as expeditiously as practicable;

For discussion of reasonably available control measures including Reasonable Available Control Technology (RACT) see the discussion after Section 172(b)(3) below.

172(b)(3) (SIP provisions shall) require, in the interim, reasonable further progress (as defined in Section 171(1)) including such reduction in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology;

The plan provides for volatile organic compounds (VOC) reductions from major VOC sources in Kentucky to which Control Techniques Guidelines (CTGs) apply. This reduction represents reasonable further progress (RFP) towards attaining and maintaining the National Ambient Air Quality Standards (NAAQS). RFP for ozone nonattainment areas requires reductions from stationary and mobile sources sufficient to attain the primary NAAQS on or before December 31, 1982, in all areas except Louisville and Northern Kentucky. The Commonwealth has requested an extension to the end of 1987 for meeting the ozone and carbon monoxide NAAQS in Louisville (Jefferson Co.) and the ozone NAAQS in Northern Kentucky (Boone, Kenton and Campbell Counties). Therefore, a mandatory inspection and maintenance (I/M) program for motor vehicles, other transportation control measures, and a new source review program consistent with Section 172(b)(11) must be implemented. As a requirement for the extension to 1987, the SIP must include:

A. An adequate inspection and maintenance program for motor vehicles. This must include the following:

"Inspection/Maintenance" (I/M) as it is used in Section 172(b)(11)(B), refers to a program whereby motor vehicles receive periodic inspections to assess the functioning of their exhaust emission control systems. Vehicles which have excessive emissions must then undergo mandatory maintenance. Generally, I/M

programs include passenger cars, although other classes may be included as well.

Operation of noncomplying vehicles is prohibited. This is most effectively accomplished by requiring proof of compliance in order to purchase license plates or to register a vehicle. In certain cases, a windshield sticker system can be used, much like many motor vehicle safety inspection programs. Section 172 of the Clean Air Act requires that State Implementation Plans for States which include non-attainment areas must meet certain criteria. For areas which demonstrate that they will not be able to attain the ambient air quality standards for ozone or carbon monoxide by the end of 1982, despite the implementation of all reasonably available measures, an extension to 1987 will be granted. In such cases Section 172(b)(11)(B) requires that: "the plan provisions shall establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program * * *"

EPA issued guidance on February 24, 1978, on the general criteria for SIP approval including I/M, and on July 17, 1978, regarding the specific criteria for I/M SIP approval. Both of these notices are part of the SIP guidance material referred to in the General Preamble for Proposed Rulemaking 44 FR 20372, n 6. Although the July 17, 1978, guidance should be consulted for details, the key elements for I/M SIP approval are as follows:

- *Legal Authority.* States or local governments must have adopted the necessary statutes, regulations, ordinances, etc., to implement and enforce the inspection/maintenance program. (Section 172(b)(10).)
- *Commitment.* The appropriate governmental unit(s) must be committed to implement and enforce the I/M program. (Section 172(b)(10).)
- *Resources.* The necessary finances and resources to carry out the I/M program must be identified and committed. (Section 172(b)(7).)
- *Schedule.* A specific schedule to establish the I/M program must be included in the State Implementation Plan. (Section 172(b)(11)(B).) Interim milestones are specified in the July 17, 1978, memorandum in accordance with the general requirement of 40 CFR 51.15(c).
- *Program Effectiveness.* As set forth in the July 17, 1978 guidance memorandum, the I/M program must achieve a 25% reduction in passenger car exhaust emissions of hydrocarbons and a 25% reduction for carbon monoxide. This reduction is measured by comparing the levels of emission projected to December 31, 1987, with and without the I/M program. This policy is based on Section 172(b)(2) which states that "the plan provisions * * * shall * * * provide for the implementation of all reasonably available control measures * * *"

Specific detailed requirements of these five provisions are discussed below.

To be acceptable, I/M authority must be adequate to implement and effectively enforce the program and must not be conditioned upon further legislative approval or any other substantial contingency. However, the legislation can delegate certain decision making to an appropriate regulatory body. For example, a state department of environmental protection or department of transportation may be charged with implementing the program, selecting the type of test procedure as well as the type of program to be used, and adopting all necessary rules and regulations. I/M legal authority must be included with any plan revision which must include I/M (i.e., a plan which establishes an attainment date beyond December 31, 1982) unless an approved extension to certify legal authority is granted by EPA. The granting of such an extension, however, is an exceptional remedy to be utilized only when a state legislature has had no opportunity to consider enabling legislation.

Written evidence is also required to establish that the appropriate governmental bodies are "committed to implement and enforce the appropriate elements of the plan." (Section 172(b)(10).) Under Section 172(b)(7), supporting commitments for the necessary financial and manpower resources are also required.

A specific schedule to establish an inspection/maintenance program is required. (Section 172(b)(11)(B).) The July 17, 1978, guidance memorandum established as EPA policy the key milestones for the implementation of the various I/M programs. These milestones meet the general SIP requirement for compliance schedules as governed by 40 CFR 51.15(c). That section requires that increments of progress be contained in compliance schedules of over one year in length.

To be acceptable, an I/M program must achieve the requisite 25% reductions in both hydrocarbon (HC) and carbon monoxide (CO) exhaust emissions from passenger cars by the end of calendar year 1987. The Act mandates "Implementation of all reasonably available control as expeditiously as practicable." Section 172(b)(2). At the time of passage of the Clean Air Act Amendments of 1977, several inspection/maintenance programs were already operating, including mandatory programs in New Jersey and Arizona operating at about a 20% stringency. (The stringency of a program is defined as the initial proportion of vehicles which would have failed the program's standards if the affected fleet had not undergone I/M before initial testing.

Because some motorists tune their vehicles before I/M tests, the actual proportion of vehicles failing is usually a smaller number than the stringency of the program.) Depending on program type (private garage or centralized inspection) a mandatory I/M program may be implemented as late as December 31, 1982 and the attainment date may be as late as December 31, 1987. Based on an implementation date of December 31, 1982 and a 20% stringency factor, EPA predicts the reductions of both CO and HC exhaust emissions of 25% can be achieved by December 31, 1987. Earlier implementation of I/M will produce greater emission reductions. Thus, because of the Act's requirement for the implementation of all reasonably available control measures and because New Jersey and Arizona have effectively demonstrated practical operation of I/M programs with 20% stringency factors, it is EPA policy to use a 25% emission reduction as the criterion to determine compliance of the I/M portion with Section 172(b)(2)). (See Jefferson County (Louisville) for discussion of the above points)

B. A program for selecting a package of transportation control measures (and any other necessary measures) to attain the emission reductions target ascribed in the SIP. The package should include an adopted schedule for expeditious implementation of currently planned reasonable transportation control measures, and schedules for analysis and adoption of additional transportation control (and other necessary) measures (Ref. CAA Section 110(a)(3)(D), Section 172(b)(2), (7), (10), and (11)(C)).

C. A commitment to establish, expand, or improve public transportation needs as expeditiously as practicable, including a commitment to use necessary federal grants and State and local funds (Ref. CAA, Section 110(a)(3)(D), and Section 172(b)(2)).

Jefferson County (Louisville): The Commonwealth has calculated that a 39% reduction in hydrocarbon emissions is needed to meet the ozone standard. It has applied and adopted all reasonably available control measures and made a proper demonstration that the standard cannot be attained by December, 1982. The Commonwealth has requested and EPA is approving an extension to 1987 to attain the ozone NAAQS.

The requirements for this extension are stated above and in the discussion of Section 172(b)(11) requirements. The Commonwealth has submitted in the SIP an opinion from the Attorney General of the Commonwealth regarding its legal authority to implement and enforce I/M and the ability under Kentucky law of local governments to adopt authority to implement and enforce I/M. Since efforts to adopt legal authority to implement and enforce a mandatory I/M program at the local level have not been successful, the Commonwealth has assumed the responsibility for implementing the program. In the SIP, the Commonwealth made a commitment to implementing an I/M program by including a schedule of future actions which would lead to implementation of the program by December 31, 1982, and a commitment to use the I/M program to obtain the emission reductions necessary to attain and maintain the ambient standards by 1987. This commitment satisfies the requirement for a commitment to a 25% reduction in hydrocarbon and carbon monoxide exhaust emissions by 1987. However, upon review of the SIP, it was found that the I/M legal authority does not exist. Therefore, to assure themselves and EPA of adequate legal authority, legislative action by the Kentucky Legislature will be required. In response to the deficiency, the Governor of Kentucky on June 29, 1979, committed the Commonwealth to attempt to pass enabling legislation in the regular 1980 General Assembly session. Because the deadline for certification of adequate legal authority was July 1, 1979, for the SIP to be conditionally approved an extension of the deadline is necessary.

In order for the Governor's request to be granted, it must be demonstrated that the legislature had inadequate opportunity to consider the needed legal authority. In a letter dated November 2, 1979, the Secretary of the Kentucky Department of Natural Resources and Environmental Protection reaffirmed the Governor's request for an extension and indicated that the legislative session of 1980 will be the first session at which the Kentucky Legislature can consider legislative action.

It should be noted that the last time that the General Assembly met in regular session was in January-March, 1978. At that time, the Agriculture and Natural Resources Committee tabled enabling I/M legislation, because it was not known at that time if any areas in the Commonwealth would require an I/M program. The Secretary in his letter stated that Kentucky meets only every other year so that the next opportunity for legislative consideration is 1980. While there was a special session called by the Lieutenant Governor from January 8–February 14, 1979, to consider budgetary action, the Secretary pointed out that no legislative action was considered.

Therefore, EPA believes that there has been inadequate opportunity for the Kentucky legislature to consider necessary legal authority for I/M, and grants an extension for certification of adequate legal authority to June 30, 1980. EPA also conditionally approves the I/M portion of the SIP, conditioned on the certification of adequate legal authority by June 30, 1980. Should new legal authority change the characteristics of the program in the SIP, the SIP should be revised accordingly.

If the Commonwealth does not certify adequate I/M legal authority, the SIP will be disapproved and the Commonwealth will be liable to growth restrictions and funding limitations contained in the CAA. EPA reviewed the Transportation Control Plan (TCP) according to the requirements listed in the CAA and found that the submittal adequately addresses all of those issues except for the following:

1. In Appendix F (Kentuckian Regional Planning and Development Agency (KIPDA), p. 74–78) certain transportation control measures (TCM's) are identified as "adopted but not yet implemented". Each of these TCM projects must include commitments from the appropriate agencies for implementation and enforcement. Schedules for initiation and completion or implementation of the measures must be contained in the SIP.

2. The appropriate agency(ies) must examine the air quality benefits from all projects in the long-term as well as short-term to insure that a project will continue to have air quality benefits throughout its lifetime. EPA will accept for inclusion in the SIP only those measures meeting this criterion. EPA also requires that the projected emission reductions must be verified through the annual reporting requirements related to the Reasonable Further Progress Curve.

3. Section 108(f) requires EPA to publish and make available information documents on transportation control measures that are reasonably available for implementation in order to reduce emissions from transportation sources. EPA considers all Section 108(f) measures to be reasonably available. The Commonwealth submission lacks a commitment to justify a decision not to implement any measures found reasonably available but difficult to implement. The submittal does not contain the schedule for analysis of packages of *all* the Section 108(f) measures with a commitment to implement expeditiously the measures that are found feasible for implementation.

Boone, Kenton and Campbell Counties (Northern Kentucky): The Commonwealth has calculated that a 49% reduction in VOC emissions is needed to meet the ozone standard. They have applied all reasonable available measures and made a proper demonstration that the standard cannot be attained by December 1982. The Commonwealth has requested and EPA is granting an extension to 1987 to attain the ozone NAAQS. The requirements for this extension are stated in the General Discussion section of this notice. The comments relating to the mandatory I/M program for Jefferson County also apply to these counties. EPA's review of the Northern Kentucky area's TCP has revealed the following deficiencies:

1. In Table 7–4 of Appendix G (Ohio-Kentucky-Indiana Report), certain transportation control measures are identified for implementation during 1980–1983. EPA requirements concerning measures contained in a TCP include the following:

a. A commitment must be made from the responsible agency(ies) to the enforcement of measures where appropriate.

b. The appropriate agency(ies) must examine the air quality benefits from all TCM projects in the long-term as well as short-term to insure that such project will continue to have air quality benefits throughout its lifetime. EPA will accept for inclusion into the SIP only those measures meeting this criterion. EPA also requires that the projected emissions reductions must be verified through the annual reporting requirements related to the Reasonable Further Progress Curve.

2. The SIP (Appendix G) did not contain a commitment to justify the infeasibility of any Section 108 alternative measures not adopted. Ohio-Kentucky-Indiana Regional Council of Governments (OKI) has replied to an EPA comment stating that this decision will be justified by the studies. EPA finds this commitment to be sufficient provided that the studies are based upon the procedures and criteria for the analysis of alternatives outlined in the June 1978 *EPA/DOT Transportation Air Quality Planning Guidelines* and are subject to the planning procedures called for in the Section 174 of the CAA.

3. Table 7–5 of Appendix G listed completion dates for the study of the Section 108 measures going beyond the

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June 30, 1980, deadline. OKI has indicated that this deficiency will be addressed through its Section 175 work program which includes the schedule for the analysis of alternative measures to be done by June 30, 1980.

4. In Appendix G certain public transit oriented TCM projects are listed for implementation through the FY 1979 Transit Operating Subsidy and other funding sources. These TCM projects must include dates for initial and final construction (where appropriate) along with commitments from the appropriate agencies to implement and enforce them.

Boyd, Fayette, and Henderson Counties: These ozone nonattainment areas are all classified as non-urban, with metropolitan areas having less than 200,000 population. A demonstration of attainment is not required for non-urban areas. The SIP includes a VOC inventory and regulations that require control of major stationary VOC sources for which Control Techniques Guidelines (CTG) have been published. Additional sufficient reductions in emissions will be obtained through the Federal Motor Vehicle Control Program.

Daviess and McCracken Counties: These two counties were designated nonattainment due to the more stringent (0.08 ppm) NAAQS in effect at the time of designation. Ambient monitoring data for ozone indicates these areas have not experienced violations of the revised (0.12 ppm) NAAQS. EPA redesignated these areas as attainment on November 2, 1979 (44 FR 63104).

General Ozone Conclusions

Several counties in Kentucky were designated nonattainment for ozone. As discussed under the Ozone Control Strategy in the General Preamble of April 4, 1979 (44 FR 41255), EPA requires only that RACT requirements for VOC sources covered by CTGs be adopted. The Commonwealth of Kentucky has responded and has adopted RACT regulations for all sources covered by CTGs (applicable Statewide except in attainment areas) which EPA had issued by January 1978, and committed to adopt additional RACT categories as they are developed by EPA. For categories covered by CTGs of sources controlled by presently adopted regulations which contain compliance schedules include:

(1) Surface coating including, (a) coil coating, (b) paper coating, (c) fabric and vinyl coating and (d) can coating; (2) metal furniture coating; (3) large appliance surface coating; (4) petroleum liquid storage; (5) bulk gasoline plants; (6) bulk gasoline terminals; (7) gasoline dispensing facility (Stage I); (8) solvent metal cleaning; (9) cutback asphalt; (10) automobile and light duty truck manufacturing; (11) magnet wire coating; and (12) petroleum refinery sources.

The CTGs provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTGs, EPA believes that the submitted regulations represent RACT, except as noted below. On the points noted below, the Commonwealth regulations are not supported by the information in the CTGs, and the Commonwealth must provide an adequate demonstration that its regulations represent RACT, or amend the regulations to be consistent with the information in the CTGs. EPA's review of the Kentucky revisions revealed a number of deficiencies related to attainment of the ozone NAAQS in addition to those related to transportation control measures.

Regulations 401 KAR 59:095 and 61:045 apply to new and existing oil-effluent water separators. Sources which handle petroleum products with a Reid vapor pressure less than 0.5 PSIA are exempt from the Kentucky regulations. This exemption must be removed or justified. In addition the Commonwelath may show that the emissions from the stated exemptions differ no more than five (5) percent from expected emission reductions resulting from CTG recommended RACT control of oil-effluent water separators in refineries. The Commonwealth also has the option of proving that it would not be economically justifiable to control sources of the size that would be exempted under the regulation.

EPA is conditionally approving the SIP revision for the following nonattainment areas because of deficiencies in the ozone portion of the plan:

1. Jefferson County (Louisville) is deficient due to inadequacies in the transportation control portion of the SIP (see Jefferson Co.) and VOC regulations which are listed above.

2. Boone, Kenton and Campbell Counties (Northern Ky.) are deficient due to inadequacies in their transportation control portion of the SIP as addressed above (see discussion for Boone, Kenton, and Campbell Counties).

3. Boyd County is deficient due to VOC regulation inadequacies listed above.

In the remaining nonattainment counties the Commonwealth has certified there are no sources to which the VOC regulations listed above apply.

172(b)(4) (SIP provisions shall) include a comprehensive, accurate, current inventory of actual emissions from all sources (as provided by rule of the Administrator) of each such pollutant for each such area which is revised and resubmitted as frequently as may be necessary to assure that the requirements of paragraph (3) are met and to assess the need for additional reductions to assure attainment of each standard by the date required under subsection (a);

Appropriate comprehensive emissions inventories for ozone (the inventory is for hydrocarbons which react with sunlight to form ozone) have been submitted. Future reporting requirements for updating these inventories annually are included. EPA approves this portion of the plan.

172(b)(5) (SIP provisions shall) expressly identify and quantify the emissions, if any, of any such pollutant which will be allowed to result from the construction and operation of major new or modified stationary sources for each such area;

Identification and quantification of emissions from major new or modified sources have been provided through an accommodative SIP. The mechanism for tracking these reductions and allowing growth in nonattainment areas is provided in the Kentucky Air Pollution Control Regulations. EPA approves this portion of the plan.

172(b)(6) (SIP provisions shall) require permits for the construction and operation of new or modified major stationary sources in accordance with Section 173 (relating to permit requirements);

The Commonwealth requires permits for the construction and operation of new or modified major stationary sources in accordance with Section 173 (Kentucky Regulation 401 KAR 50:035 and 401 KAR 51). In particular, Kentucky will utilize an "offset" policy that will ensure reasonable further progress. The State's definitions of "lowest achievable emission rate" and of "owner or operator" of a proposed new or modified source are consistent with Section 173 (2) and (3), respectively, and the permit requirements include a provision that the owner must demonstrate that sources owned or operated by it (or by any entity controlling it) are in compliance (or on a schedule for compliance) with all applicable emission limitations and standards under the Act. EPA, therefore, fully approves this portion of the plan.

172(b)(7) (SIP provisions shall) identify and commit the financial and manpower resources necessary to carry out the plan provisions required by this subsection;

The Commonwealth has identified and committed adequate financial and manpower resources necessary to carry out the provisions of this SIP revision. In Chapter XI—(Resources) of the SIP, the

Commonwealth projected the amount of manpower and funding which will be expended to carry out the requirements of the SIP. EPA approves this portion of the plan.

172(b)(8) (SIP provisions shall) contain emission limitations, schedules of compliance and other such measures as may be necessary to meet the requirements of this section;

This revision package contains the necessary emission limitations and schedules of compliance for stationary sources of VOC where appropriate. These provisions are contained in Appendix I, *Air Pollution Control Regulations*, (June 6, 1979) of the Commonwealth of Kentucky, Department of Natural Resources and Environmental Protection, as necessary emission limits to attain the NAAQS in all areas of Kentucky. The Commonwealth submitted Appendix N, *Air Pollution Control District of Jefferson County Regulations* (as amended June 13, 1979), to be also effective in Jefferson County with certain exceptions. Only provisions relating to the ozone plan are being considered in this notice.

Certain regulations of Appendix N were not included in the official submittal, however. These are as follows:

1. Regulation 3.04, Ambient Air Quality Standards; Section 1, Primary Standards, (d)(i), Photochemical Oxidants; Section 2, Secondary Standards, (d), Photochemical Oxidants; and, (h), Hydrogen Sulfide.

2. Regulation 4, Emergency Episodes.

3. Regulation 6, Existing Affected Facilities, 04, Control of Objectionable Odors in the Ambient Air.

4. Regulation 6, Existing Affected Facilities, 05, Control of Fugitive Particulate Emissions; Section 2, Standard of Fugitive Particulate Matter, (c), concerning an opacity limit, and Section 3 through Section 11, concerning unpaved roads and unpaved parking areas, earth moving activities, etc.

5. Regulation 6, Existing Affected Facilities, 17, Standard of Performance for Existing Automobile and Light Duty Truck Surface Coating Activities.

6. Regulation 6, Existing Affected Facilities, 22, Standard of Performance for Existing Volatile Organic Materials Loading Facilities.

7. Regulation 7, New Affected Facilities, 03, Control of Objectionable Odors in the Ambient Air.

8. Regulation 7, New Affected Facilities, 04, Control of Fugitive Particulate Emissions; Section 2, Standard for Particulate Matter, (c), concerning unpaved roads and unpaved parking areas, earth moving activities, etc.

9. Regulation 7, New Affected Facilities, 22, Standards of Performance for New Volatile Organic Materials Loading Facilities.

Appendix N to the SIP also states, "Those portions of the regulations which are legally adopted by the Air Pollution Control District of Jefferson County (APCDJC) and which are at least as stringent as the State regulations applicable to Jefferson County, are made a part of this State Implementation Plan as Appendix N. If the Kentucky Department for Natural Resources and Environmental Protection determines that provisions of the local regulations are not as stringent as State regulations the Department for the Natural Resources and Environmental Protection will enforce the State regulations (Appendix I) applicable to Jefferson County which would, by law, preempt the local regulations in such situations. Moreover, if the APCDJC fails to implement any provisions of the SIP applicable to Jefferson County the DNREP will enforce the State regulations applicable to Jefferson County". The following APCDJC regulations were determined by the Commonwealth to be less stringent than DNREP regulations (Appendix I) and are also not submitted as part of the SIP:

1. Regulation 2, Permit Requirements, 02, Registration and Minor Source Exemption; Section 2, Exemptions, exempts some sources from registration which are not exempted by the DNREP regulation 401 KAR 50:030.

2. Regulation 4, Emergency Episodes, 02, Episode Criteria, Section 2, Air Pollution Alerts, (b), Pollutant Alert Levels, does not have an alert level for NO_2 as contained in DNREP regulation 401 KAR 55:010.

3. Regulation 6, Existing Affected Facilities, 05, Control of Fugitive Particulate Emissions; Section 2, Standard for Fugitive Particulate Matter, paragraph (a) and Regulation 7, New Affected Facilities, 04, Control of Fugitive Particulate Emissions; Section 2, Standard for Particulate Matter, paragraph (a) do not prohibit the discharge of fugitive dust beyond the property line as required by DNREP regulation 401 KAR 63:010.

4. Regulation 6, Existing Affected Facilities, 09, Standard of Performance for Existing Process Operations; Section 3(c), Standard for Particulate Matter, contains an exemption which is not contained in DNREP regulation 401 KAR 61:020.

5. Regulation 6, Existing Affected Facilities, 11, Standard of Performance for Existing Iron and Steel Plants; Section 3, Standard for Particulate Matter, for emissions and opacity for steel plants other than basic oxygen process furnaces are less stringent than DNREP regulation 401 KAR 61:075.

6. Regulation 6, Existing Affected Facilities, 11, Standard of Performance for Existing Iron and Steel Plants, does not contain testing and monitoring procedures as are contained in DNREP regulation 401 KAR 61:075.

7. Regulation 7, New Affected Facilities 05, Control of Open Burning; Section 2, Prohibition of Open Burning, paragraph (e), does not contain an opacity standard for flares as required DNREP regulation 401 KAR 63:015.

EPA approves, except where otherwise noted herein, the regulations of the DNREP for the entire Commonwealth. These regulations (Appendix I) were submitted by DNREP and reviewed by EPA and demonstrate the attainment and maintenance of the NAAQS as expeditiously as practicable. Also approved for Jefferson County, except where otherwise noted herein, are those portions of the regulations of the APCDJC which have been officially submitted as part of the plan. These regulations (Appendix N) are at least as stringent as the DNREP regulations. This is because any local (APCDJC) regulations which are less stringent are preempted by DNREP regulations. Since the DNREP regulations are sufficient and the local regulations are at least as stringent, the local regulations are also sufficient. EPA will enforce both sets of regulations since they both now become part of the SIP. In effect this means that EPA will enforce the stricter of the State and local regulations applicable in Jefferson County since compliance with the stricter limit assures compliance with the other limit. EPA approves this portion of the SIP relating to Section 172(b)(8), except for those related portions contained in the discussion under Section 172(b)(3).

Various regulations submitted in the plan allow the DNREP to modify requirements contained in the SIP. The regulations are contained in Appendix I, *Air Pollution Control Regulations*, and pertain to variances, alternative emission reduction options (bubble concept), RACT determinations on a site specific basis, etc. A few specific examples are found within regulations 401 KAR 50:055, 51:015, 59:010, 59:180, 61:015, 61:056, 61:085, and 61:090. If a regulation is modified by the DNREP, the new regulation is considered a revision of the plan and must be submitted for approval by EPA.

172(b)(9) (SIP provisions shall) contain evidence of public, local government, and

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State legislative involvement and consultation in accordance with Section 174 (relating to planning procedures) and include (A) an identification and analysis of the air quality, health, welfare, economic energy and social effects of the plan provisions required by this subsection and of the alternatives considered by the State, and (b) a summary of the public comment on such analysis;

Consultation with the public, local governments and Commonwealth legislative involvement is evidenced by information presented in Chapter 12 of the SIP. The Commonwealth's analysis of the air quality, health, welfare, economic, energy, and social effects determines that the impact of the SIP will be beneficial, and EPA approves this portion of the SIP.

172(b)(10) (SIP provisions shall) include written evidence that the State, the general purpose local government or governments, or a regional agency designated by general purpose local governments for such purpose, have adopted by statute, regulation, ordinance, or other legally enforceable documents, the necessary requirements and schedules and timetables for compliance, and are committed to implement and enforce the appropriate elements of the plan;

In the Commonwealth of Kentucky, the Division of Air Pollution Control of the Department of Natural Resources and Environmental Protection has full statutory authority for enforcing the SIP revisions submitted except for I/M. The Department adopted on June 6, and 29, 1979, the necessary regulatory portion of the SIP submitted. Timetables for compliance with I/M requirements are addressed in Section 172(b) (3) and (8). EPA approves this portion of the SIP except for I/M legal authority (see discussion under Section 172(b)(3) above).

172(b)(11) (SIP provisions shall) in the case of plans which make a demonstration pursuant to paragraph (2) of subsection (a),
(A) establish a program which requires, prior to issuance of any permit for construction or modification of a major emitting facility, an analysis, of alternative sites, sizes, production processes, and environmental control techniques for such proposed source which demonstrates that benefits of the proposed sources significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.
(B) Establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program; and
(C) Identify other measures necessary to provide for attainment of the applicable national ambient air quality standard not later than December 31, 1987.

Paragraph (11) of subsection 172(b) applies to the Northern Kentucky (Cincinnati) nonattainment area for ozone and the Louisville nonattainment area for carbon monoxide and ozone. The alternatives analysis for new sources required by subparagraph (A) above has been submitted in the SIP for both areas as a revision to the State's permitting regulation (401 KAR 51.050).

The schedule for the implementation of an I/M program for both areas has been included in the SIP. For necessary legal authority see the discussion in Section 172(b)(3). EPA approves this portion of the plan except for those related portions which are proposed to be conditionally approved under Section 172(b)(3).

The Section 172(b)(11)(C) requirement for identification of additional measures necessary to attain national ambient standards, is addressed in the discussion of Section 172(b)(3), concerning additional transportation control measures.

Comments

Comment: One comment received asserts that if the SIP were approved, Kentucky, like many other States which the commenter believes clearly contribute to unhealthful levels of ozone pollution throughout the nation, would be freed from the duty to prepare and implement control strategies designed to reduce ambient ozone pollution to acceptable levels. If this plan is approved, according to the commenter, New Jersey and other northeastern States, which have been properly designated as "nonattainment" areas for ozone, will bear an undue burden of ozone control due to the transport of uncontrolled pollution into their territories if Kentucky and other States do not enact comprehensive ozone control programs.

Specifically, the commenter states that Kentucky's SIP, to the extent that it does not require RACT Statewide for all existing sources of hydrocarbon emissions, Lowest Achievable Emission Rate (LAER) and offsets for major new sources of Volatile Organic Compounds, as well as the implementation of reasonably available transportation control measures, including a comprehensive inspection and maintenance program to reduce pollution from mobile sources, does not meet the standards of Section 110 and Part D of the Clean Air Act as amended.

Response: EPA does not agree with the assertions made in this comment and each is addressed in turn.

Reasonable Available Control Technology: The State has adopted regulations for all categories covered in the first series of CTG documents (see Page 65787 of the November 15, 1979, Federal Register) and has also committed to adopting regulations for all additional CTG documents as they are published.

The regulations have been applied Statewide with the exception of two counties. The State has demonstrated by its plan that the ozone standard will be attained in Kentucky. In addition, the commenter argues as it did in objecting to the Administrator's ozone nonattainment area designations that entire States should be designated nonattainment, thereby, requiring Part D SIP revisions Statewide. The Administrator considered all of the commenters objections to the designations and responded in the document entitled, "Technical Support Document for Agency Policy Concerning Designations of Attainment, Unclassifiable and Nonattainment Areas for Ozone" (January, 1979). Availability of this document was announced in the February 1, 1979, Federal Register (44 FR 6395). This document and the Administrator's response to these comments are incorporated herein by reference.

LAER and Offset Requirements for New Sources: The Commonwealth's accommodative SIP, through control of sources in unclassified areas, with potential emissions of 100 tons per year, has provided sufficient offsets for the State's new growth. The Commonwealth also requires permits for the construction and operation of new or modified major stationary sources in accordance with Section 173 of the CAA. Lowest Achievable Emission Rate (LAER) controls are required on new or modified major sources that impact a nonattainment area (Regulations 401 KAR 50:035 and 401 KAR 51).

Transportation Control Measures Including I/M: Kentucky will implement a motor vehicle inspection and maintenance program and certain other Transportation Control Measures (TCMs). Therefore, Kentucky's current efforts including TCMs will benefit and not harm downwind States in their efforts to achieve the ozone standards.

Comment: One Commenter stated that the SIP should not require RACT for VOC sources in unclassified areas. He stated that such SIP regulations are not authorized by the Kentucky statutes because the Commonwealth statute only allows regulation of "air pollution", that statute does not allow regulations which are more stringent than required under the Clean Air Act, and because the regulations conflict with various aspects of the Kentucky Constitution.

Response: The Kentucky statutory definition of "air pollution" is:

* * * the presence in the outdoor atmosphere of one (1) or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property.

EPA believes that this definition of "air pollution" is sufficiently general to justify regulations requiring RACT for VOC sources in unclassified areas.

However, the Kentucky statute does not limit regulatory authority to regulations dealing with "air pollution". It also enables the DNREP to develop a comprehensive program for the management of air resources (K.R.S. 224.033(4)) and provides that the Kentucky General Assembly finds it necessary to maintain a reasonable degree of air purity now and in the future (K.R.S. 224.320), among other authority. These sections also provide a basis for regulations requiring RACT for VOC sources in unclassified areas.

The second point this commenter makes is that the Kentucky statute does not allow regulations which are more stringent than required under the Clean Air Act and thus does not allow the SIP to require RACT for VOC sources in unclassified areas. As addressed in the General Preamble to all Clean Air Act, Part D, SIP revisions (44 FR 20372 to 20375, April 4, 1978), a State plan for attaining national ambient standards within the State as expeditiously as practicable is mandatory under Section 172(a) of the CAA.

A portion of the strategy to meet the mandatory "as expeditiously as practicable" requirement provides that for SIPs with attainment dates after 1982, RACT must be applied in urbanized areas to all sources covered by the CTGs, and in rural areas to all major sources covered by CTGs Id., at 20376. Kentucky has met this requirement. Another portion of the mandatory strategy requires one or both of two strategies to be used. The first is to require offsets for major new sources or modifications. The second is to allow emissions from major sources or modifications to be accommodated by the emissions growth allowance (the extent to which SIP-required emissions reductions are ahead of the reasonable further progress schedule for the area), Id., at 20378. Kentucky has chosen this latter approach, which is an alternative strategy of a mandatory requirement. EPA, therefore, takes the position that the Kentucky regulations requiring RACT for VOC sources in unclassified areas, is not more stringent than mandatory Clean Air Act requirements and thus does not violate the Kentucky statute.

The third contention made by this commenter is that for several reasons the complained of regulations conflict with the Kentucky Constitution. This contention is also the subject of a lawsuit brought by the commenter in the Franklin Circuit Court in Kentucky. Unless there is a final decision to the contrary, EPA assumes that these Kentucky regulations do not offend the Kentucky Constitution.

The CAA requires RACT for VOC sources in nonattainment areas and the Kentucy regulations substantially satisfy this requirement. Kentucky has decided to require these regulations on VOC sources in unclassified areas as well. The CAA, under Section 116, specifically allows the State to adopt stricter requirements than those required by the CAA. Therefore, the Kentucky submission is adequate for approval under Part D and any questions as to the Commonwealth's authority to apply these regulations to unclassifiable areas is a matter for State judicial determination.

Comments: A national environmental group made several comments which are summarized below with EPA's responses:

Comment 1: I/M-The commenter feels the implementation schedule is too slow to be "expeditious as practicable."

Response: The State legislature of Kentucky has not had an adequate opportunity to consider necessary enabling legislation because they only meet bi-annually. The 1980 session will be the first opportunity to consider legislation. Further, as discussed in 172 (b)(3) above EPA has granted an extension to Kentucky.

Since they are proposing to implement a centralized program, which requires more time than a decentralized program, and do not have existing legal authority, the December 1982 date for implementing a centralized I/M program will be expeditious as practicable".

Comment 2: I/M-The commenter feels the RFP curve needs to be adjusted to reflect reductions occurring in conjunction with implementation date of I/M program.

Response: EPA agrees with the above comment and will monitor the annual reporting of the RFP to assure reductions will take place before emissions reduction credits are claimed. Further, when the 1982 SIP revisions are submitted, EPA will assure that the RFP curve is corrected.

Comment 3: TCM-The commenter feels the assessment of the transportation needs of Jefferson County as pertains to public transportation is inadequate.

Response: EPA policy, as stated in the General Preamble (44 FR 20375 April 4, 1979) and in the Assistant Administrator's July 28, 1978, memorandum on Public Transportation requirements, is that the SIP must contain a commitment from the appropriate agency(s) to establish, expand, or improve public transportation measures to meet basic transportation needs as expeditiously as practicable. This commitment is contained in the Kentucky SIP on pages 53–66.

Comment 4: TCM-The commenter feels that Kentucky's commitment and schedule for the study and implementation of TCMs is inadequate.

Response: EPA policy requires evidence of projects contained in an urban non-attainment area's Annual Element of their Transportation Improvement Program which have air quality benefits to be included in the SIP along with an implementation schedule for these projects. Under Jefferson County, EPA has identified the deficiencies in the Kentucky SIP on the above matters with the exception of the funding and schedule for the analysis of alternatives which is to be addressed through KIPDA's Section 175 grant work program.

Comment: Another commenter was concerned about the Federal Register notice of proposed rulemaking language on regulations set forth in Appendix N (enacted by the Jefferson County Agency, APCDJC). That notice stated that the Appendix N SIP regulations were supplemental to the State (DNREP) regulations, were not essential to the control strategy, and thus were not reviewed by EPA. That notice continued with the statement that EPA would enforce the stricter of the (State and local) regulations (applicable) in Jefferson County. The commenter then urged EPA not to enforce the local regulations since they were not essential to achieve CAA standards.

Response: Section 116 of the CAA essentially states that nothing in the CAA precludes a State or locality from adopting an air emission standard or limitation or air pollution abatement requirement, that is more stringent than an EPA requirement under Section 110, 111, or 112 of the CAA. Thus, EPA may not disapprove a requirement submitted as a SIP revision on the basis that the requirement may be more stringent than necessary (and thus not "essential" or mandatory) under the Clean Air Act. Since the local APCDJC Appendix N SIP revisions are at least as stringent as the approvable DNREP regulations for

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Jefferson County, the Appendix N regulations relating to ozone are also approved under the SIP. Further, as approved portions of the SIP, they are both enforceable by EPA.

Comment: One commenter stated that the Kentucky exemption of "temporary emission sources" from the offset requirements should not be approved by EPA.

Response: That exemption, found in 401 KAR 51:060, Section 5(2), is also contained in Section IV.B. of the EPA Offset Policy. See 44 FR 3274, 3284 (January 16, 1979). Since Part D SIPs need only meet certain requirements of that Offset Policy (See 44 FR 20372, 20379 (April 4, 1979)), the Kentucky exemption is acceptable as not less stringent than the Offset Policy.

Comment: One commenter stated that the Kentucky provision (401 KAR 51:050, Section 3), limiting offset requirement applicability to sources with allowable emissions above specified minimum levels, should be deleted. Deletion of the similar applicability cutoff in the EPA Offset Policy was proposed in 44 FR 51924 (September 5, 1979).

Response: The proposed deletion of that requirement was the result of the (first) decision in *Alabama Power* v. *Costle*, 606 F.2d. 1068 (5th Cir. 1979). Since the effect of that opinion has presently been stayed, the Kentucky regulation is presently approvable. Changes will be required in all SIPs after EPA regulatory revisions resulting from *Alabama Power* have been finalized.

Comment: One commenter submitted comments concerning Kentucky's "bubble policy."

Response: The Kentucky bubble policy is not now part of the federally approved SIP. Furthermore, a bubble policy is not required by Part D of the Act. EPA, therefore, will provide a notice and opportunity for comment when Kentucky submits a particular alternative reduction (bubble) to EPA as a SIP revision.

One commenter stated that EPA must ensure that legally enforceable measures are in effect during the period of a conditional approval to prevent the issuance of a permit not strictly conforming to Section 173 of the Act. EPA does not agree. EPA has conditionally approved Kentucky's new source review program because the defects in the program are relatively minor and the program as a whole substantially meets the requirements of Section 173 of the Act. For these same reasons, any permits issued under Kentucky's new source review program, at least while the conditional approval remains in effect, are not defective.

National Comments and Responses

Comment and Response: One commenter submitted extensive comments which it requested be considered part of the record for each State plan. Each of the points raised by the commenter and EPA's response follow. Although some of the issues raised are not relevant to provisions in Kentucky's submission, EPA is notifying the public of its response to these comments at this time.

1. The commenter asked that comments it has previously submitted on the Emission Offset Interpretative Ruling as revised on January 16, 1979 (44 FR 3274), be incorporated by reference as part of their comments on each State plan. EPA will respond to those comments in its response to comments on the Offset Ruling.

2. The commenter objected to general policy guidance issued by EPA, on grounds that EPA's guidance is more stringent than required by the CAA. Such a general comment concerning EPA's guidance is not relevant to EPA's decision to approve or disapprove a SIP revision since that decision rests on whether the revision satisfies the requirements of Section 110(a)(2). However, EPA has considered the comment and concluded that its guidance conforms to the statutory requirements.

3. The commenter noted that the recent court decision on EPA's regulations for prevention of significant deterioration (PSD) of air quality affects EPA's new source review (NSR) requirements for Part D plans as well. (The decision is *Alabama Power Co.* v. *Costle*, 13 ERC 1225 (D.C. Cir., June 18, 1979). In the commenter's view, the court's rulings on the definition of "source", "modification," and "potential to emit", should apply to Part D as well as PSD programs. In addition, the commenter believes that the court decision precludes EPA from requiring Part D review of sources located in designated clean areas.

The preamble to the Emission Offset Interpretative Ruling, as revised January 16, 1979, explains that the interpretations in the Ruling of the terms "source," "major modification," and "potential to emit," and the areas in which NSR applies, govern State plans under Part D. (44 FR 3275 col. 3 through 3276 col. 1, January 16, 1979.) In proposed rules published in the Federal Register on September 5, 1979, (44 FR 51924), EPA explained its views on how the *Alabama Power* decision affects NSR requirements for State Part D plans. The September 5, 1979 proposal addressed some of the issues raised by the commenter. To the extent necessary, EPA will respond in greater detail to the commenters' concerns in its response to comments on the September 5, 1979, proposal and/or its response to comments on the Offset Ruling.

As part of the September 5, 1979, proposal, EPA proposed regulations for Part D plans in Section 40 CFR 51.18(j). EPA also proposed, for now, to approve a SIP revision if it satisfies either existing EPA requirements, or the proposed regulations. Prior to promulgation of final regulations, EPA proposed to approve State-submitted relaxations of previously-submitted SIPs, so long as the revised SIP meets all proposed EPA requirements. To the extent EPA's final regulations are more stringent than the existing or proposed requirements, States will have nine months, as provided in Section 406(d) of the CAA, to submit revisions after EPA promulgates the final regulations. Since the Kentucky NSR program satisfies existing [or proposed] requirements for Part D, it is now being approved.

In some instances, EPA's approval of a State's NSR provisions, as revised to be consistent with EPA's proposed or final regulations, may create the need for the State to revise its growth projections and provide for additional emission reductions. States will be allowed additional time for such revisions after the new NSR provisions are approved by EPA.

4. The commenter questioned EPA's alternative emission reduction options policy (the "bubble" policy). As the commenter noted, EPA has set forth its proposed bubble policy in a separate Federal Register publication, 44 FR 3720 (January 18, 1979). EPA will respond to the comments on the "bubble" approach in the final "bubble" policy statement.

5. The commenter questioned EPA's requirement for a demonstration that application of all reasonably available control measures (RACM) would not result in attainment any faster than application of less than all RACM. In EPA's view, the statutory deadline is that date by which attainment can be achieved as expeditiously as practicable. If application of all RACM results in attainment more expeditiously than application of less than all RACM, the statutory deadline is the earlier date. While there is no requirement to apply more RACM than is necessary for attainment, there is a requirement to apply controls which will ensure attainment as soon as possible. Consequently, the State must select the mix of control measures that will achieve the standards most expeditiously, as well as assure reasonable further progress.

The commenter also suggested that all RACM may not be "practicable." By definition, RACM are only those measure which are reasonable. If a measure is impractical, it would not constitute a reasonably available control measure.

6. The commenter found the discussion in the General Preamble of RACT for VOC sources covered by CTGs to be confusing in that it appeared to equate RACT with the guidance in the CTGs. EPA did not intend to equate RACT with the CTGs.

The CTGs provide recommendations to the States for determining RACT, and serve as a "presumptive norm" for RACT, but are not intended to define RACT. Although EPA believes its earlier guidance was clear on this point, the Agency has issued a supplement to the General Preamble clarifying the role of the CTGs in plan development. See 44 FR 53761 (September 17, 1979).

7. The commenter suggested that the revision of the ozone standard justified an extension of the schedule for submission of Part D plans. This issue has been addressed in the General Preamble, 44 FR 20377 (April 4, 1979).

8. The commenter questioned EPA's authority to require States to consider transfers of technology from one source type to another as part of LAER determinations. EPA's response to this comment will be included in its response to comments on the revised Emission Offset Interpretative Ruling.

9. The commenter suggested that if a State fails to submit a Part D plan, or the submitted plan is disapproved, EPA must promulgate a plan under Section 110(c), which may include restrictions on construction as provided in Section 110(a)(2)(I). In the commenter's view the Section 110(a)(2)(I) restrictions cannot be imposed without such a federal promulgation.

EPA has promulgated regulations which impose restrictions on construction on any nonattainment area for which a State fails to submit an approvable Part D plan. *See* 44 FR 38583 (July 2, 1979). Section 110(a)(2)(I) does not require a complete federally-promulgated SIP before the restrictions may go into effect.

Comment: Another commenter, a national environmental group, stated that the requirements for an adequate permit fee system (Section 110(a)(2)(k) of the Act), and proper composition of State boards (Sections 110(a)(2)(F)(vi) and 128 of the Act) must be satisfied to assure that permit programs for nonattainment areas are implemented successfully. Therefore, while expressing support for the concept of conditional approval, the commenters argued that EPA must secure a State commitment to satisfy the permit fee and State board requirements before conditionally approving a plan under Part D. In those States that fail to correct the omission within the required time, the commenters urged that restrictions on construction under Section 110(a)(2)(I) of the CAA must apply.

Response: To be fully approved under Section 110(a)(2) of the CAA, a State plan must satisfy the requirements for State boards and permit fees for all areas, including nonattainment areas. Several States have adopted provisions satisfying these requirements, and EPA is working with other States to assist them in developing the required programs. However, EPA does not believe these programs are needed to satisfy the requirements of Part D. Congress placed neither the permit fee not the State board provision in Part D.

While legislative history states that these provisions should apply in nonattainment areas, there is no legislative history indicating that they should be treated as Part D requirements. Therefore, EPA does not believe that failure to satisfy these requirements is grounds for conditional approval under Part D, or for application of the construction restriction under Section 110(a)(2)(I) of the CAA.

Attainment Dates

The 1978 edition of 40 CFR Part 52 lists in the subpart for Kentucky the applicable deadlines for attaining ambient standards (attainment dates) required by Section 110(a)(2)(A) of the CAA. For each nonattainment area where a revised plan provides for attainment by the deadlines required by Section 172(a) of the Act, the new deadlines are substituted on Kentucky's attainment date chart in 40 CFR Part 52. The earlier attainment dates under Section 110(a)(2)(A) will be referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 CAA Amendments remain obligated to comply with those requirements, as well as with the new Section 172 plan requirements.

Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. These new deadlines were not intended to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

> Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear congressional intent to construe part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D.
>
> (123 Cong. Rec. H 11958, daily ed. November 1, 1977)

To implement Congress' intention that sources remain subject to preexisting plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 CAA Amendments. EPA cannot approve such compliance date extensions even though a Section 172 plan revision with a later attainment date has been approved. However, a compliance date extension beyond a pre-existing attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment. (See General Preamble for Proposed Rulemaking, 44 FR 20373–74, April 4, 1979.)

In addition, sources subject to pre-existing plan requirements may be relieved of complying with such requirements if a Section 172 plan imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations. Decisions on the incompatibility of requirements will be made on a case-by-case basis.

Reference should be made to the 1978 edition of Title 40 of the Code of Federal Regulations (40 CFR 52.928) to determine the applicable deadline for attainment under Section 110(a)(2)(A) of the CAA.

Actions

The Administrator approves Kentucky's 1979 revision for ozone nonattainment areas on the condition that deficiencies noted in transportation control measures and volatile organic compound regulations be corrected by June 1, 1980, and that certification of adequate legal authority to implement I/M be submitted by June 30, 1980. These actions are effective immediately. EPA finds good cause to make this conditional approval immediately effective, because the Clean Air Act restricts new construction where plans are not approved after June 30, 1979.

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Making the conditional approval immediately effective will terminate the restriction as soon as possible and they impose no requirement that is not already in effect at the State level.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 172, Clean Air Act (42 U.S.C. 7410, 7502))

Dated: January 21, 1980.

Douglas M. Costle,

Administrator.

Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart S—Kentucky

1. Section 52.920 is amended by adding a subparagraph (12) to paragraph (c) as follows:

§ 52.920 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(12) 1979 revisions for Part D requirements for ozone nonattainment areas, submitted on June 29, 1979, by the Kentucky Department for Natural Resources and Environmental Protection.

2. Section 52.922 is amended by assigning the paragraph designation "(a)" to the existing section and by adding paragraphs (b) and (c). As amended, § 52.922 reads as follows:

§ 52.922 Extensions.

(a) The Administrator hereby extends for two years the attainment date for the primary standards for sulfur oxides in the Kentucky portion of the Louisville Interstate Region.

(b) The Administrator hereby extends until December 31, 1987, the attainment date for the national standards for ozone in Jefferson County.

(c) The Administrator hereby extends until December 31, 1987, the attainment date for the national standards for ozone in Boone, Campbell, and Kenton Counties.

3. Section 52.923 is revised to reads as follows:

§ 52.923 Approval status.

With the exceptions set forth in this subpart, the Administrator approves Kentucky's plan for the attainment and maintenance of the ozone national standards. Furthermore, the Administrator finds that the ozone plans satisfy all requirements of Part D, Title I, of the Clean Air Act as amended in 1977, except as noted below.

4. Section 52.926 is revised to read as follows:

§ 52.926 Attainment dates for national standards.

The following table presents the latest dates by which the national standards are to be attained. The dates reflect the information presented in Kentucky's ozone plan, except where noted.

Air quality control region	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Ozone
	Primary	Secondary	Primary	Secondary			
Appalachian Intrastate	c	*c*	b	b	b	b	b
Bluegrass Intrastate:							
a. Fayette County†	a	*c*	b	b	b	b	*g*
b. Rest of AQCR	a	*c*	b	b	b	b	b
Evansville (Indiana)-Owensboro-Henderson (Kentucky) Interstate:							
a. Henderson County†	c	*c*	a	a	b	b	*g*
b. Rest of AQCR	c	*c*	a	a	b	b	h
Huntington (West Virginia)—Ashland (Kentucky)—Portsmouth-Ironton (Ohio) Interstate:							
a. Boyd County†	c	*c*	b	b	b	b	*g*
b. Rest of AQCR	c	*c*	b	b	b	b	b
Louisville Interstate†	c	*c*	a	a	b	*d*	h
Metropolitan Cincinnati Interstate:							
a. Boone, Campbell, and Kenton Counties†	c	*c*	a	*d*	b	*d*	h
b. Rest of AQCR	c	*c*	a	*d*	b	*d*	c
North Central Kentucky Intrastate	a	*c*	b	b	b	b	h
Paducah (Kentucky)—Cairo (Illinois) Interstate	c	*c*	a	*f*	b	b	b
South Central Kentucky Intrastate	b	b	b	b	b	b	b

a. Air quality levels presently below primary standards or area is unclassifiable.
b. Air quality levels presently below secondary standards or area is unclassifiable.
c. April 1975.
d. July 1975.
e. July 1977.
f. July 1978.
g. December 31, 1982.
h. December 31, 1987.
†See 81.318 of this chapter.

NOTE.—Dates or footnotes in italics are prescribed by the Administrator because the plan did not provide a specific date or the dates provided were not acceptable. Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR 52.926 (1978 edition).

5. A new § 52.930 is added as follows:

§ 52.930 Control strategy: Ozone.

(a) *Part D—conditional approval*—(1) *Jefferson County nonattainment area.* The 1979 ozone revisions for this area are approved on condition that the following be submitted:

(i) By June 30, 1980, certification of adequate legal authority to implement a vehicle inspection and maintenance program.

(ii) By June 1, 1980.

(*a*) Schedules and commitments for the implementation and enforcement of transportation control measures specified in Appendix F of the plan.

(*b*) Demonstration that all transportation control measures of Appendix F of the plan will have continued air quality benefits.

(*c*) Schedules for the analysis of alternative transportation control measures considered pursuant to Section 108(f) of the Clean Air Act and a commitment to implement those measures found reasonably available. The SIP must also contain a commitment to justify any decisions not to implement measures found to be unreasonable.

(iii) By June 1, 1980: revision of regulations 401 KAR 59:095 and 61:045 to remove the exemption, for oil-effluent water separators, of petroleum products with a Reid vapor pressure less than 0.5 psia; or, show that emissions from the stated exemptions differ no more than five (5) percent from expected emission reductions resulting from CTG recommended RACT control of oil-effluent water separators in refineries; or, demonstration that it is not economically justifiable to control sources of the size exempted under these regulations.

(2) *Boone, Campbell, and Kenton Counties nonattainment area.* The 1979 ozone revisions for this area are approved on condition that the following be submitted:

(i) By June 30, 1980, certification of adequate legal authority to implement a vehicle inspection and maintenance program.

(ii) By June 1, 1980,

(*a*) Schedules and commitments for the implementation and enforcement of transportation control measures specified in Appendix G of the plan as funded under the FY 79 Transit Operating Subsidy and other funding sources.

(*b*) Commitments to the enforcement of measures specified in Appendix G of the plan for implementation during 1980–1983.

(*c*) Demonstration that all transportation control measures specified in Appendix G of the plan for implementation during 1980–1983 will have air quality benefits throughout their lifetime.

(*d*) Demonstration, in the studies of alternative transportation control measures pursuant to Section 108(f) of the Clean Air Act, that the studies are consistent with the procedures and criteria contained in the *EPA/DOT Transportation Air Quality Planning Guidelines.*

(*e*) Commitment to justify the decision not to implement measures found infeasible pursuant to the analysis required under (*d*).

(3) *Boyd County nonattainment area.* The 1979 ozone revisions for this area are approved on condition that the following be submitted by June 30, 1980: revision of regulations 401 KAR 59:095 and 61:045 to remove the exemption, for oil-effluent water separators, of petroleum products with a Reid vapor pressure less than 0.5 psia; or, show that emissions from the stated exemptions differ no more than five (5) percent from expected emission reductions resulting from CTG recommended RACT control of oil-effluent water separators in refineries; or, demonstration that it is not economically justifiable to control sources of the size exempted under these regulations.

[FR Doc. 80-2437 Filed 1-24-80; 8:45 am]

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40 CFR Part 81

[FRL 13973; Docket No. OAQPS-79-09]

National Visibility Goal for Federal Class I Areas; Identification of Mandatory Class I Federal Areas Where Visibility Is an Important Value; Correction

AGENCY: U.S. Environmental Protection Agency.

ACTION: Correction to final rule.

SUMMARY: On November 30, 1979 at 44 FR 69122, the Environmental Protection Agency promulgated a list of 156 mandatory class I Federal areas identified as having visibility as an important value. There were several minor errors found in the listing. The purpose of this notice is to correct those errors.

FOR FURTHER INFORMATION CONTACT: Johnnie L. Pearson, Standards Implementation Branch, Control Programs Development Division, Office of Air Quality Planning and Standards, Environmental Protection Agency (MD-15), Research Triangle Park, North Carolina 27711. Phone: (919) 541-5497.

Dated: January 17, 1980.

David G. Hawkins,

Assistant Administrator for Air, Noise, and Radiation.

Part 81 of Chapter I of Title 40 appearing on page 69126 is corrected as follows:

1. Section 81.417 is corrected by changing USDE-FS to USDA-FS as follows:

§ 81.417 Montana.

* * * * *

Mission Mountains Wild	73 877	93-632	USDA-FS

2. Section 81.428 is corrected by changing superscript a to superscript b and vice versa, by changing USDA-NPS to USDA-FS, and by changing, in the footnote, 3932 to 3832 as follows.

§ 81.428 Tennessee.

* * * * *

Great Smoky Mountains NP[b]	241,207	69-266	USDI-NPS
Joyce Kilmer-Slickrock Wild[a]	3832	93-622	USDA-FS

[a] Joyce Kilmer Slickrock Wilderness 14,033 acres overall, of which 10,201 acres are in North Carolina, and 3,832 acres are in Tennessee.

[b] Great Smoky Mountains National Park, 514,758 acres overall, of which 273,551 acres are in North Carolina, and 241,207 acres in Tennessee.

[FR Doc. 80-2466 Filed 1-24-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

[PP 7E2008/R229; FRL 1369-1]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Dimethyl (2,2,2-Trichloro-1-Hydroxyethyl) Phosphonate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate on birdsfoot trefoil hay at 90 parts per million (ppm). The amendment was requested by the Interregional Research Project No. 4. This rule establishes a maximum permissible level for residues of the subject insecticide on birdsfoot trefoil hay, including chaff.

EFFECTIVE DATE: January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC (202/426-0223).

SUPPLEMENTARY INFORMATION: On November 19, 1979, the EPA published a notice of proposed rulemaking in the **Federal Register** (44 FR 66217) in response to a pesticide petition (PP 7E2008) submitted to the Agency by the Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of New York and Vermont. This petition proposed that 40 CFR 180.198 be amended by the establishment of a tolerance for residues of the insecticide dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate in or on the raw agricultural commodity birdsfoot trefoil hay including its byproduct chaff at 90 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.198 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before February 25, 1980, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to

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be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on the date of publication in the **Federal Register**, Part 180, Subpart C, § 180.198 is amended by adding a tolerance for residues of dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate on birdsfoot trefoil hay at 90 ppm as set forth below.

Dated: January 21, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Part 180, Subpart C, § 180.198 is revised by editorially reformatting the section into an alphabetized columnar listing and alphabetically inserting birdsfoot trefoil hay at 90 ppm as follows:

§ 180.198 Dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate; tolerances for residues.

Tolerances are established for residues of the insecticide dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate in or on the following raw agricultural commodities:

Commodity:	Parts per million
Alfalfa	60
Alfalfa, hay	90
Artichokes	0.1(N)
Bananas (NMT 0.2 ppm will be present after the peel is removed)	2
Barley, forage	50
Barley, grain	0.1(N)
Barley, straw	1
Beans, dried	0.1(N)
Beans, lima (reflecting 0.1 ppm (N) in or on the shelled beans)	12
Beans, lima vine hay	12
Beans, lima vines	12
Beans, snap	0.1(N)
Beans, vines	1
Beets	0.1(N)
Beets, sugar	0.1(N)
Beets, sugar, tops	12
Birdsfoot trefoil, hay	90
Brussels sprouts	0.1(N)
Cabbage	0.1(N)
Carrots	0.1(N)
Cattle, fat	0.1(N)
Cattle, mbyp	0.1(N)
Cattle, meat	0.1(N)
Cauliflower	0.1(N)
Citrus fruit	0.1(N)
Clover	60
Clover, hay	90
Collards	0.1(N)
Corn, fodder	30
Corn, forage	30
Corn, fresh (including sweet K + CWHR)	0.1(N)
Corn, grain	0.1(N)
Cottonseed	0.1(N)
Cowpeas	0.1(N)
Cowpeas, vines	1
Flax, straw	1
Flaxseed	0.1(N)
Goats, fat	0.1(N)
Goats, mbyp	0.1(N)
Goats, meat	0.1(N)
Grass, pasture	60
Grass, pasture, hay	90
Grass, range	240
Grass, range, hay	240
Horses, fat	0.1(N)
Horses, mbyp	0.1(N)
Horses, meat	0.1(N)
Lettuce	0.1(N)
Milk	0.01(N)
Oats, forage	50
Oats, grain	0.1(N)
Oats, straw	1
Peanuts	0.05(N)
Peanuts, vine hay	4
Peanuts, vine hulls	4
Peppers	0.1(N)
Pumpkins	0.1(N)
Safflower seed	0.1(N)
Sheep, fat	0.1(N)
Sheep, mbyp	0.1(N)
Sheep, meat	0.1(N)
Tomatoes	0.1(N)
Wheat, forage	50
Wheat, grain	0.1(N)
Wheat, straw	1

[FR Doc. 80-2438 Filed 1-24-80; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

41 CFR Chapter 101

[FPMR Temp. Reg. B-3, Supp. 1]

Federal Property Management; Declassification of and Public Access to National Security Information

AGENCY: National Archives and Records Service, General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement extends the expiration date of FPMR Temporary Regulation B-3 which concerned the declassification of and public access to national security information to March 1, 1980. Temporary Regulation B-3 was published in the **Federal Register** on March 28, 1979 at 44 FR 18492.

DATES:

Effective date: January 25, 1980.

Expiration date: March 1, 1980.

FOR FURTHER INFORMATION CONTACT: Adrienne C. Thomas, Director, Planning and Analysis Division, Office of the Executive Director, National Archives and Records Service, General Services Administration (NAA), Washington, DC 20408 (202-523-3214).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

(Sec. 205 (c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 Chapter 101, this temporary regulation is listed in the appendix at the end of Subchapter B.

Note.—Supplement 1 to FPMR Temporary Regulation B-3 is filed with the original document, and its text does not appear in this volume.

[FR Doc. 80-2393 Filed 1-24-80; 8:45 am]

BILLING CODE 6820-26-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 79-880]

Delegation of Authority to the Chief, Common Carrier Bureau

AGENCY: Federal Communications Commission.

ACTION: Final rule amendment.

SUMMARY: The Commission adopts a rule change which extends delegated authority to the Chief, Common Carrier Bureau to act on petitions to suspend and investigate. The Bureau now has delegated authority to act on petitions to reject and petitions to suspend and investigate.

EFFECTIVE DATE: December 19, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Coffey, Common Carrier Bureau, 202-632-6387.

SUPPLEMENTARY INFORMATION:

Memorandum Opinion and Order

Adopted: December 19, 1979.

Released: January 18, 1980.

In the matter of amendment of Part 0 of the Commission's Rules with respect to delegation of authority to the Chief, Common Carrier Bureau.

By the Commission:

1. Under current Commission rules, the Chief, Common Carrier Bureau is, among other things, delegated authority to make determinations regarding the lawfulness of carrier-initiated tariff filings. Included in this panoply of responsibilities is authority to exercise the rejection power conferred by Section 203(d) of the Communications Act, 47 U.S.C. § 203(d), either in response to a petition by any person, or on his own motion. See, generally, Section 0.91 and 0.291 of the Rules, 47 CFR §§ 0.91 and 0.291. Authority to determine whether a new tariff filing shall be suspended pursuant to Section 204(a) of the Act, however, has been expressly reserved by the Commission. 47 CFR § 0.291(d).

2. Our recent experience with this scheme indicates that in practice interested persons filing petitions to reject such tariffs often simultaneously file petitions to suspend and investigate. In those instances in which the Bureau finds that rejection is not warranted, it must either prepare a separate recommendation for the Commission on the suspension and investigation petition or recommend the joint resolution of the petitions by the Commission. Needless to say, this bifurcation of function has added considerably to Commission administrative burdens and strains our limited resources. At the same time, in cases where only a petition to suspend has been filed, the staff is often required to analyze complex tariff filings on considerably less than the statutory notice period so that its recommendation may then be studied and acted on by the Commission within the maximum ninety days.

3. To remove this inconsistency and alleviate the attendant administrative burden, the Commission has concluded that the Chief, Common Carrier Bureau should also be delegated authority to act on petitions for suspension and investigation of tariff filings, or to take such action on his own motion if warranted. We will therefore amend the Rules by deleting Section 0.291(d).[1] As in other cases, review of Bureau actions on delegated authority will remain subject to Commission review under Section 1.115 of the Rules, 47 CFR § 1.115.

4. Notice and comment are not required prior to enactment of this rule change because it relates to internal Commission organization, procedure, and practice. 5 U.S.C. § 553(b). Since the immediate implementation of these changes will expedite the transaction of public business, compliance with the effective date provisions of the Administrative Procedures Act is also not required. 5 U.S.C. § 553(d).

5. Accordingly, it is ordered, on the Commission's own motion, pursuant to Sections 4(i), 4(j) and 5(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 4(i), 4(j), and 5(d), and Section 553 of the Administrative Procedure Act, 5 U.S.C. 553, that Section 0.291(d) of the Commission's Rules and Regulations, 47 CFR § 0.291, is deleted effective immediately.

§0.291 [Amended]

6. It is further ordered that subsections 0.291 (e) through (h), 47 CFR §§ 0.291 (e) through (h), are redesignated subsections 0.291 (d) through (g) respectively, effective December 19, 1979.

7. It is further ordered that the Secretary shall cause this order to be published in the **Federal Register**.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Note.—Rules changes herein will be covered by The 1980 Edition of Volume I.

[FR Doc. 80-2387 Filed 1-24-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Section 0.291(d) also specifically authorizes the Bureau to defer effective dates of tariff filings for the full 90 day notice period. That authority has been conferred upon the Bureau as an "exception" to our general reservation of authority to suspend. In fact, however, authority to defer is also conferred by Section 0.291 of the Rules, and will remain so even in light of our action here.

47 CFR Part 73

[BC Docket No. 78-322; RM-3087]

FM Broadcast Station in Sterling, Colo.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a Class C FM channel to Sterling, Colorado, deletes a Class A FM channel there and modifies the license of the Class A station, KSTC-FM, to specify operation as a Class C station. The Class C channel would provide first and second FM and second nighttime aural service to a substantial area and population. A proposal to delete a second Class A channel at Sterling was not adopted in view of an interest expressed in its use.

EFFECTIVE DATE: March 3, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order (Proceeding Terminated)

Adopted: January 16, 1980.

Released: January 21, 1980.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Sterling, Colorado), BC Docket No. 78-322, RM-3087.

By the Chief, Policy and Rules Division:

1. The Commission has under consideration the *Notice of Proposed Rule Making*, adopted September 28, 1978, 43 Fed. Reg. 46876, inviting comments on a proposal to assign FM Channel 284 to Sterling, Colorado, and to delete two Class A channels there in response to a petition filed by KSTC, Inc. ("petitioner"), licensee of Stations KSTC and KSTC-FM (Channel 244A), Sterling, Colorado. Petitioner also asked that its license be modified to specify the new Class C channel (284). In response to the *Notice*, petitioner filed supporting comments reaffirming its intention to file for the Class C channel, if assigned. BBG Enterprises, Incorporated ("BBG") filed comments by letter.[1]

2. In a letter, BBG requests that Channel 288A not be deleted from Sterling because it is preparing an application for its use.[2] BBG states that it takes no position either in support or in opposition to petitioner's request to modify its current assignment by deleting Channel 244A and substituting Channel 284. It states that although the *Notice* suggested the possibility of the substitution of Class C Channel 245 for Channel 288A to avoid intermixture in Sterling, the use of Channel 245 may be limited with respect to transmitter site selection in the vicinity of Sterling. It notes also that the Channel 245 assignment would require changes in one or more existing FM channel assignments. BBG urges that we permit it to proceed on Channel 288A since it is willing to operate in competition with the Class C station proposed for Sterling.

3. Sterling (pop. 10,238), [3], seat of Logan County (pop. 18,852), is located in northeastern Colorado, approximately 175 kilometers (110 miles) northeast of Denver.

4. Channel 284 could be assigned to Sterling in conformity with the minimum distance separation requirements. Nine communities with populations greater

[1] The letter was submitted after the expiration of the reply comment date. However, since there were no objections to its acceptance and its consideration would aid the Commission in resolving this proceeding, we have accepted it.

[2] In a letter dated June 12, 1979, BBG informed the Commission that on that date it tendered an application for Channel 288A at Sterling. The application was accepted on October 2, 1979 (BPH-790612 AF). Another application has since been tendered for Channel 288A by Arapahoe County Broadcasting Co. (791115 AC).

[3] Population figures are taken from the 1970 U.S. Census.

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then 1,500[4] and having no FM assignments would be precluded as a result of the proposed assignment. However, petitioner has indicated that alternate channels are available for assignment to these communities should the need arise.

5. Petitioner's engineering analysis using *Roanoke Rapids/Anamosa* criteria indicates that the facilities proposed for Channel 284 would provide first FM and second nighttime aural services to 11,086 persons in a 7,400 square kilometer (2,860 square miles) area and a second FM service to 855 persons in a 880 square kilometer (339 square miles) area.

6. In view of the above, the Commission believes the public interest would be served by assigning Channel 284 to Sterling. The proposed Class C station would provide significant first and second FM service to a substantial area and population. Since no other party has expressed an interest in Channel 284, the license of Station KSTC–FM will be modified as proposed.[5] In the *Notice*, we also pointed out that should an interest be shown in operating Channel 288A, we would consider retaining it. Such an interest has been expressed by BBG which also emphasized its willingness to operate a Class A channel in competition with the Class C assigned here in spite of the resulting intermixture situation. Therefore, we shall retain Channel 288A at Sterling. On the other hand, we have decided to delete Channel 244A since Sterling had not been shown to warrant three Channel assignments. In this way, the channel can be made available for use elsewhere.

7. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

8. In view of the foregoing, IT IS ORDERED, That effective March 3, 1980, Section 73.202(b) of the Commission's Rules, the FM Table of Assignments, as regards Sterling, Colorado, IS AMENDED as follows:

City	Channel No.
Sterling, Colo	284, 288A

9. It is further ordered, That pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license of KSTC, Inc. for station KSTC–FM, Sterling, Colorado, is modified, effective March 3, 1980, to specify operation on Channel 284 instead of Channel 244A. The licensee shall inform the Commission in writing no later than March 3, 1980, of its acceptance of this modification. Station KSTC–FM may continue to operate on Channel 244A for one year from the effective date of this action or until it is ready to operate on Channel 284, whichever is earlier, unless the Commission sooner directs, subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 284, the licensee of Station KSTC–FM shall submit to the Commission the technical information normally requested of an applicant for Channel 284.

(b) At least 10 days prior to commencing operation on Channel 284, the licensee of Station KSTC–FM shall submit measurement data required of an applicant for a broadcast license; and

(c) The licensee of Station KSTC–FM shall not commence operation on Channel 284 without prior Commission authorization.

10. It is further ordered, That this proceeding is terminated.

11. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 80-2265 Filed 1-24-80; 8:45 am]

BILLING CODE 6712-01-M

[4] *Nebraska:* Imperial (pop. 1,580) Cozad (4,219), Cotheaburg (3,154); *Colorado:* Holyoke (1,640), Wray (1,983), Julesburg (1,653); *Kansas:* Atwood (1,853), Leoti (1,916), St. Francis (1,725).

[5] This procedure is outlined in *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976).

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47 CFR Part 97

[SS Docket No. 79–22; FCC 80–14]

Amateur Radio Service; Telegraphy Examination Credit

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: This Report and Order amends the Amateur Radio Service Rules to delete Section 97.25(d). This Section allowed credit for the telegraphy portion of the Amateur Extra Class examination to those who presented proof of having continuously held the Amateur Extra First Class license and its successor licenses. The Commission deleted the Section because it had proved to be obsolete.

EFFECTIVE DATE: August 1, 1980.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Judith St. Ledger-Roty, Rules Division, Private Radio Bureau, (202) 634–2443.

Report and Order

Adopted: January 16, 1980.

Released: January 22, 1980.

By the Commission:

In the matter of deletion of § 97.25(d) from the Amateur Radio Service Rules. SS Docket No. 79–22, RM–3001.

1. On February 14, 1979, the Commission adopted a *Notice of Proposed Rulemaking in Docket No. 79–22*, 70 F.C.C. 2d 1918 (1979), 44 Fed. Reg. 12473 (1979), to consider the deletion of Section 97.25(d) of the Amateur Radio Service Rules. That Section presently provides that: "[a]n applicant for the Amateur Extra Class operator license will be given credit for examination element 1(c) if he so requests and submits evidence of having held the Amateur Extra First Class license, [and] having continuously held its successor license." It was proposed that the effective date for this amendment be set for six months after approval by the Commission in order to give any persons affected one last chance to apply for the Amateur Extra Class license under the current rules.

2. From June 1923 to June 1933, the Department of Commerce and subsequently the Federal Radio Commission issued Amateur Extra First Class operator licenses. The Federal Communications Commission, upon its creation, issued the equivalent license, designating it a "Class A" license, and then later, an "Advanced" license.

3. In 1952, the Commission created the Amateur Extra Class license. To obtain this license, the applicant must successfully complete a written examination testing nine areas of basic, general, intermediate and advanced amateur practice. These written examination requirements are far more stringent than those that were associated with the Amateur Extra First Class license. The telegraphy proficiency requirement for the Amateur Extra First Class license was twenty words per minute; the telegraphy requirement for the Amateur Extra Class license is also twenty words per minute.

4. In recognition of this identical telegraphy requirement, the Commission amended Section 97.25(d) to allow credit for the telegraphy portion of the Amateur Extra Class examination to those who presented proof of having continuously held the Amateur Extra First Class license and its successor licenses. *Report and Order in Docket No. 19163*, 37 F.C.C. 2d 202 (1972).

5. Section 97.25(d) was adopted in order to eliminate any inequity that mandatory repetition of the telegraphy examination might create for former holders of the Amateur Extra First Class license who have remained active. In the *Notice* released in this docket, the Commission noted that the number of persons seeking examination credit pursuant to this Section has declined to such an extent that it might well be considered obsolete. In fact, the Commission has averaged less than one applicant per year over the last few years. It therefore appears that Section 97.25(d) has fulfilled its purpose and should now be deleted.

6. In response to the Notice proposing deletion of Section 97.25(d), the Commission received only one comment. That participant agreed that Section 97.25(d) should be omitted if it was no longer useful, but requested that we delay the effectiveness of any order for one year so that remaining applicants might have time to study for and take the examination under the current provisions.

7. Section 97.25(d) has been in effect since 1972. Because of the lack of applications for credit, and the apparent lack of interest in this rule, we must assume that those who were eligible have applied for and received credit during the past seven years. It does not appear necessary to delay the effectiveness of the amendment for any more than the six month period originally proposed. Six months should be ample time to study for and take the examination, especially considering that prospective applicants for credit have already had several years for preparation.

8. The Commission also has under consideration a petition for rulemaking, RM–3001, submitted by Mr. Frank Carman of Otis, Oregon. Mr. Carman petitions the Commission to amend its rules to provide that applicants for the Amateur Extra Class license who were licensed amateurs prior to 1925 and currently hold General of Advanced Class licenses be granted credit for the 1 (C), 4 (A) and 4 (B) examination elements.

9. Mr. Carman's petition expresses views similar to those considered and rejected in Docket No. 19163. *Report and Order*, 37 F.C.C. 2d 202 (1972). At that time, we clearly expressed our views with regard to the Amateur Extra Class license, stating that:

As the highest grade amateur license, the Extra Class signifies that its holder has clearly demonstrated his technical qualifications based on both minimum licensing time and passage of a rigorous examination. Although the Commission realizes that length of licensed operation can be a valuable asset toward establishing one's eligibility for the Extra Class license, this in itself is not considered sufficient basis for determining the amateur's total qualifications. In addition, to allow attainment of the Extra Class license on the basis of age or term of license tenure alone, would, we believe, discourage amateurs from studying toward license achievement in keeping with the Commission's incentive licensing program. 37 F.C.C. 2d at 204.

The Commission is unable to discern any benefit which would accrue to the Amateur Radio Service if this petition were adopted. Rather, we remain of the belief that the only appropriate basis for issuing an amateur operator license is the successful completion of the examination elements designed to establish the qualifications prescribed for a particular class of license.

10. In view of the foregoing, the Commission finds that the amendment to Part 97 of the Amateur Radio Service Rules, as set forth in the Appendix, is in the public interest. Authority for promulgating this amendment is contained in Sections 4(i) and 303 of the Communications Act, as amended.

11. Accordingly, it is ordered that, effective August 1, 1980, Part 97 of the Commission's Rules is amended as set forth in the appendix.

12. It is further ordered, that the petition of Mr. Frank Carman, RM–3001, is denied after due consideration.

13. It is further ordered that this proceeding be terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

1. The Federal Communications Commission amends Chapter 1, Part 97 of the Code of Federal Regulations as follows:

§ 97.25 [Amended]

(a) Paragraph 97.25(d) is deleted, and paragraph 97.25(e) is redesignated as paragraph (d).

[FR Doc. 80-2262 Filed 1-24-80; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1111

[Ex parte No. 282 (Sub-No. 4)]

Acquisition Procedures for Lines of Railroads in Reorganization

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting procedures to govern applications to acquire lines of railroads in reorganization. The procedures are being adopted so that the Commission will have sufficient information to make decisions required by the Milwaukee Railroad Restructuring Act (MRRA). The rules are being made effective immediately. Because of deadlines designated by MRRA, these rules are being adopted without notice and public comment.

EFFECTIVE DATE: January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg (202) 275–7245.

SUPPLEMENTARY INFORMATION: On November 4, 1979, the Milwaukee Railroad Restructuring Act (MRRA), Pub. L. No. 96–101, 93 Stat. 736 (1979) became law. Under the MRRA the appropriate bankruptcy court may, with Commission approval, authorize the sale or transfer of a line operated by a railroad undergoing reorganization under section 77 of the Bankruptcy Act as of November 4, 1979. This provision therefore covers both the Chicago, Milwaukee, St. Paul and Pacific Railroad Company and the Chicago, Rock Island and Pacific Railroad Company. We must act on any sale or transfer application within the time fixed by the bankruptcy court, but in no more than 180 days from the date the application is filed. We may approve, modify, condition, or disapprove any application, with or without hearing. *See* Section 5(b)(2) and 17(b)(2) of the MRRA.

Because we must act on applications for the sale or transfer of lines of the Milwaukee Road and other bankrupt railroads on an expedited basis, we have developed special procedures. The special procedures also apply to applications concerning joint ownership and use of a bankrupt railroads' properties. These procedures will be codified at 49 CFR Part 1111. They are based in large part on our present Consolidation Procedures (see 49 CFR Part 1111 (1978)), but are modified in order to enable us to act expeditiously under the MRRA.

Section 19 of the MRRA exempts transactions under its provisions from the National Environmental Policy Act; therefore, we are not requiring environmental information for applications filed pursuant to MRRA.

We have reduced the traffic, operational, and financial data required in these applications, and we are requesting that applicants provide specific information in the narratives in explanation and support of the proposed acquisitions. Applicants are encouraged to include verified statements of public and shipper support.

We want each of our decisions to be based on the most complete record available within the time constraints of the MRRA. Members of the public who wish to comment on an application may do so within 30 days of our acceptance of that application. Comments must contain *all* testimony concerning the proposed acquisition and the testimony must be in the form of Verified statements.

We shall act on applications for proposed sales and transfers in a timely fashion. We shall consider the application itself; the testimony; and the briefs (if deemed necessary) in reaching a decision. We do not intend to hold hearings in any sale or transfer case involving a bankrupt railroad under the MRRA.

We are adopting these procedures as final rules. The deadlines designated by the MRRA do not afford us sufficient time to request comments on these procedures. The MRRA provides that applications for sales or transfers may be filed at any time after November 4, 1979, and must be decided by this Commission within a maximum 180 days. We find, therefore, that it is impracticable, within the meaning of section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)), for us to request public comments prior to adopting procedures governing applications under the MRRA.

We also find that notice and public comment are unnecessary. The procedures contained in this notice are a distillation of the ICC's existing consolidation procedures. *See Railroad Acquisition, Control, Merger, Consolidation Project, Trackage Rights and Lease Procedures*, 49 CFR Part 1111 (1978). We have reduced the information required to that which is necessary to prepare a decision under the MRRA. In adopting these procedures, we have used our expertise in the areas of rail consolidation and railroad reorganization, and we have considered our responsibilities under the MRRA, 49 U.S.C. § 10901, and 49 U.S.C. § 11344. Furthermore, these procedures are based on our existing regulations, which were adopted after full opportunity for public comment.

In addition to dispensing with the notice and comment procedure, we are dispensing with the normal procedure whereby final rules do not become effective for thirty days, and we are making these rules effective as of this date. We find that there is good cause for doing so within the meaning of section 553(d)(3) of the Administrative Procedure Act (5 U.S.C. 553(d)(3)) in view of the current rail situation in the Midwest and the Congressional intent behind the MRRA.

These regulations are issued under the authority of 49 U.S.C. 10321; sections 5 and 17 of Pub. L. No. 96-101; and 5 U.S.C. 553.

The attached appendix contains the procedures to be followed for the sale or transfer of a bankrupt railroad's lines.

We adopt the regulations set forth in the Appendix.

Decided: January 11, 1980.

By the Commission, Office of Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, and Alexis.

Agatha L. Mergenovich,
Secretary.

Appendix

49 CFR Part 1111 is amended as follows:

1. Present sections 1111.1 to 1111.4 are designated "Subpart A—*Acquisition Procedures for Railroads Not in Reorganization.*"

2. Sections 1111.5 through 1111.19 are reserved.

3. New Subpart B is added to read as follows:

Subpart B—Acquisition Procedures for Lines of Railroads in Reorganization

1111.20 Types of Transactions.
1111.21 Identifying Information.
1111.22 Traffic Data.
1111.23 Operational Data.
1111.24 Financial Information.
1111.25 Procedures.
1111.26 Definitions.

Authority.—49 U.S.C. 10321, sections 5 and 17 of Pub. L. 96-101, and 5 U.S.C. 553.

§ 1111.20 Types of transactions.

Transactions proposed under the Milwaukee Railroad Restructuring Act, Pub. L. No. 96-101, Sections 5(b) and 17(b) are of 2 types: Major and Minor.

(a) A *major* transaction is a sale or transfer which will result in a major market extension.

(b) A *minor* transaction is any sale or transfer which will not result in a major market extension.

§ 1111.21 Identifying information.

(a) *All applications* filed under Pub. L. 96-101, Sections 5(b) and 17(b), shall show in the title the names of the applicants and the nature of the proposed transaction. Beneath the title indicate the name, title, business address, and telephone number of the person(s) to whom correspondence with respect to the application should be addressed. The following information shall be included in *all* applications seriatim:

(1) Summary. A narrative description of the proposed transaction shall serve as an introduction to the application. It shall include appropriate references to supporting exhibits and statements in the application and shall generally discuss the following matters:

(i) A summary of the proposed transaction including the name of applicants.

(ii) The proposed time schedule for consummation of the proposed transaction.

(iii) The purpose sought to be accomplished by the proposed transaction, *e.g.*, operating economies, elimination of excess facilities, extension of markets, improved financial viability.

(iv) The nature and amount of any new securities or other financial arrangements.

(v) A summary of the applicant's public interest justifications in support of the application indicating how the proposed transaction is consistent with the public interest, or why the public convenience and necessity permits issuance of a certificate, with particular regard to:

(A) The financial consideration involved in the proposed transaction, including an explanation of economies, if any, to be effected in buyer's operations, and increases, if any, in buyer's traffic, revenues, earnings available for fixed charges, and net earnings, expected to result from consummation of the proposed transaction.

(B) The effect of the proposed transaction upon adequate rail and other transportation services to the public.

(C) The effect of the increase, if any, of total fixed charges to buyer resulting from the proposed transaction.

(D) The effect of any guaranty or assumption of payment of dividends or fixed charges contemplated by buyer in the proposed transaction.

(E) The effect of the proposed transaction upon buyer's and seller's employees.

(F) The effect of the proposed transaction on the remaining system and operations of the bankrupt carrier.

(vi) Any other supporting or descriptive statements applicant deems material.

(vii) An opinion of counsel of applicant that the transaction described in the application meets the requirements of the law and will be legally authorized and valid, if approved by the Commission and the bankruptcy court, with specific reference to any specifically pertinent provisions of applicant's charter or articles of incorporation.

(2) Identification of applicant carriers.

(i) Indicate the full and correct name of each applicant carrier and business address (street and number, city, State, and zip code).

(ii) Indicate the State or States in which any part of the property of each applicant carrier is situated.

(iii) Map (Exhibit 1). Submit a general or key map indicating clearly, in separate colors, or otherwise, the line or lines of buyer (if any) in their true relation to the lines to be acquired from seller, short line connections, other rail lines in the territory, and the principal geographic points in the region traversed. If a geographically limited transaction is proposed, a map detailing the transaction should also be included. In addition to the maps accompanying each application, 20 unbound copies of the map shall be filed with the Commission.

(3) Explanation of the transaction.

(i) Describe the nature of the transaction (*e.g.*, purchase, joint purchase, trackage rights, etc.), the significant terms and conditions, and the consideration to be paid (monetary or otherwise).

(ii) Agreement (Exhibit 2). Submit a copy of any contract or other written instrument entered into, and approved by the bankruptcy court, pertaining to the transaction covered by the application.

(iii) Court order (Exhibit 3). Submit a copy of the court order approving the agreement of transfer and its filing with the Commission.

(iv) State whether the property involved in the proposed transaction includes all the property of the seller and, if not, specifically describe what property is included in the proposed transaction.

(v) Describe in detail the principal routes and terminals of the lines involved, the principal points of interchange on the routes, and the amount of main line mileage and branch line mileage involved.

(vi) State whether any governmental financial assistance is involved in the proposed transaction and, if so, the form, amount, source, and application of such financial assistance.

(vii) Labor impact (Exhibit 4). Furnish the following information with respect to impacts on *railway* labor only:

(A) A copy of any agreement or agreements with employee organizations entered into as a result of the proposed transaction.

(B) For all personnel covered by pension plans supplemental to the Railroad Retirement Act, a list of the pension plans currently in effect, indicating whether or not they are funded, the extent of any unfunded liability, and the time required to bring the plans to a fully funded level.

(C) The number, location, craft or class and classification of all positions of the applicant carriers which under the proposed transaction are to be established, consolidated, created or transferred (including the point or points from and to which positions will be transferred).

(D) For each of the changes specified in item (C), the cost and savings to the railroad(s) in effectuating such changes, listed for each of the three years following consummation of the proposed transaction and the amount by craft or class and classification to which such costs and/or savings will be attributed.

(E) The date or dates on which each job abolishment, transfer, consolidation, or creation set forth under item (C) above is to be effectuated and a statement as to whether or not implementing agreements have been negotiated with appropriate labor organizations with respect to such proposed changes.

(F) The annual net change in employment for applicant carriers by craft or class and classification for the last 6 years preceding the filing of the application.

(viii) Energy data (Exhibit 5). Submit information and data with respect to energy consumption prepared in accordance with the ICC *Implementation of the Energy Policy and Conservation Act of 1975*, 49 CFR Part 1106.

(b) All applications proposing *major* transactions, as defined in § 1111.20, shall also include the following information:

(1) Identification of buyer.

(i) If buyer is a corporation indicate:

(A) Date of incorporation [1] and Government, State, or territory of incorporation.

(B) Name and business address of directors.

(C) Name, title and business address of officers.

(D) Name and business address of 10 principal stockholders as of last record date and their respective holdings.

(E) Charter (Exhibit 6). One copy of the charter or articles of incorporation, and the bylaws and amendments thereof, of buyer duly certified by the appropriate public officer.

(ii) If buyer is a partnership indicate:

(A) Date on which partnership was formed, and State and county in which it was formed.

(B) Name and business address of all present partners, including limited or silent partners and their respective interests.

(C) Partnership articles (Exhibit 7). A properly authenticated copy of the articles of partnership, if any.

(iii) If buyer is an association or other form of organization, other than a corporation indicate:

(A) Date of organization and place of organization.

(B) Full description of the nature and objectives of the organization.

(C) Name, title, and business address of officers and directors, or trustees.

(D) Name and business address of applicant's 10 principal stockholders or owners.

(E) Documents of association (Exhibit 8). A properly authenticated copy of articles of association, trust agreement, or other similar documents.

(iv) If buyer is a trustee, receiver, assignee, or a personal representative of the real party in interest, provide:

(A) The name and address of the court, if any, under the direction of which buyer is acting.

(B) The nature of the proceedings, if any, in which buyer was appointed.

(C) With respect to the real party in interest, indicate its full and correct name, business address (street and number, city, State, and zip code), type of entity, and its carrier status.

(D) Court appointment (Exhibit 9). A properly authenticated copy of the order of the court or instrument appointing each trustee, receiver, assignee, or personal representative which is a party to the transaction.

(v) Other authorizing document (Exhibit 10). If paragraphs (b)(1) (i), (ii), (iii), and (iv) of this section are not applicable, indicate identity, structure, statutory or charter powers of buyer, and submit appropriate organizational or authorizing documents, or indicate why none is available or necessary.

[1] If the applicant is incorporated or organized under the laws of, or authorized to operate in, more than one State, territory, or Federal district, give all pertinent facts as to such incorporations, organization, or authorization.

(vi) Corporate chart (Exhibit 11). Submit a corporate chart indicating all relationships between buyer and all affiliates and subsidiaries and also companies controlling buyer directly, indirectly or through another entity (each chart shall indicate the percentage ownership of every company on the chart by any other company on the chart). For each company include a statement indicating (A) any common officers or directors for every entity on the chart (with reference to the Commission decision by docket number and date authorizing the holding of such positions, or an explanation of why such authorization was not required) and (B) whether each company is a non-carrier or carrier (by railroad, motor, or water, including any Commission certificate or permit number, and the docket number of any proceeding pending before the Commission). Such information may be referenced through notes to the chart.

(vii) If buyer is not a carrier, indicate (A) the type of business in which it is engaged, (B) the length of time so engaged, and (C) the particulars of its present and prospective activities which have a relation to transportation subject to 49 U.S.C. Subtitle IV.

(viii) Indicate whether there are any direct or indirect intercorporate or financial relationships at the time the application is filed, not disclosed in response to prior instructions, through holding companies, ownership of securities, or otherwise, between (A) buyer and any carrier or person affiliated with any carrier or (B) a person affiliated with buyer and any carrier or person affiliated with any other carrier. Indicate the nature and extent of such relationships, if they exist, and, if a buyer owns securities of a carrier subject to 49 U.S.C. Subtitle IV, provide the carrier's name, a description of securities, par value of each class of securities held, and the buyer's percentage of total ownership.

(ix) State the amount of acquiring buyer's outstanding capital stock, by classes, and in connection therewith the par value or stated value of each share, its voting rights, if any, the total number of stockholders of record, and the voting rights of all security holders.

(x) Annual reports (Exhibit 12). Submit a properly authenticated copy of the buyer's annual report, *if any*, to stockholders or shareholders for each of the two calendar or fiscal years preceding the filing of the application.

(2) Explanation of the transaction.

(i) Filing resolutions (Exhibit 13). Submit a copy of all resolutions of directors of buyer, authenticated by a proper executive officer, authorizing (A) the proposed transaction and (B) where applicable, the filing of the application with the Commission for its approval and authorization. If the charter or by-laws of the buyer require approval of the stockholders, submit a copy of the resolution of stockholders authorizing the proposed transaction and the filing of the application. All resolutions are to be accompanied by sufficient transcripts of the minutes of meetings of the directors or stockholders of the buyer to show the number of shares entitled to vote, the number of shares voted for and against the resolutions, and the numbers of shares/votes required to adopt the resolution.

(ii) Executing resolutions (Exhibit 14). Submit a copy of all resolutions of stockholders or directors of the buyer, or duly authorized committee thereof, authenticated by a proper executive officer of the applicant, designating by name and for that purpose the executive officer by whom the application is signed and verified, and filed on behalf of the applicant. For purposes of exhibits 13 and 14, in the event the resolutions of stockholders have not been obtained at the time the application is filed then such resolutions shall be obtained as soon as feasible, but not later than the next regularly scheduled stockholders' meeting. A copy of such resolutions shall be filed with the Commission within 30 days following such meeting.

(iii) Other evidence of authorization (Exhibit 15). If the buyer is an organization other than a corporation, submit documentary evidence showing authorization and designation of the individual or individuals signing, verifying, and filing on behalf of the buyer.

§ 1111.22 Traffic data.

The information required in this section should only be filed as part of an application proposing a *major* transaction.

(a) Density charts (Exhibit 16). Gross ton-mile traffic density charts shall be filed for buyer containing a map graphically showing principal lines (those handling 1 million gross ton-miles or more per year) and respective densities, expressed in gross ton-miles per year, in each direction, in segments of such lines between major freight yards and terminals, including major intramodal and intermodal interchange points, using the corporate or political subdivision name of the points shown as well as the railroad station name. The mileage of each segment of line shall be provided, and should be shown on the chart. Data shown in the density chart shall be for the latest available full calendar year preceding the filing of the application.

(b) Carload interchange data (Exhibit 17). Revenue carload interchange data between buyer and connecting line-haul rail carriers or water carriers (deleting intermediate switching railroads, if any) shall be in a table setting forth the gateway involved, each connecting line-haul railroad or water carrier, and for each connecting railroad or water carrier the number of interchange carloads originating on buyer's lines, the number of interchange carloads terminating on buyer's lines, the overhead traffic delivered or received by buyer, and a separate total of overhead traffic and the total cars interchanged. Gateways to be listed shall be those handling 5,000 or more revenue carloads or 5 percent of total revenue carloads annually, whichever is smaller. Where two or more gateways are contiguous or nearly contiguous, they should be totalled (as examples, Dallas-Fort Worth, Minneapolis-St. Paul, Omaha-Council Bluffs, et cetera). If necessary, such grouped gateways may also be shown separately in supporting tables. Data shown in Exhibit 17 shall be for the latest available full calendar year preceding the filing of the application. It shall be organized as shown in the table in the Appendix.

(c) Carload origin and destination (Exhibit 18). An exhibit containing revenue carload origin and destination data for the latest available full calendar year preceding the filing of the application, shall list the following:

(1) Points of origin of 5,000 or more revenue carloads or 5 percent or more of buyer's total originated revenue carloads annually, whichever is smaller, broken down to show originations of local and interline carloads for each point, and

(2) Points of destination of 5,000 or more revenue carloads, or 5 percent or more of buyer's total terminated revenue carloads annually, whichever is smaller, broken down to show terminations of local and interline carloads for each point. This data shall include all of buyer's carloads at each point originated or terminated, as the case may be, by a line-haul, terminal, or switching railroad or by a motor carrier performing pickup or delivery service, *except* where such information would identify a specific shipper(s) or a specific receiver(s).

(3) The information provided in (1) and (2) above should be provided from seller for traffic moving over the line to be sold.

(d) Freight car fleet (Exhibit 19). A summary table shall show the freight car fleet cars owned and leased by buyer for the latest available full calendar year preceding the filing of the application, the number of box, flat (including rack cars), gondola, open hopper, covered hopper, refrigerator, miscellaneous, and total number of cars owned and leased, and the aggregate capacity of these cars. The same information shall be provided for the seller, including the change expected as the result of the proposed transfer.

(e) Revenue freight traffic (Exhibit 20). A table shall show the buyer's revenue freight traffic, indicating for the latest available full calendar year preceding the filing of the application, (1) the number of local, interline originated, interline terminated, overhead, and total carloads, (2) total revenue tons, (3) revenue ton-miles, and (4) total freight revenue.

(f) Commodity revenue (Exhibit 21). A table shall show commodity group revenue (at the two-digit level of the Standard Transportation Commodity Code) for the buyer's 5 largest revenue producing commodity groups as a percentage of total revenue for the latest available full calendar year preceding the filing of the application, indicating the 5 largest commodity groups, the revenues attributable to each group and the percentage of that group's revenue as it relates to total revenue.

(g) Commodity tonnage (Exhibit 22). For the *commodity groups shown in the table required in (f) above*, a table shall show commodity group tonnage as a percentage of total tonnage, for the latest available full calendar year preceding the filing of the application, indicating the various commodity groups, the tonnage attributable to each group and the percentage of that group's tonnage as it relates to total tonnage.

(h) Market Study. For the buyer, a narrative discussion shall identify the markets which will be affected by the proposed acquisition, the traffic expected to be generated and/or recovered, and the levels of business expected on the line at issue.

§ 1111.23 Operational data.

For *all* transactions: Operating Plan (Exhibit 23). Submit a description of the proposed operating plan to be effectuated upon approval of the transaction. This shall include information projected for the time required to complete rehabilitation, upgrading or other major operational changes following consummation of the proposed transactions, and describe the following with particularity:[2]

[2] For the purpose of completing this application, buyer is authorized to obtain the data necessary to complete this exhibit from the trustee and/or the directed rail carrier.

(a) Any significant changes in patterns of service.

(b) Traffic level and density on lines proposed for joint operations.

(c) The extent to which deferred maintenance or delayed capital improvements apply to any line of railroad or equipment involved, the Federal Railroad Administration Class level of the line involved, and the schedule for eliminating such deferrals. Include details of buyer's general system rehabilitation, specific rehabilitation relating to the transaction, and upgrading plans including proposed yard and terminal modifications, together with an estimate of anticipated service improvements or operating economies associated with such projects.

(d) Impact on the use of yards or shop facilities and any necessary modifications to yards or terminals.

(e) Impacts on commuter or other passenger service operated over the line being acquired.

(f) Operating economies, which include, but are not limited to, estimated savings.

(g) Any associated discontinuances or abandonments.

§ 1111.24 Financial information.

(a) The following information shall be provided for all *major* transactions:

(1) Balance sheets (Exhibit 24). General balance sheets, for the most recent full calendar year as appropriate, of the following:

(i) Buyer on a corporate entity basis.

(ii) Buyer's parent company on a corporate entity basis.

(iii) Buyer and subsidiaries on a consolidated basis.

(2) *Pro forma* balance sheets (Exhibit 25). Submit a *pro forma* balance sheet statement giving effect to the proposed transaction for the most recent full calendar year.

(i) A procedure utilizing three columns should be followed. The *first* column should show buyer's actual balance sheet on a corporate entity basis for the latest available 12 month period, the *second* column should show the adjustments necessitated by the purchase, and the *third* column is a compilation of the first two columns into a *pro forma* balance sheet.

(ii) If the parent company (if any) of the buyer is affected, a similar balance sheet shall be filed for each.

(iii) All adjustments to these balance sheets shall be supported in footnotes to the appropriate balance sheet.

(iv) A *pro forma* balance sheet shall be submitted for the number of years following consummation necessary to effect the operating plan.

(3) Income statements (Exhibit 26). Income statements, for the most recent full calendar year, as appropriate, of the following:

(i) Buyer on a corporate entity basis.

(ii) Buyer's parent company on a corporate entity basis.

(iii) Buyer and subsidiaries on a consolidated basis.

(4) *Pro forma* income statements (Exhibit 27). Submit a *pro forma* income statement showing buyer's estimate of revenues, expenses, and net income for at least each of the 3 years following consummation of the transaction.

(i) A procedure utilizing three columns should be followed. The *first* column should show buyer's actual income statement on a corporate entity basis for the latest available 12-month period, the *second* column should show the adjustments necessitated by the purchase, and the *third* column is a compilation of the first two columns into a *pro forma* income statement.

(ii) If the parent company (if any) of the buyer is affected, a similar statement shall be filed for each.

(iii) All adjustments to these income statements shall be supported in footnotes to the appropriate income statement.

If the operating plan requires more than three years to be put into effect, the *pro forma* income statement shall be prepared for as many years as necessary to implement fully the operating plan.

(b) The following information shall be provided for all *minor* transactions:

(1) Balance sheets—minor (Exhibit 28). General balance sheets for the latest 6-month period for buyer on corporate entity basis.

(2) Income statements—minor (Exhibit 27). Income statements for the latest 6-month period for buyer on a corporate entity basis.

§ 1111.25 Procedures.

(a) General.

(1) Any document filed with the Commission, including applications, pleadings, etc., shall be promptly furnished to interested persons on request, unless subject to a protective order. At any time, the Commission may require the submission of additional copies of any document previously filed by any party to the proceeding.

(2) The original and 20 copies of all documents shall be filed in *major* proceedings. The original and 10 copies shall be filed in *minor* proceedings.

(3) Each party to a proceeding shall choose a unique acronym of four letters or less for itself. It shall number each document filed in the proceeding consecutively, prefixed by its acronym.

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(b) Application.

(1) There is a $700 filing fee to file an application with the Commission under these procedures.

(2) Filing.

(i) The original of all applications shall be signed in ink by the buyer and seller. If buyer is a partnership, all partners must sign; and if a corporation, association, or other similar form of organization, the signature should be that of its president, or such other executive officer having knowledge of the matters therein contained and duly designated for that purpose. Applications shall be made under oath and shall contain an appropriate certification (if a corporation, by its secretary) showing that the affiant is duly authorized to verify and file the application. Any person controlling a buyer shall also sign the application.

(ii) The application shall be filed with Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

(iii) Each copy of the application shall conform in all respects to the original and shall be complete in itself except that the signature in the copies may be stamped or typed and the notarial seal may be omitted. In like manner where certified copies of documents are filed with the original application, conformed copies thereof, showing certification in stamped or typewritten form, will be sufficient to accompany the additional copies of the application.

(iv) All applications required to be filed with the Commission or served on designated persons shall include all exhibits, except as otherwise specifically noted.

(v) The buyer or seller shall submit such additional information to support its application as the Commission may require.

(vi) Buyer shall file concurrently with applications under Pub. L. No. 96–101 sections 5(b) and 17(b) all directly related applications, *e.g.*, those seeking authority to construct or abandon rail lines, to issue securities, control motor carriers, obtain terminal operations, acquire trackage rights, etc. All such applications will be considered under the schedule applicable to the initial application.

(vii) Exception to required exhibits. The original and one copy of Exhibit 16 shall be filed with the Commission. Copies shall be maintained at buyer's and seller's headquarters for inspection by interested parties. Buyer and seller must also file with the Commission one copy of a machine readable tape containing only the data shown in Exhibit 16. This tape will be returned to applicants when the Commission issues its decision, and no use of the tape will be made by the Commission other than for the purpose of adjudicating the application.

(3) In all applications, all of the direct testimony of buyer and seller, in the form of verified statements, shall be filed and served with each application.

(4) The application and all exhibits shall be considered part of the evidentiary record upon acceptance. Any portion of an application and exhibits will remain subject to motions to strike. However, no motion need be made to have the application and exhibits admitted to the evidentiary record.

(5) Service. The applicant shall serve a conformed copy of an application filed under these procedures by first class mail upon:

(i) The Governor (or Executive Officer), Public Service Commission, and the Department of Transportation of each State in which any part of the properties of the applicant carriers involved in the proposed transaction is situated;

(ii) The United States Secretary of Transportation (Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Room 5101, 400 Seventh Street, SW, Washington, D.C. 20590);

(iii) The Attorney General of the United States;

(iv) The Federal Trade Commission; and

(v) All parties to the bankruptcy court proceedings.

The application shall contain a certificate of service indicating that all persons so designated have been served a copy of the application.

(6) Application format.

(i) The application shall be in the same sequence as the information is requested in these procedures, and shall be numbered to correspond to the numbering in the procedures.

(ii) If any material required in the application would lend itself to being placed in an appendix, this should be done. The appendix and application shall be tabulated and cross-referenced in an index for ease in locating and referring to the information. The appendices shall be in the same sequence as the information is required by the regulations. The application should be bound, and it may be bound in more than one volume. If an application is more than one volume, the cover of each volume should be in a different color. The pages in each volume should begin with 1, and shall be sequentially numbered.

(iii) If a question arises regarding an interpretation of the information or format to be included in the application, including whether or not a transaction would result in a major market extension, the party may contact the Commission for assistance.

(iv) All filing, service, or other requirements of these procedures must be complied with when filing the application. Copies of the application filed with the Commission shall be marked in red "Special Railroad Acquisition Application" on the transmittal envelope or package.

(7) Acceptance or rejection of an application.

(i) The Commission shall accept a complete application by decision no later than 10 days after the application is filed with the Commission, and shall then publish a notice in the **Federal Register**. A complete application contains all information for all buyers and sellers required by these procedures, except as modified by advance waiver.

(ii) The Commission shall reject an incomplete application by serving a decision no later than 10 days after the application is filed with the Commission. The decision shall give specific reasons why the application was rejected, and specify where the application was incomplete. A revised application may be submitted, incorporating portions of the prior application by reference, and the Commission will determine whether the resubmitted application conforms with all prescribed regulations. The resubmission or refiling of an application shall be considered a de novo filing for the purpose of computation of the time periods, provided that the resubmitted application is accepted.

(c) Response to application.

(1) Written comments.

(i) Written comments in support of or opposition to the proposed transaction must be filed no later than 30 days after an application is accepted.

(ii) Written comments must be verified.

(iii) Written comments shall be concurrently served by first class mail on:

(A) The applicants (at each address given in the application),

(B) The United States Secretary of Transportation, and

(C) The Attorney General of the United States.

(iv) Written comments must contain:

(A) The docket number and title of the proceeding.

(B) The name and address of the commenting party.

(C) The name, address, and telephone number of the commenting party's representative upon whom service shall be made.

(D) The commenting party's position (in support, opposition, or undetermined), and verified statements in support of that position.

(E) A list of conditions and modifications sought.

(v) All persons who file timely written comments shall be a party. In this event, no petition for leave to intervene need by filed.

(2) The Secretary of Transportation and Attorney General of the United States shall file written comments with the Commission within 40 days of the date of acceptance of the application. These comments shall contain the information in (c)(1)(iv) of this section. Copies of these comments shall be concurrently served by first class mail on:

(i) The applicants,

(ii) The parties to the proceeding who have filed written comments, and

(iii) The Attorney General of the United States or Secretary of Transportation (whichever applies).

(d) Replies to Comments

(1) Applicant's verified replies to comments must be filed no later than 70 days after an application is accepted.

(2) If the Commission deems it necessary, a schedule for submission of briefs and replies will be set.

(e) The Commission will conclude the evidentiary proceeding, including requests for additional information, briefs and replies, and issue a final decision by the 180th day after the filing of the application, unless otherwise ordered.

(f) *Waiver or clarification.* (1) Upon petition of a prospective applicant, the Commission may waive or clarify a portion of these procedures, concerning the initial and directly related applications. A petition to waive *all* of the procedures will not be entertained.

(2) Petitions for waiver or clarification must be filed at least 20 days before the application is filed.[3]

(3) No replies to a petition for waiver will be permitted.

(4) All petitions for waiver, clarification or extension shall be ruled upon by the entire Commission.

(5) A petition for waiver or clarification must specify the sections for which waiver or clarification is sought and give the specific reasons why each waiver or clarification is necessary.

[3] At the time of filing with the Office of the Secretary, 5 additional copies of petitions for waiver or clarification should be filed directly with Section of Finance, Office of Proceedings, Interstate Commerce Commission.

§ 1111.26 Definitions.

(a) *Applicant.* The parties initiating a transaction.

(b) *Applicant carriers.* Applicant, all carriers related to the applicant, and all other carriers involved in the transaction.

(c) *Major market extension.* A major market extension includes an end-to-end extension of buyer's routes and services and buyer's participation in additional through routes or joint rates. A major market extension may also significantly increase competition by (1) extending service into a new market or (2) providing significantly more efficient and effective competitive service to a market presently being served. Criteria which can be used to determine if a railroad is proposing to provide a more competitive service to a currently served area include: (1) whether or not a shorter route is involved, (2) if the new route provides faster service, (3) if this route extends into major markets, (4) under what conditions the application is filed, and (5) if the route may make the railroad competitive. *See, Burlington Northern, Inc.—Control & Merger—St. L.*, 354 I.C.C. 616, 617 (1978).

(d) *Railroad.* Any common carrier by railroad as defined in 49 U.S.C. 10102 (17)–(18).

(e) *Buyer.* The buyer is the acquiring entity and all related carriers, in an acquisition.

(f) *Seller.* The seller is the bankrupt railroad.

[FR Doc. 80-2499 Filed 1-24-80; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 45, No. 18
Friday, January 25, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 410

Training

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: This document proposes changing the regulations implementing the Government Employees Training Act to provide exceptions to some of the constraints on non-Government training to simplify record keeping tasks when a training program uses both Government and non-Government facilities.

DATE: Comments must be received on or before March 25, 1980.

ADDRESS: Send or deliver written comments to Mr. Frank Masterson, Director, Training Policy Divison, Workforce Effectiveness and Development, Office of Personnel Management, 1900 E Street, NW., Room 7623, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Ms. Constance Guitian, Training Policy Division, (202) 632–7647.

SUPPLEMENTARY INFORMATION: The training law authorizes the President (in 5 U.S.C. 4102(b)) to grant exceptions to provisions of that law and Executive Order 11348 delegated that authority to the Office of Personnel Management. The Office of Personnel Management is exercising its exception authority in simplifying the processing of instances of training which have both Government and non-Government elements.

All training has three elements: who controls the level, nature and content; who conducts the actual training and where the training is conducted. For training that has two Government elements it would no longer be necessary under the proposed exception to: (1) process waivers of the prohibition on training employees through non-Government facilities who have less than one year of current continuous service (5 U.S.C. 4106(a)(2)); (2) record time in training through non-Government facilities toward the limitation of not more than one year of such training in each ten years of an employee's service (5 U.S.C. 4106(a)(3)); (3) monitor the total time employees spend in training through non-Government facilities to be sure that does not exceed 1 percent of staff time in any fiscal year (5 U.S.C. 4106(a)(1)); and (4) execute agreements with employees to continue in the service after completion of training through non-Government facilities (5 U.S.C. 4108(a)).

It will still be necessary (1) to determine the need to utilize a non-Government facility; (2) to meet the requirements for selecting a non-Government facility; (3) to ascertain the suitability of the non-Government facility; and (4) to determine the availability of other qualified employees before training an employee in a non-Government facility.

The reporting requirements for the Central Personnel Data File are not changed in any way by these exceptions for training which has both Government and non-Government elements.

Office of Personnel Management.

Beverly M. Jones,

Issuance Systems Manager.

PART 410—TRAINING

Accordingly, the Office of Personnel Management proposes to add § 410.510 which reads as follows:

§ 410.510 Exceptions to the constraints on the usage of non-Government training.

When training meets two of the following conditions, then the agency is excepted from counting the time spent in such training toward the constraints in 5 U.S.C. 4106(a)(1), 5 U.S.C. 4106(a)(2) and 5 U.S.C. 4106(a)(3) and from the requirement in 5 U.S.C. 4108(a):

(a) Conducted by civilian or military personnel of the Government acting in their official capacities; or

(b) Held on property owned or substantially controlled by (rented by or loaned to) the Government; or

(c) Controlled by the Government in terms of general level, coverage, content and requirements for participation.

(5 U.S.C. 4101 *et seq)*

[FR Doc. 80-2420 Filed 1-24-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 733

Political Participation by United States Government Employees in Shrewsbury Township, N.J.

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: OPM proposes to remove Shrewsbury Township, New Jersey, from the list of communities where Federal employees have been granted a partial exemption from the political activity restrictions of the Hatch Act because it appears that less than a majority of the registered voters in that community are Federally employed.

DATE: Written comments will be considered if received on or before March 25, 1980.

ADDRESS: Submit written comments to Office of the General Counsel, U.S. Office of Personnel Management, Room 5H30, 1900 E Street, N.W., Washington, D.C. 20415. All comments received on this proposed rule will be available for public inspection at the above address on business days between 9:00 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Stuart D. Rick, 202–632–5524.

SUPPLEMENTARY INFORMATION: The Hatch Act, 5 U.S.C. 7321 *et seq.*, controls the political activity of Federal employees and individuals employed by the District of Columbia. 5 U.S.C. 7324 generally prohibits Government employees from taking an active part in political campaigns. 5 U.S.C. 7327, however, authorizes OPM to prescribe regulations permitting Government employees to participate in political campaigns involving the municipality where they reside if certain conditions are met. For municipalities outside the Washington, D.C. vicinity, one of these conditions is that a majority of the registered voters in the community be employed by the Federal Government.

Earlier this year, a resident of Shrewsbury Township wrote to OPM's General Counsel, alleging that "an overwhelming majority of [the Township's registered] voters are not Federally employed." An attorney from the Office of the General Counsel was disptached to investigate the matter. The investigation included interviews with Township officials, and local Federal agency, military, and post office personnel, as well as examinations of lists showing the home addresses of employees at the nearby Federal installations. Data gathered during the investigation appear to confirm that the number of Shrewsbury Township's registered voters who are Federally employed is far below the "majority of voters" standard under the Hatch Act for a municipality outside the Washington, D.C. vicinity to be designated in this agency's regulations as an excepted locality.

A copy of this notice will be published in local newspapers serving Shrewsbury Township.

If this proposed rule is adopted, OPM will revise 5 CFR 733.124(b) to remove Shrewsbury Township, New Jersey, from the list of designated municipalities in which Federal Government employees may participate in local elections.

Office of Personnel Management.

Beverely M. Jones,

Issuance System Manager.

[FR Doc. 80-2419 Filed 1-24-80; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 781

Disclosure of Foreign Investment in Agricultural Land

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: It is proposed to amend the regulation and accompanying interpretation of the term "combination" published in the **Federal Register** on May 18, 1979. The proposed amendment would revise the definition of "significant interest or substantial control" of a legal entity for the purpose of determining whether such entity is a foreign person subject to the reporting requirements of the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3501 *et seq.*), the interpretation of the term "combination" which appears in § 781.2(g)(4)(ii)(D), and, the definition of "agricultural land" in order to exempt owners of small parcels from the reporting requirement. In addition, the amendment supplements the existing reporting procedure by requiring the reporting of several new pieces of information—the date the land reported was acquired or transferred, the amount or value of the purchase price yet to be paid, and the correct estimated value of the land. It is anticipated that this amendment will provide the Department with the type of information needed in order to develop a more accurate analysis concerning the extent of foreign investment in U.S. agricultural land.

DATE: In order to assure consideration, written comments must be received by March 25, 1980.

ADDRESS: Comments should be addressed to: Walter C. Ferguson, Confidential Assistant to the Administrator, Office of the Administrator, ASCS, U.S. Department of Agriculture, Room 218 Administration Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Walter C. Ferguson, Confidential Assistant to the Administrator, Office of the Administrator, ASCS, U.S. Department of Agriculture, Room 218 Administration Building, Washington, D.C. Telephone (202) 447–8165.

SUPPLEMENTARY INFORMATION:

Significant Interest or Substantial Control and "Combination"

As originally published in the **Federal Register** on February 6, 1979, the regulation established five percent as the level of interest constituting "significant interest or substantial control" of a legal entity. An interpretation of § 781.2(g)(4)(ii)(D) of the regulation, published in the **Federal Register** on May 18, 1979, indicated that five percent was an aggregate figure. Thus, for example, entities which had unrelated foreign stockholders each of whom individually owned an interest of less than five percent but all of whom in the aggregate owned an interest of five percent or more were defined as foreign persons subject to the reporting requirements of the Act.

It became clear after publication of the interpretation that its application would require business entities that no one would consider foreign-dominated to file reports. Specifically, large publicly-held U.S. corporations which, because of trading of their stock on foreign as well as U.S. exchanges, had more than five percent total foreign ownership would be considered foreign persons subject to the reporting requirements of the Act even if no single foreigner owned even as much as one percent of the corporation's stock. Such corporations are not treated as foreign under any other federal law. A requirement that they submit reports under the Act could seriously distort the total figures on agricultural foreign investment by including land that could not realistically be considered foreign-owned or subject to foreign control.

The proposed revision would deal with this problem in two ways. It would amend the interpretation of § 781.2(g)(4)(ii)(D) to make clear that the word "combination" refers only to a group of individuals, persons, or governments who are acting in concert. In addition, it would amend the definition of "significant interest or substantial control" in § 781.2(1) by adding a second standard to cover aggregate foreign ownership. Under this additional standard, aggregate interest of twenty percent or more held by unrelated individuals, persons, or governments would be considered "significant interest or substantial control" of a business entity. Thus, under the proposed revision, a legal entity which had unrelated foreign stockholders each of whom individually owned an interest of less than five percent would be defined as a foreign person only if the interests of all such foreign stockholders in the aggregate amounted to an interest of twenty percent or more in the entity.

This approach would be consistent with other federal laws, none of which regards a corporation as foreign unless at least five percent of its stock is owned by a *single* foreign entity or twenty percent is owned by foreigners cumulatively. Commerce Department regulations implementing the International Investment Survey Act (22 U.S.C. 3101–3109) define as "foreign direct investment" the direct or indirect ownership or control by *one* foreign person of ten percent or more of the voting stock of a U.S. corporation. See 15 CFR 806.15(a)(1). The Federal Communications Act prohibits granting of a broadcast license to corporations of which more than twenty percent of the capital stock is owned by foreigners (47 U.S.C. 310(b)). Similarly, the Federal Aviation Act defines as foreign air carriers corporations which are engaged in foreign air transportation and in which foreigners own a voting interest of more than twenty-five percent (49 U.S.C. 1301).

Finally, the Securities and Exchange Act of 1934 requires any persons who owns five percent or more of a class of stock required to be registered with the Securities and Exchange Commission and who acquires additional stock of that class to notify and provide details of the transaction to the issuer of the stock, the exchanges on which the stock is traded, and the Commission (15 U.S.C. 78m(d)(1)). This requirement suggests that Congress considered a five percent interest in a business entity held by a single person to be a significant interest.

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The proposed revised definition of "significant interest or substantial control" of a business entity under the Agricultural Foreign Investment Disclosure Act is consistent with the general approach of these other statutes. Its application would yield the information necessary to make a more realistic assessment of the extent of foreign investment in American agricultural land.

Definition of Agricultural Land

At present, all land in excess of one acre used for the production of agricultural, forestry, or timber products must generally be reported. As a result, many individuals holding small amounts of land used for growing trees or agricultural products have filed reports. Since the Department feels that information about such holdings is not of significant value, it is proposed to exempt generally all agricultural, forestry, and timber land not exceeding 10 acres in the aggregate. However, if the products grown on land used for an agricultural purpose are sold and return more than $1,000 in annual gross sales receipts, then such land must be reported even though it is ten acreas or less in size.

In addition to the foregoing, it should be noted that the parameters of agricultural, forestry, or timber production have been further clarified by the parenthetical reference to certain activities set forth in the Standard Industrial Classification Manual. The activities enumerated therein are merely illustrative and in no way exhaustive of the type of activity which may cause land to be classified as reportable.

Proposed Rule

In consideration of the foregoing, it is proposed to amend Part 781 of 7 CFR as follows:

1. Section 781.2 is amended to read as follows:

§ 781.2 Definitions.

* * * * *

(b) *Agricultural land.* Land in the United States which is currently used for, or if idle and its last use within the past five years was for, agricultural, forestry, or timber production (including activities set forth in the Standard Industrial Classification Manual (1972), Division A, exclusive of industry numbers 0711–0783, 0851, and 0912—animal trapping, game management, hunting carried on as a business enterprise, trapping carried on as a business enterprise and wildlife management), except: (1) in the case of land producing agricultural products, land not exceeding ten acres in the aggregate from which the agricultural products, if sold, return less than $1,000 in annual gross sales receipts; and, (2) in the case of land producing forestry or timber products, land not exceeding ten acres in the aggregate.

* * * * *

(g) *Foreign Person.* * * *

Interpretation

As used in § 781.2[g][4][ii][D], the word "combination" refers to a group of individuals, persons or governments acting in concert.

* * * * *

(1) *Significant interest or Substantial control means:* (1) an interest of five percent or more in a legal entity held by a single individual referred to in paragraph (g)(1), single person referred to in paragraph (g)(2), or single government referred to in paragraph (g)(3); or (2) an interest of twenty percent or more in the aggregate held by individuals referred to in paragraph (g)(1), persons referred to in paragraph (g)(2), or governments referred to in paragraph (g)(3), even though such individuals, persons, or governments may not be acting in concert.

2. Section 781.3 is amended by changing paragraphs (b) and (c) to read as follows:

§ 781.3 Reporting requirements.

* * * * *

(b) * * *

(6) The purchase price paid for, or any other consideration given for, such interest; the value of such purchase price or consideration yet to be given; the current estimated value of the land reported;

* * * * *

(8) when applicable the name, address and relationship of the representative of the foreign person who is completing the ASCS–153 form for the foreign person;

(9) * * *; and

(10) The date the interest in the land was acquired.

(c) * * *

(6) The purchase price paid for, or any other consideration given for, such interest; the value of such purchase price or consideration yet to be given; the current estimated value of the land reported;

* * * * *

(9) When applicable, the name, address and relationship of the representative of the foreign person who is completing the ASCS–153 form for the foreign person;

(10) * * *; and

(11) The date the interest in the land was acquired or transferred.

(Pub. L. 95–460, 92 Stat. 1265; 7 U.S.C. 3502)

Note.—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044 "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A draft Impact Analysis has been prepared and is available from Walter C. Ferguson, Confidential Assistant to the Administrator, Office of the Administrator, ASCS, U.S. Department of Agriculture, Room 218 Administration Building, P.O. Box 2415, Washington, D.C. 20013.

Signed at Washington, D.C. on January 21, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-3423 Filed 1-24-80; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Part 430

[Docket No. CAS–RM–79–113]

Energy Conservation Program for Consumer Products; Advance Notice of Proposed Rulemaking and Request for Public Comments Regarding Energy Efficiency Standards for Dishwashers, Television Sets, Clothes Washers, Humidifiers, and Dehumidifiers; Corrections and Extension of Comment Period

AGENCY: Department of Energy.

ACTION: Advance notice of proposed rulemaking and request for public comments; corrections and extension of comment period.

SUMMARY: This document corrects and extends the comment period of an advance notice of proposed rulemaking regarding energy efficiency standards for dishwashers, television sets, clothes washers, humidifiers and dehumidifiers that appeared in the **Federal Register** of December 13, 1979 [44 FR 72276]. The comment period is being extended to allow commenters more time to submit data requested in this rulemaking.

DATES: Written comments by April 30, 1980.

ADDRESS: Send comments to: Carol A. Snipes, U.S. Department of Energy, Office of Conservation and Solar Energy, Room 3235, Mail Station 2221C, 20 Massachusetts Avenue, NW., Washington, D.C. 20585, (202) 376–1651.

FOR FURTHER INFORMATION CONTACT:
James A. Smith, U.S. Department of Energy, Division of Buildings and Community Systems, Consumer Products Efficiency Branch, room 2248, 20 Massachusetts Avenue, NW., Washington, D.C. 20585, (202) 376–4814.
Carol A. Snipes, (Hearing Procedures), U.S. Department of Energy, Office of Conservation and Solar Energy, Room 3235, Mail Station 2221C, 20 Massachusetts Avenue, NW., Washington, D.C. 20585, (202) 376–1651.
William J. Dennison, U.S. Department of Energy, Office of General Counsel, Room 5228, 20 Massachusetts Avenue, NW., Washington, D.C. 20585, (202) 376–4100.

SUPPLEMENTARY INFORMATION: FR Doc. 79–37852 appearing at page 72276 in the **Federal Register** is corrected as follows:

1. The last sentence of column one, page 72280, now reading "Room humidifiers have heaters or other means to evaporate the water used for humidification" is deleted.

2. The first two lines of the second paragraph of column two, page 72280, now reading "Because of the differences in the source of heat for evaporating the water" is changed to read, "Because of the difference in evaporating the water."

3. Paragraph number 19 of column two, page 72282, is deleted and a new paragraph 19 is added to read "19. Design Options—list the features of the design of the model that make it a more energy efficient unit than other models of comparable utility. Refer to Table IV for a listing of the type of design options to be identified."

4. Paragraph number 20 of column two, page 72282 is deleted and a new paragraph 20 is added to read, "20. Enter the estimated "real life" energy savings associated with each design option as the percentage difference between the energy consumption of the model and what the actual or projected energy consumption of the model is or would be if it did not incorporate the design option into its design."

5. The first sentence of paragraph number 21 of column three, page 72282, now reading "21. Product Characteristics—Refer to Table III, Column C" is changed to read, "22. Product Characteristics—Refer to Table IV, Column C."

6. A new paragraph is added at the top of column three, page 72282, to read "21. Enter the energy savings associated with each design option determined in accordance with the DOE test procedures. Quantify this energy savings in terms of a percentage as directed in 20."

Issued in Washington, D.C., January 15, 1980.

T. E. Stelson,

Assistant Secretary, Conservation and Solar Energy.

[FR Doc. 80-3428 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Parts 182, 184, 186

[Docket No. 79H–0095]

Sodium Dithionite and Zinc Dithionite; Proposed Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm the generally recognized as safe (GRAS) status of sodium dithionite (hydrosulfite) as a direct human food ingredient and of zinc dithionite (hydrosulfite) as an indirect human food ingredient. The safety of these ingredients has been evaluated as part of the agency's comprehensive safety review. The proposal would list as GRAS sodium dithionite as a direct food substance and zinc dithionite as an indirect food substance.

DATE: Written comments by March 25, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:
Corbin I. Miles, Bureau of Foods (HFF–335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–472–4750.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive safety review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposed regulations initiating this review (see the **Federal Register** of July 26, 1973 (38 FR 20040)). As part of this review, the safety of sodium dithionite (hydrosulfite) and zinc dithionite (hydrosulfite) has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), FDA proposes to affirm the GRAS status of sodium dithionite as a direct human food ingredient and of zinc dithionite as an indirect human food ingredient. The GRAS status of other sulfur-containing substances is considered in proposals on sulfates and sulfiting agents.

FDA notes that the traditional names for these ingredients have been "sodium hydrosulfite" and "zinc hydrosulfite." These names are ambiguous in that they may also be applied to other compounds (see the "Merck Index," 9th Ed., p. 1115). Because these ingredients are salts of dithionous acid, the agency proposes to use the names "sodium dithionite" and "zinc dithionite" in preference to "sodium hydrosulfite" and "zinc hydrosulfite," respectively. This preference accords with the practice of the Chemical Abstracts Service in the naming of these chemical substances.

The dithionites of sodium ($Na_2S_2O_4$) and zinc (ZnS_2O_4) are free-flowing white powders that are extremely soluble in water. In air, especially moist air, both compounds are rapidly oxidized to bisulfites and bisulfates. In dilute solutions, dithionites decompose, with the formation of sulfur dioxide and colloidal sulfur.

Metal dithionites are used commercially as reducing agents in polymerization processes and textile manufacturing, and for bleaching wood pulp, soap, molasses, glue, oils, and fats.

Sodium dithionite solutions have been used to prevent black spot on frozen and ice-stored crustaceans. However, according to information obtained from the National Marine Fisheries Service, Department of Commerce, sodium dithionite is not used on crustaceans consumed in the United States.

Sodium dithionite has unpublished GRAS approval for use as an antioxidant in the brewing of beer in amounts such that no residue of sodium dithionite shall remain in the beer, and subject to a limitation of 25 parts per million (ppm) sulfur dioxide in the finished product (Adjunct, Reference Memorandum, United States Brewers Association, Washington, DC, Industry Circular No. 68–S). Except for this use of sodium dithionite in brewing beer, dithionites have not been approved for use as direct food ingredients.

Both sodium and zinc dithionites are listed (as hydrosulfites) in § 182.90 (21 CFR 182.90) as GRAS substances migrating to food from paper and paperboard products used in food packaging, under a regulation published in the **Federal Register** of June 17, 1961 (26 FR 5421). In addition, both sodium and zinc dithionites are listed (as hydrosulfites) in § 177.2800(d)(5) (21 CFR 177.2800(d)(5)) as substances employed in the production of or added to textiles and textile fibers coming into contact with dry food.

The amount of sodium dithionite that could be ingested as a result of direct use in beer brewing can be estimated from U.S. Department of Commerce data on beer consumption and from FDA field inspection reports on the rate of sodium dithionite usage in breweries. Sodium dithionite is added to beer in a mixture with sodium carbonate and sodium erythorbate. It is estimated that 660,000 pounds of antioxidant mixture were added to beer in 1970, compared

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with 464,000 pounds in 1960. These totals correspond to potential per capita (18 years of age and over) consumption rates of 2 grams (g) per year in 1970 and 1.7 g per year in 1960. These estimates of annual poundage and average consumption are upper limits, because sodium dithionite is one of three components of the antioxidant mixture and because dithionites in aqueous solution readily decompose to other sulfur products.

There are currently no data available on the amounts of dithionites present in paper and paperboard good-packaging materials. Therefore, no quantitative estimate of the amount of dithionites migrating into food can now be made. Inasmuch as dithionites act as bleaching agents in the paper-making process, dithionites must undergo oxidation in order to function. Because dithionites and their oxidation products are water soluble, most of them should be removed with the water mechanically removed from the paper. EDA therefore concludes that paper processed in this manner should contain no more than trace amounts of dithionites and their oxidation products and that the expected migration of these substances from packaging materials into food is extremely small.

Dithionites (hydrosulfites) have been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. Fifty-six abstracts on dithionites were reviewed, and 19 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (the Select Committee), chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

Oral administration of up to 1 g sodium hydrosulfite per kg body weight to dogs was without any apparent untoward effect, except that in many instances vomiting occurred. Details of the tests were not given. Rats showed no adverse reactions to intravenous injections of 25 to 50 mg per kg sodium hydrosulfite. At 100 mg per kg, labored breathing appeared during the actual injection and persisted for 5 to 10 minutes, followed by recovery. At 150 mg per kg, labored breathing increased markedly with signs of suffocation; however, doses as high as 210 mg per kg, although temporarily incapacitating, were not lethal. An intravenous dose of 240 mg per kg was fatal in 5 minutes. In a second series of tests, rats survived intravenous doses of 125 mg per kg, but succumbed to 150 mg per kg in 7 minutes.

A 10 percent sodium hydrosulfite solution administered at levels of 100 mg per kg by stomach tube was effective in preventing fatal arsenical poisoning in dogs. When given within 10 minutes after administration of a fatal dose of arsenic, 90 percent of the animals survived. No apparent adverse effects resulted from the oral administration of the sodium hydrosulfite solution.

A 5 percent solution of sodium hydrosulfite reduced the rate of natural mutagenesis by more than tenfold in an unstable heredity strain of Bacterium prodigiosum.

No short- or long-term feeding studies or studies of possible carcinogenicity or teratogenicity of the hydrosulfites have come to the attention of the Select Committee, and no reports were found concerning absorption, metabolism, and excretion of these substance. However, since hydrosulfites are converted readily to bisulfite, bisulfate or sulfur dioxide in air or aqueous solution, absorption and metabolism of these compounds would be expected to be similar. The sulfiting agents will be evaluated in a forth-coming report of the Select Committee; evaluation of the sulfates has been completed.

While no specific information on the toxicity of zinc hydrosulfite was available to the Select Committee, a number of other zinc salts, such as zinc carbonate, and zinc sulfate, have been evaluated and found to be without adverse effects in doses approximating 50 mg per kg body with per day. Such doses greatly exceed those that would result from migration of zinc hydrosulfite into foods from paper or paperboard packaging materials.

Qualified scientists of the Select Committee have carefully evaluated all of the available safety information on hydrosulfites (dithionites). In the Select Committee's opinion:

Information on the toxicity of sodium hydrosulfite is extremely limited. Nevertheless, the available data indicate that the oral administration of up to 1 g of the sodium salt per kg body weight does not cause significant harm in dogs, and the intravenous injection of 25 to 50 mg per kg has resulted in no apparent ill effects in rats. These doses are many orders of magnitude greater than those that could result from the consumption of foods packaged in sodium hydrosulfite-containing paper and paperboard packaging materials.

Because zinc compounds, such as the carbonate and sulfate do not elicit adverse effects when administered orally to experimental animals at levels of 50 mg per kg, and sodium hydrosulfite is without apparent adverse effects at equivalent levels, it is reasonable to conclude that zinc hydrosulfite would react similarly.

The Select Committee concludes that there is no evidence in the available information on sodium hydrosulfite and zinc hydrosulfite that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when they are used in food-packaging materials as now practiced or as they might reasonably be expected to be used for such purposes in the future. Based upon its own evaluation of all available information on dithionites, FDA agrees with this conclusion. FDA therefore concludes that no change in the current GRAS status of sodium and zinc dithionites as substances migrating to foods from paper or paperboard products used in food packaging is justified.

The agency has also evaluated the safety of the direct use of sodium dithionite as an antioxidant in beer brewing. The Select Committee report described toxicity studies in which sodium dithionite did not produce significant ill effects in dogs and rats. In addition, sodium dithionite readily decomposes in aqueous solution to sulfate, sulfite, and/or sulfur dioxide and colloidal sulfur. At the levels of use of sodium dithionite in beer, these decomposition products do not pose significant health problems. Therefore, the agency concludes that the existing data and information on sodium dithionite form an adequate basis for affirming the GRAS status of this ingredient as an antioxidant in beer brewing, subject to good manufacturing practice.

In the past, FDA routinely adopted food grade specifications on indirect GRAS substances. The agency has concluded that, as a general rule, food grade specifications are not necessary to assure the safety of an indirect GRAS substance, provided the substance is of a purity suitable for its intended use in accordance with § 170.30(h)(1). This conclusion is based on the fact that indirect uses generally result in extremely low levels of consumer exposure to the additive and correspondingly low levels of exposure to any impurities that may be present. If food grade specifications are found necessary in a particular case to assure the safety of an indirect GRAS ingredient, the agency will include them in the regulation. The agency intends to publish a proposal in the near future to amend its procedural regulations in Part 186 to reflect this new policy regarding specifications for indirect GRAS substances.

In the case of zinc dithionite, FDA concludes that specifications are not necessary. Therefore, the proposed regulation governing the use of zinc dithionite as an indirect GRAS ingredient does not include food grade specifications.

In the past, when a substance has been listed in Part 182 as GRAS for both direct and indirect uses, FDA has proposed separate GRAS affirmation regulations in Parts 184 and 186 to govern its direct and indirect GRAS uses, respectively. Under § 184.1(a), however, ingredients affirmed as GRAS for direct food use in Part 184 are considered to be GRAS for indirect uses without there being a separate listing in Part 186. In light of § 184.1(a), FDA has reconsidered its traditional practice of establishing separate listings in Part 186 for substances it affirms as GRAS for direct use in Part 184 and has concluded that the duplicative listing in Part 186 is unnecessary, as a general rule, and may cause confusion. Thus, unless it is necessary based on safety considerations to impose specific purity specifications or other restrictions on the indirect use of a GRAS substance, FDA will no longer list in Part 186 substances that are affirmed as GRAS for direct use in Part 184. In keeping with this change in policy, FDA is not proposing a separate listing in Part 186 for the indirect uses of sodium dithionite. The indirect uses of sodium dithionite are authorized under §§ 184.1(a) and 184.1755.

The agency also has determined that an indirect substance whose GRAS status for indirect use is based on its affirmation as GRAS in Part 184 need not comply, as a general rule, with the purity specifications made applicable to the direct use of the substance in the Part 184 regulations, as long as it is of a purity suitable for its intended indirect use in accordance with § 170.30(h)(1). This conclusion is based on the fact that indirect uses generally result in extremely low levels of consumer exposure to the additive and correspondingly low levels of exposure to any impurities that may be present. As noted above, however, if specific purity specifications for the indirect use of a GRAS substance are necessary based on safety considerations, a regulation establishing such specifications will be promulgated in Part 186. In the case of sodium dithionite, no specific purity specifications are necessary for its indirect use.

Although the policies discussed in the two preceding paragraphs are not inconsistent with FDA's current regulations, FDA will publish a proposal in the near future to amend its procedural regulations in Parts 184 and 186 to reflect clearly the current policies.

Copies of the scientific literature review on dithionites and the report of the Select Committee are available for review at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price [1]
Hydrosulfites (scientific literature review).	PB-226-551/AS.	A02	$4.00
Hydrosulfites (Select Committee report).	PB-262-365/AS.	A02	4.00

[1] Price subject to change.

This proposed action does not affect the current use of dithionites (hydrosulfites) for pet food or animal feed, nor does it affect the regulated uses in § 177.2800(d)(5).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Parts 182, 184, and 186 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.90 [Amended]

1. In § 182.90 *Substances migrating to food from paper and paperboard products* by deleting "Sodium hydrosulfite" and "Zinc hydrosulfite" from the list of substances.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. By adding new § 184.1755 to read as follows:

§ 184.1755 Sodium dithionite.

(a) Sodium dithionite ($Na_2S_2O_4$, CAS Reg. No. 7775-14-6), also referred to as sodium hydrosulfite and sodium hyposulfite, is a fine white powder that is extremely soluble in water. It is prepared by the reduction of sulfur dioxide with zinc powder followed by alkali treatment or by the reaction of sodium formate, sodium hydroxide, and sulfur dioxide.

(b) Sodium dithionite meets the following specifications:

(1) *Assay.* Not less than 88 percent by the Iodine Method, available upon request from the Food and Drug Administration.[1]

(2) *Limits of impurities.* Arsenic (as As), not more than 1 ppm. Heavy metals less Zn (as Pb), not more than 20 ppm. Zinc (as Zn), not more than 300 ppm. Selenium, not more than 1 ppm.

(c) The ingredient is used as an antioxidant as defined in § 170.3(o)(3) of this chapter.

(d) The ingredient is used in the manufacture of beer at levels not to exceed good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in a maximum use of 0.002 percent by weight in beer.

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. By adding new § 186.1987 to read as follows:

§ 186.1987 Zinc dithionite.

(a) Zinc dithionite (ZnS_2O_4, CAS Reg. No. 7779-86-4), also referred to as zinc hydrosulfite and zinc hyposulfite, is a fine white powder that is extremely soluble in water. It is prepared by the reduction of sulfur dioxide with zinc powder.

(b) The ingredient is used as a constituent of paper and paperboard used for food packaging.

(C) The ingredient is used as levels not to exceed good manufacturing practice in accordance with § 186.1(b)(1).

FDA is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those proposed in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulations proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on the sanction later. This notice also constitutes a proposal to establish a regulation under Part 181 (21 CFR Part 181), incorporating the same provisions, if such a regulation is determined to be appropriate as a result of submission of proof of an applicable prior sanction in response to this proposal.

Interested persons may, on or before March 25, 1980 submit to the Hearing

[1] Address: Bureau of Foods, GRAS Review Branch (HFF-335) Food and Drug Administration, 200 C St. SW., Washington, DC 20204.

V 45/18 JA 25 80 UMI

Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order.

Dated: January 9, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–2379 Filed 1–24–80; 8:45 am]

BILLING CODE 4110–03–M

21 CFR Part 610

[Docket No. 79N–0263]

Biological Products; Labeling Standards; Position and Prominence of Proper Name

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the general biological products standards regulation concerning the position and prominence of a manufacturer's logo in relation to the proper name of the product. This action is being taken following a reinterpretation of the regulation concerning the placement and prominence of the proper name of the product.

DATE: Comments by March 25, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard E. Fisher, Bureau of Biologics (HFB–820), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

SUPPLEMENTARY INFORMATION: Section 610.62(a) (21 CFR 610.62(a)) of the biologics regulations requires that the proper name of the product on the package label be placed above any trademark or trade name used to identify the product and be symmetrically arranged with respect to other printing on the label. The prominence required for the proper name serves as a means of immediate recognition of a specific group or category of biological products and assures that all products in this category meet uniform criteria for safety, purity, and potency.

In interpreting and applying this regulation, FDA's Bureau of Biologics (Bureau) has in the past made no distinction between the terms "trade name" and "trademark." These terms were applied interchangeably by the Bureau and were not considered mutually exclusive.

However, the term "trademark," as defined in section 45 of the Trademark Act of 1946 (15 U.S.C. 127) is separate and distinct from the definition and use of the term "trade name." A "trade name" is defined as the name used by a firm to identify its business when engaged in trade or commerce (15 U.S.C. 1127). A "trademark" is defined as any name, symbol, or device used by a firm to identify its goods and products and distinguish them from those manufactured or sold by others (15 U.S.C. 1127). The term "trademark" thus includes the name given to a product by a manufacturer and any logo used to identify the product.

In light of these statutory distinctions, FDA has reevaluated the purpose and intent of § 610.62(a) (21 CFR 610.62(a)), concerning the importance of a product's proper name and its required position and prominence of the package label. FDA concludes that a manufacturer's logo (symbol) may be placed above the proper name of a product, provided it is not more prominent than the proper name. However, all other aspects of the regulation remain unchanged.

Accordingly, FDA is amending § 610.62(a) to permit the placement of a manufacturer's logo above the proper name of the product consistent with other requirements contained in this section.

The agency has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the environment is not required. A copy of the environmental impact assessment is on file with the FDA Hearing Clerk.

Therefore, under provisions of the Federal Food, Drug and Cosmetic Act (secs. 201, 502, 701, 52 Stat. 1040–1042 as amended, 52 Stat. 1050, 52 Stat. 1055–1056 as amended (21 U.S.C. 321, 352, 371)) and of the Public Health Service Act (sec 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 610 be amended by revising § 610.62(a), to read as follows:

§ 610.62 Proper name; package label; legible type.

(a) *Position.* The proper name of the product on the package label shall be placed above any trademark or trade name identifying the product and symmetrically arranged with respect to other printing on the label, except that a manufacturer may elect to place the firm's logo (i.e., symbol or device, exclusive of the trade name or commercial name used to identify and distinguish the firm from other manufacturers) above the proper name of the product: Provided, however, the logo shall neither immediately precede nor be in any way more prominent than the proper name of the product.

* * * * * * *

Interested persons may, on or before March 25, 1980 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: January 16, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 2038 Filed 1–24–80; 8:45 am]

BILLING CODE 4110–03–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL 1397–4]

Discretionary Authority; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period.

SUMMARY: On November 27, 1979, a proposal was published (44 FR 67675) concerning discretionary authority of State and local agency officials. The proposal clarifies the requirement that plan revisions be submitted when the provisions of a State Implementation Plan (SIP) are being modified. More specifically, it clarifies that this requirement applies to those cases in which the SIP provisions stipulate that a director of a State or local agency may use discretionary authority in approving alternative methods or approaches for carrying out the provisions of the SIP. Comments received during the regular comment period which ended on December 28, 1979, indicate that interested parties needed more time to respond. This notice hereby extends the comment period on the proposal until February 25, 1980.

DATES: Comments must be submitted on or before February 25, 1980.

ADDRESSES: Written comment should be sent to Robert M. Schell, Chief, Plans Analysis Section, Control Programs Operations Branch (MD–15), Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

FOR FURTHER INFORMATION CONTACT: Robert M. Schell, telephone (919) 541–5365.

Dated: January 18, 1980.

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 80–2381 Filed 1–24–80; 8:45 am]

BILLING CODE 6560–01–M

40 CFR Part 52

[FRL 1398–7]

Approval and Promulgation of Missouri; State Implementation Plan (SIP)

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rulemaking.

SUMMARY: On July 2, 1979, the State of Missouri submitted a SIP revision to comply with the requirements of Part D of the 1977 Clean Air Act Amendments. Included with the submission were variances for the Union Electric Company Labadie power plant, River Cement Company, and the Monsanto Company Queeny Plant K-Street boiler. The variances granted by the Missouri Air Conservation Commission (MACC) require these plants to comply with revised Rule 10 CSR 10–5.090. In addition to the opacity requirement, the Labadie power plant is required to come into compliance with the mass emission rate contained in Rule 10 CSR 10–5.030. These rules require existing sources in the St. Louis Air Quality Control Region (AQCR) to meet an opacity limit of 20 percent and coal-fired indirect heating sources to meet 0.12 lb/million BTU heat input. Rule 10 CSR 10–5.030 and Rule 10 CSR 10–5.090 were proposed to be approved by the Environmental Protection Agency (EPA) on October 25, 1979, at 44 FR 61384.

The variances granted by the MACC limit these plants to that required under the opacity regulation prior to its revision.

The Labadie and River Cement plants are located in areas which are designated attainment for total suspended particulate matter (TSP) at 40 CFR Part 81. The Monsanto Queeny plant is in a TSP primary nonattainment area. Emissions from these three plants are found to have no impact on reasonable further progress (RFP) in the St. Louis TSP nonattainment area. The EPA believes the variances (compliance schedules) will not prevent or interfere with attainment or maintenance of the TSP standards in the nonattainment area, and will not consume any PSD increment in the attainment areas.

The purpose of this notice is to advise the public that the EPA proposes to approve these variances and to solicit comments on this proposed action.

DATES: Comments must be received on or before February 25, 1980.

ADDRESS: Comments should be sent to William A. Spratlin, Jr., Chief, Air Support Branch, Environmental Protection Agency, Region VII, 324 E. 11th Street, Kansas City, Missouri 64106. Copies of the state submission and the EPA proposed evaluation are available at the above address. They are also available at the following locations: Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; and Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65102.

FOR FURTHER INFORMATION CONTACT: Robert J. Chanslor at 816–374–3791 (FTS 758–3791).

SUPPLEMENTARY INFORMATION: 1. *Union Electric Company's Labadie Power Plant.* Under the terms of the variance (compliance schedule) the Labadie plant is required to meet TSP limits of 0.18 lb/million BTU and 40 percent opacity. These limits are the same as required by Rule 10 CSR 10–5.030 and 10 CSR 10–5.090 prior to revision by the State of Missouri. Thus, there will be no increase in TSP emission, nor will any PSD increment be used in the attainment area. The EPA believes there will be no additional impact on the St. Louis nonattainment area because no increased emissions are allowed during the term of the variance.

The revised Missouri SIP for the St. Louis nonattainment area demonstrates reasonable further progress considering emissions from the Labadie power plant. Modeling of the Labadie particulate emissions at the 0.18 lb. per million BTU rate allowed by the compliance schedule predicts a second maximum 24-hour impact of 1.50 ug/m^3 and a second maximum annual impact of 0.12 ug/m^3 on the St. Louis nonattainment area. Continued TSP emissions at the rate allowed under the variance will not prevent an RFP demonstration and will not prevent attainment or maintenance of the primary TSP standard in the St. Louis nonattainment area.

Regulations found at 40 CFR 51.4(a)(1) require that the states hold public hearings prior to adoption of any SIP revision. Advance public notice of such hearings of at least 30 days is required by 40 CFR 51.4(b). The state satisfied the advance notice requirement as evidenced by publishers affidavits. The hearing held on June 20, 1979, is evidenced by a copy of the hearing transcript. The state is required by 40 CFR 51.6(d) to submit SIP revisions within 60 days of the adoption of the revision. The July 2, 1979, submittal date satisfies this requirement.

The Labadie compliance schedule requires that construction contracts be awarded by May 1, 1980; onsite construction commence by May 1, 1981; and construction be completed by November 1, 1982, on Unit 2 controls. Unit 3 control system construction is to be completed by January 1983. Construction of Unit 1 controls is to be complete in September 1983, and Unit 4 by November 1, 1983. Final compliance for Unit 2 is March 1, 1983; Unit 3 is May 1, 1983; Unit 1 is January 1, 1984; and Unit 4 is March 1, 1984. This schedule allows more time for compliance than is usually expected. The company explains that because of space constraints at the plant site that more in-dept planning is necessary to assure proper design, configuration, and location of the control system.

The space constraints arise because the existing emission controls are located near the company property line. Because of the limited space, care must be exercised to prevent encroachment upon the adjoining property during and after construction. Likewise, precipitator design must consider the available space. Vertical precipitators are being

considered because of the increased size required to handle the TPS emissions.

The EPA believes that because of the problems peculiar to this plant, the schedule is as expeditious as practicable.

2. *River Cement Company.* The River Cement Company is located in Jefferson County, Missouri. Jefferson County is part of the St. Louis AQCR which is attainment for total suspended particulate matter. The variance (compliance schedule) is necessary to allow the company to design and construct control equipment to meet the 20 percent opacity limit of Missouri Rule 10 CSR 10–5.090.

Missouri Rule 10 CSR 10–5.090 was revised to 20 percent opacity from 40 percent. Revised Rule 10 CSR 10–5.090 was proposed for approval by the EPA on October 25, 1979. [44 FR 61384].

The compliance schedule requires that contracts be awarded by September 1, 1979; construction commence by May 1, 1980; construction be completed by May 31, 1981; and demonstration of final compliance by June 30, 1981. The EPA believes this schedule is as expeditious as practicable.

The variance was issued by the MACC after a public hearing on June 20, 1979. The public hearing satisfies the requirements of 40 CFR 51.4(a)(1). The advance notice of the hearing satisfies the requirements of 40 CFR 51.4(b).

The EPA believes the variance will not interfere with attainment or maintenance of the TSP standards in the St. Louis nonattainment area.

3. *Monsanto Company's Queeny Plant K-Street Boiler.* The Queeny plant is located in the St. Louis TSP nonattainment area. The State of Missouri submitted a plan to attain the primary TSP standard on July 2, 1979. This plan contains a demonstration of reasonable further progress (RFP) which EPA proposed to approve on October 25, 1979, at 44 FR 61384. The emissions from the K-Street boiler are included in the RFP demonstration.

The variance (compliance schedule) for the K-Street boiler was adopted by the MACC on September 20, 1978, after a public hearing on the same date. The public hearing satisfies the requirements of 40 CFR 51.4(a)(1) and the advanced notice of the hearing satisfies the requirements of 40 CFR 51.4(b). The submittal does not satisfy the 60-day requirement of 40 CFR 51.6(d). This variance was submitted as part of the Part D plan revision as part of the RFP demonstration for the St. Louis TSP nonattainment area; thus, the EPA believes this deficiency should not affect approvability.

The schedule approved by the MACC requires that a final control plan be adopted by the Monsanto Company by April 30, 1979. Contracts are to be awarded by September 30, 1979; construction is to commence by June 30, 1980; and construction is to be completed by September 30, 1981. The incremental dates of April 30 and September 30, 1979, have been met based on information supplied by the Missouri Department of Natural Resources. Final compliance is to be demonstrated by December 31, 1981. The EPA generally considers three years to be adequate time for installation of new control systems on existing sources. The EPA believes the schedule granted for the K-Street boiler to be as expeditious as practicable. In addition the final compliance date is one year earlier than the Part D mandatory attainment date for the primary TSP standard.

The variance allows no increased emissions above that required by Missouri Rule 10 CSR 10–5.090 prior to the date this rule was revised (July 1, 1978). The old rule required existing sources in the St. Louis AQCR to meet 40 percent opacity. On December 31, 1981, the source is required to meet a 20 percent opacity limit.

PROPOSED ACTION: The EPA proposes to approve the variances (compliance schedules) adopted by the MACC for the Union Electric Company's Labadie plant, River Cement Company, and the Monsanto Company's Queeny Plant K-Street boiler.

This notice is published to invite the public to comment on whether the proposed compliance schedules should be approved as part of the Missouri SIP.

These variances were submitted to the EPA on July 2, 1979, as part of the Part D SIP revision. A Notice of Availability of the Part D plan revision was published in the **Federal Register** on July 2, 1979, (44 FR 43490) at which time the public was invited to review the revised Missouri SIP. With the publication of the Notice of Availability and the 30-day comment period allowed on this proposed rulemaking, more than 60 days will have been allowed for public inspection and comment on the Missouri SIP revision. The EPA believes this proposed action is noncomplex and that 30 days are adequate for public review and comment.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore, subject to the procedural requirements of the Order, or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized."

I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of section 110 of the Clean Air Act as amended.

Dated: January 10, 1980.

Kathleen Q. Camin,

Regional Administrator.

[FR Doc. 80-2487 Filed 1-24-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

46 CFR Chapter IV

[Docket No. 79–36]

Self-Policing of Independent Liner Operators; Discontinuance of Proceeding

AGENCY: Federal Maritime Commission.

ACTION: Discontinuance of Proceeding.

SUMMARY: This proceeding was instituted by advance notice of proposed rulemaking published April 16, 1979 (44 FR 22487). Public comment was requested on whether to adopt rules requiring independent ocean carriers to participate in self-policing programs and if so the appropriate nature, scope and feasibility of a policing requirement. Upon consideration of comments received we have determined not to promulgate a proposed rule at this time. Accordingly, proceedings in this matter are hereby discontinued.

FOR FURTHER INFORMATION CONTACT: Secretary, Federal Maritime Commission, Room 11101, Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION: None.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-2488 Filed 1-24-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80–11; RM–3149]

FM Broadcast Station in Effingham, Ill.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This action proposes the assignment of Channel 249A to Effingham, Illinois, as its second FM channel in response to a petition submitted by Olen M. Evans. A list of communities precluded by the proposal is included.

DATES: Comments must be filed on or before March 17, 1980. Reply comments must be filed on or before April 7, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 16, 1980.

Released: January 21, 1980.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Effingham, Illinois) BC Docket No. 80–11, RM–3149.

By the Chief, Policy and Rules Division:

1. Olen M. Evans ("petitioner") has filed a petition for rule making [1] proposing the assignment of Channel 249A to Effingham, Illinois, as that community's second FM channel. The assignment is opposed by Effingham Broadcasting Company ("EBC"), licensee of both the existing Class B facility there, WCRC(FM), and the community's only AM station, WCRA.[2] EBC contends such an assignment would violate the Commission's policy against intermixture of different classes of FM facilities in the same community, and would preclude assignment of Channel 249A to several smaller communities in the area presently lacking local aural service. These points are considered in paragraphs 3 and 4, respectively.

2. Effingham (1970 pop. 9,458) is the seat of Effingham County (1970 pop. 24,608) and is located 120 kilometers (75 miles) southeast of Springfield, Illinois, at the intersection of Interstate 57 and 70. The heavy interstate traffic on these highways has generated both transport-service industries in Effingham and encouraged growth of manufacturing industries attracted by the convenience of distribution, according to petitioner. The city's population is estimated to have grown 14 percent since 1970. Petitioner notes the lack of diversity in the ownership of local media, with both local radio stations being owned by the publisher of the local daily newspaper.

3. Petitioner has expressed his willingness to construct and operate on Channel 249A if authorized, even though he would have to compete with EBC's existing Class B facility. The Commission's general policy is to permit such intermixture of classes of FM assignments where there is a willingness to compete and no other Class B channels are available (as is the case here).[3]

4. The record indicates that ten communities which presently have no local aural service and with populations greater than 1,000 would be precluded from using Channel 249A by its assignment at Effingham, including one county seat of over 3,000 population (Newton). While Effingham is a substantially larger community than any of those precluded, it does have existing fulltime service.[4] The petition does not establish whether these precluded communities would be able to utilize alternative FM assignments, nor do we have an indication of interest in such service from any of the communities mentioned. Accordingly, petitioner should determine the availability of alternate channels for assignment to those communities of over 1,000 population, and which presently lack aural service. Analysis by Commission staff indicates the following communities meet these criteria:

Newton* 3,024 (Jasper 10,741)
Louisville* 1,020 (Clay 14,735)
Teutopolis 1,249 (Effingham 24,608)
Altamont 1, 929 (Effingham 24,608)
St. Elmo 1,676 (Fayette 20,752)
Witt 1,040 (Montgomery 30,260)
Nolomis 2,532 (Montgomery 30,260)
Morrisonville 1,178 (Christian 35,948)
Kincaid 1,424 (Christian 35,948)
Edinburg 1,153 (Christian 35,948)
* County Seat

The Commission expects any parties considering the establishment of broadcast facilities in these communities to evidence their interest to the Commission by comments in this proceeding.

5. Based on petitioner's showing of Effingham's need for additional service, we believe the public interest would be served by proposing to assign the channel. Accordingly, we invite comment on petitioner's proposal to amend the FM Table of Assignments (Section 73.202(b) of the Commission's Rules) for the following community:

City	Channel No.	
	Present	Proposed
Effingham, Ill.	230	230, 249A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Notes.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before March 17, 1980, and reply comments on or before April 7, 1980.

8. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Attachment: Appendix.

Appendix

1. Pursuant to authority found in Sections 49i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PURPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the

[1] Public Notice of the petition was given on July 18, 1978, Report No. 1134.

[2] The Champaign News Gazette, licensee of WDWS(FM) in Champaign, Illinois, filed comments urging that any assignment of the proposed channel be restricted to the mileage separation proposed by petitioner, 68.87 miles. The Commission's Rules, however, clearly establish a mileage separation standard of 65 miles for the protection of the first adjacent channel involved here and since no special circumstances have been offered, we see no reason to impose a different standard here.

[3] The Commission's action in *Tupelo, Mississippi*, 42 FCC 2d 884 (1973), deferring such an intermixed assignment did not arise, as urged by EBC, from intermixture concerns but rather from the desire to assure that nearby precluded communities facing a lack of local service would have an adequate opportunity to express interest in an alternative use of the assignment.

[4] Even so, the pattern of media ownership in Effingham may provide additional support for the assignment even if it alone does not dictate making the assignment.

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station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or person acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-2384 Filed 1-24-80; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-13; RM-3173]

Television Broadcast Stations in Butte, Bozeman, and Anaconda, Mont.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This action proposes the reassignment of reserved VHF television Channel 7 from Butte, Montana, to Bozeman, Montana, as a first local commercial television assignment. Also proposed is the reassignment of Channel 2 from Anaconda, Montana, to Butte, Montana, for noncommercial educational use. These proposals are in response to a petition filed by Robert Cooper.

DATES: Comments must be filed on or before March 17, 1980. Reply comments must be filed on or before April 7, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 16, 1980.

Released: January 21, 1980.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Butte, Bozeman and Anaconda, Montana), BC Docket No. 80-13, RM-3173.

By the Chief, Policy and Rules Division:

1. Before the Commission is a petition for rule making filed by Robert Cooper ("petitioner"), which seeks amendment of Section 73.606(b) of the Commission's Rules (the Television Table of Assignments) by the reassignment of Channel *7 from Butte, Montana, for commercial use at Bozeman, Montana, as that community's first local television service. To avoid the absence of a reserved allocation at Butte, petitioner also suggests that Channel 2, now allocated to Anaconda, Montana, can be shifted to Butte, and still provide service to Anaconda if activated. Several parties filed comments opposing the proposal in whole or on a conditional basis, though some commenters apparently did not realize Butte would not be left without a reserved assignment. For the reasons set forth in greater detail below, we have concluded that this proposal warrants further consideration in a rule making proceeding, as it holds out the prospect of a local television service for Bozeman with no adverse impact on the chances for noncommercial television in the State.

2. Bozeman (pop. 18,670), seat of Gallatin County (pop. 32,505),[1] is located in southeast Montana approximately 75 kilometers (45 miles) north of the Wyoming border and some 115 kilometers (70 miles) east of Butte. It presently has only an inactive noncommercial channel (*9) allocated to it, and receives no Grade A service from outside the community. Bozeman has three commercial radio stations and one noncommercial station. Butte (pop. 23,368), largest city of Silver Bow County (pop. 41,981), presently has four allocated commercial television channels and a single noncommercial assignment, Channel *7. Two of the four commercial allocations are in use; the other two are inactive UHF frequencies.

3. Petitioner notes that Gallatin County and Bozeman have grown steadily since, as well as before, the 1960 Census. In particular, Bozeman has grown by over 50% since 1940 while Butte's population has steadily declined in the same period. Bozeman is the site of the oldest and largest unit of Montana's higher education system, Montana State University ("MSU"), with a 1977 enrollment of 9,800. Apart from the University and retail business in the city, the surrounding county is primarily based on an agricultural economy, with some light manufacturing. Petitioner compares the steady decline in Butte's population with Bozeman's growth, and notes that the Commission's second highest television allocation priority, expressed in our *Sixth Report and Order*, 41 FCC 148 (1952), is the provision of at least one local television service to each community. Cooper concludes that the fair and equitable allocation of frequencies mandated by Section 307(b) of the Communications Act requires a more reasonable apportionment of available frequencies than one which allocates four commercial channels to a town of 23,368 while leaving a growing community of 18,670 entirely without assignments.

4. Oppositions [2] to the proposal were submitted by Garryowen Corporation, licensee of Stations KXLF-TV, Butte, Montana, KPAX-TV, Missoula, Montana, KTVQ(TV), Billings, Montana, and KRTV(TV), Great Falls, Montana; by Fred L. Gerber, Head of the Department of Film and Television at MSU; by the Governor of Montana, Thomas L. Judge; by the Rocky Mountain Corporation for Public Broadcasting ("RMCPB"); and by the Public Broadcasting Service ("PBS"). The PBS opposition is explicitly restricted to any proposal which would leave Butte without a reserved allocation, because we propose to replace Channel *7 with Channel *2 in Butte we will not discuss the PBS

[1] Population figures are taken from the 1970 U.S. Census.

[2] RMCPB's opposition was filed several weeks late and petitioner moved to strike it from the record. Because petitioner responded to the merits of the pleading, however, no prejudice has resulted and the opposition will be accepted in the interest of a full record. Petitioner also moved to dismiss Garryowen's opposition comments because they were filed late. Again, because petitioner responded to the merits of Garryowen's opposition, no one will be prejudiced by its acceptance in the interest of a full record.

opposition further. We do recognize that recent developments in satellite transmission of PBS programming may assist the development of noncommercial television service in rural states such as Montana, and believe that earlier setbacks in establishing such service in Montana do not warrant diminished concern for noncommercial reservations there.

5. Garryowen contends that Butte Channel *7 was to have been the keystone of these earlier, unsuccessful efforts to establish a state noncommercial television network, and should not be removed as long as such possibilities remain. In this it is joined by a letter from Montana's Governor, Thomas L. Judge, who wishes to preserve the option of noncommercial television as there is still some interest in such facilities within the State (which presently has no noncommercial service).[3] Mr. Gerber of MSU opposes the shift on essentially similar grounds: while noncommercial television is not yet a reality in Montana, the Butte assignment remains central to ongoing efforts toward such a system, and was to have been the original program origination site for an effort which failed in 1974 when the State legislature withdrew funding. We find no obstacle to the proposed assignment changes in these contentions, which assume Butte will be deprived of any noncommercial assignment, as we propose to replace Channel *7 with a reserved Channel *2 from Anaconda.

6. Garryowen further asserts that the Anaconda shift is an unrealistic response to such concerns, because activation of Channel *2 at Butte would cause interference to translators and to the Livingston, Montana, cable system headend. A suggested replacement of Anaconda's Channel 2 with Channel 10 from Helena is criticized as inappropriate because there is a high power translator already using that frequency in Helena, and translator service is the only off-air service presently available in some Montana communities. Garryowen contends this warrants a departure from the Commission's usual consideration of such services as secondary to television originating stations, and suggests the use of a UHF frequency in Bozeman as an alternative. Petitioner states in reply that the affected Park County translators are 103 and 140 miles from Butte, and notes the opposition is unsupported by specific references or any technical information. Cooper adds through an engineering exhibit that interference to the Livingston cable headend is unlikely, and that CARS microwave service is available as an alternative.[4]

7. We find these arguments insufficient to preclude further consideration of the Cooper proposal. Garryowen has not demonstrated that the potential tradeoff between existing translator services and a new local service is different in kind from similar issues raised in other rural areas with considerable established translator service—assuming for the moment that the posited conflict cannot be resolved through other means, such as different relay technology for the translators. Garryowen does not assert that the arguably affected services have no available alternatives. Under Section 74.702(c)(3) of the Commission's Rules, changes in the Television Table of Assignments are made without regard to translator service, and there are no extraordinary circumstances here which might warrant a different approach toward providing local television service to an underserved community in order to protect secondary services. The Helena translator will not be affected in any event because we do not presently propose to remove Channel 10 from that community for assignment to Anaconda.

8. For its part, RMCPB urges that it is important to retain the Butte noncommercial assignment for possible use by a State system, and contends that petitioner has not attempted to find an alternative commercial channel for Bozeman. Cooper responds that he did search for an available commercial VHF channel, without success. If we were to pursue a UHF frequency as a commercial alternative in a State presently lacking any UHF service whatever, we do not believe such an alternative to be particularly attractive. We would not expect the State's first UHF operation to succeed in a relatively small community.[5] Rather, because the potential for noncommercial service to Butte and the State at large can be preserved unchanged by the shift of Channel 2 from Anaconda, this proposal should be considered further in the context of a rule making proceeding.

9. Accordingly, pursuant to Section 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, IT IS PROPOSED TO AMEND the Television Table of Assignments (Section 73.606(b) of the Commission's Rules) as follows with respect to the communities listed below:

City	Channel No.	
	Present	Proposed
Anaconda, Mont.	2+	—
Bozeman, Mont.	*9	7-, *9
Butte, Mont.	4, 6+, *7-, 18, 24	*2+, 4, 6+, 16, 24

10. Because the communities are within 250 miles of the Canadian border, Canadian concurrence in the proposed assignment changes is required.

11. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

12. Interested parties may file comments on or before March 17, 1980, and reply comments on or before April 7, 1980.

13. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until it is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Attachment: Appendix.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the TV Table of Assignments, Section 73.606(b) of

[3] Petitioner submitted a supplement to its petition on Sept. 6, 1979, purporting to demonstrate a shift in the Governor's position on his proposal. We discern no substantial change in the Governor's stance (which in any event did not address the prospect of Channel *2 as a replacement), but we will not exclude the supplement from the record as urged by Garryowen. Petitioner might have referred it to the Commission more promptly, but the later statement adds nothing to the Governor's position on this matter.

[4] Potential alternatives for providing translator services were recently expanded by Commission action authorizing use of FM microwave relay stations. *Report and Order: Amendment of Part 74 (F) and (G) and Part 78(B)*, 67 FCC 2d 209 (1978).

[5] Garryowen asked leave to file a response to petitioner's reply comments, asserting they misstated Garryowen's opposition pleading. We accepted Garryowen's response; it contains only a reiteration of its position that Bozeman is an "ideal" site for a UHF facility.

the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-2383 Filed 1-24-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-12; RM-3399]

Television Broadcast Station in Portland, Oreg.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of a UHF television channel to Portland, Oregon, in response to a petition filed by Cascade Video, Inc. The proposal would provide for a sixth commercial television station in Portland.

DATES: Comments must be filed on or before March 17, 1980. Reply comments must be filed on or before April 7, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 16, 1980.

Released: January 21, 1980.

By the Chief, Policy and Rules Division:

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Portland, Oregon), BC Docket No. 80-12, RM-3399.

1. Before the Commission is a petition for rule making [1] submitted by Cascade Video, Inc. ("petitioner"). The petition seeks amendment of Section 73. 606(b) of the Commission's Rules, the Television Table of Assignments, by assigning UHF television Channel 40 to Portland, Oregon. Petitioner filed supporting comments.

2. Portland (pop. 379,967),[2] seat of Multnomah County (pop. 554,668), is located in northwest Oregon, near the Washington Border. Portland is currently assigned 5 commercial channels: Channel 2 (KATU), Channel 6 (KOIN-TV), Channel 8 (KGW-TV), Channel 12 (KPTV) and Channel 24 (4 applications pending),[3] and two noncommercial educational channels: Channel *10 (KOAP) and Channel *30 (unoccupied and unapplied for).

3. Petitioner states that the population for the Portland SMSA has shown a steady growth pattern since 1960, indicating an increase of 22.5% between 1960-70, and adds that the growth is expected to continue. It notes that a similar growth has been evidenced in the economic trends of the area, with wholesale trade increasing by 46% between 1972-1977, and the Portland labor force growing an estimated 4% in 1977 alone. Petitioner claims that the area that would be served by the proposed assignment includes three counties in Oregon (Multnomah, Clackmas, and Washington) and one county in Washington (Clark). In support of its petition, it has submitted detailed population and demographic data in order to demonstrate the need for additional commercial channel at Portland.

4. Since Portland is located within 402 kilometers (250 miles) of the U.S.-Canada border, the proposed assignment of Channel 40 at Portland, Oregon, requires coordination with the Canadian Government before it can be adopted.

5. Comments are invited on the following proposal to amend Section 73.606(b) of the Television Table of Assignments, with regard to the city of Portland, Oregon:

City	Channel No.	
	Present	Proposed
Portland, Oreg	2, 6+, 8-, *10, 12, 24+, *30	2, 6+, 8-, *10, 12, 24+, *30, 40-

6. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements is contained in the attached Appendix and incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before March 17, 1980, and reply comments on or before April 7, 1980.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until it is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the TV Table of Assignments, Section 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-2385 Filed 1-24-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Public Notice of the petition was given on July 11, 1979, Rept. No. 1183.

[2] Population figures are taken from the 1970 U.S. Census.

[3] Pending applications on Channel 24 were filed by Channel 24, Christian Television, Inc. (BPCT-5128), Tavitec Corporation (BPCT-5200), both proposing regular service, and National Subscription Television of Portland, Inc. (BPCT-5201) and Broadcast Associates, Inc. (BPCT-5202), both proposing subscription television service.

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1060 and 1082

[Ex Parte No. 372]

Notice to Shippers of Freight Refused or Unclaimed at Destination

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time for filing public comments in this proceeding.

SUMMARY: By this notice, the Commission is extending the time for filing comments in this proceeding for 90 days. The extension is being granted in response to requests filed by interested persons.

DATES: Comments in this proceeding are now due on or before April 27, 1980.

ADDRESS: Send comments and 15 copies, if possible, to: Secretary, Interstate Commerce Commission, Room 5356, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Martin E. Foley, (202) 275-7348.

SUPPLEMENTARY INFORMATION: This proceeding was instituted by notice published in the **Federal Register** on December 12, 1979, at 44 FR 71849. Comments of interested persons were due on or before January 28, 1980. The Shippers National Freight Claim Council, Inc., has requested a 60-day extension of the time for filing comments in order to permit its members to review and approve a position at their regularly scheduled meeting on March 10, 1980. The American Trucking Associations, Inc., has requested a 90-day extension to allow its members to consider the proposed rules at their annual regional meetings during the months of March and April, 1980.

A 90-day extension appears to be warranted to permit interested parties to thoroughly consider the proposed rules and to ensure the development of an adequate record.

DECIDED: January 15, 1980.

By the Commission, George M. Chandler, Acting Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-2545 Filed 1-24-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

Pacific Fishery Management Council; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of Public Hearings.

SUMMARY: The Pacific Fishery Management Council and the National Marine Fisheries Service will hold public hearings for the purpose of receiving public comments on the proposed 1980 Amendment to the "Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California Commencing in 1978," and the associated Draft Environmental Impact Statement and Regulatory Analysis.

DATES: Written comments from members of the public on the 1980 salmon plan amendment and associated documents may be submitted to the addresses listed below no later than March 9, 1980.

Individuals or organizations wishing to comment on the 1980 Amendment to the salmon fishery management plan, the supplemental environmental impact statement, and the regulatory analysis may do so at public hearings to be held as follows:

February 19, 1980—Twin Falls, Idaho
February 19, 1980—Sacramento, California
February 20, 1980—Astoria, Oregon
February 21, 1980—North Bend, Oregon
February 22, 1980—Seattle, Washington
February 22, 1980—Eureka, California

All of the above hearings will start at *7:30 p.m.* and adjourn at or about *11 p.m.* The hearings will be tape recorded and an official transcript of the proceedings will be on file and available for review at the Pacific Council and Northwest Regional Office of the National Marine Fisheries Service, (addresses shown below). A written summary will be prepared on each hearing.

ADDRESS: Send comments to: Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201 or: Donald R. Johnson, Director, Northwest

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Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109.

HEARING LOCATIONS:

February 19, 1980—Little Tree Inn, 1357 Blue Lakes Blvd. No., Twin Falls, Idaho.
February 19, 1980—State Resources Bldg. Auditorium, 1416 Ninth St., Sacramento, California.
February 20, 1980—Astoria Middle School Auditorium, 1100 Klaskanine, Astoria, Oregon.
February 21, 1980—Pony Village Lodge, Virginia Ave., North Bend, Oregon.
February 22, 1980—Williamsburg Rm., Olympic Hotel, 4th and Seneca, Seattle, Washington.
February 22, 1980—Colonnade Rm., Eureka Inn, 7th and F Streets, Eureka, California.

FOR FURTHER INFORMATION CONTACT: Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201, (503) 221–6352 or Donald R. Johnson, Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109, (206) 442–7575.

SUPPLEMENTARY INFORMATION: The hearings will deal with the proposed management options for the 1980 ocean commercial and ocean recreational salmon fisheries off the coasts of Washington, Oregon, and California.

Spawning escapement and stock assessment data indicate that many of the 1980 salmon runs will be depressed, particularly for California chinook and Washington and Oregon coastal coho stocks, where record low runs are predicted.

The proposed management options range from more restrictive measures to measures that are less restrictive than those imposed on the ocean salmon fisheries in 1979. The management options address the resource problems and include possible changes in areas, seasons, and recreational bag limits, as well as provide for quotas and in-season management for both the commercial and recreational fisheries. Other portions of the 1979 regulations, such as minimum size limits and barbless hook requirements, etc., are recommended without change for the 1980 season.

The management alternatives developed provide a range of measures for dealing with the needs of the resource while fulfilling Indian treaty obligations and maintaining the economic viability of the fisheries. Since none of the proposed management options are mutually exclusive, the eventual impact of any particular option will depend upon the package of management measures finally selected.

The "Plan for Managing the 1980 Salmon Fisheries off the Coast of California, Oregon and Washington," which includes an assessment of the 1979 season as well as proposed management options for 1980, will be printed and mailed to all individuals and organizations who are currently on the Council's salmon plan mailing list by the beginning of the 45-day comment period on January 25. A limited number of copies will also be available at the public hearings.

Date: January 22, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-2530 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 45, No. 18
Friday, January 25, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Advisory Council on Maternal, Infant and Fetal Nutrition

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Council meeting:

Name: National Advisory Council on Maternal, Infant and Fetal Nutrition.
Date and time: 9:00 a.m., February 11–13, 1980.
Place: Bank of America Building, 555 California Street, Room 2715, San Francisco, California 94103.
Purpose of meeting: The Council will continue its study of the Special Supplemental Food Program for Women, Infants and Children (WIC) and the Commodity Supplemental Food Program (CSFP), and will discuss a wide range of matters concerning the operations of these two programs.
Proposed agenda: The agenda will include discussion time for the following issues: WIC Program proposed income eligibility requirements; the WIC Program food packages; and CSFP regulations. The results from the edit committee meeting for the 1980 Council's report to the President and Congress will also be discussed. This meeting will be open to the public. As time permits, members of the public may participate in the meeting.

Persons wishing additional information about this meeting should contact Lindy Dahnk, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–8421.

Dated: January 18, 1980

Carol Tucker Foreman,

Assistant Secretary, for Food and Consumer Services.

[FR Doc. 80-2114 Filed 1-24-80; 8:45 am]

BILLING CODE 3410-30-M

Forest Service

Forest Land and Resource Management Plan; Intent To Prepare an Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969 and 36 CFR 219.7, pertaining to National Forest System Land and Resource Management Planniung, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement for the Forest Plan for the Wasatch-Cache National Forest.

A range of alternatives will be considered and evaluated. The selected alternative will guide the management of the Forest, establish management standards and guideline, allocate uses to specific areas of land, and will determine the resource management practices to be used. Early in the environmental analysis, Federal, State, and local agencies, organizations, and individuals who may be interested in or affected by the decision will be invited to participate in the scoping process, which includes; (a) Identification of those issues to be addressed: (b) identification of those issues to be analyzed in depth: and (c) eliminate from detailed study the issues which are not significant, or which have been covered by prior environmental review.

To accomplish this scoping effort, the Wasatch-Cache Forest will publish and announcement in appropriate newspapers and send information packets to and solicit comments from Federal, State, and local agencies; permittees and contractors; a cross-sectoin of user groups; and individuals and organizations who have expressed an interest in National Forest management in the past. The information packet will include: (a) A preliminary list of issues and concerns; (b) scoping criteria that will be used by the Wasatch-Cache Forest to screen issues and drop those that are not significant; and (c) a list of criteria that will be usd by the Wasatch-Cache Forest to rank issues and concerns according to their relative importance.

Written comments and suggestions about this process are encouraged. To be most useful, they should be sent to the Forest Supervisor, Chandler P. St. John, Wasatch-Cache Forest, 8226 Federal Building, 125 South State Street, Salt Lake City, Utah 84138, before March 3, 1980.

Additional public participation will be encouraged throughtout the process. Specifically, the public will be asked to: (a) Review the decision criteria; (b) formulate alternatives; and (c) review the Draft Environmental Impact Statement.

The estimated date for distribution of the Draft Environmental Impact Statement is December 1981. Following a three-month public review period, a final Environmental Impact Statement will be prepared and distributed in approximately June 1982.

For further information about the planning or documents relevent to the planning process, contact: Neil Hunsaker, Wasatch-Cache Forest 125 South State Street, Salt Lake City, Utah 84138 (phone: 801 524–5188).

Dated: January 15, 1980.

Vern Hamre,

Regional Forester.

[FR Doc. 80-2373 Filed 1-24-80; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Tri-State Generation and Transmission Association, Inc.; Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $12,931,000 to Tri-State Generation and Transmission Association, Inc., of Thornton, Colorado. These loan funds will be used for Yampa Project deficiencies and additional coal supplies for the Craig Station.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances of the guaranteed loan funds from Mr. Willaim Mickey, Manager, Tri-State Generation and

Transmission Association, Inc., 12076 Grant Street, Thornton, Colorado 80241.

In order to be considered, proposals must be submitted February 25, 1980 to Mr. Mickey. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Tri-State Generation and Transmission Association, Inc., and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 18th day of January, 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-2170 Filed 1-24-80; 8:45 am]

BILLING CODE 3410-15-M

Kansas Electric Power Cooperative, Inc.; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 STAT. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $322,528,000 to Kansas Electric Power Cooperative, Inc., of Topeka, Kansas. These funds will be used to finance a 17 percent undivided interest in the 1,150 MW nuclear Wolf Creek Generating Station, Unit No. 1, located near Burlington, Kansas, and related equipment and headquarters facilities.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Charles Ross, Executive Vice President, Kansas Electric Power Cooperative, Inc., P.O. Box 4267, Topeka, Kansas 66604.

In order to be considered, proposals must be submitted on or before February 25, 1980, to Mr. Ross. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Kansas Electric Power Cooperative, Inc., and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 18th day of January, 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-2304 Filed 1-24-80; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Authorization for Watershed Planning

Concerned State Conservationists of the Soil Conservation Service have been authorized to provide planning assistance to local organizations for the indicated watersheds. The State Conservationists may proceed with investigations and surveys as necessary to develop watershed plans under authority of the Watershed Protection and Flood Prevention Act, Pub. L. 83–566, and in accordance with requirements of the National Environmental Policy Act of 1969, Pub. L. 91–190.

Persons interested in these projects may contact the State Conservationists listed below:

Brandywine Creek Watershed, Broome County, New York

Dyke Creek Watershed, Allegany County, New York

State Conservationist—Robert L. Hilliard, Soil Conservation Service, U.S. Courthouse and Federal Building, Room 771, 100 S. Clinton Street, Syracuse, New York 13260; 315/423–5493

Snake River Watershed, Marshall, Pennington and Polk Counties, Minnesota

State Conservationist—Harry M. Major, Soil Conservation Service, 200 Federal Building and U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota 55101; 612/725–7675

Moss Neck Watershed, Robeson County, North Carolina State Conservationist—Jesse L. Hicks, Soil Conservation Service, 310 New Bern Avenue, Federal Building, Room 544, P.O. Box 27307, Raleigh, North Carolina 27611; 919/755–4165

Dated: January 18, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program.)

Joseph W. Haas,

Assistant Administrator for Water Resources.

[FR Doc. 80-2447 Filed 1-24-80; 8:45 am]

BILLING CODE 3410-15-M

City Park Public School Critical Area Treatment RC&D Measure, Arkansas; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Maurice J. Spears, State Conservationist, Soil Conservation Service, 5029 Federal Building, 700 West Capitol Avenue, Little Rock, Arkansas 72203, telephone 501–378–5445.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the City Park School Critical Area Treatment RC&D Measure, Drew County, Arkansas.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Maurice J. Spears, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include the use of shaping, grading, sprigging, sodding, placement of topsoil, fertilizing, irrigation, and the installation of diversions to reduce or control the critically eroding areas.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Maurice J. Spears, State Conservationist, Soil Conservation Service, 5029 Federal Building, 700 West Capitol Avenue, Little Rock, Arkansas 72203, telephone 501–378–5445. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until February 25, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Public Law 87–703, 16 U.S.C. 590a–f, q.)

Dated: January 17, 1980.

Edward E. Thomas,

Assistant Administrator for Land Resources.

[FR Doc. 80-2444 Filed 1-24-80; 8:45 am]

BILLING CODE 3410-16-M

Grove Creek Flood Prevention RC&D Measure, Montana; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Van K Haderlie, State Conservationist, Soil Conservation Service, Federal Building, Tracy and Babcock Streets, Bozeman, Montana, telephone 406–587–5271.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Grove Creek Flood Prevention RC&D Measure, Silver Bow County, Montana.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Van K Haderlie, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for flood prevention. The planned works of improvement include a closed conduit, small dikes, road crossings, a drop structure, and sediment basins.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Van K Haderlie, State Conservationist, Soil Conservation Service, Federal Building, Tracy and Babcock Streets, Bozeman, Montana, telephone 406–587–5271. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until February 25, 1980.

Dated: January 17, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Public Law 87–703, 16 U.S.C. 590a–f, q.)

Edward E. Thomas,

Assistant Administrator for Land Resources.

[FR Doc. 80-2443 Filed 1-24-80; 8:45 am]

BILLING CODE 3410-16-M

John's Creek Watershed, Ga.; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Dwight M. Treadway, State Conservationist, Soil Conservation Service, 355 East Hancock Avenue (P.O.Box 832), Athens, Georgia 30603, telephone 404–546–2273.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the John's Creek Watershed, Floyd, Walker, and Gordon Counties, Georgia.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Dwight M. Treadway, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The watershed was planned in 1967 and 1968 and approved for operations in 1969. None of the planned structural measures, consisting of 14 miles of channel modification, four single-purpose floodwater retarding structures, and one multipurpose structure for flood prevention and recreational development, have been installed. The sponsoring local organizations made the decision not to implement the project.

The finding of no significant impact has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Dwight M. Treadway, State Conservationist, Soil Conservation Service, 355 East Hancock Avenue (P.O. Box 832), Athens, Georgia 30603, telephone 404–546–2273. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until March 25, 1980.

Dated: January 18, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83–566, 16 U.S.C. 1001–1008.)

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 80-2441 Filed 1-24-80; 8:45 am]

BILLING CODE 3410-16-M

Maria Bay—Zephyr Heights Critical Area Treatment RC&D Measure, Nevada; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Francis C. H. Lum, State Conservationist, Soil Conservation Service, 2828 Chiles Road, Davis, California 95616, telephone 916–758–2200.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council of Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Maria Bay-Zephyr Heights Critical Area Treatment RC&D Measure, Douglas County, Nevada.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Francis C. H. Lum, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the reduction of erosion and sedimentation. The planned works of improvement include shaping, seeding, fertilizing, and

mulching of approximately four acres. Rock walls (1650 lineal feet) and gabions (5340 lineal feet) will be installed along eroding cut slopes to stabilize the embankment toe; 12,020 lineal feet of curb and gutter will be installed along roads; 520 lineal feet of drainage way will be rocklined; and 200 lineal feet of culvert will be installed under roads.

The Notice of Finding No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Francis C. H. Lum, State Conservationist, Soil Conservation Service, 2828 Chiles Road, Davis, California 95616, telephone 916–758–2200. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until February 25, 1980.

Dated: January 17, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Public Law 87–703, 16 U.S.C. 590a–f, q.)

Edward E. Thomas,

Assistant Administrator for Land Resources.

[FR Doc. 2446 Filed 1–24–80; 8:45 am]

BILLING CODE 3410–16–M

Northwest Hardeeville Flood Prevention R.C. & D. Measure, South Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:
Mr. George E. Huey, State Conservationist, Soil Conservation Service, 1835 Assembly Street, Room 950, Columbia, South Carolina 29201, telephone 803–765–5684.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Northwest Hardeeville Flood Prevention RC&D Measure, Jasper County, South Carolina.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George E. Huey, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for flood prevention. The planned works of improvement include action to reduce flooding and improve water conveyance for the built-up area.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George E. Huey, State Conservationist, Soil Conservation Service, 1835 Assembly Street, Room 950, Columbia, South Carolina 29201, telephone 803–765–5684. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until February 25, 1980.

Dated: January 17, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Public Law 87–703, 16 U.S.C. 590a–f, q.)

Edward E. Thomas,

Assistant Administrator for Land Resources.

[FR Doc. 80–2449 Filed 1–24–80; 8:45 am]

BILLING CODE 3410–16–M

Stevens Brook Watershed, Maine; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Eddie L. Wood, State Conservationist, Soil Conservation Service, USDA Office Building, University of Maine, Orono, Maine 04473, telephone 207–866–2132.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Stevens Brook Watershed, Cumberland and Oxford Counties, Maine.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Eddie L. Wood, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The watershed project, which included a combination of land treatment and structural measures, will not be completed and will not contribute to soil and water conservation, watershed protection or flood prevention of the area.

The finding of no significant impact has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Eddie L. Wood, State Conservationist, Soil Conservation Service, USDA Office Building, University of Maine, Orono, Maine 04473, telephone 207–866–2132. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until March 25, 1980.

Date: January 18, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83–566, 16 U.S.C. 1001–1008.)

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Services.

[FR Doc. 80–2442 Filed 1–24–80; 8:45 am]

BILLING CODE 3410–16–M

Town Fork Creek Watershed, North Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, 310 New Bern Avenue, Room 552, Federal Office Building, Raleigh, North Carolina 27611, telephone number (919) 755–4210.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Town Fork Creek Watershed, Stokes and Forsyth Counties, North Carolina.

The environmental evaluation for this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Jesse L. Hicks, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The proposed action requires that the original plan be supplemented. The original plan called for installing conservation land treatment and flood prevention measures within the watershed area. All planned land treatment measures have been installed. Structural works to be installed consist of four structures for flood prevention.

The finding of no significant impact has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. Basic data developed during the environmental evaluation is on file and may be reviewed by interested parties at the Soil Conservation Service, 310 New Bern Avenue, Room 552, Federal Office Building, Raleigh, North Carolina 27611, telephone number (919) 755–4210. A limited number of copies of the environmental evaluation are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until February 25, 1980.

Dated: January 14, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83–566, 16 U.S.C. 1001–1008.)

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 80–2446 Filed 1–24–80; 8:45 am]

BILLING CODE 3410–16–M

Office of the Secretary

Soil and Water Resources Conservation Act of 1977 (RCA)

AGENCY: U.S. Department of Agriculture.

ACTION: Notice of Availability and Request for Comment.

SUMMARY: The Soil and Water Resources Conservation Act of 1977 (RCA), Public Law 95–192 directs the Department of Agriculture to: (1) Appraise soil, water, and related resources and their capability and limitations to meet current and projected demands; (2) Develop a conservation program setting forth the direction of the Department's future soil and water conservation efforts; (3) Ensure public participation in decisions on the appraisal and program; and (4) Transmit the appraisal and program to the President for submission to the Congress.

This action advises the public of the availability for review on January 28, 1980, of the following draft documents: (1) Appraisal 1980—Parts I and II; (2) Program Report and Environmental Impact Statement 1980; and (3) a Summary of the Appraisal, Parts I and II, and the Program Report.

The Department requests comments, suggestions, and other information on the draft documents from the public to be considered in making decisions on the final RCA appraisal and program. Comments should be sent to: RCA—Response Analysis Center, U.S. Department of Agriculture, P.O. Box 888, Athens, Georgia 30603.

DATES: Comments must be postmarked no later than March 28, 1980, and received at the RCA—Response Analysis Center no later than April 10, 1980, to be considered in decisions on the RCA.

ADDRESSES: The draft documents are available for review on the premises of local offices of the Agricultural Stabilization and Conservation Service and the Soil Conservation Service. The location and phone number of the nearest offices may be found in the local telephone directory listed under U.S. Government, Department of Agriculture.

Single copies of the draft documents may be obtained either from one of the State Conservationists of the Soil Conservation Service or from the RCA Manager as listed below:

William B. Lingle, Wright Building, 136 South Gay Street, P.O. Box 311, ALABAMA, Auburn 36830, Phone: 534–4535 Federal Telecommunications System (FTS) 205–821–8070 Commercial (CML).

Weymeth E. Long, Suite 129, Professional Bldg., 2221 E. Northern Lights Blvd., ALASKA, Anchorage 99504, Phone: 907–276–4246 (FTS & CML).

Thomas G. Rockenbaugh, 230 N. 1st Avenue, 3008 Federal Building, ARIZONA, Phoenix 85025, Phone: 602–261–6711 (FTS & CML).

Maurice J. Spears, Federal Building, Room 5029, 700 West Capitol Street, P.O. Box 2323, ARKANSAS, Little Rock 72203, Phone: 740–5445 (FTS) 501–378–5445 (CML).

Francis C. H. Lum, 2828 Chiles Road, CALIFORNIA, Davis 95616, Phone: 916–758–2200 (FTS & CML).

Robert Halstead, 2490 West 26th Avenue, P.O. Box 17107, COLORADO, Denver 80217, Phone: 327–4275 (FTS), 303–837–4275 (CML).

Jack G. Davis, Mansfield Professional Park, Route 44A, CONNECTICUT, Storrs 06268, Phone 244–2547/2548 (FTS), 203–429–9361/9362 (CML).

Otis D. Fincher, Treadway Towers, Suite 2–4, 9 East Loockerman Street, DELAWARE, Dover 19901, Phone: 487–5148 (FTS), 302–678–0750 (CML).

William E. Austin, Federal Building, P.O. Box 1208, FLORIDA, Gainesville 32602, Phone: 946–3871 (FTS), 904–377–6732 (CML).

Dwight M. Treadway, Federal Building, 355 E. Hancock Avenue, P.O. Box 832, GEORGIA, Athens 30603, Phone: 250–2275 (FTS), 404–546–2274 (CML).

Jack P. Kanaiz, 300 Ala Moana Blvd., Room 4316, Federal Bldg., P.O. Box 5004, HAWAII, Honolulu 96850, Phone: 800–540–3165 (FTS & CML)

Amos I. Garrison, Jr., Room 345, 304 North 8th Street, IDAHO, Boise 83702, Phone: 554–1601 (FTS), 208–384–1601 (CML).

Warren J. Fitzgerald, Federal Building, 200 W. Church Street, P.O. Box 678, ILLINOIS, Champaign 61820, Phone: 958–5285 (FTS), 217–398–5285.

Buell M. Ferguson, Atkinson Square-West, Suite 2200, 5610 Crawfordsville Road, INDIANA, Indianapolis 46224, Phone: 331–6515 (FTS), 317–269–3785 (CML).

William J. Brune, 693 Federal Building, 210 Walnut Street, IOWA, Des Moines 50309, Phone: 515–862–4280 (FTS & CML).

John W. Tippie, 760 South Broadway, P.O. Box 600, KANSAS, Salina 67401, Phone: 752–2911 (FTS), 913–825–6535 (CML).

Glen E. Murray, 333 Waller Avenue, KENTUCKY, Lexington 40504, Phone: 355–2749 (FTS), 606–233–2749 (CML).

Alton Mangum, 3737 Government Street, P.O. Box 1630, LOUISIANA, Alexandria 71301, Phone: 497–6611 (FTS), 318–448–3421 (CML).

Eddie L. Wood, Jr., USDA Building, University of Maine, MAINE, Orono 04473, Phone: 833–7393 (FTS), 207–866–2132/2133 (CML).

Gerald R. Calhoun, Room 522, Hartwick Building, 4321 Hartwick Road, MARYLAND, College Park 20740, Phone: 301–344–4180 (FTS & CML).

Benjamin Isgur, 29 Cottage Street, MASSACHUSETTS, Amherst 01002, Phone: 413–549–0650 (FTS & CML).

Arthur H. Cratty, Room 101, 1405 South Harrison Road, MICHIGAN, East Lansing 48823, Phone: 374–4242 (FTS), 517–372–1910 (CML).

Harry M. Major, 200 Federal Bldg. & U.S. Courthouse, 316 North Robert Street, MINNESOTA, St. Paul 55101, Phone: 612–725–7675 (FTS & CML).

Chester F. Bellard, Suite 1321, Federal Bldg., 100 West Capitol Street, MISSISSIPPI, Jackson 39201, Phone: 490–4335 (FTS), 601–969–4330 (CML).

Kenneth G. McManus, 555 Vandiver Drive, MISSOURI, Columbia 65201, Phone: 276–3145 (FTS), 314–442–2271 (CML).

Van K. Haderlie, Federal Building, P.O. Box 970, MONTANA, Bozeman 59715, Phone: 585–4322 (FTS), 406–587–5271 (CML).

Benny Martin, Federal Building, U.S. Courthouse, Room 345, NEBRASKA, Lincoln 68508, Phone: 541–5300 (FTS), 402–471–5301 (CML).
Gerald C. Thola, Room 308, U.S. Post Office Building, P.O. Box 4850, NEVADA, Reno 89505, Phone: 470–5304 (FTS), 702–784–5304 (CML).
Donald C. Burbank, Federal Building, NEW HAMPSHIRE, Durham 03824, Phone: 834–0505 (FTS), 603–868–7581 (CML).
Plater T. Campbell, 1307 Hamilton Street, P.O. Box 219, NEW JERSEY, Somerset 08873, Phone: 342–5225 (FTS), 201–246–1205 (CML).
Albert W. Hamelstrom, 517 Gold Avenue, SW, P.O. Box 2007, NEW MEXICO, Albuquerque 87103, Phone: 474–2173 (FTS), 505–766–2173 (CML).
Robert L. Hilliard, U.S. Courthouse & Federal Bldg., 100 S. Clinton Street, Room 771, NEW YORK, Syracuse 13260, Phone: 950–5494 (FTS), 315–423–5493 (CML).
Jesse L. Hicks, 310 New Bern Ave., Federal Bldg., Rm. 544, P.O. Box 27307, NORTH CAROLINA, Raleigh 27611, Phone: 672–4210 (FTS), 919–755–4165 (CML).
J. Michael Nethery, Rosser Avenue & Third Street, Federal Building, P.O. Box 1458, NORTH DAKOTA, Bismarck 58501, Phone: 783–4421 (FTS), 701–255–4011 (CML).
Robert R. Shaw, Room 522, 200 North High Street, OHIO, Columbus 43215, Phone: 943–6962 (FTS), 614–469–6785 (CML).
Roland E. Willis, Agriculture Building, Farm Road & Brumley Street, OKLAHOMA, Stillwater 74074, Phone: 728–4360 (FTS), 405–624–4360 (CML).
Guy W. Nutt, Federal Office Building, 10th Floor, 1220 S.W. 3rd Avenue, OREGON, Portland 97209, Phone: 423–2751 (FTS), 503–221–2751 (CML).
Graham R. Munkittrick, Federal Bldg. & Courthouse, Box 985 Federal Square Station, PENNSYLVANIA, Harrisburg 17108, Phone: 590–2202 (FTS), 717–782–4403 (CML).
I. R. Emmanuelli, Caribbean Area, Federal Office Bldg., Rm. 633, 6th Floor, PUERTO RICO, San Juan 00918, Mailing address: GPO Box 4868, PUERTO RICO, San Juan 00936, Phone: 809–753–4206.
Donald M. McArthur, 46 Quaker Lane, RHODE ISLAND, West Warwick 02893, Phone: 401–828–1300 (FTS).
George E. Huey, 1835 Assembly Street, Room 950, SOUTH CAROLINA, Columbia 29201, Phone: 677–5681 (FTS), 803–765–5681 (CML).
Robert D. Swenson, Federal Building, 200 4th Street, S.W., P.O. Box 1357, SOUTH DAKOTA, Huron 57350, Phone: 782–2333 (FTS), 605–352–8651 (CML).
Donald C. Bivens, 675 U.S. Courthouse, TENNESSEE, Nashville 37203, Phone: 852–5471 (FTS), 615–749–5471 (CML).
George C. Marks, W. R. Poage Federal Building, 101 S. Main Street, P.O. Box 648, TEXAS, Temple 76501, Phone: 736–1214 (FTS), 817–773–1711 (CML).
George McMillan, 4012 Federal Building, 125 South State Street, UTAH, Salt Lake City 84138, Phone: 588–5050 (FTS), 801–524–5051 (CML).
Coy A. Garrett, 1 Burlington Square, Suite 205, VERMONT, Burlington 05401, Phone: 832–6794 (FTS), 802–862–6501 (CML).
Manly Wilder, Federal Bldg., Room 9201, 400 N. 8th Street, P.O. Box 10026, VIRGINIA, Richmond 23240, Phone: 925–2457 (FTS), 804–782–2457.
Lynn A. Brown, 360 U.S. Courthouse, W. 920 Riverside Avenue, WASHINGTON, Spokane 99201, Phone: 439–3711 (FTS), 509–456–3711 (CML).
Craig M. Right, 75 High Street, P.O. Box 865, WEST VIRGINIA, Morgantown 26505, Phone: 923–7151 (FTS), 304–599–7151 (CML).
Jerome C. Hytry, 4601 Hammersley Road, WISCONSIN, Madison 53711, Phone: 364–5351 (FTS), 608–252–5351 (CML).
Frank S. Dickson, Jr., Federal Office Building, P.O. Box 2440, WYOMING, Casper 82601, Phone: 328–5201 (FTS), 307–285–5550.

FOR FURTHER INFORMATION CONTACT: Ernest V. Todd, RCA Manager, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013, Telephone (202) 447–2771.

SUPPLEMENTARY INFORMATION: Pursuant to the Soil and Water Resources Conservation Act of 1977 (RCA), Public Law 95–192, the U.S. Department of Agriculture (USDA) has appraised the Nation's soil, water, and related resources, and has prepared four draft documents for public review and comment during the process of developing a national soil and water conservation program.

The first draft document, Appraisal 1980—Part I, was made public September 4, 1979 (44 FR page 49286, Wednesday, August 22, 1979). It includes information on the quantity and quality of soil and water resources and presents information on current soil, water, and related resource conditions, major uses of nonfederal land, laws dealing with soil and water conservation, and the impact of technology on agricultural production and conservation.

The second RCA draft document, Appraisal 1980—Part II, presents an analysis of the future demands on the Nation's nonfederal soil, water, and related resources to the year 2030. Projected economic, social, and technological conditions form the basis for determining the potential impacts on the Nation's resources of alternative levels of agricultural production. Alternative levels of resource conservation are analyzed. Data on trends in rural land ownership, and the contributions of State and local programs to soil and water conservation are also discussed.

In the third RCA draft document, the Program Report and Environmental Impact Statement 1980, seven alternative strategies for program development are outlined. Each strategy reflects a particular set of actions that could be undertaken by USDA to meet specific soil and water conservation objectives.

The fourth RCA draft document summarizes Appraisal Part I and II, and the Program Report.

Individuals, organizations, and agencies are encouraged to send written comments to the RCA-Response Analysis Center. Comments should be as specific as possible. USDA will consider all comments on the draft documents in decisionmaking on the final appraisal and program report.

Meetings

The U.S. Department of Agriculture will hold public meetings at 18 locations during the public review period. Individuals, organizations, and agencies are invited to attend one of the regional public meetings and make their views known regarding the content of the draft documents and their implications for USDA's future soil and water conservation program. Written or oral presentations will be accepted between 2 p.m. and 5 p.m., and 7:30 p.m. and 10 p.m. on the dates and at the places as follows:

Date	Location	Meeting site
1980 February		
19	Lexington, Ky.	E.S. Good Barn Building, University of Kentucky Campus, Commonwealth Drive & Farm Road.
	Chicago, Ill.	O'Hare Ramada Inn, Mannheim and Higgins Road, Des Plaines, Illinois.
	Boston, Mass.	J. W. McCormack Court House, and Post Office, Conference, Room 208.
	Billings, Mont.	Holiday Inn West, I-90 West Exit and Mullowney Lane.
20	Atlanta, Ga.	Stadium Hotel, 450 Capitol Avenue, SE.
	Washington, D.C.	Jefferson Auditorium, Room 1072, South Agriculture Building, Independence Avenue and 12th Street, SW.
21	Jackson, Miss.	Metro Ramada Inn, 1525 Ellis Avenue.
	Fargo, N.D.	Oak Manor Motel, Intersection of Interstate 94 and U.S. 81.
	Roanoke, Va.	Salem-Roanoke Valley, Civic Center, Salem, Virginia.
	Spokane, Wash.	Holiday Inn, Downtown, I-90 at Division Street.
25	Fresno, Calif.	Hacienda Motel, 2550 West Clinton.
	Lancaster, Pa.	Treadway Inn, 222 Eden Road.
26	Des Moines, Iowa	Hyatt House Hotel, 6215 Fleur Drive.
	Dallas-Fort Worth, Tex.	Rodeway Inn, Highway 360 at 6 Flags Road, Arlington, Texas.

Date	Location	Meeting site
February		
27	Albuquerque, N. Mex.	Albuquerque Hilton Inn, 1901 University NE.
	Salt Lake City, Utah	Salt Palace, Suite A.
28	Grand Island, Neb.	Interstate Holiday Inn No. 2, Intersection of I-80 & South Highway 281.
	Raleigh, N.C.	Jane S. McKimmon Center, North Carolina State University, Corner of Gorman Street & Western Blvd.

Those who want to make a statement at one of the 18 public meetings may pre-register or register at the meeting. To pre-register, contact Edward P. Cook, RCA Public Participation Leader, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013, telephone (202) 447–5810 between 8 a.m. and 4:30 p.m., Monday through Friday. Those who have signed up will have first opportunity to speak. People coming to the meeting may register, upon arrival, to speak and will be taken in the order of registration.

It may be necessary to limit the time available to individual speakers, depending on the number of people who want to make a statement. If it becomes necessary to limit the speaking time, full statements may be submitted for inclusion in the record. Statements may be given to the chairperson of the meeting or sent directly to the RCA-Response Analysis Center, postmarked no later than March 28, 1980.

(Public Law 95–192 Stat. 1407, 16 U.S.C. 2001 et seq. November 18, 1977)

Dated: January 22, 1980.

Ned D. Bayley,

Acting Deputy Assistant Secretary for Natural Resources and Environment.

[FR Doc. 80–2562 Filed 1–24–80; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of Permit

On December 12, 1979, Notice was published in the **Federal Register** (44 FR 71856), that an application had been filed with the National Marine Fisheries Service by Dr. Daniel P. Costa, Physiological Research Laboratory, Scripps Institution of Oceanography, La Jolla, California 92093, for a permit to take 25 northern elephant seals (*Mirounga augustirostris*) for the purpose of scientific research.

Notice is hereby given that on January 16, 1980, and as authorized by the provisions of the Marine Mammal Protections Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Scientific Research Permit for the above taking to conduct physiological studies on 25 northern elephant seals subject to certain conditions set forth therein.

This Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Date: January 16, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80–2537 Filed 1–24–80; 8:45 am]

BILLING CODE 3510–22–M

Modification of Permits

Notice is hereby given that, pursuant to the provisions of §§ 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Permit No. 124 issued to Alaska Department of Fish and Game, Subport Building, Juneau, Alaska 99801 on January 23, 1976 (41 FR 4843) as modified on March 21, 1978 (43 FR 11730), and Permit No. 34 issued on July 19, 1974 (39 FR 27932), as modified on December 4, 1975 (40 FR 56701), March 19, 1976 (41 FR 11594), and March 21, 1978 (43 FR 11730), are further modified in the following manner:

1. Permit No. 34

Section B–5 has been changed to read, "This Permit is valid with respect to the taking authorized herein, until December 31, 1980."

2. Permit No. 124

Section B–3 has been changed to read, "This Permit is valid with respect to the taking authorized hereunder, until December 31, 1980."

These modifications are effective on the date of publication of this notice in the **Federal Register** (January 25, 1980).

The Permits as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, Northwest, Washington, D.C.; and

Regional Director, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

Dated: January 21, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80–2538 Filed 1–24–80 8:45 am]

BILLING CODE 3510–22–M

Mid-Atlantic Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), has established a Scientific and Statistical Committee (SSC) which will meet to discuss: management plans, Council research needs, and other fishery management matters.

DATES: The meeting will convene on Thursday, March 6, 1980, at 9 a.m. and will adjourn at approximately 2 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Best Western Airport Motel, Philadelphia International Airport, Route 291, Philadelphia, Pennsylvania 19153.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: January 22, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80–2540 Filed 1–24–80; 8:45 am]

BILLING CODE 3510–22–M

South Atlantic Fishery Management Council's Inter-Council Swordfish Steering Committee and Advisory Panel and Scientific and Statistical Committee; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), has established an Inter-Council Swordfish Steering Committee, an Advisory Panel (AP), and a Scientific and Statistical Committee (SSC), which will hold joint and separate meetings. The Inter-Council Swordfish Steering Committee and AP will meet to review the contractor's draft final report on the descriptive phase of the fishery and discuss setting objectives to be obtained by managing the fishery. The SSC will meet to review the draft swordfish

fishery descriptive phase final report and discuss and prioritize research needs for the South Atlantic area.

DATES: The Inter-Council Swordfish Steering Committee and AP meeting will convene on Monday, February 11, 1980, at 10 a.m. and will adjourn at 5:30 p.m., reconvene on Tuesday, February 12, 1980, at 8 a.m. and will adjourn at 3 p.m. The SSC meeting will convene on Thursday, February 7, 1980, at 10 a.m. and will adjourn at 5 p.m., reconvene on Friday, February 8, 1980, at 9 a.m., and will adjourn at 12 noon. The meetings are open to the public.

ADDRESS: The Inter-Council Swordfish Steering Committee and AP meeting will take place at the Sheraton Inn-Airport, 1325 Virginia Avenue, Atlanta, Georgia. The SSC meeting will take place at Council Headquarters, 1 Southpark Circle, Suite No. 306, Charleston, South Carolina.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571-4366.

Date: January 22, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-2839 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

[Dept. Administrative Order No. 203-17; Transmittal No. 340]

Personal Property Claims of Department of Commerce Personnel; Responsibilities for Administrative Settlement

This order effective December 27, 1979 supersedes the material appearing at 31 FR 8837 of June 24, 1966.

Section 1. Purpose. .01 This Order prescribes guidelines, implementing instructions, and responsibilities for administrative settlement and payment of claims for not more than $15,000 against the United States made by an employee of the Department of Commerce for damage to, or loss of, personal property incident to his or her service.

.02 This revision: consolidates Department Administrative Orders 203-17 and 203-22; deletes the requirement for the Secretary to submit a report of claims settled each fiscal year; increases the maximum settlement allowance for any claim to $15,000 (Section 7.); and updates the general language of this Order.

Section 2. Definitions. For purposes of this Order:

a. "Agency" means the Department of Commerce, but does not include any contractor with the United States;

b. "Employee" means a civilian officer or employee of the Department of Commerce or a member of the uniformed services under the jurisdiction of the Department of Commerce;

c. "Uniformed service" means the commissioned officers of the National Oceanic and Atmospheric Administration; and

d. "Settle" means consider, ascetain, adjust, determine, and dispose of any claim, whether by full or partial allowance or disallowance.

e. "Claimant" means the persons identified in Section 6. of this Order.

Section 3. Legal Authority. The Act of August 31, 1964, Public Law 88-558, 78 Stat. 767, as amended, (31 U.S.C. 240 *et seq.*) (the Military Personnel and Civilian Employees' Claims Act of 1964, hereinafter, the "Act"), provides that subject to any policies the President may prescribe, and under such regulations as the Secretary may prescribe, the Secretary or a designee may settle and pay an allowable claim against the United States for not more than $15,000 made by an employee of the Department or a survivor for damage to, or loss of, personal property incident to the employee's service.

Section 4. Settlement Authority. .01 The following officials are authorized as claims officers to settle any pay claims under the Act and any amendments thereto.

a. Heads of operating units; and

b. Assistant Secretary for Administration for the Office of the Secretary and for the Offices of the Federal Cochairmen of the Regional Action Planning Commissions.

.02 The authority set forth in subparagraphs a. and b., above, may be redelegated to one or more employees who shall be designated in writing as claims officers.

.03 No claim shall be settled for more than $5,000 without the prior review of the Assistant General Counsel for Administration. All claims shall receive legal review before settlement, as provided in Appendix A to this Order.

Section 5. Policy. The general purpose of the authority provided by the Act (Section 3. of this Order) is to make possible administrative settlement and payment of meritorious claims, in lieu of settlement and payment of claims by private relief bills. The general purpose, more specifically, is to make it possible for Government agencies, subject to the requirements contained in the Act, to reimbursement employees, not for any and all damage to, or loss of, personal property which they may experience, but only for unusual and unforeseen loss of or damage to personal property which is not covered by insurance, indemnity, or other contracts and which is sustained by employees, *through no fault of their own,* as an incident of their employment under circumstances in which it is only fair that the Government as their employer should make up the loss (see Section 11 of this Order for procedures involving insurance, indemnity or contract recovery from third parties).

Section 6. Claimants. .01 A claim may be filed by an employee or his or her duly authorized representative. If the employee is deceased, a claim nay be filed by the employee's (a) spouse, (b) children, (c) father or mother, or both, or (d) brothers or sisters, or both. Upon submission of a proper claim by a survivor, settlement and payment will be made to survivors in the order named.

.02 No payment will be made to a survivor who has submitted a claim if higher precedence survivors have not been notified. It is incumbent upon the claims officer to notify higher precedence survivors that a claim has been filed for an alleged loss suffered by the deceased employee. A reasonable period of time should be permitted higher precedence survivors to respond to the notification.

.03 Within any class of survivors listed in paragraph .01 of this section, only those among the class who are claimants will be paid in a portion amount of the total amount payable.

.04 Department of Commerce employees who are covered by the terms of a participating agency agreement with another agency, e.g., AID, shall submit their claim to that other agency.

Section 7. Statutory Provisions. .01 A claim is allowable under the Act only if it meets *all* of the following conditions:

a. It arose after the effective date of the Act (August 31, 1964);

b. The damage to, or loss of, personal property was incident to the employee's service;

c. The claim is presented in writing within two years after it accrues, except that if the claim accrues in time of war or in time of armed conflict in which any armed force of the United States is engaged or if such a war or armed conflict intervenes within two years after it accrues, and if good cause is shown, the claim may be presented not later than two years after that cause ceases to exist, or two years after the war or armed conflict is terminated, whichever is earlier;

d. If the loss or damage occurred at quarters occupied by the claimant within the fifty States or the District of Columbia, such quarters must have been assigned to him or otherwise provided in kind by the United States;

e. The loss or damage was not caused wholly or partly by the negligent wilful, or wrongful act of the employee or other claimant, or the agent or employee of either of them. The claimant must affirmatively demonstrate to the satisfaction of the Department that this essential requirement is fulfilled;

f. The claim is substantiated as set forth in Section 10. of this Order; and

g. The possession of the property by the employee is determined to have been reasonable, useful, or proper under the attendant circumstances at the time of the loss or damage.

.02 The maximum allowance on any claim is $15,000, and property may be replaced in kind at the option of the Government. The claimant must furnish satisfactory proof of the value of the property.

.03 The settlement of a claim under the provisions of the Act and implementing Department of Commerce orders shall be final and conclusive.

.04 No more than 10 per centum of the amount paid in settlement of each individual claim submitted and settled under the authority of this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with that claim and the same shall be unlawful, any contract to the contrary notwithstanding. As provided in the Act, any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Section 8. Administrative Policy—Allowable Claims. Section 5. of this Order sets forth the general policy basis for the Act. The requirements contained in the Act for allowable claims are enumerated in Section 7. of this Order. Examples of types of damages and losses of personal property which, subject to those requirements, would be allowable are:

a. Losses or damages when employees were compelled by circumstances to evacuate from the transportation in which they were traveling on official business.

b. Losses suffered by employees through theft of personally owned hand tools used on the job and stored at the place of their employment provided by the Government.

c. Loss of or damage to personal belongings while stored in Government buildings caused by natural disasters, fire, water, or wind.

d. Losses or damages suffered by employees stationed at a remote location due to damage caused by natural disaster.

e. Losses or damages as a direct result of extraordinary risks to which the employee or the property has necessarily been subjected in the performance of official duties, such as in connection with a civil disturbance, public disorder, or public disaster, or efforts to save Government property or human life where the situation was such that the employee could have saved his or her own property had he or she not so acted.

f. Abandonment or destruction of property by reason of a military emergency or by order of superior authority.

g. Losses or damages due to unpredictable behavior of animals.

h. Losses or damages occurring in shipments provided by the Government, e.g., via Government vessels, Government charter of commercial vessels, or by Government bills of lading on commercial vessels, including storage, on-loading, and off-loading incident thereto.

i. Loss of or damage to personal and household goods (including motor vehicles and trailers) moved or shipped incident to the requirements of the employee's Government service, subject to Section 9. of this Order.

j. Losses or damages where property is used for the benefit of the Government at the direction or with the approval of superior authority.

k. Losses or damages where the proximate cause of such damage or loss was the negligent act or omission of agents or employees of the Government acting within the scope of their employment, absent any negligence of the employee.

Section 9. Unallowable Claims. .01 The following types of claims will not ordinarily be payable (in addition to those which do not meet the conditions contained in Section 7. of this Order):

a. Claims for theft from the possession of the employee unless positive evidence clearly establishes the existence of a theft or burglary, the loss is otherwise allowable, the property meets the conditions in paragraph 12.05 of this Order, and the employee, his or her dependents and agents took all reasonable and practicable protection and security measures.

b. Claims for articles of extraordinary value or which may be easily pilferable, such as jewelry, cameras and accessories, binoculars, watches, furs, valuable articles of gold, silver, other precious materials, paintings, antiques other than bulky furnishings, relics, when shipped with household goods or as unaccompanied baggage (shipment includes storage). Claims for loss of or damage to such articles when properly checked or in the personal custody of the employee may be allowed, provided that all reasonable and practicable protection and security measures have been taken. The employee shall furnish satisfactory proof that such measures have been taken.

c. Claims for loss of money, currency, or intangible property, such as bank books, checks, notes, stock certificates, bonds, money orders, and travelers' checks, except when deposited for safekeeping with an authorized Government agent, or when lost incident to a marine, rail, aircraft, or other public transportation disaster, public disorder, or natural disaster such as fire, flood, hurricane, etc., or when lost under other circumstances clearly indicating that the employee had taken all reasonable and practicable protection and security measures and that a theft or burglary had occurred. Where the theft occurred from the employee's living quarters, and such loss is not excluded by subparagraphs 7.01d. of this Order, or .011. of this section, the employee must show, among other things, that the property was in a locked container and that the quarters themselves were securely locked.

d. Claims for loss of or damage to motor vehicles or trailers, except as indicated in Section 8. of this Order.

e. Claims for worn-out or unserviceable property.

f. Claims for loss or damage to the extent recovered by reason of insurance, indemnity, subrogation, assignment, or other contracts, or torts of third parties.

g. Claims for any losses of insurers and other subrogees.

h. Claims for property owned by the United States unless the employee is financially responsible for it.

i. Claims for property normally used for private business or profit.

j. Claims for fees for obtaining estimates of the cost of repair of the property damaged, except when approved by the claims officer concerned as (1) necessary and unavoidable expenses of submitting a claim, (2) reasonable in relation to the value of the property and cost of repairs, and (3) not deductible from the cost of repairs if the work is accomplished by the estimator.

k. Claims for property acquired, possessed, or transported in violation of

law, regulations, or orders of competent authority.

1. Claims of employees outside the United States for property located in their quarters when the employee is a local inhabitant.

.02 Employees are encouraged to carry private insurance against damage to or loss of their personal property. Such insurance is desirable to cover risks specifically excluded or limited by these, or other, regulations. Employee motor vehicles are expected to be employee insured.

Section 10. Substantiation of Claims. Each claim shall be accompanied by statements of any witnesses and by relevant and material documentary or other evidence available relating to the claim, including the value of the property lost or damaged (see Appendix A.).

Section 11. Recovery from Third Parties and Assignment of Claims. .01 When it appears that property has been damaged or lost under circumstances in which an insurer, carrier, warehouseman, contractor or other party may be responsible, the claimant shall promptly make a written and timely demand or claim on that third party. No such demand need be made if in the opinion of the claims officer or legal counsel it would be impracticable, or recovery insignificant, or circumstances precluded making timely demand, and the claim appears to be allowable under these rules.

.02 If the claimant has submitted or intends to submit a claim under these rules, a copy of the demand on the third party and any related correspondence shall be submitted to the claims officer. The claimant then and thereafter shall also promptly notify the claims officer of any action or proposed action by the third party, including offers of settlement, partial settlement, or denial of liability. In addition, before accepting any settlement, the claimant shall obtain the approval of the claims officer.

.03 When the claimant recovers from third parties a sum greater than or equal to the claimant's total loss determined to be allowable under these rules, the agency will, of course, make no further payment to the claimant. When the amount recovered from third parties is less than the total loss determined to be allowable by the agency, then the agency may compensate the claimant for the difference which may not exceed $15,000.

.04 When a third party is responsible for the loss or damage to an employee's property, and the agency compensates the claimant in advance of payment by the third party, the claimant shall assign to the agency (the United States Government) the claimant's right, title and interest in the claim against a third party to the extent the agency makes payment to the claimant. The claimant shall also furnish the agency all evidence and other cooperation to assist the agency in enforcing the claim against the third party. The claimant shall also, so as not to receive any excess payment after being compensated by the agency, promptly notify the claims officer of any payments the claimant then receives from a third party and repay the agency the amount due it, from any payments received through a third party.

.05 The agency shall pay no claim unless the General Counsel or designee decides that this section has been complied with.

Section 12. Computation of Awards.

.01 The amount awarded on any item of property will be based upon its estimated fair market value at the time and place of the loss or damage (to the extent practicable).

.02 The amount normally payable for property lost, or damaged beyond economical repair, is found by determining its depreciated value immediately before loss or damage, less any salvage value. If the cost of repair is less than the depreciated value, it will be considered to be economically repairable, and only the cost of repair will be allowable. As used herein, cost of repair means cost of restoring the property to the condition it was in at the time of the damage.

.03 When, at the option of the agency, settlement of a claim is made by replacement of property in kind, such replacement shall be made with property of equivalent nature, quality, and quantity, as determined by the agency.

.04 Depreciation in value of an item is determined by considering, among other things, the type of article involved, its cost, condition when lost or damaged beyond economical repair, and the time elapsed between the dates of its acquisition and accrual of the claim.

.05 Claims will be payable only for such types and quantities of personal property the possession of which shall be determined to have been reasonable, useful or proper under the circumstances at the time of the loss or damage, taking into consideration among other factors the danger of harm occurring to the property.

.06 Claims for antiques, relics, heirlooms, and items purchased at unreasonably high prices shall, if otherwise allowable, be allowed only for the reasonable purchase price of substitute articles of a similar functional nature, quality, and quantity, disregarding the nonintrinsic value of the articles.

Section 13. Internal Procedures.

.01 Officials having settlement authority, as prescribed in Section 4. of this Order, shall establish internal procedures for prompt and efficient receipt, investigation, and settlement of claims. Established procedures shall include provision for review for legal sufficiency prior to settlement of claims as provided in paragraph 4.03 and Appendix A of this Order.

.02 Appendix A includes Form CD–224, "Employee Claims for Loss of or Damage to Personal Property," and suggested procedures and policies which may be adapted for use in settling claims.

Guy N. Chamberlin, Jr.,

Assistant Secretary for Administration.

Appendix A.—Claims Procedures

A. *Submission of Claim.* .01 *Claim Forms.* Claimants shall submit to the operating unit's claims officers in duplicate Form CD–224 (Exhibit 1), "Employee Claim for Loss of or Damage to Personal Property," together with one copy of supporting evidence as indicated in paragraph .02 of this section, and an original and four copies of SF–1034, "Public Voucher for Purchases and Services Other Than Personal." The claimant's careful compliance with the requirements in the preparation of a claim will expedite adjudication by avoiding delays arising from the need to obtain additional information from the claimant.

.02 *Evidence in Support of Claim.* In addition to the information required on the claims form, the following evidence should be submitted when applicable, or a statement indicating why such evidence is not available or practicable to obtain:

a. *General.* (applicable to all claims)

1. Corroborating statements from a person or persons who have personal knowledge of the facts concerning the claim.

2. Statement of property recovered or replaced in kind.

3. Itemized bill of repair for any damaged property which has been already repaired.

4. At least one written estimate of the cost of repairs from a competent person, sufficiently identified, who is experienced or knowledgeable in the cost of the needed repairs in the current market.

5. Proof of original cost or current value in the form of purchase receipts or similar documents.

6. A claim filed by an agent or survivor shall be supported by a power of attorney or other satisfactory evidence of authority and standing to file. (See paragraph 6.01 of this Order.)

7. Statement concerning any insurance coverage or any warehouseman, carrier or other third party responsibility, and any reimbursement or recovery obtained from such insurer or third party. The identity of the insurer or other third party, the type of insurance or other coverage, and any claim or demand by the claimant upon such party should be described and copies of correspondence attached. If the claimant has insurance or basis for a claim or demand upon such third party, and has not submitted a claim or demand, the claimant's failure to do so should be explained. (See Section 11. of this Order.)

8. Copy of orders or other evidences to establish claimant's right or property to be, or to have the claimant's property located, at place of loss or damage.

b. *Thefts or Losses in Allowable Quarters or at Other Authorized Places.* In addition to items listed in subparagrah a. of this paragraph:

1. Geographic location of the loss.

2. If in quarters, whether they were assigned or provided in kind by the Government and by whom, and whether they were regularly occupied by the claimant; or, if storage, name of authority, if any, who designated such place.

3. Security measures or precautions taken to protect the property involved. Attention will be given to the degree of care normally exercised in the locale of the loss because of any unusual risks of theft or other loss that may be involved at that location.

4. Facts and circumstances surrounding the loss or theft, including how the larceny or burglary occurred, capture of the thief, property recovered, reports made at the time to police or others, and such related information.

c. *Transportation Losses.* In addition to items listed in subparagraph a. of this paragraph:

1. Copy of orders authorizing the travel, transportation or shipment, or statement explaining their absence and setting forth their substance.

2. All bills of lading, and inventories of property shipped.

3. Description of action taken to locate missing property.

4. Where property was turned over to a transportation or supply officer or contract packer or shipper, a statement indicating the identity or designation of such party, the date and place where the property was turned over and its condition, date of shipment and reshipment and copy of all manifests, bills of lading and contracts, date and place of delivery and unpacking of property to claimant, statements of disinterested witnesses as to property's condition when received, whether damage was caused by negligence of a Government employee acting within the scope of his/her employment, and whether the last carrier was given a clean receipt.

d. *Money, Intangibles or Other Property Deposited for Safekeeping, Transmittal or Other Authorized Disposition.* In addition to items listed in subparagraph a. of this paragraph:

1. Identity of the person or persons who received the property and any others involved, and the disposition requested.

2. Identity of the individual who authorized such person or persons to accept the property.

3. Receipts and written statements explaining the failure to account for the property or return it to the claimant.

e. *Property Used for Benefit of Government.* In addition to items listed in subparagraph a. of this paragraph, a statement from proper authority that the property was required to be supplied by the claimant in the performance of official duty at the request or direction or with the approval of superior authority.

f. *Waiver of Required Evidence.* Any of the evidence required above may be waived by the claims officer or legal counsel in instances where the claim appears otherwise reasonable and proper and the obtaining and submission of such evidence would be unduly costly or time-consuming in relation to the amount of the claim.

.03 Where the employee's supervisor has knowledge of the incident which is the basis for the claim, the employee should submit the claim form with its supporting evidence to the supervisor. The supervisor, properly identified, shall attach to the claim a brief statement regarding knowledge of the incident and the claim, before the claim is submitted in accord with the operating unit's procedures to the claims officer.

B. *Claims Officer and Legal Counsel Procedures.* .01 The claims officer shall receive, review, examine, and investigate claims. Employees in addition to the claimant shall cooperate in providing information about a claim to the claims officer, who shall also consult with legal counsel as desirable.

.02 The claims officer shall prepare a brief memorandum commenting on the merits of the claim, its denial or acceptance, and determining what amount, if any, shall be paid in settlement thereof.

.03 Legal counsel for the head of the organization unit or for the Assistant Secretary for Administration shall review the claims officer's file and memorandum on each claim, and investigate further if necessary. Legal counsel shall indicate approvals, partial disapprovals, and disapprovals via notation and signature on the claims officer's determination memorandum and return to the claims officer. In the event of an unresolved conflict between the legal counsel and the claims officer, the claim with the appropriate file and legal memoranda shall be forwarded to the Department's Assistant General Counsel for Administration for final determination of denial or settlement.

.04 Claims to be paid in excess of $5,000 shall be forwarded to the Assistant General Counsel for Administration for review.

.05 The claims officer shall process claims as follows:

a. *Payment of Claims.* The original of the claim forms (without supporting evidence), the original and one copy of the SF–1034, along with the original of the determination memorandum, and approval notations including any legal determinations and opinions shall be sent to the accounting office for certification and payment. Claims are paid from the organizational unit's appropriated funds.

b. *Notice of Disapproved Claims.* In the event a claim is not approved for payment or is approved only for partial payment, the claims officer shall advise the claimant in writing of the action taken and the reasons for its as stated in the supporting memoranda.

c. *Related Documents.* The claims officer shall retain all documents relating to the claim other than those required by the accounting officer, subject to disposal as may be provided by record retirement rules.

.06 Settlement of a claim by a full or partial allowance or disallowance by the approving authority shall be final and conclusive. However, any claimant may request reconsideration of the adjustment or determination of a claim upon establishing an error in the settlement or presenting new evidence not available at time of settlement. Such request for reconsideration shall be made in writing and submitted to the claims officer within six months from the date the claimant received notice of the adjudication of a claim. The request shall be processed in accord with the procedure contained in this section.

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EXHIBIT 1

DAO 203-17

FORM CD-224 (7-28-66) (PRESCRIBED BY DAO 203-17)

U.S. DEPARTMENT OF COMMERCE

EMPLOYEE CLAIM FOR LOSS OF OR DAMAGE TO PERSONAL PROPERTY

(31 U.S.C. 240 et seq.)

INSTRUCTIONS: Submit in duplicate to Operating Unit Claims Officer. Please type.

NAME OF EMPLOYEE	BUREAU OR OFFICE	
	CITY	TEL. NO. AND AREA CODE
NAME AND ADDRESS OF CLAIMANT (If claimant is other than employee, submit names and addresses of all parties in interest (See A.O. 203-17 Section 2))	LOCATION OF LOSS OR DAMAGE	
	DATE OF LOSS OR DAMAGE	TOTAL AMOUNT OF CLAIM

DESCRIPTION OF PROPERTY

ITEMIZED LISTING	DATE ACQUIRED	PURCHASE PRICE OR VALUE	VALUE WHEN LOST OR DAMAGED	ESTIMATED REPAIR COST

CLAIM IS FOR ☐ LOSS ☐ DAMAGE (Check One) BRIEF STATEMENT OF CIRCUMSTANCES:

WAS PROPERTY INSURED?	IF ANSWER IS "YES," GIVE NAME OF INSURER, AMOUNT OF INSURANCE CARRIED, AND RESULTS OF EFFORTS TO COLLECT IT.
☐ YES ☐ NO	

CRIMINAL PENALTY FOR PRESENTING A FRAUDULENT CLAIM OR MAKING FALSE STATMENTS: Fine of not more than $10,000 or imprisonment for not more than 5 years or both (See 62 Stat. 698, 749; 18 U. S. C. 287, 1001)

CIVIL PENALTY FOR PRESENTING A FRAUDULENT CLAIM: The claimant shall forfeit and pay to the United States the sum of $2,000, plus double the amount of damages sustained by the United States. (See R. S. Sec. 3490, 5438; 31 U. S. C. 231.)

ADMINISTRATIVE PENALTY: Removal from the service.

I make this claim with full knowledge of the penalties for making a false claim, and certify that I am entitled to any payments.

DATE	IF CLAIMANT IS NOT OWNER, STATE RELATIONSHIP	SIGNATURE OF CLAIMANT

USCOMM-DC 1341-P71

[FR Doc. 80-2512 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-17-C

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[Dept. Organization Order No. 5-1; Transmittal No. 476]

Deputy Secretary of Commerce; Duties and Responsibilities

This order effective January 2, 1980 supersedes the material appearing at 34 FR 6707 of April 19, 1969 and 44 FR 15523 of March 14, 1979.

Section 1. Purpose. .01 The purpose of this Order is to describe the duties and responsibilities of the Deputy Secretary of Commerce, a new position established by section (2)(b)(1) of Reorganization Plan No. 3 of 1979 on international trade functions. The President made that provision of the Reorganization Plan effective by Executive Order 12175 of December 7, 1979. Under the Plan, the Deputy Secretary is appointed by the President by and with the advice and consent of the Senate, receives compensation at the rate payable for Level II of the Executive Schedule, and performs such duties and exercise such powers as the Secretary may from time to time prescribe.

.02 The position of Under Secretary of Commerce which was established under section 1 of the Act of June 5, 1939 (ch. 180, 53 Stat. 808; 15 U.S.C. 1502, 1503) was abolished by section 2(b)(2) of Reorganization Plan No. 3 of 1979. The effective date for this action will be included in an executive order to be issued putting into effect the substance of the international trade functions in the Reorganization Plan.

Section 2. Duties and Responsibilities. .01 The Deputy Secretary of Commerce shall perform the duties of the Secretary of Commerce as Acting Secretary in case of the absence or sickness of the Secretary and in case of a vacancy in the Office of the Secretary.

.02 The Deputy Secretary shall serve as the principal deputy to the Secretary in all matters affecting the Department of Commerce. In this capacity, the Deputy Secretary will perform continuing and special duties as the Secretary may assign from time to time, including, as may be specified by the Secretary, the exercise of policy direction for and general supervision of organizational units and personnel not placed under other Secretarial Officers.

All Department Orders referring to the Under Secretary of Commerce are hereby constructively amended to refer to the Deputy Secretary of Commerce.

Guy W. Chamberlin, Jr.,

Assistant Secretary for Administration.

[FR Doc. 80-2513 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order No. 10-1; Amdt. 5; Transmittal No. 477]

Assistant Secretary for Science and Technology; Delegation of Authority

This order effective January 2, 1980 further amends the material appearing at 41 FR 18536 of May 5, 1976, 41 FR 26593 of June 28, 1976, 42 FR 40963 of August 12, 1977, 43 FR 39167 of September 1, 1978 and 44 FR 63127 of November 2, 1979.

Department Organization Order 10-1 of April 9, 1976 is hereby further amended as shown below. The purpose of this amendment is to: (a) delegate to the Assistant Secretary certain of the authorities formerly delegated to the Assistant Secretary for Industry and Trade; and (b) establish and prescribe the functions of the Office of Industrial Development.

Section 3. Delegation of Authority. The following new subparagraphs are added to read as follows:

"j. Encourage greater commercialization of proven resource recovery technology pursuant to Sections 5001 (2), (3) and (4) of the Solic Waste Disposal Act, as amended (42 U.S.C. 6951);

"k. Develop markets, with the cooperation and consultation of the Director of the Bureau of the Census and the Chief Economist, as required, for recovered materials and promote resource recovery technology pursuant to Sections 5003 and 5004 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6953 and 6954)."

Section 5. Office of Science and Technology. A new paragraph d. is added to read as follows:

"d. The *Director, Office of Industrial Development* shall carry out the following functions:

"1. Develop the institutional and information resources needed by industries and available within the capabilities of the Office for sectoral wide productivity improvement and innovation;

"2. Provide program management for technology related programs developed to assist selected industries and develop, revise and update selection criteria for the industries to be assisted; and

"3. Represent the Assistant Secretary with respect to coordiantion of the industry specific programs being conducted in other Federal, State and local agencies as well as sectoral programs carried out by the private sector."

Guy W. Chamberlin, Jr.,

Assistant Secretary for Administration.

[FR Doc. 80-2514 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order No. 10-3; Transmittal No. 484]

Under Secretary for the International Trade Administration; Authority and Functions

This order effective January 2, 1980 supersedes the materials appearing at 42 FR 64721 of December 28, 1977, 43 FR 27224 of June 23, 1978, 43 FR 35523 of August 10, 1978, 44 FR 55028 of September 24, 1979, and 44 FR 66229 of November 19, 1979.

Section 1. Purpose. .01 This Order establishes the International Trade Administration (ITA) and prescribes the scope of authority and the functions of the Under Secretary for International Trade. The organizational structure and the assignment of functions are prescribed in Department Organization Order 40-1, "International Trade Administration".

.02 This Order includes the authorities assigned to the Secretary by Reorganization Plan No. 3 of 1979, as made effective by Executive Order 12188 of January 2, 1980. These authorities became effective January 2, 1980, except those in paragraph 4.01jj. which are effective April 1, 1980.

.03 The Industry and Trade Administration is abolished.

.04 The International Trade Administration ("ITA") is hereby established as a primary operating unit of the Department of Commerce.

Section 2. Administrative Designation. .01 The Under Secretary for International Trade, established by section 2(c) of Reorganization Plan No. 3 of 1979, shall be head of the International Trade Administration. The President made that provision of the Reorganization Plan effective by Executive Order 12188 of January 2, 1980. The Under Secretary is appointed by the President by and with the advice and consent of the Senate. The Under Secretary for International Trade shall be assisted by a Deputy Under Secretary for International Trade, who shall be appointed by the Secretary and who shall be the principal deputy for the Under Secretary for International Trade and shall act, in the event of the absence or disability of the Under Secretary for International Trade, or a vacancy in the Office of the Under Secretary, in the place of the Under Secretary in all matters pertaining to international trade

or the International Trade Administration.

.02 The position of Assistant Secretary of Commerce, established by Public Law 80–191 (15 U.S.C. 1505), currently designated as the Assistant Secretary for Industry and Trade, is redesigned the Assistant Secretary for Trade Administration. The two Assistant Secretaries of Commerce established by section 2(d) of Reorganization Plan No. 3 of 1979, which was made effective by Executive Order 12188 of January 2, 1980, are designated the Assistant Secretary for International Economic Policy and the Assistant Secretary for Trade Development, respectively. The Assistant Secretaries are appointed by the President by and with the advice and consent of the Senate.

.03 This Order abolishes the positions of Deputy Assistant Secretary for Administrative and Legislative Policy, Deputy Assistant Secretary for International Economic Policy and Research, Deputy Assistant Secretary for Trade Regulation, Deputy Assistant Secretary for Domestic Business Development, and Deputy Assistant Secretary for Field Operations, respectively.

.04 This Order continues the positions of Deputy Assistant Secretary for East-West Trade and Deputy Assistant Secretary for Export Development.

.05 This Order establishes the positions of Deputy Assistant Secretary for International Economic Policy, Deputy Assistant Secretary for Trade Agreements, Deputy Assistant Secretary for Finance, Investment and Services, Deputy Assistant Secretary for Policy Planning and Analysis, Deputy Assistant Secretary for Textiles and Apparel, Deputy Assistant Secretary for Export Administration, Deputy Assistant Secretary for Import Administration, Deputy Assistant Secretary for the U.S. Commercial Service, and the Director General of the Foreign Commercial Service, respectively.

Section 3. Structure and Scope of Authority. .01 The Under Secretary for International Trade shall be assisted in carrying out his or her responsibilities, by:

a. The Deputy Under Secretary for International Trade;

b. The Assistant Secretary for Trade Administration;

c. The Assistant Secretary for International Economic Policy;

d. The Assistant Secretary for Trade Development; and

e. The Director General of the Foreign Commercial Service.

.02 The Assistant Secretary for Trade Administration shall be assisted, in carrying out his or her responsibilities, by:

a. The Deputy Assistant Secretary for Import Administration; and

b. The Deputy Assistant Secretary for Export Administration.

.03 The Assistant Secretary for International Economic Policy shall be assisted, in carrying out his or her responsibilities, by:

a. The Deputy Assistant Secretary for International Economic Policy;

b. The Deputy Assistant Secretary for Trade Agreements;

c. The Deputy Assistant Secretary for Finance, Investment and Service;

d. The Deputy Assistant Secretary for Policy Planning and Analysis; and

e. The Deputy Assistant Secretary for Textiles and Apparel.

.04 The Assistant Secretary for Trade Development shall be assisted, in carrying out his or her responsibilities, by:

a. The Deputy Assistant Secretary for the U.S. Commercial Service;

b. The Deputy Assistant Secretary for Export Development; and

c. The Deputy Assistant Secretary for East-West Trade.

Section 4. Delegation of Authority. .01 Pursuant to the authority vested in the Secretary of Commerce, the Under Secretary for International Trade is hereby delegated the following authorities of the Secretary of Commerce; provided, however, that the Secretary reserve authority to provide policy guidance and direction to the Under Secretary (and delegates) and, at the Secretary's initiative or at the request of the Under Secretary, to consult with the Under Secretary (and delegates) to the extent permitted by law concerning the exercise of the authorities delegated by this section:

a. The Act of February 14, 1903, as amended (15 U.S.C. 1512 *et seq.*; 15 U.S.C. 171 *et seq.*) to foster, promote, and develop the foreign and domestic commerce of the United States, to the extent necessary for the performance of ITA's functions;

b. The Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et seq.*) conferred on the Secretary under: (1) Executive Order 10480 of August 14, 1953, as amended, including authority to restrict surface transportation and discharge of commodities or to prohibit movement of American carriers to designated destinations, except the authority to create new agencies within the Department of Commerce; and (2) Executive Order 11912 of April 13, 1976;

c. Executive Order 11490 of October 28, 1969, as amended, as it relates to the development of national emergency preparedness plans and programs covering production and distribution of materials, production facilities, construction materials, and regulation and control of exports and imports;

d. The National Security Act of 1947, as amended (50 U.S.C. 401 *et seq.*) and Executive Order 11490 of October 28, 1969, as amended, relating to mobilization preparedness;

e. The National Defense Stockpile Program as authorized by the Strategic and Critical Materials Act (Public Law 96–41, to be codified at 50 U.S.C. 98–98h), with respect to the quality and quantity of materials acquired for the national stockpile and disposal of materials determined to be in excess of national defense requirements;

f. Executive Order 11179 of September 22, 1964, as amended, with respect to the establishment and training of the National Defense Executive Reserve;

g. Executive Order 10421 of December 31, 1952, providing for the physical security of facilities important to the national defense;

h. Section 1441 of the Public Health Service Act, as amended by the Safe Drinking Water Act (42 U.S.C. 300j) conferred on the Secretary under executive Order 11879 of September 17, 1975, involving materials allocation of chemicals or substances necessary for treatment of water;

i. The Export Administration Act of 1979 (Public Law 96–72, to be codified at 50 U.S.C. App. 2401 *et seq.*) except that the following power, authority, and discretion shall be reserved to the Secretary:

1. The determinaton required by Section 12(c) with respect to the publication or disclosure of confidential information obtained under the Act, and

2. The submission of reports to the Congress required by Section 14 of the Act;

j. Executive Order 11958 of January 18, 1977, as it relates to the carrying out, on behalf of the Department of State, of functions under Section 38(e) of the Arms Export Control Act (22 U.S.C. 2751 *et seq.*) as agreed to by the Departments of Commerce and State;

k. Executive Order 11322 of January 5, 1967, and Executive Order 11419 of July 29, 1968, relating to the Rhodesian sanctions with respect to transactions occurring prior to December 16, 1979 (Executive Order 12183 of December 16, 1979 revoked the provisions of Executive Orders 11322 and 11419 with respect to transactions occurring after December 16, 1979);

l. The Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3201 *et seq.*) and the authority under that Act conferred on the Secretary under Executive Order 12058 of May 11, 1978, pertaining to nuclear exports and related matters;

m. Sections 103 and 251 of the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq.*) conferred on the Secretary under Executive Order 11912 of April 13, 1976, relating to: (1) export restrictions of coal, petroleum products, natural gas, or petrochemical feedstocks and supplies of material or equipment necessary to maintain or further exploration, production, refining, or transportation of energy supplies or for the construction or maintenance of energy facilities within the United States; and (2) rules to authorize the export of petroleum and petroleum products as may be necessary for implementation of the obligations of the United States under the International Energy Program;

n. Section 303 and Title VII (including Section 771(1)) of the Tariff Act of 1930 (19 U.S.C. 1303, 1671 *et seq.*) in accordance with section 5(a)(1)(C) of Reorganization Plan No. 3 of 1979 (44 FR 69273, December 3, 1979), relating to antidumping and countervailing duties, except that the authority to take final actions as "administering authority" may not be redelegated beyond the Assistant Secretary.

o. Section 305(b) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(b)) and section 5(a)(1)(A) of Reorganization Plan No. 3 of 1979, with respect to advisory rulings and final determinations concerning the origin of products;

p. Sections 514, 515, and 516 of the Tariff Act of 1930 (19 U.S.C. 1514, 1515, and 1516) and section 5(a)(1)(D) of Reorganization Plan No. 3 of 1979 insofar as they relate to any protest, petition, or notice of desire to contest described in section 1002(b)(1) of the Trade Agreements Act of 1979;

q. Sections 318, 502 (a) and (b), and 617 of the Tariff Act of 1930 (19 U.S.C. 1318, 1502 (a) and (b), and 1617) and sections 5(a)(1)(E), 5(a)(1)(F), and 5(a)(1)(G), respectively, of Reorganization Plan No. 3 of 1979, insofar as they relate to the investigation and enforcement of antidumping and countervailing duties;

r. Section 2632(e) of Title 28 of the United States Code and section 5(a)(1)(H) of Reorganization Plan No. 3 of 1979, insofar as they relate to actions taken by the Secretary reviewable under section 516A of the Tariff Act of 1930, (19 U.S.C. 1516a);

s. Section 402 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 512), relating to the importation of foreign excess property;

t. The Educational, Scientific and Cultural Materials Importation Act of 1966 (19 U.S.C. 1202);

u. Headnote 6(d) of Schedule 7, part 2, subpart E of the Tariff Schedules of the United States (19 U.S.C. 1202), added by Public Law 89–805, pertaining to the allocation of quotas for duty-free importation into the customs territory of the United States of watches and watch movements;

v. The Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a *et seq.*), as it relates to the Secretary's authority to designate an alternate to chair the Committee of Alternates of the Foreign-Trade Zones Board and to appoint an Executive Secretary of the Board (see 15 CFR Part 400);

w. Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, regarding Textile Trade Agreements;

x. Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) and section 5(a)(1)(B) of Reorganization Plan No. 3 of 1979, relating to the conduct of national security investigations on imports;

y. Section 104 of the Trade Act of 1974 (19 U.S.C. 2114) and Section 135 of the Trade Act of 1974 as amended by Section 1106 of the Trade Agreements Act of 1979 (19 U.S.C. 2155) and Section 4(d) of Executive Order 11846 of March 27, 1975, relating to the industry consultations program;

z. Executive Order 11858, of May 7, 1975, relating to foreign investment in the United States;

aa. Section 601(b)(1) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2351(b)(1)) conferred on the Secretary under Executive Order 12163 of September 29, 1979, relating to drawing the attention of private enterprise to opportunities for investment and development in less developed friendly countries and areas;

bb. The delegation of authority, dated June 25, 1962, from the United States Information Agency under Section 5(e) of Executive Order 11034 of June 25, 1962, as amended by Executive Order 11380 of November 8, 1967, with respect to U.S. participation in trade missions abroad under the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 *et seq.*);

cc. The Act of October 18, 1962 as amended (46 U.S.C. 1122b), which authorized mobile fairs;

dd. The China Trade Act of 1922, as amended (15 U.S.C. 141 *et seq.*);

ee. Executive Order 10978 of December 5, 1961 regarding the Presidential "E" Award, "E" Certificate of Service, and "E Star" Award, except final selection of recipients;

ff. The Act of May 27, 1970 (P.L. 91–269, 22 U.S.C. 2801 *et seq.*), relating to participation of the United States in international expositions;

gg. Section 4221 of the Internal Revenue Code of 1954 (26 U.S.C. 4221) and Section 309 of the Tariff Act of 1930, as amended (19 U.S.C. 1309), insofar as they relate to findings with respect to exemptions from taxes and import duties on supplies and equipment for aircraft;

hh. Sections 5(b) and 5(c) of Executive Order 11846 of March 27, 1975, relating to quantitative import restrictions and monitoring of imports under orderly market agreements;

ii. Executive Order 11961 of January 19, 1977, as amended by Executive Order 12013 of October 7, 1977, which delegates to the Secretary of Commerce the authority of the President under Sections 4(a)(1), (2), (3), and (4), and 4(b) of the International Investment Survey Act of 1976 (P.L. 94–472, 90 Stat. 2059, 22 U.S.C. 3101–3108). The functions thereunder shall be carried out in coordination with the Bureau of Economic Analysis, Office of the Chief Economist (Department Organization Order 35–1A), including, to the extent feasible, the division or assignment of responsibilities. All regulations established to carry out functions under the Act, and reports to be submitted to the Congress, shall be issued by the Secretary;

jj. Effective April 1, 1980, the trade promotion and commercial functions transferred to the Secretary from the Department of State or the Secretary of State by section 5(b)(1) of Reorganization Plan No. 3 of 1979;

kk. The authorities of the Secretary of State under the Foreign Service Act of 1946 (22 U.S.C. 801 *et seq.*) and under other laws the exercise of which are authorized to the Secretary under section 5(b)(2) of Reorganization Plan No. 3 of 1979. This delegation is in addition to, and not in lieu of, the general delegation of personnel management authority to the Assistant Secretary for Administration, and is to be exercised and redelegated in consonance with the Departmental policies issued by the Assistant Secretary for Administration; and

ll. Section 6 of the Federal Water Pollution Control Act amendments of 1972 (Public Law 92–500; 86 Stat. 816; 33 U.S.C. 1251 nt.) relating to the preparation of a report from the Secretary of Commerce to the President and to the Congress on the effects of water pollution on international trade;

.02 The Under Secretary may exercise other authorities of the

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Secretary as applicable to performing the functions assigned in this Order.

.03 Except as otherwise provided in this Order, the Under Secretary may redelegate his or her authority, subject to such conditions in the exercise of such authority as he or she may prescribe.

Section 5. Functions. The Under Secretary for International Trade, acting as such and as head of the International Trade Administration, shall be the principal officer of the Department for carrying out the policies and programs of the Department to promote world trade and to strengthen the international trade and investment position of the U.S. In this respect he or she shall carry out programs to:

.01 Promote world trade including East-West Trade, and strengthen the international trade and investment position of the U.S. through participation in overseas trade promotion events, expand the export-consciousness of U.S. firms and assist U.S. exporters through the facilities of the U.S. Commercial Service and the Foreign Commercial Service.

.02 Administer the U.S. import and export laws relating to export licensing and enforcement, regulatory programs for antiboycott compliance, antidumping and countervailing duty investigation and enforcement, industrial mobilization, foreign-trade zones, national security import investigations, and other special import programs.

.03 Provide assistance and advice on trade and investment to improve the U.S. trade position; direct and coordinate international economic policy formulation, research and analysis; operate a trade policy implementation mechanism; develop the Department's position on international trade and resource policy; advise on policy development and support on finance, investment and service issues affecting the competitive position and international operations of U.S. business; advise on the economic condition of the U.S. textile and apparel industries; and forecast and and analyze U.S. trade to identify future trade problems and recommend trade strategies.

All rules, regulations, orders, determinations, authorizations, contracts, grants, agreements, proceedings, hearings, investigations, or other actions issued, undertaken, pending or entered into by or for the predecessor Industry and Trade Administration or the Assistant Secretary for Industry and Trade or the Assistant Secretary's delegates, or with respect to functions transferred to the Secretary by Reorganization Plan No. 3 of 1979, shall continue and remain in full force and effect until they expire in due course or are revoked or amended by appropriate authority.

Guy W. Chamberlin, Jr.,

Assistant Secretary for Administration.

[FR Doc. 80-2516 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order 10-9; Amdt.; Transmittal No. 478]

Chief Economist of the Department; Delegation of Authority

This order effective January 2, 1980 amends the material appearing at 43 FR 57939 of December 11, 1978.

Department Organization Order 10-9 is hereby amended as shown below. The purpose of this amendment is to reflect the abolishment of the Office of Industrial Economics and the establishment of the Bureau of Industrial Economics.

Section 4. Functions. Paragraph .02 is revised as follows:

.02 The Chief Economist shall exercise policy direction and general supervision over the Bureau of the Census, the Bureau of Economic Analysis, the Bureau of Industrial Economics, the Office of Economic Affairs and the Office of Federal Statistical Policy and Standards.

Guy W. Chamberlin, Jr.,

Assistant Secretary for Administration.

[FR Doc. 80-2516 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order No. 10-11; Transmittal No. 479]

Associate Deputy Secretary; Establishment

This order effective January 22, 1980 supersedes the material appearing at 44 FR 2411 of January 11, 1979 and 44 FR 18722 of March 29, 1979.

Section 1. Purpose. This Order establishes the position, and prescribes the responsibilities and the functions, of the Associate Deputy Secretary.

Section 2. Administrative Designation and Transfers. .01 The Associate Deputy Secretary shall report and be responsible to the Secrtary.

.02 The functions of the Office of Regional Development and certain functions of the Industry and Trade Administration are hereby transferred to the Associate Deputy Secretary.

Section 3. Delegation of Authority. The authorities of the Secretary under Executive Order 11386 and the President's memorandum of January 19, 1979 on Regional Commission support, and under the Public Works and Economic Development Act of 1965 as amended (42 U.S.C. 3181 *et seq.*) which relate to the regional commission program, except for the authority to designate or modify the boundaries of economic development regions, are hereby delegated to the Associate Deputy Secretary in the capacity of Special Assistant to the Secretary for Regional Development. This delegation includes the authority, subject to Departmental directives, to award grants and cooperative agreements in accordance with the Federal Grant and Cooperative Agreement Act of 1977, (41 U.S.C. 501 *et seq.*) in order to accomplish the purposes set forth in 42 U.S.C. 3185(a)(1).

Section 4. Functions. The Associate Deputy Secretary shall:

a. Be responsible for outreach, consultation and liaison to Commerce constituencies in the public and private sectors, the coordination of agency relations with constituencies, and the translation of constituency needs into appropriate Department and Administration responses.

b. Coordinate integrated service delivery to key client groups.

c. Develop, conduct or monitor Commercewide programs or initiatives on behalf of Administration and Secretarial objectives, as assigned by the Secretary.

d. Serve as Special Assistant to the Secretary for Regional Development, and in that capacity provide coordination and assistance on behalf of the Secretary to the Federal CoChairmen of the Regional Commissions.

e. Provide coordination of and assistance to the Secretarial Representatives, on behalf of the Secretary.

f. Serve as the Department's liaison with governors, mayors, other state and local officials, and private sector leaders.

g. Involve constituents, as appropriate, in Department policymaking and program development. Insure their awareness of Department resources, policies, and programs.

h. Convene meetings of constituents and Department officials, as necessary, to resolve problems and improve coordination in areas affecting more than one major element of the Department, and to comment on significant Department policies and programs.

i. Provide assistance to Secretarial Representatives who serve as chairpersons of Federal Regional Councils and advise the Department of Commerce member of the Interagency Coordinating Council about Departmentwide support of Federal Regional Council activity.

j. Initiate, assist in, facilitate, or manage development and coordination of new Departmental services, approaches, or systems for meeting the Department's goals, using suitable methods, to include demonstration and pilot programs.

k. Work to improve the coordinated impact of Commerce programs both in Washington and in the field, for the benefit of users of Departmental services and for contributions to cost reduction efforts.

l. Encourage, promote, and facilitate improved coordination, coöperation, and support among the various field elements of the Department.

m. Advise the Secretary on lead and support roles of Departmental agencies when Commerce participation is required in interdepartmental groups; and serve as lead or provide staff support for inter- or intra-Departmental task forces or groups, as assigned by the Secretary.

n. Provide coordination in Washington and in the Regions for Secretarial trips to the field.

o. Administer special projects and functions, as directed by the Secretary, that impact more than one operating unit of the Department. These include ongoing activities, or functions, such as education/work and special projects of a limited duration; sensitive feasibility studies on Secretarial initiatives; and service programs in the initiation and development stage which may later be assigned to operating units.

p. Plan for, and facilitate, strengthen services to business and industry and to State, county, and municipal governments.

q. Chair Departmental committees established to encourage, foster, and monitor coordination, cooperation and support for Departmental initiatives, or for programs and services in support of initiatives.

Section 5. Organization. .01 *Office of the Associate Deputy Secretary.* The Office of the Associate Deputy Secretary shall include:

a. The Associate Deputy Secretary;

b. The Deputy Director, who shall perform such duties as are assigned by the Associate Deputy Secretary and serve as Acting Associate Deputy Secretary in the absence of that official; and

c. The Special Assistant for Minority Liaison, who shall:

1. Maintain liaison with minority individuals and organizations in the business community, State and local government, and the general public, to insure their awareness of Commerce programs and activities and to represent their viewpoints to the Associate Deputy Secretary.

2. Work with the heads of major Department programs to insure their awareness of minority needs and viewpoints, and to promote programs and activities to ensure full benefit for minorities in Commerce services.

3. Represent the Associate Deputy Secretary in maintaining liaison with officials responsible for minority affairs in other Departments, the White House, and the Congress, to keep them advised of Commerce minority programs and activities and to insure coordination of policies affecting the Department's minority population constituency.

.02 *Departmental offices.* The Associate Deputy Secretary directs and supervises the following Departmental offices:

a. The Office of Regional Development (DOO 15-5);

b. The Office of State and Local Government Assistance (DOO 22-1);

c. The Office of Program Coordination (DOO 22-2);

d. The Office of Regional Affairs (DOO 22-4); and

e. The Office of Business Liaison (DOO 22-5).

.03 *Offices receiving administrative arrangements and services.* The Associate Deputy Secretary provides and supervises the administrative arrangements for the Office of Small and Disadvantaged Business Utilization (DOO 15-9) and the Office of Consumer Affairs (DOO 22-3).

Section 6. Limitation of Authority. Nothing in this Order shall be construed to amend, modify or repeal the authorities and responsibilities assigned to program officials by other Department Orders.

Guy W. Chamberlin, Jr.,

Assistant Secretary for Administration.

[FR Doc. 80-2517 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order No. 20-1; Amdt. 1; Transmittal No. 475]

Office of Administrative Services; Organization and Assignment of Functions

This order effective December 28, 1979 amends the material appearing at 44 FR 2412 of January 11, 1979.

Department Organization Order 20-1, dated November 30, 1978 is hereby amended as shown below. This amendment redefines: (1) the responsibilities of the OAS; (2) functions of the Communications and Transportation Division and Property and Buildings Management Division; and Records Management Division; and (3) establishes the Policy and Program Analysis Division.

1. *Section 3. Functions.* Subparagraph 3.a. is revised to read as follows:

a. Have Departmentwide staff management responsibility for supply (other than procurement), property, library, motor vehicle, occupational safety and health, telecommunications, mail, historic preservation, energy conservation, traffic, word processing, and, as specified in Section 5., certain aspects of records management, space management and utilization, and productivity management.

2. *Section 5. Organization.* Section 5. is revised to read as follows:

Section 5. Organization

Under the direction and supervision of the Director, the functions of OAS shall be organized and carried out as provided below:

a. The *Library Division* shall provide library services for the Office of the Secretary and operating units located in the Main Commerce Building, and serve as a reference source for libraries of operating units.

b. The *Communications and Transportation Division* shall be responsible for Departmentwide review and approval of word processing acquisition and implementation; review of major changes to telecommunications systems as defined by FPMR 101-37; and shall be the focal point in the Department for coordination, and be responsible for initiation of Departmentwide policy and procedures concerning those functions assigned to its area of responsibility. The Division shall be responsible for the coordination, supervision, and implementation of policies and procedures pertaining to the following services provided by OAS for the Office of the Secretary and elements of operating units in the Main Commerce Building, assigned Commerce annexes, the Regional Commissions and, upon request, other outlying and independently operated buildings not regularly serviced by the Division: word processing, telecommunications services, including the centralized Departmental phase of the State Department's telecommunications network, mail and messenger services, travel arrangements, receiving and shipping services in the Main Commerce Building, motor pool services, imprest fund services, and distribution of publications for the Department and its component units. The Division is also responsible for preparation of the Commerce Telephone Directory.

c. The *Property and Buildings Management Division* shall serve as the principal liaison between operating units and the GSA headquarters and regional offices on all real property and space management matters, including Federal Building Fund transactions. The Division shall be responsible for initiation of Departmentwide policy and procedures concerning those functions assigned to its area of responsibility; for the assignment of space and assuring compliance with Departmental policies for space assignments and utilization practices by the Office of the Secretary and operating units in

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the Washington, D.C. area; exercising personal property utilization surveillance over all operating units nationwide; providing labor services and building liaison services with GSA and all operating units in the Main Commerce building; and operating an automated personal property system for the Office of the Secretary and designated operating units. The Division shall also be responsible for the implementation and maintenance of a Commerce "Facility Self-Protection Program" as required by subparagraph 3.c. of this Order.

d. The *Records Management Division* shall exercise Departmentwide responsibility, in accordance with the provisions of 101–11.102 of the Federal Property Management Regulations, for establishment and maintenance of an active, continuing, program for the economical and efficient management of records of the Department. The Division shall among other things, provide for the effective control over the creation, organization, maintenance and use, and disposition of all Department records; cooperation with GSA in developing and applying standards, procedures and techniques designed to improve the management of records, assure the maintenance and security of records of continuing value, and facilitate the segregation and disposal of all records of temporary value; and for assuring compliance with the provisions of the Federal Records Act of 1950 and with regulations issued thereunder. The Chief, Records Management Division is responsible for maintaining Departmental liaison with the National Archives and Records Service. The Division shall perform files, records disposition, forms and correspondence management services for the Office of the Secretary and, as approved by the Assistant Secretary for Administration, for designated operating units. The Division is also responsible for operation of a central Departmental forms supply store and arranges for the disposition and retrieval of retired records for those operating units for which the Division has operational responsibilities.

e. The *Policy and Program Analysis Division* is responsible for initiation of Departmentwide policy and procedures concerning those functions assigned to its area of responsibility; for advising and supporting other OAS divisions in development of policy and procedures initiated by these divisions; and for the issuance and implementation of all Departmentwide policy and procedures developed by OAS. The Division plans the overall framework of Department programs in administrative services areas to include systems, standards, methods, procedures, reports and controls; reviews and prepares recommendations pertaining to proposed Federal/Military Specifications; when requested, prepares comments on legislation; and provides specialists, in OAS' areas of responsibility, to represent the Department on interagency study groups, committees, and task groups established by OMB, GSA, or other Executive agencies or public and private organizations. The Division reviews, evaluates, and advises the Director, Deputy Director, and other OAs division Chiefs on matters concerning newly established Government-wide regulations and procedures, Executive orders, or OMB Circulars relating to all areas of OAS staff and line responsibilities; and observes and studies the implementating of new or existing policies or procedures for impact on operating activities. The Division is also responsible for management and operations of a variety of special programs to include Energy Conservation, Historic Preservation, and Occupational Safety and Health, Combined Federal Campaign, and Savings Bond Campaign.

Guy W. Chamberlin, Jr.,
Assistant Secretary for Administration.

[FR Doc. 80-2818 Filed 1-24-80; 8:45 am]
BILLING CODE 3510-17-M

[Dept. Organization Order No. 5; Transmittal No. 460]

Office of Business Liaison; Organization and Assignment of Functions

This order is effective January 2, 1980.

Section 1. Purpose. This Order establishes the Office of Business Liaison and prescribes its functions.

Section 2. Establishment. In accordance with the provisions of Department Organization Order 10–11 of January 1, 1980, the Office of Business Liaison is hereby established as a Departmental office.

Section 3. Status and Line of authority. The Office of Business Liaison, a Departmental office, shall be headed by a Director who is also the Special Assistant to the Secretary for Business Liaison. The Director shall report and be responsible to the Associate Deputy Secretary.

Section 4. Functions. .01 The Office of Business Liaison shall:

a. Provide a central point of contact and assistance within the Department for business representatives, firms, associations and organizations, including members of the small business community.

b. Provide outreach and consultation with the business community to obtain information for the Department on business needs and concerns; to promote business involvement in significant Department policymaking and program development; and to keep business aware of Department resources, policies and programs.

c. Work through the Secretarial Representatives and Department field officers in their regions to ensure that outreach and consultation is provided to local business firms and organizations.

d. Keep the Secretary and other Department officials regularly informed of key issues of concern or interest to the business community where the Department has lead responsibility or should be otherwise involved.

e. Evaluate business reaction to policy initiatives and programs carried out by the Department and the administration and provide policy recommendations to the Secretary and other key Department and Administration officials on these issues.

f. As appropriate, convene Department officials on significant matters of concern to the business community.

g. Coordinate Departmentwide actions concerning a significant problem or actitivity affecting the business community.

h. Initiate responses or actions, in concert with the affected Department organizations to meet the needs of the business community or to implement Department policies and goals; and to assist with the delivery of services to members of the business community.

i. As appropriate, serve as the lead or staff unit on inter- or intra-Departmental task forces or groups concerned with business assistance or policy issues affecting business.

.02 In carrying out its functions, the Office shall not represent, intervene on behalf of, or otherwise seek to assist business and individuals on specific regulatory matters, cases or issues before Federal agencies or Departments; nor shall it intervene, participate, or in any other way seek to influence the negotiation or renegotiation of the terms of any contract between a business or individual and the government.

Approved:
Guy W. Chamberlin, Jr.,
Assistant Secretary for Administration.

[FR Doc. 80-2819 Filed 1-24-80; 8:45 am]
BILLING CODE 3510-17-M

[Dept. Organization Order No. 35–5A; Transmittal No. 481]

Bureau of Economics; Establishment

This order effective January 2, 1980 supersedes the material appearing at 43 FR 57940 of December 11, 1978.

Section 1. Purpose. .01 This Order establishes the Bureau of Industrial Economics (BIE), delegates authority to the Director of BIE, and prescribes the functions of the Bureau.

.02 The Office of Industrial Economics is hereby abolished and its functions are transferred to the Bureau of Industrial Economics.

.03 Certain functions previously performed by the Industry and Trade Administration have been transferred to the Bureau of Industrial Economics.

Section 2. Status and Line of Authority. .01 The Bureau of Industrial Economics is hereby established as a primary operating unit of the Department of commerce.

.02 The Bureau of Industrial Economics shall be headed by a Director who shall report and be responsible to the Chief Economist of the Department of Commerce. The Director shall be assisted by a Deputy Director who shall perform the functions of the Director during the latter's absence.

Section 3. Delegation of Authority. .01 Pursuant to the authority vested in the Secretary of Commerce, and subject to such policies and directives as the Secretary may prescribe, the Director is hereby delegated authority to perform the following functions vested in the Secretary of Commerce under:

a. The Act of February 14, 1903, as amended (15 U.S.C. 1512 *et seq.;* 15 U.S.C. 171 *et seq.)* to foster, promote and develop the foreign and domestic commerce of the United States, to the extent necessary for the performance of the Bureau's functions;

b. Headnote 2, subpart B, part 6, schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) relating to the development, maintenance and publication of a list of bona fide motor-vehicle manufacturers, and authority to promulgate rules and regulations pertaining thereto under Section 501 (2) of Title V of the Automotive Products Trade Act of 1965 (19 U.S.C. 2031); and

c. Section 264 of the Trade Act of 1974 (19 U.S.C. 2354) relating to the studies and reports and information activities in response to investigations and findings of the International Trade Commission, except that reports to be submitted to the President shall be issued by the Secretary, and responsibility for assistance in preparation and processing of petitions and applications under Subsection 264(c) shall be vested in the Assistant Secretary for Economic Development.

.02 The Director of BIE may exercise other authorities of the Secretary as applicable to performing the functions assigned in this Order.

.03 The authorities delegated to the Director may be redelegated by the Director to any BIE employee, subject to the conditions in the exercise of such authority as the Director may prescribe.

Section 4. Functions. The Bureau of Industrial Economics shall serve as the central source of objective industry data, information and analysis in the Department. It shall collect and analyze information on various industries, commodities, markets and sectors of the economy; shall carry out a research program relating to U.S. industrial performance; and shall assist in the implementation of government programs and in the development of government policies through the dissemination of such information, analysis and research results and through provision of expert staff support for Departmental participation in domestic and international forums concerned with industrial analysis and industrial policy.

Guy W. Chamberlin, Jr.,
Assistant Secretary for Administration

[FR Doc. 80-2820 Filed 1-24-80; 8:45 am]
BILLING CODE 3510-17-M

[Dept. Organization Order No. 35–5B; Transmittal No. 482]

Bureau of Industrial Economics; Organization and Assignment of Functions

This order is effective January 2, 1980.

Section 1. Purpose. This Order prescribes the organization and assignment of functions within the Bureau of Industrial Economics (BIE), a new primary operating unit of the Department established by Department Organization Order 35–5A.

Section 2. Organization Structure. The organization structure and line of authority of BIE shall be as depicted in the attached organization chart. A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

Section 3. Office of the Director. .01 The *Director of the Bureau of Industrial Economics* shall develop policies and plans for BIE, shall set priorities for and direct and manage its operations, and shall be the Department's primary source of information and analysis on conditions in, and developments affecting, major U.S. industrial sectors.

.02 The *Deputy Director* shall assist the Director in managing BIE, shall perform the duties of the Director during the latter's absence, and shall be the contact point with Bureau clients to ensure appropriate BIE response to client needs.

.03 The *Publications and Editorial Support Staff* shall provide editorial services to all BIE components; shall review and edit all proposed Bureau publications for literary style and clarity; shall coordinate printing and distribution of the U.S. Industrial Outlook and other Bureau publications; and, in consultation with BIE components and clients, shall develop new publications which will meet clients' recurring needs for industrial data, information and analysis.

.04 The *Administrative Staff* shall provide local administrative services for BIE.

Section 4. Associate Director for Industry Analysis. .01 The *Associate Director for Industry Analysis* shall plan and manage the work of BIE's *Industry Offices;* and shall coordinate the efforts to these Offices with other elements of the Bureau. The *Industry Offices* shall include:

a. Office of Basic Industries;
b. Office of Producer Goods;
c. Office of Consumer Goods; and
d. Office of Service Industries.

.02 The *Industry Offices* shall, for the industries covered: a. Maintain continued awareness of industrial structure, production, capacity, inputs, costs, distribution, prices, profits, markets, sources of supply, operating processes, productivity, product characteristics, financial, competitive and labor conditions, international trade patterns and other factors, both domestic and international, in order to provide comprehensive assessments of current conditions and performance in the industries covered.

b. Monitor macroeconomic trends, technological changes, developments in international trade patterns, changes in government legislation, regulations and policies, and other developments, both domestic and international, in order to provide comprehensive assessments of the effect of such developments on conditions and performance in the industries covered and to assist in the early identification of problems, including the prospect of supply and material shortages.

c. Contribute to the knowledge base of government and business officials through the publication of current and prospective industry assessments in special reports, in the U.S. Industrial Outlook and in such other publications as may be developed in consultation with the Publications and Editorial Support Staff.

d. In cooperation with the Office of Industry Statistics and Data Processing, contribute to the effective implementation of Department of Commerce and other agency programs through the provision of industry information and analysis. Departmental clients for such support shall include, but not be limited to, the International Trade Administration (e.g., short supply, export development, industrial mobilization, and Industry Sector Advisory Committee programs), The Economic Development Administration (e.g., loan guarantee and trade adjustment assistance programs), the Assistant Secretary for Science and Technology (e.g., industrial policy assistance programs), the Associate Deputy Secretary (e.g., business assistance and information programs),

and the Assistant Secretary for Policy (e.g., industry policy matters).

e. In cooperation with the Office of Current Issue Analysis, contribute to the development of government policy through the provision of information and analysis concerning the industrial impact of policy proposals and alternatives. Departmental clients for such services shall include, but not be limited to, the International Trade Administration (e.g., trade policy) the Assistant Secretary for Policy (e.g., legislative and regulatory policy), and the Secretary, Deputy Secretary and Chief Economist (e.g., general economic policy). Non-departmental clients for such services shall include other Federal departments and agencies, the Office of Management and Budget, the Council of Economic Advisors, the Council on Wage and Price Stability and other elements in the Executive Office of the President.

.03 In addition to the functions set forth above, the Office of Producer Goods shall provide staff assistance to officials designated to carry out the Department's responsibilities for implementing the Agreement concerning Automotive Products between the Government of the United States and the Government of Canada, including annual and special reporting requirements; recommend certification of qualified applicants as "bona fide motor vehicle manufacturers", and maintain and prepare for publication from time to time lists of bona fide motor vehicle manufacturers under provisions of the Automotive Products Trade Act of 1965.

Section 5. Office of Current Issue Analysis. The *Office of Current Issue Analysis* shall serve as a central source of specific economic and analytical skills (e.g., microeconomics, industrial organization, labor economics, financial analysis, etc.) to supplement the broad analytical skills and industry specific expertise of the industry offices in providing the industrial information and analytical support needed by Commerce and other Federal policy officials. The Office shall conduct its work on a project-by-project basis in cooperation with the industry offices; shall provide information and analysis regarding the industrial impact associated with issues of current concern to Federal policymakers, particularly the industrial impact of international trade, legislative, regulatory and industrial policies; shall perform research on industrial problems, including such matters as cost-price relationships, short-run forecasts of industrial activity on a detailed basis, and the impact of economic conditions on businesses of varying sizes; and shall serve as the coordination point for the conduct of multi-industry studies requested by BIE clients.

Section 6. Office of Industry Statistics and Data Processing. The *Office of Industry Statistics and Data Processing* shall develop and maintain an industrial data system to aid other BIE and Department of Commerce elements in the conduct of studies and analyses; shall organize data bases, develop econometric, modelling and other analytical techniques for using such bases, and either apply these in support of BIE projects or assist other BIE elements in their application; shall cooperate with the industry offices in providing data, information and analyses to support implementation of Department of Commerce and other agency programs; and, in consultation with the Publications and Editorial Support Staff, shall develop regular publications for disseminating industry statistics to business and government officials.

Section 7. Office of Long Range Analysis. The *Office of Long Range Analysis* shall conduct research on basic, underlying issues relevant to the industrial sector. The Office shall investigate such issues as the causes of productivity behavior, the evolution of industrial structure, the adequacy of capital formation, and the causes of cost and price trends; shall conduct research on ways to improve microeconomic forecast methodologies; shall seek to define the future environment for industrial policy in light of demographic developments, evolving patterns of natural resource supply, trade pressures and other factors; and shall conduct research to identify long range, recurring problems in the industrial sector and to devise ways of dealing with them. Office research projects shall be conducted in cooperation with other BIE elements, and shall be specifically designed to support industrial policy and other long run policy decisions to be made by Commerce and other Federal officials.

Guy W. Chamberlin, Jr.,

Assistant Secretary for Administration.

[FR Doc. 80-2521 Filed 1-24-80; 8:45 am]

BILLING CODE 3516-17-M

[Dept. Organization Order No. 40-1; Transmittal No. 483]

International Trade Administration; Organization and Assignment of Functions

This order effective January 2, 1980 supersedes the materials appearing at 42 FR 64724 of December 28, 1977, 43 FR 35522 of August 10, 1978, 43 FR 36614 of August 29, 1978, 44 FR 24618 of April 26, 1979, 44 FR 49005 of August 21, 1979, and 44 FR 66229 of November 19, 1979.

Section 1. Purpose. .01 This Order prescribes the organization and assignment of functions within the International Trade Administration (ITA). Department Organization Order 10-3 establishes ITA and prescribes the functions and the scope of authority of the Under Secretary for International Trade.

.02 This revision reflects a major reorganization of ITA in response to the President's Reorganization Plan No. 3 of 1979.

.03 Those provisions of this Order pertaining to the trade promotion and commercial functions to be transferred from the Secretary of State become effective April 1, 1980, except that those authorizing the utilization of Foreign Service personnel authorities, as specified in Section 5(b)(2) of Reorganization Plan No. 3 of 1979, become effective January 2, 1980.

Section 2. Organization Structure. The principal organization structure and line of authority of ITA shall be as depicted in the attached organization chart (Exhibit 1). A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

Section 3. Under Secretary for International Trade. The Under Secretary for International Trade (the "Under Secretary") determines policy, directs the programs, and is responsible for all activities of ITA. The Under Secretary shall coordinate all issues concerning trade administration, international economic policy and programs, and trade development; and, in the absence of the Secretary of Commerce, represent the Department on the Trade Policy Committee, as ex-officio member of the Board of the Export-Import Bank of the United States and, as assigned, serve on all other Secretarial-level boards, committees, or panels of which the primary focus is international trade.

Section 4. Deputy Under Secretary for International Trade. .01 The *Deputy Under Secretary for International Trade* ("the Deputy Under Secretary") shall serve as the principal deputy to the Under Secretary for International Trade, perform such duties as the Under Secretary shall assign and perform the functions of the Under Secretary in the latter's absence or disability or in the event of a vacancy in that office. The Deputy Under Secretary shall provide advice and assistance to the Under Secretary and in coordination with the Assistant Secretary for Congressional Affairs, perform congressional liaison functions for ITA;

.02 The Deputy Under Secretary shall be responsible for day-to-day management of ITA. The Office of the Deputy Under Secretary includes:

a. The Director General, who is head of the Foreign Commercial Service, shall be responsible for administrative management of the Foreign Commercial Service, including development and implementation of policies determining the recruitment, training and assignment of Foreign Commercial Service officers. The Director General administers the overseas network of Foreign Commercial Service offices and serves as the control in ITA for resolving any Foreign Commercial Service post resource conflicts ITA program activities may impose. The Director General also serves as the ITA representative to other U.S. agencies for administrative and management issues affecting the Foreign Commercial Service. Foreign Commercial Service responsibilities include the following:

1. Support of overseas trade promotion activities, including Export Development Offices, trade fairs, business development offices, trade missions and related activities and counselling and support to individual U.S. firms seeking export sales or assistance for procurement contracts;

2. Development of marketing and commercial intelligence for dissemination to the U.S. business community through the Worldwide Information and Trade System (WITS) related activities overseas; commercial reporting including industry reports and market research for all ITA units; and management of commercial libraries;

3. Support for ITA import and export administration activities; monitoring of U.S. rights and opportunities created by multilateral trade agreements and implementation of related export services and programs; facilitation of U.S. investment and assistance for U.S. service industries marketing initiatives;

4. Representation to host country government on behalf of U.S. business to resolve individual business problems and to further U.S. business interests; make direct representations and conduct or share in negotiations on general trade and investment issues including those relating to implementation of the MTN; assistance to U.S. business representatives to resolve trade complaints; and overseas support for Joint Commission and other trade facilitation groups.

b. The *Director of Administration* who shall:

1. Develop and administer ITA personnel management programs including recruitment, placement, employee development, classification, labor-management relations, equal employment opportunity, and employee relations and provide liaison with the Departmental office of Personnel;

2. Provide management, organization and systems analysis, including management studies and surveys and organizational planning studies; coordinate ADP systems development, perform the committee management, directives management, records management, forms management, files management, correspondence management and reports management functions for ITA; coordinate GAO and Departmental audits; coordinate activity under the Freedom of Information Act and the Privacy Act of 1974; maintain boycott reports for public inspection; and provide liaison with the Departmental Office of Organization and Management Systems and the Office of Procurement and ADP Management;

3. Provide administrative and support services for ITA including physical and document security and related matters, travel, safety, correspondence control, and space management; and provide procurement liaison;

4. Formulate, present, execute, and assess program effectiveness of the ITA budget; effect financial and budgetary controls; prepare budget reports; and provide liaison with the Departmental Office of Budget and Program Evaluation; and

5. Advise on all public affairs and information service matters; provide ITA centralized information services, conduct and be responsible for all publications programs, consonant with the provisions of Department Organization Order 20-9, "Office of Publications;" provide speech writing and scheduling services; coordinate all audiovisual, exhibit, and advertising activities; maintain liaison with the Departmental Office of Publications, the Departmental Office of Public Affairs and the news and trade media consonant with the provisions of Department Organization Order 15-3, "Office of Public Affairs;" and publish *Business America* magazine.

Section 5. Assistant Secretary for International Economic Policy. The *Assistant Secretary for International Economic Policy* shall assist and advise the Secretary and the Under Secretary on the research, analysis, and development of Departmental programs on international trade and investment; provide direction and coordination of international economic policy formulation for the Under Secretary; implement and monitor the results of the MTN, and provide information and assistance to U.S. business on the rights and opportunities resulting from the MTN; be responsible for formulation of Departmental policy on international commodity problems and international resource issues other than energy; represent the Department in the General Agreement on Tariffs and Trade (GATT), the Organization for Economic Cooperation and Development (OECD) for trade matters, the U.N. Conference on Trade and Development (UNCTAD), and in multilateral negotiations; be responsible for the Department's position in negotiations of international and bilateral textile agreements; implement the Department's interagency international economic policy role in such organizations as the National Security Council, Office of the United States Trade Representative, and the National Advisory Council on International Monetary and Financial Policies. The Assistant Secretary shall carry out these functions through:

.01 The *Deputy Assistant Secretary for International Economic Policy* who shall serve as the principal deputy to the Assistant Secretary and shall assume the duties of the Assistant Secretary during the latter's absence.

.02 The *Deputy Assistant Secretary for Trade Agreements* who shall:

a. Direct the development of the Department's position on international trade and commodity policy; identify key trade and commodity policy issues and develop the Department's position;

b. Implement, monitor, and participate in international consultation and renegotiation of the MTN tariff, non-tariff and other trade agreements for industry and service interests (all nonagricultural matters);

c. Develop information on cases under the MTN and operate an advisory center which shall provide information and assistance to U.S. business on new U.S. rights and opportunities under the MTN codes and other agreements, such as the MTN Government Procurement and Standards Codes; administer the operation of the private sector advisory program, in conjunction with the United States Trade Representative, including staff support;

d. Provide staff support for the Subcommittee on GATT and Multilateral Trade Agreements of the President's Export Council; analyze and review import relief cases and monitor relief actions; provide staff analysis and participate in Trade Policy Committee recommendations to the President on import relief cases; monitor the effectiveness of relief and develop policy on orderly marketing agreements and participate in negotiations of

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bilateral and multilateral trade agreements (except those carried out by the DAS for Textiles and Apparels);

e. Develop policy concerning revitalization of GATT trading rules; undertake special projects to provide a basis for multilateral consultation and negotiation where U.S. interests prove to be inadequately protected by the current system of GATT rights and obligations; provide Departmental input for Government input for U.S. participation in the trade-oriented activities of the OECD and UNCTAD; monitor non-MTN related trade agreements and provide recommendations for pursuing U.S. rights through dispute settlement mechanism or through renegotiations;

f. Develop and coordinate Departmental policy and positions regarding international commodity trade problems and international resources issues, other than energy; participate in interagency preparations for international discussions of negotiations on specific commodity problems and meetings of standing international commodity bodies to review current and prospective trends in world supply and demand for major internationally traded primary products; participate in U.S. delegations to such international discussions; and

g. Develop, coordinate, and implement the Department's position on general economic policy issues arising between the United States and individual countries and regional economic groupings (excluding those countries that are the responsibility of the Assistant Secretary for Trade Development); support certain joint economic consultative mechanisms in which the Department participates; perform trade facilitation efforts to resolve specific commercial complaints; and provide policy support to the Secretary and the Under Secretary for meetings with foreign dignitaries and foreign travel.

.03 The *Deputy Assistant Secretary for Finance, Investment and Services* who shall:

a. Direct policy development and support on finance, investment and service issues affecting U.S. international business operations and competitiveness including identifying key issues and developing Department positions;

b. Monitor and analyze foreign investment in the U.S.; prepare studies and reports on its economic effects and represent the Department in policy and program development;

c. Represent the Department in international finance and development assistance affairs; provide staff support for the Department's representatives on the National Advisory Council on International Monetary and Financial Policies (NAC), the Export-Import Bank Board, Overseas Private Investment Corporation and other organizations dealing with export finance, export guarantees and credit insurance, bilateral and multilateral aid loans;

d. Conduct comparative analyses of foreign financial, fiscal and competitive practices, and make recommendations for changes in U.S. treatment of export associations and trading companies;

e. Represent the Department of U.S. direct investment issues; analyze investment trends and consult with business on U.S. regulations and international practices affecting investment and participate in bilateral and multilateral negotiations on investment; develop positions on multinational corporation (MNC) issues, including proposed codes on technology transfer and MNC code issues and investment disputes; and

f. Develop recommendations to improve the access of U.S. service industries to foreign markets including identifying barriers and surveying U.S. laws and practices affecting international trade in services.

.04 The *Deputy Assistant Secretary for Policy Planning and Analysis* who shall:

a. Determine the policy significance of international economic and trade developments; forecast and identify future trade problems; and develop long-term trade strategies and plans;

b. Examine and formulate options for U.S. export policy, principally focusing on export incentives and disincentives and their effect on U.S. trade; develop and examine the likely effects of changes in such incentives/disincentives; and recommend policies to improve the U.S. export position;

c. Examine international sectoral issues and formulate short-term and long-term trade and foreign investment policy approaches; develop and evaluate options for international positive adjustment and structural adjustment issues; represent the Department in committees and negotiations concerned with these issues; and

d. Initiate and review research studies and forecasts on developments affecting U.S. international trade and competitiveness; manage a program of trade and international economic analyses and statistics for U.S. Government and business; and develop and maintain computerized data bases for key statistical data.

.05 The *Deputy Assistant Secretary for Textiles and Apparel* who shall:

a. Assist and advise the Assistant Secretary for International Economic Policy on the economic condition of the U.S. textile and apparel industries, domestically and internationally; negotiate and monitor bilateral textile and apparel import restraint agreements in conjunction with the United States Trade Representative and the Departments of State, Treasury and Labor; monitor imports from controlled agreement countries and uncontrolled countries;

b. Manage operation of the Committee for the Implementation of Textile Agreements (CITA), and advisory committees related to the textiles and apparel program; prepare economic data and perform analyses of conditions in the domestic textile and apparel markets, including impact of imports; and promote the expansion of exports of textiles and apparel, and, in conjunction with the United States Trade Representative and other organizations, reduction of non-tariff barriers; and

c. Prepare statistical data on imports; classify problems arising under agreements and train foreign officials in U.S. classification procedures; and provide structural assistance to the industry on technology, research and development, and management training.

Section 6. Assistant Secretary for Trade Administration. The *Assistant Secretary for Trade Administration* shall assist and advise the Secretary and the Under Secretary on the development of policies pertaining to, and the implementation of, Departmental programs dealing with import and export administration issues, including industrial mobilization and foreign boycotts; exercise the functions of the "administering authority" of U.S. antidumping and countervailing duty laws within the meaning of Title VII of the Tariff Act of 1930, as amended; serve as alternate to the Secretary and Under Secretary in representing the Department on the Trade Policy Committee and other interagency committees which deal with matters pertaining to import and export administration issues; and represent the Department in all domestic and international forums which address such issues. The Assistant Secretary shall carry out these functions through:

.01 The *Deputy Assistant Secretary for Import Administration* who shall:

a. Coordinate the formulation and implementation of U.S. antidumping and countervailing duty policies and programs, ensuring that actions taken are consistent with overall U.S. trade policy;

b. Coordinate the development of Departmental positions with regard to specific antidumping and countervailing duty cases and general antidumping and countervailing duty issues which are to be discussed in domestic and international forums, such as meetings of the interagency Trade Policy Committee and the GATT Antidumping and Countervailing Duty Code Committees;

c. Ensure the proper administration of antidumping and countervailing duty laws including the expeditious conduct of investigations, the administration of antidumping and countervailing duty orders, the collection of duties resulting from those orders, and the administration of antidumping and countervailing duty suspension agreements;

d. Conduct, as directed by the Assistant Secretary for Trade Administration, negotiations with foreign manufacturers or governments to suspend antidumping or countervailing duty investigations, except where the U.S. Trade Representative elects to lead U.S. negotiating teams; and

e. Administer Departmental programs relating to foreign-trade zones, allocation of watch quotas, duty-free entry of scientific instruments, and importation of foreign excess property.

.02 The *Deputy Assistant Secretary for Export Administration* who shall:

a. Carry out the Department's responsibilities for regulating exports of U.S. goods and technology for purposes of national security, foreign policy, and short supply;

b. Provide staff support for the Export Administration Review Board, the Advisory Committee on Export Policy, and the Subcommittee of the Advisory Committee on Export Policy (Sub-ACEP);

c. Administer programs concerning foreign boycotts against countries friendly to the United States, and develop and coordinate measures for opposing such boycotts;

d. Coordinate and conduct the Department's activities regarding industrial mobilization for national defense, including priorities and allocations, industrial resources, and emergency preparedness programs; and

e. Investigate and determine if imports threaten to impair the national security, and, if appropriate, recommend remedial action through the Under Secretary and the Secretary to the President.

Section 7. Assistant Secretary for Trade Development. The *Assistant Secretary for Trade Development* shall be responsible for carrying out the policies and programs of the Department to promote world trade and to strengthen the international trade and investment position of the U.S. In carrying out these functions, the Assistant Secretary shall direct the Department's programs for participation in international trade fairs, trade missions, and other overseas trade promotions; conduct programs within the United States to expand the export-consciousness of American firms and to facilitate entry into international trade; and provide assistance to American exporters through the facilities of the U.S. Commercial Service. With respect to East-West trade, the Assistant secretary shall be responsible for conducting the Department's program for expanding trade and investment in Communist countries, and for the formulation and analysis of policies with respect to U.S. commercial policy in those countries, and for relevant interagency representation.

The Assistant Secretary shall advise the Secretary and Under Secretary on policies and programs relating to these functions and serve as the National Export Expansion Coordinator. The Assistant Secretary shall carry out these functions through:

.01 The *Deputy Assistant Secretary for Export Development* who shall:

a. Plan, develop, and direct programs to expand exports and develop promotional programs to be carried out by the U.S. and FCS and provide them with analytical and technical support;

b. Perform the program planning and evaluation activities for export development programs and determine priorities for export development programs to be carried out by the U.S. and FCS;

c. Direct overseas promotional activities through management of overseas Development Offices; develop overseas trade missions, sponsor special missions, and conduct other trade and investment activities, including the "Invest in the USA" program;

d. Develop information on country economic and commercial conditions; provide counselling services to U.S. business on foreign countries and markets; conduct market research, and provide market information to other units of Commerce; and

e. Develop export information programs, including the Worldwide Information and Trade System (WITS) for dissemination through the U.S. and FCS for use by the U.S. business community; conduct a nationwide campaign on export awareness through specialized counselling, seminars, publications, joint industry/government activities, and assistance in competing for major overseas projects; and coordinate the program activities of the President's Export Council which provides advice from the private sector to the Secretary and the President on issues relating to export expansion activities.

.02 The *Deputy Assistant Secretary for East-West Trade* who shall:

a. Conduct the day-to-day bilateral commercial contacts with the embassies and other communist government entities in the U.S.; provide support for the Cabinet-level joint economic commissions, seek resolution of commercial problems; assist in the development of commercial policy toward individual communist countries; collect, analyze, and disseminate information about economic conditions, trade-related laws and regulations and market opportunities; advise U.S. firms on country oriented trading problems; assist in the negotiation of various agreements with these countries; and maintain day-to-day liaison with the major private U.S. bilateral councils on individual communist countries;

b. Offer services to help U.S. firms promote and market products in communist countries; conduct briefings on how to do business in the communist countries; arrange contacts between U.S. business and foreign trade organization officials; disseminate information on business opportunities in communist countries; assist U.S. firms in transaction problems involving Federal agencies; and plan, recruit, and manage trade promotion events such as fairs, technical sales seminars, and catalog shows in communist countries;

c. Formulate, analyze, and make recommendations about legislative and broad policy issues arising in East-West trade; study trade potential, balance-of-payments projections, econometric modeling of communist economies, and the economic impact of East-West trade on the United States, its communist trading partners, and other nations; and maintain a major statistical data base on East-West trade and provide analyses of trade trends;

d. Plan and develop relevant promotional programs to be carried out by the U.S. and FCS and provide them with analytical and technical support; and

e. Represent the Department on interagency consideration of East-West trade matters as set forth in subparagraphs a. through d. above.

.03 The *Deputy Assistant Secretary for the U.S. Commercial Service* who shall:

a. Provide field representation with the U.S. business community to carry out ITA and other Department programs by providing business with information, technical assistand and counselling primarily on export and investment matters and assisting in identifying

potential U.S. exporters and participants in overseas promotional events;

b. Administer a system of District Offices (see Exhibit 2) located in commercial centers throughout the United States, offer U.S. firms counselling on overseas marketing, technical export information, guidance on the marketing opportunities, and advice on marketing strategies; conduct seminars, workshops, and conferences; assist business persons to utilize Export Development and East-West Trade information services, including the WITS; assist in obtaining commercial information from U.S. firms for use in Export Development planning and evaluation; and disseminate to the business community information on trade devleopment, trade policy issues and technological developments;

c. Direct Federal procurement assistance and services programs, including Business Development conferences, Federal/State relations and Associate Office programs;

d. Publish the *Commerce Business Daily*; and

e. Carry out emergency preparedness functions through District Office Directors in the Uniform Federal Regional Council cities who serve as Regional Emergency Coordinators.

Section 8. Transitional Provisions. The Assistant Secretary for Administration shall establish the effective date of the necessary transfers of funds and positions and/or personnel and other resources from the Industry and Trade Administration and, in cooperation with the affected offices and operating units, determine the amount of funds, positions, personnel and other resources to be transferred.

Guy W. Chamberlin, Jr.,

Assistant Secretary for Administration.

[FR Doc. 80-2522 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-17-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Changes in the Textile Category System; Correction

January 18, 1980.

In FR Doc. 79-38905, appearing at page 75441 in the issue for Thursday, December 20, 1979, the following corrections should be made under the heading "Category and Type of Change":

"359—Change TSUSA 380.3987 to 380.3989" should read "359—Change TSUSA 380.3987 to 380.3989 and 380.3943".

"605—Add TSUSA 310.6034" should read "600—Add TSUSA 310.6034".

"605—Change TSUSA 310.6035 to 310.6038" should read "600—Change TSUSA 310.6035 to 310.6038".

"636—Change TSUSA 380.8139 to 380.8140" should read "638—Change TSUSA 380.8139 to 380.8140".

"636—Change TSUSA 382.7820 to 283.7834" should read "636—Change TSUSA 382.7820 to 382.7834".

"647—Add TSUSA 376.5618" should read "659—Add TSUSA 376.5618".

"648—Add TSUSA 376.5623" should read "659 Add TSUSA 376.5423".

The following change was omitted from the notice document and should be added:

627—Delete TSUSA 355.8200; Add 355.8210 and 355.8220.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-2544 Filed 1-24-80; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Proposed Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Deletion from Procurement List.

SUMMARY: The Committee has received a proposal to delete from Procurement List 1980 commodities produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: February 27, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

It is proposed to delete the following commodities from Procurement List 1980, November 27, 1979 (44 FR 67925):

Class 3990

Pallets & Skids: 3990-00-366-6821, 3990-00-366-6810, 3990-00-366-6814, 3990-00-366-6815, 3990-00-366-6816, 3990-00-366-6817, 3990-00-366-6819, 3990-00-366-6820.

C. W. Fletcher,

Executive Director.

[FR Doc. 80-2305 Filed 1-24-80; 8:45 am]

BILLING CODE 6820-33

Procurement List 1980; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1980 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: February 27, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

It is proposed to add the following commodities and services to Procurement List 1980, November 27, 1979 (44 FR 67925):

CLASS 7530

Paper Set, Manifold and Carbon: 7530-00-401-6910, 7530-00-205-0511, 7530-01-072-2536, 7530-01-072-2537, 7530-01-072-2538, 7530-01-072-2539.

CLASS 8465

Knapsack (Packsack): 8465-00-205-3493.

SIC 7399

Food Packet, Long Range Patrol: 8970-00-926-92222.

Food Packet, In-flight: 8970-00-060-2899.

C. W. Fletcher,

Executive Director.

[FR Doc. 80-2306 Filed 1-24-80; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Air University Board of Visitors; Meeting

January 17, 1980.

The Air University Board of Visitors will hold an open meeting at 1:00 p.m. on April 22, 1980, in the Air University Conference Room, Austin Hall (Building 800), Maxwell Air Force Base, Alabama.

The purpose of the meeting is to give the board an opportunity to present to the Commander, Air University, a report of the findings and recommendations concerning Air University educational programs.

For further information this meeting, contact Dorothy D. Reed, Coordinator, Air University Board of Visitors, Headquarters Air University, telephone (205) 293-5159/6160.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-2449 Filed 1-24-80; 8:45 am]

BILLING CODE 3910-01-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement for Tarrant County Water Control and Improvement District Number One's Richland Creek Dam, Reservoir, and Pump Station in Freestone and Navarro Counties, Texas

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: In the matter of Draft Environmental Impact Statement on Department of the Army Permit Application Under Section 10 of the River and Harbor Act, March 3, 1899, and Section 404 of the Clean Water Act for Tarrant County Water Control and Improvement District Number One's Richland Creek Dam, Reservoir, and Pump Station in Freestone and Navarro Counties, Texas.

1. The primary purpose for this project is to provide municipal and industrial water to customers of the water district. These customers are located primarily within Tarrant County with a few located in Johnson, Parker, and Denton Counties.

2. Reasonable Alternatives. The alternatives to be evaluated include: the issuing of the permits, not issuing the permits, or issuing one or both permits with conditions.

3. Scoping Process.

a. Public Involvement. A comprehensive public involvement program is to be conducted locally by the Fort Worth Army Engineer District and the water district as a means of disseminating information and soliciting public views. The techniques used will be formal public meetings; informal public information sessions as needed; and continuing dialogue with Federal, State, and local agencies, organizations, and the interested public.

b. Significant Issues Requiring In-Depth Studies. Hydraulic and hydrologic impacts on the Trinity River and its bay system. Social and economic effects on about 140 landowners. Presence of minable lignite. Land uses affected.

c. Assignments. None.

d. Environmental Review and Consultation Requirements. The draft statement will be circulated for review and all comments will be incorporated into the final environmental impact statement.

4. A scoping meeting will be held in Corsicana, Texas. A public notice will be issued when the time and place have been set.

5. The draft environmental impact statement is expected to be available to the public by November 1980.

ADDRESS: Person to contact for additional information is Mr. L. E. Horsman, Chief, Environmental Resources Section, U.S. Army Corps of Engineers, Fort Worth District, P.O. 17300, Fort Worth, Texas 76102. Telephone (817) 334-2095.

Dated: January 15, 1980.

Donald J. Palladino,

Colonel, CE District Engineer.

[FR Doc. 80-2186 Filed 1-24-80; 8:45 am]

BILLING CODE 3710-FR

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Action Taken on Consent Orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of December. These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum Price Regulations and the General Allocation and Price Regulations, and they do not address or limit any liability with respect to the consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions.

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. (a) Post the maximum lawful selling price, or a certification that the current selling price is equal to or less than the maximum allowed, for each grade of gasoline on each pump used to dispense gasoline, facing each direction from which the pumps are generally viewed by customers, in numbers or letters not less than one-half (½) inch high, or (b) post the maximum lawful selling price for each grade of gasoline in a prominent location elsewhere at the retail outlet which is visible to a customer purchasing gasoline in letters not less than four (4) inches high, or (c) post a certification that the current selling price is equal to or less than the maximum allowed in a prominent location elsewhere at the retail outlet which is visible to a customer purchasing gasoline in letters not less than one and one-half (1½) inches high;

3. Properly maintain records required under the aforementioned regulations; and

4. Cease and desist from employing any discriminatory and/or unlawful business practices prohibited by the aforementioned regulations.

For further information regarding these Consent Orders, please contact Leon Sneed, Program Manager for Product Retailers, Department of Energy, Economic Regulatory Administration, Enforcement Program Operations, 2000 M Street, NW, Washington, DC 20461, telephone number 202-254-5907.

Firm Name, Address, and Audit Date

Glebewood Exxon, 2240 N. Glebe Road, Arlington, VA 22207—12-11-79

Cottage City Exxon, Eastern Ave. and Bladensburg Rd., Cottage City, MD 20722—12-19-79

McClay's Exxon, 18th and L St. NW, Washington, D.C. 20036—12-19-79

Brookland Exxon, 3700 12th St. NE, Washington, D.C. 20017—12-20-79

Kaywood Exxon, 4501 Eastern Ave., Mt. Rainer, MD 20822—12-27-79

McQueeny's Exxon, 3213 Queens Chapel Road, Mt. Rainer, MD 20622—12-27-79

Issued in Washington, DC on the 21st day of January, 1980.

Robert D. Gerring,

Director, Enforcement Program Operations Division, Economic Regulatory Administration.

[FR Doc. 80-2413 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

Action Taken on Consent Order

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Action Taken on Consent Orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of December 1979. These Consent Orders concern prices charged by retail motor gasoline dealers in excess of the maximum lawful selling price for motor gasoline since August 1, 1979, failure to properly post the maximum lawful selling price or certification, and engaging in business practices which are either discriminatory with respect to purchasers of motor gasoline, resulting in a higher price than permitted, or tied the sale of gasoline to the purchase of another service. The purpose and effect of these Consent Orders is to bring the consenting firms into compliance with the Mandatory Petroleum Allocation and Pricing Regulations from August 1, 1979, and they do not address or limit any liability with respect to consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions:

A. With respect to selling prices:

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. Roll back prices to achieve refund of overcharges; and

3. Properly maintain records required under the aforementioned regulations.

B. With respect to business practices:

1. Cease and desist from employing any form of discriminatory practice;

2. Cease and desist from employing any practice designed to obtain a price higher than is permitted by the regulations; and

3. Cease and desist from employing any practice making the sale gasoline contingent upon the purchase of another service, charging for services by means of a fee computed on a cents per gallon basis, or charging a fee to dispense gasoline.

C. With respect to posting requirements:

1. Properly post the maximum lawful selling price or certification; and

2. Rollback the maximum lawful selling price for failure to post.

For further information regarding these Consent Orders, please contact Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, telephone number 214/767-7745.

Firm's Name, Address, and Date of Consent Order

Jimmy Doirno, Sr. d.b.a., Jimmy's Texaco, Inc., P.O. Box 281, Morgan City, La. 70380—Dec. 4, 1979

Kenneth LeBlanc, d.b.a., LeBlanc's Gulf Service 2301 Johnston Street, Lafayete, La. 70503—Dec. 5, 1979

Don & Tracy Viming d.b.a. Fairview Texaco, Inc. 112 Hendricks Street Patterson, La. 70392—Dec. 10, 1979

Louis Nassons d.b.a. Louis' Exxon 421 East Bridge Street St. Martinville, La. 70582—Dec. 27, 1979

Andy Anderman & Ponce Cheramie, d.b.a. Andy Anderman, Inc. 1118 Highway 90 East Morgan City, La. 70380—Dec. 31 1979

Dulane Wilthels, d.b.a. Sibley Road Texaco 1403 Sibley Road Minden, La. 71055—Dec. 11 1979

Howard R. Hosea d.b.a. I-20 Texaco I-20 & Cookton Road Ruston, La. 71270—Dec. 26, 1979

J.R. Davis d.b.a. Mobil Service Center 1601 N. Market Shreveport, La. 71107—Dec. 26, 1979

Sam's 66 Service P.O. Box 73 Pond Creek, Okla. 73766—Dec. 4, 1979

C. Kirkpatrick d.b.a. Kirkpatrick Standard Service 5535 West Skelly Drive. Tulsa, Okla. 74107—Dec. 10, 1979

Larry West d.b.a. Larry's Texaco I-40 & H'way 58 Hydra, Okla. 73043—Dec. 12, 1979

Hedges Service Station 1102 Main Street Woodward, Okla. Dec. 12, 1979

Bilbrey's Texaco I-40 & Route 152 Sayre, Okla. 73662—Dec. 12, 1979

James Murray d.b.a. Friendly's Service 327 North Muskogee Ave. Tahlequah, Okla. Dec. 12, 1979

Eddie A. Fielden d.b.a. Ed's Interstate Service I-40 & State H'way 2 Warner, Okla. Dec. 12, 1979

Mac's Skelly 49 South Mill Pryor, Okla. 74361—Dec. 20, 1979

McDowell's 66, 922 W. Okmulgee, Muskogee, Okla. 74401—Dec. 20, 1979

Sander's Texaco #2, 332 S. 32nd, Muskogee, Okla. 74401—Dec. 20, 1979

McGuire's Exxon 2800 Fort Sill Blvd. Lawton, Okla. 73501—Dec. 20, 1979

Bob Biffle 66 404 East Main St. Duncan, Okla. 73533—Dec. 20, 1979

Howell Exxon 1501 West Lee Blvd. Lawton, Okla. 73501—Dec. 20, 1979

Graham's Conoco 127 North 3rd Chickasha, Okla.—Dec. 28, 1979

Warren Bowers d.b.a. The Store P.O. Box 267 Batesville, Tx 78827—Dec. 18, 1979

Lutz's Shell 9390 Forest Lane Dallas, Tx.—Dec. 11, 1979

T & H CAR Wash 1001 Hall St. Dallas, Tx. 75204—Dec. 12, 1979

Abilene Mall Exxon 4202 Bufford Gap Road Abilene, Tx. 79605—Nov. 29, 1979

Zybra's Exxon 12260 Inwood Road Dallas, Tx. 75234—Nov. 30, 1979

English Exxon 104 North Pacific Mineola, Tx. 75773—Dec. 18, 1979

Hall & Terry Mobil P.O. Box 98 Lindale, Tx. 75771—Dec. 18, 1979

Jimmie's Texaco P.O. Box 624 Lindale, Tx. 7571—Dec. 18, 1979

Lee's Exxon 1917 S. 16th St. Longview, Tx. 76802—Dec. 20, 1979

Heard's Texaco 203 H'way 64 (Box 119) Canton, Tx. 75103—Dec. 21, 1979

Peel Mobil 302 E. Dallas St. Canton, Tx. 75103—Dec. 21, 1979

Furr's Inc. d.b.a. Handy Hut, P.O. Box 1650, Lubbock, Tx. 79416—Dec. 13, 1979

Richland Hills Texaco, 1914 American Blvd., Muleshoe, Tx. 79347—Dec. 5, 1979

Loy Dominguez d.b.a. First Street Conoco 106 E. American Blvd. Muleshoe, Tx. 79347—Dec. 5, 1979

Carl Grenwelge 903 N. Main St. Winters, Tx. 79567—Dec. 5, 1979

Rito's Exxon 152 N. Main Winters, Tx. 79562—Dec. 5, 1979

MacHann Exxon 1108 Hutchings Ballinger, Tx. 76821—Dec. 6, 1979

Ed Ziegenfus d.b.a. Southside Gulf 502 S. First Muleshoe, Tx. 79347—Dec. 14, 1979

Nino Sagado d.b.a. Nino's Gulf 310 S. Main Monahans, Tx. 79756—Dec. 18, 1979

T. Gardin d.b.a. East Sealy Shell 101 E. Sealy Monahans, Tx. 79756—Dec. 18, 1979

J.E. Coles d.b.a. Cole's Chevrolet 6th Street and Drake Iraan, Tx. 79744—Dec. 21 1979

Ken Pearce d.b.a. Perfect Car Wash 820 10th Street Alamogordo, N.M. 88310—Nov. 29, 1979

Nick Dorame d.b.a. Nick's Texaco H'way 54 & 70 South Tularosa, N.M. 88352—Nov. 30, 1979

J.D. James d.b.a. James' Exxon 907 4th Street Tularosa, N.M. 88352—Nov. 30, 1979

University Texaco 1131 W. 2nd Street Portales, N.M. 88130—Dec. 6, 1979

R. Kelly d.b.a. Kelly's 66 21st & Prince Clovis, N.M. 88101—Dec. 5, 1979

C.H. Cobb d.b.a. B & C Conoco 801 Elbe Ave. Portales, N.M. 88130—Dec. 6, 1979

Pergeson & Sons Exxon 201 N. Chicago St. Portales, N.M. 88130—Dec. 6, 1979

Marshall's Texaco, 2000 E. 66 Ave., Gallup, N.M. 87301—Dec. 3, 1979

M.E. Hobb d.b.a. Hobb's Exxon, 1001 W. 2nd St., Portales, N.M. 88130—Dec. 6, 1979

J. Vourazevis d.b.a. Del Norte Chevron 4401 San Mateo Albuquerque, N.M. 87104—Dec. 17, 1979

J. Guess d.b.a: Guess Exxon 120 N. Gold Deming, N.M. 88030—Dec. 5, 1979

J.E. Gilmore d.b.a. Gilmore Chevron P.O. Box 454 Deming, N.M. 88030—Dec. 6, 1979

E. Guevara d.b.a. Guevara Chevron 628 E. Lohman Las Cruces, N.M. 88001—Dec. 7, 1979

Chet Brown d.b.a. Hill Top Exxon H'way 180 East Silver City, N.M. 88061—Dec. 6, 1979

Gruz Torres d.b.a. Torres Conoco 608 N. Bayard Central, N.M. 88023—Dec. 6, 1979

J. Madrid d.b.a. Jerry's Chevron 321 W. 2nd Portales, N.M. 88130—Dec. 12, 1979

Issued in Dallas, Texas this 16th day of January, 1980.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 80-2414 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

Eugene Scott, d.b.a. Scott's Service; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Scott's Service, 401 NW. 23rd Street, Oklahoma City, Oklahoma 73103. This Proposed Remedial Order charges Scott's Service with failure to make records available for inspection upon request by ERA, a violation of 10 CFR 210.92(b), with failure to either post the maximum lawful selling price or certification, a violation of 10 CFR 212.129(b) and with pricing violations in the amount of $494.84, connected with the sale of certain grades of gasoline at prices in excess of the maximum lawful selling price for those grades of gasoline in violation of 10 CFR 212.93. A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745.

On or before February 11, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW. Washington, D.C. 20461, in accordance with 10 CFR 105.193.

Issued in Dallas, Texas on the 16th day of January, 1980.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 80-2407 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

George Moreland, d.b.a., George Moreland General Merchandise; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to George Moreland General Merchandise, Rt. 1, Box 4, Roland, Arkansas 72135. This Proposed Remedial Order charges George Moreland General Merchandise with failure to properly maintain required records, a violation of 10 CFR 210.92 and 212.93, with failure to either post the maximum lawful selling price or certification, a violation of 10 CFR 212.129(b) and with pricing violations in the amount of $736.63, connected with the sale of certain grades of gasoline at prices in excess of the maximum lawful selling price for those grades of gasoline in violation of 10 CFR 212.93.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745. On or before February 11, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 105.193.

Issued in Dallas, Texas on the 16th day of January, 1980.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 80-2411 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

John Parker, d.b.a. Triangle Texaco; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Triangle Texaco, Highways 81 and 66 South, El Reno, Oklahoma 73036. This Proposed Remedial Order charges Triangle Texaco with failure to either post the maximum lawful selling price or certification, a violation of 10 CFR 212.129(b) and with pricing violations in the amount of $172.96, connected with the sale of certain grades of gasoline at prices in excess of the maximum lawful selling price for those grades of gasoline in violation of 10 CFR 212.93.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745. On or before February 11, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street NW., Washington, D.C. 20461, in accordance with 10 CFR 105.193.

Issued in Dallas, Texas on the 16th day of January, 1980.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 80-2410 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

J. E. Robertson, d.b.a., Robertson's Mobil; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Robertson's Mobil, 4420 S. Robinson, Oklahoma City, Oklahoma 73109. This Proposed Remedial Order charges Robertson's Mobil with failure to properly maintain required records, a violation of 10 CFR 210.92 and 212.93, with failure to either post the maximum lawful selling price or certification, a violation of 10 CFR 212.129(b) and with pricing violations in the amount of $391.46, connected with the sale of certain grades of gasoline at prices in excess of the maximum lawful selling price for those grades of gasoline in violation of 10 CFR 212.93.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745.

On or before February 11, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 105.193.

Issued in Dallas, Texas on the 16th day of January, 1980.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 80-2409 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 65006-9085-21-22; Docket No. ERA-FC-79-003a]

Modesto Irrigation District; Availability of Tentative Staff Determination

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Availability of Tentative Staff Determination.

SUMMARY: On June 19, 1979, Modesto Irrigation District (Modesto) petitioned the Economic Regulatory Administration (ERA) of the Department of Energy for a permanent peakload powerplant

exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act), which prohibits the use of petroleum or natural gas in new powerplants. Modesto plans to install a 49,900 KW oil-or gas-fired combustion turbine unit and certifies that the unit will be operated solely as a peakload powerplant and will be operated only to meet peakload requirements for the life of the plant. ERA accepted the petition relating to the use of petroleum on October 3, 1979, and published notice of its acceptance in the **Federal Register** on October 11, 1979 (44 FR 58776). Publication of the notice of acceptance commenced a 45-day public comment period pursuant to section 701 of FUA. Interested persons were also afforded an opportunity to request a public hearing. The comment period ended November 26, 1979. No Comments were submitted. No hearing was requested.

ERA's staff has reviewed the information presently contained in the record of this proceeding. A Tentative Staff Determination has been made which recommends that ERA issue an order which would grant the permanent peakload powerplant exemption to use petroleum in the proposed combustion turbine unit. A copy of the Tentative Staff Determination is available from the Office of Public Information at the address listed below.

ERA will issue a final order granting or denying the petition for a peakload powerplant exemption from the prohibitions of the Act within six months after the public comment period has expired unless ERA extends such period. Notice of any extension will be published in the **Federal Register** together with a statement of the reasons for such extension.

DATE: Written comments on the Tentative Staff Determination are due on or before February 8, 1980.

ADDRESSES: Fifteen copies of written comments shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street NW, Washington, D.C. 20461. Docket Number ERA–FC–79–003a should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW, Room B–110, Washington, D.C. 20461, Phone (202) 634–2170;

Louis T. Krezanosky, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW, Room 3128, Washington, D.C. 20461, Phone (202) 254–9840; and

Marx M. Elmer, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW, Room 6G–067, Washington, D.C. 20585, Phone (202) 252–2967.

SUPPLEMENTARY INFORMATION: Modesto Irrigation District (Modesto) plans to install a 49,900 KW No. 2 oil-or gas-fired combustion turbine unit to be known as McClure Station Unit 1 at its facility located in Modesto, California (McClure 1). The new unit is expected to consume approximately 97,714 barrels of No. 2 fuel oil per year (288 bbl/s day). Commercial operation is scheduled for May, 1980.

The Economic Regulatory Administration (ERA) published interim rules on May 15 and 17, 1979 (44 FR 28530, 28950) to implement provisions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act). FUA prohibits the use of natural gas or petroleum in certain new major fuel burning installations and powerplants unless an exemption for such use has been granted.

A prepetition conference was held in Washington, D.C. at Modesto's request on May 15, 1979. On June 19, 1979, Modesto petitioned ERA for a permanent peakload powerplant exemption from the prohibitions of the Act to use oil in McClure 1.

Modesto submitted a sworn statement dated August 6, 1979, by Mr. M. N. Bennett, Chief Administrative Officer, as required by 10 CFR Part 503.41(b)(1). In his statement, Mr. Bennett certifies that McClure 1 will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant. He also certifies that the maximum design capacity of McClure 1 is 49,900 KW and that the maximum generation that will be allowed during any 12 month period is the design capacity multiplied by 1,500 hours or 74,850,000 Kwh. Modesto also furnished the information required by 10 CFR Parts 502.11 (Petroleum and natural gas consumption), 502.12 (Conservation measures), and 502.13 (Environmental impact analysis).

Staff Determination

On the basis of Modesto's sworn statement and the information provided, the staff recommends that ERA should grant the requested exemption.

On the basis of the Department of Energy's (DOE) independent analysis of environmental information submitted by Modesto, DOE has concluded that no significant environmental impacts will occur as a result of the granting of this exemption.

Terms and Conditions

Section 214(a) of the Act gives ERA the authority to attach terms and conditions to any order granting an exemption. Based upon information submitted by Modesto and upon the results of the staff analysis, the staff of ERA has tentatively determined and recommends that any order which would grant the requested peakload powerplant exemption should, pursuant to section 214 of the Act, include the following terms and conditions:

A. McClure 1 shall be constructed with the capability to burn natural gas, alcohol and synthetic distillate oil as its primary energy source.

B. If DOE finds that there is an available supply of alcohol or synthetic oil derived from coal, or other alternate fuel or fuel mixtures suitable for use in McClure 1 and provided that the cost of using such alternate fuel does not substantially exceed the cost of using imported petroleum, this exemption shall be subject to termination.

C. Modesto shall investigate and report to ERA within thirty days from the date of any order granting the exemption, the technical and economic feasibility of installing a regenerative combustion turbine and/or heat exchange equipment designed to increase the heat rate efficiency of McClure 1. If ERA determines that the installation of such equipment is practicable, Modesto shall be required to install such equipment.

D. Modesto shall comply with the reporting requirements of § 503.41(e) of ERA's interim rules.

E. Modesto shall submit to ERA an acceptable compliance plan, which plan shall include a complete description of system wide energy conservation measures or practices (including a recommended schedule for their implementation) as Modesto deems to be cost effective. The compliance plan shall be submitted within thirty days from the date of any order granting the exemption. Such order shall not take effect until ERA has approved, in writing, the compliance plan submitted by Modesto, or earlier than the 60th calendar day after publication of the order in the **Federal Register**, whichever occurs later.

The Tentative Staff Determination does not constitute a decision by ERA to grant the exemption requested. Such determination will be made in accordance with § 501.66 of the interim rules on the basis of the entire record of this proceeding, including any comments received on the Tentative Staff Determination.

Issued in Washington, D.C. on January 21, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-2412 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

Richard Manzzanti, d.b.a., Joe's Truck Stop; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Joe's Truck Stop, Route 1, Box 223, Lake Village, Arkansas 71656.

This Proposed Remedial Order charges Joe's Truck Stop with failure to properly maintain required records, a violation of 10 CFR 210.92 and 212.93, with failure to either post the maximum lawful selling price or certification, a violation of 10 CFR 212.129(b) and with pricing violations in the amount of $693.91, connected with the sale of certain grades of gasoline at prices in excess of the maximum lawful selling price for those grade of gasoline in violation of 10 CFR 212.93.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, Texas 75235, phone 214/767–7745. On or before February 11, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 105.193.

Issued in Dallas, Texas on the 10th day of January, 1980.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 80-2408 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

Phoenix Resources Co., as Successor to King Resources Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Admninistration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on the Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in a special account established pursuant to the Consent Order.

DATES: Effective date: January 14, 1980.

COMMENTS BY: February 25, 1980.

ADDRESS: Send comments to: Kenneth E. Merica, District Manager of Enforcement, Rocky Mountain District, Department of Energy, P.O. Box 26247—Belmar Branch, Lakewood, Colorado 80226.

FOR FURTHER INFORMATION CONTACT: Kenneth E. Merica, District Manager of Enforcement, Rocky Mountain District, Department of Energy, 1075 South Yukon Street, P.O. Box 26247—Belmar Branch, Lakewood, Colorado 80226, telephone 303/234–3195.

SUPPLEMENTARY INFORMATION: On December 14, 1979, the Office of Enforcement of the ERA executed a Consent Order with Phoenix Resources Company (Phoenix) of Oklahoma City, Oklahoma. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because of the complex settlement negotiations in this case and the necessity to conclude this matter simultaneously with other proceedings associated with this Consent Order, as well as the concern to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with Phoenix effective as of the date of termination of proceedings before the Federal Energy Regulatory Commission (FERC) in Docket RO–79–4. In Docket RO–79–4, Phoenix is contesting an April 11, 1979 Remedial Order of the DOE issued to Phoenix's predecessor, King Resources Company (King). That Order is currently stayed pending review before FERC, and is superceded by this Consent Order.

I. The Consent Order

Phoenix, with its home office located in Oklahoma City, Oklahoma is a firm engaged in the production of crude oil, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought against Phoenix by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of crude oil sales, the Office of Enforcement, ERA, and Phoenix entered into a Consent Order, the significant terms of which are as follows:

1. Phoenix is a "producer" as defined by 6 CFR 150.352 and 10 CFR 212.31 and is an operator of crude oil producing properties located in Oklahoma and Texas.

2. The period covered by the audit was December 1973 through December 1975.

3. Phoenix's pricing of crude oil sales was continuously controlled under CLC regulations (6 CFR, 150.1 *et seq.*) and successor regulations (10 CFR 212.1 *et seq.*) during the period of audit.

4. In order to expedite resolution of the disputes involved, the DOE and Phoenix have agreed to a settlement in the amount of $105.772.64. The negotiated settlement was determined to be in the public interest.

5. The provisions of 10 CFR, 205.199J, including publication of this Notice, are applicable to the Consent Order.

6. Refund of the agreed settlement amount is discussed in Section II below.

II. Disposition of Refunded Overcharges

In this Consent Order, Phoenix agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the regulatory violations described in the Remedial Order in Case No. DRO–0101 before the Office of Hearings and Appeals of the DOE, the sum of $105,772.64 in four (4) equal installments with the final payment due 365 days from the effective of the Consent Order. Refunded overcharges will be in the form of certified checks made payable to the United States Department of Energy, each in the amount of $26,443.16, and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211. 67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which

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case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199l(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Kenneth E. Merica, District Manager of Enforcement, Rocky Mountain District, Department of Energy, P.O. Box 26247—Belmar Branch, Lakewood, Colorado 80226. You may obtain a free copy of this Consent Order by writing to the same address or by calling 303/234–3195.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Phoenix Consent Order." We will consider all comments we receive by 4:30 p.m., local time, February 25, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Lakewood, Colorado on the 14th day of January 1980.

Kenneth E. Merica,

District Manager of Enforcement.

Concurrence:

Charles F. Dewey,

Regional Counsel.

[FR Doc. 80-2415 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Special Counsel for Compliance

Getty Oil Co.; Proposed Remedial Order

AGENCY: Department of Energy.

ACTION: Notice of Proposed Remedial Order to Getty Oil Company and Opportunity for Objection.

Pursuant to 10 CFR 205.192(c) the Office of Special Counsel for Compliance of the Economic Regulatory Administration (ERA), Department of Energy, hereby gives notice that a Proposed Remedial Order to Getty Oil Company (Getty) was issued on December 5, 1979, to Harold E. Berg, President, Getty Oil Company, 3810 Wilshire Boulevard, Los Angeles, California 90010.

By this Proposed Remedial Order, the Office of Special Counsel alleges that Getty has violated provisions of the Mandatory Petroleum Price Allocation Regulations (39 FR 744, January 2, 1974). As set forth in the findings of fact and conclusions of law of the Proposed Remedial Order, Getty allegedly reported increased product costs attributable to the production of natural gas liquids and natural gas liquid products for the period September 1973 through January 1977 in excess of those permitted under a proper application of the regulations in an amount of not less than $3,522,704.88.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained by written request from: Milton Jordan, Director, Division of Freedom of Information, and Privacy Act Activities, Forrestal Building, Room GB–145, 1000 Independence Ave., SW., Washington, D.C. 20583. Attn: George W. Young, Jr.

In accordance with the provisions of 10 CFR 205.193 any aggrieved person may file a Notice of Objection to the Proposed Remedial Order on or before February 11, 1980. Such Notice shall be filed with: Office of Hearings and Appeals, Department of Energy, Room 8114, 2000 M Street NW., Washington, D.C. 20461.

Copies of the Proposed Remedial Order may be obtained in person from: Office of Freedom of Information, Reading Room, Forrestal Building, Room GA–152, 1000 Independence Ave. SW., Washington, D.C. 20585.

Issued in Washington, D.C. January 10, 1980.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 80-2416 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

Gulf Oil Corp.; Consent Order

AGENCY: Department of Energy.

ACTION: Notice of Proposed Consent Order and Opportunity for Public Comment.

SUMMARY: Pursuant to 10 CFR 205.199J, the Office of Special Counsel (OSC) of the Department of Energy hereby gives notice that it entered into a Consent Order with the Gulf Oil Corporation on November 21, 1979. The Consent Order addresses Gulf's allocation and recovery of increased product costs to unleaded gasoline for the period October 22, 1974 through October 31, 1976. In the Consent Order Gulf agrees to make refunds to identifiable customers, as well as to make a refund to the marketplace through a price reduction at Gulf's company operated service stations. The total amount of the refund is $10,457,705.00. Interest paid to date on the refunded amount is $1,280,547. In addition, Gulf agreed to pay the sum of $100,000.00 in compromise and settlement of all civil claims, which may arise against Gulf by reason of the alleged violation of DOE regulations settled by the terms of this Consent Order. As required by 10 CFR 205.199J, OSC will receive comments concerning the Consent Order for a period of at least 30 days following publication of this notice. Although the Consent Order has been signed and accepted by the parties, OSC may, after consideration of the comments received, withdraw its acceptance to the Consent Order, attempt to negotiate a modification of the Consent Order, or make the Consent Order final as proposed.

COMMENTS AND FURTHER INFORMATION: Comments received on or before February 25, 1980, will be considered. Comments and questions concerning the Consent Order should be addressed to:

Elizabeth D. Sampath, Esquire, Department of Energy, Office of Special Counsel, 1421 Cherry Street, Philadelphia, PA 19102.

Copies of the Consent Order may be received by written request at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, S.W., Room GA–152.

SUPPLEMENTARY INFORMATION: The Gulf Oil Corporation is a refiner subject to the refiner pricing regulations of 10 CFR 212.83. These regulations are used to determine, among other things, the proper measurement of product and non-product costs that a refiner is permitted to pass through in its sales of covered products.

For the period October 22, 1974 through October 31, 1976, OSC alleges that Gulf allocated one-half cent (.005) more of the available increased costs to unleaded gasoline than it allocated to the regular and premium grades of gasoline. OSC alleges that such action was inconsistent with the refiner price rule provisions at § 212.83(c)(1)(i) as well as § 212.83(c)(2)(i) applicable during this period of time. However, OSC and Gulf have found it possible to resolve this matter through the Consent Order as executed with Gulf.

The Consent Order

The significant terms of the Consent Order are as follows:

1. Gulf will refund directly to those identifiable customers who purchased unleaded gasoline from Gulf during the period of time in question, an amount equal to the additional revenue received from each such customer due to the $.005 per gallon increment collected on unleaded gasoline, plus interest. OSC is aware that Gulf began a refund of $.005 per gallon to certain identifiable customers who purchased unleaded gasoline between October 22, 1974 and October 31, 1976.

2. Gulf has made a refund to the marketplace by a reduction in prices for unleaded gasoline at a minimum of one cent ($.01) per gallon and a maximum of two cents ($.02) per gallon to those customers who are non-identifiable. Such non-identifiable customers consist almost exclusively of purchasers of Gulf's company-operated service stations. The price reductions in the United States were commenced on November 3, 1977 and were maintained until January 27, 1978. The price reductions in Puerto Rico commenced on September 1, 1978 and were maintained until January 21, 1979.

3. An interest factor of 12.245% was utilized in calculating the total interest payment for the non-identifiable customers as a group. The 12.245% interest factor was the result of dividing the total accrued interest as of August 21, 1977 by the refund increment.

4. Interest for the period from August 22, 1977 to January 31, 1978 will be computed monthly at the rate of seven percent (7%) on the balance of the refund increment remaining at the end of each month. Interest for the period February 1, 1978, to the date the refund is made will be computed at the rate of six percent (6%) on the balance of the refund increment remaining at the end of the month.

5. Gulf hereby offers and OSC accepts on behalf of the United States the Sum of One Hundred Thousand and No/100 Dollars ($100,000.00) in compromise and settlement of all penalty claims of the United States which may arise against Gulf by reason of the alleged violations of DOE regulations settled by the terms of the Consent Order.

6. The provisions of 10 CFR § 205.199J, including the publication of this Notice are applicable to this Consent Order.

Submission of Written Comments

Interested persons are invited to comment on this Consent Order by submitting such comments in writing to the address noted above. Comments should be identified on the outside of the envelope and on documents submitted with the designation "Comments on the Gulf Unleaded Consent Order." All comments received by 4:30 PM EDT on February 25, 1980 will be considered in evaluating the Consent Order. Modifications of the Consent Order, which in the opinion of OSC, significantly change the terms or impact of the Consent Order will be published for comment.

Any information on data which, in the opinion of the person furnishing it, is confidential must be identified as such and submitted in accordance with the procedures of 10 CFR § 205.9(f).

Issued in Washington, D.C., January 14, 1980.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 80-2417 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

Corrections: To January 21, 1980, publication (Vol. 45, No. 14)

On Page 3949, Section I. Alternative Fuel Price Ceilings, the prices for three states should have been the following:

Arkansas	[1] 2.72
Maryland	[1] 2.97
Virginia	2.87

[1] Region-based price.

Issued in Washington, D.C. on January 22, 1980.

Albert H. Linden, Jr.,

Deputy Administrator, Energy Information Administration.

[FR Doc. 80-2543 Filed 1-24-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1399-2; PF-163]

Thompson-Hayward Chemical Co.; Filing of Pesticide and Feed Additive Petitions

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA, or the Agency).

ACTION: Notice of filing.

SUPPLEMENTARY INFORMATION: EPA gives notice that the following petitions have been submitted to the Agency for consideration.

PP OF2282. Thompson-Hayward Chemical Co., PO Box 2383, Kansas City, MO 66110. Proposes that 40 CFR 180.236 be amended by establishing tolerances for residues of the fungicide triphenyltin hydroxide in or on the following raw agricultural commodities:

Commodity:	Part per million
Eggs	0.05
Milk	0.05
Meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep	0.05
Soybean seeds	0.05

The proposed analytical method for determining residues is spectrophotometry or polarographic analysis for inorganic tin.

FAP OH5242. Thompson-Hayward Chemical Co. Proposes that 21 CFR 561 be amended by permitting residues of the above fungicide in or on the animal feed soybean processed-fraction soapstock at 0.15 ppm.

COMMENTS/INQUIRIES: Comments may be submitted, and inquiries directed, to Product Manager (PM/21), Mr. Henry Jacoby, Room E-305, Registration Division (TS-767). Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/755–2562. Comments submitted should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while the petition is pending before the Agency. Written comments filed in connection with this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Secs. 408(d)(1), and 409(b)(5), Federal Food, Drug, and Cosmetic Act)

Dated: January 21, 1980.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 80-2435 Filed 1-24-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1398-8; OPTS-51017]

Receipt of Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA, or the Agency).

ACTION: Receipt of a premanufacture notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. (§) 5(d)(2) requires EPA to publish a summary of each PMN in the **Federal Register**. This Notice announces receipt of a PMN and provides a summary.

DATE: Persons who wish to file written comments on a PMN should submit their comments no later than 30 days before the applicable notice review period ends.

ADDRESS: Written comments should bear the PMN number "5AHQ–1279–0087" and should be submitted in triplicate to the Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, EPA, 401 M Street, SW, Washington, D.C. 20460.

Nonconfidential portions of the PMN and other documents in the public record are available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Room E–447 at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Smith, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, EPA, Washington, D.C. 20460, telephone: 202/426–8816.

SUPPLEMENTARY INFORMATION: § 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under § 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. (Notice of availability of the Initial Inventory was published in the **Federal Register** on May 15, 1979 (44 FR 28558)). The requirement to submit a PMN for new chemical substances manufactured or imported for a commercial purpose became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms (44 FR 2242, January 10, 1979). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy (44 FR 28564, May 15, 1979) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see the section entitled "Notice in the **Federal Register**" on p. 28567 of the Interim Policy.

A PMN must include the information listed in § 5(d)(1) of TSCA. Under § 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under § 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the § 5(d)(2) notice is subject to § 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a non-confidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the **Federal Register**.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures. EPA normally has 90 days to review a PMN once the Agency receives it (§ 5(a)(1)). The § 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under § 5(c), EPA may for good cause extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under § 5(a)(1)(A).

(Sec. 5, Toxic Substances Control Act (90 Stat. 2012; (15 U.S.C. 2604))

Dated: January 21, 1980.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

PMN No.: 5AHQ–1279–0087.

Close of Review Period: March 17, 1980.

Manufacturer's Identity: The manufacturer's identity is claimed confidential. The submitter has total annual sales of between $100,000,000 and $499,000,000. It intends to produce the new chemical substance at a plant in the eastern south-central region of the country. The initial usage will be at several locations all internal to the company. The Standard Industrial Classification Code is 2851, "Paint and Varnish Manufacturer".

Specific Chemical Identity: Claimed confidential. Generic name; Polyacrylate.

Uses: The manufacturer claims specific use to be confidential. However, it has indicated that the substance is for industrial uses only.

Data: Exposure/Environmental Release:

Activity and type of exposure	Exposure route	Maximum number persons exposed	Maximum duration		Concentration	
			Hour/day	Day/year	Average	Peak
During production:						
Occupational	Dermal	3	.25	30	0–1 mg/m³	0–1 mg/m³.
Environmental Release:						
Air—No emissions.						
Water—No emissions.						
Physical states of the new chemical substance to which workers may be exposed: Solid or liquid.						
During processing:						
Occupational	Dermal	5	.5	60	1–10 mg/m³	10–100 mg/m³.
Environmental Release:						
Air—No emissions.						
Water—No emissions.						
Physical states of the new chemical substance to which workers may be exposed: Solid or liquid.						
During Use:						
Occupational	Dermal	3	4	250	0–1 mg/m³	10–100 mg/m³.
	Inhalation	1	8	250	0–1 mg/m³	0–1 mg/m³.
Environmental Release	Air		8	250	Less than 10 kg/yr (<0.01 gal/d).	

Physical states of the new chemical substance to which workers may be exposed:
Dermal route-solid or liquid.
Inhalation route-mist.
During disposal:
Environmental release: 1,000–10,000 kg/yr to landfill in sealed containers.

Test Data: The submitter did not provide any test data. The company indicated that it believes the new product has no deleterious effects on health or environment.

[FR Doc. 80–2434 Filed 1–24–80; 8:45 am]

BILLING CODE 6560–01–M

[OPP–180407; FRL 1399–7]

Georgia Department of Agriculture; Issuance of Specific Exemption To Use Etheprop on Okra To Control Root-knot Nematodes

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the Georgia Department of Agriculture (hereafter referred to as the "Applicant") to use etheprop (Mocap EC) on 1,000 acres of okra to control the root-knot nematode complex in seven counties in Georgia. The specific exemption expires on May 31, 1980.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street SW., Room: E–124, Washington, D.C. 20460, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting the EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, the root-knot nematode complex is a serious problem in the light sandy soils where okra is grown in Georgia. The pest can generally be controlled with a single pre-plant or at-planting application of a nematocide. The Applicant reports that specialized application equipment allows for pesticide treatment and planting at the same time and was devised for use with DBCP (1,2-dibromo-3-chloropropane), the traditional pesticide used. DBCP was cancelled on October 29, 1979 (44 FR 65135). There are currently two pesticides registered for use on okra. They are EDB (ethylene dibromide) and 1,3-dichloropropene. Both of these chemicals carry a waiting period between pesticide application and planting. In addition, registration of EDB was presumed against on December 14, 1977 (42 FR 63134), because of possible oncogenicity, mutagenicity, and reproductive effects. For this reason, the Applicant will not consider EDB as an alternative. EDB and 1,3-dichloropropene have not been used in this area due to labor costs involved in having to apply the pesticide and then having to return to plant the okra at a later date, the Applicant reports. The Applicant submitted data indicating that Mocap will control the root-knot nematode complex.

The Applicant states that 40–50 percent of the okra crop will be lost without the use of Mocap EC which contains the active ingredient etheprop. The loss on acreage proposed for treatment would come to $300,000, according to the Applicant.

The Applicant proposed to use a maximum of 10,000 pounds of Mocap EC (EPA Reg. No. 2224–44) on 1,000 acres in Brooks, Colquitt, Decatur, Earla, Grady, Mitchell, and Thomas Counties.

EPA has determined that residues of etheprop in or on okra from the proposed use are not expected to exceed 0.05 part per million (ppm). This residue level has been judged adequate to protect the public health. EPA has also determined that the program should not pose an undue hazard to the environment.

After reviewing the application and other available information, EPA has determined that: (a) a pest outbreak of root-knot nematodes has occurred or is likely to occur; (b) there is no effective, practical pesticide presently registered and available for use to control the root-knot nematode complex in Georgia; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic problems may result if the root-knot nematode complex is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until May 31, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Mocap EC is to be applied in accordance with the labeling submitted by the Applicant on October 30, 1979;

2. Mocap EC is to be applied at a rate of up to 1⅝ gallons (10 pounds etheprop) per acre;

3. Application is to take place between March 1, and May 31, 1980;

4. Application is to be made by State-certified applicators or by persons under their direct supervision;

5. A maximum of 1,000 acres of okra may be treated;

6. Mocap EC is toxic to fish, birds, and other wildlife. It must be kept out of lakes, streams, or ponds. Care must be taken to prevent contamination of water by the cleaning of equipment or disposal of wastes;

7. The Applicant is responsible for ensuring that residue data, resulting from the proposed use pattern, are gathered for levels of etheprop in or on okra and that the data are submitted to EPA;

8. Okra treated according to the above provisions should not have residues of etheprop in excess of 0.05 ppm. Okra with residues of etheprop which do not exceed this level may enter into interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

9. The EPA will be immediately informed of any adverse effects resulting from the use of Mocap EC in connection with this exemption; and

10. The Applicant is responsible for assuring that all provisions of this specific exemption are met and must submit a report summarizing the results of the program by August 31, 1980.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: January 21, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–3424 Filed 1–24–80; 8:45 am]

BILLING CODE 6560–01–M

[OPP–180403; FRL 1399–3]

Montana Department of Agriculture; Receipt of Application for Specific Exemption To Use Compound 1080 To Control Columbian Ground Squirrel; Solicitation of Public Views

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Receipt of application for specific exemption; solicitation of public views.

SUMMARY: EPA has received a request from the Montana Department of Agriculture (hereafter referred to as the "Applicant") for a specific exemption to use approximately 240 ounces of Compound 1080 (sodium monofluoroacetate) to control Columbian ground squirrel damage in nineteen counties in Montana. Comments must be received on or before February 25, 1980.

ADDRESS COMMENTS TO: Document Control Officer, Chemical Information Division (TS–793), Office of Pesticides and Toxic Substances, EPA, Room: 447, East Tower, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Emergency Reponse Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, Room: E–124, at the address given above, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, the Columbian ground squirrel (*Spermophilus columbianus*) is a particularly devastating pest of agricultural land, pasture and rangeland. The Applicant reports that other pesticidal and nonpesticidal techniques have not given adequate control of this pest. Economic losses for 1980, as a result of the borrowing and feeding habits of the Columbian ground squirrel, are estimated by the Applicant at $1,091,557 without an adequate control program.

Last year the Applicant received a specific exemption to treat 70,831 acres in the counties of Broadwater, Flathead, Granite, Lake, Lewis and Clark, Lincoln, Mineral, Powell, Ravalli, Sanders, and Silver Bow. The Applicant reported that because of weather and manpower limitations approximately 52,000 acres were actually treated, and that an emergency condition still exists in the 18,000 acres which were not treated in the twelve counties. Additionally, the Applicant has requested treatment for Beaverhead, Deer Lodge, Glacier, Jefferson, Madison, Pondera, and Teton Counties.

The Applicant proposes to use Compound 1080 in a grain which would be applied by hand to each burrow by means of a calibrated dipper. Each dipper contains .16 oz. of grain bait, and only one dipper would be scattered near each active burrow entrance during the period of the specific exemption. It is estimated that 24,000 pounds of bait (240 ounces of technical grade sodium monofluoroacetate) would be needed. Each applicator would be trained in:

a. The biology and ecology of the Columbian ground squirrel;

b. Safe handling of the toxic grain baits;

c. Proper placement of the bait;

d. Consideration of environmental conditions before baiting is begun;

e. Necessary record keeping; and

f. Other competency standards.

Application would be made under the supervision of applicators trained by the Montana Department of livestock and licensed by the Applicant. Treatment would be made once in any area, and the application period would be from June 1 through August 10, 1980.

To prevent unreasonable hazard to the environment, the Applicant proposed to use Compound 1080 grain bait to control Columbian ground squirrels only in areas where they are causing damage to food crops, fiber crops, or range resources and not in situations where threatened and endangered animal species would be adversely affected. All bait will be handled and stored under controlled conditions. Compound 1080 will be applied only during seasons when Columbian ground squirrels are accepting grain, and the majority of the population is active above ground. The Applicant claimed that agricultural damage caused by Columbian ground squirrels was significantly reduced in nearly all areas of western Montana between 1948 and 1971 when 1080 grain bait was used for damage prevention and that no human fatalities or accidents occurred during this time period.

It should be noted that a rebuttable presumption exists against registration of rodenticide products containing Compound 1080 when applied by air or used above ground (see **Federal Register** of December 1, 1976, p. 52791); restrictions involving underground applications are not in question. However, no decision has yet been made by EPA as to appropriate regulatory action in this matter.

This notice does not constitute a decision by EPA on the application itself. It has been determined that this application raises questions of such importance that public notice and opportunity for public comment should be given. Accordingly, interested persons may submit written views on this subject to the Document Control Officer at the address given above. The comments must be received on or before February 25, 1980 and should bear the identifying notation OPP–180403. All written comments filed pursuant to this notice will be available for public inspection in the office of the Document Control Officer at the address given above, from 8:30 a.m. to 4 p.m. during normal business days.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: January 21, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-2425 Filed 1-24-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP–180405; FRL 1399–5]

Oregon Department of Agriculture; Issuance of Specific Exemption To Use Paraquat To Control Weeds in Peppermint Fields

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the Oregon Department of Agriculture (hereafter referred to as the "Applicant") to use either bis (methyl sulfate) or the dichloride salt of paraquat (1,1'-dimethyl-4,4'-bipyridinium ion) to control Italian ryegrass, common groundsel and other weeds in 15,000 acres of peppermint field located in the Willamette Valley and other areas in southern, central, and eastern Oregon. The specific exemption expires on March 31, 1980.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW, Room: E–124, Washington, DC 20460, Telephone: 202/426–0233. It is suggested that interested persons telephone before visiting the EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, the peppermint in western Oregon and in various other parts of the State is now grown under a non-tillage system as a cultural method to prevent the spread of *Verticillium* wilt. This has caused an extreme pressure from various kinds of weeds. The major weeds occurring during the dormant season of the peppermint are Italian ryegrass (*Lolium multiflorum*), common groundsel (*Senecio vulgaris*), and several other annual, biennial, and perennial weed species. These weeds, the Applicant stated, germinate in the fall, grow vigorously during the winter season, and overwhelm the emerging peppermint in the spring. Treatment to combat these weeds should be made while the peppermint is dormant.

Only three herbicides are presently registered for use on peppermint: terbacil, trifluralin, and diuron. According to the Applicant, none of these is adequate to control the pest weeds. Data submitted by the Applicant indicated that paraquat seems to be the only effective herbicide which can be used in a pest management system which relies exclusively on cultural methods for mint disease control.

The Applicant proposed to use a paraquat formulation on a maximum of 15,000 acres of dormant peppermint located mainly in the Willamette Valley of western Oregon; some of this acreage is also located in southern, central, and eastern Oregon. A total of 11,250 pounds of the active ingredient will be required. Applications of from 0.37 to 0.75 pound active ingredient (from 1.5 to 3 pints product) in 20 to 50 gallons of water will be made by ground equipment. Either State-licensed commercial applicators or growers who have qualified as private applicators will make the treatments.

The Applicant estimated that, without the use of paraquat, Oregon peppermint growers could lose between $2.25 million and $7.5 million. Hand labor can be used for the removal of certain perennial and biennial weeds when in sparse stands, but the ryegrass and groundsel cannot be economically removed by hand. In addition to the short-term economic impact of these weeds, another concern is the accumulation of millions of weed seeds in the soil to cause future problems.

EPA has determined that no detectable residues (<0.05 part per million) of paraquat are expected to occur in mint oil from this use. There does not appear to be any potential irreversible hazard to the environment as a result of this short-term use of paraquat. The use of paraquat in peppermint fields will not significantly increase the amount of residues in the total diet of man or domestic animals.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of various weeds in peppermint fields has occurred or is about to occur; (b) there is no pesticide presently registered and available for use to control these weeds in Oregon; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the weeds are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until March 31, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The products Ortho Paraquat CL, EPA Reg. No. 239–2186, or Ortho Paraquat, EPA Reg. No. 239–1994, may be used at a dosage rate of from 1½ to 3 pints product per 20 to 50 gallons of water/acre. If the high dosage rate is used, only a single application may be made. Two applications may be made at the low dosage rate. If an unregistered label is used, it must contain the identical applicable precautions and restrictions which appear on the registered label;

2. A maximum of 11,250 pounds active ingredient may be applied;

3. Applications may be made by either State-certified commercial or private applicators or persons under their direct supervision;

4. Application rates and procedures will be recomended by qualified Oregon State University Research and Extension agents;

5. A residue level of paraquat not exceeding 0.05 part per million in mint oil has been deemed adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

6. The fresh peppermint forage must be used only for the distillation of mint oil. The spent hay must not be fed to livestock;

7. All applicable directions, precautions, and restrictions on the EPA-registered label must be followed;

8. The EPA shall be immediately informed of any adverse effects resulting from the use of paraquat in connection with this exemption; and

9. A full report sumarizing the results of this program must be submitted to the EPA by the end of September, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: January 21, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–2166 Filed 1–24–80; 8:45 am]

BILLING CODE 6560–01–M

[OPP–180408; FRL 1399–6]

Oregon Department of Agriculture; Issuance of Specific Exemption To Use Fenvalerate To Control Pear Psylla in Pears

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the Oregon Department of Agriculture (hereafter referred to as the "Applicant") to use fenvalerate to control the pear psylla on a maximum of 23,500 acres of pears in the Hood River, Rogue River and Willamette Valleys in Oregon. The specific exemption expires on April 30, 1980.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW, Room: E–124, Washington, DC 20460, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting EPA headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, pear psylla, requiring constant control, is present in all pear orchards in Oregon. The adults winter in bark crevices or under leaves on the ground and start in early spring to lay pear-shaped yellow eggs around the buds. These hatch in two weeks into wingless nymphs which become adults in one month. There are normally three to five generations in a season. Summer eggs are laid on leaves or petioles. The nymphs cluster at axils and on undersides of leaves secreting their honeydew. The secretion covers foliage and fruits; sooty mold growing in this scars and blackens the fruit. The Applicant reports there can be partial defoliation, loss of vigor, and abnormal buds. The fruit is made unsightly and unfit for fresh market sale, the Applicant claims. According to the Applicant, processors will not buy russeted fruit because of the problems in peeling and/or contamination of the end product. Pear psylla is also the only know vector of the mycoplasma-induced disease called "Pear Decline" which results in reduced vigor of trees, diminished yields, and death of trees. According to the Applicant, no cultural or biological control methods are effective for control of pear psylla. The Applicant indicates that use of fenvalerate (cyano (3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate) is necessary to reduce pear psylla

densities to a level where in the summer they can be controlled with registered chemicals such as BAAM. The Applicant further states that use of fenvalerate should reduce the need for frequent applications of other materials next summer. The Applicant estimates that without adequate control of pear psylla a loss of over $2,115,000 could be experienced by Oregon pear growers.

The Applicant proposed to use Pydrin, manufactured by Shell Chemical Co., on up to 23,500 acres of pears, including those interplanted with apples. A maximum of 18,800 pounds of the active ingredient fenvalerate will be applied by either ground or air equipment.

EPA has determined that this use of fenvalerate should not result in residue levels exceeding 0.01 part per million (ppm) in or on pears or apples. Secondary residues in meat, fat, and meat byproducts should not exceed 0.02 ppm since the cover crops grown in treated orchards are not to be fed to livestock. EPA has judged these residue levels to be adequate to protect the public health. EPA has also determined that this program should not pose an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that (a) on outbreak of pear psylla has occurred; (2) there is no effective pesticide presently registered and available for use to control the pear psylla in Oregon; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic problems may result if the pear psylla is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until April 30, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Pydrin, EPA Reg. No. 201–401, may be applied at a rate of up to 0.4 pound active ingredient per acre per application. If an unregistered label is used, it must contain the identical applicable precautions and restrictions which appear on the registered label;

2. A maximum of two applications may be made during the dormant to the pre-bloom stages of pear tree development. Pear orchards that are interplanted with apple trees may be treated, provided applications are made prior to the bloom stage of development of both apple and pear trees;

3. Applications may be made with ground or air equipment;

4. Spray mixture volumes of 3–20 gallons will be applied by aircraft and 3–400 gallons with ground equipment. Pydrin may be applied in combination with water or a superior type oil;

5. A maximum of 23,500 acres may be treated;

6. All applications will be limited to commercial orchards;

7. All applications will be made by State-certified private or commercial applicators or persons under their direct supervision;

8. Precautions will be taken to avoid spray drift to non-target areas;

9. Pydrin is extremely toxic to fish and aquatic invertebrates. It must be applied with care in areas adjacent to any body of water. It may not be applied when weather conditions favor runoff or drift. It must be kept out of lakes, streams, and ponds. Care must be taken to prevent contamination of water by the cleaning of equipment or disposal of wastes;

10. Fenvalerate should not be applied any closer to fish-bearing waters than indicated in the chart below:

Application method and height	Aerial (10 ft.)			Ground (2 ft.)		
Application rate (lbs. A.I.).	.05	.1	0.2	0.05	0.1	0.2
Freshwater (distance in ft.).	1847	2779	3950	369	556	790
Saltwater (distance in ft.).	111	206	371	22	41	.74

The Applicant is warned that applications closer than those allowed in the above chart may result in fish and/or other aquatic organism kills;

11. Pydrin is highly toxic to bees exposed to direct treatment or residues on crops or weeds. The pesticide may not be applied or allowed to drift to weeds on which economically significant numbers of bees are actively foraging. Protective information may be obtained from the State Cooperative Agricultural Extension Service;

12. Pears and apples with residue levels of fenvalerate that do not exceed 0.01 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

13. The feeding or grazing of orchard cover crops shall be prohibited;

14. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed;

15. The Applicant is responsible for assuring that all the provisions of this specific exemption are met and must submit a report summarizing the results of this program by October 30, 1980; and

16. The EPA shall be immediately informed of any adverse effects resulting from the use of fenvalerate in connection with this exemption.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: January 21, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-2431 Filed 1-24-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP—180404; FRL 1399-4]

South Dakota Department of Agriculture; Receipt of Application for Specific Exemption To Use Compound 1080 To Control Blacktail Prairie Dog: Solicitation of Public Views

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Receipt of application for specific exemption; solicitation of public views.

SUMMARY: EPA has received a request from the South Dakota Department of Agriculture (hereafter referred to as the "Applicant") for a specific exemption to use approximately 55 pounds of Compound 1080 (sodium monofluroacetate) to control the blacktail prairie dog in all of the counties in South Dakota west of the Missouri River. Comments must be received on or before February 25, 1980.

ADDRESS COMMENTS TO: Document Control Officer, Chemical Information Division (TS–793), Office of Pesticides and Toxic Substances, EPA, Room 447, East Tower, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, Room E–124, at the address given above, Telephone: 202/426–0223. It is suggested that interested persons telephone before visting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, more than one million acres of rangeland in western South Dakota are infested with permanently established colonies of blacktail prairie dogs with population densities increasing annually during each spring breeding season. The Applicant claims that at least 75 percent of the available forage grown in the infested areas is currently consumed by prairie dogs. The Applicant proposed to treat no more than 200,000 acres. Without treatment, the Applicant estimates a loss of $1,275,000 on that acreage. The Applicant reported that zinc phosphide, strychnine, and other methods using smoke devices are available and are currently being used, but that they achieve a control rate at a level less than the rate of population increase.

The Applicant proposes to use rolled oat bait with Compound 1080 as the active ingredient. Applications would not exceed .000275 pond sodium monfluoroacetate per acre of ¼ of a pound of bait containing .11 percent active ingredient per acre. Application will be by hand at the rate of 4 grains (1 tablespoon) per burrow at burrow sites and spread over no less than a three-foot square area. All applications will be made by, or under the direct supervision of, applicators State-certified in the category of rodent, predator and bird pest control. Application would be from February 1, through November 30, 1980.

To prevent unreasonable hazard to the environment, the Applicant would make no application to a site where a blackfooted ferret had been sighted or is known to inhabit. Carcasses of all prairie dogs would be buried. Excess bait would be returned to the Applicant for storage until proper disposition could be made. The Applicant stated that Compound 1080 had been used for several years prior to 1973 in western South Dakota for prairie dog control without any known significant adverse effect to either man or the environment.

It should be noted that a rebuttable presumption exists against registration of rodenticide products containing Compound 1080 when applied by air or used above ground (see **Federal Register** of December 1, 1976, p. 52791); restrictions involving underground applications are not in question. However, no decision has yet been made by EPA as to appropriate regulatory action in this matter.

This notice does not constitute a decision by EPA on the publication itself. It has been determined that this application raises questions of such importance that public notice and opportunity for public comment should be given. Accordingly, interested persons may submit written views on this subject to the Document Control Officer at the address given above. The comments must be received on or before and should bear the identifying notation OPP—180404. All written comments filed pursuant to this notice will be available for public inspection in the office of the Document Control Officer at the address given above, from 8:30 a.m. to 4 p.m. during normal business days.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975 and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: January 21, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-2433 Filed 1-24-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[FCC 80-20]

Financial Qualification Showing Revised for Station Modification Applicants

January 18, 1980.

The Commission has deleted its requirement for a detailed showing of financial qualification in application forms to change the facilities of an existing broadcast station, reserving the authority to require the submission of financial information if needed (Section III of FCC Forms 301 for commercial and 340 for noncommercial educational stations).

The detailed showing of financial qualifications is being retained in the application forms for construction of new broadcast stations.

The Commission concluded that proposals to change facilities of existing stations are predicated on business judgments in which the ability of such an on-going operation to finance the change is an inherent factor in that judgment and is assured before undertaking the filing of such proposal. Commission review of previously-required showings indicated that they seldom serve any useful purpose because questions of adequate financing rarely arise, and, if one should, authority is retained to require any necessary information. Contingent applications, however, filed by prospective assignees or transferees pursuant to § 73.3517(a) must include all pertinent Section III information.

This revision relieves licensees of much detail involved in these applications and relieves the FCC of the review of unnecessary financial showings.

Section III (Financial Qualifications) of Forms 301 and 340 (for commercial and noncommercial stations respectively) will be revised. This new procedure will apply to all station change applications effective January 25, 1980. The present form may be used until the new Section III forms are available.

Action by the Commission January 16, 1980. Commissioners Ferris (Chairman), Lee, Quello, Washburn, Fogarty, Brown and Jones.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-2378 Filed 1-24-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[80–40]

Preemption of State Usury Laws

Dated: January 22, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice of Agency Interpretation.

SUMMARY: Pursuant to the authority granted by section 105 of Public Law 96–161, 96th Cong., 1st Sess. (1979), the Federal Home Loan Bank Board is issuing four interpretations relating to the recent temporary statutory preemption of state usury laws, with respect to Federally-related residential mortgage loans.

The Board has determined that: (1) If a new borrower "assumes" an existing Federally-related residential first mortgage, but at an increased rate of interest, section 105 would preempt otherwise applicable state usury laws if the transaction takes place during the preemption period;

(2) If a lender makes a Federally-related residential mortgage in New York State during the preemption period pursuant to a completed application submitted prior to the effective date of Pub. L. 96–161, section 14–a(10) of the New York Banking Law would prevent the interest rate on the loan from exceeding that prescribed by State law on the date the completed application is submitted, if the loan is closed within 120 days of the application date;

(3) A Federally-related residential mortgage loan closed within two years of the enactment date of Pub. L. 96–161 will be exempt from state usury laws as provided by section 105(d), if the loan is made pursuant to a commitment given during the preemption period and the commitment indicates the parties have bound themselves to a rate which may exceed that prescribed by state law at the time of closing; and

(4) If a home builder obtains a commitment during the preemption period from a lender to provide

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permanent Federally-related mortgage financing to qualified purchasers of his homes, loans to these purchasers will be exempt from state usury laws under section 105(d) if closed pursuant to the builder's commitment within two years of the effective date of Pub. L. 96–161.

FOR FURTHER INFORMATION, PLEASE CONTACT: James C. Stewart, Attorney, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552 (202–3770–8457).

EFFECTIVE DATE: December 28, 1979.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted by section 105(c) of Pub. L. 96–161, 96th Cong., 1st Sess. (1979), the Federal Home Bank Board is issuing four interpretations relating to the statute's temporary preemption of state usury laws with respect to Federally-related residential first mortgage loans. The reader is also invited to consult the regulations on the statute published at 45 FR 1853 (Jan. 9, 1980).

Federal Home Loan Bank Board Interpretation No. 590–2 (Assumptions)

Section 105(a) of Pub. L. 96–161 provides that state usury laws do not apply to Federally-related residential mortgage loans made between December 28, 1979 and March 31, 1980. The Federal Home Loan Bank Board has been asked to interpret the effect of this provision on existing loans assumed during the preemption period.

A loan "assumption," as that term is correctly defined, involves only the substitution of one borrower for another, with no other changes in the terms of the loan. Since this type of assumption entails no material change in the obligation, it should not be considered the "making" of a loan as that term is used in section 105(a)(1)(B) of Pub. L. 96–161. Accordingly, the preemption provisions of Pub. L. 96–161 would not apply.

However, if the substitution of obligors is accompanied by an increase in the interest rate, as permitted by the contract, section 105 of the above statute would apply. Although the latter type of transaction is also sometimes referred to as an "assumption," it is, in fact, a new loan since the obligation materially differs from that of the predecessor loan. For this reason, the substitution of obligors at a higher interest rate constitutes the making of a loan for purposes of section 105(a)(1)(B) of Pub. L. 96–161. If made during the statutory preemption period, these agreements are not subject to state usury laws.

Finally, an agreement during the preemption period to refinance an existing first lien mortgage loan also would be considered the making of a loan for purposes of section 105 (a)(1)(B) of Pub. L. 96–161. Under this type of agreement, the present obligor pays off the prior first lien with proceeds from a new loan secured by a first lien on residential real property at a higher rate of interest.

Federal Home Loan Bank Board Interpretation No. 590–3 (Completed Applications in New York)

Section 105(a) of Pub. L. 96–161 states that "[t]he provisions of the consititution or law of any State expressly limiting the rate of amount of interest, discount points, or other charges which may be charged, taken, received or reserved" will not apply to Federally-related residential mortgage loans made during the statutory preemption period. The Federal Home Loan Bank Board has been asked to interpret the effect of this provision on a state law restricting the interest rate charged on loans closed within 120 days of the date on which the loan application is submitted.

New York State Banking Law Section 14–a(10) provided that lenders in that State may not close loans secured by one to six family residences or by stock in a residential cooperative housing corporation at rates exceeding "(1) the rate of interest prescribed [by N.Y. law] in effect at the time the completed application . . . is submitted . . . and for a period of not fewer than one hundred twenty days thereafter or (2) the rate of interest prescribed [by N.Y. law] in effect at the time of closing, whichever is the lower."

The State law provision prevents lenders from charging a rate higher than that in effect at the date of submission of the completed application for at least 120 days thereafter. The question has been raised whether a commitment made during the period from December 28, 1979 through March 31, 1980, the preemption period under Public Law 96–161, must adhere to the New York 120 day rule if the commitment is make pursuant to a completed application submitted prior to December 28, 1979, the effective date of the preemption statute.

In the opinion of the Board, Pub. L. 96–161 does not preempt section 14–a(10) of the New York Banking Law with respect to completed applications submitted prior to the effective date of Pub. L. 96–161. Section 105 of Pub. L. 96–161 was intended to preempt usury ceilings and not other consumer protections in state laws. *See* S. Rep. No. 368, 96th Cong., 1st Sess. 19 (1979). Although N.Y. Banking Law Section 14–a(10) makes references to that State's usury limits, its purpose is to protect applicants from increases in interest rates above those prevailing at the time of submission of their completed application. As a consumer protection measure, section 14–a(10) would not be preempted by Pub. L. 96–161.

This is not to say that Pub. L. 96–161 will have no effect on the operation of New York Banking Law section 14–a(10). During the preemption period, the interest rate set by New York will be inapplicable to loans described in section 105(a) of the statute. Accordingly, section 14–a(10) would not affect post-December 28, 1979 applications for these loans as their will be no New York State interest ceiling to protect during the 120 day period. On the other hand, pre-December 28, 1979 applications would be subject to section 14–a(10) and loans made pursuant to such applications during the preemption period would have to respect the New York rate in effect on the application date if closed within 120 days thereafter.

Federal Home Loan Bank Board Interpretation No. 590–4 (Commitments during Preemption Period)

Section 105(d) of Pub. L. 96–161, provides that when a commitment for a Federally-related residential mortgage loan is made during the statutory usury preemption period (December 28, 1979 through March 31, 1980), the resultant loan will be exempt from state usury ceilings if closed within two years of the effective date of the statute (December 28, 1979). The Federal Home Loan Bank Board has been asked to determine which types of commitments are contemplated by the above statute.

If a commitment were made at 15% or "at the higher of 15% or the prevailing rate at date of closing," the 15% rate could still be charged regardless of the rate prescribed by state law at the time of closing. Similarly, the two year closing rule of section 105(d) would apply to a commitment with interest rate to be determined by reference to an index which later yielded a rate in excess of state usury limits. An example of such a commitment would be "the interest rate shall be 1 point above the Federal National Mortgage Association purchase rate on the date of closing." In both of these cases, the parties have bound themselves to a rate which may exceed that prescribed by state law in force at the time of closing.

Federal Home Loan Bank Board Interpretation No. 590–5 (Builder Commitment)

Section 105(d) of Pub. L. 96–161 provides that when a commitment for a Federally-related residential mortgage loan is made during the December 28, 1979 through March 31, 1980 statutory preemption period, the completed loan will be exempt from state interest ceilings if closed within two years of the December 28, 1979 effective date of the statute. The Federal Home Loan Bank Board has been asked to determine the effect of the above provision on the following situation:

A home builder obtains a commitment from a lender during the preemption period to provide permanent mortgage loans to qualified purchasers of homes currently being constructed by the builder. The commitment obligates the lender to provide financing at a specified rate to unidentified creditworthy buyers who meet the conditions set forth in the committment letter.

The Board determines that loans ultimately made to the purchasers pursuant to the builder's commitment would be exempt from state usury laws under section 105(d) if closed within two years of the effective date of Pub. L. 96–161, even if they are closed after the expiration of the preemption period. Although the identities of the final purchasers may not be known until after the expiration of the preemption period, the terms of their loans are determined prior to that date. As long as the loans ultimately made to the buyers do not vary materially from those required under the commitment, any loans closed pursuant to such commitments would be eligible for the extended exemption provided in section 105(d) of the statute.

For commitments issued to builders prior to December 28, 1979, the Board's Interpretation No. 590–1 (45 FR 2840) applies. Thus, if a commitment to a builder provides that financing will be available for individual qualified purchasers "at the prevailing rate," the highest rate at which the lender may make financing available to individual purchasers pursuant to this commitment would be the lesser of the market rate or the maximum rate that would have been allowed under the relevant State usury law at the time of closing, absent Federal preemption.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80–2440 Filed 1–24–80; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder Licnese No. 1783]

Trans-Maritime Freight, Jose M. Blanco, d.b.a.; Order of Revocation

January 16, 1980.

By letter dated January 10, 1980, the Federal Maritime Commission was notified of the death of Jose M. Blanco and Independent Ocean Freight Forwarder License No. 1783 issued to Trans-Maritime Freight, Jose M. Blanco, d.b.a. was returned for cancellation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), § 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 1783 issued to Trans-Maritime Freight, Jose M. Blanco, d.b.a., be and is hereby revoked effective January 10, 1980.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon the estate of Trans-Maritime Freight, Jose M. Blanco, d.b.a.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 80–2392 Filed 1–24–80; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–462) notice was published in 44 FR 76858 of December 28, 1979, that a meeting of the Federal Prevailing Rate Advisory Committee would be held on January 31, 1980. Notice is hereby given that the meeting scheduled for that date has been cancelled.

Jerome H. Ross,

Chairman, Federal Prevailing Rate Advisory Committee.

January 18, 1980.

[FR Doc. 80–2418 Filed 1–24–80; 8:45 am]

BILLING CODE 6325–01–M

FEDERAL RESERVE SYSTEM

BGM Corp.; Formation of Bank Holding Company

BGM Corporation, Gays Mills, Wisconsin, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 93 percent or more of the voting shares of Bank of Gays Mills, Gay Mills, Wisconsin. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 21, 1980. Any comment on an application that requests a hearing must include a statement of why written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 21, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80–2400 Filed 1–24–80; 8:45 am]

BILLING CODE 6210–01–M

Chrisman Bancshares, Inc.; Formation of Bank Holding Company

Chrisman Bancshares, Inc., Chrisman, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 81.6 percent of the voting shares of State Bank of Chrisman, Chrisman Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 21, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 21, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80–2399 Filed 1–24–80; 8:45 am]

BILLING CODE 6210–01–M

First Financial Group of New Hampshire, Inc.; Acquisition of Bank

First Financial Group of New Hampshire, Inc., Manchester, New Hampshire, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of First Bank and Trust Company, Meredith, New Hampshire. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 19, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questons of fact that are in dispute and summarizing the eidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 18, 1980.
William N. McDonough,
Assistant Secretary of the Board.
[FR Doc. 80-2389 Filed 1-24-80; 8:45 am]
BILLING CODE 6210-01-M

Industrial National Corp., et al.; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than February 19, 1980.

A. *Federal Reserve Bank of Boston* (Richard E. Randall, Vice President), 30 Pearl Street, Boston, Massachusetts 02106:

Industrial National Corporation, Providence, Rhode Island (mortgage banking activities; Michigan) to engage, through its indirect subsidiary, Mortgage Associates, Inc., in the servicing of residential mortgage loans. This activity will be conducted from an office in Lansing, Michigan, serving the State of Michigan. Comments on this application must be received by February 8, 1980.

B. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

1. Chemical New York Corporation, New York, New York (financing and insurance activities; Florida): to engage through its subsidiary, Sunamerica Corporation, in making or acquiring for its own account loans and other extensions of credit and servicing loans and other extensions of credit, including but not limited to, making or acquiring loans to consumers; acquiring installment contracts from retail sellers covering the time sales of goods and related services; making or acquiring loans and other extensions of credit to business (including inventory financing); making or acquiring extensions of credit secured by personal property lease contracts; making available to its debtors credit life, credit accident and health, mortgage life, mortgage disability, and property and casualty insurances, all directly related to extensions of credit. These activities would be conducted from an office in Tampa, Florida, serving the State of Florida.

2. Citicorp, New York, New York (consumer finance and insurance activities; Utah): to engage through its indirect subsidiary, Citicorp Person-to-Person Financial Center in operating a finance company, including making or acquiring consumer loans and other extensions of credit, secured or unsecured; making or acquiring loans and other extensions of credit to finance the purchase of mobile homes or manufactured housing, together with the real property to which such housing is or will be permanently affixed; and acting as agent for the sale of credit life and credit accident and health insurance directly related to extensions of credit. These activities would be conducted from an office in Salt Lake City, Utah, serving the entire State of Utah. This application is for an expansion of activities and service area of an existing office. Previously approved activities including purchasing and servicing for its own account sales finance contracts; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the making of non-consumer loans; and acting as agent for the sale of property and casualty insurance and for the sale of credit life and credit accident and health insurance directly related to extensions of credit will continue to be offered at this office and the service area will be expanded to cover the entire State of Utah.

3. Deutsche Bank AG, Frankfurt, West Germany (financing activities; continental United States): to act, through its 50% owned indirect subsidiary, Fiat Credit Corporation (which is presently engaged in the business of dealer inventory financing for dealers of affiliates of Fiat S.p.A. in the United States and retail financing for purchasers and leasees of products from such dealers), as agent or broker for the sale of life, accident and health insurance directly related to extensions of credit by Fiat Credit Corporation. These activities would be conducted from the principal office of Fiat Credit Corporation located at 2333 Waukegan Road, Bannockburn, Illinois, serving the continental United States.

C. *Federal Reserve Bank of Richmond*, (Lloyd W. Bostian, Jr., Vice President) 701 Byrd Street, Richmond, Virginia 23261:

BANK OF VIRGINIA COMPANY, Richmond, Virginia (Trust company activities; Virginia): to continue to engage through its subsidiary, Bank of Virginia Trust Company, in activities that may be carried on by a trust company, including activities of a fiduciary, investment advisory, agency, or custodian nature. These activities would be conducted from an office to be relocated from Salem, Virginia, to Roanoke, Virginia, serving the Roanoke, Virginia metropolitan area. Comments on this application must be received by February 12, 1980.

D. *Federal Reserve Bank of San Francisco* (Harry Green, Vice President)

400 Sansome Street, San Francisco, California 94120:

1. Western Bancorporation, Los Angeles, California (mortgage banking activities; nationwide) (insurance activities; Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming): to engage through its subsidiary, Western Bancorp Mortgage Company, in the activities of: (1) Making or acquiring construction loans and loans on income producing properties for its own account and for the account of others; (2) selling and servicing real estate and construction loans for its own account and for the account of others; (3) making or acquiring 1–4 family residential property loans for its own account and for the account of others; and, (4) acting as insurance agent or broker with respect to credit life, credit accident and health, mortgage disability, and mortgage redemption insurance directly related to extensions of credit or the provision of other financial services by Western Bancorporation or its subsidiaries. These activities would be conducted from an office in Salt Lake City, Utah, serving the eleven states listed in the caption to this notice (activities (3) and (4) above), and the entire United States (activities (1) and (2) above). Comments on this application must be received by February 15, 1980.

2. Bankamerica Corporation, San Francisco, California (financing and insurance activities; Massachusetts): to engage, through its subsidiary, FinanceAmerica Corporation of Massachusetts, in making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company and servicing loans and other extensions of credit. Such activities will include but not be limited to making consumer installment loans; purchasing installment sales finance contracts; making loans and other extensions of credit to small businesses; making loans secured by real and personal property; and offering life insurance directly related to extensions of credit made or acquired by FinanceAmerica Corporation of Massachusetts. These activities will be conducted from an office to be relocated from Reading, Massachusetts to North Reading, Massachusetts, and serving the Commonwealth of Massachusetts. Comments on this application must be received by February 13, 1980.

E. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, January 18, 1980.
William N. McDonough,
Assistant Secretary of the Board.
[FR Doc. 80-2388 Filed 1-24-80; 8:45 am]
BILLING CODE 6210-01-M

Jacksboro National Bancshares, Inc.; Formation of Bank Holding Company

Jacksboro National Bancshares, Inc., Jacksboro, Texas, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The Jacksboro National Bank, Jacksboro, Texas. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 20, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 21, 1980.
William N. McDonough,
Assistant Secretary of the Board.
[FR Doc. 80-2402 Filed 1-24-80; 8:45 am]
BILLING CODE 6210-01-M

O'Hare Banc Corp.; Formation of Bank Holding Company

O'Hare Banc Corp., Chicago, Illinois, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of O'Hare International Bank, N.A., Chicago, Illinois. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not late than February 19, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 21, 1980.
William N. McDonough,
Assistant Secretary of the Board.
[FR Doc. 80-2401 Filed 1-24-80; 8:45 am]
BILLING CODE 6210-01-M

Wellsville Bancshares, Inc.; Formation of Bank Holding Company

Wellsville Bancshares, Inc., Wellsville, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 60 percent or more of the voting shares of The Wellsville Bank, Wellsville, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 21, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 21, 1980.
William N. McDonough,
Assistant Secretary of the Board.
[FR Doc. 80-2400 Filed 1-24-80; 8:45 am]
BILLING CODE 6210-01-M

Winslow Bancorporation, Inc.; Formation of Bank Holding Company

Winslow Bancorporation, Inc., Winslow, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The First National Bank of Winslow, Winslow, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

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Winslow Bancorporation, Inc., Winslow, Indiana, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to act as agent or broker for the sale of life accident and health, and property and casualty insurance directly related to extensions of credit by First National Bank of Winslow. These activities would be performed from Applicant's office in Winslow, Indiana, and serve Pike and Gibson Counties, in Indiana. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 19, 1980.

Board of Governors of the Federal Reserve System, January 18, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-2460 Filed 1-24-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committees; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory bodies scheduled to assemble during the month of February 1980.

Alcohol Training Review Committee—February 7–8, 9:00 a.m.; Holiday Inn, 8777 Georgia Avenue, Silver Spring, Maryland 20910. Open: February 7, 9:00 a.m. to 11:00 a.m.; Closed: Otherwise. Contact Robert E. Davis, Room 14C–17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism, ADAMHA, relating to training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00 a.m. to 11:00 a.m., February 7, the meeting will be open for discussion of administrative reports, announcements, and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol Abuse, Drug Abuse and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Community Processes and Social Policy Review Committee—February 7–9, 9:00 a.m.; Shoreham Americana, 2500 Calvert St., N.W., Washington, D.C. 20008. Open: February 7, 9:00 a.m. to 10:00 a.m.; Closed: Otherwise. Contact Mrs. Rachel Driver, Room 9C–08, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the field of institutional and organiational environments, and community social relationships and processes, as these relate to social problems, social policy, and individual and family mental health, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 10:00 a.m. February 7, the meting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Psychiatry Education Review Committee—February 11–14, 10:00 a.m.; Conference Room K, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open: February 11, 10:00 a.m. to 12:00 p.m.; Closed: Otherwise. Contact Irma Fisher, Room 9A–54, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4728.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to training activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 10.00 a.m. to 12:00 p.m. on February 11, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Community Alcoholism Services Review Committee—February 13–18, 7:00 p.m.; Sheraton Inn, 8727 Colesville Road, Silver Spring, Maryland 20910. Open: February 13, 7:00 p.m. to 9:30 p.m.; Closed: Otherwise. Contact Phillip Dawes, Room 11–10, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program area administered by the National Institute on Alcohol Abuse and Alcoholism relating to alcoholism service activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 7:00 p.m. to 9:30 p.m., February 13, the meeting will be open for discussion of the administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Alcohol Biomedical Research Review Committee—February 20–22, 9:00 a.m.; Ramada Inn, 1251 West Montgomery Avenue, Rockville, Maryland. Open: February 20, 9:00 to 11:00 a.m.; Closed: Otherwise. Contact Kenneth R. Warren, Ph.D., Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism, ADAMHA, relating to research activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00 a.m. to 11:00 a.m., February 20, the meeting will be open for discussion of administrative reports, announcements, and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Criminal and Violent Behavior Review Committee—February 20–22, 9:15 a.m.; Shoreham Americana Hotel, 2500 Calvert St., N.W., Washington, D.C. Open: February 20, 9:15 to 10:30 a.m.; Closed: Otherwise. Contact Mrs. Phyllis Pinzow, Room 15–99, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3373.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of crime and delinquency, related law and mental health interactions, individual violent behavior, and sexual assault, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:15 to 10:30 a.m. February 20, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Mental Health Services Manpower Development Review Committee—February 20–22, 9:00 a.m.; Conference Room M, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open: February 20, 9:00 to 10:00 a.m.; Closed: Otherwise. Contact Lawrence Chaitkin, Ph.D., Executive Secretary, Room 9C–09, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3857.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities for state mental health manpower development projects, and research and demonstration projects concerning mental health services manpower, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 10:00 a.m. February 20, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Paraprofessional Education Review Committee—February 21–23, 9:00 a.m.; The Spring East Room, Holiday Inn, 8777 Georgia Avenue, Silver Spring, Maryland 20910. Open: February 21, 9:00 a.m. to 12:00 p.m.; Closed: Otherwise. Contact Mrs. Carolyn N. Snowden, Room 9C–15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1737.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities for paraprofessional education, the primary focus of which is on the development, production, and integration of paraprofessional mental health workers into service systems to meet NIMH service priorities such as providing services to unserved and underserved populations, increasing the supply of trained minority mental health service manpower, and providing mental illness prevention services, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 a.m. to 12:00 p.m. February 21, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Drug Abuse Biomedical Research Review Committee—February 24–28, 1:00 p.m.; Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open: February 24, 1:00 p.m. to 5:00 p.m. and February 25, 9:00 a.m. to 10:30 a.m. Closed: Otherwise. Contact Ms. Mary-Carol Kelly, Room 10A–58, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6245.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 1:00 p.m. to 5:00 p.m., February 24, and from 9:00 a.m. to 10:30 a.m. on February 25, the meeting will be open for discussion of general research topics, administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Alcohol Abuse Prevention Review Committee—February 25–27, 9:00 a.m.; Sheraton Hotel, 8727 Colesville Road, Silver Spring, Maryland 20910. Open: February 25, 9:00 a.m. to 10:30 a.m.; Closed: Otherwise. Contact Robert E. Davis, Room 14C–17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism, relating to prevention

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activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00 a.m. to 10:30 a.m., February 25, the meeting will be open for discussion of administrative reports, announcements, and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Drug Abuse Clinical, Behavioral, and Psychosocial Research Review Committee—February 25–29, 9:00 a.m.; Conference Rooms H and I, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open: February 25, 9:00 a.m. to 10:30 a.m.; Closed: Otherwise. Contact Daniel L. Mintz, Executive, Secretary, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00 a.m. to 10:30 a.m., on February 25, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Drug Abuse Resource Development Review Committee—February 25–29, 9:00 a.m.; Conference Room M, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open: February 25, 9:00 a.m. to 10:30 a.m.; Closed: Otherwise. Contact Mary C. Knipmeyer, Executive, Secretary, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6664.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to demonstration treatment services, prevention and education, and training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00 a.m. to 10:30 a.m., on February 25, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Treatment Development and Assessment Research Review Committee—February 28–29, 9:00 a.m.; Shoreham Americana Hotel; 2500 Calvert St., N.W., Washington, D.C. 20008. Open: February 28, 9:00 a.m. to 10:00 a.m.; Closed: Otherwise. Contact Mrs. Eileen Nugent, Room 9–105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3367.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of treatment development and assessment research, e.g., psychosocial and biobehavioral treatments; psychopharmacological, biological, and physical treatments; and clinical program-projects and clinical research centers, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 a.m. to 10:30 a.m., February 25, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Basic Psychopharmacology and Neuropsychology Research Review Committee—February 28–March 1, 9:00 a.m.; Holiday Inn, 8777 Georgia Avenue, Silver Spring, Maryland 20910. Open: February 28, 9:00 a.m. to 10:00 a.m.; Closed: Otherwise. Contact Jean Pierce, Room 9C–20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3936.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of basic psychopharmacology and neuropsychology, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 a.m. to 10:00 a.m. February 28, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in acordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Psychopathology and Clinical Biology Research Review Committee—February 28–March 1, 9:00 a.m.; Shoreham Americana, 2500 Calvert St., N.W., Washington, D.C. 20008. Open: February 28, 9:00 a.m. to 10:00 a.m.; Closed: Otherwise. Contact Mary M. Martin, Room 10C–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3367.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of clinical psychopathology and clinical biology, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 a.m. to 10:00 a.m. February 28, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in acordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact persons listed above. The NIAAA Information Officer who will furnish summaries of the meetings and rosters of the Committee members is Mr. Paul Garner, Acting Associate Director for Public Affairs, National Institute on Alcohol Abuse and Alcoholism, Room 11A–17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3306. The NIDA Information Office who will furnish summaries of the meetings and rosters of the Committee members is Ms. Mary-Carol Kelly, Program Information Officer for Drug Abuse, NIDA, Room 10A–56, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6245. The NIMH Committee Management Officer who will furnish summaries of the meetings and rosters of the Committee members is Mrs. Zelia Diggs, Office of the Associate Director for Extramural Programs, NIMH, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: January 21, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-2377 Filed 1-24-80; 8:45 am]

BILLING CODE 4110-88-M

Food and Drug Administration

[Docket No. 76P-0163]

Identity and Quality Standards for Canned Pineapple Juice; Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a formal evidentiary public rulemaking hearing and a prehearing conference for the purpose of resolving a factual issue raised by an objection that stayed one provision of the identity and quality standards for canned pineapple juice.

DATES: Prehearing conference February 28, 1980, beginning at 10 a.m. Written notices of participation must be received by February 25, 1980. Applications for reimbursement by February 19, 1980.

ADDRESSES: The prehearing conference will be held in the Food and Drug Administration (FDA) Hearing Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20857. Written notices of participation and applications for reimbursement should be submitted to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Ted Herman, Regulations Policy Staff (HFC–10), Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 28, 1976 (41 FR 21768), the Commissioner of Food and Drugs issued a final regulation revising the standards of identity (21 CFR 27.54) and quality (21 CFR 27.55) for canned pineapple juice. Juice Bowl Products, Inc., objected in writing to 21 CFR 27.55 (recodified 21 CFR 146.185(b)), which set the minimum requirement for pineapple juice soluble solids in pineapple juice prepared from concentrate at a 13.5° Brix level. The objection was based on the argument that the 13.5° Brix requirement is too high in that it will decrease product acceptance and, at the same time, increase the cost of the product to the U.S. consumer. In response to this written objection and request for a hearing, a notice identifying the provision that was stayed pending consideration whether a hearing is necessary was published in the **Federal Register** of March 14, 1978 (43 FR 10552). The Commissioner has now determined that it is necessary to conduct a hearing to resolve the contested issue. A hearing is being granted on the stated objection.

The Commissioner's granting of a hearing on the issue raised by the objection does not indicate that he agrees with the objection. The stay will remain in effect until the issue is resolved. Therefore, it is ordered that a public hearing be held on whether it will promote honesty and fair dealing in the interest of consumers to set the minimum soluble solids requirement for pineapple juice made from concentrate at a Brix level of 13.5° or at a lower level between 12.0° and 12.5° Brix.

The hearing will consist of the submission of evidence in written form only, unless otherwise ordered by the Administrative Law Judge. If the hearing consists of any oral testimony, such testimony will be taken at the FDA Hearing Room (address above). The presiding Administrative Law Judge will be Daniel J. Davidson. Written notices of participation must be filed with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, no later than February 25, 1980. The written notices of participation should be identified by the Hearing Clerk docket number found in brackets in the heading of this document; also, to aid in identification, the envelope containing the notice should be clearly labeled "Canned Pineapple Juice Hearing."

Parties to the hearing shall be the Bureau of Foods of the Food and Drug Administration and Juice Bowl Products, Inc. The Pineapple Growers Association of Hawaii shall be a participant in the hearing.

The Bureau of Foods takes no position on the hearing issue and, therefore, will introduce no evidence at the hearing.

The portions of the administrative record that the Bureau of Foods deems relevant at this time, and which have been placed on public display in the office of the Hearing Clerk, include the following:

1. Relevant literature.
2. Correspondence.
3. **Federal Register** notices.
4. Relevant data.

The hearing will be open to the public. Any participant may appear in person, or by or with counsel or other qualified representatives, and may make known his or her views on matters relevant to the issue under consideration. Participants other than the Bureau of Foods shall disclose data and information under § 12.85 (21 CFR 12.85) by March 25, 1980.

In accordance with 21 CFR 12.92, all participants shall appear at the prehearing conference fully prepared to discuss in detail and resolve all matters specified in paragraph (b) of 21 CFR 12.92.

FDA has established a pilot program for financial assistance to participants in certain agency proceedings, including hearings under Part 12 (see the **Federal Register** of April 13, 1979 (44 FR 22339)). This program is described in regulations that were published in the **Federal Register** of October 12, 1979 (44 FR 59174) and that became effective on October 25, 1979 (44 FR 72585; Dec. 14, 1979). Subject to the availability of funds and other factors, FDA may reimburse participants meeting the criteria set forth in these regulations for certain costs of participating in this proceeding. For more information regarding the reimbursement program, contact Ron Wylie, Office of Consumer Affairs (HF–70), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2932.

Applications for reimbursement must be filed by February 19, 1980 in accordance with § 10.210 (44 FR 59186, October 12, 1979).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to him (21 CFR 5.1), the Commissioner orders that a public hearing be held on the issue set out in this notice.

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Dated: January 21, 1980.
William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.
[FR Doc. 80-2371 Filed 1-24-80; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 79F-0469]

International Minerals & Chemical Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: International Minerals & Chemical Corp. has filed a petition proposing the safe use of 2-amino-2-methyl-1-propanol as a dispersing agent in pigment suspensions to be applied as coatings to paper and paperboard products for food-contact use.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 0B3486) has been filed by International Minerals & Chemical Corp., P.O. Box 207, Terre Haute, IN 47808, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) and § 176.180 *Components of paper and paperboard in contact with dry food* (21 CFR 176.180), be amended to provide for the safe use of 2-amino-2-methyl-1-propanol as a dispersing agent in pigment suspensions to be applied as coatings to paper and paperboard for food-contact use.

The potential environmental impact of this action is being reviewed. If this petition results in a regulation, and the agency concludes that an environmental impact statement is not required, notice of availability of the environmental impact analysis report will be published in the **Federal Register** regulation, in accordance with 21 CFR 25.25(b).

Dated: January 17, 1980.
Sanford A. Miller,
Director, Bureau of Foods.
[FR Doc. 80-2369 Filed 1-24-80; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 79F-0458]

Sunkyong Fibers, Ltd.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: Sunkyong Fibers, Ltd., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of trimethyl phosphate as a stabilizer in the processing of polyethylene phthalate polymers intended for food contact.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 9B3437) has been filed by S&P Associates, 5 Pitcairn Place, Lexington, MA 02173, on behalf of Sunkyong Fibers, Ltd., Seoul, Korea, proposing that the food additive regulations be amended to provide for the safe use of trimethyl phosphate as a stabilizer in the manufacture of polyethylene phthalate polymers intended for food contact.

The potential environmental impact of this action is being reviewed. If this petition results in a regulation, and the agency concludes that no environmental impact statement is required, the notice of availability of the environmental impact analysis report, or the environmental assessment report will be published in the **Federal Register** regulation, in accordance with 21 CFR 25.25(b).

Dated: January 17, 1980.
Sanford A. Miller,
Director, Bureau of Foods.
[FR Doc. 80-2370 Filed 1-24-80; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 75N-0230; DESI 1786]

Certain Combination Drugs Containing an Organic Nitrate and a Sedative; Withdrawal of Approval of New Drug Applications

AGENCY: Food and Drug Administration.
ACTION: Withdrawal of Approval.

SUMMARY: This notice withdraws approval of the new drug applications for certain combination drugs containing an organic nitrate and a sedative. Approval is withdrawn because the drugs lack substantial evidence of effectiveness in the treatment of angina pectoris.

EFFECTIVE DATE: February 4, 1980.

ADDRESS: Requests for opinion of the applicability of this notice to a specific product should be identified with the number DESI 1786 and directed to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Suzanne M. O'Shea, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing, published in the **Federal Register** of August 17, 1979 (44 FR 48351), the Director of the Bureau of Drugs proposed to issue an order withdrawing approval of the following drug products because they lack substantial evidence of effectiveness.

1. NDA 16-193; Sorbitrate with Phenobarbital Tablets containing isosorbide dinitrate and phenobarbital; Stuart Pharmaceuticals, Division of ICI Americas, Inc., Wilmington, DE 19397.

2. NDA 16-458; Pentritol 30 milligrams with Butabarbital containing pentaerythritol tetranitrate and butabarbital; formerly manufactured by Armour Pharmaceutical Co., P.O. Box 511, Kankankee, IL 60901.

3. NDA 16-460; Pentaerythritol Tetranitrate 10 milligrams and 20 milligrams with Phenobarbital ¼ grain Tablets; Kirkman Laboratories, Inc., 934 N.E. 25th Ave., Portland, OR 97208.

4. NDA 16-497; Duotrate 30 with Phenobarbital Sustained Release Capsules, containing pentaerythritol tetrainitrate and phenobarbital; formerly manufactured by Marion Laboratories, Inc., 10236 Bunker Ridge Rd., Kansas City, MO 64137.

5. NDA 16-546; Pentaerythritol Tetranitrate 10 milligrams and 20 milligrams with Phenobarbital 15 milligrams; manufactured by Lit Drug Co., 2530 Polk St., Union, NJ 07083.

6. NDA 16-554; Pentran No. 3 with Phenobarbital ¼ grain tablets, and Pentran No. 4 with Phenobarbital ¼ grain tablets containing pentaerythritol tetranitrate and phenobarbital; Halsey Drug Co., Inc., 1827 Pacific St., Brooklyn, NY 11233.

7. NDA 16-556; Pentaerythritol Tetranitrate 10 milligrams with Phenobarbital ¼ grain Tablets, and Pentaerythritol Tetranitrate 20 milligrams with Phenobarbital ¼ grain Tablets; Zenith Laboratories, Inc., 150 South Dean St., Englewood, NJ 07631.

8. NDA 16-559; Pentaerythritol Tetranitrate with Phenobarbital Tablets; West-Ward, Inc., 465 Industrial Way West, Eatontown, NJ 07724.

9. NDA 16-626; Pentaerythritol Tetranitrate 10 milligrams and 20 milligrams with Phenobarbital ¼ grain Tablets; manufactured by Bolar Pharmaceuticals, Inc., 130 Lincoln St., Copiague, NY 11726.

10. NDA 16-643; Pentaerythritol Tetranitrate 10 milligrams and 20 milligrams with Phenobarbital 15 milligrams Tablets; formerly manufactured by American Pharmaceutical Co., 120 Bruckner Blvd., Bronx, NY 10454.

The National Association of Pharmaceutical Manufacturers requested a hearing in response to the notice of opportunity for a hearing. That request is under review, and will be the subject of a future notice.

No person other than the National Association of Pharmaceutical Manufacturers filed a written notice of appearance and request for hearing as provided by the August 17, 1979 notice. The failure to file a notice of appearance and request for a hearing constitutes an election by such persons not to avail themselves of an opportunity for a hearing.

Any drug product that is identical, related, or similar to a drug product named above and that is not the subject of an approved new drug application is covered by the new drug applications reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance at the address given above.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.82) finds that on the basis of new information, not contained in the applications or not available until after the applications were approved, evaluated together with the evidence available to him when the applications were approved, there is a lack of substantial evidence that each of the drugs will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of new drug applications 16-193, 16-458, 16-460, 16-497, 16-546, 16-554, 16-556, 16-559, 16-626, 16-643 and all amendments and supplements applying thereto is withdrawn effective February 4, 1980.

Shipment in interstate commerce of the above products or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: January 9, 1980.
Jerome A. Halperin,
Acting Director, Bureau of Drugs.
[FR Doc. 80-2099 Filed 1-24-80; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 79F-0473]

W. R. Grace & Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: W. R. Grace & Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of styrene-maleic anhydride resin, partial methyl and sec-butyl ester as a dispersant in can-end cements intended for food contact.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 9B3449) has been filed by W. R. Grace & Co., 55 Hayden Ave., Lexington, MA 02173, proposing that Part 175—Indirect Food Additives: Adhesive Coatings and Components (21 CFR Part 175) be amended to provide for the safe use of styrene-maleic anhydride resin, partial methyl and sec-butyl ester in can-end cements intended for food contacts.

The potential environmental impact of this action is being reviewed. If this petition results in a regulation, and the agency concludes that no environmental impact statement is required, the notice of availability of the environmental assessment report will be published in the **Federal Register** regulation, in accordance with 21 CFR 25.25(b).

Dated: January 15, 1980.
Sanford A. Miller,
Director, Bureau of Foods.
[FR Doc. 80-2040 Filed 1-24-80; 8:45 am]
BILLING CODE 4110-03-M

National Institutes of Health

General Research Support Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the General Research Support Review Committee, Division of Research Resources, March 26, 27, and 28, 1980. The meeting will be held on March 26, in the Lobby Room at the Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland, 20015, and on March 27 and 28, 1980, in Conference Room 6, Bldg. 31-C, National Institutes of Health, Bethesda, Maryland 20205.

The meeting will be open to the public on March 26, 1980, from 7:30 p.m. to 8:00 p.m., to discuss administrative matters relating to the Biomedical Research Support Program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 26, 1980, from 8:00 p.m. to recess and on March 27 and 28, from 8:30 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Bldg. 31, Rm. 5B-13, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5545 will provide summaries of the meeting and rosters of the Committee members. Dr. Michael A. Oxman, Executive Secretary of the General Research Support Review Committee, Bldg. 31, Rm. 5B-23, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-6743, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.337, National Institutes of Health)

Dated: January 18, 1980.
Suzanne L. Fremeau,
Committee Management Officer, National Institutes of Health.
[FR Doc. 80-2381 Filed 1-24-80; 8:45 am]
BILLING CODE 4110-08-M

Large Bowel and Pancreatic Cancer Review Committee, Large Bowel Subcommittee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Large Bowel and Pancreatic Cancer Review Committee, (Large Bowel Subcommittee), National Cancer Institute, February 28-29, 1980, the Prudential Building, 1100 Holcombe Road, Houston, Texas. This meeting will be open to the public on February 28, from 7:30 p.m. to 8:00 p.m., to review administrative details. Attendance by

V45/18 JA25 80 UMI

the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 28, from 8:00 p.m. to adjournment and on February 29, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Vincent J. Cairoli, Executive Secretary, National Cancer Institute, Westwood Building, Room 855, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7194) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Number 13.393, 13.394, 13.395 National Institutes of Health)

Dated: January 18, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80-2380 Filed 1-24-80; 8:45 am]

BILLING CODE 4110-08-M

NIDR Special Grants Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Institute of Dental Research Special Grants Review Committee, on February 26–27, 1980, in Conference Room 9, Building 31–C, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9:00 a.m. to adjournment on February 26, 1980, to discuss program policies and issues. Attendance by the public is limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 9:00 a.m. to adjournment on February 27, 1980, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Emil L. Rigg, Executive Secretary, NIDR Special Grants Review Committee, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 504, Bethesda, MD 20205 (telephone 301 496–7658), will provide summaries of meeting, rosters of committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Programs Nos. 13–840 through 13–845, and 13–878, National Institutes of Health.)

Dated: January 18, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80-2389 Filed 1-24-80; 8:45 am]

BILLING CODE 4110-08-M

Public Health Service

Health Resources Administration

Grants for Public Health Traineeships; Application Announcement

The Bureau of Health Manpower, Health Resources Administration, announces that competitive applications for Grants for Public Health Traineeships will be accepted under the authority of section 748(a)(2) of the Public Health Service Act, as amended. Application materials are expected to be available on January 8, 1980.

Section 748(a)(2) authorizes the award of grants to public or nonprofit institutions (other than schools of public health) which provide graduate or specialized training in public health.

Applications will be accepted only in the following program areas:

- Biostatistics or epidemiology,
- Environmental or occupational health,
- Dietetics or nutrition,
- Preventive medicine or dentistry (residency training) or
- Maternal and child health.

In awarding traineeships under this section, each applicant shall assure to the satisfaction of the Secretary that 65 percent of the funds received shall go to individuals having previously received a postbaccalaureate degree or having three years' work experience in health services.

For fiscal year 1980, in determining the priority for funding approved competitive applications, *additional preference will be accorded projects* that are designed to expand opportunities for the entry of minorities and disadvantaged persons, as defined below, into the designated programs of public health training.

"Minorities" means individuals whose race/ethnicity is classified as American Indian or Alaskan Native, Asian or Pacific Islander, Black, or Hispanic. (OMB-Designations of race/ethnic categories found in **Federal Register**, Vol. 42, No. 64, April 4, 1977, and implementing OMB Circular No. A–46 Revised Transmittal Memorandum No. 6, dated May 12, 1977.)

"Disadvantaged persons" means an individual who—

(a) comes from an environment that has inhibited the individual from obtaining the knowledge, skills, and abilities required to enroll in and graduate from a graduae or specialized program in public health, or

(b) comes from a family with an annual income below a level based on low income thresholds according to family size, published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in all health manpower programs.

The following income figures are to be used to determine what constitutes a low-income family for purposes of Public Health Traineeship grants for fiscal year 1980:

[Adjusted Gross Income for Calendar Year 1980]

Size of parents' family [1]	Income level [2]
1	$4,400
2	5,700
3	6,800
4	8,700
5	10,200
6	11,500

[1] Includes only dependents listed on Federal income tax returns.

[2] Rounded to $100.

Applications which do not address this preference area will be reviewed and given full consideration for funding.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (A–03), Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: 301–436–7360.

Questions concerning the programmatic aspects of these grants should be directed to: Chief, Education Development Branch, Division of Associated Health Professions, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 5–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: 301–436–6800.

To be considered for fiscal year 1980 funding, applications must be received by the Grants Management Officer, Bureau of Health Manpower at the above address no later than March 3, 1980. Approximately $275,000 is expected to be available for these grants.

Dated: January 14, 1980.

Henry A. Foley, Ph. D.,

Administrator.

[FR Doc. 80-2347 Filed 1-24-80; 8:45 am]

BILLING CODE 4110-83-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Yankton Sioux Tribe of Indians; Plan for the Use and Distribution of Yankton Sioux Judgment Funds in Docket 332–C–1 Before the U.S. Court of Claims

Corrections

In FR Doc. 80–1094 appearing at page 2712 in the issue of Monday, January 14, 1980, second column, first line of the paragraph under *Higher Education Assistance Program* should read: "Two (2) percent of the funds shall be"; and the first line of the paragraph under *General Tribal Needs* should read: "One (1) percent of the funds shall be".

BILLING CODE: 1501-01-M

Bureau of Land Management

Lands and Resources, Redelegation of Authority; Amendment of Bureau Order No. 701

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to Secretarial Order Nos. 3003, dated April 26, 1977, and 3018, dated March 16, 1978, the Secretary of the Interior delegated to the Director, Bureau of Land Management, the authority to grant or renew rights-of-way under Title I, Section 28 of the Mineral Leasing Act of 1920, as amended, and under the Federal Land Policy and Management Act of 1976. The authority was redelegated to the Bureau of Land Management State Directors through Bureau Order No. 701. Through this amendment, the Director is providing State Directors the opportunity to redelegate that authority. This action is taken so that the Bureau may be more responsive to the demands for rights-of-way. In addition, the amendment will allow the Director to designate a lead official for right-of-way projects that occur in more than one State.

EFFECTIVE DATE: January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Orval L. Hadley, (202) 343–5537. Part 1 of Bureau Order No. 701 dated July 23, 1964, is amended as follows:

1. Section 1.0(b)(5) is amended as follows:

Section 1.0 Functions of the State Director

* * * * *

(b) * * *

(5) The issuance of right-of-way grants that involve States under the jurisdiction of two or more State Directors. The Director, Bureau of Land Management, may, without further notice, or amending this order, redelegate to any State Director the authority to issue and take all actions associated with the right-of-way grant that involves more than one State Director's area of jurisdiction.

* * * * *

2. Section 1.1(a)(2) is amended as follows:

Section 1.1 Authority to Redelegate

(a) * * *

(2) The State Director may, without approval, redelegate to District Managers and Area Managers the authority to take actions on behalf of the State Director in matters listed in section 1.9(m) of Part 1.

Frank Gregg,

Director.

[FR Doc. 80-3128 Filed 1-24-80; 8:45 am]

BILLING CODE 4310-84-M

[M 31856–A]

Wyoming; Proposed Withdrawal and Reservation of Lands

January 15, 1980.

By virtue of the authority contained in Sec. 24 of the Act of October 21, 1976 (43 U.S.C. 1714), the Bureau of Land Management proposes to withdraw the following described lands from location and entry under the general mining laws (30 U.S.C. Ch. 2) subject to valid existing rights:

Sixth Principal Meridian, Wyoming.

T. 58 N., R. 95 W.,
Sec. 19, Lot 2 and SE¼NE¼;
Sec. 20, N½S½, SE¼SW¼, and S½SE¼;
Sec. 21, Southwest diagonal half SW¼;
Sec. 23, NE¼SW¼;
Sec. 26, SW¼NW¼ and W½SW¼;
Sec. 27, S½;
Sec. 28, NW¼NE¼, S½NE¼, and S½;
Sec. 29, NE¼, NE¼NW¼, and NE¼SE¼;
Sec. 33, NE¼ and NE¼NW¼; and
Sec. 34, NW¼.

The area described contains 1,960.10 acres of public lands in Bighorn County, Wyoming.

The purpose of this withdrawal is to afford the above-described lands the same protection presently assigned to the public lands within the Pryor Mountain Wild Horse Range and to protect a highly significant archeological site complex.

On or before February 29, 1980, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing in connection with the withdrawal is afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below by February 29, 1980. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to: (1) Determine the existing and potential demands for the lands and their resources; and (2) to provide for the maximum utilization of the lands.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested. The determination of the Secretary on the application will be published in the **Federal Register.** A separate notice will be sent to each interested party of record.

For a period of two years from the date of publication of this notice in the **Federal Register,** the lands will be segregated from entry as specified above unless the application is rejected or the withdrawal is approved prior to that date.

All communications in connection with this withdrawal should be addressed to the Bureau of Land Management, Department of the Interior, Montana State Office, P.O. Box 30157, Billings, Montana 59107.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-2375 Filed 1-24-80; 8:45 am]

BILLING CODE 4310-84-M

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Office of the Secretary

Livestock Grazing on Public Lands; Schedule of Fees, 1980

Pursuant to the authority vested in the Secretary of the Interior, notice is hereby given of the schedule of fees for the 1980 fee year beginning March 1, 1980, and ending February 28, 1981, for livestock grazing on the public lands under the administration of the Bureau of Land Management.

For the purpose of establishing charges, one animal unit month (AUM) shall be considered equivalent to grazing use by one cow, five sheep, or one horse for one month.

Bills shall be issued in accordance with the rates prescribed in this notice.

Inside Statutory Grazing Districts

Pursuant to Departmental regulations (43 CFR 4130.5–1(a)), as published January 10, 1979 (44 FR 2173), fees within districts, except as otherwise provided herein, shall be $2.36 per AUM.

Exceptions to the above rates are hereby set as follows for certain LU project lands (Bankhead-Jones Land) in order to continue the basis of fees that has heretofore been established.

Arizona. For the San Simon project (Cienega area) transferred to the Department by Executive Order 10322, the fees shall be $2.54 per AUM.

Colorado. For the Great Divide project transferred to the Department by Executive Order 10046, the fees shall be $2.54 per AUM.

Montana. For all LU lands within districts transferred to the Department by Executive Order 10787, the fees shall be $2.54 per AUM.

New Mexico. For the Hope Land project transferred to the Department by Executive Order 10787, the fees shall be $2.48 per AUM. For the San Simon project (Cienega area) transferred to the Department by Executive Order 10322, the fees shall be $2.54 per AUM.

Outside Statutory Grazing Districts (Exclusive of Alaska)

Pursuant to Departmental regulations (43 CFR 4130.5–1(a)), the rate for grazing leases except as otherwise provided herein, shall be $2.36 per AUM.

Exceptions to the above rates are hereby set as follows for certain LU project lands and for all O&C and intermingled public domain lands in western Oregon in order to continue the basis of fees that has heretofore been established.

Montana. For those Milk River project lands outside districts transferred to the Department by Executive Order 10787, the fees shall be $2.54 per AUM.

Wyoming. For the northeast Wyoming project lands transferred to the Department by Executive Order 10046, and amended by Executive Order 10175, the fee shall be $2.54 per AUM.

Western Oregon. For western Oregon, the fee shall be $2.54 per AUM.

Dated: January 21, 1980.

James W. Curlin,

Deputy Assistant Secretary of the Interior.

[FR Doc. 80-2189 Filed 1-24-80; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF INTERIOR

Office of Surface Mining Reclamation and Enforcement

Advisory Committee on Mining and Mineral Resources Research; Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. I) and the Office of Management and Budget's Circular No. A–63, Revised.

The Advisory Committee on Mining and Mineral Resources Research will meet from 9:00 a.m. to 5:00 p.m. (or completion of business) on February 19 and 20, 1980, in the Park Service North Penthouse Conference Room 8070, 18th and E Street, N.W., Washington, D.C. 20240.

This meeting will deal with the following principal subjects:

1. Introductory Remarks—Joan Davenport, Assistant Secretary—Energy and Minerals.
2. Approval of Minutes—Meeting of November 20, 1979.
3. Discussion of old business.
4. New business.
5. Policies and future activities of the Advisory Committee.
6. Report on Mineral Institutes Directors' Meeting held in Jackson, Mississippi on January 30–31 and February 1, 1980.
7. Progress report on Fiscal Year 1980 research proposal process.
8. Discussion of mineral industries research needs, and role of the Advisory Committee in identifying those needs to the Secretary of the Interior.

The meeting of this committee is open to the public. Approximately 40 visitors can be accomodated on a first come, first serve basis. Written statements concerning the subjects are welcome.

Visitors who expect to attend should make this known no later than February 11, 1980, to Ms. Marsha Helfand, Program Assistant, Mineral Institutes Branch, Division of Research, Technical Services and Research, Office of Surface Mining, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, telephone (202) 343–8912.

Walter N. Heine,

Director.

January 22, 1980.

[FR Doc. 80-2342 Filed 1-24-80; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE INTERIOR

Water and Power Resources Service

Contract Negotiations With the Village of Questa; Intent to Negotiate a Water Service Contract

In accordance with procedures established by the Department of the Interior concerning public participation in water service and repayment contract negotiations, the Water and Power Resources Service (Service) intends to negotiate a water service contract with the Village of Questa, New Mexico, to furnish that municipality 200 acre-feet of water annually from the San Juan-Chama Project. The contract will be written pursuant to the Reclamation Project Act of 1939 (53 Stat. 1187), the Act of June 13, 1962 (76 Stat. 96), and the Act of April 11, 1956 (70 Stat. 105).

The initial stage of the San Juan-Chama Project was authorized by the Act of June 13, 1962 (76 Stat. 96). That act provides for furnishing of San Juan-Chama Project water for irrigation, municipal and industrial, and domestic uses to several units in north-central New Mexico. Following a Service study showing that some of the units were not feasible, 13,330 acre-feet of water became available for reallocation to other entities.

In October 1975, the Service and the New Mexico Interstate Stream Commission recommended that the Secretary of the Interior contract with the entities listed below for 13,330 acre-feet of water allocated in amounts as indicated.

Long-Term Contracts Recommended

Entity	Annual Acre-Feet
Santa Fe	5,605
Los Lunas	400
Espanola	1,000
Taos Ski Valley Water and Sanitation District	15
Red River	80
Questa	200
Taos	400
Bernalillo	400
Belen	500
Los Alamos	1,200
Northeastern New Mexico	2,000
Cuba	200
Llano Unit—San Juan Indian Extension	250
Total	13,330

Contracts have been executed with the first four entities on the above list and with the Department of Energy at Los Alamos. Those contracts set the water service rate at $26 per acre-foot. That rate was established to recover the contractors' share of capital costs, including interest during construction (IDC), and interest at the rate of 3.046 percent per year on the unpaid balance based on the ratio of the contractors' share of project water to the total project supply. Those contracts also provide for adjustment of the water service rate when final construction costs are known. In addition, an operation, maintenance, and replacement (OM&R) charge is assessed in advance annually.

The proposed contract with the Village of Questa will annually provide 200 acre-feet of San Juan-Chama Project water to supplement existing supplies. The proposed contract, with a term of 40 years, will require Questa to pay a proportionate share of the estimated construction costs, including IDC, interest at the rate of 3.046 percent per year on the unpaid balance, and OM&R costs. Provision will be made for reviewing and adjusting, if appropriate, the water charge every 5 years.

The proposed contract also provides that annual payments will be made by Questa for the allocated 200 acre-feet of project water whether or not the full amount is needed and used each year. However, provision is also made that Questa may sell any part of its annual entitlement which is not needed on a temporary 1-year basis.

Third-party contracts, as provided, may be for irrigation, recreation, fish and wildlife, or other beneficial purposes as permitted by the New Mexico State Engineer and approved by the Secretary of the Interior or his designated representative.

The proposed contract action will involve releasing 200 acre-feet of water from Heron Reservoir into the Rio Chama and thence into the Rio Grande to replace additional ground water pumped by Questa. An environmental assessment prepared by the Service's Southwest Region in October 1978, indicates there will be no adverse environmental impacts from the action.

All written correspondence concerning the proposed contract will be made available pursuant to the Freedom of Information Act (80 Stat. 383), as amended.

The public is invited to submit written comments on the form of the proposed contract not later than 30 days after the completed contract draft is declared to be available to the public.

For further information about scheduled meetings, copies of the proposed contract or the environmental assessment, please contact Mr. Ira M. Stevens, Repayment and Economics Branch, Water and Power Resources Service, Suite 201, 714 South Tyler, Amarillo, Texas 79101; telephone No. (806) 378–5430. All meetings scheduled by the Service with the potential contractor for the purpose of discussing terms and conditions of the proposed contract will be open to the general public as observers. Advance notice of such meetings will be furnished to those parties requesting such notice from the office identified above.

Dated: January 18, 1980.

R. Keith Higginson,

Commissioner of Water and Power Resources.

[FR Doc. 80-2117 Filed 1-24-80; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 162]

Assignment of Hearings

January 21, 1980.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponments of hearings in which they are interested.

MC 14252 (Sub–42F), Commercial Lovelace Motor Freight, Inc., now assigned for continued hearing on March 4, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 126844 (Sub–70F), R.D.S. Trucking Company, Inc., now assigned for hearing on January 23, 1980 at Washington, DC is postponed to February 12, 1980 at Offices of the Interstate Commerce Commission in Washington, D.C.

MC 107912 (Sub–22F), Rebel Motor Freight, Inc., now assigned for hearing on February 4, 1980 (10 Days), at Jackson, MS, is canceled and reassigned to February 4, 1980 (4 Days), in room 1401, Federal Building, 100 West Capital Street, Jackson, MS and continued to February 11, 1980 (5 Days) at the Ramada Inn, 10330 Airline Highway, Baton Rouge, LA.

AB 193 (Sub–1F), Canton Railroad Company-Entire Line Abandonment-In Baltimore County, Maryland, now being assigned for hearing on March 10, 1980 (1 Week) at Baltimore, MD in a hearing room to be designated later.

MC 140511 (Sub–9F), Autolog Corporation, now assigned for hearing February 11, 1980 at New York, NY is canceled and transferred to Modified Procedure.

MC 4491 (Sub–13F), Great Coastal Express, Inc., now assigned for hearing on February 4, 1980 will be held in Room D–2208, Federal Building, 26 Federal Plaza, New York, NY.

MC 142664 (Sub–5F), Import Dealers Service Corporation, now being assigned for hearing on March 18, 1980 (1 Day), at Los Angeles, CA in a hearing room to be designated later.

AB 6 (Sub–73F), Burlington Northern, Inc., Abandonment Near Laclede and Unionville, MO now being assigned for hearing on March 31, 1980 (1 Week), at Unionville, MO in a hearing room to be designated later.

MC 96878 (Sub–3F), Consolidated Transfer & Warehouse Company, Inc., now assigned for hearing on January 23, 1980 at Oklahoma City, OK is canceled and transferred to Modified Procedure.

MC 110683 (Sub–135F), Smith's Transfer Corporation, now assigned for continued hearing on January 31, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 146129F, Direct Delivery Incorporated, now being assigned for hearing on March 19, 1980 (3 Days), at Los Angeles, CA in a hearing room to be designated later.

MC 134387 (Sub–64F), Blackburn Truck Lines, Inc., now being assigned for hearing on March 24, 1980 (5 Days), at Los Angeles, CA in a hearing room to be designated later.

AB 39, St. Louis Southwestern Railway Company abandonment near Paragould and Blytheville and Hornesville, junction and Caruthersville, in Greene and Mississippi Counties, AR, and Dunklin and Pemiscot Counties, MO, now assigned for hearing on February 4, 1980 will be held at the Municipal Building, 200 West Third Street, Caruthersville, MO.

MC 125916 (Sub–11F), Norwood Transportation, Inc., now being assigned for hearing on February 21, 1980 (2 Days), at Salt Lake City, UT in a hearing room to be designed later.

AB 19 (Sub–42F), Baltimore and Ohio Railroad Company, Allegheny and Western Railway Company, Buffalo, Rochester & Pittsburgh Railway Company & The Pittsburg & Western Railroad Company Abandonment & Discontinuance of Service beteen New Castle Branch, Big Run Branch and Marquis Spur, PA, now being assigned for hearing on February 25, 1980 (1 Week), at New Castle, PA in a hearing room to be designated later.

MC 141969 (Sub–10F), Noble Transport, Inc., now assigned for hearing on January 22, 1980 will be held at the County Courthouse, 111 North Hill Street, Los Angeles, CA.

MC 116004 (Sub-52F), Texas Oklahoma Express, Inc., now assigned for hearing on January 22, 1980 at Washington, DC. is postponed and continued to January 24, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 114457 (Sub-512F), Dart Transit Company, now assigned for hearing on

January 22, 1980 at Washington, DC. is changed to Prehearing Conference on January 22, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 146467F, Triad Motor Lines, Inc., now assigned for hearing on January 22, 1980 at Durham, NC. is canceled and reassigned to January 22, 1980 (4 days), at Greensboro, NC., and will be held on the Second Floor Court Room, U.S. Post Office & Courthouse Building, Greensboro, NC.

MC 129615 (Sub-4F), American International Driveaway Extension—Hawaii, now being assigned for hearing on April 2, 1980 (3 days), at Los Angeles, CA. in a hearing room to be designated later.

MC 108119 (Sub-115F), E. L. Murphy Trucking Company, now assigned for hearing on April 7, 1980 (2 days), at San Francisco, CA. in a hearing room to be designated later.

MC 145441 (Sub-27F), A.B.C. Trucking, Inc., now being assigned for hearing on April 9, 1980 (3 days), at San Francisco, CA. in a hearing room to be designated later.

MC 145399 (Sub-1F), Shay Distributing Co., Inc., now being assigned for hearing on March 11, 1980 (2 days), at Los Angeles, CA, location of hearing room will be designated later.

MC–C–10306 The Gray Line Tours Company –V– Stuart Alan Messnick, d.b.a. the Co-Ordinators, now being assigned for hearing on March 13, 1980 (2 days) at Los Angeles, CA, location of hearing room will be designated later.

MC–C–10254F, Carolina Coach Company, Safety Transit Lines, and Moore Brothers Transportation Company v. E.S. Charter Service, now assigned for hearing on January 28, 1980 (2 days) at Raleigh, NC in Room No. 440, Federal Bldg. Century Station, 300 Fayetteville Street Mall.

MC 1515 (Sub-258F), Greyhound Lines, Inc., now assigned for continued hearing on January 29, 1980 (4 days) at the Marriott Hotel, Courthouse & International Blvd. N.E., Atlanta, GA.

No. 37165, Southern Pacific Transportation Company—Rates and Classification of Iron Ore within Texas, now assigned for hearing on January 28, 1980 (5 days) at Dallas, TX is postponed indefinitely.

MC 120981 (Sub-29F), Bestway Express, Inc., now assigned for hearing on February 25, 1980 (5 days) at Nashville, TN will be held in the Ramada Inn Airport, Spence Lane, instead of in Room No. 651, Old Federal Bldg., 801 Broadway.

AB–55 (Sub-29F), Seaboard Coast Line Railroad Company Abandonment near Gordonville and Bartow in Polk County, FL, now assigned for hearing on February 4, 1980 (5 days) at Bartow, FL is postponed to February 11, 1980 (5 days) at Bartow, FL.

No. 37251, Landmark, Inc. v. Consolidated Rail Corporaton, now assigned for hearing on January 30, 1980 (3 days) at Columbus, OH is postponed indefinitely.

FD–29153, American Train Dispatchers v. Union Pacific RR. Co., is canceled and transferred to Modified Procedure.

No. 36434, Commuter Fares Consolidated Rail Corporation, New Jersey and New York, now assigned for hearing February 26, 1980 (3 days) at Goshen, NY, Building No. 1641, Old Courthouse, Main Street.

No. 36474, Benjamin A. Gilman v. Consolidated Rail Corporation, et al, now assigned for hearing on February 28, 1980 (3 days) at Goshen, NY, Building No. 1641, Old Courthouse, Main Street.

MC 109533 (Sub–108F), Overnite Transportation Company, now being assigned for hearing on April 15, 1980 (9 days) at Indianapolis, IN, location of hearing room will be by subsequent notice.

MC–FC–77914 American Tank Transport, Inc., Baltimore, Maryland, Transferee and Secon Service System, Inc., New York, New York, Transferor, now being assigned for Prehearing Conference on February 28, 1980 at the Offices of the Interstate Commerce Commission, Washington, DC.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-3406 Filed 1-24-80; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 163]

Assignment of Hearing; Correction

January 21, 1980

MC 126844 (Sub-70F), R.D.S. Trucking Co., appearing page 74961, December 16, 1980 is corrected as follows:

MC 126844 (Sub-70F), R.D.S. Trucking Co., now being assigned for hearing on January 23, 1980, at the Offices of the Interstate Commerce Commission, Washington, D.C., (instead of continued Prehearing Conference).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-2407 Filed 1-24-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 241, Rule 19, 38th Revised Exemption No. 129]

Atlanta & Saint Andrews Bay Railway Co., et al.; Exemption Under Mandatory Car Service Rules

To all railroads: It appearing, That the railroads named herein own numerous forty-foot plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle onthese lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC–RER 6410–C, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlanta & Saint Andrews Bay Railway Company
Reporting Marks: ASAB
Chicago, West Pullman & Southern Railroad Company
Reporting Marks: CWP
Columbus and Greenville Railway Company [1]
Reporting Marks: CAGY
Green Mountain Railroad Corporation
Reporting Marks: GMRC
Illinois Terminal Railroad Company
Reporting Marks: ITC
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC
Missouri-Kansas-Texas Railroad Company
Reporting Marks: MKT
New Hope and Ivyland Railroad Company
Reporting Marks: NHIR
North Stratford Railroad Corporation
Reporting Marks: NSRC
St. Louis Southwestern Railway Company
Reporting Marks: SSW
Southern Pacific Transportation Company
Reporting Marks: SP
Southern Railway Company
Reporting Marks: SOU

Effective January 15, 1980, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., January 14, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80-2408 Filed 1-24-80; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29085]

Consolidated Rail Corp.—Merger—Raritan River Railroad Co.; Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the merger of the Raritan River Railroad Company into the Consolidated Rail Corporation, from the requirements of 49 U.S.C. 11343–11347, which requires prior consideration and approval of the transaction by the Commission.

DATE: Effective January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, (202)–275–7246.

[1] Addition.

SUPPLEMENTARY INFORMATION:

Procedural Background

Consolidated Rail Corporation (Conrail) and the Raritan River Railroad Company (Raritan) filed a petition for exemption under 49 U.S.C. 10505 on June 20, 1979, requesting that their proposed merger be exempted from the requirements of obtaining prior Commission approval under 49 U.S.C. 11343–11347. In response to this petition we published a notice in the **Federal Register** on August 20, 1979, 44 FR 48846 (1979) requesting comments on the proposed exemption. Comments in opposition to the proposed exemption were filed by various shippers and receivers who presently utilize the services of Raritan. No comments in favor of the exemption were filed.

The notice of proposed exemption sets forth the facts in this proceeding. Certain shippers and receivers have challenged the basis for various allegations made by Conrail in their petition.

Continental Plastic Containers; E. R. Squibb & Sons, Inc. (Squibb); H. & F. Warehouse; Personal Products Company; Frank A. Greek & Son, Inc. (Greek); Permacel; Chicopee; Hercules, Inc.; and NL Titanium Pigments jointly object to the grant of the proposed exemption. They allege that in 1978 Raritan handled more than 9,000 carloads of their traffic. These opponents state that Raritan's importance to the economic growth of the area cannot be understated.

It is alleged that the Raritan management now provides flexibility in daily routine in order to accommodate shipping and receiving variations. The opponents state that Raritan's employee work rules differ from Conrail's and enhance the ability of the road to respond to the changing needs of its customers. It is felt that the planned merger into Conrail would eliminate these beneficial aspects of Raritan. Further, Conrail's claimed potential savings in cost due to the elimination of duplicate facilities and reduction of work force is challenged.

These parties state that any decline in rail service could necessitate an increase in the use of motor common carriage which would increase freight costs, effect future plans for expansion, and counter efforts to conserve fuel. Parties would like an opportunity to present these objections concerning the proposed merger.

Equipment Rental Corp. (Equipment), an intermodal distribution service served by Raritan, has filed a comment stating its need for Raritan's continued good service. Raritan's pride of workmanship is cited as being directly related to the excellent service now provided. Equipment states that in view of Conrail's past performance the present service would deteriorate if the merger occurs.

Greek owns a 150 acre industrial park in East Brunswick, NJ, that houses several major users of the Raritan. It has filed a separate comment alleging that the merger would seriously decrease the quality of service to its tenants. It is alleged that a full hearing is necessary in order for Conrail to demonstrate how it intends to maintain or improve Raritan service.

Squibb and Chicopee have each filed separate comments stating that a public hearing on the proposed transaction is vital. They doubt Conrail's ability to maintain the same level of service now provided by Raritan.

Continental Group Inc., has filed a comment urging that a public hearing be held on the proposed merger. It states that industrial users served by the Raritan should be given an opportunity to present their views.

The State of New Jersey, Department of Transportation has filed a comment objecting to the exemption. It states that shippers and receivers on the Raritan have a right to present their objections to this merger at a formal hearing. Further, it states that Contrail has an obligation to answer any questions raised by the involved shippers as to continued reliability and frequency of service.

The Brotherhood of Locomotive Engineers has filed a comment stating that the proposed merger would have an adverse effect on the locomotive engineers of the applicant, as well as locomotive engineers on other railroad carriers effected. It has requested that we deny the request for exemption. However, if the exemption is granted conditions for the protection of employees as prescribed in 49 U.S.C. 11347 should be imposed.

Rail Exemption Authority

Conrail seeks exemption of its merger with Raritan from 49 U.S.C. 11343–11347 under 49 U.S.C. 10505. This section provides that the Commission can exempt a transaction after an opportunity for a proceeding if it is limited in scope, not necessary to carry out the national transportation policy, would be an unreasonable burden, and would serve little or no useful purpose.

Limited Scope

Conrail currently controls Raritan. Since April 18, 1979, all the outstanding stock of Raritan has been owned by Conrail. The proposed merger is within the corporate family and is a limited transaction.

Additionally, the merger is of minor geographic significance. Conrail operates in 16 states, the District of Columbia, and two Canadian provinces. Raritan is a class III railroad owning 17.2 miles of railroad comprising 32 miles of track only extending from South Amboy to New Brunswick, N.J. It does not connect with any railroad other than Conrail.

The transaction will have a limited effect on railroad employees involved. Raritan has an average of 52 employees and Conrail hopes to eliminate approximately 16 administrative and supervisory positions. However, to the extent that employees would be covered under the protection provided by labor protective conditions enacted in *New York Dock Ry.-Control-Brooklyn Eastern Dist.,* 360 I.C.C. 60 (1979) affirmed by slip opinion of U.S. Court of Appeals for 2nd Circuit, November 7, 1979, protection will be provided.

The transaction will not affect competitors of Conrail and Raritan. The purpose of the merger is to consolidate traffic, equipment, and operations. This will allow for more efficient and expeditious handling of traffic. Raritan has no independent existence from Conrail as far as competition for freight traffic is concerned, and no change in rail competition will result from the merger.

The exemption proposed by Conrail and Raritan is of restricted scope. The merger is limited to: (1) a corporate family; (2) a minor geographic area; and (3) a minor impact on employees, and (4) no effect on competition for freight traffic.

Since the proposed transaction is of limited scope, we may now proceed to consider the other criteria.

Necessity To Carry the National Transportation Policy

The transportation policy stated at 49 U.S.C. § 10101 requires us to provide impartial regulations of modes of transportation subject to Subtitle IV. Impartial regulation is achieved through: (1) recognizing and preserving the inherent advantage of each mode; (2) promoting safe, adequate, economical, and efficient transportation; (3) encouraging sound economic conditions in transportation, including sound economic conditions among carriers; (4) encouraging the establishment and maintenance of reasonable rates for transportation without unreasonable discrimination or unfair or destructive competitive practices; (5) cooperating with each State on transportation matters; and (6) encouraging fair wages

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and working conditions in the transportation industry.

Regulation of the Conrail and Raritan merger is not necessary to carry out the goals of the National Transportation Policy. It is a merger within a corporate family, and will not affect the considerations of the transportation policy since elimination of a corporate entity will be the only change resulting from the transaction. Elimination of Raritan will reduce duplicative record and book keeping. It will also simplify the corporate structure of Conrail.

Unreasonable Burden on a Person

The Commission's *Consolidation Procedures* require a complete application to be filed in order for a decision to be reached within the time constraints of 49 U.S.C. 11345. The submission of the material necessary to comply with the *Consolidation Procedures* will be a time consuming task requiring the dedication of financial resources. To establish such a record in this transaction would require Conrail and Raritan to submit a complete application under the requirements imposed by 49 U.S.C. 11344 and would place an unreasonable burden upon them. Our granting of the petition will allow Conrail to avoid the burden of complying with the I.C.C. *Railroad Acquisition, Control, Merger, Consolidation, Coordination Project, Trackage Rights, and Lease Procedures*, 49 CFR Part 1111, (1978) (*Consolidation Procedures*).

Little or No Useful Public Purpose

In determining whether or not to approve a merger, the Commission decides if it is in the public interest. In reaching this determination we rely upon the applications submitted pursuant to the *Consolidation Procedures* and any comments by the parties.

Here we have received comments through various shippers and receivers objecting to the merger since it would allegedly decrease the present high level of service provided by Raritan. The opponents fear that Raritan's pride and adaptability would disappear after the merger. A full proceeding under 49 U.S.C. 11343 requiring an application under the *Consolidation Procedures* would not alleviate the opponents' fears.

Raritan is wholly owned by Conrail. Our permission to affect a corporate simplification should not result in a change in the level of service, Raritan's present service is conducted under the ownership of its parent, Conrail. This will not change. The same service level and dedication or personnel should continue as before. It would be a wasteful allocation of resources to require the filing of an application under the *Consolidation Procedures*.

Because this is a merger within a corporate family, involving little substantive change, our review of it would serve no useful purpose.

Conclusion

We conclude that exemption of the merger between Conrail and Raritan from 49 U.S.C. 11343–11347 meets the statutory requirements of 49 U.S.C. 10505. The power to exempt from regulation enables the Commission and railroads to commit their limited resources in areas where they are most needed by enabling the Commission to effectively deregulate those areas which have no significant bearing on the overall regulatory scheme. In enacting 49 U.S.C. 10505, Congress clearly intended us to exempt certain limited transactions from our regulatory power. This is one such transaction.

We find: (1) The application of the requirements of 49 U.S.C. 11343–11347 for the merger of the Raritan River Railroad Company into the Consolidated Rail Corporation is of a limited scope and (a) is not necessary to carry out the transportation policy of section 10101, (b) would be an unreasonable burden on Conrail and Raritan, and (c) would serve little or no useful purpose.

(2) This decision is not a major Federal action significantly affecting energy consumption or the quality of the human environment.

It is ordered: (1) Consolidated Rail Corporation and Raritan River Railroad Company are exempted under 49 U.S.C. 10505 from the requirements of 39 U.S.C. 11343–11347 for the limited purpose of merging the Raritan into Conrail, subject to the conditions imposed for the protection of employees imposed in *New York Dock Ry.-Control-Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), affirmed by slip opinion of U.S. Court of Appeals for 2nd Circuit, November 7, 1979.

(2) If Raritan is merged into Conrail, Conrail shall within 60 days of the merger submit three copies of a sworn statement showing all general entries required to record the transaction.

(3) Public notice of our action shall be given to the general public by delivery of the copy of this decision to the Director, Federal Register, for publication therein.

(4) This exemption will continue in effect for 90 days from the effective date of this decision. Conrail and Raritan must consummate this merger during that time in order to take advantage of the exemption which we have granted.

(5) This decision shall be effective January 25, 1980.

Dated: January 11, 1980.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Chairman O'Neal not participating. Vice Chairman Stafford, joined by Commissioner Clapp, dissenting. Commissioner Christian absent and not participating.

Agatha L. Mergenovich,

Secretary.

Commissioner Stafford, joined by Commissioner Clapp (Dissenting)

I fully believe that the Congress intended this Commission to exercise its discretion in utilizing 49 U.S.C. 10505 to exempt certain rail transactions. Accordingly, the automatic reliance on those provisions is wholly inappropriate, especially in the situation at hand where there is vigorous opposition to such a procedure. Use of the Section 10505 provisions will deny shippers and other interested persons the opportunity to fully develop their positions and will, unfortunately, remove the burden of proof from the shoulders of petitioners. A more equitable approach would be to grant petitioners extensive waivers from the requirements of 49 C.F.R. 1111, but to require them to proceed under 49 U.S.C. 11343 *et seq.*

[FR Doc. 80-2300 Filed 1-24-80; 8:45 am]

BILLING CODE 7035-01-M

Finance, Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(e) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed on or before February 25, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: January 17, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Friedman. (Member Friedman not participating.)

MC–F–14227F, filed November 20, 1979, KERR MOTOR LINES, INC. (Kerr) (1/4 Jackson Street, Binghamton, NY 13903) Purchase—ROBERT E. CUNNINGHAM, d.b.a. BOB'S EXPRESS (Express) (28 Union Street, Morrisville, NY 13408), and in turn, Robert H. Kerr, Edward Kerr, and James J. Kerr, all of Binghamton, NY, seek to acquire control of such rights through the transaction. Applicants' representatives: Herbert M. Canter and Benjamin D. Levine, 305 Montgomery Street, Syracuse, NY 13202. Kerr is purchasing the operating rights of Express evidenced by a Certificate of Public Convenience and Necessity in MC 121062 (Sub-2) and by a Certificate of Registration in MC 121062 (Sub-1) which is supported by a Certificate of Public Convenience and Necessity issued by the New York Public Service Commission, now the New York Department of Transportation, in No. 2155, as last reissued May 5, 1970, in Case MT–3104. These certificates authorize the transportation as a motor common carrier, of *general commodities* with usual exceptions, (a) over irregular routes, between points in Oneida County, NY, and between points in Oneida County, NY, on the one hand, and, on the other, points in Chenango, and Madison Counties, NY, and (b) over regular routes, between Syracuse, NY, and Cazenovia, NY, serving all intermediate points, and the off-route point of Chittenango Falls, NY: from Syracuse over NY Hwy 5 to Fayeteville, NY, then over NY Hwy 92 to junction U.S. Hwy 20, and then over U.S. Hwy 20 to Casenovia, and return over the same route. Kerr is authorized to operate as a motor common carrier pursuant to certificates in MC–126588 and sub-numbers thereunder which authorize the transportation of *general commodities*, over regular and irregular routes, between various points in New York and Pennsylvania, and the transportation of *new furniture* in cartons, over irregular routes, from the facilities of S. J. Bailey & Sons, Inc., at or near Walton, NY, and Honesdale, PA, to points in Illinois, Indiana, Michigan, Ohio, and that part of Pennsylvania west of U.S. Hwy 15. (Hearing site: Syracuse, NY or Washington, DC.

Notes.—(1) Application has been filed for temporary authority under 49 U.S.C. 11349. (2) A directly related application seeking a conversion of the Certificate of Registration in MC–121062 (Sub-1) into a Certificate of Public Convenience and Necessity has been filed in MC–126588 (Sub-4F), published in this same **Federal Register** issue.

MC 126588 (Sub-4F), filed November 21, 1979. Applicant: KERR MOTOR LINES, INC., 1/4 Jackson Street, Binghamton, NY 13903. Representatives: Herbert M. Canter and Benjamin D. Levine, 305 Montgomery Street, Syracuse, NY 13202.—Conversion. Conversion of Certificate of Registration MC 1211062 (Sub-1) into a Certificate of Public Convenience and Necessity authorizing the transportation, as a common carrier, by motor vehicle, over irregular routes, of *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities of unusual value, and those requiring special equipment), between points in Chenango, Madison, and Oneida Counties, NY. (Hearing site: Syracuse, NY, or Washington, DC.)

Notes.—(1) The authority as set forth in the Certificate of Registration in MC–121062 (Sub-1) is radial in nature, but the conversion has been broadened to non-radial irregular route authority. (2) This proceeding is a matter directly related to a proceeding pursuant to 49 U.S.C. 11343 in MC–F–14227F published in this same **Federal Register** issue.

MC–F–14241F, filed November 28, 1979. F. & W. EXPRESS INC., (F & W) (P.O. Box 2213, Memphis TN 38109)—PURCHASE (Portion)—HARPER TRUCK SERVICE, INC. (Harper) (1266 North Eight Street, Paducah, KY 42001). Representative: Dale Woodall, 900 Memphis Bank & Trust Bldg., Memphis, TN 38103. F & W seeks to purchase a portion of the operating rights of Harper. Nelson Finleyson, the majority stockholder of F & W (P.O. Box 2213, Memphis, TN 38109), also seeks to acquire control of such rights through the transaction. The interstate operating rights F & W is purchasing are contained in Harper's certificate No. MC–110479 (Sub.-No. 25) which authorizes the transportation, in interstate or foreign commerce, as a common carrier, over regular routes, of *general commodities*, with usual exceptions, as follows: (1) between Benton, KY, and Dyersburg, TN, serving Newbern, TN, as an

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intermediate point: from Benton over KY Hwy 348 to junction Purchase Parkway, then over Purchase Parkway to junction U.S. Hwy 51 (southwest of Fulton, KY), and then over U.S. Hwy 51 to Dyersburg, and return over the same route, and (2) between St. Louis, MO, and Dyersburg, TN, serving no intermediate points: from St. Louis over Interstate Hwy 55 to junction Interstate Hwy 155 (south of Hayti, MO), then over Interstate Hwy 155 to junction U.S. Hwy 51 (approximately 3 miles north of Dyersburg), and then over U.S Hwy 51 to Dyersburg, and return over the same route, restricted in (1) and (2) above against the transportation of malt beverages and new furniture destined to Dyersburg, TN, and points in its commercial zone as defined by the Commission. F & W holds authority pursuant to MC–107913 and sub-numbers thereunder to operate as a motor common carrier, transporting general commodities, over regular routes, throughout various points in AR, MS, and TN. (Hearing site: Memphis, TN.)

MC–F–14231F, filed November 20, 1979, CONAGRA, INC. (200 Kiewit Plaza, Omaha, NE 68131)—Control—Lynn Transportation Company, Inc. (712 South 11th Street, Oskaloosa, IA 52577), through reacquisition of all of Lynn's voting stock which was originally acquired by ConAgra, Inc., on September 15, 1975, but subsequently placed in the hands of a trustee pursuant to a voting trust agreement. Representative: Peter A. Greene, 900 17th Street, NW, Washington, DC 20006. Lynn Transportation Company, Inc., holds motor common carrier authority in MC–133604 and MC–133604 (Sub-No. 6) which authorizes the transportation over irregular routes as follows: (1) *Lumber,* From Moravia, Iowa, to Jonesboro and Bearden, Arkansas. (2) *Machined castings,* From Oskaloosa, Iowa, to Bay Minette and Mobile, Alabama. (3) *Meats, meat products, meat by-products, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 and Foodstuffs,* From the plant site of Geo. A. Hormel & Co. at or near Ottumwa, Iowa, to points in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee; and (4) *Meats, meat products, meat by-products, articles distributed by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers, as described in Sections A, C and D of Appendix I to the report in Descriptions In Motor Carrier Certificates, 61 M.C.C. 209 and 766 and Foodstuffs,* From the destination points specified in (3) above to the plant site of Geo. A. Hormel & Co., at or neat Ottumwa, Iowa. Restriction: The authority granted in parts (3) and (4) above is restricted against the transportation of hides and commodities in bulk and further restricted to the transportation of traffic originating at, or destined to, the named plant site. (5) (a) *Meats, meat products, meat by-products, and articles distributed by meat packinghouses,* and (b) *foodstuffs* (except those in (a) above), From the facilities of Geo. A. Hormel & Co., at or near Algona and Fort Dodge, Iowa, to points in Georgia, restricted against the transportation of commodities in bulk and hides and further restricted to the transportation of traffic originating at the named origin and destined to the named destinations. ConAgra also controls Bralen Trucking Co., Inc., a motor contract carrier which holds authority in MC–142162 and sub-numbers thereunder. (Hearing site: Washington, DC.)

Notes.—(1) The sole purpose of the application is to reacquire the company formerly controlled by ConAgra, Inc. (2) Dual operations may be involved in this proceeding.

Dated: January 14, 1980.

By the Commission, Review Board Number 5, Members Krock, Pohost, and Taylor.

MC–F–14229F, filed November 20, 1979, H. F. CAMPBELL & SON, INC. (Campbell) (P.O. Box 260, Millerstown, PA 17062)—Purchase (Portion)—Cox Refrigerated Express, Inc. (Cox) (10606 Goodnight Lane, Dallas, TX 75220), and in turn, H. B. Campbell, Richard B. Campbell, Jennie L. Campbell, Donald L. Campbell, H. Albert Campbell, and R. Franklin Campbell, all of Millerstown, PA, acquiring control of such rights through the transaction. Representative: John M. Musselman, P.O. Box 1146, Harrisburg, PA 17108. Campbell is purchasing the interstate operating rights contained in Cox's Certificate in No. MC–140033 (Sub-No. 41), which authorizes the transportation, as a motor common carrier, over irregular routes, of foodstuffs (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Anderson-Clayton Foods, Inc., at or near Jacksonville, IL, to points in PA, NY, MD, DE, NJ, CT, RI, MA, VT, NH, ME, and DC, restricted to the transportation of traffic originating at the named origin. Campbell holds authority to operate as a motor common carrier in MC–31367 and sub-numbers thereunder throughout the United States (except AK and HI). (Hearing site: Harrisburg, PA, or Washington, DC.)

MC–F–14212F, filed November 6, 1979. MCDANIEL MOTOR EXPRESS, INC. (McDaniel) (1115 Winchester Road, Lexington, KY 40505)—Purchase (Portion)—Bestway Express, Inc. (Bestway) (905 Visco Drive, Nashville, TN 37210). John C. McDaniel who controls transferee through the majority stock ownership, also acquiring control of the rights of Bestway. Representative: William L. Willis, 708 McClure Building, Frankfort, KY 40601. The interstate operating rights to be acquired by McDaniel are contained in Bestway's Certificate No. MC–120981 (Sub-No. 7) issued October 2, 1973, which also embraces those operations authorized in MC–120981 (Sub-No. 9). The certificate authorized operations, in interstate or foreign commerce, as a motor common carrier of *general commodities,* with usual exceptions, over regular routes, (1) Between Lebanon, KY, and Louisville, KY, serving all intermediate points except those points on the route between Bardstown and its commercial zone as defined by the Commission and Louisville, but serving Bardstown for purpose of joinder only; from Lebanon over KY Hwy 55 to Springfield, KY, then over U.S. Hwy 150 to Bardstown, KY, then over U.S. Hwy 31E to Louisville, and return over the same route. (2) Between Lebanon, KY, and Bardstown, KY, serving all intermediate points but serving Bardstown for purpose of joinder only; from Lebanon over KY Hwy 52 to Loretto, KY, then over KY Hwy 49 to Bardstown, and return over the same route, Restriction: The authority granted in (1) and (2) above is restricted against the transportation of shipments (a) having an immediate prior to subsequent movement by air and (b) originating at, destined to, or interlined at Nashville, TN, Lexington, Bardstown, and Springfield, KY, and points within their respective commercial zones as defined by the Commission. (3) Between Lebanon, KY, and Lexington, KY, serving all intermediate points except Lawrenceburg, KY, and points within its commercial zone as defined by the Commission and those points on the route between Lawrenceburg and Lexington; from Lebanon over U.S. Hwy 68 to Perryville, KY, then over U.S. Hwy 150 to Danville, KY, then over U.S. Hwy 127 to Lawrenceburg, KY, then over U.S. Hwy 62 to Versailles, KY, then over U.S. Hwy 60 to Lexington, and return over the same route, and (4) Between Harrodsburg, KY, and Lexington, KY, serving no intermediate points, and serving termini for purposes of joinder only; from Harrodsburg over U.S. Hwy 68 to Lexington, and return over the same route. McDaniel presently operates as a common carrier under authority issued in No. MC–129291 and subs thereunder. (Hearing site: Lexington, KY, or Nashville, TN.)

Note.—The possibility of duplications exist between the authority Bestway is selling and the authority Bestway is retaining. The duplications occur over U.S. Hwys 60 and 62.

MC–F–14220, filed November 20, 1979. R. G. JONES TRUCKING COMPANY, INC., 927 East Avenue "B", Hutchinson, KS 67501—Purchase (Portion)—Refrigerated Foods, Inc., 1420 33rd Street, P.O. Box 1018, Denver, CO 80201. Applicants' Representatives: William L. Mitchell, 119 West Sherman Street, Hutchinson, KS 67501 and Joseph W. Harvey, P.O. Box 1018, Denver, CO 80201. R. G. Jones Trucking Company, Inc. (Jones) purchasing a portion of the operating rights of Refrigerated Foods, Inc. (Refrigerated). Robert G. Jones, the majority stockholder of Jones also acquiring control of the rights of Transferor through the transaction. Jones is purchasing a portion of the authority purchased by refrigerated in MC–F–13271, which authorizes operations as a motor common carrier, in interstate or foreign commerce, over irregular routes, in MC–138018 (Sub–No. 46), as follows: salt, (1) from Hutchinson, KS, to points in CO, and (2) from Lyons and Kanopolis, KS, to points in that part of CO on and east of a line beginning at the WY–CO State line and extending along U.S. Hwy 85 to junction unnumbered hwy (formerly portion U.S. Hwy 85), then along unnumbered hwy through Walsenburg, CO, to junction U.S. Hwy 85, then along U.S. Hwy 85 to junction unnumbered hwy (formerly portion U.S. Hwy 85), then along unnumbered hwy through Aguilar, CO, to junction U.S. Hwy 85, then along U.S. Hwy 85 to the CO–NM State line. A certificate in MC–138018 (Sub-No. 46) has not yet been issued pursuant to MC–F–13271. Jones holds authority to operate as a motor common carrier, in interstate or foreign commerce, over irregular routes, pursuant to Certificates issued in MC–117462 (Sub–Nos. 2 and 3). (Hearing site: Wichita or Hutchinson, KS.)

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80–2495 Filed 1–24–80; 8:45 am]
BILLING CODE 7035–01–M

Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission on or before February 25, 1980. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

Agatha L. Mergenovich,
Secretary.

MC–F–14072. By application filed June 19, 1979, TIONA TRUCK LINE, INC., P.O. Box 312, Butler, MO 64730. Representative: Mr. Jim Tiona, Jr., Inn Building, P.O. Box 312, Butler, MO 64730. Application seeks to authority to purchase the Operating Rights of Cox Refrigerated Express in Certificate MC–140033 (Sub-No. 45), authorizing such merchandise as is dealt in by grocery and food business houses (except in bulk, in tank vehicles), in vehicles equipped mechanical refrigeration, from facilities of Kraft, Inc., located at Garland, TX, to points in AR, KS, LA, MS, MO, OK, and TN. Application for temporary was granted August 24, 1979.

MC–F–13895. Authority sought by VERREAULT TRANSPORT LTD., MC–109863, of 438 St.-Jean, Granby (Quebec), Canada GIR 2k3, to control Inter-City Bus Lines, LTD, of the same address. Applicant's attorney: Mr. Guy Poliquin, Edifice Grande-Allee, 580 Est. Grande-Allee, Suite 140, Quebec, Canada GIR 2K3. Inter-City Bus Lines LTD., is a Common Carrier, MC–113656, and operates by motor vehicle the following services: *I. Regular route:* Passengers and their baggage, between Richford, Vt., and the United States-Canada Boundary line, serving all intermediate points; From Richford over Vermont Highway 13 to the United States-Canada Boundary line, and return over the same route.

MC 124743. *II. Irregular routes:* Passengers and their baggage, in round trip charter operations; Beginning at Ports of Entry on the United States-Canada boundary line located in Michigan, New York, Vermont, New Hampshire and Maine, and ending at Ports of Entry located along the southern United States-Canada Boundary line, and extending to points in the United States except those in Alaska and Hawaii. Application has not been filed for temporary authority under section 210a(B).

MC–F–14106F. Transferee: GRAVES TRUCK LINE, INC., P.O. Drawer 1367, Salina, Kansas 67401. Transferor: The Luper Transportation Company, (same address as transferee). Applicant's attorney: Bruce A. Bullock (same address as transferee). Authority sought to merge the operating rights of The Luper Transportation Company into Graves Truck Line, Inc. Operating rights sought to be merged: (1) *Tea and coffee beans,* from Houston, TX, to Oklahoma, City, OK; (2) *Coffee Beans,* from New Orleans, LA, to Wichita, KS; (3) *Bananas,* from Galveston, TX and New Orleans, LA, to Wichita, KS, Authority in (1), (2), and (3) restricted against service to facilities of Safeway Stores. (4)(a) *Meats, meat products, meat by-products and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), Between Wichita, KS, on the one hand, and, on the other, Memphis, TN and points in southern MO, eastern NM, and points in AR, LA, OK, and TX; (b) Between Arkansa City, KS, on the one hand, and, on the other, Memphis, TX, and points in AZ, AR, NM, OK and TX. (c) from facilities of John Morrell and Co. at Amarillo, TX, to Memphis, TX, and points in AR, CA, KS, MO, NE, NM, and OK; (d) from the facilities of MBPXL at Wichita, KS, to points in CA, ID, MT, OR, and WA. (5) *Such commodities as are used by meat packers* as described in Sections A, of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, except commodities in bulk, in tank vehicles) butter, cheese and oleomargarine, from Memphis, TN, points in southern MO, and points in AR, LA, OK, TX, to Wichita, KS. Transferee is authorized to operate as a common carrier of general commodities in States of KS, NE, CO, IA, MO, OK and TX and of meat and packinghouse products in that part of the United States west of and including MI, OH, KY, NC, SC, and GA. Transferee has permanent control of Transferor pursuant to MC–F–12516 and no authority has been filed for temporary authority under section 11349 of the act. Directly related to MC–53965 (Sub-No.——).

V45/18 JA25 80 UMI

No. MC–F–14118F. Transferee: C & E TRUCKING CO., INC., a California corporation, 11910 Greenstone Avenue, Santa Fe Springs, CA 90607. Transferor: Wheeler Freightways, a California corporation, 3375 South Polaris Avenue, Las Vegas, NV 89102. Representative: Robert Fuller, 13215 E. Penn Street, Suite 310, Whittier, CA 90602. Authority sought for purchase by transferee of a portion of the operating rights of transferor as a motor common carrier over irregular routes authorized in certificates of public convenience and necessity as follows: MC 106679, *building and construction materials, equipment and supplies, and mining equipment and supplies,* between points in Los Angeles County, CA, on the one hand, and, on the other, points in Clark and Lincoln Counties, NV and *lime, lime rock,* and *limestone* not included in the commodities specified next above, from Sloan, NV to points in Los Angeles County, CA; and MC 106679 Sub 9, *gypsum plaster,* gypsum wallboard, and gypsum lath, from points in Clark County, NV, to points in Santa Barbara, Ventura, Mono, Inyo, San Diego, Imperial, Kern and Fresno Counties, CA. Transferee presently holds authority from this Commission with lead docket No. MC 142335. Application has not been filed for temporary authority under 49 U.S.C. 11349. This application is filed simultaneously with companion application wherein authority is sought by transferor herein to purchase concurrently a portion of the operating rights in MC 142335 held by transferee herein.

Docket No. MC–F–14171F, filed: September 25, 1979. COLUMBUS RETAIL MERCHANTS DELIVERY, INC., 3275 Alum Creek Driye, P.O. Box 755, Columbus, OH 43216—Purchase (Portion)—Reed Lines, Inc., 634 Ralston Avenue, Defiance, OH 43512. Applicants' Representative: John P. McMahon, George, Greek, King, McMahon & McConnaughey, 100 East Broad Street, Columbus, OH 43215. Authority sought to purchase by Columbus Retail Merchants Delivery, Inc., 3275 Alum Creek Drive, P.O. Box 755, Columbus, OH 43216 of a portion of the operating rights of Reed Lines, Inc., 634 Ralston Avenue, Defiance, OH 43512. Applicants' attorney is John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Operating rights sought to be purchased are transferor's MC–119632 Sub 61 certificate which authorizes transportation as a common carrier by motor vehicle over irregular routes transporting articles distributed or dealt in by food distributors or wholesale or retail grocers (except frozen foods and commodities in bulk), from the facilities of Retail Merchants Consolidation and Distribution Center, a Division of Columbus Retail Merchants Delivery, Inc. at or near Columbus, OH to points in IL, IN, KY, the lower peninsula of MI, NY, OH, PA, and WV. Transferee is authorized to transport general commodities (usual exceptions) over irregular routes between Columbus, OH, on the one hand, and, on the other, points in OH. Application has been filed for temporary authority under § 49 U.S.C. § 11349 (formerly § 210a(b) of the Act). (Hearing site: Columbus, OH.)

No. MC–F–14180F. Authority sought for the amalgamation of KINGSWAY TRANSPORTS LIMITED, 123 Rexdale Boulevard, Rexdale, Ontario, Canada M9W 1P3 and John N. Brocklesey Transport Limited, 123 Rexdale Boulevard, Rexdale, Ontario, Canada M9W 1P3, with Kingsway Transports Limited being the surviving corporation. Applicants' attorney: S. Harrison Kahn, Kahn and Kahn, Suite 733 Investment Building, Washington, D.C. 20005. John N. Brocklesby Transport limited is a motor common carrier of commodities, the transportation of which because of size or weight require the use of special equipment (except motor vehicles), between ports of entry on the U.S.-Canada boundary line at or near Morses Line, West Berkshire, Richford, East Richford, North Troy, Beebe Plain, Derby Line, High Gate Springs, and Norton, VT., Beecher Falls and Scott Bog, NH, and Fort Covington, Trout River, Mooers Forks, Champlain and Rouses Point, NY, on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Connecticut, Rhode Island, and New York. This authority is set forth in Docket No. MC–126672. Kingsway Transports Limited is a motor common carrier of general commodities, with the usual exceptions, authorized in Certificates of Public Convenience and Necessity issued in Docket Nos. MC–112908, Sub No. 1, Sub No. 3, Sub No. 4, Sub No. 5, and Sub No. 7 to operate between New York, NY and ports of entry on the U.S.-Canada boundary line near Rouses Point, NY, serving intermediate and off-route points in New York and New Jersey within 15 miles.

No. MC–F–14179F. Authority sought for control by CROWLEY MARITIME CORPORATION, One Market Plaza, San Francisco, CA 94105 and Thomas B. Crowley of same address of Northwestern Construction, Inc., 3812 Spendard Road, AK 99503 through stock ownership. Applicant's attorney: Leo C. Franey, 700 World Center Building, 918-16th Street, N.W., Washington, D.C. 20006. Operating Rights to be controlled: *General Commodities,* except household goods and commodities in bulk, as a *contract* carrier, over irregular routes, between points in Alaska within 50 miles of the U.S. Post Office at Deadhorse, AK in seasonal operations extending from July 1 to October 15, restricted to the transportation of traffic having a prior or subsequent movement by water under contract with Artic Marine Freighters. Crowley Maritime Corporation presently owns the stock of Northwestern Construction, Inc. The purpose of this application is to obtain approval of control upon issuance of authority in MC–145929. Applicant also controls Gulf Carribbean Marine Lines, Inc., Arctic Lighterage Company and Mukluk Freight Lines, Inc., motor common carriers authorized to transport general commodities between specified points in Florida and Alaska as set forth in detail in MC–141323, MC–141642 and MC–118518, respectively and North Star Forwarding Co. in FF–308 and FF–308 (Sub-No. 1), and water common carriers, Arctic Lighterage Company, Drummond Lighterage, Columbia Common Carriers, Inc. and Bay Cities Transportation Company authorized to operate in self-propelled and non-self-propelled vehicles between points on the Atlantic Coast, the Gulf of Mexico, Pacific Coast and Alaska as specified in W–1229, W–586, W–580, and W–379. No duplicating authority sought. Dual Operations approved in MC–145929. No temporary authority application filed.

[FR Doc. 80-2494 Filed 1-24-80; 8:45 am]
BILLING CODE 7035-01-M

[Authorization Order No. 16; Directed Service Order No. 1398]

Kansas City Terminal Railway Co. Directed To Operate Over Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

Decided: January 15, 1980.

On September 26, 1979, the Commission directed Kansas City Terminal Railway Company (KCT) to provide service as a directed rail carrier (DRC) under 49 U.S.C. 11125 over the lines of the Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("RI"). *See* Directed Service Order No. 1398, *Kansas City Term. Ry. Co.—Operate—Chicago, R.I. & P.,* 360 I.C.C. 289 (1979), 44 FR 56343 (October 1, 1979). In DSO No. 1398 (Sub-No. 1), this authority was extended through March 2, 1980, subject to certain modifications. *See* DSO No. 1398 (Sub-No. 1), 360 I.C.C. 478 (decided November 30, 1979; served December 3, 1979) and 44 FR 70733 (December 10, 1979).

RI operates a 1978 Ford 26-ton tandem truck No. 78037 that is used on the Southern Division by maintenance-of-way forces. The truck is equipped with hi-rail gear, crane loom, hydraulic tools and rail-carrying racks. A new engine is needed for this truck at an estimated cost of $3,960.00.

Supplemental Order No. 4 to DSO No. 1398 required the DRC to obtain prior Commission approval for all rehabilitation for freight cars and other non-locomotive equipment which exceeds $1,200 per unit. *See* Supplemental Order No. 4 (served October 15, 1979) [44 FR 61127, Oct. 23, 1979]. Accordingly, the DRC submitted an urgent request for authority to repair the above vehicle. *See* wire to Joel E. Burns, dated December 21, 1979.

The DRC seeks Commission authorization to repair 1978 Ford 26-ton tandem truck number 78037 on the grounds that repairs are necessary for the efficient conduct of important maintenance-of-way work.

We find: 1. This action will not significantly affect either the quality of the human environment or the conservation of energy resources. *See* 49 CFR Parts 1106, 1108 (1978).

It is ordered: 1. The DRC is authorized to make repairs to RI tandem truck number 78037, at a cost of $3,960.00, as requested in a telegram from the DRC to Joel E. Burns dated December 21, 1979.

2. The repairs authorized above shall be completed within the directed service period.

3. This decision shall be effective on its service date.

By the Commission, Railroad Service Board, Members Joel E. Burns, Robert S. Turkington, and John R. Michael.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-2493 Filed 1-24-80; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL COMMUNICATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459) and Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), I hereby determine that the objects in the exhibit, "The Bronze Age of China" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement between the Committee for the Preparation of Exhibitions of Archaeological Relics, People's Republic of China, and The Metropolitan Museum of Art, New York, N.Y. I also determine that the temporary exhibition or display of the listed exhibit objects at The Metropolitan Museum of Art, New York, N.Y., beginning on or about April 9, 1980, to on or about July 9, 1980; The Field Museum, Chicago, Ill., beginning on or about August 20, 1980, to on or about October 29, 1980; Kimbell Art Museum, Fort Worth, TX., beginning on or about December 10, 1980, to on or about February 18, 1981; Los Angeles County Museum of Art, beginning or or about April 1, 1981, to on or about June 10, 1981, and at The Museum of Fine Arts, Boston, Mass., beginning on or about July 22, 1981, to on or about September 30, 1981, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Charles W. Bray III,
Acting Director, International Communication Agency.

January 23, 1980.

[FR Doc. 80-2856 Filed 1-24-80; 8:45 am]
BILLING CODE 4230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

A.I.D. Research Advisory Committee; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), Pub. L. 92–463, Federal Advisory Committee Act, notice is hereby given of the A.I.D. Research Advisory Committee meeting on March 3–4, 1980 at the Pan American Health Organization Building, 23rd Street and Virginia Avenue, N.W., Conference Room 'C' to review, appraise and make recommendation to the Administrator, Agency for International Development, concerning projects proposed for A.I.D. central research funding in the fields of foods and nutrition, health and population, education and selected development problems.

The meeting will begin at 9:00 a.m. and adjourn at 5:30 p.m. each day. The meeting is open to the public. Dr. Miloslav Rechcigl, Jr. Chief of Research and Methodology Division, Bureau for Development Support, is designated as the A.I.D. representative at the meeting. It is suggested that those desiring more specific information, contact Dr. Rechcigl, 1601 N. Kent Street, Arlington, Virginia 22209 or call area code (202) 235–9011.

Dated: January 14, 1980.

Miloslav Rechcigl,
A.I.D. Representative, Research Advisory Committee.

[FR Doc. 80-2439 Filed 1-24-80; 8:45 am]
BILLING CODE 4710-02-M

[Redelegation of Authority No. 99.1.112]

Mission Director, USAID-Uganda; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Mission Director, USAID/Uganda, the authority to sign:

1. U.S. Government contracts, grants, or amendments thereto provided that the aggregate amount of each individual contract or grant does not exceed $50,000 or local currency equivalent; and

2. Contracts with individuals for the services of the individual along provided that the aggregate amount of each individual contract does not exceed $100,000 or local currency equivalent.

The authority herein delegated may be redelegated in writing, in whole or in part, by said Mission Director at his discretion to the person or persons designated by the Mission Director as Contracting Officer. Such redelegation shall remain in effect until such designated person or persons ceases to hold the office of Contracting Officer or until the redelegation is revoked by the mission Director, whichever shall first occur. The authority so redelgated by the Mission Director may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein redelegated may be exercised by duly authorized persons

who are performing the functions of the Mission Director in an acting capacity.

Actions within the scope of this delegation and any redelegation hereunder heretofore taken by officials designated in such delegation or redelegation are hereby ratified and confirmed.

This redelegation of authority is effective on the date of signature.

Dated: January 4, 1980.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 80-2438 Filed 1-24-80; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Effects of Socio-Economic Trends on Police Services; Solicitation

The National Institute of Justice plans to initiate a program of research to identify and examine the effects of socio-economic trends over the next ten to twenty years on the nature and effectiveness of police services. The aim of such research is to increase our understanding of societal trends, patterns and events that have critical significance for improving or modifying police services—so that policy makers as well as other decision-makers may anticipate available current and future improvement options upon which to base their decisions for strengthening police services. The ultimate objectives of this effort are to: identify the pertinent emerging issues and problems of policing and conceptualize a basis for contingency planning; provide information for crisis avoidance; encourage the need to explicate alternatives and trade-offs; and develop various models or plans of action for implementation of various proposed changes and strategies.

The solicitation, entitled "Improving Police Services: The Impact of Socio-Economic Trends," asks for the submission of preliminary proposals rather than concept papers or full proposals. The selection of the final applicant will be determined by a peer review panel process in accordance with the criteria set forth in the solicitation. In order to be considered, all papers must be postmarked no later than March 28, 1980. The grant or cooperative agreement is planned for award in June 1980 with funding support not to exceed $125,000 and a time period of 18 months in duration. To maximize competition for this award, both profit-making and non-profit organizations are eligible.

Copies of the solicitation may be obtained by sending a mailing label to: Solicitation Request, "Improving Police Services: The Impact of Socio-Economic Trends", National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850.

Further information regarding the solicitation can be obtained by contacting Shirley Melnicoe or David J. Farmer, Office of Research Programs, NIJ, 633 Indiana Avenue, N.W., Washington, D.C. 20531 (301/492-9110).

Dated: January 15, 1980.

Approved:

Harry M. Bratt,

Primary and Principal Assistant to the Acting Director, NIJ.

[FR Doc. 80-2374 Filed 1-24-80; 8:45 am]

BILLING CODE 4410-18-M

Office of the Attorney General

Hispanic Advisory Committee; Notice of Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776, 5 U.S.C. App. I, Supp. II), and with the approval of the Attorney General, and the concurrence of the Office of Management and Budget, the undersigned Special Assistant to the Attorney General has determined that establishment of the Hispanic Advisory Committee is in the public interest in connection with the performance of duties imposed on the Department of Justice by law.

Purpose: The primary purpose of the Hispanic Advisory Committee to the Attorney General is to provide an organized public forum for the discussion of matters which are of concern to the Hispanic community. Since this segment of the population has not had many persons of their ethnic background in decision-making positions, the Committee can provide a vehicle by which the Hispanic community can voice its concerns to high-level officials more effectively. In addition, the Committee can provide a means by which the Attorney General and other Department officials communicate policies and programs to that community.

Another purpose of the committee is to consolidate the various Hispanic communities and focus attention on specific subjects of concern where action is possible. By engaging in such discussion with the chief law enforcement officer of the United States, the Department can better demonstrate its commitment to civil rights, its sensitivity to community concerns, and its pledge to represent the interests of all Americans.

Specifically, the Hispanic Advisory Committee will advise the Attorney General as to changes which the Committee wants to see in the procedure or process by which matters are generally reviewed for the purpose of determining whether to prosecute or whether to litigate. In the employment area, the Committee will be free to discuss with the Attorney General policy considerations regarding the processing of employment applications, the criteria utilized in determining a person's qualifications, and the changes, if any, which should be made.

Interested persons are invited to submit comments regarding the establishment of the Hispanic Advisory Committee. Such comments, as well as any inquiries, may be addressed to the Advisory Committee Management Officer, Office of Management and Finance, Department of Justice, Washington, D.C. 20530, phone: (202) 633-4531.

Dated: January 22, 1980.

Lupe Salinas,

Special Assistant to the Attorney General.

[FR Doc. 80-2406 Filed 1-24-80; 8:45 am]

BILLING CODE 4410-01-M

U.S. Committee on Selection of Federal Judicial Officers; Nominating Panel Meeting

The nominating panel for the United States Committee on Selection of Federal Judicial Officers will meet on Monday, February 11, 1980, at 8:30 a.m. and will continue, if necessary, through Tuesday, February 12, 1980. The meeting will be held in the United States Court of Claims, 717 Madison Place, N.W., Washington, D.C. This meeting will be closed to the public pursuant to Pub. L. 92-463, section 10(d) as amended. CFR 5 U.S.C. 552b(c)(6).

Phillip B. Cover,

Advisory Committee Control Officer.

January 22, 1980.

[FR Doc. 80-2405 Filed 1-24-80; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

NATIONAL LABOR RELATIONS BOARD

General Counsel

Litigation Procedures; Memorandum of Understanding

The Mine Safety and Health Administration (MSHA), U.S. Department of Labor, and the General Counsel, National Labor Relations Board (General Counsel), enter into this agreement in order to establish a procedure for coordinating Section 105(c) litigation under the Federal Mine Safety and Health Act of 1977 (Mine Act), and litigation under Section 8 of the National Labor Relations Act (NLRA), which will (1) obviate duplicate litigation and (2) ensure that employee rights in the area of safety and health will be protected.

A. Background

1. The Mine Act establishes in the Department of Labor the Mine Safety and Health Administration. MSHA is responsible for the administration and enforcement of the Mine Act. This responsibility includes the investigation of complaints of alleged discrimination and interference filed by miners, representatives of miners, or applicants for employment under Section 105(c) of the Mine Act. Section 105(c) provides in pertinent part:

> Discrimination or interference prohibited; complaint; investigation; determination; hearing (1) No person shall discharge or in any manner discriminate against or cause to be discharged or cause discrimination against or otherwise interfere with the exercise of the statutory rights of any miner, representative of miners or applicant for employment in any coal or other mine subject to this Act because such miner, representative of miners or applicant for employment has filed or made a complaint under or related to this Act, including a complaint notifying the operator or the operator's agent, or the representative of miners at the coal or other mine of an alleged danger or safety or health violation in a coal or other mine, * * * or because such miner, representative of miners or applicant for employment has instituted or caused to be instituted any proceeding under or related to this Act or, has testified or is about to testify in any such proceeding, or because of the exercise by such miner, representative of miners or applicant for employment on behalf of himself or others of any statutory right afforded by this Act.
>
> (2) Any miner or applicant for employment or representative of miners who believes that he has been discharged, interfered with, or otherwise discriminated against by any person in violation of this subsection may within 60 days after such violation occurs, file a complaint with the Secretary alleging such discrimination. * * *

2. Section 7 of the NLRA provides that "[e]mployees shall have the right to * * * engage in * * * concerted activities for the purpose of collective bargaining or other mutual aid or protection * * *." Section 8 of the NLRA provides in pertinent part that it shall be an unfair labor practice for an employer to interfere with, restrain, or coerce employees and for a labor organization to restrain or coerce employees in the exercise of the rights guaranteed in Section 7.

3. Although there may be some safety and health activities which may be protected solely under the Mine Act, it appears that many employee safety and health activities may be protected under both Acts. However, since the rights of "miners" to engage in safety and health activity is specifically protected by the Mine Act and is only generally included in the broader right to engage in concerted activities under the NLRA, enforcement actions to protect such safety and health activities should, where appropriate, be taken under the Mine Act rather than the NLRA.

B. Procedural Agreement

1. Section 105(c) gives individuals the right to complain to MSHA if they believe they have been discriminated against for exercising rights under the Mine Act (access to MSHA activities). Where a charge involving such access to NSHA activities protected by Section 105(c)(1) of the Mine Act has been filed with the General Counsel, and the General Counsel has been advised by the charging party or MSHA that a complaint has also been filed pursuant to Section 105(c)(2) of the Mine Act as to the same factual matters, the General Counsel will, absent withdrawal of the matter, defer or dismiss the charge. The General Counsel will inform the charging party of its action and will send a copy of such letter to MSHA.

2. Where a charge involving access to MSHA activities protected by Section 105(c)(1) of the Mine Act has been filed with the General Counsel, and the General Counsel has determined that no complaint has been filed pursuant to Section 105(c)(2) of the Mine Act, the General Counsel shall notify the charging jparty of the right to file a complaint pursuant to Section 105(c)(2) of the Mine Act. Following such notification:

(a) If the General Counsel is informed by the charging party or MSHA that a Section 105(c)(2) complaint has been timely filed, the General Counsel will then follow the procedure described in paragraph B-1 above.

(b) If the charging party does not file a complaint pursuant to Section 105(c)(2) of the Mine Act, or has withdrawn a complaint filed under Section 105(c)(2), the General Counsel will proceed with the matter under the NLRA.

(c) If the charging party has untimely filed a Section 105(c)(2) complaint (such complaints may be filed within 60 days after the alleged discrimination) the Office of the Solicitor of Labor and the General Counsel will consult to determine the appropriate handling of the matter.

3. Where a charge has been filed with the General Counsel which includes access to MSHA activities protected by Section 105(c)(1) of the Mine Act and matters within the exclusive jurisdiction of the General Counsel, the Office of the Solicitor of Labor and the General Counsel will consult in order to determine the appropriate handling of the matter. Further, the Solicitor of Labor and the General Counsel will so consult where a charge has been filed with the General Counsel involving activities protected by Section 105(c)(1) of the Mine Act other than access to MSHA issues.

4. The parties to this agreement will consult periodically to review the agreement and its implementation.

C. Modification and Termination

1. This Memorandum of Understanding may be modified in writing by mutual consent of MSHA and the General Counsel.

2. This Memorandum of Understanding may be terminated at any time by either party giving written notice to the other party at least thirty (30) days prior to the date fixed in such notice.

3. This Memorandum shall be effective immediately and shall remain in effect until modified or terminated in accordance with the procedures described in paragraph C-1 or C-2 above.

John S. Irving,

General Counsel, National Labor Relations Board.

Dated: September 14, 1979.

Dated: December 12, 1979.

Carin Ann Clauss,

Solicitor of Labor.

Dated: September 14, 1979.

John S. Irving,

General Counsel, National Labor Relations Board.

Dated: December 12, 1979.

Carin Ann Clauss,

Solicitor of Labor.

[FR Doc. 80-2300 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-43 and 7545-01-M

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DEPARTMENT OF LABOR

Employment and Training Administration

Certifications Regarding Pennsylvania Under the Federal Unemployment Tax Act

On December 26, 1979, the Secretary of Labor certified to the Secretary of the Treasury the Commonwealth of Pennsylvania and the Pennsylania unemployment compensation law, under Sections 3304 and 3303 of the Federal Unemployment Tax Act, for the taxable year 1979. The certifications were made in a letter of that date to the Secretary of the Treasury, which is printed below.

Dated: January 21, 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training.

December 26, 1979.

Hon. G. William Hiller

Secretary of the Treasury, Washington, D.C. 20220.

Dear Mr. Secretary: I transmitted to you on October 31, 1979, my certifications on that date of certain States in accordance with the provisions of Section 3304(c) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(c)) and my certifications of certain State unemployment compensation laws in accordance with the provisions of Section 3303(b)(1) of the Code (26 U.S.C. 3303(b)(1)). I noted that the Commonwealth of Pennsylvania, among other States, was treated specially in the two certifications because of my findings that the law of the State does not contain each of the provisions required for State unemployment compensation laws by Section 3304(a) of the Code. I also said in my letter that I would notify you further when a final decision is made with respect to the 1979 certifications as to those States.

I hereby certify, to the Secretary of the Treasury, the Commonwealth of Pennsylvania for the 12-month period ending October 31, 1979, in accordance with the provisions of Section 3304(c) of the Code and the Commonwealth's unemployment compensation law for the 12-month period ending October 31, 1979, in accordance with the provisions of Section 3303(b)(1) of the Code.

Sincerely,

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-2429 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-30-M

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being establihsed with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).
5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street NW., Washington, D.C. 20013.

Signed at Washington, D.C. this 22nd day of January 1980.

Earl T. Klein,

Director, Office of Program Services.

Applications Received During the Week Ending January 20, 1980

Name of Applicant and Location of Enterprise and Principal Product or Activity

Frame Brick and Tile Company, Inc., Calhoun County, Ala., manufacture of brick
Hess Broadcasting Corporation, Robertsdale, Ala., television station
The AGFERM Corporation, City of Portland, Ind., fuel-grade ethyl alcohol plant
BAY Plastics, Inc., Burleson, Tex., manufacture plastic PVC pipe (small diameter)
D. S. Inns, Palestine and Port Lavaca, Tex., motel
American Family Homes, Inc., Anderson, Mo. manufacture of mobile homes

[FR Doc. 80-2482 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-79-285-C]

Bishop Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

The Bishop Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241, has filed a petition to modify the application of 30 CFR 75.326 (use of belt haulage entries to ventilate) to its Bishop No. 33–37 mine located in McDowell County, Virginia, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition is as follows:

1. A fault of approximately 300 feet in length restricts air coursing to the 3-Panel Section active working places.
2. Rehabilitation of the fault area would be hazardous work.
3. An isolated intake escapeway is provided.
4. The petitioner proposes the following alternative to the provisions of 30 CFR 75.326:

a. The air in the belt entry would be used to ventilate active working places in the 3-Panel Section.

b. The belt conveyor entry shall be examined by the pre-shift examiner each shift and once during each coal producing shift while men are working in the 3-Panel Section. Such examination shall be spaced to provide the most effective examinations of the entry.

c. The requirements for "Fire Protection" found in 30 CFR Part 75 Subpart L will be strictly followed especially as it pertains to water lines, fire hoses, fire suppression systems, warning devices, and flame-resistant belting. Further, if the average air velocity along the belt haulage entry exceeds 100 feet per minute, the provisions of Section 75.1103–10 (placement of fire sensors and materials caches) shall apply.

5. Petitioner states that use of the belt entry air is necessary to ventilate active working places in the the 3-Panel Section unless the hazardous rehabilitation work in the fault area is done. The petitioner states that the alternative method would eliminate the hazards of rehabilitation.

Requests for Comments

Persons interested in this petition may furnish written comments on or before February 25, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 16, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-2302 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-179-C]

McClothlin Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

The McClothlin Coal Company, Rosedale, Virginia 24280, filed a petition to modify application of 30 CFR 75.1719 (Illumination) at its #15 UG Mine located in Tazewell County, Virginia, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition is as follows:

1. The coal height is 28 to 42 inches.
2. The petitioner says that the lights required by 30 CFR 75.1719 would cause a glare problem in the low irregular coal, would not increase safety, and in some instances could create a hazard.
3. The petitioner proposes to use regular headlights on the front and rear of an S and S model 74 scoop plus one additional light on the front and rear of the scoop.
4. The 12 RB Joy cutting machine and the Paul's roof bolter would be used without adding additional lights because additional lights would cause glare in the eyes of the operator during operation of the equipment, as well as problems of eye adjustment when moving in and out of an intensely lighted area to perform other tasks.

Request for Comments

Persons interested in this petition may furnish written comments on or before February 25, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 14, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-2301 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-43-M

Office of the Secretary

[TA-W-6343]

Airco Speer Electronics; Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 8, 1979 in response to a worker petition received on November 5, 1979 which was filed on behalf of workers and former workers warehousing electronic resistors at Airco Speer Electronics, Bradford, Pennsylvania, a division of Airco, Incorporated.

The Bradford, Pennsylvania facility of Airco Speer Electronics is engaged in the warehousing and distribution of imported electronic resistors produced at its foreign subsidiary and resistors purchased by Airco from Japan. The Bradford facility has not performed any production operations since January 1978.

Thus, since January 1978 workers of Airco Speer Electronics have not produced an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Airco Speer Electronics by ownership, or a firm related by control. Furthermore, the reduction in demand for services must originate at a domestic production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

The Bradford facility warehouses and distributes only imported resistors produced at Airco Speer's foreign plants as well as resistors purchased abroad by Airco. The Bradford facility does not provide warehousing or distribution functions for any domestic production facilities.

Conclusion

After careful review, I determine that all workers of Airco Speer Electronics, Bradford, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2304 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

American Shingle Co., et al.; Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under

Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 4, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 4, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Aveune, NW, Washington, D.C. 20210.

Signed at Washington, D.C. this 14th day of January 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
American Shingle Company (workers)	Garibaldi, Oreg	1/3/80	1/2/80	TA-W-6,766	Western red cedar shingles.
Bennett Importing, d.b.a. Rumford Shoe [workers].	Rumford, Maine	12/31/79	12/27/79	TA-W-6,767	Boots and shoes.
Bulova Watch Co., Inc., Watch Manufacturing Div. (Tool & Diemakers Independent Union).	Jackson Heights, N.Y.	12/26/79	12/14/79	TA-W-6,768	Ladies' and Men's watches.
Eaton Corporation, Climate Control Div. [workers].	Harrodsburg, Ky	1/7/80	1/2/80	TA-W-6,769	Air conditioners and heaters for automobiles and off highway equipment.
James R. Jarrett, Inc. (workers)	Kokomo, Ind	1/7/80	12/27/79	TA-W-6,770	Truck hauling transportation for steel companies.
Metallurgical Exoproducts Corp. (IUMSWA)	McKees Rocks, Pa	1/8/80	1/4/80	TA-W-6,771	Chemicals for steel products.
Methuen Internations Mills (company)	Methuen, Mass	1/6/80	1/4/80	TA-W-6,772	Woven worsted and worsted blend men's wear fabrics.
Modern Garment, Inc. (ILGWU)	Glassboro, N.J	12/17/79	12/10/79	TA-W-6,773	Ladies' sportswear.
Obear-Nester Glass (Glass Bottle Blowers Association of U.S. & Canada).	East St. Louis, Ill	1/8/80	12/29/79	TA-W-6,774	Glass bottles.
Parkway Manufacturing Company (workers)	West Roxbury, Mass	12/31/79	12/18/79	TA-W-6,775	Contractor of ladies' skirts, blouses, jackets, and blazers.
Seacoast Tri Level, Inc. (workers)	Newark, Del	1/8/80	1/4/80	TA-W-6,776	Loading and unloading of Chrysler automobiles onto railroad trains.
Texas Oklahoma Express, Inc. (workers)	St. Louis, Mo	1/8/80	1/2/80	TA-W-6,777	Common carriers (truck hauling).

[FR Doc. 80-2306 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

Amherst Coal Co., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 4, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 4, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 18th day of January 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of)	Location	Date received	Date of petition	Petition No.	Articles produced
Amherst Coal Co. No. 7 Mine (workers)	Slagle, W. Va	1/7/80	1/3/80	TA-W-6,803	Steam coal, also metallurgical coal.
Art Metal U.S.A., Inc. (workers)	Newark, N.J	1/9/80	1/4/80	TA-W-6,804	Office furniture.
Central Cartage Co. (Teamsters)	Toledo, Ohio	1/10/80	1/7/80	TA-W-6,805	Hauls freight.
Hull Dye & Print Works, Inc. (workers)	Derby Conn	1/8/80	1/4/80	TA-W-6,806	Textile printing and dyeing.
Lobel Company, Inc. (ACTWU)	Paterson, N.J	1/11/80	1/9/80	TA-W-6,807	Boy's suits, slacks, and outerwear.
Shutzer Manufacturing Company (company)	Lawrence, Mass	1/11/80	1/8/80	TA-W-6,808	Men's and women's jackets.
Stanhope Sewing (ILGWU)	Metcong, N.J	1/11/80	1/7/80	TA-W-6,809	Ladies' sportswear.
Star Sportswear Manufacturing Corporation (workers).	Lynn, Mass	1/11/80	1/8/80	TA-W-6,810	Men's leather outerwear.
Stephanie Coat, Inc. (ILGWU)	Hoboken, N.J	1/10/80	1/8/80	TA-W-6,811	Ladies' coats.
Summersville Mine Equipment Service Shop (IUE).	Summersville, W. Va	1/10/80	1/17/80	TA-W-6,812	Service and repair mine equipment.
Teledyne Monarch Rubber (URW)	Hartville, Ohio	1/10/80	1/7/80	TA-W-6,813	Motor mounts, industrial tires, mechanical rubber goods, and weatherstripping.
Uniroyal, Inc. (Company)	Thomson, Ga	1/15/80	1/7/80	TA-W-6,814	Rubber and canvas footwear.
Wagner Electric Corp. (IUE)	St. Louis, Mo	1/11/80	1/7/80	TA-W-6,815	Automotive components.

[FR Doc. 80-2308 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5719 and 5760]

Amstar Corp.; Revised Determination on Reconsideration

On December 5, 1979, the Department of Labor made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of the Amstar Corporation, American Sugar Division, Boston, Massachusetts; Brooklyn, New York; Philadelphia, Pennsylvania; Baltimore, Maryland and Chalmette, Louisiana, refineries. This determination was published in the **Federal Register** on December 11, 1979, (44 FR 71472).

In the workers' application for reconsideration, they claimed that the Chalmette, Louisiana, and Baltimore, Maryland, plants supplied the bulk of their refined sugar to areas where Amstar workers were found meeting all the statutory criteria for trade adjustment assistance. Another former worker claimed that the Charlotte, North Carolina, sales office of the Central States region sold refined sugar out of the Philadelphia and Brooklyn refineries as well as out of Baltimore and Chalmette.

The Department of Labor's review of the initial determination revealed that all workers at the Boston, Massachusetts; Brooklyn, New York; and Philadelphia, Pennsylvania, sugar refineries of Amstar's American Sugar Division and their related facilities in Chicago, Illinois; Brooklyn, New York; Sprague and Versailles, Connecticut; Pitman, New Jersey; Charleston, South Carolina, the general offices in New York, New York; and the regional sales offices in Boston, Massachusetts; Des Plaines, Illinois; Livonia, Michigan; and Philadelphia, Pennsylvania, were separated from employment on or after June 18, 1978, are eligible to apply for trade adjustment assistance. Workers at the Baltimore, Maryland, and Chalmette, Louisiana, refineries were not certified since the principal market areas served by them were believed to be areas which are not significantly affected by competition from imported refined sugar.

The Department's review showed that although imports of refined sugar are relatively insignificant when compared to total domestic production, they are not insignificant when compared to the Northeastern and Northcentral regions of the U.S. in which they are marketed. Imports of refined sugar from Canada accounted for more than 98 percent of total U.S. imports of refined sugar in 1978. Nearly all imports of refined sugar from Canada are marketed in the Northeastern and Northcentral areas of the U.S., principally in the Eastern Great Lakes region.

On reconsideration, the Department found that a significnt share of the production or refined sugar from the Chalmette, Louisiana, refinery was shipped to Amstar's related facility in Chicago, Illinois, which is in a market area affected by Canadian imports of refined sugar where Amstar workers were certified eligible to apply for trade adjustment assistance. Production of refined sugar, in quantity, at Chalmette, Louisiana, decreased in the first six months of 1979 compared to the same period in 1978. Average employment decreased 7.4 percent in the first five months of 1979 compared to the same period in 1978.

An insignificant share of Amstar's Baltimore, Maryland, refinery's production of refined sugar was shipped to areas where Amstar's workers were certified eligible to apply for trade adjustment assistance. Most of the refined sugar produced at the Baltimore refinery was shipped to Maryland, Virginia, North Carolina and South Carolina. Further, production in quantity of refined sugar at Baltimore increased in 1978 compared to 1977 and in the first six months of 1979 compared to the same period in 1978. The average number of production workers decreased only 2.5 percent in the first five months of 1979 compared to the same period in 1978.

Conclusion

After careful review of the facts obtained on reconsideration, it is concluded that increased imports of refined sugar like or directly competitive with the refined sugar produced at the Amstar Corporation's American Sugar Division refinery at Chalmette, Louisiana, did contribute importantly to the separations of refinery workers and to the decrease in sales or production at the Chalmette, Louisiana, refinery of the American Sugar Division of Amstar Corporation. It is further concluded that such increased imports did not contribute importantly to worker separations at the Baltimore, Maryland, sugar refinery or any of its sales offices in the Central States region. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers of the Boston, Massachusetts; Brooklyn, New York; Philadelphia, Pennsylvania; and Chalmette, Louisiana, cane sugar refineries and related facilities of the American Sugar Division of Amstar Corporation who became totally or partially separated from employment on or after June 18, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

The related facilities include a distribution and blending plant in Chicago, Illinois; research and development laboratories in Brooklyn, New York; printing, package and food service plants in Sprague, Connecticut; Versailles, Connecticut; Pitman, New Jersey;

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and Charleston, South Carolina; general offices of the American Sugar Division in New York, New York; and regional sales offices in Boston, Massachusetts; Des Plaines, Illinois; Livonia, Michigan; and Philadelphia, Pennsylvania.

Signed at Washington, D.C., this 17th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2307 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6408]

Ashley Fashion, Inc., Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 21, 1979 in response to a worker petition received on November 8, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Ashley Fashion, Incorporated, New York, New York. The investigation revealed that the plant produces women's leather coats. It is concluded that all of the requirements have been met.

U.S. imports of men's, boy's, women's, misses', junior', and children's leather coats and jackets increased absolutely and relative to domestic production.

A sample of customers of Ashley Fashion, Incorporated was surveyed regarding their purchases of women's leather coats and jackets. Total purchases of imported leather coats and jackets by customers responding to the survey increased in 1978 compared with 1977 and in the first 10 months of 1979 compared with the same period of 1978. A number of customers indicated that they reduced purchases from Ashley Fashion, Incorporated and increased purchases of imported women's leather coats.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's leather coats produced at Ashley Fashion, Incorporated, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Ashley Fashion, Incorporated, New York, New York who became totally or partially separated from employment on or after November 5, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 18th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-2308 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6512]

Bellissima Knitwear, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 3, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sweaters, suits and skirts at Bellissima Knitwear, Incorporated, North Bergen, New Jersey. The investigation revealed that the plant produces mainly ladies' sweaters. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children sweaters, increased relative to domestic production in 1978 compared with 1977. The ratio of imports to domestic production was 115.8 percent in 1978.

A survey of customers of Bellissima Knitwear, Incorporated conducted by the Department of Labor evinced that in 1979, the major customer discontinued contracting with the subject firm and contracted with foreign sources for all their needs.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' sweaters, produced at Bellissima Knitwear, Incorporated, North Bergen, New Jersey, contributed importantly to the decline in sales and to the total or partial separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Bellissima Knitwear, Incorporated, North Bergen, New Jersey, who became totally or partially separated from employment on or after August 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 15th day of January 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-2309 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6328]

Biltmore Apparel Corp.; Certification Regarding Eligibility To Apply for Workers Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 6, 1979 in response to a worker petition received on November 1, 1979 which was filed on behalf on workers and former workers producing infants' clothing at Biltmore Apparel Corporation, New York, New York. It is concluded that all of the requirements have been met.

U.S. imports of infants' and children's playwear increased absolutely and relative to domestic production in 1978 compared with 1977.

The Department surveyed major customers of Biltmore Apparel Corporation. Several respondents reported that they reduced purchases of infants' clothing from the company in 1979 compared with 1978 and increased their purchases of imported infants' apparel.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with infants' clothing produced at Biltmore Apparel Corporation, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provision of the Act, I make the following certification:

"All workers of Biltmore Apparel Corporation, New York, New York who became totally or partially separated from employment on or after October 25, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 14th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2310 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6413]

Brown Shoe Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 21, 1979, in response to a worker petition received on November 16, 1979, which was filed by the Footwear Division of the United Food and Commercial Workers International Union on behalf of workers and former workers producing ladies' sandals at the Houston, Missouri plant of Brown Shoe Company. The investigation revealed that women's shoes are produced by the Houston, Missouri plant. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Production by the Houston, Missouri plant of Brown Shoe Company increased in quantity and value in 1978 from 1977 and in January–October 1979 compared to January–October 1978. Compared to the same quarter of the previous year, production increased during seven consecutive quarters from the first quarter of 1978 through the third quarter of 1979.

Conclusion

After careful review, I determine that all workers of the Houston, Missouri plant of Brown Shoe Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2311 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6441]

C & E Coal Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 27, 1979 in response to a worker petition received on November 13, 1979 which was filed by company officials on behalf of workers and former workers producing metallurgical coal at C & E Coal Company, Greenwood, Arkansas. It is concluded that all of the requirements have been met.

U.S. imports of metallurgical coal are negligible. However, in accordance with section 222 of the Trade Act of 1974 and 29 CFR 90.2, a domestic article may be "directly competitive" with an imported article at a later stage of processing. U.S. imports of coke increased absolutely and relative to U.S. production in 1978 compared to 1977. Imports of coke declined absolutely in the first six months of 1979 compared to the same period in 1978.

C & E Coal Company mined and shipped metallurgical coal to one other coal company who in turn mixed it with its own coal and shipped the combined output to one steel mill. In August 1979, this steel mill stopped purchasing metallurgical coal from C & E's customer. The parent firm of this steel mill increased its purchases of imported coke in 1978 compared to 1977. Purchases of imported coke by the

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parent firm increased in the first eight months of 1979 compared to the same period in 1978. The steel mill increased its usage of imported coke during these periods.

C & E Coal Company's customer closed in August 1979. C & E Coal Company discontinued mining operations in October 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the metallurgical coal produced at C & E Coal Company, Greenwood, Arkansas contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of C & E Coal Company, Greenwood, Arkansas who became totally or partially separated from employment on or after August 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 15th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2312 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6442]

Cheryl Dress Corp., (aka Cheryl Manufacturing Corp.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 27, 1979 in response to a worker petition received on November 20, 1979 which was filed on behalf of workers and former workers producing ladies' dresses, skirts, vests, shirts, pants and jackets at Cheryl Dress Corporation, Fall River, Massachusetts. The investigation revealed that the company produces primarily ladies' sportswear and its name will be changed to Cheryl Manufacturing Corporation on January 1, 1980. It is concluded that all of the requirements have been met.

U.S. imports of the following categories of women's, misses' and children's apparel increased both absolutely and relative to domestic production in 1978 when compared to 1977: suits, blouses and shirts, coats and jackets, skirts, and slacks and shorts. U.S. imports of women's, misses' and children's cotton vests increased in absolute terms in 1978 compared to 1977.

In a survey conducted by the Department of Commerce, a customer accounting for a significant proportion of Cheryl Dress Corporation's sales declines indicated it had decreased contracts with Cheryl and had increased purchases of imported women's and girls' apparel in the year ending August 31, 1979 when compared to the year ending August 31, 1978. The Department of Commerce on November 27, 1979 certified Cheryl Dress Corporation eligible to apply for firm adjustment assistance.

Conclusion

After careful review of the facts obtained in the investigaton, I conclude that increases of imports of articles like or directly competitive with ladies' sportswear produced at Cheryl Dress Corporation (aka Cheryl Manufacturing Corporation), Fall River, Massachusetts contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Cheryl Dress Corporation (also known as Cheryl Manufacturing Corporation), Fall River, Massachusetts who became totally or partially separated from employment on or after November 13, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 16th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-2312 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

Chrysler Corp., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 4, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 4, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 17th day of January 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Chrysler Corp., Marine & Industrial Div. (UAW)	Marysville, Mich	1/4/80	12/26/79	TA-W-6,800	Marine engines.
Chrysler Plastic Products Corp. (UAW)	Sandusky, Ohio	1/16/80	1/6/80	TA-W-6,801	All vinyl material used in Chrysler cars and trucks.
Northern Steel Company, Inc. (UAW)	Detroit, Mich	1/14/80	1/7/80	TA-W-6,802	Cut steel for Chrysler automotive plants, also serves as a warehouse.

[FR Doc. 80-2314 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6374]

Como Textile Prints, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 15, 1979 in response to a worker petition received on November 6, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers printing fabric at Como Textile Prints, Incorporated, Paterson, New Jersey. In the following determination, without regard to whether any of the other criteria has been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The ratio of imports of finished fabric has been less than 2.1 percent of U.S. production in the years 1974–1978. Imports decreased absolutely in the first nine months of 1979 compared to the first nine months of 1978.

The average number of production workers increased in 1979 compared to 1978 and decreased by less than 5 percent in the first 11 months of 1979 compared to the same period in 1978. The average number of non-overtime hours for production workers decreased by less than 5 percent in 1978 compared to 1977 and in the first eleven months of 1979 compared to the same period in 1978.

Conclusion

After careful review, I determine that all workers of Como Textile Prints, Incorporated, Paterson, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2315 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6714]

Corso Dress, Inc.; Investigation Regarding Certification of Eligibility to Apply for Worker Adjustment Assistance; Correction

In FR Doc. 80-983 appearing on page 2421-2422 in the **Federal Register** of January 11, 1980, the following location in the Appendix under petitioner Corso Dress, Incorporated, TA-W-6714 is corrected to read as follows: St. Johnstown, New York.

Signed at Washington, D.C. this 16th day of January 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-2316 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6345]

Crest Container Corp.; Negative Determination Regarding Eligibility To Apply for Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein present the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 8, 1979 in response to a worker petition received on November 2, 1979 which was filed by the United Automobile, Aerospace and Agricultural Implement Workers of America on behalf of workers and former workers producing disposable food containers at Crest Container Corporation, Millville, New Jersey. In the following determination, at least one of the criteria has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of disposable food and beverage containers are negligible. The value of imports of food and beverage containers made from paper was less than one half of one percent of the value of U.S. production of such items in 1978. Paper plates are the type of disposable food containers most likely to be imported because of their compactness for shipping. Products manufactured at the Millville plant of Crest Container Corporation are bulkier than paper plates and less likely to be imported.

Conclusion

After careful review, I determine that all workers of Crest Container Corporation, Millville, New Jersey are denied eligiblity to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-2317 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

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[RTA-W—6456]

Custom Casuals, Inc.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, and investigation wa initiated on November 27, 1979 in response to a worker petition recived on November 13, 1979 which was filed by the International Ladies' Garment Workders' Union on behalf of workers and former workers producing women's dresses, ensembles and suits at Custom Casuals, Incorporated, New York, New York.

The petitioning group of workers in this case was included in a determination (TA–W—6329) issued on December 31, 1979 which certified as eligible to apply for adjustment assistance all workers of Custom Casuals, Incorporated, who are engaged in employment related to the production of ladies' ensembles, suits, blouses, coats and dresses. Since all workers separated, totally or partially, from Customs Casuals, Incorporated, New York, New York on or after October 25, 1978 are covered by an existing determination, a new investigation would serve no purpose. Therefore, it is recommended that this investigation be terminated.

Signed at Washington, D.C. this 11th day of January 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-2318 Filed 1-23-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6330]

Englishtown Leather Goods, Inc.: Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 6, 1979 in response to a worker petition received on October 17, 1979 which was filed by the Leather Goods, Plastic, Handbags and Novelty workers' Union on behalf of workers formerly producing wallets at Englishtown Leather Goods, Inc., New York, New York. In the following determinations, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to be separations, or threat thereof, and to the absolute decline in sales or production.

Englishtown Leather Goods, Inc., closed on December 21, 1978.

The Office of Trade Adjustment Assistance surveyed the major customers of Englishtown Leather. None of these customers decreased purchases of wallets from the subject firm while increasing purchases of imported wallets during the period under investigation.

Conclusion

After careful review, I determine that all workers of Englishtown Leather Goods, Inc., New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-2319 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6438]

Ford Motor Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance withe Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 21, 1979 in response to a worker petition received on November 14, 1979 which was filed by the United Auto Workers on behalf of workers and former workers producing Pintos and Bobcats at the Ford Company, Metuchen Assembly Plant, Eidson, New Jersey. It is concluded that all of the requirements have been met.

U.S. imports of subcompact automobiles increased absolutely in the first two months of model year (MY) 1980 compared to the same 1979 period.

The MY 1979 Pintos and Bobcats were produced exclusively at the Metuchen Assembly Plant, Edison, New Jersey. Since October 1979 Ford Motor also began producing the MY 1980 Pinto and Bobcat at its St. Thomas plant in Canada.

Ford Motor Company's imports of all subcompact car lines increased in quantity during August-November of MY 1980 compared with the same period in MY 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with Pintos and Bobcats produced at the Ford Motor Company, Metuchen Assembly Plant, Edison, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the followin certification:

All workers of the Ford Motor Company, Metuchen Assembly Plant, Edison, New Jersey who became totally or partially separated from employment on or after November 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2320 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

General Instrument Corp., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 4, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 4, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 16th day of January 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
General Instrument Corp., Chicago Miniature Lamp Works (workers).	Neptune, N.J	11/28/79	11/21/79	TA–W–6,788	Lighted devices.
Geo. L. Meyer Manufacturing Div. of ATO, Inc. (workers).	Cudahy, Wis	1/7/80	1/2/80	TA–W–6,789	Bottling machinery.
Greystone Shirt Company, Inc. (ACTWU)	New York, N.Y	1/7/80	1/3/80	TA–W–6,790	Men's shirts.
Highway Dumphaulers, Inc. (workers)	Little Rock, Ark	1/9/80	12/31/79	TA–W–6,791	Haul metallurgical coal.
J & R Manufacturing Company, Inc. (workers)	Newark, N.J	1/3/80	12/18/79	TA–W–6,792	Ladies' coats.
Jacobson Manufacturing Co. (UAW)	Kenilworth, N.J	12/31/79	12/26/79	TA–W–6,793	Nuts.
Jersey Jacobson (UAW)	Union, N.J	12/31/79	12/26/79	TA–W–6,794	Nuts.
Keller Furniture of Kentucky (Distillery, Rectifying, Wine & Allied Workers International Union of America).	Williamsburg, Ky	1/9/80	12/18/79	TA–W–6,795	Standard contura lounge.
Louis Roth Clothes, Inc. (workers)	Los Angeles, Calif	1/9/80	1/4/80	TA–W–6,796	Men's clothing.
R.J.F. Coal Co., Inc. (workers)	Gilbert, W. Va	1/7/80	1/2/80	TA–W–6,797	Metallurgical coal.
Vargish Knitwear Company (workers)	Carlstadt, N.J	1/14/80	1/3/80	TA–W–6,798	Knitted sweaters and shirts for men and women.
Walworth Company (USWA)	South Greenburg, Pa	1/8/80	1/2/80	TA–W–6,799	Standard and special valves.

[FR Doc. 80-2321 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6171]

General Tire & Rubber Co.; Negative Determination Regarding Application for Reconsideration

By letter of December 17, 1979, the petitioners requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing passenger car tires and truck tires at The General Tire and Rubber Company's plant at Mayfield, Kentucky. The determination was published in the **Federal Register** on December 14, 1979 (44 FR 72678).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioners claim that the Department's customer survey was not adequate since it did not take into consideration the replacement tire market. The petitioners further claim that tire sales are being taken away from General Tire because of the importation of automobiles complete with tires produced overseas.

A review of the investigative case file reveals that workers of General Tire and Rubber Company's plant in Mayfield, Kentucky, were denied eligibility because they did not meet the "contributed importantly" test of Section 222 of the Trade Act of 1974. In its investigation, the Department conducted a survey of customers that accounted for the declines in sales at General Tire. The survey revealed that these customers either did not purchase, or purchased negligible, imports of passenger car and truck tires or decreased purcahses of imported passenger car and truck tires in 1978 compared to 1977 and in the first nine months of 1979 compared to the same period in 1978.

The review also indicates that General Tire's decreased sales to the original equipment market (OEM) accounted for all of its sales decline. Sales increased substantially to non-OEM customers.

Further, the Department had previously determined that the finished article is not like or directly competitive with the component parts. An imported car is not like or directly competitive with tires. This position is supported by the courts in the *United Shoe Workers* v. *Bedell*, 506 F 2d., 174 (1974). In this case, the court held that imported finished women's shoes were not like or directly competitive with domestically-produced shoe counters (stiffeners which are place around the heel of the shoe), a component of footwear. Therefore, the Department sees no relevance for the certification of tire workers under the Act in the workers' claim that import competition from foreign-made

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automobiles was the reason fr the production declines in auto and truck tires at the Mayfield plant.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 17th day of January 1980.

C. Micheal Aho,

Director, Office of Management, Foreign Economic Research.

[FR Doc. 80-2322 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6614]

Gina Sportswear, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of ag investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 13, 1979 in response to a worker petition received on December 10, 1979 which was filed on behalf of workers and former workers producing ladies' sportswear at Gina Sportswear, Incorporated, Philadelphia, Pennsylvania. The investigtion revealed that the plant produces women's skirts, jackets and dresses. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's and misses' dresses decreased absolutely in the January-September 1979 period compared to the same period of 1978.

U.S. imports of women's, misses', and children's skirts decreased absolutely in the January-September 1979 period compared to the same period of 1978.

U.S. imports of women's, misses', and children's coats and jackets decreased absolutely in the January-September 1979 period compared to the same period of 1978.

A Departmental survey was conducted of the major manufacturers for whom Gina Sportswear performed contract work in 1977, 1978 and 1979. The survey revealed that these manufacturers did not import women's or misses' skirts, jackets or dresses in 1977, 1978 or 1979. In addition, the manufacturers expect to continue to utilize domestic contractors in the future.

Conclusion

After careful review, I determine that all workers of Gina Sportswear, Incorporated, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2323 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6348]

H.W. Gossard, Inc.; Negative Dtermination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 8, 1979 in response to a worker petition received on October 23, 1979 which was filed on behalf of workers and former workers producing lingerie at H.W. Gossard, Incorporated, malden, Missouri. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of customers of H.W. Gossard. Results of the survey indicated that most customers who reduced purchases of lingerie from H.W. Gossard did not increase purcahses of lingerie from foreign sources.

Those customers who decreased purchases from H.W. Gossard while increasing purcahses of imported lingerie represented an insignificant portion of the subject firm's sales. In addition, increased purchases of imports by those who reduced purchases from H.W. Gossard were also accompanied by increased purchases of lingerie from other domestic sources.

Conclusion

After careful review, I determine that all workers of H.W. Gossard, Incorporated, malden, Missouri are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade ACt of 1974.

Signed at Washington, D.c. this 17th day of January 1980.

C. Micheal Aho,

Director, Office of Management, Foreign Economic Research.

[FR Doc. 80-2324 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6605]

A. O. Smith Corp., Automotive Division; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligiblity to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligiblity to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 12, 1979 in response to a worker petition received on December 6. 1979 which was filed by the Smith Steelworkers Union, D.A.L.U., on behalf of workers and former workers producing front-end assemblies for AMC Pacers cars at the Milwaukee, Wisconsin plant of A. O. Smith Corporation, Automotive Division. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that front-end assemblies for Pacer cars were not imported.

The petitioners allege that increased imports of small and intermediate cars contributed importantly to the decline in production of front-end assemblies for Pacer cars and resulting unemployment at A. O. Smith. However, compact cars (like Pacer cars of the American Motors Company) cannot be considered to be like or directly competitive with front-end assemblies for Pacer cars produced by the Milwaukee, Wisconsin plant of A. O. Smith Corporation, Automotive Divsion. Imports of front-end assemblies for Pacer cars must be considered in determining import injury to workers producing front-end assemblies for Pacer cars at the Milwaukee, Wisconsin plant of A. O. Smith Corporation, Automotive Division.

The petition was filed by the Smith Steelworkers Union, D.A.L.U., on behalf of workers who worked directly on production of front-end assemblies for AMC Pacer cars at the Milwaukee, Wisconsin plant of A. O. Smith Corporation, Automotive Division. In November 1979 the American Motors Corporation (AMC) discontinued production of the Pacer car and stopped ordering front-end assemblies for the Pacer. AMC purchased all of the front-end assemblies for Pacer from A. O. Smith Corporation and did not import them. The A. O. Smith Corporation did not shift production of frontend assemblies for the Pacer to any foreign facilities. The corporation is not corporately affilitated with AMC.

Conclusion

After careful review, I determine that all workers at the Milwaukee, Wisconsin plant of A. O. Smith Corporation, Automotive Division, who were engaged in employment related to the production of front-end assemblies for the Pacer car, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2303 Filed 1-24-80; 8:45 am].

BILLING CODE 4510-28-M

A. C. Lawrence Leather Co., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 4, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 4, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 21st day of January 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
A. C. Lawrence Leather Company, Inc. (Amalgamated Meat Cutters and Butcher Workmen of North America).	South Paris, Maine	1/9/80	1/4/80	TA-W-6,816	Tanned and finished sides of leather for shoe industry.
Dunlop Tire & Rubber Corporation (URW)	Buffalo, N.Y.	1/15/80	1/5/80	TA-W-6,817	Motorcycle tires, large truck and bus tires.
Fernia Fashions, Inc. (ILGWU)	Brooklyn, N.Y.	1/7/80	12/24/79	TA-W-6,818	Contractor of skirts and pants.
Goodyear Tire & Rubber Company (URW)	Luckey, Ohio	1/15/80	1/11/80	TA-W-6,819	Pliofoam seat cushions for automobiles.
Goodyear Tire & Rubber Company (URW)	Jackson, Mich	1/14/80	1/10/80	TA-W-6,820	Replacement passenger car tires, replacement truck tires, replacement vehicle tires, and original equipment tires.
Keystone Metal Moulding Company, Clanton Division (IAM & AW).	Clanton, Ala	1/10/80	12/19/79	TA-W-6,821	Metal moulding for automobiles.
Keystone Group (Independent Steel Workers Alliance Union).	Bartonville, Ill	1/15/80	1/10/80	TA-W-6,822	Nuts.
Livonia Magnetics Company, Inc. (workers)	Farmington, Mich	1/15/80	1/11/80	TA-W-6,823	Beltless magnetic conveyors, magnetic belt conveyors.
Matex Knitting Mill, Inc. (workers)	Spartanburg, S.C	1/10/80	1/7/80	TA-W-6,824	Double knit, single knit, and sweater knit fabrics.
Ranco, Inc. (IAM & AW)	Columbus, Ohio	1/15/80	1/11/80	TA-W-6,825	All types of controls and valves.
Selma Industries, Inc. (workers)	Selma, Ala	1/11/80	1/2/80	TA-W-6,826	Ladies' sportswear.
(The) Standard Products Company (company)	Lexington, Ky	1/15/80	1/7/80	TA-W-6,827	Extruded rubber weatherstrip.

[FR Doc. 80-2450 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-6407]

Allied Chemical Corp., Detroit Coke Plant; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 21, 1979, in response to a worker petition received on November 12, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing metallurgical coke at the Semet-Solvay Allied Chemical Corporation, Detroit Coke Plant, Detroit, Michigan. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of metallurgical coke decreased in the first three quarters of 1979 compared with the same 1978 period. The ratio of imports to domestic production also declined during the same period.

The Department conducted a survey of the major customers purchasing metallurgical coke from the Allied Chemical Corporation, Detroit Coke Plant. Most of the customers indicated they had not purchased any imports of coke in 1979. Customers who did import coke decreased foreign purchases in 1979.

Conclusion

After careful review, I determine that all workers of the Allied Chemical Corporation, Detroit Coke Plant, Detroit, Michigan are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2451 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

Armco Inc., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 4, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 4, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 10th day of January 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Armco, Inc., Metal Products Div. No. 8 (USWA).	Ashland, Ky	12/31/79	12/17/79	TA-W-6,756	Corrugated steel drainage pipe.
Bethlehem Mines Corp., Kayford-Boone Div. (USWA).	Charleston, W. Va	12/31/79	12/26/79	TA-W-6,757	Metallurgical coal.
Boyle-Midway (OCAWU)	Cranford, N.J	12/31/79	12/26/79	TA-W-6,758	Household chemicals.
Canteen Corporation (workers)	Fenton, Mo	12/20/79	12/13/79	TA-W-6,759	Operates cafeteria facilities.
Corcol Energy, Inc., Preparation Plant No. 101 (workers).	Wemcliffe, W. Va	12/31/79	12/26/79	TA-W-6,760	Cleaning of coal.
Ideal Sportswear (workers)	Hyde Park, N.Y	12/27/79	12/17/79	TA-W-6,761	Dresses.
King Powellton Mining, Inc. (workers)	Hansford, W. Va	12/31/79	12/26/79	TA-W-6,762	Metallurgical coal.
Kris Marc (workers)	North Bergen, N.J	12/26/79	12/29/79	TA-W-6,763	Ladies' sportswear and dresses.
McGregor Sportswear (ACTWU)	Berwick, Pa	12/26/79	12/20/79	TA-W-6,764	Distribution center.
Motor Wheel Corp.—Centerfuse Division (Allied Industrial Workers of America).	Lansing, Mich	12/27/79	12/20/79	TA-W-6,765	Wheel and brake drums (foundry operation).

[FR Doc. 80-2452 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6370, 6372, 6373, 6380, 6382, and 6387]

Bald Eagle Coal Co., et al.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 15, 1979 in response to a worker petition received on November 6, 1979 which was filed on behalf of workers and former workers producing bituminous metalurgical coal at Bald Eagle Coal Company (TA-W-6370), Cari Eagle Coal Company (TA-W-6372), Christopher Coal Sales Corporation (TA-W-6373), Robert Eagle Coal Company (TA-W-6380), Terry Eagle Coal Company (TA-W-6382), and William Eagle Coal Company (TA-W-6387), Nicholas County, West Virginia. The investigation revealed that the companies produce primarily metallurgical coal. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of metallurgical coal decreased in 1978 compared with 1977 and during the first nine months of 1979 compared with the same period in 1978.

U.S. imports of coke decreased both absolutely and relative to domestic production during the first three quarters of 1979 compared with the same period in 1978.

Coal brokers of Terry Eagle Coal Company who were surveyed reported declining sales in the period April through November 1979 compared with the same period in 1978. Customers of these brokers who decreased purchases of metallurgical coal reported that they had not purchased imported metallurgical coal during the period under investigation and that they had either decreased their purchases of imported coke absolutely or relative to their total purchases of coke in 1979 compared with 1978.

Conclusion

After careful review, I determine that all workers of Bald Eagle Coal Company (TA-W-6370), Cari Eagle Coal Company (TA-W-6372), Christopher Coal Sales Corporation (TA-W-6373), Robert Eagle Coal Company (TA-W-6380), Terry Eagle Coal Company (TA-W-6382), and William Eagle Coal Company (TA-W-6387), Nicholas County, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2453 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6409]

Bernie Bee, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 21, 1979 in response to a worker petition received on November 12, 1979 which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing ladies' dresses at Bernie Bee, Incorported, New York, New York. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's and misses' dresses decreased absolutely in the January-September period of 1979 compared to the same period of 1978.

A survey was conducted by the Department of Labor of customers of Bernie Bee, Incorporated. Most of the customers responding to the survey increased their purchasers of domestically-produced dresses by a greater amount than they increased purchases of imports. The customers who reduced purchases of domestic dresses and increased purchases of imported dresses, in the January-November 1979 period compared to the same period of 1978, represented an insignificant proportion of Bernie Bee's sales.

Conclusion

After careful review, I determine that all workers of Bernie Bee, Incorporated, New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-2454 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28

[TA-W-6593]

Bethlehem Steel Corp.; Burns Harbor Plant; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met

The investigation was intiated on December 11, 1979 in response to a worker petition received on December 4, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing hot rolled coiled and sheet steel at the Bethlehem Steel Corporation, Burns Harbor Plant, Chesterton, Indiana. In the

following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Evidence developed in the Department's investigation revealed that the total separations which occurred during the period of possible coverage amounted to less than five percent of the work force employed in the petitioning subdivision of the Burns Harbor plant. The total number of workers experiencing separations during the period November 30, 1978, one year prior to the signature date of the petition, to the present was less than 50 workers. There is no immediate threat of separations to workers at the Burns Harbor plant.

The Department's investigation further revealed that the workers' average weekly hours of work have not been reduced to less than 80 percent of their average weekly hours from November 30, 1978, one year prior to the signature date of the petition, to the present.

Conclusion

After careful review, I determine that all workers producing hot rolled coiled and sheet steel at the Bethlehem Steel Corporation, Burns Harbor Plant, Chesterton, Indiana are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2455 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6513]

Campos Dress Co., Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 3, 1979, in response to a worker petition received on November 26, 1979, which was filed by the International Ladies' Garmet Workers' Union on behalf of workers and former workers producing ladies' dresses at Campos Dress, Newark, New Jersey. The investigation revealed that the name of the firm is Campos Dress Company, Incorproated. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separtions, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that the manufacturer for which Campos Dress Company, Incorporated performs contract work had not purchased imported finished dresses, and did not use foreign contractors. In January-November 1979 compared to January-November 1978 the manufacturer experienced an increase in sales of dresses and increased its total work with domestic contractors.

Conclusion

After careful review, I determine that all workers of Campos Dress Company, Incorporated, Newark, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-2456 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6503]

Elizabeth Undergarments Corp.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 30, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing slips and undergarments at Elizabeth Undergarments Corporation, Hackettstown, New Jersey. The investigation revealed that prior to 1979 the plant produced primarily women's nightwear and girls' underwear. The plant began producing slips and camisoles in 1979. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's, girls' and children's nightwear decreased absolutely from January–June 1978 to January–June 1979.

The ratio of U.S. imports to domestic production for women's, girls' and infants' underwear has been less than 5 percent in each year from 1974 through 1978.

A Departmental survey was conducted of the principal manufacturers for whom Elizabeth Undergarments performed contract work in 1977, 1978, and 1979. The survey revealed that these manufacturers did not purchase imported women's nightwear or girls' underwear and did not use foreign contractors in 1977, 1978 or the first 11 months of 1979. The manufacturers indicated that they either increased their contract work with other domestic contractors or increased their utilization of in-house production facilities during the first 11 months of 1979 compared to the same period of 1978.

Conclusion

After careful review, I determine that all workers of Elizabeth Undergarments Corporation, Hackettstown, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of January 1980.

James F. Taylor,

Director, Office of Management, Adminstration and Planning.

[FR Doc. 80-2457 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6464]

Essex Group, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 28, 1979 in response to a worker petition received on November 21, 1979 which was filed by the Allied Industrial Workers on behalf of workers and former workers producing power steering hose assemblies and return lines for cars and trucks at the Andrews, Indiana plant of Essex Group, Incorporated. The investigation revealed that the primary products were power steering hose assemblies and return lines and that these products were used primarily in passenger cars. In the following determination, without regard to whether any of the other criteria has been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Labor Department survey revealed that the major customer of the Andrews, Indiana plant of the Essex Group, Incorporated did not purchase imported power steering hose assemblies and return lines.

Petitioners allege that increased imports of automobiles have caused decreases in production and employment at the Andrews, Indiana plant of Essex Group, Incorporated. Although imported automobiles incorporate power steering hose assemblies and return lines of the same origin, imports of the whole product are not "like or directly competitive" with their component parts.

Imports of power steering hose assemblies and return lines must be considered in determining import injury to workers producing power steering hose assemblies and return lines at the Andrews, Indiana plant of Essex Group, Incorporated.

Conclusion

After careful review, I determine that all workers engaged in employment related to the production of power steering hose assemblies and return lines at the Andrews, Indiana plant of Essex Group, Incorporated, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2458 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6396]

Holston Manufacturing Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 19, 1979 in response to a worker petition received on November 9, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's and ladies' hosiery at the Holston Manufacturing Company, Knoxville, Tennessee. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Holston Manufacturing Company produces men's and women's hosiery, except pantyhose. U.S. imports of all hosiery, except pantyhose, are negligible.

Conclusion

After careful review, I determine that all workers of the Holston Manufacturing Company, Knoxville, Tennessee are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2459 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6042]

Island Creek Coal Co.; Negative Determination Regarding Application for Reconsideration

By an application dated December 17, 1979, the petitioners requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers mining metallurgical coal at the Virginia Pocahontas #2 Mine of the Island Creek Coal Company, Oakwood, Virginia. The determination was published in the **Federal Register** on November 23, 1979, (44 FR 67245).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;
(2) If it appears that the determination complained of was based on mistake in the determination of facts previously considered; or
(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioners claim that the greater portion of the coal mined at the Virginia Pocahontas #2 Mine of the Island Creek Coal Company was used in the domestic market and that if any of the metallurgical coal was shipped overseas it was to fill in spot shortages and that the regular and normal destination of its coal was for the domestic market.

The Department's review revealed that the workers at the Island Creek Coal Company's Virginia Pocahontas #2 Mine did not meet the "contributed importantly" test of section 222 of the Trade Act, since the major portion of the coal mined was for the export market and that declines in production and

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employment at the mine were the result of a loss of export sales.

The Department does not see any validity in the petitioners' claim concerning the destination of the coal mined at Virginia Pocahontas #2 Mine. The Department's investigation showed that export sales of metallurgical coal from Virginia Pocahontas #2 Mine accounted for virtually all of that mine's sales in 1979 and a major share in 1978. Only a few domestic customers reduced their purchases in 1979 compared to 1978 and none of them imported metallurgical coal or coke.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 11th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-2400 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6397]

Jacqueline Coat Co., Inc., Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 19, 1979 in response to a worker petition received on November 2, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' coats at Jacqueline Coat Company, Incorported, New York, New York. The investigation revealed that the subject firm also produced ladies' suits. In the following determinations, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's, misses' and children's coats and jackets decreased in the first nine months of 1979 compared to the same period of 1978.

A survey of some of the customers of Jacqueline Coat Company, Incorporated conducted by the U.S. Department of Labor, revealed that none of these customers increased purchases of imported ladies' coats nor did they contract with foreign suppliers for ladies' coats.

Conclusion

After careful review, I determine that all workers of Jacqueline Coat Company, Incorporated, New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 80-2401 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6350]

Jo-Jo Manufacturing Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 8, 1979 in response to a worker petition received on November 3, 1979 which was filed on behalf of workers and former workers producing children's clothing at Jo-Jo Manufacturing, Port Jervis, New York. The investigation revealed that the plant produces infants' playwear, children's slack sets and infants' and children's dresses. The correct name of the firm is Jo-Jo Manufacturing Company. It is concluded that all of the requirements have been met.

U.S. imports of infants' and children's playwear increased absolutely and relative to domestic production from 1976 to 1977 and from 1977 to 1978.

U.S. imports of children's dresses increased absolutely and relative to domestic production from 1977 to 1978.

U.S. imports of women's, misses' and chidlren's suits increased absolutely and relative to domestic production from 1977 to 1978.

A Departmental survey was conducted of customers of Jo-Jo Manufacturing Company. The survey revealed that several customers increased their purchases of imported infants' playwear, children's slack sets and infants' and children's dresses and decreased their purchases from Jo-Jo Manufacturing Company during the first ten months of 1979 as compared to the first ten months of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with infants' playwear, children's slack sets and infants' and children's dresses produced at Jo-Jo Manufacturing Company, Port Jervis, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Jo-Jo Manufacturing Company, Port Jervis, New York who became totally or partially separated from employment on or after October 28, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Wsahington, D.C. this 11th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-2402 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6521]

Just Sew, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 3, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing ladies' blouses at Just Sew, Incorporated, Rockaway, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

The investigation revealed that the value of contract work performed by Just Sew, Incorporated increased in 1978 compared to 1977 and increased in the first 11 months of 1979 compared to the same period in 1978. The value of contract work increased in each successive quarter from the first quarter of 1978 through the third quarter of 1979 compared to the same quarter of the previous year.

Average employment at Just Sew, Incorporated increased in 1978 compared to 1977 and increased in the first 11 months of 1979 compared to the same period of 1978. Average employment increased in each successive quarter beginning with the first quarter of 1978 through the third quarter of 1979 compared to the same quarter of the previous year.

Conclusion

After careful review, I determine that all workers of Just Sew, Incorporated, Rockaway, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2403 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6415]

K-D Manufacturing Co., Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 21, 1979, in response to a worker petition received on November 13, 1979 which was filed on behalf of workers and former workers producing hex keys and screwdrivers at the Upland Industries Division of K–D Manufacturing Company, Incorporated, Upland, Pennsylvania. The investigation revealed that hex keys were the primary product produced at the Upland Industries Division of K–D Manufacturing Company during 1979. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

K–D Manufacturing Company purchased the Upland Industries Division in early 1979 with the intention of transferring the plant's equipment and products to a more cost-efficient manufacturing facility in Puerto Rico. Given the lead time required to repair old equipment and manufacture new machine dies, it was not feasible for K–D Manufacturing to transfer equipment immediately to K–D Tools of Puerto Rico. Consequently, manufacturing operations were resumed at the plant during the interim in order to maintain Upland customer accounts.

K–D Manufacturing Company expects to achieve full production of the Upland line of hex keys and screwdrivers at K–D Tool of Puerto Rico, Incorporated by early 1980.

Sales of hex keys manufactured at the Upland Industries Division increased in the first nine months of 1979 compared to the same period of 1978. Because machine dies employed in screwdriver production were virtually unusable, K–D Manufacturing Company stopped production of screwdrivers at the Upland Industries Division in early 1979, to the extent possible, Upland customers were supplied with screwdrivers from existing inventories.

Conclusion

After careful review, I determine that all workers of the Upland Industries Division of K–D Manufacturing Company, Incorporated, Upland, Pennsylvania, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2404 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6399]

Kenosha Auto Transport Corp.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 19, 1979 in response to a worker petition received on November 12, 1979, which was filed by the Teamsters on behalf of workers and former workers transporting domestic automobiles at the Kenosha Auto Transport Corporation, Kenosha, Wisconsin.

Kenosha Auto Transport Corporation is engaged in providing the service of transporting automobiles from the Kenosha Auto Transport yard or designated haulaway sites to the various dealers.

Thus, workers of the Kenosha Auto Transport Corporation do not produce an article within the meaning of Section 222(3) of the Act. Therefore they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to the Kenosha Auto Transport Corporation by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Kenosha Auto Transport Corporation and its customers have no controlling interest in one another. Neither the subject firm nor any affiliated company produces an article.

All workers engaged in transporting automobiles at the Kenosha Auto Transport Corporation are employed by that firm. All personnel actions and payroll transactions are controlled by

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the Kenosha Auto Transport Corporation. All employee benefits are provided and maintained by the Kenosha Auto Transport Corporation. Workers are not, at any time, under employment or supervision by customers of the Kenosha Auto Transport Corporation. Thus, Kenosha Auto Transport Corporation, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of the Kenosha Auto Transport Corporation, Kenosha, Wisconsin are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of January 1980.

James F. Taylor,

Director, Office of Management, Adminstration and Planning.

[FR Doc. 80-2455 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6359]

Leather Styles, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was intiated on November 13, 1979 in response to a worker petition received on November 3, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing leather apparel at Leather Styles, Incorporated, New York, New York. The investigation revealed that Leather Styles produced primarily women's leather and suede coats and jackets. It is concluded that all of the requirements have been met.

U.S. imports of men's boy's, women's, misses', juniors' and children's leather coats and jackets increased absolutely and relative to domestic production from 1977 to 1978.

The Department conducted a survey of customers of Leather Styles during the January–October 1979 period compared with the same period of 1978. The survey indicated that some respondents decreased purchases from Leather Styles and increased purchases of imported women's leather and suede coats and jackets.

Import penetration in the leather coat market has been significant in the 1976–1978 period. In 1977 and 1978 approximately one of every two leather coats purchased in the U.S. was imported.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's leather and suede coats and jackets produced at Leather Styles, Incorporated, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Leather Styles, Incorporated, New York, New York who became totally or partially separated from employment on or after October 31, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 15th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 80-2466 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6401]

Louis Cantor & Son, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a cerfitication of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initated on November 19, 1979 in response to a worker petition received on November 9, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at the Egg Harbor, New Jersey plant of Louis Cantor & Son. The investigation revealed that the correct name of the firm is Louis Cantor & Son, Incorporated. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of women's, misses', and children's coats and jackets decreased absolutely in the first nine months of 1979 compared to the first nine months of 1978.

Louis Cantor & Son, Incorporated produces women's wool and wool blend coats on a contract basis for a single apparel manufacturer. This manufacturer does not purchase imported wool coast. This manufacturer's sales of women's wool coats decreased in 1978 compared to 1977 and in the first six months of 1979 compared to the same period of 1978. A survey of the manufacturer's customers showed a decreased reliance on imported coats by respondents.

Conclusion

After careful review, I determine that all workers of Louis Cantor & Son, Incorported, Egg Harbor, New Jesey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-2467 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6553]

M & G Convoy, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding cerification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 6, 1979, in response to a worker petition received on November 23, 1979, which was filed by the Teamsters Union on behalf of workers and former workers transporting Chrysler cars at the M & G Convoy, Incorporated, Murrysville, Pennsylvania.

M & G Convoy, Incorporated was engaged in providing the service of transporting automobiles from the Murrysville, Pennsylvania terminal to various dealers.

Thus, workers of M & G Convoy, Incorporated do not produce an article within the meaning of section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to M & G Convoy, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

M & G Convoy, Incorporated and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with the Chrysler Corporation.

All workers engaged in transporting automobiles at M & G Convoy, Incorporated are employed by that firm. All personnel actions and payroll transactions are controlled by M & G Convoy, Incorporated. All employee benefits are provided and maintained by M & G Convoy, Incorporated. Workers are not, at any time, under employment or supervision by customers of M & G Convoy, Incorporated. Thus, M & G Convoy, Incorporated, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of M & G Convoy, Incorporated, Murrysville, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2468 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6482]

M. Lowenstein & Sons, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 29, 1979 in response to a worker petition received on November 5, 1979 which was filed on behalf of workers and former workers producing textiles at M. Lowenstein Corporation, New York, New York. The investigation revealed that the correct name of the firm is M. Lowenstein and Sons, Incorporated and that the New York office employed administrative and sales personnel only. In the following determinations, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The ration of U.S. imports of finished fabric to domestic production was 2.1 percent in 1978. U.S. imports decreased absolutely in the first nine months of 1979 when compared with the same period in 1978.

The New York, New York office of M. Lowenstein and Sons, Incorporated is the corporate headquarters and is not a producing facility of the company. Total sales and production of textiles made at all domestic plants of M. Lowenstein and Sons, Incorporated increased from 1977 to 1978 and in the first nine months of 1979 compared to the like period of 1978.

Conclusion

After careful review, I determine that all workers of M. Lowenstein and Sons, Incorporated, New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2469 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6360]

M. Snower & Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustmment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 13, 1979 in response to a worker petition received on November 3, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing lab frocks, hospital frocks and other institutional apparel at the M. Snower and Company Plants, 2715 and 816 Commercial Street, Division of Opelika Manufacturing Company, Cairo, Illinois. The investigation revealed that the M. Snower Company also produces girls' jeans at these plants. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of service or institutional apparel are negligible, and are not separately identifiable in the official trade statistics. Industry sources indicate that the primary reason that these garments are not imported is the inferior quality of the foreign product.

The decline in jeans production and employment was primarily attributable to a strike that occurred at M. Snower early in 1979. Because of the strike, M. Snower transferred jean production to other Opelika Company plants and to outside contractors. Sales and production of girls' jeans increased in the third quarter of 1979 compared to the same quarter in 1978.

Imports of women's, misses' and children's slacks and shorts, the category that includes girls' jeans, declined in the first six months of 1979 compared to the same period in 1978.

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Conclusion

After careful review, I determined that all workers of the M. Snower Division of the Opelika Manufacturing Corporation, 2715 and 816 Commercial Street, Cairo, Illinois are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2470 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6270]

Marcie Foundations, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 25, 1979 in response to a worker petition received on October 3, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers formerly producing brassiers and panties at Marcie Foundations, Incorporated, Aibonito, Puerto Rico. It is concluded that all of the requirements have been met.

U.S. imports of brassieres, bralettes and bandeaux increased both absolutely and relative to domestic production in each year from 1974 to 1978. Imports increased absolutely in January-June 1979 compared to the like period of 1978. The ratio of U.S imports to domestic production was 68.6 percent in 1978.

U.S. imports of women's, girls' and infants' underwear increased both absolutely and relative to domestic production in each year from 1975 to 1978. Imports increased absolutely in January-June 1979 compared to the like period of 1978.

Marcie Foundations sold all of its brassieres and panties through the parent company, the Gold Seal Garter Corporation.

Customers of Gold Seal Garter Corporation were surveyed by the Department of Labor. Most of the customers who responded to the survey purchased imported brassieres and panties. Their purchases of imports increased relative to their purchases from all domestic sources in 1978 compared with 1977 and in the first ten months of 1979 compared with the same period in 1978. The ratio of their imports to their purchases from all domestic sources was 43.5 percent in the first ten months of 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with brassieres and panties produced at Marcie Foundations, Incorporated, Aibonito, Puerto Rico contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Marcie Foundations, Incorporated, Aibonito, Puerto Rico who became totally or partially separated from employment on or after March 24, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2471 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6336]

Mason Tanning Co., Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assitance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 6, 1979 in response to a worker petition received on November 2, 1979 which was filed on behalf of workers and former workers producing suede splits at Mason Tanning Company, Incorporated, Salem, Massachusetts. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat threof, and to the absolute decline in sales or production.

A survey of Mason Tanning's customers was conducted by the Department. Survey results show that customers, measured in aggregate value, increased purchases of suede split leather from Mason Tanning Company while decreasing purchases in terms of value of imports during 1978 compared to 1977 and during the first ten months of 1979 compared to the first ten months of 1978. Those customers who did increase import purchases in terms of value while decreasing purchases from Mason Tanning represented an insignificant proportion of total sales.

Conclusion

After careful review, I determine that all workers of Mason Tanning Company, Incorporated, Salem, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 2472 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6153]

Merit Plastics, Inc.; Negative Determination Regarding Application for Reconsideration

By letter of December 10, 1979, the petitioners requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and formers workers of Merit Plastics, Inc., East Canton Division, East Canton, Ohio. The determination was published in the **Federal Register** on December 11, 1979 (44 FR 71482).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

In their application, the workers maintain that the plastic parts contained on imported cars are like or directly competitive with the plastic parts components which they produce and that imports of cars have directly impacted them in an advance way.

Although the economic impact of imports of final articles may be comparable to the impact of component imports on domestic workers producing component parts for the final article, for purposes of the adjustment assistance provisions of the Trade Act, imports of finished products are not "like or directly competitive" with domestically-produced component parts. Moreover, an automobile component is not deemed to be "at a later stage of processing" as the term is used in the Trade Act when it becomes part of a completed automobile. In a case arising under the Trade Expansion Act of 1962, *United Shoe Workers* v. *Bedell*, 506 F. 2d 174, the United States Court of Appeals for the District of Columbia Circuit construed the term "like or directly competitive." The issue in this case is whether imported finished women's shoes were like or directly competitive with domestic components of women's shoes, in this case, shoe counters (stiffeners which are placed around the heel of the shoe). The court concluded that a shoe counter is not like or directly competitive with the shoe.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 15th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2473 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6098]

Mode Manufacturing Co., Inc.; Negative Determination Regarding Application for Reconsideration

By letter of December 12, 1979, the President of Mode Manufacturing Company of New Haven, Connecticut, requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of that company. The determination was published in the **Federal Register** on December 4, 1979 (44 FR 69748).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The company claimed in its application for reconsideration that the manufacturer for which it contracted work bought imports which resulted in eliminating much of Mode's production. The company further claims that workers in a neighboring and competing firm have received trade adjustment assistance.

The Department's review revealed that workers of the Mode Manufacturing Company were denied eligibility because they did not meet the "contributed importantly" test of the Trade Act of 1974, since its sole manufacturer did not purchase imported dresses nor utilize foreign contractors. Its manufacturer had declining sales; however, of the few customers who imported women's dresses, all reported an increased reliance on other domestic sources during the relevant period. The review also showed that U.S. imports of women's, misses' and children's dresses decreased absolutely during the first half of 1979 compared with the same period in 1978. The ratio of imports to domestic production was less than five percent in 1977 and 1978.

With respect to the company's claim that the manufacturer imported a sufficient number of products so as to eliminate much of Mode Manufacturing's production, the Department's investigation indicated that the manufacturer did no foreign contracting and did not import women's dresses.

The Department does not consider the company's claim of a neighboring worker group being certified as relevant for rebutting the Department's original denial. For certification, the Trade Act requires that worker groups filing a petition meet the three statutory group criteria by themselves during the period under investigation. Further, the other firm produced blouses and skirts and performed contract work for a different manufacturer than does Mode.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 14th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2474 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W- 5338 and 5339]

Muench-Kreuzer Candle Corp.; Negative Determination Regarding Application for Reconsideration

By an application dated October 1, 1979, the United Steelworkers of America requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing candles at Muench-Kreuzer Candle Corporation's Liverpool and Syracuse, New York, plants. The determination was published in the **Federal Register** on July 6, 1979 (44 FR 39634).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the determination.

In denying workers of the Liverpool and Syracuse, New York, plants of Muench-Kreuzer Candle Corporation eligibility to apply for adjustment assistance, the Department concluded that increased imports of candles did not contribute importantly to the declines in employment of those workers. The Department noted in its initial investigation that although there were several transient employment losses, these losses involved workers hired temporarily to help build up inventory levels following a three-week

strike during July, 1978. That this may have been the case is borne out by the fact that average employment of production workers at both the Liverpool and Syracuse plants increased from 1976 to 1977, from 1977 to 1978, and during the first four months of 1979 compared with the same period in 1978.

The union argues in its application for reconsideration that the employment declines at Muench-Kreuzer were not temporary and were due to a loss of business caused by increases in competitive imports. The union disputes the Department's conclusion that these employment declines were an indirect result of the July, 1978 strike claiming that the strike occurred largely within the vacation period when production was ordinarily not scheduled.

Though the union is correct in claiming that the strike occurred during a period when production is normally not scheduled, the Department does not agree that employment losses subsequent to the strike were related to import competition. Labor turnover at Muench-Kreuzer is normally high. As the union submits in its petition, there were a large number of quits and layoffs in 1977 and 1978 for reasons unrelated to import competition. Under such circumstances, to accurately judge whether worker separations were significant and importantly caused by increases of competitive imports, the Department must consider average employment trends. As noted above, average employment increased during the period relevant to this investigation.

Furthermore, the union fails to claim in its application that either sales or production decreased absolutely. Under the Act, sales or production of the workers' firm, or appropriate subdivision thereof, must have decreased absolutely before a worker group may be certified as eligible to apply for adjustment assistance. Annual sales and production for both the Syracuse and Liverpool plants of Muench-Kreuzer increased from 1976 to 1977, from 1977 to 1978 and during the first four months of 1979 compared with the same period in 1978.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 14th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3475 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6361]

Oxford Textile Finishing Co., Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 13, 1979 in response to a worker petition received on November 6, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers engaged in dyeing and finishing women's wear at Oxford Textile Finishing Company, Incorporated, Oxford, New Jersey. The investigation revealed that the petition was filed by three workers and that the plant produces finished fabric. In the following determination, without regard to whether any of the criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of finished fabric remained at or below two percent of domestic production in each of the years 1974 through 1978 and decreased absolutely during the first half of 1979 compared with the same period in 1978.

Converters for whom Oxford Textile Finishing Company, Incorporated did commission fabric finishing who were surveyed reported that they did not import finished fabric or rely on foreign contractors in 1978 or 1979. Customers of those converters reported that imports represented a negligible proportion of their total finished fabric purchases.

Conclusion

After careful review, I determine that all workers of Oxford Textile Finishing Company, Incorporated, Oxford, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3476 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W- 6287, 6288, 6289, 6290, and 6288A]

Perfect Garment Co., Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 29, 1979 in response to a worker petition received on October 24, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's sportswear at Perfect Garment Company, Incorporated Cambridge (TA-W-6287), Baltimore (TA-W-6288), Grasonville (TA-W-6289), and Secretary (TA-W-6290), Maryland. The investigation was expanded to include the New York, New York sales facility of Perfect Garment Company, Incorporated (TA-W-6288A). The investigation revealed that the women's sportswear included women's woven and knit pants, shorts, skirts, tops, and blouses. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's slacks and shorts increased both absolutely and relatively in 1978 compared to 1977.

U.S. imports of women's, misses', and children's blouses and shirts increased both absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of women's, misses', and children's skirts increased both absolutely and relative to domestic production in 1978 compared to 1977.

A survey of some major customers of Perfect Garment Company, Incorporated revealed that some of these customers decreased purchases from the subject firm and increased purchases of imports in 1978 compared to 1977 and in the first nine months of 1979 compared to the same period in 1978. The company closed permanently in October, 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's woven and knit pants, shorts, skirts, tops and blouses produced at Perfect Garment Company, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Perfect Garment Company, Incorporated, Cambridge (TA-W-6287), Baltimore (TA-W-6288), Grasonville (TA-W-6289), and Secretary (TA-W-6290), Maryland and New York, New York (TA-W-6288A) who became totally or partially separated from employment on or after April 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3477 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6496]

Renco Manufacturing, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 30, 1979 in response to a worker petition received on November 28, 1979 which was filed on behalf of workers and former workers producing girls' coats at Renco Manufacturing, Incorporated, Long Branch, New Jersey. The investigation revealed that the plant also produces ladies' coats. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased in 1978 compared to 1977 and in the first nine months of 1979 compared to the same period in 1978.

Renco Manufacturing, Incorporated is a contractor for manufacturers of girls' and ladies' coats. A Department survey revealed that the major customer of Renco increased purchases of imported ladies' and girls' coats and decreased purchases from the subject firm in FY (ending April 30) 1979 compared to FY 1978. This manufacturer decreased purchases from Renco but decreased purchases of imported girls' and ladies' coats during the period May to October 1979 compared to the same period in 1978. Retail customers of this manufacturer revealed that they decreased purchases from the manufacturer and increased purchases of imported ladies' and girls' coats during the period under investigation.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with girls' and ladies' coats produced at Renco Manufacturing, Incorporated, Long Branch, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Renco Manufacturing, Incorporated, Long Branch, New Jersey who became totally or partially separated from employment on or after November 23, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3478 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6379]

Research-Cottrell, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 15, 1979 in response to a worker petition received on November 2, 1979 which was filed on behalf of workers and former workers producing air and water pollution devices at Research-Cottrell, Inc., Somerville, New Jersey. The investigation revealed that the plant primarily produces electrostatic precipitators. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of electrostatic precipitators are negligible primarily because of the infeasibility of shipping the heavy steel of which the precipitators are constructed. To avoid this problem, foreign companies seeking to penetrate the United States market have secured licensing agreements with domestic manufacturers whereby the foreign firm licenses its technology to the domestic firm. Thus, there is significant importation of precipitator technology, but not of the actual product.

The investigation revealed that the petitioning workers were engaged in the planning and design of precipitators exclusively for Research-Cottrell, and that their plans and designs do not enter the domestic market. Thus, the relevant market for the plans and designs produced by these workers is Research-Cottrell. The investigation disclosed that Research-Cottrell does not utilize plans and designs from foreign sources in the construction of its precipitators, therefore imports of foreign plans and designs cannot be considered to have contributed importantly to the decline in the employment of workers at Research-Cottrell within the meaning of section 222(3) of the Trade Act of 1974.

Conclusion

After careful review, I determine that all workers of Research-Cottrell, Incorporated, Somerville, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

V 45 / 18 J A 25 80 UMI

Signed at Washington, D.C. this 14th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2479 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W- 6363 and 6364]

Rita Coal Co. and Russell Fork Coal Co., Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 13, 1979 in response to a worker petition received on November 2, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers producing metallurgical coal at Rita Coal Company, Elkhorn City, Kentucky and Russell Fork Coal Company, Incorporated, Elkhorn City, Kentucky. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The petition was filed on behalf of workers mining metallurgical coal. In accordance with section 222 of the Trade Act of 1974 and 29 CFR 90.2, a domestic article may be "directly competitive" with an imported article at a later stage of processing. Coke is metallurgical coal at a later stage of processing. Imports of coke and imports of metallurgical coal should be considered in determining import injury to workers mining metallurgical coal.

U.S. imports of metallurgical coal have been negligible. U.S. imports of coke decreased absolutely and relative to domestic production in the first half of 1979 compared to the same period of 1978.

All coal mined by Rita Coal and all coal mined for Russell Fork Coal by contractors is sold by Russell Fork Coal. The Department conducted a survey of the domestic customers of Russell Fork Coal Company which revealed that customers decreased purchases of imported metallurgical coal and increased purchases of domestically-produced coal in 1978 compared with 1977 and in the first nine months of 1979 compared with the same period of 1978.

Conclusion

After careful review, I determine that all workers of Rita Coal Company, Elkhorn City, Kentucky and Russell Fork Coal Company, Incorporated, Elkhorn City, Kentucky are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2480 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6508]

Roan Contractors; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 30, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies Garment Workers' Union on behalf of workers and former workers producing ladies' skirts, blouses and jackets at Roan Contractors, Roselle, New Jersey. The investigation revealed that the plant produces women's and men's warm-ups and tennis outfits. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' dress and sport trousers (which includes warm-ups) increased both absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of men's and boys' athletic uniforms (which includes tennis outfits) increased in absolute terms in 1978 compared to 1977.

U.S. imports of the following categories of women's, misses' and children's apparel increased both absolutely and relative to domestic production in 1978 compared to 1977; blouses and shirts, coats and jackets, slacks and shorts, skirts, and dresses.

The Department of Labor investigation revealed that Roan Contractors contracts exclusively with one manufacturer. The sole customer of this manufacturer was surveyed by the Department. The survey results revealed that the customer reduced purchases from the manufacturer with whom Roan contracts in the January through November 1979 period when compared to the same period of the previous year. This customer increased its purchases of imported warm-ups and tennis outfits the same time period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's and men's warm-ups and tennis outfits produced at Roan Contractors, Roselle, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Roan Contractors, Roselle, New Jersey who became totally or partially separated from employment on or after November 20, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2481 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6611]

Roberts & Schaefer Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 12, 1979 in response to a worker petition received on December 6, 1979, which was filed by the United Mine Workers of America on behalf of workers and former workers of Roberts and Schaefer Company, McClure #1 Mine, McClure, Virginia, engaged in engineering and construction of preparation plants.

Roberts and Schaefer Company, McClure #1 Mine, McClure, Virginia is engaged in providing construction and engineering services to coal mining companies. Roberts and Schaefer Company is a subsidiary of Elgin National Industries, Incorporated, a watch and clock maker.

Thus, workers of Roberts and Schaefer Company, McClure #1 Mine, McClure, Virginia do not produce an article within the meaning of section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from the parent firm, a firm otherwise related to Roberts and Schaefer Company by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Roberts and Schaefer Company and its customers have not controlling interest in one another. The parent firm does not produce coal.

All workers engaged in construction and engineering work for Roberts and Schaefer Company, McClure #1 Mine, McClure, Virginia are employed by that firm. All personnel actions and payroll transactions are controlled by Roberts and Schaefer Company. All employee benefits are provided and maintained by Roberts and Schaefer Company. Workers are not, at any time, under employment or supervision by customers of Roberts and Schaefer Company. Thus, Roberts and Schaefer Company, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Roberts and Schaefer Company, McClure #1 Mine, McClure, Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2482 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6620]

Rockingham Shoe Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 13, 1979, in response to a worker petition received on December 7, 1979, which was filed on behalf of workers and former workers producing children's shoes at Rockingham Shoe Company, Newmarket, New Hampshire. It is concluded that all of the requirements have been met.

U.S. imports of children's non-rubber footwear incresed in quantity and relative to domestic production in the January–September period of 1979, compared with a the same period of the previous year.

The Department of Commerce conducted a survey of customers of Rockingham Shoe Company. The survey revealed that a major customer increased purchases of imported children's shoes and decreased purchases of children's shoes from Rockingham from 1977 to 1978 and from 1978 to 1979. On December 27, 1979 Rockingham Shoe Company was certified by the Department of Commerce as eligible to apply for trade adjustment assistance.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with children's shoes produced at Rockingham Shoe Company, Newmarket, New Hampshire contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Rockingham Shoe Company, Newmarket, New Hampshire who became totally or partially separated from emploment on or after December 3, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-2483 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6416]

Roseville Garment Co., Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 21, 1979 in response to a worker petition received on November 13, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sportswear at Roseville Garment Company, Incorporated, East Newark, New Jersey. The investigation revealed that the plant produces ladies' slacks, skirts, gowns and robes, and children's dresses. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Roseville Garment Company, Incorporated produces ladies' slacks, skirts, gowns and robes, and children's dresses for several manufacturers. A survey of the manufacturers revealed that they did not utilize foreign contractors or purchase imported ladies' slacks, skirts, gowns and robes, and children's dresses from 1977 through 1979.

Customers of the manufacturers which had declining sales were surveyed. The survey indicated that most respondents did not purchase imported ladies' gowns and robes.

Conclusion

After careful review, I determine that all workers of Roseville Garment Company, Incorporated, East Newark,

New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2484 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6187]

Santa Rosa Shoe Corp.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 15, 1979 in response to a worker petition received on October 10, 1979 which was filed on behalf of workers and former workers producing men's work and outdoor footwear at the Santa Rosa Shoe Corporation, Santa Rosa, California, a subsidiary of the Stride Rite Manufacturing Corporation, Boston, Massachusetts. It is concluded that all of the requirements have been met.

U.S. imports of work footwear increased in quantity in 1978 from 1977 and decreased in January-September 1979 compared to the like period in 1978. The ratio of imports to domestic production increased from 19.5 percent in 1977 to 29.8 percent in 1978.

Imports of men's work and outdoor footwear by the Santa Rosa Shoe Corporation increased in January-October 1979 compared to the same period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's work and outdoor footwear produced at the Santa Rosa Shoe Corporation, Santa Rosa, California contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Santa Rosa Shoe Corporation, Santa Rosa, California who became totally or partially separated from employment on or after February 10, 1979 and before January 1, 1980 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Workers separated on or after January 1, 1980 are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 21st day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2485 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5429 and 5430]

Singer Co.; Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, on July 2, 1979, the Department of Labor issued a Certification of Eligibility to Apply for Adjustment Assistance applicable to workers and former workers of the Wauwatosa, Wisconsin, plant of Singer Company, Controls Division. That certification included all workers who became totally or partially separated from employment on or after September 1, 1978, and before July 1, 1979.

Subsequent to the publication of the original determination, the Office of Trade Adjustment Assistance received an inquiry regarding workers who become separated after July 1, 1979. It was learned that other automotive air conditioning valves produced at the Wauwatosa plant have experienced sales declines and that employment declines have occurred since July 1, 1979.

Company imports of automotive air conditioning valves assumed a greater percentage of total company sales of all auto air conditioning valves in the third quarter of 1979 compared with all previous quarters.

The largest buyer of auto air conditioning valves from Singer Company, Controls Division, revealed that they had decreased purchases of valves currently made at the Wauwatosa plant while increasing purchases of foreign-made Singer valves in 1979 when compared with 1978. That customer indicated that the auto air systems were interchangeable and that air conditioning systems with the foreign-made Singer valve were being substituted for those with the Wauwatosa-made valve.

On December 14, 1979, the Department issued a Revised Certification Regarding Eligibility to Apply for Worker Adjustment Assistance for the Wauwatosa, Wisconsin, plant of the Singer Company, Controls Division (TA-W-5430). Through an oversight in revising TA-W-5430, the Department failed to include the workers at the Milwaukee, Wisconsin, plant of the Singer Company, Controls Division, (TA-W-5429), who should have been included in the certification together with TA-W-5430. This omission is hereby corrected.

Conclusion

Based on the additional evidence, a review of the entire record and in accordance with the provisions of the Act, I make the following revised certification:

All workers of Singer Company, Controls Division, Milwaukee, Wisconsin who became totally or partially separated from employment on or after September 1, 1978, and before July 1, 1979, and all workers of Singer Company, Controls Division, Wauwatosa, Wisconsin, who became totally or partially separated from employment on or before September 1, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 14th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2486 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6474]

Snob Fashions, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 28, 1979 in response to a worker petition received on November 23, 1979 which was filed on behalf of workers and former workers producing women's coats at Snob Fashions, Incorporated, Jersey City, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed important to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey of the manufacturers which contract orders from Snob Fashions, Incorporated revealed that only one manufacturer decreased orders from the subject firm in 1978 compared to 1977. Orders to Snob Fashions increased in the period January–October 1979 compared to the same period in 1978. Total sales of the manufacturer who reduced orders to Snob increased from 1977 to 1978 and purchases of imported women's coats by this manufacturer decreased during the same period.

Conclusion

After careful review, I determine that all workers of Snob Fashions, Incorporated, Jersey City, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2501 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6460]

Stafford Garment Manufacturing Corp.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certificate of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 27, 1979 in response to a worker petition received on November 14, 1979 which was filed on behalf of workers and former workers producing women's housecoats, blouses, dresses, skirts and suits at Stafford Garment Manufacturing Corporation, Fall River, Massachusetts. The investigation revealed that the plant produces primarily women's dresses. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that none of the manufacturers for whom Stafford Garment Manufacturing Corporation does contract work use the services of foreign contractors nor do they purchase women's dresses and pantsuits from foreign sources.

Customers (retail outlets) of those manufacturers who experienced decreasing sales were also surveyed. Results of the survey indicated that imported dresses and pantsuits by those respondents who purchased imported apparel did not exceed one percent of total purchases of dresses and pantsuits by the retail outlets in 1978 and 1979.

Conclusion

After careful review, I determine that all workers of Stafford Garment Manufacturing Corporation, Fall River, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-2502 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6366]

Stunzi USA, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 13, 1979 in response to a worker petition received on October 29, 1979 which was filed on behalf of workers and former workers producing greige goods, drapery goods, and fine women's wear at Stunzi USA, Incorporated. The investigation revealed that the plant produces finished and unfinished fabric. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Workers at Stunzi USA, wove finished fabric and greige goods (unfinished fabric).

Imports of gray woven fabric increased in 1978 compred to 1977, and decreased absolutely in the first six months of 1979 compared to the same time period in 1978.

Imports of finished fabric have been less 2.1 percent of domestic production in the period 1974–1978. Imports decreased absolutely in the first six months of 1979 compared to the same period in 1978.

The Buena Vista plant of Stunzi USA, Incorporated closed in April, 1979. Company officials submitted data to the Department that showed the plant was unprofitable and that that was the reason they closed the plant.

The Department conducted a survey of major customers of Stunzi USA, Incorporated. This survey revealed that none of these customers had decreased purchases from Stunzi USA prior to the firm's closing and increased imports.

Conclusion

After careful review, I determine that all workers of Stunzi USA, Incorporated, Buena Vista, Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 80-2503 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6721]

T-R Auto Handling; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding cerification of elibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment

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assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on January 8, 1979, in response to a worker petition received on December 20, 1979, which was filed by the International Brotherhood of Teamsters on behalf of workers and former workers loading automobiles onto railcars at T–R Auto Handling, Edison, New Jersey.

T–R Auto Handling is engaged in providing the service of loading and unloading automobiles from multi-level railcars.

Thus, workers of T–R Auto Handling do not produce an article within the meaning of section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to T–R Auto Handling by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

T–R Auto Handling and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in loading and unloading automobiles from railcars trasnporting automobiles at T–R Auto Handling are employed by that firm. All personnel actions and payroll transactions are controlled by T–R Auto Handling. All employee benefits are provided and maintained by T–R Auto Handling. Workers are not, at any time, under employment or supervision by cutomers of T–R Auto Handling. Thus, T–R Auto Handling, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of T–R Auto Handling Edison, New Jersey are denied eligiblity to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2504 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6319]

Teledyne AMCO; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 31, 1979 in response to a worker petition received on October 30, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing electronic clutch motors for sewing machines at Teledyne AMCO, Mohnton, Pennsylvania. The investigation revealed that the plant primarily produces electric motors for sewing machines. It is concluded that all of the requirements have been met.

Teledyne AMCO is the only domestic producer of electric motors for sewing machines, including mechanical clutch drive motors and electronic variable speed motors.

U.S. imports of A.C. Fractional Horsepower Motors increased both absolutely and relative to domestic production from 1977 to 1978, and increased absolutely in the first six months of 1979 compared to the same period in 1978.

U.S. imports of A.C. Fractional Electric Clutch Motors (for sewing machines) increased absolutely from 1977 to 1978 and increased relative to domestic production in the first six months of 1979 compared to the same period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with electric motors for sewing machines produced at Teledyne AMCO, Mohnton, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Teledyne AMCO, Mohnton, Pennsylvania who became totally or partially separated from employment on or after April 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2505 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6305]

Textile Printing & Finishing Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 30, 1979 in response to a worker petition received on October 23, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers contracting printed fabric at Textile Printing and Finishing Company, Lebanon, Pennsylvania. The investigation revealed that the plant produces finished fabric. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of finished fabric decreased during the first half of 1979 compared with the first half of 1978. The ratio of imports to domestic production did not exceed 2.0 percent from 1974 through 1978.

The Department conducted a survey of Textile Printing and Finishing Company's major customers. The survey respondents did not utilize foreign contractors nor did they increase purchases of imported finished fabric and decrease purchases from the subject firm during the period under investigation.

Conclusion

After careful review, I determine that all workers of Textile Printing and Finishing Company, Lebanon, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-2506 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W- 6132 and 6133]

U.S. Steel Corp.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 1, 1979 in response to a worker petition received on September 24, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon steel plate, structural shapes, wire and wire products at the Fairfield Works of the U.S. Steel Corporation in Fairfield and Bessemer, Alabama. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

All employees of the Fairfield Works engaged in employment related to the production of carbon steel plate, structural shapes and wire and wire products separated on or after November 15, 1975 and on or before June 9 1979 were proviously certified elibible to apply for adjustment assistance.

A. Structural Shapes

Plant sales and production of carbon steel structural shapes increased in 1978 compared to 1977 and continued to increase in the first three quarters of 1979 compared to the like 1978 period.

Imports of carbon steel structural shapes declined relative to domestic production in 1978 compared to 1977 and in the first three quarters of 1979 compared to the like 1978 period.

The Department conducted a survey of some of the customers of carbon steel structural shapes of the Fairfield Works. All of the respondents except one increased purchases from the Fairfield Works in the first ten months of 1979 compared to the like 1978 period and the one exception did not purchase any imported structural shapes in the first ten months of 1979.

B. Plate

Imports of carbon steel plate declined both absolutely and relative to domestic shipments in the first three quarters of 1979 compared to the like period of 1978.

The Department conducted a survey of some of the customers of carbon steel plate of the Fairfield Works. The majority of the respondents did not purchase any imported plate in the first ten months of 1979. Most of the respondents stated that they shifted to other domestic sources rather than to foreign sources following the shutdown of the Fairfield plate mill in September 1979. Those respondents who reduced purchases from the Fairfield Works and increased purchases from foreign sources in the first ten months of 1979 compared to the like period in 1978 represented a small percentage of the plant's sales in that period.

C. Wire and Wire Products

Imports of wire and wire products declined both absolutely and relative to domestic shipments in the first three quarters of 1979 compared to the like 1978 period.

The Department conducted a survey of some of the customers of wire and wire pruoducts of the Fairfield works. The majority of respondents either did not purchase from foreign sources or reduce purchases foreign sources in the first ten months of 1979 compared to the like 1978 period. The respondents who reduced purchases from domestic sources and from the Fairfield Works and who increased purchases from foreign sources in the first ten months of 1979 compared to the like 1978 period represented a small percentage of the plant's sales.

Conclusion

After careful review, I determine that all workers of the Fairfield Works of the U.S. Steel Corporation in Fairfield and Bessemer, Alabama engaged in employment related to the production of carbon steel structural shapes, plate, wire and wire products are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2507 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6306]

Weyenberg Shoe Manufacturing Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 30, 1979 in response to a worker petition received on October 24, 1979 which was filed by the Boot and Shoe Workers Union on behalf of workers and former workers producing men's shoes at the Lakeside plant, Beaver Dam, Wisconsin of the Weyenberg Shoe Manufacturing Company. It is concluded that all of the requirements have been met.

U.S. imports of men's dress and casual footwear increased relative to domestic production in the first six months of 1979 compared to the first six months of 1978. Imports as a percentage of domestic production exceeded 75 percent in 1977, 1978, and in the first six months of 1979.

Weyenberg increased its imports of men's footwear in 1978 compared to 1977 and in the first ten months of 1979 compared to the same period in 1978 while decreasing domestic production.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's footwear produced at the Lakeside plant, Beaver Dam, Wisconsin of the Weyenberg Shoe Manufacturing Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Lakeside plant, Beaver Dam, Wisconsin of the Weyenberg Shoe Manufacturing Company who became totally or partially separated from employment on or

after May 12, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 80-2508 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6307]

Weyenberg Shoe Manufacturing Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 30, 1979 in response to a worker petition received on October 24, 1979 which was filed by the Boot and Shoe Workers Union on behalf of workers and former workers producing component shoe parts for men's shoes at the Milwaukee Sole Plant, Milwaukee, Wisconsin of the Weyenberg Shoe Manufacturing Company. It is concluded that all of the requirements have been met.

U.S. imports of men's dress and casual footwear increased relative to domestic production in the first six months of 1979 compared to the first six months of 1978. Imports as a percentage of domestic production exceeded 75 percent in 1977, 1978, and in the first six months of 1979.

Weyenberg increased imports of men's footwear in 1978 compared to 1977 and in the first ten months of 1979 compared to the first ten months in 1978 while decreasing domestic production.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's footwear produced at the Milwaukee Sole Plant, Milwaukee, Wisconsin of the Weyenberg Shoe Manufacturing Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Milwaukee Sole Plant, Milwaukee, Wisconsin of the Weyenberg Shoe Manufacturing Company who became totally or partially separated from employment on or after May 28, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2509 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6406]

Wilson Sporting Goods Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 19, 1979 in response to a worker petition received on November 2, 1979 which was filed by the Amalgamated Meat Cutters Union on behalf of workers and former workers distributing sporting equipment at the Edison, New Jersey facility of Wilson Sporting Goods Company. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that the reduction in demand for warehousing and distribution at the Edison, New Jersey distribution center does not relate to any production facility directly impacted by imports.

The Edison, New Jersey distribution center of Wilson Sporting Goods Company warehouses and distributes sporting goods produced by both domestic and foreign manufacturers as well as by Wilson's own production facilities in the United States and abroad.

During 1978, the Edison, New Jersey distribution center experienced an increase in the average number of employees and the total number of hours worked compared to 1977. During this time the Edison facility was handling an order of sporting goods produced in the Northeast region for distribution nationwide. Since the Edison facility does not normally distribute nationwide, the distribution of this line of sporting goods significantly increased the workload at the facility. These orders were completed in the latter part of 1978 and subsequently employment at the facility resumed normal levels.

None of the workers employed by Wilson Sporting Goods Company are covered under any existing certification. Workers at the Wilson Sporting Goods Company production plant in Tullahoma, Tennessee were certified eligible to apply for trade adjustment assistance on August 9, 1978 (TA-W-3246). That certification had an impact date of February 6, 1977 and a termination date of March 4, 1978. The certification was based on the fact that production had been shifted from this facility to a foreign plant. Workers at the Edison, New Jersey facility warehouse and distribute the products produced at this foreign plant.

Conclusion

After careful review, I determine that all workers of the Edison, New Jersey distribution center of Wilson Sporting Goods Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2510 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6651, 6652, 6653, and 6654]

Zantop International Airlines, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 20, 1979, in response to a worker petition received on December 14, 1979, which was filed on behalf of workers and former workers of the following facilities of Zantop International Airlines, Incorporated: Ypsilanti, Michigan (TA-W-6651); Atlanta, Georgia (TA-W-6652); Dothan, Alabama (TA-W-6653); and Niagara Falls, New York (TA-W-6654).

Zantop International Airlines, Incorporated is engaged in providing the service of air transport.

Thus, workers of Zantop International Airlines, Incorporated do not produce an article within the meaning of section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Zantop International Airlines, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Zantop International Airlines, Incorporated and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in air transport at Zantop International Airlines, Incorporated are employed by that firm. All personnel actions and payroll transactions are controlled by Zantop International Airlines, Incorporated. All employee benefits are provided and maintained by Zantop International Airlines, Incorporated. Workers are not, at any time, under employment or supervision by customers of Zantop International Airlines, Incorporated. Thus, Zantop International Airlines, Incorporated, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of the Ypsilanti, Michigan; Atlanta, Georgia; Dothan, Alabama and Niagara Falls, New York facilities of Zantop International Airlines, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2511 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-28-M

LEGAL SERVICES CORPORATION

Grants and Contracts

January 22, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996/, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project . . . "

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Western Nebraska Legal Services in Scottsbluff, Nebraska, to serve Banner, Blaine, Boyd, Brown, Chase, Cherry, Custer, Dundy, Frontier, Furnas, Garfield, Greeley, Hayes, Hitchcock, Holt, Keya Paha, Kimball, Loup, Nuckolls, Perkins, Red Willow, Rock, Valley and Wheeler Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Illinois 60604.

Antone G. Singsen III,

Vice President, Finance and Management.

[FR Doc. 80-2524 Filed 1-24-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

January 22, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996/, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Southern New Mexico Legal Services in Las Cruces, New Mexico to serve Catron, Grant, Hidalgo, Luna, Sierra and Socorro Counties.

Interested person are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Denver Regional Office, 1726 Champa Street, Suite 500, Denver, Co. 80202.

Antone G. Singsen III,

Vice President, Finance and Management.

[FR Doc. 80-2525 Filed 1-24-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

January 22, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996/, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Services of Northeastern Pennsylvania in Wilkes-Barre, Pa., to serve Pike County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Philadelphia Regional Office, 101 North 33rd Street, Suite 404, Philadelphia, Pa. 19104.

Antone G. Singsen III,

Vice President, Finance and Management.

[FR Doc. 80-2526 Filed 1-24-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

January 22, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996/, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to

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the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Black Hills Legal Services in Rapid City, South Dakota, to serve Harding and Perkins Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Illinois 60604.

Antone G. Singsen III,

Vice President, Finance and Management.

[FR Doc. 80-2527 Filed 1-24-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

January 22, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Northwest Arkansas Legal Services in Fayetteville, Arkansas, to serve Cleburne, Fulton, Izard, Stone and Van Buren Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street, NE., 9th Floor, Atlanta, Ga. 30308

Antone G. Singsen III,

Vice President, Finance and Management.

[FR Doc. 80-2528 Filed 1-24-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

January 22, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Western Arkansas Legal Services in Ft. Smith, Arkansas to serve Johnson and Pope Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street NE., 9th Floor, Atlanta, GA. 30308

Antone G. Singsen III,

Vice President, Finance and Management.

[FR Doc. 80-2529 Filed 1-24-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

January 22, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Services of Northeast Arkansas in Newport, Arkansas, to serve Clay, Craighead, Greene and Sharp Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street NE., 9th Floor, Atlanta Ga. 30308.

Antone G. Singsen III,

Vice President, Finance and Management.

[FR Doc. 80-2530 Filed 1-24-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

January 22, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Aid of Western Oklahoma in Oklahoma City, Okla., to serve Garfield, Kay, and Noble Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Denver Regional Office, 1726 Champa Street, Suite 580, Denver, Colorado 80202.

Antone G. Singsen III,

Vice President, Finance and Management.

[FR Doc. 80-2531 Filed 1-24-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

January 22, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Gulf Coast Legal Foundation in Houston, Texas, to serve Austin, Brazos, Burleson, Colorado, Leon, Madison, Robertson, Waller, and Washington Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Denver Regional Office, 1726 Champa Street, Suite 500, Denver, Colorado 80202.

Antone G. Singsen III,

Vice President, Finance and Management.

[FR Doc. 80-2532 Filed 1-24-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

January 22, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Montana Legal Services Corporation in Helena, Montana, to provide services to Native Americans residing on or near the Blackfeet, Crow, Flathead, Fort Belknap, Fort Peck, Northern Cheyenne and Rocky Boy's Reservations.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Native American Desk, Legal Services Corporation, Denver Regional Office, 1726 Champa Street, Suite 500, Denver, Colorado 80202.

Antone G. Singsen III,

Vice President—Finance and Management.

[FR Doc. 80-2541 Filed 1-24-80; 8:45 am]

BILLING CODE 6820-35-M

MINIMUM WAGE STUDY COMMISSION

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Commission meeting:

Name: Minimum Wage Study Commission.
Date: February 12, 1980.
Time: 10:30 a.m.
Place: 1430 K St. NW., Suite 1102, Washington, D.C.

Proposed Agenda

1. Pending Business.
2. Staff evaluation of DOL exemption reports on Domestic Workers and Substitute House Parents Employed in Non-Profit Education Institutions.
3. Progress Report on non-econometric studies.
4. New Business.

Next meeting of the Commission will be held Tuesday, March 11, 1980.

All communications regarding this Commission should be addressed to: Mr. Louis E. McConnell, Executive Director, 1430 K Street, N.W., Washington, D.C. 20005; telephone (202) 376-2450.

Louis E. McConnell,

Executive Director.

[FR Doc. 80-2430 Filed 1-24-80; 8:45 am]

BILLING CODE 4510-23-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-458]

Gulf States Utilities Co. (River Bend Station, Unit 1)

Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Note—This document originally appeared in the Federal Register for Friday, January 11, 1980. It is reprinted in this issue at the request of the agency.

Gulf States Utilities Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed on October 26, 1979, information requested by the Attorney General for antitrust review as required by 10 CFR Part 50, Appendix L. This information adds Cajun Electric Power Cooperative, Inc. and Sam Rayburn G&T, Inc. as co-owners of the River Bend Station, Unit 1.

The information was filed by Gulf States Utilities Company in connection with their application for construction permits and operating licenses for the River Bend Station, Units 1 and 2. The site for this plant is located in West Feliciana Parish, Louisiana.

The original antitrust portion of the application was docketed on September 24, 1973, and Notice of Receipt of Application for Construction Permits and Operating Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matters, was published in the **Federal Register** on October 23, 1973 (38 F.R. 29245). The Notice of Hearing was published in the **Federal Register** on October 23, 1973 (38 F.R. 29243).

Copies of the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, N. W., Washington, D. C. 20555, and at the Audubon Library, West Feliciana Branch, Ferdinand Street, St. Francisville, Louisiana 70775.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to Cajun Electric Power Cooperative, Inc. and Sam Rayburn G&T, Inc., presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before March 10, 1980.

Dated at Bethesda, Maryland, this 28th day of December 1979.

For the Nuclear Regulatory Commission.

L. S. Rubenstein,

Acting Chief, Light Water Reactors Branch No. 4, Division of Project Management.

[FR Doc. 80-897 Filed 1-10-80; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Docket No. MC79-3]

Red-Tag Proceeding, 1979

January 22, 1980.

Notice is hereby given that pursuant to the "Chairman's Notice of Oral Argument", dated January 22, 1980, Oral Argument in this proceeding is scheduled to be held on Friday, February 8, 1980, at 9:00 a.m., Hearing Room, Postal Rate Commission, 2000 L Street, NW., Washington, D.C.

David F. Harris,

Secretary

[FR Doc. 80-2397 Filed 1-24-80; 8:45 am]

BILLING CODE 7715-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1694; Amdt. No. 3]

Alabama; Declaration of Disaster Loan Area

The above numbered Declaration and Amendments thereto (See 44 FR 61716, 65852, and 72694) are amended further by extending the filing date for physical damage until the close of business on February 15, 1980, and for economic injury until September 15, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

V 45 / 18 JAN 25 1980 UMI

Dated: January 14, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-2343 Filed 1-24-80; 8:45 am]

BILLING CODE 8025-01-M

First B.D.J. Financial Services, Inc.; Application for License to Operate as a Small Business Investment Company

[Proposed License No. 04/04-5184]

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. *681 et seq.),* has been filed by The First B.D.J. Financial Services, Inc. (applicant), with the Small Business Administration (SBA), pursuant to 13 C.F.R. 107.102 (1979).

The officers, directors and stockholders of the applicant are as follows:

Dan E. Young, Chairman of the Board; 9559 East 86th Street, Indianapolis, Indiana 46256.

John R. Rhodes, President, Director; 5100 North Ocean Boulevard, Apartment 1513, Fort Lauderdale, Florida 33308.

William J. De Fouw, Secretary-Treasurer, Director; 2101 South 6th Street, LaFayette, Indiana 47903.

*D. J. International, Inc.,[1] 100 Percent Stockholder; 5100 North Ocean Boulevard, Apartment 1513, Fort Lauderdale, Florida 33308.

The applicant, a Florida corporation, with its principal place of business at 5250 Griffin Road, Fort Lauderdale, Florida 33314, will begin operations with $500,000 of paid-in capital and paid-in surplus derived from the sale of 500 shares of common stock.

The applicant will conduct its activities principally in the Greater Fort Lauderdale and Broward County areas.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Fort Lauderdale, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 21, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80-2340 Filed 1-24-80; 8:45 am]

BILLING CODE 8025-01-M

[1] D. J. International, Inc. is owned and managed by Messrs. Young, Rhodes, and De Fouw.

[Declaration of Disaster Loan Area No. 1755]

Massachusetts; Declaration of Disaster Loan Area

The area of the Central business district on Essex Street in the City of Lawrence, Massachusetts, constitutes a disaster area because of damage resulting from a fire which occurred on December 23, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on March 7, 1980, and for economic injury until the close of business on October 8, 1980, at: Small Business Administration, District Office, 150 Causeway Street, 10th Floor, Boston, Massachusetts 02114 or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: January 9, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-2342 Filed 1-24-80; 8:45 am]

BILLING CODE 8025-01-M

Quidnet Capital Corp.; Filing of Application for Approval of Conflict of Interest Transaction

[License No. 02/02-0350]

Notice is hereby given that Quidnet Capital Corporation (Quidnet Capital), 32 Nassau Street, Princeton, New Jersey 08540, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application pursuant to Section 107.1004 of the SBA Rules and Regulations governing small business investment companies (13 C.F.R. 107.1004(1979)), for approval of a conflict of interest transaction.

Quidnet Capital desires to purchase 45,658 shares of Non-Voting, Class B, Common Stock of Fox-Vliet Holding Corporation (FVHC), P.O. Box 24087, 4529 Enterprise Place, Oklahoma City, Oklahoma 73124, for a total price of $132,408 from Commercial Union Insurance Company (CUIC). These shares represent 10.2 percent of the outstanding shares of FVHC and are to be acquired at their cost basis to CUIC of $2.90 per share. CUIC will retain an investment in 4.9 percent of FVHC's common shares.

FVHC was formed in December 1977 and CUIC was among the original investors therein. In June 1979, FVHC required additional financing but it did not at that time meet the definition of a small business concern under Section 121.3-11 of SBA's Regulations. Consequently, Quidnet Capital was precluded from making a $132,408 investment in FVHC, as it desired to do, and the investment was made, instead, by CUIC. Subsequently, effective September 28, 1979, the SBA revised Section 121.3-11 of its Regulations as a result of which FVHC now qualifies as a small business concern for financial assistance by small business investment companies.

CUIC is considered to be an "Associate" of Quidnet Capital as that term is defined in Section 107.3 of SBA Regulations since it owns 100 percent of the Non-Voting, Preferred Stock of Quidnet Capital. Consequently, the proposed transaction comes within the purview of Section 107.1004 of the Regulations which prohibits a Licensee from providing financing to any of its Associates, except where a written exemption is granted by the SBA.

Notice is hereby given that any person may, not later than February 11, 1980, submit written comments on the proposed transaction. Any such comments should be addressed to the Deputy Associate Administrator for Finance and Investment, 1441 "L" Street, N.W. Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Princeton, New Jersey and Oklahoma City, Oklahoma.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: January 21, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80-2345 Filed 1-24-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No 1754; Amdt. No. 1]

Washington; Declaration of Disaster Loan Area

The above numbered Declaration (See 45 FR 2456) is amended in accordance with the President's declaration of December 31, 1979, to include Kitsap County in the State of Washington. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above named county, and adjacent counties within the State of Washington. All other information remains the same; i.e., the termination dates for filing applications for physical damage is close of business on February 28, 1980, and for economic injury until the close of business on September 30, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Date: January 15, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 2344 Filed 1-24-80; 8:45 am]

BILLING CODE 8025-01-M

TENNESSEE VALLEY AUTHORITY

Consideration of Ratemaking Standards; Changed Hearings

AGENCY: Tennessee Valley Authrity (TVA).

ACTION: Notice of change of hearing dates and locations, addition of hearing and workshop site, and extension of comment period.

SUMMARY: Notice that the Tennessee Valley Authority is considering implementing for itself and the distributors of TVA power certain ratemaking standards was published in the **Federal Register** December 27, 1979 (44 FR 76611). In that notice it was announced that public hearings and workshops were to be held at various locations. The purpose of this notice is to reschedule all the hearings to later dates, with some of the locations also changed, and add a fifth site as a location for both hearings and a workshop. These changes set out below will give the public more time to prepare for participation in the hearings and increase the opportunity for participation by providing an additional site for hearings and a workshop. Because of the rescheduling of the hearings, the period to receive written comments will be extended to April 18, 1980. In all other respects the notice previously published in the **Federal Register** accurately sets out the manner of public participation in TVA's consideration of ratemaking standards.

Extension of written comment period: Written comments on the ratemaking standards must be received by April 18, 1980, to be assured of being considered.

New hearing dates and locations: Public hearings respecting the standards previously published in the notice appearing in the **Federal Register** December 27, 1979, will be conducted at the following times and places instead of those set out in the December 27, 1979, notice:

Muscle Shoals, Alabama—February 26, 1980, 10 a.m. and 7 p.m., TVA National Fertilizer Development Center Auditorium, Construction Services Branch Building, Wilson Dam Road;

Memphis, Tennessee—March 11, 1980, 10 a.m. and 7 p.m., Frayser Community Center, 2893 North Watkins;

Knoxville, Tennessee—March 18, 1980, 10 a.m. and 7 p.m., TVA Auditorium, West Tower, Plaza Level, 400 Commerce Avenue;

Nashville, Tennessee—March 25, 1980, 10 a.m. and 7 p.m., Tennessee State University, Downtown Campus Auditorium, Room 358, 10th and Charlotte; and

Chattanooga, Tennessee—April 1, 1980, 10 a.m. and 7 p.m., Central YMCA, Room 239A, 301 West Sixth Street.

Other details concerning the hearings and public participation are not changed and are set out in the **Federal Register** notice published December 27, 1979.

Additional workshop: As explained in the **Federal Register** notice of December 27, 1979, in order to assist interested consumers in preparing for participation in the hearings, TVA will sponsor a series of rate workshops which will include discussion of the ratemaking standards set out in the **Federal Register** notice. The workshops will be conducted at the four locations and times mentioned in that **Federal Register** notice, with one additional workshop at Chattanooga, Tennessee, scheduled as follows:

Chattanooga, Tennessee—February 5, 1980, 3:30 p.m.–10:00 p.m., Central YMCA, Room 145, 301 West Sixth Street.

As stated in the December 27, 1979, notice these workshops will not constitute part of the official record upon which determinations concerning the ratemaking standards will be made.

FOR FURTHER INFORMATION CONTACT: Dawn S. Ford at Tennessee Valley Authority, 400 Commerce Avenue, E12A2, Knoxville, Tennessee 37902 (615) 632-4402.

Dated: January 15, 1980.

W. F. Willis,

General Manager.

[FR Doc. 2348 Filed 1-24-80; 8:45 am]

BILLING CODE 8120-01-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on February 22, 1980, at 10:00 A.M., the Fort Harrison Station Committee on Educational Allowances shall at VAM & ROC. Fort Harrison, MT conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Great Falls Commercial College, 905 First Avenue North, Great Falls, MT 59401 should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: January 15, 1980.

John D. Bunger,

Director, VAM & ROC, Ft. Harrison, MT 59636.

[FR Doc. 80-2372 Filed 1-24-80; 8:45 am]

BILLING CODE 8320-01-M

V 45 / 18 JAN 25 1980 UMI

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedures and Hearing Rules, Station Committee on Educational Allowances that on February 21, 1980, at 1:00 p.m., the Des Moines Regional Office Station Committee on Educational Allowances shall at Room 1025, Federal Building, 210 Walnut Street, Des Moines, Iowa 50309, conduct a hearing to determine whether the Veterans' Administration benefits to all eligible persons enrolled in Stanrick Corporation, Aviation Division, Davenport, Iowa, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: January 16, 1980.

Robert L. Winters,

Director, VA Regional Office, 210 Walnut Street, Des Moines, Iowa 50309.

[FR Doc. 80-2378 Filed 1-24-80; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 18
Friday, January 25, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 a.m., January 29, 1980.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matter/proposed administrative proceedings.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-149-80 Filed 1-23-80; 10:31 am]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., January 29, 1980.

PLACE: 2033 K Street NW., Washington, D.C., Fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Issues Pending on the Kansas City Board of Trade's Value Line Index Proposal.

Rulemaking Regarding Foreign Brokers and Traders.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-148-80 Filed 1-23-80; 10:32 am]

BILLING CODE 6351-01-M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, January 29, 1980.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the Public

1. Sexual Harrassment Guidelines and Management Director.
2. Hazardous Substance Guidelines—Proposed Policy Statement.
3. Improving Government Regulations; Agenda for Significant Regulatory Activity.
4. Request for approval of continuation comment period on the Pilot Project.
5. Freedom of Information Act Appeal No. 79-11-FOIA-394, concerning a charging party appealing the denial of documents in her charge file.
6. Two Proposed sole source Contracts for services needed in connection with court cases.
7. Report on Commission Operations by the Executive Director

Closed to the Public

Litigation authorization: General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued January 22, 1980.

[S-159-80 Filed 1-23-80; 3:31 pm]

BILLING CODE 6570-06-M

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 11:45 a.m., Wednesday, January 16, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Commission closed meeting.

MATTER TO BE CONSIDERED: Scheduling of an item.

Due to the exigencies of Commission business, it was necessary to discuss during the Closed Session of January 16, 1980 the scheduling of the Commission meeting with respect to applications for WNAC-TV, Boston, Massachusetts. An audio tape of that portion of the meeting is available in room 222.

The prompt and orderly conduct of Commission business did not permit announcement of this matter prior to the meeting.

Action by the Commission January 21, 1980. Commissioners Ferris, Chairman; Lee, Quello, Washburn, Fogarty, Brown and Jones voting to consider this matter.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: January 22, 1980.

[S-147-80 Filed 1-23-80; 10:00 am]

BILLING CODE 6712-01-M

5

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, FR page 3695, January 16, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., January 23, 1980.

PLACE: 1700 G Street NW., sixth floor. Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling (202-377-6677).

CHANGES IN THE MEETING: The following item has been added to the agenda for the open meeting. Modification of Merger Condition—First Federal Savings and Loan Association of Tuscaloosa, Tuscaloosa, Alabama.

Announcement is being made at the earliest practicable time.

No. 312, January 23, 1980.

[S-152-80 Filed 1-23-80; 11:33 am]

BILLING CODE 6720-01-M

6

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9 a.m., January 30, 1980.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Frank O. Bolling (202-377-6677).

MATTERS TO BE CONSIDERED:

Application for Branch Office—Merchants and Mechanics Federal Savings and Loan Association of Springfield, Springfield, Ohio.

V45/18 JA25 80 UMI

Application for Bank Membership—The People's Savings Bank of New Britain, New Britain, Connecticut.

Bank Membership and Insurance of Accounts—Independence Savings and Loan Association, Gonzales, Texas.

Modification of Condition—Home Federal Savings and Loan Association of San Diego, San Diego, California.

No. 313, January 23, 1980.

[S-153-80 Filed 1-23-80; 3:08 pm]

BILLING CODE 6720-01-M

7

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., January 30, 1980.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Report on Notation Items disposed of during December 1979.
2. Report of the Secretary on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during December 1979.
3. Report of the Secretary on Applications for Admission to Practice approved during December 1979, pursuant to delegated authority.
4. Assignment of Informal Dockets by the Secretary during December 1979.
5. Matson Navigation Company overall 2.9 percent rate increase between U.S. Pacific Coast ports and Hawaii.
6. Agreement No. 10320–2: Amendment to equal access agreement in Brazilian trade to reallocate shares.
7. Agreement No. 10025–2: Modification of the U.S. Atlantic & Gulf/Red Sea and Gulf of Aden Rate Agreement to conform to General Order 7 and to establish security for financial obligations.
8. Docket No. 78–2: Organic Chemicals (Glidden-Durkee) Division of SCM Corporation v. Atlanttrafik Express Service—Motion of complainant to require respondent to pay expenses.
9. Docket No. 79–84: Matson Navigation Company—Proposed 5.90 Percent Bunker Surcharge Increase in Tariffs FMC–F Nos. 165, 166 and 167—Consideration of the record.
10. Petition of Refrigerated Express Lines for Commission action under section 19 of the Merchant Marine Act, 1920.
11. Specific Commodity rates of Far Eastern Shipping Company.
12. Docket No. 78–11: Exemption of Certain Collective Bargaining Agreements—Consideration of proposed rules.

CONTACT PERSON FOR MORE INFORMATION: FRANCIS C. HURNEY, SECRETARY, (202) 523–5725.

[S-158-80 Filed 1-23-80; 2:40 pm]

BILLING CODE 6730-01-M

8

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: Approximately 11:30 a.m., Wednesday, January 30, 1980 (following a recess at the conclusion of the open meeting).

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed statement to be presented to the Senate Committee on Banking, Housing, and Urban Affairs regarding the Federal Reserve's monetary improvement program.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:
Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: January 23, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-151-80 Filed 1-23-80; 11:31 am]

BILLING CODE 6210-01-M

9

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, January 30, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item by moved to the discussion agenda.

1. Proposed interpretation of section 2(g)(3) of the Bank Holding Company Act regarding whether certain routine extensions of credit will not be regarded as indebtedness for the purposes of this section.

Discussion Agenda

1. Request by the Commodity Futures Trading Commission for Board comment on the proposal by the Kansas City Board of Trade to trade a futures contract on a stock market index.
2. Proposed action regarding the handling of non-interest bearing negotiable orders of withdrawal of mutal savings banks in Pennsylvania. (Proposed earlier for public comment; docket no. R–0220).
3. Requests to increase limitations on premiums offered to depositors by member banks.
4. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. **Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.**

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: January 23, 1980.

Griffith Garwood,

Deputy Secretary of the Board.

[S-150-80 Filed 1-23-80; 11:30 am]

BILLING CODE 6210-01-M

10

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 9:30 a.m., January 30, 1980.

PLACE: 1776 G Street NW., Washington, D.C., seventh floor, board room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rates.
2. Use of Expedited Closing Procedure and Proposed Sunshine Act Regulations.
3. Delegations of Authority.
4. Final Rule, 12 CFR Part 701, "Organizing a Federal Credit Union" and the *Chartering and Organizing Manual for a Federal Credit Union.*
5. Establishment of Automatic Data Processing Oversight Committee.
6. Applications for charters, amendments to charters, bylaw amendments, mergers, conversions and insurance as may be pending at that time.

CONTACT PERSON FOR MORE INFORMATION:
Rosemary Brady, Secretary of the Board, telephone (202) 357–1100.

[S-155-80 Filed 1-23-80; 2:41 pm]

BILLING CODE 7535-01-M

11

NATIONAL CREDIT UNION ADMINISTRATION. Notice of previously held emergency meeting.

TIME AND DATE: 11:50 a.m., December 6, 1979.

PLACE: 1776 G Street NW., Washington, D.C., Seventh floor board room.

STATUS: Closed.

MATTER TO BE CONSIDERED:

Fiscal Year 1980 Travel and Transportation Reduction proposed by the Office of Management and Budget (OMB) Closed pursuant to exemption (9)(B).

There was no scheduled closed meeting the week of December 3. The next closed meeting would not be held until decmber 13, 1979. The Board determined that it would not be feasible to wait that long since there could be no final budget for fiscal 1980 until this matter was resolved. Resolution of the matter would also affect the operating fee which credit unions would be assessed for calendar year 1980. The letters to credit unions regarding the operating fee were ready to mail. Therefore the Board unanimously voted to consider the OMB directive, deciding that seven days advance notice was not possible.

FOR FURTHER INFORMATION CONTACT:
Rosemary Brady, Secretary of the Board (202) 357–1100.

[S-148-80 Filed 1-22-80; 4:11 pm]

BILLING CODE 7535-01-M

12

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: January 28 and 29, 1980.

PLACE: Commissioners conference room 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

Monday, January 28

1:30 p.m.—Discussion and Vote on Philippine Export License Application (approximately 2 hours, public meeting).

Note.—Rescheduled from January 22.

Tuesday, January 29

1:30 p.m.—Briefing by Executive Branch on Export Matters (approximately 2 hours, closed—Exemption 1).

CONTACT PERSON FOR MORE INFORMATION:
Roger Tweed (202) 634–1410.

Roger M. Tweed,

Office of the Secretary.

January 21, 1980.

[S-154-80 Filed 1-23-80; 2:40 pm]

BILLING CODE 7590-01-M

13

RAILROAD RETIREMENT BOARD.

TIME AND DATE: 9 a.m., February 1, 1980.

PLACE: Board's meeting room on the eighth floor of its headquarters building at 844 Rush Street, Chicago, Illinois, 60611.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portion Open to the Public

(1) Federal Women's Program.
(2) Interview by industrial psychologist.
(3) Occupational disability standards.

Portion Closed to the Public

(4) Intra-Board personnel matters.
(5) Appeal from referee's denial of disability annuity application, Victor J. Haughey.
(6) Appeal from referee's denial of disabled widow's annuity, Catherine Martin.

CONTACT PERSON FOR MORE INFORMATION:
R. F. Butler, Secretary of the Board, COM No. 312–751–4920; FTS No. 387–4920.

[S-153-80 Filed 1-23-80; 12:48 pm]

BILLING CODE 7905-01-M

14

[Meeting No. 1235]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 7:30 p.m., CST, Wednesday, January 30, 1980.

PLACE: Auditorium of the Academic Building, Hopkinsville Community College, North Drive, Hopkinsville, Kentucky.

STATUS: Open.

MATTERS FOR ACTION:

Project Authorizations

1. No. 3501—Research and demonstration program for the weatherization of rental property (in cooperation with Memphis Light, Gas and Water Division).
2. No. 3502—New home conservation program.

Purchase Awards

1. Req. No. 165607—Indefinite quantity term contract for light distillate oil for Alien Steam Plant.
2. Req. No. 108271—Conductor cable, ACSR, for Browns Ferry Nuclear-Union and Union Cordova 500-kV Transmission Lines.
3. Req. No. 163120—Low-pressure and high-pressure turbine rotors for Gallatin and Shawnee Steam Plants.
4. Req. No. 164998—Generator rotor for Colbert Fossil Plant, Unit 4.
5. Req. No. 162281—Turbine buckets for Paradise Steam Plant, Unit 3.
6. Req. No. 826533—Reinforced concrete drilled pier foundations for Yellow Creek Nuclear Plant.
7. Req. No. 824451—Requirements contract for 13.8- and 6.9-kV auxiliary power switchboards for Yellow Creek Nuclear Plant.
8. Req. No. 825211—Requirements contract for 480-volt AC motor control centers for Yellow Creek Nuclear Plant.
9. Sales Invitation No. 4158—Sales of Marion Shovel with parts and accessories, located at Fabius Mine, Fabius, Alabama.

Power Items

1. Adoption of supplemental resolution authorizing 1980 Series A Power Bonds.
2. Resolution authorizing the Chairman and other executive officers to take further action relating to issuance and sale of 1980 Series A Power Bonds.
3. Letter agreement with Appalachian Power Company extending the term of Service Schedule EC covering emergency conservation energy.
4. Letter agreement with Big Rivers Electric Corporation covering arrangements for transmitting power and energy through TVA's system.
5. Agreement with Joe Wheeler Electric Membership Corporation covering arrangements for distributor's participation in TVA's load management residential thermal storage field test.

Personnel Actions

*1. Change of status for Billy J. Bond from Acting Manager, Office of Community Development, Knoxville, Tennessee, to Manager, Office of Agricultural and Chemical Development, Muscle Shoals, Alabama.
*2. Appointment of Hortense Dixon as Manager, Office of Community Development, Knoxville, Tennessee.
*3. Appointment of Craven H. Crowell, Jr., as Director of Information, Office of the General Manager, Knoxville, Tennessee.

Unclassified

1. Revised TVA policy code relating to disposal of personal property not needed by TVA.
2. Letter agreement between TVA and Hardin County, Tennessee, providing for TVA's financial assistance in the development of an emergency fire, police, and medical response system as part of the impact mitigation program for Yellow Creek Nuclear Plant.
3. Resolution relating to lease of office space from the TVA Employees Federal Credit Union in Chattanooga, Tennessee.

CONTACT PERSON FOR MORE INFORMATION:
Lee C. Sheppeard, Acting Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: January 23, 1980.

[S-157-80 Filed 1-23-80; 3:39 pm]

BILLING CODE 8120-01-M

15

[M-266 amdt. 2, 1/21/80]

CIVIL AERONAUTICS BOARD.

Addition and Closure of Item to the January 24, 1980, Meeting Agenda

TIME AND DATE: 10:30 A.M.—January 24, 1980.

PLACE: Room 1027 (Open), Room 1011 (Closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 22. International fare increases proposed by Pan American, Braniff and TWA. (BIA).

STATUS: Open (Items 1–19)—Closed (Items 20–22).

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673–5068.

SUPPLEMENTARY INFORMATION: Item 22 is being added to the January 24, 1980 agenda because the Board wishes to

* Items approved by individual Board members. This would give formal ratification to the Board's action.

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discuss further staff recommendations presented informally at the January 21, 1980 closed meeting. Also, the Board must act before January 26, 1980 if it is to suspend some of the proposed increases. Accordingly, the following Members have voted that agency business requires that the Board meet on this item on less than seven days' notice and that no earlier announcement of this meeting was possible:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

Public disclosure, particularly to foregin governments of opinions, evaluations, and strategies discussed could seriously compromise the ability of the United States Government to achieve understanding in future rate negotiations which would be in the best interests of the United States. Accordingly, we believe that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate future action within the meaning of the exemption provided under 5 U.S.C. 552(c)(9) and 14 CFR section 310b.5(9)(B) and that any meeting on this item should be closed:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

PERSONS EXPECTED TO ATTEND:
Board Members: Chairman Marvin S. Cohen, Member Richard J. O'Melia, Member Elizabeth E. Bailey, Member Gloria Schaffer.
Assistants to Board Members: Mr. David Kirstein, Mr. James L. Deegan, Mr. Daniel M. Kasper, Mr. Stephen H. Lachter.
Managing Director: Mr. Cressworth Lander.
Executive Assistant to the Managing Director: Mr. John R. Hancock.
Bureau of International Aviation: Mr. Sanford Rederer, Mr. Douglas V. Leister, Mr. Ivars V. Mellups, Mr. Herbert P. Aswall, Mr. Vance Fort, Mr. James S. Horneman, Mr. John H. Kiser, Ms. Carolyn K. Coldren, Mr. Francis S. Murphy, Mr. Joseph Di Bella, Jr.
Office of the General Counsel: Ms. Mary McInnis Schuman, Mr. Peter B. Schwarzkopf, Mr. Michael Schopf.
Bureau of Domestic Aviation: Mr. Mark S. Kahan, Mr. Albert Halprin, Mr. Robert I. Stein, Mr. Julien R. Schrenk.
Office of Economic Analysis: Mr. Robert H. Frank, Mr. Robert Preece.
Bureau of Consumer Protection: Mr. Reuben B. Robertson, Mr. John T. Golden.
Office of the Secretary: Mrs. Phyllis T. Kaylor, Ms. Deborah A. Lee.

General Counsel Certification

I Certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9) and 14 CFR section 310b.5(9)(B) and that the meeting may be closed to public observation:

Mary McInnis Shuman,
General Counsel.

[S-101-80 Filed 1-23-80; 3:45 pm]
BILLING CODE 6320-01-M

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[M-266 amdt 3, January 21, 1980]

CIVIL AERONAUTICS BOARD.

Addition of Item to the January 24, 1980, Meeting

TIME AND DATE: 10:30 A.M.—January 24, 1980.

PLACE: Room 1027—Open, Room 1011—Closed, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1a. Docket 35752—Wild Card Route Case (Instructions to staff).

STATUS: 1–19—Open, 20–22—Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

SUMMPLEMENTARY INFORMATION: Since the next Board Meeting will not be until February 5, 1980, the Board wishes to give instructions on the Wild Card Case at the January 24th meeting. Early action is desirable so that this case may be completed in time for summer service on route chosen. Accordingly, the following Members have voted that Item 1a be added to the January 24th meeting and that no earlier announcement of this addition was possible: Chairman Marvin S. Cohen, Member Richard J. O'Melia, Member Elizabeth E. Bailey, Member Gloria Schaffer.

[S S-100-80 Filed 1-23-80; 3:45 pm]
BILLING CODE 6325-01-M

V45/18 JAN 25 80 UMI

federal register

Friday
January 25, 1980

Part II

Department of Health, Education, and Welfare

Food and Drug Administration

FD&C Red No. 2; Denial of Petition For Permanent Listing; Final Decision

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76C-0033]

FD&C Red No. 2; Denial of Petition for Permanent Listing; Final Decision

AGENCY: Food and Drug Administration.

ACTION: Final Decision Following a Formal Evidentiary Public Hearing.

SUMMARY: The Commissioner of food and Drugs is issuing the final decision following a formal evidentiary public hearing to consider objections to the agency's denial of the petition for permanent listing of Red No. 2 as a color additive. The Commissioner affirms the Initial Decision, which denied the petition, with the supplementation and modifications in the Final Decision.

EFFECTIVE DATE: April 24, 1980.

ADDRESS: The transcript of the hearing, evidence submitted, and all other documents cited in this decision may be seen in the office of the Hearing Clerk (HFA-305), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Richard T. Hunt, Regulatory Policy Staff (HFC-10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION:

I. History

In the **Federal Register** of April 9, 1976 (41 FR 15053) the then Commissioner of Food and Drugs, Alexander M. Schmidt, denied a petition to list FD&C Red No. 2 (Red No. 2) permanently as a color additive. The Certified Color Manufacturers' Association (CCMA) and the Cosmetic, Toiletry, and Fragrance Association (CTFA) objected to the denial, and CCMA requested a formal hearing on its objections. CCMA is referred to as the petitioner in this Decision because it was one of the associations that filed the original petition to list Red No. 2 permanently as a color additive. In the **Federal Register** of July 20, 1976 (41 FR 29896), the then Commissioner granted a formal hearing on the objections. At the conclusion of the formal hearing, the Administrative Law Judge (ALJ) issued an Initial Decision (ID) on March 30, 1978, denying the petition for permanent listing.[1]

[1] Testimony was submitted in written form, with an opportunity for oral cross-examination. Written testimony was given exhibit numbers. Citations to the record in this Decision are as follows: CCMA exhibits (P-); Bureau's exhibits (C-); transcript of cross-examination (Tr.,); appendix to the Initial Decision (ID App.,).

CCMA filed exceptions to the Initial Decision under 21 CFR 12.125[2] and the Bureau of Foods (Bureau) filed a reply to the exceptions (Reply) requesting an adoption of the Initial Decision and denial of the petition for permanent listing for all uses. CCMA requested oral argument. Ex., p. 1. Because I do not find oral argument necessary, I am denying that request. 21 CFR 12.125(e).

I am issuing this Final Decision under section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376) and 21 CFR 12.130 to take final agency action with respect to the petition in light of the Initial Decision, the exceptions to it, and the other material in the record of the hearing. In reaching this decision, I have all the powers I would have in making the Initial Decision. 21 CFR 12.130(a). The Initial Decision and The Final Decision must be based upon a "fair evaluation of the entire record," under section 706 of the act, and should also satisfy the provisions of 21 CFR 12.120 and 12.130. After reviewing the entire record, I deny the petition for permanent listing of FD&C Red No. 2 on the basis of the Initial Decision on supplemented and modified by this Decision.

Although Red No. 2 has never been approved for permanent use as a color additive, at one time the color was permitted to be used in foods, drugs and cosmetics as a provisionally listed color additive under the transitional provisions of the color additive amendments. The agency terminated the provisional listing of the color in the **Federal Register** of February 10, 1976 (41 FR 5823), as implemented on February 12, 1976 (see the **Federal Register** of February 13, 1976 (41 FR 6774)). The termination of the provisional listing was upheld *in Certified Color Mfg. Ass'n* v. *Mathews*, 543 F.2d 284 (D.C. Cir. 1976). The correctness of the termination of the provisional listing is not an issue in this proceeding; the hearing and this proceeding concern only the permanent listing of Red No. 2 as a color additive.

This Decision will examine the three issues on which the notice of hearing granted a hearing, and the particular disputes concerning these issues as they developed at the hearing. The three issues on which a hearing was granted are:

(1) *Carcinogenicity.* The notice of hearing granted a hearing on whether data submitted by petitioners, in addition to other data before FDA, establish to a reasonable certainty that FD&C Red No. 2 is not a carcinogen in man or animals.

(2) *Chemistry.* The notice of hearing granted a hearing on whether on the facts as to Red No. 2 the considerations set forth in 706(b)(5)(A) of the act (21 U.S.C. 376(b)(5)(A)) support a determination that Red No. 2 is safe for its intended uses. At the hearing this issue concerned whether Red No. 2 should not be considered safe due to questions concerning its stability, metabolism, and purity all of which, for convenience, are described in this decision as "the chemistry issues."

(3) *Topical Uses.* The notice of hearing granted a hearing on whether FD&C Red No. 2, if not approvable for all petitioned uses, may nevertheless be approvable for certain limited uses.

Before discussing these issues, I will examine the petitioner's obligation under the statute to show the safety of a color additive, and the general exceptions to the Initial Decision raised by CCMA.

II. General Issues

A. *Petitioner's Burden to Show Safety.* Under the law, a color additive can be included in the permanent list of approved color additives only if "the data" submitted to the agency in a color additive petition "establish" that use "will be safe" (21 U.S.C. 376(b)(4)). As interpreted by FDA, an additive is "safe" under the statute only if there is "convincing evidence that establishes with reasonable certainty that no harm will result from the intended use of the color additive." 21 CFR 70.3(i).

Thus, it is clear that the petitioner seeking approval for permanet listing of a color additive has the burden of proof to demonstrate by adequate tests that the color is safe. The additive cannot be approved if there is no information about the safety of the additive, or if there is inadequate information to determine safety for use to a reasonable certainty. Thus, denial is required when the safety of the additive is unknown or uncertain, even though the available information does not affirmatively establish that there is a particular hazard posed by use.

Congress could have established a different system. Indeed, before the passage of the 1960 Color Additive Amendments, non-coal tar colors could be marketed without an advance demonstration of safety, with FDA able

[2] The hearing was held under the procedural rules 21 CFR 2.48 et seq. (1976)) in effect at the time the notice of the hearing was issued. However, the ALJ ruled that the Initial and Final Decisions and exceptions would be governed by FDA's revised procedural rules as found in 21 CFR 12.120 et seq. (1978). Tr., pp. 3-5. I have observed the revised rules in issuing this Final Decision.

to stop sale of these colors only if FDA could show, through its own testing, consumer injuries or other means, that the color posed a hazard to health. Under such a system, until FDA could demonstrate a potential hazard an additive could be sold for use by the general public even though no safety testing had been done on the additive, or the safety testing was inadequate. With the passage of the Color Additive Amendments, Congress did not allow any color additive to be listed for permanent use until its safety had been established with reasonable certainty by the petitioner in data submmitted to the agency.

The important purpose underlying this statutory scheme was described in *Certified Color Mfg. Ass'n.* v. *Mathews, supra:*

> The Color Additive Amendments of 1960 reflect a Congressional and administrative response to the need in contemporary society for a scientifically and administratively sound basis for determining the safety of artificial color additives, widely used for coloring food, drugs, and cosmetics. The Amendments reflect a general unwillingness to allow widespread use of such products in the absence of scientific information on the effect of these products on the human body. The previously used system had some glaring deficiencies, and the 1960 Amendments were designed to overcome them. This was accomplished by the establishment of a dual system of registration: a permanent listing and a provisional listing. A color additive would be permanently listed if those desirous of producing it had proven to the satisfaction of the Commissioner that it was safe for its intended use. 543 F.2d at 286-87 (Footnotes omitted).

The petitioner's burden to show the safety of a color additive by adequate studies has a critical effect on the outcome of this proceeding. As the subsequent discussion establishes, the petitioner has not, in my judgment, shown through adequate studies that Red No. 2 is not a carcinogen. Accordingly, the petition to list the color additive for permanent use must be denied. This determination does not mean, however, that Red No. 2 has been found to be a carcinogen. The existing studies are not sufficient to show definitely either that it is a carcinogen or that it is not. The questions about its possible carcinogenicity are simply unresolvable on this record. In this type of situation, the petition must fail because it is insufficient at present to meet the statutory requirement that safety be affirmatively shown with reasonable certainty.

For several years, the agency has maintained that the existing studies are inadequate to establish the safety of Red No. 2. During this period, the petitioner could have conducted further studies, which might have resolved the outstanding questions and might have established the safety of Red No. 2. The petitioner has not submitted any new studies in the petition, and instead has exercised the statutory right to obtain a full evidentiary hearing to test the correctness of FDA's original determination that the existing studies are inadequate. This decision completes the proceeding to review the adequacy of the existing studies. After reviewing the hearing record, I agree with the previous determination of the agency that the existing studies are inadequate to establish the non-carcinogenicity of Red No. 2.

If, at some future point, the petitioner conducts a further study or studies that adequately demonstrate the non-carcinogenicity of Red No. 2, the petitioner can submit a new petition to seek approval of Red No. 2. The agency will examine any new study or studies carefully, and will approve the petition if a sufficient showing is made that Red No. 2 is not a carcinogen and is otherwise safe.

In reviewing the adequacy of the existing studies, I have, in accordance with the philosophy of the color additive law, adopted a conservative approach in order to be sure that the public health will be adequately protected. Thus, in considering the level of statistical significance or the statistical procedure (such as a one-tail or two-tail test) to be used to evaluate the studies on Red No. 2, I have used methods that are valid and are also the ones most likely to detect any carcinogenic effect that may be present. In a regulatory proceeding such as this, the choice among statistical procedures is not an abstract or academic matter, but rather should be guided by the purpose for which a study is being used. When a study is used to evaluate the safety of a substance to be widely used by the public, the risk of a false negative—of incorrectly failing to detect an adverse effect that is present—is of greater concern than the risk of a false positive—of incorrectly reporting an adverse effect when none exists. Although it is not necessary at this point to state a position on the procedures to be used in every case, it is clearly appropriate in the case of Red No. 2 to adopt a conservative approach. The studies on the safety of Red No. 2 have deficiencies that weaken the confidence to be place in their results, and that make it more difficult to detect positive effects. Some statistical analyses of the tumor findings in one of the studies suggest possible cancer findings. In this type of situation, it is appropriate to rely on statistical analyses that use methods and procedures that will increase the likelihood of detecting any carcinogenic effect the color may induce. Moreover, the present record discloses additional reasons for being concerned about the possible carcinogenicity of Red No. 2, including the results of the Andrianova (Russian) study and the short-term screen studies. These questions reinforce the concern about safety arising from the other factors.

I am not, however, imposing an absolute standard of safety for the evaluation of safety studies. As discussed in the following section of this decision, the statute establishes a requirement that safety be shown with reasonable certainty. I would not use a procedure, even if it were the most conservative, if the procedure were not a valid one. If the questions about a substance or the defects in a study are insubstantial, they do not preclude approval of the substance. However, when uncertainty remains about safety, after a fair evaluation of the record in accordance with scientific principles of evaluation, then, under the applicable law, the importance of protecting the public health must guide the final decision. It is appropriate to be cautious and prudent in determining whether safety has been adequately shown. The use of a conservative approach in evaluating studies and in selecting the statistical methods to be used ultimately reflects the fact that Congress has imposed upon the petitioner the burden to establish safety with reasonable certainty. The record in this proceeding does not permit me to conclude that the safety of Red No. 2 has been established.

B. *General Exceptions.* The first 24 pages of the 141 pages of exceptions to the Initial Decision filed by CCMA concern what CCMA describes as "general areas of exceptions." CCMA maintains that the Initial Decision failed to provide a "fair evaluation of the record," in that the ALJ unfairly evaluated the evidence and distorts petitioner's testimony. CCMA also excepts, at length, to the ALJ's failure to apply the proper legal standards to the evidence and issues" in the proceeding. Ex., pp. 25-57, at 25.

The petitioner asserts that the ALJ in practice applied an absolute standard of proof of noncarcinogenicity, under which FD&C Red No. 2 could not be found safe unless every possibility regarding cancer was entirely disproved. Ex., pp. 18-22, 36-40. In addition, CCMA argues that the ALJ "all but ignored" certain memoranda because they were

hearsay and the authors involved were not available for examination. Ex., pp. 40–43. Finally, CCMA excepts to the ALJ's failure to strike from the hearing matters relating to the chemistry of Red No. 2 that were not expressly listed in the notice of hearing. Ex., pp. 43–58.

C. *Analysis.* I have decided, for the reasons discussed in section IV of this Decision, that it is not necessary to resolve the chemistry issues in this proceeding. With respect to the hearsay issue, I believe that it is inappropriate to exclude information or give it virtually no weight solely on the basis that it is hearsay. Under the rules in effect at the time of the hearing, hearsay evidence is not automatically excluded, but any information may be excluded if it is not reliable. 21 CFR 2.61(c) (1976). The ALJ decided that "as hearsay" certain evidence was unreliable and therefore should be excluded. ID, p. 9. In addition, the ALJ gave little weight to memoranda stating the opinions of some Bureau scientists concerning one of the studies of Red No. 2 apparently because the memoranda "suffer from the unreliability inherent in hearsay evidence." ID App., p. 34.

Although unreliable evidence should not be given weight, not all hearsay evidence should be deemed unreliable, as the ALJ seems to have believed. Instead, the information should be evaluated on its merits and given appropriate weight. The absence of the writer to provide further information on the basis for the statements, and the effect of changing circumstances, should be taken into account as affecting the weight to be given to the evidence. I have followed this practice in evaluating the record in this proceeding.

CCMA's other general objections essentially parallel the specific exceptions made by CCMA and recapitulate its major points. To evaluate whether there is any merit to the contentions that important evidence was ignored, or other evidence distorted, it is essential to understand each specific issue raised and all the relevant information on it. Consequently, I have considered these general exceptions in evaluating the specific exceptions, and I have discussed the general exceptions as pertinent to the specific issues.

An illustration of the need to examine the specific issues is provided by CCMA's general objections to the failure of the ALJ to evaluate the record properly concerning the significance of the negative results of the Ames test, a short-term screening study for carcinogenicity. CCMA objected to the ALJ's statement that there is a "general uncertainty of the conclusiveness" of the Ames test in light of the estimates of 90–95 percent reliability of this test made by three of CCMA's witnesses and one of the Bureau's witnesses. Ex., pp. 6–8 quoting ID App., p. 2. It is clear, however, that the Initial Decision considered the estimates of reliability made by these witnesses, as well as the 65 percent estimate of reliability made by another of the Bureau witnesses, and the reservations of one of petitioner's witnesses about short-term screening studies (P–150(2), pp. 42–43) since these estimates and related evidence are specifically discussed in the paragraphs preceding the reference to "general uncertainty of the conclusiveness of the test." ID App., p. 2. This statement seems to have been a summary way of indicating, without specifying the exact degree of uncertainty, that there was enough uncertainty that it would be unjustified to regard the negative results as showing that Red No. 2 lacks carcinogenic potential. Thus, the Initial Decision evaluated the evidence, but weighed it differently than CCMA would like. Moreover, the Initial Decision discusses a "complicating factor," which makes it less likely that the Ames test would give reliable results for a substance like Red No. 2 that is metabolized in the gut. ID App., p. 2. This complicating factor is not discussed in CCMA's general exceptions (Ex., pp. 6–8), but is addressed, as it is in this discussion, in connection with the specific issues on short-term screening studies and their bearing on carcinogenicity. Ex., p. 125.

Similarly, the CCMA objection that an absolute standard of safety was required has to be evaluated in conjunction with the specific issues. The ALJ stated that he was observing the standard all regard as the correct one, i.e., whether Red No. 2 has been shown to a reasonable certainty not to be a carcinogen. ID, pp. 7–8. Indeed, the ALJ stated that there is "no requirement of absolute certainty * * * because science is unable to assure complete safety." ID, p. 8. CCMA argues, nonetheless, that, although the ALJ stated the correct standard, in fact he applied an absolute standard. Ex., pp. 18–22. The nature of reasonable certainty cannot be specified with exactitude, however. Whether absolute certitude was in fact required is a determination interrelated with the evaluation of the evidence on the specific issues concerning carcinogenicity.

CCMA argues that affirmative tests to show the noncarcinogenicity of a color are required under the law only if the general safety testing shows "some indication of inducing cancer." Ex., pp. 32–40 at 33. CCMA cites an HEW statement:

> The scientific tests that are adequate to establish the safety of an additive will give information about the tendency of an additive to produce cancer * * *. Any indication that the additive may thus be carcinogenic would * * * restrain [FDA] from approving * * * the additive unless and until further testing shows to the point of reasonable certainty that the additive would not produce cancer * * *. Ex., p. 33 citing 104 Cong. Rec. 17415.

Since, in CCMA's view, the 1959 Webb rat feeding study is adequate to show the safety of the color, CCMA believes the ALJ improperly imposed a burden to disprove every possibility of cancer. Ex., pp. 35–36. However, the cited statement by HEW points out the importance of having adequate general safety testing, both to show general safety and to evaluate the carcinogenic potential of an additive. CCMA's argument does not take into account either the inadequacies of the Webb study, as judged by current standards, to evaluate the safety and carcinogenic potential of the additive, or the significant questions about the carcinogenicity of Red No. 2 that have arisen from subsequent information, including the Taylor/Monlux study, the Andrianova study, and short-term screening studies. The evaluation of these studies is considered in detail in the next section of this Decision, which relates to the carcinogenicity issue.

Finally, it should be noted that it is not necessary to discuss every item of evidence in order to have evaluated it adequately. The decision can properly focus on the evidence important to the outcome. It is also clear from the detailed summary in the Appendix to the Initial Decision that the ALJ examined the record in detail. The main text of the Initial Decision is, however, brief in its explanation of the reasons for resolution of the scientific issues. In reaching this Final Decision, I have evaluated the entire record, and discussed the principal issues and their resolution. I have concluded, after a careful review of the record, that the ultimate findings and outcome of the Initial Decision with respect to the carcinogenicity issue are essentially correct and should be upheld. Some errors were made in the Initial Decision, and its phrasing could be improved and more explanation given of its analysis. The complaints about distortion of the record largely relate, however, to relatively minor differences in descriptions of the parties' positions, and reflect CCMA's disagreement with the weight given by the ALJ to the evidence. When the record is evaluated on an overall basis, the limitations of the Initial Decision do not undercut the validity of its basic finding that Red No. 2 has not been shown with reasonable certainty not to be a carcinogen. Consequently, I affirm the Initial Decision with the supplementation and modifications made in this Decision.

III. Carcinogenicity Issue

The ALJ found that the data presented at the hearing did not establish to a reasonable certainty that Red No. 2 is not a carcinogen in man or animals. ID, p. 20. In his general discussion of the safety testing done on Red No. 2, the ALJ stated that there were "many negative results and several equivocally positive ones." ID, p. 19. Despite the long use of the color and an apparent reasonableness "[o]n the surface" in considering approval, there were several "complicating factors." These include the fact that the color belongs to a class of chemicals many of which are carcinogenic, and that carcinogens, as well as mutagens, have a long latency period and may be missed despite long use. ID, p. 20. He concluded:

> There are numerous unanswered questions concerning the safety of Red No. 2 raised by the test data presented on the record. The total picture presented is one consisting of many positive findings which have not been satisfactorily explained. Under such circumstances, the evidence of record in this proceeding cannot be considered as constituting the requisite showing necessary to an ultimate finding of safety for Red No. 2. ID, p. 20.

Although the ALJ relied on the "total picture," rather than a single study, for the conclusion that the safety of Red No. 2 had not been adequately established, for purposes of evaluating the record and the exceptions it is useful to discuss separately each of the important studies and items of information bearing on carcinogenicity.

A. *Taylor/Monlux Study (p–6,p–7).* 1. *Introduction.* The 1975 FDA chronic feeding study (P–7), called the Taylor/Monlux study in the Initial Decision and in this Decision, was a well-designed feeding study on rats conducted under the direction of Dr. Jean M. Taylor, an FDA toxicologist. The histopathological evaluation was made by Dr. William S. Monlux and other scientists at FDA. P–6. This study involved feeding a total of 500 rats at a control level and 4 dosage levels (.003, .03, .3 and 3 percent). The scientist who conducted the study found that this study revealed "minimal effects" of the test compound and no adverse effect on weight gain or survival. P–7, p. 27. The report also states:

> The histopathological lesions, both neoplastic and non-neoplastic, were characteristic of the aged rat and seen in both control and test animals. Incidence and severity of the lesions could not be related to administration of the test compound. ID.

However, there were defects in the execution of this study, consisting of a mix-up of animals during the study, and a "high" loss of animals to autolysis. P–7, pp. 23, 29. (Autolysis is a rotting of tissues that begins shortly after death and that makes examination of tissues more difficult.) The FDA Toxicological Advisory Committee (TAC) formally agreed that the Taylor/Monlux study was of such quality that it could not be used to demonstrate the safety of Red No. 2. Minutes of the TAC meeting, March 8–9, 1976, are on file with the Hearing Clerk, and of which I take official notice. In addition, a statistical analysis of the tumor findings in the study, made after its completion by Dr. David W. Gaylor, a member of the TAC and the chief of biometrics at the National Center for Toxicological Research, indicated an increase in a variety of malignant neoplasms among aged female rats. G–226 p. 21. These findings concerning the Taylor/Monlux study were a factor in the agency's denial of the petition for permanent listing of Red No. 2 in the **Federal Register** of April 9, 1976 (41 FR 15053–15054). FDA stated that:

> [T]he Adverse (sic) implications of the [Taylor/Monlux] study cannot be ignored. In light of continuing public concern and the serious new questions of carcinogenesis raised by the [Taylor/Monlux] study, the Commissioner concludes that a study or studies adequate to dispel all such questions must be performed before the color additive can be found to be safe * * *

2. *Overall Findings Concerning the Taylor/Monlux Study —*(a) *Initial Decision.* The ALJ found that this study "demonstrated a carcinogenic effect from the ingestion of Red No. 2." ID, p. 16. The specific contentions of the parties concerning the study were not discussed in the main test of the Initial Decision, but the Appendix (ID App.) to the Initial Decision described the different conclusions that the parties believed the study supported:

> This study is cited by CCMA as demonstrating that Red No. 2 is not a carcinogen (Brief at 172). However, the Bureau characterizes the results as disturbing positive evidence of carcinogenicity (Brief at 28). ID App., p. 26

(b) *Exceptions.* CCMA maintains that the ALJ "entirely ignored" the opinions of scientists, including the FDA scientists who conducted the study and others, that the results of the study are negative. Ex., pp. 64–69 at 69. According to CCMA, the study met FDA's general guidelines and other generally accepted criteria, for evaluating the adequacy of a study. Ex., pp. 69–70. CCMA also states there is "no biological support" in the record for the ALJ's conclusion that this study demonstrates a carcinogenic effect, nor any explanation for the finding in the Appendix "as to what constitutes the supposed 'disturbing positive evidence of carcinogenicity.'" Ex., p. 80.

The exceptions also criticize the "lack of organization" of the Initial Decision, and the "failure to make any express choice between the positions of the parties" with respect to the adequacy of this study. Ex., p. 80.

(c) *Bureau's Reply.* The Bureau maintains that the Taylor/Monlux study cannot provide a reasonable assurance of the noncarcinogenicity of Red No. 2, despite the adequacy of the design of the study, because there are deficiencies in some aspects of the execution of the study, notably the mix-up of animals in the study and the autolysis of animals. Moreover, presumptive evidence of carcinogenicity exists due to statistical analyses of the results of the study made by Dr. Gaylor and Dr. Marvin Schneiderman. G–226, G–227. The Bureau also argues that the opinions of FDA scientists were properly given "virtually no weight" by the ALJ, because the opinions were stated before the statistical analyses became available, and because the views were hearsay and CCMA failed to call the scientists as witnesses. Reply, pp. 12–14; Brief, pp. 26–44.

(d) *Analysis.* I believe that consideration and some weight should be given to the conclusion of the scientists from FDA who conducted the study, and others who may believe that its results are negative. These views should not be rejected solely as hearsay. Neither are these views controlling, however, when questions have been raised about the adequacy of the study. I have considered the views of the scientists cited by CCMA, but I believe it is also important to consider the contentions raised by the Bureau about the defects in the execution of the study and the presumptive evidence of carcinogenicity arising from the statistical analyses of its results. These specific points are examined below, as well as CCMA's disagreement with them. This discussion of the specific disputes will provide a format for examining the views of CCMA's experts that the defects in this test are too minor to invalidate the study, and that the presumptive evidence of carcinogenicity cited by the Bureau is statistically and biologically insignificant.

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Before turning to these specific points, I should note some general matters. I believe that the Initial Decision is unclear when it states that this study "demonstrated a carcinogenic effect." ID, p. 16. If the ALJ meant that the Taylor/Monlux study establishes the carcinogenicity of Red No. 2, I reject the finding. As noted above, in denying the petition to list Red No. 2—the action that led to this hearing—FDA took the position, not that Red No. 2 was proven to be a carcinogen, but that there was questions about its carcinogenicity that needed to be resolved by a further study or studies before its safety could be established with reasonably certainty. At the hearing, the Bureau maintained that the statistical analyses of this study by Drs. Gaylor and Schneiderman created presumptive evidence of carcinogenicity, which needs to be explored in further studies. The Initial Decision's finding of a demonstrated carcinogenic effect and disturbing positive evidence of carcinogenicity appears to relate to this showing by the Bureau; and, as thus understood, I accept the basic finding.

I agree with CCMA that the Initial Decision suffers from organizational defects. A specific finding with respect to each of the major contentions involved in the hearing would have provided a better focus for exceptions, and for my analysis in reaching a final decision. The general nature and organization of the exceptions have also complicated their analysis, and made it difficult to identify the specific objections being made. As a result, the final decision has had to be more detained than it would ordinarily have been.

3. *Mix-up of Animals as a Defect in the Taylor/Monlux Study*—(a) *Initial Decision.* The Appendix states that "the extent of the mix-ups is unknown" and that "it would appear that the feeding mix-up reflects adversely on the calibre of this study." ID App., pp. 27, 28. The Appendix also referred to Dr. Taylor's hypothesis that assuming "the worst possible case," that is that the mix-up involved both controls and high dose animals, lasted a month and occurred near the end of the study, "it would require a potent carcinogen to induce the some degree of response in the controls as in the high dose," but, according to Dr. Taylor, the results of the study did not support such a conclusion. P–7, p. 29. The Appendix rejected this hypothesis that the mix-up was very limited in extent because the hypothesis assumed a dose-response effect. ID, App., p. 28. The following explanation was given:

It may be that carcinogenicity does not present itself in a dose-related manner at the levels of exposure analyzed in this study but is observed as an all-or-nothing effect. The lack of a dose-effect profile can be an indication that the test group's dose levels did not include the dose levels necessary to delineate what may be an effect which can be observed over only a small range of doses. If this is the case in the present study, the mix-up could have a very substantial influence on the ability of the experiment to reveal a dose-related effect. ID App., p. 28.

(b) *Exceptions.* CCMA excepts to the finding that the mix-up reflects adversely on the study because (1) the only Bureau witness to comment on the mix-up was a statistician, who CCMA believes is not qualified to offer biological observations; (2) the FDA scientist who conducted the study and other FDA staff believed that the mix-up was limited to two animals misplaced for 1 week (P–7, p. 24, P–49, P–144, p. 2); (3) both FDA (P–140) and the Toxicology Advisory Committee (P–33) determined that the mix-up did not taint the results; (4) CCMA's experts testified that the mix-up was not extensive because, as one of the experts observed (P–157, p. 23), the controls had a low incidence of tumors, and, if any appreciable contamination occurred and if Red No. 2 were a carcinogen, a greater tumor incidence in the controls should have been observed; (5) a mix-up would not have obscured positive results because it was not extensive and because the high dose animals were not affected; (6) the discussion of dose-response effect in the Appendix to the Initial Decision is "simply incomprehensible." Ex., pp. 10–12, 82–84.

(c) *Bureau's Reply.* The Bureau maintains that the extent of the mix-up cannot be shown with reasonable certainty. The mix-up could only have reduced the chance of detecting carcinogenicity because the high dose group would have received less of the compound, and the control might have received some. Furthermore, the technician responsible for the feeding and housing of the test animals stated that the mix-up was extensive and long-lasting. The statements of Dr. Taylor and other FDA scientists provide an insufficient basis to ignore the mix-up due to the hearsay nature of the statements and CCMA's failure to call the scientists as witnesses. The Bureau states that the extent of the mix-up may never be known. CCMA must show beyond a reasonable doubt that the mix-up was inconsequential, which, the Bureau claims, CCMA has failed to do. Reply, p. 14–15, Bureau Brief, p. 26–27.

(d) *Analysis.* The fact that there was a mix-up in the rats appears in the report of the study and in FDA memoranda, submitted by the petitioner, describing investigations of rumors about a mix-up of animals in this study. These memoranda can be relied upon notwithstanding that they are hearsay, just as the written opinions of the FDA scientists who did the study should be given appropriate weight. The testimony of the Bureau's statistical witness (Gaylor, G–226) is also appropriately considered on this point, due to the witness' familiarity with carcinogenicity testing and because the impact of a mix-up on the ability of a test to detect an effect presents a matter on which statistics is relevant.

I have reviewed the material cited in the record to determine the basis of the differing views about the extent of the mix-up and its impact on the reliability of the study. Dr. Taylor, who was responsible for the study, referred to the mix-up, and concluded, on the basis of a "thorough study of the individual weight records," that it was minor and limited to two rats in the 94th week of the study and would not affect the outcome. P–7, P–144. She also offered the analysis discussed above, that the mix-up was limited based on the "worst possible case." P–7, p. 29.

The mix-up was described in more detail in a June 26, 1975 memorandum of meeting, which was accepted as correct by the signatures of all attending. P–41. The technician for the study gave the following explanation of the mix-up:

[A]fter the study had been ongoing for over a year, he had noticed that, based on the numbers on the cages that certain rats were receiving improper diets. At that time he had noted that the mix-up involved the controls, the low level of 0.003%, and the middle levels of 0.03% and 0.3%. It did not involve the high level of 3%. He said that to his mind the mix-up was extensive and that he had no way of calculating how long this had been going on. P–41, p. 1.

CCMA points out in its exceptions that the technician did not state that the mix-up was long-lasting, as incorrectly reported in the Initial Decision, an example in CCMA's view of "the types of distortions of the evidence characteristic of the Initial Decision." Ex., p. 10. Instead, according to the memorandum, the technician reported that he did not know any way to calculate the duration of the mix-up. This discrepancy in the description given in the Initial Decision has no significant impact on the overall assessment of the mix-up, and certainly does not warrant designation as a "distortion" of the record.

In the same memorandum, Dr. Taylor reported that, to determine the extent of the mix-up, she had examined the weight gain and food intake data and had "tried to arrive at points of discontuniuty, that is, points at which the rats obviously could not have gained or lost the amount of weight shown on the [computer] readouts." P–41, p. 1. The pattern of mix-ups between certain cages of animals that she detected "could not be the complete case," however, according to the memory of the technician, who believed that a different pattern of displacement occurred. P–41, p. 1. He recollected that "there was displacement not only laterally but vertically * * *. In addition, he had remembered at least two rats that were misplaced in still another rack." Id. Dr. Blumenthal told the meeting that he "could not gainsay the words of a first-hand observer whose powers of observation and long experience could not be discounted," and that unless there were other means of resolving the difficulties, he would conclude there was a mix-up of "unknown duration and unknown extent." P–41, p. 2. (Quotations are from the memorandum, and are not necessarily the words of the speaker).

I believe that I, too, must give great weight to the observations and recollection of the person most directly involved. Because the pattern of mix-up suggested by Dr. Taylor's analysis does not accord with the recollection of the technician involved, I find the extent of the mix-up uncertain, and am unable to conclude with reasonable certainty that the mix-up had no significnt impact on the ability of this test to detect any carcinogenic potential that Red No. 2 may have.

Moreover, the memorandum of meeting reports that Dr. Taylor's procedure was criticized at this meeting on the basis that "the rats were so near their growth plateau that they were all very similar in body weight. Thus, although some discontinuity had been noted, nontheless, many of the rats could have been mixed and because of the similarity in weight would not have been noted." P–41, p. 2. This criticism adds to my reluctance to rely on the body weight analysis.

The petitioner maintains that the mix-up should be viewed as limited because few controls had any tumors and, if Red No. 2 were a carcinogen and accidentally fed to the controls, more tumors would be expected. P–157, p. 23 (incorrectly cited as P–156 in Ex., p. 83). This analysis seems to rely on the historical incidence of tumors in the strain to provide a baseline for estimating whether the tumor rate was low. The circumstances of a study can affect the tumor rate, however, and that is why a well-designed study includes concurrent controls and does not rely on the historical incidence of tumors. In this case, primary reliance should be placed on the incidence observed in the actual concurrent controls. Dr. Smuckler's testimony, although not specifically directed at this particular question, provides a pertinent explanation of why it is "unwise" to ignore the tumor rate actually seen in concurrent controls and to rely instead on historical experience:

The historical control group is subject to very different intercurrent conditions than are the current control group. Not only might the genetic pool change in these animals over a period of years, but the environmental conditions most certainly do, the infectious diseases to which they are subject most certainly do, and not to mention the dietary regimen with which they are maintained. G–217, p. 24; see G–226, pp. 41–43.

Since the historical rate can vary from the concurrent rate in the controls for the reasons indicated by Dr. Smuckler, it is inappropriate to assume the mix-up had no impact on the controls, based on a comparison with historical experience, in the absence of an adequate study showing with reasonable certainty no carcinogenic effect from Red No. 2.

Dr. Taylor also suggested (P–7, p. 29), as described above, that a mix-up occurring near the end of the study would have had an effect on tumor findings only if the substance were a potent carcinogen, which Red No. 2 did not appear to be from the study. This analysis assumes, though, that the "worse possible case" would involve a mix-up of both control and high dose animals but only for a month near the end of the study. However, the technician first noticed the mix-up "at some time after the study had been ongoing for over a year," and he did not know how to calculate how long the mix-up had been going on. P–41, p. 1. Thus, there is no reasonable certainty about the duration and point of initiation of the mix-up, and therefore no basis for being sure that Dr. Taylor's hypothesis reflects the "worse possible case."

CCMA also maintains that the tumor incidence in the high dose animals was not depressed by the mix-up in any way because the high dose animals were not involved. Ex., p. 83. CCMA does not cite the basis in the record for its position that the high dose animals were not involved, but the basis is probably the recollection of the technician, as described in the June 26, 1975, memorandum (P–41), discussed above, that the high dose animals were not affected. Although CCMA appears to rely on this aspect of the technician's recollection, CCMA does not credit the technician's recollection that the mix-up was more extensive than the pattern identified by Dr. Taylor from the weight records. Moreover, it should be noted that the pattern of mix-up found by Dr. Taylor involved high dose animals, according to the report given by Dr. Taylor to the Toxicology Advisory Committee:

Dr. Taylor indicated that when she had checked all records, she could only find change cards for the high-level males which suggested that perhaps they were the only group involved in the mix-up. She also felt that the mix-up probably occurred for only two or three days and involved possibly four to five animals receiving the wrong dose. Dr. Taylor said that perhaps really only the high dose and the next to high dose levels were involved. She also pointed out, however, that the animal handler's account of what happened doesn't concur with the conclusions one can reach by examining the records. Dr. Mandel stated that one cannot eliminate the possibility that the low dose animals received a higher dose. Dr. Taylor agreed that this possibility does exist. Dr. Murphy observed that according to what has been stated, the control animals were not involved in the mix-up, contrary to the recollections of the animal handler. TAC Minutes, March 8–9, 1976, p. 4.

Thus, the possibility exists that some high dose animals were involved in the mix-up. If the mix-up affected some high dose animals, perhaps the mix-up affected other high dose animals even though the technician does not recollect their involvement. Perhaps there were two different mix-ups, the one detected by Dr. Taylor and the one recollected by the technician. The very fact that there was a mix-up creates some uncertainty about its nature, extent and duration, and the reliability of the study. The general uncertainty could be dispelled only if there were clear information to determine the bounds of the mix-up. On this record, however, it is simply impossible to determine, with the confidence the law requires, what the extent of the mix-up was and whether it has an impact of consequence on the ability of this test to detect a carcinogenic effect.

The opinions of the other experts cited by CCMA (see P–150, p. 59, P–156(2), pp. 29, 30) generally relied on what "appears" from the reading of FDA memoranda describing the extent of the mix-up, and thus these opinions add little to the analysis given above of the significance of the mix-up.

CCMA also cites in support of its view statements in memoranda of FDA staff and the TAC that the mix-up was limited and did not taint the results. Ex., pp. 65–66, 83. The FDA staff

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memorandum cited by CCMA (P140),[3] written on June 6, 1975, reports that "it appears" that four animals "may have received" higher doses than they should have for one week. This evaluation may have been based on the body weight analysis done by Dr. Taylor although that analysis estimated that two animals rather than four were involved. In any case, as already discussed, I believe the recollection of the technician about a different pattern of mix-up of the test animals, described in a later memorandum of June 26, 1975 (P–41), creates uncertainty about the extent of the mix-up.

The report of the TAC (P–33, p. 1) cited by the petitioner is a November 25, 1975, internal FDA information memorandum to the Commissioner, which reports that there is "reason to believe" that the intermixing is irrelevant "since the biostatisticians would have combined control and low-dose animals, not expected to react, with high-dose animals." P–33.

The full minutes of the TAC meeting indicate that the FDA staff viewed the mix-up as being of "unknown extent," and that Dr. Gaylor, a statistician and member of the TAC, initially though that the study could be of use because the controls and low doses could be combined and compared with the high dose animals, which apparently showed no carcinogenicity. P–74, pp. 17–18. The TAC wanted more information on various matters before it reached a conclusion on carcinogenicity, however, including a statistical reappraisal by Dr. Gaylor. Id. Dr. Gaylor testified that an analysis limited to malignant tumors was suggested because of the large array of tumors observed; when Dr. Gaylor did this analysis of malignant tumors, he detected a positive effect. G–226, pp. 18–19.

The TAC, at its subsequent meeting, on March 8 and 9, 1976, formally agreed that the Taylor/Monlux study was of such quality that it could not be used to determine the safety of Red No. 2. Minutes, pp. 12, 36; 41 FR 15054. Thus, I reject the petitioner's contention that the TAC believed the mix-up did not taint the evaluation of this study. To the extent the TAC held this view, it was based on an expectation of the results of a future statistical analysis; but when the Committee reexamined the matter at its March 1976 meeting, it found, as noted above, that the study was inadequate to evaluate safety due to various defects. Moreover, a number of the members found some suggestive or evidentiary value in the data, including the statistical reappraisal of this study, to show that Red No. 2 may be a carcinogen. TAC Minutes, March 8–9, 1976, pp. 18–21, 36.

Dr. Gaylor also testified at the hearing that "[t]he extent to which this mix-up occurred is unknown. It may have been very minimal. It may have been substantial." G–226, p. 18. He also stated that "the effect of the mix-up of animals could only have been to lessen our chances of being able to detect the difference between the control and treated groups." G–226, p. 19.

I, therefore, find that it is not possible to ascertain with reasonable certainty the maximum extent of the mix-up. As a result, it is not possible to view the Taylor/Monlux study as providing reasonable assurance of the noncarcinogenicity of Red No. 2.

The petitioner has criticized the discussion of the dose-response relationship in the Initial Decision. The discussion in the Initial Decision may be based on Dr. Gaylor's testimony that, while a carcinogenic effect "generally" is dose-related, for several reasons, "this is not always the case." G–226, pp. 35–37 at 36. Although the analysis in the Initial Decision about the significance of a mix-up has some merit if Red No. 2 is the type of substance that does not exhibit a dose-response effect, I am independently relying on the analysis given above in this Decision. The analysis in this Decision provides an adequate basis for believing that the mix-up was of an unknown, but possibly significant, extent, even assuming the more usual case that any carcinogenic effect from Red No. 2 would appear as a dose-related effect.

4. *Autolysis as a Defect in the Taylor/Monlux Study.*—(a) *Initial Decision.* As noted in the Appendix to the Initial Decision, the pathology report for this study stated that the majority of the interim animals "were considered to be unsuitable for detailed histopathologic examination." ID App., p. 31. (Histopathological examination is examination through a microscope.) The Appendix also states, without a citation to the record, that the pathologists "indicated that the autolysis * * * did not affect their ability to determine any carcinogenic influence of Red No. 2." Ibid. The Initial Decision also found that the effect of autolysis "appears to be similar to the effect of the feeding mix-up in that autolysis interferes with accurate diagnosis. This would serve to strengthen any positive findings * * *." ID App., p. 32.

(b) *Exceptions.* CCMA excepts to the Initial Decision for finding that autolysis interferes with accurate diagnosis and strengthens positive findings, because it constitutes "[a] rejection of the FDA pathologists' judgment as to whether they could evaluate the tumors." Ex., pp. 9, 80–82. CCMA relies on the testimony of its experts that the study was adequate, and argues that autolysis is not necessarily an all-or-nothing matter and that an adequate pathologic examination may be possible despite some autolysis. Ex., pp. 66–67, 72.

(c) *Analysis.* There is no citation to the record in the Initial Decision or the exceptions for the statement that the FDA pathologists indicated that autolysis did not affect their ability to determine a carcinogenic influence. This indication by the pathologists seems not to have been an affirmative statement by them, but an inference that CCMA maintains should be drawn because the FDA pathologists reported detailed tumor figures and did not express concern that the degree of autolysis precluded them from reaching conclusions. CCMA Brief, p. 164.

The fact that the pathologists reported autolysis indicates that they considered autolysis of some relevance in evaluating the findings. In their conclusion they also stated that "[b]ased on histopathologic findings, no apparent effect" was produced. P–6, p. xi. Thus, the pathologists' conclusion about the study seems to be limited to the tissues available for microscopic examination. The need to have microscopic examination to detect certain tumors and to be sure about diagnosis also limits the reliance to be placed on findings made without a histopathological examination.

The National Cancer Institute (NCI) guidelines call for detailed histopathological findings on all control and treated animals in chronic studies. G–11, p. 55. Thus, the guidelines emphasize the importance of avoiding autolysis in order to be able to conduct histopathological examination.

A reading of the pathologist's report leads to the conclusion that the autolysis in this study was a serious problem. Although a histopathological examination was made in this study of tissues from 450 rats, 354 of these rats were "interim" animals, and a majority of these rats simply died during the interim period without being intentionally sacrificed. As the pathology report states,

> "almost all of the tissues from dead [interim] rats were found to be *in an advanced state of autolysis and were considered to be unsuitable, for detailed histopathologic examination.* From these rats, only the livers, kidneys, and gross tumor masses were processed for histopathologic observation." P–6, p. vi. (Emphasis added.)

CCMA argues that autolysis is not an all-or-nothing matter, and that the proper procedure is to look at whether the tissues were actually readable. Ex., pp. 67, 72. Although this may be the case in some studies, the references to an "advanced state of autolysis" and a "high" loss to autolysis in the reports for this study (P–6, P–7) make it unreasonable to assume that the autolysis in this study had no impact on the evaluation of tissues that had autolysis.

The remaining question is whether the number of animal tissues suffering from autolysis was sufficiently great to affect the adequancy of the test to detect a carcinogenic effect. The report of the study states:

> The number of rats lost to autolysis was high (see Tables 8 and 9), but as shown on Table 9, there was an average of 20.8 males and 31.4 female/level which had survived more than 78 weeks and were available for full histopathological study. P–7, p. 23.

In connection with the evaluation of another study at the hearing, there was testimony about the importance of having adequate histopathological evaluation. See pages 69–72 of this Decision. The testimony illustrates as well the impact that autolysis can have on the adequacy of a study when it prevents histopathological evaluation.

The autolysis in this study does not appear to have been biased since autolysis affected controlled and dosed animals proportionately. G–226, p. 39. The ability of the test to detect an effect is reduced, however, to the extent animal tissues cannot be fully examined to detect whether there was a greater effect in test animals. Ibid. The effect is the same as if a smaller number of animals has been used; a smaller test has less power to detect a carcinogenic response. Dr. Gaylor stated that "* * * because of the problems of autolysis, only about ⅔ of the animal tissues could be meaningfully examined. Therefore, the statistical significance level reported (in his analysis) is conservative." Ibid. Moreover, at the TAC Meeting, Dr. Monlux stated that there was "an average autolysis rate of 56 with some groups having an incidence of 100. This seriously hampered the accuracy of the diagnoses thus negating the value of any statistical approach." TAC Minutes, p. 6 (March 8–9, 1976).

I conclude that the Appendix to the Initial Decision was correct in finding that the autolysis in this test reduced its ability to detect tumors, and any positive findings could have been stronger if no autolysis had occurred, and more tissues had been available for full examination.

I recognize that the scientists who conducted the Taylor/Monlux study reported tumor findings for Red No. 2, and reported no observed differences between treated animals and controls in the incidence of lesions. P–6, P–7. However, the reports were based on the "apparent" findings in the histopathologic evalulation. The autolysis in this study, in my view, reduces the confidence to the placed in the adequacy of the study, and particularly so in view of the suggestive positive findings found in the statistical analyses discussed below. These statistical findings could possibly have been stronger if the study's power to detect a carcinogen had not been impaired by extensive autolysis.

5. *Presumptive Evidence of Carcinogenicity Based on Statistical Analysis of Taylor/Monlux Study.*—(a) *Introduction.* Several statistical analyses were made of the tumor findings in the Taylor/Monlux study, but two are of major interest: The first is an analysis of total tumors of various types in "terminal" female rats, i.e., those that survived to the end of the study. (Total Tumor Analysis.) This analysis was initially made by Dr. Gaylor in the fall of 1975 and subsequently revised to take account of revised tumor findings based on a review of the pathological work. The initial and revised analyses of Dr. Gaylor were discussed at the Toxicological Advisory Committee meetings, described above, and were taken into account in the FDA order denying the petition for permanent listing of Red No. 2. The revised tumor findings upon which this statistical analysis was based found no malignant tumors in 14 control terminal female rats, but malignant tumors in 6 of the 21 rats in the high dose feeding level of this group. G–226, p. 21.

The other statistical analysis of major interest was made of lymphosarcomas in the femal rats. ("Lymphosarcoma Analysis".) The percentages of female rats with lymphosarcomas were 4.5, 0, 6.7, 13.6 and 11.4 in the control, .003 percent, .03 percent, 0.3 percent, and 3.0 percent feeding levels, respectively. G–226, p. 25. Both Dr. Gaylor and Dr. Schneiderman testified about the importance of this analysis at the hearing. G–226, pp. 25–26; G–227, p. 18.

(b) *Initial Decision.* The Initial Decision found that the Taylor/Monlux study "demonstrated a carcinogenic effect from the ingestion of Red No. 2." ID, p. 16. I have discussed this finding in the Initial Decision in part III A(2)(d) of this Decision. The basis for this finding is not cited, but it apparently is the statistical analyses of total tumors and lymphosarcomas in female rats made by Dr. Gaylor (G–226) and Dr. Schneiderman (G–227). These analyses showed, according to the Bureau, "[d]isturbing positive evidence" of carcinogenicity. Bureau Brief, p. 26. The Initial Decision also contained a discussion of the reasons for accepting the statistical methods used by these witnesses and rejecting the statistical methods, such as a two-tail test, that CCMA regarded as appropriate. ID, p. 17.

(c) *Exceptions.* CCMA excepts on several grounds to the finding that this study has some positive evidence of carcinogenicity:

(i) *Toxicologists' Conclusions.* CCMA maintains that the ALJ ignored the conclusions of the FDA scientists who conducted the study and the CCMA expert witnesses that the study showed the noncarcinogenicity of Red No. 2. Ex., pp. 4, 18, 40, 66–69. These experts pointed out that the tumors found are not those usually associated with carcinogens, but are invariably found in old rats. Ex. pp. 66–68. Further, the high dose treated animals lived longer than the controls; if Red No. 2 were a carcinogen, it should have shortened survival time. Ex., p. 69.

(ii) *Tumor Rate in Terminal Females.* CCMA notes that the high dose female rats had essentially the same rate of cancer as seen in the other treatment levels, and the rate appears significant in the Bureau's total tumor statistical analysis only due to the unusual occurrence that the contorls had no tumors. Ex., pp. 78–79. According to CCMA, the absence of malignant tumors in the controls indicates an inadequately reported study or an aberrant control group. Ex., pp. 72–74, 78–79.

CCMA also believes that the Initial Decision distorted CCMA's position, since CCMA does not contend, as the Decision suggests, that historical controls should be substituted for concurrent controls. Ex., p. 14–15. Instead, CCMA believes that historical controls should be examined "with care" if the historical rate differs from the concurrent controls. In effect, CCMA seeks substitution of historical controls for the concurrent controls for purposes of analysis, but is not suggesting having no concurrent controls. This meaning, however, is clear from the Initial Decision.

(iii) *Site Specificity.* CCMA also contends that the study does not have the type of evidence "usually associated" with carcinogens, since there was not a target organ effect. Ex., pp. 8–9, 73, 84–85.

[3] CCMA cites Exhibit P–40 at page 65 of its exceptions, but this reference appears to be in error since Exhibit P–140 is cited at page 63 for the same point.

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(iv) *Lymphosarcoma Analysis and Different Pathological Screens.* The statistical finding made by Dr. Schneiderman and Dr. Gaylor of a linear trend of lymphosarcomas in female animals—the only site specific target organ effect claimed by the Bureau—was made on the basis of different pathological screens. Ex., pp. 16–17, 86. Moreover, Dr. Schneiderman made 16 analyses of the data, and this lymphosarcoma finding is the only statistically significant positive finding he made, and many of the other analyses are negative. Ex., pp. 77–78, 86–87.

(v) *Statistical Methods in Total Tumor Analysis.* The Total Tumor Analysis in female animals made by Dr. Gaylor used the Fishers Exact Test, a test developed for use with "fixed ratios and columns," but this study did not have fixed ratios and columns. Ex., p. 77. Although it does not state it as a specific exception, CCMA also complains that the statistical procedure used in this analysis differed from the procedures originally used after the second pathological review reported fewer tumors than found in the first review. Ex., pp. 16, 77 n. 42. In its general exceptions, CCMA also maintains that the Initial Decision incorrectly reported that CCMA regarded a .05 level of statistical significance as an absolute measure of significance. Ex., p. 17. Instead, CCMA views Dr. Gaylor's findings of statistical significance weaker than .05 as insufficient to overcome the findings of the biological scientists. CCMA also excepts to the ALJ's concern with a rising total tumor rate in this study because the various analyses made by Dr. Schneiderman did not show statistically significant results other than for lymphosarcomas. Ex., pp. 86–90.

(d) *Analysis.*—(i) *Toxicologists' Conclusions.* I agree with the Initial Decision that the opinion of the toxicologists conducting the study that the test had negative results is not dispositive. That conclusion can be rebutted by other evidence, for example, evidence showing defects in the execution of the study, such as a mix-up of test animals and autolysis, which limit the confidence to be placed in the test, or a statistical analysis showing some positive results that need further investigation.

CCMA, at several points, criticizes the Bureau's position because it is based on statistical rather than biological evidence. Ex., pp. 15–18, 59. However, the statistical analysis relied on by the Bureau is not an abstract study but an analysis of the Taylor/Monlux study and its biological results. The analysis takes the biological findings as a given, and evaluates them by a mathematical procedure to determine trends and patterns not necessarily apparent to scientists who are not statisticians. A decision about safety involves consideration of all the relevant scientific information, and a valid statistical analysis of test results has an appropriate role in safety evaluation.

CCMA makes a similar general criticism that the Bureau's evidence in this proceeding consists of statistical evidence and is not supported by biological evidence, by the testimony of toxicologists, or by the views of the FDA scientists who did the studies. As discussed above, statistical analysis of a biological study is relevant and important information. Moreover, CCMA has the burden to show with reasonable certainty that Red No. 2 is not a carcinogen. In other words, the Bureau does not have to prove that Red No. 2 is a carcinogen; it is enough for the Bureau to show that the carcinogenicity of Red No. 2 has been placed in substantial doubt and that that doubt has not been resolved. If the data are inconclusive, CCMA has failed to make the necessary showing.

Furthermore, in support of its position the Bureau has introduced pertinent testimony of "biological" experts. Dr. Emmanuel Farber, a doctor, biochemist and specialist in pathology, testified that the variety of tumors seen in this study raises a suspicion of cancer and that one could not determine from this study whether or not Red No. 2 is a carcinogen. G–219, p. 7. Dr. Edward Smuckler, a pathologist and member of the Toxicology Advisory Committee, testified that this study "did not prove either safety or lack thereof," because the "incidence of intercurrent renal disease was particularly high." G–217, pp. 23–25. Dr. Smuckler also noted that the number of surviving animals was small, but the size of the surviving group reflects the design and conduct of this study.

The ALJ made the following relevant comment about the petitioner's obligation to show the safety of a color additive:

> Throughout this proceeding, CCMA has harbored the misconception that it is incumbent upon the Bureau to provide definitive studies to establish the lack of safety of Red No. 2. In its brief, CCMA quotes Dr. Smuckler as indicating that although the available data does not indicate the safety of Red No. 2, it also doesn't indicate that it's not safe. (Brief at 170 and 215). However, as previously indicated, the statute and its history indicate that a manufacturer seeking FDA certification for a color additive must prove its safety. Old studies have proven inconclusive in this matter, and more recent studies have raised serious doubts as to the safety of Red No. 2. ID, p. 19.

It could be that there are some scientists (perhaps including even some FDA staff scientists) who might conclude from the present information that Red No. 2 is not a carcinogen. The law requires a reasonable certainty about the absence of harm, and intuitive impressions are not sufficient if not adequately supported. The ultimate decision about the safety of a color is to be made by the Commissioner in light of the governing law, the evidence of record and his expertise, and is not to be made by those in a particular scientific discipline or by certain members of the staff. After reviewing the record, I believe that Dr. Schneiderman stated well the approach to be taken in this type of circumstance:

> I think the intuitive impressions of the pathologist ought to be paid attention to, and I think the results of the statistical computations ought to be paid attention to. I think we ought to find out on what basis the pathologist's impressions are developed and on what basis the statistics are developed and see if these can't be reconciled. In the end, though I think gut conclusions should be supported by the numbers. An intuition based on objective fact should carry much more weight. G–227, p. 20.

CCMA also maintains that the statistical findings should be overlooked because the biological scientists recognized that the rats had "garden-variety" tumors characteristic of aged rats, and the treated high dose rats lived as long as the controls. Ex., p. 84. The ALJ and the Bureau correctly point out that CCMA is wrong if it maintains that a substance should not be a considered a carcinogen simply because it causes an increase in a type of cancer that occurs epidemically in older animals or humans. A CCMA witness agreed on cross-examination that it is "an important fact" if a certain agent increases the incidence of a disease commonly found in old people. Tr., p. 251–52. This citation is supportive of the Bureau's and ALJ's position, despite CCMA's argument (Ex., p. 84) that no pertinent statement was made.

(ii) *Absence of Malignant Tumors in the Control Female Terminal Animals.* CCMA maintains that the "common scientific response" when a control group has an absence of malignant tumors is to believe "either (a) the study was not adequately reported, or (b) the control group was an aberrant group * * *" Ex., p. 74. On this basis, CCMA argues that no weight should be given to the statistical finding of a higher incidence of total tumors in high dose female terminal animals as compared with the unusual absence of tumors in the controls in the total tumor statistical analysis made by Dr. Gaylor.

I disagree. If the absence of tumors indicated that the study may have been inadequately reported, it provides an additional ground for finding that the study is not adequate to show the noncarcinogenicity of Red No. 2 and that another study is needed to resolve the question.

I also believe the record adequately supports the conclusion that the actual findings observed in the concurrent controls should be relied on for comparison purposes. G–217, p. 24; G–226, p. 41. An absence of tumors in the controls can be questioned on the basis of historical experience, but the results in the concurrent controls cannot be completely ignored without a fully adequate study to provide further assurance that the control group was truly aberrant.

(iii) *Site Specificity/Target Organ.* It is true that most carcinogens cause cancer at a specific site. However, as the Bureau maintains (Reply, pp. 15–16) and the record shows, a substance can be considered a carcinogen even though it induces tumors at various sites. G–219, p. 7, G–227, pp. 22–23. The definition of "cancer" developed by an FDA advisory committee (G–61) does not require tumor site specificity. The "Shubick" subcommittee, which developed a report, entitled "General Criteria for Assessing the Evidence for Carcinogenicity of Chemical Substances" for the National Cancer Institute, adopted a similar position. G–8.

As CCMA points outs, FDA has stated, in the November 4, 1974 **Federal Register** (39 FR 28908), that the fact that tumors were of different kinds in a rat feeding study on acrylonitrile "suggest no relationship to the agent fed." The acrylonitrile study was inadequate for several reasons, though, and the ultimate FDA action at that point was to require further studies to resolve questions concerning the safety of the substance. Thus, the FDA action is not a precedent that a cancer finding should be ignored if the tumors do not have a specific site.

It is not unknown for carcinogens to cause tumors at various specific sites. Nitrosamines, are "a good example of chemicals that have more than one target organ," but "generally" carcinogens have a specific target organ. Newberne, Tr., pp. 920–21.

The absence of any target organ can warrant further investigation and studies before a firm conclusion is drawn about the carcinogenicity of a substance. However, I do not believe that site specificity should be regarded as an essential requirement before a substance is considered a carcinogen. Not enough is known about cancer to assume that it always has to be site specific. More importantly for the present case, I do not believe that positive cancer findings should be completely ignored because they lack a specific target organ. At the least, substantial question as to carcinogenicity remains and a further study is needed to resolve the question whether the substance is a carcinogen.

Lastly, the statistical findings of lymphosarcomas in female rats made by Schneiderman and Gaylor shows a site specific effect, although CCMA maintains that these lymphosarcomas are not sufficiently site specific. CCMA also argues the finding is invalid because it results from the use of different pathological screens. This objection is discussed in the next paragraph.

(iv) *Lymphosarcomas Analysis and Full Pathological review.* Dr. Schneiderman and Dr. Gaylor found a statistically significant dose-related linear trend for lymphosarcomas in female animals. Schneiderman, G–227, p. 18, Gaylor, G–226, p. 25.

The statistical analysis was done on the four feeding levels and control level involved in the Taylor/Monlux study, but only three levels had full pathological screens, and the other two levels had partial short screens. CCMA objects to any reliance on this statistical finding due to the different pathological screens. According to CCMA, Dr. Schneiderman recognized that using different screens presents "a real problem" and admitted that the trend would be "weak" if only the fully screened levels had been used. Tr., pp. 766, 834 as cited in EX., pp. 75–76. CCMA maintains that, if full screens had been done for the levels for which short screens were done, it is "likely" more tumors would have been found, and these findings would reduce the significance of the dose response trend that Drs. Gaylor and Schneiderman found.

In its reply, the Bureau points out that, if a certain number of additional tumors were found on a full screen in the levels partially screened, the trend would still be significant and linear. Moreover, if even more tumors were found in the partially screened middle levels, the trend would not be linear but would present a response pattern with a hump in the middle. Such a pattern would suggest that Red No. 2 induces more cancer at lower doses than has been believed. Reply, pp. 17–18.

I reject the CCMA position that the positive findings of lymphosarcomas in this study should be overlooked because the determination was made on the basis of different screens. CCMA urges that only the fully screened feeding levels be examined, and the trend for these levels disregarded as weak. Dr. Schneiderman in his testimony regarded the different pathological screens as a real problem but one that arises because:

> "anytime an experiment is done at less than the optimal way and the materials looked at not as fully as they should, what errors are named (sic) in this kind of thing, you will get less of an effect." Tr., p. 828.

Despite the drawback that full pathological screens were not available, Dr. Schneiderman thought an analysis for dose response could still be made on the basis of the available data from all the feeding levels. Tr., p. 827.

The lymphosarcoma trend was the only dose-response effect found in the study, and it is important because the presence of a dose-response effect makes scientists believe more strongly that a substance is a carcinogen. Schneiderman, G–227, p. 18. If a dose-response effect were not present for Red No. 2, but there were a significant increase in cancers in the treated animals with the controls, there would be less confidence that the substance is a carcinogen, but the results still could not simply be ignored. It would be appropriate at the least to require a full and adequate study to resolve the question whether there is a carcinogenic effect from the substance.

I believed that weight should be given to the positive finding even though it was not made on the basis of full screens and might have been different if more information had been available. I do not believe it is reasonable to consider Red No. 2 safe on the basis of hypothetical estimates of what the tumor findings could have been if full screens have been available, unless it is reasonably certain that no significant findings of cancer could have been made if all the information had been available. Instead, the matter is unclear; it is possible that there is a dose-response effect, or an unusual pattern of tumor findings. Thus, these results require additional study.

CCMA also disputes reliance on this finding of a dose-response effect because the trend was found only in female rats, and there is no explanation for why these tumors would occur in only one sex. However, as Dr. Gaylor reported, the male rats did not live as long as the females and did not have as extensive pathology as the female rats.

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G–226, p. 25. this fact could account for the difference in effect. Moreover, it would be inappropriate to ignore an effect found only in one sex even though we do not know a reason why the effect is or should be sex-specific. A carcinogenic effect found in only one sex raises the question whether the substance is a carcinogen, even though until more information is available it is not possible to explain satisfactorily the limited scope of the effect.

I also agree with the Bureau that the statistically significant positive finding for lymphosarcomas deserves weight even though there are other analyses with negative findings for other tumor categories. Reply, pp. 18–19.

(v) *Total Malignant Tumor Trend in Female Rats.* Dr. Gaylor testified that there was a statistically significant increase at the .04 level in malignant tumor in the high dose female "terminal" animals (those that survived 30 months), as compared with the terminal control animials. G–226, p. 21. These controls had no tumors, an unusual finding. If "interim" animals (those that did not survive 30 months) as well as terminal female controls are examined, the tumor rate is similar to the rate in other control groups in this study. A comparison of the .03 percent dose level terminal and interim female rats with these controls shows an increase in malignant tumors of all types, but the increase has a weaker level of statistical significance of .07. G–226, pp. 23–24. The high dose group in a similar comparison exhibited a statistical significance of .08. Ibid.

As already discussed, CCMA objects to this analysis due to the lack of specific tumor sites and the low rate of tumors in the controls. CCMA also objects to any reliance on this finding because it was made using "Fisher's Exact Test," a test developed for fixed row and column figures. The Bureau maintains that this test can appropriately be used for other purposes, and cites statistical authorities in support of its position. Reply p. 20, Tr., p. 966.

I find the Bureau's reply convincing, and I also accept Dr. Gaylor's explanation that the Fisher Exact Test is appropriately used here due to the small number of animals involved in the analysis. G–226, p. 38. Moreover, it is appropriate to take into account Dr. Gaylor's experience in carcinogenicity testing since this matter involves a judgment about which statistical procedure provides useful information for evaluation. Dr. Gaylor is chief of biometrics at the National Center for Toxicological Research.

Dr. Gaylor's analysis found an increase in tumors for terminal females at the .04 level of significance. Although the tumor increase in terminal female animals was within the 5 percent limit for statistical significance commonly used in the scientific community, the tumor increase for interim and terminal animals was outside it. CCMA criticizes reliance on the findings that fall begond the 5 percent limit.

The interim and terminal animals were combined for analysis in recognition of the argument that the results for the terminal animals were questionable due to the unusual absence of tumors in the controls. As already discussed, it is not clear that the zero incidence in the controls should be disregarded. Furthermore, I agree with Dr. Gaylor that the 5 percent level of statistical significance is often used as a benchmark, but it should not be given absolute significance. G–226, p. 3; see Cyclamates, Notice of Interlocutory Decision, 44 FR 47620 (August 14, 1979), and Benylin, Notice of Final Decision, 44 FR 51520–51521 (August 31, 1979). The positive findings, even though at a lower level of significance, merit some weight as suggesting a possible carcinogenic effect for Red No. 2 on this record, in light of the more significant positive finding for the terminal animals and in light of the lymphosarcoma findings.

Moreover, if the original pathological findings as reported in the Taylor/Monlux study were used, the positive findings in Dr. Gaylor's analysis would be of stronger statistical significance and within the .05 limit. Instead, Dr. Gaylor used the revised pathological figures that were developed when FDA reviewed the data sometime later.

CCMA seems to argue that Dr. Gaylor's revised analysis should be given little weight because different statistical procedures were used after the revised pathological tumor findings reduced the significance of the original findings, which resulted from other test procedures and significance levels, and were based on the original pathological review. It is not clear whether CCMA is raising this point as an exception, but since it is referred to at several places in CCMA's exceptions, I will address the matter. Ex., pp. 16, 77–78.

It should be borne in mind that the TAC requested Dr. Gaylor to consider biostatistical aspects of the study. P–74, p. 18. Dr. Gaylor on cross-examination acknowledged that he changed the procedure he used for statistical analysis of the original figures and the revised figures. Tr., p. 744. He used the two-tail test and a .05 level as the mark of statistical significance for the original figures. If these procedures were applied to the revised figures, the results would not be statistically significant at the .05 level. Dr. Gaylor maintained, nonetheless, that the .05 level is only a benchmark, not an absolute standard, and that a one-tail test is the appropriate test, and probably should have been used initially. I agree that the one-tail test is appropriately used when seeking to find out whether a substance causes a harmful effect. A two-tail test halves the significance of findings, and is appropriately used if the purpose of the test is to compare treatments. Schneiderman, G–227, p. 19. The purpose of the statistical test in this case is to detect the ability of a substance to cause an adverse effect, and it is important to use test procedures that will provide assurance of detecting an effect of this type. Therefore, I conclude that it is appropriate to rely on Dr. Gaylor's revised analysis and the statistical procedures used.

Lastly, CCMA appears to be criticizing Dr. Gaylor's total tumor analysis, and the references in the Initial Decision to total tumor increase, because Dr. Schneiderman did not report the same analysis. Ex., pp. 86–90. Dr. Schneiderman testified, however, that "by and large we agreed with what Dr. Gaylor had found." G–227, p. 19. Furthermore, Dr. Schneiderman reported that he found an increase in total tumors in female rats, which was "barely significant" at the .048 level. When this finding was "corrected * * * for the survivial" of animals, the trend was below the .05 benchmark of statistical significance. G–227, p. 17. Similar results were found by Dr. Gaylor, who reported an increase in total tumors for terminal female rats (significant at the .04 level), but a less significant trend for terminal and interim rats. G–226, pp. 37–38. As Dr. Schneiderman also testified when tumor types were examined, a statistically significant increase in lymphosarcomas in females was found, a result also reported by Dr. Gaylor. G–266 pp. 25–26.

I believe the lymphosarcoma finding is a key finding that is sufficient by itself to raise a serious question about the carcinogenicity of Red No. 2. The finding of a total tumor increase in female rats is also important because it reinforces the concerns about the carcinogenicity of Red No. 2 arising from the other finding. This total tumor finding is appropriately relied on as part of the overall basis for concluding that Red No. 2 has not been shown with reasonable certainty not to be a carcinogen.

(vi) *Conclusion.* I conclude that there is disturbing evidence of possible carcinogenic effects from Red No. 2 based on the lymphosarcoma finding, singly and in combination with the total tumor increase in female rats in the Taylor/Monlux study.

B. *Andrianova (Russia) Study (G–14).*—1. *Introduction.* The Andrianova study (G–14) was conducted in the USSR to test the carcinogenic potential of several dyes, including "amaranth," an internationally used name for the substance called FD&C Red No. 2. The Russian investigators concluded that:

> Administration of chemically pure amaranth to rats during 33 months resulted in the development of 15 malignant tumors in 13 rats out of 48 surviving at the time when the first tumor appeared * * *. In the control group, where the rats did not receive any dye, tumors were not discovered * * *. Chemically pure amaranth possesses carcinogenic activity of medium strength and should not be used in food industry. G–14, p. 7.

However, questions have long existed about the purity and identity of the substance tested in the Andrianova study. In the FDA decision denying the petition for permanent listing of Red No. 2—the action that led to this hearing—FDA stated that "questions remain as to the chemical equivalence of FD&C Red No. 2 to the amaranth used by the Russian investigators." 41 FR 15053 (April 9, 1976).

FDA made several efforts to obtain more information about the substance tested in the Andrianova study. These efforts, which proved to be unsuccessful, were described to the TAC as follows:

> With respect to the second Russian study which showed positive carcinogenic effects, Dr. Murphy asked if the Agency had approached the Russians to determine the composition of the material that they used. Mr. Gittes replied that in 1971, the FDA asked the State Department to find out the composition of the amaranth material used by the Russians and the spontaneous rate of tumor occurrence in the Russian rat. However, the FDA has received no response from the State Department to date on these questions. Other attempts through various Russian investigators, FDA personnel traveling to Russia, etc., to obtain answers to these questions have been similarly unsuccessful. P–74, pp. 3–4.

2. *Initial Decision.* The Initial Decision found that the Andrianova study (G–14), was conducted "to determine the tumorigenic effects of Red No. 2 on rats," and that "[p]ositive results were * * * obtained in this study." ID, p. 16. The Appendix states in connection with this study that "[a]bsent overriding factors, substantial weight" should be given to the conclusion of the researchers about their own study. ID App. p. 35.

The Appendix to the Initial Decision apparently rejected the CCMA argument that the Red No. 2 used in this test was impure and not the same as FDA-certified FD&C Red No. 2 because the papers suggesting the presence of an impurity were "hearsay" and "there is no evidence of record to indicate that the substance tested was anything other than chemically pure (Red 2)." ID App., p. 34. CCMA's objections based on the unusual factor that the controls had a zero tumor incidence rate were not given weight because spontaneous rates of tumors vary among test animals and suppositions about the expected rate cannot be based on historical patterns for a different strain of rat. ID App., p. 34.

3. *Exceptions.* CCMA believes that the ALJ was "completely in error in giving the slightest credence to the Andrianova study, which does not provide any evidence showing FD&C Red No. 2 could be carcinogenic." Ex., p. 109.

Memoranda in the record show that an FDA scientist, Dr. Herbert Blumenthal, who attended an international meeting held to "shed some light on the type of amaranth that was used," reported that there was "substantive evidence" to show that the color was not FDA certifiable Red No. 2. Ex., pp. 4, 5–6, citing P–145. The International Association for Research in Cancer has rejected the Andrianova study (P–145), as has the FAO/WHO, because the study used "samples of amaranth" with different specifications. P–16, pp. 13–14. The CCMA also maintains that there is "doubt in the scientific community" about the existence of controls in the study or that they actually had a zero incidence level of tumors." Ex., p. 108.

4. *Bureau Reply.* The Bureau argues that the uncross-examined written reports that the substance tested by the Russians may not have been Red No. 2 should be given "very little weight, if not totally ignored." Reply p. 25. In addition, it maintains that even if the amaranth used by the Russians differed from the FDA color no one knows whether the difference would affect the results in the carcinogenicity testing. Consequently CCMA has not met its burden to prove Red No. 2 safe.

5. *Analysis.*—(a) *Chemical Equivalence.* I reject the position in the Initial Decision and the Bureau reply that the criticism of the Russian study should be given little weight or ignored simply because the criticisms are found in written reports and have not been subject to cross-examination. FDA has long taken the position that the positive results in this Russian study do not establish that Red No. 2 is a carcinogen because of questions about "the chemical equivalence" of FD&C Red No. 2 to the amaranth used by the Russian investigators. 41 FR 15053 (April 9, 1976). The written material should be credited on the basis of what it reports, taking into account any factors that reduce its reliability.

In reviewing the written material cited in the exceptions as bearing on chemical equivalence, it should be noted that the questions relate to whether the amaranth used by the Russians was as chemically pure as FDA certified Red No. 2. The writers of these memoranda believe the Russians may have used a less pure version of Red No. 2 and not a totally different substance, as is evident from the quotations given above from the documents cited by the petitioner in its exceptions. Consequently, the fact that positive results were found creates a significant question as to whether the results are attributable to the impurities that may have been present in the Russian sample, or to FD&C Red No. 2 in its FDA-certifiable form. The material cited by CCMA does not provide definitive information to show that the results are attributable to impurities that may not occur in FDA-certified Red No. 2.

Thus, I find that due to the question about the chemical equivalence of the test substance to FDA certified FD&C Red No. 2, the positive findings in this study do not dispositively establish that Red No. 2 is a carcinogen. The study cannot be ignored entirely, however. Instead, it creates a concern that Red No. 2 may be a carcinogen. This concern needs to be resolved by an adequate test before Red No. 2 can be approved as safe for use.

(b) *Controls and General Unreliability.* CCMA has also urged that this study should be entirely ignored on the ground that it has been rejected by international groups such as FAO–WHO, because there is "doubt in the scientific community" about the zero incidence level of tumors reported for the controls in this study. Ex., pp. 108, citing, for example, P–157 at 27, P–11, P–16, pp. 13–15, P–62, P–65, P–68.

The "most important" question about this study concerns the chemical identity of the test substance, the matter already discussed, according to the memoranda cited in the exceptions (P–145). It is true that the FAO–WHO did not fully accept this study, and it retained a "temporary" acceptable daily intake level for Red No. 2, but it also expressed the hope that "international cooperative studies with standard samples may be undertaken to elucidate the reason for the reported discrepancies." P–16, pp.13–14.

I agree that the zero incidence level of tumors in the negative controls in the Andrianova study is unusual and gives rise to some questions, as discussed in

connection with the Taylor/Monlux study. A zero incidence level is possible, though, due to variations in spontaneous tumors.

Moreover, in the Andrianova study other red dyes were also tested, and amaranth had a high, statisically significant increase in malignancies at the 2 percent level compared with rats fed another dye, according to Dr. Gaylor's analysis of the results. G–226, p. 29. Those rats fed the other dye had tumors, and thus did not have the unusual absence of tumors reported for the negative controls. Consequently, the positive results observed from amaranth in comparison with a positive control group that had tumors tends to obviate any questions about the significance of the effects of amaranth compared with negative controls that had no tumors.

Nonetheless, there continues to be a question whether the design of the study meets current standards for a fully adequate study in view of its limitation to male rats. A variety of tumors were reported, and as discussed in connection with the Taylor/Monlux study, the presence of a site specific response increases the confidence that a substance is a carcinogen. But despite questions of this type a study with positive findings of carcinogenicity cannot be ignored in the absence of a completely reliable study that shows with reasonable assurance that the substance is not carcinogenic.

C. *Other Chronic Studies; Webb Rat (P–2), Mouse (P–3) and Dog (P–5) Studies.*—1. *Initial Decision.* The Initial Decision includes the following discussion about the Webb rat, mouse, and dog studies conducted by FDA:

> Several studies have been conducted in mammals in order to directly observe any tumoringenic tendencies of Red No. 2. Dr. Webb and his associates completed the studies on the dog, mouse, and rat in which the animal ingested Red No. 2 as some percentage of its food supply. The mouse and rat studies were very similar in test protocol and implementation. Two strains of animals were used with heavy mortality in one of the strains in each of the two tests. Limited histopathological examination was performed. In general, this examination was limited to those tissues which, on gross examination, appeared to contain a tumor or other lesion.
>
> In the Webb rat study, the Osborne-Mendel rats did not show tumor development associated with the ingestion of Red No. 2. However, among the Sprague-Dawley rats, there was a doubling of breast tumors in the treated animals as compared to the controls.
>
> In the Webb mouse study, there was an increase in lymphosarcomas in the treated as compared to the control animals. There was also a general increase in tumors in the treated male mice as compared to the control male mice. These two studies raise questions as to the carcinogenicity of Red No. 2 because positive results were partially demonstrated.
>
> Dr. Webb also conducted a study in five dogs to determine if the ingestion of Red No. 2 produced tumors. None were seen in this study. However, the dog is generally considered as being useful in revealing human carcinogens only in the case of bladder tumors. ID pp. 15–16.

2. *Webb Rat Study (Osborne-Mendel Strain).*—(a) *Exceptions.* CCMA maintains that the Webb rat study of the Osborne-Mendel strain of rats support the non-carcinogenicity of Red No. 2. It points out that the FDA scientists who did the studies regarded the results as negative. Ex., pp. 90–106. It disputes the Bureau's position that the histopathological examination in the rat study was inadequate on the ground that FDA scientists and advisory committees regarded the study as adequate for many years. CCMA maintains that the likelihood of "overlooking any important tumors was 'fairly low,'" despite the "limited histopathology," because tumors can usually be detected by gross examination. Ex., pp. 96–97. One of the petitioner's witnesses who helped develop the NCI guidelines testified that the "standard protocol" requires a microscopic examination of all the tissues from the high dose and control groups, and a microscopic look "only at grossly altered tissue and target organs from the low and intermediate levels." Busey, P. 152, p. 12. CCMA maintains that this type of examination is "precisely" what was done in the Webb study. Ex., p. 96.

(b) *Reply.* The Bureau in its reply maintains that current practice and the NCI guidelines with respect to histopathological examination were not followed. Reply, p. 22. The Bureau also regards the Webb rat study as deficient due to defects in gross pathology, the failure of CCMA to show Dr. Webb's qualifications, and other factors. Brief, pp. 12–16.

(c) *Analysis.*—(i) *Histopathological Examination.* In this study, "[a]bout 220 pieces of tissues" were sectioned and microscopically examined, "including all malignant and doubtful appearing masses, and various other lesions." P–2, p. 1. Under the NCI guidelines, a histopathological examination is to be made of all treated and control animals in chronic studies and the examination is to include over 20 specified tissue sites in addition to gross lesions and suspect tumors. G–11, p. 55. The Bureau maintains that, under current standards, full screens, under a microscope, are required of the high dose animals and controls, or at least a significant proportion of them, and a partial screen of tissues is needed of all the remaining animals. Reply, pp. 22–23. CCMA's pathology witness, Dr. Busey, also stated that full screens are needed for the high-dose and control groups, P–152, p. 12, see P–150, p. 35. However, in this study, no full screens were done of any feeding levels.

The Director of the Bureau's Division of Pathology (Weinberger G–218, p. 14) testified that "in some of the animals was a detailed or 'full screen' examination of tissues undertaken," and that "only a very small number of tissues" were examined. G–218, p. 14. In his opinion, the examination of "200 tissues" from 870 rats was "markedly deficient," and this methodology made it "almost impossible" to pick up small neoplasms, and "very difficult" to determine the primary site of others. Id. Because of these and other defects in this study, he doubted that the study could detect a weak carcinogen or subtle toxic effects, and had "strong reservations" about accepting its negative conclusions. G–218, p. 16.

At the intermediate dose feeding levels, CCMA believes that under the standard procotol it is sufficient to have a histopathologic examination of only "grossly altered tissues and target organs." P–152, p. 12. The Bureau believes that at least "partial screens" are necessary of 5–9 tissues from each remaining animal. Reply, pp. 22–23; Brief, p. 13. The NCI guidelines require an examination of a number of tissues in addition to those with obvious or suspect tumors. G–11, p. 55.

CCMA maintains that "representative samples" were examined in the Webb study in addition to abnormal tissues. Ex., p. 92. However, the sampling of "various other lesions" in the Webb study cannot be regarded as sufficient to satisfy current guidelines in view of the enormous difference between the number of tissues examined in the study (220 tissues) and the number examined in partial screening (4,000–7,000 tissues) of a full screening (11,000 tissues) in a study complying with NCI guidelines. Bureau Brief, p. 13 citing Weinberger. I find CCMA's position on whether the Webb study satisfies the NCI guidelines ambiguous. At some points CCMA states that the histopathology was "limited" and less than full (Ex., pp. 92, 96), but at another place it states that the NCI guidelines are "precisely what was done" in this study (Ex., p. 96). This description, however, may relate to a claim of compliance with the type of partial screening needed at intermediate feeding levels, rather than to the type of full screening needed at high dose and control levels.

In any event, for the reasons discussed above, I find that the Webb rat study does not meet the current standards for histopathologic examinations as found in the NCI guidelines because of the failure to have any full screens, and the failure to have at least partial screens of all animals.

CCMA also argues that the histopathological evaluation can be adequate even when the histopathology is limited because most tumors can be spotted by gross examination. Petitioner's witnesses estimated that "about 90%," "most neoplasms," and "about 95%" as "a rough figure" of all tumors would be detected by gross examination, for example, P–150(2), p. 35, P–152(2), pp. 12–13; P–156, pp. 16–17. On the other hand, a Bureau witness estimated that about 20 percent of tumors could be missed if only grossly visible neoplasms are given a microscopic examination. G–218, pp. 6–7. There were no published studies to show the number of tumors that would be missed, but the Bureau's witness cited examples of misses of 12 percent and one of 27 percent. Weinberger, Tr. pp. 560–61. Moreover it is clear that leukemias would be missed without a microscopic examination. Ex., p. 100. Lymphosarcomas are harder to diagnose without a microscope. Newberne P. 161, p. 31. Thus, it is clear that the failure to meet the current standards for histopathology reduced the ability of this test to detect any carcinogenic potential of Red No. 2. This deficiency, while disturbing at any time, makes it especially inappropriate to rely on this study as showing the noncarcinogenicity of Red No. 2 in view of the other indications of possible carcinogenicity of the color found in the later Andrianova and Taylor/Monlux studies. See also ID App., p. 19.

(ii) *Pathology Work.* Furthermore, the pathology would have to be of high quality if test results were to be relied on despite a histopathological review of inordinately limited scope. Here, there is reason for regarding the pathology work as of questionable quality.

The gross pathology was done on shrunken, hardened and discolored tissues fixed in formalin, rather than on freshly killed tissue. G–218, p. 14. CCMA witnesses did not think this created a great deal of difference and stated that FDA currently has tissues examined in formalin. P–153, p. 17, P–161, pp. 12–13. A Bureau witness, however, believed that the tissue-fixing methods used in the Webb study made observations "of necessity limited." G–218, p. 14. Use of preserved tissues is not a preferred practice. Tr., p. 384. Thus, I find that the use of tissues of this type, in the absence of histopathological examination, reduces confidence that the gross examination was adequate.

Moreover, there were several differences between the diagnosis made in the study and the diagnosis made by the petitioner's pathology expert (Busey, P–152(2)) in a review of the tissues in preparation for the hearing. The Bureau's pathologist believed that a comparison of individual animal diagnoses of Drs. Busey and Webb showed essential agreement in 50 percent, and "substantial differences" in 50 percent Weinberger, G–272, p. 7. The petitioner's pathology expert thought the differences minor (P–152(2), p. 14), and another of its experts believed the differences involved "less than 18 percent" if the calculations were made on the basis of all the tissues actually examined, and if "similar" diagnoses were eliminated. Newberne, P–161, p. 6. Cross-examination showed, however, that there is some basis for regarding the "similar" diagnosis as having important differences. Tr., pp. 890–93.

Thus, more than 18 percent of the diagnosis could be considered to be of questionable quality. The Bureau also believes that a calculation based on differences in positive diagnoses in animals provides a better reflection of the quality of the pathology work than differences in the diagnoses of all slides, because a diagnosis of no tumors is easier to make than the classification of a tumor which is found. Bureau Brief, pp. 14–15. Consequently, there is a substantial basis for regarding the pathology work as being of questionable quality. It would be inappropriate to assume that the gross pathology was so well done that it can be relied on to provide a basis for estimating the tumor incidence in the Webb studies even though the histopathological review was limited.

I find it unnecessary to reach the issue of whether the Webb study should be disregarded as deficient solely because CCMA did not show Dr. Webb's qualifications as a pathologist. The Bureau maintains that CCMA has the burden of proof to show the qualifications of Dr. Webb because CCMA seeks to rely on the study done by him. Bureau Brief, p. 22. According to the Bureau, Dr. Webb was a Doctor of Veterinary Medicine (DVM), and the petitioner's witnesses recognize that DVM training is insufficient by itself to qualify an individual as a pathologist. Bureau Brief, p. 22 citing Radomski, Tr., p. 254, Busey, Tr., p. 351. On ther other hand, CCMA urges that "a pathologist qualified to be employed" by FDA should be assumed to be qualified, unless FDA affirmatively shows his lack of qualifications. Ex., p. 102. Although I find the record unclear on whether Dr. Webb was specifically employed by FDA as a pathologist, it is clear he was assigned to do pathology work in the Webb study. I agree that an individual assigned to do pathology work by the Bureau should be assumed to be qualified for the assignment, unless the Bureau shows his lack of qualifications. However, even assuming Dr. Webb's qualifications for the initial assignment, the Webb study cannot be considered adequate to show the safety of Red No. 2, due to the insufficient amount of histopathology, and the questionable quality of the diagnoses actually made in the pathological evaluation, as discussed above.

(iii) *Limitations of Detection under NCI Protocol.* CCMA also seems to maintain that the Webb study should be considered adequate because the Bureau's pathologist testified that the test could detect a potent carcinogen, but not a weak one, and the same results occur under the NCI's criteria because all that can be detected under the standard NCI protocoal is a potent carcinogen. Ex., p. 101–02, citing Gaylor, Tr., p. 780; Newberne P. 161, pp. 6–7.

As Dr. Weinberger testified (G–218, p. 13), the Webb study could probably have detected a potent carcinogen, but he had "strong reservations" about its ability to detect "a moderate or especially a weak carcinogen." G–218, p. 13. It is also true that bioassays conforming to the NCI guidelines are most able to detect potent carcinogens and have less ability to detect weak carcinogens. But this limitation on the capabilities of tests meeting the NCI guidelines does not mean that the Webb study had an equivalent capability to detect a carcinogenic effect as a study fully complying with the NCI guidelines on histopathology. Dr. Weinberger testified as follows on cross-examination in response to questioning on this matter by CCMA (Tr., pp. 570–71):

> [Answer] I think that it is hard to be absolute in these answers, but I think that if the NCI guidelines were followed exactly as indicated, the possibility of picking up a week carcinogen would be much better, greatly augmented, over this study. I am not saying it would pick it up in every situation. You have to qualify it, how weak and what percentage and so on.
>
> [Question] Let us just try, if we may, again. Pursuant to the NCI guidelines, if one conducted a carcinogenesis study, would it detect, considering what those quidelines are, would it detect a weak carcinogen?

[Answer] I think in many cases it would.

* * * * *

[Question] So you testimony is that a weak carcinogen would be detected—

[Answer] Yes, at 5 percent.

[Question]—by a carcinogenesis study—

[Answer] I do not say it always would, but I say it certainly could.

[Question] How often, Doctor, in your opinion? Do you have an opinion?

[Answer] I could not say. I have no opinion.

Dr. Schneiderman also testified that some NCI studies suffer from the defect seen in the Webb and other early FDA studies, "but not nearly as much." G–227, p. 16.

Thus, the difficulty in detecting weak carcinogens makes it important to have tests that are as adequate as possible. The Webb study was clearly not as adequate as tests meeting current guidelines.

(iv) *Conclusion as to Webb Rat Study.* I believe that the deficiencies shown by the Bureau on Webb Rat Study, notably those concerning the inadequacy of the histopathology and gross pathology, make it inappropriate to rely on this study as showing to a reasonable certainty that Red No. 2 is not a carcinogen. I accept the Initial Decision to the extent it makes this finding.

3. *Evaluation of Sprague-Dawley Strain of Rats.* In the Webb study, two strains of rats were tested. One of the strains (Osborne-Mendel) had an autolysis rate that was acceptable and a survival rate that was borderline-acceptable (Weinberger, G–218, p. 15), but the study of this strain of rats was inadequate due to the deficiencies discussed above. The study of the other strain of rats (Sprague-Dawley) had other deficiencies. CCMA concedes that "too few" of the Sprague-Dawley rats survived to permit "meaningful analysis." Ex., p. 104. Consequently, CCMA believes that the Initial Decision was incorrect in giving any significance to the doubling of the breast tumor rate seen in the Sprague-Dawley strain. Ex., p. 105.

CCMA excepts to the ALJ's "efforts to dream up" some positive findings in the Webb study by focusing on this increase in breast tumors in the Sprague-Dawley rats. Ex., p. 105. According to CCMA, the survival rate was not adequate in this strain to permit statistical analysis, the increase was not significant, and a Bureau's pathology witness (G–217, p. 14) did not find the tumors significant. Ex. p. 105–06.

A poor survival rate makes it more difficult to detect an effect. It is arguable, therefore, that the finding as to breast tumors is entitled to some weight. G–226, pp. 13–14. Nevertheless, I do not believe that the observation of breast tumors in this strain of rats should be relied on as a part of the basis in this record for suspecting the carcinogenicity of Red No. 2 due to the lack of significance attributed to the study and the type of tumor by a Bureau witness (G–217, pp. 14–15), and the fact that in its brief the Bureau made only passing references to the finding without any further explanation of the Bureau's position. Brief, p. 24.

4. *Webb Mouse Study.* CCMA discussed the Webb rat study in its exceptions, but did not discuss the Webb mouse study separately. According to CCMA, the studies "were conducted under the same protocols by the same scientists; produced the same negative results; and have been subject to the same criticism. Accordingly, we here discuss only the rat study, since the same views apply to the mouse study." Ex., p. 91, n. 53.

I agree and find no need for an extensive separate analysis. The Webb rat study and the Webb mouse study presented similar issues, as the petitioner has pointed out. The evaluation of the exceptions concerning the Webb rat study has provided an adequate opportunity to evaluate the significance of the Webb mouse study, and to conclude that the latter does not establish the safety of Red No. 2.

The findings of fact concerning the Webb mouse study proposed by the Bureau in its brief to the Administrative Law Judge have been reviewed and adopted with one change. I have omitted to make any finding concerning the presence of a suggestive increase in male mouse tumors in the Webb mouse study because it is unnecessary to reach that issue. The other findings adopted in this decision adequately support the conclusion that the Webb mouse study does not demonstrate the safety of Red No. 2.

5. *Dog Study (P–5).* CCMA in its exceptions describes the Fitzhugh/Kasza dog study as providing further evidence that Red No. 2 is not a carcinogen. Ex., p. 90.

The Initial Decision contained an extensive discussion of the parties' positions on this study, and a description of the limitations of the study. The study's usefulness is primarily limited to helping evaluate the risks of bladder cancer. ID App., p. 23–26. The Bureau's reply emphasizes that a 7-year dog study is not a lifetime study (G–217, p. 9, Tr., p. 901), and, despite use of studies of this length for economic reasons, longer studies should be used when needed to make an adequate toxicological evaluation. Reply, p. 27. Moreover, the study had too few animals to be an adequate study. G–226, p. 30, G–218, p. 18, G–217, p. 8. A dog study of this length in these circumstances does not provide a sufficient basis to prove safety. Accordingly, I agree with the Initial Decision Appendix that this study is not useful "as a general finding of safety." ID App., p. 26.

D. *Short-Term Screening Studies.*—1. *Introduction.* Several short-term screening studies were conducted on Red No. 2. These studies attempted to detect the ability of Red No. 2 to induce mutagenic changes in cells because mutagenesis "has been shown, to some extent, to be predictive of a chemical's carcinogenic potential in higher animals." ID, p. 12. Positive mutagenic responses were observed with Red No. 2 or its known metabolites in one or more tests in the following test systems: cytogenic, Oster Drosophilia, mouse lymphoma and dominant lethal. The Ames test and yeast studies were negative. The host mediated assay was apparently negative.

2. *Initial Decision.* The Initial Decision provided the following summary of the short-term screening tests conducted, and their results.

> One type of microbial mutagenesis test run on Red No. 2 was the Ames test. Two such studies showed that Red No. 2 was not a mutagen in this test system. The mutagenic effects of Red No. 2 on yeast were also analyzed. Two of these tests were conducted and while one initially indicated positive results, the researchers attributed this to a "contaminant." Ultimately, the tests showed negative results.
>
> The host mediated assay is designed to test the mutagenicity of microorganisms exposed to the chemical through the ingestion of the chemical by an animal which contains the microorganism in its peritoneal cavity. This test method more closely approximates the range of metabolites which occur in the whole animal system. Two tests were conducted by Stanford Research Institute (SRI). While positive results were obtained initially, this effect was attributed to a contaminant and the second test showed no positive results.
>
> Mouse lymphoma tissue culture cells were also used to test for any mutagenic effect of Red No. 2. The chemical was positive for mutagenicity in this test system, and demonstrated a dose response. A series of tests on higher animals was also conducted to determine if there was any mutagenic effect from exposure to Red No. 2.
>
> Three studies were conducted using rats to test for mutagenesis by the dominant lethal technique. The FDA study demonstrated positive results. The SRI study showed pre-implantation loss at high-dose levels. The Kennedy study showed the same effect as the SRI study at all dosing levels.
>
> Three Drosophila studies were conducted, each using different strains of the species. One of these showed a positive response, while the other showed negative results.

Mutagenicity of Red No. 2 was also tested by noting chromosomal damage to the bone marrow cells of treated animals in two studies. Positive results were obtained in the FDA study for Red No. 2 and amino-R-salt, while the SRI study did not show this effect. The SRI also conducted an anaphase study on human lung tissue. Mutagenic activity was noted in this study. ID, pp. 13–14.

The ALJ concluded:

> The mutagenicity tests of Red No. 2 have culminated in mixed results. Some systems show consistently negative results, others show positive results, and a third class demonstrated results which varied from research group to research group. The apparently conflicting studies which used only a single test system often showed other differences, such as in the strain of the animal tested or a difference in the testing protocol. With such a variation in the results it is clear that the question of mutagenicity of Red No. 2 has not been definitively resolved. ID, p. 14.

3. *CCMA Exceptions.* In its original brief to the ALJ, CCMA argued that the short term tests showed Red No. 2 to lack carcinogenic potential. CCMA Brief, pp. 92, 137. In its exceptions, CCMA maintains solely that the tests, even if positive, only call for a chronic study, do not provide definitive answers, and cannot overcome the results in chronic feeding studies, which CCMA regards as negative. Ex., pp. 110–32. On this basis, CCMA excepts to the Initial Decision "insofar as it appears to find that the short term tests * * * raise serious questions with regard to possible carcinogenicity." Ex., p. 110.

CCMA also views the short-term screening studies as of "comparatively minor significance" and states that the Commissioner did not rely on these studies as the basis for denying the petition to list Red No. 2. Ex., p. 110. According to CCMA, greater weight be given to the chronic feeding studies, which in CCMA's view establish the noncarcinogenicity of the color. Ex., p. 23.

CCMA's exceptions contain 20 pages of discussion of the tests. In what seems to be the only summary of the basis for its objections, CCMA maintains that the mouse lymphoma test is unverified, and the "few" other positives are an "artifact of the testing procedure" or are "overcome" by the "more extensive negative tests" in the same system. Ex., p. 112.

CCMA also believes that ALJ distorted the record by viewing the short-term screening tests as relevant to mutagenicity when they should be viewed solely as a guide to carcinogenicity. Ex., p. 24.

4. *Bureau Reply.* The Bureau maintains that the positive findings show a "potential hazard" with respect to carcinogencity. The reply extensively discusses the CCMA's exceptions. Reply, pp. 28–41. The Bureau maintains that CCMA overemphasizes the negative Ames and yeast studies, which are not reasonably expected to be sensitive for Red No. 2, and that CCMA underestimates the significance of the positive results seen in some of the other tests.

5. *Analysis.* As the Bureau notes, the "mutagenicity of Red No. 2 is an issue in this proceeding only as the capacity of a chemical to cause mutations also demonstrates that it is, or may be, a carcinogen." Reply, p. 28, n. 15. I do not accept the Initial Decision to the extent it is interpreted as finding that mutagenicity is an independent basis for denying the petition since the parties agree that this basis for action is not an issue in this proceeding.

It is also clear that due to their limitations the short term screening studies cannot provide evidence to a reasonable certainty that Red No. 2 is not a carcinogen. CCMA does not assert in its exceptions that they could support such a finding even though it did maintain this position in its brief to the ALJ. CCMA now maintains simply that the studies are not definitive, even if positive, and cannot overcome the results of the chronic feeding studies, which CCMA views as negative. Ex., pp. 110, 112. Because I do not believe the chronic feeding studies done so far are fully adequate, the important issue is whether the positive findings in the short-term screening tests provide additional support for believing that a further chronic test is needed before the safety of Red No. 2 can be adequately evaluated. I believe that they do reinforce the conclusion from the review of the chronic feeding studies that the noncarcinogenicity of Red No. 2 has not been adequately shown.

It is unnecessary to discuss all the tests and exceptions in detail in view of the extensive analysis provided in the Initial Decision. ID App., pp. 1–17.

Instead, I will focus on the significance of the negative results in the Ames test, and the mixed results in the Drosophila tests on fruit flys the two test systems CCMA regards as having the most significance for evaluating the carcinogenic potential of Red No. 2, and the weight to be given overall to the results in the short-term screening study. Ex., p. 115.

(a) *Ames test.* The Ames test is rightly regarded as highly predictive of carcinogenic potential on this record with most experts considering it 90 percent or more reliable (G–224, P–151), but some believing it less reliable (G–223, p. 26, G–167, P–150(2), PP. 42–43.) The Ames tests on Red No. 2 were negative. As discussed in connection with CCMA's "general areas of exceptions," the Ames test is not a conclusive indicator of carcinogenic potential, and negative findings do not establish that a substance is safe. Dr. McCann of the Ames laboratory testified that negative results are not dispositive, deapite the 90 predictive value of the tests obaerved in the experiments so far conducted:

> One can never be sure that a negative response is a true negative, or whether it is one of the few kinds of carcinogens that the test doesn't detect very well.* * * I think in general a positive result carries more weight with it than a negative result. G–224, p. 6.

Furthermore, "complicating factors" reduce the reliability of the Ames test in predicting the carcinogenic potential of a substance like Red No. 2. Dr. McCann testified:

> But in my personal opinion in trying to draw a conclusion for Red 2, I would feel much more confident in the negative after we have had a chance to test a number of the other azo dyes that have the larger ring structure and that do have good animal cancer data. G–224, p. 7.

Moreover, the metabolism of Red No. 2 in the gut, rather than in the liver, makes the Ames test less reliable. Dr McCann stated that the test "most likely does not perform" the gut-type reaction very well and that she thought the system would not detect metabolic changes that occur from this type of reaction. G–224, p. 8, Tr., p. 412.

CCMA, though, points out that the known metabolites of Red No. 2 have been tested in the Ames test and found negative. Ex., p. 116, citing P–90, p. 9, P–101. On this basis CCMA argues that the Ames test findings on the breakdown products of Red No. 2 provide assurance about the safety of the substance and its breakdonwn products as metabolized in the human gut. However, this argument does not provide assurance about the safety of the unknown metabolites of Red No. 2, which are discussed below.

Even though I have not generally resolved the "chemistry" issue in this proceeding, the metabolism of Red No. 2 is relevant to the evaluation of the mutagenicity testing of Red No. 2's metabolites. The record shows that 69 percent of Red No. 2's metabolites are fully identified, but that the other part has not been recovered and is unknown. G–68. The petitioner's expert thought that the unidentified metabolites of the R-amino-salt became irreversibly bound to other compounds and, although the breakdown products could not be recovered by him, they would be rapidly excreted and be harmless. P–157, pp. 32–

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33. However, it is clear that at present nearly one-third of the metabolic breakdown products are unidentified. This lack of information precludes reliance on negative findings on the Ames tests conducted on Red No. 2 breakdown products because not all of the breakdown products of metabolism have been identified or tested. Moreover, as the Bureau suggests, the unaccounted for portion of the metabolic by-product R-amino-salt, whose breakdown is not fully understood, has only 2 sulfonic groups in it. If the R-amino-salt breaks down in more than 2 parts, some of these parts may not be sulfonated. Bureau Brief, p. 97. Accordingly, these breakdown products may not be as rapidly excreted and could be more potentially harmful than the other breakdown products of Red No. 2. Bureau Brief, pp. 96–97. Although this possibility is hypothetical, the possibility does underline the lack of reasonable certainty about the full identity of the breakdown products. Accordingly, it is inappropriate to rely on Ames tests done on the breakdown products of Red No. 2 when it is not fully established what the breakdown produts actually are when Red No. 2 is metabolized in the body.

CCMA suggests that the Bureau's witness, Dr. McCann, believed that the negative Ames tests on breakdown products of Red No. 2 were relevant because the metabolic by-products of Red No. 2 "were actually tested in the Ames system and found negative," Ex., p. 125, citing G–224, p. 8. Dr. McCann did testify that the breakdown products of Red No. 2 had been tested. However, it is clear from her full testimony that she testified about her expertise in the Ames test system, and that she did not claim to have expert knowledge about the metabolism of Red No. 2. G–224. It is also clear from the following testimony that she did not know whether all the metabolites of Red No. 2 have been found:

> Of course, there may be other metabolites that are generated in animals. And what proportion of those occur in the liver and what portion occur in the gut, I don't know. G–224, p. 8.

Thus CCMA is incorrect in suggesting that Dr. McCann's testimony establishes that there are negatives Ames test findings for all the actual metabolic by-products of Red No. 2.

(b) *Drosophila Tests.* As CCMA emphasizes in its exceptions, three laboratories conducted Drosophila tests and the results were negative in two of the tests and positive in one. According to CCMA the positive finding was "weak," the test involved many less fruit flies than the other tests and the controls in the positive test had an abnormally low rate of changes; therefore, the positive finding should not outweigh the negative findings in the same test series. Ex., pp. 118–21.

However, the positive result was seen in the "sex-linked lethal assay" (G–4) and this Drosophila test system is considerably more sensitive than the tests in which negative results were reported. Mayer, Tr. pp. 667–68, G–185, pp. 128–29, G–29, p. 277, G–28, p. 241, G–55, Brusick, Tr. 434. The smaller number of flies used in the positive test does not undercut its significance because the statistical evaluation took into account the smaller number of flies used and, nonetheless, the positive findings were statistically significant at the P=.02 level on first analysis, and above the P=.03 level in a later analysis. G–4, G–226, p. 45, Tr. pp. 415, 433.

The CCMA argument that the positive results should be discounted on the basis of a comparison with historical controls is not persuasive. The laboratory strain of flies used in the positive study had an historically low spontaneous rate, and the rate was consistent with those in the Red No. 2 experiment. Brusick Tr., p. 442; Mayer, Tr., p. 675. CCMA argues that the general historical experience in Drosophila should be used for comparison rather than the experience in one laboratory because all the flies belong to the same species, regardless of the strain. Ex., p. 120. The record indicates, however, that there are differences in strains. G–222, p. 28; see P–134, P–135.

Given the conflicts in results between positive and negative results in the same test system, I find that the negative results cannot outweigh the positive. More testing is needed to resolve the conflict, but in the absence of further testing with clear negative results, a question exists about the potential mutagenicity, and thus the potential carcinogenicity, of Red No. 2 on the basis of the positive results in the Drosophila test. G–222, p. 28.

(c) *Other Short-Term Screening Studies.* Positive findings were also reported in the cytogenetic, mouse lymphoma and dominant lethal tests. ID Ap., p. 5–10, 13–17. CCMA suggests that these positive findings in short-term screening studies are outweighed by the more numerous negative findings. Ex., pp. 112, 124. It would be inappropriate, however, to allow the positive findings in the Drosophila and other tests to be outweighed by the negative findings in the Ames test. As already discussed, the reliability of the Ames test for a substance like Red No. 2 is limited. The yeast test systems, which had negative results, may also be insensitive for a substance like Red No. 2 that is metabolized in the gut. G–222, p. 32. CCMA maintains that the host mediated study, which apparently had negative results, is sensitive for substances distributed to the "peritoneal cavity, i.e. gut" Ex., p. 126. However, the gut and peritoneal cavity are different. Reply, p. 33. Moreover, the insensitivity of this test is recognized by a CCMA witness (P–151, p. 26).

Furthermore, short-term screening studies have a limited sensitivity, and a chemical that produces a positive effect must be quite potent. Legator, G–223, pp. 19–20, Tr., 787. The positive finding in the cytogenetic test is particularly important because the test tends to be insensitive. Legator, G–223, pp. 20–21. The relative importance of the positive effects in the in vivo cytogenetic experiments is attested to by Dr. Legator, G–223, pp. 20–21:

> If I achieved negative results with every other test that one can do for mutagenicity, and if I had the cytogenetic evidence, I would say that that would be enough to declare a compound as a potential mutagen. In fact, probably the only criticism that can be made of the cytogenetic procedure is that it is likely to be insensitive. When you find a positive, that is sufficient to declare the compound as mutagenic. If I had a dozen or any number of in vitro tests that showed that the compound was or was not mutagenic, I would not list those in the same category as one good animal test such as the cytogenetic procedure.

Even though CCMA views the intraperitoneal route of administration as inappropriate in the cytogenetic test (Ex., p. 123, P–159), this route maximizes the effect, and is suitable for a short-term screening study of limited sensitivity. Tr., p. 806.

Thus, the positive findings in the short-term screening studies, which suggest a carcinogenic potential for Red No. 2, must be given considerable weight even though there are several negative tests. In view of the positive results, Red No. 2 should be regarded as a potential or actual mutagen, and thus a potential carcinogen. Mayer G–222, p. 38; Legator, G–223, pp. 20, 34.

E. *Conclusion on Carcinogenicity.* I find that the noncarcinogenicity of Red No. 2 has not been shown, due to the deficiencies in the Taylor/Monlux study and the Webb Rat Study, in combination with the questions of carcinogenicity arising from the Andrianova (Russian) study, and the lymphosarcoma finding in the Taylor/Monlux study singly and as reinforced by the total tumor findings in female rats in this test. These factors are sufficient to deny the petition for Red No. 2. The results from the short-term screening studies provide additional support for that conclusion.

IV. Chemistry Issues

A. *Introduction.* In addition to providing a hearing on whether the data established that Red No. 2 is not a carcinogen, the Notice of Hearing provided a hearing on whether the statutory considerations support a determination that Red No. 2 is safe. 41 FR 29896, 29897 (July 20, 1976). At the hearing, the Bureau introduced evidence to show that Red No. 2 could not be considered safe due to questions about its purity, stability and metabolism. In its brief to the ALJ and in its exceptions to the Initial Decision, CCMA has maintained that the ALJ should have excluded the Bureau's evidence on these three matters. CCMA also argues that if the issues are reached, they should be resolved in CCMA's favor.

The issues concerning the purity, stability and metabolism of Red No. 2 have been characterized as the "chemistry issue," by CCMA. The Bureau regarded the purity issue as an aspect of the "carcinogenicity issue" rather than as part of the chemistry issue (Bureau Brief, pp. 48–50). All of the issues are discussed in this Decision as part of the chemistry issues because all of them are affected by similar considerations with respect to the appropriateness of a definite resolution in this proceeding.

Before discussing whether the chemistry issues should be resolved in this proceeding, I will summarize the Bureau's evidence with respect to each of these issues, and CCMA's reasons for believing the issues should be decided in its favor. Then, I will discuss the disposition made in the Initial Decision, CCMA's arguments for excluding the chemistry issues, the Bureau's reply, and my reasons for not resolving the issues at this point in this proceeding.

B. *Parties' Contentions on the Chemistry Issues.* 1. *Purity.* At the hearing, the Bureau introduced evidence about the presence of an impurity, alpha naphthylamine, in Red No. 2 and it primary intermediate, as detected by Canadian and FDA investigators. G–269, G–220. Although CCMA disputed the point (CCMA Brief, pp. 200–01), the Bureau introduced evidence showing alpha naphthylamine to be a suspect carcinogen. G–197, G–251–58. The Bureau stated that it was "unknown" whether the positive findings in the chronic feeding studies on Red No. 2 were due to the presence of this impurity. Bureau Brief, pp. 48–49.

CCMA suggested that Red No. 2 could be considered safe, even if alpha naphthylamine might be a carcinogen, because the manufacturers can "remove" the alpha naphthylamine down to any level set in FDA specifications, "even if the specifications were in parts per billion." CCMA Brief, p. 199. CCMA also noted that science cannot measure to zero to assure complete absence of a substance; "the best that science can do is to remove something to the extent that the level approaches zero." Id., P. 198 at n. 1 citing Tr. 652.

On the other hand, the Bureau maintained that "[t]he efforts made to eliminate alpha naphthylamine from Red No. 2 are interesting but, if they are of no avail, as they apparently have been, they are irrelevant in light of the Delaney Amendment." Bureau Brief, p. 12.

2. *Stability During Manufacturing and Storage.* The Bureau maintains that it is reasonable to require proof of Red No. 2's stability before ingestion under conditions of its most important uses in view of the showing that Red No. 2 is unstable in some foods under ordinary conditions of use, the sparse data on its stability in most uses, and the burden of proof on CCMA to show safety. Reply, pp. 49–50; Brief, pp. 93–96, 109.

The Bureau introduced evidence to show that Red No. 2 degraded substantially under ordinary conditions of use in chocolate pudding cookies, beef-flavored analogues, toffees and some other foods. G–5, G–7, G–10, G–17, G–221.

According to CCMA, it is "impossible to answer all questions regarding the stability of any color additive," but nonetheless a substantial amount of evidence showed that there were no legitimate concerns about this aspect of the safety of Red No. 2. Ex. p. 133. CCMA maintains that it is *undisputed* that in the color's "widest uses" (in soft drinks, frozen desserts, dairy products and candy), it is completely stable. Ex., p. 134 citing P–162, p. 8. The Bureau's stability evidence relates only to foods like baked cookies, beef analogues and pudding. Ex., p. 134. In its reply, the Bureau recognizes that Red No. 2 has been shown stable in "some" uses, but states that little information is available on "most" of its uses. Reply, p. 49. Until Red No. 2 is tested for stability "in all of its major proposed uses," it should not be approved generally. Id.

CCMA also argued that Red No. 2 would be safe, even if unstable, because breakdown occurs in the same way that it occurs during metabolism, (that is, at the azo linkage) and only harmless metabolites are produced. Ex., p. 135, citing G–221, p. 7 and P–157, p. 5). CCMA further argued that both halves of the azo linkage are sulfonated, and that, like all sulfonated compounds, the breakdown products are resistant to absorption in the bloodstream, are rapidly excreted from the body, and are rendered non-toxic. Ex., p. 135, citing P–107, p. 31; P–157, p. 37. The Bureau rebuts this arguments by pointing out that in the study cited by CCMA not all the breakdown products were identified. Reply, pp. 49–50; Brief, pp. 94–95, citing P–154, p. 14, P–157, p. 35.

CCMA also maintained that in the foods in which Red No. 2 breaks down it would break down in the same way in test animals and in humans. Therefore if ingestion of the color does not cause harm, as shown in tests on animals, "then the same breakdown which might occur in some few commercial uses would be equally harmless." Ex., p. 139.

According to the Bureau, however, even if animal tests showed Red No. 2 to be safe after ingestion, the tests would not be relevant to show that it is safe with respect to breakdown products prior to ingestion since the color may break down differently in the air than in the body. Brief, p. 95, citing P–157, p. 35; P–154, p. 14.

The Bureau also maintained that Red No. 2 had not been shown to be safe because studies showed that under some conditions Red No. 2 could "readily" desulfonate and could liberate alpha naphthylamine or other potentially harmful byproducts. G–1, G–221, pp. 11–14, P–157, pp. 30–31. The Bureau considered this evidence to be relevant to show concerns about both the stability and the metabolism of Red No. 2. Bureau Brief, pp. 95–96, Reply, p. 50. CCMA argued, though, that the Bureau's evidence to show desulfonation relies on a process that is unrelated to the actual conditions of use of the color and that did not in fact desulfonate the color. Ex., pp. 136–137, citing Tr. 599–657.

3. *Metabolism.* The Bureau maintains that the metabolism of Red No. 2. in animals and in humans is not understood. Reply, p. 50; Brief, pp. 96–97. In one study, researchers were able to recover only 69 percent of a dose administered orally to animals, thereby confirming that they do not fully know the metabolic pathways of Red No. 2 or its toxicity. Reply, p. 50; Brief, pp. 96–97, 109.

The Bureau urged the adoption of a finding that the metabolism of Red No. 2 provides no evidence of its safety because it is not well understood. Bureau Brief, p. 110. In its Brief, the Bureau maintains that Red No. 2 cannot be considered safe until the metabolites are "better identified" and the questions about its metabolism and the fate of

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possible metabolites are satisfactorily resolved. Bureau Brief, p. 97. These questions apparently concern whether all the other metabolic by-products are excreted, as maintained by CCMA; whether Red No. 2 could be desulfonated by bacteria in the gut; and whether it could break down into several compounds, not all of which would be sulfonated. Reply, p. 50. CCMA regarded the possibility of desulfonation of Red No. 2 by bacteria in the gut as fairly "impossible." Ex., p. 138, citing Tr., p. 288.

C. *Initial Decision.* The ALJ noted that evidence concerning "the chemical properties" of Red No. 2 and "related chemicals" had been presented. Id., p. 18. He stated that the association of "related chemicals" to Red No. 2 "appears to occur" in three situations: (1) The dye "may contain some of its precursor chemical and breakdown products" before it is added to food; (2) the manufacturing processes and storage of food containing the color cause the formation of other chemicals from Red No. 2; and (3) Red No. 2 is modified or broken down when it is metabolized after ingestion. Id., p. 18.

The ALJ found that "consideration of the properties of Red No. 2 and its related chemicals raise additional unanswered questions as to the safety of the dye." Id., p. 19. The basis for this determination was the "suspicion" that certain metabolites of Red No. 2, formed by breakdown in the body after ingestion, are carcinogenic and that others are unidentified. Id., p. 18. The ALJ also referred to the "problems of degradation" of Red No. 2 during processing and storage, but it is unclear whether he regarded these problems as also creating "unanswered safety questions" or as ones that should be solved by the promulgation of definitive standards for the manufacture, storage, and use of Red No. 2. Id., pp. 18–19. The ALJ did not specifically rely on the purity issue.

D. *Exclusion of the Chemistry Issues; Exceptions.* CCMA objects to any consideration of the chemistry issues in this hearing because the issues were not specifically raised as a basis for the denial of the petition, and they were not set forth as issues for the hearing in the Notice of Hearing. Ex., pp. 43–58. Instead, the Bureau raised them at the Pre-Hearing Conference as issues to be considered as part of the general issue of the safety of Red No. 2 originally designated as a hearing issue at the request of CCMA. CCMA also maintains that adding the chemistry issues would violate the statutory procedures under which the Commissioner is to give his reasons for denying a petition before a hearing is held on objections to the decision. CCMA further argues that addition of the issues would also be inconsistent with the agency's regulations in 21 CFR 12.24 and 12.26 and the court decisions under which agency action must be justified on the grounds used by the agency and not on unasserted grounds.

In addition, CCMA maintains that it is improper to consider this issue in light of a statement in an FDA memorandum on the day after the hearing on Red No. 2 was granted by the then Commissioner. That memorandum stated that:

> Questions concerning stability cannot be answered with the current state of the act (sic) and, therefore, should not be a reason for not listing a color additive. It was agreed that listing regulations would be prepared for those color additives where stability under the conditions of use was the only remaining question to be answered. Ex., Attachment A.

CCMA believes that it would be "an unconscionable denial of fundamental fairness" to require it to resolve questions that cannot be resolved with the current state of the art. Ex., p. 58.

E. *Inclusion of Chemistry Issues; Bureau Reply.* The Bureau sets forth numerous reasons why the chemistry issues were proper issues in the hearing. Among other arguments, the Bureau maintains that if chemistry was an improper matter for consideration at the hearing CCMA should have raised an objection at the prehearing conference. CCMA's failure to object until its Brief before the ALJ was "much too late." Reply, p. 43. CCMA itself raised the chemistry issues in its objections to the Commissioner's order when it argued that the Commissioner failed to consider the statutory requirements of safety set forth in 21 U.S.C. 376(b)(3)(A), and that section requires the stability be considered an issue. Id., p. 44. The Bureau also argues that the stability issue is directly related to the cancer issue, which CCMA agrees is a proper issue in the hearing. Id., p. 45.

The FDA document cited by CCMA to show that stability was never intended to be an issue is double hearsay and is unclear as to whether it was intented to suggest that "stability could not be considered along with other safety considerations at a hearing even though not serving as a separate rationale for not listing a color." Id., p. 48.

Section 371(c)(2) of 21 U.S.C., cited by CCMA, does not state that the hearing may consider only those matters on which objections are filed. Id. Finally, the Bureau urges that notice is the only relevant iasue, and that CCMA had ample notice and in fact introduced witnesses who testified on the stability issue. Id.

F. *Analysis.* I believe there is no legal obstacle to consideration of the chemistry issues, in all their aspects, even though they were not included as issues in the notice of hearing. However, even though it would be permissible to consider them, I believe I should not consider them here because it is unnecessary to do so, and because the issues need further examination on a better record and in a broader public proceeding.

I am not persuaded by the arguments of CCMA that the agency is precluded from considering a new issue at a formal hearing solely because it was not specifically included in the notice of hearing. The issues for the hearing were broadly stated, and the specific issues were expressly added by the presiding officer. FDA's current procedural regulations (21 CFR 12.35(b)) permit the presiding officer to add issues to those in the notice of hearing. Moreover, CCMA apparently agreed to the addition of the chemistry issues at the Pre-Hearing Conference. (Tr., p. 59, August 9, 1976) and fully litigated the issues. Consequently, the introduction of the issues into the hearing involved no lack of notice or other procedural unfairness to CCMA.

The Administrative Law Judge correctly rejected CCMA's argument that the hearing must review only the ground expressly asserted by the agency in the Notice of Hearing. Id., p. 6. The agency may rely on grounds not in the original complaint when the party has had notice and a full opportunity to defend. *Golden Grain Macaroni Co.* v. *FTC.* 472 F.2d 882, (5th Cir., 1972), cert. denied, 412 U.S. 918 (1973).

The court cases cited by CCMA, such as *SEC* v. *Chenery Corp.*, 318 U.S. 80 (1943), are not analogous. The cases require an agency to defend agency actions upon judicial review on the grounds articulated by the agency, rather than on post hoc rationalizations first stated in court after the completion of the administrative process. CCMA would apply that principle to preclude an agency from relying on any basis for an administrative decision that had not been expressly stated in the initial notice of hearing, even though the parties had been informed of the specific issue before the hearing and had litigated its relevance to the decision in the administrative process. The proposed extension of the *Chenery* line of cases is unwarranted. The purpose of the *Chenery* rule is to provide the court with the agency's contemporaneous reasons for its action. That purpose has no application to the

administrative process within an agency.

CCMA also cites in support of its position judicial decisions that an agency may not "change theories in midstream without giving respondents reasonable notice of the change." Ex., p. 56, citing *Rodale Press Inc.* v. *FTC.* 407 F.2d 1252, 1256 (D.C. Cir. 1968). Leaving aside the question of whether the agency has changed theories, it is clear that CCMA has had reasonable notice of the chemistry issues, and therefore these cases do not support its position.

The statute should not be interpreted as barring the addition of hearing issues. To do so would preclude the addition of issues that might be important to a sound decision, and that might eliminate the need for a subsequent, largely repetitive hearing. The added issue may grow out of the issues already present. The CCMA argument that FDA's regulations in 21 CFR 12.24 and 12.26 preclude addition without prior consideration by the Commissioner of the objections is in error in view of the clear provision in 21 CFR 12.35(b) permitting the addition of issues, and the fact that 21 CFR 12.26 relates to modification of a rule to eliminate or alter the need for a hearing, and not to the addition of issues after a hearing begins.

Nonetheless, although additional hearing issues "may" be added by the presiding officer, it is not always reasonable and appropriate to add them. I believe that it is not necessary to consider the chemistry issues at this point because the absence of chronic feeding studies adequate to show the safety of Red No. 2 provides, as already discussed, a sufficient basis for denying the petition for permanent listing of Red No. 2 as a color additive. Consequently, it is unnecessary to decide whether the chemistry issues provide separate grounds for denying the petition. If further testing is done that shows Red No. 2 to be safe, it will then be necessary to consider whether there are additional grounds, on the basis of chemistry or any other factor, for denying the petition.

The chemistry issues involve complicated and important matters, on which agency policy is still developing. These questions include the specifications to be set to detect impurities in a color additive when an impurity is a suspect carcinogen and a starting material in making the color, and the overall treatment of nonfunctional constituents of food and color additives. Because these matters were not set as hearing issues, the Commissioner did not need to state before the hearing the agency's position on them. Once the notice of hearing was issued, the agency's regulations imposed a separation of functions requirement, which precluded discussion of the policy issues between the Bureau and the Commissioner. 21 CFR 10.55. As a result, this proceeding did not have the benefit of the usual discussion that occurs when the agency is developing its policy in a new area prior to a hearing.

The record in this proceeding is limited to Red No. 2, and consequently the impact of any general resoluton of the chemistry issues upon other color additives is not apparent from this record. I am reluctant to establish precedent that could have a broad impact on many matters outside this record when it is not necessary to do so, and when deferral of this issue will permit both broader public comment and further deliberation within the agency on the general policy issues.

Moreover, these issues, important as they are, appear to have played a minor role in the hearing. The record is sketchy and less focused and informative than is desirable for a definitive resolution of these matters. For example, it is not clear whether the Bureau believes full metabolic data would be necessary if there were an adequate chronic feeding study that showed the safety of Red No. 2. The Bureau urged the ALJ to adopt a finding that the metabolism of Red No. 2 is not well understood, and, therefore, "provides no evidence of safety." Bureau Brief, p. 110. Although a lack of understanding of metabolism cannot contribute to a showing of safety, this proposed finding seems to stop short of maintaining that gaps in metabolic data necessarily and independently preclude a finding that a substance is safe.

Analogously, on the impurity issue, CCMA has suggested, as stated above, that Red No. 2 could be considered safe even if it is made from a starting material that may be a carcinogen because the manufacturers can "remove" the *alpha*-naphthylamine down to any level set in FDA specifications, "even if specifications were in the parts per billion." CCMA brief, p. 199. In its Brief to the ALJ, the Bureau stated that the efforts to eliminate *alpha*-naphthylamine are "interesting, but, if they are of no avail . . . they are irrelevant in light of the Delaney Amendment." Bureau Brief, p. 12.

Although the Bureau's position may be the correct one for the agency to adopt, because this issue of the level of specifications for impurities can arise with other colors, it is preferable to resolve this issue in a separate proceeding that permits broader public scrutiny.

Similarly, the stability issue is not ripe for decision. The Bureau has shown that certain uses of Red No. 2 are unstable, and states that other uses are stable but does not identify them. CCMA maintains that it is "*undisputed*" that Red No. 2 is stable in its "widest uses." Ex., p. 134. It is unclear whether or not the Bureau agrees with this statement. The issue is too important to resolve definitely on a record that is so unclear. The Bureau called for stability testing of Red No. 2 "in all of its most important uses" Reply, p. 49. Although some further testing appears desirable, I am unsure which food uses would be covered by the finding that more testing is needed and in which uses Red No. 2 has already been shown to be stable. Furthermore, CCMA suggests that changes in manufacturing practices and the conditions of use could eliminate the stability problems. Ex., p. 134, n. 70.

The Bureau also introduced evidence to show that Red No. 2 can break down before ingestion in a way that desulfonates it and may produce harmful by-products. G–1. CCMA maintained that the process of desulfonation used in this test is not reasonably related to the conditions in which Red No. 2 is used in food. Ex., p. 136, citing Bureau witness Link, Tr., pp. 606–57. The Bureau's response to this contention is not clear from the record. A Bureau witness also suggested that color changes in certain foods indicated desulfonation could be occurring (Link, G–221, pp. 13–14), but CCMA suggested another explanation for the color change. CCMA Brief, p. 193 citing G–22, Link, Tr., p. 623. I do not see in the record an explanation of why this particular color change is associated with desulfonation. It may be that the Bureau could make a better showing on this matter if it became the focused basis for a possible denial of approval. Consequently, I will refrain from making any further conclusions on this issue because the record is inadequate to resolve it with confidence.

For the reasons stated, I do not decide the chemistry issues, including the issues of stability, metabolism and purity.

V. *Topical Uses of Red No. 2 in Cosmetics.* A. *Initial Decision and Record.* The Commissioner's order denying the petition for permanent listing of Red No. 2 applied to its "use in food, drugs, and cosmetics." 41 FR 15053 (April 9, 1976). The original petition (CAP No. 38) filed in 1968 sought approval for use in foods, drugs, and cosmetics. Docket 76C 0033, No. 4. Letters to the Commissioner from Hazleton Laboratories, Inc., September

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16, 1965. That the topical use of Red No. 2 was intended to be included in that petition is evidenced by a "Proposed regulation" attached to the petition and made part of it by reference wherein it is stated:

(b) Uses and Restrictions: The color additive is safe for general use in coloring foods, ingested or topically applied drugs, lipsticks, and other cosmetics * * *.

In addition, in a May 14, 1974 letter to the Commissioner, the CTFA, successor organization to one of the petitioners, amended the proposed regulations contained in the petition to state:

The color additive is safe for general use in coloring topically applied cosmetics including those intended to be used in the area of the eye.

Docket 76C 0033, No. 4, letter to the Commissioner from Cosmetic Toiletry, and Fragrance Assn., May 14, 1974. It is thus clear that the petition (CAP No. 36) included topical uses of Red No. 2 and that when the Commissioner denied the petition for the permanent listing of Red No. 2 as a color additive for use in foods, drugs, and cosmetics, his order included topical uses of the color.

CTFA objected to the denial of the petition to the extent it related to use in cosmetics applied topically, but CTFA did not request a hearing because it intended to file a new petition for use of Red No. 2 in externally applied cosmetics and request a hearing if that petition were denied. The Commissioner stated, however, that the CCMA's objections and request for a hearing concerning the Commissioner's finding that Red No. 2 has not been shown to be safe raised the color's safety for all intended uses. The Commissioner concluded that the issues raised by CTFA's objections would necessarily be aired at the evidentiary hearing and that a "separate and repetitive hearing on the same issues" would not be granted if a new petition were filed. 41 FR 29896, 29897 (July 20, 1976). The Commissioner granted a hearing on, among other things, whether Red No. 2, if not approvable for all petitioned uses, may be approvable for certain limited uses. Id.

Both CCMA and CTFA appeared at a prehearing conference and objected to the inclusion of topical uses as an issue. Transcript of Pre-Hearing Conference at 6–8, August 9, 1976. In a pre-hearing order, the ALJ ruled that the safety of the topical use of Red No. 2 was properly an issue in the hearing. Id. at 9–10.

Neither CCMA nor CTFA took an interlocutory appeal from this order, as each could have done. See 21 CFR 2.89 (1976) as modified by order of the ALJ. Id. at 5. CTFA later withdrew from the proceeding and stated that it was unnecessary for it to appear with respect to ingested cosmetics and that consideration in the evidentiary hearing of topical uses would be "inappropriate and unlawful." In its Withdrawal of Appearance, CTFA stated that CCMA's objections related to the other uses of Red No. 2 had been withdrawn to the extent they could be construed as applying to topical uses. Furthermore, CTFA argued that the safety of Red No. 2 for topical uses had not been properly evaluated by FDA, and the FDA denial of listing "was based solely on safety questions allegedly raised by studies relating to ingestion of the additive." Docket 76C 0033, No. 29, Withdrawal of Appearance of CTFA, p. 2.

The Initial Decision does not discuss the applicability of the proceeding to topical uses, but finds that Red No. 2 cannot be approved for certain limited uses (in effect prohibiting topical uses), and recommends an order that would completely deny the petition for permanent listing. Id, p. 20–21. No exceptions were taken on this point, but the Bureau in its reply suggested that it would be appropriate to discuss the evidence on topical uses in this decision. Reply, p. 3 n. 1.

The Bureau was the only participant to present information at the hearing about topical uses. Testimony indicated that Red No. 2 used in cosmetics would be expected to go through the skin but the amount could not be estimated without an experiment. Scheuplein, G–225, p. 10–11. Other evidence related to the inadequacies of animal skin painting studies on Red No. 2 to show its safety with respect to the risk of skin cancer. Weinberger, G–218, p. 20. CCMA introduced no evidence on topical uses and even proposed a conclusion of law that "no evidence was introduced in this hearing on the topical uses of FD&C Red No. 2, and accordingly, it was not shown to be safe for this use." CCMA Brief, p. 226.

B. *Analysis.* As indicated earlier, the order denying the listing of Red No. 2 applies to all its uses, including topical uses. 41 FR 15053 (April 9, 1976). Consequently, the order issued by the Commissioner applies to the topical uses of Red No. 2, and interested persons had an opportunity to obtain a hearing on the appropriateness of that order. Since no evidence was introduced at the hearing to show that Red No. 2 should be permitted to be used in topical applications, there is no reason to alter the original order that denies completely the petition to list permanently Red No. 2. In this proceeding, I have determined that Red No. 2 cannot be approved for use as a color additive because there is no adequate study that shows with reasonable certainty that it is not a carcinogen. I believe that a repetitive hearing on the same issues should be avoided in the future.

VI. Findings of Fact

Cancer

1. The Webb rat study (P–2) is deficient and cannot be considered as important evidence of the safety of Red No. 2 for the following reasons:

a. Insufficient histopathologic examination was conducted or animal tissues in this study. G–11, p. 51; Borzelleca, T. 114; Weinberger, G–0272, G–218, p. 14.

b. The gross pathology in the study was not acceptable because it was performed on shruken, hardened, and discolored tissues, which had been fixed in formalin. Weinberger, G–218, p. 14.

c. The test animals suffered from intercurrent disease, which was unrelated to the test chemical. This fact made attribution of any effect or lack thereof to Red No. 2 impossible. Smuckler, G–217, p. 15.

d. Due to low survivorship and a high rate of autolysis, the number of animal tissues examined in the study was insufficient to provide confidence that the study would have detected a carcinogenic effect of the chemical. Weinberger, G–218, p. 15; Smuckler, G–217, p. 15.

2. The 1961 Webb mouse study (P–3) cannot be deemed proof of safety of Red No. 2 for the following reasons:

a. Low survivorship and autolysis lowered the number of observable tissues to the extent that the study was unable to detect any but the stronger carcinogen. Weinberger, G–218, pp. 17–18; Schneiderman, G–227, p. 11.

b. The quality of the gross pathology in this study was unacceptable. Weinberger, G–218, p. 17.

c. The histopathology performed following sacrifice was inadequate. Weinberger, G–218, p. 17; Smuckler, G–217, p. 19.

d. Intercurrent disease, including parasites, pervaded the mouse population and thereby rendered impossible attribution of any effect or lack thereof to the chemical. Smuckler, G–217, p. 20.

3. The dog study (P–5) cannot be given any weight in proving the safety of Red No. 2 due to the small number of dogs administered the compound in the study. Gaylor, G–226, p. 30; Weinberger, G–218, p. 18; Smuckler, G–217, p. 8. Furthermore, the dog is not a good animal to use in such a study unless the purpose of the study is specifically to look for bladder tumors. Smuckler, G–217, p. 9.

4. The results from the FDA Taylor/Monlux chronic feeding study (P–6, P–7, 1975) provide strong presumptive evidence of the carcinogenicity of FD&C Red No. 2. Gaylor, G–226, pp. 18 ff; Schneiderman, G–227, pp. 17–18.

5. In the Taylor/Monlux chronic feeding study there was a dose response concerning lymphosarcomas. Gaylor, G–226, pp. 25–6; Schneiderman, G–227, p. 18.

6. The so-called mix-up in the Taylor/Monlux chronic feeding study could only have meant that the true cancer rate caused by Red No. 2 may be greater than, but could under no circumstances be less than, that shown in the study. Gaylor, G–226, pp. 26, 41–43. The extent and impact of the mix-up cannot be determined with reasonable confidence. P–41, Minutes of Toxicology Advisory Comm., p. 4 (March 8–9, 1976).

7. The deficiencies in the Taylor/Monlux chronic feeding study, to the extent that they effectively decreased the number of tissues that could have been examined histopathologically after 24 months, could only cause greater concern about the carcinogenicity of Red No. 2, because the smaller a study that picks up a positive effect, the more potent that effect must be. Gaylor, G–226, p. 39; Schneiderman, G–227, p. 13.

8. The variety of tumors seen in the Taylor/Monlux chronic feeding study raise a suspicion of cancer and preclude a finding based on that study that the substance is not a carcinogen. Farber, G–219, p. 7.

9. The Taylor/Monlux chronic feeding study is inadequate to evaluate the safety of Red No. 2 due to the high incidence of intercurrent renal disease. Smuckler, G–217, p. 23.

10. The finding of a dose response in lymphosarcomas in the FDA chronic feeding study is important in light of the finding of lymphosarcomas in the Andrianova study. (G–14).

11. Simultaneous statistical inference is an inappropriate technique to use to analyze dose-response data because it ignores relevant biological information (Gaylor, G–226, p. 27, Tr., p. 949), and may increase the risk of a false negative to unacceptable levels (Tr., p. 971).

12. A one-tail test is more appropriate than a two-tail test for analyzing data from experiments to determine safety because a one-tail test will give the maximum information about the safety of the test compound. Schneiderman, G–227, p. 19.

13. The Russian study by Andrianova (G–14) supports the conclusion that FD&C Red No. 2 has not been shown with reasonable certainty not to be a carcinogen because the Russians obtained a highly statistically significant positive result for the amaranth, tested against both positive and negative controls. Gaylor, G–226, p. 29.

14. It is uncertain whether the Andrianova study tested a substance that is chemically equivalent to FD&C Red No. 2. P–16, pp. 13–14, P–145.

15. The other studies by Mannell and Grice (P–1), and Nelson (G–270) do not provide evidence of the safety of Red No. 2 because, inter alia, the studies were too small to allow confidence in a negative result. P–150(2), p. 52, G–208, p. 9.

16. One cannot conclude from the fact of long-time use of FD&C Red No. 2 in the food supply that it is safe. Legator, G–223, pp. 30–31.

Mutagenicity

17. A chemical that is a mutagen is also a potential carcinogen. G–222, p. 35; G–223, pp. 28–29; G–224, pp. 4–5; P–151, pp. 16, 30–31, 35, Tr., pp. 867–68.

18. Results achieved in cytogenetics experiments, a short-term screening study for mutagenic potential, indicate that Red No. 2 and a known metabolite are potential carcinogens.

a. Dr. Legator, witness for the Bureau, is a recognized expert in in vivo cytogenetic testing. G–223, pp. 6–7.

b. The in vivo cytogenetics experiment performed by Frances Moreland produced positive cytogenetic effects for the R-amino salt metabolite of Red No. 2 and for Red No. 2 itself. G–3, p. 4; G–223, p. 17; Tr., p. 792.

c. The in vitro anaphase cytogenetics test performed by the Stanford Research Institute also showed a cytogenetic effect caused by Red No. 2. P–90, pp. 36, 38; G–223, p. 19; Tr., p. 801.

d. The use of intraperitoneal administration in an in vivo cytogenetics experiment is appropriate (Tr., p. 806; G–223, pp. 15, 16), and in fact is advisable because it maximizes the chance of observing a positive effect. Tr., pp. 805–806.

e. Chromatid and chromosomal breaks, observed in the cytogenetic studies, are clear indications that the substances tested cause cytogenetic effects, since any substance that causes chromatid breaks will also cause the other types of aberrations observable in cytogenetic experimentation. Tr., pp. 786–787, 798, 857.

f. Dr. Brusick's criticism of the in vivo cytogenetics test results on the ground that the concurrent controls used for evaluation had an abnormally low spontaneous rate of cytogenetic effects, as compared to an average spontaneous rate in different strains in historical controls, as observed in other laboratories (Tr., pp. 430–31), is invalid. There is a great deal of variability between strains (Tr., pp. 428, 670) and between laboratories (Tr., p. 436) and between particular effects (Tr., p. 437) in evaluating the results of cytogenetic tests (Tr., p. 443). The historical control results against which Dr. Brusick was measuring concurrent controls in several tests were from averages or ranges using unspecified strains or sublines observed in different laboratories under unspecified conditions (P–151, pp. 42–43) or reflected a range of historical spontaneous background aberrations observed in other laboratories under unspecified conditions (P–151, p. 48). These are invalid comparisons for the purpose of establishing and utilizing a control for the evaluation of data from a particular experiment (Tr., pp. 77, 439). He also agreed that if a particular strain had a consistently low control level, the use of that control level value is proper. (Tr., p. 870).

g. The positive results achieved in the cytogenetics experiments suggest that a test substance, in this case, FD&C Red No. 2, is in fact a carcinogen. Tr., pp. 862, 868, 790–91, 795–96.

19. Mutagenesis testing in drosophila produced strong evidence that Red No. 2 is a mutagen.

a. The two drosophila tests that did not produce positive results with Red No. 2 do not invalidate the strong positive achieved in the Oster study because more than two non-positive tests would be required to negate a positive test even if the conditions under which all were performed were identical (G–227, p. 24; Tr., p. 669); and because (1) the test strains used in the three studies were different (G–222, p. 28) and (2) the test flies used in the Oster study were starved, providing a certainty, not present in the other two tests, that the flies actually consumed the Red No. 2 used (G.–222, p. 28).

b. Red No. 2 produced clearly positive mutagenetic results in two tests run by Dr. Oster (G–4, p. 1; G–226, pp. 44–45; G–222, pp. 21, 26–27), of particular importance in light of the admitted expertise of Dr. Oster in drosophila testing. P–151, p. 43.

c. The charge that the Oster study was too small is invalid in light of the fact that the statistical analysis of the study took into account the study size and still found a significant positive result. Tr., pp. 415, 443.

d. The Oster study results were based upon a valid concurrent control, which was in line with other control figures achieved by Dr. Oster in the same laboratory at about the same time, the most appropriate control group to use

for purposes of comparison (Tr., p. 442) in light of the fact that strains may vary in the levels of spontaneous mutations they produce (Tr., pp. 870, 872). The finding is particularly significant in light of the fact that statistical significance was found when the positive results observed were compared with the combined negative control figures for all of the experiments that Dr. Oster performed. Tr., p. 675.

e. In light of the fact that the sex-linked recessive lethal test is more sensitive than the other tests run by Dr. Oster (Tr., pp. 434, 667–68; G–185, pp. 128–29), it is not significant that the less sensitive tests performed by Dr. Oster do not show a mutagenetic effect for Red No. 2. Tr., pp. 667–68.

20. The R–amino salt of Red No. 2 produced a clearly positive result in the specific locus assay utilizing L5178Y mouse lymphoma.

a. The results achieved in the mouse lymphoma assay were clearly positive (G–165; G–223, p. 23; G–151, p. 70). If the mutagenetic effect observed is caused by the quinone of the R-amino salt, cause for concern remains since quinones are known to be formed in the body. G–165.

b. Results in the mouse lymphoma assay appear to correlate well with carcinogenesis. P–151, pp. 73–74.

21. The positive result observed in the dominant lethal assay, particularly in light of the insensitivity of that test, shows that Red No. 2 is mutagenic.

a. The dominant lethal assay is considered to be the least sensitive mutagenicity test. G–223, p. 22, Tr., p. 468.

b. A positive effect caused by the R-amino salt of Red No. 2 was observed in a dominant lethal assay. G–165; G–226, pp. 51–52.

c. Dr. Brusick's criticism of the positive finding as being caused by an abnormally low rate of spontaneous dominant lethal effects in the concurrent control is unsupported and may be the result of comparison with historical controls, which can vary in incidence of spontaneous dominant lethal effects due to several factors, including the solvent used. Tr., pp. 436, 477–78.

d. Dr. Brusick's criticism of the positive dominant lethal study as using too toxic a dose in the highest level of administration is speculative. Tr., p. 472.

e. Dr. Brusick's suggestion that the dominant lethal assay should be used as a "risk evaluation test" and his contention that the dominant lethal assay should use the relatively insensitive ingestion route of administration are not accepted in light of the fact that the dominant lethal assay is relatively insensitive (Tr., p. 468) and that, by Dr. Brusick's own admission, the finding of a negative in a dominant lethal test provides no assurance that the chemical tested is not a carcinogen. Tr., p. 868.

22. The failure of Red No. 2 and four of its known metabolites to produce a positive effect in the Ames bacteria test does not indicate that Red No. 2 is not a mutagen.

a. A negative response in the Ames test should not be taken as an indication that the chemical involved is clearly not a mutagen. G–224, p. 6; G–223, pp. 20, 25–26.

b. Since Red No. 2 is metabolized in the gut rather than in the liver (G–224, p. 8; P–151, p. 62), Red No. 2 may well need to be metabolized before it causes a carcinogenic effect (P–151, pp. 34–35), and would not be expected to cause a mutagenic effect in the Ames test, even if it were a mutagen and carcinogen. P–151, p. 35; G–224, p. 8.

c. The testing of the known metabolites of Red No. 2 in the Ames test does not show that Red No. 2, when metabolized in the body, would not be mutagenic because it is not known what all of the metabolites of Red No. 2 are. Tr., pp. 410, 505; G–224, p. 8; G–223, p. 25.

d. Because Red No. 2 requires bioactivation in an organ other than the liver, the Ames test is insensitive test for determining its mutagenicity. Tr., 412; G–223, p. 24–25; P–159, p. 6.

23. The yeast studies done with Red No. 2 and its metabolites do not show them not to be mutagens.

a. The yeast study may have the same need for proper bioactivation as the Ames test. G–222, p. 32.

b. Yeast cells are not as permeable to larger molecules as are, for instance, the modified bacteria used in the Ames system and thus may be less likely to show a mutagenic effect. G–222, p. 32; Tr., p. 500.

24. No other study shows Red No. 2 not to be mutagenetic.

a. Neither the test for teratogenicity nor the multi-generation reproductivity study is an acceptable study for mutagenicity, since it would be very unlikely that anyone would observe a mutation in them. Tr., p. 427.

b. The host-mediated assay is so insensitive that it has been discontinued as a screening tool in many testing laboratories. P–151, p. 26.

25. CCMA's suggestion that the positive results achieved with the R-amino salt in the Moreland cytogenetic tests, the FDA dominant lethal test, and the mouse lymphoma test could be ascribed to an impurity in the sample used is speculative (Tr., pp. 856–57) and conflicts with what evidence there is on this subject. Tr., pp. 808–09.

26. The range of results achieved with Red No. 2 in mutagenicity testing is not unusual for an active mutagen (G–223, p. 20; Tr., pp. 434–35; G–224, p. 7), and it is thus necessary to consider the entire set of results achieved. G–224, p. 6; G–223, pp. 26–27.

27. Expert opinion indicates that Red No. 2 has been shown by mutagenicity testing to be a potential carcinogen. Mayer, G–222, p. 38, Legator, G–223, p. 34.

Topical Uses

28. Petitioner submitted no evidence of safety of Red No. 2 for topical uses.

29. Red No. 2, when applied topically, is reasonably expected to be absorbed through the skin, although the amount that would be absorbed cannot be estimated without an experiment. Scheuplein, G–225, pp. 9–11.

30. The skin painting studies (G–118, 119) cannot serve as evidence of Red No. 2's safety in regard to skin cancer, since their duration was short (90 days), survivorship of the animals was low, and autolysis was unacceptably high. Weinberger, G–218, p. 20.

VII. Conclusion of Law

1. The burden of proof in this hearing rests upon the Petitioner, who must prove safety on all issues to a reasonable certainty.

2. Petitioner has not proven to a reasonable certainty that FD&C Red No. 2 is not a carcinogen in man or animals.

3. Petitioner has not proven to a reasonable certainty that FD&C Red No. 2 is safe for topical uses.

VIII. Order

The petition for permanent listing of FD&C Red No. 2 (CAP 36) is denied.

In accordance with sections 701(e)(3) and 706(d) of the act (21 U.S.C. 371(e)(3) and 376(d)) this order is made effective April 24, 1980.

Dated: January 15, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

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January 25, 1980

Part III

Interagency Regulatory Liaison Group (IRLG)

Report on IRLG: Recent Accomplishments and 1980/81 Plans

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INTERAGENCY REGULATORY LIAISON GROUP

Report on IRLG; Recent Accomplishments and 1980/81 Plans

AGENCY: Interagency Regulatory Liaison Group (IRLG), representing the Consumer Product Safety Commission (CPSC); the Environmental Protection Agency (EPA); the Food and Drug Administration, Department of Health, Education and Welfare (FDA); the Food Safety and Quality Service, Department of Agriculture (FSQS); and the Occupational Safety and Health Administration, Department of Labor (OSHA).

TITLE: Interagency Regulatory Liaison Group Report—"IRLG: Recent Accomplishments and 1980/81 Plans."

AGENCIES: IRLG is composed of CPSC/EPA/FDA/FSQS/OSHA.

ACTION: Report on IRLG accomplishments and plans.

SUMMARY: This notice publishes and requests comments on a report of IRLG activity entitled: "IRLG: Recent Accomplishments and 1980/81 Plans." Comments are requested both on the plans and on specific activities which afford the most effective opportunities for public participation.

DATE: Written comments are requested to be submitted on or before April 9, 1980.

ADDRESS: Written comments should be addressed to Ms. Susan Guenette, Executive Assistant, Interagency Regulatory Liaison Group, Room 509, 1111 18th Street, N.W., Washington, D.C. 20207. Comments maybe examined in the IRLG Office located at the above address from 9:00 a.m. to 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION OR QUESTIONS CONTACT: Ms. Susan Guenette, 202–634–4356.

FOR COPIES OF THIS NOTICE CONTACT: Industry Assistance Office (TS 799), U.S. Environmental Protection Agency, 401, M Street, S.W., Washington, D.C. 20460; or telephone toll-free 800–424–9065 or in Washington 554–1404.

SUPPLEMENTARY INFORMATION:

Background

The Interagency Regulatory Liaison Group was formed in 1977 by the heads of four agencies—Consumer Product Safety Commission, Environmental Protection Agency, Food and Drug Administration and the Occupational Safety and Health Administration—to improve the public health through sharing of information, avoiding duplication of effort and developing consistent regulatory policy (see 42 FR 54856 for the original Interagency Agreement). In December 1976, the Food Safety and Quality Service, Department of Agriculture, also joined the IRLG.

The IRLG has previously published reprints of their plans (see 43 FR 7174 for a copy of the original IRLG Work Plans) and accomplishments (see 44 FR 100).

Summary of Plans for 1980/81

The IRLG has prepared plans for activities to be undertaken in 1980/81. These plans, published below, describe eleven areas of activity aimed at improving cooperation and coordination among member agencies. The following are the seven areas IRLG particularly intends to emphasize.

I. Economic Analysis

The IRLG has initiated a major effort to improve the agencies' ability to analyze the economic consequences of their programs. This will include a review of the methodologies used in estimating the benefits of regulatory actions, a review of selected, existing regulations to compare actual with predicted economic consequences and an evaluation of the feasibility of a joint data base on the economic characteristics of the U.S. chemical industry. The last project's purpose is to support better and less costly economic impact analysis by member agencies.

II. Testing Standards and Guidelines

The IRLG intends to accelerate the completion of these guidelines and plans to prepare seventeen health effects guidelines and four others for public comment in FY 1981. In addition, the Work Group will attempt to determine if batteries of standard tests can produce an amount of data sufficient for an accurate toxicological characterization of a chemical at reduced cost. For ecological effects, the emphasis will be on completing nine gidelines and on exploring the use of short-term tests.

III. Inspection Referral System

In FY 1980, the agencies will complete the development of this system aimed at improving compliance and enforcement efforts. The action does include designing the final referral forms, developing referral instructions, publishing the inspector training guides, and detemining the most cost-effective methods of training agency inspectors. A public notice and comment period will be given for this system. Actual training of agency inspectors and implementation of the program in all the regions will also begin in 1980.

IV. Regulatory Development

The agecies will sponsor a number of joint public hearings, regulatory analyses and research projects. They also expect jointly to propose rules or promulgate joint or concurrent final rules.

V. Risk Assessment

Having completed the carcinogenicity risk assessment document, IRLG will focus on developing similar documents for mutagenicity, teratogenicity and other reproductive effects.

VI. Laboratories and Analytical Methods

This is a new project focusing on improving our capabilities for determining the presence of toxic substances in our environment. The project will evaluate the adequacy of existing analytical techniques to detect the presence of toxic substances in various types of samples and also the feasibility of jointly improving techniques to fill the most important existing analytical gaps. It will also include the supply of and demand for toxicity testing and analytical laboratories in both the public and private sectors.

VII. Regional Coordination

To improve regional coordination, particular emphasis will be placed on the areas of inspection referrals, emergency response, laboratory sharing and public information.

Request for Comments

The IRLG seeks comments on these plans and on what other actions it might take to most effectively promote our goals of avoiding duplication of effort and developing consistent regulatory policy. The IRLG is also interested in determining the possibilites of and interests in expanded public participation in these activities. To this end, we also seek comments on: (1) which of these activities the public would be most interested in participating in; and (2) how such public participation might best occur.

Dated: January 14, 1980.

Edwin H. Clark II,

Chairman, Interagency Regulatory Liaison Group.

IRLG: Report of Accomplishments and Plans for 1980/81

I. Economic Analysis

A. Focus of Activity. The focus of activity is to cooperate in collecting economic information and conducting economic analyses so as to improve the information available to the agencies and to reduce the amount of resources they have to devote to undertaking economic analyses in support of regulatory actions.

B. Accomplishments to Date. A major study is underway of the benefit estimates sponsored by the agencies. The purpose of the study is to provide a summary of the existing benefit studies, to analyze the appropriateness of the methods used in these studies for supporting regulatory decisions, and to develop revised methodologies for making such estimates which are more accurate and better suited to the needs of the regulatory agencies.

EPA and OSHA are sponsoring a joint study of the economic impact of their regulations on the lead smelting industry. All of the agencies have exchanged information on economic studies they are sponsoring and economic data bases they have collected.

C. Planned Activities in Fiscal Year 1980. The IRLG will place particular emphasis on this area of activity in FY 1980. In addition to continuing to share economic data analyses, and looking for opportunities to sponsor joint economic impact analyses, the agencies will:

- Complete most of the phases of the recently initiated study analyzing the benefits and benefit estimating methodologies of the different agencies. This study should serve to improve the capabilities of the agencies to undertake adequate benefit analyses in conjunction with future regulatory proposals.
- Initiate a study of the economic consequences of selected regulations that are already implemented. The purpose of this study will be to determine what the actual impacts of the regulations were on such factors as industry compliance expenditures, innovation, plant closures, production, etc., and attempt to compare these actual impacts with those that were projected to occur when the regulations were initially proposed.
- Analyze the feasibility of developing a joint data base on the economic characteristics of the chemical industry which all of the agencies could use in conducting economic impact analyses of proposed regulations.

D. Planned Activities for Fiscal Year 1981. In FY 1981 the agencies will continue both to exchange information on economic studies and data bases and to search for opportunities for jointly conducting economic impact analyses of proposed regulations.

In addition, they will complete the analyses described under the FY 1980 plans and the individual agencies will evaluate the desirability and feasibility of incorporating the results of these analyses in their own regulatory development and economic, analysis programs.

II. Testing Standards and Guidelines

A. Focus of Activity. Among currently requires tests, differences exist primarily in details on methodology and not in fundamental toxicological principles. The goal of the Work Group is to resolve differences and develop guidelines which, when used appropriately, will generate data acceptable to all IRLG agencies. This consistent approach to testing will lessen the burden on regulated industries, and ensure that the different agencies receive consistent test results.

B. Accomplishments to Date. The Work Group completed five draft health effects testing guidelines. These have been reviewed by the staffs of the agencies and released for public comment. The guidelines cover testing for eye irritation, acute dermal toxicity, acute inhalation toxicity, acute oral toxicity and teratogenicity. Guidelines for an additional twelve health effects and nine environmental tests have been drafted in part or in total.

C. Planned Activities for Fiscal Year 1980.

(1) Complete the following health effects guidelines: acute eye irritation, acute dermal toxicity, acute inhalation toxicity, acute oral toxicity, and teratogenicity.

(2) Release the following health effects guidelines for staff and public comment: subchronic ingestion, subchronic dermal, reproduction, primary skin irritation, chronic toxicity, carcinogenicity, combined chronic/carcinogenicity, and subchronic inhalation.

(3) Release the following health effects guidelines for agency staff comments: perinatal, mutagenicity, metabolism, and multi-generation reproduction.

(4) Begin to develop guidelines for behavioral studies, neurological tests, and short term tests, which were proposed as long term goals in the original work plan. Development of a guideline determining chemical effects on immune systems will also be initiated.

(5) Release the following environmental testing guidelines for staff and public comment: vapor pressure; octanol/water partitioning coefficient; hydrolysis; Daphnia, acute life cycle toxicity; water solubility and Mayfly acute toxicity.

(6) Release the following environmental guidelines for staff review: biodegradation, four screening procedures; absorption/desorption; and soil thin layer chromatography.

(7) Explore the use of in vitro tests for environmental toxicology.

(8) Determine a battery of standard tests required to produce an amount of data sufficient for an accurate toxicological characterization of a chemical at the least possible cost. It is probable that different combinations will be required to meet specific purposes; for example, to characterize a food additive will probably require a different combination of standard tests than those required to characterize a pesticide.

(9) Begin to develop criteria for extrapolating animal test data to assess human health effects.

D. Planned Activities for Fiscal Year 1981.

(1) Complete the 12 health effects guidelines listed in #2 and #3 in Fiscal Year 1980 plan.

(2) Release the four health effects guidelines listed in #4 for public comment.

(3) Increase efforts on tasks listed in #8 and #9.

(4) Begin to compare data from IRLG guidelines to data from other test procedures to assess need for modification.

(5) Complete environmental guidelines listed in #5 and #6.

(6) Incorporate in vitro workshop recommendations into environmental work plan.

Status of Projects 3, 6, and 7—Standardization of Guidelines

Through agency technical review: Preamble review by general counsels	Through work group: Ready for agency technical review	Draft under work group review or in preparation
Health Effects		
Eye Irritation [1]	Subchronic Ingestion [2]	Subchronic Inhalation. [2]
Acute Dermal [1]	Subchronic Dermal [2]	Chronic Toxicity. [2]
Acute Inhalation [1]	Reproduction [2]	Perinatal. [2]
Acute Oral [1]	Primary Skin Irr. [1]	Combined Chronic—Carcinogenicity. [2]
Teratogenicity [2]		Carcinogenicity. [2]
		Mutagenicity. [2]
		Metabolism. [2]
		Multigeneration Reproduction. [2]

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Environmental Effects		
Vapor Pressure[1]	Octanol/Water Partitioning coefficient[2]	Mayfly Acute Toxicity.[3]
	Water Solubility[1]	Soil Thin Layer Chromatography.[3]
	Hydrolysis[1]	
	Daphnia, acute life cycle toxicity tests[1]	
	Biodegradation—four screening procedures[2].	
	Adsorption/Desorption[1]	

[1] Short Term Goal—Work Group action within 6 months (Project 3).
[2] Intermediate Goal Work Group action within 6–12 months (Project 6).
[3] Long Term Goal—Work Group action after 1 year (Project 7).
NOTE.—Work Group members are working with OECD committees developing international guidelines for toxicology.

III. Compliance and Enforcement

(Inspection Referral System)

A. Focus of Activity. This activity will improve the coordination of the agencies' compliance and enforcement efforts at both the headquarters and regional levels in order to use resources more effectively and efficiently in protecting public health.

B. Accomplishments to Date. A headquarters-based work group has developed all the components of a referral inspection system whereby inspectors from one agency will refer possible violations of another agency's regulations to that agency. The components of this system include training manuals summarizing all of the regulatory programs of the different agencies, inspection referral forms, and guidelines for appropriate use of inspection referrals. The training manuals have been field tested and are being published. All the regions have already begun to implement inspection referral programs in at least a limited way.

The headquarters work group also integrated the IRLG agencies into the EPA/DOT emergency response system at both headquarters and field levels. This will allow all the agencies to be notified of and included in efforts to respond to emergency situations involving hazardous substances. The procedures for notifying the agencies have been incorporated into the National Contingency Plan and all the agencies are now included on the National Response Team. The regions are working out the details on how they will coordinate the agencies at the regional and state level in such emergencies. This has already worked well in several situations.

The Work Group explored the feasibility and desirability of implementing joint inspection (where inspectors from two or more agencies work together) and crossover inspections (where an inspector from one agency actually conducts inspections for another agency). Joint inspections were found to be feasible and desirable in limited situations. They have begun to be used in many regions. Crossover inspections were not found to be feasible at this time because of the legal, substantive, and personnel problems they would entail.

C. Planned Activities for Fiscal Year 1980. The emphasis in compliance and enforcement in FY 1980 will be on implementing the field inspection referral system in all the regions. This involves finalizing the referral form and accompanying guidelines for using the forms, completing the publication of the training manuals, completing the recommendations for adequate cost-effective training programs in the regions, submitting the entire inspection referral package for public comment, and undertaking the training of the field inspections.

In addition to implementing the full inspection referral program, the agencies will ensure that effective emergency response networks have been established in all of the regions, complete the guidelines for conducting joint inspections, and continue to share expert witnesses, analyze compliance samples for one another, share information about the use and discharge of toxic substances, and undertake other cooperative activities in support of the agencies' compliance programs.

D. Planned Activities for Fiscal Year 1981. The agencies will continue to implement the referral inspection, joint inspection, and the emergency response system, and to cooperate on other aspects of their field compliance and enforcement efforts such as sharing expert witnesses, analyzing compliance samples for one another, sharing information about the use and discharge of toxic substances, etc.

In addition, the agencies will evaluate the inspection referral and joint inspection programs to determine whether they are working effectively and providing the expected benefits. On the basis of this review, they will evaluate: (1) the need for possible modifications in the existing system and (2) the feasibility and advantages of extending the system to the state level.

IV. Regulatory Development

A. Focus of Activity. The focus of activity is coordinating interagency regulatory activities on 27 potentially hazardous substances, including joint sponsoring or sharing research and regulatory analyses, sharing information on health and environmental effects, conducting joint public meetings and hearings, insuring that the agencies regulatory actions and plans are consistent and, where possible, develop joint rulemaking activities. With this activity is a commitment to inform the public on the rationale, activities and plans of the agencies for undertaking regulatory actions.

B. Accomplishments to Date. The Regulatory Development Work Group has identified 27 substances which are of concern to two or more of the IRLG agencies. These include: acrylonitrile, arsenic, asbestos, benzene, benzidine-type dyes, beryllium, cadmium, chloroform and related solvents, chlorofluorocarbons, chromates, coke oven emissions, dibromocholorpropane (DBCP), diethylstibestrol (DES), dioxins, ethylene dibromide (EDB), ethylene oxide (ETO) and its residues, formaldehyde, lead, mercury, nitrosamines, ozone, polybrominated biphenyls (PPB's), polychlorinated biphenyls (PCB's), radiation, sulfur dioxide, vinyl chloride and polyvinyl chloride, and waste disposal (sewage).

A special task group was established for each of these to ensure that the agency regulatory development activities and plans were coordinated. These groups, among other things, are sharing research projects, exchanging information on health and environmental effects, sharing regulatory options analyses, and developing consistent regulatory policy and joint/concurrent rulemaking. For example, in April 1979, by coordinated, interagency action, FDA and EPA concurrently, with CPSC assistance, banned non-essential uses of chlorofluorocarbon propellants in aerosols. Another example took place in September 1977 when EPA, OSHA and FDA took coordinated-action to protect farmers, workers and the general public from the possible dangers of the pesticide dibromochloropropane (DBCP). The agencies set emergency temporary standards to limit worker exposure, proposed suspension of crop applications and other uses and started a food monitoring program to assure that the public was not consuming unsafe amounts of the substance.

To better inform the public about the regulatory activities of the agencies, in early 1979, the Work Group published "Hazardous Substances," a document describing the work plans for regulatory development for 24 hazardous substances. The document included sections on background, issues, regulatory authority, proposed actions/schedules, telephone contacts and recommendations. The information is being updated semiannually by the publication of the "Regulatory Reporter". The first issue was published in June 1979.

C. Planned Activities for Fiscal Year 1980. Increased cooperation will be placed on coordinated chemical development for specific chemicals of common concern. For each selected chemical (presently there are 27), task groups with interagency representation will meet at least quarterly to share information on developments in the individual agencies, analyze prospects for joint action, and ensure that the total hazard from the substances is being addressed. As new potentially hazardous substances are identified for regulatory action by two or more of the IRLG agencies, a new IRLG task group will be created to coordinate activities on each. To assure that appropriate interagency cooperation has taken place, any proposed rulemaking being considered for agency approval regarding one of the 27 substances and any new substances added to the list, will include certification of specific coordination which has occurred.

In addition, during FY 1980 the agencies plan to jointly fund research, have the appropriate interagency task group jointly analyze research results, and jointly assess regulatory options for a number of chemicals to address perceived health and safety problems. For selected substances, they will also hold joint public meetings, undertake a joint or concurrent Announcement/s Proposed Rulemaking, jointly propose rules or promulgate joint or conncurrent final rules.

D. Planned Activities for Fiscal Year 1981. Strong emphasis will continue to be placed on coordinating regulatory development for specific chemicals of interest to two or more of the IRLG agencies. With the completion in FY 1980 of research projects and regulatory options analyses related to specific chemicals, there will be greater opportunity to identify potential joint/concurrent rulemaking candidate than is possible at this time. Nevertheless, there ar numerous areas of interagency cooordination that can be reasonably forecast to occur.

Task groups handling interagency regulatory development coordination on approximately 27 chemicals will continue to meet at least quarterly in order to appraise their individual agencies of joint interagency regulatory progress. It is estimated that 3 or more new chemicals will be added to the present list of 27 and that a corresponding number of chemicals will be dropped from the list. There will be jointly funded research and joint analyses research results on several chemicals. For selected substances, there will also be jointly conducted public meeting/hearings, joint review of regulatory options, joint/concurrent Advanced Notices of Proposed Rulemaking, jointly promulgated proposed rules, and/or joint/concurrent final rules.

In addition, the agencies will evaluate the regulatory reform initiatives being considered by the Regulatory Council.

V. Risk Assessment

A. Focus of Activity. The focus of activity is to develop procedures, criteria and guidelines which the IRLG agencies will use consistently to characterize and, where appropriate, quantify different types of human health risks associated with exposure to toxic substances.

B. Accomplishments to Date. The Risk Assessment Work Group completed a document for assessing risk from carcinogens entitled, "Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks." This report (published in the *Journal of the National Cancer Institute* and the **Federal Register** in July) articulates, for the first time in a single document, the scientific concepts and methods currently in use by the IRLG agencies to identify and evaluate risks associated with substances that may pose a risk of cancer to humans. This document was the basis of the Regulatory Council statement on regulation of carcinogens released in September 1979. The document is currently undergoing public comment.

Planned Activities for fiscal year 1980. The IRLG plans to emphasize this area in 1980. The planned activities include: (1) responding to the public comments received on the carcinogen risk assessment document; (2) developing a similar document dealing with risks associated with substances that cause mutagenic effects; (3) initiating activities (a plan of work and support contracts) on similar documents dealing with teratogenicity and selected reproductive effects; and (4) initiating a survey of agency activities to measure and estimate exposure to toxic substances (long-range goal of this effort is to develop guidelines for exposure assessment).

D. Planned Activities for fiscal year 1981. This area will continue to be emphasized in 1981. The proposed activities include: (1) completing a risk assessment document for substances that cause mutagenic effects; (2) completion of interagency discussion draft documents on teratogenicity and selected reproductive effects; (3) continuing activities on a long-term project to develop exposure assessment guidelines; and (4) initiating activities (a plan of work and support contracts, interagency review of proceedings of FDA conference in FY 1980) on neurotoxins.

VI. Laboratories and Analytical Methods

A. Focus of Activity. This activity will coordinate the agencies' actions to make more effective and efficient use of both government and private sector laboratory facilities for toxicology testing. It aims to ensure that the member agencies have rapid access to adequate facilities. These functions are designed to supplement the coordinating activities of the National Toxicology Program.

B. Accomplishments to Date. EPA and FDA are cooperating in supporting two laboratories—one is the National Center for Toxicology Research (NCTR) and the other is the Neurotoxicology Program in North Carolina. Coordination on the former has been substantially improved and the latter was begun since the formation of the IRLG. Both labs are conducting research of interest to all the IRLG agencies.

In many regions there has been substantially increased sharing of laboratory facilities, with the regional EPA and FDA labs and OSHA's Salt Lake City lab conducting analyses on samples for the other agencies. In Regions II and V, there has also been extensive consideration given to the possibility of combining or co-locating field labs. Although the benefits of these moves would apparently not be as substantial as originally thought, they and other possible similar moves are still open for consideration.

Several regions have also initiated joint training seminars and programs for their laboratory personnel, have initiated quality control programs, and are sharing laboratory equipment and facilities.

Finally, a Task Force at headquarters has developed a computerized information system which lists the laboratory equipment in all of the agencies' labs under headquarters

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control. This system, along with the skills inventory sponsored by the Information Exchange Work Group, should both assist the agencies in identifying where different types of analyses can be conducted and eliminate unnecessary duplication of costly laboratory equipment.

C. Planned Activities for Fiscal Year 1980. This will be an area of emphasis in FY 1980. In addition to continuing laboratory cooperation and sharing at the regional level and maintaining and continuing the various headquarters initiated laboratory programs, the IRLG intends to undertake the following projects:

- A study of the demand for and supply of toxicology testing facilities in both the public and private sectors. All of the agencies are likely to have increased toxicology testing needs over the next few years, and this study will attempt to estimate these needs and the ability of existing and planned facilities to fulfill them.
- An analysis of the adequacy of existing analytical procedures to efficiently measure small amounts of toxic substances in different types of samples, and a review of the work underway to develop improved analytical methods.
- An evaluation of the feasibility and desirability of jointly certifying private laboratories for conducting tests and analyses suitable to determine industry compliance with Federal regulations. Several agencies have or are considering formal or informal lab certification programs, and a joint certification program might create important cost savings.

D. Planned Activities for Fiscal Year 1981. In addition to continued cooperating and sharing at the regional level, and continuing the headquarters programs already begun, the agencies plan to develop joint proposals for filling the gaps in the availability of toxicology testing/analytical facilities and analytical methods identified in the studies initiated in FY 1980. They will also begin to implement the recommendations of the FY 1980 feasibility study on joint lab certification.

VII. Regional Coordination

(Most of the field operations have already been described under their substantive area of activity. However, because of the importance of these activities to the IRLG, they are described here as well.)

A. Focus of Activity. The focus of activity is to improve the coordination among the agencies' regional offices in all of the substantive and operational areas of interest to the IRLG in order to provide more effective public health protection with greater efficiency and reduced cost.

B. Accomplishments to Date. Most of the field offices have already instituted significant programs in compliance and enforcement, public information and education, information exchange and administration. Several have also implemented significant laboratory projects and have begun to explore the feasibility of extending the IRLG concept to the state level.

In compliance and enforcement, all the regions have begun at least limited use of inspection referrals, complaint referrals, identifying and evaluating potential common compliance problems, and implementing an emergency response system. Most of the regions have also begun at least limited use of joint inspections.

In public information and education, four regions have held major public meetings focusing on IRLG activities, and they all are cooperating on other public information activities and in the efficient referral of consumer inquiries.

In the area of information exchange, various regions are sharing data bases, coordinating their library resources, and sharing program management information.

With respect to administration, in various regions the agencies are sharing equipment, personnel, laboratory facilities, and in some instances, office space. Most of the regions have also instituted orientation programs to better acquaint their employees with the roles of the different agencies and the IRLG.

C. Planned Activities for Fiscal Year 1980. During fiscal year 1980, the major emphasis in regional IRLG cooperation will be in the areas of referral inspection, cross training of personnel, sharing of laboratory facilities and expertise, developing and implementing emergency response plans, and providing better public health information to consumers, professional groups and industry.

A major initiative planned for fiscal year 1980 is the implementation of the referral inspection training program. Training materials developed by the IRLG will be used by the regional offices to train inspectors from each of the IRLG agencies to recognize and refer possible violations of other agencies' regulations. This will require the training of approximately 7,500 inspectors from the five agencies. Training of the regional inspectional forces will be initiated in fiscal year 1980 and completed by the end of fiscal year 1981.

With the training of field inspectional personnel, the complete referral inspection program will be implemented in all regional offices by the end of fiscal year 1980. This coordinated inspection program will formalize existing interagency activities concerning the identification of potential violations and ensure appropriate follow-up in a timely manner. The program will be evaluated at the end of the first six months to determine the effectiveness and appropriateness of the procedures and guidelines.

The agencies will also emphasize laboratory coordination including developing an inventory of lab equipment and specialized capabilities. Further strengthening of the laboratory sharing program will be accomplished through written agreements between regional member agencies for mutual laboratory support.

A third area of emphasis will be the development, in all regions, of well organized systems for dealing with emergencies involving hazardous substances. While such plans and procedures are already in place and functioning in many regional offices, this area will be emphasized in fiscal year 1980 to ensure efficient utilization of available resources for emergency responses. This activity is heavily dependent on sharing of laboratory facilities and expertise since prompt sample analysis is a critical need during any emergency involving environmental contamination with hazardous or toxic materials.

A final area of emphasis will be the better dissemination of public health information to consumers and professional groups. This activity will be enhanced by the purchase of IRLG exhibits for use by the regional offices at conventions and annual conferences of unions, professional organizations, trade associations, etc. Use of these exhibits in conjunction with ongoing public information activities in the regions will provide sources of information on work place safety, health issues, environmental hazards and toxic substances to the public as well as professional and industry groups.

In addition to these areas of major emphasis, the regional offices will continue their cooperation in the other compliance and enforcement, laboratory, information exchange and administration activities that are already underway.

D. Planned Activities for Fiscal Year 1981. In fiscal year 1981, most regional IRLG activities will involve a continuation and maintenance of ongoing programs in compliance and enforcement, information exchange, laboratories, etc. The primary emphasis will be on improving and expanding programs initiated in fiscal year 1980.

The referral inspection program will be expanded to include joint inspections by IRLG agencies. Where appropriate, joint inspections of regulated industries will be conducted by two or more agencies to reduce the frequency of visits by Government inspectors. This program will be developed from the experience gained from the referral inspections performed in fiscal year 1980. The inspection referral program will be evaluated to determine the effectiveness and appropriateness of the procedures and guidelines.

A number of regional work groups have begun efforts to acquaint their states with the IRLG program. These efforts will further the goals of increasing the efficiency of compliance and enforcement activities through coordination with state programs. As soon as the IRLG referral program becomes operational on a national basis, consideration will be given to the implementation of referral inspections at the state level. This will require the identification of state lead agencies and the training of state personnel. Under the current schedule, this could be implemented in fiscal year 1981.

VIII. Epidemiology

A. Focus of Activity. The focus of activity is to improve the quality of epidemiological studies in the agencies and to promote better coordination among the agencies in conducting and evaluating such studies.

B. Accomplishments. The Work Group collected information on all of the epidemiological studies being sponsored by the IRLG and selected other agencies and created a special computerized file summarizing these studies through the Smithsonian Scientific Information Exchange System. The group also prepared guidelines for documenting epidemiological studies. The purpose of these guidelines, which have been reviewed by the agencies and released for public comment, is to insure that the epidemological studies sponsored by the agencies meet a minimum acceptable standard for documentation.

The Work Group also has identified and is attempting to gain access to new data sources (such as the Social Security files) which could be used to undertake improved epidemiological studies.

C. Planned Activities for Fiscal Year 1980. The agencies will maintain the file of on-going epidemiological studies and will publish the guidelines for epidemiological studies for public comment. The Work Group will complete the guidelines and submit them to the agencies for their consideration. IRLG members will continue to provide assistance to each other for specific epidemiological tasks of immediate concern to the IRLG agencies' needs, and will continue to explore the possibility of obtaining access to new data bases that can be used in epidemiological studies.

D. Planned Activities for Fiscal Year 1981. Emphasis will be on continuing identification and accessing existing data bases and refining the criteria for conducting and evaluating epidemiological studies. The other activities begun in 1980 will be continued.

IX. Research Planning

A. Focus of Activity. Activity is focused on identifying toxics research being conducted and supported by the IRLG agencies and several research agencies including NCI, NIEHS, and NIOSH. The purpose is to provide information on areas which may already be adequately supported, areas which may require additional support, and areas where there is possible duplication of effort.

B. Accomplishments to Date. Three working documents have been completed. The first was a tabulation of research related to toxc substances which was incorporated in the report of the Toxic Substances Strategy Committee sponsored by CEQ. The second was an inventory of toxicology research, and the third was an inventory of metals research. Two of the agencies, FDA and EPA, jointly established a neurotoxicology laboratory at the EPA Reseach Triangle Park facilities. The agencies also prepared a document entitled "Preventive Health and the Environmental Sciences" which sets out a rationale and long range plan for future toxicology research related to human health.

C. Planned Fiscal Year 1980 Activities. The working documents on toxics and metals research will be revised for public release, and the agencies will explore possibilities for filling the gaps identified in these inventories, as well as some of the needs identified in the "Preventive Health Initiative." They will also support research projects suggested by the Regulatory Development Work Group, as well as specific proposals submitted to the IRLG by agency scientists.

D. Planned Fiscal Year 1981 Activities. Research planning activities will essentially follow the pattern that has been established and will support those areas described for FY 1980.

X. Information Exchange

A. Focus of Activity. The focus of activity is to identify common data and information requirments, survey current capabilities and modify or develop new capabilities as needed to promote efficient and effective data and information exchange among the IRLG agencies.

B. Accomplishments to Date. The Work Group completed studies evaluating the feasibility of developing:

(1) Joint monographs on chemical substances. The conclusion of the study was that there was little opportunity for such joint efforts.

(2) An information system which would indicate all the regulations, guidelines, court cases and other relevant regulatory information pertaining to specific chemical substances. The study concluded that the system was feasible and desirable. IRLG will fund development of this project.

(3) A computerized data bank containing information on the results of long-term chronic toxicity monitoring studies. The study recommended that no further work be done at this time since much of what was needed in such a system was being developed elsewhere.

(4) The linking of data files maintained by the individual agencies through the use of common codes. The work group concluded that such an approach is both feasible and desirable, and a contractor was hired to begin this process on the most important data bases.

(5) An inventory of the analytical and professional skills of the agencies' scientific staff. This was considered feasible and desirable and work was started on creating the system.

(6) Improved coordination of agencies' libraries. Various forms of coordination are being considered and a list of all the serials in the various libraries has been compiled.

Information sharing is also occurring in the regional offices. Most are, as a matter of course, sharing functional statements and operational plans. Several are also sharing information on various types of data bases. The most ambitious of these projects occurred in Region II where there was a test project to evaluate the feasibility and desirability of establishing common indentifiers for industrial facilities and other potential sources of toxic substances. With such a system, each agency could easily determine what actions—permits, inspections, and enforcement actions—the other agencies had taken with respect to specific sites and what information other agencies

might have (e.g., substances produced or discharged at the site) which might be relevant to its own regulatory programs. The prospects for such coordination are still being evaluated.

Since the formation of the IRLG, there has also been substantially more exchange of information among the agencies in the regional offices about issues and problems possibly of concern to the other agencies, referral of consumer complaints, etc.

C. Planned Activities for Fiscal Year 1980. The major new project planned for FY 1980 is the development of the Chemical Regulations and Guidelines System which will reference all the regulations, guidelines, court cases and other relevant regulatory information pertaining to specific chemical substances. Phase I of the system which covers all of the relevant Federal agency regulatory information will be completed by the end of the year.

In addition to this project, the Work Group will continue to support interagency library coordination, will expand the skills inventory to include FSQS and maintain up-to-date skills information for the other four agencies, will continue the registration of chemical files maintained by the different agencies through the use of common chemical codes, and will continue its evaluation of additional projects under consideration.

The regional offices will continue their current level of informative exchange and will complete the evaluation of the demonstration project to use common identifiers for industrial facilities and other potential sources of toxic substances.

D. Planned Activities for Fiscal Year 1981. The Work Group will complete the second phase of the chemical regulations and guidelines system, and will continue the registration of chemical files, supporting interagency library coordination and maintaining the agency skills inventory. In addition, it expects to initiate an additional information exchange project depending upon the results of the evaluations being concluded in FY 1980.

The regional offices will continue their current level of information exchange and will initiate a project on using common site codes if the evaluation being completed in FY 1980 indicates that such a project is desirable.

XI. Public Information and Education

A. Focus of Activity. The focus of activity is to inform and educate the public on issues related to the regulation of hazardous substances, the roles of the individual IRLG agencies in this process, and how the IRLG agencies are working together to protect more effectively the public's health and the environment.

B. Accomplishments to Date. Several public information documents have been prepared and six public forums sponsored; four by the regions and two by headquarters. There has been increased cooperation in responding to consumer inquiries in all the regional offices. The IRLG prepared a "Joint Annotated Bibliography on Toxic Substances" which provides guidance to consumers on how to obtain information about toxic substances from IRLG agencies. A pamphlet entitled "Working Together", was completed describing the roles of the individual agencies and how they are working together to protect public health. A Task Force is developing safety and health curriculum guides for elementary and high schools. Another Task Force is reviewing the agencies' strategies, requirements, and policies regarding the labeling of hazards to explore the feasibility of developing a consistent labeling strategy among all of the IRLG agencies.

C. Planned Activities for Fiscal Year 1980. The agencies will continue to exchange and distribute one another's publications as appropriate, cooperate on IRLG and other press announcements of mutual interest, cooperate on public hearings and seminars dealing with issues of mutual interest and refer consumer inquiries.

In addition, the IRLG will:

- Prepare a public information booklet describing the problem of carcinogens, how these are identified, what actions the agencies are taking to protect the public from them, and what actions people can take to protect themselves.
- Complete and publish the curriculum guides.
- Update and republish the joint bibliography of agency publications including those issued by the Food Safety and Quality Service.

D. Planned Activities for Fiscal Year 1981. The agencies will continue to exchange and distribute one another's publications as appropriate, cooperate on IFLG and other press announcements of mutual interest, cooperate on public hearings and seminars dealing with issues of mutual interest and refer consumer inquiries.

In addition they plan to monitor the use and effectiveness of the toxics curriculum guides and prepare at least one additional public information booklet on the health problems associated with certain toxic substances.

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Friday
January 25, 1980

Part IV

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage & Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

None.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arizona:	
AZ79–5100	Feb. 9, 1979.
California:	
CA78–5107	July 7, 1979.
Florida:	
FL79–1017	Jan. 26, 1979.
FL79–1024	Feb. 2, 1979.
FL79–1064	Apr. 13, 1979.
FL79–1068	Do.
FL79–1109	July 20, 1979.
FL79–1110	Do.
FL79–1118	Aug. 17, 1979.
Georgia:	
GA79–1148	Nov. 16, 1979.
Kentucky:	
KY79–1018	Feb. 2, 1979.
KY79–1023	Do.
KY79–1031	Feb. 9, 1979.
KY79–1034	Do.
KY79–1106	July 6, 1979.
KY79–1143	Nov. 9, 1979.
KY79–1144	Nov. 16, 1979.
KY79–1145	Do.
KY79–1159	Dec. 7, 1979.
Mississippi:	
MS80–1031	Jan. 11, 1980.
Montana:	
MT79–5129	Aug. 7, 1979.
Pennsylvania	
PA79–3009	May 4, 1979.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:	
AL79–1001 (AL80–1043)	Jan. 26, 1979.
Louisiana:	
LA79–4069 (LA80–4014)	July 20, 1979.
Nebraska:	
NE77–4206 (NE80–4013)	Aug. 26, 1977.
South Carolina:	
SC80–1012 (SC80–1047)	Jan. 4, 1980.

Cancellation of General Wage Determination Decision

General Wage Determination Decision TN79–1006, Carter and Sullivan Counties, Tennessee, is hereby cancelled. Agencies with residential construction projects contemplated in the counties should utilize the project determination procedure by submitting Form SF–308 (See 29 CFR 1.5). Contracts for which bids have been opened shall not be affected by this notice. Consistent with 29 CFR Part 1, § 1.7(b)(2), inclusion of the above decision in contracts for which the bid opening is within ten (10) days of this notice need not be affected.

Signed at Washington, D.C., this 18th day of January 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

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MODIFICATION PAGE #1

Page 1

DECISION NO. AZ79-5100 - Mod. #8
(44 FR 8482 - February 9, 1979)
Statewide, Arizona

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians:					
Apache County (north of Interstate #40):					
Electricians	$15.06	.60	3%+.70		1/2%
Cable Splicers	15.69	.60	3%+.70		1/2%
Globe-Miami Area:					
Zone A:					
Electricians	15.07	.60	11%		1%
Cable Splicers	15.32	.60	11%		1%
Zone B:					
Electricians	15.81	.60	11%		
Cable Splicers	16.06	.60	11%		1%
Zone C:					
Electricians	16.44	.60	11%		1%
Cable Splicers	16.69	.60	11%		1%
Zone D:					
Electricians	17.19	.60	11%		1%
Cable Splicers	17.44	.60	11%		1%
Ironworkers:					
Central and Southern Areas	13.10	1.54	2.57		.11
Northern Area	15.36	1.54	2.57		.11
Mason Tender	9.80	.92	1.10		.06
Painters:					
Apache County (south half), Coconino Co. (south half), Gila, Graham County (north half), Greenlee Co. (north half), Maricopa County (northern two-thirds), Navajo County (south half), Pinal County (north half), Yavapai County (south of Wikieup-Woodruff Line):					
Zone A:					
Brush and Roller; Sandblaster (nozzleman); Sandblaster (Pot Tender)	11.50	.60	.40		.08

MODIFICATION PAGE #2

Page 2

DECISION NO. AZ79-5100 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Spray	$11.75	.60	.40		.08
Creosote Applior	11.83	.60	.40		.08
Swing Stage:					
Brush, Sandblaster	11.90	.60	.40		.08
Spray	12.15	.60	.40		.08
Steeplejack	12.36	.60	.40		.08
Steel and bridge, brush; Steel Sandblaster	12.43	.60	.40		.08
Steel and bridge, Spray	12.63	.60	.40		.08
Zone B:					
Brush and Roller; Sandblaster (Nozzleman); Sandblaster (Pot Tender)	12.50	.60	.40		.08
Spray	12.75	.60	.40		.08
Creosote Applier	12.83	.60	.40		.08
Swing Stage:					
Brush, Sandblaster	12.90	.60	.40		.08
Spray	13.15	.60	.40		.08
Steeplejack	13.36	.60	.40		.08
Steel and bridge, brush; Steel Sandblaster	13.43	.60	.40		.08
Steel and bridge, Spray	13.63	.60	.40		.08
Zone C:					
Brush and Roller; Sandblaster (Nozzleman); Sandblaster (Pot Tender)	14.00	.60	.40		.08
Spray	14.25	.60	.40		.08
Creosote Applier	14.83	.60	.40		.08
Swing Stage:					
Brush, Sandblaster	14.40	.60	.40		.08
Spray	14.65	.60	.40		.08
Steeplejack	14.86	.60	.40		.08
Steel and bridge, brush; Steel Sandblaster	14.93	.60	.40		.08

MODIFICATION PAGE #3

Page 3

DECISION NO. AZ79-5100 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Steel and Bridge, Spray	$15.13	.60	.40		.08
Plasterers:					
Phoenix Area:					
Zone A	11.77	.95	1.30		.06
Zone B	12.52	.95	1.30		.06
Zone C	13.645	.95	1.30		.06
Plumbers; Steamfitters:					
Zone 1	14.24	.75	1.35		.13
Zone 2	14.64	.75	1.35		.13
Zone 3	15.09	.75	1.35		.13
Zone 4	16.59	.75	1.35		.13

MODIFICATION PAGE #4

DECISION NO. CA78-5107 - Mod. #11
(43 FR 2944 - July 7, 1978)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, Eldorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California					
Change:					
Sheet Metal Workers:					
Alameda, Contra Costa, Napa and Solano Cos.	$13.10	$1.23	$2.52	12%	.05
Alpine, Calaveras and San Joaquin Counties	13.16	1.03	1.70		.01
Amador, Butte, Colusa, Eldorado, Glenn, Plumas, Sacramento, Shasta, Sierra, Sutter, Tehama, Yolo and Yuba Counties	13.68	1.23	2.21		.13
Monterey, San Benito, Santa Clara and Santa Cruz Counties	14.85	1.20	3%+2.21		.03
Del Norte, Humboldt, Lake, Marin, Mendocino, San Francisco, Sonoma and Trinity Counties	14.78	1.38	2.00		.16
San Mateo County	14.14	1.03	2.04		.10
Fresno, Kings, Madera and Tulare Counties	13.74	1.23	1.38		.17

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MODIFICATION PAGE # 5

DECISION NO. FL79-1017 - Mod. #8 (44 FR 5604 - January 26, 1979) Duval County, Florida	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians:					
Wiremen	$11.15	.55	3% + .81	.81	.10
Cable Splicers	11.50	.55	3% + .81	.81	.10
Sprinkler Fitters	11.36	.75	1.05		.10
DECISION NO. FL79-1024 - Mod. #5 (44 FR 6865 - February 2, 1979) Alachua County, Florida					
Change:					
Cement Masons	7.30	.30	.30		.02
Sprinkler Fitters	11.36	.75	1.05		.10
DECISION NO. FL79-1064 - Mod. #7 (44 FR 22308 - April 13, 1979) Orange County, Florida					
Change:					
Asbestos Workers	12.10	.55	.65		.06
Bricklayers:					
Bricklayers	9.45	.50	.40		.04
Stonemasons	9.45	.50	.40		.04
Marble Masons	9.45	.50	.40		.04
Plasterers	9.45	.50	.40		.04
Cement Masons	9.45	.50	.40		.04
Plumbers	10.56	.30	.22 + .40	.50	.12
Sheet Metal Workers	10.96	.55 + 3%	.44		.08
Tile and Terrazzo Workers	9.45	.50	.40		.04
Roofers:					
Roofers	8.15	.35	.25		
Kettlemen	6.70	.35	.25		

MODIFICATION PAGE # 6

DECISION NO. FL79-1064 - Mod. #7 (44 FR 22309 - April 13, 1979) Cape Canaveral Air Force Station, Patrick Air Force Base, Kennedy Space Flight Center and Melabar Radar Site, Florida	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers:					
Bricklayers	$9.45	.50	.40		.04
Blocklayers	9.45	.50	.40		.04
Manhole Builders	9.45	.50	.40		.04
Plasterers	9.45	.50	.40		.04
Terrazzo Workers	9.45	.50	.40		.04
Tile Setters	9.45	.50	.40		.04
Cement Masons	9.45	.50	.40		.04
Masonry Cutting Machine Opr.	9.70	.50	.40		.04
Sprinkler Fitters	11.36	.75	1.05		.10
DECISION NO. FL79-1109 - Mod. #2 (44 FR 42856 - July 20, 1979) Martin and Palm Beach Counties, Florida					
Change:					
Ironworkers	10.95	.70	.93		.10
Painters:					
Brush	8.83	.55	.60		.05
Paperhanger; Roller	9.08	.55	.60		.05
Spray; Taper	9.33	.55	.60		.05
Sheet Metal Workers	10.70	.60	.33		.04
Sprinkler Fitters	11.36	.75	1.05		.10
DECISION NO. FL79-1110 - Mod. #4 (44 FR 42858 - July 20, 1979) Dade County, Florida					
Change:					
Refrigeration & Air Conditioning Mechanics:					
A/C Units over 10 tons	12.35	1.23	1.15		.15
A/C Units over 7.5 tons but under 10 tons	9.21	1.23	1.15		.15
Millwrights	11.27	.60	.70		.10
Sprinkler Fitters	11.36	.75	1.05		.10

MODIFICATION PAGE # 7

DECISION NO. FL79-1118 - Mod. #3 (44 FR 48564 - August 17, 1979) Pinellas County, Florida	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers/Blocklayers	$10.70	.45	.50		.10

MODIFICATION PAGE #8

DECISION #GA79-1148 - Mod. #1 (44 FR 66135 - November 16, 1979) Chatham County, Georgia	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers, Stone masons, Marble masons, Tile setters, & Terrazzo workers	$10.05	.40	.45		.01
Carpenters & Soft floor layers	10.00	.55			.05
Cement masons	8.50				
Laborers:					
General laborers, traffic flagmen, track spotters;	5.00	.15	.13		.10
Operators of jack hammer, tamp, paving breaker, chipping hammer, spade, chain saw, vibrator, motorized buggy, mason tender, terrazzo helper, railroad or track laborers, walk behind compactor or roller, plasterer & carpenter tenders;	5.97	.15	.13		.10
Mortar mixers (hand or machine), pipelayers (harner, potman, etc.), flagman (cranes, derricks, etc.);	6.07	.15	.13		.10
Burner (torch) on demolition work, track or wagon drills used in blasting;	6.32	.15	.13		.10
Powderman or blaster.	6.82	.15	.13		.10
Millwrights	10.60	.55			.05
Piledrivermen	10.25	.55			.05
Sheet metal workers	10.53	.50			.04

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MODIFICATION PAGE #9

DECISION #KY79-1018 - Mod. #3 (44 FR 6866 - February 2, 1979) Fayette County, Kentucky CHANGE:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Boilermakers	$11.80	1.175	1.20		.04
Plumbers & Pipefitters	12.85	.65	1.00		.05
DECISION #KY79-1023 - Mod. #3 (44 FR 6874 - February 2, 1979) Boyd County, Kentucky CHANGE:					
Boilermakers	$11.80	1.175	1.20		.04
DECISION #KY79-1031 - Mod. #4 (44 FR 8497 - February 9, 1979) McCracken County, Kentucky CHANGE:					
Boilermakers	$11.80	1.175	1.20		.04
Roofers	10.50		.10		
DECISION #KY79-1034 - Mod. #4 (44 FR 8504 - February 9, 1979) Henderson County, Kentucky CHANGE:					
Boilermakers	$11.80	1.175	1.20		.04
Millwrights	12.29	.60	.90		

MODIFICATION PAGE #10

DECISION #KY79-1105 - Mod. #2 (44 FR 39905 - July 6, 1979) Hardin, Jefferson, & Meade Counties, Kentucky CHANGE:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Boilermakers	$11.80	1.175	1.20		.04
Electricians	14.20	.60	3% + .85		½ of 1%
DECISION #KY79-1143 - Mod. #1 (44 FR 65308 - November 9, 1979) Franklin County, Kentucky CHANGE:					
Boilermakers	$11.80	1.175	1.20		.04
Plumbers & Pipefitters: 'Remainder of County' only	13.60	.65	1.00		.05
DECISION #KY79-1144 - Mod. #1 (44 FR 66137 - November 16, 1979) Fort Campbell, Kentucky (Located in Christian County, Ky. and in Montgomery County, Tn.) CHANGE:					
Boilermakers	$11.80	1.175	1.20		.04
Lathers	8.90		.20	.90	.01

MODIFICATION PAGE #11

DECISION #KY79-1145 - Mod. #1 (44 FR 66139 - November 16, 1979) Warren County, Kentucky CHANGE:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Boilermakers	$11.80	1.175	1.20		.04
Cement masons	11.00				.01
Plasterers	11.00				.01
DECISION #KY79-1159 - Mod. #1 (44 FR 70635 - December 7, 1979) Boone, Campbell, Kenton, & Pendleton Counties, Kentucky CHANGE:					
Boilermakers	$11.80	1.175	1.20		.04
Decision # MS80-1031-Mod.#1 (45 FR-2492-January 11, 1980) Hancock, Harrison, Jackson and Pearl River Counties, Mississippi Change:					
Cement Masons	9.65		.50		.01

MODIFICATION PAGE #12

DECISION #MT79-5129-Mod. #2 (44 FR 48570 - August 7, 1979) Statewide, Montana Change:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and or Appr. Tr
Carpenters:					
Cascade, Chouteau, Fergus, Glacier, Judith-Basin, Liberty, Meagher, Pondera, Teton and Toole Cos.					
Carpenters	$10.65	.80	.75		.02
Piledrivermen; Saw Filers; Sawmen	10.90	.80	.75		.02
Millwrights	11.65	.80	.75		.02
Blaine and Hill Cos.					
Carpenters	10.43	.80	.75		.02
Millwrights	11.43	.80	.75		.02
Piledrivers	10.68	.80	.75		.02
Broadwater, Lewis and Clark and Jefferson Counties:					
Carpenters	10.49	.80	.75		.02
Piledrivermen	10.74	.80	.75		.02
Millwrights	11.49	.80	.75		.02
Deer Lodge, Granite (all area lying south of a line running due east from the N.W. corner of Granite County to the N.E. corner of Granite county) and Powell (area lying south of the N.E. corner of Granite County) Cos.:					
Carpenters	10.87	.80	.75		.02
Piledrivers	11.12	.80	.75		.02
Millwrights	11.12	.80	.75		.02

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MODIFICATION PAGE #13

DECISION NO. MT79-5129 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Flathead, Lincoln, Lake (northern area including Town of Ravalli from a point where Hwy. #10A and Hwy. #93 intersect), Mineral (northern area including the Town of Superior), Sanders (except S.E. corner portion) Counties					
Carpenters	$10.48	.80	.75		.02
Sawmen; Filers, Piledrivers; Carpenters working burned, charred, creosoted or similary treated material	10.73	.80	.75		.02
Millwrights and Machine Erectors	11.48	.80	.75		.02
Big Horn, Carbon, Garfield, Golden Valley, Musselshell, Petroleum, Rosebud, Stillwater, Treasure, Wheatland and Yellowstone Counties					
Carpenters	10.38	.80	.75		.02
Floor Sander; Sawmen	10.38	.80	.75		.02
Piledrivermen	10.53	.80	.75		.02
Millwrights	11.38	.80	.75		.02
Beaverhead and Silver Bow Counties					
Carpenters	10.88	.80	1.00	.75	.04
Millwrights and Piledrivermen	11.68	.80	1.00	.75	.04
Gallatin, Madison, Park and Sweetgrass Counties					
Carpenters	10.32	.80	.75		.02
Millwrights	11.32	.80	.75		.02
Piledrivermen	10.57	.80	.75		.02

MODIFICATION PAGE #14

DECISION NO. MT79-5129 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Granite (area lying north of a line running due east from the N.W. corner of Granite County to the N.E. corner of Granite County) Lake (southern area, south of and including the Town of Ravalli), Mineral (area southeast of Southeast City limits of the Town of Superior), Missoula, Powell (area lying north of the N.E. corner of Granite County), Ravalli and Sander (Southeastern portion) Counties					
Carpenters	$10.53	.80	.75		.02
Millwrights; Piledriver	11.58	.80	.75		.02
Carter, Custer, Daniels, Dawson, Fallon, McCone, Phillips, Powder River, Prairie, Richland, Roosevelt, Sheridan, Valley and Wilbaux Cos.					
Carpenters	10.24	.80	.75		.02
Piledrivermen	10.49	.80	.75		.02
Millwrights	11.24	.80	.75		.02

MODIFICATION PAGE #15

DECISION NO. PA79-3009
Mod. No. 5
(44 FR 26518 - May 4, 1979)
Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BOILERMAKERS	$14.64	1.17	1.00		.02
ELECTRICIANS:					
ZONE 5					
COMMERCIAL	12.49	.78	3%+.30		.03
IRONWORKERS					
ALL OTHER WORK					
ZONE 3	12.42	1.24	1.86		.01

SUPERSEDEAS DECISION

STATE: Alabama COUNTIES: *See below
DECISION NUMBER: AL80-1043 DATE: Date of Publication
Supersedes Decision No. AL79-1001 dated January 26, 1979 in 44 FR-5601
DESCRIPTION OF WORK: Highway Construction Projects (does not include bridges over navigable waters; tunnels; building structures in rest area projects and railroad construction)

*Zone IV - Counties: Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Chambers, Cherokee, Chilton, Choctaw, Clark, Clay, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Cleburne, Dale, Dallas, DeKalb, Elmore, Escambia, Fayette, Franklin, Geneva, Greene, Hale, Henry, Houston, Jackson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell, Sumter, Tallapoosa, Washington, Wilcox, and Winston Counties, Alabama.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	3.65				
Carpenters	4.90				
Concrete finishers	4.40				
Concrete saw	3.10				
Electricians	5.80				
Ironworkers:					
Structural	5.80				
Reinforcing	4.50				
Laborers:					
Air tool operators	3.25				
Asphalt raker	3.75				
Concrete laborers	3.27				
Pipelayers	3.75				
Powderman and blasters	4.00				
Saw	3.50				
Side rail or form setters	3.72				
Unskilled	3.10				
Wagon drill	4.00				
Painters	5.50				
Piledrivermen	4.80				
Truck Drivers:					
Under 1½ tons	3.25				
Single rear axle	3.25				
Multi-rear axle or heavy duty, off road, single axle	3.34				
Winch truck and A-Frame	3.25				
Welders - Receive rate for craft					

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Aggregate spreader operator	4.10				
Air compressors	3.15				
Asphalt spreader	4.25				
Asphalt mixers and pug mill & batch plants	3.30				
Asphalt plant driers	3.95				
Bulldozers	4.64				
Bull floats	3.25				
Concrete mixers (3-bags and under)	3.25				
Concrete mixers (over 3-bags)	3.95				
Concrete paving machine	3.95				
Concrete paving finishing machine	3.95				
Concrete paving spreaders	3.95				
Cranes, clamshells, backhoes derricks, draglines or shovels	5.22				
Conveyors	3.25				
Crusher and screening plants	3.95				
Drilling machine	5.00				
Elevating graders, gradalls or trenching	3.85				
Firemen	3.25				
Form graders	3.25				
Hoist (2-drums or 2-cages or more)	3.95				
Hoist (1 drum)	3.25				
Mechanics	5.36				
Motor patrols	5.00				
Oilers and greasemen	3.60				
Paving subgraders	3.25				
Piledrivers	4.85				
Pumps	3.25				
Pumpcretes	3.25				
Rollers, self-propelled	4.17				
Rollers, self-propelled (on asphalt bases and pavements)	4.43				
Scale operators	3.25				
Scalemen	3.25				
Scrapers	4.32				
Seeding and mulching machine	4.00				
Striping machines (paint)	4.31				
Tractors & loaders (farm rubber tired)	3.35				
Tractor & loaders (80 H.P. or less)(draw-bar capacity)	3.78				
Tractors & loaders (over 80 H.P.)	4.00				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Louisiana PARISH: Statewide
DECISION NO.: LA80-4014 DATE: Date of Publication
Supersedeas Decision No. LA79-4069, dated July 20, 1979 in 44 FR 42860.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories. Highway Projects (does not include Acadia, Ascension, East Baton Rouge, Iberia, Iberville, Lafayette, Livingston, Lousiana, Rapides, St. Landry, St. Martin, Vermilion, Vernon, Webster & West Baton Rouge Pars.; also not including building structures in rest area projects & airports in Bossier, Caddo, Calcasieu, Jefferson & Orleans Pars.)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS - ZONE 1	$ 12.32	.525	.90		.04
ZONE 2	11.36	.70	.96		.03
ZONE 3	10.90	.65	1.30		.05
ZONE 4	11.64	.45	.50		

ZONE 1 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Rapides, Vermilion & Vernon Parishes
ZONE 2 - Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Grant, Jackson, Lincoln, Natchitoches, Ouachita, Red River, Sabine, Union, Webster & Winn Parishes
ZONE 3 - Ascension, Assumption, Avoyelles, Catahoula, Concordia, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafayette, Lafourche, LaSalle, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 4 - East Carroll, Franklin, Madison, Morehouse, Richland, Tensas & West Carroll Pars.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
BOILERMAKERS	11.05	.80	1.00		.02
BRICKLAYERS & STONEMASONS					
ZONE 1	11.55	.80	1.15		.31
ZONE 2	10.30	.53	.33		
ZONE 3	12.25	.53	.67		.05
ZONE 4	11.50	.60	.35		.035
ZONE 5	11.25				
ZONE 6	10.85	.40	.53		
ZONE 7	10.50		.30		
ZONE 8	11.70		.25		
ZONE 9	11.50				

DECISION NO. LA80-4014 Page 2

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Pointe Coupee, Rapides & St. Landry Parishes
ZONE 3 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaqueamines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. Line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58, through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
ZONE 5 - St. Tammany (north half including Covington north of Hwy. 190) & Washington Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Natchitoches & Sabine Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (BUILDING CONSTRUCTION)					
ZONE 1 - Carpenters	10.00	.50			
Millwrights	10.72	.50			
Piledrivermen	10.90	.50			
ZONE 2 - Carpenters, piledrivermen & soft floor layers	11.18	.60	.33		.07
Millwrights	12.88				.07
ZONE 3 - Carpenters	10.70	.65	.50		
Millwrights	11.75	.65	.50		
Piledrivermen	11.00	.65	.50		
ZONE 4 - Carpenters & piledrivermen	11.60	.50	.60		.05
Millwrights	13.325				7/10%
ZONE 5 - Carpenters & soft floor layers	11.02	.65	.50		.04
Millwrights	11.41	.65	.50		.04
Piledrivermen	11.12	.65	.50		.04
ZONE 6 - Carpenters & soft floor layers	10.855	.65	.50		.04
Millwrights	11.41	.65	.50		.04
Piledrivermen	11.12	.65	.50		.04
ZONE 7 - Carpenters & soft floor layers	10.70				
Millwrights	11.45				
Piledrivermen	11.20				
ZONE 8 - Carpenters & soft floor layers	10.45	.50	.40		.04
Millwrights	11.20	.50	.40		.04
Piledrivermen	10.70	.50	.40		.04

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DECISION NO. LA80-4014

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 9 - Carpenters & soft floor layers	$10.70				
Millwrights	11.45				
Piledrivermen	11.20				
ZONE 10 - Carpenters & soft floor layers	10.40	.65	.35		.05
Millwrights	11.30	.65	.35		.05
Piledrivermen	10.90	.65	.35		.05

ZONE 1 - All of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of the Atchafalaya River)
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Par.) & Washington Parishes
ZONE 4 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Miss. River), West Baton Rouge & West Feliciana Pars.
ZONE 5 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles & St. John the Baptist Pars. Parts of St. Tammany & Tangipahoa (south of I-12 from the Miss. State Line to the western boundary of Tangipahoa Par.) Parishes
ZONE 6 - Assumption, Iberia (east of the Atchafalaya River), Lafourche, St. James (south of the Miss. River), St. Martin (eastern segment of the Atchafalaya River), St. Mary (east of the Atchafalaya River) & Terrebonne Parishes
ZONE 7 - Avoyelles, Grant, LaSalle & Rapides Parishes
ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 9 - Natchitoches & Sabine Parishes
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN (HIGHWAY CONSTRUCTION):					
ZONE 1	10.96				
ZONE 2	11.96				
ZONE 3	11.375				
ZONE 4	9.85				
ZONE 5	9.30				

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ZONE 1 - Bossier & Caddo Parishes
ZONE 2 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 3 - Calcasieu Parish
ZONE 4 - Bienville, Cameron, DeSoto, Jefferson Davis, Red River, Richland, St. James, St. John the Baptist, St. Tammany, Tangipahoa & Washington Parishes
ZONE 5 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Mary, Tensas, Terrebonne, Union, West Carroll, West Feliciana & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (BUILDING CONSTRUCTION):					
ZONE 1	$10.71				
ZONE 2	9.45				
ZONE 3	9.75	.50	.75		.05
ZONE 4	11.045	.45	.40		.04
ZONE 5	10.35				
ZONE 6	8.00				
ZONE 7	9.90	.35			
ZONE 8	10.42		.25		
ZONE 9	9.25		.30		

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, West Baton Rouge & West Feliciana Pars
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Pars.
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (north to Interstate Hwy. 12) & Terrebonne Parishes
ZONE 5 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Natchitoches & Sabine Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (HIGHWAY CONSTRUCTION):					
ZONE 1	10.10	.45	.40		
ZONE 2	6.45				
ZONE 3	9.95	.35			
ZONE 4	10.30				
ZONE 5	9.80				
ZONE 6	9.30				
ZONE 7	9.30				
On concrete lined ditches	9.75	.50	.75		.05
ZONE 8	6.30				
ZONE 9	5.72				

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - U.S. Highway 61 in East Feliciana & West Feliciana Parishes

ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Cameron & Jefferson Davis Parishes
ZONE 6 - Allen & Beauregard Parishes
ZONE 7 - St. Mary Parish
ZONE 8 - Assumption, Avoyelles, Bienville, Claiborne, DeSoto, East Feliciana (excluding U.S. Hwy. 61), Evangeline, Lafourche, Lincoln, Madison, Natchitoches, Pointe Coupee, Red River, Richland, St. Helena, St. James, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne Parishes
ZONE 9 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Morehouse, Sabine, Tensas, Union, Washington, West Carroll & Winn Pars.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
ZONE 1 - Electricians	13.76	3%	8%		3/10%
Cable splicers	14.01	5%	8%		3/10%
ZONE 2 - Electricians	11.95	.45	3%		.02
Cable splicers	12.45	.45	3%		.02
ZONE 3 - Electricians	14.00	.35	3%+.40		1/10%
Cable splicers	14.25	.35	3%+.40		1/10%
ZONE 4 - Electricians	12.85	.70	3%		2/10%
Cable splicers	13.10	.70	3%		2/10%
ZONE 5 - Electricians	12.70	.45	3%+.40		.05
Cable splicers	12.70	.45	3%+.40		.05
ZONE 6 - Electricians	12.25	.85	3%		1/2%
Cable splicers	12.75	.85	3%		1/2%
ZONE 7 - Electricians	12.65	1.45	3%		1%
Cable splicers	13.15	1.45	3%		1%
ZONE 8 - Electricians	13.21		3%		1/2%
Cable splicers	13.46		3%		1/2%

ZONE 1 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge, & West Feliciana Pars.
ZONE 2 - St. Tammany, Tangipahoa & Washington Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Pars.
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS					
ZONE 1 - Mechanics	10.27	.745	.56	4%+a+b	.025
ZONE 2 - Mechanics	10.025	.895	.69	4%+a+b	.035

FOOTNOTES FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; the Friday after Thanksgiving Day; Christmas Day
ZONE 1 - Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge & West Feliciana Pars.
ZONE 2 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS - ZONE 1	11.15				.02
ZONE 2	8.15				.01
ZONE 3	10.625	.17	.30		.01
ZONE 4	9.48		.30		.04
ZONE 5	6.80				
ZONE 6	8.10				

ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Ascension (north of Hwy. 22), Assumption (north of Hwy. 22), East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Hwy. 51), Vermilion, West Baton Rouge & West Feliciana Pars.
ZONE 3 - Ascension (south of Hwy. 22), Assumption (south of Hwy. 22), Jefferson, Lafourche, Livingston (south of Hwy 22), Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to city of Natchitoches), Red River, Sabine & Webster Parishes
ZONE 5 - Bienville (eastern portion, everything east of Rt. 9 inclusive), Caldwell, Concordia, East Carroll (western 2/3, everything west of Rt. 65 inclusive), Franklin, Jackson, Lincoln, Madison (western half, everything west of Rt. 65 inclusive), Morehouse, Ouachita, Richland, Tensas (west 3/4 everything west of Rt. 65), Union, West Carroll & Winn (northern half, everything north of a line running east & west through Winfield, excluding Winfield) Parishes .
ZONE 6 - St. Tammany (northern 2/3, everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Route 51 & everything north of a straight line running east & west from Madisonville through Ponchatoula) & Washington Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (BUILDING CONSTRUCTION)					
ZONE 1	$ 11.66	.63	.35		.04
ZONE 2	11.69	.45	.75		.04
ZONE 3	11.75	.45	.90		.06
ZONE 4	11.90	.45	1.15		.08
ZONE 5	10.35	.45	.85		.04
ZONE 6	11.70	.45	.85		.05

ZONE 1 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Pars.; Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La.-Miss. border, east of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico)
ZONE 2 - All of Ascension, Assumption, Avoyelles, East Baton Rouge, East Feliciana, Iberia, Iberville, Pointe Coupee, St. Helena, St. Martin, St. Mary, West Baton Rouge & West Feliciana Pars., Parts of Acadia, Evangeline, Lafayette, St. Landry, & Vermilion Pars. (east of a line drawn from the meeting point of the boundaries of the Pars. of Rapides, Avoyelles & Evangeline, southeast along the western city limits of Abbeville to the Gulf of Mexico); Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La.-Miss. border, west of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico); Parts of Catahoula, Concordia & LaSalle Pars. (south of a line drawn from Natchez through the city of Carter Point to the Rapides Par. Line, then west along the Southern border of Rapides Par.)
ZONE 3 - All of Bossier, Caddo, DeSoto, Red River & Webster Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (west of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Clouterville); Part of Sabine Par. (north of a line drawn from the Natchitoches Par. boundary west through the city of Pleason to the Tex.-La. border)

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ZONE 4 - All of Caldwell, East Carroll, Franklin, Grant, Jackson, Lincoln, Morehouse, Ouachita, Rapides, Richland, Tensas, Union & West Carroll Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (east of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Madison Par. (except the cities of Mound, Delta & adjacent areas); Parts of Catahoula, Concordia & LaSalle Pars. (north of a line drawn from Natches through the city of Carter Point to the Rapides Par. Line)
ZONE 5 - That part of Madison Par. (including the cities of Mound, Delta & adjacent areas)
ZONE 6 - All of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars. (southwest of Rapides Par. & west of a line south of the western most border between Rapides & Evangeline Pars.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (HIGHWAY CONSTRUCTION)					
ZONE 1	12.12				
ZONE 2	11.70				
ZONE 3	11.56				
ZONE 4	9.85				
ZONE 5	9.30				
ZONE 6	6.45				
ZONE 7	5.84				

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Pars.
ZONE 2 - Calcasieu Parish
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Cameron & Jefferson Davis Parishes
ZONE 5 - Allen & Beauregard Parishes
ZONE 6 - Bienville, DeSoto, Red River, Richland, St. James, St. John the Baptist, St. Tammany, Tangipahoa & Washington Parishes
ZONE 7 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Mary, Tensas, Terrebonne, Union, West Carroll, West Feliciana & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (BUILDING CONSTRUCTION):					
ZONE 1 - Group 1	$ 7.00	.30			
Group 2	7.15	.30			
Group 3	7.25	.30			
ZONE 2 - Group 1	6.85	.25	.27		.05
Group 2	7.05	.25	.27		.05
ZONE 3 - Group 1	8.38	.25	.27		.05
Group 2	8.48	.25	.27		.05
Group 3	8.53	.25	.27		.05
Group 4	9.34	.25	.27		.05
Group 5	8.90	.25	.27		.05
Group 6	8.74	.25	.27		.05
Group 7	8.43	.25	.27		.05
Group 8	8.63	.25	.27		.05
ZONE 4 - Group 1	7.22	.25	.27		.05
Group 2	7.32	.25	.27		.05
Group 3	7.37	.25	.27		.05
ZONE 5 - Group 1	6.82	.25	.27		.05
Group 2	6.92	.25	.27		.05
Group 3	6.97	.25	.27		.05
ZONE 6 - Group 1	8.40	.25	.27		.05
Group 2	8.50	.25	.27		.05
Group 3	8.55	.25	.27		.05
Group 4	8.56	.25	.27		.05
Group 5	8.66	.25	.27		.05
ZONE 7 - Group 1	8.075	.25	.27		.05
Group 2	8.225	.25	.27		.05
Group 3	8.275	.25	.27		.05
ZONE 8 - Group 1	6.39	.25	.27		.05
Group 2	6.59	.25	.27		.05
Group 3	6.64	.25	.27		.05
Group 4	6.69	.25	.27		.05
Group 5	7.04	.25	.27		.05
ZONE 9 - Group 1	7.03	.25	.27		.05
Group 2	7.13	.25	.27		.05
Group 3	7.18	.25	.27		.05
Group 4	7.23	.25	.27		.05
ZONE 10 - Group 1	6.70	.25	.27		.05
Group 2	6.88	.25	.27		.05
Group 3	7.03	.25	.27		.05

LABORERS - ZONE 1 (CLASSIFICATION DEFINITIONS)
GROUP 1 - Building and labor construction
GROUP 2 - Stone mason tenders, mechanical tool operators; sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. or over); tender of all crafts; sandblaster (nozzlemen); sandblaster (pot tender); laying non-metallic pipe over 4 ft. deep, including sewer, drain & underground tile; septic tank diggers & installers, over 4 ft. deep; gas & oil pipeline laborers & wrappers
GROUP 3 - Gunite tool operators
LABORERS - ZONE 2
GROUP 1 - Building laborer; rotary drill laborers; foundation drill crewman
GROUP 2 - Mason mixer; plaster mixer; mechanical tool op.; sandblaster; laying concrete, clay, plastic, asbestos cement, casing & corrugated metal pipe, as sewer, drain & underground tile (caulkers, joint wrappers, hot pot & pipe layers); gas & oil pipeline laborers wrappers & dopers
LABORERS - ZONE 3
GROUP 1 - Building & general laborer; tenders (carpenter, plaster, cement finisher, mason); tank & vessel cleaners
GROUP 2 - Air tool op. (except jackhammer); interior of closed tanks & vessels power equipped
GROUP 3 - Mortar mixers
GROUP 4 - Blasterers
GROUP 5 - Blaster tenders; concrete cutters behind paving machine & puddlers; form setters & liner asphalt worker
GROUP 6 - Wiping joints, laying pipe & tile from purperete
GROUP 7 - Interior of closed tanks & vessels manually
GROUP 8 - Jackhammer operators
LABORERS - ZONES 4 & 5
GROUP 1 - Building and general laborers, carpenter tenders
GROUP 2 - Power tool ops. (hammer men, tamper, vibrators, power buggies, concrete chippers or cutters, chain saw ops., etc); pipelayers (non-metallic)
GROUP 3 - Mason tenders, plaster tenders, cement mix (wet or dry) tenders, hod carrier tender; mortar mixers & cement mixers (wet or dry)
LABORERS - ZONE 6
GROUP 1 - Laborers
GROUP 2 - Laborers handling steel pans, stone masons tenders, mechanical tool ops., sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. & over), sandblaster (nozzleman & pot tender); laying non-metallic pipe over 4 ft. deep, septic diggers & installers over 4 ft. deep, gas & oil pipeline laborers & wrappers
GROUP 3 - Gunite tool operators
GROUP 4 - Bricklayers tenders and mason tenders
GROUP 5 - Hod carriers using prime mover to serve a bricklayer; mortar mixers
LABORERS - ZONE 7
GROUP 1 - Common laborers
GROUP 2 - Jackhammermen, sewermen, mason tenders, plasterer tenders, stone masons tenders, vibratormen
GROUP 3 - Mortar mixers
LABORERS - ZONE 8
GROUP 1 - Common laborers; carpenter tenders; mason tenders (other than cement); plasterers tenders; stone masons tenders; concrete workers; scaffold builders
GROUP 2 - Air tool ops. (jackhammer, vibrator & tamper); sewer pipe joiners & setters; concrete cutters; hod carriers; creosote materials handler; acid worker; mason tenders (cement); Mortar mixer (wet or dry); motorized buggy op.; water proofers (mastic); form setters (steel paving forms)
GROUP 3 - Chain saw operator
GROUP 4 - Asphalt raker, tamper, smoother & shovelers; sewer pipelayers; blaster tenders

GROUP 5 - Powderman
LABORERS - ZONE 9
GROUP 1 - Laborers
GROUP 2 - Mason tenders, plaster tenders; asphalt rakers, asphalt smoothers
GROUP 3 - Mortar mixers
GROUP 4 - Air jack op., vibrator ops., sewer pipelayers, sewer pipe wrappers
LABORERS - ZONE 10
GROUP 1 - Laborers, tenders (brickmasons, stonemasons, cement masons, carpenters, plasterers, stripping & dismantling; concrete form work; loading, unloading, carrying & handling steel & steel mesh; assisting to the setting of cut stone, granite or artifical stone; building scaffolds; shoring
GROUP 2 - Mechanical tool op. (air, electric, motor, engine, etc.); sewer pipelayers; mortar mixers (hand or machine); gunite op.; tile, terrazzo & marble setters finisher
GROUP 3 - Pipe dopers & burners

ZONE 1 - St. Tammany (as far South as Bayou Lacombe & east to the Miss. State Line at Pearlington), Tangipahoa (all but southwestern corner) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary (excluding that part of Parish to the Calumet Locks west) & Vermilion Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge & West Feliciana Pars.; Parts of Assumption, St. James, St. John the Baptist Pars. (north of a line drawn from the southern limits of the town of St. James in St. James Par. to the northern limits of the town of Napoleonville in Assumption Par. & then directly west to the Par. line, all of St. James Par. except that part which is east of a line drawn from Lutcher to U. S. Hwy 61 (Airline Hwy). then west on U. S. 61 to Blind River & on a direct line to Manchac)
ZONE 5 - Livingston, St. Helena & Tangipahoa (south & west of a line running from the western Par. line to a point directly east which touches the northern limits of the town of Independence, then directly south to Lake Pontchartrain) Parishes
ZONE 6 - Jefferson (except Grand Isle), Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist (on the west bank of the Miss. River & the portion of St. John the Baptist on the east bank of the Miss. River as far as the Sycamore Inn at Lutcher & north to Blind River & Manchac & St. Tammany (north as far as Bayou Lacombe, east to the Miss. State Line at Pearlington) Parishes
ZONE 7 - Assumption (north of Napoleonville); Jefferson (Grand Isle); Lafourche, St. James (on the west bank & including the town of Vacherie), St. Mary (that part of Parish to the Calumet Locks west) & Terrebonne Parishes
ZONE 8 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides & Winn Parishes
ZONE 9 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Pars.
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Pars.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (HIGHWAY CONSTRUCTION)					
GROUP 1 - ZONE 1	$ 7.08	.25	.27		.05
ZONE 2	6.38	.25	.27		.05
ZONE 3	7.08	.25	.27		.05
ZONE 4	6.18	.25	.27		.05
ZONE 5	5.98	.25	.27		.05
ZONE 6	3.65	.15	.10		.05
ZONE 7	3.75	.15	.10		.05
GROUP 2 - ZONE 1	7.18	.25	.27		.05
ZONE 2	6.48	.25	.27		.05
ZONE 3	7.18	.25	.27		.05
ZONE 4	6.28	.25	.27		.05
ZONE 5	6.08	.25	.27		.05
ZONE 6	3.95	.15	.10		.05
ZONE 7	3.85	.15	.10		.05
GROUP 3 - ZONE 1	7.63	.25	.27		.05
ZONE 2	6.93	.25	.27		.05
ZONE 3	7.63	.25	.27		.05
ZONE 4	6.73	.25	.27		.05
ZONE 5	6.53	.25	.27		.05
ZONE 6	4.40	.15	.10		.05
ZONE 7	4.30	.15	.10		.05
GROUP 4 - ZONE 1	7.88	.25	.27		.05
ZONE 2	7.18	.25	.27		.05
ZONE 3	7.88	.25	.27		.05
ZONE 4	6.93	.25	.27		.05
ZONE 5	6.73	.25	.27		.05
ZONE 6	4.60	.15	.10		.05
ZONE 7	4.50	.15	.10		.05

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GROUP 1 - Laborers, including but not limited to signalman, foundation driller & demolishing & dismantling man
GROUP 2 - Raker, concrete spreader, carpenter tenders, distributor man, finisher tenders, formsetter tenders, jackhammer op.; jetting laborer, painter tenders, pit man, pipelayer or tile layer, power monkey tender, tamper, tree pruner, stone mason tender, stoker, asphalt raker, concrete shovelers, power tool op. & motorized buggy op.
GROUP 3 - Formsetter, head or master--high type pavement
GROUP 4 - Powderman
ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - Bossier & Caddo Parishes
ZONE 3 - Calcasieu Parish
ZONE 4 - Cameron & Jefferson Davis Parishes
ZONE 5 - Allen & Beauregard Parishes
ZONE 6 - Bienville, DeSoto, Red River, Richland, St. James, St. John the Baptist, St. Tammany, Tangipahoa & Washington Parishes
ZONE 7 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Mary, Tensas, Terrebonne, Union, West Carroll, West Feliciana & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS					
ZONE 1	$10.08	.55	.35		.05
ZONE 2	10.23	.55	.35		.05
ZONE 3	10.48	.55	.35		.05
ZONE 4	10.83	.55	.35		.05
ZONE 5	11.85				.01
ZONE 6	10.60				.01
ZONE 7	12.435	.55			.01
ZONE 8	12.05				
ZONE 9	9.40				.01

ZONE 1 - That part of Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Pars. which are 12.5 miles from center of New Orleans
ZONE 2 - That part of Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Pars. which are within a 22.5 mile radius of New Orleans center.
ZONE 3 - That part of Jefferson, Lafourche (except that area southeast of Raceland to Bayou Lafourche), Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Tangipahoa Pars. which are within a 32.5 mile radius of New Orleans center
ZONE 4 - That part of Jefferson, Lafourche (including that area southeast of Raceland to Bayou Lafourche), Livingston (westward to Rt. 22 including towns of Maurepas, Killian & Springfield), Plaquemines, St. Bernard, St. James (including towns of Gramercy, Lutcher & Paulina), St. Tammany, Tangipahoa (northward to Rt. 16 including towns of Amite & Holton), Terrebonne (westward to Rts. 24 & 315 including city of Houma) & Washington (only northward to Rt. 10 to southern limits of towns of Bogalusa, Sheridan & Franklinton) Pars. outside 32.5 mile radius New Orleans Center

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ZONE 5 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, (except lower Grand River), Livingston (western part), Pointe Coupee, St. Helena, St. James (only towns of Union, Hymel, Convent & Lutcher), St. Martin (only lower separted section), St. Mary (only Morgan City), Tangipahoa (north of Rt. 16 & west of Rt. 51 including Amite, Hammond & Ponchatoula), Washington (only north of Rt. 16 & west of Rt. 25), West Baton Rouge & West Feliciana Pars.
ZONE 6 - Acadia, Evangeline (northward to Rt. 10 including Ville Platte and Mamou), Iberia, Iberville (eastward to lower Grand River), Lafayette, St. Landry, St. Martin (excluding lower separated section), St. Mary (east to Berwick) & Vermilion Pars
ZONE 7 - Allen, Beauregard, Calcasieu, Cameron, Evangeline (excluding Ville Platte & Mamou), Jefferson Davis & Vernon (west of Rt. 117 & north of Rt. 8) Pars.
ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Lincoln, Natchitoches, Red River & Webster Pars.
ZONE 9 - Avoyelles, Caldwell, Catahoula, Concordia, Franklin, Grant, LaSalle, Morehouse, Ouachita, Rapides, Richland, Vernon (except west of Rt. 117 & north of Rt. 8) & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
ZONE 1 - GROUP 1	$12.70	.45	3%+.40		.05
GROUP 2	75%JR	.45	3%+.40		.05
GROUP 3	65%JR	.45	3%+.40		.05
GROUP 4	45%JR	.45	3%+.40		.05
GROUP 5	50%JR	.45	3%+.40		.05

GROUP 1 - Linemen
GROUP 2 - Op. hole digging equip.; op. tractor with winch & derrick; op. line truck with winch & derrick working hot lines
GROUP 3 - Op. using hole truck & trailer or pole hauling & setting truck (not in energized lines)
GROUP 4 - Op. using truck without winch
GROUP 5 - Groundmen

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 2					
Linemen, line equipment & line truck ops.	13.76	5%	8%		3/10%
Cable splicers	14.01	5%	8%		3/10%
ZONE 3 - Linemen, equipment ops.	14.00	.35	3%+.40		1/10%
Cable splicers	14.25	.35	3%+.40		1/10%
Groundmen	12.00	.35	3%+.40		1/10%
ZONE 4 - Linemen, equip ops.	12.85	.70	3%		
Cable splicers	13.10	.70	3%		
Groundmen	50%JR	.70	3%		
ZONE 5 - Linemen & equip., ops.	13.21		3%		1/2%
Cable splicers	13.46		3%		1/2%
Groundmen	50%JR		3%		1/2%
ZONE 6 - Linemen & equip., ops.	12.25	.85	3%		1/2%
Cable splicers	12.75	.85	3%		1/2%
Groundman	4.17	.85	3%		1/2%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 7 - Linemen; Operators	12.65	1.45	3%		1%
Cable splicers	13.15	1.45	3%		1%
Groundmen	10.65	1.45	3%		1%

ZONE 1 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern Segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Pars.
ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Pars.
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Pars.
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE, TILE & TERRAZZO WORKERS & FINISHERS					
ZONE 1 - Marble setters	$11.50	.60	.35		.035
Tile & terrazzo workers	10.65	.40		.20	
Marble, tile & terrazzo finishers	7.90	.40		.20	
ZONE 2 - Marble & terrazzo workers	12.25	.53	.67		.05
Tile setters	9.05	.48	.67		.02
ZONE 3 - Marble setters	11.50				
Terrazzo workers	9.25				
ZONE 4 - Marble, tile & terrazzo workers	10.67		.25		
ZONE 5 - Marble, tile & terrazzo workers	9.65	.40			
ZONE 6 - Marble, tile & terrazzo workers	13.50				
Marble, tile & terrazzo finishers	7.90	.40		.20	
ZONE 7 - Tile setters	11.25				
Tile finishers	7.90	.40		.20	

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. Line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58 through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes

ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Pars.
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Para.
ZONE 7 - St. Tammany (northern half including Covington north of Hwy 190) & Washington Pars.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS					
ZONE 1 - GROUP 1	$11.715		.30		
GROUP 2	11.915		.30		
GROUP 3	12.06		.30		
GROUP 4	13.505		.30		
ZONE 2 - GROUP 1	9.85		.25		.05
GROUP 2	10.92		.25		.05
ZONE 3 - GROUP 1	9.405	.525	.50		.07
GROUP 2	9.78	.525	.50		.07
GROUP 3	10.655	.525	.50		.07
ZONE 4 - GROUP 1	8.10				
GROUP 2	8.40				
GROUP 3	8.15				
GROUP 4	9.00				
GROUP 5	9.25				
GROUP 6	8.55				
GROUP 7	8.40				
ZONE 5 - GROUP 1	9.60				
GROUP 2	10.10				
GROUP 3	10.60				
ZONE 6 - Painters, tape & float, vinyl & paperhangers	10.25	.40	.30		.05
ZONE 7 - GROUP 1	7.80				
GROUP 2	8.30				
GROUP 3	8.80				

ZONE 1 - GROUP 1 - Painters brush, roller & buffer
GROUP 2 - Paperhanging, taping & floating
GROUP 3 - Spray, sandblasting, hydroblasting, spider op., rubberizing, & pyroflexing, steam jennies, taping & floating machines
GROUP 4 - Bridge work, water towers, radio & TV towers
ZONE 2 - GROUP 1 - Brush; taping; floating & texture
GROUP 2 - Sandblasting, industrial & steel
ZONE 3 - GROUP 1 - Painters, paperhangers & sheetrock tapers & floaters
GROUP 2 - Structural steel painters of new buildings under construction; the following overall of 30 ft.: tanks, air conditioning, towers, smoke stacks sprinkler systems, wharves & structural steel in old buildings; spray painters, swing stage painter
GROUP 3 - Industrial
ZONE 4 - GROUP 1 - Brush
GROUP 2 - Brush swing stage
GROUP 3 - Brush industrial
GROUP 4 - Spray; spray steel; sandblasting
GROUP 5 - Spray swing stage
GROUP 6 - Paperhanger
GROUP 7 - Sheetrock finishers
ZONE 5 - GROUP 1 - Painters, paperhangers, tapers, floaters; commercial steel, such as churches or any commercial building with closed roof deck or walls
GROUP 2 - Other commercial work brush spray, stage, window jacks, flag-poles & steeple work
GROUP 3 - All industrial work including sandblasting or power tools of any kind
ZONE 7 - GROUP 1 - Painters, paperhangers, tapers, floaters
GROUP 2 - Stage, window jacks, bosun chairs, structural steel, rollers, equipment painting; sandblasting, spray, stack, sign, tank painting, steeple jack
GROUP 3 - Structural steel brush
ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Ascension (north of Hwy. 22), Assumption (north of Hwy. 22) East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Hwy. 51), Vermilion, West Baton Rouge & West Feliciana Pars.
ZONE 3 - Ascension (south of Hwy 22), Assumption (south of Hwy. 22), Lafourche, Livingston (south of Hwy. 22), Jefferson, Orleans, Plaquemines, St. Bernard, St, Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - St. Tammany (northern 2/3, everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Rt. 51 & everything north of a straight line running east & west from Madisonville through Ponchatoula) & Washington Parishes

ZONE 5 - Allen (northeastern most corner, north of Rt. 10), Avoyelles, Catahoula, Evangeline, Grant, LaSalle, Natchitoches (southern half, everything south of Rt. 6 including City of Natchitoches), Rapides, St. Landry (northern portion) & Winn (southern half from a line running east & west through the intersection of Rts. 84 & 71, including the town of Winnfield at that intersection) Parishes
ZONE 6 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to City of Natchitoches), Red River, Sabine & Webster Parishes
ZONE 7 - Bienville (eastern portion, everything east of Rt. 9 inclusive), Caldwell, Concordia, East Carroll (western 2/3, everything west of Rt. 65 inclusive), Franklin, Jackson, Lincoln, Madison (western half, everything west of Rt. 65 inclusive), Morehouse, Ouachita, Richland, Tensas (west 3/4, everything west of Rt. 65), Union, West Carroll & Winn (northern half, everything north of a line running east & west through Winfield, excluding Winfield) Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS - ZONE 1	10.70				
ZONE 2	10.00				.01
ZONE 3	10.07				
ZONE 4	11.60				.01
ZONE 5	10.08	.60	.35		.08
ZONE 6	7.75				.01
ZONE 7	9.75			1.00	
ZONE 8	11.70		.25		
ZONE 9	10.50		.30		

ZONE 1 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Pars.
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Pars.
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. James, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Pars.
ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (par. line on the west along U.S. Hwy. 190 through the lower limits of Covington & Abita Springs along State Hwy 435 to Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Pars.
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Pars.
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Pars.
ZONE 9 - Natchitoches & Sabine Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS - ZONE 1	11.60	.60	.90		.08
ZONE 2	11.95	.78	.875		.07
ZONE 3	11.65	.85	.80		.10
ZONE 4	11.46	.55	.80	1.00	.09
ZONE 5	12.48	.67	.72		.08

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (northern 2/3 of Par.), St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne & Washington Pars.
ZONE 2 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia (eastern ½ of Par), Iberville, Livingston, Pointe Coupee, St. Helena, St. James (western 1/3 of Par), St. Martin (southern part of eastern ½ of Par), St. Mary, West Baton Rouge & West Feliciana Pars.
ZONE 3 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Evangeline, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches (south of Hwys. 84 & 86 from Winnfield to Natchitoches & southeast from Natchitoches to Anacoco through Bellwood), Ouachita, Rapides, Richland, Tensas, Union, Vernon (northeast of Hwy. 10), West Carroll & Winn Parishes
ZONE 4 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Pars.; Parts of Natchitoches & Vernon Pars. (northwest from a line drawn from Natchitoches to Anacoco through Bellwood & north of Hwy. 111 between Anacoco & Haddens)
ZONE 5 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia (western ½ of Par.) Jefferson Davis, Lafayette, St. Landry, St. Martin (west of Hwy. 31) & Vermilion Pars.

POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - GROUP 1	$ 8.19	.65	.78		.05
GROUP 2	8.55	.65	.78		.05
GROUP 3	8.88	.65	.78		.05
GROUP 4	8.97	.65	.78		.05
GROUP 5	9.29	.65	.78		.05
GROUP 6	10.77	.65	.78		.05
ZONES 2 & 4 - GROUP 1	7.97	.65	.48		.05
GROUP 2	8.34	.65	.48		.05
GROUP 3	8.73	.65	.48		.05
GROUP 4	8.79	.65	.48		.05
GROUP 5	9.16	.65	.48		.05
GROUP 6	10.77	.65	.48		.05
ZONE 3 - GROUP 1	8.25	.65	.72		.05
GROUP 2	8.66	.65	.72		.05
GROUP 3	9.07	.65	.72		.05
GROUP 4	9.15	.65	.72		.05
GROUP 5	9.54	.65	.72		.05
GROUP 6	11.27	.65	.72		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 5 - GROUP 1	$ 8.56	.65	1.00		.05
GROUP 2	8.24	.65	1.00		.05
GROUP 3	8.03	.65	1.00		.05
GROUP 4	8.84	.65	1.00		.05
GROUP 5	11.23	.65	1.00		.05
GROUP 6	9.29	.65	1.00		.05
GROUP 7	9.93	.65	1.00		.05
ZONE 6 - GROUP 1	8.41	.65	1.00		.05
GROUP 2	7.52	.65	1.00		.05
GROUP 3	8.08	.65	1.00		.05
GROUP 4	8.89	.65	1.00		.05
GROUP 5	10.18	.65	1.00		.05
GROUP 6	11.41	.65	1.00		.05
GROUP 7	11.66	.65	1.00		.05
GROUP 8	11.91	.65	1.00		.05
GROUP 9	12.16	.65	1.00		.05
ZONE 7 - GROUP 1	10.88	.65	1.00		.05
GROUP 2	11.13	.65	1.00		.05
GROUP 3	7.90	.65	1.00		.05
GROUP 4	8.29	.65	1.00		.05
GROUP 5	9.20	.65	1.00		.05
GROUP 6	10.63	.65	1.00		.05

POWER EQUIPMENT OPERATORS - ZONES 1, 2, 3 & 4 (CLASSIFICATION DEFINITIONS)

GROUP 1 - Oiler

GROUP 2 - Oiler-Driver

GROUP 3 - Scaleman

GROUP 4 - Air compressor; asphalt plant; bulldozers, D-4 & equivalent & under; bullfloats; concrete spreader; finishing machines; concrete mixer (16-s or less); concrete saw; distributors (bitum surface); dowell bar machine; farm-type tractor (with all attachments except backhoe); fireman; fork lifts (other than setting steel, machinery or pipe); hoist, 1 drum less than 4 stories; kolum buff machine; pull cats; pump (3" & over); pump, concrete (under 6"); rollers, except on asphalt or brick; straddle buggies; sweepers on streets & roads (motorized); winch truck, A-frame (other than handling steel or pipe)

GROUP 5 - Asphalt spreader; backhoe; bulldozer, over D-4 & equivalent; cableways; concrete mixer, over 16-s; cranes; derricks; ditching or trenching machines; draglines; fork lifts (setting steel, machinery or pipe); front end loaders (except farm-type tractors); grease serviceman; hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings), hoist, 2 drums & over; hydrolifts; heavy duty mechanic; motor patrols; piledrivers; pump, concrete (6" & over); road pavers; rollers on asphalt or brick; scoopmobiles; scrapers; sideboom cats; shovels; tractorvators; welder, journeyman; well point system; winch cats (hoisting); winch truck, A-frame (handling steel or pipe)

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POWER EQUIPMENT OPERATORS - ZONE 5

GROUP 1 - Scale op.; oiler-driver on motor crane; batch plant

GROUP 2 - Pumps under 3 inch suction

GROUP 3 - Oiler

GROUP 4 - Fireman

GROUP 5 - Combination oiler-compressor; combination oiler-fireman; asphalt spreaders; backhoe (all types); bulldozers; cableways; cherry pickers (all types); concrete mixers (over 1 sack); cranes; deck winch (2 drums or over); derricks; ditching or trenching machines (riding type); draglines; dredges; fork lifts (other than farm type); outside warehouses; foundation drill; front end loaders (except farm type); grease serviceman; hoist-1 drum (4 stories or more on buildings); hoist-1 drum (over 40 ft. on structures other than buildings); hoist (2 drums or over); locomotives (all types); mechanic; mixer plant-central mix; motor patrols; piledrivers; pull cat; pump crete-6" & over discharge; push cat; road pavers; rollers (plant mix asphalt); scrapers; shovels; sidebooms; unit op.; welder, journeyman; well point system; whirleys; winch cats (Cat D-4 & over); winch truck with A-frame (5 ton & over); work boats-requiring licensed op.

GROUP 6 - Bush hog; compressor; concrete pump-under 6" discharge; concrete saw; deck winch (1 drum); distributors; ditching or trenching machines (non-riding type); dowel bar machine; farm-type tractors (when used to pull discs, grass-cutters, etc.); hoist-1 drum (under 4 stories on building); hoist-1 drum (40 ft. or under on structures other than buildings); Holum buff machines; mixers (1 sack & under); motorized street sweepers self-propelled; pump (3" & over); tent pump-internal combustion engine powered; water blast pumps

GROUP 7 - Asphalt plant; boom trucks; bullfloats; concrete spreader; farm-type front end loaders; finishing machines (roadway, riding type); roller (other than plant mix asphalt); straddle buggies; winch truck with A-frame (under 5 tons); workboat-not requiring licensed operator

POWER EQUIPMENT OPERATORS - ZONE 6

GROUP 1 - Snatch cat; pumps, 3 inch suction or more

GROUP 2 - Oiler

GROUP 3 - Batch plant operator

GROUP 4 - Air compressor; asphalt plant engineer; blade grader; distributor (bitum surface); finishing machine (concrete, paving); hoist-1 drum, less than 4 stories; concrete mixer under 16S; Oiler driver; pump crete; street & road sweeper; roller (except on asphalt or brick); roller, asphalt or brick (under 5 tons); post-hole digger; tractor operated bush hog & similar grass or bush cutting equipment

GROUP 5 - A-frame truck; crew boat op.; fireman; fork lift; straddle buggy; traxcavator; scoopmobile & similar front-end loading equipment with scoop or bucket under 1 cu. yd. capacity; locomotive; well point system; unit op.; hoist-1 drum, 4 stories or over

GROUP 6 - Backhoe; cableway; concrete mixer, 16S & up; derrick; crane; dragline; dredge; equipment maintenance mechanic; hoist-2 drums; locomotive crane; paving mixer; piledriver; road paver; roller on asphalt or brick (5 tons or over); shovel; sideboom cats; bulldozer; motor patrol; scraper; hydrolift crane, hydrolift truck, yard crane, cherry picker, etc.; foundation, boring & reaming machine; cement stabilizer; trenching machine; asphalt spreader; traxcavator & similar front end loading equipment with scoop or bucket of 1 cu. yd. or more capacity; tug boat op.; turnapull, euclid, DW-10 & other similar self-loading earth moving equipment; concrete pump (not pump crete)

GROUP 7 - Crane, 60 tons & over; crane, boom 100 ft. & over; piledriver, leads 100 ft. & over

GROUP 8 - Crane, 100 tons & over; crane, boom 150 ft. & over; piledriver leads 150 ft. & over

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GROUP 9 - Crane, boom 250 ft. & over; piledriver, leads over 250 ft.

POWER EQUIPMENT OPERATORS - ZONE 7

GROUP 1 - Assistant master mechanic

GROUP 2 - Master mechanic

GROUP 3 - Oilers

GROUP 4 - Batch plant op.; Oilers (drivers)

GROUP 5 - A-frame truck, except when working with ironworkers or pipefitters; air compressors, asphalt plant engineers; asphalt finisher, screed men; blade graders; boat op.; bullfloats, concrete joining machines; concrete mixers, 16s & under; concrete spreader; crushers; deck winch (1); distributors, asphalt "Ditch Witch" & similar equipment; electric elevators (inside); finishing machine; fireman; form grader; fork lifts; hoist, 1 drum, under 4 stories; power subgrader; pug mill; pull tractors; pump, pump crete; rollers, except on brick & asphalt; rubber tired front end loaders (with or without blade attachments) less than 1 cu. yd. capacity; scale op.; scoopmobile; snatch cats; spray machines; stabilizers, less than 3 drums; straddle buggy; track mahines & equivalent machines; tractors or bulldozers smaller than D-6

GROUP 6 - A-frame truck, when working with ironworkers & pipefitters; bulldozers D-6 & larger; cableways; concrete mixers, over 16-s paving machines; cranes, derricks; draglines & clam shells; deck winches (2); front end loaders & similar type equipment; hoist, 1 drum, 4 stories & over; hoist, 2 drums or more, hydro cranes; mechanic; motor patrols; piledrivers; rollers on brick & asphalt; rubber tired front end loader, with or without attachments, 1 cu. yd. capacity or more; scrapers; shovels; backhoes (all types); sideboom cats; stabilizers, 3 drums or more; traxcavators; trenching machines; unit op.; welder, journeyman; well point systems (gas, diesel, electric, etc.); concrete pump-boom combinations

ZONE 1 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes

ZONE 2 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides, Sabine & St. Landry & Winn Parishes

ZONE 3 - All of Acadia, Lafayette & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of a line drawn from the city of Berwick to the Junction of Iberville-St. Landry Pars. border)

ZONE 4 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

ZONE 5 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.

ZONE 6 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, St. Helena, West Baton Rouge & West Feliciana Pars.; Parts of Assumption & St. James Pars. (northwest of a straight line drawn from the city of Berwick to the city of Lutcher); Parts of Iberia & southern & northern St. Martin Pars. (east & west of a line from the city of Berwick north to the eastern boundary of the city of Krotz Springs); Parts of Livingston, Tangipahoa & Washington Pars. (west of a line drawn north from the city of Lutcher to the east side of the city of Hammond to the La.-Miss. border)

ZONE 7 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Terrebonne Pars.; Parts of Assumption, Livingston, St. James, St. Martin, St. Mary, Tangipahoa & Washington Pars. (that portion of southeastern La. bounded on the north by the State of Miss., on the east by the State of Miss. & the Miss. Sound, on the south by the Gulf of Mexico & on the west by a line drawn as follows: beginning at a point on the La.-Miss. boundary in Washington Par., due north of the town of Hackley, thence southwesterly in a straight line to a point on the east bank of the Miss. River at the southernmost point of Lutcher (including Gramercy in the area), thence in a more southwesterly direction in a straight line to midstream of the Atchafalaya River at Morgan City-Berwick (including Morgan City in this area), thence southerly on a line following midstream of the Atchafalaya River to Atchafalaya Bay & in a line due south to the Gulf of Mexico)

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POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1 - ZONE 1	$10.51	.65	1.00		.05
ZONE 2	9.98	.65	1.00		.05
ZONE 3	10.16	.65	1.00		.05
ZONE 4	8.20	.65	1.00		.05
ZONE 5	7.70	.65	1.00		.05
ZONE 6	6.14	.25	.30		.05
ZONE 7	5.53	.25	.30		.05
GROUP 2 - ZONE 1	10.76	.65	1.00		.05
ZONE 2	10.23	.65	1.00		.05
ZONE 3	10.41	.65	1.00		.05
ZONE 4	8.45	.65	1.00		.05
ZONE 5	7.95	.65	1.00		.05
ZONE 6	6.39	.25	.30		.05
ZONE 7	5.78	.25	.30		.05
GROUP 3 - ZONE 1	10.26	.65	1.00		.05
ZONE 2	9.73	.65	1.00		.05
ZONE 3	9.91	.65	1.00		.05
ZONE 4	7.95	.65	1.00		.05
ZONE 5	7.45	.65	1.00		.05
ZONE 6	5.89	.25	.30		.05
ZONE 7	5.28	.25	.30		.05
GROUP 4 - ZONE 1	9.01	.65	1.00		.05
ZONE 2	8.68	.65	1.00		.05
ZONE 3	8.89	.65	1.00		.05
ZONE 4	6.98	.65	1.00		.05
ZONE 5	6.48	.65	1.00		.05
ZONE 6	5.02	.25	.30		.05
ZONE 7	4.46	.25	.30		.05
GROUP 5 - ZONE 1	8.66	.65	1.00		.05
ZONE 2	8.09	.65	1.00		.05
ZONE 3	8.08	.65	1.00		.05
ZONE 4	6.46	.65	1.00		.05
ZONE 5	5.96	.65	1.00		.05
ZONE 6	4.48	.25	.30		.05
ZONE 7	3.97	.25	.30		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION) (Cont'd):					
GROUP 6 - ZONE 1	$ 7.66	.65	1.00		.05
ZONE 2	7.08	.65	1.00		.05
ZONE 3	7.08	.65	1.00		.05
ZONE 4	5.53	.65	1.00		.05
ZONE 5	5.03	.65	1.00		.05
ZONE 6	4.31	.25	.30		.05
ZONE 7	3.81	.25	.30		.05
GROUP 7 - ZONE 1	7.35	.65	1.00		.05
ZONE 2	6.74	.65	1.00		.05
ZONE 3	6.74	.65	1.00		.05
ZONE 4	5.24	.65	1.00		.05
ZONE 5	4.74	.65	1.00		.05
ZONE 6	4.31	.25	.30		.05
ZONE 7	3.81	.25	.30		.05
GROUP 8 - ZONE 1	8.71	.65	1.00		.05
ZONE 2	8.38	.65	1.00		.05
ZONE 3	8.39	.65	1.00		.05
ZONE 4	6.73	.65	1.00		.05
ZONE 5	6.23	.65	1.00		.05
ZONE 6	5.02	.25	.30		.05
ZONE 7	4.46	.25	.30		.05
GROUP 9 - ZONE 1	8.96	.65	1.00		.05
ZONE 2	8.63	.65	1.00		.05
ZONE 3	8.64	.65	1.00		.05
ZONE 4	6.98	.65	1.00		.05
ZONE 5	6.48	.65	1.00		.05
ZONE 6	5.27	.25	.30		.05
ZONE 7	4.71	.25	.30		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION) (Cont'd):					
GROUP 10 - ZONE 1	$ 7.60	.65	1.00		.05
ZONE 2	6.99	.65	1.00		.05
ZONE 3	6.99	.65	1.00		.05
ZONE 4	5.49	.65	1.00		.05
ZONE 5	4.99	.65	1.00		.05
ZONE 6	4.56	.65	1.00		.05
ZONE 7	4.06	.65	1.00		.05

GROUP 1 - 60 ton crane & over; crane with 125' boom
GROUP 2 - Crane with 175' boom
GROUP 3 - Crane all types; deck winches (2); hi-ho & similar type equipment; 3 drums (or more) stabilizers; pulls all types; concrete mixer 1 yd. & over; all pavers; ditching or trenching machines (track type); mechanics & equipment welders; well point systems; hoist, 2 drums or more; hoist, 1 drum, 40 vertical ft. or more; scrapers, bulldozers, rubber-tired or track other than farm-type; scoopmobiles; motor patrol; gradall; rollers on hot mix; asphalt paving machines; front end loaders, other than farm-type, 1 cu. yd. or over; shovels & backhoes, all types,& equivalent equipment; piledrivers; sideboom cats; a-frame trucks when handling steel or pipe; work boats requiring licensed ops.; tugboats; fork, lifts over 10 ton capacity; foundation drilling machines
GROUP 4 - 2 drums stabilizers; front end loaders under 1 cu. yd.; A-frame truck except when handling steel or pipe; finishing machines (concrete); power subgraders; tow tractor (crawler type); 1 drum hoist under 40 vertical ft.; fireman; concrete spreader; pugmill; bituminous distributor on surface treatment & equivalent; bullfloats & equivalent; job grease man; unit op.; work boats not requiring licensed ops.; inboard motored crew boats
GROUP 5 - Single drum stabilizers; concrete mixer under 1 yd.; spray curing machines; rollers on subgrade; 1 air compressor over 125 cu. ft.; form graders; asphalt finisher screed man; pump over 4"; scale op.; crusher ops.; concrete jointing machines; concrete saw; tack machines & equivalent equipment; pump crete; electric elevator (inside); oiler-driver; farm-type; rubber-tired tractor, with attachments, except backhoes; kolum buff & similar equipment; fork lifts, 10 ton capacity & under; outboard crew boats
GROUP 6 - Batch plant operator
GROUP 7 - Oiler
GROUP 8 - Fireman
GROUP 9 - Fireman operating steam valve
GROUP 10 - Oiler on crane using air to drive piles
ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - Bossier & Caddo Parishes
ZONE 3 - Calcasieu Parish
ZONE 4 - Cameron, Jefferson Davis & Red River Parishes
ZONE 5 - Allen & Beauregard Parishes
ZONE 6 - Bienville, DeSoto, Richland, St. James, St. John the Baptist, St. Tammany, Tangipahoa & Washington Parishes
ZONE 7 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Mary, Tensas, Terrebonne, Union, West Carroll, West Feliciana & Winn Parishes

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DECISION NO. LA80-4014

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS					
ZONE 1 - Roofers	$11.13		.20		
ZONE 2					
Roofers	8.86	.75	.85	.28	.70
Preparers remove old roofing, place, stock or move materials, tools or equipment for the journeymen	4.40	.50			
ZONE 3					
Roofers	9.51	.60	.65		.04
Roofer helpers does not use the tools of the trade in removing & disposing of old roofing, stocking & unloading materials, hauling materials to the journeymen & sweeping	5.94	.60	.65		.04
ZONE 4 - Roofers	9.30		.30		
Kettlemen	8.05		.30		
ZONE 5 - Roofers	9.60		.20		.04
Kettlemen	6.65		.20		.04

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Vermilion & Vernon Parishes
ZONE 2 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, South St. Martin, St. Mary, St. Tammany, Terrebonne & Washington Parishes
ZONE 3 - Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, North St. Martin, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 4 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Ouachita, Rapides, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes

SHEET METAL WORKERS - ZONE 1	12.25	.52	.55		.14
ZONE 2	11.35	3%+.65	1.11		.14
ZONE 3	12.47	.55	.80		.16
ZONE 4	11.19	3%+.52	.40		.19

ZONE 1 - Calcasieu Parish
ZONE 2 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany, Terrebonne & Washington Parishes
ZONE 3 - Acadia, Allen, Ascension, Assumption, Beauregard, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Mary, Tangipahoa, Vermilion, West Baton Rouge & West Feliciana Parishes
ZONE 4 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

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DECISION NO. LA80-4014

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	$11.94	.75	1.05		.08
TRUCK DRIVERS (BUILDING CONSTR.)					
ZONE 1 - GROUP 1	9.31				
GROUP 2	9.79				
GROUP 3	10.02				
GROUP 4	9.81				
GROUP 5	9.91				
GROUP 6	9.83				
GROUP 7	10.25				
ZONE 2 - GROUP 1	7.20				
GROUP 2	7.45				
GROUP 3	8.00				
GROUP 4	7.85				
GROUP 5	8.30				
GROUP 6	8.40				
GROUP 7	8.70				
GROUP 8	8.85				
ZONE 3 - GROUP 1	7.72				
GROUP 2	7.80				
GROUP 3	8.05				
GROUP 4	8.20				
GROUP 5	8.35				
GROUP 6	8.55				
GROUP 7	8.90				
ZONE 4 - GROUP 1	8.00				
GROUP 2	8.30				
GROUP 3	8.45				
GROUP 4	8.65				
GROUP 5	8.80				
GROUP 6	8.60				
ZONE 5 - GROUP 1	8.64	.45			
GROUP 2	9.25	.45			
GROUP 3	9.30	.45			
GROUP 4	9.56	.43			

TRUCK DRIVERS (BUILDING CONSTRUCTION):

ZONE 1 - GROUP 1 - Teamsters, Pick-up drivers
GROUP 2 - Stake bodies (all sizes)
GROUP 3 - Trucks trailer & dumps over 8 yds.; mixers on trucks over 3 yds.; Miss. wagons & Koehring dumpsters & similar dirt moving equipment (up to & incl. 8 yds.)
GROUP 4 - Mixers on trucks up to including 3 yds.
GROUP 5 - Winch trucks
GROUP 6 - Trucks, dump
GROUP 7 - Miss. wagons & Koehring dumpsters & similar dirt moving equip. over 8 yds

ZONE 2 - GROUP 1 - Teamsters, pick-up drivers
GROUP 2 - Stake bodies (all sizes); platform dump
GROUP 3 - Truck & trailer; dump
GROUP 4 - Mixers on trucks, up to and including 3 yds
GROUP 5 - Mixers over 3 yds.
GROUP 6 - Winch trucks
GROUP 7 - Miss. wagons & Koehring dumpsters, tandem dumps & similar dirt moving equipment, up to and including 8 yds.
GROUP 8 - Miss. wagons, Koehring dumpsters, tandem dumps & similar dirt moving equipment, over 8 yds.

ZONE 3 - GROUP 1 - Pick-up drivers, spotters & dumpers of dirt, gravel, asphalt & rock
GROUP 2 - Stake bodies; flat beds (all sizes)
GROUP 3 - Single axle dumps & water trucks; transit mix, up to & including 3 yds.
GROUP 4 - Tandem axle dump, batch & water trucks over 3 tons, pickups with trailer
GROUP 5 - Miss. wagons, floats, tractor trailers; rubber tired tractors & wobble wheels
GROUP 6 - Euclids, lowboys, dempsey dumpsters, Koehring-dumps, 5 axle trucks, transit mix over 3 yds.
GROUP 7 - Fork lift

ZONE 4 - GROUP 1 - Pick-ups
GROUP 2 - Over 1 ton, up to but not including 3 tons
GROUP 3 - 3 tons up to but not including 5 tons
GROUP 4 - 5 tons & over including but not limited to: winch, dempsey dumpster, lowboy, semi-trailer, euclid, tournapull & similar equipment when used for transporting material
GROUP 5 - Larger trucks carrying capacity rear axles 50,000 lbs. & over
GROUP 6 - Winch truck with A-frame when used for transporting material

ZONE 5 - GROUP 1 - Truck drivers, up to but not including 1½ tons
GROUP 2 - Truck drivers, 1½ tons up to but not including 3 tons
GROUP 3 - Truck drivers, 3 tons up to but not including 5 tons
GROUP 4 - Truck drivers, 5 tons & over, including euclids, winch truck, dempsey dumpsters, lowboys, semitrailers, fork lifts, etc.

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermillion Pars.
ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (HIGHWAY CONSTRUCTION)					
GROUP 1 - ZONE 1	$ 7.13	.45			
ZONE 2	7.56				
ZONE 3	7.99				
ZONE 4	6.67				
ZONE 5	6.77				
ZONE 6	4.35				
ZONE 7	4.25				
GROUP 2 - ZONE 1	7.51	.45			
ZONE 2	7.66				
ZONE 3	8.12				
ZONE 4	6.80				
ZONE 5	6.90				
ZONE 6	4.46				
ZONE 7	4.36				
GROUP 3 - ZONE 1	7.57	.45			
ZONE 2	7.89				
ZONE 3	8.18				
ZONE 4	6.86				
ZONE 5	6.96				
ZONE 6	4.51				
ZONE 7	4.41				
GROUP 4 - ZONE 1	7.65	.45			
ZONE 2	8.10				
ZONE 3	8.25				
ZONE 4	6.93				
ZONE 5	7.03				
ZONE 6	4.57				
ZONE 7	4.47				
GROUP 5 - ZONE 1	7.84	.45			
ZONE 2	8.52				
ZONE 3	8.44				
ZONE 4	7.13				
ZONE 5	7.22				
ZONE 6	4.73				
ZONE 7	4.63				

TRUCK DRIVERS (Highway Construction):

GROUP 1 - 1 ton & under; warehouseman, material checker, receiving clerk, spotter & dumper
GROUP 2 - 1½ tons to & including 2 tons (exclusive of dump trucks)
GROUP 3 - Single axle dump trucks, single axle water trucks
GROUP 4 - Heavy equipment, tandem axle dump & tandem axle water trucks, winch lift, transit mix, floats, pole trailers, 4 axle trailers & truck mechanic
GROUP 5 - Special equipment, euclids & 5 axle moving equipment

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - Bossier & Caddo Parishes
ZONE 3 - Calcasieu Parish
ZONE 4 - Allen & Beauregard Parishes
ZONE 5 - Cameron & Jefferson Davis Parishes
ZONE 6 - Bienville, DeSoto, Red River, Richland, St. James, St. John the Baptist, St. Tammany, Tangipahoa & Washington Parishes
ZONE 7 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Mary, Tensas, Terrebonne, Union, West Carroll, West Feliciana & Winn Parishes

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Nebraska

COUNTIES: Cass, Douglas, Sarpy, Washington, & that portion of Saunders County East of Highway #109

DECISION NO. NE80-4013

DATE: Date of Publication

Supersedes Decision No. NE77-4208 dated August 26, 1977 in 42 FR 43340

DESCRIPTION OF WORK: Heavy in all, but Washington County & Highway Construction (excluding bridges across navigable waterways).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Carpenters	$10.71	.50	.50	.60	.05
CEMENT MASONS	10.30	.67	.60		
IRONWORKERS: Reinforcing & Structural	11.15	.65	1.00	1.00	.05
LABORERS:					
Common Laborer	7.20	.60	.45	.33	.05
Towboat & Dredge Deckhands	7.31	.60	.45	.33	.05
Form Setter Helpers	7.41	.60	.45	.33	.05
Rackers & Screedmen on Asphalt work; Mortar Mixers; Chain Saw Operator	7.52	.60	.45	.33	.05
Pipelayers; Concrete Saw Operator	7.47	.60	.45	.33	.05
Form Setters & Precast Manhole Setter, Inlet Builders & Manhole Setters	7.87	.60	.45	.33	.05
LINE CONSTRUCTION:					
Linemen	11.98	.45	3%		4%
Cable Splicers	12.87	.45	3%		4%
Truck Driver	8.65	.45	3%		4%
Equipment Operator	10.78	.45	3%		4%
Groundmen	7.82	.45	3%		4%
POWER EQUIPMENT OPERATOR:					
Group 1	7.80	.60	.50		
Group 2	7.88	.60	.50		
Group 3	8.31	.60	.50		
Group 4	8.71	.60	.50		
Group 5	9.65	.60	.50		
Group 6	9.88	.60	.50		
Group 7	10.06	.60	.50		
Group 8	10.24	.60	.50		

DECISION NO. NE80-4013 Page 2

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS:

Group 1 - Oilers; Greasers

Group 2 - Oiler Driver.
Group 3 - Tractor under 35 h.p.; Air Compressors; Pumps-welding machine; Spray machine; Form Trenchers; Belt machine.
Group 4 - Concrete Mixer; Concrete Pumps; Hydro-Hammer.
Group 5 - Spreader Oiler

Group 6 - Concrete Spreader; Concrete Finishing Machine; Bulldozer; Roller; Traxcavator; Forklift; One Drum Hoist; Oiler Distributor; Asphalt Roller.
Group 7 - Blade (patrol); Scraper.
Group 8 - Hoist, 2 drums; Trenching Machine; Paving Mixer; Pile-driver; Heavy duty Mechanic; Welder; Shovel; Dragline; Clamshell; Orange Peel; backhoe; Derrick; Crane; Locomotive; Fireman on Boiler; Laydown Machine; Two Drum Winch Truck; Side Boom Cat; Pug Mill Operator on Asphalt Plant; Leverman on Dredge; Engineer on Dredge; Tugboat Operator; Gradall Operator; Rotary Well Drilling Operator; Hydrocrane; Cleveland type Backfiller; Self-propelled Spreader Vibrator; Slip Form Paver.

TRUCK DRIVERS:						
Group 1 - Single Axle, Jack & Spreader	7.73	.50	.50			
Group 2 - Tandem Axle Euclid Trucks, Power Lift Form Trucks & Jack & Spreader Trucks	7.79	.50	.50			
Group 3 - Lowboys-Tractor Trailer, Water Pulls	7.92	.50	.50			
Group 4 - Tandem Dump with Auxiliary End Dump Trailer	7.97	.50	.50			
Group 5 - Lumber Carrier	8.09	.50	.50			

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(ii).

SUPERSEDEAS DECISION

STATE: South Carolina COUNTY: Statewide
DECISION NUMBER: SC80-1047 DATE: Date of Publication
Supersedes Decision No. SC80-1012 dated January 4, 1980 in 45 FR 1376
DESCRIPTION OF WORK: Highway Construction (does not include airport runways and taxiways; tunnels; bridges designed to accommodate navigation; rest areas which include building structures; and railroad construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASPHALT RAKER	$ 3.10				
ASPHALT LAYDOWN MAN	3.10				
CARPENTER	4.69				
CARPENTER Helper	3.67				
CONCRETE FINISHER	4.25				
FORMSETTER ROAD	4.01				
IRONWORKERS Reinforcing & Structural	3.10				
LABORER, Common	3.10				
MASON	3.92				
MECHANIC	4.15				
MECHANIC Helper	4.00				
OILER	3.10				
PAINTER, Bridge	6.23				
PILEDRIVER, Leadman	4.75				
PIPELAYER	3.39				
SIGN ERECTOR	5.00				
POWER EQUIPMENT OPERATORS:					
Asphalt Distributor	3.10				
Asphalt Paver	3.43				
Asphalt Plant	3.40				
Asphalt Plant Helper	3.10				
Bulldozer	4.41				
Bulldozer (utility)	3.58				
Cold Feed Attendant	3.36				
Concrete Finishing Machine	5.17				
Concrete Paver	4.63				
Crane, Backhoe, Dragline, Shovel: 1 yard & under	4.08				
Crane, Backhoe, Dragline, Shovel: over 1 yard	5.30				
Drill Operator	3.93				
Grade-all Operator	4.50				
Greaseman	3.36				
Hydro Seeder	4.38				
Loader Operator	3.63				
Motor Grader Oper. (fine grade)	4.35				
Motor Grader Oper. (rough grade)	3.96				
Power Tool Operator	3.10				
Roller Operator	3.10				
Roller Operator (finish)	3.41				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Cont'd)					
Scraper	$ 3.75				
Screed-asphalt	3.50				
Stone Spreader	3.10				
Striping Machine Operator	3.50				
Sweeper	3.10				
Tractor-crawler	3.25				
Tractor-utility	3.10				
Truck Driver - Light	3.10				
Truck Driver - Heavy Duty	3.44				
Weighman Scales (truck)	3.10				
Welder	4.77				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

[FR Doc. 80-2099 Filed 1-24-80; 8:45 am]
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V 45 / 18 JA 25 80 UMI

federal register

Friday
January 25, 1980

Part V

Department of Health, Education, and Welfare

Food and Drug Administration

Nutritional Quality of Foods; Addition of Nutrients

V 45/18 JA 25 80 UMI

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 104

[Docket No. 79N-0377]

Nutritional Quality of Foods; Addition of Nutrients

AGENCY: Food and Drug Administration.

ACTION: Final policy statement.

SUMMARY: This statement establishes a Food and Drug Administration (FDA) policy concerning the nutrient fortification of foods and is expressed as a series of guidelines which manufacturers are urged to follow if they elect to add nutrients to a manufactured or processed food. This final policy statement is to promote the rational addition of nutrients to foods in order to preserve a balance of nutrients in the diet of American consumers. It is not intended to encourage widespread nutrient fortification of foods but rather to provide a consistent set of guidelines to be followed when foods are nutritionally improved by the addition of discrete nutrients (vitamins, minerals, or protein). This statement establishes FDA's policy with respect to labeling claims that may be used to describe specific fortification mechanisms. In addition, it states that FDA considers it inappropriate to make claims about the addition of nutrients to foods that have been fortified to make them nutritionally equivalent to the foods for which they substitute and resemble. This policy statement omits the proposed requirement for a label statement that the addition of nutrients is unnecessary and inappropriate if the food has been fortified in ways not described in the policy statement. FDA will continue to determine in specific situations whether labeling claims about nutrient additions may be false or misleading in the case of foods fortified in ways not provided for in these guidelines.

EFFECTIVE DATE: February 25, 1980.

FOR FURTHER INFORMATION CONTACT: John E. Vanderveen, Bureau of Foods (HFF-260), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-245-1064.

SUPPLEMENTARY INFORMATION: The analysis of evidence from food labeling hearings conducted in the summer and fall of 1978 indicates general public support for the principles expressed in this document. Policy changes with respect to labeling made in response to the hearings are not likely to affect the guidelines for the addition of nutrients to food set forth in this document. This document primarily provides guidelines for fortification and contains few labeling provisions. Nonetheless the issuance of these guidelines may provide additional background for those commenting on the food labeling plan proposal. In reviewing the comments on the food labeling plan, FDA will consider whether any changes are needed in these guidelines and will initiate the changes if warranted.

In the **Federal Register** of June 14, 1974 (39 FR 20900) FDA proposed to establish general principles governing the addition of nutrients to foods by amending Subpart A of Part 104 (21 CFR Part 104, formerly 21 CFR Part 100). That document described the history of developments that led to the proposal. The major reasons for initiating this proceeding are summarized below.

"Food fortification" or "enrichment" is defined as the addition of discrete nutrients such as vitamins, minerals, or protein to foods. Historically, the addition of nutrients to foods was first undertaken as a public health measure to prevent the development of deficiency diseases in large segments of the population, for example, the iodization of salt to prevent goiter and the addition of vitamin D to milk to prevent rickets. The addition of nutrients primarily for the purpose of restoring nutrients lost in processing, such as the enrichment of white flour and bread, has been a similar safeguard in preventing deficiencies and improving the nutritional quality of the national diet.

In the past, food intake was largely from conventional foods having an inherent nutritional quality dictated primarily through the forces of nature. In recent years the food supply has become more complex as an increasing volume of foods with new or processed ingredients and substitute foods have entered the marketplace. Because of these changes in the food supply and their effects on American eating habits, FDA has paid increasing attention to the need for maintaining the nutritional quality of the food supply.

FDA has established in recent years a number of regulations relating to the nutritional quality of foods. The regulations have included nutrition labeling under § 101.9 (21 CFR 101.9, formerly 21 CFR 1.17); special dietary foods under Part 105 (21 CFR Part 105, formerly 21 CFR Part 125); nutritional quality guidelines under Part 104 (21 CFR Part 104, formerly 21 CFR Part 100); and imitation food labeling under § 101.3 (21 CFR 101.3, formerly 21 CFR 1.6(e)).

Some of these regulatory initiatives were established in response to changes in food technology and dietary consumption patterns. They were necessary in order for FDA to cope with the dynamics of modern food technology and the development of new food products. At the same time, FDA sought by issuing these regulations to respond to recommendations generated by the 1969 White House Conference on Food, Nutrition, and Health; the Food and Nutrition Board of the National Academy of Sciences/National Research Council (NAS/NRC); and the Council on Foods and Nutrition of the American Medical Association.

One of the recommendations generated by the 1969 White House Conference on Foods, Nutrition, and health was that existing nutritional requirements in Federal regulations for foods be reviewed to take account of accumulated knowledge about nutritional needs and changing patterns of food consumption. In addition, there have been increasing consumer demands for improved nutrition information.

In the 1974 **Federal Register** proposal, FDA stated that during the development of regulations related to nutrition the need became apparent for a unifying set of principles or guidelines governing the addition of vitamins, minerals, and protein to food.

In the preamble to the proposal, FDA also emphasized that the proposed regulation was not intended to encourage the food industry to put vitamins, minerals, or protein into every food. Not every food is an appropriate carrier for additional nutrients, and unwarranted fortification of numerous foods could mislead consumers into believing such fortification is necessary or appropriate and could lead to public health problems.

FDA's policy continues to be that current nutrition surveys show that widespread fortification of the food supply is unnecessary. This document is not intended to encourage such a practice.

The fundamental premise underlying these guidelines is that food fortification should provide consumers with a reasonable benefit without contributing to nutritional imbalance in the diet and without misleading consumers into believing that the consumption of the fortified food per se will ensure a complete or nutritionally sound diet.

In the absence of a unifying set of principles or guidelines, random and arbitrary fortification of some foods is likely to occur. This may result in the overfortification of the food supply with some nutrients such as vitamin C, which are inexpensive and technologically simple to add, and the underfortification with others such as some of the trace minerals. A balance of the essential nutrients is biologically necessary for proper nutrition; therefore, a reasonable balance of essential nutrients in the food supply is desirable. In addition, overfortification of the food supply by the random addition, and/or the addition of high levels, of some nutrients, such as vitamin D and the trace minerals, is undesirable because of the potential for toxicity.

This position has been further supported by comments received at the food labeling hearings conducted during the summer and fall of 1978. The analysis of comments from these hearings discloses a public belief that some, but not all, foods should be fortified. Particular support exists for fortification if the purpose is to replace nutrients lost in processing. Of those favoring fortification, some felt that the extent to which foods could be fortified should be closely regulated.

The 1974 proposal discussed the fact that some existing standards of identity permit or require the addition of vitamins, minerals, and/or protein to improve the nutritional quality of a product (for example, enriched flour) under 21 CFR 137.165 (formerly 21 CFR 15.10). The document concluded, however, that a separate standard of identity for each food to which a vitamin, mineral, and/or protein may properly be added is neither practical nor appropriate and that a single standard of identity listing all foods to which a vitamin, mineral, and/or protein may be added would be unnecessarily inflexible in light of developing knowledge about nutrition and changing food forms and consumption patterns.

In the past the addition of a vitamin or mineral to a food resulted in the food being classified as a "special dietary food." In the proposal for the nutrition labeling regulation (38 FR 2125; January 19, 1973), FDA concluded that a majority of fortified foods were intended for consumption by the general population and that with the development of nutrition labeling it was no longer necessary to regulate nutrient labeling of these general purpose foods as labeling for special dietary foods under section 403(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 343(j)).

As a result of the complexity and diversity of current regulations relating to the nutritional quality of foods, FDA considers it appropriate to combine in a single document those general nutrition principles and guidelines that serve as the basis for FDA's food fortification policy. FDA believes that there is a need for a clear statement of policy to serve as a guideline on food fortification.

Although, as a theoretical matter, most types of food can be fortified under the general principles expressed in this document, FDA emphasizes that, as a matter of policy, it does not consider it appropriate or reasonable to fortify certain classes of food such as fresh produce, fresh meat, poultry or fish products, sugars, or snack foods such as candies and carbonated beverages. In some cases, fortification of these foods is already restricted by a specific regulation that applies to that food. For example, the standard of identity for carbonated beverages (21 CFR 165.175) states that the addition of vitamins and minerals for nutritional purposes is not suitable for this food.

FDA sees no reason to add nutrients to fresh produce, meat, poultry, or fish products. The use of these foods is firmly established by customary dietary practice, and their role in a balanced diet is well understood by the public. FDA also believes it is inappropriate to fortify snack foods such as candies and carbonated beverages. These foods are not considered by the public as components of meals, and even if snack foods are used with meals, their nutritional contribution is, and is understood by the public to be, incidental. To date, neither the public nor the scientific community has considered snack foods to be appropriate carriers for added nutrients, given the general adequacy and diversity of the national food supply. Their fortification could readily mislead consumers to believe that substitution with fortified snack foods would ensure a nutritionally sound diet. Moreover, such fortification would disrupt public understanding about the nutritional value of individual foods and thereby promote confusion among consumers and make it more difficult for them to construct diets that are nutritionally neither excessive nor deficient. This policy is based on U.S. dietary practices and nutritional needs and may not be applicable in other countries.

Moreover, any fortification of these foods would raise other questions with respect to the labeling appropriate for them. The fortification of snack foods can be viewed, for example, as a basic change in the nature of the food. Consideration would be needed of the type of common or usual name that would adequately reflect the distinctive characteristics of the new food.

The following are the principal differences between the proposed regulation and the policy announced by this document:

a. The criteria for balancing nutrients to calories as a fortification mechanism have been changed so that the calorie base is reduced from 2,600 to 2,000 kilocalories. Two essential nutrients (potassium and manganese) not in the original list of nutrients have been included; and the addition of protein, vitamin D, or iodine has been made optional.

b. The definition for "restoration" has been changed so that partial restoration is no longer recommended. If the restoration mechanism is used, all nutrients originally present at more than 2 percent of the U.S. Recommended Daily Allowances (U.S. RDA) per serving, and which later are lost in storage and/or processing by an amount equal to at least 2 percent of the U.S. RDA per serving, should be restored to preprocessing levels.

c. Separate definitions for "enriched" and "fortified" have been deleted. The terms may be used interchangeably unless another regulation provides for use of a specific term, for example, 21 CFR 137.165 for enriched flour.

d. The proposed expansion of the use of the affirmative statement permitted by 21 CFR 104.5(b) (formerly 21 CFR 100.1(b)) for food complying with a nutritional quality guideline has been deleted along with labeling proscriptions not directly associated with a statement of policy.

e. This final policy statement deletes the proposed requirement in § 100.1(h) under which foods fortified in ways other than those in the proposal would have had to bear a label statement that the addition of the nutrients to this product has been determined by the U.S. Government to be unnecessary and inappropriate and does not increase the dietary value of the food. The final policy statement contains a new provision in § 104.20(h) that makes it clear that other labeling statements concerning food fortification may be made only if they are not false or misleading and are otherwise in accordance with the Federal Food, Drug, and Cosmetic Act and applicable regulations.

f. Section 104.20(a) has been added to provide an introductory statement of the purpose of the guidelines. Other editorial changes have also been made.

The reasons for these changes and modifications from the proposed course of action are individually discussed elsewhere in this document.

A total of 122 comments on the 1974 proposal were received from individuals, consumers and professional groups, trade associations, and industry and industry representatives. The comments generally favored the concept

of establishing rational guidelines for the addition of nutrients to foods. There were, however, several objections to the form and substance of the proposal and many more requests for clarification of specific provisions of the proposal. These comments and FDA's responses are discussed in the following paragraphs:

1. Several comments from industry objected to the length, complexity, and alleged unwieldiness of the proposal. One comment criticized the language of the proposal as vague and obscure and asked that the document be redrafted and published as a new proposal. A number of other comments reflected confusion and asked whether certain provisions of the proposal were applicable to all foods or only to the specific classes of food for which nutritional quality guidelines have been established. The U.S. Department of Agriculture asked that the conditions under which nutrients may be added to food be more clearly identified in the regulation to promote understanding and ease of implementation. Many comments opposed the proposal because of the requirements for label statements, particularly the requirement for a statement that the addition of nutrients in ways not provided for in the guidelines was "unnecessary and inappropriate."

It is acknowledged that the criteria to be used in determining whether nutrient addition would be appropriate were not clearly defined, and that all possible labeling was not dealt with in the proposal. Further, FDA has concluded that a substantive rule that would accommodate all eventualities involving food fortification and labeling of fortified foods is not feasible at this time.

The primary purpose of the regulation proposed in 1974 was to establish a general set of principles governing the addition of nutrients to foods to preserve a balance of nutrients in the diet and to prevent over- or underfortification of the food supply. The proposal also included a number of food labeling provisions. Thus the proposal was an attempt to cover, in a single document, both FDA's food fortification policy and the complex labeling issues related to fortified foods.

The proposed regulation and the comments received have been evaluated in relation to the FDA's existing nutrition regulation programs. After thorough review, FDA has concluded that the major objectives of the proposal can be achieved by recasting the final document as a statement of food fortification policy. Several labeling provisions have been deleted or revised. The final policy statement is a guideline that identifies the bases for fortification of foods that FDA considers reasonable. The appropriateness of the fortification of foods in ways not provided for in these guidelines and associated labeling problems will be considered as the need arises. FDA will continue to examine food labeling under the existing law and regulations and will take any necessary action concerning specific foods if the labeling is found false or misleading or otherwise in violation of the FD&C Act.

In reaching this conclusion, FDA has considered the large number of comments stating opposition to the restrictive nature of the labeling provisions of the proposal. These comments presented convincing arguments that all possible labeling and fortification circumstances cannot be addressed adequately in a single substantive rule at this time.

Much of the confusion and many of the objections with regard to the complexity of the 1974 proposal appear to have been related to its labeling provisions and their applicability to the various fortification principles. Most of these labeling provisions have been deleted from the final policy statement. In view of these changes and because this final policy statement is a guideline, it is not necessary to repropose it for additional comments. FDA guidelines "state procedures or standards of general applicability that are not legal requirements but that are acceptable to FDA for a subject matter which falls within the laws administered by the Commissioner." * * *" (See 21 CFR 10.90(b)(1).) Section 10.90(b) contains a general discussion of the legal status of a guideline.

FDA will continue to rely on the establishment of nutritional quality guidelines for particular classes of foods under 21 CFR Part 104 and on standards of identity for specific foods as the need arises. In addition, problems that arise concerning food labeling as it pertains to fortified foods can be considered independently; and appropriate actions, such as amendment of current food labeling regulations, can be taken when necessary.

2. A number of comments from industry objected to the labeling provisions of the proposal on the grounds that they exceed FDA's statutory authority and disregard procedural safeguards guaranteed by law. It was argued that sections 403(a) and 701(a) of the FD&C Act can only define "false or misleading" labeling and cannot be used to regulate truthful labeling claims. Other comments argued that the proposal was unlawful because it created a conclusive presumption that labeling that fails to conform to the regulations causes the food to be misbranded under the act without regard to whether, in any particular case, the food is actually misbranded. Other comments objected to the proposal on the grounds that as a substantive rule it was too restrictive and that it did not include all possible mechanisms by which foods may be appropriately fortified. Other comments stated that the proposal, in effect seeks to establish standards of quality for foods fortified with vitamins and minerals and that, accordingly, FDA is bound to follow the procedural requirements of sections 401 and 701(e) of the FD&C Act.

As stated earlier, FDA has concluded that the best way to achieve its objectives at this time is to issue a statement of policy regarding food fortification and to regulate misleading claims under the general statutory provisions and applicable regulations. Because FDA has decided to issue a statement of policy rather than a regulation, the merits of the above-described objections need not be determined. The issues raised concerning the legality of the proposal under the FD&C Act are now moot.

The following discussion of the provisions of the guidelines responds to specific comments on the 1974 proposal:

Addition of Nutrients as a Public Health Measure

3. A number of comments concerned proposed § 100.1(g)(1), which set forth certain criteria to be used whenever nutrients are added to foods for the purpose of reducing the prevalence of identified nutrient deficiency conditions. Several comments asked who determines whether the criteria set forth in proposed § 100.1(g)(1) (i), (ii), and (iii) have been met in any particular case. Other comments asked whether additional rulemaking would be needed before manufacturers could apply this principle. Still other comments suggested that proposed § 100.1(g)(1) be identified only as a statement of important criteria or indices against which all fortification policies can be evaluated.

The addition of specific nutrients to certain foods has served to correct deficiency conditions in large segments of the population. The addition of nutrients for the purpose of correcting identified dietary insufficiencies has been retained in the final policy statement because it remains an appropriate reason for adding nutrients to foods. In the past, FDA has endorsed this principle through the establishment of standards of identity for products such as enriched flour, bread, and rice. Such public health measures may continue to be of importance in the prevention of nutrient deficiency diseases where sufficient information is available to identify a nutritional problem, to define affected population groups, and to designate suitable foods to act as vehicles for the added nutrients.

Identification of nutritional problems and implementation of measures to correct these problems require the combined efforts of many participants. Because FDA is responsible for the safety and nutritional adequacy of the food supply and the truthful packaging and labeling of food products, it is appropriate that FDA serve as a focal point for the identification of public health problems related to nutrition. In conjunction with other government agencies, research groups, the biomedical and nutrition communities, educational institutions, and informed consumer groups, FDA participates in the collection and exchange of information relating to nutritional problems.

Accordingly, the final policy statement provides for adding nutrients to foods to prevent identified nutrient deficiencies. The criteria found in proposed § 100.1(g)(1) (iv), (v), and (vi), because they are universally applicable to nutrient additions, have been transferred to new § 104.20(g).

Manufacturers may make labeling statements based on the criteria listed in this rule without awaiting further rulemaking by FDA. Before making a claim relating to fortification, a manufacturer should have the types of specific data identified in the guideline to document the appropriateness of the claim. If FDA believes that a claim for a particular food is false or misleading or otherwise in violation of the act, the agency will take appropriate enforcement action.

Nutrients Added in Accordance With Other Regulations To Raise the Nutritional Quality of a Food

4. The comments received on proposed § 100.1(g)(2), which dealt with nutrients added to raise the nutritional quality of the foods, were directed generally toward clarification of the intent and meaning of this paragraph.

One comment criticized this proposed principle as being too vague and theoretical to be used as a working guideline for industry. Other comments asked for clarification as to when it is necessary to raise the nutritional quality of a food and how to determine what is appropriate for a food. A city health department asked for clarification of the difference between proposed § 100.1 (g)(2) and (g)(4), which relates to restoration of nutrients to foods.

The principle proposed in § 100.1(g)(2) was intended to be a generalized principle that would permit the addition of nutrients to a food or class of foods when necessary to comply with a standard of identity, a nutritional quality guideline, a common or usual name regulation, or any other Federal regulation. In the absence of any applicable Federal regulation, § 100.1(g)(3) would have permitted nutrient addition on the basis of balancing nutrients to calories.

In the final policy statement, § 104.20(f) has been substituted for § 100.1(g)(2). Section 104.20(f) states that nutrients may be added to foods as permitted or required by applicable Federal regulations. Existing regulations prescribing the addition of nutrients to food are based upon the best available scientific data on food consumption patterns, nutritional needs and dietary habits of the general population and may encompass concepts of enrichment/fortification and restoration of nutrients. Nutrient addition based on balancing nutrients to calories, proposed in § 100.1(g)(3), is described in § 104.20(d).

Proposed § 100.1(g)(4) was intended to be a specific guideline for restoration of nutrients lost during storage or processing. This clarification has been made in the provision now designated as § 104.20(c).

The Nutrient-to-Calorie Balance Concept

5. Although there were objections to the concept of proposed § 100.1(g)(3) concerning the addition of nutrients to foods in proportion to their caloric content, it was evident from the many comments that its application was not fully understood. There were also a number of objections to specific criteria such as the 2,800-kilocalorie base for nutrient requirements.

This principle is established to provide a suitable general basis for fortifying foods for which no specific regulation exists concerning appropriate nutrient levels. A number of regulations already permit or require the addition of nutrients to foods; for example, several standards of identity exist for the enriched forms of certain basic foods including, but not limited to, flour, bread, degerminated corn meal, corn grits, corn meal, and rice. In addition, a nutritional quality guideline has been established for frozen heat-and-serve dinners, and nutritional quality guidelines have been proposed for other classes of foods. Section 101.3(e) (21 CFR 101.3(e), formerly 21 CFR 1.8(e)), provides that foods that substitute for and resemble traditional foods shall not be nutritionally inferior to such foods or shall bear an "imitation" label.

FDA will continue to develop regulations for specific foods and for classes of foods using 21 CFR Part 104, Subpart C—Nutritional Quality Guidelines; 21 CFR Part 102—Common or Usual Name regulations; and food standard regulations under authority of section 401 of the FD&C Act.

In the absence of an applicable regulation governing the enrichment of a food, the nutrient balance concept provides a suitable basis for adding nutrients to fabricated foods that may replace large portions of the total diet. This concept will be particularly useful for foods that are new or unique, and will assure that fortification results in a food of high nutritional quality.

Properly planned meals are composed of selections of foods that complement each other with respect to supplying the essential nutrients in the diet. When the specific use of new or unique products cannot be predicted, it is not possible to anticipate a specific and limited nutrient content or profile. Therefore, when products cannot be categorized as substitutes or replacements for a particular food and a manufacturer elects to add nutrients to such products, the nutrient additions should conform to a profile reflecting all the foods which the product might substitute for or replace in the diet. Because it is impractical to develop such a profile for each food, a logical alternative is a profile that would sustain a balance in the average person's overall nutrient intake by relating nutrient content to caloric content. As stated in the preamble to the 1974 proposal, this approach can also serve as an alternate means for establishing nutritional quality for fabricated foods.

6. There were several objections to the proposed establishment of a 2,800-kilocalorie baseline as a daily standard. Most of those commenting objected on the basis that the 2,800-kilocalorie figure was unrealistically high and not consistent with the reported caloric requirements of a majority of the population. Those commenting urged that a lower figure be adopted, and several comments specifically requested that the calorie standard be lowered to 2,300 kilocalories. Others requested that a 2,000-kilocalorie figure be adopted. A majority of those commenting cited two fundamental reasons for opposing the proposed calorie standard: (1) Setting a caloric standard at an unrealistically high intake would mislead a majority of consumers as to a proper caloric requirement; and (2) Consumers who

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normally consume many fewer calories (for example, 1,500 kilocalories per day) would not be receiving adequate amounts of nutrients.

Upon reconsidering the issues, FDA has decided to revise the final policy statement to use a caloric standard of 2,000 kilocalories. The 2,800-kilocalorie value proposed was consistent with the development of the U.S. RDA's in that it approximated the highest mean value listed in the 1968 Recommended Dietary Allowances of the Food and Nutrition Board, National Academy of Sciences/National Research Council (NAS/NRC). There was also concern about unduly high levels of fortification, and by using a higher calorie base this problem would have been reduced. However, after consideration of the comments, FDA has concluded that a 2,800-kilocalorie base is not appropriate for a majority of consumers and may contribute to misunderstanding about the daily caloric requirements of individuals. The 2,000 kilocalorie base is further supported by the recently published food intake analysis from the 1971–1975 Health and Nutrition Examination Survey (DHEW Pub. No. 79–1221), which substantiates the decline in average caloric intakes of Americans.

The 2,000-kilocalorie base, though more realistic, is not intended for use as a uniform daily caloric requirement for individuals. Energy requirements of individuals vary over a wide range, and depend on factors (such as sex, age, state of health, level of physical activity) that differ from one individual to another. The caloric standard is to provide a baseline for fortification in relation to calories, not to provide a recommended caloric requirement for individuals.

A caloric base of 2,000 kilocalories per day will allow nutrients to be added to foods so that each nutrient is present at a level equal to at least 1/20th of the U.S. RDA per 100 kilocalories of food rather than 1/28th of the U.S. RDA per 100 kilocalories of food as originally proposed. The nutrient-to-calorie ratio established is adequate to ensure that most individuals, regardless of their individual calorie requirements, will receive adequate proportions of vitamins and minerals from these foods. It is also adequate to ensure that individuals with caloric intakes above average levels will not be exposed to an excessive intake of any nutrient as a result of consuming foods fortified in this manner.

7. Several comments also objected to the mandatory addition of all 20 nutrients in proposed § 100.1(g)(3)(v), where fortification using a balance of nutrients to calories is described.

Manufacturers expressed concern about the technical difficulties involved in providing all 20 nutrients, especially protein, in precise amounts in a single food. Several of those commenting stated that such inflexibility will curtail development of new, nutritious food products and reduce the number of foods now being fortified with vitamins and minerals. One company suggested that, instead of a single nutrient profile that would require all 20 nutrients, it would be more beneficial to establish a separate nutrient profile for each of several food groups, somewhat analogous to the Basic Four food groups. Another comment suggested that the nutrient balance concept be applicable when four or more nutrients are added in proportion to the caloric contribution of the food.

After reviewing these comments, FDA believes that many of them did not consider the entire range of options encompassed within the proposed regulatory approach. The addition of nutrients to food in proportion to the caloric contribution is only one of several ways in which nutrients might be added to food under these guidelines:

(1) Nutrients may be added to foods in accordance with standards of identity established under section 401 of the FD&C Act. Such standards expressly permit or require the addition of such nutrients.

(2) Dietary supplements may be formulated as provided for in section 411 of the FD&C Act.

(3) Nutrients may be added to foods in order to comply with an applicable nutritional quality guideline established in Part 104, Subpart C.

(4) Nutrients may be added to foods as provided for in an applicable common or usual name regulation established in 21 CFR Part 102.

(5) Nutrients may be added to foods if required to restore nutrients lost in storage and/or processing if all the conditions established by the new § 104.20(c) have been met.

In the absence of a specific regulation, a food that substitutes for and resembles another food must provide nutrients at levels nutritionally equivalent to the food it resembles or bear an "imitation" legend in accordance with 21 CFR 101.3(e) formerly 21 CFR 1.6(e).

In addition to these bases for fortification, nutrients may be added to a food in proportion to its caloric content if the food satisfies all the conditions established by new § 104.20(d).

The addition of nutrients to foods based on proportioning nutrients to caloric content is not appropriate in cases where the nutrient addition or composition for a food or class of foods has already been established by an applicable Federal regulation. In addition, fortification pursuant to this concept may not be appropriate if the food is represented as a substitute for and made to resemble traditional food. Representation plays an important part in determining an appropriate fortification mechanism. For example, a product represented as a "formulated meal replacement" designed to be used in a weight reduction program is more appropriately fortified to replace those vitamins and minerals normally provided by a traditional meal that contains more calories. If it were fortified on the basis of its caloric contribution it would not, in all cases, provide appropriate amounts of necessary vitamins and minerals. The proposed regulation establishing a nutritional quality guideline for formulated meal replacements and formulated meal bases (39 FR 20905; June 14, 1974) would provide more appropriate guidance for formulating such foods.

The comment requesting that several distinct nutrient profiles be established for basic types of foods based on nutrient compatibility and technological ease of adding certain nutrient groups did not provide any data or rational basis for establishing such profiles, other than suggesting a parallel to the Basic Four food groups.

FDA concludes that for the concept of "nutrient balance" to be preserved, all the vitamins, minerals, and protein listed in the original proposal should be present at the levels specified in § 104.20(d), except that the addition of vitamin D, iodine, and protein is optional.

There is a relatively narrow range of safety for vitamin D and a sufficient amount of this nutrient already is in the diet. The Total Diet Study by the FDA indicates that average dietary iodine intakes, though considered safe, are several-fold above the U.S. RDA. Hence there is no nutritional reason for the addition of these nutrients when the nutrient balance mechanism is used, and making these nutrients optional is highly unlikely to lead to, or change significantly, an imbalance of these nutrients in the diet. The optional status of protein is explained in paragraph 8 below.

Because of the many ways provided for food fortification, these fortification principles should not result in a reduction in the number of foods being rationally fortified. FDA is also confident that there is sufficient flexibility in this approach so as not to hamper the development of new nutritious food products.

8. Several comments objected to the inclusion of protein among the required nutrients in proposed § 100.1[g](3)(v). One trade association objected to protein being considered an "added nutrient" under the general principles because it is itself a food and not added on the same basis as micro-nutrients. Several comments cited the technical difficulties involved with adding protein on the same basis as other nutrients, and most stated that it would be impossible to add protein to some classes of food because of the amounts of protein required and because protein itself contributes substantially to the caloric value of the food.

FDA has found these comments to be persuasive, and it has made protein optional when nutrients are added to food on the basis of the "nutrient balance" concept. Because protein is a macro-nutrient, like carbohydrate and fat, its addition to a food would not, per se, require the addition of vitamins and minerals. Moreover, for most American consumers, there is no deficit of protein in the diet and therefore little justification for addition of protein. Also, it does not appear reasonable to advise against addition of vitamins and minerals to specific foods merely because they do not contain useful amounts of protein. However, if protein alone is added to a food, or protein content is highlighted in any way so as to state or imply nutritional value, the food would still be required to provide nutrition labeling under 21 CFR 101.9 (formerly 21 CFR 1.17) whether or not other nutrients have been added.

9. Some comments expressed concern that proposed § 100.1(g)(3) dealing with fortification using a "nutrient balance" principle would result in dietary imbalances because the nutrient list is limited. One comment recommended that the nutrient list be open-ended so that other nutrients may be added in the future. Another comment recommended that potassium, manganese and linoleic acid be included in the list of nutrients because they were included in the proposal for a formulated meal replacement nutritional quality guideline and have been added to such foods for years.

The general concern for a complete and balanced diet expressed by those commenting is one of the major underlying reasons for promulgating this policy statement. For this reason the list of nutrients specified in § 104.20(d) of the final policy statement should be considered subject to modification as new nutrition knowledge makes changes advisable. It is reasonable to anticipate that FDA will propose a number of additional U.S. RDA's for minerals, such as selenium, molybdenum, and chromium, taking into consideration the recommendations of the Food and Nutrition Board, NSA/NRC, in their new ninth edition of *Recommended Dietary Allowances* (1979, in press).

The minerals potassium and manganese have been added to the list of nutrients in new § 104.20(d), which describes the "nutrient balance" concept. Even though no U.S. RDA has been established for these minerals, they are both recognized as essential nutrients in the diet of man. The levels for these nutrients are based upon safe and adequate dietary intakes as reported in the ninth edition of *Recommended Dietary Allowances.* Manganese is widely distributed in foods of plant and animal origin, but is often lost in processing these foodstuffs. Food for which fortification in proportion to caloric content is appropriate will often contain highly processed ingredients; therefore, it is appropriate to include manganese in the list of nutrients. Potassium is also widely distributed in foods, and a diet of conventional foods usually provides adequate amounts of this nutrient. However, the potassium content of fabricated foods is uncertain. Because these foods may constitute a major part of a diet, it is desirable that they contribute reasonable amounts of potassium.

Linoleic acid has not been added because of the extreme unlikelihood of any dietary deficit of essential fatty acids. Linoleic acid is associated with fat in essentially the same manner that amino acids are associated with protein. Therefore, it is expected that foods fortified using a "nutrient balance" concept will contain linoleic acid if fat is present, but there is no nutritional justification for suggesting it be added to a wide range of foods. In the case of formulated meal replacements and formulated meal bases, linoleic acid is appropriately required because such foods may be used as the sole item of the diet for extended periods of time; and in such cases there is a need to ensure that essential fatty acid requirements are met. Even in this case, however it is unlikely that the requirement will be difficult to meet in view of the ubiquitous nature of fat in the food supply.

10. A number of comments suggested that protein content, as well as calories, could be used as a basis for nutrient density fortification. One comment stated that nutrient additions should be allowed only on the basis of protein content. Another comment agreed with the proposal to exclude protein as a basis for the addition of nutrients, on the ground that difficulties with such a mechanism would be compounded by uncertainties about protein quality.

In the preamble to the 1974 proposal, it was stated that protein as a basis for the addition of other nutrients was considered as an alternative fortification mechanism but was rejected. The use of such a mechanism would not allow for the fortification of protein-free products that may contribute significantly to the caloric value of the diet, and also could encourage the unnecessary addition of protein to foods.

11. One comment pointed out that proposed § 100.1 (g)(3)(iv) would prohibit a product meeting the June 14, 1974 proposed nutritional quality guideline for formulated meal replacements from being labeled as "calorically balanced." Other comments objected to the use of the term "calorically balanced" to describe fortified foods where the nutrients were added in proportion to calories.

A product meeting the requirements of a nutritional quality guideline may properly bear label claims that indicate that it meets the requirements of the guideline. The proposed nutritional quality guideline for formulated meal replacements is intended for a class of foods that may vary in calories per serving but still carry the same complement of vitamins and minerals appropriate for that class of foods. Related to this latter situation is the problem of calorically reduced or low calorie foods (21 CFR 101.66). For calorically reduced foods it would be deemed appropriate to use the normal caloric value of the food for purposes of applying the nutrient/calorie mechanism of enrichment/fortification. The term "calorically balanced" may be confusing and possibly misleading in describing this particular fortification mechanism, and the agency considers the use of "vitamins and minerals (and 'protein' when appropriate) added in proportion to calorie content" more appropriate than "calorically balanced." The policy statement has been revised accordingly.

12. A number of comments objected to the "calorie balance" concept on the basis that it is too rigid in its requirements and that any nutrient or combination of nutrients should be permitted to be added to a food if such nutrient(s) is added in proportion to the caloric content. One comment argued that the addition of vitamin A, thiamine, riboflavin and niacin to potato chips in proportion to calories is rational food fortification. The comment stated that these specific vitamins were selected on

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the basis of dietary shortages in children as well as on the assumption that teenagers are not getting adequate thiamine, riboflavin and niacin from enriched grain products.

FDA does not agree that a variety of different combinations of several nutrients added to a food is advisable as a general approach to fortification, even though these nutrients are added in proportion to caloric content, because such a policy does not ensure or promote a balance of all nutrients in the general diet. Accordingly, FDA is continuing to recommend that the full complement of nutrients be added when the addition is being made to balance nutrients with the caloric contribution of the food.

The type of fortification of potato chips suggested by the comment more closely resembles the addition of nutrients as a public health measure to correct for a specific nutrient deficiency. As discussed earlier, any application of this principle must follow the identification of a condition of dietary insufficiency in a segment of the population or evidence that nutrient deficiencies are likely to occur, and the designation of a suitable food or foods that will be consumed by the "target" population to act as vehicles for the added nutrients. Also as discussed, manufacturers should be able to document their findings in this regard to avoid possible sanctions based on a finding that their claims are false or misleading or otherwise in violation of the Federal Food, Drug, and Cosmetic Act.

13. A few comments suggested that to be more flexible the regulation should permit nutrients to be added to foods at a higher density than that permitted by the proposed "nutrient balance" concept. As proposed, nutrients could be added to foods at levels equivalent to 1/28th of the U.S. RDA for each nutrient per 100 kilocalories of food. Those commenting suggested that higher nutrient densities should be allowed for technically feasible formulations, but were opposed to the requirement that all 20 vitamins and minerals listed be added because such formulations are not technically feasible.

Except for the modest increase inherent in changing to the 2,000 kilocalorie base, FDA advises that the higher nutrient density formulations referred to by those commenting may be more accurately described as special dietary foods and labeled accordingly.

The rationale for requiring the addition of all the vitamins and minerals under the "nutrient balance" concept has been discussed in the preceding paragraphs on caloric balance. It is pointed out, again, that this mechanism for food fortification is not appropriate for foods to which regulations with more specific fortification profiles are applicable.

14. Several comments objected to the proposed 56-kilocalorie-per-serving figure as a minimum criterion for foods to which nutrients can be added on the basis of caloric content. Part of the comment's arguments related to justifying the enrichment/fortification of foods below the caloric limit on the basis of their multiple consumption during the day.

FDA has changed the 56-kilocalorie-per-serving minimum to a 40-kilocalorie-per-serving minimum because the other changes in the guidelines, taken together, automatically lead to a 40-kilocalorie-per-serving minimum. Using the base of 2,000 kilocalories, nutrients may be added to foods at levels equivalent to 1/20 or 5 percent of the U.S. RDA for each 100 kilocalories of food. Because nutrients should not be added in amounts less than 2 percent of the U.S. RDA, nutrients should not be added to a product supplying less than 40 kilocalories per serving because of the 2,000-kilocalorie-per-day base. An addition of nutrients in amounts of less than 2 percent does not constitute a nutritionally useful addition of nutrients and could misleadingly suggest the addition is important when it is not.

FDA recognizes that if a substantial number of food items, each contributing a small number of calories, is consumed on a regular daily basis, these foods may become nutritionally significant for some consumers. However, it is not appropriate to fortify foods based on multiple consumption. Eating habits are so varied that it would be almost impossible to establish norms for these foods so that their caloric contribution to the daily diet could be gauged.

Therefore, FDA is retaining a 40-kilocalorie-per-serving minimum with no provision for multiple consumption of food servings that fall below the 40-kilocalorie-per-serving minimum.

Restoration

15. Most comments supported the part of the proposal permitting nutrients lost in processing to be restored to foods. Several comments, however, questioned specific aspects of this fortification mechanism. Several comments suggested that the definition of "restoration" in proposed § 100.1(g)(4) be expanded to include losses prior to processing, and that the standard of reference for restoration should be the nutrient content of the food or food ingredients at the time of harvest.

Losses of some nutrients may occur under normal storage and handling conditions, in addition to those that may occur during processing; hence, it is reasonable that restoration of nutrients include all losses of nutrients that occur after harvesting. The principle has been revised to allow restoration, where applicable, to include nutrient losses incurred during storage and handling of the freshly harvested food or ingredients of a food.

16. Several comments asked for interpretation of proposed § 100.1(g)(4). They pointed out that the proposed regulation permitted restoration generally, but that proposed § 100.1(g)(4)(iii) appeared to prohibit restoration without a negative label statement as required by 21 CFR 104.5(f) if there is a nutritional quality guideline for the food that calls for higher nutrient levels. Other comments also asked whether restoration would be permitted for conventional foods such as cereals if there were nutritional quality guidelines for their fortified counterparts (for example, fortified ready-to-eat cereal).

FDA advises that when a regulation prohibits, permits, or requires the addition of nutrients to a food or class of foods the nutrient levels specified in that regulation generally take into account concepts of enrichment/fortification and restoration. Therefore, the policy statement specifically states that restoration as a mechanism for food fortification is appropriate only in the absence of an applicable Federal regulation that specifically prohibits, permits, or requires the addition of nutrients to the food in question. However, FDA believes it should be permissible to restore nutrients to foods in the circumstances raised in the comments, that is, in the case of a food that may be, but has not been, voluntarily fortified in accordance with a Federal regulation. Federal regulations such as nutritional quality guidelines provide for fortification on a voluntary basis in a nutritionally appropriate way. Nutrients may be restored to these foods in accordance with the general principles in this document only when the food could have, but has not, in fact, been fortified in accordance with another Federal regulation that voluntarily permits fortification. A clarification of this point has been included in § 104.20(c)(4).

17. One comment requested that the criteria and specifics of restoration be further defined so that manufacturers would know whether it is required that all nutrients reduced in processing be restored or whether a particular nutrient could be selected for restoration. Other comments requested additional information as to the specific levels of the nutrient additions. One comment requested that restoration be permitted at levels equivalent to 1.5 times the preprocessed levels to take into account and guard against any additional losses that may occur from storage and handling after leaving the manufacturing plant.

FDA has concluded that all nutrients, including protein, iodine and vitamin D, lost in measurable amounts (that is, at least 2 percent of the U.S. RDA per serving) during processing, storage, and handling should be restored if the restoration mechanism is used. This change has been made because of concern that partial restoration may result in restoration of only those nutrients that are least expensive, or technologically easiest to add, or only those required to be listed in nutrition labeling. Without this amendment, restoration practices could contribute to nutrient imbalance in the food supply.

The restoration principle permits the addition of vitamins, minerals, and proteins to a food to restore such nutrients to levels representative of the food before storage, handling, and processing if: (1) The nutrient(s) is shown by adequate scientific documentation to have been lost in a measurable amount equal to at least 2 percent of the U.S. RDA in a normal serving of the food; (2) Good manufacturing practices and normal storage and handling procedures cannot prevent the loss of such nutrients; (3) The food is not the subject of any other Federal regulation for a food or class of foods that requires or prohibits nutrient addition(s), or the food has not been fortified in accordance with any other Federal regulation that permits voluntary nutrient addition(s); (4) All nutrients that are lost in measurable amounts are restored; (5) All ingredients of the food product that contribute nutrients are considered in determining restoration levels; and (6) Nutrients are restored to levels representative of such food before storage, handling, and processing within good manufacturing limits.

Blanket restoration of all nutrients to 1.5 times preprocessing levels in consideration of future losses that may occur during storage and handling is considered by FDA to be inappropriate. One proviso for restoration is that normal storage and handling procedures cannot prevent the loss of a nutrient(s). Under normal conditions, such losses should be minimal for minerals and the more stable vitamins such as niacin. For the less stable vitamins, such as vitamin C, addition of reasonable amounts in excess of the restoration and declared level is acceptable to account for possible losses during normal storage and handling but not the extent of blanket overages for all nutrients. Except as discussed above, any addition in excess of actual restorative levels would not be considered restoration.

Labeling Statements, Claims, and Definitions

The 1974 proposal contained several provisions dealing with permitted or required label statements. In summary, the proposal would have extended the use of the affirmative statement, previously permitted only for those foods that comply with all the requirements of a nutritional quality guideline under 21 CFR 104.1(b) (formerly 21 CFR 100.1(b)), to foods meeting the requirements of an applicable food standard promulgated under section 401 of the act that "prescribes the nutrient additions to a food." The affirmative statement permitted reads: "This product provides nutrients in amounts appropriate for this class of foods as determined by the U.S. Government." The proposal only considered expanding use of the statement already permitted under 21 CFR 104.1(b). Thus comments objecting to the use of this statement for products meeting the requirement of a nutritional quality guideline or urging that the statement itself be modified for these foods are not relevant to the proposal. The proposal to expand the use of the statement is being withdrawn for the reasons discussed below.

18. A few comments objected to the positive label statement permitted by proposed § 100.1(b) on the ground that such a statement would be viewed by consumers as a Federal "stamp of approval" for certain products, and that such an assumption might mislead consumers into believing that such products are superior to traditional foods, without added vitamins, such as those the consumer prepares from raw ingredients. Another comment objected to such affirmative labeling statements because a majority of foods, unable to use such a statement, do in fact provide nutrients in appropriate amounts. Still other comments urged that additional classes of foods be allowed to use such a statement, when factual, and that expanded use of the statement be extended to raw agricultural commodities, foods restored to preprocessing levels, and foods with nutrients added in proportion to calories, in addition to extending its use to standardized foods when nutrient additions have been prescribed by the standard.

Some of the comments objecting to these provisions of the proposal were similar to those received in response to the initial proposal of general principles for the establishment of nutritional quality guidelines, published in the Federal Register of December 23, 1971 (36 FR 24822) and were discussed in the preamble to the nutritional quality guideline regulations published in the Federal Register of March 14, 1973 (38 FR 6989).

FDA concluded at that time, on the basis of consumers' expressed desires to be informed of which foods meet guideline requirements, that the affirmative statement would be permitted. To minimize the possibility of unwarranted or misleading use of such a statement, the scope of the statement was narrowed and a type size limit was imposed on the use of the statement.

All these comments have been considered carefully, and FDA has concluded that a comprehensive substantive rule governing the labeling of fortified foods is not feasible at this time because there are simply too many potential food labeling issues involved. These issues are both diverse and complex, and solutions to some of the problems concerning the labeling of fortified foods cannot be provided in this document. Therefore, a course of action has been chosen that will provide manufacturers with guidance on nutrient additions if they elect to fortify foods with proteins, vitamins and/or minerals.

Most labeling issues involving fortified foods can more realistically be dealt with individually, as specific problems become more clearly identified. Therefore, the expansion of the use of the affirmative statement will not be considered until more experience is gained concerning its effectiveness with nutritional quality guidelines.

19. One comment requested clarification of the affirmative labeling statement. It asked when "natural foods" that meet an applicable nutritional quality guideline are eligible to carry the affirmative statement.

It is assumed that the term "natural food" as used in this comment refers to food without added nutrients. FDA advises that any food that complies with an applicable nutritional quality guideline is eligible to bear the guideline statement regardless of whether such food naturally contains the appropriate nutrients or the nutrients were added separately. There is no difference in nutritional quality between two foods simply because nutrients are added as discrete substances in the one case and are naturally present in the other. One

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of the reasons a positive statement is useful is that it informs consumers in a positive manner that a food meets an appropriate nutritional profile for that particular food.

20. The proposal also would have extended the use of the negative statement previously required under 21 CFR 100.1(f) for products within a class of foods for which a nutritional quality guideline has been established and to which a discrete nutrient or nutrients have been added but which fail to comply with the provisions of the guideline. The proposal would have extended the requirement for the negative labeling statement to any food to which discrete nutrients have been added but which fails to comply with any of the various fortification mechanisms established by the "general principles" regulation.

A number of comments opposed this requirement of a disclaimer statement for any food on the ground that such a provision is beyond FDA's statutory authority. Others argued that the extension of the disclaimer statement to other foods fortified with vitamins and minerals is actually assumption of "preclearance authority" for food formulation, which is not granted to FDA by any statute.

In the preamble to the proposal it was emphasized that the regulation was not intended to encourage the food industry to put vitamins, minerals, or protein into every food. Certainly not every food is an appropriate carrier for additional nutrients. Indiscriminate fortification of foods could lead to confusion about the necessity or propriety of food fortification. It could mislead consumers about the overall nutritional value of various kinds of foods and could lead to potentially serious health problems.

FDA does agree, however, that an across-the-board requirement to provide a disclaimer statement is not justified. It would impose considerable restrictions on manufacturers and would create a large administrative burden as well because manufacturers probably would file many petitions to amend the regulations. FDA has concluded that specific problems with regard to labeling of fortified foods are more appropriately addressed apart from this document.

Other labeling provisions in the proposal were not adopted in this document because this document provides guidelines for nutrient additions rather than labeling regulations. One proposed provision would have permitted certain labeling claims when particular fortification mechanisms are employed. Specific label statements were also proposed for food fortified under restoration, enrichment/fortification, or caloric balance principles. Another proposal would have proscribed certain labeling claims such as those in proposed § 100.1(i)(1), which reads: "No claim or statement may be made on the label or in labeling that any vitamin, mineral, or protein has been added to a food, either in general terms, e.g., "fortified", or in specific terms, e.g., "added", if it is added pursuant to § 1.8(e) of this chapter (now § 101.3(e)) except that a nutrient addition shall be declared by common or usual name in the ingredient statement." Proposed § 100.1(i) (2) and (3) contained similar provisions for labeling claims.

21. Several comments supported the definitions for "enrichment," "fortification," and "restoration" in § 100.1(j) of the proposal. Some comments, however, expressed doubt that consumers would be likely to distinguish between "enriched" and "fortified" and urged a more general definition.

FDA advises that, since these definitions were proposed in June of 1974, the U.S. Department of Agriculture has published the results of a survey "Homemakers, Food and Nutrition Knowledge, Practices, and Opinions," Home Economics Research Report No. 39. This survey found that many people apparently view "enriched" as being synonymous with "fortified," and that both are viewed as meaning simply the addition of nutrients. Therefore, FDA concludes that for label and labeling purposes it will be less confusing to consumers if no distinction is made between these terms. The statement of policy, therefore, permits the term "enriched," "fortified," or similar terms to be used interchangeably, unless an applicable Federal regulation requires more specific words or statements.

The definition of "restoration" has also been amended to include the nutrient loss from harvesting to processing and is discussed in paragraph 15 above.

22. Several comments objected to the prohibition of labeling claims for foods to which nutrients are added to make them nutritionally equivalent to the foods they resemble and for which they substitute. The objections declared that the proposed prohibition was an unnecessary restriction on making truthful and nonmisleading statements.

FDA rejects that argument. The preamble to the proposed regulation explained that the labeling claims would be prohibited on such foods to protect consumers from being misled into thinking that processed foods with nutrients added to make them nutritionally equivalent to foods they resemble and substitute for are nutritionally superior to these foods. A special labeling announcement declaring that nutrients have been added is inappropriate because they had to be added to achieve the nutritional comparability and avoid the imitation label. The revised policy statement continues to state FDA's position that it is inappropriate to make claims about the addition of nutrients to a food that has been fortified to make it nutritionally equivalent to the food it replaces. Further, FDA points out that consumers can learn of the added nutrients, which must be included by common or usual name in the ingredient list.

23. A few comments requested clarification of proposed § 100.1(d) and (i)(2) concerning prohibitions of certain label claims. Those commenting stated that the two paragraphs apparently conflicted in that § 100.1(i)(2) permits comparative statements and § 100.1(d) prohibits comparative statements. Other comments simply expressed confusion as to the exact meaning of proposed § 100.1(d).

FDA agrees that these provisions were not clear. They were intended to prevent a labeling distinction being made between products to which nutrients had been added and those that did not require such additions to meet the requirements of applicable nutritional quality guidelines. The nutritional quality guidelines regulations already contain a provision (21 CFR 104.5(d)) essentially the same as proposed § 100.1(d). Any distinction between natural and synthetic vitamins will continue to be prohibited under § 101.9(i)(6), and claims for nutritional superiority will be controlled by § 101.9(c)(7)(v). Therefore, these restrictions have not been included in this statement of policy.

Miscellaneous Comments

24. One comment suggested that the "general principles" apply to the addition of amino acids to improve the protein quality of foods.

FDA advises that amino acids, when added to a food to improve its protein quality, are considered food additives and are regulated under 21 CFR 172.320 *Amino acids* (formerly 21 CFR 121.1002). There is no need for repetition of the requirements of § 172.320.

25. One comment from industry requested clarification as to whether the proposal applies only to human food or whether it includes animal food.

The proposed "general principles" regulations apply only to food for human consumption and not to animal food. The recodification in the **Federal Register** of March 15, 1977 (42 FR 14302) assigns these regulations to 21 CFR Chapter I, Subchapter B—Food for Human Consumption.

This final order was proposed prior to Executive Orders 11821 and 12044, requiring agencies in the executive branch to review regulatory and legislative proposals they initiate for economic impact, and so does not require economic impact review.

Therefore, in accordance with the foregoing discussion, and under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403(a), 701(a), 52 Stat. 1041 and 1047 as amended, 1055 (21 U.S.C. 321(n), 343(a), 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 104 is amended by adding new Subpart B consisting at this time of § 104.20, to read as follows:

PART 104—NUTRITIONAL QUALITY OF FOODS

Subpart B—Fortification Policy

§ 104.20 Statement of purpose.

(a) The fundamental objective of this subpart is to establish a uniform set of principles that will serve as a model for the rational addition of nutrients to foods. The achievement and maintenance of a desirable level of nutritional quality in the nation's food supply is an important public health objective. The addition of nutrients to specific foods can be an effective way of maintaining and improving the overall nutritional quality of the food supply. However, random fortification of foods could result in over- or underfortification in consumer diets and create nutrient imbalances in the food supply. It could also result in deceptive or misleading claims for certain foods. The Food and Drug Administration does not encourage indiscriminate addition of nutrients to foods, nor does it consider it appropriate to fortify fresh produce; meat, poultry, or fish products; sugars; or snack foods such as candies and carbonated beverages. To preserve a balance of nutrients in the diet, manufacturers who elect to fortify foods are urged to utilize these principles when adding nutrients to food. It is reasonable to anticipate that the U.S. RDA's as delineated in § 101.9 of this chapter and in paragraph (d) of this section will be amended from time to time to list additional nutrients and/or to change the levels of specific U.S. RDA's as improved knowledge about human nutrient requirements and allowances develops. The policy set forth in this section is based on U.S. dietary practices and nutritional needs and may not be applicable in other countries.

(b) A nutrient(s) listed in paragraph (d)(3) of this section may appropriately be added to a food to correct a dietary insufficiency recognized by the scientific community to exist and known to result in nutritional deficiency disease if:

(1) Sufficient information is available to identify the nutritional problem and the affected population groups, and the food is suitable to act as a vehicle for the added nutrients. Manufacturers contemplating using this principle are urged to contact the Food and Drug Administration before implementing a fortification plan based on this principle.

(2) The food is not the subject of any other Federal regulation for a food or class of food that requires, permits, or prohibits nutrient additions. (Other Federal regulations include, but are not limited to, standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act, nutritional quality guidelines established in Subpart C of this part, and common or usual name regulations established in Part 102 of this chapter.)

(c) A nutrient(s) listed in paragraph (d)(3) of this section may appropriately be added to a food to restore such nutrient(s) to a level(s) representative of the food prior to storage, handling, and processing, when:

(1) The nutrient(s) is shown by adequate scientific documentation to have been lost in storage, handling, or processing in a measurable amount equal to at least 2 percent of the U.S. RDA (and 2 percent of 2.5 grams of potassium and 4.0 milligrams of manganese, when appropriate) in a normal serving of the food;

(2) Good manufacturing practices and normal storage and handling procedures cannot prevent the loss of such nutrient(s),

(3) All nutrients, including protein, iodine and vitamin D, that are lost in a measurable amount are restored and all ingredients of the food product that contribute nutrients are considered in determining restoration levels; and

(4) The food is not the subject of any other Federal regulation that requires or prohibits nutrient addition(s), or the food has not been fortified in accordance with any other Federal regulation that permits voluntary nutrient additions.

(d) A nutrient(s) listed in paragraph (d)(3) of this section may be added to a food in proportion to the total caloric content of the food, to balance the vitamin, mineral, and protein content if:

(1) A normal serving of the food contains at least 40 kilocalories (that is, 2 percent of a daily intake of 2,000 kilocalories);

(2) The food is not the subject of any other Federal regulation for a food or class of food that requires, permits, or prohibits nutrient additions; and

(3) The food contains all of the following nutrients per 100 kilocalories based on a 2,000-kilocalorie total intake as a daily standard:

Nutrient and unit of measurement	U.S. RDA [1]	Amount per 100 kilocalories
Protein (optional), gram (g)	[2] 65	3.25
	45	2.25
Vitamin A, international unit (UI)	5000	250
Vitamin C, milligram (mg)	60	3
Thiamine, milligram (mg)	1.5	0.075
Riboflavin, milligram (mg)	1.7	0.085
Niacin, milligram (mg)	20	1.0
Calcium, gram (g)	1	0.05
Iron, milligram (mg)	18	0.9
Vitamin D (optional), international unit (IU)	400	20
Vitamin E, international unit (IU)	30	1.5
Vitamin B-6, milligram (mg)	2	0.1
Folic acid, milligram (mg)	0.4	0.02
Vitamin B-12, microgram (mcg)	6	0.3
Phosphorus, gram (g)	1	0.05
Iodine (optional), microgram (mcg)	150	7.5
Magnesium, milligram (mg)	400	20
Zinc, milligram (mg)	15	0.75
Copper, milligram (mg)	2	0.1
Biotin, milligram (mg)	0.3	0.015
Pantothenic acid, milligram (mg)	10	0.5
Potassium, gram (g)	[3]	0.125
Manganese, milligram (mg)	[3]	0.2

[1] U.S. Recommended Daily Allowance (U.S. RDA) for adults and children 4 or more years of age.

[2] If the protein efficiency ratio of protein is equal to or better than that of casein, the U.S. RDA is 45 g.

[3] No U.S. RDA has been established for either potassium or manganese; daily dietary intakes of 2.5 g. and 4.0 mg., respectively, are based on the 1979 Recommended Dietary Allowances of the Food and Nutrition Board, National Academy of Sciences-National Research Council.

(e) A nutrient(s) may appropriately be added to a food that replaces traditional food in the diet to avoid nutritional inferiority in accordance with § 101.3(e)(2) of this chapter.

(f) Nutrient(s) may be added to foods as permitted or required by applicable regulations established elsewhere in this chapter.

(g) A nutrient added to a food is appropriate only when the nutrient:

(1) Is stable in the food under customary conditions of storage, distribution, and use;

(2) Is physiologically available from the food;

(3) Is present at a level at which there is a reasonable assurance that consumption of the food containing the added nutrient will not result in an excessive intake of the nutrient, considering cumulative amounts from other sources in the diet; and

(4) Is suitable for its intended purpose and is in compliance with applicable provisions of the act and regulations governing the safety of substances in food.

(h) Any claims or statements in the labeling of food about the addition of a

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vitamin, mineral, or protein to a food shall be made only if the claim or statement is not false or misleading and otherwise complies with the act and any applicable regulations. The following label claims are acceptable:

(1) The labeling claim "fully restored with vitamins and minerals" or "fully restored with vitamins and minerals to the level of unprocessed ——" (the blank to be filled in with the common or usual name of the food) may be used to describe foods fortified in accordance with the principles established in paragraph (c) of the section.

(2) The labeling claim, "vitamins and minerals (and "protein" when appropriate) added are in proportion to caloric content" may be used to describe food fortified in accordance with the principles established in paragraph (d) of this section.

(3) When labeling claims are permitted, the term "enriched," "fortified," "added," or similar terms may be used interchangeably to indicate the addition of one or more vitamins or minerals or protein to a food, unless an applicable Federal regulation requires the use of specific words or statements.

(i) It is inappropriate to make any claim or statement on a label or in labeling, other than in a listing of the nutrient ingredients as part of the ingredient statement, that any vitamin, mineral, or protein has been added to a food to which nutrients have been added pursuant to paragraph (e) of this section.

Effective date. This policy statement is effective February 25, 1980.

(Secs. 201(n), 403(a), 701(a), 52 Stat. 1041 and 1047 as amended, 1055 (21 U.S.C. 321(n), 343(a), 371(a)).)

Dated: January 18, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-2380 Filed 1-24-80; 8:45 am]

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Friday
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Part VI

Department of Health, Education, and Welfare

Health Care Financing Administration
Social Security Administration

Fiscal Disallowance for Erroneous Payments in Aid to Families With Dependent Children and Medicaid Programs; Calculating Reduction in Federal Financial Participation for Incorrect Payment by States After September 1980

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

Social Security Administration

42 CFR Part 431

45 CFR Part 205

Fiscal Disallowance for Erroneous Payments in Aid to Families with Dependent Children and Medicaid Programs; Calculating Reduction in Federal Financial Participation for Incorrect Payment by States After September 1980

AGENCY: Department of Health, Education, and Welfare.

ACTION: Policy Statement on Final Rules and discussion of comments.

SUMMARY: These final regulations implement a directive in Sec. 201 of the Labor-HEW Appropriation bill for Fiscal Year 1980 (H.R. 4389), as referenced in the Continuing Resolution for Fiscal Year 1980 (Pub. L. 96–123). Sec. 201 directs the Secretary of HEW to issue regulations requiring States to reduce their payment error rates in Aid to Families with Dependent Children (AFDC) and Medicaid to 4 percent by September 30, 1982. States must make one-third progress to the 4 percent goal by September 30, 1980 and two-thirds progress by September 30, 1981. Federal matching will be denied for erroneous expenditures in excess of the standards.

On September 25, 1979, a notice of proposed rulemaking was published in the **Federal Register** (44 FR 55314). Comments were received on Medicaid issues from 34 State and local welfare and health departments, and 3 private organizations, and from nearly the same number of commenters on AFDC issues. All comments were considered in preparing the final rule. These comments and responses are discussed below. Changes from the proposed rule resulting from comments received are indicated in the discussion.

DATES: The standards established in these regulations become effect October 1, 1980, when they will supercede the standards promulgated March 7, 1979. The March 7, 1979 standards will remain effective through September 30, 1980.

FOR FURTHER INFORMATION CONTACT: For AFDC: Sean Hurley, Division of AFDC Quality Control (202) 245–8999.

For Medicaid: John Berry, Bureau of Quality Control (301) 597–1354.

SUPPLEMENTARY INFORMATION: A major issue in the history of quality control in AFDC and Medicaid has been the Federal government's authority to extend Federal financial participation to erroneous expenditures, particularly in instances where the level of erroneous expenditures exceeds prescribed tolerance levels. The current payment accuracy standards were promulgated March 7, 1979 after extensive consultation with State and local governments and other affected parties.

In the course of deliberations on the Fiscal Year 1980 Labor-HEW Appropriation bill (H.R. 4389), the House-Senate conferees added a provision (Sec. 201) directing the Secretary of HEW to issue regulations requiring States to reduce their AFDC and Medicaid payment error rates to 4 percent by September 30, 1982. Although the conference bill is still awaiting Senate passage, the Congress has acted through a Continuing Resolution (P.L. 96–123) to appropriate Fiscal Year 1980 funds to HEW "to the extent" and "in the manner of" H.R. 4389, as adopted by the House of Representatives on August 2, 1979, including the directive contained in Sec. 201. The regulations now being issued implement the new error rate standards.

1. *Description of new error rate standards.*—The new standards require States to maintain a 4 percent payment error rate in AFDC and Medicaid by September 30, 1982 and to make progress from a base period payment error rate towards the 4 percent standard "in equal amounts each year beginning in Fiscal Year 1980." The base period is April–September 1978 for AFDC and July–December 1978 for Medicaid. The requirement of a phased reduction to 4 percent establishes interim goals of one-third progress to be attained by September 30, 1980 and two-thirds progress to be attained by September 30, 1981. For example, if a State had a payment error rate of 10 percent in the base period, the congressional directive would require the State to reduce its payment error rate to 8 percent by September 30, 1980 (constituting one-third progress from 10 percent to the 4 percent goal), to 6 percent by September 30, 1981, and to 4 percent by September 30, 1982.

The Department will retain its current quality control measurement systems in AFDC and Medicaid. These measurement systems provide error rate estimates for the semi-annual periods October–March and April–September, rather than for a specific point in time (e.g., September 30). In determining State compliance with an error rate target to be reached by a calendar date, the Department will use the weighted average of the State's error rates for the two six-month reporting periods that follow the target date. The weights will be established as the percent of total annual payments that occur in each of the six-month periods. This procedure permits a State to benefit fully from error reduction that occurs near the end of a fiscal year.

Since error rates will presumably decline over time, it would be unfair to hold a State to a standard for a calendar period if that target is not to be met until the end of the period. Thus, the requirement that one-third progress be achieved by September 30, 1980 establishes a first interim standard to be applied in a succeeding period (i.e., October 1980–March 1981 and April–September 1981). The requirement that two-thirds progress be achieved by September 30, 1981 establishes a second interim standard, to be applied in October 1981–March 1982 and April–September 1982. The 4 percent goal will then become the standard for October 1982–March 1983 and April–September 1983, and for all succeeding annual assessment periods.

Continuing the above example, if a State's base period rate were 10.0 percent, the following schedule would apply:

Quality control reporting period	Progress toward 4 percent	Error rate target [1]
a. October 1980–March 1981 and April–September 1981	one-third	8.0
b. October 1981–March 1982 and April–September 1982	two-thirds	6.0
c. October 1982–March 1983 and April–September 1983, and each succeeding year		4.0

[1] This assumes a base period error rate of 10.0 percent. Compliance will be determined on the basis of a weighted average of error rates for the two semi-annual reporting periods in each fiscal year.

2. *Transition from current standards.*—Prior to the implementation of these targets, the Department will maintain the disallowance policy established in the regulations issued on March 7, 1979. To revoke the present set of standards and then impose targets that are ultimately stricter would be inconsistent with the congressional mandate. Furthermore, the Department believes that the present policy is a reasonable approach to improved management in AFDC and Medicaid. Accordingly, the provisions of the current regulation will be retained for the quality control reporting periods April–September 1979, October 1979–March 1980, and April–September 1980.

3. *Criteria for waiving disallowances.*—Section 201 of the Fiscal Year 1980 Labor-HEW Appropriation bill states that "the

requirements pertaining to AFDC and Medicaid error rates . . . shall be carried out except where the Secretary determines, in certain limited cases, that states are unable to reach the required reduction in a given year despite a good faith efort." The Statement of Conference Managers states the intention of the conferees that the "waiver process is to be limited to extraordinary circimstances." The March 7, 1979 regulations allow the Department to waive or reduce a fiscal disallowance if the State can establish a good reason for not meeting the error target. To grant a waiver under the March 7, 1979 regulations, the Secretary must find that "factors beyond the control of the State" precluded the State from achieving the error rate standard. The March 7, 1979 regulations give a number of examples of mitigating circumstances considered sufficient to justify a waiver.

- Disasters such as fire, flood, or civil disorders, that required the diversion of significant personnel normally assigned to eligibility administration, or destroyed or delayed access to significant records needed to make or maintain accurate eligibility determinations;
- Strikes of State staff or other government or private personnel necessary to the determination of eligibility processing of case changes;
- Sudden and unanticipated workload changes which result from changes in Federal law and regulation, or rapid, unpredictable caseload growth in excess of, for example, 15 percent for a 6-month period; and
- State actions resulting from incorrect written policy interpretation to the State by a Federal official reasonably assumed to be in a position to provide such interpretation.

In implementing the provision on "good faith effort" in the appropriation bill, the rules now being published establish a waiver provision that is broader than the one contained in the March 7, 1979 regulations. In particular, the basis on which the Secretary may grant a waiver is being broadened from (a) a finding that factors beyond the control of the State precluded achievement of the error rate standard to (b) a finding that, despite a State's good faith effort, the State was unable to attain the error rate standard. Such a finding will be limited to extraordinary circumstances. Both the criteria and the list of examples in the March 7, 1979 regulations imply a finding that intervening external forces made achievement impossible. Given the criteria in the March 7, 1979 regulations, the Secretary would be unable to waive or reduce a penalty in a State that made an all-out, conscientious effort that substantially reduced its error rate, but nevertheless did not fully achieve the error rate standard. Thus, in the new rules we are adding the following to the illustrative list of qualifying situations:

- The State developed and implemented, in a timely manner, a corrective action plan reasonably designed to meet the target error rate, but the target error rate was not met.

In evaluating whether the State has made a good faith effort in these circumstances, the Department will consider the following factors:

- Demonstrated commitment by top management to the error reduction program, e.g., priorities and goals clearly enunciated to staff, accountability for performance, availability of resources;
- Sufficiency and quality of operational systems designed to reduce errors, e.g., BENDEX, IDEX, monthly reporting, retrospective budgeting, error prone profiles, local agency monitoring systems, computer clearances;
- Use of effective systems and procedures for the statistical and program analysis of QC and related data, e.g., statistical tests, tabulations and cross-tabulations, error prone profiles, corrective action committees, special studies; and
- Effective management and execution of the corrective action process, e.g., assignment of responsibilities, milestones for completing tasks, completion of tasks, monitoring of progress.

4. *Changes from September 25, 1979 Notice of Proposed Rulemaking.*—These final regulations do not significantly differ in any respect from the Notice of Proposed Rulemaking published September 25, 1979. Some minor language changes have been made to clarify the meaning. Some of these clarifications are discussed below in the Department's responses to public comments.

HEW Response to Public Comments on Notice of Proposed Rulemaking Issues Common to Both Medicaid and to Aid to Families With Dependent Children Programs

Counting Client Errors

Comment: Many State and local welfare and health departments objected to including client errors in the error rate because these errors are not controllable.

Response: Client errors have been included in the QC measurement system since its inception in 1970. Past QC findings show that client errors are controllable and can be reduced. In AFDC, these errors have been reduced by 51.6 percent nationwide since 1973. Moreover, there is no indication in section 201 of the Labor-HEW Appropriation Bill (commonly known as the Michel Amendment) or its legislative history that Congress intended to have client errors excluded in computing AFDC and Medicaid error rates. Accordingly, we will not change the current definition of error to exclude client errors.

Performance Standards on a State-by-State Basis

Comment: Several States and other commenters believe that performance standards should be set on a State-by-State basis because of the variation among States in program complexity, caseloads, State plan requirements, and quality control procedures, and the variation in Federal re-reviews. Comments included the following: some States devote more resources and manhours to QC audits and are likely to find more errors; monetary consideration should be given to States which offer more optional services; States with high benefit levels and broad scope of program coverages are disadvantaged in relation to other States; States that have done a poor job in error reduction will be rewarded with waivers and a lengthy "phase-in"; QC should not cite errors when a State fails to follow a State plan issue which is not required by regulations; regulations do not address difference in QC procedures among States, therefore, QC procedures should be in the regulations; the regulations should be amended to provide consistency between the Medicaid and AFDC programs; a study should be done to measure State-by-State expectations; consideration should be given to a level of improvement that is cost effective; and the wide variance in Federal re-reviews does not assure equal treatment to the States.

Response: The Michel Amendment sets a single 4 percent national standard. Although the Department questions whether such a standard should be set without an empirical base, we must nevertheless carry out the mandate of the Congress.

The differences among States, in State plan requirements, caseload demographic characteristics, and quality control procedures are areas that we are continuing to analyze in a current Departmental study. Among other purposes, this study seeks to determine whether such differences affect the ability of States to reduce their payment error rates to a national standard in a cost effective manner. We expect to provide recommendations to Congress

on this issue after the study is completed.

Appeal Process/Waiver

Comment: Several States and other commenters believe that the final regulations need to define "good faith" precisely, describe the appeals and waiver process in more detail, and broaden the examples of good faith exceptions.

Comments and recommendations on these subjects were as follows: the final regulations should define good cause precisely and clarify that the good faith provisions are not exhaustive but will be considered as examples; the regulations should specify that the development and submittal of corrective action plans alone are not sufficient basis for a good faith exception; the department should remove the word "unanticipated" from the examples in 45 CFR 204.42(g) (2) (B) (iii) and 42 CFR 431.802(e) (B) (iii) of when good faith applies; good faith examples should be broadened to include staffing ratios and the rate of staff turnover, rapid but short term increases in workload due to lay-offs, strikes, etc.; the time for requesting a good faith appeal should be 90 days, not 65 days; the duration of the waiver process and the level of our review and judgment should be addressed in the regulations; States should be given sufficient time to make necessary budgetary changes before FFP is withheld; and the federal government should be restricted to the same time limits to decide a disallowance appeal as the States have to make such an appeal.

Response: The examples of good faith effort provided in the regulations are not intended to be exhaustive or exclusive. They are intended to provide examples that identify for States the kinds of circumstances for which the Secretary would grant a waiver. The examples cited cover broad general areas: (1) circumstances beyond the State's control, and (2) employment of all appropriate management measures. States may request a waiver whenever they believe they have made a "good faith" effort to meet the target error rate or 4 percent standard, but have not met the appropriate target.

The decision to grant a good faith waiver will be made based on the documentation presented by the State, and on recommendations made by Regional and headquarters operating components.

We have not established a formal administrative process for the Secretary's review of the State's good faith request because we believe this process must be informal, allowing a free interchange between the Secretary and the State.

These regulations provide a State with 65 days to request a good faith waiver after notification of our intended action to reduce Federal matching funds. We believe this period is adequate. If a State is granted a good faith waiver, we will adjust the disallowance, as appropriate. If a State does not agree with the disallowance decision, it will have 30 days from the date of that decision to request an appeal through existing appeal procedures, including review by the Grant Appeals Board. (See 45 CFR 201.14 and 45 CFR Part 16.) We believe this provides States with an adequate time to appeal the Secretary's decision and to make necessary budgetary adjustments.

We intend to respond to disallowance appeals in a timely manner. However, it would not be feasible at this time to set time limits within which appeals must be decided.

Technical Assistance to States

Comment: Several States indicated that we should make further attempts to provide technical assistance to them instead of imposing unrealistic penalties.

Response: We are providing technical assistance to States and will make every effort to expand this assistance, especially in States that may have difficulty meeting error rate reduction targets.

Regulation Revision Date

Comment: One commenter suggested that Federal regulations should only be revised October 1 of each year with no retroactive implementation of administrative decisions.

Response: While it might be easier for us and States if regulations were revised only on one set day of the year, it is usually not administratively possible. In many instances, a regulation needs to be revised because of a recent law, a court decision, or a State request. Also, if a law requires that a regulation go into effect immediately or be implemented retroactively, we must follow this directive.

The 4% Standard Is Unreasonable

Comment: Most States were against the use of the 4 percent standard. They cited the lack of any data to support this goal and suggested that no goal be established until the Department's study on national standards is completed. Some States suggested that a hold harmless margin above 4 percent be established to protect against seasonal and other limited fluctuations in error rate performance which would initially disadvantage low error rate States. A few States questioned whether our authority to promulgate these regulations was limited to one year because of their linkage to an appropriation bill.

Response: We recognize that the 4 percent standard represents a more stringent error reduction goal than that provided for in the March 7, 1979 regulations. We have, however, been directed by the Congress to publish regulations providing for a 4 percent standard. We will be continuing our study to determine what level of error performance can be achieved cost effectively and whether that level is the same for all States. Although Congress has established 4% as the absolute goal for all States, this study will seek to provide the Department and Congress with data on which to base any future evaluation of that standard.

We have no authority to establish a hold harmless margin above 4% for States with low error rates. Furthermore, we do not believe that States which have error rates just above the 4 percent standard will be at a disadvantage when compared to States with high error rates. For these States, achieving the 4 percent standard will not involve such an ambitious effort as those with higher error rates. The good faith provisions of the regulations are equally applicable to all States.

The fact that the Michel Amendment appears in an annual appropriation act does not limit its applicability to the current fiscal year. Appropriation acts, at times, include provisions which are applicable beyond a particular fiscal year, e.g., provisions that constitute permanent legislation.

Interim Targets and Their Calculation

Comment: Many commenters objected to the nature of and basis for the interim error reduction targets. Specifically these commenters suggested the following: change the base period; measure error reduction on a national average rather than an individual State performance basis; provide for hold harmless margins around interim targets; use of semi-annual measurement period rather than an annual weighted average to determine compliance; extend the reduction target dates to provide more time for corrective action planning and implementation; provide incentive payments for States that exceed error reduction targets; and clarify the impact of fluctuation of error rates below the targets.

Response: We have been directed by Congress to publish regulations that require States to reduce payment error rates in equal annual increments down

to 4 percent by September 30, 1982. The first reduction period begins in fiscal year 1980. The Michel Amendment directed that the base period to be used shall be the April–September 1978 sample period for the AFDC program and the July–December 1978 sample period for the Medicaid program. We believe the schedule of phased reduction provided in these regulations gives States the maximum time period in which to accomplish error reductions, given the constraints of the Congressional mandate. For example, attainment of the interim target error rate for September 30, 1980 will be measured by data obtained in the sampling periods following that date, i.e. the October 1980–March 1981/April–September 1981 sampling periods. The same procedure will be used to determine compliance with the 1981 and 1982 target error rates. In addition, we do not believe that these regulations limit the time allowed for corrective action. Corrective action is an ongoing process. It is not merely based on analysis of data obtained at the end of a sample review period. Error trends should be identified on a monthly basis and corrective actions should be implemented immediately upon identification of a problem.

We believe that an annual assessment period rather than a semi-annual assessment period is more consistent with the intent of Congress. We also believe that it is the most advantageous alternative, because it provides the States more time to demonstrate that a target had been reached in a prior period.

We do not have the latitude to provide for a hold harmless margin around the interim target error rate. We also have no authority to apply the one-third reduction to the national mean, because to do so would be inconsistent with the Michel Amendment.

There is no statutory basis for giving incentive payments to States for achieving error rates below their interim targets other than those provided in Section 403(j) of the Social Security Act. The final regulations for implementing these incentive provisions (45 CFR 205.43) were published in the Federal Register November 26, 1979. These regulations provide that States with AFDC overall dollar error rates below 4 percent will receive a percentage share of Federal savings as a result of reduced erroneous expenditures.

We will not penalize States if their error rates increase but remain below their interim target rate. For example, if a State's error rate was 10 percent in the base period and was reduced to 5 percent for the first annual assessment period (October 1980–September 1981) and as long as the rate did not increase above 6 percent for the second annual assessment period (October 1981–September 1982), the State continues to meet interim reduction requirements. States with less than 4 percent error rates will not be penalized if the error rate increases, but remains below 4 percent.

Payments to Clients Should Not Be Curtailed

Comment: A number of States expressed the opinion that despite the statement of the Conference managers on the Michel Amendment that payments to eligible recipients not be curtailed or delayed, States may be forced to cut benefit levels and services due to disallowance of Federal funds.

Response: We are currently exploring various alternatives that may be available to protect recipient's benefit levels in the event disallowances are assessed.

Michel Amendment Directive to Issue Regulations

Comment: One commenter asked whether the Department is legally obligated to implement the Michel Amendment directive to issue regulations, since the 1980 Appropriations Act has not been enacted.

Response: The Department is required to implement the Michel Amendment directive. Even though the FY 1980 Appropriation Bill, which includes the Michel Amendment directive in section 201 has not been enacted, imposition of the directive is law by virtue of the provisions of the Continuing Resolution (Pub. L. 96–123) which appropriates funds for HEW for FY 1980. Section 101(g) provides funds for HEW "to the extent and in the manner" provided for in the Labor-HEW Appropriation Bill as adopted by the House of Representatives on August 2, 1979. Since the Appropriation Bill includes the Michel Amendment directive, we are obligated to issue regulations in implementation of that directive.

Medicaid Issues

Remove Third Party Liability (TPL) Errors From Fiscal Sanctions

Comment: One commenter recommended that we remove TPL errors from fiscal sanctions because these are a reason for many errors that occur in the Medicaid Quality Control (MQC) systems.

Response: Third Party Liability errors have never been included as part of the State payment error rate in determining if a State is subject to a FFP disallowance. The definition of State payment error rate under the March 7, 1979 regulation and this regulation is the rate of eligibility payment errors detected under the MQC system for an annual assessment period or a review period.

Percentage Improvement Goal for MQC Should be Based on MQC Data, Not on Aid to Families With Dependent Children-Quality Control (AFDC–QC) Data

Comment: One commenter recommended that if a percentage improvement goal is necessary for MQC, it should be based on the rate of improvement in comparing the initial MQC reviews, not on AFDC–QC data.

Response: The target error rates are based on State MQC data, not AFDC–QC data.

Type of Error Rate Used for Fiscal Sanctions

Comment: One commenter said that the regulations do not specify which type of error rate will be used as a basis for fiscal sanctions.

Response: The regulations specify that the State payment error rate will be used as the basis for a FFP disallowance. This is included in § 431.802(b) in the definition for the State payment error rate.

Setting the State Payment Error Rate

Comment: One commenter indicated that the procedures listed for disallowance of FFP in § 431.802(e)(2) are not clear. The procedures do not indicate that we are excluding erroneous eligibility determinations made by the Social Security Administration (SSA) of Supplemental Security Income (SSI) eligibility in our determination of the State's payment error rate. The reason for this is that the dollar base cited for disallowance includes those Medicaid cases whose eligibility was based upon SSI eligibility determinations.

Response: The dollar rate for the disallowance will not include Medicaid cases where eligibility is determined by SSI. The dollar amount to be disallowed will be calculated as the weighted rate using error data from AFDC and Medical Assistance Only or Medical Assistance and Others strata. The Medical Assistance Only stratum includes medical assistance cases for recipients who do not receive AFDC or SSI payments. The Medical Assistance and Others stratum includes Medical Assistance only cases and SSI cases for States where Medicaid eligibility was not determined by SSA. In the final

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regulation, we have changed the wording in § 431.802(e)(3) to clarify this point.

Comment: This commenter also stated that the precise methodology to be used in this determination is unspecified; therefore, it appears that at least two methods can be used to determine the payment error rate. These two methods are as follows:

Method 1—Determine the mispayment rate by considering only cases from the AFDC eligible and medically needy strata, disregard the SSI eligible stratum, and apply the disallowance of FFP as stated in the regulation.

Method 2—Consider all three strata (AFDC eligible, medically needy, and SSI eligible strata) in the determination of the payment error rate, but deem the SSI strata to have a zero mispayment rate.

Response: The dollar base for the disallowance will only include Federal matching funds for expenditures made for the AFDC and Medical Assistance Only or Medical Assistance and Others universes. The disallowance will be calculated by subtracting the target error rate from the computed weighted error payment rate for the two appropriate universes. If the difference is greater than zero, it will be multiplied by the Federal matching funds for the AFDC and Medical Assistance Only or Medical Assistance and Others universes. This product will be the amount of the disallowance. This clarification has been included in the final rule as a new § 431.802(e)(4) and (5)(i), (ii).

Fiscal Liability Policy Should be Reexamined

Comment: Some commenters believe we should be made responsible for erroneous SSI eligibility determinations which lead to the erroneous payment of State Medicaid dollars. One commenter also believes State losses due to erroneous SSI eligibility determinations in Medicaid should be used to offset fiscal sanctions.

Response: This regulation is confined to implementation of the Michel amendment directive that a regulation be issued requiring the States to reduce their AFDC and Medicaid error rates and providing for disallowances against the States for failure to achieve the prescribed reductions. Erroneous Medicaid payments resulting from erroneous SSI eligibility determinations will not be included in the State's Medicaid payment error rate. The issue of Federal liability for erroneous State Medicaid payments resulting from erroneous SSI eligibility determinations is outside the scope of this regulation. That issue was the subject of negotiations between HEW and the States before an agreement was reached on Federal Medicaid eligibility determinations. The agreement does not call for Federal liability for erroneous SSI eligibility determinations.

AFDC Issues

Complexity of Eligibility Rules and Inconsistency Between Programs

Comment: Several States cited the contributing role that complex eligibility requirements play in error rates. Also noted was the inconsistency between AFDC and Food Stamps requirements.

Response: We are recodifying the AFDC regulations to identify the Federal requirements more clearly and concisely. To this end we have also been working with the Department of Agriculture to identify inconsistencies in eligibility standards between the Departments and develop administrative remedies where possible.

Counting Technical and Underpayment Errors

Comment: Most respondents were against the inclusion of "technical" errors such as the absence of WIN registration, a child support assignment, or a social security number as part of the payment error rate on the grounds that such errors would not have affected the eligibility or benefit determination if corrected. A number of respondents cited a colloquy between Senators Magnuson and Javits in the Senate on September 24, 1979 as indicating that the intent of the conferees was not to include technical errors in the 4 percent error rate standard. One respondent suggested that underpayment errors not be included as part of the standard.

Response: We have determined to include so-called "technical" errors in the payment error rate because the Michel Amendment seeks reduction of payments to ineligible persons. Registration for WIN, assignment of child support rights, and furnishing social security numbers are statutory conditions of eligibility for making this determination. We have taken into account the colloquy between Senators Magnuson and Javits. While the Senators concluded that "administrative procedural" errors should not be counted as errors, the colloquy does not indicate that the Senators construed the Michel Amendment to require the exclusion from the error rate definition of payments to ineligibles, i.e., persons who did not comply with the statutory condition of eligibility. We believe, moreover, that while elimination of technical errors may not result in immediate savings, they may well result in long term savings. For example, the failure of a recipient to assign child support rights to the State could result in future loss of funds to the AFDC program. If the State had this assignment, it could pursue the collection of child support and recoup benefit payments. Underpayment errors are recorded but are not included in calculating a State's payment error rate.

Federal Technical Assistance in Computer Support

Comment: Several respondents suggested that we should provide greater availability of computerized systems for detection of unreported income and benefits.

Response: The 1977 amendments to the Social Security Act provide States with access to wage information maintained by State unemployment compensation agencies or the Social Security Administration. Social Security benefit information is available to States through the Bendex system. We have initiated action to evaluate and help States upgrade existing information systems. Additionally, we have proposed legislation to increase the Federal matching for AFDC management information systems.

Appeal of Individual Case Findings

Comment: Several States requested that effective appeal procedures on individual quality control case findings be developed.

Response: There are informal procedures for States to register disagreement with individual Federal re-review findings. These procedures have routinely been used by States to appeal individual case differences. They have been revised and will be formally issued in the near future as part of the AFDC–QC Manual.

Computation of the Disallowance

Comment: One State questioned the fairness of the proposed method of computing a disallowance where a State's Federal matching funds are based on the regular formula.

Response: We have addressed this comment by revising sections 205.41(f) and 205.42(f). If a State uses the regular Federal percentage for FFP and has an average monthly payment per recipient of more than $32 in a 6-month sample period, an adjustment will be made to the State's error rate for purposes of determining the amount of reduction in our matching funds.

Offset of Reduction by Recoupment

Comment: Several States thought we should consider reducing the disallowance of Federal matching funds by the amounts States recovered from overpaid or ineligible beneficiaries.

Response: We are currently studying our policies on the subject of recoupments in general in the AFDC program and will give serious consideration to this comment.

Use of Point Estimate

Comment: Several respondents suggested that error rates be calculated using the lower limit of the point estimate in recognition of sampling error.

Response: The point estimate is the most accurate estimate of a State's true error rate and it is the estimate generally used in conventional statistical practice. We will continue to use the point estimate to calculate error rates.

Valid Sample

Comment: One respondent questioned the procedure that will be used when a State failed to complete a valid sample.

Response: States failing to complete a valid and reliable sample will normally be assigned an error rate based on the average of their last three official error rates unless this average error rate is at or below their required target. When this average is at or below the required target, we may still use the average of the last three official error rates; or a special Federal sample, audit, or Federal subsample will be used.

If a State does not follow the directions prescribed in the AFDC QC manuals and does not conduct its sample in accordance with its approved or an approvable sampling plan, its results may be invalid, unreliable, or both. Similarly, if a State does not complete its federally prescribed minimum number of reviews, the sample will be considered incomplete.

Dated: January 15, 1980.

W. J. Driver,

Commissioner of Social Security.

Dated: January 15, 1980.

Earl M. Collier,

Acting Administrator, Health Care Financing Administration.

Approved: January 21, 1980.

Patricia Roberts Harris,

Secretary of Health, Education, and Welfare.

[FR Doc. 80-2533 Filed 1-24-80; 8:45 am]
BILLING CODE 4110-07-M

Health Care Financing Administration

42 CFR Part 431

Medicaid Program; Quality Control System Error Rate

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule.

SUMMARY: Current Medicaid Quality Control regulations provide for a reduction of Federal matching funds under title XIX, Social Security Act, to any State that has an eligibility determination error rate exceeding a specified target. The changes implement a directive in Section 201 of the Labor-HEW Appropriation Bill for Fiscal Year 1980 (H.R. 4389), as adopted by the House of Representatives on August 2, 1979, and the Continuing Resolution for FY 1980 (Pub. L. 96–123), to the Secretary of HEW to issue Medicaid error rate regulations, requiring the States to reduce their payment error rates to 4 percent by September 30, 1982, in equal steps beginning in FY 1980.

DATE: Effective January 25, 1980.

FOR FURTHER INFORMATION CONTACT: John Berry, 301–597–1354.

SUPPLEMENTARY INFORMATION: Comments and responses are addressed in the Policy Statement and Discussion of Comments on Proposed Rules which is contained in this issue of the Federal Register.

42 CFR Part 431, Subpart P, is amended as set forth below.

1. Section 431.801 is amended by revising the title, paragraph (a), and paragraph (c) to read as follows:

Subpart P—Quality Control

§ 431.801 Disallowance of Federal financial participation for erroneous State payments (effective through September 1980).

(a) *Purpose and applicability.*

(1) *Purpose.* This section establishes rules and procedures for disallowing Federal financial participation (FFP) in erroneous Medicaid payments due to eligibility errors, as detected through the Medicaid Quality Control (MQC) system required under § 431.800 of this subpart.

(2) *Applicability.* This section applies to States through the end of the April–September 1980 MQC review period. After September 30, 1980, HCFA will apply the performance standards specified in § 431.802.

* * * * *

(c) *Setting the State's error rate.* An error rate for each State will be determined for each MQC review period, in accordance with instructions issued by HCFA. Erroneous eligibility determinations by the Social Security Administration (SSA) of Supplemental Security Income (SSI) eligibility will not be included in determining the State's error rate. (If a State fails to complete a valid MQC review as required for any review period, HCFA will assign the State an error rate based on either the weighted average of its error rate in the last three review periods, a special Federal sample or audit, or Federal subsample.)

* * * * *

2. A new § 431.802 is added as follows:

§ 431.802 Disallowance of Federal financial participation for erroneous State payments (effective beginning October 1, 1980).

(a) *Purpose and applicability.* (1) *Purpose.* This section establishes rules and procedures for disallowing Federal financial participation (FFP) in erroneous Medicaid payments due to eligibility errors, as detected through the Medicaid Quality Control (MQC) system required under § 431.800 of this subpart.

(2) *Applicability.* This section will apply to States for each 12 month annual assessment period beginning with the October 1980–September 1981 period.

(b) *Definitions.* For purposes of this section—"Annual Assessment Period" means the 12 month period, October 1 through September 30 and includes two 6-month review periods (October-March and April-September).

"Base period" means the 6 month MQC sample period from July through December 1978, used to calculate each State's error rate.

"Eligibility errors" has the same meaning as specified in § 431.800(b).

"National standard" means a 4 percent payment error rate.

"State payment error rate" means the rate of eligibility payment errors detected under the MQC system for an annual assessment period or a review period.

"State target error rate" means the error rate that a State must achieve in order to avoid a disallowance of FFP under this section.

(c) *Setting the State's payment error rate.*

(1) A payment error rate for each State will be determined for each annual assessment period in accordance with instructions issued by HCFA.

(2) The State's payment error rate will not include erroneous eligibility determinations made by the Social Security Administration (SSA) of Supplementary Security Income (SSI) eligibility.

(3) If a State fails to complete a valid MQC review as required for any review period, HCFA will assign the State a payment error rate based on either—

(i) The weighted average of its payment error rate for the last three review periods;

(ii) A special Federal sample or audit; or

(iii) The Federal subsample.

(d) *Establishing the target error rate.* (1) Each State with a base period payment error rate in excess of 4 percent must reduce its payment error rate to 4 percent by the October 1982–September 1983 annual assessment period.

(2) This reduction must be made in three equal increments for each October–September annual assessment period beginning with the October 1980–September 1981 period.

(3) HCFA will establish each State's target error rate for the October 1980–September 1981 annual assessment period as follows:

(i) Multiply one-third times the amount by which the State's base period error rate exceeds 4 percent; and

(ii) Subtact this product from the State's base period error rate.

(4) HCFA will establish each State's target error rate for the October 1981–September 1982 annual assessment period as follows:

(i) Multiply two-thirds times the amount by which the State's base period error rate exceeds 4 percent; and

(ii) Subtract this product from the State's base period error rate.

Example

Assume HCFA is establishing target error rates for the October 1981–September 1982 annual assessment period, and that the State in question has a base period error rate of 16 percent. HCFA will use the following formula to compute the State's target error rate:

(i) Four percent (the national standard) subtracted from sixteen percent (the State's base period error rate) equals 12 percent;

(ii) Twelve percent multiplied by two-thirds equals 8 percent; and

(iii) Eight percent subtracted from 16 percent equals an 8 percent target error rate.

(5) The State must meet the 4 percent national standard for all annual assessment periods after September 30, 1982.

(6) States with error rates in the base period at or below the 4 percent national standard must maintain that standard as their target error rate; but the rate may increase without penalty as long as it does not exceed the 4 percent national standard.

(7) Beginning with the October 1980–September 1981 annual assessment period and for all subsequent annual assessment periods, HCFA will notify each State agency of its progress in achieving the target error rates.

(e) *Computation for disallowance of FFP.* (1) If a State fails to meet its target error rate, HCFA will disallow FFP, as provided in this section, for each annual assessment period as appropriate (see paragraph (f) of this section for good faith examples).

(2) If a State fails to meet its target error rate, HCFA will compute the dollar amount to be disallowed.

(3) The dollar amount to be disallowed will be calculated as the weighted rate using error data from the AFDC and Medical Assistance Only or Medical Assistance and Others strata. The Medical Assistance Only stratum includes medical assistance cases for recipients who do not receive AFDC or SSI payments. The Medical Assistance and Others stratum includes Medical Assistance Only cases and SSI cases for States where Medicaid eligibility was not determined by SSA.

(4) The dollar amount to be disallowed will only include Federal matching funds for expenditures made for the AFDC and Medical Assistance Only or Medical Assistance and Others universes.

(5) HCFA will compute the dollar amount to be disallowed as follows:

(i) Subtract the target error rate from the computed weighted error payment rate;

(ii) If the difference is greater than zero, it will be multiplied by the Federal matching funds for the AFDC and Medical Assistance Only or Medical Assistance and Others universes. This product will be the amount of the disallowance.

(6) A State payment error rate for an annual assessment period will be the sum of the weighted payment error rates in the two 6-month review periods.

(7) The weights will be established as the percent of total annual payments that occur in each of the six month periods.

Example

The State's target error rate was 8 percent. During the first 6-month review period the payment error rate was 10 percent and the total payments made during that 6-month period were $20 million. During the second 6-month review period, the payment error rate was 9 percent and total payments were $30 million. The total payments in the annual assessment period were $50 million.

(i) The weight applied to the payment error rate for the first 6-month period would be .4 ($20 million divided by $50 million).

(ii) The weight applied to the payment error rate for the second 6-month period would be .6 ($30 million divided by $50 million).

(iii) Therefore, the payment error rate for the annual assessment period would be 9.4 percent or 4 percent (.4 x 10 percent for the first 6-month period) plus 5.4 percent (.6 x 9 percent for the second 6-month period).

(iv) Since the target error rate was 8 percent and the payment error rate was 9.4 percent, HCFA would disallow 1.4 percent of the amount of FFP claimed by the State for its Medicaid program for the annual assessment period.

(f) *Notice to States and showing of good faith.*

(1) HCFA will notify a State that it will disallow matching funds because the State does not meet its target error rate.

(i) The State will have 65 days from the date on this notification to show that this disallowance should not be made because it made a good faith effort to meet the target error rate.

(ii) If the Secretary finds that the State did not meet its target error rate despite a good faith effort, HCFA will reduce the disallowance in whole, or in part, as the Secretary finds appropriate under the circumstances shown by the State.

(iii) A finding that a State did not meet the target error rate despite a good faith effort will be limited to extraordinary circumstances.

(2) Some examples of circumstances under which the Secretary may find that a State did not meet the target error rate despite a good faith effort are—

(i) Disasters such as a fire, flood, or civil disorders that—

(A) Require the diversion of significant personnel normally assigned to Medicaid eligibility administration, or

(B) Destroyed or delayed access to significant records needed to make or maintain accurate eligibility determinations;

(ii) Strikes of State staff or other government or private personnel necessary to the determination of eligibility or processing of case changes;

(iii) Sudden and unanticipated workload changes which result from changes in Federal law and regulation, or rapid, unpredictable caseload growth in excess of, for example, 15 percent for a 6 month period;

(iv) State actions resulting from incorrect written policy interpretation to the State by a Federal official reasonably assumed to be in a position to provide such interpretation; and

(v) The State timely developed and implemented a corrective action plan reasonably designed to meet the target error rate, but the target error rate was not achieved. In evaluating whether the State made a good faith effort in these circumstances, the Secretary will consider the following factors—

(A) Demonstrated commitment by top management to the error reduction program, e.g., priorities and goals clearly enunciated to staff, accountability for performance, availability of resources;

(B) Sufficiency and quality of systems designed to reduce errors that are operational in the State, e.g., BENDEX, SDX, monthly reporting, error prone profiles, local agency monitoring systems, computer clearances;

(C) Use of effective system and procedures for the statistical and program analysis of QC and related data, e.g., statistical tests, tabulations and cross-tabulations, error prone profiles, corrective action committees, special studies; and

(D) Effective management and execution of the corrective action process, e.g., assignment of responsibilities, milestones for completing tasks, substantial completion of tasks, monitoring of progress.

(3) The failure of a State to act upon necessary legislative changes or to obtain budget authorization for needed resources is not a ground for a waiver.

(4) A State may request reconsideration of a disallowance under this section in accordance with the procedures specified in 45 CFR Part 16.

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302))
(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

Dated: January 15, 1980.

Earl M. Collier,

Acting Administrator, Health Care Financing Administration.

Approved: January 21, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-2534 Filed 1-24-80; 8:45 am]

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Social Security Administration

45 CFR Part 205

General Administration; Public Assistance Programs; Calculating Reduction in Federal Financial Participation for Incorrect Payment by States After September 1980

AGENCY: Social Security Administration (SSA), HEW.

ACTION: Final rules.

SUMMARY: These regulations change the quality control standards published on March 7, 1979 (44 FR 12579) for the reduction of incorrect payments in Aid to Families with Dependent Children (AFDC). The changes implement a directive in section 201 of the Labor-HEW Appropriation Bill for fiscal year 1980 (H.R. 4389), as adopted by the House of Representatives on August 2, 1979, and the Continuing Resolution for FY 1980 (Pub. L. 96–123) to the Secretary of HEW to issue AFDC error rate regulations, requiring the States to reduce their payment error rates to 4 percent by September 30, 1982, in equal steps beginning in FY 1980. Federal financial participation will not be made for incorrect payments exceeding the amounts allowed.

DATES: These regulations are effective on January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Sean Hurley, Division of Quality Control, telephone (202) 245–8999.

SUPPLEMENTARY INFORMATION: Comments and responses are addressed in Policy Statement and Discussion of Comments on the Proposed Rules which is contained in this issue of the **Federal Register.**

45 CFR Part 205 is amended as follows:

1. Section 205.41 is amended by revising the title and revising paragraphs (a)(1), (d)(1), and (f), and by adding paragraph (a)(3) to read as follows:

§ 205.41 Reduction of FFP for incorrect payments by States (effective through September 1980).

(a) *Purpose and applicability.* (1) This section provides the rules we will use to determine whether we will reduce the amount of Federal matching funds (Federal financial participation or FFP) we give to a State, and, if so, the amount of the reduction. We will reduce the amount of our matching funds if a State makes more incorrect payments in its AFDC program than allowed under the rules in this section. These rules apply to all States which have AFDC programs.

(2) * * *

(3) The rules in this section apply to all States through the end of the April–September 1980 quality control sample period. Beginning with the October 1980–March 1981 quality control sample period and for subsequent 6-month sample periods, we will apply the performance standards described in § 205.42.

* * * * *

(d) *How we establish a national standard.* (1) *Information we will use.* We will use the information provided by the Federal/State quality control system. This system measures the dollar amount of incorrect payments for every 6-month period (April–September and October–March). If a State fails to complete a valid and reliable sample for any 6-month sample period, we will assign to the State an error rate based on either the weighted average of the State's payment error rate for the last three sample periods, a Federal sample, an audit, or a Federal subsample.

* * * * *

(f) *If a State fails to meet the established rate.* If a State does not meet the national standard or its target error rate for either of the required 6-month periods and cannot show a good reason for it, we will reduce our matching funds to the State for those 6 (12) months, using the following formula. We will reduce our matching funds by the amount we would not have paid if the State had reached its goal (the national standard or the target error rate). If the State uses the regular Federal percentage for FFP and has an average monthly payment per recipient of more than $32 in a 6-month sample period, an adjustment will be made to the State's error rate for purposes of determining the amount of reduction in our matching funds.

Example—If the State's target error rate was 10 percent and the State's actual payment error rate was 12 percent, we will reduce our matching funds by 2 percent of the Federal share of the dollars the State paid under its AFDC program.

2. A new § 205.42 is added to read as follows:

§ 205.42 Reduction in Federal financial participation (FFP) for incorrect payments by States after September 1980.

(a) *Purpose and applicability.* This section provides the rules we will use beginning with October 1980 to determine whether we will reduce the amount of Federal matching funds (Federal financial participation or FFP) we give to a State, and, if so, the amount of the reduction. We will reduce the amount of our matching funds if a State makes more incorrect payments in its AFDC program than allowed under the rules in this section. These rules apply to all States which have AFDC programs.

(b) *Definitions.* For the purposes of this section—

"Annual assessment period" means the 12-month period October 1–September 30.

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"Base period" means the April–September 1978 quality control system review period.

"Incorrect payments" means payments to people who are ineligible for a payment and overpayments to eligible people.

"National standard" means a 4 percent payment error rate.

"Payment error rate" means the dollar amount of incorrect payments a State has made expressed as a percentage of the State's total payments.

"We," "us" or "our" means the Department or the Social Security Administration as appropriate.

(c) *General.* In these rules we are establishing a national standard for incorrect payments in the AFDC programs. This standard will be used to measure performance of the States in each annual assessment period beginning with the October 1980–September 1981 period. A State whose payment error rate is below the national standard in the base period must not go above the standard, without risking reduction in Federal matching funds. A State whose payment error rate is above the standard must reduce its error rate to the national standard or to the State's target error rate established under these rules.

(d) *How we establish acceptable levels for State performance using the national standard.* (1) *Target error rates for States above the national standard in the base period.* (i) Each State with a base period payment error rate in excess of 4 percent must reduce its payment error rate to 4 percent by the October 1982–September 1983 annual assessment period in 3 equal increments for each October–September annual assessment period beginning with the October 1980–September 1981 period.

(ii) We will establish each State's target error rate for the October 1980–September 1981 annual assessment period by multiplying one-third times the amount by which the State's base period payment error rate exceeds 4 percent; this product is then subtracted from the State's base period payment error rate. To establish the target error rate for the October 1981–September 1982 annual assessment period, we will multiply two-thirds times the amount by which the State's base period payment error rate exceeds 4 percent; this product is then subtracted from the State's base period payment error rate. For all annual assessment periods after September 30, 1982, the State must meet the 4 percent national standard.

Example. The State's payment error rate during the base period is 10 percent. Therefore, the amount by which the State's payment error rate exceeds the 4 percent national standard is 6 percent (or 10 minus 4). The State must reduce this 6 percent by one-third, or 2 percent (8 percent target error rate) for the October 1980–September 1981 annual assessment period. For the October 1981–September 1982 annual assessment period, the State's target error rate would be 6 percent. For all annual assessment periods after September 30, 1982, the State must meet the 4 percent national standard.

(2) *States that have achieved the national standard.* States that have achieved the 4 percent national standard in the base period must maintain that standard.

(e) *Information we will use.* We will use the information provided by the Federal/State quality control system.

This system measures the dollar amount of incorrect payments for every 6-month period. (April–September and October–March). A State's payment error rate for the annual assessment period will be the sum of the weighted payment error rates in the State for the two corresponding 6-month sample periods. The weights will be established as a percentage of the total annual payments that occur in each of the 6-month periods. If a State fails to complete a valid and reliable sample for any 6-month sample period, we will assign to the State an error rate based on the weighted average of the State's payment error rate for the last three sample periods, a Federal sample, an audit, or a Federal subsample.

(f) *If a State fails to meet the established rate.* If a State does not meet the national standard or its target error rate for any 12 month annual assessment period, we will reduce our matching funds to the State to those 12 months, unless the State can show that it made a good faith effort to meet the target rate. We will reduce our matching funds by the amount we would not have paid if the State had reached its goal (the national standard or the target error rate). If a State uses the regular Federal percentage for FFP and has an average monthly payment per recipient of more than $32 in a 6-month sample period, an adjustment will be made to the State's error rate for purposes of determining the amount of reduction in our matching funds.

Example. The State's target payment error rate was 8 percent. During the first 6-month sample period the actual payment error rate was 10 percent and the total payments made during that 6-month period were $20 million. During the second 6-month sample period, the payment error rate was 9 percent and total payments were $30 million. The total payments in the annual assessment period were $50 million.

The weight applied to the payment error rate for the first 6-month period would be 0.4 ($20 million divided by $50 million) and the weight applied to the payment error rate for the second 6-month period would be 0.6 ($30 million divided by $50 million).

Therefore the payment error rate for the annual assessment period would be 9.4 percent or 4 percent (10% x 0.4 for the first 6 months) plus 5.4% (9% x 0.6 for the second 6 months).

Since the target error rate was 8 percent and the payment error rate was 9.4 percent, we will reduce our matching funds by 1.4 percent of the Federal share of the dollars the State paid under its AFDC program.

(g) *When we will reduce a disallowance because a State has made a good faith effort.* (1) We will notify a State that we are going to reduce (or disallow) matching funds because the State did not meet the national standard or the target error rate established for the State. The State will have 65 days from the date on this notification to show that it made a good faith effort to meet the established error rate target. If we find that the State did not meet the national standard or the target error rate despite a good faith effort, we will reduce the funds being disallowed in whole or in part as we find appropriate under the circumstances shown by the State. A finding that a State did not meet the target error rate despite a good faith effort will be limited to extraordinary circumstances.

(2) Some examples of circumstances under which we may find that a State did not meet the target error rate despite a good faith effort are—

(i) Disasters such as fire, flood or civil disorders, that—

(A) Require the diversion of significant personnel normally assigned to AFDC eligibility administration, or

(B) Destroyed or delayed access to significant records needed to make or maintain accurate eligibility determinations;

(ii) Strikes of State staff or other government or private personnel necessary to the determination of eligibility or processing of case changes;

(iii) Sudden and unanticipated workload changes which result from changes in Federal law and regulations, or rapid, unpredictable caseload growth in excess of, for example, 15 percent for a 6-month period;

(iv) State actions resulting from incorrect written policy interpretation to the State by a Federal official reasonably assumed to be in a position to provide such interpretation; and

(v) The State timely developed and implemented a corrective action plan reasonably designed to meet the target error rate but the target error rate was not met. In evaluating whether the State has indeed made a good faith effort in these circumstances, we will consider the following factors—

(A) Demonstrated commitment by top management to the error reduction program e.g., priorities and goals clearly enunciated to staff, accountability for performance, availability of resources;

(B) Sufficiency and quality of systems designed to reduce errors that are operational in the State, e.g., BENDEX, IDEX, monthly reporting, retrospective budgeting, error prone profiles, local agency monitoring systems, computer clearances;

(C) Use of effective system and procedures for the statistical and program analysis of QC and related data, e.g., statistical tests, tabulations and cross-tabulations, error prone profiles, corrective action committees, special studies; and

(D) Effective management and execution of the correction action process, e.g., assignment of responsibilities, milestones for completing tasks, completion of tasks, monitoring of progress.

(3) The failure of a State to act upon necessary legislative changes or to obtain budget authorization for needed resources is not a basis for finding that a State failed to meet the target error rate despite a good faith effort.

(h) *Disallowances subject to appeal.* If a State does not agree with our decision to reduce (disallow) FFP, it can appeal to us within 45 days from the date of our decision. The regular procedures for appeal of disallowance will apply, including review by the Grant Appeals Board (see 45 CFR Part 16).

(Section 1102 of the Socail Security Act, 49 Stat. 647, as amended; 42 U.S.C. 1302; and Pub. L. 96–38).

(Catalog of Federal Domestic Assistance Program Nos. 13.714—Medical Assistance Program; 13.808 Assistance Payments—Maintenance Assistance (State Aid).)

Dated: January 15, 1980.

William J. Driver,

Commissioner of Social Securtiy.

Approved: January 21, 1980.

Patricia Roberts Harris,

Secretary of Health, Education, and Welfare.

[FR Doc. 80–2535 Filed 1–24–80; 8:45 am]

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January 25, 1980

Part VII

Department of the Interior

Geological Survey

Geological and Geophysical (G & G) Explorations of the Outer Continental Shelf

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DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Part 251

Geological and Geophysical (G & G) Explorations of the Outer Continental Shelf

AGENCY: Department of the Interior, U.S. Geological Survey

ACTION: Final rule.

SUMMARY: This rule incorporates the modifications required to conform 30 CFR Part 251 with the Outer Continental Shelf (OCS) Lands Act, as amended, 43 U.S.C. 1331 et seq. (herein referred to as the "Act"). A proposed rule was published on February 9, 1979, in the Federal Register (44 FR 8302). The proposed rule described new procedures and, to the extent required by the Act, modifications to existing practices and procedures that govern prelease geological and geophysical explorations of the OCS.

EFFECTIVE DATE: This rule shall become effective March 25, 1980.

ADDRESSES: A copy of this rule may be obtained from the following offices of the Geological Survey:

Deputy Division Chief, Offshore Minerals Regulation, U.S. Geological Survey, National Center—Mail Stop-640, 12201 Sunrise Valley Drive, Reston, Virginia 22092

Conservation Manager, Eastern Region, U.S. Geological Survey, 1725 K Street NW., Suite 204, Washington, D.C. 20006

Conservation Manager, Gulf of Mexico Region, U.S. Geological Survey, 131 Imperial Office Building, P.O. Box 7944, Metairie, Louisiana 70010

Conservation Manager, Pacific OCS Region, U.S. Geological Survey, 1340 West Sixth Street, Room 160, Los Angeles, California 90017

Assistant Conservation Manager, Alaska Area, U.S. Geological Survey, 800 "A" Street, Anchorage, Alaska 99501.

FOR FURTHER INFORMATION CONTACT: Gordon D. Burton, Branch of Marine Evaluation, Conservation Division, U.S. Geological Survey, Mail Stop 640, 12201 Sunrise Valley Drive, Reston, Virginia 22092, (703) 860–7564.

SUPPLEMENTARY INFORMATION:

Background

Rules establishing practices and procedures under which the U.S. Geological Survey (herein referred to as the "Survey") administers geological and geophysical exploration activities on the OCS were effective June 11, 1976 and were published as Part 251 of Title 30 of the Code of Federal Regulations on June 23, 1976 (41 FR 25891). The Survey published a proposed revision of 30 CFR Part 251 in the Federal Register on February 9, 1979 (44 FR 8302). The proposed revisions incorporated modifications required to bring the provisions of Part 251 into conformance with the Act and to implement a decision by the Secretary of the Interior to allow the drilling of prelease onstructure deep stratigraphic tests. The most important changes related to: (1) Giving permittees the option of drilling deep stratigraphic tests either onstructure or offstructure; (2) Requiring the submittal of an Environmental Report prior to drilling a deep stratigraphic test; (3) Allowing a penalty for late participation in a deep stratigraphic test after the Director issues a public notice of significant shows or a possible discovery of up to 200 percent of the cost to any of the original participants; (4) Requiring deep stratigraphic tests to be completed no later than 3 months prior to the month in which the relevant Proposed Notice of Sale appears on the Secretary's currently approved OCS Leasing Schedule; (5) Requiring all deep stratigraphic tests to be considered expendable and to be permanently plugged and abandoned; (6) Clarifying what will be released to the public by the Director in the event hydrocarbon accumulations are encountered in a deep stratigraphic test; and (7) Allowing the Director to disclose information or data to independent contractors, with a promise to maintain its confidentiality, for analysis or processing on the Government's behalf.

This final rule puts into effect most of these changes and incorporates additional changes which can be summarized as follows: (1) The requirement for the filing of notices for scientific research has been modified so that filing of a notice is required before any shallow test drilling for scientific research may commence; however, permits will continue to be required for scientific research which involves the use of solid or liquid explosives or a deep stratigraphic test; (2) In order to comply with section 402(b) of the Act, a provision pertaining to the Fishermen's Contingency Fund has been added; (3) The maximum allowable penalty for late participation in a deep stratigraphic test after the Director has announced a hydrocarbon occurrence has been raised from 200 to 300 percent; (4) Language requiring permittees to notify the Director of all hydrocarbon occurrences detected in the drilling of a deep stratigraphic test and allowing the Director to make a public announcement of occurrences considered significant has been added; (5) Subsections 251.11(a) and (b) and 251.12(a) and (b) have been expanded to require the submission, upon request by the Director, of interpreted geological and geophysical information; (6) The proprietary term for data relating to a deep stratigraphic test that is not within 50 miles of an OCS oil and gas lease has been extended from 5 to 10 years; (7) Procedures dealing with the manner in which privileged or proprietary information or data will be provided to the designated representative of a Governor pursuant to section 8(g) of the Act have been added; and (8) The provisions pertaining to the disclosure of data and information relating to specific contractual commitments have been clarified.

Comments

A total of 39 parties submitted timely comments in response to the invitation contained in the notice of the proposed rule published February 9, 1979. These comments represented the views of 2 private citizens, 3 environmental organizations, 8 State and local Governments, and 26 oil and gas companies and trade organizations.

Public Hearings

Oral testimony concerning the proposed revisions of 30 CFR Part 251 was also taken at a public hearing held in Washington, D.C., on May 8, 1979.

Discussion of Format Change

As part of the Survey's effort to comply with Executive Order 12044, all of its OCS regulations have been rewritten to make them as simple and clear as possible. As a result, the format and contents of 30 CFR Part 251 have been significantly restructured since they were published as a proposed rule on February 9, 1979. This final rule is organized in such a way as to clarify the procedures to be followed and the requirements to be met by those parties conducting prelease geological and geophysical activities on the OCS. In general, the format has been altered to reflect the sequence of activities which comprise the permitting process. Also, related procedures have been grouped together in a more easily understood manner.

Discussion of Major Comments

Deep stratigraphic test: Numerous comments were received on the Department's decision to expand the definition of "deep stratigraphic test" to include the option of allowing either the drilling of onstructure or offstructure deep stratigraphic tests. The major concerns expressed in comments were: The impact of this decision on the proposed lease sale schedule; The environmental and economic implications of the increased potential for the discovery of hydrocarbons during prelease onstructure tests; The impact on competition within the oil and gas industry; The threat of increased Federal involvement in presale drilling operations; and The statutory authority of the Government to permit onstructure tests.

Many respondents opposed allowing onstructure drilling because they felt it would delay OCS leasing in the most promising frontier areas. They argued that the Department would be under increasing pressure to wait until frontier areas are thoroughly evaluated before offering them for sale. Other commenters expressed concern that this would increase pressures for the Government to begin drilling deep stratigraphic tests, which they regarded as the first step toward the creation of a Federal oil and gas company. We disagree with both of these viewpoints. First, there is nothing new or unusual about drilling deep stratigraphic tests in advance of offshore lease sales. The deep stratigraphic test program is already in place and is well known. Although deep stratigraphic tests, whether they are drilled on- or offstructure, increase the amount of prelease information available to the Government, we recognize the limitations associated with the use of this information. The Department does not foresee delay or cancellation of sales on the basis of information gained from deep stratigraphic tests. In fact, the regulations specifically state that all deep stratigraphic tests must be completed 3 months prior to a Proposed Notice of Sale, if the test is within 50 geographic miles of tracts to be included in the sale. Second, the final rule simply allows the Secretary to authorize industry to drill stratigraphic tests onstructure as well as offstructure. Industry, and not the Government, will initiate proposals for the drilling of onstructure tests.

Some respondents expressed concern over the environmental risks associated with the increased potential for the discovery of hydrocarbons during onstructure tests. In response to this concern, the final rule has been modified to state that the permittee must utilize the best available and safest technologies for drilling activities as prescribed or approved by the Director. Also, it should be noted that hydrocarbons have been encountered in two offstructure deep stratigraphic tests, the COST B–3 in the Mid-Atlantic and the Point Conception test off the coast of California, and adequate precautions were taken by industry to prevent any damage to the environment.

Some commenters insisted that the public announcement of hydrocarbon occurrences will have an adverse economic impact on a lease sale. They presume that a positive announcement would inflate lease bids, and no public announcement would reduce bids. We do not agree. The economic impact will occur primarily as a result of the information and data which participants derive from the test well rather than from the Director's announcement of a significant hydrocarbon occurrence. The information that hydrocarbons are or are not present is only one of many factors considered by private industry and the Government in estimating the resource potential of an area. It is hoped that the announcement will encourage expanded group participation in sharing the cost of deep stratigraphic tests because participants will benefit by having early access to all information derived from the drilling activities. The additional information will also provide potential bidders (and the Federal Government) a better basis on which to assess the value of individual offshore tracts prior to a lease sale. This should enable industry to better utilize its capital assets and provide Federal revenues that more fully reflect the resources that eventually may be discovered in the OCS lands.

Several commenters expressed the view that onstructure tests will, contrary to the Department's point of view, decrease industry competition and discourage participation by smaller, independent companies. We continue to believe that prelease onstructure test drilling will enhance competition for offshore tracts by providing smaller companies additional information to somewhat reduce risks associated with participation in offshore lease sales.

Several commenters contended that the Department does not have the authority to permit onstructure drilling activities before a lease is issued. They base their argument on the fact that the Act does not specifically authorize such activities. Departmental policy is based on existing legal authority which states:

> Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the Outer Continental Shelf, which do not interfere with or endanger actual operations under any lease maintained or granted pursuant to this Act, and which are not unduly harmful to aquatic life in such area. (43 U.S.C. 1340)

This matter was discussed during congressional debate over the proposed amendments to the OCS Lands Act of 1953. During the deliberations, the Department made it clear that it believed it could authorize onstructure drilling activities prior to the issuance of a lease.

The House-Senate Conference Report makes it clear that the conferees accepted this argument:

> The conferees' action does not indicate any intention to limit, modify, or expand whatever authority the Government has under existing law to grant permits to applicants to conduct drilling operations (Conference Report on OCS Lands Act Amendments of 1978, Report No. 95–1091, page 101).

The Secretary's decision to allow onstructure drilling was made in an effort to obtain additional information about the hydrocarbon potential of an OCS sale area, information which cannot be obtained by drilling only offstructure.

Several commenters endorsed the policy of prelease onstructure tests and agreed that these will provide more information with which to evaluate the resource potential of an area prior to leasing.

Some respondents recommended that onstructure tests be required in all areas prior to offering tracts at a lease sale. We have not adopted this suggestion. This approach was vigorously debated by Congress during its consideration of amendments to the OCS Lands Act of 1953 and was not adopted.

Drilling plan and environmental report: Numerous comments were received on the requirements for a Drilling Plan and Environmental Report contained in § 251.6–2 of the final rule. Several respondents argued that the stated requirements are too stringent. We do not share this point of view. Both the Drilling Plan and Environmental Report are necessary to enable the Survey and affected States to monitor activities associated with the drilling of deep stratigraphic tests and to identify and evaluate the environmental consequences that may result from the proposed drilling.

Furthermore, the information required in the Environmental Report coincides with the information that may be provided to States when required by approved coastal zone management programs for use by the State in evaluating the permittee's consistency certification.

Several respondents did not feel it necessary to include a description of the proposed drilling rig in the Drilling Plan if this information has previously been submitted to the Director. We have adopted this suggestion and have accordingly modified the final rule.

One commenter objected to the requirement that an oil spill contingency plan be part of the Drilling Plan because of the short term duration of test drilling. Because onstructure drilling increases the possibility that a deep stratigraphic test will detect hydrocarbons, an oil spill contingency plan is required in case there is an accidental spill. We chose, instead, to expand this requirement by accepting the recommendation that the oil spill contingency plan include a description of the onshore disposal procedures for spilled oil and oil-soaked debris. Improper disposal of spilled oil and oil-soaked debris can cause greater environmental problems than the original incident and must be considered in a comprehensive contingency plan.

One respondent requested that the Director establish special regulatory requirements to address varying regional conditions to ensure protection of the marine environment. We have rejected this suggestion. The evaluation of specific regional considerations falls within the scope of the Environmental Report and, we feel, is best administered through the proposed procedure which grants the Director the authority to issue special orders governing activities under specific regional conditions.

The same respondent recommended that the regulations require the use of the best available and safest technologies during prelease drilling activities. We have adopted the suggestion to insure maximum protection of the environment during drilling activities.

Several commenters requested that the nonproprietary portions of the Drilling Plan and Environmental Report be made available to interested Federal Agencies and to affected States or affected local jurisdictions. Subsection 251.6–2(c) states that the Director will make copies of the Environmental Report available to the public, in accordance with established Departmental practices and procedures. This section has been expanded to allow the Director to transmit copies of the Drilling Plan (except for those portions which the Director determines are exempt from disclosure) and the accompanying Environmental Report to the Governors of affected States.

We have adopted the suggestion to allow cross-referencing of recent applicable Environmental Impact Statements in the Environmental Report in order to avoid redundancy.

Several commenters questioned the need for the Director to require permittees to file Coastal Zone Management Act consistency certification with their Drilling Plan. The Coastal Zone Management Act provides that when OCS permit activites impact on the land use or water use of a State with an approved coastal zone management program, the applicant for a permit must obtain the State's concurrence in a consistency certification prior to permit approval of the Director.

Some respondents expressed concern that costly delays might result from the requirement that modifications to the Drilling Plan must receive the Director's, rather than the Supervisor's approval. Specifying the Director as the approving authority is not intended to change the present practices and procedures under which the Area Oil and Gas Supervisors and District Supervisors administer the provisions of 30 CFR Part 251. The Survey intends, through a Delegation of Authority, to delegate line authority for this program to the appropriate field supervisory level. We have adopted this approach so that the pending administrative reorganization within the Survey's Conservation Division can be accomplished without the need to subsequently modify the contents of this final regulation.

Disclosure of data and information submitted under permit: Many comments were received with regard to the provision in the proposed rule which required immediate public notice of "hydrocarbon shows" or "hydrocarbon discoveries" when the Director determines that shows or discoveries are "significant." After analyzing the comments, we agree with those that believe this provision, as proposed, is too ambiguous. To counter this problem, we have reworded the text to discuss only "hydrocarbon occurrences" and have provided a definition of this term in section 251.2. We did not, however, adopt the recommendation that the public announcement be dropped altogether. We believe this type of notice will lead to increased participation in the deep stratigraphic test program and in increased competition at the time of a lease sale.

Comments were received requesting extension of the period for protection of proprietary data from deep stratigraphic tests that are not within 50 miles of an OCS oil or gas lease. This recommendation has been adopted. The time period for protecting proprietary information and data has been extended from 5 to 10 years after completion of the drilling activities. The new time period conforms with the time period established in subsection 251.14–1 for protecting other geological information and data. The disclosure provisions have been revised to state that, in addition to test data, all information and data obtained from, and submitted in support of, an application for a deep stratigraphic test will also be available to the public.

Several comments were received relating to 30 CFR Part 252 suggesting that the regulations implementing section 8(g) of the Act should be in Part 251. This suggestion has been adopted. Subsection 251.14–3 has been expanded to include provisions required to implement section 8(g) of the Act.

Several comments addressed the need for a provision in the regulations to control the release of information and data where such release is specifically prohibited under a contractual commitment. In response to these comments, subsection 251.14–4 has been added to protect privileged and proprietary information and data from disclosure if the release is specifically prohibited under a contractual commitment.

Section-by-Section Discussion

Section 251.1 Purpose

No comments were received on § 251.1. However, the wording was changed to clarify that these regulations encompass geological and geophysical activities, not authorized by a lease, both for exploration for mineral resources and for scientific research which involves the use of solid or liquid explosives or drilling activities.

Section 251.2 Definitions

The definitions have been alphabetized and some have been rewritten so that they conform to the format and substance of the definitions contained in 30 CFR 250.2, 30 CFR 252.2, and 43 CFR 3300.0–5.

One respondent recommended the inclusion of a definition for "cultural resource." We have adopted this suggestion. The language used was derived from the cultural resource stipulations inserted in recent oil and gas leases.

We have modified the definition for "notice" because of our decision to require the filing of notices only for scientific research which involves shallow test drilling. Also, we revised the definition for "geological or geophysical scientific research" to include only those scientific research activities which involve the use of solid or liquid explosives or drilling activities.

We have adopted the suggestion of one commenter to modify the definition of "analyzed geological information" to include the results of formation fluid tests (i.e., wire-line formation samplers and drill-stem tests).

We have added a definition for the term "hydrocarbon occurrences" which is used throughout the regulations in place of the terms "significant hydrocarbon shows" and "possible hydrocarbon discoveries." The regulations now require permittees to report all hydrocarbon occurrences detected during drilling operations. Subsection 251.14–1(c)(1) requires the Director to determine if the reported occurrences are significant and, if they are, to make a public announcement. The announcement will be in a form and manner prescribed by the Director. We recognize that the Director's determination of the "significance" of hydrocarbon occurrences is subjective. However, flexibility is important because a hydrocarbon occurrence that may be judged significant in one area may not be considered significant in another area. The geographic location of the borehole, water depth, economic factors, the position of the test on a geologic structure, and other factors must enter into the determination of "significance."

Two comments were received on the definition of "geological exploration for mineral resources" requesting the deletion of the phrase "including, but not limited to." This recommendation has not been adopted. The phrase in question emphasizes that the activities listed are examples rather than an all inclusive listing of the activities.

Several commenters objected to the use of the term "sonic" in the definition of "analyzed geological information" because it is also a registered trademark name. We have, therefore, substituted the term "acoustic" for "sonic" in the definition and throughout the text of the regulations.

Numerous comments were received on the Department's decision to expand the definition of "deep stratigraphic test" to include the option of allowing onstructure drilling of tests as well as offstructure drilling of tests. This issue was discussed previously in the "Discussion of Major Comments" section.

Section 251.3 Adminstrative Authority and Applicability

Section 251.2, "Applicability" in the proposed rule, has been moved to § 251.3 and retitled. The regulations in this final rule are applicable to any permit issued after or unexpired as of the effective date of this rule. Notices filed after the effective date of this final rule shall also be subject to the regulations in this Part.

One commenter suggested that this section should specifically authorize the Director to prescribe stipulations on onstructure drilling permits. The commenter expressed the belief that stipulations are better suited to specific situations than an OCS Order. We have not adopted this suggestion. It should be noted, however, that the Director may incorporate any conditions (stipulations) into a permit that the Director determines to be necessary to protect the environment or to meet special local conditions.

We have decided to eliminate the requirement for the filing of notices for scientific research activities on the OCS which do not involve shallow test drilling. The original provision was included so that the Survey could keep track of all scientific research activities on the OCS, but we now feel that this approach is impractical. However, we will continue to require permits for scientific research which involves the use of solid or liquid explosives or deep stratigraphic test drilling. Moreover, we have not adopted the suggestion that a provision be included under this subsection that permits archeologists to examine the results obtained from geological or geophysical exploration for mineral resources. We feel that subsection 251.6–2(e), which relates to cultural resources, adequately covers the review by the Department of cultural resources detected under permit activities.

One commenter suggested expanding the language of § 251.3–5(a)(6) to set specific requirements for identifying and reporting adverse effects on cultural resources. This recommendation was not adopted because these procedures are discussed under § 251.6–2(e). Also, one commenter suggested deleting the reference to cultural resources in this section. This recommendation was not adopted. It is the responsibility of the Department of the Interior to insure, to the extent practicable, that cultural resources are not disturbed by activities under the jurisdiction of the Department on the OCS.

Section 251.4 of the proposed rule, "Functions of Director," has been incorporated into § 251.3 of the final rule. One respondent recommended that the authority for issuing permits be retained by the Supervisor. As we indicated before, the modification in the text of these regulations is not intended to significantly change the present practices and procedures under which the field supervisors administer the provisions of Part 251.

Also, we have not adopted the suggestion of one commenter to add the words "the environment" after "or waste of" in this section. This sentence states that the Director may issue orders to prevent the waste of natural resources. We believe the language of the regulation is clear, as written, and it is not clear to us what "waste of the environment" means.

One commenter recommended the addition of cultural resources to the language of this section as one of the things protected under the Orders issued by the Director. We have not adopted this suggestion. The provisions necessary to prevent damage to cultural resources are adequately covered under § 251.6–2(e).

Several respondents suggested modifying § 251.3–5(b) by deleting the requirement for reporting "possible hydrocarbon discoveries." This recommendation, as we mentioned earlier, has been modified to require the reporting of all hydrocarbon occurrences to the Director.

Subsection 251.3–5(b) has been expanded to require the reporting of environmental hazards to the Director. This is intended to encompass hazards encountered during exploration activities which constitute an imminent threat to human activity on the OCS.

Section 251.4 Geological and Geophysical Activities Requiring Notices or Permits

Section 251.5 of the proposed rule, "Requirement of notices and permits," has been retitled "Geological and geophysical activities requiring notices or permits" and moved to § 251.4 of the final rule. This section has been rewritten to modify the requirement for the submission of notices for certain types of scientific research. The primary purpose of these regulations is to insure that geological and geophysical exploration for mineral resources on the OCS is conducted in a timely and environmentally sound fashion. We recognize, however, our responsibility to insure that particular activities conducted for scientific reasons are also conducted in an environmentally sound fashion. Accordingly, scientific research which involves the use of solid or liquid explosives or test drilling will be subject to the requirements of the provisions of § 251.4.

Several commenters objected to the issuance of permits being at the "discretion" of the Director. We believe those commenting misunderstood the meaning of this language. Before approving a permit application, the Director must determine that it is in conformance with the applicable laws, regulations, and OCS Orders prior to issuance. We have, however, eliminated the language because the section makes it clear that activities must be approved by the Director before they can commence.

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We have not adopted the suggestion to require cultural resource surveys before issuance of permits for scientific research. Departmental policy specifically states that it is an objective of the OCS program not to disturb cultural resources. We feel that § 251.6–2(e) adequately addresses the protection of cultural resources. This subsection provides that cultural resource studies will be conducted, if required by the Director, prior to the commencement of a deep stratigraphic test regardless of whether the test is drilled under a permit for the exploration for mineral resources or a permit for scientific research.

Finally, the last sentence of § 251.4–1 has been rewritten in response to the suggestion that any statement of rejection shall (as opposed to may) advise the applicant of changes necessary to make the application acceptable.

Section 251.5 Applying for Notices or Permits

Section 251.6, "Forms for notices and permit applications," in the proposed rule has been moved § 251.5, and retitled "Applying for notices or permits" in the final rule. We have adopted the recommendation of several respondents that more flexibility be built into the requirement that permittees indicate the commencement and completion dates for exploration activities in the drilling plan. We have included wording to indicate that proposed dates of commencement and completion are to be submitted with the application for a permit. We have not adopted the suggestion that permittees be exempt from complying with any statutes, regulations, or orders enacted, promulgated, issued, or amended after a permit is issued. This would be contrary to the requirements of section 5(a)(1) of the Act. For OCS exploratory activities to be conducted in the safest manner practicable, compliance with all applicable statutes, regulations, and orders is necessary, including those issues during the course of operations.

A new § 251.5–5, has been added to include a provision required by section 402 of the Act which relates to the Fishermen's Contingency Fund. As required by the Act, this provision will apply only to permits issued for geological and geophysical activities related to oil and gas exploration.

Section 251.6 Test Drilling Activities

Section 251.9 in the proposed rule, "Test drilling under notices and permits," has been moved to § 251.6 and retitled "Test drilling activities." The recommendation that the requirement that permittees gather and submit high-resolution geophysical data be deleted has been rejected. This information is necessary for the Director to insure the safety of drilling operations and the protection of the environment. Accordingly, this final rule allows the Director to require submission of geophysical information and data sufficient to determine shallow structural detail prior to approval of drilling activities.

Several new subsections were added to incorporate the Coastal Zone Management Act requirements. When a State with an approved coastal zone management program has included in its program or in writing an indication that a proposed activity subject to a Federal permit is likely to affect the land uses and water uses of the State's coastal zone, the Director will transmit copies of the permit application and the appropriate consistency certification to the State and shall make copies available to appropriate Federal Agencies and the public. The State must concur or be conclusively presumed to concur in the applicant's consistency certification, or the Secretary of Commerce must make the finding authorized by section 307(c)(3)(B)(iii) of the Coastal Zone Management Act, before the Director may issue the permit.

Several commenters requested deletion of § 251.6–2(e), which pertains to cultural resources, because the required surveys are an economic burden. These recommendations have not been adopted. It is the responsibility of the Department of the Interior to insure that there is a minimum disturbance to cultural resources by OCS activities approved by the Department.

One commenter suggested deleting the requirement in § 251.6–2(g) that deep stratigraphic tests be permanently plugged and abandoned after the completion of the test. We have not adopted this recommendation. To assure maximum protection of the marine environment, these boreholes will continue to be considered expendable.

One commenter requested that § 251.6 be amended to provide for review and concurrence by the State agency before permits are issued for onstructure shallow or deep tests in areas within 3 miles of the seaward boundary of the State. We have not adopted this recommendation. However, the Survey will forward a copy of the applicant's Drilling Plan and Environmental Report to the State, for review, prior to approving drilling operations. If the State has an approved coastal zone management program, the applicant may also have to receive the State's concurrence in a consistency certification prior to the commencement of operations.

Several comments were received concerning the regulations dealing with group participation. Most of these commenters felt the penalties for late participation in a deep stratigraphic test should be increased. We agree in part with these suggestions. We have decided not to change the maximum penalty (i.e., 100 percent of the cost to each original participant in addition to the original share cost) for late entry into a deep stratigraphic test. We feel that this amount is sufficient to encourage the early participation of most interested parties, but is not overly burdensome to others, such as smaller companies, which may take longer to acquire sufficient funds in order to enter the group. We have, however, raised the maximum penalty for late participants who wait until after the Director announces a hydrocarbon occurrence to enter the group to 300 percent of the cost to each original participant in addition to the original share cost. We feel that this provision will protect those involved in the initial drilling consortium from companies that want to buy into the consortium only after hydrocarbon occurrences are detected in a test and will encourage early participation in such a consortium.

The comment was also made that the penalties should be assessed by the participants and shared by all parties who participated as of the time the hydrocarbon occurrence is announced. We believe that the amount and distribution of monetary penalties should be spelled out in the initial agreement between the participants as a further stimulus for early participation. For clarity, we have adopted the suggestion to reword subsection 251.6–3(d) to read "if the applicant proposes changes" to indicate that the applicant and not the Director proposes the changes.

One commenter suggested adding the following language to the last sentence of the above cited section: ". . . unless a significant show has been encountered in which case they shall be considered late participants." This commenter felt this change would protect the rights of the original participants. We have reworded this subsection to make it clear that if an applicant changes the original permit application and the Director determines that the change is significant, the applicant must readvertise the activity in order to allow others to participate. Participants entering under this readvertisement must be considered original participants.

We have modified § 251.6–4 to require a corporate surety bond of $50,000 instead of $100,000. This was done in order to parallel the bonding requirements that the Bureau of Land Management imposes on lessees under 43 CFR 3318.

Several respondents requested that provision be made in § 251.6–5 for flexibility in the requirement that drilling of deep stratigraphic tests be completed at least 3 months prior to the first day of the month in which the Proposed Notice of Sale is listed on the currently approved OCS Leasing Schedule. In order to allow for unexpected delays after the commencement of drilling operations, we have added the following: "However, the Director may extend the expiration date of a permit if it is determined that such an extension is in the national interest."

Section 251.7 Inspection and Reporting of Progress and Results of Activities Conducted Under Permits

Section 251.10, "Observation of exploration conducted under permits" has been retitled and moved to § 251.7–1 in the final rule. Two commenters asked for clarification of the terms "advisor" and "Federal representative." For clarity, we have combined the two terms into "Federal representative." The Federal representative, who is appointed or approved by the Director or a subordinate authorized to act on the Director's behalf, will observe or inspect operations conducted pursuant to a permit. The contents of § 251.8, "Report of operations conducted under notices and permits," have been moved to § 251.7. As we pointed out earlier, permittees will not be required to report "possible hydrocarbon discoveries." However, any "hydrocarbon occurrences" must be reported to the Director who will then determine their significance.

Section 251.8 Suspension and Cancellation of Authority to Conduct Activities Under Permit

Section 251.15, "Termination, suspension, and revocation of authority to operate under notices and permits," has been modified and incorporated into § 251.8.

This section has been rewritten to define cancellation as a permanent revocation of a permit. Cancellation notices will be issued 30 days prior to becoming effective. A suspension is of a temporary nature and shall require all operations conducted under a permit to cease immediately. In order to permit immediate implementation of an order, language has been added to allow the Director to suspend permits either orally or in writing. Oral suspensions will be followed by written confirmation.

Several comments were received objecting to the right of the Director to terminate permits without cause. In the revision of this section, the Director is required to state the reason for the cancellation of a permit.

Section 251.9 Penalties.

Section 251.16, "Penalties," has been moved to § 251.9. No comments were received on this section and only minor editorial changes were made.

Section 251.10 Appeals

Section 251.17, "Appeals," has been moved to § 251.10. No comments were received on this section and only minor editorial changes were made.

Section 251.11 Inspection, Selection, and Submission of Geological Information and Data

Section 251.12, "Inspection, selection, and submission of data and information," has been subdivided into § 251.11, "Inspection, selection, and submission of geological information and data," and § 251.12, "Inspection, selection, and submission of geophysical information and data." In implementing the requirements of section 26 of the Act, and in conformance with the procedures contained in 30 CFR Part 252, §§ 251.11 and 251.12 have been expanded to include the inspection, selection and submission of interpretations as part of the information and data requirements.

We do not agree with comments that state that § 251.11(b)(7), which allows the Director to specify other geological data and analyzed or interpreted geological information, is too broad and "open-ended." Section 26(a)(1)(A) of the Act requires a permittee conducting exploration pursuant to the Act to ". . . provide the Secretary access to all data and information (including processed, analyzed, and interpreted information) obtained from such activity and shall provide copies of such data and information as the Secretary may request." We believe the latitude afforded to the Secretary by the Act is properly reflected in the language of the regulations.

Section 251.12 Inspection, Selection, and Submission of Geophysical Information and Data

Several commenters questioned whether permittees will be required to submit original information and data to the Director for inspection, rather than copies. Section 26(a)(1)(A) of the Act requires lessees or permittees to provide copies of information and data as the Secretary may request. We have not adopted the suggestion of one commenter that permittees be reimbursed for shipping costs incurred in submitting information and data to the Director for inspection. Section 26 of the Act requires the Secretary to reimburse the permittee for reproducing and processing information and data. Shipping costs do not fall into that category.

Several commenters recommended deleting § 251.12(b) which allows the Director to contract with parties outside the agency in order to reproduce data. We have not adopted this recommendation. The situation may arise where it would be more convenient or more economical for the Director to arrange for an independent contractor to reproduce the information or data. Several comments were received requesting that any third party reproducing information or data agree to protect the confidentiality of these materials. Subsection 251.14–2 has been rewritten to require an independent contractor, retained by the Director to reproduce information or data, to sign a written commitment not to use the information or data in a manner other than is called for in the contract, and not to disclose the information or data to any third party without the written consent of the Director.

We have added "digital navigational data" as one of the items to be included with geophysical survey data in § 251.12(d)(1). These data are required by the Survey for use in constructing digital maps of geophysical surveys.

Several commenters recommended that language be added to § 251.12(d)(3) to indicate that the method of processing must be of a nature commonly available from geophysical contractors. We have not adopted this suggestion. We feel the Director needs access to the same processed and reprocessed information as is available to permittees.

Section 251.13 Reimbursement to Permittees

One commenter asked how the Department would establish a reimbursement rate for processing and reprocessing costs if no late participants had purchased data establishing such a rate. We feel that § 251.13(b), as stated, indicates that it is up to the permittee to justify the rate which the Director or any late participant will pay for processing or reprocessing of the data.

One comment was received objecting to the specific reference to fraudulent and collusive activity. Although fraudulent and collusive activity will continue to be prohibited, we have

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dropped the specific reference and have adopted language which reflects similar provisions in 30 CFR 252.3.

251.14 Disclosure of Information and Data Submitted Under Permits

The comments received regarding this section have been previously considered under "Discussion of Major Comments."

Authors: Thomas McCloskey, Office of the Assistant Secretary—Energy and Minerals, U.S. Department of the Interior (202/343-4457), Gordon D. Burton, Daniel S. Palubniak, and Leaman D. Harris, Geological Survey, U.S. Department of the Interior (703/860-7564).

ENVIRONMENTAL IMPACT AND REGULATORY ANALYSIS: The Department of the Interior has determined that the revision of the regulations in 30 CFR Part 251, in accordance with this notice, is not a major Federal action significantly affecting the quality of the human environment and will not require preparation of an Environmental Impact Statement. The Department has also determined that this document is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Dated: January 22, 1980.

Charles L. Eddy,

Acting Assistant Secretary of the Interior.

Part 251 of Title 30 of the Code of Federal Regulations is revised to read as follows:

PART 251—GEOLOGICAL AND GEOPHYSICAL (G & G) EXPLORATIONS OF THE OUTER CONTINENTAL SHELF.

Sec.

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251.9 Penalties.
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251.11 Inspection, selection, and submission of geological information and data.
251.12 Inspection, selection, and submission of geophysical information and data.
251.13 Reimbursement to permittees.
251.14 Disclosure of information and data submitted under permits.
251.14–1 Disclosure of information and data to the public.
251.14–2 Disclosure to independent contractors.
251.14–3 Sharing of information with affected States.
251.14–4 Disclosure of information and data relating to specific contractual commitments.

Authority: Outer Continental Shelf Lands Act, 43 U.S.C. 1331 et seq., as amended, 92 Stat. 629; National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq. (1970); Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 et seq.

§ 251.1 Purpose.

The Act authorizes the Secretary to prescribe rules and regulations necessary to carry out the provisions of the Act. The primary purpose of the regulations in this Part is to prescribe policies, procedures, and requirements for conducting geological and geophysical activities not authorized under a lease on the Outer Continental Shelf (OCS). These activities may take place on unleased lands or on lands under lease to a third party. These activities are limited to geological and geophysical exploration for mineral resources and geological or geophysical scientific research which involves the use of solid or liquid explosives or drilling activities. The requirements of the regulations in this Part implement the provisions of sections 5, 8(g), 11 (a) and (g), 19, 24, and 26 of the Act. Federal Agencies are exempt from the regulations in this Part.

§ 251.2 Definitions.

When used in this Part, the following terms shall have the meaning given below:

(a) "Act" means the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.).

(b) "Affected local government" means the principal governing body of a locality which is in an affected State and is identified by the Governor of that State as a locality which will be significantly affected by oil and gas activities on the OCS.

(c) "Affected State" means, with respect to any program, plan, lease sale, or other activity proposed, conducted, or approved pursuant to the provisions of the Act, any State:

(1) The laws of which are declared, pursuant to section 4(a)(2)(A) of the Act, to be the law of the United States for the portion of the OCS on which such activity is, or is proposed to be, conducted;

(2) Which is, or is proposed to be, directly connected by transportation facilities to any artificial island or installation or other device permanently or temporarily attached to the seabed;

(3) Which is receiving, or in accordance with the proposed activity, will receive oil for processing, refining, or transshipment which was extracted from the OCS and transported directly to the State by means of vessels or by a combination of means including vessels;

(4) Which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment or a State in which there will be significant changes in the social, governmental, or economic infrastructure resulting from the exploration, development, and production of oil and gas anywhere in the OCS; or

(5) In which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oil spill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities.

(d) "Analyzed geological information" means data collected under a permit or a lease which have been analyzed. Analysis may include, but is not limited to, identification of lithologic and fossil content, core analyses, laboratory analyses of physical and chemical properties, well logs or charts, results and data obtained from formation fluid tests, and descriptions of hydrocarbon occurrences or hazardous conditions.

(e) "Coastal environment" means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone.

(f) "Coastal zone" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States. The coastal zone includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches. The coastal zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shoreline to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 305(b)(1) of the Coastal Zone Management Act.

(g) "Coastal Zone Management Act" means the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.).

(h) "Cultural resource" means a site, structure, or object of historical or archeological significance.

(i) "Data" means facts and statistics or samples which have not been analyzed or processed.

(j) "Deep stratigraphic test" means drilling which involves the penetration into the sea bottom of more than 50 feet (15.2 meters) of consolidated rock or a total of more than 300 feet (91.4 meters).

(k) "Director" means the Director of the Geological Survey, U.S. Department of the Interior or a subordinate authorized to act on the Director's behalf.

(l) "Exploration" means the process of searching for minerals. Exploration activities include but are not limited to: (1) Geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of minerals, and (2) Any drilling, whether on or off a geological structure.

(m) "Gas" means any fluid, either combustible or noncombustible, which is extracted from a reservoir and which has neither independent shape nor volume, but tends to expand indefinitely; a substance that exists in a gaseous or rarefied state under standard temperature and pressure conditions.

(n) "Geological exploration for mineral resources" means any operation conducted on the OCS which utilizes geological and geochemical techniques, including, but not limited to, core and test drilling, well logging techniques, and various bottom sampling methods to produce information and data on mineral resources, including information and data in support of possible exploration and development activity. The term does not include scientific research.

(o) "Geophysical exploration for mineral resources" means any operation conducted on the OCS which utilizes geophysical techniques, including, but not limited to gravity, magnetic, and various seismic methods, to produce information and data in support of possible exploration and development activity. The term does not include scientific research.

(p) "Geological or geophysical scientific research" means any investigation conducted on the OCS using solid or liquid explosives, or drilling activities for scientific research purposes involving the gathering and analysis of geological or geophysical information and data which are made available to the public for inspection and reproduction at the earliest practicable time.

(q) "Governor" means the Governor of a State, or the person or entity designated by, or pusuant to, State law to exercise the powers granted to a Governor pursuant to the Act.

(r) "Human environment" means the physical, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, employment, and health of those affected, directly or indirectly, by activities occurring on the OCS.

(s) "Hydrocarbon occurrences" means the direct or indirect detection during drilling operations of any liquid or gaseous hydrocarbons by examination of well cuttings, cores, gas detector readings, formation fluid tests, wireline logs, or by any other means. The term does not include background gas, minor accumulations of gas, or heavy oil residues on cuttings and cores.

(t) "Information," when used without a qualifying adjective, includes analyzed geological information, processed geophysical information, interpreted geological information, and interpreted geophysical information.

(u) "Interpreted geological information" means knowledge, often in the form of schematic cross sections and maps, developed by determining the geological significance of data and analyzed geological information.

(v) "Interpreted geophysical information" means knowledge, often in the form of seismic cross sections and maps, developed by determining the geological significance of geophysical data and processed geophysical information.

(w) "Lease" means (1) any form of authorization which is issued under section 8 or maintained under section 6 of the Act and which authorizes exploration for, and development and production of, minerals, or (2) the area covered by such authorization, whichever is required by the context.

(x) "Lessee" means the party authorized by a lease, or an approved assignment thereof, to explore for, develop, and produce the leased deposits in accordance with the regulations in Part 250 of this Chapter. The term includes all parties holding such authority by or through the lessee.

(y) "Marine environment" means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the OCS.

(z) "Minerals" includes oil, gas, sulphur, geopressured-geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be produced from "public lands" as defined in Section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

(aa) "National Environmental Policy Act" means the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(bb) "Notice" means the statement of intent to conduct geological scientific research which involves shallow test drilling activities.

(cc) "OCS Order" means a formal numbered Order, issued by the Director, that implements the regulations contained in this Part and specifically applies to operations in an area in the Order.

(dd) "Oil" means any fluid hydrocarbon substance other than gas which is extracted in a fluid state from a reservoir and which exists in a fluid state under the existing temperature and pressure conditions of the reservoir. Oil includes liquefiable hydrocarbon substances such as drip gasoline or other natural condensates recovered or recoverable in a liquid state from produced gas.

(ee) "Operator" means the individual, partnership, firm, or corporation having control or management of operations on the leased area or a portion thereof. The operator may be a lessee, designated

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agent of the lessee, or holder of rights under an approved operating agreement.

(ff) "Outer Continental Shelf" means all submerged lands which lie seaward and outside the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

(gg) "Permit" means the contract or agreement, other than a lease, approved for a specified period of not more than 1 year under which a person acquires the right to conduct (1) geological exploration for mineral resources, (2) geophysical exploration for mineral resources, (3) geological scientific research, or (4) geophysical scientific research.

(hh) "Permittee" means the person authorized by a permit issued pursuant to this Part to conduct activities on the OCS.

(ii) "Person" means a citizen or national of the United States, an alien lawfully admitted for permanent residence in the United States as defined in 8 U.S.C. 1101(a)(20), a private, public, or municipal corporation organized under the laws of the United States or of any State or territory thereof, and associations of such citizens, nationals, resident aliens, or private, public, or municipal corporations, States, or political subdivisions of States. The term does not include Federal Agencies.

(jj) "Pollution contingency plan" means the National Multi-Agency Oil and Hazardous Materials Pollution Contingency Plan or any successor plan thereto.

(kk) "Processed geophysical information" means data collected under a permit or a lease which have been processed. Processing involves changing the form of data so as to facilitate interpretation. Processing operations may include, but are not limited to, applying corrections for known perturbing causes, rearranging or filtering data, and combining or transforming data elements.

(ll) "Secretary" means the Secretary of the Interior or a subordinate authorized to act on the Secretary's behalf.

(mm) "Shallow test drilling" means drilling into the sea bottom to depths less than those specified in the definition of a deep stratigraphic test.

(nn) "Third party" means any person other than a representative of the United States or the permittee.

(oo) "Violation" means a failure to comply with any provision of the Act, or a provision of a regulation or order issued under the Act, or any provision of a lease, license, or permit issued pursuant to the Act.

§ 251.3 Administrative authority and applicability.

§ 251.3–1 Administrative authority.

Exploration or scientific research activities authorized or conducted under this Part shall be performed in accordance with the Act, the regulations in this Part, OCS Orders, other orders of the Director, and other applicable statutes and regulations, and amendments thereto.

§ 251.3–2 Functions of Director.

The Director shall regulate all operations and other activities under this Part and perform all duties prescribed by this Part. The Director is authorized to issue OCS Orders and other written and oral orders and to take all other actions necessary to carry out the provisions of this Part and to prevent harm or damage to, or waste of, any natural resource (including any mineral deposit in areas leased or not leased), any life (including fish and other aquatic life), property, or the marine, coastal, or human environment. The Director shall confirm oral orders in writing as soon as possible.

§ 251.3–3 Geological and geophysical activities under a lease.

The regulations in this Part shall not apply to geological and geophysical exploration conducted by or on behalf of the lessee on a lease on the OCS. Those exploration activities shall be governed by the regulations in Part 250 of this title.

§ 251.3–4 Geological and geophysical activities not under a lease.

The regulations in this Part are applicable to permits for geological and geophysical activities issued after or unexpired as of the effective date of this final rule. Notices filed after the effective date of this final rule shall also be subject to the regulations in this Part.

If the regulations in this Part conflict with the provisions of a permit which was issued under regulations published in the **Federal Register** on June 23, 1976 (41 FR 25893), the requirements of the permit shall govern, except for any requirements limiting the Director's authority to inspect and require the submission of interpretations derived from information and data acquired under those permits issued after January 27, 1978, as established by Part 252 of this title.

§ 251.3–5 General requirements of notices and permits.

(a) Geological or geophysical activities for mineral exploration or scientific research activities authorized under this Part shall be conducted so that those activities do not:

(1) Interfere with or endanger operations under any lease issued or maintained pursuant to the Act;

(2) Cause harm or damage to aquatic life;

(3) Cause pollution;

(4) Create hazardous or unsafe conditions;

(5) Unreasonably interfere with or harm other uses of the area; or

(6) Disturb cultural resources.

(b) Any person conducting geological or geophysical activities for mineral exploration or scientific research under this Part shall immediately report to the Director when these activities:

(1) Detect hydrocarbon occurrences;

(2) Encounter evironmental hazards which constitute an imminent threat to human activity; or

(3) Adversely affect the environment, aquatic life, cultural resources, or other uses of the area in which the exploration activity is conducted.

(c) Any person conducting shallow test drilling or deep stratigraphic test drilling geological activities under a permit for mineral exploration or scientific research under this Part shall utilize the best available and safest technologies which the Director determines to be economically feasible.

(d) Authorization granted under this Part to conduct geological and geophysical exploration for minerals or for scientific research shall not confer a right to any discovered oil, gas, or other minerals, or to a lease under the Act.

§ 251.4 Geological and geophysical activities requiring notices or permits.

§ 251.4–1 Geological and geophysical exploration for mineral resources.

Geological or geophysical exploration for mineral resources may not be conducted on the OCS without an approved permit unless such activities are being conducted pursuant to a lease issued or maintained under the Act. Separate permits must be obtained for geological exploration for mineral resources and for geophysical exploration for mineral resources. If the Director disapproves an application, the statement of rejection shall state the reasons for the denial, and shall advise the applicant of those changes needed to obtain approval.

§ 251.4–2 Geological or geophysical scientific research.

Geological or geophysical scientific research may not be conducted by any person on the OCS without an approved permit or filing of a notice unless such activities are being conducted pursuant to a lease issued or maintained under the Act.

(a) Separate permits must be obtained for geological scientific research and for geophysical scientific research which involves the use of solid or liquid explosives or the drilling of a deep stratigraphic test. If the Director disapproves an application, the statement of rejection shall state the reasons for the denial, and shall advise the applicant of the changes needed to obtain approval.

(b) A notice must be filed with the Director at least 30 days prior to the commencement of scientific research activities which involve shallow test drilling. Within 21 days of the filing of the notice, the Director may disapprove the notice by sending a statement of disapproval by certified mail to the person who filed the notice. If the Director disapproves the notice, the statement shall state the reasons for disapproval and shall advise the applicant of recommended changes.

§ 251.5 Applying for notices or permits.

§ 251.5–1 Permit forms.

(a) An application for a permit shall be submitted in a form and manner prescribed and approved by the Director. Each application for a permit shall include:

(1) The name of any person who will conduct the proposed exploration or research activity;

(2) The name of any person who will participate in the proposed exploration or research activity;

(3) The type of exploration or research activity and the manner in which the activity will be conducted;

(4) The location on the OCS where the exploration or research activity will be conducted;

(5) The purpose for conducting the exploration or research activity;

(6) The dates on which the exploration or research activity is proposed to be commenced and completed; and,

(7) Such other relevant information and data as the Director may require.

(b) This reporting requirement has been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 (042–5777002).

§ 251.5–2 Notices.

A notice shall not be on a standardized form, but shall be signed and shall state:

(1) The name of the person conducting or participating in the proposed research;

(2) The type of research and manner in which it will be conducted;

(3) The location, designated on a map, plat, or chart, where the research will be conducted;

(4) The dates, which shall designate a period of not more than 1 year, on which the research activity is proposed to be commenced and completed;

(5) The proposed time and manner in which the information and data resulting from the research will be made available to the public for inspection and reproduction, such time being the earliest practicable time;

(6) An agreement that the information and data resulting from the research will not be sold or withheld for exclusive use; and

(7) The name, registry number, registered owner, and port of registry of vessels used in the operation.

§ 251.5–3 Filing locations for permits to conduct exploration for mineral resources.

Each application for a permit to conduct geological or geophysical exploration for mineral resources in the OCS shall be filed, in duplicate, at the following locations:

(a) For the OCS off the Atlantic Coast—the Area Oil and Gas Supervisor for Resource Evaluation, Atlantic Area, U.S. Geological Survey, 1725 K Street NW, Suite 204, Washington, D.C. 20006.

(b) For the OCS in the Gulf of Mexico—the Area Oil and Gas Supervisor for Resource Evaluation, U.S. Geological Survey, Gulf of Mexico Area, P.O. Box 7944, Metairie, Louisiana 70010.

(c) For the OCS off the coast of the States of California, Oregon, or Washington—the Area Oil and Gas Supervisor, U.S. Geological Survey, Pacific Area, Room 180, 1340 West Sixth Street, Los Angeles, California 90017.

(d) For the OCS off the State of Alaska—the Area Oil and Gas Supervisor, U.S. Geological Survey, Alaska Area, P.O. Box 259, Anchorage, Alaska 99510.

§ 251.5–4 Filing locations for notices or permits to conduct scientific research.

Each notice or application for a permit to conduct geological or geophysical scientific research on the OCS shall be filed, in duplicate, at the locations indicated in subsection 251.5–3 of this section.

§ 251.5–5 Fishermen's Contingency Fund.

Upon the establishment of an account under the Fishermen's Contingency Fund for any area of the OCS pursuant to subsection 402(b) of the Act, the holder of a permit for geological or geophysical exploration activities for mineral resources in the area covered by the account shall pay an amount specified by the Secretary of Commerce for the purpose of the establishment and maintenance of an account for the area. At the time of issuing a permit, the Director shall collect the amount specified and deposit it in the Fund to the credit of the appropriate account.

§ 251.6 Test drilling activities.

§ 251.6–1 Permit or notice requirements for shallow test drilling.

The Director, prior to the commencement of shallow test drilling for exploration for mineral resources or for scientific research, may require for permits or recommend for notices the gathering and submission of geophysical information and data sufficient to determine shallow structural detail across and in the vicinity of the proposed test. Other information and data may include, but is not limited to, seismic, bathymetric, side-scan sonar, and magnetometer systems, across and in the vicinity of the proposed test. When required, §§ 251.6–2(c)(1) and (e) and 251.6–3 will apply to permits issued and notices filed for shallow test drilling.

§ 251.6–2 Permit requirements for a deep stratigraphic test.

(a) No deep stratigraphic test drilling activities shall be initiated or conducted until a Drilling Plan has been submitted by the applicant and approved by the Director. The Drilling Plan shall include:

(1) The proposed type and sequence of drilling activities to be undertaken together with a timetable for their performance from commencement to completion;

(2) A description of the drilling rig proposed for use, unless a description has been previously submitted to the Director, indicating the important features thereof, with special attention to safety features and pollution prevention and control features, including oil spill containment and cleanup plans and onshore disposal procedures;

(3) The location of each deep stratigraphic test to be conducted, including the surface and projected bottomhole location of the borehole;

(4) The types of geophysical instrumentation to be used;

(5) Geophysical information and data sufficient to determine shallow

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structural detail across and in the vicinity of the proposed test, and other information and data from, but not limited to, seismic, bathymetric, side-scan sonar, and magnetometer systems, collected across any proposed drilling location, and other geophysical data from the area of the proposed test location, and processed geophysical information and interpreted geophysical information therefrom, so as to allow evaluation of structural detail to the total depth of the proposed test; and

(6) Such other relevant information and data as the Director may require.

(b) At the same time the applicant submits a Drilling Plan to the Director, an Environmental Report shall be submitted. The report shall be in summary form and should include information available at the time the related Drilling Plan is submitted. Such information is to be accurate, current, and applicable to the geographic area and the proposed activities covered by the plan. The applicant shall refer to information and data contained in the related plan, other Environmental Reports, and other environmental analyses and impact statements prepared for the geographic area by identifying the information and indicating a source for obtaining copies of the cited materials. Information and data which are site-specific, or which are developed subsequent to the most recent Environmental Impact Statement or other environmental analyses in the immediate area, shall be specifically considered. Specific guidelines for implementing this section will be issued by the Director. The Environmental Report shall include the following:

(1)*(a)* A list and description of new or unusual technologies that are to be used; *(b)* The location of travel routes for supplies and personnel; *(c)* the kinds and approximate quantities of energy to be used; *(d)* The environmental monitoring systems that are to be used; and *(e)* Suitable maps and diagrams showing details of the proposed project layout.

(2) A narrative description of the existing environment. This section shall include the following information on the area: *(a)* Geology; *(b)* Physical oceanography; *(c)* Other uses of the area; *(d)* Flora and fauna; *(e)* Existing environmental monitoring systems; and *(f)* Other unusual or unique characteristics which may affect or be affected by the drilling activities.

(3) A narrative description of the probable impacts of the proposed action on the environment and the measures proposed for mitigating these impacts.

(4) A narrative description of any unavoidable or irreversible adverse effects on the environment that could be expected to occur as a result of the proposed action.

(5) Such other relevant information and data as the Director may require.

(c)(1) When required under a coastal zone management program approved under the Coastal Zone Management Act, the activities proposed by an applicant for a permit to conduct geological or geophysical exploration for minerals or for geological or geophysical scientific research must receive State concurrence in its coastal zone consistency certification prior to the Director's approval of any of the activities covered under the permit.

(2) The applicant shall submit a sufficient number of copies of the Drilling Plan and Environmental Report to permit the Director to transmit copies of each to the Governor of each affected State and the coastal zone management agency of each affected State that has a coastal zone management program approved under the Coastal Zone Management Act. The Director shall also make the Drilling Plan and accompanying Environmental Report available to appropriate Federal Agencies and the public, in accordance with established Departmental practices and procedures.

(d) Any revisions to an approved Drilling Plan must be approved by the Director.

(e) A permittee authorized to drill a deep stratigraphic test shall, if requested by the Director, conduct studies to determine whether any cultural resources exist in the area that may be affected by such drilling, and shall report the findings of those studies to the Director. A permittee authorized to perform shallow test drilling may be required to conduct similar studies if required by the Director. The study shall include a full description of any cultural resources detected. The permittee shall take no action that will result in the disturbance of cultural resources without the prior approval of the Director and, if any cultural resource is discovered after submission of the study (i.e., during site preparation or drilling), the permittee shall immediately report the discovery to the Director and make every reasonable effort to protect the cultural resource from damage until the Director has given directions as to its preservation.

(f) All OCS regulations relating to drilling operations in Part 250 of this title and all OCS Orders relating to the drilling of wells apply, as appropriate, to drilling activities authorized under this Part.

(g) At the completion of the test activities, the borehole of all deep stratigraphic tests shall be permanently plugged and abandoned by the permittee prior to moving the rig off location in accordance with the requirements of the regulations in Part 250 of this Chapter and applicable orders. If the tract on which deep stratigraphic test drilling has been conducted is later leased for exploration and development, the lessee will not be held responsible for the test hole, provided the lessee has not reentered or otherwise disturbed the borehole.

§ 251.6–3 Group participation in test drilling activities.

(a) In order to minimize duplicative geological exploration activities involving the penetration of the seabed of the OCS, a person proposing to drill a deep stratigraghic test shall afford all interested persons, through a signed agreement, an opportunity to participate in the drilling on a cost-sharing basis. The provisions of the agreement for sharing the cost of a deep stratigraphic test may include a penalty for late participants of not more than 100 percent of the cost to each original participant in addition to the original share cost. The participants shall assess and distribute penalties in accordance with the terms of the agreement. If the Director releases a public notice announcing a significant hydrocarbon occurrence, the penalty for subsequent late participants may be raised to not more than 300 percent of the cost of each original participant in addition to the original share cost.

(b) An applicant proposing to conduct shallow test drilling activities shall, when ordered by the Director or when provided in the permit, afford all interested persons an opportunity to participate in the test activity on a cost-sharing basis with a penalty for late participation of not more than 50 percent of the cost to each original participant.

(c) To allow for group participation in shallow or deep test drilling activities, the applicant shall:

(1) Publish a summary statement describing the proposed activity in a manner approved or prescribed by the Director;

(2) Forward a copy of the published statement to the Director;

(3) Allow at least 30 days from the date of publishing the summary statement for other persons to join as original participants;

(4) Compute the estimated cost to an original participant by dividing the estimated total cost of the program by the number of original participants; and

(5) Furnish the Director with a complete list of all participants under the permit prior to commencing operations, or at the end of the advertising period if operations begin prior to its close. Also, the names of all late participants shall be forwarded to the Director.

(d) If the applicant proposes changes to the original application and the Director determines that such changes are significant, the Director shall require a republication of the changes and an additional 30 days for other persons to join as original participants.

§ 251.6–4 Bonds.

Before a permit authorizing the drilling of a deep stratigraphic test will be issued, the applicant shall furnish to the Bureau of Land Management a corporate surety bond of not less than $50,000 conditioned on compliance with the terms of the permit, unless the applicant maintains with or furnishes to the Bureau of Land Management a bond in the sum of $300,000 conditioned on compliance with the terms of the permit issued to him for the area of the OCS where the applicant proposes to conduct the drilling of a deep stratigraphic test. The Director may require the submission of a bond before authorizing the initiation of shallow test drilling. Any bond furnished or maintained by a person under this section shall be on a form approved or prescribed by the Director, Bureau of Land Management.

§ 251.6–5 Duration of exploration activities.

If a deep stratigraphic test well is drilled within 50 geographic miles of any tract tentatively selected for a lease sale as listed on the currently approved OCS Leasing Schedule, all drilling activities must be completed, and the information and data submitted to the Director, at least 3 months prior to the first day of the month in which the Proposed Notice of Sale is listed. However, the Director may extend the expiration date of a permit if it is determined that such an extension is in the national interest.

§ 251.7 Inspection and reporting of progress and results of activities conducted under permits.

§ 251.7–1 Inspection and observation of exploration activities.

(a) A permittee, upon request by the Director, shall furnish food, quarters, and transportation for Federal representatives. Upon request, the permittee will be reimbursed by the United States for the actual costs incurred as a result of providing food, quarters, and transportation for a Federal representative's stay of more than 10 hours. The Federal representative shall observe or inspect operations conducted pursuant to the permit and determine whether operations are having any adverse effects upon the environment, aquatic life, cultural resources, or other uses of the area.

(b) The Federal representatives shall be appointed or approved by the Director.

§ 251.7–2 Progress report on activities conducted under a permit.

Each permittee shall submit status reports on a weekly basis in a manner approved or prescribed by the Director. This shall include a daily log of operations.

§ 251.7–3 Final report on activities conducted under a permit.

Each permittee shall submit to the Director a final report of exploration or scientific research activities under the permit within 30 days after the completion of operations. The final report shall contain the following:

(a) A description of the work performed.

(b) Charts, maps, or plats depicting the areas and blocks in which any exploration or scientific research activities were conducted, specifically identifying the lines of geophysical traverses or the locations where geological exploration or scientific research activities were conducted, including a reference sufficient to identify the data produced during each activity.

(c) The dates on which the actual exploration or scientific research activities were performed.

(d) A narrative summary of any: (1) Hydrocarbon occurrences or environmental hazards, and (2) Adverse effects of the exploration or scientific research activities on the environment, aquatic life, cultural resources, or other uses of the area in which the activities were conducted.

(e) Such other descriptions of the activities conducted as may be specified by the Director.

§ 251.8 Suspension and cancellation of authority to conduct activities under permit.

(a) The Director may suspend or temporarily prohibit the permittee's authority to conduct exploration or scientific research activities under a permit by notifying the permittee either orally or in writing when the Director determines that there is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environment. Such suspensions shall be effective immediately upon receipt of the notice. Suspensions issued orally shall be followed by a written notice confirming the action, and all written notices will be sent by certified mail. A suspension shall remain in effect until the basis for the suspension has been corrected to the satisfaction of the Director.

(b) The Director may suspend or temporarily prohibit the permittee's authority to conduct exploration or scientific research under a permit either orally or in writing when the Director determines the permittee fails to comply with a provision of the Act or of any applicable law, the provisions of the permit, provisions of these and other applicable regulations, OCS Orders, or any other written orders or field rules including orders for the filing of reports and well records or logs within the time specified. Such suspensions shall be effective immediately upon receipt of the notice. Suspensions issued orally shall be followed by a written notice confirming the action and all written notices shall be sent by certified mail. A suspension shall remain in effect until the basis for the suspension has been corrected to the satisfaction of the Director.

(c)(1) The Director may cancel, or a permittee may relinquish, a permit to conduct exploration or scientific research activities at any time by sending a notice of cancellation or a notice of relinquishment. Such notices shall state the reason for the cancellation or relinquishment and shall be sent by certified mail to the other party at least 30 days in advance of the date the cancellation or relinquishment will be effective.

(2) Cancellation of a permit to conduct exploration or scientific research activities shall not relieve the permittee of the obligation to abandon any drill sites in accordance with the requirements of paragraph 251.6–2(g) of this Part and to comply with all other obligations specified in this Part or in the permit.

§ 251.9 Penalties.

All persons conducting geological or geophysical exploration activities for mineral resources or scientific research shall be subject to the penalty provisions of section 24 of the Act (43 U.S.C. 1350), the procedures contained in § 250.80 of this Chapter for noncompliance with any provision of the Act, or any provision of the permit, or for any violation of the provisions of any regulation or order issued under the Act. The penalties prescribed in this section shall be in addition to any other

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penalty afforded by any other law or regulation.

§ 251.10 Appeals.

Orders or decisions issued under the regulations in this Part may be appealed as provided in Part 290 of this Chapter.

§ 251.11 Inspection, selection, and submission of geological information and data.

(a) Each holder of a permit for geological exploration activities for mineral resources or scientific research shall notify the Director immediately, in writing, of the acquisition, analysis, or interpretation of any geological information and data collected under the permit. All geological data, analyzed geological information, and interpreted geological information collected by the permittee shall be available for inspection by the Director. At any time within 1 year after receiving a notice of the acquisition, analysis, or interpretation of any geological information and data, the Director may select all or part of the geological data, analyzed geological information, and interpreted geological information. However, a longer period of time may be specified in the permit. The permittee shall submit reproducible copies of the information and data selected to the Director within 30 days following receipt of the Director's request, unless the Director authorizes a longer time period for the submission of the information or data.

(b) Each submission of geological data, analyzed geological information, and interpreted geological information shall contain, unless otherwise specified by the Director, the following:

(1) An accurate and complete record of all geological (including geochemical) data, analyzed geological information, and interpreted geological information resulting from each operation;

(2) Paleontological reports identifying microscopic fossils by depth, unless washed samples are maintained by the permittee for paleontological determination and are made available upon request for inspection by the Geological Survey;

(3) Copies of well logs or charts;

(4) Results and data obtained from formation fluid tests;

(5) Analyses of core or bottom samples or a representative cut or split of the core or bottom sample;

(6) Detailed descriptions of any hydrocarbons or hazardous conditions encountered during operations, including near losses of well-control, abnormal geopressures, and losses of circulation; and

(7) Such other geological data, analyzed geological information, and interpreted geological information as may be specified by the Director.

(c) In the event that geological data, analyzed geological information, or interpreted geological information is transferred from the permittee to a third party, or from a third party to another third party, the transferor shall notify the Director and shall require the receiving party, in writing, to abide by the obligations of the permittee as specified in this section as a condition precedent to the transfer of information or data.

§ 251.12 Inspection, selection, and submission of geophysical information and data.

(a) Each holder of a permit for geophysical exploration activities for minerals or scientific research shall notify the Director immediately, in writing, of the acquisition, processing, reprocessing, or interpretation of any geophysical information or data collected under the permit. All geophysical data, processed geophysical information, reprocessed geophysical information, and interpreted geophysical information collected by the permittee shall be available for inspection by the Director. At any time within 1 year after receiving a notice of the acquisition, processing, reprocessing, or interpretation of any geophysical information and data, the Director may select all or part of the geophysical data, processed geophysical information, reprocessed geophysical information, and interpreted geophysical information. However, a longer period of time may be specified in the permit.

(b) The Director shall have the right to inspect geophysical data, processed geophysical information, reprocessed geophysical information, or interpreted geophysical information prior to final selection. This inspection shall be performed on the permittee's premises unless the Director requests that the permittee deliver the information or data to the Director for inspection. Such delivery shall be within 30 days following the receipt of the Director's request unless the Director authorizes a later delivery date. At any time prior to final selection, the Director may return any or all geophysical information or data following either its inspection and detailed assessment of its quality, or the establishment of a price to the Government for the processing or reprocessing of the geophysical information or data. If the Director decides to keep all or a portion of the geophysical information and data, the Director shall notify the permittee, in writing, of this decision. If the inspection is done on the permittee's premises, the permittee shall submit the geophysical information or data selected within 30 days following receipt of the Director's request, unless the Director authorizes a longer period of time for delivery. The Director shall have the right to arrange, by contract or otherwise, for the reproduction, without the consent of the permittee, of geophysical data, processed geophysical information, reprocessed geophysical information, and interpreted geophysical information.

(c) In the event that geophysical data, processed geophysical information, reprocessed geophysical information, or interpreted geophysical information is transferred from the permittee to a third party, or from a third party to another third party, the transferor shall notify the Director and shall require the receiving third party, in writing, to abide by the obligations of the permittee as specified in this section as a condition precedent to the transfer of information or data.

(d) Each submission of geophysical data, processed geophysical information, reprocessed geophysical information, and interpreted geophysical information, shall contain, unless otherwise specified by the Director, the following:

(1) An accurate and complete record of each geophysical survey conducted under the permit, including digital navigational data and final location maps of all survey stations;

(2) All seismic data developed under a permit presented in a format and of a quality suitable for processing;

(3) Processed geophysical information derived from seismic data with extraneous signals and interference removed, presented in a format and of a quality suitable for interpretive evaluation, reflecting state-of-the-art processing techniques; and

(4) Other geophysical data, processed geophysical information, reprocessed geophysical information, and interpreted geophysical information obtained from, but not limited to, shallow and deep subbottom profiles, bathymetry, sidescan sonar, gravity and magnetic surveys, and special studies such as refraction and velocity surveys.

§ 251.13 Reimbursement to permittees.

(a) After the delivery of geophysical data, processed geophysical information, and reprocessed geophysical information selected by the Director in accordance with § 251.12(b) of this Part, and upon receipt of a request for reimbursement and a determination by the Director that the requested reimbursement is proper, the permittee or third party shall be reimbursed for the cost of reproducing the selected information and data at the permittee's or third party's lowest rate or at the lowest commercial rate established in the area, whichever is less.

(b) After the delivery of processed and reprocessed geophysical information selected by the Director in accordance with § 251.12(b) of this Part, and upon receipt of a request for reimbursement and determination by the Director that the requested reimbursement is proper, the permittee or third party shall be reimbursed only for the reasonable costs attributable to processing and reprocessing, as distinguished from the cost of data acquisition, as follows: (1) If the processing or reprocessing has been done by the permittee in the form and manner which is used by the permittee in the normal conduct of business, the Director shall pay the reasonable costs at the lowest rate at which the processed or reprocessed information is made available by the permittee to any party; or (2) If the processing or reprocessing has been done in a form and manner as the Director may request other than that used in the normal conduct of the permittee's business, the Director shall pay the costs of processing and reprocessing such data.

(c) Requests for reimbursement are to contain a breakdown of costs in sufficient detail to allow separation of processing and reprocessing costs from acquisition costs.

§ 251.14 Disclosure of information and data submitted under permits.

§ 251.14-1 Disclosure of information and data to the public.

(a) The Director shall make information and data available in accordance with the requirements and subject to the limitations of the Freedom of Information Act (5 U.S.C. 552) and the implementing regulations (43 CFR Part 2), the requirements of the Act, and the regulations contained in 30 CFR Part 250 (Oil and Gas and Sulphur Operations in the Outer Continental Shelf), this Part, and 30 CFR Part 252 (Outer Continental Shelf Oil and Gas Information Program).

(b) Except as specified in this section or in Parts 250 and 252 of this Chapter, no information or data determined by the Director to be exempt from public disclosure under (a) of this section shall be provided to any affected State or be made available to the executive of any affected local government or to the public unless the permittee and all persons to whom such permittee has sold the information or data under promise of confidentiality agree to such an action.

(c) The Director shall disclose geological data, analyzed geological information, and interpreted geological information submitted under a permit as follows:

(1) The Director shall immediately issue a public announcement when any significant hydrocarbon occurrences are detected or environmental hazards are encountered on unleased lands during drilling operations. In the case of significant hydrocarbon occurrences, the Director will announce such occurrences in a form and manner that will further the national interest without unduly damaging the competitive position of those conducting the drilling. Other information and data pertaining to the permit will be released according to the schedule provided in paragraphs (c)(2) or (3) of this section.

(2) The Director shall make available to the public all geological data, analyzed geological information, and interpreted geological information, except geological data, analyzed geological information, and interpreted geological information obtained from the drilling of a deep stratigraphic test, 10 years after the date of issuance of the permit under which the information and data was obtained.

(3) The Director shall make available to the public all geological data and information obtained from drilling a deep stratigraphic test 10 years after the completion date of the test or 60 calendar days after the issuance of the first OCS oil and gas lease within 50 geographic miles (92.6 kilometers) of the site of the completed test, whichever is sooner. The Director shall make available to the public all geological information and data submitted in support of an application for a permit to drill a deep stratigraphic test well at the earlier of the following times: (*a*) 10 years after completion of the test; or (*b*) 60 calendar days after the issuance of the first OCS oil and gas lease within 50 geographic miles (92.6 kilometers) of the site of the completed test.

(d) The Director shall disclose geophysical data, processed geophysical information, reprocessed geophysical information, and interpreted geophysical information submitted under a permit, and retained by the Director, as follows:

(1) The Director shall make available to the public geophysical data 10 years after the date of issuance of the permit under which the data is obtained.

(2) The Director shall make available to the public processed geophysical information, reprocessed geophysical information, and interpreted geophysical information 10 years after the date it is submitted to the Director.

(3) The Director shall make available to the public processed geophysical information, reprocessed geophysical information, and interpreted geophysical information submitted in support of an application for a permit to drill a deep stratigraphic test, or which the permittee is required to obtain in order to conduct the drilling of a deep stratigraphic test, at the earliest of the following times: (*a*) 10 years after completion of the test; or (*b*) 60 calendar days after the issuance of the first OCS oil and gas lease within 50 geographic miles (92.6 kilometers) of the site of the completed test.

§ 251.14-2 Disclosure to independent contractors.

The Director reserves the right to disclose any information or data acquired from a permittee to an independent contractor or agent for the purpose of reproducing, processing, reprocessing, or interpreting such information or data. When practicable, the Director shall notify the permittee who provided the information or data of intent to disclose the information or data to an independent contractor or agent. The Director's notice of intent will afford the permittee a period of not less than 5 working days within which to comment on the intended action. When the Director so notifies a permittee of the intent to disclose information or data to an independent contractor or agent, all other owners of such information or data shall be deemed to have been notified of the Director's intent. Prior to any such disclosure, the contractor or agent shall be required to execute a written commitment not to transfer or to otherwise disclose any information or data to anyone without the express consent of the Director. The contractor or agent shall be liable for any unauthorized use by or disclosure of information or data to third parties.

§ 251.14-3 Sharing of information with affected States.

(a) At the time of soliciting nominations for the leasing of lands within 3 geographic miles of the seaward boundary of any coastal State, the Director, pursuant to the provisions of § 252.7(a)(4) and 252.7(b) of this Chapter and sections 8(g) and 26(e) of the Act, shall provide the Governor of the State the following information that has been acquired by the Director on such lands proposed to be offered for leasing:

(1) All information on the geographical, geological, and ecological

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characteristics of the areas and regions proposed to be offered for leasing;

(2) An estimate of the oil and gas reserves in the areas proposed for leasing; and

(3) An identification of any field, geological structure, or trap located within 3 miles of the seaward boundary of the State.

(b) After the time of receipt of nominations for any area of the OCS within 3 geographic miles of the seaward boundary of any coastal State and tentative tract selection in accordance with the provisions of 43 CFR Parts 3313 and 3314, the Director, in consultation with the Governor of the State, shall determine whether any tracts being given further consideration for leasing may contain one or more oil or gas reservoirs underlying both the OCS and lands subject to the jurisdiction of the State.

(c) At any time prior to a sale, information acquired by the Director that pertains to the identification of oil or gas pools or fields underlying both the Outer Continental Shelf and lands subject to the jurisdiction of any coastal State on tracts selected for leasing within 3 geographic miles of the seaward boundary of any such State will be shared, upon request and pursuant to the provisions of § 252.7(a)(4) and 252.7(b) of this Chapter and sections 8(g) and 26 of the Act, with the Governor of such State.

(d) Knowledge obtained by a State official who receives information under subsections (a) and (b) of this section shall be subject to the requirements and limitations of the Freedom of Information Act (5 U.S.C. 552) and the implementing regulations (43 CFR Part 2), the Act, the regulations contained in 30 CFR Part 250 (Oil and Gas and Sulphur Operations in the Outer Continental Shelf), the regulations in this Part 251 (Geological and Geophysical Explorations of the Outer Continental Shelf), and the regulations contained in 30 CFR Part 252 (Outer Continental Shelf Oil and Gas Information Program).

§ 251.14–4 Disclosure of information and data relating to specific contractual commitments.

All information and data already received by the Director and covered by a specific contractual commitment concerning its release shall be handled in a way consistent with the contractual commitment. In the event of any conflict between this provision and a provision of any other regulation in this Part 251, or of any regulation in Part 250, this provision shall govern.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1978.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

A complete listing for the first session of the 96th Congress was published in the Reader Aid section of the issue of January 17, 1980.

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federal register

Monday
January 28, 1980

Highlights

Briefings on How To Use the Federal Register—For details on briefings in **Washington, D.C.**, see announcement in the Reader Aids Section at the end of this issue.

6477 **Indian Education** HEW/OE announces acceptance of applications for fiscal year 1980 grants to local educational agencies; apply by 4-7-80

6378 **Income Tax** Treasury/IRS extends 2-year grace period with respect to foreclosure property held by a real estate investment trust; deadline for filing requests by 3-28-80

6510 **Trade Policy** Special Representation for Trade Negotiations Office issues information on imports under Generalized System of Preference during first ten months of 1979

6379-6381 **Federal Prisoners** Justice/Parole Commission issues various rules regarding paroling, recommiting and supervising prisoners; various effective dates (5 documents)

6419 **TV Stations** FCC proposes rules providing the operation of aural and visual transmitters during early morning hours when station would normally be off the air; comments by 3-31-80, reply comments by 4-30-80

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6404 **Speedometers and Odometers** DOT/NHTSA issues rules to amend Federal Motor Vehicle Safety Standard; effective 1–28–80

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-WE-28-AD; Amdt. 39-3677]

McDonnell Douglas DC-10 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires an inspection and modification of the inflation hose assemblies on certain Sargent Industries, PICO Division evacuation systems. This AD is necessary to assure that the inflation hose does not separate from the compressed gas cylinder, thus preventing the proper inflation of the slide or slide/raft system during an emergency evacuation.

DATES: Effective March 3, 1980. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from:

McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training C1-750 (54-60).

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or
Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Kyle L. Olsen, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to adopt a new airworthiness directive to require inspection and modifications of the inflation hose assemblies on certain Sargent Industries, PICO Division evacuation system installed on DC-10 aircraft was published in Federal Register (44 FR 54489) on September 20, 1979.

On July 3, 1979, during production deployment of a Sargent Industries, PICO Division slide/raft evacuation system at the Number 3L door on the DC-10, a failure of the system's inflation hose which leads from the compressed gas inflation cylinder to the air pump (aspirator) occurred preventing inflation of the slide/raft. Upon investigation it was determined that the failure occurred at the hose end fitting which attaches to the inflation cylinder. As a result of a design change in May 1976, the swivel nut on the end fitting is allowed to travel longitudinally along the tubing elbow. This travel can expose the helical retaining ring which, if damaged or dislodged, can allow the tubing elbow to separate from the swivel nut. Exposure of the helical retaining ring subjects the ring to possible damage from contact with the valve body threads any time the pressure cylinder is removed or reinstalled on the inflation system. Subsequent to this incident, some one hundred hose assemblies on production evacuation systems were inspected for damage or dislodged helical retaining rings, and one was found which could have resulted in hose failure.

After issuance of the proposed rule a suspect hose assembly on an evacuation system not listed in the PICO service bulletin was discovered. Consequently, both the service bulletin and the AD have been revised to include all serial numbered units not modified prior to initial delivery.

Interested persons have been afforded an opportunity to participate in the making of this amendment. One commentor felt that the proposed modification was unnecessary because if the slide or slide/raft system malfunctioned there are other means to escape from the airplane. The FAA does not agree. The sole means of escape from each passenger emergency exit on the DC-10 is the inflatable slide or slide/raft. Successful and swift evacuation following a survivable accident is predicated upon reliable operation of the evacuation system. Another comment was received concurring with the proposal.

Since this condition is likely to exist or develop on other inflation systems of the same type design and in order to minimize the possibility of inoperative evacuation systems on the DC-10, this AD will require inspection and modification of the affected inflation hose and fittings.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas DC-10-10, -10F, -30, -30F, and -40 airplanes certificated in all categories utilizing the following passenger evacuation systems manufactured by the PICO Division of Sargent Industries: (Subsequent production serial numbers are not affected.)

Part Number and Serial Number

5LS230100-( )—A0001-A0091; 5LD230300-( )—B0001-B0093; 5LD230500-( )—C0001-C0060; 5LD230600-( )—D0001-D0061; 5LD230100-( )—E0001-E0087; 5WD230100-( )—AA001-AA420; 5WD230500-( )—CC001-CC160; 5WD230600-( )—DD001-DD178; 5WD230100-( )—EE001-EE792.

Compliance required within the next eighteen calendar months after the effective date of this AD, unless already accomplished.

To prevent failure of the Sargent Industries, PICO Division emergency evacuation system due to inflation hose end fitting failure accomplish the following:

(a) Visually inspect the passenger evacuation system inflation hoses in accordance with PICO Service Bulletin No. DC-10-25-78, Revision 2, dated December 5, 1979, to determine which hoses have end fittings configured as shown in Figure 2 of the PICO Service Bulletin.

(b) Inflation hose assemblies with end fittings configured as shown in Figure 2 of the PICO Service Bulletin, must be modified in accordance with Subpart 2, "Accomplishment Instructions," of PICO Service Bulletin No. DC-10-25-78 Revision 2, dated December 5, 1979, or each replaced with an approved production hose assembly part number (P/N) 720111-101 in accordance with appropriate maintenance manual procedures.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the

accomplishment of inspections required by this AD.

(d) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective March 3, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Issued in Los Angeles, California on January 15, 1980.

W. R. Frehse,

Acting Director, FAA Western Region.

[FR Doc. 80-2388 Filed 1-25-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-CE-28]

Alteration of Transition Area—Oskaloosa, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to alter the 700-foot transition area at Oskaloosa, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Oskaloosa, Iowa Municipal Airport based on a Non-Directional Radio Beacon (NDB), a navigational aid, being installed on the airport by the City of Oskaloosa, Iowa. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: A new instrument approach procedure to the Oskaloosa Municipal Airport, Oskaloosa, Iowa, is being established based on a Non-Directional Radio Beacon (NDB), a navigational aid, being installed on the airport by the City of Oskaloosa, Iowa. The establishment of an instrument approach procedure based on this approach aid entails the alteration of the transition area at Oskaloosa, Iowa, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On pages 65769 and 65770 of the **Federal Register** dated November 15, 1979, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Oskaloosa, Iowa. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1980, (45 FR 445), is amended effective 0901 GMT March 20, 1980, by altering the following transition area:

Oskaloosa, Iowa

That airspace extending upward from 700 feet above the surface within a nine (9)-mile radius of the Oskaloosa Municipal Airport (latitude 41°13'36" N, longitude 92°29'30" W) excluding the portion that overlies the Ottumwa, Iowa transition area.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.69 of the Federal Aviation Regulations (14 CFR 11.69).)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on January 15, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-2358 Filed 1-25-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-AL-10A]

Control Zone and Transition Area, Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates control zone and transition area airspace to provide protection for Instrument Flight Rule (IFR) flights to and from Lonely DEW Station, an airport on the north slope of Alaska. The increased use of this airport created the need for additional protection of aircraft operating under IFR. This action is subsequent and in addition to that which originally designated the control zone effective October 4, 1979.

EFFECTIVE DATE: March 20, 1980.

FOR FUTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

History

On August 6, 1979, the FAA published in the **Federal Register** (44 FR 45920) an amendment to Part 71 that designated a control zone at Lonely DEW Station, Alaska, (Airspace Docket No. 79-AL-10) effective October 4, 1979. At that time it was stated that a 3-mile radius control zone is being designated as an interim safety measure while further consideration is being given to establish a 5-mile radius control zone, with an extension and a 700 foot transition area. On November 29, 1979, the FAA published in the **Federal Register** (44 FR 68480) a proposal to designate the 5-mile control zone and the 700 foot transition area, (Airspace Docket No. 79-AL-10).

Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. One of the two comments received objected to the control zone portion of the proposal and gave the following reasons:

1. There is no Distance Measuring Equipment (DME) available at Lonely.
2. There is no assurance that personnel are properly trained.
3. That communication facilities are inadequate.
4. That the air traffic is decreasing.
5. That the local operator cannot control air traffic.

The FAA has no requirement for a local operator to control traffic within a control zone nor that DME be available to qualify a location for the designation of a control zone. Air traffic at Lonely DEW Station has increased from 400 operations in October 1979, to 1,432 in December 1979. Communications have been improved by installation of a direct telephone line between the Lonely Communications Center and the Anchorage Air Route Traffic Control Center (ARTCC). Adequate training has been assured by the local operator for relaying air traffic control clearances from the Anchorage ARTCC. For these reasons, the FAA is adopting this proposed amendment as published in the notice. Section 71.171 and § 71.181 of Part 71 were republished in the **Federal Register** on January 2, 1980, (45 FR 356, 445).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) redesignates the Lonely DEW Station control zone within a 5-mile radius of Lonely DEW Station Airport and within 3.5 miles each side of the 265° magnetic bearing from the Lonely nondirectional radio beacon (NDB), extending to 10 miles from the NDB, and designates a transition area that extends upward from 700 feet above the surface within 4.5 miles north and 9.5 miles south of the 265° magnetic bearing from the Lonely NDB extending to 18.5 miles from the NDB. The amount of air traffic at Lonely DEW Station Airport has increased sufficiently to justify the designation of the controlled airspace.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.171 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 356, 445) is amended, effective 0901 GMT, March 20, 1980, as follows:

§ 71.171 [Amended]

Under Lonely DEW Station, Alaska, the text is deleted and "Within a 5-mile radius of Lonely DEW Station Airport (Lat. 70°54'40" N., Long. 153°14'20" W.) and within 3.5 miles each side of the 293° bearing from the Lonely NDB, extending from the NDB to 10 miles northwest of the NDB." is substituted therefor.

§ 71.181 [Amended]

"Lonely DEW Station, Alaska. That airspace extending upward from 700 feet above the surface within 4.5 miles north and 9.5 miles south of the 293° bearing from the Lonely NDB, extending from the NDB to 18.5 miles northwest of the NDB." is added.

(Secs. 307(a), 313(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1345(a), and 1510; Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C. on January 18, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-2354 Filed 1-25-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-EA-51]

Alteration of Airway; West Virginia and Virginia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends V-377 airway from Montebello, Va., to Kessel, W. Va., and designates Kessel as a reporting point. The additional airway segment reduces the airway distance between the two places and the reporting point is used for the control of air traffic at the lower altitudes.

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

History

On November 29, 1979, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to extend V-377 airway from Montebello, Va., to its present beginning at Kessel, W. Va., and to designate Kessel as a reporting point (44 FR 68479). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The comments received expressed no objection. Section 71.123 and § 71.203 of Part 71 were republished in the **Federal Register** on January 2, 1980 (45 FR 307, 645). This amendment is the same as proposed in the notice.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) extends V-377 airway from Kessel to Montebello and designates Kessel as a compulsory reporting point. The amount of air traffic north of Lynchburg, Va., has increased sufficiently to justify the designation of the direct route between Montebello and Kessel as an airway.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 and § 71.203 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 307, 645) is amended, effective 0901 GMT, March 20, 1980, as follows:

§ 71.123 [Amended]

Under V-377 "From Kessel, W. Va., via" is deleted and "From Montebello, Va., via Kessel, W. Va.;" is substituted therefor.

§ 71.203 [Amended]

"Kessel, W. Va." is added.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on January 18, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-2355 filed 1-25-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-CE-30]

Alteration of Control Zone and Transition Area; North Platte, Nebr.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to alter the control zone and the 700-foot transition area at North Platte, Nebraska, to provide additional controlled airspace for aircraft executing an instrument approach procedure to new Runway 30R at Lee Bird Field, North Platte, Nebraska, utilizing the Lee Bird Non-Directional Radio Beacon (NDB) as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT: Benny J. Kirk, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: The FAA stated in an NPRM published in the **Federal Register** on Thursday, October 25, 1979 (44 FR 61377), it proposed to amend Subpart F, § 71.171 of the Federal Aviation Regulations (14 CFR 71.171) and Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by altering the control zone and 700-foot transition area at North Platte, Nebraska. Since that publication, it has been determined that a 1 degree change in the runway radial is required. Since this change will not affect the legal designations of the proposed control zone and transition area alternates as set forth in the Notice, additional notice hereon is impractical and unnecessary and not required in the public interest. Accordingly, to enhance airport usage, an instrument approach procedure has been established for new Runway 30R at Lee Bird Field, North Platte, Nebraska, utilizing the Lee Bird NDB as a navigational aid. The establishment of this instrument approach procedure entails alteration of the control zone and transition area at North Platte, Nebraska, at and above 700 feet above ground level (AGL) within which aircraft are provided additional air traffic control service. The intended effect of this action is to ensure segregation of aircraft using this approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On page 61377 of the **Federal Register** dated October 25, 1979, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at North Platte, Nebraska. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart F, Section 71.171 of the Federal Aviation Regulations (14 CFR 71.171) as republished on January 2, 1980 (45 FR 356), is amended, effective 0901 G.M.T., March 20, 1980, by altering the following control zone:

North Platte, Nebr.

Within a 6 mile radius of Lee Bird Field (latitude 41°07'42" N, longitude 100°41'49" W); within 2 miles each side of the 186° bearing from the Big Nell RBN, extending from the 6 mile radius zone to 8 miles south of the RBN; and within 3 miles each side of the 125° bearing from the Lee Bird RBN, extending from the 6 mile radius zone to 10 miles southeast of the RBN.

Additionally, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1980 (45 FR 445), is amended effective 0901 G.M.T., March 20, 1980, by altering the following transition area:

North Platte, Nebr.

That airspace extending upward from 700 feet above the surface within a 10 mile radius of Lee Bird Field (latitude 41°07'42" N, longitude 100°41'49" W) and within 2 miles each side of the North Platte VOR 209° radial, extending from the 10 mile radius area to 8 miles southwest of the VOR; and within 5 miles each side of the 301° bearing from Lee Bird RBN, extending from the 10 mile radius area to 13 miles northwest of the RBN; and within 3 miles each side of the 125° bearing from Lee Bird RBN extending from the 10 mile radius to 14 miles southeast of the RBN.

(Section 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on January 15, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-2350 Filed 1-25-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-AL-3]

Establishment of Transition Area; Sand Point, Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a transition area at Sand Point, Alaska. The transition area is necessary to provide controlled airspace for arrival/departure operations in the Sand Point area.

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION: On December 13, 1979, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area in the Sand Point, Alaska, area (44 FR 72182). The FAA has installed a Nondirectional Beacon with Distance Measuring Equipment (NDB/DME) at Sand Point named Humboldt. Designation of this transition area is to provide controlled airspace for increased aircraft operations in the Sand Point area. This action aids air traffic control by improving flow control procedures for aircraft arriving/departing the Sand Point terminal area. Interested persons were invited to participate in the rulemaking proceeding by submitting comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.181 was republished in the **Federal Register** on January 2, 1980 (45 FR 445).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates a transition area in the Sand Point, Alaska, area. This transition area provides protection for IFR arrival/departure operations authorized below 1,500 feet MSL down to 700 feet MSL. This amendment increases air traffic safety and improves flow control procedures.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) is amended, effective 0901 GMT, March 20, 1980, as follows:

§ 71.181 [Amended]

Under § 71.181 add:

Sand Point, Alaska

That airspace extending upward from 700 feet above the surface within 4.5 miles west and 9.5 miles east of the 175°T (157°M) bearing from the Humboldt NDB, extending from the NDB to 24.5 miles south of the NDB and within 4.5 miles east and 9.5 miles west of the 345°T (327°M) bearing from the Humboldt NDB, extending from the NDB to 23.5 miles north of the NDB.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510; Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on January 18, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-2353 Filed 1-25-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-AL-2]

Designation of Low Frequency Airways; Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates new low frequency Airway Green 12 (G-12) between Cold Bay, Alaska, and King Salmon, Alaska, revokes Green 11 (G-11) and designates new Airway Green 10 (G-10) between Sand Point, Alaska, and Port Heiden, Alaska. This action increases air safety in the Sand Point terminal area by providing controlled airspace for departure/arrival traffic.

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION: On November 8, 1979, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate new airway Green 12 (G-12) between Cold Bay, Alaska, and King Salmon, Alaska, via Sand Point, Alaska, and Port Heiden, Alaska. A nondirectional beacon (NDB) called "Humboldt" has been commissioned at Sand Point. Also, in the notice the FAA proposed to designate new low frequency Airway Green 1 (G-1), however, due to a similar airway (G-1) in Canada, this airway is designated as G-10 (44 FR 64841). No comments were received. This amendment is the same as that proposed in the notice except for the change in airway designation just noted. Section 71.103 was republished in the **Federal Register** on January 2, 1980 (45 FR 305).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates Airway Green 12 (G-12) between Cold Bay, Alaska, and King Salmon, Alaska, via Humboldt, Alaska, and Port Heiden, Alaska. Green 1 (G-1) redesignated as Green 10 (G-10) extends from Humboldt, Alaska, to Woody Island, via Port Heiden. Airway Green 11 (G-11) is deleted. These alterations will improve traffic flow in the Sand Point and Port Heiden terminal areas, thereby increasing air safety and improving air traffic control.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.103 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 305) is amended, effective 0901 GMT, March 20, 1980, as follows:

§ 71.103 [Amended]

"G-12 from King Salmon, Alaska, NDB, via Port Heiden, Alaska, NDB; Humboldt, Alaska, NDB; to Elfee, Alaska, NDB." is added.

"G-11 title and text are deleted.

"G-10 from Humboldt, Alaska, NDB; via INT Humboldt NDB 345° and Port Heiden, Alaska, NDB 240° bearings 20 AGL Port Heiden, NDB; 67 miles 12 AGL, 77 miles 85 MSL, 67 miles 12 AGL, to Woody Island, NDB." is added.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on January 18, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-2352 Filed 1-25-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-GL-58]

Revocation of VOR Federal Airways; Michigan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes several VOR Federal airway segments in the vicinity of Carleton, Mich. These routes are rarely utilized and therefore should not be retained. Also, revocation of these airway segments will reduce chart clutter.

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION: On December 17, 1979, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke several airway segments in the vicinity of Carleton, Mich., (44 FR 73112). Since these airway segments are rarely used, they are being revoked thereby reducing chart clutter and improving flight planning. Interested persons were invited to participate in this rulemaking proceeding by submitting written

comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.123 was republished in the **Federal Register** on January 2, 1980 (45 FR 307).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) revokes airway segments of V-47, V-297 and V-493 in the vicinity of Carleton, Mich., because these airway segments are not being utilized. This action reduces controller workload, aids flight planning and reduces chart clutter.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 307) is amended, effective 0901 GMT, March 20, 1980, as follows:

§ 71.123 [Amended]

Under V-47: "Waterville, Ohio; INT Waterville 353° and Salem, Mich., 197° radials; Salem; to the INT Salem 021° and Flint, Mich., 086° radials." is deleted and "to Waterville, Ohio." is substituted therefor.

Under V-297: "Carleton; INT Carleton 334° and Saginaw, Mich., 182° radials; Saginaw; INT Saginaw 353°" is deleted and "to Carleton. From Saginaw; INT Saginaw 353°" is substituted therefor.

Under V-493: "Carleton, Mich.; INT Carleton 334° and Mt. Pleasant, Mich., 142° radials; to Mt. Pleasant." is deleted and "to Carleton, Mich." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C. on January 18, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-2356 Filed 1-25-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-ASW-55]

Alteration of Transition Area: Ruston, La.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter the transition area at Ruston, La. The intended effect of the action is to provide additional controlled airspace for aircraft executing instrument approach procedures to the Ruston Municipal Airport. The circumstance which created a need for the action is that a review of the current transition area revealed the controlled airspace is not properly described and inadequate for the protection of aircraft executing instrument approach procedures. In addition, higher performance aircraft are utilizing the airport which requires additional controlled airspace.

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On December 10, 1979, a notice of proposed rule making was published in the **Federal Register** (44 FR 70742) stating that the Federal Aviation Administration proposed to alter the Ruston, La., transition area. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the Federal Aviation Administration. No objections were received to the proposal. Except for editorial changes, this amendment is that proposed in the notice.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) alters the Ruston, La., transition area. This action provides controlled airspace for the protection of aircraft executing instrument approach procedures to the Ruston Municipal Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) is amended, effective 0901 GMT, March 20, 1980, as follows:

§ 71.181 [Amended]

In Subpart G, § 71.181 (45 FR 445), the Ruston, La., transition area is amended by deleting the present description and substituting the following:

Ruston, La.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Ruston Municipal Airport (latitude 32°30'45" N., longitude 92°37'45" W.), and within 3 miles each side of the 089° bearing from the airport extending from the 6.5-mile radius area to 7.5 miles east; and within 3.5 miles each side of the Ruston, La., VOR (latitude 32°27'54" N., longitude 92°36'30" W.) 159° radial extending from the 6.5-mile radius area to 11.5 miles south of the VOR.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Tex., on January 18, 1980.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 80-2365 Filed 1-25-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-RM-30]

Alteration of Transition Areas; Glasgow, Mont.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the 700' and 1,200' transition areas at Glasgow, Montana, to provide controlled airspace for aircraft executing the new instrument landing system (ILS) runway 28 standard instrument approach procedure developed for the Valley Industrial Airpark, Glasgow, Montana (formerly Glasgow Air Force Base).

EFFECTIVE DATE: 0901 G.m.t., March 20, 1980.

FOR FURTHER INFORMATION CONTACT: Pruett B. Helm, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837-3937.

SUPPLEMENTARY INFORMATION:

History

On December 17, 1979, the FAA published for comment a Notice of Proposed Rulemaking (NPRM) to alter the 700' and 1,200' transition areas at Glasgow, Montana (44 FR 73113). The only comments received from this notice expressed no objections.

The Rule

This amendment to subpart G of Part 71 of the Federal Aviation Regulations (FAR's) alters the 700' and 1,200' transition areas at Glasgow, Montana to provide controlled airspace for aircraft executing the new instrument landing system (ILS) runway 28 standard instrument approach procedure developed for the Valley Industrial Airpark, Glasgow, Montana.

Drafting Information

The principal authors of this document are Pruett B. Helm, Operations, Procedures and Airspace Branch, Air Traffic Division, and Daniel J. Peterson, office of Regional Counsel.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 GMT, March 20, 1980, as follows:

§ 71.181 [Amended]

By amending subpart G, § 71.181 (45 FR 445) by altering the following transition areas:

Glasgow, Mont.

That airspace extending upward from 700' above the surface within 9 miles each side of the Glasgow VORTAC (latitude 48°12'55" N., longitude 106°37'30" W.) 016°/196° radials extending from the VOR 9 miles southwest and 24.5 miles northeast, and that airspace extending upward from 1,200' above the surface starting at latitude 48°40'00" N., longitude 106°00'00" W.; to latitude 48°32'00" N., longitude 105°50'00" W.; to latitude 48°03'00" N., longitude 105°50'00" W.; to latitude 48°05'00" N., longitude 106°10'00" W.; to latitude 47°54'00" N., longitude 106°22'30" W.; to latitude 48°16'00" N., longitude 107°07'00" W.; to latitude 48°40'00" N., longitude 107°07'00" W.; thence, to point of beginning, excluding that area designated as the Wolf Point, Montana 1,200' transition area.

(Sec. 307(a) Federal Aviation Act of 1958 as amended (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Aurora, Colorado on January 14, 1980.

Isaac H. Hoover,

Acting Director, Rocky Mountain Region.

[FR Doc. 80-2384 Filed 1-25-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-CE-33]

Designation of Transition Area; Bassett, Nebr.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a 700-foot transition area at Bassett, Nebraska, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Rock County Airport, Bassett, Nebraska, utilizing the Rock County Non-Directional Radio Beacon (NDB) as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT: Benny J. Kirk, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: An instrument approach procedure to the Rock County Airport, Bassett, Nebraska, is being established utilizing the Rock County Non-Directional Radio Beacon (NDB) as a navigational aid. This radio facility provides new navigational guidance for aircraft utilizing the airport. The establishment of an instrument approach procedure based on this approach aid entails the designation of a transition area at Bassett, Nebraska, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On page 65770 of the **Federal Register** dated November 15, 1979, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations, so as to designate a transition area at Bassett, Nebraska. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

§ 71.181 [Amended]

Accordingly, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1980, (45 FR 445), is amended effective 0901 GMT March 20, 1980, by adding the following new transition area:

Bassett, Nebr.

That airspace extending upward from 700 feet above the surface within a 7 mile radius of the Rock County Airport, Bassett, Nebraska (latitude 42° 34' 26" N, longitude 99° 34'21" W); within 2.5 miles each side of the 129° bearing from the Rock County NDB extending from the 7 mile radius area to 7 miles southeast of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on January 15, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-2349 Filed 1-25-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-CE-34]

Designation of Transition Area—Ord, Nebr.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a 700-foot transition area at Ord, Nebraska, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Evelyn Sharp Airport, Ord, Nebraska, utilizing a Non-Directional Radio Beacon (NDB), a navigational aid, being installed on the airport by the State of Nebraska. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT: Benny J. Kirk, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: An instrument approach procedure to the Evelyn Sharp Airport, Ord, Nebraska, is being established based on a Non-Directional Radio Beacon (NDB), a navigational aid, being installed on the airport by the State of Nebraska. This radio facility provides new navigational guidance for aircraft utilizing the airport. The establishment of an instrument approach procedure based on this approach aid entails the designation of a transition area at Ord, Nebraska, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On page 67140 of the **Federal Register** dated November 23, 1979, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations, so as to designate a transition area at Ord, Nebraska. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No comments were received as a result of the Notice of Proposed Rule Making.

§ 71.181 [Amended]

Accordingly, Subpart C, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1980 (45 FR 445), is amended effective 0901 GMT March 20, 1980, by adding the following new transition area:

Ord, Nebr.

That airspace extending upward from 700 feet above the surface within a 7 mile radius of the Evelyn Sharp Field (latitude 41°37'20" N, longitude 98°57'05" W) and within 3 miles either side of the 311° true bearing from the Ord, NDB (latitude 41°37'23" N, longitude 98°56'52" W) extending from the 7 mile radius area to 8½ miles northwest of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on January 15, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-2382 filed 1-25-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 73

[Airspace Docket No. 79-SO-78]

Designation of Temporary Restricted Areas, Camp Lejeune, N.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments designate eight temporary restricted areas in the vicinity of Camp Lejeune, N.C., to contain a major joint military readiness exercise May 12–18, 1980. These actions provide for the safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations of nonparticipating aircraft within the joint use restricted airspace during the times the areas are in use.

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. George O. Hussey, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

History

On December 13, 1979, the FAA proposed to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to designate seven temporary restricted areas in the vicinity of Camp Lejeune, N.C., to contain a major joint military readiness exercise and to designate controlled airspace for those areas that penetrate the Continental Control Area (44 FR 72183). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The comments received expressed no objection to the proposal. Section 71.151 of Part 71 and § 73.53 of Part 73 were republished in the **Federal Register** on January 2, 1980 (45 FR 346, 716). These amendments are the same as proposed in the notice, except the floor of the northern portion of subarea "A" is raised from the surface to 10,000 feet MSL thereby benefiting the public through less restrictive access. This northern portion of proposed subarea "A" is designated as subarea "D" and proposed subareas D, E, F, and G are designated as subareas E, F, G, and H, respectively. Because these changes relieve a restriction, the FAA finds that notice of proposed rulemaking is unnecessary and the changes are incorporated in the final rule.

The Rule

These amendments to Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) designate as temporary controlled and special use airspace the areas identified as R-5316A, R-5316B, R-5316C, R-5316D, R-5316E, R-5316F, R-5316G, and R-5316H to contain a major joint military readiness exercise. These actions provide for the safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations of nonparticipating aircraft within the joint use restricted airspace during the times the areas are in use. However, provisions are made for authorized flight operations of nonparticipating aircraft within the areas under specific circumstances. The Commander in Chief, Atlantic (CINCLANT) has advised that the requirements of the National Environmental Protection Act (NEPA) have been met.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (45 FR 346, 716) are amended, effective 0901 GMT, March 20, 1980, as follows:

§ 71.151 [Amended]

In § 71.151 (45 FR 346), the following temporary restricted areas are added for the duration of their time of designation from 0001, May 12, 1980, to 0001, local time, May 18, 1980:

R-5316A Lejeune, N.C.
R-5316C Lejeune, N.C.
R-5316D Lejeune, N.C.
R-5316E Lejeune, N.C.
R-5316H Lejeune, N.C.

§ 73.53 [Amended]

In § 73.53 (45 FR 716), the following temporary restricted areas are added:

R-5316A Lejeune, N.C.

Boundaries. Beginning at Lat. 34°40'20" N., Long. 77°22'12" W.; to Lat. 34°38'12" N., Long. 77°28'00" W.; to Lat. 34°36'05" N., Long 77°28'08" W.; to Lat. 34°33'00" N., Long. 77°19'00" W.; to Lat. 34°30'20" N., Long. 77°15'50" W.; thence southwest 3 NM from and parallel to the shoreline to Lat. 34°23'00" N., Long. 77°30'00" W.; to Lat. 34°21'25" N., Long. 77°32'30" W.; to Lat. 34°26'30" N., Long. 77°40'00" W.; to Lat. 34°43'00" N., Long. 77°22'30" W.; to point of beginning.
Designated altitudes. Surface to but not including FL 180.
Time of designation. Intermittent, 0001, May 12, 1980, to 0001 local time, May 18, 1980.
Controlling agency. Federal Aviation Administration, Washington ARTCC, Leesburg, Va.
Using agency. United States Atlantic Command, Norfolk, Va.

R-5316B Lejeune, N.C.

Boundaries. Beginning at Lat. 34°51'00" N., Long. 77°05'30" W.; to Lat. 34°42'00" N., Long. 76°54'45" W.; to Lat. 34°41'50" N., Long. 76°56'20" W.; to Lat. 34°37'30" N., Long. 76°56'20" W.; thence southwest 3 NM from and parallel to the shoreline to Lat. 34°34'30" N., Long. 77°09'00" W.; to Lat. 34°44'50" N., Long. 77°14'40" W.; to Lat. 34°49'30" N., Long. 77°10'00" W.; thence to point of beginning.
Designated altitudes. Surface to but not including 1,200 feet MSL.
Time of designation. Intermittent, 0001, May 12, 1980, to 0001, local time, May 18, 1980.
Controlling agency. Federal Aviation Administration, Washington ARTCC, Leesburg, Va.
Using agency. United States Atlantic Command, Norfolk, Va.

R-5316C Lejeune, N.C.

Boundaries. Beginning at Lat. 34°57'00" N., Long. 77°02'45" W.; to Lat. 34°38'30" N., Long. 76°43'00" W.; thence west 3 NM from and parallel to the shoreline to Lat. 34°37'30" N., Long. 76°56'20" W.; to Lat. 34°41'50" N., Long. 76°56'20" W.; to Lat. 34°42'00" N., Long. 76°54'45" W.; to Lat. 34°51'00" N., Long. 77°05'30" W.; to Lat. 34°49'30" N., Long. 77°10'00" W.; thence to point of beginning.
Designated altitudes. 4,000 feet MSL to but not including FL 180.
Time of designation. Intermittent, 0001, May 12, 1980, to 0001, local time, May 18, 1980.
Controlling agency. Federal Aviation Administration, Washington ARTCC, Leesburg, Va.
Using agency. United States Atlantic Command, Norfolk, Va.

R-5316D Lejeune, N.C.

Boundaries. Beginning at Lat. 35°15'00" N., Long. 77°30'00" W.; to Lat. 34°57'00" N., Long. 77°02'45" W.; to Lat. 34°49'30" N., Long. 77°10'00" W.; to Lat. 34°44'50" N., Long. 77°14'40" W.; to Lat. 34°39'10" N., Long. 77°20'50" W.; to Lat. 34°40'20" N., Long. 77°22'12" W.; to Lat. 34°43'00" N., Long. 77°22'30" W.; to Lat. 34°55'30" N., Long. 77°35'30" W.; thence to point of beginning.
Designated altitudes. 10,000 feet MSL to but not including FL 180.
Time of designation. Intermittent, 0001, May 12, 1980, to 0001, local time, May 18, 1980.
Controlling agency. Federal Aviation Administration, Washington ARTCC, Leesburg, Va.
Using agency. United States Atlantic Command, Norfolk, Va.

R-5316E Lejeune, N.C.

Boundaries. Beginning at Lat. 35°15'00" N., Long. 77°30'00" W.; to Lat. 35°43'50" N., Long. 76°35'30" W.; to Lat. 35°38'55" N., Long. 76°01'00" W.; to Lat. 35°36'45" N., Long. 76°01'20" W.; to Lat. 35°18'15" N., Long. 76°16'40" W.; to Lat. 35°23'15" N., Long. 76°34'40" W.; to Lat. 35°08'00" N., Long. 76°51'20" W.; to Lat. 35°03'00" N., Long. 76°57'00" W.; to Lat. 34°57'00" N., Long. 77°02'45" W.; to thence to point of beginning.
Designated altitudes. 10,000 feet MSL to but not including FL 180.
Time of designation. Intermittent, 0001, May 12, 1980, to 0001, local time, May 18, 1980.
Controlling agency. Federal Aviation Administration, Washington ARTCC, Leesburg, Va.
Using agency. United States Atlantic Command, Norfolk, Va.

R-5316F Lejeune, N.C.

Boundaries. Beginning at Lat. 35°53'50" N., Long. 76°33'10" W.; to Lat. 35°52'22" N., Long. 76°09'53" W.; to Lat. 35°40'25" N., Long. 76°12'25" W.; to Lat. 35°43'50" N., Long. 76°35'30" W.; thence to point of beginning.
Designated altitudes. 6,000 feet MSL to and including 14,000 feet MSL.
Time of designation. Intermittent, 0001, May 12, 1980, to 0001, local time, May 18, 1980.
Controlling agency. Federal Aviation Administration, Washington ARTCC, Leesburg, Va.
Using agency. United States Atlantic Command, Norfolk, Va.

R-5316G Lejeune, N.C.

Boundaries. Beginning at Lat. 35°52'22" N., Long. 76°09'53" W.; to Lat. 35°51'52" N., Long. 76°02'09" W.; to Lat. 35°39'20" N., Long. 76°05'00" W.; to Lat. 35°40'25" N., Long. 76°12'25" W.; thence to point of beginning.
Designated altitudes. 10,000 feet MSL to and including 14,000 feet MSL.
Time of designation. Intermittent, 0001, May 12, 1980, to 0001, local time, May 18, 1980.
Controlling agency. Federal Aviation Administration, Washington ARTCC, Leesburg, Va.
Using agency. United States Atlantic Command, Norfolk, Va.

R-5316H Lejeune, N.C.

Boundaries. Beginning at Lat. 35°51'52" N., Long. 76°02'09" W.; to Lat. 35°51'35" N., Long. 75°57'55" W.; to Lat. 35°38'55" N., Long. 76°01'00" W.; to Lat. 35°39'20" N., Long. 76°05'00" W.; thence to point of beginning.
Designated altitudes. 15,000 feet MSL to but not including 18,000 feet MSL.
Time of designation. Intermittent, 0001, May 12, 1980, to 0001, local time, May 18, 1980.
Controlling agency. Federal Aviation Administration, Washington ARTCC, Leesburg, Va.
Using agency. United States Atlantic Command, Norfolk, Va.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on January 18, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-2357 Filed 1-25-80; 8:45 am]

BILLING CODE 4910-13-M

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DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 371, 385, and 399

Revisions To Reflect Identification and Continuation of Foreign Policy Export Controls; Corrections

AGENCY: International Trade Administration, Commerce.

ACTION: Corrections to interim final rule.

SUMMARY: On December 29, 1979 (45 FR 1595, January 8, 1980) the President, as authorized by section 6 of the Export Administration Act of 1979, determined that certain export controls maintained for foreign policy purposes continue beyond December 31, 1979. The Export Administration Regulations (15 CFR 368 *et seq.*) were revised to reflect the President's determination. In the **Federal Register** notice listing the revisions, several technical errors appeared, which are corrected in this issuance.

FOR FURTHER INFORMATION CONTACT: Mr. Archie M. Andrews. Telephone: (202) 377–5247.

SUPPLEMENTARY INFORMATION: In FR Doc. 80–585 appearing at page 1595 in the **Federal Register** of January 8, 1980, the following changes should be made:

1. On page 1597, § 371.9(a)(2) should have the words "or consumption" added in the third line. Section 371.9(a)(2) should read:

The items listed below may be exported subject to the conditions set forth in § 371.9(b) below for use or consumption on board a vessel of any registry during the outgoing and immediate return voyage:

* * * * *

2. Also on page 1597, in § 371.10(a)(2) delete the three commas. Section 371.10(a)(2) should read:

The following commodities may be exported subject to the conditions set forth in § 371.10(b) below for use or consumption on board an aircraft of any registry during the outgoing and immediate return flight—

* * * * *

3. On page 1599, paragraph (d) of § 385.4 is corrected in the eleventh line to replace "(Section 6.14)" with "(subsection 6(j))".

4. On page 1600, in CCL entry 5680B of § 399.1, the processing code "EE" should be changed to "MG". In CCL entry 6460F, the three GLV dollar value limits "O" should be changed to dashes.

5. On page 1601, "h" should read "The following entries are deleted, and the commodities are covered by CCL entry 6499G:" and CCL entry 6461F should be moved from "I" to "h." The "i" should read "The following entry is deleted, and the commodities are covered by CCL entry 6599G:".

Donald A. Furtado,

Acting Under Secretary for International Trade.

[FR Doc. 80–2772 Filed 1–25–80; 8:45 am]

BILLING CODE 3510–25–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230 and 239

[Release No. 33–6180]

Exemption of Limited Offers and Sales by Qualified Issuers

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of rules, rule amendments, and forms.

SUMMARY: The Commission is adopting a small issue exemptive rule under Section 3(b) of the Securities Act of 1933 which allows certain corporate issuers to offer and sell up to $2,000,000 per issue of their securities to an unlimited number of institutional-type purchasers, purchasers of at least $100,000 of securities, or the issuer's executive officers or directors, and to 35 other purchasers. An issuer offering an issue of securities pursuant to the rule must furnish prospective investors with specified information in certain instances and file one or more notices of sales after the first sale of securities of the issue is made.

EFFECTIVE DATE: February 25, 1980.

FOR FURTHER INFORMATION CONTACT: Gail Gordon Alkire, (202) 272–2644, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is adopting Rule 242 [17 CFR 230.242], Form 242 [17 CFR 239.242], and a corresponding amendment to Rule 144 [17 CFR 230.144] under the Securities Act of 1933 (the "Securities Act") [15 U.S.C. 77a et seq., as amended].

The Commission published proposed Rule 242 for comment in Securities Act Release No. 6121 (September 11, 1979) (44 FR 54258). As adopted, Rule 242 allows certain domestic and Canadian corporate issuers to sell up to $2,000,000 per issue of their securities in any six-month period to an unlimited number of "accredited persons," defined as certain specified institutions, purchasers of $100,000 or more of securities, and executive officers and directors of the issuer, and to 35 other purchasers. If sales are made only to accredited persons, the Rule does not require that the issuer furnish specified information to them. If sales are made to accredited and non-accredited persons, or only to non-accredited persons, the Rule requires that the issuer furnish all purchasers with the same kind of information as that specified in Part I of Form S–18 [17 CFR 239.28] to the extent material, during the transaction and prior to sale. In addition, the issuer must make available to any non-accredited person, upon his written request prior to purchase, any information obtained from the issuer in writing by an accredited person prior to the date of purchase by the non-accredited person. No general advertising or solicitation is permitted. Securities sold pursuant to Rule 242 are deemed to have the same status as if they had been acquired in a transaction pursuant to section 4(2) of the Securities Act and cannot be resold without registration or an exemption therefrom.

Under Rule 242, the issuer must file a notice with the Commission's Office of Small Business Policy, Division of Corporation Finance, at the Commission's principal office in Washington, D.C., 10 days after the first sale of securities in any issue is made in reliance on the Rule and 10 days after the completion of the issue. Every six months until the completion of the issue, the issuer also must file amended notices which disclose facts which have changed since the last notice as to such issue was filed. The notice form calls for certain data regarding the issuer which is necessary for Commission monitoring and rulemaking purposes.

The exemption provided by Rule 242 is in the nature of an experiment. The Commission will monitor closely the use of Rule 242 for an appropriate period to determine whether the Rule has functioned as an effective means for issuers, particularly small issuers, to raise limited amounts of capital through unregistered offerings to the public consistent with the protection of investors. After such period, the Commission will decide whether the Rule ought to be retained, and, if so, whether the conditions for its availability ought to be revised.

This release contains a general discussion of the background, purpose, and effect of the Rule and a brief synopsis of the major provisions of the Rule which will assist in a better understanding of its provisions. In addition, a discussion of the significant public comment received is included.

Background

The Commission currently is engaged in an evaluation of the impact of its rules and regulations on the ability of small businesses to raise capital and the financial and other effects on small businesses of its disclosure policies under the securities acts. In April and May of 1978, the Commission conducted an examination into these matters in 21 days of public hearings held in six cities across the country.[1] Primarily as a result of the views expressed at the hearings, the Commission recently has taken several significant actions designed to ease the impact of the federal securities laws on small business consistent with the protection of investors.[2] The adoption of Rule 242 represents an important step in this process.

Discussion

Rule 242 is designed to address the problems encountered by small businesses in using other exemptive provisions of the Securities Act and rules promulgated thereunder. Commentators at the Commission's small business hearings indicated that existing exemptive rules, particularly Rules 146 [17 CFR 230.146] and 240 [17 CFR 230.240], were not especially helpful to small businesses.

Rule 146 was designed to provide objective standards on which an issuer may rely in claiming the exemption from registration provided in section 4(2) of the Securities Act for transactions not involving any public offering. The commentators at the hearings consistently stated, however, that Rule 146 raises compliance problems for smaller issuers which render the availability of the exemption uncertain. Specifically, Rule 146 requires the issuer to make a subjective determination as to the sophistication of each offeree and each purchaser. In addition, the commentators were uncertain whether Rule 146 compels compliance with current staff guidelines and interpretations as to the requirements of forms and schedules, in those instances in which the issuer must furnish offerees the same information "as would be required to be included" in a particular registration statement or on Schedule I of Regulation A. The Rule's provisions as to omissions of immaterial information, moreover, may make technical violations likely.

Rule 240 also was criticized, although it does not contain offeree or purchaser sophistication standards or a mandatory disclosure requirement. Commentators claimed that Rule 240 is of limited utility because it is available only for offerings of $100,000 or less in 12 months by an issuer whose securities are owned beneficially by not more than 100 persons. The utility of Rule 240 is diminished further by the Rule's prohibition against the payment of commissions for the solicitation of purchasers.

Rule 242 is intended to facilitate small business capital formation in a manner consistent with the protection of investors by addressing the problems encountered by those issuers seeking to utilize the exemptive provisions. The Commission believes that Rule 242 will reduce the currently-perceived uncertainty regarding their use. Specifically, Rule 242, by reference to Part I of Form S–18, specifies the kind of information which must be furnished during the course of an issue and adds a materiality standard to that requirement, rather than requiring all information which would be required to be included in a registration statement on, *e.g.*, Form S–1 [17 CFR 239.11] or in an offering circular pursuant to Regulation A. Also, the Rule does not require the issuer to make any subjective determination regarding the sophistication or financial condition of offerees and purchasers. The issuer need only examine purchasers to determine whether they are accredited or nonaccredited persons based upon the objective criteria set forth in the Rule for purposes of computing the 35-purchaser limit.

The Commission received almost 300 comment letters on proposed Rule 242. Virtually all the letters supported the proposed rule; none opposed its adoption. The only significant body of letters which disagreed with approaches taken in the Rule were those (such as those from the real estate industry) which urged expansion of its availability.

Synopsis

A section-by-section discussion of the Rule follows. The reader's attention, however, is directed to the Rule itself for a complete understanding.

Rule 242

Preliminary notes. The preliminary notes generally follow those found in Rules 146 and 240 and refer to other securities law considerations which are involved in the use of Rule 242. Preliminary Note 6, in particular, advises the user that the statutory exemption from registration which the Rule provides relates to exempt "issues" of securities. An "issue" is not defined either in section 3(b) of the Securities Act or in the Rule. The Note provides guidance as to what factors the Division of Corporation Finance previously has indicated should be considered in determining whether offers and sales should be integrated and, therefore, considered part of a single "issue".

Definitions. Rule 242(a) sets forth definitions of certain terms used in the Rule.

Accredited person. Paragraph (a)(1)(i) defines as an accredited person any bank of the type whose securities are exempt from registration under the Securities Act or any insurance company, any registered investment company, or any Small Business Investment Company licensed by the Small Business Administration. In addition, certain employee plans advised either by a bank, insurance company, or registered investment adviser also qualify as accredited persons.

Some commentators recommended that the class of institutional investors which paragraph (a)(1)(i) defines as accredited persons be expanded. It was proposed that venture capitalists or other entities with either a specified minimum net worth or asset value, or both, be deemed to be accredited persons. The Commission, however, has determined to adopt paragraph (a)(1)(i) substantially as proposed. After it has had an opportunity to monitor the use of the Rule for an appropriate period, the Commission will reconsider whether to enlarge the class of institutions which may be categorized as accredited persons. The Commission notes that it currently has under review a definition of a "business development company" which it published for comment in June 1979 [3] as part of a rule proposal under

[1] A summary of the record of the proceeding is available for public inspection in File No. S7–734 at the Commission's Public Reference Section, 1100 L Street, NW., Washington, D.C. 20549, (202) 523–5360. The hearings were recommended by the Advisory Committee on Corporate Disclosure to the Securities and Exchange Commission, House Comm. on Interstate and Foreign Commerce, 95th Cong., 1st Sess. 511 (Comm. Print No. 95–29, 1977).

[2] A summary of these actions is set forth in Securities Act Release No. 6049 (April 3, 1979) (44 FR 21562). Subsequently, in Securities Act Release No. 6075 (June 1, 1979) (44 FR 33362), the Commission authorized the use of a preliminary offering circular in connection with an underwritten offering pursuant to Regulation A [17 CFR 230.251–264]. In Securities Act Release No. 6136 (October 16, 1979) (44 FR 61941), the Commission announced it would not take enforcement action if an issuer fails to qualify under the applicable provisions of the Trust Indenture Act of 1939 [15 U.S.C. 77aaa et seq., as amended] the trust indenture for a public debt offering of $1,500,000 or less of securities on Form S–18 [17 CFR 239.28].

[3] Investment Advisers Act Release No. 689 (June 19, 1979) (44 FR 37479). The proposed rule would exempt registered investment advisers to such companies from certain provisions of the Advisers Act.

the Investment Advisers Act of 1940 (the "Advisers Act" [15 U.S.C. 80b–1]. Since a "business development company" would be functionally similar to a venture capital company, the Commission believes it appropriate to defer consideration of "accredited person" treatment for venture capital companies until it has defined "business development company" in the current rulemaking proceeding under the Advisers Act.

Paragraph (a)(1)(i) has been amended to delete the specific reference to Individual Retirement Accounts which appeared in proposed Rule 242. Under the final rule, if a plan fiduciary which is a bank, insurance company, or registered investment adviser makes the investment decision, any employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974 ("ERISA") will be an accredited person. The Commission believes that the "prudent man" standard to which Title I of ERISA holds the plan fiduciary provides a desirable check on the plan fiduciary's discretion especially with respect to Individual Retirement Accounts.

In a purely technical revision of proposed Rule 242, the Commission has eliminated the separate reference in paragraph (a)(1)(i) to Minority Enterprise Small Business Investment Companies, since the term "Small Business Investment Company" is inclusive of them.

Paragraph (a)(1)(ii) of the definition of "accredited person" includes purchasers of at least $100,000 of the issuer's securities sold in reliance on Rule 242 who pay for the securities with cash or a cash-equivalent, including certain obligations to pay, or the cancellation of indebtedness. This part of the definition is similar to Rule 146(g)(2)(i)(d). Rule 146(g) limits the number of purchasers of securities offered in reliance on that Rule to 35, as does Rule 242. In calculating the number of purchasers for purposes of determining whether the ceiling has been reached, Rule 146(g)(2)(i)(d) excludes persons who buy at least $150,000 of securities for cash or installments. Rule 242(a)(1)(ii) does not permit the minimum purchase price to be paid in installments which last more than 60 days. Otherwise, Rule 242 follows the approach in Rule 146 but lowers the minimum purchase to $100,000.

Several commentators recommended that the threshold be reduced even further to $50,000. Others found the $100,000 minimum a welcome improvement over the $150,000 minimum in Rule 146(g)(2)(i)(d). The Commission has determined to retain at this time the $100,000 figure originally proposed as the minimum amount of securities an investor must purchase to qualify as an accredited person.

Similarly, the Commission has retained the requirement that an accredited person discharge any obligation to pay for securities within 60 days of the first issuance of the securities. Some commentators recommended that Rule 242 be conformed to Rule 146 by permitting installment payments. The Commission believes, however, that the 60-day limit on obligations to pay is necessary to assure that the accredited person has the economic bargaining power to obtain access to the information he requires to make an informed investment decision.

New paragraph (a)(1)(iii) includes as an accredited person any director or executive officer of the issuer of securities offered in reliance on the Rule. The definition of "executive officer" is contained in new paragraph (a)(3) and is identical to the definition of that term in Rule 240(a)(3). Paragraph (a)(1)(iii) reflects the Commission's determination that, by virtue of his position with the issuer, an executive officer or director will have access to information which is necessary for him to make an informed investment decision about the issuer's securities.

It should be noted that at the time of the sale of the securities an issuer must have reasonable grounds for believing and must believe that those purchasers whom it does not count for purposes of paragraph (e) of the Rule or who do not receive the information specified in paragraph (f) of the Rule meet the definition of "accredited person" in paragraph (a)(1).

Affiliate and predecessor. The definition of "affiliate" in subparagraph (a)(2) of the Rule is derived from Rules 146 and 240. "Predecessor," as defined in subparagraph (a)(4), is similarly defined under Regulation A.

Qualified issuer. Subparagraph (a)(5) provides that the Rule is available to any domestic or Canadian corporate issuer which is not an investment company, a company which is engaged or intends to engage in significant oil, gas, or mining operations, or a company for the securities of which no exemption under Regulation A is available because of the provisions of Rule 252 (c), (d), or (e) of Regulation A. Except for the exclusion of issuers disqualified from using Regulation A, the restrictions on the issuers eligible to use the Rule generally are consistent with similar restrictions recently included in Form S–18.[4]

The Commission excluded any issuer disqualified from using Regulation A from the definition of a qualified issuer in the interest of investor protection. The Commission believes that this safeguard is necessary in light of the experimental nature of Rule 242. Rule 252 (c), (d), and (e) provide that no exemption under Regulation A shall be available for the securities of an issuer, if, among other things, the issuer, any of its predecessors, or any of certain affiliates has been convicted within a certain period of time of an offense involving the purchase or sale of securities or is subject to an order enjoining conduct in connection with the purchase or sale of securities.

Rule 252(f) provides that the Commission may grant relief, upon a showing of good cause, from any disqualification from the use of Regulation A imposed by paragraphs (c), (d), or (e) of Rule 252. Relief similarly may be sought under Rule 242(a)(5)(v), if the issuer otherwise is eligible and wishes to use Rule 242.

A majority of the commentators recommended that the definition of a qualified issuer be significantly expanded. Members of the real estate industry and others connected with it advocated the inclusion of limited partnerships in the definition. They argued that new ventures should not be forced into corporate form to take advantage of Rule 242, since the choice of other than corporate form may be perfectly legitimate. Tax considerations, in particular, may make a limited partnership the optimum vehicle for some businesses. Other commentators recommended that the Commission treat issuers with significant oil and gas or mining operations as qualified issuers for purposes of Rule 242.

The Commission believes it appropriate at this time to limit the definition of qualified issuer and has retained the exclusions originally proposed primarily for two reasons. As noted above, Rule 242 is in the nature of an experiment. After an appropriate period, the Commission will determine whether the availability of the Rule should be broadened. Moreover, the informational requirements of Rule 242 with respect to non-accredited purchasers, *i.e.*, to provide the same kind of information specified in Part I of Form S–18 to the extent material, do not contemplate offerings of limited partnership interests or offerings by issuers engaged in significant oil and gas or mining operations. Form S–18 would not provide guidance as to the specialized disclosure which would be required to be made in connection with any such offering of securities.

[4] *See* Securities Act Release No. 6049 (April 3, 1979) (44 FR 21562).

The Commission is committed to undertaking a general review of the use of Form S–18 in the second quarter of 1980. As part of its review, the Commission will consider whether to revise the Form to make it available to limited partnerships and companies engaged in oil and gas or mining operations. It is possible that as a result of this review the Commission will make changes in the definition of "qualified issuer" in Rule 242.

Securities of the issuer. This term is defined in subparagraph (a)(6) to include within the securities offered and sold by the issuer those securities issued by affiliates who became affiliates in the past year and by predecessors. This type of definitional provision is similar to one found in Regulation A. The purpose of such a provision is to prevent an issuer from setting up numerous corporate entities which it controls and causing each of these entities to make offerings pursuant to Rule 242, thereby avoiding the Rule's dollar ceiling.

Conditions to be met. Rule 242(b) points out that, in order for a qualified issuer to have a valid exemption for each issue of its securities offered and sold pursuant to Rule 242, the issuer must satisfy all of the Rule's conditions. "Issue" is not defined in Section 3(b) or in Rule 242. Determination of whether separate sales of securities are part of the same issue and thus must be deemed to be integrated depends upon a consideration of traditional integration factors concerning the methods of sale and distribution employed to effect the offering and the disposition of the proceeds. In order to assist the issuer in determining which offers and sales constitute parts of a single issue, paragraph (b) contains a qualified safe harbor from integration. This safe harbor is fashioned after a similar concept contained in Rule 146(b)(1) and provides that any sales of the issuer's securities more than six months prior to a Rule 242 offer or sale and any offers and sales after the six-month period following a Rule 242 offer or sale will not be integrated with the Rule 242 issue. However, normal integration principles will apply to any such sales outside the two six-month periods if the issuer makes an offer or sale of securities of the same or a similar class, other than offers or sales pursuant to any section 3(b) exemption or any employee plan as defined in Rule 16b–3 [17 CFR 240.16b–3] under the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq., as amended] in the six months before or after the Rule 242 offers or sales.[5]

In the original proposal, only sales pursuant to a Regulation A exemption were permitted within the two six-month periods without rendering the safe harbor inoperative. In the final rule, first, the safe harbor continues to be effective despite transactions under any section 3(b) exemption during the six months before and after the Rule 242 issue. The new provision is intended to allow an issuer greater flexibility in its capital-raising programs, especially since the $2,000,000 aggregate offering price ceiling in paragraph (c) limits the potential for the issuer to raise large sums by circumventing the registration provisions of the Securities Act through multiple offerings pursuant to section 3(b). Secondly, offers or sales pursuant to employee plans have been added to those transactions which will not render the safe harbor inoperative if made during the applicable six-month periods. This change alleviates the public commentators' fear that continuous offers pursuant to outstanding employee stock options, sales of the underlying securities upon exercise of the options, or offers or sales pursuant to employee stock purchase plans could result in the loss of the issuer's safe harbor.

Limitations on aggregate offering price of each issue. Paragraph (c) limits the amount of each issue of securities sold pursuant to Rule 242 to the amount specified in section 3(b), which presently is $2,000,000.

Solely for purposes of calculating this aggregate dollar limit, an issuer must include the aggregate gross proceeds from all section 3(b) sales of securities of the issuer, other than Regulation A sales under an employee plan, in the six months preceding the commencement of and during the Rule 242 issue.

The offering price ceiling in Rule 242 differs from the ceiling in other section 3(b) exemptions in that it is computed on a six-month as opposed to a 12-month basis. Subject to the specified exclusion of Regulation A sales pursuant to an employee plan, as more fully discussed below, every sale of securities of the issuer in reliance on a section 3(b) exemption in the six months immediately preceding the commencement of the Rule 242 issue through its completion reduces the permissible dollar amount of subsequent sales in the Rule 242 issue.

[5] It should be noted that the Rule provides no safe harbor from integration as to any offers or sales occurring in the six months immediately before or after a Rule 242 offer or sale.

Under the proposed rule, only sales during the six months preceding the commencement of the Rule 242 issue would have reduced the dollar price ceiling on subsequent sales in that issue. This provision was intended to assure that the combined use of Rule 242 and other section 3(b) exemptions would not exceed $2,000,000 in any six-month period. Consistent with this intent, a revision in the final rule requires that the issuer must also subtract from the aggregate dollar price ceiling all section 3(b) sales of securities of the issuer made during the issue, unless effected pursuant to an employee plan under the Regulation A exemption. This modification to the proposed rule will prevent an issuer which has had no section 3(b) sales of securities in the six months before a Rule 242 issue commences from selling a full $2,000,000 of its securities in a purportedly continuous offering of the Rule 242 issue, despite sales made pursuant to other section 3(b) exemptions during the course of the Rule 242 issue.

In response to the Commission's specific solicitation of comments, several commentators recommended that Regulation A offerings of securities through employee stock options not be aggregated with other section 3(b) offers and sales for purposes of the offering price ceiling on Rule 242 issues. They noted that offerings through employee stock options are unlike most offerings to raise capital, because they primarily are designed to provide employees with additional compensation and an equity interest in a company without an outflow of cash which the company needs. The Commission has determined that offers and sales under employee stock option plans, or under any other employee plan contemplated by Rule 16b–3 under the Exchange Act, made pursuant to Regulation A need not automatically be aggregated with sales of securities of the issuer pursuant to Rule 242.

By its reference to the defined term "securities of the issuer," paragraph (c) of the final rule also clarifies that the computation of the offering price ceiling includes section 3(b) sales by the issuer and section 3(b) sales by affiliates of less than one year and predecessors of the issuer.

The Commission also requested comments as to whether offers and sales under Rule 242 should be excluded from the calculation of the aggregate offering price for purposes of Regulation A. The concept was endorsed by a few commentators. The Commission has deferred consideration of such a proposal until it has had an opportunity

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to reexamine the entire basis on which the Regulation A offering price ceiling is calculated.

In response to comments seeking clarification, Note 2 to paragraph (c) has been amended to explain the basis on which securities which have no determinable market value shall be valued when offered in exchange for non-cash consideration. The new language follows a similar provision in Rule 254(c) of Regulation A.

Limitation on manner of offering. Paragraph (d) of the Rule would prevent general advertising of offers made pursuant to the Rule. This provision is in accordance with similar provisions found in Rules 146 and 240.

Limitation on number of purchasers. In a manner similar to Rule 146(g), paragraph (e) of Rule 242 requires that the issuer reasonably believe that there are not more than 35 non-accredited persons who purchase securities in any issue offered pursuant to Rule 242. The calculation of the number of purchasers follows the methods set forth in Rule 146(g)(2). Paragraph (e)(2)(iv) of Rule 242 specifically excludes accredited persons from the calculation of the number of purchasers for purposes of the ceiling.

The operation of the purchaser limitation may be illustrated as follows: If an issuer sold $1,000,000 of its Class A common stock on March 1, 1980, to 20 non-accredited persons pursuant to Rule 242, then prior to September 1, 1980, it would be permitted to sell only $1,000,000 more of such stock and to no more than 15 non-accredited persons, assuming that all sales of Class A common stock within the six-month period would be deemed to constitute a single issue of the securities. If, instead, the issuer makes an offering of debt securities on May 1, 1980, pursuant to Rule 242 under circumstances which would constitute a separate issue, the issuer could sell no more than $1,000,000 of the debt securities in light of its March sales. The issuer, however, could sell the debt securities to as many as 35 non-accredited persons.

Furnishing of information. Paragraph (f) of the Rule specifies the information which must be given in writing to non-accredited purchasers of the securities of the issuer during the transaction and prior to sale. With the exception that only one year's certified financial statements must be prepared, the issuer must furnish the same kind of information specified in Part I of Form S–18 to the extent material to an understanding of the issuer, its business, and the securities being offered. Failure to include information required by any other registration forms or guides or staff interpretations relating to the informational requirements in registered offerings made pursuant to the Securities Act by itself will not result necessarily in the loss of the Rule's availability. Issuers are reminded, however, of the applicability of the anti-fraud provisions of the federal securities laws and of the civil liability provisions of section 12(2) of the Securities Act.

The reference in the Rule to the furnishing of the same kind of information specified in Part I of Form S–18 to the extent material is intended to provide a guideline to issuers while at the same time alleviating concerns regarding a technical violation of Section 5 of the Securities Act for the omission of information called for by Form S–18 or staff interpretations when such information is not material to the particular issuer and offering involved. The Commission has retained the materiality standard upon consideration of the comments which it specifically solicited as to whether it would be preferable to use the phrase "to the extent applicable" rather than "to the extent material."

If accredited persons are involved in the same transaction they, too, must receive this written information. Futhermore, if accredited persons receive additional information in writing prior to the time any non-accredited person makes his purchase, the non-accredited person must be given access to such information. This provision reflects a relaxation in the Rule, since the orignial proposal would have required all such information automatically to be furnished to a non-accredited person. The final rule requires that the issuer instead furnish a non-accredited person with a written description of additional information which accredited persons have received in writing and thereafter to furnish the non-accredited person such information as he requests in writing prior to his purchase. The description of additional information must be furnished at a time reasonably prior to purchase in order for the non-accredited person to request, obtain, and review any item before making his purchase. The option to receive the detailed information received by accredited persons protects the interests of non-accredited persons involved in the issue while it simultaneously eases the regulatory burden which manadatory delivery of all information would impose on the issuer.

If the issuer files reports pursuant to section 13 or 15(d) of the Exchange Act, it may satisfy the informational requirements of the Rule by furnishing purchasers with its most recent annual report on Form 10–K [17 CFR 249.310], definitive proxy statement, and any other reports filed since the filing of the Form 10–K. In addition, the issuer shall also provide the information required by items 1, 2, 3, and 14 of Part I of Form S–18, if applicable. These items deal with specific information regarding the offering and the use of proceeds.

Paragraph (f)(1)(i) requires the issuer to furnish the same kind of information required by Part I of Form S–18, with one difference. An issuer which registers an offering on Form S–18 must furnish prospective investors with certain certified financial statements for the two most recent fiscal years prepared in accordance with generally accepted accounting principles, as opposed to Regulation S–X [17 CFR 210.1–2 through 210.12–43]. In contrast, Rule 242 requires certification of financial statements for only the most recent fiscal year.

Several commentators opposed this one-year certification requirement. In light of the inherent costs, one commentator recommended that certification be required only in those instances in which Regulation A would require certification, three recommended that certified financial statements be required to be furnished only if available, and another recommended that the requirement be eliminated altogether. The Commission nevertheless has determined that the requirement in paragraph (f)(1)(i) that the most recent fiscal year's financial statements be certified should be retained for the protection of the non-accredited purchasers.

It should be noted that in addition to the narrative and financial information required to be disclosed to investors pursuant to the proposed rule, subparagraph (f)(3) requires that an issuer give prospective investors an opportunity to ask questions and receive answers from the issuer. This provision is similar to that included in Rule 146(e)(2).

In the proposing release, the Commission specifically requested comments as to whether undue burdens would be imposed on issuers if Rule 242 were to require that the information called for by paragraph (f)(1) which is furnished to non-accredited persons, and to accredited persons involved in the same transaction, be filed with the Commission after the completion of the issue for the purpose of monitoring the quality of the disclosure being made in Rule 242 offerings. A few individuals favored a filing reqirement, but the majority of persons who commented were opposed. The opponents believed that after-the-fact review with a view to enforcement would have a chilling effect on Rule 242 issues. Others were concerned that proprietary information about nonpublic companies would become publicly accessible through the Freedom of Information Act [5 U.S.C. 552, as amended] if offering materials had to be filed.

The Commission is appreciative of the commentators' concerns. Accordingly, it has not required that disclosure documents used in connection with a Rule 242 issue be filed at an issue's completion. As an alternative measure, the issuer must undertake to furnish to the Commission upon the staff's written request any information furnished in connection with a Rule 242 issue to non-accredited persons pursuant to paragraph (f)(1). The undertaking appears in the notice of sales to be filed under paragraph (h).

The Commission expects to sample offering materials on a random basis, in order to monitor the type and quality of disclosure being made in Rule 242 offerings. This random survey, together with empirical analyses of the data submitted by issuers on Form 242, will assist the Commission in assessing the effectiveness of Rule 242 as a method of capital formation by small businesses.

Limitation on resale. Paragraph (g) indicates that resales of securities purchased pursuant to the Rule must be made pursuant to either an effective registration statement or a valid exemption from registration. In this regard, an amendment to Rule 144 defines Rule 242 securities as "restricted securities" so that resales may be made in reliance on Rule 144.

Filing of notice of sales. An important purpose of the notice requirement in paragraph (h) is to collect empirical data which will provide a basis for further action by the Commission either in terms of amending existing rules and regulations or proposing new ones. Form 242 is designed to enable an issuer to respond to most questions by checking boxes or by filling in blanks. It is contemplated that a response to Item C.3., which requires a brief description of the issuer's business, would consist only of two or three sentences.

As adopted, Form 242 calls for more information than the proposed notice. The new items which have been added to Form 242 are a reasonable itemization of the expenses of the offering, the use of the net proceeds to the issuer from the offering, the number of accredited and non-accredited purchasers, the aggregate dollar amount of purchases by accredited persons and of purchases by non-accredited persons, the name and address of each broker who receives a commission from the issuer in connection with the Rule 242 issue, and the names and addresses of the issuer's chief executive officer, its affiliates, and promoters involved in the Rule 242 issue. Since Rule 242 is experimental in nature, the new items have been added primarily to elicit information which the Commission expects will be necessary in assessing the effectiveness of Rule 242 as a capital-raising device for small businesses. For example, the expenses of the offering will be studied together with comparable data for registered offerings to determine to what extent capital formation under Rule 242 produces cost savings, and the use of proceeds will be studied to determine the purposes for which Rule 242 is being used. Information about the number of purchasers and dollar amount of their purchases by category will enable the Commission to determine whether the concept of "accredited purchaser" is a useful one and whether persons falling within this category are purchasing securities under the Rule. Information about any broker acting on behalf of the issuer will provide valuable information about the extent of participation by regional brokers in Rule 242 offerings.

The time of filing of the notice has been changed to respond to the comments and to accommodate changes in the periods as to which information must be reported on the Form. The issuer must make an initial filing no later than 10 days after the first sale is made in any issue offered in reliance on the Rule. The issuer must make a final filing no later than 10 days after the completion date of the issue. If the issue is completed before the initial filing is made, a single notice may be filed. The issuer also must file periodic updates every six months until a final notice is filed. After the issuer files the initial notice as to any issue, any subsequent notice need only report information in response to Part D of the Form and any material changes in answers previously made to Parts A through C. It should be noted that failure to file a required notice will result in the loss of the exemption from registration under the Rule.

Amendment to Rule 144

Rule 242 provides that no resales of securities of the issuer may be made pursuant to its terms. A similar provision is found in Rules 146 and 240. Resales of securities originally sold pursuant to these Rules are provided for by Rule 144. Accordingly, the Commission is adopting a corresponding amendment to Rule 144 to allow resales of securities originally sold pursuant to Rule 242 under Rule 144. The amendment includes Rule 242 securities within the definition of "restricted securities" in Rule 144(a)(3).

Operation of Rule 242

Rule 242 will operate prospectively only since there is now no similar exemption under section 3(b). The staff will issue interpretive letters to assist persons in complying with the Rule but will not issue no-action letters concerning whether or not a particular transaction satisfies the requirements of the Rule. As to resales of securities, the staff will continue its present policy of not providing a substantive response to letters involving the following: (1) hypothetical situations, (2) the removal of restrictive legends from securities, (3) whether a person is an affiliate, or (4) requests for a no-action position with respect to securities acquired on or after April 15, 1972, as set forth in a recent interpretive release regarding Rule 144.[6]

Text of Rules

17 CFR Chapter II is amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. By amending paragraph (a)(3) of § 230.144 to read as follows:

§ 230.144 Persons deemed not to be engaged in a distribution and therefore not underwriters.

* * * * *

(a) * * *

(3) The term "restricted securities" means securities acquired directly or indirectly from the issuer thereof, or from an affiliate of the issuer, in a transaction or chain of transactions not involving any public offering or from the issuer in a transaction in reliance on Rule 240 or Rule 242 under the Act or which were issued by an issuer in a transaction in reliance on Rule 240 or Rule 242 and were acquired in the transaction or chain of transactions not involving any public offering.

* * * * *

2. By adding § 230.242 to read as follows:

§ 230.242 Exemption of limited offers and sales by qualified issuers.

Preliminary Notes

1. Rule 242 relates to transactions exempted from section 5 of the Securities Act of 1933 [the "Act"] [15 U.S.C. 77a et seq., as amended] under section 3(b) of the Act. It does not provide an exemption from the anti-fraud provisions of the federal securities laws or from the civil liability provisions of section

[6] *See* Securities Act Release No. 6099 (August 2, 1979) (44 FR 46752).

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12(2) of the Act or other provisions of the federal securities laws.

2. Nothing in this rule obviates the need for compliance with any applicable state law relating to the offer and sale of securities.

3. Reliance on this rule does not act as an election; the issuer can also claim the availability of any other applicable exemption.

4. This rule is available only to the issuer of the securities and is not available to affiliates or other persons for resales of the issuer's securities. The rule provides an exemption only for the transactions in which the securities are offered or sold by the issuer, not for the securities themselves. The securities acquired in a transaction effected in reliance on the rule are unregistered securities and are deemed to have the same status as if they were acquired in a transaction pursuant to section 4(2) of the Act.

5. In view of the objectives of the rule and the purposes and policies underlying the Act, the rule is not available to any issuer with respect to any transactions which, although in technical compliance with the rule, are part of a plan or scheme to evade the registration provisions of the Act. In such cases registration pursuant to the Act is required.

6. Section 5 of the Act requires that all securities offered by the use of mails or other channels of interstate commerce be registered with the Commission. Congress, however, provided certain exemptions from the registration provisions in section 3(a) of the Act and in section 3(b) allowed the Commission to exempt other securities if it finds that registration is not necessary in the public interest and for the protection of investors by reason of the small amount involved or the limited character of the public offering. Rule 242 is promulgated under section 3(b) and is designed to help certain corporate issuers raise limited amounts of capital from the public by providing objective requirements which are less burdensome than those found in other exemptions from registration under different sections of the Act.

In order to obtain the protection of the rule, all sales which are part of the same issue must meet all of the conditions of the rule. The issuer claiming the availability of the rule has the burden of establishing, in an appropriate forum, that it has satisfied all of the conditions. Broadly speaking, the conditions of the rule relate to limitations on the manner and amount of the issue, the furnishing of information, the number of purchasers, and the filing of notices of sales.

The term "issue" is not defined in section 3(b) or in the rule. Generally, the determination as to whether separate sales of securities are part of the same issue (*i.e.*, are deemed to be "integrated") depends on the particular facts and circumstances. The following factors should be considered in determining whether separate sales are part of the same issue for purposes of section 3(b) and Rule 242:

(a) whether the sales are part of a single plan of financing;

(b) whether the sales involve issuance of the same class of security;

(c) whether the sales have been made at or about the same time;

(d) whether the same type of consideration is received; and

(e) whether the sales are made for the same general purpose.

These same factors are applicable to a determination of whether offers and sales should be integrated for purposes of the exemption under section 4(2) of the Act. *See* Securities Act Release No. 4552 (November 6, 1962) (27 FR 11316).

The text of the rule follows:

(a) *Definitions.* For purposes of this rule only:

(1) *Accredited person.* The term "accredited person" shall mean any person who the issuer and any person acting on its behalf have reasonable grounds to believe and believe, after making reasonable inquiry, comes within any of the following categories at the time of the sale of the securities of the issuer pursuant to this rule:

(i) Any bank as defined in section 3(a)(2) of the Act whether acting in its individual or fiduciary capacity; insurance company as defined in section 2(13) of the Act; employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974 if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such Act, which is either a bank, insurance company or registered investment adviser; investment company registered under the Investment Company Act of 1940; Small Business Investment Company licensed by the U.S. Small Business Administration under section 301 (c) or (d) of the Small Business Investment Act of 1958.

(ii) Any person who purchases $100,000 or more of securities of the issuer per issue sold pursuant to this rule for any combination of (A) cash, or (B) an obligation to pay which provides for full recourse against the purchaser of the securities and for discharge of the obligation within 60 days of the first issuance of the securities, or (C) the cancellation of any indebtedness owed by the issuer to the purchaser; and

(iii) Any director or executive officer of the issuer of the securities being offered pursuant to this rule.

(2) *Affiliate.* The term "affiliate" of a person shall mean a person that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with such person.

(3) *Executive officer.* The term "executive officer" shall mean the president, secretary, treasurer, any vice president in charge of a principal business function (such as sales, administration, or finance) and any other person who performs similar policy-making functions for the issuer.

(4) *Predecessor.* A "predecessor" of an issuer shall mean (i) a person the major portion of whose assets have been acquired directly or indirectly by the issuer or (ii) a person from which the issuer acquired directly or indirectly the major portion of its assets.

(5) *Qualified issuer.* The term "qualified issuer" shall mean any corporation which is incorporated under the laws of the United States or Canada or any State or Province thereof, and has or proposes to have its principal business operations in the United States, if a domestic corporation, or in Canada or the United States if a Canadian corporation, and which:

(i) Is not an investment company;

(ii) Does not engage or intend to engage in oil and gas related operations which exceed the criteria for exemption specified in § 210.3-18(k) of Regulation S-X;

(iii) Does not engage or intend to engage in significant mining operations;

Note—For purposes of this rule, the criteria for exemption specified in § 210.3-18(k) of Regulation S-X for oil and gas operations shall be considered by analogy as an appropriate test for determining the significance of mining operations.

(iv) Is not a majority-owned subsidiary of an issuer which does not meet the qualifications for use of this rule as specified in paragraph (a)(5) (i), (ii), or (iii) of this rule.

(v) Is not an issuer described in Rule 252 (c), (d), or (e) under the Act; *Provided, however,* that for purposes of this rule only:

(A) The term "filing of the notification required by Rule 255" as used in Rule 252 (c), (d), and (e) under the Act shall mean the first sale of securities in any issue in reliance on this rule; and

(B) The term "underwriter" as used in Rule 252 (c), (d), and (e) under the Act shall mean a person which has been or will be paid or given directly or indirectly any commission or similar remuneration for solicitation of purchasers in connection with sales of securities in any issue offered in reliance on this rule;

Provided, further that paragraph (a)(5)(v) of this rule shall not apply to any issuer if the Commission determines, upon a showing of good cause, that it is not necessary under the circumstances that the exemption under this rule be denied. Any such determination by the Commission shall be without prejudice to any other action by the Commission in any other proceeding or matter with respect to the issuer or any other person.

(6) *Securities of the issuer.* The term "securities of the issuer" shall mean:

(i) All securities issued by a qualified issuer;

(ii) All securities issued by any predecessor of a qualified issuer; and

(iii) All securities issued by any affiliate of a qualified issuer which was organized or became such an affiliate within the preceding twelve months.

(b) *Conditions to be met.* All sales which are part of the same issue of securities offered or sold by a qualified issuer in compliance with all the conditions in paragraphs (c) through (h) of this rule shall be exempt from registration under section 5 of the Act pursuant to section 3(b) of the Act. For purposes of identifying which securities constitute a single issue, sales of securities occurring more than six months prior to the commencement of an issue of securities pursuant to this rule and sales of securities and offers in connection therewith occurring at any time after six months from the completion date of the issue pursuant to this rule, shall not be considered part of the same issue so long as there are during neither of said six-month periods any offers or sales of securities by or for the issuer of the same or similar class as those offered or sold pursuant to this rule, other than offers or sales of securities pursuant to any section 3(b) exemption from registration or any employee plan as defined in paragraph (d)(1) of Rule 16b-3 under the Securities Exchange Act of 1934 which meets the conditions in paragraphs (a) through (c) of that rule.

Note.—In the event that the issuer offers or sells securities as to which the safe harbor described in paragraph (b) of this rule is unavailable, see Preliminary Note 6 hereof as to which offers or sales may be deemed to be part of the same issue.

(c) *Limitation on aggregate offering price of each issue.* The aggregate offering price of an issue of securities of the issuer by a qualified issuer shall not exceed the amount allowed under section 3(b) of the Act, less the aggregate gross proceeds from all securities sold pursuant to any section 3(b) exemption (other than securities of the issuer sold pursuant to an exemption from registration provided by Regulation A pursuant to any employee plan as defined in paragraph (d)(1) of Rule 16b-3 under the Securities Exchange Act of 1934 which meets the conditions of paragraphs (a) through (c) of that rule) six months prior to the commencement and during the offering of the issue of securities pursuant to this rule.

Note 1.—The calculation of the aggregate offering price may be illustrated as follows: If an issuer sold $500,000 of its securities on June 1, 1980 in reliance on this rule, $50,000 on September 1, 1980 pursuant to Rule 240, and an additional $200,000 on October 1, 1980 pursuant to Regulation A, the issuer would be permitted to sell only $1,250,000 more until December 1, 1980, since until that date the issuer must count all three prior sales toward the present section 3(b) $2,000,000 limit. However, if the issuer made its fourth sale under this rule on December 1, 1980, the issuer could sell $1,750,000 of its securities, since the June 1, 1980 sale would not be within the preceding six months.

Note 2.—The calculation of the aggregate offering price includes all consideration received by the issuer for the issuance of securities of the issuer, including cash, services, property, notes, cancellation of debt, or other consideration. Where securities which have no determinable market value are offered in exchange for outstanding securities, claims, property, or services, the aggregate offering price thereof shall be computed at the public offering price of securities of the same class for cash, or if no cash offering is to be made, then upon the basis of the value of the securities, claims, property, or services to be received in exchange, as established by bona fide sales made within a reasonable time, or in the absence of such sales, upon the basis of the fair value of the securities, claims, property, or services to be received in exchange as determined by some accepted standard.

(d) *Limitation on manner of offering.* Neither the issuer nor any person acting on its behalf shall offer or sell securities pursuant to this rule by means of any form of general solicitation or general advertising, including, but not limited to, any advertisement, article, notice or other communication published in any newspaper, magazine or similar medium or broadcast over the television or radio.

(e) *Limitation on number of purchasers.* (1) The issuer shall have reasonable grounds to believe, and after making reasonable inquiry, shall believe, that there are no more than 35 purchasers of each issue of the securities of the issuer from the issuer pursuant to this rule.

Note.—See paragraph (b) of this rule and Preliminary Note 6 as to what may or may not constitute an issue pursuant to this rule.

(2) For purposes of computing the number of purchasers for paragraph (e) only, the following purchasers shall be excluded:

(i) Any relative, spouse, or relative of the spouse of a purchaser who has the same home as the purchaser;

(ii) Any trust or estate in which a purchaser or any of the persons related to him as specified in paragraph (e)(2) (i) or (iii) of this section collectively have 100 percent of the beneficial interest (excluding contingent interests);

(iii) Any corporation or other organization of which a purchaser or any of the persons related to him as specified in paragraph (e)(2) (i) or (ii) of this section collectively are the beneficial owners of all the equity securities (excluding directors' qualifying shares) or equity interests; and

(iv) Any accredited person as defined in paragraph (a)(1).

Note.—The issuer must satisfy all the other provisions of the rule with respect to all purchasers whether or not they are included in computing the number of purchasers under this paragraph.

(3) There shall be counted as one purchaser any corporation or other organization, except that if such entity was organized for the specific purpose of acquiring the securities offered, each beneficial owner of equity interests or equity securities in such entity shall count as a separate purchaser for all provisions of this rule.

(f) *Furnishing of information.* (1) If the issuer sells an issue of securities pursuant to this rule only to accredited persons, the rule does not specify what information must be furnished to such persons. In any offering of an issue of securities involving only non-accredited persons, or both accredited and non-accredited persons, the issuer shall furnish the following information to all purchasers in writing during the course of such offering and prior to sale:

(i) The same kind of information as that specified in Part I of Form S-18, to the extent material to an understanding of the issuer, its business, and the securities being offered; *Provided, however,* That only the financial statements for the issuer's most recent fiscal year must be certified by an independent public accountant or a certified public accountant.

(ii) Such further material information, if any, as may be necessary to make the required information, in the light of the circumstances under which it is furnished, not misleading.

(iii) An issuer that is subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934 may satisfy the informational requirements of paragraph (f)(1)(i) by furnishing purchasers with the information contained in its most recent annual report, definitive proxy statement, and any other reports or documents required to be filed by the issuer pursuant to section 13(a) or 15(d) of the Securities Exchange Act since the filing of such annual report, except that the information required by items 1, 2, 3, and 14 of Part I of Form S-18, if applicable, shall also be provided.

(2) The issuer also shall make available to each offeree, during the

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course of the transaction and prior to sale, the opportunity to ask questions of, and receive answers from, the issuer or any person acting on its behalf concerning the terms and conditions of the offering and to obtain any additional information, to the extent that the issuer possesses such information or can acquire it without unreasonable effort or expense, necessary to verify the accuracy of the information obtained pursuant to paragraph (f)(1).

(3) At a reasonable time prior to the purchase of securities by any non-accredited person in a transaction pursuant to this rule, the issuer also shall furnish such purchaser a brief description in writing of any written information obtained from the issuer in connection with the offering by any accredited person prior to the date of purchase by the non-accredited person. The issuer shall furnish any portion or all of such information to such non-accredited person upon his written request if made prior to the date of his purchase.

(g) *Limitation on resale.* In determining the availability of an exemption from registration for resale of securities acquired in a transaction pursuant to this rule, such securities shall be deemed to have the same status as if they had been acquired in a transaction pursuant to section 4(2) of the Act and cannot be resold without registration under the Act or exemption therefrom. The issuer shall exercise reasonable care to assure that the purchasers of the securities are not underwriters within the meaning of section 2(11) of the Act, which reasonable care shall include, but not necessarily be limited to:

(1) Making reasonable inquiry to determine if the purchaser is acquiring the securities for his own account or on behalf of other persons;

(2) Informing the purchaser of the restrictions on resale; and

(3) Placing a legend on the certificate or other document evidencing the securities stating that the securities have not been registered under the Act and setting forth or referring to the restrictions on transferability and sale of the securities.

(h) *Filing of notice of sales.*

(1) The issuer shall file with the Commission five copies of a notice on Form 242 [17 CFR 239.242]:

(i) No later than 10 days after the first sale of securities in any issue is made in reliance on this rule;

(ii) No later than 10 days after the completion date of the offering of such issue: *Provided, however,* That only one notice need be filed for purposes of paragraphs (h)(1) (i) and (ii) under this rule if the offering of the issue is completed within the 10-day period described in paragraph (h)(1)(i) and the notice is filed no later than at the conclusion of that period but subsequent to the completion of the offering of the issue; and

(iii) Every six months after the first sale of securities in the issue is made in reliance on this rule, unless the final notice required by paragraph (h)(1)(ii) of this rule has been filed.

(2) Every notice on Form 242 shall be signed by a duly authorized officer of the issuer and shall contain an undertaking by the issuer to furnish to the Commission, upon the written request of its staff, the information furnished by the issuer to any non-accredited person pursuant to paragraph (f)(1) of this rule.

(3) If more than one notice is required to be filed pursuant to paragraph (h)(1) of this rule as to any issue of securities offered in reliance thereon, notices other than the original notice need only report the information required by Part D and any material change in the facts from those set forth in Parts A through C of the original notice.

(4) A notice on Form 242 shall be deemed to be filed with the Commission for purposes of paragraph (h)(1) of this rule:

(i) As of the date on which it is received at the Commission's principal office in Washington, D.C., or

(ii) As of the date on which the notice is mailed by means of United States registered or certified mail to the Commission's Office of Small Business Policy, Division of Corporation Finance, at the Commission's principal office in Washington, D.C., if the notice is delivered to such office after the date on which it is required to be filed.

BILLING CODE 8010-01-M

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

3. By adding § 239.242 as follows:

§ 239.242 Form 242, notice of sales of securities pursuant to § 230.242 of this chapter.

(a) Five copies of a notice on this form shall be filed with the Commission:[7]

(1) No later than 10 days after the first sale of securities in any issue is made in reliance on Rule 242 (§ 230.242 of this chapter);

(2) No later than 10 days after the completion date of the offering of such issue: *Provided, however,* That only one notice on this form need be filed for purposes of paragraphs (h)(1) (i) and (ii) of the rule if the offering of the issue is completed within the 10-day period described in paragraph (h)(1)(i) and this form is filed no later than at the conclusion of that period but subsequent to the completion of the offering of the issue; and

(3) Every six months after the first sale of securities in the issue is made in reliance on the rule, unless the final notice required by paragraph (h)(1)(ii) of the rule has been filed.

(b) If more than one notice is required to be filed pursuant to paragraph (h)(1) of the rule as to any issue of securities offered in reliance thereon, notices other than the original notice need only report the information in resonse to Part D and any material changes in Parts A through C from the facts previously reported.

(c) A notice on this form shall be deemed to be filed with the Commission for purposes of paragraph (h)(1) of the rule:

(1) As of the date on which it is received at the Commission's principal office in Washington, D.C.; or

(2) As of the date on which the notice is mailed by means of United States registered or certified mail to the Commission's Office of Small Business Policy, Division of Corporation Finance, at the Commission's principal office in Washington, D.C., if the notice is delivered to such office after the date on which it is required to be filed.

[7] Securities and Exchange Commission, Washington, D.C. 20549.

NAME

ADDRESS OF EXECUTIVE OFFICES

CITY STATE ZIP

AREA CODE TELEPHONE NUMBER

ADDRESS OF PRINCIPAL BUSINESS OPERATIONS

CITY STATE ZIP

AREA CODE TELEPHONE NUMBER

General Instructions. Please check the box(es) for the appropriate response(s) to each item or fill in the blanks. Please answer all items. If the answer to any question is "none," please indicate. If additional space is required, indicate the answer on the attached continuation sheet.

A. Basic Identification of Issuer.

1. Has the issuer filed any periodic reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934? Yes ☐ No ☐

   If yes, please indicate the file number of the docket in which the periodic reports are filed. ___-___

2. Please indicate the issuer's IRS employer identification number. _____

3. Has the issuer been assigned a CUSIP number for its securities? Yes ☐ No ☐

   If yes, please specify the first six (6) digits. ☐☐☐☐☐☐

4. Please check the appropriate box for each exchange or market, if any, where the issuer's securities are traded.

   a. ☐ American Stock Exchange
   b. ☐ Boston Stock Exchange
   c. ☐ Cincinatti Stock Exchange
   d. ☐ Midwest Stock Exchange
   e. ☐ National Association of Securities Dealers
   f. ☐ New York Stock Exchange
   g. ☐ Philadelphia Stock Exchange
   h. ☐ Pacific Stock Exchange

FORM 242 SEC USE ONLY

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
NOTICE OF SALES OF SECURITIES
PURSUANT TO RULE 242

SEC USE ONLY Serial-Region 15- -

Nature of this filing with respect to this issue.

NEW AMENDED

Original ☐ ☐
Combined Original and Final ☐ ☐
Six-Month Update ☐ ☐
Final ☐ ☐

Instructions: Five copies of this notice are to be filed with the Commission: (a) no later than 10 days after the first sale of securities in any issue is made in reliance on the rule; (b) no later than 10 days after the completion date of the offering of such issue (except that only one notice need be filed if the offering of the issue is completed within the 10-day period described in "(a)" above and this notice is filed no later than at the conclusion of that period but subsequently to the completion of the issue); and (c) every six months after the first sale of securities in the issue is made in reliance on the rule, unless a final notice has been filed in accordance with "(b)" above. If more than one notice is required to be filed as to any issue of securities offered in reliance on the rule, notices other than the original notice need only report the issuer's name and information in response to Part D and any material changes in Parts A through C from the facts previously reported. This notice shall be deemed to be filed with the Commission for purposes of the rule as of the date on which the notice is received by the Commission, or, if delivered to the Commission after the date on which it is due, as of the date on which it is mailed by means of United States registered or certified mail to the Commission's Office of Small Business Policy, Division of Corporation Finance, at the Commission's principal office at 500 North Capitol Street, Washington, D.C. 20549.

Issuer's Name, Address, and Telephone Number (including area code).

Instruction. State the address of the issuer's executive offices and, if different, the address at which the issuer's principal business operations are conducted or proposed to be conducted.

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Other i. ☐

Please specify

SEC USE ONLY

None j. ☐

5. Please indicate the issuer's Standard Industrial Classification (SIC) at the 3 or 4 digit level.

B. Statistical Information about the Issuer

Instruction. Please enter the letter for the appropriate response to each item in Part B in the box indicated.

1. What were the issuer's gross revenues at the end of its latest fiscal year?

a. Less than $500,000
b. $500,001 - $1,000,000
c. $1,000,001 - $3,000,000
d. $3,000,001 - $5,000,000
e. $5,000,001 - $10,000,000
f. $10,000,001 - $25,000,000
g. $25,000,001 - $100,000,000
h. Over $100,000,000

2. What were the issuer's total consolidated assets as of the end of its latest fiscal year?

a. Less than $50,000
b. $50,000 - $250,000
c. $250,001 - $500,000
d. $500,001 - $1,000,000
e. $1,000,001 - $3,000,000
f. $3,000,001 - $5,000,000
g. $5,000,001 - $10,000,000
h. Over $10,000,000

3. What was the issuer's net income at the end of its latest fiscal year?

a. None
b. Less than $50,000
c. $50,000 - $250,000
d. $250,001 - $500,000
e. $500,001 - $1,000,000
f. $1,000,001 - $3,000,000
g. $3,000,001 - $5,000,000
h. $5,000,001 - $10,000,000
i. Over $10,000,000

4. What was the issuer's shareholders' equity at the end of its latest fiscal year?

a. Less than $25,000
b. $25,000 - $125,000
c. $125,001 - $250,000
d. $250,001 - $500,000
e. $500,0001- $1,000,000
f. $1,000,001 - $3,000,000
g. $3,000,001 - $5,000,000
h. $5,000,001 - $10,000,000
i. Over $10,000,000

5. How many shareholders did the issuer have at the end of its latest fiscal year?

a. 1 - 10
b. 11 - 25
c. 26 - 50
d. 51 - 99
e. 100 - 199
f. 200 - 299
g. 300 - 399
h. 400 - 499
i. 500 or more

6. How many shares were held by non-affiliated shareholders at the end of the issuer's latest fiscal year?

a. Less than 500,000
b. 500,001 - 1,500,000
c. 1,500,001 - 2,500,000
d. 2,500,001 - 3,500,000
e. 3,500,001 - 5,000,000
f. Greater than 5,000,000

7. How many shares were outstanding at the end of the issuer's latest fiscal year?

a. Less than 500,000
b. 500,001 - 1,500,000
c. 1,500,001 - 2,500,000
d. 2,500,001 - 3,500,000
e. 3,500,001 - 5,000,000
f. Greater than 5,000,000

8. How many full-time employees did the issuer have at the end of its latest fiscal year?

a. 0
b. 1 - 5
c. 6 - 10
d. 11 - 20
e. 21 - 30
f. 31 - 40
g. 41 - 50
h. 101 - 250
i. 251 - 500
j. 501 - 750
k. Over 750

9. How many part-time employees did the issuer have at the end of its latest fiscal year?

a. 0
b. 1 - 5
c. 6 - 10
d. 11 - 20
e. 21 - 30
f. 31 - 40
g. 41 - 50
h. Over 50

C. Brief Narrative Information About the Issuer.

1. In what year was the issuer incorporated?

2. In what state is the issuer incorporated? Please enter the standard two-letter U. S. Postal Service abbreviation. Enter "CN" if the issuer is incorporated in Canada.

3. Please briefly describe the issuer's business.

4. Please list the full name and address of the chief executive officer, each affiliate, and each promoter of the issuer involved in the offering of securities as to which sales pursuant to Rule 242 are reported on this Form. The term "promoter" includes—

(a) Any person who, acting alone or in conjunction with one or more other persons, directly or indirectly takes the initiative in founding and organizing the business or enterprise of an issuer; or
(b) Any person who, in connection with the founding or organizing of the business or enterprise of an issuer, directly or indirectly receives in consideration of services or property, or both services and property, 10 percent or more or any class of securities of the issuer or 10 percent or more of the proceeds from the sale of any class of securities. However, a person who receives such securities or proceeds either solely as brokerage commissions or solely in consideration of property shall not be deemed a promoter within the meaning of this paragraph if such person does not otherwise take part in founding and organizing the enterprise.

CEO Aff Pro ☐ ☐ ☐

NAME

ADDRESS CITY STATE ZIP

CEO Aff Pro ☐ ☐ ☐

NAME

ADDRESS CITY STATE ZIP

5. Please list the full name and address of each person who has been or will be paid or given directly or indirectly any commission or similar remuneration for solicitation of purchasers in connection with sales of securities in any offering pursuant to Rule 242.

NAME SEC USE ONLY 8/-

ADDRESS CITY STATE ZIP

NAME SEC USE ONLY 8/-

ADDRESS CITY STATE ZIP

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D. Section 3(b) Sales Limit and Other Information About the Offering

1. Type and aggregate offering price of securities intended to be sold pursuant to Rule 242 in this issue.

a. Debt $_____

b. Equity $_____

c. Convertible $_____

2. Number of accredited and non-accredited persons who have purchased securities in this issue in transactions in reliance on Rule 242 and aggregate dollar amounts of their purchases to date.

	Number of Purchasers	Aggregate Dollar Amount
Accredited persons	_____	$_____
Non-accredited persons	_____	_____
Total	_____	$_____

3. Dollar amount of all section 3(b) sales of securities (other than sales pursuant to an exemption from registration provided by Regulation A pursuant to any employee plan as defined in paragraph (d)(1) of Rule 16b-3 under the Securities Exchange Act of 1934 which meets the conditions of paragraphs (a) through (c) of that rule) in the preceding six months by type and exemption.

Exemption	Type	Dollar Amount
Rule 242	_____	$_____
Regulation A	_____	_____
Rule 240	_____	_____
Total		$_____

4. Furnish a reasonably itemized statement of all expenses in connection with the issuance and distribution of the securities being offered in this issue. Insofar as practicable, give amounts for the items listed below. The information may be given as subject to future contingencies. If the amounts of any items are not known, estimates designated as such by an asterisk ("*") shall be given.

a. Blue Sky Fees and Expenses	$_____
b. Transfer Agents' Fees	_____
c. Printing and Engraving Costs	_____
d. Legal Fees	_____
e. Accounting Fees	_____
f. Engineering Fees	_____
g. Sales Commissions (including Finders' Fees)	_____
h. Other Expenses (Identify)	_____
_____	_____
_____	_____
Total	$_____

5. Indicate below the amount of the gross proceeds to the issuer (other than amounts specified in Item D.4. above) proposed to be used or used for each of the following purposes:

	Payments to officers, directors and affiliates	Payments to others
a. Salaries and fees	$_____	$_____
b. Purchase of real estate	_____	_____
c. Purchase and installation of machinery and equipment	_____	_____
d. Construction of plant building and facilities	_____	_____
e. Development expense (product development, research, patent costs, etc.)	_____	_____
f. Purchase of raw materials, inventories, supplies, etc.	_____	_____
g. Selling, advertising, and other sales promotion	_____	_____
h. Acquisition of other businesses	_____	_____
i. Repayment of loans	_____	_____
Other - please specify		
j. _____	_____	_____
k. _____	_____	_____
l. _____	_____	_____
m. _____	_____	_____
n. _____	_____	_____
Total	$_____	$_____

E. Undertaking

The undersigned issuer hereby undertakes to furnish to the Securities and Exchange Commission, upon the written request of its staff, the information furnished by the issuer to any non-accredited person pursuant to paragraph (f)(1) of Rule 242.

Pursuant to the requirements of Rule 242 under the Securities Act of 1933, the issuer has duly caused this notice to be signed on its behalf by the undersigned duly authorized officer or person acting in a similar capacity.

Date of Notice: _____ Issuer _____

_____

_____
OFFICER

Instruction: Print the name and title of the signing representative under his signature. At least one copy of the notice filed with the Commission's principal office in Washington, D.C. shall be manually signed. Any copies not manually signed shall bear typed or printed signatures.

[Attention: Intentional misstatements or omissions of fact constitute Federal criminal violations (see 18 U.S.C. 1001).]

FORM 242 Continuation Sheet

Item of Form (identify) _____ Answer _____

BILLING CODE 8010-01-C

Effective Date. Rule 242, Form 242 and related amendments to Rule 144 are effective on February 25, 1980. They are not effective as to offers or sales in any issue commenced prior to that date. [Secs. 3(b), 4(l), 19(a), 48 Stat. 75, 77, 85; sec. 209, 48 Stat. 908; 59 Stat. 167; sec. 6, 68 Stat. 684; sec. 12, 78 Stat. 580; 84 Stat. 1480; sec. 308(a)(1), (2), (3), 90 Stat. 56, 57; sec. 18, 92 Stat. 275; sec. 2, 92 Stat. 962; 15 U.S.C. 77c(b), 77d(l), 77s(a)]

Statutory Authority. The Commission hereby adopts Rule 242, Form 242, and an amendment to Rule 144 pursuant to sections 3(b), 4(l), and 19(a) of the Securities Act of 1933.

The Commission finds that the changes in Rule 242 and Form 242 already have been generally subject to comment in Securities Act Release No. 6121 or are technical in nature or less burdensome than previous proposals so that further notice and rulemaking procedures pursuant to the Administrative Procedure Act [5 U.S.C. 553] are not necessary.

By the Commission.

George A. Fitzsimmons,

Secretary.

January 17, 1980.

[FR Doc. 80-2565 Filed 1-25-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 3

[Docket No. RM79-59; Order]

Regulations Amending Rules Relating to Delegations of the Commission's Authority to the Director of the Office of Electric Power Regulation

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission hereby adopts regulations which delegate to the Director of the Office of Electric Power Regulation the authority to grant or deny uncontested applications for exemptions, extensions and withdrawal petitions pursuant to section 133 of the Public Utility Regulatory Policies Act of 1978 (Pub. L. 95-617) (18 CFR 290.601, 290.602, 290.603).

DATES: Effective date—January 28, 1980. Comment date—February 8, 1980.

FOR FURTHER INFORMATION CONTACT: Tom Runge, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 3329, Washington, D.C. 20426, (202) 357-8318.

January 23, 1980.

A. Background

On August 14, 1978, the Commission approved a rulemaking, Delegations of Authority (Phase I), Docket No. RM78-19, 43 FR 36433, which served to transfer decision-making authority for decisions of a largely routine and ministerial nature downward within the Commission, to its various office directors, so that the Commission can concentrate its major efforts on issues of greater significance. The decisional responsibility for perhaps as many as 7,000 decisions annually was delegated to the office directors under that rule. Subsequently, on July 23, 1979, the Commission added to these delegations by adopting additional ones, in the Phase II Delegation, Docket No. RM79-59, 44 FR 46449 (August 8, 1979).

As a continuation of this process, the Commission has decided to approve a further delegation of authority to the Director of the Office of Electric Power Regulation.

The authority to be delegated arises under section 133 of the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, which requires electric utilities to gather information on costs of electric service, and file that information with the Commission. The Commission is granted broad authority in section 133 to specify by rule the type of information to be gathered, and the manner in which these data are to be filed and published.

Pursuant to this statutory mandate, the Commission issued on September 28, 1979, final regulations implementing section 133. Order No. 48, 44 FR 58687 (October 11, 1979).

These final regulations, 18 CFR 290, authorize the Commission, *inter alia*, to grant exemptions from the section 133 requirements, 18 CFR 290.601; to grant extensions of deadlines for filing certain data, 18 CFR 290.602; and to grant petitions for withdrawals of exemptions and extensions, 18 CFR 290.603.

It is these three authorities—the power to grant exemptions, extensions, and withdrawal petitions pursuant to 18 CFR 290.601, 290.602, and 290.603—that are hereby delegated to the Director of the Office of Electric Power Regulation.

There are two important qualifications to the Director's exercise of these delegated authorities: First, the Director may grant or deny the application for the exemption, extension, or withdrawal petition only if it is "uncontested". "Uncontested" means, pursuant to 18 CFR 1.1(f)(23), that no petition for, or notice of, intervention in opposition to the application has been made under 18 CFR 1.8 and received by the Commission. In sum, receipt of an intervention in opposition to the application serves to terminate the Director's authority to determine the application, and brings the application directly before the Commission.

Second, as is true of all other exercises of delegated authority, "any interested person" may, pursuant to 18 CFR 1.7, appeal the Director's decision.

This rule is based upon the authority granted the Commission in section 401(f) of the Department of Energy Organization Act, Pub.L. 95-91, "to establish such procedural and administrative rules as are necessary to the exercise of its functions."

B. Summary

Under new 18 CFR 3.5(g)(37), there is delegated to the Director of the Office of Electric Power Regulation the authority to grant or deny uncontested applications for exemptions, extensions, and withdrawal petitions pursuant to 18 CFR 290.601, 290.602, and 290.603.

C. Effective Date

The Commission hereby makes this regulation effective upon the date of issuance of this order. The regulation concerns agency practice and procedure; accordingly, pursuant to 5 U.S.C. 553 (b) and (d), public notice and comments are not required, and the regulation may be promulgated, effective immediately. The Commission, nevertheless, invites interested members of the public to submit comments regarding this new delegation. The Commission and its staff will evaluate any information received from interested persons and will consider appropriate revisions to this regulation based on comments received. An original and 14 copies should be filed by February 8, 1980, with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. All comments should refer, on the cover page, to Docket No. RM79-59.

(Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.*; Public Utility Regulatory Policies Act, Pub. L. 95-617).

For the reasons stated herein, Part 3 of Subchapter A of Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

Section 3.5 is amended in paragraph (g) by adding a new subparagraph (37) to read as follows:

§ 3.5 Delegations of authority

The Commission authorizes:

* * * * *

(g) The Director of the Office of Electric Power Regulation or in the Director's absence, the Director's designee, to:

* * * * *

(37) Grant or deny uncontested applications for exemptions pursuant to § 290.601 of this chapter, uncontested applications for extensions pursuant to § 290.602 of this chapter, and uncontested applications for withdrawals of exemptions and extensions pursuant to § 290.603 of this chapter.

[FR Doc. 80-2697 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

18 CFR Part 4

[Docket No. RM79-23]

Regulations Prescribing General Provisions for Preliminary Permit and License Applications; Regulations Governing Applications for, Amendments to, and Cancellation of Preliminary Permits; Correction

January 22, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Erratum Notice.

SUMMARY: The Commission's final rule in Docket No. RM79-23 (Order No. 54), issued October 22, 1979 (44 FR 61328, October 25, 1979) on preliminary permit and license applications contains an incorrect cross-reference in the last sentence of § 4.33(a), p. 45 *mimeo*, 44 FR 61335. "§ 4.31(c)(3)" is corrected to read "§ 4.31(c)(2)."

FOR FURTHER INFORMATION CONTACT: James Hoecker, Office of the General Counsel, Regulatory Development, Room 8106-A, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8161.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2744 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

18 CFR Part 46

[Docket No. RM80-8; Order No. 67]

Public Utility Filing Requirement Under Section 211 of the Public Utility Regulatory Policies Act of 1978; Correction

January 21, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Errata notice.

SUMMARY: This notice contains corrections of § 46.3(a) of the Federal Energy Regulatory Commission's regulations specifying reporting requirements concerning certain interlocking positions in the public utility's industry. The order inadvertently omitted information as to the number of copies to be filed and where the list is to be made available.

FOR FURTHER INFORMATION CONTACT: Colette K. Bohatch, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8113, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8079.

SUPPLEMENTARY INFORMATION: The Final Regulations entitled Public Utility Filing Requirement (45 FR 3568, January 18, 1980), issued on January 11, 1980 by the Federal Energy Regulatory Commission are corrected in § 46.3(a) (45 FR 3569) to read as follows:

§ 46.3 Purchaser list.

(a) *Compilation and filing of list.* On or before January 31 of each year, each public utility shall compile a list of the purchasers described in paragraph (b) and shall identify each purchaser by name and principal business address. An original and two (2) copies of such list shall be filed with the Commission by the public utility and the list shall be made publicly available through its principal business office.

* * * * *

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2736 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

18 CFR Part 284

[Docket No. RM79-34]

Transportation Certificates for Natural Gas for the Displacement of Fuel Oil; Erratum Notice

AGENCY: Federal Energy Regulatory Commission.

ACTION: Erratum notice.

SUMMARY: This notice contains a technical correction to the reporting requirements for Order No. 30 fuel oil displacement transactions.

FOR FURTHER INFORMATION CONTACT: Robert C. Platt, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8454.

SUPPLEMENTARY INFORMATION: In the Federal Energy Regulatory Commission's Final Rule issued May 17, 1979, entitled Transportation Certificates for Natural Gas for the Displacement of Fuel Oil (44 FR 30323, May 25, 1979), in § 284.207(c)(3) (44 FR 30330), "Mcf" should read "MMBtu".

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2659 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 260

Education and Training Programs

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the Federal share payable for tuition and direct educational expenses for certain State and local highway agency employees from 70 percent to 75 percent. This amendment implements recent legislation which increased the Federal share.

DATES: This amendment is effective on January 18, 1980. Obligations incurred after November 9, 1979, are eligible for Federal-aid participation at the new 75 percent share.

FOR FURTHER INFORMATION CONTACT: Jack T. Coe, National Highway Institute, 202-426-9141; or S. James Wiese, Office of the Chief Counsel, 202-426-0762, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Procedures for the administration of Federal-aid funds for education and training of State and local highway agency employees are contained in 23 CFR Part 260, Subpart D. Section 260.407(b) permits Federal-aid funds to cover 70 percent of the cost of tuition and direct educational expenses. The statutory authority for this expenditure is provided by 23 U.S.C. 321(b).

Section 11 of Public Law 96-106 (93 Stat. 798, November 9, 1979) amends 23

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U.S.C. 321(b) and changes the Federal share payable from 70 to 75 percent. The statutory change provided no discretion and was effective immediately. Obligations incurred after November 9, 1979, are eligible for Federal-aid participation at the new 75 percent share. This amendment to 23 CFR 260.407(b) merely implements the statutory change.

For the foregoing reasons, notice and comment rulemaking could not reasonably be anticipated to result in the receipt of useful information. In addition, a 30-day delay in effective date would serve no useful purpose.

§ 260.407 [Amended]

In consideration of the foregoing, 23 CFR 260.407(b) is amended by striking the number "70" and by inserting the number "75" in its place.

(23 U.S.C. 321(b), 315; 49 CFR 1.48(b)).

Note.—The FHWA has determined that this document does not contain a significant regulation under the criteria issued by the Department of Transportation pursuant to Executive Order 12044. Issuance of this amendment will have no economic or other relevant consequences beyond those of the action taken by Congress in amending 23 U.S.C. 321(b). Accordingly, no separate regulatory evaluation has been prepared.

Issued on: January 18, 1980.

John S. Hassell, Jr.,

Deputy Administrator.

[FR Doc. 80-2811 Filed 1-25-80; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 10

[T.D. 7668; LR-149-79]

Temporary Income Tax; Extension of 2-Year Grace Period With Respect to Foreclosure Property Held by a Real Estate Investment Trust

AGENCY: Internal Revenue Service, Treasury.

ACTION: Amendment of Temporary Regulations.

SUMMARY: This document amends temporary income tax regulations that apply to an extension of the grace period for foreclosure property held by a real estate investment trust (REIT). Changes in the applicable law were made by the Revenue Act of 1978 (the 1978 Act).

DATES: The amendment applies to certain foreclosure property the grace period (including extensions) for which expires after December 31, 1977. The amendment extends the deadline for filing certain requests for an extension of the grace period until March 28, 1980.

FOR FURTHER INFORMATION CONTACT:

Charles M. Whedbee of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (202-566-3487, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

Section 856(e)(3) of the Code provides rules for extensions of the 2-year grace period for foreclosure property held by a REIT. Before amendment by the 1978 Act, section 856(e)(3) provided that the Secretary or his delegate could grant a REIT no more than two extensions, neither of which could exceed 1 year. The 1978 Act amended section 856(e)(3) to allow any number of extensions, subject to the limitation that the grace period cannot be extended beyond the date that is 6 years after the REIT acquired the property. The amendment to the regulations made by this document makes clear that the 1978 Act amendment is effective for extensions granted after November 6, 1978, with respect to extension periods beginning after December 31, 1977.

Section 10.3 of the Income Tax Regulations (temporary regulations containing rules for extensions of the grace period) provides that, in general, a request for an extension must be filed more than 60 days before the date the grace period would otherwise expire. The 1978 Act amendment to section 856(e)(3), however, in effect allows a retroactive additional extension of grace periods that could not be extended beyond November 6, 1978, under prior law. Accordingly, this document provides an exception to the general filing deadline for REITs that would have been barred from being granted an extension by the limitation on the number and length of extensions in section 856(e)(3), as in effect before the 1978 Act. The extended filing period under this exception expires on March 28, 1980.

Drafting Information

The principal author of this regulation is Charles M. Whedbee of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Waiver of Certain Procedural Requirements of Final Treasury Directive

A determination has been made by Jerome Kurtz, Commissioner of Internal Revenue, that there is need for immediate guidance in order to make clear that the amendment to section 856(e)(3) of the Code made by section 363(c) of the Revenue Act of 1978 allows real estate investment trusts to be granted extensions of certain foreclosure property grace periods that could not have been extended under prior law and would otherwise expire after December 31, 1977. Because of the immediate need for this regulation, compliance with the procedural requirements of paragraphs 8 through 14 of the final Treasury directive (43 FR 52121), relating to improving regulations, would be impractical and, therefore, these requirements have not been followed.

Adoption of amendment to the regulations

Accordingly, § 10.3 of 26 CFR Part 10 is amended as follows:

1. The second sentence of paragraph (c)(1) is deleted and two new sentences are inserted in lieu thereof, to read as set forth below.

2. Paragraph (d)(2) is revised to read as set forth below.

§ 10.3 Extension of 2-year grace period with respect to foreclosure property held by a real estate investment trust.

* * * * *

(c) *Extension of grace period*—(1) * * * In the case of extensions granted after November 6, 1978, with respect to extension periods beginning after December 31, 1977, the district director may grant one or more extensions of the grace period for the property, subject to the limitation that no extension shall extend the grace period beyond the date which is 6 years after the date the REIT acquired the property. In any other case, an extension shall be for a period of not more than 1 year, and not more than two such extensions shall be granted with respect to the property. * * *

* * * * * *

(d) Time for requesting an extension of the grace period. * * *

(2) *Exceptions.* (i) In the case of a grace period which would otherwise expire before August 6, 1976, a request for an extension will be considered to be timely filed if filed on or before June 7, 1976.

(ii) In the case of an extension period beginning after December 31, 1977, a request for an extension filed on or before March 28, 1980, will be considered to be timely if the limitation on the number and length of extensions in section 856(e)(3), as in effect before the amendment made by section 363(c) of the Revenue Act of 1978, would have barred the extension.

* * * * * *

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: January 8, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 80-2855 Filed 1-25-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners; Retroactive Applications

AGENCY: United States Parole Commission.

ACTION: Changed implementation procedures for retroactive guideline application.

SUMMARY: The Commission is revising its procedure for processing prisoner requests for retroactive application of recent changes to its paroling policy guidelines. The procedure is designed to streamline processing of the reduced number of applications for retroactive consideration that the Commission is presently receiving.

EFFECTIVE DATE: March 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Barbara Meierhoefer, Research Unit, U.S. Parole Commission, 320 First Street, NW., Washington, D.C. 20537, Telephone: (202) 724-3095.

SUPPLEMENTARY INFORMATION: On May 4, 1979, the U.S. Parole Commission published in the **Federal Register** (44 FR 26540) substantial revisons to its paroling policy guidelines. In the Implementation Section accompanying these revisions, procedures were outlined for processing applications from prisoners who had already had a parole hearing but were favorably affected by the guideline revisions and wished to have their cases reassessed under the new guidelines. As of March 1, 1980, these special procedures are cancelled, and any prisoner requests for retroactive consideration under the June 4, 1979 guidelines will be processed under the provisions for reopening for new favorable information at 28 CFR § 2.28(a). However, the eligibility requirements set forth in the Implementation Section accompanying the May 4, 1979 guideline revision publication will remain in effect.

Accordingly, any prisoner application for reassessment under the recent guideline changes received on or after March 1980, will be treated as a petition for reopening under the Commission's existing procedures at 28 CFR § 2.28(a).

Dated: January 22, 1980.

Cecil C. McCall,

Chairman, U.S. Parole Commission.

[FR Doc. 80-2588 Filed 1-25-80; 8:45 am]

BILLING CODE 4410-01-M

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: United States Parole Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted a definitional footnote to its Paroling Policy Guidelines to clarify its use of the term "Managerial or Proprietary Interest" as it pertains to the Greatest I offense severity classification of large scale drug offenses. Since the publication of the revised paroling policy guidelines, there have been a number of requests to explain further what the Commission means by "managerial or proprietary interest". Therefore, this addition to the definitional footnotes represents a clarification of how the Commission is currently considering an offender's role in making the decision of whether or not to place those who participate in large scale drug offenses in the Greatest I offense severity category.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Barbara Meierhoefer, Research Unit, United States Parole Commission, 320 First Street, NW., Washington, D.C. 20537 Tel: (202) 724-3095.

SUPPLEMENTARY INFORMATION: On May 4, 1979, the U.S. Parole Commission published in the **Federal Register** (44 FR 26540) its revised paroling policy guidelines. The guideline revision as it affected drug offenses reserved the Greatest I offense severity classification for those offenders who had both participated in a large scale drug operation (defined most commonly by the amounts of drugs involved) and who played a substantial role in that operation. To explicate the types of roles which, in conjunction with large scale operations, the Commission felt should qualify for the Greatest I rating, the term "managerial or proprietary interest" was used.

As this is an interpretive rule the Commission has set an early effective date for internal administrative coordination.

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR Part 2 is amended to add to the definitions following the Commission's Paroling Policy Guidelines at 28 CFR 2.20 (both Adult and Youth/NARA guideline tables) a new paragraph "e" reading as follows:

§ 2.20 Paroling policy guidelines; statement of general policy.

* * * * *

Definitions

* * * * *

e. Managerial/proprietary interest in large scale drug cases is defined to include offenders who sell or negotiate to sell such drugs; or who have decision-making authority concerning the distribution/sale, importation, cutting, or manufacture of such drugs; or who finance such operations. Cases to be excluded are peripherally involved offenders without any decision-making authority (e.g., a person hired merely as a courier).

Dated: January 22, 1980.

Cecil C. McCall,

Chairman, United States Parole Commission.

[FR Doc. 80-2589 Filed 1-25-80; 8:45 am]

BILLING CODE 4410-01-M

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: United States Parole Commission.

ACTION: Final rule and interim rules.

SUMMARY: This rule announces the Commission's action on its previous interim rule pertaining to voting quorums. The Commission rejected that portion of the interim rule which required four concurring votes for an initial decision in original jurisdiction cases, and is returning to its previous requirement of three concurring votes in these cases. The remaining two sections of the interim rule that deal with voting quorums for National Appeals Board and Regional appeal/reopen actions

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which result in decisions below the guidelines are left intact. The Commission has accordingly provided for an additional period of public comment and study.

DATES: Effective date: The final rule and the interim rules will be applied to all cases decided on or after December 5, 1979. Comments on the interim rules must be received by March 5, 1980.

ADDRESS: Send comments to United States Parole Commission, 320 First Street, NW., Washington, D.C. 20537 Attention: Legal Counsel.

FOR FURTHER INFORMATION CONTACT: Michael Stover, Office of the General Counsel, United State Parole Commission, 320 First Street, NW., Washington, D.C. 20537, Tel.: (202) 724–7567.

SUPPLEMENTARY INFORMATION: On October 10, 1979 (44 FR 58507), the Commission published an interim rule which amended its internal voting procedures to require (a) three concurring votes for a National Appeals Board order when a reversal or modification of a previous decision results in a decision below the guidelines; (b) four concurring votes for an initial decision in an original jurisdiction case; and (c) two concurring votes for a regional appeal or reopen that results in a decision below the guidelines.

On December 5, 1979, the Commission voted to reject that portion of the interim rule relating to original jurisdiction cases, and to return to the previous requirement of three concurring votes for initial decisions in such cases. Two months of experience with the rule requiring four concurring votes for initial decisions in original jurisdiction cases has shown that this rule makes it quite difficult to render timely initial decisions for many of these cases because of delays in transferring files to the regions to obtain the necessary number of votes.

The Commission also feels that it needs more time to study the effects of the voting quorum requirements of national appeals and regional/reopen cases. Therefore, these sections will continue as interim rules and an additional period of public comment will be allowed. No comment on the previous interim rule has, to date, been received.

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR Part 2 is amended to read as follows: 1. Sections 2.17(a) and 2.26 (b) and (c) are adopted as final and read as set forth below:

§ 2.17 Original jurisdiction cases.

(a) A Regional Commissioner may designate certain cases for decision by a quorum of Commissioners as described below, as original jurisdiction cases. In such instances, he shall forward the case with his vote, and any additional comments he may deem germane, to the National Commissioners for decision. Decisions shall be based upon the concurrence of three votes with the appropriate Regional Commissioner and each National Commissioner having one vote. Additional votes, if required, shall be cast by the other Regional Commisioners on a rotating basis as established by the Chairman of the Commissioh.

* * * * *

§ 2.26 Appeals to National Appeals Board.

* * * * *

(b) The National Appeals Board shall act within 60 days of receipt of the appellant's papers, to affirm, modify, or reverse the decision.

(c) Decisions of the National Appeals Board shall be final.

2. The period for public comment is extended on the following sections of 28 CFR Part 2, which remain interim rules:

a. Paragraph (b) of § 2.25 is revised to read as follows:

§ 2.25 Regional appeal.

* * * * *

(b) The Regional Commissioner may affirm the decision, order a new institutional hearing on the next docket, order a regional appellate hearing, or reverse or modify the decision. Reversal of a decision, or the modification of a decision by more than one hundred eighty days, or a modification resulting in a decision below the guidelines, whether based upon the record or following a regional appellate hearing, shall require the concurrence of two out of three Regional Commissioners. Decisions requiring a second or additional vote shall be referred to other Regional Commissioners on a rotating basis as established by the Chairman.

* * * * *

b. Paragraph (a) of § 2.26 is revised to read as follows:

§ 2.26 Appeal to National Appeals Board.

(a) Within 30 days of entry of a Regional Commissioner's decision under § 2.25, a prisoner or parolee may appeal to the National Appeals Board on a form provided for that purpose. However, any matter not raised on a regional level appeal may not be raised on appeal to the National Appeals Board. The National Appeals Board may, upon the concurrence of two members, affirm, modify, or reverse the decision, or order a rehearing at the institutional or regional level, except that a modification or reversal resulting in a decision below the guidelines shall require the concurrence of three members. Split decisions requiring additional votes shall be referred to the Chairman, and, if necessary, to other Regional Commissioners on a rotating basis as established by the Chairman.

* * * * *

Dated: January 22, 1980.

Cecil C. McCall,

Chairman, United States Parole Commission.

[FR Doc. 80-2590 Filed 1-25-80; 8:45 am]

BILLING CODE 4410-01-M

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28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: United States Parole Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rule requiring advance notice of the time and place of a parole hearing. This amendment conforms to a recent change requiring that a prisoner scheduled for such a hearing be given 60 days advance notice of his or her disclosure rights, instead of the 30 days previously given. The rule amended below requires that notice of the time and place of a hearing shall be given 60 days in advance of a hearing, and thus expands the 30 day advance notice period required by law.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Michael A. Stover, Office of the General Counsel, U.S. Parole Commission, 320 First Street, Northwest, Washington, D.C. 20537, Phone (202) 724–7567.

SUPPLEMENTARY INFORMATION: By the words "time and place" this rule requires specifically that a prisoner scheduled for a parole hearing be informed of the precise dates between which the Commission's examiner panel will be holding hearings at the institution in which the prisoner is confined. Case managers will thereafter keep the prisoner advised of the exact date upon which the hearing is likely to be held, and efforts will be made to schedule a firm date, if the prisoner has engaged an outside representative. Due to the large numbers of persons to be heard on each docket and the varying time required for each hearing (which depends on the nature of the case, number of witnesses, etc.) the Commission could not guarantee each prisoner a precise date 60 or 30 days in advance. However, the time period during which a docket is held does not normally exceed one or two weeks, so prisoners will continue to have adequate notice through this rule to prepare for their hearings.

As this is a conforming amendment, the Commission has set an early effective date for internal administrative coordination.

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR Chapter I, Part 2, § 2.211(e) is amended as set forth below:

§ 2.11 Application for parole; notice of hearing.

* * * * *

(e) At least sixty days prior to the initial hearing (and prior to any hearing conducted pursuant to § 2.14), the prisoner shall be provided with written notice of the time and place of the hearing and of his right to review the documents to be considered by the Commission, as provided by § 2.55. A prisoner may waive such notice, except that if such notice is not waived, the case shall be continued to the time of the next regularly scheduled proceeding of the Commission at the institution in which the prisoner is confined.

Dated: January 22, 1980.

Cecil C. McCall,

Chairman, United States Parole Commission.

[FR Doc. 80-2591 Filed 1-25-80; 8:45 am]

BILLING CODE 4410-01-M

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28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: United States Parole Commission.

ACTION: Final rule.

SUMMARY: This wording change conforms to the new Parole Commission procedure to furnish to prisoners the specific reasons for all parole decisions which either establish or modify a previously established release date. Previously, when a parole date was given within six months from the date of the initial hearing, the reasons were noted in the parole case file, but were not included on the Notice of Action sent to the prisoner.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Barbara Meierhoefer, Research Unit, U.S. Parole Commission, 320 First Street, NW., Washingto, D.C. 20537 Tel: (202) 724–3095.

SUPPLEMENTARY INFORMATION: The U.S. Parole Commission evaluates all aspects of a prisoner's case before reaching a release decision. However, it has been standard practice to provide the specific reasons for the decision on the Notice of Action to the prisoner only when denying parole release within six months of the hearing. Therefore, any decision to give a parole date within six months of the hearing simply informed the prisoner that he or she would be paroled on the indicated date.

The Commission now feels that a formal statement of reasons should be issued via the Notice of Action for any parole decision which either sets a release date or which modifies a previously set release date.

This procedure now requires that reasons which follow the appropriate guideline format be typed on all Notices of Action except (1) where there is "no change" to a previously set release date at a statutory interim hearing; or (2) where a presumptive date is confirmed as an effective date of parole at a pre-release review.

As this is a rule of agency procedure, an early effective date has been set for internal administrative coordination.

Implementing this procedure requires the following conforming amendment to the rule governing issuance of reasons for the initial parole decision.

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR Part 2 § 2.13(c) is amended as follows:

§ 2.13 Initial hearing; procedure.

(a) * * *

(c) At the conclusion of the hearing, the panel shall orally inform the prisoner of its recommendation and of the reasons therefor. Written notice of the official decision, or the decision to refer under § 2.17 or § 2.24, shall be mailed or transmitted to the prisoner within 21 days of the date of the hearing, except in emergencies. Whenever the Commission initially establishes a release date (or modifies a release date thereafter), the prisoner shall also receive in writing the reasons for that decision.

* * * * *

Dated: January 22, 1980.

Cecil C. McCall,

Chairman, United States Parole Commission.

[FR Doc. 80-2592 Filed 1-25-80; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 909

USAF Training for Contractor Employees

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is revising Part 909 of Chapter VII, Title 32, of the Code of Federal Regulations. The revision updates the procedures regarding when and how Air Force training may be given to employees of private organizations under contract with the Air Force and other U.S. Government agencies to provide equipment or service.

EFFECTIVE DATE: September 23, 1977.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel William P. Babione, telephone (202) 695–7321.

Title 32 of the Code of Federal Regulations is amended by revising Part 909 to read as follows:

PART 909—USAF TRAINING FOR CONTRACTOR EMPLOYEES

Sec.

909.1 Purpose.
909.2 Policy on training contractor employees of the Air Force.
909.3 Policy on training contractor employees of other U.S. Government agencies.
909.4 Access to classified information.
909.5 USAF schools.
909.6 How contractors apply for training.
909.7 Air Force review of contractor requests for training.
909.8 What the Major Command conducting the training does.
909.9 Processing requests from other Government agencies.

Authority: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

Note.—This part is derived from Air Force Regulation 50–55, September 23, 1977.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 909.1 Purpose.

This part tells when and how USAF training may be given to employees of private organizations under contract with the Air Force and other U.S. Government agencies to provide equipment or services. It applies to contractors and USAF major commands.

§ 909.2 Policy on training contractor employees of the Air Force.

These employees may receive training at USAF schools, on-the-job at an Air Force base, or through existing contracts for training:

(a) If the contract (to provide equipment or services) specifically provides for such training.

(b) If the contract (for equipment or services) does not specifically provide for training, the Air Force contracting officer:

(1) Decides whether the training will be of material and direct benefit to the Air Force.

(2) Obtains from the major command conducting the course a determination that the training is:

(i) Within Air Force manpower and fiscal resources;

(ii) Available in regularly established courses; and

(iii) Not reasonably available from a source outside the Air Force.

§ 909.3 Policy on training contractor employees of other US Government agencies.

These employees may attend training for which the Air Force is the executive agent, and joint services courses offered by Air University/Air Force Institute of Technology (see § 909.9).

§ 909.4 Access to classified information.

If training will require the presentation of classified national security information, the employee must have a current security clearance commensurate with the category of the classified information. The trainee may have access to classified national security information only if there is a demonstrated need to know (see § 909.7(b)(3)).

§ 909.5 USAF schools.

The term "USAF schools" includes any formal school or course conducted either by the USAF or by a contractor under contract with the USAF.

§ 909.6 How contractors apply for training.

An Air Force contractor that desires training under this part for its employees must send a written request to the major command conducting the course. At least 45 days before the training starts, the contractor sends the request through the contracting officer who administers the contract for which the training is needed. The request must show:

(a) Name, address, and security clearance of each employee.

(b) Enough information to make the determinations under §§ 909.2(b) and 909.4.

(c) When flight training is requested, a complete history of each employee's flying experience.

§ 909.7 Air Force review of contractor requests for training.

After the contracting officer receives a request for contractor employee training, he or she decides whether there is a USAF need for that training.

(a) If there is no USAF need for the training, he or she returns the request to the contractor with an explanation.

(b) If there is a USAF need for the training, he or she:

(1) Certifies whether the Air Force is paying the contractor for that training; and if so, certifies that fair adjustment has been made in the contract.

(2) If the training does not require the disclosure of classified national security information, sends the request to the command conducting the course, with a statement that the training is required for the performance of the Air Force contract.

(3) If the training will involve the disclosure of classified national security information, verifies that the request includes enough information to comply with § 909.4; and sends it to the command conducting the course, with a statement that the training is required for the performance of the Air Force contract.

(4) Decides whether an agreement with the contractor, under which the contractor agrees to indemnify the Government for any and all loss or liability due to the injury or death of a contractor employee, is needed to protect the Government's interest and can be obtained at reasonable cost; and sends, with the contractor's request for training, either:

(i) An indemnification agreement; or

(ii) A statement that such an indemnification agreement is not needed.

§ 909.8 What the Major Command conducting the training does.

(a) If the request complies with §§ 909.2(b) and 909.4, arranges for the training and allocates quotas.

(b) If the request does not comply with §§ 909.2(b) and 909.4, disapproves it and returns it.

(c) If the request is for training contractor employees in a course already being conducted under contract with the USAF, contractor employees may attend if the quotas or training services do not cause additional tuition cost to the USAF. This authorization does not include establishing quotas or contracting for training services over USAF training requirements.

§ 909.9 Processing requests from other Government agencies.

(a) Other US Government agencies that need to have their contractor employees attend Air Training Command courses may send a request to the Air Training Command (ATC/TTP), Randolph AFB TX 78148, at least 45 days before the training starts. The agency must include this information in its request:

(1) Name, address, and certification of security clearance of each employee.

(2) Date training should begin.

(3) Name and location of course, or an explanation of type of training desired.

(4) If flight training is requested, a complete history of each employee's flying experience.

(5) Indemnification agreement required by § 909.7(b)(4).

(b) If ATC grants the request, it will plan the training and allocate quotas to the requesting agency.

(c) If ATC finds that the training is either not needed or cannot be given, it returns the request to the agency with an explanation.

(d) Requests for quotas in joint services courses offered by Air University/Air Force Institute of Technology must be sent to Air University (AU/ED), Maxwell AFB AL, 36112, at least 45 days before the class starts.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-2853 Filed 1-25-80; 8:45 am]

BILLING CODE 3910-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 70

[Docket No. FI-3012]

Letter of Map Amendment for the City of Arvada, Colo., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Arvada, Colorado. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Arvada, Colorado, that certain property is not within the Special Flood Hazard Area. This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy,or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 085072A Panel 04, published on June 29, 1977, in 42 FR 33206, indicates that Lot 5, Block 5, Woodland Valley, Filing No. 7, Amended, Arvada, Colorado, recorded as Reception Number 432001, in Book 34, Page 20, in the Office of the Recorder, Jefferson County, Colorado, is within the Special Flood Hazard Area.

Map No. H & I 085072A Panel 04 is hereby corrected to reflect that the above mentioned lot is not within the Special Flood Hazard Area identified on April 23, 1976. This lot is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 Fr 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 10, 1980.

Charles M. Plaxico, Jr.,

Acting Federal Insurance Administrator.

[FR Doc. 80-2850 Filed 1-25-80; 8:45 am]

BILLING CODE 6718-03-M

[Docket No. FEMA-5712]

44 CFR Part 70

Letter of Map Amendment for the City of Boulder, Colo., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Boulder, Colorado. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Boulder, Colorado, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 080024 Panel 0005B, published on October 23, 1979, in 44 FR 61024, indicates that Lot 35, Block 6, Table Mesa Fourth Addition, also known as 2267 Holyoke Drive, Boulder, Colorado, recorded as Deed Instrument Number 277450 on Film 1008, in the Office of the Clerk and Recorder, Boulder County, Colorado, is partially within the Special Flood Hazard Area.

Map No. H & I 080024 Panel 0005B is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on July 17, 1978. This lot is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2845 Filed 1-25-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for the City of Largo, Fla., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Largo, Florida. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Largo, Florida, that certain property is within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is within the Special Flood Hazard Area, results in the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 125122 Panel 0001C, published on October 23, 1979, in 44 FR 61014, indicates that Lots 42 and 48 through 52, Del Robles Unit 2, Largo, Florida, as recorded in the Plat, Plat Book 75, Page 79, in the Office of the Clerk of the Circuit Court of Pinellas County, Florida, are not within the Special Flood Hazard Area.

Map No. H & I 125122 Panel 0001C is hereby corrected to reflect that the above mentioned lots are within the Special Flood Hazard Area identified on April 7, 1978.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2844 Filed 1-25-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for the City of Ormond Beach, Fla., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Ormond Beach, Florida. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Ormond Beach, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410 (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 125136B Panel 04, published on October 23, 1979, in 44 FR 61014, indicates that Lot 1, Block 26, Tomoka Oaks Country Club Estates, Unit 1–B, as recorded in Map Book 28, Page 129 in the Office of Public Records of Volusia County, Florida, is within the Special Flood Hazard Area.

Map No. H & I 125136B Panel 04, is hereby corrected to reflect that the structure located on the above mentioned property is not within the Special Flood Hazard Area identified on May 27, 1977. This structure is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2843 Filed 1-25-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FI-3875]

Letter of Map Amendment for the Village of Homewood, Ill., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Village of Homewood, Illinois. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Village of Homewood, Illinois, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410 (202) 755–6570 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 170109B, Panel No. 04, published on February 13, 1978, in 43 FR 6071, indicates that Lot No. 5, Cherry Creek Subdivision, Village of Homewood, Cook County, Illinois, recorded as Document No. 20409912, in the Office of the Recorder of Cook County, Illinois, is located within the Special Flood Hazard Area.

Map No. H & I 170109B, Panel No. 04, is hereby corrected to reflect that the structures located on the above-mentioned property are not within the Special Flood Hazard Area identified on August 15, 1977. The structures are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2851 Filed 1-25-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FI-3012]

Letter of Map Amendment for the City of Rochester, Minnesota Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of Rochester, Minnesota. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Rochester, Minnesota, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410 (202) 755–6570 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 275246A, Panel No. 08, published on June 29, 1977, in 42 FR 33217 indicates that Lot No. 12, Block 1, Gramham's Second Addition, City of Rochester, Olmstead County, Minnesota, recorded in Book 373 of Deeds, Page 14, as Document No. 413429, in the Office of the Recorder of Olmstead County, Minnesota, is located within the Special Flood Hazard Area.

Map No. H & I 275246A, Panel No. 08, is hereby corrected to reflect that the structure located on the above-mentioned property is not within the Special Flood Hazard Area identified on February 13, 1976. The structure is in Zone B.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: December 6, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2848 Filed 1-25-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FI-3012]

Letter of Map Amendment for the City of Afton, Minn., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps were published indentifying Special Flood Hazard Areas. This list included the City of Afton, Minnesota. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Afton, Minnesota, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410 (202) 755–6570 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 275226A, Panel No. 06, published on June 29, 1977, in 42 FR 33217, indicates that Lots Nos. 4 through 6 and the north fifty feet of the west twenty-five feet of Lot No. 9 and the north fifty feet of Lot No. 10, Block 16, City of Afton, Washington County, Minnesota, recorded as Document No. 322546, in the Office of the Register of Deeds of Washington County, Minnesota, are located within the Special Flood Hazard Area.

Map No. H & I 275226A, Panel No. 06, is hereby corrected to reflect that the structure located on the above-mentioned property is not within the Special Flood Hazard Area identified on January 2, 1976. The structure is in Zone B.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2849 Filed 1-25-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FI-3012]

Letter of Map Amendment for the City of Sikeston, Mo., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Sikeston, Missouri. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Sikeston, Missouri, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 295270B Panel 04, published on June 29, 1977, in 42 FR 33218, indicates that Lots 21 and 22, in the Resubdivision of the West Half of Block 2, Clayton Heights Addition, Sikeston, Missouri, as recorded in Book 288, Pages 97 and 98 of Warranty Deeds, in the Office of the Recorder, Scott County, Missouri, are partially within the Special Flood Hazard Area.

Map No. H & I 295270B Panel 04 is hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on April 29, 1977. These lots are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 16, 1980.

Charles M. Plaxico, Jr.,

Acting Federal Insurance Administrator.

[FR Doc. 80–2847 Filed 1–25–80; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. 3012]

Letter of Map Amendment for the Borough of Bloomingdale, N.J., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Borough of Bloomingdale, New Jersey. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Borough of Bloomingdale, New Jersey that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410 (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free 800–424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with 70.7(b): Map No. H & I 345284B, Panel 02 published on June 29, 1977 in 42 FR 33222 indicates that Lot 14, Block 46, Bloomingdale, New Jersey, as recorded in the Deed, Book 104, Pages 270 and 271, in the Office of the Clerk of Passaic County, New Jersey, is within the Special Flood Hazard Area.

Map No. H & I 345284B, Panel 02 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on July 9, 1976. The structure is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 23, 1968 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–2846 Filed 1–25–80; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5712]

Letter of Map Amendment for City of Scottsdale, Ariz., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Scottsdale, Arizona. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Scottsdale, Arizona, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872, (in Alaska and Hawaii call toll free (800) 424–9080.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b): Map No. H & I 045012A Panel 22, published on October 23, 1979, in 44 FR 61025, indicates that Lot 26, Villa Coronado, also known as 2835 North 77th Place, Scottsdale, Arizona, as recorded in Docket 12194, Page 121, in the Office of the Recorder, Maricopa County, Arizona, is located within the Special Flood Hazard Area.

Map No. H & I 045012A Panel 22 is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on January 9, 1976. This lot is in Zone B.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–2574 Filed 1–25–80; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5712]

Letter of Map Amendment for City of Fort Smith, Ark., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Fort Smith, Arkansas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Fort Smith, Arkansas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872, (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b): Map No. H & I 050013A Panel 15, published on October 23, 1979, in 44 FR 61020, indicates that Lots 133, 134, and 135, Southwoods Subdivision, Phase I, Fort Smith, Arkansas, as recorded in Drawer 383 of Plats, in the Office of the Circuit Clerk and Ex-Officio Recorder for Sebastian County, Arkansas, are within the Special Flood Hazard Area.

Map No. H & I 050013A Panel 15 is hereby corrected to reflect that the structures on the above mentioned lots are not within the Special Flood Hazard Area identified on May 7, 1976. These structures are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 16, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–2575 Filed 1–25–80; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5712]

Letter of Map Amendment for Town of Corte Madera, Calif., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Town of Corte Madera, California. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Town of Corte Madera, California, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

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FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872, (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b): Map No. H. & I 065023 Panel 0001B, published on October 23, 1979, in 44 FR 61025, indicates that the Chalin Properties, being portions of Lots 9 through 17, S & L Subdivision, also known as 5750 Paradise Drive, Corte Madera, California, recorded as Document Number 17798 in Book 2901, Page 352, in the Office of the Recorder, Marin County, California, is within the Special Flood Hazard Area.

Map No. H & I 065023 Panel 0001B is hereby corrected to reflect that the existing structures on the above mentioned property are not within the Special Flood Hazard Area identified on December 15, 1977. These structures are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2576 Filed 1-25-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for City of Stockton, Calif., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Stockton, California. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Stockton, California, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872, (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b): Map No. H & I 060302 Panel 0005B, published on October 23, 1979, in 44 FR 61026, indicates that the Baldwin Parcel, a 283.469 acre tract and the Finkbohner Parcel, a 226.165 acre tract, both being portions of Section 7 and 8, Township 2 North, Range 6 East, Mount Diablo Base and Meridian, Stockton, California, as recorded in Book 27 of Surveys, Page 131, and Book 27 of Surveys, Page 63, respectively, in the Office of the Recorder, San Joaquin County, California, is partially within the Special Flood Hazard Area.

Map No. H & I 060302 Panel 0005B is hereby corrected to reflect that the above mentioned properties are not within the Special Flood Hazard Area identified on January 3, 1979. These properties are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez

Federal Insurance Administrator.

[FR Doc. 80-2577 Filed 1-25-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for City of Aurora, Colo., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Aurora, Colorado. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Aurora, Colorado, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b): Map No. H & I 080002 Panel 0020A, published on October 23, 1979, in 44 FR 61024, indicates that Parcel 1, an 8.000 acre tract, and Parcel 2, an 8.708 acre tract, both being portions of the Southeast Quarter of Section 16, Township 4 South, Range 66 West of the Sixth Principal Meridian, Aurora, Colorado, recorded as Document No. 1366788 in Book 2144, Pages 349 and 350, in the Office of the Recorder, Arapahoe County, Colorado, are partially within the Special Flood Hazard Area.

Map No. H & I 080002 Panel 0200A is hereby corrected to reflect that the above mentioned Parcels are not within the Special Flood Hazard Area identified on June 1, 1978. These Parcels are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 16, 1980.

Charles M. Plaxico, Jr.,

Acting Federal Insurance Administrator.

[FR Doc. 80-2578 Filed 1-25-80; 8:45 am]

BILLING CODE 6718-03-M

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b): Map No. H & I 080002 Panel 0020A, published on October 23, 1979, in 44 FR 61024, indicates that Lots 7 through 29, Block 1, Tollgate Village Subdivision, Filing No. 7, Aurora, Colorado, as recorded under Reception No. 167–5136 in Book 32, Page 40, in the Office of the Recorder, Arapahoe County, Colorado, are partially within the Special Flood Hazard Area.

Map No. H & I 080002 Panel 0020A is hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on June 1, 1978. These lots are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 10, 1980

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2579 Filed 1-25-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment For City of Aurora, Colo., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Aurora, Colorado. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Aurora, Colorado, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872, (in Alaska and Hawaii call toll free (800) 424–8080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b): Map No. H & I 080002 Panel 0015A, published on October 23, 1979, in 44 FR 61024, indicates that Lots 10 through 30, 38 through 44, Block 2; and Lots 21 through 46, 50, and 51, Block 3, Tollgate Village Subdivision Filing No. 11, and Parcels A, D, E, and H, as referenced on property surveys by Meuer, Serafini, and Meuer, Inc., Aurora, Colorado, as recorded in Book 34, Page 81, Reception No. 1739710, and in Book 2144, Page 349, Reception No. 1366788, respectively, in the Office of the Clerk and Recorder, Arapahoe County, Colorado, are within the Special Flood Hazard Area.

Map No. H & I 080002 Panel 0015A is hereby corrected to reflect that the above mentioned properties are not within the Special Flood Hazard Area identified on June 1, 1978. The properties are in Zone B and Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: January 10, 1980.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 80–2580 Filed 1–25–80; 8:45 am]

BILLING CODE 6715–03–M

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44 CFR Part 70

[Docket No. FEMA–5712]

Letter of Map Amendment for City of Tulsa, Okla., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Tulsa, Oklahoma. It has been determined by the Federal Insurance Administrator after aquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Tulsa, Oklahoma, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation Engineering Office, National Flood Insurance Program, 451 Seventh Street S.W., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872, (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034. Telephone: (800) 638–6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b): Map No. H & I 405381D Panel 100, published on October 23, 1979, in 44 FR 61021, indicates that part of the east half of Lot 1, Section 19, T19N, R13E of the Indian Base and Guide Meridian, more particularly described as follows: Beginning at a point 165 feet north of the southwest corner of the east half of Lot 1; thence east 198 feet; thence north 275 feet; thence west 198 feet; thence south 275 feet to the point of beginning, containing 1.25 acres more or less, as recorded in Book 269, Page 611, in the Office of the Clerk, Tulsa County, Oklahoma, is within the Special Flood Hazard Area.

Map No. H & I 405381D Panel 100 is hereby corrected to reflect that the eastern 128 feet of the above mentioned property are not within the Special Flood Hazard Area identified on August 14, 1979. With the exception of the western 70 feet, the property is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 80–2581 Filed 1–25–80; 8:45 am]

BILLING CODE 6715–03–M

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44 CFR Part 70

[Docket No. FEMA–5712]

Letter of Map Amendment for City of Oklahoma City, Okla., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Oklahoma City, Oklahoma. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Oklahoma City, Oklahoma, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–8080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034. Telephone: (800) 638–6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b): Map No. H & I 405378A Panels 38 and 39, published on October 23, 1979, in 44 FR 61021, indicates that Block 10 and Lots 1 through 13, Block 12, The Arbors, Oklahoma City, Oklahoma, as recorded in Book 45, Page 69, in the Office of the Clerk, Oklahoma County, Oklahoma, are partially or totally within the Special Flood Hazard Area.

Map No. H & I 405378A Panels 38 and 39 is hereby corrected to reflect that Lots 1 through 6, 9 through 24, 27, 28, and 31, Block 10; and Lots 1 through 13, Block 12, of the above mentioned property are not within the Special Flood Hazard Area identified on February 2, 1979. These lots are in Zone C. In addition, the structures of Lots 7, 8, 25, 26, 29, 30, and 32 through 34, Block 10, of the above mentioned property are not within the Special Flood Hazard Area identified on February 2, 1979. These structures are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 80–2582 Filed 1–25–80; 8:45 am]

BILLING CODE 6715–03–M

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44 CFR Part 70

[Docket No. FEMA–5712]

Letter of Map Amendment for Village of Sebring, Ohio, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Village of Sebring, Ohio. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Village of Sebring, Ohio, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755–6570 or toll free line (800) 424–8872.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620 toll free.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b): Map No. H & I 390371B, Panel No. 01, published on October 23, 1979, in 44 FR 61031, indicates that Lots Nos. 276 through 280 and the southern 10 feet of Lots Nos. 335 through 339, Village of Sebring, Mahoning County, Ohio, as recorded in Plat Book K, Page 14, in the Office of the Recorder of Mahoning County, Ohio, are located within the Special Flood Hazard Area.

Map No. H & I 390371B, Panel No. 01, is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area identified on August 11, 1978. The property is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 80–2583 Filed 1–25–80; 8:45 am]

BILLING CODE 6715–03–M

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44 CFR Part 70

[Docket No. FEMA–5712]

Letter of Map Amendment for the Town of Cheektowaga, N.Y., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Town of Cheektowaga, New York. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Town of Cheektowaga, New York, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034. Telephone: (800) 638–6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b): Map No. H & I 360231 Panel 0010C, published on October 23, 1979, in 44 FR 61008, indicates that Parcel IV on Map Cover 2274, being part of Lot 42, Township 10, Range 7, Cheektowaga, New York, as recorded in the Deed, Liber 8255, Page 57, in the Office of the Clerk of Erie County, New York, is within the Special Flood Hazard Area.

Map No. H & I 360231 Panel 0010C, is hereby corrected to reflect that the portions of the above mentioned property that are at or above 664 feet National Geodetic Vertical Datum are not within the Special Flood Hazard Area identified on July 5, 1977. These portions are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 80–2584 Filed 1–25–80; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 70

[Docket No. FEMA–5712]

Letter of Map Amendment for Town of Cheektowaga, N.Y., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Town of Cheektowaga, New York. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Town of Cheektowaga, New York, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034. Telephone: (800) 638–6620.

§ 70.7 [Amended]

The map amendements listed below are in accordance with § 70.7(b): Map No. H & I 360231 Panel 0010C, published on October 23, 1979, in 44 FR 61008, indicates that part of Map Cover 2274, Parcel II, being part of Lot Number 43, Township 10, Range 7, of the Buffalo Creek Reservation, Cheektowaga, New York, as recorded in the Deed, Liber 8644, Page 119, in the Office of the Clerk of Erie County, New York, is within the Special Flood Hazard Area.

Map No. H & I 360231 Panel 0010C, is hereby corrected to reflect that the portions of the above mentioned property that are at or above 662 feet National Geodetic Vertical Datum are not within the Special Flood Hazard Area identified on June 16, 1978. These portions are in Zones B and C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 80–2585 Filed 1–25–80; 8:45 am]

BILLING CODE 6718–03–M

44 CFR PART 70

[Docket No. FEMA–5712]

Letter of Map Amendment for Township of Ewing, N.J., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Township of Ewing, New Jersey. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Township of Ewing, New Jersey, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–6570 or toll free line, (800) 424–8872 (in Alaska and Hawaii call toll free 800–424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034. Phone: (800) 638–6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b): Map No. H & I 345294A, Panel 01 published on October 23, 1979 in 44 FR 61007 indicates that Lot 14, as shown on a plan entitled "Section Two, Sheet 1 of 3, Briarwood, Sub. II", duly filed on July 3, 1974 as Map No. 2233, as recorded in the Deed, Volume 2021, Pages 373 through 376, in the Office of the Clerk of Mercer County, is located within the Special Flood Hazard Area.

Map No. H & I 345294A, Panel 01 is hereby corrected to reflect that the existing structure on the above-mentioned property is not within the Special Flood Hazard I11Area identified on August 25, 1972. The structure is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 23, 1968 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 80–2586 Filed 1–25–80; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 70

[Docket No. FEMA–5712]

Letter of Map Amendment for Borough of Bergenfield, N.J., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Borough of Bergenfield, New Jersey. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Borough of Bergenfield, New Jersey that certain property is within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is within the Special Flood Hazard Area, results in the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410 (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 340020 Panel 0001A, published on October 23, 1979, in 44 FR 61007, indicates that Lot 4, Block 140L, Bergenfield, New Jersey, as shown on the "Revised Map of Paula Development Corporation, Section 2, Bergenfield, New Jersey" and recorded in the Office of the Bergen County Clerk as Map Number 3792, is not within the Special Flood Hazard Area.

Map No. H & I 340020 Panel 0001A, is hereby corrected to reflect that the above mentioned property is within the Special Flood Hazard Area identified on June 1, 1977.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 80–2604 Filed 1–25–80; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 70

[Docket No. FEMA–5712]

Letter of Map Amendment for the City of Lee's Summit, Mo., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Lee's Summit, Missouri. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Lee's Summit, Missouri, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b):

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Map No. H & I 290174B Panel 14, published on October 23, 1979, in 44 FR 61023, indicates that Lot 7, Sunset Hills Addition, Lee's Summit, Missouri, also known as 313 South Mil-Mar Avenue, as recorded in Book 24, Page 19, in the Office of the Recorder, Jackson County, Missouri, is within the Special Flood Hazard Area.

Map No. H & I 290174B Panel 14 is hereby corrected to reflect that the existing structure located on the above property is not within the Special Flood Hazard Area identified on June 21, 1974. The structure is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2605 Filed 1-25-80; 8:45 am]

BILLING CODE 6715-03-M

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44 CFR Part 70

[Docket No. FEMA 5712]

Letter of Map Amendment for City of Grandview, Mo., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Grandview, Missouri. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Grandview, Missouri, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872, (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 290171 Panel 0005B, published on October 23, 1979, in 44 FR 61023, indicates that Lot 1–C in Lot 1, Block 9, River Oaks Second Plat, Grandview, Missouri, as recorded in Book S1, Page 52, in the Office of the Recorder, Jackson County, Missouri, is partially within the Special Flood Hazard Area.

Map No. H & I 290171 Panel 0005B is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on June 15, 1979. This lot is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: December 4, 1979.

Charles M. Plaxico, Jr.,

Acting Federal Insurance Administrator.

[FR Doc. 80-2606 Filed 1-25-80; 8:45 am]

BILLING CODE 6715-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for City of Grandview, Mo., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Grandview, Missouri. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Grandview, Missouri, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410 (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 290171 Panel 0005B, published on October 23, 1979, in 44 FR 61023, indicates that Lots 1–B and 1–E, in Lot 1, Block 9, River Oaks Second Plat, Grandview, Missouri, as recorded in Book S1, Page 52, in the Office of the Recorder, Jackson County, Missouri, are partially within the Special Flood Hazard Area.

Map No. H & I 290171 Panel 0005B is hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on June 15, 1979. These lots are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: December 4, 1979.

Charles M. Plaxico, Jr.,

Acting Federal Insurance Administrator.

[FR Doc. 80-2607 Filed 1-25-80; 8:45 am]

BILLING CODE 6715-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for City of Grandview, Mo., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Grandview, Missouri. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Grandview, Missouri, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 290171 Panel 0005B, published on October 23, 1979, in 44 FR 61023, indicates that Lots 1–A, 1–D, 1–G, and 1–L in Lot 1, Block 9; and Lots 1 through 5, Block 11, River Oaks Second Plat, Grandview, Missouri, as recorded in Book S–1, Pages 52 and 71, in the Office of the Recorder, Jackson County, Missouri, are partially within the Special Flood Hazard Area.

Map No. H & I 290171 Panel 0005B is hereby corrected to reflect that the structures on Lots 1 through 4 of the above mentioned property are not within the Special Flood Hazard Area identified on June 15, 1979. These structures are in Zone B.

Map No. H & I 290171 Panel 0005B is hereby corrected to reflect that the structures on Lots 1–A, 1–D, 1–G, and 1–L in Lot 1, Block 9, and Lot 5, Block 11, of the above mentioned property are not within the Special Flood Hazard Area identified on June 15, 1979. These structures are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2608 Filed 1-25-80; 8:45 am]

BILLING CODE 6715-03-M

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44 CFR Part 70

[Docket No. FEMA 5712]

Letter of Map Amendment for City of Quincy, Mass., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Quincy, Massachusetts. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Quincy, Massachusetts, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410 (202) 755–6570 or toll free line 800–424–8872 (in Alaska and Hawaii call toll free 800–424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b): Map No. H & I 255219, Panel 03 published on October 23, 1979 in 44 FR 61006 indicates that Lot 10, as recorded on Plan No. 35537C, being a subdivision of LC 35537 B Lot 5, Quincy, Massachusetts, in the Land Court of Massachusetts, is within the Special Flood Hazard Area.

Map No. H & I 255219A, Panel 03 is hereby corrected to reflect that all portions of the above-mentioned property that are at or above 11 feet Mean Sea Level are not within the Special Flood Hazard Area identified on July 30, 1976. These portions are in Zone B and Zone C.

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(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 23, 1968 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2809 Filed 1-25-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for Town of Bedford, Mass., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Town of Bedford, Massachusetts. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Town of Bedford, Massachusetts, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410 (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 255209A Panel 04, published on October 23, 1979, in 44 FR 61005, indicates that Lot 53, Woodmoor Acres, Bedford, Massachusetts, also known as 7 Fern Way, as recorded in Book 11212, Page End, in the Registry of Deeds, Southern District, Middlesex County, Massachusetts, is within the Special Flood Hazard Area.

Map No. H & I 255209A Panel 04, is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on February 27, 1976. This lot is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2810 Filed 1-25-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA 5712]

Letter of Map Amendment for Town of Acton, Mass., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Town of Acton, Massachusetts. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Town of Acton, Massachusetts that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872, (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 250176 Panel 0001B, published on October 23, 1979, in 44 FR 61005, indicates that the property located at 3 Seneca Court, Acton, Massachusetts, shown as Lot C on the Plan of Land in Acton, Massachusetts, recorded in Book 12938, Page 208, in the Registry of Deeds, South District, Middlesex County, Massachusetts, is within the Special Flood Hazard Area.

Map No. H & I 250176 Panel 0001B is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on June 15, 1978. This lot is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2811 Filed 1-25-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for Unincorporated Area of Carroll County, Md.; Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Unincorporated Area of Carroll County, Maryland. It has been determined by the Federal Insurance Administrator, after acquiring additonal flood information and after further technical review of the Flood Insurance Rate Map for the Unincorporated Area of Carroll County, Maryland, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755–6570 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

§ 70.7 [Amended]

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 240015, No. Panel 0100A, published on October 23, 1979, in 44 FR 61009, indicates that the existing structure located on the western bank of the North Branch of the Patapsco River within the Cedarhurst Plant Site of Congoleum Corporation, Unincorporated Area of Carroll County, Maryland, as recorded in Liber 444, Pages 47 through 50, in the Office of the Clerk of the Circuit Court of Carroll County, Maryland, is located within the Special Flood Hazard Area.

Map No. 240015, Panel No. 0100A, is hereby corrected to reflect that the structure located on the above-mentioned property is not within the Special Flood Hazard Area identified on August 1, 1978. The structure is in Zone B.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: January 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2812 Filed 1-25-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for City of Henderson, Ky., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Henderson, Kentucky. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Henderson, Kentucky, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872, (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b): Map No. H & I 210109, Panel 0001B, published on October 23, 1979, in 44 FR 61015, indicates that Woodsview Apartments, Henderson, Kentucky, located on the property recorded in the Deed, Deed Book 297, Pages 17 through 173, in the Office of the Clerk of the Court of Henderson County, Kentucky, are within the Special Flood Hazard Area.

Map No. H & I 210109 Panel 0001B, is hereby corrected to reflect that the existing structures on the above mentioned property are not within the Special Flood Hazard Area identified on June 15, 1978. Structures 1A, 1B, 2C, 2D, 4C, and 4D are in Zone B. Structures 2A, 2B, 2E, 3A, 3B, 3C, 3D, 4A, 4B, and OA are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963).

V45/19 JA28 80 UMI

Issued: January 10, 1980.

Gloria M. Jimenez

Federal Insurance Administrator.

[FR Doc. 80-3013 Filed 1-25-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for City of Overland Park, Kans., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Overland Park, Kansas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Overland Park, Kansas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755-6570 or toll free line (800) 424-8872, (in Alaska and Hawaii call toll free (800) 424-9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b): Map No. H & I 200174A Panel 02, published on October 23, 1979, in 44 FR 61023, indicates that Tract A, Indian Creek Village, Overland Park, Kansas, recorded as Document Number 871750 in Book 32, Page 24, in the Office of the Recorder, Johnson County, Kansas, is partially located within the Special Flood Hazard Area.

Map No. H & I 200174A Panel 02 is hereby corrected to reflect that structures A through D, G through K, M through Q, and S are not within the Special Flood Hazard Area identified on September 30, 1977. These structures are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: January 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-3014 Filed 1-25-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for City of Leavenworth, Kans., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Leavenworth, Kansas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Leavenworth, Kansas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FUTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, DC 20410, (202) 755-6570 or toll free line (800) 424-8872, (in Alaska and Hawaii call toll free (800) 424-9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b): Map No. H & I 200190A Panel 04, published on October 23, 1979, in 44 FR 61023, indicates that Lot 8, Josela Subdivision, Replat a part of Block 7 and 8, Harkness Park Subdivision, Leavenworth, Kansas, as recorded in Book 10, Page 5, in the Office of the Register of Deeds, Leavenworth County, Kansas, are within the Special Flood Hazard Area.

Map No. H & I 200190A Panel 04 is hereby corrected to reflect that the structure on the above mentioned property is not within the Special Flood Hazard Area identified on January 5, 1978. This structure is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968) effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: January 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-3015 Filed 1-25-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for the City of Davenport, Iowa, Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Davenport, Iowa. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Davenport, Iowa, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, DC 20410, (202) 755-6570 or toll free line (800) 424-8872 (in Alaska and Hawaii call toll free (800) 424-9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

§ 70.7 [Amended]

The map amendments listed below are in accordance with § 70.7(b): Map No. H & I 190242 Panel 0004A, published on October 23, 1979, in 44 FR 61022, indicates that Lot 13, Block 4, Westgate Third Addition, also known as 2411 West 41st Street, Davenport, Iowa, as recorded in Book 339, Page 61, in the Office of the Recorder, Scott County, Iowa, is partially located within the Special Flood Hazard Area.

Map No. H & I 190242 Panel 0004A is hereby corrected to reflect that the structure on the above mentioned property is not within the Special Flood Hazard Area identified on March 1, 1978. The structure is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2816 Filed 1-25-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[FCC 80-21]

Radio Broadcast Services; Reregulation and Oversight of the Rules for Radio and TV Broadcasting

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: By Reregulation and Rules Oversight Order, clarification is made and rewriting done on the rules pertaining to: Local public inspection file; STA and program test authority; program log rule; broadcasting of lottery information; ownership reports; Policy listing, adding 8 policies and their citations; and special antenna test authorizations.

EFFECTIVE DATE: February 8, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Steve Crane, Philip Cross, John Reiser, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: January 16, 1980.

Released: January 23, 1980.

In the matter of reregulation and oversight of the rules for radio and TV broadcasting.

1. The Commission herein continues to focus its attention on the reregulation of its broadcast requirements and the oversight of its AM, FM and TV rules. Rule modifications are made in this *Order* to update, clarify and make corrections as described in the following:

(a) The lottery rule (§ 73.1211, "Broadcast of lottery information") does not now include an obscure exemption provided under 18 U.S.C. 1305 for fishing contests. (Sections 1301 through 1304 of 18 U.S.C. define lotteries.) Section 1305 reads: "The provisions of this chapter shall not apply with respect to any fishing contest not conducted for profit wherein prizes are awarded for the specie, size, weight or quality of fish caught by contestants in any bona fide fishing or recreational event." The Congress, in the legislative history of the bill (H.R. 9074), clarified the meaning of "fishing contests not conducted for profit" when it stated "We have in mind a self-liquidating type of undertaking, whose receipts are fully consumed in defraying the actual costs of operation and are not intended or used for any other collateral purpose such as establishment of a fund for civic, philanthropic, or charitable objects, no matter how benevolent or worthy." Occasionally, broadcasters unknowingly conduct such a fishing contest for what is considered to be a "benevolent or worthy" group or cause. Caught up in the error of their actions, they are subject to citation. To guide the licensee, the fishing exemption is herein stated in the rule.

(b) Section 73.1520, "Operation for tests and maintenance," contains a cross reference in paragraph (c) to § 1.544(a). The cross reference refers to the sending of informal letter requests, by licensees, to the FCC in Washington. These informal letter requests are herein stated in §§ 73.157 and 73.1520, and the cross references to § 1.544 are deleted. The requirement formerly found in deleted § 1.544 is completely detailed in § 73.1510, "Experimental authorizations" and in § 73.157, "Special antenna equipment test authorizations." So, the only pertinent part remaining in § 1.544 was the directive pertaining to informal letter requests (applications) made to the FCC, herein placed in §§ 73.157 and 73.1520.

(c) Ever inclined to embrace rule modifications that reduce the administrative workload of the FCC and broadcasters, and to streamline FCC processing procedures, the Commission herein relaxes its procedural requirements pertaining to certain FCC responses to requests for program test authority (PTA) and special temporary authority (STA). Applicants for PTA's and STA's must await "specific FCC

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authority" which, in all cases, results in a written communication from the FCC to the party requesting authorization. Via this *Order*, the Commission modifies and relaxes its procedural requirements to provide "automatic" program test authority to applicants for new or modified *nondirectional* AM, FM and TV stations; and also provide "automatic" special temporary authority, for 30 days, allowing permittees for modified nondirectional AM, FM and TV facilities to discontinue operation or to operate with temporary facilities as necessary to accommodate construction and maintain the size of the presently licensed coverage area. These two types of "automatic authority" will be achieved by simply notifying, by letter, the FCC in Washington, D.C. and the Engineer in Charge of the station's radio district. Applicants are reminded that within 10 days after commencing "automatic" program test authority, the new station applicant must file for license on FCC Form 302 for a commercial station or Form 341 for noncommercial. Both of these "automatic" authorizations (STA's and PTA's) are subject to modification or cancellation by the FCC. To guide the licensee, an appropriate rule is drafted and designated § 73.1615, "Operation during modification of facilities."

The analysis of STA's which resulted in the above-described action, focused attention on the colloquial acronym, STA, for "special temporary authorization." Its use is decades old and its origin is obscured in the distant past. It is referenced in the rules pertaining to applications in § 73.3511, "Applications required," and also in § 73.3542, "Application for temporary authorization." But, nowhere is there a rule entitled "Special temporary authorization." This long-time omission is corrected herein and a definition-rule is added to Subpart H of Part 73 as § 73.1635, "Special temporary authorizations." With clarity, the rule defines an STA as the authority granted to permit the operation of a broadcast facility for a limited period at a specified variance with the terms of the station license or requirements of the FCC, either by asking for prior authority from, or sending notice to the FCC. (Many of our rules have already been changed via reregulation proceedings to allow notification directly, relaxing previously required requests for authorization to which the FCC has to respond.)

To establish the linkage between new § 73.1635, "Special temporary authorization" and § 73.3511, "Applications required," and § 73.3542, "Application for temporary authorization," cross references, making clear the relationships, are added to each as applicable. Also, in § 73.3542, "Application for temporary authorization," new text is added stating that certain broadcast rules allow notification in lieu of an application for authority; and text regarding granting of temporary authorizations in extraordinary circumstances requiring emergency operation to serve the public interest is moved from § 73.3580(b) where it inappropriately resides to § 73.3542 where it more properly belongs.

(d) In Transmittal Sheet No. 11 to Volume III (August 1976 edition of the rules—T.S. III (76)–11), the section number and the title of the program log rule is incorrectly positioned due to GPO printing error. It is corrected in this Order. Also, four incorrect cross references are changed.

(e) Sections 73.3526 and 73.3527 are the rules regarding local public inspection files of commercial and noncommercial stations, respectively. It is clear, in paragraph (a) of each rule, that the requirements pertain to applicants for construction permits, permittees and licensees. In paragraphs (f) of § 73.3526 and (h) of § 73.3527 are found the requirements for making copies of public file material available to the requesting public. Each of these paragraphs refer to "* * * material in the public file of *any TV or radio station* * * *" (emphasis added) giving a possible interpretation of not pertaining to applicants for a construction permit as well as permittees and licensees. Where the possibility of this mis-interpretation in the subject paragraphs exists, the rule text is clarified herein.

(f) The requirements for giving local public notice of the filing of broadcast applications are found in § 73.3580. In the notice requirements for translator or booster applicants, the applicant is required to reveal "the purpose for which the application was filed." A parenthetical phrase starting "such as * * *" follows, listing *some* of the types of applications to which the purpose requirement refers. The "such as" phrase tends to confuse readers of the rule. Since the purpose for the application must be given in the notice *for all* translator and booster *applications*, the phrase ("such as * * *") is deleted and the subparagraph will simply and clearly read, "The purpose for which the application was filed."

(g) In the Reregulation *Order* restructuring the rule book for the broadcast services[1], the Ownership reports rule, § 1.615 was redesignated §73.3615 and transferred to Subpart H, Part 73. In this rewriting and changeover procedure, a proviso in the rule pertaining to widely held corporations, was inadvertently deleted. It will, via this *Order*, be replaced in paragraph (d)(2) of the rule.

(h) The following additions are made to the listing of Policies of the FCC in Subpart H, Part 73.

(i) *Public Notice* entitled "Temporary Policy Extending Suspended Enforcement of Television Vertical and Horizontal Blanking Standards."

(ii) *Public Notice* entitled "Temporary Policy Concerning Applicability of Vertical and Horizontal Blanking Standards to In-School Instructional Television Programs."

(iii) *Public Notice* regarding use of automated programming systems to conduct weekly attention signal tests of EBS.

(iv) *Public Notice* entitled "New Financial Qualifications Standard for Television Broadcast Applicants."

(v) *Report* of the Commission on encoded four-channel multiplex stereo transmission authority.

(vi) *Public Notice* entitled "Commission Authorizes Use of Dolby Encoder by FM stations."

(vii) *Memorandum Opinion and Order* regarding transmission of information, via Subsidiary Communications Authorization (SCA) of horse racing information to off-track betting parlors in New York State.

(viii) *Public Notice* entitled "Unauthorized Broadcast of Federal Aviation Administration Communications by Broadcast and Other FCC Licensees."

(ix) *Public Notice* entitled "Use of Special Signals for Network Purposes Which Adversely Affect Broadcast Service."

2. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public.

3. We conclude that, for the reasons set forth above, adoption of these revisions will serve the public interest and inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rule making, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

[1] *Order*, FCC 79–371, adopted June 7, 1979, 72 F.C.C. 2d 534.

4. Therefore, IT IS ORDERED, That pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, the Commission's Rules and Regulations ARE AMENDED as set forth in the attached Appendix, effective February 8, 1980.

5. For further information on this *Order*, contact Steve Crane, Philip Cross or John Reiser, Broadcast Bureau, (202) 632–9660.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

1. In § 73.157, the headnote and paragraph (a) are amended to read as follows:

§ 73.157 Special antenna test authorizations.

(a) A special antenna test authorization may be issued to the licensee of a station, using a directional antenna during nighttime hours, to operate with the nighttime facilities during the daytime when conducting monitoring point field strength measurements and antenna proof of performance measurements. To obtain a special antenna test authorization, an informal letter request, signed by the licensee, shall be submitted to the FCC in Washington, D.C.

* * * * *

2. In § 73.1211, paragraphs (c) and (d) are amended and the Note is deleted, as follows:

§ 73.1211 Broadcast of lottery information.

* * * * *

(c) The provisions of paragraphs (a) and (b) of this Section shall not apply to an advertisement, list of prizes or other information concerning:

(1) A lottery conducted by a State acting under authority of State law when such information is broadcast:

(i) By a broadcast station licensed to a location in that State; or

(ii) By a broadcast station licensed to a location in an adjacent State which also conducts such a lottery. (18 U.S. Code 1307; 88 Stat. 1916).

(2) Fishing contests exempted under 18 U.S. Code 1305 (not conducted for profit, *i.e.*, all receipts fully consumed in defraying the actual costs of operation).

(d) For the purposes of paragraph (c)(1) of this Section:

(1) "Lottery" means the pooling of proceeds derived from the sale of tickets or chances and allotting those proceeds or parts thereof by chance to one or more chance takers or ticket purchasers. It does not include the placing or accepting of bets or wagers on sporting events or contests.

(2) A broadcast station licensed to a location in a State that conducts a State lottery may broadcast advertisements of or information concerning such lottery in its State of license and advertisements of or information concerning such lotteries conducted in any adjacent State. (See 18 U.S.C. 1307, FCC 75). The exemption would, for example, permit a broadcast station licensed to a location in New York, which now conducts a lawful State Lottery, to broadcast advertisements of or information concerning the New York State Lottery as well as the lawful State Lotteries of Massachusetts, Connecticut, New Jersey and Pennsylvania, since these States are adjacent to New York, and also conduct a State Lottery. The exemption, however, would not permit a broadcast station licensed to a location in New York to broadcast information concerning the Maine or Michigan State Lotteries since those States are not adjacent States to New York. Nor would the exemption permit a station licensed to a location in Virginia to broadcast information concerning the Maryland State Lottery, since although Virginia is adjacent to Maryland, Virginia does not conduct a State lottery.

3. In § 73.1520, paragraph (c) is amended to read as follows:

§ 73.1520 Operation for tests and maintenance.

* * * * *

(c) Licensees of AM stations may obtain special antenna test authorizations, and operate under the provisions described in § 73.157, to operate with nighttime facilities during daytime hours in conducting directional antenna field strength and antenna proof of performance measurements.

4. New § 73.1615 is added to Subpart H, Part 73, as follows:

§ 73.1615 Operation during modification of facilities.

When the licensee of an existing AM, FM or TV station is in the process of modifying existing facilities as authorized by a construction permit and determines it is necessary to either discontinue operation or to operate with temporary facilities to continue program service, the following procedures apply:

(a) Licensees holding a construction permit for modified operation of nondirectional facilities may, without specific FCC authority, for a period not exceeding 30 days:

(1) Discontinue operation, or

(2) Operate with temporary facilities to maintain, as nearly as possible, but not exceed, the size of the presently licensed coverage area, and

(3) In either procedure, such operation or discontinuance of operation may begin upon notification to the FCC in Washington, D.C. and the Engineer in Charge of the radio district in which the station is located.

(4) Should it be necessary to continue the procedure in either paragraph (a)(1) or (a)(2) of this section, an informal letter request signed by the licensee or the licensee's representative must be sent to the FCC in Washington, D.C. prior to the 30th day.

(b) Licensees holding a construction permit for modified operation of directional facilities must request and obtain authority from the FCC in Washington, D.C. prior to using any new installation authorized by the permit, or using temporary facilities, if such use is deemed necessary, to maintain continued program service.

(1) The request is to be made at least 10 days prior to the date on which the temporary operation is to commence. The request is to be made by letter which shall describe the operating modes and facilities to be used. Such letter requests shall be signed by the licensee or the licensee's representative.

(2) Discontinuance of operation is permitted upon notification to the FCC in Washington, D.C. and the Engineer in Charge of the station's radio district. Should it be necessary to discontinue operation longer than 30 days, an informal letter request, signed by the licensee or the licensee's representative, must be sent to the FCC in Washington, D.C. prior to the 30th day.

(c) The FCC may modify or cancel the temporary operation permitted under the provisions of paragraphs (a) or (b) of this section without prior notice or right to hearing.

5. Section 73.1620 is amended to read as follows:

§ 73.1620 Program tests.

(a) Upon completion of construction of an AM, FM or TV station in accordance with the terms of the construction permit, the technical provisions of the application, the rules and regulations and the applicable engineering standards, program tests may be conducted in accordance with the following:

(1) In the case of a nondirectional station, the permittee may begin program tests upon notification to the FCC in Washington, D.C. and the Engineer in Charge of the station's radio district, provided that within 10 days thereafter, an application for a license is filed with the Commission in Washington, D.C.

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(2) In the case of a station with a directional antenna system, the permittee must file an application for license requesting program test authority with the FCC in Washington, D.C., at least 10 days prior to the date on which it desires to begin such operation. Also, an antenna proof of performance must be filed with the request by an AM directional station.

(b) The FCC reserves the right to revoke or suspend program tests by any station without right of hearing for failure to comply adequately with all terms of the construction permit or in order to resolve instances of objectionable interference.

* * * * *

(e) Acceptance by the FCC of notification of the station of program tests, or the granting of program test authority by the FCC, is not to be construed by the permittee as approval by the FCC of the application for station license.

(f) The licensee of a UHF TV station which is not in operation on, but assigned to, the same allocated channel which a 1000 watt UHF translator station is authorized to use (see § 73.3516, "Specification of facilities"), shall notify the licensee of the translator station, in writing, at least 10 days prior to commencing or resuming operation. The TV station licensee shall also certify to the FCC in Washington, D.C. that such advance notice has been given to the translator station licensee.

6. New § 73.1635 is added to Subpart H to read as follows:

§ 73.1635 Special temporary authorizations (STA).

A special temporary authorization (STA) is the authority granted to permit the operation of a broadcast facility for a limited period at a specified variance with the terms of the station authorization or requirements of the FCC rules applicable to the particular class of station. Certain rules, however, permit temporary operation at variance without prior authorization from the FCC, when notification is filed as prescribed in the particular rules. See §§ 73.1615, "Operation during modification of facilities," 73.3511, "Applications required" and 73.3542, "Application for temporary authorization," for procedures on requesting special temporary authorizations. The FCC may modify or cancel a special temporary authorization without prior notice or right to hearing.

7. Section 73.1810 (b)(4)(iii) and (f)(4)(iii) are amended to read as follows:

§ 73.1810 Program logs.

Commercial Stations

* * * * *

(b) * * *

(4) * * *

(iii) An entry for each announcement made pursuant to the local notice requirements of §§ 73.3580 (pre-grant), 73.3594 (designation for hearing) and 73.1202 (licensee obligations), showing the time it was broadcast.

* * * * *

(f) * * *

(4) * * *

(iii) An entry for each announcement made pursuant to the local notice requirements of §§ 73.3580 (pre-grant) and 73.3594 (designation for hearing), showing the time it was broadcast.

* * * * *

8. Section 73.3526(f) is amended to read as follows:

§ 73.3526 Local public inspection file of commercial stations.

* * * * *

(f) Copies of any material required to be in the public file of any applicant for a construction permit, or permittee or licensee of any TV or radio station shall be available for machine reproduction upon request made in person, provided the requesting party shall pay the reasonable cost of reproduction. Requests for machine copies shall be fulfilled at a location specified by the applicant, permittee or licensee, within a reasonable period of time which, in no event, shall be longer than seven days unless reproduction facilities are unavailable in the applicant's, permittee's or licensee's community. The applicant, permittee or licensee is not required to honor requests made by mail, but may do so if it chooses.

9. Section 73.3527(h) is amended to read as follows:

§ 73.3527 Local public inspection file of noncommercial educational stations.

* * * * *

(h) Copies of any material required to be in the public file of any applicant for a construction permit, or permittee or licensee of any TV or radio station shall be available for machine reproduction upon request made in person, provided the requesting party shall pay the reasonable costs of reproduction. Requests for machine copies shall be fulfilled at a location specified by the applicant, permittee or licensee, within a reasonable period of time which, in no event, shall be longer than seven days unless reproduction facilities are unavailable in the applicant's, permittee's or licensee's community. The applicant, permittee or licensee is not required to honor requests made by mail but may do so if it chooses.

10. Section 73.3542 (b), (d) and (e) are amended to read as follows:

§ 73.3542 Application for temporary authorization.

* * * * *

(b) Temporary authority may be granted to a licensee or permittee of a broadcast station to operate such station for a period not to exceed 90 days upon request therefor. Any such request should be filed with the FCC at least 10 days prior to the date of the proposed operation and should be accompanied by a statement giving full particulars as to the purpose for which the request is made. Any temporary authority issued under this Section may be cancelled by the FCC without further notice or right to hearing. Written notification to the FCC in Washington, D.C. or the Engineer in Charge of the station's radio district may be given in lieu of request for temporary authorization if specifically allowed by a rule in Part 73.

* * * * *

(d) An information application is to be used, signed in accordance with the provisions of § 73.3513, "Signing of applications," and providing the information required in paragraph (d) of § 73.3511, "Applications required."

(e) Request for temporary authorization necessitated by equipment damage or failure may be made without regard to the procedural requirements of this Section. Also, in extraordinary circumstances requiring emergency operation to serve the public interest, the FCC may grant a temporary authorization accompanied by a statement of its reason therefor. Such grant would permit emergency operation for a period of not more than 90 days. If like finding can be made, the FCC may extend the temporary authorization for one additional period not to exceed 90 days.

11. Section 73.3580 (b) and (g)(1)(ii)(B) are amended to read as follows:

§ 73.3580 Local public notice of filing of broadcast applications.

* * * * *

(b) Applications (as originally filed or amended) will be acted upon by the FCC no sooner than 30 days following public notice of acceptance for filing or amendment, except as otherwise permitted in § 73.3542, "Application for temporary authorization."

* * * * *

(g) * * *

(1) * * *

(ii) * * *

(B) The purpose for which the application was filed.

* * * * *

12. Section 73.3615(d)(2) is amended to read as follows:

§ 73.3615 Ownership reports.

* * * * *

(d) * * *

(2) All corporate licensees having more than 50 voting or non-voting shareholders, or controlling corporation, or corporations holding 25% or more of the outstanding voting or non-voting stock of the licensee, are required under this paragraph (d) to file annually. Filings must be made on a recurring annual basis, within 60 days from the anniversary of the record date selected in the first report for stockholders.

* * * * *

13. New § 73.4093 is added to Subpart H, Part 73, as follows:

§ 73.4093 Discrete (encoded) 4-channel stereo transmission authority.

See Report of the Commission, dated August 9, 1972, 72 F.C.C. 2d 792.

14. New § 73.4094 is added to Subpart H, Part 73 as follows:

§ 73.4094 Dolby encoder.

See Public Notice dated July 10, 1974, 72 F.C.C. 2d 790.

15. New § 73.4097 is added to Subpart H, Part 73, as follows:

§ 73.4097 EBS attention signal tests on automated programming systems.

See Public Notice dated March 1, 1979. 72 F.C.C. 2d 780; 44 FR 17792, March 23, 1979.

16. New § 73.4101 is added to Subpart H, Part 73, as follows:

§ 73.4101 Financial qualifications, TV stations.

See Public Notice, FCC 79-299, dated May 11, 1979. 72 F.C.C. 2d 784; 44 FR 29160, May 18, 1979.

17. New § 73.4102 is added to Subpart H, Part 73, as follows:

§ 73.4102 FAA communications, Broadcast of.

See Public Notice, FCC 72-105, dated February 2, 1972. 37 FR 3567, February 17, 1972.

18. New § 73.4126 is added to Subpart H, Part 73, as follows:

§ 73.4126 Horse racing information: SCA transmissions.

See Memorandum Opinion and Order, FCC 79-296, adopted May 10, 1979. 72 F.C.C. 2d 793.

19. New § 73.4157 is added to Subpart H, Part 73, as follows:

§ 73.4157 Network signals which adversely affect affiliate broadcast service.

See Public Notice, FCC 79-387, dated April 20, 1970. 22 F.C.C. 2d 779.

20. Section 73.4270 is amended to add new paragraphs (b) and (c), and designate current text as paragraph (a), to read as follows:

§ 73.4270 TV Broadcast signals: technical standards.

(a) See Public Notice, FCC 78-423, dated June 16, 1978. 43 FR 36689, August 18, 1978. This FCC statement was modified by Public Notice, FCC 79-10, dated January 10, 1979. 44 FR 3274, January 16, 1979.

(b) See also Public Notice, dated July 3, 1979. 72 F.C.C. 2d 786, entitled "Temporary Policy Extending Suspended Enforcement of TV Vertical and Horizontal Blanking Standards."

(c) See also Public Notice, FCC 79-231, dated April 12, 1979, entitled "Temporary Policy Concerning Application of Vertical and Horizontal Standards to In-School ITV Programs." 72 F.C.C. 2d 782.

21. New § 73.4372 is added to Subpart H, Part 73, as follows:

§ 73.4272 TV colorburst during black and white programming.

See Memorandum Opinion and Order, FCC 76-223, adopted March 9, 1976. 58 F.C.C. 2d 385.

[FR Doc. 80-2722 Filed 1-25-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 76

Cable Television Services; Editorial Amendment of Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Rule requiring cable employment units to submit copies of their EEO programs is clarified to eliminate mere filings of statements that such programs exist. Section of rules denoting various forms that must be filed with the Commission is amended to reflect change made when FCC Form 395—previously shared by the Broadcast, Common Carrier and Cable Television Bureaus was redesignated FCC Form 395-A for Cable Television purposes.

EFFECTIVE DATE: February 1, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert Ungar, Cable Television Bureau, (202) 632-9797.

Order

Adopted: January 17, 1980.

Released: January 22, 1980.

In the matter of editorial amendments to §§ 76.311(g) and 76.403 of the Commission's rules.

1. In June, 1977 FCC Form 395 used to obtain employment data from broadcast stations, common carriers and cable television systems was redesignated for cable television system use, FCC Form 395-A.

2. This redesignation was not reflected in § 76.403 which lists the various forms that cable systems must submit to the Commission annually. This omission has caused some confusion.

3. In a related matter it appears that § 76.311(g) which requires certain cable television employment units to file equal employment opportunity program statements with the Commission has been misinterpreted by some who have filed only statements that they have programs in compliance with the rules.

4. In view of the foregoing, in order to eliminate confusing and clarify our rules, under the authority of section 4(d)(1) and (i) of the Communications Act of 1934, as amended and § 0.231(d) of the Commission's rules, we are amending §§ 76.311(g) and 76.403 as shown in the attached appendix. Since these amendments are editorial in nature, the public notice, procedure and effective date provisions of the Administrative Procedure Act, 5 U.S.C. 553, are not applicable.

5. Regarding questions on matters covered in this document, contact Robert Ungar, telephone (202) 632-9797.

In view of the above, it is ordered, that the rule amendments set forth in the attached appendix are adopted, effective February 1, 1980.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

R. D. Lichtwardt,

Executive Director.

Appendix

Part 76 of Chapter I of Title 47 of the Code of Federal Regulations is amended to read as follows:

§ 76.311 [Amended]

Section 76.311(g) is amended by replacing the phrase, "every employment unit shall file a statement of its equal employment opportunity program" with the phrase, "every employment unit shall file a copy of its equal employment opportunity program."

V 45 / 19 J A 28 80 UMI

§ 76.403 [Amended]

Section 76.403 is amended by replacing the phrase, "Annual Employment Report, Form 395" with the phrase "Annual Employment Report, Form 395–A."

[FR Doc. 80-2547 Filed 1-25-80; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 76-06; Notice 8]

Speedometers and Odometers

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule (response to petitions for rulemaking).

SUMMARY: This notice is being issued in response to petitions for rulemaking to amend Federal Motor Vehicle Safety Standard (FMVSS) 127 to delete the accuracy requirement of speedometers. That requirement was scheduled to become effective September 1, 1980. This notice grants the petition and deletes the accuracy requirement, thus relieving manufacturers from having to comply with it.

EFFECTIVE DATE: This amendment is effective January 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Neill, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202–426–2800).

SUPPLEMENTARY INFORMATION: In the March 16, 1978, final rule establishing Federal Motor Vehicle Safety Standard (FMVSS) 127, the agency included a requirement limiting the deviation of indicated vehicle speed from actual vehicle speed to plus or minus 4 miles per hour. On March 22, 1979, the agency responded to petitions for reconsideration of the speedometer accuracy requirement by extending the effective date for the requirement from September 1, 1979, to September 1, 1980. The purpose of this change was to provide manufacturers with additional time in which to account for the variables contained in the speedometer gear train that would result in some units that exceed the accuracy limits of plus or minus 4 mph.

In its April 18, 1979, petition for rulemaking, General Motors stated that the accuracy requirement is not based on a safety need and that compliance therewith could not be achieved by reasonable means despite the extension of the effective date. Citing its submission of substantiating data, the company stated that manufacturers could not ensure compliance of all their speedometer units with the accuracy requirement due to tire variability over which they have no control. According to the company, in a situation where the total allowable error range specified in FMVSS 127 is 8 mph (i.e., −4 to +4 mph) and the vehicle speed is 55 mph, speedometer head factors would account for 4.6 mph of the 8 mph range and the speedometer/odometer drive gearing would account for as much as 2.8 mph. This would leave an error range of only 0.6 mph to accommodate the remaining tire variables. The tire data supplied to General Motors by the various tire manufacturers show that variations in the diameter of tires produced by a single manufacturer could result in a speedometer error range of 2.4 mph at a vehicle speed of 55 mph. Likewise, such variation among different tire manufacturers cold result in an error range of 3.2 mph at a vehicle speed of 55 mph. In addition, bias ply tires "grow" even after brief use. The mechanism by which this occurs is not fully understood, but data submitted by General Motors indicates that this process may increase the section height of the tire by as much as 3 percent. The effect of the growth is to decrease revolutions per mile for the tire. They further indicated that an error range of 4.8 mph would be necessary to compensate for the effect of this phenomenon on speedometer accuracy.

General Motors concluded that in a typical case an accuracy range of at least 12 mph would be necessary to account for all of the sources of speedometer variability. In light of this, the company requested that the agency either entirely delete the accuracy requirement due to the lack of an underlying safety need, or in the alternative, that the agency "normalize the revolutions per mile for the tires to be used on motor vehicles so that the tire variables can be neutralized."

In a petition dated August 28, 1979, International Harvester also petitioned for deletion of the accuracy requirement. The company stated that there is no safety need for the requirement. The company further stated that although it is confident that a high percentage of its present production vehicles do comply, it cannot ensure that 100 percent of its vehicles will comply with the ±4 mph tolerance requirement. International Harvester stated that this is because it purchases both speedometers and tires from outside suppliers and therefore is unable to control worst case variability in tires and speedometer assemblies which exceed that permitted by FMVSS 127. International Harvester submitted only limited substantiating data but did indicate its strong agreement with General Motors' data and support for that company's position.

The agency grants these petitions and deletes the speedometer accuracy requirement from FMVSS 127. The agency continues to believe that it is important that drivers know accurately the speed of their vehicles given the effect of vehicle speed on vehicle handling and on accident severity and given the need to comply with speed limits. However, implementation of this rule now would not significantly affect the accuracy of speedometers. If, at a later time, it becomes possible to make more substantial improvements in speedometer accuracy or if the agency obtains data indicating that speedometers are being built with less accuracy than they currently are, the agency will consider reproposing an accuracy requirement.

The agency's conclusion about the effect of the accuracy requirement on speedometer accuracy is based on several factors. First, data submitted by the petitioners as well as data submitted in response to prior rulemaking concerning speedometer accuracy and an agency study performed in 1977 suggests that the accuracy range of most speedometers is within ±4 mph. A report prepared by The Automobile Club of Southern California cited in General Motors' petition suggests that in excess of 90 percent of sampled vehicles-in-use exhibited indicated speeds within ±4 mph. In addition, General Motors and International Harvester both stated that most of their speedometers would comply but it would be quite costly and difficult to ensure 100 percent compliance due to the variables described in their petitions. It appears from the data submitted by the petitioners as well as data submitted by other manufacturers in response to earlier rulemaking (see, e.g., submissions by White Motor Corporation, American Motors Corporation and Chrysler Corporation in Docket 76–06–NO3) that the speedometers in most passenger vehicles already operate within the range of ±4 mph but that the speedometers in heavy duty trucks and in buses cannot all be brought within the range. With respect to heavy trucks, comments in response to earlier rulemaking indicated that drivers of such vehicles rely on tachometers and transmission gear selection for vehicle speed and that thus the accuracy of the speedometer is a secondary consideration.

The agency notes further that there appears to be no incentive for the manufacturers to produce less accurate speedometers in the future. Consumer awareness and manufacturer product liability concerns are likely to combine to ensure that speedometer accuracy remains at its current level.

This amendment is being adopted without the prior issuance of a notice of proposed rulemaking. The agency finds that notice and opportunity for comment in this instance are unnecessary and contrary to the public interest for the reasons stated below. As mentioned previously, the requirement would not have significantly affected speedometer accuracy. It would, however, require manufacturers to make changes to some of the speedometers. The manufacturers have already begun their efforts to make those changes since the requirement would have become effective in 8 months and production begins sooner than that. Dispensing with notice permits the agency to relieve the manufacturers immediately from the necessity of making further compliance efforts.

The agency is making this amendment effective upon publication in the **Federal Register**. This early effective date is necessary so that the manufacturers can cease their compliance efforts immediately.

The agency has considered the economic impact of this final rule and determined that the rule is not significant within the meaning of Executive Order 12044 and the Department of Transportation's policies and procedures for implementing that order. The agency has determined further that the impact is so minor as not to require preparation of a written evaluation of it. The effect of this amendment is to relieve the manufacturers from having to make the relatively insubstantial expenditures and efforts that would have been necessary to comply with the speedometer accuracy requirement.

§ 571.127 [Amended]

In view of the above, Federal Motor Vehicle Safety Standard No. 127, *Speedometers and Odometers*, 49 CFR 571.127, is amended by deleting section S4.1.3.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on January 22, 1980.

Joan Claybrook,

Administrator.

[FR Doc. 80-2586 Filed 1-23-80; 1:46 pm]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Foreign Fishing for Atlantic Billfish and Sharks; Final Regulations

AGENCY: National Oceanic and Atmospheric Administration. (NOAA)/ Commerce.

ACTION: Final Regulations.

SUMMARY: The National Oceanic and Atmospheric Administration amends its foreign fishing regulations. The amendment provides for inclusion of new reporting codes for several species covered by the preliminary fishery management plan for Atlantic billfish and sharks and for species caught incidentally. Presently, all sharks may be recorded as "nonspecific sharks" and marlin and spearfish are not recorded at all. As a result of the amendment, foreign vessels, when catching these species, will have to record them using the new codes.

EFFECTIVE DATE: February 29, 1980.

FOR FURTHER INFORMATION CONTACT: William H. Stevenson, Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702. Telephone: (813) 893–3141.

SUPPLEMENTARY INFORMATION: The proposed regulation was published in the **Federal Register** on December 13, 1979 (44 FR 72204). No comments were received.

The Assistant Administrator for Fisheries finds and determines that (1) this regulation is not significant within the meaning of Executive Order 12044, and (2) this regulation does not require the formulation of an Environmental Impact Statement under the National Environmental Policy Act of 1969.

Signed at Washington, D.C., this 22nd day of January, 1980.

Authority: 16 U.S.C. 1801 *et seq.*

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

50 CFR 611 is amended as follows:

§ 611.9 [Amended]

Add the following to the Species Codes, § 611.9, Appendix I—Part A, Atlantic Ocean fishes (including the Gulf of Mexico):

Code, Common English Name, and Scientific Name
462—Porbeagle shark, *Lamna nasus*
463—Longfin mako shark, *Isurus paucus*
464—Shortfin mako shark, *Isurus oxyrinchus*
465—Blue shark, *Prionace glauca*
256—White marlin, *Tetrapturus albidus*
254—Longbill spearfish, *Tetrapturus pfluegeri*
260—Blue marlin, *Makaira nigricans*
252—Sailfish, *Istiophorus platypterus*
240—King mackerel, *Scomberomorus cavella*
244—Spanish mackerel, *Scomberomorus maculatus*

[FR Doc. 80-2730 Filed 1-25-80; 8:45 am]

BILLING CODE 3510-22-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 111

[Amdt. 1]

Amendments Clarifying Eligibility of Waste Disposal Concerns, Providing for Joint Applicants in Some Instances and Changing the Processing and Administrative Fee for Applications

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: During the early stages of this program, SBA interpreted the legislative history of its authority to preclude assistance for the acquisition of a pollution control facility designed to control pollution by other than the applicant itself. For this reason applications from waste disposal concerns were considered ineligible. The Comptroller General has concurred in SBA's request to consider waste disposal concerns as eligible, because such a determination accords with the underlying intent of Congress that small concerns be assisted in allaying environmental pollution. This affirmative determination is reflected in the following amended §§ 111.2 and 111.3.

Other amendments change the processing and administrative fee and clarify the manner of amortization of the debt to be guaranteed.

EFFECTIVE DATE: January 29, 1980.

FOR FURTHER INFORMATION CONTACT: Vincent A. Fragnito, Chief, Pollution Control Guarantees, Office of Special Guarantees, Magazine Building, Rosslyn, Virginia 22209 (703–235–2902).

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SUMMARY: On October 11, 1979, a document was published in the **Federal Register** (44 FR 58745) proposing amendments to Part 111 for several purposes. One proposal was to amend § 111.4(c), to permit parent corporations to become co-applicants for purposes of § 111.4(d) which requires a successful five year operating history. Due to the variety of circumstances presented by applications received since the publication of this proposal, it has become apparent that it is not adequate to accommodate the complexities arising from applications of multiple or changing business entities. The proposed amendment to § 111.4(c) is therefore withdrawn. A new proposed concerning the required operating history set forth in § 111.4(d) will be published shortly. The amendments to §§ 111.5(c)(2), (4) and (5) to conform them to the proposal to amend § 111.4(c) are also withdrawn. Another proposal concerning the eligibility of waste disposal concerns has been rephrased in response to a critical comment. The other amendments are adopted as proposed.

The public comments require the following changes in the proposed amendments to clarify their intent:

1. The definition of "Facility" in § 111.3 as proposed concluded with the words "including any related resource recovery property when stated to be necessary for pollution abatement by a local, State or Federal environmental regulatory authority." To indicate that the statement is required only for resource recovery property, and to reduce the need for a statement of necessity to one of usefulness, (but see § 111.4(e) below) the final amendment will read: "including any related resource recovery property when such recovery property is stated to be useful for pollution abatement by a local, State or Federal environmental regulatory authority."

2. Section 111.4(e) as proposed omitted the portion of the definition of "Facility" which was designed for concerns conducting a waste disposal business. To clarify the proposal without repetition of the full definition of "Facility", § 111.4(e) will read: "Provide evidence from a local, State or Federal environmental regulatory authority that the Facility meets the terms of the definition above."

Pursuant to the authority of section 308(c) of the Small Business Investment Act, as amended, 15 U.S.C. 687(c), Part 111 of Chapter I, Title 13 of the Code of Federal Regulations is hereby amended as set forth below:

1. Section 111.2 is revised to read as follows:

§ 111.2 Policy.

It is the intent of Congress to assist existing small concerns including solid or liquid waste disposal concerns, which are or are likely to be at an operational or financing disadvantage with other business concerns with respect to the planning, design, or installation of pollution control Facilities, or the obtaining of financing therefor, by authorizing SBA to guarantee fully (100 percent), directly or in cooperation with others, the periodic payments due in connection with the purchase or lease of such Facilities under a Qualified contract. The guarantee shall be a full faith and credit obligation of the United States, and may be issued notwithstanding that the pollution control Facility is acquired by the use of proceeds from tax-exempt industrial revenue bonds. In those instances where revenue bond financing is uneconomic or is not practicable (e.g., for small amounts), or when the project may not qualify for tax-exemption, the Small concern may seek financing assistance under SBA's pollution control (Small Business Investment Act, sec. 404, 15 U.S.C. 694–1), Air Pollution (Small Business Act, sec. 7(b)(5), 15 U.S.C. 636), or Water Pollution (Small Business Act, sec. 7(g)(1), 15 U.S.C. 636(g)(1)) Loan Programs.

2. Section 111.3 is amended as follows:

§ 111.3 Definitions.

* * * * *

"Facility" means such property (both real and personal) as the Administration in its discretion determines is likely to help prevent, reduce, abate, or control noise, air or water pollution or contamination by removing, altering, disposing, or storing pollutants, contaminants, wastes, or heat, and such property (both real and personal) as the Administration determines will be used for the collection, storage, treatment, utilization, processing, or final disposal of solid or liquid waste, including any related resource recovery property when such recovery property is stated to be useful for pollution abatement by a local, State or Federal environmental regulatory authority.

* * * * *

3. Paragraph (e) of § 111.4 is revised to read as follows:

§ 111.4 Eligibility.

* * * * *

(e) Provide evidence from a local, State or Federal environmental regulatory authority that the Facility meets the terms of the definition above.

* * * * *

4. Paragraph (c) of § 111.7 is revised to read as follows:

§ 111.7 Terms of guarantee and fee.

* * * * *

(c) The Processing and administrative fee relating to industrial revenue bond financing will be computed as follows: $550 + ($30 X number of years of Qualified contract). Each application shall be accompanied by $250 of the Processing and administrative fee which is not refundable. The balance of the Processing and administrative fee is payable to SBA upon issuance of its guarantee.

If the application is approved, SBA may issue a commitment to guarantee which shall expire not later than 24 months from the date of the commitment.

* * * * *

5. Paragraph (c) of § 111.8 is revised to read as follows:

§ 111.8 Qualified contract.

* * * * *

(c) Identification of the parties; description and location of the Facility, the principal basic indebtedness therefor to be guaranteed (exclusive of those costs or expenses listed in paragraph (d) of this section), the rate of interest thereon and the number, amount and time of payments, which shall be in substantially equal amounts not less frequently than quarterly.

* * * * *

(Catalog of Federal Domestic Assistance Programs No. 59,031, Pollution Control Financing Guarantee Program)

Dated: January 22, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-2749 Filed 1-25-80; 9:44 am]

BILLING CODE 8025-01-M

Proposed Rules

Federal Register
Vol. 45, No. 19
Monday, January 28, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 1

Eligibility of Securities for Purchase, Dealing in, Underwriting and Holding by National Banks; Advance Notice of Proposed Rulemaking

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency is considering the revision of 12 CFR Part 1 by adding a set of general principles of federal banking law and regulations applicable to the purchase, dealing in, underwriting and holding of investment securities by national banks. The Comptroller has determined that the development of such additional guidelines is of sufficient interest to warrant public participation in an effort to arrive at a method best usable for providing assistance in the application of the law and regulations in this area to the banks and bank counsel. This notice will solicit comments on the issues involved in the revision.

DATES: Comments Must Be Received on or Before: March 7, 1980.

ADDRESS: Comments should be sent in triplicate to: Mr. John E. Shockey, Chief Counsel, Comptroller of the Currency, Washington, D.C. 20219.

FOR FURTHER INFORMATION CONTACT: Raija H. Bettauer, Attorney, Comptroller of the Currency, Washington, D.C. 20219 (202) 447–1880.

SUPPLEMENTARY INFORMATION: In addition to the investment securities regulations, 12 CFR Part 1 until recently consisted of a great number of individual rulings issued by the Comptroller. (12 CFR 1.105–1.480). While these individual rulings may have provided insight into the interpretation of, and the Comptroller's practice regarding, the applicable law and regulations, the continued codification of the great volume of such rulings did not appear feasible or warranted. Consequently, in anticipation of more concise and manageable guidelines in this respect, the Comptroller deleted the individual rulings from 12 CFR Part 1. *See,* 44 FR 76283 (December 26, 1979). *See also,* 44 FR 762 (January 3, 1979).

Currently, the Comptroller is engaged in a review of the nearly 300 existing rulings, and is considering, based on that review, the development of a general set of principles suitable for codification in 12 CFR Part 1. It seems that such a set of principles could provide the necessary guidance for the independent application of the relevant law and regulations by banks and bank counsel.

Although individual rulings would not be codified in the future, the Comptroller is considering the publication of significant rulings as notices in the **Federal Register.** Such publication could take place at appropriate intervals, *e.g.* four times a year. In addition, the individual rulings would continue to be available to the public in the same manner as are other significant letters issued by the Comptroller and his staff. It is expected that the rulings would thus be obtainable by private reporting services which are widely used by banks and bank counsel.

Although individual rulings will no longer be codified, the Comptroller will continue to issue rulings in letter form in response to specific requests by national banks. It is expected, however, that the additional clarification on the existing regulations will reduce the number of such requests.

Issues for Comment: The Comptroller invites comment on any element of the proposed action. Comments are specifically requested on the following areas of interest:

(1) The extent of need for additional guidance in the application of banking law and regulations regarding the purchase, dealing in, underwriting and holding of investment securities by national banks.

(2) If additional guidance is desired, the form in which it should be provided.

(3) Any particular facet of the law and regulations which warrants, and is susceptible to, clarification of general interest.

(4) An estimate to which extent this additional clarification will assist banks independently to evaluate the eligibility of upcoming securities issues.

All comments submitted will be available for public inspection at the Comptroller's Offices, 490 L'Enfant Plaza, Washington, D.C. After consideration of the available data and comments received in response to this notice, a notice of proposed rulemaking will be issued for additional comment.

Dated: January 21, 1980.

John G. Heimann,

Comptroller of the Currency.

[FR Doc. 80-2354 Filed 1-25-80; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-CE-2-AD]

Airworthiness Directives; Gates Learjet 23, 24, 25, 28, 29, 35, and 36 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making (NPRM).

SUMMARY: This Notice proposes to adopt an Airworthiness Directive (AD) that would require safetywiring of certain bolts in the cabin main entrance upper door on certain Gates Learjet 23, 24, 25, 28, 29, 35 and 36 series airplanes. The proposed AD is needed to prevent possible failure of the door locking mechanism which could prevent crew/passengers from opening the door in the event of an emergency.

DATES: Comments must be received on or before March 2, 1980.

ADDRESSES: Send comments on the proposal to: FAA, Central Region, Office of the Regional Counsel, ACE-7, Attn: Rules Docket Clerk, Docket No. 80-CE-2-AD, 601 East 12th Street, Kansas City, Missouri 64106.

The applicable Airplane Modification Kit Number AMK 79-9 may be obtained from Gates Learjet Corporation, Mid-Continent Airport, P.O. Box 7707, Wichita, Kansas 67277, Telephone Number (316) 946-2000. A copy of the Modification Kit Instructions is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri

64106 and at Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:
Marvin Beene, Aerospace Engineer, Engineering and Manufacturing District Office #43, Room 220, Mid-Continent Airport, Wichita, Kansas 67209, telephone (316) 942–4219.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the AD Docket Number and be submitted in duplicate to the address specified above. All comments received on or before the closing date for comments will be considered by the Administrator before action is taken on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

A report has been received showing that the crew on a Lear Model 35 airplane could not get the cabin main entrance upper door open after landing. The occupants exited the airplane via the emergency exit on the right side of the airplane. The visual and electric door warning system showed that the door was properly closed and locked throughout the flight. Investigation after the incident revealed that a bolt in the door linkage had backed out of its self-locking nut plate after the door was closed thereby making it impossible to open the door. Unsafe conditions will result if this happens at a time when there is a fire on the right side of the airplane in the vicinity of the emergency exit or if the emergency exit is otherwise unusable because the crew and passengers will be trapped inside the airplane. In order to prevent these possible unsafe conditions from occurring Gates Learjet Corporation has developed and made available Airplane Modification Kit Number AMK79–9 which includes hardware and instructions for safetywiring certain critical pivot bolts in the cabin main entrance upper door. Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed AD would require safetywriting of certain critical bolts in the cabin main entrance upper door on certain Gates Learjet 23, 24, 25, 28, 29, 35 and 36 series airplanes.

The Proposed Amendment

Accordingly, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

LEARJET: Applies to the following models or series and serial number airplanes certificated in all categories:

Note.—A "series" includes all models in a number series, i.e., 25 series includes Models 25; 25A, 25B, 25C, etc.

Model or series:	Serial Nos.
23 (model)	23–003 through 23–090.
24 (series)	24–100 through 24–357.
25 (series)	25–003 through 25–291.
28 (model)	28–001 through 28–005.
29 (model)	29–001 and 29–002.
35 (series)	35–001 through 35–274 and 35–276.
36 (series)	36–001 through 36–044.

Compliance: Required as indicated unless already accomplished. To assure that the cabin main entrance upper door will open, in the event of an emergency, accomplish the following:

(A) Within the next 150 hours time-in-service after the effective date of this Airworthiness Directive (AD), modify the cabin main entrance upper door by, (1) Drilling access holes, installing new mechanism pivot bolts drilled for safetywire and drilling safetywire holes in surrounding structure, as applicable, and (2) safetywiring the bolts, all in accordance with instructions in Gates Learjet Corporation Airplane Modification Kit Number AMK79–9.

(B) Issuance of a special flight permit in accordance with FAR 21.197 is permitted for the purpose of moving affected airplanes to a location where the modification required by this AD can be accomplished.

(C) Any equivalent means of compliance with this AD must be approved by the Chief, Engineering and Manufacturing District Office #43, Wichita, Kansas, telephone (316) 942–4219.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); § 11.85 of the Federal Aviation Regulations (14 CFR 11.85))

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Federal Aviation Administration, Engeering and Manufacturing Branch (ACE–210), Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3146.

Issued in Kansas City, Missouri on January 16, 1980.

Paul J. Baker,
Director, Central Region.

[FR Doc. 80–2546 Filed 1–25–80; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 79–RM–28]

Alteration of Control Zone and Transition Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice of Proposed Rulemaking (NPRM) proposes to alter the control zone and 700′ and 1,200′ transition areas at Rawlins, Wyoming to provide additional controlled airspace for aircraft executing the new VOR/DME runway 22 standard instrument approach procedure (SIAP) and departure procedure developed for the Rawlins Municipal Airport, Rawlins, Wyoming.

DATES: Comments must be received on or before March 3, 1980.

ADDRESSES: Send comments on the proposal to: Chief, Air Traffic Division, Attn: ARM–500, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

FOR FURTHER INFORMATION CONTACT:
Pruett B. Helm, Airspace and Procedures Specialist, Operations, Procedures and Airspace Branch (ARM–530), Air Traffic Division, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837–3937.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010. All communications received will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

Availability of NPRM:

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The Federal Aviation Administration is considering an amendment to subparts F and G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the control zone and the 700′ and 1,200′ transition areas at Rawlins, Wyoming. This proposal is necessary as the present control zone and the 700′ and 1,200′ transition areas are inadequate in size to contain the new VOR/DME runway 22 standard instrument approach procedure (SIAP) and departure procedure developed for the Rawlins Municipal Airport, Rawlins, Wyoming. Two separate descriptions (Rawlins, WY and Cherokee, WY) are used to describe the 1,200′ transition area that is required for the existing NDB–A approach to Rawlins Municipal Airport, Rawlins, Wyoming. It is therefore proposed to cancel the Cherokee, Wyoming 1,200′ transition area and combine this area into the Rawlins, Wyoming 1,200′ transition area for single description simplicity. Accordingly, the Federal Aviation Administration proposes to amend subparts F and G of Part 71 of the Federal Aviation Regulations (14 CFR 71) as follows:

By amending subpart F, § 71.171 as to alter the following control zone to read:

Rawlins, Wyo.

With a 5-mile radius of Rawlins Municipal Airport (latitude 41°48′15″ N., longitude 107°12′05″ W.) and within 5 miles north and 3.5 miles south of the 089° bearing from the Sinclair radiobeacon (latitude 41°48′24″ N., longitude 107°05′06″ W.) extending from the 5-mile radius area to 2.5 miles east of the radiobeacon.

By amending subpart G, § 71.181 so as to alter the following transition area to read:

Rawlings, Wyo.

That airspace extending upward from 700′ above the surface within the 9-mile radius of the Rawlins Municipal Airport (latitude 41°48′15″ N., longitude 107°12′05″ W.) and within 5 miles each side of the 089° bearing from the Sinclair radiobeacon (latitude 41°48′24″ N., longitude 107°05′06″ W.) extending from the radiobeacon to 11.5 miles east; that airspace extending upward from 1,200′ above the surface within 13 miles south and 8 miles north of the Cherokee VORTAC (latitude 41°45′21″ N., longitude 107°34′53″ W.) 261° radial extending on the north from the west edge of V–26 and on the south from the south edge of V–4 to a point 23 miles west of the Cherokee VORTAC; and that airspace east of the Cherokee VORTAC within an arc of the 46-mile radius circle centered on the Cherokee VORTAC bounded on the north by the north edge of V–26 and on the south by V–4.

By amending subpart G, § 71.181 so as to delete the following transition area:

Cherokee, Wyo.

That airspace extending upward from 1,200′ above the surface within 9 miles south and 6 miles north of the Cherokee VORTAC 261° radial extending from 8 miles east to 19 miles west of the VORTAC: and that airspace east of the Cherokee VORTAC within an arc of a 37-mile radius circle centered on the Cherokee VORTAC bounded on the north by the north edge of V–26 and on the south by the south edge of V–4, excluding that airspace within the Rawlins, Wyoming transition area.

Drafting Information

The principal authors of this document are Pruett B. Helm, Air Traffic Division, and Daniel J. Peterson, office of the Regional Counsel, Rocky Mountain Region.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation, and a comment period of less than 45 days is appropriate.

Issued in Aurora, Colorado on January 18, 1980.

Isaac H. Hoover,
Acting Regional Director, Rocky Mountain Region.

[FR Doc. 80–2550 Filed 1–25–80; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 79–RM–18]

Alteration of Federal Airway; Helena, Mont.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign a segment of V–2 airway between Helena, Mont., and Livingston, Mont., to bypass Bozeman, Mont., and renumber the present segment of this airway as a south alternate. This action would reduce the distance between Helena and Livingston. Also traffic congestion at Bozeman would be reduced.

DATES: Comments must be received on or before February 22, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Rocky Mountain Region, Attention: Chief, Air Traffic Division, Docket No. 79–RM–18, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC–24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
Mr. Everett L. McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Rocky Mountain Region, Attention: Chief, Air Traffic Division, Docket No. 79–RM–18, Federal Aviation Administration, 10455, East 25th Avenue, Aurora, Colo. 80010. All

communications received on or before February 22, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign a segment of V–2 airway from Helena to Livingston via the INT of Helena 119°T(100°M) and Livingston 322°T(304°M) radials. The present alignment of V–2 would then become V–2S for the segment from Helena to Livingston via Bozeman. This action would contribute to the reduction in fuel consumption by reducing the congestion (rerouting, vectoring and holding) in the Bozeman area and by reducing the airway distance between Helena and Livingston.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 307) as follows:

Under V–2

"Helena, Mont.; INT Helena 119° and Bozeman, Mont., 336° radials; Bozeman; INT Bozeman 128° and Livingston, Mont., 261° radials; Livingston;" is deleted and "Helena, Mont.; INT Helena 119° and Livingston, Mont., 322° radials; Livingston, including a south alternate from Helena via the INT Helena 119° and Bozeman, Mont., 336° radials; Bozeman; INT Bozeman 128° and Livingston, 261° radials;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on January 22, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-2551 Filed 1-25-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79–WE–15]

Proposed Designation of Transition Area, Hawthorne, Nev.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposal rule making.

SUMMARY: This notice proposes to designate a transition area at Hawthorne, Nevada, to provide controlled airspace for aircraft executing an instrument approach procedure to the Hawthorne Municipal Airport utilizing the Mina, Nevada VORTAC. The need for the transition area was created when an IFR approach procedure was established for Hawthorne, Nevada Municipal Airport.

DATES: Comments must be received on or before February 29, 1980.

ADDRESSES: Send comments on the proposal in triplicate to Director, Federal Aviation Administration, Attn: Chief, Airspace and Procedures Branch, AWE–530, 15000 Aviation Boulevard, Lawndale, California 90261. A public docket will be available for examination in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, Telephone (213) 536–6270.

FOR FURTHER INFORMATION CONTACT: Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261. Telephone: (213) 536–6182.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the Airspace Docket Number and be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261. All communications received on or before February 29, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Chief, Airspace and Procedures Branch, AWE–530, 15000 Aviation Boulevard, Lawndale, California, 90261, or by calling (213) 536–6180. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

Drafting Information

The principal authors of this document are Thomas W. Binczak, Air Traffic Division and DeWitte T. Lawson, Jr., Esquire, Regional Counsel, Western Region.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Hawthorne, Nevada 700-foot transition area. This action will provide controlled airspace protection for IFR operations at the Hawthorne Municipal Airport.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (45 FR 445) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding the following:

Hawthorne, Nev.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Hawthorne Municipal Airport (latitude 38°32'40" N., longitude 118°38'00" W.) and within 2 mile each side of the Mina, Nevada VORTAC 287 radial extending from the 5-mile radius area to the VORTAC.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Los Angeles, California on January 18, 1980.

W. R. Frehse,

Acting Director, Western Region.

[FR Doc. 80-2549 Filed 1-25-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79–CE–38]

Proposed Alteration of Transition Area, Storm Lake, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to alter the 700-foot transition area at Storm Lake, Iowa, to provide additional airspace for aircraft executing a new instrument approach procedure to Runway 35 at the Storm Lake, Iowa Municipal Airport which is based on the Storm Lake Non-Directional Radio Beacon (NDB) a navigational aid. It is also proposed to cancel the existing instrument approach procedure to Runway 31.

DATE: Comments must be received on or before March 1, 1980.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE–537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before March 1, 1980 will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374–3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition area at Storm Lake, Iowa. To enhance airport usage, a new instrument approach procedure to Runway 35 is being developed for the Storm Lake, Iowa Municipal Airport utilizing the Storm Lake NDB. Additionally, the existing instrument approach procedure to Runway 31 will be cancelled. The establishment of an instrument approach procedure based on this NDB entails alteration of the transition area at Storm Lake, Iowa, at and above 700 feet above ground level (AGL) within which aircraft are provided additional air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

§ 71.181 [Amended]

Accordingly, Federal Aviation Administration proposes to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1980 (45 FR 445) by altering the following transition area:

Storm Lake, Iowa

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Storm Lake, Iowa Municipal Airport (latitude 42°36'00"N, longitude 95°14'31"W) and within 3 miles each side of the 174° true bearing from Storm Lake NDB extending from the 6.5 mile radius area to 8.5 miles south of the airport.

Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65).

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on January 15, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-2351 Filed 1-25-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79–ASW–60]

Proposed Alteration of Transition Area: Lafayette, La.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The nature of the action being taken is to propose alteration of the transition area at Lafayette, La. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing instrument approach procedures to the Lafayette Regional, Acadiana Regional, and the Abbeville Municipal Airports. The circumstance which created a need for the action is that a review of the current transition area revealed the controlled airspace is not properly described and inadequate for the protection of aircraft executing instrument approach procedures to the

three airports. In addition, higher performance aircraft are utilizing the airports which requires additional controlled airspace.

DATES: Comments must be received on or before February 27, 1980.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G § 71.181 (44 FR 442) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting Instrument Flight Rules (IFR) activity. Alteration of the transition area at Lafayette, La., will necessitate an amendment to this subpart.

Comments Invited

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before February 27, 1980 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area at Lafayette, La. The FAA believes this action will enhance IFR operations at the Lafayette Regional, Acadiana Regional, and the Abbeville Municipal Airports by providing controlled airspace for aircraft executing instrument approach procedures to the three airports. Subpart G of Part 71 was republished in the Federal Register on January 2, 1979 (44 FR 442).

The Proposed Amendment

§ 71.181 [Amended]

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) by altering the Lafayette, La., transition area by deleting the present description and substituting the following:

Lafayette, La.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Lafayette Regional Airport (latitude 30°12'14"N., longitude 91°59'16"W.); within a 6.5-mile radius of the Abbeville Municipal Airport (latitude 29°58'30"N., longitude 92°05'00"W.) and within 2 miles each side of the 206° radial of the Lafayette VORTAC extending from the 6.5-mile radius to 8.5 miles northeast; within a 6.5-mile radius of the Acadiana Regional Airport (latitude 30°02'15"N., longitude 91°53'02"W.).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Fort Worth, Texas on January 17, 1980.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 80-2367 Filed 1-25-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-ASW-68]

Proposed Alteration of Transition Area; Buffalo, Oklahoma

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The nature of the action being taken is to propose alteration of a transition area at Buffalo, Ok. The intend effect of the proposed action is to provide additional controlled airspace for aircraft executing instrument approach procedures to the Buffalo Municipal Airport. The circumstance which created a need for the action is that a review of the current transition area revealed the controlled airspace is not properly described and inadequate for the protection of aircraft executing instrument approach procedures. In addition, higher performance aircraft are utilizing the airport which requires additional controlled airspace.

DATES: Comments must be received on or before February 27, 1980.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Manuel R. Hugonnett, Airspace and Procedures Branch, ASW-536, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G § 71.181 (44 FR 442) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting Instrument Flight Rules (IFR) activity. Alteration of the transition area at Buffalo, Ok., will necessitate an amendment to this subpart.

Comments Invited

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before February 27, 1980 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area at Buffalo, Ok. The FAA believes this action will enhance IFR operations at the Buffalo Municipal Airport by providing controlled airspace for aircraft executing instrument approach procedures to the airport. Subpart G of Part 71 was republished in the Federal Register on January 2, 1979 (44 FR 442).

The Proposed Amendment

§ 71.181 [Amended]

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) by altering the Buffalo, Ok., transition area by deleting the present description and substituting the following:

Buffalo, Ok.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Buffalo Municipal Airport, Buffalo, Ok., (latitude 36°51'45"N., longitude 99°37'09"W.) within 3 miles each side of the 109° bearing from the Buffalo NDB (latitude 36°51'48"N., longitude 99°37'05"W.) extending from the 6.5-mile radius to 8.5 miles east of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The FAA has determined that his document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Fort Worth, Texas on January 16, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80-2360 Filed 1-25-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-SO-92]

Proposed Designation of Transition Area, Elberton, Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule will designate the Elberton, Georgia, Transition Area, and will lower the base of controlled airspace in the vicinity of the Elbert County-Patz Field Airport from 1200 to 700 feet AGL. A public use standard instrument approach procedure has been developed to the airport and additonal controlled airspace is required to protect aircraft Instrument Flight Rule (IFR) operations.

DATES: Comments must be received on or before March 3, 1980.

ADDRESS: Send comments on the proposal to Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before March 3, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public regulatory docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention; Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) to designate the Elberton, Georgia, 700 foot Transition Area. This action will provide controlled airspace protection for IFR operations at the Elberty County-Patz Field Airport. A standard instrument approach procedure, VOR/DME-A, to the airport, utilizing the Electric City VORTAC, is proposed in conjunction with the designation of the Transition Area. If the proposed designation is acceptable, the airport operating status will be changed from VFR to IFR.

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The Proposed Amendment

§ 71.181 [Amended]

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (44 FR 442), of Part 71 of the Federal Aviation Regulations (14 CFR 71) by adding the following:

Elberton, Georgia

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Elbert County-Patz Field Airport (lat. 34°05'42"N., long. 82°49'05"W.)

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on January 14, 1980.

Louis J. Cardinali,

Director, Southern Region.

[FR Doc. 80-2368 Filed 1-25-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-CE-32]

Proposed Designation of Transition Area, West Plains, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This Notice proposes to designate a 700-foot transition area at West Plains, Missouri, to provide controlled airspace for aircraft executing a new instrument approach procedure to the West Plains, Missouri Airport, which is based on a Non-Directional Radio Beacon (NDRB) being installed on the airport by the City of West Plains.

DATES: Comments must be received on or before March 1, 1980.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

For Further Information Contact: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before March 1, 1980 will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181), by designating a 700-foot transition area at West Plains, Missouri. To enhance airport usage by providing instrument approach capability to the West Plains Airport, the City of West Plains, Missouri, is installing an NDRB on the airport. This radio facility will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at West Plains, Missouri, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

§ 71.181 [Amended]

Accordingly, Federal Aviation Administration proposes to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979 (44 FR 442), by adding the following new transition area:

West Plains, Mo.

That airspace extending upward from 700 feet above the surface within 8 mile radius of the West Plains, Missouri Airport, latitude 36°44'43"N, longitude 91°51'50"W; and within 3 miles each side of the 307° bearing from the West Plains, Missouri, NDRB, latitude 36°44'57"N, longitude 91°51'49"W, extending from the 8 mile radius area to 8.5 miles northwest of the NDRB.

Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65).

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on January 18, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-2350 Filed 1-25-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76]

Ceiling Prices; Extension of Time for Meetings on Staff Draft Order in Docket No. RM79-76, Natural Gas Produced From Tight Formations

January 21, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Extension of time for meeting with the public on Staff Draft Order RM 79-76.

SUMMARY: The Federal Energy Regulatory Commission is extending until January 22, 1980, the time period during which members of the public may meet with designated officers of the Commission staff to discuss the staff Draft Final Order in Docket No. RM79-76, implementing section 107(c)(5) of the Natural Gas Policy Act of 1978, concerning high cost gas produced from tight formations.

DATE: The time period for meeting with the public is extended to January 22, 1980.

FOR FURTHER INFORMATION CONTACT:

Leslie Lawner, Office of General Counsel, Federal Energy Regulatory Commission, Room 4005, 825 N. Capitol Street NE., Washington, D.C. 20426, (202) 357-9121.

SUPPLEMENTARY INFORMATION: On August 29, 1979, the Commission issued a Notice of Proposed Rulemaking on High Cost Natural Gas Produced from Tight Formations, Docket No. RM79-76 [44 FR 52253, September 7, 1979]. Pursuant to this proposed rulemaking, the Commission is preparing a final rule to implement section 107(c)(5), concerning high cost gas produced from tight formations. The Commission is currently making available to the public copies of the draft final order prepared by the Commission staff, and designated officers of the Commission are meeting with interested members of the public to discuss the draft order.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2743 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 200

[Docket No. R-80-766]

Provisions and Characteristics of Debentures; Transmittal of Proposed Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of proposed rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register**. This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT:

Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street SW., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION:

Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR 200.157 Provisions and Characteristics of Debentures

This proposed rule would amend 24 CFR Part 200 by establishing the "Book entry" method of issuing debentures by Treasury, Acting as the agent of HUD. These debentures are issued when HUD pays mortgagees who file claims for HUD insurance benefits on defaulted mortgages. Under this method, Treasury gives the mortgagees a statement of account evidencing ownership of the debentures, which are registered in Treasury's books.

(Sec. 7(o), Department of HUD Act (42 U.S.C. 3535(o), sec. 324, Housing and Community Development Amendments of 1978)

Issued at Washington, D.C. January 21, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-2841 Filed 1-25-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-107-78]

Income Tax; Application of Conventions Under Class Life Asset Depreciation Range System Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the application of conventions under the Class Life Asset Depreciation Range System (CLADR System).

DATES: The public hearing will be held on March 27, 1980, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by March 13, 1980.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-107-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 167 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Thursday November 15, 1979, at page 65777 (44 FR 65777).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by March 13, 1980. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Goverment and answers to these questions.

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Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

Robert A Bley,

Director, Legislation and Regulations Division.

[FR Doc. 80-2664 Filed 1-25-80; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

38 CFR Part 3

Veterans' Benefits; Increased Compensation Rates

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The Veterans Administration is proposing to amend its regulations to implement the Veteran's Disability Compensation and Survivors' Benefits Amendments of 1979 enacted November 28, 1979. This law increases the rates of disability compensation and dependency and indemnity compensation payable to surviving spouses and children by 9.9 percent.

DATES: Comments must be received before February 27, 1980. It is proposed to make these changes effective October 1, 1979, the effective date specified by the Veteran's Disability Compensation and Survivors' Benefits Amendments of 1979 designated as Pub. L. 96-128.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420

Comments will be available for inspection at the address shown above during normal business hours until March 10, 1980.

FOR FURTHER INFOMATION CONTACT: T. H. Spindle Jr. (202-389-3005).

SUPPLEMENTARY INFORMATION: In addition, Pub. L. 96-128 provides that a veteran in receipt of disability compensation at the intermediate rate between 38 U.S.C. 314(n) and (o) plus compensation under 38 U.S.C. 314(k) who is in need of aid and attendance, is entitled to the additional compensation authorized by 38 U.S.C. 314(r)((1) or (2). The law also provides that the intermediate rate shall be fixed at the arithmetic mean between the two rates concerned.

Under the procedures for implementing Executive Order 12044, "Improving Government Regulations" (44 FR 7026, February 5, 1979) we have determined that these proposed regulation changes are nonsignificant. They impose no compliance costs or reporting burdens and they have no effect on the environment, public business or institutions.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans' Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until March 10, 1980. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: January 16, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

1. In § 3.350, paragraphs (a) (introductory portion preceding subparagraph (1)), (f)(1)(i) and (iii), (2)(i) and (iii) and (5), and (h) are revised so that the added and revised material reads as follows:

§ 3.350 Special monthly compensation ratings.

The rates of special monthly compensation stated in this section are those provided under 38 U.S.C. 314.

(a) *Ratings under 38 U.S.C. 314(k).* Special monthly compensation under 38 U.S.C. 314(k) is payable for each anatomical loss or loss of use of one hand, one foot, both buttocks, one or more creative organs, blindness of one eye having only light perception, deafness of both ears, having absence of air and bone conduction, or complete organic aphonia with constant inability to communicate by speech. This special compensation is payable in addition to the basic rate of compensation otherwise payable on the basis of degree of disability, provided that the combined rate of compensation does not exceed $1,104 monthly when authorized in conjunction with any of the provisions of 38 U.S.C. 314 (a) through (j) or (s). When there is entitlement under 38 U.S.C. 314 (l) through (n) or an intermediate rate under (p) such additional allowance is payable for each such anatomical loss or loss of use existing in addition to the requirements for the basic rates, provided the total does not exceed $1,547 per month. The limitations on the maximum compensation payable under this paragraph are independent of and do not preclude payment of additional compensation for dependents under 38 U.S.C. 315, or the special allowance for aid and attendance provided by 38 U.S.C. 314(r).

* * * * *

(f) *Intermediate or next higher rate.* An intermediate rate authorized by this paragraph shall be established at the arithmetic mean, rounded to the nearest dollar, between the two rates concerned. (38 U.S.C. 314(p))

(1) *Extremities.* (i) Anatomical loss or loss of use of one extremity with the anatomical loss or loss of use of another extremity at a level or with complications preventing natural elbow or knee action with prosthesis in place will entitle to the rate intermediate between 38 U.S.C. 314 (l) and (m).

* * * * *

(iii) Anatomical loss or loss of use of extremity at a level preventing natural elbow or knee action with prosthesis in place with anatomical loss of another extremity so near the shoulder or hip as to prevent the use of a prosthetic appliance will entitle to the rate intermediate between 38 U.S.C. 314 (m) and (n).

(2) *Eyes, bilateral, and blindness in connection with deafness.*

(i) Blindness of one eye with 5/200 visual acuity or less and blindness of the other eye having only light perception will entitle to the rate intermediate between 38 U.S.C. 314 (l) and (m).

* * * * *

(iii) Blindness of one eye having only light perception and anatomical loss, or blindness having no light perception accompanied by phthisis bulbi, evisceration or other obvious deformity or disfigurement of the eye, will entitle to a rate intermediate between 38 U.S.C. 314 (m) and (n).

* * * * *

(5) *Three extremities.* Anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities shall entitle a veteran to the next higher rate without regard to whether that rate is a statutory rate or an intermediate rate. The maximum monthly payment under this provision may not exceed the amount stated in 38 U.S.C. 314(p).

* * * * *

(h) *Special aid and attendance benefit; 38 U.S.C. 314(r)—(1) Maximum compensation cases.* A veteran receiving the maximum rate under 38 U.S.C. 314 (o) or (p) who is in need of regular aid and attendance or a higher level of care is entitled to an additional allowance during periods he or she is not hospitalized at United States Government expense. (See § 3.552(b)(2) as to continuance following admission for hospitalization.) Determination of this need is subject to the criteria of § 3.352. The regular or higher level aid and attendance allowance is payable whether or not the need for regular aid and attendance or a higher level of care was a partial basis for entitlement to the maximum rate under 38 U.S.C. 314 (o) or (p), or was based on an independent factual determination.

(2) *Entitlement to compensation at the intermediate rate between 38 U.S.C. 314 (n) and (o) plus special monthly compensation under 38 U.S.C. 314(k).* A veteran receiving compensation at the intermediate rate between 38 U.S.C. 314 (n) and (o) plus special monthly compensation under 38 U.S.C. 314(k) who establishes a factual need for regular aid and attendance or a higher level of care, is also entitled to an additional allowance during periods he or she is not hospitalized at United States Government expense. (See § 3.552(b)(2) as to continuance following admission for hospitalization.) Determination of the factual need for aid and attendance is subject to the criteria of § 3.352.

(3) *Amount of the allowance.* The amount of the additional allowance payable to a veteran in need of regular aid and attendance is specified in 38 U.S.C. 314(r)(1). The amount of the additional allowance payable to a veteran in need of a higher level of care is specified in 38 U.S.C. 314(r)(2). The higher level aid and attendance allowance authorized by 38 U.S.C. 314(r)(2) is payable in lieu of the regular aid and attendance allowance authorized by 38 U.S.C. 314(r)(1).

2. In § 3.552, paragraph (g) is revised to read as follows:

§ 3.552 Adjustment of allowance for aid and attendance.

* * * * *

(g) Where a veteran entitled to one of the rates under 38 U.S.C. 314 (l), (m), or (n) by reason of anatomical losses or losses of use of extremities, blindness (visual acuity 5/200 or less or light perception only), or anatomical loss of both eyes is being paid compensation of $1,547 because of entitlement to another rate under section 314(l) on account of need for aid and attendance the compensation will be reduced while hospitalized to the following:

(1) If entitlement is under section 314(l) and in addition there is need for regular aid and attendance for another disability, the award during hospitalization will be $1,217 since the disability requiring aid and attendance is 100 percent disabling. (38 U.S.C. 314(p))

(2) If entitlement is under section 314(m), $1,383.

(3) If entitlement is under section 314(n), $1,547 would be continued, since the disability previously causing the need for regular aid and attendance would then be totally disabling entitling the veteran to the maximum rate under 38 U.S.C. 314(p).

* * * * *

(38 U.S.C. 210(c))

[FR Doc. 80-2718 Filed 1-25-80; 8:45 am]

BILLING CODE 6320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1400-7]

Maryland; Proposed Variance of the State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The State of Maryland has submitted a proposed temporary variance from the Maryland State Implementation Plan in the form of a Secretarial Order for Unit #2 of the C.P. Crane Generating Station of the Baltimore Gas and Electric Company of Baltimore County, Maryland. The variance would include those regulations prohibiting visible emissions, particulate matter regulations for solid-fuel burning equipment, and regulations on usage of fuel with sulfur content in excess of one percent by weight.

The variance applies to Unit #2 only and requires that sulfur oxide emissions from the unit shall not exceed 3.5 pounds per million BTU actual heat input (equivalent to approximately 2.1 percent sulfur coal).

DATE: Comments must be submitted on or before February 27, 1980.

ADDRESSES: Copies of the proposed SIP variance and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106. ATTN: Ben Mykijewycz.

Bureau of Air Quality and Noise Control, State of Maryland, 201 W. Preston St., Baltimore, MD 21201. ATTN: George Ferreri.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW. (Waterside Mall), Washington, D.C. 20460.

All comments on the proposed revision submitted on or before February 27, 1980 will be considered and should be directed to:

Mr. Howard Heim, Chief Air Programs Branch (3AH10), Air, Toxics, & Hazardous Materials Division, U.S. Environmental Protection Agency Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106. ATTN: AH021MD.

FOR FURTHER INFORMATION CONTACT: Ben Mykijewycz (3AH11), U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106, telephone number (215) 597-8161.

SUPPLEMENTARY INFORMATION: On October 24, 1979, the Administrator of Air Quality Programs for the State of Maryland submitted to EPA, Region III a proposed temporary variance from the Maryland State Implementation Plan. The proposed variance consisted of a Secretarial Order for the Baltimore Gas and Electric Company—Unit #2 of the C.P. Crane Generating Station, Baltimore County, Maryland. In his letter, the Administrator of Maryland Air Quality Programs certified that the order was adopted in accordance with the public hearing and notice requirements of 40 CFR 51.4 and all relevant State procedural requirements, and asked that EPA consider the Secretarial Order as a temporary revision of the State Implementation Plan. This order was initiated in anticipation of a Department of Energy "notice of effectiveness" to convert the Crane Station to burn coal. The order consists of variances, for a period of 120 calendar days, from the regulations which prohibit visible emissions (COMAR 10.18.04.02A), limit particulate matter from solid fuel burning equipment (COMAR 10.16.04.03B(3)), and which prohibit usage of fuel with sulfur content in excess of one percent by weight (COMAR 10.18.04.04B(1)).

The variance applies to Unit #2 only and requires that sulfur oxide emissions from the unit shall not exceed 3.5 pounds per million BTU actual heat

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input (equivalent to approximately 2.1 percent sulfur coal). Particulate matter emissions have been shown in supporting documentation from the State not to exceed 0.6 pounds per mission BTU, which is the limit used in the air quality demonstration. The modeling study demonstrated that air quality standards for both sulfur dioxide and particulate matter will not be violated nor will there be a significant impact on a nonattainment area, as a result of granting the temporary variance. Furthermore, the applicable PSD increments will not be exceeded by the increased emissions due to the variance.

Therefore, it is the tentative decision of the Administrator to approve the proposed temporary revision of the Maryland State Implementation Plan.

The public is invited to submit to the address stated above, comments on whether the Baltimore Gas and Electric Secretrial Order should be approved as a revision of the Maryland State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination whether it meets the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401–642)

Dated: January 18, 1980.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 80-2785 Filed 1-25-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 81

[FRl 1398–5]

Attainment Status Designation; Michigan

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: This notice of proposed rulemaking proposes to change the attainment status for a portion of Delta County in Michigan from non-attainment to attainment of the National Ambient Air Quality Standards (NAAQS) for total suspended particulates (TSP). The change in attainment status designation was requested by the Michigan Air Pollution Control Commission. The U.S. Environmental Protection Agency proposes to approve the redesignation.

DATE: Comments on this proposed Michigan designation request are due on or before February 27, 1980.

ADDRESS: Written comments should be sent to: Gary Gulezian, Acting Chief, Regulatory Analysis Section, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Gary Gulezian, Acting Chief, Regulatory Analysis Section, Region V, (312) 886–6053, at the address given above.

SUPPLEMENTARY INFORMATION: The Clean Air Act amendments of 1977 added section 107(d) which directed each State to submit to the Administrator of the U.S. Environmental Protection Agency (USEPA) a list of the NAAQS attainment status for all areas within the State. The Administrator was required to promulgate State lists with any necessary modifications. The Administrator published these lists in the Federal Register on March 3, 1978 (43 FR 8962) and October 5, 1978 (43 FR 45993).

Section 107(d)(5) of the Clean Air Act provides that a State may from time to time review, and, as appropriate, revise and resubmit lists required under that section (42 U.S.C. 7407(d)(5)). On November 23, 1979, pursuant to section 107(d)(5), Michigan Air Pollution Control Commission requested a redesignation of the particulate matter attainment status for a portion of Delta County. This area had previously been designated as nonattainment for the secondary TSP standards and includes Sections 6–8, 17–20, 29 and 30 of T39N–R22W and Sections 1, 12, and 13 of T39N–R23W. In its November 23, 1979 request, Michigan seeks to redesignate a certain portion of that area as attainment for the secondary TSP standards. The area designated as attainment includes Sections 6–8, the northern half of Sections 17 and 18, Sections 20 and 29 of T39N–R22W and Sections 1, 12, and 13 of T39N–R23W, Delta County, Michigan. If this proposed redesignation is approved the following areas would remain designated as nonattainment for the total suspended particulate secondary standard: the southern half of Sections 17 and 18, Sections 19 and 30 of T39N–R22W of Delta County, Michigan. The proposed redesignation is based on a showing by Mead Corporation that some of the original designations were based on monitored 24 hour excursions of the secondary standard from monitors which were either on company property owned prior to 1970 or were improperly sited near road construction sites.

A public hearing was held on the proposed redesignation on October 18, 1979 in conformity with the notice of hearing requirements set forth in 40 CFR 51.4. It was proposed at the hearing that Sections 6–8, 20 and 29, T39N–R22W, and Sections 1, 12, and 13, T39N–R23W be redesignated as attainment and that Section 19 east of Stephenson Avenue, T39N–R22W be designated as primary nonattainment for TSP.

Two comments were received in response to this proposal. One commenter pointed out that the monitoring sampler on the north side of Section 18, T39N–R22W had never recorded any excursions of the secondary standards. As a result of this comment, Michigan excluded the northern half of Sections 17 and 18 from the area designated as nonattainment. The other commentor challenged the validity of the two samplers in Section 19 which recorded excursions of the primary standard for TSP in 1979. The commentor noted that the one sampler was located on company-owned property which was not accessible to the public and that the other sampler was located in an area where considerable road construction had taken place during the period when the excursions were recorded. The staff of the Michigan Department of Natural Resources confirmed this information and as a result Michigan did not redesignate the area as proposed to nonattainment for the primary TSP standard, but instead let stand the already existing designation of nonattainment for the secondary standards.

Pursuant to section 107 of the Clean Air Act, the Administrator of the U.S. Environmental Protection Agency must approve the redesignation submitted by Michigan before it may become effective (42 U.S.C. 7407). Today's action proposes approval of that redesignation.

All interested persons are invited to submit written comments on the proposed redesignation. Written comments received by the date specified above will be considered in determining whether USEPA will approve the redesignation. After the public comment period, the Administrator of USEPA will publish in the Federal Register the Agency's final action on the redesignation (42 U.S.C. 7407).

Dated: January 4, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-2852 Filed 1-25-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80–10; FCC 80–22]

Operation of Visual and Aural Transmitters of TV Stations

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: To better serve the public, the Commission proposes to amend the Rule which provides that the aural and visual transmitters of a TV station shall not be operated separately or to present different and unrelated program material, to provide that, during early morning hours when the station normally would otherwise be off the air, visual informational programming (news, weather, financial and sports) may be presented with either audio background music or no audio.

DATE: Comments must be filed on or before March 31, 1980, and reply comments on or before April 30, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steve Crane, John Reiser, Philip Cross, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

In the matter of operation of visual and aural transmitters of TV stations.

Adopted: January 16, 1980.

Released: January 23, 1980.

By the Commission:

1. The Commission herein continues to focus its attention on the reregulation of its broadcast requirements and the oversight of the AM, FM and TV rules. In this proceeding, the Commission, on its own motion, seeks comments on the matter of amending its rule pertaining to the operation of TV aural and visual transmitters (Section 73.653).

2. This rule requires licensees to operate their aural and visual transmitters simultaneously, and forbids the presentation of "different or unrelated program material." Several minor exceptions have existed through the years and have been stated in the rule:

—emergency fills due to either aural or visual equipment failures leaving the licensee with only audio or video programming to make the appropriate informative announcement;
—for equipment tests or experiments;
—during transmission of a test pattern.

3. Since January of 1979, the Commission has received six requests from commercial TV station licensees for waivers of this rule. The waiver requests seek FCC authority to broadcast, on the visual transmitter only, informational programming such as national, international and local news, financial news, sports news, weather reports and time. One waiver request proposed to present the station's color radar "to track storm conditions" in its local coverage area. The aural transmissions are, for the most part, background music; although integrated,[1] audio announcements are presented at times with the video. The visual news is presented using a variety of TV production techniques:

—multiple lines of static text (as on a printed page) which are "wiped," after suitable reading time has elapsed, and supplanted, sequentially, by continuing full screens of static text;
—"crawls" with the text moving right to left across the screen giving weather reports and stock market quotations;[2] and,
—a clock face showing local time.

Sources of national and international news are reported to be available in the "visual text" form from several well known news services. Local news is prepared by the station news staff, in the full screen text form, apparently before terminating the staff's work day after the station's regularly scheduled late newscasts. (Only one waiver seeker proposed local news, a presentation demanding station news staff preparation.)

4. The waiver requests all stated that this type of service would be transmitted in off-hours when the stations are not normally on the air.[3]

5. Two stations stated that the presentations would be noncommercial; four stations intend to transmit commercials, "but in no instance will [it] broadcast more than thirty (30) seconds of commercial matter with its normal station identification announcement made every half hour during this program."

6. All requests for waivers indicated that the proposals would serve the public interest by presenting informational programs (news and weather reports, etc.) heretofore unavailable to the TV audience in their communities at such non-service, off-the-air, "dark" times, roughly 1 a.m.–6 a.m., but always between the hours of each station's sign-off to its sign-on times.

7. The Commission has granted each waiver request, finding that the public interest would be served by the proposal to provide informational programs (even though in visual-only form), in a previously unserved time period. Ever mindful of its mandate to "study new ideas for radio, provide for experimental uses of frequencies, and generally encourage the larger and more effective use of radio in the public interest,"[4] the Commission senses the opportunity here to modify a rule to better serve the public; to permit a previously unavailable service in the "graveyard" hours; and to allow visual informational programming at a time when such program fare is thinnest, or non-existent.

8. We believe our interest in considering a rule modification of § 73.653 to incorporate the Commission's approval of this type of programming is warranted and that revising the rule, "Operation of TV aural and visual transmitters" to this extent is indeed consonant with Commission policy regarding the utilization of television broadcasting facilities. It is apparent that the licensees who have petitioned us to allow this type of programming have sought and created an inexpensive, but pertinent way to present an informational, visual, news service to their communities in the past-midnight, pre-dawn hours; inexpensive, due to the modest number of operating personnel required to present it; and pertinent, due to the very content of the visual presentations which include news, weather, time, financial and sports reports.

9. We recognize that full newsroom staffing for "normal" TV news presentations (*i.e.*, "anchor persons," sports and weather "editors," cameramen and all the large staff requirements demanded by "normal" TV news programs) in this lightly-viewed early morning period may, in

[1] "Integrated," to mean simultaneous aural and visual transmissions of programming which are completely related.

[2] The stock market reports may combine, or present separately, static text and/or a continuing quotation "crawl," the "crawl" using the stock symbols of companies listed on the stock exchange, with price quotations such as found on "the tape" in most stock brokerage offices.

[3] These requests for waivers were by commercial TV licensees. We have also granted waivers to educational TV licensees who program a slide (giving name of next "class") with background music. This, we are told, gives the schools time to rearrange or relocate their TV receivers for the next instructional TV (ITV) presentation.

[4] Section 303(g) of the Communications Act of 1934, as amended.

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some cases, be prohibitively expensive. We are mindful of the benefits from the informational potential at minimal operational-personnel expense. It is not our intent to change the news presentation techniques of the broadcast industry via this proposed rule modification and, so, will restrict it to the station's normal "dark" or "off-air" hours, starting with "sign-off" and continuing only until the next "sign-on." All pertinent FCC regulations will pertain during these hours (*e.g.*, station identification); and, for commercial stations, advertising is allowable as during the station's "normal" hours of operation. Consonant with Commission policy pertaining to informational programming and hours of scheduling (§ 0.281), it is proposed that these presentations would not count toward the totals for informational programming on any station's reports or applications requiring such tallies.

10. In our review of this subject, at least two national/international newsgathering organizations are reported to be selling this type of service. One of them, Reuters, states in its promotional material, that it has created the visual news service for CATV presentation; TV licensees seem to have "induced" Reuters to make it available to them as well. The other "service" of which we are aware is United Press International, and we realize that there are probably others.

11. We seek comments because of the new unusual and innovative aspects inherent in this programming plan. We welcome remarks addressed to the various facets of the rule change proposed here, or to any other remarks having a bearing on it. Set out in the Appendix are the specific rule amendments being proposed.

12. Pursuant to § 1.415 of the Commission's rules, interested parties should file comments on or before March 31, 1980, and reply comments on or before April 30, 1980. All relevant and timely comments will be considered by the Commission before final action is taken. In reaching its decision in this proceeding, the Commission may take into account other relevant information before it, in addition to the specific comments invited by the *Notice*.

13. Authority for this proposed rule making is contained in sections 4(i) and 303 (g) and (r) of the Communications Act of 1934, as amended.

14. In accordance with the provisions of Section 1.419 of the Commission's rules, an original and 5 copies of all comments, replies or other documents filed in this proceeding shall be furnished to the Commission. Participants filing the required copies who also desire that each Commissioner receive a personal copy of the comments may file an additional 6 copies. Responses will be made available for public inspection during regular business hours in the Commission's Public Reference Room (Room 239) at its headquarters in Washington, D.C. (1919 M Street, NW.).

15. For further information concerning this proceeding, contact Steve Crane, Phil Cross, or John Reiser, Broadcast Bureau, (202) 632–9660. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, *ex parte* contacts presented to the Commission in proceedings such as this one will be disclosed in the public docket file. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentations requested by the Commission. If a member of the public does wish to comment on the merits of this proceeding in this manner, he or she should follow the Commission's procedures governing *ex parte* contacts in informal rule making. A summary of these procedures is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554 (202–632–7000).

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Section 73.653 is amended to read as follows:

§ 73.653 Operation of TV aural and visual transmitters.

(a) During the operating hours of a TV station, between its regularly scheduled sign-on and sign-off times, the aural and visual transmitters of a TV station shall not be operated separately, or, to present different or unrelated program material, except in the following cases:

(1) Emergency fills due to either visual or aural equipment failures leaving the licensee with only the audio or video programming to announce the equipment failures to the audience;

(2) For equipment tests or experimentation pursuant to § 73.1510 (Experimental authorizations) and § 73.1520 (Operation for tests and maintenance).

(b) During visual transmissions of a test pattern, still pictures or slides, the aural transmission shall consist of a single tone, or series of variable tones; a presentation of the upcoming program schedule; aural news broadcasts; or music. This type program material shall not exceed 15 minutes immediately prior to the start of the station's programming for the day or for a total period not the exceed more than 1 hour in any broadcast day.

(c) During the normal non-operating hours of a TV station, between its regularly scheduled sign-off time and sign-on time, the aural and visual transmitters shall not be operated separately; however, visual informational programming (*e.g.*, news, weather, financial and sports reports) may be presented with either no simultaneous audio or with audio background music.

(1) All rules in the Chapter and all policies of the FCC pertinent to TV apply to the operation of stations presenting programs described in this paragraph (c); however, this type presentation shall not be counted in any TV station's report or application requiring a tally of informational programming.

[FR Doc. 80–2559 Filed 1–25–80; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 45, No. 19
Monday, January 28, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Lost-Duck Creeks Watershed, Oklahoma; Intent To Prepare an Environmental Impact Statement

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

FOR FURTHER INFORMATION CONTACT: Mr. Roland R. Willis, State Conservationist, Soil Conservation Service, Agricultural Center Building, Farm Road and Brumley Street, Stillwater, Oklahoma 74074, telephone number (405) 624–4360.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Lost-Duck Creeks Watershed, Kay County, Oklahoma.

This federally-assisted action may result in significant local, regional, or national impacts on the environment. As a result, Mr. Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for watershed protection and flood prevention. Measures planned include land treatment, floodwater retarding structures, and channel work. The environmental evaluation will consider combinations of these measures and alternatives.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement.

The draft environmental impact statement will be developed by Mr. Roland R. Willis, State Conservationist, Soil Conservation Service, Agricultural Center Building, Farm Road and Brumley Street, Stillwater, Oklahoma 74074, telephone number (405) 624–4360.

Dated: January 21, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83–566, (16 U.S.C. 1001–1008.)

Joseph W. Haas,

Soil Conservation Service.

[FR Doc. 80–2617 Filed 1–25–80; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Dockets 33363, 33688, and 33689]

Former Large Irregular Air Service Investigation Phase III; Applications of Lone Star Airways, Inc.; Hearing

Notice is hereby given pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on February 5, 1980, at 10:00 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C. before the undersigned administrative law judge.

Dated at Washington, D.C., January 21, 1980.

Richard M. Hartsock,

Administrative Law Judge.

[FR Doc. 80–2702 Filed 1–25–80; 8:45 am]

BILLING CODE 6320-01-M

[Dockets 33363, 36432, and 36433]

Former Large Irregular Air Service Investigation Phase III; Applications of K–Air, Inc., Postponement of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding now assigned to be held on February 13, 1980, at 9:30 a.m. (45 FR 3624, January 18, 1980) is postponed until February 29, 1980 at 9:30 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1675 Connecticut Avenue, NW., Washington, D.C. before the undersigned.

Dated at Washington, D.C., January 22, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80–2703 Filed 1–25–80; 8:45 am]

BILLING CODE 6320-01-M

[Dockets 33363, 37022, and 37023]

Former Large Irregular Air Service Investigation Phase III; Applications of AH Wee Charters & Tours, Ltd., d.b.a. Air "AH Wee"; reassignment of Proceeding

This proceeding, insofar as it involves the applications of Ah Wee Charters & Tours, Ltd. d/b/a Air "Ah Wee", Dockets 37022 and 37023, has been reassigned to Administrative Law Judge Alexander N. Argerakis. Future communications should be addressed to Judge Argerakis.

Dated at Washington, D.C., January 21, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80–2705 Filed 1–25–80; 8:45 am]

BILLING CODE 6320-01-M

[Dockets 32603, 32604, and 33363]

Former Large Irregular Air Service Investigation Phase III; Applications of Charter Adventures, Inc.; Reassignment of Proceeding

This proceeding, insofar as it involves the applications of Charter Adventures, Inc., Dockets 32603 and 32604, has been reassigned to Administrative Law Judge Alexander N. Argerakis. Future communications should be addressed to Judge Argerakis.

Dated at Washington, D.C., January 21, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80–2706 Filed 1–25–80; 8:45 am]

BILLING CODE 6320-01-M

[Dockets 36183, 36184, and 33363]

Former Large Irregular Air Service Investigation, Phase III; Applications of Sunland, Inc.; Hearing

Notice is hereby given pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceedings will be held on February 7, 1980, at 10:00 a.m.

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(local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C. before the undersigned administrative law judge.

Dated at Washington, D.C., January 21, 1980.

Richard M. Hartsock,
Administrative Law Judge.

[FR Doc. 80-2707 Filed 1-25-80; 8:45 am]
BILLING CODE 6320-01-M

[Order 80-1-125; Docket 33283]

Application of Pan American World Airways, Inc., for Acquisition of Control of, and Merger With, National Airlines, Inc.

Adopted by the Civil Aeronautics Board at its offices in Washington, D.C. on the 18th day of January, 1980.

By Orders 79-12-164 and 79-12-165, (served October 24, 1979 and effective December 27, 1979) we approved Pan American World Airways' acquisition of control of, and merger with, National Airlines, Inc. Our approval was conditioned upon our receiving notification from Pan American that it unequivocally accepted labor protective provisions [1] and agreed to operate the Miami-London route and maintain National's gate and counter facilities at Heathrow Airport pending the conclusion of the Miami-London Route Case, Docket 36764.[2]

In a letter dated December 27, 1979, the president of Pan American informed us of its acceptance of the conditions. On January 11, 1980, Pan American requested that we transfer National's certificates of public convenience and necessity and other operating authority to it since it had acquired control of National. We will grant Pan American's request and will transfer to it all of National's outstanding certificate and exemption authority.

Accordingly:

1. The Board issues certificates of public convenience and necessity in the attached forms to Pan American World Airways, Inc. for Routes 31, 132, and 136;[3]

2. These certificates will be signed on the Board's behalf by its Secretary and will have the seal of the Board affixed, and will be effective on January 19, 1980;

3. Upon the effectiveness of the certificates issued by paragraph 1, above, the certificates of National Airlines, Inc. for Routes 168 and 31-F, and of Pan American World Airlines, Inc. for Routes 117, 132A and 150 are cancelled; and

4. All other outstanding authority issued by the Board to National Airlines, Inc., is transferred to Pan American World Airways, Inc., which must assume all the privileges and obligations under that authority, effective January 19, 1980;

We will publish this Order in the **Federal Register.**

By the Civil Aeronautics Board.

All Members concurred.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-2704 Filed 1-25-80; 8:45 am]
BILLING CODE 6320-01-M

[Docket 37391]

Swift Aire Lines, Inc., Fitness Investigation; Assignment of Proceeding

This proceeding is hereby assigned to Chief Administrative Law Judge Joseph J. Saunders.

Dated at Washington, D.C., January 23, 1980

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-2700 Filed 1-25-80; 8:45 am]
BILLING CODE 6320-01-M

[Docket 37391]

Swift Aire Lines, Inc., Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on February 13, 1980, at 9:30 a.m. (local time) in room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C. before the undersigned.

Dated at Washington, D.C., January 23, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-2701 Filed 1-25-80; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Harlem Third World Center; Intent To Prepare an Environmental Impact Statement

Notice is hereby given that, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Economic Development Administration (EDA) of the U.S. Department of Commerce will prepare an Environmental Impact Statement (EIS) on the Harlem Third World Trade Center. The Harlem Third World Trade Center complex is designed to promote export/import business between the United States and Third World Nations and to generate jobs and income for the Harlem community. Its principal components will be a convention center, retail/trade mart, office building and a first-class hotel. It will be the anchor to the commercial revitalization of 125th Street in Harlem, New York City. The commercial revitalization effort includes development of a regional shopping center, a public market, storefront improvements, a neighborhood cultural arts center and the relocation of the Studio Museum.

The EIS will address the potential impacts of the proposed project and its alternatives.

In accordance with the Council on Environmental Quality's regulations, and incorporated as part of the overall project, scoping meetings will be held to inform interested parties and to solicit their comments. A notice will be published in a local newspaper prior to the meetings indicating the time, date, and location of each scoping meeting. Comments and questions regarding the EIS should be addressed to: Economic Development Administration, U.S. Department of Commerce, 14th & Constitution Avenue NW., Washington, D.C. 20230. Attention: Mr. Andrew E. Kauders.

Dated: January 22, 1980.

Robert T. Hall,
Assistant Secretary for Economic Development.

[FR Doc. 80-2706 Filed 1-25-80; 8:45 am]
BILLING CODE 3510-24-M

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[1] Appendix III to Orders 79-12-163/164/165; ordering paragraph 3 of Order 79-12-164.

[2] Ordering paragraph 4 of Order 79-12-164.

[3] In combining the certificate authority of Pan American and National through January 14, 1980, we have made a number of nonsubstantive changes in language and format. We have also consolidated to the extent we could. Pan American's domestic authority on Routes 117, 132-A and 150 is combined with National's on Route 31, and the foreign and overseas longhaul restrictions have been removed in the Detroit-Boston/Washington, D.C. markets; National's international authority on Route 168 (except Bahamas) is combined with Pan American's on Route 132; and National's Bahamas authority and its Cuba authority on Route 31-F are incorporated into Pan American's Route 136. Pan American's Routes 115, 130 and 133 remain unchanged. All the certificates have been filed as part of the original document.

International Trade Administration

Subcommittee on Export Administration of the President's Export Council; Open Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Subcommittee on Export Administration of the President's Export Council (PEC) will be held on Tuesday, February 12, 1980, at 9:30 a.m., in room 4830 of the Department of Commerce, Washington, D.C.

The Subcommittee on Export Administration was initially established on June 1, 1976. On April 5, 1979, the Assistant Secretary for Administration approved the recharter and extension through December 31, 1980, of the Subcommittee, pursuant to the provisions of Executive Order 11753, as amended and extended by Executive Orders 11827, 11948, and 12110. Executive Order 12131 of May 4, 1979, which reconstituted the President's Export Council and revoked Executive Order 11753, provides that nothing in Executive Order 12131 shall be deemed to require new charters for subcommittees of the Council which were current immediately prior to the issuance of Executive Order 12131.

The Subcommittee provides advice on matters pertinent to those portions of the Export Administration Act of 1979, that deal with United States policy of encouraging trade with all countries with which the United States has diplomatic or trading relations and of controlling trade for national security and foreign policy reasons.

The agenda for the meeting is as follows:

1. Review of past Subcommittee work (November 28, 1979 meeting).
2. Report on December 6, 1979 meeting of the Executive Committee of the President's Export Council.
3. Reports from the Chairmen of the three working groups.

A limited number of seats at the meeting will be available to the public on a first-come basis. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available by calling Mrs. Jan Grover, Office of Export Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4168.

For further information, contact Mrs. Jan Grover, either in writing or by telephone, at the address or number shown above.

Kent N. Knowles,
Director, Office of Export Administration, International Trade Administration.

[FR Doc. 80-2634 Filed 1-25-80; 8:45 am]
BILLING CODE 3510-25-M

Importers and Retailers' Textile Advisory Committee; Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976) notice is hereby given that a meeting of the Importers and Retailers' Textile Advisory Committee will be held on March 19, 1980 at 2:30 p.m. in Room 770, No. 6 World Trade Center, New York, New York 10048.

The Committee was established by the Secretary of Commerce on August 13, 1963 to advise U.S. Government officials of the effects on import markets of cotton, wool and man-made fiber textile agreements.

The agenda for the meeting will be as follows:

1. Review of import trends.
2. Implementation of textile agreements.
3. Report on conditions in the domestic market.
4. Other business.

A limited number of seats will be available to the public on a first-come basis. The public may file written statements with the Committee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be available on written request addressed to the ITA Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202/377-5078.

Dated: January 22, 1980.

Arthur Garel,
Director, Office of Textiles and Apparel.

[FR Doc. 80-2588 Filed 1-25-80; 8:45 am]
BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Trident Television, Ltd.; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:
   a. Name: Trident Television Limited.
   b. Address: Trident House, Brook Mews, London W1Y 2PN, England.
2. Type of Permit: Public Display.
3. Name and Number of Animals: Atlantic bottlenose dolphins (Tursiops truncatus); 4.
4. Type of Take: To take and maintain at any of Trident's three marine mammal facilities.
5. Location of Activity: Copano Bay, Rockport, Texas.
6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the Federal Register the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before February 27, 1980. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with the National Marine Fisheries Service policy concerning such applications (40 FR 11614, March 12, 1975). In this regard, the application:

(a) was submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the Department of the Environment, that Department being responsible, among other things, for ensuring the suitable care of animals in captivity:

(b) Includes:

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i. a verification from the Department of the Environment of the information set forth in the application;

ii. a certification from the Department of the Environment that the Government of England is prepared to monitor compliance with the terms and conditions of the permit, and will do so, if and when necessary; and

iii. a statement that the Department of the Environment will have no objection to a NMFS decision to amend, suspend, or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Department of the Environment have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: January 23, 1980.

William Aron,

Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 80-2721 Filed 1-25-80; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

January 16, 1980.

The USAF Scientific Advisory Board Ad Hoc Committee on Automatic Test Equipment will meet on February 25 and 26, 1980 at Wright-Patterson AFB, Ohio. The Committee will meet from 8:00 a.m. to 5:00 p.m. on February 25 and from 8:00 a.m. to 3:30 p.m. on February 26, 1980. The purpose of the meeting is to review and study the status of automatic test equipment in the Air Force electronic equipment and related components.

The meeting will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraph (4).

For further information contact the USAF Scientific Advisory Board Secretariat at (202) 697-8404.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-2618 Filed 1-25-80; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

Jet Research Center, Inc.; Intent To Grant Limited Exclusive Patent License

Pursuant to the provisions of Part 746 of title 32, Code of Federal Regulations (41 FR 55711–55714, December 22, 1976) the Department of the Navy announces its intention to grant to Jet Research Center, Inc., a corporation of the State of Texas, a revocable, nonassignable, limited exclusive license for a period of five years under Government-owned United States Patent Number 3,695,951, issued October 3, 1972, entitled "Pyrotechnic Composition", inventors: Horace H. Helms, Jr. and Alexander G. Rozner.

This license will be granted unless within 60 days from the publication of this notice an application for a nonexclusive license from a responsible applicant is received by the Office of Naval Research (Code 302), Arlington, VA 22217, and the Chief of Naval Research or his designee determines that such applicant has established that he has already brought or is likely to bring the invention to the point of practical application within a reasonable period under a nonexclusive license; or the Chief of Naval Research or his designee determines that a third party has presented to the Office of Naval Research (Code 302) evidence and argument which has established that it would not be in the public interest to grant the limited exclusive license.

Any objection thereto, together with a request for an opportunity to be heard, if desired, should be directed to the Office of Naval Research (Code 302), Arlington, VA 22217 within 60 days from the publication of this notice. Also, copies of the patent may be obtained for fifty cents (0.50) from the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

For further information concerning this notice, contact: Dr. A. C. Williams, Staff Patent Adviser, Office of Naval Research (Code 302), Ballston Tower No. 1, 800 North Quincy Street, Arlington, VA 22217, Telephone No. (202) 696-4005.

Dated: January 22, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 80-2628 Filed 1-25-80; 8:45 am]

BILLING CODE 3810-71-M

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92-463, as amended by Section 5 of Pub. L. 94-409, notice is hereby given that a meeting of a Panel of the DIA Advisory Committee will be held as follows:

Monday, 25 February 1980, Pomponio Plaza, Rosslyn, Virginia. The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in Section 552b(c)(1). Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a study on tactical weapons research and development.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 80-2596 Filed 1-25-80; 8:45 am]

BILLING CODE 3810-70-M

Defense Science Board Task Force on Particle Beam Technology; Advisory Committee Meeting

The Defense Science Board Task Force on Particle Beam Technology will meet in a closed session on 20–21 February 1980 in The Pentagon, Room 1E801 #2, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Defense Science Board Task Force on Particle Beam Technology has been scheduled for 20–21 February 1980 to review all aspects of the Department of Defense particle beam technology program. The Task Force will specifically focus on whether the Department of Defense should pursue development of particle beam technology, and if so, the appropriate program contact and level of effort.

In accordance with 5 U.S.C. App. I § 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

January 22, 1980.

[FR Doc. 80-2594 Filed 1-25-80; 8:45 am]

BILLING CODE 3810-70-M

Defense Science Board Task Force on ECM; Advisory Committee Meeting

The Defense Science Board Task Force on ECM will meet in closed session 6–7 March 1980 at the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

The Task Force will discuss potential technical solutions to several current problems in electronic counter-measure.

In accordance with 5 U.S.C. App. I § 10(d)(1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

January 22, 1980.

[FR Doc. 80-2595 Filed 1-25-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Office of Special Counsel for Compliance

Standard Oil Co. of Ohio; Proposed Consent Order and Opportunity for Public Comment

AGENCY: Departmentof Energy.

ACTION: Notice of Proposed Consent Order and Opportunity for Public Comment.

SUMMARY: Pursuant to 10 CFR § 205.199J, the Office of Special Counsel for the Department of Energy hereby gives Notice of a Consent Order which was executed between the Standard Oil Company of Ohio (SOHIO) and the Office of Special Counsel for Compliance on January 15, 1980. In accordance with that section, the Office of Special Counsel (OSC) will receive comments with respect to this Consent Order. Although the Consent Order has been signed and conditionally accepted by the OSC, the OSC may, after consideration of comments received, withdraw its acceptance of the Consent Order and, if appropriate, attempt to negotiate an alternative Consent Order.

Background

SOHIO is a refiner subject to the cost calculations and transfer pricing rules of 10 CFR §§ 212.83 and 212.84. These rules are used to determine, among other things, the proper measurement of costs of crude oil imported by a firm through its foreign affiliates.

In April 1977, the Federal Energy Administration (FEA) issued a Notice of Proposed Disallowance to SOHIO alleging that the firm had overstated its costs with respect to interaffiliate imported crude oil transactions by $868,252.00 for the period October 1973 through May 1975. In December 1977, the Office of Special Counsel for Compliance was created within the Department of Energy. In February 1978, the responsibility for the transfer pricing program was transferred from the Office of Enforcement, Economic Regulatory Administration, to the OSC.

OSC has adjusted the proposed disallowance downward due to corrections of errors in reporting by SOHIO and in calculating the disallowance by FEA. In addition, the representative and maximum prices for Iranian Light Crude Oil (IR–080) were adjusted upward as announced in 43 FR 34186 (August 3, 1978). The above modifications yield an adjusted disallowance of $251,744.00 representing the amount SOHIO overstated the crude oil component of its landed costs. In the Consent Order, the OSC and SOHIO have reached agreement to settle the amount of disallowance and any resulting overrecoveries for $251,744.00.

In consideration of SOHIO's agreement to the terms and conditions of the Consent Order, and following examination of the arguments raised by SOHIO, and due to the time and expense which could be involved in the litigation of the issues raised, the Office of Special Counsel believes it to be fair, reasonable and in the best interest of the United States to conclude these proceedings through a Consent Order as described herein.

In resolution of the issues raised by application of the transfer pricing regulations to SOHIO, and by SOHIO in its response to the Notice of Proposed Disallowance, the Office of Special Counsel and SOHIO executed a Consent Order on January 15, 1980, the significant terms of which are as follows:

1. SOHIO will reduce its increased costs of crude oil allocated to gasoline by $251,744.00.

2. The provisions of 10 CFR § 205.199J, including the publication of this notice, are applicable to the Consent Order.

Submission of Written Comments

Interested persons are invited to comment on this Consent Order by submitting such comments in writing to: Marcell Anthony, Assistant Solicitor, Office of Special Counsel, Department of Energy, 12th and Pennsylvania Avenue, NW., Room 3109, Washington, DC 20461, (202) 633–8292.

Copies of the Consent Order may be received free of charge by written request to the above address. Copies are also available for public inspection in the Freedom of Information Reading Room located at: Department of Energy, Room GA–152, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Comments should be identified on the outside of the envelope and documents submitted with the designation "Comments on SOHIO Transfer Pricing Consent Order." All comments received by 4:30 p.m. EDT on the 30th calendar day following publication of this notice will be considered by the Office of Special Counsel in evaluating the Consent Order.

Any information or data which, in the opinion of the person furnishing it, is confidential, must be identified as such and submitted in accordance with the procedures of 10 CFR § 205.9(f).

Issued in Washington, D.C., January 15, 1980.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 80-2717 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

U.S. and Yugoslavia; Atomic Energy Agreement; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the United States and the International Atomic Energy Agency for Cooperation in the Peaceful Application of Atomic Energy.

The subsequent arrangement to be carried out under the above-mentioned agreement involves a supply agreement negotiated by the Governments of the United States and Yugoslavia and the

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International Atomic Energy Agency (IAEA) whereby the United States agrees to permit the transfer to Yugoslavia of 959 grams of uranium-235 contained in 1372 grams of uranium enriched to approximately 70 percent, in fuel elements for a research reactor in Yugoslavia.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear fuel will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than February 12, 1980.

Dated: January 22, 1980.
For the Department of Energy.
Harold D. Bengelsdorf,
Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-2385 Filed 1-25-80; 8:45 am]
BILLING CODE 6450-01-M

Office of Intergovernmental Affairs

Local Government Energy Policy Advisory Committee and Subcommittees; Open Meetings

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Title: Local Government Energy Policy Advisory Committee.
Date and time: Wednesday, February 13, 1980—9:00 a.m.–5:00 p.m. Thursday, February 14, 1980—9:00 a.m. to 12:00 noon.
Place: Department of Energy, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585.
See agenda below for specific time and room number of full committee and subcommittee meetings.
Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, Room 8G087, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone: 202–252–5187.
Purpose of committee: To advise and make recommendations to the Secretary of Energy on matters relating to Federal energy policies, programs, and legislation so that the Secretary may reach a judgment as to whether national energy policies are reflective of and responsible to the needs of local governments, that components of the Department are coordinating their activities with local governments, where appropriate, and that intergovernmental communication exists with local governments.

Tentative agenda

February 13, 1980—Room 6E069

9:00 a.m.—Call to Order
9:05 a.m.—Remarks by Secretary Duncan
9:35 a.m.—Departmental presentations
9:45 a.m.—Overview of the National Energy Situation
10:10 a.m.—Background briefing on major programs in Conservation and Solar
10:35 a.m.—BREAK
10:50 a.m.—Background briefing on Technical Assistance Team Program Design
11:20 a.m.—Review of major energy legislation for local governments currently pending in Congress
11:50 a.m.—Background briefing of DOE's organizational structure
12:15–1:30 p.m.—LUNCH
1:30–3:00 p.m.—Committee Organizational Business and adoption of work plan
3:00 p.m.—BREAK
3:15–5:00 p.m.—Meetings of subcommittees to discuss the following tentative issues. Actual issues and subcommittee structure will be as determined at 1:30 p.m. session of full Committee
—Development of procedural mechanisms that will enable local government officials to participate actively in the formulation and implementation of national energy policies—*Room 6H044*
—Development of a strategy to insure the passage of legislation which addresses local government energy planning needs—*Room 7E069*
—Development of improved local energy planning (Technical Assistance Teams; Federal—State—Local planning)—*Room 7E081*
—Development of local energy emergency contingency planning—*Room 7E063*

February 14, 1980

9:00–10:00 a.m.—Continue Subcommittee meetings in rooms as indicated in 2/13/80 agenda
10:15–12:00 noon—Reconvene Full Committee—Room 6E069—Reports from subcommittees—Approval of subcommittee reports
12 noon—Public Comment (10 minute rule)

Public participation: The meetings are open to the public. The Chairpersons of the Committee and Subcommittees are empowered to conduct the meetings in a fashion that will, in their judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee or Subcommittees will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting concerned and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Executive summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued at Washington, D.C. on January 22, 1980.
Georgia Hildreth,
Director, Advisory Committee Management.

[FR Doc. 80-2386 Filed 1-25-80; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP78–123, etc.]

Northwest Alaskan Pipeline Co., et al., Pre-filing Conference for Proposed Alaskan Segment of the Alaskan Natural Gas Transportation System (ANGTS)

January 22, 1980.

Take notice that on January 29, 1980, at 9:00 a.m. a pre-filing conference will be convened at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The purpose of this conference is to allow the Applicant of the proposed Alaskan segment of the ANGTS to discuss with interested persons aspects of the engineering and design now contemplated for the Alaskan segment. Questions concerning the cost estimate format with respect to the Alaskan segment may also be discussed. The application for final Commission authority to construct and operate this segment is expected to be filed in June 1980. Applications for authority to construct and operate other segments of the ANGTS (the "pre-build" portions) are now being considered in *Northwest Alaskan Pipeline Company, et al.*, Docket Nos. CP78–123, *et al.*

This pre-filing conference is open to the public. Attendance does not constitute Commission authorization to participate as a party in any proceeding.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 80-2390 Filed 1-25-80; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. SA80-35]

BASF Wyandotte Corp.; Application for Adjustment

January 22, 1980.

On November 7, 1980, BASF Wyandotte Corporation filed with the Federal Energy Regulatory Commission an application for an adjustment under section 502(c) of Title II of the Natural Gas Policy Act wherein BASF Wyandotte Corporation sought relief from incremental pricing imposed by Section 201 of the NGPA.

The procedures applicable to the conduct of this adjustment proceeding are found in section 1.41 of the Commission Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of section 1.41. All petitions to intervene must be filed on or before February 12, 1980.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 80-2685 Filed 1-25-80; 8:45 am]
BILLING CODE 6450-01-M

Sec-1-Base

(Supplement No. 1)	Effective
Sheet No. 1	Jan. 16, 1979.
Sheet No. 2	Jan. 16, 1979.
Sheet No. 3	Jan. 16, 1979.
Sheet No. 4	Jan. 16, 1979.

Sec-1-Excess

(Supplement No. 12)	Effective
Sheet No. 1	Aug. 1, 1976.
Sheet No. 2	Aug. 1, 1976.
Sheet No. 3	Aug. 1, 1976.
Sheet No. 4	Aug. 1, 1976.

Copies of this filing have been sent to Sunflower Electric Cooperative, Inc. and to the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before February 12, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 80-2689 Filed 1-25-80; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80–192]

Carolina Power & Light Co.; Filing

January 22, 1980.

The filing company submits the following:

Take notice that Carolina Power & Light Company on January 18, 1980, tendered for filing a contract for providing electric service to the Town of Ayden, North Carolina. The contract between the Town of Ayden and Carolina Power & Light Company is proposed to be effective 60 days after filing.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE. Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 13, 1980. Protests will be considered by the commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 80-2683 Filed 1-25-80; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER76–588]

Central Kansas Power Co., Inc.; Filing

January 21, 1980.

The filing company submits the following:

Take notice that on December 27, 1979, Central Kansas Power Company, Inc. (CKP), in compliance with the Commission's order issued December 10, 1979, filed the following tariff sheets:

[Docket No. CP80–171]

Cities Service Gas Co.; Application

January 23, 1980.

Take notice that on January 2, 1980, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP80–171 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline taps, measuring, regulating and appurtenant facilities in order to render natural gas service to authorized local natural gas distribution companies for resale to twelve rural domestic customers pursuant to right-of-way easements and agreements heretofore entered into between Applicant and said customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that right-of-way grantors have requested gas service for which Applicant proposes to construct and operate the following facilities:

Item 1: Tap Applicant's Ottawa-Sedalia 12-inch transmission pipeline in Cass County, Missouri, and construct necessary facilities for delivery of natural gas to Al Bedford.
Item 2: Tap Applicant's Canadian-Blackwell 26-inch transmission pipeline in Grant County, Oklahoma, and construct facilities for delivery of natural gas to J. C. Casford.
Item 3: Tap Applicant's White Shield-Rodman 12-inch gathering pipeline in Kingsfisher County, Oklahoma, and construct necessary facilities for delivery of natural gas to Jerry Copeland.
Item 4: Tap Applicant's Hugoton 26-inch loop transmission pipeline in Pratt County, Kansas, and construct necessary facilities for delivery of natural gas to Glen A. Curtis.
Item 5: Tap Applicant's Iola 16-inch loop transmission pipeline in Allen County, Kansas, and construct necessary facilities for delivery of natural gas to Wayne Garrett.
Item 6: Tap Applicant's Springfield 16-inch transmission pipleine in Lawrence County, Missouri, and construct necessary facilities for delivery of natural gas to Walter E. Heseman.
Item 7: Tap Applicant's Kansas City #3 16-inch transmission pipeline in Johnson County, Kansas, and construct necessary facilities for delivery of natural gas to Gayle Hoff.
Item 8: Tap Applicant's Canadian-Blackwell 26-inch transmission pipeline in Grant County, Oklahoma, and construct necessary facilities for delivery of natural gas to Beryl Kindred.
Item 9: Tap Applicant's Plattsburgh 6-inch transmission pipeline in Buchanan County, Missouri, and construct necessary facilities for delivery of natural gas to Lloyd Manville.
Item 10: Tap Applicant's Solar 16-inch transmission pipeline in Jasper County, Missouri, and construct necessary facilities for delivery of natural gas to Dewayne Southerd.
Item 11: Tap Applicant's Tonganoie-St. Joe 16-inch transmission pipeline in Leavenworth County, Kansas, and construct necessary facilities for delivery of natural gas to James F. Stauch.
Item 12: Tap Applicant's Bartlesville 8-inch transmission pipeline in Osage County, Oklahoma, and construct necessary facilities for delivery of natural gas to Rodney Wilson.

Applicant states that the sale to Jerry Copeland and Glen A. Curtis would be made by Applicant on a direct sales basis; the sale to Gayle Hoff would be made to Union Gas System, Inc. for resale to that customer; and the sale to the remaining nine customers would be made to The Gas Service Company for resale to these customers.

Applicant states that the total cost of the proposed facilities would be $8,850, which costs Applicant would finance from treasury funds on hand. Applicant further states that the annual gas

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requirement of each customer would be approximately 250 Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 14, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2860 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 1991]

City of Bonners Ferry; Application for Amendment of License

January 21, 1980.

Take notice that on November 6, 1979, the City of Bonners Ferry (Licensee) filed an application for amendment of its license for the existing Moyie River Project No. 1991, located on the Moyie River in the County of Boundary, Idaho. Correspondence concerning the application should be sent to Honorable Harold Sims, Mayor, City of Bonners Ferry, Bonners Ferry, Idaho, 83805, and Mr. E. R. Mooney, CH2M HILL, 1600 S.W. Western Blvd., P.O. Box 428, Corvallis, Oregon 97330.

The license for the Moyie River Project was issued on April 1, 1946, for a period of 50 years. The Commission issued on August 23, 1960, an order approving the rehabilitation of an old powerhouse containing a turbine-generator rated at 450 kW. The project, as it presently exists, consists of: (1) a concrete diversion dam and small reservoir; (2) a 60-inch-diameter penstock which bifurcates into a 60-inch-diameter penstock and a 36-inch-diameter penstock to feed; (3) two powerhouses with a total rated capacity of 2450 kW; (4) a substation; (5) a transmission line; and (6) appurtenant facilities.

Proposed Project Construction—The Licensee now seeks authorization to construct: (1) a 50-foot-long penstock which would connect to the existing 60-inch-diameter penstock and parallel the 36-inch-diameter penstock, and (2) a new concrete powerhouse, containing one turbine-generator unit with a rated capacity of 1500 kW, to be attached to Licensee's existing Powerhouse No. 1. The proposed penstock and powerhouse would be located entirely within the existing project boundary. The installed capacity of the entire project would total 3950 kW.

Estimated Cost—The Licensee estimates the capital cost of the proposed construction at $1,645,700.

Purpose of the Project—The proposed powerplant would generate about 4.25 million kWh annually and would contribute to the energy supply of the Pacific Northwest.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. 88-29, and other applicable statutes. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the issuance of an order amending the project license. A copy of the application may be obtained directly from the applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest, petition to intervene, or agency comments must be filed on or before March 8, 1980. The Commission's address is: 825 N. Capitol Street, N.E. Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2860 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP76-468]

City of Lenox, Iowa; Informal Conference

January 23, 1980.

On November 13, 1979, the Cities of Lenox, Bedford, Clearfield, and Prescott, Iowa (Cities) filed a petition requesting the convening of a prehearing conference in the above-styled proceeding for the purpose of exploring settlement possibilities and other matters pertinent thereto.

By order issued on March 10, 1967, the Commission in Docket No. CP67-189 pursuant to Section 7(a) of the Natural Gas Act (NGA) approved the initiation of service to the Cities. The Commission in the latter order approved the delivery of 2,055 Mcf of natural gas to provide for the Cities estimated third year requirements at that time. In its application Cities had projected 10-year requirements of 2,849 Mcf. On July 14, 1976, Cities filed a petition for extraordinary relief in Docket No. CP76-468, or, in the alternative, for an order pursuant to Section 7(a) increasing its contract demand from 2,055 Mcf per day to 2,849 Mcf per day.[1]

[1] Action on Cities' request was held in abeyance in the instant proceeding pending Natural Gas Pipeline Company of America's (Natural) endeavors to make more gas available to its customers through storage development in Docket No. CP76-517. As a result of the proceeding in Docket No. CP76-517, Cities obtained an additional 73 Mcf/day of winter contract demand.

On August 21, 1979, the Cities filed an amendment to its original petition of July 14, 1976, in Docket No. CP76-468, requesting an increase of 721 Mcf per day in their combined maximum daily quantity from the present level of 2,128 Mcf per day (2,055 Mcf plus 73 Mcf) to 2,849 Mcf per day. The conference will consider, *inter alia*, whether some resolution can be reached in the above-styled proceeding with respect to the Cities contention that they have pressing needs for what they evidently view as insignificant volumes of gas to satisfy the needs of high priority customers.

An informal conference will be held at the Offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 on February 14, 1980, at 10 a.m. in Room No. 6402 in order to determine whether the problems raised by the Cities in the filings in the above-styled proceeding can be resolved. All interested parties are invited to attend this conference.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2896 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP74-320]

Colorado Interstate Gas Co.; Petition To Amend

January 23, 1980.

Take notice that on December 10, 1979, Colorado Interstate Gas Company (Petitioner), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP74-320 a petition to amend the order issued August 28, 1975,[1] in the instant docket pursuant to Section 7(c) of the Natural Gas Act, so as to authorize the modification of certain facilities at the Latigo Storage Field in Arapahoe County, Colorado, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued August 28, 1975, Petitioner was authorized to acquire the Latigo Storage Field in Arapahoe County, Colorado, and to construct and operate facilities necessary to develop the field over a five-year period from 1975 to 1979 for use as an underground gas storage reservoir. It is stated that the facilities authorized thereby included 25 storage injection-withdrawal wells and 5,500 horsepower of compression.

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Petitioner asserts that data obtained during the early development and initial operation of the Latigo Storage Field suggested that efficient operations required certain facility alterations from those authorized, particularly an additional storage well and the deletion of one 1,100-horsepower compressor. It is stated that the need for an additional well was suggested by (a) better than expected well quality in terms of sand formation thickness, water production, permeability, and bottom-hole pressures, (b) inability to agree on terms with a landowner, (c) the need to monitor for any possible gas migration to a certain part of the field, and (d) lower than expected deliverability characteristics created by a thin sand section in one new well. Petitioner states that as a result of these factors, Latigo Well No. 4, originally certificated for use as an observation well, has been converted to a storage injection-withdrawal well, and that Petitioner seeks authorization for such conversion.

It is further stated that operations to date indicate that the presently installed 4,400 horsepower of injection compressor capacity is sufficient to handle the current annual working volumes of 9,000,000 Mcf and, therefore, there is no present need to intall the fifth 1,100-horsepower compressor which was proposed on the basis of the projected working volume of 12,000,000 Mcf per annum.

Petitioner states that the cost of converting Latigo Well No. 4 from an observation well to a storage well was approximately $40,300. Petitioner asserts that this cost was more than offset by deleting the installation of the fifth 1,100-horsepower compressor unit which reduced expenditures by $883,397, as projected in the original application.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 14, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2861 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-177]

Columbia Gas Transmission Corp.; Application

January 23, 1980.

Take notice that on January 8, 1980, Columbia Gas Transmission Corporation (Applicant), 1700 Mac Corkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP80-177 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain synthetic gas exchange service between Applicant and Taylorstown Natural Gas Company (Taylorstown), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that by order issued January 7, 1974, in Docket No. CP73-223, *et al.*, it was authorized to transport, for the account of certain of its customers, their respective shares of synthetic gas (SG) to be purchased by them from Columbia LNG Corporation (Columbia LNG) at Green Springs, Ohio, and to deliver equivalent volumes to the customers. It is stated that pursuant to a service agreement dated January 18, 1974, between Applicant and Taylorstown, Applicant received SG from Columbia LNG for the account of Taylorstown and accordingly delivered equivalent amounts to Taylorstown.

Applicant further states that the underlying SG sales contract between Columbia LNG and Taylorstown was terminated by an order issued December 20, 1978, of the Bankruptcy Judge in an arrangement proceeding pertaining to Taylorstown under Chapter XI of the United States Bankruptcy Laws. Thus, it is stated, deliveries under the service agreement between Columbia and Taylorstown ceased at the end of December 1978. Inasmuch, it is asserted, as said service agreement was utilized solely to exchange and deliver gas from the Green Springs SG plant purchased by Taylorstown under its sales contract with Columbia LNG, the service agreement no longer serves a useful purpose. Applicant proposes, therefore, to abandon such service.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 14, 1980, file with the Federal

Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Action Secretary.

[FR Doc. 80-2862 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RE80-26]

Consolidated Edison Co. of New York, Inc.; Application for Exemption

January 21, 1980.

Take notice that Consolidated Edison Company of New York, Inc. (Con Edison), on November 1, 1979, filed an application for exemption from certain requirements of Part 290 of the Commission's regulations (Order 48, 44 FR 58687). Exemption is sought from the requirement to file, on or before November 1, 1980, information on the costs of providing electric service as specified in Sections 290.303(a) and (c) and 290.403(a)(4), to the extent that data are required for a typical weekday and a typical weekend day, and 290.401(a) to the extent that it requires the interval of integration for reporting kilowatt loads to be the same for the system and customer group loads, of Part 290 of the Commission's regulations issued pursuant to section 133 of PURPA.

In its application for exemption, Con Edison states that it should not be required to file the specified data for the following reasons:

(1) "The Commission's definition of typical days in the reporting period requires too great an expenditure of time and effort in making the detailed computations required, and those efforts would produce data no better than that which would be produced by permitting the Company to select one or more weekdays and weekend days for each month which it believes are representative of cost incurrence, and reporting data for those days to comply with the regulations."

(2) The requirement of Section 290.401(a) would require processing that "will be time consuming, and, in addition, will create a less accurate result."

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that a summary of the application be published in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before March 10, 1980.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2867 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-182]

East Tennessee Natural Gas Co.; Application

January 21, 1980.

Take notice that on January 10, 1980, East Tennessee Natural Gas Company (Applicant), P.O. Box 10245, Knoxville, Tennessee 37919, filed in Docket No. CP80-182 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.221 of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) for a certificate of public convenience and necessity for blanket authorization to transport natural gas for other interstate pipeline companies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests blanket authorization to transport gas for other interstate pipeline companies. It states that it would comply with Section 284.221(d) of the Commission's Regulations under the NGPA.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 4, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2868 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2761]

El Dorado Irrigation District, and El Dorado County Water Agency; Application for Major License

January 22, 1980.

Take notice that an application was filed on November 14, 1979, under the Federal Power Act, 16 U.S.C. Sections 791(a)–825(r), by El Dorado Irrigation District and El Dorado County Water Agency (Applicants) for major license for the proposed Upper Mountain Project, FERC No. 2761, to be located on the South Fork of the American River and its tributaries in El Dorado County, California. Lands of the United States that would be affected are located in the El Dorado National Forest and the Department of the Interior's Central Valley Project, Sly Park Unit. Correspondence with the Applicants on this matter should be addressed to: Mr. Harry J. Dunlop, Secretary-Manager, El Dorado Irrigation District, P.O. Box 1047, 2890 Mosquito Road, Placerville, California 95667 and Mr. Robert L. McCarty, Special Counsel, McCarty and Noone, 490 L'Enfant Plaza East, Suite 3306, Washington, D.C. 20024.

Applicants propose to construct the following facilities: Forni Diversion Dam, a 57-foot-high rockfill structure, forming a 3-acre reservoir (at elevation 5560 feet) with a usable storage capacity of 48-acre-feet, to be located on Forni Creek about 7 miles upstream of Kyburz, which would divert water into a system of tunnels and pipelines to Alder Reservoir; Sherman Diversion Dam, an 80-foot-high concrete gravity structure, to be located about 5 miles downstream of the existing Silver Lake Reservoir, which would divert water by pipeline to the conduit from Forni Dam to Alder Reservoir; Sherman Reservoir, a 19-acre reservoir (at elevation 5560 feet) with a usable storage capacity of 320-acre-feet; seven five-foot-high rockfill diversion dams to be constructed on tributary streams to the South and Silver forks of the American River which would divert water to the conduit system to Alder Reservoir; Alder Dam, a 360-foot-high rockfill structure to be located on Alder Creek about 3.5 miles upstream of its confluence with the South Fork; Alder Reservoir, a 1400-acre reservoir (at elevation 5468 feet) with a usable storage capacity of 168,000-acre-feet; Plum Creek Powerhouse, to be located on Plum Creek about three miles upstream of the confluence with the South Fork, which would receive water from Alder Reservoir through a four-mile long conduit system and would contain a 42,700 kW generating unit; Park Creek Powerhouse, to be located on Park Creek about three miles upstream of Sly Park Reservoir, which would receive water from the tailrace of the Plum Creek Powerhouse through a 3.5-mile-long conduit system and would contain a 6,900 kW generating unit; El Dorado Powerhouse No. 2, to be located adjacent to Pacific Gas and Electric Company's (PG&E) existing El Dorado Powerhouse (FERC Project No. 184), which would receive water through the 8-mile-long Lower Park Creek system of tunnels and pipelines via the existing El Dorado Forebay and the proposed 2.0-mile-long El Dorado No. 2 pipeline and penstock and would contain a 60,800 kW generating unit. A 13-mile-long 69-kV transmission line would connect the three powerhouses to El Dorado No. 3 switchyard which would be connected to Sacramento Municipal Utility District's (SMUD) Project No. 2101 transmission line by 0.15-mile of 230-kV transmission line.

About 5.2 miles of access and replacement roads would be built in connection with the construction of Forni, Sherman, and Alder Reservoirs and Plum Creek Tunnel.

Recreational facilities would include picnicking and parking facilities at Forni Reservoir, picnicking sites and trailhead parking at Sherman Reservoir, and boat launching, picnicking and camping facilities (in three phases) at Alder Reservoir.

Applicant proposes to mitigate the loss of wet meadow habitat by irrigating about 112 acres of suitable lands to create new meadows near Sherman, Alder, and Texas Hill (a non-project facility) Reservoirs.

The cost of the project is estimated to be $241,045,000 of which $2,785,000 is apportioned to establish recreational facilities and $284,000 is allocated for wildlife habitat mitigation and an osprey and eagle management program.

Power from the project would be sold to one or more of the following—PG&E, SMUD or Sierra Pacific Power Company.

Competing Applications—Applicants possessed a preliminary permit for this project when the application for license was accepted for filing.

Anyone desiring to file a competing application must submit to the Commission, on or before March 24, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than July 22, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (as amended, 44 FR 61328, Oct. 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d), (as amended, 44 FR 61328, Oct. 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before March 24, 1980. The Commission's address is: 825 North Capitol Street NE., Washington, D.C., 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2863 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-174]

ElPaso Natural Gas Co.; Application

January 24, 1980

Take notice that on January 8, 1980, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP80-174 and application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon from its interstate system four mainline right-of-way grantor taps, together with the natural gas service rendered by means of such facilities to Arizona Public Service Company (APS), Southern Union Gas Company (Southern Union), and Southwest Gas Corporation (Southwest), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant was authorized to construct and operate mainline tap facilities and to sell and deliver natural gas for resale to the above existing, authorized distributor customers as follows:

Name and Location of Facilities

(1) J.E. Browning tap—a 1-inch O.D. tap and valve assembly located in Cochise County, Arizona;

(2) Hot Wells Cattle Company tap—a 1-inch tap and valve assembly located in El Paso County, Texas;

(3) V.E. Kannally tap—a 2-inch O.D. tap and and valve assembly located in Pinal County, Arizona;

(4) Rodney Kleck tap—a 2-inch O.D. tap and valve assembly located in Pinal County, Arizona.

Applicant states that said facilities were installed so as to permit it to provide natural gas service, for residential and irrigation purposes, to such right-of-way grantors through its distributor customers, APS, Southern Union, and Southwest. Applicant further states that deliveries of natural gas to APS, Southern Union, and Southwest for the subject taps were made pursuant to the terms and conditions of the general tap provisions of the currently effective service agreements dated August 15, 1970, October 1, 1969, and October 15, 1970, between Applicant and APS, Southern Union, and Southwest, respectively.

It is stated that by Commission Opinion No. 4 issued November 10, 1977, in Docket No. CP75-362, Applicant was authorized to abandon the subject mainline tap facilities along with certain mainline pipeline and related compression facilities in order to allow it to convert said facililties to a part of an integrated oil pipeline system which would ultimately transport Alaskan crude oil from the West coast to interconnections with existing oil pipelines near Midland, Texas. However, upon the withdrawal by Standard Oil Company (Ohio) (Sohio) from the crude oil pipeline project effective June 22, 1979, Applicant states that it filed, on July 10, 1979, a letter transmitting to the Commission Sohio's termination letter and advised the Commission that, inasmuch as the condition attached to the Commission's Opinion No. 4 requiring receipt by Sohio of all authorizations necessary for the crude oil pipeline project had not been met, Applicant would not exercise the abandonment authority granted by the Commission's order at Docket No. CP75-362.

Inasmuch, it is stated, as the abandonment of the four mainline right-of-way grantor taps cannot be accomplished under the authorizations granted in Docket No. CP75-362, Applicant requests permission and approval in the instant docket to abandon by salvage such tap facililties and the natural gas service rendered thereby. Applicant states that J.E. Browning and the Hot Wells Cattle Company have agreed to release and discharge Applicant from any and all obligations which Applicant has or may have to continue to supply natural gas through the mainline tap facilities and that Lucile Kannally, successor to V.E. Kannally, and Rodney Kleck have agreed to the termination of their respective right-of-way tap entitlements from Applicant and the substitution of Southwest as their supplier of natural gas which natural gas would be delivered by Southwest through tap facilities installed by Southwest on its system. With respect to J.E. Browning, Applicant states that it understands that natural gas has not been taken by such right-of-way grantor since August 1978. In addition with respect to Lucile Kannally and Rodney Kleck, Applicant states that it has been advised that the tap facilities necessary to provide natural gas sercice have been installed by Southwest and that such facilities are ready for service.

Applicant asserts that said abandonment would not change Applicant's average cost of service and would not result in or cause any interruption, reduction, or termination of natural gas service presently rendered by Applicant to any of its customers, other than those services which would hereafter be performed by Southwest.

The total estimated cost of the abandonment proposed herein is $1,837 which would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 13, 1980 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D.Cashell,

Acting Secretary.

[FR Doc. 80-2894 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP76-270]

Gas Gathering Corp.; Petition To Amend

January 23, 1980.

Take notice that on December 13, 1979, Gas Gathering Corporation (Petitioner), P.O. Box 519, Hammond, Louisiana 70404, filed in Docket No. CP76-270, a petition to amend the order issued May 24, 1976,[1] in said docket pursuant to Section 7(c) of the Natural Gas Act so as to remove the end-use restrictions contained in said order and to substitute therefore the limitations set forth in Section 2.79(m) of the Commission's General Policy and Interpretations (18 CFR 2.79(m), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that on May 24, 1976, it was authorized to transport up to 1,875 Mcf of natural gas per day for Cone Mills Corporation (Cone Mills) and up to 1,125 Mcf of natural gas per day of Nabisco, Inc., for a two-year term beginning June 24, 1976. Petitioner further states that on October 18, 1978, it was granted an extension of this authorization for a term to end June 24, 1980, and Petitioner was permitted to transport up to 3,000 Mcf per day for Cone Mills.

Petitioner requests, pursuant to the provisions of Order No. 52, issued October 5, 1979, in Docket No. RM80-1, that its authorization be amended so as to remove the end-use restrictions contained in such certificate authorization, and to substitute therefor the limitations set forth in Section 2.79(m) of the Commission's General Policy and Interpretations.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 13, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2866 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA80-66]

Jim Dandy Co.; Application for Adjustment

January 21, 1980.

On January 4, 1980, The Jim Dandy Company filed with the Federal Energy Regulatory Commission an application for an adjustment under section 502(c) of Title II of the Natural Gas Policy Act wherein The Jim Dandy Company sought relief from incremental pricing imposed by Section 201 of the NGPA.

The procedures applicable to the conduct of this adjustment proceeding are found in section 1.41 of the Commission Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of section 1.41. All petitions to intervene must be filed on or before February 21, 1980.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2878 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-190]

Kansas Gas & Electric Co.; Tariff Change

January 21, 1980.

The filing company submits the following:

Take notice that Kansas Gas and Electric Company on January 15, 1980, tendered for filing proposed changes in its FPC Electric Service Tariff No. 116. The proposed Amendatory Agreement changes the minimum and maximum amounts of power.

The Amendatory Agreement is necessary because the present demands are being exceeded.

Copies of this filing were served upon the City of Elsmore, Kansas.

Any person desiring to be heard or to protest said Application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with Para. 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 11, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2882 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA80-65]

Kentucky Ohio Gas Co., Inc.; Application for Adjustment

January 21, 1980.

On January 2, 1980, Kentucky Ohio Gas Company, Inc., filed with the Federal Energy Regulatory Commission an application for an adjustment under section 502(c) of Title II of the Natural Gas Policy Act wherein Kentucky Ohio Gas Co., Inc., sought relief from incremental pricing imposed by Section 201 of the NGPA.

The procedures applicable to the conduct of this adjustment proceeding are found in section 1.41 of the Commission Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of section 1.41. All petitions to intervene must be filed on or before February 21, 1980.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2879 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER78-417]

Kentucky Utility Co.; Compliance Filing

January 21, 1980.

The filing company submits the following:

Take notice that on December 19, 1979, Kentucky Utility Company (KUC) filed executed contracts between KUC and Jackson Purchase Electric Cooperative Corporation (Jackson) for each of Jackson's twenty separate delivery points.

These contracts are being filed in compliance with the Commission's letter order of December 4, 1979.

A copy of this filing has been served upon the parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before February 11, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2880 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-176]

Michigan Wisconsin Pipe Line Co.; Application

January 23, 1980

Take notice that on January 8, 1980, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP80-176 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of an interconnection with a pipeline operated by Mississippi Power & Light Company (Mississippi Power), and the transportation and delivery of natural gas volumes to be sold by Applicant to Mississippi Power to displace fuel oil in generating electricity, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to a gas service agreement dated October 25, 1979, it has agreed to sell up to 40 billion Btu of natural gas per day on an interruptible basis to Mississippi Power. Applicant asserts that sales would be made out of excess pipeline supplies as available from time to time. Applicant further states that the sales price would be the highest of (a) a price equivalent to 105 percent of the price of Gulf Coast high sulphur residual oil; (b) the new gas

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price under the Natural Gas Policy Act of 1978; and (c) Applicant's overrun rate.

It is stated that the gas sold to Mississippi Power would be used to displace fuel oil in generating electricity at Mississippi Power's Delta Stream Electric Station near Cleveland, Mississippi. In order to deliver the proposed volumes to Mississippi Power, Applicant proposes to construct and operate an interconnection between its pipeline facilities and Mississippi Power's pipeline in Bolivar County, Mississippi, in addition to related measurement facilities. Applicant states that the cost of the facilities proposed herein would be $432,550, which cost would be financed with internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 14, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2867 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-160]

Mountain Fuel Supply Co.; Application

January 24, 1980

Take notice that on December 28, 1979, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP80-160 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 30,000 Mcf of natural gas per day for Natural Gas Pipeline Company of America (NGPL) and for the delayed exchange of up to 50,000 Mcf of gas per day with NGPL, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered into a gas transportation agreement, dated September 27, 1979, with NGPL, whereby it would gather up to 30,000 Mcf of gas per day controlled by NGPL in the Overthrust Area of Wyoming and Utah, and would then deliver the volumes to its interstate transmission system through its existing intrastate gathering and transmission facilities and its existing interstate gathering facilities for delivery to Colorado Interstate Gas Company (CIG) at an existing exchange point with CIG's transmission system near Green River, Sweetwater County, Wyoming (Kanda Exchange Point).

It is further stated that Applicant has entered into a gas transportation agreement with NGPL dated October 3, 1978, which provides for Applicant to receive up to 20,000 Mcf of gas per day from NGPL and to deliver equivalent volumes by displacement at the Kanda Exchange Point. It is stated that this agreement was approved by Commission order dated November 21, 1979.

It is stated that CIG has given notice that a capacity constraint on its transmission system may render it unable to accept or redeliver on a daily basis all of the gas available for delivery by Applicant to CIG for NGPL. Applicant states that it has entered into a delayed exchange agreement with NGPL dated September 28, 1979, which provides for Applicant to retain any volumes of gas tendered by NGPL for transportation pursuant to either of the above described agreements in any month, in the November-through-March periods until October 31, 1982, in which an imbalance occurs due to CIG's inability to receive the volumes tendered by NGPL to Applicant. It is further stated that any such volumes which cannot be delivered to CIG during the November through March period would be retained by Applicant for delivery to CIG on a best-efforts basis during the April through October periods ending October 31, 1982.

Applicant states that for each Mcf of gas which it accepts for transportation but cannot deliver, NGPL would charge it an amount equal to the price of new natural gas as provided in Section 102 of the Natural Gas Policy Act of 1978 (NGPA) and Subpart (B) of Part 271 of the Interim Regulations under the NGPA as determined on the date of receipt of such gas by Applicant. It is further stated that during summer periods Applicant would deliver volumes sufficient to replace the delayed exchange gas retained during winter periods and would charge NGPL for each Mcf of gas so delivered to CIG for NGPL's account an amount equal to the price of new natural gas as provided in Section 102 of the NGPA and Subpart (B) of Part 271 of the Interim Regulations implementing the NGPA as determined on the date of delivery by Applicant of said volumes.

Applicant proposes to charge NGPL a gathering rate of 8.04 cents per Mcf for gas delivered by NGPL to Applicant on its intrastate gathering system in the described Overthrust Area. It is further proposed that Applicant would charge NGPL a gathering rate of 8.0 cents per Mcf for gas delivered by NGPL to it on its gathering system attached to its interstate transmission system in the Overthrust Area. Applicant proposes to charge NGPL a transportation rate of 13.22 cents per Mcf of gas transported through Applicant's transmission facilities and a compression charge of 5.0 cents per Mcf in addition to being reimbursed a proportionate share of compressor fuel if compression is necessary for the delivery of natural gas to CIG for NGPL. Applicant further states that if additional facilities are needed to receive gas from NGPL, it would charge NGPL a cost of service based expansion charge, to be approved by the Commission.

Applicant requests authorization to take deliveries immediately at any new receipt point in the Overthrust Area pursuant to the September 27, 1979, agreement.

Applicant further requests exemption from the Natural Gas Act and the NGPA as they may apply to the portion of its intrastate system which would be used to provide the transportation and delayed exchange services proposed herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 13, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2868 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP78-123, et al.]

Northwest Alaskan Pipeline Co., et al.; Pre-Filing Conference for Proposed Alaskan Segment of the Alaskan Natural Gas Tranportation System (ANGTS)

January 22, 1980.

Take notice that on January 29, 1980, at 9:00 a.m. a pre-filing conference will be convened at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The purpose of this conference is to allow the Applicants of the proposed Alaskan segment of the ANGTS to discuss with interested persons aspects of the engineering and design now contemplated for the Alaskan segment. Questions concerning the cost estimate format with respect to the Alaskan segment may also be discussed. The application for final Commission authority to construct and operate this segment is expected to be filed in June 1980. Applications for authority to construct and operate other segments of the ANGTS (the "pre-build" portions) are now being considered in *Northwest Alaskan Pipeline Company, et al.*, Docket Nos. CP78-123, *et al.*

This pre-filing conference is open to the public. Attendance does not constitute Commission authorization to participate as a party in any proceeding.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3861 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-141]

Oklahoma Natural Gas Gathering Corp.; Application

January 24, 1980.

Take notice that on December 17, 1979, Oklahoma Natural Gas Gathering Corporation (Applicant), 624 South Boston Avenue, Tulsa, Oklahoma 74119, filed in Docket No. CP80-141 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and delivery of natural gas to eight rural residential customers located adjacent to Applicant's pipeline facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that the purpose for the proposed transportation is to make direct sales of gas to eight rural residences near Enid, Oklahoma, to be used for residential heating and cooking. Each residence, it is asserted, would consume an average of 154 Mcf of gas per year. It is stated further that the proposed service would not result in any impairment of service to Applicant's two other customers, require no construction and involve no financing.

Applicant states that said residences are presently being served by Oklahoma Natural Gas Company, its parent, but that for administrative efficiency and economy it has been decided to serve the customers directly.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 13, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3869 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-489]

Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.; Amendment to Application

January 23, 1980.

Take notice that on December 12, 1979, Panhandle Eastern Pipe Line Company (Panhandle), 3000 Bissonnet Street, Houston, Texas 77001, and 3444 Broadway, Kansas City, Missouri 64141, filed in Docket No. CP79-489 pursuant to Section 7(c) of the Natural Gas Act an amendment to their joint application filed September 17, 1979, in the instant docket so as to (1) delete the Dewey County, Oklahoma, point of receipt from Oklahoma Natural Gas Company (ONG), (2) decrease the firm transportation volumes, and (3) increase

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volumes to be transported on a best-efforts basis, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicants state that the joint application filed September 17, 1979, in Docket No. CP79-489 requesting authorization to transport gas for United Gas Pipe Line Company (United) is pending Commission action.

Applicants assert that United has been advised that ONG would be unable to transport natural gas for Transok Pipeline Company (Transok) for delivery to Panhandle, for United's account at the Dewey County, Oklahoma, points of receipt. It is further stated that consequently, Applicants and United executed an amended transportation agreement dated November 7, 1979, amending their transportation contract of August 27, 1979. Applicants assert that the November 7, 1979, amendment would (1) delete the Dewey County, Oklahoma, point of receipt from ONG, (2) decrease the firm transportation volume of natural gas from 75,000 Mcf per day to 45,000 Mcf per day, as well as the consistant monthly charge, and (3) increase the volumes to be transported on a best-efforts basis to 30,000 Mcf of natural gas per day.

Applicants state that, as consideration for the amended transportation service, United would pay Panhandle a monthly charge of $254,550, with an upward or downward adjustment of 18.56 cents per Mcf to be applied to any excess or deficiency in quantities taken.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 13, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 80-2870 Filed 1-25-80; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-169]

Pennsylvania-New Jersey-Maryland Interconnection; Filing

January 21, 1980.

Take notice that the Pennsylvania-New Jersey-Maryland Interconnection (PJM) on January 16, 1980, tendered for filing, proposed to become effective April 1, 1980, Schedule 5.02, Schedule 5.03 replacing Schedule 5.02, Schedule 7.03 replacing Schedule 7.02, Schedule 8.02 replacing Schedule 8.01, which expired by its terms on December 31, 1974, and Schedule 9.02 replacing Schedule 9.01 to the VEPCO–PJM Interconnection Agreement dated September 30, 1965, as supplemented on September 1, 1976.

PJM indicates that the parties to this agreement are Virginia Electric and Power Company (VEPCO) and the PJM group which consists of Public Service Electric and Gas Company, Philadelphia Electric Company, Pennsylvania Power & Light Company, Baltimore Gas and Electric Company, Potomac Electric Power Company, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company.

PJM indicates that the parties to this agreement have agreed to these revisions which, among other things reflect a departure from the traditional cost plus 10% basis for pricing emergency, extended emergency, and short term energy and operating capacity transactions, as well as conservation energy and other energy transactions.

Any person desiring to be heard or to protest said Application should file a petition to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426 in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 11, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 80-2871 Filed 1-25-80; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. OR78-5]

Powder River Pipeline Corp. and Crude Co. v. Amoco Pipeline Co.; Order Accepting Settlement Agreement

Issued: January 15, 1980.

On August 25, 1977, Powder River Pipeline Corporation (Powder River) and its affiliate, The Crude Company (TCC), filed a complaint in the United States District Court for the District of Colorado against Amoco Pipeline Company (Amoco), Western Oil Transportation Company, Inc. (Western) and Western's parent corporation, the Permian Corporation (Permian). In their complaint, Powder River and TCC alleged violations of sections 1 and 2 of the Sherman Antitrust Act, as well as violations of sections 1(4) and 3(1) of the Interstate Commerce Act. On October 14, 1977, the district court issued an order which held that the issues arising under sections 1(4) and 3(1) of the Interstate Commerce Act were within the primary jurisdiction of this Commission.[1]

Powder River and TCC filed a complaint with the Commission on January 4, 1978, alleging that Amoco unreasonably favored Western with respect to the allocation of Amoco's pipeline capacity at its Reno Station in Wyoming.[2] On September 22, 1978, the Commission issued an order which set the complaint for investigation and granted intervention to Western and Permian.

Thereafter, the parties submitted their cases-in-chief and two prehearing conferences were convened by the presiding judge. On November 7, 1979, Western and Permian filed a Notice of Settlement, and a Stipulation of Dismissal executed by all parties. These pleadings constitute a full settlement of all issues in this proceeding and an agreement that Powder River and TCC's claim against Amoco shall be dismissed with prejudice.[3] The presiding judge

[1] The district court retained jurisdiction of Powder River and TCC's complaint pending action by this Commission on the propriety of Amoco's proration policy.

[2] The complaint was predicated on section 3(1) of the Interstate Commerce Act, which prohibits pipeline common carriers from discriminating between shippers by giving any undue preference or advantage to any shipper.

[3] Powder River and TCC also agreed to file a stipulation of dismissal as to all claims asserted by

Footnotes continued on next page

certified the Notice of Settlement and Stipulation of Dismissal to the Commission on December 6, 1979.

The Commission Staff initially opposed dismissal on the ground that Amoco did not have a proration policy published in its tariff with respect to its Reno Station in Wyoming. In response, Amoco has agreed to file such a proration policy in the form attached as Appendix A to this order. The settlement in this docket, therefore, consists of a Stipulation of Dismissal and a proposed proration policy to be filed by Amoco. As thus conditioned, the settlement is agreed to by all parties and the Commission Staff.[4]

The Commission finds that the proposed settlement represents a just and reasonable resolution of the prorationing problem presented by the parties in this proceeding. Accordingly, the Commission finds that the Stipulation of Dismissal filed herein should be accepted and that following the filing of the proration tariff attached as Appendix A, this proceeding should be terminated.

The Commission believes, however, that the activities which were the subject matter of this docket suggest the possibility of criminal conduct so as to warrant our further investigation. By separate order issued this day, the Commission has directed its Office of Enforcement to conduct such an investigation. While the investigation does not affect the relief afforded by the proposed settlement or the termination of the proceeding in Docket No. OR78-6, we believe it appropriate to announce its initiation here.

The Commission orders:

(A) The proposed settlement agreement is accepted.

(B) Amoco Pipeline Company shall promptly file the proration language attached as Appendix A to this order with this Commission by appropriate tariff publications.

(C) Following the filing of the proration language referred to in subparagraph (B) above, this proceeding shall be terminated.

By the Commission.

Kenneth F. Plumb,
Secretary.

Appendix "A"

During any period of time when the aggregate volume of Crude Petroleum to be received and/or transported by Carrier exceeds the available pipeline capacity, space in Carrier's facilities shall be equitably allocated among all shippers in compliance with Carrier's obligations under Part I of the Interstate Commerce Act, as amended, and the following Proration Policy:

(a) In order for Carrier to determine if it is necessary to allocate space in the Reno to Salt Creek line, Carrier will require shippers to nominate volumes to be shipped 6 or more days prior to the beginning of each shipping month.

(b) When the total nominated volumes for any month exceed the capacity of Reno-Salt Creek line, the total nominated volume will be divided into the line capacity to determine the "proration ratio". Each shipper's allocation shall be determined by multiplying its nomination by the applicable proration ratio.

(c) Carrier will notify shippers of such proration and the amount of space that will be allocated to each no later than the first working day of the shipping month.

If a shipper fails to use the space, shipper's allocated volume for each subsequent prorated scheduling month, not to exceed six months, will be reduced by up to the amount of the unused space; except that to the extent such failure is, in the sole opinion of Carrier, due to causes beyond the reasonable control of shipper, shipper will not be penalized in its allocated volume for the subsequent prorated scheduling period(s).

(d) Allocated space of one shipper may not be assigned, conveyed or used by another during such time as this proration policy may be in effect.

(e) All barrels tendered by shippers must be received at Amoco's Reno Station on a prorata basis during the month. Failure of a shipper to make available said barrels at Reno Station on a prorata basis may cause inefficient use of the pipeline capacity. In such event, Amoco may redistribute space allocation among other shipper to efficiently utilize the pipeline capacity. Any loss of space by a shipper due to such redistribution may not be carried forward to any subsequent month.

[FR Doc. 80-2893 Filed 1-25-80; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-183]

Southwest Gas Corp.; Application

January 23, 1980.

Take notice that on January 10, 1980, Southwest Gas Corporation (Applicant), P.O. Box 15015, Las Vegas, Nevada 89114, filed in Docket No. CP80-183 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of two high pressure tap facilities, one on the Yerington Lateral and one on the Elko Lateral of Applicant's northern Nevada transmission system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The Yerington tap, located near Yerington, Nevada, would enable Applicant to deliver volumes of gas to 31 residential customers in Campbell Ranch Subdivision in Lyon County, Nevada, it is stated. The Elko tap, located near Winnemucca, Nevada, would enable Applicant to deliver volumes of gas to 33 residential customers in the Richards Estates Subdivision in Humboldt County, Nevada, Applicant asserts.

Applicant states the volumes to be delivered would be solely for Priority 1 use with average day requirements to be approximately 10 Mcf per day. Peak day requirements for the Yerington and Elko customers would be approximately 48 Mcf per day and 51 Mcf per day, respectively, it is asserted, and annual deliveries would reach approximately 3,527 Mcf and 3,775 Mcf, respectively.

Applicant states that the cost of the Yerington facilities would be approximately $1,088, and the cost of the Elko facilities would be approximately $800. The cost of both taps would be financed by an advance made to Applicant by the developer of each of the respective subdividions, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 14, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rule of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this

Footnotes continued from last page

them before the United States District Court for the District of Colorado.

[4] By order of the presiding judge, issued November 8, 1979, notice of dates for filing comments and reply comments was prescribed. The only comments received were those of Staff, in which the Staff stated that it would support a motion to terminate if the suggested proration language was filed. No reply comments were filed.

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application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedrue herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2685 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-162]

Texas Gas Transmission Corp.; Application

January 23, 1980.

Take notice than on December 27, 1979, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP80-162 an application pursuant to Section 7[c] of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a 2,250 horsepower compressor unit at its Eunice Compressor Station in Acadia Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is currently utilizing all of the four existing 1,100 horsepower units on that portion of its system which terminates at its Eunice Compressor Station, which leaves it vulnerable to a loss of supply during maintenance downtime and unforeseen shutdowns. It is further stated that the 2,250 horsepower compressor unit would insure continuity of service and provide flexibility in allowing Applicant to receive additional supplies of gas that are or may become available in the area of the relevant part of its system, and that with this compressor unit gas supplies could be purchased on short notice and timely attached to its pipeline system.

Applicant states that the $3,547,000 estimated cost of the proposed facilities would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 13, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2671 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-3]

Transcontinental Gas Pipe Line Corp. and Michigan Wisconsin Pipe Line Co.; Petition To Amend

January 24, 1980.

Take notice that on December 20, 1979, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, and Michigan Wisconsin Pipe Line Company (Mich Wisc), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP79-3 a joint petition to amend the order of April 4, 1979, issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the addition of three new receipt points to an existing transportation and exchange arrangement, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Pursuant to the order issued April 4, 1979, Petitioners were authorized to transport and exchange natural gas with each other under a gas transportation and exchange agreement dated September 5, 1978. Petitioners have entered into an amendatory agreement dated November 1, 1979, pursuant to which Mich Wisc would receive gas from Transco from three additional wells in Beckham County, Oklahoma, from which Transco has obtained the right to purchase gas from Texaco, Inc. The tree wells are the Adkerson No. 2 Well, Cupp "B" No. 2 Well and Mills No. 2 Well, it is stated.

It is stated that pursuant to the November 1, 1979, agreement, an additional Transco receipt point has been added to receive gas being purchased by Mich Wisc from the J. S. O'Flynn Well, Jefferson Davis County, Mississippi. Petitioners assert no further authorization is required for this receipt point as Petitioners have been authorized by the order issued April 4, 1979, to add new points from time to time where Transco may receive gas for Mich Wisc in Mississippi.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 13, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petiton to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2672 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket NO. CP80-136]

Transcontinental Gas Pipe Line Corp.; Application

January 24, 1980.

Take notice that on December 13, 1979, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP80-136 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to construct and operate 1.45 miles of 20-inch pipeline and appurtenant facilities which would allow the receipt by Applicant of up to 200,000 Mcf of natural gas per day from Texas Eastern Transmission Corporation (Tetco) at the existing interconnection between the two companies near Applicant's Compression Station No. 45 in Beauregard Parish (Ragley Interconnection), Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that, since Tetco's normal operating pressure at the Ragley Interconnection is lower than Applicant's, the natural gas which is received by Applicant from Tetco at the interconnection is presently being delivered into Applicant's mainline system through an 8-inch line which connects to one of Applicant's two 30-inch mainlines near the Ragley Interconnection. It is further stated that a segment of said 30-inch mainline (located on the downstream side of Compressor Station No. 45) is then used to backflow the gas to the suction side of Compressor Station No. 45 where it is compressed and transported downstream through Applicant's other 30-inch mainline. Applicant states that approximately 60,000 Mcf of natural gas per day are currrently being received from Tetco at the Ragley Interconnection.

Applicant proposes to construct 1.45 miles of 20-inch pipeline which would extend from Applicant's existing meter station at the Ragley Interconnection to the suction side of Compressor Station No. 45, allowing for Applicant's receipts from Tetco of up to 200,000 Mcf of natural gas per day. Applicant asserts that the proposed facilities would facilitate the transfer of additional quantities of gas at the Ragley Interconnection, would eliminate the use of the segment of Applicant's mainline as suction line, and would allow such line to be used in its entirety in the forward haul of Applicant's gas supplies. Applicant states that such facilities would thereby substantially reinstate original throughput capacity.

Applicant states that the cost of the proposed facilities would be $810,000, which would be financed initially from internal funds, or from short-term borrowing, with permanent financing to be arranged at a later date.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 13, 1980, file with the Federal Energy Regulatory Commission, Washington, DC. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice, that pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2673 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-191]

Tucson Electric Power Co.; Filing

January 22, 1980.

The filing company submits the following:

Take notice that Tucson Electric Power Company (Tucson) on January 16, 1980, tendered for filing Amendment No. 1 to the Tucson-AEPCO Electric Power Wheeling Agreement dated as of January 4, 1980 to the Tucson-AEPCO Electric Power Wheeling Agreement dated as of February 19, 1976 between Tucson and Arizona Electric Power Cooperative (AEPCO). Tucson states that the primary purpose of Amendment No. 1 is to provide changes in the "Points of Delivery" of the contract to the extent of deleting one of the previously agreed to points of delivery and adding three new points of delivery. Tucson further states that copies of the filing were served upon AEPCO.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 13, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2682 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-41]

United Gas Pipeline Co.; Third-Party Protests[1]

January 23, 1980.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23-B[2], and "Order on Rehearing of Order No. 23-B,"[3] the Gas Consumers Group (GCG) filed a supplemental third-party protest on December 26, 1979, to the assertion by the United Gas Pipeline Company (United). United protests that the contracts in Appendix A do not constitute contractual authority for the producers to charge and collect any applicable maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA).

Take further notice that Gulf States Utilities Company (Gulf States) also filed a third-party protest on December 26, 1979. Gulf States protests that the contracts in Appendix B do not constitute contractual authority for the producers to increase prices to the applicable NGPA maximum lawful price.

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these

[1] The term "third-party protest" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79-22, issued June 21, 1979.

[3] Docket No. RM79-22, issued August 6, 1979.

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protests should file with the Commission, on or before February 6, 1980, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR § 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Lois D. Cashell,
Acting Secretary.

Appendix A

Seller	Contract No.	Rate schedule	Contract date
Davis Oil Co.	6417	NJ	78/06/19
Exxon Corp.	6311	NJ	78/02/09
Scott Russell, Jr.	5683	CS	74/06/29
Marathon Oil Co.	5509	15	73/07/16
Louisana Gas Ser. Expl. Co.	6364	NJ	78/04/11
Exxon Corp.	*1942*	NJ	57/06/28
General American Oil Co. Tex.	5838	37	75/06/09
Texaco Inc.	0516	495	27/12/31
Clemco Inc.	*1589*	1	56/09/11
Brown, Maunce L.	5700	CS	78/07/16
Texaco Inc.	5704	48	74/08/23
Pennzoil Prod. Co.	5961	306	76/03/01
Getty Oil Co.	5979	239	76/03/01
Pickens Co., Inc.	5987	CS	76/03/01
Sun Oil Co.	5995	21	76/03/01
Schlachter, David A.	5546	CS	73/09/10
Crystal Oil Co.	6194	CS	77/07/29
Logue & Patterson	*5056*	CS	71/02/01
Lynd, R. L.	*1269*	CS	49/07/01
Howell, H. H.	*4364*	CS	60/02/19
American Petrofina Co. of Tex.	5899	87	76/10/20
Pennzoil Prod. Co.	5925	305	76/03/01
Houston Oil & Mineral Corp.	*1398*	CS	50/11/17
Sun Oil Co.	*4027*	290	60/04/14
Hunt Oil Co.	6463	NA	78/07/03
Intercity Mgmt. Corp.	*1878*	CS	49/07/19
Gulf Oil Corp.	*1043*	74	46/03/26
Amax Petroleum Corp.	6157	CS	77/05/20
Sun Oil Co.	5783	66	74/12/01
Marathon Oil Co.	5798	16	75/01/15
Norton Oil Co., Inc.	5804	CS	75/02/05
Exxon Corp.	5880	110	75/11/10
Union Oil Co. of Calif.	6837	NA	79/08/20
Bodcaw Co.	6275	CS	77/12/12
Amerada Hess Corp.	6352	EP	78/03/31
Chevron USA, Inc.	*5787*	147	74/12/20
Cox, Edwin L.	5288	NJ	72/07/21
Gulf Oil Corp.	*4103*	181	58/07/09
Art Machin & Ass'n Inc.	6324	CS	78/02/13
Hunter Co., Inc.	5186	CS	71/12/06
Crystal Oil Co.	5939	CS	76/03/01
ShoVan Gas Prod. Co., Inc.	0523	CS	29/10/15
South Coast Oil, Inc.	5171	SF	71/12/06
Allied Petroleum Co.	*5183*	CS	71/10/11
Allied Petroleum Co.	5209	CS	72/02/04
Allied Petroleum Co.	5269	CS	72/05/19
Miles Kimball Co.	5369	CS	72/12/12
McCarter, A. Nelson	6004	CS	75/12/11
Pennzoil Prod. Co.	5984	209	75/07/01
Par Oil Corp.	*5437*	CS	73/04/02
Mobil Oil Corp.	5867	112	75/09/24
Sugar Creek Prod. Co.	*3100*	CS	29/12/20
Gulf Oil Corp.	5028	NJ	70/12/21
Getty Oil Co.	5009	NJ	70/07/16
Tenneco Oil Co.	5005	261	70/05/12
Brammer Eng. Inc.	5037	CS	70/12/28
Gulf Oil Corp.	1052	323	46/04/23
Logue & Patterson	5176	CS	71/09/22
Texas Oil & Gas Corp.	4213	85	58/12/31
Reserve Oil & Gas Co.	5117	CS	71/05/28
Marathon Oil Co.	0858	17	40/04/29
Woods, Harold L.	*1331*	CS	59/12/02
Mobil Oil Corp.	*2363*	114	37/09/26
Amax Petroleum Corp.	6249	CS	77/10/20
Mobil Oil Corp.	6461	564	78/08/01
Gulf Minerals, Inc.	5785	77	74/06/15
McMoran Expl. Co.	5711	11	74/09/13
Shell Oil Co.	4274	203	59/04/30
Tenneco Oil Co.	0451	75	30/10/23
Antares Oil Corp.	*6299*	CS	78/01/10
Par Oil Corp.	*5022*	CS	70/09/01

Appendix A—Continued

Seller	Contract No.	Rate schedule	Contract date
Par Oil Corp.	5149	CS	71/08/09
Frank L. Fitts d/b/a Pitt Oil Company	6170	NJ	77/07/22
NP Energy Corp.	6611	NA	79/03/26
Soverign Expl. Co.	6657	NA	79/05/01
Southland Royalty Co.	5885	NA	74/06/21
Cayman Expl. Corp.	6695	NJ	79/06/04
Pennzoil Prod. Co.	6583	NA	79/01/23
Borden Chem./Div. of Borden	6855	NJ	59/07/10
Pennzoil Prod. Co.	6191	229	77/07/29
Pennzoil Prod. Co.	2692	264	67/02/06
Amoco Production Co.	6547	NA	79/01/16
Texas Oil & Gas Corp.	6694	NA	79/10/02
Amoco Prod. Co.	6595	CS	79/06/06
Triton Oil & Gas Corp.	6656	CS	79/05/01
Grace Petroleum Corp.	6692	CS	79/05/22
Cotton Petroleum Corp.	6666	NA	79/07/21
Texas Oil & Gas Corp.	6773	NA	79/11/21
Pennzoil Prod. Co.	2698	276	70/07/28
SPG Oil Co.	6494	CS	78/10/23
Soverign Expl. Co.	6441	CS	78/07/12
Se-Gu Corp.	6518	CS	78/11/02
Maynard Oil Co.	6684	NA	79/05/11
Frost, C. M.	6710	NA	79/05/31
Pennzoil Prod. Co.	1141	63	47/05/28
Atlantic Richfield Co.	6525	NA	78/11/13
Amoco Prod. Co.	6609	NA	79/04/30
Harris, R. C.	2628	253	50/12/29
Canus Petroleum, Inc.	6701	NA	79/05/30
Holly Energy Inc.	6678	NA	79/05/17
Mosbacher, Robert	6458	CS	78/08/28
Saga Petroleum Inc.	6462	NA	78/08/15
Dynamic Expl. Inc.	6601	NA	79/02/23
ECEE, Inc.	6367	NA	78/04/27
Texas Prod. Co.	6369	NA	78/04/27
VSEA, Inc.	6658	1	79/05/04
Pinto, Inc.	6659	5	79/05/04
Crow, David, Agent	6605	NA	79/02/13
Pintail Mineral Corp.	6192	BP	76/07/12
Hogan Drilling Co.	6449	CS	78/07/24
Bass, Perry R.	6573	11	79/02/07
Pennzoil Prod. Co.	2701	283	71/12/23
Prince Oil & Gas Co. Inc.	2728	CS	73/05/24
Loch Arbor Prod. Co.	6500	DS	78/09/20
Powell, Robert E.	6546	CS	78/12/28
Spooner, Frank	6465	CS	78/07/19
Spooner, Frank	6703	NA	79/08/15
Denton, B. G.	6428	CS	78/08/24
Pioneer Oil & Gas Co., Inc.	6684	NA	79/05/25
Triton Oil & Gas Corp.	6665	NA	79/05/01
Trident Oil & Gas Corp.	6569	NA	79/01/16
Pennzoil Prod. Co.	2716	239	72/11/06
Quintana Petroleum Corp.	4166	148	56/06/15
Canus Petroleum, Inc.	6701	NA	79/05/30

Appendix B

Seller name	Contract No.	Date	NGPA
Allied Petroleum Co	5183	71/10/11	108
Allied Petroleum Co	5209	72/02/04	108
Allied Petroleum Co	5269	72/05/19	108
Amax Petroleum Corp	6157	77/05/20	103
Amax Petroleum Corp	6249	77/10/20	102
Amerada Hess Corp	6352	78/03/31	102
American Petrofina Co Tex	5899	76/10/20	103
Amoco Production Co	6547	79/01/16	102
Amoco Production Co	6547	79/01/16	103
Amoco Production Co	6595	79/06/06	102
Amoco Production Co	6595	79/06/25	103
Amoco Production Co	6609	79/04/30	102
Antares Oil Corp	6299	78/01/10	103
Art Machin & Assn Inc	6324	78/02/13	103
Atlantic-Richfield Co	6525	78/11/13	103
Bass Perry R	6573	79/02/07	102
Bodcaw Co	6275	77/12/12	108
Borden Chemical	6855	59/07/10	102
Brammer Engineering Inc	5037	70/12/28	108
Brown Maunice L	5700	78/07/16	108
Canus Petroleum Inc	6701	79/05/30	102
Canus Petroleum Inc	6701	79/05/30	103

Appendix B—Continued

Seller name	Contract No.	Date	NGPA
Cayman Exploration Corp	6695	79/06/04	102
Cayman Exploration Corp	6695	79/06/04	103
Chevron USA Inc	5787	74/12/20	107
Clemco Inc	1589	53/09/11	108
Cotton Petroleum Co	6666	79/07/21	107
Cox Edwin L	5288	72/07/21	103
Crow David Agent	6605	79/02/13	102
Crystal Oil Co	6194	77/07/29	103
Crystal Oil Co	5939	76/03/01	103
Davis Oil Co	6417	78/06/19	102
Denton B G	6428	78/08/24	103
Dynamic Exploration Inc	6601	79/02/23	102
Ecee Inc	6367	78/04/27	102
Exxon Corp	6311	78/02/09	102
Exxon Corp	1942	57/06/28	103
Exxon Corp	6311	78/02/09	103
Exxon Corp	5880	75/11/10	106
Frost C M	6710	79/05/31	103
General American Oil Co Tex	5838	75/06/09	103
Getty Oil Co	5009	70/07/16	103
Getty Oil Co	5979	76/03/01	103
Getty Oil Co	5979	76/03/01	108
Grace Petroleum Corp.	6692	79/05/22	103
Gulf Minerals Inc	5785	74/06/15	108
Gulf Oil Corp	5028	70/12/21	103
Gulf Oil Corp	1052	46/04/23	103
Gulf Oil Corp	1043	46/03/26	108
Gulf Oil Corp	1043	46/03/26	106
Gulf Oil Corp	4103	58/07/09	108
Harris R C	2628	50/12/29	102
Hogan Drilling Co	6449	78/07/24	103
Holly Energy Inc	6676	79/05/17	102
Holly Energy Inc	6678	79/05/17	103
Houston Oil & Mineral Corp	1398	50/11/17	108
Howell H H	4364	60/02/19	108
Hunt Oil Co	6463	78/07/03	108
Hunter Co Inc	5186	71/12/06	108
Intercity Management Corp	1276	49/07/19	108
La Gas Service Expl Co	6364	78/04/11	102
Loch Arbor Production Co	6500	78/09/20	103
Loch Arbor Production Co	6500	78/09/20	108
Logue & Patterson	5056	71/02/01	108
Logue & Patterson	5176	71/09/22	108
Lynd R L	1269	49/07/01	108
Marathon Oil Co	5509	73/07/16	103
Marathon Oil Co	5798	75/01/15	108
Marathon Oil Co	0858	40/04/29	103
Maynard Oil Co	6684	79/05/11	102
McCarter A Nelson	6004	75/12/11	103
McMoran Exploration Co	5711	74/09/13	102
Miles Kimball Co	5369	72/12/12	108
Mobil Oil Corp	6461	78/08/01	102
Mobil Oil Corp	6461	78/08/01	103
Mobil Oil Corp	2363	37/09/26	108
Mobil Oil Corp	5867	75/09/24	108
Mosbacher Robert	6458	78/08/28	103
N P Energy Corp	6611	79/03/26	103
Norton Oil Co Inc	5804	75/02/05	108
Par Oil Corp	5022	70/09/01	108
Par Oil Corp	5149	71/08/09	108
Par Oil Corp	5437	73/04/02	108
Pennzoil Producing Co.	6563	79/01/23	102
Pennzoil Producing Co.	2692	67/02/06	103
Pennzoil Producing Co.	6191	77/07/29	103
Pennzoil Producing Co.	5961	76/03/01	103
Pennzoil Producing Co.	5961	76/03/01	108
Pennzoil Producing Co.	2698	70/07/28	102
Pennzoil Producing Co.	2698	70/07/28	108
Pennzoil Producing Co.	5925	76/03/01	108
Pennzoil Producing Co.	1141	47/05/28	102
Pennzoil Producing Co.	1141	47/05/28	103
Pennzoil Producing Co.	2701	71/12/23	108
Pennzoil Producing Co.	5564	75/07/01	108
Pennzoil Producing Co.	2716	72/11/06	108
Pickens Co Inc	5987	76/03/01	103
Pintail Mineral Corp	6192	76/07/12	108
Pinto Inc	6659	79/05/04	102
Pioneer Oil & Gas Co Inc	6684	79/05/25	102
Pitts Frank L	6170	77/07/22	108
Powell Robert E	6546	78/12/28	103
Prince Oil & Gas Co Inc	2728	73/05/24	103

Appendix B—Continued

Seller name	Contract No.	Date	NGPA
Primos Oil & Gas Co Inc	2729	73/05/24	108
Quintana Petroleum Corp	4166	56/06/15	107
Reserve Oil & Gas Co.	5117	71/05/28	108
S P G Oil Co	6494	78/10/23	102
SA-GU Corporation	6518	78/11/02	103
Saga Petroleum Inc	6462	78/08/15	102
Schlachter David A	5546	73/09/10	108
Scott Russell Jr	5683	74/06/29	103
Shell Oil Co	4274	59/04/30	103
Sho Van Gas Prod Co Inc	0523	29/10/15	108
South Coast Oil Inc	5171	71/12/06	108
Southland Royalty Co	5885	74/06/21	108
Sovereign Exploration Co	6441	78/07/12	103
Sovereign Exploration Co	6657	79/05/01	103
Spooner Frank	6465	78/07/19	102
Spooner Frank	6703	79/05/15	102
Sugar Creek Producing Co	3100	29/12/20	108
Sun Oil Co	5995	76/03/01	108
Sun Oil Co	4921	59/04/14	103
Sun Oil Co	5783	74/12/01	108
Tenneco Oil Co	0451	30/10/23	102
Tenneco Oil Co	5005	70/05/12	108
Texaco Inc	0516	27/12/31	103
Texaco Inc	5704	74/08/23	102
Texaco Inc	5704	74/08/23	103
Texaco Inc	5704	74/08/23	108
Texas Oil & Gas Corp	6894	79/10/02	102
Texas Oil & Gas Corp	6773	79/11/21	103
Texas Oil & Gas Corp	4213	58/12/31	103
Texas Production Co	6369	78/04/27	102
Trident Oil & Gas Corp.	6569	79/01/16	102
Trident Oil & Gas Corp.	6656	79/05/01	102
Trident Oil & Gas Corp.	6665	79/05/01	102
Union Oil Co of Cal	5837	79/08/20	102
VSEA Inc	6658	79/05/04	102
Woods Harold L	1331	59/12/02	108

[FR Doc. 80-2888 Filed 1-25-80; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-146]

Valley Gas Transmission, Inc.; Application

January 24, 1980.

Take notice that on December 19, 1979, Valley Gas Transmission, Inc. (Applicant), 3200 Entex Building, Houston, Texas 77002, filed in Docket No. CP80-146 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the addition of new delivery points for the sale and delivery of gas to United Gas Pipe Line Company (United), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it is actively engaged in seeking additional gas supplies for delivery and sale to United and other existing customers. Applicant requests authorization to add delivery points to United as needed in Duval, Jim Wells, Nueces, and Refugio Counties, Texas. It is stated that the granting of the instant application would provide Applicant with blanket authority to add needed delivery points as new gas supplies are obtained without seeking specific Commission authorization for each such point.

Applicant states that if the construction of facilities becomes necessary, it would apply for requisite certificate authority prior to initiating such construction, and would add delivery points as proposed herein only if the construction and operation of any facilities necessary to effect such deliveries are otherwise authorized.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 13, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 80-2874 Filed 1-25-80; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. SA80-36]

VCF Packaging Films, Inc.; Application for Adjustment

January 22, 1980.

On November 16, 1979, VCF Packaging Films, Inc., filed with the Federal Energy Regulatory Commission an application for an adjustment under section 502(c) of Title II of the Natural Gas Policy Act wherein VCF Packaging Films, Inc. sought relief from incremental pricing imposed by Section 201 of the NGPA.

The procedures applicable to the conduct of this adjustment proceeding are found in section 1.41 of the Commission Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of section 1.41. All petitions to intervene must be filed on or before February 21, 1980.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 80-2884 Filed 1-25-80; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-179]

Western Gas Interstate Co.; Application

January 24, 1980.

Take notice that on January 9, 1980, Western Gas Interstate Company (Applicant), 1800 First International Building, Dallas, Texas 75270, filed in Docket No. CP80-179 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(c) of the Regulations thereunder (18 CFR 157.7(c)) for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing January 1, 1980, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material change in the transportation and sales service presently rendered by Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $100,000. Applicant further states that the cost of the proposed facilities would

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be financed from funds on hand and short-term borrowings.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 13, 1980, file with the Federal Energy Regulatory Commission, Washigton, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2875 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-181]

Western Gas Interstate Co.; Application

January 24, 1980.

Take notice that on January 9, 1980, Western Gas Interstate Company (Applicant), 1800 First International Building, Dallas, Texas 75270, filed in Docket No. CP80-181 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during an indefinite period commencing January 10, 1980, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas supplies, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant and supplies of natural gas from Applicant's own production or acquired for system supply under Sections 311 or 312 of the Natural Gas Policy Act of 1978.

Applicant states that total cost of proposed facilities constructed during any calendar year would not exceed $500,000, which would be financed from funds on hand.

Applicant seeks waiver of Section 157.7(b)(7)(ii) of the Commission's Regulations which provides that persons holding existing budget-type certificates should apply for a new certificate within sixty days of termination of their existing certificate because Commission Order No. 56 promulgating the new regulations did not become effective until November 1, 1979, and Applicant did not receive a copy until a subsequent date.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 13, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2876 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[No. 137]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

January 15, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Illinois Department of Mines and Minerals, Oil and Gas Division

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-10359
2. 12-191-29019-0000
3. 102 000 000
4. Collins Brothers Oil Company
5. IBM Farms-Shaeffer-Greenwalt #1
6. Keenville
7. Wayne County IL
8. 3.5 million cubic feet
9. December 19, 1979
10. Crystal Oil Company

1. 80-10360
2. 12-191-29033-0000
3. 102 000 000
4. Collins Brothers Oil Company
5. IBM Farms-Shaeffer-Greenwalt #2
6. Keenville
7. Wayne IL
8. 3.5 million cubic feet
9. December 19, 1979
10. Crystal Oil Company

1. 80-10361
2. 12-191-28832-0000
3. 102 000 000
4. Collins Brothers Oil Company
5. Reed-Ellis-Smith-Keen-Comm #1
6. Keenville
7. Wayne IL
8. 2.1 million cubic feet
9. December 19, 1979
10. Crystal Oil Company

1. 80-10362
2. 12-191-28869-0000
3. 102 000 000
4. Collins Brothers Oil Company
5. Elsie Smith A-1
6. Keenville
7. Wayne IL
8. 4.6 million cubic feet
9. December 19, 1979
10. Crystal Oil Company

1. 80-10363
2. 12-191-28833-0000
3. 102 000 000
4. Collins Brothers Oil Company
5. Elsie Smith B-1
6. Keenville
7. Wayne IL
8. .5 million cubic feet
9. December 19, 1979
10. Crystal Oil Company

1. 80-10364
2. 12-191-28997-0000
3. 102 000 000
4. Collins Brothers Oil Company
5. Elsie Smith B-2
6. Keenville
7. Wayne County IL
8. .5 million cubic feet
9. December 19, 1979
10. Crystal Oil Company

1. 80-10365
2. 12-191-00393-0000
3. 102 000 000
4. Collins Brothers Oil Company
5. Withfow Heirs #1
6. Keenville
7. Wayne IL
8. 1.0 million cubic feet
9. December 19, 1979
10. Crystal Oil Company

Kansas Corporation Commission

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-10358/K-79-0509
2. 15-055-00000-0000
3. 108 000 000
4. Northern Pump Company
5. Finnup #1 29044
6. Hugoton
7. Finney KS
8. 20.0 million cubic feet
9. December 20, 1979
10. Cities Service Gas Co

Montana Board of Oil and Gas Conservation

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-10296/10-79-282
2. 25-101-21577-0000
3. 103 000 000
4. Texaco Inc
5. MM Theonnes well No 2
6. Kevin Sunburst
7. Toole MT
8. 53.0 million cubic feet
9. December 18, 1979
10. Montana Power Company

1. 80-10297/10-79-280
2. 25-041-22067-0000
3. 102 000 000
4. Tricentrol US Inc
5. Solomon 34-8-32-16
6. Bullhook Unit—Tiger Ridge Field
7. Hill MT
8. 250.0 million cubic feet
9. December 18, 1979
10. Northern Natural Gas Company

1. 80-10306/10-79-285
2. 25-091-21236-0000
3. 102 000 000
4. Gulf Oil Corporation
5. Lee Mae #1-33-1A
6. Clear Lake
7. Sheridan MT
8. 14.0 million cubic feet
9. December 20, 1979
10.

1. 80-10307/10-79-286
2. 25-091-21246-0000
3. 102 000 000
4. Gulf Oil Corporation
5. Stromberg #1
6. Undesignated
7. Sheridan MT
8. 286.0 million cubic feet
9. December 20, 1979
10. True Oil Company

1. 80-10308/11-79-288
2. 25-041-22093-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Seuser #1
6. Canadian Coulee
7. Hill MT
8. 144.0 million cubic feet
9. December 20, 1979
10.

1. 80-10309/11-79-289
2. 25-005-22078-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. #1 Johnson-Federal
6. Leroy
7. Blaine MT
8. 36.0 million cubic feet
9. December 20, 1979
10.

1. 80-10310/10-79-283
2. 25-101-21575-0000
3. 103 000 000
4. Texaco Inc
5. MM Theonnes well No 3
6. Kevin Sunburst
7. Toole MT
8. 40.0 million cubic feet
9. December 20, 1979
10. Montana Power Company

1. 80-10311/10-79-284
2. 25-101-21576-0000
3. 103 000 000
4. Texaco Inc
5. B M Wilkins well No 1
6. Kevin Sunburst
7. Toole MT
8. 24.0 million cubic feet
9. December 20, 1979
10. Montana Power Company

1. 80-10312/7-79-226
2. 25-071-21441-0000
3. 108 000 000
4. Midlands Gas Corp
5. 3170 #1 Compton
6. Bowdion
7. Phillips MT
8. 20.0 million cubic feet
9. December 20, 1979
10. Kans-Nebr Nat Gas Co Inc

1. 80-10313/10-79-287
2. 25-041-21090-0000
3. 108 000 000
4. Tricentrol United States Inc
5. Beck 4-8-31-15
6. Bullhook Unit—Tiger Ridge
7. Hill MT
8. 18.0 million cubic feet
9. December 20, 1979
10. Northern Natural Gas Co

Nebraska Oil and Gas Conservation Commission

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 80-10496/NGPA-38
2. 28-033-00000-0000
3. 102 000 000
4. Skaer Enterprises Inc
5. Vernon-Easterly #2-3
6. Hendricks
7. Cheyenne NB
8. 73.0 million cubic feet
9. December 20, 1979
10. Kansas-Nebraska Natural Gas Co

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 80-10298
2. 30-045-23540-0000
3. 103 000 000
4. Supron Energy Corporation
5. Wright State com 1-A
6. Blanco Mesaverde
7. San Juan County NM

V45/19 JA28 80 UMI

8. .0 million cubic feet
9. December 19, 1979
10. Southern Union Gathering Co

1. 80–10299
2. 30–015–20897–0000
3. 108 000 000
4. Phillips Petroleum Company
5. DRAG–C No 1
6. Carlsbad South (Morrow)
7. Eddy NM
8. 13.0 million cubic feet
9. December 19, 1979
10. El Paso Natural Gas Co

1. 80–10300
2. 30–045–08184–0000
3. 108 000 000
4. Harry Nichoalds
5. Salmon IX
6. Aztec-Fruitland
7. San Juan NM
8. 3.9 million cubic feet
9. December 19, 1979
10. El Paso Natural Gas

1. 80–10301
2. 30–025–00000–0000
3. 103 000 000
4. O H Berry
5. J L Isbell No 7
6. JAL-MAT Yates Seven Rivers
7. Lea NM
8. .0 million cubic feet
9. December 19, 1979
10. El Paso Natural Gas Company, The Permian Corp

1. 80–10302
2. 30–015–22764–0000
3. 103 000 000
4. Yates Petroleum Corp
5. Wright JA No 2
6. Atoka-Yeso
7. Eddy NM
8. .0 million cubic feet
9. December 20, 1979
10. Transwestern Pipeline Co

1. 80–10303
2. 30–025–26471–0000
3. 103 000 000
4. Martindale Petroleum Corp
5. Little V #4
6. Drinkard
7. Lea NM
8. 40.0 million cubic feet
9. December 20, 1979
10. Getty Oil Company

1. 80–10304
2. 30–015–00000–0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Catclaw Draw State Com #1
6. Catclaw Draw (Morrow)
7. Eddy NM
8. 800.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Co

1. 80–10305
2. 30–045–23531–0000
3. 103 000 000
4. Supron Energy Corp
5. Wright Com 1–R
6. Aztex Pictured Cliffs
7. San Juan NM
8. .0 million cubic feet
9. December 20, 1979
10. Southern Union Gathering Co

Texas Railroad Commission, Oil and Gas Division

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–10373/03700
2. 42–435–30487–0000
3. 108 000 000
4. Amoco Production Company
5. Lillian Bell Glasscock No 1
6. Sawyer/Canyon
7. Sutton TX
8. 19.0 million cubic feet
9. December 20, 1979
10. Lone Star Gas Co

1. 80–10374/03286
2. 42–087–26286–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Wattenbarger B #2
6. Panhandle East
7. Collingsworth TX
8. 8.2 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10375/03261
2. 42–483–26091–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Gooch 2
6. Panhandle East
7. Wheeler TX
8. 12.8 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10376/03259
2. 42–435–30409–0026
3. 108 000 000
4. El Paso Natural Gas Company
5. Steen #8
6. Sonora (Canyon Upper)
7. Sutton TX
8. 12.4 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10377/03258
2. 42–087–25986–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Atkinson #1
6. Panhandle East
7. Collingsworth TX
8. 6.6 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10378/03256
2. 42–087–26005–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Bell 1
6. Panhandle East
7. Collingsworth TX
8. 10.1 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10379/03255
2. 42–483–26189–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Montgomery #1
6. Panhandle East
7. Wheeler TX
8. 6.2 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10380/03252
2. 42–435–19219–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Meckel #2
6. Sonora (Canyon Upper)
7. Sutton TX
8. 8.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10381/03250
2. 42–087–26208–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Nicholson 1
6. Panhandle East
7. Collingsworth TX
8. 8.5 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10382/03249
2. 42–179–26234–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Orr 1
6. Panhandle East
7. Gray TX
8. 7.4 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10383/02996
2. 42–421–00000–0000
3. 108 000 000
4. American Petrofina Company of Texas
5. Bradley #2
6. Texas Hugoton
7. Sherman TX
8. 9.0 million cubic feet
9. December 20, 1979
10. Phillips Petroleum Company

1. 80–10384/03699
2. 42–435–31153–0000
3. 108 000 000
4. Amoco Production Company
5. Gerald Nicks No 2
6. Sawyer/Canyon
7. Sutton TX
8. 15.0 million cubic feet
9. December 20, 1979
10. Lone Star Gas Company

1. 80–10385/03632
2. 42–435–31162–0000
3. 108 000 000
4. Amoco Production Company
5. Joe M Vanderstucken No 3
6. Sawyer/Canyon
7. Sutton TX
8. 14.0 million cubic feet
9. December 20, 1979
10. Lone Star Gas Company

1. 80–10386/02643
2. 42–087–26283–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Wattenbarger A #3
6. Panhandle East
7. Collingsworth TX
8. 14.9 million cubic feet

9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10387/02526
2. 42–087–26231–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Oneil B 1
6. Panhandle East
7. Collingsworth TX
8. 1.7 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10388/02642
2. 42–087–26047–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Cantrell A 1
6. Panhandle East
7. Collingsworth TX
8. 12.2 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10389/02641
2. 42–087–26289–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Williams #3
6. Panhandle East
7. Collingsworth TX
8. 17.1 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10390/02640
2. 42–087–26282–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Wattenbarger A 2
6. Panhandle East
7. Collingsworth TX
8. 3.3 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10391/02638
2. 42–087–26018–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Bergman #2
6. Panhandle East
7. Collingsworth TX
8. 10.1 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10392/02637
2. 42–087–26151–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Lutes 3
6. Panhandle East
7. Collingsworth TX
8. 11.2 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10393/02636
2. 42–087–26026–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Betenbough A 4
6. Panhandle East
7. Collingsworth TX
8. 18.9 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10394/02635
2. 42–087–26004–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Bednorz #2
6. Panhandle East
7. Collingsworth TX
8. 4.4 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10395/03271
2. 42–087–26214–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Nicholson E #1
6. Panhandle East
7. Collingsworth TX
8. 20.5 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10396/03269
2. 42–179–26641–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Mc Kinnon #1
6. Panhandle East
7. Gray TX
8. 27.7 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company, Pioneer Natural Gas Co

1. 80–10397/03267
2. 42–483–26146–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Lister #1
6. Panhandle East
7. Wheeler TX
8. 3.9 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10398/02551
2. 42–087–26312–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Wischkaemper 1
6. Panhandle East
7. Collingsworth TX
8. 6.5 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10399/02550
2. 42–435–30865–0026
3. 108 000 000
4. El Paso Natural Gas Company
5. Meckel D #7
6. Sonora (Canyon Upper)
7. Sutton TX
8. 13.9 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10400/02548
2. 42–087–26209–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Nicholson 2
6. Panhandle East
7. Collingsworth TX
8. 8.2 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10401/02547
2. 42–435–19215–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Meckel A 1
6. Sonora Canyon Upper
7. Sutton TX
8. 11.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10402/02546
2. 42–483–26100–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Harvey 1
6. Panhandle East
7. Wheeler TX
8. 6.2 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10403/02544
2. 42–087–26273–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Smith B 3
6. Panhandle East
7. Collingsworth TX
8. 1.7 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10404/02543
2. 42–483–26190–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Montgomery 2
6. Panhandle East
7. Wheeler TX
8. 4.5 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10405/02542
2. 42–087–26285–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Wattenbarger B #1
6. Panhandle East
7. Collingsworth TX
8. 26.9 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10406/02541
2. 42–435–30314–0026
3. 108 000 000
4. El Paso Natural Gas Company
5. Thomson B 2
6. Sonara (Canyon Upper)
7. Sutton TX
8. 9.5 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10407/02539
2. 42–087–26270–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Smith A #4
6. Panhandle East
7. Collingsworth TX
8. 12.6 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10408/02529
2. 42–087–31522–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Christner #2
6. Panhandle East
7. Collingsworth TX
8. 7.9 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80–10409/02531

V 45 / 19
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UMI

2. 42-435-30142-0026
3. 108 000 000
4. El Paso Natural Gas Company
5. Collier Shurley 18 6
6. Sawyer (Canyon)
7. Sutton TX
8. 13.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10410/02532
2. 42-483-26210-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Nicholson A 1
6. Panhandle East
7. Wheeler TX
8. 14.1 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10411/02533
2. 42-483-26163-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Martin B 1
6. Panhandle East
7. Wheeler TX
8. 11.3 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10412/02534
2. 42-483-31950-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. King #1
6. Panhandle East
7. Wheeler TX
8. 7.6 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10413/02536
2. 42-087-26054-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Clay #1
6. Panhandle East
7. Collingsworth TX
8. 5.1 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10414/02572
2. 42-087-26173-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. McCracken 1
6. Panhandle East
7. Collingsworth TX
8. 6.1 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10415/02571
2. 42-179-26219-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Noel A 2
6. Panhandle East
7. Gray TX
8. 15.1 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10416/02524
2. 42-087-25984-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Aldous I #1
6. Panhandle East
7. Collingsworth TX
8. 8.1 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10417/02523
2. 42-483-33880-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Davis A 1
6. Panhandle East
7. Wheeler TX
8. 13.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10418/02522
2. 42-087-31688-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Scott A #1
6. Panhandle East
7. Collingsworth TX
8. 7.3 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10419/02521
2. 42-087-31521-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Christner #1
6. Panhandle East
7. Collingsworth TX
8. 7.1 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10420/02519
2. 42-179-26217-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Noel 1
6. Panhandle East
7. Gray TX
8. 3.6 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10421/02518
2. 42-087-26116-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Hughes 1
6. Panhandle East
7. Collingsworth TX
8. 20.3 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10422/02517
2. 42-087-26259-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Scruggs A #2
6. Panhandle East
7. Collingsworth TX
8. 1.7 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10423/02516
2. 42-087-26188-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Mileur #1
6. Panhandle East
7. Collingsworth TX
8. 15.7 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10424/02515
2. 42-087-26148-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Lummus 1
6. Panhandle East
7. Collingsworth TX
8. 2.9 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10425/02460
2. 42-087-26257-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Scruggs #2
6. Panhandle East
7. Collingsworth TX
8. 2.1 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10426/02458
2. 42-087-26132-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Laycock 16
6. Panhandle East
7. Collingsworth TX
8. 2.6 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10427/02457
2. 42-087-26110-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Hobbs 2
6. Panhandle East
7. Collingsworth TX
8. 3.4 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10428/02456
2. 42-087-26000-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Baxter A 3
6. Panhandle East
7. Collingsworth TX
8. 8.9 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10429/02455
2. 42-087-26167-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Massey A #3
6. Panhandle East
7. Collingsworth TX
8. 4.6 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10430/02454
2. 42-483-33401-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Martin C 1
6. Panhandle East
7. Wheeler TX
8. 8.1 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10431/02442
2. 42-087-26256-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Scruggs 1
6. Panhandle East

7. Collingsworth TX
8. 7.1 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10432/02441
2. 42-087-26298-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Williams B #4
6. Phanhandle East
7. Collingsworth TX
8. 10.6 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10433/02440
2. 42-087-26275-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Smith X #3
6. Phanhandle East
7. Collingsworth TX
8. 11.3 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10434/02439
2. 42-087-26043-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Burroughs 1
6. Phanhandle East
7. Collingsworth TX
8. .7 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10435/02438
2. 42-087-26253-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Schoonover 2
6. Phanhandle East
7. Collingsworth TX
8. 12.4 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10436/02420
2. 42-087-26071-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Ferril 1
6. Phanhandle East
7. Collingsworth TX
8. 7.9 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10437/02419
2. 42-087-26297-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Williams B #3
6. Phanhandle East
7. Collingsworth TX
8. 9.8 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10438/02418
2. 42-087-26261-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Scruggs B 2
6. Phanhandle East
7. Collingsworth TX
8. 2.7 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10439/02416
2. 42-087-26287-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Williams 1
6. Phanhandle East
7. Collingsworth TX
8. 4.3 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10440/02414
2. 42-087-26317-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Wischkaemper B 1
6. Phanhandle East
7. Collingsworth TX
8. 17.7 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10441/02413
2. 42-087-25998-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Baxter #3
6. Phanhandle East
7. Collingsworth TX
8. 13.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10442/02412
2. 42-087-25991-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Barker 1
6. Phanhandle East
7. Collingsworth TX
8. 3.7 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10443/02411
2. 42-087-25981-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Aldous F 1
6. Phanhandle East
7. Collingsworth TX
8. 12.9 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10444/02410
2. 42-087-26029-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Betenbough B 2
6. Phanhandle East
7. Collingsworth TX
8. 13.1 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10445/02437
2. 42-087-26038-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Brashears #1
6. Phanhandle East
7. Collingsworth TX
8. 6.3 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10446/02436
2. 42-087-25979-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Aldous D #1
6. Phanhandle East
7. Collingsworth TX
8. 17.8 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10447/02435
2. 42-087-26082-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Glenn 3
6. Phanhandle East
7. Collingsworth TX
8. 8.8 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10448/02434
2. 42-087-26104-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Hayes 2
6. Phanhandle East
7. Collingsworth TX
8. 13.4 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10449/02433
2. 42-087-26088-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Glenn D 1
6. Phanhandle East
7. Collingsworth TX
8. 12.7 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10450/02431
2. 42-087-26052-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Clark A 1
6. Phanhandle East
7. Collingsworth TX
8. 4.6 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10451/02430
2. 42-087-26186-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. McFarland 1
6. Phanhandle East
7. Collingsworth TX
8. 13.2 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10452/02429
2. 42-087-26150-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Lutes 2
6. Phanhandle East
7. Collingsworth TX
8. 9.6 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10453/03711
2. 42-435-30918-0000
3. 108 000 000
4. Amoco Production Company
5. Edwin S Mayer D #5
6. Sawyer/Canyon
7. Sutton TX
8. 19.0 million cubic feet
9. December 20, 1979
10. Lone Star Gas Company
1. 80-10454/02570

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2. 42-087-26010-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Bell E 1
6. Phanhandle East
7. Collingsworth TX
8. 10.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10455/02569
2. 42-087-26156-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Lutes A 2
6. Phanhandle East
7. Collingsworth TX
8. 13.3 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10456/02568
2. 42-087-26194-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Morgan C #1
6. Phanhandle East
7. Collingsworth TX
8. 2.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10457/02567
2. 42-483-26050-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. City Golf Club #1
6. Phanhandle East
7. Wheeler TX
8. 4.4 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10458/02566
2. 42-087-25999-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Baxter A 2
6. Phanhandle East
7. Collingsworth TX
8. 3.3 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10459/02563
2. 42-087-35040-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Bryan 1
6. Phanhandle East
7. Collingsworth TX
8. 13.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10460/02561
2. 42-087-25982-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Aldous G 1
6. Phanhandle East
7. Collingsworth TX
8. 3.7 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10461/02560
2. 42-087-26233-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. ONeil B 3
6. Phanhandle East
7. Collingsworth TX
8. .6 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10462/02559
2. 42-087-26063-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Dargatz 1
6. Panhandle East
7. Collingsworth TX
8. 13.9 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10463/02558
2. 42-087-26058-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Coleman #3
6. Panhandle East
7. Collingsworth TX
8. 5.8 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10464/02556
2. 42-087-26081-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Glenn 2
6. Panhandle East
7. Collingsworth TX
8. 13.2 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10465/02557
2. 42-087-26225-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Oneil 3
6. Panhandle East
7. Collingsworth TX
8. 1.8 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10466/02555
2. 42-087-26242-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Parrish D 1
6. Panhandle East
7. Collingsworth TX
8. 2.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10467/02554
2. 42-087-26252-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Schoonover 1
6. Panhandle East
7. Collingsworth TX
8. 3.3 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10468/02528
2. 42-087-26311-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Willoughby 3
6. Panhandle East
7. Collingsworth TX
8. 2.4 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10469/02425
2. 42-087-26201-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Williams A 1
6. Panhandle East
7. Collingsworth TX
8. 3.5 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10470/02424
2. 42-087-26140-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Laycock A 8
6. Panhandle East
7. Collingsworth TX
8. 17.7 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10471/02423
2. 42-087-26059-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Collins 1
6. Panhandle East
7. Collingsworth TX
8. 10.5 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10472/02421
2. 42-179-26236-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Orr 3
6. Panhandle East
7. Gray TX
8. 10.5 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10473/02422
2. 42-179-26237-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Orr 4
6. Panhandle East
7. Gray TX
8. 7.8 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10474/02427
2. 42-179-26220-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Noel B 1
6. Panhandle East
7. Gray TX
8. 6.4 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10475/02426
2. 42-413-18882-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Webster-A #1
6. Fort McKavitt (Canyon)
7. Schleicher TX
8. 8.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10476/02634
2. 42-087-25978-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Aldous C 1
6. Panhandle East
7. Collingsworth TX
8. 6.3 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10477/02579
2. 42-087-35143-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Baxter 4 AA
6. Panhandle East
7. Collingsworth TX
8. 3.3 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10478/02577
2. 42-087-26271-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Smith B 1
6. Panhandle East
7. Collingsworth TX
8. 2.8 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10479/02576
2. 42-087-26083-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Glenn A 1
6. Panhandle East
7. Collingsworth TX
8. 4.8 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10480/02575
2. 42-087-26232-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Oneil B 2
6. Panhandle East
7. Collingsworth TX
8. .4 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10481/02428
2. 42-179-26218-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Noel A 1
6. Panhandle East
7. Gray TX
8. 12.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10482/04901
2. 42-201-06162-0000
3. 108 000 000
4. Amoco Production Company
5. Drilling District 6 No 1
6. Houston South (Shallow Miocene)
7. Harris TX
8. 8.6 million cubic feet
9. December 20, 1979
10. Amoco Gas Company

1. 80-10483/04945
2. 42-105-00000-0000
3. 108 000 000
4. Indian Wells Oil Co
5. Austin Millspaugh 1-4
6. Ozona Canyon Sand
7. Crockett TX
8. 3.0 million cubic feet
9. December 20, 1979
10. Northern Natural Gas Co

1. 80-10484/04896
2. 42-435-30812-0000
3. 108 000 000
4. Amoco Production Company
5. Edwin S Mayer Jr G #9
6. Sawyer (Canyon)
7. Sutton TX
8. 4.0 million cubic feet
9. December 20, 1979
10. Lone Star Gas Company

1. 80-10485/02894
2. 42-413-30282-0000
3. 108 000 000
4. Amoco Production Company
5. Edwin S Mayer Jr F #2
6. Sawyer/Canyon
7. Schleicher TX
8. 12.0 million cubic feet
9. December 20, 1979
10. Lone Star Gas Company

1. 80-10486/04882
2. 42-201-07765-0000
3. 108 000 000
4. Amoco Production Company
5. Drilling District #9 No 4
6. Houston South (Shallow Miocene)
7. Harris TX
8. 4.8 million cubic feet
9. December 20, 1979
10. Amoco Gas Company

1. 80-10487/04047
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corporation
5. C H Forester #1 35624
6. Boonsville Bend Cong
7. Wise TX
8. 10.8 million cubic feet
9. December 20, 1979
10. Natural Gas Pipeline Co of America

1. 80-10488/03901
2. 42-507-00000-0000
3. 108 000 000
4. Stringer Oil Properties
5. Cassin #1
6. Batesville (San Miguel)
7. Zavala TX
8. .0 million cubic feet
9. December 20, 1979
10. LO-VACA Gathering Company

1. 80-10489/03872
2. 42-413-30372-0000
3. 108 000 000
4. Amoco Production Company
5. Doris Mayer Rousselot A No 3
6. Sawyer (Canyon)
7. Schleicher TX
8. 12.0 million cubic feet
9. December 20, 1979
10. Lone Star Gas Company

1. 80-10490/03307
2. 42-435-00000-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Davis B 1
6. Sonora (Canyon Upper)
7. Sutton TX
8. 26.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10491/03296
2. 42-087-26240-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Parrish A 1
6. Panhandle East
7. Collingsworth TX
8. 6.3 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10492/03850
2. 42-137-30360-0000
3. 108 000 000
4. Amoco Production Company
5. C O Whitworth No 6
6. Sawyer/Canyon
7. Edwards TX
8. 15.0 million cubic feet
9. December 20, 1979
10. Lone Star Gas Company

1. 80-10493/03827
2. 42-435-31278-0000
3. 108 000 000
4. Amoco Production Company
5. W H Karnes B No 2
6. Whitehead/Strawn
7. Sutton TX
8. 9.0 million cubic feet
9. December 20, 1979
10. Lone Star Gas Company

1. 80-10494/03823
2. 42-235-30562-0000
3. 108 000 000
4. Amoco Production Company
5. Ela C Sugg G No 8
6. Ela Sugg/Wolfcamp
7. Irion TX
8. 12.0 million cubic feet
9. December 20, 1979
10. CRA Inc Lone Star Gas Company

1. 80-10495/03822
2. 42-105-30452-0000
3. 108 000 000
4. Amoco Production Company
5. W W West No 1
6. Euleeone/Wolfcamp
7. Crockett TX
8. 15.0 million cubic feet
9. December 20, 1979
10. Lone Star Gas Company

1. 80-10496/03792
2. 42-435-30978-0000
3. 108 000 000
4. Amoco Production Company
5. Randee Fawcett Trust B No 5
6. Sawyer/Canyon
7. Sutton TX
8. 8.0 million cubic feet
9. December 20, 1979
10. Lone Star Gas Company

1. 80-10497/03729
2. 42-435-30146-0000
3. 108 000 000
4. Amoco Production Company
5. Bobbie H Fawcett No 1
6. Sawyer/Canyon
7. Sutton TX
8. 20.0 million cubic feet
9. December 20, 1979
10. Lone Star Gas Company

West Virginia Department of Mines, Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block NO.
8. Estimated annual volume

V 45 / 19
JA 28 80
UMI

9. Date received at FERC
10. Purchaser(s)
1. 80–10499
2. 47–087–00444–0000
3. 108 000 000 denied
4. Pennzoil Company
5. W M Looney No 27
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp
1. 80–10500
2. 47–087–00702–0000
3. 108 000 000 denied
4. Pennzoil Company
5. W M Looney No 29
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp
1. 80–10501
2. 47–087–01140–0000
3. 108 000 000 denied
4. Pennzoil Company
5. S & S Starcher No 5
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp
1. 80–10502
2. 47–087–02431–0000
3. 108 000 000 denied
4. Pennzoil Company
5. A B Caldwell No 2
6. Geary
7. Roane WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp
1. 80–10503
2. 47–087–02432–0000
3. 108 000 000 denied
4. Pennzoil Company
5. A B Caldwell No 2
6. Geary
7. Roane WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp
1. 80–10504
2. 47–087–02441–0000
3. 108 000 000 denied
4. Pennzoil Company
5. M D Chewning No 2
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp
1. 80–10505
2. 47–087–02442–0000
3. 108 000 000 denied
4. Pennzoil Company
5. M J Combs No 1
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp
1. 80–10506
2. 47–087–02443–0000
3. 108 000 000 denied
4. Pennzoil Company
5. M J Combs No 2
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp
1. 80–10507
2. 47–087–02444–0000
3. 108 000 000 denied
4. Pennzoil Company
5. M J Combs No 3
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp
1. 80–10508
2. 47–087–02445–0000
3. 108 000 000 denied
4. Pennzoil Company
5. W D Combs No 2
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp
1. 80–10509
2. 47–087–02446–0000
3. 108 000 000 denied
4. Pennzoil Company
5. W D Combs No 3
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp
1. 80–10510
2. 47–087–02447–0000
3. 108 000 000 denied
4. Pennzoil Company
5. W D Combs No 5
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp
1. 80–10511
2. 47–087–02553–0000
3. 108 000 000 denied
4. Pennzoil Company
5. L A Hopkins No 1
6. Geary
7. Roane WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp
1. 80–10512
2. 47–087–02554–0000
3. 108 000 000 denied
4. Pennzoil Company
5. L A Hopkins No 2
6. Geary
7. Roane WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp
1. 80–10513
2. 47–107–00790–0000
3. 103 000 000 denied
4. Biscayne Oil & Gas Inc
5. A B Hawsen Heies–No 1
6. Bucelette
7. Wood WV
8. 12.0 million cubic feet
9. December 26, 1979
10. Cabot Corp
1. 80–10514
2. 47–021–02217–0000
3. 108 000 000 denied
4. Royal Oil & Gas Corporation
5. Hosey-Tucker Unit No 1
6.
7. Gilmer WV
8. 21.0 million cubic feet
9. December 26, 1979
10. Columbia Gas Transmission Corp
1. 80–10515
2. 47–085–02718–0000
3. 108 000 000 denied
4. Southwestern Development Company
5. J W Prunty Hrs No 2
6. Smithville-Big Injun
7. Ritchie WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp
1. 80–10516
2. 47–051–00628–0000
3. 108 000 000 denied
4. Pennzoil Company
5. G W Hubbs No 1
6. Liberty
7. Marshall WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp
1. 80–10517
2. 47–051–00619–0000
3. 108 000 000 denied
4. Pennzoil Company
5. John Chapman No 2
6. Liberty
7. Marshall WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp
1. 80–10518
2. 47–051–00617–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. Allen-Wylie #2
6. Liberty
7. Marshall, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10519
2. 47–087–02861–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. O H Trout #8
6. Geary
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10520
2. 47–087–02860–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. O H Trout #7
6. Geary
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10521

2. 47–087–02859–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. O H Trout #6
6. Geary
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10522
2. 47–087–02857–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. O H Trout #4
6. Geary
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10523
2. 47–087–02858–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. O H Trout #5
6. Geary
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10524
2. 47–087–02856–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. O H Trout #3
6. Geary
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10525
2. 47–087–02840–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. P A Tallman #33
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10526
2. 47–087–02839–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. P A Tallman #32
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10527
2. 47–087–02838–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. P A Tallman #31
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10528
2. 47–087–02836–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. P A Tallman #25
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10529
2. 47–087–02779–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. M J Snodgrass #14
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10530
2. 47–087–02778–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. M J Snodgrass #12
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10531
2. 47–087–02777–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. M J Snodgrass #9
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10532
2. 47–087–02776–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. M J Snodgrass #7
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10533
2. 47–087–02775–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. M J Snodgrass #6
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10534
2. 47–087–02774–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. M J Snodgrass #5
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10535
2. 47–087–02773–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. M J Snodgrass #4
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10536
2. 47–087–02772–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. M J Snodgrass #2
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10537
2. 47–087–02771–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. M J Snodgrass #1
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10538
2. 47–087–00186–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. M J Snodgrass #1
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10539
2. 47–087–00178–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. M J Snodgrass #17
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10540
2. 47–087–00170–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. P A Tallman #27
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10541
2. 47–087–00168–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. M J Snodgrass #3
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10542
2. 47–087–00140–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. M J Snodgrass #8
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.
1. 80–10543
2. 47–087–00113–0000–
3. 108 000 000 Denied
4. Pennzoil Company
5. M J Snodgrass #10
6. Smithfield

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7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.

1. 80-10544
2. 47-087-00097-0000-
3. 108 000 000 Denied
4. Pennzoil Company
5. P A Tallman #48
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.

1. 80-10545
2. 47-087-00034-0000-
3. 108 000 000 Denied
4. Pennzoil Company
5. P A Tallman #34
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.

1. 80-10546
2. 47-051-00637-0000-
3. 108 000 000 Denied
4. Pennzoil Company
5. E J Vanscyoc #1
6. Liberty
7. Marshall, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.

1. 80-10547
2. 47-051-00632-0000-
3. 108 000 000 Denied
4. Pennzoil Company
5. T F McIlvain #1
6. Liberty
7. Marshall, WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp.

1. 80-10548
2. 47-051-00631-0000-
3. 108 000 000 Denied
4. Pennzoil Company
5. Lydick-Vanscyoc #1
6. Liberty
7. Marshall WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp

1. 80-10549
2. 47-087-00896-0000-
3. 108 000 000 Denied
4. Pennzoil Company
5. P A Tallman #52
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp

1. 80-10550
2. 47-087-00682-0000-
3. 108 000 000 Denied
4. Pennzoil Company
5. P A Tallman #50
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp

1. 80-10551
2. 47-087-00840-0000-
3. 108 000 000 Denied
4. Pennzoil Company
5. P A Tallman #49
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp

1. 80-10552
2. 47-087-00216-0000-
3. 108 000 000 Denied
4. Pennzoil Company
5. P A Tallman #42
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp

1. 80-10553
2. 47-087-00215-0000-
3. 108 000 000 Denied
4. Pennzoil Company
5. P A Tallman #41
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp

1. 80-10554
2. 47-087-00199-0000-
3. 108 000 000 Denied
4. Pennzoil Company
5. P A Tallman #37
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. December 26, 1979
10. Consolidated Gas Supply Corp

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-10346/COA-4145-79
2. 05-067-06198-0000-
3. 103 000 000
4. American Petroleum Energy Co
5. Argenta-Ute #8
6. Ignacio-Blanco
7. La Plata CO
8. .0 million cubic feet
9. December 20, 1979
10. Northwest Pipeline Corporation

1. 80-10347/COA-4144-79
2. 05-067-06199-0000-
3. 103 000 000
4. American Petroleum Energy Co
5. Argenta-Ute #7
6. Ignacio-Blanco
7. La Plata CO
8. .0 million cubic feet
9. December 20, 1979
10. Northwest Pipeline Corporation

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. Country, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-10314/NM-4397-79
2. 30-039-20825-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. San Juan 27-4 Unit #84
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba NM
8. 18.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Co

1. 80-10315/NM-4396-79
2. 30-045-06320-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Huerfanito Unit #45
6. Blanco South-Pictured Cliffs Gas
7. San Juan NM
8. 20.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Co

1. 80-10316/NM-4393-79
2. 30-039-20870-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. San Juan 28-7 Unit #196
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 18.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Co

1. 80-10317/NM-4385-79
2. 30-045-23309-0000-0
3. 103 000 000
4. Amoco Production Company
5. A L Elliott A Well #4
6. Basin Dakota Pictured Cliffs Gas
7. San Juan NM
8. 90.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Co

1. 80-10318/NM-4384-79
2. 30-039-21954-0000-0
3. 103 000 000
4. Schalk Development Company
5. Schalk 41 Well #1
6. Blanco Mesa Verde
7. Rio Arriba County NM
8. .0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Co

1. 80-10319/NM-4383-79
2. 30-039-21953-0000-0
3. 103 000 000
4. Schalk Development Company
5. Schalk 41 Well #2
6. Blanco Mesa Verde
7. Rio Arriba County NM
8. .0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Co

1. 80-10320/NM-4381-79
2. 30-039-21620-0000-0
3. 103 000 000
4. John E Schalk
5. Schalk 29-4 Well No 7
6. Gobernador Pictured Cliffs
7. Rio Arriba County NM
8. .0 million cubic feet
9. December 20, 1979
10. Northwest Pipeline Corp

1. 80-10321/NM-4380-79

2. 30-039-21955-0000-0
3. 103 000 000
4. Schalk Development Company
5. Schalk 41 Well #3
6. Blanco Mesa Verde
7. Rio Arriba County NM
8. .0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10322/NM-4379-79
2. 30-039-21960-0000-0
3. 103 000 000
4. Odessa Natural Corp
5. Mobil Federal No 34-2
6. Chacon Dakota
7. Rio Arriba County NM
8. .0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10323/NM-4378-79
2. 30-039-2192-0000-0
3. 103 000 000
4. Odessa Natural Corporation
5. Mobil Federal No 34-1
6. Chacon Dakota
7. Rio Arriba NM
8. 251.9 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10324/NM-4377-79
2. 30-045-23343-0000-0
3. 103 000 000
4. Tenneco Oil Company
5. Wilch #5
6. Basin Dakota
7. San Juan NM
8. 125.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10325/NM-4376-79
2. 30-045-23361-0000-0
3. 103 000 000
4. Tenneco Oil Company
5. Day #2
6. Basin Dakota
7. San Juan NM
8. 125.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10326/NM-4375-79
2. 30-045-22877-0000-0
3. 103 000 000
4. El Paso Natural Gas Co.
5. Atlantic #1A
6. Blanco Mesaverde
7. San Juan NM
8. 180.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Co

1. 80-10327/NM-4374-79-B
2. 30-045-22886-0000-2
3. 103 000 000
4. El Paso Natural Gas Co
5. Hughes A #5A (PC)
6. Blanco Pictured Cliffs
7. San Juan NM
8. 30.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Co

1. 80-10328/NM-4374-79-A
2. 30-045-22886-0000-1
3. 103 000 000
4. El Paso Natural Gas Co
5. Hughes A #5A (MV)
6. Blanco Mesaverde
7. San Juan NM
8. 180.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Co

1. 80-10329/NM-4373-79
2. 30-039-21629-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. San Juan 29-7 Unit #78A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 330.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp

1. 80-10330/NM-4372-79
2. 30-039-21630-0000-0
3. 103 000 000
4. El Paso Natural Gas Co
5. San Juan 29-7 Unit #94A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 180.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Co Northwest Pipeline Corp

1. 80-10331/NM-4371-79
2. 30-039-21626-0000-0
3. 103 000 000
4. El Paso Natural Gas Co
5. San Juan 29-7 Unit #48A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 220.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp

1. 80-10332/NM-4370-79
2. 30-045-21980-0000-0
3. 103 000 000
4. El Paso Natural Gas Co
5. Lindsey #2A
6. Blanco Mesaverde
7. San Juan NM
8. 270.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Co Southern Union Gathering Co

1. 80-10333/NM-4369-79-B
2. 30-045-23149-0000-2
3. 103 000 000
4. El Paso Natural Gas Co
5. Roelofs A #2A (PC)
6. Blanco Pictured Cliffs
7. San Juan NM
8. 40.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10334/NM-4369-79-A
2. 30-045-23149-0000-1
3. 103 000 000
4. El Paso Natural Gas Co
5. Roelofs A #2A (MV)
6. Blanco Mesaverde
7. San Juan NM
8. 150.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Co

1. 80-10335/NM-4290-79
2. 30-045-07017-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Michener B #1
6. Blanco South-Pictured Cliffs Gas
7. San Juan NM
8. 21.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

1. 80-10336/NM-4287-79
2. 30-039-06340-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Reams A #3
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 21.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Co

1. 80-10337/NM-4281-79
2. 30-039-06448-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Jicarilla F #10
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 21.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp

1. 80-10338/NM-4285-79
2. 30-039-21187-0000-0
3. 108 000 000
4. Northwest Production Corp
5. Jicarilla 123C #16
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 21.0 million cubic feet
9. December 20, 1979
10. Northwest Pipeline Corp Northwest Pipeline Corp

1. 80-10339/NM-4166-79
2. 30-045-21271-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Riddle C #4
6. Blanco-Pictured Cliffs Gas
7. San Juan NM
8. 20.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Co

1. 80-10340/NM-4184-79
2. 30-039-07002-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Ripley #3
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 19.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Co

1. 80-10341/NM-4181-79
2. 30-045-21563-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Hancock A #10
6. Harris Mesa-Chacra Gas
7. San Juan NM
8. 20.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Co

1. 80-10342/NM-4178-79
2. 30-039-21045-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. SJ 27-4 Unit #115
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba NM
8. 22.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Co

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1. 80-10343/NM-4174-79
2. 30-045-20791-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Sunray #4
6. Blanco-Pictured Cliffs Gas
7. San Juan NM
8. 20.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Co
1. 80-10344/NM-4162-79
2. 30-045-10144-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Heaton Com B #17
6. Basin-Dakota Gas
7. San Juan NM
8. 9.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Co Southern Union Gathering Co
1. 80-10345/NM-4152-79
2. 30-045-21162-0000-0
3. 108 000 000
4. El Paso Natural Gas Co
5. Atlantic C #7
6. Blanco-Pictured Cliffs Gas
7. San Juan NM
8. 20.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Co
1. 80-10348/NM-4095-79
2. 30-039-20383-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. S J 27-4 Unit #57
6. Basin-Dakota Gas
7. Rio Arriba NM
8. 20.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10349/NM-4093-79
2. 30-039-21107-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Lindrith Unit #85
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. .0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10350/NM-4090-79
2. 30-045-21083-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Mudge #37
6. Blanco-Pictured Cliffs Gas
7. San Juan NM
8. 18.3 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10351/NM-3882-79
2. 30-039-06774-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. SJ 27-5 Unit #93
6. South Blanco Pictured Cliffs Gas
7. Rio Arriba NM
8. 20.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp
1. 80-10352/NM-3871-79
2. 30-045-22990-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Taylor #1R
6. Aztec Pictured Cliffs Gas
7. San Juan NM
8. 18.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10353/NM-2135-79
2. 30-039-20732-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. San Juan 27-4 Unit #82
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba NM
8. 15.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10354/NM-2094-79
2. 30-045-60060-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Moore #3
6. Blanco-Mesaverde Gas
7. San Juan NM
8. 19.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10355/NM-2042-79
2. 30-039-05308-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Lindrith Unit #34
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 21.2 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company
1. 80-10356/NM-1939-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. AXI Apache N #5
6. AXI Apache Area
7. Rio Arriba NM
8. .7 million cubic feet
9. December 20, 1979
10. Gas Company of New Mexico (C-4767)
1. 80-10357/NM-0324-78
2. 30-015-21994-0000-0
3. 102 000 000
4. Harvey E Yates Company
5. Travis Deep Unit #1
6.
7. Eddy NM
8. 146.0 million cubic feet
9. December 20, 1979
10. El Paso Natural Gas Company

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 12, 1980.

Please reference the FERC Control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-2804 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

[No. 136]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

January 14, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 13 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Michigan Department of Natural Resources

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-09950
2. 21-137-26074-0000
3. 107 000 000
4. State of Chester Venture
5. State-Chester #6
6. Chester Field T29N R2W Chester Twp
7. Otsego, MI
8. 6.5 million cubic feet
9. December 14, 1979
10. Michigan Consolidated Gas Company
1. 80-09951
2. 21-137-26361-0000
3. 107 000 000
4. State of Chester Venture
5. State-Chester #3
6. Chester Field T29N R2W Chester Twp
7. Otsego, MI
8. 6.5 million cubic feet
9. December 14, 1979
10. Michigan Consolidated Gas Company
1. 80-09952
2. 21-137-26832-0000
3. 107 000 000
4. State of Chester Venture
5. State-Chester #4
6. Chester Field T29N R2W Chester Twp
7. Otsego, MI
8. 6.5 million cubic feet
9. December 14, 1979
10. Michigan Consolidated Gas Company
1. 80-09953
2. 21-137-26627-0000
3. 107 000 000
4. State of Chester Venture
5. State-Chester #6
6. Chester Field T29N R2W Chester Twp
7. Otsego, MI
8. 6.5 million cubic feet
9. December 14, 1979

10. Michigan Consolidated Gas Company
1. 80-09954
2. 21-137-26628-0000
3. 107 000 000
4. State of Chester Venture
5. State-Chester #7
6. Chester Field T29N R2W Chester Twp
7. Otsego, MI
8. 6.5 million cubic feet
9. December 14, 1979
10. Michigan Consolidated Gas Company
1. 80-09955
2. 21-137-26801-0000
3. 107 000 000
4. State of Chester Venture
5. State-Chester #8
6. Chester Field T29N R2W Chester Twp
7. Otsego, MI
8. 6.5 million cubic feet
9. December 14, 1979
10. Michigan Consolidated Gas Company
1. 80-09956
2. 21-137-26982-0000
3. 107 000 000
4. State of Chester Venture
5. State-Chester #9
6. Chester Field T29N R2W Chester Twp
7. Otsego, MI
8. 6.5 million cubic feet
9. December 14, 1979
10. Michigan Consolidated Gas Company
1. 80-09957
2. 21-137-26802-0000
3. 107 000 000
4. State of Chester Venture
5. State-Chester #10
6. Chester Field T29N R2W Chester Twp
7. Otsego, MI
8. 6.5 million cubic feet
9. December 14, 1979
10. Michigan Consolidated Gas Company
1. 80-09958
2. 21-137-26803-0000
3. 107 000 000
4. State of Chester Venture
5. State-Chester #11
6. Chester Field T29N R2W Chester Twp
7. Otsego, MI
8. 6.5 million cubic feet
9. December 14, 1979
10. Michigan Consolidated Gas Company
1. 80-09959
2. 21-137-26804-0000
3. 107 000 000
4. State of Chester Venture
5. State-Chester #12
6. Chester Field T29N R2W Chester Twp
7. Otsego, MI
8. 6.5 million cubic feet
9. December 14, 1979
10. Michigan Consolidated Gas Company
1. 80-09960
2. 21-137-27029-0000
3. 107 000 000
4. State of Chester Venture
5. State-Chester #13
6. Chester Field T29N R2W Chester Twp
7. Otsego, MI
8. 6.5 million cubic feet
9. December 14, 1979
10. Michigan Consolidated Gas Company
1. 80-09961
2. 21-137-27030-0000
3. 107 000 000
4. State of Chester Venture
5. State-Chester #14
6. Chester Field T29N R2W Chester Twp
7. Otsego, MI
8. 6.5 million cubic feet
9. December 14, 1979
10. Michigan Consolidated Gas Company
1. 80-09962
2. 21-137-27057-0000
3. 107 000 000
4. State of Chester Venture
5. State-Chester #16
6. Chester Field T29N R2W Chester Twp
7. Otsego, MI
8. 6.5 million cubic feet
9. December 14, 1979
10. Michigan Consolidated Gas Company
1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-10208/10-79-281
2. 25-101-21578-0000
3. 103 000 000
4. Texaco Inc
5. M M Theonnes Well No 1
6. Kevin Sunburst
7. Toole, MT
8. 73.0 million cubic feet
9. December 17, 1979
10. Montana Power Company

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-10007
2. 30-025-00000-0000
3. 108 000 000
4. Continental Oil Co
5. North El Mar #44
6. El Mar
7. Lea County NM
8. .1 million cubic feet
9. December 14, 1979
10. Phillips Petroleum Co
1. 80-10008
2. 30-025-02596-0000
3. 108 000 000
4. Wilson Oil Company
5. Wilson State L #1 (E-2385)
6. Wilson Yates 7 Rivers Sec 25 T21 R3
7. Lea County NM
8. 8.1 million cubic feet
9. December 14, 1979
10. Phillips Petroleum Co
1. 80-10009
2. 30-025-04377-0000
3. 108 000 000
4. Wilson Oil Company
5. Charlotte State No 2 (B-9131)
6. Wildcat Sec 32 T20S R36E
7. Lea County NM
8. 3.9 million cubic feet
9. December 14, 1979
10. Phillips Petroleum Co
1. 80-10010
2. 30-025-04371-0000
3. 108 000 000
4. Wilson Oil Company
5. Charlotte St No 4 (E-1639)
6. North Wilson Yates Seven Rivers Sec
7. Lea County NM
8. 3.8 million cubic feet
9. December 14, 1979
10. Phillips Petroleum Co
1. 80-10011
2. 30-025-03485-0000
3. 108 000 000
4. Wilson Oil Company
5. State C No 1 (E-2446)
6. San Simon Yates Sec 20 T21S R35E
7. Lea County NM
8. 2.9 million cubic feet
9. December 14, 1979
10. Phillips Petroleum Co
1. 80-10077
2. 30-015-22996-0000
3. 103 000 000
4. Yates Petroleum Corporation
5. SRC State KZ No 3
6. Penasco Draw San Andres Yeso
7. Eddy NM
8. .0 million cubic feet
9. December 17, 1979
10. Transwestern Pipeline Company
1. 80-10078
2. 30-025-02165-0000
3. 108 000 000
4. Arco Oil and Gas Company
5. State Vacuum Unit #3
6. Vacuum GB San Andres
7. Lea NM
8. 54.0 million cubic feet
9. December 17, 1979
10. Phillips Petroleum Co
1. 80-10079
2. 30-025-00000-0000
3. 108 000 000
4. Continental Oil Co
5. State C-20 No 4
6. Arrowhead E-M-E
7. Lea NM
8. 2.0 million cubic feet
9. December 17, 1979
10. Warren Petroleum
1. 80-10080
2. 30-025-00000-0000
3. 108 000 000
4. Continental Oil Co
5. South Eunice Unit No 15
6. NMFU—Eunice 7 Rivers Queen South
7. Lea NM
8. 6.6 million cubic feet
9. December 17, 1979
10. Petro-Lewis Corp
1. 80-10081
2. 30-025-00000-0000
3. 108 000 000
4. Dallas McCasland
5. Christmas A No 1
6. Jalmat
7. Lea NM
8. 10.2 million cubic feet
9. December 17, 1979
10. El Paso Natural Gas Company

V 45 / 19 JA 28 80 UMI

1. 80–10082
2. 30–025–00000–0000
3. 108 000 000
4. Mesa Petroleum Co
5. Ringer Fed #1
6. Undes White City Penn
7. Eddy NM
8. 3.0 million cubic feet
9. December 17, 1979
10. Natural Gas Pipeline Company of AME

1. 80–10083
2. 30–015–20673–0000
3. 108 000 000
4. Mesa Petroleum Co
5. Reddy Com #1
6. S Carlsbad Atoka
7. Eddy NM
8. 10.0 million cubic feet
9. December 17, 1979
10. El Paso Natural Gas Company

1. 80–10084
2. 30–025–25847–0000
3. 103 000 000
4. Dallas McCasland
5. Litie Woolworth No 5
6. Jalmat
7. Lea NM
8. 163.0 million cubic feet
9. December 17, 1979
10. El Paso Natural Gas Company

1. 80–10085
2. 30–039–06518–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Hamilton Com #1
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 18.0 million cubic feet
9. December 17, 1979
10. El Paso Natural Gas Company

1. 80–10086
2. 30–015–22322–0000
3. 103 000 000
4. Yates Petroleum Corporation
5. White IU No 1
6. Atoka San Andres
7. Eddy NM
8. .0 million cubic feet
9. December 17, 1979
10. Transwestern Pipeline Company

1. 80–10087
2. 30–025–00000–0000
3. 103 000 000
4. Getty Oil Company
5. Getty 36 State Com No 1
6. East Grama Ridge—Morrow
7. Lea NM
8. 1586.6 million cubic feet
9. December 17, 1979
10. Tuco Inc

1. 80–10088
2. 30–015–22997–0000
3. 103 000 000
4. Yates Petroleum Corporation
5. SRC KZ State No 4
6. Penasco Draw San Andres Yeso
7. Eddy NM
8. .0 million cubic feet
9. December 17, 1979
10. Transwestern Pipeline Company

1. 80–10195
2. 30–025–00000–0000
3. 108 000 000
4. Dallas McCasland
5. Christmas B No 1
6. Jalmat
7. Lea NM
8. 20.0 million cubic feet
9. December 17, 1979
10. El Paso Natural Gas Company

1. 80–10196
2. 30–025–25557–0000
3. 108 000 000
4. Continental Oil Co
5. Lamar Lunt No 2
6. Jalmat-Langlie Mattix
7. Lea NM
8. 9.8 million cubic feet
9. December 17, 1979
10. El Paso Natural Gas Company

1. 80–10197
2. 30–025–00000–0000
3. 108 000 000
4. Continental Oil Co
5. Eumont Hardy Unit No 16
6. Arrowhead E–M–E
7. Lea NM
8. 1.0 million cubic feet
9. December 17, 1979
10. Warren Petroleum

1. 80–10198
2. 30–025–02106–0000
3. 108 000 000
4. Mobil Oil Corporation
5. Bridges State #36
6. Vacuum-Grayburg San Andres
7. Lea NM
8. 5.0 million cubic feet
9. December 17, 1979
10. Phillips Petroleum Company

1. 80–10199
2. 30–025–20864–0000
3. 108 000 000
4. Mobil Oil Corporation
5. State K #7
6. Vacuum Glorietta
7. Lea NM
8. 3.1 million cubic feet
9. December 17, 1979
10. Phillips Petroleum Company

1. 80–10200
2. 30–025–02841–0000
3. 108 000 000
4. Phillips Petroleum Company
5. East Vacuum GB/SA Unit TR 2060 No 06
6. Vacuum GB/SA
7. Lea NM
8. 2.0 million cubic feet
9. December 17, 1979
10. El Paso Natural Gas Co

1. 80–10267
2. 30–025–02091–0000
3. 108 000 000 Denied
4. Mobil Oil Corporatian
5. Bridges State #22
6. Vacuum Grayburg San Andres
7. Lea NM
8. .5 million cubic feet
9. December 18, 1979
10. Phillips Petroleum Company

1. 80–10268
2. 30–025–00000–0000
3. 108 000 000
4. Continental Oil Co
5. State B–13 NC 6
6. Bowers-Byers-Hobbs
7. Lea NM
8. 2.0 million cubic feet
9. December 18, 1979
10. Phillips Petroleum Company

1. 80–10269
2. 30–025–00000–0000
3. 108 000 000
4. Continental Oil Co
5. Eumont Hardy Unit No 36
6. Arrowhead E–M–E
7. Lea NM
8. .6 million cubic feet
9. December 18, 1979
10. Warren Petroleum

1. 80–10270
2. 30–015–23011–0000
3. 103 000 000
4. Yates Petroleum Corporation
5. Greasewood BD State No 2
6. Penasco Draw Yeso SA
7. Eddy NM
8. .0 million cubic feet
9. December 18, 1979
10. Transwestern Pipeline Co

1. 80–10271
2. 30–015–22995–0000
3. 103 000 000
4. Yates Petroleum Corporation
5. SRC State KZ No 2
6. Penasco Draw SA Yeso
7. Eddy NM
8. .0 million cubic feet
9. December 18, 1979
10. Transwestern Pipeline Co

North Dakota Geological Survey

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–10201/181–NGPA
2. 33–007–00316–0000
3. 102 000 000
4. Koch Industries Inc
5. Simnioniw No 2 (Madison)
6. Four Eyes-Madison
7. Billings ND
8. 395.0 million cubic feet
9. December 17, 1979
10. Montana-Dakota Utilities Company

1. 80–10202/182–NGPA
2. 33–007–00316–0000
3. 102 000 000
4. Koch Industries Inc
5. Simnioniw No 2 (Red River)
6. Four Eyes-Red River
7. Billings ND
8. 978.0 million cubic feet
9. December 17, 1979
10. Montana-Dakota Utilities Company

1. 80–10203/183–NGPA
2. 33–007–00297–0000
3. 102 000 000
4. Koch Industries Inc
5. Simnioniw No 1
6. Four Eyes-Madison
7. Billings ND
8. 223.0 million cubic feet
9. December 17, 1979
10. Montana-Dakota Utilities Company

1. 80–10204/184–NGPA
2. 33–007–00297–0000
3. 102 000 000

4. Koch Industries Inc
5. Simnioniw No 1
6. Four Eyes-Duperow
7. Billings ND
8. 272.0 million cubic feet
9. December 17, 1979
10. Montana-Dakota Utilities Company

1. 80–10205/185–NGPA
2. 33–007–00347–0000
3. 102 000 000
4. Koch Industries Inc
5. Kordon No 4–5
6. Four Eyes-Madison
7. Billings ND
8. 129.0 million cubic feet
9. December 17, 1979
10. Montana-Dakota Utilities Company

1. 80–10206/186–NGPA
2. 33–105–00788–0000
3. 103 000 000
4. Martin Oil Company
5. #2–1 Lalim
6. Tioga Madison
7. Williams ND
8. 12.0 million cubic feet
9. December 17, 1979
10. Aminoil USA Inc

1. 80–10207/187–NGPA
2. 33–105–00787–0000
3. 103 000 000
4. Martin Oil Company
5. #34–1 Lalim
6. Tioga Madison
7. Williams ND
8. .0 million cubic feet
9. December 17, 1979
10. Aminoil USA Inc

Ohio Department of Natural Resources, Division of Oil and Gas

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–10012/07995
2. 34–127–23831–0014
3. 108 000 000
4. Irvin Producing Company
5. Welling #1
6.
7. Perry OH
8. 2.4 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp

1. 80–10013/07996
2. 34–127–24009–0014
3. 108 000 000
4. Irvin Producing Company
5. Thomas Ward #1
6.
7. Perry OH
8. 6.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp

1. 80–10014/07997
2. 34–127–24088–0014
3. 108 000 000
4. Irvin Producing Company
5. Walter Pettet #1
6.
7. Perry OH
8. 4.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp

1. 80–10015/07998
2. 34–127–23768–0014
3. 108 000 000
4. Irvin Producing Company
5. Maxwell #G3
6.
7. Perry OH
8. 5.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp

1. 80–10016/07999
2. 34–127–23769–0014
3. 108 000 000
4. Irvin Producing Company
5. Maxwell #G2
6.
7. Perry OH
8. 5.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp

1. 80–10017/08000
2. 34–127–23737–0014
3. 108 000 000
4. Irvin Producing Company
5. Maxwell #G1
6.
7. Perry OH
8. 5.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp

1. 80–10018/08001
2. 34–127–24026–0014
3. 108 000 000
4. Irvin Producing Company
5. Daine Maxwell #C–2
6.
7. Perry OH
8. 4.5 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp

1. 80–10019/03197
2. 34–099–20883–0014
3. 108 000 000
4. Berea Oil and Gas Corporation
5. Pious Society of St Paul #3
6.
7. Mahoning OH
8. 11.9 million cubic feet
9. December 14, 1979
10. East Ohio Gas Co

1. 80–10020/03198
2. 34–099–20884–0014
3. 108 000 000
4. Berea Oil and Gas Corporation
5. Pious Society of St Paul #2
6.
7. Mahoning OH
8. 11.9 million cubic feet
9. December 14, 1979
10. East Ohio Gas Co

1. 80–10021/07699
2. 34–103–22095–0014
3. 103 000 000
4. Northeastern Energy
5. Long No 2
6.
7. Medina OH
8. 21.0 million cubic feet
9. December 14, 1979
10. East Ohio Gas Co

1. 80–10022/07708
2. 34–059–22306–0014
3. 108 000 000
4. Guernsey Petroleum Corporation
5. Fogle 2ME
6.
7. Guernsey OH
8. 9.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corporation

1. 80–10023/07709
2. 34–059–22390–0014
3. 108 000 000
4. Guernsey Petroleum Corporation
5. William-Morrow 1ME
6.
7. Guernsey OH
8. 7.0 million cubic feet
9. December 14, 1979
10. East Ohio Gas Company

1. 80–10024/07711
2. 34–121–21863–0014
3. 108 000 000
4. Guernsey Petroleum Corporation
5. Ohio Power 8MB
6.
7. Noble OH
8. 14.0 million cubic feet
9. December 14, 1979
10. East Ohio Gas Company

1. 80–10025/07712
2. 34–119–23342–0014
3. 108 000 000
4. Guernsey Petroleum Corporation
5. Hill 1G
6.
7. Muskingum OH
8. 14.0 million cubic feet
9. December 14, 1979
10. East Ohio Gas Company

1. 80–10026/07713
2. 34–119–23204–0014
3. 108 000 000
4. Guernsey Petroleum Corporation
5. Ohio Power 4G
6.
7. Muskingum OH
8. 12.0 million cubic feet
9. December 14, 1979
10. East Ohio Gas Company

1. 80–10027/07714
2. 34–119–23094–0014
3. 108 000 000
4. Guernsey Petroleum Corporation
5. Ohio Power 8G
6.
7. Muskingum OH
8. 12.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corporation

1. 80–10028/07715
2. 34–059–21623–0014
3. 108 000 000
4. Guernsey Petroleum Corporation
5. Ohio Power 38–C
6.
7. Guernsey OH
8. 1.0 million cubic feet
9. December 14, 1979
10. East Ohio Gas Company

1. 80–10029/07716
2. 34–119–22806–0014
3. 108 000 000
4. Guernsey Petroleum Corporation
5. Ohio Power 17B

6.
7. Muskingum OH
8. 6.0 million cubic feet
9. December 14, 1979
10. East Ohio Gas Company
1. 80-10030/07717
2. 34-059-22057-0014
3. 108 000 000
4. Guernsey Petroleum Corporation
5. Wayne Watson 1ME
6.
7. Guernsey OH
8. 8.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corporation
1. 80-10031/07756
2. 34-167-24901-0014
3. 103 000 000
4. Quadrant exploration
5. Elmer & Dorothy Taylor Well #2
6.
7. Washington OH
8. 54.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-10032/07776
2. 34-167-24768-0014
3. 103 000 000
4. Quadrant Exploration Corp
5. Robert Patterson & Bailey Well #2
6.
7. Washington OH
8. 54.0 million cubic feet
9. December 14, 1979
10.
1. 80-10033/07801
2. 34-163-20402-0014
3. 103 000 000
4. American Well Management Company
5. White No 1
6.
7. Vinton OH
8. 18.0 million cubic feet
9. December 14, 1979
10.
1. 80-10034/07802
2. 34-167-24603-0014
3. 103 000 000
4. L & S Oil and Gas
5. Richardson #1
6.
7. Washington OH
8. 15.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission
1. 80-10035/07806
2. 34-119-24775-0014
3. 103 000 000
4. Petroc Co
5. N & R Rollings #3A
6.
7. Muskingum OH
8. 10.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Co
1. 80-10036/07832
2. 34-009-23704-0014
3. 103 000 000
4. American Well Management Company
5. Kreager No 2
6.
7. Licking OH
8. 18.0 million cubic feet
9. December 14, 1979
10.
1. 80-10037/07890
2. 34-127-24406-0014
3. 103 000 000
4. John E Bell
5. Roy Householder #1
6. Junction City Quad
7. Perry OH
8. 2.0 million cubic feet
9. December 14, 1979
10. National Gas Corp
1. 80-10038/07927
2. 34-119-24563-0014
3. 103 000 000
4. The Benatty Corporation
5. Kilpatrick Unit #2
6.
7. Muskingum OH
8. 25.0 million cubic feet
9. December 14, 1979
10. The East Ohio Gas Company
1. 80-10039/07928
2. 34-005-23248-0014
3. 103 000 000
4. H E Rupp
5. Verba #1
6. Ashland OH
7.
8. 200.0 million cubic feet
9. December 14, 1979
10.
1. 80-10040/07931
2. 34-119-24905-0014
3. 103 000 000
4. Williston Oil & Development Corp
5. Founds #9
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. December 14, 1979
10.
1. 80-10041/07932
2. 34-119-24906-0014
3. 103 000 000
4. Williston Oil & Development Corp
5. Founds #8
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. December 14, 1979
10.
1. 80-10042/07934
2. 34-119-24747-0014
3. 103 000 000
4. Williston Oil & Development Corp
5. Gillogly #7
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. December 14, 1979
10.
1. 80-10043/07935
2. 34-119-24740-0014
3. 103 000 000
4. Williston Oil & Development Corp
5. Gillogly #6
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. December 14, 1979
10.
1. 80-10044/07936
2. 34-119-24807-0014
3. 103 000 000
4. Williston Oil & Development Corp
5. Patton #2
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. December 14, 1979
10.
1. 80-10045/07937
2. 34-119-24807-0014
3. 103 000 000
4. Williston Oil & Development Corp
5. Patton #5
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. December 14, 1979
10.
1. 80-10046/07938
2. 34-119-24749-0014
3. 103 000 000
4. Williston Oil & Development Corp
5. Gillogly #9
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. December 14, 1979
10.
1. 80-10047/07939
2. 34-119-24748-0014
3. 103 000 000
4. Williston Oil & Development Corp
5. Gillogly #8
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. December 14, 1979
10.
1. 80-10048/07940
2. 34-119-24780-0014
3. 103 000 000
4. Williston Oil & Development Corp
5. Patton #1
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. December 14, 1979
10.
1. 80-10049/07944
2. 34-119-24405-0014
3. 103 000 000
4. Williston Oil & Development Corp
5. Gillogly #12
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. December 14, 1979
10.
1. 80-10050/07945
2. 34-119-24894-0014
3. 103 000 000
4. Williston Oil & Development Corp
5. Founds #5
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. December 14, 1979
10.
1. 80-10051/07948
2. 34-119-24885-0014
3. 103 000 000
4. Williston Oil and Development Corp
5. Founds #2
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. December 14, 1979
10.

1. 80-10052/07952
2. 34-119-24798-0014
3. 103 000 000
4. Williston Oil & Development Corp
5. Patton #3
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. December 14, 1979
10.
1. 80-10053/07953
2. 34-119-24895-0014
3. 103 000 000
4. Williston Oil & Development Corp
5. Founds #6
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. December 14, 1979
10.
1. 80-10054/07955
2. 34-119-24788-0014
3. 103 000 000
4. Williston Oil & Development Corp
5. Gillogly #3
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. December 14, 1979
10.
1. 80-10055/07956
2. 34-819-24734-0014
3. 103 000 000
4. Williston Oil & Development Corp
5. Gillogly #1
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. December 14, 1979
10.
1. 80-10056/07957
2. 34-167-24672-0014
3. 103 000 000
4. Lauderman Oil & Gas Drilling
5. Freda B Cunningham #1
6. Flemming
7. Washington OH
8. 675.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-10057/07958
2. 34-167-24735-0014
3. 103 000 000
4. Lauderman Oil & Gas Drilling
5. Theodore Dye #1
6. New Matamoras
7. Washington OH
8. 450.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-10058/07961
2. 34-167-24630-0014
3. 103 000 000
4. Lauderman Oil & Gas Drilling
5. USA Mildren Roach & Rishel
6. Archers Fork
7. Washington OH
8. 1.6 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-10059/07963
2. 34-167-24684-0014
3. 103 000 000
4. Lauderman Oil & Gas Drilling
5. H C & Loretta Dowler #1
6. Flemming Field
7. Washington OH
8. 485.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission
1. 80-10060/07964
2. 34-167-24190-0014
3. 103 000 000
4. Lauderman Oil & Gas Drilling
5. W H Bell #1
6. Barlow
7. Washington OH
8. 960.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-10061/07965
2. 34-167-24406-0014
3. 103 000 000
4. Lauderman Oil & Drilling
5. Richard Zimmer #1
6. Barlow
7. Washington OH
8. 670.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-10062/07978
2. 34-075-02154-0014-1
3. 103 000 000
4. Rowley & Brown Petroleum Corp
5. Pahoundis #2
6.
7. Holmes OH
8. 10.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-10063/07981
2. 34-127-23239-0014
3. 108 000 000
4. Irvin Producing Company
5. Collier Allen #1
6.
7. Perry County OH
8. .8 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-10064/07982
2. 34-127-23342-0014
3. 108 000 000
4. Irvin Producing Company
5. Robert Allen #1
6.
7. Perry County OH
8. .2 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-10065/07983
2. 34-127-23624-0014
3. 108 000 000
4. Irvin Producing Company
5. Columbia Gas #1
6.
7. Perry OH
8. 1.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-10066/07984
2. 34-127-23625-0014
3. 108 000 000
4. Irvin Producing Company
5. Columbia Gas #2
6.
7. Perry OH
8. 1.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-10067/07985
2. 34-119-22550-0014
3. 108 000 000
4. Irvin Producing Company
5. Harold Curtis #1
6.
7. Muskingum OH
8. 5.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-10068/07986
2. 34-119-22419-0014
3. 108 000 000
4. Irvin Producing Company
5. Led Dunlap #1
6.
7. Muskingum OH
8. 5.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-10069/07987
2. 34-127-23477-0014
3. 108 000 000
4. Irvin Producing Company
5. Maxwell #A-4
6.
7. Perry OH
8. 3.4 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-10070/07988
2. 34-119-22391-0014
3. 108 000 000
4. Irvin Producing Company
5. Linhardt #2
6.
7. Muskingum OH
8. 8.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-10071/07989
2. 34-119-22348-0014
3. 108 000 000
4. Irvin Producing Company
5. Linhardt #1
6.
7. Muskingum OH
8. 8.0 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-10072/07990
2. 34-127-23682-0014
3. 108 000 000
4. Irvin Producing Company
5. Kermit Hope #2
6.
7. Perry OH
8. 1.4 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-10073/07991
2. 34-127-23675-0014
3. 108 000 000
4. Irvin Production Company
5. Kermit Hope #1
6.
7. Perry OH
8. 1.4 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-10074/07992
2. 34-127-23793-0014
3. 108 000 000
4. Irvin Producing Company
5. Thomas Irvin #4

V45/19/JA28/80 UMI

5.
7. Perry OH
8. 2.2 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-10075/07993
2. 34-127-23767-0014
3. 108 000 000
4. Irvin Producing Company
5. Thomas Irvin #1
6.
7. Perry OH
8. 2.2 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. 80-10076/07994
2. 34-127-23832-0014
3. 108 000 000
4. Irvin Producing Company
5. Welling #2
5.
7. Perry OH
8. 2.4 million cubic feet
9. December 14, 1979
10. Columbia Gas Transmission Corp
1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-10272/00208
2. 35-061-20213-0000
3. 102 000 000
4. Samson Resources Company
5. Hightower Unit No 1
6. Kinta
7. Haskell OK
8. 102.0 million cubic feet
9. December 18, 1979
10. Arkansas Louisiana Gas Co
1. 80-10273/00566
2. 35-047-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. Crews
6. Sooner Trend
7. Garfield OK
8. 7.3 million cubic feet
9. December 18, 1979
10. Cities Service Gas Co
1. 80-10274/00588
2. 35-047-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. Hopwood-B
6. N E Enid
7. Garfield OK
8. 12.7 million cubic feet
9. December 18, 1979
10. Cities Service Gas Co
1. 80-10275/01187
2. 35-059-20601-0000
3. 103 000 000
4. ARCO Oil and Gas Company
5. Louis Barby Unit A #2
6. Laverne
7. Harper OK
8. 182.5 million cubic feet
9. December 18, 1979
10. Michigan Wisconsin Pipe Line Co
1. 80-10276/00592
2. 35-047-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. Campbell J
6. N E Enid
7. Garfield OK
8. 7.7 million cubic feet
9. December 18, 1979
10. Cities Service Gas Co
1. 80-10277/01258
2. 35-025-20306-0000
3. 103 000 000
4. Wallace Oil & Gas Inc
5. Wallace Oil & Gas Inc Price W-1
6. South Griggs
7. Cimarron OK
8. 100.0 million cubic feet
9. December 18, 1979
10. Transwestern Pipeline Co
1. 80-10278/01274
2. 35-139-21098-0000
3. 103 000 000
4. Wallace Oil & Gas Inc
5. Wallace Oil & Gas Inc #1 CSC
6. Guymon Hugoton
7. Texas OK
8. 75.0 million cubic feet
9. December 18, 1979
10. Northern Natural Gas Co
1. 80-10279/01286
2. 35-139-21030-0000
3. 103 000 000
4. Seneca Oil Company
5. Paul Blaser #1
6. West Dombey
7. Texas OK
8. 55.0 million cubic feet
9. December 18, 1979
10. Panhandle Eastern Pipeline Co
1. 80-10280/01223
2. 35-059-20642-0000
3. 103 000 000
4. ARCO Oil and Gas Company
5. Canfield Gas Unit No 3
6. N W Lovedale
7. Harper OK
8. 182.5 million cubic feet
9. December 18, 1979
10. Cities Service Gas Company
1. 80-10281/01232
2. 35-085-20320-0000
3. 103 000 000
4. Texaco Inc
5. Pugh No. 1
6. Enville SW
7. Love, OK
8. 24.0 million cubic feet
9. December 18, 1979
10. Cimarron Transmission Co
1. 80-10282/01227
2. 35-085-20311-0000
3. 103 000 000
4. Texaco Inc
5. Little Company No. 1
6. Enville SW
7. Love, OK
8. 150.0 million cubic feet
9. December 18, 1979
10. Cimarron Transmission Co
1. 80-10283/01220
2. 35-059-20588-0000
3. 103 000 000
4. Arco Oil and Gas Company Division O
5. Freda Yauk No. 2
6. NW Lovedale
7. Harper OK
8. 219.0 million cubic feet
9. December 18, 1979
10. Cities Service Gas Company
1. 80-10284/01213
2. 35-151-20866-0000
3. 102 00 000
4. Barnell Ltd
5. Baker No. 1-10
6. Unnamed
7. Woods, OK
8. .0 million cubic feet
9. December 18, 1979
10. Michigan-Wisconsin Pipeline Co
1. 80-10285/01044
2. 35-071-00000-0000
3. 108 000 000
4. Floyd A Doan
5. Buckles No. 1
6. N W Garrett
7. Kay OK
8. 5.0 million cubic feet
9. December 18, 1979
10. Cities Service Co
1. 80-10286/00565
2. 35-047-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. Devisser
6. N E Enid
7. Garfield OK
8. 13.5 million cubic feet
9. December 18, 1979
10. Cities Service Gas Co
1. 80-10287/00573
2. 35-047-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. McIntosh-Lang
6. N E Enid
7. Garfield OK
8. 16.6 million cubic feet
9. December 18, 1979
10. Cities Service Gas Co
1. 80-10288/01090
2. 35-043-20858-0000
3. 108 000 000
4. Sabine Corp
5. Millie No. 2-20
6. S Taloga
7. Dewey OK
8. 70.0 million cubic feet
9. December 18, 1979
10. Michigan Wisconsin Pipeline Co.
1. 80-10289/01226
2. 35-085-20310-0000
3. 103 000 000
4. Texaco Inc
5. Groesbeck A No. 1
6. Enville S W
7. Love OK
8. 25.5 million cubic feet
9. December 18, 1979
10. Cimarron Transmission Co.
1. 80-10290/01233
2. 35-085-20307-0000
3. 103 000 000
4. Texaco Inc
5. Ethel Pickens B No. 1
6. Enville S W
7. Love OK
8. 40.0 million cubic feet
9. December 18, 1979
10. Cimarron Transmission Co.

1. 80-10291/01235
2. 35-085-20299-0000
3. 103 000 000
4. Texaco Inc
5. Groesbeeck No. 1
6. Enville S W
7. Love OK
8. 165.0 million cubic feet
9. December 18, 1979
10. Cimarron Transmission Co.
1. 80-10292/01229
2. 35-085-20288-0000
3. 103 000 000
4. Texaco Inc
5. C P Gaither No. 2
6. Enville S W
7. Love OK
8. 65.0 million cubic feet
9. December 18, 1979
10. Cimarron Transmission Co.
1. 80-10293/01234
2. 35-085-20302-0000
3. 103 000 000
4. Texaco Inc
5. C P Gaither B No. 1
6. Enville S W
7. Love OK
8. 30.0 million cubic feet
9. December 18, 1979
10. Cimarron Transmission Co.
1. 80-10294/01231
2. 35-085-20319-0000
3. 103 000 000
4. Texaco Inc
5. Groesbeeck No. 1
6. Enville S W
7. Love OK
8. 23.0 million cubic feet
9. December 18, 1979
10. Cimarron Transmission Co.
1. 80-10295/01230
2. 35-085-20318-0000
3. 103 000 000
4. Texaco Inc
5. C P Gaither B No. 2
6. Enville S W
7. Love OK
8. 23.0 million cubic feet
9. December 18, 1979
10. Cimarron Transmission Co.

West Virginia Department of Mines, Oil and Gas Division

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-09933
2. 47-041-02017-0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. James Jarvis 8365
6. West Virginia other A-85772
7. Lewis WV
8. 5.0 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09934
2. 47-041-02215-0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. P G Swisher 2570
6. West Virginia other A-85772
7. Lewis WV
8. 3.0 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09935
2. 47-041-02300-0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Peter Loaan 7824
6. West Virginia other A-85772
7. Lewis WV
8. 2.0 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09936
2. 47-041-02372-0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. White-Egan 8450
6. West Virginia other A-85772
7. Lewis WV
8. 4.0 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09937
2. 47-045-00099-0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Boone Co Coal Corp 9281
6. West Virginia other A-85772
7. Logan WV
8. 1.0 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09938
2. 47-045-00103-0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Boone Co Coal Corp 9282
6. West Virginia other A-85772
7. Logan WV
8. 2.0 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09939
2. 47-041-02706-FRAC
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. W H Frost 4560
6. West Virginia other A-85772
7. Lewis WV
8. 4.0 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09940
2. 47-033-00240-0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. W P Coffman 11046
6. West Virginia other A-85772
7. Harrison WV
8. 5.0 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09941
2. 47-033-00575-0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. S Haymond 11387
6. West Virginia other A-85772
7. Harrison WV
8. 20.0 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09942
2. 47-033-00739-0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. James Findley 4724
6. West Virginia other A-85772
7. Harrison WV
8. 7.0 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09943
2. 47-033-01432-0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. M G Law 5117
6. West Virginia other A-85772
7. Harrison WV
8. .7 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09944
2. 47-033-01496-0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. J Hurry 7579
6. West Virginia other A-85772
7. Harrison WV
8. .4 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09945
2. 47-033-01515-0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Lee Maxwell 7934
6. West Virginia other A-85772
7. Harrison WV
8. 3.0 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09946
2. 47-033-01532-0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. A R Shinn 7976
6. West Virginia other A-85772
7. Harrison WV
8. 3.0 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09947
2. 47-033-02124-0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. G M Thompson 7477
6. West Virginia other A-85772
7. Harrison WV
8. 6.0 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09948
2. 47-041-01114-0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. M M Peterson 10461
6. West Virginia other A-85772
7. Lewis WV
8. 6.0 million cubic feet
9. December 14, 1979
10. General System Purchasers
1. 80-09949

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2. 47-097-20811-0000
3. 108 000 000
4. Skylark Gas Co
5. Blanche Ireland
6. Warren
7. Upshur WV
8. 8.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company

1. 80-09950
2. 47-097-21588-0000
3. 108 000 000
4. Skylark Gas Co
5. Willis J Mays
6. Warren
7. Upshur WV
8. 4.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company

1. 80-09951
2. 47-097-21615-0000
3. 108 000 000
4. Skylark Gas Co
5. Leman Post
6. Warren
7. Upshur WV
8. 11.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company

1. 80-09952
2. 47-033-00676-0000
3. 108 000 000
4. Lock 3 Oil Coal & Dock Company
5. Harry Weeks #1
6. Elk Creek—Overfield
7. Harrison WV
8. 1.2 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corporation

1. 80-09953
2. 47-033-20464-0000
3. 108 000 000
4. Skylark Gas Co
5. Yochym Brothers
6. Elk
7. Harrison WV
8. 7.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company

1. 80-09954
2. 47-033-20626-0000
3. 108 000 000
4. Skylark Gas Co
5. Ella Maxwell
6. Elk
7. Harrison WV
8. 9.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company

1. 80-09955
2. 47-033-21009-0000
3. 108 000 000
4. Skylark Gas Co
5. Frank Post No 2
6. Elk
7. Harrison WV
8. 5.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company

1. 80-09956
2. 47-041-20879-0000
3. 108 000 000
4. Skylark Gas Co
5. Raymond Queen 52A
6. Hackers Creek
7. Lewis WV
8. 19.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company

1. 80-09957
2. 47-041-21883-0000
3. 108 000 000
4. Skylark Gas Co
5. Lillian W Post
6. Hackers Creek
7. Lewis WV
8. 18.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company

1. 80-09958
2. 47-041-21925-0000
3. 108 000 000
4. Skylark Gas Co
5. Guy Lewis
6. Hackers Creek
7. Lewis WV
8. 18.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company

1. 80-09959
2. 47-097-20733-0000
3. 108 000 000
4. Skylark Gas Co
5. Levy Queen
6. Warren
7. Upshur WV
8. 10.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company

1. 80-09960
2. 47-087-01694-0000
3. 108 000 000
4. Five Star Gas Co
5. Gelah Phillips Well #2
6. Walton Oil Field
7. Roane WV
8. 1.2 million cubic feet
9. December 14, 1979
10. Pennzoil Company

1. 80-09961
2. 47-041-20451-0000
3. 108 000 000
4. St Clair Oil Co
5. A Gould No 1
6. Hackers Creek
7. Lewis WV
8. 2.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company

1. 80-09962
2. 47-041-20670-0000
3. 108 000 000
4. St Clair Oil Co
5. F L Bott No 2
6. Skin Creek
7. Lewis WV
8. 7.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company

1. 80-09963
2. 47-041-20697-0000
3. 108 000 000
4. St Clair Oil Co
5. F L Bott No 2
6. Skin Creek
7. Lewis WV
8. 7.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company

1. 80-09964
2. 47-041-20801-0000
3. 108 000 000
4. St Clair Oil Co
5. D P Linger No 1
6. Skin Creek
7. Lewis WV
8. 18.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company

1. 80-09965
2. 47-041-21084-0000
3. 108 000 000
4. St Clair Oil Co
5. John L Marsh No 1
6. Skin Creek
7. Lewis WV
8. 5.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company

1. 80-09966
2. 47-041-21638-0000
3. 108 000 000
4. St Clair Oil Co
5. George I Davisson No 1
6. Collins Settlement
7. Lewis WV
8. 9.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company

1. 80-09967
2. 47-041-21852-0000
3. 108 000 000
4. St Clair Oil Co
5. J L Marsh No 2
6. Skin Creek
7. Lewis WV
8. 15.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company

1. 80-09968
2. 47-041-21801-0000
3. 108 000 000
4. St Clair Oil Co
5. R G Bennett No 1
6. Collins Settlement
7. Lewis WV
8. 4.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Company

1. 80-09969
2. 47-087-01811-0000
3. 108 000 000
4. Five Star Gas Co
5. Gelah Phillips Well #3
6. Walton Oil Field
7. Roane WV
8. 1.2 million cubic feet
9. December 14, 1979
10. Pennzoil Company

1. 80-09970
2. 47-087-01974-0000
3. 108 000 000
4. Five Star Gas Co
5. Gelah Phillips Well #4
6. Walton Oil Field
7. Roane WV
8. 1.2 million cubic feet
9. December 14, 1979
10. Pennzoil Company

1. 80-09971
2. 47-087-01997-0000
3. 108 000 000
4. Five Star Gas Co
5. Gelah Phillips Well #5
6. Walton Oil Field

7. Roane WV
8. 1.2 million cubic feet
9. December 14, 1979
10. Pennzoil Company

1. 80-09972
2. 47-087-01572-0000
3. 108 000 000
4. D & J Oil Company
5. C C Paxton Well #7
6. Walton Oil Field
7. Roane WV
8. .3 million cubic feet
9. December 14, 1979
10. Pennzoil Company

1. 80-09973
2. 47-087-01778-0000
3. 108 000 000
4. D & J Oil Company
5. C C Paxton Well #9
6. Walton Oil Field
7. Roane WV
8. .3 million cubic feet
9. December 14, 1979
10. Pennzoil Company

1. 80-09974
2. 47-087-01975-0000
3. 108 000 000
4. D & J Oil Company
5. C C Paxton Well #11
6. Walton Oil Field
7. Roane WV
8. .3 million cubic feet
9. December 14, 1979
10. Pennzoil Company

1. 80-09975
2. 47-087-01693-0000
3. 108 000 000
4. Five Star Gas Co
5. Gelah Phillips Well #1
6. Walton Oil Field
7. Roane WV
8. 1.2 million cubic feet
9. December 14, 1979
10. Pennzoil Company

1. 80-09976
2. 47-087-01594-0000
3. 108 000 000
4. D & J Oil Co
5. C C Paxton Well #8
6. Walton Oil Field
7. Roane WV
8. .3 million cubic feet
9. December 14, 1979
10. Pennzoil Company

1. 80-09977
2. 47-087-01270-0000
3. 108 000 000
4. John W Stone
5. Leslie Summerfield Well #1
6. Looneyville Gas Field
7. Roane WV
8. 1.9 million cubic feet
9. December 14, 1979
10.Columbia Gas Transmission Corp

1. 80-09978
2. 47-087-01430-0000
3. 108 000 000
4. D & J Oil Company
5. C C Paxton Well #6
6. Walton Oil Field
7. Roane WV
8. .3 million cubic feet
9. December 14, 1979
10. Pennzoil Company

1. 80-09979
2. 47-087-01506-RED0
3. 108 000 000
4. D & J Oil Company
5. C C Paxton Well #5
6. Walton Oil Field
7. Roane WV
8. .3 million cubic feet
9. December 14, 1979
10. Pennzoil Company

1. 80-09993
2. 47-007-00034-0000
3. 108 000 000 Denied
4. Edwin T Stitt
5. Edwin T Stitt #1 Singleton
6. Rollyson Field
7. Braxton WV
8. 22.3 million cubic feet
9. December 14, 1979
10. Equitable Gas Company

1. 80-09994
2. 47-021-01116-0000
3. 108 000 000 Denied
4. Harry Bush AGT
5. Van Noy #1
6. Dekalb
7. Gilmer WV
8. 1.0 million cubic feet
9. December 14, 1979
10. Equitable Gas Co

1. 80-09995
2. 47-021-22830-0000
3. 108 000 000 Denied
4. L & M Exploration Inc
5. Turner #2
6.
7. Gilmer WV
8. 17.0 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corp

1. 80-09996
2. 47-105-00246-0000
3. 108 000 000 Denied
4. Southwestern Development Company
5. E C Mills Well
6. Cairo-Munday
7. Wirt WV
8. .0 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corp

1. 80-09997
2. 47-105-00187-0000
3. 108 000 000 Denied
4. Southwestern Development Company
5. J H Mills Well
6. Cairo-Munday
7. Wirt WV
8. .0 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corp

1. 80-09998
2. 47-105-00256-0000
3. 108 000 000 Denied
4. Southwestern Development Company
5. William Dawson Well #1
6. Cairo-Munday
7. Wirt WV
8. .0 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corp

1. 80-09999
2. 47-105-00264-0000
3. 108 000 000 Denied
4. Southwestern Development Company
5. William Dawson Well #2
6. Cairo-Munday
7. Wirt WV
8. .0 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corp

1. 80-10000
2. 47-105-00269-0000
3. 108 000 000 Denied
4. Southwestern Development Company
5. William Dawson Well #3
6. Cairo-Munday
7. Wirt WV
8. .0 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corp

1. 80-10001
2. 47-105-00280-0000
3. 108 000 000 Denied
4. Southwestern Development Company
5. William Dawson Well #4
6. Cairo-Munday
7. Wirt WV
8. .0 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corp

1. 80-10002
2. 47-105-00305-0000
3. 108 000 000 Denied
4. Southwestern Development Company
5. William Dawson Well #5
6. Cairo-Munday
7. Wirt WV
8. .0 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corp

1. 80-10003
2. 47-105-00308-0000
3. 108 000 000 Denied
4. Southwestern Development Company
5. William Dawson Well #6
6. Cairo-Munday
7. Wirt WV
8. .0 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corp

1. 80-10004
2. 47-105-00314-0000
3. 108 000 000 Denied
4. Southwestern Development Company
5. William Dawson Well #7
6. Cairo-Munday
7. Wirt WV
8. .0 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corp

1. 80-10005
2. 47-105-00559-0000
3. 108 000 000 Denied
4. Southwestern Development Company
5. Luther Wolverton Well
6. Cairo-Munday
7. Wirt WV
8. .0 million cubic feet
9. December 14, 1979
10. Consolidated Gas Supply Corp

1. 80-10006
2. 47-011-00529-0000
3. 108 000 000 Denied
4. Fabry Gas Co
5. Fabry No 1 Fabry Gas Co
6. Milton
7. Cahell WV
8. 350.0 million cubic feet
9. December 14, 1979
10.

1. 80-10009

2. 47-041-02053-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Priest No 2
6.
7. Lewis WV
8. 1.9 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10090
2. 47-041-02080-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Mertz No 1
6.
7. Lewis WV
8. 13.8 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10091
2. 47-041-02115-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Conley No 1
6.
7. Lewis WV
8. 8.9 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10092
2. 47-021-01874-0000
3. 108 000 000
4. Trio Petroleum Corp
5. Luzader No 2
6. Glenville South
7. Gilmer WV
8. 1.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10093
2. 47-021-01932-0000
3. 108 000 000
4. Trio Petoleum Corp
5. Saunders No 2
6. Glenville South
7. Gilmer WV
8. 9.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10094
2. 47-021-01948-0000
3. 108 000 000
4. Trio Petroleum Corp
5. Post A No 2
6. Glenville South
7. Gilmer WV
8. 2.8 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10095
2. 47-019-00277-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Smith-Welder No 1
6. Armstrong Creek
7. Fayetteville WV
8. 5.2 million cubic feet
9. December 17, 1979
10. Cabot Corp

1. 80-10096
2. 47-001-00333-0000
3. 108 000 000
4. Barron Kidd
5. Proudfoot Heirs
6. Pleasants District
7. Barbour WV
8. 12.7 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10097
2. 47-001-00144-0000
3. 108 000 000
4. Barron Kidd
5. Fanny Snyder #2
6. Elk District—Benson
7. Barbour County WV
8. 5.4 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corporation

1. 80-10098
2. 47-001-00142-0000
3. 108 000 000
4. Barron Kidd
5. Poling #1
6. Elk District (Benson)
7. Barbour WV
8. .6 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corporation

1. 80-10099
2. 47-001-00135-0000
3. 108 000 000
4. Barron Kidd
5. Wentz #2
6. Elk District Benson
7. Barbour WV
8. 9.6 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corporation

1. 80-10100
2. 47-001-00112-0000
3. 108 000 000
4. Barron Kidd
5. Wentz #1
6. Elk District Benson
7. Barbour County WV
8. 6.1 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corporation

1. 80-10101
2. 47-097-00861-0000
3. 108 000 000
4. Barron Kidd
5. Radabaugh Heirs
6. Union District 7550 Sand
7. Upshur WV
8. 6.1 million cubic feet
9. December 17, 1979
10. Columbia Gas Transmission Corp

1. 80-10102
2. 47-097-01186-0000
3. 108 000 000
4. Trio Petroleum Corp
5. Knight No 1
6. Glenville South
7. Braxton WV
8. 9.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10103
2. 47-001-00111-0000
3. 108 000 000
4. Barron Kidd
5. Markley #1
6. Union District Gordon
7. Barbour WV
8. 1.1 million cubic feet
9. December 17, 1979
10. Columbia Gas Transmission Corp

1. 80-10104
2. 47-065-02210-0000
3. 108 000 000
4. Springfield Oil & Gas Co
5. Locke #1
6. Union District
7. Ritchie WV
8. 3.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10105
2. 47-001-00514-0000
3. 108 000 000
4. Barron Kidd
5. Wentz #A-1
6. Elk District (Benson)
7. Barbour WV
8. 8.2 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corporation

1. 80-10106
2. 47-061-00297-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Powley-A No 1
6. South Burns Chapel
7. Monongalia WV
8. 13.3 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10107
2. 47-061-00300-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Scout-B No 1
6. South Burns Chapel
7. Monongalia WV
8. 11.7 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10108
2. 47-041-02042-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Butcher No 2
6.
7. Lewis WV
8. 3.8 million cubic feet
9. December 17, 1979
10. Cons Gas Supply Corp

1. 80-10109
2. 47-041-02040-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Priest No 1
6.
7. Lewis WV
8. 1.9 million cubic feet
9. December 17, 1979
10. Cons Gas Supply Corp

1. 80-10110
2. 47-041-02036-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Butcher No 1
6.
7. Lewis WV
8. 8.7 million cubic feet
9. December 17, 1979
10. Cons Gas Supply Corp

1. 80-10111
2. 47-041-02027-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Dennison No 1
6.

7. Lewis WV
8. 10.1 million cubic feet
9. December 17, 1979
10. Cons Gas Supply Corp

1. 80-10112
2. 47-047-01962-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Woofter 3
6.
7. Lewis County WV
8. 4.7 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply

1. 80-10113
2. 47-041-01956-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Groves No 2
6.
7. Lewis WV
8. 5.6 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply

1. 80-10114
2. 47-041-01890-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Groves No 1
6.
7. Lewis WV
8. 5.3 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply

1. 80-10115
2. 47-041-01888-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Woofter 1B
6.
7. Lewis WV
8. 2.5 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply

1. 80-10116
2. 47-041-01887-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Woofter 1-A
6.
7. Lewis WV
8. 3.4 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply

1. 80-10117
2. 47-041-01885-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Woofter No 1
6.
7. Lewis WV
8. 6.7 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply

1. 80-10118
2. 47-021-02711-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Hardin #2
6.
7. Gilmer WV
8. 6.1 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10119
2. 47-021-02701-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Hardin No 1
6.
7. Gilmer WV
8. 9.0 million cubic feet
9. December 17, 1979
10. Cons Gas Supply Corp

1. 80-10120
2. 47-105-00621-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Campbell 2
6. Creston
7. Wirt WV
8. 6.8 million cubic feet
9. December 17, 1979
10. Columbia Gas Trans Co

1. 80-10121
2. 47-105-00604-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Campbell No 1
6. Creston
7. Wirt WV
8. 5.3 million cubic feet
9. December 17, 1979
10. Columbia Gas Trans Co

1. 80-10122
2. 47-021-02279-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Simmons-west
6. Flat Run Troy Dist
7. Gilmer County WV
8. 2.4 million cubic feet
9. December 17, 1979
10. Columbia Gas Trans Co

1. 80-10123
2. 47-021-02277-0000
3. 108 000 000
4. Interstate Drilling Inc
5. D Heckert
6. Flat Run Troy Dist
7. Gilmer Co WV
8. 2.4 million cubic feet
9. December 17, 1979
10. Columbia Gas Trans Co

1. 80-10124
2. 47-021-02275-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Bennett 2
6. Flat Run Troy Dist
7. Gilmer County WV
8. 1.5 million cubic feet
9. December 17, 1979
10. Columbia Gas Trans Co

1. 80-10125
2. 47-021-02274-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Bennett 1
6. Flat Run Troy Dist
7. Gilmer Co WV
8. 1.2 million cubic feet
9. December 17, 1979
10. Columbia Gas Trans Co

1. 80-10126
2. 47-021-02265-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Simmons 1
6. Flat Run Troy Dist
7. Gilmer County WV
8. 3.8 million cubic feet
9. December 17, 1979
10. Columbia Gas Trans Co

1. 80-10127
2. 47-021-02264-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Simmons 3
6. Flat Run-Troy Dist
7. Gilmer County WV
8. 6.1 million cubic feet
9. December 17, 1979
10. Columbia Gas Trans Co

1. 80-10128
2. 47-021-02263-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Simmons #2
6. Flat Run-Troy Dist
7. Gilmer Co WV
8. 2.3 million cubic feet
9. December 17, 1979
10. Columbia Gas Trans Co

1. 80-10129
2. 47-021-02314-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Newlon-Goff
6. Burnthouse
7. Gilmer WV
8. 9.6 million cubic feet
9. December 17, 1979
10. Carnegie Natural Gas Co

1. 80-10130
2. 47-019-00284-0000
3. 108 000 000
4. Interstate Drilling Inc
5. Smith Welder No 7
6. Armstrong Creek
7. Fayette WV
8. 7.3 million cubic feet
9. December 17, 1979
10. Cabot Corp

1. 80-10131
2. 47-047-00688-0000
3. 108 000 000
4. Texas International Petroleum Corp
5. Pocahontas Land Corp #A-16
6. North Fork
7. McDowell WV
8. 11.7 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10132
2. 47-097-21537-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. R C Tenney #1
6. Washington
7. Upshur WV
8. 3.0 million cubic feet
9. December 17, 1979
10. Equitable Gas Co

1. 80-10133
2. 47-097-21560-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. James H Coleman #1
6. Meade
7. Upshur WV
8. 7.0 million cubic feet
9. December 17, 1979
10. Equitable Gas Co

1. 80-10134

2. 47-097-21581-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J C McWhorter #3
6. Washington
7. Upshur WV
8. 2.0 million cubic feet
9. December 17, 1979
10. Equitable Gas Company

1. 80-10135
2. 47-097-21585-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J C McWhorter #7
6. Washington
7. Upshur WV
8. 2.0 million cubic feet
9. December 17, 1979
10. Equitable Gas Company

1. 80-10136
2. 47-097-21625-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. R R Colerider #1
6. Washington
7. Upshur WV
8. 3.0 million cubic feet
9. December 17, 1979
10. Equitable Gas Company

1. 80-10137
2. 47-047-00667-0000
3. 108 000 000
4. Texas International Petroleum Corp
5. Pocahontas Land Corp #A-13
6. North Fork
7. McDowell WV
8. 11.7 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10138
2. 47-097-21375-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. E L Werely #1
6. Banks
7. Upshur WV
8. 14.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corporation

1. 80-10139
2. 47-097-21532-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. Dane Debarr #1
6. Washington
7. Upshur WV
8. .1 million cubic feet
9. December 17, 1979
10. Equitable Gas Co

1. 80-10140
2. 47-097-21534-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. S M Tenney #1
6. Washington
7. Upshur WV
8. 12.0 million cubic feet
9. December 17, 1979
10. Equitable Gas Co

1. 80-10141
2. 47-097-21582-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J C McWhorter #5
6. Washington
7. Upshur WV
8. 6.0 million cubic feet
9. December 17, 1979
10. Equitable Gas Company

1. 80-10142
2. 47-097-21583-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J C McWhorter #6
6. Washington
7. Upshur WV
8. 11.0 million cubic feet
9. December 17, 1979
10. Equitable Gas Company

1. 80-10143
2. 47-041-21827-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. A A Warren #2
6. Collins Settlement
7. Lewis WV
8. 6.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corporation

1. 80-10144
2. 47-097-21516-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. Jamaes H Coleman #1
6. Meade
7. Upshur WV
8. 2.0 million cubic feet
9. December 17, 1979
10. Equitable Gas Co

1. 80-10145
2. 47-097-21454-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. W W Debarr #1
6. Washington
7. Upshur WV
8. 7.0 million cubic feet
9. December 17, 1979
10. Equitable Gas Company

1. 80-10146
2. 47-097-21479-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. Mildred B Starcher #1
6. Washington
7. Upshur WV
8. 5.0 million cubic feet
9. December 17, 1979
10. Equitable Gas Company

1. 80-10147
2. 47-041-21836-0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. Russel Simons #1
6. Collins Settlement
7. Lewis WV
8. 5.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10148
2. 47-033-20161-0000
3. 108 000 000
4. Swadley Oil and Gas Co
5. Garrett #3
6. Clark
7. Harrison WV
8. 8.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10149
2. 47-033-20210-0000
3. 108 000 000
4. Swadley Oil and Gas Co
5. Garrett #4
6. Clark
7. Harrison WV
8. 15.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10150
2. 47-015-01287-0000
3. 108 000 000
4. Reed-Wheeler-Young Oil & Gas Co
5. Goshorn Heirs 1-A
6. Union District
7. Clay WV
8. 14.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10151
2. 47-047-00532-0000
3. 108 000 000
4. Atlas Energy Corp
5. Tobac #4 MCD-532
6. Big Creek District
7. McDowell WV
8. 12.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10152
2. 47-047-00528-0000
3. 108 000 000
4. Atlas Energy Corporation
5. Tobac #2 MCD-528
6. Big Creek District
7. McDowell WV
8. 7.6 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10153
2. 47-085-03063-0000
3. 108 000 000
4. Dunbar Oil Co
5. Rutherford No 1
6. Leatherbark
7. Ritchie WV
8. .0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10154
2. 47-085-03221-0000
3. 108 000 000
4. Dunbar Oil Co
5. Rutherford No 2
6. Leatherbark
7. Ritchie WV
8. 2.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10155
2. 47-013-00681-0000
3. 108 000 000
4. Walter E Smith
5. Solomon Holpp No 1
6. Sheridan District
7. Calhoun WV
8. 3.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10156
2. 47-013-00715-0000
3. 108 000 000
4. Walter E Smith
5. F E Rothlisberger No 7
6. Sheridan District

7. Calhoun WV
8. 2.8 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10157
2. 47-013-02207-0000
3. 108 000 000
4. E M and W E Smith
5. Solomon Holpp No 1
6. Sheridan District
7. Calhoun, WV
8. 2.4 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10158
2. 47-013-02939-0000
3. 108 000 000
4. E M and W E Smith
5. A Westfall No 2
6. Sheridan District
7. Calhoun, WV
8. 7.2 million cubic feet
9. December 17, 1979
10. Cabet Corporation

1. 80-10159
2. 47-033-02223-0000
3. 108 000 000
4. Swadley Oil and Gas Co
5. Garrett #5
6. Clark
7. Harrison, WV
8. 1.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10160
2. 47-013-02956-0000
3. 108 000 000
4. Smith Jenes & Gibson
5. Daniel Huffman No 1
6. Sherman District
7. Calhoun, WV
8. 3.8 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10161
2. 47-047-04740-0000
3. 108 000 000
4. Atlas Energy Corporation
5. Tug Fork #26 MCD-474
6. Sandy River District
7. McDowell, WV
8. 4.4 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10162
2. 47-047-00532-0000
3. 108 000 000
4. Atlas Energy Corporation
5. Tobac #4 MCD-532
6. Big Creek District
7. McDowell, WV
8. 12.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10163
2. 47-047-00528-0000
3. 108 000 000
4. Atlas Energy Corporation
5. Tobac #2 MCD-528
6. Big Creek District
7. McDowell, WV
8. 7.6 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10164
2. 47-047-00517-0000
3. 108 000 000
4. Atlas Energy Corporation
5. Ruthchardell #9 MCD-517
6. Sandy River District
7. McDowell, WV
8. 17.5 million cubic feet
9. December 17, 1979
10. Consolidated Gas

1. 80-10165
2. 47-047-00502-0000
3. 108 000 000
4. Atlas Energy Corporation
5. Ruthchardell #2 MCD-502
6. Sandy River District
7. McDowell, WV
8. 21.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas

1. 80-10166
2. 47-113-00512-0000
3. 108 000 000
4. Atlas Energy Corporation
5. Ruthchardell #6 MCD-512
6. Sandy River District
7. McDowell, WV
8. 6.7 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10167
2. 47-013-02957-0000
3. 108 000 000
4. Smith Jenes & Gibson
5. F Y Robinson No 1
6. Sherman District
7. Calhoun, WV
8. 1.5 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10168
2. 47-033-20180-0000
3. 108 000 000
4. Swadley Oil and Gas Co
5. Garrett #2
6. Clark
7. Harrison, WV
8. .0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10169
2. 47-033-20228-0000
3. 108 000 000
4. Swadley Oil and Gas Co
5. Garrett #6
6. Clark
7. Harrison, WV
8. 5.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10170
2. 47-033-20231-0000
3. 108 000 000
4. Swadley Oil and Gas Co
5. Garrett #7
6. Clark
7. Harrison, WV
8. 16.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10171
2. 47-085-03323-0000
3. 108 000 000
4. Harry Haddox
5. Cledith Hogue #1
6. Hogue Farm
7. Ritchie, WV
8. 1.5 million cubic feet
9. December 17, 1979
10. Carnegie Gas Co

1. 80-10172
2. 47-047-00512-0000
3. 108 000 000
4. Atlas Energy Corporation
5. Ruthchardell #6 MCD-512
6. Sandy River District
7. McDowell, WV
8. 6.7 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10173
2. 47-047-00517-0000
3. 108 000 000
4. Atlas Energy Corporation
5. Ruthchardell #9 MCD-517
6. Sandy River District
7. McDowell, WV
8. 17.5 million cubic feet
9. December 17, 1979
10. Consolidated Gas

1. 80-10174
2. 47-047-00502-0000
3. 108 000 000
4. Atlas Energy Corporation
5. Ruthchardell #2 MCD-502
6. Sandy River District
7. McDowell, WV
8. 21.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas

1. 80-10176
2. 47-017-20459-0000
3. 108 000 000
4. Ford Development Co
5. Ida Ford #2
6. West Union District
7. Doddridge, WV
8. 4.5 million cubic feet
9. December 17, 1979
10. Equitable Gas Co

1. 80-10177
2. 47-017-20564-0000
3. 108 000 000
4. Ford Development Co
5. Ida Ford #3
6. West Union District
7. Doddridge, WV
8. 1.5 million cubic feet
9. December 17, 1979
10.

1. 80-10178
2. 47-047-00689-0000
3. 108 000 000
4. Texas International Petroleum Corp
5. Pocahontas Land Corp #A-14
6. North Fork
7. McDowell, WV
8. 8.4 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10179
2. 47-047-00690-0000
3. 108 000 000
4. Texas International Petroleum Corp
5. Pocahontas Land Corp #A-15
6. North Fork
7. McDowell County WV
8. 8.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80-10180

V45/19/JA28 80 UMI

2. 47–041–21555–0000
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. Addison Puffenbarger #1
6. Collins Settlement
7. Lewis, WV
8. 8.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80–10181
2. 47–085–23872–0000
3. 108 000 000
4. Industrial Gas Associates
5. H Langford No 4–RIT 3782
6. Union District
7. Ritchie, WV
8. 6.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80–10182
2. 47–085–23781–0000
3. 108 000 000
4. Industrial Gas Associates
5. H Langford No 2–RIT 3780
6. Union District
7.
8. 6.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80–10183
2. 47–085–23780–0000
3. 108 000 000
4. Industrial Gas Associates
5. H Langford No 3–RIT 3780
6. Union District
7.
8. 6.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80–10184
2. 47–085–23775–0000
3. 108 000 000
4. Industrial Gas Associates
5. H Langford No 1–RIT 3775
6. Union District
7. Ritchie, WV
8. 6.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80–10185
2. 47–013–22136–0000
3. 108 000 000
4. Okmar Oil Company
5. Harold Dye #1
6. Sheridan District
7. Calhoun, WV
8. 1.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80–10186
2. 47–007–00697–0000
3. 108 000 000
4. George Jackson
5. Henry Belknap #5
6. Otter District
7. Braxton, WV
8. 1.8 million cubic feet
9. December 17, 1979
10. Equitable Gas Company

1. 80–10187
2. 47–007–00687–0000
3. 108 000 000
4. George Jackson
5. Henry Belknap #4
6. Otter District
7. Braxton, WV
8. 1.8 million cubic feet
9. December 17, 1979
10. Equitable Gas Company

1. 80–10188
2. 47–007–00322–0000
3. 108 000 000
4. George Jackson
5. Henry Belknap et ux #1
6. Otter District
7. Braxton WV
8. 5.0 million cubic feet
9. December 17, 1979
10. Equitable Gas Company

1. 80–10189
2. 47–007–00315–0000
3. 108 000 000
4. George Jackson
5. D J Moyers et al #2
6. Otter District
7. Braxton WV
8. 7.0 million cubic feet
9. December 17, 1979
10. Equitable Gas Company

1. 80–10190
2. 47–007–00306–0000
3. 108 000 000
4. George Jackson
5. L J Smith #1
6. Otter District
7. Braxton WV
8. 2.0 million cubic feet
9. December 17, 1979
10. Equitable Gas Company

1. 80–10191
2. 47–007–00304–0000
3. 108 000 000
4. George Jackson
5. D J Moyers et al #1
6. Otter District
7. Braxton WV
8. 2.0 million cubic feet
9. December 17, 1979
10. Equitable Gas Company

1. 80–10192
2. 47–007–00053–0000
3. 108 000 000
4. George Jackson
5. Elk River Coal & Lumber Co (8075)
6. Hamilton District
7. Nicholas WV
8. 1.6 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80–10193
2. 47–021–00675–0000
3. 108 000 000
4. George Jackson
5. Davis #1
6. Glenville District
7. Gilmer WV
8. 2.0 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80–10194
2. 47–013–21366–0000
3. 108 000 000
4. Okmar Oil Company
5. Eva Dye Hathaway B #1
6. Sheridan District WV
7. Calhoun WV
8. .1 million cubic feet
9. December 17, 1979
10. Consolidated Gas Supply Corp

1. 80–10209
2. 47–001–00045–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. J R Dickinson 9055
6. West Virginia other A–85772
7. Barbour WV
8. 2.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80–10210
2. 47–001–00587–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Harrison-Ritchie O & G Co 11466
6. West Virginia other A–85772
7. Barbour WV
8. 1.5 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80–10211
2. 47–005–00239–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Henry Keadle 7720
6. West Virginia other A–85772
7. Boone WV
8. 1.5 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80–10212
2. 47–005–00253–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Sidney White et al 7723
6. West Virginia other A–85772
7. Boone WV
8. 4.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80–10213
2. 47–005–00770–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Victoria Ball—0133
6. West Virginia other A–85772
7. Boone WV
8. 3.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80–10214
2. 47–005–00810–D000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Federal Coal Co 7645
6. West Virginia other A–85772
7. Boone WV
8. 3.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80–10215
2. 47–005–01187–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Broun Heirs 7704
6. West Virginia other A–85772
7. Boone WV
8. 10.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80–10216
2. 47–007–01396–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. I N Brown 5093
6. West Virginia other A–85772

7. Braxton WV
8. 4.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80–10217
2. 47–007–01391–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. I N Brown 5909
6. West Virginia other A–85772
7. Braxton WV
8. 11.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80–10218
2. 47–007–01394–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. R D Dennison 4175
6. West Virginia other A–85772
7. Braxton WV
8. 9.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80–10219
2. 47–013–01095–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. E E Parson 9495
6. West Virginia other A–85772
7. Calhoun WV
8. 4.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80–10220
2. 47–013–01271–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Gourey L Cabot Inc 9893
6. West Virginia other A–85772
7. Calhoun WV
8. 7.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80–10221
2. 47–021–02935–0000
3. 108 000 000
4. Industrial Gas Associates
5. Lang No 1 Gil–2935
6. Troy District
7. Gilmer WV
8. 4.0 million cubic feet
9. December 18, 1979
10. Consolidated Gas Supply Corp

1. 80–10222
2. 47–085–03803–0000
3. 108 000 000
4. Industrial Gas Associates
5. Riddle No 1 Rit–3803
6. Union District
7. Richie WV
8. 4.0 million cubic feet
9. December 18, 1979
10. Carnegie Natural Gas Company

1. 80–10223
2. 47–085–03809–0000
3. 108 000 000
4. Industrial Gas Associates
5. Clendenin No 1 Rit–3809
6. Union District
7. Ritchie WV
8. .0 million cubic feet
9. December 18, 1979
10. Carnegie Natural Gas Company

1. 80–10224
2. 47–085–03825–0000
3. 108 000 000
4. Industrial Gas Associates
5. Minear No 1 Rit–3825
6. Clay District
7. Ritchie WV
8. 4.0 million cubic feet
9. December 18, 1979
10. Carnegie Natural Gas Company

1. 80–10225
2. 47–013–01813–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Louis Bennett 10277
6. West Virginia other A–85772
7. Calhoun WV
8. 4.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80–10226
2. 47–013–02483–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. L Gainer—11374
6. West Virginia other A–85772
7. Calhoun WV
8. 11.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80–10227
2. 47–013–02922–0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. G & S Gainer 6767
6. West Virginia other A–85772
7. Calhoun WV
8. 2.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80–10228
2. 47–013–02926–0000
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. G W Hardman 6874
6. West Virginia other A–85772
7. Calhoun WV
8. 8.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80–10229
2. 47–013–02931–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. L S Witt 4949
6. West Virginia other A–85772
7. Calhoun WV
8. 9.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80–10230
2. 47–013–02934–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. C W Bryner 5579
6. West Virginia other A–85772
7. Calhoun WV
8. 4.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80–10231
2. 47–013–02938–0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. J T Jones 5650
6. West Virginia other A–85772
7. Calhoun WV
8. 5.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80–10232
2. 47–021–00999–0000
3. 108 000 000
4. Trio Petroleum Corp
5. Post A No 1
6. Glenville South
7. Gilmer WV
8. 5.9 million cubic feet
9. December 18, 1979
10. Consolidated Gas Supply Corp

1. 80–10233
2. 47–021–01091–0000
3. 108 000 000
4. Trio Petroleum Corp
5. Garrett No 1
6. Glenville South
7. Gilmer WV
8. 9.0 million cubic feet
9. December 18, 1979
10. Consolidated Gas Supply Corp

1. 80–10234
2. 47–021–01846–0000
3. 108 000 000
4. Trio Petroleum Corp
5. Burke No 2
6. Chaple-German
7. Gilmer WV
8. 1.9 million cubic feet
9. December 18, 1979
10. Consolidated Gas Supply Corp

1. 80–10235
2. 47–085–03790–0000
3. 108 000 000
4. Industrial Gas Associates
5. Simmons/Jobes No 1 RIT–3790
6. Union District
7. Ritchie WV
8. 3.5 million cubic feet
9. December 18, 1979
10. Columbia Gas Transmission Corp

1. 80–10236
2. 47–085–03801–0000
3. 108 000 000
4. Industrial Gas Associates
5. Summers/Pocono No 1 RIT–3801
6. Murphy District
7. Ritchie WV
8. 14.0 million cubic feet
9. December 18, 1979
10. Columbia Gas Transmission Corp

1. 80–10237
2. 47–085–03810–0000
3. 108 000 000
4. Industrial Gas Associates
5. Ashburn No 1 RIT–3810
6. Union District
7. Ritchie WV
8. 4.0 million cubic feet
9. December 18, 1979
10. Columbia Gas Transmission Corp

1. 80–10238
2. 47–708–50380–5000
3. 108 000 000
4. Industrial Gas Associates
5. Taylor No 1 RIT–3805
6. Clay District
7. Ritchie WV
8. 4.0 million cubic feet
9. December 18, 1979
10. Equitable Natural Gas Company

1. 80–10239

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2. 47-085-03804-0000
3. 108 000 000
4. Industrial Gas Associates
5. Meathrell No 1 RIT-3804
6. Union District
7. Ritchie WV
8. 3.5 million cubic feet
9. December 18, 1979
10. Consolidated Gas Supply Corp

1. 80-10240
2. 47-085-03763-0000
3. 108 000 000
4. Industrial Gas Associates
5. Summers No 1 RIT-3763
6. Murphy District
7. Ritchie WV
8. 17.0 million cubic feet
9. December 18, 1979
10. Consolidated Gas Supply Corp

1. 80-10241
2. 47-061-00308-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Whetsell-A No 1
6. South Burns Chapel
7. Monongahela WV
8. 14.2 million cubic feet
9. December 18, 1979
10. Consolidated Gas Supply Corp

1. 80-10242
2. 47-061-00311-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Harworth-A No 1
6. South Burns Chapel
7. Monongahela WV
8. 14.5 million cubic feet
9. December 18, 1979
10. Consolidated Gas Supply Corp

1. 80-10243
2. 47-061-00316-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Cascade-C No 1
6. South Burns Chapel
7. Monongahela WV
8. 14.6 million cubic feet
9. December 18, 1979
10. Consolidated Gas Supply Corp

1. 80-10244
2. 47-061-00317-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Greer-A No 1
6. South Burns Chapel
7. Monongahela WV
8. 10.1 million cubic feet
9. December 18, 1979
10. Consolidated Gas Supply Corp

1. 80-10245
2. 47-061-00318-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Allegheny-A No 1
6. South Burns Chapel
7. Monongahela WV
8. 3.5 million cubic feet
9. December 18, 1979
10. Consolidated Gas Supply Corp

1. 80-10246
2. 47-061-00319-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Greer-B No 1
6. South Burns Chapel
7. Monongahela WV
8. 5.9 million cubic feet
9. December 18, 1979
10. Consolidated Gas Supply Corp

1. 80-10247
2. 47-077-00129-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Ward-B No 1
6. South Burns Chapel
7. Preston WV
8. 9.3 million cubic feet
9. December 18, 1979
10. Consolidated Gas Supply Corp

1. 80-10249
2. 47-007-00360-0000
3. 108 000 000
4. Trio Petroleum Corp
5. Post C No 1
6.
7. Braxton WV
8. 2.1 million cubic feet
9. December 18, 1979
10. Consolidated Gas Supply Corp

1. 80-10250
2. 47-017-00095-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. W Brent Maxwell 7046
6. West Virginia other A-85772
7. Doddridge WV
8. 4.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80-10251
2. 47-017-01693-DDFR
3. 108 000 000
4. Consolidated Gas Supply Corp
5. S H Carder 3246
6. West Virginia other A-85772
7. Doddridge WV
8. .2 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80-10252
2. 47-017-01912-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. B F Heflin 946
6. West Virginia other A-85772
7. Doddridge WV
8. 5.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80-10253
2. 47-017-01921-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. W F Wildman 1466
6. West Virginia other A-85772
7. Doddridge WV
8. 3.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80-10254
2. 47-017-01937-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Margaret J McMillan 2862
6. West Virginia other A-85772
7. Doddridge WV
8. 8.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80-10255
2. 47-017-01962-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. W S Haddot 4933
6. West Virginia other A-85772
7. Doddridge WV
8. 16.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80-10256
2. 47-017-01976-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. S B McMillan 7019
6. West Virginia other A-85772
7. Doddridge WV
8. 4.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80-10257
2. 47-017-02156-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. H Smith 419
6. West Virginia other A-85772
7. Doddridge WV
8. 15.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80-10258
2. 47-021-00674-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Porter Maxwell 8974
6. West Virginia other A-85772
7. Gilmer WV
8. 2.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80-10259
2. 47-021-01206-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. W B Maxwell et al 11111
6. West Virginia other A-85772
7. Gilmer WV
8. 5.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80-10260
2. 47-021-03489-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. L H Huff 5888
6. West Virginia other A-85772
7. Gilmer WV
8. 3.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80-10261
2. 47-033-00047-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Anita B Goff et al 11054
6. West Virginia other A-85772
7. Harrison WV
8. 4.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80-10262
2. 47-033-00120-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. J M Coffman 2861
6. West Virginia other A-85772

7. Harrison WV
8. 10.0 million cubic feet
9. December 18, 1979
10. General System Purchasers

1. 80-10263
2. 47-007-00006-D100
3. 108 000 000
4. Trio Petroleum Corp
5. Humphreys No 1
6. Heaters
7. Braxton WV
8. 1.0 million cubic feet
9. December 18, 1979
10. Consolidated Gas Supply Corp

1. 80-10264
2. 47-007-00611-0000
3. 108 000 000
4. Trio Petroleum Corp
5. Post B No 2
6.
7. Braxton WV
8. 7.2 million cubic feet
9. December 18, 1979
10. Consolidated Gas Supply Corp

1. 80-10265
2. 47-007-00885-0000
3. 108 000 000
4. Trio Petroleum Corp
5. Post C No 2
6.
7. Braxton WV
8. 9.4 million cubic feet
9. December 18, 1979
10. Consolidated Gas Supply Corp

1. 80-10266
2. 47-007-00909-0000
3. 108 000 000
4. Trio Petroleum Corp
5. Post D No 2
6. Glenville South
7. Braxton WV
8. 2.5 million cubic feet
9. December 18, 1979
10. Consolidated Gas Supply Corp

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 12, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-2695 Filed 1-25-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1400-4]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A-104) US Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements (EISs) which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of January 14, 1980 to January 18, 1980.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from January 25, 1980 and will end on March 10, 1980. The 30-day review period for final EIS's as calculated from January 25, 1980 will end on February 25, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

FOR HARD COPY REPRODUCTION: Environmental Law Institute, 1346 Connecticut Avenue, NW., Washington, DC 20036.

FOR HARD COPY REPRODUCTION OR MICROFICHE: Information Resources Press, 2100 M Street, NW., Suite 316, Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review (A-104), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 245-3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ Regulations became effective. Pursuant to § 1506.10(a), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of January 14, 1980 to January 18, 1980 the 30-day review period will be calculated from January 25, 1980. The review period will end on February 25, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of January 14, 1980 to January 18, 1980. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this Notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the **Federal Register** and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: January 22, 1980.

Joseph M. McCabe,

Acting Director, Office of Environmental Review (A-104).

Appendix I—EIS's Filed With EPA During the Week of January 14, 1980, Through January 18, 1980

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412-A Admin. Building, Washington, D.C. 20250, (202) 447-3965.

Forest Service

Final

Presidential Unit Plan, White Mountain NF, Coos and Carroll Counties, N.H., January 14: the proposed action is to implement a land management plan for the 100,000 acre

presidential unit of the White Mountain National Forest located in Coos and Carroll Counties, New Hampshire. The plan includes building new and expanding existing recreational facilities such as picnic areas, primitive overnight facilities and ski and hiking trails. Reduction and removal of existing emergency shelters and winter off road area is proposed. Also proposed is the establishment of mangement direction for forest trails, roads, information services, timber, access roads, and protection of unique plant/insect species/endangered wildlife species (USDA–FS–R9–FES–ADM–79–01). Comments made by: DOE, DOI, DOT, EPA, State and local agencies, groups, and businesses. (EIS Order No. 800033.)

Soil Conservation Service

Draft

Indian Creek-Van Buren Watershed, Van Buren County, Iowa and Clark County, Mo., January 16: proposed is a multipurpose plan for the Indian Creek-Van Buren Watershed located in Van Buren County, Iowa and Clark County, Missouri. The Watershed area encompasses 47,200 acres of land. The project will include nine floodwater retarding structures for flood prevention; one multiple-purpose structure for flood prevention, municipal and industrial water supply, other agricultural water, and fish and wildlife development. (EIS Order No. 800045.)

Final

Lower Pine Creek Watershed, flood protection, Contra Costa County, Calif., January 16: Proposed is a watershed protection and flood prevention plan for the lower Pine Creek Watershed located in Contra Costa County, California. The project will consist of: (1) Excavation of a 47-acre storm-water detention basin and construction of a control structure and other appurtenant structures, and (2) diaposal of approximately 1,000,000 cubic yards of excavation spoil immediately adjacent to the basin site. Comments made by: USA, DOC, DOI, EPA, USDA, HEW, DOT, State and local agencies. (EIS Order No. 800037.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR—P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272–0121.

Draft

Norfolk Harbor and Channels, deepening and disposal, Virginia, January 16: Proposed are navigation improvements for the Norfolk harbor and channels located in Norfolk, Virginia. The plan includes: (1) Deepening the existing channels five feet deeper, (2) constructing three sets of fixed mooring anchorage areas capable of handling a total of six vessels at one time, and (3) utilizing a 6,000 acre tract of land at the northern end of the dismal swamp in the city of Suffolk for spoil disposal (Norfolk district). (EIS Order No. 800038.)

Final

Dansville and vicinity local flood protection, Livingston County, N.Y., January 18: Proposed is a local flood protection plan for Dansville and vicinity located in Livingston County, New York. The plan would be limited to stream work in the area of the route 36 and Genesee Expressway bridges over Canaseraga Creek. The work will include: (1) Construction of a 400 foot long steel sheet pile wall between route 36 and the Genesee Expressway north lane, (2) removal of the Hartman Street Bridge, (3) installation of a new pair of gravity walls, (4) installation of 260 feet of crib walk, and (5) construction of two earthen levees (Buffalo District). Comments made by: USDA, EPA, DOI, State and local agencies. (EIS Order No. 800041.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377–4335.

National Oceanic and Atmospheric Administration

Draft

1980 Salmon Fisheries Management Plan (DS–2), Pacific Ocean, January 18: This statement supplements a final EIS, No. 780221, dated 3–6–78 concerning the management of salmon fisheries off the coasts of California, Washington and Oregon. The Statement addresses the latest spawning escapement and stock assessment data which indicates that many of the 1980 salmon runs will be depressed, particularly coastal coho stocks, California chinooks, and upriver Columbia chinook stocks. Management objectives for 1980 remain the same as those listed in the FEIS (EIS Order No. 800043.)

Final

Precious Coral Fisheries, Western Pacific, FMP, Pacific Ocean, January 17: Proposed is the implementation of a fishery management plan for three species of precious corals in the Western Pacific region. The management measures will include: (1) catch quotas, (2) a minimum size for pink coral colonies, (3) establishment of closed beds or refugia, (4) requirement that all coral harvesting be done under permit, and (5) requirement of extensive reporting of operations by permit holders. Comments made by: COE, DOI, State and local agencies, groups, individuals and businesses. (EIS Order No. 791152.)

The above EIS has been refiled as of January 17, 1980. The 30 day review period will begin in January 25, 1980 and terminate on February 25, 1980.

ENVIRONMENTAL PROTECTION AGENCY

Contact: RTP Library, Environmental Research Center, Research Triangle Park, NC., 27711, (919) 541–2777.

Draft

Lead-acid battery manufacture, standards, regulatory, January 16: Proposed are performance standards for the manufacture of lead-acid batteries by new, modified or reconstructed facilities which have a production capacity equal to or greater than 500 batteries per day. The standards propose: Emission limits, continuous monitoring of the pressure drop across the control system, performance tests to determine compliance, and a new method to measure the amount of lead in exhaust gases (EPA–450/3–79–028A). (EIS Order No. 800040.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343–3891.

Bureau of Land Management

Final

1980 OCS Nos. 62A and 62, Gulf of Mexico, Gulf of Mexico, January 15: Proposed are two 1980 OCS oil and gas lease sales, Nos. 62A and 62, in the Gulf of Mexico. The sales would include 272 tracts totaling 1,365,543 acres. Sale 62A includes 192 tracts totaling 915,838 acres ranging from 3 to 104 nautical miles from shore in water from 12 to 2,179 feet deep. Sale 62 includes 80 tracts offshore the Western Gulf of Mexico totaling 449,705 acres ranging from 3 to 104 nautical miles offshore in waters from 30 to 1,460 feet deep.

Comments made by: NRC, AHP, DOI, COE, HUD, EPA, DOC, USDA, FERC, DOT, State and local agencies, groups, and businesses. (EIS Order No. 800035.)

OCS five year oil and gas lease schedule, January 18: Proposed is a five-year schedule consisting of 30 oil and gas lease sales in 15 areas of the OCS. Seven alternatives are considered including: (1) Two that would delay sales, (2) three which would involve omissions of sales from the schedule, (3) a final schedule for 33 sales in 13 leasing areas, and (4) no action. The schedule includes sales offshore of all east coast States, Alabama, Mississippi, Louisiana, Texas, California and Alaska.

Comments made by: NRC, DOI, DOC, DOE, EPA, COE, DOT, USAF, State and local agencies, groups, and businesses. (EIS Order No. 800042.)

Heritage Conservation and Recreation Ser

Draft Supplement

Atlantic/Gulf coasts protective barrier islands, Atlantic Ocean, January 15: Proposed are alternative policies for protecting barrier islands along the Atlantic and Gulf coasts of the United States. Examined are Federal programs which through grants, loans, subsidies, permits or acquisition and management, contribute to the development or protection of barrier islands, beaches, and spits which lie adjacent to the Atlantic and Gulf coasts.
(DES–80–1) (EIS Order No. 800036.)

DEPARTMENT OF THE NAVY

Contact: Mr. Ed Johnson, Head, Environmental Impact Statement/RDT&E Branch, Office of the Chief of Naval Operations, Department of the Navy, Washington, D.C. 20350, (202) 697–3689.

Draft

Atlantic Fleet Weapons Training Facility, Vieques, Puerto Rico, January 18: Proposed is the continued use of the Atlantic Fleet Weapons Training Facility inner range located on the island of Vieques, Commonwealth of Puerto Rico. The activities of the facility include: Air-to-ground and naval gunfire support training, Marine landings, maneuver and artillery training operations, and storage of ammunition. The alternatives consider: (1) Continuation of activities; (2) ceasing all or some activities, excessing land and transferring activity; and (3) ceasing all or some activities without excessing land or transferring activity. (EIS Order No. 800043.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426–4537.

Federal Aviation Administration

Draft Supplement

Metropolitan Washington airports policy, Arlington, Fairfax, and Loudon Counties, Va., January 15: This statement supplements a draft EIS, #780335, dated 4–6–78 concerning proposed policy for the metropolitan Washington airports. This supplement reduces the alternatives under consideration to those which focus on the issues raised during the review of the draft. The policies proposed would reduce the use of National Airport, including closing it at night, and increasing the regional air passenger volume at Dulles. (EIS Order No. 800039.)

Federal Highway Administration

Draft

Steilacoom-Orchard traffic study, Pierce County, Wash., January 18: Proposed is the Steilacoom-Orchard traffic study for the purposes of selecting a location and a design for a new or improved transportation facility in Pierce County, Washington. The facility would relieve traffic volumes in the Steilacoom Boulevard-Orchard Street corridor. The alternatives include: (1) Improvement of existing conditions, (2) Construction of the 67th Avenue Bridge, and (3) Construction of the 75th Street W. Bridge. Nine optional improvements are considered. (FHWA–WA–EIS–80–01–D) (EIS Order No. 800044.)

Final

Max North and South, US 83, ND–23 to ND–37, Ward and McLean Counties, N. Dak., January 15: Proposed is the construction of a two lane roadway parallel to the existing roadway on US 83 from ND–23 south to ND–37. The project would provide a four lane divided highway approximately 22 miles long. The proposed improvement requires the purchase of right-of-way. Basically, it is proposed to construct an additional roadway adjacent to the existing roadway throughout the length of the improvement. The existing roadway will remain in place to serve as one roadway of the four-lane divided highway. This project is located in the counties of Ward and McLean, North Dakota. (FHWA–ND–EIS–79–04F). Comments made by: DOI, EPA, COE, DOE, USDA, and State agencies. (EIS Order No. 800034.)

EIS's Filed During the Week of Jan. 14 to Jan. 18, 1980

[Statement title index—by State and county]

State	County	Status	Statement title	Accession No.	Date filed	Original agency No.
Atlantic Ocean		Supple	Atlantic/Gulf Coasts Protective Barrier Islands	800036	01-15-80	DOI
California	Contra Costa	Final	Lower Pine Creek Watershed, Flood Protection	800037	01-16-80	USDA
Gulf of Mexico		Final	1980 OCS Nos. 62A and 62, Gulf of Mexico	800035	01-15-80	DOI
Iowa	Van Buren	Draft	Indian Creek-Van Buren Watershed	800045	01-16-80	USDA
Missouri	Clark	Draft	Indian Creek-Van Buren Watershed	800045	01-16-80	USDA
New Hampshire	Carroll	Final	Presidential Unit Plan, White Mountain NF	800033	01-14-80	USDA
	Coos	Final	Presidential Unit Plan, White Mountain NF	800033	01-14-80	USDA
New York	Livingston	Final	Dansville and Vicinity Local Flood Protection	800041	01-18-80	COE
North Dakota	McLean	Final	Max North and South, U.S. 83, ND–23 to ND–37	800034	01-15-80	DOT
	Ward	Final	Max North and South, U.S. 83, ND–23 to ND–37	800034	01-15-80	DOT
Pacific Ocean		Draft	1980 Salmon Fisheries Management Plan (DS–2)	800043	01-18-80	DOC
Regulatory		Draft	Lead-Acid Battery Manufacture, Standards	800040	01-16-80	EPA
Several		Final	OCS Five Year Oil and Gas Lease Schedule	800042	01-18-80	DOI
Virginia		Draft	Norfolk Harbor and Channels, Deepening and Disposal	800038	01-16-80	COE
Virginia	Arlington	Supple	Metropolitan Washington Airports Policy	800039	01-15-80	DOT
	Fairfax	Supple	Metropolitan Washington Airports Policy	800039	01-15-80	DOT
	Loudon	Supple	Metropolitan Washington Airports Policy	800039	01-15-80	DOT
Washington	Pierce	Draft	Steilacoom-Orchard Traffic Study	800044	01-18-80	DOT

Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No	Date notice of availability published in "Federal Register"	Waiver/ extension	Date review terminates
DEPARTMENT OF AGRICULTURE					
Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412–A Admin. Building, Washington, D.C. 20250, (202) 447–3965.	Cooperative 1980 Maine Spruce Budworm Suppression Project.	Draft 91272	Jan. 4, 1980	Extension	Feb. 11, 1980.
	Cooperative 1980 Gypsy Moth Suppression and Regulatory Program.	Draft 91270	Jan. 4, 1980	Extension	Feb. 11, 1980.

Appendix III.—*EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency*

Federal agency contact	Title of EIS	Filing status/accession No	Date notice of availability published in "Federal Register"	Date of withdrawal
None.				

V45/19 JA28 80 UMI

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/No.	Date notice published in "Federal Register"	Reason for retraction
None.				

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No.
U.S. ARMY CORPS OF ENGINEERS			
Mr. Richard Mekinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.	Beach Erosion Control Project, Virginia Beach, Virginia.	Jan. 18, 1980	800046
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT			
Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6300.	Sugar Mill Subdivision, Sugar Land, Texas.	Jan. 18, 1980	800047

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Correction
None.				

[FR Doc. 80-2720 Filed 1-25-80; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1209]

Petitions for Reconsideration of Actions in Rulemaking Proceedings Filed

January 21, 1980.

Docket or RM No.	Rule No.	Subject	Date received
21142	89, 91, 93, and 95	Amendment of Parts 89, 91, 93, and 95 (General Mobile Radio Service) of the Commission's Rules and Regulations to replace the low-pass audio filering requirements with a revised emission limitation standard.	
		(Filed by Joseph M. Kittner and Lawrence J. Movshin, Attorneys for Associated Public-Safety Communications Officers, Inc.).	Jan. 7, 1980.
CC 78-219	63.54 and 64.601	Revision of the processing policies for waivers of the telephone company-cable television "cross ownership rules". Sections 63.54 and 64.601 of the Commission's Rules and Regulations.	
		(Filed by Thomas J. O'Reilly, Attorney for United States Independent Telephone Association).	Jan. 10, 1980.
		(Filed by Stephen R. Effros, Executive Director for The Community Antenna Television Association).	Jan. 17, 1980.

NOTE.—Oppositions to petitions for reconsideration must be filed on or before February 12, 1980. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 80-2548 Filed 1-25-80; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL ELECTION COMMISSION

[Notice 1980-3]

1979 Year End Reports

AGENCY: Federal Election Commission.

ACTION: Notice to committees filing 1979 year end reports.

SUMMARY: Year end reports of 1979 campaign activity filed by committees under the Federal Election Campaign Act of 1971 (FECA) must comply with the provisions of the FECA prior to the 1979 Amendments (Pub. L. 96-187).

DATES: Year end reports must be filed by January 31, 1980.

FOR FURTHER INFORMATION CONTACT: Public Information Office, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463 (202)523-4068, (800) 424-9530.

Notice to Committees Filing 1979 Year End Reports

The 1979 Amendments to the FECA, Pub. L. No. 96-187, revised certain reporting requirements of the Act. The effective date of these Amendments was January 8, 1980. All year end reports covering calendar year 1979, filed on January 31, 1980, should therefore comply with the provisions of the Act in effect during the reporting period covered in that report. Thus, year end reports for 1979 should be filed in compliance with the provisions of the Act prior to the 1979 Amendments, in the same manner and subject to the same requirements as all previous reports which were filed during 1979.

Dated: January 24, 1980.

Robert O. Tiernan,
Chairman, Federal Election Commission.

[FR Doc. 80-2775 Filed 1-25-80; 8:45 am]
BILLING CODE 6715-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before February 18, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. 93-21.

Filing Party: David C. Nolan, Esq., Graham & James, One Maritime Plaza, San Francisco, California 94111.

Summary: Agreement No. 93-21 amends the last Paragraph of Article 1 of the North Europe-United States Pacific Freight Conference to extend the expiration date of the "independent action clause," through end of 1980.

Agreement No. T-3376-3

Filing Party: Randall V. Adams, Traffic, Port of Palm Beach, P. O. Box 9935, Riviera Beach, Florida 33404.

Summary: Agreement No. T-3376-3, between the Port of Palm Beach District (Port) and Caribbean Lines Corporation (CLC), modifies the parties' basic agreement providing for the lease to CLC of office space located in Palm Beach, Florida. The purpose of the modification is to extend the term of the agreement for an additional one-year period and to increase the rental.

Agreement No. 5600-39.

Filing Party: Charles F. Warren, Esquire, Warren & Associates, P.C., 1100 Connecticut Avenue, N.W., Washington, D.C. 20036.

Summary: Agreement No. 5600-39 modifies the basic agreement of the Philippines North American Conference by amending Article 2A(4) to provide for substituted overland service via U.S. Atlantic and Gulf ports to all ports on the East Coast of Canada, including Canadian ports on Lake Ontario and ports east thereof. Service to Canadian ports is now provided by water, only.

Agreement No. 7540-32.

Filing Party: Nathan J. Bayer, Esq., Brauner Baron Rosenzweig Kligle Sparber & Bauman, 120 Broadway, New York, New York 10005.

Summary: Agreement No. 7540-32 amends the basic agreement of the Leeward and Windward Islands and Guianas Conference to revise and clarify the membership and voting qualifications for the three Sections of the Conference.

Agreement No. 7680-40.

Filing Party: Dominick J. Manfredi, Chairman, American West African Freight Conference, 67 Broad Street, New York, New York 10004.

Summary: Agreement No. 7680-40 amends the basic agreement of the American West African Freight Conference to eliminate the requirement that each associate of each member carrier sign and file with the Conference Chairman commitments to cooperate with the neutral body.

Agreement No. 9735-12.

Filing Party: John K. Cunningham, Executive Secretary, Atlantic Regional Committee, Steamship Operators Intermodal Committee, 11 Broadway, New York, New York 10004.

Summary: Agreement No. 9735-12 is a proposal by the members of the Steamship Operators Intermodal Committee to make the $100.00 membership fee for admission to each Regional Committee nonrefundable. Currently, this fee is returned to members upon either their resignation or the dissolution of the agreement, with members having the option to apply it to any outstanding indebtedness under the agreement.

By Order of the Federal Maritime Commission.

Dated: January 23, 1980.

Francis C. Hurney,
Secretary.

[FR Doc. 80-2840 Filed 1-25-80; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

American Fletcher Corp.; Proposed Retention of Tecumseh Insurance Co.

American Fletcher Corporation, ("Applicant"), Indianapolis, Indiana, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to retain voting shares of Tecumseh Insurance Company, Phoenix, Arizona.

Applicant states that its subsidiary would continue to reinsure credit life and credit disability insurance, purchased by installment loan borrowers from the credit granting subsidiaries of Applicant under group policies issued by primary insurers. These activities would be performed from an office of Applicant's subsidiary in Phoenix, Arizona, and the geographic areas to be served are Indiana and

Michigan. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 21, 1980.

Board of Governors of the Federal Reserve System, January 21, 1980

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-2627 Filed 1-25-80; 8:45 am]

BILLING CODE 6210-01-M

Coushatta Bancshares, Inc.; Formation of Bank Holding Company

Coushatta Bancshares, Inc., Coushatta, Louisiana, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80–100 per cent of the voting shares of Bank of Coushatta, Coushatta, Louisiana. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 21, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 21, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-2622 Filed 1-25-80; 8:45 am]

BILLING CODE 6210-01-M

Farmers & Merchants Financial Corp.; Formation of Bank Holding Company

Farmers and Merchants Financial Corporation, Argonia, Kansas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 86 percent or more of the voting shares of Farmers and Merchants State Bank, Argonia, Kansas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 21, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 21, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-2624 Filed 1-25-80; 8:45 am]

BILLING CODE 6210-01-M

First Chico Bancshares, Inc.; Formation of Bank Holding Company

First Chico Bancshares, Inc., Chico, Texas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares, less directors' qualifying shares, of First State Bank of Chico, Chico, Texas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. §1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 21, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 21, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-2621 Filed 1-25-80; 8:45 am]

BILLING CODE 6210-01-M

Griswold State Bancshares, Inc.; Proposed Acquisition of Prokop Insurance Agency, Inc.

Griswold State Bancshares, Inc., Griswold, Iowa has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843 (c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire voting shares of Prokop Insurance Agency, Inc.

Applicant states that the proposed subsidiary would perform the activities of general insurance, in accordance with the Board's Regulation Y, including acting as an agent or broker for the sale of credit life and credit accident and health and property and casualty, insurance directly related to extensions of credit by Applicant's subsidiary bank. These activities would be performed from offices of Applicant's subsidiary in Griswold, Iowa, and the geographic areas to be served are southwestern Cass and eastern Pottawattamie Counties, Iowa. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 21, 1980.

Board of Governors of the Federal Reserve System, January 21, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-2626 Filed 1-25-80; 8:45 am]

BILLING CODE 6210-01-M

KBG Bancorporation, Inc.; Formation of Bank Holding Company

KBG Bancorporation, Wesley, Iowa, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Exchange State Bank, Wesley, Iowa. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 21, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 21, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-2620 Filed 1-25-80; 8:45 am]

BILLING CODE 6210-01-M

Troy Bancgroup & Co.; Formation of Bank Holding Company

Troy Bancgroup & Co., St. Louis, Missouri, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 97 per cent or more of the voting shares of Troy Security Bank, Troy, Illinois. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than February 21, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 21, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-2623 Filed 1-25-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Commercial Practices; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Worthington Industries, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of certain stock of Buckeye International, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to requests for early termination submitted by Worthington Industries, Inc. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: January 17, 1980.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-2057 Filed 1-25-80; 4:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

Indian Education—Grants to Local Educational Agencies; Closing Date for Transmittal of Applications for Fiscal Year 1980

Applications are invited for new projects under the Indian Education Act program of entitlement grants to local educational agencies (LEAs) and tribal schools.

Authority for this program is contained in Part A of the Indian Education Act, as amended (20 U.S.C. 241aa–241ff).

This program authorizes grants to LEAs and to certain Indian tribes and Indian organizations described in Section 1146 of Pub. L. 95–561.

The purpose of the grants is to support elementary and secondary school programs designed to meet the special educational and culturally related academic needs of Indian children.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by April 7, 1980.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.534, Washington, D.C. 20202.

To establish proof of mailing by the deadline date, an applicant must show one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office. An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available funds: The amount of fiscal year 1980 funds for this program is $47,273,000. The amount of each grant is based on a formula that takes into account the Indian student enrollment in the applicant's schools and the average per pupil expenditure of school districts in the applicant's State.

Application forms: Application forms and program information packages may be obtained by writing to the Office of Indian Education, U.S. Office of Education, Room 2177, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 25 pages. The Commissioner further suggests that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing programs under Part A of the Indian Education Act (45 CFR Parts 186 and 186a).

These regulations were published in proposed form in the Federal Register on June 29, 1979 (44 FR 38154). Applicants should base their applications on the notice of proposed rulemaking. When they are published as final regulations and become effective, these regulations will govern applications and grants under this program.

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c).

These regulations were published in proposed form in the Federal Register on May 4, 1979 (44 FR 26298). When they are published as final regulations and become effective, they will supersede the Office of Education general provisions regulations (45 CFR Parts 100a through 100d) and will govern applications and grants under this program.

If changes that relate to the preparation of applications for fiscal year 1980 are made in the Indian Education Act final regulations or in the EDGAR final regulations, the Commissioner may extend the closing date to permit applicants to amend their applications.

Further information: For further information, contact Dr. John Tippeconnic, Associate Deputy Commissioner, Office of Indian Education, U.S. Office of Education, Room 2177, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245–8020. (20 U.S.C. 241aa–241ff)

Dated: January 22, 1980.

(Catalog of Federal Domestic Assistance Program No. 13.534, Indian Education—Grants to Local Educational Agencies)

William L. Smith,

U.S. Commissioner of Education.

[FR Doc. 80-2858 Filed 1-25-80; 8:45 am]

BILLING CODE 4110-02-M

Office of Human Development Services

1981 White House Conference on Aging, National Advisory Committee; Establishment

AGENCY: Office of Human Development Services, DHEW.

ACTION: Notice of Advisory Committee Establishment.

PURPOSE: The 1981 White House Conference on Aging National Advisory Committee shall provide advice and recommendations to the Secretary, Department of Health, Education, and Welfare and to the Executive Director of the 1981 White House Conference on Aging to assist in planning, conducting, and reviewing the Conference.

DATES: The Charter for this Committee was signed by the Secretary of Health, Education, and Welfare on December 31, 1979. It will terminate when the Committee has completed its work, or on December 31, 1981, whichever comes first, unless renewed by appropriate action prior to the end of the first two-year period.

FOR FURTHER INFORMATION CONTACT: Mr. Jerome Waldie, Executive Director, White House Conference on Aging, Room 4063, 330 Independence Avenue, SW., Washington, D.C. 20201, (202) 245–1914.

Dated: January 23, 1980.

Arnold Sampson,

HDS Committee Management Officer.

[FR Doc. 80-3688 Filed 1-25-80; 8:45 am]

BILLING CODE 4110-85-M

Office of the Secretary

Advisory Council on Education Statistics; Meeting

Notice is hereby given, pursuant to Section 10, Pub. L. 92–463, that a meeting of the Advisory Council on Education Statistics will be held on February 13, 1980, from 9:00 a.m. to 5:00 p.m., in Room 3000, FOB #6, 400 Maryland Avenue, S.W., Washington, D.C. 20202. The meeting will be continued on February 14, 1980, from 9:00 a.m. to 12:30 p.m., at the same location.

The Advisory Council on Education Statistics is mandated by Section 406(c) of the General Education Provisions Act as added by Section 501(a) of the Education Amendments of 1974, Pub. L. 93–380 (20 USC 1221e–1(c)), to advise the Secretary of the Department of Health, Education and Welfare, and the Assistant Secretary for Education, and the National Center for Education Statistics (NCES); and "shall review general policies for the operation of the Center and shall be responsible for establishing standards to ensure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence."

The meeting agenda will include an Administrator's report summarizing recent developments regarding major projects of the National Center for Education Statistics.

Other major topics will include the status of program planning for Federal fiscal year 1982, the Annual Report of the Council, and information on the supply and demand for teachers.

Questions regarding the meeting should be directed to: Executive Director, Advisory Council on Education Statistics, Room 3153–E, FOB #6, 400 Maryland Avenue SW., Washington, D.C. 20202.

Records shall be kept of all Council proceedings and shall be available for public inspection in the Office of the Administrator, National Center for Education Statistics, located at 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Signed at Washington, D.C. on January 23, 1980.

Mario D. Eldridge,

Administrator, National Center for Education Statistics.

[FR Doc. 80-2363 Filed 1-25-80; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-80-971]

Privacy Act of 1974; HUD Region X Field Offices and Officials

AGENCY: Department of Housing and Urban Development.

ACTION: Publication of Region X Field Offices and Officials to receive inquiries, requests for access and requests for correction or amendment to Privacy Act systems of records.

SUMMARY: This notice lists the addresses of the Department's Region X Field Offices and the titles of Region X Officials to receive inquiries, requests for access and requests for correction or amendment to Privacy Act systems of records.

EFFECTIVE DATE: This notice is effective on January 28, 1980.

FOR FURTHER INFORMATION CONTACT: Robert English, Departmental Privacy Act Officer, Telephone 202–557–0605.

SUPPLEMENTARY INFORMATION: This list of HUD Region X Field Offices and Region X Officials was inadvertently omitted from Appendix A to the Department's Privacy Act Systems of Records Annual Publication, published at 44 FR 72307 (December 13, 1979).

Region X

Regional Administrator, 3003 Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101.

Area Offices:

Area Manager, 334 West 5th Avenue, Anchorage, Alaska 99501.

Area Manager, 520 Southwest 6th Avenue, Portland, Oregon 97204.

Area Manager, Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101.

Service Offices:

Supervisor, 419 North Curtis Road, Post Office Box 32, Boise, Idaho 83707.

Supervisor, West 920 Riverside Avenue, Spokane, Washington 99201.

(5 U.S.C. 552a, 88 Stat. 1896; sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., January 21, 1980.

Vincent J. Hearing,

Deputy Assistant Secretary for Administration.

[FR Doc. 80-2642 Filed 1-25-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Approval of Petition for Reassumption of Jurisdiction Confederated Tribes and Bands, Yakima Indian Nation

January 11, 1980.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary, Indian Affairs by 209 DM 8.

The Indian Child Welfare Act of 1978 provides, subject to certain specified conditions, that the Secretary of the Interior shall approve tribal petition for reassumption of jurisdiction over Indian child custody proceedings.

This is notice that a petition for the tribal reassumption of jurisdiction over child custody proceedings from the Confederated Tribes and Bands of the Yakima Indian Nation is approved effective March 28, 1980. The territory subject to the reassumption of jurisdiction includes the territory within the boundaries commencing on the Yakima River, at the mouth of the ATTAH–NAM river; thence westerly along said ATTAH—NAM river to the forks; thence along the southern tributary to the Cascade mountains; thence southerly along the main ridge of said mountains, passing south and east of Mount Adams, to the spur whence flows the waters of the Klickitat and Pisco rivers; thence down said spur to the divide between the waters of said rivers; thence along said divide to the divide separating the waters of the Satus River from those flowing into the Columbia river; thence along said divide to the main Yakima, eight miles below the month of the Satus river; and thence up the Yakima river to the place of beginning, together with all tracts of land outside the boundaries described above that are held by the United States in trust for the Yakima Indian Nation or for any member of the Yakima Indian Nation. Current records of all such off-reservation trust lands are maintained in the offices of the Bureau of Indian Affairs in Toppenish, Washington.

Forrest J. Gerard,

Assistant Secretary—Indian Affairs.

[FR Doc. 80-3519 Filed 1-25-80; 8:45 am]

BILLING CODE 4310-02-M

National Park Service

Gateway National Recreation Area; Public Discussion

Notice is hereby given that a series of public discussions concerning access improvements to Gateway National Recreation Area will be conducted at a series of meetings, the time and location listed below.

Public Law 95–344, Title III, approved on August 15, 1978, authorizes the National Park Service to develop plans and projects to improve access to units of the National Park System.

The series of meetings will be scheduled to receive public comment on improving access to Gateway National Recreation Area located in New York and New Jersey. Two sets of meetings will be held in each state in accordance with the law.

The first set of meetings will be held to inform the public on the intentions of the National Park Service and give the public an opportunity to respond and recommend plans. The schedule for this set of public discussions will take place as follows: in New York, the meetings will be held at 7:00 p.m. on Monday, February 25, 1980, at the Staten Island Unit, Great Kills conference room, Staten Island, New York; and at 7:00 p.m. Wednesday, February 27, 1980 at the Jamaica Bay Unit conference room, Building #272, Floyd Bennett Field, Brooklyn, New York.

In New Jersey, the meeting will be held at 7:00 p.m. on Thursday, February 28, 1980, at the Sandy Hook Unit Chapel, Sandy Hook, New Jersey.

The second set of meetings will inform the public on proposed National Park Service plans with an additional chance for public involvement and response. The schedule for this set of public discussions will take place as follows: In New York, the meetings will be held at 7:00 p.m. on Monday, March 24, 1980, at the Staten Island Unit, Great Kills conference room, Staten Island, New York; and 7:00 p.m. on Wednesday, March 26, 1980, at the Jamaica Bay Unit conference room, Building #272, Floyd Bennett Field, Brooklyn, New York.

In New Jersey, the meeting will be held at 7:00 p.m. on Thursday, March 27, 1980, at the Sandy Hook Unit Chapel, Sandy Hook, New Jersey.

All interested persons are invited to attend and participate in the discussions. However, facilities and space to accommodate members of the public are limited and persons will be accommodated on a first come, first served basis.

Individuals and/or groups who wish to speak or make a presentation, should

contact the Public Information Office by telephone (212) 630-0393 or postcard, stating the date of the meeting they will attend. Persons wishing further information concerning these various meetings, or wish to submit written statements, may contact Herbert S. Cables, Jr., Superintendent, Gateway National Recreation Area, Headquarters, Building #69, Floyd Bennett Field, Brooklyn, New York 11234, Telephone (212) 630-0353.

Dated: January 15, 1980.

Gilbert W. Calhoun,

Acting Regional Director, North Atlantic Region.

[FR Doc. 80-2719 Filed 1-25-80; 8:45 am]

BILLING CODE 4310-70-M

Fort Caroline National Memorial Land Acquisition Plan; Public Forum

In accordance with guidelines issued by the Director of the National Park Service in the **Federal Register** (Vol. 44, No. 82) on April 26, 1979, the Superintendent of Fort Caroline National Memorial announces an open house for the purpose of providing a public forum to receive oral and written comment on a draft land acquisition plan for the park.

The draft plan will outline, in general terms, the overall goals and strategy for the park land acquisition program and identify specific land acquisition priorities within existing statutory limitations.

The open house will be held as follows: Friday, February 29, 1980, 1:00 to 5:00 p.m. and 7:00 to 9:00 p.m. Fort Caroline National Memorial, 12713 Fort Caroline Road, Jacksonville, Florida 32225.

Persons desiring further information about the open house can write or call the Superintendent, Fort Caroline National Memorial, 12713 Fort Caroline Road, Jacksonville, Florida 32225, (904) 641-7155. In addition, copies of the draft plan are available from the Superintendent.

Following the public forum, the record will remain open for 30 days to receive additional written comment. A land acquisition plan will then be completed and transmitted to the Regional Director, Southeast Region for approval.

Dated: January 16, 1980.

Neal G. Guse, Jr.,

Acting Regional Director, Southeast Region, National Park Service.

[FR Doc. 80-2568 Filed 1-25-80; 8:45 am]

BILLING CODE 4310-70-M

New River Gorge National River, W. Va.; Public Meetings

Notice is hereby given in accordance with the National Parks and Recreation Act of 1978 (Pub. L. 95-625) of 14 public meetings to be held at locations in Fayette, Raleigh, Summers and Kanawha Counties, West Virginia, between the dates of February 4, 1980 and February 18, 1980. Section 1103 of the Act provides that by November 1980 the Secretary of the Interior shall submit, in writing, to the House Committee on Interior and Insular Affairs, the Senate Committee on Energy and National Resources and the Committees on Appropriations of the U.S. Congress a detailed plan which shall indicate the lands and areas which he deems essential to the protection and public enjoyment of the natural, scenic, and historic values and objects of this national river, as well as other considerations.

At these public meetings, the National Park Service will acquaint area residents with the objectives and policies NPS has developed for the New River Gorge National River, introduce members of the park staff, review the legislation establishing the national river and its requirements, solicit the participation of citizens in the development of a Land Acquisition Plan, and outline the schedule of planning for the next two years.

The schedule of meetings follows:

Date, Location, and Time

February 4, Building 7, Conference Room E, Capitol Complex, 1900 Washington Street, East Charleston, WV; 7 p.m.
February 5, Memorial Building, Park Avenue, Hinton, WV; 7 p.m.
February 6, Vocational Technical Center, Oak Hill, WV; 7 p.m.
February 6, Gauley Bridge High School, Gauley Bridge, WV; 7 p.m.
February 7, Raleigh County Court House, Commissioners Meeting Room, Main Street, Beckley, WV; 7 p.m.
February 11, Better Citizens Club, Pluto Road, Raleigh District, Raleigh County, WV; 6:30 p.m.
February 11, Meadow Bridge School, Meadow Bridge, WV; 7 p.m.
February 12, Old Quinnimont School, Route 41, Prince, WV; 7 p.m.
February 12, Ansted Middle School, Ansted, WV; 7 p.m.
February 13, Thurmond Union Church, Thrumond, WV; 7 p.m.
February 13, Nuttall Middle School, Lookout, WV; 7 p.m.
February 14, Senior Citizens Center, Sandstone, WV; 7 p.m.
February 14, Fayetteville Elementary School, Fayetteville, WV; 7 p.m.
February 18, Mt. Hope High School, Mt. Hope, WV; 7 p.m.

Each meeting is open to the public. Citizens will be accommodated on a first-come, first served basis. Any member of the public may file with the National Park Service a written statement addressing the subject to be discussed.

Persons wishing further information concerning these meetings, or who wish to submit written statements, may write or telephone: Superintendent James W. Carrico, New River Gorge National River, 137½ Main Street, Oak Hill, West Virginia 25901 (304) 465-0508.

Dated: January 17, 1980.

Nathan B. Golub,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 80-2557 Filed 1-25-80; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

Decision on West to East Crude Oil Transportation System

AGENCY: Office of the Secretary of the Interior.

ACTION: Notice of decision.

SUMMARY: The President has found the construction and operation of a system to transport crude oil from the west coast to Northern Tier and inland States to be in the national interest. The President's decision approves the proposal of the Northern Tier Pipeline Company for purposes of Sections 508, 509, 510 and 511 of Title V of the Public Utility and Regulatory Policies Act of 1978. This allows Northern Tier the opportunity to seek financial backing and throughput agreements. If Northern Tier is unable to secure adequate financial support within a year, or six months after a decision by the Washington State Energy Facility Site Evaluation Council, whichever is longer, the special procedures provided under Title V will be revoked, and the Trans Mountain Oil Pipeline Corporation will be given an opportunity to take advantage of the same Title V procedures.

EFFECTIVE DATE: January 17, 1980.

ADDRESS: Department of the Interior, Main Interior Building, 18th and C Streets NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Peter Niebauer (202) 343-4931 at above address.

SUPPLEMENTARY INFORMATION: Pursuant to the Congressional directive expressed in Title V of the Public Utility and Regulatory Policies Act of 1978, the President is required to evaluate a number of criteria and consult with various Federal agency heads in order to determine whether any of the applicants for a crude oil transportation system that would serve Northern Tier and inland States is in the national interest. Based on his concern for the potential crude oil supply deficiencies in the Northern Tier States and economic and energy security factors, the President has decided that a west-to-east transportation system is in the national interest.

On January 17, 1980, the President decided to accept the recommendation of Secretary of the Interior Cecil D. Andrus and approved the proposal of the Northern Tier Pipeline Company for purposes of Sections 508, 509, 510 and 511 of Title V. These sections confer special procedural and other opportunities on Northern Tier while it seeks the financial backing and throughput agreements to permit the system's construction. If Northern Tier is unable to secure adequate financial support by January 17, 1981 (within a year from the date of the President's approval), or six months following the Washington State Energy Facility Site Evaluation Council's decision (if it is favorable), whichever is longer, the Trans Mountain Oil Pipeline Corporation will be given an opportunity to take similar advantage of the same Title V provisions.

The President found Trans Mountain's proposal to be an attractive alternative which also, on balance, would be in the public interest. Although it does not yet have formal Canadian Energy Board approval, it will require fewer permits in the U.S. and thus has less need for Title V treatment.

This decision has been made following a thorough review and analysis of reports prepared by the Department of the Interior, the Department of Energy, the Federal Trade Commission, and the Council on Environmental Quality, as well as consultations with the Secretaries of the Interior, Energy and Transportation, and the Canadian government. This process has also involved substantial public input over the last several months and Congressional consultations.

The President's approval of the Northern Tier Pipeline system confers the opportunity to obtain an expedited review and issuance of permits, and limited judicial review. It does not assure the ultimate construction of either the Northern Tier or Trans Mountain proposal. The Federal government will not be financing or constructing these proposed pipelines. No Federal funds are or will be involved.

The ultimate decision as to whether or not a west-to-east crude oil transporation system will be constructed cannot be made by the President, but will be a decision arrived at solely by private financial markets. The proper role of the Federal government in this case is to make certain that public concerns are being looked after, specifically those concerns related to the environment, national energy and economic security, and the maintenance of competitive markets. During the last several months, the government has ensured that the major issues of the public welfare have been properly addressed.

The President's selection of the Northern Tier proposal is based on the public interest concerns mentioned. The system routing could move Alaskan, California and foreign crude oil to Northern Tier refineries which will in the next decade suffer a deficit in refinery stock without additional transportation capacity. This proposal is the only one which has the advantage of a capability to transport indigenous Northern Tier oil from the Williston Basin and Overthrust Belt areas.

The Northern Tier proposal provides the greatest energy transportation flexibility since it not only can receive oil from the greatest number of sources, but it also possesses the largest volume capacity. The location of the line entirely within the United States also provides a national security advantage. The Northern Tier line could be operational sooner than any other proposal and would provide employment for thousands of Americans as well as spurring business opportunity and enhancing local tax bases.

The Canadian government strongly supported the all-land Northwest Energy Company (Foothills) proposal. In his October 15, 1979, letter to the President setting forth his recommendations on the four competing west-to-east pipeline proposals, Secretary Andrus recommended that the President not approve the Foothills all-land proposal because it is the least flexible alternative system in that it relies entirely on Alaskan crude oil, because it could not deliver the sweet crude also needed by northern tier refineries, because of project high capital costs and tariffs, and for other reasons. The President agreed with that assessment and so informed the Canadian government. Canada then informed the Federal government of its support (subject to approval of the Canadian Energy Board) for the Trans Mountain system and strongly urged its approval.

The President's approval of the Northern Tier proposal is conditioned on one significant system modification: the pipeline company will be required to make the pipeline physically available to the four major Puget Sound refineries by constructing the necessary connecting lines. At the request of the President's Advisor on Domestic Affairs and Policy, the Justice Department reviewed the issue of "hook-up" of a west-to-east pipeline to the refineries; the Department questioned the President's authority to require a "hook-up."Accordingly, the President chose to require that the connecting lines be constructed and strongly urges the refineries to agree to this "hook-up." If necessary, the Administration will support legislation to achieve this condition. "Hook-up" will significantly reduce tanker traffic in the interior of the Sound and thus diminish significant potential environmental hazards to both American and Canadian waters and their rich marine resources.

If the Trans Mountain proposal is eventually approved for purposes of Title V, the pipeline "hook-up" condition will be applicable to it.

In his initial recommendation to the President, Secretary Andrus proposed that the Northern Tier Pipeline Company's approval be conditioned on the relocation of the part facility to some point west of Port Angeles based on environmental concerns. After Secretary Andrus' October 15, 1979, recommendation, several facts came to his attention which convinced him that Port Angeles may be as acceptable a location for a marine terminal as any potential site westward of that location. He informed the President of this change in recommendation in a memorandum dated December 10, 1979. By memorandum dated November 6, 1979, the Environmental Protection Agency made a similar finding. While the Washington State Energy Facility Site Evaluation Council may properly find that relocation of the port is necessary, the Federal government will not impose such a condition.

The President also requested the Secretary of the Interior to ensure, by stipulation in the grant of right-of-way, if necessary, that the integrity of the Dungeness Spit and the Dungeness Spit National Wildlife Refuge is maintained prior to issuance of any right-of-way.

The President also determined that it is in the national interest to require the Northern Tier Pipeline Company to assure equal opportunity, through affirmative action, in employment and business participation by minorities. If the Trans Mountain proposal is eventually approved, this affirmative action condition will be applicable to it.

The President's decision in no way preempts the laws of any State in which the Northern Tier pipeline proposal

crosses. Nor should this decision be viewed as preemptive of the ongoing deliberations of the Washington State Energy Facility Site Evaluation Council, particularly with respect to the port location.

There is a high degree of uncertainty in regard to the economic factors to be considered in arriving at a decision to build a west-to-east crude oil pipeline. For example, both the size of crude oil deficits that refineries in the Northern Tier States will experience and the size of the west coast surplus of Alaska North Slope, California, and foreign crude oil are in question. It is unlikely that additional study or analysis of these economic uncertainties by Federal agencies will provide reliable answers. These are ultimately factors the private financing markets must take into account.

It is now time for the marketplace to determine whether a major west-to-east pipeline will be constructed. The President directed the Department of the Interior to implement this decision and ensure that the conditions are carried out.

Section 507(c) of Title V requires that "the President make available to the public at the time of issuance of a decision under this section a written statement setting forth findings with respect to each of the criteria specified in subsection (b) and describing the nature and route of crude oil transportation systems * * *" and that "Such statement along with notification of such decision shall be published in the **Federal Register.**" In fulfillment of this requirement, the President has adopted "Report to the President, West to East Crude Oil Transportation Systems," a document prepared by the Department of the Interior. Copies of the report may be obtained by contacting Mr. Peter Niebauer, Room 6633, Main Interior Building, 18th and C Streets, NW., Washington, D.C 20240, telephone (202) 343–4931.

January 23, 1980.

Cecil D. Andrus,

Secretary of the Interior.

[FR Doc. 80–2566 Filed 1–25–80; 8:45 am]

BILLING CODE 4310–10–M

INTERSTATE COMMERCE COMMISSION

[AB 32 (SDM)]

Boston & Maine Corp.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Boston and Maine Corporation, has filed with the Commission its amended color-coded system diagram map in docket No. AB 32 (SDM). The Commission on December 13, 1979, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 32 (SDM).

Agatha L. Mergenovich,

Secretary.

[Fr Doc. 80–2632 Filed 1–25–80; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: January 22, 1980.

In our decisions of January 8 and 15, 1980, an 11.5-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

Although the weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 11.8 percent, we are authorizing that the 11.5-percent surcharge on this traffic remain in effect. All owner-operators are to continue to receive compensation at the 11.5-percent level. In addition, no change will be made in the existing authorization of a 2.0-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators, nor in the authorization of a 4.4-percent surcharge for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissioners or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy to the Director, Office of the Federal Register, for publication therein.

It is ordered: This decision shall become effective Friday, 12:01 a.m., January 25, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, and Alexis.

Agatha L. Mergenovich,

Secretary.

Appendix.—*Fuel Surcharge*

Base Date and Price Per Gallon (Including Tax)

January 1, 1979 ..... 63.5¢

Date of Current Price Measurement and Price Per Gallon (Including Tax)

January 21, 1980 ..... 107.9

Average Percent: Fuel Expenses (Including Taxes) of Total Revenue

(1) From Transportation Performed by Owner Operators (Apply to All Truckload Rated Traffic)	(2) Other (Including Less-Truckload Traffic)	(3) Bus Carriers
18.9%	2.9%	6.3%
Percent Surcharge Developed		
11.5%	2.0%	4.4%
Percent Surcharges Allowed		
11.5%	2.0%	4.4%

[FR Doc. 80–2630 Filed 1–25–80; 8:45 am]

BILLING CODE 7035–01–M

Fourth Section Applications for Relief

January 23, 1980.

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before February 12, 1980.

FSA 43791, Western Trunk Line Committee, Agent No. A–2761, on liquid fertilizer, in tank cars, from Table Rock, Wyoming to stations in Western Trunk Line Territory in Supplement 337 to its tariff ICC WTL 3120–L, to become effective February 16, 1980. Grounds for relief—market competition.

FSA 43792, Far Eastern Shipping Company's No. 16, general commodities in marine type trailers or containers. Between rail carrier terminals on the U.S. Atlantic and Gulf Coast and foreign ports of call including those in Japan, Hong Kong, Australia, the Philippines, Singapore, Thailand and West Malaysia by way of rail/ocean interchange ports on the U.S. West Coast in its tariff ICC FACU 600, effective February 17, 1980. Grounds for relief—water competition.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–2631 Filed 1–25–80; 8:45 am]

BILLING CODE 7035–01–M

Operating Rights Application(s) Directly Related to Finance Proceedings

The following operating rights applications(s) are filed in connection with pending finance applications under

section 11343 (formerly section 5(2)) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under section 10926 (formerly section 212(b)) of the Interstate Commerce Act.

On applications filed before March 1, 1979, an original and one copy of *protests* to the granting of authorities must be filed with the Commission on or before February 27, 1980. Such protests shall conform with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities.

Applications filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *General Rules of Practice* also but are subject to petitions to intervene either with or without leave. An original and one copy of the petition must be filed with the Commission on or before February 27, 1980. A petition for intervention must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points. Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Verified statements in opposition should not be tendered at this time. A copy of the protest or petition to intervene shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 64600 (Sub-54F), filed August 7, 1979. Applicant: WILSON TRUCKING CORPORATION, P.O. Drawer 2, Fishersville, VA 22939. Representative: Francis W. McInerny, Esq., 1000–16th Street, NW, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over *regular routes*, transporting, *General Commodities*, (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) Between Rutherfordton, NC and Albemarle, NC; From Rutherfordton over U.S. Hwy 74 to Charlotte; then over NC Hwy 24 to Albemarle, and return over the same route. (2) Between Gastonia, NC and Taylorsville, NC; From Gastonia over U.S. Hwy 321 to junction NC Hwy 16, then over NC Hwy 16 to Taylorsville, and return over the same route. (3) Between Newton, NC and Lenoir, NC; From Newton over NC Hwy 16 to junction U.S. Hwy 321, then over U.S. Hwy 321 to Lenoir, and return over the same route; From Newton over NC Hwy 16 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Hickory, then over U.S. Hwy 321 to Lenoir, and return over the same route. (4) Between Charlotte, NC and Statesville, NC; From Charlotte over U.S. Hwy 21 to Statesville, and return over the same route; From Charlotte over Interstate Hwy 77 to Statesville, and return over the same route. (5) Between Charlotte, NC and Eden, NC; From Charlotte over U.S. Hwy 29 to Reidsville, then over NC Hwy 14 to Eden and return over the same route; From Charlotte over Interstate Hwy 85 to Greensboro, then over U.S. Hwy 29 to Reidsville, then over NC Hwy 14 to Eden, and return over the same route. (6) Between Greensboro, NC and Mebane, NC; From Greensboro over U.S. Hwy 70 to junction NC Hwy 119, then over NC Hwy 119 to Mebane, and return over the same route; From Greensboro over Interstate Hwy 85 to junction NC Hwy 119, then over NC Hwy 119 to Mebane, and return over the same route. Serving points in the counties of Alamance, Alexander, Cabarrus, Caldwell, Catawba, Cleveland, Davidson, Gaston, Guilford, Halifax, Iredell, Lincoln, Mecklenburg, Rockingham, Rowan, Rutherford, Scotland and Stanley, NC as intermediate and/or off-route points in connection with the routes shown above. MC–64600 (Sub-No. 51) is also directly related to MC–F–13978.

Note.—The purpose of filing this application is to convert irregular route authority to regular route authority. This application is directly related to MC–F–13079, published in the September 7, 1979, issue of the **Federal Register.**

MC 117304 (Sub-41F), filed July 26, 1979. Applicant: DON PAFFILE d.b.a. PAFFILE TRUCK LINES, 5735 North and South Highway, Lewiston, ID 83501. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Authority sought to operate as a common carrier by motor vehicle over irregular routes transporting: Heavy machinery, mining equipment, mining supplies, mining ores, not including coal, such commodities as are dealt in by wholesale and retail grocery stores, such commodities as are dealt in by wholesale and retail hardware stores, and contractors equipment, materials and supplies, between points in ID, WA, OR and that part of MT west of a line extending in a northerly direction from Monida Pass, MT to the United States-Canada boundary line near Babb, MT. Restriction: The service authorized and the route description next above is restricted against the transportation of the above specified commodities where either the origin or destination or both is a mine or a mining camp. Hides, pelts and tallow from Wallace, ID to Spokane, WA with no transportation for compensation on return except as otherwise authorized. General Commodities, except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities requiring special equipment and those injurious or contaminating to other lading between points in Jackson County, OR, on the one hand, and, on the other, points including Hilts, CA and that part of Siskiyou County, CA on and west of U.S. 99.

Note.—The purpose of filing this application is to eliminate Jackson County, OR. This matter is directly related to MC–F–14094F, published in the **Federal Register** issue of August 8, 1979.

MC 121087 (Sub-No. 3), filed June 21, 1979. Applicant: EXPLOSIVES CARRIER, INC., 8212 S. Bryant, Oklahoma City, OK 73129. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73129. Authority to operate as a common carrier by motor vehicle, over irregular routes, transporting: *Explosives*, between points in Oklahoma.

Note.—the purpose of filing this application is to convert a certificate of registration to a certificate of public convenience and necessity. This matter is directly related to MC–FC–78217 published in a previous section of this **Federal Register** issue.

MC 44735 (Sub-49F), filed September 21, 1979. Applicant: KISSICK TRUCK LINES, INC., 7101 East 12th Street, Kansas City, MO 64126. Representative: John E. Jandera, 641 Harrison Street,

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Topeka, KS 66603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Iron and Steel Articles*, (a) Between points in KS, MO, and St. Louis, MO/East St. Louis, IL, commercial zone, on the one hand, and, on the other, points in IL, IN, IA, MO, NE, OK, WI and points in MN on and south of U.S. Hwy 14; (b) From points in OK and NE to points in WI, IN, points in MN on and south of U.S. Hwy 14; (c) From points in MO on and east of U.S. Hwy 63 to points in CO; (2) *Heavy Machinery, Supplies and Equipment*, Between points in KS and MO, on the one hand, and, on the other, points in KS, MO, OK, NE, IA, IL, and Chicago, IL commercial zone. (3) *Machinery, Supplies, Materials and Equipment*, used in the operation of mills manufacturing or fabricating iron or steel. From points in Lake County, IN, points in MN on and south of U.S. Hwy 14 to points in KS and MO. (Hearing site: Kansas City, MO).

Note.—This application is directly related to Kissick Truck Lines, Inc.—control and merger—W. T. Gibson Transportation, Inc. docketed MC-F-14161 published in the October 3, 1979, issue of the **Federal Register**. The purpose of filing this application is to eliminate the gateways of Kansas City, St. Louis, MO and Sterling, IL.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-2333 Filed 1-25-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

[Notice No. 241]

MC 121673 (Sub-3TA), filed December 5, 1979. Applicant: WESTERN MOTOR FREIGHT, INC., 1430 West Sheridan, P.O. Box 82065, Oklahoma City, OK 73148. Representative: John M. Swindle (same address as applicant). *Common Carrier: Regular Route: General commodities*, (1) between Oklahoma City, OK, and Carnegie, OK, serving the intermediate points of Hinton, Lookeba, Binger, Gracemont, Anadarko and Fort Cobb, and passing through but not serving Yukon: from Oklahoma City west on Interstate Hwy 40 to its junction with OK Hwy 281, then south on US Hwy 281 to its junction with OK Hwy 9, then west on OK Hwy 9 to Carnegie, and return over the same route; (2) between Oklahoma City, OK and Altus, OK, serving the intermediate points on Manitou, Frederick and Tipton, and passing through but not serving Lawton, Indiahoma and Cache: from Oklahoma City, OK southwest via the H.E. Bailey Turnpike to its junct with US Hwy 62, then west of US Hwy 62 to its junction with US Hwy 183, then south on US Hwy 183 to Frederick, OK, then west and north on OK Hwy 5 to Tipton, then west on OK Hwy 5 to its junction with US Hwy 283, then north on US Hwy 283 to Altus, and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 9 supporting shippers. Their statements may be examined at the field office listed below or Headquarters. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 123613 (Sub-19TA), filed December 7, 1979. Applicant: CLAREMONT MOTOR LINES, INC., 2800 N. Tryon St., Charlotte, NC 28206. Representative: D. R. Beeler, 9041 Executive Park Dr, Suite 110, Bldg. 100, Knoxville, TN 37919. *Foodstuffs (except frozen)* from FL to points in AL, DE, IL, IN, KY, OH, MI, MD, MS, NJ, NY, NC, PA, TN, TX, VA, WV and DC, for 180 days. An underlying ETA for 90 days authority. Supporting shipper(s): Southern Fruit Distributors, P.O. Box 8367, Orlando, FL 32806. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 124673 (Sub-50TA), filed December 19, 1979. Applicant: FEED TRANSPORTS, INC., P.O. Box 2167, Amarillo, TX 79105. Representative: Gail Johnson (same address as applicant). *Liquid fertilizer ingredients and/or fertilizer solutions* from points in Beaver and Woodward Counties, OK and McPherson County, KS to points in TX, OK, KS, NE and CO for 180 days. An underlying ETA seeks 90 days has been filed. Supporting shipper(s): Agrico Chemical Company, Inc., P.O. Box 3166, Tulsa, OK 74101. Send protests to: Ruth Allport, TCS, ICC, 411 W. 7th St., Suite 600, Ft. Worth, TX 76102.

MC 125403 (Sub-11TA), filed December 18, 1979. Applicant: S.T.L. TRANSPORT, INC., 120 Grace Ave. (P.O. Box 369), Newark, NY 14513. Representative: S. Michael Richards, 44 North Ave., P.O. Box 225, Webster, NY 14580. *Foodstuffs (except in bulk) and materials, supplies and equipment used in the manufacture, sale or distribution thereof (except in bulk)*, between all points in the United States (except AK and HI). Restricted to traffic originating at or destined to the facilities of Ragu Foods, Inc., for 180 days. Supporting shipper(s): Ragu Foods, Inc., 33 Benedict Pl., Greenwich, CT. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 128543 (Sub-20TA), filed December 4, 1979. Applicant: CRESCO LINES, INC., 13900 S. Keller Ave., Crestwood, IL 60445. Representative: Edward G. Bazelon, 39 S. LaSalle St., Chicago, IL 60603. Contract carrier; irregular routes; *Pipe, tubing, wire, fencing and parts and accessories therefor, and materials, equipment and supplies* used in the manufacture and distribution of all of the aforesaid commodities (except commodities in bulk), (a) Between the facilities of Allied Tube & Conduit Corporation and Coastal Wire Warehouses, Inc., its wholly-owned subsidiary, located in Los Angeles, Orange and San Bernardino Counties, CA, on the one hand, and, on the other, points in Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, Oklahoma, South Dakota, Texas, Utah, Washington, and Wyoming; (b) Between the facilities of Allied Tube & Conduit Corporation and Coastal Wire Warehouses, Inc., its wholly-owned subsidiary, located in Gwinett and Fulton Counties, GA, on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Texas. Restriction: The authority sought in (a) and (b) above is restricted (1) to traffic originating at or destined to the facilities of Allied Tube & Conduit Corporation and Coastal Wire Warehouses, Inc., its wholly-owned subsidiary, and (2) to transportation performed under a continuing contract or contracts with Allied Tube & Conduit Corporation and Coastal Wire Warehouses, Inc., its wholly-owned subsidiary; (c) From the Los Angeles, CA, Harbor Zone, as defined by the Commission, to points in Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, Oklahoma, South Dakota, Texas, Utah, Washington and Wyoming. Restriction: The authority sought in (c) above is restricted to transportation performed pursuant to a continuing contract or contracts with Allied Tube & Conduit Corporation and Coastal Wire Warehouses, Inc., its wholly-owned subsidiary. Supporting shipper(s): Allied Tube & Conduit Corp., Coastal Wire Warehouse, Inc., 16100 S. Lathrop Ave., harvey, IL 60426. Send protests to: ICC, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 135762 (Sub-6TA), filed December 6, 1979. Applicant: JOHN H. NEAL, INC., P.O. Box 3877, Fort Smith, AR 72913. Representative: John H. Neal (same as applicant). Contract carrier over irregular routes: *Fencing, fencing materials, wire and wire products*, from the facilities of Bekaert Steel Wire Corporation, at or near Van Buren, AR, to points in AL, DE, FL, GA, LA, MD, MS, NC, OK, SC, TN, TX and VA, the service to be performed under a continuing contract with Bekaert Steel Wire Corporation for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Bekaert Steel Wire Corporation, P.O. Box 668, Van Buren, AR 72956. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 138652 (Sub-6TA), filed November 29, 1979. Applicant: BAKER TRUCK SERVICE, INC., 7990 Overland Ave., P.O. Box 7771, Boise, ID 83707. Representative: Larry O. Nelson, P.O. Box 169, St. Maries, ID 83861. *Pressure treated power poles, fence poles, treated dimensional lumber and pre-cut log home packages*, from the facilities of Pressure Treated Timber at or near Boise, ID to points in MT, NE, ND and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pressure Treated Timber Co., 3200 Gowen Road, Boise, ID 83705. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 138703 (Sub-4TA), filed November 27, 1979. Applicant: BOESDORFER TRUCKING, INC., 117 Church St., Pleasant Plains, IL 62677. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Clay*, in bulk, in dump trailers, from the Mid-State Warehouse at Springfield, IL to the facilities of Monsanto Co. at Muscatine, IA, for 180 days. Supporting shipper(s): Monsanto Company, 800 N. Lindbergh Blvd., St. Louis, MO 63166. Send protests to: ICC, 219 S. Dearborn, Chicago, IL 60604.

MC 138882 (Sub-32BTA), filed November 9, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box Drawer 707, Troy, AL 36081. Representative: James W. Segrest (sanem address as applicant). Furniture parts, components, and accessories thereto, between the facilities of Leggett and Platt Incorporated its divisions, and subsidiaries located at St. Louis, MO; Winchester, KY; Ennis, TX; Oklahoma City, OK; Phoenix, AZ; Springfield, MO; Dalton, IL; Lawrence, MA; Kenyon, MN; Carthage, MO; Social Circle, GA; Houston, TX; Litchfield, MI; Hominy, OK; Atlanta, GA; Mason, OH; Orlando, FL; Nashville, TN; Birmingham, AL; Independence, LA; Jersey City, NJ; Memphis, TN; Austin, TX; Miami, FL; Kansas City, KS; Middlefield, OH; Cherry Hill, NJ; University City, MO; Edwardsburgh, MI; Newton, KS; Highpoint, NC; Jacksonville, FL; Nicholasville, KY; Ferndale, MI; Simpsonville, KY; Dallas, TX; Little Rock, AR; Maxton, NC; Tupelo, MS; Newton, NC; Linwood, NC; Grafton, WI; Forest City, NC; and points in and east of NS, SD, NE, KS, OK, and TX on the one hand and on the other materials equipment and supplies used in the manufacture and processing of furniture parts and components from points in and east of ND, SD, NE, KS, OK, and TX to the facilities of Leggett and Platt, Incorporated its divisions and subsidaries located at St. Louis, MO; Winchester, KY; Ennis, TX; Oklahoma City, OK; Phoenix, AZ; Springfield, MO; Dalton, IL; Lawrence, MA; Kenyon, MN; Carthage, MO; Social Circle, GA; Houston, TX; Litchfield, MI; Hominy, OK; Atlanta, GA; Mason, OH; Orlando, FL; Nashville, TN; Birmingham, AL; Independence, LA; Jersey City, NJ; Memphis, TN; Austin, TX; Miami, FL; Kansas City, KS; Middlefield, OH; Cherry Hill, NJ; University City, MO; Edwardsburgh, MI; Newton, KS; Highpoint, NC; Jacksonville, FL; Nicholasville, KY; Ferndale, MI; Simpsonville, KY; Dallas, TX; Little Rock, AR; Maxton, NC; Tupelo, MS; Newton, NC; Linwood, NC; Grafton, WI; Forest City, NC. Restricted against commodities in bulk in tank vehicles and commodities which, because of size or weight, require the use of special equipment. Further restricted to shipments originating at or destined to the indicated territory, for 180 days. Supporting shipper(s): Leggett & Platt, Incorporated, 16th Road, Carthage, MO 64836. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 139112 (Sub-19TA), filed November 23, 1979. Applicant: CALEX EXPRESS, INC., 149 Warden Ave., Trucksville, PA 18708. Representative: J. Bruce Walter, 410 North Third St., P.O. Box 1146, Harrisburg, PA 17108. *Wood burning stoves, parts and accessories thereof and materials, equipment and supplies used in the manufacture, sale and distribution of said items*, between the facilities of Industrial Construction Company, Inc. at Eugene, OR, on the one hand, and on the other, points in GA, IN, SC, NH, OH, MN, SD, VA, WI, NC, UT, TX, PA, CO, IA, MI and NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Industrial Construction Company, Inc., 765 Conger St., Eugene, OR 97402. Send protests to: I.C.C., 101 N. 7th St., Room 620, Phila., PA 19106.

MC 139113 (Sub-16TA), filed October 15, 1979. Applicant: HUDSON TRANSPORTATION, INC., P.O. Box 847, Troy, AL 36081. Representative: William P. Jackson, Jr., 3426 N. Washington, Blvd., P.O. Box 1240, Arlington, VA 22210. *Such commodities as are dealt in or used by grocery and food business houses (except in bulk)*, From points in the United States (except AK and HI) to the facilities of M. O. Carroll-Newton Company, Inc., located in Houston and Dale Counties, AL. RESTRICTION: Restricted to transportation of shipments under a continuing contract or contracts with M. O. Carroll-Newton Company, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): M. O. Carroll-Newton Company, Inc., 924 East Broad, Ozark, AL 36360. Send protests to: Mabel E. Holston, T/A, I.C.C., Room 1616, 2121 Building, Birmingham, AL 35203.

MC 139043 (Sub-10TA), filed December 20, 1979. Applicant: VERNON G. SAWYER, P.O. Drawer B, Bastrop, LA 71220. Representative: Harry E. Dixon, Jr., P.O. Box 4310, Monroe, LA 71203. *Plastic film and sheeting, also materials, equipment and supplies* used in the manufacturing thereof, between Monroe, LA and all points in AL, AR, FL, GA, IL, KS, MS, MO, OK, TN, and TN, restricted to transportation of traffic originating at or destined to indicated points, for 180 days. Underlying ETA seeks 90 days authority. Supporting Shipper(s): Sunbelt Plastics, Division of Sunbelt Manufacturing, P.O. Box 7400, Monroe, LA 71203. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 140083 (Sub-4TA), filed December 20, 1979. Applicant: FLORENCE N. SOBEL, INC., d.b.a. GENTRY FORWARDING CO., 3445 Paterson Plank Road, North Bergen, NJ 07047. Representative: Lawrence E. Lindeman, Suite 1032, 425 13th Street, N.W., Washington, DC 20004. Trailers (except those designed to be drawn by passenger automobiles), containers and trailer chassis between (1) points in PA, NY & NJ; (2) points in PA, NY & NJ, on the one hand, and, on the other, points in ME, NH, VT, MA, RI, CT, MD, and VA; and (3) Chesapeake, Portsmouth, Norfolk, VA and Baltimore, MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Flexi-Van Leasing Inc., 330 Madison Avenue, New York, NY 10017; Central Gulf Lines Inc., 1 Whitehall Street, New York, NY 10004. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07120.

MC 140313 (Sub-10TA), filed December 14, 1979. Applicant: VIKING INTERNATIONAL, INC., 601 Industry Drive, Bldg., #5, Seattle, WA 98188. Representative: Gene Darr (same as above). *Canned and frozen seafoods,* from points in WA; West of U.S. 97 to points in CA; Des Moines, IA; Chicago, IL; Wichita, KS; Hitchinson, KS; Detroit, MI; Grand Rapids, MI; Minneapolis, MN; Kansas City, MO; and Cleveland, OH; and from Anacortes, WA; to Denver, CO; Hartford, CN; Washington, DC; Miami, FL; Jacksonville, FL; Atlanta, GA; Peoria, IL; Chicago, IL; Sioux City, IA; Davenport, IA; Des Moines, IA; Lexington, KY; Louisville, KY; Portland, ME; Boston, MA; Baltimore, MD; Omaha, NE; Bronx, NY; Philadelphia, PA; York, PA; Memphis, TN; Nashville, TN; Huntington, WV; Parkersburg, WV; Green Bay, WI; and Milwaukee, WI; for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Whitney-Fidalgo Seafoods, Inc., 2360 West Commodore Way, P.O. Box C-99308, Seattle, WA 98199; East Point Seafood Company, P.O. Box 127, South Bend, WA 98586. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 140763 (Sub-6TA), filed December 12, 1979. Applicant: ONEIDA-COLUMBUS EXPRESS CO., P.O. Box 356, Oneida, TN 37814. Representative: Marshall Kragen, 1835 K St., N.W., Washington, D.C. 20006. *Contract carrier:* Irregular routes: *Steel strips, in coils,* from Detroit, MI to Oneida, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Hughett Industries, Inc., P.O. Box 38, Helmwood, TN 37755. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 141443 (Sub-53TA), filed December 19, 1979. Applicant: JOHN LONG TRUCKING, INC., 1030 East Denton, Sapulpa, OK 74066. Representative: William Crulkshank (same address as applicant). *Petroleum and petroleum products,* (exept in bulk, in tank vehicles), from Tulsa, OK, to points in AR, CO, KS, LA, MO, NM, & TX, for 180 days. Supporting shipper: Sumark Industries, A Division of Sun Oil Company of Pennsylvania, P.O. Box 7366, Philadelphia, PA 19101. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 141533 (Sub-11TA), filed December 19, 1979. Applicant: LYN TRANSPORT, INC., 37 North Central Avenue, Elmsford, NY 10532. Representative: Bruce J. Robbins, Robbins & Newman, 118-21 Queens Blvd., Forest Hills, NY 11375. *Foodstuffs, except in bulk,* from the facilities of American Home Foods, Division of American Home Products Corporation, at or near Milton, PA, to the states of AL, CT, GA, FL, NY, NJ and PA; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: American Home Foods, Division of American Home Products Corporation, 685 Third Avenue, New York, NY 10017. Send protests to: Maria B. Kejss, I.C.C. 26 Federal Plaza, New York, N.Y. 10007.

MC 141533 (Sub-12TA), filed December 19, 1979. Applicant: LYN TRANSPORT, INC., 37 North Central Avenue, Elmsford, NY 10532. Representative: Bruce J. Robbins, Robbins & Newman, 118-21 Queens Blvd., Forest Hills, NY 11375. *Paints, pigments, materials, equipment and supplies used in the manufacture, production, packaging and distribution of paints and pigments,* between the facilities of PPG Industries, Inc., in or about Springdale, PA, Cleveland, OH, Oak Creek, WI, and Delaware, OH, on the one hand, and, on the other, points in the commerical zones of New York NY, Chicago, IL, New Orleans, LA, Memphis, TN, Dover, DE, St. Paul, MN, Boston, MA, Syracuse, NY, Omaha, NE, Kansas City, Jefferson City, and St. Louis, MO; for 180 days. Supporting shipper: PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222. Send protests to: Maria B. Kejss, I.C.C. 26 Federal Plaza, New York, N.Y. 10007.

MC 141742 (Sub-9TA), filed December 10, 1979. Applicant: FLOWERS TRANSPORTATION, INC., P.O. Box B, Station A, Auburn, CA 95603. Representative: William D. Taylor, 100 Pine Street, San Fancisco, CA 94111. *Steel Products,* from Pueblo, CO to points in the states of CA, OR, NV and Kings County, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Snider Building Products, 7300 Lincolnshire, Suite 110, Sacramento, CA 95823. Send protests to: DS W. J. Huetig, 705 North Plaza Street, Carson City, NV 89701.

MC 141742 (Sub-10TA), filed December 10, 1979. Applicant: FLOWERS TRANSPORTATION, INC., P.O. Box B, Station A, Auburn, CA 95603. Representative: Walter H. Walker, 100 Pine Street, San Francisco, CA 94111. *Lumber and Lumber Products,* from (1) points in OR to points in CA and NV; and (2) from points in CA to points in NV, restricted to shipments moving from the facilities and suppliers of Bendix Forest Products for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Bendix Forest Products Corporation, 2740 Hyde Street, San Francisco, CA 94109. Send protests to: DS W. J. Huetig, I.C.C., 705 North Plaza Street, Carson City, NV 89701.

MC 142282 (Sub-2TA), filed December 6, 1979. Applicant: FLEET SERVICE CORP., P.O. Box 4112, Whittier, CA 90607. Representative: William J. Lippman, 50 South Steele Street, Suite 330, Denver, Colorado 80209. *Contract; Irregular; Lumber and lumber products,* from points in Washington and Oregon to points in California, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper: Dier Lumber Co. Inc., Vice President, 291 Roymar Road, Oceanside, CA 92054. Send protests to: Irene Carlos, TA, ICC, Room 1321, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 142672 (Sub-104TA), filed December 5, 1979. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. *Meats, meat products and meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix 1 to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* (except hides and commodities in bulk), from the facilities of Vernon Calhoun Packing Company, at or near Palestine, TX, to points in the United States (except AL, AR, MO, NY, OH, and OK), for 180 days. Supporting shipper: Vernon Calhoun Packing Company, P.O. Box 709, Palestine, TX 75801. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 142672 (Sub-105TA), filed December 5, 1979. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. *Such commodities* as are dealt in by wholesale and retail food business houses (except in bulk, in tank vehicles) from the facilities of and used by Lever Brothers Company, at or near St. Louis, MO, to points in AR, IA, LA, NE, TN and TX, for 180 days. Supporting shipper: Lever Brothers Company, 390 Park Ave., New York, N.Y. 10022. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 143183 (Sub-11TA), filed November 26, 1979. Applicant: L. M. ROACH, DBA D&L TRUCKING COMPANY, P.O. Box 1741, Wilmington, NC 28402. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. *Salt, in packages,* from the facilities of Cargill, Inc. located in Wilmington, NC to Augusta, Macon, Baldwin, Commerce, Lavonia, Gainesville and Gahlonega, GA and Myrtle Beach, Orangeburg, Florence, Camden, Spartanburg, Anderson, Charleston, Clemson, Columbia, Sumter and Rock Hill, SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Cargill, Inc., P.O. Box 150, Watkins, Glen, NY 14891. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 143383 (Sub-6TA), filed December 12, 1979. Applicant: DALE E. NICHOLSON, P.O. Box 97, Potosi, MO 63664. Representative: Same as above. (1) *Float tails* or *float tail screenings,* in bulk, in dump vehicles, from Galena, IL to points in Jasper County, MO, and (2) *silage preservative and truck traction material* in bulk and in bags, in dump vehicles, from points in Jasper County, MO to WI, IL, IN, MI, IA, SD, NE, KS, OK, OH, TX, PA, AR, MS, KY, MN and CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Essentials 4 U, Route #1, Box 43-E, Webb City, MO 64870. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 114112 (Sub-63TA), filed December 7, 1979. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. *Hair care toiletries, hair care accessories and equipment, toilet preparations, beauty and health products and equipment, personal electrical appliances and accessories and parts thereof, and equipment, materials, supplies and ingredients used in the packaging, sale and manufacture thereof,* from Stamford, CT to Bedford Park, IL restricted to shipments originating at or destined to the facilities of Clairol, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Clairol, Inc., 1 Blachley Rd., Stamford, CT 06902. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 144122 (Sub-64TA), filed December 6, 1979. Applicant: CARRETTA TRUCKING, INC., S. 160 Route 17, Paramus, NJ 07652. Representative: Joseph Carretta, S. 160 Route 17, Paramus, NJ 07652. *Chemicals (except in bulk).* From the facilities of Lonza, Inc. at Mapleton and Peoria, IL; Gary, IN and Houston, TX to Totowa, NJ, for 180 days. Supporting shipper: Lonza, Inc., 22-10 Rt. 208, Fairlawn, NJ 07410. Send protests to: Joel Morrows, D/S, ICC, 744 Broad Street, Rm. 522, Newark, NJ 07102.

MC 144622 (Sub-125TA), filed November 29, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. (1) *Foodstuffs, pet foods, and animal feeds,* (2) *materials and supplies* used in manufacturing, packing, canning, sale or distribution of (1), between Elwood, KS; St. Joseph, MO; Garland, TX, Mansfield, TX, on the one hand, and on the other, points in and east of ND, SD, NE, CO, NM, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper: Carnation Company, 5045 Wilshire Blvd., Los Angeles, CA 90036. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 144813 (Sub-3TA), filed December 3, 1979. Applicant: HUNT TEAL TRUCKING, INC., 3051 N.W. 129th St., Miami, FL 33054. Representative: Glen Teal, same address as applicant. *Foodstuffs,* except in bulk and tank vehicles, from the facilities of Seneca-Marion Foods Corp. at Marion, East Williamson, Williamson, Newark, Oak Corners, Sterling, Dundee, Penn Yan and Nimrod, NY to points in AL, FL, GA, MO, IN, IL, NC, and SC for 180 days. An underlying ETA Seeks 90 days authority. Supporting shipper: Seneca Foods Corporation, 3736 South Main St., Maine St., Marion NY 14505. Supporting shipper: Seneca Foods Corporation, 3736 South Main St., Marion, NY 14505. Send protests to: Donna M. Jones, T/A, ICC, Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33157.

MC 144883 (Sub-8TA), filed December 7, 1979. Applicant: EARL MOORE, d.b.a. S & M MARKETING, 1133 Chess Dr., Foster City, CA 94404. Representative: James T. Proctor, P.O. Box 688, Mountain View, CA 94042. *General commodities* moving in 45 foot mechanical refrigerated trailers, from all points in CA to all points in AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: California Peanut Co., 500 West Ohio Ave., Richmond, CA 94804; Campbell Soup Co., P.O. Box 3051, Modesto, CA 95353. Send protests to: D/S Neil C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 145363 (Sub-7TA), filed December 19, 1979. Applicant: BREWTON EXPRESS, INC., P.O. Box 508, Winnfield, LA 71483. Representative: Brian E. Brewton (same address as applicant). *Iron and steel articles* from the facilities of Labarge, Inc. at Wagner, OK; Memphis, TN; St. Louis, MO; and Bellevue, OH to points in the U.S. in and east of ND, SD, NE, CO, and NM, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper: Labarge, Inc., 20 South 4th St., St. Louis, MO 63102. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 145503 (Sub-5TA), filed November 19, 1979. Applicant: ART ANDERSON, INC., P.O. Box 136, Oakford, IL 62673. Representative: Edward D. McNamara, Jr., 907 South Fourth Street, Springfield, IL 62703. *Liquid feed* from the facilities of Ralston Purina Feed Co. at Olin, IA to various points in the states of IL, MN, MO and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188; Illinois Valley Supply, Carrollton, IL 62106. Send protests to: I.C.C., 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 145513 (Sub-12TA), filed December 21, 1979. Applicant: SERVICE TRANSPORTATION, INC., P.O. Box

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732, Payette, ID 83661. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *Wine*, (1) between the facilities of Ste. Chapelle Vineyards at or near Caldwell, ID on the one hand, and points in CA, NV and WA, on the other, (2) from points in OR to the facilities of Ste. Chapelle Vineyards at or near Caldwell, ID, in contract carriage, for 180 days. Restricted to shipments in bulk for (2). An underlying ETA seeks 90 days authority. Supporting shipper: Ste. Chapelle Vineyards, Route 4, Caldwell, ID 83605. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 145653 (Sub-4TA), filed December 6, 1979. Applicant: KIRCHWEHM BROS. CARTAGE CO. INC., 1700 W. Carroll Ave., Chicago, IL 60612. Representative: Abraham A. Daimon, 29 S. Lasalle St., Chicago, IL 60603. *Contract carrier:* irregular routes: *Materials, equipment, and supplies:* between points in the Chicago, IL., commercial zone on the one hand, and, on the other, points in OH, for 180 days. Supporting shipper: The Proctor & Gamble Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: I.C.C., 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 145853 (Sub-3TA), filed December 7, 1979. Applicant: VECTOR TRANSPORTATION, INC., 100 Tyngsboro Road, North Chelmsford, MA. 01863. Representative: Peter A. North, 42 Egypt Beach Road, Scituate, MA. 02066. Contract, irregular *Plastic articles, flashlights, lanterns, batteries, lighting fixtures, and other products used or useful in the manufacturing, marketing and processing of the above products (except in bulk)* between the vendors and/or facilities of "Ray-O-Vac" located in MA, NC, NH, and RI, on the one hand, and, on the other, CA, GA, IL, MA, MO, NC, NJ, OH, OR, TN, TX, FL, PA, and WI. Supporting shipper: Ray-O-Vac Div. of ESB, Inc., 101 E. Washington Avenue, Madison, WI 53703. Send protests to: John B. Thomas, D/S I.C.C., 150 Causeway Street, Boston, MA 02114.

MC 146343 (Sub-7TA), filed November 27, 1979. Applicant: SOUTHERN EXPRESS CORPORATION, 308 South Ocean Blvd., Pompano, FL 33062. Representative: Daniel Summer, 131 Airport Rd. Warwick, RI 02889. Contract Carrier—Irregular Route: (1) *Plastic pellets, garden hose, rubber tire treads, shoe soling, plastic tubing, rubber blocks, rubber mats, plasticizers, dry and wet paints (non-hazardous), and related material* (except in bulk) (2) *Chemicals and supplies incidental to the manufacture of (1) above* (except in bulk) between Pawtucket, RI and Attleboro, MA, on the one hand, and points in the U.S. (except AK and HI) on the other hand, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Teknor Apex Co., 505 Central Ave., Pawtucket, RI 02862. Send protests to: Donna M. Jones, T/A. ICC, Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 146603 (Sub-3TA), filed December 19, 1979. Applicant: A & S, INC., Belgrade Rd., Oakland, ME 094963. Representative: Wayne Chaffee (same address as applicant). Contract: Irregular: Wood chips from points in ME to ports of entry on the International Boundary Line between the U.S./Canada in ME. An underlying ETA seeks 90 days authority. Supporting Shipper: A. W. Chaffee, Pond Rd., Oakland, ME 04963. Send protests to: Donald G. Weiler, ICC, 76 Pearl St., Rm. 303, Portland, ME 04101.

MC 146643 (Sub-17TA), filed November 19, 1979. Applicant: DAVID CREECH TRANSPORTATION SYSTEMS, INC., 655 East 114th Street, Chicago, IL 60628. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. *Contract Carrier:* irregular routes: *Flour, in bags,* from Mankato, MN to points in IL, IN, KY, MO, PA & WI, for 180 days. Supporting shipper: Hubbard Milling Company, 424 N. Front Street, Mankato, MN 56001. Send protests to: I.C.C. 219 S. Dearborn St., RM 1386, Chicago, IL 60604.

MC 146643 (Sub-26TA), filed November 16, 1979. Applicant: DAVID CREECH TRANSPORTATION SYSTEMS, INC., 655 East 114th Street, Chicago, IL 60628. Representative: Marc J. Blumenthal, 39 S. LaSalle Street, Chicago, IL 60603. *Contract Carrier:* irregular routes: *Adhesive, building materials, composition board, gypsum products, gypsum board paper, mineral fiber products and paint and paint products and materials, equipment and supplies used in the manufacture, packaging, installation, or distribution of the above base commodities (except commodities in bulk),* between the plant site of U.S. Gypsum Co. at or near Gypsum OH on the one hand, and, on the other points in IL, IN, KY, MI & WI, for 180 days. Supporting shipper: United States Gypsum Co., 101 S. Wacker Dr., Chicago, IL 60606. Send protests to: I.C.C., 219 S. Dearborn St. rm 1386, Chicago, IL 60604.

MC 147062 (Sub-7TA), filed December 5, 1979. Applicant: EXPRESS TRANSPORTATION COMPANY, P.O. Box 789, Chattanooga, TN 37401. Representative: Ralph B. Matthews, P.O. Box 56387, Atlanta, GA 30343. *Brick clay and clay products,* between Birmingham, and its commerical zone on the one hand and, on the other, Alton, Granite City, Danville, and Chicago, IL and points in their commercial zones; High Hill and St. Louis, MO and points in their commercial zones; and Dearborn, Flat Rock and Detroit, MI and points in their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Refractory Sales & Service Co., Inc., Highway 150, P.O. Box 885, Bessemer, AL 35020. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 147113 (Sub-3TA), filed December 19, 1979. Applicant: TEPPCO TRANSPORT, INC., 1212 East 39th St., Chattanooga, TN 37409. Representative: Blaine Buchanan, 1024 James Bldg., Chattanooga, TN 37402. (a) *Household compactors, dishwashing machines, garbage disposal units, stoves, ranges, ovens, stove and range hoods, canopies, and parts.* (b) *Materials, supplies, and components used in the assembly and manufacture of the items described in (a),* between Chattanooga, TN on the one hand, and on the other all points in AR, CO, FL, IL, IN, IA, KY, LA, MD, MA, MI, MS, MO, NJ, NY, NC, OH, OK, PA, SC, TX, and WI, 180 days. Supporting shipper(s): Modern Maid, Main and Holtzclaw, Chattanooga, TN 37404. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 147553 (Sub-3TA), filed December 21, 1979. Applicant: DENNIS MOSS AND GARY MOSS, d.b.a. MOTOR WEST, P.O. Box 1405 Caldwell, ID 83605. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *Insulation and insulating materials,* from Santa Clara, CA to Boise, ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): G & G Insulating Service, 8618 Franklin Road, Boise, ID 83709. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shorline Dr., Boise, ID 83702.

MC 147533 (Sub-4TA), filed December 21, 1979. Applicant: DENNIS MOSS AND GARY MOSS, d.b.a. MOTOR WEST, P.O. Box 1405, Caldwell, ID 83605. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110. *Beer and wine,* from points in CA and WA to the facilities of B & F Distributing at or near Idaho Falls and Pocatello, ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): B & F Distributing 1095 W. Iona Road, Idaho Falls, ID 83401. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline DR., Boise, ID 83702.

MC 147622 (Sub-2TA), filed November 30, 1979. Applicant: LOUIS J. BARBAGLIA d.b.a. L J B FREIGHT TRANSPORT, 1535 Industrial Ave., San Jose, CA 95112. Representative: Louis J. Barbaglia (same address as above). Contract carrier; irregular routes: Freight all kinds in containers with or without chassis or highway trailers or chassis trailers having a prior or subsequent movement by ocean carriers between CA, OR and WA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Karlander Kangaroo Line/Transpacific Transportation Company, 650 California St., San Francisco, CA 94110. Send protests to: D/S Neil C. Foster, 211 Main Suite 500, San Francisco, CA 94105.

MC 147833 (Sub-2TA), filed December 21, 1979. Applicant: FLASH TRANSPORTATION & LEASING COMPANY, INC., 82 Landon Street, Buffalo, NY 14208. Representative: Charles Flagg (same address as above). *Electric and Electronic Products, Radiators, Air Conditioners, Automobile Parts and Supplies, Electric Motors, Electric Controllers, Racks and Devices, Iron and Steel Products and Articles,* between all points in the State of NY, with the exception of New York City, on the one hand, and, on the other, to points in the states of NJ, PA, MD, OH, MI, IL, IN and WI, where prime supporters such as Westinghouse Corp., Dresser Industries, General Motors Corp. and subsidiaries have facilities. Between all points in OH, MI, IL, IN, PA, and WI. For 180 days. Supporting shipper(s): Dresser Industries, Inc., 2 Main Street, Depew, NY 14043; Harrison Radiator Div. General Motors Corp., 200 Upper Mountain Rd., Lockport, NY 14094; Westinghouse Electric Corp., 4454 Genesee Street, Cheektowaga, NY 14240. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 147873 (Sub-1TA), filed November 16, 1979. Applicant: G. BAKER EXPRESS, INC., One the Court of Harborside, #102, Northbrook, IL 60062. Representative: Joel H. Steiner, 39 S. LaSalle St., Chicago, IL 60603. *Contract carrier:* irregular routes: *Such commodities as are dealt in or sold by grocery stores;* between W. Chicago and Batavia, IL and Wright City, MO, on the one hand, and, on the other, points in IL, IN, IA, MN, MO, OH and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: ALDI, INC., 3400 Mt. Pleasant St., Burlington, IA 52601. Send protests to: ICC, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 148212 (Sub-2TA), filed October 5, 1979. Applicant: LAURENCE M. DARNELL, d.b.a. LENRAD LEASING CO., Box 222, Fairview Village, PA 19409. Representative: Harris T. Bock, 1915 Three Penn Center Plaza, Philadelphia, PA 191102. *Fly ash,* in tank trailers, from the Montour Generating Station of Pennsylvania Power and Light Co. in Washingtonville Borough, Montour County, PA and from the Holtwood Generating Station of Pennsylvania Power and Light Co. in Martic Twp., Lancaster County, PA to points in DE, MD, NJ, VA, WV, NY, CT, RI, MA, OH, DC, and return. From the Mercer Station of Public Service Electric and Gas Co. at Trenton, NJ to points in PA, DE, MD, VA, WV, NY, CT, RI, MA, OH, DC, and return for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Admixtures Corp., 1835 Pennsylvania Ave., Hagerstown, MD 21740. Send protests to: I.C.C., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 148372 (Sub-1TA), filed October 1, 1979. Applicant: COLONEL C. HEETER, d.b.a. MAIL DELIVERY, 5 Vine Street, Pittsburgh, PA 15219. Representative: Colonel C. Heeter (same address as applicant). *Film, prints and film supplies,* no single shipment to exceed fifty (50) pounds in weight between Greensburg, PA on the one hand, and, on the other, points in Cumberland and Frostburg, MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Nashua Photo Products, 222 East Pittsburgh Street, Greensburg, PA 15601. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106

MC 2202 (Sub-625TA), filed October 3, 1979. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd, PO Box 471, Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Common: Regular: General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. 1. Between Rogers and Mountain Home, AR serving all intermediate points and points in their commercial zones: From Rogers over U.S. Hwy 62 to Mountain Home, and return over the same route. 2. Between Conway, AR and Springfield, MO serving all intermediate points and points in their commercial zones, and serving Springfield, MO for joinder only: From Conway over U.S. Hwy 65 to Springfield, and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack authority sought herein with authority held under docket number MC 2202. Supporting shipper(s): There are 31 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 3753 (Sub-20TA), filed December 20, 1979. Applicant: AAA TRUCKING CORPORATION, 3630 Quaker Bridge Road, Trenton, NJ 08619. Representative: Herbert Burstein, One World Trade Center, Suite 2373, New York, NY 10048. General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment. Between Hagerstown, MD on the one hand and on the other, points in Berkeley, Jefferson and Morgan Counties, WV. Service is authorized to be tacked to existing authority held in Certificate MC-3753 and subs, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 300 supporting shippers to this application. They are on file at Newark, NJ field office and Washington, DC. Send protests to: Irwin Rosen, T/S, ICC, 744 Broad Street, Rm. 522, Newark, NJ 07102.

MC 3753 (Sub-21TA), filed December 20, 1979. Applicant: AAA TRUCKING CORPORATION, 3630 Quaker Bridge Road, Trenton, NJ 08619. Representative: Herbert Burstein, One World Trade Center, Suite 2373, New York, NY 10048. General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment. Between Boston, MA on the one hand and on the other, points in the following New Hampshire Counties of Belnap, Cheshire, Hillsborough, Merrimack, Rockingham, Strafford and Sullivan, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 300 supporting shippers on file in Newark, NJ and Washington, DC. Send protests to: Irwin Rosen, T/S, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 3753 (Sub-22TA), filed December 20, 1979. Applicant: AAA TRUCKING CORPORATION, 3630 Quaker Bridge Road, Trenton, NJ 08619. Representative: Herbert Burstein, One World Trade Center, Suite 2373, New York, NY 10048. General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment.

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Between Hagerstown, MD on the one hand and on the other, the following Virginia Counties: Clarke, Frederick and Warren, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 300 supporting shippers on file in the Newark, NJ field office and Washington, DC. Send protests to: Irwin Rosen, T/S, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 3753 (Sub-23TA), filed December 20, 1979. Applicant: AAA TRUCKING CORPORATION, 3630 Quaker Bridge Road, Trenton, NJ 08619. Representative: Herbert Burstein, One World Trade Center, Suite 2373, New York, NY 10048. General commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment. Between Scranton, PA on the one hand and on the other, points in the following PA counties; Bradford, Columbia, Lackawanna, Luzerne, Lycoming, Montour, Sullivan, Susquahanna and Wyoming, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 300 supporting shippers on file in the Newark, NJ field office and Washington, DC. Send protests to: Irwin Rosen, T/S, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 3753 (Sub-24TA), filed December 20, 1979. Applicant: AAA TRUCKING CORPORATION, 3630 Quaker Bridge Road, Trenton, NJ 08619. Representative: Herbert Burstein, One World Trade Center, Suite 2373, New York, NY 10048. General commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment. Between Washington, DC and points in its commercial zone on the one hand and points in DE and MD on the other, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 18 supporting shippers to this application. They are on file at the Newark, NJ field office and Washington, DC. Send protests to: Irwin Rosen, T/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 3753 (Sub-25TA), filed December 20, 1979. Applicant: AAA TRUCKING CORPORATION, 3630 Quaker Bridge Road, Trenton, NJ 08619. Representative: Herbert Burstein, One World Trade Center, Suite 2373, New York, NY 10048. General commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment. Between Scranton, PA on the one hand and on the other, points in Broome, Chemung, Cortland, Tioga, and Tompkins Counties, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 300 shippers to this application. They are on file in the Newark, NJ field office and Washington, DC. Send protests to: Irwin Rosen, T/S, ICC, 744 Broad Street, Rm. 522, Newark, NJ 07102.

MC 3753 (Sub-26TA), filed December 21, 1979. Applicant: AAA TRUCKING CORPORATION, 3630 Quaker Bridge Road, Trenton, NJ 08619. Representative: Herbert Burstein, One World Trade Center, Suite 2373, Brooklyn NY 10048. General commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment. Between Philadelphia, PA and Salisbury, MD on the one hand, and on the other, all points in DE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 300 supporting shippers to this application. They may be examined at the Newark, NJ field office or Washington, DC. Send protests to: Irwin Rosen, T/S, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 42092 (Sub-6TA), filed November 13, 1979. Applicant: ACME INTERCITY FREIGHT LINES, 3414 2nd Avenue South, Seattle, WA 98134. Representative: George H. Hart, 1100 IBM Building, Seattle, WA 98101. *Common Carrier:* regular routes: *General commodities, except those of unusual values, Classes A & B explosives, household goods as defined by the Commission, commoditjes in bulk, commodities requiring special equipment and commodities requiring special equipment and those injurious or contaminating to other lading,* between Olympia, WA and Shelton, WA including the commercial zones of each, over regular routes as follows: from Olympia over U.S. Highway 101 to Shelton and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are 11 statements of support attached to this application which may be examined at the ICC in Washington, D.C., or copies thereof at the field office named below. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 47583 (Sub-119TA), filed December 6, 1979. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. (1) *Plastic Articles* (except in bulk) from the plantsite and shipping facilities of Mobil Chemical Co., located at or near Channahon Township and Joliet, IL, to points in the United States (except AK and HI), and (2) Materials and supplies (except in bulk) used in the manufacture and distribution of plastic articles from points in the United States (except AK and HI), to the plantsite and shipping facilities of Mobil Chemical Co., located at or near Channahon Township and Joliet, IL. Restricted to traffic originating at or destined to the facilities of Mobil Chemical Co., located at or near Channahon Township and Joliet, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Mobil Oil Corporation, 8350 North Central Expressway, Campbell Centre—Suite 522, Dallas, TX 75206. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 58923 (Sub-55TA), filed December 12, 1979. Applicant: GEORGIA HIGHWAY EXPRESS, INC., 2090 Jonesboro Rd., S.E., P.O. Box 6944, Atlanta, GA 30315. Representative: William W. West, (same address as applicant). *Common* carrier: *Regular routes:* (A) *General commodities, with the usual exceptions,* (1) between Memphis, TN, and Montgomery, AL: from Memphis over US Hwy 72 to the junction of Alt. US Hwy 72, then over Alt. US Hwy 72 to the junction of US Hwy 31 (also over US Hwy 78 to the junction of US Hwy 31), then over US Hwy 31 to Montgomery, and return over the same route; (2) between Montgomery, AL, and Pensacola, FL: from Montgomery over US Hwy 31 to the junction of US Hwy 29, then over US Hwy 29 to Pensacola, and return over the same route; (3) between Montgomery, AL, and Cottondale, FL: from Montgomery over US Hwy 82 to the junction of US Hwy 431, then over US Hwy 431 to the junction of US Hwy 231, then over US Hwy 231 to Cottondale, and return over the same route; (4) between Mobile, AL, and Madison, FL: from Mobile over US Hwy 90 to Madison, and return over the same route; (a) serving all intermediate points in connection with (1) through (4) above; (b) serving as off-route points, in connection with (1) through (4), points in AL; and (c) serving as off-route points, in connection with (2) through (4), points in and west of Hamilton, Madison, and Taylor Counties, FL; and (B) *over irregular routes, general commodities, with the usual exceptions,* between points in the commercial zone of Memphis, TN, for 180 days. An underlying ETA seeks 90 days authority.

Supporting Shipper(s): There are 77 shippers. Their statements may be examined at the office listed below or headquarters. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 66512 (Sub-11TA), filed November 9, 1979. Applicant: P & G MOTOR FREIGHT INCORPORATED, 450 Burnham Street, South Windsor, CT 06074. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. To operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1) Between Hartford, CT and Springfield, MA: From Hartford over US Hwy 5 to junction Interstate Hwy 91, then over Interstate Hwy 91 to Springfield, and return over the same route; (2) Between Springfield, MA and Boston, MA: From Springfield over Interstate Hwy 90 to Boston, and return over the same route; (3) Between Boston, MA and Haverhill, MA: (A) From Boston over US Hwy 3 to junction MA Hwy 110, then over MA Hwy 110 to Haverhill, and return over the same route; (B) From Boston over Interstate Hwy 93 to Junction MA Hwy 110, then over MA Hwy 110 to Haverhill, and return over the same route; (C) from Boston over US Hwy 1 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction MA Hwy 97, then over MA Hwy 97 to Haverhill, and return over the same route; (4) Between New Bedford, MA and Boston, MA: (A) From New Bedford over Interstate Hwy 195 to juntion MA Hwy 24, then over MA Hwy 24 to junction Interstate Hwy 93, then over Interstate Hwy 93 to Boston, and return over the same route; (B) from New Bedford over MA Hwy 140 to junction MA Hwy 24, then over MA Hwy 24 to junction Interstate Hwy 93, then over Interstate Hwy 93 to Boston, and return over the same route; (5) Between Worcester, MA and Gardner, MA: (A) From Worcester over MA Hwy 12 to junction MA Hwy 2A, then over MA Hwy 2A to junction MA Hwy 2, then over MA Hwy 2 to Gardner, and return over the same route; (B) from Worchester over MA Hwy 12 to junction MA Hwy 2, then over MA Hwy 2 to Gardner, and return over the same route; (6) Between Boston, MA and Fitchburg, MA: From Boston over MA Hwy 2 to junction MA Hwy 12, then over MA Hwy 12 to Fitchburg, and return over the same route; (7) Between Worchester, MA and Lowell, MA: From Worchester over Interstate Hwy 290 to junction Interstate Hwy 495, then over Interstate Hwy 495 to juntion MA Hwy 110, then over MA Hwy 110 to Lowell, and return over the same route; (8) Between Worcester, MA and New Beford, MA: From Worcester over MA Hwy 122A to MA Hwy 146, then over MA Hwy 146 to Rhode Island Hwy 146, then over Rhode Island Hwy 146 to junction Interstate Hwy 195, then over Interstate Hwy 195 to New Bedford, and return over the same route; (9) Between Hartford, CT and New Bedford, MA: (A) From Hartford over U.S. Hwy 6 to New Bedford, and return over the same route; (B) from Hartford over U.S. Hwy 6 to junction Interstate Hwy 195, then over Interstate Hwy 195 to New Bedford, and return over the same route; (C) from Hartford over Interstate Hwy 86 to junction U.S. Hwy 44A, then over U.S. Hwy 44A to junction U.S. Hwy 44, then over U.S. Hwy 44 to junction CT Hwy 101, then over CT Hwy 101 to RI Hwy 101, then over RI Hwy 101 to U.S. Hwy 6, then over U.S. Hwy 6 to New Bedford, and return over the same route; (10) Between Hartford, CT and Boston, MA; (A) From Hartford over Interstate Hwy 86 to MA Hwy 15, then over MA Hwy 15 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Boston, and return over the same route; (B) from Hartford over U.S. Hwy 6 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction Interstate Hwy 93, then over Interstate Hwy 93 to Boston, and return over the same route; (11) Between Springfield, MA and Pittsfield, MA: (A) From Sprinfield over Interstate Hwy 90 to junction U.S. Hwy 7, then over U.S. Hwy 7 to Pittsfield, and return over the same route; (B) from Springfield over Interstate Hwy 91 to junction MA Hwy 9, then over MA Hwy 9 to Pittsfield, and return over the same route; (12) Between Springfield, MA and Fitchburg, MA: (A) From Springfield over Interstate Hwy 91 to junction MA Hwy 2, then over MA Hwy 2 to Fitchburg, and return over the same route; (B) from Springfield over U.S. Hwy 5 to junction MA Hwy 2, then over MA Hwy 2 to Fitchburg, and return over the same route; (C) from Springfield over Interstate Hwy 91 to junction U.S. Hwy 202, then over U.S. Hwy 202 to junction MA Hwy 2, then over MA Hwy 2 to Fitchburg and return over the same route, serving all intermediate points in (1) through (12) above, and all points in MA as off-route points in (1) through (12) above for 180 days. Send protests to James D. Perry Jr., District Supervisor, Interstate Commission, 135 High Street, Hartford, CT 06101. Supporting shipppers: There are 19 shippers which can be examined at the field office listed above or at Headquarters. An underlying ETA seeks 90 days authority.

MC 71452 (Sub-18TA), filed November 28, 1979. Applicant: INDIANA TRANSIT SERVICE, INC., 4300 West Morris Street, Indianapolis, IN 46241. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *Personal care products, nutritional supplements and foods, and cleaning compounds* between the facilities of the Shaklee Corporation, located at or near Chicago, IL, on the one hand, and, on the other, points in IN and KY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Shaklee Corporation, 1900 Powell Street, Emeryville, CA 94608. Send protests to: Interstate Commerce Commission, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 71593 (Sub-52TA), filed December 19, 1979. Applicant: FORWARDERS TRANSPORT, INC., 1608 East Second Street, Scotch Plains, NJ 07076. Representative: Ronald S. Potter, 1608 East Second Street, Scotch Plains, NJ 07076. Sewing machines, sewing machine cabinets, parts, carrying cases, needles, scissors, vacuum cleaners and related items (except commodities in bulk) (1) from Trumann, AR on the one hand, and, on the other, to La Mirada, CA, South San Francisco, CA, Tampa, FL, Denver, CO, Portland, OR, Seattle, WA, Columbus, OH, Chicago, IL, Dallas, TX, Charlotte, NC, Kansas City, KS, Coldwater, MI, Atlanta, GA, Indianapolis, IN, Shrewsbury, MA, Pittsburgh, PA, Auburn, NY, North Bergen, NJ, Richmond, VA, Philadelphia, PA and Eagan, MN and (2) from New Orleans, LA and Mobile, AL on the one hand to Trumann, AR, on the other, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: The Singer Company, United States Sewing Products Division, 313 Underhill Blvd., Syosset, NY 11791. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 71642 (Sub-34TA), filed September 25, 1979. Applicant: CONTRACTUAL CARRIERS, INC., Allan Dr., Harmony Industrial Park, Newark, DE 19711. Representative: Samuel W. Earnshaw, 833 Washington Bldg., Washington, D.C. 20005. Contract carrier-irregular routes: *Plastic and plastic products,* between Greensboro, MD on the one hand, and points on and east of the Mississippi River, under contract with J. L. Moorshead Co., Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: J. L. Moorshead Co., Inc., Sunset Ave., Greensboro, MD 21639. Send protests to: I.C.C., 101 N. 7th St., Philadelphia, PA 19106.

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MC 73533 (Sub-6TA), filed October 31, 1979. Applicant: KEY WAY TRANSPORT, INC., 820 S. Oldham St., Baltimore, MD 21224. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. *Such commodities as are dealt in or used by retail discount or department stores,* from the facilities of Key Warehouse Services, Inc., at Baltimore, MD to Hagerstown, Frederick, Bowie, Westminster, Elkton, Waldorf, Lexington Park, Salisbury, and Easton, MD and Fredericksburg, Manassas, Leesburg and Woodridge, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: K-Mart Corporation, 845 Highway 18, East Brunswick, NJ 08816; F. W. Woolworth Company, 162 W. Chelten Ave., Phila., PA 19144. Send protests to: I.C.C., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 73533 (Sub-7TA), filed November 7, 1979. Applicant: KEY WAY TRANSPORT, INC., 820 S. Oldham St., Baltimore, MD 21224. Representative: Gerald K. Gimmel, 4 Professional Dr., Gaithersburg, MD 20760. *Alcoholic beverages and malt beverages* (except commodities in bulk), from points in MA, NJ, DE, VA, that part of NY on and south of I–84 and Philadelphia, PA to the facilities of Milton S. Kronheim & Co., Inc., Washington, D.C. and The Kronheim Co. at Halethorpe, MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Milton S. Kronheim & Co., Inc., 2900 V St., Washington, D.C. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 82063 (Sub-114TA), filed December 17, 1979. Applicant: KLIPSCH HAULING CO., 10795 Watson Road, Sunset Hills, MO 63127. Representative: W. E. Klipsch, (address same as applicant's). *Liquid cleaning, scouring & washing compounds, in bulk, in vinyl-ester lined tank vehicles* from the plant site of The Procter & Gamble Mfg. Co. at Ivorydale-St. Bernard, OH to Chicago, IL and Fort Madison, IA for 180 days. Supporting shipper: Procter & Gamble Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: Ruth Allport, TCS, ICC, 411 W. 7th St., Suite 600, Ft. Worth, TX 76102.

MC 98992 (Sub-23TA), filed December 10, 1979. Applicant: HIGHWAY PIPELINE TRUCKING CO., P.O. Box 1517, Edinburg, TX 78539. Representative: Kenneth R. Hoffman, Lanham, Htachell, Sedberry & Hoffman, 801 Vaughn Building, Austin, TX 78701. *Paper, paper products, copying machines, and materials, equipment, parts, supplies and accessories used in the development, manufacture, sale, service and distribution of copying machines* between points in CA, NY, NH and TX for 180 days. Restricted against the transportation of commodities in bulk. Underlying ETA for 90 days filed. Supporting shipper: Uni-Copy Corporation, 3693 Southwest Freeway, Suite 200, Houston, TX 77027. Send protests to: Opal M. Jones, TCS, ICC, 411 West 7th St., Suite 600 Fort Worth, TX 76102.

MC 105733 (Sub-78TA), filed December 20, 1979. Applicant: RITTER TRANSPORTATION, INC., 928 E. Hazelwood Avenue, Rahway, NJ 07065. Representative: Andrew R. Jeltes, 928 E. Hazelwood Avenue, Rahway, NJ 07065. *Chemicals,* in bulk, in tank vehicles from Bridgeville, PA and Neville Island, PA to Fords, Garfield, Newark, Old Bridge, Parlin, NJ; Baltimore and Chestertown, MD and North Haven, CT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Tenneco Chemicals, Inc., P.O. Box 367, Piscataway, NJ 08854. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 107002 (Sub-565TA), filed December 7, 1979. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: Larry M. Ford (same address as applicant). *Chemicals,* in bulk, from Laurel, MS to points in CA, LA, MO, OH, PA, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Petrolite Corp., Tretolite Div., 625 N. 13th Ave., Laurel, MS 39440. Send protests to: Alan Tarrant, D/S, ICC, Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 107403 (Sub-1297TA), filed November 30, 1979. Applicant: MATLACK, INC., Ten W. Baltimore Ave., Landsdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). *JP 4, in bulk, in tank vehicles,* from Cincinnati, OH to Grand Forks AFB, ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Chief, Regulatory Law Office, U.S. Army Legal Services Agency, Department of the Army, (JALS–RL), Falls Church, VA 22041. Send protests to: I.C.C., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 107403 (Sub-1298TA), filed December 6, 1979. Applicant: MATLACK, INC., Ten W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., (same address as applicant). *Liquid Chemicals, in bulk, in tank vehicles,* from Huron, OH, to points in the states of VA, NC, SC, FL, MT, UT, NM, DC, and Elizabethton and Kingsport, TN, and Grand Rapids and Kalamazoo, MI, for 180 days. Supporting shipper: SCM Corp., 900 Union Commerce Bldg., Cleveland, OH 44115. Send protests to: I.C.C., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 110683 (Sub-169TA), filed December 5, 1979. Applicant: SMITH'S TRANSFER CORP., P.O. Box 1000, Staunton, VA 24401. Representative: W. D. Kirkpatrick, P.O. Box 1000, Staunton, VA 24401. *Common; regular; General Commodities, except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment.* Between Des Moines, IA and Springfield, MO serving no intermediate points: From Des Moines over U.S. Hwy 65 to Springfield and return over the same route. Between Davenport, IA and Springfield, MO serving all intermediate points in IA: From Davenport over U.S. Hwy 61 to its junction with MO Hwy 19 then over MO Hwy 19 to its junction with U.S. Hwy 54 then over U.S. Hwy 54 to Springfield and return over the same route. Between Paducah, KY and Springfield, MO serving all intermediate points in KY: From Paducah over U.S. Hwy 60 to Springfield and return over the same route. Between Paducah, KY and Little Rock, AR serving all intermediate points in KY: From Paducah over U.S. Hwy 60 to its junction with U.S. Hwy 67, then over U.S. Hwy 67 to Little Rock and return over the same route, for 180 days. Applicant intends to tack authority sought herein with authority held under docket number MC 110683. Applicant intends to interline with other carriers at all present interchange points. An underlying ETA seeks 90 days authority. Supporting shippers: There are 31 supporting shippers. Their statements may be examined at the office listed below or at Headquarters. Send protests to: I.C.C., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 111302 (Sub-166TA), filed December 10, 1979. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10108, 1500 Amherst Road, Knoxville, TN 37919. Representative: David A. Petersen (same address as applicant). *Liquid hexamethylene-diamine,* in bulk, in tank vehicles, from the facilities of E. I. Dupont, Inc., at or near Orange and Victoria, TX, to Chattanooga, TN; Camden, SC; Seaford, DE; Richmond, Martinsville and Waynesboro, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: E. I. du Pont de Nemours & Co., Inc., 1007 Market St., Wilmington, DE 19898. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 111302 (Sub-167TA), filed December 10, 1979. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10108, 1500 Amherst Road, Knoxville, TN 37919. Representative: David A. Petersen (same address as applicant). *Cyclohexanone and nitric acid,* in bulk, in tank vehicles, from Augusta, GA, to the facilities of Alpine Laboratories in Bay Minette and Childersburg, AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Alpine Laboratories, Inc., P.O. Box 147, Bay Minette, AL 36507. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 111302 (Sub-168TA), filed December 10, 1979. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10108, 1500 Amherst Road, Knoxville, TN 37919. Representative: David A. Petersen (same address as applicant). *Liquid synthetic latex,* in bulk, in tank vehicles, from the facilities of the Reichhold Chemical Co., in Kensington, GA to points in: AL, TN, VA, NC, SC, MS, TX, and LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Reichhold Chemicals, Inc., P.O. Drawer K, Dover, DE 19901.Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 111812 (Sub-702TA), filed November 29, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma, P.O. Box 1233, Sioux Falls, SD 57101. (1) *Pet food mix (except in bulk)* from the facilities of Geo. A. Hormel & Co. at Davenport, IA to all points in IL, KS, MN, MO, NE, SD and WI and (2) *Hog and pig skins and trimmings* from points in IL, KS, MN, MO, NE, SD and WI to the facilities of Geo. A. Hormel & Co. at Davenport, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Geo. A. Hormel & Co., P.O. Box 800, Austin, MN 55912. Send protests to: J. L. Hammond, DS, ICC, Room 322, Federal Bldg., Pierre, SD 57501.

MC 113362 (Sub-378TA), filed November 9, 1979. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 E. Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. *Fresh meats and packinghouse products (except hides and commodities in bulk)* from the facilities of Wilson Foods Corporation at Omaha, NE, to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114123 (Sub-48TA), filed November 29, 1979. Applicant: HERMAN R. EWELL, INC., East Earl, PA 17519. Representative: J. Bruce Walter, 410 N. 3rd St., P.O. Box 1146, Harrisburg, PA 17108. *Corn products and blends containing corn products,* from the facilities of Archer Daniels Midland Co. at or near Bayway (Elizabeth), NJ to points in PA, MD, VA, WV, DE, CT, NY, MA, NC, RI, ME, and Washington, DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Archer Daniels Midland Co., 4550 W. 109th St., Shawnee Mission, KS 66211. Send protests to: I.C.C., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 114132 (Sub-7TA), filed October 9, 1979. Applicant: CHURN'S TRUCK LINES, INC., P.O. Box 188, Eastville, VA 23347. Representative: James F. Flint, Suite 600, 1250 Connecticut Ave., NW, Washington, DC 20036. *Meats, meat products, meat by-products* and *articles* distributed by meat packing houses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk). From the facilities of the Smithfield Packing Co., Inc. at or near Smithfield, VA to points in MA, RI, CT, MY, PA, NJ, DE, MD, VA, NC, SC, GA, FL and DC. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: The Smithfield Packing Co., Inc., P.O. Box 447, Smithfield, VA 23430. Send protests to: I.C.C., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 115703 (Sub-21TA), filed October 4, 1979. Applicant: KREITZ MOTOR EXPRESS INC., P.O. Box 375, 220 Park Rd. North, Wyomissing, PA 19610. Representative: Robert D. Gunderman, 710 Statler Bldg., Buffalo, NY 14202. *(1) Fiberglass shelters,* the transportation of which, because of size or weight, requires the use of special equipment, and (2) *related parts and accessories,* for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Virginia Fiberglass Products, Inc., P.O. Box 1330, Roanoke, Va 24007. Send protests to: I.C.C., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 116063 (Sub-160TA), filed December 19, 1979. Applicant: WESTERN-COMMERCIAL TRANSPORT, INC., 2929 West Fifth Street, Fort Worth, TX 76101. Representative: W. H. Cole, (address same as applicant). *Natural latex, in bulk, in tank vehicles* from Houston, TX to Noble, OK for 180 days. Supporting shipper: Guthrie Industries, Inc., Plaza 9, 900 Route 9, Woodbridge, NJ 07095. Send protests to: Ruth Allport, TCS, ICC 411 West 7th St., Suite 600, Ft. Worth, TX 76102.

MC 16313 (Sub-7TA), filed December 5, 1979. Applicant: TROMBLY MOTOR COACH SERVICE, INC., Route 125 By-Pass, No. Andover, MA 01845. Representative: Robert V. Cauchon, Esq., C/O Sullivan & Worcester, 100 Federal Street, Boston, MA 02110. *Common carrier,* regular routes; *Passengers and their baggage and express in the same vehicle as passengers in regular route operations* between Nashua, NH; and Boston MA, serving the intermediate point of Lowell, MA: From Nashua, over U.S. Hwy 3 to junction MA Hwy 128, then over MA Hwy 128 to junction Interstate Hwy 93, then over Interstate Hwy 93 to Boston, and return over the same route; alternate route, from Nashua over U.S. Hwy 3 to junction Interstate Hwy 495, then over Interstate Hwy 495 to junction H Interstate Hwy 93, then over Interstate Hwy 93 to Boston and return over same route; alternate route, same as foregoing except from Interstate 495 at junction of Lowell Connector over Lowell Connector to Lowell and return over same route, for 180 days. Supporting shipper: There are twenty-four supporting shippers. Send protests to: John D. Thomas, D/S I.C.C., Boston, MA 02114.

MC 116362 (Sub-5TA), filed December 4, 1979. Applicant: A. BELLAVANCE & SONS, INC., Boynton Street, Barre, VT 05641. Representative: John P. Monte, Box 568, Barre, VT 05641. *Stone, granite (except monumental stone and granite) and materials and machinery used in the manufacturing of stone and granite,* (A) between Barre, VT and Bethel, VT, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, CO, OK and TX, and (B) between Concord, NH, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, CO, OK and TX, and *stone, granite and materials and machinery used in the manufacturing of stone and granite,* from Barre, VT and Montpelier, VT to points in states of MD, DE, DC, VA and WV, for 180 days. Supporting shipper: Rock of Ages Corporation, P.O. 482, Barre, VT 05641; S. L. Garand Company, Inc., Box 365, Montpelier, VT 05602. Send protests to: I.C.C., P.O. Box 548, Montpelier, VT 05602.

MC 118142 (Sub-245TA), filed December 6, 1979. Applicant: M. BRUENGER & CO., INC., 6250 N. Broadway, Wichita, KS 67219.

Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202. *Meat, meat products, meat byproducts, and articles distributed by meat packing houses (as defined by the Commission), except hides and commodities in bulk),* from Pittsburg, KS, to Seattle, WA. Common, irregular, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Cudahy Foods Company, P.O. Box 3545, Seattle, WA 98124. Send protests to: M. E. Taylor, D/S, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 118263 (Sub-99TA), filed October 22, 1979. Applicant: COLDWAY CARRIERS, INC., P.O. Box 2038, Clarksville, IN 47130. Representative: William P. Whitney, Jr., 708 McClure Bldg., Frankfort, KY 40601. *Frozen foods* from facilities of Pet Incorporated, Frozen Foods Division, Allentown and Chambersburg, PA and public storage utilized by Pet at Fogelsville and Waynesboro, PA, Winchester, VA, Martinsburg and Ranson, WV, to points in AL, GA, IL, IN, KY, LA, MI, MS, NY, NC, OH, OK, SC, TN, TX, VA and WV for 180 days. An underlying ETA seeking 90 days authority. Supporting shipper: Pet Incorporated, Frozen Foods Division, 400 South Fourth Street, St. Louis, MO 63102. Send protests to: Beverly J. Williams, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 118283 (Sub-100TA), filed October 3, 1979. Applicant: COLDWAY CARRIERS, INC., P.O. Box 2038, Clarksville, IN 47130. Representative: William P. Whitney, Jr., 708 McClure Building, Frankfort, KY 40601. *Frozen foodstuffs moving in vehicles equipped with mechanical refrigeration* from the facilities of Diamond Ice and Cold Storage, Inc. at Wilmington, DE to all points East of MN, IA, MO, AR and LA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Diamond Ice and Cold Storage, Inc., Box 709, 1803 Jessup Street, Wilmington, DE 19899. Send protests to: Beverly J. Williams, ICC, 46 E. Ohio St., Indianapolis, IN 46204.

MC 118283 (Sub-101TA), filed October 3, 1979. Applicant: COLDWAY CARRIERS, INC., Post Office Box 2038, Clarksville, IN 47130. Representative: William P. Whitney, Jr., 708 McClure Bldg., Frankfort, KY 40601. *Foodstuffs moving in vehicles equipped with mechanical refrigeration* between the facilities of the Delaware Freezer Center at or near Newark, DE, on the one hand, and, on the other, all points east of MN, IA, MO, AR and LA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): OmniWay, 2000 South Ninth Street, Louisville, KY 40208. Send protests to: Beverly J. Williams, ICC, 46 E. Ohio St., Indianapolis, IN 46204.

MC 118803 (Sub-13TA), filed December 21, 1979. Applicant: ATLANTIC TRUCK LINES, INC., 100 Hamilton Plaza, Paterson, NJ 07505. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Contract, irregular. *Such commodities as are dealt in or used by a manufacturer of drugs, medicines, toilet preparations and confectionery* (except in bulk); (1) Between points in the New York, NY commercial zone, Jacksonville, FL and facilities of Warner-Lambert Company at Milford, CT, Lititz and Philadelphia, PA and Rockford, IL on the one hand, and on the other, South Brunswick, NJ, Morrow, GA, Grand Prairie, TX and Elk Grove Village, IL. (2) Between South Brunswick, NJ, Morrow, GA, Grand Prairie, TX and Elk Grove Village, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Warner Lambert Company, 201 Tabor Road, Morris Plains, NJ 07950. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 119493 (Sub-337 TA), filed December 13, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, same as applicant. *Non-ferrous metals and articles* related to the manufacturing and refining of non-ferrous metals (except commodities in bulk) between points in AL, AR, CO, FL, GA, IA, IL, IN, KS, KY, LA, MS, MO, MN, NE, NY, OK, TN, TX, and UT restricted to traffic from or to facilities of, or shipped for the account of: Aluminum Sales, Inc., Southern Zinc Company, Gulf Metals Industries, Inc., Micon Metals Corporation, and Cathodic Technologies, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Aluminum Sales, Inc., 101 North Hampton, Crowley, TX; Gulf Metals Industries, Inc., 6030 Esperson, Houston, TX 77001; Micon Metals Corporation, 7007 Gulf Frwy, Suite 135, Houston, TX 77087; Cathodic Technologies, Inc., 3722 Dumbarton, Houston, TX 77025. Supporting shipper: Southern Zinc Company, 1359 Central Avenue, East Point, GA 30344. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 119493 (Sub-338TA), filed December 4, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, same as applicant. *Mineral, mineral mixtures, feed, fertilizer, fertilizer compounds, ingredients,* (except in bulk) *materials and supplies* used in the manufacture and distribution thereof (except in bulk) between Fairbury, NE on the one hand and points in AR, CO, ID, IA, IL, IN, KS, KY, MN, MO, MI, NM, OK, OH, SD, TN, TX, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Eagle Picher Ind. Inc., P.O. Box 550—"C" & Porter, Joplin, MO 64801. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 119493 (Sub-339TA), filed November 29, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, same as applicant. *Paints, stains, varnishes, materials, supplies, equipment* used in the manufacturing and distribution and installation thereof (except commodities in bulk), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: E. H. Fischer, Inc., 826 So. 18th St., St. Louis, MO 63103. Send protests to: Vernon V. Coble, DS, ICC, 911 Walnut St. Kansas City, MO 64106.

MC 119493 (Sub-340TA), filed December 10, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, same as applicant. *Iron, steel, iron or steel articles, and materials and supplies* used in the manufacture and distribution of household, sporting, and recreational equipment (except commodities in bulk), between Neosho, MO and its commercial zone on the one hand and AL, AR, CO, IL (except steel from Chicago, IL commercial zone), IA, KS, LA, MS, NE, OK (except steel from Tulsa and Catoosa), OH (except steel from Mansfield), TN, and TX on the other hand, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Neosho Products Div. Sunbeam Corp., P.O. Box 622, Neosho, MO 64850; Talbot Wire Products Inc., 1211 Harmony, P.O. Box 608, Neosho, MO 64850. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 119493 (Sub-341TA), filed December 10, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, same as applicant. *Plastics, plastic articles, synthetic resins, products, materials, and supplies* used in the manufacturing, processing, and distribution thereof (except commodities in bulk in tank vehicles), between Houston, TX and Baton Rouge, LA on the one hand, and points in CO, GA, IL, IN, KY, NY, NJ, and OK on the other hand, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Langtex Corp., 9039 Katy Freeway, Suite 521, Houston, TX 77024. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 119493 (Sub-342TA), filed December 13, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, same as applicant. *Animal feed ingredients (except in bulk)* from Chattanooga, TN to Dallas, TX and St. Paul, MN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St. Kansas City, MO 64106.

MC 119843 (Sub-9TA), filed December 18, 1979. Applicant: ROESCH LINES, INC., 844 E. Ninth Street, San Bernardino, CA 92402. Representative: Fred H. Mackensen, 9454 Wilshire Blvd., Suite 400, Beverly Hills, CA 90212. *Passengers and their baggage in round-trip charter operations,* beginning and ending at points in Orange, Riverside, San Bernardino and Los Angeles Counties, CA and extending to points in the United States, for 180 days. An underlying ETA seeks 90 up to days authority. Supporting shipper(s): There are approximately 7 supporting shippers. Statements of support can be examined at Headquarters or the office listed below. Send protests to: Irene Carlos, TA, ICC, Room 1321, 300 North Los Angeles Street, Los Angeles, CA 90012.

[Notice No. 254]

January 10, 1980

MC 200 (Sub-427TA), filed December 5, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, MO 64106. Representative: H. Lynn Davis, same as applicant. *Pipe and fittings* from the facilities of Can-Tex, IND. located at or near Rolla, MO, to points in AL, AR, AZ, CA, CO, FL, GA, ID, IL, IN, KS, KY, LA, MI, MN, MS, MT, NC, ND, NE, NM, NY, OH, OK, OR, PA, SC, TN, TX, SD, WA, WI, and WY. Restricted to shipments originating at the named origin and destined to the indicated destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Can-Tex Ind., P.O. Box R, Rolla, MO 65401. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 200 (Sub-428TA), filed December 7, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, MO 64106. Representative: H. Lynn Davis, same as applicant. *Pet foods* between Clinton, IA and Terre Haute, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hulman and Company, 900 East Wabash, Terre Haute, IN 47807. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 200 (Sub-429TA), filed December 3, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, MO 64106. Representative: H. Lynn Davis, same as applicant. *Ferrous sulphate* (except in bulk) from the facilities of Quality Chemicals Limited at or near Baltimore, MD, to all points in the United States (except AK and HI). Restricted to shipments originating at the origin facilities and destined to the indicated destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Quality Chemicals Limited, 1951 Benhill Avenue, Baltimore, MD 21226. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 200 (Sub-430TA), filed December 3, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, MO 64106. Representative: H. Lynn Davis, same as applicant. *Plastic caps* between Leominster, MA and Danville, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Peterson Puritan, Hegeler Lane, Danville, IL 61832. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 9411 (Sub-4TA), filed November 27, 1979. Applicant: FRERICHS FREIGHT LINES, 120 N. 30th St., Belleville, IL 62221. Representative: William F. Frerichs, (same address as applicant). (1) *Fibreboard, pulpboard, or strawboard boxes and sheets,* from Belleville, IL, to points in AR, IN, KY, OK and TN; (2) *Pulpboard, or fibreboard, in rolls,* from Valient, OK, to points in AR, IL and MO; and (3) *Materials, equipment and supplies used in the manufacture and distribution of the commodities named in (1),* from points in AR, KY, IN, OK and TN, to Belleville, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Weyerhaeuser Co., 3001 Otto St., Belleville, IL 62221. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 13651 (Sub-24TA), filed December 19, 1979. Applicant: PEOPLES TRANSFER, INC., 1430 West 11th Street, Long Beach, CA 90813. Representative: James H. Gulseth, 100 Bush Street, 21st Floor, San Francisco, CA 94104. *Such commodities as are dealt in or used by (1) grocery and food business houses, (2) discount and variety stores, or (3) suppliers of (1) or (2) above,* between points in ID, MT, UT, WY, CO, AZ, CA, NV, OR and WA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): There are approximately 9 supporting shippers. Statement of support can be examined at Headquarters or the office listed below. Send protests to: Irene Carlos, TA, ICC Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 21040 (Sub-4TA), filed October 23, 1979. Applicant: ARTHUR JOHNSON CO., 3230 West 38th Street, Chicago, IL 60632. Representative: David W. Johnson, 3230 West 38th Street, Chicago, IL 60632. *General Commodities* (with the usual exceptions), having a prior or subsequent movement via air, rail, or water between the Chicago, IL commercial zone on the one hand, and, on the other, points in IL, IA, IN, KY, MI (on a line from the Western Shores of Lake Michigan, South from Muskegan to Grand Rapids, thence MI State Hwy 21 to Flint, MI thence via MI State Hwy 21 to Port Huron, MI, on the east), MN, MO, OH, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 9 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Transportation Assistant, I.C.C., 219 S. Dearborn St., RM 1386, Chicago, IL 60604.

MC 42011 (Sub-61TA), filed December 26, 1979. Applicant: D.Q. WISE & CO., INC., P.O. Drawer L Tulsa, OK 74112. Representative: J.G. Dail, Jr., P.O. Box LL, McLean, VA 22101. (1) *Recycled ceiling fiber and additives,* (except commodities in tank or dump vehicles), from the facilities of Montello, Inc., at Sand Springs, OK, to points in the United States, (except AK and HI), and (2) *materials, equipment, and supplies used in the manufacture of the commodities named in (1) above,* (except commodities in tank or dump vehicles), in the reverse direction, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Montello, Inc., 6106 E. 32nd Place, Tulsa, OK 74135. Send protests to: Connie Stanley, ICC, Rm 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 48441 (Sub-56TA), filed December 13, 1979. Applicant: R.M.E., INC., P.O. Box 418, Streator, IL 61364. Representative: Michael D. Bromley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW, Washington D.C. 20001. *Plastic articles,* from the facilities of Wheaton

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Industries, Inc. at or near Centralia, IL, to points in IA, IN, KY, MI, MN, MO, NE, OH, TN, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Wheaton Industries, Wheaton Ave., Millville, NJ 08332. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 48441 (Sub-57TA), filed November 5, 1979. Applicant: R.M.E., INC., P.O. Box 418, Streator, IL 61364. Representative: Michael D. Bromley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001. *Malt beverages, and related advertising materials*, from the facilities of Miller Brewing Co., at Milwaukee, WI, to points in IA, KY, MN, MO (except the St. Louis commercial zone), NE, ND, SD, and the Upper Peninsula of MI, and *empty containers* on return for 180 days. Supporting shipper: Miller Brewing Co., 3939 W. Highland Blvd., Milwaukee, WI 53201. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 52460 (Sub-272TA), filed December 21, 1979. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, Tulsa, OK 74107. Representative: Michael E. Calvert (same address as applicant). *Foodstuffs, pet feeds, and animal feeds*, between the facilities of Carnation Co., at Elwood, KS, and St. Joseph, MO, on the one hand, and, on the other, points in AR, CO, FL, IL, IN, KS, LA, MO, NM, OK, TN, TX, & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Carnation Co., 5045 Wilshire Blvd., Los Angeles, CA 90036. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 75840 (Sub-130TA), filed December 6, 1979. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., N. E., Atlanta, GA 30326. *Chemicals (except in bulk), and petroleum and petroleum products, in packages*, between all points in and east of WI, IL, KY, TN, MS, and LA, on the one hand, and, on the other, Good Hope, LA, for 180 days. Supporting shipper: Chevron U.S.A. Inc., 575 Market St., San Francisco, CA 94105. Send protests to: Mabel E. Holston, TA, I.C.C. Room 1616-2121 Bldg., Birmingham, AL 35203.

MC 77061 (Sub-28TA), filed December 27, 1979. Applicant: SHERMAN BROS. INC., 29534 Airport Road, P.O. Box 706 Eugene, OR 97402. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, Oregon 97205, 503-224-4840. *VENEER* from the facilities of International Paper Co. at or near Weed, CA to the facilities of International Paper Co. at Gardiner, OR for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: International Paper Co., 121 S.W. Salmon, Portland, OR 97204. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S. W. Yamhill St., Portland, OR 97204.

MC 94430 (Sub-49TA), filed December 5, 1979. Applicant: WEISS TRUCKING COMPANY, INC., P.O. Box 7, Mongo, IN 46771. Representative: James R. Stiverson, 1396 W. Fifth Ave., Columbus, OH 43212. *Sand, in bulk*, from the facilities of Manley Bros. at or near Bridgman, MI, and Troy Grove, IL, to points in the United States in and east of ND, SD, NE, KS, OK and TX for 180 days. Supporting shipper: Manley Bros. of Indiana, Inc., P.O. Box 538, Chesterton, IN 46304. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 95540 (Sub-1150TA), filed December 20, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Rd., P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher, same address as applicant. *Foodstuffs* from Dallas and Fort Worth, TX to Memphis, TN, Birmingham, AL, Atlanta, GA and points in AR, LA and MS for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Swift, Box 1229, Ft. Worth, TX 76101. Send protests to: Donna M. Jones, T/A, ICC-BOp, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 3166.

MC 98750 (Sub-3TA), filed December 18, 1979. Applicant: TRUCKING UNLIMITED, 9215 Sorensen Avenue, Santa Fe Springs, CA 90670. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602. *Building and construction materials and materials used in the manufacture of building material and including but not limited to asphalt, reinforcing wire mesh, gypsum wall board, roofing and nails*, between points in CA and points in Washoe, Lyons and Douglas Counties, NV, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Georgia Pacific Corporation, Transportation Analyst, 900 S. W. Fifth Avenue, Portland, OR 97204; Angels Home Improvement Center, Traffic Coordinator, 6915 East Slauson Avenue, City of Commerce, CA 90040; U.S. Gypsum Company, Traffic Manager, Western Division, 620 North Brand Boulevard, Glendale, CA 91203. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 105881 (Sub-60TA), filed November 30, 1979. Applicant: MR&M TRUCKING COMPANY, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, 1000 Sixteenth St., NW, Washington, DC 20036. Common carrier: regular routes: General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) between Atlanta, GA and Montgomery, AL, serving no intermediate points: from Atlanta over Interstate Hwy 85 to Montgomery and return over the same route, (2) between Birmingham, AL and Marianna, FL, serving all intermediate points: from Birmingham over US Hwy 31 to Montgomery, then over US Hwy 231 to its junction with FL Hwy 73, then over FL Hwy 73 to Marianna and return over the same route; (3) between Columbus, GA, and Montgomery, AL, serving all intermediate points: from Columbus over US Hwy 80 to Montgomery and return over the same route; (4) between Mobile, AL, and Birmingham, AL, serving no intermediate points: From Mobile over US Hwy 43 to its junction with US Hwy 11 then over US Hwy 11 to Birmingham and return over the same route. (5) between Mobile, AL, and Montgomery, AL, serving no intermediate points: From Mobile over US Hwy 31 to Montgomery and return over the same route, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): There are 70 supporting shippers to this application. Their statements may be examined at the office listed below or Headquarters. Send protests to: I.C.C., Federal Reserve Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

Note.—Tacking and interlining is intended. No duplicate authority sought. Authority is requested to serve the Commercial Zones of all points requested in this application.

MC 107980 (Sub-7TA), filed November 5, 1979. Applicant: SUMMERFORD TRUCK LINE, INC., 206 Broadway, Ashford, AL 36312. Representative: Robert J. Corber, 1747 Pennsylvania Ave., N.W., Suite 1050, Washington, DC 20006. *General commodities, having a prior or subsequent movement by water*, between Charleston, SC, Jacksonville, FL, Panama City, FL, and Savannah, GA, on the one hand, and on the other, points in AL, FL, GA, MS, SC, and TN, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper: There are 6 statements in support attached to this application which may be examined at the ICC in Washington, DC, or copies of which may be examined in the field office named below. Send protests to: Mabel E. Holstron, TA, I.C.C., Room 1616—2121 Bldg., Birmingham, AL 35203.

MC 113651 (Sub-322TA), filed December 6, 1979. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 522, Riggin Rd., Muncie, IN 47305. Representative: Henry Higgs, same as applicant. *Commodities as are dealt in by wholesale and retail food and drug outlets (except commodities in bulk)*: from Chicago, IL Commercial Zone to points in the states of IA, NE, and KS, for 180 days. Supporting shipper(s): The Proctor & Gamble Distributing Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: Transportation Assistant, ICC—219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 115570 (Sub-33TA), filed October 30, 1979. Applicant: INTERSTATE DISTRIBUTOR CO., 8311 Durango St S.W., Tacoma, WA 98499. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. *Contract carrier;* irregular routes; *(1) Wooden doors*, from Puyallup, WA to points in CA; *(2) Hardboard and lumber* from Ukiah, Corning, Tehamo and Redding, CA to Puyallup, WA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Vancouver Door Co., 203 5th Street N.W., Puyallup, WA 98371. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 115651 (Sub-71TA), filed November 30, 1979, Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Rd., P.O. Box 39, Rockford, IL 61105. Representative: E. Stephen Heisley, 666 11th Street NW., Washington, D.C. 20001. *Gasoline and Fuel Oil*, in bulk, in tank vehicles, from Rochelle, IL to Madison, WI, for 180 days. Supporting shipper(s): Ryan Incorporated of Wisconsin, Box 206, Janesville, WI 53545. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Chicago, IL 60604.

MC 115651 (Sub-72TA), filed November 8, 1979, Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Rd., P.O. Box 39, Rockford, IL 61105. Representative: Robert D. Higgins, 7222 Cunningham Rd., Box 39, Rockford, IL 61105. *Liquified Petroleum Gas, in bulk, in tank vehicles*, from Janesville, WI to points in IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Quality, Inc., 4249 E. State St., Rockford, IL. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 115651 (Sub-73TA), filed November 30, 1979, Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Rd., P.O. Box 39, Rockford, IL 61105. Representative: E. Stephen Heisley, 666 11th St., Washington, D.C. 20001. *Liquid Fertilizer, in bulk, in tank vehicles*, from Fort Madison, IA and points within ten (10) miles of Fort Madison, IA to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, WI for 180 days. Supporting shipper(s): First Miss Inc., P.O. Box 328, Ft. Madison, IA 52627. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 115651 (Sub-74TA), filed November 28, 1979, Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Rd., P.O. Box 39, Rockford, IL 61105. Representative: E. Stephen Heisley, 666 11th St., NW., Washington, D.C. 20001. *Liquified Petroleum Gas, in bulk, in tank vehicles*, from Minneapolis, MN to Burnett, Beaver Dam and Watertown, WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dodge County Co-operative, Route #4 Box 70, Beaver Dam, WI 53916. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 115651 (Sub-75TA), filed November 14, 1979, Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Rd., Rockford, IL 61105. Representative: E. Stephen Heisley, 666 11th St., NW., Washington, D.C. 20001. *Gasoline and fuel oil, in bulk, in tank vehicles:* from Rockford, IL., to Monroe, WI. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Donald B. Saunders, d.b.a. Saunders Oil Co., Warren, IL. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, St., Room 1386, Chicago, IL 60604.

MC 115651 (Sub-76TA), filed November 21, 1979. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, P.O. Box 39, Rockford, IL 61105. Representative: Robert D. Higgins, 7222 Cunningham, Rd., P.O. Box 39, Rockford, IL 61105. *Resin products and Latex products* in bulk, in tank vehicles, from Carpentersville, IL to points in (1) WY and (2) that part of the Continental U.S. on and East of Highway U.S. 85, for 180 days. Supporting shipper(s): Cargill, Incorporated, Cottage Avenue and Lake Marion Rd., Carpentersville, IL 60110. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Chicago, IL 60604.

MC 117241 (Sub-3TA), filed December 14, 1979. Applicant: RONALD J. EMANUELSON, 418 Higby Road, Middletown, CT 06457. Representative: Robert C. Engstrom, One Financial Plaza, Hartford, CT 06103. *Common carrier:* irregular routes: *fertilizer and fertilizer materials* including lime, limestone and gypsum in bulk in spreader dump or hopper unloading vehicles; also *fertilizer and fertilizer materials, weed killing compounds and insecticides* in mixed truckloads from (1) Portland, CT, to points in NJ, PA, MD, DE, and VA, and (2) points in NJ, PA, MD, DE, and VA to Portland, CT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Estech General Chemical Corporation, P.O. Box 233, Brownstone Avenue, Portland, CT 06480. Send protests to: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 135 High Street, Hartford, CT 06103.

MC 117820 (Sub-42TA), filed December 5, 1979. Applicant: AURELLA TRUCKING CO., Port Huron MI, 2121 Petit Ave., Port Huron, MI 48060. Representative: Robert D. Schuler, 100 West Long Lake Rd.—Suite 102, Bloomfield Hills, MI 48013. *Materials, supplies and equipment* (except in bulk) used in the manufacture or processing of auto body parts or trim from points in AL, FL, GA, IL, KY, MA, OH and WV to the facilities of Riverside Metal Products Company at Port Huron, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Riverside Metal Products Company, 1631 Dove Street, Port Huron, MI 48060. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Chicago, IL 60604.

MC 117910 (Sub-6TA), filed December 12, 1979. Applicant: W. H. FROH, INC., 57780 Main Boulevard, New Haven, MI 48048. Representative: Walter N. Bieneman, 100 W. Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. *Contract carrier:* irregular routes: *Material handling equipment, containers therefor, and equipment, materials and supplies used in the manufacture thereof, under a continuing contract, or contracts, with Jervis B. Webb Company of Farmington, Hills, MI*, between Port Huron, MI, on the one hand, and on the other, those points in the United States in and east Huron, MI, on the one hand, and on the other, those points in the United States in and east of the States of MT, WY, CO and NM for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jervis B. Webb Company, 1 Webb Drive, Farmington Hills, MI 48018. Send protests to: Transportation assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 120910 (Sub-43TA), filed December 14, 1979. Applicant: SERVICE

EXPRESS, INC., P.O. Box 1009, Tuscaloosa, AL 35401. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *Pulpboard and waste pulpboard,* from facilities of Gulf States Paper Corp. at or near Demopolis, AL, to facilities of Southern Railway, at or near Tuscaloosa, AL, for 180 days. Applicant proposes to interline shipments transported under this authority with Southern Railway at Tuscaloosa, AL. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gulf States Paper Corp., P.O. Box 3199, Tuscaloosa, AL 35404. Send protests to: Mabel E. Holston, TA, ICC, Room 1616, 2121 Bldg., Birmingham, AL 35203.

MC 120910 (Sub-44TA), filed December 12, 1979. Applicant: SERVICE EXPRESS, INC., P.O. Box 1009, Tuscaloosa, AL 35403. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. *Petroleum resins and synthetic resins,* from Moundville, AL, to points in the United States in and east of ND, SD, NE, KS, OK and TX, (2) *Materials, parts and supplies used in the manufacture of commodities in (1) above,* from points in and east of ND, SD, NE, KS, OK and TX; to Moundville, AL, for 180 days. Restriction: Restricted against the transportation of commodities in bulk, in tank vehicles. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southern Resins Division of Lawter Chemical, Inc., Cracker Road, Moundville, AL 35474. Send protests to: Mabel E. Holston, TA, I.C.C., Room 1616, 2121 Bldg., Birmingham, AL 35203.

MC 120910 (Sub-45TA), filed December 12, 1979. Applicant: SERVICE EXPRESS, INC., P.O. Box 1009, Tuscaloosa, AL 35403. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. (1) *Weed-killing compounds,* in bulk, in tank vehicles, from the facilities Fallek-Landro Corporation at or near Tuscaloosa, AL, to points in NE, SD, MN, IA, IL, MO, KS, WI, and PA; and (2) *Materials and supplies,* from points in NE, SD, ND, MN, IA, IL, MO, KS, WI and PA, to the facilities of Fallek-Landro Corporation at or near Tuscaloosa, AL, for 180 days. Supporting shipper(s): Fallek-Landro Corp., 1 Warrior Road, P.O. Box H, Holt, AL 35404. Send protests to: Mabel E. Holston, TA, I.C.C., Room 1616, 2121 Bldg., Birmingham, AL 35203.

MC 124821 (Sub-73TA), filed October 24, 1979. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. *Chemicals and materials, equipment and supplies used in the manufacture and distribution of chemicals,* except in bulk, from the facilities of National Starch and Chemical Corporation, at or near Meredosia, IL, to points in CT, DE, MD, ME, MA, NH, NJ, NY, PA, RI, VA and VT, restricted to the transportation of traffic originating at the above-named origins and destined to the above-named destinations, for 180 days. Supporting shipper(s): National Starch and Chemical Corporation, P.O. Box 6500, Bridgewater, NJ 08807. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101, N. 7th St., Rm. 620, Phila., PA 19106.

MC 126040 (Sub-3TA), filed November 20, 1979. Applicant: CONERTY-HENIFF TRANSPORT, INC., 4220 West 122nd Street, Alsip, IL 60658. Representative: Willaim H. Towle, 180 North LaSalle Street, Chicago, IL 60601. *Contract Carrier:* irregular routes: *Jet fuel, in bulk,* from the facilities of Ashland Petroleum Co., at Canton, OH, to Midway Airport, Chicago, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Midway Airlines, Inc., 5700 S. Cicero, Chicago, IL 60638. Send protests to: Transportation Assistant, I.C.C., 219 S. Dearborn St. RM 1386, Chicago, IL 60604.

MC 127811 (Sub-22TA), filed November 20, 1979. Applicant: BRYNWOOD TRANSFER, INC., 175 8th Avenue Southwest, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Pre-cast and pre-stressed concrete building products,* from Sioux Falls, SD, to Minneapolis and Edina, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gage Concrete Products, Inc., Operations Mgr., 4301 W. St. Sioux Falls, SD 57101. Send protests to: Judith L. Olson, TA, I.C.C., 414 Fed. Bldg., 110 S. 4th St., Mpls., MN 55401.

MC 127840 (Sub-150TA), filed December 18, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 N. LaSalle St., Chicago, IL 60601. *Crude peanut oil, in bulk, in tank vehicles,* from International Tank Terminals at Mobile, AL to Swift & Co. at Bradley, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Swift & Company, 115 W. Jackson Blvd., Chicago, IL 60604. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 127840 (Sub-151TA), filed November 23, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 N. LaSalle St., Chicago, IL 60601. *Plastic pellets, in bulk, in tank vehicles,* from Denver, CO, over irregular routes, to Powell, WY for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Soltex Polymer Corporation, P.O. Box 27328, Houston, TX 77027. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 127840 (Sub-152TA), filed November 16, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 N. LaSalle St., Chicago, IL 60601. *Vegetable oils, products and blends thereof,* in bulk, in tank vehicles, from Minneapolis, MN, to points in AL, AR, CA, CO, CT, DE, FL, GA, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME, MI, MO, MS, ND, NC, NH, NJ, NY, OH, OK, PA, RI, SC, TN, TX, VA, VT, WV, WA and WI, for 180 days. Supporting Shipper(s): Cargill, Incorporated, P.O. Box 9300, Department 2, Minneapolis, MN 55440. Honeymead Products, 720 Minneopa Road, Mankato, MN 56001. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 128270 (Sub-46TA), filed December 13, 1979. Applicant: REDIEHS INTERSTATE, INC., Box 5311—1477 Ripley Street, Lake Station, IN 46405. Representative: Richard A. Kerwin, 180 N. LaSalle St., Chicago, IL 60601. *Iron and steel articles,* from Lone Star, TX, to points in AR, AL,KS, IL, IN, IA, MO, OK, WI, and MI for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Friedman Industries, Inc., P.O. Box 437, Lone Star, TX 75668. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 128831 (Sub-14TA), filed December 13, 1979. Applicant: DIXON RAPID TRANSFER, INC., Rt. 64, East, Mt. Morris, IL 61054. Representative: Abraham A. Diamond, LTD., 29 S. LaSalle St., Suite 454, Barristers Bldg., Chicago, IL 60603. *Pitch Targets,* from facilities of Reagent Chemical and Research, Inc., White Flyer Div., Joplin., MO, and Pittsburgh, PA and Remington Arms Co., Findlay, OH, to IL, IA, MN, WI, IN and MO for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Conevera's Guns & Reloading Supplies, Inc., 5064 Dailette Drive, Rockford, IL 61102. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 128951 (Sub-34TA), filed December 12, 1979. Applicant: ROBERT H. DITTRICH, d.b.a. BOB DITTRICH TRUCKING, 1000 North Front Street, New Ulm, MN 56073. Representative: Rodney H. Jeffery (same address as applicant). *Feed and Feed Ingredients, Grain, Soybean and Seed Products and By-Products (except commodities in bulk, in tank vehicles),* from the facilities of Archer Daniels Midland Company, located at or near Red Wing, MN to points in MI for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Archer Daniels Midland Co., 118 Main St., Red Wing, MN 55066. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 129480 (Sub-47TA), filed December 21, 1979. Applicant: TRI-LINE EXPRESSWAYS, LTD., P.O. Bag 1212, Stn. T, Calgary, AB, Canada T2H 2J1. Representative: Richard S. Mandelson, Suite 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264. *Air conditioning units and parts* from Fort Worth, TX, Stuttgart, AR and Columbus, OH to the International Boundary line between the U.S. and Canada located in MT and MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Lennox Industries, Inc., P.O. Box 400–450, Dallas, TX 74240. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 133591 (Sub-88TA), filed November 30, 1979. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, 58 South Main St., Winchester, KY 40391. *Such commodities as are dealt in or used by retail variety and discount stores* from points in Alameda, Contra Costa and San Mateo Counties, CA to Junction City, KS and Dallas, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): F. W. Woolworth Co., 233 Broadway, New York, NY 40007. Send protests to: Vernon V. Coble, DS, ICC, 911 Walnut St., Kansas City, MO 64106.

MC 134551 (Sub-17TA), filed August 17, 1979. Applicant: LANTER REFRIGERATED DISTRIBUTING CO., #3 Caine Dr., Madison, IL 62060. Representative: Ernest Brooks, 1301 Ambassador Bldg., St. Louis, MO 63101. *Candy and confectionery requiring vehicles equipped with mechanical refrigeration (except in bulk),* from Kansas City, KS to points in KS and MO for 180 days. An underlying ETA has been granted for 30 days. Supporting Shipper(s): E. J. Brach & Sons, 4656 W. Kinzie St., Chicago, IL 60644. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm 1386, Chicago, IL 60604.

MC 135070 (Sub-137TA), filed December 5, 1979. Applicant: JAY LINES, INC., P.O Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Foodstuffs, candy and confectionery, in vehicles equipped with mechanical refrigeration (except in bulk),* from the facilities of Standard Brands, Inc., at or near Chicago, IL, to points in CA, CO, IA, KS, MO, NE, OK, OR and TX, for 180 days. Supporting Shipper(s): Standard Brands, Inc., 3401 Mt. Prospect Rd., Franklin Park, IL. Send protests to: Marianna Minnick, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 135410 (Sub-97TA), filed November 28, 1979. Applicant: COURTNEY J. MUNSON, d./b./a. Munson Trucking, P.O. Box 268, North Sixth Street Road, Monmouth, IL 61462. Representative: Jack H. Blanshan, 205 W. Touhy Avenue, Suite 200, Park Ridge, IL 60068. *Such commodities as are dealt in by retail department stores (except foodstuffs and commodities in bulk),* from points in CT, IL, IN, IA, KY, ME, MD, MA, MI, MN, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV and WI to the facilities of Gamble Skogmo, Inc. at Chicago and Monmouth, IL, Coldwater, MI and Fremont, NE and points in their commercial zones for 180 days. Supporting shipper(s): Gamble Skogmo, Inc., 5100 Gamble Drive, Minneapolis, MN 55481. Send protests to: Transportation Assistant, IC, 219 S. Dearborn, Room 1386. Chicago, IL 60604.

MC 136711 (Sub-42TA), filed November 2, 1979. Applicant: McCORKLE TRUCK LINE, INC., P.O. Box 94968, Oklahoma City, OK 73143. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 24, El Reno, OK 73036. *Animal and poultry feed and feed ingredients,* in bulk, in dump vehicles, (1) from Wichita, KS, to points in OK and AR; (2) from Oklahoma city and Henryetta, OK, to points in AR and MO; (3) from Amarillo and Friona, TX, to points in OK; and (4) from Kansas City Commercial Zone to points in TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Broadway Exchange, P.O. Box 555, Henryetta, OK 74437. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138420 (Sub-46TA), filed December 12, 1979. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., Route 1, P.O. Box 147, Cleveland, WI 53063. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Malt beverages, and malt beverage dispensing equipment when shipped therewith,* from Pittsburgh, PA to St. Louis and Columbia, MO and Granite City, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Herbik, Inc., P.O. Box 1114, St. Charles, MO 63301. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 138741 (Sub-103TA), filed November 14, 1979. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 N. Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. *Lumber and lumber products:* between the facilities of C. L. Krug Lumber Co. at or near Evansville, IN on the one hand and on the other points in AR, IA, KS, KY, MO, NE, OK, TN, TX, WI and IL for 180 days. Supporting shipper(s): C. L. Krug Lumber Co., P.O. Box 27; Chesterfield, MO 63017. Send protests to: Transportation Assistant, ICC—219 S. Dearborn St., Rm 1386, Chicago, IL 60604.

MC 140950 (Sub-3TA), filed December 14, 1979. Applicant: BROOKVILLE TRANSPORT, LIMITED, P.O. Box 2332, Station C, St. John, New Brunswick. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101. Contract: Irregular: (1) *Malt liquor* from ports of entry on the International Boundary Line between the United States and Canada in ME adjacent to the Province of New Brunswick to San Fernando, CA, Boston, MA, Jersey City, NJ, and Rochester, Syracuse, and West Sayville, NY, pursuant to a bilateral contract with Moosehead Breweries Limited; (2) *Machinery and machine parts* used in the production of malt liquor from Los Angeles and Terrance, CA, Portland, CT, Clearwater, FL, Forest Lake, MN, St. Louis, MO, Alexandria, VA, and Spokane, WA to ports of entry on the International Boundary Line between the United States and Canada located in ME adjacent to the Province of New Brunswick, pursuant to a bilateral contract with Moosehead Breweries Limited, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Moosehead Breweries, Limited, P.O. Box 3100, St. John, New Brunswick E2N 3H2. Send protests to: Donald G. Weiler, District Supervisor, ICC, 76 Pearl St., Rm. 303, Portland, ME 04101.

MC 141871 (Sub-22TA), filed December 7, 1979. Applicant: WNL INC., 8560 S.W. Salish Lane, Wilsonville, Oregon 97070. Representative: Neil A. Dujardin, P.O. Box 2298, Green Bay, WI 54306. *Canned goods* (1) from Salem, OR, to Phoenix, AZ, and points in CA; and (2) from Lindsay, CA, to Seattle,

WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lindsay Olive Growers, 650 Tulare Road, Lindsay, CA 93247. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S.W. Yamhill St., Portland, Oregon 97204.

MC 142181 (Sub-17TA), filed December 20, 1979. Applicant: LIBERTY CONTRACT CARRIER, INC., P.O. Box 1104, 214 Hermitage Ave., Nashville, TN 37202. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. *Contract carrier:* irregular routes: *(1) Such merchandise as is dealt in by catalogue showroom stores and (2) materials, equipment, fixtures and supplies used in the business of a catalogue showroom company,* between points in the U.S. in and east of KA, NE, ND, OK, SD and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Service Merchandise Company, Inc., 2988 Foster Creighton Drive, Nashville, TN 37204. Send protests to: Glenda Kuss, TA, ICC, A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 143501 (Sub-3TA), filed December 12, 1979. Applicant: R.G.C. CARGO CARRIERS, INC., P.O. Box 523, South Holland, IL 60473. Representative: James E. Savitz, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. *Contract carrier:* irregular routes: *Non-frozen foodstuffs,* from the facilities of Michigan Fruit Canners at or near Coloma, MI to points in AZ, CA, OR, UT, and WA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Michigan Fruit Canners, P.O. Box 206, Coloma, MI 49038. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 143621 (Sub-41TA), filed December 21, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., P.O. Box 5748, 901 5th Avenue, North, Nashville, TN 37206. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. *Iron and Steel Articles,* from Lenoir City, TN to Rome, Dalton, Cedartown, LaFayette, and Atlanta, GA and points in their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sheffield Southern Steel, Busey Ferry Road, Lenoir City, TN 37771. Send protests to: Glenda Kuss, TA, ICC, A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 144190 (Sub-11TA), filed November 20, 1979. Applicant: STORY, INC., Route No. 1, Box 122, Henager, AL 35978. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) which are at the time moving on bills of lading of freight forwarders as defined in Section 10102(8) of the Interstate Commerce Act, from points in Los Angeles, CA and its Commercial Zone to points in the states of AL, AR, FL, GA, IA, LA, MN, MS, NC, SC, TN, VA, and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Inter State Express, Inc., 8696 S. Atlantic Blvd., South Gate, CA 90280. Send protests to: Mabel E. Holston, TA, ICC, Room 1616—2121 Bldg., Birmingham, AL 35203.

MC 144760 (Sub-5TA), filed December 6, 1979. Applicant: HITTMAN TRANSPORT SERVICES, INC., 2700 Keslinger Rd., Geneva, IL 60134. Representative: Anthony C. Vance, Esq., 1307 Dolley Madison Blvd., McLean, VA 22101. *Contract carrier:* irregular routes: *Radioactive waste moving* in shipper-owned containers transported on shipper-owned trailers from (a) Vermont Yankee Nuclear Power Corp., Vernon, VT; (b) Boston Edison Pilgrim Nuclear Station, Plymouth, MA (c) Maine Yankee Atomic Power Plant Co., Wiscasset, ME; (d) Baltimore Gas & Electric Calvert Cliffs Nuclear Station, Lusby, MD; (3) the Power Authority of the State of NY Indiana Point Nuclear Station, Buchanan, NY; (f) Oyster Creek Nuclear Station, Forked River, NJ to Barnwell, SC,and Richland, WA, and (2) *Empty radioactive shipping containers* from Barnwell, SC and Richland, WA, to the sites in (1). Restriction. (1) and (2) are restricted to transportation service performed under a continuing contract, or contract, with Hittman Nuclear & Development Corp. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hittman Nuclear & Development Corp., 9190 Red Branch Rd., Columbia, MD 21045. Send protests to: Transportation Assistant, ICC—219 S. Dearborn St, Rm 1386, Chicago, IL 60604.

MC 145031 (Sub-3TA), filed November 19, 1979. Applicant: DANNY COCKERELL d.b.a. D & M TRUCKING, P.O. Box 341, Clay City, IL 62824. Representative: Danny Cockrell, P.O. Box 341, Clay City, IL 62824. *Contract Carrier:* irregular routes: *Candy and confectionary products* (except commodities in bulk) from the plantsite of Spangler Candy Company at or near Bryan, OH to points in WA, OR, CA & FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Spangler Candy Company, 400 North Portland Street, Bryan, OH 43506. Send protests to: Transportation Assistant, I.C.C., 219 S. Dearborn St. RM 1386, Chicago, IL 60604.

MC 145560 (Sub-11TA), filed November 13, 1979. Applicant: NORTH ALABAMA TRANSPORTATION, INC., P.O. Box 38, Ider, AL 35981. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or utilized by a manufacturer or distributor of candy (except in bulk), between the facilities of American Candy Manufacturing Company, Inc., at or near Selma, AL, on the one hand, and, on the other, points in the United States (except AK, AZ, CA, CO, HI, ID, OR, UT and WA); and from points in AZ, CA, CO, ID, OR, UT and WA, to the facilities of American Candy Manufacturing Company, Inc., at or near Selma, AL. Restriction: Restricted to shipments transported under a continuing contract or contracts with American Candy Manufacturing Company, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Candy Manufacturing Company, Inc., P.O. Box 879, Selma, AL 36701. Send protests to: Mabel E. Holston, TA, I.C.C., Room 1616–2121 Bldg., Birmingham, AL 35203.

MC 145701(Sub-10TA), filed November 27, 1979. Applicant: D. C. TRANSPORT, INC., 916 S. Riverside Ave., St. Clair, Michigan 48079. Representative: James J. Sheehan, 916 S. Riverside Ave., St. Clair, Michigan 48079. *Salt and salt products,* from Akron, OH to points in IL and IN, and from St. Clair, MI to points in IL, IN, and OH; and (2) salt in bulk, from Metropolis, IL to points in Kentucky on and west of Interstate Highway 65; and points in Mississippi and New Madrid Counties, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Diamond Crystal Salt Company, 916 S. Riverside Ave., St. Clair, MI 48079. Send protests to: Transportation Assistant, ICC 219 S. Dearborn, Chicago, IL 60604.

MC 145950 (Sub-67TA), filed June 14, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Waco, TX 76706. Representative: Michael D. Bromely, 805 McLachlen Bank Building, Washington, DC 20001. *Fruit juice concentrates, in mechanically refrigerated vehicles,* from Ontario, CA, to points in SD, IA, WI, IL, MO, MI, IN, OH, PA, NY, MA, CT, NJ, MD, VA, NC, GA, AL, LA, TX and MS for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): Green Spot Company, 520 Mission Street, South Pasadena, CA 91030. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 146360 (Sub-18TA), filed December 21, 1979. Applicant: FLOYD SMITH, JR. TRUCKING, INC., P.O. Box 816, Meridian, ID 83642. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *(1) Frozen concentrated orange juice, (2) potato products,* (1) from points in FL and (2) from points in WI to Hayward, CA (restricted to traffic destined to the facilities of Allied Sysco Food Services, Inc.), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allied Sysco Food Services Inc., 30977 San Antonio St., Hayward, CA 94544. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 146451 (Sub-13TA), filed December 11, 1979. Applicant: WHATLEY-WHITE, INC., 230 Ross Clark Circle, N.E., Dothan, AL 36302. Representative: R. S. Richard, P.O. Box 2069, Montgomery, AL 36103. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *New furniture, bicycles, tricycles, unicycles, exercise cycles, play pens, swings, strollers, car seats, outdoor play equipment, toys, and juvenile care products and parts and accessories for such named commodities; and* (2) *Parts, materials, equipment and supplies used in the manufacture and distribution of commodities named in (1), above:* Between the facilities of Hedstrom Company, at or near Dothan, AL, and all points in the United States except AL, AK, and HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hedstrom Co., P.O. Box 432, Bedford, PA 15522. Send protests to: Mabel E. Holston, TA, I.C.C., Room 1616—2121 Bldg., Birmingham, AL 35203.

MC 146451 (Sub-14TA), filed December 11, 1979. Applicant: WHATLEY-WHITE, INC., 230 Ross Clark Circle, N.E., Dothan, AL 36302. Representative: R. S. Richard, P.O. Box 2069, Montgomery, AL 36103. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Steel doors, mirrors combined with doors, molding, iron of steel, hardware, bars, garment hangers and door frames;* and, *(2) Materials, equipment, machinery and supplies used in the manufacture and distribution of commodities named in (1), above:* Between the facilities of Slimfold Manufacturing Co., Inc., at or near Dothan, AL, and all points in the United States except AL, AK, and HI, for 180 days. An underlying ETA seeks to 90 days authority. Supporting shipper(s): Slimfold Manufacturing Co., 510 Murray Road, P.O. Box 6416, Dothan, AL 36302. Send protests to: Mabel E. Holston, TA, I.C.C., Room 1616—2121 Bldg., Birmingham, AL 35203.

MC 146880 (Sub-5TA), filed December 12, 1979. Applicant: LOWELL E. DENTON, d.b.a. DENTON CARTAGE CO., 7322 W. 90th st., Bridgeview, IL 60455. Representative: Lowell E. Denton, P.O. Box 40, Palos Park, IL 60464. *Empty container chassis:* from North Bergen, NJ; Harrisburg and West Point, PA to Chicago, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Transport International Pool, 210 N. Ogden Ave., Chicago, IL 60607. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 147700 (Sub-3TA), filed November 7, 1979. Applicant: TRANSPORT CORP., 3710 Calumet Avenue, Hammond, IN 46320. Representative: Grant J. Merritt, 4444 IDS Center, 80 S. Eighth Street, Minneapolis, MN 55402. *Contract carrier:* irregular routes: *Iron and steel articles, and non-ferrous articles,* from: (1) Chicago, IL to OH. (2) KY and MI to Chicago, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Edgcomb Metals, P.O. Box 7940A, Chicago, IL 60680. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 147831 (Sub-13TA), filed September 24, 1979. Applicant: CENTRAL STATES EXPRESS, INC., P.O. Box 2464, Jackson, TN 38301. Representative: Abraham A. Diamond, 29 South LaSalle Street, Chicago, IL 60603. *Foodstuffs, other than in bulk,* between Jackson, TN, on the one hand, and, on the other: Jacksonville, Orlando, Tampa and Miami, FL; Atlanta, GA, Chicago and Plainfield, IL; points in the Chicago commercial zone located in Louisville, KY; New Orleans, LA; Preston, MD; Trenton, Kansas City and St. Louis, MO; Woodridge, NJ; Charlotte, Pineville and Raleigh, NC; Greenville, SC; Ft. Worth, Dallas, Houston and San Antonio, TX; and Kansas City, KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kelly Foods, Inc., 513 Airways Blvd., Jackson, TN 38301. Send protests to: Floyd A. Johnson, Suite 2006—100 N. Main St., Memphis, TN 38103.

MC 147831 (Sub-14TA), filed September 24, 1979. Applicant: CENTRAL STATES EXPRESS, P.O. Box 2464, Jackson, TN 38301. Representative: Abraham A. Diamond, 29 S. La Salle Street, Chicago, IL 60603. *(a) Wooden doors, door fronts, wooden flooring, and lumber; (b) materials used in the manufacture, sale and distribution of commodities described in (a),* from the facilities of Bruce Hardwood Floors, at or near Jackson, TN to Lodi, CA; Lakeland, FL; Atlanta, GA; Union City, IN; Auburn, NE; Nashua, NH; Carbondale, PA; Thompsontown, PA; McKinney, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bruce Hardwood Floors, 160 Rosedale, Jackson, TN 38301. Send protests to: Floyd A. Johnson, Suite 2006—100 N. Main St., Memphis, TN 38103.

MC 147831 (Sub-15TA), filed October 9, 1979. Applicant: CENTRAL STATES EXPRESS, INC., P.O. Box 2464, Jackson, TN 38301. Representative: Abraham A. Diamond, 29 S. La Salle Street, Chicago, IL 60603. *(a) Plastic auto body parts, and (b) materials, equipment and supplies used in the manufacture and distribution of the commodities described in (a),* between the facilities of Douglas & Lomason Co. at or near Milan, TN, on the one hand and, on the other, points in IL, IN, MI, and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Douglas & Lomason Co., Kefauver Dr., Milan, TN 38358. Send protests to: Floyd A. Johnson, Rm. 2006—100 N. Main St., Memphis, TN 38103.

MC 147831 (Sub-16TA), filed October 5, 1979. Applicant: CENTRAL STATES EXPRESS, INC., P.O. Box 2464, Jackson, TN 38301. Representative: Abraham A. Diamond, 29 S. La Salle Street, Chicago, IL 60603. *Plastic articles,* between the facilities of Universal Packaging Corp. at or near Trenton, TN, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, LA, MS, MO, NC, PA, SC, TX, VA, WI and IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Universal Packaging Corp., Kellwood Drive, Trenton, TN 38382. Send protests to: Floyd A. Johnson, Rm. 2006—100 N. Main St., Memphis, TN 38103.

MC 147831 (Sub-17TA), filed November 26, 1979. Applicant: CENTRAL STATES EXPRESS, INC., P.O. Box 2464, Jackson, TN 38301. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603. *(a) Calcium caseinate and Sodium caseinate; (b) empty intermodal containers with chassis and empty trailers,* between the facilities of Anderson, Clayton & Co. at Humboldt, TN and the facilities of the Illinois Central Gulf Railroad at Dyersburg, TN, for 180 days. Restricted to traffic having

a prior of subsequent movement by rail. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anderson Clayton Foods, P.O. Box 228165, Dallas, TX 75266. Send protests to: Floyd A. Johnson, Suite 2006—100 N. Main St., Memphis, TN 38103.

MC 147951 (Sub-2TA), filed December 18, 1979. Applicant: YOURLINE, INC., 3540 E. 26th Street, Los Angeles, CA 90023. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. *Contract:* Irregular; *Such commodities as are distributed or dealt in by retail furniture stores,* between the facilities of R. B. Furniture, Inc., located at or near Irvine, California, and facilities and retail stores of R. B. Furniture, Inc., located at Albuquerque, New Mexico and points within the counties of Tarrant, Dallas, Collin and Harris, Texas, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): R. B. Furniture, Inc., Freight/Warehouse Department Manager, 2323 S.E. Main Street, Irvine, CA 92714. Send protests to: Irene Carlos, TA, ICC, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 148281 (Sub-5TA), filed December 6, 1979. Applicant: SUSANA TRANSPORT SYSTEMS, INC., 2845 Workman Mill Road, Whittier, CA 90601. Representative: Miles L. Kavaller, 315 S. Beverly Dr., Suite 315, Beverly Hills, CA 90212. *Bakery products, materials, equipment and supplies, except in bulk,* from Carnegie, PA to points in Los Angeles County, CA, restricted to traffic originating at the facilities of Mallet & Co., for 180 days. Supporting shipper(s): Mallet & Company, Traffic Manager, P.O. Box 474, Carnegie, PA 15106. Send protests to: Irene Carlos, TA, ICC, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 148281 (Sub-6TA), filed December 11, 1979. Applicant: SUSANA TRANSPORT SYSTEMS, INC., 2845 Workman Mill Road, Whittier, CA 90601. Representative: Miles L. Kavaller, 315 South Beverly Dr., Suite 315, Beverly Hills, CA 90212. *Automobile accessories and supplies, except in bulk,* from Contra Costa, Los Angeles, Orange and San Bernardino Counties, CA to Dallas, TX restricted to traffic destined to the facilities of Sigman-Pittman Distributing, Inc., for 180 days. Supporting shipper(s): Sigman-Pittman Distributing, Inc., Assistant General Manager, 9200 Ambassador Row, Dallas, TX 74247. Send protests to: Irene Carlos, TA, ICC, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 148491 (Sub-1TA), filed October 19, 1979. Applicant: JOHN A. DEYAMPERT, 1710 Lauderdale St., Selma, AL 36701. Representative: Same as above. *Building material, pipe, and truck bodies and materials, equipment and supplies used in the manufacture thereof,* between the facilities of Southern Coach & Truck Co., Disco Aluminum Products, Selma, AL; Colonial Pipe & Supply, Birmingham, AL; and Semrep, Inc., Atlanta, Ga, on the one hand, and, on the other, points in AL, AZ, AR, FL, GA, IL, IN, KY, LA, MA, MS, NJ, NM, NC, OH, OK, PA, SC, TN, TX, VA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Disco Aluminum Products, Karenwood Drive, Selma, AL 36701; Southern Coach & Truck Co., Inc., Box 732, Selma; AL 36701; Colonial Pipe & Supply Co., Inc., Shannon Road, Shannon, AL 35142; Semrep, Inc., 1661 Defoor Avenue, Atlanta, GA 30325. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616–2121 Bldg., Birmingham, AL 35203.

MC 148740 (Sub-1TA), filed November 15, 1979. Applicant: SPECIALIZED SERVICES, INC., 809 Burleson, Grand Prairie, Texas 75050. Representative: E. Larry Wells, P.O. Box 45538, Dallas, Texas 75245. Contract carrier, irregular routes; *printed paper products and equipment, materials and supplies used in the manufacture of printed paper products* between Sylmar, CA, Louisville, KY and Bastrop, LA under a continuing contract or contracts with Tested Advertising Techniques, Inc., for 180 days. Underlying ETA for 90 days has been filed. Supporting shipper(s): Testing Advertising Techniques, Inc., 12970 Bradley Ave., Sylmar, CA 91342. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St, Ft. Worth, TX 76102.

MC 148771 (Sub-1TA), filed November 21, 1979. Applicant: FOWLER TRUCKING & SALVAGE CO., Rt. 2, Box 108 C, Trussville, AL 35173. Representative: John R. Frawley, Jr., 5508 Crestwood Blvd., Birmingham, AL 35212. *Contract, irregular; Scrap metal,* between the facilities of National Tire & Salvage Co., Inc. located in Birmingham, AL on the one hand, and, on the other, all points east of NM, CO, WY, and MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Tire & Salvage Co., Inc., 2900 21st Ave. No., Birmingham, AL 35234. Send protests to: Mabel E. Holston, TA, I.C.C., Room 1616–2121 Bldg., Birmingham, AL 35203.

MC 148820 (Sub-1TA), filed November 28, 1979. Applicant: ENTERPRISE TRANSPORTATION, INC., 1191 South Wheeling Road, Wheeling, IL 60090. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. *Contract Carrier:* irregular routes: *Paint, varnish, solvents, cleaning compounds, wax, detergents and chemicals, and materials, equipments and supplies* used in the manufacture and distribution of the foregoing commodities, between the facilities of The Enterprise Companies, a Division of Insilco Corporation, located in Chicago and Wheeling, IL, and points in their respective commercial zones, on the one hand, and, on the other, all points in the United States except AK and HI, for the account of the Enterprise Companies, a Division of Insilco Corporation, for 180 days. An underlying ETA seeks 90 days authority. Restricted against the transportation of commodities in bulk, in tank vehicles. Supporting shipper(s): The Enterprise Companies, a Division of Insilco Corporation, 1191 South Wheeling Road, Wheeling, IL 60090. Send protests to: Transportation Assistant, I.C.C., 219 S. Dearborn St., RM 1386, Chicago, IL 60604.

MC 148821 (Sub-1TA), filed November 27, 1979. Applicant: TRUCKING BY TRUAX, INC., 3714 South Grand Avenue E, Springfield, IL 62707. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. *Contract Carrier:* irregular routes: *Malt beverages* from the facility of Anheuser-Busch, Inc. at St. Louis, MO to Springfield, IL for the account of E. L. Schafer & Sons, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. L. Schafer & Sons, Inc., 300 Myrtle, Springfield, IL 62704. Send protests to: Transportation Assistant, I.C.C., 219 S. Dearborn St., RM 1386, Chicago, IL 60604.

MC 148850 (Sub-1TA), filed December 21, 1979. Applicant: PORTLAND AIRPORT LIMOUSINE CO., 1001 Westbrook St., Portland, ME 04102. Representative: Verrill & Dana, Two Canal Plaza, Portland, ME 04112. *General commodities* having a prior or subsequent movement by air (except articles of unusual value; Class A & B explosives; household goods; commodities requiring special equipment; commodities in bulk in tank vehicles) between Logan International Airport, E. Boston, MA and points in Cumberland County, ME. An underlying ETA seeks 90 days authority. Supporting shipper(s): (1) Foundation for Blood Research, Rt. One, Scarboro, ME, (2) GTE Sylvania, Rt. 35, Standish, ME, (3) Riverside Millwork Co., Inc., Payne Rd., Scarboro, ME, (4) Provident Mutual Life Ins. Co., 52 Exchange St., Portland, ME. Send protests to: Donald G. Weiler, District Supervisor, ICC, 76 Pearl St., Rm. 303, Portland, ME 04101.

MC 148851 (Sub-1TA), filed November 30, 1979. Applicant: TRANSIT SERVICING, INC., 8121–C East 34 Mile Road, Cadillac, MI 49601. Representative: Burton A. Hines, Sr., 121 North Mitchell Street, Cadillac, MI 49601. *General commodities* (except those of unusual value, class A & B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment). Between Cadillac, MI (warehouse of Transit Servicing Inc.) on the one hand, and, on the other, points in the lower peninsula of MI north of Cadillac, MI and the entire upper peninsula of MI. Restricted to traffic having a prior or subsequent interstate movement. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): K Mart Corporation, 3100 W. Big Beaver Road, Troy, MI 48084. Send protests to: C.R. Flemming, D/S, I.C.C., 300-E. Michigan Ave., Lansing, MI 48933.

MC 148781 (Sub-2TA), filed November 11, 1979. Applicant: MIKE WELCHEL d.b.a. MARIETTA WRECKER SERVICE, 2778 Cobb Parkway, Atlanta, GA 30339. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. (1) *Wrecked and disabled trucks; wrecked and disabled tractors; wrecked and disabled trailers* from points in FL, AL, MS, LA, KY, AR, TN, NC, SC, and VA to Atlanta, GA; and (2) *replacement vehicles* from Atlanta, GA to points in FL, AL, MS, LA, KY, AR, TN, NC, SC, and VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 9 statements of support. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 148861 (Sub-1TA), filed November 28, 1979. Applicant: O. M. TALBOTT, INC., Route 4, Box 679, South Boston, VA 24592. Representative: O. M. Talbott, Jr. (same as applicant). *Contract carrier:* irregular routes: *Crushed stone, sand and dry asphalt,* from Skippers, VA to points within Vance, Warren, Franklin, Halifax, Northampton, Hertford, Bertie, Edgecombe, Nash, Martin, Gates, Chowan, Perquimans, Pasquotank, Camden, Currituck Counties in NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Trego Stone Corporation, P. O. Box 46, Skippers, VA 23879. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 148871 (Sub-1TA), filed December 6, 1979. Applicant: PORT TERMINAL REFRIGERATED TRANSPORT, INC., Foot of Algiers Street, Bldg. 153, Port Newark, NJ 07114. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. *Foodstuffs,* when moving in mechanically refrigerated equipment, from the plantsite & warehoue facilities of Standard Brands, Inc., at or near Chicago, IL, to points in NJ, NY, MD, MA and PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Standard Brands, Inc., 3401 Mount Prospect Road, Franklin Park, IL 60131. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 148960 (Sub-1TA), filed November 21, 1979. Applicant: ROBERT C. STOKES d.b.a. STOKES TRUCKING, 36 W. 160 Butterfield Road, Batavia, IL 60510. Representative: Albert A. Andrin, 180 N. LaSalle St., Chicago, IL 60601. *Wooden crating,* from the facilities of Aurora Container Corp. at Aurora, IL to Madison, WI for 180 days. Supporting shippers: Aurora Container Corp., P.O. Box 688, Aurora, IL 60507. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicao, IL 60604.

MC 148980 (Sub-1TA), filed December 26, 1979. Applicant: WESTERN CARGO, INC., 3500 Lakeside Court, Reno, NV 89511. Representative: Terry Lee Herzig, 2245 Lindley Way, Reno, NV 89509. *Insulating materials and materials used in the installation of insulating materials* from Corona and Willows, CA to points i the States of AZ, ID, OR, NV, UT and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Johns-Manville Sales, Corporation, 2600 Campus Drive, San Mateo, CA 94403. Send protests to: DS W. J. Huetig, I.C.C., 705 North Plaza Street, Carson City, NV 89701.

MC 148981 (Sub-1TA), filed December 27, 1979. Applicant: JERRY L. CRISWELL d.b.a. DIAMOND HORSESHOE TRUCKING, P.O. Box 781 (101 Williams Avenue), Renton, WA 98055. Representative: Jerry L. Criswell (same as above). *Contract carrier;* irregular routes; *Building materials and steel articles,* between Kent and Seattle, WA and points in CA, OR, WA, ID and NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mid City Materials, P.O. Box 828, Kent, WA 98031; Millsteel Company, 60 South Hudson Street, Seattle, WA 98124. Send protests to: Hugh H. Chaffee, D/S, ICC, 852 Federal Building, Seattle, WA 98174.

MC 149000 (Sub-2TA), filed December 14, 1979. Applicant: JARBOE SALES CO., 6929 East Reading Place, Tulsa, OK 74115. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Furniture parts, and materials and supplies used in the manufacture thereof, except in bulk,* from the facilities of Leggett & Platt, Inc., at or near Carthage and Springfield, MO to Rensselaer, IN, Nicholasville, Simpsonville and Winchester, KY, Cincinnati and Mason, OH, and Nashville, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Leggett & Platt Incorporated, P.O. Box 757, Carthage, MO 64836. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 149001 (Sub-1TA), filed December 18, 1979. Applicant: Sandra Wiekel, d.b.a. L & S TRANSPORT, 12534 York Street, Hawthorne, CA 90250. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. *Contract:* Irregular; *plastic trays, forms or sheeting, not expanded,* between the facilities of A & E Plastics, Division of A & E Plastik Pak, located at Kearney and Rockaway, New Jersey, and City of Industry and Visalia, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): A & E Plastics, Division of A & E Plastik Pak, Distribution/Purchasing Manager, 14505 Proctor Avenue, City of Industry, CA 91749. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 149030 (Sub-1TA), filed December 21, 1979. Applicant: COUSINS LEASING CORP., INC., Arnold Drive, Huntington, NY 11743. Representative: William J. Augello, Esq., 120 Main St., Huntington, NY 11743. *Contract carrier;* irregular routes: *(A) Paper bags, and equipment, materials and supplies used in the manufacture and distribution of bags* (1) between Suffolk County, NY, on the one hand, and, on the other, CT, DE, MD, ME, MA, NH, NH, NJ, NY, NC, PA, RI, VA, VT, WV, and DC; under a continuing contract with Samson Paper Bag Co., Huntington, NY (2) Between Indianapolis, IN, on the one hand, and, on the other, IA, IL, KY, MI, MO, NC, NY, OH, PA, TN, VA, WV, and WI, under a continuing contract with Samson Midamerica Inc., of Indianapolis, IN. *(B) Paper,* from West Point, VA, to New York, under a continuing contract with Equitable Bag Co., Inc., of Long Island City, NY. *(C) Plastic film and trays,* from MA to New York, NY, and Suffolk County, NY, under a continuing contract with Trio Packaging Corp. of Huntington, NY. An underlying ETA seeks 90 days authority. Supporting shipper(s): 1. Samson Paper Bag Co., Inc., Arnold Drive, Huntington, NY 11743; 2. Samson Midamerica Inc., 8111 Zionville Rd., Indianapolis, IN

46268; 3. Equitable Bag Co., Inc., 45–50 Van Dam St., Long Island City, NY 11101; 4. Trio Packaging Corp., Arnold Drive, Huntington, NY 11743. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 149050 (Sub-TA), filed November 2, 1979. Applicant: STUMPS REFRIGERATED EXPRESS, INC., R.D. #1, Tiro, OH 44887. Representative: David A. Turano, 100 East Broad St., Columbus, OH 43215. *(1) Plumbing materials and (2) materials and supplies used in the manufacture and distribution of the commodities in (1) above,* (except commodities in bulk), between Ashland, Shelby, and Upper Sandusky, OH, on the one hand, and on the other, points in and east of ND, SD, NE, CO, OK and TX, for 180 days. Supporting shipper(s): U-Brand Corportion, 815 Clark St., Ashland, OH 44805. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

[Notice No. 260]

January 17, 1980.

MC 243379 (Sub-49TA), filed April 23, 1979, and published in the **Federal Register** issue of June 26, 1979, and republished as corrected this issue. Applicant: LONG TRANSPORTATION CO., 14510 W. Eight Mile Road, Oak Park, MI 48237. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. *Iron and steel articles* from the facilities of Wheeling Pittsburgh Steel Corporation at Canfield, Martins Ferry, Mingo Junction, Steubenville, and Yorkville, OH; Allenport and Monessen, PA and Beech Bottom, Benwood, Follansbee and Wheeling, WV to OH, IN and MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wheeling-Pittsburgh Steel Corporation, P.O. Box 118, Pittsburgh, PA 15230. Send protests to: Clarence R. Flemming, TX, ICC, 225 Federal Building, 325 West Allegan Street, Lansing, MI 48933. The Purpose of this republication is to show the complete scope of application and shipper as previously published.

No. MC 29079 (Sub-122TA), filed April 26, 1979, and published in the **Federal Register** issue of September 7, 1979, and republished as corrected this issue. Applicant: BRADA-MILLER FREIGHT SYSTEM, INC., 1210 S. Union Street, Kokomo, IN 46901. Representative: Keith G. O'Brien, 1729 H Street, NW, Washington, DC 20006. *Sand and sand additives* (except commodities in bulk, in tank vehicles), from the facilities of Acme Resin Company at or near Oregon, IL, to points in CT, KY (except Louisville), MA, MO, NH, NJ, NY (on and east of US Hwy 62), PA (on and east of US Hwy 219), RI, VA and WV (except points in Brooke, Hancock, Marshall, and Ohio Counties), WI, IA, points in the Lower Peninsula of MI and IN (except Kokomo and points within 50 miles thereof), for 180 days. Supporting shipper(s): CPC International, Inc., International Plaza, Englewood Cliffs, NJ 07632. Send protests to: Beverly J. Williams, ICC, 46 E. Ohio Street, Room 429, Indianapolis, IN 46204. The purpose of this republication is to show *send and send additives* in lieu of *sand and sand additives,* also to show Brooke County as previously omitted.

No. MC 106149 (Sub-3TA), filed July 9, 1979, and published in the **Federal Register** issue of September 7, 1979, and republished as corrected this issue. Applicant: AMERICAN HOLIDAY VAN LINES, INC., 2323 Chipman Street, NE, Knoxville,TN 37902. Representative: Robert H. Watson, Jr. and Stanley G. Emert, Jr., 703 Gay Street, South, Knoxville, TN 37902. *Household goods,* as defined by the Commission, between points in AL, CT, DE, FL, GA, IL, IN, KS, KY, LA, MA, ME, MD, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VA, WV, WI, and District of Columbia, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Services Administration, Washington, DC 20406, Millers, Inc., 600 Henley St., Knoxville, TN 37902. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, US Court House, 801 Broadway, Nashville, TN 37203. The purpose of this republication is to add Massachusetts (MA) to the territorial description as previously omitted.

MC 108559 (Sub-23TA), filed October 9, 1979, Applicant: EAGLE EXPRESS CO., P.O. Box 12047, Lexington, KY 40580. Applicant's representative: Michael Spurlock, Berry & Spurlock Co., L.P.A., 275 East State Street, Columbus, Ohio 43215. Temporary authority sought to operate as a *common carrier,* over regular routes, transporting: *General Commodities* (except those of unusual values, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment). (1) Between Louisville, Kentucky and Morehead, Kentucky, serving all intermediate points between Versailles, Kentucky and Morehead, Kentucky and all off-route points in Bath and Rowan counties, Kentucky. From Louisville, Kentucky over I–64 to Junction U.S. Highway 60, then over U.S. Highway 60 to Morehead, Kentucky and return over the same route. (2) Between Concinnati, Ohio and its commercial zone, and the junction of Interstate Highway 75 and U.S. Highway 60 near Lexington, Kentucky, serving no intermediate points. From Cincinnati, Ohio over I–75 to Junction I–75 and U.S. Highway 60, and return over the same route. Restriction: In connection with the routes described above, no service is to be rendered between (1) Louisville, Kentucky and points west of Versailles, Kentucky; (2) Louisville, Kentucky and Cincinnati, Ohio; and (3) Cincinnati, Ohio and Lexington, Kentucky. Applicant seeks authority to tack routes 1 and 2 and also authority to tack with existing authority for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 7 supporting shippers supporting this application. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 108859 (Sub-74TA), filed July 18, 1979, and published in the **Federal Register** issue of September 7, 1979, and republished as corrected this issue. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Avenue N, P.O. Box 717, Escanaba, MI 49829. Representative: Elmer J. Wery, P.O. Box 3548, Green Bay, WI 54303. *Paper and paper products and materials, equipment and supplies* used in the manufacture or distribution of paper and paper products, between the facilities of Scott Paper Company located at Fond du Lac, Green Bay, Marinette and Oconto Falls, WI, on the one hand, and, on the other, points in IL (on and north of US Hwy 36), IN, MI and OH, for 180 days. Supporting Shipper(s): Scott Paper Company, Scott Plaza, Philadelphia, PA 19113. Send protests to: C. R. Flemming, DS, ICC, 225 Federal Building, Lansing, MI 48933. The purpose of this republication is to show US Hwy 36 in lieu of US Hwy 30 as previously published.

MC 119619 (Sub-141TA), filed October 11, 1979. Applicant: DISTRIBUTORS SERVICE COMPANY, 2000 W. 43rd Street, Chicago, IL 60609. Representative: Piken & Piken, Inc., Queens Office Tower, 95–25 Queens Boulevard, Rego Park, NY 11374. *Sugar (except in bulk),* between the facilities of US Sugar Company at or near Buffalo, NY, on the one hand, and, on the other, points in IA, MN, and Lincoln, NE, for 180 days. Restricted to the transportation of traffic originating at or destined to the named facilities. An underlying ETA seeks 90 days authority. Supporting Shipper(s): US Sugar Company, 54 Fulton Street, Buffalo, NY 14204. Send protests to: Annie Booker,

ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 125368 (Sub-79TA), filed July 10, 1979, and published in the **Federal Register** issue of August 29, 1979, and republished as corrected this issue. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher (same as above). *Beverages, plastic bottles and cans, beverage supplies and machinery used by Carolina Canners, Inc., and Carolina Packaging Inc., and subsidiaries,* between the facilities of Carolina Canners, Inc., and Carolina Packaging, Inc., and subsidiaries, Cheraw, SC, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MI, NO, TN, TX, VA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Carolina Canners, Inc., P.O. Box 965, Cheraw, SC 29520. Send protests to: Terrell Price, 800 Briar Creek Road, Room CC516, Carlotte, NC 28205. The purpose of this republication is to show the origin point of Cheraw, SC, as previously omitted.

MC 126679 (Sub-14TA), filed July 13, 1979, and published in the **Federal Register** issue of August 29, 1979, and republished as corrected this issue. Applicant: DENNIS TRUCK LINE, INC., P.O. Box 189, Vidalia, GA 30474. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *Iron and steel articles,* from Savannah and Garden City, GA to Pacesetter Steel Service, Inc., Marietta, GA, for 180 days. Supporting Shipper(s): Pacesetter Steel Service, Inc., 980 Marietta Industrial Drive, Marietta, GA 30065. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202. The purpose of this republication is to show complete scope of application as previously omitted.

MC 129759 (Sub-30TA), filed July 2, 1979, and published in the **Federal Register** issue of August 29, 1979, and republished as corrected this issue. Applicant: TRIANGLE TRUCKING CO., P.O. Box 480, McKees Rocks, PA 15136. Representative: A. Charles Tell, 100 E. Broad Street, Columbia, OH 43215. Contract; irregular: (1) *Transformers and transformer parts,* from the facilities of RTE Corp. at or near Waukesha, WI to points in and east of MN, IA, MO, AR, and LA, and (2) *materials, equipment, and supplies* used in the manufacture of transformers and transformer parts, from points in the destination states specified in (1) above to the facilities of RTE Corp. at or near Waukesha, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): RTE Corp., 1900 E. North Street, Waukesha, WI 53186. Send protests to: ICC, Fed. Res. Bank Building, 101 N. 7th Street, Room 620, Philadelphia, PA 19106. The purpose of this republication is to show Minnesota (MN) in lieu of New Mexico (NM) as previously published.

MC 135598 (Sub-29TA), filed July 17, 1979, and published in the **Federal Register** issue of August 29, 1979, and republished as corrected this issue. Applicant: SHARKEY TRANSPORTATION, INC., P.O. Box 3156, Quincy, IL 62301. Representative: Carl Steiner, 39 S. LaSalle Street, Chicago, IL 60603. *Iron and steel and iron and steel articles,* from the facilities of Bethlehem Steel Corp., Burns Harbor, IN, and the facilitiesof US Steel Corp., Gary, IN, to points in IL on and south of US 136 and points in IN on and south of US 30 and on and east of I–35, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): US Steel Corp., 1000 E. 80th Place, Merrillville, In 46410. Send protests to: David Hunt, TA, Room 1386, 219 S. Dearborn Street, Chicago, IL 60604. The purpose of this republication is to show the correct territorial description as previously published.

MC 136818 (Sub-88TA), filed August 7, 1979, and published in the **Federal Register** issue of October 1, 1979, and republished as corrected this issue. Applicant: SWIFT TRANSPORTATION CO., INC., 335 W. Elwood Road, Phoenix, AZ 85030. Representative: Donald Fernaays, 4040 E. McDowell Road, Phoenix, AZ 85008. *Iron and steel articles,* (1) from points in CA to points in AZ, (2) between points in CO, UT, AZ, WY, ID and NM, (3) from points in TX to KS, NM, CO, UT, AZ and CA, (4) from Kansas City, KS and Kansas City, MO to points in CO, UT, NM and AZ, fro 180 days. Supporting shipper(s): Brown-Strauss, Div. of Azcon Corp., 6900 E. Camelback Street, 700, Scottsdale, AZ 85251. Send protests to: Ronald R. Mau, DS, 2020 Federal Building, 230 N. 1st Avenue, Phoenix, AZ 85025. The purpose of this republication is to show complete territorial description in part (3) as previously omitted.

MC 138438 (Sub-64TA), filed July 23, 1979, and published in the **Federal Register** issue of October 1, 1979, and republished as corrected this issue. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 1329 Pennsylvania Avenue, Hagerstown, MD 21740. *Gypsum and gypsum products and materials and supplies,* used in the installation thereof, (1) from Wilmington, DE and Milford, VA, and their respective commercial zones, to points in CT, GA, KY ME, MA, NH, NJ, NY, NC, OH, RI, SC, TN and VT, and (2) from Akron and Buchanan, NY, and their respective commercial zones, to points in CT, DE, ME, MD, MA, NH, NJ, OH, PA, RI, VT, VA, WV and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Georgia Pacific Corp., Gypsum Div., 1062 Lancaster Drive, Rosemont, PA 19010. Send protests to: ICC, Fed. Res. Bank Building, 101 N. 7th Street, Room 620, Philadelphia, PA 19106. The purpose of this republication is to show NH (New Hampshire) in lieu of NY (New York) as a destination state in part (2) as previously published.

MC 138489 (Sub-182TA), filed August 24, 1979, and published in the **Federal Register** issue of October 29, 1979, and republished as corrected this issue. Applicant: DONCO CARRIERS, INC., 4720 S.W. 20th Street, Oklahoma City, OK 73128. Representative: Jack H. Blanshan, 205 West Touhy Avenue Suite 200, Park Ridge, IL 60068. *Confectinery* (except in bulk), in vehicles equipped with mechanical refrigeration, from Dallas, TX and points in its commercial zone, to the facilities of Shaklee Corporation at Atlanta, GA, Chicago, IL, Dayton, NJ, and Hayward, CA, and points in their respective commercial zones, restricted to the transportation of traffic originating at or destined to the facilities of the Shaklee Corporation, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Shaklee Corporation, 1900 Powell Street, Emeryville, CA 94662. Send protests to: Connie Stanley, ICC, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102. The purpose of this republication is to reflect the destination state as Dayton, NJ (New Jersey) in lieu of Dayton, NY (New York) as previously published.

MC 145359 (Sub-17TA), filed September 21, 1979. Applicant: THERMO TRANSPORT, INC., 156 East Market Street, Indianapolis, IN 46240. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. *Aluminum, aluminum products, paper, and paper products,* from the facilities of Revere Copper & Brass Incorporated at Newport, AR to Emeryville, San Francisco, Oakland, Monrovia, and Los Angeles, CA; Dallas and Abilene, TX; Orlando, FL; Chicago and Peoria, IL; Norway, MI; Cheswick, PA; and Wilsonville, OR. *Aluminum, aluminum products, paper, and paper products,* from International Falls, MN; Ravenswood, WV; Scottsboro, AL;

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Mosinee and Kaukauna, WI; Manistee, MI to the facilities of Revere Copper and Brass Incorporated at Newport, AR for 180 days. RESTRICTION: Service to be performed in temperature controlled equipment. An underlying ETA seeks 90 days authority. Supporting shipper(s): Revere Copper & Brass Incorporated, Highway 67 North, Newport, AR 72112. Send protests to: Beverly J. Williams, Transportation Asst. ICC, 429 Federal Building, 46 E. Ohio St., Indianapolis, IN 46204

MC 145978 (Sub-3TA), filed July 24, 1979, and published in the **Federal Register** issue of October 1, 1979, and republished as corrected this issue. Applicant: R & S TRUCKING, INC., RR 1, Box 123, Garretson, SD 57030. Representative: A. J. Swanson, P.O. Box 1103, 300 S. Thompson Ave., Sioux Falls, SD 57101. (1) *Refuse containers* from Sioux Falls, SD to points in KS, IA, IL, LA, MI, MO, MN, ND, NY, OK, OH, PA, TX, TN, UT, WI and WY and (2) *Iron and steel articles and casters* from Toledo, OH, Sioux City, IA; Minneapolis, MN; Chicago, IL; Gary, IN; Hustiford, WI; and Kansas City, MO to Sioux City, SD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Teem Enterprises, Inc., 3509 Teem Dr. (P.O. Box 1361), Sioux Falls, SD 57101. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501. The purpose of this republication is to show the complete scope of application as previously published.

MC 146438 (Sub-5TA), filed July 18, 1979, and published in the **Federal Register** issue of October 1, 1979, and republished as corrected this issue. Applicant: ETV, INC., P.O. Box 393, Comstock Park, MI 49321. Representative: Miss Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. (1) *Frozen bakery goods,* from the facilities of Mrs. Smith's Pie Company at or near Zeeland, MI to OR, WA, ID, CA, NV, UT and AZ; and (2) *materials and supplies* used in the manufacture of frozen bakery goods from points in the Lower Peninsula of MI to the facilities of Mrs. Smith's Pie Company at or near Pottstown and Lake Winola, PA; McMinnville, Portland and Salem, OR; and (3) *frozen bakery goods,* from the facilities of Mrs. Smith's Pie Company at or near Pottstown, Lake Winola, Fogelsville and Philadelphia, PA to MI, IN, IL, OH, SC, NC, GA, FL, TX, CA and OR; and (4) *frozen bakery goods,* from the facilities of Mrs. Smith's Pie Company at or near McMinnville and Portland, OR to CA, AZ and NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mrs. Smith's Pie Co., P.O. Box 298, Pottstown, PA 19464. Send protests to: C. R. Flemming, 225 Federal Building, 325 W. Allegan Street, ICC, Lansing, MI 48933. The purpose of this republication is to show ID (Idaho) in lieu of IO in the description of authority sought, also to show the upper case OR signifying the State of Oregon in lieu of the lower case *or* as previously published.

MC 147839 (Sub-3TA), filed July 31, 1979, and published in the **Federal Register** issue of September 26, 1979, and republished as corrected this issue. Applicant: BIB ENTERPRISES, INC., 401 West 9th South, Salt Lake City, UT 84101. Representative: Miss Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Contract carrier: irregular routes: (1) *Fertilizer and pesticides and materials and supplies* used in the manufacture and distribution thereof (a) from CA, OR and WA to Salt Lake County, UT to WI, OK, KS, MO, IA, IL, ND, SD, NE and MN, under continuing contract(s) with Morgro Chemical, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Morgro Chemical, Inc., 145 West Central Avenue, Salt Lake City, UT 84107. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Building, Salt Lake City, UT 84138. The purpose of this republication is to show KS in lieu of IS as previously published.

MC 147869 (Sub-1TA), filed July 19, 1979, and published in the **Federal Register** issue of September 26, 1979, and republished as corrected this issue. Applicant: PIERCE TRAFFIC CORPORATION, P.O. Box 528, Eugene, OR 97440. Representative: David C. White, 2400 S.W. Fourth Avenue, Portland, OR 97201. Contract, irregular: *Irrigation systems and materials, supplies, and equipment* used in the installation and manufacture thereof between the facilities of Pierce Corporation at Eugene, OR and Fort Lupton, CO, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract(s) with Pierce Corporation, for 180 days. Supporting shipper(s): Pierce Corporation, John Stevens, President, P.O. Box 528, Eugene, OR 97440. Send protests to: A. E. Odoms, DS, ICC, Pioneer Courthouse, (114), 555 S.W. Yamhill Street, Portland, OR 97204. The purpose of this republication is to show the applicant's correct address as P.O. Box 528, Eugene, OR 97440.

Agatha L. Mergenovich
Secretary.

[FR Doc. 80-2829 Filed 1-25-80; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

READ, Inc.; Appeal on Denial of LEAA Grant; Hearing

Notice is hereby given that the Administrative Appeal of READ, Inc., on the denial of an LEAA grant will be heard on January 30, 1980, commencing at 10:00 a.m. The location of the hearing will be the Geltman Building, 2120 L Street NW., Washington, D.C., Hearing Room Number 1. Administrative Law Judge Morton Needelman of the Federal Trade Commission will preside and the hearing will be open to the public.

For further information, contact John J. Wilson, Office of General Counsel, Office of Justice Assistance, Research, and Statistics at (202) 724-6238.

Charles A. Lauer,
Deputy General Counsel, Office of Justice Assistance, Research, and Statistics.

[FR Doc. 80-2806 Filed 1-25-80; 8:45 am]
BILLING CODE 4410-18-M

NATIONAL COMMISSION ON THE INTERNATIONAL YEAR OF THE CHILD, 1979

Meeting

AGENCY: National Commission on the International Year of the Child, 1979.

ACTION: Notice of meeting.

SUMMARY: This notice announces the forthcoming meeting of the National Commission on the International Year of the Child, 1979. The meeting is being held to discuss the draft of Commissioner's Challenge Report to the President. This document is intended to notify the general public of its opportunity to attend:

DATES: February 7 and 8, 1980.

ADDRESS: Shoreham Americana Hotel, 2500 Calvert Street, N.W., Washington, D.C. 20008.

FOR FURTHER INFORMATION CONTACT:
James B. Roberts, Executive Officer, 600 "E" Street, N.W., Suite 505, Washington, D.C. 20471, (202) 376-2435.

Since conference facilities are in great demand, we must know the number of general public who plan to attend in order to allocate adequate space for the meeting. Notice of persons from the general public who plan to attend must be in writing and received by the Executive Officer of the National Commission (at the above address). 5 P.M. (E.S.T.)-February 1, 1980. Such notice of intent should include the address and telephone number of the person.

James B. Roberts,
Executive Officer.

[FR Doc. 80-2871 Filed 1-25-80; 8:45 am]
BILLING CODE 6820-18-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on February 7–9, 1980, in Room 1046, 1717 H Street, NW., Washington, D.C. Notice of this meeting was published on January 22, 1980.

The agenda for the subject meeting will be as follows:

Thursday, February 7, 1980

8:30 A.M.–12:00 Noon: Executive Session (Open)—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

The Committee will discuss its annual report to Congress on the NRC Safety Research Program.

Portions of this session will be closed as necessary to protect information the premature disclosure of which would frustrate the Committee in the performance of its statutory function.

1:00 P.M.–2:00 P.M.: Meeting with NRC Staff (Open)—The Committee will hear and discuss proposed NRC Staff plans for study of additional engineered safety features for the Zion Nuclear Station Units 1 and 2 and the Indian Point Nuclear Station Units 2 and 3.

2:00 P.M.–6:00 P.M.: Meeting with NRC Staff (Open)—The Committee will hear and discuss presentations from members of the NRC Staff and consultants who may be present regarding proposed plans for implementation of NRC Bulletins and Orders resulting from the accident at the Three Mile Island Nuclear Plant, Unit 2.

Friday, February 8, 1980

8:30 A.M.–12:30 P.M.: Three Mile Island Nuclear Station, Unit 1 (Open)—The Committee will hear reports from and will discuss proposed plans for restart and operation of the Three Mile Island Nuclear Station, Unit 1 with representatives of the licensee and the NRC Staff.

Portions of this session will be closed as required to discuss Proprietary Information applicable to this matter.

1:30 P.M.–4:30 P.M.: Meeting with NRC Staff (Open)—The Committee will hear presentations and discuss proposed criteria for modification of containment systems making use of the Mark I pressure suppression containment concept.

Portions of this session will be closed as required to discuss Proprietary Information applicable to this matter.

4:30 P.M.–6:30 P.M.: Executive Session (Open)—The Committee will discuss its proposed report to the NRC regarding proposed changes in criteria for siting of nuclear power plants (NUREG–0625). The Committee will also hear and discuss reports of its Subcommittees on the Surry Nuclear Station steam generator replacement and the Wolf Creek Nuclear Plant seismic design.

Saturday February 9, 1980

8:30 A.M.–4:15 P.M.: Executive Session (Open)—The Committee will continue its discussion of proposed ACRS reports regarding matters discussed during this meeting including the NRC safety research program; NRC Bulletins and Orders; criteria for Mark I containment: startup and operation of TMI, Unit 1; proposed revision of NRC siting criteria.

The Committee will hear the report of its Subcommittee on Reliability and Probabilistic Assessment and will discuss a proposed report to the House Committee on Interior and Insular Affairs regarding equipment failure rates in nuclear facilities and probabilistic assessment of selected incidents at power plants.

The Committee will hear reports from its Subcommittees on Anticipated Transients Without Scram, proposed criteria for fire protection of nuclear facilities, and changes in fuel storage racks at the LaCrosse Boiling Water Reactor. The future schedule for Committee activities will also be discussed, and the Committee will complete discussion of items considered during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information related to matters being considered and to protect information the premature disclosure of which would frustrate the Committee in the performance of its statutory function.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 1, 1979 (44 FR 56408). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by memebers of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS EXecutive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to protect Proprietary Information (5 U.S.C. 552b(c)(4)) and to protect information the premature release of which would frustrate the Committee in the performance of its statutory function (5 U.S.C. 552b(c)(9)(B)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond R. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M. EST.

Date: January 22, 1980.

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 80-2803 Filed 1-25-80; 8:45 am]
BILLING CODE 7590-01-M

[Dockets Nos. 50-277, 50-278, 50-320, 50-354, and 50-355; STN 50-485]

Philadelphia Electric Co., et al.; Order for Further Evidentiary Hearing

January 21, 1980.

In the matters of Philadelphia Electric Company, *et al.* (Peach Bottom Atomic Power Station, Units 2 and 3); Metropolitan Edison Company, *et al.* (Three Mile Island Nuclear Station, Unit No. 2); Public Service Electric and Gas Co. (Hope Creek Generating Station, Units 1 and 2); Rochester Gas and Electric Corporation, *et al.* (Sterling Power Project, Nuclear Unit 1).

The further evidentiary hearing on the aircraft crash probability issue in the

Three Mile Island proceeding, scheduled to commence at *8:00 a.m. on Monday, February 25, 1980,*[1] will be held in *Hearing Rooms A and B, Lobby Level, Harristown 2 Building, 333 Market Street, Harrisburg, Pennsylvania.* The evidentiary hearing on the radon release issue in all four proceedings [2] will commence on the following day, February 26, in the same location.

Each party is to supply the Secretary to this Board, by letter mailed no later than February 15, 1980, with (1) the name(s) of the counsel or other representative who will appear on its behalf at the hearing; and (2) a list of the witnesses who will testify on its behalf.

It is so ordered.

For the Appeal Board.

C. Jean Bishop,

Secretary to the Appeal Board.

[FR Doc. 80-2602 Filed 1-25-80; 8:45 am]

BILLING CODE 7590-01-M

[1] See ALAB-570, 10 NRC —— (November 2, 1979).

[2] See ALAB-570, *supra;* ALAB-566, 10 NRC —— (October 11, 1979).

Applications for Licenses To Export/Import Nuclear Facilities or Materials

Pursuant to 10 CFR 110.41 "Public Notice of Receipt of an Application", please take notice that the Nuclear Regulatory Commission has received the following applications for export/import licenses for the period December 5 through December 31, 1979. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H St., NW., Washington, D.C.

Dated this day January 21, 1980. At Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James R. Shea,

Director, Office of International Programs.

Name of applicant, date of application, date received, application number	Material type	Material in kilograms: Total element	Material in kilograms: Total isotope	End-use	Country of destination
Separative Work Unit Corp., 12/03/79, 12/05/79, ISNM79032	2.68% enriched uranium	33,276		For use in U.S. power reactors	West Germany.
	3.22% enriched uranium	9,627			
Transnuclear, Inc., 12/17/79, 12/18/79, XSNM01632	93.3% enriched uranium	18.04	14.965	Fuel elements for H.F.R.	Netherlands.
Transnuclear, Inc., 12/05/79, 12/06/79, XSNM01633	3.30% enriched uranium	1.0	0.033	Fuel for Ringhals 2	Sweeden.
	3.25% enriched uranium	19,500.0	633.75		
Mitsui & Co. 12/06/79, 12/10/79, XSNM01635	3.95% enriched uranium	4,607	127	Reload for Hamaoka I	Japan.
Mitsui & Co. 12/06/79, 12/10/79, XSNM01636	3.95% enriched uranium	12,408	346	Reload for Hamaoka I	Japan.
TNS, Inc., 12/21/79, 12/28/79, XU08483	Depleted uranium	13,636		For shielding or for counter-weights.	Canada.
U.S. DOE, 12/20/79, 12/26/79, XSNM01639	Plutonium	1.73		Joint U.S.-Swiss Program for carbide fuel development.	Switzerland.
	Depleted uranium	8.5			
Nissho-Iwai America, 12/27/79, 12/31/79, XSNM01640	1.92% enriched uranium	7,587.75	145.665	Reload for "FUGEN" prototype reactor.	Japan.

[FR Doc. 80-2601 Filed 1-25-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

January 23, 1980.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

New Forms

Science and Education Administration
Fruit Germplasm Resources Inventory
SEA-185
On occasion
Institutions and Private Var. Collections, 80 responses; 500 hours
Charles A. Ellett, 395-5080

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377-3627

New Forms

Bureau of the Census
April 1980 CPS—Post Enumeration Survey
CPS-677
Single time
Hsehlds Respond. in Mon. Samp. of 68,000 intervw hsehlds, 68,000 responses; 1,133 hours
Off. of Federal Statistical Policy and Standards, 673-7974

Revisions

National Oceanic and Atmospheric Administration
Commercial Fishery Logbook Forms:
Stone Crab, MD
Finfish—MD crab
NOAA 88-59, 140, and 153
Monthly
Captains of Fishing Craft, 256,670 responses; 16,577 hours
Richard Sheppard, 395-3211

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—633-9770

Revisions

Summary for National Electric Rate Book
EIA-419 (formerly FPC-1)
Annually
Electric Utilities, 1,380 responses; 2,415 hours
Jefferson B. Hill, 395-5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—William Riley—245-6511

Revisions.

National Institutes of Health
Effects of Contraceptive Steroids on Blood Pressure
Single time
Description not furnished by agency, 700 responses; 350 hours
Richard Eisinger, 395-3214

Reinstatements

Alcohol, Drug Abuse and Mental Health Administration
Annual Inventory of Community Mental Health Centers of Public Mental Hospitals
MH-25-3
Annually
Federally funded CMHC's, 657 responses; 2,157 hours
Richard Eisinger, 395-3214

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755-5184

New Forms

Policy Development and Research
Questionnaires for the Evaluation of the Performance Funding System
Single time
Key management staff in 150 public housing authorities, 1,050 responses; 850 hours
Arnold Strasser, 395-5080

Revisions

Equal Opportunity
Sales-Insured Home Mortgage Monthly Reports—Rental—HUD Rental Housing
HUD-935.1 and 935.4
On occasion
Developers and sponsors using HUD housing programs, 35,000 responses; 8,750 hours
Arnold Strasser, 395-5080

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—William L. Carpenter—343-6716

Reinstatements

Bureau of Land Management
Color-of-Title Application
2540-1
On occasion
Applicant Applying for Land Under Color-of-Title, 50 responses; 25 hours
Charles A. Ellett, 395-5080
Bureau of Land Management
Conveyances Affecting Color or Claim of Title
2540-2
On occasion
Applicants Applying for Land Under Color-of-Title, 50 responses; 25 hours
Charles A. Ellett, 395-5080
Bureau of Land Management
Color-of-Title Tax Levy and Payment Report
2540-3
On occasion
County officials, 50 responses; 25 hours
Charles A. Ellett, 395-5080

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523-6341

Revisions

Occupational Safety and Health Administration
Safety and health accident inspection report
OSHA-1
Other (see SF-83)
Employers, 100,000 responses; 10,000 hours
Arnold Strasser, 395-5080

Extensions

Occupational Safety and Health Administration
Preliminary fatality/catastrophe event report
OSHA-36
On occasion
Business employers, 5,000 responses; 500 hours
Arnold Strasser, 395-5080

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426-1887

New Forms

Departmental and Other National Trucker Survey Questionnaire
Single time
Interstate Truck drivers, 3,000 Responses; 1,000 hours
Susan B. Geiger, 395-5867

AGENCY FOR INTERNATIONAL DEVELOPMENT

Agency Clearance Officer—Linwood A. Rhodes—632-0084

Revisons

Application for Assistance, American Schools and Hospitals Abroad
1010-2
On occasion
Board of Directors of private institutions; 67 responses; 240 hours
Laverne V. Collins, 395-3214

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ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—John J. Stanton—245-3064

Revisions

Comment Form Calendar of Federal Regulations [1]
Single time
All users of calendar; 3,000 responses; 750 hours
Edward H. Clarke, 395-5867

OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Officer—John P. Weld—632-7737

Extensions

Personal Qualifications Statement and Continuation Sheet for Personal Qualifications Statement
SF-171 and 171A
On occasion
Applicants for Federal Employment; 1,200,000 responses; 1,100,000 hours
Laverne V. Collins, 395-3214

TENNESSEE VALLEY AUTHORITY

Agency Clearance Officer—Eugene E. Mynatt—854-2596

New Forms

Residential Energy Conservation Attitude Survey [1]
Single time
170 County TVA market Area, 1,000 responses; 333 hours
Charles A. Ellett, 395-5080
Residential Solar Energy Attitude Survey [1]
Single time
Households in 170 County TVA Market area, 1,000 responses; 333 hours
Charles A. Ellett, 395-5080

Stanley E. Morris,

Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 80-2715 Filed 1-25-80; 8:45 am]

BILLING CODE 3110-01-M

[1] The Office of Management and Budget has acted on this form prior to the usual 10-day time alloted for clearance, because it is important for the Regulatory Council to obtain comments from users of the Calendar of Federal Regulations, in order to incorporate those comments in the next edition of the Calendar. The reply card is a simpler version of a comment form which OMB previously approved in December.

[1] These forms will be acted on before 10 days have elapsed. A notice of request for approval was originally published in the Federal Register, Vol. 44, No. 213, page 62976 on November 1, 1979.

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Generalized System of Preferences; Information on Imports During First 10 Months of 1979

This notice is for information only, and has no legal effect. It is provided in order to inform the public of certain import statistics covering the period of January through October 1979. These statistics are relevant to the "competitive-need" limits set forth in section 504(c) of the Trade Act of 1974 (19 U.S.C. 2464(c)), pertaining to the Generalized System of Preferences (GSP). Those limits provide, in effect, that any GSP beneficiary country that exported to the United States during the most recent calendar year a quantity of any one GSP eligible article in excess of (1) $25 million, adjusted annually to reflect changes in the U.S. Gross National Product, or (2) 50 percent of total U.S. imports of the article, is to cease receiving duty-free treatment under GSP for such article not later than 90 days after the close of that calendar year.

Based on preliminary data, subject to revision, the dollar limit cited in the preceding sentence is expected to be approximately $41.0 million for calendar year 1979.

Section 1111 of the Trade Agreements Act of 1979 amends section 504(c)(1)(B) of the Trade Act of 1974 so that the President may disregard the 50 percent "competitive-need" limit with respect to any eligible article if the value of total imports of the article during the most recent calendar year did not exceed $1 million, adjusted annually to reflect changes in the U.S. Gross National Product.

An Executive order will be issued to be effective March 31, 1980, making the adjustments that are required by section 504(c) of the Trade Act, on the basis of official data covering all of calendar year 1979. Such data are not currently available. It should be emphasized that the information set forth below covers only the first ten months of 1979. While this is not complete information on which adjustments will be based, it is being published now in order to provide the maximum possible advance indication as to adjustments that may be made to meet requirements of section 504(c) of the Trade Act.

List I below shows how the "competitive-need" list of countries ineligible to receive GSP benefits for particular articles might look if that list were based on data covering the period January through October 1979. In fact, the "competitive-need" list that will become effective on March 31 will be based on data for the full twelve months of 1979, so that List I below is indicative only and is subject to change.

List II below shows countries which, on the basis of data for the first ten months of 1979, were close to exceeding the "competitive-need" limits for particular articles, but which had not actually exceeded those limits.

List III below shows countries which supplied 47 percent or more of GSP eligible articles, based on data for January-October 1979, and where the total value of U.S. imports did not exceed $1 million.

The column headed "TSUS" in the Lists below sets forth item numbers of the Tariff Schedules of the United States (19 U.S.C. 1202), representing categories of imported articles.

William B. Kelly, Jr.,

Chairman, Trade Policy Staff Committee.

BILLING CODE 3190-01-M

LIST I

GSP eligible articles for which a beneficiary country supplied--

a) 50 percent or more of U.S. imports in January-October 1979 and the total value of U.S. imports during this period exceeded $1 million, or

b) imports valued at $41 million or more during that period.

1979 TSUS Item No.	1980 TSUS Item No.	Country	Percent	Value
106.60	106.60	India	68	$5,717,570
107.48	107.48	Argentina	50	37,768,859
107.80	107.80	Argentina	54	1,281,108
112.40	112.40	Portugal	50	2,972,035
114.05	114.05	Thailand	65	4,191,419
121.25	121.25	Argentina	51	5,269,665
121.55	121.55	India	65	7,454,137
135.30	135.30	Mexico	68	834,839
135.90	135.90	Mexico	96	18,984,101
136.00	136.00	Dominican Republic	85	2,478,286
136.30	136.30	Mexico	78	9,686,314
136.80	136.80	Mexico	75	1,443,990
137.40	137.40	Mexico	70	713,251
137.71	137.71	Mexico	94	1,399,476
138.05	138.05	Mexico	54	4,043,868
140.21	140.21	Mexico	84	5,604,450
141.70	141.70	Taiwan	92	6,032,714
141.77	141.77	Mexico	65	10,167,126
146.12	146.12	Argentina	66	1,149,390
146.22	146.22	Turkey	55	2,556,271
146.44	146.44	Philippine Republic	79	2,145,657
147.88	147.88	Mexico	75	896,585
148.12	148.12	Mexico	91	4,267,981
148.25	(148.19) (148.27)	Mexico	70	3,589,104
148.72	148.72	Chile	81	1,532,050
149.50	149.50	Mexico	82	1,099,412
155.20	155.20	(Brazil	22	174,296,608
		(Dominican Republic	18	139,726,989
		(Philippine Republic	6	50,017,699
155.35	155.35	Dominican Republic	65	1,643,892
156.40	156.40	Brazil	23	45,478,286
176.15	176.15	Brazil	78	1,514,762
192.45	192.45	Israel	60	1,902,727
192.85	192.85	Mexico	50	2,606,997
200.91	200.91	Honduras	53	1,708,164
202.62	202.62	Mexico	99	31,658,790
204.30	204.30	Mexico	50	1,258,320

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LIST I—Continued

1979 TSUS Item No.	1980 TSUS Item No.	Country	Percent	Value
206.47	206.47	Taiwan	72	$1,960,394
206.60	206.60	Mexico	69	19,591,122
206.98	206.98	Taiwan	61	29,953,103
220.20	220.20	Portugal	86	937,953
220.25	220.25	Portugal	81	1,748,049
220.48	220.48	Portugal	50	2,060,212
222.10	222.10	Hong Kong	65	6,586,702
240.02	240.02	Philippine Republic	89	15,617,866
240.19	240.19	Taiwan	65	918,607
245.20	245.20	Brazil	51	15,194,853
256.60	256.60	Republic of Korea	61	12,649,093
256.85pt.	256.87	Mexico	93	36,790,864
319.01	319.01	India	99	1,616,864
319.05	319.05	India	99	1,209,928
360.35	360.35	India	86	1,353,596
389.61	389.61	Hong Kong	51	24,635,916
419.60	419.60	Chile	70	2,208,358
422.76	422.76	Mexico	87	2,050,974
425.84	425.84	Netherlands Antilles	89	1,648,138
425.86	425.86	Brazil	62	859,680
428.34	428.34	Brazil	65	2,019,315
437.64	437.64	Brazil	50	5,611,942
473.52	473.52	Mexico	99	13,906,412
473.56	473.56	Mexico	90	1,158,898
511.31	511.31	Mexico	89	1,186,431
517.24	517.24	Malagasy Republic	58	1,083,452
518.41	518.41	Mexico	53	1,660,773
520.35	520.35	Thailand	69	29,392,519
532.31	532.31	Mexico	54	728,378
535.31	535.31	Mexico	55	5,042,209
545.53	545.53	Mexico	59	8,190,062
545.65	545.65	Mexico	77	836,986
545.85	545.85	Taiwan	78	813,139
602.30	602.30	Philippine Republic	91	25,491,269
603.40	603.40	Chile	82	5,804,377
603.50	603.50	Chile	87	4,873,306
612.03	612.03	Chile	50	18,417,484
612.06	612.06	Chile	35	105,691,624
622.40	622.40	Brazil	99	7,252,883
651.13	651.13	Hong Kong	69	822,357
651.21	651.21	Taiwan	56	3,044,798
652.84	652.84	Mexico	55	23,216,870
653.47	653.47	Taiwan	79	1,434,091
653.48	653.48	Taiwan	57	13,098,994
653.85	653.85	Taiwan	80	2,526,103

LIST I—Continued

1979 TSUS Item No.	1980 TSUS Item No.	Country	Percent	Value
653.93	653.93	Taiwan	57	$4,002,818
657.24	657.24	Taiwan	50	1,291,549
660.42	660.42	Brazil	18	52,137,198
660.44pt.	660.48	Mexico	18	44,119,733
662.35	662.35	Mexico	52	1,817,073
676.52	676.52	(Hong Kong	12	77,551,263
		(Mexico	7	47,931,622
678.50	678.50	(Republic of Korea	5	49,667,511
		(Taiwan	6	57,969,347
682.60	682.60	Mexico	19	47,031,585
683.80	683.80	Hong Kong	79	4,556,508
684.15	684.15	Singapore	91	5,530,016
684.20	684.20	Hong Kong	55	17,007,686
684.50	684.50	Hong Kong	42	69,200,311
684.70	684.70	Taiwan	19	76,425,605
685.24	685.24	(Hong Kong	19	86,172,829
		(Republic of Korea	10	46,606,384
		(Taiwan	9	43,234,513
685.90	685.90	Mexico	15	98,393,567
686.24	686.24	El Salvador	64	3,676,931
686.30	686.30	Taiwan	50	9,115,232
686.50	686.50	Mexico	82	1,128,199
687.30	687.30	Malaysia	52	8,952,176
687.42	687.42	Taiwan	51	2,707,026
688.10	688.10	Taiwan	67	32,493,093
688.12	688.12	Mexico	70	40,278,065
688.35	688.35	Republic of Korea	50	2,175,041
692.27	(692.29)	(Brazil	3	41,600,615
		(Mexico	10	143,338,262
	(692.32)			
694.40	694.66	Israel	12	42,465,718
696.10	696.10	Taiwan	55	52,685,095
696.35	696.35	Taiwan	55	3,752,609
703.65	703.65	Mexico	93	1,386,167
703.75	703.75	Mexico	87	1,735,005
706.40	706.40	Hong Kong	83	1,377,683
709.40	709.40	Hong Kong	50	2,423,797
713.15	713.15	Mexico	60	3,805,347
722.44	722.44	Hong Kong	53	2,219,838
725.06pt.	(725.05)	Republic of Korea	51	12,109,051
	(725.07)			
725.06pt.	725.08	Republic of Korea	58	2,220,787
725.32	725.32	Taiwan	58	4,391,624
725.46	725.46	Republic of Korea	56	6,019,050
726.90	726.90	Mexico	50	9,008,741
727.15	727.15	Taiwan	59	14,910,710

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LIST I--Continued

1979 TSUS Item No.	1980 TSUS Item No.	Country	Percent	Value
727.31	727.23	Republic of Korea	56	$2,733,185
727.35	727.35	Taiwan	18	42,468,954
727.47	727.47	Taiwan	52	1,941,312
730.29	730.29	Brazil	54	745,520
734.10	734.10	Taiwan	88	5,851,439
734.15	734.15	Taiwan	61	29,844,972
734.20	734.20	Hong Kong	48	98,050,285
734.25	734.25	Hong Kong	63	1,673,302
734.34	734.34	Hong Kong	50	686,524
734.51	734.51	Taiwan	79	2,895,874
734.56	734.56	Haiti	80	23,233,090
734.87	734.87	Taiwan	56	3,819,392
734.90	734.90	Taiwan	68	7,588,187
735.05	735.07	Republic of Korea	59	5,477,068
737.25	737.25	Taiwan	77	4,809,351
737.30	737.30	Republic of Korea	63	21,770,305
737.45	737.45	Hong Kong	57	4,398,586
737.50	737.50	Hong Kong	88	1,185,787
737.60	737.60	Hong Kong	61	3,893,840
737.80	737.80	Hong Kong	53	7,004,713
737.95	737.95	(Hong Kong	42	111,535,173
		(Taiwan	19	51,010,330
740.10	740.10	Hong Kong	7	42,522,948
740.30	740.30	Hong Kong	74	1,522,075
740.34	740.34	Hong Kong	91	2,776,573
740.70	740.70	Israel	69	7,911,165
741.25	741.25	Hong Kong	58	1,199,705
751.05	751.05	Taiwan	66	28,742,650
755.25	755.25	Hong Kong	54	8,592,588
756.04	756.04	Hong Kong	73	8,631,446
771.45	771.45	Taiwan	58	1,634,897
772.03	772.03	Hong Kong	61	1,194,356
772.35	772.35	Taiwan	79	24,324,357
772.97	772.97	Hong Kong	53	15,189,613
774.60pt.	774.45	Hong Kong	77	19,701,431
790.25	790.25	Philippine Republic	50	1,782,877
790.39	790.39	Taiwan	78	24,963,583
790.70	790.70	Republic of Korea	89	31,333,523
792.50	792.50	Philippine Republic	64	3,714,584
792.60	792.60	Hong Kong	96	4,803,532
		TOTAL		2,997,771,908

LIST II

GSP eligible articles for which a beneficiary country supplied--

a) 47 percent or more, but less than 50 percent, of U.S. imports in January-October 1979 and the total value of U.S. imports during this period exceeded $1 million, or

b) imports valued at $39 million or more, but less than $41 million, during that period.

1979 TSUS Item No.	1980 TSUS Item No.	Country	Percent	Value
154.55	(154.43) (154.53)	Taiwan	47	$628,433
206.50	206.50	Honduras	48	4,202,942
220.50	220.50	Portugal	47	707,016
222.44	222.44	Philippine Republic	49	5,325,960
308.35	308.35	Hong Kong	49	964,536
308.50	308.50	Republic of Korea	47	496,418
540.21	540.21	Mexico	47	2,832,012
612.03	612.03	Peru	47	17,460,411
648.97	648.97	Taiwan	39	40,688,746
650.89	650.89	Hong Kong	49	559,973
651.37	651.37	Taiwan	47	3,326,951
656.10	656.10	Israel	47	737,286
676.20	676.20	Hong Kong	15	40,872,462
683.15	683.15	Mexico	49	20,933,909
685.40	685.40	Taiwan	5	39,698,461
726.70	726.70	Mexico	47	2,410,133
727.48	727.50	Taiwan	47	15,438,804
734.54	734.54	(Republic of Korea	49	15,520,154
		(Taiwan	48	15,089,665
734.72	734.72	Mexico	48	554,161
737.15	737.15	Hong Kong	47	17,245,092
740.10	740.10	Israel	6	40,072,608
745.58	745.58	Hong Kong	47	883,727
748.40	748.40	Taiwan	47	27,692,826
		Total		314,342,686

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LIST III

GSP eligible articles for which a beneficiary country supplied 47 percent or more of U.S. imports in January-October 1979 and the total value of U.S. imports during this period did not exceed $1 million--

1979 TSUS Item No.	1980 TSUS Item No.	Country	Percent	Country Value	Total Value of Item
107.70	107.70	Haiti	100	$673	$673
110.45	110.45	Peru	47	132,765	277,474
111.92	111.92	Philippine Republic	55	70,916	128,116
130.40	130.40	Mexico	85	14,809	17,261
131.80	131.80	Mexico	100	285	285
135.51	135.51	Mexico	74	144,838	194,587
135.80	135.80	Nicaragua	95	93,467	98,158
136.92	136.92	Israel	62	133,279	211,643
136.98	(136.94)	Guatemala	58	74,459	127,044
	(136.95)				
137.75	137.75	Costa Rica	71	546,736	769,007
145.24	145.24	Mexico	100	281	281
145.53	145.53	Turkey	91	510,448	557,348
145.60	(145.65)	Taiwan	80	672,734	834,697
	(145.70)				
147.33	147.33	Jamaica	73	14,823	20,287
147.85	147.85	Mexico	69	318,809	461,821
148.35	148.35	Israel	56	21,243	37,726
148.77	148.77	Argentina	78	11,568	14,669
152.00	152.00	Philippine Republic	54	483	888
152.43	152.43	Dominican Republic	92	115,139	124,927
153.08	153.08	Dominican Republic	77	45,042	57,913
154.40	154.40	Taiwan	65	189,482	288,223
154.60	154.60	Taiwan	58	57,644	98,570
161.69	161.69	Mexico	96	159,789	165,980
162.03	162.03	Thailand	52	1,200	2,299
162.11	162.11	Syria	50	4,785	9,554
168.15	(168.12)	Trinidad	80	430,785	531,918
	(168.13)				
168.23	168.37	Peru	65	36,640	55,892
182.90	182.90	Panama	74	417,104	557,377
184.65	184.65	Taiwan	65	265,586	405,584
190.68	190.68	Mexico	55	224,099	401,827
202.38	202.38	Brazil	69	196,800	281,337
203.20	203.20	Taiwan	94	79,744	84,383
206.45	206.45	Haiti	88	18,909	21,369
206.95	206.95	Taiwan	47	37,455	79,570
220.10	220.10	Portugal	83	423,250	508,504
220.15	220.15	Portugal	99	105,789	106,413
220.35	220.35	Portugal	100	40,270	40,270
220.37	220.37	Portugal	100	10,829	10,829
220.41	220.41	Portugal	91	80,037	87,236

LIST III--Continued

1979 TSUS Item No.	1980 TSUS Item No.	Country	Percent	Country Value	Total Value of Item
222.34	222.34	Philippine Republic	63	$14,298	$22,524
240.06	240.06	Philippine Republic	54	133,891	246,689
240.10	240.10	Brazil	59	584,189	977,034
240.12	240.12	Philippine Republic	56	250,157	438,891
240.40	240.40	Philippine Republic	87	70,888	80,744
240.50	240.50	Taiwan	100	285	285
245.00	245.00	Romania	73	47,253	64,717
252.15	252.15	Argentina	47	35,749	74,911
252.30	252.30	Mexico	50	14,490	28,627
254.56	254.56	Portugal	92	153,916	166,186
274.27	274.27	Hong Kong	100	269	269
304.44	304.44	Brazil	100	140,212	140,212
304.48	304.48	Haiti	53	3,709	6,882
304.58	304.58	Bangladesh	49	14,333	29,084
305.22	305.22	India	69	313,570	449,814
305.28	305.28	Thailand	93	479,165	514,661
305.50	305.50	Brazil	79	32,705	40,993
306.52	306.52	Bolivia	66	28,556	42,974
306.71	306.71	Mexico	100	2,916	2,916
306.72	306.72	Mexico	75	3,509	4,668
308.30	308.30	Brazil	50	89,314	177,446
308.55	308.55	Singapore	100	54,111	54,111
319.03	319.03	India	96	554,553	574,388
319.07	319.07	India	87	159,703	182,639
335.50	335.50	India	88	424,157	481,524
347.20	347.20	Hong Kong	100	27,001	27,001
347.30	347.30	India	74	325,343	439,580
360.36	360.36	India	93	23,306	25,052
361.21	361.21	India	100	320	320
364.09	364.09	Mexico	48	370	758
364.14	364.14	India	74	2,634	3,548
364.18	364.18	Portugal	51	121,705	235,151
387.32	387.32	Hong Kong	50	260,867	518,862
403.79	403.79	Republic of Korea	100	97,755	97,755
405.45	405.45	Romania	56	155,468	274,129
407.12	407.12	Romania	47	242,142	511,567
408.75	408.75	Romania	96	69,930	72,730
418.24	418.24	India	89	283,202	314,789
418.78	418.78	Mexico	57	442,408	768,664
419.54	419.54	Mexico	55	196,883	355,810
420.02	420.02	Israel	96	507,866	527,246
420.82	420.82	Israel	99	616,781	621,555
420.98	420.98	Brazil	90	368,642	408,991
425.12	425.12	Mexico	61	338,271	548,693
425.18	425.18	Mexico	87	105,544	120,604

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LIST III—Continued

1979 TSUS Item No.	1980 TSUS Item No.	Country	Percent	Country Value	Total Value of Item
429.20pt.	429.29	Colombia	100	$576,219	$576,219
437.13	437.13	India	51	41,833	80,852
437.16	437.16	India	100	162,881	162,881
446.10	446.10	Malaysia	71	356,776	496,930
450.10	450.10	Mexico	62	6,357	10,099
460.60	460.60	Hong Kong	60	149,207	248,664
461.15	461.15	Bermuda	91	85,238	93,647
465.65	465.65	Western Somoa	55	2,049	3,693
465.70	465.70	Argentina	98	58,338	59,086
466.10	466.10	Republic of Korea	93	6,450	6,899
466.20	466.20	India	100	452	452
472.48	472.48	Cyprus	86	26,993	31,305
473.62	473.62	Mexico	92	22,113	24,026
473.82	473.82	Republic of Korea	98	322,422	325,830
513.21	513.21	Mexico	60	71,464	117,574
514.54	514.54	Mexico	77	82,261	105,666
515.51	515.51	Mexico	68	18,555	27,282
515.54	515.54	Mexico	57	33,542	58,352
516.24	516.24	India	100	8,713	8,713
516.71	516.71	India	90	771,739	848,644
516.73	516.73	India	89	21,146	23,519
516.74	516.74	India	93	72,421	77,584
516.76	516.76	India	89	225,719	252,984
520.37	520.37	Israel	70	26,601	37,666
533.14	533.15 pt.	Taiwan	98	24,430	24,698
534.74	534.74	Taiwan	90	11,185	12,422
545.37	545.37	Taiwan	79	36,557	46,236
546.21	546.21	Mexico	93	161,568	172,777
546.23	546.23	Taiwan	56	40,580	71,265
547.41	547.41	Hong Kong	57	59,543	103,604
603.45	603.45	Thailand	63	85,467	134,868
610.70	610.70	Taiwan	48	294,437	605,374
610.71	610.71	Israel	80	75,465	94,303
612.02	612.02	Chile	100	104,075	104,075
612.15	612.15	Mexico	58	258,451	440,819
612.40	612.40	Mexico	88	53,745	60,502
613.03	613.03	Brazil	77	58,718	76,100
613.11	613.11	Republic of Korea	98	22,022	22,320
624.42	624.42	Mexico	58	165,785	282,589
628.50	628.50	Peru	74	103,575	138,638
646.04	646.04	Taiwan	72	2,681	3,711
646.06	646.06	Taiwan	74	73,101	97,930
646.82	646.82	Taiwan	48	42,133	87,244
646.85	646.85	Taiwan	53	305,429	566,322
646.86	646.86	Hong Kong	57	160,390	277,581

LIST III—Continued

1979 TSUS Item No.	1980 TSUS Item No.	Country	Percent	Country Value	Total Value of Item
646.98	646.98	Mexico	96	$569,275	$588,693
648.63	648.63	Republic of Korea	67	44,508	66,073
649.71	649.71	Taiwan	60	3,981	6,541
649.73	649.73	Republic of Korea	54	4,100	7,513
649.75	649.75	Taiwan	55	20,555	36,987
650.83	650.83	Hong Kong	100	2,604	2,604
650.85	650.85	Taiwan	47	51,985	108,712
650.87	650.87	Hong Kong	100	62,061	62,061
651.03	651.03	Hong Kong	52	35,802	68,279
651.15	651.15	Taiwan	65	206,028	315,840
652.93	652.93	Mexico	57	21,198	36,554
653.30	653.30	Hong Kong	50	408,650	807,253
653.70	653.70	Hong Kong	67	36,568	54,172
662.18	662.18	Republic of Korea	100	6,288	6,288
672.10	672.10	Hong Kong	66	353,931	535,173
676.23	676.23	Hong Kong	56	444,924	792,084
684.10	684.10	Taiwan	85	396,933	465,351
688.20	688.20	Taiwan	47	29,568	61,659
694.70	694.70	Israel	56	242,801	429,455
702.08	702.08	Republic of Korea	73	13,776	18,832
702.14	702.14	Republic of Korea	59	580,791	984,288
702.15	702.15	Mexico	63	2,576	4,049
702.20	702.20	Republic of Korea	68	440,010	643,253
702.35	702.35	Mexico	69	121,880	174,463
702.47	702.47	Mexico	75	673,996	892,718
703.20	703.20	Mexico	100	636	636
703.55	703.55	Portugal	59	298,008	499,922
704.95	704.95	Philippine Republic	89	93,967	104,431
706.50	706.50	Hong Kong	66	318,951	481,616
708.41	708.41	Hong Kong	62	2,700	4,289
709.21	709.21	Hong Kong	87	2,388	2,714
711.83	711.77	Mexico	49	459,971	935,224
713.17	713.17	Hong Kong	83	253,186	303,053
713.19	713.19	Mexico	97	629,328	648,214
722.90	722.90	Taiwan	49	185,144	375,855
722.92	722.92	Taiwan	53	218,100	407,603
724.35	724.35	Hong Kong	84	5,396	6,414
726.60	726.60	Mexico	51	22,271	43,335
728.20	728.20	Portugal	74	14,596	19,685
730.41	730.41	Brazil	98	812,662	829,179
731.10	731.10	Taiwan	58	473,608	812,588
731.50	731.50	Taiwan	47	305,310	641,583
732.50	732.50	Taiwan	48	73,406	150,126
732.62	732.62	Taiwan	53	133,456	247,200
734.30	734.30	Hong Kong	89	275,939	306,686
734.60	734.60	Taiwan	90	227,582	250,465

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LIST III—Continued

1979 TSUS Item No.	1980 TSUS Item No.	Country	Percent	Country Value	Total Value of Item
734.75	734.75	Republic of Korea	53	$432,969	$809,640
735.10	735.10	Republic of Korea	52	453,946	867,799
735.11	735.11	Taiwan	64	57,456	89,383
741.20	741.20	Hong Kong	96	164,216	169,353
745.08	745.08	Hong Kong	72	26,045	35,979
745.50	745.50	Israel	100	3,950	3,950
748.12	748.12	Haiti	68	25,758	37,738
748.36	748.36	Taiwan	47	103,600	216,743
750.05	750.05	Hong Kong	96	718,718	748,232
750.10	750.10	Hong Kong	49	216,890	437,243
750.35	750.35	Taiwan	71	700,540	984,011
750.50	750.50	Republic of Korea	47	426,806	900,626
750.75	750.75	Hong Kong	47	295,623	619,454
751.10	751.10	India	48	23,834	49,015
751.20	751.20	Taiwan	68	258,803	376,986
755.30	755.30	Malta	62	273,130	439,378
756.23	756.23	India	63	149,460	234,109
756.40	756.40	Hong Kong	84	153,769	182,123
756.50	756.50	Hong Kong	95	34,048	35,749
756.60	756.60	Turkey	47	33,134	69,966
760.38	760.38	Mexico	86	97,255	112,505
760.65	760.65	Taiwan	74	71,864	96,869
774.20	774.20	India	63	38,867	61,672
790.07	790.07	Hong Kong	54	16,549	30,616
791.10	791.10	Hong Kong	54	162,309	300,173
791.20	791.20	Republic of Korea	64	6,136	9,457
791.35	791.35	Brazil	77	45,087	58,285
792.22	792.22	Pakistan	95	7,389	7,736
792.70	792.70	Taiwan	54	54,582	99,324
792.75	792.75	Hong Kong	86	839,319	973,482
		Total		34,257,602	59,744,625

[FR Doc. 80-2564 Filed 1-25-80; 8:45 am]
BILLING CODE 3190-01-C

PRESIDENTIAL COMMISSION ON WORLD HUNGER

Public Participation and Communication Subcommittee; Meeting

The Public Participation and Communication Subcommittee of the Presidential Commission on World hunger will meet on February 8, 1979 in Room 2008 of the New Executive Office Building, 726 Jackson Place, NW., Washington, D.C. The meeting will begin at 10:00 a.m.

The agenda for the meeting will include discussion on the Commission's public education program.

The meeting will be open to observation by the public to the extent space is available. Reservations are required and requests should be addresssed to the Presidential Commission on World Hunger, 734 Jackson Place, NW., Washington, D.C. 20006. Reservations will be honored on the basis of the earliest postmarks of requests.

Donald B. Harper,

Administrative Officer, Presidential Commission on World Hunger.

[FR Doc. 80-2716 Filed 1-25-80; 8:45 am]
BILLING CODE 6325-97-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 16518; File No. 4-281]

American Stock Exchange, Inc., et al.; Application Pursuant to Securities and Exchange Act of 1934; Order

January 22, 1980.

In the matter of American Stock Exchange, Inc., Boston Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., Midwest Stock Exchange, Inc., National Association of Securities Dealers, Inc., New York Stock Exchange, Inc., Pacific Stock Exchange, Inc., Philadelphia Stock Exchange, Inc.

The Securities and Exchange Commission hereby issues an order, pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934 (the "Act"), providing the authorization to certain self-regulatory organizations to act jointly, in accordance with the terms of a plan, as amended, with respect to matters as to which they share authority under the Act in planning, developing, operating and regulating a national market facility consisting of a consolidated quotation system ("quotation system"). This order authorizes those self-regulatory organizations to implement that facility on a permanent basis as a means of facilitating the establishment of a national market system in accordance with the requirements of Section 11A of the Act.

I. Introduction and Background

On January 26, 1978, the Commission adopted Rule 11Ac1-1 (the "Rule") under the Act which requires that every national securities exchange ("exchange") and national securities association ("association") establish and maintain procedures to collect, process and make available to vendors quotations (including size) in reported securites (*i.e.*, securities as to which transaction information is reported in the consolidated transaction reporting system ("consolidated system")).[1] In adopting the Rule, the Commission requested that the various self-regulatory organizations consider joint implementation of the Rule through the creation of a unified data stream of quotations from all market centers. In response to the Commission's request, on July 25, 1978, the New York Stock Exchange, Inc. ("NYSE") and the American Stock Exchange, Inc. ("Amex") filed with the Commission a "Plan for the Purpose of Implementing Rule 11Ac1-1 under the Securities Exchange Act of 1934" ("CQ Plan" or "Plan"). The CQ Plan (i) established joint procedures to govern the collection, processing and disseminating of quotation information by participation market centers, (ii) provided for selection and evaluation of an exclusive processor to collect quotation information from the participating market centers and to make that information available to quotation vendors in a single data stream, and (iii) establish fees relating to the receipt of quotation information.

On July 28, 1978, the Commission issued a temporary order, pursuant to Section 11A(a)(3)(B) of the Act, authorizing any self-regulatory organization executing the Plan (collectively, "participants")[2] to act jointly in operating and regulating the quotation system in accordance with the terms of the Plan for 180 days from the date of the order.[3] On January 24, 1979, the Commission issued an order ("CQ Plan Extension Order"), pursuant to Section 11A(a)(3)(B), extending its approval of the CQ Plan for an additional year.[4]

On August 1, 1978, following the Commission's temporary approval of the CQ Plan, the NYSE, Amex, Boston Stock Exchange, Inc. ("BSE"), Midwest Stock Exchange, Inc. ("MSE"), Pacific Stock Exchange, Inc. ("PSE") and Philadelphia Stock Exchange, Inc. ("Phlx") began disseminating quotations in a single data stream pursuant to the terms of the CQ Plan.[5] The National Association of Securities Dealers, Inc. ("NASD") became a participant on December 15, 1978, and began disseminating third-market quotations to the Securities Industry Automation Corporation ("SIAC"), the processor of the CQ Plan data stream, on February 20, 1979. In addition, the Cincinnati Stock Exchange, Inc. ("CSE") has recently signed the CQ Plan and is scheduled to begin disseminating quotations to SIAC by February 2, 1980. A complete copy of the Plan, as amended, and all comments received with respect thereto are available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, N.W., Washington, DC.[6]

CQ Plan Amendments

On November 20, 1979, the Plan participants submitted to the Commission various proposed amendments to the CQ Plan, which were published for comment in the **Federal Register**.[7] These proposed amendments to the Plan include the following:

(a) *Amendments Relating to NASD Participation in the Plan.*—The Plan participants have proposed the amendment of Sections I(j), VI(c), VI(d) and IX(c) of the Plan and the addition of a new Section III(d) to the Plan. Among other things, these proposals would provide that at some future date the Plan may be amended and submitted to the Commission for approval: (i) to provide for a "CQ Network C" for unlisted, over-the-counter NASDAQ securities; (ii) to name the NASD as the network's administrator, with all of the rights and authority with respect to "CQ Network C" that the networks' administrators for CQ Networks A and B have under the CQ Plan with respect

[1] Securities Exchange Act Release No. 14415 (January 26, 1978), 43 FR 4342.

[2] In addition to the NYSE and Amex, the following self-regulatory organizations have joined the CQ Plan to date: The Boston Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., Pacific Stock Exchange, Inc., Philadelphia Stock Exchange, Inc., Midwest Stock Exchange, Inc., and the National Association of Securities Dealers, Inc.

[3] Securites Exchange Act Release No. 15009 (July 28, 1978), 43 FR 34851 ("CQ Order").

[4] Securites Exchange Act Release No. 15511 (January 24, 1979), 44 FR 6230.

[5] Certain of these exchanges actually began dissemination of quotations through the CQ Plan data stream prior to August 1, 1978, in connection with their participating in the Intermarket Trading System ("ITS").

[6] See File No. 4-281.

[7] Securites Exchange Act Release No. 16446 (December 28, 1979), 44 FR 76660.

to their respective networks;[8] (iii) to properly allocate income and expenses in relation to unlisted, over-the-counter NASDAQ securities; and (iv) to make such other changes as deemed necessary at that time.

(b) *Amendments Relating to the Regulatory Halt Provision.*—The Plan participants have proposed the deletion of Section IX (a) of the Plan and the amendment of Section IX(b) of the Plan. Section IX(a) of the Plan, as originally filed with the Commission, provided that, during a regulatory halt of trading in a security called by the "primary" exchange, all Plan participants must cease making available quotation information in that security to the Plan processor. The Commission determined to condition its temporary authorization of the Plan on the Plan partipants not implementing this provision of the Plan and requested the Plan participants to execute and file amendments to the Plan eliminating this provision.[9] The amendment to Section IX(b) of the Plan would provide that each Plan participant shall be authorized to suspend the furnishing of quotation information in any "eligible security" for any reason deemed adequate by it. Any Plan participant which does so suspend furnishing of quotation information shall immediately advise the Plan processor of its actions and reasons therefor.

(c) *Amendments Relating to Financial Arrangements Among the Participants.*—The Plan participants have proposed the amendment of Section X(b)(i) of the Plan. Section X(b) of the Plan provides for the sharing of income and expenses associated with making available Network A and Network B quotation information. Specifically, as to each network, it provides that a participant's "Annual Share" of net income for any calendar year will be measured by the number of transactions reported by that participant during that year in the consolidated system as compared with all transactions reported by all participants during that year. The amendment would modify the definition of the term "Annual Share" to exclude those transactions reported in those securities as to which an exemption has been granted to a participant from the requirements of the Rule.[10]

[8] Network A reports quotations in NYSE-listed securities. Network B reports quotations in Amex and certain exchange-listed securities.

[9] *See* Securites Exchange Act Release No. 15009 (July 28, 1978), 43 FR 34851; Securites Exchange Act Release No. 15511 (January 24, 1979), 44 FR 8230.

[10] The Commission understands that this amendment was proposed in connection with the CSE's having become a Plan participant. The CSE has been granted an exemption from the Rule with respect to those securities traded on the CSE which are not traded on the CSE's national securities trading system, the so-called CSE System. *See* Securities Exchange Release No. 15010 (July 28, 1978).

Fees for Consolidated Quotations

In the CQ Plan Extension Order, the Commission expressed its concern regarding the fee structure established by the CQ Plan.[11] The CQ Plan established a fee schedule for subscription to consolidated quotation information which creates a permanent two-tiered structure for Network A and Network B quotations. Under the two-tiered structure, subscribers to either network who are members of a participant in the CQ Plan (*i.e.*, reporting exchanges and the NASD) are charged a lower fee than are subscribers who are not members of at least one of the participants.[12] In the case of Network A, the rate for subscribers who are not members of participants is more than 50% higher than the rate for members of participants. For Network B, the disparity is approximately 5%. In addition, for a period of six years, commencing on August 1, 1978, NYSE members subscribing to Network A are charged a fee which is lower than the fee charged to members of other participants. During the six year period, the fee charged to members of the NYSE will gradually increase and, at the conclusion of this period, members of all participating market centers will be charged an identical fee.[13]

The Commission continues to be concerned by the absence of a uniform fee structure for subscribers of quotation information (whether they are NYSE members, members of participating market centers or persons who are not members of any participant); however, the Commission believes that the permanent approval of the CQ Plan is not the appropriate context in which to address the generic questions of fee structures for national market system facilities.

* * * * *

It is hereby ordered, pursuant to Section 11A(a)(3)(B) of the Act, that the self-regulatory organizations named above are authorized to act jointly in planning, developing, operating or regulating the quotation system in accordance with the terms of the CQ Plan, as amended.

[11] CQ Plan Extension Order at 7, 44 FR at 6232.

[12] Currently, the category of non-members of participants includes brokers and dealers who are sole members of the Intermountain or Spokane Stock Exchanges, broker-dealers registered under Section 15(b) of the Exchange Act (SECO broker-dealers) and institutional and private investors.

[13] *See* letter from James E. Buck, Secretary, NYSE, to George A. Fitzsimmons, Secretary, SEC, dated January 12, 1979, at 17–25.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2712 Filed 1-25-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11025; 812-4536]

American Variable Annuity Life Assurance Co. et al.; Application for an Order Granting Exemptions

January 18, 1980.

In the matter of American Variable Annuity Life Assurance Company, the A.V.A. Income Fund, the A.V.A. Qualified Income Fund, American Variable Annuity Fund and SMA Equities, Inc. 440 Lincoln Street, Worcester, MA 01605 (812–4536)

Notice is hereby given that American Variable Annuity Life Assurance Company (the "Company"), its separate accounts, The A.V.A. Qualified Income Fund ("AVAQIF"), The A.V.A. Income Fund ("AVAIF") and American Variable Annuity Fund ("AVAF") (AVAQIF, AVAIF and AVAF hereinafter collectively referred to as the "Funds") and SMA Equities, Inc. ("SMAE") the principal underwriter for the Funds, (the Company, the Funds and SMAE collectively referred to herein as "Applicants") filed an application on September 13, 1979 and Amendement No. 1 thereto on December 28, 1979 for an order pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act") granting exemptions from Sections 2(a)(32), 2(a)(35), 22(c), 27(c)(1), 27(c)(2), and 27(d) of the Act and Rule 22c–1 thereunder, to the extent necessary or appropriate to permit applicants to offer the variable annuity policies described in the application. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations therein, which are summarized below.

Introduction

The Company is a stock life insurance company organized under the provisions of the Delaware Insurance Code in July, 1974 with its principal operational office located in Worcester, Massachusetts. It is the successor in interest by virtue of merger to the stock life insurance company of the same name which was incorporated in the State of Arkansas in January, 1967. The Company is wholly-owned subsidiary of State Mutual Life Assurance Company of America ("State Mutual"), a mutual life insurance company incorporated under the laws of the Commonwealth of Massachusetts in 1844. The Company is registered as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers ("NASD").

The Funds are registered under the Act as open-end management investment companies. The Funds are separate accounts of the Company maintained pursuant to Section 2933 of the Delaware Insurance Code for the purpose of holding certain assets as reserves for certain of the Company's variable annuity policies. Each Fund constitutes a "separate account" as defined in Section 2(a)(37) and Rule 0–1(e) under the Act and complies with the conditions for availability of the exemptive rules referred to therein.

All series of the Company's variable annuity policies permit purchase payments to be allocated to AVAF. The principal investment objective of AVAF is to select investments from the viewpoint of a prudent investor concerned primarily with longterm growth of capital in relation to the expansion of the economy and the changing value of the dollar. Assets of AVAF will normally consist of a diversified portfolio of common stocks and other equity securities. Policies participating in AVAF include both those funding retirement plans entitled and those not entitled to special tax treatment under the Internal Revenue Code of 1954 ("Code").

The Company issues a series of variable annuity policies pursuant to which purchase payments may be allocated to AVAQIF or AVAIF as well as to AVAF. AVAQIF is available under contracts issued in connection with retirement plans qualifying under Section 401, 403, 408 or 457 of the Code; AVAIF is available under contracts issued in connection with retirement plans which do not qualify for special tax treatment. The principal investment objective of both AVAQIF and AVAIF is to seek as high a level of current income as is consistent with prudent investment management. The assets of AVAQIF and AVAIF will normally be invested in a diversified portfolio of fixed income securities.

SMAE serves as the principal underwriter for the Funds. SMAE is indirectly a wholly-owned subsidiary of State Mutual organized under the laws of the Commonwealth of Massachusetts on March 27, 1969. SMAE is registered as a broker-dealer under the Securities Exchange Act of 1934 and is a member of NASD.

Applicants proposed to issue two new series of individual variable annuity policies ("Policies") to be funded by the Funds, one a "single payment" Policy ("Single Payment Policy") and the other an "elective payment" Policy ("Elective Payment Policy"). The Policies may be used for either immediate of deferred annuities. Single Payment Policies will be available for a single payment in a minimum amount of $5,000; no further payments will be accepted under such Policies. Elective Payment Policies will permit multiple purchase payments unlimited as to frequency or number but with initial and subsequent payment minimums of $600 and $50, respectively.

The $600 initial payment minimum is reduced to $50 in connection with the monthly automatic payment plan or a salary reduction/deduction arrangement. It is also reduced in connection with retirement plans qualified under Section 401 of the Internal Revenue Code where the contribution on behalf of any employee is less than $600 but more than $300 and the average annual contribution per eligible participant is at least $600.

Under each type of Policy net purchase payments may be allocated to either AVAF, AVAQIF or AVAIF, depending on whether the Policy is issued in connection with a tax favored plan, or to the general account of the Company for accumulation on a fixed basis. Prior to the annuity commencement date, amounts accumulated under the Policies may be transferred among the Funds and between any Fund and the Company's general account without imposition of any charge. All transfers must be with the consent of the Company and must comply with whatever maximum and minimum dollar limitations and other non-discriminatory rules restricting transfers the Company may impose. Upon commencement of annuity payments, the owner of the Policy ("Policy Owner") may select a variable annuity reflecting the performance of AVAF, or a fixed annuity or a combination of both.

Contingent Deferred Sales Charge

The proposed Policies would assess no sales charge from the gross purchase payments under the Policies. In lieu of a front-end sales charge, Applicants propose to assess a contingent deferred sales charge which will be applied in the case of contract surrenders, partial withdrawals or annuitization under a period certain option during the periods described below or in the event the contract owner annuitizes under an option involving a life contingency during the first five contract years.

Upon surrender, the Policy Owner will be paid an amount equal to the accumulated value under the Policy minus the amount of the contingent deferred sales charge, if applicable, and the Policy will be cancelled. The amount of the charge and the period during which the charge is made differs depending on whether the Policy is a Single Payment Policy or an Elective Payment Policy.

Under Single Payment Policies, the contingent deferred sales charge would be assessed on surrenders during the first nine full contract years as follows:

Year:	Percent
1 to 5	5
6	4
7	3
8	2
9	1

The charge will be applied as a percentage of the total accumulated value under the Policy and in no event may the charge exceed 6.5% of the gross payments. On and after the 10th Policy anniversary, no charge will be assessed on surrenders of a Single Payment Policy.

Under Elective Payment Policies, the contingent deferred sales charge would be assessed on contract surrenders during the first 14 Policy years as follows:

Year:	Percent
1 to 11	6
12	5
13	4
14	2

The charge will be applied as a percentage of the total accumulated value under the Policy but in no event may the charge exceed 8% of the gross purchase payments. On and after the 15th Policy year no charge will be assessed on a surrender of an Elective Payment Policy.

Hereinafter the term "Surrender Charge Period" shall be used to mean the period during which the contingent deferred sales charge would be imposed under Single Payment Policies and the period during which the contingent deferred sales charge would be imposed under Elective Payment Policies described above.

Both types of Policies would permit a Policy Owner to make a partial withdrawal of the accumulated value under the Policy at any time prior to the annuity commencement date subject to $2,000 of accumulated value remaining under a Single Payment Policy and $200 under the Elective Payment Policy. A contingent deferred sales charge will be assessed on partial redemptions in the same percentage and during the same period as the charge applicable to surrenders described above. The contingent deferred sales charge will be assessed on partial redemptions as a percentage of the amount redeemed. The amount redeemed will be the amount requested by the Policy Owner plus the amount of the charge. The amount redeemed is calculated by dividing the

amount requested by the Policy Owner by a number equal to one minus the applicable percentage of the charge. The charge is calculated by multiplying the amount redeemed by the applicable percentage of the charge. A partial redemption will result in cancellation of a number of accumulation units equal in value to the amount redeemed.

The contingent deferred sales charge will be assessed if the Policy Owner elects to begin receiving annuity payments under an option involving a life contingency during the first five Policy years or if an annuity under a period certain option is commenced during the Surrender Charge Period. The charge will be 8% under Elective Payment Policies and 5% under Single Payment Policies except if an annuity under a period certain option is commenced during the Surrender Charge Period, a charge will be assessed in the same percentage and during the same periods as the charge applicable to surrenders described above. In all cases, the charge will be applied as a percentage of accumulated value under the Policy but, under an Elective Payment Policy, the charge may not exceed 8% of the gross purchase payments and, under a Single Payment Policy, the charge may not exceed 6.55 of the gross purchase payments. During the first five Policy years, the value applied under an annuity option involving a life contingency or, during the Surrender Charge Period, the value applied under a period certain option will be the accumulated value under the Policy reduced by the amount of the charge. After the expiration of such periods, the value applied under an annuity option will be equal to the accumulated value under the Policy.

In no event may the total of contingent deferred sales charges assessed on partial redemptions and surrenders or annuitizations described above exceed 8% of the gross purchase payments under Elective Payment Policies and 6.5% of the gross purchase payment under Single Payment Policies.

In all cases, the contingent deferred sales charge will be retained by the Company to reimburse it for the expenses incurred in connection with the sale of the Policies. These expenses include commissions, promotional costs, sales administration and the like.

Other Charges Under the Policies

On Elective Payment Policies a semi-annual administrative expense charge of $9 will be deducted from the accumulated value under the contract by cancelling a number of units equal in value to $9; no charge will be made if the total accumulated value under a Policy exceeds $10,000. Where the Policy Owner has allocated amounts to more than one account, a percentage of the total $9 charge will be deducted from each such account. The percentage of the charge deducted from each account will be equal to the percentage which the value in that account represents of the total accumulated value under the Policy.

On Elective Payment Policies issued in connection with employer-sponsored retirement plans with a minimum of 25 participants, the employer, at his option, can arrange that the administrative expense charge be billed to the employer semi-annually at a rate grading downward from $9 per policy.

On Single Payment Policies, an administrative charge of $50 will be deducted from purchase payments of under $10,000; no administrative charge will be made on purchase payments of over $10,000.

The charges described above are for administrative expenses incident to Policy issue and maintenance. None of the administrative expense charges are directly allocated to sales expenses.

A daily charge equivalent to 1.50% on an annual basis will be made against the assets of each of the Funds. The Policies provide that this charge can be increased or decreased by vote of the Board of Directors of the Company but in no event may the charge exceed 1.875% on an annual basis.

Of the 1.50% charge, .25% is paid to the Company's affiliate, Colonial Management Associates, Inc., for investment advisory services, .10% is to repay the contingency reserve required to be established by the Company under New York Insurance Law, .15% is for Board of Managers fees and expenses and audit fees and 1.00% is for mortality and expense risks. The expense risk arises from the Company's guarantee that the charges it makes will not exceed the limits provided in the Policies and described in the prospectus. The mortality risk arises from the Company's guarantee of annuity rates under the Policies. The Company is unable to accurately specify the amount of the asset charge which is attributable to either the mortality risk or the expense risk. However, the Company estimates that a reasonable allocation might be .60% for mortality risk and .40% for expense risk. These amounts represent the insurance element in the Policies.

Applicants represent that the Company does not allocate any portion of the asset charge described above to direct recovery of sales expense. The total asset charge is allocated to the general account of the Company which bears the cost of all expenses related to the contracts including mortality costs, administrative expenses, general expenses and sales expenses. However, the asset charges affect the Company only insofar as they relate to revenue from the aggregate of all the Policies as offset by the expenses attributable to all the Policies. In addition to the other charges described above the Company will make a charge for state premium taxes, where applicable. Such taxes currently range from 0% to 2.50%.

Discussion

Applicants assert that the contingent deferred sales charge under the proposed new Policies is appropriate, in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants further assert that the contingent deferred sales charge is in the best interests of the purchasers of the Policies. Applicants have stated that, if exemption is granted, it will permit all of the purchaser's purchase payments to be invested on his behalf immediately and the purchaser would enjoy the immediate advantage of having his contributions to his Policy value increased by the amount that would have been deducted if a front-end sales charge were assessed. In addition, Applicants state that the Policy Owner has the opportunity for the growth in the value of those additional accumulation units that would not have been purchased were the sales charge deducted from the purchase payment.

Moreover, Applicants state that if a Policy Owner annuitizes under an option involving a life contingency at any time after the first 5 Policy years or under a period certain option after the expiration of the Surrender Charge Period and does not surrender the contract or make partial redemptions during the charge periods described above, contributions to the Policy will be completely free from imposition of any sales charge. Further, additional contributions made to the Elective Payment Policy after the first 14 years will be completely free of imposition of any sales charge even if withdrawn immediately.

Applicants state that the contingent deferred sales charge represents a means by which the Company can eliminate the sales charge for its deferred annuity customers with long-term persistency while providing for reimbursement to the Company of sales and promotional expenses incurred in connection with Policies whose persistency has not been sufficient to permit the Company to otherwise recoup

such expenses. The amount, the computation, and the timing of the contingent deferred sales charge are designed to protect the Company from the financial loss that would be incurred as a result of premature Policy terminations. Applicants state that the reason for imposition of the contingent deferred sales charge on Policies which annuitize under a period certain option is that this is essentially equivalent to a surrender as such options can be commuted at any time; the reason for imposition of the contingent deferred sales charge on Policies which annuitize under an option involving a life contingency within 5 years is that the Policy is not priced to permit the Company to recoup the sales and promotional expense on Policies which are used essentially as immediate annuities unless such charge is made. However, Applicants believe that it is preferable to provide for a contingent deferred sales charge on such Policies rather than a frontend sales charge because the purchaser may not be certain at the time of purchase when he or she expects to annuitize and if he or she should determine to defer annuitization by at least 5 years, and does not make a surrender, partial redemption or annuitize under a period certain option within the Surrender Charge Period, the Policy would be completely free from sales charge. In the event the purchaser decides to annuitize within the 5 year period, he or she will pay no more than he or she would have paid had the charge been front-ended.

Applicants represent that the variable annuity prospectus will include full disclosure concerning the imposition of the contingent deferred sales charge so that all Policy Owners can decide whether and when surrender, withdrawal or annuitization would be advantageous.

Since the Act expressly defines and permits the assessment of a "sales load" in connection with the issuance of Investment Company securities, Applicants state they are aware of no public policy reasons that should limit the assessment of such charges exclusively to deduction at the time of purchase. To the contrary, public policy should permit the issuer to defer that charge, with the possibility that the charge might never be imposed.

Section 27(c)(2)

Applicants believe that the proposed contingent deferred sales load is consistent with the limitations contained in Section 27(c)(2). However, in order to avoid any possibility that questions might be raised as to the potential applicability of Section 27(c)(2), Applicants have requested an exemption from the operation of the provisions of Section 27(c)(2) to the extent necessary or appropriate to permit Applicants to effect their proposed pricing change.

Section 27(c)(2) of the Act makes it unlawful to sell any periodic payment plan certificate unless the proceeds of all payments on such certificates are deposited with a custodian having the qualifications prescribed in Section 26(a)(2), and are held by such custodian under an agreement containing substantially the provisions required in Section 26(a)(2) and (3) of the Act. The Policies may be deemed to be periodic payment plan certificates. However, Section 27(c)(2) excepts deductions for sales load from the requirements that the proceeds be deposited with a custodian. Applicants represent that the contingent deferred sales charge is intended specifically to reimburse Applicants for sales-related expenses. Applicants assert that the deferral of the imposition of this charge, and making it contingent upon an event which may never occur, do not change the basic nature of this charge as a sales charge to which the Section 27(c)(2) exception should apply.

Section 2(a)(35)

Applicants submit that the proposed contingent deferred sales charge is consistent with the intent of the definition of "sales load" contained in the Act. However, in order to avoid any possibility that questions might be raised as to the potential applicability of Section 2(a)(35), Applicants have requested an exemption from the operation of the provisions of Section 2(a)(35) to the extent necessary or appropriate to permit Applicants to offer the proposed Policies. Section 2(a)(35) defines "sales load" as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested, less any portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes, or "administrative expenses or fees which are not properly chargeable to sales or promotional activities." Clearly, Section 2(a)(35) contemplates that a "sales load" will be charged "front end." The Company proposes to make no front-end deduction from purchase payments for sales charges. However, the Company will continue to incur expenses related to the sale of the Policies, including commissions paid to sales personnel, costs of advertising and sales promotion, costs of the prospectus allocable to new sales and sales administration. Applicants represent that the money to pay these expenses comes from the Company's general account and that the contingent deferred sales charge, therefore, would be retained by the Company to reimburse it solely for expenses related to the sale of the Policies, including commissions, costs of advertising and promotional activity, sales administration, cost of the prospectus allocable to new sales and like expenses. Applicants assert that these expenses are wholly attributable to sales and promotional activity and thus fit squarely within the Section 2(a)(35) definition of "sales load," but for the timing of the imposition of the charge. Applicants state that deferring such sales charge and making it contingent upon the occurrence of an event which might never happen (i.e., changing the timing of the imposition of the charge) permits the Policy Owner to have the increment from that part of his purchase payment which would otherwise have been deducted as a sales load, and, possibly, to escape imposition of the charge completely.

Section 22(c) and Rule 22c-1

Rule 22c-1 prohibits a registered investment company issuing a redeemable security from selling, redeeming or repurchasing any such security except at a price based on the current net asset value of such security. Applicants submit that the contingent deferred sales charge is in no way violative of Section 22(c) or Rule 22c-1 promulgated thereunder. However, in order to avoid any possibility that questions might be raised as to the potential applicability of Section 22(c) and Rule 22c-1, Applicants have requested an exemption from the operation of the provisions of Section 22(c) and Rule 22c-1 to the extent necessary or appropriate to permit Applicants to offer the proposed new Policies with the contingent deferred sales charge. The value at which a surrender or partial withdrawal is effected will be based on the current net asset value. The contingent deferred sales charge will merely be deducted at such time in arriving at the amount to be paid to the Policy Owner upon surrender or in determining the remaining accumulated value under the Policy in the case of a partial withdrawal.

Section 27(c)(1)

Section 27(c)(1) of the Act prohibits restrictions on the redemption of periodic payment plan certificates. Applicants believe that the assessment of a contingent deferred sales charge upon certain surrenders or withdrawals, which will be fully disclosed in the

prospectus, should not be construed as such a restriction on redemption. However, in order to avoid any possibility that questions might be raised as to the potential applicability of Section 27(c)(1) Applicants request an exemption from the operation of the provisions of Section 27(c)(1) to the extent necessary or appropriate to permit Applicants to effect their proposed pricing change. The Policies are clearly still redeemable securities, whether the sales charge is imposed against the purchase payment at the time of purchase, or whether such charge is deferred and made contingent upon an occurrence at a later instant during the Policy period. This is particularly true where, as here, the deferral of the contingent sales charge until a redemption is effected has the general effect of increasing the Policy value that would be available for redemption were the sales charge deducted from the purchase payment before investment on behalf of the owner.

Sections 2(a)(32) and 27(d)

Section 2(a)(32) of the Act defines a redeemable security as any security under the terms of which the holder is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof. Section 27(d) of the Act requires that the holder of a periodic payment plan certificate surrender the certificate under certain circumstances with the recovery of certain front-end sales charges. Applicants submit that the imposition of the contingent deferred sales charge does not violate Section 2(a)(32) or Section 27(d). However, in order to avoid any possibility that questions might be raised as to the potential applicability of Sections 2(a)(32) and 27(d), Applicants request an exemption from the operation of the provisions of Sections 2(a)(32) and 27(d) to the extent necessary or appropriate to permit Applicants to offer the proposed Policies. Both Sections 2(a)(32) and 27(d) contemplate the assessment of a front-end sales load. For purposes of Section 2(a)(32), with a front-end load the holder's "proportionate share" would be the gross purchase payments, less sales load, plus or minus any increase or decrease in valuation. For purposes of Section 27(d) with a front-end load, the holder's account value would be the gross purchase payments, less sales load, plus or minus any increase or decrease in valuation. In each case, the net amount invested contemplates a deduction from gross purchase payments (assuming no state premium tax) and, thus, the holder's "proportionate share" or account value, could be the gross purchase payments, plus or minus any increase or decrease in value, less the contingent deferred sales charge.

Applicants state that deferring the imposition of the sales in no way restricts the Policy Owner from receiving his proportionate share of the value of his account on surrender or redemption. The contingent deferred rates charge is merely deducted at the time of redemption in determining the proportionate share of account value, rather than being deducted from purchase payments. The Policy Owner is still entitled to his proportionate share of account value. The contingent deferred sales charge defers the timing of the imposition of the sales charge and makes the charge contingent on the occurrence of an event which might never occur (i.e., it is imposed only on certain redemptions or annuitizations rather than being deducted from each purchase payment). This permits the purchaser's net amount invested to be increased, with concomitant benefit to the purchaser.

Section 6(c)

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes thereof, from any provisions of the Act or its Rules and Regulations, if and to the extent necessary or appropriate in the public interest, and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In view of the foregoing, Applicants assert that the exemptions requested are appropriate and in the public interest, are consistent with the protection of investors, and are consistent with the purposes fairly intended by the policy and provisions of the Act.

Wherefore, Applicants have requested that the Commission enter an order pursuant to Section 6(c) of the Investment Company Act of 1940 granting the exemptions requested in this Application.

Notice is further given that any interested person may, not later than February 12, 1980 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following February 12, 1980 unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2710 Filed 1-25-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11024; 812–4585]

Continental Illinois Leasing Corp, et cetera; Application Pursuant to Investment Company Act for an Order Declaring That Company Is Not an Investment Company or, Alternatively, for an Order Exempting Company From all Provisions of the Act

In the matter of Continental Illinois Leasing Corporation, 231 South LaSalle Street, Chicago, Illinois 60693, and CUIC Investors Co. #12, AEIC Investors Co. #12, EFIC Investors Co. #12, NACA Investors Co. #12, 100 West Tenth Street, Wilmington, Delaware 19801 (812–4585)

Notice is hereby given that Continental Illinois Leasing Corporation, CUIC Investors Co. #12, AEIC Investors Co. #12, EFIC Investors Co. #12, and NACA Investors Co. #12 ("Applicants") have filed an application on December 19, 1979, pursuant to Section 3(b)(2) of the Investment Company Act of 1940 ("Act"), for an order of the Commission declaring that the Niagara Mohawk Power Corporation Preferred Trust ("NMPC Preferred Trust") is not an investment company, or, alternatively, for an order pursuant to Section 6(c) of the Act exempting the NMPC Preferred Trust from all provisions of the Act. All interested persons are referred to the application filed with the Commission for a statement of the representations

contained therein, which are summarized below.

Continental Illinois Leasing Corporation ("CILC"), a Delaware corporation, is a wholly-owned subsidiary of Continental Illinois Corporation, a publicly owned company. CUIC Investors Co. #12 ("CUIC"), AEIC Investors Co. #12 ("AEIC"), EFIC Investors Co. #12 ("EFIC"), and NACA Investors Co. #12 ("NACA") are Delaware corporations, which are wholly-owned subsidiaries, respectively, of CUIC Leasing, Inc., AEIC Leasing Inc., EFIC Leasing Inc., and NACA Leasing Inc. Each such leasing company is a Delaware corporation. Such leasing companies are wholly-owned subsidiaries, respectively, of Commercial Union Insurance Company, American Employers' Insurance Company, The Employers' Fire Insurance Company and The Northern Assurance Company of America. Each such insurance company is a Massachusetts corporation with its principal office at One Beacon Street, Boston, Massachusetts 02108. Each such insurance company is a wholly-owned subsidiary of Commercial Union Corporation, a Delaware corporation, which is a wholly-owned subsidiary of Commerial Union Assurance Company limited, a publicly owned company incorporated under the laws of the United Kingdom.

The application states that CILC proposes to invest $5 million in the transaction which is the subject matter of the application. CILC's total assets aggregate approximately $269,000,000 as of July 31, 1979, none of which represents investments in "investment companies" within the meaning of the Act. The application asserts that after giving effect to this transaction, CILC's aggregate investment in "investment companies" would constitute less than two percent of its investment portfolio. The application further states that CUIC, AEIC, EFIC, and NACA propose to invest $3,400,000, $975,000, $400,000 and $225,000, respectively, in the transaction which is the subject matter of the application. Aggregate investments of the parent insurance companies of CUIC, AEIC, EFIC and NACA are approximately $948,000,000, $263,000,000, $103,000,000 and $59,000,000 respectively, as of September 30, 1979. The application states that the aggregate investment of the Applicants and their parent companies in "investment companies" within the meaning of the Act appears to be less than $50,000 as of September 30, 1979.

The application states that Applicants will enter into a trust agreement (the "Trust Agreement") with United States Trust Company of New York as owner trustee (the "Owner Trustee"), for the purpose of acquiring from Niagara Mohawk Power Corporation, a publicly owned electric and gas utility incorporated under the laws of the State of New York ("NMPC"), 1,600,000 shares of $25 par value ($40,000,000 total purchase price), sinking fund preferred stock (the "Preferred Stock"), of a new series ranking *pari passu* with all existing and future series of NMPC preferred stock. The trust thereby created will be the NMPC Preferred Trust. The Preferred Stock will yield dividends accruing from the dates of issue therof at the annual rate of 8.20 percent. The dividend rate may be adjusted to a maximum of 8.60 percent if certain economic or tax conditions have changed as of such dates. The purpose of the formation of the NMPC Preferred Trust is to permit the Applicants to make their pro rata investments in the Preferred Stock and to finance and account for a portion of the cost of such investment on a non-recourse basis.

The application further states that NMPC Preferred Trust's capital will consist of $10,000,000 of equity, equal to 25 percent of the total cost of the Preferred Stock, contributed by the Applicants as the beneficial owners, in proportion to their respective interests in the NMPC Preferred Trust, and also of the proceeds of a private placement of the NMPC Preferred Trust's 10⅝% Secured Notes Due 2001 (the "Notes") aggregating $30,000,000 in principal amount, to be issued under a trust indenture and security agreement (the "Indenture") between the Owner Trustee and a corporate trustee, as indenture trustee (the "Indenture Trustee"). The notes will be purchased by two institutional investors, Connecticut General Life Insurance Company and John Hancock Mutual Life Insurance Company (the "Purchasers"). The Notes will be secured by the Preferred Stock and, in implementation of such security interest, the certificates for the Preferred Stock will be physically delivered to the Indenture Trustee.

The application states that both the Preferred Stock and the Notes are being purchased in private placement transactions, with the Applicants representing that the stock is being acquired by the NMPC Preferred Trust for investment and not with a view to any resale or distribution thereof and, similarly, the Purchasers representing that the Notes are being acquired for investment and not with a view to any resale or distribution thereof.

The application states that the Owner Trustee will not have the power to reinvest moneys in additional securities or in any manner to vary the investment of the Applicants. Furthermore, since the Owner Trustee is required by the Trust Agreement to distribute all amounts received with respect to the NMPC Preferred Trust promptly upon receipt, in the order of priority stated in the Trust Agreement, no reinvestment of such amounts is possible.

Section 3(a) of the Act defines an "investment company" to include "any issuer" which "(1) is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities" or "(3) is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exlcusive of Government securities and cash items) on a unconsolidated basis." The Preferred Stock constitutes "investment securities" as defined in the Act, and "issuer" as defined includes "a trust".

Where the application states that Applicants believe that the NMPC Preferred Trust is not engaged in the "business" of investing, reinvesting, owning, holding, or trading in securities, but rather is merely a vehicle for the investment being made by the Applicants, inasmuch as the Preferred Stock constitutes the NMPC Preferred Trust's only significant asset and the NMPC Preferred Trust has no function other than as set forth in the Trust Agreement in respect to the Preferred Stock, the inference could be drawn that the NMPC Preferred Trust is, primarily or otherwise, engaged in the business of "investing" or "owning" or "holding" the Preferred Stock.

Section 3(b)(2) of the Act excludes from the definition of investment company "[a]ny issuer which the Commission, upon application by such issuer, finds and by order declares to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities. . . ." In the alternative to issuance by the Commission of an order pursuant to Section 3(b)(2), the application requests that the Commission issue an appropriate order under Section 6(c) exempting the NMPC Preferred Trust from all the provisions of the Act and the rules and regulations thereunder. Section 6(c) of the Act provides that the Commission by order

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upon application may conditionally or unconditionally exempt any person or transaction from any provision or provisions of the Act to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The application submits that while the NMPC Preferred Trust may be regarded, literally speaking, as investing in the Preferred Stock and owing and holding the same under the terms of the Trust Agreement, looking to the realities of the transaction, these literal functions may not fairly be regarded as comprising the "business" of the trust. According to the application, the purchase of the Preferred Stock by the NMPC Preferred Trust is dictated by the investment commitment of the Applicants and represents in no manner any investment judgment on the part of the Owner Trustee. Furthermore, the provisions of the Trust Agreement prevent the Owner Trustee from disposing of the Preferred Stock or varying in any manner the investment of the Applicants, and physical control of the certificates representing the Preferred Stock will have been transferred by the Owner Trustee to the Indenture Trustee in perfection of the security interest in the Preferred Stock granted in favor of the holders of the Notes. The NMPC Preferred Trust is the vehicle through which the Applicants will have made their investment in the Preferred Stock and the function of the Owner Trustee under the Trust Agreement will be a corporate trust function, namely, that of acquiring the Preferred Stock, effecutating the financing transaction with the Purchasers (which will include surrendering possession of the certificates for the Preferred Stock) and collecting and disbursing distributions on the Preferred Stock. Under the security arrangements for the Notes, distributions on the Preferred Stock will first be applied as debt service on the Notes; any remaining distribution balances will then be disbursed to the Applicants as the return on their equity investment.

The application submits that the purchase of the Notes by the Purchasers is not the kind of transactions anticipated by the Act. Payment of the Notes will not be in any way dependent on any investment policy or activities of the Owner Trustee, and therefore the Purchasers do not require the protection afforded by the Act. Moreover, the application contends that the NMPC Preferred Trust would probably be excluded from the definition of investment company by the proposed amendment to Rule 3c–2 of the Act.

The Applicants have agreed and consented that the NMPC Preferred Trust will not issue any additional debt or any equity securities unless the Owner Trustee shall first have given written notice to the Commission describing the proposed issuance of such additional securities, at least 30 days prior to the date of such proposed issuance. If the Commission shall, after receipt of said written notice, determine that a substantial question shall exist as to whether the exemption granted by the order requested hereunder should continue, it shall mail or otherwise give notice to that effect to the Owner Trustee at its office located at 130 John Street, New York, New York 10038, Attention: Corporate Trust & Agency Division (or at such other address as the Owner Trustee may have previously specified in writing to the Commission) within 15 days after the receipt by the Commission of said written notice from the NMPC Preferred Trust. If the Commission shall give such notice to the Owner Trustee, the NMPC Preferred Trust will not consummate the proposed issuance of such additional debt or equity securities except in accordance with an appropriate order of the Commission.

Notice is further given that any interested person may, not later than February 12, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2711 Filed 1-25-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21400; 70–6051]

Middle South Utilities, Inc., and Middle South Energy, Inc.; Proposed Sale of Common Stock by Subsidiary to Parent Holding Company

January 18, 1980.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), a registered holding company, and Middle South Energy, Inc. ("MSEI"), 225 Baronne Street, New Orleans, Louisiana 70112, a wholly-owned subsidiary of Middle South, have filed post-effective amendments to an application-declaration previously filed with this Commission pursuant to Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 9(a), 10 and 12(f) of the Act and Rules 43 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transaction.

By Commission order dated December 20, 1977 in this matter (HCAR No. 20327), MSEI was authorized to issue and sell to Middle South and Middle South was authorized to purchase, from time to time, through and including December 31, 1978, 75,000 shares of MSEI's authorized but unissued common stock, no par value ("1978 Common Stock"), at a price of $1,000 per share for an aggregate cash purchase price of $75,000,000. Sales of 1978 Common Stock aggregating 53,000 shared occurred during 1978.

By Commission order dated December 27, 1978 in this matter (HCAR No. 20849), MSEI was authorized to issue and sell to Middle South and Middle South was authorized to purchase (i) from time to time, through and including June 30, 1979, up to 10,000 shares of the 1978 Common Stock which were unsold as of December 31, 1978 ("Carryover Shares"), and (ii) from time to time through and including December 31, 1979, up to 75,000 additional shares of MSEI's authorized but unissued common stock, no par value ("1979 Common Stock").

By Commission order dated August 13, 1979 in this matter (HCAR No. 21182), MSEI was authorized to issue and sell to Middle South and Middle South was authorized to purchase, from time to time, through and including June 30, 1980, up to 50,000 shares of MSEI's authorized but unissued common stock, no par value ("1980 Common Stock"). As of January 14, 1980 MSEI has sold all of the Carryover Shares, all of the 1979 Common Stock and 29,700 shares of the 1980 Common Stock of Middle South.

It now appears that, based upon MSEI's revised estimate of cash requirements for 1980, in addition to the 21,300 shares of 1980 Common Stock which were unsold as of January 14, 1980 it may be necessary for MSEI to issue and sell to Middle South through and including December 31, 1980, an aggregate of 50,000 additional shares of its authorized but unissued common stock, no par value ("Additional Shares").

MSEI proposes to issue and sell, and for Middle South to purchase, up to such 50,000 shares of Additional Shares through and including December 31, 1980, at a price of $1,000 per share for an aggregate cash purchase of $50,000,000. MSEI will apply the proceeds of sales of Additional Shares to costs incurred by it in the construction of the Grand Gulf Project.

MSEI is authorized by its articles of incorporation to issue up to 1,000,000 shares of its common stock, no par value, and as of January 14, 1980 MSEI has issued and sold an aggregate of 385,700 shares of its common stock, no par value to Middle South for an aggregate cash consideration of $385,700,000.

MSEI and Middle South believe it is preferable for sales of Additional Shares to be timed to coincide with the MSEI's cash needs from time to time, which are primarily determined by the nature and pace of the construction work on the Grand Gulf Project. Accordingly, MSEI and Middle South propose that sales of the Additional Shares occur from time to time through December 31, 1980 in increments to be determined by MSEI and Middle South. Each such sale will be reported to the Commission by a Certificate filed pursuant to Rule 24.

To the extent funds are required from external sources to acquire the Additional Shares, Middle South will obtain such funds through the issuance and sale of its unsecured short-term promissory notes issued under a revolving credit agreement dated as of June 29, 1979, with a group of banks headed by Manufacturers Hanover Trust Company, New York, New York, as authorized by the Commission's order dated June 7, 1979 (HCAR No. 21093).

Sale of the Additional Shares will enable MSEI to continue construction of the Grand Gulf Project and to maintain capitalization ratios required under various agreements.

It is stated that no special or severable fees, commissions or expenses will be incurred in connection with the proposed transaction. It is further stated that no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than February 11, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders isued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2713 Filed 1-25-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21406; 70–6398]

New England Power Co.; Proposed Transactions Related to Financing Construction of Pollution Control Facilities; Request for Exemption From Competitive Bidding

January 22, 1980.

Notice is hereby given that New England Power Company ("NEPCO"), 25 Research Drive, Westborough, Massachusetts 01581, an electric utility subsidiary company of New England Electric System, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

NEPCO proposes to enter into a Loan Agreement ("Agreement") with the Massachusetts Industrial Finance Agency ("MIFA"), an independent public corporation empowered to issue tax-exempt pollution control bonds for the benefit of industrial enterprises, concerning the financing of certain pollution control facilities being constructed at NEPCO's Brayton Point generating station in Somerset, Massachusetts. NEPCO is converting three of the four generating units at Brayton Point from oil burning to coal and must construct pollution control facilities in order to comply with federal and Massachusetts environmental standards. It is currently estimated that the total cost of coal conversion will be approximately $175 million. NEPCO believes that about $90 million will be eligible for tax-exempt pollution control financing.

Under the Agreement, MIFA will issue bonds to the public and loan the proceeds to NEPCO, which, in turn, will issue general and refunding bonds (G & R Bonds) to MIFA in equivalent amounts with payments to be made to MIFA at such times and in such amounts as will correspond to the payments for principal, premiums and interest on MIFA's bonds. The vehicle for making payments to MIFA will be the Series C and D G & R Bonds. The proceeds of the MIFA bond sale will be deposited with a corporate trustee (the "MIFA Trustee") and will be released to NEPCO for the payment of costs, as they are incurred, of pollution control exenditures relating to the coal conversion project. NEPCO will not be a party to the underwriting agreement between MIFA and the underwriters but that agreement will provide that the terms of the bonds and their sale by MIFA shall be satisfactory to NEPCO.

In light of current high interest rates, NEPCO proposes to complete this financing in two phases. The first phase will be the issue of 3 years MIFA Bonds. The principal amount of these bonds will not exceed $90 million. The interest

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rate, form and maturity of these bonds will be approved by the board of directors of MIFA. It is stated that further orders from state commissions will be necessary if the interest rate exceeds 9% per year. It is expected that the 3 year MIFA Bonds will be redeemable during the last year, however, if market conditions require, these bonds will not be redeemable prior to maturity, except upon the occurrence of certain events such as loss of tax-free status, destruction of the pollution control facilities, etc.

The second phase will be the refinancing of the 3 year MIFA Bonds with long-term bonds having a maturity of not to exceed 30 years. The structure of the 30 year financing will be similar to the 3 year financing, except for interest and redemption provisions. The 30 year MIFA Bonds will be redeemable as a whole or in part at the option of MIFA, upon 30 days notice, after the expiration of 10 years from the date of the bonds, or at any time upon the occurrence of certain events such as loss of tax-free status or destruction of the pollution control facilities. The Agreement will provide that MIFA will exercise its redemption option at NEPCO's request. The bonds will be subject to mandatory redemption through operation of a sinking fund as may be agreed upon prior to the 30 year issue. If the 30 year MIFA Bonds are issued prior to the date when the 3 year MIFA Bonds mature or are to be redeemed, the proceeds from the long-term issue will be deposited with the MIFA Trustee who will hold the proceeds or investments thereof in trust for the benefit of the bondholders. The MIFA Trustee will, upon receipt of the proceeds, deliver an equivalent amount of the 3 year G & R Bonds to NEPCO.

NEPCO will evidence its obligations to MIFA by the delivery of G & R Bonds in principal amount equal to the principal amount of the MIFA Bonds. There will be a separate issue of G & R Bonds as part of both MIFA Bond issues in order that the interest rate, maturity and redemption provisions may be equivalent to that of the MIFA issues which they support. The first NEPCO issue will not exceed $90 million of General and Refunding Mortgage Bonds, Series C, due 1983. The Series C Bonds will be the third issue under NEPCO's General and Refunding Mortgage Indenture and Deed of Trust (G & R Indenture) dated as of January 1, 1977 as amended and supplemented. The second issue will be not exceeding $90 million of General and Refunding Mortgage Bonds, Series D.

The G & R Indenture requires that first mortgage bonds be issued and pledged to the maximum amount permissable (less a reserve for sinking and improvement fund requirements) under the First Mortgage Indenture as additional security for all G & R Bonds. The series C and D Bonds will have a lien subordinate to NEPCO's first mortgage bonds.

At the time Series C Bonds are issued, NEPCO will issue and pledge Series X First Mortgage Bonds, in an amount not to exceed $20 million, to the trustee under the G & R Indenture ("G & R Trustee"). This represents a first mortgage claim for the holders of G & R Bonds, including the Series C Bonds. The exact amount of the Series X Bond issue will be determined at the time the Series C Bonds are issued. The Series X Bonds will not pay interest as long as interest payments are made on the Series C Bonds, and to the extent payments of principal are made on the Series X Bonds, the debt due from NEPCO to the holders of the Series C Bonds will be reduced so there will be no double recovery.

At the time the Series D Bonds are issued, NEPCO will issue and pledge Series Y First Mortgage Bonds in an amount not to exceed $90 million. The Series Y Bonds will be pledged to the G & R Trustee as security for holders of all G & R Bonds. The provisions of these bonds, except for interest rates, maturity, redemption provisions and a sinking fund, will be essentially the same as those for the Series X Bonds. The exact amount of these bonds will depend upon the property then available.

When the amount of the pledged first mortgage bonds equals the amount of G & R Bonds, the security will be equivalent to that of first mortgage bonds. No new first mortgage bonds will be issued to the public under the first mortgage bonds. No new first mortgage bonds will be issued to the public under the first mortgage indenture, however, the other provisions of the first mortgage indenture, including the improvement fund, maintenance obligations and similar protections will remain in full force. When there are no more publicly held first mortgage bonds, the first mortgage indenture will be discharged and the G & R Bonds will have a first mortgage lien.

NEPCO requests that the issuance of Series C and D Bonds be exempted from the competitive bidding requirements of Rule 50 pursuant to paragraph (a)(5) thereof, and requests exemption from such requirements for the proposed issue and pledge of Series X and Y Bonds pursuant to paragraph (a)(4) thereof.

The fees and expenses to be incurred in connection with this transaction will be supplied by amendment. It is stated that the Massachusetts Department of Public Utilities, the New Hampshire Public Utilities Commission, the Vermont Public Service Board and the Connecticut Public Utilities Control Authority have jurisdiction over the proposed transactions and that no other State commission and no Federal commission, other than this Commission has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than February 19, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, and reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by ail upon the applicant-declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2709 Filed 1-25-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21405; 70-6405]

Vermont Yankee Nuclear Power Corp.; Notice of Proposed Short-Term Borrowing

Notice is hereby given that Vermont Yankee Nuclear Power Corporation ("Vermont Yankee"), 77 Grove Street, Rutland, Vermont 05701, an electric utility subsidiary of both New England Electric System and Northeast Utilities, registered holding companies, has filed with this Commission a declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6 of the Act and Rule 50(a)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the delaration, which is summarized below, for a complete statement concerning the proposed transaction.

Vermont Yankee operates a 540 MW nuclear-powered generating plant in Vernon, Vermont. During 1980 and 1981, Vermont Yankee will be receiving shipments for uranium for ultimate fabrication into nuclear fuel for its reactor and will be making capital improvements which will necessitate payments in excess of Vermont Yankee's current lines of credit. Vermont Yankee currently maintains lines of credit in the principal amount of $6,000,000 each with the First National Bank of Boston and Chase Manhattan Bank (the "Banks"). As of November 30, 1979, Vermont Yankee had $4,000,000 in loans outstanding under those lines.

Vermont Yankee requests a short-term borrowing authorization through December 31, 1981 of up to $16,000,000 aggregate principal amount outstanding at any one time. It is anticipated that these borrowings will be repaid during such period by internally generated funds. The borrowings would be from the Banks pursuant to proposed increased lines of credit ($8,000,000 with each Bank) and would be evidenced by promissory notes having a maturity of up to three months from date of issuance and bearing interest at the Banks' prime rate. The Banks will require compensating balances equal to 7.5% of the lines and 7.5% of any borrowings thereunder. It is stated that assuming full borrowings under the lines and a prime rate of 15¼% per annum, the effective costs of borrowings would be 17.94%.

Vermont Yankee claims an exemption from the competitive bidding requirements of Rule 50 pursuant to paragraph (a)(2) since the short-term promissory notes mature in less than 10 years, will be issued to commercial banks not for resale to the public and provide for no finder's fee or similar fees to third persons for negotiating the transaction.

The fees and expenses to be incurred in connection with the proposed transaction are $3,250, including legal fees of $750. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may not later than February 15, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2714 Filed 1-25-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. EX80-1; Notice 1]

Lafer S.A.; Petition for Temporary Exemption from Federal Motor Vehicle Safety Standards

Lafer S.A. of Sao Paulo, Brazil, through its agent Lafer Auto Sales, Inc. of North Hollywood, California, has petitioned for a temporary exemption of its MP model from certain Federal motor vehicle safety standards on grounds of substantial economic hardship.

This notice of receipt of a petition for a temporary exemption is published in accordance with NHTSA regulations on this subject (49 CFR 555.7) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Lafer has manufactured only 2200 vehicles since 1974. It was previously granted NHTSA Exemption No. 75-24 (40 FR 58490) but apparently imported and sold no vehicles under it. Lafer now requests exemption from one to three years from 14 standards on the grounds that to require immediate compliance would cause it substantial economic hardship; its cumulative net profits for calendar years 1976-78 are slightly less than $300,000. The passenger car it intends to produce is similar to the one for which petition was previously made, a replica of the 1952 MG TD British sports car, employing a fiberglass body mounted upon a new Volkswagen chassis. A summary of its requests and explanations follows:

Standard No. 103, *Windshield Defrosting and Defogging System.*

Standard No. 206, *Door Locks and Door Retention Components.*

Standard No. 214, *Side Door Strength.*

Standard No. 301-75, *Fuel System Integrity.*

Standard No. 302. *Flammability of Interior Materials.*

With respect to all the above, Lafer believes that it does conform but requests time in which to confirm compliance through testing. It asks for a one-year exemption from Standard No. 103, a three-year exemption from No. 301-75, and two years for Nos. 206, 214, and 302.

Standard No. 106, *Hydraulic Brake Hoses.*

Standard No. 205, *Glazing Materials.*

Materials available are not certified as meeting the respective standards though a Brazilian brake hose supplier is said to provide "assurances" that those equipment items meet Federal requirements. Lafer hopes to have glazing materials tested in the U.S. while an exemption is in effect. It has asked for a one-year exemption from Standard No. 106, and two years from No. 205.

Standard No. 114, *Theft Protection.* The company has been unable to find a locking and warning system that complies with the standard. An exemption of three years is asked in which the company will develop a complying system.

Standard No. 124, *Accelerator Control Systems.* If the Environmental Protection Agency approves the Lafer's intended engine, no exemption will be needed. Lafer asks for a one-year excuse to cover time needed for testing an alternate engine, if that is required, plus redesign of its accelerator control system.

Standard No. 201, *Occupant Protection in Interior Impact.* The

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company needs three years to redesign its dashboard and interior compartment door in a manner that will retain a replica appearance.

Standard No. 202, *Head Restraints.*

Standard No. 203, *Impact Protection for the Driver from the Steering Control System.*

Standard No. 207, *Seating Systems.*

Seats and steering wheels do not meet the standards' requirements and three years is required to develop some that do.

Standard No. 208, *Occupant Impact Protection.* The company asks for three years in which to obtain and incorporate a suitable warning system.

In support of its petition, Lafer argues that a grant would be in the pubic interest by providing distribution, dealer, and service employment opportunities in the United States as well as generating tax revenues. As a specialty vehicle it is not expected to be in daily use and hence ought not to present a significant hazard to traffic safety.

Interested persons are invited to submit comments on the petition for exemption of Lafer S.A. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW, Washington, DC 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received, are available for examination in the docket both before and after the closing date. Comments received after the closing date will also be filed and will be considered to the extent practicable. Notice of final action on the petition will be published in the **Federal Register.**

Comment closing date: February 27, 1980.

(Sec. 3, Pub. L. 92–548, 86 Stat. 1159 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on January 21, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80-3422 Filed 1-25-80; 8:45 am]

BILLING CODE 4910-59-M

Calendar of Meetings Open to the Public; Notice of Change

On Monday, December 3, 1979, a calendar of NHTSA meetings open to the public was published in the **Federal Register.** This notice of change modifies the site of the Side Impact Protection Conference and the dates of the Motorcycle Accident Factors Research Meeting and the Panel Meeting on Heavy Truck Safety.

Side Impact Protection Conference

The location of this conference, scheduled for January 31–February 1, starting at 9:00 a.m., has been changed to the Thomas Jefferson Auditorium, U.S. Department of Agriculture, between 12th and 14th Streets, Independence Avenue, S.W., Washington, D.C. Access to the Auditorium is through either Wing 5 or Wing 6 of the building (the Wing Numbers) are noted on the exterior of the building).

Motorcycle Accident Factors Research

This meeting, formally scheduled for February 20, has been postponed. A new date will be published when available.

Panel Meeting on Heavy Truck Safety

DOT Headquarters Building, Room 2230, Washington, D.C.

This meeting, previously scheduled for January 22, is now scheduled for February 19 at 9:00 a.m. The purpose to follow-up on issues presented during the September 1979 hearing with actions by each of the sectors represented by the panel members and to recommend a set of priority actions for the Government, manufacturers, carriers and unions.

Issued in Washington, D.C., January 23, 1980.

Wm. H. Marsh,

Executive Secretary.

[FR Doc. 80-2562 Filed 1-25-80; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF TREASURY

Internal Revenue Service

[Delegation Order No. 152, Rev. 1]

Collections From Delinquent Officers and Employees of the Internal Revenue Service; Revision of Delegation of Authority

AGENCY: Internal Revenue Service, Treasury Department.

ACTION: Revision of Delegation Order No. 152.

SUMMARY: Treasury Department Order No. 150–69 authorized the Commissioner of Internal Revenue to take collection actions against delinquent officers and employees of the Internal Revenue Service (IRS) by making assessments under Subsection 7803(d) of the IRS Code. Delegation Order No. 152 redelegated this authority to Service Center Directors. Because of a change in the IRS Code which deleted the original Subsection 7803(c) and replaced it with contents of Subsection 7803(d). Delegation Order No. 152 (Rev. 1) changes the authority for collection delinquent accounts from officers and employees of IRS to Subsection 7803(c). The text of the delegation order appears below.

EFFECTIVE DATE: January 22, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. J. Bruce Miller, 1111 Constitution Ave. NW., Washington, D.C. 20224, (202) 566–4832—not toll free.

Note.—This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Frederick F. Perdue,

Director, Returns Processing and Accounting Division.

Date of issue: January 22, 1980.

Effective date: January 22, 1980.

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order 150–69 Service Center Directors are hereby authorized to issue a notice and demand for payment of any funds due the United States from any officer or employee of the Internal Revenue Service who fails to account for and pay over any amount of money or property collected or received by them in connection with Internal Revenue Laws. If payment is not received within the time limit prescribed by the notice and demand, the unpaid amount is deemed assessed as of the date of the notice and appropriate action will be taken as required by subsection 7803(c) of the Internal Revenue Code.

The authority herein delegated may not be redelegated.

Delegation Order No. 152, issued July 16, 1975, is superseded.

Willis E. Will,

Acting Commissioner.

[FR Doc. 80-2839 Filed 1-25-80; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 19
Monday, January 28, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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[M-266 Amdt. 4; Jan. 23, 1980]

CIVIL AERONAUTICS BOARD.

Addition of item to the January 24, 1980 meeting.

TIME AND DATE: 10:30 a.m., January 24, 1980.

PLACE: Room 1027—Open, Room 1011—Closed, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 2a. Docket 35508, *Fitness Investigation of Pacific Alaska Airlines.*

STATUS: 1–19—Open; 20–22—Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

SUPPLEMENTARY INFORMATION: It is necessary to short-notice this item in view of the fact that the statutory date for a final decision has already passed, and the Board would like to conclude this proceeding at the earliest date possible. Accordingly, the following Members have voted that agency business requires the addition of Item 2a to the January 24th agenda and that no earlier announcement of this addition was possible:

Chairman Marvin S. Cohen;
Member Richard J. O'Melia;
Member Elizabeth E. Bailey; and
Member Gloria Schaffer.

[S-170-80 Filed 1-24-80; 3:49 pm]

BILLING CODE 6320-01-M

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[M-266 amdt. 5; Jan. 23, 1980]

CIVIL AERONAUTICS BOARD: Addition and closure of item to the January 24, 1980 meeting agenda.

TIME AND DATE: 10:30 a.m., January 24, 1980.

PLACE: Room 1027 (Open), Room 1011 (Closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 23. Staff Request for Instructions for Consultations with Poland. (BIA)

STATUS: Open (Items 1–19); Closed (Items 20–23).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

SUPPLEMENTARY INFORMATION: Consultations with Poland are scheduled for February 4, 1980, in Washington. In order to prepare a position in advance of the consultations and transmit it to the Department of State in a timely fashion, no longer notice is possible. Accordingly, the following Members have voted that agency business requires that the Board meet on this item on less than seven days' notice and that no earlier announcement of this meeting was possible:

Chairman Marvin S. Cohen;
Member Elizabeth E. Bailey; and
Member Gloria Schaffer.

This memo concerns strategy and positions that have been or may be taken by the United States in ongoing negotiations with Poland. Public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies relating to the issues could seriously compromise the ability of the United States Delegation to achieve agreements which would be in the best interest of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that any meeting on this item should be closed:

Chairman Marvin S. Cohen;
Member Elizabeth E. Bailey; and
Member Gloria Schaffer.

Persons Expected To Attend

Board Members: Chairman Marvin S. Cohen, Member Richard J. O'Melia, Member Elizabeth E. Bailey, and Member Gloria Schaffer.

Assistants to Board Members: Mr. David Kirstein, Mr. James L. Deegan, Mr. Daniel M. Kasper, and Mr. Stephen H. Lachter.

Managing Director: Mr. Cressworth Lander.

Executive Assistant to the Managing Director: Mr. John R. Hancock.

Bureau of International Aviation: Mr. Sanford Rederer, Mr. Douglas V. Leister, Mr. Ivars V. Melliups, Mr. Vance Fort, Mr. James S. Horneman, Mr. Hohn H. Kiser, Ms. Carolyn K. Coldren, Mr. Francis S. Murphy, Mr. Joseph Di Bella, Jr., and Mr. Herbert P. Aswall.

Office of the General Counsel: Ms. Marvy McInnis Schuman, Mr. Peter B. Schwarzkopf, and Mr. Michael Schopf.

Bureau of Domestic Aviation: Mr. Mark S. Kahan, Mr. Albert Halprin, Mr. Robert I. Stein, and Mr. Julien R. Schrenk.

Office of Economic Analysis: Mr. Robert H. Frank, Mr. Robert Preece, and Mr. David Sibley.

Bureau of Consumer Protection: Mr. Reuben B. Robertson and Mr. John T. Golden.

Office of the Secretary: Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that the meeting may be closed to public observation.

Mary McInnis Schuman,

General Counsel.

[S-171-80 Filed 1-24-80; 3:49 pm]

BILLING CODE 6320-01-M

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COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published January 25, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., January 29, 1980.

CHANGES IN THE MEETING: Add agenda topic: Proposal for Treatment of Congressional Requests for Section 8 Material.

[S-164-80 Filed 1-24-80; 8:45 am]

BILLING CODE 6351-01-M

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FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, January 30, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

V45/19 JA28 80 UMI

STATUS: Closed Commission meeting following the open meeting which commences at 9:30 a.m.

MATTERS TO BE CONSIDERED:

Agenda, Item Number, and Subject

General—1—Upward Mobility Program.

Assignment and Transfer—1—Assignment applications by licensee with four television stations in hearing on character issues.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: January 24, 1980.

[S-167-80 Filed 1-24-80; 3:18 pm]

BILLING CODE 6712-01-M

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, January 30, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Request for declaratory ruling governing policy to be followed in seeking inclusion of specialized programming issues in broadcast comparative hearing cases.

The FCC will consider a request for a declaratory ruling to specify when and in what manner parties seeking consideration of specialized programming formats in broadcast comparative hearings should make their showings regarding the formats' unavailability in a particular market.

General—2—Request from Chief, Office of Plans and Policy (OPP) for delegated authority to deny requests or to extend time for comments and reply comments on OPP Docket items.

Private Radio—1—Docket No. 20777 (Deregulation of Part 97 of the Rules regarding emissions authorized in the Amateur Radio Service).

The Commission will consider the Third Report and Order in Docket 20777, which will dispose of the issue of whether or not the use of the American Standard Code for Information Interchange (ASCII) should be allowed in the Amateur Radio Service.

Private Radio—2—Title: Rulemaking petition RM-2665 to create a new analytical examination reporting system for the amateur and commercial radio operators' examinations.

Summary: The FCC will consider whether to adopt a rulemaking petition (RM-2665). The rulemaking petition proposes that the FCC create a new examination reporting system for the amateur and commercial radio operators' examinations.

Private Radio—3—Title: Amendment of Part 83 of the rules to permit the certification on an expired ship station license to be recognized as a valid attachement to the renewal license.

Summary: The FCC will consider whether to adopt a Report and Order (PR Docket 79-232) that revises Sections 83.339 and 83.367 of the FCC Rules. This concerns the statutorily required endorsement on a ship radio station license, and endorsement which certifies that the vessel's radio equipment is in compliance with all applicable FCC rules; it permits such a certification, after expiration of the license on which it wo entered until such time as a new certification (which would follow upon the first subsequent required annual inspection) can be entered thereon.

Private Radio—4—Title: Rulemaking petition (RM-3457) to allow amateur radio operators to retransmit the National Oceanic and Atmospheric Administration's weather broadcasts.

Summary: The FCC will consider whether to adopt or deny rulemaking petition RM-3457. The petition proposes that the FCC waive applicable provisions of its rules to allow amateur radio operators to retransmit or rebroadcast NOAA's weather broadcasts. The FCC will discuss whether the proposal is consistent with the stated purpose of the Amateur Radio Service.

Private Radio—5—Title: Rulemaking petitions RM-2774 and RM-3000, which propose to provide for temporary amateur radio operator licenses within the amateur Radio Service.

Summary: The FCC will consider whether to adopt or deny rulemaking petitions RM-2774 and RM-3000. The rulemaking petitions propose to provide for temporary amateur radio operator licenses within the Amateur Radio Service.

Private Radio—6—Eligibility of OAS for licensing in the General Mobile Radio Service.

Common Carrier—1—Title: Proposed rulemaking to amend Part 61 of the Commission's Rules relating to Notice Requirements for schedules for new or revised classifications of service.

Summary: The Commission will consider a Notice of Proposed Rulemaking in Docket No. 19741 in which it proposed to increase the notice period which is required of carriers before certain of their tariff filings become effective.

Common Carrier—2—Title and Summary: Application for Review of Order by Chief, Common Carrier Bureau rejecting Western Union's tariff revisions filed under its Transmittal No. 7369 for failure to comply with the requirements of Section 61.38 of the Commission's Rules.

Common Carrier—3—Title: Rulemaking Proceeding concerning Amendments to Part 42 of the Commission's Rules (Docket 20334)

Summary: On February 3, 1975, the Commission adopted a Notice of Proposed Rulemaking in Docket No. 20334 in which it proposed to increase the carrier record retention period for certain telegraph and telephone records. It then conducted a cost/benefit analysis with regard to the proposed increase in the retention period. The Commission must now decide whether the record shows new rules are warranted.

Common Carrier—4—Title: Communications Satellite Corporation, ITT World Communications, Inc., American Telephone and Telegraph Company, RCA Global Communications, Inc., Western Union International, Inc., applications for authority to (1) provide satellite television services directly to users at U.S. earth stations; and (2) end rotational arrangements for overseas television service.

Summary: The Commission will consider various applications regarding international television service prompted by its decision in *Spanish International Network*, 70 FCC 2d 2197 (1978). Issues under consideration include: (1) whether Comsat has cost-justified its proposal to charge carriers and users the same rate for its service; (2) whether Comsat's entry into this market should be delayed until it submits formal operating agreements; and (3) should the carriers be afforded direct access to Intelsat.

Common Carrier—5—Title: Application of Western Union Telegraph Company pursuant to Section 214 for authority to install and operate facilities at public broadcasting satellite earth stations for the provision of common carrier communications services.

Summary: The Commission is considering Western Union's request for authority to offer common carrier communication services via public broadcasting earth stations at Washington, D.C., New Orleans, La. and Houston, Tx. The application is opposed by American Satellite Corporation, RCA American Communications, Inc. and American Telephone ad Telegraph Company. Among the reasons given for opposing the applications were: The undertaking is not permissible under the Communications Act; it will jeopordize the tax exempt status of public broadcasters; it will result in a subsidy of Western Union, it will transform public broadcast licensee into common carriers; and that there is no guarantee that other carriers will have equal access to the facilities.

Common Carrier—6—Title: Application of Travel-Phone Corporation File No. 3985-C2-P71 for a Construction Permit to establish a new radio common carrier station at Johnston, Rhode Island; Petition for Reconsideration filed by Mobilphone-Paying Radio Corporation.

Summary: The Commission will consider whether Mobilphone should be afforded an additional opportunity to review and comment on certain field investigation reports.

Common Carrier—7—Title: Title: Petition of Graphnet, Inc. for reconsideration of the nine-month time limit imposed to conclude an operating agreement for its authorized facsimile service between the United States and points in eleven Western European countries

Summary: The Commission is considering Graphnet's petition for reconsideration of a *Memorandum Opinion and Order*, 71 F.C.C.2d 1066 (1979), in which the Commission, in response to a judicial remand, gave Graphnet nine months to conclude an operating agreement implementing authority granted in 1977. ITT World Communications, TRT and RCA Global Communications oppose the petition. The issues are (1) whether the nine-month time limit was reasonable and fair and (2) whether Graphnet has shown good cause for extending the time limit, which expires on February 4, 1980.

Common Carrier—8—Title: North American Telephone Association application for review of Bureau order denying its petition to reject American Telephone and Telegraph Company Transmittal No. 13213.

Summary: NATA asks review of Bureau denial of its petition to reject certain AT&T tariff which concern the connection of customer-provided terminal equipment to the telephone network. NATA contends that the Bureau decision is inconsistent with the Commission's terminal equipment registration program and that it errs in failing to conclude that the tariffs violate Sections 201(b) and 202(a) of the Communications Act.

Cable Television—1—Title: *Report and Order in CT Docket No. 79-116* adopting a short form renewal application for authorizations in the Cable Television Relay Service.

Summary: The Commission previously adopted a *Notice of Proposed Rule Making in CT Docket No. 79-116*, FCC 79-293, 72 FCC 2d 85 (1979) which proposed the adoption of a short form renewal application for authorizations in the Cable Television Relay Service. Comments were received from various parties commenting on the form proposed by the Commission and suggesting certain other forms to use as a short form renewal application.

Assignment and Transfer—1—Title: Applications (BAL-780929EA and BALH-780929EB) for the voluntary assignment of the licenses of stations KLBK(AM) and KLBK-FM, Lubbock, Texas, from Grayson Enterprises, Inc. to Southern Minnesota Broadcasting Co.

Summary: The Commission will consider the qualifications of the applicants, except for those matters pending in the license renewal proceeding involving commonly-owned stations of the assignor. Those matters, as they affect the instant assignment applications, will be considered by the Commission at its closed agenda meeting.

Assignment and Transfer—2—Title: Application (BALH-790410GU) for voluntary assignment of the license of KODA-FM, Houston, Texas, from Taft Broadcasting Corporation to Westinghouse Broadcasting Company, Inc.

Summary: The Commission will consider what effect, if any, an investigation by the Antitrust Division of the Justice Department into the selling of advertising time by VHF television stations in Pittsburgh, Pennsylvania (KDKA-TV, Pittsburgh, is licensed to Westinghouse) should have on the qualifications of Westinghouse Broadcasting to acquire KODA-FM.

Renewal—1—Title: *Westinghouse Broadcasting Company, Inc. (KPIX)*

Summary: The Community Coalition for Media Change has petitioned the Commission to reconsider its Order granting the renewal of license for Westinghouse's Station KPIX, San Francisco, California. The Coalition urges that criminal misconduct by Westinghouse's parent corporation (Westinghouse Electric) proves that Westinghouse lacks the character required to remain a licensee. The Coalition also argues that the allegations of discrimination and misrepresentation it presented in its petition to deny the renewal were incorrectly disposed of in the grant of the renewal.

Aural—1—Subject: Request by Migala Enterprises, Inc., permittee of AM Station WCEV, Cicero, Illinois, for waiver of Section 73.1130(a) of the Rules for a period of one year.

Summary: The applicant has requested waiver of the program origination requirement to the extent of excluding live ethnic-oriented programming from the majority of programming computation.

Aural—2—Title: Memorandum Opinion and Order in re applications of Merrimack Valley Broadcasting, Inc. (File Nos. BP-21,101 and BPH-10,928), Sunrise Broadcasting Corp. (File Nos. BP-21,102 and BPH-10,925), Gateway Broadcasting Associates (File Nos. BP-21,103 and BPH-10,928), Gateway Communications (File No. BPH-10,924) and Community Service Broadcasting of Nashua, Inc. (File No. BPH-10,927).

Summary: The FCC considers the above mutually exclusive applications for new AM and FM stations at Nashua, New Hampshire, and various petitions to specify issues filed by the applicants.

Aural—3—Title: Memorandum Opinion and Order in re Application of Daniel J. Healy for a construction permit for a new FM station in Garberville, California.

Summary: The Commission considers the aforementioned application and a request for waiver of the maximum power rule by the applicant.

Television—1—Title: Application of Evangelistic Missionary Fellowship for a television construction permit on VHF channel 4, North Pole, Alaska.

Summary: Applicant is the licensee of an AM and an FM station in the same community as the proposed TV station. Grant of the application would therefore result in multiple ownership in violation of Sec. 73.636(a)(1) of the Commission's Rules, the one-to-a-market rule. Applicant requests a waiver.

Television—2—Subject: Application of Texan Broadcasting Company, Inc. for a construction permit for a new commercial television station to operate on Channel 19, Nacogdoches, Texas.

Summary: Texan is also the licensee of KSFA and KTBC-FM, both of Nacogdoches. The question before the Commission is what effect the multiple ownership—as well as certain ascertainment and engineering deficiencies—would have on Texan's application.

Broadcast—1—Report and Order in Docket No. 14119 concerning rulemaking on "Plugola" practices.

For years the Commission has considered adoption of rules to prevent "plugola" practices: that is, to require on-the-air disclosure of that fact that program material is being broadcast for the purpose of gaining indirect financial benefits.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: January 24, 1980.

[S-169-80 Filed 1-24-80; 3:18 pm]

BILLING CODE 6712-01-M

6

FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Forwarded to Federal Register on January 23, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, January 30, 1980.

CHANGES IN THE MEETING: Deletion of the following open item(s) from the agenda: Requests to increase limitations on premiums offered to depositors by member banks.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: January 23, 1980.

Theodore E. Allison,

Secretary of the Board.

[S-163-80 Filed 1-24-80; 10:44 am]

BILLING CODE 6210-01-M

7

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Thursday, January 31, 1980.

PLACE: Room 532, (open); Room 540 (closed) Federal Trade Commission Building, sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to Public:

(1) Oral Argument in General Motors Corporation, Docket 9077.

Portions Closed to Public:

(2) Executive Session to discuss Oral Argument in General Motors Corportation Docket 9077.

CONTACT PERSON FOR MORE INFORMATION: Ira J. Furman, Office of

Public Information (202) 523-3030; Recorded Message (202) 523-3800.

[S-162-80 Filed 1-24-80; 2:30 am]

BILLING CODE 6795-01-M

8

NATIONAL LABOR RELATIONS BOARD.

TIME AND DATE: 2:30 p.m., Tuesday, February 5, 1980.

PLACE: Board Conference Room, sixth floor, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

MATTER TO BE CONSIDERED: Consideration of applicant qualified for appointment to Administrative Law Judge.

CONTACT PERSON FOR MORE INFORMATION:
Robert Volger, Acting Executive Secretary, Washington, D.C. 20570, Telephone: (202) 254-0430.

Dated: Washington, D.C., January 24, 1980.

By direction of the Board.

George A. Leet,
Associate Executive Secretary.

[S-160-80 Filed 1-24-80; 3:10 pm]

BILLING CODE 7545-01-M

9

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: January 29 (changes) and 30, 1980.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

Tuesday, January 29

9:30 a.m.

Discussion and Vote on Philippine Export Application (approximately 2 hours, public meeting).

Note.—Rescheduled from January 28, 1980.

Wednesday, January 30

9:30 a.m.

Discussion of Delegation of Authority (approximately 2 hours, public meeting).

1:30 p.m.

1. Discussion of Immediately Effective License Amendments (approximately 1 hour, closed—Exemption 10).
2. Time Reserved for Discussion of Management-Organization & Internal Personnel Matters (approximately 1 hour, closed—Exemptions 2 and 6).

CONTACT PERSON FOR MORE INFORMATION:
Roger Tweed (202) 634-1410.

Roger M. Tweed,
Office of the Secretary.

January 23, 1980.

[S-165-80 Filed 1-24-80; 3:10 pm]

BILLING CODE 7590-01-M

10

SECURITIES AND EXCHANGE COMMISSION.

STATUS: Closed meeting.

DATE AND TIME: January 24, 1980, 10 a.m. (See 45 FR 3695; 1-15-80.)

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

The following additional item will be considered at a closed meeting scheduled for Thursday, January 24, 1980, at 10 a.m.

Litigation matter.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the item to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined to hold the aforesaid meeting in closed session.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: John Granda at (202) 272-2091.

January 24, 1980.

[S-169-80 Filed 1-25-80; 3:49 pm]

BILLING CODE 8010-01-M

Reader Aids

Federal Register

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

FEDERAL EMERGENCY MANAGEMENT AGENCY

76510 12-27-79 / Floodplain management and protection of wetlands

INTERIOR DEPARTMENT

Land Management Bureau—

76982 12-28-79 / Wild free-roaming horse and burro protection. management and control

LABOR DEPARTMENT

Federal Contract Compliance Programs Office—

77000 12-28-79 / Compliance responsibility for equal employment opportunity

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76774 12-28-79 / Securities position listings; clearing agencies required to provide listings to issuers

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

1415 1-7-80 / Designated manufacturing inspection representatives; use of

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

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WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:
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Pages 6537-6772

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Highlights

6652 **Biomedical Sciences** HEW/OE extends the closing date for the transmittal of applications

6633 **Medicare Program** HEW/HCFA proposes to amend its regulations on the reimbursement of home health agencies

6537 **Anti-Inflationary Price Standards** CWPS publishes change and additions to questions and answers; effective 1-16-80

6631 **Ice Cream and Frozen Custard** HEW/FDA proposes to amend its standards of identity to require label declaration of color additive FD&C Yellow No. 5; comments by 2-28-80

6758 **Food Sales at School** USDA/FNS publishes a final rule regarding meals in competition with the National School Lunch and School Breakfast Programs; effective 1-29-80 (Part VIII of this issue)

6566 **Deserters and Absentees—Enlisted Men** DOD/Army updates information to support joint-service plan of apprehension; effective 2-1-80; comments by 3-26-80

6718 **DNA Molecules** HEW/NIH and PHS issue notice of action taken under 1978 guidelines; effective 1-29-80 (Part V of this issue)

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Highlights

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6724 **DNA Molecules** HEW/NIH issues guidelines to specify practices for construction and handling (Part VI of this issue)

6752 **State Hazardous Waste Programs** EPA gives notice of the requirements it intends to promulgate; meeting on 2-12-80 (Part VII of this issue)

6638 **Environmental Effects Abroad** CEQ releases third report

6706 **Servicing Multi-Piece Rim Wheels** Labor/OSHA establishes procedures for vehicles used on and off highways; effective 4-28-80 (Part IV of this issue)

6543 **Noncontractual Claims** DOD/Army sets forth policies and procedures applicable to processing and administrative settlement; effective 2-1-80

6538 **Commodity Exchange** CFTC publishes a final rule on the financial early warning system; effective 2-28-80

6684 **Series N-1982** Treasury/Sec'y announces the interest rate of 11½ percent

6648 **Enforcement Actions** Federal Financial Institutions Examination Council issues a joint statement of policy with respect to public disclosure; effective 1-18-80

6592 **Environmental Policy and Procedures** USDA/REA issues a final rule compiling the regulations of its review process

6686 **Sunshine Act Meetings**

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6690 **Part II, USDA/APHIS**
6702 **Part III, HEW/FDA**
6706 **Part IV, Labor/OSHA**
6718 **Part V, HEW/NIH**
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Rules and Regulations

Federal Register
Vol. 45, No. 20
Tuesday, January 29, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Appendix II; Appropriate Office for Filing Appeals

AGENCY: Merit Systems Protection Board.

ACTION: Final rules; change of address.

SUMMARY: This document amends Merit Systems Protection Board regulations relating to the appropriate field office for filing appeals. This amendment is necessary because of change of address.

EFFECTIVE DATE: February 4, 1980.

FOR FURTHER INFORMATION CONTACT: Charles J. Stanislav, Jr., Assistant to the Deputy Managing Director—202–632–4525.

SUPPLEMENTARY INFORMATION: 5 CFR, Part 1201, Appendix II, Appropriate Field Office for Filing Appeals is amended by revising Paragraph 1. to read as follows:

1. Atlanta Field Office

1776 Peachtree Street NW., North Wing, 3rd Floor, Atlanta, Georgia 30309
(Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee)

* * * * *

Merit Systems Protection Board.

Ruth T. Prokop,

Chairwoman.

[FR Doc. 80-2709 Filed 1-28-80; 8:45 am]

BILLING CODE 6325-01-M

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Part 705

Anti-Inflationary Price Standards Change and Addition to Questions and Answers

AGENCY: Council on Wage and Price Stability.

ACTION: Final rule and additon to Questions and Answers.

SUMMARY: The Council is amending 6 CFR § 705.64 and issuing a Question and Answer to call attention to special provisions concerning company organization that apply to companies eligible for modified price standards, including specifically petroleum refiners. These clarifications are being issued because several petroleum companies have inquired whether the placement of the disaggregation requirement in the modified standard for refiners (§ 705.44), rather than under general provision, was intended to permit compliance units consisting of refining and nonrefining operations to comply with the price standards as a single compliance unit. As these changes make clear, petroleum-refinery operations should be treated separately from other operations of a parent company.

EFFECTIVE DATE: January 16, 1980.

FOR FURTHER INFORMATION CONTACT: Larry Forest (202) 456–7747.

Issued in Washington, D.C., January 24, 1980

R. Robert Russell,

Director.

Accordingly, § 705.64 is amended by adding a phrase at the beginning of paragraph (b). As amended, paragraph (b) reads as follows:

§ 705.64 Compliance units.

* * * * *

(b) Subject to the special provisions that apply to companies (or parts of companies) eligible for a modified price standard (even though that company (or a part of it) may not elect to comply with such a standard), one or more parts of a consolidated company may be treated as a separate unit for purposes of complying with the pay or price standards if

(1) Each part maintains accounting records that permit the Council to ascertain whether the prices and profits of each part accurately reflect the economic realities of its operations.

(2) Allocation of overhead among the parts is made in a consistent and reasonable manner, as if the parts were not commonly owned.

(3) Transfers between parts are valued as if they were arms length transactions, and

(4) Internal accounting procedures adhere to generally accepted accounting principles and procedures, consistently and historically applied.

* * * * *

In addition, the following Question and Answer, numbered 6, is hereby added to Part I, Section B of the Council's Questions and Answers to read as follows:

Q6. Can petroleum-refinery operations be combined with other portions of a company for purposes of complying with any of the price standards?

A. No.

[FR Doc. 80-2781 Filed 1-24-80; 4:09 pm]

BILLING CODE 3175-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 371, 373, 376, 385, and 399

Revisions To Reflect Identification and Continuation of Foreign Policy Export Controls

Correction

In FR Doc. 80–585 appearing at page 1595 in the issue for Tuesday, January 8, 1980, make the following corrections:

1. On page 1597, in the third column, the fifth line of paragraph (a)(1) of § 371.9 "exporting" should be corrected to read "exported".

2. On page 1600, in the fourth paragraph the entry "2606A" should be corrected to read "2406A".

3. Also on pages 1600 and 1601 in the tables under the heading "GLV dollar value limits" the lines of dots should be changed to dashes everywhere they appear.

BILLING CODE 1505-01-M

V45N20 JA29 80 UMI

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Financial Early Warning System

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is amending § 1.12 of Part 1 of its General Regulations under the Commodity Exchange Act by redesignating current paragraph (f) as paragraph (g), and by adding a new paragraph (f) and paragraph (h) thereto.

The effect of the new paragraph is to require a clearing organization to give telegraphic notice to the Commission within 24 hours after making a determination that, due to the failure of a clearing member registered as a futures commission merchant ("FCM") to meet a call for margin or to make other required deposits, the positions it carriers in any account for such FCM must be liquidated or transferred immediately or that the trading in any of the accounts of such FCM must be confined to transactions for liquidation only. Such notice is also required to be given by FCMs that make such a determination with respect to any account carried for another FCM.

The principal purpose of the amendment is to insure that the Commission receives early warning when such a determination is made so that the appropriate protective or remedial action may be taken.

References to paragraph (f) in § 1.12 have been changed to refer to paragraph (g).

EFFECTIVE DATE: February 28, 1980.

FOR FURTHER INFORMATION CONTACT: Daniel A. Driscoll, Chief Accountant, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, D.C. 20581 (202) 254–8955.

SUPPLEMENTARY INFORMATION: On July 18, 1979, the Commission published a proposed amendment to the financial early warning system contained in § 1.12 of its General Regulations (44 FR 41830). Ten written comments were received in response to the proposed amendment. There were three comments each from FCMs, clearing organizations and commodity exchanges. The other comment was submitted by an industry trade association. The Commission has carefully considered each of the comments.

Most of the commentators supported the amendment in principle, but recommended certain changes or clarifications. The major objection to the proposal, cited by six of the commentators, concerned the phrase "for any other reason" used in the proposed new § 1.12(f).[1] The commentators felt that the phrase was too vague or too broad and that it would cover many situations unrelated to the financial difficulties of an FCM, and thus be inappropriate and outside of the proper scope of the financial early warning system.

The Commission has reconsidered the language used in the proposal, and has decided to change the wording in § 1.12 from the proposed "margin call or for any other reason" to "call for margin or to make other required deposits." The Commission believes that the latter language will make the amendment clearer, that it is consistent with the purpose of the financial early warning system, and that it will provide the Commission with information necessary to carry out its mandate to avoid financial loss to customers of an FCM, other members of the marketplace and the marketplace itself due to the financial failure of an FCM. This language is also consistent with that used in § 1.17(c)(5) (viii) and (ix) of the Commission's minimum financial requirements for FCMs[2] in connection with charges to be taken against net capital for undermargined accounts. The Commission wishes to emphasize, however, that the margin calls or other deposits referred to in § 1.12(f) include all those demanded by clearing organizations and carrying futures commission merchants. Section 1.12(f) will not be limited to those situations involving the failure to meet a margin call which places a firm below the minimum margin levels of a commodity exchange.

One commentator questioned the Commission's authority to adopt the proposed amendment to § 1.12. Sections 4d, 4f, 4g, and 5a of the Commodity Exchange Act, as amended ("Act") (7 U.S.C. 6d, 6f, 6g and 7a) grant the Commission authority to adopt minimum financial and related reporting requirements by FCMs. It is the judgment of the Commission that, consistent with Section 8a(5) of the Act (7 U.S.C. 12a(5)), the amendment to § 1.12 is reasonably necessary to effectuate Sections 4d, 4f, 4g and 5a of the Act and to accomplish one of the purposes of the Act, which is to prevent financial loss to customers of an FCM, other members of the marketplace and the marketplace itself due to the financial failure of an FCM. Section 8a(5) enables the Commission not only to adopt regulations to effectuate a particular statutory provision but also to impose requirements to accomplish the Act's purposes even in the absence of a specific statutory source.[3]

Another commentator opposed to the amendment stated his contention that the financial early warning system should remain as it is now, with the sole responsibility for giving the notices required by § 1.12 on the firm that is experiencing financial difficulties, since it is in the best position to know its own financial position, rather than the carrying FCM. While this may be the case, one of the Commission's purposes in amending § 1.12 is to require that another party besides the FCM experiencing financial difficulties have a reporting obligation. As the Commission stated in the release proposing the amendment to § 1.12:

> Section 1.12 requires FCMs to give notice of their inability, or failure, to meet the minimum capital requirements; however, there have been a number of instances of FCMs failing to give such notice. The circumstances which would cause a clearing organization or carrying FCM to require an FCM to transfer or liquidate positions or to trade for liquidation only can indicate that the firm may be in severe financial difficulty. The Commission, therefore, believes that the proposed notice would strengthen existing reporting requirements.[4]

One commodity exchange expressed the view that the amendment was unnecessary in light of that exchange's practice of informing the Commission of any forced liquidation due to the failure of an FCM to meet the exchange's margin requirements. The Commission, however, believes that the amendment is necessary to establish a uniform obligation that all clearing organizations and carrying FCMs notify the Commission under the circumstances enumerated in § 1.12(f).

Four commentators who generally supported the proposal suggested that the Commission insure that all clearing organizations of which an FCM in financial difficulty is a member are notified when a notice is received under § 1.12(f), and one commentator suggested that the Commission adopt a procedure for making available information received under § 1.12(f) which would be similar to that set forth in the Commission's proposed

[1] 44 FR at 41832.

[2] 17 CFR 1.17(c)(5) (viii) and (ix).

[3] *See* Ames v. Merrill Lynch, Pierce, Fenner and Smith, 567 F. 2d 1174, 1177–8 (2d Cir. 1977). *See also* Board of Trade Clearing Corporation v. United States, 2 Comm. Fut. L. Rep. (CCH) ¶ 20,534, at 22,206–22,207 (D.D.C. Jan. 11, 1978), *aff'd*, No. 78–1263 (D.C. Cir. March 29, 1979).

[4] 44 FR at 41831.

delegation of authority to disclose market sensitive information (44 FR 21295, April 10, 1979). The Commission recognizes the sensitive nature of notices submitted under § 1.12, and has decided to adopt a new paragraph (h) which provides a delegation of authority by the Commission to the Director, Deputy Directors and Chief Accountant of the Division of Trading and Markets to disclose, under Section 8a(6) of the Act (7 U.S.C. 12a(6)), information contained in notices received pursuant to paragraph (f) of § 1.12 to the proper committee or officer of any contract market or its clearing organization. The Commission construes contract markets to include their clearing organizations for purposes of disclosure of this information under Section 8a(6), inasmuch as these organizations will be in a position to take corrective action against possible disruption of the market or harm to the best interests of producers and consumers which could result from an FCM's failing to meet a call for margin or to make other required deposits. The delegation of authority also permits such communication to the Securities and Exchange Commission ("SEC"), upon the request of that agency, if the information received involves a registered broker or dealer. The Commission wishes to emphasize that any such information disclosed to the SEC may not be further disclosed except as provided in Section 8(e) of the Act (7 U.S.C. 12(e)). In these circumstances, Section 8(e) prohibits the disclosure by the SEC of information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers except in an action or proceeding under the laws of the United States to which the SEC, the Commission or the United States is a party.

The Commission finds that the delegation of authority contained in § 1.12(h) relates solely to agency practice and procedure, and, therefore, with respect to that paragraph, it need not employ the procedures set forth in the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking and other opportunity for public participation.

One commentator suggested that the Commission amend its regulations under the Freedom of Information Act ("FOIA") (5 U.S.C. 552) to provide for non-public treatment of notices received under § 1.12(f). The Commission recognizes the sensitive nature of a notice submitted under § 1.12(f), at least during the period of time immediately following receipt of such notice. The Commission does not believe, however, that any change in its regulations under the FOIA is needed, and that any particular requests for records which may arise can be considered on a case-by-case basis under the existing regulations and FOIA precedents.[5]

Two commentators stated that it should be made clear that the amendment to § 1.12 does not place any restriction on a clearing organization to prevent it from taking quick action in appropriate cases, presumably even if this meant delaying the sending of a § 1.12 notice beyond the twenty-four hour period set forth in the regulation. The Commission does not believe that this requirement will interfere with any action which must be taken by a clearing organization or a carrying FCM.

Another commentator suggested that the form of communication required under § 1.12(f) should be a telephone call with a written confirmation of such call, rather than a telegram. The Commission recognizes that a telephone call may have certain advantages cited by the commentator, and the Commission does not wish to discourage a telephone call in such a situation. However, the only requirement is that a telegram be sent to the Commission's headquarters in Washington, D.C. within twenty-four hours.

One commentator recommended that "foreign FCMs" should be excluded from the coverage of the rule, that is, if a carrying FCM placed trading restrictions on a "foreign FCM" for whom it was carrying positions, no notice would be required. In view of this comment, the Commission has amended § 1.12(f) to make clear that it applies only in cases of determinations involving registered FCMs.

Another commentator requested clarification of three terms used in the proposal. The commentator first asked when a "determination" as used in § 1.12(f) will be deemed to have been made. As an example, the following situation was presented: an FCM is directed to make additional margin deposits within seven days, and informed that if the additional deposits are not received within that time, the firm's positions will be liquidated immediately. In such a situation, the provisions of § 1.12(f) would not take effect until after the seven days had passed, and there had been a decision to liquidate immediately the positions of the FCM.

[5] Section 1.12 has been in effect since December 20, 1978, and to date no requests for records of § 1.12 notices have been received by the Commission.

The commentator also asked whether the word "immediately" modified both "liquidated" and "transferred" as used in § 1.12(f). This is the Commission's intent and the language in the final rule has been amended to make that intent clear.

The final clarification requested concerned the meaning of the term "any position." The commentator asked whether § 1.12(f) would apply in the case of an FCM holding 2,000 contracts who was ordered to reduce his position to 1,000 contracts. It is not the Commission's intent that an entire position would have to be liquidated for § 1.12(f) to come into play; therefore, the Section would apply in the above example.

In adopting this amendment the Commission is acting pursuant to the Administrative Procedure Act (5 U.S.C. 553) and the Commodity Exchange Act, as amended, and particularly Sections 2a(11), 4d, 4f, 4g, 5a, 8a and 15 thereunder (7 U.S.C. 4a(j), 6d, 6f, 6g, 7a, 12a and 19).

In consideration of the foregoing, Part 1 of Chapter I of Title 17 of the Code of Federal Regulations is amended, as set forth below:

Section 1.12 is amended as follows: (a) By adding a new paragraph (f); (b) By redesignating former paragraph (f) as paragraph (g), adding one phrase to paragraph (g), and changing the references to paragraph (g) in § 1.12 to conform to the redesignation of that paragraph; and (c) By adding a new paragraph (h).

The revised text reads as follows:

§ 1.12 Maintenance of minimum financial requirements by futures commission merchants.

(a) Each person registered as a futures commission merchant, or who files an application for registration as a futures commission merchant, who knows or should have known that its adjusted net capital at any time is less than the minimum required by § 1.17 or by the capital rule or any self-regulatory organization to which such person is subject, if any, must:

(1) Give telegraphic notice as set forth in paragraph (g) * * *

(b) Each person registered as a futures commission merchant, or who files an application for registration as a futures commission merchant, who knows or should have known that its adjusted net capital at any time is less than (1) the greater of 150 percent of the appropriate minimum dollar amount required by § 1.17 or 8⅓ percent of aggregate indebtedness or (2) if the applicant or registrant is operating pursuant to § 1.17(g), the greatest of 150 percent of

the appropriate minimum dollar amount required by § 1.17(g), or 6 percent of the funds required to be segregated pursuant to section 4d(2) of the Act and these regulations, or for securities brokers or dealers, 6 percent of aggregate debit items computed in accordance with the formula for determination of reserve requirements (§ 240.15c3–3 of this title); such applicant or registrant must file written notice to that effect as set forth in paragraph (g) * * *

* * * * * *

(e) Whenever any self-regulatory organization learns that a member registrant has failed to file a notice or written report as required by this § 1.12, such self-regulatory organization must immediately report such failure as provided in paragraph (g) of this section.

(f)(1) Whenever a clearing organization determines that any position it carries for one of its clearing members which is registered as a futures commission merchant must be liquidated immediately, transferred immediately or that the trading of any account of such futures commission merchant shall be only for the purposes of liquidation, because that clearing member has failed to meet a call for margin or to make other required deposits, the clearing organization must give telegraphic notice of such a determination to the principal office of the Commission at Washington, D.C. within 24 hours.

(2) Whenever a registered futures commission merchant determines that any position it carries for another registered futures commission merchant must be liquidated immediately, transferred immediately or that the trading of any account of such futures commission merchant shall be only for purposes of liquidation, because the other futures commission merchant has failed to meet a call for margin or to make other required deposits, the carrying futures commission merchant must give telegraphic notice of such a determination to the principal office of the Commission at Washington, D.C. within 24 hours.

(g) Every notice and written report required to be given or filed by this section (except for notices required by paragraph (f) of this section) must be filed with the regional office of the Commission for the region in which the applicant or registrant has its principal place of business, with the designated self-regulatory organization, if any, and with the Securities and Exchange Commission, if such applicant or registrant is a securities broker or dealer. In addition, every notice required to be given by this section must also be filed with the principal office of the Commission in Washington, D.C. Each statement of financial condition, each statement of the computation of the minimum capital requirements pursuant to § 1.17, and each schedule of segregation requirements and funds on deposit in segregation required by this section must be filed in accordance with the provisions of § 1.10(d) of these regulations, unless otherwise indicated.

(h) The Commission hereby delegates to the Director, each Deputy Director and the Chief Accountant of the Division of Trading and Markets, the authority, pursuant to Section 8a(6) of the Act, to communicate information obtained by the Commission pursuant to paragraph (f) of this section to the proper committee or officer of any contract market including, for purposes of this paragraph, the clearing organization of such contract market, when, in the judgment of the Director, a Deputy Director, or the Chief Accountant, the information concerns any transaction or market operation which would disrupt or tend to disrupt any market or is otherwise harmful or against the best interests of producers and consumers. The Commission also hereby delegates to the Director, each Deputy Director and the Chief Accountant of the Division of Trading and Markets, the authority, pursuant to Section 8(e) of the Act, to furnish information obtained by the Commission pursuant to paragraph (f) of this section, upon request, to the Securities and Exchange Commission, acting within the scope of its jurisdiction, if such information concerns a futures commission merchant registered with the Securities and Exchange Commission as a broker-dealer. This delegation shall not affect any other delegation which the Commission has made or may make, which authorizes any other officer or employee of the Commission to furnish information on the Commission's behalf. Notwithstanding this paragraph, in any case in which it is deemed appropriate, the Director, a Deputy Director or the Chief Accountant of the Division of Trading and Markets may submit the matter to the Commission for its consideration. In addition, the Commission reserves to itself the authority to determine whether to communicate such information or to grant a request for such information in any particular case.

Issued in Washington, D.C. on January 23, 1980, by the Commission.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 80-2748 Filed 1-28-80; 8:45 am]
BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

20 CFR Part 404

[Reg. No. 4]

Federal Old-Age, Survivors, and Disability Insurance (1950–); Deductions; Reductions; and Nonpayment of Benefits; Reduction of Benefits to Maximum

Correction

In FR Doc. 80–554, appearing at page 1611 in the issue of Tuesday, January 8, 1980, the third line of § 404.403(d) in column one, page 1612, should read, "or dies after 1979, the monthly maximum."

BILLING CODE 1505-01-M

Food and Drug Administration

21 CFR Parts 175, 176, 177

Indirect Food Additives: Adhesive Coatings and Components, Paper and Paperboard Components, and Polymers; 2-Sulfoethyl Methacrylate, Sodium Salt

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to correct the Chemical Abstracts Service (CAS) Registry Number for 2-Sulfoethyl Methacrylate, Sodium Salt.

EFFECTIVE DATE: January 29, 1980.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF–334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) amends the food additive regulations to correct the CAS Registry Number for 2-sulfoethyl methacrylate, sodium salt, which was shown as "10595–80–9." The correct CAS Registry Number for 2-sulfoethyl methacrylate, sodium salt is "1804–87–1."

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 (21 U.S.C. 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVE COATINGS AND COMPONENTS

§ 175.300 [Amended]

1. In § 175.300 *Resinous and polymeric coatings,* paragraph (b)(3)(xxxiii) is amended by changing the CAS Registry Number "10595–80–9" for 2-sulfoethyl methacrylate, sodium salt to "1804–87–1."

§ 175.320 [Amended]

2. In § 175.320 *Resinous and polymeric coatings for polyolefin films,* paragraph (b)(3) is amended by changing the CAS Registry Number "10595–80–9" for 2-sulfoethyl methacrylate, sodium salt to "1804–87–1."

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

§ 176.170 [Amended]

3. In § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods,* paragraph (b)(2) is amended by changing the CAS Registry Number "10595–80–9" for 2-sulfoethyl methacrylate, sodium salt to "1804–87–1."

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

§ 177.1630 [Amended]

4. In § 177.1630 *Polyethylene phthalate polymers,* paragraph (e)(4)(iii) is amended by changing the CAS Registry Number "10595–80–9" for 2-sulfoethyl methacrylate, sodium salt to "1804–87–1."

Because the correction accomplished by these amendments is editorial in nature and in no way affects the substance of the regulations, the agency finds for good cause that prior notice and public procedure are unnecessary and impracticable for their promulgation. Therefore, these amendments will become effective on the date of their publication.

Effective date. This amendment shall be effective January 29, 1980.

(Sec. 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 (21 U.S.C. 348, 371(a)))

Dated: January 22, 1980.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-2745 Filed 1-28-80; 8:45 am]
BILLING CODE 4110-03-M

DEPARTMENT OF JUSTICE

Attorney General

28 CFR Part 0

[Order No. 872–80]

Delegation of Powers of the Attorney General in Connection With Administration of Prisoner Transfer Treaties

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order delegates to the Assistant Attorney General in charge of the Criminal Division all of the powers conferred on the Attorney General under Section 4102 of Title 18, U.S. Code, not specifically delegated to the Director of the Bureau of Prisons under 28 CFR 0.96b (Order No. 758–77, December 15, 1977), including specifically the authority to find the transfer of offenders to or from a foreign country appropriate or inappropriate, as the case may be. This order also authorizes the Assistant Attorney General in charge of the Criminal Division to redelegate this authority to the Deputy Assistant Attorneys General, and to appropriate Office Directors and Section Chiefs of the Criminal Division.

EFFECTIVE DATE: January 21, 1980.

FOR FURTHER INFORMATION CONTACT: Philip T. White, Director, Office of Legal Support Services, Criminal Division, Department of Justice, Washington, D.C. 20530 (202–724–7042).

By virtue of the authority vested in me by 18 U.S.C. 4102 (Pub. L. 95–144, 91 Stat. 1214), Subpart K of Part O of Chapter I of Title 28, Code of Federal Regulations, is amended by adding the following new § 0.64–2 immediately after § 0.64–1:

§ 0.64–2 Delegation respecting transfer of offenders to or from foreign countries.

The Assistant Attorney General in charge of the Criminal Division is authorized to exercise all of the power and authority vested in the Attorney General under Section 4102 of Title 18, U.S. Code, which has not been delegated to the Director of the Bureau of Prisons under 28 CFR 0.96b, including specifically the authority to find the transfer of offenders to or from a foreign country under a treaty as referred to in Pub. L. 95–44 appropriate or inappropriate. The Assistant Attorney General in charge of the Criminal Division is authorized to redelegate this authority to his Deputy Assistant Attorneys General and appropriate Office Directors and Section Chiefs.

Dated: January 21, 1980.

Benjamin R. Civiletti,
Attorney General.

[FR Doc. 80-2824 Filed 1-28-80; 8:45 am]
BILLING CODE 4410-01-M

28 CFR Part 0

Redelegation of Authority to Deputy Assistant Attorneys General and Director of the Office of International Affairs Respecting Transfer of Offenders To and From Foreign Countries

AGENCY: Department of Justice, Criminal Division.

ACTION: Final rule.

SUMMARY: This directive redelegates to each of the Deputy Assistant Attorneys General and the Director of the Office of International Affairs of the Criminal Division the authority delegated to the Assistant Attorney General in charge of the Criminal Division under 28 CFR 0.64–2 to exercise all of the power and authority vested in the Attorney General under Section 4102 of Title 18, U.S. Code, which has not been delegated to the Director of the Bureau of Prisons, including specifically the authority to find the transfer of offenders to or from a foreign country under a treaty as referred to in Pub. L. 95–44 appropriate or inappropriate, as the case may be.

EFFECTIVE DATE: Upon signature.

FOR FURTHER INFORMATION CONTACT: Philip T. White, Director, Office of Legal Support Services, Criminal Division, Department of Justice, Washington, D.C. 20530 (202–724–7042).

In 28 CFR Part O, the appendix to Subpart K is amended by adding the following:

Criminal Division

(Directive No. 73) Redelegation of Authority to Deputy Assistant Attorneys General and Director of the Office of International Affairs Respecting Transfer of Offenders to and From Foreign Countries.

By virtue of the authority vested in me by § 0.64–2 of Title 28 of the Code of Federal Regulations, the authority delegated to me by that section to exercise all of the power and authority vested in the Attorney General under Section 4102 of Title 18, U.S. Code, which has not been delegated to the

Director of the Bureau of Prisons, including specifically the authority to find the transfer of offenders to or from a foreign country under a treaty as referred to in Pub. L. 95–44 appropriate or inappropriate, is hereby redelegated to each of the Deputy Assistant Attorneys General and the Director of the Office of International Affairs of the Criminal Division.

Dated: January 23, 1980.

Philip B. Heymann,

Assistant Attorney General, Criminal Division.

[FR Doc. 80-3823 Filed 1-28-80; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Approval of Supplements to Hawaii State Plan

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule; approval of supplements.

SUMMARY: The State of Hawaii has submitted three plan supplements describing changes in its occupational safety and health program. These are: submission of a Hawaii Consultation Operations Manual, amendments to its enabling legislation, and an amendment to its proposed penalties regulation. This document announces that the Hawaii plan supplements are consistent with commitments in the State occupational health plan and are therefore approved.

EFFECTIVE DATE: January 29, 1980.

FOR FURTHER INFORMATION CONTACT: Marjorie N. Sauber, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523–8045.

SUPPLEMENTARY INFORMATION:

Background

The Hawaii Occupational Safety and Health Plan was approved under Section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter called the Act) and Part 1902 of this Chapter on December 28, 1973 (39 FR 1010). Part 1953 of the Chapter provides procedures for the review and approval of State change supplements by the Assistant Secretary for Occupational Safety and Health (hereinafter called the Assistant Secretary).

Description of Supplements

A. *Hawaii Consultation Operations Manual.* Hawaii submitted a manual which is a text on policies and procedures regarding on-site consultation and which consultants are to follow. The manual became effective on October 3, 1977.

B. *Amendments to Statute.* Hawaii deleted its broad workplace exemption which excluded State coverage of workplaces subject to Federal regulatory jurisdiction, and added at the end of its OSH statute a provision that the law shall not apply to working conditions with respect to which any Federal agency exercises the authority to prescribe and enforce regulations affecting occupational safety and health.

Section 8 which prohibited an "employer" from discriminating against an employee for exercising rights under the Act, was amended to mirror the Federal Act by substituting "person" for "employer".

C. *Amendment to Proposed Penalties Regulation.* The Hawaii regulation for proposed penalties stated that the Director or the Administrator should determine the amount of any proposed penalty. The definition of Director was broadened to mean the Director of Labor and Industrial Relations or his designee. Therefore the words "or the Administrator" were deleted, and the section on proposed penalties conforms to the Federal regulation.

Location of the Plan and its Supplements for Inspection and Copying

A copy of the supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Technical Data Center, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Room N–2439, Washington, D.C. 20210, Regional Administrator, Occupational Safety and Health Administration, 450 Golden Gate Avenue, Room 11321, San Francisco, California 94102, and the Department of Labor and Industrial Relations, 825 Mililani Street, Room 308, Honolulu, Hawaii, 96813.

Public Participation

Under § 1953.2(c) of this Chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any good cause which may be consistent with applicable laws. The Assistant Secretary finds that the Hawaii plan supplements described above are consistent with commitments contained in the approved plan, which were previously made available for public comment. Good cause is therefore found for approval of the supplements without public comment and notice.

Decision

After careful consideration, the Hawaii plan supplements described above are hereby approved under Part 1953 of this Chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to the State plan generally.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C. this 22nd day of January 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-2953 Filed 1-28-80; 8:45 am]

BILLING CODE 4510-26-M

29 CFR Part 1952

Approval of Supplements to Washington State Plan

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule; approval of Washington supplements.

SUMMARY: The State of Washington has submitted three plan supplements describing changes in its occupational safety and health program in response to Federal program changes. These are (1) Walkaround Pay for Employee Representatives, (2) De Minimis Violations, and (3) Employee Complaint Procedures. This document announces that the plan supplements are substantially identical to the comparable Federal provision and are therefore approved.

EFFECTIVE DATE: January 29, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph Acton, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Washington, D.C. 20210, (202) 523–6021.

SUPPLEMENTARY INFORMATION:

Background

The Washington Occupational Safety and Health plan was approved under Section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter referred to as the Act) and Part 1902 of this chapter on January 26, 1973 (38 FR 2421). Part 1953 of the Chapter provides procedures for the review and approval of State change supplements by the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary).

A. *Walkaround Pay for Employee Representatives.* This plan change supplement, comparable to the Federal program change, provides guidelines for compliance personnel when the employee representative's participation in the inspection is influenced by the employer's refusal to pay the representative for the time involved. Based on the premise that the employee representative's participation should be uninhibited by wage loss, this supplement states that failure to pay is discriminatory.

B. *De Minimis Violations.* This plan change supplement, comparable to the Federal program change, concerns procedures for processing violations which have no direct or immediate relationship to safety and health. The new guidelines will ease the employer's concerns over violations which can be classified as "minor."

C. *Employee Complaint Procedures.* This plan change supplement, comparable to Federal program change, pertains to the procedures for processing employee complaints concerning alleged unsafe and unhealthful conditions at the workplace. Scheduling, review and investigation will be determined according to the type and seriousness of the complaint. Guidelines for these procedures are established in this supplement.

Location of the Plan Supplements for Inspection and Copying

A copy of the plan and its supplements may be inspected and copied during normal business hours at the following locations: Technical Data Center, Occupational Safety and Health Administration, Room N–2439, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, 909 First Avenue, Seattle, Washington 98174 and the Department of Labor and Industries, General Administration Building, Olympia, Washington 98504.

Public Participation

Under § 1953.2(c) of this Chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Washington plan supplements described above are substantially identical to the comparable Federal provision. Good cause is therefore found for approval of the supplement without public comment and notice.

Decision

After careful consideration, the Washington plan supplements described above are hereby approved under Subpart C of Part 1953 of this Chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. Accordingly, Subpart F of Part 1952 of this Chapter is amended by adding a new section outlining these and other changes as follows:

§ 1952.125 Changes to approved plans.

(a) In accordance with Subpart C of Part 1953 of this Chapter, the following Washington plan changes were approved by the Assistant Secretary on January 22, 1980.

(1) *Walkaround pay for employee representatives.* This supplement provides guidelines for compliance personnel when the employee representative's participation in the inspection is influenced by the employer's refusal to pay the representative for the time involved.

(2) *Employee complaint processing procedures.* This supplement provides guidelines for the scheduling, review, an investigation of employee complaints concerning alleged unsafe and unhealthful conditions at the workplace.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C. this 22nd day of January 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-2954 Filed 1-28-80; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 536

[AR 27-20]

Claims Against the United States

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The regulations in Part 536 set forth policies and procedures applicable to the processing and administrative settlement of noncontractual claims generated by Army activities. This revision contains very little that is new but is considered necessary in order to implement minor statutory amendments to reflect current policies and procedures and to remove obsolete material from the regulations. In addition, certain sections of Part 536 are transferred to other parts of Chapter V of this title as outlined in the Supplementary Information block.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Philip M. Wilson, Deputy Chief (Claims Operations), U.S. Army Claims Service, Office of The Judge Advocate General, Fort Meade, Maryland 20755 (301–677–7960).

SUPPLEMENTARY INFORMATION: Section 536.26, Claims Arising in Foreign Countries, is deleted because prospective claimants do not have access to the Code of Federal Regulations and receive information concerning claims from their own government or from U.S. Military authorities in their country.

Section 536.27, Claims of Military Personnel and Civilian Employees for Property Lost or Damaged Incident to Service, is deleted because the substantive regulation (Chapter 11, AR 27–20) is directed at members and employees of the Army and the Department of Defense only. Since this revision merely updates statutory and regulatory material, and restates policies and procedures already in effect, notice of rulemaking and procedures relating thereto are considered unnecessary. Also, the substantive regulation (Chapter 4, AR 27–20) which implements the Federal Tort Claims Act (28 U.S.C. 2671–2680) is based upon the Attorney General's Regulations (28 CFR 14.1–14.11) and no deviation therefrom is permitted. Furthermore, the military services maintain effective liaison to insure substantial uniformity with regard to claims policies, procedures and awards, and any significant policy or procedural change would require coordination with the other services before implementation. Those sections in 32 CFR Part 536 being deleted and transferred are listed below:

Original Provisions and Amendment

536.4 Claims responsibilities—Deleted.
536.11b Small claims—Deleted.
536.23 Delegation of authority—Deleted.
536.26 Claims arising in foreign countries—Deleted.
536.27 Claims of military personnel and civilian employees for property lost or damaged incident to service—Deleted.
536.30 thru 536.35 Enlisted men absent without leave, deserters, and escaped military prisoners—Incorporated in new part 630 (elsewhere in this issue of the Federal Register).
536.40 Property and personal effects—Will be transferred to part 630.
536.70 thru 536.78 Mustering-out payments—Deleted.

536.79 thru 536.87 Military payment certificates—Transferred to part 538 at 44 FR 75784, December 26, 1979.
536.90 thru 536.97 Reimbursement to owners and tenants of land acquired by the Department of the Army pursuant to public law 155, 82d Congress—Deleted.
536.100 thru 536.107 Reimbursements to owners and tenants of land acquired by the Department of the Army pursuant to public law 534, 82d Congress—Deleted.
536.110 thru 536.129 Texas City disaster claims—Deleted.
536.166 Investigation—Deleted.
536.169 Delegation of authority—Deleted.
536.181 thru 536.194 Claims resulting from explosion at U.S. Army ordinance plant in Bowie County, Tex., July 8, 1963—Deleted.
536.191 thru 536.196 Relief for members and former members who lost interests on soldiers deposits—Deleted.

Dated: January 9, 1980.

James A. Mounts, Jr.,

Colonel, JAGC, Chief, U.S. Army Claims Service, Office of The Judge Advocate General.

Accordingly, 32 CFR is amended by revising Part 536 to read as follows:

PART 536—CLAIMS AGAINST THE UNITED STATES

General Provisions

Sec.
536.1 Purpose and scope.
536.2 Information and assistance.
536.3 Definitions and explanations.
536.5 Treaties and international agreements.
536.6 Claims.
536.7 Determination of liability.
536.8a Determination of compensation for damage to or loss or destruction of property.
536.8b Determination of compensation for personal injury or death.
536.9 Effect of award of other payments to claimant.
536.10 Settlement agreement.
536.11 Appeals and notification to claimant as to denial of claims.
536.11a Effect of payment.
536.11c Advance payments.

Claims Arising From Activities of Military or Civilian Personnel or Incident to Noncombat Activities

536.12 Statutory authority.
536.12a Definitions.
536.13 Scope.
536.14 Claims payable.
536.15 Claims not payable.
536.16 Claims under other laws.
536.17 Subrogation.
536.18 When claim must be presented.
536.19 Procedures.
536.20 Compensation for personal injury or death.
536.21 Law applicable.
536.22 Claimants excluded.
536.22a Settlement agreement.
536.24 Claims over $25,000.
536.24a Settlement procedures.
536.24b Reconsideration.
536.25 Claims under Article 139, Uniform Code of Military Justice.
536.29 Claims based on negligence of military personnel or civilian employees under the Federal Tort Claims Act.
536.45 Maritime claims.

Claims Arising From Activities of National Guard Personnel While Engaged in Duty or Training

536.140 Statutory authority.
536.140a Definitions.
536.141 Scope.
536.142 Claims payable.
536.143 Claims not payable.
536.144 Subrogation.
536.145 Notification of incident.
536.147 Form of claim.
536.148 Procedures.
536.149 When claim must be presented.
536.150 Where claim must be presented.
536.151 Property lost or damaged incident to service.
536.151a Claimants excluded.
536.151b Claims over $25,000.00.
536.151c Settlement procedures.
536.151d Action on appeal.
536.152 Reconsideration.

Claims Incident To Use of Government Vehicles and Other Property of the United States Not Cognizable Under Other Law

536.161 Statutory authority.
536.162 Definitions.
536.163 Scope.
536.164 Claims payable.
536.165 Claims not payable.
536.166 When claim must be presented.
536.167 Procedures.
536.168 Settlement agreement.
536.170 Reconsideration.
536.171 Claims over $1,000.00.

Authority: 10 U.S.C. 939, 2733, 2735 through 2737, 3012, 4801 through 4804, and 4806; 28 U.S.C. 1346(b), 2401(b), 2402, 2671, 2672, 2674 through 2680; 32 U.S.C. 715, unless otherwise noted.

General Provisions

Authority: Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012.

§ 536.1 Purpose and scope.

(a) *Purpose.* Part 536 prescribes policies and procedures to be followed in the filing, investigation, processing and administrative settlement of Army generated noncontractual claims. Sections 536.1–536.11 contain general instructions and guidance for the investigation and processing of claims and apply to all claims unless other laws or regulations specify other procedures. They are intended to insure that incidents that may result in claims are promptly and efficiently investigated under supervision adequate to insure a sound basis for official action and that all claims resulting from such incidents are expeditiously settled.

(b) *Scope—(1) Applicability.* (i) The provisions of §§ 536.12–536.24 apply in the settlement of claims under the Military Claims Act (10 U.S.C. 2733) for personal injury, death or property damage that was either caused by members or employees of the Army acting within the scope of their employment, or otherwise incident to noncombat activities of the Army.

(ii) Section 536.25 sets forth the procedures to be followed and the standards to be applied in the processing of claims cognizable under Article 139, Uniform Code of Military Justice (10 U.S.C. 939) for property willfully damaged or wrongfully taken or withheld by members of the Army.

(iii) Section 536.29 governs the administrative settlement of claims under the Federal Tort Claims Act (28 U.S.C. 1346(b), 2671, 2672, 2674–2680) for personal injury, death or property damage caused by the negligent act or omissions of members or employees of the Army while acting within the scope of their employment.

(iv) Section 536.45 provides the procedures to be followed in the settlement of claims under the Army Maritime Claims Settlement Act (10 U.S.C. 4801–4804, 4806) for damage caused by a vessel of or in the service of the Army.

(v) Sections 536.140–536.152 provide instructions for settlement of claims under the National Guard Claims Act (32 U.S.C. 715) for personal injury, death or property damage that was either caused by a member or employee of the Army National Guard while in training or duty under Federal law, and acting within the scope of their employment; or otherwise incident to noncombat activities of the Army National Guard not in active Federal service.

(vi) Sections 536.161–536.171 provide instructions for settlement of claims under title 10, United States Code, section 2737 for personal injury, death or property damage (not cognizable under any other law) incident to the use of Government property by members or employees of the Army.

(2) *Nonappropriated fund activities.* Claims arising from acts or omissions of employees of nonappropriated fund activities within the United States, its Territories, and possessions, are processed in the manner prescribed by §§ 536.1 to 536.11b. In oversea areas, such claims will be processed in accordance with treaties or agreements between the United States and foreign countries with respect to the settlement of claims arising from acts or omissions of military and civilian personnel of the United States in such countries, or in accordance with applicable regulations as appropriate.

(3) *Nonapplicability.* Sections 536.1 to 536.11 do not apply to:

(i) Contractual claims which are under the provisions of Pub. L. 85–804, 28 August 1958 (72 Stat. 972) and AR 37–103, or other regulations including procurement regulations.

(ii) Maritime claims (536.45).

§ 536.2 Information and assistance.

(a) Government personnel are forbidden to represent any claimant or to receive any gratuity for services. They may not accept any interest in a claim or assist in its presentation (62 Stat. 697, as amended, 18 U.S.C. 283). They are prohibited from disclosing information which may be made the basis of a claim, or any evidence of record in any claim matter, except as prescribed in §§ 518.1 to 518.4 of this chapter or other pertinent regulations. A person lacking authority to approve or disapprove a claim may not advise a claimant or his representative as to the disposition recommended.

(b) The prohibitions against furnishing information and assistance do not apply to the performance of official duty. Any person who indicates a desire to file a claim will be instructed generally as to procedure. He will be furnished forms, as prescribed in appropriate regulations and, when necessary, assisted in preparing the form and assembling evidence. In the vicinity of a field exercise, maneuver, or disaster, information may be disseminated concerning the right to present claims, the procedure to be followed, and the names and locations of claims officers, engineer repair teams, etc. When the government of a foreign country in which the United States Armed Forces are stationed has assumed responsibility for the settlement of certain claims against the United States, officials of that country will be furnished pertinent information and evidence so far as security considerations permit.

§ 536.3 Definitions and explanations.

The words "he," "him," "his," or "himself" when used in this regulation are applicable to both masculine and feminine genders. The following terms as used in §§ 536.1 to 536.11 and the regulations referred to in § 536.1(b) will have the meanings here indicated:

(a) *Approving authority.* Any officer designated by the Secretary of the Army or his designee to approve, but not disapprove, claims against the United States in accordance with this regulation. For purposes of the Federal Tort Claims Act (28 U.S.C. 2671–2680), the Nonscope of Employment Claims Act (10 U.S.C. 2737), and the Military Personnel and Civilian Employees Claims Act (31 U.S.C. 240–243) the term approving authority may include a Department of the Army civilian attorney who has been so designated by The Judge Advocate General.

(a–1) *Army National Guard personnel.* A member of the Army National Guard engaged in training or duty under section 316, 502, 503, 504, or 505 of title 32, United States Code, or any other provisions of law for which he is entitled to pay under section 301 of title 37, United States Code, or for which he has waived that pay, or who is employed under section 709 of title 32, United States Code.

(a–2) *Advance payment.* A payment not exceeding $1,000 made prior to settlement of a meritorious claim under §§ 536.12–536.24, §§ 536.140–435.152, and the Foreign Claims Act (10 U.S.C. 2734) where there exists an immediate need of the person who suffered the injury, damage, or loss, or of his family, or the family of a person who was killed, for food, clothing, shelter, medical or burial expenses or other necessities, and other resources for such expenses are not reasonably available.

(b) *Civilian employees.* For the purposes of creating liability against the Government under Part 536, civilian employee means a person whose activities the Government has the right to direct and control not only as to the result to be accomplished but also as to the details and means by which this result is accomplished. Such a person is usually but not necessarily compensated for his services and usually but not necessarily is hired by a contract, expressed or implied, for a fixed tenure of a period of time. The term should be distinguished from the term "independent contractor" for whose actions the Government generally is not liable, *Fesber* v. *US*, 356 F. 2d 706 (6th Cir. 1966); *US* v. *Becker*, 378 F. 2d 319 (9th Cir. 1967); *Powell* v. *US Cathridge Co.*, 339 US 497 (1950); Restatement (second) of Agency § 220. The term includes the term "officer." The determination of who is a civilian employee is a federal question determined under federal law and not under local law.

(c) *Claim.* Normally, a written demand for the payment of a specified sum of money, other than the ordinary obligations incurred for services, supplies, or equipment.

(d) *Small claim.* A claim which may be settled by payment of $500 or less.

(e) *Claimant.* An individual partnership, association, corporation, country, State, territory, or other political subdivision of such country. The term does not include the US Government or any of its instrumentalities, except as prescribed by statute, or Indian tribe claiming as an entity (28 U.S.C. 1505). Individual Indians are proper party claimants.

(f) *Claims officer.* A commissioned officer, warrant officer, or qualified civilian employee legally trained or experienced in the conduct of investigations and the processing of claims designated by the responsible commander.

(g) *Claim file.* The claim, report of claims officer, or other report of investigation, supporting papers, and pertinent correspondence.

(h) *Combat activities.* Activities resulting from action by the enemy, or by United States Armed Forces engaged in combat, or in immediate preparation for impending combat.

(i) *Disaster.* A sudden and extraordinary calamity occasioned by activities of the Army, other than combat, resulting in extensive civilian property damage or personal injuries and creating a large number of potential claims.

(j) *The Government.* The Government of the United States.

(k) *Investigator.* A commissioned officer, warrant officer, enlisted man, or civilian, designated to conduct the investigation.

(l) *Military personnel.* For the purposes of creating liability against the Government under §§ 536.12 to 536.24 and 536.29 and the Foreign Claims Act (10 U.S.C. 2734), military personnel means members of the Army on active duty for training, or inactive duty training as defined in AR 310–25 and 10 U.S.C. 101(22), 101(23), and 101(30) except for duty by Army National Guardsmen other than members of the DC National Guard performed under the authorizations listed in § 536.141. The determination of who are military personnel is a federal question determined under federal law and not under local law.

(m) *Negligence.* Failure to exercise the degree of care required or prescribed by law, or that which an ordinarily prudent person would exercise under the same or similar circumstances.

(n) *Noncombat activities.* Authorized activities essentially military in nature, having little parallel in civilian pursuits which historically have been considered as furnishing a proper basis for payment of claims, such as practice firing of missiles and weapons, training and field exercises, and maneuvers, including, in connection therewith, the operation of aircraft, and vehicles, and use and occupancy of real estate, and movement of combat or other vehicles designed especially for military use. Activities incident to combat, whether in time of war or not, and use of military personnel

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in connection with civil disturbances are excluded.

(o) *Owner.* The person vested with ownership, custody, or title of property, and includes bailee, lessee, mortgagor, and conditional vendee, but does not include mortgagee, conditional vendor, nor another having title for purpose of security only.

(p) *Proximate cause.* An act or omission which in natural and continuous unbroken sequence produced the result and without which that result would not have occurred. An act or omission except for which an incident would not have occurred, but which cannot be said to have caused it, will not sustain liability or (if committed by the claimant) justify denial of the claim. Proximate cause will normally be determined in accordance with local law.

(q) *Settle.* Consider, ascertain, adjust, determine, and dispose of a claim, whether by full or partial allowance or by disallowance.

(r) *Scope of employment.* Expressly or impliedly directed or authorized by competent authority, or within the design, aim, purpose, or instructions of the unit's or organization's mission, or in the interest of the Government. Determination of scope of employment under the Federal Tort Claims Act is governed by local law.

(s) *Subrogation.* Substitution by operation of law of one person for another as owner of a right; for example, an insurer (subrogee) who, by paying a claim under a policy, succeeds to the rights of the insured (subrogor).

(t) *Settlement authority.* Any officer designated by the Secretary of the Army, or The Judge Advocate General, and any foreign claims commission appointed by the Secretary of the Army or his designee to settle (approve or disapprove) claims in accordance with this regulation.

(u) *Costs.* As used in § 536.14(g), costs include normal claims expenses, as approved by Chief, U.S. Army Claims Service, litigation expenses and interest taxed by a court against medical personnel listed in above reference, and attorney's fees. An allowance for attorney fees is authorized only when such medical personnel are authorized by The Judge Advocate General in accordance with paragraph 3–2, AR 27–40, to retain private counsel at Government expense.

(v) *Settlements.* As used in § 536.14(g), settlements include any compromise of a claim for damages which is approved by The Judge Advocate General, The Assistant Judge Advocate General or the Chief, U.S. Army Claims Service, and where a suit against individual medical personnel as listed in § 536.14(g) is being settled, with the additional approval of the Chief, Litigation Division, OTJAG, and Department of Justice.

§ 536.5 Treaties and international agreements.

(a) The governments of some foreign countries have by treaty or agreement waived or assumed, or may hereafter waive or assume, certain claims against the United States. In such instances claims will not be settled under laws or regulations of the United States.

(b) The prohibition stated in paragraph (a) of this section is not applicable to claims within the purview of Article VIII of the Agreement Regarding the Status of Forces of Parties to the North Atlantic Treaty or similar type agreements which normally will be investigated and settled as therein provided.

§ 536.6 Claims.

(a) *Who may present.* (1) A claim may be presented by the owner of the property, or in his name by a duly authorized agent, or legal representative.

(2) A claim for personal injury may be presented by the injured person or his duly authorized agent or legal representative.

(3) A claim based on death may be presented by the executor or administrator of the deceased's estate, or by any person determined to be legally or beneficially entitled. Under most regulations, a death gives rise to but a single claim. The amount allowed will, to the extent practicable, be apportioned among the beneficiaries in accordance with the law of the place where the incident giving rise to the claim occurred.

(4) A claim for medical, hospital, or burial expenses may be presented by any person who by reason of family relationship has in fact incurred the expenses for which claim is made. With respect to claims cognizable under the provisions of the Federal Tort Claims Act, see § 536.29.

(5) A claim presented by an agent or legal representative will be made in the name of the claimant and signed by the agent or legal representative showing his title or capacity. Evidence of the authority of such person to act will not be required except when the laws of the State or country of claimant's residence or the exigencies of the situation, require such evidence. An agent or legal representative may be required to submit the DA Form 1627 (Notice of Appearance Before a Command or Agency of the Army Establishment), prescribed by 18 U.S.C. 284 and § 583.1 of this chapter.

(6) Where the same claimant has a claim for damage to or loss of property and a claim for personal injury or a claim based on death arising out of the same incident, they represent only parts of a single claim or cause of action. Accordingly, if applicable, when a claim is submitted it should include all damages alleged to have accrued to the claimant from the incident giving rise to the claim.

(7) A claim may be presented by a subrogee in his own name if authorized by the law of the place where the incident giving rise to the claim occurred provided subrogation is not barred by the regulation applicable to the type of claim involved.

(8) A claim normally will include all damages that accrue by reason of the incident. For example, if the same claimant has both a property damage and personal injury claim arising out of the same incident, only one claim will be permitted to be filed. Where local law permits the filing of split claims, a split filing may be permitted with consent of Chief, US Army Claims Service.

(b) Subrogation. (1) The claims of the subrogor (insured) and subrogee (insurer) for damages arising out of the same incident constitute separate claims and it is permissible for the aggregate of such claims to exceed the monetary jurisdiction of the approving or settlement authority

(2) A subrogor and a subrogee may file a claim jointly or individually. A fully subrogated claim will be paid only to the subrogee. Whether a claim is fully subrogated is a matter to be determined by local law. Some jurisdictions permit the property owner to file for his property damage even though he has been compensated for his repairs by his insurer. In such instances a release should be obtained from both parties in interest or be released by both of them. The approved payment in a joint claim will be by joint check which will be sent to the subrogee unless both parties specify otherwise. If separate claims are filed, payment will be by check issued to each claimant to the extent of his undisputed interest.

(3) Where a claimant has made an election and accepted workmen's compensation benefits, both statutory and case law of the jurisdiction should be scrutinized to determine to what extent the claim of the injured party against third parties has been extinguished by his acceptance of compensation benefits. While it is infrequent that the claim is fully extinguished, it is true in some jurisdictions and the only proper party claimant is the workmen's compensation carrier. Even where the injured party's claim has not been fully extinguished, most jurisdictions provide that the compensation insurance carrier has a lien on any recovery from the third party and no settlement should be reached without approval by the carrier where required by local law (19 A.L.R. 766, supplemented by 27 A.L.R. 493, 37 A.L.R. 838, 67 A.L.R. 249, 88 A.L.R. 665, and 106 A.L.R. 1040).

Further, if the United States has paid, directly or indirectly under a contract, the premiums for the workmen's compensation insurance, local law should be consulted to determine whether the United States is protected from suit on the same basis as the actual employer is protected by the workmen's compensation (*Stacey* v. *United States,* 270 F. Supp. 71 (E.D. La. 1967)). Additionally claims from the workmen's compensation carrier as subrogee or otherwise will not be considered payable where the United States has paid the premiums as above. Applicable contract provisions holding the United States harmless should be utilized.

(4) Every claimant will, as a part of his claim, make a written disclosure concerning insurance coverage as to:

(i) The name and address of every insurer;

(ii) The kind and amount of insurance;

(iii) Policy number;

(iv) Whether a claim has been or will be presented to an insurer, and, if so, the amount of such claims; and

(v) Whether the insurer has paid the claim in whole or in part, or has indicated payment will be made. Care will be exercised to require insurance disclosures consistent with the type of incident generating the claim.

(5) Each subrogee must substantiate his interest or right to file a claim by appropriate documentary evidence and should support his claim as to liability and measure of damages in the same manner as required of any other claimant. Documentary evidence of payment to a subrogor does not constitute evidence either of liability of the Government or the amount of damages. Approving authorities will make independent adjudications upon the evidence of record and the law.

(c) Transfer and assignments. (1) Except as they occur by operation of law, every purported transfer or assignment of a claim against the United States, or of any part of or interest in a claim, whether absolute or conditional; and every power of attorney or other purported authority to receive payment of all or part of any such claim, are null and void unless made after a voucher for the payment has been issued, or unless within the exceptions set forth by statute. See 31 U.S.C. 203 and AR 37–107.

(2) The purposes of this antiassignment statute are to eliminate multiple payment of claims to cause the United States to deal only with original parties and to prevent persons of influence from purchasing claims against the United States.

(3) In general, this statute prohibits voluntary assignments of claims with the exception of transfers or assignments made by operation of law. The operation of law exception has been held to apply to claims passing to assignees because of bankruptcy proceedings, assignments for the benefit of creditors, corporate liquidations, consolidations or reorganizations, and where title passes by operation of law to heirs or legatees. Subrogated claims which arise under statute are not barred by the antiassignment statute (*b* above). For example, subrogated workmen's compensation claims are cognizable when presented by the insurer.

(4) Subrogated claims which arise pursuant to contractual provisions may be paid to the subrogee if the subrogated claim is recognized by State statute or decision. For example, an insurer under an automobile insurance policy becomes subrogated to the rights of a claimant upon payment of a property damage claim. Generally, such subrogated claims are authorized by State law and are therefore not barred by the antiassignment statute.

(5) Whether medical payments paid by an insurer to its insured can be subrogated depends on local law. Many States prohibit the payment of these claims by an insurer notwithstanding a contractual provision providing for subrogation. Therefore local law should be researched prior to deciding the issue and claims forwarded to higher headquarters for adjudication should contain the results of such research. Such claims where prohibited by State law will also be barred by the antiassignment statute.

(6) Therefore, before claims are paid, it is necessary to determine whether there may be a valid subrogated claim under Federal or State statute or subrogation contract held valid by State law. If there may be a valid subrogated claim forthcoming, payment should be withheld for this portion of the claim. If it is determined that claimant is the only proper party, full settlement is authorized.

(d) Action by claimant—(1) *Form of claim.* The claimant will submit his claim using authorized official forms whenever practicable. Normally, a claim is filed only when the elements indicated in § 536.3(c) have been supplied in writing by a person authorized to present a claim. A claim may be amended by the claimant at any time prior to final agency action or prior to the exercise of the claimant's option under 28 U.S.C. 2675(a).

(2) *Signatures.* The claim and all other papers will be signed in ink by the claimant or by his duly authorized agent. Such signature will include the first name, middle initial, and surname. A married woman must sign her claim in her given name, e.g., "Mary A. Doe," rather than "Mrs. John Doe."

(3) *Presentation.* The claim should be presented to the commanding officer of the unit involved, or to the nearest Army post, camp, or station, or other military establishment convenient to the claimant. In a foreign country where no appropriate commander is stationed, the claim should be submitted to any attache of the United States Armed Forces.

Claims cognizable under Article VIII of the Agreement Regarding the Status of Forces of Parties to the North Atlantic Treaty, Article XVIII of the Japanese Administrative Agreement or other similar treaty or agreement are filed with designated claims officials of the receiving State.

(e) *Evidence to be submitted by claimant.* The claimant should submit the evidence necessary to substantiate his claim. Only the original of such substantiating evidence need be submitted. It is essential that independent evidence be submitted which will substantiate the correctness of the amount claimed.

(f) *Statute of limitations.* (1) *General.* Each statute available to the Department of the Army for the administrative settlement of claims, except the Maritime Claims Settlement Act (10 U.S.C. 4802), specifies the time during which the right to file a claim must be exercised. These statutes of limitations, which are jurisdictional in nature, are not subject to waiver unless expressly so provided by the wording of the statute. *Crown Coat Front Co.* v. *United States,* 275 F. Supp. 10 (D.C.N.Y. 1967) aff'd, 395 F.2d 160 (2d Cir.) cert denied 393 U.S. 853 (1968); *United States* v. *Trower,* 267 F. Supp. 606 (D. Tenn. 1967). Specific information concerning the period for filing under each statute is contained in the appropriate implementing sections of this regulation.

(2) *When a claim accrues.* A claim accrues on the date on which the alleged wrongful act or omission results in an actionable injury or damage to the

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claimant or his decedent. As a general rule, a claim will accrue at the time of the incident which caused the loss, damage, or injury. An exception to the general rule is found in the area of medical malpractice claims. In this area, the accrual of a claim is postponed until such time as the claimant, or someone acting on his behalf, discovers or should have discovered the acts or omissions which are alleged to have been wrongful. *Brown* v. *United States*, 353 F.2d 578 (C.A. Cal. 1965); *Hungerford* v. *United States*, 307 F.2d 99, 102 (9th Cir. 1962); *Quinton* v. *United States*, 304 F.2d 234 (5th Cir. 1962). In claims for indemnity or contribution against the United States, the accrual date is the time of the payment for which indemnity is sought or on which contribution is based. *Keleset X-ray Corp.* v. *United States*, 275 F.2d (D.C. Ct. Ap. 1960).

(3) *Effect of infancy, incompetency or the filing of suit.* The statute of limitations for administrative claims is not tolled by infancy or incompetency. *Jackson* v. *United States*, 234 F. Supp. 586 (D.C.S.C. 1964). Likewise, the statute of limitations is not tolled for purposes of filing an administrative claim by the filing of a suit based upon the same incident in a Federal, State, or local court against the United States or other parties.

(4) *Amendment of Claims.* A claim may be amended by the claimant at any time prior to final agency action or prior to the exercise of the claimant's option under 28 U.S.C. 2675(a). A claim may be amended by changing the amount, the bases of liability, or elements of damages concerning the same incident. Parties may be added only if the additional party could have filed a joint claim initially.

If the additional party had a separate cause of action his claim may not be treated as an amendment but only as a separate claim and is thus barred if the statute of limitations has run. For example, if a claim is timely filed on behalf of a minor for personal injuries a subsequent claim by a parent for loss of services is considered a separate claim and is barred if it is not filed prior to the running of the statute of limitations. Another example is where a separate claim is filed for loss of services or consortium by a spouse arising out of injuries to the husband or wife of the claimant. On the other hand, if a claim is timely filed by an insured for his deductible portion of his property damage, a subsequent claim by the insurer based on payment of property damage to its insured may be filed as an amendment even though the statute of limitations has run unless final action has been taken on the insured's claim.

(g) *Disposition of claims.* When a claim is received, the date and the designation of the receiving command or office will be stamped or otherwise noted on all copies. If the receiving command or office is not responsible for the investigation, the claim will be transmitted to the command or installation concerned. The date of receipt stops the running of the statute. In computing this time to determine whether the period of limitation has expired, exclude the first day and include the last day, except when if falls on the nonworkday—such as Saturday, Sunday, or a legal holiday—in which case it is to be extended to the next workday. (*Prince* v. *U.S.* 185 F. Supp. 269 (E.D. Wisc. 1960); see also Fed. R. Civ. P. 6).)

(h) *By the Command concerned.* (1) *General.* If the claim is of a type and amount within the jurisdiction of the command concerned and the claim is meritorious in the amount claimed, it will be approved and paid. If a claim in an amount in excess of the monetary jurisdiction of the command is meritorious in a lesser amount within its jurisdiction, the claim may be approved for payment provided the amount offered is accepted by the claimant in settlement of the claim. If the claim is not of a type within the jurisdiction of the command, or if the claimant will not accept an amount within its jurisdiction, the claim with supporting papers and a recommendation for appropriate action will be forwarded to the next higher claims authority. Within the United States and its territories, this will be the Chief, US Army Claims Service, except as to engineer generated claims which will be forwarded only upon request of the Chief, US Army Claims Service. In overseas areas, the next higher claims authority is a claims settlement authority. Any claim forwarded to a higher authority for settlement will be accompanied by a seven-paragraph memorandum of opinion signed by the responsible claims authority. If the claim is determined to be not meritorious, it will be disapproved provided the command has settlement authority for claims of the type and amount involved. Prior to the disapproval of a claim under a particular statute, a careful review should be made to insure that the claim is not properly payable under a different statute or on another basis.

(2) *Claims within settlement authority of US Army Claims Service or the Attorney General.* A copy of each claim which appears to be of a type that must be brought to the attention of the Attorney General in accordance with his regulations (28 CFR 14.6) or one in which the demand exceeds $5,000 will be forwarded immediately to the Chief, US Army Claims Service. The US Army Claims Service is responsible for the monitoring and settlement of such claims and will be kept informed on the status of the investigation and processing thereof. Direct liaison and correspondence between the US Army Claims Service and the field claims authority or investigator is authorized on all claims matters, and assistance will be furnished as required.

(3) *Claims involving privately owned vehicles.* In areas where the Federal Tort Claims Act is applicable, any claim except those under 31 U.S.C. 240–243, arising out of an accident involving a privately owned vehicle driven by a member of the Army, or by Army National Guard personnel as defined in § 536.141, based on allegation that the privately owned vehicle travel was within the scope of employment, should be forwarded without adjudication directly to the Chief, US Army Claims Service, ATTN: Chief, General Claims Division, together with a seven-paragraph memorandum which includes a discussion of the issue of scope of employment under applicable law. Additional information is provided in chapters 4 and 5, and AR 27–40. (See Part 516 of this chapter)

(4) *Claims within the exclusive jurisdiction of US Army Claims Service.* Authority to settle the following claims has been delegated to the Chief, US Army Claims Service, only:

(i) Claims under Article VIII of the Agreement Regarding the Status of Forces of Parties to the North Atlantic Treaty.

(ii) Claims under the Army Maritime Claims Settlement Act (10 U.S.C. 4801–04, 4806, as amended).

(iii) Industrial Security claims (Sect. X, para C, DOD Directive 5220.6, 7 Dec 1966).

(iv) Claims of the US Postal Service under AR 65–1.

Files of these claims will be forwarded directly to the Chief, US Army Claims Service, with the report of investigation and supporting papers, including a seven-paragraph memorandum.

(5) *Maritime claims.* A copy of a claim arising out of damage, loss, injury, or death which originates on navigable waters and is not considered cognizable under the Army Maritime Claims Settlement Act (10 U.S.C. 4802–4804) (e.g., a claim arising before 29 August 1972 which was not caused by a vessel of or in the service of the Army) will be forwarded immediately to the Chief, US Army Claims Service, Fort Meade, MD 20755. A determination will be made as to whether the claim must be processed under the Suits in Admiralty Act or the Public Vessels Act or on the other hand may be considered administratively.

If a maritime claim cannot be settled administratively, the claimant will be advised that he must file a suit. If it is determined that both administrative and judicial remedies are available, the claim may be processed administratively and the claimant advised of the need to file a suit within 2 years of the date of occurrence if he chooses his judicial remedy. If the claim is for damage to property, or injury to person, consummated on land, a claimant who makes an oral inquiry or demand will be advised that no suit can be filed until there shall have expired a period of six months after a claim in writing is submitted. (46 U.S.C. 740; *Clark Terminals of Boston* v. *U.S.*, 100 F. Supp. 59 (D. Mass. 1951).) If it is determined by the Chief, US Army Claims Service, that a claim, apparently maritime in nature, is not within the maritime jurisdiction, the claimant will be so advised and the claim will be returned for processing under the appropriate section of this regulation.

(i) *By district or division engineer.* The district or division engineer has the same authority and will take the action of an initial approving authority as indicated above. Files of unpaid claims should be forwarded through engineer channels to the Chief, US Army Claims Service, Fort Meade, MD 20755, except where requested by the Chief, US Army Claims Service, to be forwarded directly to that Service, in which event an information copy will be sent to the next higher approving authority unless he waives such requirement.

(j) *By higher settlement authority.* A higher authority may take action with respect to a claim in the same manner as could the initial command. However, if it is determined that any further attempt to settle the claim would be unwarranted, the claim will be forwarded through the staff judge advocate of the command having claims supervisory authority to the Chief, US Army Claims Service, Fort Meade, MD 20755 with recommendations, except where requested by the Chief, US Army Claims Service, to be forwarded directly to that Service, in which event an information copy will be sent to the next higher approving or settlement authority unless he waives such requirement.

§ 536.7 Determination of liability.

In the adjudication of tort claims, the liability of the United States generally is determined in accordance with the law of the State or country where the act or omission occurred, except that any conflict between local law and the applicable United States statute will be resolved in favor of the latter. However, in claims by inhabitants of the United States arising in foreign countries, liability is determined in accordance with general principles of American law as stated in standard legal publications, except as it applies to absolute liability.

§ 536.8a Determination of compensation for damage to or loss or destruction of property.

(a) *General.* If the property can be economically repaired, the allowable compensation is the actual or estimated net cost of repairs necessary to restore the property to substantially the condition which existed immediately before the damage. An appropriate allowance may be made for any difference in the original value and the value after repair by adding an allowance for depreciation, or deducting an allowance for appreciation. In appropriate cases, e.g., where a late model automobile has sustained extensive damage and even if repaired would depreciate a certain amount based solely on the fact that it was extensively damaged, a depreciation factor not to exceed 10 percent of the cost of repairs, whether or not the repairs have been made, may be utilized in determining whether the property is economically repairable. Normally, depreciation will not be allowed except when repairs have actually been made and the determination of percentage of depreciation will be based on an expert opinion. If the property cannot be economically repaired, the measure of damages is the value of the property immediately before the incident less value thereof immediately after the incident. The measure of damages for lost or completely destroyed property is the value of the property immediately before the incident. No allowance will be made for attorney's fees, court costs, bail, interest, inconvenience, or expenses such as long distance telephone calls or transportation in connection with preparation of the claim. (*Laney Tank Lines, Inc.* v. *US* 237 F. Supp. 265 (E.D.S.C. 1965).) Compensation may be allowed for loss of profits when an interference with or interruption of business caused by an incident is determined to be the proximate cause of loss, e.g., an Army vehicle damages a retail store to the extent that it must close temporarily. Compensation is not allowable when an employee is injured and business loss results because of the employee's absence.

(b) *Special damages.* Loss of use of damaged property which is economically repairable, if authorized by the law of the situs, is a proper item of damages and should be allowed for a period reasonably necessary to effect repairs. A number of jurisdictions allow an award for loss of use without actually incurring an expense. This is especially true in cases involving vehicles where an award may be granted for this element of damage even though a substitute vehicle has not been rented or where the claimant has obtained a temporary substitute without charge. In jurisdictions which do not follow this rule, a claim for loss of use will be substantiated by proof of expenses actually incurred for necessary substitute property during the period required to effect repairs. Normally, a paid bill from a commercial dealer regularly engaged in rental of property of the type involved will be required. In a case where a vehicle is considered to be a total loss, the award may include compensation for the rental of a substitute vehicle for the period of time reasonably necessary to replace the damaged vehicle.

(c) *Examples:*

(1) *Registered or insured mail.* In the case of registered or insured mail, compensation may include postal fees and postage paid.

(2) *Annual crops.* The allowable compensation is based on the number of acres or other unit measure, the average yield per acre in the neighborhood, the degree of maturity of the crop, the price on the local market at maturity, reduced by the anticipated cost of cultivation, harvesting, storage, and marketing.

(3) *Perennial crops or pasture land.* The allowable compensation is ordinarily the amount of the damage to the growing crop plus the diminution in the value of the land.

(4) *Timberland.* Generally, the allowable compensation is the difference between the value of the land and the stand before the incident and the value afterwards.

(5) *Turf and soil.* The allowable compensation is generally the cost of reconditioning the soil to its former state, unless the damage is of a permanent nature, in which case the allowable compensation is the difference between the value of the land before the incident and the value afterwards.

(6) *Domestic animals and fowl.* The general rule, that the measure of damages for the loss or destruction of property is ordinarily its market value, applies in the case of animals and fowl. In determining the market value the particular qualities and capabilities of

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an animal may be considered. When an animal has no market value damages may be based upon its actual or extrinsic value, or its value to the owner. The measure of damages for animals which have a special value for breeding purposes, or which have been bred, is generally based upon the market value only. Normally an allowance for the anticipated progeny is not authorized as it would constitute a double award, as the market value is presumably established and determined by the special value of the injured animals as breeders, i.e., the value of anticipated progeny is included in determining the market value of the animal. Allowable compensation in cases involving damage to agricultural ventures conducted for profit, e.g., dairy, poultry, and mink farming, is usually measured by determining the extent of loss profits and additional expenses resulting from the incident causing such damages. Property damage such as loss of milk base or Government subsidy payments are also compensable if definitely ascertainable. The fact of damages, both in nature and origin, must be clearly ascertainable, but once liability has been established, recovery cannot be denied because the extent of the damages is difficult to ascertain or impossible of precise measurement. The measure of damages in these cases can usually be determined by claimant's records from previous years (if an established business). Factual or opinion reports of dealers, veterinarians, and agricultural extension agents are likewise relevant in determining or verifying production statistics, normal mortality rates and similar data necessary to an informed computation of a claimant's net loss.

(d) *Proof of damage.* The cost of repairs may be established by a receipted bill or estimate signed by a reputable dealer or repairman. Value may be established by the written appraisal of a disinterested, licensed dealer or broker, by market quotations, commercial catalogs, or by other evidence of the price at which like property can be obtained in the community. The assistance of appraisers should be utilized in all claims where, in the opinion of the claims officer, an appraisal is reasonably necessary and useful in effectuating administrative settlement of the claim(s). Appraisals may not be economically feasible in some cases involving property damage of less than $100 per item and the extent of damage may be determined by the claims officer based on personal inspection and agreement with the claimant. This procedure should be employed only where it is deemed practical and feasible. Where an appraisal is considered necessary, whenever possible the claims officer and claimant should mutually agree upon a disinterested appraiser after determining the approximate cost of the appraisal. The method of payment should be agreed upon in advance. If the claimant pays the cost of the appraisal, and can substantiate payment thereof by a paid bill or canceled check, such cost is a reimbursable element of damage. If the Department of the Army is absorbing the cost of the appraisal, payment is made from Appropriations, Operation and Maintenance, Army (para 3–74, AR 37–108). If a single appraiser cannot be agreed upon, a joint appraisal can be conducted (i.e., one in which an appraiser chosen by claimant and an appraiser chosen by the Government both examine the property and submit their respective appraisals). Joint appraisals should be coordinated and monitored by the claims officer. The cost of a single or joint appraisal should be commensurate with the amount of damage allegedly sustained and the fee charged by other appraisers for similar work.

§ 536.8b Determination of compensation for personal injury or death.

In determining quantum and elements of damages, the law of the situs normally will be applied, except as to claims arising in foreign countries which are cognizable under the Military Claims Act (10 U.S.C. 2733), § 536.12 to 536.24.

(a) *General.* Allowable compensation includes reasonable medical, hospital, and burial expenses necessarily incurred. No allowance will be made for attorney's fees, court costs, bail, interest, inconvenience, or expenses such as long distance telephone calls or transportation in connection with preparation of the claim.

(b) *Special damages.* The allowable compensation for personal injury or death may include compensation for loss of earnings and services, diminution of earning capacity, anticipated medical expenses, physical disfigurement, and pain and suffering. For restrictions on allowable medical, hospital, and burial expenses under the act of 9 October 1962 (76 Stat. 767, 10 U.S.C. 2737). See § 536.164(b).

(c) *Proof of damage.* The allowable compensation normally will be established as to—

(1) Medical, hospital, or burial expenses, by itemized bills.

(2) Loss of time and earnings, by a written statement of claimant's employer stating claimant's age, occupation, wage or salary, time lost from work as a result of the incident, whether the person injured was a full-time employee, and his actual period of employment by dates. If the claimant is self-employed, written statement or other evidence showing the amount of earnings actually lost may be considered. Federal income tax returns are an excellent source of information with regard to prior earnings, provided claimant will voluntarily submit them. A written statement by the attending physician should set forth the nature and extent of the injury and the treatment, the duration and the extent of the disability involved, the prognosis, including diminution of earning capacity; and the period of hospitalization and anticipated future medical expenses.

(3) Loss of services, by a statement of the cost necessarily incurred to replace the services to which the claimant is entitled in accordance with the law of the place where the incident occurred.

(4) Physical disfigurement and pain and suffering, normally by a physician's statement indicating the extent and duration of either. A determination of compensation due on this basis normally should be supported by a written statement of applicable law and precedents.

(5) In claims involving serious personal injuries, i.e., normally those cases in which there is an allegation of temporary or permanent disability, the claimant should be examined by an independent physician, or other medical specialist, depending upon the nature and extent of the injuries. The necessity for, and the cost of, the examination should be commensurate with the severity of the injuries allegedly sustained and the fee charged by other examiners for similar work. To preclude duplication of effort and expense, both claimant and the claims officer must agree, in advance, upon the following:

(i) The examiner chosen to conduct the examination and the location of the medical facility (whether Governmental or civilian).

(ii) That the examiner's report constitutes the best evidence of the nature and extent of claimant's injuries.

(iii) The method of paying for the examination.

The necessity for conducting the medical examination must be approved by the claims authority having monetary jurisdiction over the largest claim, or potential claim, arising out of the incident. If a medical report is submitted in conjunction with the filing of a claim, such report should be included in the file. The forwarding of a file should not be delayed pending receipt of the independent examiner's report; however, a copy of the report submitted by an independent examiner may be made available to claimant, if requested, and the claim should be evaluated on the basis of this report. Payment of a civilian examiner's fee can be accomplished in either of two ways; claimant can incur the cost of the examination and submit a paid receipt or canceled check, which constitutes a reimbursable element of damage in evaluating the claim, or the Department of the Army can absorb the cost of the examination (payment is made from Appropriations, Operation and Maintenance, para 3–74, AR 37–108). If the parties cannot agree upon an independent examiner, and if either the examiner chosen by claimant or the results of the examination are not acceptable, claimant may be required to be reexamined by an examiner acceptable to the Government. The costs of such dual examination normally will be borne by the respective parties and the claimant's expenditure should not constitute a reimbursable element of damage. However, any examinations following the injury solely for the purpose of determining the necessity for medical treatment are reimbursable.

§ 536.9 Effect on award of other payments to claimant.

The total award to which the claimant (and his subrogees) may be entitled normally will be computed as follows:

(a) Determine the total of the loss or damage suffered.

(b) Deduct from the total loss or damage suffered any payment the claimant has received from the following sources:

(1) The United States employee who caused the incident;

(2) The United States employee's insurer;

(3) Any person or agency in a surety relationship with the United States employee;

(4) Any joint tort-feasor or his insurer; or

(5) Any advance payment made pursuant to § 536.11c.

(c) No deduction will be made for any payment the claimant has received by way of voluntary contributions, such as donations of charitable organizations.

(d) Where a payment has been made to the claimant by his insurer or other subrogee, or under workmen's compensation insurance coverage, as to which subrogated interests are allowable, the award based on the total damages shall be apportioned as their separate interests shall appear (see §§ 536.6(b) and 536.15(q).

(e) *Claims where more than one potential source of recovery is available to the claimant.*

(1) Claimants frequently seek recovery from more than one potential source. The Government is interested in avoiding such multiple recovery and in minimizing the award it must make. The claims investigation should therefore identify other parties potentially liable to the claimant, and/or their insurance carriers and indicate the status of any claims made or include a statement that none has been made so that it can be assured that there is only one recovery and that the Government does not pay a disproportionate share thereof.

(2) If a demand by a claimant or an inquiry by a potential claimant is directed solely to the Army, in a situation where it appears that the responsible Army employee may have applicable insurance coverage, inquiry should be made of the employee as to whether he has liability insurance and, if so, whether his insurer has made or will make any payment to claimant. If the employee is reluctant to disclose the name of his insurance carrier, the point should not be pursued further. He should, however, be advised to comply with the notice requirements of his insurance policy and the case should be followed up to ascertain, prior to settlement of the claim against the Government, whether the employee's insurer has made or will make any payment to the claimant. Normally, the award, if any, to claimant will be reduced according to the payment by the employee's insurance carrier.

(3) If the employee is the sole target of the claim and Army claims authorities arrange to have the claim made against the Government, the member or employee should be required to notify his insurance carrier according to his policy and inform Army claims authorities as to the details of the insurance coverage, including the name of the insurance carrier. Except when the driver's statute is applicable, the insurance carrier is expected to participate in the negotiation of the claims settlement and to pay its fair share of any award to the claimant. Where the responsible Army employee is "on loan" to another employer other than the US e.g., civilian institution for ROTC instructor, performing duties for a foreign government, inquiry should be made to determine whether there is applicable statutory or insurance coverage concerning the acts of the responsible employee and contribution or indemnification sought as appropriate. In the case of foreign governments, applicable treaties or agreements are considered controlling.

(4) A great many claims cognizable under the Federal Tort Claims Act are now settled on a compromise basis. A major consideration in many such settlements is the identification of other sources of recovery. This is true not only in the three-car accident or where a State or municipality is felt to be liable because of failure to maintain proper traffic controls, but also in two-car accidents in which passengers have either sought or could seek recovery from their driver. Care should be taken to identify those cases in which the passengers are already seeking recovery from their driver. Likewise, even in juisdictions which do not permit contribution, a compromise settlement can usually be worked out with the other driver's insurance company paying a portion of the total amount of the passenger's claims. For these reasons, every effort should be made to identify the insurance of all drivers involved and the status of any claims made.

(5) Whenever a claim is filed against the Government under a statute which does not permit the payment of a subrogated interest, it is important to insure that full information is obtained from claimant regarding his insurance coverage, if any, since it is the clear legislative intent of the statutes that insurance coverage be fully utilized before using appropriated funds to pay the claims.

§ 536.10 Settlement agreement.

(a) *General.* If a claim is determined to be meritorious in an amount less than claimed, or if a claim involving personal injuries or death is approved in full, a settlement agreement will be obtained prior to payment. A settlement agreement may be required in other instances when, in the opinion of the adjudicating authority, good legal practice so dictates; e.g., where family, or other multiple interests may be involved. Acceptance by a claimant of an award constitues a release of any claims against the United States and against the military or civilian personnel whose act or omission gave rise to the claim.

(b) *Claims involving minors.* As a general rule, only a court-appointed guardian of the estate of a minor, or a person performing a similar function under the supervision of a court, can execute a binding settlement agreement relative to a minor's claim. It is therefore required that a guardian of the estate of the minor, or similar functionary, be appointed by a court of competent jurisdiction and execute a settlement agreement before a claim is approved

and paid. This requirement can be eliminated and the settlement agreement can be signed by a parent, next-of-kin or next friend if the contemplated payment is small (i.e., not in excess of $1,000) and the cost of obtaining a court-appointed guardian would materially deplete the award. Where the amount agreed to exceeds $1,000, local law may be utilized as a basis for determining whether a court-appointed guardian should be required. The requirement to appoint a guardian should not be imposed until it is determined that a particular claim is meritorious in an amount which will probably require the appointment of a guardian. However, the requirement should be transmitted to the claimant well in advance of settlement negotiations so that the cost of establishing a guardianship can be considered by the claimant as a factor in evaluating the claim. The requirement, also, can be eliminated if local law authorizes or requires a claim, such as for death of a parent of the minor, to be presented on behalf of the estate of the decedent by an administrator, administratrix, or the like. In such cases, a settlement agreement signed by the administrator, administratrix, or the like will suffice if, under local law, such action is binding on the minor. The above stated principles may also be applied in appropriate cases involving imcompetents. Authority to waive the foregoing requirements in appropriate cases is delegated to the Chief, U.S. Army Claims Service. If it is felt that the foregoing requirements are materially impeding settlement of the claim, the matter should be brought to the attention of the Chief, U.S. Army Claims Service for appropriate resolution.

(c) *Claims involving workmen's compensation carriers.* The settlement of a claim involving a claimant who has elected to receive workmen's compensation benefits under local law may require the consent of the workmen's compensation carrier and in certain jurisdictions the State agency with authority over workmen's compensation awards. For example, in North Carolina, the injured party claimant forfeits any further workmen's compensation payments unless the workmen's compensation carrier joins in the settlement (N.C. Gen. Stat. § 97–10.2(h)). In California, an injured party claimant's settlement with a third party does not protect the third party from further claims by the workmen's compensation carrier or by the injured party unless the settlement is approved as adequate by the State agency administering workmen's compensation (Calif. Labor Code § 5001). Accordingly, claims approving and settlement authorities should be aware of and follow local requirements.

§ 536.11 Appeals and notification to claimant as to denial of claims.

(a) *General.* The nature and extent of the written notification to the claimant as to the denial of his/her claim should be based on whether the claimant has a judicial remedy following denial or whether he/she has an administrative recourse to appeal. In cases in which there is a judicial remedy, the written notification should be general in nature as the various defenses to be employed by the United States in any subsequent litigation is a matter finally for determination by the Attorney General or the appropriate US attorney. On the other hand, in cases in which an administrative appeal is provided, the basis for denial should be much more explicit and certain; only in this way can the claimant be required to completely particularize his grounds for appeal.

(b) *Denials under the Federal Tort Claims Act (28 U.S.C. 2671–2680), § 536.29.* If the adjudicating authority has information available which could possibly be a persuasive factor in the decision of the claimant as to whether to resort to litigation, such information may be verbally transmitted to the claimant and in appropriate cases released under normal procedures in accordance with AR 340–17. (See Part 516 of this Chapter). However, the written notification of the denial should be general in nature; e.g., denial on the weaker ground of contributory negligence should be avoided and the inclination should be to deny on the basis that the claimant was solely responsible for the incident. The claimant will be informed of his right to bring an action in the appropriate United States District Court not later than 6 months after the date of mailing of the notification.

(c) *Denials under the Military Claims Act (10 U.S.C. 2733) and the National Guard Claims Act (32 U.S.C. 715).* Claims disapproved under these statutes are subject to appeal and the claimant will be so informed. Additionally, the notice of disapproval will be sufficiently detailed to provide the claimant with an opportunity to know and attempt to overcome the basis for the disapproval. The claimant should not be afforded a valid basis for claiming surprise when an issue adverse to him is asserted as a basis for denying his appeal.

(d) *Denials on jurisdictional grounds.* Regardless of the nature of the claim presented or the statute under which it may be considered claims denied on jurisdictional grounds which are valid, certain, and not easily overcome and in which for this reason no detailed investigation as to the merits of the claim is conducted, should contain in the denial letter a general statement to the effect that the notification is not to be construed as an expression of opinion on the merits of the claim or an admission of liability. If sufficient factual information is available to make a tentative ruling on the merits of the claim, liability may be expressly denied.

(e) *Where claim may be considered under more than one statute.* In cases in which it is doubtful as to whether Military Claims Act or the National Guard Claims Act on one hand or the Federal Tort Claims Act on the other is the appropriate statute under which to consider the claim (e.g., an explosion case may be based on negligence or noncombat activities; likewise a tank on maneuvers may be negligently operated), the claimant will be advised in the alternative as to his right to sue as in paragraph *(b)* of this section and his right to appeal as in paragraph *(c)* of this section and that his course of action depends on his desires. Similarly, a claimant may be advised of his alternative remedies in a case in which the claimant is a military member and the issue of "incident to service" is not clear.

§ 536.11a Effect of payment.

Acceptance of an award by the claimant, except for the acceptance of an advance payment, constitutes for the the United States as well as the military personnel or civilian employee whose act or omission gave rise to the claim, a release from all liability to the claimant based on the act or omission.

§ 536.11c Advance payments.

(a) *Purpose.* This section implements the act of September 8, 1961 (75 Stat. 488, 10 U.S.C. 2736), as amended by Pub. L. 90–21, September 26, 1968 (82 Stat. 874), and authorizes an advance payment not in excess of $1,000 in claims resulting in immediate hardship which are payable under §§ 536.12–536.24b, 536.140–536.152, and the Foreign Claims Act (10 U.S.C. 2734). No new liability is created by title 10, United States Code, section 2736, which merely permits partial advance payments on meritorious claims as specified in this paragraph.

(b) *Conditions for advance payment.* An advance payment is authorized only under the following circumstances:

(1) The claim for death, personal injury, or damage to or loss of property must be determined to be cognizable and meritorious under the provisions of either §§ 536.12–536.24b, 536.140–536.152, or the Foreign Claims Act (10 U.S.C. 2734).

(2) There exists an immediate need of the person who suffered the injury, damage, or loss, or of his family, for food, clothing, shelter, medical or burial expenses, or other necessities, and other resources for such expenses are not reasonably available.

(3) The payee, so far as can be determined, would be a proper claimant, or is the spouse or next of kin of a claimant who is incapacitated.

(4) The total damage sustained must exceed the amount of the advance payment.

(5) A properly executed advance payment acceptance agreement has been obtained.

Claims Arising From Activities of Military or Civilian Personnel or Incident to Noncombat Activities

§ 536.12 Statutory authority.

The statutory authority for §§ 536.12–536.24b is contained in the act of August 10, 1956 (70A Stat. 153, 10 U.S.C. 2733) commonly referred to as the Military Claims Act, as amended by Pub. L. 90–522, 26 September 1968 (82 Stat. 875), Pub. L. 90–525, 26 September 1968 (82 Stat. 877), Pub. L. 91–312, 8 July 1970 (84 Stat. 412) and Pub. L. 93–336, 8 July 1974; and the act of 8 September 1961 (75 Stat. 488, 10 U.S.C. 2736), as amended by Pub. L. 90–521, 26 September 1968 (82 Stat. 874).

§ 536.12a Definitions.

The definitions of terms set forth in § 536.3 are applicable to §§ 536.12–536.24b.

§ 536.13 Scope.

The regulations in §§ 536.12–536.24b are applicable in all places and prescribe the substantive bases and special procedural requirements for the settlement of claims against the United States for death, personal injury, or damage to or loss or destruction of property caused by military personnel of civilian employees of the Department of the Army acting within the scope of their employment, or otherwise incident to the noncombat activities of the Department of the Army.

§ 536.14 Claims payable.

(a) *General.* Unless otherwise prescribed, a claim for personal injury, death, or damage to or loss of real or personal property is payable under §§ 536.12–536.24b when—

(1) Caused by the act or omission, negligent, wrongful, or otherwise involving fault of military personnel or a civilian employee of the Army acting within the scope of his employment, or

(2) Incident to the noncombat activities of the Army.

(b) *Death or injury.* Only one claim arises. The amount allowed will, to the extent found practicable, be apportioned as prescribed by the law or custom of the place where the incident occurred.

(c) *Property.* Property for the loss or damage of which claims may be settled under §§ 536.12–536.24b includes—

(1) Real property used and occupied under a lease, express or implied, or otherwise, e.g., in connection with training, field exercises, or maneuvers. An allowance may be made for the use and occupancy of real property arising out of trespass or other tort, even though claimed as rent.

(2) Personal property bailed to the Government under an agreement, express or implied, unless the owner has expressly assumed the risk of damage or loss. All claims for loss of personal property while such property was bailed to a U.S. Army quartermaster laundry are within the scope of, and will be settled under, §§ 536.12–536.24b.

(3) Registered or insured mail in the possession of the Army, even though the loss was caused by criminal act.

(d) *Effect of negligence.* A claim predicated on negligence or wrongful act may be settled under §§ 536.12–536.24b only if the Federal Tort Claims Act (60 Stat. 842, 28 U.S.C. 2671–2680) has been judicially determined not to be applicable to like claims, or if the claim arose incident to noncombat activities.

(e) *Noncombat activities.* A claim may be settled under §§ 536.12–536.24b if it arises from authorized activities essentially military in nature, having little parallel in civilian pursuits and which historically have been considered as furnishing a proper basis for payment of claims, such as practice firing of missiles and weapons, training and field exercises, and maneuvers, including, in connection therewith, the operation of aircraft, and vehicles, and use and occupancy of real estate, and movement of combat or other vehicles designed especially for military use. Activities incident to combat, whether in time of war or not, and use of military personnel and civilian employees in connection with civil disturbances, are excluded.

(f) Advance payments. Advance payments pursuant to title 10, United States Code, section 2736, as amended, in partial payment of meritorious claims to alleviate immediate hardship are authorized.

(g) Payment of costs, settlements, and judgments related to certain medical malpractice claims. Costs, settlement, or judgments arising under 10 U.S.C. 1089(f) for personal injury or death caused by any physician, dentist, nurse, pharmacists, or paramedical or other supporting personnel (including medical and dental technicans, nurse assistants, and therapists) of the Army, the Office of the Secretary of Defense, or the Department of Defense components will be paid provided the alleged negligent or wrongful actions or omissions arose in performance of medical, dental or related health care functions (including clinical studies and investigations) within the scope of employment; and, provided further, that such personnel comply with the requirements set forth in paragraph 2–3a(4), AR 27–40, (part 516 of this chapter), regarding prompt notification and delivery of all process served or received, providing such other documents, information and assistance as requested, and cooperation in the defense of the action on the merits. All requests for indemnification under this subparagraph should be forwarded to the Chief, U.S. Army Claims Service, for payment.

§ 536.15 Claims not payable.

A claim is not allowable under §§ 536.12–536.24b which—

(a) Is based upon an act or omission of a member or employee of the Army, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation is valid. However, this exception should not be utilized without prior approval of the Chief, US Army Claims Service.

(b) Is based upon the exercise or performance of or the failure to exercise or perform, a discretionary function or duty on the part of a Federal agency, or a member or employee of the Army whether or not the discretion involved is abused. However, this exception should not be utilized without prior approval of the Chief, US Army Claims Service.

(c) Arises in respect of the assessment or collection of any tax or customs duty, or the detention of any goods or merchandise by any officer of customs or excise or any other law enforcement officer.

(d) Is cognizable under the Suits in Admiralty Act (41 Stat. 525, 46 U.S.C. 741–752) or the Public Vessels Act (43 Stat. 1112, 46 U.S.C. 781–790), or is cognizable under § 536.45.

(e) Arises out of an act or omission of any employee of the Government in administering the provisions of the Trading With the Enemy Act (40 Stat. 411, 50 U.S.C. App. 1–31).

(f) Is for damages caused by the imposition or establishment of a quarantine by the United States.

(g) Arises out of an assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit,

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or interference with contract rights when committed by any military or civilian employee of the Department of the Army while in the scope of his employment occurring before 16 March 1974. However, as to those acts involving assault, battery, false imprisonment, false arrest, abuse of process, or malicious prosecution occurring on or after 16 March 1974 when committed by an investigative or law enforcement officer of the United States who is empowered by law to execute searches, to seize evidence or to make arrests for violations of Federal law, this subparagraph is no longer applicable. All claims accruing after 15 March 1974 and sounding under this subparagraph should, following an investigation of the allegations, be forwarded to the Chief, US Army Claims Service for consideration and disposition.

(h) Is for damages caused by the fiscal operations of the Army, the Treasury, or by regulation of the monetary system.

(i) Results from action by an enemy or results directly or indirectly from an act of the Armed Forces of the United States in combat, except that a claim may be allowed if it arises from an accident or malfunction incident to the operation of an aircraft of the Armed Forces of the United States including its airborne ordnance, indirectly related to combat, and occurring while preparing for, going to, or returning from a combat mission.

(j) Arises in a foreign country and was considered by authorities of a foreign country and final action taken thereon under Article VIII of the NATO Status of Forces Agreement, Article XVIII of the Japanese Administrative Agreement, or other similar treaty or agreement, if reasonable disposition was made of the claim.

(k) Arises from the activities of the Tennessee Valley Authority.

(l) Arises from the activities of the Panama Canal Company.

(m) Arises from the activities of the Federal Land Bank, a Federal intermediate credit bank, or a bank for cooperatives.

(n) Is for the personal injury or death of a member of the Armed Forces of the United States incurred incident to service (Feres v. U.S., 340 U.S. 135 (1950)).

(o) Is for the personal injury or death of a Government employee for whom benefits are provided by the Federal Employees' Compensation Act (5 U.S.C. 8101–8150).

(p) Is for the personal injury or death of an employee, including nonappropriated fund employees, for whom benefits are provided by the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1424, 33 U.S.C. 901).

(q) Is for the personal injury or death of an employee for whom benefits are provided under any workmen's compensation type laws or regulations, including local law or custom, in cases where contribution is made or insurance premiums paid directly or indirectly by the United States on behalf of the injured employee. If, in the opinion of an approving or settlement authority, the claim should be considered payable, e.g., the injuries did not result from a normal risk of employment or adequate compensation is not payable under workmen's compensation laws, the file will be forwarded with recommendations through claims channels to the chief, US Army Claims Service, who may authorize payment of an appropriate award. The Chief, US Army Claims Service, also may specify that all or any part of any compensation received by the claimant from workmen's compensation sources as above will be deducted from the award to claimant. The claim of an insurance carrier subrogee who has received premiums paid directly or indirectly by the United States on behalf of the injured employee, however, is not payable.

(r) Is for taking of property as by technical trepass, overflight of aircraft, is of a type contemplated by the Fifth Amendment to the United States Constitution, or otherwise constitutes a taking.

(s) Is for damage from or by floods or flood waters at any place. See 33 U.S.C. 702c.

(t) Is for damage to property or for any death or personal injury occurring directly or indirectly as a result of the exercise or performance of, or failure to exercise or perform, any function or duty, by any Federal agency or any agent, official or employee of the Government, in carrying out the provisions of the Federal Civil Defense Act of 1950, during the existence of a state of civil defense emergency (50 U.S.C. App. 2291–2297).

(u) Results wholly from the negligent or wrongful act of the claimant or his agent.

(v) Is for reimbursement for medical, hospital, or burial expenses furnished at the expense of the United States.

(w) Is purely contractual in nature.

(x) Arises from private as distinguished from Government transactions

(y) Is based solely on compassionate ground.

(z) Is for patent or copyright infringement. See AR 27–60.

(aa) Is for war trophies or articles intended directly or indirectly for persons other than the claimant or members of his immediate family, such as articles acquired to be disposed of as gifts or for sale to another, voluntarily bailed to the Army, or is for precious jewels or other articles of extraordinary value voluntarily bailed to the Army. The preceding sentence is not applicable to claims involving registered or insured mail. No allowance will be made for any item when the evidence indicates that the acquisition, possession, or tranportation thereof was in violation of Department of the Army directives.

(bb) Is for rent, damage, or other payments involving the acquisition, use, possession, or disposition of real property or interests therein by and for the Department of the Army, except as authorized by § 536.14. Real estate claims founded upon contract are generally processed under 4 C.F.R. 31.1–31.8.

(cc) Is not in the best interests of the United States, is contrary to public policy, or is otherwise contrary to basic intent of the governing statute (10 U.S.C. 2733); e.g., claims by inhabitants of unfriendly foreign countries or by or based on injury or death of individuals considered to be unfriendly to the United States. When a claim is considered to be not payable for the reasons stated in this subparagraph, it will be forwarded for appropriate action to the Chief, US Army Claims Service, together with the recommendations of the responsible claims authority.

§ 536.16 Claims under other laws.

(a) Claims within the scope of §§ 536.12–536.24b which are also cognizable under the Federal Tort Claims Act (28 U.S.C. 2671–2680), the Army Maritime Claims Settlement Act (10 U.S.C. 4801–04, 4806), the Foreign Claims Act (10 U.S.C. 2734), or the Military Personnel and Civilian Employees' Claims Act (31 U.S.C. 240–243) will be considered initially under the latter.

(b) Sections 536.12–536.24b do not apply to any claim which may be settled under AR 40–3 or other regulations providing for medical care at Government expense, including regulations of other governmental agencies such as Selective Service or Veterans Administration.

§ 536.17 Subrogation.

Subrogated claims will be processed as prescribed in § 536.6(b).

§ 536.18 When claim must be presented.

(a) A claim may be settled under §§ 536.12–536.24b only if presented in writing within 2 years after it accrues, except that if it accrues in time of war or armed conflict, or if war or armed conflict intervenes within 2 years after it accrues, and if good cause is shown, the claim may be presented not later than 2 years after the war or armed conflict is terminated.

(b) As used in this section, a war or armed conflict is one in which an Armed Force of the United States is engaged. The dates of commencement and termination of an armed conflict shall be established by concurrent resolution of Congress or by determination of the President.

§ 536.19 Procedures.

So far as not inconsistent with §§ 536.12–536.24b, the procedures set forth in §§536.1–536.11c will be followed as to a claim under §§ 536.12–536.24b.

§ 536.20 Compensation for personal injury or death.

As to any claim, allowable compensation will not include reimbursement for medical or hospital services furnished at the expense of the United States nor the expense of burial otherwise paid by the United States.

§ 536.21 Law applicable.

(a) As to claims arising in the United States, its territories, commonwealths, and possessions, the law of the place where the act or omission occurred will be applied in determining liability and the effect of contributory negligence on claimant's right to recover damages. The principle of absolute liability is not applicable to claims cognizable under this statute and §§ 536.12–536.24b even though prescribed by local law. Furthermore, the meaning and construction of the Military Claims Act is a Federal question to be determined by Federal law.

(b) In claims arising in a foreign country, liability normally will be determined in accordance with general principles of American law as stated in standard legal publications, except as it applies to absolute liability. The law of the place where the act or omission occurred will be applied in determining the effect of claimant's negligence on his right to recover damages. Where applicable, rules of the road and similar locally prescribed standards of care will be followed in determining fault.

(c) In determining quantum and elements of damages, §§ 536.7 and 536.8 will be applied. Where there is no applicable rule established in §§ 536.1–536.11c, the law of the place where the act or omission occurred normally will be applied, except that in claims arising in foreign countries, quantum will generally be determined in accordance with general principles of American law as stated in standard legal publications.

§ 536.22 Claimants excluded.

A national, or a corporation controlled by a national, of a country at war or engaged in armed conflict with the United States, or of any country allied with such enemy country, is excluded as a claimant, unless the settlement authority of the command exercising claims supervisory authority of the area determines that the claimant is and, at the time of the incident, was friendly to the United States. A prisoner of war or an interned enemy alien is not excluded as to a claim for damage to or loss or destruction of personal property in the custody of the Government otherwise payable under §§ 536.12–536.24b.

§ 536.22a Settlement agreement.

If a claim is determined to be meritorious in amount less than claimed, or if a claim involving personal injuries or death is approved in full, a settlement agreement will be obtained prior to payment. A settlement agreement may be required in other instances when, in the opinion of the adjudicating authority, good legal practice so dictates, e.g., where family, or other multiple interests may be involved. Acceptance by a claimant of an award constitutes a release of any claims against the United States and against the military or civilian personnel whose act or omission gave rise to the claim.

§ 536.24 Claims over $25,000.

Claims cognizable under title 10, United States Code, section 2733 which are meritorious in amounts in excess of $25,000 will be forwarded to the Chief, US Army Claims Service, who will effectuate a tentative settlement subject to approval by the Secretary of the Army or require the claimant to state the minimal amount he will accept and to provide appropriate justification. Upon completion of the foregoing, the Chief, US Army Claims Service, will prepare a memorandum of law with his recommendations and forward the claim to the Secretary of the Army for final action. The Secretary will either disapprove the claim or approve it in whole or in part. If the claim is approved in an amount in excess of $25,000, the claimant may be paid $25,000 after the execution of a settlement agreement in full satisfaction of the claim. The excess will be reported to the Claims Division, General Accounting Office, 441 G Street NW., Washington, D.C. 20548 for payment.

§ 536.24a Settlement procedures.

(a) *General.* Approving and settlement authorities will follow the procedures set forth in §§ 536.1–536.11. As to disapprovals, the following is also applicable. The disapproval of a claim, in whole or in part, is final unless the claimant appeals in writing. If the claim is in excess of $5,000, the appeal is to the Secretary of the Army. Claims of $5,000 or less which are disapproved at the US Army Claims Service will be appealed to the Judge Advocate General or the Assistant Judge Advocate General. Claims of $5,000 or less which are disapproved by field settlement authorities will be appealed to the Chief, US Army Claims Service. Upon disapproval of a claim, in whole or in part, the settlement authority will notify the claimant by certified or registered mail of the action taken and reason therefor.

The letter of notification will inform the claimant that—

(1) He may appeal and it will indicate the authority to whom the appeal should be addressed.

(2) No form is prescribed for an appeal but it must be forwarded through the authority disapproving the claim.

(3) The ground for appeal should be set forth fully.

(4) The appeal must be submitted within 30 days of receipt by the claimant of notice of action on his claim. An appeal will be considered timely if postmarked within 30 days after receipt by the claimant of such notification. For good cause shown, the Chief, US Army Claims Service, may extend the time for appeal.

(b) *Action on appeal.*

(1) Upon receipt, the appeal will be examined by the settlement authority and after any action deemed necessary, it will be forwarded with the related file and a seven-paragraph memorandum of opinion to the Chief, US Army Claims Service, Fort Meade, MD 20755. If the evidence in the file, including information submitted by the claimant with the appeal, indicates that the appeal should be sustained, it may be treated as a request for reconsideration under § 536.24b, and the processing of the appeal may be delayed pending the outcome of further efforts by the settlement authority to settle the claim. The Judge Advocate General, the Assistant Judge Advocate General, or the Chief, US Army Claims Service, may take similar action in appropriate cases.

(2) As to an appeal which will be acted on by the Judge Advocate General, the Assistant Judge Advocate General, or the Secretary of the Army, the Chief, US Army Claims Service, will

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forward the claim together with his recommendation for action. The appeal will be sustained or denied. All matters submitted by the claimant will be forwarded and considered.

(3) Since an appeal under this authority is not an adversary proceeding, no form of hearing is authorized; however, the Claimant should be afforded a reasonable period of time, upon request, to obtain and submit any additional evidence or written argument for consideration by the appellate authority.

§ 536.24b Reconsideration.

(a) An approving or settlement authority may reconsider a claim upon request of the claimant or someone acting in his behalf. In the absence of such a request, an approving or settlement authority may on his own initiative reconsider a claim. He may reconsider a claim which he previously disapproved in whole or in part (even though a settlement agreement has been executed) when it appears that his original action was incorrect in law or fact based on the evidence of record at the time of the action or subsequently received. If he determines that his original action was incorrect, he will modify the action and, if appropriate, make a supplemental payment. The basis for a change in action will be stated in a memorandum included in the file.

(b) A successor or supervisory approving or settlement authority may also reconsider the original action on a claim; but only on the basis of fraud or collusion, new and material evidence, or manifest error of fact, such as errors in calculation or factual misinterpretation of applicable law.

(c) A request for reconsideration should indicate fully the legal or factual basis asserted as grounds for relief. Following completion of any investigation or other action deemed necessary for an informed disposition of the request, the approving or settlement authority will reconsider the claim and attempt to settle it by granting such relief as may appear warranted. When further settlement efforts appear unwarranted, the entire file with a memorandum of opinion will be forwarded through claims channels to the responsible claims supervisory authority. If a claims supervisory authority is unable to grant the relief requested, he will forward the claim with his recommendation to the Chief, US Army Claims Service, Office of the Judge Advocate General, Fort Meade, MD 20755, and inform the claimant of such reference.

§ 536.25 Claims under Article 139, Uniform Code of Military Justice.

(a) *Statutory authority.* The authority for this section is Article 139, Uniform Code of Military Justice (10 U.S.C. 939) which provides for redress of damage to property willfully damaged or destroyed, or wrongfully taken by members of the Armed Forces of the United States.

(b) *Purpose.* This section sets forth the standards to be applied and the procedures to be followed in the processing of claims cognizable under Article 139, Uniform Code of Military Justice.

(c) *Scope.* This section applies to claims for damage to, or loss or destruction of, property owned or in the lawful possession of an individual, a business, a charity, a State or local government, or a service member, that has been willfully damaged or destroyed or wrongfully taken by military personnel of the Army.

(d) *Definitions*—(1) *Willful damage.* Damage which is inflicted intentionally, knowingly, and purposely, without justifiable excuse, as distinguished from damage which is caused thoughtlessly or inadvertently as in simple negligence.

(2) *Wrongful taking.* Any unauthorized taking or withholding of property, not involving breach of contractual or fiduciary relationships, with intent to deprive the owner or person in lawful possession of his property temporarily, permanently, or for an indefinite period.

(3) *Board of officers.* The term "board of officers" as used in this section includes an investigating officer appointed under the provisions of §§ 519.1–519.5 of this chapter.

(e) *Claims payable.* Claims payable under Article 139, Uniform Code of Military Justice, and this section are limited to—

(1) Those for damage to or loss or destruction of property caused by riotous, violent, and disorderly conduct, or acts of depredation, by a member or members of the Army, acts showing such reckless and wanton disregard of the property rights of others that willful damage or destruction may reasonably be implied, and

(2) Claims for property wrongfully taken. A loss through larceny, forgery, embezzlement, fraud, misappropriation, and similar offense is compensable if a wrongful taking of property is involved.

(3) Claims for damage to or loss or destruction of property that result from an act that occurred outside the scope of a member's employment which are cognizable under other claims statutes may be processed under this regulation provided that property was willfully damaged or destroyed, or wrongfully taken.

(f) *Claims not payable.* The following claims are not compensable under this section:

(1) Claims resulting from simple negligence.

(2) Claims submitted by subrogees.

(3) Claims for personal injury or death.

(4) Any portion of a claim covered by insurance, regardless of whether claim is made against the insurer.

(5) Claims resulting from acts or omissions of military personnel while acting within the scope of their employment.

(6) Claims for damages or losses in which the negligence or fault of the claimant, his employee or his agent contributed to the damage or loss.

(g) *Limitations on application*—(1) *Time limitations.* In order for a claim to be considered under this section, a complaint must be submitted within 90 days of the date of the incident out of which the claim arose, unless the commander acting on the report determines that good cause has been shown for the delay in making complaint. The commander's determination that good cause has not been shown is final.

(2) *Limitation on amount of assessment.* No assessment in excess of $500 will be made against the pay of any one offender for a single act or incident, without approval of the Chief, U.S. Army Claims Service.

(3) *Only direct damages considered:* Assessment will be made only for direct damages. Indirect, remote, or inconsequential damages will not be considered under this section.

(h) *Procedure*—(1) *Action by claimant.* Any person who believes that his property has been willfully damaged or wrongfully taken by a member or members of the Armed Forces of the United States may complain, orally or in writing, to the military organization or unit of the offending member or members or the nearest Army installation. The complaint may be accompanied by a claim for damages. Such claim should be in writing, in triplicate, signed by the claimant or his authorized representative, and asserted in an amount certain. The claim may be regarded as the complaint.

(2) *Voluntary restitution.* In many instances, members of the military services who cause damage through their off-duty activities welcome an opportunity to make restitution without the complainant's demand for compensation becoming a matter of official concern. Nothing in Article 139 or this section prevents an offender from making a mutually satisfactory arrangement with an injured party for restitution. Acceptance by the complainant of payment by the offender or offenders of an amount in full satisfaction and final settlement of the matter bars further recovery under this section. Any amount paid by an offender in partial satisfaction of the claim will be deducted from the amount approved by the commanding officer.

(i) *Conditions of payment.* Prior to payment of any claim within this section, each of the following conditions must be fulfilled:

(1) The claim is in writing and for a definite amount.

(2) The complaint to which the claim relates was presented within 90 days of the incident, or good cause for the delay is shown.

(3) The amount of the damage, loss, or destruction has been determined.

(4) The claim relates to property other than property of the Government.

(5) The claim did not result from simple negligence.

(6) The property was willfully damaged or destroyed, or wrongfully taken, by a member or members of the Army.

(7) Payment was recommended by the board of officers and was approved personally by the offender's commanding officer.

(8) The staff judge advocate determined that the proceedings of the board were legally sufficient.

(9) The commanding officer ordered a stoppage of pay.

(10) The assessment against each offender does not exceed $500.00 except as approved by the Chief US Army Claims Service.

§ 536.29 Claims based on negligence of military personnel or civilian employees under the Federal Tort Claims Act.

(a) *Authority.* The statutory authority for this chapter is the Federal Tort Claims Act (60 Stat. 842, 28 U.S.C. 2671–2680), as amended by the Act of 18 July 1966 (Pub. L. 89–506; 80 Stat. 306), and Pub. L. 93–253, 16 March 1974 (88 Stat. 50), and as implemented by the Attorney General's Regulations (28 CFR 14.1–14.11).

(b) *Definitions.* The definitions of terms set forth in §§ 536.1–536.11 are applicable to this section. In addition, for purposes of this section, the following definitions apply:

(1) *Compromise.* A mutually agreed equitable arrangement having regard to the uncertainties of the facts, the law, or the application of the law to the facts in the area of either liability or damages.

(2) *Settle.* To consider, ascertain, adjust, determine, compromise, and dispose of a claim whether by full or partial allowance, or by disallowance (disapproval).

(3) *Federal agency.* A Federal agency is defined to include the executive departments and independent establishments of the United States and corporations acting as instrumentalities or agencies of the United States but does not include any contractor with the United States.

(4) *Accrues.* Except in medical malpractice cases, a claim accrues on the date on which the alleged wrongful act or omission results in some actionable injury or damage to the claimant or his decedent. In medical malpractice cases, accrual is postponed until such time as the claimant or, if the claimant is a minor, some person acting for him discovers or reasonably should have discovered the acts or omissions which are alleged to be wrongful.

(c) *Scope.* This section prescribes the substantive basis and special procedural requirements for the administrative settlement of claims against the United States under the Federal Tort Claims Act based on death, personal injury, or damage to or loss of property which accrue on or after January 18, 1967. Claims accruing prior to January 18, 1967, will continue to be settled under this section as it existed prior to this revision. The Attorney General's regulations (28 CFR 14.1–14.11) are incorporated by reference and made a part of this section. Should there appear to be a conflict between the provisions of this section and the provisions of the Attorney General's regulations, the latter govern.

(d) *Claims payable.* Unless otherwise prescribed, claims for death, personal injury, or damage to or loss of property (real or personal) are payable under this section when the injury or damage is caused by negligent or wrongful acts or omissions of military personnel or civilian employees of the Department of the Army or civilian employees of the Department of Defense while acting within the scope of their employment under circumstances in which the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. The Federal Tort Claims Act, pursuant to which this regulation is promulgated, is a limited consent to liability without which the United States is immune. See *Bigby* v. *United States*, 188 U.S. 400 (1903). Similarly, there is no Federal cause of action created by the Constitution which would permit a damage recovery because of the Fifth Amendment or any other constitutional provision. Immunity must be expressly waived, as by the Federal Tort Claims Act, *supra*.

(e) "Employee of the Government" (28 U.S.C. 2671) includes the following (Federal status is a Federal question to be determined under Federal law):

(1) Military personnel (members of the Army), including but not limited to:

(i) Members on full time active duty in a pay status including but not limited to:

(A) Members assigned to units performing active service.

(B) Members serving as ROTC instructors. *La Bombard* v. *United States*, 122 F. Supp. 294 (D.C. Vt. 1954); *Bellview* v. *United States*, 122 F. Supp. 97 (D.C. Vt. 1954); *contra, Cobb* v. *United States*, 81 F. Supp. 9 (W.D. La. 1948).

(C) Members serving as National guard instructors or advisors.

(D) Members on duty or in training with other Federal agencies, e.g., Atomic Energy Commission, National Aeronautics and Space Administration, Departments of Defense, State, Navy, or Air Force.

(E) Members assigned as students or ordered into training at a non-Federal civilian educational institution, hospital, factory, or other industry. This does not include members on excess leave.

(F) Members on full time duty at nonappropriated fund activities. *Roger* v. *Elrod*, 125 F. Supp. 62 d. (Alaska 1954).

(G) National Guardsmen on active duty (excludes duty as defined in § 536.141)

(ii) Members of reserve units (other than members of the National Guard under § 536.141) during period of inactive duty training and active duty training, including ROTC cadets who are reservists while they are at summer camp.

(iii) District of Columbia and Canal Zone National Guardsmen on training of the type defined in chapter 6. See *O'Toole* v. *United States*, 206 F.2d 912 (3d Cir. 1953).

(2) Officers and employees of the Departments of Defense and the Army (there is no practical significance to the distinction between the terms "officer" and "employee") including but not limited to—

(i) Civil Service and other full-time employees of the Departments of Defense and the Army paid from appropriated funds.

(ii) Contract surgeons (para 33, AR 40–1) and consultants appointed under CPR A9.

(iii) Employees of nonappropriated funds if the particular fund is an instrumentality of the United States and thus a Federal agency. *United States* v. *Holcombe*, 277 F.2d 143 (4th Cir. 1960) (officers' open mess); *Daniels* v.

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Chanute Air Force Base Exchange, 127 F.Supp. 920 (E.D. Ill. 1955); *Richardson* v. *United States*, 228 F. Supp. 49 (E.D. Va. 1964) (noncommissioned officers' open mess). In determining whether or not a particular fund is a "Federal agency," consider whether the fund is an integral part of the Army charged with an essential function in the operation of the Army, and the degree of control and supervision exercised by the Army. See *Scott* v. *United States*, 226 (F. Supp. 864 (M.D. Ga. 1963), *off'd*, 337 F.2d 471 (5th Cir. 1964), *cert. denied*, 380 U.S. 933 (1965), in which the hunt club in question was actually a private association.

Members or users, as distinguished from employees of nonappropriated funds, are not considered Government employees. *Brucker* v. *United States*, 338 F.2d 427 (9th Cir. 1964) (member of flying club); *United States* v. *Hainline*, 315 F.2d 153 (10th Cir. 1963) (member of flying club).

(iv) Prisoners of war and interned enemy aliens.

(v) Civilian employees of the District of Columbia National Guard, including those paid under "service contracts" from District of Columbia funds.

(vi) Civilians serving as ROTC instructors paid from Federal funds.

(vii) National Guard technicians employed under 32 U.S.C. 709(a) for claims accruing on or after 1 January 1969 (Pub. L. 90–486, 13 Aug. 1968; 82 Stat. 755). This includes both "caretakers" and missile site technicians.

(3) Persons acting in an official capacity for the Departments of Defense or Army whether temporarily or permanently in the service of the United States with or without compensation including but not limited to—

(i) "Dollar a year" men.

(ii) Members of advisory committees, commissions, boards or the like.

(iii) Volunteer workers in an official capacity in furtherance of business of the United States. See *McNicholas* v. *United States*, 226 F. Supp. 965 (N.D. Ill. 1964) (volunteer who donated and served cookies to patients in Veterans Administration hospital held covered by the Federal Employees' Compensation Act); but see *Sanchez* v. *United States*, 177 F.2d 452 (10th Cir. 1949) (government security guard who volunteered to help find lost girl held not within the scope of his employment); *Messig* v. *United States*, 129 F. Supp. 571 (D.C. Minn. 1955) (bystander directed by Government firefighters to help held not subject to Federal Employees' Compensation Act; *Hicks* v. *United States*, 98 F. Supp. 982 (N.D. Fla. 1951). Even though the worker is supplied by an organization which serves as a Government auxiliary, it is difficult to establish that the organization is a "Federal agency" and that its employees are Government tortfeasors for purposes of this section. See *Pearl* v. *United States*, 230 F.2d 243 (10th Cir. 1956) (Civil Air Patrol held not a "Federal agency").

(iv) "Loaned servants." *Delgado* v. *Akins*, 236 F. Supp. 202 (D. Ariz. 1964) (field reporter employed by county agricultural service paid from funds deposited by U.S. Treasurer held a Federal employee); *Martarano* v. *United States*, 231 F. Supp. 805 (D. Nev. 1964) (Nevada State employee, by virtue of a Federal-State agreement, was discharging a Federal program under Federal supervision); but see *Lavitt* v. *United States, 177 F.2d 627 (2d Cir. 1949) (inspectors appointed by local committee in connection with application for Federal potato loan held not Federal employees); Fries* v. *United States*, 170 F.2d 726 (6th Cir. 1948) (chauffeur hired by venereal disease survey, under control of county but funded in part by the United States and furnished with equipment and personnel by the United States, held not a Federal employee). Contractors with the United States are not Federal agencies (28 U.S.C. 2671) and their employees are not "employees of the Government" for purposes of this section. This exclusion includes contractors operating Government-owned (GOCO) plants and other independent contractors. See *e.g.*, *United States* v. *Page*, 350 F.2d 28 (10th Cir. 1965), *cert. denied*, 382 U.S. 979 (1966).

(f) "Scope of employment" means acting in "line of [military] duty" (28 U.S.C. 2671) and is determined in accordance with principles of respondeat superior under the law of the jurisdiction in which the act or omission occured. *Williams* v. *United States*, 350 U.S. 857 (1955). Determination as to whether a person is within a category listed in § 536.29(e)(1)(i) above will usually be made together with the scope determination. Ordinarily an employee is within the scope of employment if the requisites of the definition contained in § 536.3(r) are met. Local law should always be researched, but the novel aspects of the military relationship should be kept in mind in making a scope determination. "Line of duty" determinations under AR 600–33 are not determinative of scope of employment. "Joint venture" situations are likely to be frequent where the the Federal employee is performing federally assigned duties but is under actual direction and control of a non-Federal entity, *e.g.*, a Federal employee in training at a non-Federal entity or ROTC instructors at civilian institutions. This could also occur where the employee is working for another Federal agency. See § 536.25 and 536.167–536.171 for the handling of certain claims arising out of nonscope activities of members of the Army.

(g) *Law applicable.* The whole law of the place where the act or omission occurred including choice of law rules will be applied in the determination of liability and quantum. Where there is a conflict between the local law and an express provision of the Federal Tort Claims Act, the latter governs.

(h) *Subrogation.* Claims involving subrogation will be processed as prescribed in § 536.6(b), except where inconsistent with the provisions of this section or the Attorney General's regulations.

(i) *Indemnity or contribution.* (1) *Sought by the United States.* If the claim arises under circumstatnces in which the Government is entitled to contribution or indemnity under a contract or the applicable law governing joint tort-feasors, the third party will be notified of the claim, and will be requested to honor its obligation to the United States or to accept its share of joint liability. If the issue of indemnity or contribution is not satisfactorily adjusted, the claim will be compromised or settled only after consultation with the Department of Justice as provided in 28 CFR 14.6.

(2) *Claims for indemnity or contribution.* Claims for indemnity or contribution from the United States will be compromised or settled under this section, if liability exists under the applicable law, provided the incident giving rise to such claim is otherwise cognizable under this section. As to such claims where the exclusivity of the Federal employees' Compensation Act may be applicable see 5 U.S.C. 8101–8150.

(3) *Setoff.* Except to the extent that such factors are included in a compromise settlement, amounts otherwise to be awarded on account of injury to or death of military personnel, incurred as a result of activities not incident to service, will be reduced by the amount of benefits paid, and the present cash value of benefits to be paid, by the United States. (See *Brooks* v. *United States*, 337 U.S. 49 (1949).)

(j) *Claims not payable.* The exclusions contained in 28 U.S.C. 2680 are applicable to claims herein. Other claims are excluded by statute or court decisions.

(k) *Claims under other laws and sections.* This section does not apply to any claim which may be settled under—

(1) Sections 536.161–536.170, 536.45 or the Foreign Claims Act (10 U.S.C. 2734).

(2) AR 40–3, or other regulations providing for medical care at Government expense.

(l) *Procedures*—(1) *General.* Unless inconsistent with the provisions of this section, the procedures for the investigation and processing of claims set forth in §§ 536.1–536.11c will be followed.

(2) *Claim* (i) *Time prescribed for filing.* A claim may be settled under this section only if presented in writing within 2 years after it accrues.

(ii) *When presented.* For the purpose of the 2-year statute of limitations, a claim shall be deemed to have been presented when a Federal agency received from a claimant, his duly authorized agent or legal representative, an executed Standard Form 95 or written notification of an incident, together with a claim for money damages, in a sum certain, for damage to or loss of property or personal injury or death. If a claim is received by an official of the Army who is not an approval or settlement authority under this section, the claim will be transmitted without delay to the nearest approval or settlement authority.

(iii) A copy of each claim which appears to be of a type that must be brought to the attention of the Attorney General (28 CFR 14.7) or one in which settlement may exceed $5,000, will be forwarded immediately to the Chief, U.S. Army Claims Service. The U.S. Army Claims Service, which has settlement authority for such claims, is responsible for the monitoring and settlement of such claims and will be kept informed of the status of the investigation and processing thereof.

(3) *Non-Army claims.* Claims based on acts or omissions of employees of the United States other than military and civilian personnel of the Department of the Army, civilian personnel of the Department of Defense, and employees of nonappropriated fund activities of the Department of the Army will be transmitted forthwith to the nearest official of the employing agency, and the claimant will be advised of the referral.

(4) *Acknowledgment of claim.* The claimant and his attorney will be kept informed by personal contact, telephonic contact, or mail of the receipt of his claim and the status of the claim. Formal acknowledgment of the claim in writing is required only where the claim is likely to result in litigation. In this event, the letter of acknowledgment will state the date of receipt of the claim by the first agency of the Army receiving the claim. Litigation may be deemed likely in any claim in excess of $1,000 or in which the issues involved are such that litigation may ensue.

(5) *Investigation.* Claims cognizable under this section will be investigated and processed on a priority basis in order that settlement may be accomplished within the 6 months prescribed by statute.

(6) *Advice to claimant.* (i) A full explanation of claims procedures and of the rights of the claimant will be made to the extent necessitated by the amount and nature of the claim.

(ii) In a case where litigation is likely, or where this course of action is preferred by the claimant and which appears to be a proper case for administrative settlement, the claimant will be advised as to the advantages of administrative settlement. If the claim is within the jurisdiction of a higher settlement authority, the claim will be discussed with such authority prior to the furnishing of such advice. The claimant should be familarized with all aspects of administrative settlement procedures including the administrative channels through which his claim must be processed for approval. He may be advised that administrative process can result in more expeditious processing, whereas litigation may take considerable time, particularly in jurisdictions with crowded dockets. If appropriate, he may be informed that a tentative settlement can be reached for any amount above $25,000, subject to approval by the Attorney General. He should be advised that administrative filing of the claim protects him under the statute of limitations for purposes of litigation; suit can be filed within 6 months after the date of mailing of notice of final denial by the Department of the Army, thus potentially allowing negotiations to continue indefinitely. An attorney representating a claimant should be advised of the limitation on fees for purposes of administrative settlement (20 percent) and litigation (25 percent). The attorney may also be advised that there is no jury trial under the Federal Tort Claims Act.

(7) *Notification to claimant of action on claim.* (i) The filing of an administrative claim and its denial are prerequisite to filing suit. A suit may be filed within 6 months after notification by certified or registered mail of the denial of the administrative claim. Failure of a settlement authority to take final action on a claim within 6 months may be treated by the claimant as a final denial for the purposes of filing suit.

(ii) Upon final denial of a claim, or upon rejection by claimant of a partial allowance, the settlement authority will inform the claimant of the action on his claim by certified or registered mail. Notification of final denial may include a statement of reasons for the denial and will include a statement that, if the claimant does not accept or is dissatisfied with the action, suit may be instituted within 6 months after the date of mailing of notice of final denial. A copy of this notification will be furnished the Attorney General in each case in which the Department of Justice has opened a file.

(m) *Reconsideration.* (1) While there is no appeal from the action of an approving or settlement authority under the Federal Tort Claims Act and this section, an approving or settlement authority may reconsider a claim upon request of the claimant or someone acting in his behalf. Even in the absence of such a request, an approving or settlement authority may on his own initiative reconsider a claim. He may reconsider a claim which he previously disapproved in whole or in part (even where a settlement agreement has been executed) when it appears that his original action was incorrect in law or fact based on the evidence of record at the time of the action or subsequently received. If he determines that his original action was incorrect, he will modify the action and, if appropriate, make a supplemental payment. The basis for a change in action will be stated in a memorandum included in the file.

(2) A successor approving or settlement authority may also reconsider the original action on a claim but only on the basis of fraud or collusion, new and material evidence, or manifest error of fact such as errors in calculation or factual misinterpretation of applicable law.

(3) A request for reconsideration must be submitted prior to the commencement of suit and prior to the expiration of the 6-month period provided in 28 U.S.C 2401(b). Upon timely filing, the appropriate authority shall have 6 months from the date of filing in which to make a final disposition of the request and the claimant's option under 28 U.S.C. 2675(a) shall not accrue until 6 months after the filing of the request.

(4) A request for reconsideration should indicate fully the legal or factual basis asserted as grounds for relief. Following completion of any investigation or other action deemed necessary for an informed disposition of the request, the approving or settlement authority will reconsider the claim and

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attempt to settle it by granting such relief as may appear warranted. When further settlement efforts appear unwarranted, the entire file with a memorandum of opinion will be referred through claims channels to the Chief, U.S. Army Claims Service, Fort Meade, MD 20755, and the claimant informed of such reference.

§ 536.45 Maritime claims.

(a) *Statutory authority.* Administrative settlement or compromise of admiralty and maritime claims in favor of and against the United States by the Secretary of the Army or his designee is authorized by the Army Maritime Claims Settlement Act (10 U.S.C. 4801–04, 4806, as amended, Public Law 92–417, 86 Stat. 654).

(b) *Related statutes.* This statute authorizes the administrative settlement or compromise of maritime claims and supplements the following statutes under which suits in admiralty may be brought: the Suits in Admiralty Act of 1920 (41 Stat. 525, 46 U.S.C. 741–752); the Public Vessels Act of 1925 (43 Stat. 1112, 46 U.S.C. 781–790); the Extension of the Admiralty Act of 1948 (62 Stat. 496, 46 U.S.C. 740). Similar maritime claims settlement authority is exercised by the Department of the Navy under title 10, United States Code, sections 7365, 7621–7623, and by the Department of the Air Force under title 10, United States Code, sections 9801–9804, 9806.

(c) *Scope* (1) *Claims arising before 29 August 1972.* Section 4802 of title 10, United States Code, provides for the settlement or compromise of claims for damage to or loss of property, or personal injury or death caused by vessels of, or in the service of, the Department of the Army, and compensation for towage and salvage services, including contract salvage.

(2) *Claims arising after 28 August 1972.* Section 4802 of title 10, United States Code, as amended, 29 August 1972, provides for the settlement or compromise of claims for—

(i) Damage caused by a vessel of, or in the service of, the Department of the Army or by other property under the jurisdiction of the Department of the Army;

(ii) Compensation for towage and salvage service, including contract salvage rendered to a vessel of, or in the service of, the Department of the Army or to other property under the jurisdiction of the Department of the Army; or

(iii) Damage caused by a maritime tort committed by any agent or employee of the Department of the Army or by property under the jurisdiction of the Department of the Army.

(d) *Amounts exceeding $500,000.* Claims against the United States, settled or compromised at a net amount exceeding $500,000 are not payable hereunder, but will be investigated and processed under the regulations of this section, and, if approved by the Secretary of the Army, will be certified by him to the Congress.

(e) *Claims not payable.* A claim is not allowable under this section which:

(1) Is for damage to, or loss or destruction of, property, or for personal injury or death, resulting from action by the enemy, or by United States Armed Forces engaged in combat, or in immediate preparation for impending combat.

(2) Is for personal injury or death of members of the Armed Forces of the United States incurred incident to their service.

(3) Is for personal injury or death of civilian employees of the United States to whom the Federal Employees' Compensation Act (5 U.S.C. 8101–8150), is applicable.

(4) Is for the personal injury or death of an employee, including nonappropriated fund employees, for whom benefits are provided by the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1424, 33 U.S.C. 901).

(5) Has been made the subject of a suit by or against the United States, except as provided in paragraph (h)(2) of this section.

(6) Arises in a foreign country and was considered by the authorities of a foreign country and final action taken thereon under Article VIII of the NATO Status of Forces Agreement, Article XVIII of the Japanese Administrative Agreement, or other similar treaty or agreement, if reasonable disposition was made of the claim.

(f) *Claims under other laws and regulations.* (1) Claims of military personnel and civilian employees of the Department of Defense and the Department of the Army, including military and civilian officers and crews of Army vessels, for damage to or loss of personal property occurring incident to their service will be processed under the provisions of the Military Personnel and Civilian Employees Claims Act of 1964 (31 U.S.C. 240–243).

(2) Claims which are within the scope of this section and also within the scope of the Foreign Claims Act (10 U.S.C. 2734) may be processed under that statute when specific authority to do so has been obtained from the Chief, U.S. Army Claims Service, Fort Meade, Md. 20755. With the request for such authority will be a copy of the report of investigation of the marine casualty.

(g) *Subrogation.* (1) An insurance carrier will be recognized as a claimant under this section to the extent that it has become subrogated by payment to, or on behalf of its insured, pursuant to a contract of insurance in force at the time of the incident from which the claim arose. An insurance carrier and its insured may file a claim either jointly or separately. Joint claims must be asserted in the names of, and must be signed by, all parties; payment then will be made jointly. If separate claims are filed, payment to each party will be limited to the extent of such parties undisputed interest.

(2) For the purpose of determining authority to settle or compromise a claim, the payable interests of the insurance carrier (or carriers) and the insured represent merely separable interests, which interests in the aggregate must not exceed the amount authorized for administrative settlement or compromise.

(3) The policies set forth in paragraphs(g) (1) and (2) of this section with respect to subrogation arising from insurance contracts are applicable to all other types of subrogation.

(h) *Limitation of settlement.* (1) The period for effecting an administrative settlement under the Army Maritime Claims Settlement Act is subject to the same limitation as that for beginning an action under the Suits in Admiralty Act, that is, a 2-year period from the date of the origin of the cause of action. The claimant must have agreed to accept the settlement and it must be approved for payment by the Secretary of the Army or his designee prior to the end of such period: otherwise, thereafter the cause of action ceases to exist, except under the circumstances set forth in paragraph (h)(2) of this section. The presentation of a claim, or its consideration by the Department of the Army, neither waives nor extends the 2-year limitary period.

(2) In event that a libel has been filed in a U.S. district court before the end of the 2-year statutory period, an administrative settlement may be negotiated by the Chief, U.S. Army Claims Service, with the claimant, even though the 2-year period has elapsed since the cause of action occurred, provided the claimant obtains the written consent of the appropriate office of the Admiralty and Shipping Section, Department of Justice, charged with the defense of the libel. Payment may be made upon dismissal of the libel.

(3) When a claim under this section, notice of damage, invitation to a damage survey, or other written notice of an intention to hold the United States liable is received, the receiving installation, office, or person immediately will

forward such document to the US Army Claims Service, ATTN: Maritime Claims Branch, Foreign/Maritime Claims Division. The Chief, Maritime Claims Branch, promptly will advise the claimant or potential claimant in writing of the comprehensive application of the time limit.

(i) *Delegation of authority.* Where the amount to be paid is not more than $10,000, claims under this section may be settled or compromised by the Chief, U.S. Army Claims Service, or by the Chief, Maritime Claims Branch, Foreign/Maritime Claims Division, US Army Claims Service, subject to such limitations as may be imposed by the Chief, US Army Claims Service.

(j) *Form of claim.* A demand letter may initiate a claim. The submitting of a special form, in view of commercial practice, is not required. Formalization of a claim may be accomplished at any time before consummation of the settlement or compromise.

Claims Arising From Activities of National Guard Personnel While Engaged in Duty or Training

§ 536.140 Statutory authority.

The statutory authority for this chapter is contained in the act of 13 September 1960 (74 Stat. 878, 32 U.S.C. 715), commonly referred to as the National Guard Claims Act, as amended by Pub. L. 90–486, 13 August 1968, (82 Stat. 756) Pub. L. 90–525, 26 September 1968 (82 Stat. 877), Pub. L. 91–312, 8 July 1970 (84 Stat. 412), and Pub. L. 93–336, 8 July 1974, and the act of 8 September 1961 (75 Stat. 488, 10 U.S.C. 2736) as amended by Pub. L. 90–521, 26 September 1968 (82 Stat. 874).

§ 536.140a Definitions.

(a) The definitions of terms set forth in § 536.3 are applicable to §§ 536.140–536.152 unless otherwise defined herein.

(b) *Army National Guard personnel.* A member of the Army National Guard engaged in training or duty under title 32, United States Code, section 316, 502, 503, 504, 505, or 709.

(c) *Claimant.* An individual, partnership, association, corporation, country, State, Commonwealth, territory or a political subdivision thereof, or the District of Columbia, presenting a claim and meeting the conditions set forth in § 536.6. The term does not include the US Government, any of its instrumentalities, except as prescribed by statute, or a State or Commonwealth, or the District of Columbia which maintains the unit to which the Army National Guard personnel causing the injury or damage are assigned. This exclusion does not ordinarily apply to a unit of local government which does not control the Army National Guard organization involved. As a general rule, a claim by a unit of local government other than a State will be entertained unless the item claimed to be damaged or lost was procured or maintained by State funds.

§ 536.141 Scope.

(a) Sections 536.140–536.152 prescribe the substantive bases and special procedural requirements for the settlement of claims against the United States for death, personal injury, or damage to or loss or destruction of property caused by a member of or arising out of the activities of the Army National Guard when:

(1) Engaged in training or duty under title 32, United States Code, sections 316, 502, 503, 504, 505, or any other provision of law for which he is entitled to pay under title 37, United States Code, section 206, or for which he has waived that pay, and acting within the scope of his employment; or otherwise incident to noncombat activities of the Army National Guard under one of those sections. (The foregoing includes a person employed under title 32, United States Code, section 709 if he is engaged at the time in training or duty under the cited sections.)

(2) Caused by a person employed under title 32, United States Code, section 709, acting within the scope of his employment prior to 1 January 1969.

(b) A claimant dissatisfied with an administrative settlement under this chapter as the result of activities of the National Guard of a State or Puerto Rico is not entitled to judicial relief in an action against the United States. Whether he has a right of action against the State, Puerto Rico or the District of Columbia which maintains the Army National Guard unit of which the person who caused the injury or damage was a member depends upon local law. Since Army National Guard personnel of the various States and Puerto Rico are not Federal employees (but see (c), infra) this chapter provides an additional source of recovery (see Maryland for the use of *Levin, Johns, et al.* v. *United States*, 381 U.S.C. 41, 85 S. Ct. 1293, 14 L. Ed. 2d 205 (1965)).

(c) The status of members of the Army National Guard of the various States and Puerto Rico, while engaged in duty or training under Federal law, has been settled by law and by the Federal courts (see 32 U.S.C. 501; 10 U.S.C. 672(d), 3079, 3495, 3499, 3500; *Williams* v. *United States*, 189 F.2d 607 (10th Cir. 1951); Maryland for the use of *Levin, Johns, et al.* v. *United States* (supra)). These cases held that military members of the Army National Guard, not in active Federal service, were not U.S. employees within the meaning of the Federal Tort Claims Act (see 28 U.S.C. 2671–2680). The Levin case also held that civilian (technician) personnel of the Army National Guard, employed under 32 U.S.C. 709, *were not US employees.* However, the status of Army National Guard technicians employed under 32 U.S.C. 709 was changed by Public Law 90–486 (82 Stat. 755), effective *1 January 1969.* On that date they became United States civilian employees, but only as to claims accruing from their acts or omissions on or after the date (see 32 U.S.C. 715, as amended). However, when such employees are at the time performing duty as military members of the Army National Guard under the authority listed in (a) above, claims arising out of their acts or omissions are cognizable under this section only. A savings provision in the amendatory Act retained 32 U.S.C. 715 settlement authority with respect to claims arising out of acts or omissions of such a person before 1 January 1969. Use §§ 536.12 to 536.24, 536.29 or 536.161 to 536.171 as authority for the settlement of any claim that accrued after 31 December 1968, when an Army National Guard technician was performing civilian duties as an employee of the United States under 32 U.S.C. 709, and apply the provisions of this section to any claim that accrued when such a person was performing duty or training as a military member of the Army National Guard.

(d) Claims arising out of activities of the Army National Guard when performing duties at the call of the governor of a State or Puerto Rico maintaining the unit are not cognizable under this section or any other law, regulation or appropriation available to the Army for the payment of claims. Such claims should be returned or referred to the State authorities of the State or Puerto Rico for whatever action they choose to take and claimants should be informed of the return or referral. Care should be taken to determine the status of the unit and member at the time the claims incident occurred, particularly in civil emergencies as units called by the governor are sometimes "federalized" during the call-up. During the period the unit is under State control, the claim will be disposed of as above. However, if the unit was "federalized" at the time the claims incident occurred, the claim will be cognizable under §§ 536.12 to 536.24, 536.29 or 536.161 to 536.171 or other sections pertaining to the Active Army.

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(e) Army National Guard personnel who are performing a Federal function, other than mere training duty, e.g., ferrying aircraft over foreign territory, are considered military personnel of the United States while in a foreign country and claims generated by the activities of such personnel may be settled under the provisions of the Foreign Claims Act (10 U.S.C. 2734) even though such personnel have not been called or ordered to active Federal service. While in the United States, such personnel are not Federal employees so long as not called or ordered to active Federal service. For example, a member of the Army National Guard who delivers military hardware to Canada, at the request and for the benefit of the United States, but who has not been ordered to active duty, is considered a State employee during the United States portion of his trip, but is considered a member of the Armed Forces of the United States for claims purposes while in Canada.

§ 536.142 Claims payable.

(a) *General.* Unless otherwise prescribed, a claim for personal injury, death, or damage to or loss of property, real or personal, as provided in § 536.141, which arose on or after September 13, 1960, is payable under §§ 536.140–536.152 when:

(1) Caused by the act or omission, negligent, wrongful or otherwise involving fault, of Army National Guard personnel acting within the scope of employment, or

(2) Incident to noncombat activities of the Army National Guard while engaged in duty or training under title 32, United States Code, section 316, 502, 503, 504, 505, or 709.

(b) *Death or injury.* Only one claim arises. The amount allowed will, to the extent found practicable, be apportioned as prescribed by the law of the place where the incident occurred.

(c) *Property.* The property for damage or loss of which claims may be settled under §§ 536.140–536.152 includes:

(1) Real property used and occupied: an allowance may be made for the use and occupancy of property arising out of a trespass or other tort, even though claimed as rent;

(2) Personal property bailed to the United States or to the Army National Guard, under an agreement, express or implied, when engaged in training or duty under sections 316, 502, 503, 504, or 505 of Title 32, United States Code, or to a person employed under section 709 of Title 32, United States Code, acting within the scope of his employment, unless the owner has expressly assumed the risk of damage or loss; and

(3) Registered or insured mail in the possession of authorized Army National Guard personnel, even though the loss was caused by a criminal act.

(d) *Noncombat activities.* A claim may be settled under §§ 536.140–536.152 if it arises from authorized activities essentially military in nature, having little parallel in civilian pursuits and which historically have been considered as furnishing a proper basis for payment of claim, such as practice firing of missiles and weapons, training and field exercises, and maneuvers, including, in connection therewith, the operation of aircraft, and vehicles, and use and occupancy of real estate, and movement of combat or other vehicles designed especially for military use. Activities incident to combat, whether in time of war or not, are excluded.

(e) *Advance payments.* Advance payments pursuant to title 10, United States Code, section 2736, in partial settlement of meritorious claims to alleviate immediate hardship are authorized.

§ 536.143 Claims not payable.

A claim is not allowable under §§ 536.140–536.152 which—

(a) Is based upon an act or omission of a member or employee of the Army, the Army National Guard, exercising due care, in the execution of a Federal statute or regulation, whether or not such statute or regulation is valid.

(b) Is based upon the exercise or performance of, or the failure to exercise or perform, a discretionary function or duty on the part of a Federal agency, or a unit of the Army National Guard, or a member or employee of the Army or the Army National Guard, or an employee of a State, whether or not the discretion involved is abused.

(c) Arises in respect of the assessment or collection of any State or Federal tax or customs duty, or the detention of any goods or merchandise by any officer of customs or excise, or any other law enforcement officer.

(d) Is cognizable under the Suits in Admiralty Act (41 Stat. 525, 46 U.S.C. 741–752), or the Public Vessels Act (43 Stat. 1112, 46 U.S.C. 781–790), or is cognizable under § 536.45.

(e) Arises out of an act or omission of any employee of the Government in administering the provisions of the Trading With the Enemy Act (40 Stat. 411, 50 U.S.C. App. 1–31).

(f) Is for damages caused by the imposition or establishment of a quarantine by the United States.

(g) Arises out of an assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights when committed by any military or civilian employee of the Army National Guard while in the scope of his employment occurring before 16 March 1974. However, as to those acts involving assault, battery, false imprisonment, false arrest, malicious prosecution, or abuse of process occurring on or after 16 March 1974 when committed by an investigative or law enforcement official empowered by law to execute searches, to seize evidence or to make arrests for violations of Federal law, this subparagraph is no longer applicable. All claims accruing after 15 March 1974 and sounding under this subparagraph should, following an investigation of the allegations be forwarded to the Chief, US Army Claims Service for consideration and disposition.

(h) Is for damages caused by the fiscal operations of the Army, the Treasury, or by regulation of the monetary system.

(i) Results from action by an enemy or results directly or indirectly from an act of the Armed Forces of the United States in combat, except that a claim may be allowed if it arises from an accident or malfunction incident to the operation of an aircraft of the Armed Forces of the United States including its airborne ordnance, indirectly related to combat, and occurring while preparing for, going to, or returning from a combat mission on or after 26 September 1968.

(j) Arises in a foreign country and was filed with and considered by the authorities of a foreign country and final action taken thereon under Article VIII of the NATO Status of Forces Agreement, Article XVIII of the Japanese Administrative Agreement, or other similar treaty or agreement, if reasonable disposition was made of the claim.

(k) Arises from the activities of the Tennessee Valley Authority.

(l) Arises from the activities of the Panama Canal Company.

(m) Arises from the activities of the Federal Land Bank, a Federal intermediate credit bank, or a bank for cooperatives.

(n) Is for the personal injury or death of a member of the Armed Forces of the United States incurred incident to service (See Feres v. United States, 340 U.S. 135 (1950)).

(o) Is for the personal injury or death of a Government employee for whom benefits are provided by the Federal Employees' Compensation Act (5 U.S.C. 8101–8150).

(p) Is for the personal injury or death of an employee, including nonappropriated fund employees, for whom benefits are provided by the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1424, 33 U.S.C. 901).

(q) Is for the personal injury or death of an employee for whom benefits are provided under any Federal or State workmen's compensation type laws or regulations, including local law or custom, in cases where contribution is made or insurance premiums paid directly or indirectly by the United States on behalf of the injured employee. If, in the opinion of an approving or settlement authority the claim should be considered payable, e.g., the injuries did not result from a normal risk of employment, or adequate compensation is not payable under workmen's compensation laws, the file will be forwarded with recommendations through claims channels to the Chief, US Army Claims Service, who may authorize payment of an appropriate award. The Chief, US Army Claims Service, also may specify that all or any part of any compensation received by the claimant from workmen's compensation sources as above will be deducted from the award to claimant. The claim of an insurance carrier subrogee who has received premiums paid directly or indirectly by the United States on behalf of the injured employee, however, is not payable.

(r) Is for taking of property as by technical trespass, overflight of aircraft, is of a type contemplated by the Fifth Amendment to the United States Constitution, or otherwise constitutes a taking.

(s) Is for damage from or by floods or flood waters at any place. See 33 U.S.C. 702*c*.

(t) Is for damage to property or for any death or personal injury occurring directly or indirectly as a result of the exercise or performance of, or failure to exercise or perform, any function or duty, by any Federal agency or any agent, official, or employee of the Government, in carrying out the provisions of the Federal Civil Defense Act of 1950, during the existence of a state of civil defense emergency, 50 U.S.C. App. 2291–2297.

(u) Results wholly or partly from the negligence or wrongful act of the claimant, his agent, or his employee, or if so cause, allowed only to the extent that the law of the place where the act or omission complained of occurred would permit recovery from a private individual under like circumstances. The law of comparative negligence applies where it is the law of the place of the occurrence.

(v) Is for reimbursement for medical, hospital, or burial expenses furnished at the expense of the States or of any State, territory, or the District of Columbia, the Canal Zone, or Puerto Rico.

(w) Is purely contractual in nature.

(x) Arises from private as distinguished from Government transactions.

(y) Is based solely on compassionate grounds.

(z) Is for patent or copyright infringement. See AR 27–60.

(aa) Is for war trophies or articles intended directly or indirectly for persons other than the claimant or members of his immediate family, such as articles acquired to be disposed of as gifts or for sale to another, voluntarily bailed to the Army National Guard, or is for previous jewels and other articles of extraordinary value voluntarily bailed to the Army National Guard. The preceding sentence is not applicable to claims involving registered or insured mail. No allowance will be made for any item when the evidence indicates that the acquisition, possession, or transportation thereof was in violation of Department of the Army or Army National Guard directives.

(ab) Is for rent, damage, or other payments involving the acquisition, use, possession, or disposition of real property or interests therein by and for the Department of the Army, except as authorized by § 536.142(c)(1). Real estate claims founded upon contract are processed under the provisions of § 552.16 of this chapter.

(ac) Is not in the best interests of the United States, is contrary to public policy, or otherwise contrary to basic intent of the governing statute (32 U.S.C. 715), e.g., claims by inhabitants of unfriendly foreign countries or by individuals considered to be unfriendly to the United States. When a claim is considered to be not payable for the reasons stated in this paragraph, it will be forwarded for appropriate action to the Chief, U.S. Army Claims Service, together with the recommendations of the settlement authority.

§ 536.144 Subrogation.

Subrogated claims will be payable and processed as prescribed in § 536.6.

§ 536.145 Notification of incident.

The adjutant general of the States, territories, the District of Columbia, and Puerto Rico will insure that each incident which may give rise to a claim cognizable under §§ 536.140–536.152 is reported immediately by the most expeditious means to the Army or comparable commander (Attention: Staff Judge Advocate) in whose geographical area the incident occurs, or to a subordinate commander (Attention: Staff Judge Advocate) having a judge advocate assigned to his staff. The report will contain the following information:

(a) Date of incident.

(b) Place of incident.

(c) Nature of incident.

(d) Names and organizations of Army National Guard personnel involved.

(e) Names of potential claimant(s).

(f) A brief description of any damage, loss, or destruction of private property, and any injuries or death of potential claimants.

§ 536.147 Form of claim.

All claims cognizable under §§ 536.140–536.152 will be submitted in triplicate on Standard Form 95 (Claim for Damage or Injury).

§ 536.148 Procedures.

(a) *General.* So far as not inconsistent with §§ 536.140–536.152, the procedures set forth in § 536.1–536.11 of this part will be followed as to a claim under § 536.140–536.152.

(b) *Claims in which there is a State source of recovery.* Where there is a remedy against the State or Puerto Rico as a result of either waiver of sovereign immunity or where there is liability insurance coverage, the following procedures are applicable:

(1) When a vehicle used by the Army National Guard, or a privately owned vehicle operated by a member or employee of the Army National Guard, is involved in an incident, under circumstances which make this chapter applicable to the disposition of administrative claims against the United States and results in personal injury, death, or property damage, and a remedy against the State or its insurer is indicated, the responsible claims supervisory authority will monitor the action against the State or its insurer and encourage direct settlement between the claimant and the State or its insurer. Where the State is insured, direct contact with State or Army National Guard officials rather than the insurer is desirable. Regular procedures will be established and followed wherever possible. Such procedures should be agreed on by both local authorities and the appropriate claims supervisory authorities subject to concurrence by Chief, U.S. Army Claims Service. Such procedures will be designed to insure that local authority and U.S. authorities do not issue conflicting instructions for processing claims and whenever possible and in accordance with governing local and Federal law a mutual arrangement for disposition of such claims as in (3)

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below is worked out. Amounts recovered or recoverable by claimant from any insurer (other than claimant's insurer who has obtained no subrogated interest against the United States) will be deducted from the amount otherwise payable.

(2) If there is a remedy against the State or its insurer, advise the claimant to pursue the remedy against the State and/or the insurer. If the payment by the State or its insurer does not fully compensate claimant, an additional payment may be made under this chapter. If liability is clear and claimant settles with the State or its insurer for less than the maximum amount recoverable, the difference between the maximum amount recoverable from the State or its insurer and the settlement normally will be also deducted from the payment by the United States.

(3) If the State or its insurer desires to pay less than their maximum jurisdiction or policy limit on a basis of 50 percent or more of the actual value of the entire claim, any payment made by the United States must be made directly to the claimant. This can be accomplished by either having the United States pay the entire claim and have the State or its insurer reimburse its portion to the United States, or by having each party pay its agreed share directly to the claimant. If the State or its insurer desires to pay less than 50 percent of the actual value of the claim, the procedure set forth in (4) below will be followed.

(4) If there is a remedy against the State and the State refuses to make payment, or there is insurance coverage and the claimant has filed an administrative claim against the United States, forward file with seven-paragraph memorandum to the Chief, U.S. Army Claims Service, including information as to the status of any judicial or administrative action the claimant has taken against the State or its insurer. The Chief, U.S. Army Claims Service, will determine whether the claimant will be required to exhaust his remedy against the State or its insurer, or whether the claim against the United States can be settled without such requirement. If he determines to follow the latter course of action, he will also determine whether an assignment of the claim against the State or its insurer will be obtained and whether recovery action will be taken. The State or its insurer will be given appropriate notification in accordance with State law necessary to obtain contribution or indemnification.

(c) *Claims in which there is a demand by the claimant against the Army National Guard tortfeasor individually.* The procedures set forth in § 536.9(é) are applicable. However, as an Army National Guard driver acting under the authorities in § 536.141 is not within the provisions of the Driver's Act (28 U.S.C. 2679(b)), and it is thus possible to bring a successful action in a State court, such demands will be closely monitored. If possible, an early determination will be made as to whether any private insurance of the National Guard tortfeasor is applicable. Where such insurance is applicable and the claim against the United States is of doubtful validity, final action will be withheld pending resolution of the demand against the National Guard tortfeasor. If, in the opinion of the claims approving or settlement authority, such insurance is applicable and the claim against the United States is payable in full or in a reduced amount, settlement efforts will be made either together with the insurer or singly by the United States as in (b) above. Any settlement will not include amounts recovered or recoverable as in § 536.9. If the insurance is not applicable, settlement or disapproval action will proceed without further delay.

§ 536.149 When claim must be presented.

(a) A claim may be settled under §§ 536.140–536.152 only if the incident out of which the claim arose occurred on or after September 13, 1960, and is presented in writing within 2 years after it accrues, except that if the claim accrues in time of war or armed conflict or if such war or armed conflict intervenes within 2 years after it accrues, and if good cause is shown, the claim may be presented not later than 2 years after war or armed conflict is terminated.

(b) As used in this section, a war or armed conflict is one in which any armed force of the United States is engaged. The dates of commencement and termination of any armed conflict shall be established by concurrent resolution of Congress or by determination of the President.

§ 536.150 Where claim must be presented.

A claim must be presented to an agency or instrumentality of the Army. However, the statute of limitations is tolled if a claim is filed with another agency of the Government and is forwarded to the Army within 6 months, or if the claimant makes inquiry of the Army concerning his claim within 6 months. Further, the filing of a claim with authorities or personnel of the Army National Guard will not toll the statute of limitations unless the claim is specifically addressed to the US Army. If a claim is received by an official of the Army who is not a claims approving or settlement authority under this regulation, the claim will be transmitted without delay to the nearest approving or settlement authority.

§ 536.151 Property lost or damaged incident to service.

Claims of Army National Guard personnel for personal property lost or damaged incident to federally funded duty or training will be considered under §§ 536.139–536.152 only if they are not payable under title 31 United States Code 241, and are generated by tortfeasors defined in § 536.141, e.g., damage to POV's.

§ 536.151a Claimants excluded.

A national, or a corporation controlled by a national, of a country at war or engaged in armed conflict with the United States, or of any country allied with such enemy country, is excluded as a claimant, unless the settlement authority of the command exercising claims supervisory authority of the area determines that the claimant is and, at the time of the incident, was friendly to the United States. A prisoner of war or an interned enemy alien is not excluded as to a claim for damage to or loss or destruction of personal property in the custody of the Government otherwise payable under §§ 536.140–536.152.

§ 536.151b Claims over $25,000.

Claims cognizable under title 32, United States Code, section 715, and this chapter, which are meritorious in amounts in excess of $25,000 will be forwarded to the Chief US Army Claims Service, who will effectuate a tentative settlement subject to approval by the Secretary of the Army or require the claimant to state the minimum amount he will accept and to provide appropriate justification. Upon completion of the foregoing, the Chief US Army Claims Service, will prepare a memorandum of law with recommendations, and forward the claim to the Secretary of the Army for final action. The Secretary will either disapprove the claim or approve it in whole or in part. If the claim is approved in an amount in excess of $25,000 the claimant may be paid $25,000 after the execution of the settlement agreement in full satisfaction of the claim. The excess will be reported to the Claims Division, General Accounting Office, 441 S. Street N.W. Washington DC, 20548 for payment.

§ 536.151c Settlement procedures.

Approving and settlement authorities will follow the procedures set forth in § 536.7–536.11.

Disapproval of a claim. The disapproval of a claim, in whole or in part, is final unless the claimant appeals in writing. If the claim is in excess of $5,000 the appeal is to the Secretary of the Army. Claims of $5,000 or less which are disapproved at the US Army Claims Service will be appealed to The Judge Advocate General or the Assistant Judge Advocate General. Claims of $5,000 or less which are disapproved by field settlement authorities will be appealed to the Chief, US Army Claims Service. Upon disapproval of a claim, in whole or in part, the settlement authority will notify the claimant by certified or registered mail of the action taken and reason therefor. The letter of notification will inform the claimant that—

(1) He may appeal, and it will indicate the authority to whom the appeal should be addressed.

(2) No form is prescribed for an appeal but it must be forwarded through the authority disapproving the claim.

(3) The ground for appeal should be set forth fully.

(4) The appeal must be submitted within 30 days of receipt by the claimant of notice of action on his claim. An appeal will be considered timely if postmarked within 30 days after receipt by the claimant of such notification. For good cause shown, the Chief, US Army Claims Service, may extend the time for appeal.

§ 536.151d Action on appeal.

(a) Upon receipt, the appeal will be examined by the settlement authority and after any action deemed necessary it will be forwarded with the related file and a seven-paragraph memorandum of opinion to the Chief, US Army Claims Service, Fort Meade, MD 20755. If the evidence in the file, including information submitted by the claimant with the appeal, indicates that the appeal should be sustained, it may be treated as a request for reconsideration under § 536.152 and the processing of the appeal may be delayed pending the outcome of further efforts by the settlement authority to settle the claim. The Judge Advocate General, the Assistant Judge Advocate General, or the Chief, US Army Claims Service, may take similar action in appropriate cases.

(b) As to an appeal which will be acted on by The Judge Advocate General, the Assistant Judge Advocate General, or the Secretary of the Army, the Chief, US Army Claims Service, will forward the claim together with his recommendation for action. The appeal will be sustained or denied. All matters submitted by the claimant will be forwarded and considered.

(c) Since an appeal under this authority is not an adversary proceeding, no form of hearing is authorized; however, the Claimant should be afforded a reasonable period of time, upon request, to obtain and submit any additional evidence or written argument for consideration by the appellate authority.

§ 536.152 Reconsideration.

(a) An approving or settlement authority may reconsider a claim upon request of the claimant or someone acting in his behalf. In the absence of such a request, an approving or settlement authority may on his own initiative reconsider a claim. He may reconsider a claim which he previously disapproved in whole or in part (even though a settlement agreement has been executed), when it appears that his original action was incorrect in law or fact based on the evidence of record at the time of the action or subsequently received. If he determines that his original action was incorrect, he will modify the action and, if appropriate, make a supplemental payment. The basis for a change in action will be stated in a memorandum included in the file.

(b) A successor supervisory or settlement authority may also reconsider the original action on a claim but only on the basis of fraud or collusion, new and material evidence, or manifest error of fact such as errors in calculation or factual misinterpretation of applicable law.

(c) A request for reconsideration should indicate fully the legal or factual basis asserted as grounds for relief. Following completion of any investigation or other action deemed necessary for an informed disposition of the request, the approving or settlement authority will reconsider the claim and attempt to settle it by granting such relief as may appear warranted. When further settlement efforts appear unwarranted, the entire file with a memorandum of opinion will be forwarded through claims channels to the Chief, U.S. Army Claims Service, Office of The Judge Advocate General, Fort Meade, MD 20755, and the claimant informed of such reference.

Claims Incident to Use of Government Vehicles and Other Property of the United States Not Cognizable Under Other Law

§ 536.161 Statutory authority.

The statutory authority for §§ 536.161–536.171 is contained in the act of October 9, 1962 (76 Stat. 767, 10 U.S.C. 2737), commonly known as the "Non-Scope of Employment Claims Act."

§ 536.162 Definitions.

The definitions of terms set forth in § 536.3 of this part are applicable to §§ 536.161–536.171 unless otherwise defined herein:

(a) *Government installation.* A U.S. Government facility having fixed boundaries owned or controlled by the Government.

(b) *Vehicle.* Includes every description of carriage or other artificial contrivance used, or capable of being used, as a means of transportation on land (1 U.S.C. 4).

§ 536.163 Scope.

Sections 536.161–536.171 have been approved by the Secretary of Defense pursuant to title 10, United States Code, section 2737(h), and prescribes the substantive bases and special procedural requirements for the administrative settlement and payment, in an amount not more than $1,000, of any claim against the United States not cognizable under any other provision of law for damage to, or loss of, property, or for personal injury or death, caused by a member of the Army or a civilian official or employee of the Department of the Army, or of the Army, incident to the use of a vehicle of the United States at any place incident to the use of other property of the United States on a Government installation.

§ 536.164 Claims payable.

(a) *General.* A claim for personal injury, death, or damage to or loss of property, real or personal, is payable under §§ 536.161–536.171 when—

(1) Caused by the act or omission, negligent, wrongful, or otherwise involving fault, of a member of the Army, or the Army National Guard, or a civilian employee of the Department of the Army, the Army, or the Army National Guard—

(i) Incident to the use of a vehicle of the United States at any place.

(ii) Incident to the use of any other property of the United States on a Government installation.

(2) The claim may not be approved under any other claims statute and claims regulation available to the Department of the Army for the administrative settlement of claims.

(3) The claim has been determined to be meritorious, and the approving or settlement authority has obtained a settlement agreement in an amount not in excess of $1,000 in full satisfaction of the claim prior to approval of the claim for payment.

(b) *Personal injury or death.* A claim for personal injury or death is allowable only for the cost of reasonable medical, hospital, and burial expenses actually

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incurred and not otherwise furnished or paid by the United States.

§ 536.165 Claims not payable.

A claim is not allowable under §§ 536.161–536.170 which:

(a) Is cognizable under any other provision of law administered by the military departments or regulations of the Department of the Army.

(b) Results wholly or partly from the negligent or wrongful act of the claimant, his agent, or his employee. The doctrine of comparative negligence is not applicable.

(c) Is for medical, hospital, and burial expenses furnished or paid by the United States.

(d) Is for any element or damage pertaining to personal injuries or death other than provided in § 536.164(b). All other items of damage, for example, compensation for loss of earnings and services, diminution of earning capacity, anticipated medical expenses, physical disfigurement, and pain and suffering are not payable.

(e) Is legally recoverable by the claimant under an indemnifying law or indemnity contract. If the claim is legally recoverable in part, that part recoverable by the claimant is not payable.

(f) Is a subrogated claim.

§ 536.166 When claim must be presented.

A claim may be settled under §§ 536.161–536.170 only if the claim is presented in writing within 2 years after it accrues.

§ 536.167 Procedures.

So far as not inconsistent with this regulation the procedures for the investigation and processing of claims contained in §§ 536.1–536.11 will be followed.

§ 536.168 Settlement agreement.

No claim is payable under §§ 536.161–536.170 unless a settlement agreement has been obtained from the claimant accepting the amount determined to be meritorious in full satisfaction of any claim against the United States arising out of the incident.

§ 536.170 Reconsideration.

The settlement of a claim under 10 U.S.C. 2737 is final and conclusive. However, a claimant who is dissatisfied with the decision on his claim may request that it be reconsidered. A request for reconsideration should be directed to the official who acted on the claim and should indicate fully the legal or factual basis asserted as grounds for relief.

§ 536.171 Claims over $1,000.

A claim presented in an amount over $1,000 which the claimant declines to settle for an amount not in excess of $1,000 under §§ 536.161–536.171 will be forwarded with the related file and a seven-paragraph memorandum of opinion to the Chief, U.S. Army Claims Service, Office of The Judge Advocate General, Fort Meade, MD 20755.

[FR Doc. 80-2599 Filed 1-28-80; 8:45 am]

BILLING CODE 3710-08-M

32 CFR Part 630

[AR 190-9]

Military Absentee and Deserter Apprehension

AGENCY: Department of the Army, DOD.

ACTION: Interim rule and request for comments.

SUMMARY: The Department of the Army provisions relating to enlisted men absent without leave, deserters, and escaped military prisoners have been revised and incorporated in a new Part 630. A review of the regulation (codified at 32 CFR 536.30 through 536.35 before the revision of Part 536 published elsewhere in this issue) revealed a need to update information to support approved parts of joint-service plan for a deserter apprehension program.

DATES: Effective date: February 1, 1980.

Comment date: Comments must be received on or before March 28, 1980.

ADDRESS: Send comments to HQDA (DAPE–HRE), Washington, DC 20310.

FOR FURTHER INFORMATION CONTACT: Colonel Thomas A. Mac Donnell, GS, Chief, Law Enforcement Division, HQDA (DAPE–HRE), Washington, DC 20310, (202) 695–5662.

SUPPLEMENTARY INFORMATION: The other military services have similar implementing directives for their absentees and deserters.

Dated: January 2, 1980.

Thomas A. Mac Donnell,

Colonel, GS, Chief, Law Enforcement Division.

Accordingly, the Army amends 32 CFR Chapter V by adding a new Part 630 to read as follows:

PART 630—MILITARY ABSENTEE AND DESERTER APPREHENSION

Sec.

630.1 Policy.
630.2 Civil detention facilities.
630.3 Payment of reward or reimbursement for actual expenses.
630.4 Detainer.

Authority: 10 U.S.C. 801 through 940; Manual for Courts-Martial, U.S. 1969 (Revised Edition) as amended; (Sec. 709, Pub. L. 96–154, Defense Appropriation Act).

§ 630.1 Policy.

(a) Military law enforcement officials may communicate directly with other military or civilian law enforcement authorities to expedite returning deserters to military control under the provisions of (Chapter 3, Army Regulation (AR) 190–9) and to insure proper use of the National Crime Information Center (NCIC) in accordance with AR 190–27.

(b) *Authority to apprehend in the United States.* (1) Any civil officer having authority to apprehend offenders under the laws of the United States, or of a State, Territory, Commonwealth, possession, or the District of Columbia, may summarily apprehend deserters from the US Armed Forces and deliver them into the custody of military officials. Receipt of Department of Defense (DD) Form 553 (Absentee Wanted by the Armed Forces) and a corresponding Army entry in the Federal Bureau of Investigation's (FBI) NCIC Wanted Person File, an Army entry in NCIC standing alone, or oral notification from military or Federal law enforcement officials that the person to be apprehended has been declared a deserter and that his/her return to military control is desired, constitutes a request for civilian apprehension support.

(2) Civil law enforcement authorities may apprehend absentees (AWOL's—absent without leave) when requested to do so by military authorities.

(3) Any person authorized under regulations governing the armed forces to apprehend persons subject to the Uniform Code of Military Justice (UCMJ) or to trial thereunder may do so upon reasonable belief that an offense has been committed and that the person to be apprehended committed it. Authority to apprehend military absentees and deserters is not restricted to the confines of military installations or activities.

(c) *Apprehension of absentees and deserters who claim sanctuary.* (1) In cases where a number of offenders are involved, some of whom are absent without leave (AWOL) and some deserters (dropped from rolls—DFR), responsibility remains with the military services. However, maximum cooperation will be solicited from local or State civil law enforcement authorities. The FBI will not be requested to support the apprehension action. If local or State civil law enforcement authorities decline to support apprehension, all facts will be reported to HQDA (DAPE–HRE), Washington, DC 20310, via priority message and acknowledged before apprehension is attempted by military personnel.

(2) In cases where all persons involved are deserters and FBI was furnished notice of desertion under aggravated circumstances by United States Army Deserter Information Point (USADIP) and/or the other military services, the FBI will assume jurisdiction and effect apprehension.

(3) Final responsibility for apprehension of military absentees and deserters rests with military authorities.

(d) Absentees and deserters normally may be delivered for processing to the nearest major military installation (excluding, under normal circumstances, separate medical installations) manned by active duty personnel.

(1) Commanders will accept custody and transfer such individuals to an organization or installation designated to administer returning absentees and deserters. Exception:

(i) Army personnel returned to military custody within Military District of Washington (MDW) (excluding MDW personnel) will be delivered to Fort George G. Meade, Maryland, for further administrative processing in accordance with AR 630–10.

(ii) Absentees and deserters from other services will be transferred to an installation of their service.

(2) Any further disposition of returned Army personnel to specific units will comply with AR 630–10 or AR 600–62 as directed by HQDA and/or in the best interests of the Army as judged by the installation commander.

(3) Personnel Control Facility (PCF) commanders are responsible for supervising and coordinating processing and disposition of Army members confined by civilian authorities. The commander, law enforcement activity, area provost marshal or security officer and PCF commanders will coordinate closely to ensure the status of Army members in hands of civilian authorities is monitored.

(e) Military police terminate ongoing military and civil police (including FBI) apprehension efforts in accordance with paragraph 3–3 of AR 190–9 when an Army member is returned to military custody or when located in civilian custody.

(f) Every practical effort will be made to apprehend absentees and deserters as expeditiously as possible. To achieve this:

(1) Commander, law enforcement activity, installation provost marshal, or security officer will vigorously investigate the facts and circumstances surrounding absences, initiate local apprehension actions, and expedite notification procedures.

(2) New information on the whereabouts of absentees or deserters will be given to the installation provost marshal. The provost marshal will notify military or civilian authorities requesting their assistance returning the member to military control.

(3) The commander, law enforcement activity, provost marshal or security officer will establish and maintain liaison and coordination with military and civil law enforcement authorities. Provost marshals will encourage active efforts by civil authorities returning absentees and deserters to military control.

(4) Commanders will publicize apprehension programs to deter potential absentees. Absentee prevention is discussed in Department of the Army (DA) Pamphlet 600–14.

(5) Headquarters, Department of the Army, will jointly evaluate results of the deserter apprehension program, with the other military services, Defense Investigative Service, Defense General Counsel, and Office Assistance Secretary of Defense (Manpower, Reserve Affairs and Logistics) and recommend necessary changes. Meetings will be held annually, hosted in order of service seniority, beginning calendar year (CY) 1980. The host service will keep minutes and provide them to agencies taking part.

(g) Joint-service cooperation returning absentees and deserters to service control is encouraged. If appropriate, Interservice Support Agreements (ISSA) may be developed at the local command level to facilitate joint-service efforts. These arrangements should coincide with existing operational functions of a military service. These arrangements should not create a new function (e.g., Armed Forces Police Detachments), requiring excessive overhead support. (Forward copies of ISSAs covering apprehension support to HQDA (DAPE–HRE), Washington, DC 20310.)

(h) Upon publication of AR 190–9, US Army will authorize use of the DD Form 553 (Absentee Wanted by the Armed Forces) and DD Form 616 (Report of Return of Absentee) when current supplies of the related DA Forms 3835 and 3836 are exhausted.

§ 630.2 Civil detention facilities.

(a) Use of civil detention facilities.

(1) When necessary, civil detention facilities may be temporarily used to detain absentees, deserters, or escaped military prisoners. Contracts providing for payment only of actual costs incident to detention may be made with State or county jails that have been approved by the Bureau of Prisons, Department of Justice. Obtain information about approved facilities from the nearest United States Marshal.

(2) The Defense Acquisition Regulation and the Army Procurement Procedures will govern these contracts.

(3) Contracts will contain the standards of treatment of military prisoners set forth in AR 190–47.

(4) Military detainees will receive the same standard of care that they would receive in a military or Federal institution. No cruel or unusual punishment will be permitted.

(5) If institution officials think that a military detainee cannot be restrained by reasonable methods, or if the detainee escapes, they should report this information promptly to military authorities with whom they have a contract.

(b) Costs of detention in civil detention facilities.

(1) Civil authorities may be reimbursed according to contracts for temporary detention after military authorities have assumed custody. This does not authorize payment for subsistence and detention for the same period for which the reward was authorized. It does authorize payment from the date further detention was requested. This does not preclude the payment of reward or reimbursement for reasonable expenses for periods before delivery to military custody. Detained officers receiving basic allowance for subsistence (BAS) will be charged the cost of subsistence.

(2) Costs incurred by Army authorities for detention under an Army contract will be paid to the civil detention facilities. Any reimbursement to Army by the other services will be by prior agreement between the commanders concerned.

§ 630.3 Payment of reward or reimbursement for actual expenses.

(a) *Payment.* Payment of a reward or reimbursement for actual expenses to officials or agencies taking part in the Army apprehension program is authorized as indicated below:

(1) Payment of a reward ($75) for apprehension or acceptance of surrender of a military offender and delivering him/her to a military installation which has facilities to receive and process offenders.

(2) Payment of a reward ($50) for apprehension or acceptance of surrender of a military offender and detaining him/her in civil custody until military officials assume custody.

(3) Reimbursement for actual expenses, not to exceed $75 in any one case, in lieu of reward, or when

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conditions for payment of reward cannot be met.

(b) *Offer of reward.* Payment is authorized when a reward has been offered. Notification before apprehension or surrender, that individual is wanted by the Armed Forces, shall constitute an offer of reward. The notice may be oral or written, from a military or Federal law enforcement official, or it may be an NCIC check as described on DD Form 553.

(c) *Reimbursement option.* Reimbursement for actual expenses is authorized when:

(1) Reward has not been offered.

(2) Reimbursement is requested in lieu of reward.

(d) *To whom payable.* Payment of reward or reimbursement for actual expenses is payable to any eligible person or agency performing the service. Foreign nationals are eligible when participation is within the meaning and intent of Chapter 5 of AR 190–8.

(e) *To whom not payable.* A reward or reimbursement is not authorized to armed service members, salaried officers or employees of the Federal Government, or to lawyers on whose advice an offender surrenders.

(f) *Dual payment.* Dual payment (both reward and reimbursement) relating to one offense is prohibited.

(g) *Reward payment.* A reward will be made to one person or agency who detains or delivers the offender to military custody. The finance and accounting officer designating by the major Army commander concerned will pay the claimant. If two or more persons are entitled to reward, the payee may divide the payment among participants. Payment for apprehension effected jointly by an eligible and ineligible person or agency may be claimed by the eligible person/agency. Ineligible persons may not share in payments.

(h) *Reimbursement payment.* Reimbursement of actual expenses may be made to more than one eligible person or agency. However, total reimbursement for return to military control of an offender may not exceed $75 for each occurrence.

(i) *Official transportation/personal services.* Payment will not be made for:

(1) Transportation performed by official vehicle.

(2) Personal services of the claimant.

(3) Apprehension and detention not followed by return to military custody.

(j) *Documentation.* Payment of reward or reimbursement for expenses will be made by processing Standard Form 1034 (Public Voucher for Purchase and Services Other Than Personal). The following information and documentation will be shown on SF 1034 or supporting documents:

(1) Name, social security number, and station of military offender (DD Form 553 or 616).

(2) Date, place of arrest, and place of delivery to military custody (DD Form 616).

(3) Signed statement by claimant that he/she, or agency he/she represents, qualifies for payment of reward (SF1034 item).

(4) Signed statement by responsible military authority that:

(i) Delivery was made to a military installation with facilities to receive and process offenders (DA Form 4187).

(ii) Military custody was assumed away from a regular military installation.

(5) Reimbursement for expenses in lieu of reward will be made as above; except that statement in paragraph (j)(3) of this section is not required. An itemized list of actual expenses incurred by claimant is required. Items may include any reasonable expense deemed justifiable and reimbursable by certifying officer.

(6) Supporting Army forms referenced in paragraphs (j)(1), (2), (3) and (4) of this section will be furnished claimants to support payment.

§ 630.4 Detainer.

(a) *General.* (1) A detainer should be placed whenever an Army member is being held for further disposition by civilian authorities. Military police or other military authorities may initiate detainees. When a detainer was placed and the subject's return to military custody is no longer desired (e.g., discharged), the detainers must be removed promptly on behalf of the commander. The purpose of filing a detainer is to—

(i) Officially advise civil authorities that a member of the Army is in their custody, and that military authorities want to assume custody on his/her release.

(ii) Request that military authorities be kept advised of further disposition by civil authority.

(iii) Permit military authorities to monitor the member's military status while he/she remains in civil custody.

(2) When military police file a detainer with civil authorities, a copy of the detainer will be given immediately, to the appropriate installation coordinating agent. The coordinating agent will—

(i) Monitor the member's military status in accordance with AR 630–10 and AR 600–62.

(ii) Monitor subsequent movement and personnel actions of the detained person.

(iii) Advise military police, including USADIP, to cease all apprehension actions.

(iv) Designate a commander to monitor the detention. The commander will assume custody when the member is released by civil authorities; and will complete any necessary personnel actions while the member is in civil custody.

(v) Notify, in accordance with AR 630–10, the commander of the unit from which the member is absent.

(vi) Arrange return to a military installation when release by civil authorities is imminent.

(vii) Advise civil authorities in writing when the member's military status changes and/or when the member's return to military custody is no longer desired, stating the reasons.

(3) Detainers will be cancelled when the member is released to military custody; however, if civil authorities specifically request official notification, the installation coordinating agent will comply with paragraph (a)(2)(vii) of this section.

(b) *Detainer forms.* The detainer format (Figure 1) may be reproduced locally and completed in pen and ink when necessary. A copy must be furnished to the installation or area coordinating agent for appropriate action in accordance with AR 630–10.

Letterhead

Office Symbol

Subject: Army Member Detained by Civil Authorities.

To: Civil agency detaining the Army member.

1. This is to advise you that the individual identified below is a member of the U.S. Army and that military authorities desire to take custody on release from your jurisdiction.

Grade, Name, SSN _____

Unit _____

Appropriate military authorities were advised of subject's detention as follows:

Date Detained _____

Reason _____

Probable Release Date _____

Other _____

2. The military authority indicated below will coordinate the member's return to military custody; monitor military status while in your custody; and advise you of any change in military status which would negate the requirement for return to military custody.

Coordinating agent _____

Address _____

Telephone No. _____

Other military point of contact:

_____phone _____.

3. Request notification of release sufficiently in advance to permit coordination of military pick-up. Notification may be in writing or by telephone, collect if necessary. Phone number _____.

4. The Department of the Army gratefully acknowledges your cooperation in this matter.

_____

_____

_____

Copies furnished:

Local Reproduction Authorized.

Figure 1

[FR Doc 80-3606 Filed 1-28-80; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1398-2]

Approval and Promulgation of State Implementation Plans; Arkansas Plan for Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The purpose of this notice is to approve portions of the State Implementation Plan (SIP) revisions for Arkansas. These revisions were submitted by the Governor on April 18, 1979, pursuant to the requirements of Part D of Title I of the Clean Air Act, as amended in 1977, with regard to nonattainment areas. In addition, EPA is taking final action to conditionally approve certain elements of the Arkansas SIP revisions. These elements contain minor deficiencies which the State has agreed to correct by a specified deadline. This deadline has been changed from what was proposed in EPA's July 31, 1979 notice of proposed rulemaking on the Arkansas SIP (44 FR 44904). This deadline, by which conditions must be met, is being promulgated without prior notice and comment. EPA finds that for good cause, notice and comment on this deadline is unnecessary since the promulgated date differs by only 18 days from the proposed date.[1]

The State is the party responsible for meeting the deadline and the State has agreed to the deadline. In addition, the public has had an opportunity to comment generally on the concept of conditional approval and on what deadline should apply for these conditions (44 FR 38583, July 2, 1979).

[1] See 5 U.S.C. Section 553(b)(B) of the Administrative Procedures Act. Further opportunity to comment, specifically for the Arkansas Plan for Nonattainment Areas, was invited in the proposed rulemaking (44 FR 44904, July 31, 1979).

In this notice, issues resulting in SIP approval and conditional approval are discussed. It should be noted that only the requirements with respect to Part D of the Act are addressed under this notice.

EFFECTIVE DATE: Effective January 29, 1980.

EPA finds that good cause exists for making this action immediately effective, for the following reasons: (1) Implementation plans are already in effect under State law and EPA approval imposes no additional regulatory burden; (2) EPA has a responsibility under the Act to take final action on the portion of the SIP which addresses Part D requirements by July 1, 1979, or as soon thereafter as possible.

FOR FURTHER INFORMATION: Jerry M. Stubberfield, Chief, Implementation Plan Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2742.

SUPPLEMENTARY INFORMATION:

Introduction

On July 31, 1979 (at 44 FR 44904), EPA published a notice of proposed rulemaking on revisions to the Arkansas State Implementation Plan (SIP). Under that notice the Agency discussed the SIP in detail and outlined the deficiencies of the SIP pursuant to Part D of the Act and the General Preamble, which was published in the April 4, 1979 issue of the **Federal Register** (at 44 FR 20372) and supplemented on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

In response to that notice, the State committed to correct the deficiencies.

EPA is taking final action to conditionally approve certain elements of the Arkansas plan. A discussion of conditional approval and its practical effect appears in supplements to the General Preamble, 44 FR 38583 (July 2, 1979) and 44 FR 67182 (November 23, 1979). The conditional approval requires the State to submit additional materials by the deadlines specified in today's notice. There will be no extensions of conditional approval deadlines which are being promulgated today. EPA will follow the procedures described below when determining if the State has satisfied the conditions.

1. If the State submits the required additional documentation according to schedule, EPA will publish a notice in the **Federal Register** announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submission.

2. EPA will evaluate the State's submission to determine if the condition is fully met. After review is complete, a **Federal Register** notice will be published proposing or taking final action either to find the condition has been met and approve the plan, or to find the condition has not been met, withdraw the conditional approval and disapprove the plan. If the plan is disapproved the Section 110(a)(2)(I) restrictions on construction will be in effect; certain funds may also be withheld, conditioned or restricted if the plan is disapproved. See CAA § 316(b).

3. If the State fails to timely submit the required materials needed to meet a condition, EPA will publish a **Federal Register** notice shortly after the expiration of the time limit for submission. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved and Section 110(a)(2)(I) restrictions on growth are in effect. The deadline for satisfying conditions is being promulgated today without prior notice and comment. EPA finds that for good cause notice and comment on this deadline is unnecessary due to the difference of only 18 days between the submission date proposed and that being promulgated today.

The remainder of today's notice briefly summarizes the actions proposed in EPA's July 31, 1979 notice, discusses the corrective action either taken or committed to by the State, and EPA's resulting action on the SIP. Where possible, the format of this notice follows that of the notice of proposed rulemaking, and reference is made to indicate such.

Background

In the March 3, 1978 **Federal Register** at 43 FR 8969, EPA identified Pulaski County, Arkansas as a nonattainment area for photochemical oxidants (ozone) in accordance with Section 107 of the Act. The Governor of Arkansas, after adequate notice and public hearing submitted revisions to Arkansas' SIP on April 4, 1979.

The Arkansas SIP predicts attainment of the ozone standard not later than December 31, 1982 with implementation of the Federal Motor Vehicle Control Program (FMVCP) and reductions achieved through the application of reasonably available control technology (RACT) to existing stationary sources covered by Control Technique Guidelines (CTGs) as published by EPA.

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The plan also commits to reasonable further progress (RFP) towards attainment.

The 1982 emissions projections provide a growth rate for area and mobile sources. The plan points out however, that for major sources (i.e., sources having potential emissions of volatile organic compounds greater than 100 tons per year) a growth rate of 1.0 is assumed. The State has committed to adopt additional VOC control measures for sources covered by CTGs published after January 1, 1978, and has also committed to adopt regulations for source categories not included on EPA's CTG lists, but for which Arkansas determines that RACT exist.

Since an extension of the attainment deadline beyond December 1982 is not required it is not mandatory for the ozone strategy to include provisions for the development of a vehicle emissions inspection and maintenance program. However, the State has acknowledged the potential for additional reductions due to an inspection and maintenance plan, and other transportation controls and has included a commitment in the SIP to perform a feasibility study of available transportation control measures.

Although EPA is not disapproving Regulation 4.2 because it exempts methyl chloroform (1,1,1 trichloroethane) and methylene chloride, the Agency is concerned about the environmental risks associated with their wide scale substitution and uncontrolled use as a means of compliance.

These VOCs, while not appreciably affecting ambient ozone levels, are potentially harmful. Both methyl chloroform and methylene chloride have been identified as mutagenic in bacterial and mammalian cell test systems, a circumstance which raises the possibility of human mutagenicity and/or carcinogenicity.

Furthermore, methyl chloroform is considered one of the slower reacting VOCs which eventually migrates to the stratosphere where it is suspected of contributing to the depletion of the ozone layer. Since stratosphere ozone is the principal absorber of ultraviolet light (UV), the depletion could lead to an increase of UV penetration resulting in a worldwide increase in skin cancer.

With the exemption of these compounds, some sources, particularly degreasers, will be encouraged to utilize methyl chloroform in place of other more photochemically reactive degreasing solvents. Such substitution has already resulted in the use of methyl chloroform in amounts far exceeding that of other solvents. Endorsing the use of methyl choloroform by exemption in the SIP can only further aggravate the problem by increasing the emissions produced by existing primary degreasers and other sources.

The Agency is concerned that the State has chosen this course of action without full consideration of the total environmental and health implications. The Agency does not intend to disapprove the State SIP submittal if, after due consideration, the State chooses to maintain these exemptions. However, we are concerned that this policy not be interpreted as encouraging the increased use of these compounds nor compliance by substitution. The Agency does not endorse such approaches. Further, State officials and sources should be advised that there is a strong possibility of future regulatory action to control these compounds. Sources which choose to comply by substitution may well be required to install control systems as a consequence of these future regulatory actions.

Public Comments on Proposal

There were no comments specific to the Arkansas SIP. Two commentors submitted extensive comments which they requested be considered as part of the record for each state plan. Although many of these comments are not relevant to the Arkansas plan, EPA has placed its response to those comments in the Regional Office docket and in the Public Information Reference Unit in Washington, D.C. This response also is included in EPA's final action on the Louisiana SIP, which is being published at approximately the same time as this action.

SIP Deficiencies/Conditional Approval

In the July 31, 1979 notice of proposed rulemaking, EPA identified certain deficiencies which the State has agreed to correct in the following manner:

1. The State did not submit regulations representing RACT for all source categories for which EPA had previously issued control technology guidelines (CTG). EPA proposed to approve this portion of the plan provided that the agency certify that those specific source categories of VOC to which CTG's apply do not exist in Pulaski County. On August 14, 1979, the Governor submitted certification that no major sources for the following source categories exist within Pulaski county: large appliance manufacture, magnet wire insulation, metal furniture manufacture, degreasing, petroleum refinery vacuum producing systems, waste water separators and process unit turnaround, surface coating of cans, coils, paper, fabric, automobiles and light-duty trucks. EPA considers the Arkansas "Regulations for the Control of Volatile Organic Compounds" and the Governor's certification to be sufficient in meeting the requirements of Section 172(b)(2) of the Act.

2. The State did not establish a final compliance date for all applicable stationary sources of VOC. EPA proposed to conditionally approve the Arkansas regulation provided that the regulation was amended to include a final compliance date which would demonstrate attainment as expeditiously as practicable and be submitted to EPA by November 27, 1979. On November 7, 1979 the Arkansas agency modified, through Public Hearing, the compliance schedule regulation. The State agency has however, requested an extension of the submission date until December 15, 1979. EPA considers the 18 day extension a reasonable request and is therefore promulgating the new date of December 15, 1979, for submission of a final compliance date.

3. Within the Arkansas permit requirements the definition of lowest achievable emission rate (LAER) is inconsistent with the definition of LAER contained in Section 171(3) of the Act. EPA proposed to conditionally approve the Arkansas permit regulations provided the State modify the definition of LAER to be consistent with that contained in the Act and submit the modification by November 27, 1979. The Arkansas agency modified the definition of LAER at the November 7, 1979 public hearing and has also requested an extension of the submission date until December 15, 1979 for submission of the revised definition for LAER. EPA considers this extension a reasonable request and is therefore promulgating the date of December 15, 1979 for submission of the revised definition for LAER.

On December 10, 1979, the Governor submitted revisions to these regulations in accordance with this schedule. EPA is presently reviewing this submission. The conditional approval of this portion of the SIP will continue in effect pending EPA's final action regarding this matter.

Attainment Dates

The 1978 edition of 40 CFR Part 52 lists in the subpart for Arkansas (Subpart E) the applicable deadlines for attaining ambient standards (attainment dates) required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides for attainment by the deadlines required by Section 172(a) of the Act, the new deadlines are substituted on Arkansas attainment date chart in 40 CFR Part 52. The earlier attainment dates under Section 110(a)(2)(A) will be referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as with the new Section 172 plan requirements.

Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. These new deadlines were not intended to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

> Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear congressional intent to construe part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under part D.
>
> (123 Cong. Rec. H 11958, daily ed. November 1, 1977)

To implement Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. EPA cannot approve such compliance date extensions even though a Section 172 plan revision with a later attainment date has been approved. However, a compliance date extension beyond a pre-existing attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment.[2]

In addition, sources subject to pre-existing plan requirements may be relieved of complying with such requirements only if a Section 172 plan imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations. Decisions on the incompatibility of requirements will be made on a case-by-case basis.

[2] See General Preamble for Proposed Rulemaking, 44 FR 20373-74 (April 4, 1979).

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This Notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: January 17, 1980.

Douglas M. Costle,

Administrator.

Subpart E—Arkansas

1. In Section 52.170, paragraph (c) subparagraphs (7) and (8) are added as follows:

§ 52.170 Identification of plan.

* * * * *

(c) * * *

(7) On April 4, 1979, the Governor submitted the nonattainment area plan for the area designated nonattainment as of March 3, 1978.

(8) On August 14, 1979, the Governor submitted supplemental information clarifying the plan.

§ 52.171 [Amended]

2. Section 52.171 is amended by changing the heading "Photochemical oxidants (hydrocarbon)" to "ozone".

3. Section 52.172 is revised to read as follows:

§ 52.172 Approval status.

With the exceptions set forth in this subpart, the Administrator approves Arkansas' plan for the attainment and maintenance of the national standards under Section 110 of the Clean Air Act. Further, the Administrator finds that the plan satisfies all requirements of Part D of the Clean Air Act, as amended in 1977, except as noted below.

4. A new section, § 52.173 is added. This addition reads as follows:

§ 52.173 Extensions.

(a) The Administrator hereby extends to December 31, 1982, the attainment date for ozone in Pulaski county.

5. A new section, § 52.174 is added. This addition reads as follows:

§ 52.174 Compliance schedules.

(a) Part D Conditional Approval—The Arkansas Plan specific to attainment of the ozone standard in Pulaski county is conditionally approved until the following condition is satisfied:

(1) Regulation 4.5(a) of the "Regulations for the Control of Volatile Organic Compounds" is revised to include a final compliance date adequate to demonstrate attainment as expeditiously as practicable and such revision is submitted to EPA by December 15, 1979.

6. Section 52.176 is revised as follows:

§ 52.176 Attainment dates for national standards.

The following table presents the latest dates by which the national standards are to be attained. These dates reflect the information presented in Arkansas' plan, except where noted.

Air quality control region	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Ozone
	Primary	Secondary	Primary	Secondary			
Central Arkansas Intrastate:							
a. Pulaski County	a	a	c	c	c	c	d
b. Remainder of AQCR	a	a	c	c	c	c	c
Metropolitan Fort Smith Interstate	b	a	c	c	c	c	c
Metropolitan Memphis Interstate	a	a	c	c	c	c	a
Monroe (Louisiana)-El Dorado (Arkansas) Interstate	b	a	c	c	c	c	c
Northeast Arkansas Intrastate	c	c	c	c	c	c	c
Northwest Arkansas Intrastate	c	c	c	c	c	c	c
Shreveport-Texarkana-Tyler Interstate	b	a	c	c	c	c	c

a. July 1975.
b. Air quality levels presently below primary standards.
c. Air quality levels presently below secondary standards.
d. December 31, 1982.

NOTE.—Dates or footnotes which are italicized are prescribed by the Administrator because the plan did not provide a specific date or the date provided was not acceptable.

NOTE.—Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) of the Act prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadline. The earlier attainment dates are set out at 40 CFR 52.176 (1979).

7. In § 52.177 paragraphs (a) and (b) are revoked and a new paragraph (a) is added. As revised § 52.177 reads as follows:

§ 52.177 Review of new sources and modifications.

(a) *Part D Conditional Approval*—The Arkansas Plan, specific to attainment of the ozone standard in Pulaski county is conditionally approved until the following condition is satisfied:

(1) The State of Arkansas modify and submit to EPA a definition for lowest achievable emission rate (LAER) consistent with the definition contained in Section 171(3) of the Act by December 15, 1979.

[FR Doc. 80-3283 Filed 1-28-80; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Parts 52 and 81

[FRL 1400-5]

Air Programs, South Carolina: Approval of Plan Revisions; Redesignation of Rock Hill, S.C. Carbon Monoxide Nonattainment Area

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today announces its approval of portions of the implementation plan revisions which the South Carolina Department of Health and Environmental Control (DHEC), Bureau of Air Quality Control, submitted pursuant to the requirements of Part D of Title I of the Clean Air Act as amended in 1977 (CAA), with regard to nonattainment areas. Full approval is given to the Columbia carbon monoxide plan. Conditional approval is given to the plan to attain the ozone standards in the Charleston and Columbia areas, and York County, and the plans to attain the primary particulate standards in Charleston and Georgetown. Portions of the State's 1979 revisions for the remainder of the State are also given conditional approval, as described in the General Discussion part of this notice. In the July 13, 1979 (44 FR 40901) proposal notice EPA proposed to grant the State until October 16, 1979, to submit corrective changes for all deficiencies noted on page 40903 of that notice, which are also listed in the General Discussion section of this notice. The State submitted supplementary material designed to correct these deficiencies prior to the October 16 deadline. The material is currently under review and will be the subject of another notice of proposed rulemaking. In the July 13 Federal Register EPA also proposed to redesignate Rock Hill as unclassifiable for carbon monoxide (CO); EPA today designates Rock Hill, SC as unclassifiable for CO. The specific portions of the South Carolina implementation plan revisions that EPA is taking final action on are described below in detail in the General Discussion.

DATE: These actions are effective January 29, 1980.

ADDRESSES: Copies of the materials submitted by South Carolina and the comments received in response to the proposal notice of July 13, 1979 (44 FR 40901) may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M. Street, SW., Washington, DC 20460.

Environmental Protection Agency Library, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308.

FOR FURTHER INFORMATION CONTACT: Melvin Russell, Region IV, Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30308, 404/881-3286 (FTS 257-3286).

SUPPLEMENTAL INFORMATION:

Background

In the July 13, 1979, Federal Register (44 FR 40901) EPA proposed conditional approval of the South Carolina SIP revisions for the following designated nonattainment areas:

Total Suspended Particulate Matter (TSP)

A. That portion of Charleston County within the section of North Charleston just south of the U.S. Army Depot (secondary standard).

B. That portion of Charleston County within the section of Charleston just west of the south end of the U.S. Naval Station (primary standard).

C. That portion of Georgetown County within the southern section of Georgetown (primary standard).

Photochemical Oxidants (Ozone)

A. Charleston area—Charleston and Berkeley Counties.

B. Columbia Area Richland and Lexington Counties.

C. York County.

EPA also proposed complete approval of the SIP revision for that portion of Richland County within the city limits of Columbia for carbon monoxide and proposed redesignation of that portion of York County within the city limits of Rock Hill for carbon monoxide.

Implementation plan revisions under Part D of Title I of the Clean Air Act were developed by the State for all the foregoing areas. These revisions were submitted for EPA's approval on December 20, 1978; corrective material necessary to satisfy the deficiencies on which the conditional approval is based, was submitted on June 13, July 6, August 14, and August 22, 1979 (all prior to the October 16 deadline). As previously indicated, these supplementary submittals will be the subject of another notice of proposed rulemaking.

Receipt of the South Carolina revisions was first announced in the Federal Register of February 13, 1979 (44 FR 9424). The South Carolina revisions have been reviewed by EPA in light of the CAA, EPA regulations, and additional guidance materials. The criteria utilized in this review were detailed in the Federal Register on April 4, (44 FR 20372), July 2, (44 FR 38583), August 28, (44 FR 50371), September 17, (44 FR 53761), and November 23, 1979 (44 FR 67182) and need not be repeated in detail here.

General Discussion

The notice of proposed approval discussed each of the provisions of section 172(b) of the CAA. This notice discusses the substantive issues addressed in the proposal notice of July 13, 1979, and the public comments which were received as a result of the notice, and responses to comments made on a national basis.

In Charleston, secondary standard violations were recorded in the Ports Authority area (North Charleston south of the U.S. Army Depot). The State reported that the area was impacted by nontraditional dust sources and due to the complexity of the problem, requested an 18-month extension in order to develop the plan for attainment of the secondary standard. In the July 13, 1979 notice, EPA proposed to approve the State's request. Today, EPA is approving the 18-month extension (from January 1, 1979 to July 1, 1980) for South Carolina to submit a plan for attainment of the TSP secondary standard in the Ports Authority area of Charleston.

A second TSP nonattainment area exists in Charleston (west of the south end of the U.S. Naval Station) in the Pittsburg-Meeting Street area. The State has submitted a plan for attainment of the primary standard. The plan requires the control of fugitive emissions at Arco Alloys, the major industry believed to contribute significantly to the nonattainment problem. Reasonably Available Control Technology is required on all segments of this source's production process and the plan demonstrates attainment by December 31, 1982, EPA is today conditionally approving the plan for attainment of the primary standard at the Pittsburg-Meeting Street Area. The deficiencies which must be corrected are listed later in this notice.

The State has requested an 18-month extension for submittal of the plan to attain the secondary standard in the Pittsburg-Meeting Street area. In the July 13, 1979 notice, EPA proposed to approve this extension and EPA is today approving the 18-month extension (from January 1, 1979 to July 1, 1980) for submittal of the secondary attainment plan.

In the Georgetown nonattainment area, recent monitoring data has shown attainment of the primary ambient standard. Therefore in the plan submitted by the State, emphasis was placed on the new source review program consistent with section 173 for nonattainment areas as being adequate to attain and maintain compliance with the National Ambient Air Quality Standards. EPA proposed to conditionally approve the plan submittal for attainment of the primary standard in the July 13, 1979 Federal Register notice. EPA is today conditionally approving the plan submittal based on the deficiencies identified later in this notice being corrected. The State also requested an 18-month extension for submittal of the plan for secondary standards. On July 13, 1979 EPA proposed to approve this extension. Today, EPA is approving the 18-month extension (from January 1, 1979 to July 1, 1980) for submittal of the plan to attain the secondary TSP standard in Georgetown.

In the Rock Hill area, carbon monoxide (CO) violations were recorded. As stated in the July 13, 1979 notice, EPA proposed to redesignate this area to unclassifiable until sufficient data can be gathered to redesignate the area as attainment or nonattainment. Review of the monitoring instrument and the recorded data by EPA Region IV's Air Surveillance Branch and the State revealed the data to be biased high due to the absence of the refrigeration unit attachment necessary for accurate measurement of CO. EPA is today approving the redesignation of the Rock Hill area to unclassifiable. This lifts the growth restrictions of Section 110(a)(2)(I) of the Act, and eliminates the need for a Part D SIP revision, for this area.

Columbia, South Carolina also recorded violations of the CO standard. The plan submitted by South Carolina calculated that a 17% reduction in CO emissions would be needed to meet the CO standard. The State plan indicates that a 24% reduction in emissions will occur through the Federal Motor Vehicle Control Program (which requires automotive vehicle manufacturers to meet progressively tighter emission standards for new vehicles produced each year). This reduction is adequate to demonstrate attainment by the end of December, 1982. In the July 13, 1979 notice EPA proposed approval of this plan as adequate to attain ambient standards as expeditiously as practicable, as required under the Clean Air Act. EPA is thus today approving the plan for attainment of the CO standard in Columbia.

Several areas (Charleston, Columbia and York County) were designated nonattainment for ozone. In Charleston, the State calculated that an 11% reduction in hydrocarbon emissions is needed to meet the ozone standard. Through the Federal Motor Vehicle Control Program (FMVCP) and the adoption of statewide regulations for volatile organic compounds (VOC) emitted from stationary sources, the State projects that a 24% reduction in hydrocarbon emissions will occur, thereby attaining the ozone ambient standard as expeditiously as practicable (before the end of December, 1982). EPA therefore approves this part of the plan.

For Columbia, the State calculated that a 20% reduction on hydrocarbon emissions is needed to meet the ozone standard. A 25% reduction is projected to occur in the area before the end of 1982 due to the FMVCP and statewide VOC regulations. Attainment of the ozone ambient standard is projected before December, 1982, and thus meets the "as expeditiously as practicable" requirement. EPA therefore approves this part of the plan.

York County is a non-urban area and a demostration of attainment of the ozone standard is not required. The State has adopted statewide regulations for the control of VOC emissions. EPA therefore approves the plan for attaining the ozone standard in York County.

As noted in the "General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas", 44 FR 20378 (April, 1979), ozone SIPs, such as South Carolina's, must include RACT requirements for VOC sources covered by CTGs EPA issued by January, 1978. The General Preamble also required such SIPs to contain schedules to adopt and submit by each future January additional requirements for sources covered by CTGs issued by the previous January. The submittal date for the first set of additional RACT requirements was revised from January 1, 1980, to July 1, 1980, by Federal Register notice of August 28, 1979 (44 FR 50371). Today's approval of the ozone portion of the South Carolina plan is contingent on the submittal of these additional RACT regulations by July 1, 1980 (for CTGs published between January beginning January, 1979). Also, by each subsequent January beginning January 1, 1981, RACT regulations for CTGs published by the preceding January must be included in the plan. The above requirements are set forth in the "Approval Status" section of this final rule. If the RACT requirements are not adopted and submitted to EPA according to the time frame set forth in the rule, EPA will issue a notice of deficiency and take other appropriate remedial actions.

As noted in the July 13, 1979 notice EPA proposed to conditionally approve the plan submitted for attainment of the ozone standard in the remainder of the State. Today, EPA is conditionally approving that part of the submitted plan, provided the deficiencies described below are corrected. All portions of the ozone, CO, and particulate control strategies submitted represent reasonable further progress toward attainment of the ambient standards.

Deficiencies in this part of the SIP submission concerning section 172(b) are:

(a) Particulate matter control strategy.

(1) The control strategies submitted pursuant to Part D of Title I for the Charleston and Georgetown TSP nonattainment areas are approved on condition that material submitted by the State prior to October 16, 1979 has resolved the following deficiencies:

i. Legal authority for implementing the schedules for requiring permit conditions reflecting reasonably available control technology for TSP is not included in the SIP. To ensure the application of RACT to industrial fugitive emissions, the RACT schedule should be supported by emissions limitations included as part of permit conditions, or other enforceable conditions that ensure RACT.

ii. The SIP does not clearly differentiate between allowable and actual emissions in the control strategy development and demonstration of attainment for TSP.

iii. Special provisions for soot blowing in State Regulation 62.5, Standard No. 1, Section I are not approvable. Violations of emissions limits due to soot blowing must be recorded as violations, and the

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industries must be required to maintain a log of such activities and report same to the State.

iv. In the TSP demonstration of attainment for Charleston and Georgetown, the area modeled should be expanded in order to better represent actual air quality in the nonattainment areas.

v. State regulation 62.6 should clearly differentiate between fugitive dust and fugitive emissions so that the regulations can be interpreted and enforced with the necessary understanding.

(b) Photochemical oxidants (ozone) control strategy.

(1) Volatile Organic Compound (VOC) Regulations

i. The State's volatile organic compound (VOC) regulations must be altered to change the minimum capacity of petroleum liquid storage tanks regulated in Section II, Part B, to 40,000 gallons.

ii. The definition of VOC should include wording which ensures that where there is an issue as to what substances come under control, the test procedures would supersede the definition in the State's regulation.

iii. The State's VOC Regulation 62.5 Standard #5, Section I, Part F must be altered so that EPA approval will be required prior to any relaxation of emission limitations.

(c) Emissions offset policy.

The definition of "lowest achievable emission rate" (LAER) should be altered so that it is at least as stringent as the definition of LAER contained in Section 171(3) of the Clean Air Act Amendments of 1977.

(d) Economic, energy, and social effects of Part D revisions.

(1) The State must submit to EPA an analysis of the economic, energy, and social effects of the SIP revisions.

(2) The State must submit a summary of public comment received regarding air quality, health, welfare, economic, energy or social effects of the SIP revisions.

In the July 13, 1979 notice, EPA listed the absence of visible emission regulations on process sources as a deficiency. At the present time, EPA cannot require that the State adopt such regulations and the State has chosen not to, but EPA will continue to encourage the State to adopt a visible emissions regulation as an integral part of its particulate control program. The July 13, 1979 notice also listed that a continuity problem may exist with certain regulations. This problem was resolved without the State making further changes to their SIP revision. The SIP revisions, although conditionally approved are in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations remain applicable and enforceable to prevent a source from operating without controls or under less stringent controls, while moving toward compliance with the new regulations (or, if it chooses, challenging the new regulations). Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, which may include assessment of noncompliance penalties. There are two main exceptions to this rule. First, if a pre-existing control requirement is incompatible with a new, more stringent requirement, the State may exempt sources from compliance with the pre-existing regulations during the period when compliance with the existing requirement conflicts with achieving compliance with the new requirement. Any exemption granted would be reviewed and acted on by EPA as a SIP revision. Second, an existing requirement can be relaxed or revoked if the revision will not interfere with attainment or maintenance of standards.

Another area addressed in the proposal notice was startup and shutdown. It is recommended that the violations resulting from startup and shutdown be reported. The State's Regulation 62.5, Standard No. 5, Section I does require the industry to maintain records of startup and shutdown activities, and make these records available to State authorities, upon their request. Therefore, EPA is removing this item as a deficiency in the SIP submittal.

Conditional Approval

EPA is taking final action to conditionally approve certain elements of South Carolina's plan. A discussion of conditional approval and its practical effect appears in a supplement to the General Preamble, 44 FR 38583 (July 2, 1979). The conditional approval requires the State to have submitted additional materials by the deadline (October 16, 1979) specified in today's notice. There will be no extensions of the conditional approval deadline which is being promulgated today. EPA will follow the procedures described below when determining if the State has satisfied the conditions.

1. Since the State has submitted the required additional documentation according to schedule, with this notice EPA announces receipt of the material. This notice of receipt also announces that the conditional approval is continued pending EPA's final action on the submission.

2. EPA is evaluating the State's submission to determine if the condition is fully met. After review is complete, a Federal Register notice will be published proposing or taking final action either to find the condition has been met and approve the plan, or to find the condition has not been met, withdraw the conditional approval and disapprove the plan. If the plan is disapproved the Section 110(a)(2)(I) restrictions on construction will be in effect.

Public Comments

EPA received no public comments on the specific South Carolina proposal notice (July 13, 1979, 44 FR 40901). The only comments received were those which were requested by the commenters to be applied to all State SIP submissions. The response to these comments for States in EPA Region IV may be reviewed in the November 26, 1979 issue of the Federal Register starting at page 67375.

Attainment Dates

The 1978 edition of 40 CFR 52.2128 lists the applicable South Carolina deadlines for attaining ambient standards (attainment dates) required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides for attainment by the deadlines required by Section 172(a) of the Act, the new deadlines are substituted in the South Carolina attainment date table. The earlier attainment dates under Section 110(a)(2)(A) are referenced in a footnote to the table. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as with the new Section 172 plan requirements.

Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. These new deadlines were not intended to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear congressional intent to construe part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under part D.

(123 Cong. Rec. H 11958, daily ed. November 1, 1977)

To implement Congress' intention that souces remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. EPA cannot approve such compliance date extensions even though a Section 172 plan revision with a later attainment date has been approved. However, a compliance date extension beyond a pre-existing attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment.

In addition, sources subject to pre-existing plan requirements may be relieved of complying with such requirements if a Section 172 plan imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations. Decisions on the incompatibility of requirements will be made on a case-by-case basis.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". EPA has reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Finally, good cause exists for making this notice immediately effective, because this will remove the CAA Sections 110(a)(2)(I) and 176 restrictions on construction and grants as soon as possible.

(Section 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: January 22, 1980.

Douglas M. Costle,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart PP—South Carolina

1. In § 52.2120, paragraph (c) is amended by adding subparagraph (11) as follows:

§ 52.2120 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(11) 1979 implementation plan revision for nonattainment areas, submitted on December 20, 1978, by the South Carolina Department of Health and Environmental Control.

2. Section 52.2122 is revised to read as follows:

§ 52.2122 Approval status.

With the exceptions set forth in this subpart, the Administrator approves South Carolina's plans for the attainment and maintenance of the national standards under § 110 of the Clean Air Act. Furthermore the Administrator finds the plans satisfy all requirements of Part D, Title I, of the Clean Air Act as amended in 1977, except as noted elsewhere in this subpart.

In addition, continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on the adoption and submittal of RACT requirements by July 1, 1980 for the sources covered by CTGs issued between January 1978 and January 1979 and adoption and submittal by each subsequent January of additional RACT requirements for sources covered by CTGs issued by the previous January.

3. A new § 52.2126 is added as follows:

§ 52.2126 Part D Conditional approvals.

(a) Particulate matter control strategy.—(1) The control strategies submitted pursuant to Part D of Title I for the Charleston and Georgetown TSP nonattainment areas are approved on condition that material submitted by the State prior to October 16, 1979, resolve the following deficiencies:

(i) Legal authority for enforcing the reasonably available control technology schedules for TSP is not included in the SIP. To ensure the application of RACT to industrial fugitive emissions, the RACT schedule should be supported by emissions limitations included as part of permit conditions, or other enforceable conditions that ensure RACT.

(ii) The SIP does not clearly differentiate between allowable and actual emissions in the control strategy development and demonstration of attainment for TSP.

(iii) Special provisions for soot blowing in State Regulation 62.5, Standard No. 1, Section I are not approvable. Violations of emissions limits due to soot blowing must be recorded as violations, and the industries must be required to maintain a log of such activities and report same to the State.

(iv) In the TSP demonstration of attainment for Charleston and Georgetown, the area modeled should be expanded in order to better represent actual air quality in the nonattainment areas.

(v) State regulation 62.6 should clearly differentiate between fugitive dust and fugitive emissions so that the regulations can be interpreted and enforced with the necessary understanding.

(b) Photochemical oxidants (ozone) control strategy.—(1) Volatile Organic Compound (VOC) Regulations

(i) The State's volatile organic compound (VOC) regulations must be altered to change the minimum capacity of petroleum liquid storage tanks regulated in Section II Part B to 40,000 gallons.

(ii) The definition of VOC should include wording which ensures that were there is an issue as to what substances come under control, the test procedures would supersede the definition in the State's regulation.

(iii) The State's VOC Regulation 62.5 Standard #5, Section I, Part F must be altered so that EPA approval will be required prior to any relaxation of emission limitations.

(c) Emissions offset policy.—The definition of lowest achievable emission rate (LAER) should be altered so that it is as at least as stringent as the definition of LAER contained in S 171(3) of the Clean Air Act Amendments of 1977.

(d) Economic, energy, and social effects of Part D revisions.

(1) The State must submit to EPA an analysis of the economic, energy, and social effects of the SIP revisions.

(2) The State must submit a summary of public comment received regarding air quality, health, welfare, economic, energy or social effects of the SIP revisions.

4. A new § 52.2127 is added as follows:

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§ 52.2127 Extensions.

The Administrator hereby extends for 18 months (until July 1, 1980) the statutory timetable for submission of South Carolina's plan for attainment and maintenance of the secondary standards for particulate matter in the Georgetown and Charleston nonattainment areas identified in 81.341 of this chapter.

5. Section 52.2128 is revised as follows:

§ 52.2128 Attainment dates for national standards.

The following table represents the latest dates by which the national standards are to be attained. These dates reflect the information presented in South Carolina's plan.

Air quality control region	TSP		SO_2		NO	CO	O_3
	Primary	Secondary	Primary	Secondary			
Augusta (Georgia)-Aiken (South Carolina) Interstate	c	c	c	c	b	b	b
Metropolitan Charlotte Interstate:							
a. York County nonattainment area	b	b	b	b	b	b	e
b. Rest of AQCR	c	c	c	c	b	b	c
Camden-Sumter Intrastate	c	c	b	b	b	b	b
Charleston Intrastate:							
a. Charleston nonattainment area	e	f	c	d	b	b	e
b. Charleston and Berkeley Counties nonattainment area	c	c	c	d	b	b	e
c. Rest of AQCR	c	c	c	c	b	b	b
Columbia Intrastate:							
a. Columbia city limits nonattainment area	c	c	b	b	b	e	b
b. Columbia nonattainment area-Richland and Lexington Counties	e	c	b	b	b	b	e
c. Rest of AQCR	c	c	b	b	b	b	b
Florence Intrastate	b	b	b	b	b	b	b
Georgetown Intrastate:							
a. Georgetown nonattainment area	e	f	b	b	b	b	b
b. Rest of AQCR	c	c	b	b	b	b	b
Greenville-Spartanburg Intrastate	c	c	b	b	b	b	b
Greenwood Intrastate	b	b	b	b	b	b	b
Savannah (Georgia)-Beaufort (South Carolina) Interstate	c	c	c	c	b	b	b

a. Air quality levels presently below primary standards or area is unclassifiable.
b. Air quality levels presently below secondary standards or area is unclassifiable.
c. July 1975.
d. July 1979.
e. December 31, 1982.
f. 18-month extension.

NOTE.—Sources subject to plan requirements and attainment dates established under § 110(a)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR Part 52 (1978). Nonattainment areas designated under Section 107 of the Clean Air Act are listed in § 81.341 of this Chapter.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Part 81 of Chapter I, Title 40, Code of Federal Regulation is amended as follows:

Subpart C—Section 107 Attainment Status Designations

6. In § 81.341 the attainment status designation table for carbon monoxide (CO) is revised to read as follows:

§ 81.341 South Carolina.

* * * * *

South Carolina—CO

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
That portion of Richland County within city limits of Columbia	X	
Rest of State		X

[FR Doc. 80-2791 Filed 1-28-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA. 5762]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA

ACTION: Final rule.

SUMMARY: This rule lists commmunities participating in the National Flood Insurance Program (NFIP). These commmunities have applied to the program and have agreed to enact certain flood plain management measures. The commmunities' participation in the program authorizes the sale of flood insurance to owners of property located in the commmunities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the commmunities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, commmunities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the commmunities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these commmunities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the commmunities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecesary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
California	San Luis Obispo	Morro Bay, city of	060307B	Dec. 18, 1979, suspension withdrawal.	May 31, 1974 and Dec. 5, 1975.
Do	Los Angeles	Torrance, city of	060165B	do	Aug. 2, 1974 and Dec. 6, 1975.
Florida	Putnam	Crescent City, city of	120408A	do	Dec. 3, 1976.
Indiana	Lake	St. John, town of	180141B	do	Nov. 30, 1973 and April 9, 1976.
Idaho	Latah	Troy, city of	160091B	do	May 10, 1974 and Dec. 26, 1975.
Illinois	Cook	Northfield, village of	170133B	do	Mar. 29, 1974 and Mar. 21, 1975.
Kansas	Shawnee	Roseville, city of	200334B	do	Jan. 9, 1974 and June 4, 1976.
Louisiana	Ouachita	Monroe, city of	220136B	do	Sept. 6, 1974 and Oct. 8, 1976.
Maine	York	Parsonfield, town of	230154B	do	June 28, 1974 and May 17, 1977.
Massachusetts	Middlesex	Waltham, city of	250222B	do	June 28, 1974 and Apr. 15, 1977.
Michigan	Clinton	Dewitt, city of	260631B	do	June 17, 1977, March 8, 1974, and June 17, 1977.
Do	Allegan	Ganges, township of	260005B	do	June 28, 1974 and June 25, 1976.
Minnesota	Itasca	Grand Rapids, city of	270204B	do	Oct. 25, 1973 and June 4, 1976.
Do	Norman	Hendrum, city of	270325B	do	Aug. 9, 1974 and Mar. 26, 1976.
Do	Brown	New Ulm, city of	270036B	do	Nov. 2, 1973 and Apr. 2, 1976.
Missouri	Platte	Unincorporated areas	290475A	do	
New Jersey	Burlington	Maple Shade, township of	340101B	do	Mar. 15, 1974 and Apr. 16, 1976.
Do	Middlesex	Perth Amboy, city of	340272B	do	June 21, 1974 and June 4, 1976.
Do	Morris	Randolph, township of	340358C	do	Feb. 15, 1974.
Do	Middlesex	Spotswood, borough of	340262B	do	July 6, 1973 and Mar. 5, 1976.
Do	Union	Westfield, town of	340478B	do	Dec. 18, 1974 and Jan. 20, 1978.
Pennsylvania	Allegheny	Aspinwall, borough of	420005B	do	Dec. 28, 1973 and May 15, 1979.
Do	Berks	Birdsboro, borough of	420127B	do	Oct. 26, 1973 and Aug. 6, 1976.
Do	Clinton	Chapman, township of	420323B	do	Mar. 1, 1974 and June 10, 1977.
Do	Perry	Duncannon, borough of	420749B	do	July 20, 1973 and Sept. 24, 1976.
Do	Lancaster	Lancaster, township of	420553B	do	July 13, 1973 and Aug. 6, 1976.
Do	Bucks	Newtown, township of	421084B	do	Mar. 10, 1978.
Do	Allegheny	Ross, township of	420979B	do	June 7, 1974 and Oct. 3, 1975.
Do	Wyoming	Tunkhannock, borough of	420017B	do	Sept. 7, 1973 and Feb. 11, 1977.
Do	Perry	Wheatfield, township of	421005B	do	July 26, 1974 and June 18, 1976.
Do	York	Wrightsville, borough of	420943B	do	Sept. 14, 1973 and Jan. 14, 1977.
Washington	Cowlitz	Long View, city of	530034B	do	June 28, 1974 and Dec. 10, 1976.
West Virginia	Berkeley	Martinsburg, city of	540006B	do	June 7, 1974 and June 18, 1976.
Massachusetts	Franklin	Orange, town of	250125A	Dec. 14, 1979, emergency.	May 27, 1977.
Texas	Real	Unincorporated areas	480978	do	
New York	Orange	Greenwood Lake, village of	360516B	Jan. 23, 1974, emergency, June 15, 1979, regular, June 15, 1979, suspended, Dec. 14, 1979, reinstated.	May 8, 1974 and July 23, 1976.
Florida	Putnam	Interlachen, town of	120391A	July 24, 1975, emergency, Dec. 4, 1979, regular, Dec. 4, 1979, suspended, Dec. 14, 1979, reinstated.	Dec. 3, 1976.
Tennessee	Unicoi	Unincorporated areas	470236	Dec. 17 1979, emergency.	Sept. 16, 1977.
Texas	Fort Bend	Meadows Municipal Utility District	481563—New	Dec. 17, 1979, emergency, Dec. 17, 1979, regular.	
Indiana	Crawford	Unincorporated areas	180472	Dec. 18, 1979, emergency.	
Arizona	Pinal	Apache Junction, city of	040120	Dec. 20, 1979, emergency.	Jan. 10, 1975, Feb. 7, 1979 and June 28, 1976.
Pennsylvania	Lackawanna	Greenfield, township of	422458	Dec. 27, 1979, emergency.	Jan. 10, 1975.
Do	Clarion	Ashland, township of	422361	do	Jan. 10, 1975.
New York	Rensselaer	Schaghticoke, village of	361058	do	Dec. 20, 1974.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
California	Orange	San Clemente, city of	060230B	July 9, 1975, emergency, Dec. 4, 1979, regular, Dec. 4, 1979, suspended, Dec. 28, 1979, reinstated.	June 14, 1974 and Nov. 14, 1975.
Pennsylvania	Lehigh	Catasauqua, borough of	420526B	Dec. 3 1971, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended, Dec. 27, 1979, reinstated.	Nov. 30, 1973.
Illinois	Cook	Riverdale, village of	170150B	Jan. 9, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended, Dec. 31, 1979, reinstated.	June 21, 1974 and June 4, 1976.
Minnesota	Wright	Clearwater, city of	270536B	July 3, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended, Dec. 31, 1979, reinstated.	Aug. 23, 1974.
North Carolina	Dare	Southern Shores, town of	370430—New	May 13, 1972, regular	
Illinois	Rock Island	Coal Valley, village of	170585C	Sept. 26, 1974, emergency, Dec. 4, 1979, regular, Dec. 4, 1979, suspended, Jan. 7, 1980, reinstated.	Mar. 1, 1974 and Dec. 20, 1974.
Pennsylvania	Cumberland	Monroe, township of	420364B	Feb. 25, 1972, emergency, Dec. 4, 1979, regular, Dec. 4, 1979, suspended, Jan. 7, 1980, reinstated.	Nov. 28, 1973 and Nov. 12, 1976.
Georgia	Douglas	do	130306	Jan. 2, 1980, suspension withdrawn.	Mar. 5, 1976.
Illinois	Lake	Lindenhurst, village of	170379A	do	Mar. 4, 1974 and Feb. 20, 1976.
Do	do	Round Lake Heights, village of	170390A	do	Mar. 29, 1974 and June 18, 1976.
Do	Winnebago	South Beloit, city of	170725A	do	June 7, 1974 and July 9, 1976.
Indiana	Hamilton	Cicero, town of	180320	do	Feb. 1, 1974 and Oct. 21, 1977.
Do	Lake	New Chicago, town of	180140A	do	May 31, 1974 and May 21, 1976.
Kansas	Douglas	Baldwin City, city of	200066A	do	Feb. 15, 1974 and Nov. 7, 1975.
Do	Wyandotte	do	200582A	do	May 6, 1977.
Massachusetts	Hampshire	Granby, town of	250182A	do	Sept. 6, 1974 and Jan. 14, 1977.
Minnesota	Kittson	Hallock, city of	270226A	do	May 17, 1974 and May 14, 1976.
Mississippi	Madison	do	280226	do	Aug. 11, 1978.
Do	Newton	do	280231	do	Sept. 16, 1977.
New Jersey	Essex	Essex Fells, borough of	340575	do	Dec. 3, 1976.
Do	Camden	Runnemede, borough of	340144	do	Dec. 7, 1973 and June 24, 1977.
New York	Westchester	White Plains, city of	360935A	do	Mar. 16, 1973 and July 2, 1976.
North Carolina	Transylvania	do	370230	do	Jan. 20, 1978.
Ohio	Ashland	Ashland, city of	390007A	do	Apr. 12, 1974 and Aug. 6, 1976.
Oklahoma	Sequoyah	Sallisaw, city of	400199	do	Apr. 5, 1976 and June 18, 1976.
Pennsylvania	Delaware	Ridley Park, borough of	420430A	do	July 19, 1974 and June 4, 1976.
West Virginia	Mason	do	540112	do	Apr. 25, 1975.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 7, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2698 Filed 1-28-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 5770]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–8620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755–5581 or Toll Free Line 800–424–8872; Room 5270, 451 Seventh Street SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
California	Humboldt	Fortuna, city of	060083A	Jan. 3, 1980, emergency	July 19, 1977.
New York	Steuben	Rathbone, town of	360781A	do	Aug. 2, 1974 and Sept. 17, 1976.
North Dakota	Traill	Caledonia, township of	380638—New	do	
Idaho	Elmore	Unincorporated areas	160212A	Jan. 9, 1980, emergency	July 4, 1978.
Mississippi	Issaquena	Mayersville, town of	280329—New	do	
Pennsylvania	Carbon	Lausanne, township of	421454	do	Jan. 3, 1975.
Texas	Llano	Unincorporated areas	481234A	do	Nov. 22, 1977.
Do	Lamar	Reno, city of	481254	do	Aug. 13, 1976.
North Carolina	Northampton	Gaston, town of	370413	do	Dec. 15, 1978.
New York	Livingston	Lima, village of	361457A	Jan. 11, 1980, emergency	Jan. 15, 1976.
Pennsylvania	Susquehanna	Uniondale, borough of	422584	do	Jan. 24, 1975.
Do	Kickane	Wetmore, township of	421861	do	July 25, 1975.
Illinois	Cook	Bellwood, village of	170061B	Feb. 18, 1975, emergency, Dec. 4, 1979, regular, Dec. 4, 1979, suspended, Jan. 11, 1980, reinstated.	June 7, 1974 and Apr. 23, 1976.
North Carolina	Avery	Crossnore, town of	370287	Jan. 14, 1980, emergency	Aug. 5, 1977.
Pennsylvania	Venango	Pinegrove, township of	422538	do	Jan. 24, 1975 and July 6, 1978.
Do	Clarion	Washington, township of	422379	do	Jan. 17, 1975.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4126; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2696 Filed 1-28-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 5772]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance

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Administrator has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Office of Federal Insurance and Hazard Mitigation's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of suspended communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
California	Napa	Unincorporated areas	060205A	Jan. 29, 1971, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Feb. 1, 1980	Feb. 1, 1980.
Idaho	Latah	Kendrick, city of	160089B	Jan. 6, 1976, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Oct. 18, 1974	Do.
Illinois	Du Page	Darien, city of	170750A	Sept. 6, 1974, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Nov. 29, 1974	Do.
Do	Rock Island	Moline, city of	170591B	Mar. 4, 1975, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	May 3, 1975 Sept. 24, 19761	Do.
Do	Peoria	Peoria, city of	170536B	Apr. 10, 1974, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	May 24, 1974 Oct. 10, 1975	Do.
Do	Lake	Third Lake, village of	170392B	Dec. 26, 1975, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Sept. 6, 1974 Mar. 19, 1976	Do.
Indiana	Porter	Chesterton, town of	180201B	Feb. 26, 1975, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Feb. 1, 1974	Do.
Do	Vanderburgh	Unincorporated areas	180256A	June 25, 1971, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Feb. 1, 1980	Do.
Kansas	Pottawatomie	St. Marys, city of	200275B	May 30, 1974, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Dec. [illegible]73 June 18, [illegible]6	Do.
Maine	Oxford	Hiram, town of	230094A	July 30, 1975, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Jan 3, 1973	Do.
Massachusetts	Essex	Lynnfield, town of	250089B	Sept. 6, 1974 emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Sept. 6, 1974 Sept. 3, 1976	Do.
Do	Middlesex	Natick, town of	250207B	Mar. 28, 1975, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	July 26, 1974 April 9, 1976	Do.
Do	Norfolk	Norwood, town of	250248B	July 2, emergency, 1975, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Aug. 16, 1974 June 21, 1977	Do.
Do	Hampden	Springfield, city of	250150B	Feb. 9, 1973, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	July 26, 1974	Do.
Michigan	Allegan	Douglas, village of	260549A	Nov. 30, 1976, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Sept. 26, 1975	Do.
Do	Oakland	Farmington Hills, city of	260172B	Mar. 30, 1973, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Mar. 15, 1974 Aug. 27, 1976	Do.
Do	Allegan	Saugatuck, township of	260009B	Dec. 28, 1973, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	June 28, 1974 July 2, 1976	Do.
Do	do	Saugatuck, village of	260305C	July 30, 1975, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Dec. 17, 1976	Do.
Minnesota	Wright	Clearwater, city of	270539B	July 30, 1975, emergency, Nov. 1, 1979, regular, Feb. 1, 1979, suspended.	Aug. 23, 1974	Do.
Do	St. Louis	Duluth, city of	270421B	Aug. 16, 1974, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Aug. 16, 1974	Do.
Mississippi	Coahoma	Unincorporated areas	280038A	Aug. 9, 1974, emergency, Feb. 1, 1979, regular, Feb. 1, 1979, suspended.	Oct. 21, 1977	Do.
Montana	Custer	Miles City, city of	300014B	May 29, 1975, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Jan. 23, 1974 Oct. 17, 1975	Do.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
New Jersey	Essex	Cedar Grove, township of	340160B	Mar. 15, 1974, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Nov. 5, 1976	Do.
North Carolina	Buncombe	Woodlin, town of	370360B	Feb. 18, 1975, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	July 25, 1975 Oct. 17, 1975	Do.
Ohio	Ashtabula	Ashtabula, city of	390011B	May 6, 1975, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Dec. 28, 1973	Do.
Do	do	Geneva, city of	390013B	Aug. 16, 1974, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Nov. 22, 1974 July 30, 1976	Do.
Do	Lake	Kirtland, city of	390616A	Oct. 27, 1976, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Aug. 6, 1976	Do.
Oregon	Jackson	Talent, city of	410100B	Apr. 7, 1975, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	May 31, 1974 June 27, 1975	Do.
Pennsylvania	Huntingdon	Alexandria, borough of	420481B	June 1, 1973, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Sept. 14, 1973 Oct. 15, 1976	Do.
Do	Beaver	Aliquippa, borough of	420101B	Apr. 15, 1974, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	May 13, 1974 May 28, 1976	Do.
Do	do	Ambridge, borough of	420102B	Jan. 14, 1975, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Feb. 22, 1974 May 28, 1976	Do.
Do	Washington	Chartiers, township of	422144B	Nov. 20, 1975, emergency, Feb. 20, 1980, regular, Feb. 20, 1980, suspended.	Nov. 1, 1974 July 2, 1976	Do.
Do	Wyoming	Exeter, township of	42091A	Jan. 18, 1973, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Oct. 12, 1973	Do.
Do	Allegheny	Forward, township of	421064B	Sept. 27, 1974, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	July 19, 1974 May 7, 1976	Do.
Do	Beaver	Freedom, borough of	420111C	May 12, 1975, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Feb. 1, 1974 Apr. 30, 1976	Do.
Do	Allegheny	Kilbuck, township of	421073B	Aug. 18, 1975, emergency, Feb. 1, 1980 regular, Feb. 1, 1980, suspended.	Sept. 13, 1974 July 16, 1976	Do.
Do	Lancaster	Marietta, borough of	420558B	July 5, 1973, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Oct. 12, 1973	Do.
Do	Schuylkill	Port Clinton, borough of	420784B	Dec. 15, 1972, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Mar. 9, 1973 Oct. 1, 1976	Do.
Do	Beaver	Rochester, borough of	420116B	Feb. 12, 1975, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Feb. 1, 1974 May 28, 1976	Do.
Do	Bucks	Tullytown, borough of	420206B	Aug. 15, 1974, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Dec. 28, 1973 Oct. 22, 1976	Do.
Do	Beaver	Vanport, township of	421320B	July 2, 1974, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Mar. 22, 1974 Sept. 24, 1976	Do.
South Carolina	Orangeburg	Branchville, town of	450162B	Aug. 4, 1975, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	June 7, 1974 June 18, 1976	Do.
Do	Greenville	Greenville, city of	450091A	Jan. 15, 1974, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	June 28, 1974	Do.
Do	Aiken	North Augusta, city of	450007C	Mar. 12, 1975, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	June 28, 1974 July 2, 1976	Do.
Texas	Rockwall	Heath, city of	480545A	Nov. 11, 1977, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Nov. 19, 1976	Do.
Vermont	Lamille	Stowe, village of	500067B	Aug. 7, 1975, emergency, Feb. 1, 1980, regular, Feb. 1, 1980, suspended.	Aug. 9, 1974 Oct. 22, 1976	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-3037 Filed 1-28-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 65

[Docket No. FEMA 5771]

List of Communities With Special Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance to communities on the reduction of property losses by the adoption of appropriate flood plain management or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The effective date shown at the top right of the table or February 28, 1980, whichever is later.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program (202) 426–1460 or Toll Free Line 800–424–8872, Room 5150, 451 Seventh Street SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply in respect to conventional mortgage loans by federally regulated, insured, supervised, or approved lending institutions.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the **Federal Register** or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the **Federal Register** or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 64 or Title 44 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128).

Section 65.3 is amended by adding in alphabetical sequence a new entry to the table:

§ 65.3 List of communities with special hazard areas (FHBM's in effect).

State, county, community name, and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Pennsylvania, Sullivan, township of Fox, 0003A only.	422063	E-11, 12, 14	I	F	Dec. 20, 1974	Feb. 1, 1980	Arthur Smith, Chairman, R.D. No. 3, Canton, PA 17724, Phone: (717) 924–3005.
Pennsylvania, Fayette, township of Henry Clay, 0002A and 0004A only.	421628	E-11, 12, 14	I	F	Dec. 6, 1974	Feb. 1, 1980	William E. Myers, Chairman, R.D. No. 1, Box 140, Markleysburg, PA 15454, Phone: (412) 329–5273.
Pennsylvania, Monroe, township of Jackson, 0001A–0003A.	421889	N–11, 12, 14	I	F	Jan. 3, 1975	Feb. 1, 1980	Arthur Kormer, Chairman, R.D. No. 3, Stroudsburg, PA 18360, Phone: (717) 629–1936.
Pennsylvania, Bedford, township of Southampton, 0002A–0006A only.	421351	N–11, 12, 14	I	F	Feb. 7, 1975	Feb. 1, 1980	Charles R. Logue, Chairman, R.D. No. 2, Flintstone, MD 21530, Phone: (301) 767–6542.
Mississippi, Tallahatchie, city of Charlestown, 01.	280169B	E–11	I	F	June 7, 1974, June 25, 1976.	Feb. 1, 1980	Morris L. Pritchard, Mayor, Charlestown, MS 38921, (601) 647–5841.
Mississippi, Jasper, town of Heidelberg, 01, 02.	280088B	E–10	I	F	June 28, 1974, Jan. 7, 1977.	Feb. 1, 1980	F. G. Lewis, Town Hall, Heidelberg, MS 39439, (601) 787–3961.
North Carolina, Moore, town of Robbins, 0001.	370166A	E–11, 12	I	F	Nov. 22, 1974	Feb. 1, 1980	Roy Harris, Mayor's Assistant, P.O. Box 296, Robbins, NC 27325, (919) 948–2431.
Georgia, Pierce, city of Blackshear, 0001	130491A	E–5	I	F	Feb. 1, 1980	Feb. 1, 1980	Mr. Toby Schrock, City Superintendent, P.O. Box 269, Blackshear, GA 31516, (912) 449–6678.
Kentucky, Johnson, city of Paintsville, 0001	210127B	E–8, 12	I	F	Mar. 1, 1974, Feb. 13, 1976.	Feb. 1, 1980	James S. Trimble, Mayor, P.O. Box 71, Paintsville, KY 41240, (606) 789–3564.
Tennessee, Marshall, Marshall County, 0001–0007.	470119B	N–8, 11	I	F	Feb. 2, 1979	Feb. 1, 1980	Judge Carvan Norris, Route 3, Lewisburg, TN 37091, (615) 359–1279.
Montana, Petroleum, town of Winnett, 0001A.	300052A	N–11, 12	I	F	Dec. 27, 1974	Feb. 5, 1980	Ms. Lois Poulton, Town Clerk-Treasurer, Box 223, Winnett, MT 59087, (406) 429–5451.
Texas, unincorporated area, Culberson County, 0002A–0006A; 0008A–0011A; 0014A–0023A; 0025A–0044A.	480162A	E–5	I	F	Feb. 5, 1980	Feb. 5, 1980	Honorable John Conoly, County Judge, Culberson County Courthouse, Van Horn, TX 79855, (915) 283–2059.
Tennessee, Weakley, city of Martin, 0001	470223B	E–8, 11	I	F	Mar. 1, 1974, Nov. 19, 1976.	Feb. 8, 1980	Mr. H. B. Brundridge, Mayor, City of Martin, P.O. Box 290, Martin, TN 38237, (901) 587–3125.
Alabama, Russell, city of Phenix City, 0001	010184A	E–11, 12	I	F	Nov. 26, 1976	Feb. 8, 1980	Mr. George H. Chard, City of Phenix City, P.O. Box 1207, Phenix City, AL 36867, (205) 298–7575.

State, county, community name, and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Mississippi, Quitman, town of Lambert, 01	280139B	E–11	I	F	June 7, 1974, June 18, 1976.	Feb. 8, 1980	Mr. Robert Phillips, Mayor, Town of Lambert, P.O. Drawer 188, Lambert, MS 38643, (601) 326–3018.
Mississippi, Sharkey, town of Cary, 01	280154B	E–11	I	F	June 14, 1974, June 25, 1976.	Feb. 8, 1980	Mr. Joe Brooks, Mayor, Town Hall, Town of Cary, P.O. Box 68, Cary, MS 39054, (601) 673–6679.
Mississippi, Sharkey, city of Rolling Fork, 01	280155B	E–11	I	F	May 24, 1974, July 23, 1976.	Feb. 8, 1980	Mr. John Pippin, Mayor, City of Rolling Fork, P.O. Box 310, Rolling Fork, MS 39159, (601) 873–2814.
Mississippi, Quitman, city of Marks, 01	280140B	E–11,12	I	F	June 7, 1974, June 18, 1976.	Feb. 8, 1980	Mr. L. J. Vincent, Mayor, City of Marks, 731 Myrtle Street, Marks, MS 38646, (601) 326–3161.
Mississippi, Bolivar, town of Merigold, 01	280018B	E–11, 12	I	F	June 7, 1974, June 18, 1976.	Feb. 8, 1980	Mr. M. L. Yarbrough, Building Inspector, Town of Merigold, Merigold, MS 38759, (601) 748–5211.
Mississippi, Rankin, town of Puckett, 01	280147B	N–11, 12	I	F	Aug. 23, 1974, July 2, 1976.	Feb. 8, 1980	Mr. Byron Forshee, Mayor, Town of Puckett, General Delivery, Puckett, MS 39151, (601) 825–2797.
Mississippi, Bolivar, town of Duncan, 01	280017A	N–11	I	F	Nov. 5, 1976	Feb. 8, 1980	Mr. P. M. Vochti, Mayor, Town of Duncan, Duncan, MS 38740, (601) 295–5341.
Mississippi, Itawamba, town of Mantachie, 01.	280062B	E–11, 12	I	F	June 21, 1974, Aug. 13, 1974.	Feb. 8, 1980	Mr. John Marvin Pierce, Mayor, Town of Mantachie, Mantachie, MS 38855, (601) 282–7267.
Mississippi, Simpson, village of Braxton, 01	280156B	N–8, 11	I	F	July 19, 1974, July 16, 1976.	Feb. 8, 1980	Mr. B. T. McCullough, Mayor, Village of Braxton, Route 1, Braxton, MS 39044, (601) 847–1128.
Pennsylvania, Crawford, township of Conneaut, 0001A–0004A.	422367	N–11, 12, 14	I	F	Jan. 10, 1975	Feb. 8, 1980	Steve Krem, Chairman, Route 2, Linesville, PA 16424, Phone: (814) 587–3600.
Pennsylvania, Pike, township of Westfall, 0001A–0003A.	421970	E–11, 12, 14	I	F	Mar. 21, 1975	Feb. 8, 1980	George O. Campbell, Chairman, 1005 Pennsylvania Avenue, Matamoras, PA 18336, Phone: (717) 421–4250.
Wisconsin, Richland and Vernon, village of Viola, 01.	550460B	E–11, 12, 14	I	F	Dec. 17, 1973, June 4, 1976.	Feb. 8, 1980	Eugene Gaybryiak, Village President, P.O. Box 38, Viola, WI 54664, Phone: (608) 627–1558.
Arkansas, Izard, Sharp, and Fulton, city of Horseshoe Bend, 0001A–0004A.	050258A	E–8, 11, 12	I	F	July 11, 1975	Feb. 12, 1980	Honorable Freeling Truesdale, Mayor, 704 West Commerce Street, Horseshoe Bend, AR 72512, (501) 670–5113.
Kansas, unincorporated area, Decatur County, 0001A–0012A.	200574A	N–5	I	F	Feb. 12, 1980	Feb. 12, 1980	Mr. Dennis L. Sloan, Chairman, Board of County Commissioners, County of Decatur, P.O. Box 28, Oberlin, KS 67749, (913) 475–2132.
Texas, Willacy, city of Raymondville, 0001B	480666B	E–8, 11, 12, 15	I	F	June 14, 1974	Feb. 12, 1980	Mr. C. M. Crowell, City Secretary, 523 West Hidalgo Avenue, Raymondville, TX 78580, (512) 689–2443.
Illinois, Kane, village of North Aurora, 0001B	170329	E–8, 11, 12, 14	I	F	Mar. 1, 1974, July 9, 1976.	Feb. 15, 1980	Hon. Wayne E. Miller, Mayor, 25 East State Street, North Aurora, IL 60542, Phone: (312) 897–8525.
Pennsylvania, Clinton, township of Greene, 0001A–0003A.	421538	E–11, 12, 14	I	F	Nov. 15, 1974	Feb. 15, 1980	Ralph Brungart, Chairman, R.D. No. 1, Loganton, PA 17747, Phone: (717) 725–2356.
Pennsylvania, Beaver, borough of Chicoville, 0001A–0002A.	422324	E–8, 11, 12, 14	I	F	Jan. 24, 1975	Feb. 15, 1980	Hon. John Smyda, President, R.D. No. 1, Industry, PA 15052, Phone: (412) 643–1542.
Pennsylvania, Luzerne, township of Pittston, 0001A only.	421934	E–8, 11, 12, 14	I	F	Jan. 24, 1975	Feb. 15, 1980	Anthony Attardo, Chairman, 421 Broad Street, Pittston, PA 18640, Phone: (717) 654–0161.
Pennsylvania, Mercer, township of Sandy Lake, 0001A only.	421974	E–11, 12, 14	I	F	Dec. 13, 1974	Feb. 15, 1980	Leonard Anderson, Chairman, R.D. No. 2, Stoneboro, PA 16153, Phone: (412) 376–3075.
New Jersey, Sussex, township of Andover, 0001, 0002.	340527B	E–11	I	F	Dec. 20, 1974, July 2, 1976.	Feb. 15, 1980	Mr. Douglas A. MacNamara, Township Administrator, Township of Andover, 134 Newton Sparta Road, Newton, NJ 07860, (201) 383–0611.
Kansas, Franklin, city of Ottawa, 0001B–0002B.	200104B	E–8, 11	I	F	Jan. 9, 1974, Dec. 19, 1975.	Feb.19, 1980	Mr. Robert W. Mills, City Manager, Ottawa City Hall, Ottawa, KS 66067, (913) 242–2190.
Kansas, unincorporated area, Rawlins County, 0001A–0012A.	200279A	N–5	I	F	Feb. 19, 1980	Feb. 19, 1980	Mr. William H. Lewis, Chairman, Board of County Commissioners, Rawlins County Courthouse, Atwood, KS 67730, (913) 626–3351.
Pennsylvania, Warren, township of Conewango, 0001A–0003A.	422117	E–8, 11, 12, 14	I	F	Dec. 27, 1974	Feb. 22, 1980	Mr. Clinton R. Scott, Chairman, 20 North State Street, Warren, PA 16365, Phone: (814) 725–8182.
Pennsylvania, Cumberland, township of Southampton, 0001A, 0003A, 0004A.	421567	E–8, 11, 12, 14	I	F	Dec. 27, 1974	Feb. 22, 1980	Mr. William M. McCulloch, Chairman, R.D. No. 6, Shippensburg, PA 17257, (717) 532–4434.

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State, county, community name, and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Pennsylvania, Jefferson, township of Warsaw, 0001A-0004A.	422450	E-11, 12, 14	I	F	Jan. 17, 1975	Feb. 22, 1980	Mr. Alvin Bredbenner, Chairman, R.D. No. 1, Reynoldsville, PA 15851, (814) 226-2620.
Pennsylvania, Clinton, township of West Keating, 0001A-0003A.	421542	N-11, 12, 14	I	F	Dec. 6, 1974	Feb. 22, 1980	Mr. Jack Gaines, Chairman, General Delivery, Pottersdale, PA 16871, (814) 283-4229.
New Jersey, Bergen, borough of Paramus, 0001-0003.	340062A	E-12	I	F	Aug. 31, 1979	Feb. 22, 1980	Manu K. Patel, P.E., L.S. Borough Engineer, Jockish Square, Paramus, NJ 07652, (201) 265-2100.
Tennessee, Meigs, town of Decatur, 0801	470134D	E-12	I	F	June 14, 1974, Mar. 11, 1977, Jan. 13, 1978, June 30, 1978.	Feb. 22, 1980	Mr. Wm. Buchanan, Mayor, P.O. Box 85, Decatur, TN 37322.
Mississippi, Perry, town of Beaumont, 0001	280203B	E-11, 12	I	F	June 28, 1974, Jan. 16, 1976.	Feb. 22, 1980	Earl Alexander, Mayor, P.O. Box 469, Beaumont, MS 39627, (601) 484-3361.
Massachusetts, Plymouth, town of Hull, 0001, 0002.	250269A	E-11, 12	I	F	Dec. 10, 1976	Feb. 22, 1980	Mr. Bernard Duffy, Executive Secretary, Board of Selectmen, Municipal Building, Hull, MA 02045, (617) 925-2000.
Alabama, Jefferson, town of West Jefferson, 0001.	010402A	N-5	I	F	Feb. 22, 1980	Feb. 22, 1980	Kenneth E. McCarty, Mayor, Clinton, Route 2, West Jefferson, AL 35130, (205) 325-5142.
Oklahoma, Tulsa and Wagoner, city of Broken Arrow, 0001B-0006B.	400236B	E-8, 11, 12	I	F	Oct. 18, 1977	Feb. 26, 1980	Mr. Jim Whitlock, City Manager, P.O. Box 610, Broken Arrow, OK 74012, (918) 251-5311.
Wyoming, Sweetwater, town of Granger, 0001A.	560095A	N-5	I	F	Feb. 26, 1980	Feb. 26, 1980	Honorable Fred G. Flocher, Mayor, P.O. Box 42, Granger, WY 82934, (307) 875-5556.
Pennsylvania, Snyder, township of Adams, 0001A-0002A.	422031	E-11, 12, 14	I	F	Dec. 13, 1974	Feb. 29, 1980	Frederic B. Singman, Chairman, R.D. No. 1, Beavertown, PA 17813, Phone: (717) 658-5186.
Pennsylvania, Lackawanna, township of Elmhurst, 0001B.	421752	E-11	I	F	Oct. 16, 1974, Apr. 30, 1976.	Feb. 29, 1980	Phillip Madison, Chairman, R.D. No. 2, Moscow, PA 18444, Phone: (717) 842-3316.
Pennsylvania, Dauphin, township of Jackson, 0002A and 0004A only.	421503	N-11, 12, 14	I	F	Jan. 31, 1975	Feb. 29, 1980	Charles A. Strum, Jr., Chairman, R.D. No. 1, Halifax, PA 17032, Phone: (717) 362-8221.
Pennsylvania, Juniata, township of Tuscarora, 0001A-0004A.	422452	E-11, 12, 14	I	F	Jan. 10, 1975	Feb. 29, 1980	Elton Clark, Chairman, R.D. No. 1, Box 280, East Waterford, PA 17021, Phone: (717) 734-3083.
Pennsylvania, Cumberland, township of Upper Mifflin, 0005A and 0004A only.	421569	E-11, 12, 14	I	F	Nov. 15, 1974	Feb. 29, 1980	Junior Singer, Chairman, R.D. No. 2, Newville, PA 17241, Phone: (717) 423-5562.
Mississippi, Quitman, town of Sledge, 01	280141B	E-8, 11	I	F	June, 7, 1974, July 9, 1976.	Feb. 29, 1980	Mr. Luck Wing, Mayor, Town Hall, Town of Sledge, Sledge, MS 38670, (601) 382-7716.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 17, 1980.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 80-3026 Filed 1-28-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 63, 64

[CC Docket No. 78-96]

Regulatory Policies Concerning the Provision of Domestic Public Message Services by Entities Other Than the Western Union Telegraph Co. and Proposed Amendments; Correction

AGENCY: Federal Communications Commission.

ACTION: Memorandum, opinion and order; correction.

SUMMARY: On January 16, 1980 [45 FR 3037) the FCC published a memorandum, opinion and order concerning the provision of domestic public message services by entities other than the Western Union Telegraph Co. The Appendix attached to that order was incomplete in that some rule changes were either omitted or incorrectly reported. This document shows the complete set of revised rule changes.

EFFECTIVE DATE: March 3, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leonard Sawicki, Common Carrier Bureau, (202) 632-6363.

Released: January 21, 1980.

In the matter of regulatory policies Concerning the provision of Domestic Public Message Services by entities other than the Western Union Telegraph Company and proposed amendment to Parts 63 and 64 of the Commission's rules, CC Docket No. 78-96, 45 FR 3037, January 16, 1980.

1. A Memorandum Opinion and Order (FCC 79-847) was released in this proceeding on January 7, 1980. The Appendix attached to that order was incomplete in that some rule changes were either omitted or incorrectly reported. In addition to the items listed in that Appendix, § 63.62(c) should have been deleted and amendments to §§ 63.62(f), 63.63(a) and 63.505 should have been included. The attached is a revised Appendix showing the complete set of rule changes.

Federal Communications Commission.

William J. Tricarico,
Secretary.

Revised Appendix

PART 63—EXTENSION OF LINES AND DISCONTINUANCE OF SERVICE BY CARRIERS

1. In § 63.01 paragraph (h)(3) is amended to read as follows:

§ 63.01 Contents of applications.

* * * * *

(h) * * *

(3) The types of classes of toll telephone or telegraph offices to be established;

* * * * *

2. In § 63.60 paragraphs (a)(1), (a)(2), (a)(3) and (c) amended; paragraphs (d) through (h) deleted to read as follows:

§ 63.60 Definitions.

(a) * * *

(1) The closure by a carrier of a telephone exchange rendering interstate or foreign telephone toll service, a public toll station serving a community or part of a community, or a public coast station as defined in §81.3 of this chapter;

(2) The reduction in hours of service by a carrier at a telephone exchange rendering interstate or foreign telephone toll service, at any public toll station (except at a toll station at which the availability of service to the public during any specific hours is subject to the control of the agent or other persons controlling the premises on which such office or toll station is located and is not subject to the control of such carrier), or at a public coast station; the term "reduction in hours of service" does not include a shift in hours which does not result in any reduction in the number of hours of service.

(3) [Reserved]

* * * * *

(c) "Public toll station" means a public telephone station, located in a community, through which a carrier provides service to the public, and which is connected directly to a toll line operated by such carrier.

* * * * *

§ 63.62 [Amended]

3. Section 63.62(c) is deleted.

4. Section 63.62(f) is amended to read as follows:

* * * * *

(f) Any other type of discontinuance, reduction or impairment of telephone service not specifically provided for by other provisions of this part (for contents of application, see § 63.505);

* * * * *

5. Section 63.63(a) is amended to read:

§ 63.63 Emergency discontinuance, reduction or impairment of service.

(a) Application for authority for emergency discontinuance, reduction, or impairment of service shall be made by filing an informal request in quintuplicate as soon as practicable but not later than 15 days in the case of public coast stations; or 65 days in all other cases, after the occurrence of the conditions which have occasioned the discontinuance, reduction, or impairment. The request shall make reference to this section and show the following:

* * * * *

6. In § 63.64 the headnote is amended to read:

§ 63.64 Alternative procedure in certain specified cases involving public coast stations.

* * * * *

7. Section 63.66 headnote and text amended to read as follows:

§ 63.66 Closure of or reduction of hours of service at telephone exchanges at military establishments.

Where a carrier desires to close or reduce hours of service at a telephone exchange located at a military establishment because of the deactivation of such establishment, it may, in lieu of filing formal application, file in quintuplicate an informal request. Such request shall make reference to this section and shall set forth the class of office, address, date of proposed closure or reduction, description of service to remain or be substituted, statement as to any difference in charges to the public, and the reasons for the proposed closure or reduction. Authority for such closure or reduction shall be deemed to have been granted by the Commission, effective as of the 15th day following the date of filing of such request, unless, on or before the 15th day, the Commission shall notify the carrier to the contrary.

§§ 63.67, 63.68, 63.91, 63.502, 63.503, 63.506, 63.507 [Deleted]

8. Sections 63.67, 63.68, 63.91, 63.502, 63.503, 63.506 and 63.507 are deleted.

9. Section 63.90 is amended to read as follows:

§ 63.90 Publication and posting of notices.

(a) Immediately upon the filing of an application or informal request for authority to close or otherwise discontinue the operation, or reduce the hours of service at a telephone exchange (except an exchange located at a military establishment), or a public coast station, the applicant shall post a public notice at least 20 inches by 24 inches, with letters of commensurate size, in a conspicuous place in the exchange or public coast station affected, and also in the window of any such exchange or station having window space fronting on a public street at street level. If a public coast station is not ordinarily accessible to the general public for the purpose of filing or accepting delivery of messages, but an associated public office is provided by the applicant for that purpose, the public notice herein referred to shall be posted in the public office. Such notice shall be posted for at least 14 days and shall contain the following information, as may be applicable:

(1) Date of first posting of notice;

(2) Name of applicant;

(3) A statement that application has been made to the Federal Communications Commission;

(4) Date when application was filed in the Commission;

(5) A description of the discontinuance, reduction, or impairment of service for which authority is sought including the address or other appropriate identification of the exchange or station involved;

(6) If applicant proposes to reduce hours of service, a description of present and proposed hours of service;

(7) A complete description of the substitute service, if any, to be provided if the application is granted.

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(g) A statement that any member of the public desiring to protest or support the application may communicate in writing with the Federal Communications Commission, Washington, D.C. 20554, on or before a specified date which shall be 20 days from the date of first posting of the notice.

(h) Immediately upon the filing of an application or informal request of the nature described in paragraph (a) of this section, the applicant shall also cause to be published a notice of not less than 4 column inches in size containing information similar to that specified in paragraph (a), at least once during each of 2 consecutive weeks, in some newspaper of general circulation in the community or part of the community affected.

(i) Immediately upon the filing of an application or informal request or upon the filing of a formal application to close a public toll station (except a toll station located at a military establishment), applicant shall post a public notice at least 11 inches by 17 inches as provided in paragraph (a) of this section or, in lieu thereof, applicant shall cause to be published a newspaper notice as provided in paragraph (b) of this section.

(j) Immediately upon the filing of any application or informal request for authority to discontinue, reduce, or impair service, or any notice of resumption of service under § 63.63(b), the applicant shall give written notice of the filing together with a copy of such application to the State Commission (as defined in section 3(t) of the Communications Act of 1934, as amended) of each State in which any discontinuance, reduction or impairment is proposed.

(k) When the posting, publication, and notification as required in paragraphs (a), (b), (c) and (d) of this section have been completed, applicant shall report such fact to the Commission, stating the name of the newspaper in which publication was made, the name of the Commissions notified, and the dates of posting, publication, and notification.

10. Section 63.505 is not deleted as earlier reported, but the headnote and text are amended to read:

§ 63.505 Contents of applications for any type of discontinuance, reduction, or impairment of telephone service not specifically provided for in this part.

The application shall contain: (a) The name and address of each applicant;

(b) The name, title, and post office address of the officer to whom correspondence concerning the application is to be addressed;

(c) Nature of proposed discontinuance, reduction, or impairment;

(d) Identification of community or part of community involved and date on which applicant desires to make proposed discontinuance, reduction or impairment effective, if for a temporary period only, indicate the approximate period for which authorization is desired;

(e) Proposed new tariff listing, if any, and difference, if any, between present charges to the public and charges for the service to be substituted;

(f) Description of the service area affected including population and general character of business of the community;

(g) Name of any other carrier or carriers providing telephone service to the community;

(h) Statement of the reasons for proposed discontinuance, reduction, or impairment;

(i) Statement of the factors showing that neither present nor future public convenience and necessity would be adversely affected by the granting of the application;

(j) Description of any previous discontinuance, reduction, or impairment of service to the community affected by the application, which has been made by the applicant during the 12 months preceding filing of application, and statement of any present plans for future discontinuance, reduction, or impairment of service to such community;

(k) Description of the service involved, including:

(1) Existing telephone service by the applicant available to the community or part thereof involved;

(2) Telephone service (available from applicant or others) which would remain in the community or part thereof involved in the event the application is granted;

(l) A statement of the number of toll messages sent-paid and received-collect and the revenues from such traffic in connection with the service proposed to be discontinued, reduced, or impaired for each of the past 6 months; and, if the volume of such traffic handled in the area has decreased during recent years, the reasons therefor.

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

§§ 64.202—64.298 (Subpart B)—[Repealed]

11. Part 64, Subpart B, of the Rules, "Domestic Telegraph Speed of Service Studies" has been repealed and will be left blank.

[FR Doc. 80-2816 Filed 1-28-80; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 90

[PR Docket No. 21142]

Private Land Mobile Radio Services; Replacing the Low-Pass Audio Filter Requirements With a Revised Emission Limitation Standard; Correction

AGENCY: Federal Communications Commission.

ACTION. Final rule, correction.

SUMMARY: In order to facilitate the utilization of digital voice modulation in the Police and Fire Radio Services, the Federal Communications Commission amended its rules, allowing the optional removal of the low-pass filtering requirement and revised emission limitation standards for analog and digital transmitters, in the Land and General Mobile Radio Services. The Commission's amended rules were published at 44 FR 70158, December 6, 1979. This document makes necessary corrections because of omissions and inaccuracies which occured in preparation and printing.

EFFECTIVE DATE: January 7, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FUTHER INFORMATION CONTACT: William P. Berges, Rules Division, Private Radio Bureau, (202) 632-6497.

Released: January 23, 1980.

In the matter of amendment of Parts 89, 91, 93 and 95 (General Mobile Radio Service) of the Commission's rules and regulations to replace the low-pass audio filter requirements with a revised emission limitation standard, Docket No. 21142; 44 FR 70158, December 6, 1979.

In the Appendix to the Second Report and Order in this proceeding (FCC 79-756, 44 FR 70158), the following omissions and inaccuracies occurred which are the subject of this errata.

§ 90.209 [Amended]

1. Section 90.209(c) should have been included in the amendment to read as follows:

* * * * *

(c) Except as noted in paragraphs (d), (f) and (g), the mean power of emissions shall be attenuated below the mean output power of the transmitter in accordance with the following schedule:

* * * * *

§ 90.211 [Amended]

2. The amendment to § 90.211(h) should be corrected to read as follows:

* * * * *

(h) Transmitters subject to paragraphs (f) and (g) of § 90.209 will be exempt from the audio low-pass filter requirements of this section provided that transmitters used for digital emissions must be type accepted with the specific equipment that provide the digital modulating signal. The application for type acceptance shall contain such information as may be necessary to demonstrate that the transmitter complies with the emission limitations specified in paragraphs (f) and (g) of § 90.209.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 80-2788 Filed 1-28-80; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1

Subpart I—Rules of Practice Governing Cease and Desist Proceedings Under Section 2 of the Capper-Volstead Act

AGENCY: Office of the Secretary.

ACTION: Final rule.

SUMMARY: The rules of practice published hereafter apply to the conduct of cease and desist proceedings, under section 2 of the Capper-Volstead Act (42 Stat. 388, 7 U.S.C. 292). These rules are adopted after careful consideration of numerous comments filed with the Hearing Clerk following publication of proposed rules of practice in the Federal Register on July 6, 1979.

EFFECTIVE DATE: January 29, 1980.

FOR FURTHER INFORMATION CONTACT: John C. Chernauskas, Office of the General Counsel, U.S. Department of Agriculture, Washington, D.C. 20250; telephone (202) 447-5935.

SUPPLEMENTARY INFORMATION: The background for the rules of practice appears in the proposal published in the Federal Register at 44 FR 39409 (July 6, 1979).

In large measure the comments received did not deal directly with the proposed rules, but rather with the report titled "Undue Price Enhancement by Agricultural Cooperatives." Comments on the report will be given consideration in the development of a unit in the Department of Agriculture with delegated responsibilities under section 2 of the Capper-Volstead Act.

Many helpful comments were also received on the proposed rules of practice, resulting in some modification of the rules.

Under § 1.161, *Definitions,* the reference to the "Director" and the "Capper-Volstead Monitoring Office" have been deleted. The precise nature of the structure and duties of the unit or persons to which the Secretary may delegate Capper-Volstead enforcement responsibilities is still under consideration.

Under default proceedings, § 1.164(c), an addition has been made to provide for the presentation of a *prima facie* case by complainant. This change is consistent with complainant's ultimate burden of proof, and will provide for a more comprehensive record and factual findings in the event of *de novo* review or enforcement.

The sections on Prehearing Conference (§ 1.167) and Powers of the Judge (§ 1.173(d)) have been modified to clarify the important role of the Judge in developing procedures for the orderly presentation of highly complex economic and marketing evidence that may be involved in such proceedings.

The decision process has been modified (§§ 1.169 and 1.170) to provide for the issuance of an initial decision by the Administrative Law Judge which shall be final unless appealed to the Judicial Officer. This procedure is used in Administrative Procedure Act proceedings under the Department's uniform rules and will insure a final thorough review of the issues and facts prior to a possible review by a Court or enforcement at the request of the Secretary.

Several comments objected to the provision permitting limited intervention by persons with a substantial interest in the outcome of the proceeding. Since intervention is limited to briefs and arguments, it is not anticipated that intervention will delay the proceedings or expand the issues. Therefore, no change has been made in this section.

Many comments were concerned with maintaining the confidentiality of sensitive information received by the Department during the investigatory processes. The institution of a formal cease and desist proceeding will almost invariably risk making public certain data gathered during investigation. However, the general provision on motions (§ 1.172) is sufficiently broad to permit a protective order under compelling circumstances, and will allow for consideration of modification of the time for filing an answer, the time and place for hearing, as well as other potential problems raised in various comments to the proposed rules.

In consideration of the foregoing, 7 CFR Part 1 is amended by adding a new Subpart I to read as follows.

Bob Bergland,
Secretary of Agriculture.
January 22, 1980.

PART 1—ADMINISTRATIVE REGULATIONS

Subpart I—Rules of Practice Governing Cease and Desist Proceedings Under Section 2 of the Capper-Volstead Act

Sec.
1.160 Scope and applicability of rules in this part.
1.161 Definitions.
1.162 Institution of proceedings.
1.163 The complaint.
1.164 Answer.
1.165 Amendments.
1.166 Consent order.
1.167 Prehearing conference.
1.168 Procedure for hearing.
1.169 Post-hearing procedure and decision.
1.170 Appeal to the Judicial Officer.
1.171 Intervention.
1.172 Motions and requests.
1.173 Judges.
1.174 Filing; service; extension of time; and computation of time.
1.175 Procedure following entry of cease and desist order.

Authority.— 42 Stat. 388, 7 U.S.C. 291, 292.

Subpart I—Rules of Practice Governing Cease and Desist Proceedings Under Section 2 of the Capper-Volstead Act

§ 1.160 Scope and applicability of rules in this part.

The rules of practice in this part shall be applicable to cease and desist proceedings, initiated upon complaint by the Secretary of Agriculture, pursuant to section 2 of the Capper-Volstead Act.

§ 1.161 Definitions.

As used in this part, words in the single form shall be deemed to import the plural, and vice versa, as the case may require. The following terms shall be construed, respectively, to mean:

(a) "Act" means the Capper-Volstead Act, approved February 18, 1922, 42 Stat. 388, 7 U.S.C. 291, 292.

(b) "Complaint" means a formal complaint instituted by the Secretary of Agriculture requiring respondent to show cause why an order should not be made directing it to cease and desist from acts of monopolization or restraint of trade, which result in undue price enhancement.

(c) "Complainant" or "Secretary" means the Secretary of Agriculture, United States Department of Agriculture, or any officer(s) or

employee(s) to whom authority has heretofore been delegated, or whom authority may hereafter be delegated, to act in his stead.

(d) "Respondent" means the cooperative associations, or association, against whom a complaint has been issued.

(e) "Hearing Clerk" means the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250.

(f) "Judge" means any Administrative Law Judge appointed pursuant to 5 U.S.C. 3105 (the Administrative Procedure Act) and assigned to the proceeding involved.

(g) "Judicial Officer" means an official of the United States Department of Agriculture delegated authority by the Secretary, pursuant to the Act of April 4, 1940 (7 U.S.C. 450c–450g) and Reorganization Plan No. 2 of 1953 (5 U.S.C. 1976 ed., Appendix, p. 764), to perform the function involved (7 CFR 2.35), or the Secretary if he exercises the authority so delegated.

(h) "Decision" means: (1) the Judge's decision, and includes (i) findings and conclusions and the reasons or basis therefor on all material issues of fact, law, or discretion, (ii) order, and (iii) rulings on proposed findings, conclusions and order submitted by the parties, and (2) the decision and order by the Judicial Officer upon an appeal of the Judge's decision.

(i) "Hearing" means that part of the proceeding which involves the submission of evidence before the Judge for the record in the proceeding.

(j) "Association" means a cooperative association, a federation of cooperatives, or other association of agricultural producers, as defined in section 1 of the Act.

§ 1.162 Institution of proceedings.

(a) *Filing of Information.* Any person having information that any agricultural association, as defined in the Capper-Volstead Act, is engaged in any practice which monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any agricultural product is unduly enhanced by reason thereof, may submit such information to the Secretary. Such information shall be in writing and shall contain a complete statement of facts detailing the price enhancement and the practices alleged.

(b) *Consideration of Information.* The Secretary shall consider all information filed under part (a) of this section, and any other information which he may obtain relating to a violation of section 2 of the Act. If the Secretary finds that there is reason to believe that any association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any agricultural product is unduly enhanced thereby he shall cause a complaint to be filed, requiring the association to show cause why an order should not be made directing the association to cease and desist from such monopolization or restraint of trade. The complaint shall be filed with the Hearing Clerk, who shall assign to the proceeding a docket number and effect service upon respondent.

§ 1.163 The complaint.

The complaint shall state briefly all allegations of fact which constitute a basis for the proceeding, and shall designate a time and place for the hearing in the matter, which shall be at least 30 days after the service of the complaint upon the respondent.

§ 1.164 Answer.

(a) *Filing and Service.* Within 20 days after service of the complaint, or such other time as may be specified therein, the respondent shall file with the Hearing Clerk, an answer, signed by the respondent or his attorney. The answer shall be served upon the complainant by the Hearing Clerk.

(b) *Contents.* The answer shall clearly admit, deny, or offer an explanation in response to each of the allegations of the complaint, and shall clearly set forth any affirmative defense.

(c) *Default.* Failure to file an answer shall constitute an admission of the allegations in the complaint, and may be the basis for a decision upon the presentation of a *prima facie* case by the complainant.

§ 1.165 Amendments.

Amendments to the complaint may be made prior to the filing of an answer in which case the time for filing the answer shall be extended 20 days or for other time agreed to by the parties. After the answer is filed, amendments to the complaint, or to the answer or other pleading, may be made by agreement of the parties or allowed at the discretion of the Judge. In case of an amendment which significantly changes the issues, the hearing shall, on the request of a party, be postponed or adjourned for a reasonable period, if the Judge determines that such action is necessary to avoid prejudice to the party.

§ 1.66 Consent order.

At any time, complainant and respondent may agree to the entry of a consent order. Such order shall be entered by the Judge (prior to a decision) or the Judicial Officer (after a decision by the Judge), and become effective on the date specified therein.

§ 1.167. Prehearing conference.

Upon motion of a party or upon the Judge's own motion, the Judge may direct the parties to attend a prehearing conference when the Judge finds the proceeding would be expedited by prehearing discussions on matters of procedure and/or possible stipulations, for the purpose of (a) simplifying the issues, (b) limitation of expert or other witnesses, (c) orderly presentation of complex evidence, and (d) such other matters as may expedite and aid in the disposition of the proceeding.

§ 1.168. Procedure for hearing.

(a) *Time and Place.* The oral hearing shall be held at such time and place as specified in the complaint, and not less than 30 days after service thereof. The time and place of the hearing may be changed for good cause, by the Judge, upon motion of either complainant or respondent.

(b) *Appearances.* The parties may appear in person or by counsel or by other representative. Persons who appear as counsel or in a representative capacity must conform to the standards of ethical conduct required of practitioners before the courts of the United States.

(c) *Order of Proceeding.* Except as otherwise may be agreed by the parties and approved by the Judge, the complainant shall proceed first at the hearing.

(d) *Failure to Appear.* If respondent, after being duly notified, fails to appear at the hearing, and no good cause for such failure is established, complainant shall present a *prime facie* case on the matters denied in the answer.

(e) *Evidence.* (1) The testimony of witnesses at the hearing shall be upon oath or affirmation, reported verbatim, and subject to cross-examination.

Evidence which is immaterial, irrelevant, or unduly repetitious, or which is not of the sort upon which responsible persons are accustomed to rely, shall be excluded insofar as practicable.

(2) *Objections.* If a party objects to the admission of any evidence or to the limitation of the scope of any examination or cross-examination, he shall briefly state the grounds of such objections, whereupon an automatic exception will follow if the objection is overruled by the Judge. The ruling of the Judge on any objection shall be part of the transcript.

Only objections made before the Judge may subsequently be relied upon in the proceeding.

(3) *Official Records or Documents.* An official record or document, if admissible for any purpose, shall be admissible in evidence without the production of the person who made or prepared the same, and shall be *prima facie* evidence of the relevant facts stated therein. Such record or document shall be evidenced by an official publication thereof, or by a copy certified by a person having legal authority to make such certification.

(4) *Exhibits.* Unless the Judge finds that the furnishing of multiple copies is impracticable, four copies of each exhibit shall be filed with the Judge unless the Judge finds that a greater or lesser number is desirable. A true copy of an exhibit may be substituted for the original.

(5) *Official Notice.* Official notice shall be taken of such matters as are judicially noticed by the courts of the United States and of any other matter of technical, scientific, or commercial fact of established character: *Provided,* That the opposing party shall be given adequate opportunity to show that such facts are erroneously noticed.

(6) *Offer of Proof.* Whenever evidence is deleted from the record, the party offering such evidence may make an offer of proof, which shall be included in the transcript. The offer of proof shall consist of a brief statement describing the evidence excluded. If the evidence consists of a brief oral statement or of an exhibit, it shall be inserted into the transcript in toto. In such event, it shall be considered a part of the transcript and record if the Judicial Officer decides that the Judge's ruling in excluding the evidence was erroneous and prejudicial. The Judge shall not allow the insertion of such excluded evidence in toto if the taking of such evidence will consume considerable time at the hearing. In the latter event, if the Judicial Officer decides that the Judge's ruling excluding the evidence was both prejudicial and erroneous, the hearing may be reopened to permit the taking of such evidence.

(7) *Affidavits.* Affidavits may be submitted into evidence, in lieu of witness testimony, only to the extent, and in the manner agreed upon by the parties.

§ 1.169. Post-hearing procedure and decision.

(a) *Corrections to Transcript.* (1) At any time, but not later than the time fixed for filing proposed findings of fact, conclusions and order, or briefs, as the case may be, any party may file a motion proposing corrections to the transcript.

(2) Unless a party files such a motion in the manner prescribed, the transcript shall be presumed, except for obvious typographical errors, to be a true, correct, and complete transcript of the testimony given at the hearing and to contain an accurate description or reference to all exhibits received in evidence and made part of the hearing record.

(3) At any time prior to the filing of the Judge's decision and after consideration of any objections filed as to the transcript, the Judge may issue an order making any corrections in the transcript which the Judge finds are warranted, which corrections shall be entered onto the original transcript by the Hearing Clerk (without obscurring the original text).

(b) *Proposed Findings of Fact, Conclusions, Order and Briefs.* The parties may file with the Hearing Clerk proposed findings of fact, conclusions and orders based solely upon the record and on matters subject to official notice, and briefs in support thereof. The Judge shall announce at the hearing a definite period of time within which these documents may be filed.

(c) *Judge's Decision.* The Judge, within a reasonable time after the termination of the period allowed for the filing of proposed findings of fact, conclusions and order, and briefs in support thereof, shall prepare, upon the basis of the record and matters officially noticed, and shall file with the Hearing Clerk, the Judge's decision, a copy of which shall be served by the Hearing Clerk upon each of the parties. Such decision shall become final and effective without further proceedings 35 days after the date of service thereof upon the respondent, unless there is an appeal to the Judicial Officer by a party to the proceeding pursuant to § 1.170: *Provided,* That no decision shall be final for purposes of a request for Judicial Review, as provided in § 1.175(a) herein, except a final decision of the Judicial Officer on appeal.

§ 1.170 Appeal to the Judicial Officer.

(a) *Filing of Petition.* Within 30 days after receiving service of the Judge's decision, a party who disagrees with the decision, or any part thereof, or any ruling by the Judge or any alleged deprivation of rights, may appeal such decision to the Judicial Officer by filing an appeal petition with the Hearing Clerk. As provided in § 1.167(e)(2), objections regarding evidence or a limitation regarding examination or cross-examination or other ruling made before the Judge may be relied upon in an appeal. Each issue set forth in the petition, and the arguments thereon, shall be separately numbered; shall be plainly and concisely stated; and shall contain detailed citations to the record, statutes, regulations or authorities being relied upon in support thereof. A brief may be filed in support of the appeal simultaneously with the petition.

(b) *Response to Appeal Petition.* Within 20 days after the service of a copy of an appeal petition and any brief in support thereof, filed by a party to the proceeding, any other party may file with the Hearing Clerk a response in support of or in opposition to the appeal and in such response any relevant issue, not presented in the appeal petition, may be raised.

(c) *Transmittal of Record.* Whenever an appeal of a Judge's decision is filed and a response thereto has been filed or time for filing a response has expired, the Hearing Clerk shall transmit to the Judicial Officer the record of the proceeding. Such record shall include: the pleadings; motions and requests filed and rulings thereon; the transcript of the testimony taken at the hearing, together with the exhibits filed in connection therewith; any documents or papers filed in connection with a prehearing conference; such proposed findings of fact, conclusions, and orders, and briefs in support thereof, as may have been filed in connection with the proceeding; the Judge's decision; such exceptions, statements of objections and briefs in support thereof as may have been filed in the proceeding; and the appeal petition, and such briefs in support thereof and responses thereto as may have been filed in the proceeding.

(d) *Oral Argument.* A party bringing an appeal may request, within the prescribed time for filing such appeal, an opportunity for oral arguments before the Judicial Officer. Within the time allowed for filing a response, appellee may file a request in writing for opportunity for such an oral argument. Failure to make such request in writing, within the prescribed time period, shall be deemed a waiver of oral argument. The Judicial Officer may grant, refuse, or limit any request for oral argument. Oral argument shall not be transcribed unless so ordered in advance by the Judicial Officer for good cause shown upon request of a party or upon the Judicial Officer's own motion.

(e) *Scope of Argument.* Argument to be heard on appeal, whether oral or on brief, shall be limited to the issues raised in the appeal or in the response to the appeal, except that if the Judicial Officer determines that additional issues should be argued, the parties shall be given reasonable notice of such determination, so as to permit preparation of adequate arguments on all issues to be argued.

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(f) *Notice of Argument; Postponement.* The Hearing Clerk shall advise all parties of the time and place at which oral argument will be heard. A request for postponement of the argument must be made by motion filed a reasonable amount of time in advance of the date fixed for argument.

(g) *Order of Argument.* The appellant is entitled to open and conclude the argument.

(h) *Submission on Briefs.* By agreement of the parties, an appeal may be submitted for decision on the briefs, but the Judicial Officer may direct that the appeal be argued orally.

(i) *Decision of the Judicial Officer on Appeal.* As soon as practicable after the receipt of the record from the Hearing Clerk, or, in case oral argument was had, as soon as practicable thereafter, the Judicial Officer, upon the basis of and after due consideration of the record and any matter of which official notice is taken, shall rule on the appeal. If the Judicial Officer decides that no change or modification of the Judge's decision is warranted, the Judicial Officer may adopt the Judge's decision as the final order in the proceeding, preserving any right of the party bringing the appeal to seek judicial review of such decision in the proper forum. A final order issued by the Judicial Officer shall be filed with the Hearing Clerk. Such order may be regarded by the respondent as final for purposes of a request for judicial review as provided in § 1.175(a) herein.

§ 1.171 Intervention.

Intervention under these rules shall not be allowed, except that, in the discretion of the Judicial Officer, or the Judge, any person showing a substantial interest in the outcome of the proceeding shall be permitted to participate in oral or written argument pursuant to sections 1.169 and 1.170 herein.

§ 1.172 Motions and requests.

(a) *General.* All motions and requests shall be filed with the Hearing Clerk, and shall be served upon the parties, except those made on record during the oral hearing. The Judge shall rule upon all motions and requests filed or made prior to the filing of the certification of the transcript. Thereafter, the Judicial Officer will rule on any motions or requests.

(b) *Motions Entertained.* Any motion will be entertained except a motion to dismiss on the pleadings. All motions and requests concerning the complaint must be made within the time allowed for filing an answer.

(c) *Contents.* All written motions and requests shall state the particular order, ruling, or action desired and the grounds therefor.

(d) *Response to Motions in Request.* Within ten days after service of any written motion or request, or within such shorter or longer period as may be fixed by the Judge or the Judicial Officer the opposing party may file a response to the motion or request.

(e) *Certification to the Judicial Officer.* The submission or certification of any motion, request, objection, or other question to the Judicial Officer prior to the time when the Judge's certification of the transcript is filed with the Hearing Clerk, shall be made by and in the discretion of the Judge. The Judge may either rule upon or certify the motion, request, objection, or other question to the Judicial Officer, but not both.

§ 1.173 Judges.

(a) *Assignment.* No Judge shall be assigned to serve in any proceeding who (1) has any pecuniary interest in any matter or business involved in the proceeding, (2) is related within the third degree by blood or marriage to any party to the proceeding, or (3) has participated in the investigation preceding the institution of the proceeding or in determination that it should be instituted or in the preparation of the moving paper or in the development of the evidence to be introduced therein.

(b) *Disqualification of Judge.*

(1) Any party to the proceeding may, by motion made to the Judge, request that the Judge disqualify himself and withdraw from the proceeding. Such motion shall set forth with particularity the alleged disqualification. The Judge may then either rule upon or certify the motion to the Judicial Officer, but not both.

(2) A Judge will withdraw from any proceeding in which he deems himself disqualified for any reason.

(c) *Conduct.* At no stage of the proceeding between its institution and the issuance of the final decision shall the Judicial Officer or the Judge discuss *ex parte* the merits of the proceeding with any person who is connected with the proceeding as an advocate or in an investigative capacity, or with any representative of such person: *Provided,* That procedural matters shall not be included within the limitation: and *Provided further,* That the Judicial Officer of Judge may discuss the merits of the case with such a person if all parties to the proceeding, or their representatives, have been given an opportunity to be present. Any memorandum or other communication addressed to the Judicial Officer or a Judge, during the pendency of the proceeding, and relating to the merits thereof, by or on behalf of any party or any interested person, shall be filed with the Hearing Clerk. A copy thereof shall be served upon the parties to the proceeding, and, in the discretion of the Judge or the Judicial Officer, opportunity may be given to file a reply thereto within a specified period.

(d) *Powers.* Subject to review by the Judicial Officer as provided elsewhere in this part, the Judge, in any proceeding assigned to him shall have power to:

(1) Rule upon motions and requests;

(2) Set the time and place of any requested formal pre-hearing conference, adjourn the hearing from time to time, and change the time and place of hearing;

(3) Administer oaths and affirmations;

(4) Examine witnesses and receive relevant evidence;

(5) Admit or exclude evidence;

(6) Hear oral argument on facts or law;

(7) Do all acts and take all measures necessary for the orderly presentation of evidence, maintenance of order, and the efficient conduct of the proceeding.

(e) *Who May Act in the Absence of the Judge.* In case of the absence of the Judge or upon his inability to act, the powers and duties to be performed by him under these Rules of Practice in connection with a proceeding assigned to him may, without abatement of the proceeding, be assigned to any other Judge.

§ 1.174 Filing; service; extensions of time; and computation of time.

(a) *Filing; Number of Copies.* Except as otherwise provided by the Judge or the Secretary, all documents or papers required or authorized by the rules in this part to be filed with the Hearing Clerk shall be filed in quadruplicate: *Provided,* That, where there are parties to the proceeding in addition to complainant and respondent, an additional copy shall be filed for each such additional party. Any document or paper, required or authorized under the rules in this part to be filed with the Hearing Clerk, shall, during the course of an oral hearing, be filed with the Judge.

(b) *Service; Proof of Service.* Copies of all such documents or papers required or authorized by the rules in this part to be filed with the Hearing Clerk, shall be served upon the parties by the Hearing Clerk, or by some other employee of the Department, or by a U.S. Marshal or his Deputy. Service shall be made either (1) by delivering a copy of the document or paper to the individual to be served or to a member of the partnership to be served, or to the president, secretary, or other executive officer or any director of the corporation or association to be served, or to the attorney or agent of record of such individual, partnership, corporation, organization, or association; or (2) by leaving a copy of the document or paper at the principal office or place of business or residence of such individual, partnership, corporation, organization, or association, or of his or its attorney or agent of record and mailing by regular mail another copy to each person at such address; or (3) by registering or certifying and mailing a copy of the document or paper, addressed to such individual, partnership, corporation, organization, or association, or to his or its attorney or agent of record, at his or its last known residence or principal office or place of business: *Provided,* That if the registered or certified document or paper is returned undelivered because the addressee refused or failed to accept delivery, the document or paper shall be served by remailing it by regular mail. Proof of service hereunder shall be made by the certification of the person who actually made the service: *Provided,* That if the service be made by mail, as outlined in subparagraph (3) of this paragraph proof of service shall be made by the return post office receipt, in the case of registered or certified mail, or by the certificate of the person who mailed the matter by regular mail. The certificate and post office receipt contemplated herein shall be filed with the Hearing Clerk, and the fact of filing thereof shall be noted in the record of the proceeding.

(c) *Extension of Time.* The time for the filing of any document or paper required or authorized under the rules in this part to be filed may be extended by the Judge prior to the filing of the certification of the transcript if there is good reason for the extension. In all instances in which time permits, notice of the request for extension of the time shall be given to the other party with opportunity to submit views concerning the request.

(d) *Effective Date of Filing.* Any document or paper required or authorized under the rules in this part to be filed shall be deemed to be filed at the time when it reaches the Department of Agriculture in Washington, D.C.; or, if authorized to be filed with an officer or employee of the Department at any place outside the District of Columbia, it shall be deemed to be filed at the time when it reaches the office of such officer or employee.

(e) *Computation of Time.* Saturdays, Sundays and Federal holidays shall be included in computing the time allowed for the filing of any document or paper: *Provided,* That when such time expires on a Saturday, Sunday or Federal holiday, such period shall be extended to include the next following business day.

§ 1.175 Procedure following entry of cease and desist order.

(a) *Request for Judicial Review.* An association subject to a cease and desist order may, within thirty days following the date of the order, request the Secretary to institute proceedings for judicial review of the order. Such request shall, to the extent practicable, identify findings of fact, conclusions of law, and any part of the order which the association claims are in error. The Secretary shall, thereupon, file in the district in the judicial district in which such association has its principal place of business, a certified copy of the order and of all records in the proceeding, including the request of the association, together with a petition asking that the order be affirmed and enforced.

(b) *Enforcement.* If an association subject to a cease and desist order fails or neglects, within thirty days of the date of the order, or at any time thereafter, to obey such order, and has not made a request for judicial review as provided above, the Secretary shall file in the district court in the judicial district in which such association has its principal place of business a certified copy of the order and of all records in the proceeding, together with a petition asking that the order be enforced.

(c) *Notice.* The Secretary shall give notice of the filing of a petition for enforcement or review to the Attorney General, and to the association, by service of a copy of the petition.

This action has been determined exempt from procedures under Executive Order 12044 because it is administrative in nature.

[FR Doc. 80-2822 Filed 1-28-80; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine, and Tangelo Regulation 3, Amdt. 6]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Amendment of Tangerine Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment lowers the minimum diameter (size) requirements for Honey tangerines for domestic shipments from 2 1/16 inches to 2 5/16 inches for the period January 25, 1980, through October 12, 1980. This action recognizes current market demand for smaller sizes of this fruit and is consistent with the size composition of the available crop in the interest of growers and consumers.

EFFECTIVE DATE: January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* (1) This regulation is issued under marketing agreement and Order No. 905, both as amended (7 CFR Part 905) regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendations of the committee established under the marketing agreement and order, and upon other available information. It is found that the regulation of shipments of Florida Honey tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The minimum size requirements, herein specified, for domestic shipments of Honey tangerines reflect the Department's appraisal of the need for the amendment of the current regulation to permit handling of smaller sizes of the designated fruit based on current supply and demand conditions. Relaxation of the minimum size requirements for Honey tangerines will tend to promote the orderly marketing of this fruit.

The Citrus Administrative Committee, at an open meeting on January 22, 1980, reported there is a good market demand for smaller size Honey tangerines. With the marketing of Dancy variety tangerines and tangelos nearly finished, the Honey tangerines will help fill demand.

(3) It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act. Growers, handlers, and other interested persons were given an opportunity to submit information and views on the amendment at an open meeting, and the

amendment relieves restrictions on the handling of Florida Honey tangerines. It is necessary to effectuate the declared purposes of the act to make the regulatory provisions effective as specified, and handlers have been apprised of such provisions and effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, Phone: (202) 447-5975.

Accordingly, it is found that the provisions of § 905.303 (Orange, Grapefruit, Tangerine, and Tangelo Regulation 3) (44 FR 59195; 65962; 66774; 69917; 74797), applicable to domestic shipments, should be and are amended by revising Table I, paragraph (a) to read as follows:

§ 905.303 Orange, Grapefruit, Tangerine, and Tangelo Regulation 3.

(a) * * *

Table I

Variety	Regulation period	Minimum grade	Minimum diameter (in.)
(1)	(2)	(3)	(4)
Tangerines: Honey.	Jan. 25, 1980, through Oct. 12, 1980.	Florida No. 1.	2⅛

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 24, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-2789 Filed 1-29-80; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Environmental Policies and Procedures; REA Bulletin 20-21:320-21

AGENCY: Rural Electrification Administration.

ACTION: Final rulemaking.

SUMMARY: The Rural Electrification Administration (REA) issuance of revised REA Bulletin 20-21:320-21, Environmental Policies and Procedures, Part One (hereinafter referred to as "Part One"), provides for compliance with the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations, 40 CFR Parts 1500-1508, implementing the procedural provisions of NEPA, as well as implementing compliance with other laws, regulations, Executive Orders, and Secretary's Memoranda regarding environmental protection. This document supplements CEQ regulations to adapt them to the REA program and provides the borrowers a single document to which to refer when dealing with the REA environmental review process.

The Part One of the revised Bulletin replaces the current REA Bulletin 20-21:320-21, National Environmental Policy Act, (last revised on May 20, 1974) except for Exhibits A, B, and C of the current Bulletin. Exhibits A, B, and C will be updated when Part Three of the revised Bulletin is issued. Appendix A to 7 CFR Part 1701 is hereby modified to reflect this revision to REA Bulletin 20-21:320-21.

EFFECTIVE DATE: January 21, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Binder, telephone number 202 447-5755.

SUPPLEMENTARY INFORMATION:

1. Format

REA Bulletin 20-21:320-21 (hereinafter referred to as the "Bulletin") consists of three parts, "Part One" being the only portion which is published herein today in final form. Part One contains REA's procedures to implement and supplement the CEQ regulations. It includes an Appendix which provides a graphic illustration of the REA EIS process.

Part One as published in bulletin form will contain a reprint of the CEQ regulations with REA's implementing or supplemental procedures following the pertinent CEQ section. This format was chosen to give borrowers a single document to which to refer when dealing with the REA environmental review process. Part One of the final Bulletin, in the form described above, is being mailed to all REA and Rural Telephone Bank borrowers. Others may secure a copy in person or by writing the Director, Environmental and Energy Requirements Division.

Because of the general availability of Part One of the final revised Bulletin and CEQ regulations, and in order to avoid costly duplication in the Federal Register, REA is publishing herein only the text of its implementing procedures. The pertinent CEQ section is identified in brackets immediately above the REA section. Those who do not obtain the final Bulletin from REA may refer to 43 FR 55978 et seq. (November 29, 1978) for the full text of the CEQ regulations.

Part Two of the Bulletin is reserved for related environmental procedures. These procedures will be separately published, as appropriate, as draft and final rulemaking. One set of procedures, implementing the Executive Orders on Floodplains and Wetlands, was proposed in draft August 22, 1978, and will be published as a final rule shortly. Other procedures under preparation involve endangered species and historic preservation.

Part Three of the Bulletin will provide specific guidance to REA borrowers in such areas as preparation of technical support documents which REA may utilize in preparing an EIS and environmental reports which may be used by REA as its environmental assessment. Part Three represents informal guidance only and will not be published as a proposed or final rule. A draft of Part Three will be available upon request. Parts Two and Three will be distributed as they become available.

2. Background

On May 15, 1979, Part One of revised REA Bulletin 20-21:320-21 was proposed in draft form (44 FR 28383 et seq.). REA announced that the period for public review of and comment on the draft version of Part One would extend for sixty days (July 16, 1979). During this period, REA also published notice of and held public hearings on Part One in Denver, Colorado, Little Rock, Arkansas, and Washington, D.C. A total of over twenty parties made oral presentations at the public hearings. During the comment period over forty persons or groups submitted written comments on the draft of Part One. Most of the statements contained specific and detailed suggestions for improving the Bulletin and indicated detailed and thorough review. Comments were received from a broad spectrum of interests including REA borrowers, environmental groups, Federal and state agencies, consultants and consumer groups.

REA carefully reconsidered Part One in light of the hearing testimony and written comments. The REA staff evaluated each of the comments and developed recommendations for responding to them. When after discussion and review, REA determined that the comments raised valid concerns, Part One was altered accordingly. However, when the reasons for supporting language in the draft of Part One were more compelling than those for changing the text, Part One was left unchanged. Staff of the Council of Environmental Quality was provided copies of all written comments and consulted for input as to prospective changes of Part One of the Bulletin and compatibility with the CEQ regulations.

Segment 3 of this Preamble contains REA answers to general comments, responses to issues raised not within the scope of Bulletin 20-21:320-21, and clarification of misunderstandings reflected in certain comments. Segment 4 of the Preamble described section by section the more significant comments received, and how REA responded to them. Readers will note that certain response headings in Segment 4 cite a CEQ regulations section. These headings indicate reviewer comments which questioned REA's lack of Part One procedures to implement the relevant CEQ section. In referring to a section of the CEQ NEPA regulations, the Code of Federal Regulations designation is utilized in the Preamble (e.g. CEQ § 1501.4=40 CFR 1501.4).

Because of the volume and diversity of comments received, REA is unable to address in the Preamble all issues raised. REA staff will be available to discuss such matters with interested persons. It is possible that the final Part One and this Preamble still may leave some old questions unanswered and raise new ones. We are examining use of techniques such as seminars or periodic written guidance for interested parties to foster a smooth transition to operation under the revised Bulletin.

3. General Comments and REA's Reponse

As stated earlier, revised Bulletin 20-21:320-21 will provide for compliance with NEPA, the CEQ regulations and other laws, regulations, Executive Orders, and Secretary's Memoranda regarding environmental protection. However, the Rural Electrification Act, 7 U.S.C. 901 et seq., mandates and REA fully supports provision of electric and telephone service to rural consumers at

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a reasonable price. Consequently, REA has endeavored in the revised Bulletin 20–21:320–21 and will continue to strive to develop and implement environmental procedures which are consistent with statutory requirements and yet place no undue cost or delay burdens on our borrowers.

Several hearing presentations and written comments indicated confusion or misunderstanding of the format and content of Part One. A number of parties questioned why the REA Bulletin was silent on a number of sections of the CEQ regulations. Section § 1507.3(a), 40 CFR 1507.3(a), of the CEQ regulations states in pertinent part "[Each agency's] procedures shall not paraphrase these regulations. They shall confine themselves to implementing procedures." REA, in revised Bulletin 20–21:320–21, has supplemented the CEQ regulations to make them work functionally in the REA program rather than merely restating them. The CEQ regulations have been incorporated into the new Bulletin and appear in the copies to be distributed. Where REA has not supplemented a particular CEQ section, the reason is that we believe no additional interpretation is necessary. Part One is consistent with the CEQ regulations. No provision is intended to change the letter or spirit of the CEQ regulations, but rather the new language adapts those regulations to the specific details of the REA program.

Quite frequently during the hearings, in discussion with interested parties and in some of the comment statements, persons referred to the "new CEQ guidelines." The new CEQ procedures, 40 CFR Parts 1500–1508 are *regulations* not guidelines. Since the procedures are regulations, they are legally binding on Federal agencies covered by them. Less latitude is available to Federal agencies in interpreting procedures necessary and sufficient for NEPA compliance than under the former CEQ guidelines.

Several commenters expressed grave concern that in many instances Federal agencies are not able to agree among themselves as to which if any of the alternatives provides an acceptable means of satisfying the need identified by the project proponent. REA borrowers feared that urgently needed projects could be stalled indefinitely because Federal agencies could not concur as to the best solution on environmental, economic, social or other grounds. It was recommended that a mechanism be set up to arbitrate these Federal interagency disputes.

REA sympathizes with the protracted delays that borrowers may have experienced in the past due to Federal agency disagreements. The CEQ NEPA regulations address many of the problems that have been responsible for these delays. See for example 40 CFR 1501.5, 40 CFR 1501.6, 40 CFR 1501.7, 40 CFR 1503.2, 40 CFR 1503.3, 40 CFR 1503.4. Beyond these reforms, neither REA nor CEQ has authority to establish the binding arbitration or appellate mechanisms suggested in the comments. REA will continue to work with other affected Federal agencies to insure that disagreements are resolved quickly.

Several parties believed that certain provisions (especially Part One, Subsection IV.C) of the revised Bulletin exempted some categories of projects from NEPA and the CEQ regulations. This interpretation is *wrong*. NEPA and the CEQ regulations apply to all REA proposed actions. However, NEPA and the CEQ regulations (esp. 40 CFR 1501.4, 1508.4, and 1508.9) provide some flexibility as to categories of projects that normally do not constitute major Federal actions which individually or cumulatively have a significant effect on the human environment. For such classifications more streamlined procedures involving less detailed analysis are permissible. However, 40 CFR 1508.4 clearly requires Federal agencies to develop procedures which will identify extraordinary circumstances where categorically excluded actions may require additional environmental review and analysis.

There were many comments concerning the interface between the Federal, state, and local environmental and siting review process. As pointed out by the reviewers, it is possible for state and Federal agencies to reach different conclusions as to the best alternative for meeting an applicant's demonstrated need. Such an interagency conflict might preclude construction of the proposed project. REA, through coordination with and interchange of information among Federal, state, and local agencies, will endeavor to minimize the prospect of such an outcome and mediate disputes. However, it must be recognized that different agencies may interpret the same information in various ways. There is no formal mechanism or body to require consistent conclusions. Some suggested that REA should defer to state and local determinations if such were made in good faith. The opinions of Federal, state, and local agencies are welcomed by REA and will be taken into consideration before reaching a conclusion. However, REA's environmental and other statutory concerns are not identical to those of state and local agencies. It would be inappropriate for REA to abrogate its Federal duty and rely upon satisfactory fulfillment of state and local requirements.

Readers should note that a new Section XXIV has been placed in the final Part One immediately following CEQ regulation, 40 CFR 1508.12. This new language was added to address situations where projects proposed by REA borrowers are partially through the NEPA process at the time Part One becomes effective. Section XXIV of the draft Part One, "*Use of Metric Units*," has been designated as Section XXV in the final Part One.

As a result of comments received, over half of the original twenty-four sections of the draft have been modified. In addition, all three draft appendices have experienced changes. Appendices B and C of the draft version have been moved and will become Part Three, Exhibits F and G, respectively. Segment 4 of the Preamble describes section by section the more significant comments REA received, and how we responded to them. Where a provision of the revised Bulletin references another section without indicating which Part it is in, the referenced and referencing sections are in the same Part.

4. Specific Comments

Comments on Section II: Mandate—Trivial Violations

Through an inadvertent error in the process of placing the draft of Part One in the **Federal Register**, the language of Section II as presented in the **Federal Register** was incorrect. However, copies of Part One that were distributed to REA borrowers and others requesting copies contained the correct language. The first sentence of the Section that appeared in the **Federal Register** should have been deleted. The Final Part One uses the same language as the draft revised Bulletin that was distributed.

In answer to one comment, it would be exceedingly difficult to describe a representative list of situations to which this provisions would apply. This section's intent is to provide assurance that the overall integrity of REA's NEPA compliance for a specific project will not be fatally flawed due to a minor technical flaw in carrying out the process.

Comments on Section III: Apply NEPA Early in the Process

One of the Federal agencies that commented indicated that greater emphasis should be placed on early Federal, state, and local cooperation. REA has always strived for such early action, and this purpose is reflected in Appendix A to Part One where REA instructs its borrowers to contact state, local, and other Federal agencies that may have jurisdiction or special expertise as early as is practicable. In parallel with that effort REA would begin establishing communications with those agencies. To reemphasize REA's commitment to early coordination, appropriate language has been added.

Comments on Section IV: Whether To Prepare an EIS—Administration Actions Requiring Environmental Review

This section received more comment and underwent more significant change than any other provision of Part One of the revised Bulletin. Several REA borrowers were concerned that the language of this section might routinely require EIS's for lien accommodations and approvals of the use of general funds. Others suggested that lien accommodations and approvals of the use of general funds be categorically excluded. The general theory supporting this view is that such REA actions involve no additional REA financial assistance but rather only commitment of borrower funds and security. After thorough review of the issue, REA has decided not to exempt lien accommodations or the approval of use of general funds from environmental review. Either of these REA actions permits borrowers to expend funds which would be unavailable for use absent REA approval. Thus REA's action may have an environmental effect.

However, it is not anticipated that the two above categories of REA actions will lead to additional burdens on borrowers. The great preponderance of uses of such actions will have negligible environmental impact, so little background work need be done.

Where lien accommodations or general funds approval are incident to early work for engineering, testing, environmental services, etc. or land purchases for proposals requiring an EIS or Environmental Assessment (EA), 40 CFR 1508.1(d) applies. No environmental document, including a BER, is required for such interim activities so long as Section XVII of Part One is complied with. More discussion of this issue may be found in *"Comments to 40 CFR 1502.20 and 1508.28."* Moreover, while Section IV states that "REA gives consideration to environmental effects of all of its proposed actions," it is not our intent that the required environmental documents place a substantial burden on REA borrowers if no commensurate benefit is likely.

In Paragraph IV.A.1, a few readers suggested raising the 25 megawatt lower limit on electric generating capacity normally requiring an EIS. After review, we have decided that the 25 megawatt limit remains an appropriate figure. Moreover, hydroelectric facilities involving dam construction and over 25 MW capacity have been added to this category. Power generation technologies where over 25 MW capacity often has no significant environmental effect (e.g. combustion turbines), have been placed under Paragraph IV.B.1.

Some reviewers suggested that Paragraphs IV.A.1, IV.A.2 and IV.A.3 be modified by adding "significant" as a modifier of "control." They argued that existing language would trigger an EIS if there is even the slightest amount of control exercisable by an REA borrower. It is not REA's intention that inconsequential borrower power over construction of a project will necessitate an EIS. By use of the words "has control," REA was focusing on REA borrower power, potential or actual, to change the effect of the project on the quality of the human environment. Such control embodies the power to abort the proposal as well as influence in the siting, planning, construction, operation and maintenance of the project. Failure to use such power does not constitute lack of control. Generally, where REA borrowers cumulatively will own more than 33⅓ percent of a project, REA will presume control. The burden will be on the borrower to demonstrate otherwise. To clarify REA's intent, we have added the word "effective" as a modifier of "control" in Paragraphs IV.A.1, IV.A.2, IV.A.3, IV.B.1, and IV.B.4.

One of the three issues most frequently raised involved Paragraph IV.A.2. Most commenters supported the 230 kilovolt lower limit. However, two statements advocated raising the lower limit to 345 kV while other parties wished the level to be lowered or eliminated so that EIS's would normally be prepared for bulk transmission facilities regardless of voltage level. Several organizations suggested removing short lines, regardless of voltage, from EIS requirements.

After balancing the arguments on both sides, REA has decided to retain the lower 230 kV limit subject to two conditions. For transmission facilities 230 kV or greater an EIS will normally be required if the transmission line is more than 25 kilometers (15.53 miles) in length or cumulative substation additions require more than 2 hectares (4.94 acres) of property. The Federal Power Commission (now Federal Energy Regulatory Commission) designated 230 kV as the lower limit for bulk transmission systems under its jurisdiction. Bulk transmission facilities are those which move power throughout regional areas and are most likely to have regional or national effects. In many areas 230 kV and above facilities now form the bulk transmission systems. Furthermore, a strong trend exists in other regions to increase such mass power transportation systems to at least 230 kV. 230 kV and above lines are more likely to be relatively long in length, require more massive support structures and demand more right-of-way than lower voltage facilities. However, relatively short 230 kV and above transmission lines minor substation construction, in REA's experience, do not normally have significant effects on the quality of the human environment. Any cases where significant environmental effects may occur can be readily identified through an Environmental Assessment (EA). Therefore, projects involving minor 230 kV or above facilities have been moved to Subsection IV.B.

In response to comments advocating a lower threshold for categorical exclusions concerning electric transmission lines, REA has reviewed its position on that issue. A substantial number of 69 kV and above transmission lines are of considerable length. While such lines typically have less environmental impact per kilometer of line, as length increases the total effects tend to grow larger. In addition, we recognized that Subsection XXI.C in the draft Part One calls for borrower notices for transmission line or substation construction designed for 69 kV and above. Consequently, proposals for 69 kV and above transmission facilities involving more than 25 kilometers of transmission line or 2 hectares for cumulative substation construction have been moved to the EA classification, Subsection IV.B. It should be noted that Section XXI has been amended to require borrower public notices only where an EA or EIS is prepared, since these are the proposals where the probability for effects on the quality of the human environment is greatest.

Some confusion may have arisen between the provisions of Paragraph IV.A.3 and Subparagraph IV.C.2.g of draft Part One if the facilities are used for fuel extraction. This apparent conflict highlighted the issue that there may be a need to distinguish new mining/drilling operations, expansion of existing mining/drilling operations, purchase of existing mining/drilling operations where operation (mine output) would remain unchanged, and contracts for fuel. In addition, draft Part

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One was ambiguous as to situations where an REA borrower or borrowers did not have effective control.

Based on internal REA discussions and consultations with CEQ staff, mining/drilling operations for fuel and fuel contracts are covered in Paragraphs IV.A.3 and IV.B.4 and Subparagraphs IV.C.3.e and IV.C.3.g. Of particular importance is the language added in Subparagraph IV.C.3.g. An EA will be required if an existing facility is in violation of Federal, state or local law. In addition, REA may require the borrower to make a commitment to remedy the violations before REA makes its decision on the request for financial assistance.

REA recognizes that while existing electric generating or mining facilities may comply with all applicable laws, there are instances where practicable measures can be taken to mitigate adverse environmental effects. On the other hand, delay by an REA borrower to purchase existing generating facilities may foreclose its alternative to purchase the facilities and the opportunity to carry out mitigation procedures. Consequently, a two step process will be used for electric generating and mining facilities when operation (output) would remain unchanged. The purchase of the facility itself normally will be a categorical exclusion. However, subsequent to the purchase, REA will prepare an EA addressing practicable mitigation measures.

A minor change was made in Paragraph IV.A.3 by changing "exerts control" to "has . . . control." This alteration was made to assure that instances would be covered where an REA borrower has power to exert control but fails to do so. One commenter pointed out that this paragraph apparently would require an EIS for minor gas and oil production projects. It does apply to such projects, but a finding of no significant impact (FONSI) could be prepared in such instances.

Paragraph IV.B.1 has been amended to address instances where new electric generation technologies are proposed by REA borrowers. REA does not intend this subsection to address relatively minor evolutionary changes or new types of pollution control technology. For example, a new boiler design or method for removing SO_x would not be covered. This subsection is designed to address basic emerging energy technologies such as biomass, woodchips and central station solar. For such projects, there is little experience with the environmental effects of these facilities. Consequently, it cannot be determined whether an EIS normally should be required. However, because of the lack of operational experience, more detailed analysis is required than is normally found in an environmental assessment and Borrower's Environmental Report (BER). The added language addresses this problem. An Environmental Analysis, Siting Study, and Alternative Evaluation will be required for new technology electric generation proposals exceeding 25 MW.

In the **Federal Register** notice of draft revised Bulletin 20–21:320–21, REA stated that it was considering the establishment of a presumption that total REA borrower participation up to a certain percentage of the project would fall within the categorical exclusion category defined in 40 CFR 1508.4 and not normally require preparation of an EIS or EA. Because of REA's experience with joint participation projects, we initially suggested that the presumption be set between 10 and 50 percent. Public comment was solicited as to whether there should be a presumption and if so, at what percentage figure.

The frequency with which this issue was addressed and the substantial effort devoted to it by commenters, indicated that this was the most controversial of Part One's provisions. Suggestions ranged from permitting categorical exclusions for total REA borrower participation of 49 percent or less to parties who advocated no presumption whatever. Persons advocating no presumption stated that EIS's should be prepared for major projects even if REA borrowers only proposed to own an insignificant share of the project.

After careful review of the conflicting arguments, discussions among REA staff and consultations with CEQ, REA has decided to change the categorization of joint projects (i.e. REA borrower participation with investor-owned or municipal utilities). We still believe that the "control" that REA borrowers may exert over a proposed project is an important test as to whether an EIS is required to carry out the intent and letter of NEPA and the CEQ regulations. This control may take many forms, including need for REA borrower participation to complete the project and REA borrower ability to dictate design, construction and operation of the project. Without such potential control, the project would proceed as planned regardless of REA borrower participation. Consequently, REA borrowers would independently be required to construct a second project (with its consequent environmental effects) or purchase power or transmission rights from the original project. If REA borrowers have no control, it may be impossible for REA to get sufficient data from the project leader to prepare an adequate EIS. There would be no way in which REA could require mitigation measures for such a proposal.

On the other hand, REA does not intend to permit REA borrowers to participate in projects with grievous environmental effects. In such cases, financing assistance will be denied where practicable alternatives exist. Several laws and regulations reflecting environmental concerns such as the Endangered Species Act and the National Historic Preservation Act apply to all Federal actions, not only major Federal actions significantly affecting the quality of the human environment.

After weighing the opposing considerations, REA determined that defining what constitutes control is very difficult and circumstances of individual situations may be pivotal. Consequently, REA has divided joint participation projects into three categories. Where the cumulative participation of all REA borrowers in a project exceeds 33⅓ percent, an EIS will normally be required. Above this limit, REA presumes that its borrowers could exert some control over a project. In cases where REA borrowers cumulatively would own 5 percent or less of a project, the REA action would normally be categorically excluded. Below this upper limit, REA borrower participation is so small that it would be very rare for these borrowers to be able to exert even the most minimal influence over the proposal. Under any criteria, control would be lacking based on REA's experience. In light of 40 CFR 1500.4(p), REA does not intend to create needless paperwork and require extensive studies where our experience indicates that only rare cases will require an EA or EIS. However, to protect against extraordinary circumstances, such REA borrowers will be required to submit a Borrower's Environmental Report (BER). For joint projects where aggregate REA borrower participation lies between 5 and 33⅓ percent, the determination of control and environmental effect becomes much more complex, and individual circumstances easily can influence whether an EIS should be prepared. Therefore, for cumulative REA borrower participation of 33⅓ percent or less but greater than 5 percent, a BER will be submitted and REA will prepare an environmental assessment. Paragraph IV.B.2 presents an illustrative set of factors which may influence borrower control over a project.

Where another Federal agency will require an EIS for a proposed project, Paragraph IV.B.2 will not affect the NEPA process to be followed. Only in the case of proposals where an EIS would not be prepared absent REA involvement, may these joint participation provisions create additional obligations. REA has retained the discretion to consult with CEQ on projects involving more than 5 but 33⅓ or less percent REA borrower participation.

One Federal agency believed that coal washing facilities should be moved from the categorical exclusion to environmental assessment category. While the effects of such facilities are normally local in nature and confined to the owner's property, there was enough merit in the suggestion for it to be adopted.

It was pointed out by two commenters that no formal criteria had been set by REA for placing certain groups of proposals in the categorical exclusion category. New Paragraph IV.C.1 presents the criteria which have been used by REA in declaring certain activities to be categorically excluded. REA has found that the types of activities listed in Paragraph IV.C.3 meet those requirements. These criteria will be used to judge future potential additions to Paragraph IV.C.3.

Paragraph IV.C.3 now contains all the categorically excluded activities listed under Subsection IV.C of the draft of Part One. Paragraph IV.C.2 is intended to clarify when a Borrower's Environmental Report (BER) is required for proposed actions to provide a brief, concise environmental review in order to satisfy other requirements such as the Historic Preservation Act Endangered Species Act, and Executive Orders 11988 and 11990 and to provide a means for identifying "extraordinary circumstances" in which a normally excluded action may have significant environmental effects. A number of reviewers suggested that a single programmatic or periodic (such as annual) BER would reduce paperwork and still meet the requirement. REA cannot agree with this viewpoint. For nonroutine activities BER's are needed to serve not only as the vehicle for compliance with NEPA but also other environmental laws. Compliance with such laws depends greatly on individual project circumstances. We must emphasize that a relatively brief report as outlined in Part Three, Exhibit E will satisfy the BER requirement. REA is continuing to work to streamline the process and reduce unnecessary burdens. Part Two, Exhibit A concerning floodplains and wetlands streamlines borower requirements for large numbers of projects while satisfying Executive Orders 11988 and 11990.

Subparagraph IV.C.3.b has been amended to include all communications facilities involving transmission via line or cable. This addition recognizes the increase use of broadband, fiber optics, and other techniques for information transmission. Subparagraphs IV.C.3.e and IV.C.3.f have experienced minor changes due to comments which expressed concern that language be made more explicit so that certain actions might not be inadvertently left out of the contemplated categories. It is REA's intent that such agreements as wheeling arrangements are covered as categorical exclusions under Subparagraph IV.C.3.f.

Subsection IV.D has been added to address public availability of findings of no significant impact. The draft of Part One was silent as to public availability of findings of no significant impact. The old Bulletin 20–21:320–21 discussed the availability of "negative determinations" (our term equivalent to FONSI) and specified a review period where a FONSI was available to the general public. In conformance with 40 CFR 1501.4(d)(2), REA will delay its final determination whether to prepare an EIS and will defer final action for 30 days after publication of the **Federal Register** notice where a Subsection IV.A or new technology activity (Paragraph IV.B.1) is involved.

Reviewers and users of Part One of the revised Bulletin should be acutely aware of the fact that Part One, Section IV sets up three groups of actions, each group *normally* requiring a certain set of procedures. The word "normally" was placed in the heading of Section IV.A, IV.B, and IV.C to emphasize that an action follows a certain set of procedures only so long as that action has the nature and magnitude of environmental impact as is normally expected of that type an action. For example, a short electric distribution line may require an EIS if it crosses a Wild and Scenic River, affects a listed historic site and/or modifies critical habitat. Similarly, forty percent participation in an electric generating facility that is nearly completed may not require an EIS.

Comments to Section V: Lead Agencies

A sentence has been added to the end of Subsection V.A reflecting REA's policy that it will volunteer to act as lead agency in the Federal NEPA effort if requested to do so by an REA borrower. This language, however, does not preclude REA from offering to be lead agency where an REA borrower does not so request, nor does it prevent another Federal agency from being named lead agency by the participating agencies. 40 CFR 1501.5 governs where there is a dispute as to whom should be declared lead agency. REA, however, will explore the feasibility of reaching formal agreements with other Federal agencies specifying which agency will act as lead agency under a given set of circumstances. As soon as practicable during the scoping process, REA will endeavor to assure that a lead agency is named. Normally, a lead agency will be designated at or soon after the Federal field investigation.

REA has added Subsection V.B as a result of our belief that Federal activities must be coordinated at an early stage of the NEPA process. Prompt designation of a lead agency is an important element in an effective scoping process and compliance with the letter and spirit of the CEQ regulations.

Subsection V.C has been added at the request of one of the commenting Federal agencies. REA agrees that agencies should actively explore the preparation of a single EIS to cover two or more projects where they are functionally interdependent or in close proximity.

Comments on Section VII: Scoping

A number of reviewers pointed out that, while CEQ regulations require a scoping process, 40 CFR 1501.7 does not require that a scoping *meeting* be held. These parties felt that REA was creating an unnecessary requirement exceeding the efforts mandated by CEQ. Our review of 40 CFR 1501.7 concurs with the commenters that those regulations do not demand that a scoping meeting be held. 40 CFR 1501.7(b)(4) merely states that a Federal agency may hold an early scoping meeting or meetings.

However, after considering the participation and coordination requirements presented in 40 CFR 1501.7(a), REA has determined that a scoping meeting or meetings when augmented by other activities generally provides the best technique to assure adequate input from Federal, state, and local authorities and other interested persons. However (as indicated in the last sentence of the introductory paragraph of Section VII), some variation may be permitted if the REA borrower can present good and substantial reasons for the modified procedures, and these changes are consistent with NEPA and CEQ regulations. In all instances, 40 CFR 1501.7 (especially 1501.7(a)) must be satisfied.

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Several persons commented that in Subsection VII.B and elsewhere, REA had imposed an unnecessary and onerous burden on REA borrowers by requiring them to publish notices both as legal notices and as news articles and/or advertisements in newspapers. REA's experience indicates that merely publishing a legal notice may not give sufficient visibility to a project so as to permit timely public input. The legal notice section tends to be read by small specialized segments of the community rather than the general pubic. Consequently, in light of 40 CFR 1501.7, 40 CFR 1506.6 and other portions of the CEQ regulations, REA believes that public awareness of REA borrower proposals will be fostered by also requiring publication of a general news article or paid advertisement in a section of a newspaper read by greater segments of the general public. A number of comments stated that an REA borrower cannot force a newspaper to publish an article on a proposed project. REA agrees with that statement. For that reason, a paid advertisement is a permissible alternative to a news article. A few persons stated that CEQ does not require borrower notices per se. While this is true, REA's review of 40 CFR 1506.6 indicates that borrower notices in local newspapers are a very appropriate means of providing effective public notice and involvement.

One analysis of the draft of Part One suggested that newspaper notices be published for all REA borrower projects, including categorical exclusions. Part One provides for publication of notices for all projects requiring an EIS or an environmental assessment. We believe that extending notice requirements to other project categories will result in increased costs, generate little or no benefit and may be counterproductive. Categorical exclusions constitute projects which normally have no significant environmental impact, and thus little if anything would be gained from public input. Moreover, because of the great number of minor projects proposed by REA borrowers, notices of major proposals might become lost to readers in a mass of minor announcements.

There have been questions as to what constitutes a newspaper of general circulation for purposes of the revised Bulletin. No clear cut answer to this query can be given. In general, such a newspaper is one which has significant readership within the county or counties in which the project is proposed and the county containing the borrower's headquarters. REA recommends that where the local newspaper is of the weekly type, borrowers also place notices in a daily newspaper which is distributed within the pertinent counties.

Paragraph VII.B.3 has been amended to indicate that REA believes it is generally desirable for the borrower to hold its own public meetings and make presentations to civic groups in both the area preferred by the borrower for a proposed project and in the areas where reasonable alternatives are located. Such presentations may provide greater input as to the reasonableness of these alternatives and help assess their viability. In addition the words "as appropriate" have been added as a modifier to "reasonable alternatives." This phrase has been inserted to indicate that REA generally intends to limit the number of public scoping meetings for a single project. These meetings will be conducted in areas near the most promising site alternatives.

Comments on 40 CFR 1501.8: Time Limits

Many REA borrowers felt that REA should include a new section under 40 CFR 1501.8 in which REA commits itself to set time limits for the NEPA process on projects, especially those requiring an EIS. They persuasively argued that time limits are necessary so that borrowers can better plan for system improvements and assure that projects will be completed by the time needed. Some suggested that REA place a general timetable in the Bulletin as guidance.

REA agrees that in many instances timetables are desirable. 40 CFR 1501.8(a) provides that agencies shall set time limits if an applicant requests them and such limits are consistent with NEPA and other essential considerations of national policy. REA supports this philosophy and will provide a time schedule (if REA is lead agency) upon an REA borrower's request after consultation with the borrower and cooperating Federal, state, and local agencies. Generally, a time schedule will be available soon after the interagency meeting and field investigation.

However, we believe it is inappropriate to specify a general timetable in the Bulletin. Each project proposal has unique issues and factors and different Federal-State-local interactions. Any general timetable would have to be so broad to cover the great majority of projects that it would lose meaning as a planning tool. Borrower planning and setting a reasonable timetable at an early stage will be materially aided if the borrower informs REA as early as possible of an impending project proposal. Readers should note that in Appendix A to Part One, an "*" has been placed along each procedural segment where borrower or consultant's activities and level of effort plan a significant part in determining the time involved in that step.

Comments on Section XI: Alternatives Including the Proposed Action

Several commenters sought guidance as to what breadth of alternatives need to be studied to satisfy the requirements of 40 CFR 1502.14. Part Three, Exhibits A, B, and C give guidance as to alternatives that should normally be considered by an REA borrower who contemplates a need for added generating capacity and suggested procedures for analyzing site alternatives. To satisfy additional anticipated transmission needs, Part Three, Exhibits A, B, and D give guidance as to the alternatives to consider as an approach to studying alternative transmission corridors. REA borrowers should not treat the alternatives given in the above exhibits as an exhaustive list. The guidance should be considered in light of the borrower's individual situation and modified accordingly. For alternatives that are clearly unacceptable on environmental, technical or economic grounds, detailed analysis is not required to eliminate them. However, the borrower must at least briefly discuss the reasons for rejecting an option as a reasonable alternative. The early scoping process should aid in identifying alternatives that clearly have "fatal flows" or otherwise are not viable.

Comments on Section XIII: Circulation of the Environmental Impact Statement and Finding of No Significant Impact

One reviewer noted that the language of the second paragraph might be read to mean that the public would have access to all background information to the project. There was conern that this would provide unlimited access to even irrelevant information not used by Federal agencies in making their decisions or by the borrower's or consultant in providing background materials. REA has limited the second paragraph to all pertinent information.

Comments on 40 CFR 1502.20 and 1506.28: Tiering

The subject of tiering was raised in many of the comments. In REA's view, tiering can reflect two different concepts and purposes. Tiering can be used so that a single EIS or environmental assessment can be used to cover an item or issue that repeatedly occurs for certain types of projects and where the resultant analysis invariably reaches the same conclusion as to environmental effects, economics and technical feasibility. For example, the discussion and analysis of the feasibility and environmental effects of fuel cells is likely to reach a similar conclusion in each EIS. To avoid unnecessary paperwork and delay, a single "programmatic" EIS on the issue can be published, referencing that EIS in future EIS's. The programmatic EIS would be periodically updated. REA strongly supports this concept and intends to pursue it as resources become available.

A second use of tiering is indicated in 40 CFR 1508.28(b). That language suggests that a succession of EIS's might be desirable for a project. REA does not believe that tiering for this purpose provides any benefit for projects typically proposed by REA borrowers. On the contrary, significant and costly delay would result from publication and comment of successive EIS's with negligible improvement in decision-making. The procedure outlined in Part One, Appendix A sufficiently enables REA to focus on the issues that are of particular importance at any given stage of the NEPA process. Environmental concerns will be brought out at an early stage of project planning. Consequently, REA intends that only one draft and final EIS be prepared for any proposed project unless a significant change in the proposal or surrounding conditions occur. Where significant changes occur, supplements will be issued.

Comments on Section XVII: Limitations on Actions During the NEPA Process—Minimal Expenditures Not Affecting the Environment

This provision was one of the major generators of significant comments to Part One of the draft revised Bulletin. The main issue involved definition of the work "minimal." A few reviewers argued that more than 10 percent of the project cost could be expended without compromising REA's objectivity. One the other hand, a couple of comments expressed the view that expending any funds whatever on alternative-specific resources tends to compromise objectivity. They argued in essence that 10 percent of a billion dollar project is 100 million dollars. Therefore, they recommend reducing the percentage figure drastically or not permitting any expenditures (other than for testing) prior to completion of the NEPA process. Balancing all of the arguments, REA has determined to retain section XVII in unchanged form.

Readers should note that the 10 percent figure is conditioned by the word "normally." Expenditures will not be automatically permitted (even to borrowers who can absorb the loss) merely because aggregate spending remains below 10 percent. Conversely, in certain instances, REA may determine that contractual commitments in excess of 10 percent of the project cost before completion of the NEPA process will not compromise REA's objectivity.

Because of the unique problems faced in the planning and construction of electric generating and transmission projects and the long period between project inception and completion, it would be virtually impossible to construct these facilities without permitting certain expenditures prior to completion of the NEPA process. CEQ recognized this practical dilemma by adding language in 40 CFR 1506.1(d) which permits REA approval of minimal expenditures not affecting the environment, such as purchase options and contracts for long leadtime equipment.

Without purchase or optioning of land or water rights, it may be impossible to develop sufficient data for the EIS. Some states do not permit purchase of water rights for more than one alternative. If land, water, etc. are not reserved in a timely manner that may not be available at the end of the process or available only at exorbitant cost. Without negotiations or contracts for coal, air emissions and solid waste cannot be accurately predicted. Certain long leadtime item, such as boilers, must be contracted for before environmental effects can be accurately predicted. Delay in entering into contracts for long leadtime items will delay construction and operation of electric generating facilities. These delays can rapidly escalate the cost of a project, a burden which must be shouldered by the utility's customers.

Despite these pragmatic reasons for permitting minimal expenditures prior to completion of the NEPA process, REA recognizes he danger that permitting such expenditures, without proper precautionary measures, may lead to a compromise of REA's objectivity. There are two types of items which may require expenditures before completion of the NEPA process. Land, water rights, fuel contracts and similar resources are of the type which can generally be resold by a purchaser so as to recover approximately the purchase price (assuming the resource has been purchased at fair market value). Therefore, normally such expenditures should not compromise REA's objectivity since little of the funds utilized is at risk.

Long leadtime items such as boilers pose a different situation. Contracts for these items typically have a provision for cancellation charges if the project is terminated. Whereas the contractual cost of such items may be large, the cancellation charges are small in the early days of the contract but increase as planning and construction of the equipment proceeds. In other words, the amount at risk for long leadtime equipment increases over time. Thus, the potential danger of lost Federal objectivity due to long leadtime procurement varies according to the date of the contract and the time required for construction and delivery.

REA is committed to an early scoping process as shown in Part One of the Bulletin, especially Appendix A. It is anticipated that long leadtime items normally will not be under contract prior to the public scoping meeting. By that time Federal, state and local government and public input should have identified any major flaws or issues which may make the viability or desirability of an alternative suspect. In this manner, objectivity and substantial consideration of reasonable alternative can be obtained before site specific long leadtime commitments are made.

The 10 percent figure in Paragraph XVII.B.2 represents the percentage for which contractual commitments have been made prior to completion of the NEPA process. A number of reviewers suggested that the appropriate measure should be the amount of funds that the REA borrower would lose (at risk) should the proposal be rejected rather than contractual amounts. Indeed, in the above discussion, we suggested that the amount at risk is an important factor in determining both the loss which a borrower could absorb and whether or not REA's objectivity will be compromised. Unfortunately, the amount at risk is often subject to different interpretations by various parties. It offers a measure which is subject to argument. Consequently, the 10 percent figure will continue to refer to contractual commitments. However, the amount at risk will be an important factor in determining whether the 10 percent assumption will apply. For example, commitments of 12 percent with 1 percent of project cost at risk might be approved prior to completion of the NEPA process, whereas commitments of 8 percent with 7 percent of project cost at risk may be deemed to compromise REA's objectivity. In computing contractual commitments, the contract cost of fuel will be omitted so long as the REA borrower does not purchase mining/drilling facilities. Fuel

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contracts normally equal or exceed 10 years in length. The contract cost of 10 years of fuel might easily take a major portion of the 10 percent figure which is aimed chiefly at capital costs of the proposed facility. However, the amount at risk in such fuel contracts will be considered by REA.

For purposes of approving borrower expenditures or granting lien accommodations prior to completion of the NEPA process, REA will be the agency that determines what constitutes minimal expenditures. We trust that other involved Federal agencies will abide by these determinations.

Some commenters suggested that funds expended for environmental studies and reports be excluded from the contractual items being counted under the 10 percent limit. REA cannot agree since many of these studies serve other purposes such as plant design and engineering. In addition, we do not believe including such expenditures will significantly impede the project schedule. The 10 percent figure also includes purchase of real property and water rights.

A number of writers suggested Paragraph XVII.A.1 be amended to permit interim activities so long as there is no "significant" adverse effect on the evironment. Such a change would violate 40 CFR 1506.1(a) (1). Moreover, allowing some adverse effect prior to completion of the NEPA process might affect REA's objectivity. However, 40 CFR 1506.1(a) (1) cannot be read as an absolute. Almost anything a person does has some miniscule effect on the environment. A contract for a boiler will require use of resources.

Similarly, testing work such as biological sampling and taking soil borings has a miniscule effect on the environment. However, this work is necessary to determine what the environmental effects are and whether an alternative is feasible. We must reject a reviewer's proposal that engineering work not be permitted until the NEPA process is finished for that reason. Surveying, engineering and environmental services, testing, acquisition of easements, contracts for long leadtime items, and other similar activities are not normally deemed by REA to have an adverse effect on the environment. So long as activities are limited to those of this or similar nature they may proceed prior to completion of the NEPA process, provided that Paragraph XVII.B.2 is met.

A few parties asked whether purchase of property for a project would violate 40 CFR 1506.1(a)(2) by limiting the choice of reasonable alternatives. If such property is purchased at near fair market value, there is normally no potential problem. There are little or no funds at risk and thus alternatives remain viable. Often until land is purchased, much of the necessary environmental information cannot be gathered.

Comments on Section XVIII: Elimination of Duplication With State and Local Procedures

A new first paragraph has been added to Section XVIII. Several reviewers pointed out that laws in many states may be in conflict with the procedures provided in revised Bulletin 20–21:320–21. It is not REA's intention to place an applicant in a position where compliance with Federal procedures will violate state law and vice versa. Moreover, we do not desire to cause delay or duplication of effort merely to accomplish strict adherence to our procedures. Therefore, to the extent possible and consistent with NEPA and the CEQ regulations, REA may vary its procedures to make them more compatible with state and local procedures.

Comments on Section XX: Agency Responsibility—Borrowers' and Contractors'

Two relatively minor changes have been made in this section due to comments and concerns raised by some commenters. In Subparagraph XX.A.1.c., the word "direction" has been replaced by "guidance" to more accurately reflect REA's role in preparation of the Environmental Analysis. REA provides guidelines to its borrowers and the consultants (See Exhibits C and D of Part Three) concerning generally what issues need to be addressed and data needs to be provided. As the Environmental Analysis is being prepared and drafts issued, REA staff as well as cooperating agencies provide input to and comment on the adequacy of discussion of various issues and data presented. In some instances such comments may include directions that the Environmental Analysis will be considered inadequate unless certain tests are run or data provided. This role contrasts with that where REA contracts with a third party to prepare the EIS.

In such a case, REA would take an active role in guiding and directing the daily efforts of the contractor and take responsibility for the EIS's adequacy. In contrast, REA may or may not accept the final Environmental Analysis as presenting a complete and accurate description of the alternatives available and their environmental effects.

Several reviewers objected to the REA requirement for a new document called the Alternative Evaluation (AE) (Subparagraphs XX. A.1.b and XX.A.2.b). They argued that such data is already presented in the Environmental Analysis. In their view the AE represents unnecessary paperwork. REA cannot concur. The Environmental Analysis is prepared late in the NEPA process. REA and other Federal agencies must have information available at an early stage indicating that non-site specific alternatives such as different fuels, joint projects, and conservation have been explored and found to be inferior or impractical. Otherwise authorization for substantial detailed site-specific studies and activities may be premature.

REA seeks to avoid needless paperwork and delay. Consequently, Subsection XX.C has been amended by adding an additional sentence. Where a contractor prepares an EIS for REA, no Environmental Analysis is required from the borrower although the borrower may provide information to REA for use in the EIS.

Some confusion has arisen as to Subsection XX.C. An independent contractor will prepare the EIS only if REA and the REA borrower agree to this procedure. However, once the agreement is made, REA alone or with the advice of cooperating agencies shall select the contractor.

Comments on Section XXI: Public Involvement

Some reviewers pointed out that economic and technical comments and issues are inappropriate for public hearings on environmental issues. REA agrees and has deleted language from Subparagraph XXI.A.8.c. However, economic and technical comments may be considered if they have direct relevance to environmental issues.

Subsection XXI.C has been deleted to reflect changes in Section IV. Borrower public notice is not routinely required for categorically excluded activities presented in Subsection IV.C. However, readers should note that other Federal statutes and regulations may require public notice in individual situations where the activity is listed in Subsection IV.C. Executive Order 11988 and 11990 on floodplains and wetlands are examples of two such Federal provisions.

Comments on Section XXIV: Compliance

Questions were raised as to the applicability of the CEQ regulations and this revised Bulletin to projects where the NEPA process is already in progress on the effective dates of those two sets of procedures. In response, REA has added a new Section XXIV to clarify the requirements for proposals caught in the transition period.

Comments on Section XXV: Miscellaneous Provisions

A few comments were received concerning REA's encouragement for using the metric system. The majority indicated that conversion to metric units was unnecessary, of little use and the cause of confusion. Despite this sentiment, REA has left this provision unchanged.

The United States, through Congressional action, is committed to a long-term program to convert all measurements to the metric system. It is recognized that such a change will cause difficulty and confusion for persons who have used the British system of measurement throughout their lives. For this reason, a gradual conversion strategy has been instituted.

REA recognizes the potential for confusion and has suggested that borrowers place the British system equivalents in parentheses. One commenter suggested this provision be placed in Part Three since compliance is not mandatory. While use of metric units is not a requirement rendering an environmental document or notice inadequate, use of metric units should be given emphasis by borrowers and incorporated where practicable. It is not REA's intent that documents already prepared without metric units be redone.

Comments on Appendix A

Language under A of "Discrete Events" has been amended to reflect the fact that the Power Requirements Study (PRS) may need to be updated during the NEPA process. The length of time required for the NEPA process may cause an existing PRS to become outdated.

One reviewer suggested that at times it may be necessary to option or purchase land or water rights before the agency field investigation to prevent rapid escalation of the property's market price or purchase by another utility. REA recognizes that these outcomes are possible. Appendix A states that normally such purchases are permitted to occur after the agency field investigation. However, Appendix A also permits some variance from the normal sequence of events in individual cases where good cause is shown. If purchase is made before the siting study is complete and the field investigation is held, there is a greater chance that a fatal flaw may be found later than if the purchase is delayed until after the field investigation. For approval of purchases before point D, REA will more strictly scrutinize whether the price was at or near fair market price for non-utility uses.

Some commented that REA should relate the timing of the Appendix A flow chart to other REA required activities incident to a project, such as feasibility studies. Such an overall interaction diagram will be published at a later date for guidance purposes.

Comments on Appendices B and C

At least one reviewer suggested that for projects not normally requiring an EIS, public involvement would be enhanced by providing notice that a BER has been prepared and is available for public review. REA concurs with this observation and has added implementing language. Appendices B and C have moved and will be Part Three, Exhibits F and G respectively. This change will place these items among the guidance material, where they most appropriately belong.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations", and has been classified "significant." An approved Final Impact Statement is available for inspection in the Office of the Director, Environmental and Energy Requirements Division, Rural Electrification Administration, Room 3859–S, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: January 21, 1980.

Robert W. Feragen,

Administrator.

[January 21, 1980, Supersedes 5/20/74]

REA Bulletin 20–21:320–21

Subject: Environmental Policies and Procedures.

Part One

[Editor's note.—The pertinent section of the CEQ Regulations is indicated above the REA provision which implements or supplements it. CEQ regulations are printed in italics.]

§ 1500.1 Purpose.

I. *Purpose*

Besides implementing NEPA and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1508), this Bulletin also implements REA's compliance with other laws, regulations, and Executive Orders having special relevance to NEPA, including, but not limited to the National Historic Preservation Act (16 U.S.C. § 470); Advisory Council on Historic Preservation Regulations, 36 CFR Part 800; Executive Order 11593, "Protection and Enhancement of the Cultural Environment"; Executive Order 11514, "Protection and Enhancement of Environmental Quality"; Clean Air Act, as amended (42 U.S.C. § 1857 et seq.); Federal Water Pollution Control Act (33 U.S.C. § 1151 et seq.); Wild and Scenic Rivers Act of 1973 (16 U.S.C. § 1271 et seq.) Endangered Species Act of 1973, as amended (16 U.S.C. §§ 1531–1543) and the related Interagency Cooperation Regulations, 50 CFR Part 402; Executive Orders 11900, "Protection of Wetlands," and 11988, "Floodplain Management"; and Secretary's Memorandum No. 1827, Revised, "Statement on Land Use Policy."

Besides the language in the CEQ regulations and in the body of this Bulletin, specific procedures for the protection of floodplains and wetlands can be found in Part Two of this Bulletin. Specific procedures to assist REA compliance with the Historic Preservation Act and associated regulations also will be found in Part Two in the future.

Additional guidance to borrowers on environmental procedures for specific types of projects can be found in Part Three of this Bulletin.

§ 1500.3 Mandate.

II. *Mandate—Trivial Violations*

It is the intent of REA that a trivial violation of this bulletin not give rise to any independent cause of action.

§ 1501.2 Apply NEPA early in the process.

III. *Apply NEPA Early in the Process*

Initial planning efforts and environmental evaluation for power related facilities (*i.e.* power plants, transmission lines, coal or other fuel development) are interrelated and to the extent practicable should take place simultaneously. The borrower should consult with REA at the earliest stages of planning. When REA becomes aware of such borrower proposals, as soon as practicable, REA will coordinate its efforts with those of other Federal, state and local agencies. The normal sequence of borrower and REA actions during the NEPA process can be found in Appendix A to this Part One of Bulletin 20–21:320–21.

§ 1501.4 Whether to prepare an environmental impact statement.

IV. *Whether To Prepare an EIS—Administrative Actions Requiring Environmental Review*

Examples of actions which might have an environmental effect include, but are not limited to, loans and loan guarantees, reclassifications of loan funds, lien accommodations, and approvals of the use of general funds. As used in this Bulletin, the terms loan and loan guarantee include all such actions required of REA.

A. Projects Normally Requiring an EIS

An EIS will normally be required in connection with the consideration of any REA loan or loan guarantee for the construction of the following type of facilities, and the applicant shall provide REA with the information outlined in Part Three of this Bulletin:

1. The addition of steam electric or hydroelectric (where new dam construction is involved) generating capacity of more than 25 megawatts (nameplate rating) when an REA borrower has effective control over construction of the project.

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2. The addition of electric transmission lines and associated facilities designed for or capable of operation at a nominal voltage of 230 kilovolts (kV) or more (low side) where:

a. more than 25 kilometers (15.53 miles) of transmission line are involved or

b. more than 2 hectares (4.94 acres) of property are needed for substation construction or expansion

when the REA borrower has effective control over construction of the project.

3. A new mining/drilling operations for fuel when the REA borrower has effective control (e.g., captive mine or purchase of a substantial portion of mining equipment).

B. Projects Normally Requiring an Environmental Assessment (EA) But Not Necessarily an EIS

REA will normally prepare an environmental assessment for all projects which are neither categorical exclusions as provided in Subsection IV.C nor normally require an EIS as provided in Subsection IV.A. Based upon the assessment REA will (a) make a finding of no significant impact or (b) proceed to prepare an EIS. The following are examples of specific actions which will normally require an EA but not necessarily an EIS:

1. The borrower's construction of electric generating facilities not included in Subsection IV.A (*e.g.*, combustion turbine). An Environmental Analysis, Siting Study, and Alternative Evaluation (see Part Three to this Bulletin 20–21:320–21, Exhibits A, B and C for guidance) shall be required for project proposals involving significant new technology (no or limited commercial experience) of more than 25 megawatts capacity when the REA borrower has effective control over construction of the project.

2. Participation in electric generation or transmission projects with cumulative REA borrower participation of 33⅓ percent or less not categorically excluded in Subsection IV.C below. Where cumulative REA borrower participation on a project exceeds five (5) percent, and no other Federal agency requires an EIS to be prepared for the project, REA may consult with CEQ prior to taking its final action. For this category, REA will include within the environmental assessment an evaluation of the extent to which the borrower may control the design, construction and operation of the project. In its evaluation, REA will consider such factors as:

(a) whether construction would be completed regardless of REA financed assistance

(b) the stage of project planning and construction

(c) cumulative REA borrower participation

(d) participation percentage of each utility in the project and

(e) managerial arrangements and contractual provisions.

3. Projects designed to reduce the amount of pollutants released into the environment (e.g., precipitators, baghouse or scrubber installation, coal washing facilities).

4. The expansion of an existing mining/drilling operation for fuel when the REA borrower has effective control.

C. Projects Normally Requiring Neither an EIS nor an EA (Categorical Exclusions)

1. The following criteria shall be used to determine actions to be categorically excluded from the necessity to prepare an EIS or environmental assessment (EA):

a. The action or group of actions of such type will not have a significant effect on the quality of the human environment and

b. The action or group of actions of such type will not involve significant unresolved conflicts concerning alternative uses of available resources.

2. The categories of projects listed in Paragraph IV.C.3 have been determined by REA to meet the criteria for categorical exclusions set forth in Paragraph IV.C.1. REA has provided for extraordinary circumstances in which an action listed in Paragraph IV.C.3 may have a significant effect on the quality of the human environment through

a. its Borrower Environmental Report (BER) requirements (Part One, Subsection XX.B and Part Three, Exhibit E), or

b. if no BER is required, an REA finding that the criteria set forth in Section IV.C.1 have been satisfied.

Unless otherwise indicated, a BER will generally be required.

3. a. The addition of electric transmission lines and associated facilities designed for or capable of operation at a nominal voltage of either

(1) less than 69 kilovolts (low side) or

(2) less than 230 kilovolts (low side) if both

(a) no more than 25 kilometers (15.53 miles) of transmission line are involved and

(b) no more than 2 hectares (4.94 acres) of property are needed for substation construction.

b. Telephone and communications lines, cables and facilities.

c. Participation by REA borrowers in a generation or transmission project (of the types listed in Paragraphs IV.A.1 and IV.A.2) which is not to be constructed by an REA-financed system and for which REA has found cumulative borrower participation in the project will be five (5) percent or less.

d. Construction of other small structures or buildings such as microwave facilities, cooperative headquarters, maintenance facilities, etc.

e. Routine approvals made pursuant to loan and security documents (e.g., contracts for fuel, goods and services, capital credit retirements). No BER generally shall be required.

f. Agreements for power purchase from or sale to other utilities. No BER generally shall be required.

g. Purchase of existing facilities where use or operation will remain unchanged. If the existing facilities are in violation of Federal, state or local law, REA shall prepare an environmental assessment and may require REA borrower commitment to remedy the violations before REA takes its Federal action. Where an existing electric generating or mining facility is involved in the proposal, REA shall prepare an environmental assessment after the REA's borrower's purchase of the facilities. REA financial assistance for the purchase of such electric generating and mining facilities shall be contingent upon the REA borrower's commitment to implement all practicable mitigation measures identified in the REA.

h. Purchase of land where use would remain unchanged. No BER generally shall be required.

i. The reconductoring or upgrading of existing transmission lines where the same support structures are utilized. No BER generally shall be required.

j. Internal REA administrative actions (e.g., personnel actions, procurement, issuance of bulletins). Routine internal administrative actions generally shall not require the equivalent of a BER.

D. Issuance of a Finding of No Significant Impact

1. *REA Notice of Availability.* REA may determine that a project of the type described in Subsections IV.A and IV.B is not a major federal action significantly affecting the quality of the human environment and that no EIS is required. REA will prepare a finding of no significant impact (FONSI) and will publish notice in the Federal Register of the availability of the FONSI, giving a brief description of the nature and location of the alternatives to the project, including the preferred alternative. The notice shall state where copies of the FONSI are available for public inspection and to whom requests for copies should be addressed.

a. For projects covered by Subsection IV.A and projects involving significant new technology, REA will make the FONSI available for public review for 30 days before it makes a final determination whether to prepare an EIS and takes final action of the proposal. The 30 day period shall be measured from the date of publication in the Federal Register.

b. For projects covered by Subsection IV.B (except for projects involving significant new technology), REA may take its final action at any time after publication in the Federal Register.

2. *Borrower Notices.* Upon receipt of a FONSI or information from REA that the FONSI is available, in a timely manner the borrower shall publish a legal notice and a news article and/or advertisment to attract the attention of the geneal public announcing the availability of the FONSI for public review at its offices, REA, and selected local libraries in the proposed project area. These notices shall also state that copies may be obtained from the borrower and to whom requests should be addressed. The notices shall be published in a newspaper or newspapers of general circulation in the county in which the principal office of the borrower is located and in the counties in which the proposed construction will take place. Where a Subsection IV.A activity is proposed, distribution to local libraries and newspaper notice should be expanded to the areas of reasonable alternatives. See also Subsection XXI.B.

§ 1501.5 Lead agencies.

V. *Lead Agencies*

A. It is REA's policy to utilize the lead agency process whenever possible so that a single EIS will be prepared to cover all Federal agency actions and sufficient information will be provided to enable all Federal agencies to assess their actions adequately for NEPA purposes.

Where REA borrowers are planning to participate in projects and there is uncertainty as to whether REA or some other Federal agency should be the "lead agency" for environmental purposes, the borrower should contact REA for advice. The Office of the Coordinator of Environmental Quality Activities in the Office of the Secretary will assist in resolving lead agency questions where REA and one or more other Federal agencies are involved. It is the policy of REA to volunteer to act as lead agency when the borrower so requests, and when REA would normally prepare an EIS for the project.

B. Where REA seeks to be named lead agency, REA shall notify other Federal agencies (that may be involved in the proposed project) in writing of its desire to be named lead agency. If no negative response is received within 30 days, REA shall presume that the other agencies acquiesce and will proceed accordingly.

C. Where two projects (one of which need not involve REA borrowers) are directly related to each other because of their functional interdependence or geographical proximity, REA will consult with other Federal agencies as to the practicability of preparing a single EIS covering both projects.

§ 1501.6 Cooperating agencies.

VI. *Cooperating Agencies*

Pursuant to the CEQ NEPA regulations, it is REA's policy to act as a cooperating agency, to the extent its resources allow, on any EIS for which its expertise would be useful.

§ 1501.7 Scoping.

VII. *Scoping*

REA has developed a general approach to the entire NEPA process, including scoping, which is described and presented graphically in Appendix A to this Part One of Bulletin 20-21:320-21. Some variation may be permitted if there are good reasons for the variance, and such variance is consistent with NEPA and the CEQ regulations. Generally, REA will hold a scoping meeting or meetings only if it appears an EIS will be prepared.

A. *Early Federal, State, and Local Involvement*—Prior to REA's commencing the formal scoping process, the borrower should periodically consult with expert and interested agencies as early planning takes place.

B. *Notice of Intent to Prepare an EIS*—1. *REA Notice(s)*—As soon as practicable, REA will publish its notice of intent (see § 1508.22) in the Federal Register in the form of notice shown in Exhibit F to Part Three of Bulletin 20–21:320–21. If the timing of the notice makes it difficult to project when the scoping meeting will be held, a second notice in the form given in Exhibit F to Part Three of this Bulletin will be published in the Federal Register no later than 30 days before the meeting.

2. *Borrower Notice(s)*—In addition to the REA notice(s), the borrower shall have published a legal notice and a news article and/or advertisement to attract the attention of the general public. This borrower legal notice and news article and/or advertisement shall be placed in a newspaper(s) of general circulation in the county in which the borrower's principal office is located and in the county or counties in which the proposed project and reasonable alternatives may be located. The legal notice should be substantially in the form given in Exhibit F to Part Three. If the first notice and article and/or advertisement are published before the scoping meeting is set, a second notice and article and/or advertisement giving the time and location of the meeting shall be published in a like manner no later than 15 days before the meeting.

3. *Scoping Meeting*—This meeting(s) will be held in the vicinity of the proposed project and, as appropriate, reasonable alternatives or such other place which REA determines will best afford an opportunity for public involvement.

The borrower is encouraged to hold additional public information meetings in the general location of the proposed project and, as appropriate, reasonable alternatives after the public announcement of the intent to prepare an EIS is published in local newspapers, when such borrower meetings will make the scoping process more meaningful. A summary of the comments made at such meetings should be submitted to REA.

§ 1502.4 Major Federal actions requiring the preparation of environmental impact statements.

VIII. *Major Federal Actions Requiring the Preparation of Environmental Impact Statements—Responsible Official*

The Assistant Administrators, Electric and Telephone, are responsible for determining the need for and the preparation of EIS's (see also Part One, Section IV). Final EIS's will be issued by the Administrator.

§ 1502.5 Timing.

IX. *Timing*

See Appendix A to this Part One of Bulleting 20–21; 320–21 for guidance as to timing of the EIS preparation.

§ 1502.9 Draft, final, and supplemental statements.

X. *Draft, Final and Supplemental Statements—Procedures for Supplements*

A. *Supplement to Draft EIS*—This supplement shall be circulated in the same manner as the Draft EIS, and then integrated into one Final EIS.

B. *Supplemlent to Final EIS*—This supplement shall be prepared and circulated in the same manner as a draft EIS (exclusive of scoping).

C. *Information Supplement to Final EIS*—There are instances where there are proposed certain changes in a project for which a final EIS already has been issued, but the conditions of neither § 1502.9(c)(1) (i) nor (ii) are met. In such a case, REA, at its discretion, may issue an information supplement to the final EIS where REA determines that the purposes of NEPA will be furthered by doing so. Notice of the availability of the information supplement will be placed in the Federal Register and in a local newspaper of general circulation covering the project area by the borrower. REA shall take not final action on any project modification discussed in the information supplement until 15 days after the notice of availability is published in the Federal Register by EPA.

§ 1502.14 Alternatives including the proposed action.

XI. *Alternatives Including the Proposed Action*

REA will consider a number of factors, including, but not limited to, state of technology, availability of resources and the timeframe in which the identified need must be fulfilled in determining what are reasonable alternatives. An example of an alternative which may be impractical and thus eliminated from detailed study would be use of windpower to meet near term needs for 1000 megawatts of electric generating capacity.

§ 1502.18 Appendix.

XII. *Appendix*

Where REA prepares the Federal EIS, the Environmental Analysis (see Section XX *infra*) which is prepared by the borrower under REA guidance will generally be attached as an appendix to the EIS or referenced by the EIS.

§ 1502.15 Circulation of the environmental impact statement.

XIII. *Circulation of the Environmental Impact Statement*

Draft and Final EIS's (or Summaries) shall also be circulated to the appropriate State, regional, and metropolitan clearinghouses and will be available upon request to any interested person. In addition, copies will be available for public examination in REA's offices in Washington, D.C., the principal office of the applicant, and selected libraries in the area(s) of reasonable alternatives, including the preferred alternative.

All pertinent background information will be available to the public as provided by the Freedom of Information Act (Pub. L. 89–487, 5 U.S.C. 552).

§ 1503.1 Inviting comments.

XIV. *Inviting Comments*

A. *REA Notice of Availability of Draft or Final EIS—REA will publish notice in the* Federal Register of the availability of the Draft EIS and Final EIS giving a brief description of the nature and location of the alternatives, including the preferred alternative; and stating where copies of the EIS are available for public inspection (see Section XIII *supra*) or to whom requests for copies should be addressed.

A list of REA administrative actions for which EIS's are being prepared or are contemplated, will be available for public inspection on request at REA's Washington, D.C. office.

B. *Borrower's Notices*—Upon receipt of a draft of final EIS or information from REA that the EIS is available, in a timely manner the borrower shall publish a legal notice and a news article and/or advertisement to attract the attention of the general public announcing the availability of the statement

V45 N20 JA 29 80 UMI

for public review at its offices and selected local libraries in the proposed project area and the area of the reasonable alternatives. These notices shall be published in a newspaper or newspapers of general circulation in the county in which the principal office of the borrower is located and in the counties in which the proposed contruction including reasonable alternatives may take place. It is important that the people at the local level who may be most directly affected by the proposed construction be made aware of the EIS and have the opportunity to review and comment on it.

§ 1503.2 Duty to comment.

XV. *Duty to comment*

REA will comment, to the extent practicable, on all EIS's sent to it.

§ 1505.2 Record of decision in cases requiring environmental impact statements.

XVI. *Record of Decision in Cases Requiring EIS*

Normally the REA loan recommendation will contain or be accompanied by REA's record of decision.

REA will include, among its essential considerations of national policy, national economic development objectives and the National Energy Plan.

§ 1506.1 Limitations on actions during NEPA process.

XVII. *Limitations on Actions During the NEPA Process-Minimal Expenditures Not Affecting the Environment*

In determining which borrower activities related to a project normally requiring an EIS may be approved prior to completion of its NEPA process, REA will need to determine (in addition to non-NEPA matters) that:

A. The activity will not have an adverse environmental impact. For example, purchase of water rights, optioning or transfer of land title, or continued use of land as historically employed would not have an adverse environmental impact. However, site preparation or construction at or near the proposed site (*e.g.* rail spur) or development of a related facility (*e.g.* opening a captive mine) would normally have an adverse environmental impact.

B. The expenditure is "minimal". To be minimal the expenditure:

1. must not exceed the amount the loss of which the borrower could absorb without jeopardizing the government's security interest in the event the proposed project is not approved by the Administrator; and

2. must not compromise the objectivity of REA's environmental review.

Notwithstanding other considerations, normally expenditures up to 10% of the proposed project cost would not compromise REA's objectivity.

Nothing in this definition precludes approval of expenditures for testing work conducted by the borrower (§ 1506.1(d)).

§ 1506.2 Elimination of duplication with State and local procedures.

XVIII. *Elimination of Duplicaton With State and Local Procedures*

REA is committed to cooperation with state and local agencies pursuant to § 1506.2 of the CEQ regulations. To the extent possible and consistent with NEPA and the CEQ regulations, REA may vary procedures set out in this Bulletin at Part One, Appendix A so as to eliminate duplication and delay.

Where state law requires state agencies to control siting of plants or routing of transmission lines, REA will also coordinate with those state agencies in determining the siting options.

To the extent practicable, REA will combine any public meetings or hearings required by it with those held by other Federal and state agencies.

§ 1506.3 Adoption.

XIX. *Adoption*

A. *Policy*—REA borrowers sometimes participate in projects where other Federal agencies have already prepared an EIS. These projects include, but are not limited to nuclear or some coal-fired generating stations and coal mining facilities. REA will adopt the existing EIS if it can do so pursuant to § 1506.3.

B. *Adoption in Final*—1. If REA did act as a cooperating agency, and was adequately identified as such in the EIS, the statement may be adopted as a final EIS without circulation. The notice provisions in Subsection XIV.A *supra* may be satisfied by the lead agency notice if it mentions REA involvement.

2. If REA was not a cooperating agency but determines that another federal agency's EIS is adequate, it will adopt the EIS as its final EIS. The Administrator shall determine whether the adopted EIS is still generally available. This determination will be based on consultation with other agencies and consideration of such factors as project size and initial date of issuance of the adopted EIS.

a. If the adopted EIS is available, REA will:

(1) circulate, pursuant to Section XIII *supra*, its written finding that the adopted statement meets the standards for an adequate EIS;

(2) advise that copies of the EIS will be sent to any person or agency who so requests; and

(3) make the adopted statement available for public examination as described in Section XIII *supra*.

b. If the adopted EIS is not generally available REA will circulate its written finding that the adopted statement is an adequate EIS along with either (1) the adopted EIS or (2) a summary thereof, in accordance with § 1502.12.

C. *Adoption in Draft*—If REA wishes to adopt another agency's EIS in whole or in part, but determines that supplementary information is required to meet the standards of an adequate statement the Administrator will determine whether the adopted EIS is still generally available.

1. If the EIS is still available, REA will:

a. circulate only the REA Supplement as a draft and final—supplement (see Sections X and XIII, *supra*);

b. advise that copies of the adopted EIS will be sent to any person or agency who so requests; and

c. make the adopted statement available for public examination as described in Section XIII, *supra*.

2. If the EIS is not generally available, REA will circulate its supplement along with either (a) the adopted EIS or (b) a summary thereof pursuant to § 1502.12.

§ 1506.5 Agency responsibility.

XX. *Agency Responsibility—Borrower's and Contractor's Submission of Environmental Documents*

A. *Projects Requiring an EIS*—1. Electric Generation and Mining Facilities—REA shall require the borrower to submit three environmental studies:

a. Siting Study—See guidance for preparation in Part Three, Exhibit A to this Bulletin 20–21:320–21.

b. Alternate Evaluation—See Guidance for preparation in Part Three, Exhibit B.

c. Environmental Analysis—This document, prepared under the guidance of REA staff, and subject to REA's independent verification, shall provide the basis for preparation of the EIS. See guidance for preparation in Part Three, Exhibit C. The Analysis will normally become an Appendix to the REA EIS. Generally the borrower will be required to provide REA with 200 revised copies of the document after it has undergone REA evaluation.

2. Transmission Facilities—REA shall require the borrower to submit the three environmental studies:

a. Macro corridor study—See guidance for preparation in Part Three, Exhibit A.

b. Alternative Evaluation—See guidance for preparation in Part Three, Exhibit B.

c. Environmental Analysis—See explanation of Environmental Analysis in Subparagraph XX.A.1.c above. See guidance for preparation in Part Three, Exhibit D.

B. *Projects Not Normally Requiring an EIS*—for those projects which do not normally require an EIS, including any project covered under categorical exclusions (except where specifically indicated otherwise), the borrower shall submit a Borrower's Environmental Report. See Part Three, Exhibit E of this Bulletin 20–21:320–21 for guidance in preparation. The BER may serve as REA's environmental assessment for projects not categorically excluded. For projects within the categorical exclusion, the BER will assist REA in identifying the extraordinary circumstance in which a normally excluded action may have a significant environmental effect.

C. *Contractor—Prepared EIS*—In individual situations upon mutual agreement between REA and the borrower, the Environmental Impact Statement may be prepared by an independent contractor. If REA acts as lead agency, the contractor will be chosen by REA. Under this procedure, the borrower would not be required to submit an Environmental Analysis.

§ 1506.6 Public involvement.

XXI. *Public Involvement.*

A. *Actions Normally Requiring an EIS*—has provided for public involvement as follows:

1. Notice of Intent—(see Subsection VII.B *supra*)

2. Scoping Meeting—(see Subsection VII.C *supra*)

3. Notice of Availability of Draft and Final EIS—(see Section XIV *supra*)

4. Borrower Notices—(see Subsection VII.B and XIV.B *supra*)

5. Additional Public Information Meetings—(see Subsection VII.C *supra*)

6. Availability of Supporting Information—(see Section VIII *supra*)

7. Agency Contact Person—shall be the Assistant Administators—Electric or Telephone, U.S. Department of Agriculture, South Building, Washington, D.C. 20250.

8. Hearing(s):

a. Hearing(s) may be held anytime, but normally, if held, they will occur after the publication of either the draft or final EIS. Public hearing(s) will be held concerning environmental aspects of a proposed action for which an EIS is required under the provision of this Bulletin in all cases where, in the Administrator's opinion, the need for hearing(s) is indicated in order to bring out adequately significant environmental implications of the proposed action. In cases where hearing(s) are held, notice of the hearings will be published in the Federal Register at least thirty (30) days in advance of the hearings. The draft or final EIS as applicable will be made available to the public at least fifteen (15) days in advance of the hearing(s).

b. The borrower will also publish a notice similar to REA's and a news article and/or advertisement to attract the attention of the general public in a newspaper or newspapers of general circulation in the county in which the principal office of the borrower is located and in the counties in which the proposed construction may take place, announcing that hearing(s) will be held.

c. All persons desiring to make statements at the hearing(s) will be invited to submit a copy of their proposed statement, in writing, but such submission will not be required. The hearing(s) will normally be informal and will generally be confined to the environmental aspects of the proposed loan.

B. *Actions Requiring an Environmental Assessment*—in connection with such proposed projects, public involvement shall be as follows:

1. Borrower Notices—The borrower shall have published a legal notice and a news article and/or advertisement to attract the attention of the general public in a newspaper or newspapers of general circulation in the county in which the principal office of the borrower is located and in the counties in which the proposed construction will take place. This notice shall generally described the nature, location and extent of the proposed action and indicate the availability and location of additional information. The notice shall invite comments with respect to environmental effects of the proposed construction, to be submitted to the borrower or REA within thirty (30) days of publication of the notice. See Part Three, Exhibit G for an example of an appropriate legal notice.

2. Consideration of Comments—The borrower and REA shall give proper consideration to all comments received. A copy of the notice together with all comments received shall be forwarded to REA, together with the borrower's recommendations. If no comments are received, this should be so stated.

§ 1506.10 Timing of agency action.

XXII. *Timing of Agency Action*

A. Where an agency action requires an EIS, the action will not be approved or commitments executed before expiration of the thirty (30) day-period starting with notice in the Federal Register by EPA that the final EIS, together with comments on the draft EIS, is available.

B. For budgetary purposes some loans may be approved conditionally with a stipulation that no funds will be advanced to the borrower or contracts of guarantee executed until the NEPA process is completed. Except under emergency circumstances where waiver is secured from the Council on Environmental Quality, no funds will be advanced nor contracts of guarantee executed until the later of the following:

1. Ninety (90) days after notice of a draft EIS is published in the Federal Register by EPA, or

2. Thirty (30) days after notice of a final EIS is published in the Federal Register by EPA.

§ 1506.11 Emergencies.

XXIII. *Emergencies*

If there should be emergency circumstances which make it necessary for REA to take an action with significant environmental impact without observing the provisions of this bulletin concerning minimum periods for agency review and advance availability of EIS's, REA will consult with the Council on Environmental Quality before proceeding.

§ 1506.12 Effective date.

XXIV. *Compliance*

A. The effective date of Part One of this Bulletin is the date of signature by the Administrator. This Bulletin shall apply to the fullest extent practicable to ongoing activities and environmental documents began before the effective date.

B. No completed environmental documents need to be redone by reason of these regulations.

XXV. *Miscellaneous Provisions*

A. *Use of the Metric Units:* The United States is committed to a long-term program to convert all measurements to the metric system. Borrowers are urged to have environmental documents prepared using metric units with British system equivalents placed in parentheses.

Robert W. Feragen,

Administrator.

Attachments:

Appendix A—Procedure for Proposals which Normally Require an EIS.

Index:

Environment: National Environmental Policy Act of 1969.

Loans: National Environmental Policy Act of 1969.

BILLING CODE 3410-15-M

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Appendix A

Procedure for Proposals Which Normally Require an EIS

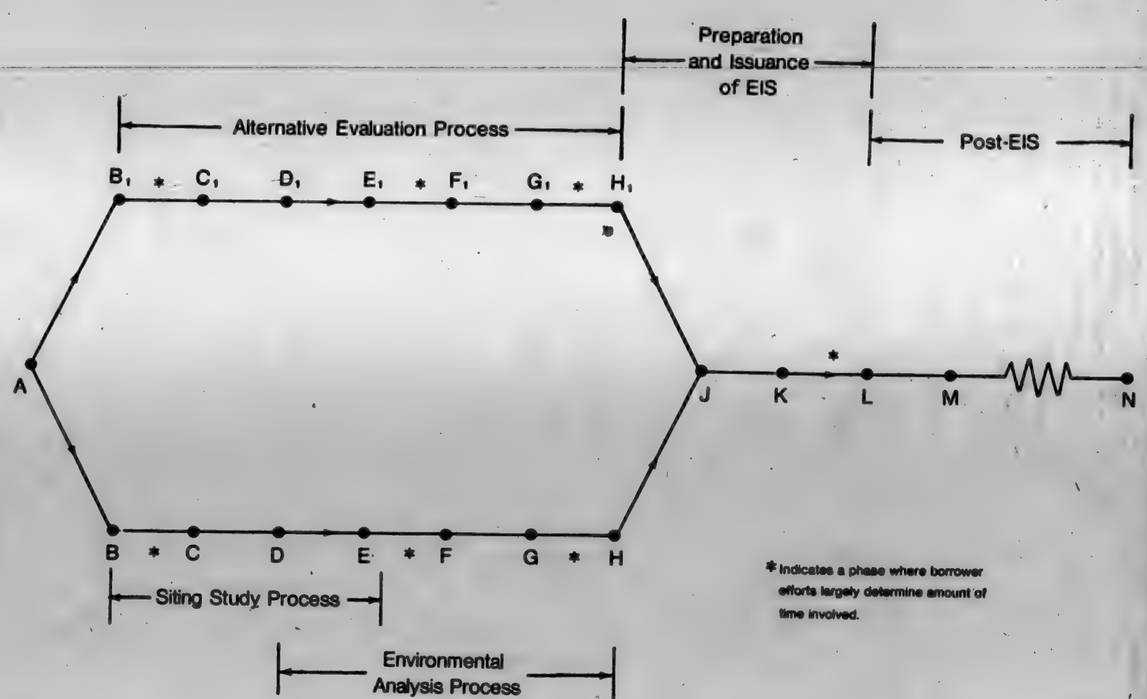

APPENDIX A

DIAGRAM LEGEND

——▶ On-going activity in the EIS process

B,C,D, Discrete events in the Siting Study and Environmental Analysis path

B_1, C_1 Discrete events in the Alternative Evaluation

As the diagram illustrates, there will be two separate but interrelated study processes leading to the preparation of the EIS. One process B_1 through H_1 will examine alternatives to building a generating (or transmission or new mining) facility. The other process, B through H will examine a range of potentially acceptable sites for a generating (or transmission or new mining) facility.

In order to facilitate long-range planning and reduce delays, a borrower may undertake preliminary evaluations of alternative means of providing power and begin the study of a range of potentially acceptable sites for a generation (or transmission or new mining) facility before demonstrating a need for power. The obligation to show a need for power would still remain, however, before REA financial assistance could be obtained.

Equal spacing between points on the diagram is not meant to suggest equal time intervals. Where two letters are the same (except for subscripts), generally the two indicated events should occur within the same time frame. For BD and B_1D_1 this is only true where the applicant initiates site selection at a time when there is a specific need to be filled. For major transmission projects, references to events occuring during the Macro Corridor Study are analogous to the generation Siting Study procedures.

The flow diagram is intended to indicate the normal sequence of events although some variance may be acceptable in individual cases if good cause is demonstrated. However, in all instances REA will assure that NEPA and CEQ NEPA regulations are complied with.

DISCRETE EVENTS

A: A valid power requirements study (PRS) (or similar document) which shows a need for generated or transmitted power is available. REA undertakes, when necessary, the update of the power requirements study utilizing REA procedures.. This PRS should be available for approval by REA before the draft EIS is published. The PRS must be approved by REA before a loan guarantee is made.

B and B_1: The borrower consults with REA on the procedures and general parameters for the Siting Study and on potential alternative ways to meet the need, including guidance on preparing the Alternative Evaluation. Consultation may be initiated even if a specific need has not been identified.

BC: Work is performed on Siting Study by borrower and/or consultant. This includes "macroanalysis" in which general criteria, literature search and consultation are used to identify a reasonable range of potentially acceptable sites. (See Part Three of this Bulletin for additional guidance.)

Borrower/consultant contact Soil Conservation Service (SCS), Environmental Protection Agency (EPA), Fish and Wildlife Service (FWS), Army Corps of Engineers (COE), Federal land use agencies and state agencies for early guidance and input.

As soon as practicable during this period, REA publishes its "Notice of Intent" in the Federal Register and the borrower publishes similar information in local newspapers. (See Part One Subsection VII.B)

$\overline{B_1C_1}$: Borrower does research and consultation, contacts other utilities, etc., to determine whether there are reasonable alternatives to a new generating (or transmission or mining facility).

The Alternative Evaluation should include discussion, as appropriate, of joint projects, alternate fuels, alternate energy sources, conservation, etc, (more guidance is in Part Three of this Bulletin.) Alternatives eliminated from detailed study should be identified and reasons given for the elimination. The borrower should also indicate which alternatives are reasonably available to it if its preferred alternative is not approved.

C and C_1: Borrower submits draft of Siting Study and Alternative Evaluation to REA for review. REA reviews each draft for major flaws. If such flaws are not present, REA submits draft Siting Study and Alternative Evaluation to EPA, SCS, COE, FWS and other potentially involved Federal and state agencies for review and comment.

D and D_1: REA invites other Federal and state agencies to make a field investigation of potentially acceptable siting areas discussed in the draft Siting Study, critique the study methodology, and point out potential problems with these alternative siting areas. Borrowers will at this time present non-site specific alternatives included in the Alternative Evaluation to these agencies for their comments. Participating agencies may critique alternative means of meeting the need. The agencies set up a strategy for conducting the scoping process and tentatively identify the lead agency for the EIS.

DE: Federal agencies are given the opportunity to comment on the potentially acceptable alternatives to point out fatal flaws. During this stage the borrower may secure land, water or other

J: REA issues draft EIS for public review and comment, publishing notice of availability in the Federal Register.

K: Public comment period ends on draft EIS. This date may be extended in certain instances.

KL: REA (and cooperating agencies, as appropriate) review comments received on draft EIS and respond, by modifying alternatives, developing alternatives not previously given serious consideration, supplementing, improving or modifying the analyses, etc. A final EIS or supplemental draft EIS is prepared, as appropriate, with cooperating agencies' assistance.

M: REA will take no final action on any loan, loan guarantee, etc. sooner than 30 days after issuance of the final Federal EIS.

HH: Mitigation measures are checked by REA and other Federal, State, and local agencies during construction and operation of the project.

critical factors for potentially acceptable sites by option or other means (subject to the limitations in Section XVII of Part One of this Bulletin). If REA's notice of intent and the borrower's notice did not give the date and time of the scoping meeting, new, more specific notices are published now.

E and EJ: Scoping meeting(s) held to receive input from the public, interested parties, and Federal, state and local officials and agencies. Among the topics open to discussion are reasonable alternatives to meet the need, such as potentially acceptable sites, participation projects or conservation, significant issues to be addressed in the EIS, and the need for the project.

EF: Borrower submits revised Siting Study to REA for review after revising it to reflect input from scoping meeting. Borrower prepares the draft Environmental Analysis which includes a fatal flaw study of potentially acceptable sites and a "microanalysis" in which detailed field work is conducted on the borrower's preferred site(s). The borrower continues consultation with REA and other interested Federal, state, and local agencies and the public and reflects their comments in the analysis.

DJFJ: Borrower updates and expands as necessary, the Alternative Evaluation on the basis of comments received from Federal, State and local officials and agencies, input from participants at the scoping meeting(s) and new developments (e.g. negotiations with other electric power utilities).

F and FJ: The borrower submits draft Environmental Analysis to REA for review and comment. REA distributes copies of the Environmental Analysis to cooperating agencies for review. Borrower also submits expanded Alternative Evaluation, which has been updated after the scoping meeting, and also includes any new alternatives if any, which have developed. REA submits updated Alternative Evaluation to requesting cooperating agencies.

FC and FJC: REA and cooperating agencies independently evaluate, for accuracy, scope and content, the information submitted to them. REA collates responses and transmits them to the borrower. REA may begin writing the draft EIS at this point.

H and HJ: Borrower submits, as appropriate, a final revised Environmental Analysis and Alternative Evaluation to REA.

HJ and HJJ: REA independently evaluates the revised documents and verifies the information therein, before using it in the EIS. During this time, REA prepares the draft EIS, utilizing the borrower-supplied data, interagency expertise, and other information.

[FR Doc. 80-2979 Filed 1-28-80; 8:45 am]
BILLING CODE 3410-15-C

Proposed Rules

Federal Register
Vol. 45, No. 20
Tuesday, January 29, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 111

Pollution Control, Proposed Amendment To Provide that History of Operations of Predecessor Concern May be Considered as Part of Applicant Concern's History

AGENCY: Small Business Administration.

ACTION: Withdrawal of proposed rule.

SUMMARY: On December 14, 1979, a document was published in the Federal Register (44 FR 72604) proposing an amendment to Part 111 for the purpose indicated. No comments were received. It has been determined, however, that the proposed amendment will not permit the flexibility needed to alleviate the complex problems being presented in applications of multiple or changing business entities. The withdrawal of the proposal will permit the early publication of a proposed rule with greater flexibility. The proposal is therefore withdrawn.

DATE: January 29, 1980.

FOR FURTHER INFORMATION CONTACT:
Vincent A. Fragnito, Chief, Pollution Control Guarantees, Office of Special Guarantees, Magazine Building, Rosslyn, Virginia 22209 (703–235–2902).

Dated: January 22, 1980.

(Catalog of Federal Domestic Assistance Programs No. 59.031, Small Business Pollution Control Financing Guarantee Program).

A. Vernon Weaver,
Administrator.

[FR Doc. 80-2780 Filed 1-28-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 135

[Docket No. 79N-0116]

Frozen Desserts; Ice Cream and Frozen Custard; Standard of Identity

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This document would amend the ice cream and frozen custard standards of identity to require label declaration of a color additive, FD&C Yellow No. 5. The agency is proposing this action because of reports of allergic-type responses.

DATES: Comments by February 28, 1980. Proposed compliance for affected products initially introduced into interstate commerce: July 1, 1981.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:
Eugene T. McGarrahan, Bureau of Foods (HFF–215), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–245–1155.

SUPPLEMENTARY INFORMATION: In the Federal Register of June 26, 1979 (44 FR 37212), the Food and Drug Administration (FDA) issued a final regulation to require the label declaration of FD&C Yellow No. 5 when used to color food and ingested drugs and to prohibit its use in certain drugs for human use. These measures were considered necessary because of mounting evidence of allergic-type reactions to FD&C Yellow No. 5. The regulation revises § 101.22(c) by adding the following sentence to complete the paragraph: "The specific artificial color used in food shall be identified on the labeling when so required by regulation in Part 74 of this chapter to assure safe conditions of use of the food additive." It also adds new § 74.705(d)(2) as follows: "Foods for human use that contain FD&C Yellow No. 5, including butter, cheese, and ice cream, shall specifically declare its presence by listing the name by which it is known, i.e., FD&C Yellow No. 5."

Persons who know they are intolerant to FD&C Yellow No. 5 are likely to be selective in the types of foods they use. With appropriate label declaration, they are able to avoid potential allergic reactions to the color in food. Accordingly, a label declaration of the presence of FD&C Yellow No. 5 in food for humans, whether added as the straight color, a mixture, or a lake, enables persons intolerant to FD&C Yellow No. 5 to minimize exposure.

The final regulation published on June 26, 1979 is based on section 706(b)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376(b)(3)), which provides that regulations for the listing of a color additive shall "prescribe the conditions under which such additive may be safely employed for such use or uses (including, but not limited to * * * and directions or other labeling or packaging requirements for such additive)." FD&C Yellow No. 5 has clearly been shown to produce allergic-type responses in humans, so a requirement for the color's label declaration is necessary for its safe use. Under the regulations, foods containing colors other than FD&C Yellow No. 5 may continue to be labeled in accordance with the requirements concerning the label declaration of color additives prescribed by section 403(i) and (k) of the act [21 U.S.C. 343(i) and (k)], which permit declaration collectively as artificial color.

To implement revised §§ 101.22 and 74.705(d)(2) as they pertain to the standard of identity for ice cream and frozen custard, FDA is proposing to revise paragraph (f) of § 135.110 (21 CFR 135.110(f)) to require label declaration of FD&C Yellow No. 5 or other colors when required by § 101.22(c) (21 CFR 101.22(c)) when used to color the foods.

FDA proposes that all affected products initially introduced into interstate commerce on or after July 1, 1981, shall comply with the regulation.

FDA has considered the environmental effects of the issuance or amendment of food standards and has concluded in 21 CFR 25.1(d)(4) that food standards are not major agency actions significantly affecting the quality of the

human environment. Therefore, an environmental impact statement is not required for this amendment.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 135 be amended in § 135.110 by revising paragraph (f), to read as follows:

§ 135.110 Ice cream and frozen custard.

* * * * *

(f) *Label declaration.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that sources of milkfat or milk solids not fat may be declared in descending order of predominance either by the use of all the terms "milkfat and nonfat milk" when one or any combination of two or more of the ingredients listed in § 101.4(b) (3), (4), (5), and (9) of this chapter are used or alternatively as permitted in § 101.4 of this chapter. Under section 403(k) of the Federal Food, Drug, and Cosmetic Act artificial color need not be declared in ice cream, except as required by § 101.22(c) of this chapter. Voluntary declaration of all colors used in ice cream and frozen custard is recommended.

Interested persons may, on or before February 28, 1980 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Consistent with the Office of Planning and Evaluation Interim Guidelines for Regulatory Analysis dated August 6, 1978, food standards are exempt from regulatory analysis as required by Executive Order 12044.

Dated: January 16, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-2980 Filed 1-28-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 570

[Docket No. R-80-759]

Pockets of Poverty

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of interim rule to Congress under Section 7(o) of the Department of Housing and Urban Development Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT:
Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, SW, Washington, D.C. 20410; (202) 755-6337.

SUPPLEMENTARY INFORMATION:
Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairman and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

Interim Rule—24 CFR Part 570—Pockets of Poverty

This rule modifies the requirements governing Urban Development Action Grants available to assist communities in revitalizing the economic base of their Pockets of Poverty. As such, it extends program eligibility to a group of cities and urban counties previously found to be ineligible. The rule implements the amendments made to Section 119 of the Housing and Community Development Act of 1974 as amended by Section 104(a) of the Housing and Community Development Act Amendments of 1979.

(Section 7(o) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(o), Section 334 of the Housing and Community Development Amendments of 1978.)

Issued at Washington, D.C., January 24, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-2790 Filed 1-28-80; 8:45 am]

BILLING CODE 4210-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 401

[FRL 1400-1]

Toxic Pollutant List; Addition of Ammonia

AGENCY: Environmental Protection Agency.

ACTION: Extension of public comment period.

SUMMARY: The Environmental Protection Agency proposed the addition of ammonia to its list of toxic pollutants in the January 3, 1980 Federal Register (45 FR 803). The due date of written comments on this proposal was stated as March 3, 1980. This comment period is hereby extended to May 2, 1980 in order to provide additional time for submission of comments.

DATES: Comments by May 2, 1980.

FOR FURTHER INFORMATION CONTACT:
Joseph A. Krivak, Acting Director, Criteria and Standards Division [WH-585], Office of Water Planning and Standards, U.S. Environmental Protection Agency, 401 M Street, S. W., Washington, D.C. 20460, telephone 202/755-0100.

Swep T. Davis,

Acting Assistant Administrator for Water and Waste Management.

January 22, 1980.

[FR Doc 80-2788 Filed 1-28-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 774

OTS-48001B; FRL 1400-3]

Data Reimbursement Under Sections 4 and 5 of the Toxic Substances Control Act; Extension of Comment Period

AGENCY: U.S. Environmental Protection Agency [EPA].

ACTION: Extension of comment period. This notice again extends the comment period for the advance notice of proposed rulemaking on data reimbursement under sections 4 and 5 of the Toxic Substances Control Act (TSCA), published September 18, 1979 (44 FR 54284). The comment period will close February 7, 1980 instead of January 17, 1980. The Chemical Manufacturers' Association (CMA) requested additional time to develop and submit a comprehensive scheme for cost-sharing and reimbursement. The extension of time has been granted in response to this request and to allow EPA to solicit comments from other interested parties.

DATE: Comments on the issues in this rulemaking must be submitted on or before February 7, 1980, in order to ensure their consideration in the development of the proposed rule.

ADDRESS: Written views and comments should bear the document control number OTS-48001B and should be addressed to the Document Control Officer, Office of Pesticides and Toxic Substances (TS-793), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 or submitted to the same office in Room 447, East Tower at the above address, Monday through Friday, 8:30 A.M. to 4:00 P.M. The rulemaking record for this docket is available for inspection in the room mentioned above.

FOR FURTHER INFORMATION CONTACT:
Industry Assistance Office, Office of Pesticides and Toxic Substances (TS-799), U.S. Environmental Protection Agency, 401 M Street, S.W. Washington, D.C. 20460, Telephone (toll-free) 800-424-9065 or in Washington, 554-1404.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 80-2727 Filed 1-28-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Cost Reporting Requirements for Home Health Agencies

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: We propose to amend the Medicare regulations on reimbursement of home health agencies (HHAs) to require: (1) HHAs that are not based in hospitals or skilled nursing facilities to use the "step-down" method of allocating costs to various cost centers; and (2) all HHAs to use a single method of apportioning costs between Medicare and non-Medicare patients, based on the cost per visit by type of service furnished. These changes will improve administration of the Medicare program by replacing the various cost-finding and cost apportionment methods that are currently used by HHAs with a single method of cost finding and cost apportionment and assist in the application of cost limits of HHAs by requiring the use of improved methods of determining the cost by type of service. The Department of Health, Education, and Welfare has classified the proposed regulations as policy significant.

FOR FURTHER INFORMATION, CONTACT:
Fred Koenig, Health Care Financing Administration, Department of Health, Education, and Welfare, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-8612.

Dated: January 6, 1980.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

[FR Doc. 80-2810 Filed 1-28-80; 8:45 am]

BILLING CODE 4110-35-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-21; RM-3478]

FM Broadcast Station in Commerce, Tex.; Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a first commercial FM assignment to Commerce, Texas, in response to a petition filed by FIRSTStation Radio. The proposed channel could be used to provide a first commercial local aural broadcast service to Commerce.

DATES: Comments must be filed on or before March 24, 1980, and reply comments must be filed on or before April 14, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:
Adopted: January 18, 1980.

Released: January 25, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Commerce, Texas), BC Docket No. 80-21, RM-3478.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by FIRSTStation Radio ("petitioner"), proposing the assignment of channel 221A to Commerce, Texas, as its first FM assignment.

(b) The channel can be assigned in compliance with the minimum distance separation requirements provided the transmitter site is located approximately 9 kilometers (5.5 miles) northeast of Commerce.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Community Data*—(a) *Location.* Commerce, in Hunt County, is located approximately 106 kilometers (66 miles) east northeast of Dallas, Texas.

(b) *Population.* Commerce—9,534,[2] Hunt County—46,564.

(c) *Local Aural Broadcast Service.* Commerce is served locally by noncommercial educational FM Station KETR (Channel 206), licensed to East Texas State University. Commerce has no local commercial service.

3. *Economic Considerations.* Petitioner states that Commerce is the second largest city in Hunt County. It has submitted information regarding Commerce which is sufficient to warrant considertion of its need for a first commercial FM assignment.

4. In view of the foregoing and the fact that the proposed FM channel assignment, if granted, would provide Commerce with its first commercial local aural broadcast service, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the rules, with regard to Commerce, Texas, as follows:

City	Channel No. Present	Channel No. Proposed
Commerce, Tex		221A

5. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the attached Appendix below before a channel will be assigned.

6. Interested parties may file comments on or before March 24, 1980, and reply comments on or before April 14, 1980.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are

[1] Public Notice of the petition was given on September 19, 1979, Report No. 1139.

[2] Population figures are taken from the 1970 U.S. Census.

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prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleading, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-2787 Filed 1-28-80; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Chapter X

[Ex Parte No. MC-67 (Sub-No. 6)]

Elimination of Notification Procedure in the Processing of Emergency Temporary Authority Applications

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rules.

SUMMARY: In light of the decision in *Brown Express, Inc.* v. *United States*, F. 2d ——, No. 79–1457 (5th Cir. Nov. 30, 1979), the Commission has instituted this rulemaking to consider whether to eliminate the Commission's informal practice of having its field staff notify competing carriers and other interested parties when a motor carrier files an application for Emergency Temporary Authority (ETA). This action is being taken because of the great rise in the number of ETA applications. The time saved by the Commission employees will enable them to handle these ETA applications more effectively and expeditiously, resulting in a substantial monetary saving to the Commission and improved transportation service to the public.

DATES: Written comments should be filed with the Commission on or before February 28, 1980.

ADDRESSES: Send an original and, if possible, 15 copies of comments to: Ex Parte No. MC–67 (Sub-No. 6), Room 5416, Office of Proceedings, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Donald J. Shaw, Jr., (202) 275-7292.

or

Jane Alspaugh Atkinson, (202) 275-7169.

SUPPLEMENTARY INFORMATION: Although there has never been a formal regualtion requiring that notice of the filing of Emergency Temporary Authority (ETA) applications be given to competing carriers or other interested parties, it has been an informal practice of the Commission to communicate by telephone with existing carriers who hold authority to serve the ETA area to provide them an opportunity to protest the application. Existing carriers were not otherwise notified by the Commission of the filing of ETA applications involving competing service. The procedure of notifying interested parties was eliminated by the Commission on January 2, 1979, after publication of a notice in the Federal Register. See *Notice of Elimination of Notification Procedure in the Processing of Emergency Temporary Authority Applications under 49 U.S.C. 10928*, 43 Fed. Reg. 58701 (December 15, 1978), hereinafter referred to as "Notice of Elimination." However, the United States Court of Appeals, Fifth Circuit on November 30, 1979, held that the Notice of Elimination was improperly adopted, because the Commission did not follow the notice and comment procedures of the Administrative Procedure Act, 5 U.S.C. 553. *Brown Express, Inc.* v. *United States*, — *F.2d* —, *No. 79–1457 (5th Cir. Nov. 30, 1979). To comply with the Court's decision, the Commission voted on December 18, 1979, to rescind the Notice of Elimination. The purpose of this rulemaking is to consider whether the informal practice of telephone notification should be continued. Notice and comment procedures are being followed to comply with the decision in Brown Express.*

The Commission need not give notice when it acts under 49 U.S.C. 10928. That section contains a clear exemption from the procedural requirements of the Interstate Commerce Act and the Administrative Procedure Act. This was recognized by the courts in *Brown Express, Inc., supra*, and in *Blue and Grey Transport, Inc.* v. *United States*, 606 F.2d 457, (4th Cir. 1979).

The notification of competing carriers and interested parties involves a substantial expenditure of time by the technical and clerical staff of each of the Commission's six regions. In fiscal year 1978, the Commission handled 13,068 ETA applications. Figures gathered from the field staff in September, 1978, indicate that an average of 1463 hours per week were being spent in the notification process. Extended for an entire year, this translates to a substantial number of staff years. (It should be noted that, despite the notification procedure, the vast majority of ETA applications were unopposed.) In fiscal year 1979 the number of ETA applications rose to 39,268. For the first seven weeks of fiscal year 1980, 7,160 ETAs were handled, which, projected out for the entire fiscal year, would involve the handling of in excess of 50,000 ETA applications. This represents an approximately 400% increase over fiscal year 1978. This dramatic increase in ETA filings makes the notification process even more unwieldy. Furthermore, the contemplated shift of handling of Temporary Authority (TA) and ETA applications to six Regional Motor Carrier Boards [Ex Parte No. MC–67 (Sub-No. 5)] makes the conservation of field staff time a crucial goal.

When the notification procedure first began approximately 40 years ago, there were far fewer temporary authority filings, and the field staff could more easily familiarize itself with the carriers providing competing service. This is not the case today when the total number of carriers exceeds 18,000 and the number of ETA filings are expected to exceed 50,000. It is now virtually impossible for field personnel to determine all carriers which hold authority in conflict with that sought in an ETA application. It would be necessary to devote a significant expenditure of additional public resources to continue giving effective notification to all carriers potentially affected by the filing of an ETA application.

ETA's were created "to meet an immediate and urgent need for service due to emergencies, in which time or circumstances do not reasonably permit the filing and processing of an application for temporary authority." 49 CFR 1131.1(b)(1) (1978). Rapid handling of ETA applications is essential. The elimination of the need to notify competing carriers would enable the Commission to provide improved transportation service to the public by being more quickly responsive to transportation needs.

We believe that there is no compelling reason to continue the present notification practice. Applicants must show an immediate need for the proposed service. Shipper certifications under oath are required that state the circumstances which create an immediate and urgent need for the requested service and set out the efforts made to obtain service from existing carriers. If a carrier is actually providing service to the supporting shipper, it should quickly become aware of the presence of a new competing carrier without any notice by the Commission.

The field staff will continue to accept protests if a competing carrier becomes aware of the pendency of an ETA application. In addition, any interested person may appeal an ETA grant, anytime during the life of the ETA authority.[1] Any pleadings must be served on all parties of record.[2]

The Commission anticipates that a substantial saving in staff time, more equitable treatment of interested parties, and more expeditious response to the need for transportation service will result from the elimination of the notification practice, thus enabling the Commission better to serve the public.

We do not believe that the action proposed will have an adverse effect on either the quality of the human environment or conservation of energy resources. However, any person may comment on this aspect of the proposal.

Public Invited To Comment

Oral hearings do not appear to be necessary at this time, and none are contemplated. The views of interested parties are solicited.

This notice of proposed rulemaking is issued under authority of 49 U.S.C. 10321 and 10928, and 5 U.S.C. 553 (the Administrative Procedure Act).

Dated: December 28, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Chairman O'Neal absent and not participating. Vice Chairman Stafford dissenting. Commissioner Christian absent and not participating. Commissioner Trantum commenting.

Agatha L. Mergenovich,

Secretary.

Vice Chairman Stafford, dissenting: I am opposed to eliminating the notification practice. A check of existing services would prevent the granting of ETAs in other than true emergency situations.

Commissioner Trantum, commenting: A compelling reason for the elimination of notification is that no possible way exists for the ICC to notify all carriers that may be affected. We could give those carriers that are called an unfair advantage over those that are not. Unless equal and unbiased notification can be given no notification should be made. Further, if a carrier is going to be substantially harmed the situation will be quickly apparent and a protest can be filed.

[FR Doc. 80-3013 Filed 1-28-80; 8:45 am]

BILLING CODE 7035-01-M

[1] It should be noted that this is a change from the time period stated in the 1978 "Notice of Elimination" in which an adversely affected carrier could appeal anytime within 15 days after becoming aware of the ETA grant. It was felt that that requirement was too vague and that it is certainly in a carrier's best interest to file as soon as possible if it is actually being harmed. This is also a return to the policy that existed before the "Notice of Elimination." See 43 Fed. Reg. 3711 (January 27, 1978).

[2] Requirements of service of pleadings have been ambiguous in the past. We propose that the matter be settled here, so that a protestant will be on notice that it must serve the applicant with a copy of its petition for reconsideration and other pleadings. Applicant will have corresponding obligations to protestants once they become known to applicant as parties in opposition.

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Notices

Federal Register
Vol. 45, No. 20
Tuesday, January 29, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Committee of State Foresters; Meeting

The Committee of State Foresters will meet in Albuquerque, New Mexico, on March 6, 1980. The meeting will convene at 9:00 a.m. on March 6th in the Civic Room of the Hilton Inn, 1901 University Blvd., N.E., Albuquerque, N.M.

The Committee, comprised of 7 members who are the Executive Committee of the National Association of State Foresters, consults with the Secretary of Agriculture and various agencies of the Department on the implementation of the Cooperative Forestry Assistance Act of 1978 (Pub. L. 95–313). Dr. M. Rupert Cutler, Assistant Secretary for Natural Resources of Environment, will chair the meeting. He and representatives of the Forest Service and other interested agencies will attend from the Department of Agriculture.

The meeting will be open to the public. Persons who wish to attend should notify the Committee's Executive Secretary, Einar L. Roget, Deputy Chief for State and Private Forestry, USDA—Forest Service, P.O. Box 2417, Washington, D.C. 20013, telephone (202) 447–6657. Written statements may be filed with the Committee before or after the meeting.

H. G. Beaver,
Acting Deputy Chief.
January 23, 1980.

[FR Doc. 80–2731 Filed 1–28–80; 8:45 am]
BILLING CODE 3410–11–M

Rural Electrification Administration

Colorado-Ute Electric Association, Inc., Montrose, Colo.; Final Supplement to the Yampa Project Final Environmental Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Supplement to the Yampa Project Final Environmental Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a proposed financing application to the Rural Electrification Administration from Colorado-Ute Electric Association, Inc., P.O. Box 1149, Montrose, Colorado 81401, to finance the construction of a transmission line from Wolcott to Malta, Colorado, and associated terminal facilities. This Final Supplement examines the impacts of the proposed Wolcott-Basalt 230 kV transmission line, Basalt-Malta 345 kV transmission line, and related terminal facilities in Eagle, Pitkin and Lake Counties, Colorado.

Additional information may be secured on request, submitted to Mr. Joe S. Zoller, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Copies of the REA Final Supplement have been sent to various Federal, State and local agencies, as outlined in the Council on Evironmental Quality Regulations. The Final Supplement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, SW., Washington, D.C., Room 1268, or at the borrower's address indicated above.

Comments concerning the environmental impact of the proposed construction should be addressed to Mr. Zoller at the address given above. Comments must be received on or before February 28, 1980, to be considered in connection with the proposed action.

Final REA action, with respect to this matter (including any release of funds), will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 16th day of January 1980.

Susan T. Shepherd,
Acting Administrator, Rural Electrification Administration.

[FR Doc. 80–2732 Filed 1–28–80; 8:45 am]
BILLING CODE 3410–15–M

Plains Electric Generation & Transmission Cooperative, Inc.; Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Environmental Impact Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with an anticipated loan guarantee for Plains Electric Generation and Transmission Cooperative, Inc., 2401 Aztec Road, N.E., Alburquerque, New Mexico 87107.

The anticipated financing assistance would provide Plains with the financing required for the construction of one 233 MW (nominal) coal-fired generating plant (including its appurtenant water pipeline and railroad spur), together with approximately 37 miles of 115kV transmission line needed to tie the line into the area transmission grid. This proposed project will provide additional generation and transmission capacity to meet the projected future growth in the peak electric demand of Plains' member distribution cooperatives.

Additional information may be secured by request submitted to Mr. Joe S. Zoller, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, S.W., Washington, D.C., Room 2868 or at Plains Electric Generation and Transmission Cooperative, Inc. 2401 Aztec Road, N.E., Albuquerque, New Mexico 87107.

Final REA action may be taken with respect to this matter after thirty (30) days.

Any loan which may be made pursuant to this application will be subject to, and release of funds thereunder will be contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects and final action will be taken only after compliance with Environmental Statement procedures required by the National Environmental Policy Act of 1969, and by other environmentally related statutes, regulations, Executive Orders, and Secretary's Memoranda.

Dated at Washington, D.C., 6th day of January, 1980.

Robert W. Feragen,
Administrator, Rural Electrification Administration.

[FR Doc 80–3512 Filed 1–28–80; 8:45 am]
BILLING CODE 3410–15–M

CIVIL AERONAUTICS BOARD

[Docket 36767]

Miami/New Orleans-San Jose, Costa Rica, Case; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on March 4, 1980, at 10:00 a.m. (local time) in Room C205, Hale Boggs Federal Building U.S. District Court, 500 Camp Street, New Orleans, LA 70130.

For details regarding the issues in this proceeding, interested persons are referred to the prehearing conference report, served on November 8, 1979, and other documents which are on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., January 25, 1980.

Alexander N. Argerakis,
Administrative Law Judge.

[FR Doc. 80–3732 Filed 1–28–80; 8:45 am]
BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Gulf of Mexico and South Atlantic Fishery Management Council's Scientific and Statistical Committees; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico and South Atlantic Fishery Management Councils were established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), and the Councils have established Scientific and Statistical Committees (SSC's) which will meet to review a data collection system for the Gulf of Mexico.

DATES: The meeting will convene on Thursday, February 14, 1980, at 9 a.m. and will adjourn at 4 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place in the Hacienda Room of the Landmark Motor Hotel, 2001 Severn Avenue, Metairie, Louisiana.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228–2815.

Dated: January 24, 1980.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 80–2733 Filed 1–28–80; 8:45 am]
BILLING CODE 3510–22–M

Western Pacific Fishery Management Council and Pelagic Fishery Resources Subpanel and Spiny Lobster Subpanel; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Western Pacific Fishery Management Council was established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), and the Council has established a Pelagic Fishery Resources Subpanel (AP) and a Spiny Lobster Subpanel (AP) to assist the Council in carrying out its responsibilities.

DATES: The Pelagic Fishery Resources Subpanel meeting will convene on Tuesday, February 12 and Wednesday, February 13, 1980, at 9 a.m. and will adjourn at 4 p.m. on both days to discuss progress on fishery management plans (FMP's) in the Council's area of concern. The Spiny Lobster Subpanel meeting will convene on Wednesday, February 13, 1980, at 9 a.m. and will adjourn at 4:30 p.m. to discuss progress on FMP's in the Council's area of concern. The AP's will meet at the NMFS Southwest Fisheries Center, Honolulu Laboratory, 2570 Dole Street, Honolulu Hawaii. The Council meeting will convene on Thursday, February 14, 1980, at 9 a.m. and will adjourn on Friday, February 15, 1980, at 4:30 p.m. to review the 6th Draft of the Billfish FMP, the 5th Draft of Environmental Impact Statement (EIS) and 7th Draft of Spiny Lobster FMP, Programmatic Work Schedule, status of the Northern Mariana Islands, and other Council related business. The Council meeting will take place at Lt. Governor's Conference Room, 5th Floor, State Capitol, Honolulu, Hawaii. The meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Western Pacific Fishery Management Council, Room 1608, 1164 Bishop Street, Honolulu, Hawaii 96813, Telephone: (808) 523–1368.

Dated: January 24, 1980.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 80–2734 Filed 1–28–80; 8:45 am]
BILLING CODE 3510–22–M

U.S. Travel Service

Travel Advisory Board; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976) notice is hereby given that the Travel Advisory Board of the U.S. Department of Commerce will meet on March 27, 1980, at 9:00 a.m., in Room 1858 of the Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Established in July 1968, the Travel Advisory Board consists of senior representatives of 15 U.S. travel industry segments who are appointed by the Secretary of Commerce.

Members advise the Secretary of Commerce and Assistant Secretary of Commerce for Tourism on policies and programs designed to accomplish the purpose of the International Travel Act of 1961, as amended, and the Act of July 19, 1940, as amended. A detailed agenda for the meeting will be published in the Federal Register in advance of the meeting.

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements is allowed.

Sue Barbour, Travel Advisory Board Liaison Officer, the United States Travel Service, Room 1858, U.S. Department of Commerce, Washington, D.C. 20230 (telephone 202/377–4752) will respond to public requests for information about the meeting.

Joanne Westphal,
Acting Assistant Secretary for Tourism, U.S. Department of Commerce.

[FR Doc. 80–2724 Filed 1–28–80; 8:45 am]
BILLING CODE 3510–11–M

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COUNCIL ON ENVIRONMENTAL QUALITY

Third Progress Report on Agency Procedures Implementing Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions"

January 4, 1979.

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information Only: Publication of Third Progress Report on Agency Procedures Implementing Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions"

SUMMARY: On January 4, 1979, President Carter issued Executive Order 12114 entitled "Environmental Effects Abroad of Major Federal Actions." Executive Order 12114 requires all federal agencies taking major federal actions outside the U.S. which are encompassed by and not exempted from the Order, to have in effect procedures implementing the Order within 8 months after January 4, 1979 (i.e., by September 4, 1979). The Order requires agencies to consult with the Council on Environmental Quality and the Department of State before putting their implementing procedures in effect. The Council has previously published certain explanatory documents concerning implementation of E.O. 12114 (44 FR 18722, March 29, 1979). On September 26, 1979 the Council published its first progress report on agency procedures implementing the Executive Order (44 FR 55410), and on November 6, 1979 a second progress report (44 FR 64101). The purpose of this third progress report is to provide an update on where affected agencies stand in this process.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Yost, General Counsel, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006; (202) 395–5750.

Third Progress Report on Agency Procedures Implementing E.O. 12114

The progress report lists federal agencies in two categories. In Category 1 are agencies that have published proposed or final procedures implementing Executive Order 12114. Category 2 lists agencies that have prepared draft procedures or are in the process of developing such procedures, and contains an estimated time such procedures will be published in the Federal Register.

Category 1—Federal Agencies That Have Published Proposed or Final Procedures Implementing E.O. 12114

Department of Defense, Final Procedures issued April 12, 1979 (44 FR 21786)
Export-Import Bank of the United States, Final [1] Procedures issued August 20, 1979 (44 FR 50613)
Overseas Private Investment Corporation, Final [1] Procedures issued August 31, 1979 (44 FR 51385)
National Oceanic and Atmospheric Administration, Proposed Revised NOAA Directive Implementing NEPA and E.O. 12114, October 22, 1979 (44 FR 60779)
Department of Energy, Proposed Guidelines issued September 6, 1979 (44 FR 52146)
Department of State, (1) Foreign Affairs Manual Circular No. 807A, Procedures Implementing E.O. 12114 [1] (except nuclear actions) November 21, 1979 (44 FR 67004). (2) "Unified Procedures Applicable To Major Federal Actions Relating To Nuclear Activities Subject To Executive Order 12114," [1] November 13, 1979 (44 FR 65560)
Agency for International Development, Proposed Environmental Regulations, October 1, 1979 (44 FR 56378)
Department of Transportation, Contained in NEPA procedures (DOT Order 5610.1C) issued October 1, 1979 (44 FR 56420), Paragraph 16
National Aeronautics and Space Administration, Contained in NEPA procedures, Section 1216.321 issued July 30, 1979 (44 FR 44490–44491)
Department of Agriculture, Proposed amendments (containing procedures implementing E.O. 12114) to departmental NEPA procedures, November 15, 1979 (44 FR 65768)
Environmental Protection Agency, Proposed procedures implementing E.O. 12114, November 29, 1979 (44 FR 68776)

Category 2—Federal Agencies Scheduled To Publish Procedures Implementing E.O. 12114 in the Near Future

Department of Commerce, Proposed procedures implementing E.O. 12114 are awaiting final approval. (Publication anticipated by February 15, 1980).
Department of Treasury, Proposed procedures implementing E.O. 12114 are awaiting final approval. (Publication anticipated by February 15, 1980).
Department of Interior, Draft procedures implementing E.O. 12114 are under preparation. These procedures are expected to be published in the near future.

Dated: January 24, 1980.

Nicholas C. Yost,
General Counsel.

[FR Doc. 80-2810 Filed 1-28-80; 8:45 am]
BILLING CODE 3125-01-M

[1] Although not published in proposed form for public review and comment, the preamble provides an opportunity for public comment on final procedures.

Sixth Progress Report on Agency Implementing Procedures Under the National Environmental Policy Act

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information Only: Publication of Sixth Progress Report on Agency Implementing Procedures Under the National Environmental Policy Act.

SUMMARY: In response to President Carter's Executive Order 11991, on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA"). 43 FR 55978–56007; 40 CFR 1500–08) § 1507.3 of the regulations provides that each agency of the Federal Government shall have adopted procedures to supplement the regulations by July 30, 1979. The Council has indicated to Federal agencies its intention to publish progress reports on agency efforts to develop implementing procedures under the NEPA regulations. The purpose of these progress reports, the sixth of which appears below, is to provide an update on where agencies stand in this process and to inform interested persons of when to expect the publication of proposed procedures for their review and comment.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Yost, General Counsel, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006; 202–395–5750.

Sixth Progress Report on Agency Implementing Procedures Under the National Environmental Policy Act

At the direction of President Carter (Executive Order 11991), on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA"). These regulations appear at Volume 43 of the Federal Register, pages 55978–56007 and in forthcoming revisions to Volume 40 of the Code of Federal Regulations, Sections 1500–1508. Their purpose is to reduce paperwork and delay associated with the environmental review process and to foster environmental quality through better decisions under NEPA.

Section 1507.3 of the NEPA regulations provides that each agency of the Federal government shall adopt procedures to supplement the regulations. The purpose of agency "implementing procedures," as they are called, is to translate the broad standards of the Council's regulations into practical action in Federal planning and decisionmaking. Agency procedures will provide government personnel with additional, more specific direction for implementing the procedrual provisions of NEPA, and will inform the public and State and local officials of how the NEPA regulations will be applied to individual Federal programs and activities.

In the course of developing implementing procedures, agencies are required to consult with the Council and to publish proposed procedures in the Federal Register for public review and comment. Proposed procedures must be revised as necessary to respond to the ideas and suggestions made during the comment period. Thereafter, agencies are required to submit the proposed final version of their procedures for 30-day review by the Council for conformity with the Act and the NEPA regulations. After making such changes as are indicated by the Council's review, agencies are required to promulgate their final procedures. Although CEQ's regulations required agencies to publish their procedures by July 30, 1979 a number of Federal agencies did not meet this deadline. We stress, however, that the CEQ regulations are in effect now and are binding on all agencies of the Federal government now, whether or not the agencies are on time or laggard with their own procedures.

The Council published its first progress report on agency implementation procedures on May 7, 1979, its second report on July 23, 1979, its third report on September 26, 1979, its fourth report on November 2, 1979 and its fifth progress report on December 14, 1979. (44 FR 28781–82; 44 FR 43037–38; 44 FR 55408–55410; 44 FR 63132–63133; 44 FR 72622–72623.) The sixth progress report appears below. The Council hopes that concerned members of the public will review and comment upon agency procedures to insure that the reforms required by President Carter and by the Council's regulations are implemented. Agencies preparing implementing procedures are listed under one of the following four categories:

Category No. 1: Final Procedures Have Been Published

This category includes agencies whose final procedures have appeared in the Federal Register.

Central Intelligence Agency, 44 FR 45431 (Aug. 2, 1979)
Department of Agriculture, 44 FR 44802 (July 30, 1979)
Animal and Plant Health Inspection Service, 44 FR 50381 (Aug. 28, 1979) [correction: 44 FR 51272 (Aug. 31, 1979)]
Forest Service, 44 FR 44710 (July 30, 1979)
Soil Conservation Service, 44 FR 50576 (Aug. 29, 1979)
Rural Electrification Administration (at the Federal Register)
Department of Defense, 44 FR 46841 (Aug. 9, 1979)
Department of Transportation, 44 FR 58420 (Oct. 1, 1979)
Federal Aviation Administration, 45 FR 2244 (Jan. 10, 1980)
Department of the Treasury, 45 FR 1828 (Jan. 8, 1980)
Environmental Protection Agency, 44 FR 64174 (Nov. 6, 1979)
Export-Import Bank, 44 FR 50810 (Aug. 30, 1979)
General Services Administration, 45 FR 83 (Jan. 2, 1980)
Public Buildings Service (see 44 FR 65675, Nov. 14, 1979)
International Communications Agency, 44 FR 45489 (Aug. 2, 1979)
Marine Mammal Commission, 44 FR 52837 (Sept. 11, 1979)
National Aeronautics and Space Administration, 44 FR 44485 (July 30, 1979) [corrections: 44 FR 49650 (Aug. 24, 1979); 44 FR 69920 (Dec. 5, 1979)]
National Capitol Planning Commission, 44 FR 64923 (Nov. 8, 1979)
National Science Foundation, 45 FR 39 (Jan. 2, 1980)
Overseas Private Investment Corporation, 44 FR 51385 (Aug. 31, 1979) [NEPA Procedures are contained in this agency's procedures implementing Executive Order 12114 cited above.]
Postal Service, 44 FR 63524 (Nov. 5, 1979)
Water Resources Council, 44 FR 69921 (Dec. 5, 1979)

Category No. 2: Proposed Procedures Have Been Published

This category includes agencies whose proposed procedures have appeared in the Federal Register. Those agencies whose final procedures are expected within 30 days are marked with a single asterisk (*); those expected within 60 days by a double asterisk (**).

ACTION, 44 FR 60110 (Oct. 18, 1979)
Advisory Council on Historic Preservation, 44 FR 40653 (July 12, 1979)*
Agency for International Development, 44 FR 56378 (Oct. 1, 1979)
Civil Aeronautics Board, 44 FR 45037 (Aug. 3, 1979)*
Consumer Product Safety Commission, 44 FR 62526 (Oct. 31, 1979)
Department of Agriculture:
  Agriculture Stabilization and Conservation Service, 44 FR 44167 (July 27, 1979) [correction: 44 FR 45631 (Aug. 3, 1979)]*
Department of Defense:
  Department of the Air Force, 44 FR 44116 (July 26, 1979)*
  Department of the Army, Corps of Engineers, 44 FR 38292 (June 29, 1979)*
  Department of the Army, 45 FR 1086 (Jan. 4, 1980)
Department of Commerce:
  National Oceanic and Atmospheric Administration, 44 FR 60779 (Oct. 22, 1979)*
Department of Energy, 44 FR 42136 (July 18, 1979)*
  Federal Energy Regulatory Commission, 44 FR 50052 (Aug. 27, 1979)*
Department of Housing and Urban Development, 44 FR 67906 (Nov. 27, 1979)*
  Community Development Block Grant Program, 44 FR 45566 (Aug. 2, 1979)*
Department of the Interior, 44 FR 40436 (July 10, 1979)*
  Water and Power Resources Service, 44 FR 47627 (Aug. 14, 1979)*
  Heritage Conservation and Recreation Service, 44 FR 49523 (Aug. 23, 1979)*
  Fish and Wildlife Service, 44 FR 65822 (Nov. 15, 1979)**
Department of Labor, 44 FR 69675 (Dec. 4, 1979)
Department of Justice, 44 FR 43751 (July 26, 1979)*
  Drug Enforcement Agency, 44 FR 43754 (July 26, 1979)*
  Immigration and Naturalization Service, 44 FR 43754 (July 26, 1979)*
  Bureau of Prisons, 44 FR 43753 (July 26, 1979)*
Department of State, 44 FR 65638 (Nov. 21, 1979)*
Department of Transportation:
  Coast Guard, 44 FR 59306 (Oct. 15, 1979)*
  Federal Highway Administration, 44 FR 59438 (Oct. 15, 1979)*
  Federal Railroad Administration, 44 FR 40174 (July 9, 1979)*
  Urban Mass Transportation Administration, 44 FR 59436 (Oct. 15, 1979)*
Federal Communications Commission, 44 FR 38913 (July 3, 1979)**
Federal Emergency Management Agency, 44 FR 70197 (Dec. 6, 1979)
Federal Maritime Commission, 44 FR 29122 (May 18, 1979)*
Federal Trade Commission, 44 FR 42712 (July 20, 1979)
International Boundary and Water Commission (U.S. Section), 44 FR 61665 (Oct. 26, 1979)*
Pennsylvania Avenue Development Corporation, 44 FR 45925 (Aug. 6, 1979)
Small Business Administration, 44 FR 45002 (July 31, 1979)*
Tennessee Valley Authority, 44 FR 39679 (July 6, 1979)*
Veterans Administration, 44 FR 48281 (Aug. 17, 1979)*

Category No. 3: Anticipate Publication of Proposed Procedures by Mar. 1, 1980

This category includes agencies that are expected to publish proposed procedures in the Federal Register by Mar. 1, 1980.

Arms Control and Disarmament Agency
Bureau of Indian Affairs
Bureau of Land Management
Bureau of Mines
Department of Health, Education and Welfare
Federal Reserve System
Geological Survey
Law Enforcement Assistance Administration
National Credit Union Administration
National Park Service
Nuclear Regulatory Commission

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Office of Surface Mining Reclamation and Control
Science and Education Administration (Department of Agriculture)

Category #4: Publication of Proposed Procedures Delayed Beyond March 1, 1980

This category includes agencies that are *not* expected to publish proposed procedures in the **Federal Register** by Mar. 1, 1980.

Appalachian Regional Commission
Community Services Administration
Department of the Navy
Defense Logistics Agency
Economic Development Administration
Farm Credit Administration
Farmers Home Administration
Federal Deposit Insurance Corporation
Federal Home Loan Bank Board
Federal Savings and Loan Insurance Corporation
Food and Drug Administration
Interstate Commerce Commission

Metro

National Highway Traffic Safety Administration
Saint Lawrence Seaway Corporation
Securities and Exchange Commission

The development of agency implementing procedures is a critical stage in Federal efforts to reform the NEPA process. These procedures must, of course, be consistent with the Council's regulations and provide the means for reducing paperwork and delay and producing better decisions in agency planning and decisionmaking.

Interested persons will have the opportunity to make their suggestions for improving agency procedures when they are published in the **Federal Register** in proposed form. Broad public participation at this crucial juncture could go a long way toward ensuring that the goals of the NEPA regulations are widely implemented in the day-to-day activities of government.

Nicholas C. Yost,
General Counsel.
January 24, 1980.
[FR Doc. 80-2820 Filed 1-28-80; 8:45 am]
BILLING CODE 3125-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Mission Realinement at Fort Indiantown Gap, Annville, Pa; Intent To Prepare an Environmental Impact Statement

Notice is hereby given of intent to prepare an Environmental Impact Statement (EIS) concerning the possible realignment of the ongoing mission of Fort Indiantown Gap, Annville, Pennsylvania.

The EIS will place special emphasis on socio-economic factors in the Fort Indiantown Gap area. The current mission of Fort Indiantown Gap is to provide garrison, administrative, training, and logistical support to Army units and activities at Fort Indiantown Gap and in its assigned geographic area. The proposed realignment of the US Army mission at Fort Indiantown Gap would reduce Army occupancy at Fort Indiantown Gap in an effort to improve Army combat capabilities through improved management of Army resources. Three alternatives will be considered; (1) terminating Army occupancy at Fort Indiantown Gap, with the Department of Military Affairs, Commonwealth of Pennsylvania supporting Army tenants and Reserve Components training at Fort Indiantown Gap, and Fort Meade assuming the area support mission; (2) retaining Fort Indiantown Gap as a subinstallation of Fort Meade with Fort Meade assuming the area support mission; and (3) retaining the status quo. The Army's preferred alternative, at present, is Alternative 1.

A meeting will be held at Fort Indiantown Gap, Building 1166 at 7:30 pm on 20 Feb 79 to consider the scope of issues to be addressed in the EIS and to identify the significant issues. Federal, state, and local agencies, private organizations, and interested persons are encouraged to attend and participate in the meeting. Comments as to the scope of issues and impact analysis to be included in the EIS also may be mailed to Headquarters, Department of the Army, ATTN: DAEN–ZCI, Washington, DC 20310. Further information concerning the proposed realignment and the EIS process may be obtained from MAJ Nataluk, (703) 694–3986.

Daniel R. Voss,
Acting Deputy for Environmental, Safety and Occupational Health OASA(IL&FM)
[FR Doc. 80-2735 Filed 1-28-80; 8:45 am]
BILLING CODE 3710-08-M

Office of the Secretary

Organization of the Joint Chiefs of Staff; Joint Strategic Target Planning Staff Scientific Advisory Group; Closed Meeting

Pursuant to the provisions of Section 10 of Pub. L. 92–463, effective January 5, 1973 as amended by Pub. L. 94–409, notice is hereby given that a meeting of the Joint Strategic Target Planning Staff Scientific Advisory Group will be held at Offutt Air Force Base, Nebraska, during the period: Tuesday, April 1, 1980 through Thursday, April 3, 1980.

The entire meeting is devoted to the discussion of classified information within the meaning of section 552b(c)(1), Title 5 of the U.S. Code, and therefore will be closed to the public.

H. E. Lofdahl,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.
January 23, 1980.
[FR Doc. 80-2741 Filed 1-28-80; 8:45 am]
BILLING CODE 3810-70-M

Task Force on Evaluation of Audit, Inspection, and Investigative Components of the Department of Defense; Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, as amended, section 10, 5 U.S.C. app. section 10 (1976), notice is hereby given that a meeting of the Task Force on Evaluation of Audit, Inspection and Investigative Components of the Department of Defense will be held on February 11 and 12, 1980 from 1000 to 1200 and 1330 to 1630 each day in Room 3D973, The Pentagon, Washington, D.C.

The mission of the Task Force is to advise Congress and the Secretary of Defense with respect to the effectiveness of the audit, inspection and investigative components of the Department of Defense.

The meeting will be open to the public.

H. E. Lofdahl,
Correspondence and Directives, Washington Headquarters Services, Department of Defense.
January 23, 1980.
[FR Doc. 80-2742 Filed 1-28-80; 8:45 am]
BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

National Petroleum Council; Oil Supply, Demand and Logistics Task Group and the Coordinating Subcommittee of the Committee on Refinery Flexibility; Meetings

Notice is hereby given that the Oil Supply, Demand and Logistics Task Group and the Coordinating Subcommittee of the National Petroleum Council's Committee on Refinery Flexibility will meet on Friday, February 15, 1980 and Tuesday, February 19, 1980, respectively in the Standard Oil Company of California Building, 225 Bush Street, San Francisco, California, beginning at 10:00 a.m.

The National Petroleum Council provides technical advice and information to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries. Accordingly, the Committee or Refinery Flexibility has been requested by the Secretary to undertake an analysis of the factors affecting crude oil quality and availability and the ability of the refining industry to process such crudes into marketable products. This analysis will be based on information and data to be gathered by the Oil Supply, Demand, and Logistics Task Group and the Refinery Capability Task Group, whose efforts will be coordinated by the Coordinating Subcommittee. The tentative agendas and exact locations of the meetings are as follows:

Agenda for the Task Group Meeting, Room 310:

1. Review and discuss revised supply/demand aggregations.
2. Review and discuss crude quality data.
3. Review data requirements of the Refinery Capability Task Group.
4. Discuss assignments and schedule for completion of the Task Group's assignments.
5. Discuss any other matters pertinent to the overall assignment of the Task Group.

Agenda for the Subcommittee Meeting, Room 317:

1. Review and discuss the progress of the Refinery Capability Task Group.
2. Review and discuss the progress of the Oil Supply, Demand and Logistics Task Group.
3. Review the overall study outline.
4. Discuss assignments and schedule for completion of the Subcommittee's assignments.
5. Discuss any other matters pertinent to the overall assignment of the Coordinating Subcommittee.

All meetings are open to the public. The Chairmen of the Task Group and the Subcommittee are empowered to conduct the meetings in a fashion that will, in their judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with either Group will be permitted to do so, either before or after the meeting. Because of security procedures at the Standard Oil Building, members of the public who wish to attend the meeting or to make oral statements should inform Mr. Marshall Nichols, National Petroleum Council, (202) 393–6100, prior to the meeting, and provision will be made for their appearance on the respective agendas. Transcripts of the meetings will be available for public review at the Freedom of Information public Reading Room, Room GA–152, Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on January 22, 1980.

R. Dobie Langenkamp,
Deputy Assistant Secretary for Resource Development and Operations.
[FR Doc. 80-3515 Filed 1-28-80; 8:45 am]
BILLING CODE 6450-01-M

Availability of Environmental Development Plans and Environmental Readiness Documents

Environmental Development Plans (EDPs) and Environmental Readiness Documents (ERDs) are prepared by the Department of Energy (DOE) to help fulfill the Department's responsibility for the development of environmentally acceptable energy technologies.

The EDP provides a common basis for planning, managing, and reviewing all environmental aspects of the energy programs under DOE's jurisdiction. The EDP is prepared or revised periodically as the technology moves from the exploratory development stage to an engineering development or technology demonstration phase. To ensure that environmental, health, and safety (EH&S) considerations will be addressed adequately in the technology decisionmaking process, the EDP (1) identifies and evaluates EH&S concerns; (2) defines EH&S research and related assessments to examine or resolve the concerns; (3) provides a coordinated schedule with the technology program for required EH&S research and development; and (4) indicates the timing for Environmental Assessments, Environmental Impact Statements, Environmental Readiness Documents, and Safety Analysis Reports.

Environmental Readiness Documents (ERDs) are prepared periodically to review and evaluate the environmental status of an energy technology during the several phases of development of that technology. Through these documents, the Office of Environment within the Department of Energy provides an independent and objective assessment of the environmental risks and potential impacts associated with the extensive use of the technology. An effort has been made to identify potential environmental problems that may be encountered based upon current knowledge, proposed and possible new environmental regulations, and the uncertainties inherent in planned environmental research.

Both documents are prepared for DOE management and are available for public review. The EDPs and ERDs listed below are available from: National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Environmental Development Plans

[DOE/EDP]

Document number		Publication date
Solar:		
0029	Solar Heating and Cooling of Buildings.	September 1979.
0030	Wind Energy Conversion	July 1979.
0031	Photovoltaics	September 1979.
0032	Fuels from Biomass	September 1979.
0033	Solar Agriculture & Industrial Process Heat.	September 1979.
0034	Ocean Thermal Energy Conversion.	August 1979.
0035	Solar Thermal Power Systems.	August 1979.
Geothermal:		
0036	Geothermal Energy Systems	August 1979.
Conservation:		
0037	Transportation Programs	April 1979.
0038	Electric Energy Systems	August 1979.
0039	Industrial Programs	July 1979.
0040	Energy Storage Systems	September 1979.
0041	Buildings and Community Systems.	September 1979.
0042	Light-Duty Diesel	October 1979.
Fossil:		
0045	Magnetohydrodynamics	May 1979.
0046	Fossil Fuel Utilization Program.	April 1979.
0047	Underground Coal Gasification.	September 1979.
0048	Enhanced Oil Recovery	October 1979.
0049	Unconventional Gas Recovery.	October 1979.
0050	Coal Extraction and Preparation.	September 1979.
0051	Oil Shale	October 1979.
Nuclear:		
0052	Magnetic Fusion	September 1979.
0055	Decontamination and Decommissioning.	July 1979.
0057	Space Applications	September 1979.
0058	Uranium Mining, Milling and Conversion.	August 1979.
0059	Uranium Enrichment	September 1979.
0061	Advanced Isotope Separation.	May 1979.
Summary:		
0062	Environmental Development Plans for Energy Technology Programs Summary Report.	October 1979.

In addition the following Environmental Development Plans are in various stages of preparation:

0043	Coal Gasification
0044	Coal Liquefaction
0053	Commercial Waste Management
0054	Defense Waste Management
0056	Special Nuclear Materials Production
0060	Nuclear Fuel Transportation

Environmental Readiness Document

[DOE/ERD]

Document number		Publication date
Solar:		
0006	Large and Small Wind Systems.	September 1979.
0009	Photovoltaics	September 1979.
0010	Solar: Hot Water and Passive.	September 1979.
0018	Solar Heating and Cooling of Buildings.	September 1979.
0019	Solar Thermal Power Systems.	August 1979.
0020	Ocean Thermal Energy Conversion.	August 1979.
0021	Biomass Energy Systems	September 1979.

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Environmental Readiness Document—Continued

[DOE/ERD]

Document number		Publication date
0025	Solar Agriculture and Industrial Process Heat.	August 1979.
0026	Wood Combustion	August 1979.
Geothermal:		
0006	Hydrothermal electric and Direct Heat.	September 1978.
0009	Small Scale Low Head Hydro.	September 1978.
Conservation:		
0001	Conservation Product Marketing.	September 1978.
0002	Urban Waste Energy Recovery.	September 1978.
0003	Cogeneration	September 1978.
0004	Electric and Hybrid Vehicles.	September 1978.
0017	Utility Transmission	August 1979.
Fossil:		
0007	Small Atmospheric Fluidized-Bed Combustion.	September 1978.
0011	Enhanced Gas Recovery	September 1978.
0012	Coal Gasification	September 1978.
0013	Enhanced Oil Recovery	September 1978.
0014	Advanced Electric Generation.	September 1978.
0015	Coal Liquefaction	September 1978.
0016	Oil Shale	September 1978.
0023	Coal/Oil Mixtures	June 1979.
0024	Coal Extraction and Preparation Technology.	July 1979.
Summary:		
0022	Status of Environmental Readiness of Emerging Energy Technologies (Summary Report).	January 1979.

In addition the following Environmental Readiness Documents are in various stages of preparation:

Transportation Programs
Buildings and Community Systems
Industrial Programs
Magnetic Fusion
Advanced Isotope Separation
Magnetohydrodynamics

Additional information regarding the EDPs and ERDs may be obtained from: Dario R. Monti, Director, Technology Assessments Division, Office of Technology Impacts, Office of the Assistant Secretary for Environment, U.S. Department of Energy, Washington, D.C. 20545.

Issued in Washington, D.C., January 24, 1980.

Lynda L. Brothers,

Acting Assistant Secretary for Environment.

[FR Doc. 80-2817 Filed 1-28-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Tom Miers (d.b.a. Milinda Oil Co.); Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on the Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in a special account established pursuant to the Consent Order.

DATES: Effective date: October 30, 1979.

COMMENTS BY: February 28, 1980.

ADDRESS: Send comments to: Kenneth E. Merica, District Manager of Enforcement, Rocky Mountain District, Department of Energy, 1075 South Yukon Street, Lakewood, Colorado 80226.

FOR FURTHER INFORMATION CONTACT: Kenneth E. Merica, District Manager of Enforcement, Rocky Mountain District, Department of Energy, 1075 South Yukon Street, Lakewood, Colorado 80226, telephone 303/234-3195.

SUPPLEMENTARY INFORMATION: On October 30, 1979, the Office of Enforcement of the ERA executed a Consent Order with Tom Miers, d.b.a. Milinda Oil Company (Milinda) of Sterling, Colorado. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Milinda, with its home office located in Sterling, Colorado, is engaged in the production of crude oil and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Milinda, the Office of Enforcement, ERA, and Milinda have entered into a Consent Order, the significant terms of which are as follows:

1. Milinda is a "producer" as defined by 6 CFR 150.352 and 10 CFR 212.31 and as an operator and working interest owner in crude oil producing property located in Logan County, Colorado.

2. The period covered by the audit was September 1, 1973, through December 31, 1976, and included all sales of crude oil from the Logan County property made during that period.

3. Milinda's pricing of crude oil sales was continuously controlled under CLC regulations (6 CFR, § 150.1 *et seq.*) and successor regulations (10 CFR § 212.1 *et seq.*) during the period of audit.

4. In order to expedite resolution of the disputes involved, the DOE and Milinda have agreed to a settlement in the amount of $80,000, in addition to a refund of $11,439.23 which Milinda has already made. The total alleged overcharge during the audit period was $109,847.68. The negotiated settlement was determined to be in the public interest as well as the best interest of the DOE and Milinda.

5. Refund of the agreed settlement amount is discussed in Section II below.

6. The provisions of 10 CFR § 205.199J, including publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Milinda agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.2. above, the sum of $80,000, in addition to $11,439.23 already refunded. Milinda agrees to issue certified checks totaling $80,000 payable to the United States Department of Energy and delivered to the Assistant Administrator for Enforcement, ERA. These payments shall be made in equal monthly payments of $4,000 each over a period of twenty (20) months beginning with November 1979. The refunded amounts totaling $80,000 will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comment:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Kenneth E. Merica, District Manager of Enforcement, Rocky Mountain District, Department of Energy, 1075 South Yukon Street, Lakewood, Colorado 80226. You may obtain a free copy of this Consent Order by writing to the same address or by calling 303/234-3195.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Milinda Consent Order." We will consider all comments we receive by 4:30 p.m., local time, February 28, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f)

Issued in Lakewood, Colorado, on the 18th day of January 1980.

Kenneth E. Merica,

District Manager of Enforcement.

Concurrence.

Charles F. Dewey,

Regional Counsel.

[FR Doc. 80-2816 Filed 1-28-80; 8:45 am]

BILLING CODE 6450-01-M

Order Authorizing Transmission of Electric Energy to Mexico and Superseding Prior Authorization

San Diego Gas & Electric (SDG&E), incorporated under the laws of the State of California and having its principal place of business at San Diego, California, filed an application on November 8, 1979 with the Economic Regulatory Administration (ERA) for authority to export electric energy to Mexico pursuant to section 202(e) of the Federal Power Act. SDG&E requests authority to export approximately 40-50 megawatts of electric energy to the Comision Federal de Electricidad (CFE) if emergencies occur on the CFE system; similarly, SDG&E also may receive up to 32 MW from CFE during an emergency on its system.

In either instance, the area receiving emergency service will be isolated from the remainder of the receiving party's system.

By Federal Power Commission (FPC) order issued December 29, 1970 in Docket E-7545, SDG&E was authorized to transmit electric energy from the United States to Mexico at a rate not to exceed 60 megawatts over facilities specified in an order issued in Docket No. E-7544, signed by the Chairman of the Federal Power Commission on December 29, 1970.

SDG&E states that under the new agreement with CFE, power may flow in either direction if emergency conditions require such assistance. The Applicant further states that the export of emergency power will not impair the sufficiency of electric supply to SDG&E's customers in the United States.

Notice of the application was given by publication in the **Federal Register** on December 4, 1979 (44 FR 69708), stating that any person desiring to be heard or to make any protest with reference to the application should on or before December 31, 1979, file with the ERA, Washington, D.C. 20461, petitions to intervene or protests in accordance with the Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No petition or protest or request to be heard in opposition to the granting of the application has been received.

ERA Finds: (1) The proposed transmission of electric energy from the United States to Mexico, as limited herein and as hereinafter authorized, will not impair the sufficiency of electric supply within the United States and will not impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the Commission.

(2) The period of public notice given in this matter is reasonable.

ERA Orders: (A) Applicants are hereby authorized to transmit electric energy from the United States to Mexico in accordance with the terms and conditions set forth in the application and subject to the provisions of this order.

(B) The electric energy which Applicants are hereby authorized to transmit from the United States to Mexico shall be transmitted at a rate not to exceed 50 MW, the energy to be transmitted over the facilities specified in the aforementioned Presidential Permit issued by the Federal Power Commission on December 29, 1970, Docket No. E-7544.

(C) The authorization herein granted may be modified from time to time or terminated by further order of ERA but in no event shall such authorization extend beyond the date of termination or expiration of the Presidential Permit, as amended, referred to in Paragraph (B) above.

(D) Applicants shall conduct all operations pursuant to the authorization herein granted in accordance with the provisions of the Federal Power Act and pertinent rules, regulations or orders issued or adopted by ERA.

(E) SDG&E shall provide for the installation and maintenance of adequate metering equipment to measure the flow of all electric energy transmitted from the United States to Mexico pursuant to the authority herein granted; shall make, keep and preserve full and complete records with respect to the movement of such energy and shall furnish, in triplicate to the ERA, with respect to such transmission of energy, reports annually on or before February 15, showing the kilowatts per hour delivered, the maximum kw rate of transmission, and the consideration received therefor during each month of the preceding calendar year.

(F) This authorization to transmit electric energy from the United States to Mexico shall not be transferable or assignable, but in the event of the involuntary transfer of the facilities used for such transmission by operation of law (including such transfers to receivers, trustees, or purchasers under foreclosure or judicial sale) said authorization shall continue in effect temporarily pending the making of an application for permanent authorization and decision thereon, provided notice is given in writing within 30 days following such event to ERA accompanied by a statement that the physical facts relating to sufficiency of supply, rates, and nature of use remain substantially the same as before the transfer.

(G) The authorization herein granted shall supersede that heretofore granted by the aforementioned order of the FPC issued December 29, 1970 in Docket No. E-7545.

Dated: January 21, 1980.

Jerry L. Pfeffer,

Assistant Administrator, Economic Regulatory Administration.

[FR Doc. 80-2769 Filed 1-28-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1400-2]

The City of Columbus, Ohio; Final Determination

In the matter of the proceedings under Title I, Part C of the Clean Air Act (Act),

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as amended, 42 U.S.C. 7401 *et seq.*, and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 FR 26388, June 19, 1978) for Prevention of Significant Deterioration of Air Quality (PSD), to the City of Columbus, Ohio.

On August 3, 1978, the City of Columbus, Ohio submitted an application to the United States Environmental Protection Agency (U.S. EPA), Region V office, for an approval to construct a refuse and coal-fired electric plant in Franklin County, Ohio. The application was submitted pursuant to the regulations for PSD. On September 13, 1978, a deficiency notice was sent and subsequently, additional information was submitted.

On April 6, 1979, the City of Columbus, Ohio was notified that its application was complete and preliminary approval was granted.

On August 10, 1979, U.S. EPA and the Ohio Environmental Protection Agency (OEPA) published notice of its decision to grant preliminary approval to the City of Columbus, Ohio. Several comments were received and a public hearing was requested as a result of the preliminary approval. On September 18, 1979, OEPA conducted the hearing in Columbus, Ohio.

After review and analysis of all materials submitted by the City of Columbus, Ohio, the public record established at the hearing, and written comments, the City of Columbus, Ohio was notified on November 30, 1979, the U.S. EPA had determined that the proposed new construction in Franklin County, Ohio, would be utilizing the best available control technology and that emissions from the facility will not adversely impact air quality, as required by Section 165 of the Act.

The approval to construct does not relieve the City of Columbus, Ohio of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable Federal, State and local requirements.

This determination may now be considered final agency action which is locally applicable under Section 307(b)(1) of the Act and therefore a petition for review may be filed in the U.S. Court of Appeals for the Seventh Circuit by any appropriate party. In accordance with Section 307(b)(1), petitions for review must be filed sixty days from the date of this notice.

For further information contact Eric Cohen, Chief, Compliance Section, Region V, U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604. (312) 353-2082.

John McGuire,

Regional Administrator, Region V.

January 14, 1980.

Region V

The City of Columbus, Columbus, Ohio; Proceeding Pursuant to the Clean Air Act, as amended; Approval to Construct; EPA-5-A—80-3.

Authority

The approval to construct is issued pursuant to the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, (the Act), and the Federal regulations promulgated thereunder at 40 CFR 52.21 for the Prevention of Significant Deterioration of Air Quality (PSD).

Findings

1. The City of Columbus plans to construct a refuse and coal-fired electric plant in Franklin County, Ohio on State Route 104 approximately ½ mile south of Frank Road.

2. The section of Franklin County in which the plant will be situated is a Class II area as determined pursuant to the Act and has been designated as attainment for sulphur dioxide (SO_2) and non-attainment for total suspended particulates (TSP).

3. The proposed electric plant was determined to be subject to full PSD review for SO_2 and to a review for TSP under the Emission Offset Interpretative Ruling at 44 FR 3274, January 16, 1979. The proposed plant qualified under Section IV(B) of the Ruling as a "resource recovery facility burning municipal solid waste". Therefore, the proposed installation is exempt from conditions 3 and 4 of the State Implementation Plan to create the necessary SO_2 air quality growth cushion. Because of the added SO_2 concentration from the electric plant, certain other sources must further curtail SO_2 emissions to allow the electric plant to operate without creating an air quality standards violation.

4. The City of Columbus submitted a PSD application to the U.S. Environmental Protection Agency (U.S. EPA) on August 3, 1978. On September 13, 1978, a deficiency notice was sent and subsequently, additional information was submitted. On April 6, 1979, the application was determined to be complete and preliminary approval was issued.

5. On August 10, 1979, a joint Ohio Environmental Protection Agency (Ohio EPA) and U.S. EPA public notice appeared in the *Columbus Dispatch*. A public hearing was held on September 18, 1979, and public comments were reviewed prior to issuance of the final approval.

6. Stack emissions of TSP shall not exceed 0.10 pounds per million BTU of actual heat input.

7. Stack emissions of nitrogen oxides (NO_x) shall not exceed 0.5 pounds per million BTU of actual heat input.

8. SO_2 emissions shall not exceed: (a) .93 pounds per million BTU of actual heat input, with all six boilers operating; or (b) 1.44 pounds per million BTU of actual heat input, with no more than 4 of the 6 boilers operating.

9. After review of all the materials submitted by the City of Columbus, U.S. EPA has detemined that emissions from the operation of the municipal refuse and fossil fuel-fired steam electric generating plant will be controlled by the application of the best available control technology and the lowest achievable emission rate.

10. The air quality review has shown that the predicted SO_2, TSP, carbon monoxide and nitrogen dioxide concentrations from the proposed plant will not cause the PSD increments or the NAAQS to be exceeded subject to the constraints and conditions presented herein.

Conditions for Approval

11. (a) Stack emissions of particulate matter shall not exceed 0.10 pounds per million BTU actual heat input. (b) Opacity of stack exhaust gases shall not exceed 20% except for one 6-minute period per hour of not more than 27%.

12. (a) Stack emissions of nitrogen oxides shall not exceed 0.5 pounds per million BTU of actual heat input, except during emergency periods when refuse is temporarily unavailable. (b) During emergency periods when refuse is temporarily unavailable, stack emissions from the boilers firing coal exclusively shall not exceed 0.7 pounds per million BTU of actual heat input. The City of Columbus shall provide U.S. EPA and OPEA of prior notice of all such periods. If U.S. EPA and OEPA feel that the situation does not constitute an emergency, the emission limit contained in 12(a) shall apply. (c) If the performance test results per condition 15 indicate that a more stringent emission limit than 0.7 pounds per million BTU actual heat input can be achieved when coal is fired exclusively, then the emission limit contained in 12(b) will be revised accordingly, to ensure maintenance of NO_x controls.

13. All necessary revisions to the Ohio State Implementation Plan (SIP) to document that the State of Ohio and the City of Columbus are making best efforts to secure necessary offsets for SO_2 and TSP must be finalized before start-up of the electric generating plant.

14. SO_2 emissions shall not exceed: (a) 0.93 pounds per million BTU of actual heat input, with all six boilers operating; or (b) 1.44 pounds per million BTU actual heat input, with no more than 4 of the 6 boilers operating.

15. All stack emissions must be demonstrated to be in compliance with conditions of this approval in accordance with requirements specified in 40 CFR 60.46. Notice of such tests shall be given to U.S. EPA 30 days prior to each scheduled test date and the results of the tests submitted not later than 30 days after each test is completed.

16. A continuous monitoring device shall be installed and maintained to determine compliance with 14(a) and (b).

17. The following measures shall be implemented to reduce fugitive emissions of particulates to the lowest achievable emission rate: (a) The coal shall be unloaded in an enclosed area. (b) The coal crushing operation shall be completely enclosed. (c) The coal storage pile shall be sprayed with a surfactant as needed to minimize fugitive dust. A telescoping chute shall be utilized to minimize free-fall of coal loaded onto the pile. (d) All transfer points for coal conveying shall be enclosed. (e) All plant roadways shall be paved and shall be swept and/or vacuumed or washed on a regular basis. (f) The trucks utilized for ash disposal shall be covered. (g) Refuse shall not be stockpiled at the facility.

18. There shall be no visible emissions, except for 2 minutes in an hour, from the following location: (a) Coal unloading, (b) Coal conveying, (c) Coal crushing, (d) Refuse unloading, (e) Ash handling, storage, and loadout.

Conditions 11 through 18 represent the application of the best available control technology as required by Section 165 of the Act.

19. (a) Refuse shall comprise at least 50% of the total heat input to the plant on an annual basis by the end of the first year of operation. (b) The applicant shall provide commitments or letters of intent from private operators of the quantities of solid waste to be burned at the proposed facility not collected by municipal vehicles. Such commitments shall be provided prior to operation of the facility. (c) Liquid solid waste and sludge shall not be burned at the facility.

20. Continuous monitoring devices shall be installed, maintained and operated for measuring both the opacity of emissions discharged to the atmosphere and SO_2 emissions discharged to the atmosphere.

21. Records from the monitoring devices must be maintained and available for examination at any time by the Ohio EPA and the U.S. EPA.

Conditions 19 through 21 are required in order to ensure that the City of Columbus' electric plant will be constructed and operated in accordance with the description presented in the application for approval to construct.

22. Any change in the City of Columbus' proposed electric plant might alter U.S. EPA's conclusion and therefore, any change must receive the prior written authorization of U.S. EPA.

Approval

23. Approval to construct the refuse and coal-fired municipal electric plant is hereby granted to the City of Columbus, subject to the conditions expressed herein and consistent with the materials and data included in the application filed by the City. Any departure from the conditions of this approval or the terms expressed in the application, must receive the prior written authorization of U.S. EPA.

24. The United States Court of Appeals for the D.C. Circuit has issued a ruling in the case of *Alabama Power Co.* vs. *Douglas M. Costle* (78-1006 and consolidated cases) which has significant impact on the U.S. EPA PSD program and approvals issued thereunder. Although the court has stayed its decision pending resolution of petitions for reconsideration, it is possible that the final decision will require modification of the PSD regulations and could affect approvals issued under the existing program. Examples of potential impact areas include the scope of best available control technology, source applicability, the amount of increment available (baseline definition), and the extent of preconstruction monitoring that a source may be required to perform. The applicant is hereby advised that this approval may be subject to reevaluation as a result of the final court decision and its ultimate effect.

25. This approval to construct does not relieve the City of Columbus of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable Federal, State and local requirements.

26. This approval is effective immediately. This approval to construct shall become invalid, if construction or expansion is not commenced within 18 months after receipt of this approval or if construction is discontinued for a period of 18 months or more. The Administrator may extend such time period upon a satisfactory showing that an extension is justified. Notification shall be made to U.S. EPA 5 days after construction is commenced.

27. A copy of this approval has been forwarded to the Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 E. Broad St., 10th floor, Columbus, Ohio 43216.

Dated: November 30, 1979.

John McGuire,

Regional Administrator.

[FR Doc. 80-3726 Filed 1-28-80; 8:45 am]

BILLING CODE 6560-01-M

[OPTS-51007A; FRL 1400-8]

Extension of Premanufacture Notice Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of premanufacture notice review period under section 5(c) of the Toxic Substances Control Act (TSCA).

SUMMARY: On October 25, 1979 EPA received a premanufacture notice (PMN) from the Ferro Corporation regarding one new chemical substance, a flame retardant. Ferro submitted the PMN under section 5 of the Toxic Substances Control Act (TSCA). The PMN number is 5AHQ-1079-0019(A). The Agency's 90-day review period is scheduled to close on January 23, 1980. Because of (1) EPA's concerns regarding potential risks associated with the substance, (2) the need for more time and information to resolve these concerns, and (3) the need for time to decide whether regulatory controls are appropriate, EPA has concluded that there exists good cause under section 5(c) of TSCA to extend the notice period.

DATE: The review period is extended an additional 30 days and will close on February 22, 1980. To be most useful to EPA, comments regarding this PMN should be filed before February 6, 1980.

ADDRESS: Written comments should bear the PMN number 5AHQ-1079-0019(A) and should be submitted in triplicate to the Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

The PMN, summaries of correspondence between Ferro Corporation and EPA, and other written materials from which EPA has deleted data claimed confidential, are available in the public record and can be viewed in Room 447, East Tower, at the address above. The public record is open from 8

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a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT:
Kirk Maconaughey, Premanufacturing Review Division, Office of Pesticides and Toxic Substances (TS–794), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 426–2601.

SUPPLEMENTARY INFORMATION:

Background

Under section 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a premanufacture notice (PMN) to EPA at least 90 days before he begins such manufacture or import. On October 25, 1979 EPA received a PMN from the Ferro Corporation for benzene, ethenyl-, tribromo derivative, homopolymer. The common name is brominated polystyrene. In the PMN, Ferro stated that it will use the substance as a flame retardant in plastic products. Pursuant to section 5(d)(2) of TSCA, EPA published a summary of the PMN in the Federal Register (44 FR 65671, November 14, 1979). Ferro did not claim any of the information in its PMN to be confidential.

During the initial review of this substance, EPA staff reviewed the information in the PMN and held several telephone conversations with the company to obtain additional information and data. Ferro also sent the following to EPA: (1) information concerning the manufacturing process, which was claimed confidential; (2) further explanatory information concerning eye irritation test results; (3) information on the residuals contained in the PMN substance and (4) comparative information on other flame retardants. During the review period representatives of Ferro visited EPA, and on one occasion EPA staff visited Ferro's manufacturing site in Bedford, Ohio. During this visit EPA obtained additional information on the manufacturing and processing operations.

EPA initiated its own literature searches on the PMN substance, structural analogues, and use analogues. The Agency reviewed and evaluated all of the information with emphasis on seven major categories: process chemistry, use information, worker and consumer exposure, environmental release, health effects, environmental fate, ecological effects and non-risk (economic) factors. After the Initial Screen of the information, EPA determined that several important areas needed to be evaluated further before the Agency could adequately dispose of this notice. The PMN then entered Detailed Review and EPA spent more time investigating and evaluating the specific concerns identified later in this notice.

Summary of Information on the PMN Substance

The PMN substance once manufactured is a fine dust. Initial production is expected to be in the range of 100,000 lbs. per year, and Ferro predicts a volume of 8–10 million lbs. per year after five years. The dust is sold to processors who mix or compound it with plastics and other additives into "pellet" form. These pellets then are sold to other processors who either injection mold or extrude these pellets into the final products. When these final products eventually outlive their usefulness, they are sent to landfills or are incinerated.

EPA examined the types of exposures to be expected at each stage of the PMN substance's life cycle and potential risks that may be encountered. First, EPA believes there will be exposure to the PMN substance in the form of a fine dust during both manufacturing and processing operations. The dust is composed of the large molecular weight PMN substance and an unknown percentage of residual brominated styrene monomer, dimer, and trimer. There will be worker exposure both in "bagging" operations at the conclusion of manufacture, and when the dust is mixed or compounded during processing. Dermal, ingestion, and inhalation exposures to the dust are expected.

EPA does not believe that the dust presents a significant acute toxicity problem. The Agency recognizes that any dust with this same size distribution presents similar respiratory problems. However other than an Ames test (with negative results), no information is available with respect to the substance's potential chronic toxicity. To evaluate the chronic toxicity of the dust, EPA focused on its components. The major component is a high molecular weight polymer, and EPA has concluded that it will not be biologically available and will not be absorbed through the gastrointestinal tract or the skin. In addition, the chemical and biological effects of the polymer support the conclusion that the potential for risk to ecological populations is low. However, EPA has significant concerns about the health risk that may be presented by the residual monomer, dimer, and trimer in the dust. Substances analogous to the monomer indicate a potential for chronic toxicity, including mutagenic and carcinogenic effects.

The processing of the PMN substance and of the pellets that contain it occurs at elevated temperatures. At these temperatures, EPA expects that volatiles or thermal degradation products will be released. EPA estimates that approximately 20 processors will carry out the first stage of processing (from dust into pellets), and that more than 180 persons will be exposed at this stage. The pellets themselves will be sold to a number of firms for processing into final products. The number of persons exposed at this second stage is difficult to determine, but EPA estimates that it may be large.

In its review, EPA developed a prediction of the likely composition of the volatiles of thermal degradation products. When informed of EPA's assessment, Ferro agreed that the most likely components will be various brominated styrene monomers, that also are expected to be present in the dust. As mentioned above, structural analogues to the monomers indicate a potential for chronic toxicity.

EPA's investigation regarding the use of products containing the PMN substance has not identified any new or unusual problems. This polymeric flame retardant will be compatible with the plastic products in which it is contained and is not likely to "bloom" or leach out of final products. From this information EPA has concluded that although there may be substantial consumer exposure to materials containing this PMN substance, the potential risks associated with use are minimal.

Articles containing the PMN substance eventually will be disposed in landfills or through incineration. The proportions to be disposed in each manner are unknown. EPA expects that when the articles are disposed in landfills, the PMN substance will break down and leach out of the articles at a slow rate. The Agency investigated the environmental fate of the PMN substance and has concluded that it is likely to be highly persistent. EPA has inadequate information on the breakdown products, their concentrations, and effects.

When articles containing the PMN substance are incinerated, substantial amounts of brominated organic compounds will be released. EPA has no information on the exact identity of these compounds. However, we believe there is a potential for chronic toxicity based on analogy to similar brominated organic compounds.

Extension of Notice Review Period

In general, section 5 provides, that EPA must complete its review of a PMN within 90 days of receiving it. However, under section 5(c) EPA may, for good cause, extend the notice period for additional periods, not to exceed an aggregate of 90 days. On January 10, 1979 (44 FR 2283) EPA published proposed rules to implement the premanufacture notification authority. Section 720.35 of the proposal addressed the section 5(c) extension authority, and provided examples of situations in which EPA believed there would be good cause to extend the notice period. Among the reasons cited were that "EPA has reviewed the notice, and determined that information on the substance is incomplete, and the Agency is seeking additional information," and that, as a result of review of the notice, EPA "determined that there is a significant possibility that the chemical will be regulated under section 5(e) or section 5(f), but the Agency is unable to initiate action within the initial 90-day period".

On the basis of the concerns raised by EPA's evaluation, and the necessity for the Agency to perform additional analyses to serve the purposes of section 5, EPA has determined that good cause exists to extend the notice period for this substance for 30 days, until February 22, 1980. EPA has significant concerns about three aspects of this substance's life-cycle: (1) exposure to the PMN substance in dust form, during the manufacturing and processing stages; (2) exposure to volatiles or thermal degradation products at processing stages; and (3) releases of various substances to the environment upon disposal of articles containing the PMN substance. Extension of the notice period will allow EPA to address these concerns.

First, extension would allow for evaluation of existing data. Overall, EPA's concerns about the PMN substance are complex. They relate to three different stages of the substance's life-cycle. At leat two of those stages—processing and disposal—are carried out using a large variety of methods, the exposures of which are difficult to characterize. Further, EPA's concerns relate not only to the possible risk presented by the PMN substance itself, but also to residuals and degradation products that may be present at different stages. Analysis of the risk potential thus depends on a two-step process of identifying substances to which there will be exposure, and then predicting their potential effects by analogy to other existing substances or classes of substances. Extension of the notice period will provide EPA the opportunity to complete its assessment of exposure at each stage, and of the chemicals present and their likely effects. Finally, with additional time EPA will be able to complete its analysis of the likely effects of products that are substitutes for the new substance.

Second, extension will allow EPA to evaluate possible control actions. Because of its concerns, EPA will evaluate the regulatory responses available to it under TSCA, particularly section 5. Possible actions include regulation under section 5(e) pending the development of further information on health and environmental effects, other requirements for the development of new information and referral to the Occupational Safety and Health Administration. In particular, extension of the notice period preserves EPA's authority to initiate an action under section 5 if this is appropriate.

At this time, EPA has not made any decision concerning the need to regulate the substance under TSCA. If EPA determines that action under section 5 is appropriate, the notice period will be extended to allow EPA sufficient time to initiate appropriate control actions.

(Sec. 5, Toxic Substances Control Act (90 Stat. 2012, 15 U.S.C. 2604).)

Dated: January 23, 1980.

Steven D. Jellinek,
Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 80-2797 Filed 1-28-80; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1400–6]

State of Utah Water Programs; Determination of Primary Enforcement Responsibility

This public notice is issued under section 1413 of the Safe Drinking Water Act of 1977, Pub. L. 95–190 (amending 42 U.S.C. 300f et seq.), and 40 CFR 142.10, National Interim Primary Drinking Water Regulations, published at 41 FR 2918 (January 20, 1976).

An application, dated October 30, 1979, has been received from Mr. James D. Clise, Director, Division of Environmental Health, Utah State Department of Health requesting that the Department of Health be granted primary enforcement responsibility for public water systems in Utah, in accordance with the provisions of the Safe Drinking Water Act. Supplementing the application there has also been received a letter dated January 7, 1980 from the Chairman and Executive Secretary clarifying certain provisions of the Utah regulations.

In response, I have determined as Regional Administrator of the U.S. Environmental Protection Agency, Region VIII, the Utah Division of Health has met all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in Utah. The State:

(1) Has adopted drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations;

(2) Has adopted and will implement adequate procedures for the enforcement of such regulations, including:

a. Maintenance of inventory of public water systems.

b. A systematic program for conducting sanitary surveys of public water systems.

c. Availability of laboratory facilities certified by EPA and capable of performing analytical measurements of all contaminants specified in the regulations.

d. Establishment and maintenance of an activity to assure that the design and construction of new or substantially modified facilities will be capable of compliance with the regulations.

e. Establishment and maintenance of a State program for the certification of laboratories conducting analytical measurements of drinking contaminants.

(3) Has adopted statutory or regulatory enforcement authority to compel compliance with the regulations;

(4) Will keep such records and make such reports as required;

(5) Will issue variances and exemptions in accordance with the provisions of the National Interim Primary Drinking Water Regulations;

(6) Has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances.

All documents relating to this determination are available for public inspection during normal business hours, Monday through Friday, at the following offices:

Bureau of Public Water Supplies, Division of Environmental Health, Utah State Department of Health, 150 West North Temple Street, Salt Lake City, Utah 84110.
Drinking Water Branch, U.S. Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

All interested parties are invited to submit written comments on this determination. Written comments must be received on or before February 28, 1980.

Further information may be obtained by writing the Drinking Water Branch of the U.S. Environmental Protection Agency, Region VIII or the Bureau of Public Water Supplies, Utah Division of

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Health or by calling Jack W. Goffbuhr at (303) 837–2731 or Gayle Smith at (801) 533–4207.

A public hearing may be requested by any interested person. Frivolous or insubstantial requests for a public hearing may be denied; however, if a substantial request is received on or before February 28, 1980, a public hearing will be held and notice given in the **Federal Register** and newspapers of general circulation. Such requests shall be addressed to:

Mr. Roger L. Williams, Regional Administrator, U.S. Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

and shall include the following information:

(1) The name, address, and telephone number of the individual organization.

(2) A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing.

(3) The signature of the individual making the request; or if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

If no timely request for a hearing is received, my determination shall become effective on February 28, 1980.

If there is a substantial request for a hearing this notice shall not become effective until after such hearing, at which time I shall issue an order affirming or rescinding my determination. If the determination is affirmed it shall become effective as of the date of that order.

Please bring this notice to the attention of any person known by you to have an interest in this determination.

Dated: January 23, 1980.

Roger L. Williams,

Regional Administrator, U.S. Environmental Protection Agency, Region VIII.

[FR Doc. 80-2766 Filed 1-28-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP 00112; FRL 1402-4]

Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel; Open Meeting

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a one-day special subcommittee meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9:00 a.m. to 5:00 p.m., on Friday, February 1, 1980. The meeting will be held in the Potomac Room of the Stouffer Hotel, 2399 Jefferson Davis Highway, Arlington, Virginia. The meeting will be open to the public up to the seating capacity of the room.

FOR FURTHER INFORMATION CONTACT:

Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS–766), Rm. 803, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va. 22202, Telephone: 703/557–7560.

SUPPLEMENTARY INFORMATION: In accordance with Section 25(d) of the amended FIFRA, EPA is soliciting the opinions of the members of the Scientific Advisory Panel and others as to the significance of aldicarb residues in drinking water. In addition, the Agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Any member of the public wishing to attend this meeting should contact Dr. H. Wade Fowler, Jr., at the address shown above. Interested persons should contact Dr. Fowler for special instructions regarding statements. Individuals who wish to file written statements are advised to contact the Executive Secretary in a timely manner to ensure appropriate consideration by the Advisory Panel. All statements will be made a part of the record and will be taken into consideration by the Scientific Advisory Panel in formulating comments.

All interested persons are further advised that the meeting announced in this notice is a subcommittee meeting of the Scientific Advisory Panel and others, and must be held prior to the normal 15-day notice in order to allow an appropriate decision by the Agency prior to spring use of aldicarb. Formal review of topics considered by the subcommittee will be conducted by the FIFRA Scientific Advisory Panel at a later date.

(Section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) and section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92–463; 86 Stat. 770.)

Dated: January 25, 1980.

James M. Conlon,

Associate Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-2764 Filed 1-28-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Joint Notice of Statement of Policy on Disclosure of Statutory Enforcement Actions on Behalf of the Agencies Represented on the Council

AGENCIES: The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration.

ACTION: Statement of Policy of Disclosure of Statutory Enforcement Actions.

SUMMARY: The five Federal financial institution regulatory agencies represented on the Federal Financial Institutions Examination Council have approved a Council recommended statement of policy with respect to public disclosure of final cease and desist, suspension, removal, civil money penalty, and insurance termination actions and to formal, written supervisory agreements issued pursuant to statute (collectively referred to as "statutory enforcement actions").

DATES: The joint policy became effective January 18, 1980.

FOR FURTHER INFORMATION CONTACT:

Stephen Siciliano, Federal Reserve Board (202) 452–3920; Andrew Levinson, Comptroller of the Currency (202) 447–1880; Gerald Lamberti, Federal Deposit Insurance Corporation (202) 389–4141; Larry Berkow, Federal Home Loan Bank Board (202) 377–6430; Robert Fenner, National Credit Union Administration (202) 357–1050.

SUPPLEMENTARY INFORMATION:

The Policy Statement

This statement is issued jointly by the Board of Governors of the Federal Reserve System ("FRB"), the Comptroller of the Currency ("OCC"), the Federal Deposit Insurance Corporation ("FDIC"), the Federal Home Loan Bank Board ("FHLBB"), and the National Credit Union Administration ("NCUA") (Hereinafter referred to, collectively, as "the Agencies").

The Agencies have jointly adopted a policy defining the circumstances in which each will disclose to the public information concerning or relating to statutory enforcement proceedings brought against regulated institutions or other persons subject to the Agencies' enforcement authority. This policy statement applies to proceedings

commenced by written notice, to formal supervisory written agreements entered into pursuant to statute, and to proceedings which, though not commenced by a written notice, result in a final agency order.

The Agencies recognize it is in the public interest to make known the substantive standards used by the Agencies in taking statutory enforcement actions. At the same time, the Agencies are mindful of the need to preserve the confidentiality of information where disclosure might infringe upon the right of privacy, or impair the soundness of a financial institution or the ability of the Agencies to examine the institution efficiently and effectively. Both elements of the public interest have long been recognized and protected by Congress, the Agencies, and the courts.

In order to reconcile and implement those policies, the Agencies have determined that, effective January 1, 1980, each Agency will prepare, at least on a semi-annual basis, a written summary of every final cease and desist, suspension, removal, civil money penalty, and insurance termination order as well as every formal supervisory written agreement issued pursuant to statute after that date. Each summary will describe the essential facts pertinent to agency action in the case and will set forth in detail the action taken by the reporting Agency. Names of financial institutions, of other respondents, and of any other persons involved in the matter, and, to the extent feasible, consistent with the objective that a summary contain essential facts, any information that might lead to identification of any such persons or companies, shall not be disclosed in any summary. In addition, as soon as possible, each Agency shall cause all summaries to be indexed by subject matter for use by members of the public. All summaries prepared pursuant to this Joint Statement of Policy shall be made available by the Agencies to members of the public upon request.

This Joint Statement of Policy does not govern disclosures made pursuant to subpoena, or disclosures made by regulated institutions in compliance with Federal statutes regulating the issue, sale, underwriting or distribution of securities, or the conduct of securities exchanges; nor does it authorize or require disclosure of information where such disclosure is prohibited by law.

Dated: January 22, 1980.

Ms. Rosemary Brady,

Secretary of the Board, National Credit Union Administration.

Mr. J. J. Finn,

Secretary to the FHLBB, Federal Home Loan Bank Board.

Mr. Hoyle L. Robinson,

Executive Secretary, Federal Deposit Insurance Corporation.

Mr. Lewis G. Odom, Jr.,

Senior Deputy Comptroller, Office of the Comptroller of the Currency.

Mr. Theodore E. Allison,

Secretary, Board of Governors of the Federal Reserve System.

[FR Doc. 80-2726 Filed 1-28-80; 8:45 am]

BILLING CODE 6722-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than February 21, 1980.

A. *Federal Reserve Bank of Kansas City* (John F. Zoellner, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

Liberty National Corporation, Oklahoma City, Oklahoma (insurance activities: Oklahoma): to engage through its subsidiary Mid-America Insurance Agency, Inc. in acting as agent in the sale of property and casualty insurance directly related to extensions of credit or the provision of other financial services by subsidiaries of Liberty National Corporation. The activities would be conducted from the offices of Applicant's subsidiaries in Oklahoma City, Lawton, Tulsa, Broken Arrow, Edmond and Sand Springs, Oklahoma, serving Lawton, Tulsa, Broken Arrow, Edmond and Sand Springs, Oklahoma and their surrounding areas and the Oklahoma City metropolitan area.

B. *Federal Reserve Bank of San Francisco, (Harry Green, Vice President) 400 Sansome Street, San Francisco, California 94120:*

Bankamerica Corporation, San Francisco, California (financing and servicing loans; Nationwide): to engage through its subsidiary, BA Business Credit Corporation, in making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by both a consumer finance company and a commercial finance company; and servicing loans and other extensions of credit. Such activities will include but not be limited to making consumer installment loans; making loans and other extensions of credit of a commercial nature to businesses; all said loans will be secured by personal assets and residential and commercial real estate. These activities would be conducted from offices in Allentown, Pennsylvania; Atlanta, Georgia; and Indianapolis, Indiana soliciting on a nationwide basis.

C. *Other Federal Reserve Banks:*
None.

Board of Governors of the Federal Reserve System, January 21, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-2733 Filed 1-28-80; 8:45 am]

BILLING CODE 6210-01-M

Heritage Banks, Inc.; Proposed Retention of a Branch of Rochester Savings Bank & Trust Co.

Heritage Banks, Inc., Rochester, New Hampshire, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain an office of Rochester Savings

Bank and Trust Company, Rochester, New Hampshire.

Applicant states that the proposed subsidiary would continue to engage in the activities of a guaranty savings bank, including: acceptance of time and savings deposits; the extension of consumer, real estate mortgage, VISA credit card, and commercial loans; trust and notarial services. These activities would be performed from the office of Applicant's subsidiary in Lilac Mall, Rochester, New Hampshire, and the geographic areas to be served are Rochester and communities on its northern border.

In 1975, the Board approved the acquisition by Heritage Banks, Inc. (formerly Profile Bankshares, Inc.), of Rochester Savings Bank and Trust Company, a guaranty savings bank. 61 Federal Reserve Bulletin 901 (1975). However, the operation of a guaranty savings bank has not been specified by the Board in § 225.4(a) of Regulation Y as permissible generally for bank holding companies.

Interested persons may express their views on the question whether the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 21, 1980.

Board of Governors of the Federal Reserve System, January 21, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-2734 Filed 1-28-80; 8:45 am]

BILLING CODE 6210-01-M

Central Wisconsin Bankshares, Inc.; Acquisition of Bank

Central Wisconsin Bankshares, Inc., Wausau, Wisconsin, has applied for the Board's approval under section 3 (a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent of the voting shares of New Lisbon State Bank, New Lisbon, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 22, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-2736 Filed 1-28-80; 8:45 am]

BILLING CODE 6210-01-M

Lone Oak Financial Corp.; Formation of Bank Holding Company

Lone Oak Financial Corporation, Lone Oak, Texas, has applied for the Board's approval under section 3 (a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares (less directors' qualifying shares) in Lone Oak State Bank, Lone Oak, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 22, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-2735 Filed 1-28-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following request for clearance of reports intended for use in collecting information from the public was accepted by the Regulatory Reports Review Staff, GAO, on January 22, 1980. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FMC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before February 19, 1980, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Federal Maritime Commission

The FMC requests clearance for revision of 46 CFR Part 512, Financial Reports of Common Carriers By Water in the Domestic Offshore Trades. At present, 46 CFR Part 512 (Subparts A and B) is applicable to vessel operating common carriers and nonvessel operating common carriers in the domestic offshore trades. The revised 46 CFR Part 512 is applicable to vessel operating common carriers only; reporting requirements for nonvessel operating common carriers will be contained in 46 CFR Part 514, which has been submitted as a separate clearance request. 46 CFR Part 512 is applicable to all persons engaged in common carriage via cargo vessels in the domestic offshore trades (except persons engaged in intrastate operations in Alsaka and Hawaii) and required by the Intercoastal Shipping Act, 1933, to file tariffs with the Commission. These carriers must file annually, in duplicate, Statements of Financial Operating Data (designated as FMC-377 for tug and barge operators and FMC-378 for self-propelled VOCCs) for each domestic offshore trade within 150 days after the close of the carrier's fiscal year, unless a waiver is requested and granted by FMC. Such persons must also file other financial information and related workpapers upon the occurrence of general rate changes. Financial data must also be furnished for initial tariff filings. The FMC estimates that respondents will number approximately 40 VOCCs (15 self-propelled and 25 tug and barge operators) and that reporting burden will average 172 hours for each. FMC estimates that approximately 14 respondents will file other financial data required by Part 512 annually, with a reporting burden of one-half hour for each application for extension under § 512.2(c), one-half hour for data filed under § 512.2(d)(1), and one-half hour for data filed under § 512.2(h).

The FMC requests clearance for a new 46 CFR Part 514, Financial Exhibits and Schedules Non-Vessel Operating Common Carriers in the Domestic Offshore Trades. Part 514 will replace reporting requirements for nonvessel operating common carriers contained in General Order 11 (46 CFR 512—Subpart B). Present Subpart A of 46 CFR 512 covering vessel operating common carriers will remain in that part, which has been revised and submitted for clearance as a separate request. 46 CFR 514 is applicable to all persons engaged as nonvessel operating common carriers (NVOCCs) who are required by a the Intercoastal Shipping Act, 1933, to file tariffs with the FMC. Under Part 514, NVOCCs will be required to submit standard format financial data, in duplicate, on Form FMC-379 within thirty days of notice in the Federal Register of the Commission instituting a formal investigation and hearing of a proposed rate change. NVOCCs must maintain records necessary to prepare this financial data for a minimum of three years. The FMC estimates respondents will number approximately 90 NVOCCs and that recordkeeping burden will average 1 hour annually for each. If the Commission requires a NVOCC to file Form 379 the burden will average 100 hours for such filing.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-3828 Filed 1-28-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food & Drug Administration

[Docket No. 79F-0452]

Rohm and Haas Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Rohm and Haas Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a preservative in adhesive emulsions used as components of food-contact articles.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 9B 3446) has been filed by the Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105, proposing that § 175.105 *Adhesives* (21 CFR 175.105) be amended to provide for the safe use of a mixture containing 5-chloro-2-methyl-4-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one as a preservative for polymer latex emulsions in adhesives.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report and the environmental assessment report may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 21, 1980.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 80-2737 Filed 1-28-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79F-0479]

Shin-Etsu Chemical Co., Ltd.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Biddle Sawyer Corp., 2 Penn Plaza, New York, NY 10001, on behalf of the Shin-Etsu Chemical Co., Ltd., Tokyo, Japan, has filed a petition proposing that the food additive regulations be amended to provide for the use of low substituted hydroxypropyl cellulose as a formulation aid in foods.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW, Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP OA3489) has been filed by the Biddle Sawyer Corp., 2 Penn Plaza, New York, NY 10001, on behalf of the Shin-Etsu Chemical Co., Ltd., Tokyo, Japan, proposing that § 172.870 *Hydroxypropyl cellulose* (21 CFR 172.870) be amended to provide for the safe use of low substituted hydroxypropyl cellulose as a formulation aid in foods.

The potential environmental impact of this action is being reviewed. If this petition results in a regulation, and the agency concludes that an environmental impact statement is not required, the notice of availability of the environmental impact analysis report or statement of exemption, as applicable, and environmental assessment report, will be published with the regulation in the Federal Register in accordance with 21 CFR 25.25(b).

Dated: January 21, 1980.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 80-2738 Filed 1-28-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Loren Y. Johnson, District Director, Philadelphia District Office, Philadelphia, PA.

DATE: The meeting will be held 9 a.m., Thursday, February 14, 1980.

ADDRESS: The meeting will be held at the Holiday Inn, 18th and Market Streets, Philadelphia, PA.

FOR FURTHER INFORMATION CONTACT: Bob Lockett, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, Rm. 900, U.S. Courthouse,

V45/20/JA29/80 UMI

Second and Chestnut Streets, Philadelphia, PA 19106, 215–597–0837.

The purpose of this meeting is to provide a public forum for discussing and subsequently commenting on the proposed changes in the food labeling regulations, as indicated in the December 21, 1979 Federal Register announcement (44 FR 75990).

Dated: January 22, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-2730 Filed 1-28-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79D-0483]

Peanuts and Peanut Products, and Other Foods and Feeds; Availability of Guidelines

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of revised administrative guidelines on the analytical methods used to confirm the presence of aflatoxin in peanuts and peanut products, and other foods and feeds.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Campbell, Bureau of Foods (HFF–312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–245–3092.

SUPPLEMENTARY INFORMATION: FDA's guidelines that set action levels for aflatoxin in peanuts and peanut products and whole cottonseeds have existed for several years. The action levels are a quantitative statement of the level of aflatoxin contamination that will trigger FDA regulatory action. These guidelines have required, as a prerequisite to regulatory action, that analyses for confirmation of the identity of aflatoxin be performed using two procedures, one consisting of a chemical derivatization of aflatoxin, the other a lengthy chicken embryo bioassay for aflatoxin B1 toxicity.

FDA has reviewed data developed since 1964 which show that confirmation of aflatoxin B1 by the chemical derivatization procedure has, without exception, been corroborated by the chicken embryo bioassay. Thus, the agency has concluded that the chemical test can stand alone as the confirmatory test for the identity of aflatoxin in peanuts and peanut products and cottonseed. The chicken embryo bioassay confirmation takes a little more than 3 weeks to perform, and, under the guideline, regulatory action would have to await the bioassay results. To avoid this unnecessary delay, the administrative guidelines have been revised to delete the requirement for the chicken embryo bioassay for peanuts, peanut products, and cottonseed as a prerequisite to regulatory action on samples found to be violative.

The level of aflatoxin permitted in peanuts and peanut products and other foods and feeds covered by these guidelines has not changed.

The revised guidelines and data supporting FDA's decision to revise them are on file in the office of the Hearing Clerk, Food and Drug Administration, under the docket number found in brackets in the heading of this document.

Interested persons may submit to the Hearing Clerk, Food and Drug Administration, written comments (preferably four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding these action levels. Received comments may be seen in the above-name office, from 9 a.m. to 4 p.m., Monday through Friday.

Dated: January 22, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-2746 Filed 1-28-80; 8:45 am]

BILLING CODE 4110-03-M

Office of Education

Biomedical Sciences Program

AGENCY: Office of Education, HEW.

ACTION: Extension of Closing Date for Transmittal of Applications.

SUMMARY: The closing date for the transmittal of applications for the Biomedical Sciences Program is extended from March 28, 1980 to approximately *60 days after publication of the final regulations.* Proposed regulations for the Biomedical Science Program were published in the **Federal Register** on June 25, 1979. The proposed regulations have been revised in light of public comment. The deadline is being extended to give applicants sufficient time to submit or amend their applications to take into account any changes in the regulations when they are published in final form. The new notice of closing date will be published together with the final regulations in the same issue of the **Federal Register.** That notice will include instructions for submitting applications and program information.

FOR INFORMATION CONTACT:

Dr. Melvin E. Engelhardt, Biomedical Sciences Program, U.S. Office of Education, 400 Maryland Avenue, S.W., (Room 3010, ROB–3), Washington, DC 20202, (202) 245–1990.

(Catalog of Federal Domestic Assistance Number 13.691, Biomedical Sciences Program)

Dated: January 23, 1980.

William L. Smith,

Commissioner of Education.

[FR Doc. 80-2218 Filed 1-28-80; 8:45 am]

BILLING CODE 4110-22-M

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before January 18, 1980. Pursuant to § 60.13 of 36 CFR Part 60, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments or a request for additional time to prepare comments should be submitted by February 8, 1980.

Carol Shull,

Acting Keeper of the National Register.

ALABAMA

Chambers County

LaFayette, *Chambers County Courthouse Historic District,* Roughly bounded by Alabama and 2nd Aves., 1st., 1st St., SE., and 1st St., SW.

Morgan County

Decatur, *Bank Street Historic District,* Bank St.

Decatur, *Southern Railway Depot,* 701 Railroad St., NW.

CALIFORNIA

Orange County

Anaheim vicinity, *Weir Canyon Archeological District.*

DELAWARE

New Castle County

Hockessin and vicinity, *Wilmington and Western Railroad.*

IDAHO

Bannock County

Lava Hot Springs, *Whitestone Hotel,* 2nd. Ave. and Main St.

Latah County

Moscow, *Fort Russell Neighborhood Historic District,* Roughly bounded by Jefferson, Monroe, 2nd, and D Sts.

Lemhi County

Salmon vicinity, *Geertson, Lars, House,* SE of Salmon.

Nez Perce County

Lapwai, *First Lapwai Bank,* 302 W. 1st St.
Lapwai, *First Presbyterian Church,* Locust and 1st St. East.

MARYLAND

Caroline County

Denton vicinity, *Martinak Pungy,* Martinak State Park.

Carroll County

Linwood, *Linwood Historic District,* McKinstry's Mill Rd.

Cecil County

Zion vicinity, *England, Isaac, House,* 1 mi. W of Zion.

Harford County

Bel Air, *Harford National Bank,* Wall and Courtland Sts.

Montgomery County

Chevy Chase, *Woodend,* 8940 Jones Mill Rd.

NEW JERSEY

Camden County

Camden, *Cooper Library in Johnson Park,* 2nd and Cooper Sts.
Camden, *Sharp, Edward, House,* 200 Cooper St.

Hunterdon County

High Bridge vicinity, *Union-Exton Farm,* W of High Bridge on Van Syckles Rd.

Morris County

Morristown, *Delaware Lackawanna and Western Railroad Station,* 132 Morris St.

Passaic County

Haledon, *Kossuth Street School,* 47 Kossuth St.

Sussex County

Hamburg, *Bethany Chapel (Hamburg Presbyterian Church)* 103 Hamburg Tpke.
Newton, *First Presbyterian Church of Newton,* High St.

Union County

Fanwood, *Central Railroad of New Jersey—Fanwood Railroad Station Complex,* 238 North Ave.

Warren County

Belvidere, *Belvidere Historic District,* Off U.S. 46.
Vienna vicinity, *Mount Bethel Methodist Church,* S of Vienna on Mount Bethel Md.

NEW MEXICO

Sandoval County

Guadalupe vicinity, *Guadalupe Ruin,* SE of Guadalupe.

OREGON

Clackamas County

Oregon City, *Latourette, Charles David, House,* 503 High St.

Douglas County

Roseburg, *Lane, Gen. Joseph, Tomb,* Roseburg Memorial Gardens.

Jackson County

Ashland, *Ahlstrom, Nils, House,* 248 5th St.
Ashland, *Campbell, Richard Posey, House,* 94 Bush St.
Ashland, *Coolidge, Orlando, House,* 137 N. Main St.
Ashland, *First National Bank, Vaupel Store and Oregon Hotel Buildings,* 15 S. Pioneer St. and 70 E. Main St.
Ashland, *Perozzi, Domingo, House,* 88 Granite St.
Gold Hill, *Rock Point Hotel,* 40 N. River Rd.
Prospect, *Prospect Hotel,* 39 Mill Creek Dr.
Trail, *Rogue Elk Hotel,* 27390 OR 62

Lane County

Eugene, *First Congregational Church,* 492 E. 13th Ave.
Eugene, *Harlow, Elmer, House,* 2991 Harlow Rd.

Lincoln County

Lincoln City, *Dorchester House,* 2701 U.S. 101.

Linn County

Albany, *Albany Custom Mill,* 213 Water St.
Albany, *Chamberlain, George Earle, House,* 208 SE 7th St.
Albany, *Dawson, Alfred, House,* 731 SW. Broadalbin St.
Albany, *Straney and Moore Livery Stable,* 321—323 SW. 2nd Ave.

Marion County

St. Paul vicinity, *Zorn, Casper, Farmhouse,* NE of St. Paul at 8448 Champoeg Rd., NE.
Salem vicinity, *Geer, R. C., Farmhouse,* E of Salem at 12390 Sunnyview Rd.

Multnomah County

Portland, *Auditorium and Music Hall,* 920—928 SW. 3rd Ave.
Portland, *Buckler-Henry House,* 2324 SE. Ivon St.
Portland, *Campbell Townhouses,* 1705—1719 NW. Irving St. and 715—719 NW. 17th Ave.
Portland, *Couch Family Investment Development,* 1721—1735 NW. Irving St. and 718 NW. 18th St.
Portland, *Hexter, Levi, House,* 2326 SW. Park Pl.
Portland, *Jefferson Substation,* 37 SW. Jefferson St.
Portland, *Ladd Carriage House,* 1331 SW. Broadway.
Portland, *Mock, John, House,* 4333 N. Williamette Blvd.
Portland, *United Carriage Company Building,* 933 SW. Broadway St.

Polk County

Pedee vicinity, *Riley-Cutler House,* 11510 Pedee Creek Rd.

Union County

La Grande, *Administration Building,* Eastern Oregon State College campus.

TENNESSEE

Dickson County

Charlotte vicinity, *Nesbitt, John, House,* NW of Charlotte on TN 49.

UTAH

Garfield County

Escalante and vicinity, *Hole-in-the-Rock Trail* (also in Kane and San Juan Counties).

Salt Lake County

Salt Lake City, *Avenues Historic District,* Roughly bonded by 1st and 9th Aves., State and Virginia Sts.

VERMONT

Addison County

Panton, *District School No. 1,* Lake Dr.

Rutland County

Sudbury vicinity, *Hyde's Hotel,* S of Sudbury on VT 30.

Windham County

Brattleboro, *Estey Organ Company Factory,* Birge St.

[FR Doc. 80-2572 Filed 1-28-80; 8:45 am]

BILLING CODE 4310-03-M

Water and Power Resources Service

Contract Negotiations With the Westlands Water District; Availability of Proposed Contracts for Public Review and Comment and Public Hearing

The Department of the Interior, through the Water and Power Resources Service, has substantially completed the negotiation of two proposed contracts between the United States and the Westlands Water District, Fresno, California. The proposed contracts were prepared pursuant to the the Reclamation Project Act of 1939 (53 Stat. 1187), the authorizing act for San Luis Unit (SLU) (74 Stat. 156), and the Act of June 15, 1977 (91 Stat. 225). Execution of the proposed contracts is conditioned upon Congressional reauthorization of the SLU to clarify the authority of the Department to construct certain facilities, serve district lands, and other matters.

Two long-term contracts are presently in effect. Contract number 14–06–200–495A, providing for water service, was executed on June 5, 1963. Contract No 14–06–20–2020A, providing for construction of the distribution and drainage collector system, was executed on April 1, 1965. The water service

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contract provides for a maximum of 900,000 acre-feet of water annually. However, no water has been delivered pursuant to that contract; rather, water service has been handled by a series of interim and temporary contracts. The distribution system contract provides for the repayment of $157,048,000 for the construction of facilities. Some facilities have been built, and the district began paying its semiannual installments during 1979. However, none of the long-term, interim, or temporary contracts are adequate to meet the current needs of the district.

The proposed long-term water service contract will provide for the delivery of 1,150,000 acre-feet of water annually, an increase of 250,000 acre-feet per year. The proposed distribution system repayment contract will provide for the expenditure of up to $256 million for the construction of distribution and drainage collector facilities. Further, the distribution system contract provides for the repayment of up to $48 million for the construction of the San Luis Drain from Laguna Avenue to and including Kesterson Reservoir. The contracts will set forth the terms and conditions of payment for water, repayment of funds expended for the construction of facilities, and cover other pertinent matters. The proposed water service contract contains special provisions for reductions in the delivery of water during dry or critically dry years.

Public hearings are scheduled to receive comments from interested parties on the proposed contracts. The hearing schedule follows:

February 25, 1980, Terrace Room, Fresno Hilton, 1055 Van Ness, Fresno, California, at 1:00 p.m.

February 27, 1980, Empire Room B, Woodlake Inn, 500 Leisure Lane, Sacramento, California, at 1 p.m.

Additonal hearings will be held if deemed necessary to assure adequate opportunity for the public to express their views on the proposed contracts.

For further information and copies of the proposed contracts, please contact Mr. John B. Budd, Division of Water and Power Resources Management, Water and Power Resources Service, 2800 Cottage Way, Sacramento, California 95825, telephone number (916) 484–4360.

The hearing record on the proposed contracts will remain open until March 5, 1980. All written correspondence concerning the proposed contracts is available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

Dated: January 22, 1980.

R. Keith Higginson,
Commissioner of Water and Power Resources.

[FR Doc. 80-2753 Filed 1-28-80; 8:45 am]
BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the* Federal Register. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future convenience and necessity, and that each contract carrier appliant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.G. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act.]

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

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Decided: Jan. 7, 1980.
By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 14215 (Sub-54F), filed June 25, 1979. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Representative: John L. Alden, 1396 West Fifth Ave., P.O Box 12241, Columbus, OH 43212. Transporting *iron and steel articles*, and *materials, equipment, and supplies* used in the manufacture of iron and steel articles (except commodities in bulk, in tank vehicles), (1) between the facilities of United States Steel Corporation, at or near Cleveland, Lorain, and Youngstown, OH, on the one hand, and, on the other, points in IL, IN, and MI, and (2) between the facilities of United States Steel Corporation, at or near Braddock, Clairton, Dravosburg, Duquesne, Homestead, Irvine, Johnstown, McKeesport, McKees Rocks Pittsburgh, and Vandergrift, PA, on the one hand, and, on the other, points in IL, IN, MI, and OH. (Hearing site: Columbus, OH, or Washington, DC.)

MC 52465 (Sub-48F), filed June 25, 1979. Applicant: RICE TRUCK LINES, a Corporation, P.O. Box 2644, Great Falls, MT 59403. Representative: Ray F. Koby P.O Box 2567, Great Falls, MT 59403. Transporting *used bricks* from points in Cascade County, MT, to points in King, Pierce, Snohomish and Kitsap Counties, WA. (Hearing site: Great Falls, MT.)

MC 89684 (Sub-107F), filed April 24, 1979. Applicant: WYCOFF COMPANY, INCORPORATED, 580 South 300 West, Salt Lake City, UT 84110. Representative: John J. Morrell (same address as applicant). Transporting *such commodities* as are dealt in or used by book and card shops, between Brighman City and Payson, UT, on the one hand, and, on the other, points in Los Angeles County, CA. (Hearing site: Salt Lake City, UT.)

MC 105045 (Sub-112F), filed June 26, 1979. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, IN 47701. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. Transporting (1) *pipe, fittings, valves, hydrants, castings,* and *firebrick,* and (2) *materials and supplies* used in connection with the commodities in (1) above, (except commodities in bulk), from the facilities of Clow Corporation, at (a) Columbia, MO, (b) Coshocton and Parral, OH, (c) Buckhannon, WV, (d) Birmingham, AL, and (e) Talladega County, AL, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Chicago IL.)

MC 106074 (Sub-120F), filed June 26, 1979. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. and U.S. Hwy. 221 South, Forest City, NC 28043. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. Transporting *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk, in tank vehicles), from the facilities of A. E. Staley Manufacturing Co., at (a) Cicero and Broadview, IL, to Atlanta, GA, and at (b) Chattanooga, TN, to points in NC and SC. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 107295 (Sub-929F), filed June 26, 1979. Applicant: PRE-FAB TRANSIT CO., a Corporation, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. Transporting (1) *insulation materials,* from Sanford, ME, to points in DE, KY, MD, NJ, NY, NC, OH, PA, VA, WV, and DC, and (2) *materials, equipment, and supplies* used in the installation, manufacture, and distribution of insulation materials (except commodities in bulk), in the reverse direction. (Hearing site: Boston, MA.)

MC 109094 (Sub-18F), filed June 26, 1979. Applicant: GAULT TRANSPORTATION, INC., 2381 Cranberry Highway, Wareham, MA 02571. Representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Transporting *odophos,* in bulk, from Sayreville, NJ, to points in MA, RI, CT, NY, NJ, PA, VA, MD, and VT. (Hearing site: Boston, MA, or Providence, RI.)

MC 112304 (Sub-196F), filed June 18, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., a Corporation, 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John D. Herbert (same address as applicant). Transporting (1) *iron and steel articles,* between the facilities of Acme Structural, Inc., at or near Springfield, MO, on the one hand, and, on the other, points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, from points in the United States (AK and HI), to Springfield, MO. (Hearing site: St. Louis, MO, or Washington, DC.)

MC 119744 (Sub-103F), filed June 26, 1979. Applicant: EAGLE TRUCKING COMPANY, a Corporation, P.O. Box 471, Kilgore, TX 75662. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Transporting (1) *material handling equipment,* and (2) *parts and accessories* for the material handling equipment, from the facilities of OTEK Equipment Manufacturing, at or near Longview, TX, to points in the United States (except AK and HI), and (3) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction. (Hearing site: Dallas or Fort Worth, TX.)

MC 124154 (Sub-76F), filed June 25, 1979. Applicant: WINGATE TRUCKING COMPANY, INC., P.O. Box 645, Albany, GA 31702. Representative: W. Guy McKenzie, Jr., P.O. Box 1200, Tallahassee, FL 32302. Transporting *agricultural chemicals,* in containers, between the facilities of Monsanto Company, at points in the United States (except AK and HI), on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named shipper facilities. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 136605 (Sub-124F), filed June 25, 1979. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807.

Representative: Allen P. Felton (same address as applicant). Transporting *iron and steel articles*, from the facilites of Inland Steel at or near East Chicago, IN, to points in IA and NE. (Hearing site: Chicago, IL.)

MC 139495 (Sub-453F), filed May 18, 1979. previously published in the **Federal Register** issue of October 25, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: HERBERT ALAN DUBIN, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting *floor coverings* and *materials, equipment, and supplies* used in the installation and maintenance of floor coverings (except commodities in bulk, in tank vehicles), from points in Los Angeles and Yolo Counties, CA, to points in AZ, CO, ID, MT, NV, NM, OR, TX, UT, and WA. (Hearing site: Washington, DC.)

Note.—This republication indicates the correct destination State of NM.

MC 140024 (Sub-154F), filed June 25, 1979. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Ave., Commerce City, CO 80022. Representative: Don Bryce (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of alcoholic beverages and wine (except commodities in bulk, in tank vehicles), between the facilities of Heublein, Inc., at or near Hartford, CT, on the one hand, and, on the other, Chicago, IL, Detroit, MI, and Paducah, KY, points in OH, and those in the United States on and west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada, restricted to the transportation of traffic originating at or destined to the above-named facilities. (Hearing site: Denver, CO, or Hartford, CT.)

MC 140974 (Sub-5F), filed April 19, 1979. Applicant: LLOYD GARBER, d.b.a. GARBERS TRUCKING, 14th and K St., Fairbury, NE 68352. Representative: (Same as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *brick* and *clay products*, from the facilities of Endicott Clay Products Co., at or near (a) Endicott, NE, (b) Anaheim and Santa Clara, CA, (c) Portland, OR, (d) Seattle, WA, and (e) Reno, NV, to points in TX, NM, AZ, NV, UT, CA, WA, and OR, under continuing contract(s) with Endicott Clay Products Co., of Fairbury, NE. (Hearing site: Omaha, NE, or Denver, CO.)

MC 141124 (Sub-44F), filed June 25, 1979. Applicant: EVANGELIST COMMERCIAL CORPORATION, P.O. Box 15000, Wilmington, DE 19850. Representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. Transporting *such commodities* as are dealt in or used by manufacturers or converters of paper or paper products (except commodities in bulk), from Chicago, IL to points in the United States in and east of MI, IN, KY, TN, and MS. (Hearing site: Columbus, OH, or Washington, DC.)

MC 141124 (Sub-45F), filed June 25, 1979. Applicant: EVANGELIST COMMERCIAL CORPORATION, P.O. Box 15000, Wilmington, DE 19850. Representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. Transporting *such commodities* as are dealt in or used by manufacturers or converters of paper and paper products (except commodities in bulk), from Rumford, ME, Beaver Falls, Brownsville, and Lowville, NY, and Brattleboro, VT, to points in CA, and those in the United States in and east of ND, SD, NE, KS, OK, and TX (Hearing site: Chicago, IL.)

MC 145734 (Sub-8F), filed June 25, 1979. Applicant: B D TRUCKING CO., a corporation, Ripon, CA 95366. Representative: J. H. Gulseth, 100 Bush St., 21st Floor, San Francisco, CA 94104. Transporting (1) *gypsum products*, from the facilities of National Gypsum Co., at or near Phoenix, AZ, to points in CA; and (2)(a) *gypsum board, gypsum board joint systems, gypsum board joints*, and (b) *materials and supplies* used in the installation of the commodities in (2)(a) above, from the facilities of National Gypsum Co., at or near Long Beach, CA, to Phoenix and Tucson, AZ. (Hearing site: San Francisco or Los Angeles, CA.)

MC 140024 (Sub-153F), filed June 25, 1979. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Ave., Commerce City, CO. Representative: Don Bryce (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of alcoholic beverages and wine (except commodities in bulk, in tank vehicles), between the facilities of Heublein, Inc., at or near Paducah, KY, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named shipper facilities. (Hearing site: Denver, CO, or Hartford, CT.)

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Decided: Jan. 14, 1980.

By the Commission, Review Board Number 2, Members, Boyle, Eaton and Liberman.

MC 263 (Sub-228F), filed June 29, 1979. Applicant: GARRETT FREIGHTLINES, INC., 2055 Garrett Way, Pocatello, ID 83201. Representative: Wayne S. Green (same address as applicant). Transporting *sugar*, in packages, from points in ID to points in SD. (Hearing site: Pocatello, ID or Salt Lake City, UT.)

MC 11722 (Sub-62F), filed June 29, 1979. Applicant: BRADER HAULING SERVICE, INC., P.O. Box 655, Zillah, WA 98953. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. Transporting (1) *containers, container closures*, and *container components*, and (2) *equipment, materials, supplies* used in the manufacture sales, and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), between points in AZ, CA, CO, ID, KS, MT, NE, ND, NM, NV, OK, OR, SD, TX, UT, WA, and WY. (Hearing site: Seattle, WA or Portland, OR.)

Note.—Dual operations may be involved.

MC 61403 (Sub-246F), filed June 27, 1979. Applicant: THE MASON AND DIXON TANK LINES, INC., Highway 11–W, P.O. Box 969, Kingsport, TN 37662. Representative: W. C. Mitchell, Suite 1201, 370 Lexington Ave., New York, NY 10017. Transporting *chemicals*, in bulk, in tank vehicles, from Doe Run, KY, to points in NC, SC, and VA. (Hearing site: Louisville, KY.)

MC 61592 (Sub-461F), filed June 27, 1979. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: E. A. DeVine, P.O. Box 737, Moline, IL 61265. Transporting (1) *vinegar and sweet cider* (except commodities in bulk, in tank vehicles) from the facilities used by National Vinegar Company, at Olney and Alton, IL, to points in IA, NE, KS, MO, CO, AR, OH, IN, and KY; (2) *beverages* (except commodities in bulk, in tank vehicles), from Cold Spring, MN, to points in AZ, CA, CO, ID, OR, TX, UT, WA, MT, ND, AR, MO, IA, IL, IN, FL, NY, and MD; and (3) *apple juice*, in containers, from the facilities of Indian Summer, Inc., at (a) Evansville, IN, and (b) Belding, MI, to points in AR, IL, IA, KS, MO, NE, ND, OK, SD, IN, and KY. (Hearing site: Chicago, IL.)

MC 105813 (Sub-258F), filed June 25, 1979. Applicant: BELFORD TRUCKING CO., INC., 1759 S. W. 12th St., P.O. Box 2009, Ocala, FL 32670. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. Transporting *foodstuffs*, and *containers* used in the transportation of foodstuffs, between points in FL, restricted to the transportation of traffic having an immediately prior or subsequent movement by water. (Hearing site: Tampa, or Orlando, FL.)

MC 105813 (Sub-260F), filed July 2, 1979. Applicant: BELFORD TRUCKING CO., INC., 1759 S. W. 12th St., P.O. Box 2009, Ocala, FL 32670. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601. Transporting *pet food*, in packages, from the facilities of Kal Kan Foods, Inc., at or near (a) Columbus, OH, and (b) Mattoon, IL, to points in AL, FL, GA, NC, and SC. (Hearing site: Columbus, OH.)

MC 107012 (Sub-385F), filed June 14, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U. S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting *such commodities* (a) as are dealt in by restaurants, and (b) as are used in the construction and operation of restaurants, (except commodities in bulk and those requiring the use of special equipment), from the facilities of Paramount Fountain and Restaurant Supply Corporation, at or near Providence, RI, to points in the United States (except AK and HI). (Hearing site: Boston, MA or Washington, DC.)

MC 107012 (Sub-393F), filed June 29, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting *plastic containers*, from the facilities of Rheem Manufacturing Company, at or near Bryan, TX, to points in AL, AR, CA, CO, KS, LA, MO, MS, NM, OK, and TN. (Hearing site: Chicago, IL or Washington, DC.)

MC 107743 (Sub-58F), filed June 29, 1979. Applicant: SYSTEM TRANSPORT, INC., P.O. Box 3456, T. A., Spokane, WA 99220. Representative: J. Michael Alexander, First Continental Bank Bldg., #301, 5801 Marvin D. Love Freeway, Dallas, TX 75237. Transporting *cooling tower materials*, from Merced, CA, to points in PA, OH, KY, TN, AR, TX, MI, IN, WI, IL, MN, IA, MO, ND, SD, NE, KS, OK, MT, WY, CO, NM, ID, UT, AZ, WA, OR, NV, and CA. (Hearing site: San Francisco, CA.)

MC 107743 (Sub-59F), filed July 2, 1979. Applicant: SYSTEM TRANSPORT, INC., P.O. Box 3456, T. A., Spokane, WA 99220. Representative: J. Michael Alexander, First Continental Bank Bldg. #301, 5801 Marvin D. Love Freeway, Dallas, TX 75237. Transporting *iron and steel articles* (except commodities which because of size and weight require the use of special equipment, and oilfield and pipeline commodities as defined in *Mercer Extension—Oil Field Commodities*, 74 M.C.C. 459), from those points in IN within the Chicago, IL, commercial zone, to points in ID, MT, OR, and WA. (Hearing site: Chicago, IL.)

MC 109593 (Sub-9F), filed June 26, 1979. Applicant: H. R. HILL, Box 875, 2007 West Shawnee, Muskogee, OK 74401. Representative: Max G. Morgan, P.O. Box 1540, Edmond, OK 73034. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) such commodities as are dealt in by manufacturers of containers, and (2) materials, equipment, and supplies used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between Ada and Muskogee, OK, on the one hand, and, on the other, points in AR, KS, MO, and TX, under continuing contract(s) with Brockway Glass Company, Inc., of Brockway, PA. (Hearing site: Tulsa, OK, or Dallas, TX.)

MC 112123 (Sub-17F), filed June 29, 1979. Applicant: BEST-WAY TRANSPORTATION, a corporation, 5150 North 16th St., Phoenix, AZ 85016. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over *regular routes*, transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), (1) between Phoenix, AZ, and Santa Fe, NM: from Phoenix, AZ, over Interstate Hwy 17 to Flagstaff, AZ, then over Interstate Hwy 40 to Albuquerque, NM, then over Interstate Hwy 25 to Santa Fe, NM, and return over the same route, serving all intermediate points in NM, and serving the off-route point of Los Alamos, NM; (2) between Bawtry, NM and El Paso, TX; over Interstate Hwy 10 serving all intermediate points, and serving the Hidalgo Mine Site Lordsburg, NM as an off-route point; (3) between Albuquerque, MN, and El Paso, TX, over Interstate Hwy 25 and Interstate Hwy 10, serving no intermediate points, and serving the termini for purposes of joinder only, as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Los Angeles, CA or Albuquerque, NM.)

Note.—Applicant intends to tack this authority with its existing authority.

MC 114632 (Sub-248F), filed June 29, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). Transporting *composition board*, from the facilities of Boise Cascade Corporation, at International Falls, MN, to points in IL, IN, IA, KS, KY, MI, MO, NE, ND, OH, and SD. (Hearing site: Minneapolis, MN or Chicago, IL.)

Note.—Dual operations may be involved.

MC 114632 (Sub-249F), filed June 29, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). Transporting *foodstuffs*, from the facilities of Libby, McNeil & Libby, Inc., at (a) Geneva, NY, to points in IL, IA, KS, MN, MO, and WI, (b) Chicago, IL, Kokomo, IN, and Leipsic, OH, to points in CT, MA, and NY, and (c) Rochester, MN, and Janesville, Jackson, and Hartford, WI, to points in NY, MA, CT, KS, MO, and IA. (Hearing site: Chicago, IL or Minneapolis, MN.)

Note.—Dual operations may be involved.

MC 116063 (Sub-159F), filed July 2, 1979. Applicant: WESTERN COMMERCIAL TRANSPORT, INC., 2929 W. Fifth Street, P.O. Box 270, Fort Worth, TX 76101. Representative: W. H. Cole (same address as applicant). Transporting *tallow*, in bulk, (1) from the facilities of Iowa Beef Processors, Inc., at or near (a) Amarillo, TX, (b) Dakota City and West Point, NE (c) Denison and Fort Dodge, IA, (d) Emporia, KS, and (e) Luverne, MN, to points in AR, CO, IL, IN, LA, MO, OK, TN and TX; and (2) from the facilities of Iowa Beef Processors, Inc., at or near (a) Amarillo, TX and (b) Emporia, KS, to points in IA, restricted in (1) and (2) to the transportation of traffic originating at the named origins and destined to the indicated destinations (except on traffic moving in foreign commerce). (Hearing site: Omaha, NE or Sioux City, IA.)

MC 116763 (Sub-523F), filed June 11, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Representative: H. M. Richters (same address as applicant). *Transporting, petroleum, petroleum products, and grease* (except commodities in bulk, in tank vehicles), from Marcus Hook and Philadelphia, PA, to points in FL, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Philadelphia, PA.)

MC 116763 (Sub-541F), filed June 21, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). Transporting *such commodities* as are dealt in by wholesale and retail grocery

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and food business houses (except commodities in bulk, in tank vehicles), (1) between points in the United States in and east of MN, IA, NE, KS, OK, and TX, and (2) from points in CA to points in the United States in and east of MN, IA, NE, KS, OK, and TX, restricted in (1) and (2) above to the transportation of traffic originating at or destined to the facilities of Shurfine-Central Corporation or its dealers. (Hearing site: Chicago, IL.)

MC 116763 (Sub-554F), filed June 29, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). Transporting *materials, equipment, and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk, in tank vehicles), from those points in the United States in and east of ND, SD, NE, CO, and NM, to facilities of Beveridge Paper Co., Inc., a subsidiary of Simkins Industries, Inc., at or near Indianapolis, IN, restricted to the transportation of traffic originating at the indicated origins and destined to the named destination. (Hearing site: Indianapolis, IN.)

MC 116763 (Sub-555F), filed June 29, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). Transporting (1) *paper and paper products, and plastic and plastic products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk, in tank vehicles), between those points in the United States in and east of MN, IA, MO, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Continental Diversified Industries, Bondware Division. (Hearing site: Chicago, IL.)

MC 116763 (Sub-559F), filed June 29, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). Transporting *such commodities* as are dealt in by distributors or manufacturers of confectionary products (except commodities in bulk, in tank vehicles), between those points in the United States in and east of MN, IA, MO, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of The Falcon Candy Co., Inc. (Hearing site: Philadelphia, PA.)

MC 119493 (Sub-306F), filed June 26, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same address as applicant). Transporting (1) *minerals, animal and poultry mineral feed mixtures, and fertilizer* (except commodities in bulk), and (2) materials and supplies used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between Fairbury, NE, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Kansas City or Springfield, MO.)

MC 125023 (Sub-75F), filed June 28, 1979. Applicant: SIGMA-4 EXPRESS, INC., P.O. Box 9117, Erie, PA 16504. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. Transporting (1) *malt beverages,* in containers, from points in Onondaga and Oswego Counties, NY, to points in DE, MD, NJ, NY, PA, WV, IL, IN, KY, MI, OH, WI, and DC, and (2) *equipment, materials, and supplies* used in the manufacture, sale, and distribution of malt beverages (except commodities in bulk), in the reverse direction. (Hearing site: Chicago, IL.)

MC 125433 (Sub-289F), filed June 29, 1979. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *extruded aluminum products,* from Phoenix, AZ, to points in the United States (except AK and HI), and (2) *equipment, materials, and supplies* used in the manufacture of the commodities in (1) above (except commodities in bulk), in the reverse direction, restricted to the transportation of traffic originating at or destined to the facilities of Arizona Aluminum Co., at or near Phoenix, AZ. (Hearing site: Phoenix, AZ or Salt Lake City, UT.)

MC 125433 (Sub-295F), filed July 2, 1979. Applicant: F–B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting *castings, forgings, casting pulleys, and sheaves* (except commodities in bulk) from the facilities of Electron Corporation at or near (a) Littleton, CO and (b) Blackwell, OK, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named facilities. (Hearing site: Denver, CO or Salt Lake City, UT.)

MC 126822 (Sub-59F), filed June 27, 1979. Applicant: WESTPORT TRUCKING COMPANY, a corporation, 15580 South 169 Highway, Olathe, KS 66061. Representative: Kenneth E. Smith (same address as applicant). Transporting *air handling equipment,* and *materials and supplies* used in the installation of air handling equipment, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk, and those which because of size or weitht require the use of special equipment), between the facilities of Ruskin Manufacturing Co., at or near (a) Parsons, Great Bend, Paola, and Clearwater, KS, (b) Grandview, MO, (c) Los Angeles, CA, and (d) Minden, LA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Kansas City, MO.)

MC 134922 (Sub-306F), filed June 27, 1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). Transporting *plastic materials,* from the facilities of Allied Chemical Corporation at Orange, TX, to points in the United States (except AK and HI). (Hearing site: Philadelphia, PA or Washington, DC.)

Note.—Applicant states the purpose of this application is in part to replace interline service it is now providing in conjunction with other carriers. However, this application was not filed under the special rules of Ex Parte No. MC 109 which govern the filing and processing of applications for substitution of single-line service for existing joint-line service.

MC 134922 (Sub-307F), filed June 25, 1979, Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). Transporting *paper bags,* from Sibley, IA, and Crossett, AR, to points in WA, OR, CA, NV, ID, UT, AZ, NM, MT, and WY. (Hearing site: St. Louis, MO or Little Rock, AR.)

Note.—Applicant states the purpose of this application in part, is to replace interline service it is now providing in conjunction with other carriers. However, this application was not filed under the special rules of Ex Parte No. MC 109 which govern the filing and processing of applications for substitution of single-line service for existing joint-line service.

MC 134922 (Sub-308F), filed June 27, 1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). Transporting *general commodities* (except article of unusual value, classes A and B explosives, household goods as defined by the commission, commodities in bulk, and those requiring special equipment), between the facilities of Gibson's Co-op Warehouse at or near Dallas, TX, on the one hand, and, on the

other, points in the United States (except AK and HI).

MC 134922 (Sub-312F), filed June 27, 1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). Transporting *small arms ammunition* (except classes A and B explosives) and related parts and components, (1) between Bridgeport, CT, on the one hand, and, on the other, points in the United State (except AK, HI and Lonoke, AR) and (2) Between Lonoke, AR, on the one hand, and, on the other, points in the United States (except AK, HI, LA, TX, OK, KS, NE, MT, WY, CO, NM, AZ, UT, ID, WA, OR, NV, CA and Bridgeport, CT). (Hearing site: Little Rock, AR, or Washington, DC.)

Note.—Applicant states the purpose of this application is to replace interline service it is now providing in conjuction with other carriers. However, this application was not filed under the special rules of Ex Parte No. MC-109 which govern the filing and processing of applications for substitution of single-line service for existing joint-line service.

MC 136343 (Sub-168F), filed July 2, 1979. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *printed matter,* from Dresden, TN, to points in IL, MA, MI, NJ, NY, OH, PA, and DC. (Hearing site: New York, NY or Washington, DC.)

MC 136343 (Sub-174F), filed July 2, 1979. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *printed matter,* from Mattoon, IL, to points in CT, DE, FL, GA, IN, KY, ME, MD, MI, MN, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VA, VT, and WV. (Hearing site: New York, NY or Washington, DC.)

MC 136553 (Sub-78F), filed July 2, 1979. Applicant: ART PAPE TRANSFER, INC., 1080 East 12 Street, Dubuque, IA 52001. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Transporting *dry fertilizer materials,* from Humboldt, IA, to points in IA, IL, IN, KS, MI, MN, MO, NE, OH, and WI. (Hearing site: Chicago, IL.)

MC 139482 (Sub-137F), filed July 2, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: Samuel Robenstein, 301 North Fifth Street, Minneapolis, MN 55403. Transporting *glass bottles,* from Terre Haute, IN, to Cold Spring, MN. (Hearing site: Minneapolis or St. Paul, MN.)

MC 140632 (Sub-3F), filed June 29, 1979. Applicant: CHARCOAL TRANSPORTS, INC., P.O. Box 340489, Dallas, TX 75234. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by food business houses (except commodities in bulk, frozen foods, and packinghouse products), between Dallas and Jacksonville, TX, Paris, AR, and Nashville, TN, on the one hand, and, on the other, points in the United states (except AK and HI), under continuing contract(s) with Arrow Industries, Inc., Campfire Charcoal, Inc., and Arkansas Charcoal Company, Inc. (Hearing site: Dallas, TX.)

MC 140943 (Sub-8F), filed June 5, 1979. Applicant: CHEYENNE ROAD TRANSPORT, LTD., 232 38th Avenue Northeast, Calgary, Alberta, Canada T2E 2M2. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402. To operate as a *common carrier,* by motor vehicle, in foreign commerce only, over irregular routes, transporting (1) *lumber and lumber mill products,* from ports of entry on the international boundary line between the United States and Canada in WA, ID and MT, to points in AZ, CA, ID, NM, NV, OR and WA, and (2) *lumber, wood products, and fibreboard,* from points in MT and ID, to ports of entry on the international boundary line between the United States and Canada in MT, ID and WA. (Hearing site: Seattle, WA.)

MC 143713 (Sub-9F), filed June 14, 1979. Applicant: AGRICULTURAL TRANSPORTATION ASSOCIATION OF ILLINOIS, a corporation; R.F.D. 8, 37 Forest Ridge, Springfield, IL 62707. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Transporting *stoneware products, and materials and supplies* used in the manufacture of stoneware products, between points in Dundee and Macomb, IL, on the one hand, and, on the other, points in OK. (Hearing site: Springfield or Chicago, IL.)

MC 145432 (Sub-2F), filed June 29, 1979. Applicant: GEORGE RICHARDS TRANSPORT LIMITED, Box 100, North Street, Arkona, Ontario, Canada N0M 1B0. Representative: Robert D. Schuler, 100 West Long Lake Road-Suite 102, Bloomfield Hills, MI 48013. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *soybean meal,* in bulk, in dump vehicles, from points in Ohio, to ports of entry on the international boundary line between the United States and Canada in MI and NY, under continuing contract(s) with Pillsbury Canada Limited, of London, Ontario, Canada. (Hearing site: Lansing or Detroit, MI.)

MC 146192 (Sub-1F), filed July 2, 1979. Applicant: SANDHILLS GRAIN, INC., 524 Augusta Street, Bassett, NE 68714. Representative: Robert A. Wichser, P.O. Box 417, Sioux City, IA 51102. To operate as a contract, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *home decorating products and accessories* for home decorating products, from Traverse City, MI, Grand Island, NE, and Big Spring, TX, to points in CA, IL, IN, MI, NE, OH, TX and WI, and (2) *materials, supplies, and equipment* used in the manufacture, sale and distribution of the commodities in (1) above, in the reverse direction, under continuing contract(s) with Burwood-Products Company, of Traverse City, MI. Conditions: (1) Applicant shall maintain separate accounts and records for its for-hire carrier operations as distinct from its other business activities, and (2) it shall not at the same time and in the same vehicle transport property both as a private carrier and as a for-hire carrier. (Hearing site: Chicago, IL or Omaha, NE.)

MC 146463 (Sub-2F), filed July 2, 1979. Applicant: SLACK TRANSPORT LIMITED, Box 579, Caledonia, Ontario, Canada NOA 1AO. Representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, NY 14202. To operate as a common carrier, by motor vehicle, in foreign commerce only, over irregular routes, transporting *lumber, and composition board,* between ports of entry on the international boundary line between the United States and Canada located in MI and NY, on the one hand, and, on the other, points in CT, DE, IN, ME, MD, MA, MI, NH, NJ, NY, OH, PA, and VT. (Hearing site: Buffalo NY.)

MC 146483 (Sub-2F), filed June 26, 1979. Applicant: JAMES G. POTTER, d.b.a. JIM POTTER & SONS, P.O. Box 216, Sheffield, AL 35660. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Decatur and Haleyville, AL, on the one hand, and, on the other, points in Colbert, Cullman, Franklin, Jackson, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan, and Winston Counties, AL, restricted to the transportation of traffic in trailers

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having a prior or subsequent movement by rail. (Hearing site: Atlanta, GA.)

MC 147152 (Sub-7F), filed June 26, 1979. Applicant: GENERAL CARRIERS CORPORATION, 12425 East Florence Avenue, Santa Fe Springs, CA 90670. Representative: Miles L. Kavaller, 315 So. Beverly Drive, Suite 315, Beverly Hills, CA 90212. Transporting *carpeting*, between the facilities of Ozite Division, Brunswick Corporation, at Anaheim and Culver City, CA, on the one hand, and, on the other, the facilities of Ozite Division, Brunswick Corporation, at Libertyville, IL. (Hearing site: Los Angeles, CA.)

MC 147603 (Sub-2F), filed June 29, 1979. Applicant: FROZEN XPRESS, INC., 18770 N. E. 6th Avenue, Miami, FL 33164. Representative: Richard B. Austin, Esq., Suite 214, Palm Coast II Bldg., 5255 N.W. 87th Avenue, Miami, FL 33178. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods* in vehicles equipped with mechanical refrigeration between those points in the United States in and east of MN, IA, MO, AR, and LA, under continuing contract(s) with Florida Frozen Foods, Inc., and Southeast Frozen Foods, Inc., both of Miami, FL. (Hearing site: Miami, FL.)

MC 147713F, filed June 28, 1979. Applicant: LOUIS C. WILLOUGHBY, 6020 Belton, Garden City, MI 48135. Representative: Dennis J. Pheney, 412 Fisher Building, Detroit, MI 48202. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in buk, in tank vehicles, between the facilities of Metalworking Lubricants Co., at (a) Detroit, MI, (b) Indianapolis, IN, and (c) South Windsor, CT, on the one hand, and, on the other, points in AL, CT, GA, IL, IN, KY, MA, MI, MS, NJ, NY, OH, PA, TN, WV, and WI, under continuing contract(s) with Metalworking Lubricants Co. (Hearing site: Detroit, MI or Chicago, IL.)

MC 147733F, filed July 2, 1979. Applicant: IMPERIAL FABRICATING CO. OF TENN., INC., P.O. Box 70, Portland, TN 37146. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Transporting *materials, equipment, and supplies* used in the manufacture and distribution of trucks, (except commodities in bulk), from points in CA, OR, WA, and TX, to the facilities of Peterbilt Motors Company, in Davidson County, TN. Conditions: (1) Applicant shall maintain separate accounts and records for its for-hire carrier operations as distinct from its other business activities, and (2) it shall not at the same time and in the same vehicle transport property both as a private carrier and as a for-hire carrier. (Hearing site: Nashville, TN.)

MC 147883F, filed July 2, 1979. Applicant: TRANSPORT IMPROVERS, INC., 7350 S. E. 87th Avenue, Portland, OR 97210. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, OR 97210. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lubricating oil, grease, antifreeze, and undercoating*, between the facilities of Quaker State Oil Refining Corporation at Portland, OR, on the one hand, and, on the other, points in WA and ID, under continuing contract(s) with Quaker State Oil Refining Corporation. (Hearing site: Portland, OR.)

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Decided: January 9, 1980.

By the Commission, Review Board Number 2, Members Eaton and Liberman. Member Boyle not participating.

MC 200 (Sub-356F), filed June 18, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), serving the facilities of Pepsi Cola Bottling Company (Summit Cannery), at Princeton, WV, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Kansas City, MO.)

MC 200 (Sub-364F), filed June 25, 1979. Applicant: RISS INTERNATIONAL CORPORATION, a Delaware corporation, 903 Grand Ave., Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). Transporting *toys*, from Grafton, WV, to points in CO, IA, IL, IN, KS, MO, NE, OK, TX, and UT. (Hearing site: Kansas City, MO.)

MC 531 (Sub-412F), filed June 21, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Rd., P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). Transporting *vegetable oils*, in bulk, in tank vehicles, between Opelousas, LA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: New Orleans, LA.)

MC 1380 (Sub-24F), filed June 14, 1979. Applicant: COLONIAL MOTOR FREIGHT LINE, INC., P.O. Box 7027, High Point, NC 27264. Representative: Max H. Towery (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in AL, GA, MD, NC, SC, TN, and DC. (Hearing site: High Point, NC, or Washington, DC.)

MC 5470 (Sub-196F), filed June 20, 1979. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Brian L. Troiano, 918 16th St. NW., Washington, DC 20006. Transporting *waste and scrap materials*, in dump vehicles, between Pittsburgh, PA, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, MD, MA, MI, MO, NJ, NY, NC, OH, RI, SC, VA, and WV. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 47171 (Sub-130F), filed June 21, 1979. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). Transporting *lumber and fiberboard*, from the facilities of Holly Hill Lumber Company, at Holly Hill and Walterboro, SC, to those points in the United States east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada. (Hearing site: Columbia, SC.)

MC 53841 (Sub-34F), filed June 26, 1979. Applicant: W. H. CHRISTIE & SONS, INC., Box 517, East State St., Knox, PA 16232. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Transporting *transformers* and parts for transformers, from Zanesville, OH, to points in NJ, NY, and PA. (Hearing site: Pittsburgh, PA, or Washington DC.)

MC 67450 (Sub-92F), filed June 25, 1979. Applicant: PETERLIN CARTAGE CO., a Corporation, 9651 S. Ewing Ave., Chicago, IL 60617. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603. Transporting *sugar*, from New York, NY, Philadelphia, PA, and Baltimore, MD, to points in IA, IL, IN, KY, MI, OH, and WI. (Hearing site: Chicago, IL.)

MC 73081 (Sub-1F), filed June 25, 1979. Applicant: ANYTIME DELIVERY SYSTEMS, INC., 375 Western Hwy., Tappan, NY 10983. Representative: Arthur J. Piken One Lefrak City Plaza, Flushing, NY 11368. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), between points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT, and DC. (Hearing site: New York, NY or Newark, NJ.)

MC 83850 (Sub-13F), filed June 27, 1979. Applicant: JOHNSON'S TRANSFER, INC., 6951 Norwitch Dr., Philadelphia, PA 19153. Representative: Harold P. Boss, 1100 Sevententh St. NW., Washington, DC 20036. Transporting (1) *pipe*, and *pipe fittings* and *couplings*, (2) *materials and supplies* used in the installation of the commodities in (1) above, and (3) *plastic building materials*, from the facilities of CertainTeed Corporation, at Williamsport, MD, to points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT, WV, and DC. (Hearing site: Philadelphia, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 89021 (Sub-3F), filed June 27, 1979. Applicant: LEVINE'S EXPRESS & TRUCKING COMPANY, a corporation, P.O. Box 237, Carteret, NJ 07008. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Transporting *advertising materials*, between points in the United States (except AK and HI). (Hearing Site: Newark, NJ.)

MC 90870 (Sub-31F), filed June 21, 1979. Applicant: RIECHMANN ENTERPRISES, INC., Route 2, Box 137, Alhambra, IL 62001. Representative: Cecil L. Goettsch, 1100 Des Moines, Bldg., Des Moines, IA 50309. Transporting (1) *iron and steel railroad wheels*, and (2) *parts and accessories* for the commodities in (1) above, from Keokuk, IA, to points in IL and MO. (Hearing site: Chicago, IL, or Washington, DC.)

MC 108651 (Sub-24F), filed June 21, 1979. Applicant: ROY B. MOORE, INC., P.O. Box 628, Kingsport, TN 37662. Representative: Daniel H. Moore (same address as applicant). Transporting *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk), from Alton, Leicester, Leroy, Oakfield, Phelps, Shortsville, and South Dayton, NY, to Charlotte, NC. (Hearing site: Kingsport, TN, or Washington, DC.)

Note.—Applicant may tack this authority with regular-route authority at Oakfield to serve points between and including Buffalo and Rochester, NY.

MC 109490 (Sub-17F), filed June 20, 1979. Applicant: HEDING TRUCK SERVICE, INC., P.O. Box 97, Union Center, WI 53962. Representative: Ronald E. Laitsch, 113 N. 3rd St., Watertown, WI 53094. Transporting (1) *wood burning furnaces and wood burning boilers*, from Elroy, WI, to points in the United States (except AK and HI), and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction. (Hearing site: Milwaukee, WI; Madison, WI.)

MC 110420 (Sub-826F), filed June 20, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. Transporting *liquid chemicals*, in bulk, from Houston, TX, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 110420 (Sub-829F), filed June 27, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. Transporting *tallow*, in bulk, (1) from the facilities of Iowa Beef Processors, Inc., at or near (a) Amarillo, TX, (b) Dakota City and West Point, NE, (c) Denison and Ft. Dodge, IA, (d) Luverne, MN, and (e) Emporia, KS, to points in IL, IN, MA, MN, NJ, OH, and WI, (2) from the facilities of Iowa Beef Processors, Inc., at or near (a) Amarillo, TX, and (b) Emporia, KS, to points in IA, and MO, and (3) from the facilities of Iowa Beef Processors, Inc., at or near Amarillo, TX, to points in LA and TX, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations (except traffic moving in foreign commerce). (Hearing site: Chicago, IL, or Washington, DC.)

MC 115311 (Sub-361F), filed June 18, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting (1) *board, lumber, poles and posts*, and (2) *materials and supplies* used in the installation, manufacture, and distribution of the commodities in (1) above (except commodities in bulk, in tank vehicles), between those points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities used by Weyerhaeuser Company. (Hearing site: Chicago, IL, or Memphis, TN.)

MC 115311 (Sub-362F), filed June 19, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Paul M. Daniell, P.O. Box 56367, Atlanta, GA 30343. Transporting (1) *paper and paper products*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between those points in the United States in and east of the States of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Champion International Corporation. (Hearing site: Cincinnati, OH, or Atlanta, GA.)

MC 116300 (Sub-53F), filed June 21, 1979. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting *salt cake*, from Weeks Island, LA, to points in MS and TX. (Hearing site: New Orleans, LA.)

MC 116371 (Sub-16F), filed June 18, 1979. Applicant: LIQUID CARGO LINES LIMITED, P.O. Box 269, Clarkson, Ontario, Canada. Representative: John W. Ester, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. To operate as a *common carrier*, by motor vehicle in foreign commerce only, over irregular routes, transporting *liquid sugar*, in bulk, in tank vehicles, from ports of entry on the international boundary line between the United States and Canada, to points in IL, IN, and NJ. (Hearing site: Buffalo, NY, or Detroit, MI.)

Note.—Dual operations may be involved.

MC 118270 (Sub-13F), filed June 26, 1979. Applicant: PRODUCE TRANSPORT SERVICE, INC., 181 West Rampo St., Mahwah, NJ 07403. Representative: Joseph F. Hoary, 121 South Main St., Taylor, PA 18517. Transporting *dairy products*, from Arcade, NY, to points in ME, MA, NH, VT, RI, CT, NJ, NY, PA, MD, DE, NC, SC, VA, GA, FL, and WV. (Hearing site: New York, NY.)

MC 119741 (Sub-214F), filed June 21, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave. NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *bakery goods*, (except frozen), from the facilities of Midwest Biscuit Company, at Burlington, IA, to points in AR, CA, CO, CT, IL, IN, KS, MA, MI, MN, MO, ND, NE, NJ, NM, OH, OK, PA, SD, TX, and WI, restricted to the transportation of traffic originating at the named origin and destined to the

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indicated destinations. (Hearing site: Des Moines, IA.)

MC 127840 (Sub-116F), filed June 26, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17590 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. Transporting *liquid corn products*, from Denver, CO, to points in MT, WY, UT, NM, AZ, and CO. (Hearing site: Des Moines, IA.)

MC 129410 (Sub-14F), filed June 21, 1979. Applicant: ROBERT BONCOSKY, INC., 4811 Tile Line Rd., Crystal Lake, IL 60014. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid corn products*, in tank vehicles, between the facilities of Clinton Corn Processing Co., at (a) Chicago, IL, and (b) Clinton, IA, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Clinton Corn Processing Company, of Clinton, IA. (Hearing site: Chicago, IL.)

MC 129410 (Sub-18F), filed June 21, 1979. Applicant: ROBERT BONCOSKY, INC., 4811 Tile Line Road, Crystal Lake, Illinois 60014. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, Illinois 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid sweeteners*, in bulk, in tank vehicles, between the facilities of Amstar Corporation, at Chicago, IL, on the one hand, and, on the other, points in IN, KY, MI, and OH, under continuing contract(s) with Amstar Corporation, of Chicago, IL. (Hearing site: Chicago IL.)

MC 133591 (Sub-75F), filed June 26, 1979. Applicant: WAYNE DANIEL TRUCK, INC., Post Office Box 303, Mount Vernon, MO 65712. Representative: Charles A. Daniel (same address as applicant). Transporting *cheese*, from the facilities used by the Stockton Cheese Company at Stockton, MO, to Salt Lake City, UT. (Hearing site: Kansas City, or St. Louis, MO.)

Note.—Dual operations may be involved.

MC 134501 (Sub-55F), filed June 21, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. Transporting *furniture, fixtures, and hospital equipment*, from Batesville, IN, to points in the United States (except AK and HI). (Hearing site: Cincinnati, OH, or Indianapolis, IN.)

MC 134821 (Sub-8F), filed June 20, 1979. Applicant: DONALD L. DROSTE, d.b.a., DON DROSTE TRUCKING, INC., 1004 West Carroll St., Portage, WI 53901. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Armco, Inc., at or near South Bend, IN, to points in IA, IL, MN, WI, and the Upper Peninsula of MI, under continuing contract(s) with Armco, Inc., of Middletown, OH. (Hearing site: Chicago IL.)

MC 135410 (Sub-73F), filed June 20, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting (1) *paper and paper products*, and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between the facilities of International Paper Company at or near Ticonderoga, NY, on the one hand, and, on the other, points in IA, IN, IL, KS, KY, MA, MI, MN, MO, NE, OH, PA and WI restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: New York, NY or Washington, DC.)

MC 138841 (Sub-18F), filed June 18, 1979. Applicant: BLACK HILLS TRUCKING CO., a corporation, P.O. Box 2130, Rapid City, SD 57709. Representative: James W. Olson, P.O Box 1552, Rapid City, SD 57709. Transporting *meat and meat products*, from Worthington, MN, and Gibbon, NE, to points in OR and CA, (2) *packing house supplies* from points in CO, IA, IL, and MN, to Rapid City, SD, and (3) *meats, meat products and meat by-products, and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except meat, hides, and commodities in bulk), from the facilities of Black Hills Packing Co., at Rapid City, SD, to points in AR, AZ, CT, DE, ID, IN, KS, ME, MD, MO, MT, ND, NE, NJ, NM, NV, OH, OK, PA, TN, TX, UT, VA, and WY. (Hearing site: Rapid City, SD.)

MC 138861 (Sub-14F), filed June 26, 1979. Applicant: C–LINE, INC., Tourtellot Hill Rd., Chepachet, RI 02814. Representative: Ronald N. Cobert, Suite 501, 1730 M Street NW., Washington, DC 20036. Transporting *lard, edible tallow, margarine, and vegetable oil*, from Bradley, IL, to points in CT, DE, MD, ME, MA, NH, NJ, NY, PA, RI, VT, VA, and DC. (Hearing site: Washington, DC, or Boston, MA.)

Note.—Dual operations may be involved.

MC 139571 (Sub-3F), filed June 20, 1979. Applicant: A. S. MASON, INC., 3110 Gibson St., Bakersfield, CA 93308. Representative: Michael J. Stecher, 256 Montgomery St., San Francisco, CA 94104. Transporting *oilfield materials, equipment, and supplies*, between points in CA, on the one hand, and, on the other, points in NV. (Hearing site: Bakersfield or Los Angeles, CA.)

MC 141811 (Sub-7F), filed June 26, 1979. Applicant: SCHEDULED TRANSPORT, INC., 9000 Keystone Crossing, Indianapolis, IN 46240. Representative: Donald W. Smith, P.O Box 40248, Indianapolis, IN 46240. Transporting *flour*, in bulk, in tank vehicles, from Lake Station, IN, to Massillon, OH. (Hearing site: Omaha, NE.)

MC 142291 (Sub-4F), filed June 26, 1979. Applicant: MDI, INC., 6202 Concord Blvd. East, Inver Grove Hts., MN 55075. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *beverages* (except commodities in bulk), from points in CA, CT, FL, IL, IN, KY, MA, MI, MO, NJ, NY, OH, and PA, to Hibbing, MN, under continuing contract(s) with Sunny Hill Distributors, Inc., of Hibbing, MN. (Hearing site: St. Paul, MN.)

MC 143621 (Sub-19F), filed June 21, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Ave. North, P.O. Box 5748, Nashville, TN 37208. Representative: Sidney T. Stanley (same address as applicant). Transporting *iron and steel articles*, from the facilities of Republic Steel Corporation, at or near Gadsden, AL, to points in IN, KY, OH, and TN. (Hearing site: Nashville, TN, or Birmingham, AL.)

MC 145911 (Sub-1F), filed June 25, 1979. Applicant: TRECHO TRANSPORT, INC., 2756 Short St., New York, NY 14592. Representative: Robert D. Gunderman, 710 Statler Bldg., Buffalo, NY 14202. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in our used by manufacturers and distributors of dairy products, (1) from Friendship, NY, to New York, NY, Coatsville, PA, and points in FL, and (2) from New York, NY, and Ludlow, MA, to Friendship, NY. (Hearing site: Buffalo, NY.)

Note.—Dual operations may be involved.

MC 146021 (Sub-2F), filed June 21, 1979. Applicant: RALPH OWENS TRUCKING CO., INC., 311 Park Ave., P.O. Box 711, Hereford, TX 79045. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Transporting *corrugated fiberboard cartons and corrugated pulpboard cartons*, knocked down, from the facilities of Southwest Forest Industries, at El Paso, TX, to Portales, NM. (Hearing site: El Paso, TX, or Lubbock, TX.)

MC 147291 (Sub-4F), filed June 26, 1979. Applicant: OCCO TRANSPORT, INC., Industrial Park Boulevard, Cokato, MN 55321. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wooden reels*, from Pine River, MN, to St. Joseph, MO, under continuing contract(s) with Durkee Manufacturing Company, of Pine River, MN. (Hearing site: St. Paul, MN.)

MC 147591F filed June 18, 1979. Applicant: UNITED LIMO, INC., "B" Terminal, Philadelphia International Airport, Philadelphia, PA 19153. Representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. Transporting (1) *passengers and their baggage*, in charter operations, and (2) *baggage*, between Philadelphia, PA, on the one hand, and, on the other, points in DE, MD, NJ, NY, PA, VA, and DC, restricted in (2) above to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Philadelphia, PA.)

MC 147601F, filed June 27, 1979. Applicant: MARVIN C. VAN KAMPEN, d.b.a., M. C. VAN KAMPEN TRUCKING, 4495 Herman, SW, Wyoming, MI 49509. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *newspaper and magazine inserts, and lottery tickets*, from the facilities of George F. Valassis & Co., at Livonia, MI, to points in the United States (except AK and HI) under continuing contract(s) with George F. Valassis & Company, of Livonia, MI. (Hearing site: Detroit, MI.)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-2777 Filed 1-28-80; 8:45 am]

BILLING CODE 7035-01-M

[No. FF–C–75]

Status of Forwarder-Affiliated Consolidators

AGENCY: Interstate Commerce Commission.

ACTION: Notice of declaratory order proceeding.

SUMMARY: By petition filed August 10, 1979, petitioner, the Freight Forwarders Institute, seeks a ruling as to whether a regulated freight forwarder may lawfully provide an exempt consolidation service under 49 U.S.C. 10562(4) through a subsidiary or affiliated company.

DATES: Comments on or before: March 14, 1980.

ADDRESSES: Send an original and 15 copies, if possible, of any comments to:

FF–C–75, Room 5416, Office of Proceedings, Interstate Commerce Commission, Washington, DC 20423.

Send one copy of comments to each of petitioner's representatives:

Lawrence Berman, 747 Third Avenue, New York, NY 10017.
S. S. Eisen, 370 Lexington Avenue, New York, NY 10017.

FOR FURTHER INFORMATION CONTACT:

Mark S. Sheffer, (202) 275–7531.
or
Donald J. Shaw, Jr., (202) 275–7292.

SUPPLEMENTARY INFORMATION:

Petitioner states that small, privately owned companies have been performing consolidation services on small package shipments free from regulation pursuant to exemptions granted at 49 U.S.C. 10562. Section 10562(4) specifically provides that the Commission does not have jurisdiction over "the service of an agent of a shipper in consolidating or distributing pool cars when the service is provided for the shipper only in a terminal area in which the service is performed." Under this section, unregulated small package firms perform consolidation services to achieve for shippers lower rates than would apply on individual shipments of small lots.

Petitioner argues that regulated freight forwarders cannot compete for this business unless their independently operated affiliates are accorded exempt status under section 10562(4). As common carriers, freight forwarders must observe and apply the rates and charges contained in their published tariffs. These tariffs generally contain minimum charge provisions that result in higher rates on individual shipments than are available on consolidated shipments. In this regard, petitioner describes the involved type of freight forwarder affiliate operation as follows: (1) consignees notify their vendors to deliver their freight to the affiliate for consolidation; (2) vendors deliver the lading to the affiliate consolidator on a shipper's bill of lading; (3) the shipment is received and receipted by the consolidator; (4) the shipments are consolidated according to the instructions of the consignees (e.g., trailerloads, daily consolidations irrespective of type or weight of freight, holding freight until specific weights are achieved); (5) the consolidator prepares a manifest listing individual shipments in the consolidation; (6) a consolidated shipment on a single bill of lading is tendered to a line-haul carrier.

These consolidations move primarily under class or commodity rates. Class-rated consolidations result in the elimination of minimum charges and the need for combining several minimum charge shipments into a less-than-truckload (LTL) shipment meeting a tariff minimum weight. Commodity rated consolidations achieve weights that take advantage of lower truckload rates.

It is petitioner's contention that regulated freight forwarders through subsidiaries or affiliated companies may lawfully perform the above-type operation free from regulation under section 10562(4). Petitioner requests that the Commission declare this type of operation to be lawful so that freight forwarders may effectively compete with unregulated consolidators of small package lading. Petitioner states that the ruling requested will have no effect of any kind on the quality of the human environment. Because the Bureau of Investigations and Enforcement has expressed an interest in the described type of operation and is involved in enforcement actions concerning similar operations, it will be made a party of record in this proceeding.

No oral hearing is contemplated. Any person (including petitioner) desiring to participate in this proceeding shall file an original and fifteen (15) copies (wherever possible) of written representations, views, or arguments. A copy of each representation shall be served on petitioner's representatives.

Written material or suggestions submitted will be available for public inspection at the Office of the Interstate Commerce Commission, 12th Street and Constitution Ave., Washington, D.C., during regular business hours.

It is ordered: Pursuant to 5 U.S.C. 554(e) and in the sound exercise of the Commission's discretion, a declaratory order proceeding is instituted.

A copy of this order shall be served on the Commission's Bureau of Investigations and Enforcement, which is made a party to the proceeding.

Decided: January 21, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners

Stafford, Clapp, Trantum, and Alexis. Commissioner Stafford dissenting.

Agatha L. Mergenovich,
Secretary.

Commissioner Stafford (Dissenting)

I have serious reservations at to whether the relief sought can be granted by this Commission.

At the outset, it is important to recognize that under the statute, 49 U.S.C. § 10102(8), a freigh forwarder is a person which, among other criteria, assembles and consolidates shipments as part of its carrier obligations. See also, 49 U.S.C. § 10523. Petitioner would have us ignore this crucial element and find that an affiliate of the freight forwarder may perform the same type of service without any supervision by this agency. But we have frequently pierced the corporate veil where the operations of freight forwarders are concerned and have denied analogous relief. Cf., *Texas Package Car Co. F.F. Application*, 280 I.C.C. 325(1944); *Movers' & Warehousemen's Assn. of America, Inc., Petition*, 304 I.C.C. 517(1958). Petitioner's request for relief, if granted, would allow it to do indirectly what it cannot legally to directly under the statute. See my separate expression in *Clipper Express Co., Exempt Agric. Commodities*, 361 I.C.C. 301 (1979).

FR Doc. 80-2782 Filed 1-28-80; 8:45 am]
BILLING CODE 7035-01-M

Floyd D. Mooney, Jr., et al.; Decision on Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed on or before February 18, 1980. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices on or before February 28, 1980, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Review Board Number 5, The Motor Carrier Board, Members Krock, Pohost, and Taylor.

Agatha L. Mergenovich,
Secretary.

MC–FC–78353. By decision of January 17, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132, the Motor Carrier Board approved the transfer to Floyd D. Mooney, Jr. d.b.a. Mooney Transportation of Fairview, KS, of Certificates No. MC–2098 and MC–2098 (Sub–No. 3), issued July 19, 1968, and August 18, 1977, respectively, to Merlin D. Brammer and Galen R. Brammer, a Partnership, d.b.a. Brammer Truck Line, of Sabetha, KS, authorizing the transportation of livestock, from Sabetha, KS, to St. Joseph, and Kansas City, Mo, serving all intermediate and off-route points within 10 miles of Sabetha, from Sabetha over U.S. Hwy 36 to St. Joseph; and From Sabetha over U.S. Hwy 36 to Hiawatha, then over U.S. Hwy 73, to Kansas City. *Feed, twine, farm machinery, and fencing materials*, from St. Joseph and Kansas City, MO, to Sabetha, KS, serving all intermediate and off-route points within 10 miles of Sabetha, from St. Joseph and Kansas City over the above specified routes to Sabetha. *Livestock, grain, feed, petroleum products in containers, and empty containers* for petroleum products, and *wool*, from Sabetha, KS, to St. Joseph, MO, serving the intermediate and off-route points in KS and NE within 10 miles of Sabetha, from Sabetha over U.S. Highway 36, to St. Joseph. *Farm machinery and implements and building materials*, from St. Joseph, MO, over U.S. Hwy 36 to Sabetha, KS, serving the intermediate and off-route points in KS and NE within 10 miles of Sabetha. *Agricultural implements and parts therefor, iron and steel tanks, fencing and building material, livestock, feed, machinery and machinery parts*, From Sabetha, KS to Kansas City, MO, serving the intermediate and off-route points of Kansas City, KS and points in KS and NE within 20 miles of Sabetha, KS and the off-route point of North Kansas City, MO, (a) from Sabetha over U.S. Hwy 36 to St. Joseph, MO, then over U.S. Hwy 71 to Kansas City, and return over the same route with no transportation for compensation except as otherwise authorized, and (b) from Sabetha over U.S. Hwy 36 to Hiawatha, KS, then over U.S. Hwy 73 to junction U.S. Hwy 24, then over U.S. Hwy 24 to Kansas City, and return over the same route with no transportation for compensation except as otherwise authorized. *Livestock and agricultural commodities*, over irregular routes, between Sabetha, KS and points in KS within 10 miles of Sabetha, KS including Sabetha. *Livestock*, over irregular routes, between Sabetha, KS and points in KS within 10 miles of Sabetha, on the one hand, and, on the other, Omaha, NE, and from Sabetha, KS, and points in KS within 10 miles of Sabetha, to Nebraska Cityh, NE, with no transportation for compensation on return except as otherwise authorized. *Dust pollution control equipment*, over irregular routes, from the facilities of MAC Processing Equipment, Inc. at or near Sabetha, KS, to points in the United States (Except AK and HI). Applicants' representative: Erle W. Francis, Suite 719, 700 Kansas Ave., Topeka, KS 66603.

MC–FC–78364. By decision of January 15, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, the Motor Carrier Board approved the transfer to C.A. Perry & Son, Inc., Hobbsville, NC, of Permit No. MC–143676 (Sub-No. 2), issued August 4, 1978, to DAS, Inc., Suffolk, VA, authorizing the transportation of *Pelletized peanut shells*, in bulk, in dump trailers, from Aulander, NC, to Chesapeake, Norfolk, Portsmouth, Suffolk, Virginia Beach, Newport News, and Hampton, VA, under contract(s) with Inter-Protein S.A., of Geneva, Switzerland. Applicants' representative is: Blair P. Wakefield, Suite 1001 First & Merchants National Bank Bldg., Norfolk, VA 23510.

MC–FC–78366. By decision of January 15, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, the Motor Carrier Board approved the transfer to Kermit Redig and Norma Redig, Stanberry, MO, of Certificate No. MC–125094, issued September 12, 1975, to Gary D. Maudlin, Grant City, MO, authorizing the transportation of Crushed Rock, from points in Worth County, MO, to points in Ringgold, Page and Taylor Counties, IA, Transferor's representative is Jerold L. Drake, Box 400, Grant City, MO 64456.

MC–FC–78367. By decision of January 17, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, the Motor Carrier Board approved the transfer to Taylorville Transit, Inc., Taylorville, IL of Certificates No. MC–30450 and MC–30450 (Sub-No. 3), issued March 18, 1942, and August 30, 1950, respectively, to Illinois Highway Transportation Company, a Corporation, authorizing the transportation of *Passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, over a regular route between Peoria, Ill., and Pekin, Ill.: From Peoria across the Illinois River to East Peoria, Ill., thence over Illinois Highway 29 to Pekin, and return over the same route. Service is authorized to or from the intermediate point of East Peoria, Ill., restricted to traffic moving to or from points other than Peoria, Ill.; all other intermediate points without restriction. *Passengers and their baggage, and express, mail, and newspapers*, in the same vehicle with passengers, over regular routes, between Pekin, Ill., and Decatur, Ill.: From Pekin over Illinois Highway 29 to junction Illinois Highway 122, thence over Illinois Highway 122 to junction Illinois Highway 121, and then over Illinois Highway 121 to Decatur. Between Decatur, Ill., and Bloomington, Ill.: From Decatur over U.S. Highway 51 to Bloomington. Between Eureka, Ill., and Peoria, Ill.: From Eureka over U.S. Highway 24 to Peoria. Return over these routes. Service is authorized to and from all intermediate points. Applicants' representatives are: Harold M. Olsen, 712 S. Second St., Springfield, IL 62704; and Robert B. Walker, 915 Pennsylvania Bldg., 425 13th St. NW, Washington, DC 20004.

MC–FC–78371. By decision of January 17, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, the Motor Carrier Board approved the transfer to J. C. Trucking Company, Incorporated, New Haven, CT, of Certificate No. MC–30180 issued May 19, 1954, to Marion D. Hansen and Carl V. Hansen, a Partnership, d.b.a. Dillon Transport, authorizing the transportation of *general commodities* (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requring special equipment, and those injurious or contaminating to other lading), over a regular route, between South Norwalk, CT and New York, NY: From South Norwalk over CT Highway 123 to Norwalk, CT, thence over U.S. Hwy 1 via Darien, CT to New York (also from South Norwalk over CT Hwy 136 to Darien, and then over U.S. Hwy 1 to New York), and return over the same route. Service is authorized to and from all intermediate points, *General commodities*, with exceptions as specified above, over irregular routes, from South Norwalk, CT to points and places in CT, with no transportation for compensation on return except as otherwise authorized. Transferee presently holds authority from the Interstate Commerce Commission in Certificate MC–3991 and subs, authorizing transportation of ladies suit and dress piece goods, cut goods and trimmings from New York, NY to New Haven, CT; finished ladies dressed and suits from New Haven, CT to New York, NY; piecegoods, finished and unfinished dress and finished and unfinished women's suits between New Haven, CT and New York, NY; women's and children's garments from New Haven, CT to Yonkers, NY; piece goods and materials from Yonkers, NY to New Haven, CT; women's and children's dresses and suits, on hangers, from Waterbury, CT to North Bergen, NJ and New York, NY; and materials used in the manufacture of women's and children's dresses from North Bergen, NJ and New York, NY to Waterbury, CT. Applicants' respresentative is Sidney L. Goldstein, 109 Church St., New Haven, CT 06510.

MC–FC–78373. By decision of January 17, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, The Motor Carrier Board approved the tranfer to Arthur Werner Moving & Storage, Inc., of Middle Village, NY, of Certificate No. MC–70691 issued May 5, 1977 to Interstate Van & Storage Co., Inc., of Staten Island, NY, authorizing the transportation of *Household goods as defined* by the Commission, between New York, NY, on the one hand, and, on the other, points in CT, MA, NJ, NY, PA, and RI. Applicants' representative is: Bruce J. Robbins, 118–21 Queens Blvd., Forest Hills, NY 11375.

MC–FC–78375. By decision of January 17, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, the Motor Carrier Board approved the transfer to Ball Motor Line, Inc., Plymouth, FL of Certificate Nos. MC–140003, and MC–140003 (Sub-Nos. 1, 2, 3, 4, 5, and 6), issued February 3, 1975, September 2, 1975, August 7, 1975, September 2, 1975, August 2, 1977, May 31, 1977, and September 12, 1977, respectively, to Ball Motor Line of Apopka, Inc., Plymouth, FL, authorizing the transportation of *Carpet padding*, from Morris, IL, to points in FL, under contract with Sponge Cushion, Inc., of Morris, IL. *Plastic products* (except in bulk), from Leominster, MA, to Albion, MI, and points in FL, under contract with Union Products, Inc., of Leominster, MA. *Electronic equipment* and *components* for electronic equipment, from Brownstown, IN, to De Leon Springs, FL, under contract with Sparton Indiana, Inc., of Brownstown, IN. *Plastic products, machine parts and molds, and materials and supplies* used in the manufacture and distribution of plastic products (except commodities in bulk), (1) from Chicago, IL, to Rockmart, GA, S. Rockwood, MI, and Kissimmee, FL; (2) from S. Rockwood, MI, to Kissimmee and Apopka, FL, Semmes, AL, Rockmart, GA, and Malvern, PA; (3) from Malvern, PA, to Kissimmee and Apopka, FL, Semmes, AL, and Rockmart, GA; (4) from Rockmart, GA, to Kissimmee and Apopka, FL, Malvern, PA; and S. Rockwood, MI; (5) from Kissimmee and Apopka, FL, to Semmes, AL, Rockmart, GA, S. Rockwood, MI, Malvern, PA, and Houston, TX; and (6) from Houston, TX, to Kissimmee and Apopka, FL, S. Rockwood, MI, Semmes, AL, and Rockmart, GA, all under contract with Better Plastics, Inc., of Kissimmee, FL. *Such commodities* as are dealt in by wholesale plumbing and electrical suppliers (except commodities in bulk and those which because of size or weight, require the use of special equipment), from points in AR, GA, IL, IN, KY, LA, MA, MI, MS, MO, NY, OH, PA, RI, TN, TX, VA, WV, and WI, to points in FL, under contract with Hughes Supply, Inc. *Plastic products, machine parts and molds*, and *materials and supplies* used in the manufacture and distribution of plastic products (except commodities in bulk), (1) between Apopka and Kissimmee, FL, Malvern, PA, and S. Rockwood, MI, on the one hand, and, on the other, Hatfield, PA, and Crosswicks, NJ; (2) from Highstown and Garfield, NJ, Sandusky, Tallmadge, and Akron, OH, Leominster, MA, Detroit, MI, Longview, GA, Baytown and Port Orange, TX, Covington, Conyers, and Atlanta, GA, and Travelers Post, SC, to Apopka and Kissimmee, FL, Malvern, PA, and S. Rockwood, MI, restricted in (1) and (2) immediately above, against service from Sandusky, Tallmadge and Akron, OH, to S. Rockwood, MI, under contract with Better Plastics, Inc., of Kissimmee, FL. *Electronic equipment and components*, from Jackson, MI, to Brownstown, IN and De Leon Springs, FL, under contract with Sparton Indiana, Inc. Applicants' representative is: Timothy C. Miller, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-2779 Filed 1-28-80; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

[Civil No. 77-0202]

United States v. Jos. Schlitz Brewing Co.; Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) through (h), that a Proposed Consent Judgment and a

competitive Impact Statement as set out below have been filed with the United States District Court for the District of Hawaii in Civil No. 77-0202, *United States* v. *Jos. Schlitz Brewing Company, et al.* Consenting to this judgment is the defendant Jos. Schlitz Brewing Company; the remaining four defendants have previously consented to a decree in this case which was filed with the Court on November 2, 1979.

The Complaint alleges that beginning at least as early as 1973 and continuing through December of 1974, the defendants and unnamed co-conspirators conspired to fix the price of beer sold to retailers and consumers in the State of Hawaii.

The proposed judgment would enjoin defendant Jos. Schlitz Brewing Company for a period of 10 years entering into any agreement to fix, raise or stabilize wholesale or retail prices of beer in Hawaii. Defendant Schlitz is also enjoined from fixing, reducing or eliminating discounts on beer sold in Hawaii. Defendant is further restrained from directly or indirectly recommending, suggesting or soliciting another person to participate in a conspiracy to fix beer prices and from requiring, compelling or coercing a beer wholesaler to establish any price for beer in Hawaii. The judgment also prohibits defendant from communicating information about Hawaii beer prices to other beer brewers. By the terms of the judgment, the defendant also agrees that, if it should sell all or substantially all of the assets of its beer business in Hawaii while the judgment is in effect, the purchaser will agree to be bound by the provisions of the judgment.

Public comment is invited within the statutory 60-day comment period. Such comment and response thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to Anthony E. Desmond, Chief, San Francisco Office, Antitrust Division, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102.

Dated: January 21, 1980.

Joseph H. Widmar,

Director of Operations.

U.S. District Court; District of Hawaii

United States of America, Plaintiff, v. *Jos. Schlitz Brewing Co.; Muller & Phipps (Hawaii), Ltd.; Eagle Distributors, Inc.; Paradise Beverages, Inc.;* and Foremost-McKesson, Inc., Defendants.

Civil Action No. 77-0202.

Filed: January 21, 1980.

Entered:

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated:

For the plaintiff:

John H. Shenefield,

Assistant Attorney General.

Joseph H. Widmar,

Director of Operations.

Charles F. B. McAleer,

Special Assistant for Judgment Negotiations.

Anthony E. Desmond.

Christopher S Crook.

Gary R. Spratling.

For the defendant:

James M. Clabault,

Executive Vice President—Administration for Jos. Schlitz Brewing Co.

U.S. District Court; District of Hawaii

United States of America, Plaintiff, v. *Jos. Schlitz Brewing Co.; Muller & Phipps (Hawaii), Ltd.; Eagle Distributors, Inc.; Paradise Beverages, Inc.; and Foremost-McKesson, Inc.,* Defendants.

Civil No. 77-0202, Final Judgment.

Filed: January 21, 1980.

Plaintiff, United States of America, having filed its complaint herein on June 8, 1977, and plaintiff and defendant Jos. Schlitz Brewing Company by their respective attorneys, having each consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue,

Now therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto,

It is hereby ordered, adjudged and decreed as follows:

I

This Court has jurisdiction of the subject matter of the action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against each defendant under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment:

(A) "Person" means any individual, partnership, firm, corporation, association, or other business or legal entity;

(B) "Wholesale Price" means the price of beer charged by a beer wholesaler to a beer retailer; and

(C) "Consumer Price" means the price of beer charged by a beer retailer to consumers.

III

This Final Judgment applies to the defendant Jos. Schlitz Brewing Company and to its subsidiaries, successors, assigns, officers, directors, employees, and agents, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Defendant Jos. Schlitz Brewing Company shall require as a condition of the sale or other disposition of all, or substantially all, of the assets of its beer business or operations in Hawaii that the acquiring party agree to be bound by the provisions of this Final Judgment. The acquiring party shall file with the Court, and serve upon the plaintiff, its consent to be bound by this Final Judgment. Nothing in this provision relieves defendant of its obligations under this Final Judgment if, upon selling its beer assets in Hawaii, defendant continues to sell or market its beer products in Hawaii.

V

Defendant Jos. Schlitz Brewing Company is enjoined and restrained from entering into or maintaining any agreement, understanding, plan or program with any other person:

(A) To fix, raise, stabilize or maintain the wholesale price or consumer price of beer in Hawaii;

(B) To fix, reduce or eliminate discounts on the sale of beer in Hawaii; and

(C) To fix the terms or conditions of sale of beer in Hawaii.

VI

Defendant Jos. Schlitz Brewing Company is enjoined and restrained from, directly or indirectly:

(A) Recommending, suggesting, soliciting or directing any person to participate in any agreement, understanding, plan or program that would violate Section V of this Final Judgment;

(B) Requiring, compelling or coercing any beer wholesaler to establish any price, discount or other term or condition of sale on the sale of beer in Hawaii; and

(C) Communicating or exchanging with any person who produces beer any information relating to price, discount, or terms and conditions of sale of beer in Hawaii.

VII

(A) Defendant Jos. Schlitz Brewing Co. shall:

(1) Serve within sixty (60) days after entry of this Final Judgment a copy of this Final Judgment upon each of its officers and directors and upon each of its employees and agents who have any responsibility for establishing prices, discounts or other terms or conditions of sale of beer in Hawaii; and

(2) Serve a copy of this Final Judgment upon each successor to an officer, director, employee or agent described in Paragraph (A)(1) of this Section VII within sixty (60) days after the succession occurs.

(B) Within ninety (90) days after entry of this Final Judgment, defendant shall file with this Court and serve upon plaintiff an affidavit concerning the fact and manner of compliance with Paragraph (A) of this Section VII, such affidavit to include the names, addresses and, where applicable, job titles of all persons served with a copy of this Final Judgment.

VIII

The injunctions contained in this Final Judgment shall not apply to relations between defendant Jos. Schlitz Brewing Co. and a parent or subsidiary of, or corporations under common control with, defendant or between the officers, directors, agents and employees thereof.

IX

(A) For the purpose of determining or securing compliance with this Final Judgment:

(1) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant Jos. Schlitz Brewing Company made to its principal office, be permitted, subject to any legally recognized privilege:

(a) Access during the office hours of defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of defendant relating to any matters contained in this Final Judgment; and

(b) Subject to the reasonable convenience of defendant and without restraint or interference from it, to interview officers, directors, agents, servants or employees of the defendant, who may have counsel present, regarding any such matters.

(2) Defendant, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division made to its principal office, shall submit such reports in writing, under oath if requested, with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

(B) No information or documents obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by defendant to plaintiff, the defendant represents and identifies in writing the material in any such information or documents which is of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendant marks each pertinent page of such material, "Subject to Claim of Protection under the Federal Rules of Civil Procedure," then twenty (20) days notice shall be given by plaintiff to the defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which the defendant is not a party.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or the carrying out of this Final Judgment, for the modification of any of the provisions thereof, for the enforcement of compliance herewith, or for the punishment of violations hereof.

XI

This Final Judgment shall be in full force and effect for a period of ten (10) years from the date of entry.

XII

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge.

U.S. District Court, District of Hawaii

United States of America Plaintiff, v. *Jos. Schlitz Brewing Co.; Muller & Phipps (Hawaii), Ltd.; Eagle Distributors, Inc.; Paradise Beverages, Inc.; and Foremost-McKesson, Inc.,* Defendants.

Civil No. 77-0202, Competitive Impact Statement.

Filed: January 21, 1980.

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16(b)), the United States hereby submits this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

I.

Nature of Proceeding

On June 8, 1977, a single count indictment was returned in the District of Hawaii against the five defendants named herein. The indictment charged a conspiracy to fix the retail and wholesale price of beer sold in Hawaii. On the day the indictment was filed, the Department of Justic also filed this companion civil case, *United States* v. *Jos. Schlitz Brewing Company, et al.,* Civ. No. 77-0202, against the same corporations named in the indictment alleging a conspiracy to fix the retail and wholesale price of beer sold in Hawaii.

The complaint asks the court to find that the defendants have violated Section 1 of the Sherman Act (15 U.S.C. §1) and further requests the court to enjoin the continuance of the conspiracy. Specifically, the complaint requests the court to enjoin the defendants from in any manner, directly or indirectly, conspiring to set the price of beer sold in Hawaii.

The criminal case and the companion civil case each named as defendants four wholesale beer distributors and one brewing company. The brewing company is Jos. Schlitz Brewing Company of Wisconsin. The wholesale beer distributors named were Muller & Phipps (Hawaii), Ltd., Eagle Distributors, Inc. of Hawaii, Paradise Beverages, Inc. of Hawaii, and Foremost McKesson, Inc. of Maryland.

In the criminal case, defendants Muller & Phipps (Hawaii), Ltd., Eagle Distributors, Inc., Paradise Beverages, Inc., and three of the four individual defendants pleaded *nolo contendere* on July 19, 1977, and the remaining three defendants including the Jos. Schlitz Brewing Company pleaded *nolo contendere* on September 10, 1977. On that day, the Jos. Schlitz Brewing Company was fined $50,000.

This proposed consent decree only includes defendant Jos. Schlitz Brewing Company. A consent decree has previously been entered between the United States and the four wholesaler defendants. That decree was filed with the court on November 2, 1979, and is awaiting final approval by the court. Although negotiated separately from the earlier judgment entered into with the wholesalers, the terms of the proposed judgment with Jos. Schlitz Brewing Company are similar insofar as appropriate. Defendant Jos. Schlitz Brewing Company now agrees to accept this proposed consent decree as originally submitted by the Government—that is, a decree containing the same provisions as that entered into by the four wholesaler defendants.

II.

Practices Giving Rise to the Alleged Violation

The wholesale distributor defendants sell or sold beer to retail outlets in the State of Hawaii. Defendant Jos. Schlitz Brewing Company operated a brewery in Honolulu, Hawaii. Muller & Phipps (Hawaii), Ltd. was the wholesale distributor of Schlitz beer products. The other wholesale defendants were distributors for the other major brands of beer sold in Hawaii. At the time of the alleged violation, the wholesaler defendants were the designated posting agents for the major brands of beer sold in Hawaii. As the designated agents, the defendants submitted to the respective county liquor commissions minimum consumer beer prices and their own wholesale prices to be charged to retailers. These prices were the prices at which the defendants were to sell their beer to retailers and the minimum prices at which retail outlets could sell beer to consumers pursuant to Hawaii State law.

The Government contends and was prepared to show at trial that beginning at least as early as 1973 and continuing through December of 1974 defendant Jos. Schlitz Brewing Company encouraged its wholesaler, Muller & Phipps (Hawaii), Ltd., to conspire with the other wholesaler defendants to fix the price of beer sold to retailers and sold to consumers in the State of Hawaii. The Government was also prepared to show that the wholesaler defendants met and agreed upon prices to be charged with the knowledge, advice and consent of defendant Jos. Schlitz Brewing Company. The Government was further prepared to show that the price fixing meetings and discussions occurred prior to filing prices with the county liquor commissions and that the defendants filed and posted prices in accord with their agreement.

III.

Explanation of the Proposed Consent Judgment

The United States and defendant Jos. Schlitz Brewing Company have agreed that the consent judgment in a form negotiated by the parties may be entered by the court at

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any time after compliance with the Antitrust Procedures and Penalties Act. The proposed judgment provides that there has been no admission by anyone with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the consent judgment by the court is conditioned upon a determination of the court that the proposed judgment is in the public interest.

The proposed judgment will prohibit the Jos. Schlitz Brewing Company form entering into any agreement or arrangement with any other person to fix, raise, or stabilize wholesale or consumer prices of beer in Hawaii. The proposed judgment also enjoins the Jos. Schlitz Brewing Company from fixing, reducing or eliminating discounts on beer sold in Hawaii and from fixing the terms or conditions of sale of beer sold in Hawaii. The judgment also prohibits it from engaging in specified types of communications.

Section VI of the proposed judgment enjoins defendant from directly or indirectly recommending, suggesting, soliciting or directing any person to participate in any proscribed agreement as discussed in the preceding paragraph. Defendant Jos. Schlitz Brewing Company is further restrained from requiring, compelling or coercing any beer wholesaler to set or establish a specific price, discount or term of sale for beer in Hawaii. The judgment further prohibits defendant from communicating or exchanging information about the price of beer in Hawaii with any other brewer of beer.

By the terms of the proposed judgment, defendant agrees that if, during the ten-year period of the decree, it should sell all or substantially all of the assets of its beer operations in Hawaii, the purchaser will agree to be bound by the provisions of this judgment. The judgment further provides that, should defendant sell its Hawaiian assets and yet continue to distribute its beer products in Hawaii, the terms of the judgment shall continue to be applicable to defendant Jos. Schlitz Brewing Company.

The proposed judgment is designed to prevent any recurrence of the activities alleged in the complaint. The prohibitions in the judgment are intended to ensure that future price actions of the defendant will be independently determined without the restraining and artificial influences which result from communication and agreements among competitors.

The judgment provides methods for determining the defendant's compliance with the terms of the judgment. Officers, employees, and agents of the defendant may be interviewed by duly authorized representatives of the Department of Justice regarding the defendant's compliance with the judgment. The Government, on reasonable notice, is entitled to examine the records of the defendant for possible violations of the judgment. In addition, upon written request, the Government may require the defendant to submit reports on matters contained in the judgment. Finally, the defendant is required to serve a copy of the judgment upon successors of the officers, directors, and employees of defendant who have responsibility for making beer pricing decisions.

IV.

Exemptions or Modifications in the Decree

Section VIII provides that the prohibitions in the proposed judgment do not apply to relations between defendant Jos. Schlitz Brewing Company and its parent or subsidiary which are under common control. The Government did not object to this provision because the decree is not intended to limit communications between a parent and its subsidiary concerning prices to be charged by the parent or subsidiary but rather to limit communications among competitors concerning the prices to be charged for beer in Hawaii.

V.

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damage such person has suffered, as well as costs and reasonable attorney fees. Entry of the proposed consent judgment in this proceeding will neither impair nor assist bringing of any such private antitrust action. Under the provisions of Section 5(a) (15 U.S.C. § 16(a)), this consent judgment has no *prima facie* effect in the lawsuits which have been or may be brought against these defendants.

VI.

Procedures Available for Modification of the Proposed Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed consent judgment should be modified may send written comments to Anthony E. Desmond, Department of Justice, Antitrust Division, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102, within sixty days. These comments and responses to them will be filed with the court and published in the Federal Register. All comments will be given due consideration by the Department of Justice which remains free to withdraw its consent to the proposed consent judgment at any time prior to entry if it should determine that some modification is necessary. The proposed judgment provides that the court retains jurisdiction. The parties may apply to the court for such orders as may be necessary or appropriate for modification of the judgment.

VII.

Alternatives to the Proposed Consent Judgment Considered by the United States

An alternative to the proposed judgment considered by the Department of Justice was a full trial on the merits. It was determined that such a trial involved substantial expense to the United States and was not warranted since the equitable remedies set forth in the proposed consent judgment will restore competition in the beer industry in Hawaii.

VIII.

Determinative Documents

There are no materials or documents which were determinative in formulating a proposal for a consent judgment and, therefore, none are being filed by the Government pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16(b)).

Dated: January 21, 1980.

Christopher S. Crook,

Gary R. Spratling,

Attorneys, Department of Justice.

[FR Doc. 80-2814 Filed 1-28-80; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Occupational Exposure to Vinyl Chloride and Polyvinyl Chloride

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Extension of time for written comments.

SUMMARY: This notice extends the time period for submission of written comments in response to a request for information on vinyl chloride and polyvinyl chloride which was published on December 18, 1979 (44 FR 74928). The December 18 notice had requested the submission of written comments not later than February 10, 1980. Subsequently, several interested parties requested extension of the deadline by which their comments should be submitted. These requests were based on the need for additional time to coordinate efforts within the industrial groups to collect and collate the information requested in a manner that would be most beneficial to all parties concerned. OSHA finds validity in these requests and has granted an extension of time to submit written comments. Written submissions should be received by the OSHA Docket Officer, no later than May 9, 1980.

DATE: The period for submitting written comments is extended to May 9, 1980.

ADDRESS: The information requested on December 18, 1979 (44 FR 74928) should be submitted to the Docket Officer, Docket No. H-034, Room S6212, U.S. Department of Labor, OSHA, 200 Constitution Ave., N.W., Washington, D.C. 20210. (202) 523-7894.

FOR FURTHER INFORMATION CONTACT: Dr. Peter Infante, Office of Carcinogen Identification and Classification, Directorate of Health Standards Programs, Room N3718, U.S. Department of Labor, OSHA, 200 Constitution Ave., N.W., Washington, D.C. 20210, Telephone (202) 357-0325.

Signed at Washington, D.C. this 22nd day of January, 1980.

Eula Bingham,

Assistant Secretary, Occupational Safety and Health.

[FR Doc. 80-2569 Filed 1-28-80; 8:45 am]

BILLING CODE 4510-26-M

Approved State Plans for Enforcement of State Standards; Approval of Utah Plan Supplement

AGENCY: Occupational Safety and Health Administration.

ACTION: OSHA assumes authority for enforcement of standards at Hill Air Force Base in the State of Utah.

SUMMARY: This document approves a State-initiated change supplement which reflects the Utah State Attorney General's opinion that Utah does not have authority to enter Hill Air Force Base for the purpose of making general inspections under the Utah Occupational Safety and Health Act. The Occupational Safety and Health Administration assumed full authority for making inspections at the Hill Air Force Base on February 1, 1979.

EFFECTIVE DATE: January 29, 1980.

FOR FURTHER INFORMATION CONTACT: Charles Boyd, Project Officer, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-3613, Washington, D.C. 20210, (202) 523-8081.

SUPPLEMENTARY INFORMATION: By letter dated March 26, 1979, the State submitted a State-initiated plan change to OSHA's Denver Regional Office. The letter provided notice that the State does not have authority to enter the Hill Air Force Base for the purpose of making general inspections under the Utah Occupational Safety and Health Act, and that Federal OSHA will assume authority for the enforcement of standards at the base. This action was taken as a result of OSHA Instruction STP 2.14 which asked regional administrators to determine the application of State safety and health provisions to private employers in areas of "exclusive Federal Jurisdiction". The Directive also requested States with approved State plans to provide a State attorney general's ruling as to the status of Federal enclaves within the State and the intentions of the State to seek entry for the purpose of enforcing State occupational safety and health laws.

Description of the Supplement

Pursuant to Subpart E of 29 CFR Part 1953, the State submitted a State-initiated plan change which provides for Federal OSHA to assume full authority for the enforcement of safety and health standards at the Hill Air Force Base, effective February 1, 1979.

Location of the Plan and Its Supplement for Inspection and Copying

A copy of the State's plan and its supplement may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3613, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 1554, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294; and the Utah Industrial Commission, UOSHA Offices at 448 South 400 East, Salt Lake City, Utah 84111.

Public Participation

Under § 1953.2(c) of this chapter the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Utah supplement described above is consistent with the provisions in OSHA Instruction STP 2.14, Application of State Safety and Health Provisions to private Employers in Areas of "Exclusive Federal Jurisdiction". Accordingly, it is found that further public comment is unnecessary.

Decision

After careful consideration, the Utah plan supplement described above is hereby approved under Subpart E of 29 CFR Part 1953 of this Chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

Signed at Washington, D.C., this 22nd day of January 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-2808 1-28-80; 8:45 am]

BILLING CODE 4510-26-M

[V-80-1]

General Electric Co.; Application for Variance and Denial of Interim Order

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTIONS: (1) Notice of application for variance and interim order; (2) Denial of interim order.

SUMMARY: This notice announces the application of General Electric Company for a variance and interim order pending a decision on the application for variance from the standard prescribed in 29 CFR 1910.22(c) concerning covers and/or guardrails for open pits. It also announces the denial of the interim order.

DATES: The last day for interested persons to submit comments is February 28, 1980. The last date for affected employers and employees to request a hearing on the application is February 28, 1980.

ADDRESSES: Send comments or requests for hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue NW., Room N3662, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination, at the above address, telephone: (202) 523-7144.

or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, Gateway Building, Suite 2100, 3535 Market Street, Philadelphia, Pa. 19104.

U.S. Department of Labor, Occupational Safety and Health Administration, 147 W. 18th Street, Erie, Pa. 16501.

Notice of Application

Notice is hereby given that General Electric Company, Transportation Systems Business Division, 2901 East Lake Road, Erie, Pa. 16531 has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and an interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1910.22(c) which state that covers and/or guardrails shall be provided to protect personnel from the hazards of open pits, tanks, vats, ditches, etc.

The address of the place of employment that will be affected by the application is as follows: General Electric Company, Transportation Systems Business Division, 2901 East Lake Road, Erie, Pa. 16531.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of

their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by § 1910.22(c) which requires that all open pits be guarded by covers and/or guardrails.

The applicant states that it has several spray paint rooms in which locomotives and transit cars are painted. These rooms are completely enclosed and access is limited to authorized personnel only. Each paint spray room is approximately 100' long and 20' wide. Down the center of each room is a pit approximately 98' long, 4' wide and 5' deep. Along the edge of the pit are rails on which locomotives and transit cars are rolled over the pit for painting. The pit is used to provide access for painting the undersides of the vehicles. The walls and floor of the pit are constructed of concrete. The area is well lighted with explosion proof batteries of 1000' candle powered lights. When the rooms are not in use a 20' candle powered light remains on at all times so that it is not necessary to enter a dark room to turn on lights. The pit is also well lighted from within.

The applicant states that the locomotives are 56'–72' in length and 10'3" wide, while the transit cars are 60'–65' in length. Thus, when a vehicle is being painted, most of the pit is covered by the vehicle. A 30" wide metal crossover plate is also at each end of the pit during the painting operation to permit the painters to cross to the other side.

Most of the painting (top, front, and rear of the vehicles) is done primarily by painters riding in "man carriers" or personnel carriers. Each carrier has a 3'7" wide work platform enclosed on three sides by heavy steel guardrails. The carriers are mounted on a steel verticle column which runs horizontally along the edge of the room on rails located in the floor and ceiling. They were designed, manufactured and used by the applicant since 1968. According to the applicant, the carriers have made the painting of transportation vehicles safer and the use of scaffolds and ladders unnecessary.

After painting the vehicles, the applicant states that the painters use long handled industrial brooms, shovels, and scrapers to push paper and other debris into the pit. They then enter the pit to remove the debris. A steel ladder is permanently affixed at one end of each pit for entering and exiting the pit. During the sweeping operation, the painters do not come closer than 2'–3' from the edge of the pit. According to the applicant, it requires three to seven 8-hour shifts for the two-man painter crews to paint the vehicles, and ½ to 1½ hours for two painters to complete the cleaning.

The applicant states that all employees are given a written job hazard analysis which specify each job step, any potential accident or hazard possibility (including warnings about the presence of the pit), and the required safe practices to follow and equipment to be used. The areas in and around the pit are kept free of oil and grease and all paint spills are cleaned-up immediately to avoid slipping hazards. Paint room employees are required to wear safety shoes with non-skid soles.

The applicant further states that the close proximity to the pit required to install guardrails will subject the painters to the pit hazard for a far greater period of time. In addition, the material handling hazards associated with guardrail installation present a greater hazard to employees during the cleanup operation than the presence of the unguarded pit. Therefore, the applicant states that its present procedures, including thorough training and long experience of its painters protect its employees better than would the covers and/or guardrails required by the standard.

A copy of the application for variance will be made available for inspection and copying upon request at the location listed above. All interested persons, including employers and employees, who believe they would be affected by the grant or denial of the application for variance are invited to submit written data, views, and arguments relating to the application no later than February 28, 1980. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than February 28, 1980, in conformity with the requirements of 29 CFR 1905.15. Submission of written comments and request for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

Denial of Interim Order

The applicant argues that the time necessary to install guardrails and the material handling hazards associated with guardrail installation present a greater hazard to the employees during the cleanup operation than the presence of the unguarded pit. However, it appears from the application for variance and interim order and from a variance investigation at the facility to obtain additional information, that the applicant is providing adequate guarding in its open shop and general assembly areas that can be easily adaptable to the open pits in the spray rooms without creating potential material handling hazards. This guard—a link chain connected to stanchions located at appropriate intervals in the pit—can be installed and removed in a very brief period of time. Futhermore, the presence of a guard would eliminate the possibility of other employees falling into the pit if they should trespass into the danger area to gain access to other locations in the facility. Therefore, it does not appear that the applicant's procedures will provide to the affected employees a place of employment as safe as that which would be provided if the applicant complied with 29 CFR 1910.22(c).

Therefore, it is ordered, pursuant to the authority in 29 CFR 1905.11(c) and the Secretary of Labor's Order No. 8–76 (41 FR 25059), that the interim order requested by General Electric Company be, and is hereby denied. General Electric Company shall give notice of the denial of this interim order to employees affected thereby by the same means required to be used to inform them of the application for a variance.

Signed at Washington, D.C. this 17th day of January 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-2809 Filed 1-28-80; 8:45 am]

BILLING CODE 4510-26-M

Office of the Secretary

[TA-W- 6385 and 6386A]

ADA Co., Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 19, 1979 in response to a worker petition received on November 12, 1979 which ws filed on behalf of workers and former workers producing women's sportswear at Ada Manufacturing Company, East Flat Rock, North Carolina. The investigation revealed that the correct name of the company is Ada Company, Incorporated. The investigation was expanded to include the New York, New York sales office of Ada Company, Incorporated. It is concluded that all of the requirements have been met.

U.S. imports of the following categories of women's, misses' and children's apparel increased both absolutely and relative to domestic production in 1978 compared to 1977: slacks and shorts, and suits.

The Department of Labor surveyed the customers of Ada Company, Incorporated. The survey revealed that customers representing a substantial portion of sales reduced their purchases from Ada in 1978 compared to 1977. These customers also increased their purchases of imported ladies' suits, slacks and shorts in the same time period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's sportswear produced at Ada Company, Incorporated of East Flat Rock, North Carolina contributed importantly to the decline in sales of production and to the total or partial separation of workers of that plant and at the New York, New York sales office of Ada Company, Incorporated. In accordance with the provisions of the Act, I make the following certification:

All workers of the East Flat Rock, North Carolina plant and of the New York, New York sales office of Ada Company, Incorporated, who became totally or partially separated from employment on or after November 8, 1978 and before March 2, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2803 Filed 1-28-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6510]

Angel Knitwear, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 3, 1979 in response to a worker petition received on November 26, 1979 which was filed by International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sweaters at Angel Knitwear, Incorporated, No. 1, North Bergen, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's, misses' and children's sweaters decline absolutely in 1978 compared with 1977 and in the first 11 months of 1979 compared with the first 11 months of 1978.

Production and employment at Angel Knitwear, Incorporated No. 1, North Bergen, New Jersey, increased in 1979 compared with 1978.

A survey conducted by the Department of Labor of the only customer of Angel Knitwear, Incorporated, No. 1, shows that this customer did not import ladies' sweaters and did not contract with foreign manufacturers for ladies' sweaters during 1977, 1978 and January-November 1979.

Conclusion

After careful review, I determine that all workers of Angel Knitwear, Incorporated, No. 1, North Bergen, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2804 Filed 1-28-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6421]

Bleeker Street Division, Jonathan Logan, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 21, 1979 in response to a worker petition received on November 14, 1979 which was filed on behalf of workers and former workers producing misses' and petite dresses and suits at Bleeker Street, New York, New York. The investigation revealed that Bleeker Street is a division of Jonathan Logan, Incorporated, New York, New York and that it produces primarily women's dresses. The investigation revealed that the New York location houses showrooms and offices. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's and misses' dresses decreased absolutely in the first three quarters of 1970 compared to the same period in 1978.

The Department of Labor conducted a survey of customers of Bleeker Street who reduced purchases of women's dresses from Bleeker Street in the first eleven months of 1979 compared to the same period in 1978. Most of the customers surveyed either reduced purchases of imported women's dresses or increased purchases of domestically-made dresses by a greater amount than they increased purchases of imports. The customers who reduced purchases of domestic dresses and increased purchases of imported dresses, in the first eleven month of 1979 compared to the same period in 1978, were not a significant proportion of Bleeker Street's decline in sales.

Conclusion

After careful review, I determine that all workers of the Bleeker Street Division of Jonathan Logan, Incorporated, New York, New York, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

V 45 / 20 JAN 29 80 UMI

Signed at Washington, D.C., this 21st day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2805 Filed 1-28-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6411]

Bomar Crystal Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 21, 1979 in response to a worker petition received on November 16, 1979 which was filed on behalf of workers and former workers producing quartz crystals for Bomar Crystal Company, Middlesex, New Jersey. It is concluded that all of the requirements have been met.

U.S. imports of quartz crystals increased absolutely during January through September of 1979 compared with the same period of 1978.

The Department of Labor conducted a survey of customers purchasing quartz crystals from Bomar Crystal Company. The survey revealed that some customers have increased reliance upon foreign sources of quartz crystals while decreasing their reliance upon Bomar Crystal Company.

Bomar Crystal Company was issued a certificate of eligibility by the U.S. Department of Commerce on May 3, 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with quartz crystals produced at Bomar Crystal Company, Middlesex, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certifications:

All Workers of Bomar Crystal Company, Middlesex, New Jersey engaged in employment related to the production of quartz crystals who became totally or partially separated from employment on or after November 13, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2799 Filed 1-28-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6463]

Delcor Fashions Co., Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 28, 1979 in response to a worker petition received on November 26, 1979 which was filed on behalf of workers and former workers producing ladies' coats at Delcor Fashions Company, Incorporated, Jersey City, New Jersey. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's coats and jackets increased both absolutely and relative to domestic production and consumption from 1977 to 1978.

A survey of manufacturers from whom Delcor Fashions did contract work revealed that although the manufacturers did not use foreign contractors nor increase purchases of imported women's coats, sales by the manufacturers declined. A survey of customers of the manufacturers (retail outlets) revealed that as a percentage of total purchases of women's coats by the retail outlets, imported coats increased from 1977 to 1978 and continued to increase during the first half of 1979 compared to the first half of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's coats produced at Delcor Fashions Company, Incorporated, Jersey City, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Delcor Fashions Company, Incorporated, Jersey City, New Jersey who became totally or partially separated from employment on or after November 20, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2798 Filed 1-28-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6519]

Grand Garment Co., Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 3, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's dresses at Grand Garment Company, Incorporated of Elizabeth, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's and misses' dresses decreased in the January-September period of 1979 compared to the same period of 1978.

Grand Garment Company, Incorporated is a garment contractor producing women's dresses for manufacturers. A survey of manufacturers of the Grand Garment Company revealed that the manufacturers did not purchase imported women's dresses or use foreign contractors. A Departmental survey revealed that customers of the manufacturers relied almost entirely on domestic sources for their purchases of women's dresses.

Conclusion

After careful review, I determine that all workers of Grand Garment Company, Incorporated in Elizabeth, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2797 Filed 1-28-80; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 8, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 8, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 13th day of December 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Alman Frocks, Inc. (ILGWU)	Elizabeth, N.J	11/26/79	11/20/79	TA-W-6,624	Dresses.
G & H Decoy, Inc. (company)	Henryetta, Okla	12/12/79	12/6/79	TA-W-6,625	Hunting decoys.
General Tire & Rubber Co. (workers)	Wabash, Ind	12/10/79	11/29/79	TA-W-6,626	Auto assemble parts.
Genre, Inc. (workers)	New York, N.Y	10/30/79	10/26/79	TA-W-6,627	Ladies' sportswear and dresses.
K-D Tool Manufacturing Co. (USWA)	Lancaster, Pa	12/10/79	12/6/79	TA-W-6,628	Specialty handtools for auto repair.
Mercer Rubber Co. (Independent Rubber Workers Union).	Trenton, N.J	12/10/79	12/5/79	TA-W-6,629	Rubber expansion joints, and built hoses and conveyor belts.
Raybestos-Manhattan, Inc. (company)	Stratford, Conn	12/10/79	12/5/79	TA-W-6,630	Automatic transmission friction materials.
Smithtown Manufacturing Co., Inc. (workers)	Commack, N.Y	12/7/79	11/30/79	TA-W-6,631	Ladies' blouses and sportswear.
Thompson Tool Co., Inc. (company)	Norwalk, Conn	12/10/79	12/6/79	TA-W-6,632	Roto-stripper.

[FR Doc. 80-2795 Filed 1-28-80; 8:45 am]

BILLING CODE 4510-28-M

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Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below not later than February 8, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 8, 1980.

The petitions filed in this case are available for inspection at the office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 22nd day of January 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Adams Electronics (AW)	Bangor, Mich	1/10/80	1/7/80	TA-W-6,828	Coils and components for color TV circuit boards and pulse wiper and windshield wipers for automobiles.
American Can Co. (workers)	Hammond, Ind	1/9/80	1/2/80	TA-W-6,829	Process template for cans, also ends on cans.
Archer Rubber Company (BLGWU)	Milford, Mass	1/5/80	12/31/79	TA-W-6,830	Coated fabrics and rain apparel.
Braswell Shipyards, Inc. (workers)	Boston, Mass	1/14/80	1/8/80	TA-W-6,831	Ship repair yards.
Brown Shoe Co. (Teamsters)	St. Louis, Mo	1/15/80	1/9/80	TA-W-6,832	Warehousing of ladies' and children's shoes.
Crouse-Hinds Co., Arrow Hart Division (IBEW)	Lewiston, Maine	1/14/80	1/9/80	TA-W-6,833	Specialty switches.
Lampson & Sessions Company, Kent Division (UAW).	Kent, Ohio	1/16/80	1/8/80	TA-W-6,834	Nuts.
Loree Footwear Corp. (workers)	Freeport, Maine	1/18/80	1/14/80	TA-W-6,835	Manufacturing and selling of dresses and casual shoes for women.
Morris Levitz & Sons (ILGWU)	New York, N.Y	1/18/80	1/14/80	TA-W-6,836	Ladies' raincoats.
National Standard Co., Worcester Wire Division (workers).	Worcester, Mass	1/16/80	1/11/80	TA-W-6,837	Specialty wire.
Precision Components, Inc. (UAW)	Warren, Mich	1/14/80	1/9/80	TA-W-6,838	Stamping, machining, welding for door hinges, brake pedals, hood latches, and spring seats.
Reed City Tool & Die Corp. (workers)	Reed City, Mich	1/11/80	1/7/80	TA-W-6,839	Plastic injection and compression molds for automobiles.
U.S. Steel Corp., Universal Atlas Cement Division (United Cement, Lime & Gypsum Workers International Union).	Northampton, Pa	1/14/80	12/28/79	TA-W-6,840	Specialty white cement.

[FR Doc. 80-2802 Filed 1-28-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W- 6398 and 6398A]

Jumping Jacks Shoes; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 19, 1979 in response to a worker petition received on November 12, 1979 which was filed on behalf of workers and former workers producing infants' shoes and school shoes at the Ponce, Puerto Rico plant of Jumping Jacks Shoes. The investigation revealed thea Jumping Jacks Shoes operated two plants in Ponce, Puerto Rico: Bristol Shoe Company, and Foot-Mits. The Bristol Shoe Company plant (TA-W-6398) produced primarily boys' leather and athletic shoes. The Foot-Mits plant (TA-W-6398A) produces primarily infants' shoes. With respect to all workers at the Foot-Mits plant who were not Foot-Mits Branch support area workers, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Total production of all shoes at the Foot-Mits plant increased in quantity from 1977 to 1978 and from 1978 to 1979.

With respect to all workers at the Bristol Shoe Company engaged in employment related to the production of boys' athletic shoes, and to all Foot-Mits Branch support area workers at the Foot-Mits plant engaged in employment related to the production of boys' athletic shoes at the Bristol Shoe Company, it is concluded that all of the requirements have been met.

U.S. imports of athletic shoes increased in quantity relative to domestic production in the January-September period of 1979, compared with the same period of the previous year.

Company imports of boys' athletic shoes increased in quantity in the July-September period of 1979, compared with the same period of the previous year.

The Department of Labor conducted a survey of customers of Jumping Jacks. The survey revealed that several of the customers surveyed decreased purchases of boys' athletic shoes from Jumping Jacks and increased purchases of imported boys' athletic shoes in the January-November period of 1979, compared with the same period of the previous year.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with boys' athletic shoes produced at the Bristol Shoe Company, Ponce, Puerto Rico, of Jumping Jacks Shoes contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at the Bristol Shoe Company, Ponce, Puerto Rico of Jumping Jacks Shoes engaged in employment related to the production of boys' athletic shoes, and all Foot-Mits Branch support area workers at the Foot-Mits plant, Ponce, Puerto Rico of Jumping Jacks Shoes engaged in employment related to the production of boys' athletic shoes at Bristol Shoe Company, who became totally or partially separated from employment on or after June 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2801 Filed 1-28-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6127 and 6128]

National Standard Co.; Affirmative Determination Regarding Application for Reconsideration

On January 4, 1980, the United Steelworkers of American requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of the Columbiana and Childersburg, Alabama, plants of National Standard Company. This Determination was published in the Federal Register on December 14, 1979, (44 FR 72676).

The petitioners maintain that production and employment losses at the Columbiana and Childersburg, Alabama, plants of National Standard Company may have occurred as a result of a corporate transfer in the production of tire cord wire from the domestic production facilities of Columbiana and Childersburg to the foreign production operations of National Standard Company in the United Kingdom and Canada. Such information, if verifiable, would contradict information provided the Department in the course of its initial investigation.

After review of the application, I conclude that this claim of the petitioners is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. This application is, therefore, granted.

Signed at Washington, D.C., this 22d day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

FR Doc. 80-2800 Filed 1-28-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6484]

Satralloy, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the

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results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 29, 1979 in response to a worker petition received on November 14, 1979 which was filed on behalf of workers and former workers producing ferro-alloys at Satralloy, Incorporated, Steubenville, Ohio. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of low carbon ferrochrome declined both absolutely and relative to domestic production in the period 1976 to 1978 and in January–September 1979 compared to the same period in 1978. Imports of high carbon ferrochrome declined both absolutely and relative to domestic production in January–September 1979 compared to the same period in 1978.

In 1968 a new stainless steel refining process was introduced. This process, known as Argon-Oxygen-Decarburization (AOD), allows stainless steel producers to substitute lower cost high carbon ferrochrome for higher cost low carbon ferrochrome. Most major domestic stainless steel producers have installed AOD capacity. This has resulted in an overall decline in demand for low carbon ferrochrome and increased demand for high carbon ferrochrome.

Satralloy, Inc. discontinued production of low carbon ferrochrome in February 1979. Production of high carbon ferrochrome at Satralloy increased in 1978 compared to 1977 and during January–September 1979 compared to the same period in 1978. The increased production of high carbon ferrochrome more than offset the decline in production of low carbon ferrochrome.

Conclusion

After careful review, I determine that all workers of Satralloy, Incorporated, Steubenville, Ohio are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22d day of January 1980

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-2799 Filed 1-28-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6538]

Steven Knitting Mills, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 4, 1979 in response to a worker petition received on November 29, 1979 which was filed on behalf of workers and former workers producing double knit fabrics at Steven Knitting Mills, Incorporated, Hialeah, Florida. The investigation revealed that the subject firm also produced single knit fabric. In the following determinations, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of gray woven fabric decreased in the first nine months of 1979 compared to the same period in 1978. Gray knitted fabrics are competitive with gray woven fabrics. Imports of gray knits are negligible and present no threat to the domestic gray fabric industry.

All fabric knit at Steven Knitting was sold through its parent company. The parent company used one other domestic facility, in addition to Steven Knitting, as a source for knit fabric. Sales of fabric by the parent firm increased in FY (March–February) 1979 compared to FY 1978 and in the period March–November 1979 compared to the same period in 1978.

Steven Knitting was closed for production in November 1979. All production activities previously performed at Hialeah, Florida will be transferred to another commonly-owned facility in Spartanburg, South Carolina. The transfer is being made for reasons relating to efficiency rather than to lost business.

Conclusion

After careful review, I determine that all workers of Steven Knitting Mills, Incorporated, Hialeah, Florida are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2806 Filed 1-28-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6475]

Vinco Fashions Co., Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 28, 1979 in response to a worker petition received on November 26, 1979 which was filed on behalf of workers and former workers producing ladies' coats at Vinco Fashions Company, Incorporated, Jersey City, New Jersey. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's coats and jackets increased both absolutely and relative to domestic production and consumption from 1977 to 1978.

A survey of manufacturers for whom Vinco Fashions did contract work revealed that although manufacturers did not use foreign contractors nor increase purchases of imported women's coats, sales by the manufacturers declined. A survey of customers of the manufacturers (retail outlets) revealed that as a percentage of total demand for women's coats by the retail outlets, imports increased from 1977 to 1978 and continued to increase during the first half of 1979 compared to the first half of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's coats produced at Vinco Fashions Company, Incorporated, Jersey City, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Vinco Fashions Company, Incorporated, Jersey City, New Jersey who became totally or partially separated from employment on or after November 20, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-2807 Filed 1-28-80; 8:45 am]

BILLING CODE 4510-28-M

MERIT SYSTEMS PROTECTION BOARD

Federal Employees: Review of Penalty in Agency Decisions Appealed Pursuant to 5 U.S.C. 7701: Opportunity to File Amicus Brief in Board Proceedings

AGENCY: Merit Systems Protection Board.

ACTION: Notice of opportunity to file amicus brief in Board proceedings.

SUMMARY: The Merit Systems Protection Board, on its own motion, has reopened the cases of *Curtis Douglas* v. *Veterans Administration, Douglas C. Jackson* v. *Department of the Air Force, John Dennis* v. *Department of the Navy, John B. Nocifore* v. *Department of the Navy, James K. Anderson* v. *Department of the Air Force, Luis A. Jiminez* v. *Department of the Army* and *Joseph F. Cicero* v. *The Veterans Administration.* These cases have been reopened to determine (1) whether under 5 U.S.C. 7701 the "preponderance of evidence" standard should be applied by presiding officials of the Board in determining whether the punishment imposed by an agency in an adverse action is sustained and (2) whether presiding officials of the Board may modify or reduce a penalty where it is determined that the penalty imposed by the agency does not promote the efficiency of the service. Amicus briefs will be considered by the Board, if received in the office of the Secretary at the address below on or before February 15, 1980.

ADDRESS: Office of the Secretary, 1717 H Street N.W., Room 226, Washington, D.C. 20419.

FOR FURTHER INFORMATION CONTACT: Donald L. Cox, Deputy General Counsel on (202) 653-7165.

By order of the Board.

Ruth T. Prokop,

Chairwoman.

January 22, 1980.

[FR Doc. 80-2593 Filed 1-28-80; 8:45 am]

BILLING CODE 6325-20-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-259, 50-260, and 50-296]

Tennessee Valley Authority; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 56 to Facility Operating License No. DPR-33, Amendment No. 51 to Facility Operating License No. DPR-52 and Amendment No. 29 to Facility Operating License No. DPR-68 issued to Tennessee Valley Authority (the licensee), which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Units Nos. 1, 2 and 3, located in Limestone County, Alabama. The amendments are effective as of the date of issuance.

These amendments change the Technical Specifications to permit operation of Unit No. 3 while Unit No. 1 is down for refueling by providing a temporary second off-site power source to the Unit No. 3 4-KV shutdown boards through the 4-KV bus tie board.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated January 14, 1980, (2) Amendment No. 56 to License No. DPR-33, Amendment No. 51 to License No. DPR-52, and Amendment No. 29 to License No. DPR-68, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 14th day of January 1980.

For the Nuclear Regulatory Commission.

Vernon L. Rooney,

Acting Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 80-2776 Filed 1-28-80; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-16519; File No. 57-820]

American Stock Exchange, Inc., et al.; Notice of Receipt of Plan Filed Pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934

AGENCY: Securities and Exchange Commission.

ACTION: Notice and request for comments.

SUMMARY: The Commission gives notice that the five national securities exchanges authorized by the Commission to trade standardized options contracts have filed with the Commission, under section 11A(a)(3)(B) of the Securities Exchange Act, a joint industry plan which, if approved by the Commission, would authorize joint action on their part in the development and operation of a system for the collection and dissemination of consolidated options last sale reports and quotation information.

DATES: Comments should be submitted on or before March 14, 1980.

ADDRESSES: Persons wishing to submit written views should file six copies thereof with George A. Fitzsimmons, Room 892, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to File No. S7-820 and will be available for public inspection at the Commission's Public Reference Room,

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Room 6101, 1100 L Street, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: William S. Muller, Division of Market Regulation, Securities and Exchange Commission, Room 351, 500 North Capitol Street, Washington, D.C. 20549, (202) 272–2415.

SUPPLEMENTARY INFORMATION: On October 24, 1979, the American Stock Exchange, Inc. ("Amex"), the Chicago Board Options Exchange, Inc. ("CBOE"), the Midwest Stock Exchange, Inc. ("MSE"), the Pacific Stock Exchange, Inc. ("PSE") and the Philadelphia Stock Exchange, Inc. ("Phlx") jointly filed with the Commission pursuant to section 11A(a)(3)(B) of the Securities Exchange Act of 1934 (the "Act") [1] a proposed plan for the collection and dissemination of options last sale and quotation information (the "Plan") to be administered by the Options Price Reporting Authority ("OPRA"). The above-named exchanges have asked the Commission to approve the proposed Plan under section 11A(a)(3)(B) of the Act, thereby authorizing joint action on their part in the development and operation of a consolidated options quotation and last sale reporting system pursuant to such Plan.

I. Background

On January 22, 1975, the Commission, by order,[2] granted registration as a securities information processor to OPRA, upon finding, inter alia, that OPRA was so organized and had the capacity to carry out its functions as a securities information processor. OPRA consists of a committee of representatives of those national securities exchanges authorized by the Commission to trade standardized options contracts (the OPRA "participants"). The functions which OPRA performed, and which necessitated its registration as a securities information processor, were set forth in a plan filed as part of OPRA's Form SIP registration statement.[3] Briefly, that plan called for OPRA to administer a consolidated system for the collection and dissemination of reports of all completed transactions in options occurring on the national securities exchanges authorized by the Commission to trade options.

On January 31, 1979, OPRA filed with the Commission an amendment to its Form SIP registration statement in which OPRA proposed to amend its plan for reporting consolidated options last sale reports to include authority for the collection and dissemination of consolidated options quotation information from the OPRA participants. In addition, OPRA requested that the Commission authorize joint action on the part of the OPRA participants in proceeding to develop consolidated options quotation system. OPRA stated that it would not begin the necessary negotiations to effectuate that system until such authorization had been received.[4]

After reviewing the substance of OPRA's request, the Division of Market Regulation informed OPRA that, in light of both the Commission's desire to begin developing a national market subsystem for options,[5] and OPRA's desire for Commission authorization for its participants to act jointly, it would be appropriate for the Commission to consider OPRA's entire Plan, including those provisions relating to the reporting of consolidated options last sale reports as well as quotation information, under Section 11A(a)(3)(B) of the Act.[6]

Accordingly, the Division asked that the Amex, CBOE, MSE, PSE and Phlx refile the entire Plan as a joint industry plan under section 11A(a)(3)(B).[7]

II. Description of the Plan [8]

A. Administration

OPRA would be authorized to administer this Plan and to make all policy decisions under the Plan, in particular (1) setting standards governing the format for reporting last sale and quotation information, and (2) determining the level of fees to be paid by approved vendors, subscribers and news services. Action by OPRA under the Plan would require an affirmative vote of ⅔ of the total voting authority of the participants.

The voting rights of the parties under the Plan would be weighed; each participant's percentage of the total voting authority would correspond to such party's percentage of the total number of compared trades submitted for clearing to the Options Clearing Corporations during the previous year. No participant, however, would be entitled to more than 50 percent of the total voting authority. New participants in the Plan would be entitled to 10 percent of the voting authority, until an annual determination as to such party's percentage of the total options clearing volume could be made. Regular meetings of the parties would be held on not less than 10 days notice, and generally would be rotated among the locations of the principal offices of the parties.

B. Data Processing Functions

The Plan would authorize OPRA to perform some or all of the data processing functions under the Plan, or to enter into a contract with a data processing service organization to perform such functions.[9]

C. Options Last Sale Reports

The Plan would require each participant promptly to collect and transmit to OPRA, in a format prescribed by OPRA or its data processing service organization, reports of all sales of options contracts on the participant exchanges. The reports would include the options series, the number of contracts sold, the price at which the contracts were sold, the market of execution, and any late or out of sequence trades, cancels, spread transactions, opening ranges, trading halts and suspensions, or similar matters. The Plan states that current last sale reports would be disseminated through the OPRA system on a uniform, nondiscriminatory basis over a network to vendors,[10] subscribers,[11] and news services.[12]

D. Options Quotation Reports

Under the Plan, each exchange would be required to collect and transmit to the OPRA system bids and offers for each series of options traded on the exchange in a format specified by OPRA or its data processing service organization. The bids and offers would have to be sufficient in number and timeliness to reflect the current state of the market in such security, and would have to reflect the premium bid or offer, the options series, the market in which the quote was entered, and any information concerning cancels, corrections, trading halts and suspensions, market conditions or similar matters. Current quotation information would be disseminated by OPRA on a uniform, non-discriminatory basis to vendors, subscribers and news services.

D. Vendors, Subscribers and News Services

Under the Plan, only those vendors, subscribers and news services that have been approved by, and have entered into agreements with, OPRA would be entitled to receive last sale reports and quotation information. The Plan would authorize OPRA to disapprove or revoke its previous approval of any vendor, subscriber or news service, if such entity is found to have violated a provision of its contract with OPRA, or if such action is necessary or appropriate in the public interest or for the protection of investors. An entity which has been disapproved or has had a prior approval revoked could appeal such action to the Commission in accordance with its rules and regulations.[13]

The Plan would require that OPRA's agreements with vendors and subscribers in uniform, non-discriminatory, and designed to assure the timely, orderly and reliable dissemination of last sale reports and quotation information on a current basis. Such agreements could impose upon vendors and subscribers reasonable fees for the receipt of options information. The Plan also would permit OPRA to charge a fee, in addition to that charged for the right to receive options information, for the receipt of such information directly from the OPRA system rather than through an intermediary.

The Plan would require that OPRA's agreements with vendors provide, generally, that last sale reports and quotations information may be received by such persons only for the purpose of providing options information to approved subscribers. Vendor agreements would have to provide uniform specifications governing the format for the transmission of last sale reports and quotation information on behalf of OPRA. The Plan also would require that vendor agreements contain provisions prohibiting vendors from excluding reports or otherwise discriminating on the basis of the market in which a transmission or quotation took place.

With respect to agreements with news services, the Plan would require that such agreements prohibit news services from furnishing current options information to any persons other than the news media. Under the Plan, information furnished by a news service to the new media could not be published during the fifteen-minute period following transmission of the information to the news service.

E. Financial Matters

Each participant exchange would be responsible for its own costs in collecting and reporting to OPRA the last sale reports and quotation information prescribed by the Plan. The Plan would require each exchange to share equally in all start-up costs relating to the implementation and administration of the Plan, but administrative and operating costs would be apportioned at the end of each calendar quarter on the basis of the number of compared trades submitted by each party to the Options Clearing Corporation during that quarter. Net revenues from operation of the Plan would be shared by the participants on the same weighted basis.

F. Withdrawal; Nontransferability of Rights Under the Plan

The Plan would permit any exchange to withdraw from OPRA on six months notice, provided that withdrawal would not extinguish a withdrawing party's liability for its share of the start-up costs. A participant exchange could not transfer its rights under the Plan to have last sale reports and quotation information disseminated through the OPRA system.

G. Amendments to the Plan

The Plan provides that it could be amended by two-thirds vote of the total voting authority; but, under the Plan, such amendment would not be effective until approved by the Commission.

III. Request for Public Comment

In order to assist the Commission in determining whether to authorize joint action pursuant to the Plan on the part of the Amex, CBOE, MSE, PSE, and Phlx, interested persons are invited to submit written views, data and arguments with respect to the Plan, not later than March 14, 1980. The Commission believes, as a preliminary matter, that the terms of the Plan would not be in compliance with the standards for Section 11A(a)(3)(B) plans set forth in proposed Rule 11Aa3–2.[14] Thus, commentators may wish to address whether it is appropriate for the Commission to approve the Plan at this time. Particularly, the Commission seeks comments on three aspects of the Plan which the Commission believes may warrant additional consideration prior to approval.

First, the Commission requests comments on whether the OPRA Plan, like the other joint industry plans approved by the Commission, should specify the current level of those fees which the Plan authorizes OPRA to charge for its services or, at least, the manner in which OPRA would calculate these fees. Absent the inclusion of fees or the manner in which they would be

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[1] Section 11A(a)(3)(B) of the Act authorizes the Commission, in furtherance of its directive to facilitate the establishment of a national market system, by rule or order, to authorize or require self-regulatory organizations to act jointly with respect to matters as to which they share authority under this title in planning, developing, operating or regulating a national market system (or a subsystem thereof) or one or more facilities thereof. On December 7, 1979 the Commission issued a release proposing and seeking comments on Rule 11Aa3–2 under the Act. Securities Exchange Act Release No. 16410 (December 7, 1979), 18 SEC Docket 1306 (December 26, 1979). If adopted, proposed Rule 11Aa3–2 would require self-regulatory organizations requesting joint action under section 11A(a)(3)(B) to file a plan with the Commission, and would prescribe, among other matters, the information which must be included in such plans and certain standards with respect to their operation.

[2] Securities Exchange Act Release No. 11335 (January 22, 1975), 41 FR 4090.

[3] *See* Rule 11Ab2–1 under the Act, 17 CFR 240.11Ab2–1.

[4] *See* letter from Michael Meyer, counsel to OPRA, to Andrew M. Klein, Director, Division of Market Regulation (January 31, 1979).

[5] *See* Securities Exchange Act Release No. 15671 (March 22, 1979), 44 FR 20360.

[6] Letter from Andrew M. Klein to Michael L. Meyer (June 20, 1979).

[7] The Commission previously has dealt with requests by national securities exchanges for authorization to act jointly under section 11A(a)(3)(B) of the Act, by requiring the filing of a plan specifying the nature of the joint action to be undertaken. Two such plans have been temporarily approved by the Commission. The first, the Consolidated Quotation ("CQ") Plan, authorizes joint industry action in the development and operation of a consolidated quotation system for equity securities reported in the consolidated transaction reporting system. *See* Securities Exchange Act Release No. 15009 (July 26, 1978), 43 FR 34651. The second, the Intermarket Trading System ("ITS") Plan, authorizes joint action on the part of those national securities exchanges participating in the plan, in the development and operation of a system providing an intermarket communications linkage. *See* Securities Exchange Act Release No. 14661 (April 14, 1978), 43 FR 17419. As noted *supra* at n. 1, the Commission recently issued a proposed rule which, if adopted, would prescribe certain standards with respect to information which must be included in plans filed under section 11A(a)(3)(B).

[8] Although the Commission is at this time considering whether to approve the entire OPRA Plan, under section 11A(a)(3)(B) of the Act, OPRA currently is administering the options last sale reporting system pursuant to its registration as a securities information processor under section 11A(b)(2) of the Act.

[9] In discussions with the Commission's staff, OPRA has represented that the Securities Industry Automation Corporation ("SIAC") which currently performs the data processing functions with respect to the options last sale reporting system, has been selected on the basis of competitive bidding to perform such functions for quotation reporting.

[10] The Plan defines a vendor as a person that receives current option last sale reports or quotation information provided by OPRA or provided by a vendor in connection with such person's business of distributing, publishing, or otherwise furnishing such information on a current basis to a subscriber, news service, or to another vendor.

[11] The Plan defines a subscriber as a person that receives current last sale reports or quotations information provided by OPRA or provided by a vendor for its own use or for distribution on a non-current basis, other than in connection with its activities as a vendor.

[12] The Plan defines a news service as a person that receives last sale reports or quotation information provided by OPRA or provided by a vendor on a current basis in connection with such person's business of furnishing such information to newspapers, radio and television stations and other news media, for publication that does not take place within the 15-minute period following the time when the information has been first published by OPRA.

[13] Section 11A(b)(5)(A) of the Act, among other matters, authorizes the Commission to review, on its own motion or upon application by any aggrieved person, an action by a registered securities information processor which prohibits or limits any person in respect of access to services offered by such processor.

[14] Securities Exchange Act Release No. 16410 (December 7, 1979), 18 SEC Docket 1306 (December 26, 1979).

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calculated in the OPRA Plan, the level of such fees could be changed unilaterally by OPRA in its contracts with vendors, news services and subscribers.

OPRA maintains that inclusion of its fees in the Plan would require amendment thereof any time OPRA wished to change its fees, and would involve the Commission in a "burdensome rate-making preceeding that would be the consequence of requiring approval of specific rates." [15] It would seem anomalous, however, in light of the statutory requirement that self-regulatory organizaions, acting individually, file any proposed fee changes with the Commission,[16] for the Commission to permit such organizations, when acting jointly, to proceed on a unilateral basis. Furthermore, consideration of amendments to the OPRA Plan dealing solely with fees would not involve the Commission in rate-making, but could simply involve a determination, among other matters, of whether OPRA had a reasonable basis upon which to derive the fee schedule.[17] Therefore, the Commission believes, as a preliminary matter, that the current level of OPRA's fees, or the method by which such fees would be calculated, should be included as part of the Plan.

Second, the Commission requests comments on whether the Plan should define the time parameters within which quotations and reports of completed transactions must be entered into the system. Although the Plan requires that "late" transactions be identified and that quotations reflect the "current" market, it does not define what those terms means.

OPRA maintains that it is not practical in an active options market to keep track of the precise time that has elapsed since the execution of a trade, and that it would not be appropriate to specify the time within which quotations must be transmitted to OPRA because no Commission rule requires the collection and dissemination of options quotation information.[18] While the Commission does not feel it necessary, at this time, to prescribe the time parameters within which last sale reports and quotation information for options must be reported, the Commission does believe that OPRA should set some reasonable standards to assure that investors receive timely information and to provide some meaning to the terms of the Plan.

Finally, the Commission requests comments on whether the voting arrangements of the Plan provide for a reasonable allocation of authority among the participant exchanges. Under the Plan's voting provisions, the CBOE and the Amex, because of their respective trading volumes, together would control more than 70 percent of the voting authority and thus would be able to take any action they desired even if the other participants were opposed to such action. Furthermore, the CBOE, by virtue of its control of more than one-third of the voting authority, could veto any action proposed by the other participants.

The Commission notes that both the CQ and ITS Plans [19] contain provisions under which each participating self-regulatory organization is granted a single vote in the administration of the respective plans. Additionally, the Commission's staff has suggested that the Consolidated Tape Association consider amending its plan,[20] which contains weighted voting arrangements similar to those under the OPRA Plan, to provide a more equitable governing structure.[21] While the Commission understands that the weighted voting arrangements of the OPRA Plan reflect the wide disparity of trading volume and resulting system usage among the participant exchanges, the Commission is not convinced at this time that such arrangements are reasonable.[22]

Persons wishing to make written submissions should file six copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to File No. S7–807 and will be available for public inspection at the Commission's Public Reference Room, 1100 L Street, Washington, D.C.

For the Commission.

George A. Fitzsimmons,

Secretary.

January 22, 1980.

[FR Doc. 80–2761 Filed 1–28–80; 8:45 am]

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[15] *See* letter from Michael L. Meyer to William Muller of the Commission's staff (October 24, 1979) ("October 24 Letter").

[16] *See* Section 19(b)(3)(A) of the Act.

[17] *Cf.* Section 11A(c)(1)(D) of the Act.

[18] *See* October 24 Letter.

[19] *See* n. 7 *supra.*

[20] The Consolidated Tape Association Plan, declared effective by the Commission on May 10, 1974, involves joint action on the part of national securities exchanges in the operation of the consolidated transaction reporting system contemplated by Rule 17a–15 under the Act [17 CFR 240.17a–15]. *See* Securities Exchange Act Release No. 10787 (May 10, 1974), 39 FR 17799.

[21] *See* letter from Andrew M. Klein, Director of the Division of Market Regulation, to Robert C. Hall, Chairman of the CTA (November 17, 1978).

[22] The Commission has received letters from the PSE and Phlx claiming that the present weighted voting arrangements under the Plan are unfair. Letter from Charles J. Henry, President of the PSE, to Andrew M. Klein (May 24, 1979); letter from Nicholas A. Giordano, Executive Vice President of the Phlx, to Andrew M. Klein (July 13, 1979). These letters are available for inspection in the public file referenced above. Recently, a proposal by the PSE to amend the Plan to provide each participant with one vote failed by a weighted vote of two against (Amex and CBOE), and three in favor (MSE, PSE and Phlx).

[File No. 81–580]

Hycel, Inc.; Application and Opportunity for Hearing

January 18, 1980.

Notice is hereby given that Hycel, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an ordering exempting the Applicant from the obligation to file all reports required to be filed pursuant to sections 13 and 15(d) of the 1934 Act.

The Application states in part that:

1. On June 12, 1979 pursuant to shareholder authorization, Hycel was merged with Hyco Tendering Corporation. The surviving corporation was subsequently merged with Hyco Holding Corporation and became known as Hycel Inc. There exists neither public investors nor any public trading market for Hycel securities.

2. The merger of June 12, 1979 as well as the activities of Hycel and its financial condition were thoroughly disclosed in Hycel's proxy statement which was sent to stockholders on or about May 21, 1979.

3. Effective June 26, 1979 the Applicant ceased to be registered under section 12(b) of the 1934 Act pursuant to a Form 25 filed by the American Stock Exchange.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person no later than February 12, 1980 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capital Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–2762 Filed 1–28–80; 8:45 am]

BILLING CODE 8010–01–M

Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

January 18, 1980.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 2(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following common stocks:

APL Corporation, $.10 Par Value (File No. 7–5135); AZL Resources, Inc., No Par Value. (File No. 7–5136); Alaska Airlines, Inc., $1 Par Value (File No. 7–5137); Amrep Corporation, $.10 Par Value (File No. 7–5138); Bancal Tri-State Corporation, $15 Par Value (File No. 7–5139); Bandag, Inc., $1 Par Value (File No. 7–5140); Bangor Punta Corporation, $1 Par Value (File No. 7–5141); Craig Corporation, $.25 Par Value (File No. 7–5142); DWG Corporation, $1 Par Value (File No. 7–5143); Deltona Corporation; $1 Par Value (File No. 7–5144; Mobil Corporation, $7.50 Par Value (File No. 7–5145); and Moore McCormack Resources, Inc., $2.50 Par Value (File No. 7–5146).

These securities are listed and registered on one or more other national securities exchanges.

Interested persons are invited to submit on or before February 11, 1980, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–2759 Filed 1–28–80; 8:45 am]

BILLING CODE 8010–01–M

Pacific Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

January 18, 1980.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in:

Resorts International, Inc., Class A common stock, $1 Par Value (File No. 7–5150) and Class B common stock, $1 Par Value (File No. 7–5151).

These securities are listed and registered on one or more other national securities exchanges.

Interested persons are invited to submit on or before February 11, 1980, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–2758 Filed 1–28–80; 8:45 am]

BILLING CODE 8010–01–M

[File No. 22–10227]

Shell Oil Co.; Application and Opportunity for Hearing

January 18, 1980.

Notice is hereby given that Shell Oil Company, a Delaware corporation, (the "Applicant") has filed an application pursuant to Section 310(b)(1)(ii) of the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act"), for a finding by the Securities and Exchange Commission ("Commission") that the trusteeships of Bankers Trust Company, a New York corporation ("Bankers"), under

(i) An indenture qualified under the Trust Indenture Act, dated as of April 15, 1977 (the "1977 Indenture"), between Bankers and the Applicant, and

(ii) An indenture of trust and first preferred ship mortgage not so qualified, dated as of December 7, 1979 (the "New Indenture"), between Bankers and United States Trust Company of New York, a New York corporation (the "Owner Trustee"), not in its individual capacity but solely as trustee under a trust agreement, dated as of October 15, 1979 (the "Trust Agreement"), between the Owner Trustee and General Electric Credit Corporation of Delaware, a Delaware corporation,

are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers from acting as trustee under the 1977 Indenture or the New Indenture.

Section 310(b) of the Act provides, in part, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect (with certain exceptions), that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), such other indenture may be excluded from the operation of this provision if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as such under one of such indentures.

The Applicant alleges the following:

1. The 1977 Indenture relates to the issuance by the Applicant of its 8% Debentures Due 2007 (the "1977 Debentures"), which were issued in an aggregate principal amount of $300,000,000. A copy of the 1977 Indenture was filed as an exhibit to the Applicant's Registration Statement No. 2–58580 under the Securities Act of 1933, as amended (the "Securities Act"), and is incorporated herein by reference. The 1977 Debentures issued under the 1977 Indenture are subject to redemption, in part, on April 15 or October 15, 1988, and on each April 15 or October 15

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thereafter, to and including October 15, 2008, at 100% of the principal amount thereof together with accrued interest to the date fixed for redemption, pursuant to the terms of the mandatory sinking fund provided in the 1977 Indenture.

2. The 1977 Debentures constitute "indenture securities" and the Applicant is the "obligor" thereon, as such terms are defined in Section 303 of the Trust Indenture Act.

3. The Owner Trustee intends to finance a part of the acquisition cost of a steam screw oil tanker (Shipbuilder's Hull No. 614) built at Newport News, Virginia, to be documented under the laws of the United States and to be named the U.S.T. PACIFIC (the "Vessel"), through the placement with institutional investors of approximately $58,194,691 principal amount of 10.125% Secured Ship Financing Notes (the "1979 Notes"), issued pursuant to the New Indenture and payable in 46 consecutive semiannual installments commencing on the date six months after the Delivery Date of the Vessel. The Delivery Date, as defined in the New Indenture, means the date on which the Vessel is simultaneously (i) delivered to the Owner Trustee by the shipbuilder, (ii) demise chartered by the Owner Trustee to VLCC II Corporation, a Delaware corporation (the "Demise Charterer"), under the demise charter dated as of the date of the New Indenture (the "Demise Charter"), and (iii) time chartered by the Demise Charterer to the Applicant under the time charter dated as of the date of the New Indenture (the "Time Charter"). The 1979 Notes will be secured by the Vessel and by all right, title and interest of the Owner Trustee in and to (i) the Demise Charter (excluding the fees, expenses and disbursements of the Owner Trustee, after the Delivery Date, payable pursuant to the Trust Agreement), (ii) the guaranty agreement from the Applicant to the Owner Trustee dated as of the date of the New Indenture (the "Guaranty") guaranteeing the due and punctual payment of all sums specified in the Demise Charter as payable by the Demise Charterer to the Owner Trustee, (iii) the assignment from the Demise Charterer to the Owner Trustee of certain of its rights, title and interest in and to the Time Charter, and (iv) other documents and income more fully described in the granting clause of the New Indenture, all as provided in the New Indenture. Copies of a proof of the participation agreement and other documents (combined as a single document) setting forth the terms and provisions governing the Notes which are to be issued under the New Indenture are annexed to the Applicant's application as Exhibit A. It is anticipated that the New Indenture will be executed and the initial issuance of the 1979 Notes thereunder will occur in December 1979.

4. Section 2(4) of the Securities Act states that "with respect to equipment-trust certificates or like securities, the term 'issuer' means the person by whom the equipment or property is or is to be used * * *." As the 1979 Notes to be issued under the New Indenture will be secured, *inter alia*, by the Vessel, and as the proceeds of the sale of the 1979 Notes will be used to finance a part of the acquisition cost of the Vessel, such notes may arguably be "equipment-trust certificates of like securities" within the meaning of Section 2(4). Since the Applicant will be the time charter of the Vessel under the Time Charter, the Vessel may arguably be said to be "equipment or property * * * to be used" by the Applicant, and the Applicant thus may arguably be construed to be (considering also the Guaranty) the "issuer" of the 1979 Notes for purposes of the Securities Act. Under this anaylsis, upon the issuance of the 1979 Notes, a conflict conceivably may exist under Section 310 (b) of the Trust Indenture Act with respect to Bankers' trusteeship under the 1977 Indenture due to such Section's statement that "an indenture trustee shall be deemed to have conflicting interest if * * * such trustee is trustee under another indenture under which any other securities * * * of any obligor upon the indenture securities are outstanding * * *."

5. The Applicant's obligations under the 1977 Indenture and its obligations under the Time Charter and under the Guaranty are wholly unsecured and rank equally *pari passu* and therefore there is no material likelihood of a conflict of interest should Bankers be obligated to proceed against the Applicant under the 1977 Indenture and the New Indenture. The Commission has made a similar finding with respect to the trusteeship of Bankers under an indenture by order of the Commission in April, 1979 (administrative proceeding file number 3–5682, in the matter of Shell Oil Company).

6. The Applicant is not in default under the 1977 Indenture or the New Indenture.

The applicant has waived (i) notice of hearing, (ii) hearing on the issues raised by its application, and (iii) all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice in connection with this matter.

For a further statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than February 12, 1980, request that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2760 Filed 1-28-80; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-579]

Econetics, Inc.; Notice of Application and Opportunity for Hearing

January 18, 1980.

Notice is hereby given that Econetics, Inc. (the "Applicant"), has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order exempting it from certain requirements of sections 13 and 15(d) of the 1934 Act, specifically, the requirement to file quarterly reports on Form 10–Q, and the requirement to include audited financial statements in its annual reports on Form 10–K.

The Applicant states, in part:

(1) That it has ceased all manufacturing activities and is presently selling only products previously manufactured by it, as a distributor for another.

(2) That operations have not reflected net income in any of the past five fiscal years.

(3) The unaudited financial report for the six month period ended June 30, 1979, indicated Econetics sustained a loss of $29,648.

(4) Based on the transfer records there is presently little or no activity in the common stock.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person no later than February 12, 1980 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2756 Filed 1-28-80; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

January 18, 1980.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following common stocks:

Valero Energy Corporation (formerly Coastal States Gas Producing Co.), $1 Par Value (File No. 7–5147); Gelco Corporation, $.50 Par Value (File No. 7–5148); and Modern Merchandising, Inc., $.01 Par Value (File No. 7–5149).

These securities are listed and registered on one or more other national securities exchanges.

Interested persons are invited to submit on or before February 11, 1980, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2757 Filed 1-28-80; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-528]

Missouri Acceleration Corp.; Application and Opportunity for Hearing

January 18, 1980.

Notice is hereby given that Missouri Acceleration Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order exempting the Applicant from the obligation to file an annual report on Form 10–K for the year ended December 31, 1978.

The Application states in part that:

1. The Applicant is a Missouri corporation which sold securities pursuant to a registration statement which became effective on December 14, 1977.

2. As of January 1, 1978 (the beginning of Applicant's year) the approximate number of holders of securities to which the Applicant's registration statement related was fourteen.

3. On January 15, 1979 the Applicant filed with the Commission a Notice pursuant to Rule 15d–6.

4. There is no public trading in the securities of the Applicant which related to the registration statement which triggered reporting requirements under section 15(d) and section 13 of the 1934 Act.

In the absence of an exemption, Applicant would be required to file certain periodic reports with the Commission pursuant to sections 13 and 15(d) of the 1934 Act, including the Annual Report on Form 10–K for the fiscal year ended December 31, 1977. The Applicant argues that no useful purpose would be served in filing the required periodic reports.

Notice is further given that any interested person no later than February 12, 1980 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2754 Filed 1-28-80; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-597]

Wentworth Manufacturing Co.; Application and Opportunity for Hearing

January 16, 1980.

Notice is hereby given that Wentworth Manufacturing Company ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for an order exempting Applicant from the provisions of sections 13 and 15(d) of the 1934 Act.

The Applicant states in part:

(1) In December 1976, Applicant ceased its normal business operations except for the completion of orders then on hand, the disposition of inventory, collection of accounts receivable and liquidation of accounts payable.

(2) The Applicant sold its only remaining asset on September 21, 1979, and is currently engaged in liquidation and dissolution. An initial distribution of $.85 per share has commenced and is expected to be completed in the near future.

(3) To satisfy any contingent liabilities which may occur during the next year, the Applicant has retained approximately $.05 per share, or about $20,000. Applicant undertakes to report any final distribution on Form 8–K.

(4) The Applicant has no ongoing business, no operations and there is no trading in its securities.

In the absence of an exemption Applicant will be required to file certain reports with the Commission. The Applicant contends that no useful purpose would be served in filing the required reports because it has no business or operations and there is no longer a trading interest in its securities.

For a more detailed statement of the information presented all persons are

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referred to said application which is on file in the Office of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person, not later than February 12, 1980 may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-2755 Filed 1-28-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 80-3]

Advisory Committee on Explosives Tagging; Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act [5 U.S.C. App. I 10(a)(2)), notice is hereby given that a closed meeting of the Advisory Committee on Explosives Tagging will be held on February 13, 1980, at the Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC, room 5041, beginning at 9:30 a.m. (EST).

The Advisory Committee will discuss detailed proprietary, scientific, and technical data concerning various candidate explosive tagging systems that can be used in the detection and identification of explosives. The information which will be presented and discussed during the meeting will constitute trade secrets and commercial or financial information obtained from a person and privileged or confidential within the ambit of 5 U.S.C. 552b(c)(4). Accordingly, the meeting of the Advisory Committee will, under authority of section 10(d) of the Federal Advisory Committee Act (5 U.S.C. App. I 10(d)), not be open to the public.

All communications regarding this meeting of the Advisory Committee should be addressed to the Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Attention: Mr. James K. Syverson, Committee Manager, room 4211.

Signed: January 15, 1980.

G. R. Dickerson,

Director.

[FR Doc. 80-2760 Filed 1-28-80; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE TREASURY

CUSTOMS SERVICE

[T.D. 80-44; FIS-9-05-AAO]

Reimbursable Services, Excess Cost of Preclearance Operations

January 24, 1980.

Notice is hereby given that pursuant to § 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with pay period beginning February 10, 1980.

Installation:	Biweekly excess cost
Montreal, Canada	$14,599
Toronto, Canada	24,574
Kindley Field, Bermuda	7,263
Nassau, Bahama Islands	13,519
Vancouver, Canada	13,341
Winnipeg, Canada	1,062
Freeport, Bahama Islands	11,394
Calgary, Canada	9,855
Edmonton, Canada	2,769

Mitchell A. Levine,

Acting Comptroller.

[FR Doc. 80-2794 Filed 1-28-80; 8:45 am]

BILLING CODE 4810-22-M

[Supplement to Department Circular Public Debt Series No. 4-80]

Series N-1982 Notes; Interest Rate

January 24, 1980.

The Secretary announced on January 23, 1980, that the interest rate on the notes designated Series N-1982, described in Department Circular—Public Debt Series—No. 4-80, dated January 17, 1980, will be 11½ percent. Interest on the notes will be payable at the rate of 11½ percent per annum.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 80-2763 Filed 1-28-80; 8:45 am]

BILLING CODE 4810-40-M

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Meeting

The Twenty-First meeting of the National Commission on Unemployment Compensation is scheduled to be held at the Hilton Inn, Greensboro, North Carolina. The meeting will begin at 9:00 a.m. on Thursday, February 7, and conclude at 2:00 p.m. on Saturday, February 9. The full agenda follows:

Thursday, February 7

1. 9:00 a.m.–12:30 p.m. Commission discussion: Report on Recent Developments. Continuation of discussion on Reinsurance.

Break 12:30

2. 2:00 p.m.–5:30 p.m. Commission Discussion: Reinsurance. Commission Discussion: FUTA Taxable Wage Base and Rate for 1981 and 1982.

Break (5:30 p.m.)

Friday, February 8

3. 8:30 a.m.–12:30 p.m. Commission discussion: Consideration of Federal Requirements Relating to Experience Rating.

Break (12:30 p.m.)

4. 2:00 p.m.–5:30 p.m. Commission discussion: Preliminary Discussion of Administration of Unemployment Insurance and Employment Service. Presentation of draft of *Report on Administrative Financing*—Robert Goodwin.

Break (5:30 p.m.)

Saturday, February 9

5. 8:30 a.m.–12:30 p.m. Commission Discussion: Completion of Agenda Items.

Adjourn (2:00 p.m.)

Telephone inquiries and communications concerning this meeting should be directed to: James M. Rosbrow, Executive Director, National Commission on Unemployment Compensation, 1815 Lynn Street, Room 440, Rosslyn, Virginia 22209 (703) 235-2782.

Signed at Washington, D.C. this 25th day of January, 1980.

James M. Rosbrow,

Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 80-686 Filed 1-28-80; 10:00 am]

BILLING CODE 4510-30-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 27872 (Sub-6)]

Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)—Reorganization Plan

AGENCY: Interstate Commerce Commission.

ACTION: Postponement of hearing and vacation of prior notice.

SUMMARY: The Commission is postponing the hearings on the Reorganization Plan in this proceeding scheduled to commence on January 28, 1980, pursuant to an order of the Honorable Ralph McGarr of the United States District Court for the Northern District of Illinois, Eastern Division. The Commission is also vacating the notice setting forth procedures in this proceeding.

DATE: This notice is effective January 29, 1980.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg (202) 275-7245.

SUPPLEMENTARY INFORMATION: On January 7, 1980, we published a notice in the **Federal Register** establishing expedited procedures for considering the Reorganization Plan of Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) (Rock Island) under Section 77(d) of the Federal Bankruptcy Act (11 U.S.C. Section 205(d)), 45 FR 1151.

On January 8, 1980, the Honorable Ralph McGarr of the United States District Court for the Northern District of Illinois, Eastern Division (Bankruptcy Court) entered Order No. 221, which requires the Commission not to commence proceedings on Rock Island's Reorganization Plan until the Brankruptcy Court had transmitted the Plan to the Commission on or before February 5, 1980. Furthermore, the Court has also ordered the Commission not to publish procedures for considering the plan until after transmittal of the plan.

In light of Order No. 221, we will vacate our Notice of January 7, 1980 (44 FR 1511) and postpone the beginning of hearings on the Rock Island Reorganization Plan until after transmittal of the Plan by the Court. Those parties who have indicated an intent to participate need not renotify the Commission when a new schedule is published. A service list will be disseminated.

The Rock Island commenced the present reorganization proceeding on March 17, 1975. A reorganization Plan was finally filed with the Bankruptch Court almost 5 years later on December 28, 1979. In developing our procedures for hearing the Rock Island Reorganization Plan we intended to: (1) expedite the lengthy Rock Island reorganization process; (2) provide for continued essential service over Rock Island's lines by private industry after March 2, 1980; and (3) eliminate the drain on the Federal Treasury caused by directed service.

When the Bankruptcy Court finally submits the reorganization plan to us, we will again attempt to devise an expedited, yet fair, process for consideraiton of this matter.

It is ordered:

1. Our Notice of January 7, 1980 (45 FR 1511) directing hearings on the Rock Islands Reorganization Plan is vacated. The hearings described in the Notice are postponed until further notice.

Decided: January 21, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum and Alexis.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-3022 Filed 1-28-80; 11:49 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 20
Tuesday, January 29, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:15 p.m. on Wednesday, January 23, 1980, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, to consider the following matters.

Application of Hongkong and Shanghai Banking Corporation, Hong Kong, for Federal deposit insurance for its branches located at 5 World Trade Center, New York, New York, and 50 Bowery, New York, New York.

Application of Korea First Bank, Seoul, Korea, for Federal deposit insurance for its branch located at 11 East Adams Street, Chicago, Illinois.

Applications of National Bank of Pakistan, Karachi, Pakistan, for Federal deposit insurance for its branches located at 39 South LaSalle Street, Chicago, Illinois, and One United Nations Plaza, New York, New York.

Application of Maize State Bank, Maize, Kansas, a proposed new bank, to be located at 400 East Sedgwick, Maize, Kansas, for Federal deposit insurance.

The meeting was held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

In calling the meeting, the Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Mr. Lewis G. Odom, Jr., acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), that Corporation business required its consideration of these matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: January 24, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-172-80 Filed 1-28-80; 4:30 pm]

BILLING CODE 6714-01-M

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January 23, 1980.

FEDERAL ENERGY REGULATORY COMMISSION.

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: 10 A.M., January 30, 1980.

PLACE: Room 9306, 825 North Capitol Street, NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Acting Secretary. Telephone (202) 357-8400

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Office of Public Information.

Power Agenda—437th Meeting, January 30, 1980, Regular Meeting (10 a.m.)

CAP-1. Docket No. ER78-80, Central Illinois Public Service Co.
CAP-2. Docket No. ER77-69, Central Illinois Public Service Co.
CAP-3. Docket No. ER78-494, Pennsylvania Electric Co.
CAP-4. Docket No. ER79-112, Jersey Central Power & Light Co.
CAP-5. Project No. 2820 and 2855, Town of Windsor, Vt., Electric Cooperative Inc.
CAP-6. Docket No. E-8308 and E-7206, Detroit Edison Co.

Miscellaneous Agenda—437th Meeting, January 30, 1980, Regular Meeting

CAM-1. Docket No. RA80-6, Gold Oil Co.
CAM-2. Docket No. GP80- State of Ohio, well category determination, Jerry Moore, Inc., JD80-4312.
CAM-3. Letter from Messrs. Figley and Dannhauser concerning applicability of § 105 of the NGPA.

Gas Agenda—437th Meeting, January 30, 1980, Regular Meeting

CAG-1. Docket No. TA80-1-16 (PGA 80-2, IPR 80-2), National Fuel Gas Supply Corp.
CAG-2. Docket No. TA80-1-14 (PGA No. 80-2), (IPR No. 80-2), Lawrenceburg Gas Transmission Corp.
CAG-3. Docket No. TA80-1-17, (PGA, DCA, LaFUT, AP, IPR80-1-17), Texas Eastern Transmission Corp.
CAG-4. Docket No. TA80-1-15, (PGA80-2), (IPR80-2), (DCA80-1), (AP80-1), and (LaFUT80-1), Mid-Louisiana Gas Co.
CAG-5. Docket No. TA80-1-18, (PGA80-2), (IPR80-2), (DCA80-1), (AP80-1), and (LaFUT80-1), Texas Gas Transmission Corp.
CAG-6. Docket No. RP80-54, National Fuel Gas Supply Corp.
CAG-7. Docket Nos. RP77-108 and TA80-1-29 (PGA80-1 and IPR80-1), Transcontinental Gas Pipe Line Corp.
CAG-8. Docket No. RP71-16, Midwestern Gas Transmission Co.
CAG-9. Docket Nos. RP79-16 and RP79-64, Florida Gas Transmission Co.
CAG-10. FERC gas rate schedule No. 239, Pennzoil Producing Co.
CAG-11. Docket No. CI63-536 et al., Atlantic Richfield Co. et al.; Docket No. CI80-21, Louisiana Land Offshore Exploration Co., Inc.; Docket No. CI80-57, Transco Exploration Co.; Docket No. G-14398 et al., Southland Royalty Corp. et al.; Docket Nos. CI79-529, CI79-680, CI80-7, and CI80-35, Gulf Oil Corp.; Docket No. CI62-1525 et al., CRA, Inc. (operator) et al.; Docket Nos. CI69-912 and CI69-913, Dixilyn Corp. et al.; Docket No. CI73-938, Continental Oil Co., Docket No. CI75-605, Cities Service Co.
CAG-12. Docket No. CI80-55, Exxon Corp.
CAG-13. Docket No. CI79-41, Texas Oil and Gas Corp.
CAG-14. Docket No. CS71-383, Texasgulf Inc.
CAG-15. Docket No. CP79-240, Seagull Pipeline Corp.
CAG-16. Docket No. CP76-285, Mountain Fuel Resources, Inc; Docket No. CP76-388, Mountain Fuel Supply Co.; Docket No. CP76-389, Northwest Pipeline Corp.; Docket No. CP77-289, El Paso Natural Gas Co.; Docket No. CP77-511, Northwest Pipeline Corp.; Docket No. CP77-512, Clay Basin Storage Co.; Docket No. CP76-87 (Rhodes Reservoir) and CP78-172 (Barker Creek Dome), El Paso Natural Gas Co.; Docket No. CP78-257 (Barker Creek Dome), Western Gas Interstate Co.; Docket No. CI78-506, Supron Energy Corp.
CAG-17. Docket Nos. CI77-700 and CP73-30, Pioneer Gas Products Co. and Lone Star Gas Co.
CAG-18. Docket No. CP80-21, Columbia Gas Transmission Corp.
CAG-19. Docket No. CP80-49, Cities Service Gas Co.
CAG-20. Docket No. CP79-402, Lone Star Gas Co., a Division of Enserch Corp.
CAG-21. Docket No. CP78-174, Kansas-Nebraska Natural Gas Co., Inc.
CAG-22. Docket No. CP64-21, East Tennessee Natural Gas Co.
CAG-23. Docket No. CP80-23, Columbia Gas Transmission Corp., and Panhandle Eastern Pipe Line Co.
CAG-24. Docket No. CP80-105 and CP80-106, Columbia Gulf Transmission Co. and Columbia Gas Transmission Corp.
CAG-25. Docket No. CP79-251, El Paso Natural Gas Co.
CAG-26. Docket Nos. RP80-39, et al., Arkansas Louisiana Gas Co.

Power Agenda—437th Meeting, January 30, 1980, Regular Meeting

I. Electric Rate Matters

ER-1. Docket Nos. ER80-2 and ER80-122, Consolidated Edison Co. of New York, Inc.
ER-2. Docket No. ER80-71, Central Illinois Public Service Co.
ER-3. Docket Nos. ER80-38 and ER80-121, West Texas Utilities Co.
ER-4. Docket Nos. ER80-124 and ER80-125, Missouri Utilities Co.
ER-5. Docket No. ER80-58, Southern Co. Services, Inc.
ER-6. Docket No. ER70-90, Central Kansas Power Co., Inc.

Miscellaneous Agenda—437th Meeting, January 30, 1980, Regular Meeting

M-1. Docket No. RM79-49, calculation of cash working capital allowance for electric utilities.
M-2. Reserved.
M-3. Reserved.
M-4. Docket No. RM80- , advance payments.
M-5. (A) RM80- , rule required by section 206(a) defining small boiler fuel users and (b) RM80- , exemption from the rule required by section 206(a) defining small boiler fuel users.
M-6. Docket No. RM80- , amendments to the prorating procedure in the incremental pricing regulations to exclude Canadian volumes which do not carry incremental acquisition costs.
M-7. Docket No. RM78-79, final rule defining the term new well under NGPA.
M-8. U.S. Geological Survey—alternative filing requirements for infill wells drilled in existing proration units in the Blanco Mesaverde and Basin Dakota pools in San Juan and Rio Arriba Counties, New Mexico.
M-9. Docket No. RA80-5, Kerr-McGee Corp.
M-10. Docket No. RO79-3, Chester F. Dolley and Atlantic Oil Co.

Gas Agenda—437th Meeting, January 30, 1980, Regular Meeting

I. Pipeline Rate Matters

RP-1. Docket No. RP80-61, Consolidated Gas Supply Corp.
RP-2. Docket No. RP80-63, El Paso Natural Gas Co.
RP-3. Docket No. RP73-36 (PGA78-3) (DCA78-2), Panhandle Eastern Pipe LIne Co.

II. Producer Matters

CI-1. Docket No. CI79-4, Chevron U.S.A., Inc.

III. Pipeline Certificate Matters

CP-1. Docket No. CP77-363, Columbia Gas Transmission Corp. and National Fuel Gas Supply Corp.
CP-2. Docket No. CP79-280, Michigan Wisconsin Pipe Line Co.
CP-3. Docket No. CP78-272, Brooklyn Union Gas Co.

Lois D. Cashell,

Acting Secretary.

[S-176 Filed 1-25-80; 12:50 pm]

BILLING CODE 6450-01-M

3

FEDERAL RESERVE SYSTEM. Board of Governors.

TIME AND DATE: 10 a.m., Friday, February 1, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: January 24, 1980.

Theodore E. Allison

Secretary of the Board.

[S-173 Filed 1-28-80; 4:44 pm]

BILLING CODE 6210-01-M

4

INTERSTATE COMMERCE COMMISSION.

Amended notice.

TIME AND DATE: 9:30 a.m., Thursday, January 31, 1980.

PLACE: Hearing Room "A," Interstate Commerce Commission, 12th Street and Constitution Avenue NW., Washington, D.C. 20423.

STATUS: Open special conference.

MATTER TO BE DISCUSSED: This notice corrects subject listed in notice served January 24, 1980.

Rock Island Directed Service Order 1398 (Sub-No. 1).

CONTACT PERSON FOR MORE INFORMATION: Douglas Baldwin, Director, Office of Communications, telephone: (202) 275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-174 Filed 1-25-80; 12:56 pm]

BILLING CODE 7035-01-M

5

NATIONAL MEDIATION BOARD.

TIME AND DATE: 2 p.m., Wednesday, February 6, 1980.

PLACE: Board hearing room, 6th floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Ratification of Board actions taken by notation voting during the month of January, 1980.

(2) Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's Office following the meeting.

CONTACT PERSON FOR MORE INFORMATION:
Mr. Rowland K. Quinn, Jr., Executive Secretary, tel.: (202) 523-5920.

Date of Notice: January 21, 1980.

[S-175 Filed 1-25-80; 12:56 pm]

BILLING CODE 7550-01-M

6

POSTAL SERVICE. Board of Governors Meeting.

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. § 552b), hereby gives notice that it intends to hold a meeting at 8:30 A.M. on Wednesday, February 6, 1980, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260. Except as indicated in the following paragraphs, the meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245-4632.

On January 8, 1980, the Board of Governors voted to close to public observation a portion of its next meeting. Each of the members of the Board voted in favor of partially closing this meeting, which is expected to be attended by the following persons: Governors Wright, Hardesty, Allen, Camp, Ching, and Sullivan; Postmaster General Bolger; Deputy Postmaster General Conway, Senior Assistant Postmaster General Finch, and Secretary of the Board Cox.

V45 I20 JA29 80 UMI

The portion of the meeting to be closed will consist of a continuation of the discussion of the Postal Service's possible strategies concerning future postal ratemaking which was commenced at the Board's meeting of December 4, 1979.

Agenda

1. Minutes of the previous meeting.
2. Remarks of the Postmaster General. (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)
3. Quarterly Report on Financial Performance. (Mr. Finch, Senior Assistant Postmaster General, Finance Group, will present the quarterly summary of financial performance.)
4. Quarterly Report on Service Performance. (Mr. Benson, Senior Assistant Postmaster General, Operations Group, will present the quarterly summary of service performance.)
5. Report on Administration Group Programs. (Mr. Biglin, Senior Assistant Postmaster General, Administration Group, will provide a general report on the developments within the cognizance of the Administration Group.)
6. Capital Investment Projects:

(a) Proposed new General Mail Facility and Vehicle Maintenance Facility at New Brunswick, New Jersey. (Mr. Jellison, Regional Postmaster General, Northeast Region, will present a proposal for a new General Mail Facility and Vehicle Maintenance Facility near New Brunswick, New Jersey.)

(b) Proposed Relocation of the Postal Service Research and Development Laboratories. (Mr. Sommerkamp, Senior Assistant Postmaster General, Research and Technology Group, will present a proposal for the new Research and Development Laboratories building on the Northern Virginia Management Sectional Center site.)

(c) Procurement of One-Ton Trucks. (Mr. Hagburg, Assistant Postmaster General, Delivery Services Department, will present a proposal for a capital investment for the purchase of one-ton trucks.)

7. Recommended Decision of the Postal Rate Commission re Bulk Parcel Post. (The Governors may consider the Recommended Decision of December 5, 1979, recommending that the Postal Service's proposal for restructuring the parcel post subclass of the Domestic Mail Classification Schedule be rejected. Consideration of this matter by the Governors is contingent on the Board's Postal Rates Committee completing its consideration of the Bulk Parcel Post Recommendation during the Committee meeting which will be held in closed session following the Board's consideration of the preceding agenda items.)
8. Recommended Decision of the Postal Rate Commission on Electric Computer Originated Mail Service (E-COM). (The Governors may consider the Recommended Decision of December 17, 1979, re electronic mail classification proposal, 1978 (Commission Docket No. MC78-3). Consideration of this matter by the Governors is contingent on the Board's Postal Rates Committee completing its consideration of the E-COM recommendation during the Committee meeting which will be held in closed session following the Board's consideration of the preceding agenda items.)
9. Discussion of Postal Service ratemaking strategy. (The Board will discuss Postal Service ratemaking plans. As stated above in the Notice of Meeting, the part of the meeting that will be devoted to this matter will be closed to the public.)

Louis A. Cox,
Secretary.

[S-177 Filed 1-25-80; 2:17 pm]
BILLING CODE 7710-12-M

7

POSTAL SERVICE. Board of Governors Committee Meeting.

The Committee on Postal Rates of the Board of Governors of the United States Postal Service, pursuant to the Bylaws of the Board (39 CFR 5.2., 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting on Wednesday, February 6, 1980, at Postal Service Headquarters, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260. The Committee meeting will take place after the conclusion of consideration of the first 6 items on the agenda for the meeting of the Board of Governors which is schedules to be held on the morning of February 6 commencing at 8:30 a.m. The meeting is not open to the public.

The meeting will consist of a continuation of the discussions of the Recommended Decisions of the Postal Rate Commission on Bulk Parcel Post (Commission Docket No. MC78-1) and on Electronic Computer Originated Mail (E-COM) (Commission Docket No. MC 78-3) which were commenced at the Committee's meeting of January 8, 1980.

At its January 8 meeting, the Committee voted to close its February 6 meeting to public observation for the reasons stated in the "Notice of Vote to Close Meeting" published at 45 FR 2995 (January 15, 1980).

Louis A. Cox,
Secretary.

[S-178 Filed 1-25-80; 2:18 pm]
BILLING CODE 7710-12-M

8

POSTAL SERVICE. Board of Governors Committee Meeting.

The Committee on Audit of the Board of Governors of the United States Postal Service, pursuant to the Bylaws of the Board (39 CFR 5.2, 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 3:00 P.M. on Tuesday, February 5, 1980, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260. The meeting is open to the public. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245-4632.

The Committee will review with representatives of the Postal Service's outside auditors the auditors' most recent annual letter to Postal management summarizing their audit findings and making recommendations for managerial improvements.

Louis A. Cox,
Secretary.

[S-179 Filed 1-25-80; 2:19 pm]
BILLING CODE 7710-12-M

V 45 / 20 / JA 29 80 / UMI

federal register

Tuesday
January 29, 1980

Part II

Department of Agriculture

Animal and Plant Health Inspection Service

Certain Stockyards and Livestock Markets; Approval and Withdrawal of Approval

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Certain Stockyards and Livestock Markets; Approval and Withdrawal of Approval

The regulations in 9 CFR Part 76, as amended, contain restrictions on the interstate movement of swine and swine products to prevent the spread of hog cholera and other swine diseases. This document adds certain livestock markets to the list of livestock markets approved for purposes of the regulations on the basis of a determination of their eligibility for such approval under § 76.18 of the regulations and removes from the list certain other livestock markets which have been found no longer to qualify for such approval.

The following livestock markets preceded by an asterisk are specifically approved to handle any class of swine and those livestock markets *not* preceded by an asterisk are specifically approved to handle slaughter swine only:

Alabama

Alabama Pork Buyers, Elba
Agricultural marketing Association of Alabama, Inc., Andalusia
*Atmore Truckers Association, Inc., Atmore
Beard Livestock Market, Scottsboro
Capital Stockyard, Montgomery
Casey's Selma Stockyard, Selma
*Central Alabama Feeder Pig Association, Clanton
*Childress Farm Livestock, Albertville
*Conecuh Stockyard, Evergreen
*Cullman Feeder Pig Assn., Cullman
*Cullman Stock Yard, Cullman
*Dothan Livestock Auction, Inc., Dothan
*Escambia County Co-op, Brewton
*Farmers Co-op Market, Frisco City
*Farmers Cooperative Market, Inc., Opp
*Farmer's Livestock Co-op, Elba
Fayette Stockyards, Inc., Fayette
Florence Trading Post, Florence
H. E. Fulford Stockyard, Hartford
*Geneva Stock Yards, Inc., Geneva
*Hamilton Stockyard, Inc., Hamilton
*Headland Stockyards, Inc., Headland
*Henry County Livestock Association, Inc., Abbeville
Hodges Stockyard, Inc., Montgomery
Kennamer Livestock, Inc., Guntersville
*Limestone County Feeder Pig Association, Inc., Athens
*Louisville Livestock Company, Louisville
Moulton Stockyard, Moulton
*Northeast Alabama Feeder Pig Association, Section
*Northwest Alabama Feeder Pig Association, Inc., Russellville
Northwest Alabama Livestock Association, Russellville
*Northwest Alabama Livestock Auction, Russellville
*Perry-Dallas Feeder Pig Sale, Suttle
*Pickens County Livestock Commission Company, Aliceville
Carl Register Stockyards, Slocomb
*Robertsdale Livestock Auction, Inc., Robertsdale
*Sand Mountain Feeder Pig Association, Guntersville
*South Alabama Feeder Pig Producers Association, Greenville
*Southeast Alabama Feeder Pig Association, Inc., Dothan
*Southeast Alabama Feeder Pig Association, Troy
Stokes & Brogden Stock Yard, Andalusia
*Tennessee Valley Feeder Pig Association, Huntsville
*Upper Coastal Feeder Pig Association, Inc., Fayette
David West Livestock Company, Cottonwood

Arkansas

*Arkansas National Stockyards, Little Rock
*Ash Flat Livestock Auction, Ash Flat
Atkins Livestock Auction, Atkins
*Batesville Livestock Auction, Inc., Batesville
*Beebe Auction, Inc., Beebe
*Bentonville Livestock Auction, Bentonville
Central Livestock Auction, Inc., Morrilton
*Carroll County Livestock Auction, Berryville
*Clark County Livestock Auction, Arkadelphia
Cleburne County Livestock Auction, Herber Springs
Decatur Livestock Auction, Decatur
Drew County Auction, Monticello
Eudora Livestock Auction, Eudora
*Farmers & Ranchers Livestock Auction, Inc., Batesville
*Farmers & Ranchers Livestock Auction, Mt. View
Glover Livestock Commission, Co., Pine Bluff
*Bob Gordon Livestock Auction, Mena
*Harrison Stockyards Auction, Inc., Harrison
*Hill & Nuel Livestock Auction, Batesville
Hope Livestock Auction, Hope
*Jonesboro Stockyards, Jonesboro
*Lafayette County Livestock Company, Lewisdale
*Lewis Livestock Co., Inc., Conway
*Loftin Pig Farm, Fayetteville
*Magnolia Livestock Auction d.b.a. Allen Brothers Magnolia Livestock Auction, Magnolia
*Meridith Livestock Auction, Inc., Pocahontas
*MFA Livestock Association, Imboden
*Montgomery Auction, Searcy
*Mountain Home Livestock Auction, Mt. Home
North Arkansas Livestock Auction, Green Forest
*Oak Lawn Farms, Pine Bluff
Ola Livestock Market, Ola
*Paragould Livestock Auction, Paragould
*Rector Auction Salebarn, Rector
Salem Livestock Auction, Salem
*Saline-Ouachita Valley Livestock Commission Company, Warren
*Scott County Livestock Auction, Waldron
*Searcy County Livestock Auction, Marshall
*Shantz Livestock Commission Co., North Little Rock
Siloam Springs Sale Barn, Siloam Springs
Van Buren County Auction, Clinton
*Washington County Sales, Fayetteville
White County Livestock Auction, Russellville

California

*Dixon Livestock Auction Company, Dixon

Colorado

*Alamosa Action, Alamosa
*Basin Livestock Commission Company, Inc., Durango
*A. A. Blakley Livestock Commission Co., Denver
*Brush Livestock of Colorado, Inc., Brush
*Burlington Produce Livestock Marketing Assn., Burlington
Clougherty Packing Company, Greeley
*Cortez Livestock Auction, Inc., Cortez
*Delta Sales Yard, Delta
*Denver Livestock Market, Denver
*Farmers & Ranchers Livestock Commission Co., Inc., Fort Collins
*Fowler Auction Company, Fowler
*High Plains Marketing Assn., Inc., Burlington
*Monte Vista Livestock Commission Company, Inc., Monte Vista
*Producers Livestock Marketing Assn., Greeley
*Ranchland Livestock Commission Company, Wray
*Stratton Livestock Marketing Center, Stratton
*Sterling Livestock Commission Co., Inc., Sterling
*Union Stockyards, Denver
*Valley Livestock Auction Company, Fruita
*Winter Livestock Commission Company, LaJunta
*Yuma Livestock Auction, Yuma

Delaware

*Carroll's Sales Co., Felton
Goldinger Bros., Inc., Smyrna
Charles F. Poore Livestock Market, Smyrna
Floyd E. West Livestock, Frankford

Florida

*Chipley Livestock Market, Chipley
*Columbia Livestock Market, Lake City
*Gadsden County Livestock Auction Market, Quincy
*Gainesville Livestock Market, Inc., Gainesville
Jacksonville Livestock Auction Company, Whitehouse
*Jay Livestock Auction Market, Jay
*Madison Stockyards, Madison
*Mills Auction Market, Ocala
Monticello Livestock Market, Inc., Monticello
*Suwannee Valley Livestock Market, Live Oak
*Tindel Livestock Market, Graceville
West Florida Livestock Auction Market, Marianna

Georgia

*Appling Stockmen's Association, Baxley
B & M Livestock Company, Inc., Kite
Bainbridge Auction Market, Bainbridge
*Barrett Feeder Pigs, Dublin
Charles R. Barrineau (Stockyard), Douglas
Bartow Livestock Commission Co., Cartersville
*Blackshear Pig Sales, Inc., Blackshear
*Bleckley County Feeder Pig Sale, Cochran
Dwight Braswell (Holding Pen), Buford
David Burson Livestock Market (Assembly Point), Carrollton
*Bulloch Stockyards, Statesboro
Carroll County Livestock Sale Barn, Carrollton

Chatham Livestock Co., Savannah
Citizens Stockyard, Arlington
Columbus-Muscogee Livestock, Columbus
Coosa Valley Livestock Co., Rome
Cordele Livestock Commission Co., Cordele
*County Stock Barn, Sandersville
*CSRA Feeder Pig Association, Warrenton
Cutts Livestock Company, Pelham
Dawson Livestock Company, Dawson
*Dodge County Stock Barn, Eastman
*Dublin Livestock & Commission Co., Dublin
Effingham County Stockyard, Springfield
Farmers Livestock Market, Douglas
Farmers Stockyard, Sylvania
Farmers Stockyard of McRae, Inc., McRae
Fitzgerald Farmers Auction, Inc., Fitzerald
Flint River Livestock Market, Bainbridge
*Forshee Livestock Co., Inc., Statesboro
*Four County Farm Bureau Market Association, Inc., Twin City
Franklin County Livestock Market, Inc., Carnesville
Franklin County Livestock Swine Buying Station, Carnesville
Georgia Farm Products Sales Corp., Thomaston
Georgia Farmers Livestock, Inc., Cumming
Glennville Hog Market, Glennville
*Grady County Swine Producers Association, Cairo
O. M. Greene Livestock Company, Inc., Bainbridge
Hagan Livestock Market, Inc., Hagan
H. J. Hall and Company Hog Buying Station, Sparks
B. H. Harrison Livestock Company, Bainbridge
Heinold Hog Markets, Inc., Cairo
Irwin County Livestock Company, Ocilla
Jepeway-Craig Commission Co., Dublin
Livestock Marketers, Inc., Douglas
*Lolli Sales Pavilion, Macon
Metter Livestock Market, Metter
Miles Stockyard, Baxley
Miller Livestock Company, Colquitt
Mitchell County Livestock Market, Camilla
John Mosley Livestock and Holman Auction Company, Blakely
*Moultrie Livestock Company, Moultrie
Mt. Vernon Hog Market, Mt. Vernon
*Northeast Georgia Livestock Barn, Gainesville
North Georgia Livestock Auction, Inc., Athens
Peoples Livestock Market, Inc., Cartersville
Peoples Stockyard, Cuthbert
Pierce County Stockyard, Blackshear
Pulaski Stockyard, Hawkinsville
Radford Collection Point, Sylvester
Seminole Livestock, Inc., Donalsonville
Sam Simmons Gordon County Livestock Commission Company, Calhoun
Seaboard Stockyard, Colquitt
Smith Brothers Stockyard, Bartow
Soperton Stockyard, Soperton
*Sumter Livestock Association, Americus
*Sutton Livestock Co., Sylvester
Swainsboro Stockyards, Inc., Swainsboro
Sylvania Stockyard, Sylvania
*Tattnal County Feeder Pig Market, Glennville
Tattnall & Long N.F.O. Collection Point, Glennville
*Telfair-Wheeler Livestock Market, McRae
Thomas County Stockyard, Thomasville
Tift County N.F.O., Inc., Tifton
Tifton Stockyards, Tifton
Toombs County Stockyard, Lyons
*Tri-County Feeder Pig Sale, Broxton
Tri-County Livestock Co., Social Circle
Tri-County N.F.O. Collection Point, Inc., Blackshear
*Turner County Stockyard, Ashburn
Union Stockyards, Albany
Valdosta Livestock Co., Inc., Valdosta
Vidalia Livestock Auction, Inc., Vidalia
*Wayne County Stockyard, Jesup
Wheeler Brothers Livestock Market, Inc., Eastonolle
White Livestock Company, Quitman
Wilkes County Stockyard, Washington

Idaho

*Blackfoot Livestock Commission Co., Blackfoot
*Bonners Ferry Livestock, Inc., Bonners Ferry
Burley Livestock Commission Company, Burley
Cache Valley Livestock Auction, Preston
*Coeur d'Alene Livestock, Inc., Coeur d'Alene
Cottonwood Sales Yard, Cottonwood
Gooding Livestock Commission Co., Gooding
*Idaho Livestock Auction, Inc., Idaho Falls
*Nampa Livestock Markets, Inc., Nampa
Producer's Jerome Livestock Marketing Assn., Jerome
*Rexburg Livestock Auction, Inc., Rexburg
Salmon River Livestock Market, Salmon
Shoshone Sale Yard, Shoshone
*Spencer Livestock Commission Co., Lewiston
Stockgrowers Commission Co., Inc., Twin Falls
*Treasure Valley Livestock Auction, Inc. Caldwell
*Twin City Salesyard, Lewiston
*Twin Falls Livestock Commission Co., Twin Falls
*Valley Livestock Commission Co., Rupert
*Weiser Livestock Commission Co., Weiser

Illinois

Albion Livestock, Albion
Armour-Klarer & Company, Marshall
*Barnard Livestock Auction, Wayne City
*Benton Livestock Association, Benton
*Bloomington Livestock Commission Co., Bloomington
*Breed's Livestock Sales, Elizabeth
Brutlag Livestock Company, Potomac
*Carthage Livestock Auction, Carthage
Carthage Order Buyers, Carthage
*Cherry, Nellis (Bros.), Shannon
Chicago Stockyards—Atkinson Market, Inc., Atkinson
Cudahy, Patrick, Orangeville
*Dameron Livestock Auction, Vienna
*Danville Livestock Commission Co., Danville
Deckers Livestock, Charleston
*Deckey's Livestock, Inc., Milford
*DeWane's Livestock Exchange, Belvidere
Edgar County Marketing Association, Paris
Emge Stock Yards, Palestine
Farmers Hog Market of Ursa, Ursa
*Galesburg Livestock Sale, Galesburg
Galesburg Order Buyers, Milledgeville
*Greenville Livestock Auction Co., Greenville
Heinold Hog Market, Brookport
Heinold Hog Market, Girard
Heinold Hog Market, Leland
Heinold Hog Market, Marengo
Heinold Hog Market, Inc., Atkinson
Hesselbacher Bros., Scales Mound
Huber Livestock Co., Greenville
*Illinois Auction Commission Co., Paris
*Interstate Producers Livestock Association, Shelbyville
Interstate Producers Livestock Association, Apple River
*Interstate Producers Livestock Association, Fieldon
*Interstate Producers Livestock Association, Danville
*Interstate Producers Livestock Association, Dongola
Interstate Producers Livestock Association, Elvaston
Interstate Producers Livestock Association, Erie
*Interstate Producers Livestock Association, Fairfield
*Interstate Producers Livestock Association, Golconda
*Interstate Producers Livestock Association, Harrisburg
*Interstate Producers Livestock Association, Pinckneyville
*Interstate Producers Livestock Association, Quincy
*Interstate Producers Livestock Association, Salem
*Jennings Sales Co., Macomb
Joliet Livestock Marketing Center, Inc., Joliet
*Kewanee Sale Barn, Kewanee
Knowles Stock Yards, Marshall
*Knoxville Sale Company, Inc., Knoxville
*Kuntz, Clyde, Gridley
LaHarpe Order Buyers, LaHarpe
Oscar Mayer & Company, Berry
Oscar Mayer & Company, Davis
Oscar Mayer & Company, Esmond
Oscar Mayer & Company, German Valley
Oscar Mayer & Company, McConnell
Oscar Mayer & Company, Pleasant Hill
Oscar Mayer & Company, Pittsfield
Oscar Mayer & Company, Quincy
Oscar Mayer & Company, Shannon
Oscar Mayer & Company, Warren
*Mehler Stock Yards, West York
Mendon Order Buyers, Mendon
*Mercer County Livestock Company, Viola
*Monmouth Livestock Sales Company, Monmouth
*Olney Livestock Commission Co., Olney
*Paris Livestock Sales Co., Paris
Peoria Union Stockyards Co., Peoria
*Rock Island Auction Sales, Inc., Rock Island
St. Louis National Stockyards, National Stockyards
*Savanna Livestock Sales, Savanna
*Schrader, Harry, Consignment, Dakota
*Southeastern Livestock Association, Inc., Albion
Stanton Stock Yard, Lena
State Line Reload—NFO, Roscoe
George Thompson & Son, Morrison
Walnut Auction Company, Walnut
*Warren County Livestock Auction, Monmouth
Wilson Feeds Corporation, Albany
*Winslow Marketing Center, Inc., Winslow
Winslow Stockyards, Winslow
§ Wood, Marvin T., Morrison

Indiana

D. M. Archer, Princeton

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Attica Stockyards, Attica
Joe Ault, Claypool
*Boone County Sale Barn, Lebanon
*Boswell Livestock Commission, Boswell
*Raymond Boyce Livestock Company, Monon
Mike Brady Stockyards, Lagrange
Mike Brady Stockyards, Waterloo
*Brookeville Sale Barn, Brookville
Camden Hog Market, Camden
*Don Clark Feeder Pig, Brook
*Claypool Sale, Inc., Silver Lake
*Delta Livestock Yards, Fort Wayne
Delta Livestock Yards, Fort Wayne
I. Duffey & Son, Lagro
I. Duffey & Son, Peru
Robert Elliott, Westport
Emge Packing Co., Fairmount
Emge Packing Company, Inc., Anderson
Emge Packing Company, Inc., Fort Branch
Emge Packing Company, Montpelier
*Evansville Union Stockyards Company, Inc. Evansville
*Fountain County Livestock Commission Company, Veedersburg
*Geneva Berne Livestock Sale, Berne
*Goshen Comm. Sale Goshen
Greencastle Livestock Center, Greencastle
J. L. Hawkins Company Logansport
Heinold Hog Market, Bluffton
Heinold Hog Market, Burlington
Heinold Hog Market, Cambridge City
Heinold Hog Market, Chalmers
Heinold Hog Market, Crawfordsville
Heinold Hog Market, Goodland
Heinold Market, Inc., Jasper
Heinold Hog Market, Corunna
Heinold Hog Market, Inc., Kouts
Heinold Hog Market, Liberty
Heinold Market, Milroy
Heinold Market, North Manchester
Heinold Hog Market, Portland
Heinold Hog Market, Rensselaer
Heinold Hog Market, Rushville
Heinold Hog Market, Tipton
Heinold Hog Market, Wheatland
*Henry County Livestock Auction, New Castle
*Hilltop Auction Sale, Hanover
Hoosier Stockyards, Inc., Frankfort
Hoosier Stockyards, Inc., Knightstown
Hoosier Stockyards, Inc., Ladoga
Hoosier Stockyards, Inc., Lebanon
Hoosier Stockyards, Inc., Roann
*Huntington Livestock Company, Huntington
Indianapolis Stockyards Corp., Indianapolis
*Johnson County Sale Pavilion, Franklin
*Knightstown Sale Barn, Knightstown
*Gordon Jones, Ridgeville
*La Fountain Livestock Sales, La Fountain
Logansport Livestock Yards, Inc., Logansport
Logansport Livestock, Winamac
*Lowell Livestock Auction, Lowell
*Loy's Sale Barn, Portland
M & R Livestock Market, Culver
M & R Livestock Co., Huntington
M & R Livestock Co., Loogootee
M & R Livestock Co., Spencer
*Bill Manns, Rensselaer
Marhoefer Packing Company, Inc., Muncie
Mentone Stockyards, Mentone
*Mid-States Feeder Pig Company, Inc., Flora
*Jack Milhollin, Parker
*Montgomery County Sale Pavilion, Crawfordsville
*Morton Sale Barn, Morton
Muncie Livestock Co., Muncie
*Muscatatuck Valley Feeder Pig Assn., North Vernon
New Castle Stockyards, New Castle
Ohio Valley Livestock Corp., Williamsburg
*Ohio Valley Producers, Evansville
*Owen-Monroe Feeder Association, Spencer
*Parke County Sales Pavilion, Rockville
Pavy Stockyards, Greensburg
Pavy Stockyards, Milroy
Porkland, Crawfordsville
*Producers Livestock Association, Bath
Producers Livestock Assn., Winchester
Producers Marketing Assn., Amboy
*Producers Marketing Association, Boonville
*Producers Livestock Assn., Vincennes
Producers Livestock Assn., Vincennes
*Producers Marketing Assn., Inc., Centerville
Producers Marketing Assn., Stockyards, Centerville
*Producers Marketing Association, Clayton
*Producers Marketing Association, Columbia City
Producers Marketing Assn., Frankfort
Producers Marketing Assn., Greensburg
*Producers Marketing Assn., Inc., Montgomery
*Producers Market Association, Mentone
*Producers Marketing Assn., Feeder Pig, Montpelier
Producers Marketing Assn., Rensselaer
Producers Marketing Assn., Rockville
*Producers Marketing Association, Salem
*Producers Marketing Association, Seymour
*Producers Marketing Assn., Inc., Terre Haute
Producers Marketing Assn., Terre Haute
*Producers Marketing Assn., Inc., Topeka
Producers Marketing Assn., Uniondale
*Producers Marketing Association, West Lafayette
Producers Marketing Assn., West Lafayette
Producers Marketing Assn., Inc., Worthington
*Reynolds Sale Barn, Reynolds
Reynolds Stockyards, Reynolds
*Rochester Sale Barn, Rochester
*Royal Center Sale Barn, Royal Center
Rushville Community Sale, Rushville
*Russellville Feeder Pig Company, Russellville
*Scottsburg Salebarn, Scottsburg
*Shipshewana Auction Co., Shipshewana
*Southeastern Indiana Feeder Pig Auction Association, Osgood
*Southern Indiana Livestock Exchange, Scottsburg
*Springville Feeder Auction Association, Inc., Springville
P. B. Stewart Co., Berne
P. B. Stewart Co., Decatur
P. B. Stewart Co., Fulton
P. B. Stewart Co., Plymouth
P. B. Stewart Co., Shipshewana
P. B. Stewart Co., South Whitley
*Stoney Pike Sale Barn, Logansport
Sullivan County Livestock Market, Sullivan
*Topeka Livestock Auction Co., Topeka
Topeka Livestock Auction Inc., Wakarusa
Valleydale Stockyard, Burlington
*Valparaiso Community Sale Barn, Valparaiso
Wabash Valley Stockyard, Wolcott
*White River Valley Feeder Auction Association, Worthington
Whiting and Decker, Vincennes
Wilson and Company, Inc., North Judson
Winner Order Buyers, Converse
*Ralph Yarling, Elwood
*Yeager and Sullivan, Inc., Camden
Zechiel Stockyards, Knox

Iowa

*Albia Sales Company, Inc., Albia
*Aplington Livestock Sales Co., Inc., Aplington
Applegate Hog Yard, Leon
Armour and Company, Bedford
Armour and Company, Mt. Ayr
*Audubon County Livestock Exchange, Audubon
Audubon County Livestock Exchange, Audubon
Bank's Hog Yards, Seymour
*Bedford Sale Co., Bedford
*B & H Cattle Co., Ida Grove
*Bingley Sale Company, Inc., Knoxville
*Bleil & Chapman Livestock Auction, Kingsley
*Bloomfield Livestock Market, Inc., Bloomfield
*Bowman Order Buyers, DeWitt
Brighton Stockyards, Inc., Brighton
*Centerville Hog Market, Centerville
*Central Iowa Stockyards, Webster City
*Clarinda Auction Co., Clarinda
Farmland Foods, Inc., Clarinda
Colfax Livestock Sales Company, Colfax
*Colfax Livestock Sales Company, Colfax
County Line Hog Market, Lineville
Decker Livestock, Charlton
*Decorah Sales Commission, Decorah
*DeVries Auction, Buffalo Center
*Dubuque Feeder Pig, Inc., DeWitt
*Dunlap Livestock Auction, Dunlap
*Edgewood Sale Barn, Inc., Edgewood
*Elkader Sale Barn, Elkader
J. G. Foecke & Company, West Point
*Forest City Cow Palace/Jennings Brothers, Inc., Forest City
*Gaffney Storm Lake Auction, Storm Lake
*Galva Pig Market, Galva
*Grassland Co., Odebolt
*Harlan G. Habben Feeder Pig Sales, Pocahontas
Heinold Hog Market, Birmingham
Heinold Hog Markets, Bloomfield
Heinold Hog Market, Donnellson
Heinold Hog Market, Seymour
*Hilltop Feeder Pig Company, Aplington
Hormel Hog Market, Centerville
*Humeston Livestock Auction, Humeston
Hygrade Food Products Corp., Clarinda
Hygrade Hog Buying Station, Sheldon
*Interstate Producers, Waukon
Interstate Producers, Waukon
*Iowa County Livestock Auction Company, Inc., Marengo
*Iowa Falls Livestock Sales, Iowa Falls
*Kalona Sale Barn, Inc., Kalona
*Keoco Auction Company, Sigourney
*Keosauqua Sale Company, Inc., Keosauqua
*Kimballton Auction Company, Kimballton
*Lamoni Livestock Sales Co., Inc. Lamoni
*Leon Sale, Leon
Mahaska Sale Company, Oskaloosa
*Manning Livestock Auction, Manning
*Mapleton Livestock Sales Company, Mapleton
*Maquoketa Sales Co., Inc., Maquoketa
*Middletown Auction Sales, Inc., Middletown
*Montezuma Sales Company, Inc., Montezuma
*Monticello Sale Barn, Monticello

*Moorhead Auction Company, Moorhead
*Mt. Ayr Livestock Market, Mt. Ayr
Ralph Mullenback, Stacyville
*Keith E. Myers, Grundy Center
New Albin Stockyard, New Albin
*New Liberty Livestock Auction, New Liberty
N. E. Iowa Sales Commission, Waukon
*N. E. Iowa Sales Commission, Waukon
NFO Collection Point, Ossian
Noe Livestock, Lime Springs
*Northeast Iowa Sales Commission, Waukon
*North Iowa Livestock Exchange, Garner
*Northside Sales Co., Sibley
Osage NFO Collection Point, Osage
*Perry Sales Pavilion, Perry
Petefish Scale Yard, Bloomfield
*Porth & Baxter, DeWitt
*Producers Livestock Marketing Agency Feeder Pig Division, Creston
Quale Livestock, Chester
Rath Hog Buying Station, Wever
*Riceville Sales Pavilion, Riceville
*Norb Roecker Feeder Pigs, Denison
*Sales Company of Hawarden, Hawarden
*Sheldon Approved Hog Mart, Sheldon
*Sheldon Livestock Sales Co., Sheldon
*Shenandoah Livestock Auction, Inc., Shenandoah
Simmons Hog Buyer, Farmington
*Sioux City Stockyards, Sioux City
*Sioux City Stockyards Feeder Pig Auction, Sioux City
*Spirit Lake State-Federal Approved Feeder Pig Market, Spirit Lake
Steeples Hog Market, Bonaparte
*Story City Auction Sales, Inc., Story City
*Tama Livestock Auction Company, Tama
Thompson Livestock Commission Company, Inc., Davis City
Carl S. Thurn Stockyard, Edgewood
*Traer Auction Co., Inc., Traer
*Tri-State Livestock Auction Co., Inc., Sioux Center
Troutman Hog Market, Burlington
*Wapello Livestock Sales, Inc., Wapello
*Waverly Sales Company, Waverly
*Wayland Livestock Auction Market, Wayland
Weerheim Livestock, Rock Rapids
Wiechman Pig Co., Inc., Des Moines
Wilson & Company, Inc., Shenandoah
*Wilson & Company, Inc., Shenandoah

Kansas

Atchison County Auction Company, Atchison
*Atwood Sale Barn, Inc., Atwood
*Caldwell Community Sale, Caldwell
*Circle "L" Livestock Sale, Liberal
*Clay Center Livestock Co., Inc., Clay Center
Clougherty Packing Co., Marysville
*Coffeyville Livestock Sales Co., Inc., Coffeyville
*Coffeyville Stockyards, Inc., Coffeyville
*Colby Livestock Auction, Colby
Coldwater Livestock Sale Co., Inc., Coldwater
*El Dorado Livestock Auction, Inc., El Dorado
Farmland Foods, Seneca
*Fort Scott Sale Company, Inc., Fort Scott
*Hansen Livestock Auction, Concordia
*Hays Livestock Market Center, Inc., Hays
*Hiawatha Auction Co., Hiawatha
Hormel Hog Buying Station, Washington
*Hoxie Livestock Sale, Hoxie
*J. J. Livestock Commission Company, Effingham
*Junction City Sales Co., Inc., Junction City
Kansas Hog Company, Morland
Kuhlman Hog Yards, Smith Center
Luckeroth Hog Market, Seneca
*Mankato Livestock Commission Company, Mankato
*Marysville Livestock Commission Co., Marysville
Mauer-Neuer Packing Company, Independence
*Medicine Lodge Sale Co., Medicine Lodge
*Miami County Livestock Co., Inc., Paloa
*Mid-Kansas Swine Association, Hutchinson
*Moline Auction Company, Inc., Moline
NFO Buying Station, Marysville
*Oberlin Livestock Commission Company, Oberlin
Ogle Hog Company, Emmett
*Parsons Livestock Auction, Inc., Parsons
*Phillipsburg Sales Co., Phillipsburg
*Sabetha Livestock Auction, Sabetha
*St. Francis Livestock Sales, St. Francis
Smith Center Hog Company, Smith Center
*South East Kansas Feeder Pig Association, Fredonia
Stafford Brothers Hog Market, Fort Scott
*The Stockmans Livestock Exchange, Belleville
*Syracuse Sale Company, Syracuse
*Washington Livestock Sales, Washington
Wilson Certified Foods, Independence
*Wichita Union Stockyards, Wichita
*Winfield Livestock Auction, Inc., Winfield
*Southwestern Livestock, Inc., Dodge City

Kentucky

* Albany Stockyard, Inc., Albany
R. B. Berry & Son, Clinton
* Blue Grass Stockyard, Lexington
* Bourbon Livestock Center, Bowling Green
* Bourbon Stockyard Company, Louisville
* Bowling Green Stockyard, Bowling Green
* Boyle County Stockyard, Danville
Breckinridge Livestock Center, Irvington
Brown Livestock Co., Clinton
* Bullitt County Stockyards, Shepherdsville
Burkesville Stockyard, Burkesville
Carnes Livestock Market, Leitchfield
* Catlettsburg Livestock Market, Catlettsburg
Christian County Livestock Market, Inc., Hopkinsville
* Clark County Livestock Market, Winchester
* Clay-Wachs Stockyard, Lexington
* Cross-Walton Livestock Market Center
* Dinwiddie Feeder Pig, Leitchfield
Edmonston Livestock Market, Edmonston
Elizabethtown NFO Reload, Elizabethtown
Faire Stockyards, Bardwell
* Farmers Commission Co., Inc., Tompkinsville
* Farmers Livestock Market, London
* Farmers Livestock Feeder Pig Sale, Mayfield
* Farmers Livestock Marketing Co-op, Russellville
* Farmers Livestock Market of Glasgow, Inc., Glasgow
Farmers Livestock Market, Mayfield
* Farmers Stockyards, Flemingsburg
Field Packing Company Stockyard, Owensboro
* Florence, Peak and Fryman, Cynthiana
Franklin-Simpson Livestock Co., Inc., Franklin
* Garfield Auction Market, Harned
* Garrard County Stockyard, Lancaster
* Glasgow Livestock Market, Glasgow
* Good Day Stockyards, Princeton
Graves County Livestock Co. Inc., Mayfield
* Grayson County Stockyards Market, Inc., Leitchfield
* Green County Stockyards, Greensburg
Hart County Livestock Market, Munfordville
Heinold Hog Markets, Inc., Fancy Farm
Heinold Hog Markets, Marion
Heinold Hog Markets, Inc., Morganfield
Hopkinsville NFO Collection Point, Hopkinsville
* Henry County Stockyard, Inc., Sulphur
Horse Cave Stockyards, Horse Cave
* Interstate Producers Livestock Association, Fancy Farm
* Jollys Feeder Pigs, Albany
* Kentuckiana Livestock Market, Owensboro
* Kentucky-Tennessee Livestock Market, Inc., Guthrie
* King Livestock Company, Inc., Hopkinsville
* Laurel Sales Company, London
* Madison Sales Co., Richmond
* Mammoth Cave Marketing Corporation, Smiths Grove
Mantle Stockyards, Bardwell
* Maysville Stockyard, Maysville
Morganfield NFO Collection Point, Morganfield
Morganfield Stockyards, Morganfield
* New Farmers Stockyard, Mount Sterling
* N.F.O. Collection Point, Walton
* N.F.O. Stockyards, Cynthiana
Ohio Valley Producers, Corydon
* Owen County Stockyard, Owenton
* Owsley County Stockyard, Booneville
Paducah Livestock Company, Paducah
* Paintsville Livestock Market, Paintsville
* Paris Stockyard, Paris
* Ratliff Stockyards, Mt. Sterling
John M. Riley Livestock Market, Mayfield
* Russell County Stockyard, Russell Springs
* Schneider and Colston Sale Barn, South Walton
* Somerset & Pulaski Livestock Market, Inc., Somerset
* Taylor County Stockyards, Campbellsville
* Washington County Livestock Center, Inc., Springfield
* Wayne County Feeder Pig Auction, Monticello
Wayne County Livestock Market, Inc., Monticello
* West Kentucky Land & Cattle Company, Inc., Marion
* Wigwam Hog and Feeder Pig Market, Horse Cave
* Williamstown Stockyard, Williamstown

Louisiana

Ark-La-Tex Pork Marketing Association, Minden
* Avoyelles Swine Association, Marksville
* Bastrop Livestock Auction, Bastrop
* Central Louisiana Swine Producer's Association, Jena
* Delhi Livestock Auction, Delhi
* DeQuincy Livestock Commission Co., DeQuincy
* DeRidder Livestock Commission Co., DeRidder
* Florida Parishes Feeder Pig Association, Amite
* Franklinton Stockyards, Inc., Franklinton
* Guilbeau-Kennedy, Inc., Baton Rouge
Homer Livestock Commission Co., Homer

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Lum Brothers Stockyards, Inc., Vidalia
Bill Lyles Livestock Auction, Grand Cane
* Macon Ridge Swine Producers Association, Winnsboro
* Micelle's Commission Yard, Inc., Lake Charles
* Northwest Louisiana Swine Growers Association, Minden
* Southwest Louisiana Swine Producers Association, Basile
* West Monroe Livestock Auction, West Monroe

Maryland

* Aberdeen Sales Co., Aberdeen
Adkin Livestock, Inc., Parsonburg
Baltimore Livestock Exchange, Inc., West Friendship
* Caroline Sales Co., Denton
* Cumberland Stockyards, Inc., Cumberland
* Dukes Brothers Stockyards, Inc., Eden
Esskay Buying Station, Baltimore
Esskay Buying Station, Wye Mills
* Farmers Livestock Exchange, Inc., Boonsboro
* Farmers Market and Auction, Mechanicsville
* Four States Livestock Sales, Inc., Hagerstown
* Frederick Livestock Auction, Inc., Frederick
* Friend's Stock Yard, Inc., Accident
* Grantsville Community Sales, Inc., Grantsville
* Hunter's Sale Barn, Inc., Rising Sun
Penn Packing, Snow Hill
* Harry Rudnick & Sons, Inc., Galena
* Western Maryland Stock Yards, Inc., Westminster
* Woodsboro Livestock Sales, Inc., Walkersville

Massachusetts

* Northampton Cooperative Auction Assn., Inc., Whately
* Stanley Beckwith and Son, Granville
* Farmers Live Animal Market Exchange, Inc., Littleton
J. P. Hass and Sons, Rehoboth
* Soares Livestock and Equipment, West Bridgewater

Maine

* Ben Tilton and Sons, Corinth
* Crosman's Livestock Sales, Corinna

Michigan

Andy Adams Sale Barn, Hillsdale
Clare Bordner, Burr Oak
Coldwater Livestock Auction, Coldwater
Croswell Stockyards, Croswell
Dundee Livestock Sales, Inc.
Equity Cooperative Livestock Sales Association, Menominee
Heinold Hog Markets, Inc., Burlington
Heinold Hog Markets, Inc., Jones
Linsmeier Livestock Auction, Menominee
Lugbill Brothers, Inc., Morenci
Michigan Live Stock Exchange, Battle Creek
Michigan Live Stock Exchange, Cassopolis
Michigan Livestock Exchange, Manchester
Napoleon Livestock Commission Company, Napoleon
Ridley Commission, Inc., Detroit
Tecumseh NFO Collection Point, Britton
Westfall Stockyards, Hillsdale

Minnesota

*Anderson Feeder Pig Company, Willmar
*Arends Sale Yard, Inc., Blue Earth
Armour and Company, Browns Valley
Armour and Company, Dawson
Armour and Company, Winona
Armour Hog Buying Station, Ortonville
*Bauman's Livestock, Ellsworth
*Benson Livestock Exchange, Inc., Benson
*Canby Livestock Sales Company, Canby
*Cottonwood Veterinary Clinic, Windom
*Farmers Livestock Auction Market, Caledonia
Farmers Livestock Company, Elmore
*Geneva Livestock Exchange, Geneva
*Gibbon Feeder Pig Market, Gibbon
*Gordon Ness Feeder Pig Company, Hector
Gries Livestock Market, Kiester
*Hebrink Feeder Pig Market, Renville
Hokah Stockyards, Hokah
George Hormel and Company, Mabel
George A. Hormel Livestock Buying Station, Canby
Hormel Livestock Buying Station, Blue Earth
Ivanhoe NFO Collection Point, Ivanhoe
*Jackson Livestock Exchange, Inc., Jackson
*Kasson Livestock Exchange, Kasson
*Lee and John's Livestock, Inc. d.b.a. Harmony Livestock Sales, Harmony
Lakefield NFO Collection Point, Lakefield
*Lamberton Feeder Pig Market, Lamberton
*Lamberton Stockyards, Inc., Lamberton
Lee and John's Livestock, Harmony
*Lewiston Livestock Market, Lewiston
*Long Prairie Livestock Auction Market, Long Prairie
*Luverne Livestock Auction, Luverne
*Minnesota Feeder Pig Market, Inc., Morris
*Minnesota Feeder Pig Markets, Inc. (Willmar Divn), Willmar
*Minnesota Feeder Pig Market, Windom
John Morrell and Company, Kiester
Morrell Hog Buying Station, Madison
Northern States Feeder Pig, Inc., Sauk Center
Pierson Livestock, Ivanhoe
*Pipestone Livestock Auction Market, Pipestone
Rath Packing Company, Prosper
Rath Packing Company, Rushford
*Rice Feeder Pig Center, Rice
Rosen Livestock, Fairmont
*Rush City Livestock Auction, Rush City
*Rush City Livestock Sales, Inc., Rush City
*St. Paul Union Stockyards, South St. Paul
*Sleepy Eye Auction Market, Sleepy Eye
Smith Livestock Market, Granada
*Speldrich Feeder Pig Market, Belgrade
*Springfield Stockyards, Springfield
*Spring Grove Livestock Exchange, Inc., Spring Grove
*Spring Valley Sales Co., Spring Valley
*Tenney Feeder Pig Company, St. James
*Top Livestock Auction, Edgerton
*Walnut Grove Feeder Pig Market, Walnut Grove
Welcome NFO Livestock Collection Point, Welcome
Wilson & Co., Bricelyn
*Windom Sale Company, Inc., Windom
*Wisconsin Feeder Pig marketing Co-op, Perham
*Wisconsin Feeder Pig marketing Co-op., Sauk Centre
*Worthington Livestock Sales Co., Worthington
*Zumbrota Livestock Auction Market, Inc., Zumbrota

Mississippi

*Alcorn County Stockyards, Corinth
Max Alman's Assembly Point, Pelahatchie
*Amory Area Feeder Pig Sale, Amory
S. K. Askew Assembly Point, Edwards
*Booneville Area Feeder Pig Association, Booneville
*Booneville Commission Company, Booneville
*H. T. Branning Livestock Co., French Camp
*Bruce Area Feeder Pig Sale, Bruce
Central Livestock Company, Brandon
*Central Mississippi Livestock Commission Company, Carthage
*Chickasaw Livestock Auction, Inc., Houston
*Corinth Stockyard, Inc., Corinth
*Delta Stockyard, Inc., Greenville
*East Mississippi Farmer's Livestock Company, Philadelphia
George County Stockyards, Inc., Lucedale
*Grenada Livestock Exchange, Grenada
W. N. Heidel, Jr., Assembly Point, Vaughan
Laurel Stockyards, Laurel
*Lucedale Area Feeder Pig Association, Lucedale
*Lucedale Auction, Inc., Lucedale
*Lum Commission Company, Vicksburg
Mattox Livestock Dealer, Inc., Belden
Edward McCaughn Assembly Point, Morton
*McComb Area Feeder Pig Sale, McComb
Meridian Stockyards, Meridian
*Natchez Stockyards, Natchez
*New Albany Feeder Pig Sale, New Albany
*Peelers Livestock Sales, Kosciusko
*Port Gibson Area Feeder Pig Association, Port Gibson
Ranchers and Farmers Livestock Commission Co., Macon
Glynn Robinson Stockyard, West Point
Smith Brothers Stockyard, Poplarville
T. Smith Livestock, Hattiesburg
*Southeast Mississippi Feeder Pig Association, Laurel
*Southeast Mississippi Livestock Farmers Association, Hattiesburg
*Southwest Stockyard, Port Gibson
Spicer Livestock Inc., Tupelo
Stockyard Beef Sale, Inc., Tupelo
Stringer Sale Barn, Columbia
Donald & Vines Assembly Point, Morton
*Walnut Sales Company, Walnut
*Wayne Area Pork Producers Association, Waynesboro
*Waynesboro Livestock yards, Inc., Waynesboro

Missouri

*Adair County Livestock Market, Inc., Kirksville
*Alton Sale Company, Alton
Armour and Company, Corder
*Ava Sales Company, Ava
Baring Stockyards, Baring
*Beck & McCord Auction Company, Sikeston
*Benton County Producers Association, Warsaw
*Bollinger County Livestock Producers Association, Marble Hill
*Boonville Livestock Auction, Boonville
*Brookfield Livestock Auction, Inc., Brookfield
*Bryant and Kirkman, Summersville
*Buffalo Sale Barn, Buffalo
Burrus & Troutman Livestock, Memphis
*Butler Community Sale, Butler
*Cabool Livestock Market, Cabool

*Callaway Livestock Auction, Fulton
*Cantrell & Sons, Archie
Callao NFO Collection Point, Callao
*Callaway Stock Sales Company, Fulton
*Carrollton Livestock Auction, Carrollton
*Cassville Livestock Market, Inc., Cassville
*Cattlemen Auction Company, Inc., Humansville
Central Hog Buyers, Centralia
Central Hog Market, Rich Fountain
*Central Livestock Market of Poplar Bluff, Poplar Bluff
*Central Missouri Livestock Auction, Inc., Mexico
*Central Missouri Sales Company, Inc., Sedalia
*Central Ozark Auction, West Plains
*Chillicothe Livestock Market, Inc., Chillicothe
*Circle S Livestock Market, Stanberry
*Clark County Sale Company, Inc., Kahoka
Clinton Hog Market, Clinton
*Columbia Livestock Auction Market, Inc., Columbia
*Concordia Livestock Auction, Concordia
County Line Hog Market, Cainsville
Day's Hog Buying, Troy
*Dent County Livestock Improvement Association, Salem
*Downing Stockyards, Downing
*Edina Auction Market, Inc., Edina
Edina Stockyards-NFO Buying Station, Edina
Eldon Hog Market, Olean
*El Dorado Sales Company, Inc., El Dorado Springs
Esskay Buying Station, Littlestown
*Farmers & Traders Commission Co., Inc., Palmyra
*Farmington Action Market, Farmington
Ferguson Hog Market, Sedalia
Five County Collection Center, Mountain Grove
Fortuna NFO Collection Point, Fortuna
4 Corners Collection Point (NFO), Hunnewell
*4 County Feeder Pig Auction, Humansville
Four Rivers Collection Point, Labadie
*Four-Square Markets, Inc., Marshall
*Four State Livestock Auction Center, Diamond
*Bob Franklin Sale Barn, Buffalo
*Fredericktown Auction Company, Inc., Fredericktown
*Fruitland Livestock Market, Inc., Jackson
*Gallatin Livestock Auction, Inc., Gallatin
*Donald Ghere Marketing Facility, Butler
*Grant City Livestock Auction, Grant City
Grant City Livestock Auction, Grant City
Grant City Sale Barn, Grant City
*Green City Auction Market, Inc., Green City
Harkins Livestock Market, Trenton
Heinold Hog Market, Inc., Bloomfield
Heinold Hog Buyers, Inc., Bowling Green
Heinold Hog Market, Inc., Clarence
Heinold Hog Market, Hawk Point
Heinold Hog Market, King City
Heinold Hog Market, Labelle
Heinold Hog Market, Maryville
Heinold Hog Market, Monroe City
Heinold Hog Market #114, Monroe City
Heinold Hog Market, Inc., Monticello
Heinold Hog Markets, Inc., Paris
Heinold Hog Market, Stet
Heinold Hog Market, Inc., Tarkio
Heinold Hog Market, Trenton
Heinold Hog Market, Inc., Wellsville
George A. Hormel & Company, Princeton
Howard County NFO Collection Point, Armstrong
*Interstate Producers Livestock Association, Deepwater
*Interstate Producers Livestock Association, Brookfield
*Interstate Producers Livestock Association, Caledonia
*Interstate Producers Livestock Association, Cuba
*Interstate Producers Livestock Association Feeder Pig Market, Hamilton
*Interstate Producers Livestock Association, Jackson
*Interstate Producers Livestock Association, Perryville
*Ireland and Thorne Livestock Market, Inc., Trenton
*Johnson County Livestock Market, Warrensburg
*Joplin Stockyards, Joplin
*Kahoka Sale Company, Inc., Kahoka
*Kansas City Stockyards, Kansas City
*Kennett Sales Company, Inc., Kennett
*Kingsville Livestock Auction, Kingsville
Kirksville Community Sale, Inc., Kirksville
Kleen-Leen, Inc., Jackson
Kleen-Leen, Inc., Salem
Harold Kornbrust Hog Buying Station, Marceline
*The Lamar Cattle Auction, Lamar
*Lamar Sales, Lamar
*Laclede County Livestock Producers Association, Lebanon
LaMonte NFO Collection Point, LaMonte
*Lamar Auction Market, Lamar
La Monte Livestock Collection Point (NFO), La Monte
*Lebanon Livestock Auction, Lebanon
*Lewis County Auction Company, Lewistown
Lewis & Son Hog Buyers, Glasgow
*Lexington Livestock Auction, Lexington
*Licking Livestock Sales, Inc., Licking
*Linn County Beef Producers, Inc., Brookfield
*Lockwood Community Sales, Lockwood
*Lolli Sales Pavilion, Macon
*Mansfield Livestock Auction, Inc., Mansfield
*Marshall Livestock Auction, Marshall
Oscar Mayer & Company, Inc., Callao
Oscar Mayer & Company, Inc., Shelbina
Maysville NFO Collection Point, Amity
*Maysville NFO Collection Point, Amity
*Mercer County Producers Association, Princeton
*Mercer County Sale Co., Princeton
*Meta Collection Point, Inc., Meta
MFA Hog Market, Burlington Junction
*MFA Feeder Pig Assembly Point, Ellington
*MFA Feeder Pig Market, Sedalia
*MFA Feeder Pig Tele Auction, Doniphan
*MFA Feeder Pig Yards, Rolla
*MFA Feeder Pig Yards, Stockton
*MFA Feeder Pig Market, Taneyville
*MFA Feeder Pig Yards, Westphalia
*MFA Livestock Association, Alton
*MFA Livestock Association, Cabool
*MFA Livestock Association, Mansfield
*MFA Livestock Association, Inc., Wheaton
*Midstates Livestock Market, Inc., Maryville
*Mid-West Livestock Market, Inc., Nevada
*Missouri Feeder Pig Auctions, Inc., Middletown
*Moberly Auction Company, Inc., Moberly
*Mountain Grove Livestock Market, Mountain Grove
National Hog Buyers, Inc., Columbia
*Nevada Livestock Auction, Inc., Nevada
*New Cambria Livestock Auction Market, New Cambria
NFO Cameron Collection Point, Cameron
Nichols Stockyards, Bethany
*Odessa Community Sale, Odessa
*Olean Livestock Market, Inc., Eldon
Oligschlaeger Livestock Market, St. Elizabeth
Osage Hog Buyers, Inc., Linn
*Oregon Livestock Sales Company, Oregon
*Osage County Livestock Producers Association, Linn
*Palmyra Livestock Auction Market, Palmyra
*Pasley Auction Company, Osceola
*Patton Junction NFO Collection Point, Patton
*Bob Pierce Sale Barn, Buffalo
*Pike County Livestock Market, Bowling Green
*Poplar Bluff Sales Company, Poplar Bluff
*Potosi Livestock Market, Potosi
*Puxico Stockyards & Auction Company, Puxico
Rains Livestock, Inc., Poplar Bluff
Reed Livestock, Dexter
Reed (Chester) Livestock Market, Mountain Grove
*Rich Hill Sale Company, Rich Hill
Richland Livestock, Richland
*Roberts Livestock Auction, Bolivar
*Rockport Sales Pavilion, Inc., Rockport
*St. Clair Auction Company, St. Clair
*St. Joseph Stockyards, South St. Joseph
*St. Joseph Stockyards—Market Hog Division, South St. Joseph
Ste. Genevieve Livestock Collection Point, Ste. Genevieve
*Salem Auction Company, Salem
*Savannah Sale Company, Savannah
*Scotland County Livestock Auction, Memphis
*Sedgewickville Auction, Sedgewickville
*Shelbina Auction Company, Shelbina
Shell Feed & Supply, Fredericktown
Shell Feed & Supply, Perryville
Shell Feed & Supply, Lutesville
*Sho-Me Feeder Pig, Inc., Ava
*Sho-Me Feeder Pig, Inc., Thayer
S-D Hog Market Center, Marshall
*South Central Livestock Market, Inc., Vienna
Southeast Missouri Stockyard Co., Oran
*Southwest Feeder Pig Market, Inc., Nixa
*Southwest Missouri Livestock Association, Inc., Sarcoxie
*St. James Auction Company, St. James
*Sullivan County Livestock Auction Market, Milan
*Summersville Livestock Market, Summersville
Swift Fresh Meats Co., Eolia
Thomas Hog Market, Syracuse
Thomas & Potter Hog Markets, Eldon
Thompson Hog Market, Glasgow
*Tina Feeder Pig Auction, Tina
*Union Stockyards, Springfield
*Unionville Sale Company, Unionville
Carroll Warnock Stockyards, Lineville, Iowa
Warnock Stockyard, Trenton
*Warsaw Auction Company, Warsaw
West Plains City Scales, West Plains
*West Plains Livestock Auction, Pomona
*West Plains MFA Feeder Pig Yards, West Plains
*Wheaton Livestock Auction, Wheaton
Wil Lin Hog Buying, Browning

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Wilson & Company Hog Market, Chillicothe
Wilson & Company Hog Market, Palmyra
Wilson and Company, Inc., Marshall
Wilson Hog Buying Station, Greenfield
Wilson Hog Market, Albany
Wilson Hog Market, Novelty
Wilson Hog Market, Salisbury
*Windsor Auction, Windsor

Montana

*Baker Livestock Auction, Inc., Baker
*Beaverhead Livestock Auction, Dillon
Glendive Livestock Sales Co., Glendive
*Kalispell Livestock Auction, Kalispell
*Livestock Auction, Inc., Baker
Pierce Buying Station No. 1 (Red Hickory Yard), Baker
*Public Auction Yards, Billings
*Sidney Livestock Market Center, Sidney

Nebraska

*Ainsworth Livestock Auction, Ainsworth
*Alma Livestock Commission Company, Alma
*Beatrice Sales Pavilion, Beatrice
*Beatrice 77 Livestock Sales Co., Beatrice
*Butte Livestock Market, Butte
*Chappell Livestock Auction, Chappell
*Creighton Livestock Market, Inc., Creighton
*Falls City Auction Co., Falls City
*Farmers Livestock Sales Co., Benkelman
Farmland Food, Inc., Hardy
Franklin Livestock Market, Franklin
Gordon NFO Collection Point, Gordon
*Hebron Livestock Commission Co., Hebron
*Holdrege Livestock Auction Market, Holdrege
*Holdrege Livestock Commission Co., Holdrege
George Hormel & Company, Falls City
*Humboldt Sale Barn and Humboldt Hog Market, Humboldt
*Huss Platte Valley Auction, Inc., Kearney
*Imperial Auction Market, Inc., Imperial
*Kimball Livestock Auction, Kimball
Kleen-Leen, McCook
*Lexington Livestock Market, Lexington
*Midwest Livestock Commission Co.,Inc., McCook
National Farmers Organization, Guide Rock
National Farmers Organization, Pawnee City
*Nebraska City Salebarn, Inc., Nebraska City
*Norfolk Livestock Market, Inc., Norfolk
*N.F.O. Reload Point, Whitney
*Omaha Livestock Market, Inc., Omaha
*Ogallala Livestock Market, Ogallala
*Oxford Livestock Market, Oxford
*Pawnee Livestock, Inc., Pawnee City
*Pender Livestock, Inc., Pender
*Platte Valley Feeder Pig, Inc., Fremont
*Platte Valley Livestock Auction, Inc., Gering
Pork Packers International, Inc., Superior
*Red Cloud Livestock Commission Co., Red Cloud
*Sheridan Livestock Commission, Co., Rushville
Superior Hog Market, Superior
*Superior Livestock Commission Co., Inc., Superior
*Syracuse Sales Pavilion, Inc., Syracuse
*Tecumseh Livestock Market, Tecumseh
*Tri-State Livestock Commission Co., Inc., McCook
*Valentine Livestock Auction Co., Inc., Valentine
*Verdigre Livestock Market, Verdigre
WEW Hog Company, McCook
The Weichman Pig Co., Inc., Fremont
Whitney Livestock, Whitney
Wilson and Company, Auburn
Wilson and Company, Pawnee City
Wilson and Company, Syracuse
*York Livestock Sales Company, York
York Pack Buying Station, Superior

New Jersey

Wallace H. Coates Livestock Co., Monroeville
Jaeger's Livestock Market, Sussex
*Livestock Cooperative Auction Market, Association of North Jersey, Inc., Hackettstown

New Mexico

B & and Hog Company, Clovis
*Clovis Hog Company, Inc., Clovis
Clovis Hog Market, Clovis
*Five States Livestock Auction Co., Clayton
Portales Livestock Commission Company, Portales

New York

Buffalo Stockyards Company, Inc., Buffalo
*Empire Livestock Marketing Cooperative, Inc., Caledonia
Empire Livestock Marketing Cooperative, Inc., Waterloo
*Finger Lakes Livestock Sale, Canandaigua
Luther's Livestock Commission Market, Wassaic
Millerton Livestock Auction, Hillsdale

North Carolina

Coastal Livestock, Inc., Richlands
*Albermarle Cooperative Association, Inc., Edenton
Baker Hog Market, Tyner
Brite-Tatum Livestock Auction, Elizabeth City
*Carolina Stockyards, Siler City
*Carolina-Virginia Stockyard, Windsor
Cattleman's Livestock Market, Canton
*Central Carolina Farmers Livestock Market Quality Feeder Pig Sale, Hillsborough
*Chadbourn Graded Feeder Pig Sale, Chadbourn
Chadbournn Livestock Market, Chadbourn
William A. Crofton Livestock, Lumberton
*Elizabethtown Livestock Market, Elizabethtown
D. F. Foust Livestock Auction, Inc., Greensboro
Franklin Livestock Market, Franklin
Greenville Stock Yard, Greenville
Gwalteny-Hertford Livestock Market, Herford
W. H. Horney, Siler City
Robert P. Hollowell Livestock Market, Sunbury
*Iredell Livestock Company, Turnersburg
*Kinston Stockyard, Kinston
George P. Kittrell Livestock Market, Corapeake
*Gus Z. Lancaster Quality Feeder Pig Sale, Dunn
*Gus Z. Lancaster Quality Feeder Pig Sale, Rocky Mount
Gus Z. Lancaster Stockyards, Inc., Rocky Mount
Laurinburg Livestock Market, Laurinburg
*Lumberton Auction Co., Lumberton
Bill Martin, Greensboro
*M & R Livestock Company, Inc., Dunn
M & R Livestock Market, Snow Hill
Miller's Livestock, Inc., Winfall
Mountain Livestock Auction, Murphy
*Norwood Graded Quality Feeder Pig Sale, Norwood
*Oxford Livestock Market, Inc., Oxford
*Pates Stockyard, Inc., Pembroke
*Pates Stockyard, Inc. of Whiteville, Whiteville
*Powell Livestock Company of Smithfield, Smithfield
Reaves Livestock, Inc., Rowland
Smithfied Packing Company Hog Buying Station, Murfreesboro
Trenton Livestock, Inc., Richlands
Tommie Turner Livestock Market, Pink Hill
Turner's Livestock, Inc., Elizabeth City
*Union County Livestock Auction, Inc., Monroe
*Wells Livestock Market Graded Feeder Pig Sale, Wallace
*Western Carolina Feeder Pig Sale, Asheville
Whedbee Livestock Market, Hertford
R. O. Whitley, Inc., Como

North Dakota

Armour & Company, Wahpeton
*Bismarck Livestock Auction, Inc., Bismarck
*Bowman Livestock Auction Market, Bowman
*Carrington Livestock Sales, Inc., Carrington
Central Livestock Association, Inc., Dickinson
Dakota Meats, Inc., Minot
*Edgeley Livestock, Inc., Edgeley
*Ellendale Livestock Sales Company, Ellendale
Hamann Livestock Company, Dickinson
*Harvey Livestock Auction, Harvey
*Jamestown Livestock Sales Co., Jamestown
*Kist Livestock Action Co., Mandan
*Lake Region Auction and Livestock Market, Inc., Devils Lake
*Linton Livestock Sales, Inc., Linton
*Minot Livestock Auction Sales, Inc., Minot
NFO Collection Point, Beach
*Park River Livestock Exchange, Park River
Pierce Packing Company Buying Station, Hettinger
*Rugby Livestock Auction, Inc., Rugby
*Stockmen's Livestock Exchange, Inc., Dickinson
*Sitting Bull Auction, Williston
*Stockmen's Livestock Exchange, Inc., Beulah
*Tri-State Auction Market, Inc., Hettinger
*Turtle Lake Livestock, Inc., Turtle Lake
*Union Stockyards Company of Fargo, West Fargo
*Watford City Livestock Auction, Watford City
*Western Livestock, Inc., Dickinson
*Wikenheiser Livestock, Strasburg
*Wisconsin Feeder Pig Marketing Co-op., Litchville

Ohio

*A. E. Miller Livestock, Delphos
Bauman Stockyards, Inc., Napoleon
Bloomfield Livestock Auction, North Bloomfield
Merle A. Bussert Livestock, Amanda
*Burkettsville N.F.O. Collection Point, Burkettsville
Butler County NFO Collection Point, Hamilton
*Carrollton Livestock Auction, Carrollton

Chickasaw Stockyard, Chickasaw
Cisco Stockyard, Inc., St. Marys
*Damascus Livestock Auction, Damascus
*Delta Livestock Auction, Delta
*Dicke Stockyard, New Bremen
Wm. Espel Sons, Inc., Cincinnati
Findlay Producers Livestock Association, Findlay
French City Meats, Inc., Gallipolis
Gamboe Stockyards, Pioneer
*Geauga Livestock Commission, Inc., Middlefield
Harpster Stockyards, Ashland
Harvey Livestock, Inc., Coldwater
Heinold Hog Market, Eldorado
Heinold Hog Markets, Gettysburg
Heinold Hog Market, Inc., Sedalia
Frank D. Heisel Livestock, Washington Court House
Interstate Farmers Livestock Company, Oxford
Interstate Livestock, Inc., Oxford
E. Kahn's Sons Company, Cincinnati
Kleinhenz Brothers Stockyard, Ft. Recovery
Kleinhenz Brothers Stockyard, Celina
Kloeppel Livestock, Sidney
*Krugh's Stockyards, Wren
*Virgil Lampert Stockyards, New Bremen
Lewisburg NFO Collection Point, Lewisburg
*Lugbill Brothers, Archbold
Lugbill Brothers, Fayette
Lugbill Brothers, Wauseon
*Middendorf Stockyards, Botkins
*Middendorf Stockyards, Celina
*Middendorf Stockyards, Co., Fort Loramie
*Middendorf Stockyards Company/d.b.a. Kenton Farmers Market, Kenton
Middleton Stockyards, Inc., New Madison
A. E. Miller Stockyard, Middle Point
*Ohio Valley Livestock Company, Gallipolis
Ohio Valley Livestock Corporation/d.b.a. Preble County Stockyards, Eaton
*Wilson Brothers/d.b.a. Peoples Livestock Exchange, Greenville
Philothea Stockyard, Coldwater
*Producers Livestock Association, Bucyrus
*Producers Livestock Association, Cadiz
*Producers Livestock Association, Eaton
*Producers Livestock Association, Findlay
Producers Livestock Association, Greenville
*Producers Livestock Association, Hillsboro
*Producers Livestock Association, Lancaster
Producers Livestock Association, London
*Producers Livestock Association, Marysville
*Producers Livestock Association, Mt. Vernon
*Producers Livestock Association, Orrville
*Producers Livestock Association, Springfield
*Producers Livestock Association, Wapakoneta
*Producers Livestock Association, Woodville
Selected Meat Company, Greenfield
Don H. Smith Stockyard, Fort Recovery
P. B. Stewart, Edon
Tuente Stockyards, Saint Sebastion
Tuente Stockyards, Yorkshire
The Union Stockyards Co., Hillsboro
*Vic Ruhe Livestock, Ottawa
Waynesfield Stockyard, Waynesfield
Werling and Sons, Inc./d.b.a. Burkettsville Stockyard, Burkettsville
Jerome Winner Stockyard, New Weston
Robert Winner Sons, Inc., Osgood
*Joe Wood Livestock Market, New Vienna

Oklahoma

*Adair County Livestock Auction, Inc., Stilwell
Ag Markets, Inc., Woodward
*Antlers Livestock Commission, Antlers
*Checotah Livestock Auction, Checotah
*Comanche Hog Sale, Ardmore
*Comanche Hog Sale, Comanche
*Delaware County Livestock Auction, Inc., Grove
*Durant Stockyards Co., Durant
*Farmers and Ranchers Livestock Auction, Vinita
*Ft. Smith Stockyards Co., Inc., West Ft. Smith
*Hugo Sales Commission, Inc., Hugo
Arthur Kelley Stockyards, Muskogee
*LeFlore County Livestock Auction, Wister
Maurer and Neuer, Enid
*Muskogee Stockyards & Livestock Auction, Inc., Muskogee
*Newkirk Sale Company, Newkirk
*Northeast Oklahoma Feeder Pig and Livestock Market, Leach
*Oklahoma National Stockyards, Oklahoma City
Small Hog Company, Alva
*South Coffeyville Livestock Market, Inc., South Coffeyville
*Tahlequah Sale Barn, Tahlequah
*Tonkawa Livestock Exchange, Tonkawa
*Welch Livestock Auction, Welch

Oregon

*Hermiston Livestock Commission Co., Hermiston
*Northwestern Livestock Commission Co., Hermiston
*Ontario Livestock Commission Co., Ontario
*The Portland Livestock Market, Inc., North Portland
*The Dallas Auction Yard, The Dalles
*Vale Livestock Auction, Vale

Pennsylvania

*Belknap Livestock Market, Inc., Dayton
*Belleville Livestock Market, Inc., Belleville
Edgar K. Black, Skippack
K. M. Border Livestock, Dover
*Carlisle Livestock Market, Inc., Carlisle
Cattle Sales, Inc./d.b.a. Scenery Hill Stockyards, Scenery Hill
*Chambersburg Livestock Sales, Inc., Chambersburg
*Chesley's Sales, Inc., Northeast
*Cowanesque Valley Livestock Auction, Knoxville
Wayne F. Craig & Son, Shippensburg
*Danville Cattle Co., Inc., Danville
*Dewart Livestock Market, Dewart
*Eighty Four Auction Sales, Inc., Eighty Four
*Enon Valley Community Sale, Enon Valley
*Fayette Stockyards, Inc., Uniontown
*G & M Livestock Market, Inc., Duncansville
*Greencastle Livestock Market, Inc., Greencastle
*Green Dragon Livestock Sales, Ephrata
*Hickory Auction and Sales, Inc., Hickory
*Hulshart, C. A., Stewartstown
*Indiana Livestock Auction, Inc., Homer City
*Jersey Shore Livestock, Inc., Jersey Shore
*Keister's Middleburg Auction Sales, Inc., Middleburg
*Lancaster Stockyards, Inc., Lancaster
*Lebanon Valley Livestock Market, Inc., Fredericksburg
*Leesport Market & Auction, Inc., Leesport
*Meadville Livestock Auction, Saegertown
*Mercer Livestock Auction, Mercer
C. Robert Miller, Watsontown
*Morrison Cove Livestock Market, Martinsburg
*New Holland Sales Stables, Inc., New Holland
*New Wilmington Livestock Auction, Inc., New Wilmington
*Nicholson Sales Company, Nicholson
*Penns Valley Livestock Auction, Inc., Centre Hall
*Pennsylvania Livestock Auction, Inc., Waynesburg
*Perkiomenville Livestock and Sales, Inc., Perkiomenville
*Quakertown Livestock Sale, Quakertown
*Sechirst Sales Company, Inc., Fawn Grove
W. R. Sellers Livestock, Greencastle
*Tri-County Livestock Auction, Inc., Brockway
*Thomasville Livestock Market, Inc., York
*Troy Sales Cooperative, Troy
*Union City Livestock Auction, Union City
Valley Stockyards, Inc., Athens
*Vintage Sales Stables, Inc., Paradise
*Wayne County Auction Barn, Inc., Honesdale
*Wyalusing Livestock Market, Wyalusing

South Carolina

Central Carolina Livestock Market, Inc., Lugoff
Chesnee Livestock Company, Chesnee
Conway Stockyard, Conway
Conway Stockyard, Loris
*Darlington Auction Market, Darlington
Dorchester Marketing Association, St. George
*Farmers County Line Stockyards, Andrews
*Farmers Market, Estill
Farmers Livestock Market, Leesville
Florence Union Stockyards, Florence
Greenwood Stockyard, Inc., Greenwood
*Hemingway Livestock Market, Hemingway
*Herndon's Stockyards, Inc., Ehrhardt
*Hutto Stockyard, Inc., Holly Hill
*Jim's Livestock, Inc. (Pig Barn), Kingstree
Kingstree Union Stockyard, Kingstree
M & R Livestock, Neeses
M & R Livestock, Nichols
M & R Livestock Company, Ruffin
Neeses Stockyards, Neeses
*Orangeburg Stockyard, Inc., Orangeburg
Saluda County Stockyards, Saluda
South Carolina Farm Bureau/d.b.a. Jim's Livestock, Kingstree
Spartanburg Livestock Market, Spartanburg
*Springfield Stockyard, Inc., Springfield
S & S Milling Company, Hemingway
John C. Taylor Stockyard, Anderson
Walterboro Stockyards Co., Inc., Walterboro
York County Stockyards, York

South Dakota

*Aberdeen Livestock Sales Company, Inc., Aberdeen
Armour and Company Hog Buying Station, Aberdeen
Armour Buying Station, Hudson
*Belle Fourche Livestock Exchange, Inc., Belle Fourche
*Bowdle Livestock Sales, Inc., Bowdle
*Brookings Livestock Auction, Brookings
Browns Valley Collection Point, Inc. (located in Roberts County, South Dakota), Browns Valley, Minnesota

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*Burke Livestock Auction, Burke
*Canton Livestock Sales Company, Canton
*Chamberlain Livestock Auction, Inc. Chamberlain
Columbia Collection Point, Columbia
*Corsica Livestock Sales Company, Corsica
*Edgemont Livestock Commission Company, Edgemont
*Faith Livestock Commission Company, Inc., Faith
*Gettysburg Livestock Exchange, Inc., Gettysburg
*Gregory Livestock Auction Company, Gregory
*Hub City Livestock Sales, Aberdeen
*Kramer's Livestock Auction Company, Inc., Sioux Falls
*Loken's Watertown Sales Pavilion, Inc., Watertown
*Madden's Livestock Auction Market, Inc., St. Onge
*Madison Livestock Auction Company, Madison
*Magness-Huron Livestock Exchange, Inc., Huron
*Marshall Livestock Auction Company, Britton
*Martin Auction Company, Inc., Martin
*McLaughlin Commission Company, Inc., McLaughlin
*Mitchell Livestock Auction Co., Inc., Mitchell
*Mobridge Livestock Auction Sales, Inc., Mobridge
John Morrell Hog Buying Station, Aberdeen
John Morrell & Company, Watertown
Morrell Buying Station, Flandreau
Owen Livestock Company, Britton
*Philip Livestock Auction, Philip
*Rapid City Livestock Commission Company, Rapid City
*Scofield's Leola Livestock Sales, Leola
*Sioux Falls Stock Yards Company, Sioux Falls
*Sisseton Livestock Auction, Inc., Sisseton
Sodak Pork, Aberdeen
*South Dakota Livestock Sales Company, Watertown
*Stockman's Auction Co., Inc./d.b.a. Bales Continental Commission Company, Huron
*Stockmen's Livestock Auction Company, Yankton
*Sturgis Livestock Exchange, Inc., Sturgis
*Wall Livestock Auction, Wall
*Wessington Springs Livestock Company, Wessington Springs
*West River Livestock Market Co., Lemmon
*Willow Lake Livestock Auction, Willow
*Winner Livestock Auction Company, Winner
*Yankton Livestock Auction Market, Yankton
*Fort Pierre Livestock Auction, Inc., Fort Pierre

Tennessee

American Farmers Marketing Co-op, Clarksville
Athens Livestock Auction Company, Athens
*Bedford County Feeder Pig Sale, Unionville
*Harry Bogle Feeder Pig Barn, Murfreesboro
*Johnny Boyce Feeder Pig Barn, Unionville
*Raymond Boyce Feeder Pig Market, Unionville
*Brownsville Feeder Sales Assn., Brownsville
*Carroll County Feeder Pig Association, Huntingdon
Chattanooga Union Stockyard, Chattanooga
Clarksville Livestock Company, St. Bethlehem
*Chickasaw Feeder Association, Selmer
C & M Livestock Market, Jamestown
Cleveland Livestock Auction, Inc., Cleveland
Coffee County Livestock Market, Manchester
Collierville Livestock Auction Co., Collierville
Covington Sale Co., Covington
Crockett County Sales Co., Maury City
Cumberland City Stockyard, Cumberland City
*Cumberland Feeder Pig Sales, Cookeville
DeKalb County Livestock Company, Alexandria
*Joe H. Derryberry d.b.a. Derryberry Pig Barn, Chesterfield
*Dickson County Feeder Pig Sale, White Bluff
Dickson Livestock Center, Dickson
East Tennessee Livestock Center, Sweetwater
Farmers Auction Co., Fayetteville
Farmers Livestock Exchange, Union City
Farmers Livestock Market, Greeneville
*Feeder Pig Division of Lawrence County Livestock Association, Lawrenceburg
Gamaliel Livestock Market, Gamaliel
*Giles County Feeder Pig Sales, Pulaski
Giles County Stockyard, Pulaski
Greeneville Livestock Company, Inc., Greeneville
*Hardin County Livestock Association, Savannah
Hardin County Stockyard, Savannah
*J. T. Herren d.b.a. J. T. Herren Feeder Pig Market, Baxter
Jackson County Commission Co., Gainesboro
*Johns Brothers Feeder Pigs, Chapel Hill
*Jolley Bros., Doyle
Jonesboro Livestock Yard, Inc., Telford
Kentucky Buyers, Belvidere
Kingsport Livestock Auction Corp., Kingsport
Lawrence County Stockyards, Lawrenceburg
Lexington Sales Company, Lexington
Macon County Livestock Market, Lafayette
Middleton Sales Co., Middleton
Mid-South Livestock Commission Co., Columbia
*Mid-State Producers Feeder Pig Sale, Woodbury
Moody Livestock, Newbern
Morristown Stockyards, Inc., Morristown
Murfreesboro Livestock Center, Murfreesboro
N.F.O. Buying Station, Centerville
New Tazewell Livestock Market, New Tazewell
North Central Livestock Center, Cross Plains
Northwest Tennessee Livestock, Inc., Newbern
Paris Livestock Commission Company, Paris
Peoples Livestock Market, Cookeville
Peoples Stockyard, Fayetteville
Plateau Livestock Exchange, Crossville
Pulaski Stockyard, Pulaski
*Robinson, Jimmie and Son, Franklin
Rogersville, Livestock Market, Rogersville
Odell Sampson-Sampson & Maxwell Livestock Auction, Lewisburg
Scotts Hill Auction Company, Inc., Scotts Hill
*Sells, Lonnie, Winchester
Selmer Stockyard, Selmer
*Sevier County Livestock Association, Sevierville
Sevier County Livestock Auction, Seymour
Shelbyville Livestock Market, Shelbyville
Smith County Commission Co., Inc., Carthage
*Smith County Feeder Pig Association, Carthage
Smithville Livestock Market, Smithville
Smithville Stockyards, Smithville
*Smotherman, E. H., Murfreesboro
South Memphis Stock Yards Co., Memphis
Southern Livestock Auction Company, Columbia
Southwestern Sales Company, Inc., Huntingdon
Sparta Livestock Co., Inc., Sparta
*Taylor Bros. Feeder Pigs, College Grove
Tennessee Livestock Producers, Inc., Fayetteville
Tennessee Livestock Producers, Inc., Thompson Station
Tennessee Livestock Producers, Inc., Woodbury
Thompson Livestock Company, Obion
Trenton Livestock Sales, Trenton
Tri-County Stockyards, McKenzie
Trousdale County Livestock Market, Hartsville
Union Livestock Yards, Inc., Knoxville
Unionville Livestock Market, Unionville
*Volunteer Feeder Pig Association, Lexington
*Walker, Dallas Livestock, Rutherford
*Warren County Livestock Association, McMinnville
West Tennessee Auction Company, Martin
Wilson County Livestock Market, Lebanon
Wilson Livestock Market, Newport
*Young Livestock, Murfreesboro

Texas

*Dalhart Auction Company, Dalhart
*Ft. Worth Stockyards, Fort Worth
*Gainesville Livestock Auction, Gainesville
*J & J Livestock Commission Co., Inc., Texarkana
Muenster Livestock Auction, Muenster
Robinson Livestock, Booker
*Texarkana Stockyards Co., Texarkana
Texas Agricultural Marketing and Development Assn., Amarillo
West Texas Hog Company, Inc., Wellington

Utah

*Producers Livestock Marketing Association, North Salt Lake
*Producers Salina Auction, Salina
Uintah Sales Barn, Inc., Roosevelt
Vernal Livestock Auction, Vernal

Virginia

Abingdon Livestock Market, Inc., Abingdon
Albermarle Livestock Market, Inc., Charlottesville
Amherst County Livestock Market, Inc., Amherst
Bedford Livestock Market, Inc., Bedford
Blackstone Livestock Market, Blackstone
Caret Livestock Market, Caret
Christianburg Livestock Market, Inc., Christianburg
Creech Livestock Market, Inc., South Hill
Culpeper Livestock Exchange, Culpeper
Eddins Livestock Market, Stanardsville
Emporia Hog Market, Emporia
Esskay Buying Station, Caret
Ewing Livestock Market, Ewing
Farmers Livestock Market, Gate City
Farmers Livestock Market, Inc., Ewing
*Farmers Livestock Exchange, Inc., Winchester
Farmers Livestock Market, Rose Hill

Farmers Livestock Market, Inc., Tazewell
*Farmville Livestock Market, Farmville
Fauquier Livestock Exchange, Inc., Marshall
Fredericksburg Stockyard, Inc., Fredericksburg
Front Royal Livestock Market, Front Royal
Galax Livestock Market, Inc., Galax
Halifax Livestock Market, Halifax
Jonesville Livestock Market, Jonesville
Leesburg Livestock Market, Inc., Leesburg
Leonard Harrell Livestock Chesapeake
Lottsburg Buying Station, Lottsburg
Lynchburg Livestock Market, Inc., Lynchburg
*Madison Livestock Market, Inc., Madison Mills
McComb and Block, Inc./Lawrenceville Hog Market, Lawrenceville
Monterey Livestock Sales, Inc., Monterey
Narrows Livestock Auction Market, Narrows
*Nokesville Livestock Market, Nokesville
Orange Livestock Market, Orange
Pearce's Livestock Market, Holland
*Petersburg Livestock Market, Petersburg
Phenix Livestock Market, Phenix
Pulaski County Livestock Market, Dublin
Richmond Union Stockyards, Richmond
Roanoke-Hollins Stockyard, Hollins
Roanoke Livestock Market, Roanoke
*Rockingham Livestock Sales, Inc., Harrisonburg
J. L. Rose Hog Buying Stations, Courtland
J. L. Rose Hog Buying Stations, Wakefield
Saluda Buying Station, Glennis
Scott County Livestock Market, Gates City
Shen-Valley Buying Station, Dillwyn
Shen-Valley Buying Station, Madison Mills
*Shenandoah Valley Livestock Sales, Inc., Harrisonburg
Smithfield Livestock Market, Inc., Smithfield
Smithfield Packing Company Buying Station, Courtland
*Southampton Livestock Sales, Inc., Courtland
South Boston Livestock Market, Inc., South Boston
Southampton Peanut Company Buying Station, Branchville
*South Hill Livestock Market, South Hill
Southside Stockyards, Inc., Blackstone
*Southside Stockyards, Inc., Petersburg
Staunton Livestock Market, Inc., Staunton
*Staunton Union Stockyards, Staunton
*Tappahannock Livestock Market, Inc., Tappahannock
Tazewell Livestock Market, Inc., Tazewell
*Tidewater Livestock Sales Company, Courtland
Tri-State Livestock Market, Abingdon
B. C. Umbargers Assembly Yard, Wytheville
Victoria Livestock Market, South Hill
Virginia-Carolina Livestock and Agriculture Market, Inc., Danville
*Walker Bros. Livestock Pavilion, Seven Mile Ford
*Woodstock Livestock Market, Inc., Woodstock
Wytheville Livestock Market, Inc., Wytheville

Washington

*Auburn Livestock, Inc., Auburn
*Prosser Commission Company, Inc., Prosser
*Stockland Union Stockyards, Spokane
*Sunnyside Livestock Market, Sunnyside
*Walla Walla Livestock and Feedlot, Walla Walla

West Virginia

*Bluegrass Market, Inc., North Caldwell
*Blue Ridge Livestock Sales, Inc., Charles Town
*Jackson County Livestock Market, Inc., Ripley
*Moundsville Livestock Auction Co., Moundsville
*Ohio County Livestock Auction, Mt. Echo
*Terra Alta Livestock Market, Inc., Terra Alta
*Terra Alta Stockyards, Inc., Terra Alta
*United Livestock Sales Co., Parkersburg

Wisconsin

*Belmont Livestock Market, Belmont
Al Berning, Cuba City
Darlington N.F.O. Stockyards, Darlington
Dunwiddie Livestock, Brodhead
Dunwiddie Livestock, Juda
*Don Eilers, Marshfield
Ellsworth N.F.O. Collection Point, Ellsworth
*Equity Coop Livestock Sales Ass'n., Bonduel
*Equity Coop Livestock Sales Ass'n., Johnson Creek
*Equity Coop Livestock Sales Ass'n., Monroe
*Equity Coop Livestock Sales Ass'n., Ripon
*Equity Coop Livestock Sales Ass'n., Sparta
Equity Coop Livestock Sales Ass'n., West Salem
Grant County Livestock Exchange, Hazel Green
Leo Hennessey & Son, Shullsburg
Leo Hennessey & Son, Cuba City
*Iowa County Livestock Market, Dodgeville
Theodore Lipke, Avalon
*Midwest Livestock Producers Coop., Marion
*Midwest Livestock Producers Coop., Ettrick
*Midwest Livestock Producers Coop., Shullsburg
*Midwest Livestock Producers Coop., Monticello
*Midwest Livestock Producers Coop., Fennimore
*Midwest Livestock Producers Coop., Francis Creek
*Midwest Livestock Producers Coop., Lomira
Milwaukee Stockyards, Milwaukee
* Tim Orr Livestock Market, Weyauwega
* Peshtigo Livestock Market, Peshtigo
* Gordon Peterson, Waupaca
* Charles Pufahl Market, Paupaca
* Lawrence Richter, Rice Lake
Rock County Reload Market, Hanover
* Donald Schwebs Market, De Forest
* Haulis E. Simon, New Richmond
Emil Treuthardt, Juda
* Waupaca Feeder Pigs, Scandinavia
* Wisconsin Feeder Pigs, Blue Mounds
* Wisconsin Feeder Pigs, Boltonville
* Wisconsin Feeder Pigs, Francis Creek
* Wisconsin Feeder Pigs, Galesville
* Wisconsin Feeder Pigs, Lancaster
* Wisconsin Feeder Pigs, Waupaca
* Ray Wolosek, Jr., Wisconsin Rapids
* Philip C. Ziegler Livestock Market, Appleton

Wyoming

* Douglas Livestock Exchange Co., Douglas
* Gillette Livestock Exchange, Gillette
* Greybull Livestock Auction, Greybull
Pierce Packing Company Buying Station, Powell
* Powell Auction Market, Powell
* Sheridan Livestock Exchange, Sheridan
* Stockgrowers Livestock Auction, Worland
* Stockman Livestock Auction, Torrington
* Torrington Livestock Commission Co., Torrington
* Stockman's Livestock Auction, Torrington

(Sec. 2, 32, Stat. 792, as amended; secs. 4 and 5, 23 Stat. 32, as amended; sec. 1, 75 Stat. 481; sec. 1, 32 Stat. 791, as amended; secs. 3 and 4, 33 Stat. 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 114g, 120, 125, 126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141))

Effective date. The foregoing notice shall become effective on January 29, 1980.

Done at Washington, D.C., this 22nd day of January 1980.

R. P. Jones,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-2573 Filed 1-28-80; 8:45 am]

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federal register

Tuesday
January 29, 1980

Part III

Department of Health, Education, and Welfare

Food and Drug Administration

Infant Formulas; Public Meeting and Public Hearing

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 105

[Docket No. 80N-0025]

Infant Formulas; Public Meeting and Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice of Meeting and Public Hearing.

SUMMARY: The Food and Drug Administration (FDA) announces two proceedings, an open public meeting and an informal public hearing, to consider the need for new or revised regulatory requirements regarding the manufacture, processing, labeling, nutrient composition, and clinical testing of infant formulas. These issues are under consideration primarily because of recent incidents of infant illness associated with an insufficiency of chloride, an essential nutrient, in certain soy protein-based infant formulas.

DATE: The public meeting will begin at 9 a.m. on February 19, 1980, and will be continued on February 20, if necessary.

The public hearing will begin at 9 a.m. on March 12, 1980, and will be continued on March 13, if necessary. Written notices of participation must be received by February 28, 1980. Applications for reimbursement by February 25, 1980.

ADDRESS: Both proceedings will be held in the main auditorium of the HEW Bldg., 330 Independence Ave. SW., Washington, DC 20201.

Although not required, written notices of participation in the public meeting will be useful to FDA for planning and conducting the meeting and should be sent to the contact person indicated in this notice.

Written notices of participation in the public hearing are required. Written notices of participation and applications for reimbursement should be submitted to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Victor P. Frattali, Bureau of Foods (HFF-202), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-245-1561.

SUPPLEMENTARY INFORMATION: Recently, a major manufacturer of soy protein-based infant formulas initiated reformulation procedures which resulted in products containing an inadequate amount of chloride, an essential nutrient. In late July and early August 1979, a number of cases of hypochloremic metabolic alkalosis, an abnormal condition generally characterized in infants by a failure to thrive, were found by several pediatricians to be associated with prolonged exclusive use of the chloride-deficient soy protein-based infant formulas. In an attempt to prevent the recurrence of this type of problem, FDA is convening a public meeting and a public hearing to discuss, among other things, the types and frequency of tests which infant formula manufacturers should conduct to ensure product safety and quality, the adequacy of the nutrient composition of infant formulas and the need for clinical testing before marketing new infant formulas of following reformulation of existing infant formulas. Testimony and other information derived from these public proceedings will be used to assist FDA in developing proposed quality assurance and quality control regulations for infant formulas, revising the existing regulation concerning nutrient composition of infant formulas (21 CFR 105.65), and considering the matter of clinical testing of infant formulas. Materials related to the issues involved in these proceedings are on file with the Hearing Clerk, Food and Drug Administration.

A brief background paper on the history, safety, composition, and regulatory scheme for infant formulas is being prepared by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology under contract with FDA, and will be available at these proceedings. Requests for advance single copies of the background paper may be addressed to the contract person indicated above, and will be honored as soon as the paper is available.

The Committee on Nutrition of the American Academy of Pediatrics, also under contract with FDA, has been requested to review the need for revision of its 1976 guidelines on the nutrient characteristics of infant formulas (*Pediatrics* 57:278-285, 1976) and to provide their views on the need for clinical testing of new and reformulated formulas. Receipt by FDA of the results of these reviews is anticipated before the public meeting.

Public meeting. The public meeting will be held in accordance with Part 10 of the FDA procedural regulations (21 CFR 10.65(b)) and will be open to all interested persons. The meeting is scheduled to start at 9 a.m. on February 19, 1980, in the auditorium of the HEW Bldg., 330 Independence Ave., SW., Washington, DC 22201, and will be continued on the following day, if necessary, to accommodate full participation by all interested parties. This meeting will be transcribed and will be chaired by Dr. Sanford Miller, Director, Bureau of Foods, FDA. The issues for consideration are being limited to: quality assurance and quality control procedures, and processing unit operations in the manufacture and packaging of infant formulas (liquid and dry); the need for clinical testing of new and reformulated products; and the desirability of open dating labeling requirements. FDA is solely interested in seeking information from individuals or organizations on current practices and needs, including benefits and limitations, for the topics indicated above. A few brief presentations from the public, the medical community, and industry may be solicited by FDA to open the meeting. The greater part of the time allotted for the meeting, however, will be open for comment by consumers, trade associations, industry representatives, the scientific and medical community, and any other interested party. Although not required, written notices of participation will be most helpful for determining equitable time allotments among those who wish to present their views.

Persons who desire to make presentations are urged to notify the contact person at the address and phone number given above by close of business Friday 15, 1980, and indicate the amount of time desired. A maximum of 5 to 15 minutes per presentation may be imposed unless more time can be justified. Although not mandatory, FDA encourages presubmission of the written texts of oral presentations. Although FDA will schedule presentations of those participants who request to participate in advance, ample time will be provided for presentations by all individuals, whether or not prior notification of their intent to participate has been received.

Public hearing. The informal public hearing will be held in accordance with Part 15 of the FDA procedural regulations (21 CFR Part 15). The hearing is scheduled to start at 9 a.m. on March 12, 1980, in the auditorium of the HEW Bldg., 330 Independence Ave., SW., Washington, DC 20201, and will be continued on the following day, if necessary. The issues for consideration at the hearing are being limited to the adequacy of the current nutrient composition of infant formulas and whether revisions of the existing regulation in Part 105 on infant foods [21 CFR 105.65) are necessary. FDA is

seeking comment, particularly scientific justification, for changes in the current regulation.

Persons desiring to make an oral presentation at this hearing or who desire to submit a written statement must file a written notice of participation by February 29, 1980, with the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. The notice of participation should be identified with the Docket No. 80N-0025 and contain the following information:

1. Name, address, and telephone number of person desiring to make a presentation and/or to submit written comments;
2. Business or organizational affiliation, if any;
3. Topic(s) of presentation; and
4. Number of minutes required for an oral presentation (maximum of 15 minutes, unless more time can be justified).

A schedule of presentations for the hearing will be mailed to each person who files a notice of participation and will also be available from the Hearing Clerk. Time permitting, persons not formally scheduled to make a presentation may be allowed to make a presentation at the discretion of the presiding officer. Individuals and organizations with common interests are urged to consolidate their presentations. Formal written statements or extensions of remarks (preferably four copies) may be presented to the presiding officer on the day of the hearing for inclusion in the hearing record of this proceeding.

FDA has established a pilot program for financial assistance to participants in certain agency proceedings, including hearings under Part 15. This program is described in regulations that were published in the **Federal Register** of October 12, 1979 (44 FR 59174) and that became effective on October 25, 1979 (44 FR 72585; December 14, 1979). Subject to the availability of funds and other factors, FDA may reimburse participants meeting the criteria set forth in these regulations for certain costs of participating in this proceeding. For more information regarding the reimbursement program, contact Ron Wylie, Office of Consumer Affairs (HF-70), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2932. Although reimbursement may be made available for hearings, such as this, under Part 15, the program's priority will be given to funding participation in formal evidentiary public hearings under Part 12 or public boards of inquiry under Part 13 of FDA's regulations (21 CFR Parts 12 or 13).

Applications for reimbursement must be filed by February 25, 1980, in accordance with § 10.210 (44 FR 59186; October 12, 1979).

Dated: January 23, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-2829 Filed 1-28-80; 8:45 am]

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Part IV

Department of Labor

Occupational Safety and Health Administration

Servicing Multi-Piece Rim Wheels; Procedures

V 45 / 20 JA 29 80 UMI

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Servicing Multi-Piece Rim Wheels

AGENCY: Occupational Safety and Health Administration, U.S. Department of Labor.

ACTION: Final standard.

SUMMARY: By this final standard the Occupational Safety and Health Administration (OSHA) establishes procedures for the servicing of multi-piece rim wheels fitted on vehicles used on and off highways. Multi-piece rim wheels consist of two or more detachable rim components, one of which is a side or locking ring designed to hold the tire on the rim base when the tire is inflated. These wheels are used on motor vehicles, such as trucks, trailers, buses and motor homes, for either on-highway or off-highway usage. The major hazard in servicing multi-piece rim wheels is the possibility of an employee being struck by a wheel component which has been thrown from an inflated wheel during an unintended explosive separation. This standard includes requirements for training of all tire servicing employees, establishment of a safe practice procedure for servicing multi-piece rim wheels, use of restraining devices and criteria for interchangeability of rim components.

EFFECTIVE DATE: This standard will become effective April 28, 1980.

FOR FURTHER INFORMATION CONTACT: William Simms, Occupational Safety and Health Administration, Room N-3106, U.S. Department of Labor, Washington, D.C. 20210, Telephone: (202) 523-8126.

SUPPLEMENTARY INFORMATION: For additional copies of this regulation contact: OSHA Office of Publications, U.S. Department of Labor, Room S-1212, Washington, D.C. 20210, Telephone: 202-523-8077.

A. Background

1. Multi-piece Rims

Multi-piece rims are used in conjunction with tube-type tires, most frequently on trucks, tractors, buses, trailers, campers and off-highway type vehicles. Multi-piece rims consist of two or more components which, when assembled and the tire is inflated, are held together by the force of the air pressure in the tire. Multi-piece rims may consist of up to five or six components on large wheels for off-the-road vehicles.

A multi-piece rim consists of a rim base, the largest part of the metal structure supporting the tire, and one or more detachable side rings serving as a flange to keep the inflated tire on the rim base. The rim base, side ring, lock rings, and tire are collectively referred to as a "wheel."

For multi-piece rims, the rim base and the side or locking rings are the primary components which support the tire's bead. This is referred to as a split side ring in two piece assemblies and a solid side ring and split lock ring in three piece assemblies. In the case of two piece assemblies, the circumferentially continuous outer small component is termed a side ring. (See Society of Automotive Engineers, SAE J393, which defines rim terminology.)

There are basically four multi-piece wheel designs. In the first design (exemplified by Goodyear's "KW" type rim) the rim base is split radially and the side ring is circumferentially continuous. In the second design (exemplified by Firestone's, Kelsey's and Budd's "RH5°" and "KL" rims) both the rim base and the side ring are circumferentially continuous. The third type rim (exemplified by Goodyear's "LW" type rim) is a two piece assembly composed of a demountable rim base and a split side ring. The fourth design in the larger sizes (exemplified by Firestone's "Commander 5°" rim) is a three piece assembly composed of rim base, a side and a lock ring.

2. History of the Regulation

OSHA concern for developing a standard to protect employees engaged in servicing multi-piece rim wheels was initiated by an internal report of "Hazards Not Covered by a Standard" from OSHA field personnel in the Louisville, Kentucky office. This was followed by a similar report from OSHA field personnel in Columbus, Ohio.

Since these reports were received, OSHA has monitored reports of accidents and injuries related to multi-piece rim wheels. In addition, petitions for the promulgation of a standard relating to the servicing of multi-piece rim wheels were submitted to OSHA in 1976 by the Rubber Manufacturers Association (RMA) and the Firestone Tire and Rubber Company. The National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT), stated its support for the promulgation of such a standard and has, by written request, urged OSHA to regulate the servicing of multi-piece rim wheels in the workplace.

NHTSA is currently investigating the safety hazards associated with the use of multi-piece rims. It issued an advance notice of proposed rulemaking on March 5, 1979 (44 FR 12072) to determine whether to require certain performance levels for tire and rim component retention and whether to ban the production of multi-piece rims. NHTSA's actions are not directed at working conditions of employees and therefore are not an exercise of statutory authority by a federal agency under Section 4(b)(1) of the Occupational Safety and Health Act which would preempt action by OSHA.

NHTSA does not intend that its regulations displace OSHA's coverage of tire servicing personnel. NHTSA has articulated this intent by that agency's recognition that numerous accidents occur because of improper servicing, coupled with NHTSA's formal request that OSHA promulgate a standard for servicing of multi-piece rims in the workplace [Ex. 2: (30-17)].

On April 24, 1979, after a review of the available data, OSHA published a proposed permanent standard for the servicing of multi-piece rim wheels (44 FR 24252). The proposal contained requirements for training of all tire servicing employees, establishment of safe operating procedures for servicing multi-piece rim wheels, use of restraining devices and criteria for serviceability and interchangeability of rim components. A period for receipt of written comments on the proposed standard and issues raised therein was established, extending through July 6, 1979.

To assist participants in preparing their written comments and to give interested persons an opportunity to obtain clarification of the proposal, OSHA scheduled a public meeting for June 19, 1979, more than two weeks prior to the end of the comment period. During the meeting several participants submitted further comments on the proposed standard. A transcript of the meeting was prepared and is part of the record of this rulemaking.

Fifty-nine written comments were received by the end of the comment period. Most of the comments favored the adoption of the proposed standard in principle. A number of comments offered recommendations for minor modification of certain of the provisions of the proposal. There were no requests for a hearing under section 6(b)(3) of the OSHA Act.

A Regulatory Assessment was prepared in accordance with Executive Order 12044 (43 FR 12661, March 24, 1978), and was made available to the public, as noted in the preamble to the proposed standard (44 FR 24246). (See Section D, Regulatory Assessment, below). Opportunity was given to interested persons to comment on the subject matter and contents of that report.

This final standard on servicing of multi-piece rim wheels is based on a full consideration of the entire record of the rulemaking proceeding including the materials relied on in the proposal, the transcript of the public meeting, and all written comments and exhibits received. All materials in the record are available for public review and copying at the OSHA Docket Office, Room S6212, U.S. Department of Labor, 3rd Street and Constitution Avenue, NW., Washington, D.C. 20210, telephone (202) 523-7894.

3. Hazards

Although accidents may occur at any time when handling multi-piece rims, the primary danger arises during the process of inflating the tire. An inflated tire is a high pressure vessel; for example, a popular size 10.00 x 20 tire when inflated at 105 pounds per square inch gauge (psig) (7.38 kg/cm²) creates a force in excess of 40,000 pounds (18,144 kg) against the rim flange. This force, according to test data provided by the Insurance Institute for Highway Safety (IIHS), accelerated a locking ring to 130 mph (209 km/hr) and raised a 215 pound (97.5 kg) anthropomorphic dummy 10 feet (3.05 m) upward from a wheel resting horizontally on the pavement.

The principal hazard in mounting, installing, storing, and handling multi-piece rim wheels arises when they are assembled together and the unit is inflated to its required pressure or beyond. If a component is not set or seated in its proper position in relation to the other components, the rings or the removable flanges may separate violently from the assembly. Such separation may cause lock rings, or other components to be hurled violently through the air, with the likelihood of striking a person and causing serious injury or death. Such accidents are most likely to occur while a tire that has just been mounted on a rim is being inflated or immediately after it has been inflated.

Accidents that have caused the greatest number of injuries appear to have been due to improper mounting, use of damaged parts, or mismatch of component parts. Accidents may also occur because of overinflating the tire or striking the lock rings or rims with a hammer. Many accidents appear to have resulted from a lack of knowledge on the part of the employee servicing the tire as to proper handling techniques and the dangers involved in servicing multi-piece rim wheels. In written comments, the State of North Carolina said, "A large portion of the accidents, injuries, and fatalities related to multi-piece rim wheels are traceable to untrained, inadequately trained, or improperly trained personnel." [Ex. 3: (21)]

4. Accident Data

Incidents which result in a serious or fatal injury to a mechanic engaged in servicing a multi-piece rim wheel often are only reported locally. Therefore, the data available is believed to be limited to only a portion of the total injuries and fatalities which occur. The May 1974 issue of "Learn and Live," a monthly publication of the Industrial Safety Division of the Florida Department of Commerce, reported that the fatality toll in Florida from servicing multi-piece rims had risen to eleven over a period of ten and one half years. By the end of 1978, the toll had risen to fifteen.

On September 28, 1973, NHTSA's Office of Defects Investigation issued a report on its investigation of multi-piece rim failures (ODI Case No. 215). This report covered 29 accidents due to improper assembly procedures that resulted in serious injury or a fatality, involving KB and KW type wheels. The report indicated that many of the shop personnel who worked with the multi-piece rims in question may not have been aware of all the safety precautions to be followed when mounting or demounting these wheels.

On December 21, 1973, NHTSA issued a report on its investigation of RH5° wheel failures (ODI Case No. 150) that included investigation of 81 incidents which resulted in serious injury or fatality to employees engaged in servicing these wheels. This report recommended several courses of action which included discontinuance of the manufacture of this type of wheel; development and distribution of a poster illustrating the safety precautions to be used during multi-piece rim wheel assembly; and development and distribution of a matching chart showing the compatibility of parts of multi-piece rim wheels produced by different manufacturers. (NHTSA developed a safety precautions chart, and multi-piece rim wheel matching chart, after their report was issued. The contents of these charts are utilized by OSHA in the training and servicing provisions of this final standard.)

In addition to the pre-1973 accident reports supplied in the NHTSA investigations OSHA's Office of Management Data Systems and Statistical Coordination received reports of 10 fatal accidents involving servicing of multi-piece rim wheels which occurred during 1976 and 1977. These data were compiled from workers' compensation reports from 10 states.

Data supplied by RMA which are listed in Table 3-2 of the Regulatory Assessment indicate that 13% of all multi-piece rim accidents result in fatalities, 63% result in injuries and property damage, and no-injury accidents constitute the remaining 24% of the 185 cases reported for the years 1972-1975. Similarly, IIHS data indicate that fatalities constitute 18%, injuries 67% and property damage and no-injury accidents represent the remaining 15% of the 241 cases reported for the years 1968-1977. Neither data base is considered totally representative of the nation because the actual number of split-rim accidents is not ascertainable, nor can the annual frequency of occurrence be predicted with a high degree of accuracy. Since the reported accidents do not represent a statistical sampling, but are only cases known to each organization, these numbers are considered to represent a lower limit of accident experience.

A review of accident descriptions provided by IIHS indicates that 53% of accidents under OSHA jurisdiction have occurred while the tire was being mounted/demounted, 31% while the wheel was being installed/removed and the remainder (16%) when the wheel was being handled or moved. Five of the 241 accidents that were evaluated, occurred while a safety cage or restraint was being used. A breakdown of the 16% category of accidents which occurred during handling indicates that numerous accidents occurred while moving an inflated tire in the service area, measuring tire pressure, removing the valve core or simply while an inflated tire was stored at rest. In some cases, multi-piece wheels being serviced exploded and either injured or killed experienced tire service personnel. However, it would appear that in many cases, these employees had never received any training, nor had they ever been informed of the inherent hazards and the safety practices to be followed.

Although the data presented may not be statistically representative of all multi-piece wheel accidents, they provide an insight into the relative frequency of fatalities and injuries. Injuries have not been classified into categories of severity, but an examination of IIHS accident reports suggests the existence of a very high proportion of fatalities and severe injuries, including many permanent disabilities.

Until now, there have been no specific OSHA general industry standards that apply to the handling and servicing of multi-piece rims. In the construction

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safety and health standards. § 1926.600(a) requires that a tire rack, cage, or equivalent protection be provided and used when inflating tires on multi-piece rims. Section 1926.600 is not affected by the standard being published today.

B. Summary and Explanation of the Standard and Major Issues

The following section discusses the individual requirements of the multi-piece rim wheel standard, including analysis of the major issues raised during the proceeding, the record evidence and the policy considerations underlying the various provisions of the standard.

The final standard sets requirements for training of all tire servicing employees, safe practice and procedures and the use of restraining devices. These and other portions of the standard, including those on criteria for interchangeability of rim components have been revised and clarified from the proposal as described in detail below.

The language of the standard essentially follows that of the proposal except for revisions based on OSHA's review of the entire rulemaking record, including written comments and testimony submitted at the public meeting.

Virtually all persons who participated in the rulemaking by submitting comments and/or appearing at the public meeting agreed with OSHA's determination that the principal causes of accidents involving multi-piece rim wheel separations could be eliminated by proper training of employees, availability and utilization of restraining devices and necessary tools and equipment and adherence to recommended safe procedures.

(1) *Scope-paragraph (a).* This standard is intended primarily to provide protection to employees engaged in servicing of multi-piece rim wheels used on trucks, buses or other large vehicles. It applies also to the servicing and maintenance of all other multi-piece rim wheels, wherever they are used. Workplaces covered by the construction industry standards are subject to § 1926.600, and are not intended to be covered by the general industry standard published today.

The proposed standard would only have covered the servicing of rims 16 inches or greater in diameter. However, the rulemaking record clearly indicates that the danger of an unintended explosive separation of a multi-piece rim wheel exists for rims less than 16 inches as well.

The Michigan Department of Labor reported one fatality and three severe injuries which occurred when multi-piece rim wheels less than 16 inches (40.6 cm) in diameter were being serviced. [Ex. 3:(8)]. In addition, IIHS stated in its comments regarding the scope of the proposal that

> the concept that smaller multipiece [sic] rims are somewhat different, is generally not true. All multipiece [sic] rims depend upon the same balance of interlocking metal components. [Ex. 3: (23)]

Comments were submitted documenting the general use of smaller, multi-piece rim wheels on trailer which transport cars, livestock and furniture, as well as "bob-tailed" tractors used to haul mobile homes. [Ex. 3:(13)]. Several manufactures, including The National Wheel and Rim Association and Firestone Tire and Rubber Company, also recommended changes in the scope of the standard, based on the fact that 15 inch (38.1 cm) rims are used in significant numbers. [Ex. 3:(18); 3:(33); 3:(39)] Accordingly, the standard's scope has been modified to apply to the servicing of all multi-piece rim wheels without regard to their size, as along as they contain a lock ring or side ring. This provision reflects the determiniation that it is the assembly of multiple pieces and not the size of the wheel which is relevant to the explosion hazard.

Several comments recommended that the scope of the standard should include aircraft wheels, which consist of more than one piece. [Ex. 3:(5); 3:(6)] However, a review of manufactures' descriptive rim and wheel material and field visits to commerical and military airports have revealed that aircraft wheels are not similar to the "multi-piece rim wheels" covered by the standard. Aircraft wheels consist of a two-piece disk design with mounting bolts to hold the two halves together. [Ex. 3:(37)] They do not have locking rings, and do not use the air pressure of the tire to hold the rim components together. In addition, different tools and procedures are required for bolted wheels. Therefore, bolted wheels do not present the type or degree of explosion hazard addressed by this standard. [Ex. 3:(44)] This standard will only cover multi-piece rim wheels containing a lock ring, or side ring and base. In order to clarify the scope in this regard the proposed definition of multi-piece rim wheels is being revised in the final standard. (See discussion of paragraph (b) "Definitions", below).

(2) *Definitions-paragraph (b).* The definitions are stated as commonly used in the tire industry; however, some have been modified slightly to accommodate the regulatory nature of this standard.

Throughout the relevant literature, the term "mounting" has two different meanings. In one case, "mounting" a tire means assembling a tire with an appropriate rim and tube, while in the other case it means attaching a wheel to an axle. A review of nationwide accident reports indicates that the word "mounting" is used in both senses throughout the United States. For the purposes of this standard, OSHA uses the terms "mount and demount a tire" to mean the assembly and disassembly of a wheel and its components. "Install and remove a wheel" means to attach and remove an assembled wheel to/from a vehicle axle hub. This choice of definitions lessens the possibility of confusion associated with the "demounting a tire" vs. "dismounting a wheel" usage, while still conforming to NHSTA and tire manufacturer terminology. The term "dismounting" is not used in this standard, but is replaced with "removal."

In order to clarify the scope of the standard, as noted above, the proposed definition of a multi-piece rim wheel is being changed. As defined in the proposal, a multi-piece rim wheel is a vehicle wheel rim consisting of two or more parts, at least one of which is detachable, designed to hold the tire in place on the rim. To clarify that this standard does not cover the types of multi-piece rim wheels that are bolted together, [Ex. 3:(4); 3:(37)], this definition is revised in the final standard to read as follows:

> "Multi-piece rim" means a vehicle wheel rim consisting of two or more parts, one of which is a side or locking ring designed to hold the tire on the rim by interlocking components when the tube is inflated, regardless of the sizes of the component parts.

The proposed definition of a "rim manual" is being clarified and amended to provide that any manual which contains appropriate instructions and safety precautions from the manufacturer or other qualified organization is acceptable as a rim manual. OSHA agrees with the comments which stated that the definition in the proposal was too restrictive, since it might have been interpreted as being limited to a publication supplied directly by the manufacturer.

The term "charts" is used in the final standard instead of the term "wall charts" because of the many formats in which the necessary information may be found. In addition, because multi-piece rim wheels are serviced frequently at remote locations away from the employer's premises, the use of the term "wall charts" might be confusing in instances where there are no "walls" in the service area.

The proposed definition of "wall charts" was limited to the DOT wall charts on matching rim components and on safety precautions, and other publications containing the same instructions as these two charts. The definition is revised in the final standard to clarify that the term includes all publications, whether or not published by DOT, which contain at a minimum the same instructions as the DOT publications, for the type of multi-piece rim wheel being serviced.

Several comments stated that the proposed definition of the "service area" was too narrow, in that it did not take into account the remote locations (away from the employer's premises) where multi-piece rim wheels are routinely and frequently serviced. OSHA recognizes that the servicing activity at these remote locations is at least as hazardous as at the employer's premises, that the operations conducted are essentially the same, and that the same training, tools and procedures are applicable. In view of the above, the final standard has been modified to define a service area as any location where a multi-piece rim wheel is serviced. OSHA recognizes that this change in the definition of service area may create a greater demand for portable restraining devices. However, such devices are readily available. [Ex. 2:(3); 3:(21); 3:(59)] (See Regulatory Assessment pp. 19–23.)

The term "trajectory path" has been redefined. A review of the accident reports has revealed that because of the nature of an explosive separation of a wheel, the direction of the separated rim components is not entirely predictable. Therefore, the proposed definition has been changed to indicate that the trajectory is the potential path a component may be expected to follow and that it may deviate from the perpendicular. Likewise Appendix A has been changed to reflect possible trajectories but in no way is meant to limit the trajectory to those illustrated.

The term "trajectory path" is being revised to "trajectory," since the added word "path" would be redundant.

(3) *Training—paragraph (c).* The standard requires every employee who services multi-piece rim wheels to be trained by the employer in proper techniques and practices applicable to the type of wheel being serviced. Training is required because many tire mechanics do not understand the potential danger involved in servicing multi-piece rim wheels, and because of the need to remind employees of the hazards and appropriate measures. The need for training is substantiated by a review of accident cases in which there appears to be a lack of knowledge of safe operating practices.

Firestone Tire and Rubber Company said, "In our view, training is the only method to ensure the safety of those who will be working with truck and bus tires and rims." [Ex. 3:(33)]

OSHA considers that training, in conjunction with the use of a restraining device and clip-on chuck, can contribute significantly to a reduction of accidents.

This standard does not specify the details of the training program, but simply requires the development and maintenance of employee proficiency in given elements of servicing. A mechanic's level of proficiency can be established by demonstration of his familiarity with and ability to use the information contained in the charts and in this standard.

The training provisions of the standard are stated in performance language, allowing the employer flexibility in complying with the requirement for training. This places the burden of providing adequate training and the responsibility for evaluating the employee's proficiency solely on the employer. Employees are adequately trained if they have thorough knowledge of and can apply the information contained in the charts and in this standard.

The proposal contained no explicit requirement that an employee who demonstrates his ability to service multi-piece rim wheels must maintain that ability. This omission is remedied in the final standard. It is clear that an employee must maintain his ability to service multi-piece rim wheels as long as he is involved in this work.

Virtually all of the comments concurred that proper training of employees is a necessary prerequisite to a safe operation. Goodyear Tire and Rubber Company stated that

> proper and thorough training is essential toward achieving a reduction in the rate of accidents. In view of the consequences of improper handling and technique, this training must be as specific as possible, and should be embodied within a well-defined procedure. [Ex. 3:(40)]

Others commented that specific training criteria be developed. Suggestions included on-the-job training; requiring a refresher course once a year; maintaining a record of training for each employee; and having employees sign a statement acknowledging receipt of this training. [Ex. 3:(18); 3:(21); 3:(25)]

OSHA has considered the fact that some employees may need relatively little training and practical experience to grasp the proper methods, techniques and practices and would need little or no periodic refresher training. Others may require additional initial training and periodic refresher training to retain their knowledge of safe methods and procedures.

In the final standard, the training requirement has been revised to assure that an employee receives sufficient training to enable him to safely perform the tasks which are involved in servicing multi-piece rim wheels. In addition to the initial training required in the proposal, the final standard places a continuing obligation on the employer to evaluate the capability of his employee and conduct additional training as necessary to assure that the employee maintains his competence at servicing multi-piece rim wheels. This not only insures that the initial training was effective, but also provides a means of determining the need for remedial or refresher training.

(4) *Tire servicing equipment—paragraph (d).* The unintended explosive separation of multi-piece rim wheel components is the primary cause of most occupational accidents associated with these wheels. A majority of the accidents under OSHA jurisdiction have occurred while the tire was being inflated following assembly. Accordingly, a significant reduction of injuries can be attained through use of a restraining device, such as a cage, specifically designed to protect employees from lethal airborne wheel components. An accepted practice for employee protection is to use a cage surrounding the wheel in such a manner as to prevent any wheel component from being hurled beyond the cage boundaries. The standard requires use of a restraining device while inflating a tire off the vehicle, except that a tire may be inflated to 3 psig (.21 kg/cm^2) without a restraining device for the sole purpose of seating the wheel components. (See discussion on safe operating procedures, paragraph (f)).

Due to the magnitude of forces associated with a wheel separation, strength requirements for restraining devices are necessary. Specifying these requirements necessitates knowing the amount of potential energy stored in the compressed air of a tire that will be transferred to the restraining device during a separation. For example, an analysis of high speed film in which the rim base gutter cone angle was machined to favor an explosive separation indicated that 8,200 ft.-lbs. (11,119 Joules) of energy was released when a 10.00 x 20 test tire was inflated to 105 psig (9.38 kg/cm^2). Calculations of the total pneumatic energy in the tire

indicated 75,000 ft.-lbs. (101,700 Joules) of available potential energy. After the energy transfer is determined for a particular size wheel, selection of an appropriate factor of safety will lead to a properly-designed restraining device for use with that wheel.

OSHA proposed that the generally accepted minimum factor of safety, 1.5 for machinery, be used for the largest wheel that a restraining device could hold. Several comments recommended that such design details for specific restraining devices be certified by professional engineers. [Ex. 3: (10); 3: (35); 3: (40);]. Another comment recommended that the design be specified only by the performance objective rather than by detailed design specifications which may become obsolete as technology changes. [Ex. 3: (47)]

The proposed requirement for restraining devices to be capable of withstanding a force of 150% of the maximum tire size that the device can hold is revised in the final standard. Although a safety factor is necessary, it does not appear practical to require an employer to have a cage designed to withstand an impact several orders of magnitude beyond that which would ever be encountered during its use. Some restraining devices are built so that their capacity (the size of tire capable of being held) is greater than the size tire actually used in the device. This is usually done to ease the job of manual tire handling by providing extra room within the device. If the device had to be strong enough to restrain the explosive force of any tire capable of being held in the device, as required in the proposal, the device might be unnecessarily heavy, thereby exposing the employee to other hazards during its manual handling. Since the device can be rated for a maximum size tire which provides a margin of safety, the final standard has been written to provide that the restraining device must be able to withstand at a minimum 150% of the force of an unexpected wheel separation for the tire being handled, whether or not that wheel is the maximum size the device can hold. This provides the same margin of safety (1.5) as proposed, but more accurately reflects the actual usage of the restraining device in applying that margin.

In its proposal OSHA proposed to permit use of machinery or equipment other than cages as restraining devices. At that time the agency solicited information as to the availability and effectiveness of such other types of restraining devices.

Several comments supported the effectiveness of the cage type restraining device, including the portable cages currently available, but stressed that the standard should not restrict technology in developing other methods of restraint. [Ex. 3: (18); 3: (33)]

Ten comments were received on the issue of whether hydraulic lift rails are adequate restraining devices. Four were totally opposed to the use of hoist rails, whereas the others stated that they could be used under certain limited circumstances.

Those that were opposed stated that the use of hoists for this purpose is not safe, and that a hoist rail would have to be extensively modified to be used effectively and would provide only limited opportunity for use. [Ex. 3: (21); 3: (25); 3: (47)] Those who said a hoist could be used under certain circumstances contended that a hoist rail is better than nothing, but emphasized that it should be used only if it meets acceptable standards, including adequate size, strength, location and positioning [Ex. 3: (40); 3: (47)].

OSHA recognizes that most hoist rails have not been designed or specifically modified for use as restraining devices and that they are therefore unacceptable for this purpose. However, the final standard is written as a performance standard so as not to restrict the use of any specific type of device, including hoist rails, provided that the device is specifically designed to restrain multi-piece rim wheels. Whichever device is used must be capable of restraining the components of a multi-piece rim wheel during explosive separation, and must meet the 150% margin of safety.

The standard prohibits the use of any restraining device with cracks in welds or components, or with bent or broken components, because such defects may cause equipment failure when subjected to dynamic loading. Stress concentrations around some cracks may cause the 1.5 factor of safety to be exceeded for the material; thus, if a cracked member of a restraining device is loaded to its original design value, the material at the apex of the crack may become overstressed, resulting in failure of the device.

The provisions for removal of damaged restraining devices from service are expanded in the final standard to establish additional, more specific criteria for such removal. OSHA has determined that there are defects other than cracks in welds or components which would also affect the ability of the restraining device to perform its intended function. Components which are broken or bent due to mishandling, abuse or a prior accident, or are excessively corroded (pitted) cannot be relied upon to perform their intended function. Therefore, the final standard requires that restraining devices with these defects be removed from service.

Many of the defects which would make the restraining device incapable of performing its function can be remedied or repaired once the device is out of service. However, it is essential that the repaired device be examined by a qualified person in order to assure that the device's restraining capability has not been impaired. To insure that the restraining device is capable of performing its intended function, the standard requires that, after repairs are made, the device must be checked and certified as meeting the strength requirements of paragraph (d)(1)(i) by the manufacturer or a registered professional engineer before being placed back into service. As the designer of such equipment, the manufacturer is capable of determining a satisfactory method of repair. In addition, since the laws of most jurisdictions regulating the registration of professional engineers set standards of conduct and require levels of competence, it has been determined that allowing certification either by a professional engineer or by the manufacturer will permit the use of repaired equipment while assuring that repairs do not compromise the strength of the restraining device.

As stated in the proposal, inflation of tires installed on vehicles presents another major safety hazard. Many of the comments expressed concern that a restraining device was needed which could be used both during inflation of tires installed on vehicles and during handling of a wheel after inflation, but before its installation on a vehicle.

Most of the comments which addressed this question indicated that there is no practical method to provide such protection on the vehicle. [Ex. 3: (18); 3: (25); 3: (33); 3: (35); 3: (40)]

Other comments also indicated that there is no satisfactory restraining device for use while transporting and storing tire and wheel assemblies. [Ex. 3: (21); 3: (35); 3: (39)].

As indicated by the North Carolina Department of Labor in their comments:

> Although separation may occur during handling and storage between the service and installation operations, it is rare, especially if proper servicing and inspection procedures are followed. [Ex. 3: (21)]

After careful consideration, OSHA has determined that there is no practical method available to restrain wheel components while tires installed on vehicles are inflated or between the inflation of a demounted wheel and the time the wheel is installed on a vehicle. The most practical procedure to assure employee safety during that time period is simply for the employee to minimize his exposure to the trajectory. (As noted in paragraph (f), wheels that have been driven underinflated at 80% or less of their recommended pressure or which have obvious or suspected damage to the tire or wheel components must be deflated before removal.)

The final standard requires the use of a restraining device only during the inflation of an assembled wheel off the vehicle. In order to provide protection when multi-piece rim wheels are serviced on the vehicle, the standard also requires that the employer provide equipment such as the clip-on-chuck and sufficient length of hose which permits the employee to be clear of the possible trajectory of each wheel component during inflation. During inflation and all other operations involving multi-piece rim wheels, the standard also requires the employee to stay out of the trajectory, unless the employer can show that it is necessary for the employee to be in the trajectory to service the tire.

The requirement that charts and rim manuals be made available remains largely unchanged from the proposal. The availability of current charts and rim manuals will assure ready reference for tire mechanics encountering unusual situations or rim matching problems.

In the proposed standard OSHA raised the issue as to whether a warning label for multi-piece rims should be specified. Section 6(b)(7) of the Occupational Safety and Health Act addresses ". . . the use of labels, or other appropriate forms of warning . . ." associated with employee exposure to hazards. Lock rings, side rings and rim bases, because of their size and operational use, do not lend themselves to being labeled. The manufacturer's name, size, type of rim and manufacturing date are presently required to be on each multi-piece rim in accordance with Federal Motor Vehicle Safety Standard 120. This information is imprinted into the metal components; however, due to surface rust and mud, legibility is reduced commencing with the use of the wheel. In addition, rim manufacturers claim that stamping letters into rim components creates stress raisers, a hazard in itself, and recommend that the imprinting of rim components be minimized.

Warning labels are usually affixed to equipment presenting a particular hazard. However, in this case, the majority of comments felt that the use of a warning label or tag on wheel components is impractical and infeasible. [Ex. 3: (18); 3: (33); 3: (35); 3: (40); 3: (47)]. Other comments stated that warning labels would be unnecessary if the training of those servicing multi-piece rim wheels was adequate. [Ex. 3: (56)]

In light of the technical and practical problems as noted in the record, OSHA has concluded that warning labels should not be required in this standard. It is OSHA's feeling that the required training will identify the potential hazards and dangers of servicing multi-piece rim wheels and will reinforce the prescribed correct and safe procedures to be followed.

The proposed requirement which specified that proper tools be used for repair or servicing of wheels is being revised because of confusion as to what constitutes a proper tool. A review of several rim manuals has shown that each one contains lists or otherwise identifies the safest, most acceptable tools for use in servicing the particular multi-piece rim wheels covered in the manual. The final standard, therefore, requires that only tools listed or identified in the respective rim manuals be used for servicing.

(5) *Wheel component acceptability—paragraph (e).* The standard requires that wheel and rim components not be interchanged between different manufacturers' wheel models, except as provided on the charts.

The proposal would have required that side or lock rings that are bent out of shape, corroded or broken not be used and that they be removed from the service area, and that any rim component containing visible cracks be removed from use and discarded.

After review of the proposal, OSHA recognized that the criteria for rejection of wheel components due to "corrosion" were not clear. Many wheel components in use will exhibit some surface rust when exposed to the rigors of usage but there is little likelihood that this surface rust, when not on a mating surface of the rim, will adversely affect the performance of the wheel. However, if the parts become so rusted as to actually affect internal grains of the metal structure (pitting the metal surface), OSHA doubts the continued reliability of the component. Therefore, the final standard clarifies this point by prohibiting the use of components which are pitted by corrosion, bent out of shape, or broken.

Wheel components must be inspected prior to assembly. The final standard, as did the proposal, requires that the mating surfaces of the rim gutter, rings and tire must be free of any surface rust, scale or rubber build-up prior to assembly and inflation.

Although the proposal stated that damaged components, be removed from the service area, some comments did not feel that was sufficient [Ex. 3: (18); 3: (25); 3: (31); 3: (40)]. The final standard goes further and requires that once components are damaged so as to require their removal from service, they are to be rendered unusable and discarded. OSHA believes that this will eliminate the possibility of inadvertent substitution of one unserviceable part for another unserviceable part and that adherence to this procedure will significantly reduce the potential hazard in servicing multi-piece rims.

(6) *Safe operating procedures—paragraph (f).* The standard requires that every employer instruct all his employees engaged in servicing multi-piece rim wheels in the practices and procedures prescribed in these standards.

Paragraph (f)(2) of the proposal would have required all tires which were driven underinflated (presumably, even if only slightly underinflated) to be deflated to 10 psig (.70 kg/cm^2) or less before removal from the axle. However, an additional paragraph, (f)(10), stated that *all* tires must be deflated prior to removal from the vehicle axle. It is clear that these two conflicting paragraphs have caused confusion. [Ex. 3: (28); 3: (30); 3: (36); 3: (36); 3: (54)]. These provisions were drafted too broadly and did not properly reflect the agency's intent. The intent of the proposal was to provide that when tires are driven while underinflated to a point where damage to the tire and wheel may have occurred, or when such damage otherwise is known or suspected to exist, the tire must be completely deflated prior to removal of the wheel from the vehicle axle.

Several comments expressed concern that both wheels on a dual assembly would have to be deflated before removal, even if only one had been driven underinflated or exhibited damage, if the provisions of proposed paragraph (f)(10) were followed. [Ex. 3: (10); 3: (36); 3: (46)] OSHA agrees that this would be impractical and inefficient and in some cases would expose the employee to the unnecessary risk of deflating and inflating another multi-piece rim wheel.

The final standard has been clarified to state that total deflation and removal is required only for the servicing of installed multi-piece rim wheels which exhibit obvious or suspected damage to the tire or wheel components or which have been driven underinflated at 80% or less of their recommended pressure.

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Accordingly, deflation of both tires on dual assemblies is required by the final standard only if both tires meet any of these conditions.

The proposed requirement for deflating a tire before demounting is amended in the final rule to specify that the deflation must be accomplished by removing the valve core. Removal of the valve core assures the complete deflation of the tire. If the valve is only pressed to release pressure, air may still remain in the tire. Removal of the valve core also allows the tube, in the event of localized deformation during the demounting process, to either exhaust or take in more air, thereby eliminating localized areas of pressure and stress on the multi-piece rim components. [Ex. 3: (20); 3: (39)]

The proposed requirement prohibiting employees from entering into the trajectory during deflation is changed in the final standard to provide that employees must remain out of the trajectory unless the employer can show that it is necessary for the employee to be in the trajectory to service the tire. It is recognized that removal of the valve core requires the employee to place his hand into the trajectory. Once the valve core is removed, the employee must stay completely out of the trajectory until the tire is completely deflated.

The proposed requirement that an employee not lean or rest his body or any equipment against the restraining device remains unchanged in the final. If a tire explodes within the restraining device, the suddenly-applied force exerted against the frame will immediately be transferred to the object or person resting against it. Except for the force absorbed by the containment of the exploding wheel components, the effects of the force upon the person or object leaning against the frame will be almost as severe as if the frame was not present. This process can be compared to a pool ball being hit by a fast moving cue ball. The energy of the rings is transferred to the tool, object or person leaning against the restraining device.

The proposed requirement that before assembly and inflation of the wheel and tire, a rubber lubricant shall be applied to the bead and rim mating surfaces to reduce sliding friction received little comment and remains unchanged in the final standard.

The proposed safe operating procedure to assure proper seating of the components has been carried forward in the final standard. After a tire has been inflated in a restraining device and while the tire is still so protected, the tire, rim and rings are to be inspected to make sure they are properly seated and locked. If further adjustment work on the rim or rings is necessary, the tire must be deflated before proceeding with any adjustment.

The proposed prohibition against hammering, striking or forcing wheel components while the tire is inflated was strongly supported by many participants in this rulemaking and therefore remains unchanged in the final standard. [Ex. 3: (23); 3: (25); 3: (31); 3: (50)]

The proposed requirement for the servicing of tires off the vehicle has been changed. The proposal would have allowed tires to be inflated to not more than 10 psig (.70 kg/cm ^{2}) outside the restraining device for the sole purpose of seating the tube, flap and tire, lock ring. This provision raised serious concern among public participants.

The Goodyear Tire and Rubber Company stated that 10 psig was more air than needed to perform the desired tasks and that a minimum amount of air (no more than 3 psig (.21 kg/cm ^{2})) should be put in a tire while the wheel is not in a safety cage. They stated that even 10 psig. (.70 kg/cm ^{2}) is enough tire pressure to cause injury should a side ring not be properly seated. [Ex. 3: (40)]

The American Trucking Association also expressed concern that 10 psig (.70 kg/cm ^{2}) was excessive and recommended a lower air pressure for seating. [Transcript (Tr): 13–14]

Based upon the concerns expressed in the comments, the allowable air pressure for seating the lock ring or rounding out the tube outside a restraining device has been reduced from the proposed 10 psig to 3 psig.

For pressures at or below 3 psig (.21 kg/cm ^{2}), the danger of an explosive separation is minimal. The low risk of injury during the seating process must be compared to a higher risk of injury due to an explosive separation if the rings are not properly seated. When a tire is placed into a restraining device, the lock rings may slip out of the gutter, thus setting the stage for a subsequent explosive separation. Therefore, to assure proper seating of lock rings, the standard permits partial inflation outside of a restraining device, as noted earlier.

The proposal required that whenever any part of a rim base, rings or lugs is to be subjected to a high temperature heat source, such as from a welding or brazing torch, the tire must be completely deflated. This provision was intended to address those instances where heat is used to release components which are frozen due to age, rust, or defect. However, if this is done while the tire is inflated, an explosion may result because the heat increases the air pressure in the tire. [Ex. 3: (23); 3: (33)]

The practice of using heat on wheel components received serious criticism from RMA, Budd Company, and The National Wheel and Rim Association. These parties objected to any application of heat to a component, as it would have a detrimental effect on the strength, yield modulus and other characteristics of the metal. [Ex. 3: (18); 3: (25); 3: (31)]

OSHA recognizes that the application of heat may adversely affect the design and function of wheel components. There are alternative methods of releasing frozen lugs that are in general use in the industry such as penetrating oil or graphite solution. [Ex. 3: (23); 3: (25)] Therefore, the final standard has been revised to prohibit entirely the use of heat on wheel components.

The proposed requirement that mounted wheels with inflated tires be moved or stored so that the trajectory does not pass through a service area has been deleted from the final rule, based upon the comments which pointed out the infeasibility of complying with this requirement. [Ex. 3: (32); 3: (37); 3: (47)] Such a requirement would also necessitate that personnel be moved every time a tire is moved and is not feasible. It has therefore been deleted from the final standard.

C. Regulatory Assessment

In the preamble to the proposal, OSHA noted that a regulatory assessment, which was prepared for the agency by Centaur Management Consultants, Inc., was available for review and comment. This assessment, which was developed pursuant to Executive Order No. 12044 (43 FR 12661, March 24, 1978), and DOL implementing procedures (44 FR 5570, January 26, 1979), examined the effects of compliance with the proposed standard on cost, productivity, employment, critical materials, energy and market structure. The major findings of the "Economic Impact Statement/ Assessment for Multi-Piece Rim Assemblies" include the following:

—The population at risk is approximately 322,000 persons. These persons are employed in 102,500 workplaces in ten industry segments. These persons will benefit from a safer workplace as a result of the standard.

—From 1968 to 1975, the wheel and rim industry reported a total of 295 injuries resulting from multi-piece rim accidents. A minimum of 22 fatalities resulted from these accidents.

—Provisions of the standard resulting in economic impact include the use of restraining devices, clip-on-chuck assemblies and training.

—Capital costs resulting from compliance with the standard total $8,342,000. Total annualized costs including capital and training costs are estimated to total $3,810,000.

—Cost, productivity, employment, critical materials, energy and market structure impacts were examined. No significant impacts on any of these areas were found to result from compliance with the standard.

Based on estimated sales of restraining devices over the past 10 years, 24% of stationary workstations presently use cages or racks and 72% of mobile workstations presently use portable safety racks. It is estimated that those establishments currently using restraining devices also use clip-on-chucks with in-line valves. Therefore, approximately 77,700 establishments will have to purchase at least a $134 cage and a $21 clip-on-chuck for compliance with this standard. Wall charts and rim manuals are free to tire assemblers; consequently, only administrative costs are involved in their acquisition. The cost of training employees should not exceed an hour of employee time plus corresponding instructor time.

The major benefit to be attained by complying with this regulation is a significant reduction in the number of fatalities and permanent injuries which occur while servicing multi-piece rim wheels each year.

The benefit derived from using the proposed training technique is that it is applicable to both experienced employees and new hires, and it is flexible because employers may choose to conduct group training classes rather than individual instruction. In general, increased productivity, reduced insurance premiums, reduced workers compensation payments and fewer product liability suits can be expected through compliance with this standard.

Opportunity was given to interested persons to comment on and testify concerning the contents of the report and related issues. Since OSHA received no comments regarding the regulatory assessment, the determination that the standard on multi-piece rim wheels is not a "major" action in terms of economic impact remains unchanged. Based on the record, OSHA also concludes that the standard is both economically and as technologically feasible.

D. Effective Date

Based on the information in the regulatory assessment, and in the absence of any contentions to the contrary, it is anticipated that employers will have little difficulty in obtaining restraining devices, clip-on-chuck assemblies or training materials. There should be no need for extended delay for employers to implement the provisions of the standard. Therefore, the effective date of this standard is April 28, 1980.

E. Appendices

Two appendices have been included in this permanent standard for information purposes. Nothing contained in the appendices should be construed as establishing a mandatory requirement not otherwise imposed by the standard, or as detracting from an obligation which the standard does impose.

The information contained in Appendix A illustrates possible trajectories of wheel components during an explosive separation. Appendix B contains information concerning ordering of wall charts.

The contents of the proposed appendices have been clarified where necessary.

F. Authority

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue, NW., Washington, D.C. 20210.

Accordingly, pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655) Secretary of Labor's Order No. 8–76 (41 CFR 25059), and 29 CFR part 1911, Part 1910 of Title 29, Code of Federal Regulations is amended by adding a new § 1910.177 as set forth below.

Signed at Washington, D.C., this 18th day of January 1980.

Eula Bingham,

Assistant Secretary of Labor.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

A new § 1910.177 is added to 29 CFR Part 1910, to read as follows:

§ 1910.177 Servicing multi-piece rim wheels.

(a) *Scope.* This section applies to the servicing of vehicle wheels which have tube-type tires mounted on multi-piece rims as defined below in paragraph (b) of this section.

(b) *Defintions.* "Charts" means the United States Department of Transportation, National Highway Traffic Safety Administration (NHTSA) publications entitled "Safety Precautions for Mounting and Demounting Tube-Type Truck/Bus Tires" and "Multi-Piece Rim/Wheel Matching Chart," or any other publications containing, at a minimum, the same instructions, safety precautions and other information contained on those charts that are applicable to the types of multi-piece rim wheels being serviced.

"Installing a Wheel" means the transfer and attachment of an assembled wheel onto a vehicle axle hub. "Removing" means the opposite of installing.

"Mounting a Tire" means the assembly or putting together of rim components, tube, liner (flap) and tire to form a wheel, including inflation. "Demounting" means the opposite of mounting.

"Multi-piece rim" means a vehicle wheel rim consisting of two or more parts, one of which is a side or locking ring designed to hold the tire on the rim by interlocking components when the tube is inflated, regardless of the sizes of the component parts.

"Restraining device" means a mechanical apparatus such as a safety cage, rack, or safety bar arrangement or other machinery or equipment specifically designed for this purpose, that will constrain all multi-piece rim wheel components following their release during an explosive separation of the wheel components.

"Rim manual" means a publication containing instructions from the manufacturer or other qualified organization for correct mounting, demounting, maintenance and safety precautions peculiar to the multi-piece rim being serviced.

"Service" or "servicing" means the mounting and demounting of multi-piece rim wheels, and related activity such as inflating, deflating, installing, removing, maintaining, handling or storing of multi-piece rim wheels, including inflating and deflating of wheels installed on vehicles.

"Service area" means that part of an employer's premises used for the servicing of multi-piece rim wheels, or any other place where an employee services multi-piece rim wheels.

"Trajectory" means any potential path or route that a lock ring, side ring, rim base and/or tire may travel during an explosive rim separation, and includes paths which may deviate from that perpendicular to the assembled position of the components on the rim base at the time of separation. (See Appendix A for examples of expected trajectories).

"Wheel" means an assemblage of tire, tube, and multi-piece rim components.

(c) *Employee training.* (1) The employer shall provide a training

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program to train and instruct all employees who service multi-piece rim wheels in the hazards involved in servicing multi-piece rim wheels and the safety procedures to be followed.

(i) The employer shall assure that no employee services any multi-piece rim wheel unless the employee has been trained and instructed in correct procedures of mounting, demounting, and all related services, activities, and correct safety precautions for the rim type being serviced, and the safe operating procedures described in paragraph (f) of this section.

(ii) Information to be used in the training program shall include, at a minimum, the data contained on the charts and the contents of this standard.

(iii) Where an employer knows or has reason to believe that any of his employees is unable to read and understand the charts or rim manual, the employer shall assure that the employee is instructed concerning the contents of the charts and rim manual in a manner which the employee is able to understand.

(2) The employer shall assure that each employee demonstrates and maintains his ability to service multi-piece rim wheels safely, including performance of the following tasks:

(i) Demounting of tires (including deflation);

(ii) Inspection of wheel components;

(iii) Mounting of tires (including inflation within a restraining device);

(iv) Use of the restraining device;

(v) Handling of wheels;

(vi) Inflation of tires when a wheel is mounted on the vehicle; and

(vii) Installation and removal of wheels.

(3) The employer shall evaluate each employee's ability to perform these tasks and to service multi-piece rim wheels safely and shall provide additional training as necessary to assure that each employee maintains his proficiency.

(d) *Tire servicing equipment.* (1) The employer shall furnish and shall assure that employees use a restraining device in servicing multi-piece rim wheels.

(i) Each restraining device shall have the capacity to withstand the maximum force that would be transferred to it during an explosive wheel separation occurring at 150 percent of maximum tire specification pressure for the wheels being serviced.

(ii) Restraining devices shall be capable of preventing rim components from being thrown outside or beyond the frame of the device for any wheel position within the device.

(iii) Restraining devices shall be inspected prior to each day's use and after any explosive separation of wheel components and any restraining devices exhibiting any of the following defects shall be immediately removed from service:

(A) cracks at welds;

(B) cracked or broken components;

(C) bent or sprung components caused by mishandling, abuse or wheel separation; or

(D) pitting of components due to excessive corrosion.

(iv) Restraining devices removed from service in accordance with paragraph (d)(1)(iii) of this section, shall not be returned to service until they are inspected, repaired, if necessary, and are certified either by the manufacturer or by a Registered Professional Engineer as meeting the strength requirements of paragraphs (d)(1) (i) and (ii) of this section.

(2) A clip-on-chuck with a sufficient length of hose to permit the employee to stand clear of the potential trajectory of the wheel components, and an in-line valve with gauge or a pressure regulator preset to a desired value shall be furnished by the employer and used to inflate tires.

(3) Current charts shall be available in the service area.

(4) A current rim manual containing instructions for the type of rims being serviced shall be available in the service area.

(5) The employer shall assure that only tools recommended in the rim manual for the type of wheel being serviced are used to service multi-piece rim wheels.

(e) *Wheel component acceptability.* (1) Wheel components shall not be interchanged except as provided in the charts, or in the applicable rim manual.

(2) Wheel components shall be inspected prior to assembly. Rim bases, side rings or lock rings which are bent out of shape, pitted from corrosion, broken or cracked shall not be used and shall be rendered unusable and discarded.

(3) Mating surfaces of the rim gutter, rings and tire shall be free of any dirt, surface rust, scale or rubber buildup prior to mounting and inflation.

(f) *Safe operating procedure.* The employer shall establish a safe operating procedure for servicing multi-piece rim wheels and shall assure that employees are instructed in and follow that procedure. The procedure shall include at least the following elements:

(1) Tires shall be completely deflated before demounting by removal of the valve core.

(2) Tires shall be completely deflated by removing the valve core, before a wheel is removed from the axle in either of the following situations:

(i) When the tire has been driven underinflated at 80% or less of its recommended pressure, or

(ii) When there is obvious or suspected damage to the tire or wheel components.

(3) Rubber lubricant shall be applied to bead and rim mating surfaces during assembly of the wheel and inflation of the tire.

(4) Tires shall be inflated only when contained by a restraining device, except that when the wheel assembly is on a vehicle, tires that are underinflated but have more than 80% of the recommended pressure, may be inflated while the wheel is on the vehicle if remote control inflation equipment is used and no employees are in the trajectory, and except as provided in paragraph (f)(5) of this section.

(5) When a tire is being partially inflated without a restraining device for the purpose of seating the lock ring or to round out the tube, such inflation shall not exceed 3 psig (0.21 kg/cm^2).

(6) Whenever a tire is in a restraining device the employee shall not rest or lean any part of his body or equipment on or against the restraining device.

(7) After tire inflation, the tire, rim and rings shall be inspected while still within the restraining device to make sure that they are properly seated and locked. If further adjustment to the tire, rim or rings is necessary, the tire shall be deflated by removal of the valve core before the adjustment is made.

(8) No attempt shall be made to correct the seating of side and lock rings by hammering, striking or forcing the components while the tire is pressurized.

(9) Cracked, broken, bent or otherwise damaged rim components shall not be reworked, welded, brazed, or otherwise heated.

(10) Whenever multi-piece rim wheels are being handled, employees shall stay out of the trajectory unless the employer can demonstrate that performance of the servicing makes the employee's presence in the trajectory necessary.

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APPENDIX A
TRAJECTORY
WARNING
STAY OUT OF THE TRAJECTORY AS INDICATED BY SHADED AREA

Note: Under some circumstances, the trajectory may deviate from its expected path

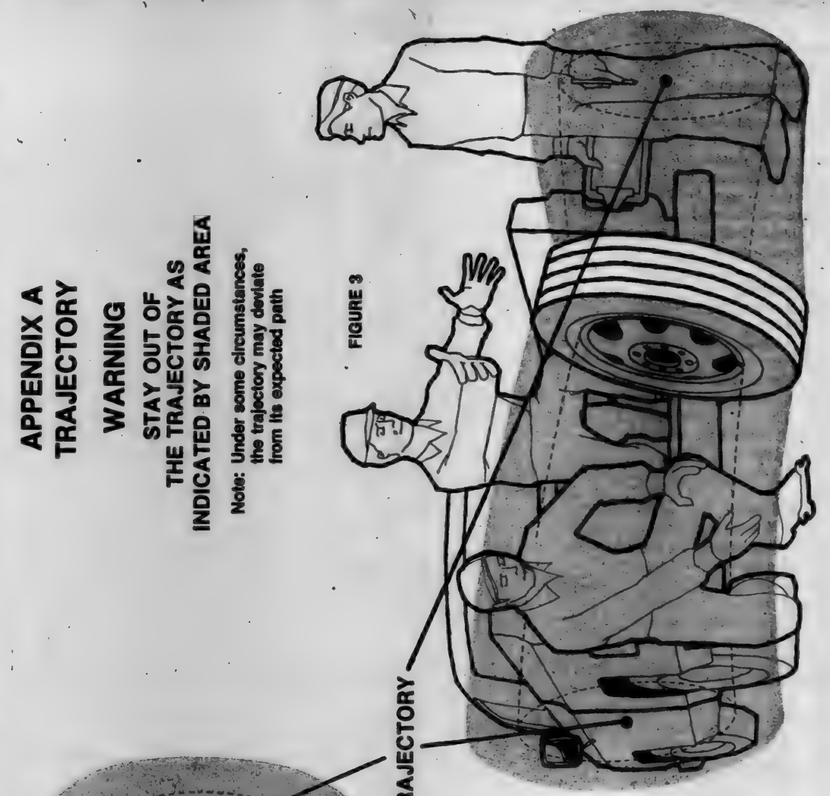

FIGURE 3

TRAJECTORY

FIGURE 1

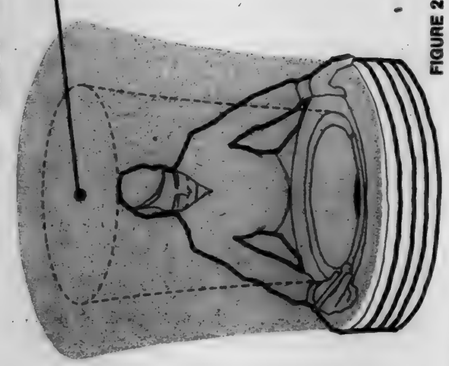

FIGURE 2

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Appendix B—Ordering Information for NHTSA Charts

NHTSA has prepared safety information charts as part of a continuing campaign to alert truck and bus service personnel to the risk involved when working with multi-piece truck and bus wheels.

Individuals who service such wheels may obtain a single copy of each chart, without cost, by writing to the General Services Division/Distribution, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590.

Reprints of the above mentioned charts are also available through the Occupational Safety and Health Administration (OSHA) Area Offices. The address and telephone number of the nearest OSHA Area Office can be obtained by looking in the local telephone directory under U.S. Government, U.S. Department of Labor, Occupational Safety and Health Administration. Single copies are available without charge.

Service establishments and other organizations desiring these charts may order them in any quantity desired from the Superintendent of Documents, Government Printing Office (GPO), Washington, D.C. 20402, at a cost established by the GPO. GPO ordering number for the charts are: Safety Chart—050–003–00315–8, Cost: $2.25, Matching Chart—050–003–00316–6, Cost: $2.00.

(Sec. 6, 84 Stat. 1593 (28 U.S.C. 655); Secretary of Labor's Order 8–76 (41 FR 25059), 29 CFR Part 1911.)

[FR Doc. 80-2708 Filed 1-28-80; 8:45 am]

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V45/20/JA29/80 UMI

federal register

Tuesday
January 29, 1980

Part V

Department of Health, Education, and Welfare

National Institutes of Health

Recombinant DNA Research; Actions Under Guidelines

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

Recombinant DNA Research; Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, HEW.

ACTION: Notice of actions under NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth actions taken by the Director, NIH, under the 1978 NIH Guidelines for Research Involving Recombinant DNA Molecules (43 FR 60108). Revised NIH Guidelines are printed following this notice.

EFFECTIVE DATE: January 29, 1980.

FOR FURTHER INFORMATION CONTACT: Additional information can be obtained from Dr. William J. Gartland, Office of Recombinant DNA Activities (ORDA), National Institutes of Health, Bethesda, Maryland 20205. (301) 496–6051.

SUPPLEMENTARY INFORMATION: I am promulgating today revised NIH Guidelines for Research Involving Recombinant DNA Molecules. This announcement is a "Decision Document" explaining the background and reasons for my decision. Immediately following this announcement there appears a copy of the revised NIH Guidelines.

The structure of this Decision Document is as follows:

I. *History of the NIH Guidelines Through 1978.*

II. *Revision of the December 1978 Guidelines.*

III. *Analysis of Comments on Decision Document/Environmental Impact Assessment/Proposed Revised Guidelines as Published For Comment in the Federal Register on November 30, 1979 (44 FR 66210).*

I. History of the NIH Guidelines Through 1978

The history leading to the issuance of the original 1976 NIH Guidelines for Recombinant DNA Research is described in detail in the Environmental Impact Statement on the 1976 Guidelines, and in the "Decision Document" accompanying the Guidelines in the Federal Register of July 7, 1976. Key points in the history included:

- The Maxine Singer-Dieter Soll letter (*Science 181*, 1114, 1973) arising from the Gordon Research Conference on Nucleic Acids of July 1973.
- The Paul Berg et al. letter to *Science (185*, 303, 1974) calling for the NIH to establish an advisory committee to write guidelines.
- The Asilomar conference of February 1975.
- The work of the NIH Recombinant DNA Advisory Committee (RAC) through 1975, resulting in the proposed guidelines of December 1975.
- The special meeting of the Advisory Committee to the Director, NIH, on February 9–10, 1976, to review the proposed guidelines.
- Final issuance of the NIH Guidelines on June 23, 1976 (published in the Federal Register on July 7, 1976).

The history from the period July 1976 to December 1978 included the following key points:

- Deliberations on revisions by the RAC during 1977, resulting in proposed revisions published for comment in the Federal Register on September 27, 1977 (42 FR 49596).
- A public hearing on the revisions, at the meeting of the Advisory Committee to the Director, NIH, December 15–16, 1977.
- Publication for public comment in the Federal Register on July 28, 1978 (43 FR 33042), of new proposed revised guidelines accompanied by a detailed Decision Document and a detailed Environmental Impact Assessment.
- A public hearing on the proposed revisions, chaired by the General Counsel of HEW, on September 15, 1978.
- Publication of revised guidelines on December 22, 1978 (43 FR 60080), accompanied by a detailed Decision Document and Environmental Impact Assessment.

The entire history is extensively documented in Volumes 1–4 of "Recombinant DNA Research"—a series constituting a readily available public record of activities in regard to the NIH Guidelines.

II. Revision of the December 1978 Guidelines

The December 1978 NIH Guidelines for Research Involving Recombinant DNA Molecules (43 FR 60108) include procedures for changing the Guidelines. As detailed in Section IV–E–1–b–(1) of the Guidelines, this involves: (1) publication in the Federal Register for public comment, at least 30 days prior to a RAC meeting, of the proposed changes; (2) consideration of the proposed changes by the RAC; and (3) publication in the Federal Register of the final decision by the Director, NIH.

In accordance with these procedures, proposed changes in the Guidelines appeared in the Federal Register on January 15, 1979 (44 FR 3226), were considered by the RAC at its February 16–17, 1979, meeting, and were promulgated by the NIH Director in the Federal Register on April 11, 1979 (44 FR 21730).

Proposed changes in the Guidelines appeared in the Federal Register on April 13, 1979 (44 FR 22314), were considered by the RAC at its May 21–23, 1979, meeting, and were promulgated by the NIH Director in the Federal Register on July 20, 1979 (44 FR 42914).

Proposed changes in the Guidelines appeared in the Federal Register on July 31, 1979 (44 FR 45088) and were considered by the RAC at its September 6–7, 1979, meeting. Rather than promulgating the recommended changes, the Director, NIH, instead issued them for 30 days of additional public comment in the Federal Register on November 30, 1979 (44 FR 69210).

This was in accordance with Section IV–E–1–b–(1) of the NIH Guidelines (43 FR 60126) which says, "The Director's proposed decision, at his discretion, may be published in the Federal Register for 30 days of comment before final action is taken." What appeared in the Federal Register on November 30 was a detailed "Decision Document" explaining the background and reasons for the proposed decision, an Environmental Impact Assessment, and proposed revised NIH Guidelines. Included was an analysis of many letters received prior to November 30. Part III of the present document contains an analysis by the Director, NIH, of all comments received during the period November 30, 1979 to January 18, 1980 on the Decision Document/Environmental Impact Assessment/Proposed Revised Guidelines as published in the Federal Register on November 30, 1979. All of the changes in the Guidelines accepted by the Director, NIH, and promulgated today have been found by the Director, NIH, in accordance with Section IV–E–1–b of the NIH Guidelines, to comply with the Guidelines and to present no significant risk to health or the environment.

Proposed changes in the Guidelines appeared in the Federal Register on November 1, 1979 (44 FR 63074), were considered by the RAC at its December 6–7, 1979, meeting, and were promulgated by the NIH Director in the Federal Register on January 17, 1980 (45 FR 3552).

Immediately following this "Decision Document," there appears a copy of the revised NIH Guidelines which are effective today. These were obtained by incorporating into the December 1978 Guidelines all the changes made following the February 16–17, 1979, May 21–23, 1979, September 6–7, 1979, and December 6–7, 1979, RAC meetings.

III. Analysis of Comments on Decision Document/Environmental Impact Assessment/Proposed Revised Guidelines as Published for Comment in the Federal Register on November 30, 1979 (44 FR 69210)

III–A. Discussion at RAC Meeting on December 6, 1979

The Decision Document/Environmental Impact Assessment/Proposed Revised Guidelines as sent to the Federal Register to appear on November 30, 1979, were simultaneously sent to RAC members who received the documents on November 29. The material was discussed by the RAC at its December 6–7, 1979, meeting. At this meeting, the RAC Chairman presented the document pointing out the changes between the "*E. coli* K–12/P1 Recommendation" as adopted by the RAC on September 6, 1979, and the somewhat revised version of this recommendation (Section III–O of the proposed revised Guidelines) as issued by the NIH Director for public comment in the Federal Register on November 30, 1979. She noted that the NIH Director had eliminated the reference to these experiments as "exempt from the Guidelines" and had added a requirement for prior review and approval by the IBC for experiments in which there is a deliberate attempt to have the *E. coli* K–12 efficiently express a gene coding for a eukaryotic protein. The Chairman asked for comments from the RAC. Except for questions of clarification from RAC members, which were answered by NIH staff, there were no comments either on these particular items or on the recommendations generally. NIH staff urged RAC members to write individually to the NIH Director during the comment period giving their views. (Six RAC members did write. Four endorsed Section III–O of the Guidelines. Two, who had voted against the "*E. coli* K–12/P1 Recommendation" at the September 6–7, 1979, meeting, wrote. One urged the "exemption" not be approved. The other urged that the final decision not be delayed.)

III–B. Public Comments

The Decision Document/Environmental Impact Assessment/Proposed Revised Guidelines as they appeared in the Federal Register on November 30, 1979, were sent out to over 2000 people for comment—this included the chairmen of all Institutional Biosafety Committees registered with NIH, all principal investigators doing recombinant DNA experiments supported by NIH, and all persons who had previously requested their inclusion on a mailing list to receive information concerning the NIH Guidelines. During the period up to January 18, 1980, 185 letters signed by a total of 205 individuals were received. All of these letters: (i) are now available for public inspection at ORDA; (ii) can be made available (in whole or in part) to any requester upon payment of reproduction costs; and (iii) will be published (and subsequently may be purchased through the U.S. Government Printing Office) as part of Volume 5 of "Recombinant DNA Research," a series constituting a public record of activities in regard to the NIH Guidelines.

The Decision Document/Environmental Impact Assessment consisted of an analysis of the six "major actions" which were recommended favorably at the September 6–7, 1979, RAC meeting. These six "major actions" were: "The *E. coli* K–12/P1 Recommendation"; "Proposed Amendment of Sections II–D–1–a–(1) and III–A–1–b–(1) of the Guidelines"; "Proposed Exemption for *Pseudomonas Putida* and *Pseudomonas Florescens*"; "Cloning in *Bacillus Subtilis* and *Streptomyces Coelicolor*"; "Use of *Agrobacterium Tumefaciens* as a Host-Vector System"; and "Proposed Supplement (Part VI) to the Guidelines."

The bulk of the November 30 Decision Document/Environmental Impact Assessment consisted of an analysis of the "*E. coli* K–12/P1 Recommendation"; it was ponted out that "of all the recommendations arising from the last three meetings of the RAC [this recommendation was] the one that has generated the greatest number of letters and the most discussion at the RAC meetings." The analysis included the NIH Director's proposed acceptance of a modified version of this recommendation to become Section III–O of the proposed revised Guidelines.

In the comment period only three letters were received that included comments dealing specifically with any of the other five "major actions" i.e., all other letters made reference to the entire proposed revised Guidelines or commented specifically upon the "*E. coli* K–12/P1 Recommendation." The remainder of this document is organized as follows: III–B–1. Comments on The Entire Proposed Revised Guidelines; III–B–2. Comments on the "*E. coli* K–12/P1 Recommendation" or Section III–O of the Proposed Revised Guidelines; III–B–3. Comments on the Proposed Revised Guidelines Other Than Section III–O; III–B–4. Comments on the Guidelines Other Than Changes Recommended by the RAC; III–C. Decision of the NIH Director on Promulgation of Revised Guidelines.

III–B–1. Comments on the Entire Proposed Revised Guidelines

Eighty-three letters signed by a total of 100 individuals were received in support of the proposed revised Guidelines. (Many of these commentators also specifically endorsed Section III–O of the proposed Guidelines.) Comments included the following—"I heartily support the changes that you propose for the NIH Guidelines for Research Involving Recombinant DNA Molecules. I am especially impressed by the detailed and reasoned consideration that the Advisory Committee (RAC) and you have used to reach these very enlightened decisions."—"This letter is to indicate my wholehearted support of the revisions."—"Although I am highly concerned with laboratory safety, I believe the revised guidelines are certainly reasonable."—"They are reasonable and sensible Guidelines which take into account the body of new information and research experience which has become available since the formulation and enactment of the original guidelines."—"The proposed new Guidelines are a very sensible step forward. By freeing scientists from unnecessary red tape, and administrative delays in doing experiments, they will appreciably accelerate the progress of research and the realization of its benefits."

III–B–2. Comments on the "E. coli K–12/P1 Recommendation" or Section III–O of the Proposed Revised Guidelines

Comments received on the RAC's "*E. coli* K–12/P1 Recommendation" or the NIH Director's proposed incorporation of a modified version of this recommendation to become Section III–O of the proposed revised Guidelines are discussed below.

III–B–2–a. Endorsement of the "E. coli K–12/P1 Recommendation" or Section III–O of the Proposed Revised Guidelines

In addition to the 83 letters mentioned above which endorsed the entire proposed revised Guidelines, another 86 letters signed by a total of 99 individuals were received endorsing what was referred to as either the proposed new "Section III–O of the Guidelines," the "*E. coli* K–12/P1 Recommendation," or the "decision to reclassify recombinant DNA experiments performed in *E. coli* K–12 as P1." Thus, of the 185 letters received, 169 supported the proposed new Section III–O.

These commentators included four RAC members, and six former RAC members. Comments included the following—"Section III–O describing experiments with *E. coli* K–12 host-vector systems represents a realistic and safe modification of some of the previous regulations. . . . We wish to express our confidence in the good judgment and scientific qualifications of the committee that has made these decisions. The enormous effort in preparing these guidelines in the interest of all of us should earn high praise."—"In Section III–O there is a classificatory downgrading of a large group of experiments in *E. coli* K–12. I applaud that change. It appears to me to be soundly based on the accumulating experience and evaluation of real hazards of such experiments."—"For this reason, I strongly endorse the decentralization of control over experiments using the *E. coli* K–12 Host-Vector systems as outlined in section III–O."—"I, therefore, urge adoption of Section III–O, as a way of eliminating a costly and time-consuming unnecessary obstacle to research of great practical importance as well as scientific interest."—"In particular, I specifically endorse the revision of the guidelines concerning the K–12 containment (section III–O). The proposals are a reasonable way of matching the realistic risks with the clear benefit of removing unnecessary administrative work."—"I believe that the category change is fully consistent with public safety, and is essential to permit legitimate health related research dependent upon cloning techniques to proceed."—"I consider the evidence overwhelming that these experiments pose no significant hazard."

III–B–2–b. Request that Experiments Involving E. coli K–12 Be Exempted from the Guidelines

Nine commentators, while indicating their endorsement of Section III–O, also indicated that they favored a somewhat greater relaxation of the Guidelines. Comments included the following—"My personal opinion is that the data does not even warrant registration of these experiments."—"My current view is that even P1 containment is probably unnecessary."

Nineteen commentators wrote requesting that all or most experiments with *E. coli* K–12 be completely exempted from the Guidelines; this would relax the conditions for doing these experiments much further than I had proposed in Section III–O of the proposed revised Guidelines. (Some of these commentators endorsed Section III–O as a "step in the right direction.") Comments included the following—"To continue Federal regulation after evidence has been obtained that there is no clear threat to the public health is a waste of already dwindling Federal scientific resources and in addition, sets an ominous precedent for future Federal regulatory adventures. In addition, at the level of the working scientist or student, the perpetration of needless regulations, directed at imagined hazards, undercuts our continuing efforts to institute and make effective safety practices governing the handling of real pathogens and toxic agents."

On the other hand, four commentators specifically endorsed the decision that experiments with *E. coli* K–12 not be exempted from the Guidelines, and four commentators specifically endorsed IBC registration of these experiments.

In my Decision Document/Environmental Impact Assessment of November 30, 1979, I discussed why I was not proposing to exempt from the Guidelines experiments under the "*E. coli* K–12/P1 Recommendation." As I wrote then, and still believe is prudent policy: "Three important safety features for these experiments that will not be exempt, but will according to the proposed decision form a special class under the Guidelines, are:

"1. P1. Containment—Including the ban on mouth pipetting and the requirement that all biological wastes shall be decontaminated. Proper employment of P1 conditions eliminates the primary means of *E. coli* escape from the laboratory.

"2. EK1—Allowing only *E. coli* K–12 strains and not allowing the use of conjugation proficient plasmids or generalize transducing phages. This greatly reduces the probability that any escaping *E. coli* K–12 would survive and transfer their recombinant DNA to other organisms.

"3. IBC Oversight—Continuing local surveillance and registration of these experiments.

"In addition, keeping these experiments under the Guidelines rather than exempting them means that any scale-up of the experiments beyond 10 liters will require prior NIH approval."

These important safety features apply to the experiments described in Section III–O of the proposed revised Guidelines; they would not apply if these experiments were exempted from the Guidelines.

III–B–2–c. Request That Section III–O of the Guidelines Not Be Promulgated

Of the 185 letters received by January 18, 1980, five said that Section III–O and/or the proposed revised Guidelines should not be promulgated. These five commentators included one current and one former RAC member. Among the comments they made were:

1. "I urge you to extend the comment period."

2. The NIH Director should reconsider "the *E. coli* exemption as voted for by the RAC at its September 1979 meeting."

3. "It needs emphasis that there is currently no *requirement* (only a recommendation) that institutions require workers in this field to be trained in good laboratory practice."

4. Many of the arguments used to justify this revision of the Guidelines were used to justify a previous revision.

5. The discussion in the November 30 Decision Document "implies that microorganisms do not 'escape' from laboratories in which containment is supposed to be practiced."

6. "I continue to be disturbed that such far-reaching policy changes are being considered *in the absence of data from a risk-assessment program.*"

7. "I'm less than totally convinced by the information in the November 30, 1979 **Federal Register** that it is prudent to allow cloning of all DNA at the P1 + EK1 level except where prohibited."

None of these commentators provided any new scientific data.

In reply to the first comment given above, I note that although the comment period formally ended December 30, 1979, I considered all letters received until January 18, 1980.

In response to the second comment given above, I note that the November 30 Decision Document/Environmental Impact Assessment discussed in detail why I am not in fact exempting these experiments from the Guidelines.

In response to the third comment given above, the NIH Guidelines do in fact require training of workers. Section IV–D–1–g of the Guidelines discussing responsibilities of the Institution says the Institution shall "Ensure appropriate training for the IBC chairperson and members, the BSO, Principal Investigators (PIs), and laboratory staff regarding the Guidelines, their implementation, and laboratory safety. Responsibility for training IBC members may be carried out through the IBC chairperson. Responsibility for training laboratory staff may be carried out through the PI. The Institution is responsible for seeing that the PI has sufficient training, but may delegate this responsibility to the IBC." Section IV–D–3–a–2 says the Institutional Biosafety Committee is responsible for "An assessment of the facilities, procedures, and practices, and of the training and expertise of recombinant DNA personnel." Section IV–D–5–d–2 of the Guidelines says the Principal Investigator is responsible for "Instructing and training staff in the practices and techniques required to ensure safety and in the procedures for dealing with accidents."

In response to the fourth comment given above, I note that this was discussed in the November 30 Decision Document/Environmental Impact Assessment under the consideration of the comments "Data Are Not Sufficient To Justify Exemption."

In response to the fifth comment given above, we did not mean to imply that microorganisms do not escape from laboratories in which containment is practiced. Data on laboratory-acquired infection rates at different physical containment levels were given in the NIH Environmental Impact Statement on the 1976 Guidelines where it was pointed out that "when known hazardous agents are handled, the risk of a laboratory-acquired infection cannot be totally eliminated." What is discussed in the November 30, 1979, Decision Document/Environmental Impact Assessment is the low probability of *E. coli* K–12 escaping in significant numbers from a P1 laboratory. This, combined with the low probabilities of a series of other steps discussed in that document, leads to an extremely low probability of hazard arising from *E. coli* K–12 carrying recombinant DNA.

In response to the sixth and seventh comments given above that changes are being made "in the absence of data from a risk-assessment program," or upon insufficient data, I must note that the November 30 Decision Document/Environmental Impact Assessment discussed in detail the substantial body of data available on the safety of *E. coli* K–12 and specifically dealt with the issue of risk-assessment under the discussions of the comments "Delay Any Change in the NIH Guidelines Pending Many More Risk-Assessment Experiments," and "Data Are Not Sufficient to Justify Exemption" as well as the alternative "Make No Change In The Guidelines Until Many More Risk-Assessment Experiments Are Completed." I continue to believe, as I wrote then, that the action is fully supported by the data.

III–B–2–d. Comments on the Time Taken To Promulgate the NIH Director's Decision on This Recommendation

Fourteen commentators, including one of the four RAC members who voted against the "*E. coli* K–12/P1 Recommendation" at the September 6, 1979, RAC meeting, wrote against delay, noting that the RAC's "*E. coli* K–12/P1 Recommendation" had been made in September 1979 but not yet promulgated. Comments included the following—"It is regrettable that these revisions have been delayed for further comment in view of the extensive period provided already for such comments and the extensive discussions by the Recombinant DNA Advisory Committee prior to its votes. I believe that the expense in terms of time taken from other fruitful activities of yourself and the many commentators on this issue was unnecessary and extremely wasteful."—"I am appalled at the interminable delays required before a recommendation of the RAC can be put into effect. The procedures required by the December 1978 guidelines are cumbersome enough without an additional layer of public comment, analysis, and justification added on. NIH and American biomedical scientists deserve better treatment and trust from their top health administrators."—"It is disheartening to find that, even after thorough consideration and approval by RAC, the *E. coli* K–12/P1 measure remains in administrative limbo."—"The unnecessarily long delays in implementing the new guidelines have adversely affected the morale of American scientists and hampered progress in this highly significant area of research and development."

On the other hand, one commentator wrote, "I once again congratulate you on the exemplary way in which revision of these guidelines is being continued while still making proposals available to the public for scrutiny before their final adoption."

I am firmly committed to the procedures of the NIH Guidelines. As pointed out above in Section II of this document, procedures for revising the Guidelines involve certain mandatory "delays" including publication of the proposed changes in the **Federal Register** for public comment, at least 30 days prior to a meeting of the RAC, and consideration of the proposed changes at a formal RAC meeting. For recommendations arising from three of the last four RAC meetings, there was no additional public comment period. For the recommendations made at the September 6–7, 1979, RAC meeting, however, I did issue my proposed decision for an additional 30-day period of public comment. It is my intention, generally, in the future, to rely, in formulating my final decision, on the comments received in the initial comment period, and on the recommendations of the RAC, without issuing a proposed decision for an additional period of public comment.

III–B–2–e. Ff Bacteriophages

Three letters discussed the use of Ff bacteriophages. One wrote, "Nor can I see why other *E. coli* K–12 host-vector systems, such as those employing Ff bacteriophages, are not included within the Section III–O reduction." Another wrote, "I certainly hope that this proposal will be extended to the Ff bacteriophages in the near future."

I discussed this in detail in my November 30, 1979, Decision Document/Environmental Impact Assessment under the alternative "Include Ff Bacteriophages (Filamentous Single Strand Male Specific Bacteriophages such as M13 and fd) With Lambda or Lambdoid Bacteriophages To Be Permissible Under the '*E. coli* K–12/P1 Recommendation.'" There, I noted that I would "ask the RAC to consider the use of Ff bacteriophages again." At the December 1979 RAC meeting, a Working Group was appointed to consider this issue. They will report to the RAC at its next (March 1980) meeting. I will consider the recommendations of the RAC before taking action on inclusion of Ff bacteriophages within Section III–O.

III–B–2–f. Requirement for IBC Prior Review and Approval When There Is a Deliberate Attempt To Have the E. coli K–12 Efficiently Express a Gene Coding for a Eukaryotic Protein

One of the differences between the "*E. coli* K–12/P1 Recommendation" made by the RAC on September 6, 1979, and my proposed modification of this recommendation to become Section III–O of the November 30, 1979, proposed revised Guidelines was the addition of the text which states, "An exception, however, which does require prior review and approval by the IBC is any experiment in which there is a deliberate attempt to have the *E. coli* K–12 efficiently express any gene coding for a eukaryotic protein."

Four commentators wrote in opposition to this. One said that the requirement "is in my view superfluous, and is almost guaranteed to cause nuisance and confusion for investigators and IBC's. Many IBC's will understand this section to imply that they must require higher containment for such experiments, and for this the guidelines give no guidance or clarification. This requirement will expose many investigators to arbitrariness and unnecessary restrictions. . . . The Guidelines should clarify the intent of this requirement and should explicitly state that P1 containment is recommended. . . ." Two other commentators urged that this sentence be eliminated. One wrote, "Failing that

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amendment, I must ask for a clarification of the intent of the sentence in question. As I read the relevant paragraph, these 'expression' experiments are understood to be appropriately carried out at the P1+EK1 level of containment. I am afraid that an alternate, presumably unintended, reading would be that each IBC is urged to set its own standards on these experiments. This policy, I am sure you would agree, would be disastrous."

On the other hand, three commentators wrote in favor.—"I agree with your decision to require that experiments in which there is a deliberate attempt to have expression of a eukaryotic gene be reviewed and approved by the local IBC prior to their being performed."

In response, I do not judge this requirement to be "superfluous." I discussed it in my November 30, 1979, Decision Document/Environmental Impact Assessment under the alternative "Treat Experiments Equally In Which There Is Or Is Not A Deliberate Attempt To Achieve Gene Expression." There, I concluded the discussion on this issue by stating, "Therefore, experiments in which there is a deliberate attempt to achieve gene expression continue to merit special attention. . . . This will allow the IBC to judge whether it wishes to require any added restrictions to be placed on the experiment, and to remain fully informed of its progress."

In response to the request that the Guidelines "should explicitly state that P1 containment is recommended," I note that the Guidelines do explicitly state in Section III–O that ". . . experiments using *E. coli* K–12 shall use P1 physical containment. . . ." including those "in which there is a deliberate attempt to have the *E. coli* K–12 efficiently express any gene coding for a eukaryotic protein. It is not NIH's intention that the IBC must require higher containment for such experiments.

One commentator suggested a rewording of this sentence as follows—"An exception, however, which does require prior review and approval by the IBC is any experiment in which there is a deliberate attempt to have the *E. coli* K–12 efficiently express as a protein product the information carried in any gene derived either from a eukaryotic organism or from any virus or viroid which infects a eukaryotic organism." I will have this suggestion published for at least 30 days public comment, and will ask the RAC to consider it at its next (March 1980) meeting before I take action on it.

III–B–2–g. Use of Poorly Mobilizable Plasmids

One commentator suggested that experiments described in Section III–O of the Guidelines which specify that "the host shall not contain conjugation-proficient plasmids" add an additional safety feature by the use of "a poorly mobilizable plasmid. By that I mean one that is mobilizable at frequencies of $<10^{-5}$ by a derepressed conjugative plasmid." I will have this suggestion published for at least 30 days public comment and will ask that it be considered first by the RAC Subcommittee on Host-Plasmid Vector Systems, and then by the full RAC at its March 1980 meeting, before I take action on it.

III–B–2–h. Transfer of Clones to Other Laboratories

One correspondent discussed "the requirement that clones subject to the guidelines can be transferred to other laboratories only after the recipient submits an approved MUA to the supplying laboratory" and questioned whether this should apply to clones described in Section III–O of the Guidelines.

Detailed instructions on the administration of the NIH Guidelines are contained in the "Administrative Practices Supplement to the NIH Guidelines for Research Involving Recombinant DNA Molecules" (APS). Currently, a Memorandum of Understanding and Agreement (MUA) is required to be submitted to NIH for each NIH-funded recombinant DNA project subject to the Guidelines. As described in the APS, the MUA must contain a statement "agreeing to abide by the provisions of the NIH Guidelines and the requirements of this Supplement concerning shipment and transfer of recombinant DNA materials." The revised NIH Guidelines, issued today, specify that for experiments described in Section III–O, "no Memorandum of Understanding and Agreement (MUA) . . . need be submitted . . ." NIH will soon issue a revised version of the APS taking into account the changes in the Guidelines promulgated today. At that time, requirements concerning shipment of clones described under Section III–O of the Guidelines will be described.

III–B–3. Comments on the Proposed Revised Guidelines Other Than Section III–O

Only three comments were received dealing with a "major action" recommended at the September 6–7, 1979, RAC meeting, other than the "*E. coli* K–12/P1 Recommendation." These three requested that the Proposed Supplement (Part VI) on Voluntary Compliance not be added to the Guidelines. The reason given by one commentator was that it may "lead to unnecessary and wasteful legislative attempts." The other two commentators, on the other hand, specifically called for mandatory compliance.

In my November 30 Decision Document, I reviewed the history of this proposed supplement in detail including endorsement of it by the Federal Interagency Committee on Recombinant DNA Research and by the RAC. In accord with the analysis in that document, I accept the recommendation of these two committees to add Part VI to the Guidelines.

III–B–4. Comments on the Guidelines Other Than Changes Recommended by the RAC

The Decision Document/Environmental Impact Assessment/Proposed Revised Guidelines, as published for public comment on November 30, were based upon changes in the Guidelines recommended by the RAC at its September 6–7, 1979, meeting. During the comment period, five letters were received proposing additional changes in the Guidelines totally unrelated to the RAC recommendations. One commentator requested exemption from the Guidelines of "return to host of origin" type experiments. One commentator requested that the Institutional Biosafety Committee members not affiliated with the institution "shall be appointed by the governing body of the community in which the institution is situated." Two commentators submitted a proposed addition to Appendix B of the Guidelines to deal with plant pathogens. One commentator requested elimination of Prohibition I–D–3, and a revision of Sublist A of Appendix A to the Guidelines.

I will have the proposals mentioned above under III–B–4 published for at least 30 days public comment, and will ask the RAC to consider them at its next (March 1980) meeting before I take action on them.

III–C. Decision of the NIH Director on Promulgation of Revised Guidelines

Based on my analysis of the comments received during this comment period, I am today promulgating revised NIH Guidelines for Research Involving Recombinant DNA Molecules. They differ from the proposed revised Guidelines as published in the **Federal Register** on November 30, 1979, by the incorporation of the additional changes which were recommended by the RAC at its December 6–7, 1979, meeting, and which were promulgated in the **Federal Register** on January 7, 1980 (45 FR 3552).

Dated: January 23, 1980.

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 80–2821 Filed 1–28–80; 8:45 am]

BILLING CODE 4110–08–M

federal register

Tuesday
January 29, 1980

Part VI

Department of Health, Education, and Welfare

National Institutes of Health

Guidelines for Research Involving Recombinant DNA Molecules

V45/20 JA 29 80 UMI

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

Guidelines for Research Involving Recombinant DNA Molecules

January 1980.

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I. Scope of the Guidelines

I–A. *Purpose.* The purpose of these Guidelines is to specify practices for constructing and handling (i) recombinant DNA molecules and (ii) organisms and viruses containing recombinant DNA molecules.

I–B. *Definition of Recombinant DNA Molecules.* In the context of these Guidelines, recombinant DNA molecules are defined as either (i) molecules which are constructed outside living cells by joining natural or synthetic DNA segments to DNA molecules that can replicate in a living cell, or (ii) DNA molecules that result from the replication of those described in (i) above.

I–C. *General Applicability.* See Section IV–B.

I–D. *Prohibitions.* The following experiments are not to be initiated at the present time.

I–D–1. Formation of recombinant DNAs derived from the pathogenic organisms classified (*1*) as Class 3, 4, or 5 (*2*) or from cells known (*2A*) to be infected with such agents, regardless of the host-vector system used.

I–D–2. Deliberate formation of recombinant DNAs containing genes for the biosynthesis of toxins potent for vertebrates (*2A*) (e.g., botulinum or diphtheria toxins; venoms from insects, snakes, etc.).

I–D–3. Deliberate creation by the use of recombinant DNA of a plant pathogen with increased virulence and host range beyond that which occurs by natural genetic exchange. (*2A*)

I–D–4. Deliberate release into the environment of any organism containing recombinant DNA.

I–D–5. Deliberate transfer of a drug resistance trait to microorganisms that are not known to acquire it naturally, if such acquisition could compromise the use of a drug to control disease agents in human or veterinary medicine or agriculture. (*2A*)

I–D–6. Large-scale experiments (e.g., more than 10 liters of culture) with organisms containing recombinant DNAs, unless the recombinant DNAs are rigorously characterized and the absence of harmful sequences established (*3*). (See Section IV–E–1–b–(3)–(d).)

We differentiate between small- and large-scale experiments with organisms containing recombinant DNAs because the probability of escape from containment barriers normally increases with increasing scale.

Experiments in Categories I–D–1 to I–D–6 may be excepted (*4*) from the prohibitions (and will at that time be assigned appropriate levels of physical and biological containment) provided that these experiments are expressly approved by the Director, NIH, with advice of the Recombinant DNA Advisory Committee after appropriate notice and opportunity for public comment. (See Section IV–E–1–b–(1)–(e).)

Experiments in Categories I–D–1, I–D–2, I–D–3, I–D–5, and experiments involving "wild type" host-vector systems are excepted from the prohibitions, provided that these experiments are designed for risk-assessment purposes and are conducted within the NIH high-containment facilities located in Building 41-T on the Bethesda campus and in Building 550 located at the Frederick Cancer Research Center. The selection of laboratory practices and containment equipment for such experiments shall be approved by ORDA following consultation with the RAC Risk-Assessment Subcommittee and the NIH Biosafety Committee. ORDA shall inform RAC members of the proposed risk-assessment projects at the same time it seeks consultation from the RAC Risk-Assessment Subcommittee and the NIH Biosafety Committee. If a major biohazard is determined, the clones will be destroyed after the completion of the experiment rather than retaining them in the high containment facility. Other clones that are non-hazardous or not of major hazard will be retained in the high containment.

I–E. *Exemptions.* It must be emphasized that the following exemptions(*4*) are not meant to apply to experiments described in the Sections I–D–1 to I–D–5 as being prohibited.

The following recombinant DNA molecules are exempt from these Guidelines, and no registration with NIH is necessary:

I–E–1. Those that are not in organisms or viruses.(*5*)

I–E–2. Those that consist entirely of DNA segments from a single nonchromosomal or viral DNA source, though one or more of the segments may be a synthetic equivalent.

I–E–3. Those that consist entirely of DNA from a prokaryotic host, including its indigenous plasmids or viruses, when propagated only in that host (or closely related strain of the same species) or when transferred to another host by well established physiological means; also those that consist entirely of DNA from a eukaryotic host, including its chloroplasts, mitochondria, or plasmids (but excluding viruses), when propagated only in that host (or a closely related strain of the same species).

I–E–4. Certain specified recombinant DNA molecules that consist entirely of DNA segments from different species that exchange DNA by known physiological processes, though one or more of the segments may be a synthetic equivalent. A list of such exchangers will be prepared and periodically revised by the Director, NIH, with advice of the Recombinant DNA Advisory Committee, after appropriate notice and opportunity for public comment. (See Section IV–E–1–b–(1)–(d).) Certain classes are exempt as of publication of these Revised Guidelines. The list is in Appendix A. An updated list may be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205.

I–E–5. Other classes of recombinant DNA molecules, if the Director, NIH, with advice of the Recombinant DNA Advisory Committee, after appropriate notice and opportunity for public comment, finds that they do not present a significant risk to health or the environment. (See Section IV–E–1–b–(1)–(d).) Certain classes are exempt as of publication of these Revised Guidelines. The list is in Appendix C. An updated list may be obtained from the Office of Recombinant DNA Activities; National Institutes of Health, Bethesda, Maryland 20205.

I–F. *General Definitions.* See Section IV–C.

II. Containment

Effective biological safety programs have been operative in a variety of laboratories for many years. Considerable information therefore already exists for the design of physical containment facilities and the selection of laboratory procedures applicable to organisms carrying recombinant DNAs.(*6–19*) The existing programs rely upon mechanisms that, for convenience, can be divided into two categories: (i) a set of standard practices that are generally used in microbiological laboratories, and (ii) special procedures, equipment, and laboratory installations that provide physical barriers which are applied in varying degrees according to the estimated biohazard.

Experiments on recombinant DNAs, by their very nature, lend themselves to a third containment mechanism—namely, the application of highly specific biological barriers. In fact, natural barriers do exist which limit either (i) the infectivity of a *vector*, or *vehicle*, (plasmid or virus) for specific hosts or (ii) its dissemination and survival in the environment. The vectors that provide the means for replication of the recombinant DNAs and/or the host cells in which they replicate can be genetically designed to decrease by many orders of magnitude the probability of dissemination of recombinant DNAs outside the laboratory.

As these three means of containment are complementary, different levels of containment appropriate for experiments with different recombinants can be established by applying various combinations of the physical and biological barriers along with a constant use of the standard practices. We consider these categories of containment separately here in order that such combinations can be conveniently expressed in the Guidelines.

In constructing these Guidelines, it was necessary to define boundary conditions for the different levels of physical and biological containment and for the classes of experiments to which they apply. We recognize that these definitions do not take into account all existing and anticipated information on special procedures that will allow particular experiments to be carried out under different conditions than indicated here without affecting risk. Indeed, we urge that individual investigators devise simple and more effective containment procedures and that investigators and institutional biosafety committees recommend changes in the Guidelines to permit their use.

II–A. *Standard Practices and Training.* The first principle of containment is a strict adherence to good microbiological practices.(*6–15*) Consequently, all personnel directly or indirectly involved in experiments on recombinant DNAs must receive adequate instruction. (See Sections IV–D–1–g, IV–D–5–d and IV–D–8–b.). This shall as a minimum include instructions in aseptic techniques and in the biology of the organisms used in the experiments, so that the potential biohazards can be understood and appreciated.

Any research group working with agents with a known or potential biohazard shall have an emergency plan which describes the procedures to be followed if an accident contaminates personnel or the environment. The principal investigator must ensure that everyone in the laboratory is familiar with both the potential hazards of the work and the emergency plan. (See Sections IV–D–5–e and IV–D–3–d.) If a research group is working with a known pathogen where there is an effective vaccine it should be made available to all workers. Where serological monitoring is clearly appropriate it shall be provided. (See Sections IV–D–1–h and IV–D–8–c.)

II–B. *Physical Containment Levels.* The objective of physical containment is to confine organisms containing recombinant DNA molecules, and thus

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to reduce the potential for exposure of the labortory worker, persons outside of the laboratory, and the environment to organisms containing recombinant DNA molecules. Physical containment is achieved through the use of laboratory practices, containment equipment, and special laboratory design. Emphasis is placed on primary means of physical containment which are provided by laboratory practices and containment equipment. Special laboratory design provides a secondary means of protection against the accidental release of organisms outside the laboratory or to the environment. Special laboratory design is used primarily in facilities in which experiments of moderate to high potential hazard are performed.

Combinations of laboratory practices, containment equipment, and special laboratory design can be made to achieve different levels of physical containment. Four levels of physical containment, which are designated as P1, P2, P3, and P4, are described. It should be emphasized that the descriptions and assignments of physical containment detailed below are based on existing approaches to containment of pathogenic organisms. For example, the "Classification of Etiologic Agents on the Basis of Hazard," (7) prepared by the Center for Disease Control, describes four general levels which roughly correspond to our descriptions for P1, P2, P3, and P4; and the National Cancer Institute describes three levels for research on oncogenic viruses which roughly correspond to our P2, P3, and P4 levels.(8)

It is recognized that several different combinations of laboratory practices, containment equipment, and special laboratory design may be appropriate for containment of specific research activities. The Guidelines, therefore, allow alternative selections of primary containment equipment within facilities that have been designed to provide P3 and P4 levels of physical containment. The selections of alternative methods of primary containment is dependent, however, on the level of biological containment provided by the host-vector system used in the experiment. Consideration will also be given by the Director, NIH, with the advice of the Recombinant DNA Advisory Committee to other combinations which achieve an equivalent level of containment. (See Section IV–E–1–b–(2)–(b).) Additional material on physical containment for plant host-vector systems is found in Sections III–C–3 and III–C–4.

II–B–1. *P1 Level.*

II–B–1–a. *Laboratory Practices.*

II–B–1–a–(1). Laboratory doors shall be kept closed while experiments are in progress.

II–B–1–a–(2). Work surfaces shall be decontaminated daily, and immediately following spills of organisms containing recombinant DNA molecules.

II–B–1–a–(3). All biological wastes shall be decontaminated before disposal. Other contaminated materials, such as glassware, animal cages, and laboratory equipment, shall be decontaminated before washing, reuse, or disposal.

II–B–1–a–(4). Mechanical pipetting devices shall be used; pipetting by mouth is prohibited.

II–B–1–a–(5). Eating, drinking, smoking, and storage of foods are not permitted in the laboratory area in which recombinant DNA materials are handled.

II–B–1–a–(6). Persons shall wash their hands after handling organisms containing recombinant DNA molecules and when they leave the laboratory.

II–B–1–a–(7). Care shall be taken in the conduct of all procedures to minimize the creation of aerosols.

II–B–1–a–(8). Contaminated materials that are to be decontaminated at a site away from the laboratory shall be placed in a durable leak-proof container, which is closed before removal from the laboratory.

II–B–1–a–(9). An insect and rodent control program shall be instituted.

II–B–1–a–(10). The use of laboratory gowns, coats, or uniforms is discretionary with the laboratory supervisor.

II–B–1–a–(11). Use of the hypodermic needle and syringe shall be avoided when alternative methods are available.

II–B–1–a–(12). The laboratory shall be kept neat and clean.

II–B–1–b. *Containment Equipment.* Special containment equipment is not required at the P1 level.

II–B–1–c. *Special Laboratory Design.* Special laboratory design is not required at the P1 level.

II–B–2. *P2 Level.*

II–B–2–a. *Laboratory Practices.*

II–B–2–a–(1). Laboratory doors shall be kept closed while experiments are in progress.

II–B–2–a–(2). Work surfaces shall be decontaminated daily, and immediately following spills of organisms containing recombinant DNA molecules.

II–B–2–a–(3). All laboratory wastes shall be steam-sterilized (autoclaved) before disposal. Other contaminated materials such as glassware, animal cages, laboratory equipment, and radioactive wastes shall be decontaminated by a means demonstrated to be effective before washing, reuse, or disposal.

II–B–2–a–(4). Mechanical pipetting devices shall be used; pipetting by mouth is prohibited.

II–B–2–a–(5). Eating, drinking, smoking, and storage of food are not permitted in the laboratory area in which recombinant DNA materials are handled.

II–B–2–a–(6). Persons shall wash their hands after handling organisms containing recombinant DNA molecules and when they leave the laboratory.

II–B–2–a–(7). Care shall be exercised to minimize the creation of aerosols. For example, manipulations such as inserting a hot inoculating loop or needle into a culture, flaming an inoculation loop or needle so that it splatters, and forceful ejection of fluids from pipettes or syringes shall be avoided.

II–B–2–a–(8). Contaminated materials that are to be steam sterilized (autoclaved) or decontaminated at a site away from the laboratory shall be placed in a durable leak-proof container, which is closed before removal from the laboratory.

II–B–2–a–(9). Only persons who have been advised of the nature of the research being conducted shall enter the laboratory.

II–B–2–a–(10). The universal biohazard sign shall be posted on all laboratory access doors when experiments requiring P2 containment are in progress. Freezers and refrigerators or other units used to store organisms containing recombinant DNA molecules shall also be posted with the universal biohazard sign.

II–B–2–a–(11). An insect and rodent control program shall be instituted.

II–B–2–a–(12). The use of laboratory gowns, coats, or uniforms is required. Laboratory clothing shall not be worn to the lunch room or outside of the building in which the laboratory is located.

II–B–2–a–(13). Animals not related to the experiment shall not be permitted in the laboratory.

II–B–2–a–(14). Use of the hypodermic needle and syringe shall be avoided when alternative methods are available.

II–B–2–a–(15). The laboratory shall be kept neat and clean.

II–B–2–a–(16). Experiments of lesser biohazard potential can be carried out concurrently in carefully demarcated areas of the same laboratory.

II–B–2–b. *Containment Equipment.* Biological safety cabinets [20] shall be used to contain aerosol-producing equipment, such as blenders, lyophilizers, sonicators, and centrifuges, when used to process organisms containing recombinant DNA molecules, except where equipment design provides for containment of the potential aerosol. For example, a centrifuge may be operated in the open if a sealed head or safety centrifuge cups are used.

II–B–2–c. *Special Laboratory Design.* An autoclave for sterilization of wastes and contaminated materials shall be available in the same building in which organisms containing recombinant DNA molecules are used.

II–B–3. *P3 Level.*

II–B–3–a. *Laboratory Practices.*

II–B–3–a–(1). Laboratory doors shall be kept closed while experiments are in progress.

II–B–3–a–(2). Work surfaces shall be decontaminated following the completion of the experimental activity, and immediately following spills of organisms containing recombinant DNA molecules.

II–B–3–a–(3). All laboratory wastes shall be steam-sterilized (autoclaved) before disposal. Other contaminated materials, such as glassware, animal cages, laboratory equipment, and radioactive wastes, shall be decontaminated by a method demonstrated to be effective before washing, reuse, or disposal.

II–B–3–a–(4). Mechanical pipetting devices shall be used; pipetting by mouth is prohibited.

II–B–3–a–(5). Eating, drinking, smoking, and storage of food are not permitted in the laboratory area in which recombinant DNA materials are handled.

II–B–3–a–(6). Persons shall wash their hands after handling organisms containing recombinant DNA molecules and when they leave the laboratory.

II–B–3–a–(7). Care shall be exercised to minimize the creation of aerosols. For example, manipulations such as inserting a hot inoculating loop or needle into a culture, flaming an inoculation loop or needle so that it splatters, and forceful ejection of fluids from pipettes or syringes shall be avoided.

II–B–3–a–(8). Contaminated materials that are to be steam-sterilized (autoclaved) or decontaminated at a site away from the laboratory shall be placed in a durable leak-proof container, which is closed before removal from the laboratory.

II–B–3–a–(9). Entry into the laboratory shall be through a controlled access area. Only persons who have been advised of the nature of the research being conducted shall enter the controlled access area. Only persons required on the basis of program or support needs shall be authorized to enter the laboratory. Such persons shall be advised of the nature of the research being conducted before entry, and shall comply with all required entry and exit procedures.

II–B–3–a–(10). Persons under 16 years of age shall not enter the laboratory.

II–B–3–a–(11). The universal biohazard sign shall be posted on the controlled access area door and on all laboratory doors when experiments requiring P3-level containment are in progress. Freezers and refrigerators or other units used to store organisms containing recombinant DNA molecules shall also be posted with the universal biohazard sign.

II–B–3–a–(12). An insect and rodent control program shall be instituted.

II–B–3–a–(13). Laboratory clothing that protects street clothing (e.g., long-sleeve solid-front or wrap-around gowns, no-button or slipover jackets) shall be worn in the laboratory. Front-button laboratory coats are unsuitable. Laboratory clothing shall not be worn outside the laboratory and shall be decontaminated before it is sent to the laundry.

II–B–3–a–(14). Raincoats, overcoats, topcoats, coats, hats, caps, and such street outer-wear shall not be kept in the laboratory.

II–B–3–a–(15). Gloves shall be worn when handling materials requiring P3 containment. They shall be removed aseptically immediately after the handling procedure and decontaminated.

II–B–3–a–(16). Animals and plants not related to the experiment shall not be permitted in the laboratory.

II–B–3–a–(17). Vacuum outlets shall be protected by filter and liquid disinfectant traps.

II–B–3–a–(18). Use of hypodermic needle and syringe shall be avoided when alternative methods are available.

II–B–3–a–(19). The laboratory shall be kept neat and clean.

II–B–3–a–(20). If experiments involving other organisms which require lower levels of containment are to be conducted in the same laboratory concurrently with experiments requiring P3-level physical containment, they shall be conducted in accordance with P3-level laboratory practices.

II–B–3–b. *Containment Equipment.*

II–B–3–b–(1). Biological safety cabinets [20] shall be used for all equipment and manipulations that produce aerosols—e.g., pipetting, dilutions, transfer operations, plating, flaming, grinding, blending, drying, sonicating, shaking, centrifuging—where these procedures involve organisms containing recombinant DNA molecules, except where equipment design provides for containment of the potential aerosol.

II–B–3–b–(2). Laboratory animals held in a P3 area shall be housed in partial-containment caging systems, such as Horsfall units (*19A*), open cages placed in ventilated enclosures, solid-wall and solid-bottom cages covered by filter bonnets, or solid-wall and solid-bottom cages placed on holding racks equipped with ultraviolet radiation lamps and reflectors. (Note: Conventional caging systems may be used, provided that all personnel wear appropriate personal protective devices. These shall include, at a minimum, wrap-around gowns, head covers, gloves, shoe covers, and respirators. All personnel shall shower on exit from areas where these devices are required.

II–B–3–b–(3). *Alternative Selection of Containment Equipment.* Experimental procedures involving a host-vector system that provides a one-step higher level of biological containment than that specified in Part III can be conducted in the P3 laboratory using containment equipment specified for the P2 level of physical containment. Experimental procedures involving a host-vector system that provides a one-step lower level of biological containment than that specified in Part III can be conducted in the P3 laboratory using containment equipment specified for the P4 level of physical containment. Alternative combinations containment safeguards are shown in Table I.

Table I

COMBINATIONS OF CONTAINMENT SAFEGUARDS

Classification of experiment according to Guidelines		Alternate combinations of physical and biological containment			
		Physical Containment			
Physical containment	Biological* containment	Laboratory design specified for:	Laboratory practices specified for:	Containment equipment specified for:	Biological containment
P3	HV3	P3	P3	P3	HV3
P3	HV3	P3	P3	P4	HV2
P3	HV2	P3	P3	P3	HV2
P3	HV2	P3	P3	P2	HV3
P3	HV2	P3	P3	P4	HV1
P3	HV1	P3	P3	P3	HV1
P3	HV1	P3	P3	P2	HV1

*See Section II-D for description of biological containment.

II–B–3–c. *Special Laboratory Design.*

II–B–3–c–(1). The laboratory shall be separated by a controlled access area from areas that are open to unrestricted traffic flow. A controlled access area is an anteroom, a change room, an air lock or any other double-door arrangement that separates the laboratory from areas open to unrestricted traffic flow.

II–B–3–c–(2). The surfaces of walls, floors, and ceilings shall be readily cleanable. Penetrations through these surfaces shall be sealed or capable of being sealed to facilitate space decontamination.

II–B–3–c–(3). A foot-, elbow-, or automatically-operated handwashing facility shall be provided near each primary laboratory exit area.

II–B–3–c–(4). Windows in the laboratory shall be sealed.

II–B–3–c–(5). An autoclave for sterilization of wastes and contaminated materials shall be available in the same building (and preferably within the controlled laboratory area) in which organisms containing recombinant DNA molecules are used.

II–B–3–c–(6). The laboratory shall have a ventilation system that is capable of controlling air movement. The movement of air shall be from areas of lower contamination potential to areas of higher contamination potential (i.e. from the controlled access area to the laboratory area). If the ventilation system provides positive pressure supply air, the system shall operate in a manner that prevents the reversal of the direction of air movement or shall be equipped with an alarm that would be actuated in the event that reversal in the direction of air movement were to occur. The exhaust air from the laboratory area shall not be recirculated to other areas of the building unless the exhaust air is filtered by HEPA filters or equivalent. The exhaust air from the laboratory area can be discharged to the outdoors without filtration or other means for effectively reducing an accidental aerosol burden provided that it can be dispersed clear of occupied buildings and air intakes.

II–B–3–c–(7). The treated exhaust-air from Class I and Class II biological safety cabinets (*20*) may be discharged either to the laboratory or to the outdoors. The treated exhaust-air from a Class III cabinet shall be discharged directly to the outdoors. If the treated exhaust-air from these cabinets is to be discharged to the outdoors through a building exhaust air system, it shall be connected to this system so as to avoid any interference with the air balance of the cabinet and the building ventilation system.

II–B–4. *P4 Level.*

II–B–4–a. *Laboratory Practices.*

II–B–4–a–(1). Laboratory doors shall be kept closed while experiments are in progress.

II–B–4–a–(2). Work surfaces shall be decontaminated following the completion of the experimental activity and immediately following spills of organisms containing recombinant DNA molecules.

II–B–4–a–(3). All laboratory wastes shall be steam-sterilized (autoclaved) before disposal. Other contaminated materials such as glassware, animal cages, laboratory equipment, and radioactive wastes shall be decontaminated by a method demonstrated to be effective before washing, reuse, or disposal.

II–B–4–a–(4). Mechanical pipetting devices shall be used; pipetting by mouth is prohibited.

II–B–4–a–(5). Eating, drinking, smoking, and storage of food are not permitted in the P4 facility.

II–B–4–a–(6). Persons shall wash their hands after handling organisms containing recombinant DNA molecules and when they leave the laboratory.

II–B–4–a–(7). Care shall be exercised to minimize the creation of aerosols. For example, manipulations such as inserting a hot inoculating loop or needle into a culture, flaming an inoculation loop or needle so that it splatters, and forceful ejection of fluids from pipettes or syringes shall be avoided.

II–B–4–a–(8). Biological materials to be removed from the P4 facility in a viable or intact state shall be transferred to a non-breakable sealed container, which is then removed from the P4 facility through a pass-through disinfectant dunk tank or fumigation chamber.

II–B–4–a–(9). No materials, except for biological materials that are to remain in a viable or intact state, shall be removed from the P4 facility unless they have been steam-sterilized (autoclaved) or decontaminated by a means demonstrated to be effective as they pass out of the P4 facility. All wastes and other materials as well as equipment not damaged by high temperature or steam shall be steam sterilized in the double-door autoclave of the P4 facility. Other materials which may be damaged by temperature or steam shall be removed from the P4 facility through a pass-through fumigation chamber.

II–B–4–a–(10). Materials within the Class III cabinets shall be removed from the cabinet system only after being steam-sterilized in an attached double-door autoclave or after being contained in a non-breakable sealed container, which is then passed through a disinfectant dunk tank or a fumigation chamber.

II–B–4–a–(11). Only persons whose entry into the P4 facility is required to meet program or support needs shall be authorized to enter. Before entering, such persons shall be advised of the nature of the research being conducted and shall be instructed as to the appropriate safeguards to ensure their safety. They shall comply with instructions and all other required procedures.

II–B–4–a–(12). Persons under 18 years of age shall not enter the P4 facility.

II–B–4–a–(13). Personnel shall enter into and exit from the P4 facility only through the clothing change and shower rooms. Personnel shall shower at each egress from the P4 facility. Air locks shall not be used for personnel entry or exit except for emergencies.

II–B–4–a–(14). Street clothing shall be removed in the outer side of the clothing-change area and kept there. Complete laboratory clothing, including undergarments, head cover, shoes, and either pants and shirts or jumpsuits, shall be used by all persons who enter the P4 facility. Upon exit, personnel shall store this clothing in lockers provided for this purpose or discard it into collection hampers before entering the shower area.

II–B–4–a–(15). The universal biohazard sign is required on the P4 facility access doors and on all interior doors to individual laboratory rooms where experiments are conducted. The sign shall also be posted on freezers, refrigerators, or other units used to store organisms containing recombinant DNA molecules.

II–B–4–a–(16). An insect and rodent control program shall be instituted.

II–B–4–a–(17). Animals and plants not related to the experiment shall not be permitted in the laboratory in which the experiment is being conducted.

II–B–4–a–(18). Vacuum outlets shall be protected by filter and liquid disinfectant traps.

II–B–4–a–(19). Use of the hypodermic needle and syringe shall be avoided when alternate methods are available.

II–B–4–a–(20). The laboratory shall be kept neat and clean.

II–B–4–a–(21). If experiments involving other organisms which require lower levels of containment are to be conducted in the P4 facility concurrently with experiments requiring P4-level containment, they shall be conducted in accordance with all P4-level laboratory practices specified in this section.

II–B–4–b. *Containment Equipment.*

II–B–4–b–(1). Experimental procedures involving organisms that require P4-level physical containment shall be conducted either in (i) a Class III cabinet system or in (ii) Class I or Class II cabinets that are located in a specially designed area in which all personnel are required to wear one-piece positive-pressure isolation suits.

II–B–4–b–(2). Laboratory animals involved in experiments requiring P4-level physical containment shall be housed either in cages contained in Class III cabinets or in partial-containment caging systems (such as Horsfall units(*19A*), open cages placed in ventilated enclosures, or solid-wall and -bottom cages covered by filter bonnets, or solid-wall and -bottom cages placed on holding racks equipped with ultraviolet irradiation lamps and reflectors) that are located in a specially designed area in which all personnel are required to wear one-piece positive-pressure suits.

II–B–4–b–(3). *Alternative Selection of Containment Equipment.* Experimental procedures involving a host-vector system that provides a one-step higher level of biological containment than that specified in Part III can be conducted in the P4 facility using containment equipment requirements specified for the P3 level of physical containment. Alternative combinations of containment safeguards are shown in Table II.

Table II

COMBINATIONS OF CONTAINMENT SAFEGUARDS

Classification of experiment according to Guidelines		Alternate combinations of physical and biological containment			
		Physical containment			
Physical containment	Biological* containment	Laboratory design specified for:	Laboratory practices specified for:	Containment equipment specified for:	Biological containment
P4	HV1	P4	P4	P4	HV1
P4	HV1	P4	P4**	P3	HV2

* See Section II-D for description of biological containment.
** In this case gloves shall be worn, in addition to the clothing requirements specified in II-B-4-a-(14).

II–B–4–c. *Special Laboratory Design.*

II–B–4–c–(1). The laboratory shall be located in a restricted-access facility which is either a separate building or a clearly demarcated and isolated zone within a building. Clothing-change areas and shower rooms shall be provided for personnel entry and egress. These rooms shall be arranged so that personnel leave through the shower area to the change room. A double-door ventilated vestibule or ultraviolet air lock shall be provided for passage of materials, supplies, and equipment which are not brought into the P4 facility through the change room area.

II–B–4–c–(2). Walls, floors, and ceilings of the P4 facility are constructed to form an internal shell which readily allows vapor-phase decontamination and is animal- and insect-proof. All penetrations through these structures and surfaces are sealed. (The integrity of the walls, floors, ceilings, and penetration seals should ensure adequate containment of a vapor-phase decontaminant under static pressure conditions. This requirement does not imply that these surfaces must be airtight.)

II–B–4–c–(3). A foot-, elbow-, or automatically-operated hand-washing facility shall be provided near the door within each laboratory in which experiments involving recombinant DNA are conducted in open-faced biological safety cabinets.

II–B–4–c–(4). Central vacuum systems are permitted. The system, if provided, shall not serve areas outside the P4 facility. The vacuum system shall include in-line HEPA filters near each use point or service cock. The filters shall be installed so as to permit in-place decontamination and replacement. Water supply and liquid and gaseous services provided to the P4 facility shall be protected be devices that prevent backflow.

II–B–4–c–(5). Drinking water fountains shall not be installed in laboratory or animal rooms of the P4 facility. Foot-operated water fountains are permitted in the corridors of the P4 facility. The water service provided to such fountains shall be protected from the water services to the laboratory areas of the P4 facility.

II–B–4–c–(6). Laboratory doors shall be self-closing.

II–B–4–c–(7). A double-door autoclave shall be provided for sterilization of material passing out of the P4 facility. The autoclave doors shall be interlocked so that both doors will not be open at the same time.

II–B–4–c–(8). A pass-through dunk tank or fumigation chamber shall be provided for removal from the P4 facility of material and equipment that cannot be heat-sterilized.

II–B–4–c–(9). All liquid effluents from the P4 facility shall be collected and decontaminated before disposal. Liquid effluents from biological safety cabinets and laboratory sinks shall be sterilized by heat. Liquid effluents from the shower and hand washing facilities may be inactivated by chemical treatment.

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HEPA filters shall be installed in all vents from effluent drains.

II–B–4–c–(10). An individual supply and exhaust-air ventilation system shall be provided. The system shall maintain pressure differentials and directional air flow as required to ensure inflow from areas outside the facility toward areas of highest potential risk within the facility. The system shall be designed to prevent the reversal of air flow. The system shall sound an alarm in the event of system malfunction.

II–B–4–c–(11). Air within individual laboratories of the P4 facility may be recirculated if HEPA filtered.

II–B–4–c–(12). The exhaust air from the P4 facility shall be HEPA filtered and discharged to the outdoors so that it is dispersed clear of occupied buildings and air intakes. The filter chambers shall be designed to allow *in situ* decontamination before removal and to facilitate certification testing after replacement.

II–B–4–c–(13). The treated exhaust-air from Class I and Class II biological safety cabinets (*20*) may be discharged directly to the laboratory room environment or to the outdoors. The treated exhaust-air from Class III cabinets shall be discharged to the outdoors. If the treated exhaust-air from these cabinets is to be discharged to the outdoors through the P4 facility exhaust air system, it shall be connected to this system so as to avoid any interference with the air balance of the cabinets or the facility exhaust air system.

II–B–4–c–(14). As noted in Section II–B–4–b–(1), the P4 facility may contain specially designed areas in which all personnel are required to wear one-piece positive-pressure isolation suits. Such areas shall be airtight. The exhaust-air from the suit area shall be filtered by two sets of HEPA filters installed in series, and a duplicate filtration unit and exhaust fan shall be provided. The air pressure within the suit area shall be less than that in any adjacent area. An emergency lighting system, communication systems, and power source shall be provided. A double-door autoclave shall be provided for sterilization of all waste materials to be removed from the suit area.

Personnel who enter this area shall wear a one-piece positive-pressure suit that is ventilated by a life-support system. The life-support system shall be provided with alarms and emergency backup air. Entry to this area is through an airlock fitted with airtight doors. A chemical shower air shall be provided to decontaminate the surfaces of the suit before removal.

II–C. *Shipment.* Recombinant DNA molecules contained in an organism or virus shall be shipped only as an etiologic agent under requirements of the U.S. Public Health Service and the U.S. Department of Transportation (Section 72.25, Part 72, Title 42, and Sections 173.386–.388, Part 173, Title 49, U.S. Code of Federal Regulations) as specified below:

II–C–1. Recombinant DNA molecules contained in an organism or virus requiring P1, P2, or P3 physical containment, when offered for transportation or transported, are subject to all requirements of Section 72.25(c)(1)–(5), Part 72, Title 42 CFR, and § 173.386–.388, Part 173, Title 49 CFR.

II–C–2. Recombinant DNA molecules contained in an organism or virus requiring P4 physical containment, when offered for transportation or transported, are subject to the requirements listed above under II–C–1 and are also subject to Section 72.25(c)(6), Part 72, Title 42 CFR.

II–C–3. Additional information on packaging and shipment is given in the "Laboratory Safety Monograph—A Supplement to the NIH Guidelines for Recombinant DNA Research."

II–D. *Biological Containment.*

II–D–1. *Levels of Biological Containment.* In consideration of biological containment, the vector (plasmid, organelle, or virus) for the recombinant DNA and the host (bacterial, plant, or animal cell) in which the vector is propagated in the laboratory will be considered together. Any combination of vector and host which is to provide biological containment must be chosen or constructed so that the following types of "escape" are minimized: (i) survival of the vector in its host outside the laboratory and (ii) transmission of the vector from the propagation host to other nonlaboratory hosts.

The following levels of biological containment (HV, or *H*ost-*V*ector, systems) for prokaryotes will be established; specific criteria will depend on the organisms to be used. Eukaryotic host-vector systems are considered in Part III.

II–D–1–a. *HV1.* A host-vector system which provides a moderate level of containment. *Specific systems:*

II–D–1–a–(1). *EK1.* The host is always *E. coli* K–12 or a derivative thereof, and the vectors include nonconjugative plasmids (e.g., pSC101, Co1E1, or derivatives thereof (*21–27*) and variants of bacteriophage, such as lambda (*28–33*). The *E. coli* K–12 host shall not contain conjugation-proficient plasmids, whether autonomous or integrated, or generalized transducing phages, except as specified in Section III–0.

II–D–1–a–(2). *Other Prokaryotes.* Hosts and vectors shall be, at a minimum, comparable in containment to *E. coli* K–12 with a non conjugative plasmid or bacteriophage vector. The data to be considered and a mechanism for approval of such HV1 systems are described below (Section II–D–2).

II–D–1–b. *HV2.* These are host-vector systems shown to provide a high level of biological containment as demonstrated by data from suitable tests performed in the laboratory. Escape of the recombinant DNA either via survival of the organisms or via transmission of recombinant DNA to other organisms should be less than $1/10^8$ under specified conditions. *Specific systems:*

II–D–1–b–(1). For EK2 host-vector systems in which the vector is a plasmid, no more than one in 10^8 host cells should be able to perpetuate a cloned DNA fragment under the specified nonpermissive laboratory conditions designed to represent the natural environment, either by survival of the original host or as a consequence of transmission of the cloned DNA fragment.

II–D–1–b–(2). For EK2 host-vector systems in which the vector is a phage, no more than one in 10^8 phage particles should be able to perpetuate a cloned DNA fragment under the specified nonpermissive laboratory conditions designed to represent the natural environment either (i) as a prophage (in the inserted or plasmid form) in the laboratory host used for phage propagation or (ii) by surviving in natural environments and transferring a cloned DNA fragment to other hosts (or their resident prophages).

II–D–1–c. *HV3.* These are host-vector systems in which:

II–D–1–c–(1). All HV2 criteria are met.

II–D–1–c–(2). The vector is dependent on its propagation host or is highly defective in mobilizability. Reversion to host-independence must be less than $1/10^8$ per vector genome per generation.

II–D–1–c–(3). No markers conferring resistance to antibiotics commonly used clinically or in agriculture are carried by the vector, unless expression of such markers is dependent on the propagating host or on unique laboratory-controlled conditions or is blocked by the inserted DNA.

II–D–1–c–(4). The specified containment shown by laboratory tests has been independently confirmed by specified tests in animals, including primates, and in other relevant environments.

II–D–1–c–(5). The relevant genotypic and phenotypic traits have been independently confirmed.

II–D–2. *Certification of Host-Vector Systems.*

II–D–2–a. *Responsibility.* HV1 systems other than *E. coli* K–12, and HV2 and HV3 host-vector systems, may not be designated as such until they have been certified by the Director, NIH. Application for certification of a host-vector system is made by written application to the Office of Recombinant DNA Activities (ORDA), National Institutes of Health, Bethesda, Maryland 20205.

Host-vector systems that are proposed for certification will be reviewed by the NIH Recombinant DNA Advisory Committee (RAC). (See Section IV-E-1-b-(1)-(c).) This will first involve review of the data on construction, properties, and testing of the proposed host-vector system by a Working Group composed of one or more members of the RAC and other persons chosen because of their expertise in evaluating such data. The Committee will then evaluate the report of the Working Group and any other available information at a regular meeting. The Director, NIH is responsible for certification after receiving the advice of the RAC. Minor modifications of existing certified host-vector systems, where the modifications are of minimal or no consequence to the properties relevant to containment may be certified by the Director, NIH without review by the RAC. (See Section IV—E-1-b-(3)-(f).)

When new host-vector systems are certified, notice of the certification will be sent by ORDA to the applicant and to all IBCs and will be published in the *Recombinant DNA Technical Bulletin.* Copies of a list of all currently certified host-vector systems may be obtained from ORDA at any time.

The Director, NIH may at any time rescind the certification of any host-vector system. (See Section IV-E-1-b-(3)-(i).) If certification of a host-vector system is rescinded, NIH will instruct investigators to transfer cloned DNA into a different system, or use the clones at a higher physical containment level unless NIH determines that the already constructed clones incorporate adequate biological containment.

Certification of a given system does not extend to modifications of either the host or vector component of that system. Such modified systems must be independently certified by the Director, NIH. If modifications are minor, it may only be necessary for the investigator to submit data showing that the modifications have either improved or not impaired the major phenotypic traits on which the containment of the system depends. Substantial modifications of a certified system require the submission of complete testing data.

II–D–2–b. *Data To Be Submitted for Certification.*

II–D–2–b–(1). *HV1 Systems Other than E. Coli K–12.* The following types of data shall be submitted, modified as appropriate for the particular system under consideration: (i) A description of the organism and vector; the strain's natural habitat and growth requirements; its physiological properties, particularly those related to its reproduction and survival and the mechanisms by which it exchanges genetic information; the range of organisms with which this organism normally exchanges genetic information and what sort of information is exchanged; and any relevant information on its pathogenicity or toxicity. (ii) A description of the history of the particular strains and vectors to be used, including data on any mutations which render this organism less able to survive or transmit genetic information. (iii) A general description of the range of experiments contemplated, with emphasis on the need for developing such an HV1 system.

II–D–2–b–(2). *HV2 Systems.* Investigators planning to request HV2 certification for host-vector systems can obtain instructions from ORDA concerning data to be submitted [33A, 33B]. In general, the following types of data are required: (i) Description of construction steps, with indication of source, properties, and manner of introduction of genetic traits. (ii) Quantitative data on the stability of genetic traits that contribute to the containment of the system: (iii) Data on the survival of the host-vector system under nonpermissive laboratory conditions designed to represent the relevant natural environment. (iv) Data on transmissibility of the vector and/or cloned DNA fragment under both permissive and nonpermissive conditions. (v) Data on all other properties of the system which affect containment and utility, including information on yields of phage or plasmid molecules, ease of DNA isolation, and ease of transfection or transformation. (vi) In some cases, the investigator may be asked to submit data on survival and vector transmissibility from experiments in which the host-vector is fed to laboratory animals (e.g., rodents). Such *in vivo* data may be required to confirm the validity of predicting *in vivo* survival on the basis of *in vitro* experiments.

Data must be submitted in writing to ORDA. Ten to twelve weeks are normally required for review and circulation of the data prior to the meeting at which such data can be considered by the NIH recombinant DNA Advisory Committee (RAC). Investigators are encouraged to publish their data on the construction, properties, and testing of proposed HV2 systems prior to consideration of the system by the RAC and its subcommittee. More specific instructions concerning the type of data to be submitted to NIH for proposed EK2 systems involving either plasmids or bacteriophage λ in *E. coli* K–12 are available from ORDA.

II–D–2–b–(3). *HV3 Systems.* Putative HV3 systems must, as the first step in certification, be certified as HV2 systems. Systems which meet the criteria given above under II–D–1–(c)–1, II–D–1–(c)–2, and II–D–1–(c)–3 will then be recommended for HV3 testing. Tests to evaluate various HV2 host-vector systems for HV3 certification will be performed by contractors selected by NIH. These contractors will repeat tests performed by individuals proposing the HV2 system and, in addition, will conduct more extensive tests on conditions likely to be encountered in nature. The genotypic and phenotypic traits of HV2 systems will be evaluated. Tests on survival and transmissibility in and on animals, including primates, will be performed, as well as tests on survival in certain specified natural environments.

II–D–3. *Distribution of Certified Host-Vectors.* Certified HV2 and HV3 host-vector systems (plus appropriate control strains) must be obtained from the NIH or its designees, one of whom will be the investigator who developed the system. NIH shall announce the availability of the system by publication of notices in appropriate journals.

Plasmid vectors will be provided in a suitable host strain, and phage vectors will be distributed as small-volume lysates. If NIH propagates any of the host strains or phage, a sample will be sent to the investigator who developed the system or to an appropriate contractor, prior to distribution, for verification that the material is free from contamination and unchanged in phenotypic properties.

In distributing the certified HV2 and HV3 host-vector systems, NIH or its designee will (i) send out a complete description of the system; (ii) enumerate and describe the tests to be performed by the user in order to verify important phenotypic traits; (iii) remind the user that any modification of the system necessitates independent approval of the system by the NIH; and (iv) remind the user of responsibility for notifying ORDA of any discrepancies with the

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reported properties or any problems in the safe use of the system.

NIH may also distribute certified HV1 host-vector systems.

III. Containment Guidelines for Covered Experiments

Part III discusses experiments covered by the Guidelines. The reader must first consult Part I, where listings are given of prohibited and exempt experiments.

Containment guidelines for permissible experiments are given in Part III. Changes in these levels for specific experiments (or the assignment of levels to experiments not explicitly considered here) may not be instituted without the express approval of the Director, NIH. (See Sections IV–E–1–b–(1)–(a), IV–E–1–b–(1)–(b), IV–E–1–b–(2)–(b), IV–E–1–b–(2)–(c), and IV–E–1–b–(3)–(b).)

In the following classification of containment criteria for different kinds of recombinant DNAs, the stated levels of physical and biological containment are minimal for the experiments designated. The use of higher levels of biological containment (HV3>HV2>HV1) is encouraged if they are available and equally appropriate for the purposes of the experiment.

III–O. *Classification of Experiments Using the E. coli K–12 Host-Vector Systems.* Most recombinant DNA experiments currently being done employ *E. coli* K–12 host-vector systems. These are the systems for which we have the most experience and knowledge.

Some experiments using *E. coli* K–12 host-vector systems are prohibited (see Section I–D).

Some experiments using *E. coli* K–12 host-vector systems are exempt from the Guidelines (see Section I–E).

Other experiments using *E. coli* K–12 shall use P1 physical containment and, except as specified in the last paragraph of this section, an EK1 host-vector system (i.e. (a) the host shall not contain conjugation-proficient plasmids or generalized transducing phages, and (b) lambda or lambdoid bacteriophages or non-conjugative plasmids shall be used as vectors). For these experiments no Memorandum of Understanding and Agreement (MUA) as described in Section IV–D–1–c need be submitted, nor is any registration with NIH necessary. However, for these experiments, prior to their initiation, investigators must submit to their Institutional Biosafety Committee (IBC) a registration document that contains a description of (a) the source(s) of DNA, (b) the nature of the inserted DNA sequences, and (c) the hosts and vectors to be used. This registration document must be dated and signed by the investigator and filed only with the local IBC. The IBC shall review all such proposals but such review is not required prior to initiation of experiments. An exception, however, which does require prior review and approval by the IBC is any experiment in which there is a deliberate attempt to have the *E. coli* K–12 efficiently express any gene coding for a eukaryotic protein.

Experiments involving the insertion into *E. coli* K–12 of DNA from prokaryotes that exchange genetic information with *E. coli* by known physiological processes will be exempted from these Guidelines if they appear on the "list of exchangers" set forth in Appendix A (see Section I–E–4).

For those not on the Appendix A list but which exchange genetic information [35] with *E. coli*, experiments may be performed with any *E. coli* K–12 vector (e.g. conjugative plasmid). When a non-conjugative vector is used, the *E. coli* K–12 host may contain conjugation-proficient plasmids, either autonomous or integrated, or generalized transducing phages.

III–A. *Classification of Experiments Using Certain HV1 and HV2 Host-Vector Systems.* Certain HV1 and HV2 host-vector systems are assigned containment levels as specified in the subsections of this Section III–A. Those so classified as of publication of these revised Guidelines are listed in Appendix D. An updated list may be obtained from the Office of Recumbinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205.

It has been necessary, throughout this section, to use words and terms marked with footnote reference numbers. The footnotes (Part V) define more fully what the terms denote.

III–A–1. *Shotgun Experiments.* These experiments involve the production of recombinant DNAs between the vector and portions of the specified cellular source, preferably a partially purified fraction. Care should be taken either to preclude or eliminate contaminating microorganisms before isolating the DNA.

III–A–1–a. *Eukaryotic DNA Recombinants.*

III–A–1–a–(1). *Primates.* P2 physical containment + an HV2 host-vector or P3 + HV1.

III–A–1–a–(2). *Other Mammals.* P2 physical containment + an HV2 host-vector or P3 + HV1.

III–A–1–a–(3). *Birds.* P2 physical containment + an HV2 host-vector, or P3 + HV1.

III–A–1–a–(4). *Cold-Blooded Vertebrates.* P2 physical containment + an HV1 host-vector or P1 + HV2. If the eukaryote is known to produce a potent polypeptide toxin,(*34*) the containment shall be increased to P3 + HV2.

III–A–1–a–(5). *Other Cold-Blooded Animals and Lower Eukaryotes.* This large class of eukaryotes is divided into two groups:

III–A–1–a–(5)–(a). Species that are known to produce a potent polypeptide toxin(*34*) that acts in vertebrates, or are known pathogens listed in Class 2,(*1*) or are known to carry such pathogens must use P3 physical containment + an HV2 host-vector. When the potent toxin is not a polypeptide and is likely not to be the product of closely linked eukaryote genes, containment may be reduced to P3 + HV1 or P2 + HV2. Species that produce potent toxins that affect invertebrates or plants but not vertebrates require P2 + HV2 or P3 + HV1. Any species that has a demonstrated capacity for carrying particular pathogenic microorganisms is included in this group, unless the organisms used as the source of DNA have been shown not to contain those agents, in which case they may be placed in the following group.(*2A*)

III–A–1–a–(5)–(b). The remainder of the species in this class including plant pathogenic or symbiotic fungi that do not produce potent toxins: P2 + HV1 or P1 + HV2. However, any insect in this group must be either (i) grown under laboratory conditions for at least 10 generations prior to its use as a source of DNA, or (ii) if caught in the wild, must be shown to be free of disease-causing microorganisms or must belong to a species that does not carry microorganisms causing disease in veterbrates or plants.(*2A*) If these conditions cannot be met, experiments must be done under P3 + HV1 or P2 + HV2 containment.

III–A–1–a–(6). *Plants.* P2 physical containment + an HV1 host-vector, or P1 + HV2. If the plant source makes a potent polypeptide toxin,(*34*) the containment must be raised to P3 physical containment + an HV2 host-vector. When the potent toxin is not a polypeptide and is likely not to be the product of closely linked plant genes, containment may be reduced to P3 + HV1 or P2 + HV2.(*2A*)

III–A–1–b. *Prokaryotic DNA Recombinants.* P2 + HV1 or P1 + HV2 for experiments with phages, plasmids and DNA from nonpathogenic prokaryotes which do not produce polypeptide toxins(*34*). P3 + HV2 for experiments with phages, plasmids and DNA from Class 2 agents(*1*).

III–A–2–a. *Viruses of Eukaryotes* (summary given in Table III; see also exception given at asterisk at end of Appendix D).

III–A–2–a–(1)–(a). *Nontransforming viruses.*

III–A–2–a–(1)–(a)–(*1*). *Adeno-Associated Viruses, Minute Virus of Mice, Mouse Adenovirus (Strain FL), and Plant Viruses.* P1 physical containment + and HV1 host-vector shall be used for DNA recombinants produced with (i) the whole viral genome, (ii) subgenomic DNA segments, or (iii) purified cDNA copies of viral mRNA.(*37*)

III–A–2–a–(1)–(a)–(*2*). *Hepatitis B.*

III–A–2–a–(1)–(a)–(*2*)–(*a*). P1 physical containment + an HV1 host-vector shall be used for purified subgenomic DNA segments.(*38*)

III–A–2–a–(1)–(a)–(*2*)–(*b*). P2 physical containment + an HV2 host-vector, or P3 + HV1, shall be used for DNA recombinants produced with the whole viral genome or with subgenomic segments that have not been purified to the extent required in footnote 38.

III–A–2–a–(1)–(a)–(*2*)–(*c*). P2 physical containment + an HV1 host and a vector certified for use in an HV2 system, or P3 + HV1, shall be used for DNA recombinants derived from purified cDNA copies of viral mRNA.(*37*)

III–A–2–a–(1)–(a)–(*3*). *Other Nontransforming Members of Presently Classified Viral Families.*(*36*)

III–A–2–a–(1)–(a)–(*3*)–(*a*). P1 physical containment + an HV1 host-subgenomic DNA(*38*) segments or (ii) purified cDNA copies of viral mRNA.(*37*)

III–A–2–a–(1)–(a)–(*3*)–(*b*). P1 physical containment + an HV1 host and a vector certified for use in an HV2 system shall be used for DNA recombinants produced with the whole viral genome or with subgenomic segments that have not been purified to the extent required in footnote 38.

III–A–2–a–(1)–(a)–(b). *Transforming Viruses.*(*37A*)

III–A–2–a–(1)–(b)–(*1*). *Herpes Saimiri, Herpes Ateles, and Epstein Barr Virus.*(*39*)

III–A–2–a–(1)–(b)–(*1*)–(*a*). P1 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with purified nontransforming subgenomic DNA segments.(*38*)

III–A–2–a–(1)–(b)–(*1*)–(*b*). P2 physical containment + an HV1 host and a vector certified for use in an HV2 system, or P3 + HV1, shall be used for (i) DNA recombinants produced with purified subgenomic DNA segments containing an entire transforming gene(*38*) or (ii) purified cDNA copies of viral mRNA.(*37*)

III–A–2–a–(1)–(b)–(*1*)–(*c*). P3 physical containment + an HV1 host-vector, or P2 + HV2, shall be used for DNA recombinants produced with the whole viral genome or with subgenomic segments that have not been purified to the extent required in footnote 38.

III–A–2–a–(1)–(b)–(*2*). *Other Transforming Members of Presently Classified Viral Families.*(*36*)

III–A–2–a–(1)–(b)–(*2*)–(*a*). P1 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with purified nontransforming subgenomic DNA segments.(*38*)

III–A–2–a–(1)–(b)–(*2*)–(*b*). P2 physical containment + an HV1 host and a vector certified for use in an HV2 system, or P3 + HV1, shall be used for (i) DNA recombinants produced with the whole viral genome, (ii) subgenomic DNA segments containing an entire transforming gene, (iii) purified cDNA copies of viral mRNA, (*37*) or (iv) subgenomic segments that have not been purified to the extent required in footnote 38.

III–A–2–a–(2). *DNA Transcripts of RNA Viruses.*

III–A–2–a–(2)–(a). *Retroviruses.*

III–A–2–a–(2)–(a)–(*1*). *Gibbon Ape, Woolly Monkey, Feline Leukemia and Feline Sarcoma Viruses.*(*39*).

III–A–2–a–(2)–(a)–(*1*)–(*a*). P1 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with purified nontransforming subgenomic DNA segments.(*38*).

III–A–2–a–(2)–)a)–(*1*)–(*b*). P2 physical containment + an HV1 host and a vector certified for use in an HV2 system, or P3 + HV1, shall be used for DNA recombinants produced with purified subgenomic DNA segments (*38*) containing an entire transforming gene.

III–A–2–a–(2)–(a)–(*1*)–(*c*). P2 physical containment + an HV2 host-vector, or P3 + HV1, shall be used for DNA recombinants produced with (i) the whole viral genome, (ii) purified cDNA copies of viral mRNA,(*37*) or (iii) subgenomic segments that have not been purified to the extent required in footnote 38.

III–A–2–a–(2)–(a)–(*2*). *Other Members of the Family Retroviridiae.*(*36*)

III–A–2–a–(2)–(a)–(*2*)–(*a*). P1 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with purified nontransforming subgenomic DNA segments.(*38*).

III–A–2–a–(2)–(a)–(*2*)–(*b*). P2 physical containment + an HV1 host and a vector certified for use in an HV2 system, or P3 + HV1, shall be used for DNA recombinants produced with purified subgenomic DNA segments containing an entire transforming gene, (ii) the whole viral genome, or (iii) purified cDNA copies of viral mRNA,(*37*) or (iv) subgenomic segments that have not been purified to the extent required in footnote 38.

III–A–2–a–(2)–(b). *Negative Strand RNA Viruses.* P1 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with (i) cDNA copies of the whole genome, (ii) subgenomic cDNA segments, or (iii) purified cDNA copies of viral mRNA.(*37*)

III–A–2–a–(2)–(c). *Plus-Strand RNA Viruses.*

III–A–2–a–(2)–(c)–(*1*). *Types 1 and 2 Sabin Poliovirus Vaccine Strains and Strain 17D (Theiler) of Yellow Fever Virus.* P1 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with (i) cDNA copies of the whole viral genome, (ii) subgenomic cDNA segments, or (iii) purified cDNA copies of viral mRNA.(*37*)

III–A–2–a–(2)–(c)–(*2*). *Other Plus-Strand RNA Viruses Belonging to Presently Classified Viral Families.*(*36*)

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Table III

Recommended Containment for Cloning of Viral DNA or cDNA in Certain HV1 and HV2 Systems Specified in Appendix D
(See text for full details)

Virus class	Type of viral DNA segment to be cloned				
	Subgenomic[38]		Genomic*		cDNA from viral mRNA[37]
	Nontransforming segment	Segment containing an entire transforming gene	Nonsegmented genome	Segmented genome	
DNA					
Nontransforming viruses					
AAV, HMH, Mouse Adeno (Strain FL)	P1 + HV1		P1 + HV1		P1 + HV1
Plant Viruses	P1 + HV1		P1 + HV1		P1 + HV1
Hepatitis B	P1 + HV1[38]		P2 + HV2 or P3 + HV1		P2 + HV1CV[40] or P3 + HV1
Other	P1 + HV1[38]		P1 + HV1CV[40]		P1 + HV1
Transforming Viruses					
Herpes Saimiri, H. Ateles and EBV[39]	P1 + HV1[38]	P2 + HV1CV[40] or P3 + HV1[38]	P2 + HV2 or P3 + HV1		P2 + HV1CV[40] or P3 + HV1
Other	P1 + HV1[38]	P2 + HV1CV[40] or P3 + HV1	P2 + HV1CV[40] or P3 + HV1		P2 + HV1CV[40] or P3 + HV1
RNA					
Retroviruses					
Gibbon Ape, Woolly Monkey FeLV and FeSV[39]	P1 + HV1[38]	P2 + HV1CV[40] or P3 + HV1[38]	P2 + HV2 or P3 + HV1		P2 + HV2 or P3 + HV1
Other	P1 + HV1[38]	P2 + HV1CV[40] or P3 + HV1	P2 + HV1CV[40] or P3 + HV1		P2 + HV1CV[40] or P3 + HV1

* See exception given at asterisk at end of Appendix D

Table III, continued

Recommended Containment for Cloning of Viral DNA or cDNA in Certain HV1 and HV2 Systems Specified in Appendix D
(See text for full details)

Virus class	Type of viral DNA segment to be cloned				
	Subgenomic[38]		Genomic*		cDNA from viral mRNA[37]
	Nontransforming segment	Segment containing an entire transforming gene	Nonsegmented genome	Segmented genome	
Negative-Strand RNA	P1 + HV1		P1 + HV1	P1 + HV1	P1 + HV1
Plus-Strand RNA					
Types 1 and 2 Sabin Polio, 17D Yellow Fever Vaccine Strains	P1 + HV1		P1 + HV1		P1 + HV1
Other	P1 + HV1[38]		P2 + HV1CV[40] or P3 + HV1		P2 + HV1CV[40] or P3 + HV1
Double-Stranded RNA	P1 + HV1			P1 + HV1	P1 + HV1
Plant Viruses + Viroids	P1 + HV1		P1 + HV1	P1 + HV1	P1 + HV1
Intracellular Viral DNA	See text	See text	See text		

* See exception given at asterisk at end of Appendix D

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III–A–2–a–(2)–(c)–(*2*)–(*a*). P1 physical containment+an HV1 host-vector shall be used for DNA recombinants produced with purified subgenomic cDNA segments. (*38*)

III–A–2–a–(2)–(c)–(*2*)–(*b*). P2 physical containment+an HV1 host and a vector certified for use in an HV2 system, or P3+HV1, shall be used for DNA recombinants produced with (i) cDNA copies of the whole genome, or (ii) purified cDNA copies of viral mRNA. (*37*)

III–A–a–A–(2)–(d). *Double-Stranded Segmented RNA Viruses.* P1 physical containment+an HV1 host-vector shall be used for DNA recombinants produced with (i) mixtures of subgenomic cDNA segments, (ii) a specific subgenomic cDNA segment, or (iii) purified cDNA copies of viral mRNA. (*37*)

III–A–2–a–(2)–(e). *RNA Plant Viruses and Plant Viroids.* P1 physical containment+an HV1 host-vector shall be used for DNA recombinants produced with (i) cDNA copies of the whole viral genone, (ii) subgenomic cDNA segments, or (iii) purified cDNA copies of viral mRNA. (*37*)

III–A–2–a–(3). *Intracellular Viral DNA.* Physical and biological containment specified for shotgun experiments with eukaryotic cellular DNA [see Section III–A–(1)–(a)] shall be used for DNA recombinants produced with integrated viral DNA or viral genomes present in infected cells.

III–A–2–b. *Eukaryotic Organelle DNAs.* P2 physical containment+an HV1 host-vector, or P1+HV2, for mitochondrial or chloroplast DNA from eukaryotes when the organelle DNA has been obtained from isolated organelles. Otherwise, the conditions given for shotgun experiments apply.

III–A–2–c. *Prokaryotic Plasmid and Phage DNAs.* The containment levels required for shotgun experiments with DNA from prokaryotes apply to their plasmids or phages (See Section III–A–1–b).

III–A–3. *Lowering of Containment Levels for Characterized or Purified DNA Preparations and Clones.* Many of the risks which might conceivably arise from some types of recombinant DNA experiments, particularly shotgun experiments, would result from the inadvertant cloning of a harmful sequence. Therefore, in cases where the risk of inadvertently cloning the "wrong" DNA is reduced by prior enrichment for the desired piece, or in which a clone made from a random assortment of DNAs has been purified and the absence of harmful sequences established, the containment conditions for further work may be reduced. The following section outlines the mechanisms for such reductions.

III–A–3–a. *Purified DNA Other than Plasmids, Bacteriophages, and Other Viruses.* The formation of DNA recombinants from cellular DNAs that have been purified (*41*) and in which the absence of harmful sequences has been established (*3*) can be carried out under lower containment conditions than used for the corresponding shotgun experiment. (*42*) The containment may be decreased one step in physical containment (P4→P3; P3→P2; P2→P1) while maintaining the biological containment specified for the shotgun experiment, or one step in biological containment (HV3→HV2; HV2→HV1) while maintaining the specified physical containment. The institutional biosafety committee (IBC) must review such a reduction and the approval of the IBC and of the NIH must be secured before such a reduction may be put into effect.

III–A–3–b. *Characterized Clones of DNA Recombinants.* When a cloned DNA recombinant has been rigorously characterized and the absence of harmful sequences has been established (*3*), experiments involving this recombinant DNA may be carried out under lower containment conditions, with the prior approval of the IBC and of NIH.

III–B. *Experiments with Prokaryotic Host-Vectors Other Than E. coli K–12*

III–B–1. *HV1 and HV2 Systems.* Certain certified HV1 and HV2 host-vector systems appear in Appendix D. The containment levels for these systems are given in the subsections of Section III–A. Other systems in the future may be certified as HV1 and HV2. At the time of certification, the classification of containment levels for experiments using them will be assigned by NIH.

III–B–2. *Return of DNA Segments to Prokaryotic Non-HV1 Host of Origin.* Certain experiments involving those prokaryotes that exchange genetic information with *E. coli* by known physiological processes will be exempt from these Guidelines if they appear on the "list of exchangers" set forth in Appendix A (see Section I–E–4). For a prokaryote which can exchange genetic information (*35*) with *E. coli* under laboratory conditions but which is not on the list (Host A), the following type of experiment may be carried out under P1 conditions without Host A having been approved as an HV1 host: DNA from Host A may be inserted into a vector and propagated in *E. coli* K–12 under P1 conditions. Subsequently, this recombinant DNA may be returned to Host A by mobilization, transformation, or transduction and may then be propagated in Host A in any desired vector under P1 conditions.

For a prokaryote which does not exchange genetic information with *E. coli* (Host B), the following type of experiment may be carried out without Host B having been approved as an HV1 host: DNA from Host B may be inserted into a vector and propagated in *E. coli* K–12 under P1 conditions. Subsequently, the recombinant DNA may be returned to Host B and propagated in Host B under P1 conditions. (*43*)

III–B–3. *Non-HV1 Systems.* Containment levels for other classes of experiments involving non-HV1 systems may be approved by the Director, NIH. (See Sections IV–E–1–b–(1)–(b), IV–E–1–b–(2)–(c), and IV–E–1–b–(3)–(b).)

In those cases where genetic exchange has not been demonstrated between two bacterial species A and B, neither of which is known to be pathogenic for man, animals, or plants, recombinant DNA experiments involving only A and B can be conducted under P3 containment. (*2A*)

III–C. *Experiments with Eukaryotic Host-Vectors.*

III–C–1. *Vertebrate Host-Vector Systems.* (*44*) (Summary given in Table IV).

III–C–1–a. *Polyoma Virus.*

III–C–1–a–(1). *Productive Virus-Cell Interactions.*

III–C–1–a–(1)–(a). Defective or whole polyoma virus genomes, with appropriate helper, if necessary, can be used in P2 conditions to propagate DNA sequences:

III–C–1–a–(1)–(a)–(*1*). from bacteria of class 1 or class 2 (*1*) or their phages or plasmids, except for those that produce potent polypeptide toxins; (*34*)

III–C–1–a–(1)–(a)–(*2*). from mice;

III–C–1–a–(1)–(a)–(*3*). from eukaryotic organisms that do not produce potent polypeptide toxins, (*34*) provided that the DNA segment is >99% pure.

III–C–1–a–(1)–(b). Defective polyoma genomes, with appropriate helper, if necessary, can be used in P2 conditions for shotgun experiments to propagate DNA sequences from eukaryotic organisms that do not produce potent polypeptide toxins. (*34*)

III–C–1–a–(1)–(c). Whole virus genomes with appropriate helper, if necessary, can be used in P3 conditions for shotgun experiments to propagate DNA sequences from eukaryotic organisms that do not produce potent polypeptide toxins. (*34*)

III–C–1–a–(1)–(d). Experiments involving the use of defective polyoma virus genomes to propagate DNA sequences from eukaryotic viruses will be evaluated by NIH on a case-by-case basis (*45*) and will be conducted under

the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–a–(2). *Nonproductive Virus-Cell Interactions.* Defective or whole polyoma virus genomes can be used as vectors in P2 conditions when production of viral particles cannot occur (e.g., transformation of nonpermissive cells or propagation of an unconditionally defective recombinant genome in the absence of helper), provided the inserted DNA sequences are not derived from eukaryotic viruses. In the latter case, such experiments will be evaluated by NIH on a case-by-case basis (*45*) and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–b. *Simian Virus 40.*

III–C–1–b–(1). *Productive Virus-Cell Interactions.*

III–C–1–b–(1)–(a). SV40 DNA, rendered unconditionally defective by a deletion in an essential gene, with appropriate helper, can be used in P2 conditions to propagate DNA sequences from:

III–C–1–b–(1)–(a)–(*1*). bacteria of Class 1 or Class 2, (*1*) or their phages or plasmids, except for those that produce potent polypeptide toxins; (*34*)

III–C–1–b–(1)–(a)–(*2*). Unifected African green monkey kidney cell cultures.

III–C–1–b–(1)–(b). SV40 DNA, rendered unconditionally defective by a deletion in an essential gene, with a appropriate helper, can be used in P3 conditions to propagate DNA sequences from eukaryotic organisms that do not produce potent polypeptide toxins (*34*) (shotgun experiments or purified DNA).

III–C–1–b–(1)–(c). Experiments involving the use of defective SV40 genomes to propagate DNA sequences from eukaryotic viruses will be evaluated by NIH on a case-by-case basis[45] and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–b–(2). *Nonproductive Virus-Cell Interactions.* Defective or whole SV40 genomes can be used as vectors in P2 conditions when production of viral particles cannot occur (e.g., transformation of nonpermissive cells or propagation of an unconditionally defective recombinant genome in the absence of helper), provided the inserted DNA sequences are not derived from eukaryotic viruses. In the latter case, such experiments will be evaluated by NIH on a case-by-case basis [45] and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–c. *Human Adenoviruses 2 and 5.*

III–C–1–c–(1). *Productive Virus–Cell Interactions.*

III–C–1–c–(1)–(a). Human adenoviruses 2 and 5, rendered unconditionally defective by deletion of at least two essential genes, with appropriate helper, can be used in P3 conditions to propagate DNA sequences from:

III–C–1–c–(1)–(a)–(*1*). bacteria of Class 1 or Class 2 (*1*) or their phages or plasmids except for those that produce potent polypeptide toxins; [34]

III–C–1–c–(1)–(a)–(*2*). eukaryotic organisms that do not produce potent polypeptide toxins[34] (shotgun experiments or purified DNA).

III–C–1–(c)–(1)–(b). Experiments involving the use of unconditionally defective human adenovirus 2 and 5 genomes to propagate DNA sequences from eukaryotic viruses will be evaluated by NIH on a case-by-case basis [45] and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–c–(2). *Nonproductive Virus-Cell Interactions.* Defective or whole human adenovirus 2 and 5 genomes can be used as vectors in P2 conditions when production of viral particles cannot occur (e.g., transformation of nonpermissive cells or propagation of an unconditionally defective recombinant genome in the absence of helper), provided the inserted DNA sequences are not derived from eukaryotic viruses. In the latter case, such experiments will be evaluated by NIH on a case-by-case basis (45) and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–d. *Murine Adenovirus Strain FL.*

III–C–1–d–(1). *Productive Virus-Cell Interactions.*

III–C–1–d–(1)–(a). Unconditionally defective murine adenovirus strain FL genomes, with appropriate helper, can be used in P2 conditions to propagate DNA sequences from:

III–C–1–d–(1)–(a)–(*1*). bacteria of Class 1 or Class 2 (*1*) or their phages or plasmids except for those that produce potent polypeptide toxins;[34]

III–C–1–d–(1)–(a)–(*2*). eukaryotic organisms that do not produce potent polypeptide toxins[34] (shotgun experiments or purified DNA).

III–C–1–d–(1)–(b). Experiments involving the use of whole murine adenovirus strain FL genomes to propagate DNA sequences from prokaryotic or eukaryotic organisms will be evaluated by NIH on a case-by-case basis[45] and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–d–(1)–(c). Experiments involving the use of unconditionally defective murine adenorvirus strain FL genomes to propagate DNA sequences from eukaryotic viruses will be evaluated by NIH on a case-by-case basis (*45*) and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–d–(2). *Nonproductive Virus-Cell Interactions.* Defective or whole murine adenovirus strain FL genomes can be used as vectors in P2 conditions when production of viral particles cannot occur (e.g., transformation of nonpermissive cells or propagation of an unconditionally defective recombinant genome in the absence of helper), provided the inserted DNA sequences are not derived from eukaryotic viruses. In the latter case, such experiments will be evaluated by NIH on a case-by-case basis (*45*) and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–e. *All Other Potential Viral Vectors.*

III–C–1–e–(1). Experiments involving recombinant DNA molecules containing viral DNA segments consisting of 25% or less of the virus genome can be done:

III–C–1–e–(1)–(a). in P2 conditions when the recombinant DNA is to be integrated into the cell genome or is known to replicate as a plasmid in cells in culture, provided the additional DNA sequences are not derived from a eukaryotic virus. In the latter case, such experiments will be evaluated by NIH on a case-by-case basis [45] and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–e–(1)–(b). under physical and biological containment conditions to be determined by NIH (*45*) when a viral helper will be used to propagate DNA sequences from prokaryotic or eukaryotic organisms. (See Section IV–E–1–b–(3)–(c).)

III–C–1–e–(2). Experiments involving the use of other whole or defective virus genomes to propagate DNA sequences from prokaryotic or eukaryotic organisms (and viruses), or as vectors to transform nonpermissive cells, will be evaluated by NIH on a case-by-case basis (*45*) and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

NIH will also review on a case-by-case basis (*45*) all experiments involving the use of virus vectors in animals and will prescribe the physical and biological containment conditions appropriate for such studies. (See Section IV–E–1–b–(3)–(c).)

III–C–1–f. *Nonviral Vectors.* Organelle, plasmid, and chromosomal DNAs may be used as vectors. DNA recombinants formed between such vectors and host DNA, when propagated only in that host (or a closely related strain of the same species), are exempt from these Guidelines (see Section I–E). DNA recombinants formed between such vectors and nonviral DNA from cells other than the host species require only P1 physical containment for cells in culture since vertebrate cells in tissue culture inherenatly exhibit a very high level of containment. Recombinants involving viral DNA or experiments which require the use of the whole animals will be evaluated by NIH on a case-by-case basis (*45*).

III–C–2. *Invertebrate Host-Vector Systems.*

III–C–2–a. *Insect Viral Vectors.* As soon as information becomes available on the host range restrictions and on the infectivity, persistence, and integration of the viral DNA in vertebrate and invertebrate cells, experiments involving the use of insect viruses to propagate DNA sequences will be evaluated by NIH on a case-by-case (*45*) and will be conducted under the recommended physical containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–2–b. *Nonviral Vectors.* Organelle, plasmid, and chromosomal DNAs may be used as vectors. DNA recombinants formed between such vectors and host DNA, when propagated only in that host (or a closely related strain of the same species), are exempt from these Guidelines (see Section I–E). DNA recombinants formed between such vectors and DNA cells from other than the host species require P1 physical containment for invertebrate cells in culture since invertebrate cells in culture inherently exhibit a very high level of containment. Experiments which require the use of whole animals will be evaluated by NIH on a case-by-case basis (*45*).

III–C–3. *Plant Viral Host-Vector Systems.* The DNA plant viruses which could currently serve as vectors for cloning genes in plants and plant cell protoplasts are Cauliflower Mosaic Virus (CaMV) and its close relatives (*2A*) which have relaxed circular double-stranded DNA genomes with a molecule weight of 4.5×10^6, and Bean Golden Mosaic Virus (BGMV) and related viruses with small ($<10^6$ daltons) single-stranded DNA genomes. CaMV is spread in nature by aphids, in which it survives for a few hours. Spontaneous mutants of CaMV which lack a factor essential for aphid transmission arise frequently. BGMV is spread in nature by whiteflies, and certain other single-stranded DNA plant viruses are transmitted by leafhoppers.

The DNA plant viruses have narrow host ranges and are relatively difficult to transmit mechanically to plants. For this reason, they are most unlikely to be accidentally transmitted from spillage of purified virus preparations.

Table IV

Recommended Containment for Recombinant DNA Research Using Eukaryotic Viral Vectors
(See text for full details)

Vector DNA	Productive virus-cell interactions						Nonproductive virus-cell interactions[46]
	Type of DNA insert						
	Prokaryotic		Eukaryotic				
	Shotgun	Purified	Shotgun		Purified[47]	Eukaryotic viral	
			Natural host	Other			
1. Polyoma							
Intact Genome	P2	P2	P2	P3	P2	CBC*	P2
Deleted Genome	P2	P2	P2	P2	P2	CBC*	P2
2. SV40							
Intact Genome	—	—	—	—	—	—	P2
Deleted Genome	P2	P2	P2	P3	P3	CBC*	P2
3. Human Ad2 and Ad5							
Deleted Genome	P3	P3	P3	P3	P3	CBC*	P2
4. Mouse Adenovirus (Strain FL)							
Intact Genome	CBC*	CBC*	CBC*	CBC*	CBC*	CBC*	P2
Deleted Genome	P2	P2	P2	P2	P2	CBC*	P2
5. Insect Viruses	CBC*	CBC*	CBC*	CBC*	CBC*	CBC*	—
6. Plant Viruses (CaMV and BGMV)	**	**	**	**	**	CBC*	—
7. All other potential Viral Vectors	CBC*	CBC*	CBC*	CBC*	CBC*	CBC*	CBC*

*CBC = case-by-case[45]
**See text

When these viruses are used as vectors in intact plants, or propagative plant parts, the plants shall be grown under P1 conditions—that is, in either a limited access greenhouse or plant growth cabinet which is insect-restrictive, preferably with positive air pressure, (*2A*) and in which an insect fumigation regime is maintained. Soil, plant pots, and unwanted infected materials shall be removed from the greenhouse or cabinet in sealed insect-

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proof containers and sterilized. It is not necessary to sterilize run-off water from the infected plants, as this is not a plausible route for secondary infection. When the viruses are used as vectors in tissue cultures or in small plants in axenic cultures, no special containment is necessary. Infected plant materials which have to be removed from the greenhouse or cabinet for further research shall be maintained under insect-restrictive conditions. These measures provide an entirely adequate degree of containment. They are similar to those required in many countries for licensed handling of "exotic" plant viruses.

The CaMV strain used as a cloning vector shall be a mutant that lacks the aphid transmission factor.

The viruses or their DNA may also be useful as vectors to introduce genes into plant protoplasts. The fragility of plant protoplasts combined with the properties of the viruses provides adequate safety. Since no risk to the environment from the use of the DNA plant virus/protoplast system is envisaged, no special containment is necessary, except as described in the following paragraph.

Experiments involving the use of plant virus genomes to propagate DNA sequences from eukaryotic viruses will be evaluated by NIH on a case-by-case basis (*45*) and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–4. *Plant Host-Vector Systems Other than Viruses.* Organelle, plasmid, and chromosomal DNAs may be used as vectors. DNA recombinants formed between such vectors and host DNA, when propagated only in that host (or a closely related strain of the same species), are exempt from these Guidelines (See Section I—E). DNA recombinants formed between such vectors and DNA from cells other than the host species require P2 physical containment. The development of host-vector systems that exhibit a high level of biological containment, such as those using protoplasts or undifferentiated cells in culture, permit (2A) a decrease in the physical containment to P1.

Intact plants or propagative plant parts which cannot be grown in a standard P2 laboratory because of their large size may be grown under the P1 conditions described above in Section III–C–3, except that (i) sterilization of run-off water is required where this is a plausible route for secondary infection and (ii) the standard P2 practices are adopted for microbiological work.

III–C–5. *Fungal or Similar Lower Eukaryotic Host-Vector Systems.*

Certain certified HV1 and HV2 host-vector systems appear in Appendix D. The containment levels for these systems are given in the subsection of Section III–A. Other systems in the future may be certified as HV1 and HV2. At the time of certification, they may be added to Appendix D (and thus the containment levels for their use will be those of the subsections of Section III–A). Alternatively, at the time of their certification, another classification of containment levels for experiments using them may be assigned by NIH.

In addition to the experiments described above, the following experiments may be carried out without the eukaryotic host (Host C) having been approved as an HV1 host: DNA from Host C may be inserted into a vector and propagated in *E. coli* K–12 under P1 conditions. Subsequently, this recombinant DNA may be returned to Host C and propagated there under P1 conditions. (*43*)

Containment levels for other classes of experiments involving non-HV1 systems may be expressly approved by the Director, NIH. (See Sections IV–E–1–b–(1)–(b), IV–E–1–b–(2)–(c), and IV–E–1–b–(3)–(b).)

III–C–6. *Return of DNA Segments to a Higher Eukaryotic Host of Origin.* DNA from a higher eukaryote (Host D) may be inserted into a vector and propagated in *E. coli* K–12 under P1 containment conditions. Subsequently, this recombinant DNA may be returned to Host D and propagated under conditions of physical containment comparable to P1 and appropriate to the organism under study. (*2A*)

III–C–7. *Transfer of cloned DNA Segments to Eukaryotic Organisms*

III–C–7–a. *Transfer to Non-human Vertebrates.* DNA from any nonprohibited source [Section I–D], except for greater than one quarter of a eukaryotic viral genome, which has been cloned and propagated in *E. coli* under P1 conditions, may be transferred with the *E. coli* vector used for cloning to any eukaryotic cells in culture or to any non-human vertebrate organism and propagated under conditions of physical containment comparable to P1 and appropriate to the organism under study (*2A*). Transfers to any other host will be considered by the RAC on a case-by-case basis (*45*).

III–C–7–b. *Transfer to Higher Plants.* DNA from any nonprohibited source [Section I–D] which has been cloned and propagated in *E. coli* under P1 conditions, may be transferred with the *E. coli* vector used for cloning to any higher plant organisms (angiosperms and Gymnosperms) and propagated under conditions of physical containment comparable to P1 and appropriate to the organism under study (*2A*). Intact plants or propagative plant parts may be grown under P1 conditions described under Section III–C–3. Containment must be modified to ensure that the spread of pollen, seed or other propagules is prevented. This can be accomplished by conversion to negative pressure in the growth cabinet or greenhouse or by physical entrapment by "bagging" of reproductive structures. Transfers to any other plant organisms will be considered on a case-by-case basis (*45*).

III–D. *Complementary DNAs.* Specific containment levels are given in Section III–A–2–a (see also last column of Table III) for complementary DNA (cDNA) of viral mRNA. For the other Sections of the Guidelines, where applicable, cDNAs synthesized *in vitro* are included within each of the above classifications. For example, cDNAs formed from cellular RNAs that are not purified and characterized are included under III–A–1, shotgun experiments; cDNAs formed from purified and characterized RNAs are included under III–A–3; etc.

Due to the possibility of nucleic acid contamination of enzyme preparations used in the preparation of cDNAs, the investigator must employ purified enzyme preparations that are free of viral nucleic acid.

III–E. *Synthetic DNAs.* If the synthetic DNA segment is likely to (*2A*) yield a potentially harmful polynucleotide or polypeptide (e.g., a toxin or a pharmacologically active agent), the containment conditions must be as stringent as would be used for propagating the natural DNA counterpart.

If the synthetic DNA sequence codes for a harmless product, (*2A*) it may be propagated at the same containment level as its purified natural DNA counterpart. For example, a synthetic DNA segment which corresponds to a nonharmful gene of birds, to be propagated in *Saccharomyces cerevisiae*, would require P2 phyical containment plus an HV1 host-vector, or P1+HV2.

If the synthetic DNA segment is not expressed *in vivo* as a polynucleotide or polypeptide product, the organisms containing the recombinant DNA molecule are exempt (*4*) from the Guidelines.

IV. Roles and Responsibilities

IV–A. *Policy.* Safety in activities involving recombinant DNA depends on the individual conducting them. The Guidelines cannot anticipate every possible situation. Motivation and good judgment are the key essentials to protection of health and the environment.

The Guidelines are intended to help the Institution, the Institutional Biosafety Committee (IBC), the Biological Safety Officer, and the Principal Investigator determine the safeguards that should be implemented. These Guidelines will never be complete or final, since all conceivable experiments involving recombinant DNA cannot be foreseen. Therefore, it is the responsibility of the Institution and those associated with it to adhere to the *purpose* of the Guidelines as well as to their specifics.

Each Institution (and the IBC acting on its behalf) is responsible for ensuring that recombinant DNA activities comply with the Guidelines. General recognition of institutional authority and responsibility properly establishes accountability for safe conduct of the research at the local level.

The following roles and responsibilities constitute an administrative framework in which safety is an essential and integral part of research involving recombinant DNA molecules. Further clarifications and interpretations of roles and responsibilities will be issued by NIH as necessary.

IV–B. *General Applicability.* The Guidelines are applicable to all recombinant DNA research within the United States or its territories which is conducted at or sponsored by an Institution that receives any support for recombinant DNA research from NIH. This includes research performed by NIH directly.

An individual receiving support for research involving recombinant DNA must be associated with or sponsored by an Institution that can and does assume the responsibilities assigned in these Guidelines.

The Guidelines are also applicable to projects done abroad if they are supported by NIH funds. If the host country, however, has established rules for the conduct of recombinant DNA projects, then a certificate of compliance with those rules may be submitted to NIH in lieu of compliance with the NIH Guidelines. NIH reserves the right to withhold funding if the safety practices to be employed abroad are not reasonably consistent with the NIH Guidelines.

IV–C. *General Definitions.* The following terms, which are used throughout the Guidelines, are defined as follows:

IV–C–1. "DNA" means deoxyribonucleic acid.

IV–C–2. "Recombinant DNA" or "recombinant DNA molecules" means either (i) molecules which are constructed outside living cells by joining natural or synthetic DNA segments to DNA molecules that can replicate in a living cell, or (ii) DNA molecules which result from the replication of a molecule described in (i) above.

IV–C–3. "Memorandum of Understanding and Agreement" or "MUA" is a document that (i) provides to NIH or other Federal funding agency an Institution's certification that the recombinant DNA research project complies with the NIH Guidelines and (ii) contains other essential data as required in the Administrative Practices Supplement.

IV–C–4. "Institution" means any public or private entity (including Federal, State, and local government agencies).

IV–C–5. "Institutional Biosafety Committee" or "IBC" means a committee that (i) meets the requirements for membership specified in Section IV–D–2, and (ii) reviews, approves, and oversees projects in accordance with the responsibilities defined in Sections IV–D–2 and –3.

IV–C–6. "NIH Office of Recombinant DNA Activities" or "ORDA" means the office within NIH with responsibility for (i) reviewing and coordinating all activities of NIH related to the Guidelines, and (ii) performing other duties as defined in Section IV–E–3.

IV–C–7. "Recombinant DNA Advisory Committee" or "RAC" means the public advisory committee that advises the Secretary, the Assistant Secretary for Health, and the Director of the National Institutes of Health concerning recombinant DNA research. The RAC shall be constituted as specified in Section IV–E–2.

IV–C–8. "Director, NIH" or "Director" means the Director of the National Institutes of Health and any other officer or employee of NIH to whom authority has been delegated.

IV–C–9. "Federal Interagency Advisory Committee on Recombinant DNA Research" means the committee established in October 1976 to advise the Secretary, HEW, the Assistant Secretary for Health, and the Director, NIH on the coordination of those aspects of all Federal programs and activities which relate to recombinant DNA research.

IV–C–10. "Administrative Practices Supplement" or "APS" means a publication to accompany the NIH Guidelines specifying administrative procedures for use at NIH and at Institutions.

IV–C–11. "Laboratory Safety Monograph" or "LSM" means a publication to accompany the NIH Guidelines describing practices, equipment, and facilities in detail.

IV–D. *Responsibilities of the Institution*

IV–D–1. Each Institution conducting or sponsoring recombinant DNA research covered by these Guidelines is responsible for ensuring that the research is carried out in full conformity with the provisions of the Guidelines. In order to fulfill this responsibility, the Institution shall:

IV–D–1–a. Establish and implement policies that provide for the safe conduct of recombinant DNA research and that ensure compliance with the Guidelines. The Institution, as part of its general responsibilities for implementing the Guidelines, may establish additional procedures, as deemed necessary, to govern the Institution and its components in the discharge of its responsibilities under the Guidelines. This may include (i) statements formulated by the Institution for general implementation of the Guidelines and (ii) whatever additional precautionary steps the Institution may deem appropriate.

IV–D–1–b. Establish an Institutional Biosafety Committee (IBC) that meets the requirements set forth in Section IV–D–2 and carries out the functions detailed in Section IV–D–3.

IV–D–1–c. Submit, for each recombinant DNA project that meets with its approval, a Memorandum of Understanding and Agreement (MUA) to the funding agency for approval and registration.

Note.—No MUA is required for experiments described in Section III–0).) All projects, however, can proceed upon IBC approval (before submission of the MUA to the funding agency) except for the following, which require prior approval by NIH (or other funding agency designated by NIH for this purpose):

IV–D–1–c–(1). Projects for which containment levels are not specified by the Guidelines or NIH,

IV–D–1–c–(2). Projects requiring P4 containment,

IV–D–1–c–(3). Reductions of containment levels for characterized or purified DNA preparations or clones (see Section III–A–3),

IV–D–1–c–(4). The first project conducted in a facility at P3 containment, or

IV–D–1–c–(5). The first project conducted by an Institution.

Note.—The MUA shall be submitted to the funding agency within 30 days of the IBC approval. If the funding agency does not routinely register recombinant DNA projects with NIH, the MUA must be submitted to NIH as well as to the funding agency. Authority to submit MUAs (or addenda) for which prior approval is not required may be delegated to the IBC chairperson. All MUAs that require NIH approval before the work can proceed shall be submitted to the NIH by the institutional official to whom the IBC is responsible.

IV–D–1–d. Take appropriate action to bring protocols into compliance when advised by NIH or other funding agency that IBC-approved projects do not conform to standards set forth in the Guidelines. This responsibility may be delegated to the IBC. (See Administrative Practices Supplement for further details).

IV–D–1–e. If the Institution is engaged in recombinant DNA research at the P3 or P4 containment level, appoint a Biological Safety Officer (BSO), who shall be a member of the IBC and carry out the duties specified in Section IV–D–4.

IV–D–1–f. Require that investigators responsible for research covered by these Guidelines comply with the provisions of Section IV–D–5, and assist investigators to do so.

IV–D–1–g. Ensure appropriate training for the IBC chairperson and members, the BSO, Principal Investigators (PIs), and laboratory staff regarding the Guidelines, their implementation, and laboratory safety. Responsibility for training IBC members may be carried out through the IBC chairperson. Responsibility for training laboratory staff may be carried out through the PI. The Institution is responsible for seeing that the PI has sufficient training, but may delegate this responsibility to the IBC.

IV–D–1–h. Determine the necessity, in connection with each project, for health surveillance of recombinant DNA research personnel, and conduct, if found appropriate, a health surveillance program for the project. [The Laboratory Safety Monograph (LSM) discusses various possible components of such a program—for example, records of agents handled, active investigation of relevant illnesses, and the maintenance of serial serum samples for monitoring serologic changes that may result from the employees' work experience. Certain medical conditions may place a laboratory worker at increased risk in any endeavor where infectious agents are handled. Examples given in the LSM include gastrointestinal disorders and treatment with steroids, immunosuppressive drugs, or antibiotics. Workers with such disorders or treatment should be evaluated to determine whether they should be engaged in research with potentially hazardous organisms during their treatment or illness.]

IV–D–1–i. Report within 30 days to ORDA any significant problems with and violations of the Guidelines and significant research-related accidents and illnesses, unless the institution determines that the PI or IBC has done so.

IV–D–2. *Membership and Procedures of the IBC.* The Institution shall establish an Institutional Biosafety Committee (IBC) meeting the following requirements:

IV–D–2–a. The IBC shall comprise no fewer than five members so selected that they collectively have experience and expertise in recombinant DNA technology and the capability to assess the safety of recombinant DNA research experiments and any potential risk to public health or the environment. At least two members (but not less than 20 percent of the membership of the committee) shall not be affiliated with the Institution (apart from their membership on the IBC) and shall represent the interest of the surrounding community with respect to health and protection of the environment. Members meet this requirement if, for example, they are officials of State or local public health or environmental protection agencies, members of other local governmental bodies, or persons active in medical, occupational health, or environmental concerns in the community. The Biological Safety Officer (BSO), mandatory when research is being conducted at the P3 and P4 levels, shall be a member (see Section IV–D–4).

IV–D–2–b. In order to ensure the professional competence necessary to review recombinant DNA activities, it is recommended that (i) the IBC include persons from disciplines relevant to recombinant DNA technology, biological safety, and engineering; (ii) the IBC include, or have available as consultants, persons knowledgeable in institutional commitments and policies, applicable law, standards of professional conduct and practice, community attitudes, and the environment; and (iii) at least one member be a nondoctoral person from a laboratory technical staff.

IV–D–2–c. The Institution shall identify the committee members by name in a report to the NIH Office of Recombinant DNA Activities (ORDA) and shall include relevant background information on each member in such form and at such times as ORDA may require. (See the Administrative Practices Supplement for further guidance.)

IV–D–2–d. No member of an IBC may be involved (except to provide information requested by the IBC) in the review or approval of a project in which he or she has been, or expects to be, engaged or has a direct financial interest.

IV–D–2–e. The Institution may establish procedures that the IBC will follow in its initial and continuing review of applications, proposals, and activities. (IBC review procedures are specified in Section IV–D–3–a.)

IV–D–2–f. Central to implementation of the Guidelines is the review of proposed experiments by the IBC. The Institutions shall submit, within 30 days of IBC approval, an MUA to NIH (ORDA), or shall otherwise register proposed experiments as specified under Section IV–D–1–c, IV–D–1–d, and IV–F. In carrying out this responsibility, the Institution shall comply with instructions and procedures specified in the Administrative Practices Supplement.

IV–D–2–g. Institutions are encouraged to open IBC meetings to the public whenever possible, consistent with protection of privacy and proprietary interests.

IV–D–2–h. Upon request, the Institution shall make available to the public all minutes of IBC meetings and any documents submitted to or received from funding agencies which the latter are required to make available to the public (e.g., NUAs, reports of Guideline violations and significant research-related accidents, and agency directives to modify projects). If comments are made by members of the public on IBC actions, the Institution shall forward to NIH both the comments and the IBC's response.

IV–D–3. *Functions of the IBC.* On behalf of the Institution, the IBC is responsible for:

IV–D–3–a. Reviewing for compliance with the NIH Guidelines all recombinant DNA research to be conducted at or sponsored by the Institution, and approving those research projects that it finds are in conformity with the Guidelines. (See Administrative Practices Supplement, II–D, for prior NIH approval requirements.) This review shall include:

IV–D–3–a–(1). An independent assessment of the containment levels required by these Guidelines for the proposed research, and

IV–D–3–a–(2). An assessment of the facilities, procedures, and practices, and of the training and expertise of recombinant DNA personnel.

Note.—See Laboratory Safety Monograph (pages 187–190) for suggested guidance in conducting this review.

IV–D–3–b. Authorizing the Principal Investigator (PI) to proceed with the project upon receipt of proper agency approval; or authorizing the PI to proceed without agency approval to initiate or change a project for which none of the exceptions under IV–D–1–c apply.

Note.—Some examples of work that might ordinarily proceed without prior funding-agency approval are the initiation of a project at the P1 or P2 level (other than the first project at the institution). Other examples are significant changes in hosts or vectors, in the donor species or the nature of the DNA segment selected, or in the physical location of the experiments. It should be clear, however, that the funding agency must be notified of IBC approvals even when prior agency approval is not required. See the Administrative Practices Supplement for further discussion.

IV–D–3–c. Reviewing periodically recombinant DNA research being conducted at the Institution, to ensure that the requirements of the Guidelines are being fulfilled.

IV–D–3–d. Adopting emergency plans covering accidental spills and personnel contamination resulting from such research.

Note.—Basic elements in developing specific procedures for dealing with major spills of potentially hazardous materials in the laboratory are detailed in the Laboratory Safety Monograph. Included are information and references on decontamination and emergency plans. NIH and the Center for Disease Control are available to provide consultation, and direct assistance if necessary, as posted in the LSM. The Institution shall cooperate with the State and local public health departments, reporting any significant research-related illness or accident that appears to be a hazard to the public health.

IV–D–3–e. Reporting within 30 days to the appropriate institutional official and to the NIH Office of Recombinant DNA Activities (ORDA) any significant problems with or violations of the Guidelines, and any significant research-related accidents or illnesses, unless the IBC determines that the PI has done so.

IV–D–3–f. Performing such other functions as may be delegated to the IBC under Section IV–D–1.

IV–D–4. *Biological Safety Officer.* The Institution shall appoint a BSO if it engages in recombinant DNA research at the P3 or P4 containment level. The officer shall be a member of the Institutional Biosafety Committee (IBC), and his or her duties shall include (but need not be limited to):

IV–D–4–a. Ensuring through periodic inspections that laboratory standards are rigorously followed;

IV–D–4–b. Reporting to the IBC and the Institution all significant problems with and violations of the Guidelines and all significant research-related accidents and illnesses of which the BSO becomes aware, unless the BSO determines that the Principal Investigator (PI) has done so.

IV–D–4–c. Developing emergency plans for dealing with accidental spills and personnel contamination, and investigating recombinant DNA research laboratory accidents;

IV–D–4–d. Providing advice on laboratory security;

IV–D–4–e. Providing technical advice to the PI and the IBC on research safety procedures.

Note.—See Laboratory Safety Monograph for additional information on the duties of the BSO.

IV–D–5. *Principal Investigator.* On behalf of the Institution, the PI is responsible for complying fully with the Guidelines in conducting any recombinant DNA research.

IV–D–5–a. *PI—General.* As part of this general responsibility, the PI shall:

IV–D–5–a–(1). Initiate or modify no recombinant DNA research subject to the Guidelines until that research, or the proposed modification thereof, has been approved by the Institutional Biosafety Committee (IBC) and has met all other requirements of the Guidelines and the Administrative Practices Supplement (APS), and make changes to conform if the NIH Office of Recombinant DNA Activities' (ORDA's) review so requires.

Note.—No prior approval by the IBC is required for most experiments described in Section III–D.

IV–D–5–a–(2). Report within 30 days to the IBC and NIH (ORDA) all significant problems with and violations of the Guidelines and all significant research-related accidents and illnesses;

IV–D–5–a–(3). Report to the IBC and to NIH (ORDA) new information bearing on the Guidelines;

IV–D–5–a–(4). Be adequately trained in good microbiological techniques;

IV–D–5–a–(5). Adhere to IBC-approved emergency plans for dealing with accidental spills and personnel contamination; and

IV–D–5–a–(6). Comply with shipping requirements for recombinant DNA molecules. (See Section II–C for shipping requirements, Laboratory Safety Monograph for technical recommendations, and the APS for administrative instructions and procedures. The requesting laboratory must be in compliance with the NIH Guidelines and under appropriate review by its IBC, and the sending investigator must maintain a record of all shipments of recombinant DNA materials.)

IV–D–5–b. *Submissions by the PI to NIH.* The PI shall:

IV–D–5–b–(1). Submit information to NIH (ORDA) in order to have new host-vector systems certified;

IV–D–5–b–(2). Petition NIH, with notice to the IBC, for exemptions to these Guidelines (see Sections I–E–4 and I–E–5 and, for additional information on procedures, the APS); and

IV–D–5–b–(3). Petition NIH, with concurrence of the IBC, for exceptions to the prohibitions under these Guidelines (see Section I–D and, for additional information on procedures, the APS).

IV–D–5–c. *Submissions by the PI to the IBC.* The PI shall:

IV–D–5–c–(1). Make the initial determination of the required levels of physical and biological containment in accordance with the Guidelines;

IV–D–5–c–(2). Select appropriate microbiological practices and laboratory techniques to be used in the research;

IV–D–5–c–(3). Submit the initial research protocol (and also subsequent changes—e.g., changes in the source of DNA or host-vector system, which require a new or revised Memorandum of Understanding and Agreement) to the IBC for review and approval or disapproval; and

IV–D–5–c–(4). Remain in communication with the IBC throughout the conduct of the project.

IV–D–5–d. *P1 Responsibilities After Approval But Prior to Initiating the Research.* The P1 is responsible for:

IV–D–5–d–(1). Making available to the laboratory staff copies of the approved protocols that describe the potential biohazards and the precautions to be taken;

IV–D–5–d–(2). Instructing and training staff in the practices and techniques required to ensure safety and in the procedures for dealing with accidents; and

IV–D–5–d–(3). Informing the staff of the reasons and provisions for any precautionary medical practices advised or requested, such as vaccinations or serum collection.

IV–D–5–e. *P1 Responsibilities During the Conduct of the Approved Research.* The P1 is responsible for:

IV–D–5–e–(1). Supervising the safety performance of the staff to ensure that

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the required safety practices and techniques are employed;

IV–D–5–e–(2). Investigating and reporting in writing to ORDA, the Biological Safety Officer (where applicable), and the IBC any significant problems pertaining to the operation and implementation of containment practices and procedures;

IV–D–5–e–(3). Correcting work errors and conditions that may result in the release of recombinant DNA materials;

IV–D–5–e–(4). Ensuring the integrity of the physical containment (e.g., biological safety cabinets) and the biological containment (e.g., purity, and genotypic and phenotypic characteristics); and

IV–D–5–e–(5). *Publications.* PIs are urged to include, in all publications reporting on recombinant DNA research, a description of the physical and biological containment procedures employed.

IV–E. *Responsibilities of NIH.*

IV–E–1. *Director.* The Director, NIH, is responsible for (i) establishing the NIH Guidelines on recombinant DNA research, (ii) overseeing their implementation, and (iii) their final interpretation.

The Director has a number of responsibilities under the Guidelines that involve the NIH Office of Recombinant DNA Activities (ORDA) and the Recombinant DNA Advisory Committee (RAC). ORDA's responsibilities under the Guidelines are administrative. Advice from the RAC is primarily scientific and technical. In certain circumstances, there is specific opportunity for public comment, with published response, before final action.

IV–E–1–a. *General Responsibilities of the Director, NIH.* The responsibilities of the Director shall include the following:

IV–E–1–a–(1). Promulgating requirements as necessary to implement the guidelines;

IV–E–1–a–(2). Establishing and maintaining the RAC to carry out the responsibilities set forth in Section IV–E–2. The RAC's membership is specified in its chapter and in Section IV–E–2.

IV–E–1–a–(3). Establishing and maintaining ORDA to carry out the responsibilities defined in Section IV–E–3; and

IV–E–1–a–(4). Maintaining the Federal Interagency Advisory Committee on Recombinant DNA Research established by the Secretary, HEW, for advice on the coordination of all Federal programs and activities relating to recombinant DNA, including activities of the RAC.

IV–E–1–b. *Specific Responsibilities of the Director, NIH.* In carrying out the responsibilities set forth in this Section, the Director shall weigh each proposed action, through appropriate analysis and consultation, to determine that it complies with the Guidelines and presents no significant risk to health or the environment.

IV–E–1–b–(1). *The Director is responsible for the following major actions* (For these, the Director must seek the advice of the RAC and provide an opportunity for public and Federal agency comment. Specifically, the agenda of the RCA meeting citing the major actions will be published in the Federal Register at least 30 days before the meeting, and the Director will also publish the proposed actions in the Federal Register for comment at least 30 days before the meeting. In addition, the Director's proposed decision, at his discretion, may be published in the Federal Register for 30 days of comment before final action is taken. The Director's final decision, along with response to the comments, will be published in the Federal Register and the *Recombinant DNA Technical Bulletin.* The RAC and IBC chairpersons will be notified of this decision):

IV–E–1–b–(1)–(a). Changing containment levels for types of experiments that are specified in the Guidelines when a major action is involved;

IV–E–1–b–(1)–(b). Assigning containment levels for types of experiments that are not explicitly considered in the Guidelines when a major action is involved;

IV–E–1–b–(1)–(c). Certifying new host-vector systems, with the exception of minor modifications of already certified systems [The standards and procedures for certification are described in Section II–D–2–a. Minor modifications constitute, for example, those of minimal or no consequence to the properties relevant to containment. See the Administrative Practices Supplement (APS) for further information];

IV–E–1–b–(1)–(d). Promulgating and amending a list of classes of recombinant DNA molecules to be exempt from these Guidelines because they consist entirely of DNA segments from species that exchange DNA by known physiological processes, or otherwise do not present a significant risk to health or the environment (see Sections I–E–4 and –5 and the APS for further information);

IV–E–b–b–(1)–(e). Permitting exceptions to the prohibited experiments in the Guidelines, in order, for example, to allow risk-assessment studies; and

IV–E–1–b–(1)–(f). Adopting other changes in the Guidelines.

IV–E–1–b–(2). *The Director is also responsible for the following lesser actions* (For these, the Director must seek the advice of the RAC. The Director's decision will be transmitted to the RAC and IBC chairpersons and published in the *Recombinant DNA Technical Bulletin*):

IV–E–1–b–(2)–(a). Interpreting and determining containment levels, upon request by ORDA;

IV–E–1–b–(2)–(b). Changing containment levels for experiments that are specified in the Guidelines (see Section III);

IV–E–1–b–(2)–(c). Assigning containment levels for experiments not explicitly considered in the Guidelines (see Section III); and

IV–E–1–b–(2)–(d). Designating certain class 2 agents as class 1 for the purpose of these Guidelines (see Footnote 1 and Appendix B).

IV–E–1–b–(3). *The Director is also responsible for the following actions* (The Director's decision will be transmitted to the RAC and IBC chairpersons and published in the *Recombinant DNA Technical Bulletin*):

IV–E–1–b–(3)–(a). Interpreting the Guidelines for experiments to which the Guidelines specifically assign containment levels;

IV–E–1–b–(3)–(b). Determining appropriate containment conditions for experiments according to case precedence developed under Section IV–E–1–b–(2)–(c).

IV–E–1–b–(3)–(c). Determining appropriate containment conditions upon case-by-case analysis of experiments explicitly considered in the Guidelines but for which no containment levels have been set (see Footnote 45 in Part V; Sections III–C–1–a through –e; and Sections III–C–2 and –3);

IV–E–1–b–(3)–(d). Authorizing, under procedures specified by the RAC, large-scale experiments (i.e., involving more than 10 liters of culture) for recombinant DNAs that are rigorously characterized and free of harmful sequences (see Footnote 3 and Section I–D–6);

IV–E–1–b–(3)–(e). Lowering containment levels for characterized clones or purified DNA (see Sections III–A–3–a and –b, and Footnotes 3 and 41);

IV–E–1–b–(3)–(f). Approving minor modifications of already certified host-vector systems (The standards and procedures for such modifications are described in Section II–D–2–a); and

IV–E–1–b–(3)–(g). Decertifying already certified host-vector systems.

IV–E–1–b–(4). The Director shall conduct, support, and assist training programs in laboratory safety for Institutional Biosafety Committee members, Biological Safety Officers, Principal Investigators, and laboratory staff.

IV–E–1–b–(5). The Director, at the end of 36 months from the time these Guidelines are promulgated, will report on the Guidelines, their administration, and the potential risks and benefits of this research. In doing so, the Director will consult with the RAC and the Federal Interagency Committee. Public comment will be solicited on the draft report and taken into account in transmitting the final report to the Assistant Secretary for Health and the Secretary, HEW.

IV–E–2. *Recombinant Advisory Committee.* The NIH Recombinant DNA Advisory Committee (RAC) is responsible for carrying out specified functions cited below as well as others assigned under its charter or by the Secretary, HEW, the Assistant Secretary for Health, and the Director, NIH.

The members of the committee shall be chosen to provide, collectively, expertise in scientific fields relevant to recombinant DNA technology and biological safety—e.g., microbiology, molecular biology, virology, genetics, epidemiology, infectious diseases, the biology of enteric organisms, botany, plant pathology, ecology, and tissue culture. At least 20 percent of the members shall be persons knowledgeable in applicable law, standards of professional conduct and practice, public attitudes, the environment, public health, occupational health, or related fields. Representatives from Federal agencies shall serve as nonvoting members. Nominations for the RAC may be submitted to the NIH Office of Recombinant DNA Activities.

All meetings of the RAC will be announced in the Federal Register, including tentative agenda items, 30 days in advance of the meeting, with final agendas (if modified) available at least 72 hours before the meeting. No item defined as a major action under Section IV–E–1–b–(1) may be added to an agenda after it appears in the Federal Register.

IV–E–2–a. *The RAC shall be responsible for advising the Director, NIH, on the actions listed in Section IV–E–1–b –(1) and –(2).*

IV–E–3. *The Office of Recombinant DNA Activities.* ORDA shall serve as a focal point for information on recombinant DNA activities and provide advice to all within and outside NIH, including Institutions, Biological Safety Committees, Principal Investigators, Federal agencies, State and local governments, and institutions in the private sector. ORDA shall carry out such other functions as may be delegated to it by the Director, NIH, including those authorities described in Section IV–E–1–b–(3). In addition ORDA shall be responsible for the following:

IV–E–3–a. Review and approval of Institutional Biosafety Committee (IBC) membership;

IV–E–3–b. Registration of recombinant DNA projects; and

IV–E–3–c. Review of Memoranda of Understanding and Agreement (MUAs), and approval of those that conform to the Guidelines. In so doing, ORDA shall:

IV–E–3–c–(1). Conduct an independent evaluation of the containment levels required for the research covered by these Guidelines;

IV–E–3–c–(2). Determine whether the physical and biological containment levels approved by the IBC are in accordance with the requirement of the Guidelines;

IV–E–3–c–(3). Notify Institutions and the IBC chairperson in a timely fashion when MUAs (including changes in ongoing projects) do not conform to the Guidelines, and inform them of corrective measures to be taken;

IV–E–3–c–(4). Publish in the Federal Register:

IV–E–3–c–(4)–(a). Announcements of Recombinant DNA Advisory Committee (RAC) meetings and agendas 30 days in advance, with publication of the Director's proposed decision for 30 days of public and Federal agency comment followed by a published response, on any action listed in Section IV–E–1–b–(1); and

IV–E–3–c–(4)–(b). Announcements of RAC meetings and agendas 30 days in advance on any action listed in Section IV–E–1–b–(2).

Note.—If the agenda for an RAC meeting is modified, ORDA shall make the revised agenda available to anyone, upon request, at least 72 hours in advance of the meeting.

IV–E–3–c–(5). Publish the *Recombinant DNA Technical Bulletin;* and

IV–E–3–c–(6). Serve as executive secretary to the RAC.

IV–E–4. *Other NIH Components.* Other NIH components shall be responsible for:

IV–E–4–a. Awarding no grant or contract involving recombinant DNA techniques unless a properly executed MUA has been received;

IV–E–4–b. Certifying P4 facilities, inspecting them periodically, and inspecting other recombinant DNA facilities as deemed necessary; and

IV–E–4–c. Announcing and distributing certified HV2 and HV3 host-vector systems (see Section II–E–3).

(See Administrative Practices Supplement for additional information on the administrative procedures of ORDA and other NIH components.)

IV–F. *Registration*

IV–F–1. *Required Registration.* Institutions receiving NIH funds for recombinant DNA projects shall inform NIH of all recombinant DNA projects at the Institution. A non-NIH project, after approval by the Institutional Biosafety Committee, shall be registered with NIH within 30 days of initiation. Applications for NIH projects must be accompanied by a Memorandum of Understanding and Agreement (MUA).

For information on MUAs or equivalent documents that must be submitted for registration of recombinant DNA projects, see the Administrative Practices Supplement (APS).

IV–F–2. *Federal Agency Registration.* Institutions at which recombinant DNA research projects funded by other Federal agencies are conducted need not register such projects with NIH when the Federal agency maintains a registry and provides such information to NIH. Registration of non-NIH-funded research with the NIH Office of Recombinant DNA Activities (ORDA) is described in the APS. (The information required is similar to that in an MUA for NIH-supported research.)

IV–F–3. *Voluntary Registration and Certification.* Any institution that is not required to comply with the Guidelines may nevertheless register recombinant DNA research projects with NIH by submitting the appropriate information to ORDA. NIH will accept requests for certification of host-vector systems proposed by the institution. The submitter must agree to abide by the physical and biological containment standards of the NIH Guidelines.

IV–F–4. *Disclosure of Information.* Institutions are reminded that they should consider applying for a patent before submitting information to DHEW which they regard as potentially proprietary. (Provisions for protection of proprietary information as permitted under current DHEW authorities are discussed in Part VI of these Guidelines.)

IV–G. *Compliance.* As a condition for NIH funding of recombinant DNA research, Institutions must ensure that such research conducted at or sponsored by the Institution, irrespective of the source of funding, shall comply with these Guidelines. The policies on noncompliance are as follows:

IV–G–1. All NIH-funded projects involving recombinant DNA techniques must comply with the NIH Guidelines. Noncompliance may result in (i) suspension, limitation, or termination of financial assistance for such projects and of NIH funds for other recombinant

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DNA research at the Institution, or (ii) a requirement for prior NIH approval of any or all recombinant DNA projects at the Institution.

IV–G–2. All non-NIH-funded projects involving recombinant DNA techniques conducted at or sponsored by an Institution that receives NIH funds for projects involving such techniques must comply with the NIH Guidelines. Noncompliance may result in (i) suspension, limitation, or termination of NIH funds for recombinant DNA research at the Institution, or (ii) a requirement for prior NIH approval of any or all recombinant DNA projects at the Institution.

IV–G–3. Information concerning noncompliance with the Guidelines may be brought forward by any person. It should be delivered to both NIH (ORDA) and the relevant Institution. The Institution shall forward a complete report of the incident to ORDA, recommending any further action indicated.

IV–G–4. In cases where NIH proposes to suspend, limit, or terminate financial assistance because of noncompliance with the Guidelines, applicable DHEW and Public Health Service procedures shall govern.

IV–G–5. *Voluntary Compliance.* Any individual, corporation, or institution that is not otherwise covered by the Guidelines is encouraged to conduct recombinant DNA research activities in accordance with the Guidelines, through the procedures set forth in Part VI.

V. Footnotes and References

1. The reference to organisms as Class 1, 2, 3, 4, or 5 refers to the classification in the publication *Classification of Etiologic Agents on the Basis of Hazard*, 4th Edition, July 1974; U.S. Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control, Office of Biosafety, Atlanta, Georgia 30333. The list of organisms in each class, as given in this publication, is reprinted in Appendix B to these Guidelines.

The Director, NIH, with advice of the Recombinant DNA Advisory Committee, may designate certain of the agents which are listed as Class 2 in the *Classification of Etiologic Agents on the Basis of Hazard*, 4th Edition, July 1974, as Class 1 agents for the Purposes of these Guidelines (see Section IV–E–1–b–(2)–(d)). An updated list of such agents may be obtained from the Office of Recombinant DNA Activities (ORDA), National Institutes of Health, Bethesda, Maryland 20205.

The entire *Classification of Etiologic Agents on the Basis of Hazard* is in the process of revision.

2. One exception to the prohibition of formation of recombinant DNAs derived from Class 3, 4, or 5 agents is that the formation of recombinant DNAs derived from Vesicular Stomatitis Virus (VSV) is not prohibited. The reason for this is explained in the "Decision Document" accompanying the proposed revised guidelines published in the **Federal Register** on July 26, 1978. However, as noted in Appendix B, a permit from the U.S. Department of Agriculture is required for the import of interstate transport of VSV. This can be obtained from USDA–APHIS, Veterinary Service, Federal Building, Hyattsville, Maryland 20782.

2A. In parts I and III of the Guidelines, there are a number of places where judgments are to be made. These include: "cells known to be infected with such agents" (Section I–D–1); "toxins potent for vertebrates" (Section I–D–2); "beyond that which occurs by natural genetic exchange" (Section I–D–3); "known to acquire it naturally" (Section I–D–5); "known to produce a potent polypeptide toxin . . . or known to carry such pathogens . . . not likely to be a product of closely linked eukaryote genes . . . shown not to contain such agents" (Section III–A–1–a–(5)–(a)); "shown to be free of disease causing microorganisms" (Section III–A–1–a–(5)–(b)); "close relatives" (Section III–C–3); and "produce a potent polypeptide toxin" (Footnote 34).

In all these cases the principal investigator is to make the initial judgment on these matters as part of his responsibility to "make the initial determination of the required levels of physical and biological containment in accordance with the Guidelines" (Section IV–D–7–a). In all these cases, this judgment is to be reviewed and approved by the Institutional Biosafety Committee as part of its responsibility to make "an independent assessment of the containment levels required by these Guidelines for the proposed research" (Section IV–D–3–a–(1)). If the IBC wishes, any specific cases may be referred to the NIH Office of Recombinant DNA Activities as part of ORDA's functions to "provide advice to all within and outside NIH" (Section IV–E–3), and ORDA may request advice from the Recombinant DNA Advisory Committee as part of the RAC's responsibility for "interpreting and determining containment levels upon request by ORDA" (Section IV–E–1–b–(2)–(a)).

3. The following types of data should be considered in determining whether DNA recombinants are "characterized" and the absence of harmful sequences has been established: (a) the absence of potentially harmful genes (e.g., sequences contained in indigenous tumor viruses or sequences that code for toxins, invasins, virulence factors, etc., that might potentiate the pathogenicity or communicability of the vector and/or the host or be detrimental to humans, animals or plants); (b) the type(s) of genetic information on the cloned segment and the nature of transcriptional and translation gene products specified; (c) the relationship between the recovered and desired segment (e.g., hybridization and restriction endonuclease fragmentation analysis where applicable); (d) the genetic stability of the cloned fragment; and (e) any alterations in the biological properties of the vector and host.

4. In section I–E, "exemptions" from the Guidelines are discussed. Such experiments are not covered by the Guidelines and need not be registered with NIH. In Section I–D on "prohibitions," the possibility of "exceptions" is discussed. An "exception" means that an experiment may be expressly released from a prohibition. At that time it will be assigned an appropriate level of physical and biological containment.

5. Care should be taken to inactivate recombinant DNA before disposal. Procedures for inactivating DNA can be found in the "Laboratory Safety Monograph: A Supplement to the NIH Guidelines for Recombinant DNA Research."

6. *Laboratory Safety at the Center for Disease Control* (Sept. 1974). U.S. Department of Health, Education, and Welfare Publication No. CDC 75–8118.

7. *Classification of Etiologic Agents on the Basis of Hazard.* (4th Edition, July 1974). U.S. Department of Health, Education, and Welfare. Public Health Service. Center for Disease Control, Office of Biosafety, Atlanta, Georgia 30333.

8. *National Cancer Institute Safety Standards for Research Involving Oncogenic Viruses* (Oct. 1974). U.S. Department of Health, Education, and Welfare Publication No. (NIH) 75–790.

9. *National Institutes of Health Biohazards Safety Guide* (1974). U.S. Department of Health, Education, and Welfare, Public Health Service, National Institutes of Health. U.S. Government Printing Office, Stock No. 1740–00383.

10. *Biohazards in Biological Research* (1973). A. Hellman, M. N. Oxman, and R. Pollack (ed.) Cold Spring Harbor Laboratory.

11. *Handbook of Laboratory Safety* (1971). Second Edition. N. V. Steere (ed.). The Chemical Rubber Co., Cleveland.

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13. Darlow, H. M. (1969). *Safety in the Microbiological Laboratory.* In J. R. Norris and D. W. Robbins (ed.), Methods in Microbiology. Academic Press, Inc., New York, pp. 169–204.

14. *The Prevention of Laboratory Acquired Infection* (1974). C. H. Collins, E. G. Hartley, and R. Pilsworth. Public Health Laboratory Service, Monograph Series No. 6.

15. Chatigny, M. A. (1961). *Protection Against Infection in the Microbiological Laboratory: Devices and Procedures.* In W. W. Umbreit (ed.). Advances in Applied Microbiology. Academic Press, New York, N.Y. 3:131–192.

16. *Design Criteria for Viral Oncology Research Facilities* (1975). U.S. Department of Health, Education, and Welfare, Public Health Service, National Institutes of Health, DHEW Publication No. (NIH) 75–891.

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18. Runkle, R. S., and G. B. Phillips (1969). *Microbial Containment Control Facilities.* Von Nostrand Reinhold, New York.

19. Chatigny, M. A., and D. I. Clinger (1969). *Contamination Control in Aerobiology.* In R. L. Dimmick and A. B. Akers (eds.). An Introduction to Experimental Aerobiology. John Wiley & Sons, New York, pp. 194–283.

19A. Horsfall, F. L., Jr., and J. H. Baner (1940). *Individual Isolation of Infected Animals in a Single Room.* J. Bact. 40, 589–590.

20. Biological safety cabinets referred to in this section are classified as *Class I, Class II,* or *Class III* cabinets. A *Class I* is a ventilated cabinet for personnel protection having an inward flow of air away from the operator. The exhaust air from this cabinet is filtered through a high-efficiency particulate air (HEPA) filter. This cabinet is used in three operational modes: (1) with a full-width open front, (2) with an installed front closure panel (having four 8-inch diameter openings) without gloves, and (3) with an installed front closure panel equipped with arm-length rubber gloves. The face velocity of the inward flow of air through the full-width open front is 75 feet per minute or greater. A *Class II* cabinet is a ventilated cabinet for personnel and product protection having an open front with inward air flow for personnel protection, and HEPA filtered mass recirculated air flow for product protection. The cabinet exhaust air is filtered through a HEPA filter. The face velocity of the inward flow of air through the full-width open front is 75 feet per minute or greater. Design and performance specifications for *Class II* cabinets have been adopted by the National Sanitation Foundation, Ann Arbor, Michigan. A *Class III* cabinet is a closed-front ventilated cabinet of gas-tight construction which provides the highest level of personnel protection of all biohazard safety cabinets. The interior of the cabinet is protected from contaminants exterior to the cabinet. The cabinet is fitted with arm-length rubber gloves and is operated under a negative pressure of at least 0.5 inches water gauge. All supply air is filtered through HEPA filters. Exhaust air is filtered through two HEPA filters or one HEPA filter and incinerator before being discharged to the outside environment.

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32. Donoghue, D. J., and P. A. Sharp (1977). *An Improved Lambda Vector: Construction of Model Recombinants Coding for Kanamycin Resistance,* Gene *1*, 209–227.

33. Leder, P., D. Tiemeier and L. Enquist (1977). *EK2 Derivatives of Bacteriophage Lambda Useful in the Cloning of DNA from Higher Organisms: The gt WES System.* Science *196*, 175–177.

33A. Skalka, A. (1978). *Current Status of Coliphage EK2 Vectors.* Gene *3*, 29–35.

33B. Szybalski, W., A. Skalka, S. Gottesman, A. Campbell, and D. Botstein (1978). *Standardized Laboratory Tests for EK2 Certification.* Gene *3*, 36–38.

34. We are specifically concerned with the remote possibility that potent toxins could be produced by acquiring a single gene or cluster of genes. See also footnote 2A.

35. Defined as observable under optimal laboratory conditions by transformation, transduction, phage infection, and/or conjugation with transfer of phage, plasmid, and/or chromosomal genetic information. Note that this definition of exchange may be less stringent than that applied to exempt organisms under Section I–E–4.

36. As classified in the Second Report of the International Committee on Taxonomy of Viruses: Classification and Nomenclature of Viruses. Frank Fenner, Ed. Intervirology *7* (19–115) 1976. (As noted in the Prohibition Section, the use of viruses classified[1] as Class 3, 4, or 5, other than VSV, is prohibited.)

37. The cDNA copy of the viral mRNA must be >99% pure; otherwise as for shotgun experiments with eukaryotic cellular DNA.

37A. For the purpose of these Guidelines, viruses of the families *Papovaviridae, Adenoviridae,* and *Herpetoviridae* (36) should be considered as "transforming" viruses. While only certain of these viruses have been associated with cell transformation *in vivo* or *in vitro*, it seems prudent to consider all members to be potentially capable of transformation. In addition, those viruses of the family *Poxviridae* that produce proliferative responses—i.e., myxoma, rabbit and squirrel fibroma, and Yaba viruses—should be considered as "transforming."

38. >99% pure (i.e., less than 1% of the DNA consists of intact viral genomes); otherwise as for whole genomes.

39. The viruses have been classified by NCI as "moderate-risk oncogenic viruses." See "Laboratory Safety Monograph—A Supplement to the NIH Guidelines for Recombinant DNA Research" for recommendations on handling the viruses themselves.

40. HV1CV means the use of an HV1 host and a vector certified for use in an HV2 system.

41. The DNA preparation is defined as "purified" if the desired DNA represents at least 99% (w/w) of the total DNA in the preparation, provided that it was verified by more than one procedure.

42. The lowering of the containment level when this degree of purification has been obtained is based on the fact that the total number of clones that must be examined to obtain the desired clone is markedly reduced. Thus, the probability of cloning a harmful gene could, for example, be reduced by more than 10-fold when a nonrepetitive gene from mammals was being sought. Furthermore, the level of purity specified here makes it easier to establish that the desired DNA does not contain harmful genes.

43. This is not permitted, of course, if it falls under any of the Prohibitions of Section I–D. Of particular concern here is prohibition I–D–5, i.e., "Deliberate transfer of a drug resistance trait to microorganisms that are not known to acquire it naturally, if such acquisition could compromise the use of a drug to control disease agents in human or veterinary medicine or agriculture."

44. Because this work will be done almost exclusively in tissue culture cells, which have no capacity for propagation outside the laboratory, the primary focus for containment is the vector. It should be pointed out that risk of laboratory-acquired infection as a consequence of tissue culture manipulation is very low. Given good microbiological practices, the most likely mode of escape of recombinant DNAs from a physically contained laboratory is carriage by an infected human. Thus the vector with an inserted DNA segment should have little or no ability to replicate or spread in humans.

For use as a vector in a vertebrate host cell system, an animal viral DNA molecule should display the following properties:

(i) It should not consist of the whole genome of any agent that is infectious for humans or that replicates to a significant extent in human cells in tissue culture. If the recombinant molecule is used to transform nonpermissive cells (i.e., cells which do not produce infectious virus particles), this is not a requirement.

(ii) It should be derived from a virus whose epidemiological behavior and host range are well understood.

(iii) In permissive cells, it should be defective when carrying an inserted DNA segment (i.e., propagation of the recombinant DNA as a virus must be dependent upon the presence of a complementing helper genome). In almost all cases this condition would be achieved automatically by the manipulations used to construct and propagate the recombinants. In addition, the amount of DNA encapsidated in the particles of most animal viruses is defined within fairly close limits. The insertion of sizable foreign DNA

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sequences, therefore, generally demands a compensatory deletion of viral sequences. It may be possible to introduce very short insertions (50–100 base pairs) without rendering the viral vector defective. In such a situation, the requirement that the viral vector be defective is not necessary, except in those cases in which the inserted DNA encodes a biologically active polypeptide.

It is desired but not required that the functional anatomy of the vector be known—that is, there should be a clear idea of the location within the molecule of:

(i) the sites at which DNA synthesis originates and terminates,

(ii) the sites that are cleaved by restriction endonucleases, and

(iii) the template regions for the major gene product.

If possible the helper virus genome should:

(i) be integrated into the genome of a stable line of host cells (a situation that would effectively limit the growth of the vector recombinant to such cell lines) or

(ii) consist of a defective genome, or an appropriate conditional lethal mutant virus, making vector and helper dependent upon each other for propagation.

*However, neither of these stipulations is a requirement.

45. Review by NIH on a case-by-case basis means that NIH must review and set appropriate containment conditions before the work may be undertaken. NIH actions in such case-by-case reviews will be published in the *Recombinant DNA Technical Bulletin.*

46. Provided the inserted DNA sequences are not derived from eukaryotic viruses. In the latter case, such experiments will be evaluated on a case-by-case basis.

47. >99% pure; otherwise as for shotgun experiments.

VI. Voluntary Compliance

VI–A. *Basic Policy.* Individuals, corporations, and institutions not otherwise covered by the Guidelines are encouraged to do so by following the standards and procedures set forth in Parts I–IV of the Guidelines. In order to simplify discussion, reference hereafter to "institutions" are intended to encompass corporations, and individuals who have no organizational affiliation. For purposes of complying with the Guidelines, an individual intending to carry out research involving recombinant DNA is encouraged to affiliate with an institution that has an Institutional Biosafety Committee approved under the Guidelines.

Since commerical organizations have special concerns, such as protection of proprietary data, some modifications and explanations of the procedures in Parts I–IV are provided below, in order to address these concerns.

VI–B. *IBC Approval.* The NIH Office of Recombinant DNA Activities (ORDA) will review the membership of an institution's Institutional Biosafety Committee (IBC) and, were it finds the IBC meets the requirements set forth in Section IV–C–2, will give its approval to the IBC membership.

It should be emphasized that employment of an IBC member solely for purposes of membership on the IBC does not itself make the member an institutionally affiliated member of purposes of Section IV–D–2–a.

Except for the unaffiliated members, a member of an IBC for an institution not otherwise covered by the Guidelines may participate in the review and approval of a project in which the member has direct financial interest, so long as the member has not been and does not expect to be engaged in the project. Section IV–2–d is modified to that extent for purposes of these institutions.

VI–C. *Registration.* Upon approval of a recombinant DNA research project by the IBC, an institution may register the project by submitting to ORDA the information required in the Administrative Practices Supplement.

VI–D. *Certification of Host-Vector Systems.* A host-vector system may be proposed for certification by the Director, NIH, in accordance with the procedures set forth in Section II–D–2–a.

Institutions not otherwise covered by the Guidelines will not be subject to Section II–D–3 by complying with these procedures.

In order to ensure protection for proprietary data, any public notice regarding a host-vector system which is designated by the institution as proprietary under Section VI–F–1 will be issued only after consultation with the institution as to the content of the notice.

VI–E. *Requests for Exceptions, Exemptions, Approvals.* Requests for exceptions from prohibitions, exemptions, or other approvals required by the Guidelines should be requested by following the procedures set forth in the appropriate sections in Parts I–IV of the Guidelines.

In order to ensure protection for proprietary data, any public notice regarding a request for an exception, exemption, or other approval which is designated by the institution as proprietary under Section VI–F–1 will be issued only after consultation with the institution as to the content of the notice.

VI–F. *Protection of Proprietary Data.* In general, the Freedom of Information Act requires Federal agencies to make their records available to the public upon request. However, this requirement does not apply to, among other things, "trade secrets and commercial and financial information obtained from a person and privileged or confidential." 18 U.S.C. 1905, in turn makes it a crime for an officer or employee of the United States or any Federal department or agency to publish, divulge, disclose, or make known "in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, [or] processes . . . of any person, firm, partnership, corporation, or association." This provision applies to all employees of the Federal Government, including special Government employees. Members of the Recombinant DNA Advisory Committee are "special Government employees."

VI–F–1. In submitting information to NIH for purposes of complying voluntarily with the Guidelines, an institution may designate those items of information which the institution believes constitute trade secrets or privileged or confidential commercial or financial information.

VI–F–2. If NIH receives a request under the Freedom of Information Act for information so designated, NIH will promptly contact the institution to secure its views as to whether the information (or some portion) should be released.

VI–F–3. If the NIH decides to release this information (or some portion) in response to a Freedom of Information request or otherwise, the institution will be advised; and the actual release will not be made until the expiration of 15 days after the institution is so advised, except to the extent that earlier release, in the judgment of the Director, NIH, is necessary to protect against an imminent hazard to the public or the environment.

VI–F–4. Projects should be registered in accordance with procedures specified in the *Administrative Practices Supplement.* The following information will usually be considered publicly available information, consistent with the need to protect proprietary data:

a. The names of the institution and principal investigator.

b. The location where the experiments will be performed.

c. The host-vector system.

d. The source of the DNA.

e. The level of physical containment.

VI–F–5–a. Any institution not otherwise covered by the Guidelines, which is considering submission of data or information voluntarily to NIH, may request presubmission review of the records involved to determine whether, if the records are submitted, NIH will or will not make part of all of the records available upon request under the Freedom of Information Act.

VI–F–5–b. A request for presubmission review should be submitted to ORDA, along with the records involved. These records must be clearly marked as being the property of the institution, on loan to NIH solely for the purpose of making a determination under the Freedom of Information Act. ORDA will then seek a determination from the HEW Freedom of Information Officer, the responsible official under HEW regulations (45 CFR Part 5), as to whether the records involved (or some portion) are or are not available to members of the public under the Freedom of Information Act. Pending such a determination, the records will be kept separate from ORDA files, will be considered records of the institution and not ORDA, and will not be received as part of ORDA files. No copies will be made of the records.

VI–F–5–c. ORDA will inform the institution of the HEW Freedom of Information Officer's determination and follow the institution's instructions as to whether some or all of the records involved are to be returned to the institution or to become a part of ORDA files. If the institution instructs ORDA to return the records, no copies or summaries of the records will be made or retained by HEW, NIH, or ORDA.

VI–F–5–d. The HEW Freedom of Information Officer's determination will represent that official's judgement, as of the time of the determination, as to whether the records involved (or some portion) would be exempt from disclosure under the Freedom of Information Act, if at the time of the determination the records were in ORDA files and a request were received from them under the Act.

Appendix A

Section I–E–4 states that exempt from these Guidelines are "certain specified recombinant DNA molecules that consist entirely of DNA segments from different species that exchange DNA by known physiological processes, though one or more of the segments may be a synthetic equivalent. A list of such exchangers will be prepared and periodically revised by the Director, NIH, with advice of the Recombinant DNA Advisory Committee, after appropriate notice and opportunity for public comment (see Section IV–E–1–b–(1)–(d).) Certain classes are exempt as of publication of these Revised Guidelines. The list is in Appendix A."

Under exemption I–E–4 of these revised Guidelines are recombinant DNA molecules that are (1) composed entirely of DNA segments from one or more of the organisms within a sublist and (2) to be propagaated in any of the organisms within a sublist.

(Classification of *Bergey's Manual of Determinative Bacteriology*, eight edition. R. E. Buchanan and N. E. Gibbons, editors. Williams and Wilkins Company: Baltimore, 1974.)

Sublist A

1. Genus *Escherichia*
2. Genus *Shigella*
3. Genus *Salmonella* (including *Arizona*)
4. Genus *Enterobacter*
5. Genus *Citrobacter* (including *Levinea*)
6. Genus *Klebsiella*
7. *Erwinia amylovora*
8. *Pseudomonas aeruginosa, Pseudomonas putida* and *Pseudomonas fluorescens*
9. *Serratia marcescens*

Sublist B

1. *Bacillus subtilis*
2. *Bacillus licheniformis*
3. *Bacillus pumilus*
4. *Bacillus globigii*
5. *Bacillus niger*
6. *Bacillus natо*
7. *Bacillus anyloliquefaciens*
8. *Bacillus aterrimus*

Sublist C

1. *Streptomyces aureofaciens*
2. *Steptomyces rimosus*
3. *Streptomyces coelicolor*

Sublist D

1. *Streptomyces griseus*
2. *Streptomyces cyaneus*
3. *Streptomyces venezuelae*

Appendix B.—Classification of Microorganisms on the Basis of Hazard

I. Classification of Etiologic Agents on the Basis of Hazard (1).

A. Class 1 Agents: All bacterial, parasitic, fungal, viral, rickettsial, and chlamydial agents not included in higher classes.

B. Class 2 Agents:

1. Bacterial Agents

Actinobacillus—all species except *A. mallei*, which is in Class 3
Arizona hinshawii—all serotypes
Bacillus anthracis
Bordetella—all species
Borrelia recurrentis, B. vincenti
Clostridium botulinum, Cl. chauvoei, Cl. haemolyticum, Cl. histolyticum, Cl. novyi, Cl. septicum, Cl. tetani
Corynebacterium diptheriae, C. equi, C. haemolyticum, C. pseudotuberculosis, C. pyogenes, C. renale
Diplococcus (Streptococcus) pneumoniae
Erysipelothrix insidiosa
Escherichia coli—all enteropathogenic serotypes
Haemophilus ducreyi, H. influenzae
Herellae vaginicola
Klebsiella—all species and all serotypes
Leptospira interrogans—all serotypes
Listeria—all species
Mima polymorpha
Moraxella—all species
Mycobacteria—all species except those listed in Class 3
Mycoplasma—all species except *Mycoplasma mycoides* and *Mycoplasma agalactiae*, which are in Class 5
Neisseria gonorrhoeae, N. meningitidis
Pasteurella—all species except those listed in Class 3
Salmonella—all species and all serotypes
Shigella—all species and all serotypes
Sphaerophorus necrophorus
Staphylococcus aureus
Streptobacillus moniliformis
Streptococcus pyogenes
Treponema carateum, T. pallidum, and T. pertenue
Vibrio fetus, V. comma, including biotype El Tor, and *V. parahemolyticus*

2. Fungal Agents

**Actinomycetes (including Nocardia species and Actinomyces species and Arachnia propionica)*
Blastomyces dermatitidis
Cryptococcus neoformans
Paracoccidioides brasiliensis

3. Parasitic Agents

Endamoeba histolytica
Leishmania sp.
Naegleria gruberi
Toxoplasma gondii
Toxocara canis
Trichinella spiralis
Trypanosoma cruzi

4. Viral, Rickettsial, and Chlamydial Agents

Adenoviruses—human—all types
Cache Valley virus
Coxsackie A and B viruses
Cytomegaloviruses
Echoviruses—All types
Encephalomyocarditis virus (EMC)
Flanders virus
Hart Park virus
Hepatitis-associated antigen material
Herpes viruses—except *Herpesvirus simiae* (Monkey B virus) which is in Class 4
Corona viruses
Influenza viruses—all types except A/PR8/34, which is in Class 1
Langat virus
Lymphogranuloma venereum agent
Measles virus
Mumps virus
Parainfluenza virus—all types except Parainfluenza virus 3, SF4 strain, which is in Class 1
Poliioviruses—all types, wild and attenuated
Poxviruses—all types except *Alastrim, Smallpox, Monkey pox, and Whitepox*, which depending on experiments, are in Class 3 or Class 4
Rabies virus—all strains except *Rabies street virus*, which should be classified in Class 3 when inoculated into carnivores
Reoviruses—all types
Respiratory syncytial virus
Rhinoviruses—all types
Rubella virus
Simian viruses—all types except *Herpesvirus simiae (Monkey B virus) and Marburg virus*, which are in Class 4
Sindbis virus
Tensaw virus
Turlock virus
Vaccinia virus
Varicella virus

**Since the publication of the classification in 1974 [1], the *Actinomycetes* have been reclassified as bacterial rather than fungal agents.

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Vole rickettsia
Yellow fever virus, 17 D vaccine strain

C. Class 3 Agents:

1. Bacterial Agents

*Actinobacillus mallei**
Actinobacillus mallei*
Bartonella—all species
Brucella—all species
Francisella tularensis
Mycobacterium avium, M. bovis, M. tuberculosis
Pasteurella multocide type B ("buffalo" and other foreign virulent strains*)
*Pseudomonas pseudomallei**
Yersenia pestis

2. Fungal Agents

Coccidioides immitis
Histoplasma capsulatum
Histoplasma capsulatum var. *duboisii*

3. Parasitic Agents

Schistosoma mansoni

4. Viral, Rickettsial, and Chlamydial Agents

Alastrim, Smallpox, Monkey pox, and Whitepox, when used *in vitro*
Arboviruses—all strains except those in Class 2 and 4 (Arboviruses indigenous to the United States are in Class 3, except those listed in Class 2. *West Nile* and *Semliki Forest* viruses may be classified up or down, depending on the conditions of use and geographical location of the laboratory.)
Dengue virus, when used for transmission or animal inoculation experiments
Lymphocytic choriomeningitis virus (LCM)
Psittacosis-Ornithosis-Trachoma group of agents
Rabies street virus, when used in inoculations of carnivores (See Class 2)
Rickettsia—all species except *Vole rickettsia* when used for transmission or animal inoculation experiments
Vesicular stomatitis virus *
Yellow fever virus—wild, when used *in vitro*

D. Class 4 Agents:

1. Bacterial Agents

None.

2. Fungal Agents

None.

3. Parasitic Agents

None.

4. Viral, Rickettsial, and Chlamydial Agents

Alastrim, Smallpox, Monkey pox, and Whitepox, when used for transmission or animal inoculation experiments
Hemorrhagic fever agents, including *Crimean hemorrhagic fever (Congo), Junin*, and *Machupo* viruses, and others as yet undefined
Herpesvirus simiae (Monkey B virus)
Lassa virus
Marburg virus
Tick-borne encephalitis virus complex, including *Russian spring-summer encephalitis, Kyasanur forest disease, Omsk hemorrhagic fever*, and *Central European encephalitas viruses*
Venesuelan equine encephalits virus, epidemic strains, when used for transmission or animal inoculation experiments
Yellow fever virus—wild, when used for transmission or animal inoculation experiments

II. Classification of Oncogenic Viruses on the Basis of Potential Hazard (2). A. Low-Risk Oncogenic Viruses:

Rous Sarcoma
SV–40
CELO
Ad7–SV40
Polyoma
Bovine papilloma
Rat mammary tumor
Avian Leukosis
Murine Leukemia
Murine Sarcoma
Mouse mammary tumor
Rat Leukemia
Hamster Leukemia
Bovine Leukemia
Dog Sarcoma
Mason-Pfizer Monkey Virus
Marek's
Guinea Pig Herpes
Lucké (Frog)
Adenovirus
Shope Fibroma
Shope Papilloma

B. Moderate-Risk Oncogenic Viruses:

Ad2–SV40
FeLV
HV Saimiri
EBV
SSV–1
GaLV
HV ateles
Yaba
FeSV

III. Animal Pathogens (3).

A. Animal disease organisms which are forbidden entry into the United States by Law (CDC Class 5 agent): 1. Foot and mouth disease virus

B. Animal disease organisms and vectors which are forbidden entry into the United States by USDA Policy (CDC Class 5 Agents):

African horse sickness virus
African swine fever virus
Besnoitia besnoiti
Borna diseas virus
Bovine infectious petechia fever
Camel pox virus
Ephermeral fever virus
Fowl plague virus
Goat pox virus
Hog cholera virus
Louping ill virus
Lumpy skin disease virus
Nairobi sheep disease virus
Newcastle disease virus (Asiatic strains)
Mycoplasma mycoides (contagious bovine pleuropneumonia)
Mycoplasma agalactiae (contagious agalactia of sheep)
Rickettsia ruminatium (heart water)
Rift valley fever virus
Rinderpest virus
Sheep pox virus
Swine vesicular disease virus
Teschen disease virus
Trypanosoma vivax (Nagana)
Trypanosoma evansi
Theileria parva (East Coast fever)
Theileria annulata
Theileria lawrencei
Theileria bovis
Theileria hirci
Vesicular exanthema virus
Wesselsbron disease virus
Zyonema forciminosum (pseudofarcy)

References

1. *Classification of Etiologic Agents on the Basis of Hazard.* (4th Edition, July 1974). U.S. Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control, Office of Biosafety, Atlanta, Georgia 30333.
2. *National Cancer Institute Safety Standards for Research Involving Oncogenic Viruses* (October 1974). U.S. Department of Health, Education, and Welfare Publication No. (NIH) 75–790.
3. U.S. Department of Agriculture, Animal and Plant Health Inspection Service.

Appendix C

Section I–E–5 states that exempt from these Guidelines are "Other classes of recombinant DNA molecules, if the Director, NIH, with advice of the Recombinant DNA Advisory Committee, after appropriate notice and opportunity for public comment, finds that they do not present a significant risk to health or the environment. (See Section IV–E–1–b–(1)–(d).) Certain classes are exempt as of publication of these Revised Guidelines. The list is in Appendix C."

Under exemption I–E–5 of these Revised Guidelines are those recombinant DNA molecules that are propaged and maintained in cells in tissue culture and that are derived entirely from non-viral components (that is, no component is derived from a eukaryotic virus).

Appendix D

As noted above at the beginning of Section III–A, certain HV1 and HV2 host-vector systems are assigned containment levels as specified in the subsections of Section III–A. Those so classified as of publication of these Revised Guidelines are listed below.

*HV1—Unmodified laboratory strains of *Saccharomyces cerevisiae*
*HV1—The following specified strains of *Neurospora crassa* which have been modified to prevent aerial dispersion: (1) in1 (inositolless) strains 37102, 37401, 46316, 64001 and 89601.
(2) cap–1 strain UCLA37 and cap–2 strains FS 590, UCLA101 (these are conidial separation mutants).
(3) eas strain UCLA191 (an "easily wettable" mutant).
HV1—Asporogenic mutant derivatives of *B. subtilis*
These derivatives must not revert to sporeformers with a frequency greater than 10^{-8}; data confirming this requirement must be presented to NIH for certification. The following plasmids are accepted as the vector components of certified *B. subtilis* HV1 systems: pUB110, pC194, pS194, pSA2100, pE194, pT127, pUB112, pC221, pC223.
*HV2—The following sterile strains of *Saccharomyces cerevisiae*, all of which have the ste–VC9 mutation, SHY1, SHY2, SHY3, and SHY4. The following plasmids are certified for use: Ylp1, YEp2, YEp4, Ylp5, YEp6, YRp7, YEp20, YEp21, YEp24, Ylp25, Ylp26, Ylp27, Ylp28, Ylp29, Ylp30, Ylp31, Ylp32, and Ylp33. These plasmids can be considered EK2 vectors when propagated in chi–1776.

Appendix E

As noted in the subsections of Section IV–E–1–b–(1) the Director, NIH, may take certain actions with regard to the Guidelines after public notice and RAC consideration.

Some of the actions taken to date include the following:

- The following experiment has been approved: The cloning in *B. subtilis*, under P2 conditions, of DNA derived from *Saccharomyces cerevisiae* using EK2 plasmid vectors provided that an HV1 *B. subtilis* host is used.
- Unmodified laboratory strains of *Neurospora crassa* can be used in all experiments for which HV1 *N. crassa* systems are approved provided that these are carried out at physical containment one level higher than required for HV1. However, if P3 containment is specified for HV1 *N. crassa*, this level is considered adequate for unmodified *N. crassa*. For P2 physical containment, special care must be exercised to prevent aerial dispersal of macroconidia, including the use of a biological safety cabinet.
- P2 physical containment shall be used for DNA recombinants produced between members of the genera *Streptomyces* and *Micromonospora* except for those species which are known to be pathogenic for man, animals or plants [2A].
- Cloned desired fragments from any non-prohibited source may be tranferred into *Agrobacterium tumefaciens* containing a Ti plasmid (or derivatives thereof), using a nonconjugative *E. coli* plasmid vector coupled to a fragment of the Ti plasmid and/or the origin of replication of an *Agrobacterium* plasmid, under containment conditions one step higher than would be required for the desired DNA in HV1 systems (i.e. one step higher physical containment than that specified in the subsections of Section III–A). Transfer into plant parts or cells in culture would be permitted at the same containment level (one step higher).
- *Bacillus subtilis* strains that do not carry an asporogenic mutation can be used as hosts specifically for the cloning of DNA derived from *E. coli* K–12 and *Streptomyces coelicolor* using NIH-approved *Staphylococcus aureus* plasmids as vectors under P2 conditions.
- *Streptomyces coelicolor* can be used as a host for the cloning of DNA derived from *B. subtilis, E. Coli* K–12, or from *S. aureus* vectors that have been approved for use in *B. subtilis* under P2 conditions.
- Certain cloned segments of *Anabena* DNA may be transferred into *Klebsiella* under P2 physical containment.
- Permission is granted to clone foot-and-mouth disease virus in the EK1CV host-vector system consisting of *E. coli K–12 and the vector pBR322, all work to be done at the Plum Island Animal Disease Center.*

Dated: January 23, 1980.

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 80–2822 Filed 1–28–80; 8:45 am]

BILLING CODE 4110–08–M

* USDA permit also required for import or interstate transport.

*These follow the assigned containment levels as specified in the subsections of Section III–A with one exception. This exception is that experiments involving complete genomes of eukaryotic viruses will require P3+HV1 or P2+HV2 rather than the levels given in the subsections of Section III–A.

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federal register

Tuesday
January 29, 1980

Part VII

Environmental Protection Agency

Authorization of State Hazardous Waste Programs; Advance Notice of Final Regulation

V 45/20 JAN 29 1980 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[FRL 1396-6]

Authorization of State Hazardous Waste Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance Notice of Final Regulation.

SUMMARY: EPA today is giving notice of the requirements it intends to promulgate for interim and final authorization of State hazardous waste programs under Section 3006 of the Resource Conservation and Recovery Act of 1976, as amended (RCRA). The purpose of this notice is to provide advance guidance to States to give them full opportunity to qualify for interim authorization by the effective date of the first phase of the Federal program. This notice should also assist States in developing an authorization plan to describe how a State will develop a program capable of receiving final authorization.

DATE: A meeting to brief State officials and the public on this notice will be held on February 12, 1980 at 1:30 p.m.

ADDRESS: Room 3906, EPA Headquarters, 401 M Street, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Region I

Dennis Huebner, Chief, Radiation, Noise, and Solid Waste Branch, John F. Kennedy Building, Boston, Massachusetts 02203, (617) 223–5708.

Region II

Dr. Ernest Regna, Chief, Solid Waste Branch, 26 Federal Plaza, New York, New York 10007, (212) 264–0503/4/5.

Region III

Robert L. Allen, Chief, Hazardous Materials Branch, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597–0960.

Region IV

James Scarbrough, Chief, Residuals Management Branch, 345 Courtland Street NE., Atlanta, Georgia 30308, (404) 881–3016.

Region V

Karl J. Klepitach, Jr., Chief, Waste Management Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 866–0140.

Region VI

Dr. Richard Hill, Chief, Solid Waste Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270, (214) 767–2645.

Region VII

Robert L. Morby, Chief, Hazardous Materials Branch, 324 E. 11th Street, Kansas City, Missouri 64106, (816) 374–3307.

Region VIII

Lawrence P. Gazda, Chief, Waste Management Branch, 1860 Lincoln Street, Denver, Colorado 80203, (303) 837–2221.

Region IX

Robert Kuykendall, Chief, Hazardous Materials Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556–4606.

Region X

Kenneth D. Feigner, Chief, Waste Management Branch, 1200 6th Avenue, Seattle, Washington 98101, (206) 442–1260.

Headquarters

Sam Morekas, U.S. Environmental Protection Agency, Office of Solid Waste (WH–563), Washington, D.C. 20460, (202) 755–9145.

SUPPLEMENTARY INFORMATION:

Executive Summary

In the next few months EPA will be issuing final regulations to control the management of hazardous wastes. These regulations will establish a Federal regulatory program that will ensure that hazardous wastes are transported, stored, treated and disposed of in a manner that protects public health and the environment.

The first phase or "core" of the Federal program is expected to be published by April 1980 and will be in effect in October 1980. Then, generators and transporters of hazardous waste will have to comply with the Section 3002 and Section 3003 regulations, including the use of a manifest system. Owners and operators of treatment, storage and disposal facilities will have to meet the first set of standards set forth in the Section 3004 regulation.

As soon as practicable after April 1980, EPA will promulgate the remaining parts of the Section 3004 regulation which will set forth additional technical standards for treatment, storage and disposal facilities. The second phase of the Federal progam, which involves the issuance of permits for such facilities, will then begin.

RCRA allows EPA to grant final authorization to States to carry out hazardous waste management programs which are equivalent to the Federal program. EPA may also grant States interim authorization for a period of two years to carry out substantially equivalent hazardous waste programs. The period of interim authorization is intended to provide States with time to develop programs so that they become capable of receiving final authorization.

The purpose of this notice is to provide advance guidance to States to give them full opportunity to qualify for interim authorization by the effective date of the first phase of the Federal program. This notice should also assist States in developing an authorization plan to describe how a state will develop a program capable of receiving final authorization.

Final Authorization

Appendix A outlines the major features of the minimum requirements for final authorization. Additional and more specific information will be provided in the EPA regulations to be issued on this subject in April of this year.

In summary the requirements for final authorization are that the State demonstrate that its program:

1. Assures control over the same universe of hazardous wastes and the same population of generators, transporters and hazardous waste (treatment, storage and disposal) facilities as the Federal program.

2. Requires that generators, transporters and hazardous waste facilities comply with standards that are equivalent (or equal in effect) to the Federal standards.

3. Requires that generators and transporters of hazardous wastes use a manifest system that ensures shipments of hazardous waste are only delivered to authorized facilities. The State manifest system must adopt certain aspects of the Federal manifest system in order that intrastate and interstate shipments of hazardous waste are managed in a consistent manner nationwide.

4. Requires a permit for all hazardous waste storage, treatment and disposal facilities. This permit program must be administered through procedures that are equivalent to the Federal program.

Since the criteria for final authorization depend on the complete set of Federal regulations, final authorization of State programs cannot begin until the effective date of the second phase of the Federal program.

Interim Authorization

In establishing the requirements for interim authorization EPA had to balance a number of somewhat competing interests, including the desire to promote uniform State programs as quickly as possible and the desire not to disrupt existing State efforts through the imposition of separate and parallel Federal requirements. The Agency also had to recognize that the Federal program would become effective in two phases and would continue to expand and evolve over time. Appendix B explains the logic used in dealing with this complex issue and outlines the basic requirements for interim authorization.

RCRA states that in order to receive interim authorization a State program must be substantially equivalent to the Federal program. In summary this is interpreted to mean that the State demonstrate that its program:

1. Controls a nearly identical universe of hazardous wastes generated, transported, treated, stored and disposed of in the State as would be controlled by the Federal program.

2. Covers all types of hazardous waste management facilities existing in the State as of the date of interim authorization.

3. Is based on standards that provide substantially the same degree of human health and environmental protection as the Federal standards and is administered through procedures that are substantially equivalent to the procedures used in the Federal program.

A State program will have the opportunity to receive interim authorization in phases similar to the implementation of the Federal program.

If a State program meets all of the other requirements for interim authorization except that it does not have a manifest system to control shipments of hazardous waste, the State may receive interim authorization for the remainder of the program and the Federal manifest system will be administered in the State by EPA.

Finally, in order to receive interim authorization, a State must have an authorization plan that commits the State to closing the gaps in its existing program as soon as practicable and to developing a program capable of receiving final authorization by the end of the interim authorization period. The State/EPA Agreement should reflect this commitment, delineate State and EPA responsibilities during the interim authorization period, and clearly communicate this information to the public.

Other State-EPA Relationships

EPA contemplates providing those States which do not qualify for interim authorization the opportunity to enter into cooperative arrangements with EPA under which they would be responsible for administering portions of the Federal hazardous waste program until they are authorized to run the State program, and with financial support through the Subtitle C grant program under Section 3011. Guidance on this approach to cooperation between EPA and the States will be issued within 30 days.

* * * * *

In order to assist the States better to understand these policies, EPA will hold a briefing on this notice for State representatives on February 12 1980, at 1:30 p.m. in Room 3906, EPA Headquarters, 401 M Street, S.W., Washington, D.C. this briefing will be open to the public.

Dated: January 24, 1980.

Douglas M. Costle,

Administrator.

Appendix A—Requirements for Final Authorization

Under RCRA, before the Administrator can approve final authorization for a State program he must find that it (1) is "equivalent" to the Federal program, (2) is "consistent" with the Federal program and programs in authorized States, (3) provides "adequate enforcement" and (4) provides adequate public participation. (Requirements 1, 2 and 3 are found in Section 3006(b); requirement 4 is derived from Section 7004(b)).

EPA interprets the term equivalent to mean "equal in effect." EPA has used this interpretation of equivalence in establishing minimum requirements for final authorization of State programs. Each requirement of the Federal program has been analyzed to determine the minimum a State must do to meet the four statutory criteria of equivalency, consistency, enforceability and public participation. In some instances EPA has concluded that the requirements for States must be very similar to the Federal program requirements in order to be equal in effect. In other instances the State may adopt standards which it demonstrates to be at least equal in effect to the Federal standards in the area. The more closely the State standard resembles the Federal standard, of course, the easier the determination that it is equal in effect.

In evaluating State programs for final authorization, one of EPA's primary concerns will be whether the State program controls, at a minimum, the same universe of hazardous wastes and the same generators, transporters and hazardous waste facilities as the Federal program. One way of assuring this would be for the State program to adopt the hazardous waste characteristics and lists promulgated by EPA under Section 3001 and certain definitions and other provisions of the Federal regulations.

The consistency criterion is very important with respect to the manifest system, which is applicable to both intrastate and interstate shipments of hazardous waste nationwide. The Agency believes that a State must adopt certain aspects of the Federal manifest system in order for the State program to be consistent with the Federal program and other State programs. Also, in order for a State program to be consistent with other programs, no aspect of that program should restrict or impede the free movement of hazardous waste across State borders to permitted facilities.

Following is an outline of the major features of the minimum requirements for final authorization. In order to receive final authorization a State program must meet the requirements of 40 CFR Part 123 (the consolidated permit regulations) which will be promulgated in April. More specific requirements will, of course, be provided in these regulations, as will EPA's statement of basis and purpose and response to comments.

A. General

The State program must demonstrate control over the same universe of hazardous waste, generators, transporters and treatment, storage and disposal facilities covered by the Section 3001–3005 regulations and must assure that this control continues as the scope of the Federal program expands in the future.

Specifically, the State program must demonstrate:

1. Legislative authority adequate for the State to carry out its responsibilities;

2. Regulations in effect necessary to implement the requirements of the program;

3. The capacity to inspect, monitor, and require of the regulated community recordkeeping, reporting and monitoring in order to determine compliance with the requirements of the program, and to obtain information necessary to meet EPA requirements for State reporting (as will be described in the final consolidated permit regulations);

4. Enforcement capabilities that are adequate to ensure compliance with the requirements of the program (More specific requirements for enforcement capabilities will be provided in the final consolidated permit regulations); and

5. Adequate resources to administer and enforce the requirements of the program.

B. Generator and Transportation Standards

1. The State program must demonstrate that generators and transporters of hazardous waste use a manifest system that ensures that interstate and intrastate shipments of hazardous waste are delivered only to

facilities that are authorized to operate under RCRA.

2. Requirements for the State manifest system are:

(a) The EPA identification code must be used to identify generators, transporters and facilities.

(b) The Federal manifest format must be used (but may be supplemented to a limited extent subject to U.S. Department of Transportation (DOT) constraints).

(c) All wastes transported to an off-site facility must be accompanied by a manifest.

(d) The generator must initiate the manifest and designate the storage, treatment, or disposal facility to which the waste is to be shipped.

(e) The transporter must carry the manifest and deliver wastes only to that designated facility.

(f) The facility owner/operator must return a copy of the manifest to the generator indicating delivery of the waste shipment.

(g) The generator must be responsible for investigating unreturned manifests and reporting undelivered shipments to the State.

(h) For interstate shipments, the State program must provide for notification to other States (or EPA in unauthorized States) of undelivered shipments.

3. For hazardous wastes that are discharged (spilled) in transit, the State program must require that transporters clean up such wastes or take action so that such wastes do not present a hazard to human health or the environment. Transporters must be required to notify appropriate State, local and Federal agencies of such discharges.

4. For hazardous wastes that are accumulated for short periods of time prior to shipment off-site, the State program must require that generators accumulate such wastes in containers meeting DOT shipping requirements or be stored in accordance with authorized State storage standards.

5. The State program must require that generators and transporters comply with requirements for the labeling, marking, placarding and containerization of hazardous wastes that are equivalent to the requirements of the Section 3002 and 3003 regulations.

C. Facility Standards and Permit Program

(1) The State program must demonstrate that hazardous waste storage, treatment and disposal facilities comply with standards that provide the same degree of human health and environmental protection as the standards promulgated in the Section 3004 regulations.

(2) The State standards for treatment, storage and disposal facilities must cover (as a minimum):

(a) Technical standards for tanks, containers, basins, waste piles, incineration, chemical physical and biological treatment, surface impoundments, landfills and land treatment facilities;

(b) Financial responsibility (insurance) during facility operation;

(c) Preparedness for and prevention of discharges of hazardous waste, and contingency plans and emergency procedures to be followed in the event of a discharge of hazardous wastes;

(d) Closure and post-closure requirements, including financial requirements for closure and post-closure monitoring and maintenance;

(e) Groundwater monitoring;

(f) Security to prevent unauthorized access to the facility;

(g) Facility personnel training;

(h) Inspections, monitoring, recordkeeping and reporting;

(i) Compliance with the manifest system by storage, treatment, and disposal facilities; and

(j) Other aspects to the extent that they are included in the Section 3004 regulation.

(3) The State program must require a permit for all hazardous waste storage, treatment and disposal facilities for which a permit is required by Section 3005 and the Section 3005 regulations. The State program must prohibit the operation of such facilities except as authorized by a State permit program. The State permit may be issued only to facilities that comply with authorized State standards.

(4) The State permit program must be administered through procedures that are equivalent to the procedures for the Federal permit program described in Section 3005 regulation. (More specific requirements for State permit program procedures will be included in the final consolidated permit regulations.)

Since the criteria for final authorization depend on the Federal regulations, final authorization of State programs cannot begin until the effective date of the Phase II Section 3004 regulation which will set forth technical standards for permitting storage, treatment and disposal facilities.

Appendix B—Requirements for Interim Authorization

RCRA specifies in Section 3006(c) that in order to receive interim authorization, a State program must be "substantially equivalent" to the Federal program. The Agency interprets substantial equivalence as "to a large degree or in the main, equal in effect."

Substantial Equivalence

As the result of a recent analysis of State legislation and regulations, three areas have been identified where this definition of substantial equivalence must be clarified.

First, the part of the Federal program for which States will now have the most difficulty in meeting the substantial equivalence test is the generator and transporter standards; in particular, many States probably will not have a manifest system in place that adequately controls interstate shipments of hazardous waste and is consistent with the Federal manifest system. The Agency does not believe that the lack of authority for this program part should cause States to be denied interim authorization. Such a decision would result in parallel Federal and State programs in many States with attendant duplicative regulation and resource expenditures. On the other hand, the manifest system is the heart of the "cradle-to-grave" control system of RCRA and has significant consequences on interstate commerce. Accordingly, EPA will administer and enforce the Federal manifest system and generator and transporter requirements if the State lacks the necessary legal authority.

Second, present State laws and regulations define hazardous wastes in ways which make it likely that few if any States now cover exactly the wastes which will be identified in the Section 3001 regulation. Time will be needed to bring the State definitions into conformance with the Federal definition. Accordingly, State procedures for defining hazardous wastes will be compared to the Section 3001 regulation, and differences will be identified. The requirement will be that the State program control as nearly identical a universe of hazardous wastes generated, transported, treated, stored or disposed of in the State as would be controlled by the Federal program. While some exceptions to the Federal universe may be allowed, this must not create a significant loophole that would exempt entire classes of wastes or practices from adequate control. For these reasons, only relatively minor differences between the Federal and State definitions of hazardous wastes will be allowed during interim authorization.

Third, some States do not have regulatory authority over all types of hazardous waste facilities. Generally these are facilities which do not exist in the State. The only types of hazardous waste management facilities a State need not have authority to regulate during interim authorization will be those types of facilities which do not exist in the State as of the date of interim authorization.

The State authorization plan must provide for closing all of the legislative and regulatory gaps in the State hazardous waste program as soon as practicable and in no event later than the end of the interim authorization period.

Phasing of Interim Authorization

As mentioned previously, EPA will be issuing the Section 3004 regulation in two major phases. Therefore interim authorization will be divided into two phases which correspond to the two Federal regulation phases. Phase I will cover generator and transporter requirements and preliminary facility standards. Phase II will cover permitting of hazardous waste treatment, storage and disposal facilities.

The two phases are considered to be integral parts of a complete State hazardous waste program; EPA does not intend to provide authorization for only one phase since it views interim authorization as a stage leading towards full authorization.

States may receive interim authorization for Phase I beginning on the effective date of the initial Section 3001–3005 regulations. States may receive interim authorization for Phase II after thePhase II Section 3004 regulation is promulgated. In order to give States the two-year period of time that Congress intended be available to them to develop final programs, interim authorization for both phases will be allowed to continue for 24 months from the effective date of the Phase II Section 3004 regulation. At the end of this period, all interim authorizations will automatically expire and EPA will administer the Federal program in any State which has not received final authorization.

Following is an outline of the major features of the requirements for interim authorization. In order to receive interim authorization a State must meet the requirements of 40 CFR Part 123. More specific requirements will, of course, be provided in that part of the consolidated permit regulations, as will EPA's statement of basis and purpose and response to comments.

A. General

The State program must demonstrate control over as nearly identical a universe of hazardous wastes (as defined by the Section 3001 regulation) generated, transported, treated, stored and disposed of in the State as would be controlled by the Federal program. The authorization plan must delineate actions the State will take to control the complete universe of hazardous wastes as soon as practicable.

In general, in order to receive interim authorization for either phase, a State program must demonstrate:

(1) Legislative authority adequate for the State to carry out its responsibilities for that phase

(2) Regulations in effect necessary to implement the requirements of that phase

(3) The capacity to inspect, monitor, and require of the regulated community recordkeeping, reporting and monitoring in order to determine compliance with the requirements of that phase of the program and to obtain information necessary to meet EPA requirements for State reporting (as will be described in the final consolidated permit regulations)

(4) Enforcement capabilities that are adequate to ensure compliance with the requirements of that phase

(5) Adequate resources to administer and enforce the requirements of that phase of the program and

(6) An authorization plan describing the additions and modifications that will be made to the State program in order to qualify for final authorization by the end of the interim authorization period.

There are a few exceptions to these requirements which are discussed below.

B. Specific Criteria for Phase I

1. Preliminary Facility Standards. The State program must require that hazardous waste treatment, storage and disposal facilities comply with standards that provide substantially the same degree of human health and environmental protection as the facility standards promulgated in the Phase I Section 3004 regulation. The State program must prohibit the operation of facilities that are not in compliance with these State standards. The State standards for treatment, storage and disposal facilities should cover:

(a) Preparedness for and prevention of discharges of hazardous waste, and contingency plans and emergency procedures to be followed in the event of a discharge of hazardous waste

(b) Closure and post-closure requirements, including financial requirements for closure and post-closure monitoring and maintenance

(c) Groundwater monitoring

(d) Security to prevent unauthorized access to the facility

(e) Facility personnel training

(f) Inspection, monitoring, recordkeeping and reporting

(g) Compliance with the manifest system (see 2(b)(iii) below)

(h) Other facility standards to the extent that they are included in the Phase I Section 3004 regulation

2. *Generator and Transporter Standards.* (a) The State program must require that generators and transporters of hazardous waste use a manifest system that ensures that interstate and intrastate shipments of hazardous waste are delivered only to facilities that are authorized to operate under RCRA.

(b) The State manifest system must require that:

(i) The manifest identify the generator, transporter, facility, and the waste being shipped

(ii) Copies of the manifest are carried with all hazardous waste shipments

(iii) shipments of hazardous waste that are not delivered to a designated facility are identified and reported by the generator to the State (or identified by the State)

(iv) For all shipments received from another State, the facility owner/operator or the State must return a copy of the manifest to the generator indicating delivery of the waste shipment (see l(g) above)

(c) For hazardous wastes that are discharged (spilled) in transit, the State program must require transporters to clean up such wastes or to take action so that such wastes do not present a hazard to human health or the environment. Transporters must be required to notify appropriate State, local and Federal agencies of such discharges.

(d) For hazardous wastes that are accumulated by generators for short periods of time prior to shipment, the State program must require that generators accumulate such wastes in a manner that does not present a hazard to human health or the environment.

During the interim authorization period a State which is presently operating a manifest system need not have a system identical to the Federal manifest system, provided the system can operate as part of the national system. The intent is to allow States with existing manifest systems adequate time to modify such systems to make them consistent with the Federal system. All States should make such modifications as quickly as possible, especially for interstate shipments of hazardous waste. On the other hand, all States developing new manifest systems must insure that they are equivalent and consistent with the Federal system as required for final authorization.

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If a State meets all of the other requirements for interim authorization for Phase I except that it does not have legislative authority or regulations for the manifest system and other generator and transporter requirements discussed above, the State may be granted interim authorization for the remainder of Phase I, providing the State authorization plan delineates the necessary steps for obtaining such legal authority or regulations as soon as practicable. Until such State requirements are approved, Federal requirements for generators and transporters will apply in such States (including the use of the Federal manifest system), and enforcement responsibility for that part of the program will remain with the Federal Government.

If a State does not have legislative authority or regulatory control over certain activities that do not occur in the State, the State may be granted interim authorization for Phase I providing the State authorization plan provides for the development of a complete program as soon as practicable after receiving interim authorization.

C. Specific Criteria for Phase II—Facility Permitting

(a) The State program must require that hazardous waste treatment, storage and disposal facilities comply with standards that provide substantially the same degree of human health and environmental protection as the standards promulgated in the final Section 3004 regulation.

(b) The State program must require a permit for all hazardous waste treatment, storage and disposal facilities which handle any waste considered hazardous under the Phase I program and for which a permit is required by Section 3005 and the Section 3006 regulations. The State program must prohibit the operation of such facilities except as authorized by a State permit.

(c) The State permit program should be administered through procedures that are substantially equivalent to the procedures for the Federal permit program described in the Section 3005 regulation especially with respect to public participation in the permitting process.

As stated earlier, EPA does not intend to provide authorization for only one phase. If a State has been granted interim authorization for Phase I, but does not receive interim authorization for Phase II by the effective date of the Federal permit program, the State program could continue to be authroized for Phase I provided the State authorization plan describes the steps that will be taken to meet the criteria for Phase II authorization as soon as practicable. During the period for which a State was not authorized for Phase II, EPA could administer the Federal permit program in the State.

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Part VIII

Department of Agriculture

Food and Nutrition Service

National School Lunch Program and School Breakfast Program; Competitive Foods

V 45 / 20 JAN 29 80 UMI

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210 and 220

[Amdt. No. 37 for Part 210; Amdt. No. 32 for Part 220]

National School Lunch Program and School Breakfast Program; Competitive Foods

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations for Part 210, National School Lunch Program, and Part 220, School Breakfast Program, to implement the amendment of section 10 of the Child Nutrition Act of 1966 by section 17 of Public Law 95–166, respecting the sale of foods in competition with meals served under the National School Lunch Program and the School Breakfast Program. Specifically, this final rule restricts the sale of categories of foods of minimal nutritional value from the beginning of the school day to the end of the last lunch period. Foods of minimal nutritional value are defined as those foods which provide less than 5% of the USRDA for each of eight specified nutrients per 100 calories *and* per serving. For example, licorice does not contain even 5% of the USRDA for any one of the eight specified nutrients per 100 calories or per average serving. In the case of artificially sweetened foods, only the per serving measure will apply. The restricted categories of foods are identified in Appendix B as soda water (carbonated beverages), water ices, chewing gum, and certain candies (hard candies, jellies and gums, marshmallow candies, fondants, licorice, spun candies, and candy coated popcorn). This rule affects only those schools participating in the National School Lunch and School Breakfast Programs.

DATES: Effective January 29, 1980.

Implementation date: July 1, 1980. The Department encourages schools to work towards the July 1 implementation date of this final rule by phasing out the foods of minimal nutritional value at this time. (For more information read Section IV. D.)

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I. Introduction

Congress has placed responsibility for administration of the School Breakfast Program and the National School Lunch Program in the Department of Agriculture. In carrying out this responsibility we have established minimum standards for foods served by local School Food Authorities wishing to participate in the federal school food programs. These standards, such as the meal pattern requirements for school lunches, are imposed as conditions of receiving federal funds and are designed to ensure that those funds are used to promote good nutrition among students.

In 1977, Congress enacted the competitive foods amendment to the Child Nutrition Act of 1966. That amendment authorized the Secretary to regulate the sale of foods in competition with meals served in the School Breakfast and National School Lunch Programs in participating schools. This final rule establishes minimum nutritional standards for such competitive foods. It identifies foods of minimal nutritional value and restricts their sale from the beginning of the school day until after the last lunch period.

A. Legislative Background From 1970 to 1977

On October 10, 1977, Congress enacted Public Law 95–166. Section 17 of that statute amended Section 10 of the Child Nutrition Act of 1966 to restore to the Secretary of Agriculture the authority to regulate the sale of competitive foods in schools participating in the National School Lunch and/or the School Breakfast Programs. This rulemaking proceeding was initiated to implement this competitive foods amendment. Competitive foods are any foods sold in competition with the National School Lunch or School Breakfast programs.

Prior to 1977, the sale of competitive foods in schools had twice engaged the attention of Congress. In 1970, the concerns of numerous public organizations and local governments about the increasing variety and quantity of foods being sold in competition with the school feeding programs led to the first competitive foods amendment to Section 10 of the Child Nutrition Act of 1966 (Pub. L. 91–248).

This amendment provided statutory authority to the Secretary of Agriculture to regulate foods sold in competition with the nonprofit school feeding programs authorized under the Child Nutrition Act and the National School Lunch Act. Regulations implementing the 1970 amendment allowed the competitive sale of only those foods which either fulfilled a requirement of the prescribed meal pattern for school lunches or were served along with such a lunch.[1] Thus, the effect of the 1970 rule was to allow any food served as part of a school lunch also to be sold competitively. For example, under this rule, if a school sometimes served cake as dessert with the meal, cake could then be sold as a competitive food. Because of wide local discretion in the choice of foods served, the result of this rule in many places was that only soft drinks and some candies—which were rarely served along with the school meals—were disallowed.

While the impact of the 1970 rule was thus limited, it nonetheless aroused controversy, and some groups advocated the transfer of the Secretary's authority to regulate competitive foods to State and local education agencies.

Section 10 was again amended in 1972 by Pub. L. 92–433. The 1972 amendment restricted the Secretary's regulatory powers under the statute by providing that federal regulations could not prohibit the sale of competitive foods if the proceeds of such sale accrued to the schools or approved student organizations. Thus, the 1972 amendment placed authority for the regulation of competitive foods with State agencies and local School Food Authorities. Various types of competitive foods rules were developed by State and local bodies in the years that followed. During this period the States were free, as they always have been, to adopt regulations which placed greater restrictions on the sale of competitive foods than the federal rule required.

Nationwide, the regulation of the sale of competitive foods under the 1972 amendment was unsystematic. Foods approved for competitive sale varied among localities, and many jurisdictions developed no competitive foods regulation at all. By 1977, owing to increasing concerns about the quality of childrens' diets, there was growing

dissatisfaction with the results of the 1972 competitive foods provision. Nutritionists, parents, school administrators, and others urged legislation restoring regulatory authority to the Secretary of Agriculture. The Department also supported such legislation.

In 1977, Congress responded by again amending Section 10 to restore to the Secretary authority to regulate the sale of competitive foods. The Department did not propose this provision in Public Law 95–166 but supported its adoption. This rule is a direct result of that amendment.

B. Background History From 1977 to Present

On April 25, 1978, the Department published a proposed rule regulating the sale of competitive foods (43 FR 17476). Over 2,100 public comments were submitted in response to this proposal. After analysis of these comments, we determined that additional consideration of the issues they raised was necessary. Accordingly, we withdrew the April 25 proposal, held a series of public meetings to discuss these issues, and solicited further written comments to aid in formulation of a new proposal.

On July 6, 1979, the Department published another proposed rule concerning competitive foods (44 FR 4004). During the public comment period which followed, 3,067 comments were received from parents, businesses, industry officials, teachers, school foodservice personnel, nutritionists, dentists, other medical professionals, and other concerned citizens.

Of the 3,067 comments received, 23% (692) were from commentors who expressed opposition to a federal rule of any kind. The other 77% (2375) of the commentors either expressed support for the proposed rule, focused on specific concerns about the proposal and/or did not state any objection to federal rulemaking on the competitive foods issue.

The majority of those commentors who opposed any federal rule (524) are listed in the comment analysis category "concerned citizen." It should be noted that in analyzing the comments, the Department categorized any comment which did not indicate a particular association (such as teacher, food service personnel, student, or industry) as a comment from a "concerned citizen."

Approximately 562 comments (20% of the total) were received which, because of their similar content and format, appeared to have been generated by PepsiCo Incorporated. A few PepsiCo employees sent the Department copies of similar form letters opposing the rule stating that PepsiCo had distributed the forms to its employees with the suggestion that the employees send them to USDA on their own letterhead.

A number of commentors again raised issues which were considered in the formulation of the July 6 proposal. The rationales for decisions made in drafting that proposed rule are fully explained in its preamble which appears at 44 FR 40004. Many of these issues are, therefore, only briefly discussed in this preamble. Those aspects of the proposal which remain unchanged in this final rule were carefully scrutinized in light of the comments in order to insure that the supporting reasons presented in the July 6 preamble remain sound.

Of the total comments received, 48.1% (1,476) stated objections to the rule or some aspect of it as proposed, while 51.3% (1,572) stated support for the entire proposal or part of it.

Of the 39 comments from State directors and State staff, 27 favored the proposed rule, 11 objected to some aspects and 1 expressed neither view. Of those who objected to some aspect of the rule, seven suggested that the establishment of a minimum standard would jeopardize more stringent existing State policies regarding the sale of competitive foods. We emphasize that State and local authorities should view this rule as a minimum standard which, like the required meal pattern, may be improved upon by State and local authorities.

Some comments from State officials as well as other school personnel expressed concern that the rule would lead students to leave the school campus in order to obtain the restricted foods. The Department believes that movement off-campus by students has multiple causes and, if it occurred, could not be directly attributed to the operation of the rule.

There were 87 comments from food service personnel. There were 36 comments opposed to the rule and 51 in favor. Of the 36 commentors who expressed some opposition to aspects of the rule, many voiced concern about fortification. This issue is discussed in detail later in this preamble. Some of the food service commentors were also concerned about the possibility that the rule would lead to increased paperwork. The Department has deliberately fashioned this rule to minimize the paperwork burden at the local, State, and regional level. For this reason, the rule restricts the sale of foods in identifiable categories rather than on an individual basis.

Of the 189 "interested organizations" comments (e.g., PTA's, food/nutrition groups), 27 stated opposition to the rule and 132 favored the rule. Of the 27 who expressed some opposition to the proposed rule, 16 opposed any federal action. Concerns raised by commentors in this category include a request that the rule be integrated with nutrition education in some manner and that it incorporate some type of parent and student involvement at the local level.

While this rule does not deal explicitly with these two concerns, other activities of the Department address these questions. The Nutrition Education and Training (NET) Program established by Congress in 1977 gives States funds to administer nutrition education programs for children. Many States and localities have used these funds for nutrition education projects on snacking habits. The Department hopes that these jurisdictions and others will include the issue of competitive foods within these educational activities. The Department has already considered the issue of parent and student involvement, but in a broader context than the competitive foods rule. In the final rule on meal pattern changes, the Department included a requirement that schools actively seek to involve parents and students in the school meals programs. The implementation of this regulation could very easily encompass involvement by students and parents in additional decisions regarding competitive foods.

In the industry category, 22 of the total 112 comments expressed support while 88 opposed the rule. Of the 88 who expressed some dissatisfaction with the rule, 55 opposed the rule because they felt there should be no federal action in this area. Some industry commentors indicated that the Department's objectives could be better achieved through nutrition education programs. The Department believes that this rule is consistent with its efforts to promote nutrition education and complements those efforts. Other commentors indicated that the definitions used in the proposed rule were confusing. The Department has attempted to clarify the definition of foods of minimal nutritional value and to use that definition consistently throughout this preamble.

Of the 450 student commentors, 225 opposed the rule, 210 favored the rule and 15 expressed no opinion. Most of the 225 who opposed the rule stated no specific reason for their opposition. Eighteen expressed concern that there would be a loss of revenue to student organizations as a result of the application of the rule. The Department

has thoroughly considered this issue which has been raised during each public comment period and at public hearings. The Department finds no conclusive evidence that the rule will necessarily lead to diminished revenues.

Of the 237 comments from medical, dental and nutritional professionals, only 13 expressed any type of opposition to the rule. Of those, roughly half thought there should be no federal rule on competition foods.

In subsequent sections of the preamble, key issues are discussed in greater detail.

II. Review of Literature

In evaluating the need for a competitive foods rule and in designing its specific features, we reviewed the scientific literature on the relation of diet to disease, the patterns of food consumption among children, and the nutritional status of children. The outcome of this review and our resulting conclusions are summarized below:

1. Numerous current studies and publications deal with associations between diet and disease and, specifically, with the health effects of the overconsumption of the food components sugar, fat and salt. A summary of the information in these studies appears in the Federal Register notice of December 15, 1978 at 44 FR 58780. The Department concluded on the basis of a review of these sources that a significant portion of the population has nutritional problems resulting from overconsumption and poor food choices.

These conclusions have been corroborated by more recent findings. The American Society for Clinical Nutrition provided a symposium on "The Evidence Relating Six Dietary Factors to the Nation's Health." A group of scientists studied the available evidence and reported on the strength of the associations between various dietary factors and prevalent chronic diseases. They found four correlations to be of considerable strength. The strongest association was the relationship of alcohol consumption to liver disease. The second was between sugar and dental caries. The third showed a relationship between salt and hypertension. The fourth showed a relationship between cholesterol and saturated fat and coronary disease.[2]

The Surgeon General's report, "Disease Prevention and Health Promotion: Federal Programs and Prospects," recently published with background papers prepared by the Institute of Medicine of the National Academy of Sciences, discusses associations between sucrose consumption and dental caries, between dietary fat, cholesterol and salt and cardiovascular disease, and between dietary factors and increased risk of cancer. The report terms overconsumption the key nutrition problem in the United States and recommends the reduction of calories, fat, cholesterol, sugar and salt.[3]

The National Cancer Institute presented a statement in October 1979 at Senate committee hearings on the relationship between cancer and dietary practices. The statement pointed to studies which suggest that a high fat intake may be associated with an increased risk of cancer. While the Institute acknowledged that definitive evidence is not yet available, it proposed prudent interim principles, based on evidence that is presently available. The Institute made the following recommendation: "To facilitate control of body weight, and in view of the suggestive association between fat consumption and the risk of cancer, a high intake of fat should be avoided.[4]

2. Current studies and publications dealing with nutritional status of children in the United States and with their dietary practices indicate that some children consume less that the recommended level of some nutrients. The Ten State Nutrition Survey conducted by the Department of Health, Education and Welfare (HEW) [5] reports that iron deficiency is a widespread problem in the population. Data from the Health and Nutrition Examination Survey (HANES) of HEW [6] show that intake of iron is low for a significant proportion of children aged 6–17. In the Bogalusa Heart Study,[7] a recent study of the dietary and cardiovascular status of rural school age children funded by the National Institutes of Health, at least one-third of all children studied consumed less than two-thirds of the recommended dietary allowances (RDA) of vitamin A, ascorbic acid, and niacin for their age and sex.

In addition to nutrient consumption, calorie consumption is also of concern in assessing the nutritional status of children. The Bogalusa Heart Study reported that 19% of the boys and 25% of the girls consumed less than two-thirds of the RDA for calories for their age and sex.[8] The HANES data indicated that many children consumed less than recommended levels of calories, but the report cautioned that calorie intake cannot be analyzed meaningfully unless it is related to activity and weight status.[9] Although these studies have indicated that calorie consumption among school children is at times less than the RDA's, it may be that the established standards are too high. It is widely recognized that there are significant variations in energy demands from individual to individual, particularly among children.

The most appropriate way to assess whether caloric needs are being met is to examine the physiological status of children. If there are significant levels of underweight or growth retardation, it would indicate possible caloric deficiencies. However, there are no data showing significant levels of underweight or growth inadequacy among school aged children in the United States. Physical status findings from the HANES survey and other major surveys of the growth and health of U.S. children reveal that underweight and stunted growth are not observed in a high proportion of children in the United States.[10] In fact, caloric excess leading to obesity is a greater concern than stunted growth.

The Ten State Nutrition Survey found that 9 to 39 percent of adolescents were obese.[11] There is particular concern over childhood obesity because of the likelihood that the pattern, once set, will persist into adulthood. Parental obesity and obesity during childhood appear to be major predictors of obesity in an adult. Obesity is generally regarded to be a risk factor in hypertension, heart disease and diabetes. Thus, there is substantial reason to attempt to prevent the onset of obesity in children.

These findings on the health and nutritional status of children indicate that overconsumption of calories may be a problem at the same time that nutrient intake is inadequate.

3. Studies of the food consumption patterns of children show that snacking makes a significant contribution to the total calories they consume daily. Ninety-eight percent of the children interviewed in the Bogalusa Heart Study consumed some snacks. Snacks contributed one-third (34 percent) of the daily calories in the diets of the children who snacked, more than the contribution of breakfast (17 percent of calories), lunch (23 percent of calories) or dinner (29 percent of calories). For about one-third of the Bogalusa children (30 percent), snacks contributed between 40–70 percent of their total calories. Snacks sometimes took the place of meals. For some children an almost hourly snacking pattern was apparent. Although snacks contributed *more* total calories to diets than any other single factor, they contributed *less* to nutrient levels than did meals.

Snacks provided calories mainly from fat and sucrose. In the Bogalusa study, they provided 31% of the fat and 59% of the sucrose in children's diets. The foods which contributed the most sucrose to the diets were beverages (37%) and candy (25%). Reports summarizing the food consumption profiles of individuals in different age groups issued by HANES show that sweetened beverages and candy are more frequently consumed by those aged 1 to 17 than any other age group.[12] In the Bogalusa Study, sucrose contributed 18% of the total calories consumed by children.[13]

Sucrose and other sugars are a source of calories but they offer little else nutritionally. Data from the Ten State Survey indicated that there is a high prevalence of dental caries among children in the United States. A recent report, "Evaluation of the Health Aspects of Sucrose as a Food Ingredient," prepared for HEW by the Federation of American Societies for Experimental Biology, concludes that, "Reasonable evidence exists that sucrose is a contributor to the formation of dental caries when used at the levels that are now current and in the manner practiced." The report also states that various factors affect the cariogenicity of sucrose. Among them is the form in which the sucrose is eaten and the frequency of exposure.[14]

The American Society for Clinical Nutrition recently published the proceedings of its symposium titled "Can Disease of Overconsumption be Prevented by Dietary Changes? A critique of the evidence." Participants in the symposium concluded that sucrose, especially when consumed frequently throughout the day, is the dietary component that is most conducive to oral bacterial infection and caries.[15] It has been demonstrated that consumption of snack-type foods between meals has a significant effect on the frequency and severity of dental caries.[16]

The Surgeon General's report, "Healthy People," summarizes a number of studies that have compared the frequency and amount of sugar eaten to dental caries development. Although some show no correlation between dental caries development and the frequency with which sugar is eaten, most demonstrate a positive correlation. In a study of 200 children aged 5 to 13 years Zita *et al.* found a significant positive correlation between the amount of between meal sugar eaten and the prevalence of caries. Weiss and Trithart found that among 783 children 4 and 5 years old there was a positive correlation between the number of meal snacks and dental caries. Fanning *et al.* (45) in 1969, examined 1,286 secondary school children. In those schools where canteens were available where sweets could be purchased, children had a higher incidence of caries than children in schools lacking canteens.[17]

In light of the findings of the studies described, the Department concluded that concern about the quality of children's diets is appropriate. Moreover, these studies demonstrate that there is reason to be concerned about the kind of snacks that children eat. Since snacks contribute a significant proportion of the calories that children consume, it is important that snacks contain nutrients as well as calories if children's diets are to be nutritionally adequate.

III. Development of a Final Rule

A. Method of Analysis

Three broad approaches were considered when the competitive foods rule was developed. One approach would have been to base the rule on the required meal pattern from the school lunch program. This would have meant that any food which satisfied the meal pattern requirement would be approved for competitive sale. Of the substantive comments received on the July 6, 1979 proposal, only twenty people (8%) suggested that the required meal pattern standard be used. The major defect of this approach is that it does not offer a means by which to assess the nutritional contribution of individual foods. Therefore, we concluded that it was not an appropriate standard to use in this rule.

The two other methods of analysis considered in the development of this rule are the food composition approach and the nutrient analysis approach. A considerable number of people commented on each of these. They are discussed in more detail below.

1. *Food Composition.* An analysis of foods under the food composition approach would assess the levels of ingredients such as sugar, fat or salt contained in foods. This approach directly addresses the strong associations between the overconsumption of certain food components and current public health problems. However, as we explain in this section, problems related to the practical application of such an approach preclude its use as the basis for a competitive foods rule at this time.

Many of the comments that the Department received suggested that the rule be designed to limit the amount of sugar, fat, and salt in foods approved for competitive sale in schools. These comments came both from consumers and from members of scientific and professional communities. The concern of consumers about this issue has been well documented. The report "Family Health in an Era of Stress" sponsored by General Mills describes the views on nutrition and diet expressed by approximately 2,000 adults and teenagers who were interviewed. Eighty-four percent termed "fats" a very serious or somewhat serious threat to health, 78 percent said that "sugar or sugar products" posed very serious or somewhat serious threats to health, and 73 percent expressed similar concerns about "salt."[18] In a survey commissioned by Pacific Mutual Life Insurance Company called "Health Maintenance," 570 people with school-aged children were asked how concerned they were about the amount of cholesterol and fats the children have in their daily diets. Seventy-three percent of those people responded that they were very concerned or somewhat concerned.[19]

This concern by consumers is a response to similar expressions of concern by members of the scientific community about the levels of sugar, fat, and salt in the total diet. Despite agreement among many experts about the advisability of reducing consumption of these components in foods, however, the Department encountered three significant practical problems in attempting to fashion a competitive foods rule that would achieve this objective directly. First, although many concerned scientists believe that consumption of sugar, fat, and salt should be reduced, there is not yet clear agreement on the precise levels of these components appropriate in the total diet. Second, and more importantly, even if there were agreement on appropriate levels of these components in the diet as a whole, there is no way to assign an appropriate level of sugar, fat, and salt for each of the individual foods available in the marketplace. Third, even assuming that the first two problems could be resolved, data on the composition of individual foods is inadequate to permit the practical application of a rule which prescribed appropriate levels of all of these components in all foods. These problems are more fully discussed below.

In considering the application of a food composition standard we surveyed recommendations for dietary modification that had been made by various agencies and organizations on the basis of careful review of scientific evidence. We found agreement about general goals but little guidance on what specific standard to adopt. In 1977 the Senate Select Committee on Nutrition and Human Needs recommended that Americans increase their consumption

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of complex carbohydrates and "naturally occurring" sugars to approximately 48 percent of energy intake and reduce the consumption of refined and processed sugar to account for approximately 10 percent of total energy intake. The Committee also recommended reduction of overall fat consumption to about 30 percent of an individual's total energy intake, saturated fat to about 10 percent of total energy intake and reduction of cholesterol consumption to about 300 grams per day. Reducing the intake of salt to about 5 grams per day was recommended to limit the intake of sodium.[20] Several international committees on food and coronary heart disease have recommended dietary modification to reduce the amount of fat and sugar that is consumed.[21] The American Heart Association has recommended that the proportion of energy derived from fat not exceed 35% and that recommendation has been supported by the National Academy of Sciences' Food and Nutrition Board.[22]

The Surgeon General's report "Disease Prevention and Health Promotion: Federal Programs and Prospects" recommended actions in nutrition to promote good health but did not suggest specific ideal percentages for food components in the diet. The report states, "Not only is the national diet excessive in terms of total calories, but it also is poorly distributed in sources of calories. Total fat intake, especially animal fats, refined carbohydrates, and salt should be reduced as part of a prudent diet."[23]

The problem of designing a specific food composition standard to apply in a competitive foods rule is made much more difficult by the fact that acceptable levels of fat, sugar, and salt in individual foods necessarily vary. For example, there are individual foods, such as some meats and nuts, which generally are recognized as making positive nutritional contributions to the diet but which have a high proportion of fat. As they have been defined, competitive foods are any foods sold in competition with the federally subsidized meals in schools. They may be available in alternate or a la carte lunch lines, or from vending machines, snack counters, or school stores. This means, essentially, that any food might be termed a competitive food depending on the circumstances of its sale. The difficulty of fashioning a rule which would establish appropriate levels of sugar, fat, and salt for all foods that might be sold in the school thus is considerable.

Although the Department found concern among experts about high levels of sugar, fat, and salt in the diet as a whole, we found that those experts are as yet unable to suggest specific percentage limitations for each individual food available in the marketplace.

The Department asked the nation's leading health officials if, in their opinion, there was a scientific and practical basis for establishing appropriate levels of these components in the full array of individual foods and, if so, what specific standard they would apply. Dr. Arthur C. Upton, the director of the National Cancer Institute, responded by referring to the general dietary recommendations from the Institute's October 1979 "Statement on Diet, Nutrition and Cancer" but he stated that at this time it is not possible to give advice on specific levels of acceptability for fat, sugar, and salt in all foods.[24]

Dr. Mark Hegsted, the Administrator of the Department of Agriculture's Human Nutrition Center, replied that, "A difficulty in establishing appropriate levels [of sugar, fat, and salt], of course, is that we have no standards for appropriate intakes of these whereas we do have the RDA for essential nutrients. Furthermore, while it is possible to establish appropriate levels for the diet as a whole, it will be extremely difficult to find a single appropriate standard to apply to all individual foods."[25]

Dr. Julius B. Richmond, Surgeon General and HEW Assistant Secretary for Health, acknowledged the desirability of preventing excessive dietary intake of fat, salt, and sugar in the diets of Americans but concluded that, "given the limitation of the science base at this stage, we believe that it is not now possible to establish specific levels of acceptability for amounts of these substances in individual foods."[26]

Even if the Department were able to establish a standard for specific acceptable levels of sugar, fat or salt in individual foods, the problem of inadequate food composition data would remain. Information about the amount of fat in many foods is available. Some figures are available for the sodium content of foods, but scientists doubt the validity of these numbers because the techniques used to analyze foods for that nutrient are not reliable. Current knowledge about the total sugar available in individual foods is in general scanty even though sugar content data are available for some types of food. Several government planning and review agencies and some professional organizations have stated that the determination of the nutrient composition of foods is a high research priority in human nutrition.[27] The Department of Agriculture's Human Nutrition Center plans to greatly increase activities related to the generation of food composition data in the 1980's. Until a substantially broader data base is available, however, it will not be possible to apply any food composition standard to the vast array of available foods.

Many commentors asked us to address broad concerns about the composition of the whole diet in a standard which can be used to evaluate individual foods, but they were not able to suggest workable methods for quantitative assessment or to provide the data that are needed for such an assessment. Approximately 54% of the substantive comments that the Department received suggested that the competitive foods rule be designed to limit the amount of sugar, fat, or salt in foods. Forty percent of those comments were from medical, dental or nutrition professionals and organizations, but only four of the fifty-three commentors in that category (8%) offered specific suggestions for appropriate amounts of sugar, fat, or salt in foods. Those four commentors all suggested that percentage values that have been recommended for components in the whole diet be applied to individual foods. None of these commentors discussed how to deal with the problem of individual foods which are generally recognized as making positive contributions to the diet but which contain a high proportion of sugar, fat, or salt. Similarly, the commentors did not address the problem of inadequate food composition data.

Although we have concluded that the substantial practical problems of applying a food composition standard make it an infeasible basis for a competitive foods rule at this time, we share the concern of consumers, professionals, and members of the scientific community about health problems associated with over-consumption of foods high in sugar, fat, or salt. The Department has taken a number of actions to reduce the levels of these components in its child nutrition programs. New regulations for the National School Lunch Program published in August 1979 require schools to serve skim milk, low-fat milk or buttermilk to decrease the fat content of the lunches. These regulations also contain recommendations for menu planning including the recommendation to, "Keep fat, sugar, and salt at a moderate level." In addition, new guidance materials which stress the moderate use of sugar and fat in meal preparation are being developed.

The Department has attempted to reduce sugar and fat levels in commodities purchased and distributed to schools through the Food Distribution Program. For example, we now distribute canned fruit in light syrup rather than fruits packed in heavy syrup. New specifications require that the ground beef purchased for feeding programs contain no more than 22 percent of calories as fat; previously a maximum of 24 percent was specified.

The Department has also made efforts to reduce the amount of sugar in the diets of participants in the Special Supplemental Food Program for Women, Infants and Children (WIC) by proposing to set a maximum level of sugar in WIC cereals. The proposed changes for the food packages provided in the WIC program set a maximum level of 6 grams of sugar per ounce for approved cereals. The Department was able to make specific recommendations about the appropriate level of sugar in cereals because of their unique features. Of primary importance is the fact that manufacturers have made complete food composition information about their products available. Thus, we know the range for the amount of sugar in cereals as well as the amount in each cereal. Also, since much of the sugar in cereal is added during the manufacturing process, it is reasonable to assume that the amount of sugar in the products could be relatively easily reduced.

The Department's concern about the amount of sugar, fat, and salt in the diets of program participants is evidenced by the actions described above which were designed to reduce the consumption of these components. However, we also recognize our responsibility as an administrative agency to promulgate a feasible regulation. In our view, the practical problems discussed in this section make it infeasible to base this regulation on a food composition standard at this time.

2. *Nutrient Analysis.* We concluded that nutrient analysis provides the most effective and feasible basis for a competitive foods rule. Nutrient analysis can be broadly defined as any analysis method which measures levels of nutrients in units of food. The rule specifies a dual method of assessing the nutrient content of individual foods. It calls for both an assessment of the levels of nutrients in units of food as they are commonly served and an assessment of a food's nutrient content in relation to its energy or caloric value. The second measure is called a nutrient density analysis.

The two measures together address the essential objectives which the Department has defined for the competitive foods rule:

1. The rule must identify foods which contribute such low amounts of nutrients as to be considered of "minimal nutritional value."

2. The rule must identify the nutritive contribution of foods in relation to their calorie content.

Foods containing few nutrients as well as foods with calorie contents that are very high in relation to the nutrients that they provide will have lower values in a nutrient density analysis than foods which contain high levels of nutrients or foods with a high proportion of nutrients relative to calories. Foods which contain a large proportion of sugar will have low nutrient density values because sugar provides calories but no other nutrients. Foods which contain a large proportion of fat will also have low nutrient density values because fat provides more than twice as much energy, 9 calories per gram, than the other components of food—protein and carbohydrate—which provide approximately 4 calories per gram. Thus, nutrient density indirectly addresses the concern about sugar and fat.

The principal difficulty in using a nutrient analysis approach is the complexity involved in translating the concept into a workable formula to be applied in a federal competitive foods rule.

B. Application of a Nutrient Analysis Approach in a Competitive Foods Rule

The translation of the nutrient analysis approach into a workable formula to be applied to individual foods raises several important questions including: which nutrients to assess, what units of measurement to use, what standard of reference to use and what value to select as an acceptable level of nutrients. These questions are discussed below.

1. *Nutrients for Analysis.* Roughly 45 vitamins, minerals and other elements which play an essential role in human nutrition have been identified by nutritional scientists. The precise function and necessary levels of many of these nutrients have not yet been identified. The Food and Nutrition Board of the National Academy of Sciences, National Research Council has established Recommended Dietary Allowances (RDA's) for various age groups for the following nutrients: protein, vitamin A, vitamin D, vitamin E, ascorbic acid, folacin, niacin, riboflavin, thiamin, vitamin B_6, vitamin B_{12}, calcium, phosphorus, iodine, iron, magnesium and zinc. To establish the RDA's, the Food and Nutrition Board had to make estimates based on available information. RDA's have been established for these 17 nutrients because scientific data are available to estimate the human requirements for them.

The establishment of RDA's for the other nutrients will be possible only after further research in this area has been conducted. Considerable time and expense will be required to obtain this information.

Food composition information is most widely available for eight of these 17 nutrients: protein, vitamin A, ascorbic acid, niacin, riboflavin, thiamin, calcium and iron. Because deficiencies in these eight nutrients have been associated historically with public health problems, these nutrients have been the ones most commonly studied by researchers. Thus, the technology needed to assess their presence in foods is well established and relatively inexpensive.

Approximately 2% of the substantive commentors questioned the use of only eight specified nutrients as a basis for analyzing the nutrient content of foods. These commentors generally believe that more nutrients should be considered when determining the status of a food under this rule. One comment received from a national soft drink manufacturer stated that the 8 nutrients should be used only as a first test. If a particular product failed this test but the manufacturer could prove that the food contained 5% or more of an additional nutrient, the food would be classified as an approved competitive food under this commentor's proposed approach.

In its rule on nutrition labeling, the Food and Drug Administration (FDA) requires that if a manufacturer chooses to state the nutritional content of a food, the label must contain information about each of the eight commonly analyzed nutrients listed above. In the process of choosing the nutrients that would be required for labeling purposes, FDA asked nutrition professionals to name the most important nutrients. Some suggested that zinc and folacin also be included on the labels, but FDA concluded at the time that the data bases for those nutrients were too limited to permit imposition of such a requirement. They chose the eight specified nutrients because they are the ones that have been associated most commonly with public health problems and because they are the ones about which the most is known.

While current data on the nutritional status of the general population indicate that there may be reason to be concerned about deficiencies of certain micronutrients such as zinc and folacin, few data are available to indicate how much of these nutrients foods contain.

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The Department thus cannot analyze the presence of these and other micronutrients in all foods. If nutrients other than the commonly measured eight were incorporated in the standard, we would be unable to treat all foods equally.

As more composition information about micronutrients and more information about the nutritional status of the population becomes available, FDA may expand its labeling requirements to include additional nutrients. The Department would view such action as an indication that sufficient information on these nutrients had become available to justify revision of the competitive foods rule. However, at this time, for the purposes of this rule, we have concluded that analysis of the eight nutrients will enable us to make a meaningful and accurate decision on the nutritional contribution made by different foods. Therefore, the nutrient standard proposed by this rule measures the quantities of protein, vitamin A, ascorbic acid, niacin, riboflavin, thiamin, calcium and iron present in foods.

2. *Units of Measurement.* The Department has determined that individual foods will be evaluated on the basis of two measurements: (1) nutrients in a 100-calorie portion of the food and (2) nutrients in an average portion of the food as it is commonly served.

Both measures can be used to determine the nutrient content of the food, but they serve distinct purposes in the rule. The 100-calorie measure makes possible a relative comparison of all foods. The analysis of nutrients per average serving permits a more realistic assessment of the nutritional contribution of foods as they are commonly consumed. By coupling the 100-calorie measure and the per serving measure, we will be able to evaluate and compare foods on a theoretical, standardized basis and to assess the nutritional contribution of foods as they are commonly consumed by students in school.

Artificially sweetened foods present a special problem. They contain few calories (and few nutrients in the case of those most commonly consumed by children), but may nevertheless satisfy a child's appetite and may thus replace other foods in a child's diet which would provide more nutrients. We therefore propose to analyze artificially sweetened foods on the basis of serving size alone. Because the balance of calories to nutrients has been intentionally altered in these processed foods, the consumption of 100 calories of such products represents unrealistically large quantities. For example, to measure an artificially sweetened soda on a per-100-calorie basis would require an assessment of 3 to 10 gallons of soda depending on how many calories the soda contained. Since it is not meaningful to compare artificially sweetened foods with other foods on a 100-calorie basis, we have concluded that artificially sweetened foods will be analyzed solely on the basis of serving size.

Moreover, since we share the concerns of the scientific community about the health risks resulting from the use of some non-nutritive sweeteners, we are reluctant to adopt a standard that, while restricting the sale of ordinary soft drinks, would permit the sale of soft drinks artifically sweetened with saccharin. The Committee for Study on Saccharin and Food Safety Policy formed by the National Academy of Sciences in response to Congressional mandate [28] summarized the facts which should be considered in the formulation of a policy concerning saccharin. The Committee stated, "Whether as an initiator or promoter, saccharin is a potential carcinogen in humans, but one of currently uncertain consequence and potency in comparison with other carcinogens. In any case, the large number of persons exposed to saccharin justifies serious continued public health concern." The Committee's report further states, "The observation that saccharin use among young children may be increasing suggests that public health officials should take a prudent course of action."

Recently, the National Cancer Institute and the Food and Drug Administration released preliminary findings of an epidemiological study that examined the relationship between the use of artificial sweeteners such as saccharin and cyclamate and the incidence of bladder cancer in humans. Preliminary results indicated no increased risk of bladder cancer among users of artificial sweeteners in the overall study population. However, there was some evidence that the sweeteners may be hazardous. Among three groups of people—those who consumed both diet beverages and sugar substitutes, those who smoked cigarettes heavily and who also made heavy use of artificial sweeteners, and those women who normally would be at low risk for bladder cancer but consumed sugar substitutes or diet beverages—the risk of bladder cancer increased. Heavy use of artificial sweeteners was defined as six or more servings a day of sugar substitute or two or more eight-ounce diet beverages a day. On the basis of this study and previous experiments with laboratory animals, the authors of the study concluded that while saccharin and cyclamate are not strong carcinogens, they should be regarded as potential risk factors for human bladder cancer.[29] In discussing the study results, Dr. Jere Goyan, Commissioner of the Food and Drug Administration, said, "I reiterate my concern about the consumption by so many Americans, especially young people, of large amounts of saccharin. More than half the subjects in this study were 67 years old or older, and therefore consumed much less artificial sweeteners than their children and grandchildren are today. We may have to wait 20 or 30 years to assess the possible effects on our young people of consuming large amounts of a weak carcinogen." [30]

In a letter to the Department of Agriculture, Dr. Arthur Upton, Director of the National Cancer Institute, said, "We share your concern about the use of saccharin by children. Saccharin is of little or no benefit to normal healthy children, and its elimination from their diet involves no risk to them. Hence in the public health sense, it would seem prudent at this time to eliminate foods containing saccharin from school lunches." [31]

Eighty-five of the commentors (3%) expressed concern about the use of saccharin or artificial sweeteners in foods sold in the schools. Of those who commented on the issue, the majority (84%) were concerned citizens.

These comments as well as the recommendations from the scientific community strengthened our view that it is reasonable to make distinctions between naturally and artificially sweetened products, particularly in a regulation that will affect children.

3. *Standard of Reference.* In performing nutrient calculations the Department relied on the USRDA's adapted by the Food and Drug Administration from the Recommended Dietary Allowances (RDA's) which are established by the Food and Nutrition Board, National Academy of Sciences, National Research Council. The USRDA's which are currently in use are based on the RDA's which were established by the Board in 1974.

A handful of commentors were concerned that the Department was not using the most up-to-date values. The Food and Nutrition Board plans to publish new RDA's in 1980. They have made these new RDA values available to professionals prior to publication, but the text that will accompany the values is not yet available. The Food and Drug Administration has as yet made no changes in the USRDA values. Therefore, we will continue to rely on those established USRDA values for the purposes of this rule.

4. *Level of Nutrients.* Using the nutrient analysis approach as the basis for the proposed rule, it was necessary for the Department to select a minimum level of nutrients for foods acceptable for competitive sale. Sale of foods not containing this minimum level would be restricted during certain hours in schools.

The Department has determined that foods which provide less than 5% of the USRDA for each of the eight specified nutrients per 100 calories *and* per serving will be considered foods of minimal nutritional value. Only the per serving measure will apply to artificially sweetened foods. The sale of foods of minimal nutritional value in schools will be permitted only after the last lunch period of the school day. For example, licorice does not contain even 5% of the USRDA for any one of the eight specified nutrients per 100 calorie quantity or per average serving. Thus, licorice may be sold only after lunch.

In determining that a 5% level would be used for this purpose the Department turned, once again, to the related actions of another federal agency for guidance. The FDA , in its nutrition labeling regulations, allows a manufacturer to claim that a food is a "significant source" of a particular nutrient if that nutrient is present in a serving of food at a level equal to or in excess of 10% of the USRDA for that nutrient. We concluded that if a food which contains 10% of a nutrient may be termed a "significant source" of that nutrient, something less than 10% would be an appropriate test for this rule.

In its labeling rule, the FDA considers less than 2% of the USRDA to be an insignificant quantity of the nutrient in a particular food. The FDA chose the 2% level as the cut off for measurement of nutrients in foods for labeling purposes because scientific techniques for nutrient analysis are not sufficiently sophisticated to provide reliable data about nutrients that are present in foods in very small quantities. FDA has used these 2% and 10% levels in its labeling rule for almost a decade and they are well accepted by professionals and consumers.

The Department concluded, in light of FDA's approach, that a 5% standard was the most reasonable to adopt in the competitive foods rule. While a food which provides 5% of the USRDA for a particular nutrient would not be considered a "significant source" of that nutrient under FDA's rule, it nevertheless makes a positive contribution to the satisfaction of an individual's daily needs for that nutrient.

FDA scientists suggested during a meeting with Department officials that rather than applying a 5% standard to all nutrients, a more desirable approach might be to consider each nutrient individually. Such an approach would relate the required level for each nutrient in foods to the average amount of that nutrient provided by foods in general. This would entail making an inventory of all available foods and determining the amount of each nutrient that each food contains. The approach described is an attractive one because of its greater precision but it would require a great deal of preliminary research which has not yet been done and which cannot feasibly be undertaken for the purposes of this rule.

A few commentors maintained that in proposing the 5% standard, the Department was acting inconsistently with the efforts of FDA which, in its regulation for label statements, requires that percentages of the USRDA be expressed in increments of two percentage points up to and including the 10% level. Although we relied on FDA's characterizations of the nutrient content of individual foods in selecting the 5% level, we did not intend to rely specifically on the use of nutrient labels to administer this rule.

For three primary reasons the use of nutrient labels is not practical for this particular regulatory purpose. First, as we explain in the next section, this rule ultimately identifies categories of foods which cannot be sold competitively until after the last lunch period. Categories are defined primarily for reasons of administrative necessity so that each individual food need not be evaluated. This approach makes it unnecessary for members of the public to use food labels to make determinations about the acceptability of individual foods. The Department will re-evaluate its defined categories as new information becomes available.

The second reason that the Department chooses not to rely on nutrition labeling information in administering this rule is that all foods are not labeled. The FDA requires nutrition labeling only in special circumstances: food product labels must bear nutrition information when any vitamin, mineral or protein is added to the product or when any nutrition claim or information, other than sodium content, appears on a label or in advertising for the food. Many manufacturers label their products voluntarily but it is estimated that in 1978 only approximately 40% of all processed foods were labeled with nutrition information. FDA does not have a record of which specific products are labeled in the entire national food supply.

The range of foods that can be sold competitively is very broad. The Department must make assessments about the nutrient content of foods such as fresh fruits as well as processed products. Since the majority of the foods available in the market do not have nutrition labels, the Department cannot consistently use the labels as tools for assessment. We must rely instead on available food composition information that allows us to make accurate decisions about the nutritional contributions of a wide variety of foods. The most complete food composition information is available in tables of nutritive values which have been derived from chemical analysis of foods. The Department relied on these in making determinations about what foods could be sold competitively.

The third reason for the Department's decision not to use nutrient labels as the practical basis for administering the competitive foods rule is that the figures on the labels are not expressed in a manner consistent with the expressions that appear in food composition tables. As some commentors pointed out, the values between two and ten percent are expressed in even increments on the labels. Each stated value has been rounded. Thus, to judge some foods for the purposes of this rule on the basis of figures from nutrition labels and others on the basis of figures from food composition tables would not be equitable.

The 5% value established to evaluate foods for competitive sale is based on accepted principles reflected in FDA's labeling rule. Because of questions that were raised during the comment period we considered whether it would be more practical to change that 5% value to correspond to the 4% or 6% figures that appear on food labels. We concluded that while nutrition labels provide some useful information, it is not practical to rely on the labels for this regulatory purpose. The Department continues to believe that the established 5% level is an appropriate one for this rule.

5. *Fortification of Foods.* In the proposed competitive foods rule we indicated that we did have some concern about using a nutrient analysis approach because it might encourage manufacturers to fortify foods to meet the nutritional requirements of the rule. The Department received many comments related to this issue; 243 of the 3,067 commentors (8%) expressed

concern about the influence that this rule might have on fortification practices. Most people who commented discussed the danger that this rule could, at least in theory, encourage inappropriate fortification practices.

Public concern about fortification has been expressed in other contexts. In December, 1979 proposed regulations on food labeling practices were issued jointly by HEW, USDA, and FTC after a series of public meetings had been held and public comments had been solicited. Food fortification was one of the issues which stimulated many comments. Of the 1,103 commentors who discussed the advisability of fortifying foods, 84% approved of the practice, but many of these commentors had some reservations about it. These are reflected in the proposal which states, "Public reservations thus stem largely from concern about overfortification and the potential for inappropriate fortification." [32]

Historically, the fortification of foods has occurred in response to a nutritional need in a clearly defined population. Specified nutrients are added to foods in an attempt to correct deficiencies that have been identified. With advances in food technology and increases in the number of formulated products on the market, nutrients have been added to an increasing number of foods. This trend has raised questions about the appropriateness of some fortification practices. Professionals are concerned that indiscriminate fortification of foods may mislead the public.

Traditionally nutritionists have promoted a diet composed of a wide variety of conventional foods because knowledge of human nutrient requirements is incomplete. Experience has shown, as new essential nutrients are discovered, that conventional foods supply the nutrients that are known to be essential as well as those micronutrients and food components which we need but which have not yet been identified. Some fortified foods may be inferior to those that they replace in the diet. For example, a manufacturer may add vitamin C, a recognized essential nutrient, to a product. A person who consumes that product can benefit from the specific added nutrient but may be deprived of some other food components such as fiber or some micronutrients that are contained in the conventional food but not in the replacement product.

A related concern is that the overfortification of foods could cause an imbalance of nutrients or the excessive intake of some nutrients in the diet. It is relatively inexpensive to add certain nutrients to foods but these are not necessarily the ones that are lacking in most peoples' diets. People who rely on fortified foods to supply nutrients may believe that they are eating well but may actually have inadequate diets.

There is also some apprehension because of the possibility that people who rely on fortified products may be unable to distinguish those foods from their unfortified counterparts. A person who is accustomed to drinking a fortified beverage, for example, may assume that all beverages of that same flavor or type are equally nutritious and may consume a product that seems to be the same but actually provides little nutritionally.

The nature of the foods that are fortified is another issue of concern. Nutrients can be added to any food but many nutritionists believe that there are some foods which should not be fortified. They maintain that the addition of nutrients to foods which contain large amounts of sugar or fat, for example, may be counterproductive because that practice will encourage people to eat those foods. As we have pointed out earlier in this preamble, concern already exists about the overconsumption of sugar and fat because of the documented associations between those food components and public health problems.

Many of the general concerns discussed above are specifically raised by the competitive foods rule. For example, it may be particularly difficult for children to distinguish between fortified foods and their nonfortified counterparts. The Department believes that it is important to provide examples of good nutritional practices which can be easily understood by children in the schools. Because of each of the reasons discussed, we would oppose the fortification of any foods which are identified in this rule as foods of minimal nutritional value.

The foods which this rule restricts for sale in competition with federally subsidized meals in the schools are those which contain few, if any, nutrients per 100 calorie measure and per serving of the food. They are foods which are generally eaten as snacks rather than as components of meals. They are also foods which generally are not fortified. The addition of nutrients to any of the foods identified in this rule as foods of minimal nutritional value could qualify them for competitive sale. However, the Department believes that fortification of foods simply to satisfy the technical requirements of this rule rather than in response to identified public health problems would be inappropriate.

The subject of inappropriate fortification practices has been widely addressed. Most recently the Food and Drug Administration has published "General Principles for the Addition of Nutrients to Foods," a policy statement intended to promote the rational addition of nutrients to foods. The document discusses the types of foods that are appropriate to fortify: "Although, as a theoretical matter, most types of food can be fortified under the general principles expressed in this document, FDA emphasizes that, as a matter of policy, it does not consider it appropriate or reasonable to fortify certain classes of food such as fresh produce, fresh meat, poultry or fish products, sugars, or snack foods such as candies and carbonated beverages. * * * FDA sees no reason to add nutrients to fresh produce, meat, poultry, or fish products. The use of these foods is firmly established by customary dietary practice, and their role in a balanced diet is well understood by the public. FDA also believes it is inappropriate to fortify snack foods such as candies and carbonated beverages. These foods are not considered by the public as components of meals, and even if snack foods are used with meals, their nutritional contribution is, and is understood by the public to be incidental. To date, neither the public nor the scientific community has considered snack foods to be appropriate carriers for added nutrients, given the general adequacy and diversity of the national food supply. Their fortification could readily mislead consumers to believe that substitution with fortified snack foods would insure a nutritionally sound diet. Moreover, such fortification would disrupt public understanding about the nutritional value of individual foods and thereby promote confusion among consumers and make it more difficult for them to construct diets that are nutritionally neither excessive or deficient." [33]

The Food and Nutrition Board of the National Academy of Sciences has also addressed the issue of inappropriate fortification. The Board published a statement, "General Policies in regard to Improvement of Nutritive Quality of Foods," [34] which lists conditions under which fortification is appropriate. In a report entitled "Technology of Fortification of Foods," the Food and Nutrition Board's Committee on Food Protection relies on these general policies in making a determination about soft drinks: "These (soft drinks) are products defined by the existing standard of identity for carbonated soda water. We believe that such products should be treated as a pure refreshment and should not be the subject of fortification. . . . For this reason, on which our views concur with those expressed earlier by the Food and Nutrition Board of the National Academy of Sciences, we have not worked on the addition of nutrients to soda water." [35]

The joint expert committee on nutrition of the World Health Organization and the Food and Agriculture Organization of the United Nations has also addressed the issue of the fortification of soft drinks in the report, "Food Fortification, Protein—Calorie Malnutrition." In a discussion of the selection of foods to which nutrients might be added the report says, "special mention should be made of sugar soft drinks, and alcohol beverages as potential vehicles * * *. Special problems are raised when foods whose excessive consumption is discouraged by nutritionists are selected as potential vehicles for fortification. Fortification of these products with properly selected nutrients could increase their nutritive value and thus reduce to some extent the disadvantage of their consumption in large quantities. It must be borne in mind, however, that there is a danger that such fortification might frustrate the endeavors that are being made, or might be made, to check excessive consumption of these products and might even be used as publicity in their favor * * *. The Committee considered that, as a general rule, it is preferable not to include such products among the possible vehicles for fortification programs." [36]

Many commentors suggested that the competitive foods rule distinguish between fortified foods and those that do not contain added nutrients. We consulted the FDA to determine the feasibility of such an approach. While FDA does require that foods to which vitamins, minerals, or protein have been added bear nutrition labels, a list of these products is not maintained. It would thus be impossible to identify all of the products on the market to which nutrients have been added without examining all of the specific product labels. In addition, although it would be possible to determine from each label that nutrients have been added to the food, it would not be possible to determine what proportion of a particular nutrient in a product was naturally occurring and what proportion had been added artificially. Thus a distinction in the competitive foods rule between fortified and unfortified products would be difficult to administer at this time.

The department endorses the guidelines for fortification that have been established by FDA and the fortification policies developed by committees on nutrition. We have stated that the intention of this rule is not to encourage the fortification of foods. Commentors have strongly supported this policy as they express concern about the potential for inappropriate fortification. We expect that industry will continue to add nutrients to foods in response to identified public health problems and that new fortification practices will not be instituted specifically in response to this rule. It is worth noting that roughly less than 0.5% of the dollar value of candy and less than 0.6% of the dollar value of soda sold in the U.S. would be affected by this rule. The rule restricts the sale of foods which generally are not fortified today and, as is evident from the statements above, should not be fortified. If inappropriate fortification of foods identified in this rule as food of minimal nutritional value occurs, the Department will immediately take appropriate action to restrict such practices with respect to competitive foods.

C. Identification of Foods of Minimal Nutritional Value

After establishing a specific standard to define foods of minimal nutritional value, the Department attempted to identify those foods that fell below the standard and therefore could be sold only after the last lunch period. The 5% standard was applied to a wide array of individual foods using nutrient values from food composition data that were available to the Department.

We contracted with three universities—Colorado State, Utah State, and Case Western Reserve—to supply information relating to the nutrient composition of several thousand individual foods. Subsequently, we asked Case Western Reserve University to do some additional calculations with respect to the approximately 2,300 food items and recipes it had already analyzed. The University calculated the percentage of the USRDA for each of seventeen specified nutrients provided by a 100-calorie quantity and by an individual serving of each food. This information allowed us to compare each food to the standard stated in the proposed rule.

During this process, it became clear that it is necessary and reasonable to identify foods by category. The Department recognizes that there are important similarities among the individual items initially identified as foods of minimal nutritional value by application of the 5% standard: these foods contain similar ingredients.

In addition, the Department was aware of numerous practical and policy reasons for adopting a categorical approach. First, the nutritional data available were not sufficiently detailed to permit analysis of all of the individual food items that are on the market. In particular, almost no information was available for items by brand name.

Second, the development of a list of approved individual food items for competitive sale would impose a monumental administrative burden at the federal level. Since there are many thousands of food items sold in grocery stores and thousands more introduced into the market each year, the Department would have to spend considerable effort reviewing these individual items to determine whether they did or did not meet the competitive food standard. Under this system, we would have to obtain specific composition information on each product from the manufacturer and review each food every time a formula adjustment was made by the manufacturer.

Moreover, implementation of a federal rule that identified thousands of individual foods for competitive sale would result in an immense administrative burden at the local level as well. The implementation of federal regulations pertaining to the National School Lunch Program takes place in 92,000 participating schools. Under a competitive foods rule, each of these schools will need to know which foods can and cannot be sold competitively in the school. It would not be practical to expect each school to maintain a current list of all individual foods identified by the Department as foods of minimal nutritional value since such a list would be lengthy and would be constantly changing due to the introduction of new items and reformulation of existing items in the market place.

In its comments on the April 25 proposal, Hershey Foods suggested that one way to avoid these problems of USDA developing and maintaining a list of individual foods would be for manufacturers to certify directly to school officials that their products met objective nutritional criteria established by the Department. Alternatively, Hershey suggested that a list of foods approved for competitive sale could be compiled by USDA on the basis of certification or other information submitted to the Department by the manufacturers. Hershey commented that the Department could authorize a USDA seal to be placed on the labels of approved products for ease of

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identification by school officials. We rejected these approaches in order to avoid even the appearance of Department endorsement of specific products.

Based on our review of the nutrient content of individual foods, it became clear that all or virtually all foods in certain categories provide less than 5% of the USRDA for each of the eight specified nutrients per 100 calories and per serving. We have therefore defined four categories of foods of minimal nutritional value: soda water, water ices, chewing gum, and certain candies. These candies are subcategorized to include hard candies, jellies and gums, marshmallow candies, fondants, licorice, spun candies, and candy coated popcorn. In describing these categories, the Department relied on descriptions used by industry, classifications used in nationwide surveys, and Standards of Identity established by the Food and Drug Administration in the Code of Federal Regulations. For the purpose of this rule the Department has determined serving sizes for each of the categories. They are:

Soda—12 fluid ounces
Water Ices—3 fluid ounces
Candies—1.5 ounces
Gum—1 stick or piece

These units correspond with the units in which these products are frequently sold or consumed.

The Department recognizes that a regulatory scheme based entirely on a categorical approach cannot be precise. To insure greater precision in the application of the rule, a procedure is provided for consideration of individual foods and additional categories of foods. The petition procedure as set forth below differs from the one described in the July 6 proposal. Changes were made in light of the comments to provide a more workable procedure. Specifically, although persons may petition the Department to remove individual foods from the established categories of foods of minimal nutritional value, additional foods will not be restricted for competitive sale on an individual basis. Rather, the Department will review petitions requesting that new *categories* of foods of minimal nutritional value be designated. Because of the large number of individual foods available in the marketplace and the constant development of new food products, the Department believes that it would not be feasible to maintain a list of individual foods which failed the nutrient test established in the rule and thus were restricted for competitive sale.

The procedure will operate as follows. A person may petition the Department to approve for competitive sale an individual food which falls into a category of foods of minimal nutritional value restricted from sale in schools until after the last lunch period by submitting a nutrient analysis of the food demonstrating that it provides 5% or more of the USRDA for any of the eight specified nutrients per 100 calories or 5% or more of the USRDA for any of the eight specified nutrients per serving. (In the case of artificially sweetened foods, only the per serving measure will apply.) Upon such a showing, the Department will inform the petitioner that the food is an approved competitive food.

A person may petition the Department to add a new *category* to the list of previously identified categories of foods of minimal nutritional value. Any such new category must be composed primarily of foods which provide less than 5% of the USRDA for each of the eight specified nutrients per 100 calories and less than 5% of the USRDA for each of the eight specified nutrients per serving. (In the case of artificially sweetened foods, only the per serving measure will apply.) Along with the request, the petitioner must identify and define the category by providing a general description and by submitting a list of the ingredients which these foods usually contain. It is important that the petitioner keep in mind that the food category must be easily identified and understood by local school districts.

If the Department determines from a review of the ingredients that the proposed new category should be classified as a category of foods of minimal nutritional value, the Department will publish a notice of proposed rulemaking indicating its intention to so classify it, stating the reasons for this action, and soliciting public comments. The public comment procedure will be used to solicit information from manufacturers and other interested members of the public about the description and the composition of the foods in the proposed category. The Department may in addition conduct its own food composition analysis of those foods. On the basis of the information available to it, the Department will determine whether the proposed category should be classified as a category of foods of minimal nutritional value.

By May 1 and November 1 of each year, the Department will amend Appendix B of Parts 210 and 220 to reflect the results of any new Departmental decisions on such petitions, provided that there is a need to add a category of foods of minimal nutritional value, or a need to delete an individual food from a previously identified category of foods of minimal nutritional value.

The Department recognizes, from our own review of the available food composition data and from information submitted during the comment period, that there are some individual products which can be defined by the 5% standard as "foods of minimal nutritional value" but which are not part of groups of foods which can be easily categorized. For example, data show that some cakes contain less than 5% of the USRDA for each of the eight specified nutrients per 100 calories and per serving. But many cakes do provide substantially more nutrients. Because there are so many kinds of cakes it is not possible to define a category of products to be restricted nor is it possible to accurately describe specific cakes. There are, for example, many recipes for "chocolate cake," all with different ingredients or proportions of ingredients. Many would satisfy the nutrient test of the rule but some may not. Distinguishing among them would be an impossible administrative task requiring analysis of a wide array of recipes from thousands of local schools. These practical contraints dictate that some individual foods which fail the 5% nutrient test established by the rule will nonetheless remain available for competitive sale throughout the school day.

IV. Implementation Issues

A. Local Rules

This rule identifies foods that clearly make the least nutritional contribution to a child's diet. The test used to define foods of minimal nutritional value is a conservative one. Like the Department's meal pattern requirements for the school lunch program, it represents a baseline, minimum standards approach. This rule should in no way be construed as endorsing all other foods.

While no School Food Authority may adopt a less comprehensive competitive foods policy, any State or locality may develop more comprehensive rules. Thus, those States and localities which have already adopted rules that are more comprehensive than this proposal are urged to continue those rules. This is consistent with the general proposition that States may develop any regulation concerning the National School Lunch Program and School Breakfast Program as long as the local regulation does not conflict with federal regulations (7 CFR 210.19). Recognizing that existing regulations for the school food programs establish *minimum* standards for the receipt of federal funds, many school districts have adopted more rigorous standards in order to provide superior meals to students. School districts may wish to continue this leadership in the competitive foods area.

In adopting a conservative, baseline approach to the regulation of competitive foods, the Department recognizes that there is presently considerable interest in this issue at the local level. The public comments on the Department's April 25, 1978, December 15, 1979, and July 6, 1979 notices concerning competitive foods from parents of school age children reflected parents' desire and willingness to participate in the development of local competitive foods policies.

Testimony at the public hearings indicated that, in the past, competitive foods decisions at the local level were frequently made without the knowledge or participation of parents. In communities where there is no competitive foods policy, many parents at the public hearings stated that they were willing to participate in establishing one. A recent Gallup Poll revealed that 67 percent of parents of children attending schools that offer the school lunch program believed that candy should not be available for sale in schools while 65 percent believed chewing gum should not be available. Thus, it is apparent that parents have definite ideas about competitive foods policy and considerable interest in participating in its formulation.

The Department encourages parents, students, school officials, teachers, school food service personnel, and nutrition experts to work together to design local policies. We believe it is desirable for local communities to consider local needs in the development of a competitive foods policy which uses the federal rule as a minimum standard. The school nutrition programs are a partnership of local, State and federal agencies. Local and State officials have the authority to implement a more comprehensive rule—one that may go beyond the Department's minimal rule. Similarly, the Department may, in its continuing review of this issue determine that in the future a more comprehensive federal rule is desirable.

B. Age Distinctions

The Department received a few comments on the July 1979 proposal that favored age distinctions in the rule that would allow older children access to foods of minimal nutritional value not available to younger children. The majority of these comments came from students.

The legislative history of the competitive foods amendment does not discuss such a distinction. Of those States and localities which have competitive foods policies, only a handful make age distinctions. Many commentors on both the April 1978 and July 1979 proposals opposed making age distinctions in the rule on the ground that because nutrition education programs are still new in most areas, children of all ages lack the information necessary to make informed food choices. These commentors indicated that until such time as all children have adequate nutrition education programs, any rule should apply equally to children of all ages. The Department is taking steps to provide nutrition education training to children to alleviate this lack of knowledge with the Nutrition Education and Training (NET) program. The NET program is a result of Pub. L. 95-166 (enacted in November 1977), the same law that initiated the competitive foods rule. These programs are just getting underway. Progress should be noted in schools during the next few years.

The Department believes that since its standard defines as foods of minimal nutritional value those foods which have the least to offer nutritionally, the rule should apply to all age groups. Where local communities develop more comprehensive, competitive foods policies, they may wish to consider whether age distinctions may be appropriate in their additional regulations.

C. Time and Place

This rule would prohibit the sale to children of foods of minimal nutritional value throughout the school until after the end of the last lunch period of the school day. In restoring the Secretary's authority to regulate the sale of competitive foods, Congress sought to protect the nutritional integrity of the federal school nutrition programs and to foster a school environment in which nutrition education and food service policies reinforce each other in promoting good eating habits among students. We believe that a rule permitting the sale to children of foods of minimal nutritional value before lunch or in areas of the school outside the cafeteria could not accomplish these central objectives of the 1977 competitive foods amendment.

If immediately outside the cafeteria—or anywhere else in the school—foods of minimal nutritional value could be sold in vending machines or at snack counters, it is doubtful whether the sale of these foods would be curtailed. Similarly, if students were permitted to purchase such foods in the morning hours it is unlikely that their consumption in place of the more nutritious foods in the federal school nutrition programs would be reduced. Many of the commentors agreed with the position taken in the proposed rule on this issue. Although 25 commentors felt the restriction should apply during meal periods only, or a half hour before to a half hour after the meal periods, 851 commentors felt that the restriction was reasonable and necessary if this rule is to be effective. An additional 206 commentors stated that the restriction should be for the entire school day throughout the school premises.

Our decision to retain unchanged the provision of the proposed rule with respect to time and place of application reflects our conclusion that such scope is essential if the rule is to carry out the fundamental purposes of the statute.

D. Implementation Date

This final rule must be implemented no later than July 1, 1980. The Department encourages schools to work towards the July 1 implementation date of this final rule by phasing out the foods of minimal nutritional value at this time. Schools may elect to implement the rule immediately and we urge them to do so as soon as is feasible prior to the July 1 deadline.

Four of the technical commentors strongly urged that this rule be implemented at the beginning of the school year and not in the middle of a school year. Three of these commentors were State staff who were well aware of the difficulties schools would have if the rule were implemented in the middle of a school year. These commentors stated that schools would have a difficult time breaking or negotiating contracts with vendors and that there would be insufficient time to publicize the requirements of the rule, as well as other local burdens. The Department is aware of these problems and is responding by requiring implementation of the final rule at the beginning of the school year.

V. Labeling and Advertising

In making this rule final, the Department is aware of the possibility that manufacturers may adopt labeling practices or make advertising claims concerning competitive foods which may mislead the public. We emphasize that this rule does not and is not intended to designate any food as nutritious. The rule simply restricts the sale in schools during part of the school day of some foods which make a

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minimal nutritional contribution to the diet.

The Department has carefully avoided the designation of foods as nutritious or non-nutritious, by the terms of this rule, and expects similar restraint on the part of manufacturers in promotion of their products. Any labeling or advertising claims concerning a food's status under this competitive foods rule will be carefully scrutinized for accuracy. We would view as inaccurate and misleading, for example, an advertisement that a particular product had been approved by USDA. The Federal Trade Commission has been advised of our concerns about this issue.

Footnotes

1. In order to qualify for federal reimbursement, a "Type A" school lunch must contain specified portions from four food groups. Other foods may be served along with these Type A foods.

2. Report of the Task Force on the Evidence Relating Six Dietary Factors to the Nation's Health, sponsored by the American Society for Clinical Nutrition, in the American Journal of Clinical Nutrition, Supplement Volume 32, No. 12, December 1979.

3. U.S. Department of Health, Education, and Welfare, "Disease Prevention and Health Promotion: Federal Programs and Prospects" Report of the Departmental Task Force on Prevention, and "Health People" Background Papers, A Report to the Surgeon General by The Institute of Medicine, National Academy of Sciences, 1979.

4. National Cancer Institute, "Statement on Diet, Nutrition and Cancer" before the Senate Committee on Agriculture, Nutrition and Forestry, Subcommittee on Nutrition, October 2, 1979.

5. Ten-State Nutrition Survey, 1968–1970, Center for Disease Control, Atlanta, Georgia. *DHEW Publication No. (HSM) 72–8134, 1970.*

6. The Health and Nutrition Examination Survey (HANES). United States, 1971–72, Dietary Intake and Biochemical Findings, National Center for Health Statistics. *DHEW Publication No. 74–1219–1, 1974.*

7. Frank, Gail C. et al. Dietary Studies and the Relationship of Diet to Cardiovascular Disease Risk Factor Variables in Ten Year Old Children. The Bogalusa Heart Study. *The American Journal of Clinical Nutrition.* Volume 31. February 1978.

8. *Ibid.*

9. HANES, *supra* note 3.

10. Hanes, *supra* note 3; Nutrition Surveillance, Center for Disease Control, *DHEW Publication No. (CDC) 77–8295,* December, 1975.

11. Ten State Nutrition Survey, *supra* note 1.

12. Dresser, Connie M., Eating Styles Today: Implications of the HANES Food Consumption Survey, National Center for Health Statistics, presented at the American Dietetic Association 61st Annual Meeting, 1978.

13. Frank, *supra* note 4.

14. Evaluation of the Health Aspects of Sucrose as a Food Ingredient, Federation of American Societies for Experimental Biology, FDA Contract No. FDA 223–75–2004, 1976.

15. Report of the Task Force on the Evidence Relating Six Dietary Factors to the Nation's Health, sponsored by the American Society for Clinical Nutrition, in the American Journal of Clinical Nutrition, Supplement Volume 32, No. 12, December 1979.

16. Bibby, Basil G., The Carcinogenicity of Snack Foods and Confections, Journal of the American Dental Association, Volume 90, January 1975.

17. U.S. Department of Health, Education, and Welfare, "Healthy People" Background Papers, A Report to the Surgeon General by the Institute of Medicine, National Academy of Sciences, 1979.

18. Yankelovich, Skelly and White, Inc., "Family Health in an Era of Stress," The General Mills American Family Report, 1978–79.

19. Louis Harris and Associates, Inc., "Health Maintenance," commissioned by Pacific Mutual Life Insurance Co., November, 1978.

20. United States Senate, Select Committee on Nutrition and Human Needs, "Dietary Goals for the United States, second edition," December, 1977.

21. "Round Table on Comparison of Dietary Recommendations in Different European Countries," European Nutrition Conference, Munich, Germany, 1976, Metabolism 21:210–214, 1977.

22. National Academy of Sciences, National Research Council, Food and Nutrition Board, "Recommended Dietary Allowances," eighth revised edition, 1974.

23. U.S. Department of Health, Education and Welfare, "Disease Prevention and Health Promotion: Federal Programs and Prospects" Report of the Departmental Task Force on Prevention, and "Healthy People" Background Papers, A Report to the Surgeon General by the Institute of Medicine, National Academy of Sciences, 1979.

24. Communication from Arthur C. Upton, M.D., Director, National Cancer Institute, Bethesda, Maryland, December 27, 1979.

25. Communication from Dr. D. Mark Hegsted, Administrator, Human Nutrition Center, USDA, Washington, D.C., January 16, 1980.

26. Communications from Julius B. Richmond, M.D., Assistant Secretary for Health and Surgeon General, Department of Health, Education and Welfare, Washington, D.C., January 11, 1980.

27. U.S. Department of Agriculture, "Food and Nutrition for the 1980's: Moving Ahead," Washington, D.C., April, 1979.

28. Assembly of Life Science/National Research Council and the Institute of Medicine, National Academy of Sciences, Committee for a Study on Saccharin and Food Safety Policy.

Part 1 of a 2-part Study, Saccharin: Technical Assessment of Risks and Benefits, Washington, D.C., November 1978.

Part 2 of a 2-part Study, Food Safety Policy: Scientific and Societal Considerations, Washington, D.C., March 1, 1979.

29. Progress Report to the Food and Drug Administration from the National Cancer Institute, concerning the National Bladder Cancer Study, The National Cancer Institute, Bethesda, Maryland.

30. Press Release, U.S. Department of Health, Education and Welfare, The National Cancer Institute, Bethesda, Maryland, December 21, 1979.

31. Communication from Arthur C. Upton, M.D., Director, National Cancer Institute, Bethesda, Maryland, December 27, 1979.

32. **Federal Register**, Food Labeling, tentative positions of agencies, December 21, 1979.

33. FDA Fortification Guidelines, January 25, 1980.

34. Food and Nutrition Board, National Research Council, General policies in regard to improvement of nutritive quality of foods. Policy statement. National Academy of Sciences, Washington, D.C., 1973.

35. Committee of Food Protection, Food and Nutrition Board, Technology of Fortification of foods. National Academy of Sciences, Washington, D.C., 1975.

36. Joint FAO/WHO Expert Committee on Nutrition, Eighth Report, Food Fortification, Protein-calorie Malnutrition, Geneva, Switzerland, 1971.

Accordingly, Part 210 is amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. § 210.2 is amended by redesignating (h–1) thru (h–7) as (h–2) thru (h–8) and adding new paragraphs (c–3), (c–4) and (h–1) to read as follows:

§ 210.2 Definitions.

* * * * *

(c–3) "Competitive foods" means any foods sold in competition with the National School Lunch Program. This includes any food that is sold as a separate item even if it is also a component of the school lunch.

(c–4) "Competitive foods approved by the Secretary" means all foods sold in competition with the National School Lunch Program to children on school premises from the beginning of the school day until after the last lunch period with the exception of categories of foods of minimal nutritional value as listed in Appendix B of this part.

* * * * *

(h–1) "Foods of minimal nutritional value" means (1) in the case of artificially sweetened foods, a food which provides less than 5 percent of the USRDA for each of eight specified nutrients per serving; (2) in the case of all other foods, a food which provides less than 5 percent of the USRDA for each of eight specified nutrients per 100 calories *and* less than 5 percent of the USRDA for each of eight specified nutrients per serving. The eight nutrients to be assessed for this purpose are: protein, vitamin A, vitamin C, niacin, riboflavin, thiamin, calcium, and iron. Categories of foods of minimal nutritional value are listed in Appendix B of this part.

2. § 210.15b is revised to read as follows:

§ 210.15b Competitive food services.

(a) State agencies and School Food Authorities shall establish such rules or regulations as are necessary to control the sale of foods in competition with a school's nonprofit food service under the program, *Provided,* That such regulations shall not authorize the sale of foods in the categories of foods of minimal nutritional value as listed in Appendix B of this part on the school premises from the beginning of the school day to the end of the last lunch period. The sale of competitive foods approved by the Secretary may be allowed at the discretion of the State agency and School Food Authority provided that the proceeds from the sale of such foods inure to the benefit of the school's nonprofit meal program or to the school or to student organizations approved by the school.

(b)(1) Any person may submit a petition to FNS requesting that an individual food be exempted from a category of foods of minimal nutritional value listed in Appendix B. In the case of artificially sweetened foods, the petition must include a statement of the percent of USRDA for the eight nutrients listed in § 210.2(h–1) that the food provides per serving and the petitioner's source of this information. In the case of all other foods, the petition must include a statement of the percent of USRDA for the eight nutrients listed in § 210.2(h–1) that the food provides per serving and per 100 calories and the petitioner's source of this information. The Department will determine whether or not the individual food is a food of minimal nutritional value as defined in § 210.2(h–1), and will inform the petitioner in writing of such determination, and the public by notice in the **Federal Register** as indicated under section (b)(3).

(b)(2) Any person may submit a petition to FNS requesting that foods in a particular category of foods be classified as foods of minimal nutritional value as defined in § 210.2(h–1). The petition must identify and define the food category in easily understood language, list examples of the foods contained in the category and include a list of ingredients which the foods in that category usually contain. If, upon review of the petition, the Department determines that the foods in that category should not be classified as foods of minimal nutritional value, the petitioner will be so notified in writing. If, upon review of the petition, the Department determines that there is a substantial likelihood that the foods in that category should be classified as foods of minimal nutritional value as defined in § 210.2(h–1), the Department shall at that time inform the petitioner. In addition, the Department shall publish a proposed rule restricting the sale of the foods in that category, setting forth the reasons for this action, and soliciting public comments. On the basis of comments received within 60 days of publication of the proposed rule and other available information, the Department will determine whether the nutrient composition of the foods indicates that the category should be classified as a category of foods of minimal nutritional value. The petitioner shall be notified in writing and the public shall be notified of the Department's final determination upon publication in the **Federal Register** as indicated under section (b)(3).

(b)(3) By May 1 and November 1 of each year, the Department will amend Appendix B to exclude those individual foods identified under section (b)(1), and to include those categories of foods identified under section (b)(2), *Provided,* That there are necessary changes.

PART 220—SCHOOL BREAKFAST PROGRAM

Accordingly, Part 220 is amended as follows:

1. § 220.2 is amended by adding new paragraphs (c–1), (c–2) (i–1) to read as follows:

§220.2 Definitions.

* * * * *

(c–1) "Competitive foods" means any foods sold in competition with the School Breakfast Program. This includes any food that is sold as a separate item even if it is also a component of the breakfast meal.

(c–2) "Competitive foods approved by the Secretary" means all foods sold in competition with the School Breakfast Program to children on school premises from the beginning of the school day until after the last lunch period with the exception of categories of foods of minimal nutritional value as listed in Appendix B of this part.

* * * * *

(i–1) "Foods of minimal nutritional value" means (1) in the case of artificially sweetened foods, a food which provides less than 5 percent of the USRDA for each of eight specified nutrients per serving; (2) in the case of all other foods, a food which provides less than 5% of the USRDA for each of eight specified nutrients per 100 calories *and* less than 5% of the USRDA for each of eight specified nutrients per serving. The eight nutrients to be assessed for this purpose are: protein, vitamin A, vitamin C, niacin, riboflavin, thiamin, calcium and iron. Categories of foods of minimal nutritional value are listed in Appendix B of this part.

2. § 220.12 is revised to read as follows:

§ 220.12 Competitive food services.

(a) State agencies and School Food Authorities shall establish such rules or regulations as are necessary to control the sale of foods in competition with a school's nonprofit food service under the Program, *Provided,* That such regulations shall not authorize the sale of foods in the categories of foods of minimal nutritional value as listed in Appendix B of this part on the school premises from the beginning of the school day to the end of the last lunch period. The sale of competitive foods approved by the Secretary may be allowed at the discretion of the State agency and School Food Authority provided that the proceeds from the sale of such foods inure to the benefit of the school's nonprofit meal program or to the school or to student organizations approved by the school.

(b)(1) Any person may submit a petition to FNS requesting that an individual food be exempted from a category of foods of minimal nutritional value listed in Appendix B. In the case of artificially sweetened foods, the petition must include a statement of the percent of USRDA for the eight nutrients listed in § 220.2(i–1) that the food provides per serving and the petitioner's source of this information. In the case of all other foods, the petition must include a statement of the percent of USRDA for the eight nutrients listed in § 220.2(i–1) that the food provides per serving and per 100 calories and the petitioner's source of this information. The Department will determine whether or not the individual food is a food of minimal nutritional value as defined § 220.2(i–1), and will inform the petitioner in writing of such determination, and the public by notice in the **Federal Register** as indicated under section (b)(3).

(b)(2) Any person may submit a petition to FNS requesting that foods in a particular category of foods be classified as foods of minimal nutritional value as defined in § 220.2(i–1). The petition must identify and define the food category in easily understood language, list examples of the foods contained in the category and include a list which the foods in that category usually contain. If, upon review of the petition, the Department determines that

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the foods in that category should not be classified as foods of minimal nutritional value, the petitioner will be so notified in writing. If upon review of the petition, the Department determines that there is a substantial likelihood that the foods in that category should be classified as foods of minimal nutritional value as defined in § 220.2(i-1), the Department shall at that time inform the petitioner. In addition, the Department shall publish a proposed rule restricting the sale of the foods in that category, setting forth the reasons for this action, and soliciting public comments. On the basis of comments received within 60 days of publication of the proposed rule and other available information, the Department will determine whether the nutrient composition of the foods indicates that the category should be classified as a category of foods of minimal nutritional value.

The petitioner shall be notified in writing and the public shall be notified of the Department's final determination upon publication in the **Federal Register** as indicated under section (b)(3).

(b)(3) By May 1 and November 1 of each year, the Department shall amend Appendix B to exclude those individual foods identified under section (b)(1), and to include those categories of foods identified under section (b)(2), *Provided* That there are necessary changes.

Appendix B—Categories of Foods of Minimal Nutritional Value

(1) Soda Water—As defined by 21 CFR 165.175 Food and Drug Administration Regulations except that artificial sweeteners are an ingredient that is included in this definition.

(2) Water Ices—As defined by 21 CFR 135.160 Food and Drug Administration Regulations except that water ices which contain fruit or fruit juices are not included in this definition.

(3) Chewing Gum—Flavored products from natural or synthetic gums and other ingredients which form an insoluble mass for chewing.

(4) Certain Candies—Processed foods made predominantly from sweeteners or artificial sweeteners with a variety of minor ingredients which characterize the following types: (a) Hard Candy—A product made predominantly from sugar (sucrose) and corn syrup which may be flavored and colored, is characterized by a hard, brittle texture, and includes such items as sour balls, fruit balls, candy sticks, lollipops, starlight mints, after dinner mints, sugar wafers, rock candy, cinnamon candies, breath mints, jaw breakers and cough drops.

(b) Jellies and Gums—A mixture of carbohydrates which are combined to form a stable gelatinous system of jelly-like character, and are generally flavored and colored, and include gum drops, jelly beans, jellied and fruit-flavored slices.

(c) Marshmallow Candies—An aerated confection composed of sugar, corn syrup, invert sugar, 20% water and gelatin or egg white to which flavors and colors may be added.

(d) Fondant—A product consisting of microscopic-sized sugar crystals which are separated by a thin film of sugar and/or invert sugar in solution such as candy corn, soft mints.

(e) Licorice—A product made predominantly from sugar and corn syrup which is flavored with an extract made from the licorice root.

(f) Spun Candy—A product that is made from sugar that has been boiled at high temperature and spun at a high speed in a special machine.

(g) Candy Coated Popcorn—Popcorn which is coated with a mixture made predominantly from sugar and corn syrup.

(Sec. 17, Pub. L. 95-166, 91 Stat. 1345 (42 U.S.C. 1779)).

Note.—In accordance with Executive Order 12044 a copy of the detailed final impact analysis statement for this final regulation is available at the Office of the Director, School Programs Division, USDA–FNS, Washington, D.C. 20250 during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday).

Dated: January 25, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-2907 Filed 1-28-80; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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DOT/UMTA			DOT/UMTA	
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of Rules Going Into Effect Today.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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Wednesday
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Highlights

6773 **Save Your Vision Week, 1980** Presidential proclamation

6846 **Allied Health Project** HEW/PHS/HRA announce competitive applications; apply by 3-7-80

6869 **Role of Private Counsel in Indigent Defense** Justice/NIJ announces competitive research solicitation; apply by 3-28-80

6869 **Changing Role of Corrections** Justice/NIJ announces competitive research grant/cooperative agreement; apply by 4-15-80

6882 **U.S. and People's Republic of China** Office of the Special Representative for Trade Negotiations announces that the two countries will exchange notifications that each has completed legal procedures for implementation of Agreement on Trade Relations; effective 2-1-80

6793 **Domestic Licensing of Production and Utilization Facilities** NRC is considering amending regulations to require participation in Nuclear Plant Reliability Data System be made mandatory for power reactor licensees; comments by 3-31-80

6780 **Documents, Records and Declassification Requests** CIA establish procedures for the public to access and review records; effective 1-30-80

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Highlights

6809 **General Education Provisions** HEW/OE proposes to collect data from educational agencies or institutions during school year 1979–80; comments by 2–29–80

6802 **Clean Air** EPA issues proposed amendments to regulations concerning review of new and modified sources of air pollution; comments by 2–29–80

6800 **Corporate Liquidations for Involuntary Conversion** Treasury/IRS issues proposed regulations relating to election to extend 12-month period; comments and request for hearing 3–31–80

6778, 6800 **Temporary Income Tax** Treasury/IRS issues regulations relating to option to capitalize or deduct intangible drilling and development costs in case of wells drilled for geothermal deposit; effective 10–1–78, comments and request for hearing 3–31–80 (2 documents)

6886 **Section 8 Housing Assistance** HUD/FHC issues regulations revising the program; effective 2–29–80 (Part II of this issue)

6795 **Federal Credit Unions** NCUA issues proposed regulations on gross income, risk assets, and liquid assets; comments by 3–30–80

6775 **Warehouse Regulations** USDA/AMS issues regulations to provide rules of practice which will be consistent and uniform throughout the Agriculture Department; effective 1–30–80

6801 **Private Express** PS proposes amendments to the regulations; extends comment period to 4–8–80

6873 **Appellate System** NRC announces study on system; comments by 3–17–80

6820, 6858, 6873 **Privacy Act** The following agencies issue documents: CIA/Justice/President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research

6812 **Average Loan Rates** USDA/CCC sets forth the increases in 1979-crop wheat, barley, corn, oats, rye, and sorghum loan rates; effective 1–8–80

6883 **Sunshine Act Meetings**

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Federal Register
Vol. 45, No. 21
Wednesday, January 30, 1980

Presidential Documents

Title 3—

The President

Proclamation 4718 of January 28, 1980

Save Your Vision Week, 1980

By the President of the United States of America

A Proclamation

Good vision, like good health generally, contributes much to the enjoyment of life. Our ability to see affects how we learn, how we work and play, how we relate to others, and how well we are able to function in an increasingly complex society. Yet most people take good eyesight for granted. Just as we have come to recognize the need to take a more active role in maintaining the health of our bodies through diet and exercise, we should also take time to consider what can be done to take care of our eyes and to protect our vision. With proper care and attention, many of the serious eye problems that affect both young and old can be prevented.

Prevention of eye disease begins even before birth with adequate nutrition and prenatal care for the mother. During early childhood and later in life, periodic eye examinations can reveal certain potentially blinding eye conditions early enough to permit successful treatment. This is particularly true in families where there is a history of glaucoma or in people who have diabetes. With professional eye care, it is even possible to restore sight to some people who are already blind or to help those with partial sight make the most of their remaining vision.

In addition to obtaining professional eye care when needed, each of us must take responsibility for protecting our eyes from injury. Protective eyeglasses or safety goggles should be worn in hazardous situations at work and while participating in many recreational activities. In the home, precautions should be taken to avoid injury to the eyes from household products, appliances, and cosmetics.

To increase awareness of the importance of good vision and of the ways in which we can help to preserve our eyesight, the Congress, by joint resolution approved December 30, 1963 (77 Stat. 629, 36 U.S.C. 169a), has requested the President to proclaim the first week of March of each year as Save Your Vision Week.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the week beginning March 2, 1980, as Save Your Vision Week. I urge all Americans to participate in the observance of this period by pausing to consider what they can do to take care of their eyes. I invite vision care professionals, the communications media, educators, and all public and private organizations that support sight conservation to participate in activities that will teach Americans about eye care and encourage them to take steps to preserve and make the most of their vision.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of January, in the year of our Lord nineteen hundred eighty, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 80-3141
Filed 1-28-80; 3:55 pm]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
Vol. 45, No. 21
Wednesday, January 30, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 101, 102, 103, 104, 106, 107, 108, and 111

Cotton Warehouses; Grain Warehouses; Tobacco Warehouses; Wool Warehouses; Dry Bean Warehouses; Nut Warehouses; Sirup Warehouses; and Cottonseed Warehouses; Procedure in Hearings

AGENCY: Agricultural Marketing Service.

ACTION: Final Rule.

SUMMARY: This action will recognize in the regulations issued under the U.S. Warehouse Act the applicability of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary under various statutes (7 CFR 1.130–1.151). The purpose generally is to provide Rules of Practice which will be consistent and uniform throughout the Department of Agriculture for like situations.

EFFECTIVE DATE: January 30, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. Orval Kerchner, Chief, Warehouse Development Branch, Warehouse Division, Agricultural Marketing Service, Department of Agriculture, Washington, D.C. 20250 (202–447–3821).

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that the Agricultural Marketing Service (AMS), pursuant to the authority conferred by section 28 of the U.S. Warehouse Act (7 U.S.C. 268, hereinafter the "Warehouse Act"), is amending the warehouse regulations for the storage of cotton, grain, tobacco, wool, dry bean, nut, sirup and cottonseed appearing in Parts 101, 102, 103, 104, 106, 107, 108 and 111 respectively of Subchapter E of Chapter I in Title 7 of the Code of Federal Regulations (7 CFR Parts 101, 102, 103, 104, 106, 107, 108, and 111).

The Act authorizes opportunities for hearings in connection with suspension or revocation of "any license issued to any person to inspect, sample, or classify, or to weigh any agricultural product or products under this Act", and "any license to any warehouseman conducting a warehouse under this Act, for any violation of or failure to comply with any provision of this Act or of the rules and regulations made hereunder, or upon the ground that unreasonable or exorbitant charges have been made for services rendered." Relevant regulations were promulgated and now are in effect for each of the commodities named herein and each of the commodity regulations also contains a regulation describing procedures for such hearings when requested. The regulations describing procedures for such hearings now have been made ineffective by the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary under various statutes (7 CFR 1.130–1.151). The purpose of these amendments than is to conform the subject regulations to the Rules of Practice prescribed by the Secretary.

These amendments do not have any force and effect with reference to (1) actions expressly authorized by the Act or regulations to be taken without an opportunity for such a hearing, (2) actions involving the denial or the temporary suspension of a license, the refusal to renew a license that has expired, or the refusal to return a license that was suspended for a period that has expired, (3) actions involving arbitrations or appeal inspection procedures and/or services, or (4) any other actions which heretofore have been taken by the Secretary or his delegate as an exercise of administrative authority. Authority for such actions will continue to be vested in the Secretary and/or his delegate. The sole purpose of these amendments is by regulation to recognize the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary under various Statutes (7 CFR 1.130–1.151) as applicable to any hearings resulting from actions taken under section 12 and 25 of the Act and relevant regulations.

Said regulations, therefore, are amended to read:

PART 101—COTTON WAREHOUSES

1. Section 101.89 is revised to read:

§ 101.89 Procedure in hearings.

Hearings under the Act or the regulations in this part, except those relating to appeals or arbitrations shall be conducted in accordance with the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary under various statutes (7 CFR 1.130–1.151).

PART 102—GRAIN WAREHOUSES

2. Section 102.99 is revised to read:

§ 102.99 Procedure in hearings.

Hearings under the Act or the regulations in this part, except those relating to appeals or arbitrations shall be conducted in accordance with the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary under various statutes (7 CFR 1.130–1.151).

PART 103—TOBACCO WAREHOUSES

3. Section 103.78 is revised to read:

§ 103.78 Procedure in hearings.

Hearings under the Act or the regulations in this part, except those relating to appeals or arbitrations shall be conducted in accordance with the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary under various statutes (7 CFR 1.130–1.151).

PART 104—WOOL WAREHOUSES

4. Section 104.72 is revised to read:

§ 104.72 Procedure in hearings.

Hearings under the Act or the regulations in this part, except those relating to appeals or arbitrations shall be conducted in accordance with the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary under various statutes (7 CFR 1.130–1.151).

PART 106—DRY BEAN WAREHOUSES

5. Section 106.80 is revised to read:

§ 106.80 Procedure in hearings.

Hearings under the Act or the regulations in this part, except those relating to appeals or arbitrations shall be conducted in accordance with the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary under various statutes (7 CFR 1.130–1.151).

PART 107—NUT WAREHOUSES

6. Section 107.61 is revised to read:

§ 107.61 Procedure in hearings.

Hearings under the Act or the regulations in this part, except those relating to appeals or arbitrations shall be conducted in accordance with the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary under various statutes (7 CFR 1.130–1.151).

PART 108—SIRUP WAREHOUSES

7. Section 108.73 is revised to read:

§ 108.73 Procedure in hearings.

Hearings under the Act or the regulations in this part, except those relating to appeals or arbitrations shall be conducted in accordance with the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary under various statutes (7 CFR 1.130–1.151).

PART 111—COTTONSEED WAREHOUSES

8. Section 111.84 is revised to read:

§ 111.84 Procedure in hearings.

Hearings under the Act or the regulations in this part, except those relating to appeals or arbitrations shall be conducted in accordance with the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary under various statutes (7 CFR 1.130–1.151).

Because these amendments codify existing law and deal with rules of internal agency practice, the Department is satisfied that the notice and comment provisions of the Administrative Procedure Act 5 U.S.C. 553(b) do not apply to these amendments.

(August 11, 1916, ch. 313, part C, Sec. 28, 39 Stat. 490 (7 U.S.C. 288))

Done at Washington, DC, January 25, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80–2951 Filed 1–29–80; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 282, 299 and 499

Service Forms; Current Edition Dates and Purchase Information

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This order amends the regulations of the Immigration and Naturalization Service to include current edition dates of Service forms, to add new forms to the listing of forms available for purchase from the Government Printing Office (GPO) and to include the GPO stock numbers and prices of all Service forms which may be purchased from the Superintendent of Documents, GPO. It also provides for the furnishing of Service forms gratis to Voluntary Agencies which are participating in the Service Outreach Program. These amendments are being made to advise the public of the current edition dates of certain Service forms, and to facilitate obtaining of forms from the Government Printing Office by individuals and by private and voluntary organizations.

EFFECTIVE DATE: January 30, 1980.

FOR FURTHER INFORMATION CONTACT:

Kenneth A. Cooper, Management Analysis Officer, Immigration and Naturalization Service. Telephone: (202) 633–3291 or

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service. Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: This order amends 8 CFR 282.1, 8 CFR 299.1, .2, .3 and .4, and 8 CFR 499.1.

I. Amendment to 8 CFR 282.1

Existing 8 CFR 282.1 sets forth a list of forms which the Superintendent of Documents is authorized to print and sell to the public, which are prescribed for use in Subchapter B of Chapter I of Title 8 of the Code of Federal Regulations. This listing has generally been duplicated in 8 CFR 299.3. Since we are expanding the listing of forms in 8 CFR 299.3 which are available for purchase, and in order to eliminate duplication of regulations, the listing of specific forms will be eliminated from 8 CFR 282.1 and the section will be revised to include a cross reference to 8 CFR 299.3.

II. Amendments to 8 CFR 299.1

8 CFR 299.1 is amended by adding Forms G–639, G–652, G–657, and G–658 to the listing. Form CDC 4.417 (11–74) is added to the listing and Form HSM–240 is deleted. Forms I–20 and I–95 are redesignated I–20AB and I–95AB, respectively. Listing for Form I–324 is amended to read I–342. Revised edition dates are provided for the following forms: AR–11; G–325C; G–641; I–39; I–53; I–90; I–94; I–122; I–126; I–129F; I–140; I–181; I–196; I–221S; I–246; I–256A; I–286; I–290B; I–342; I–485; I–485A; I–485C; I–506; I–536; I–539; I–600; I–601 and I–612.

III. Amendments to 8 CFR 299.2

8 CFR 299.2 will be amended by adding a new paragraph (c) to provide that voluntary agencies participating in the Service Outreach Program may receive the forms gratis upon written request to the appropriate regional commissioner.

IV. Amendments to 8 CFR 299.3

8 CFR 299.3 will be amended to include the Government Printing Office Stock Control Numbers and prices of all forms which may be purchased from GPO. The list will be expanded to include forms used under the nationality regulations contained in Subchapter C of the Service regulations. The following forms will be added to this listing: G–641; I–90; I–129F; I–134; I–508; I–526; I–538; I–539; I–570; I–600; N–300; N–400; N–402; N–426; and N–600.

V. Amendment to 8 CFR 299.4

Existing 8 CFR 299.4 contains a requirement that Forms I–94 which are reproduced or printed by private individuals or concerns, must be serially numbered. The Service has reexamined the need for and use of this serial number. In addition, we are also cognizant of the fact that the numbering process increases the cost of reproducing the form. Based on our determination that the serial number is no longer needed, and our desire to reduce the cost of printing and reproduction of this form, the regulation will be amended to delete the requirement that Forms I–94 be serially numbered.

VI. Amendments to 8 CFR 499.1

8 CFR 499.1 will be amended by:

a. Adding Forms G–639, G–652, G–657 and G–658 to the listing;

b. revising the parenthetical descriptions following Forms N–402 and N–407 to delete reference to sec. 323 of the Act;

c. including current edition dates for Forms G–641; N–3; N–305; N–400; N–402; N–405; N–407; N–408; N–455; N–462A; N–470; N–565; and N–600.

In the light of the foregoing, Chapter I of Title 8 of the Code of Federal Regulations is hereby amended as set forth below:

PART 282—FORMS FOR SALE TO PUBLIC

1. Section 282.1 is revised to read as follows:

§ 282.1 Forms printed by the Public Printer.

The Public Printer is authorized to print for sale to the public, the forms listed in § 299.3 of this chapter.

* * * * *

PART 299—IMMIGRATION FORMS

2. Section 299.1 is amended by adding certain forms and their edition dates to the listing, and by including the current edition dates of certain other forms, as set forth below:

§ 299.1 Prescribed forms.

* * * * *

Form No., Title and Description

* * * * *

AR–11 (3–21–79) Alien's Change of Address Card.

* * * * *

CDC 4.417 (11–74) (Formerly HSM–240 or PHS–124) Medical Certificate.

* * * * *

G–325C (5–1–79) Biographic Information.

G–639 (7–25–77) Application for a Search of the Records of the Immigration and Naturalization Service Under the Freedom of Information Act (5 U.S.C. 552).

G–641 (8–2–78) Application for Verification of Information from Immigration and Naturalization Records.

G–652 (2–1–78) Affidavit of Identity.

G–657 (8–9–78) Privacy Act Information Request.

G–658 (11–1–75) Record of Information Disclosure (Privacy Act).

* * * * *

I–20AB (4–1–76) Certificate of Eligibility (For Nonimmigrant "F–1" Student Status).

* * * * *

I–39 (9–22–78) Decision of the Immigration Judge.

I–53 (1–1–80) Alien Address Report.

* * * * *

I–90 (5–31–78) Application by Lawful Permanent Resident Alien for Alien Registration Receipt Card, Form I–151.

* * * * *

I–94 (6–1–79) Arrival-Departure Record.

I–95AB (9–1–64) Crewman's Landing Permit.

* * * * *

I–122 (5–4–79) Notice to Applicant for Admission Detained for Hearing before Special Inquiry Officer.

I–126 (6–26–78) Report of Status by Treaty Trader or Investor.

* * * * *

I–129F (9–29–78) Petition to Classify Status of Alien Fiance or Fiancee for for Issuance of Nonimmigrant Visa.

* * * * *

I–140 (3–1–78) Petition to Classify Preference Status of Alien on Basis of Profession or Occupation.

* * * * *

I–181 (4–1–77) Memorandum of Creation of Record of Lawful Permanent Residence.

* * * * *

I–196 (9–9–78) Application for U.S. Citizen Identification Card.

I–197 (5–1–76) U.S. Citizen Identification Card.

* * * * *

I–221S (8–1–77) Order to Show Cause, Notice of Hearing, and Warrant for Arrest of Alien.

* * * * *

I–246 (2–15–78) Application for Stay of Deportation.

I–256A (12–7–77) Application for Suspension of Deportation.

* * * * *

I–286 (4–1–79) Notification to Alien of Conditions of Release or Detention.

* * * * *

I–290B (1–30–78) Notice of Appeal to Regional Commissioner.

* * * * *

I–342 (4–25–79) Determination of the Immigration Judge with Respect to Custody.

* * * * *

I–485 (5–1–79) Application for Status as Permanent Resident.

I–485A (5–1–79) Application by Cuban Refugee for Permanent Residence.

I–485C (8–9–78) Application for Creation of a Record of Lawful Admission for an Indochina Refugee.

* * * * *

I–506 (9–12–77) Application for Change of Nonimmigrant Status.

* * * * *

I–536 (9–12–77) Application by Nonimmigrant Student (F–1) for Extension of Stay, School Transfer or Permission to Accept or Continue Employment.

I–539 (9–12–77) Application to Extend Time of Temporary Stay.

I–566 (9–21–79) Application for Employment by a (G–4) spouse or Unmarried Son or Daughter of an Official of an International Organization.

* * * * *

I–600 (10–20–78) Petition to Classify Orphan as an Immediate Relative.

I–601 (9–2–78) Application for Waiver of Grounds of Excludability under Section 212 (g), (h), or (i) of the Immigration and Nationality Act.

I–612 (9–5–78) Application for Waiver of the Foreign Residence Requirement of Section 212(e) of the Immigration and Nationality Act, as amended.

* * * * *

3. Section 299.2 is amended by adding new paragraph (c) to read as set forth below:

§ 299.2 Lawful admission for permanent residence.

* * * * *

(c) Voluntary agencies (VOLAGS) participating in the Outreach Program of the Service who make written request to the Regional Commissioner for the geographic location of the requester may be furnished Service forms gratis in the volumes requested.

* * * * *

4. Section 299.3 is revised as set forth below:

§ 299.3 Forms available from the Superintendent of Documents.

The immigration and naturalization forms indicated below may be obtained upon prepayment from the Superintendent of Documents, Washington, D.C. 20402.

Form No.	GPO stock No. (S/N)	Price per 100/pad
G–28	S/N 027–002–00218–1	$6.00/100
G–325A	S/N 027–002–00170–2	7.25/100
G–641	S/N 027–002–00199–1	7.25/100
I–20AB	S/N 027–002–00162–1	7.25/100
I–90	S/N 027–002–00023–8	5.50/100
I–92	S/N 027–002–00124–9	1.10/pad
I–94	S/N 027–002–00226–1	4.25/100
I–95AB	S/N 027–002–00081–1	3.75/100
I–129B	S/N 027–002–00161–3	5.50/100
I–129F	S/N 027–002–00201–8	5.50/100
I–130	S/N 027–002–00224–5	10.00/100
I–131	S/N 027–002–00222–9	10.00/100
I–134	S/N 027–002–00160–7	5.25/100
I–140	S/N 027–002–00223–7	8.00/100
I–408	S/N 027–002–00203–2	7.25/100
I–418	S/N 027–002–00142–7	3.50/pad
I–485	S/N 027–002–00211–3	7.75/100
I–506	S/N 027–002–00174–5	7.25/100
I–526	S/N 027–002–00173–7	5.35/100
I–538	S/N 027–002–00220–2	10.00/100
I–539	S/N 027–002–00229–6	10.00/100
I–570	S/N 027–002–00228–8	9.25/100
I–600	S/N 027–002–00229–9	8.50/100
N–300	S/N 027–002–00217–2	5.50/100
N–400	S/N 027–002–00232–6	8.00/100
N–402	S/N 027–002–00205–9	8.25/100
N–426	S/N 027–002–00192–3	7.25/100
N–600	S/N 027–002–00223–4	8.75/100

Prices are set by the Superintendent of Documents, Government Printing Office, and are subject to change without notice.

A small supply of the above forms shall be set aside by immigration officers for free distribution and official use.

5. Section 299.4 is amended by revising the first sentence and deleting the final two sentences. As amended, § 299.4 reads as follows:

§ 299.4 Reproduction of forms by private parties.

All forms required for compliance with the immigration and nationality regulations which have been made available for purchase by the Superintendent of Documents may be printed or otherwise reproduced by an appropriate duplicating process by private parties at their own expense. Forms printed or reproduced by private parties shall conform to the officially

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printed forms currently in use with respect to size, wording and language, arrangement, style and size of type, and paper specifications. Such forms shall be printed or otherwise duplicated in black ink or dye that will not fade or "feather" within 20 years.

PART 499—NATIONALITY FORMS

6. Section 499.1 is amended by adding certain forms and their edition dates to the listing, and by including the current edition dates of certain other forms, as set forth below:

§ 499.1 Prescribed forms.

* * * * *

Form No., Title, and Description

G-639 (7-25-77) Application for a Search of the Records of the Immigration and Naturalization Service Under the Freedom of Information Act (5 U.S.C. 552).

G-641 (11-12-77) Application for Verification of Information from Immigration and Naturalization Records.

G-652 (2-1-78) Affidavit of Identity.

G-657 (8-9-78) Privacy Act Information Request.

G-658 (11-1-75) Record of Information Disclosure (Privacy Act).

* * * * *

N-3 (2-24-78) Requisition for Forms and Binders.

* * * * *

N-305 (3-15-79) Form Letter Notifying Alien that Form N-300 has been Forwarded to the Clerk of the Court.

* * * * *

N-400 (9-1-78) Application to File Petition for Naturalization.

* * * * *

N-402 (11-27-78) Application to File Petition for Naturalization in Behalf of a Child (under Sec. 322, Immigration and Nationality Act).

* * * * *

N-405 (11-27-78) Petition for Naturalization (under general provisions of the Immigration and Nationality Act).

N-407 (10-1-78) Petition for Naturalization (in behalf of a child, under Sec. 322, Immigration and Nationality Act).

N-408 (4-5-79) Application to take Oath of Allegiance and Form of such Oath (by a woman formerly a citizen, under Sec. 324(c), Immigration and Nationality Act, or the Act of June 25, 1936, as amended).

* * * * *

N-455 (12-1-78) Application for Transfer of Petition for Naturalization.

* * * * *

N-462A (8-6-78) Interrogatories in Depositions of Witnesses.

N-470 (3-30-79) Application to Preserve Residence for Naturalization Purposes (under Sec. 316(b) or 317, Immigration and Nationality Act).

* * * * *

N-565 (6-19-78) Application for a New Naturalization or Citizenship Paper.

* * * * *

N-600 (12-1-78) Application for Certificate of Citizenship.

(Sec. 103; 8 U.S.C. 1103)

The above amendments are issued pursuant to 5 U.S.C. 552 as amended by Pub. L. 93-502 (88 Stat. 1561) and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1. Compliance with the notice of proposed rulemaking and delayed effective date provisions of 5 U.S.C. 553 is unnecessary in this instance because the amendments are editorial in nature or relate to the printing requirements, management and distribution of Service forms to the public and/or organizations.

Effective date: The amendments prescribed in this order become effective on January 30, 1980.

Dated: January 24, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-2891 Filed 1-29-80; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF STATE

22 CFR Part 51

[Departmental Regulation 108.785]

Persons Who May Be Included in One Passport

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This revises the regulations of the Department of State governing persons eligible for inclusion in one passport.

EFFECTIVE DATE: This rule is effective on January 14, 1980.

ADDRESS: Anthony Saridakis, Office of Citizenship Appeals and Legal Assistance (PPT/C), Department of State, 2201 C Street, NW., Washington, D.C. 20520.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking to revise Part 51 was published in the **Federal Register** on November 14, 1979 (44 FR 65600). Interested persons were invited to submit comments concerning the revision by January 14, 1980. No unfavorable comments were received; therefore, the proposed revision is adopted, without change, as set forth below.

Section 51.15(a) is revised to read as follows:

§ 51.5 Persons who may be included in one passport.

(a) The following persons may be included in one passport:

(1) Children of the bearer under the age of 13 years, including stepchildren and adopted children;

(2) Brothers and sisters of the bearer under the age of 13 years.

(b) * * *

(Sec. 1, 44 Stat. 887; sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 2658); E.O. 11295, 36 FR 10603; 3 CFR 1966-70 Comp., 507.)

Dated: January 14, 1980.

Barbara M. Watson,

Assistant Secretary for Consular Affairs.

[FR Doc. 80-3062 Filed 1-29-80; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 5a

[T.D. 7669]

Option To Capitalize or Deduct Intangible Drilling and Development Costs in the Case of Wells Drilled for any Geothermal Deposit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides Temporary Income Tax Regulations relating to the option to capitalize or deduct intangible drilling and development costs in the case of wells drilled for any geothermal deposit. Changes to the applicable tax law were made by the Energy Tax Act of 1978. In addition, the rules contained in the temporary regulations set forth in this document also serve as a notice of proposed rulemaking by which the rules contained therein are proposed to be prescribed as final regulations.

DATES: These temporary regulations are effective for taxable years ending on or after October 1, 1978, with respect to geothermal wells commenced on or after that date. Written comments and requests for a public hearing must be delivered or mailed by March 31, 1980.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-202-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: David B. Cubeta of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3926).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations under section 612 of the Internal Revenue Code of 1954. The temporary regulations are required to implement section 402(a) and (e) of the Energy Tax Act of 1978 (92 Stat. 3174).

The regulations promulgated in this document are also proposed to be prescribed as final Income Tax Regulations (26 CFR Part 1) under section 612 of the Internal Revenue Code of 1954.

Waiver of Procedural Requirements of Treasury Directive

The expeditious adoption of the provisions contained in this document is necessary because of the need for immediate guidance to taxpayers eligible for the option to deduct as expenses intangible drilling and development costs in the case of wells drilled for any geothermal deposit. For this reason, Jerome Kurtz, Commissioner of Internal Revenue, has determined that the provisions of paragraphs 8 through 14 of the Treasury Department directive implementing Executive Order 12044 must be waived.

Comments and Requests for a Public Hearing

Before adoption of the final regulations proposed in this document, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these regulations is David B. Cubeta of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, a new Part 5a, Temporary Income Tax Regulations under the Energy Tax Act of 1978, is added to Title 26 of the Code of Federal Regulations and the following temporary regulations are adopted:

PART 5a—TEMPORARY INCOME TAX REGULATIONS UNDER THE ENERGY TAX ACT OF 1978

§ 5a.612-1 Charges to capital and to expense in case of geothermal wells.

(a) *Option with respect to intangible drilling and development costs.* In accordance with the provisions of section 263(c), intangible drilling and development costs incurred by an operator (one who holds a working or operating interest in any tract or parcel of land either as a fee owner or under a lease or any other form of contract granting working or operating rights) in the development of a geothermal deposit (as defined in section 613(e)(3) and the regulations thereunder) may at the operator's option be chargeable to capital or to expense. This option applies to all expenditures made by an operator for wages, fuel, repairs, hauling, supplies, etc., incident to and necessary for the drilling of wells and the preparation of wells for the production of geothermal steam or hot water. Such expenditures have for convenience been termed intangible drilling and development costs. They include the cost to operators of any drilling or development work (excluding amounts payable only out of production or gross or net proceeds from production, if such amounts are depletable income to the recipient, and amounts properly allocable to cost of depreciable property) done for them by contractors under any form of contract, including turnkey contracts. Examples of items to which this option applies are all amounts paid for labor, fuel, repairs, hauling, and supplies, or any of them, which are used—

(1) In the drilling, shooting, and cleaning of wells,

(2) In such clearing of ground, draining, road making, surveying, and geological work as are necessary in preparation for the drilling of wells, and

(3) In the construction of such derricks, tanks, pipelines, and other physical structures as are necessary for the drilling of wells and the preparation of wells for the production of geothermal steam or hot water.

In general, this option applies only to expenditures for those drilling and developing items which in themselves do not have a salvage value. For the purpose of this option, labor, fuel, repairs, hauling, supplies, etc. are not considered as having a salvage value, even though used in connection with the installation of physical property which has a salvage value. Included in this option are all costs of drilling and development undertaken (directly or through a contract) by an operator of a geothermal property whether incurred by the operator prior or subsequent to the formal grant or assignment of operating rights (a leasehold interest, or other form of operating rights, or working interest); except that in any case where any drilling or development project is undertaken for the grant or assignment of a fraction of the operating rights, only that part of the costs thereof which is attributable to such fractional interest is within this option. In the excepted cases, costs of the project undertaken, including depreciable equipment furnished, to the extent allocable to fractions of the operating rights held by others, must be capitalized as the depletable capital cost of the fractional interest thus acquired.

(b) *Recovery of optional items, if capitalized.* (1) Items recoverable through depletion: If the taxpayer charges such expenditures as fall within the option to capital account, the amounts so capitalized and not deducted as a loss are recoverable through depletion insofar as they are not represented by physical property. For the purposes of this section the expenditures for clearing ground, draining, road making, surveying, geological work, excavation, grading, and the drilling, shooting, and cleaning of wells, are considered not to be represented by physical property, and when charged to capital account are recoverable through depletion.

(2) Items recoverable through depreciation: If the taxpayer charges such expenditures as fall within the option to capital account, the amounts so capitalized and not deducted as a loss are recoverable through depreciation insofar as they are represented by physical property. Such expenditures are amounts paid for wages, fuel, repairs, hauling, supplies, etc. used in the installation of casing and equipment and in the construction on the property of derricks and other physical structures.

(3) In the case of capitalized intangible drilling and development costs incurred under a contract, such costs shall be allocated between the foregoing classes of items specified in paragraphs (b)(1) and (2) of this section for the purpose of determining the depletion and depreciation allowances.

(4) Option with respect to cost of nonproductive wells: If the operator has elected to capitalize intangible drilling and development costs; then an additional option is accorded with respect to intangible drilling and development costs incurred in drilling a nonproductive well. Such costs incurred in drilling a nonproductive well may be deducted by the taxpayer as an ordinary

loss provided a proper election is made in the taxpayer's original or amended return for the first taxable year ending on or after October 1, 1978, in which such a nonproductive well is completed. The taxpayer must make a clear statement of election under this option in the return or amended return. The election may be revoked by the filing of an amended return that does not contain such a statement. The absence of a clear indication in such return of an election to deduct as ordinary losses intangible drilling and development costs of nonproductive wells shall be deemed to be an election to recover such costs through depletion to the extent that they are not represented by physical property, and through depreciation to the extent that they are represented by physical property. Upon the expiration of the time for filing a claim for credit or refund of any overpayment of tax imposed by chapter 1 of the Code with respect to the first taxable year ending on or after October 1, 1978 in which a nonproductive well is completed, the taxpayer is bound for all subsequent years by his exercise of the option to deduct intangible drilling and development costs of nonproductive wells as an ordinary loss or his deemed election to recover such costs through depletion or depreciation.

(c) *Nonoptional items distinguished. (1) Capital Items:* The option with respect to intangible drilling and development costs does not apply to expenditures by which the taxpayer acquires tangible property ordinarily considered as having a salvage value. Examples of such items are the costs of the actual materials in those structures which are constructed in the wells and on the property, and the cost of drilling tools, pipe, casing, tubing, tanks, engines, boilers, machines, etc. The option does not apply to any expenditure for wages, fuel, repairs, hauling, supplies, etc., in connection with equipment, facilities, or structures, not incident to or necessary for the drilling of wells, such as structures for treating geothermal steam or hot water. These are capital items and are recoverable through depreciation.

(2) *Expense items:* Expenditures which must be charged off as expense, regardless of the option provided by this section, are those for labor, fuel, repairs, hauling, supplies, etc., in connection with the operation of the wells and of other facilities on the property for the production of geothermal steam or hot water.

(d) *Manner of making election.* The option granted in paragraph (a) of this section to charge intangible drilling and development costs to expense may be exercised by claiming intangible drilling and development costs as a deduction on the taxpayer's original or amended return for the first taxable year ending on or after October 1, 1978, in which the taxpayer pays or incurs such costs with respect to a geothermal well commenced on or after that date. No formal statement is necessary. The exercise of the option may be revoked by the filing of an amended return that does not claim such a deduction. If the taxpayer fails to deduct such costs as expenses in any such return, he shall be deemed to have elected to recover such costs through depletion to the extent that they are not represented by physical property, and through depreciation to the extent that they are represented by physical property. Upon the expiration of the time for filing a claim for credit or refund of any overpayment of tax imposed by chapter 1 of the Code with respect to the first taxable year ending on or after October 1, 1978, in which the taxpayer pays or incurs intangible drilling and development costs with respect to a geothermal well commenced on or after that date, the taxpayer is bound by his exercise of the option to charge such costs to expense or his deemed election to recover such costs through depletion or depreciation for that year and for all subsequent years.

(e) *Effective date.* The option granted by paragraph (a) of this section is available only for taxable years ending on or after October 1, 1978, with respect to geothermal wells commenced on or after that date.

There is need for the immediate guidance provided by the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in sections 263 and 7805 of the Internal Revenue Code of 1954 (92 Stat. 3201; 26 U.S.C. 263; 68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: January 16, 1980.

Donald C. Lubick,
Assistant Secretary of the Treasury.

[FR Doc. 80-2964 Filed 1-29-80; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 43-80]

Exemption of Records Systems Under the Privacy Act; Revocation of an Exemption

AGENCY: Department of Justice, Law Enforcement Assistance Administration (LEAA).

ACTION: Revocation Rule.

SUMMARY: As explained in the Notice Section of today's **Federal Register**, LEAA's Office of Audit and Investigation is rescinding its system of records entitled "General Investigative System, JUSTICE/LEAA-003". This notice was most recently published in a **Federal Register** on September 30, 1977 and again in the **Federal Register** document identified as the Privacy Act issuances, 1978 Compilation, Volume III. It was originally published on August 27, 1975, along with a proposed rule to exempt the system from subsections (d), (e)(4) (G) and (H), and (f) of the Privacy Act.

Because the system of records is rescinded, paragraphs (a), (b), and (c) of 28 CFR 16.100 are unnecessary and are being revoked.

DATES: Revocation of the exemption is effective January 30, 1980.

ADDRESSES: Administrative Counsel, Justice Management Division, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: William J. Snider (202-633-3452).

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order 793-78, paragraphs (a), (b) and (c) of 28 CFR 16.100 are hereby revoked, paragraph (d) is hereby redesignated paragraph (a), and paragraph (e) is hereby redesignated paragraph (b).

Dated: January 22, 1980.

Kevin D. Rooney,
Assistant Attorney General for Administration.

[FR Doc. 80-2979 Filed 1-29-80; 8:45 am]
BILLING CODE 4410-18-M

CENTRAL INTELLIGENCE AGENCY

32 CFR Part 1900

Public Access to Documents and Records and Declassification Requests

AGENCY: Central Intelligence Agency.

ACTION: Final rule.

SUMMARY: The United States District Court for the District of Columbia on September 27, 1979, ordered the Central Intelligence Agency to publish applicable rules and regulations relating to the Agency's Reading Room and access thereto. In compliance with this order, a proposed rule was promulgated in the **Federal Register** on November 15, 1979.

The regulations establish procedures for the general public to access and review any records which have been approved for release in response to Freedom of Information Act requests.

DATES: Effective January 30, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. George W. Owens, Chief, Information and Privacy Division, Central Intelligence Agency, Washington, D.C. 20505; phone: (703) 351-7486.

SUPPLEMENTARY INFORMATION: The Court ordered on September 27, 1979, that by November 30, 1979, the Agency must inform the general public of its Rules and Regulations for access by the general public to review records which have been approved for release to the general public in response to Freedom of Information Act requests at an Agency Reading Room. The Agency did so inform the public by publishing a proposed rule in the **Federal Register** at Vol. 44, No. 222, pp. 65780-65781, November 15, 1979.

The Central Intelligence Agency offered to receive comments from the general public regarding the proposed rule. The public was informed that all written comments, that were received by January 7, 1980, would be considered before adoption of a final rule. The Agency received two comments. One individual wrote that the proposed rule was unclear in that it did not adequately state that any member of the general public could access and review records which had been approved for release to another requester. Another individual took exception to the language used in describing the conditions of access to the Reading Room. The Agency has accordingly modified the rule as published in the **Federal Register** on November 15, 1979, in order to clarify the expressed areas of concern.

This Central Intelligence Agency Rule and Regulation is adopted. It is entered at Title 32 Code of Federal Regulations, Part 1900, paragraph (c) of § 1900.49, Notification and payment; furnishing records. Rules and Regulations previously promulgated can be found in the **Federal Register** at Vol. 40, No. 34, pp. 7294-7298, February 19, 1975; Vol. 40, No. 113, pg. 24897, June 11, 1975; Vol. 42, No. 92, pg. 24049, May 12, 1977; and, Vol. 43, No. 109, pg. 24527, June 6, 1978.

PART 1900—PUBLIC ACCESS TO DOCUMENTS AND RECORDS AND DECLASSIFICATION REQUESTS

In consideration of the foregoing, the Central Intelligence Agency adopts the amendment to 32 CFR Part 1900 by adding a new paragraph (c) to § 1900.49 to read as follows:

§ 1900.49 Notification and payment; furnishing records.

* * * * *

(c) As an alternative to any Freedom of Information Act requester receiving any records from the Agency by mail, a requester may arrange to inspect the records at a CIA Reading Room. The requester may be the person who initially requested the records or the requester may be someone who was not a party to that request. The Information and Privacy Coordinator will designate a Reading Room for the purposes of records inspection, and the requester may select whatever records the requester wishes to purchase at a cost set forth in § 1900.25. Access to the Reading Room will be granted only after the fees that accumulated from the search to produce the requested records have been paid, or waived by the Information and Privacy Coordinator pursuant to § 1900.25(a). Upon receipt of a written statement from the requester exercising this option, the Coordinator will advise the requester of the location of the Reading Room and provide directions thereto. Unless otherwise designated, the Reading Room location will be in the metropolitan Washington, D.C. area. Records that the Agency will release will be available for inspection in the Reading Room on a date or dates mutually agreed upon by the Coordinator and the requester, not more than seven days from the Agency's receipt of the written request or from completion of the processing of the request for records, whichever is later. The requester may agree to a date or dates more than seven days from such time. On the days the Reading Room is open, it will be available to requesters from 9:30 a.m. to 3:30 p.m.

This amendment to rules and regulations of the Central Intelligence Agency is adopted under the authority of Section 102 of the National Security Act of 1947, as amended (50 U.S.C. 403), The Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a et seq.), Executive Order 12065 (3 CFR 190), the Freedom of Information Act, as amended (5 U.S.C. 552), and the Federal Records Management Amendments of 1978 (Sec. 4, Pub. L. 94-575, 90 Stat. 2723).

Don I. Wortman,
Deputy Director for Administration.

[FR Doc. 80-3832 Filed 1-29-80; 8:45 am]
BILLING CODE 8310-02-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1401-8]

Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The purpose of this Notice is to approve, in part, the State Implementation Plan (SIP) revisions for Vermont which were received by the Environmental Protection Agency (EPA) on March 21 and November 21, 1979, pertaining to program to review new and modified major stationary sources in attainment areas.

These plan revisions were prepared by the state, in part, to meet the requirments of Part C (Prevention of Significant Deterioration of Air Quality) (PSD), as amended in 1977. On July 9, 1979 (44 FR 40078), EPA published a Notice of Proposed Rulemaking (NPR) which described these revisions, and requested public comment. No comments have been received on the PSD portion of the revisions.

EPA is approving the program to review new and modified major stationary sources in attainment areas, except a portion of the narrative and a regulation pertaining to default permits. A subsequent Notice will discuss the rest of the revisions.

EFFECTIVE DATE: January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Frank J. Ciavattieri, Chief, Air Branch, Environmental Protection Agency, Region I, JFK Federal Building, Room 1903, Boston, Massachusetts 02203 (617)223-6883.

SUPPLEMENTARY INFORMATION: Part C and section 110(a)(2)(D) of the Clean Air Act (the Act) establish limitations on the deterioration of air quality in those parts of the Nation where the air quality is better than required by National Ambient Air Quality Standards (NAAQS).

The amount of deterioration permitted is quantified by a table of air quality increments which appears in section 163 of the Act. In effect, increments

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represent the amount of pollution that can be tolerated by an area without significantly deteriorating the clean air status of the area.

A principal means of protecting the increments is the review and regulation of new growth. EPA has been operating a federal permit system designed to protect the increments. Regulations under which the Agency is operating are found at 40 CFR, § 52.21 as published June 19, 1978 (43 FR 26388 to 26410). Regulations specifying requirements for approvable State plans are found at 40 CFR § 51.24 as published June 19, 1978 (43 FR 26380 to 26388).[1]

In the NPR, EPA proposed approval of the PSD program based on changes to be made to the narrative and certain regulations. With the exception of one subsection and a portion of the narrative, Vermont has made the necessary changes. With today's rulemaking approving Vermont's program, the review of new and modified major stationary sources in attainment areas becomes the state's responsiblility. In granting this approved, EPA has taken account of the fact that the decision in *Albama Power* v. *Costel* requires EPA to amend various provisions of the PSD regulations, and further that Vermont has agreed to amend its PSD regulations to fully comply with EPA's regulations, as amended, within the allowable time period.

1. Definition of Major Modification

Vermont agreed to make the necessary regulatory changes such that the degree of review under the SIP would be the equivalent of any review required under the existing federal regulations.

Vermont has amended its definition under Section 5–101(32) in its November 21, 1979 submittal to read "Modification means any physical change in, or change in the method of operation of, a stationary source which increases the emission rate of any air contaminant, regardless of any emission reductions achieved elsewhere in the source, except that routine maintenance, repair and replacement shall not be considered physical changes". This amendment satisfies the federal requirement.

2. Definition of Source/Facility

Vermont agreed to amend its new source review (NSR) regulations to control reconstructed facilities as new sources.

Under new Section 5–101(49) in its November 21, 1979 submittal, Vermont has added "Reconstructed Source means a source wherein the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost of a comparable entirely new source. A reconstructed source will be treated as a new source for the purposes of these regulations". This amendment satisfies the federal requirement.

3. Baseline Concentration

As discussed in the NPR, Vermont agreed to clarify in its regulations which sources are included in the baseline and thus not subject to PSD review. Vermont further agreed to revise the SIP to require all emissions not included in the baseline to be cumulatively counted against the PSD increments.

In the November 21 submittal Vermont still does not define the term "baseline." The revision narrative is further complicated by the interchangeable use of the terms "baseline" and "background" concentrations. Whereas EPA's PSD review consists of two separate modeling analyses—one to determine that the proposed source will not cause or contribute to an NAAQS violation and another to determine that the proposed source will not consume the remaining available PSD increment, Vermont combines both requirements into one analysis (pages 9–12 and 9–13). Vermont first determines background concentration by the most appropriate means. Where ambient monitoring is the most appropriate means, such monitoring will be required of the first new major source in a PSD area (See discussion at Section III A 9 of this Notice). The state then evaluates the proposed source's impact against either the difference between NAAQS minus background or the remaining available PSD increment, whichever is more restrictive. This single analysis is equivalent to EPA's two part air quality impact analysis.

In Vermont's original SIP submittal of March 21, 1979, it was unclear that the emissions from each major stationary source would be restricted to the remaining (as opposed to the entire) PSD increment once the applicable increment has been partially consumed by previously permitted sources whose emissions are not included in the baseline. Vermont has deleted the reference to Table 2 in Regulation 5–502(4)(c) in its November 21 submittal eliminating the inference that the entire PSD increment would be constantly available. No other amendments to the regulations have been made. However, Regulation 5–502(4)(c) states that a source's evaluation must demonstrate that its allowable emissions do not cause or contribute to any increase in ambient concentrations exceeding "the remaining available PSD increment set for specific air contaminants as defined by the Secretary". Regulation 5–502(5) again uses the wording "remaining PSD increments * * *". Pages 9–12 and 9–13 of the narrative state that the Vermont Agency of Environmental Conservation (AEC) is committed to accept all determinations of PSD increment consumption made by EPA under its PSD regulations until the Vermont SIP is approved, thus assuring that only the remaining PSD increment would be subsequently available to sources permitted by the Vermont Agency. The regulations in conjunction with the narrative indicate that major stationary sources to be permitted under PSD would be entitled only to the remaining portion of applicable PSD increments. These amendments satisfy the conditions in the NPR.

4. Definition of Other Dispersion Techniques

Vermont agreed to include the term "other dispersion techniques" in its good engineering practice stack height requirements for air quality impact evaluations.

Regulation 5–502(4)(d) has been amended to included the following clause, "* * * the evaluation shall exclude the effect of that portion of the height of any stack which exceeds good engineering practice and the effect of any other dispersion technique". This amendment satisfies the federal requirement.

5. Phased Construction

Vermont agreed to amend the narrative portion of its revisions to indicate that in phased construction projects, Vermont's most stringent emission rate (MSER) control technology review will be done prior to each phase.

Page 9–5 of the narrative submitted on November 21, 1979 states that a MSER reassessment must be made prior to the construction of each phase for which MSER applies. Further, the narrative states, "It is the State's intention to identify at the time a permit is issued which phases of phased projects will be required to undergo this MSER reassessment prior to construction". This amendment satisfies the federal requirement.

[1] EPA is amending the PSD regulations in response to *Alabama Power Company* v. *Costel* No. 78–1006 (December 14, 1979). Vermont has committed to revise its regulations to conform to the amended PSD regulations within nine months to their publication in the **Federal Register**.

6. Air Quality Models

On pages 9–9 and 9–10 of the narrative submitted on November 21, 1979, Vermont has indicated that EPA models would be used to "screen" sources that may cause a violation of an air quality standard or significantly impact a nonattainment area. If either situation is indicated, a more refined analysis may be adopted. The narrative, however, has retained the reference to a Northeast States for Coordinated Air Use Management (NESCAUM) memorandum for determining PSD increment consumption which specifies the use of modeling techniques which have not been approved by EPA. The NESCAUM proposal is discussed more fully in the NPR (44 FR 40085).

In the cover letter accompanying the March 21, 1979 submittal, Governor Snelling committed the state to the use of EPA-approved models. EPA is therefore disapproving the portion of the revision narrative from the first full paragraph on page 9–11 through the top four lines of page 9–12 which include the NESCAUM proposal, and is relying on the Governor's commitment to use EPA-approved models.

7. Increment Tracking

On September 25, 1979 EPA wrote to the state requesting that Vermont clarify whether tracking of PSD increment consumption will be modeled or monitored.

Toward complying with this request, page 9–13A of the November 21 submittal states, "It should be noted that tracking of PSD increment consumption will be accomplished through the use of models. The State reserves the right to adjust increment consumption on an areawide basis if monitoring indicates that predicted consumption shown by modeling of projected area growth is not consistent with actual growth occurring. This monitoring check on area source growth can only be performed in areas which are routinely monitored for the State air program. Monitoring will not be used to check increment consumption by specific point sources". This clarification is consistent with EPA policy.

8. Area and Minor Source Growth

Vermont agreed to recommit to periodic assessments to be performed no less frequently than every five years commencing in 1982.

On page 9–13 of the narrative submitted on November 21, 1979 the following appears: "* * * the State will periodically assess the effect on increment consumption caused by changes in area source emission categories and non-major point sources occurring within each PSD area. This area source assessment will be performed only in those PSD areas for which a baseline has been determined and will first be done in August, 1982, subsequent assessments done every five (5) years from the date." This amendment satisfies the federal requirement.

9. Monitoring

As explained in the NPR, Vermont agreed to clarify its narrative to explain that the state intended to use ambient monitoring to define background concentration when the NAAQS rather than the PSD increments were the limiting constraint. Page 9–13A of the November 21 narrative explains how tracking of PSD increment consumption would be modeled not monitored as has been discussed and satisfies the federal requirement.

In the NPR, EPA also recommended that ambient monitoring be required in unclassified areas and where sources have the potential to significantly impact nonattainment areas. Pages 9–12 and 9–13 of the November 21 narrative explain that monitoring will be required in high population density areas and in municipalities adjacent to non-attainment areas. The only pollutant for which Vermont has unclassified areas in ozone. By letter of December 19, 1979, Vermont indicated that under the authority of regulation 5–405 ambient ozone monitoring would be required of any major VOC source locating in an unclassified area.

Lastly, in the NPR, EPA recommended that the state commit to following the monitoring procedures specified in 40 CFR Part 58, Appendices B, C and E. On pages 9–12 and 9–13 of the narrative, Vermont states that it will recommend the above mentioned procedures to sources seeking PSD permits. The narrative further explains how monitoring will be used to establish background concentration at the time of the first application for a new or modified major source in a PSD area. The SIP narrative also states that all Vermont sources which commenced construction prior to January 6, 1975, are already in operation; therefore, the air quality monitoring data collected at the time of the first PSD application need not be adjusted to take into account any delayed operation of major point sources. The state will then use this monitored background concentration together with modeled increment consumptions to determine a 1977 baseline concentration.

10. Class I Additional Impacts

Vermont agreed to include the impacts on any Class I areas from any proposed major source or modification in the public notice issued on a project.

On page 9–2 of the narrative submitted on November 21, 1979, the following appears "* * * the public notice of proposed Agency action will include a description of the impacts on both Class I and Class II increments resulting from approval of the new major source." This amendment satisfies the federal requirement.

11. Notification

Vermont agreed to revise the narrative of its revisions to specify that the public notice will be sent to Federal Land Managers (FLM) as well as affected land use planning agencies, local and county officials, and adjacent states. Vermont also agreed that it would consider the FLM's comments regarding the air quality impact of proposed sources.

Page 9–2 of the narrative submitted on November 21, 1979 specifies that the notice shall be sent to agencies, FLMs, officials, and states. Page 9–3 specifically states that a FLM's comments regarding air quality impacts on Class I areas within his jurisdiction would be considered in issuing the final order. These amendments satisfy the federal requirement.

Action: EPA is approving Vermont's program to review new and modified major stationary sources in attainment areas except two portions of the plan. EPA is disapproving the SIP revision narrative from the first full paragraph on page 9–11 through the top four lines of page 9–12 referencing the NESCAUM proposal, and regulation 5–501(3)—Default permits.

The Agency finds that good cause exists for making this action effective upon the Administrator's signature because implementation plan revisions are already in effect under state law and EPA approval imposes no additional regulatory burden.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This rulemaking action is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: January 25, 1980.

Barbara Blum,

Acting Administrator.

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PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart UU—Vermont

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

1. In § 52.2370, paragraph (c) is amended by adding paragraph (9) as follows:

§ 52.2370 Identification of plan.

(c) * * *

(9) Plans to meet various requirements of the Clean Air Act, including Part C, were submitted on March 21 and November 21, 1979. Included in these revisions is a program for the review of construction and operation of new and modified major stationary sources of pollution in attainment areas.

2. Section 52.2380 is revised to read as follows:

§ 52.2380 Significant deterioration of air quality.

The program to review the construction and operation of new and modified major stationary sources in attainment areas is approved as meeting the requirements of Part C, except regulation 5–501(3) entitled "Default permits", and a portion of the SIP revision narrative from the first full paragraph on pages 9–11 through the first four lines of pages 9–12 inclusive, both of which were submitted on March 21, 1979 and which are disapproved.

[FR Doc. 80–2932 Filed 1–29–80; 8:45 am]
BILLING CODE 6560–01–M

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40 CFR Part 52

[FRL 1402–2]

Approval and Promulgation of Implementation Plans; Maine Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The purpose of this Notice is to approve the State Implementation Plan (SIP) revisions for Maine which were received by the Environmental Protection Agency (EPA) on May 1, 1979, October 26, 1979 and December 20, 1979 pertaining to a program to review new and modified major stationary sources in attainment areas. These plan revisions were prepared by the state, in part, to meet the requirements of Part C (Prevention of Significant Deterioration of Air Quality) (PSD) of the Clean Air Act (the Act). On August 1, 1979 (44 FR 45210), EPA published a Notice of Proposed Rulemaking (NPR) which described these revisions and requested public comment. No comment was received on the PSD portion of the revisions.

EPA is approving the program to review the construction and operation of new and modified major stationary sources in attainment areas. A subsequent notice will discuss the rest of the revisions.

EFFECTIVE DATE: January 25, 1980.

FOR FURTHER INFORMATION CONTACT: Frank J. Ciavattieri, Chief, Air Branch, Environmental Protection Agency, Region I, JFK Federal Building, Room 1903, Boston, Massachusetts 02203, (617) 223–6863.

SUPPLEMENTARY INFORMATION: Part C and Section 110(a)(2)(D) of the Act establish limitations on the deterioration of air quality in those parts of the Nation where the air quality is better than required by National Ambient Air Quality Standards (NAAQS).

The amount of deterioration permitted is quantified by a table of air quality increments which appears in Section 163 of the Act. In effect, increments represent the amount of pollution that can be tolerated by an area without significantly deteriorating its clean air status.

A principal means of protecting the increments is the review and regulation of new growth. EPA has been operating a federal permit system designed to protect the increments. Regulations under which the Agency is operating are found at 40 CFR § 52.21 as published June 19, 1978 (43 FR 26388 to 26410). Regulations specifying requirements for approvable state plans are found at 40 CFR § 51.24 as published June 19, 1978 (43 FR 26380 to 26388).[1]

In the NPR, EPA proposed approval of the PSD program based on changes to be made to the narrative and certain regulations. Maine has made the necessary changes. With today's rulemaking approving Maine's program, the review of new and modified major stationary sources in attainment areas becomes the state's responsibility.

The Maine regulations pertaining to PSD are found in regulations 100, "Definition Regulation"; 108, "Emission License Regulation"; 110, "Ambient Air Quality Standards"; 113, "Growth Offset Regulation"; and 114, "Classification of Air Quality Control Regions". In addition, certain narrative portions of the SIP revisions explain these regulations. EPA compared the Maine regulations with the requirements of 40 CFR 51.24 and, except where noted, has determined that the Maine plan meets these requirements.

In response to the NPR, the Maine Board of Environmental Protection adopted both narrative and regulatory changes.

They include:

1. *Area redesignation.*—The May 1, 1979 submittal did not contain all the requirements specified in 40 CFR 51.24(g) (2) and (3) for redesignation to Class III or Class I areas. The NPR noted that EPA retains the right to approve state redesignation requests, but in order to do so the state must submit requests in accordance with the procedures specified in 40 CFR Section 52.21(g).

Maine amended Chapter 6.1 of the narrative portion of the revisions to state that redesignation requests would be submitted in accordance with the requirements of Section 164 of the Act including appropriate notice, local consultation, and public hearing.

2. *Modifications.*—The control technology requirements of the May 1 revisions applied to any modification. The definitional provisions of that plan failed to make clear whether a modification was a net increase of potential emissions or instead any increase ignoring any accompanying emission reductions.

Chapter 6.1 of the narrative portion of the SIP was amended to explain that major modifications will include those modifications to the facility which result in a potential increase in emissions regardless of concurrent reductions occurring elsewhere at the source. The narrative states that reconstructed facilities will be regulated in a manner consistent with EPA's PSD requirements. Specifically, Maine has stated that reconstructed facilities whose cost exceeds 50% of the capital cost of a comparable new facility will be considered a new facility which, upon exceeding the prescribed emission threshold for PSD, will be subject to the best available control technology (BACT) requirement.

3. *Phased construction.*—The May 1 revisions did not provide for BACT review of phased construction sources prior to each phase. In the revised Chapter 6.1 of the SIP narrative, Maine states that construction projects will be reviewed at the time of expiration of the two year emissions license to determine that future phases continue to use air pollution control technology representing BACT at that time and that the use of available increment will not be reserved for any source beyond the two year licensing period (except in those cases where construction of the affected source will exceed the two year limitation.) EPA's corresponding time limitation of 18 months does not represent a significantly more stringent requirement than the two year limitation contained in the Maine plan.

4. *Exemptions.*—The May 1 revisions exempted sources of temporary particulate emissions from consuming PSD increment. The revised SIP narrative now explains that such emissions must not, however, exceed the allowable PSD increment. Secondly, the Maine plan exempts modified sources with net allowable increased emissions under 50 tons per year from impact analysis provided such sources do not impact Class I areas. EPA requires a zero net increase in emissions for this exemption but feels that this minor deviation is acceptable. Finally, the May 1 revisions did not have as a prerequisite to air impact exemptions a requirement of no Class I impact. Revised regulation 108.3(E) does not permit any air impact exemptions if a source's emissions will or can reasonably be expected to impact a Class I area. These satisfy the proposed conditions in the NPR.

5. *Accumulated emissions.*—The May revisions did not define a starting time from which emissions would be accumulated in order to define a modification. The amended narrative provides that whenever several minor modifications to a facility result in an aggregate increase in potential emissions in excess of the amount defined as a major modification, the total accumulated increase in emissions will be considered as resulting from a major modification and that all emission increases not included in "baseline concentration" will be used in calculating the total accumulated emission increases.

6. *Modeled emissions.*—The May revisions did not specify, but the state agreed prior to publication of the NPR, that all modeled emissions will be based on maximum allowable emissions at maximum rated capacity unless otherwise constrained by permit conditions. In the revised narrative portion of the SIP, Maine specifies that all estimates of ambient air impact shall be based upon models, methods and requirements as specified in EPA's Guidelines on Air Quality Models. This procedure also appears in regulation 108, thus satisfying EPA's requirements.

7. *Air quality models.*—The May revisions did not contain all the EPA requirements specified in 40 CFR 51.24(m) for use of EPA models and use of alternative modeling procedures. The plan allowed the State Commissioner to approve the use of alternative models (regulation 108.3(A)(3)). Under 40 CFR 51.24(m)(iv), the Administrator of EPA retains this right.

Maine's amended regulation 108.3(A) includes a provision for state approval of the use of alternative models. The amended SIP narrative (Chapter 6.1) states that requests for use of alternative models will be submitted to EPA for approval, and that the Commissioner of the Department of Environmental Protection (DEP) will abide by EPA's determination. On the basis of these commitments, EPA is approving the state regulation.

8. *Monitoring and additional impact analysis.*—Whereas EPA requires these analyses of all new and modified major sources, regulation 108.3(c) of the May revisions required such analyses from "sources whose emissions may have significant impact on the maintenance of the state ambient air quality standards and applicable increments, or will impact a Class I area or will impact an area in which the applicable increment is known to be violated". EPA interprets the population of sources to which the Maine regulation applies to be more exclusive, and thus, as stated in the NPR, less stringent than the federal requirement. The state does not agree with EPA's interpretation but has made the required regulatory change by deleting the phrase the "maintenance of the state", thus assuring that all major sources with signifcant impacts will undergo the required technical analyses. In addition, regulation 108.3.E was amended to provide that no exemptions from monitoring and additional impact analysis would be granted for any source whose emissions will or can reasonably be expected to impact a Class I area.

9. *Sources in Class I areas.*—The May revisions did not specifically provide that the state transmit to EPA a copy of every Class I permit application, or that the state notify EPA of every action related to the consideration of such permits. These actions will be accomplished through EPA reporting requirements specified in Section 105 air program grants. The plan did not provide a mechanism for Federal Land Manager notification and participation in the PSD process.

Chapter 6.0 of the SIP narrative, as amended, provides that whenever the DEP receives an application for any major emitting source or modification whose emissions may reasonably be expected to impact any Federally mandated Class I area, the DEP will notify the appropriate Federal Land Manager and will disapprove the air emission license if the Federal Land Manager demonstrates to the satisfaction of the DEP that the emissions from the proposed source will have an adverse impact on air quality even if the Class I increment is not violated.

10. *Class I variances.*—The regulatory portion of the May revisions did not contain procedures for Class I variances. The narrative portion of the plan (Chapter 6.3) referenced Section 587 of the state air pollution control laws.

Section 587 as referenced in amended Chapter 6.1 has been revised to specify that sources may apply for a variance to Class I increments under the terms and conditions set forth in Section 165(d) of the Act.

11. *Public participation.*—The regulatory portion of the May revisions did not contain public participation requirements. The narrative portion referenced Department Regulations for Processing of Applications and Regulations for Hearings on Applications.

The amended narrative in Chapter 6 of the revisions contains additional public participation procedures. Also, the following procedures are described in the amended SIP narrative:

"After receiving a completed application, the Department will publish a 30-day advance notice of availability in a newspaper of general circulation in the area of the proposed source. This notice will indicate that any member of the public has a right to view the application, to receive a copy of the staff proposed Finding of Fact and Order and the right to request a public hearing. The notice of availablility for any major emitting source will, in addition, be mailed to the Environmental Protection Agency, any affected Federal Land Manager, affected state and local governments, regional planning agencies and any affected Indian governing bodies.

"The staff, after consideration of public comments, shall draft a proposed order including the determination of impact on air quality (including increment consumption) at least one week prior to consideration of the license by the Board of Environmental Protection. Any member of the public may be present at the Board meeting when the application is considered. Any applicant or aggrieved member of the public may petition the Board for reconsideration of a decision, or request

[1] EPA is amending the PSD regulations in response to *Alabama Power Company et al., v. Costle*, D.C. Cir., No. 78–1006 (December 14, 1979). Maine has committed to revise its regulations to conform to the amended PSD regulations within nine months of their publication in the Federal Register.

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a public hearing on the application. Public hearings on applications are discretionary with the Board."

In addition to the general notification, the agenda for the Board meeting will be published in the Department's publication, Environews.

The DEP submitted a copy of it's Administrative Procedures Act to EPA which provides regulatory authority for public participation requirements.

12. *Regulatory changes indicated in the NPR.*—EPA indicated that the plan satisfactorily met the PSD requirements with certain minor exceptions and proposed approval conditioned upon Maine's adoption of the following three regulatory changes:

a. Regulation 108.3(c)—The words "the maintenance of the State" were to be deleted, in order to clarify that Maine's air quality monitoring requirements would be consistent with EPA's.

b. Regulation 108.3(e)—These exemptions must not apply to sources impacting a Class I area.

c. Regulation 108.3(e)—The words "this subpart" would be replaced with "subpart C."

The above three regulation changes were adopted by the Maine Board of Environmental Protection on September 26, 1979.

Action:

EPA is approving the Maine PSD plan. To the extent that EPA's final PSD regulations are more stringent than the Maine PSD portion of the plan, the state will have nine months to submit revisions after EPA promulgates the final PSD regulations.

The Agency finds that good cause exists for making this action effective upon the Administrator's signature because implementation plan revisions are already in effect under state law and EPA approval imposes no additional regulatory burden.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This rulemaking action is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: January 25, 1980.

Barbara Blum,

Acting Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart U—Maine

Title 40, Part 52 of the code and Federal Regulations is amended as follows:

1. In § 52.1020, paragraph (c) is amended by adding sub-paragraph (10) as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) * * *

(10) Plans to meet various requirements of the Clean Air Act, including Part C, were submitted on May 1, 1979, October 26, 1979 and December 20, 1979. Included in the revisions is a plan for review of construction and operation of new and modified major stationary sources of pollution in attainment areas.

2. Section 52.1029 is revised to read as follows:

§ 52.1029 Significant deterioration of air quality.

The program to review operation and construction of new and modified major stationary sources in attainment areas is approved as meeting the requirements of Part C.

[FR Doc. 80-2927 Filed 1-29-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 81

[FRL 1401-7]

Attainment Status Designations; Illinois

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rulemaking changes the attainment status relative to the national ambient air quality standards (NAAQS) for certain areas in Illinois. On July 2, 1979, a redesignation of certain of the areas was proposed in the **Federal Register** (44 FR 38587). The Notice of Proposed Rulemaking listing the redesignations contained tables with numerous errors, omissions and incorrect titles. A correction notice was published in the **Federal Register** September 20, 1979 (44 FR 54500), and a 30-day comment period was established.

EFFECTIVE DATE: February 29, 1980.

FOR FURTHER INFORMATION CONTACT:

Gary Gulezian, Acting Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6053.

SUPPLEMENTARY INFORMATION: Pursuant to Section 107(d) of the Clean Air Act (Act) the State of Illinois designated areas within the State as either attainment or nonattainment for the National Ambient Air Quality Standards (NAAQS). The Administrator of the U.S. Environmental Protection Agency published notices of these designations in the **Federal Register** on March 3, 1978 (43 FR 8962) and October 5, 1978 (43 FR 45993). On July 2, 1979, at 44 FR 38587, in a Notice of Proposed Rulemaking, USEPA published charts representing changes in certain designations which changes Illinois had proposed in its April 3, 1979 State Implementation Plan revision request as it pertained to total suspended particulates (TSP), sulfur dioxide (SO_2), and ozone Ox).

These charts included numerous typographical errors, omissions and incorrect titles. A correction notice was published in the **Federal Register** September 20, 1979 (44 FR 54500) and a 30-day comment period established.

Comments were received from the Illinois Environmental Protection Agency (IEPA) and from individual citizens.

The Illinois Environmental Protection Agency (IEPA) commented that several minor typographical errors and omissions occurred in the proposed Illinois designations for TSP. These errors and omissions are as follows:

(1) Bloomington Township in Air Quality Control Region (AQCR) 66 was left undesignated and Normal Township was designated as a nonattainment area for both the primary and secondary particulate standards. The charts for the Illinois proposed designation should have shown Bloomington Township as nonattainment for the secondary standards and Normal Township as nonattainment for only the secondary particulate standards.

(2) IEPA commented that the designations for Putnam County in AQCR 71; and Adams County and Menard County in AQCR 75 were omitted. The designations for these counties were omitted because the designations were unchanged from the October 5, 1978 **Federal Register** Notice which shows that Hennepin Township in Putnam County; Ellington, Melrose and Riverside Townships, in Adams County; and Petersburg East, Petersburg North and Petersburg South in Menard County are nonattainment for the secondary standards only.

(3) In the proposed Illinois TSP designations for AQCR 73 Sycamore Township in DeKalb County was inadvertently omitted. Sycamore should have been listed as it was in the July 2, 1979 **Federal Register** (44 FR 38593) as nonattainment for the secondary standards only.

(4) The narration on page 54505 of the September 20, 1979 **Federal Register** incorrectly refers to Monroe County instead of Massac County. Massac County however, was correctly designated in the chart of the proposed Illinois SO_2 designations appearing in the same notice.

USEPA has corrected in this Notice of Final Rulemaking the errors and omissions which were the subject of IEPA's comments.

IEPA also commented that it supported USEPA's proposed designation changes for Sangamon County and Massac County. In the July 2, 1979 **Federal Register** at 44 FR 38589 and 38597 USEPA proposed to redesignate Sangamon County as unclassified for TSP because of a lack of acceptable monitoring information, and to redesignate Massac County as unclassified for SO_2 because the original nonattainment designation was not based on a reference or equivalent model according to USEPA modeling guidelines. The codified charts below reflect these redesignations.

The redesignation of Crawford County in AQCR 74 from unclassified to attainment for ozone is not reflected in the codified charts below because both of these designations are contained in the same column appearing at 40 CFR § 81.314 entitled "Illinois-Ox."

Several individuals commented that several areas previously designated as nonattainment for ozone should be redesignated as attainment because the monitoring data received showed no excursions of the relaxed standards for ozone (0.08 ppm oxidant [maximum hourly average] to 0.12 ppm ozone). These areas were not included in the Illinois April 3, 1979, request for revisions to the attainment status designations.

To have any designation amended, a person should submit a petition with supporting data and analysis to the State, with a copy to USEPA Region V. If the person is not satisfied with the State's response to the petition, he may then petition USEPA Region V to modify the current list.

The proposed changes which IEPA requested in the July 2, 1979 **Federal Register** (44 FR 38587) and the September 20, 1979 **Federal Register** (44 FR 54500) are effective (30 days after date of publication).

USEPA has determined that this document is not a significant regulation and does not require preparation of a regulatory analysis under Executive Order 12044 (43 FR 12661).

(Secs. 107(d), 171(2), 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407(a), 7501(2), 7601(a)).)

Dated: January 25, 1980.

Barbara Blum,

Acting Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Part 81 of Chapter I, Title 40, Code of Federal Regulations is amended by designating certain areas in Illinois as follows:

Subpart C—Section 107 Attainment Status Designations

§ 81.314 Illinois

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Illinois TSP				
AQCR 65:				
Knox County:				
Galesburg	X	X		
Henderson	X	X		
All other twps		X		
Peoria County:				
Peoria	X	X		
Limestone	X	X		
Richwoods	X	X		
All other twps		X		
Tazewell County:				
Cincinnati	X	X		
Elm Grove	X	X		
Fondulac	X	X		
Groveland	X	X		
Pekin	X	X		
Washington	X	X		
All other twps		X		
Winnebago:				
El Paso				X
Kansas				X
All other twps		X		
Fulton County				X
Hancock				X
Henderson				X
Mason				X
McDonough				X
Warren				X
AQCR 66:				
McLean County:				
Bloomington		X		
Normal		X		
All other twps				X
Coles County				X
Vermillion				X
Champaign				X
Clark				X
Cumberland				X
De Witt				X
Douglas				X
Edgar				X
Ford				X
Iroquois				X
Livingston				X
Moultrie				X
Piatt				X
Shelby				X
AQCR 67:				
Cook County:				
Hyde Park	X	X		
Jefferson	X	X		
Lake	X	X		
Lakeview	X	X		
North Town	X	X		
Rogers Park	X	X		
South Town	X	X		
West Town	X	X		
Berwyn	X	X		
Calumet	X	X		
Cicero	X	X		
Lyons	X	X		
Oak Park	X	X		
Palos	X	X		
Proviso	X	X		
Riverside	X	X		
South Stickney	X	X		
Stickney	X	X		
Thorton	X	X		
Worth	X	X		
Schaumburg				X
Barrington				X
New Trier				X
All other twps		X		
Du Page County:				
Addison	X	X		
Lisle	X	X		
York	X	X		
All other twps		X		
Kankakee County:				
Essex				X
Norton				X
Pilot				X
All other twps		X		
Kendall County:				
All twps		X		
Lake County: All twps		X		
Will County:				
Chanahon		X		
Crete	X	X		
Du Page	X	X		
Florence		X		
Frankfort		X		
Green Garden		X		
Homer		X		
Jackson		X		
Joliet	X	X		
Lockport	X	X		
Manhattan		X		
Monee		X		
New Lenox		X		
Peotone		X		
Plainfield		X		
Troy	X	X		
Wheatland		X		
Wilton		X		
All other twps				X
Grundy County:				
Aux Sable Twp			X	
Morris Twp			X	
All other twps				X
Kane County:				
Aurora		X		
Dundee		X		
Elgin		X		
All other twps				X
McHenry County				X
AQCR 68:				
Jo Daviess County:				
Apple River	X	X		
Council Hill	X	X		
Derinda		X		
East Galena	X	X		
Elizabeth	X	X		
Guilford	X	X		
Hanover		X		
Menominee		X		
Pleasant Valley		X		
Rawlins	X	X		
Rice	X	X		
Rush		X		
Scales Mound	X	X		
Stockton		X		
Thompson	X	X		
Vinegar Hill		X		
Warren		X		
West Galena	X	X		

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Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Illinois TSP				
Woodbine	X	X		
All other twps				X
AQCR 69:				
Henry County				X
Rock Island County:				
Blackhawk	X	X		
Hampton	X	X		
Moline	X	X		
Rock Island	X	X		
South Moline	X	X		
South Rock Island	X	X		
All other twps				X
Whiteside County:				
Clyde		X		
Colorna		X		
Genesee		X		
Hopkins		X		
Hume		X		
Jordan		X		
Lyndon		X		
Montommincy, Mount Pleasant		X		
Prophetstown		X		
Sterling		X		
All other twps				X
Carroll County				X
Mercer				X
AQCR 70:				
Monroe County:				
T.1.N.–R.10W	X	X		
T.1.N.–R.11W	X	X		
T.1.S.–R.10W	X	X		
T.1.S.–R.11W	X	X		
T.2.S.–R.10W	X	X		
T.2.S.–R.9W	X	X		
T.3.S.–R.7W	X	X		
T.3.S.–R.8W	X	X		
All other twps		X		
Madison County:				
Chouteau		X		
Godfrey		X		
All other twps	X	X		
St. Clair County:				
All other twps	X	X		
Bond County				X
Clinton				X
Randolph				X
Washington				X
AQCR 71:				
Bureau County:				
Berlin		X		
Bureau		X		
Concord		X		
Dover		X		
Greenville		X		
Lamoille		X		
Lee				X
Manlius		X		
Ohio		X		
Princeton		X		
Selby		X		
Walnut		X		
Wyanet		X		
All other twps				X
LaSalle County:				
Deer Park		X		
Dimmick		X		
LaSalle	X	X		
Ottawa		X		
Peru		X		
Utica		X		
Waltham		X		
All other twps				X
Lee County				X
Putnam County:				
Hennepin Twp		X		
All other twps				X
Marshall County				X
Stark County				X
AQCR 72:				
Massac County:				
T.15S.–R.4E		X		
T.16S.–R.4E		X		

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Illinois TSP				
All other twps				X
Pope County:				
All twps				X
Alexander County				X
Johnson County				X
Pulaski County				X
Union County				X
AQCR 73:				
DeKalb County:				
Afton		X		
Clinton		X		
Cortland		X		
De Kalb		X		
Malta		X		
Mayfield		X		
Milan		X		
Paw Paw		X		
Pierce		X		
Shabbona		X		
Somonauk		X		
South Grove		X		
Squaw Grove		X		
Sycamore		X		
Victor		X		
All other twps				X
Stephenson County				X
Winnebago County:				
Rockford		X		
All other twps				X
Boone County				X
Ogle				X
AQCR 74:				
Jefferson County:				
Dodds		X		
Field		X		
McClellan		X		
Mount Vernon		X		
Rome		X		
Shiloh		X		
All other twps				X
Williamson County:				
West Marion		X		
All other twps				X
Clay County				X
Crawford				X
Edwards				X
Effingham				X
Fayette				X
Franklin				X
Gallatin				X
Hamilton				X
Hardin				X
Jackson				X
Jasper				X
Lawrence				X
Marion				X
Perry				X
Richland				X
Saline				X
Wabash				X
Wayne				X
White				X
AQCR 75:				
Adams County:				
Ellington Twp		X		
Melrose		X		
Riverside		X		
All other twps				X
Macon County:				
Decatur	X	X		
Hickory Point		X		
All other twps				X
Menard County:				
Petersburg East Twp		X		
Petersburg North		X		
Petersburg South		X		
All other twps				X
Sangamon County: All townships			X	
Brown County				X
Calhoun				X
Cass				X
Christian				X

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Illinois TSP				
Greene				X
Jersey				X
Logan				X
Marcoupio				X
Montgomery				X
Morgan				X
Pike				X
Schuyler				X
Scott				X
Illinois SO$_2$				
AQCR 65:				
Peoria County:				
Hollis Twp	X	X		
Limestone	X	X		
Logan	X			
Medina				X
Peoria	X			
Kickapoo				X
Richwoods				X
All other twps				X
Tazewell County:				
Cincinnati Twp	X	X		
Elmgrove		X		
Groveland	X			
Pekin	X			
All other twps				X
* * * * *				
AQCR 72:				
Massac County:				
T.15S.–R.6E		X		
T.16S.–R.6E		X		
T.17S.–R.6E		X		
All other twps	X	X		
* * * * *				

Designated areas	Does not meet primary standards	Cannot be classified or better than national standards
Illinois O$_3$		
* * * * *		
AQCR 68:		
Champaign County		X
* * * * *		
McLean		X
* * * * *		
AQCR 69:		
* * * * *		
Rock Island County		X
* * * * *		
AQCR 73:		
* * * * *		
Winnebago County		X
* * * * *		
AQCR 75:		
* * * * *		
Macon County		X
* * * * *		

[FR Doc. 80-2873 Filed 1-29-80; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-36

[FPMR Amdt. F-39]

Implementation of Federal Information Processing and Federal Telecommunication Standards into Solicitation Documents; Annual Validation of Compilers

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: A proposal was published in the **Federal Register** of August 7, 1979 (44 FR 46305), to amend FPMR 101-36.1305-1 by specifying that the Federal Compiler Testing Center (FCTC) validate all COBOL compilers annually that are offered or used by vendors in response to Federal agency requests.

Interested persons were given until October 9, 1979, to file written comments regarding the proposal. The only response received recommended two changes: That annual validations of compilers be limited to those in which errors have been identified in the previous validation or in which functional changes involving standard language have been make; and that the Government bear its share of the validation expense. This response was not accepted because continuing maintenance involves more time and effort than the initial design of the product, and annual validations ensure that changes are not inadvertently introduced that could cause errors when maintenance is performed on the compiler and on other related software. Because the vendor receives the Validation Summary Report that may be used as a part of marketing strategy, it is reasonable to have the vendor pay for validation. Accordingly, the proposed amendment is hereby adopted without change and is set forth below. The intent of this amendment is to reduce or eliminate the need for separate validations associated with individual agency procurements.

EFFECTIVE DATE: January 30, 1980.

FOR FURTHER INFORMATION CONTACT: L. Perlman, Procurement Policy and Regulations Branch, Policy and Evaluation Division, Office of Policy and Planning (202-566-0834).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

Section 101-36.1305-1 is amended by adding a new paragraph (c)(3), by revising and renumbering current paragraphs (c)(3) through (c)(7), and by revising paragraph (i) of the clause prescribed in paragraph (d) as follows:

§ 101-36.1305-1 FIPS PUB 21-1, Federal Standard COBOL.

* * * * *

(c) * * *

(c) Validations will be conducted annually for each requesting vendor as specified in the official Compiler Validation Procedures prepared by the Federal Compiler Testing Center (FCTC). (Recertification of a previous annual validation may be substituted if no errors were identified during that previous annual validation and if no changes have been made to the compiler, its supporting system software, or the CCVS in the interim.) This annual validation process is intended to reduce or eliminate the need for separate validations associated with individual agency procurements.

(4) Requests for and questions on validations should be sent to:

General Services Administration (CFT)
Federal Compiler Testing Center
Suite 1100, 5203 Leesburg Pike
Falls Church, VA 22041

(5) When a request for validation service requires that compiler testing be performed, the requester is responsible for providing the necessary test facilities.

(6) In response to a request for validation service, the FCTC will conduct a validation test using the CCVS and will provide a Validation Summary Report (VSR) summarizing the test results.

(7) Validation is performed on a cost-reimbursable basis. The FCTC will send the requester an estimate of validation costs for approval before beginning the validation process.

(8) Unresolved questions and/or any ambiguities that arise during compiler testing and are identified by the FCTC or by the requester shall be referred to the National Bureau of Standards in accordance with FIPS PUB 29.

(d) * * *

Validation of COBOL Compilers

* * * * *

(i) Certify in the proposal that all COBOL compilers offered in response to this solicitation have been submitted for validation as set forth in FPMR 101-36.1305-1(c) or have been previously validated and are listed in the latest FCTC Certified Compiler List. Proof of submission for validation must be provided in the form of a letter from the FCTC containing identification of the compiler and scheduled date of validation. Proof of current validation must be provided upon agency request in the form of a Certificate of Validation from the FCTC.

* * * * *

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

Dated: January 11, 1980.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80-2909 Filed 1-29-80; 8:45 am]

BILLING CODE 6820-25-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[S.O. 1249-A]

Octoraro Railway, Inc., Authorized To Operate Over Portion of USRA Line No. 142, Former Octoraro Branch of Penn Central Transportation Co.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1249-A.

SUMMARY: Service Order No. 1249-A vacates Corrected Service Order No. 1249, which authorizes the Octoraro Railway, Inc., to operate over a portion of USRA Line No. 142, formerly the Octoraro Branch of the Penn Central Transportation Company. The Commission's decision in Finance Docket No. 28334 granted the Octoraro Railway, Inc., the authority to operate permanently over this line. Since an emergency no longer exists, Corrected Service Order No. 1249 is vacated.

EFFECTIVE DATE: Effective 11:59 p.m., January 25, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, (202) 275-7840.

Decided: January 22, 1980.

Upon further consideration of Corrected Service Order No. 1249 (41 FR 34607, 50448; 42 FR 25325, 59386; 43 FR 26311, 59074; 44 FR 36185), and good cause appearing therefor:

V45/21/JA30 80 UMI

It is ordered:

§ 1033.1249 Octoraro Railway, Inc., authorized to operate over portion of USRA Line No. 142, former Octoraro branch of Penn Central Transportation Co.

Corrected Service Order No. 1249 is vacated effective 11:59 p.m., January 25, 1980.

(49 U.S.C. (10304–10305 and 11121–11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-2948 Filed 1-29-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Service Order No. 1305-A]

Distribution of Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1305-A.

SUMMARY: Service Order No. 1305-A vacates Second Revised Service Order No. 1305, which authorized the Union Pacific Railroad Company (UP) and The Atchison, Topeka and Santa Fe Railway Company (ATSF) to substitute two mechanical refrigerator cars for each large boxcar ordered. A review of the order revealed that UP was not making use of the order and ATSF could use another order to accomplish the same thing. Since an emergency no longer exists, Service Order No. 1305 is vacated.

EFFECTIVE DATE: Effective 11:59 p.m., January 25, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, (202) 275-7840.

Decided January 22, 1980.

Upon further consideration of Second Revised Service Order No. 1305 (43 FR 60276, 9606, 16739, 21336, 51024 and 60276), and good cause appearing therefor:

It is ordered,

§ 1033.1305 Distribution of freight cars.

Service Order No. 1305 is vacated effective 11:59 p.m., January 25, 1980.

(49 U.S.C. (10304–10305 and 11121–11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-2947 Filed 1-29-80; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 45, No. 21
Wednesday, January 30, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

1 CFR Part 482

Privacy Act of 1974; Proposed Regulations for Implementation

AGENCY: President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research.

ACTION: Proposed rule.

SUMMARY: The following proposed regulations drafted in accordance with section (f) of 5 U.S.C. 552a, the Privacy Act of 1974, are hereby offered for public comment. The purposes of these regulations are to establish procedures by which an individual can determine if the Commission maintains a system of records which included a record pertaining to that individual and also to establish procedures for individual access to the records for purposes of review, amendment and/or correction.

DATE: Comments are due on or before March 1, 1980.

ADDRESS: Send comments to the Executive Director, President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, 2000 K Street, NW., Suite 555, Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Mary Ann Orlando, (202) 653-8051.

Signed this 22nd day of January 1980.

Barbara Mishkin,

Acting Director.

It is proposed to add the following Part 482 to Title 1 of the CFR.

PART 482—PRIVACY ACT IMPLEMENTATION

Sec.

482.1 Purpose and scope.
482.1 Definitions.
482.3 Procedures for requests pertaining to individual records in a records system.
482.4 Times, places, and requirements for the identification of the individual making a request.
482.5 Disclosure of requested information to the individual.
482.6 Request for correction or amendment to the record.
482.7 Agency review of request for correction or amendment of the record.
482.8 Appeal of an initial adverse agency determination on correction or amendment of the record.
482.9 Disclosure of record to a person other than the individual to whom the record pertains.
482.10 Fees.

Authority: 5 U.S.C. 552a: Pub. L. 93-579

§ 482.1 Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, hereafter known as the Commission, maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him or her for the purpose of review, amendment and/or correction.

§ 482.2 Definitions.

For the purpose of these regulations—

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use or disseminate;

(c) The term "record" means any item, collection or grouping of information about an individual that is maintained by the Commission, including, but not limited to, his or her employment history, payroll information, and financial transactions and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as social security number.

(d) The term "system of records" means a group of any records under control of the Commission from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 482.3 Procedures for requests pertaining to individual records in a records system.

An individual shall submit a request to the Deputy Director/Executive Officer to determine if a system of records named by the individual contains a record pertaining to the individual. The individual shall submit a request to the Executive Director of the Commission which states the individual's desire to review his or her record.

§ 482.4 Times, places, and requirements for the identification of the individual making a request.

An individual making a request to the Deputy Director/Executive Officer of the Commission pursuant to Section 482.3 shall present the request at the Commission offices, 2000 K Street, NW., Suite 555, Washington, D.C. 20006, on any business day between the hours of 9 a.m. and 5:30 p.m. The individual submitting the request should present himself or herself at the Commission offices with a form of identification which will permit the Commission to verify that the individual is the same individual as contained in the record requested.

§ 482.5 Disclosure of requested information to the individual.

Upon verification of identity the Commission shall disclose to the individual the information contained in the record which pertains to that individual.

§ 482.6 Request for correction or amendment to the record.

The individual should submit a request to the Deputy Director/Executive Officer which states the individual's desire to correct or to amend his or her record. This request is to be made in accord with provisions of § 482.4.

§ 482.7 Agency review of request for correction or amendment of the record.

Within ten working days of the receipt of the request to correct or to amend the record, the Deputy Director/Executive Officer will acknowledge in writing such receipt and promptly either—

(a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of his or her refusal to correct or to amend the record in accordance with the request, and the procedures established by the Commission of the individual to request a review of that refusal.

§ 482.8 Appeal of an initial adverse agency determination on correction or amendment of the record.

An individual who disagrees with the refusal of the Deputy Director/Executive Officer to correct or to amend his or her record may submit a request for a review of such refusal to the Executive Director, President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, 2000 K Street, NW., Suite 555, Washington, D.C. 20006. The Executive Director, not later than thirty working days from the date on which the individual requests such review, will complete such review and make final determination unless, for good cause shown, the Executive Director extends such thirty day period. If, after his or her review, the Executive Director also refuses to correct or to amend the record in accordance with the request, the individual may file with the Commission a concise statement setting forth the reasons for his or her disagreement with the refusal of the Commission and may seek judicial review of the Executive Director's determination under 5 U.S.C. 552a(g)(1)(A).

§ 482.9 Disclosure of record to a person other than the individual to whom the record pertains.

The Commission will not disclose a record to any individual other than the individual to whom the record pertains without receiving the prior written consent of the individual to whom the record pertains, unless the disclosure has been listed as a "routine use" in the Commission's notices of its systems of records, or falls within one of the special disclosure situations listed in the Privacy Act of 1974 (5 U.S.C. 552a(b)).

§ 482.10 Fees.

If an individual requests copies of his or her record, he or she shall be charged ten cents per page, excluding the cost of any search for review of the record, in advance of receipt of the pages.

[FR Doc. 80-2961 Filed 1-29-80; 8:45 am]

BILLING CODE 4820-AV-M

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1941

Operating Loan Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations to emphasize and encourage operating loan assistance to eligible limited resource applicants to operate small farm enterprises in Alabama, Florida, Georgia, Louisiana, Mississippi, Missouri, and South Carolina through December 31, 1981. FmHA wants to study and evaluate the overall impact such assistance has on stabilizing the financial position of small farm operators. The intended effect of this action is to clarify the eligibility requirements for limited resource loans to operators of very small farm enterprises in the above-mentioned States. This action results from recent emphasis on assistance to small farm operators by Secretary Bergland and the Administrator, FmHA.

DATES: Comments must be received on or before March 31, 1980.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT: Leroy Jones USDA, FmHA, Washington, D.C. 20250 (202) 447-4669.

SUPPLEMENTARY INFORMATION: FmHA proposes to add Exhibit B to Subpart A of Part 1941, Chapter XVIII, Title 7, Code of Federal Regulations to clarify the eligibility requirements for limited resource loans to operators of very small farm enterprises. This Exhibit will supplement the existing individual operating loan eligibility requirements concerning farm training, income, and the size of operation as they relate to limited resource operators of small farm enterprises in the seven states listed above. Section 1941.4(g) of Subpart A of Part 1941 will be amended to refer to the added Exhibit B.

The above-mentioned states were selected since special complementary assistance to very small farm operators is available in those states. The complimentary agencies will provide the necessary training for these small farm operators to be successful in the states.

As proposed, Subpart A of Part 1941 is amended as follows:

Table of Sections (Amended)

1. In the Table of Sections following "Exhibit A", add "Exhibit B—Small Farm Enterprises.

(Note.—Exhibit B applies only in AL, FL, GA, LA, MS, MO and SC)."

§ 1941.4 [Amended]

2. In § 1941.4(g) add the following as the end of the paragraph: "(For limited resource loans to applicants with small farm enterprises in AL, FL, GA, LA, MS, MO and SC, refer to Exhibit B of this Subpart.)"

3. Exhibit B is added and reads as follows

Exhibit B—Small Farm Enterprises

Individual Limited Resource Loans for Small Farm Enterprises in Alabama, Florida, Georgia, Louisiana, Mississippi, Missouri, and South Carolina.

I. General

The Farmers Home Administration (FmHA) wants to emphasize and encourage operating loan assistance to eligible limited resource applicants who operate small farm enterprises in these states through December 31, 1981, and wants to study and evaluate the overall impact such assistance has on stabilizing the financial position of small farm operators. Some limited resource applicants have very little farm experience or training and may operate or propose to operate very small farm enterprises with annual gross farm incomes as low as $3,000. This Exhibit supplements the existing individual operating loan eligibility requirements concerning farm training, income, and the size of operation as they relate to limited resource operators of small farm enterprises.

II. Eligibility

A. A limited resource applicant who operates or will operate a small farm enterprise must meet all operating loan requirements. However, whether or not an applicant meets these requirements must be evaluated in relation to the size of the applicant's farming operation. An applicant with a small farm enterprise will not need as much training or experience or income as applicants with other farming enterprises.

B. A limited resource applicant operating a small farm enterprise can meet the eligibility requirement relating to training in §1941.12 (a) (3) of this Subpart if the applicant is a member of a responsible sponsoring organization and has successfully completed a minimum of 240 hours of formal traning on the enterprise(s) that will be financed. The applicant must also receive at least two years of intensive on-the-job training and management assistance for the small farm enterprise(s) that will be financed from a qualified advisor of the sponsoring organization. An advisor must have a degree in agriculture or equivalent experience managing the same type of enterprise that will be financed. Before loan approval, the County Supervisor will obtain a letter from the sponsoring organization certifying that its advisor or another similarly qualified advisor such as an extension agent will provide the required training and management assistance.

III. Income

The total income of the applicant at time of application will not exceed the U.S. Bureau of the Census, Current Population Reports, Non-metropolitan Median Family Income for the state.

IV. Small Farm Requirement

§ 1941.4(g) of this Subpart states that a limited resource applicant may operate a small farm. A small farm is described as marginal family Farm. Such a farm must meet the definitions of "family farm" and "farm" found in § 1941.4(d) and § 1941.4(e) of this Subpart, and must have planned annual gross farm income of at lease $3,000. A marginal family farm is usually one which is at the very lowest acreage and income level in the area but which still qualifies as a family farm.

(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statements." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment an inaccordance with the National Environment Policy Act of 1969, Public Law 91-190, and Environmental Impact Statement is not required.

Note.—This proposed rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6346, South Agriculture Building Washington, D.C. 20250.

Dated: January 21, 1980.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 80-2952 Filed 1-29-80; 8:45 am]

BILLING CODE 3410-07-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Domestic Licensing of Production and Utilization Facilities; Operational Data Gathering

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The U.S. Nuclear Regulatory Commission is considering amending its regulations to require that participation in the Nuclear Plant Reliability Data System (NPRDS) be made mandatory for power reactor licensees. The NPRDS, currently a voluntary reporting system, is described in American National Standards Institute (ANSI) Standard N524-1976 (N18-20), "Nuclear Plant Reliability Data Collection and Reporting System," [1] and was developed under the aegis of the American National Standards Institute with the participation of industry, the Government and the public.

This advance notice of proposed rulemaking is being issued to invite advice and recommendations on several questions to help the NRC decide whether or not participation in NPRDS should be made mandatory. The accident at Three Mile Island and reports on the accident have pointed to the need for additional data for operational safety reasons. Therefore, it is the Commission's intent to make participation in the NPRDS mandatory unless comments received provide sufficient reasons to the contrary. However, the proposal contained in this notice may change in light of comments received.

DATES: The comment period expires March 31, 1980.

ADDRESSES: Interested persons are invited to submit written comments and suggestions to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received by the Commission may be examined in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. Comments may also be delivered to Room 1121, between 8:15 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: M. S. Medeiros, Jr., Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 or telephone (301) 443-5913.

SUPPLEMENTARY INFORMATION:

Historical Background

The Nuclear Plant Reliability Data System (NPRDS) is an industry effort under the overall guidance of the American National Standards Institute (ANSI) and its N18-20 Subcommittee. The NPRDS started to accept data in July 1974 after completing a pilot program involving six plants. The NPRDS contains both an engineering data base and a failure-reporting data bank, for most commercial nuclear power plants, covering systems and components designated Safety Class 1 and Safety Class 2 by ANSI standards ANS 52.1/N212 (Boiling Water Reactor Nuclear Safety Criteria Standard),[1] ANS 51.1/N18.2 (Pressurized Water Reactor Nuclear Safety Criteria Standard),[1] and N213 (Gas Cooled Reactor Nuclear Safety Criteria Standard) [1] and designated Safety Class 1E by IEEE standard 380-1975 (Definition of Terms used in IEEE Standards on Nuclear Power Generating Stations);[2] six early plants are not included because they differ from later generation plants. An NPRDS Reporting Procedures Manual [3] provides detailed guidance for data reporting. Since reporting started in July 1974, more than 7,000 component failure reports have been issued, nearly 2,000 of them in 1978. Full participation in the NPRDS by a utility operating a nuclear power plant requires a one-time initial effort to record engineering data describing Safety Classes 1, 2, and 1E systems and components that will be used as a population base, and requires completing failure reports as failures occur. In a typical nuclear power plant, there are dozens of Safety Classes 1, 2, and 1E systems containing thousands of components. In a paper presented at the 1979 Annual NPRDS Workshop, Mr. Rawley D. Johnson of the Southwest Research Institute (SwRI) states that, based on experience to date, 1.5 to 2.5 man-years of effort at an estimated cost of $75,000 to $200,000 must be expended to record this one-time engineering data. In addition, SwRI states that the ongoing failure reporting can cost up to $50,000 per power plant annually for full participation and complete reporting.

Except for the six early-design operating plants, all utilities operating nuclear power plants are invited to

[1] Copies may be obtained from the American Nuclear Society, 555 North Kensington Avenue, LaGrange Park, Illinois 60525.

[2] Copies may be obtained from the Institute of Electrical and Electronics Engineers, 345 East 47th Street, New York, New York 10017.

[3] Reporting Procedures Manual for the Nuclear Plant Reliability Data System available from Southwest Research Institute, San Antonio, Texas 78284.

participate in the reliability data system. Currently, utilities operating 60 of 62 presently eligible plants are participating in the reliability data system; two utilities have declined to participate. However, of the 60 participating plants, many have limited their participation. For example, while some utilities have completed their engineering data, many have not put forth meaningful efforts. Furthermore, in reviewing the utilities' failure reports, many examples of poor and incomplete reporting have been found as noted in a recent General Accounting Office (GAO) report.[4]

On April 29, 1977, the National Energy Plan was published recommending that the NRC make mandatory the present voluntary [NPRDS] reporting of minor mishaps and component failures at operating nuclear power plants. The plan suggested that mandatory participation would enable industry and the NRC to develop a more reliable data base needed to improve reactor design, construction and operating practice. NPRDS stated goals are to improve system reliability and increase the hours power plants are available; improve system designs; optimize surveillance and test schedules; identify failure trends and wear-out patterns; reduce power plant licensing times; and improve maintenance and spare parts management.

In working toward implementing the National Energy Plan recommendation, several issues have arisen which center around one of the Commission's own data reporting systems, the Licensee Event Reports (LERs),[5] and how the LER and NPRDS systems should be structured to complement each other and avoid duplication. Furthermore, staff efforts have been guided by the basic requirement that data gathering must be shown to be necessary, not merely useful or interesting. To date, action aimed toward implementing the National Energy Plan recommendation has not progressed significantly beyond addressing these fundamental concerns.

Coincident with NRC NPRDS activities, the General Accounting Office (GAO) has been reviewing NRC data-gathering activities concerning unscheduled events at commercial nuclear facilities. In a report[4] issued in late January 1979, the GAO concluded that it was unlikely the NRC could justify mandatory NPRDS participation when factors such as additional industry costs, limited expected safety benefits, and duplication of NRC's LER system were considered. However, the GAO believed that a full examination of the issue was warranted and suggested that the issue be decided using rulemaking procedures. The GAO concluded that rulemaking would provide the nuclear industry and the public, as well as the NRC staff, the opportunity to get their views on record and would better insure that all of these views are properly considered by the NRC. GAO believed this to be particularly important since the GAO believes the reliability data system has been developed and operated primarily by industry for industry's benefit. In a May 1979 response to the GAO report, the Commission concurred with the GAO recommendation to obtain industry and public comments to help the NRC formulate a definitive position.

Subsequent to the GAO Report, the accident at Three Mile Island occurred. The October 1979, Report of the President's Commission on the Accident at Three Mile Island recommended that there be a program for the systematic assessment of experience in operating reactors, with special emphasis on discovering patterns in abnormal occurrences. The report recommended that an overall quality assurance measurement and reporting system based on this systematic assessment be developed. Similarly, the October 1979, TMI–2 Lessons Learned Task Force Final Report, NUREG–0565, recommended that an integrated NRC-utility program to evaluate operating experience be established. This report further noted that the NRC had recently established the Office for Analysis and Evaluation of Operational Data to provide agency-wide coordination and an overview of all operational data analysis-related activities performed within the NRC. In addition, the Special Review Group of the NRC's Office of Inspection and Enforcement (NUREG–0616, December 1979) felt that mandatory participation in NPRDS would provide a more comprehensive and complete data base for evaluating reliability and for early identification of failure trends. Based on these reports, it is the Commission's intent to make participation in the NPRDS mandatory, unless comments received provide sufficient reasons to the contrary.

This advance notice of proposed rulemaking is being published to obtain advice from industry and the public, on whether the Commission should initiate a rulemaking proceeding to require mandatory participation in the NPRDS.

In addition to the customary Federal Register notice, the Office of Standards Development is making a direct mailing to affected licensees and other known interested parties to ensure that they are aware of this advance notice of proposed rulemaking.

Summary of Features Being Considered for Proposed Rule

The Commission is considering initiating rulemaking that would have the following features:

1. The NRC would require each licensee operating a nuclear power plant to prepare a list of systems and components defining the scope of NPRDS reporting for its nuclear power plant.

2. The NRC would refer the licensee to the latest revision of Chapter 4 of ANSI N18–20 Reporting Procedures Manual for the Nuclear Plant Reliability Data System (Manual), prepared by Southwest Research Institute, for guidance in developing the system and component scope list. The NRC estimates that at least 3500 components would comprise an appropriate scope with comparable reporting for plants of similar type and vintage. The NRC would not accept as being responsive the present lack of uniformity among utilities concerning reportable scope. For example, for 11 selected BWR plants reporting voluntarily, reportable scope varies between 1500 components at one extreme to 4600 components at the other extreme.

3. The NRC would require each applicable licensee (see 1) to submit its scope list to the Director, Office of Nuclear Reactor Regulation (NRR), for approval.

4. The NRC would require each applicable licensee (see 1) to file Reports of Engineering Data, as described in Chapter 9 of the Manual, within approximately one year after notification of NRR approval of the scope list.

5. From the date the scope list is submitted to NRR for approval, the NRC would require each applicable licensee to file, within approximately one month of a failure, Reports of Failure as described in Chapter 11 of the Manual.

[4] GAO report EMD–79–16, Reporting Unscheduled Events at Commercial Nuclear Facilities: Opportunities to Improve Nuclear Regulatory Commission Oversight, available from U.S. General Accounting Office, 441 G Street, NW., Washington, D.C. 20548.

[5] Described in NRC Regulatory Guide 1.16, Reporting of Operating Information—Appendix A Technical Specifications, and NUREG–0161, Instructions for Preparing Licensee Event Reports, available from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. The LER system was developed to provide a centralized source of information concerning incidents occurring at nuclear power plants. These incidents, termed Reportable Occurrences, must be reported to the NRC as required by technical specifications accompanying a station license. For additional pertinent information, see a recent report from the Advisory Committee on Reactor Safeguards to the Commission, "Review of Licensee Event Reports (1976–1978)," NUREG–0572, September 1979.

6. The NRC would request that the NPRDS Manual be upgraded to establish a standard reportable scope and instructions for consistent reporting or would otherwise establish such standardization.

7. The NRC would require the utilities to participate meaningfully. Based on public response to questions which follow concerning industry, public and NRC end use of NPRDS data, adequacy of utility participation will be judged. From the hundreds of component problems that occur each year at each power plant, the NRC would decide which ones were sufficiently important to safety or availability to cause an NPRDS failure report to be written.

8. The NRC would consider reducing LER reporting by eliminating the requirement for LER reports for most component failures or malfunctions covered by the NPRDS; the NRC would consider requiring equipment LERs only for those component failures or malfunctions that are of major safety significance (i.e., those of the type presently identified in Regulatory Guide 1.16 under "Prompt Notification with Written Followup").

9. The NRC would consider restructuring LER reporting requirements to capture mainly incidents of major safety significance (i.e., those of the type presently identified in Regulatory Guide 1.16 under "Prompt Notification with Written Followup" and incidents concerning inadequate design and analysis, deficient operating procedures, and operator errors) not minor equipment failures or malfunctions. Thus, the LER system, which was not designed to produce reliability data, would no longer attempt to provide a basis for equipment reliability studies; the NPRDS, which is designed to produce such reliability data, would perform this service.

Specific Considerations

Advice and recommendations on a proposed rule reflecting the foregoing features and on any other points considered pertinent are invited from all interested persons. Comments and supporting reasons are particularly requested on the following questions:

1. How should NPRDS effort be apportioned between improving plant availability and improving plant safety? Where should the emphasis be?

2. How should NPRDS data be used by industry, the public and the NRC to achieve this emphasis? What other uses, if any, should be made of NRPDS data?

3. How should NPRDS data be gathered and analyzed to facilitate recommended uses?

4. Who should alert appropriate persons concerning problems uncovered from analysis of NPRDS data? Who should initiate design, maintenance, or operating improvements?

5. What systematic analysis is conducted currently by licensees and the public? To what extent and for what purpose should each licensee, the NRC and the public analyze data?

6. If NPRDS reporting is made mandatory, what form of NPRDS management (i.e. industry, NRC or joint industry/NRC) will best lead to fully responsive reporting and to meaningful analysis?

7. To what extent, if any, should the NRC manage NPRDS reporting and data analysis?

8. If NPRDS reporting is made mandatory, how should the NRC inspect and enforce mandatory licensee participation? Should licensees be subject to enforcement penalties for noncompliance with NPRDS requirements?

9. What improvements should be made to the NPRDS Manual or other guiding vehicle to enhance uniformity of reportable scope, completeness and accuracy of reporting, and usability of the data?

10. Any data-gathering system needs feedback to maintain and upgrade system capability in the face of changing events, methodological advances, and other factors. Feedback is particularly necessary to modify data-gathering activity upon which the whole analytical system rests. What feedback features, if any, should be addressed by rulemaking?

11. Should the NPRDS and LER systems be restructured to avoid overlapping data-gathering requirements or should present system formats be retained?

12. In the event you recommend eliminating duplication between LER and NPRDS reporting, how would you restructure each system's reporting requirements? Comment specifically on the idea expressed in summary paragraph 8. of limiting LER reporting to items of major safety significance. Should such restructuring be done simultaneously with making NPRDS reporting mandatory or should ongoing NPRDS and LER upgrading efforts continue separately?

13. Do you agree with the summary paragraph 2 estimate of a minimum of 3500 components as an appropriate scope? Assuming a reportable scope of 3500 components, how many NPRDS failure reports should be expected per month per operating plant?

14. Should the scope of systems and components presently summarized by the NPRDS Manual be expanded or contracted and, if so, in what areas?

15. Do the costs of preparing and submitting failure reports differ between the LER and NPRDS systems? What do you estimate these costs to be?

16. Are the per-plant figures of $75,000 to $200,000 for one-time development of NPRDS engineering data and $50,000 for annual NPRDS reporting considered valid or are these figures understated or overstated?

17. What alternatives to mandatory reporting would provide the data necessary for complete and accurate reliability analyses and at what level of assurance?

18. Do the benefits to the utility and the public of improved availability and increased reactor safety warrant the cost of NPRDS or is there a less costly way to realize equivalent benefits in regulatory action?

19. How should the NPRDS be funded? Should industry fund fully or should the NRC contribute funds to support the industry system?

20. Should the six early-design plants, excluded when the NPRDS commenced, continue to be excluded or should all plants be required to participate?

21. Certain operator errors must now be reported within the scope of the LER system. Furthermore, NPRDS reports sometimes include corresponding human error information. To what extent, if any, should an improved NPRDS collect man-machine interface data and perform reliability analyses which consider human factors.

Dated at Washington, D.C., this 23rd day of January 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-2775 Filed 1-29-80; 8:45 am]

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 700, 701, 725, and 742

Special Share Accounts; Definition of Gross Income, Risk Assets, and Liquid Assets

AGENCY: National Credit Union Administration.

ACTION: Proposed Rules.

SUMMARY: These proposed rules would (1) permit federally chartered central credit unions which are Agent members of the National Credit Union Administration Central Liquidity Facility to require their member natural person credit unions to establish special

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share accounts to "reimburse" the Agent member for amounts which it must pay for CLF stock or hold in "liquid assests" on behalf of each of its member credit unions as a condition of Agent membership in the Facility; (2) define the term "gross income" to exclude dividends received directly or indirectly from the Facility and interest received on loans that must be passed through to the Facility from amounts subject to reserve requirements imposed by NCUA; (3) amend the definition of the term "risk assets" to exclude amounts invested in capital stock of the Facility or in special share accounts; and (4) conform the permissible investments for the "on-call" portion of the CLF stock subscription to those qualifying as "liquid assets" under 12 CFR Part 742.

DATE: Comments must be received on or before March 30, 1980.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Mark S. Medvin, Senior Attorney, Office of General Counsel, or Michael Fischer, Chief Accountant, Office of Examination and Insurance, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456. Telephone (202) 357–1030 (Mr. Medvin) or (202) 357–1065 (Mr. Fischer).

SUPPLEMENTARY INFORMATION: 1. *Background.* The National Credit Union Administration Central Liquidity Facility ("the Facility") is a corporation within the National Credit Union Administration established to improve financial stability by making loans to meet the liquidity needs of credit unions. The Facility, which began operations October 1, 1979, was established by the National Credit Union Central Liquidity Facility Act ("the Act"), Title XVIII of Pub. L. 95–630. Final regulations on Facility membership and lending were published on August 23, 1979 (44 FR 49431).

The Act provides for two types of membership in the Facility (12 U.S.C. 1795c). Regular membership, which gives direct access to Facility loans, is available only to credit unions which primarily serve natural persons (12 U.S.C. 1795c; 12 CFR 725.2(1), 725.3). Agent membership is available only to "central credit unions" (12 U.S.C. 1795c; 12 CFR 725.2(d),[1] 725.4), and all natural person credit unions which are members of an Agent have access to Facility loans through the Agent.

[1] 12 CFR 725.2(d): "Central credit union" means a Federal or state-chartered credit union primarily serving other credit unions. A credit union is primarily serving other credit unions when the total dollar amount of the shares and deposits received from other credit unions plus loans to other credit unions exceeds 50 percent of the total dollar amount of all shares and deposits plus loans. . . ."

Special Share Accounts

2. *Purpose.* In order for a central credit union or a group of central credit unions to become an Agent member of the Facility, it must, among other requirements, subscribe to capital stock of the Facility in an amount not less than—

"one-half of 1 per centum of the paid-in and unimpaired capital and surplus of all those credit unions which primarily serve natural persons, which are members of such credit union or of any credit union comprising such credit union group, and which are not regular members." (12 U.S.C. 1975c(b)(2); see also 12 CFR 725.4(b)(2)).

Thus, the amount of the stock subscription is based on the assets of *all* the central credit union's member natural person credit unions rather than of only those members which desire access to the Facility. At the present time, Federal centrals cannot *require* their members to "reimburse" the central for the cost of Facility stock attributable to each. This means that, if a member credit union of an Agent central refuses to voluntarily "reimburse" the Agent, the Agent central must cover the stock subscription payment attributable to that credit union out of other assets. If there are several such credit unions, or if the credit union refusing to reimburse has substantial assets, the central credit union would only be able to become an Agent member at the expense of using a substantial portion of its assets or might be prevented from becoming an Agent member at all.

The result is that the stock subscription provision frustrates the purpose of Title III (Central Liquidity Facility) of the Federal Credit Union Act because it enables a small number of credit unions to prevent their central from participating as an Agent of the Facility even though all other credit unions served by the central may desire to participate in CLF through the central.

Without some form of reimbursement, the stock subscription provision also limits the ability of the CLF to act in the role of lender of last resort. That is, to the extent that centrals are prevented from becoming Agent members, the CLF will be denied access to many natural person credit unions whose liquidity needs it was created to serve. Finally, even if centrals have sufficient assets to pay the stock subscription out of their own funds, this would reduce the amount of funds available to credit unions through the central system.

NCUA believes that it is not unreasonable to allow Agents to pass the financing of membership in the Facility through to the natural person creidt unions which receive the benefits of the Agent's access to CLF (note that all loans by the Facility, whether direct or through an Agent, must be for the purpose of meeting liquidity needs of natural person credit unions, 12 U.S.C. 1795a(1)). When Facility membership costs are not passed through to an Agent's members, those members receive the benefits of CLF membership without providing any of the financing.

Based on these considerations, NCUA is proposing a regulation that would permit *federally chartered* central credit unions acting as Agents of the Facility to require their members to establish special share accounts and reimburse the Agent for Facility membership costs attributable to each such member (state chartered central credit unions must look to applicable state law to determine whether they are authorized to take similar action). This solution would eliminate the barrier to Agent membership in a manner consistent with the requirement that an Agent subscribe to Facility stock based on the assets of all its members, and at the same time would allow for the passing through of the costs of Facility membership to the credit unions which receive the benefits of such membership.

3. *Regulatory Approach.* In developing this proposed regulation on special share accounts, NCUA has attempted to respond to the problem posed by the requirement that Agents subscribe to Facility capital stock based on the assets of *all* their members without imposing an unnecessary burden on the Agents or on natural person credit unions.

The NCUA Board considered taking no action on this issue, thereby leaving the burden of meeting the Facility stock subscription totally on the Agent. This would have meant that an Agent would have to rely on its members to *voluntarily* keep funds in the Agent to reimburse it for the Facility stock subscription. That is a desirable approach in that no new regulations would be required, but it enables one or a few large credit unions to effectively prevent a central from becoming an Agent member, and is therefore unacceptable.

This proposed regulation does not require the establishment of special share accounts nor does it specify the amounts to be kept in such accounts; those decisions are left to each central credit union. The proposal merely authorizes the special share accounts and sets minimum standards so that the accounts are reasonable in amount and are used only for the purpose of supplying funds to the central credit union to enable it to become an Agent member of the Facility.

4. *Establishment of Requirement for Special Share Accounts.* Paragraph (a) of proposed § 725.7 permits Federal central credit unions which are Agents of the Facility to require their member natural person credit unions to maintain special share accounts in the central to reimburse it for the portion of the central's Facility stock subscription which is attributable to the paid-in and unimpaired capital and surplus of each such natural person credit union. This proposal would merely authorize Federal central credit unions which are Agents to establish a requirement of this type, rather than requiring such centrals to do so.

In order to establish a special share account requirement, the Board of the Federal central credit union would have to adopt a written resolution establishing the requirement in accordance with the Federal Credit Union Bylaws and Board of Directors' Manual. Members objecting to the requirement would have the right, as do all members of Federal credit unions, to request the President to call a special meeting (see Article V, Section 3 of the FCU Bylaws), for example, to discuss the merits of the requirement, or to request the Board to reconsider the matter, or to remove one or more Directors so that new Board members who would repeal the requirement could be elected (in accordance with FCU Bylaws and established policies), or for any other related reasons.

If the special share account requirement remains in effect, all members would be required to comply.[2] Failure to comply would constitute "good and sufficient cause" for expulsion from membership pursuant to Section 118 of the Federal Credit Union Act, if the other members were to choose to take such action. Of course, the other members could choose not to expel the recalcuitrant members, with the result that the central credit union would have to cover its Facility stock subscription out of the central credit union's other assets.

5. *Amount of the Special Share Account.*—Paragraph (b) of proposed § 725.7 limits the amount which an Agent Federal central can *require* its member natural person credit unions to keep in the special share accounts to the amount of the Agent's stock subscription which is attributable to the capital and surplus of each such credit union. This represents the amount that the Agent will have to pay over to, or keep on call of, the Facility on behalf of each such credit union (note that, in the case of a member of an Agent which is also a Regular member, no part of the Agent's stock subscription is attributable to that credit union so that its special share account requirement would be zero).

Consideration was given to limiting the maximum amount of the special share account to the amount which the Agent must actually pay to the Facility (one-quarter of one percent of the paid-in and unimpaired capital and surplus, plus any part of the on-call portion of the stock subscription which is called), but since the Agent would have to maintain the on-call funds in specified assets and lose the free use of such funds regardless of whether those funds are actually called, NCUA is proposing to permit the Agent to require its members to reimburse it for the whole stock subscription amount.

Paragraph (b) of proposed § 725.7 also requires that the amount required by the Agent to be placed in a special share account be based on a uniform percentage of paid-in and unimpaired capital and surplus to conform to the formula used to determine Facility stock subscriptions and to insure that the reimbursement for the stock subscription is borne in an equitable manner.

It should be emphasized that an Agent may require less than one-half of 1 percent of paid-in an unimpaired capital and surplus to be placed in special share accounts; one-half of 1 percent is merely the maximum that can be *required.* The Agent may allow its members to maintain amounts in excess of that amount in the special share accounts as long as it does not require them to do so.

The proposal provides that dividends on special share accounts shall not exceed the rate paid by the Facility on its capital stock unless a higher rate is authorized by other paragraphs of § 701.35.

[2] Note that since all members must comply, care must be taken in the drafting of the requirement so that it does not require credit unions which are both members of the Agent and Regular members of the Facility to place any amounts in special share accounts, since the Regulation would limit these accounts to "reimbursement purposes" (see proposal 725.7(a) . (b)). Suggested language for such a requirement, based on the regulation, is "Each member credit union is required to maintain a special share account in an amount to be specified by the Board of Directors, not to exceed the amount of XYZ Central Credit Union's Central Liquidity Facility stock subscription which is attributable to the capital and surplus of each member. Such a requirement would apply to all members, but a Regular member's special share account requirement would be zero.

6. *Return of Amounts in Special Share Accounts.* When a natural person credit union which had been accessing the Facility through an Agent withdraws from membership in the Agent or becomes a Regular member of the Facility, paragraph (c) of proposed § 725.7 would require that all amounts in the special share account of that credit union be returned to the credit union. In the case where the credit union is switching to Regular membership, the Agent's Facility stock subscription would be adjusted immediately, but when the credit union is withdrawing from all Facility access, the Agent's stock subscription will not be adjusted for six or twenty-four months, as provided in 12 CFR 725.6(d)(2), leaving the Agent without reimbursement for that period of time.

Definition of "Risk Assets" and "Gross Income"

7. *Regulatory Approach.* In developing these regulations defining "gross income" and redefining "risk assets", the Administration intends to eliminate the applicability of current NCUA reserve requirements where these requirements serve little purpose as applied to Facility activity, and result in an increase in the cost of Facility membership or an increase in the cost of performing Facility functions.

NCUA was not required to change the applicability of these reserve requirements and considered the alternative of taking no action in this area. However, this would have increased the cost of Facility membership and of performing Facility activity while providing no real benefits to either NCUA or participating credit unions. Therefore, NCUA has chosen to eliminate the impact of these requirements in the most direct manner possible by providing exceptions to defined terms for certain Facility related activity.

8. *Gross Income: Interest on Facility Loans.* The lending relationship between the Facility and its Agent members is such that the Facility lends to the Agent and the Agent lends to its members. Thus, most of the interest received by the Agent on loans made for the Facility must be passed through to the Facility as interest on the Facility's loan to the Agent. NCUA feels that to consider the entire amount of interest received by the Agent on Facility loans as income to the Agent and subject to reserve requirements is to ignore the fact that the Agent is acting as a representative of the Facility in making liquidity loans available to natural person credit unions. To impose such reserve requirements would only act to increase

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the effective cost of funds to the Agent in rendering to its members the services for which the Facility was created.

For these reasons, NCUA is proposing that only that amount by which the interest charged a member credit union by the Agent for a loan made for the Facility exceeds the amount of interest charged the Agent by the Facility be considered a part of gross income for purposes of computing transfers to reserves required by NCUA pursuant to Section 116 (federally chartered credit unions) and Section 201(b)(6) (state chartered, federally insured credit unions) of the Federal Credit Union Act. Note that, as regards state chartered, federally insured credit unions, this reserve exclusion would only apply to NCUA's reserve requirements and would have no impact on state-imposed reserve requirements.

To illustrate, if the Facility charges 10% on its loan to an Agent and the Agent charges 10.2% to relend those funds to a natural person credit union, only the amount of interest income representing the additional 0.2% on the interest rate would have to be considered a part of gross income for computing transfers to reserves. It should be noted that, if the Agent had made a six month loan at 10.2% which was not used as the basis for a Facility loan until three months later, all interest earned by the Agent on that loan during the three months it was held solely in the Agent's portfolio would be included in "gross income"; only the interest received after the Facility had made an advance to the Agent based on that loan would be subject to the exclusion.

9. *Gross Income: Dividends on CLF Stock.* To provide an additional incentive for participation in the Facility, NCUA is proposing that dividends received on Facility capital stock be excluded from a credit union's gross income for purposes of computing transfers to reserves required by NCUA pursuant to Sections 116 and 201(b)(6) of the FCU Act. This exclusion would apply to federally chartered credit unions and state chartered, federally insured credit unions which are Facility members, whether Regular or Agent. Moreover, the exclusion would apply to any dividends paid by an Agent on special share accounts (see previous discussion in this preamble, and proposed § 725.7), of its federally chartered and state-chartered, federally insured member natural person credit unions because the amounts in these accounts represent funds to reimburse the Agent for its Facility membership costs, and dividends paid thereon represent the "pass through" of Facility dividends. Note that, with respect to state-chartered, federally insured credit unions, this reserve exclusion would only apply to NCUA's reserve requirements and would have no impact on state-imposed reserve requirements.

10. *Risk Assets.* The reserve levels that NCUA requires a Federal credit union to maintain are based on the credit union's amount of loans and risk assets. NCUA does not consider investments in Facility stock as risk assets because the Facility is an agency of the Federal government and the price of its stock is not subject to fluctuation (12 U.S.C. 1795d(c) provides that, upon withdrawal from Facility membership, the stock will be redeemed at the price originally paid). Therfore, the Administration is proposing that the definition of risk assets in 12 CFR 700.1(j) be amended to exclude investments in shares of the Facility.

Liquid Assets; On-Call Portion of CLF Stock Subscription

11. *Regulatory Approach.* In developing the proposed regulations amending the list of investments which qualify for the "on-call" portion of the CLF stock subscriptions and the definition of "liquid assets", NCUA has attempted to provide consistency between sections 725.5(c) and 742.2(a) in a manner which will simplify section 725.5 and at the same time eliminate any confusion as to the intended interplay between the two sections. This approach will also eliminate the need to amend both sections in the event that the NCUA Board approves other assets which qualify as liquid assets for NCUA's liquidity reserve regulation, 12 CFR Part 742.

12. *Liquid Assets.* NCUA is proposing that § 742.2, the definition of "liquid assets," be amended to clarify that the special share accounts which would be authorized by proposed § 725.7 would also qualify as "liquid assets" for purposes of the liquidity reserve regulation. Amounts in these accounts may already qualify as liquid assets as "share . . . accounts with remaining maturities of 1 year or less maintained in central credit unions" (12 CFR 742.2(a)(2)), but NCUA feels that it is desirable to specifically include these accounts in the definition of "liquid assets" to avoid any uncertainty. Since these accounts represent a "pass-through" of CLF stock subscription requirements, these special share accounts are analogous to investments in shares of the Central Liquidity Facility by Regular members; therefore, the proposal would amend paragraph 742.2(a)(5), which classified shares in the CLF as "liquid assets," to also include amounts in special share accounts authorized by 725.7 as "liquid assets."

13. *On-Call Portion of CLF Stock Subscription.* NCUA proposes to amend § 725.5, which lists the permissible investments for the "on-call" portion of a member's stock subscription. The investment specified in § 725.5 are intended to correspond to the investments that qualify as "liquid assets" under NCUA's liquidity reserve regulation (12 CFR Part 742). However, § 725.5 was promulgated before Part 742 became final and, consequently, does not include certain investment permissible under the final version of Part 742, specifically, assets held in satisfaction of state-imposed liquidity requirements by federally-insured state chartered credit unions. To remedy this situation, and to ensure that any investments which NCUA may, in the future, classify as "liquid assets" for purposes of Part 742 (including special share accounts as proposed herein) also automatically qualify for the "on-call" portion of the CLF stock subscription, NCUA proposes to incorporate the § 742.2 definition of liquid assets into § 725.5.

Accordingly, the National Credit Union Administration proposes to amend Chapter 7 of Title 12 of the Code of Federal Regulations as set forth below.

Authority: 12 U.S.C. 1795c(b)(3); 12 U.S.C. 1795f(2); 12 U.S.C. 1762(b); 12 U.S.C. 1766(a); 12 U.S.C. 1781(b)(6); 12 U.S.C. 1789(a)(11).

Rosemary Brady,
Secretary to the Board.

January 25, 1980.

PART 725—NATIONAL CREDIT UNION ADMINISTRATION CENTRAL LIQUIDITY FACILITY

1. New § 725.7, as follows, is proposed to be added to Part 725:

§ 725.7 Special share accounts in agent members.

(a) An Agent member of the Facility may require its member natural person credit unions to establish and maintain special share accounts in the Agent member to reimburse it for the portion of the Agent's Facility stock subscription which is attributable to the paid-in and unimpaired capital and surplus of each such natural person credit union.

(b) The amount which the Agent member requires each member natural person credit union to maintain in such special share accounts shall be based on a uniform percentage of the paid-in and unimpaired capital and surplus of such credit unions, and shall not exceed the amount of the Agent's stock subscription which is attributable to the capital and surplus of each such credit union. At the Agent member's option, it may permit member natural person credit unions to maintain amounts in such special share accounts in excess of the required amount.

(c) A natural person credit union that withdraws from membership in an Agent member or that becomes a Regular member of the Facility, shall be entitled to the return of all amounts in its special share account upon withdrawal from membership in the Agent or upon becoming a Regular member, as applicable.

PART 700—DEFINITIONS

§ 700.1 [Amended]

2. Section 700.1 would be amended by:

a. Adding new subparagraph (16) at the end of paragraph (j) as follows: "(16) Investments in shares of the National Credit Union Administration Central Liquidity Facility."; and

b. Adding a new paragraph (l) at the end thereof as follows: (1) For purposes of determining the amount required to be transferred to regular reserves under sections 116 and 201(b)(6) of the Federal Credit Union Act, "gross income" means the total of the operating income accounts reduced by the following:

(1) Dividends received on shares in the National Credit Union Administration Central Liquidity Facility;

(2) Dividends received by credit unions on special share accounts held in Agent members of the Central Liquidity Facility authorized by § 725.7 of this Chapter; and

(3) Interest received by an Agent member of the Central Liquidity Facility to the extent of interest paid to the Facility by the Agent member.

Non-operating gains and losses are not included in gross income.

PART 701— ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

§ 701.35 [Amended]

3. Paragraph 701.35(g) would be amended by:

a. Striking "or" at the end of subparagraph (4);

b. Striking the period (".") at the end of subparagraph (5)(iii), and inserting "; or" in its place; and

c. Adding new subparagraph (6), as follows, at the end thereof:

(6) In the case of special share accounts of credit unions held in Agent members of the Central Liquidity Facility, authorized by § 725.7 of this Chapter, a rate not to exceed the rate paid by the Facility on its capital stock unless a higher rate is permitted by other paragraphs of this section.

PART 742—LIQUIDITY RESERVES

§ 742.2 [Amended]

4. Paragraph 742.2(a) would be amended by striking the semi-colon (";") at the end of paragraph (5), and inserting "or in special share accounts authorized by § 725.7 of this Chapter; and" in lieu thereof.

PART 725—NATIONAL CREDIT UNION ADMINISTRATION CENTRAL LIQUIDITY FACILITY

§ 725.5 [Amended]

5. Paragraph 725.5(c) would be amended by striking the colon (":") and paragraphs (1) through (5), and inserting "liquid assets as defined in § 742.2(a) of this Chapter." in lieu thereof.

[FR Doc. 80-2898 Filed 1-29-80; 8:45 am]
BILLING CODE 7535-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket Nos. RM79-79 and RM79-80]

Price Squeeze—Procedural and Substantive Rules; Extension of Comment Period

January 15, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Extension of Comment Period.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is extending until February 15, 1980, the deadline for comments on its notices of proposed rulemakings relating to price squeeze in the electric industry.

DATES: Written comments by February 15, 1980.

ADDRESSES: Written comments should be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should reference Dockets Nos. RM79-79 and RM79-80.

FOR FURTHER INFORMATION CONTACT:

Angela Lancaster, Office of the Chairman, Federal Energy Regulatory Commission, Room 9000, 825 North Capitol Street NE., Washington, D.C. 20426 (202) 357-8333; or Bonnie Cord, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8170.

SUPPLEMENTARY INFORMATION: On November 19, 1979, the Commission issued companion notices of proposed rulemaking (Docket No. RM79-79, 44 FR 67154, November 23, 1979; Docket No. RM79-80, 44 FR 67158, November 23, 1979) proposing to adopt regulations governing Commission proceedings involving price squeeze in the electric utility industry. The Commission is hereby extending the deadline for the filing of written comments on matters contained in those notices to February 15, 1980.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 80-3073 Filed 1-29-80; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

20 CFR Part 416

Supplemental Security Income for the Aged, Blind, and Disabled; Evidence of Permanent Residence in the United States Under Color of Law

AGENCY: Social Security Administration, HEW.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: We are withdrawing the proposed amendment to the regulations entitled "Evidence of Permanent Residence in the United States under Color of Law," which was published in the Federal Register of May 16, 1978 (43 FR 21012).

EFFECTIVE DATE: The withdrawal is effective January 30, 1980.

FOR FURTHER INFORMATION CONTACT:

Dave Smith, Legal Assistant, Room 4234, West High Rise Bldg., 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7336.

SUPPLEMENTARY INFORMATION: Notice of proposed rulemaking (NPRM) was published at 43 FR 21012 on May 16, 1978. Under current law, aliens permanently residing in the United States under "color of law" are eligible for SSI benefits. Current regulations do not define color of law by date of entry into the United States. The propsed regulations would have done this. The

primary intent of the change in the regulations was to lessen the hardship on some elderly aliens who had received assistance under the state welfare programs for the aged. In 1974 when the Supplemental Security Income (SSI) Program was implemented it federalized the old state programs of aid to the aged, blind and disabled. Some of the recipients of those state programs were subsequently found ineligible for SSI because they could not document their legal residence in this country. They were mostly elderly aliens who had lived in this country for many years. The intent of the regulations was to continue SSI assistance to this group of needy people. They would have provided that those aliens who have resided in the United States since before January 1, 1970 who are unable to provide the documentation required by current regulations but whose presence is made known to the Immigration and Naturalization Service would be considered permanently residing in the United States under "color of law".

After the publication of the NPRM we received 1,742 comments from the public and from members of Congress. Of the total number of comments from all sources, approximately 58 percent opposed the proposed regulations. Our proposal required residence before January 1, 1970, to conform with the President's proposed legislation that was submitted to the Congress in October 1977. Although the Congress did not enact the legislation they did address the question of immigration policy in Pub. L. 95-412, approved October 5, 1978, which established a Select Commission on Immigration and Refuge Policy. The Commission will make a comprehensive review of immigration law and policy and report its findings no later than September 30, 1980. We believe it would be better for us to defer consideration of any changes in our regulations until those findings are available.

Accordingly, the proposal published in the **Federal Register** at 43 FR 21012 on May 16, 1978, entitled "Evidenced of Permanent Residence in the United States under Color of Law," is hereby withdrawn.

Dated: December 20, 1979.

Stanford G. Ross,

Commissioner of Social Security.

Approved: January 24, 1980.

Patricia Roberts Harris,

Secretary of Health, Education, and Welfare.

[FR Doc. 80-2958 Filed 1-29-80; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Option To Capitalize or Deduct Intangible Drilling and Development Costs in the Case of Wells Drilled for any Geothermal Deposit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Proposed rulemaking cross-reference to temporary regulations.

SUMMARY: In the rules and regulations portion of this **Federal Register**, the Internal Revenue Service is issuing temporary income tax regulations relating to the option to capitalize or deduct intangible drilling and development costs in the case of wells drilled for any geothermal deposit. The temporary regulations also serve as a notice of proposed rulemaking for final income tax regulations.

DATES: The temporary regulations are effective for taxable years ending on or after October 1, 1978, with respect to geothermal wells commenced on or after that date. The regulations are prescribed under a change to the applicable tax law made by the Energy Tax Act of 1978. The proposed regulations are to be effective for the same period. Written comments and requests for public hearing must be delivered or mailed by March 31, 1980.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-202-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: David B. Cubeta of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3926).

SUPPLEMENTARY INFORMATION: The temporary regulations in the rules and regulations porton of this issue of the **Federal Register** adds a new Part 5a to Title 26 of the Code of Federal Regulations. The final regulations which are proposed to be based on the temporary regulation would amend 26 CFR Part 1.

For the text of the temporary regulations, see FR Doc. 80-2944 (T.D. 7669) published in the rules and regulations portion of this issue of the **Federal Register.**

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80-2945 Filed 1-29-80; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 1

[LR-227-78]

Income Tax; Election in Certain Liquidations for Involuntary Conversion

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document provides proposed regulations relating to the election to extend the 12-month period for certain corporate liquidations where there is an involuntary conversion. Changes to the applicable law were made by the Act of November 10, 1978. The regulations would provide necessary guidance to the public as to the time and manner for making the election.

DATE: Written comments and requests for a public hearing must be delivered or mailed by March 31, 1980. The regulations would be effective for dispositions of involuntarily converted property occurring after November 10, 1978.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, (LR-227-78) Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Lawrence M. Axelrod of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3458) (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 337(e) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 4 of the Act of November 10, 1978 (92 Stat. 3628) and are to be issued under the authority contained in sections 337(e) and 7805 of the Internal Revenue Code of 1954 (92 Stat. 3628, 68A Stat. 917; 26 U.S.C. 337(e), 7805).

Under section 337(e) of the Code, a liquidating corporation that qualifies under section 337(a) may elect to treat the disposition of involuntarily converted property, that occurred within 60 days preceding the date a plan of liquidation is adopted, as a sale or exchange occurring within the 12-month period beginning on that date. If the election is made, no gain or loss from any involuntary conversion during the 60-day period is recognized. H.R. Rep.

No. 95-645, 95th Cong., 2d Sess. 7 (1978). Under section 337(e)(3), the Secretary is authorized to prescribe regulations specifying the time and manner in which the election is made.

Under § 1.337-6, a liquidating corporation to which section 337(a) applies must attach to its return certain statements relating to the liquidation and to the sale and retention of assets. The proposed regulations provide that a corporation may elect the application of section 337(e) by adding a sentence on a presently required statement expressly electing to apply section 337(e).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of this regulation is Lawrence M. Axelrod of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

§ 1.337 [Deleted]

Paragraph 1. Section 1.337 is deleted.

Par. 2. Section 1.337-6 is amended by:

1. Adding a new sentence at the end of paragraph (a)(2), and

2. Adding a new paragraph (c) immediately following paragraph (b).

These new provisions are as follows:

§ 1.337-6 Information to be filed.

(a) *Cases to which section 337(a) applies.* * * *

(2) * * * If a corporation elects to apply section 337(e), this statement must include a list of all property involuntarily converted during the 60-day period described in section 337(e)(2), the date or dates of any such conversion, and a sentence to the effect that the corporation elects the application of section 337(e). See paragraph (c) of this section for the procedure for electing to apply section 337(e) to all property involuntarily converted during the 60-day period.

* * * * *

(c) *Election under section 337(e).* Section 337(e) applies to a disposition of converted property (within the meaning of section 1033(a)(2)(E)(ii)) occurring after November 10, 1978, but only if a proper election is made. To make the election, a corporation must include a sentence on the statement required by paragraph (a)(2) of this section, with a timely filed original return, indicating that the corporation elects the application of section 337(e). Notwithstanding the requirement that the election be made with a timely filed original return, an election made under this paragraph, by a corporation that qualifies under section 337(a), will be valid if made on an amended return before March 31, 1980.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80-2946 Filed 1-29-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Chapter I

Vinson-Trammel Act; Excess Profits on Contracts for Naval Vessels or Military Aircraft; Announcement of Hearing

AGENCY: Office of the Secretary of Defense.

ACTION: Announcement of Hearings.

SUMMARY: In two Notices of proposed rulemaking published in the **Federal Register**, December 26, 1979 (44 FR 76303), the Department of Defense invited public comment on (a) proposed DoD regulations and reporting form relating to DoD's responsibilities under the Vinson-Trammell Act (10 U.S.C. §§ 2382, 7300 (hereafter "the Act"); and (b) DoD proposals (44 FR 76306) concerning the proposed regulations for implementing the Act that were published by the Internal Revenue Service in the **Federal Register**, October 26, 1979 (44 FR 61611). The Notices advised that hearings on these DoD proposals would be held in Washington, D.C. and four other cities on dates and places to be published later in the **Federal Register**. We now announce the date and place of hearings in Washington, D.C.

DATES: A hearing will be held on February 19, 1980 at 9:30 a.m. (local time). Requests to present oral views at that hearing must be received prior to February 13, 1980. Please refer to the previous Notices for procedural and other information concerning such hearings.

ADDRESSES: The hearing will be held in Room 3511, National Center Building No. 3, 2513 Jefferson Davis Highway, Arlington, VA 20362.

Send requests to present oral views to: Deputy Under Secretary of Defense (Acquisition Policy), Attention: CPF, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Major Grady Jacobs, USAF, Directorate of Contracts and Systems Acquisition (CPF), Office of the Deputy Under Secretary of Defense (Acquisition Policy), Pentagon Building, Room 3D116, Washington, D.C. 20301, telephone 202-697-8334 (not a toll-free call).

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

January 25, 1980.

[FR Doc. 80-2871 Filed 1-29-80; 8:45 am]

BILLING CODE 3810-70-M

POSTAL SERVICE

39 CFR Parts 310 and 320

Private Express Regulations; Extension of Comment Period

AGENCY: U.S. Postal Service.

ACTION Extension of time for comment.

SUMMARY: This notice extends the time for filing comments on proposals to amend certain provisions of the regulations which relate to restrictions on the private carriage of letters.

DATE: Comments must be received on or before April 8, 1980.

ADDRESS: Written comments should be addressed or delivered to Law Department, U.S. Postal Service, 475 L'Enfant Plaza, West, S.W., Room 9107, Washington, DC 20260. Copies of all written comments received will be available for public inspection and photocopying between 9 a.m. and 4 p.m., at the same location.

FOR FURTHER INFORMATION CONTACT: Jerry Belenker, Law Department, U.S. Postal Service, 475 L'Enfant Plaza, West, S.W., Washingtom, DC 20260, (202) 245-4616.

SUPPLEMENTARY INFORMATION: On January 7, 1980, a document was published in the **Federal Register** (45 FR 1427) proposing certain amendments to

the Postal Service regulations which pertain to the administration of the Private Express Statutes. The amendments dealt primarily with the circumstances under which messages would be considered to be directed to specific persons or addresses, and the circumstances under which advertisements could be included in parcels delivered by private couriers. The document also elicited information from the public about the economic effects that would follow if the proposed amendments were adopted. Comments were requested on or before February 8, 1980.

In response to a number of requests for an extension of time within which to submit comments, and in order to facilitate maximum public participation in the rulemaking process, the Postal Service will accept written comments which are received on or before April 8, 1980.

(39 U.S.C. 401, 404, 601–606; 18 U.S.C. 1693–1699, 1724)

W. Allen Sanders,
Associate General Counsel.

[FR Doc. 80-2858 Filed 1-29-80; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[FRL 1401-6]

Requirements for Preparation, Adoption and Submittal of Implementation Plans; Approval, and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period; request for comment on specific issues.

SUMMARY: EPA has proposed various amendments to its regulations concerning the review of new and modified sources of air pollution under the prevention of significant deterioration and nonattainment provisions of the Clean Air Act. See 44 FR 51924 (September 5, 1979). That proposal was in response to a preliminary decision of the United States Court of Appeals for the District of Columbia Circuit. Comments on the proposed regulations and on a relevant guideline document were solicited from the public; the comment periods have now closed. Since the promulgation of the proposal, EPA has met with representatives from state and local air pollution control agencies and with representatives from industry, at their request, to discuss the proposal. The Court has now handed down its final opinion. In order to afford the public an opportunity to comment on the final court opinion and the several meetings held, EPA is extending the comment period for thirty days from the date this notice appears in the Federal Register. In addition, there are several specific issues on which the Agency solicits comment.

DATE: Comments are now due on or before February 29, 1980.

ADDRESS: Send comments (in triplicate, if possible) to Central Docket Section, (A–130), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, Attn: Docket No. A–79–35.

FOR FURTHER INFORMATION CONTACT: James Weigold, Standards Implementation Branch (MD–15), Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711; 919–541–5292.

SUPPLEMENTARY INFORMATION:

A. Extension of the Comment Period

On June 18, 1979, the United States Court of Appeals for the District of Columbia Circuit issued a *per curiam* decision in the case of *Alabama Power Company* v. *Costle* regarding EPA's regulations for the prevention of significant deterioration (PSD), 40 CFR 51.24 and 52.21 (1978). In response to the Court ruling, on September 5, 1979, EPA proposed amendments to those regulations, and to regulations relating to the review of new sources and modifications in nonattainment areas to the extent that such regulations addressed similar issues. See 44 FR 51924. Public comment was solicited on the proposal; the final date for such comment was set at November 5, 1979. Information rebutting or supplementing any comments at the public hearings held in October 1979 could be submitted up until November 19, 1979. A guideline on how to conduct monitoring for PSD purposes was also released for public comment; that comment period closed on December 10, 1979.

Since the September 5 proposal, EPA has granted several requests for meeting from various individuals and groups to afford the requesters an opportunity to get clarification of the proposed regulations and to express their views on them. Four meetings were held. On October 30–31, EPA met with representatives of state and local air pollution control agencies in Atlanta, Georgia. On November 1, EPA met in Durham, North Carolina, with a group representing the Chemical Manufacturers Association. The following day, November 2, EPA met with a group representing the Portland Cement Association. Finally, on December 4, EPA participated in a discussion of the proposed regulations at a joint meeting of the State and Territorial Air Pollution Program Administrators and the Association of Local Air Pollution Control Officials in San Diego. A record of the proceedings was kept for each of these meetings, and has been included in the PSD rulemaking docket for public inspection.

On December 14, 1979, the Court handed down its final opinion in the *Alabama Power* case. EPA had previously received several requests to reopen the comment period after the issuance of the final opinion. EPA had also been requested to provide more time for comment on the PSD monitoring guideline. In order to provide an opportunity for public comment on the court decision as it related to the September 5 proposal, the several meetings described above, and the monitoring guidelines, the comment period is hereby reopened until February 29, 1980.

B. Comment on Specific Issues

There are several specific issues on which the Agency seeks comment during this extended comment period. Certain issues are prompted by the Court's final opinion, while others are the result of further Agency reflection on the September 5 proposal. EPA recognizes that some commenters have already focused on some of these issues. Those commenters need not and should not repeat there comments.

1. The 50-Ton Exemption

Section 165(b) of the Clean Air Act, 42 U.S.C. 7475(b), provides an exemption from portions of the PSD review requirements for certain modifications to sources in existence on August 7, 1977. In September, EPA proposed a provision which it intended would embody that exemption. *See* 44 FR 51949–50, 51954 (subsection (k)(2)). In its final opinion in *Alabama Power*, the Court suggested that EPA had authority to conform the eligiblility date of Section 165(b) to the effective date of the PSD regulations. *See* slip opinion, at 34 n. 79 (Opinion by Judge Leventhal). As a result, EPA is considering changing the eligiblility date to March 1, 1978. The agency therefore solicits comment on whether it should alter the eligiblity date and whether March 1, 1978, is an appropriate choice.

2. Contemporaneous

Whether a change at an existing source would require a PSD permit depends under the September 5 proposal on whether it would amount to a "major modification." *See* 44 FR 51953. That in turn depends in part on whether any "contemporaneous" reductions in emissions would offset sufficiently any increases in emissions that would result from the change. *See id.* at 51934–35. In the September 5 proposal, EPA proposed to offset an otherwise creditable reduction regardless of how much time had passed between the reduction and the increase in emissions. *See id.* at 51935. EPA is considering whether to set a limit on how much time could pass before a reduction would no longer be "contemporaneous." One alternative is to specify that no emission reductions which occurred more than three years before the date an application was complete may offset the increase that would result from the change proposed in the application. EPA requests comments on whether it should set a time limit on what is "contemporaneous" and on whether the 3 year alternative is appropriate.

3. Proximity and Ownership

In September, EPA proposed in effect to define "stationary source" for PSD purposes as "any grouping of pollutant-emitting activities *which are located on one or more contiguous or adjacent properties and which are owned or operated by the same person (or by persons under common control)." 44 FR 51948, 51952 (emphasis added). See also id.* at 51931–32. Obviously, that definition, like the definition of the term in the existing regulations, would make proximity and control the key factors in deciding whether to combine a particular activity with other ones for applicability purposes. EPA intends to use those factors in a reasonable way. For example, it does not intend to treat a pipeline that stretches across many states as a single "stationary source." The agency solicits comment on the use of proximity and control as the sole factors in grouping pollutant-emitting activities. In particular, its asks for comment on whether additional factors, such as the functional relationship of one activity to another, should be used. The agency also asks for concrete and specific examples of cases where a literal application of the proposed definition would be unreasonable.

4. Georgraphic Applicability

Among the amendments to the PSD regulations which EPA proposed in September was a provision that would set the geographic applicability of the PSD permit requirements. *See* 44 FR 51949 (§ 51.24(i)(2)); *id.* at 51953–54 (§ 52–21(i)(8)). In essence, the provision would state that those requirements apply to any major stationary source or major modification that either (1) would be located in an area designated under Section 107 of the Act, 42 U.S.C. 7407, as attainment or unclassifiable for a pollutant for which the source or modification woud be major or (2) would significantly affect an area in another state designated under Section 107 as attainment or unclassifiable for a pollutant for which the source or modification would be major.

EPA intends to delete the second element of that provisions, which focuses on interstate impacts, since that element is now inconsistent with the Court's final interpretation of the Act. *See* slip opinion, at 49–59 (Opinion of Judge Leventhal). The agency solicits comment on that intention.

The Court decision has also prompted EPA to reevaluate the first element of the provision. That element would exempt from PSD review any source or modification that would emit in major amounts only a pollutant or pollutants for which the area had been designated nonattainment. An example is a source that would emit only minor amounts of sulfur dioxide and major amounts of particulate matter and would locate in an area designated attainment for sulfur dioxide and nonattainment for particulate matter. Another example is a source that would emit only major amounts of particulate matter (and no sulfur dioxide) and would locate in an area designated attainment for sulfur dioxide and nonattainment for particulate matter.

EPA solicits comment on whether the Act requires a change in the first element of the provision. Specifically, should it have the exclusionary effect described above? If not, what reformulation would be appropriate? In addition, EPA requests comment on whether the Act supports the application of PSD review to any source or modification which would emit only non-criteria (non-NAAQS) pollutants in major amounts. For example, should a major source that would emit only hydrogen sulfide be subject to PSD?

5. Baseline Area and Pollutant-Specific Baseline Date

In its September 5 proposal, the agency stated that baseline area would be defined on the basis of air quality control regions (AQCRs). See 44 FR 51941. It also stated that, when the first major source or modification applied for a PSD permit in a portion of an AQCR designated as attainment or unclassifiable under Section 107(d), it would establish the baseline date for both particulate matter and sulfur dioxide in all parts of the AQCR designated attainment or unclassifiable for those pollutants.

Based on the Court's opinion and reconsideration within the agency, the agency is considering two changes to its September 5 proposal. First, the agency is contemplating defining baseline area as any area designated attainment or unclassifiable under Section 107(d). The first application by a major source or modification in a designated clean area would trigger the baseline date only for that designated area and not for the entire AQCR. If the designated area included the entire AQCR or was bigger than an AQCR, the baseline date would be set for the entire designated area. EPA requests comment on whether the first application should trigger the baseline only in the area where the source would locate or in all attainment or unclassifiable areas that the source would impact.

In conjunction with this change, EPA is considering whether and to what extent States should be permitted to redefine the boundaries of areas designated attainment or unclassifiable. Redesignation would allow States to take one or more large designated clean areas and divide them into several smaller designated areas. Under the system suggested today, a major source locating or modifying in one of the designated areas would trigger a baseline date only for that area, and not for adjacent attainment or unclassifiable areas. EPA solicits comment both on whether the baseline area should be defined as a Section 107(d) area designated as attainment or unclassifiable and on whether States should be permitted to redesignate large attainment or unclassifiable areas into several smaller areas. EPA also seeks comment on what, if any, restrictions should be placed on States' ability to redesignate. EPA is considering limiting redesignations to an area no smaller than a source's area of impact.

Second, the September 5 proposal indicated that the first application by a source or modification to emit in major amounts any pollutant for which an area is designated attainment or unclassifiable would trigger the baseline date for both particulate matter and sulfur dioxide. See 44 FR 51941. In considering whether to define baseline area as a Section 107 designated clean area, EPA is also considering whether a pollutant-specific baseline date would be appropriate. Under this approach, a source locating in an area designated attainment for both sulfur dioxide and particulate matter which would emit only sulfur dioxide would only trigger the baseline date for sulfur dioxide. The

V45/21/JA30 1980 UMI

baseline date for particulate matter would not be triggered in that area until a major source emitting that pollutant applied to locate in the area. A major source of pollutants other than sulfur dioxide or particulate matter would not trigger any baseline date. EPA solicits comment on whether a pollutant-specific baseline is required under the statute and, if not, whether such an approach is allowable and preferable to the current proposal.

EPA also requests comment on how the source in the following example would trigger the baseline: The source would emit major amounts of sulfur dioxide and minor amounts of particulate matter. The area in which the source would locate is designated attainment for both sulfur dioxide and particulate matter. Should the source trigger the baseline for both sulfur dioxide and particulate matter or just for sulfur dioxide?

(Secs. 101(b)(1), 110, 114, 160-69, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7401(b)(1), 7410, 7414, 7470-79 and 7601(a)))

Dated: January 24, 1980.

David G. Hawkins,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 80-3004 Filed 1-29-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1401-3]

Revision to the New York State Implementation Plan; Correction

AGENCY: Environmental Protection Agency.

ACTION: General notice of correction to proposed rule.

SUMMARY: In FR Doc. 79-37757 appearing at page 70754 in the Federal Register of December 10, 1979, the following phrase should be added to the end of the listing of areas designated as nonattainment for Particulate Matter (Secondary Standard) which appears at the bottom of the second column on page 70755: "the Borough of Staten Island (part)."

DATES: This action becomes effective January 30, 1980.

(Secs. 110, 172 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601))

Dated: January 17, 1980.

Richard T. Dewling,

Acting Regional Administrator, Environmental Protection Agency.

[FR Doc. 80-2949 Filed 1-29-80 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA 5765]

National Flood Insurance Program; Proposed Flood Elevation Determinations

Correction

In FR Doc. 80-1640, appearing on page 3604 in the issue of Friday, January 18, 1980 make the following correction:

On page 3608, in the table, the last entry in the "city/town/county" column, now reading "Island of St. Thomas" should read "Island of St. John".

BILLING CODE 1505-01-M

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44 CFR Part 67

[Docket No. FI-5532]

Revision of Proposed Flood Elevation Determinations for the Borough of Turtle Creek, Allegheny County, Pa., Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Turtle Creek, Allegheny County, Pennsylvania.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 33901 on or about June 13, 1979, and in the *Times Express* on June 6 and June 13, 1979, and in the Allegheny Reporter on June 3 and June 10, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone areas and the proposed flood elevations are available for review at the Turtle Creek Borough Building, 125 Monroeville Avenue, Turtle Creek, Pennsylvania.

Send comments to: Mr. John Rettger, Council President of Turtle Creek, Borough Hall, 125 Monroeville Avenue, Turtle Creek, Pennsylvania 15145.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National flood Insurance Program, Office of Flood Insurance, (202) 426-1460 or Toll Free Line (800) 424-8872, Room 5150, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Borough of Turtle Creek, Allegheny County, Pennsylvania, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)) (presently appearing at its former Title 24, Chapter 10, Part 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

These proposed base (100-year) flood elevations are:

State	City/town/country	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Turtle Creek, Borough, Allegheny County.	Thompson Run	Confluence with Turtle Creek	*739
			Penn Avenue	*739
			Upstream side of Tri-Borough Expressway	*746
			Downstream side of Jones Avenue	*758
			Upstream Corporate Limits	*767
		Turtle Creek	Confluence of Thompson Run	*733
			Penn Avenue	*734
			Upstream Corporate Limits	*736

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued January 22, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2834 Filed 1-29-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FI-5676]

Proposed Flood Elevation Determinations for the Town of Conway, Franklin County, Mass., Under the National Flood Insurance Program; Correction

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 44 FR 47563 of the Federal Register of August 14, 1979.

EFFECTIVE DATE: August 14, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line 800-424-8872, Room 5150, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The notice published on August 14, 1979 at 44 FR 47563 in the Federal Register, and in The Greenfield Recorder on August 24, 1979 and August 31, 1979 showing the following:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Deerfield River	About 0.45 mile upstream of Reeds Bridge Road.	*474
	Just downstream of State Route 116 (near Shelburne Falls Road).	*545
Pumpkin Hollow Brook.	Just downstream of Hill View Road.	*579
	Just upstream of Hill View Road.	*585

Should be corrected to read:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South River	About 0.45 mile upstream of Reeds Bridge Road.	*474
	Just downstream of State Route 116 (near the confluence of Pumpkin Hollow Brook).	*545
Pumpkin Hollow Brook.	About 50 feet downstream of Hill View Road.	*579
	About 50 feet upstream of Hill View Road.	*585

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: January 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2840 Filed 1-29-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FI-5688]

Proposed Flood Elevation Determinations for the Town Of Coventry, Tolland County, Conn., Under the National Flood Insurance Program; Correction

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 44 FR 51244 of the Federal Register of August 31, 1979.

EFFECTIVE DATE: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line 800-424-8872, Room 5150, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The notice published on August 31, 1979 at 44 FR 51244 in the Federal Register, and in the *Willimantic Chronicle* on August 18, 1979 and August 25, 1979 showing the following:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Skungamaug River	Approximately 100 feet downstream of Dam near Woodbridge Road.	*407
	Just upstream of Dam near Woodbridge Road.	*437
Ash Brook	Confluence with Hop River	*342

Should be corrected to read:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Skungamaug River	Approximately 100 feet downstream of South Street Dam.	*407
	Just upstream of South Street Dam.	*437
Ash Brook	Confluence with Hop River	*344

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to

Federal Insurance Administrator, 44 FR 20963)

Issued: January 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2830 Filed 1-29-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FI-5521]

Revision of Proposed Flood Elevation Determinations for the Township of Carroll, York County, Pa., Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Carroll, York County, Pennsylvania.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 40091 on or about July 9, 1979, and in the *Weekly Bulletin*, published on or about July 11, 1979, and July 18, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone areas and the proposed flood elevations are available for review at the Carroll Township Building, Carroll, Pennsylvania.

Send comments to: Mr. Larry Eichelberger, Chairman of the Board of Supervisors of Carroll, R.D. 3, Dillsburg, Pennsylvania 17019.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, Office of Flood Insurance, (202) 426–1460 or Toll Free Line (800) 424–8872, Room 5150, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Township of Carroll, York County, Pennsylvania, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)) (presently appearing at its former Title 24, Chapter 10, Part 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Carroll, Township, York County	Yellow Breeches Creek	Downstream Corporate Limits	*414
			U.S. Route 15	*421
			Old U.S. Route 15	*421
			Legislative Route 66026	*425
		Fishers Run	Upstream Corporate Limits	*496
			Confluence with Stony Run	*482
		West Branch of Fishers Run	Confluence with Stony Run	*486
			Upstream side of Ore Bank Road	*625
			Downstream side of Mumper Lane	*555
		Stony Run	Downstream Corporate Limits	*470
			Upstream side of Chestnut Grove Road	*485
			Confluence of West Branch of Fishers Run	*496
			Confluence of Tributary A to Stonsey Run	*565
			Approximately 1,500 feet upstream of confluence of Tributary A to Stoney Run.	*569
		Tributary A to Stony Run	Confluence with Stony Run	*565
			2,250 feet upstream of confluence	*571
		Dogwood Run	Confluence with Yellow Breeches Creek	*425
			Upstream side of southernmost Conrail Track	*436
			Upstream side of Junction Road	*442
			Upstream side of Spring Lane Road	*461
			Upstream side of State Route 74 (Carlisle Road)	*457
			2,000 feet upstream of State Route 74	*484
			Upstream side of Old Mill Road	*522
			Upstream side of Dogwood Lane	*533
			Upstream side of Camp Ground Road	*576
			3,000 feet upstream of Camp Ground Road	*612
			Upstream Corporate Limits	*637

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: January 22, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2836 Filed 1-29-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FI-5524]

Revision of Proposed Flood Elevation Determinations for the Township of East Manchester, York County, Pa, under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of East Manchester, York County, Pennsylvania.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 33895 on or about June 13, 1979, and in the *York Dispatch*, published on or about June 6, 1979, and June 13, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the East Manchester Township Building.

Send comments to: Mr. John Brown, III, Chairman of the Board of Supervisors of East Manchester, R.D. 1, Mt. Wolf, Pennsylvania 17347.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, Office of Flood Insurance, (202) 426–1460 or Toll Free Line (800) 424–8872, Room 5150, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Township of East Manchester, York County, Pennsylvania, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)) (presently appearing at its former Title 24, Chapter 10, Part 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	East Manchester, Township, York County.	Susquehanna River	Downstream Corporate Limits	*276
			Confluence of West Conewago Creek Flood Channel	*280
			Upstream Corporate Limits	*281
		West Conewago Creek	Downstream Corporate Limits	*281
			West Conewago Flood Channel	*280
			York Haven Road Upstream	*288
			Confluence of Little Conewago Creek	*290
		Little Conewago Creek	Confluence with West Conewago Creek	*290
			Conewago Creek Road Upstream	*299
			Locust Point Road Upstream	*322
			Interstate 83 Upstream	*324
			Upstreet Corporate Limits	*329
		Hartman Run	Downstream Conrail Crossing (Upstream side)	*327
			L. R. 66153 Upstream	*328
			Upstream Conrail Crossing	*347
			Mt. Wolf-East Manchester Corporate Limits	*361
			Township Route 95/Chestnut Street Upstream	*365
			Township Route 945 Upstream	*434
			1,500 feet Upstream of Township Route 945	*446
		Codorus Creek	Conrail Crossing	*276
			11,000 feet downstream of L. R. 66020	*294
			Legislative Route 66020 Upstream	*343
			Upstream Corporate Limits	*347
		Tributary B	Mt. Wolf-East Manchester Corporate Limits	*416

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: January 22, 1980.

Gloria Jimenez,

Federal Insurance Administrator.

[FR Doc. 2837 Filed 1-29-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FI-5440]

Revision of Proposed Flood Elevation Determinations for the Township of North Versailles, Allegheny County, Pa., Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of North Versailles, Allegheny County, Pa.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 26916 on or about May 8, 1979, and in the *McKeesport Daily News*, published on or about April 9, 1979, and April 16, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone areas and the proposed flood elevations are available for review at the Township Building, 1401 Greensburg, North Versailles, Pa.

Send comments to: Mr. John Weber, President of the Board of Supervisors of North Versailles, 1401 Greensburg, North Versailles, Pa. 15137.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, Office of Flood Insurance, (202) 426–1460 or Toll Free Line (800) 424–8872, Room 5150, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Township of North Versailles, Allegheny County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)) (presently appearing at its former Title 24, Chapter 10, Part 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	North Versailles, Township, Allegheny County.	Monongahela River	Port Perry Bridge	741
			Upstream Corporate Limits	*743
		Turtle Creek	Confluence with Monongahela River	*741
			Floodgate at 200' downstream side of Westinghouse Bridge	*741
			Confluence of Thompson Run	*733
			Penn Avenue	*734
			Upstream side of Wall Borough Bridge	*760
			Upstream side of Corporate Limits	*775
		Crooked Run	Downstream Corporate Limits	*816
			Upstream side of Arcannia Street	*830
			1,300' downstream of Fifth Avenue	*865
		Thompson Run	Confluence with Turtle Creek	*733

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: January 22, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2836 Filed 1-29-80; 8:45 am]

BILLING CODE 4718-03-M

44 CFR Part 67

[Docket No. FI-5624]

Revision of Proposed Flood Elevation Determinations for the Township of Noyes, Clinton County, Pa., Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Noyes, Clinton County, Pennsylvania.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 40093 on or about July 9, 1979, and in the *Renovo Record*, published on or about July 9, 1979, and July 16, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Noyes Township Building, Shintown, Pennsylvania.

Send comments to: Mr. George I. Wertz, Chairman of the Township of Noyes, Star Route, Renovo, Pennsylvania 17764.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, Office of Flood Insurance, (202) 426–1460 or Toll Free Line (800) 424–8872, Room 5150, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Township of Noyes, Clinton County, Pennsylvania, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)) (presently appearing at its former Title 24, Chapter 10, Part 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Noyes, Township, Clinton County.	West Branch Susquehanna River.	Downstream Corporate Limits	*660
			Confluence of Hall Run	*671
			Confluence of Kettle Creek	*690
			Upstream Corporate Limits	*716
		Drury Run	Conrail (Downstream side)	*665
			Conrail (Upstream side)	*672
			Robbins Road	*690
			Limit of Detailed Study approximately 3,700' upstream of Robbins Road.	*701
		Kettle Creek	Conrail	*660
			Limit of Detailed Study 8,500' upstream of Conrail Bridge	*711

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: January 22, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2835 Filed 1-29-80; 8:45 am]

BILLING CODE 4718-03-M

44 CFR Part 67

[Docket No. FI-5734]

Proposed Flood Elevation Determinations for the Township of Wright, Luzerne County, Pa., Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Deletion of proposed rule for the township of Wright, Luzerne County, Pennsylvania.

SUMMARY: The Federal Insurance Administration has erroneously published at 44 FR 65098 on November 9, 1979, the proposed flood elevation determinations for the Township of Wright, Luzerne County, Pennsylvania. This notice will serve as a deletion of that publication.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Room 5150, 451 Seventh Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the deletion of the Notice of proposed determinations of base (100-year) flood elevations for the Township of Wright, Luzerne County, Pennsylvania, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a) (presently appearing at its former Title 24, Chapter 10, Part 1917.4(a)).

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: January 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2842 Filed 1-29-80; 8:45 am]

BILLING CODE 4718-03-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

45 CFR Parts 116, and 116a

Title I, Elementary and Secondary Education Act: Financial Assistance to Local and State Eductional Agencies To Meet Special Educational Needs

AGENCY: Office of Education, HEW.

ACTION: Notice for Interested Organizations and Individuals to Participate in Workshops or Briefings on the Revision of Title I, ESEA, Draft Regulations.

SUMMARY: The Commissioner provides notice to interested organizations and individuals of the opportunity to review draft regulations at workshops or briefings for programs funded under Title I of the Elementary and Secondary Education Act of 1965 as amended. This program provides grants to State and local agencies to meet the special educational needs of educationally deprived children.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking (NPRM) revising 45 CFR Parts 116 (general rules for all Title I programs) and 116a (rules for the basic grant program involving local educational agencies) was published in the **Federal Register** on June 29, 1979. The Office of Education (OE) is now reviewing that NPRM and the many comments and recommendations OE has received concerning its format and content.

Interested organizations and individuals are invited to participate in workshops or briefings on Title I draft regulations to be held early in 1980 in Washington, D.C. If feasible, these workshops or briefings will include opportunities for participants to review rough drafts and recommend specific language.

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Persons who are interested in participating in these sessions should determine the general areas of their concern, such as, Federal and State administration, selection of children, project design, services to private school children, advisory councils, or the use of Title I funds to supplement not supplant State and local funds.

Persons who wish to participate should notify Dr. John F. Staehle, Division of Education for the Disadvantaged, 400 Maryland Avenue, S.W. (ROB-3, Room 3642), Washington, D.C. 20202, by letter not later than February 29, 1980. The letter should include the person's full name, title, address, telephone number with area code, areas of major concern in the Title I regulations, and the organization, if any, the person will represent.

The Office of Education will notify those persons of the meeting date, time, and place for their participation in sessions on the draft regulations with which they are particularly concerned.

Dated: January 25, 1980.

(Catalog of Federal Domestic Assistance Program Numbers 13.428, Educationally Deprived Children-Local Educational Agencies and 13.430, Educationally Deprived Children-State Administration)

William L. Smith,

Commissioner of Education.

[FR Doc 80-2981 Filed 1-29-80; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1124

Milk in the Oregon-Washington Marketing Area; Termination of Proceeding on Proposed Termination of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of proceeding.

SUMMARY: This action terminates a proceeding on a proposal to terminate the base-excess plan used in distributing returns to producers whose milk is priced under the Oregon-Washington Federal milk order. Termination of the base-excess plan was requested by three cooperative associations who indicated that they no longer support the use of the payment plan.

Several additional cooperative associations representing a substantial number of producers on the market submitted comments opposing the proposed termination. Because of the conflicting viewpoints among interested parties, it is concluded that the requested termination should not be implemented on the basis of this proceeding.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7183.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding.

Notice of proposed termination of certain provisions of the order, issued December 14, 1979; published December 21, 1979 (44 FR 75649).

This termination of proceeding is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*).

Notice of proposed rulemaking was published in the **Federal Register** (44 FR 75649) concerning a proposed termination of certain provisions of the Oregon-Washington order. Interested persons were afforded opportunity to file written data, views, and arguments thereon by January 7, 1980.

PART 1124—MILK IN THE OREGON-WASHINGTON MARKETING AREA

The provisions that were proposed to be terminated are as follows:

§ 1124.19 [Deleted]

1. Delete § 1124.19 in its entirety.

§ 1124.30 [Amended]

2. In § 1124.30, *Reports of receipts and utilization*, remove the phrase "including the total quantities of base milk and excess milk" in paragraph (a)(1).

§ 1124.31 [Amended]

3. In § 1124.31, *Payroll reports*, remove paragraph (a)(4) in its entirety.

§§ 1124.65, 1124.66 [Deleted]

4. Delete §§ 1124.65 and 1124.66 in their entirety and the center heading *"Determination of Base"* immediately preceding § 1124.65.

§ 1124.71 [Amended]

5. In § 1124.71, *Computation of uniform and weighted average prices*, remove in paragraph (a)(6) the words "prior to February 1970" and the word "and" at the end of the paragraph; and delete paragraph (b) in its entirety.

§ 1124.82 [Amended]

6. In § 1124.82, *Payments from the producer-settlement fund*, remove in paragraph (a) the words "or (b), whichever is applicable,".

§ 1124.83 [Amended]

7. In § 1124.83, *"Location differentials to producers and on nonpool milk,"* remove in paragraph (a) the words "and the uniform price for base milk computed pursuant to § 1124.71(b)(2)".

Statement of Consideration

The proposed termination would have removed the base-excess plan effective February 1, 1980. The base-excess plan is a method of apportioning the total value of milk in the market among producers on the basis of their marketings of milk during a representative period.

Under the plan, which applies to milk delivered during the 12-month period beginning with February 1 of each year, producers are paid according to the amount of "base" they earn through deliveries during the market's four lowest months of production of the preceding calendar year. Deliveries of producers in excess of their "base" are paid for at a lower price than for base milk.

In the absence of the base-excess plan, a single uniform price would be paid directly to producers or, in the case of producers participating in the Oregon State base plan, to the Director of the Milk Audit and Stabilization Division, Oregon State Department of Agriculture, for subsequent payment to the participating producers.

Termination of the base-excess plan was requested by Mayflower Farms and was supported by Dairymen's Creamery Association, Inc., and Tillamook County Creamery Association. Together, these three cooperative associations represent a slight majority of the producers on the market.

The basis of Mayflower's request for termination was that the base-excess plan impeded the free movement of milk between the Oregon-Washington and Inland Empire markets. The cooperative, which has producer members and plants in both markets, contends that changes in marketing and consumption patterns frequently require that milk of its member producers be shifted between the two markets. According to the cooperative, its ability to make such shifts would be enhanced if both orders

contained the same kind of producer payment provisions.

Three cooperative associations (Farmers Cooperative Creamery, Eugene Farmers Creamery, and Portland Independent Milk Producers Association) that represent a substantial number of producers on the market submitted comments opposing the proposed termination. Their principal objection to terminating the base-excess plan was that there were no data presented that indicated the present plan was not accomplishing its purpose of encouraging producers to maintain even production throughout the year. It was their belief that the base-excess plan provided for the orderly entry of new producers on the market in line with the fluid needs of the market without depressing returns to producers regularly associated with the market.

In view of the conflicting viewpoints among interested parties, it is concluded that the requested termination should not be implemented on the basis of this proceeding. Accordingly, the proceeding begun in this matter on December 14, 1979, is hereby terminated.

Signed at Washington, D.C., on: January 25, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc 80-2955 Filed 1-29-80; 8:45 am]

BILLING CODE 3410-02-M

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Notices

Federal Register
Vol. 45, No. 21
Wednesday, January 30, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

National Average Loan Rates; 1979-Crop Wheat, Barley, Corn, Oats, Rye, and Sorghum Loan and Purchase Programs

AGENCY: Commodity Credit Corporation.

ACTION: Notice of increase of 1979 crop loan and purchase rates.

SUMMARY: This notice sets forth the increases in the 1979-crop wheat, barley, corn, oats, rye, and sorghum loan rates announced by the Acting Secretary of Agriculture on January 8, 1980. The purpose of such increases is to encourage participation in the loan and purchase programs, this stabilizing the market by permitting the orderly disposition of grain and thereby preventing the accumulation of excessive stocks.

EFFECTIVE DATE: January 8, 1980

ADDRESS: Director, Price Support and Loan Division, ASCS, USDA, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFOMATION CONTACT: Harold L. Jamison, ASCS (202) 447–7973.

SUPPLEMENTARY INFORMATION: Section 105A of the Agricultural Act of 1949, as amended, authorized the Secretary of Agriculture to make available loans and purchased with respect to corn at such level, not less than $2 per bushel, as the Secretary determines will encourage the exportation of feed grains and not result in excessive total stocks in the United States. Section 105A of the 1949 Act also authorized the Secretary to make available loans and purchases with respect to barley, oats, rye and sorghum, taking into consideration, among other factors, the level at which loans and purchases are made available for corn. Also, Section 107A of the 1949 Act authorized the Secretary to make loans and purchased available with respect to wheat at a level not less than $2.35 per bushel nor in excess of 100 per centum of parity as the Secretary determines will maintain the competitive relationship of wheat to other grains in the domestic and export markets. The regulations governing loan and purchase programs for these 1979 crops are found at 7 CFR 1421.72 *et seq.* On January 4, 1980 , the President of the United States announced, among other actions, that all shipments of domestically produced grain from the United States to the Soviet Union, in excess of 8 million tons per year, were being restricted by the President in accordance with the Export Administration Act of 1979 (Pub. L. 96–72, 93 Stat. 503, effective September 29, 1979). As a result, a series of actions are being undertaken by the Department of Agriculture in order to stabilize and maintain market prices with respect to the commodities listed above. One of the actions is an increase in the loan and purchase rates for the 1979 crops listed herein to encourage producers to participate and remain in the loan and purchase programs rather than disposing of their stocks on the market. Increased participation in the program at this time will stabilize the market by permitting the orderly disposition of grain, thus preventing the accumulation of excessive stocks.

Notice

Accordingly, the 1979 crop national average Commodity Credit Corporation loan and purchase rates are increased as follows: wheat, from $2.35 ot $2.50 per bushel; barley, from $1.63 to $1.71 per bushel; corn, from $2.00 to $2.10 per bushel; oats, from $1.03 to $1.08 per bushel; rye, from $1.70 to $1.79 per bushel; and sorghum, from $3.39 to $3.57 per hundredweight. These increased loan rates are effective January 8, 1980. The basic county loan rate for each county is increased as follows: wheat, 15 cents per bushel; barley, 8 cents per bushel; corn, 10 cents per bushel; oats, 5 cents per bushel; rye, 9 cents per bushel; and sorghum, 18 cents per hundredweight. These increased loan rates apply to existing loans as well as new loans made to eligible producers. Eligible producers who wish to secure a new loan or adjust their existing loans for additional disbursement consistent with these increases may do so by contacting their local Agricultural Stabilization and Conservation Service (ASCS) office or Agricultural Service Center. The regulations in 7 CFR Part 1421 containing the individual crop year supplements for the 1979 crops of wheat, barley, corn, oats, rye, and sorghum will be amended to reflect the increased rates.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); Secs. 105A, 107A, 401, 63 Stat. 1051, as amended (7 U.S.C. 1444c, 1445b, 1421).)

Note.—This notice has been determined "significant" under USDA criteria implementing Executive Order 12044, "Improving Government Regulations." An approved Impact Analysis will be available from Harold Jamison, Price Support and Loan Division (ASCS), Room 3749, South Building, Washington, D.C. 20013.

Signed in Washington, D.C. on January 25, 1980.

Bob Bergland,
Secretary of Agriculture.

[FR Doc. 80-2950 Filed 1-29-80; 8:45 am]
BILLING CODE 3410-05-M

Forest Service

Forest Land and Resource Management Plan; Rogue River National Forest Jackson, Josephine, Klamath, and Douglas Counties, Oreg., and Siskiyou County, Calif.; Intent To Prepare an Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture will prepare an environmental impact statement for the Rogue River National Forest Land and Resource Management Plan.

The Forest Plan will be developed in accordance with the direction for land and resource planning developed pursuant to the National Forest Management Act of 1976. The Forest Plan will contain the following:

1. A discussion of the major public issues and management concerns which are pertinent to the Forest, indicating the disposition of each issue or concern.

2. An analysis of the management situation including demand and supply conditions for resource commodites and services, production potentials, and use and development opportunities.

3. Long-range policies, goals, and objectives, and the specific objectives of the plan.

4. Proposed vicinity, timing, standards and guidelines for proposed and probable management practices; and

5. Monitoring and evaluation requirements which are pertinent at the Forest level.

Many tentative issues, concerns and opportunities have been identified from past public input to other land management planning programs on the Rogue River National Forest. Other issues, concerns, and opportunities will be gathered by use of printed materials and personal contact with users. Oral and written responses will be requested. From the input received and that provided by Forest Service officials and the interested representatives of State, county, and local governments, a final set of issues, concerns and opportunities will emerge which will help focus the planning effort.

Guided by the analysis of the final issues and concerns, a coordinated resource data base will be created using existing data. A range of alternatives for resource allocation and management will be developed, with the assistance of the public and other governmental agencies, which will include consideration of the issues and management concerns.

R. E. Worthington, Regional Forester, Pacific Northwest Region, is the responsible official. Questions about the proposed action and environmental impact statement should be directed to Larry D. Wheeler, Land Management Planning, Rogue River National Forest (phone 503–776–3569).

The analysis is expected to take about 2 years. The draft environmental impact statement for the Rogue River National Forest Land and Resource Management Plan is expected to be available for public review by August 31, 1982. The final environmental impact statement is scheduled to be completed in 1983.

Written comments concerning this analysis should be sent to Donald H. Smith, Forest Supervisor, Rogue River National Forest, P.O. Box 520, Medford, Oregon 97501 (phone 503–776–3581).

Dated: January 21, 1980.

Frank J. Kopecky,
Acting Regional Forester.

[FR Doc. 80-2948 Filed 1-29-80; 8:45 am]
BILLING CODE 3410-11-M

Adam's Rib Recreational Area; Intent to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare a Site Specific Environmental Impact Statement for development of the proposed Adam's Rib Recreation Area, White River National Forest, Eagle County, Colorado.

A Special use Permit request for a four-season recreation resort on National Forest lands and adjacent provate property was made in 1973. The proposal provides a winter sports area having a capacity of approximately eight to ten thousand skiers per day. Other proposed uses include winter and summer mountain related recreation. Private lands provide support facilities, resort/convention housing, and an eighteen hole golf course. Delays in the processing of the application resulted from both the 1973 RARE program and the preparation of a Forest Service Unit Plan for the area—the Eagle-Aspen Plan.

The Eagle-Aspen Unit Plan has been adopted. This plan specifically requires retention of the opportunity for downhill skiing and winter sports on the site.

During the development of the unit plan, a review process was started with the participation of the proponent, Eagle County, the State of Colorado, the Forest Service, and other interested publics. This Joint Review Process established areas of concern relevant to the proposed action before being terminated in March 1978.

The review process, begun in November 1979, has the same participants. Review and validation of the previously identified areas of concern is now underway. In addition, there will be scoping meetings held with members of the Joint Review Committee and Forest Service specialists early in 1980 to identify othr issues and concerns. A method to assure meaningful public involvement in both validation of previously identified issues and for identifying additional issues and concerns is being developed.

The alternatives presently under consideration are:

a. No development.
b. Immediate development.
c. Scheduled future development.

Additional alternatives and variations of the above alternatives may be identified during the environmental analysis.

Thomas C. Evans, Forest Supervisor, is the responsible official and John Almond, Eagle District Ranger, will be Forest Service Team Leader for the environmental analysis and resulting impact statement.

It is expected that the environmental analysis will require approximately 10 months. The Draft Environmental Impact Statement is scheduled for completion by October 1980, with a two-month review period. The Final Environmental Impact Statement is scheduled for filing in January 1981. If the decision is to proceed with development it is anticipated construction could start by the summer of 1981.

Comments on the Notice of Intent or on the analysis should be sent to Thomas C. Evans, Forest Supervisor, White River National Forest, Box 948, Glenwood Springs, CO 81601.

January 2, 1980.

George A. Morris,
Acting Forest Supervisor.

[FR Doc. 80-2943 Filed 1-29-80; 8:45 am]
BILLING CODE 3410-11-M

Medicine Bow National Forest Grazing Advisory Board; Meeting

The Medicine Bow National Forest Grazing Advisory Board will meet March 6, 1980, at 1:00 p.m. in the Medicine Bow National Forest Supervisor's Office, 605 Skyline Road, Laramie, Wyoming. The Board is being established in accordance with provisions of the Federal Land Policy and Management Act of 1976.

The Agenda for the meeting will include: (1) election of officers; (2) a discussion of the function of the Board; (3) establishment of by-laws; (4) recommendations concerning the development of allotment management plans and the utilization of range betterment funds.

The meeting will be open to the public. Persons who wish to attend and participate should notify Don Schmidtlein, Medicine Bow National Forest (307–745–8971) prior to the meeting. Public members may participate in discussions during the meeting at any time or may file a written statement following the meeting.

Donald L. Rollens,
Forest Supervisor.

January 15, 1980.

[FR Doc. 80-2868 Filed 1-29-80; 8:45 am]
BILLING CODE 3410-11-M

Soil Conservation Service

Panther Creek Watershed, Mississippi

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Chester F. Bellard, State Conservationist, Soil Conservation Service, 1321 Federal Building, 100 West Capitol Street, Jackson, Mississippi 39201, telephone 601–969–4335.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental

Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Panther Creek Watershed, Madison County, Mississippi.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Chester F. Bellard, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The project plan provided for accelerated technical assistance for application of land treatment measures, installation of five floodwater retarding structures and 19.6 miles of channel improvement.

The finding of no significant impact has been forwarded to the Environmental Protection Agency. The basic data developed during the environmedntal assessment are on file and may be reviewed by contacting Mr. Chester F. Bellard, State Conservationist, Soil Conservation Service, 1321 Federal Building, 100 West Capitol Street, Jackson, Mississippi 39201, telephone 601–969–4335. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until March 31, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83–566, 16 U.S.C. 1001–1008)

Dated: January 22, 1980.

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 80-2912 Filed 1-29-80; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket No. 37500; Order 80–1–159]

Additional Portland-California/Nevada Points Show-Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice *Additional Portland-California/Nevada Points Show-Cause Proceeding,* Docket 37500 (Order 80–1–159).

SUMMARY: The Board is proposing to award nonstop air route authority to four carriers between Portland and the following cities: (1) Fresno, Stockton, Las Vegas, San Diego, Ontario, Burbank, Long Beach, and Los Angeles, to Pacific Southwest Airlines; (2) Fresno, San Diego, Ontario, Burbank, Los Angeles, Long Beach, and Las Vegas, to USAir; (3) Fresno, Stockton, Las Vegas, Tucson, and San Diego, to Continental Air Lines; and (4) Las Vegas, to United Air Lines; and to grant any of the authority at issue to any other fit, willing and able applicants the fitness of which can be established by officially noticeable material.

The complete text of this order is available as noted below.

DATES: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by February 29, 1980, a statement of objectives, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings shall be served upon all parties listed below.

Additional Data: All further applicants are directed to file applications, motions to consolidate, illustrative service proposals, environmental evaluations, and estimates of fuel to be consumed in the first year and statements of fuel availability no later then February 14, 1980.

ADDRESSES: Objections to the issuance of a final order, or additional data as described above, should be filed in Docket 37500, which we have entitled the *Additional Portland-California/Nevada Points Show-Cause Proceeding.* They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C., 20428.

In addition, copies of such filings should be served on Pacific Southwest Airlines; USAir; Continental Air Lines; United Air Lines; the governors and state commissioners or Departments of Transportation of Oregon, California, Nevada, and Arizona; and the mayors and airport managers of Burbank, Fresno, Las Vegas, Long Beach, Los Angeles, Ontario, Portland, San Diego, Stockton, and Tucson.

FOR FURTHER INFORMATION CONTACT: Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428, (202) 673–5198.

SUPPLEMENTARY INFORMATION: The complete text of Order 80–1–159 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80–1–159 to that address.

By the Civil Aeronautics Board: January 24, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-2917 Filed 1-29-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 36477; Order 80–1–152]

Aerotransportes Entre Rios, S.R.L. (AER); Renewal and Amendment of Foreign Air Carrier Permit

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: ORDER 80–1–152.

SUMMARY: The Board proposes to approve the following application:

Applicant: Aerotransportes Entre Rios, S.R.L. (AER).

Application Date: March 4, 1974/April 13, 1979 Docket 26477.

Authority Sought: Renewal and amendment of foreign air carrier permit to add Los Angeles as a U.S. terminal point, and several new intermediate points.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall file a statement of such objections no later than February 19, 1980, with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of Argentina in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit.

ADDRESSES FOR OBJECTIONS: Docket 26477: Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Applicant: Aerotransportes Entre Rios, S.R.L. c/o Paul Reiber, 1625 Eye St., NW., Washington, D.C. 20006.

TO GET A COPY OF THE COMPLETE ORDER: Request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: The Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board; (202) 673–5880.

By the Civil Aeronautics Board: January 24, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-2916 Filed 1-29-80; 8:45 am]

BILLING CODE 6320-01-M

[Dockets Nos. 37481, etc.]

Capitol International Airways, Inc., et al.; Assignment of Proceeding

Capitol International Airways, Inc., Scheduled Flight Cancellations, Enforcement Proceeding, Docket 37481; Lester Cohen and Stacey Schlau v. Capitol International Airways, Inc., Docket 36446; Gregory James Tharp v. Capitol International Airways, Inc., Docket 36846.

This proceeding is hereby assigned to Administrative Law Judge Elias C. Rodriguez. Future communications should be addressed to Judge Rodriguez.

Dated at Washington, D.C., January 24, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-2923 Filed 1-29-80; 8:45 am]

BILLING CODE 6320-01-M

[Dockets Nos. 33363, 32603 and 32504]

Former Large Irregular Air Service Investigation and Applications of Charter Adventures, Inc.; Hearing

Notice is hereby given pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on February 27, 1980, at 10:00 a.m. (local time), in Room 1003, Hearing Room B, Universal Building North, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., January 24, 1980.

Alexander N. Argerakis,

Administrative Law Judge.

[FR Doc. 80-2920 Filed 1-29-80; 8:45 am]

BILLING CODE 6320-01-M

[Dockets Nos. 33363, 34922, and 34923]

Former Large Irregular Air Service Investigation, Phase III and Applications of Joseph S. Norman II; Reassignment of Proceeding

This proceeding, insofar as it involves the applications of Joseph S. Norman II, Dockets 34922 and 34923, has been reassigned to Administrative Law Judge Alexander N. Argerakis. Future communications should be addressed to Judge Argerakis.

Dated at Washington, D.C., January 24, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-2921 Filed 1-29-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 37499; Order 80–1–158]

Norfolk-New York Show Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of *Norfolk-New York Show Cause Proceeding,* Docket 37499 Order 80–1–158.

SUMMARY: The Board is proposing to award nonstop air route authority between Norfolk and New York to USAir and any other fit, willing and able carrier, the fitness of which can be established by officially noticeable material.

DATES: Objections: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by February 28, 1980, a statement of objections together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings should be served upon all parties listed below.

Additional Data: All further applicants are directed to file applications, motions to consolidate, illustrative service proposals, environmental evaluations, and estimates of fuel to be consumed in the first year no later than February 13, 1980.

ADDRESSES: Objections to the issuance of a final order, or additional data as described above, should be filed in Docket 37499, which we have entitled the *Norfolk-New York Show-Cause Proceeding.* They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on National Airlines, Piedmont Aviation, USAir, the City of Norfolk, the City of New York, the Norfolk Port and Industrial Authority, the Port Authority of New York and New Jersey, the New York State Department of Transportation, and the Virginia State Corporation Commission.

FOR FURTHER INFORMATION CONTACT: Neil Whitehouse, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5328.

SUPPLEMENTARY INFORMATION: The complete text of Order 80–1–158 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80–1–158 to that address.

By the Civil Aeronautics Board: January 24, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-2919 Filed 1-29-80; 8:45 am]

BILLING CODE 6320-01-M

[Dockets Nos. 33363, 34107, and 34108]

Former Large Irregular Air Service Investigation, Phase III and Applications of the Phoenix Corp.; Reassignment of Proceeding

This proceeding, insofar as it involves the applications of the Phoenix Corporation, Dockets 34107 and 34108, has been reassigned to Chief Judge Joseph J. Saunders.

Dated at Washington, D.C., January 24, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-2924 Filed 1-29-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 32707; Order 80–1–160]

Lineas Aereas Costarricenses, S.A. (LACSA); Amendment of Permit

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 80–1–160.

SUMMARY: The Board proposes to approve the following application:

Applicant: Lineas Aereas Costarricenses, S.A. (LACSA).

Application Date: May 19, 1978; Docket: 32707.

Authority Sought: Amendment of permit to add the U.S. coterminal points New Orleans, Louisiana and Los Angeles, California.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted as

described in the order cited above, shall file a statement of such objections no later than February 20, 1980 with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of Costa Rica in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit.

ADDRESSES FOR OBJECTIONS:

Docket 32707, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

Robert D. Papkin, Edward W. Sauer, Squire, Sanders & Dempsey, 21 Dupont Circle, N.W., Washington, D.C. 20038.

TO GET A COPY OF THE COMPLETE ORDER: Request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION: Contact the Regulatory Affairs Division, B–58, of the Bureau of International Aviation, Civil Aeronautics Board; (202) 673–5407.

By the Civil Aeronautics Board: January 24, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80–2910 Filed 1–29–80; 8:45 am]

BILLING CODE 6320–01–M

COMMISSION ON CIVIL RIGHTS

Alaska Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Alaska Advisory Committee (SAC) of the Commission will convene at 12:00 p.m. and will end at 4:00 p.m., on February 22, 1980, at 839 Federal Building, 709 West 9th Street, Juneau, Alaska 99801.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Washington 98174.

The purpose of this meeting is the Alaskan employment study and program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 23, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80–2939 Filed 1–29–80; 8:45 am]

BILLING CODE 6335–01–M

District of Columbia Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the District of Columbia Advisory Committee (SAC) of the Commission will convene at 6:30 a.m. and will end at 11:00 a.m., on February 26, 1980, at 2120 L Street, N.W., Washington, D.C. 20037.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to plan procedures for submitting and implementing project concepts for 1980 activity.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 24, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80–2942 Filed 1–29–80; 8:45 am]

BILLING CODE 6335–01–M

Indiana Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Indiana Advisory Committee (SAC) of the Commission will convene at 7:00 p.m. and will end at 9:00 p.m., on February 25, 1980, at the Indianapolis Hilton, 31 West Ohio Street, Indianapolis, Indiana 46204.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is the review of the minutes by the chairperson; a report by staff on the employment project; and review of names of persons interviewed and suggestions of additional persons to be interviewed.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 25, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80–2940 Filed 1–29–80; 8:45 am]

BILLING CODE 6335–01–M

Maryland Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maryland Advisory Committee (SAC) of the Commission will convene at 6:30 p.m. and will end at 10:00 p.m., on February 20, 1980, at the Maryland State House, Hearing Room number 212, Annapolis, Maryland.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss the planning of a statewide conference on civil rights issues.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 24, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80–2941 Filed 1–29–80; 8:45 am]

BILLING CODE 6335–01–M

Oklahoma Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a conference of the Oklahoma Advisory Committee (SAC) of the Commission will convene at 2:00 p.m. and will end at 6:00 p.m., on February 26, 1980, at Lincoln Plaza, Plaza 5, 4345 North Lincoln Blvd., Oklahoma City, Oklahoma.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, 418 South Main, San Antonio, Texas 78204.

The purpose of this conference is the Affirmative Action Subcommittee meeting to discuss the affirmative action project.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 24, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80–2940 Filed 1–29–80; 8:45 am]

BILLING CODE 6335–01–M

Pennsylvania Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Pennsylvania Advisory Committee (SAC) of the Commission will convene at 12:30 p.m. and will end at 4:30 p.m., on February 21, 1980, at the William Penn Memorial Museum, Conference Room G–24, 3rd and North Streets, Harrisburg, Pennsylvania 17120.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss plans concerning study on affirmative action in employment and update other civil rights developments in Pennsylvania.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 24, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80–2941 Filed 1–29–80; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

University of California—Livermore Laboratory; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666 11th Street, NW. (Room 735), Washington, D.C.

Docket No.: 79–00386. Applicant: University of California—Livermore Laboratory, P.O. Box 5012, Livermore, CA 94550. Article: Nanolab 7 Scanning Electron Microscope with Lanthanum Hexaboride (LaB_6) Emitter and Accessories. Manufacturer: Semco Instrument Company Ltd., Canada. Intended use of article: The article is intended to be used for performing research into the mechanisms of aging and cancer. Cancer experiments conducted involve the detection of changes that occur in cells and animals that have been exposed to cancer-promoting

3. Analysis of the metabolism of drugs.

4. Chemical carcinogens and their metabolites.

5. Protein sequencing.

6. Lipid/sugar analysis in cell membranes.

7. Rapid identification of bacterial infection.

8. Environmental monitoring of possible carcinogens.

9. Identification and structure proof of organic compounds.

10. Structural identification of new biochemical compounds.

11. Development of new ultrasensitive and ultra-specific methods of quantitative analysis.

The article will also be used in the graduate Pharmacology course for graduate students titled Gas Chromatography-Mass Spectrometry in Biomedical Research.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a top access specimen chamber of nine inches diameter. The Department of Health, Education, and Welfare advises in its memorandum dated December 5, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 80–2930 Filed 1–29–80; 8:45 am]

BILLING CODE 3510–25–M

National Institutes of Health; Decision on Application for Duty Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666–11th Street, NW. (Room 735) Washington, D.C.

Docket No. 79–00418: Applicant: U.S. Department of Health, Education, and Welfare, Public Health Service, National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20205. Article: Calibrator, 20 Microvolts. Manufacturer: Covington Computer Systems, Canada. Intended use of Article: The article is intended to be used for studies of human patients with neurological diseases affecting the movements of their eyes (patients who have such disease as Parkinson's disease, Progressive supranuclear palsy, Gaucher's disease). The objective of the investigation is to provide information which may be useful in the diagnosis of certain diseases, and in the study of the mechanisms of action of these diseases.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides operation at a very low frequency (7 herz) with a very low output signal (20 microvolts).

The National Bureau of Standards advises in its memorandum dated December 6, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article

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is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 80-2860 Filed 1-29-80; 8:45 am]

BILLING CODE 3510-25-M

Research Foundation of SUNY; Decision on Application for Duty Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, NW. (Room 735) Washington, D.C.

Docket No. 79-00359. Applicant: The Research Foundation of SUNY, Upstate Medical Center, 117 Monroe Street, Syracuse, NY 13210. Article: Cryogenic Probe. Manufacturer: Louis Rochon, France. Intended use of article: The article is intended to be used to explore systems of the brain that are related to the temporal lobe with animals trained on tasks that are used as measures of memory and that are sensitive to temporal lobe injury. An independent variable will be the different brain structure in which reversible lesions are placed by localized cooling.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to be foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides precise temperature control (±1°C in the range of −20 to +20 degree Centigrade) and small cooled probe diameters (from 0.9 to 5 millimeters).

The Department of Health, Education, and Welfare advises in its memorandum dated December 5, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 80-2857 Filed 1-29-80; 8:45 am]

BILLING CODE 3510-25-M

Solar Energy Research Institute; Decision on Application for Duty Free Entry of Scientific Article

The following is a decision on an application for duty free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No.: 79-00432. Applicant: Solar Energy Research Institute, 1536 Cole Boulevard, Golden, CO 80401. Article: Surface Analysis System Model LHS-10. Manufacturer: Leybold-Heraeus GmbH & Co., West Germany. Intended use of article: The article is intended to be used to determine the elemental composition and structural arrangements of the surface layers of surfaces, thin films, and interfaces of various elements and organic and inorganic compounds as a part of a program to improve the lifetime and reliability of solar energy materials. Experiments to be conducted include preparation and reaction of materials in selected atmospheres followed by a study using four different surface analysis techniques.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a mass range of zero to 500 amu with an extremely high detection sensitivity in the SIMS mode.

The National Bureau of Standards advises in its memorandum dated December 21, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 80-2855 Filed 1-29-80; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council's Scientific and Statistical Committee; Amended Public Meeting Notice

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council's Scientific and Statistical Committee has changed its February 13, 1980, meeting location from the Best Western Motel, Green Airport, Providence, Rhode Island, to the Sheraton Inn, 291 Jones Road, Falmouth, Massachusetts (FR Vol. 45, No. 17, dated January 24, 1980, page 5782).

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Massachusetts, telephone: (617) 535-5450.

Dated: January 25, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-2858 Filed 1-29-80; 8:45 am]

BILLING CODE 3510-22-M

Ruhr-Zoo Gelsenkirchen; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:
   a. Name Ruhr-Zoo Gelsenkirchen (P224).
   b. Address Bleckstrasse 64; D 4650 Gelsenkirchen, West Germany.
2. Type of Permit: Public Display.
3. Name and Number of Animals: California sea lions *(Zalophus californianus)*—6.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11614, March 12, 1975). In this regard, the application:

(a) Was submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the Stadt Veterinardirektor, Gelsenkirchen, that Department being responsible, among other things, for ensuring the suitable care of animals in captivity:

(b) Includes:

i. A verification from the Stadt Veterinardirektor, Gelsenkirchen of the information set forth in the application;

ii. A certification from the Stadt Veterinardirektor that the Government is prepared to monitor compliance with the terms and conditions of the permit, and will do so, if and when necessary; and

iii. A statement that the Stadt Veterinardirektor, will have no objection to a NMFS decision to amend suspend, or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Stadt Veterinardirektor, Gelsenkirchen have been found appropriate and sufficient to allow consideration of this permit application.

4. Type of Take: To hold beached/stranded animals for public display.
5. Location of Activity: California.
6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veteriarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before February 29, 1980. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.: and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: January 25, 1980.

William Aron,

Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 80-2859 Filed 1-29-80; 8:45am]

BILLING CODE 3510-22-M

University of Guelph, Ontario Veterinary College; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:
   a. Name University of Guelph, Ontario Veterinary College (P34A).
   b. Address Guelph, Ontario, Canada.
2. Type of Permit: Scientific Research.
3. Name and Number of Animals: Atlantic bottlenose dolphins *(Tursiops truncatus)*—4.
4. Type of Take: The applicant requests to capture and maintain these animals and conduct experiments for the assessment of the effects of oil on cetaceans.
5. Location of Activity: Melbourne, Florida.
6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before February 29, 1980. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 330 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Services, Southeast Region, Federal Building, 9540 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: January 18, 1980.

William Aron,

Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 80-2860 Filed 1-29-80; 8:45 am]

BILLING CODE 3510-22-M

National Telecommunications and Information Administration

Emergency Medical Services Communications Interagency Work Group; Open Meeting

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: By this notice we announce the forthcoming meeting of the EMS Communications Interagency Work Group.

PURPOSE: To act on the following agenda:

1. Appoval of summary minutes of the November 9, 1979 meeting.
2. Presentation by Mr. Darrell Wiemers, Ass't Commissioner of Public Safety, State of Oklahoma, on Statewide Radio Frequency Communication Systems Including "911".
3. Report on work of the "911 Task Force" (NTIA to report)
4. Report on work of the "TRSS Task Force" (NTIA to report)
5. Report on "Memorandum of Understanding" on full channel capability for EMS systems and other technical guidelines for joint-funded projects (NTIA, DOT and HEW).
6. NHTSA Petition to the FCC to amend its Rules pertaining to EMS Communications
7. National Symposium on EMS Communications scheduled for 16-18

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June 1980 in Birmingham, Alabama (HEW to present)

8. Communications and Medical Control (Mr. Wood)

9. Other business.

TIME: Friday, February 1, 1980, 9:30 a.m.

PLACE: Department of Transportation Building, 400 7th Street, SW., Washington, D.C., Room 5332.

Additional information may be obtained from Roger W. Reinke, National Telecommunications and Information Administration, 1325 G Street, N.W., Washington, D.C. 20005 (Telephone (202) 724-3349).

Cloyd C. Dodson,

Director, Office of Administration.

[FR Doc. 80-3304 Filed 1-29-80; 8:45 am]

BILLING CODE 3510-60-M

CENTRAL INTELLIGENCE AGENCY

Privacy Act of 1974; Systems of Records; Annual Publication and Final Notice of Amended Systems

The Privacy Act of 1974 (5 U.S.C. 552a[e] [4]) requires agencies to publish annually in the Federal Register a notice of the existence and character of their systems of records. The Central Intelligence Agency last published the full text of its systems of records at 42 FR 48050, September 22, 1977. Through an oversight, however, an inadvertent ommission of a change in record system CIA—42, Library Open Literature Ready Reference File, occurred and was not incorporated into that full text of records systems. This change was published at 40 FR 45325, October 1, 1975. The full text of CIA—42 is provided with this Annual Publication. The September 22, 1977 publication was updated by documents published at 44 FR 4518, January 22, 1979 and 44 FR 21057, April 9, 1979.

A notice of proposed Amended Records Systems was published at 44 FR 65797, November 15, 1979. The public was afforded the opportunity to submit written comments on these proposed amendments by January 7, 1980, but none was received. Therefore, this is the Final Notice of the adoption of the Amended Records Systems. Inasmuch as only the affected portions of the records systems were published in the notice of proposed amendment, the full text of these amended systems, as well as the full text of the new and amended systems published in the other aforementioned documents, appears below.

The full text of the Central Intelligence Agency systems of records as promulgated at 42 FR 48050, September 22, 1977, also appears in Privacy Act Issuances, 1978 Compilation, Volume III, pg. 741. This volume may be ordered through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. the price of this volume is $10.25.

Don I. Wortman,

Deputy Director for Administration.

CIA—42

SYSTEM NAME:

Library Open Literature Ready Reference File.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, D.C. 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals appearing in news media.

CATEGORIES OF RECORDS IN THE SYSTEM:

Articles concerning individuals of intelligence interest.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Act of 1949, as Amended—Public Law 80-253.

Central Intelligence Agency Act of 1949, as Amended—Public Law 81-110.

Section 506(a), Federal Records Act of 1950 (44 U.S.C., Section 3101).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide traditional library reference service to CIA and other Government officials. It serves as an adjunct to standard published reference works and supplies information not otherwise readily available.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy file of media articles.

RETRIEVABILITY:

By subject, organization or personal name; some are retrievable by a manual or a computer index to the file.

SAFEGUARDS:

Requests for information are screened for appropriateness.

RETENTION AND DISPOSAL:

Articles and categories are discarded when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Central Reference, Central Intelligence Agency, Washington, D.C. 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Identification requirements are specified in the CIA rules published in the Federal Register (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed as indicated in the notification section above.

CONTESTING RECORD PROCEDURES:

The Central Intelligence Agency's regulations for access to individual records, for disputing the contents thereof, and for appealing an initial determination by CIA concerning access to or correction of records, are promulgated in the CIA rules section of the Federal Register.

RECORD SOURCE CATEGORIES:

Foreign and domestic news media.

CIA—62

SYSTEM NAME:

Office of Data Processing Security Clearance Records.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, D.C. 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Commercial contractors and vendors, persons in the private sector associated with the Agency, and individuals in other government agencies contacted for liaison purposes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographic data (name, date and place of birth, Social Security Account Number), company name and security clearances held.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Act of 1947, as Amended-Pub. L. 80-253.

Central Intelligence Agency Act of 1949, as Amended-Pub. L. 81-110.

Section 506(a), Federal Records Act of 1950 (44 U.S.C. Section 3101).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by Staff employees in conducting Agency business with the commercial sector and liaison with other government agencies.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic disc. Paper product is stored in combination lock safes or vaulted areas.

RETRIEVABILITY:

By individual or company name, and Social Security Account Number.

SAFEGUARDS:

Access is limited to staff employees having a need-to-know and a coded password identifier.

RETENTION AND DISPOSAL:

Records destroyed by degaussing or pulping upon expiration of clearance. Clearances may be revalidated three years after initial approval.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Data Processing, Central Intelligence Agency, Washington, D.C. 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to:

Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Identification requirements are specified in the CIA rules published in the Federal Register (32 CFR Sec. 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURE:

Request from individuals should be addressed as indicated in the notification section above.

CONTESTING RECORD PROCEDURES:

The Central Intelligence Agency's regulations for access to individual records, for disputing the contests thereof, and for appealing an initial determination by CIA concerning access to or correction of records, are promulgated in the CIA rules section of the Federal Register.

RECORD SOURCE CATEGORIES:

Information obtained from individual concerned and certification of clearance from Office of Security.

CIA—63

SYSTEM NAME:

Security Access Records.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, D.C. 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Agency employees and other badged individuals accessing Agency buildings.

CATEGORIES OF RECORDS IN THE SYSTEM:

Badge number, building/entrance, year, Julian day, hour, entry or exit code.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Act of 1947, as Amended-Pub. L. 80-253.

Central Intelligence Agency Act of 1949, as Amended Pub. L. 81-110.

Section 506(a), Federal Records Act of 1950 (44 U.S.C., Section 3101).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USERS:

For routine administrative, managerial and security purposes in order to: a. Determine the frequency of access to Agency buildings of certain badged individuals to facilitate administration of badge reissuance criteria; b. Provide selected Agency managers with statistical data on building access patterns for resource planning purposes; c. Ascertain whether a given badged individual has accessed a specific Agency building entrance, including the date and time of such access.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and magnetic media.

RETRIEVABILITY:

Badge number, Julian date, time (hours/minutes), building/entrance, and entry or exit code.

SAFEGUARDS:

Records are maintained in a vault or combination lock safes. Access by Agency employees having a need-to-know and a coded password identifier.

RETENTION AND DISPOSAL:

Records on individuals are retained for a maximum of six years after date of access. Records are destroyed by degaussing, pulping or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Security Central Intelligency Agency, Washington, D.C. 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to:

Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Identification requirements are specified in the CIA rules published in the Federal Register (32 CFR Sec. 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed as indicated in the notification section above.

CONTESTING RECORD PROCEDURES:

The Central Intelligence Agency's regulations for access to individual records, for disputing the contents thereof, and for appealing an initial determination by CIA concerning access to or correction of records, are promulgated in the CIA rules section of the Federal Register.

RECORDS SOURCE CATEGORIES:

Agency's magnetically encoded badge system, after-hours building log and "Visitor-No-Escort" badge record cards.

CIA—64

SYSTEM NAME:

Inquiries from Private Individuals about CIA and its Mission.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, D.C. 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the general public who have written to CIA on matters of interest to the Office of Public Affairs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence from the general public and the Agency's letter of response.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 506(a), Federal Records Act of 1950 (44 U.S.C., Section 3101).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To ensure responsiveness to legitimate public concerns about the mission and function of CIA.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Files are stored in vaulted room or in combination lock safes; access is on a need-to-know basis.

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RETENTION AND DISPOSAL:

Destroyed by pulping after two years.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Public Affairs, Central Intelligence Agency, Washington, D.C. 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to:

Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Identification requirements are specified in the CIA rules published in the Federal Register (32 CFR Sec. 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed as indicated in the notification section above.

CONTESTING RECORD PROCEDURES:

The Central Intelligence Agency's regulations for access to individual records, for disputing the contents thereof, and for appealing an initial determination by CIA concerning access to or corrections of records, are promulgated in the CIA rules section of the Federal Register.

RECORD SOURCE CATEGORIES:

Correspondence from the general public for the Office of Public Affairs.

CIA–55

SYSTEM NAME:

Contact with the News Media and Index.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, D.C. 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Media representatives.

CATEGORIES OF RECORDS IN THE SYSTEM:

Written record of telephonic discussions with members of the press, radio, television or other news media. Includes daily memorada to Director Central Intelligence—"Contacts with the Press." Cards 5" X 8" contain name and date of telephone call and index the written record of discussion.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 506(a), Federal Records Act of 1950 (44 U.S.C., Section 3101).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used by Agency officials to record the interests of journalists and to account for Agency information provided to them.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Files stored in a vaulted room or combination lock safes; access upon request on a need-to-know basis.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Public Affairs, Central Intelligence Agency, Washington, D.C. 20505.

NOTIFICATION PROCEDURE

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to:

Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Identification requirements are specified in the CIA rules published in the Federal Register (32 CFR Sec. 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification section above.

CONTESTING RECORD PROCEDURES:

The Central Intelligence Agency's regulations for access to individual records, for disputing the contents thereof, and for appealing an initial determination by CIA concerning access to or corrections of records, are promulgated in CIA rules section of the Federal Register.

RECORD SOURCE CATEGORIES:

Telephone inquires from news media representatives and response.

CIA–56

SYSTEM NAME:

Manuscript Review

SYSTEM LOCATION:

Central Intelligence Agency, Washington, D.C. 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Manuscripts submitted for review.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 506(a), Federal Records Act of 1950 (44 U.S.C., Section 3101).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Review manuscripts of proposed publications or speeches authored or given by present or former employees to prevent unauthorized disclosure of classified information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING, OF RECORDS IN THE SYSTEM.

STORAGE:

Paper

RETRIEVABILITY:

By name.

SAFEGUARDS:

Files are stored in a vaulted room or combination lock safes; access is on a need-to-know basis.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Offices of Public Affairs, Central Intelligence Agency, Washington, D.C. 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to:

Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Identification requirements are specified in the CIA rules published in the Federal Register (32 CFR Sec. 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed as indicated in the notification section above.

CONTESTING RECORD PROCEDURES:

The Central Intelligence Agency's requirements for access to individual records, for disputing the contents thereof, and for appealing an initial determination by CIA concerning access to or corrections of records, are promulgated in the CIA rules section of the Federal Register.

RECORD SOURCE CATEGORIES:

Present and former employees.

CIA–57

System name:

Publishing and Speaking Engagement Clearances.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, D.C. 20505.

CATEGORIES OF INDIVIDUAL COVERED IN THE SYSTEM:

Present and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Clearances for speeches and published works proposed for or in the public domain.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 506(a), Federal Records Act of 1950 (44 U.S.C., Section 3101).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used by Agency officials to review and provide clearance for external speaking and publishing activities and to be aware of information released into the public domain.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Files are stored in a vaulted room or combination lock safes; access is on a need-to-know basis.

RETENTION AND DISPOSAL:

Destroyed by pulping after three years.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Public Affairs, Central Intelligence Agency, Washington, D.C. 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to:

Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Identification requirements are specified in the CIA rules published in the Federal Register (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed as indicated in the notification section above.

CONTESTING RECORD PROCEDURES:

The Central Intelligence Agency's regulations for access to individual records, for disputing the contents thereof, and for appealing an initial determination by CIA concerning access to or corrections of records, are promulgated in the CIA rules section of the Federal Register.

RECORD SOURCE CATEGORIES:

Current and former CIA employees.

CIA–58

SYSTEM NAME:

CIA Personnel in Contact wih Press.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, D.C. 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former CIA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Card index of CIA employees who have reported a media contact.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 506(a), Federal Records Act of 1950 (44 U.S.C., Section 3101).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To maintain a record of employee press contacts.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Files are stored in a vaulted room; access upon request on a need-to-know basis.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Public Affairs, Central Intelligence Agency, Washington, D.C. 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct inquiries to:

Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505

Identification requirements are specified in the CIA rules published in the Federal Register (32 CFR Sec. 1901.13). Individual must comply with these rules.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed as indicated in the notification section above.

CONTESTING RECORD PROCEDURES:

The Central Intelligence Agency's regulations for access to individual records, for disputing the contents thereof, and for appealing an initial determination by CIA concerning access to or corrections of records, are promulgated in the CIA rules section of the Federal Register.

RECORD SOURCE CATEGORIES:

Present and former employees.

CIA–20

SYSTEM NAME:

Logistics Security Clearance Records.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, D.C. 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Commercial contractors and vendors, persons in the private sector associated with the Agency, and individuals in other government agencies contacted for liaison purposes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographic data including name, address, position, *Social Security Account Number*, and security clearance held.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Act of 1947, as Amended—Pub. L. 80–253.

Central Intelligence Agency Act of 1949, as Amended—Pub. L. 81–110.

Section 506(a), Federal Records Act of 1950 (44 U.S.C., Section 3101).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by staff employees in conducting Agency business with the commercial sector and liaison with other government agencies.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, *magnetic disk*.

V45/21 JA30 80 UMI

RETRIEVABILITY:

By individual or company name, *and Social Security Account Number.*

SAFEGUARDS:

Paper product is stored in vaulted area or in combination lock safes. Access is on a need-to-know basis and coded password identifier.

RETENTION AND DISPOSAL:

Records destroyed *by degaussing or pulping* upon expiration of clearance. Clearances may be revalidated three years after initial approval.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Logistics, Central Intelligence Agency, Washington, D.C. 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to:

Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR Sec. 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed as indicated in the notification section above.

CONTESTING RECORD PROCEDURES:

The Central Intelligence Agency's regulations for access to individual records, for disputing the contents thereof, and for appealing an initial determination by CIA concerning access to or correction of records, are promulgated in the CIA rules section of the **Federal Register.**

RECORD SOURCE CATEGORIES:

Information obtained from individual concerned and certification of clearance from Office of Security.

CIA–39

SYSTEM NAME:

Publicity.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, D.C. 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Authors of *articles,* CIA employees, and other individuals mentioned in newspaper articles about CIA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Newspaper articles:

By-lined articles mentioning CIA.
Articles mentioning CIA.
Correspondence *between media personalities and the Office of Public Affairs.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 506(a), Federal Records Act of 1950 (44 U.S.C., Section 3101).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by Agency officials researching articles on the CIA.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Files are stored in a vaulted room; access upon request on a need-to-know basis.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Public Affairs, Central Intelligence Agency, Washington, D.C. 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to:

Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR Sec. 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed as indicated in the notification section above.

CONTESTING RECORD PROCEDURES:

The Central Intelligence Agency's regulations for access to individual records, for disputing the contents thereof, and for appealing an initial determination by CIA concerning access to or corrections of records, are promulgated in the CIA rules section of the **Federal Register.**

RECORD SOURCE CATEGORIES:

Newspaper articles and correspondence.

CIA–21

SYSTEM NAME:

Privacy and Freedom of Information Acts Requesters.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, D.C. 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who make requests to CIA under provisions of the Privacy Act, the Freedom of Information Act, and Executive Order 11652.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain all correspondence and other documents related to the receipt, processing, and final disposition of requests received by the Agency for information under the Privacy Act, the Freedom of Information Act, and Executive Order 11652.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Privacy Act of 1974—Public Law 93–579, Freedom of Information Act of 1974, as Amended, and Executve Order 11652.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by staff employees for reference purposes in formulating responses to Privacy Act, Freedom of Information Act, and Executive Order 11652 requests, and for reference in processing cases under appeal and litigation; to provide documentation for referral to other Federal agencies for their review pursuant to Executive Order 11652, and the Third Agency Rule; and, as a source of information for compiling reports required by the Acts.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, electronic index and log.

RETRIEVABILITY:

By name, case number.

SAFEGUARDS:

Paper files are stored in combination lock safes; automatic data processing index and log files need coded identifier for activation. Access on need to know basis.

RETENTION AND DISPOSAL:

From the date of last entry, Fredom of Information Act requests are destroyed after two years, and Privacy Act requests are destroyed after five years. Records are destroyed by burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Information and Privacy Division, Central Intelligence Agency, Washington, D.C. 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to:

Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Identification requirements are specified in the CIA rules published in the Federal Register (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed as indicated in the notification section above.

CONTESTING RECORD PROCEDURES:

The Central Intelligence Agency's regulations for access to individual records, for disputing the contents thereof, and for appealing an initial determination by CIA concerning access to or correction of records, are promulgated in the CIA rules section of the **Federal Register.**

RECORD SOURCE CATEGORIES:

Requests received pursuant to the Privacy Act, the Freedom of Information Act and Executive Order 11652.

CIA–30

SYSTEM NAME:

Applicant Files.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, D.C. 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who apply for employment with CIA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal, medical and employment history statements, educational transcripts, personal references, interview reports, test results, correspondence, photographs, review comments, and processing records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Central Intelligence Agency Act of 1949, as Amended—Public Law 81–110.

Section 506(a), Federal Records Act of 1950 (44 U.S.C., Section 3301).

National Security Act of 1947, As Amended—Public Law 90–253.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to review applicant's qualifications for CIA position; for security background investigation; and for medical screening for determination by authorized Agency official to offer employment.

A record from this system of records may be disclosed as a "routine use" to a Federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an Agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Approved containers or area when not in use—controlled loans to authorized officials.

RETENTION AND DISPOSAL:

Applications rejected in the initial review because they do not meet requirements for Agency employment will be returned to the applicant without creating any record. Applications which appear to meet requirements for Agency employment, but which are subsequently rejected, are retained for two years and then destroyed by burning or pulping. Files on applicants who may be of interest at a later date are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel, Central Intelligence Agency, Washington, D.C. 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Identification requirements are specified in the CIA rules published in the **Federal Register** (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed as indicated in the notification section above.

CONTESTING RECORD PROCEDURES:

The Central Intelligence Agency's regulations for access to individual records, for disputing the contents thereof, and for appealing an initial determination by CIA concerning access to or correction of records, are promulgated in the CIA rules section of the **Federal Register.**

RECORD SOURCE CATEGORIES:

Applicant. Educational institutions. Physicians. Letters of Reference. Agency officials. Federal agencies.

CIA—37

SYSTEM NAME:

Psychological Test Data Files.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, D.C. 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants, CIA employees and dependents, detailees and dependents, retired or separated employees and dependents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Results of psychological testing and assessment reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Act of 1947, as Amended—Public Law 80–253.

Central Intelligence Agency Act of 1949, as Amended—Public Law 81–110.

Section 506(a), Federal Records Act of 1950 (44 U.S.C., Section 3101).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In the case of employees, dependents and detailees, to determine the individual's skills and aptitudes and suitability for a particular assignment or training as distinct from his general suitability for employment (Psychiatric screening).

Data developed to validate new tests and techniques as part of on-going research efforts.

To prepare reports which summarize test results and to assist Agency officials in selection of candidates for employment and career management planning for employees.

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POLICIES AND PRACTICES FOR STORING, RETRIEVING, SCREENING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, microfilm, magnetic tape and punch cards.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Medical files are stored in vaulted main file room. During periods when files are undergoing active processing they are secured in locked safes. Access to computer information is controlled by limiting the number of medical personnel approved for such access by an identifying password. Access to the main vault file room, locked safes and the Agency Records Center is controlled by limiting the number of personnel authorized such access.

RETENTION AND DISPOSAL:

Files on employees, dependents and detailees are retained in Headquarters until retirement or separation at which time they are retired to the Agency Records Center, where they are retained 30 years and then destroyed by the Records Center by burning. Successful applicants' files are treated the same as employees. Unsuccessful applicant files are retained for a period of three years and then destroyed by burning or pulping.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Medical Services, Central Intelligence Agency, Washington, D.C. 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Identification requirements are specified in the CIA rules published in the Federal Register (32 CFR 1901.13). Individuals must comply with these rules.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed as indicated in the notifications section above.

The central Intelligence Agency's regulations for access to individual records, for disputing the contents thereof, and for appealing an initial determination by CIA concerning access to or correction of records, are promulgated in the CIA rules section of the Federal Register.

RECORD SOURCE CATEGORIES:

The individual through the completion of a variety of psychological tests and interview sessions with Agency medical officers.

[FR Doc. 80-2875 Filed 1-25-80; 8:45 am]

BILLING CODE 6310-02-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Restraint Levels For Certain Cotton, Wool, and Man-Made Fiber Textile Products From Macau

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton, wool, and man-made fiber textile products imported from Macau, effective January 1, 1980.

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, between the Governments of the United States and Portugal establishes specific ceilings for cotton, wool and man-made fiber textile products from Macau in Categories 333/334/335, 338/339, 340, 341, 347/348, 445/446, 633/634/635, 641, and 647/648 during the agreement year which begins on January 1, 1980 and extends through December 31, 1980. The agreement also provides consultation levels for certain categories such as Category 659, which are not subject to specific ceiling and which may be increased upon agreement between the two governments. In the letter published below the Chairman of the Comittee for the Implementation of Textile Agreements directs the Comissioner of Customs, in accordance with the bilateral agreement, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products in the foregoing categories, produced or manufactured in Macau and exported during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980, in excess of the designated levels of restraint. The level for Category 333/334/335 has been adjusted to account for the remaining 1978 overshipments whch amount to 6,813 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), April 12, 1979 (44 FR 21843), and December 20, 1979 (44 FR 75441))

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, U.S. Department of Commerce, Office of Textiles, Washington, D.C. 20230 (202/377-5423).

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

January 25, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, between the Governments of the United States and Portugal; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on February 1, 1980 and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Macau, in excess of the indicated levels of restraint:

Category	12-mo level of restraint
333/334/335	80,854 dozen of which not more than 45,000 dozen shall be in Cat. 333/335.
338	114,755 dozen.
339	466,554 dozen.
340	110,000 dozen.
341	70,848 dozen.
347/348	262,000 dozen.
445/446	67,914 dozen.
633/634/635	163,455 dozen.
641	85,496 dozen.
647/648	300,152 dozen.
659	203,724 dozen.

In carrying out this directive entries of textile products in the foregoing categories, except Categories 339 and 659, which have been exported to the United States prior to January 1, 1980, shall to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979. In the event that the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Textile products in Categories 339 and 659 which have been exported prior to January 1, 1980 shall not be subject to this directive.

Textile products in Categories 339 and 659 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1448(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels of restrict set forth above are subject to adjustment in the future pursuant to the provisions of the bilateral agreement of November 29 and December 18, 1979, which provide, in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was pubished in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), April 12, 1979 (44 FR 21843), and December 20, 1979 (44 FR 75441).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Portugal and with respect to imports of cotton, wool and man-made fiber textile products from Macau have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-3065 Filed 1-29-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Mitigation of Shore Damage Attributed to Federal Navigation Structures at Grand Marais, Mich.

AGENCY: U.S. Army Corps of Engineers DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY:

Proposed Actions

A non-structural shoreland regulation plan for mitigation of shore damage is proposed at Grand Marais Harbor, Alger County, Michigan. Studies have determined that the Federal navigation structures at Grand Marais Harbor have induced about 33 percent of the total erosion damage. Ambient erosion, or erosion which would have occurred had the navigation structures not been built, is responsible for about 67 percent of the total.

The proposed project has five basic elements requiring action by the Corps of Engineers. These are: (1) assist and give guidance to non-Federal agencies in the development of shoreland regulations which would preclude development of shoreland areas which are predicted to erode; (2) monitor the shoreline evolution and document shore damages on a periodic basis; (3) disperse the information collected by the monitoring program and educate the public on the status of current and anticipated erosion rates, patterns, and hazards; (4) utilize suitable dredged material taken in future maintenance dredging actions as beach nourishment material; (5) require any future development of the harbor to include reconsideration of sand bypassing and other works which might mitigate shore erosion as part of that development.

Alternatives

In addition to the proposed plan, eight alternatives plans were considered. These include: (1) Restoring the bay to pre-project conditions; (2) Constructing a continuous revetment; (3) Constructing protective beaches; (4) Establishing a sand bypassing program; (5) Utilizing a detached breakwater and replacing the pile dike; (6) Constructing a groin field; (7) Utilizing headland protection; and (8) No mitigative action.

Scoping Process

a. Public Involvement—To encourage outside input on the project, a public workshop was held in Grand Marais on 30 October 1979.

Invitations for attendance were extended to township and county officials and local private citizens in the Grand Marais area. Corps of Engineers' personnel were in attendance at the workshop.

b. Significant Issues—Comments received at the October meeting helped to identify some of the principal envionmental considerations. The erosion problem at Kahle Park will be investigated to determine whether Federal assistance can be provided under the authority of Section 14 of the Flood Control Act of 1946, as amended. Representatives of Burt Township and some local residents voiced preference for the rebuilding of the pile dike.

c. Other Environmental Review and Consultation Requirements—This project has been reviewed for compliance with the following: The Fish and Wildlife Act of 1956; Fish and Wildlife Coordination Act of 1958; National Historic Preservation Act of 1966; National Environmental Policy Act of 1969; Endangered Species Act of 1973; Water Resources Development Act of 1976; Executive Order 11990, Wetlands Protection, May 1977; Clean Air Act of 1977; Clean Water Act of 1977; Corps of Engineers, Department of the Army, 33 CFR, Part 230, Environmental Quality: Policy and Procedure for Implementing NEPA (ER 200-2-2); as well as the Congressional actions authorizing construction and maintenance of Federal recreational harbors.

Estimated Date of DEIS Release

It is anticipated that the DEIS will be available to the public in January 1980.

Address

Questions about the proposed action and DEIS can be answered by Mr. Les Weigum, Project Manager, Environmental Resources Branch, U.S. Army Corps of Engineers, Box 1027, Detroit, MI 48231.

Dated: January 16, 1980.

P. McCallister,

Chief, Engineering Division.

[FR Doc. 80-3011 Filed 1-29-80; 8:45 am]

BILLING CODE 3710-GA-M

V 45 21 JA 30 80 UMI

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed Shoreline Flood Protection in Upper Wayne and Macomb Counties, Mich.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: 1. *Proposed Actions.* The recommended plan of Lake St. Clair flood damage reduction in St. Clair Shores and Grosse Pointe Park consists of an inland seawall/levee system located on or adjacent to Jefferson Avenue (a principal arterial street) in St. Clair Shores and the raising of six low areas adjacent to the shoreline in Grosse Pointe Park. Additionally, provisions would be made to line the banks of a man-made channel (Milk River) with steel sheet piling and the installation of a pump station and other interior drainage facilities.

2. *Alternatives.* Viable alternatives considered are a shoreline seawall/levee of 200-year design and a Jefferson Avenue seawall/levee of 200-year design located in St. Clair Shores-South and in Grosse Pointe Park, a shoreline seawall/levee of 500-year design and a shoreline earth fill of 500-year design.

3. *Scoping Process.* a. Public Involvement—At the onset of this study a public meeting was held in St. Clair Shores to listen to citizen concern regarding flood problems. The meeting was held on 26 October 1976. Through the course of the preliminary study, ten public workshops in strategic sectors of the shoreline study area were held. Those attending public workshops and those personally contacted during field reconnaissance activities have voiced important concerns regarding the specific nature of the flooding problems and their desire for improvements.

b. Significant Issues—The two most adamently supported opinions pertain to view/access obstruction and lake level regulation. Shoreline and canal residents expressed a common opinion that they would rather live with the risk of flood damage than live with a structural solution that nullified the amenities of living near the lake. This viewpoint was not expressed by those individuals living in interior areas of the flood plain. The view/access problem was considered a significant issue throughout the plan formulation and evaluation process. To relieve the flooding problem, many residents suggested lake level regulations.

c. Other Environmental Review and Consultation Requirements—This project has been reviewed for compliance with the following: The Fish and Wildlife Act of 1956; Fish and Wildlife Coordination Act of 1958; National Historic Preservation Act of 1966; National Environmental Policy Act of 1969; Endangered Species Act of 1973; Water Resources Development Act of 1976; Clean Air Act of 1977; Clean Water Act of 1977; Corps of Engineers, Department of the Army, 33 CFR, Part 230, Environmental Quality: Policy and Procedure for Implementing NEPA (ER 200–2–2), Coastal Zone Management Act of 1972, Flood Plain Management (E.O. 11988).

4. *Scope Meeting.* A public meeting is currently scheduled for November 1980.

5. *Estimated Date of DEIS Release.* It is anticipated that the DEIS will be available to the public February 1980.

Address

Questions about the proposed action and DEIS can be answered by Mr. Ray Zomparelli, Project Manager, Environmental Resources Branch, U.S. Army Corps of Engineers, Box 1027, Detroit, MI 48231.

Dated: January 22, 1980.

P. McCallister,

Chief, Engineering Division.

[FR Doc. 80-2915 Filed 1-29-80; 8:45 am]

BILLING CODE 3710-GA-M

Department of the Army

Intent To Prepare Three Draft Supplements to the Final Environmental Impact Statement, Flood Control, Minnesota River, Minn., Mankato-North Mankato-Le Hillier, for the Proposed Alteration or Relocation of Bridges and Highway Approaches.

AGENCY: St. Paul District, U.S. Army Corps of Engineers.

ACTION: Notice of Intent to Prepare Three Draft Supplements to the Final Environmental Impact Statement (FEIS).

SUMMARY: The St. Paul District, U.S. Army Corps of Engineers is in the process of constructing a flood barrier system along the Minnesota and Blue Earth Rivers, to provide flood protection for the communities of Mankato, North Mankato, and Le Hillier, Minnesota. The FEIS for this project was filed on 18 January 1972. A supplement to the FEIS was filed in March 1979 and noted in the **Federal Register** on 26 March 1979. In order to complete construction of the authorized flood control project, alterations to three existing bridges are required. These alterations involve raising or replacing existing bridges and approaches for two highways and one railroad. The three bridges under study, for which supplements will be prepared, are:

1. Trunk Highways (TH) 169 and 160, Bridges No. 9413 and No. 4952 over the Blue Earth River, connecting Mankato and Le Hillier.

2. Chicago and Northwestern Transportation Company (Railroad) Bridges No. M 1605 and No. 423 over the Blue Earth River, connecting Mankato and Le Hillier.

3. Trunk Highway (TH) 60 Bridge No. 411 (Main Street Bridge) over the Minnesota River Between Mankato and North Mankato.

The three bridges requiring replacement are independent in their environmental effects. Therefore, to assure clarity and continuity in the discussion of the alternative impacts, a separate draft supplement will be prepared for each of the three bridges under study.

The purpose of this project is to provide adequate replacement transportation services, while meeting requirements for clearance of flood barriers and the flood control project design water-surface elevations. Several reasonable alternatives are currently under consideration for each of the bridge allocations. The no action alternative will be discussed briefly, but is not being addressed as a reasonable option for any of the bridge relocations. Removal and replacement of the existing structures are necessary components of the flood control project currently authorized and under construction. Therefore, all alternatives presented are consistent with the requirements of the flood barrier system in satisfying existing Corps standards.

The alternatives under consideration for the TH 169 and 60 bridge relocations include:

1A. Replacement of existing twin bridges with a second pair of twin bridges along the same general alignment, and replacement of the present grade crossing in Mankato with grade-separated ramps to and from the south at Woodland Avenue and Minneopa Road. The northbound off-ramp would be depressed underneath TH 160. The approach grades for this alternative would extend to Carney Avenue in Mankato and to Hawley Street in Le Hillier.

1B. This alternative is identical to 1A, except that one bridge would be constructed approximately 50 feet upstream from the existing bridge, rather than twin bridges along the same alignment.

1C. This alternative is identical to 1B, except that the on- and off-ramps and approach grades in Mankato would extend approximately 300 feet farther into the city, between Woodland Avenue and Carney Avenue.

2A. This alternative is identical to 1A, except that the northbound off-ramp in Mankato would exit at Sibley Street, about 200 feet south of the existing TH 169 alignment.

Four alternatives are currently being considered for the relocation of the existing twin Chicago and Northwestern Transportation Company railroad bridges. Only one of the existing bridges is currently being used for transport purposes. The remaining bridge is used as a storage track. The alternatives are as follows:

1. Replacement of the existing twin bridges with a raised pair of bridges along the same alignment. One bridge would carry the main track and the other the storage track, which would be continuous across the river. The existing Woodland Avenue underpass would be replaced with a new underpass about 400 feet east.

2. Raising and replacement of one bridge and elimination of the second. Storage facilities on the Le Hillier side would be retained. A new stubended storage track on the Mankato side would be constructed 20 feet to the south. The existing Woodland Avenue underpass would be retained, with modifications to the main track bridge.

3. Construction of a new bridge approximately 20 feet north of the existing downstream bridge, and removal of both twin bridges. Replacement of the Woodland Avenue underpass 400 feet to the west. Construction of two new stubended storage tracks 20 feet and 30 feet south of the new track alignment.

4. Construction of a new bridge approximately 20 feet north of the existing downstream bridge, and removal of both twin bridges (same as alternative 3). Reconstruction of one storage track adjacent to the existing track, and raising of one-half of the Woodland Avenue underpass. Construction of two new storage tracks, south of the existing storage tracks, extending from Woodland Avenue to Sibley Street.

Three main locations are being considered for the relocation of the TH 60 (Main Street) bridge. Of these three, alternative 1, Belgrade Avenue (North Mankato) to Mulberry Street (Mankato) has four separate sub-alignments. These will be described by type, as they provide minor variations from the primary alignment. The other two main locations will be discussed specifically. The alternatives are as follows:

1. Replace existing bridge with a new structure connecting in North Mankato on Belgrade Avenue at Nicollet Avenue, and in Mankato on Mulberry Street between Second and Broad Streets. In Mankato, the on-ramp begins at Second Street and Plum Street, and the off-ramp connects at Second Street and Main Street. In North Mankato, the diamond interchange on- and off-ramps extend perpendicular to the bridge alignment, approximately 1,300 feet north and south, respectively. All four subalignments share these characteristics in common. The differences between these subalignments are as follows:

1AA. The new bridge is depressed underneath TH 169 in North Mankato. In Mankato, the bridge is aligned so as not to require the relocation of the Burton Hotel (52 full-time residents).

1AC. Same alignment in North Mankato as 1AA. In Mankato, the bridge alignment is centered on Mulberry Street, requiring relocation of the Burton Hotel.

1CA. Same alignment in Mankato as 1AA. The new bridge is aligned to pass over TH 169 in North Mankato.

1CC. Same alignment in North Mankato as 1CA. Same alignment in Mankato as 1AC.

2. Replace existing bridge with a new structure, touching down at grade in North Mankato on Range Street and Belgrade Avenue, and in Mankato at Warren Street and Pike Street. In North Mankato, modifications include: widening and improvement of Range Street near Belgrade Avenue, on- and off-ramps extending 1,200 feet north of the bridge alignment and connecting with TH 169. The on- and off-ramps to the south would extend 1,200 feet south of the bridge alignment, from Range Street, and connect with Lookout Drive. In Mankato, modifications include widening and traffic circulation improvements along Pike Street, from Cherry Street to a point 200 feet west of the Warren-Pike intersection.

3. Replace existing bridge with a new structure, connecting in North Mankato on Monroe Avenue and TH 169, and in Mankato on Madison Avenue at Front Street, extending to Broad Street. In North Mankato, the bridge would be aligned over TH 169, with new north and south service roads extending to Webster Avenue and Belgrade Avenue, respectively. In Mankato, modifications would be made on Front and Second Streets, extending 1 block east and west of Madison Avenue.

The scoping process for the draft supplements has already been initiated. Additional notification will be made to all affected Federal, State, and local agencies, affected Indian tribes, and private organizations and parties who have expressed an interest in the project, but have not been contacted to this point. Any other party having an interest in participation in the scoping process and development of the draft supplements should contact the St. Paul District, Army Corps of Engineers as soon as possible.

Significant issues identified to date on one or all of the bridge relocations include:

1. Traffic service and safety.
2. Redevelopment areas in Mankato and North Mankato.
3. Displacements: Residential and business.
4. Neighborhood areas, noise, traffic safety, property values, aesthetics.
5. Existing business districts.
6. Effects upon the Honeymead Processing Plant.
7. Effects upon the operation of the Chicago and Northwestern Transportation Company (Railroad).
8. Environmental effects.

The public involvement program for the bridge relocation study has been underway over the past year. The program includes a public information office, located in Mankato, which has been open to the public at regularly scheduled hours; a periodic publication, *Bridge Relocation Newsletter*, which is mailed to interested parties and available to the general public; and a number of public information meetings in the local communities.

Our review of the project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), Preliminary Draft Corps of Engineers ER 200–2–2, "Environmental Quality, Preparing and Processing Environmental Impact Statements," and all other applicable Corps of Engineers and Minnesota Department of Transportation regulations and guidance.

The Minnesota Department of Transportation is functioning as a cooperating agency with the Corps of Engineers for the TH 169 and TH 60 (Main Street) bridge relocations.

We hope to accomplish the scoping task by letter. Because of the considerable public interest in the project and the ample opportunity for information and participation provided by the public involvement program, we believe this approach to be both practical and efficient. If there is still sufficient interest in holding a scoping meeting at the culmination of the scoping process, we will do so, following announcements to all interested parties.

V. 45 / 21 / JAN 30 1980 UMI

We estimate that the three draft supplements will be made available to the public by the third quarter (April through June) of Fiscal Year 1980. Questions concerning the proposed action and the draft supplements should identify the specific draft supplement and should be directed to:

William W. Badger, Colonel, Corps of Engineers, District Engineer, 1135 U.S. Post Office and Custom House, St. Paul, Minn. 55101.

Dated: January 22, 1980.

William W. Badger,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80-2881 Filed 1-29-80; 8:45 am]

BILLING CODE 3710-CY-M

Office of the Secretary of Defense

Defense Intelligence Agency Advisory Committee; Meeting

Pursuant to the provisions of Subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee will be held as follows:

Friday, February 29, 1980, Pomponio Plaza, Rosslyn, Virginia

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a study on the feasibility and utility of a unique intelligence collection approach.

H. E. Lofdahl,

Director, Correspondence and Directives Washington Headquarters Services Department of Defense.

January 24, 1980.

[FR Doc. 80-2872 Filed 1-29-80; 8:45 am]

BILLING CODE 3810-70-M

Defense Science Board Task Force on Acquisition Policy; Advisory Committee Meeting

An aircraft subgroup under the Defense Science Board Task Force on Acquisition Policy will meet in closed session on February 26-27, 1980 in Los Angeles, California.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

The aircraft subgroup will review the management of evolving aircraft technology in the February 26-27 meeting. The Task Force on Acquisition Policy is addressing specific issues in evolving DoD acquisition policy.

In accordance with 5 U.S.C. App. 1 section 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Service Department of Defense.

January 24, 1980.

[FR Doc. 80-2873 Filed 1-29-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA80-70]

Hydrocarbon Transfer, Inc.; Application for Adjustment

January 23, 1980.

On January 18, 1980, Hydrocarbon Transfer, Inc. filed with the Federal Energy Regulatory Commission an application for an adjustment under Section 502(c) of Title V of the Natural Gas Policy Act wherein Hydrocarbon Transfer, Inc., sought relief from the Commission's regulations governing transportation by intrastate pipelines as set forth in 18 CFR 284.123(b)(1)(ii). Hydrocarbon states that it is necessary for the Commission to grant this adjustment to remove major uncertainties associated with its performance of Section 311 transportation on behalf of an interstate pipeline in Texas. Hydrocarbon's application is on file with the Commission and is available for public inspection.

The procedures applicable to the conduct of this adjustment proceeding are found in Section 1.41 of the Commission Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of Section 1.41. All petitions to intervene must be filed on or before February 14, 1980.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2866 Filed 1-29-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RA80-7]

Mac Hardy Oil Co.; Filing of Petition for Review under 42 U.S.C. 7194

Issued January 23, 1980.

Take notice that Mac Hardy Oil Company on January 8, 1980 filed a Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before February 11, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must filed a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through Gaynell C. Methvin, Deputy General Counsel for Enforcement and Litigation, Department of Energy, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2880 Filed 1-29-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2954]

City of Sturgis, Michigan; Application for Minor Project License

January 23, 1980.

Take notice that an application was filed on August 28, 1979, under the Federal Power Act, 16 U.S.C. § 791(a)-§ 825(r), by the City of Sturgis for a license for a minor project. The project is located on the St. Joseph River in the County of St. Joseph, near the Town of Centreville, Michigan. Correspondence with the Applicant on this matter should be addressed to: Mr. R. Lennie Scott, Lawson-Fisher Associates, 101 JMS Building, South Bend, Indiana 46601.

Project Description—The City of Sturgis Dam Project, which affects navigable waters of the United States, would consist of: (1) An existing composite dam with a concrete section 300 feet long and 25 feet high, and an earth section 500 feet long, with an average height of 12.5 feet, south of the concrete section; (2) a proposed powerhouse containing two generating units, each rated at 550 kW; (3) a reservoir with a surface area of 480 acres and a gross storage capacity of 6,550 acre-feet at normal pool elevation of 825.5 feet msl; and (4) appurtenant facilities. The estimated average annual output of the proposed project would be 4,000,000 kWh.

The project's existing recreational features include: boat docks, piers, boat launches, fishing, and picnicking. In addition, park and recreational areas are located around the reservior.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before *March 27, 1980,* either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than *July 25, 1980.* A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended* 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d), (*as amended,* 44 FR 61328, October 25, 1979).

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If any agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Prectice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before March 27, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2867 Filed 1-29-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-69]

Pacific Gas Transmission Co.; Notice of Rate Change

January 23, 1980.

Take notice that on January 21, 1980, Pacific Gas Transmission Company tendered for filing a "Notice of Rate Change to Reflect Increase in the Price of Canadian Gas in Cost of Service Charges and Request for Expedited Consideration."

PGT states that its filing is made in compliance with the Federal Power Commission's orders in Docket No. RP73-111 which require PGT to make filings pursuant to Section 4 of the Natural Gas Act before there is reflected in PGT's cost of service charges any increase in the cost of gas imposed or required by Canadian authorities.

PGT indicates that its filing will effect increases in rates charged under its PL-1 Rate Schedule which is applicable to sales of gas made by PGT to its one customer for sale, Pacific Gas and Electric Company.

The filed changes in rates will reflect in PGT's cost of service charges certain increases mandated by Canadian authorities in the price of gas imported from Canada, commencing February 17, 1980. PGT presently obtains more than 99% of its entire supply of gas from Canada at a border price which is the Canadian dollar equivalent of $3.45 (U.S.) per Mcf of 1000 Btu gas. PGT recites that on January 18, 1980, it was notified by its Canadian supplier that existing National Energy Board (NEB) export licenses would be amended, effective February 17, 1980, to increase the border export price to the Canadian dollar equivalent of $4.47 (U.S.) per Mcf of 1000 Btu gas payable in Canadian dollars in accordance with a monetary exchange formula specified by the NEB. On the basis of expected volumes and Btu content, PGT estimates that the effect of the February 17, 1980 increase would be approximately $385,400,000 (U.S.) on an annualized basis.

PGT advises that copies of its filing have been mailed to its customers and to interested state commissions, and to the Administrator of the Economic Regulatory Administration. PGT requests that expedited consideration be given to the instant filing and that the filing be allowed to become effective on less than 30 days notice.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.18 and 1.10). All such petitions or protests should be filed on or before February 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2868 Filed 1-29-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-65]

Phillips Petroleum Co.; Application for Production Related Cost Allowance

Issued: January 23, 1980.

Take notice that on December 31, 1979, Phillips Petroleum Company (Phillips) filed an application with the Federal Energy Regulatory Commission (Commission) for a production related cost allowance pursuant to § 271.1105 of the Commission's regulations (18 CFR § 271.1105).

Phillips gathers the subject gas in its Sooner Gas Gathering System in Oklahoma and sells to Panhandle Eastern Pipe Line Company (Panhandle). Specifically, Phillips requests authorization to collect a production related cost allowance under a formula providing for recovery of compression and gathering costs plus the cost of fuel used in compression subject to the restraints of the Phillips/Panhandle gas sales contract dated March 6, 1979.

Any person desiring to be heard or to protest this proceeding should, on or before February 14, 1980, file with the

Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All protests filed with the Commission will be considered but will not make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2889 Filed 1-29-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2959]

City of Seattle; Application for Preliminary Permit

January 23, 1980.

Take notice that the City of Seattle (Applicant) filed on August 28, 1979, and supplemented on December 5, 1979, an application for preliminary permit [pursant to the Federal Power Act, 16 U.S.C., Section 791(a)–825(r)] for a proposed water power project to be known as the Tolt River-South Fork Project, FERC No. 2959, located on the South Fork Tolt River in the County of King, Washington. Correspondence with the Applicant should be directed to: Mr. Robert Murray, Superintendent City Light Department, 1015 Third Avenue, Seattle, Washington 98104.

Project Description—The proposed Tolt River-South Fork Project would consist of: (1) an existing reservoir with a gross storage capacity of 57,900 acre-feet; (2) an existing 200-foot-high earthfill dam; (3) an existing concrete morning glory spillway; (4) a proposed 25,000-foot-long penstock, located on the existing Seattle Water Department's pipeline right-of-way; and (5) a new powerhouse containing a 26,800 horsepower turbine connected to a generator rated at 20 MW. The project would permit utilization of the waters of the South Fork Tolt River for both municipal and industrial water supply and power generation. The estimated average annual energy generation is 9.5 million kWh.

Purpose of Project—The power and energy developed by the project would be utilized by the Applicant to supply customers in its existing service area to meet the increasing loads of Applicant's 278,110 customers.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of approximately 18 months, during which time it would perform geotechnical, engineering, economic, and environmental studies, do a feasibility study, prepare preliminary plans and exhibit drawings, and prepare a FERC license application. The estimated cost of the work to be performed under the preliminary permit is $1,650,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 31, 1980 either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 30, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended* 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d), (*as amended*, 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, Section 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before March 31, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2890 Filed 1-29-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP79-5]

Texas Eastern Transmission Corp.; Informal Settlement Conference

January 23, 1980.

Take notice that on February 12, 1980, at 10:00 a.m., an informal conference of all interested persons will be convened in the above-referenced docket. The conference will be held in Hearing Room F of the Interstate Commerce Commission, 12th Street and Constitution Avenue, N.W., Washington, D.C.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene, attendance will not be deemed to authorize intervention as a party in these proceedings.

All parties will be expected to come fully prepared to discuss the merits of the issues in this proceeding and to make commitments with respect to such issues and any offers of settlement or stipulations discussed at the conference.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2891 Filed 1-29-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2986]

Texon, Inc.; Application for Preliminary Permit

January 23, 1980.

Take notice that an application was filed on November 8, 1979, and revised on December 18, 1979, under the Federal Power Act, 16 U.S.C. § 791(a)–§ 825(r) by Texon, Inc. for a preliminary permit for a proposed waterpower project to be known as the Texon Hydroelectric Project, FERO No. 2986. The project would be located on the Westfield River in Hampden County, Massachusetts. Correspondence with the Applicant should be directed to Irving A. Quimby, Senior Vice President, Texon, Inc., South Hadley, Massachusetts 01075; and Jack L. Halliwell, Halliwell Associates, Inc., East Providence, Rhode Island 02914.

Purpose of Project—Applicant proposes to use project power for industrial purposes at its adjacent industrial facilities.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would conduct surveys, environmental assessment studies, sub-surface explorations, materials testing, and market studies. The Applicant would decide whether to proceed with an application for license. Applicant estimates the cost of studies under the permit would be at least $40,000.

Projet Description—The proposed project would consist of: (1) a stone masonry dam to be built on a ledge, measuring 250 feet in length and having a maximum height of 30 feet; (2) a 3-acre reservoir with no usable storage capacity; (3) a powerhouse containing turbines and generators having a total installed capacity of 1,360 kW; and (4) appurtenant works. It is estimated that the average annual generation at the project would be 7,800,000 kWh.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 28, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 27, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) (c), (*as amended and*, 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d), (*as amended*, 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, Section 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before March 28, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-2892 Filed 1-29-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51019; FRL 1402-3]

Receipt of Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA, or the Agency).

ACTION: Receipt of premanufacture notices.

SUMMARY: Section 5(a)(1) of the toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. Section 5(d)(2) requires EPA to publish a summary of each PMN in the **Federal Register.** This Notice announces receipt of PMN's and provides a summary of each.

DATE: Persons who wish to file written comments on a PMN should submit their comments no later than 30 days before the applicable notice review period ends.

ADDRESS: Written comments should bear the PMN number of the Particular chemical substance, and should be submitted in triplicate, to the Document Control Officer (TS–793), Office fo Pesticides and Toxic Substances, EPA, 401 M Street, SW., Washington, D.C. 20460.

Nonconfidential portions of the PMN's and other documents in the public record are available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Room E–447 at the address above.

FOR FURTHER INFORMATION CONTACT:

Notice manager	PMN No.	Telephone
Mr. Paul Wilson	5AHQ-0180-0092A	202/426-3980
Ms. Ann Radzenovich	5AHQ-0180-0081A	202/426-2601
Mr. George Bagley	5AHQ-0180-0105	202/426-3936

MAIL ADDRESS: Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, EPA, Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture of import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. (Notice of availability of the initial Inventory was published in the **Federal Register** on May 15, 1979 (44 FR 28558)). The requirement to submit a PMN for new chemical substances manufactured or imported for a commercial purpose became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms (44 FR 2242, January 10, 1979). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy (44 FR 28564, May 15, 1979) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see the section entitled "Notice in the **Federal Register**" on p. 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under Section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential

information on the identity and uses of the substances, as well as a description of any test data submitted under Section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided, EPA will devleop one and after providing due notice to the submitter, will publish an amended Federal Register notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

EPA has 90 days to review a PMN once the Agency receives it (Section 5(a)(1)). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may for good cause extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the Federal Register.

Once the review period ends, the sumitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufactyure it without providing EPA notice under section 5 (a)(1)(A).

(Sec. 5 of the Toxic Substances Control Act (90 Stat. 2012; 15 U.S.C. 2604))

Dated: January 24, 1980.

John F. DeKany,

Deputy Assistant Administrator for Chemical Control.

PMN No.: 5AHQ–0180–0032A.

Close of Review Period: April 15, 1980.

Manufacturer's Identity: Claimed confidential. The submitter has total annual sales of between $100,000,000 and $499,000,000 and intends to produce the new chemical substance at a plant in the eastern north-central region of the country. The submitter's 3-digit Standard Industrial Classification Code is 851.

Specific Chemical Identity: Neopentyl glycol-cyclohexane-dimethanol-trimethyl-propane-*O*-phthalate-adipate.

Use: Claimed confidential. The submitter states that the substance will be used in an open use that will release more than 50 kilograms but less than 5,000 kilograms of the substance to the environment per year. The manufacturer claims that the use will involve exposure to non-chemical and chemical industrial employees more than once a week, with potential skin and eye contact and that the substance will become a part of consumer and commercial articles, but will present no harmful exposure.

Data: Environmental test data were claimed confidential

PMN No.: 5AHQ–0180–0051A.

Close of Review Period: April 15, 1980.

Manufacturer's Identity: Claimed confidential.

Specific Chemical Identity: Claimed confidential. Generic name: Dialkyl (C_{13-14}) substituted polycarboxylate.

Use: The manufacturer states that the chemical substance will be used as a lubricant additive with commercial and consumer applications.

Data:

Health

Test	Result
Estimated oral LD_{50} (rats)	>16.0 gm/kg of body weight (bw).
Primary skin irritation index	0.
Eye irritation score	0 (7 days).

Exposure/Environmental Release: The submitter claims that due to the chemical substance's high boiling point and low order of acute oral toxicity, it does not anticipate any occupational hazard in the manufacture of this substance nor any user or environmental hazard in its use and/or disposal.

PMN No.: 5AHQ–0180–0105.

Close of Review Period: April 15, 1980.

Manufacturer's Identity: Hercules Inc., 910 Market St., Wilmington, DE 19899.

Specific Chemical Identity: 1,4-Benzenedicarboxylic acid, dimethyl ester, manufacture from, byproduct of, polyester with dipropylene glycol.

Use: Hercules Inc. states that the chemical substance will be used for manufacture of rigid urethane foam.

Data:

Physical/Chemical Properties

Description	Dark red-brown viscous liquid
Viscosity cps at 25° C	25,000 to 32,000.
Percent free dipropylene glycol	10 to 15.
Hydroxyl number	300.
Acid number	1.0.
Density g/ml at 25° C	1.15.
Flash point open cup (72 percent DPG)	360° C.

Exposure/Environmental Release:

Activity and type of exposure	Exposure route	Maximum number persons exposed	Maximum duration		Concentration	
			Hour/day	Day/year	Average	Peak
During production:						
Occupational	Inhalation	10	5	260	0–1 mg/m³	0–1 mg/m³
Environmental Release:						
Air—< 10 kg/yr.						
Water—< 10 kg/yr.						
Land—10—100 kg/yr.						

Physical states of the new chemical substance to which workers may be exposed: Fume. (Primarily to dipropylene glycol.)

During processing: The submitter states that workers may be exposed to the raw material during board manufacture operations. However, since reaction with the isocyanate to form the urethane foam is extremely rapid, opportunity for exposure to the substance is minimal.

Environmental Release:

Air, land, and water—< 10 kg/yr.

Physical states of the new chemical substance to which workers may be exposed: Liquid or fume.

[FR Doc. 80-2803 Filed 1-29-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1401-5]

Science Advisory Board, Environmental Measurements Committee; Open Meeting

As required by Public Law 92–463, notice is hereby given that a meeting of the Environmental Measurements Committee of the Science Advisory Board will be held on February 26–28, 1980, beginning at 8:30 am. The meeting will be held in the Conference Room of the EPA Environmental Monitoring and Systems Laboratory, 944 E. Harmon Avenue, Las Vegas, Nevada. The Committee is meeting to review programs at the Las Vegas facility, particularly those in the areas of hazardous waste monitoring, integrated exposure assessment, radiation monitoring, remote sensing, groundwater monitoring, and quality assurance.

The meeting is open to the public. Anyone wishing to attend, participate, or obtain information should contact Chuck Weger, Staff Assistant, or Dr. Douglas Seba, Executive Secretary, Environmental Measurements Committee, at (202) 472–9444, by February 19, 1980.

Richard M. Dowd,

Staff Director, Science Advisory Board.

January 22, 1980.

[FR Doc. 80-2804 Filed 1-29-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1401-2]

Water Programs; Determination of Primary Enforcement Responsibility; Puerto Rico

This public notice is issued under section 1413 of the Safe Drinking Water Act of 1977, Pub. L. 95–190 (amending 42 U.S.C. 300F et seq.), and 40 CFR 142.10, National Interim Primary Drinking Water Regulations, published at 41 FR 2918 (January 20, 1976).

An application, dated November 30, 1979, has been received from Dr. Jaime Rivera Dueno, Secretary of Health, Commonwealth of Puerto Rico, requesting that the Department of Health be granted primary enforcement responsibility for public water systems in Puerto Rico, in accordance with the provisions of the Safe Drinking Water Act. Supplementing the Puerto Rico application was a letter from he Secretary of Health dated January 23, 1980, clarifying two provisions in the Puerto Rico regulations.

In response, I have determined as Acting Regional Administrator of the U.S. Environmental Protection Agency, Region II, that Puerto Rico's Department of Health has met all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in Puerto Rico.

Puerto Rico

(1) Has adopted drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations.

(2) Has adopted and will implement adequate procedures for the enforcement of such regulations, including:

a. Maintenance of an inventory of public water systems.

b. A systematic program for conducting sanitary surveys of public water systems.

c. Availability to Puerto Rico of laboratory facilities certified by EPA and capable of performing analytical measurements of all contaminants specified in the regulations.

d. Establishment and maintenance of an activity to assure that the design and construction of new or substantially modified facilities will be capable of compliance with the regulations.

d. Establishment and maintenance of a State program for the certification of laboratories conducting analytical measurements of drinking water contaminants.

(3) Has adopted statutory or regulatory enforcement authority to compel compliance with the regulations.

(4) Will keep such records and make such reports as required.

(5) Will issue variances and exemptions in accordance with the provisions of the National Interim Primary Drinking Water Regulations, and

(6) Has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances.

All documents relating to this determination are available for public inspection during normal business hours, Monday through Friday, at the following offices:

Office of the Assistant Secretary for Environmental Health, Department of Health, Centro Medico, Rio Piedras, Puerto Rico.

Caribbean Field Office, U.S. Environmental Protection Agency, U.S. Public Health Service Outpatient Clinic, Fernandez Juncos Avenue, San Juan, Puerto Rico.

Water Supply Branch, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, N.Y. 10007.

All interested parties are invited to sumbit written comments on this determination. Written comments must be received on or before February 29, 1980.

Further information may be obtained by writing the Water Supply Branch of the U.S. Environmental Protection Agency, Region II or the Puerto Rico Department of Health or by calling Mr. Harry F. Smith, Jr., at (212) 264–1800 or Dr. Antonio Hernandez Torres at (809) 751–5777.

A public hearing may be requested by any interested person. Frivolous or insubstantial requests for a public hearing may be denied; however, if a substantial request is received within 30 days of publication of this notice, a public hearing will be held and notice given in the Federal Register and newspapers of general circulation. Such requests shall be addressed to: Dr. Richard T. Dewling, Acting Regional Administrator, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, N.Y. 10007.

and shall include the following information:

(1) The name, address, and telephone number of the individual, organization or other entity requesting a hearing.

(2) A brief statement of the requesting person's interest in the Acting Regional Administrator's determination and of information that the requesting person intends to submit at such hearing.

(3) The signature of the individual making the request; or if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

If no timely requests for a hearing is received, my determination shall become effective February 29, 1980.

If there is a substantial request for a hearing this notice shall not become effective until after such hearing, at which time I shall issue an order affirming or rescinding my determination. If the determination is affirmed it shall become effective as of the date of that order.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

Dated: January 24, 1980.

Richard T. Dewling,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region II.

[FR Doc. 80-2805 Filed 1-29-80; 8:45 am]

BILLING CODE 6560-01-M

V 45 / 21 JA 30 80 UMI

FEDERAL MARITIME COMMISSION

[Docket No. 80-5]

Dyamic International Freight Forwarders, Inc., Independent Ocean Freight Forwarder License Application and Possible Violation of Section 44, Shipping Act, 1916; Order of Investigation and Hearing

Dynamic International Freight Forwarders, Inc. (Dynamic) has filed with the Commission an application for a license as an independent ocean freight forwarder.

Evelyn Siegel, President of the applicant, disclosed during the course of a telephone interview with the Commission's Office of Freight Forwarders that she had forwarded four shipments in the name of the corporation between January 8, 1979 and January 18, 1979. Mrs. Siegel further stated that she did so under the impression that the performance of ocean freight forwarding services was permissible without a license as long as compensation was not received from the ocean carrier. In a subsequent letter to the Commission, Mrs. Siegel stated that after she had been warned during the above telephone conversation that forwarding without a license was prohibited that she had ceased performing any ocean freight forwarding and would not do so until a license had been received by the company.

The applicant had previously been advised by the Commission, in a letter dated August 31, 1978, conveying application forms and instructions for filing an application, that section 44 of the Shipping Act, 1916, prohibits any person from engaging in the business of forwarding unless such a person holds an independent ocean freight forwarder's license.

Although Mrs. Siegel indicated that the company discontinued freight forwarding activity, the commission has recently received information which indicates that the applicant apparently continued to carry on the business of ocean freight forwarding in at least ten instances.

Section 44(b) of the Shipping Act, 1916, requires that applicants be found fit, willing and able properly to carry on the business of forwarding and to conform to the provisions of the shipping Act, 1916, and the requirements, rules and regulations of the Commission issued thereunder. otherwise, such application shall be denied.

The applicant's above conduct would appear to reflect adversely upon the fitness of the applicant.

By letter December 10, 1979 the Commission notified Dynamic of its intent to deny its application for a license unless the applicant requests a hearing on the grounds that such denial is not warranted.

In a letter dated December 20, 1979 the applicant requested that it be given an opportunity to show at a hearing that such a denial is unwarranted.

Now therefore, it is ordered, That pursuant to sections 22, 32 and 44 (46 U.S.C. 821, 831 and 841(b)) of the Shipping Act, 1916, and § 510.8 of the Commission's General Order 4 (46 CFR 510.8), a proceeding is hereby instituted to determine:

1. Whether Dynamic International Freight Forwarders, Inc. violated section 44(a), Shipping Act, 1916 by engaging in unlicensed forwarding activities;

2. Whether civil penalties should be assessed against Dynamic International Freight Forwarders, Inc. pursuant to 46 U.S.C. 831(e), for violations of the Shipping Act, 1916, and, if so, the amount of any such penalty which should be imposed taking into consideration factors in possible mitigation of such a penalty;

3. Whether, in light of the evidence adduced pursuant to the first issue, together with any other evidence adduced, Dyamic International Freight Forwarders, Inc. and its corporate officers, posseas the requisite fitness, within the meaning of section 44(b), Shipping Act, 1916, to be licensed as an independent ocean freight forwarder.

It is further ordered, That Dynamic International Freight Forwarders, Inc. be named Respondent in this proceeding;

It is further ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge, but in any event, shall commence on or before June 20, 1980. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents, or that the nature of the matters in issue are such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered That notice of this order be published in the Federal Register and a copy thereof and notice of hearing be served upon respondent, Dynamic International Freight Forwarders, Inc.;

It is further ordered, That any person other than respondents and Hearing Counsel having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 (46 CFR 502.72) of the Commission's Rules of Practice and Procedure; and

It is further ordered, That all future notices issued by or on behalf of the Commission, including notice of time and place of hearing, or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-3870 Filed 1-29-80; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. 10209]

The Shipping Corp. of India Ltd.; Cancellation

Filing party: E. M. Sorenson, Vice President, Norton, Lilly & Co., Inc., 90 West Street, New York, New York 10006.

Summary: The Shipping Corporation of India, Ltd. has given notice of its termination of Agreement No. 10209, to the other party, Scindia Steam Navigation Co., Ltd. in accordance with the provisions of the agreement. Accordingly, Agreement No. 10209 is cancelled effective November 5, 1979.

By Order of the Federal Maritime Commission.

Dated: January 23, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-3869 Filed 1-29-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL TRADE COMMISSION

Transmittal Rules; Early Termination of the Waiting Period of the Premerger Notification Rules

January 22, 1980.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Life Investors, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of additional shares by Vereniging AGO. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to requests for early termination submitted by Life Investors, Inc. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: January 21, 1980.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Radino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-2893 Filed 1-29-80; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPR 37 Federal Procurement Supplement 3]

Companies Not in Compliance With the Voluntary Wage and Price Standards

January 16, 1980.

To: Heads of Federal agencies.

1. *Purpose.* This supplement adds additional companies to the list of companies that have been determined to be in noncompliance with the Voluntary Wage and Price Standards formulated under Executive Order 12092.

2. *Expiration date.* This bulletin contains information of a continuing nature and will remain in effect until canceled.

3. *Substance.* The following companies are added to the companies listed in paragraph 4 of GSA Bulletin FPR 37, dated August 17, 1979; Supplement 1, dated September 14, 1979; and Supplement 2, dated November 16, 1979:

Effective November 27, 1979

The Eureka Company, 1201 East Bell Street, Bloomington, IL 61701.

Portland Association of Plumbing, Heating and Cooling Contractors (two noncomplying agreements), 0612 SW. Idaho, Portland, OR 97201.

Sheetmetal Association, Inc., c/o 3434 SW. Water Avenue, Portland, OR 97201.

San Diego Contracting Lathers Association, 7855 Ostrow Street, San Diego, CA 92111.

Effective December 27, 1979

Gifford-Hill & Company, Inc., ("All other" compliance unit), 8435 Stimmons Freeway, P.O. Box 47127, Dallas, TX 75247.

Gerald McBride,

Assistant Administrator for Acquisition Policy.

[FR Doc. 80-3844 Filed 1-29-80; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

Advisory Committee on Accreditation in Institutional Eligibility, Policy Review Subcommittee; Public Meeting

AGENCY: Department of Health, Education, and Welfare, Office of Education.

ACTION: Notice of Public Meeting of the Policy Review Subcommittee of the Advisory Committee on Accreditation and Institutional Eligibility.

DATE: February 26, 1980, 9 a.m. to 4 p.m., local time, and February 27, 1980, 9 a.m. to 3 p.m. Requests for oral presentations before the Policy Review Subcommittee must be received on or before February 15, 1980. All written material which a party wishes to file may be submitted at any time and will be considered by the Subcommittee.

ADDRESS: Washington Hilton Hotel, 1919 Connecticut Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John R. Proffitt, Director, Division of Eligibility and Agency Evaluation, Office of Education, Room 3030, ROB #3, 400 Maryland Avenue, SW., Washington, D.C. 20202 (202/245-9873).

Notice is hereby given that the Policy Review Subcommittee of the Advisory Committee on Accreditation and Institutional Eligibility will meet on February 26, in the Monroe Room of the Washington Hilton Hotel, Washington, D.C., and on February 27, in the State Room of the Washington Hilton. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). The Advisory Committee on Accreditation and Institutional Eligibility is established pursuant to section 253 of the Veterans' Readjustment Assistance Act (Chapter 33, Title 38, U.S. Code). The Committee advises the Commissioner of Education regarding the Commissioner's responsibilities related to institutional eligibility for funding, including statutory obligations to publish lists of nationally recognized accrediting agencies and associations; State agencies recognized for approval of public postsecondary vocational education; and accrediting and State agencies recognized for the approval of nurse education. The Committee also advises the Commissioner on policy affecting institutional eligibility and accreditation.

The Policy Review Subcommittee is established under the authority of the Advisory Committee's Charter. The Subcommittee identifies policy and procedural issues affecting accreditation and institutional eligibility and establishes priorities and schedules for their review by the Advisory Committee. The meeting on February 26 and 27 will be open to the public. The Policy Review Subcommittee will:

Review the status of the Educational Testing Service's Evaluation of U.S. Office of Education Criteria for Recognition of National Accrediting Bodies and State Agencies;

Examine proposed pre-screening process for agencies seeking initial recognition;

Review selected criteria of the Criteria for Recognition;

Examine proposed appeals procedures for accrediting and State approval agencies subject to negative actions of the Commissioner of Education;

Discuss developments regarding accreditation and institutional eligibility aspects of the proposed reauthorization of the Higher Education Act of 1965, the Department of Education Act and the organization of the new Department;

Review data pertaining to the Federal purpose served by agencies recognized by the Commissioner of Education since 1952; and

Review orientation materials for new members regarding the recognition process.

The Subcommittee will reserve two hours, from 1 p.m. to 3 p.m. on February 26, for presentations on these subjects from members of the general public. Requests for oral presentations before the Subcommittee should be submitted in writing to the Director, Division of Eligibility and Agency Evaluation, U.S. Office of Education, Room 3030, ROB 3, 400 Maryland Avenue, SW., Washington, D.C. 20202. Requests should include the names of all persons seeking an appearance, the party or parties which they represent (if applicable), and the subject to be discussed. Requests must be received by the Division of Eligibility and Agency Evaluation on or before February 15, 1980. Each individual or group will be allowed fifteen minutes for an oral presentation, on a first come, first

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served basis, until all fifteen-minute segments of the two-hour period are filled. All written materials which a party wishes to file will be considered by the Subcommittee.

Records shall be kept of all Subcommittee proceedings and shall be available for public inspection at the Division of Eligibility and Agency Evaluation.

Signed at Washington, D.C., on January 23, 1980.

John R. Proffitt,

Director, Division of Eligibility and Agency Evaluation, Office of Education.

[FR Doc. 80-2930 Filed 1-29-80; 8:45 am]

BILLING CODE 4110-02-M

Commission on the Review of the Federal Impact Aid Program

AGENCY: Commission on the Review of the Federal Impact Aid Program.

ACTION: Notice of site visit.

SUMMARY: Notice is hereby given that the Commission on the Review of the Federal Impact Aid Program will hold a site visit in Omaha, Nebraska on March 6, 1980 for the purpose of gathering evidence on the operation and administration of the program authorized by Public Law 874, Eighty-first Congress. At this site visit, the Commission is to take evidence from representatives of local educational agencies. The site visit will be open to the general public, and all interested persons are invited to attend. Notice of the site visit is given in accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 1).

DATE: March 6, 1980.

ADDRESS: International Command Post, Strategic Air Command, Omaha, Nebraska 60085.

FOR FURTHER INFORMATION CONTACT: Richard Dallas Smith, Executive Director, Commission on the Review of the Federal Impact Aid Progam, 1832 M Street NW., Suite 837, Washington, D.C. 20036.

AUTHORITY AND FUNCTION: The Commission on the Review of the Federal Impact Aid Program is established under section 1015 of the Education Amendments of 1978 (Pub. L. 95-961). The Commission is to conduct a review and evaluation of the administration and operation of the Impact Aid Program, authorized under the Act of September 30, 1950 (Pub. L. 874, 81st Congress), and report its recommendations on that program to the President and Congress not later than December 1, 1980. Such recommendations are to include proposed legislation to accomplish the recommendations. Public Law 874 requires that the Commissioner make payments to the local educational agencies in accordance with a formula designed to compensate such agencies for the financial burden carried by them by reason of Federal activities—the loss of revenue because of the Federal ownership of real property and provision of education services for federally-connected children—or by reasons of sudden or substantial increases in the school attendance resulting from Federal activities.

Signed at Washington, D.C. on the 24th day of January, 1980.

Richard Dallas Smith,

Executive Director, Commission on the Review of the Federal Impact Aid Program.

[FR Doc. 80-2906 Filed 1-29-80; 8:45 am]

BILLING CODE 4110-02-M

Commission on the Review of the Federal Impact Aid Program

AGENCY: Commission on the Review of the Federal Impact Aid Program.

ACTION: Notice of hearing.

SUMMARY: Notice is hereby given that the Commission on the Review of the Federal Impact Aid Program will hold a hearing in Denver, Colorado on March 6, 1980 for the purpose of gathering evidence on the operation and administration of the program authorized by Public Law 874, Eighty-first Congress. At the hearing, the Commission is to take evidence from representatives of local educational agencies in Colorado, Kansas, North Dakota, South Dakota, Utah, and Wyoming. The hearing will be open to the general public, and all interested persons are invited to attend. Those interested in presenting their views should submit a request to testify including: the person testifying, their affiliation, their organization's address and telephone number, the subject matter of testimony, preferred time of day for testifying, and need for an English translator or a qualified interpreter and/or signer for the deaf. The request should be received by the Commission no later than February 7, 1980. Those unable to attend the hearings who wish to submit written testimony may do so by forwarding the text to the Commission no later than March 6, 1980. Notice of the hearing is given in accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 1).

DATE: March 6, 1980. The Commission will meet at 9:30 a.m. and continue until 4:30 p.m.

ADDRESS: Old Supreme Court Room, State Capitol Building, Denver, Colorado 80203.

FOR FURTHER INFORMATION CONTACT: Richard Dallas Smith, Executive Director, Commission on the Review of the Federal Impact Aid Progam, 1832 M Street, NW., Suite 837, Washington, D.C. 20036.

AUTHORITY AND FUNCTION: The Commission on the Review of the Federal Impact Aid Program is established under section 1015 of the Education Amendments of 1978 (Pub. L. 95-961). The Commission is to conduct a review and evaluation of the administration and operation of the Impact Aid Program, authorized under the Act of September 30, 1950 (Public Law 874, 81st Congress), and report its recommendations on that program to the President and Congress not later than December 1, 1980. Such recommendations are to include proposed legislation to accomplish the recommendations. Public Law 874 requires that the Commissioner make payments to the local educational agencies in accordance with a formula designed to compensate such agencies for the financial burden carried by them by reason of Federal activities—the loss of revenue because of the Federal ownership of real property and provision of education services for federally-connected children—or by reasons of sudden or substantial increases in the school attendance resulting from Federal activities.

RECORDS: Records of all proceedings of the Commission will be kept in accordance with law and will be availabe for inspection by the public at the offices of the Commission, located at 1832 M Street, NW., Suite 837, Washington, D.C. 20036.

Signed at Washington, D.C. on the 24th day of January, 1980.

Richard Dallas Smith,

Executive Director, Commission on the Review of the Federal Impact Aid Program.

[FR Doc. 80-2907 Filed 1-29-80; 8:45 am]

BILLING CODE 4110-02-M

Commission on the Review of the Federal Impact Aid Program

AGENCY: Commission on the Review of the Federal Impact Aid Program.

ACTION: Notice of hearing.

SUMMARY: Notice is hereby given that the Commission on the Review of the Federal Impact Aid Program will hold a hearing in Chicago, Illinois on March 7, 1980 for the purpose of gathering evidence on the operation and administration of the program authorized by Public Law 874, Eighty-first Congress. At the hearing, the Commission is to take evidence from representatives of local educational agencies in Illinois, Indiana, Iowa, Michigan, Missouri, Minnesota, Nebraska, Ohio, and Wisconsin. The hearing will be open to the general public, and all interested persons are invited to attend. Those interested in presenting their views should submit a request to testify including: the person testifying, their affiliation, their organization's address and telephone number, the subject matter of testimony, preferred time of day for testifying, and need for an English translator or a qualified interpreter and/or signer for the deaf. The request should be received by the Commission no later than February 8, 1980. Those unable to attend the hearings who wish to submit written testimony may do so by forwarding the text to the Commission no later than March 7, 1980. Notice of the hearing is given in accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 1).

DATE: March 7, 1980. The Commission will meet at 9:30 a.m. and continue until 4:30 p.m.

ADDRESS: Center for Urban Education, Room 101, 160 West Wendell Street, Chicago, Illinois 60630.

FOR FURTHER INFORMATION CONTACT: Richard Dallas Smith, Executive Director, Commission on the Review of the Federal Impact Aid Program, 1832 M Street, N.W., Suite 837, Washington, D.C. 20036.

AUTHORITY AND FUNCTION: The Commission on the Review of the Federal Impact Aid Program is established under section 1015 of the Education Amendments of 1978 (Pub. L. 95-961). The Commission is to conduct a review and evaluation of the administration and operation of the Impact Aid Program, authorized under the Act of September 30, 1950 (Public Law 874, 81st Congress), and report its recommendations on that program to the President and Congress not later than December 1, 1980. Such recommendations are to include proposed legislation to accomplish the recommendations. Public Law 874 requires that the Commissioner make payments to the local educational agencies in accordance with a formula designed to compensate such agencies for the financial burden carried by them by reason of Federal activities—the loss of revenue because of the Federal ownership of real property and provision of education services for federally-connected children—or by reasons of sudden or substantial increases in the school attendance resulting from Federal activities.

RECORDS: Records of all proceedings of the Commission will be kept in accordance with law and will be available for inspection by the public at the offices of the Commission, located at 1832 M Street, NW., Suite 837, Washington, D.C. 20036.

Signed at Washington, D.C. on the 25th Day of January, 1980.

Richard Dallas Smith,

Executive Director, Commission on the Review of the Federal Impact Aid Program.

[FR Doc. 80-2908 Filed 1-29-80; 8:45 am]

BILLING CODE 4110-02-M

Commission on the Review of the Federal Impact Aid Program

AGENCY: Commission on the Review of the Federal Impact Aid Program.

ACTION: Notice of hearing.

SUMMARY: Notice is hereby given that the Commission on the Review of the Federal Impact Aid Program will hold a hearing in Seattle, Washington on March 7, 1980 for the purpose of gathering evidence on the operation and administration of the program authorized by Public Law 874, Eighty-first Congress. At the hearing, the Commission is to take evidence from representatives of local educational agencies in Alaska, Idaho, Montana, Oregon, and Washington. The hearing will be open to the general public, and all interested persons are invited to attend. Those interested in presenting their views should submit a request to testify including: the person testifying, their affiliation, their organization's address and telephone number, the subject matter of testimony, preferred time of day for testifying, and need for an English translator or a qualified interpreter and/or signer for the deaf. The request should be received by the Commission no later than February 8, 1980. Those unable to attend the hearings who wish to submit written testimony may do so by forwarding the text to the Commission no later than March 7, 1980. Notice of the hearing is given in accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 1).

DATE: March 7, 1980. The Commission will meet at 9:30 a.m. and continue until 4:30 p.m.

ADDRESS: North Auditorium, Federal Building, Seattle, Washington, 98174.

FOR FURTHER INFORMATION CONTACT: Richard Dallas Smith, Executive Director, Commission on the Review of the Federal Impact Aid Program, 1832 M Street, N.W., Suite 837, Washington, D.C 20036.

AUTHORITY AND FUNCTION: The Commission on the Review of the Federal Impact Aid Program is established under section 1015 of the Education Amendments of 1978 (Pub. L. 95-961). The Commission is to conduct a review and evaluation of the administration and operation of the Impact Aid Program, authorized under the Act of September 30, 1950 (Public Law 874, 81st Congress), and report its recommendations on that program to the President and Congress not later than December 1, 1980. Such recommendations are to include proposed legislation to accomplish the recommendations. Public Law 874 requires that the Commissioner make payments to the local educational agencies in accordance with a formula designed to compensate such agencies for the financial burden carried by them by reason of Federal activities—the loss of revenue because of the Federal ownership of real property and provision of education services for federally-connected children—or by reasons of sudden or substantial increases in the school attendance resulting from Federal activities.

RECORDS: Records of all proceedings of the Commission will be kept in accordance with law and will be available for inspection by the public at the offices of the Commission, located at 1832 M Street, N.W., Suite 837, Washington, D.C. 20036

Signed at Washington, D.C. on the 25th day of January, 1980.

Richard Dallas Smith,

Executive Director, Commission on the Review of the Federal Impact Aid Program.

[FR Doc. 80-2909 Filed 1-29-80; 8:45 am]

BILLING CODE 4110-02-M

Office of the Assistant Secretary for Education

Data Acquisition Activities

AGENCY: Office of the Assistant Secretary for Education, Department of Health, Education, and Welfare.

ACTION: Notice of data acquisition activities involving educational agencies and institutions.

SUMMARY: The paperwork control requirements in Section 400A of the General Education Provisions Act, added by Pub. L. 95-561, require public announcement of certain data requests that Federal agencies address to educational agencies and institutions. The Education Division of HEW

proposes to collect the data described below from educational agencies or institutions during School Year 1979–80.

FOR FURTHER INFORMATION CONTACT: Mrs. Elizabeth M. Proctor, FEDAC Staff, 400 Maryland Avenue SW., Washington, D.C. 20202. Phone (202) 245–1022.

SUPPLEMENTARY INFORMATION: Under the Paperwork Control Amendments of 1978, section 400A of the General Education Provisions Act, the Secretary of Health, Education, and Welfare is responsible for reviewing and approving collection of information and data acquisition activities of all Federal agencies (1) whenever the respondents are primarily educational agencies or institutions; and

(2) whenever the purpose of the activities is to request information needed for the management of, or the formulation of, policy related to Federal education programs or research or evaluation studies related to the implementation of Federal education programs. The Secretary has delegated authority to the Assistant Secretary for Education.

We published interim FEDAC review procedures on August 8, 1979 (44 FR 46535), which are now effective. One requirement is that "no information or data will be requested of any educational agency or institution unless that request has been approved and publicly announced by February 15 immediately preceding the beginning of the new school year, unless there is an urgent need for this information or a very unusual circumstance exists regarding it." I determine an unusual circumstance exists regarding the data activities listed below because of the newness of the review requirements.

Descriptions of proposed data acquisition activites for School Year 1979–80 are being published for comment. Most of these data acquisition activities were also listed—but not described in as much detail—in the **Federal Register** of February 15, 1979. Other activities previously approved were also on that list.

Each agency or institution subject to the request for data, its representative organizations, or any member of the public, may comment on the proposed data acquisition activity. The Federal Education Data Acquisition Council staff accepts comments at the above address. Comments should refer to the specific sponsoring agency and form number and they must be received on or before February 29, 1980.

I ask the affected educational agencies and institutions to cooperate in the following data collection activities that are being reviewed by the Federal Education Data Acquisition Council (FEDAC) staff.

Dated: January 25, 1980.

Mary F. Berry,

Assistant Secretary for Education.

The proposed data collection activities are:

Description of a Proposed Collection of Information and Data Acquisition Activity

(a) Title of Proposed Activity

Survey to Determine Uses of Higher Education General Information Survey (HEGIS) Data.

(b) Agency/Bureau/Office

National Center for Education Statistics, Division of Postsecondary and Vocational Education Statistics, System Design and Analysis Branch.

(c) Agency Form Number

NCES 2420.

(d) Legislative Authority for the Activity

Section 406(b)(1)(2) of the General Education Provisions Act, as amended. "The purpose of the Center shall be to collect and disseminate statistic and other data related to education in the United States and in other nations. The Center shall collect, collate, and from time to time, report full and complete statistics on the condition of education in the United States; conduct and publish reports on specialized analyses of the meaning and significance of such statistics; * * *" 2 U.S.C. 1221e–1, Pub. L. 93–380.

(e) Concise Description of the Proposed Activity

Survey to collect data to evaluate uses of Higher Education General Information Survey in order to develop recommendations for its improvement.

(f) Voluntary/Obligatory Nature of Response

Voluntary.

(g) Justification of How Information Collected Will Be Used

The information collected from the survey will be used in conjunction with other sources to assess and evaluate the uses of HEGIS data and to develop recommendations concerning the frequency and sample size of HEGIS. Other recommendations will be made concerning the needs for various data and how the uses of HEGIS might be improved.

(h) Data Acquisition Plan

(1) Method of Collection: Mail.
(2) Time of Collection: Spring, 1980.
(3) Frequency: One-time.
(4) Method of Analysis: Tabulation of descriptive data.

(i) Timetable for Dissemination

August 1979.

(j) Respondents

(1) Type: State Higher Education Agencies.
(2) Estimated Number: Sample, 20.
(3) Estimated average person-hours per respondent: 0.5 hours.
(1) Type: College and Universities.
(2) Estimated number: Sample, 200.
(3) Estimated average person-hours per respondent: 0.5 hours.

(k) Cost to Respondent in Dollars and Person-Hours

110 Hours X $8.00.

(l) Cost to the Federal Agency To Collect, Process, and Analyze the Data

$40,000.

(m) List of Specific Data To Be Collected

I. Frequency of use of HEGIS data.
II. Types of use.
III. Purpose of use.
IV. Need for universe data.
V. Preferred frequency of data collection.

(n) Name and Address of Individual or Office From Which Copies of the Data Instrument(s) May Be Obtained

Gerald Malitz, NCES/DPVES/SDAB, 400 Maryland Avenue SW., FOB–6 Room 3073, Washington, D.C. 20202.

Description of a Proposed Collection of Information and Data Acquisition Activity

(a) Title of proposed activity: State-Administered Vocational Education Program Improvement Contracts: Abstracts

(b) Agency/bureau office: Office of Education, Bureau of Occupational and Adult Education

(c) Agency form number: OE Form 590

(d) Legislative authority for the activity: "Section 171(a)(2)(E)(i) [NCRVE shall] act as a clearinghouse for information on contracts made by the States pursuant to section 131, section 132, and section 133 * * *." Pub. L. 94–482, (20 U.S.C. 2401)

(e) Concise description of the proposed activity: Subpart 3 of Pub. L. 94–482 authorizes Federal Funds to States to assist them in improving their vocational education programs for use in accordance with the five-year State plans and annual program plans. By developing a standardized reporting system for use by the States,

improvement in the completeness and comprehensiveness of the data can be secured. The reporting format includes three question groupings which address project identification, project description, and project results. The emphasis is on program information rather than administrative details. States would be required to submit the abstract reporting form along with the abstract for each project funded.

(f) Voluntary/obligatory nature or response: Obligatory

(g) Justification how information collected will be used: States are required to send their program improvement project abstracts to the National Center Clearinghouse which then includes them in the bi-monthly publication *Resources in Vocational Education (RIVE)* and the Annual Report of State Administered Vocational Education projects. Copies of *RIVE* are distributed to all State Departments of Vocational Education and to many universities and colleges involved in teacher education and research and development. The data submitted from the States is the sources of information for preparation of congressional testimony and is used by management and evaluation teams during review and evaluation of individual State programs. Information about funds expended by the States under sections 131, 132, and 133 is needed to assure accountability and to assess accomplishments.

(h) Data acquisition plan:
(1) Method of Collection—Mail.
(2) Time of collection—30 days after award of contract.
(3) Frequency—Continuous throughout the year.
(4) Method(s) of analysis—Because of the massive amount of data needed for analysis, it is essential that the data base be computerized. By January 31, 1980 bibliographic and descriptive data may be prepared on all FY 1979 Section 130 projects, so information can be accessed by subject, amount of funds, Congressional district, type of product, use of product, target audience, and national priority addressed.

(i) Timetable for dissemination of the collected data: *RIVE* is published bi-monthly. Elapsed time between collection and publication may average two months.

(j) Respondents: The 57 State Vocational Research Coordinating Unit Directors.

(k) Estimated cost and person-hours to the respondents: It is estimated that ¼ hour would be required on the average to process each abstract. The number of contracts reported will vary from none to over 50, depending on the allotment (based on formula) made available to the States. States would average 16 project abstracts per year. It is also anticipated that many States will have the abstracts prepared as part of the contract.

(l) Estimate of cost to Federal Government:

S&E funds	$500.00
Processing abstracts in States: 226 hours × $10 per hour	2,260.00
Resources in Vocational Education: 845 per abstract × 1000 abstracts per year	45,000.00
	47,760.00

(m) A list of the specific data to be collected, from each type of respondent:
(1) Project identification (title, type of contract, funding sources, amount, recipient, performance, public to be served)
(2) Project description (objectives, procedures, BOAE national priority addressed)
(3) Project results (expected contribution and/or expected impact, products to be delivered)

(n) Name and address of the individual or office, from which copies of the data instrument may be obtained: Dr. Paul Manchak, RCU Liaison Officer, Room 5018, ROB #3, 7th & D St., S.W., Washington, D.C. 20202.

Description of a Proposed Collection of Information and Data Acquisition Activity

(a) Title of proposed activity—Follow-up Survey of WEEA Project Directors.

(b) Agency/bureau/office—National Advisor Council on Women's Educational Programs, Office of Education

(c) Agency form number—OE–624.

(d) Legislative authority for the activity—"Sec. 937. The Commissioner is directed, not later than September 30, 1980, 1982, and 1984, to submit to the President and the Congress and to the Council a report setting forth the programs and activities assisted under this part, and to provide for the distribution of this report to all interested groups and individuals, including the Congress, from funds authorized under this part. After receiving the report from the Commissioner, the Council shall evaluate the program and projects assisted under this part and include such evaluation in its annual report." (Pub. L. 95–561)

(e) Concise description of the proposed activity—The Women's Educational Equity Act Program Staff has, as its first thrust, the development and dissemination of materials and products to improve educational equity for women and girls. The National Advisory Council on Women's Educational Programs will use the information collected through this questionnaire in determining whether this thrust would be continued and to make recommendations to the Secretary to that effect.

(f) Voluntary/obligatory nature of response—Voluntary.

(g) Justification of how information collected will be used—The Women's Educational Equity Act (Pub. L. 95–561) authorizes the U.S. Commissioner of Education to award grants and contracts for projects designed to help women and girls overcome inequities in the American educational system. The Act will fund such activities as the development of nonsexist textbooks and curricula, preservice and inservice training for educational personnel, non-sexist guidance and counseling programs, expansion and improvement of educational programs for women and girls in vocational, career and physical education, and in educational administration and activities which increase educational and employment opportunities for adult women. In the first two years of the administration of this Act, the emphasis has been on the development of materials and products. In the second and third years the emphasis was expanded to include the dissemination of materials and products developed under the Act.

Although the Women's Program Staff, U.S. Office of Education administers the grants and contracts awarded to individuals, public or private nonprofit organizations for the purpose of carrying out these activities, the National Advisory Council on Women's Educational Programs has responsibility for evaluating the program administered under the Women's Educational Equity Act (WEEA). Based on its evaluation, the Council makes recommendations concerning the allocation of funds and criteria for the establishment of priorities. Additionally, the Council uses evaluation information to advise the Commissioner of Education on general policy matters related to the administration of Sec. 937.

The first Council evaluation effort occurred during the first funding cycle (FY 76) when the Council undertook a process evaluation of the WEEA program's administration. This evaluation examined the operations of the Women's Program Staff which administers the WEEA grant and contracts program. Also undertaken was a round of site visits to nine selected projects in an effort to obtain more in-depth information about their activities, anticipated outcomes, desired impacts,

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and potential effects on the status of equity at all educational levels.

The results, derived from this process evaluation and the case studies of the selected projects, indicated a need to expand the Council's data collection activities to include all of the funded projects in the next evaluation study. The evaluation of the WEEA program for FY 1977 saw an initiation of site visits by members of the Advisory Council, and a more detailed analysis of grantee activities through application review and the analysis of information from an internal questionnaire for Women's Program Staff members and an external questionnaire completed by project directors whose projects had terminated in 1976 and 1977. The purpose of this questionnaire is to collect information relevant to the first phase of the program—the development and beginning dissemination of materials and products.

The survey is designed to provide information which cannot be obtained from project reports and available documentation. The questionnaire, entitled "Follow-up Survey of WEEA Project Dirctors," addresses the operational problems and successes, the needs for technical assistance, and the grantees' effectiveness in contributing to educational equity. Information derived will aid the Council in formulating recommendations concerning the regulations and subsequent implementation of the expanded Women's Educational Equity Act Program. This survey will take place approximately six months after the completion of the grants. The questionnaire is included as Appendix A. By gathering information related to determining whether or not the initial emphasis on the development of materials and products should continue, the Council will be aided in fulfilling its legislative responsibility to:

1. Advise the Commissioner of Education with respect to general policy matters relating to the administration of the Act;

2. Advise and make recommendations to the Assistant Secretary for Education concerning the improvement of educational equity for women;

3. Advise and make recommendations to the Commissioner with respect to the allocation of any funds pursuant to the Act, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the nation;

4. Develop criteria for the establishment of program priorities;

5. Make such reports as the Council determines appropriate to the President and the Congress on the activities of the Council; and

6. Disseminate information concerning the activities of the Council under this Section.

In addition, responses to the questionnaire will provide information useful in answering the following questions:

1. Are the materials and products consistent with legislative goals?

2. What is the potential for replication, dissemination and capacity building and how will this affect achievement of WEEA goals?

3. What improvements or changes can be made in program mandates and/or administration to enhance WEEA's success potential?

Data collected by this questionnaire will be used in conjunction with information obtained from other sources, such as grant applications, budgets and status reports. The aggregate data will allow the Council to carry out its legislative mandate by providing an overview of WEEA program efforts in its first three years of funding. Appendix B is an Evaluation Matrix which shows objectives, success criteria, types of information required, information sources and use of information collected by the various methods being used by the Council in its long- and short-range evaluative efforts.

(h) Data acquisition plan—(1) Method of collection: Mail.

(2) Time of collection: Winter.

(3) Frequency: Annually.

(4) Methods of analysis: Data aggregation—National Tabulations of descriptive data only.

(i) Timetable for dissemination of the collected data—Data is to be available 9/80. Dissemination by publication in report—*Evaluation of WEEA Program.*

(j) Respondents—(1) Type: Colleges and Universities, Individuals, Local Education Agencies, Nonprofit, Public elementary/secondary schools, Public Junior Colleges, State Education Agencies.

(2) Estimated number by type: Type of Respondents—Universe; Number of Respondents—63.

(3) Estimated average person-hours response time per type of respondent: 0.5 hours.

(k) Estimated costs and person-hours to the respondents (Total) 31 hours; $472.50.

(l) Estimated costs to the Federal agency to collect, process and analyze the data: $5,650.

(m) A list of the specific data to be collected from each type of respondent—(1) Internal and external factors which can facilitate or hinder project performance and outcomes.

(2) Changes in scope of work for project related to: management; validation/evaluation of products and/or activities; and budget.

(3) Recommended changes to Federal Regulations.

(4) Project's contribution toward attainment of educational equity goals.

(5) Recommended program changes in administration of WEEAP.

(n) Name and address of individual or office from which a copy of the full plan and the data instrument(s) may be obtained—Janice H. Wilcox, Program Analyst, National Advisory Council on Women's Educational Programs, 1832 M Street NW., Suite 821, Washington, D.C. 20036.

Description of a Proposed Collection of Information and Data Acquisition Activity

(a) Title of proposed activity—An evaluation of Title I of the Library Services and Construction Act.

(b) Agency/bureau/office—Department of Health, Education and Welfare, U.S. Office of Education, Office of Evaluation and Dissemination.

(c) Agency form number—OE 644.

(d) Legislative authority for this activity—Planning and evaluation activities are authorized under the General Education Provisions Act which states in part: "* * * the Secretary shall transmit to (appropriate Congressional committees) an annual evaluation report which evalutes the effectiveness of applicable programs * * * such report shall * * * contain information on progress being made * * * describe the costs and benefits of the applicable program * * * identify which sectors of the public receive the benefits of such program * * *" (20 U.S.C. 1226C.) Sec. 417. (A)(1), Pub. L. 93-380.

(e) Concise description of the proposed activity—The data acquisition activity is being undertaken in response to a broad need for a comprehensive evaluation of the LSCA Title I program. This program provides funds to the states on a formula basis to assist the states in the extension and improvement of public library services in areas of the states which are without such services or in which such services are inadequate, and with public library construction, and in the improvement of such other state library services as library services for physically handicapped, institutionalized, and disadvantaged persons, in strengthening State library administrative agenices. Data will be collected from state library agencies and LSCA Title I projects through site visits and personal interviews. A mail survey of a sample of public libraries will also be conducted.

(f) Voluntary obligatory nature of response—Voluntary.

(g) How information to be collected will be used—The information will be used to meet the following evaluation objectives:

1. How has LSCA Title I affected the coverage, accessibility, and adequacy of public library services?

2. How are LSCA Title I funds used by the States? What effects have these uses had? How responsive have these uses been to the needs of special client groups?

3. How are the objectives of LSCA Title I constrained by and affected by State and local library structure?

4. What effects has LSCA Title I had upon the organization and support of public library services at the State and local level?

Information obtained from this survey will: (1) Provide an empirically based description of the structure and process that characterizes the LSCA Title I system of organizations and funding channels; (2) provide a detailed account of how LSCA Title I funds and collateral State and local funds are used to address the emphases of the legislation; (3) determine the extent to which LSCA Title I has resulted in systematic changes in the delivery of public library services and to mainstream of public library development of which LSCA Title I is part; and (4) relate findings to the development of policy alternatives and explore the implications that those policy alternatives have for current and future role(s) of Federal involvement in, and assistance to, public libraries.

(h) Data acquisition plan—(1) Method of collection: Data will be collected through personal interview and mail survey.

(2) Time of collection: Fall 1979 through Spring 1980

(3) Frequency: Single time

(i) Timetable for dissemination of the collected data—Data will be available in the form of a final report and magnetic tape by October 1, 1980.

(j) Respondents—(1) Type: Chief administrative officers of state library agencies

(2) Number: Universe 52.

(3) Estimated average manhours per respondent: .75.

(1) Type: LSCA Title I coordinators.

(2) Number: Universe 52.

(3) Estimated average manhours per respondent: 2.0.

(1) Type: State library agency staff.

(2) Number: Sample 104.

(3) Estimated average manhours per respondent: .50.

(1) Type: State advisory council on libraries chairpersons.

(2) Number: Universe 52.

(3) Estimated average manhours per respondent: .50.

(1) Type: State legislative staff members.

(2) Number: Universe 52.

(3) Estimated average manhours per respondent: .50.

(1) Type: LSCA Title I project directors.

(2) Number: Sample 100.

(3) Estimated average manhours per respondent: 2.0.

(1) Type: LSCA Title I project staff.

(2) Number: Sample 200.

(3) Estimated average manhours per respondent: .50.

(1) Type: Public library directors in LSCA Title I project sites.

(2) Number: Sample 100.

(3) Estimated average manhours per respondent: .50.

(1) Type: Public librarians in LSCA Title I project sites.

(2) Number: Sample 400.

(3) Estimated average manhours per respondent: .33.

(1) Type: Public library directors.

(2) Number: Sample 575.

(3) Estimated average manhours per respondent: .50.

(k) Estimated costs and person-hours to the respondents (total)—Total respndent burden is 1013.5 person-hours. There are no dollar costs to respondents.

(l) Estimated costs to the Federal agency to collect, process, and analyze the data—Total estimated cost is $559,660.00.

(m) A list of the specific data to be collected from each type of respondent.

Chief Administrative Officers of State Library Agencies

- Program planning, administration and policy-making;
- Effectiveness of LSCA Title program in achieving priority areas of the Act;
- Changes in the areas of emphasis of the program at the state level;
- Current and projected needs for LSCA Title I;
- Historical trends in the administration and implementation of the LSCA Title I program at the state level;
- Problems and constraints affecting the program at the state level;

LSCA Title I Coordinators

- Effectiveness of the program in achieving priority areas of the Act;
- Changes in the areas of emphasis of the program at the State level;
- Current and projected needs for LSCA Title I;
- Historical trends in the administration and implementation of the LSCA Title I program at the State level;
- Problems and constraints affecting the program at the state level;

State Library Agency Staff

- Effectiveness of LSCA Title I program in achieving priority areas of the Act;
- Current and projected needs for LSCA Title I;
- Problems and constraints affecting the program at the state level;

State Advisory Council on Libraries Chairperson

- Role of the Advisory Council;
- Effectiveness of LSCA Title I program in achieving priority areas of the Act;
- Current and projected needs for LSCA Title I;
- Historical trends in the administration and implementation of the LSCA Title I projects;

State Legislative Staff Members

- Current state legislative emphasis regarding the priority areas of the Act;
- Effectiveness of the LSCA Title I program in achieving the priority areas of the Act;
- Current and projected needs for LSCA Title I;
- Problems or constraints experienced in the administration or implementation of LSCA Title I projects;

LSCA Title I Project Directors

- Characteristics of project services and operation;
- Planning and administrative practices;
- Characteristics of the target populations of projects (where appropriate);
- Staffing characteristics of projects;
- Current and projected needs for LSCA Title I;

LSCA Title I Project Staff

- Effectiveness of the LSCA Title I program in achieving priority areas of the Act;
- Problems encountered in implementing projects;
- Effectiveness of projects in achieving the priority areas of the Act;
- Effects of projects upon the local library organization and services;
- Trends in the use of LSCA Title I funds;

Public Library Directors of LSCA Title I Project Sites

- Effect of the projects on the operation of the public library;
- Effect of the projects on library services offered;

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- Effect of the projects on patrons of library;
- Problems in implementing projects;
- Trends in use of LSCA Title I funds;

Librarians in LSCA Title I Project Site

- Effect of the projects on the operation of the library;
- Effect of the projects on library services offered;
- Effect of the projects on patrons of library;
- Problems in implementing projects;
- Trends in use of LSCA Title I funds;

Public Library Directors

- Characteristics of LSCA Title I fund usage since 1965;
- Characteristics of public services responding to the priority areas of the Act;
- Effects of LSCA Title I projects on serving priority areas of the Act;
- Trends in the use of LSCA Title I funds at the local level.

(n) Name and address of individual or office from which a copy of the full plan and the data instrument(s) may be obtained—Dorothy Shuler, Education Evaluation Officer, Division of Occupational, Handicapped, and Developmental Programs, Office of Evaluation and Dissemination, U.S. Office of Education, Room 4083, FOB #6, 400 Maryland Avenue S.W., Washington, D.C. 20202.

Description of a Proposed Collection of Information and Data Acquisition Activity

(a) Title of proposed activity—Application for Commissioner's Discretionary Programs of Bilingual Education (Title VII, ESEA, New Awards)

(b) Agency/bureau/office—U.S. Office of Education, Office of Bilingual Education

(c) Agency form number—OE Form 4561.

(d) Legislative authority for this activity—*Section 721(a):* "Funds available for this grant shall be used for—

(1) The establishment, operation and improvement or programs of bilingual education * * *;

(2) Auxiliary and supplementary, community and educational activities * * *;

(3)(A) The establishment, operation and improvement of training programs * * * and

(B) Auxiliary and supplementary training programs * * *; and

(4) Planning, and providing technical assistance for, and taking other steps leading to the development of, such programs." (20 U.S.C. 3231) Pub. L. 95–561.

Section 721(b)(1): "A grant may be made under this section only upon application * * * by one or more local educational agencies or by an institution of higher education, including a junior or community college, applying jointly with one or more local educational agencies * * *. Each such application shall be made to the Commissioner at such time, in such manner, and containing such information as the Commissioner deems necessary * * *." (20 U.S.C. 3231) Pub. L. 95–561.

Section 721(b)(5)(A): "Upon an application from a State educational agency, the Commissioner shall make provision for the submission and approval of a State program for the coordination * * * of technical assistance to programs * * * in such State * * *." (20 U.S.C. 3231) Pub. L. 95–561.

Section 723(a)(1): "In carrying out the provisions * * * of section 721, with respect to training, the Commissioner shall, through grants to, and contracts with, eligible applicants, * * * provide for—

(A)(i) Training * * * designed (I) to prepare personnel * * * (II) to train teachers, administrators, counselors, paraprofessionals, teacher aides, and parents * * * and (III) to train persons to teach and counsel such persons * * *

(A)(ii) Special training programs * * * the operation of short-term training institutes * * *. (20 U.S.C.3233) Pub. L. 95–561.

Section 723(a)(2): "In addition, the Commissioner is authorized to award fellowship * * *." (20 U.S.C. 3233) Pub. L. 95–561.

Section 751(a)(1): "The Commissioner * * * shall carry out a program to meet the needs of minority group children * * * who are from an environment in which a dominant language is other than English and who, because of language barriers and cultural differences, do not have equality of educational opportunity * * *." (20 U.S.C. 3261) Pub. L. 95–561.

(e) Concise description of the proposed activity—Application for new awards for bilingual education programs.

(f)Voluntary/obligatory nature of response—Required to obtain or maintain benefits.

(g) Justification of how information collected will be used—The Office of Bilingual Education will review the applications that will be submitted based on this form to determine whether the applicant—

(1) Is eligible for assistance.

(2) Has satisfied legislative, agency and programmatic requirements.

(3) Has submitted the required assurances.

(4) Has submitted a quality proposal meriting Federal funding.

(5) Has submitted an application proposing to serve priority areas or groups, as defined in legislation.

(6) Has submitted budget data and requests that support the objectives of the project.

(h) Data acquisition Plan—(1) Method of collection: Mail.

(2) Time of collection: Spring.

(3) Frequency: Annually.

(i) Timetable for dissemination of the collected data—Not Applicable.

(j) Respondents—(1) Type: Colleges and universities.

(2) Estimated number: 410.

(3) Estimated average person-hours response time per respondent: 40.

(1) Type: Local educational agencies.

(2) Estimated number: 265.

(3) Estimated average person-hours response time per respondent: 40.

(1) Type: Non-profit organizations.

(2) Estimated number: 35.

(3) Estimated average person-hours response time per respondent: 40.

(1) Type: State education agencies.

(2) Estimated number: 50.

(3) Estimated average person-hours response time per respondent: 40.

(k) Estimated costs and person-hours to the respondents (total)—30,000 person-hours; $350,000.

(l) Estimated costs to the Federal agency to collect, process and analyze the data (Contract, S & E)—Contract: $0 S & E: $150,000.

(m) A list of the specific data to be collected from each type of respondent—From all respondents:

Information required on OMB standard form 424 and OMB No. 29–R0218 (Part II—Project Approval Information, Part III—Budget Information), as amended by specific program instructions. Standard assurances to be submitted by all HEW grant applicants.

From all joint applicants: Certification signatures.

From all local educational agencies: Certification that applicant has held an open public meeting on the application prior to its submission.

On LEA Supplementary Questionnaire: School District Enrollment Data (numbers of limited English proficient (LEP) never before served by Title VII funding).

Project School Data (numbers of LEP, low income, students not previously served; languages and grade levels served).

On BESC (Bilingual Education Service Center) Supplementary Questionnaire:

Numbers and characteristics of participants to be served by the BESC.

From all colleges and universities: Same information required for BESC Supplementary Questionnaire as required from LEAs.

On Training Supplementary Questionnaire: Numbers and characteristics of the training program activities and trainees.

From all non-profit organizations: Same information required from colleges and universities.

(n) Name and address of individual or office from which a copy of the full plan and the data instrument(s) may be obtained—Mr. Charles E. Hansen, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202.

Description of a Proposed Collection of Information and Data Acquisition Activity

a. Title of proposed activity—Study to Evaluate the Fund for the Improvement of Postsecondary Education—Survey of the Field.

b. Agency/Bureau/Office—Office of the Assistant Secretary for Planning and Evaluation (ASPE, Department of Health, Education, and Welfare).

c. Agency form number—OS 22–79.

d. Legislative authority for the activity—Sec. 416. "Sums appropriated * * *, for (1) planning for the succeeding year for any such programs, and (2) evaluation of such programs." (20 U.S.C. 1226b) Pub. L. 93–380.

e. Concise description of the proposed activity—The evaluation activity is a telephone survey of a sample of postsecondary educational institutions and organizations. The sample will include 1,000 respondents and will be administered by trained staff during regular business hours. Approximately 90 percent of the questions are closed ended, and questionnaire administration will require less than 25 minutes.

f. Voluntary/obligatory nature of response—Although authorized by legislation, response is voluntary.

g. Justification of how information collected will be used—The proposed survey of the field is one component of a comprehensive evaluation of the Fund conducted by NTS for ASPE. The evaluation is being conducted to determine the extent to which the Fund is accomplishing its mission to improve postsecondary education.

As part of this study, it is essential that data be gathered from the field of postsecondary education concerning the field's awareness of the Fund and its perception of how well the Fund has met its legislation mandate. The field includes all institutions and organizations which provide or sponsor educational activities beyond the high school. The data from this survey will be used to answer two broad questions:

- How aware is the field of the Fund and its mandate?
- Does the field perceive the Fund and the projects it chooses to support as having met (and continuing to meet) the needs of the field? That is, the Fund field responsive?

From data NTS has collected in previous tasks (primarily the review of program files and the grantee survey, FEDAC S–22), it can be suggested that the field is aware of the Fund and that the needs of the field have been and are being met. Those interviewed view the Fund as a source which provides funds, unavailable elsewhere, for innovative and improvement-oriented projects. Further, a Fund grant enhances a project's prestige, visibility, and legitimacy. The generalizability of findings such as these, which were derived using the data collected previously, can be rejected or supported by a survey of the field.

The main purpose of this data collection effort is to provide information that will be of direct use to Congress in deliberating about the Fund's reauthorization. In addition, the data collected from this task will be useful to ASPE for purposes of policy, program development, and planning in the area of postsecondary education, as well as to the Fund in terms of program operations.

h. Data acquisition plan—a. Method of Collection Telephone.

b. Time of collection—From January 21, 1980, to February 28, 1980.

c. Frequency—Once.

d. Method(s) of analysis—Analysis of the data will involve development of descriptive and analytic reports which will permit the audience for this study to learn: (1) The field's awareness of the Fund; (2) the field's impression of the agency's grant submission process; (3) the field's perception of the agency compared to other funding sources; (4) the extent to which the field is acquainted with Fund projects; (5) the field's perception of the Fund's contribution to the improvement of postsecondary education; and (6) the success with which the Fund is meeting the needs of the field.

i. Timetable for dissemination of the collected data—The results of this survey will be reported in a final report for this task to the Office of the Assistant Secretary for Planning and Evaluation by January 31, 1980. The results will also be incorporated into the final report on the evaluation of the Fund due March 15, 1980.

j. Respondents—a. Type.

The respondent population will be the faculty, administrators, and staff of postsecondary educational institutions and organizations. Three categories of persons will be contacted: unsuccessful applicants to the Fund, persons named by Fund grantees who have replicated Fund projects or whose projects have been extensively influenced by Fund projects; and a stratified random sample of persons in institutions and organizations upon whom the Fund grantees have indicated that they would like to have had influence.

b. Estimated Number by Type:

100	Unfunded FIPSE applicants.
200	Replication respondents.
200	Extensively influenced respondents.
500	Field respondents.
1,000	Total respondents.

c. Estimated Average Person-Hours Respondent Time Per Type of Respondent 25 minutes for each type.

k. Estimated Costs and Person-Hours to the Respondents (Total) 25 minutes × 1,000 respondents = 25,000 minutes (416 hours) $3.20 time associated cost per respondent × 1,000 respondents = $32,000.00.

Estimated cost is based upon an estimated annual salary of $20,000. No costs will be required outside the respondents' time.

l. Estimated Costs to the Federal Agency to Collect, Process, and Analyze $71,275.

m. A List of the Specific Data to be Collected From Each Type of Respondent.

No specific quantitative data will be required from the respondents.

The following is a brief description of the qualitative data (respondent perceptions) which will be obtained.

All groups of respondents will be administered the core group of questions. The core questions address three substantive areas. The first area of focus is the field's awareness of the Fund's impact on postsecondary education. The data collected includes the field's awareness of the agency as a Federal funding source, its awareness of the Fund's activities in a number of areas, and the field's perception of the number and quality of these activities. The second area concerns the dissemination activities of the Fund and the sources which provide the field with information about the Fund and its projects. The last area is the field's perception of the agency's guidelines and proposed submission procedures compared to other Federal agencies as well as the reasons that institutions or organizations did or did not apply to the Fund.

Two groups, the unfunded applicants and the replication and extensively

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influenced, will be asked additional questions. The unfunded applicants will be asked questions about their perception of the proposal review process and about the history of their proposed project's funding. The replication and extensively influenced respondents will be asked a series of questions to determine the direct impacts of their programs, their awareness of similar Fund projects, and the extent to which these Fund projects influenced their project.

n. Name and Address of Individual or Office from which a Copy of the Data Instrument(s) may be Obained: Dr. Keith Baker, Room 403E, H. H. Humphrey Building, 200 Independence Avenue NW., Washington, D.C. 20201.

[FR Doc. 80-2880 Filed 1-29-80; 8:45 am]

BILLING CODE 4110-49-M

Public Health Service
Health Resources Administration

Allied Health Project Grants; Application Announcement

The Bureau of Health Manpower, Health Resources Administration, announces that competitive applications for Allied Health Project grants will be accepted under the authority of section 796 of the Public Health Service Act, as amended. Application materials are expected to be available on January 21, 1980.

Section 796 authorizes the Secretary to award grants to (a) States, political subdivisions of States, or regional and other public bodies representing States, (b) junior colleges, colleges, or universities located in a State, or State higher educational systems, (c) public or nonprofit private entities located in a State, which provide health services and have an affiliation with a junior college, college, or university, and (d) other public or nonprofit entities capable, as determined by the Secretary, of carrying out projects under this authority, for purposes of:

(1) "Establishment of regional or State systems for the coordination and management of education and training at various levels for allied health personnel and nurses within and among educational institutions and their clinical affiliates for the purpose of assuring that the needs of such region or State for allied health personnel and nurses are substantially met."

(2) "Establishment or improvement of programs of recruitment, training, and retraining of allied health personnel."

(3) "Establishment of meaningful career ladders and programs of advancement for practicing allied health personnel."

Awards are limited to the program areas listed. For FY 1980, in determining the priority for funding of approved competitive applications, additional preference will be accorded to the following types of projects:

1. Within training centers for allied health professions, as defined below, projects which improve those training center functions set forth in section e(2) through e(6) of the definition;

2. Projects which extend or expand opportunities for minorities and disadvantaged persons to obtain training in designated allied health disciplines.

"Minorities" means individuals whose race/ethnicity is classified as American Indian or Alaskan Native, Asian or Pacific Islander, Black, or Hispanic. (OMB-Designations of race/ethnic categories found in **Federal Register**, Vol. 42, No. 64, April 4, 1977, and implementing OMB Circular No. A-46 Revised Transmittal Memorandum No. 6, dated May 12, 1977.)

"Disadvantaged person" means an individual who:

(a) comes from an environment that has inhibited the individual from obtaining the knowledge, skills, and abilities required to enroll in and graduate from an allied health program, or

(b) comes from a family with an annual income below a level based on low income thresholds according to family size, published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in all health manpower programs.

The following income figures are to be used to determine what constitutes a low-income family for purposes of Allied Health Project grants for fiscal year 1980:

Adjusted Gross Income for Calendary Year 1978

Size of parents' family [1]	Income level [2]
1	$4,400
2	5,700
3	6,800
4	8,700
5	10,200
6	11,500

[1] Includes only dependents listed on Federal income tax returns.
[2] Rounded to $100.

A training center for allied health professionals for purposes of section 796 of the Act means a junior college, college, or university which:

a. provides educational programs leading to an associate, baccalaureate, or higher degree needed to practice as one of the following:

Doctoral Degree

Clinical Psychologist

Master's Degree

Speech Pathologist/Audiologist

Bachelor's Degree

Dietitian [1]
Community Health Educator
Health Service Administrator
Medical Record Administrator
Mecidal Technologist
Occupational Therapist
Physical Therapist
Primary Care Physician Assistant
Sanitarian

Associate Degree

Clinical Dietetic Technician
Cytotechnologist
Dental Assistant
Dental Hygienist
Dental Laboratory Technician
Medical Assistant
Medical Laboratory Technician
Medical Record Technician
Occupational Therapy Assistant
Opthalmic Medical Assistant
Optometric Technician
Physical Therapy Assistant
Radiologic Technologist
Respriatory Therapist
Sanitarian Technician

b. provides training for no fewer than 20 persons in the substantive health portion (including clinical experience required for employment) in three or more of the designated allied health disciplines and has a minimum of six full-time students in that portion of each curriculum by October 15 of the fiscal year of application.

c. has a teaching hospital as part of the grantee institution or is affiliated with a teaching hospital by means of a written agreement meeting the requirements of § 58.404 of the program regulations when published.

d. is accredited institutionally and programmatically (if programmatic accreditation is required for graduates to be licensed or certified) by a recognized body or bodies approved for this purpose by the Commissioner of Education or provides assurance satisfactory to the Secretary from the appropriate accrediting body that reasonable progress is being made toward accreditation; and

e. has a single administrative unit with an identified budget and faculty which is responsible for:

(1) all allied health education programs offered by the center;

(2) allied health curriculum development;

(3) allied health student recruitment and counseling;

(4) development of appropriate clinical affiliations;

[1] Coordinated undergraduate program.

(5) placement of students for the clinical portion of the program; and

(6) standards of student performance in technical portions of the program.

f. counts only students enrolled in the professional or technical portion [2] of educational programs leading to an associate, baccalaureate, or higher degree in any of the designated allied health disciplines.

Applications which do not address these preferences will be reviewed and given consideration for funding. Each preference which is met will enhance the competitive position of an approved applicant in determining the order of funding of approved applications.

Requests for application materials and questions regarding grants policy should be directed to:

Grants Management Officer (D-12), Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4027, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-7360.

Questions concerning the programmatic aspects of these grants should be directed to:

Mr. Charles Munn, Education Development Branch, Division of Associated Health Professions, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 5-27, East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436-6800.

To be considered for fiscal year 1980 funding, applications must be received by the Grants Management Officer, Bureau of Health Manpower, at the address above no later than March 7, 1980. It is estimated that between $500,000 to $750,000 will be available for competitive awards in fiscal year 1980.

Dated: January 25, 1980.

Henry A. Foley,

Administrator.

[FR Doc. 80-2869 Filed 1-29-80; 8:45 am]

BILLING CODE 4110-83-M

[2] May not exceed the third and fourth years of bachelor's program or the second or final year of associate degree program.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

"Open Season" for Commercial Permit Applications on the Upper Missouri National Wild and Scenic River

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice.

SUMMARY: This notice establishes an "open season" for applying for Special Recreation Use Permits on the Upper Missouri National Wild and Scenic River in Montana required of all commercial float boating operations. Applications must be sent to the Lewistown District, Bureau of Land Management, Lewistown, Montana between January 28-March 3, 1980. Other requirements of commercial outfitting and guiding operations remain as outlined in the **Federal Register**, Vol. 44, No. 62, Thursday, March 29, 1979, entitled "Establishment of Recreation Use Permit System for the Upper Missouri National Wild and Scenic River".

John F. Fields,

District Manager.

[FR Doc. 80-2848 Filed 1-29-80; 8:45 am]

BILLING CODE 4310-84-M

Alabama; Intent To Hold a Public Hearing, To Conduct a Public Meeting for Preparation of an EIS, and To Receive Public Comments on Proposed Federal Coal Leasing

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to 43 CFR 3420.3-2(f), the regional coal team for the Southern Appalachian Federal Coal Production Region, Alabama Subregion, will hold a public hearing and will accept written comments and/or recommendations on a Federal coal leasing target which will be established for the subregion by the Secretary of the Interior. The information received during the comment period and at the public hearing will aid the Secretary in making his decision on a final Federal coal leasing target for the Alabama Subregion.

Following the public hearing on the leasing target, a public meeting will be conducted by the Bureau of Land Management in order to gather information and seek assistance in defining the range of issues and concerns for the preparation of a regional lease sale environmental impact statement (EIS) for the proposed sale of Federal coal beginning in Mid-1981. The proposed leasing wil be carried out in accordance with the Federal coal management program as announced by the Secretary on June 4, 1979.

DATES: Written comments will be received through March 17, 1980. The public hearing on the leasing target followed by the public meeting on the preparation of the EIS will be held on February 14, 1980.

ADDRESSES: The public hearing and public meeting will be held at the Ramada Inn—Airport, Meeting Room No. 1, 5216 Airport Highway, Birmingham, Alabama, (205) 591-7000. Comments on the regional leasing target should be sent to H. Robert Moore, Chairperson, Southern Appalachian Regional Coal Team, Bureau of Land Management (141), 18th and C Streets, NW., Washington, D.C. 20240. Comments and suggestions for the preparation of the EIS should be adressed to Doug Blankenship, Regional Coal EIS Team Coordinator, Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304.

FOR FURTHER INFORMATION CONTACT: H. Robert Moore, (202) 343-4636, concerning the Federal coal leasing target; or Doug Blankenship, (703) 235-2866, concerning the preparation of the regional coal EIS.

SUPPLEMENTARY INFORMATION: As part of his announcement of a new Federal coal management program on June 4, 1979, the Secretary of the Interior directed that an EIS be prepared for the Alabama Subregion so as to allow the Bureau of Land Management to hold a competitive lease sale in mid-1981 if the Secretary decides that such a sale is desirable. However, the Secretary did not select a leasing target for the Alabama Subregion as he did for the three other Federal coal production regions that were discussed in his June 4 decision.

The public hearing and the public meeting are being held to carry out the Secretary's decision and are in accordance with the Federal coal management regulations (43 CFR 3420.3-2(f)) and the regulations of the Council on Environmental Quality (40 CFR 1501.7). The combined session will be held on February 14, 1980, beginning at 10:00 a.m., at the Ramada Inn—Airport, Meeting Room No. 1, 5216 Airport Highway, Birmingham, Alabama.

The public is invited to present comments on the leasing target at the public hearing. Those individuals wishing to speak at the public hearings are asked to provide written copies of their remarks. Written comments and/or recommendations on the leasing target will also be accepted. These comments should be received by the regional coal team chairperson, at the address provided above, by March 17, 1980.

At the public hearing and in the written comments concerning the leasing target, the public is asked to provide information on factors that could be used in determining a Federal regional leasing target for the Alabama

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Subregion; make a recommendation for a regional leasing target; and comment on the information/data provided below.

The public is also invited to participate in the public meeting to discuss the range of issues and concerns that could be addressed in the regional lease sale EIS (known as "scoping") for the proposed sale of Federal coal beginning in mid-1981. Written comments on the scope of the EIS and the alternatives listed below will also be accepted. These comments should be received by the EIS team coordinator, at the address provided above, by March 17, 1980.

Potential Lease Tract and General Location

Underground

1. Windham Springs, 14 miles north of Tuscaloosa.
2. Rock Springs Church, 22 miles north of Tuscaloosa.
3. North River, 20 miles north of Tuscaloosa.
4. Jess Creek, 2 miles southeast of Carbon Hill.
5. Upper North River, 2 miles south of Berry.

Surface

1. Pendley No. 1, 6 miles northeast of Berry.
2. Dividing Ridge, 8 miles east of Berry.
3. Bagwell Road, 8 miles southeast of Berry.
4. Goodwin Creek, 6 miles northwest of Carbon Hill.
5. Flatwoods, 5 miles east of Berry.
6. Wolf Creek, 2 miles south of Carbon Hill.
7. Poplar Hollow, 5 miles southeast of Berry.
8. Little Tyro Creek, 4 miles southeast of Berry.
9. Upper Sulfur Springs Church, 7 miles southeast of Berry.
10. Crabbe Road, 20 miles north of Tuscaloosa.
11. Willis Chapel, 8 miles northeast of Berry.
12. Harris Cemetery, 4 miles southwest of Carbon Hill.
13. Piney Woods Church, 17 miles north of Tuscaloosa.
14. Dry Creek South, 18 miles north of Tuscaloosa.
15. Watermelon Road, 14 miles northeast of Tuscaloosa.
16. Yellow Creek East, 13 miles northeast of Tuscaloosa.
17. Elm Grove, 3 miles southeast of Carbon Hill.
18. Dry Creek North, 19 miles north of Tuscaloosa.
19. Boxes Creek, 2 miles southwest of Carbon Hill.
20. North Rock Springs Church, 11 miles southeast of Berry.

Information is not yet available on the precise boundaries, acreage, or tonnage of the tracts being considered for possible lease sale in mid-1981. More specific information will be available at the combined public hearing and public meeting. An information map may be obtained from the Tuscaloosa Office, Bureau of Land Management, 1315 McFarland Boulevard East, Tuscaloosa, Alabama 35401. This map will also be available at the target hearing and scoping meeting. Information depicted on the map includes the known recoverable coal resource area, lands under lease, and the location of the delineated tracts (to the extent that the information is currently available).

The EIS may examine one or more of the following: (1) alter the timing of lease sales within a 2-year period beginning in mid-1981; (2) alter the combinations and number of tracts; (3) delay or defer lease sales; and (4) offer no Federal coal lease tracts for competitive sale. Preliminary analysis indicates that, if further coal development in the Alabama Subregion does occur, possible major issues will generally be social and economic in nature.

Prior to the preparation of the EIS, the tracts identified in accordance with the Federal coal management regulations will be ranked, selected, and scheduled by the regional coal team for possible sale as provided in 43 CFR 3420.4, and recommendations will be made by the team through the Director of the Bureau of Land Management to the Secretary of the Interior.

One of the factors to be considered by the regional coal team in ranking and selecting tracts and proposing sale schedules for analysis in the EIS is a Federal coal leasing target for the subregion. Although the Secretary did not establish a tentative leasing target for the Alabama Subregion, the regional coal team is gathering data to formulate its recommendation to the Secretary so that a leasing target may be set by the Secretary.

The following information/data has been gathered and analyzed for the purpose of recommending a leasing target to the Secretary. The public is asked to provide additional information or comment on the analysis set forth below.

In his decision on the new program in June 1979, the Secretary did not set a tentative leasing target for the Alabama Subregion because he felt that the projections of regional coal production formulated by the Department of Energy (DOE) did not adequately consider the regional effects of demand for export and metallurgical coal mined in Alabama.

Although the Department normally uses DOE's production goals as a basis for deriving a regional Federal coal leasing target, the Department obtained additional information that it has used to formulate a tentative leasing target. Future targets, however, will be based on DOE's projections.

The following table contains information for the four-county area that was used to derive the tentative leasing target for the subregion.

Total Annual Production Rate

[Million tons]

	Surface mining	Underground mining
1979 coal production	9.8	7.8
Projected production, 1985 (Source: Geological Survey, State of Alabama).	13.0	17.1
Projected production, 1990 (Extrapolated from 1979–1985 projection trends).	15.2	25.7
Average production, 1970–79	8.8	7.4

Coal production patterns in Alabama are not dependent on Federal coal since there is only one Federal producing lease in the State. However, it now appears that Federal coal should be made available for future production and to encourage industry growth at its projected rate. If Federal coal is offered for sale in mid-1981 and subsequently leased, surface mines could begin production by 1985; underground mines would take longer to come into full production.

The following additional data and assumptions were used to convert an annual production rate for coal from all sources to an *in place* quantity of Federal coal.

1. Based on the data contained in table 2–5 of the final environmental impact statement on the Federal coal management program, the Federal government owns approximately 12 percent of the coal in the Alabama Subregion. Concentrations of Federal coal ownership vary from area to area.

2. The average mine life in the area is approximately 20 years.

3. Recovery rates are assumed to be 90 percent for surface mines and 50 percent for underground mines.

4. The average coal production level of the past 10 years could be maintained without full-scale Federal leasing. (This does not include leases that may be issued in response to applications. Leases issued in response to applications are not included in the calculations for the leasing target.) However, increased production will require production of Federal coal to supplement the non-Federal sources of coal.

The leasing target which would permit projected growth between 1985 and 1990 has been calculated using the following formula:

Percent of Federal Coal multiplied by Future Production Level Less Average Production Level divided by Recovery Factor multiplied by Average Mine Life equals Leasing Target.

Based on this formula, the data in the above table, and combining the separate calculations for underground and surface mines, a tentative leasing target of 105 million tons results. Since the methodology is not exact and it is possible that some tracts offered for sale might not go into production, it may be desirable to have a contingency reserve to add to the leasing target.

The agenda for the combined public hearing and public meeting is as follows:

A. Public hearing on the leasing target.

1. Opening remarks and introduction.

a. Purpose of holding the public hearing and obtaining comments on the leasing target.

2. Statement on Federal coal leasing.

a. Description of the relationship of this process with the National Environemtnal Policy Act.

b. Brief description of the Federal coal management program.

c. Description of the role of the regional coal team in the leasing process.

d. Description of the derivation of the preliminary or tentative leasing target.

3. Testimony on leasing target levels.

a. Obtain public comments and recommendations on the Federal coal leasing target for the Southern Appalachian Federal Coal Production Region, Alabama Subregion.

4. Conclusion of public hearing.

B. Break for lunch.

C. Public meeting on EIS scoping.

1. Opening remarks and introduction.

a. Purpose and intent of the meeting.

b. Description of previously defined issues identified during pre-analysis to be considered in the EIS.

c. Alternatives which will include, among others, the proposed action as presently considered in the EIS process and not offering Federal coal lease tracts for competitive sale.

d. Information available from BLM offices for the use of the public in commenting, including names and addresses where information and comments can be submitted.

2. Discussion and public comments on the scope of the regional EIS.

a. Solicitation of public comment, recommendations, and issues of major concern to be considered and addressed in the ranking, selection, scheduling, and EIS impact analysis process.

3. Conclusion of the public meeting.

Date: January 25, 1980.

Ed Hastey,

Associate Director.

[FR Doc. 80-2935 Filed 1-29-80; 8:45 am]
BILLING CODE 4310-84-M

[U-22166]

Utah; Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

The Bureau of Land Management, U.S. Department of the Interior, on March 13, 1975, filed application Serial No. U–23166 for a protective withdrawal of the following described lands in Daggett County, Utah.

Salt Lake Meridian, Utah

T. 2 N., R. 23 E.,
Sec. 13, lots 10 to 15 inclusive, N½SW¼;
Sec. 14, lots 9 to 12 inclusive, N½S½, SW¼SW¼;
Sec. 15, lots 10, 11, and 12, SE¼SE¼.
T. 2 N., R. 24 E.,
Sec. 13, lot 2;
Sec. 18, lots 16 and 17;
Sec. 19, lots 3, 4, 12, 14, 15, 18, 19, 22, 24, 25, 26;
Sec. 20, lots 1, 4, 6, 7, 8, 9, 10, NE¼SW¼, NW¼SE¼;
Sec. 21, lots 1 to 6 inclusive;
Sec. 22, lots 11 to 21 inclusive, NE¼NE¼, SE¼SW¼, NE¼SE¼;
Sec. 23, lots 10 to 18 inclusive, NW¼SW¼;
Sec. 24, lots 6, 19, 20, 21, 22, 24, 25, 26;
Sec. 25, lots 9, 10, 14, 15;
Sec. 26, lots 1 to 5 inclusive, NE¼NE¼, S½NW¼;
Sec. 29, lot 1, SE¼NE¼, NW¼NE¼, N½NW¼;
Sec. 30, N½NE¼.
T. 2 N., R. 25 E.,
Sec. 18, SW¼SW¼;
Sec. 19, lots 3 and 4, NW¼SW¼;
Sec. 30, lots 6 and 7, E½SE¼;
Sec. 31, lots 1, 2, 6, 8, 9, 10, 11, 12, 13, 14, NE¼NE¼, SE¼NW¼, SW¼SE¼.
T. 1 N., R. 25 E.,
Sec. 3, lots 13 to 17 inclusive, SE¼NE¼, SW¼SW¼;
Sec. 4, SW¼SW¼;
Sec. 5, lot 5, NW¼SW¼, SE¼SE¼;
Sec. 6, lots 1 to 12 inclusive, SW¼NE¼, W½SE¼;
Sec. 7, lots 1 and 2, NW¼NE¼, N½S½NE¼;
Sec. 8, lots 1 to 8 inclusive, N½S½NW¼;
Sec. 9, lots 10 to 16 inclusive, N½S½NW¼; N½ of lots 17 and 18;
Sec. 10, lots 4 to 6 inclusive, N½ of lots 7 and 8;
Sec. 11, lots 10 to 14 inclusive, W½SE¼.

The areas described aggregate 4,999.62 acres.

The applicant desires that the lands be withdrawn from location and entry under the General Mining laws, and reserved for the protection of recreational purposes of the Green River Corridor. The withdrawal will be to protect the natural beauty and outdoor recreation qualities from activities which could damage, impair or otherwise make the corridor unsuitable for general public enjoyment. The lands have high value for outdoor recreation, fisheries management and wildlife habitat, and possess unusual scenic beauty. Some of the activities include boating, fishing, hunting, hiking and sightseeing. The corridor would vary from a quarter mile to one mile in width. The proposed withdrawal borders a section of the Green River which is under interagency study for designation under the Wild and Scenic Rivers Act. An estimated 30,000 visitor days a year are spent along this stretch of the Green River. A notice of the proposed withdrawal was published in the **Federal Register** on March 13, 1975, Volume 40, page 11759.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, at the address shown below, on or before March 10, 1980. Notice of the public hearing will be published in the **Federal Register**, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

Wyoming and Montana; Powder River Regional Coal Team Briefing

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with the responsibilities outlined in the Federal coal management regulations (43 CFR 3400.4, 44 FR 42609, July 19, 1979), the regional coal team for the Powder River Federal Coal Production Region will hold an organizational briefing on February 21, 1980. Public attendance at the briefing is welcome.

DATES: The regional coal team will meet at 8:30 a.m. on February 21, 1980.

ADDRESSES: The briefing will be held in the 6th floor conference room of the Montana State Office, Bureau of Land Management, 222 North 32nd Street, Billings, Montana 59107.

FOR FURTHER INFORMATION CONTACT: Robert O. Buffington, Regional Coal Team Chairperson, (208) 384–1401.

Dated: January 25, 1980.

Ed Hastey,

Associate Director.

[FR Doc. 80-2925 Filed 1-29-80; 8:45 am]
BILLING CODE 4310-84-M

In lieu of or in addition to the attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before March 10, 1980. The above described lands are temporarily segregated from location and entry under the mining laws, but not the mineral leasing laws, subject to valid existing rights, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications in connection with this pending withdrawal application should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: December 26, 1979.

Gerald E. Magnuson,

Acting State Director.

[FR Doc. 80-3855 Filed 1-29-80; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Fort Pulaski National Monument Land Acquisition Plan; Public Forum

In accordance with guidelines issued by the Director of the National Park Service in the **Federal Register** (Vol. 44, No. 82) on April 26, 1979, the Superintendent of Fort Pulaski National Monument announces an open house for the purpose of providing a public forum to receive oral and written comment on a draft land acquisition plan for the park.

The draft plan will outline, in general terms, the overall goals and strategy for the park land acquisition program and identify specific land acquisition priorities within existing statutory limitations.

The open house will be held as follows:

Wednesday, February 20, 1980, 1:00 to 5:00 p.m.

Park Headquarters, Fort Pulaski National Monument, Highway 80 East, Tybee Island, Georgia.

Persons desiring further information about the open house can write or call the Superintendent, Fort Pulaski National Monument, P.O. Box 98, Tybee Island, Georgia 31328, (912) 786–5787. In addition, copies of the draft plan are available from the Superintendent.

Following the open house, the record will remain open for 30 days to receive additional written comment. A land acquisition plan will then be completed and transmitted to the Regional Director, Southeast Region for approval.

Dated: January 18, 1980.

Neal G. Guse, Jr.,

Acting Regional Director Southeast Region, National Park Service.

[FR Doc. 80-2852 Filed 1-29-80; 8:45 am]

BILLING CODE 4310-70-M

Moores Creek National Military Park Land Acquisition Plan; Public Forum

In accordance with guidelines issued by the Director of the National Park Service in the **Federal Register** [Vol. 44, No. 82) on April 26, 1979, the Superintendent of Moores Creek National Military Park announces an open house for the purpose of providing a public forum to receive oral and written comment on a draft land acquisition plan for the park.

The draft plan will outline, in general terms, the overall goals and strategy for the park land acquisition program and identify specific land acquisition priorities within existing statutory limitations.

The open house will be held as follows:

Tuesday, February 19, 1980, 1:00 to 5:00 p.m.

Moores Creek National Military Park (one mile west of Currie, North Carolina along SR 210), Currie, North Carolina.

Persons desiring further information about the open house can write or call the Superintendent, Moores Creek National Military Park, P.O. Box 69, Currie, North Carolina 28435, (919) 283–5591. In addition, copies of the draft plan are available from the Superintendent.

Following the open house, the record will remain open for 30 days to receive additional written comment. A land acquisition plan will then be completed and transmitted to the Regional Director, Southeast Region for approval.

Dated: January 18, 1980.

Neal G. Guse, Jr.,

Acting Regional Director, Southeast Region, National Park Service.

[FR Doc. 80-2851 Filed 1-29-80; 8:45 am]

BILLING CODE 4310-70-M

Natchez Trace Parkway Land Acquisition Plan; Public Meetings

In accordance with guidelines issued by the Director of the National Park Service in the **Federal Register** (Vol. 44, No. 82) on April 26, 1979, the Superintendent of Natchez Trace Parkway announces three public meetings for the purpose of providing a public forum to receive oral and written comment on a draft land acquisition plan for the park.

The draft plan will outline, in general terms, the overall goals and strategy for the park land acquisition program and identify specific land acquisition priorities within existing statutory limitations.

The public meetings will be held as follows:

Tuesday, March 18, 1980, 7:00 p.m.

Natchez Trace Parkway Office at Meriwether Lewis, Lewis County, Tennessee.

Thursday, March 20, 1980, 7:00 p.m.

Natchez Trace Parkway Office at Kosciusko, Attala County, Mississippi.

Friday, March 21, 1980, 7:00 p.m.

Park Headquarters, Natchez Trace Parkway, Tupelo, Mississippi.

Persons desiring further information about the public meetings can write or call the Superintendent, Natchez Trace Parkway, Rural Route 1, NT–143, Tupelo, Mississippi 38801, (601) 842–1572. In addition, copies of the draft plan are available from the Superintendent.

Following the public meetings, the record will remain open for 30 days to receive additional written comment. A land acquisition plan will then be completed and transmitted to the Regional Director, Southeast Region for approval.

Dated: January 18, 1980.

Neal G. Guse, Jr.,

Acting Regional Director, Southeast Region, National Park Service.

[FR Doc. 80-2854 Filed 1-29-80; 8:45 am]

BILLING CODE 4310-70-M

Vicksburg National Military Park Land Acquisition Plan; Public Forum

In accordance with guidelines issued by the Director of the National Park Service in the **Federal Register** (Vol. 44, No. 82) on April 26, 1979, the Superintendent of Vicksburg National Military Park announces an open house for the purpose of providing a public forum to receive oral and written comment on a draft land acquisition plan for the park.

The draft plan will outline, in general terms, the overall goals and strategy for the park land acquisition program and identify specific land acquisition priorities within existing statutory limitations.

The open house will be held as follows:

Friday, February 15, 1980, 1:00 to 4:30 p.m.

Visitor Center, Vicksburg National Military Park, Clay Street, Vicksburg, Mississippi.

Persons desiring further information about the open house can write or call the Superintendent, Vicksburg National Military Park, P.O. Box 349, Vicksburg, Mississippi 39180, (601) 636–0583. In addition, copies of the draft plan are available for the superintendent.

Following the open house, the record will remain open for 30 days to receive additional written comment. A land acquisition plan will then be completed and transmitted to the Regional Director, Southeast Region for approval.

Dated: January 18, 1980.

Neal G. Guse, Jr.,

Acting Regional Director, Southeast Region, National Park Service.

[FR Doc. 80-3853 Filed 1-29-80; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte 241; Rule 19; 78th Revised Exemption 241]

Aberdeen & Rockfish Railroad Co., et al.; Exemption Under Mandatory Car Service Rules

To all Railroads:

It appearing, That the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, ICC RER 6410–C, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a) and 2(b).

Aberdeen and Rockfish Railroad Company
Reporting Marks: AR
The Ahnapee & Western Railway Company
Reporting Marks: AHW
Ann Arbor Railroad System, Michigan Interstate Railway Company, Operator
Reporting Marks: AA
Apalachicola Northern Railroad Company
Reporting Marks: AN
The Arcata and Mad River Railroad Company
Reporting Marks: AMR
Atlanta & Saint Andrews Bay Railway Company
Reporting Marks: ASAB
Bath and Hammondsport Railroad Company
Reporting Marks: BH
Burlington Northern Inc.
Reporting Marks: BN–CBQ–GN–NP–SPS
Cadiz Railroad Company
Reporting Marks: CAD
Camino, Placerville & Lake Tahoe Railroad Company
Reporting Marks: CPLT
City of Prineville
Reporting Marks: COP
The Clarendon and Pittsford Railroad Company
Reporting Marks: CLP
Columbus and Greenville Railway Company
Reporting Marks: CAGY
Delta Valley & Southern Railway Company
Reporting Marks: DVS
Detroit, Toledo and Ironton Railroad Company
Reporting Marks: DT&I–DTI
Duluth, Missabe and Iron Range Railway Company
Reporting Marks: DMIR
East Camden & Highland Railroad Company
Reporting Marks: EACH
East St. Louis Junction Railroad Company
Reporting Marks: ESLJ
Galveston Wharves
Reporting Marks: GWF
Genessee and Wyoming Railway Company
Reporting Marks: GNWR
Green Mountain Railroad Corporation
Reporting Marks: GMRC
Greenville and Northern Railway Company
Reporting Marks: GRN
The Hutchinson and Northern Railway Company
Reporting Marks: HN
Helena Southwestern Railroad Company
Reporting Marks: HSW
Illinois Terminal Railroad Company
Reporting Marks: ITC
Indiana Eastern Railroad and Transportation, Inc. d.b.a. The Hoosier Connection
Reporting Marks: HOSC
Lake Erie, Franklin & Clarion Railroad Company
Reporting Marks: LEF
Lake Superior & Ishpeming Railroad Company
Reporting Marks: LSI
Lamoille Valley Railroad Company
Reporting Marks: LVRC
Lancaster and Chester Railway Company
Reporting Marks: LC
Lenawee County Railroad Company, Inc.
Reporting Marks: LCRC
Longview, Portland & Northern Railway Company
Reporting Marks: LPN
Louisiana Midland Railway Company
Reporting Marks: LOAM
Louisville and Wadley Railway Company
Reporting Marks: LW
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC
Manufacturers Railway Company
Reporting Marks: MRS
Maryland and Delaware Railroad Company
Reporting Marks: MDDE
McCloud River Railroad Company
Reporting Marks: MR
Middletown and New Jersey Railway Company, Inc.
Reporting Marks: MNJ
Mississippian Railway
Reporting Marks: MISS
Missouri–Kansas–Texas Railroad Company
Reporting Marks: MKT–BKTY
New Hope and Ivyland Railroad Company
Reporting Marks: NHIR
New Orleans Public Belt Railroad
Reporting Marks: NOPB
New York, Susquehanna and Western Railroad Company
Reporting Marks: NYSW
North Louisiana & Gulf Railroad Company[1]
Reporting Marks: NL&G
Octararo Railway, Inc.
Reporting Marks: OCTR
Oregon & Northwestern Railroad Co.
Reporting Marks: ONW
Pearl River Valley Railroad Company
Reporting Marks: PRV
Peninsula Terminal Company
Reporting Marks: PT
Pittsburgh, Allegheny & McKees Rocks Railroad Company
Reporting Marks: PA&M
Port Huron and Detroit Railroad Company
Reporting Marks: PHD
Port of Tillamook Bay Railroad
Reporting Marks: POTB
Providence And Worcester Company
Reporting Marks: PW
Raritan River Rail Road Company
Reporting Marks: RR
St. Lawrence Railroad
Reporting Marks: NSL
St. Louis Southwestern Railway Company
Reporting Marks: SSW
St. Marys Railroad Company
Reporting Marks: SM
Sandersville Railroad Company
Reporting Marks: SAN
Savannah State Docks Railroad Company
Reporting Marks: SSDK
Sierra Railroad Company
Reporting Marks: SERA
Southern Pacific Transportation Company
Reporting Marks: SP
Southern Railway Company
Reporting Marks: SOU
Terminal Railway, Alabama State Docks
Reporting Marks: TASD
The Texas Mexican Railway Company
Reporting Marks: TM
Toledo, Peoria & Western Railroad Company
Reporting Marks: TPW
Union Railroad of Oregon
Reporting Marks: UO
Vermont Railway, Inc.
Reporting Marks: VTR
The Virginia and Maryland Railroad Company[1]
Reporting Marks: VAMD

[1] Additions.

Virginia Central Railway
Reporting Marks: VC
Wabash Valley Railroad Company
Reporting Marks: WVRC
WCTU Railway Company
Reporting Marks: WCTR
Youngstown & Southern Railway Company
Reporting Marks: YS
Yreka Western Railroad Company
Reporting Marks: YW

Effective January 15, 1980, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., January 14, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80-2878 Filed 1-29-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

[Notice No. 231]

December 18, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 2934 (Sub-52TA), filed October 12, 1979. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: James L. Beattey, 130 E. Washington St., Suite 1000, Indianapolis, IN 46204. *Kitchen cabinets* from Jasper, IN to points and places in the States of AR, CT, FL, LA, KS, MD (except points in the counties of Hartford, Cecil, Kent, Queen Annes, Talbot, Caroline, Dorchester, Wicomico, Somerset, and Worchester, MD), MO, NY, PA (except points in the counties of Lancaster, Berks, Custer, Philadelphia, Montgomery, Bucks, Lehigh, Monroe, and Pike, PA) and DC, via irregular routes for 180 days. Supporting shipper(s): Aristokraft, P.O. Box 420, 1 Aristokraft Square, Jasper, IN 47546. Send protests to: Beverly J. Williams, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 9325 (Sub-80TA), filed November 8, 1979. Applicant: K LINES, INC., P.O. Box 1348, Lake Oswego, OR 97034. Representative: John A. Anderson, Suite 1440, 200 S. W. Market Street, Portland, Oregon 97201. *Barite ore, in bulk,* from points in Stevens and Pend Oreille Counties, WA to points in Missoula County, MT. An underlying ETA seeking 90 days authority was granted 11/1/79. Request for 180 days. Supporting shipper(s): Herb Bakie, East 1614 Francis, Spokane, WA. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 20824 (Sub-43TA), filed October 10, 1979. Applicant: COMMERCIAL MOTOR FREIGHT, INC. OF INDIANA, 2141 South High School Road, Indianapolis, IN 46241. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* serving all points in Indiana as off-route points in connection with applicant's otherwise authorized regular-route operations. Applicant intends to serve the commercial zones of all points requested and will tack with existing authority in No. MC-20824. Applicant also intends to interline with other carriers for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): 21 supporting shippers. Send protests to: Beverly J. Williams, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 30844 (Sub-662TA), filed October 29, 1979. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial St., Waterloo, IA 50702. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. *Paper and pulpboard cores and tubes and such materials and supplies as are used in the manufacture of paper cores and tubes* between Boone, IA, on the one hand, and, on the other, points in IL, KS, MN, MO, NE, ND, SD, and WI, restricted to shipments originating at or destined to the facilities of Sonoco Products Co. located at or near Boone, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Sonoco Products Co., Hartsville, SC 29550. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 46054 (Sub-81TA), filed November 7, 1979. Applicant: BROWN EXPRESS, INC., 428 South Main Avenue, San Antonio, TX 78285. Representative: Phillip Robinson, Attorney, 1806 Rio Grande (P.O. Box 2207), Austin, TX 78768. Automotive parts, material, supplies, tools and equipment used in the manufacture, production and assembly of motor vehicles between Detroit, MI (and commercial zone) and Laredo, TX (and commercial zone) for 180 days. Underlying ETA for 90 days has been filed. Applicant will interline with others carriers at Detroit, MI. Supporting Shipper(s): General Motor Corporation, GM Assembly Div., 30009 Van Dyke, Warren, MI 48090. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft Worth, TX 76102.

MC 52704 (Sub-253), filed October 16, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Such commodities as are dealt in by retail or wholesale grocery or discount stores (except commodities in bulk)* between the facilities of Southeastern Bonded Warehouse, Inc., at or near Atlanta, GA, on the one hand, and on the other, points in AL, FL, NC, SC and TN, for 180 days. Supporting Shipper(s): Southeastern Bonded Warehouse, Inc., 5180 Phillip Lee Drive SW., P.O. Box 44126, Atlanta, GA 30336. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 63485 (Sub-3TA), filed November 9, 1979. Applicant: BLACK RIVER TRANSPORTATION, INC., RR 2, Box 126, Sullivan, MO 63080. Representative: Herman W. Huber, Atty., 101 E. High St., Jefferson City, MO 65101. *Boots, shoes, shoe factory materials and supplies* between St. Louis and Piedmont, MO, serving Piedmont as an intermediate point on applicant's regular route between Grandin and St. Louis, MO over Hwy 67 and MO State Hwy 34, for 180 days. An underlying ETA seeks 90 days authority. Applicant will interline with others carriers at St. Louis, MO. Supporting Shipper(s): Brown Shoe Co., 4327 Gustine Ave., St. Louis, MO 63116. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 66124 (Sub-11TA), filed October 18, 1979. Applicant: PACIFIC NORTHWEST MOTOR FREIGHT LINES, INC., 600 South Edmunds Street, Seattle, WA 98108. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. *General commodities, (except Classes A & B explosives, and houshold goods as defined by the Commission), in containers or trailers having an immediately prior or subsequent movement by water; and empty trailers used in the transportation of containers,* between Seattle, WA and Port Townsend, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Hanjin Container Lines, Ltd., 157 Yesler Way, Suite #207, Seattle, WA 98104. Matson Agencies, Inc., 720 Third Ave., Seattle, WA 98104. Send protests to: Shirley M. Holmes, T/A: ICC, 858 Federal Building, Seattle, WA 98174.

MC 106274 (Sub-29TA), filed November 2, 1979. Applicant: RAEFORD TRUCKING COMPANY, P.O. Box 219, Sanford, NC 27330. Representative: R. B. Guthrie, (same as above). *Lumber* (1) from Columbia, SC to points in IN and (2) from Akron, IN to Savannah, GA and Trinity, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Gilbert Hardwood Centers, Inc., P.O. Box 129, Trinity, NC 27370. Colwood, P.O. Box 192, Columbia, SC 29202. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 107295 (Sub-948TA), filed October 16, 1979. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: DUANE ZEHR (same address as applicant). *Materials, accessories and supplies used in the manufacture of plumbing,* from Pomona, CA, to Abingdon and Robinson, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Briggs Manufacturing, 1500 N. Dale Mabry, Tampa, FL 33607. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 107805 (Sub-26TA), filed October 15, 1979. Applicant: ADVANCE-UNITED EXPRESSWAYS, INC., 2801 Broadway Road N.E., Minneapolis, MN 55413. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Common carrier:* regular route: *General commodities (except commodities in bulk, household goods as defined by the Commission, classes A and B explosives, and commodities of unusual value)* between Milwaukee and Madison, WI, serving no intermediate points: From Milwaukee over Interstate Hwy.94 to Madison, and return over the same route. Between Chicago, IL and Madison, WI serving no intermediate points: From Chicago over Interstate Hwy 90 to Madison, and return over the same route. Between Delavan and Madison, WI serving the junction of U.S. Hwy 14 and Interstate Hwy 90 for purpose of joinder only: From Delavan over U.S. Hwy 14 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Madison, and return over the same route. Between Manitowoc and Madison, WI serving no Intermediate points: From Manitowoc over U.S. Hwy 151 to Madison and return over the same route. Serving the commercial zones of all service points for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are 7 statements in support attached to this application which may be examined at the ICC in Washington, DC, or copies of which may be examined in the field office named below. Send protests to: Judith L. Olson, TA, ICC 414 Fed. Bldg., 110 S. 4th St., Mpls., MN 55401.

MC 109324 (Sub-46TA), filed November 8, 1979. Applicant: GARRISON MOTOR FREIGHT, INC., P.O. Box 1278, Harrison, AR 72601. Representative: Francis W. McInerny, Suite 502, 1000 16th St., NW., Washington, D.C. 20036. *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment): between St. Louis, MO and points in its commercial zone, and Springfield, MO and points in its commercial zone, serving no intermediate points: from St. Louis over Interstate Hwy 44 to Springfield, and return over same route, for 180 days. Underlying ETA seeks 90 days authority. Applicant intends to tack and interline. Supporting Shipper(s): Approximately 15 shippers. Send protests to: William H. Land, DS, 3108 Federal Building, Little Rock, AR 72201.

MC 112014 (Sub-27TA), filed October 5, 1979. Applicant: SKAGIT VALLEY TRUCKING CO., INC., P.O. Box 400, Mount Vernon, WA 98273. Representative: Milton R. Egbers (same as above). *Potato products, frozen,* between Othello, Warden and Wheeler, WA on the one hand, and, on the other, Seattle, WA commercial zone; restricted to traffic having a prior or subsequent movement by water, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Carnation Co., 5045 Wilshire Blvd., Los Angeles, CA 90036. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 114284 (Sub-84TA), filed November 7, 1979. Applicant: FOX-SMYTHE TRANSPORTATION CO., P.O. Box 62307, 1700 S. Portland, Oklahoma City, OK 73146. Representative: M. W. Thompson (same address as applicant). *Meats, meat products, meat by-products and articles distributed by meat packinghouses,* as described in Sections A and B and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities utilized by John Morrell & Co., at or near East St. Louis, IL, to points in AR, & TX, for 180 days. Supporting Shipper(s): John Morrell & Co., 208 S. LaSalle St., Chicago, IL 60604. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 121525 (Sub-7TA), filed September 21, 1979. Applicant: SNIDER TRUCKING SERVICE, INC., 110 E. 5th Street, Ritzville, WA 99169. Representative: Boyd Hartman, P.O. Box 3041, Bellevue, WA 98004. *Dry bulk fertilizer,* from points in Kootenai and Shoshone Counties, ID to points in WA in and east of Okanogan, Chelan, Kittitas, Yakima and Klickitat Counties, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Wheatland Div. of Western Farm Service, Inc., P.O. Box 1228, Walla Walla, Ritzville Chemicals, Inc., 107 North Adams, Ritzville, WA 99169. Tekoa Fertilizer & Chemical Co., Box 299, Tekoa, WA 99033. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 121805 (Sub-7TA), filed October 26, 1979. Applicant: ARKANSAS EXPRESS, INC., 1200 Arkansas Ave., North Little Rock, AR 72114. Representative: James M. Duckett, 927 Pyramid Life Bldg., Little Rock, AR 72201. *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in

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bulk, and those requiring special equipment), (1) Between Little Rock, AR and Harrison, AR; from Little Rock over Interstate Hwy 40 to Conway, then over U.S. Hwy 65 to Harrison, and return over the same route serving all intermediate points, (2) Between Harrison, AR and Gateway, AR; from Harrison over U.S. Hwy 65 to its junction with U.S. Hwy 62, then over U.S. Hwy 62 to Gateway, and return over the same route, serving all intermediate points, (3) Between Harrison, AR and Mountain Home, AR; from Harrison over U.S. Hwy 65 to its junction with U.S. Hwy 62, then over U.S. Hwy 62 to Mountain Home, and return over the same route, serving all intermediate points, (4) Between Harrison, AR and Jasper, AR; from Harrison over Arkansas Hwy 7 and return over the same route, serving all intermediate points, for 180 days. Underlying ETA seeks 90 days authority. All routes to be tacked at common points of joinder and with existing authority. Applicant intends to interline with other carriers at West Memphis, AR and Little Rock, AR. Supporting shipper(s): Approximately 20 shippers. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 121805 (Sub-6TA), filed November 5, 1979. Applicant: ARKANSAS EXPRESS, INC., 1200 Arkansas Ave., North Little Rock, AR 72114. Representative: James M. Duckett, 927 Pyramid Life Bldg., Little Rock, AR 72201. Common carrier over regular routes: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Little Rock, AR and Ft. Smith, AR; from Little Rock over Arkansas Hwy 10 to Williams Junction, then over Arkansas Hwy 9 to Perry, then over Arkansas Hwy 10 to Greenwood, then over Arkansas Hwy 10 S to its junction with U.S. Hwy 71, then over U.S. Hwy 71 to Ft. Smith, and return over the same route, serving all intermediate points, in connection with the carrier's presently authorized regular route operations, with service in the Ft. Smith commercial zone restricted to points within the State of AR, and restricted against service to intermediate points on Interstate 40 between Morrilton and Ft. Smith, pursuant to the Commission's Superhighway Rule; (2) Between Arkansas River and Plainview, AR; from the Arkansas River over Arkansas Hwy 60 to Plainview, and return over the same route, serving all intermediate points, (3) Between Ola, AR and the junction of Arkansas Hwys 7 and 60; from Ola over Arkansas Hwy 7 to junction of AR Hwy 60, and return over the same route, serving all intermediate points, (4) Between Ola, AR and Rover, AR; from Ola over AR Hwy 28 to Rover, and return over the same route, serving all intermediate points, and the off-route point of Kingston, AR; (5) Between Rover, AR and Danville, AR; from Rover over AR Hwy 27 to Danville, and return over the same route, serving all intermediate points; (6) Between Booneville, AR and State Sanatorium, AR; from Booneville over AR Hwy 116 to junction with AR Hwy 23, then over AR Hwy 23 to State Sanatorium, and return over the same route, serving all intermediate points, for 180 days. Underlying ETA seeks 90 days authority. Applicant intends to tack all routes at common points of joinder and with existing authority. Applicant intends to interline with other carriers at West Memphis, AR and Little Rock, AR. Supporting shipper(s): Approximately 20 shippers. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 124174 (Sub-162TA), filed November 2, 1979. Applicant: MOMSEN TRUCKING CO., 13811 "L" Street, Omaha, NE 68137. Representative: Karl E. Momsen, same address as applicant. *Iron and steel articles* from Rock Falls and Sterling, IL to points in MO, IA and SD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Northwestern Steel and Wire Company, L. J. Munz, Asst. Manager, 121 Wallace Street, Sterling, IL 61081. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 124735 (Sub-22TA), filed September 14, 1979. Applicant: R. C. KERCHEVAL, JR., 2214 Fourth S., Seattle, WA 98134. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. *Contract carrier:* irregular routes: *General commodities, except Class A and B explosives, household goods as defined by the Commission, commodities in bulk, articles of unusual value, and commodities which, because of their size or weight, require the use of special equipment,* from Seattle, WA to points in MN, WI, IL, IN, OH, MI, MO, CO, ND, SD, NE, IA and KS, restricted to traffic moving from the facilities of Sea-Tac International Warehouse Inc. at Seattle, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Sea-Tac International Warehouse, Inc., 22 South Idaho, Seattle, WA 98134. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 127705 (Sub-101TA), filed October 10, 1979. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, IN 46933. Representative: Donald W. Smith, 9000 Keyston Crossing, Suite 945, Indianapolis, IN 46240. *Paper and paper products* from Union Camp Corporation's plants at or near Richmond, VA to points in DE, DC, IL, IN, KY, MD, MI, NJ, NY, OH, PA, and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Union Camp Corporation, 1600 Valley Road, Wayne, NJ 07470. Send protests to: Beverly J. Williams, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 133095 (Sub-284TA), filed October 19, 1979. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Ron Duncan, P.O. Box 434, Euless, TX 76039. *Paint and paint products* from Houston, TX to OK, AL, MS, LA, CA, and FL, for 180 days. No underlying ETA filed. Applicant intends to tack this authority. Supporting shipper: Devoe & Raynolds Paint Co., 6767 Kirbyville Rd., Houston, TX 77033. Send protests to: Marianne Minnich, TCS, ICC, Rm 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 133655 (Sub-191TA), filed November 8, 1979. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, WI 54306. *Anti-freeze and fuel additives, and equipment, materials, and supplies* used in the manufacture and distribution of anti-freeze and fuel additives between Weatherford, TX on the one hand, and, on the other, points in KY, VA, WV, DE, DC, MD, CT, NC, SC, GA, FL, AL, MS, TN, and RI, for 180 days. Supporting shipper: Power Service Products, Inc., P.O. Box 459, Weatherford, TX 76086. Send protests to: Marianne Minnich, TCS, ICC, Rm. 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 134105 (Sub-80TA), filed November 5, 1979. Applicant: CELERYVALE TRANSPORT, INC., 208 East 28th Street, Chattanooga, TN 37410. Representative: Danile O. Hands, Suite 200, 205, West Touhy Ave., Park Ridge, IL 60068. *Frozen foods, foodstuffs and ingredients used and useful in the manufacture of frozen foods,* (1) between Russellville and Searcy, AR, on the one hand, and on the other, Crozet, VA; (2) from Russellville and Searcy, AR, to AL; GA; IL; IN; IA; KY; KS; MO; MS; NE; OK; TN; TX and WI, and (3) from Crozet, VA, to DE, and the District of Columbia; GA; KY; MD; NJ; NY; NC; OH; PA; SC; and WV, for 180 days. Supporting shipper(s): Morton Frozen Foods, 1 Morton Drive, P.O. Box 7547, Charlottesville, VA 22906. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 134404 (Sub-56TA), filed November 7, 1979. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. *Contract carrier,* irregular routes. (1) *Tin* in bars, slabs, billets, pigs, ingots, and plates; solder and solder residue; and *equipment, materials and supplies* used in the manufacture and distribution thereof (except commodities in bulk and those requiring special equipment): Between New York, NY and points in the commercial zone thereof, on the one hand, and, on the other, Meriden and New Haven, CT; Chicago, East Alton, Skokie and Summit, IL; Indianapolis, Kokomo, Mooresville and Portage, IN; Carrolton KY; Taft, LA; Baltimore and Sparrows Points, MD; Allston and Worcester, MA; Detroit and Port Huron, MI; St. Louis, MO; Auburn, NE; Laurenburg and Winston Salem, NC; Cincinnati, Cleveland, Lima and Yorkville, OH; Tulsa, OK; Aliquippa, Altoona, Mars, Meadville, Philadelphia and Pittsburgh, PA; Providence, RI; Greenback, TN; Eagle Pass, TX; Weirton, WV; Appleton, Grafton, Menominee Falls and Waukesha, WI; and (2) *Iron and steel wire rods,* (a) from the facilities of Raritan River Steel Co. at or near Perth Amboy, NJ to points in DE, MD and PA; and (b) from Perth Amboy, NJ to points in NJ. Restricted in (2)(b) above to shipments having a prior or subsequent movement by water, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Raritan River Steel Co., P.O. Box 300, Perth Amboy, NJ 08862; Philipp Brothers, Division of Englehard Minerals, 1221 Avenue of the Americas, New York, NY 10020; Alpha Metals, Inc., 600 Route 440, Jersey City, NJ, 07304. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 134755 (Sub-213), filed November 6, 1979. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: Raymond P. Keigher, 1400 Gerard St., Rockville, MD 20850. *Foodstuffs (except in bulk).* From Marietta, OK to points in the United States (except AK, FL, HI, ND and SD), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Little Brownie Bakers, Div. of Beatrice Foods, P.O. Box 249, Marietta, Ok 73448. Send protests to: Vernon Coble D/S, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64105.

MC 135895 (Sub-74TA), filed November 1, 1979. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Sta., Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. *(1) Paper and paper products produced or distributed by manufacturers or processors of paper; and (2) equipment, material and supplies used in the manufacture of commodities named in (1) above* (except commodities in bulk and those requiring special equipment) between the plant sites of Boise Cascade Corp. at or near DeRidder and Elizabeth, LA, on the one hand, and, on the other, points in the United States in and east of the states of NM, CO, NE, ND, and SD, for 180 days. Supporting shipper(s): Boise Cascade Corp., P.O. Box 7747, Boise, Idaho 83707. Send protests to: Alan Tarrant, D/S, ICC, Fed. Bldg., Suite 1441, Jackson, MS 39201.

MC 135895 (Sub-73TA), filed October 29, 1979. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Sta., Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Jackson, MS 38701. *Foodstuffs, and equipment, materials and supplies used in the manufacture, distribution, packaging, warehousing and sale of foodstuffs* (except commodities in bulk and those requiring special equipment) between points in AL, AR, FL, GA, LA, MS, MO, NC, OK, SC, TN and TX, for 180 days. Note: Restricted to the transportation of traffic originating at or destined to the facilities of Uncle Ben's, Inc. An underlying ETA seeks 90 day authority. Supporting shipper(s): Uncle Ben's, Inc., P.O. Box 1752, Houston, TX 77001. Send protests to: Alan Tarrant, D/S, ICC, Fed. Bldg., Suite 1441, Jackson, MS 39201.

MC 135945 (Sub-8TA), filed September 14, 1979. Applicant: BOB HILDEBRANDT, Prescott, WI 54021. Representative: Stanley C. Olsen, Jr., 4601 Excelsior Blvd., Minneapolis, MN 55416. *Feed and feed ingredients, in bulk,* from the Minneapolis-St. Paul, MN Commercial Zone to points in WI, restricted to traffic originating at the facilities of Cargill, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cargill, Inc., Dept. 17, P.O. Box 9300, Minneapolis, MN 55440. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 138824 (Sub-31TA), filed October 15, 1979. Applicant: REDWAY CARRIERS, INC., P.O. Box 104, Waukegan, IL 60085. Representative: Paul J. Maton, 10 S. LaSalle St., Suite 1620, Chicago, IL 60603. *Contract carrier:* Irregular routes: *Food products, dry or liquid, in containers; materials and supplies incidental to, and used in the processing, canning and bottling of said food products; Restricted against transportation of commodities in bulk,* between points and places in the states in and east of the states of ND, SD, NE, CO, OK and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ocean Spray Cranberries, Inc., 7800 S. 60th Ave., Kenosha, WI 53142. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 128837 (Sub-14TA), filed October 22, 1979. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62656. Representative: Michael W. O'Hara, 300 Reisch Building, Springfield, IL 62701. *Plastic sheets or plates n.o.i. flat or corrogated self-supporting (rigid), not exceeding 9' 6" in more than one dimension,* from the facilities of Filon Silmar, Division of Vistron, located at Covington, KY to Sterling and Montgomery, IL and Little Shoe, WI (restricted to movements originating at the facilities of Filon Silmar, Division of Vistron, located at Covington, KY) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Filon Silmar, Division of Vistron, 3535 Latonia Avenue, Covington, KY 41011. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 140094 (Sub-2TA), filed October 9, 1979. Applicant: LATIN EXPRESS SERVICE, INC., 4 N.W. 19th Ave., Miami, FL 33125. Representative: Jose Raul Espinosa, 433 South Royal Poinciana Blvd., Miami Springs, FL 33166. *Common carrier:* regular route: *Passengers and their baggage* from Miami, FL to Union City, NJ with stop-off in Miami Beach, FL, Orlando, FL, Washington, DC and Elizabeth, NJ and return: From Miami Beach, FL, west to the McArthur Causeway to Miami, from Miami, FL to the Florida Sunshine State Parkway to Orlando, from Orlando east on I–4 to take I–95 in Daytona Beach to go north to Washington, DC, then I–95 again to the Delaware Memorial Bridge to take the New Jersey Turnpike to Elizabeth, NJ and then again the New Jersey Turnpike to exit 16 to take route 3 to Union City, NJ and return by the same route for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 72 statements in support attached to this application which may be examined at the ICC in

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Washington, DC or the field office named below. Send protests to: Donna M. Jones, T/A, ICC, Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 140465 (Sub-10TA), filed October 22, 1979. Applicant: UNITED TRUCKING, INC., 100 Stoffel Dr., Tallapoosa, GA 30176. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Contract carrier,* irregular routes. *Such general merchandise as is dealt in by wholesale and retail grocery-houses, retail chain department stores and drugstores;* from the facilities of Colgate-Palmolive Company, Inc., at or near Jeffersonville, IN, to Atlanta, GA; Birmingham, AL; and Jacksonville, FL, and points in their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Colgate-Palmolive Company, Inc., State and Warner Streets, Jeffersonville, IN 47130. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 140484 (Sub-63TA), filed October 19, 1979. Applicant: LESTER COGGINS TRUCKING, INC., 2871 E. Edison Ave., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day, same address as applicant. *Electric motors, electric welders, and parts and accessories for electric motors and electric welders, welding supplies and hand truck parts* (except commodities because of their size and weight require the use of special equipment) from the facilities of the Lincoln Electric Company located in Cuyahoga and Lake Counties, OH to points in the states of IL, IN, MI, PA and WI for 180 days. Supporting shipper(s): The Lincoln Electric Company, 22801 St. Clair Ave., Cleveland, OH 44117. Send protests to: Donna M. Jones, T/A, ICC, Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 140865 (Sub-72TA), filed November 5, 1979. Applicant: PRIME, INC., Rte #1, Box 115–B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. *Cleaning compounds, ice melting compounds, polishing compounds, deodorants and disinfectants, materials and supplies used in the manufacturing or marketing of the above commodities (except in bulk).* Between points in Summit County, OH, on the one hand, and, on the other, points in the United States in and west of MS, TN, MO, IA, and MN. Supporting shipper(s): Malco Products, Inc., P.O. Box 892, Barberton, OH 44203. Send protests to: Vernon Coble D/S, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 140744 (Sub-15TA), filed November 9, 1979. Applicant: ARCTIC AIR TRANSPORT, INC., 103 N. Eau Claire St., Mondovi, WI 54755. Representative: Stanley C. Olsen, Jr., 7400 Metro Blvd., Suite 411, Edina, MN 55435. *Foodstuffs, except in bulk, in tank vehicles,* from the facilities of Aunt Jane's Foods, Inc. at or near Croswell, MI to points in IL, IN, IA and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Aunt Jane's Foods, Inc., 55 E. Sanborn, Croswell, MI 48422. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 141774 (Sub-29TA), filed November 6, 1979. Applicant: R & L TRUCKING CO., INC., 105 Rocket Avenue, Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. *Paper and plastic bags; rolls of wrapping paper and materials and supplies used in the manufacture and packaging and distribution of paper bags* (except commodities in bulk) from the facilities of International Paper Co. at or near Jackson, TN to points in the states of FL and GA., for 180 days. Supporting shipper(s): International Paper Company, 220 East 42nd St., New York, NY 10017. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 141774 (Sub-30TA), filed October 30, 1979. Applicant: R & L TRUCKING CO., INC., 105 Rocket Avenue, Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. *Fuel wood and compressed logs,* from Pocahontas, AR and Memphis, TN to Al, GA, MS, TN, AR and FL, for 180 days. Supporting shipper(s): Agnew Environmental Products, Inc., 211 SE 10th, P.O. Box 1168, Grants, Pass, OR 97526. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 32503.

MC 141804 (Sub-284TA), filed November 5, 1979. Applicant: WESTERN EXPRESS, Div. of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. *Insulating materials and items and materials used in the manufacture of same,* from Willow, CA to all points in the states of OR, WA and ID, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Johns-Manville Sales Corp., 2800 Campus Dr., San Mateo, CA 94403. Send protests to: Irene Carlos, T/A, I.C.C., 300 N. Los Angeles St., Rm. 1321, Los Angeles, CA 90012.

MC 141804 (Sub-287TA), filed November 9, 1979. Applicant: WESTERN EXPRESS, Div. of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, (same address as applicant). *Television chassies and electronic components and parts for television sets and chassies,* from Los Angeles, CA and its commercial zone to McAllen, TX and from McAllen, TX to Chicago, IL and its commercial zone, for 180 days. Restricted to traffic moving to or from the facilities of Zenith Radio Corporation. An underlying ETA seeks up to 90 days operating authority. Supporting shipper: Zenith Radio Corporation, 1900 North Austin Avenue, Chicago, IL 60639. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, CA 90012.

MC 141914 (Sub-69TA), filed November 5, 1979. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same address as applicant). *Candies and confectionary,* from the facilities of Schrafft Candy Company, at or near Woburn and Boston, MA, to points in AR, CA, FL, KS, MO, OH, OK, OR, TX, & WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Schrafft Candy Company, Sullivan Square, Boston, MA 02129. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 141914 (Sub-68TA), filed November 1, 1979. Applicant: FRANKS & SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same address as applicant). *Refrigerant jell, cooler boxes, athletic & gymnasium equipment, athletic dressings, freezers, and refrigerators,* from the facilities of Divajex Company, at Tustin, CA, to points in WA, TX, KS, MN, OR, MD, GA, OH, NY, NE, NJ, & FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Divajex Company, 15551 Redhill Avenue, Tustin, CA 92680. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 141914 (Sub-70TA), filed November 1, 1979. Applicant: FRANKS & SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same address as applicant). *Refrigerant jell, cooler boxes, athletic & gymnasium equipment, athletic dressings, freezers and refrigerators,* between the facilities of Divajex Company, at or near Tustin, CA, on the one hand, and, on the other, points in the United States, except WA, TX, KS, MN, OR, MD, GA, OH, NY, NE, NJ, & FL, for 180 days. Supporting shipper(s): Divajex Company, 15551 Redhill Avenue, Tustin, CA 92680. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 141914 (Sub-71TA), filed November 13, 1979. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same address as applicant). *Candies and confectionary,* from the facilities of Schrafft Candy Company, at or near Woburn and Boston, MA, to points in the United States, except AR, CA, FL, KS, MO, OH, OK, OR, TX, & WA, for 180 days. Supporting shipper(s) Schrafft Candy Company, Sullivan Square, Boston, MA 02129. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W., 3rd, Oklahoma City, OK 73102.

MC 141914 (Sub-72TA), filed September 24, 1979. Applicant: FRANKS & SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same address as applicant). *Automotive fluids, (except in bulk), and new containers used in the transportation and storage of automotive fluids,* between the facilities of General Texas Corporation, at or near Roanoke, TX, on the one hand, and, on the other, points in the United States, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Texas Corporation, Rt. 1, Box 24B, Roanoke, TX 76262. Send protest to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 142315 (Sub-3TA), filed June 14, 1979. Applicant: MEISLER CARTAGE, INC., 1103 East Franklin Street, Evansville, IN 47711. Representative: Warren C. Moberly, Harrison, Moberly & Gaston, 777 Chamber of Commerce Bldg., 320 N. Meridian Street, Indianapolis, IN 46204. *Freight all kinds, having a prior or subsequent movement by rail,* (1) Between points in IL, IN, and KY within a 75 mile radius of Vanderburgh County, IN, and (2) between Evansville, IN and St. Louis, MO, for 180 days. Supporting shippers: There are seven (7) supporting shippers. Send protest to: Beverly J. Williams, ICC 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 142364 (Sub-23TA), filed November 14, 1979. Applicant: KENNETH SAGELY d.b.a. SAGELY PRODUCE, 2802 Kibler Rd., Van Buren, AR 72956. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. *Such merchandise* as is dealt in by wholesale, retail and chain grocery and food business houses (except frozen and commodities in bulk), (1) from the facilities of the Clorox Company at or near Forest Park, GA to points in KY; and (2) from the facilites of the Clorox Company at or near Kansas City, MO, to points in AR, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): The Clorox Company, 1221 Broadway St., Oakland, CA 94612. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 143775 (Sub-118TA), filed October 22, 1979. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). *Rubber, in temperature controlled equipment,* from Kent and Barberton, OH to Sparks, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Hamilton-Kent Mfg., 1650 Linda Way, Sparks, NV 89431. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 144305 (Sub-3TA), filed November 6, 1979. Applicant: McCAIN TRANSPORT, INC., 5 Wade Rd., Washburn, ME 04786. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101. *Contract:* Irregular: *Fertilizer, fertilizer ingredients and chemicals in bags and bulk* between Presque Isle, ME and ports of entry on the International Boundary Line between the U.S./Canada in ME, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McCain Fertilizer, Division of Thomas Equipment Ltd., P.O. Box 155, Florenceville, New Brunswick. Send protests to: Donald G. Weiler, District Supervisor, ICC, 76 Pearl St., Rm. 303, Portland, ME 04101.

MC 145204 (Sub-4TA), filed October 12, 1979. Applicant: TVF SECURITY CO., INC., P.O. Box 815, Warsaw, IN 46580. Representative: Donald W. Smith, 9000 Keystone Crossing, Suite 945, Indianapolis, IN 46240. *Contract Carrier:* Irregular routes: *Paper and plastic disposable cups, plates, bowls, containers, with or without lids, and ice cream cones* between the facilities of Sweetheart Cup Corp. and Northwest Cone at Chicago, IL, on the one hand, and on the other, points in IN on and north of U.S. Highway 40 for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sweetheart Cup Corp., Northwest Cone, 7575 South Kostner, Chicago, IL 60652. Send protests to: Beverly J. Williams, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 145544 (Sub-3TA), filed October 29, 1979. Applicant: W. & M., INC., P.O. Box 2237, East Chicago, IN 46312. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. *Contract Carrier:* Irregular routes: *Air moving control equipment, materials and supplies used in the manufacture of air moving control equipment for the account of New York Blower Co.,* between LaPorte, IN, on the one hand, and, on the other, points in the U.S. over irregular routes. Restricted to transportation for New York Blower Co. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): New York Blower Co., 171 Factory St., LaPorte, IN. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 145544 (Sub-4TA), filed October 18, 1979. Applicant: W. & M., INC., 901 South Lake, Gary, IN 46406. Representative: Samuel Ruff, 2109 Broadway, East Chicago, IN 46312. *Contract Carrier:* Irregular routes: *Blower, fans of all tyes used in air pollution,* between Glendale Heights, on the one hand and on the other, points in the United States over irregular routes. Restricted to transportation for Chicago Blower Corporation for 180 days. Supporting shipper(s): Chicago Blower Corporation, 1675 Glen Ellyn Road, Glendale Heights, IL 60137. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 145895 (Sub-4TA), filed October 31, 1979. Applicant: STATE TRANSPORTATION, INC., P.O. Box 1349, Portsmouth, NH 03801. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181. *Contract Carrier:* Irregular routes: *Malt beverages, in containers,* from points in Onondaga and Oswego Counties, NY to points in NH, for 180 days. Supporting shipper(s): Silver Bros. Co., Inc., P.O. Box 4060, Manchester, NH 03108. Send protests to: Ross J. Seymour, DS, ICC, Rm. 3, 6 Loudon Rd., Concord, NH 03301.

MC 145904 (Sub-20TA), filed October 17, 1979. Applicant: SOUTH WEST LEASING, INC., P.O. Box 152, Waterloo, IA 50704. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. *Abrasives, iron shot, and iron grit (except in bulk)* from Adrian, MI, and points in its commercial zone to Mapleton and Moline, IL, and Keokuk, IA, and points in their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Marthens Company, 204, 36th St., Moline, IL 61265. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 145914 (Sub-4TA), filed October 10, 1979. Applicant: COASTAL TRUCK LINE, INC., How Lane, New Brunswick, NJ 08903. Representative: Herbert Burstein, Esq., 2373 One World Trade

Center, New York, NY 10048 *Contract carrier,* irregular routes for 180 days. *Plastic articles,* other than expanded 2–4 #P.C.F. (Plastic emptyware bottles) NMFC 156600 between the facilities of the Bercon Company located at Berwick, PA and the Clorox Company facilities at Jersey City, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Clorox Company, 1221 Broadway, Oakland, CA 94612. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 145954 (Sub-3TA), filed October 18, 1979. Applicant: FOUR TRUCKERS, INC., P.O. Box 1211, Morganton, NC 28655. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204, *New furniture* from points in Burke County, NC to points in the states of CO, TX, AR, AZ, NY, OK, MO, PA, NJ and NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Frederick Edwards, Inc., P.O. Box 922, Morganton, NC 28655. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 146465 (Sub-5TA), filed September 18, 1979. Applicant: LAWRENCE PILGRIM, d.b.a. PILGRIM TRUCKING COMPANY, P.O. Box 77, Cleveland, GA 30528. Representative: Jeffrey Kohlman, 1447 Peachtree St., Suite 508, Atlanta, GA 30309. *Lumber* from the facilities of Woodkraft, Wood Products Division of Georgia Kraft Company at Greenville, GA to points in the U.S. in and east of TX, OK, KS, MO, IA, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Woodkraft Wood Products Division of Georgia Kraft Company, P.O. Box 2489, Peachtree City, GA 30269. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW., Room 300, Atlanta, GA 30309.

MC 146495 (Sub-1TA), filed November 5, 1979. Applicant: DAILY OIL COMPANY, 2201 W. Main Street, Greenfield, IN 46140. Representative: Donald W. Smith, 9000 Keystone Crossing, Room 945, Indianapolis, IN 46240. *Petroleum and petroleum products, in bulk, in tank vehicles* from Indianapolis, IN to Louisville, KY and St. Louis, MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Young Oil Supply, 24 W. Washington Street, Shelbyville, IN 46176. Send protests to: Beverly J. Williams, ICC, 429 Federal Bldg., 46 East Ohio Street, Indianapolis, IN 46204.

MC 146874 (Sub-3TA), filed October 11, 1979. Applicant: PALWOOD TRANSPORTATION, INC., 4017 Sunnyside Rd., Woodstock, IL 60098. Representative: Abraham A. Diamond, 29 South LaSalle Street, Chicago, IL 60603. *Sand, gravel, limestone and limestone products, building materials and contractors' supplies,* from points in IN, MI, OH, and WI to points in IL, for 180 days. Supporting shipper(s): H. J. Mohr & Sons Co., 915 S. Maple, Oak Park, IL 60030. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 146964 (Sub-3TA), filed October 23, 1979. Applicant: RELIABLE TRUCK LINES, INC., 1451 Spahn Ave., York, PA 17403, Representative: Michael Valencik (same as applicant). Canned goods, from the facilities of K. M. C. Foods, Inc. at or near Queen Anne, MD; Milton, DE and Cheriton, VA to point in NJ, NY, AL, CT, DC, DE, GA, FL, IL, IN, KY, LA, MA, ME, MI, MD, MS, MO, NC, NH, OH, PA, RI, SC, TN, TX, VT, VA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): KMC Foods, Inc., P.O. Box 298, Queen Anne, MD 21657. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 147254 (Sub-1TA), filed July 16, 1979. Applicant: JAWING TRUCKING, LTD., 15284 Columbia Ave., White Rock, B.C., V4B 1J6. Representative: J. Anthony Wilson (same as above). *Contract carrier:* irregular routes: *(1) Roofing and building materials and supplies, including shakes, shingles, insulation and roofing paper,* from the Port of Entry on the U.S./Canada border at or near Blaine or Sumas, WA, to points in CA and TX: *(2) Paper products and scrap paper,* from the Port of Entry on the U.S./Canada border at or near Blaine or Sumas, WA, to points in CA, and return; *(3) Fireplaces, parts, accessories and related material, including sheet and plate metal, glass products and doors, wire and mesh, screens and firebricks, from the* Port of Entry on the U.S./Canada border at or near Blaine or Sumas, WA, to points in CA; and *(4) Waterbeds, parts, accessories and related materials, including bedding, wood, plastic and/or metal furniture, heaters, vibrators, pumps and chemicals,* from the Port of Entry on the U.S./Canada border at or near Blaine or Sumas, WA, to points in CA, and return, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Teal Cedar Products (1977) Ltd, 17835 Trigg Rd, Surrey, B.C.; Justesen Manufacturing Ltd, 20785 Langley Bypass, Langley, B.C.; Belkin Paperboard Ltd, 8255 Wiggins Ave, Burnaby, B.C.; and Deltawave Mfg. & Sales Ltd, #201–1271 Howe St., Vancouver, B.C. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 147694 (Sub-3TA), filed October 12, 1979. Applicant: HEX, INC., d.b.a. ELLIOTT BAY SERVICE TRANSFER, 1701 First Avenue South, Seattle, WA 98134. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. *General commodities (except Class A & B explosives),* between points within the Tacoma, WA commercial zone and within the Seattle, WA commercial zone, restricted to shipments having a prior or subsequent movement by water, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Totem Ocean Trailer Express, Inc., P.O. Box 24908, Seattle, WA 98124. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 148165 (Sub-1TA), filed November 2, 1979. Applicant: G. F. DISTRIBUTING CO., 13101 East Rosecrans Ave., Santa Fe Springs, CA 90670. Representative: George Kuiphof, Owner, 13101 East Rosecrans Ave., Santa Fe Springs, CA 90670. *Contract:* Irregular: *Tubing, plastic or copper; Fittings, plastic, brass or iron or steel; Adhesives, cement; and cast iron valves,* from origins in the Los Angeles, CA commercial zone to points and places in Arizona and Nevada, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Piping Products West, 2430 East 49th St., Vernon, CA 90058. Send protests to: Irene Carlos, T/A, ICC, 300 N. Los Angeles St., Rm. 1321, Los Angeles, CA 90012.

MC 148335 (Sub-1TA), filed October 11, 1979. Applicant: RAIL FLITE TRANSPORTATION, INCORPORATED, 7718 Stevens, Darien, IL 60559. Representative: Romalda M. Schwed (same address as applicant). (A) *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, restricted to shipments in containers or railroad piggyback trailers having a prior or subsequent movement by rail or air, between airport terminals or piggyback railroad ramps,* between all points within an approximate 200 mile radius of Des Moines, IA, approximately 200 air mile radius of Des Moines, IA. This includes between all points in the state of IA and the following counties in the states of KS, MO, and NE. KS: Franklin, Miami, Douglas, Johnson, Wyandotte, Leavenworth, Jefferson, Atchison, Doniphan, and Brown. MO: Platte, Ray, Carroll, Chariton, Randolph, Monroe, Ralls, Buchanon, Clinton, Caldwell,

Livingston, Linn, Makon, Shelby, Marrion, Lewis, Knox, Adar, Sullivan, Grundy, Daviess, De Kalb, Andrew, Holt, Atchison, Nodaway, Gentry, Worth, Harrison, Mercer, Puttnam, Schuyler, Scottland, and Clark. NE: Pawnee, Richardson, Johnson, Nemaha, Otoe, Cass, Sarpy, Douglas, Washington, Burt, Thurston, and Dakota for 180 days. An underlying ETA seeks 90 days authority. Applicant does intend to interline with other carriers. Supporting shipper(s): There are eight supporting shippers. Their applications can be reviewed at the address below or headquarters. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148345 (Sub-TA), filed October 29, 1979. Applicant: H & S PACKAGE DELIVERY, INC., 3620 Bullock Road, Medford, Oregon 97501. Representative: Jo Ann Robinson, 625 Dakota, Medford, OR 97501 (503–773–6799). (1) General commodities, except class A and B explosives having a prior or subsequent movement by air freight; (2) general commodities except class A and B explosives, household goods defined by the Commission, and machinery, in packages not exceeding 1,000 pounds per each package (1) between Medford, Oregon, on the one hand, and points in Jackson, Josephine, Douglas and Klamath Counties, Oregon, on the other; (2) from Medford, Oregon to points in Jackson and Josephine Counties, Oregon from Klamath Falls, Oregon to points in Klamath County, Oregon, for 180 days. Supporting shipper(s): United Airlines, Inc., 3650 Biddle Road, Medford-Jackson County Airport, Medford, Oregon 97501; and Amway Corporation, 7250 South 228th, Kent, WA 98031. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 148354 (Sub-2TA), filed November 1, 1979. Applicant: TWIN CITY DISTRIBUTING, INC., 611 8th Street, P.O. Box 637, Greeley, Colorado 80631. Representative: Wm. Fred Cantonwine, Commerce Consultants, Inc., 6785 E. 50th Avenue, Suite 201, Commerce City, Colorado 80022. *Contract Carrier:* irregular routes, *Meat and Meat By-Products* used as or in the manufacture of animal feed and feed ingredients (except hides and commodities in bulk, in tank vehicles), from facilities owned or utilized by J. R. Nylen, Ltd. at Greeley and Denver, CO, to Jefferson, WI, for 180 days. Authority sought for underlying 90-day ETA. Supporting shipper(s): J. R. Nylen, Ltd., P.O. Box 594, Sioux City, Iowa 51102. Send protests to: District Supervisor R. L. Buchanan, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 148365 (Sub-2TA), filed September 28, 1979. Applicant: STARLITE BUS SERVICE, INC., 808 Kippley, Memphis, TN 38111. Representative: John P. Jones, P.O. Box 3140, Front St. Station, 180 Jefferson Ave., Memphis, TN 38103. *Passengers and their baggage in round-trip charter service,* between Memphis, TN on the one hand, and, on the other, AL, AR, DC, FL, GA, IL, IN, KY, LA, MS, MO, NY, NC, OH, OK, SC, TN, TX, WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Applicant six (6) supporting shippers. Send protests to: Floyd A. Johnson, Room 2006, 100 N. Main St., Memphis, TN 38103.

MC 148404 (Sub-1TA), filed November 7, 1979. Applicant: UNITED CHEMICAL CARRIERS, INC., 15812 LaMonde, Hacienda Heights, CA 91745. Representative: Jack R. Cobb (same address as applicant). *Meats, meat products and meat by-products and articles distributed by meat packinghouses as described in Sections A and C to the report in Descriptions in Motor Carrier Certificates 61 MCC 209 and 766 (except commodities in bulk, and hides),* (1) Between points in CA on the one hand, and, on the other, points in AL, AR, AZ, CO, FL, GA, ID, IL, IA, IN, KS, KY, LA, MD, MA, MS, MN, MO, NE, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA and WI, and (2) from points in FL to points in CA, GA, IL, LA, MD, MA, NJ, NY, NC, OH, SC, TN and VA, for 180 days. Supporting shipper(s): There are six supporting shippers. Their statements may be examined at the office listed below and at Headquarters. Send protests to: Irene Carlos, TA, ICC, Room 1321, Federal Bldg., 300 North Los Angeles St., Los Angeles, CA 90012.

MC 148415 (Sub-2TA), filed October 10, 1979. Applicant: TRI-LAKES TRANSPORT, INC., P.O. Box 1093, Oxford, MS 38655. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. *Passengers, and baggage and express freight moving in the same vehicles with passengers, in scheduled and charter operations,* between Oxford, MS and Memphis TN, serving all intermediate points: from Oxford to Batesville, MS via MS Hwy No. 6 thence to Memphis via U.S. Hwy 51 and I–55 and return over the same route for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Applicant has fifteen supporting shippers. Send protests to: Floyd A. Johnson, Rm. 2006, 100 N. Main St., Memphis, TN 38103.

Note.—Applicant does intend to interline with other carriers.

MC 148455 (Sub-1TA), filed November 1, 1979. Applicant: BAR S TRUCKING, Route No. 1, Gracemont, OK 73042. Representative: Bud Stevens (same address as applicant). *Contract Carrier:* Irregular Route: (1) *Carpet,* from Anadarko, OK, to points in TX, GA, VA, AL, SC, LA, CO, AR, NM, and MO; and (2) *yarn and all other raw materials to manufacture carpeting,* from points in TX, GA, VA, AL, SC, LA, CO, AR, NM, and MO, to the facilities of Hollytex Carpet in Anadarko, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hollytex Carpet Mills, 505 N.E. 7th, Anadarko, OK 73005. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 148464 (Sub-1TA), filed October 24, 1979. Applicant: JACK HATT ENTERPRISES, INC., P.O. Box 2141, Cedar Rapids, IA 52406. Representative: Richard P. Moore, P.O. Box 1943, Cedar Rapids, IA 52406. Contract carrier—irregular routes, *foamed automotive parts* from Iowa City, IA, to Lansing, Wayne, Niles, Detroit, Saline, and Wixom, MI; Norwood, Lorain, and Lordstown, OH; and Kansas City and St. Louis, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sheller Globe Corporation, 611 3rd Ave., Iowa City, IA 52240. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 148474 (Sub-1TA), filed November 6, 1979. Applicant: BRENMAN AIR FREIGHT, INC., Municipal Airport, Clintonville, WI 54929. Representative: Leonard Lewensohn, 6801 S. 13th St., Milwaukee, WI 53221. *General commodities, restricted to shipments having prior or subsequent movement by air,* between all points in WI in or on a line, from Lake Michigan west along the IL–WI border to Hwy I–90, then north on Hwy I–90 to Hwy 23 then east on Hwy 23 to Hwy 13 then north on Hwy 13 to Hwy 64, then east on Hwy 64 to Lake Michigan and serving Menomonee, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are six shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

Note.—Applicant does intend to interline with other carriers at Milwaukee, WI.

MC 148484 (Sub-1TA), filed November 14, 1979. Applicant: REID HOT SHOT SERVICE, INC., 23182 Mindanoa Circle, Laguna Niguel, CA 92677. Representative: I. Robert Reid Jr., 23182 Mindanao Circle, Laguna Niguel, CA 92677. *Contract:* Irregular: *Empty*

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cylinders for compressed glass, iron or steel, including components and supplies thereof, between the U.S. Boundry at Calexico, CA, and points in Los Angeles County, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Greer Hydraulics, 9500 E. Slauson Ave., City of Commerce, CA 90040. Send protests to: Irene Carlos, T/A, I.C.C., 300 N. Los Angeles St., Rm. 1321, Los Angeles, CA 90012.

MC 148494 (Sub-1TA), filed October 23, 1979. Applicant: QUALITY READY MIX CONCRETE CO., 1415 14th Avenue, Fulton, IL 61252. Representative: Michael W. O'Hara, 300 Reisch Building, Springfield, IL 62701. *Fertilizer and Fertilizer ingredients,* from points in IL to points in IA and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): FS Services, Inc., 1701 Towanda Avenue, Bloomington, IL 61710; and Fulton River Terminal, 110 Eleventh Avenue, Fulton, IL 61252. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148495 (Sub-1TA), filed October 25, 1979. Applicant: Kenneth S. Ramsey, d.b.a. K. S. RAMSEY TRUCKING, 210 Bridge Street, Danville, IL 61832. Representative: Michael W. O'Hara, 300 Reisch Building, Springfield, IL 62701. *Sand and gravel,* from Covington, IN to points in Vermillion County, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dinsmore Excavating; R. R. No. 1, Oakwood, IL 61858; and McDowell Construction Co., Inc., 106 Commercial Street, Catlin, IL 61817. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148514 (Sub-1TA), filed November 6, 1979. Applicant: PRENTISS WARE, JR., INC., d.b.a. W W TRUCKING, 2740 Old Country Club Rd., Pearl, MS 39208. Representative: Harold Leon Miller, 515 North Bierdeman, Pearl, MS 39208. *Contract carrier;* irregular routes; *Lumber and plywood* from Flora, MS to points in TX, OR, CA, WA, & OK, for the account of Pickens Bros. Lumber Co., Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pickens Bros. Lumber Co., Inc., P.O. Box 70, Flora, MS 39071. Send protests to: Alan Tarrant, D/S, ICC, Fed. Bldg. Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 148515 (Sub-1TA), filed October 29, 1979. Applicant: PORT CITY TRUCKING, INC., 3280 Highway 82 East, Greenville, MS 37801. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. *Freight, all kinds, in water carrier or shipper owned trailers or containers and empty water carrier or shipper owned trailers or containers* between Mobile, AL, New Orleans and Baton Rouge, LA, and Greenville, MS, for 180 days. Supporting shipper(s): Uncle Ben's, Inc., P.O. Box 1752, Houston, TX 77001. Send protests to: Alan C. Tarrant, D/S, ICC, Fed. Bldg., Suite 1441, Jackson, MS 39201.

Note.—Restricted to the transportation of traffic having a prior or subsequent movement by water. An underlying ETA seeks 90 day authority. Applicant does intend to interline with other carriers.

MC 148524 (Sub-1TA), filed October 29, 1979. Applicant: C & M DELIVERY, INC., 22 Lakeville Street, Petaluma, CA 94952. Representative: Eldon M. Johnson, (415) 986–8696, 650 California Street, Suite 2808, San Francisco, CA 94108. *General commodities,* except commodities in bulk, class A explosives, and articles of unusual value, between points in Alameda County and San Francisco on the one hand, and on the other hand, points in Lake, Marin, Mendocino, and Sonoma County; restricted to shipments having a prior or subsequent movement by motor carrier, rail or freight forwarder, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are nine shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

Note.—Applicant does intend to interline with other carriers.

MC 148564 (Sub-1TA), filed September 17, 1979. Applicant: G. KAY, INC., P.O. Box 222, Geneva, NE 68361. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Fertilizer compounds* from the facilities of Eagle-Picher Industries, Inc. at or near Fairbury, NE to points in CO, IL, IA, KS, MN, SD and WI for 180 days. Supporting Shipper(s): Eagle-Picher Industries, Inc., W. Rand Gilmore, Vice President of Traffic, P.O. Box 550, Joplin, MO 64801. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 148604 (Sub-1TA), filed October 3, 1979. Applicant: FALCON MOTOR TRANSPORT, INC., 1250 Kelly Ave., Akron, OH 44216. Representative: Michael L. Moushey, 275 E. State St., Columbus, OH 43215. *General commodities* (except commodities in bulk); (1) between points in OH and WV, on the one hand, and, on the other, Chicago, IL and (2) between points in WV, on the one hand, and, on the other Cincinnati, OH, for 180 days. *Restricted* to transportation having a prior or a subsequent movement by rail and further restricted to shipments moving on a bill of lading of Westransco Freight Company. Supporting Shipper(s): Westransco Freight Company, 1446 Dalton St., Cincinnati, OH 45214. Send protests to: I.C.C., 101 N. 7th St, Rm. 620, Phila, PA 19106.

MC 148605TA, filed September 12, 1979. Applicant: UNTCO, INC., 850 E. Luzerne St., Phila., PA 19124. Representative: Richard A. Mehley, 1000 16th St., NW, Suite 502, Washington, DC 20036. *Contract;* irregular; *general commodities, except commodities in bulk, under a continuing contract or contracts with Carribean Worldwide, Inc.,* between points in PA, MD, DE, VA, WV, NJ, CT, DC, and New York, NY and points in Westchester, Nassau and Suffolk Counties, NY, restricted to the transportation of shipments having a prior or subsequent movement by water or air for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Caribbean Worldwise, Inc., 850 E. Luzerne St., Phila., PA 19124, Send protests to: I.C.C., 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 148694 (Sub-1TA), filed November 5, 1979. Applicant: JAMES R. ANDERS, Route 1, Box 93, Warren, AR 71671. Representative: Lewellyn & Lewellyn, CPA's, P.O. Box 945, Warren, AR 71671. *Wood and wood products,* from Warren, AR to all points in AZ, AR, CA, IL, IA, KS, KY, LA, MS, MO, NM, OK, TN and TX, for 180 days. Underlying ETA seeks 90 days authority. Supporting Shipper(s): Branwood, Inc., P.O. Box 950, Warren, AR 71671. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 148695 (Sub-1TA), filed November 7, 1979. Applicant: BOB BENNETT ENTERPRISES, INC. d.b.a., BOB BENNETT TRUCKING CO., 936 Ashby Street, Atlanta, GA 30318. Representative: Frank J. Shannon, III, Ste. 601, Flatiron Bldg., 84 Peachtree St., Atlanta, GA 30357. *Contract carrier:* Irregular routes: *Newly manufactured furniture* from Rome, GA to all points in the states of TX, OK, KS, NE, IA, MO, AR, LA, NM, IL, IN and OH for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Fox Manufacturing Co., P.O. Drawer A, Rome, GA 30161. Send protests to: Sara K. Davis, T/A, ICC, 1252 W Peachtree St., N.W., Rm 300, Atlanta, GA 30309.

MC 148734 (Sub-1TA), filed November 9, 1979. Applicant: TUMLIN TRUCKING & WAREHOUSE, INC., P.O. Box 412, Cartersville, GA 31402. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd. N.E., Atlanta, GA 30326. *General commodities (except commodities in bulk, those requiring special equipment*

because of size or weight, Classes A and B explosives, and household goods defined by the Commission) between all points in GA on and north of US Interstate Hwy 20, including Atlanta, GA, and its commercial zone, restricted to the transportation of traffic having a prior or subsequent movement by rail for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 15 statements of support. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St. N.W., Rm. 300, Atlanta, GA 30309.

MC 116254 (Sub-286TA), filed May 15, 1979, and published in Federal Register issue of June 7, 1979, and republished as corrected this issue. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: M. D. Miller (same address as applicant). Aluminum and aluminum articles, from the facilities of Martin-Marietta Aluminum at Hancock County, KY to points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI (Lower Penninsula), MN, MS, MO, NE, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VA, VT, WV, WI, KS, OK and the District of Columbia, for 180 days. The purpose of this republication is show the state NY as a destination point. Supporting shipper(s): Martin-Marietta Aluminum, Inc., 6801 Rockledge Drive, Bethesda, MD 20034. Send protests to: Mabel E. Holston, T/A, ICC, Suite 1616—2121 Building, Birmingham, AL 35203.

MC 124174 (Sub-155TA), filed August 1, 1979, and published in Federal Register issue of September 12, 1979, and republished as corrected this issue. Applicant: MOMSEN TRUCKING CO., 13811 "L" Street, Omaha, NE 68137. Representative: Karl E. Momsen (same address as applicant). *Antimony oxide and antimony metal* from Laredo, TX to points in MA, GA, NJ, IL, RI, MI, CT and North Hollywood, Menlo Park and San Leandro, CA for 180 days. An underlying ETA seeks 90 days authority. The purpose of this republication is to show San Leandro, CA as a destination point in lieu of San Leandro, CA. Supporting shipper(s): Anzon American, Inc., 20 Gibson Place, Freehold, NJ 07728. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 134574 (Sub-36TA), filed March 14, 1979, and published in Federal Register issue of April 25, 1979, and published as corrected this issue. Applicant: FIGOL DISTRIBUTORS LIMITED, P.O. Box 6298, Station "C", Edmonton, AB, Canada T5B 5K6. Representative: Ray F. Koby, 314 Montana Bldg., Great Falls, MT 59401. Beer and malt liquor, in containers, from points in WA to the U.S.-Canada International Boundary line, restricted to foreign commerce, from points in Washington to ports of entry on the United States-Canada boundary line located in WA, ID and MT, for 180 days. An underlying ETA seeks 90 days authority. The purpose of this republication is to show the territorial description. Supporting shipper(s): Alberta Liquor Control Board, P.O. Box 2360, Edmonston, AB, Canada T5J 2R4. Send protests to: Paul J. Labane, DS, 2602 First Avenue North, Billings, MT 59101.

MC 135364 (Sub-34TA), filed March 12, 1979, and published in Federal Register of June 1, 1979, and republished as corrected this issue. Applicant: MORWALL TRUCKING, INC., Box 76C—R. D. 3, Moscow, PA 18444. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Contract Carrier: irregular routes: *Such commodities as are manufactured, processed, sold, used, distributed, or dealt* in by manufacturers and converters of paper and paper products (except commodities in bulk), between the facilities of the Paper, Printing and Forms Group of Litton Business Systems, Inc., at Fitchburg, MA, on the one hand, and, on the other, Fresno and Los Angeles, CA; Atlanta and Tucker, GA; Charleston Decatur, and Chicago, IL; Detroit, MI; St. Louis, MO; Riegelswood, Fletcher, and Hickory, NC; Sayreville, NJ; Cincinnati, Cleveland and Obetz, OH; Hanover, Mountville, Philadelphia, Reading, and York, PA; Lexington, SC; and Arlington, Temple, Fort Worth, Dallas, and Houston TX, and Edgemoore, DE, for 180 days. An underlying ETA seeks 90 days authority. The purpose of this republication is to add Edgemoore, DE to the territorial description. Supporting shipper(s): Paper, Printing and Forms Group of Litton Business Systems, Inc., 601 River Street, Fitchburg, MA 01420. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 146305 (Sub-1TA), filed February 20, 1979, and published in Federal Register issue of April 25, 1979, and republished as corrected this issue. Applicant: MOBILE PRE-MIX TRANSIT, INC., P.O. Box 5183 T.A., Denver, CO 80217. Representative: Truman A. Stockton, Jr., 1650 Grant St. Bldg., Denver, CO 80203. *Contract carrier:* irregular routes: *Concrete admixtures* (1) between points in CO, (2) between points in CO, on the one hand, and, on the other, points in CA and TX (3) between points in CA, CO, TX, on the one hand, and, on the other, points in KS, MT, NE, NM, OK, UT, WY, AZ and ID, for 180 days. An underlying ETA seeks 90 days authority. The purpose of this republication is to correct territorial description. Supporting shipper(s): Mobile Premix Concrete, Inc., Box 5183 T.A., 1500 W. 12th Ave., Denver, CO 80217. Send protests to: Roger L. Buchanan, DS, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

MC 146335 (Sub-1TA), filed March 6, 1979, and published in Federal Register issue of June 1, 1979, and republished as corrected this issue. Applicant: JACK ELLIOTT PROCTOR d.b.a. PROCTOR TRUCKING CO., 4717 Bethany Drive, Garland, TX 75040. Representative: William D. White, Jr., 4200 Republic National Bank Tower, Dallas, TX 75201. *Contract carrier,* irregular routes, *Zero-clearance, pre-fabricated sheet metal fireplaces and accompanying flue pipe used in the installation thereof in truckload quantities on shipper-owned trailers,* from plantsite of National Fireplace at Richardson, TX to points in TX, LA, MS, OK, MO, AR, and AL, under continuing contract(s) with National Fireplace Corporation, for 180 days. An underlying ETA seeks 90 days authority. The purpose of this republication is to add the states of AR and AL to the origin points. Supporting shipper(s): National Fireplace Corporation, 1260 International Parkway, Richardson, TX 75080. Send protests to: Opal M. Jones, TA, I.C.C., 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 135364 (Sub-32TA), filed March 12, 1979, and published in Federal Register issue of April 25, 1979, and republished as corrected this issue. Applicant: MORWALL TRUCKING, INC., Box 76C, R. D. 3, Moscow, PA 18444. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Contract carrier:* irregular routes: (1) *Air, gas, and liquid conditioning and handling equipment; turbines, and parts and materials thereof, in containers or in trailers, having an immediately prior or subsequent movement by water,* and (2) *empty containers, trailers, and chassis,* between the facilities of the Trane Company at LaCrosse, WI, Clarksville, TN, Lexington and Wilder, KY, and Rushville, IN, on the one hand, and, on the other, Chicago, IL, Minneapolis, MN, Milwaukee, WI, and piers, wharves, container freight stations, and steamship facilities located at or near Wilmington, DE, Baltimore, MD, Jacksonsville and Miami, FL, New Orleans, LA, Camden, NJ, New York, NY, Newark, NJ, Norfolk, VA, Oakland, and San Francisco, CA, and Philadelphia, PA, for 180 days. An underlying ETa seeks 90 days authority.

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The purpose of this republication is to correct the territorial description. Supporting shipper(s): The Trane Company, 3600 Pammel Creek Road, LaCrosse, WI 54601. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 146715 (Sub-TA), filed March 30, 1979, and published in **Federal Register** issue May 10, 1979, and republished as corrected this issue. Applicant: AUTO INN, INC., 240 North Broadway, Wichita, KS 67202. Representative: Ronald K. Badger, 350 R. H. Garvey Bldg., Wichita, KS 67202. *Wrecked, disabled or repossessed vehicles and trailers and replacement vehicles, and trailers for such wrecked or disabled vehicles, in wrecker service only,* restricted, however, against trailers designed to be drawn by passenger automobiles, mobile homes, buildings in sections traveling on their own or removable undercarriages, unless they are wrecked, between points in Kansas, on the one hand, and, on the other, points in Arkansas, Colorado, Iowa, Nebraska, Oklahoma, Louisiana, Missouri, New Mexico, Texas, and Wyoming, for 180 days. The purpose of this republication is to correct the territorial description. Supporting shipper(s): Ryder Truck Rental-One-Way, Inc., 310 N. Handley, Wichita, KS; M. Bruenger & Co., Inc., 6250 N. Broadway, Wichita, KS; Saunders Leasing Systems, Inc., 3305 South West St., Wichita, KS. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-2874 Filed 1-29-80; 8:45 am]
BILLING CODE 7035-01-M

Agricultural Cooperative; Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

January 25, 1980.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submissions of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations: Cal-Northern, Inc.
Principal Mailing Address (Street No., City, State, and Zip Code) 605 Matmor Rd., Woodland, CA 95695.
Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code): 605 Matmor Rd., Woodland, CA 95695.
Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address): Donna Murray, 605 Matmor Rd., Woodland, CA 95695.

Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations: International Marketing & Distributing, Inc.
Principal Mailing Address (Street No., City, State, and Zip Code): Box 67, Declo, ID 83323.
Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code): Junction of Idaho Hwys. 81 and 77, Declo, ID 83323.
Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address): Deloss Stoker, Box 67, Declo, ID 83323.

Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations: Transport Express Inc.
Principal Mailing Address (Street No., City, State, and Zip Code): 3512 Rockville Rd. Bldg. 122E, Indianapolis, IN 46222.
Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code): 3512 Rockville Rd. Bldg. 122E, Indianapolis, IN 46222.
Person To Whom Inquiries And Correspondence Should Be Address (Name and Mailing Address): Ramona Coan, 3512 Rockville Rd. Bldg. 122E, Indianapolis, IN 46222.

Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations: Union Gap Farm Co-Op.
Principal Mailing Address (Street No., City, State, and Zip Code): P.O. Box 3003, Union Gap, WA 98903.
Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code): Rt. 9, Box 223, Yakima, WA 98901.
Person To Whom Inquiries And Correspondence Should Be Address (Name and Mailing Address): Karl O. Murphey, P.O. Box 3003, Union Gap, WA 98903.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-2875 Filed 1-29-80; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29082]

Green Bay & Western Railroad Co.—Control—Ahnapee & Western Railway Co.—Exemption Under 49 U.S.C. 10505 From 49 U.S.C. 11343–11347

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption in Finance Docket No. 29082.

SUMMARY: Green Bay and Western Railroad Company (Green Bay) a subsidiary of Itel Corporation (Itel), intends to acquire the stock of the Ahnapee and Western Railway Company (Ahnapee), from the McCloud River Railroad Company (McCloud), Ahnapee's parent company. McCloud is also a subsidiary of Itel. Pursuant to 49 U.S.C. 10505 the Commission is exempting the transaction from 49 U.S.C. 11343–11347, thereby eliminating the requirement for prior Commission approval.

DATE: This decision should be effective on January 30, 1980.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, 202–275–7245.

SUPPLEMENTAL INFORMATION: On June 1, 1979, Green Bay filed a petition under 49 U.S.C. 10505 to exempt from the provisions of 49 U.S.C. 11343 the acquisition of the stock by it of the Ahnapee from McCloud, Ahnapee's parent company.

In response to this petition we published a notice in the **Federal Register** on August 27, 1979, 44 Fed. Reg. 50133 (1979) requesting comments on the proposed exemption. Comments were due September 24, 1979. Two comments in opposition were received, both on September 28, 1979. The first was by the Safe Deposit Company of New York (Safe Deposit); the second was by Ripple & Co. (Ripple).

A motion to strike these two late filed comments has been filed by Green Bay. Green Bay has also filed a reply in the alternative to these comments.

The **Federal Register** notice required service of comments only upon the Commission's Section of Finance. It appears that both of the parties that commented were unaware of the **Federal Register** Notice; just that an exemption petition was before the Commission. The comments were late by only a few days. Our acceptance of the late-filed comments will not materially prejudice the petitioners.

The notice of the proposed exemption set forth the basic facts regarding this proceeding. Protestants do not challenge these facts. Accordingly, we adopt the facts presented in the notice and will refer to them only as needed in our discussion.

Safe Deposit states that only because of Itel's and McCloud's financial difficulties do they seek to transfer the financially troubled Ahnapee to Green Bay. Safe Deposit alleges that because of Itel's financial difficulties it has borrowed money from Green Bay and that this might be the start of a pattern of corporate abuse.

Ripple states that the acquisition by Green Bay would benefit Itel at the detriment of Green Bay's debenture holders.

Both protestants request that these matters be set for hearings.

Petitioners reply that protestant's arguments have no place in the instant proceeding because their main concern is over Itel's control of Green Bay already approved by the Commission. The issue at hand is to which subsidiary of Itel Ahnapee will belong. Petitioners state that the dollar sums referred as being borrowed by Itel have been fully repaid with interest, and that Green Bay under Itel's control is prospering. Green Bay would benefit by its control over the operations of its long-time Ahnapee connection rather than having Ahnapee controlled by McCloud, a California subsidiary of Itel.

Discussion and Conclusions

As pertinent here, 49 U.S.C. 10505 provides that we shall exempt a rail carrier transaction because of its limited scope when we find that application of a provision of Subtitle IV of Title 49, *United States Code*, (1) is not necessary to carry out the national transportation policy, (2) would place an unreasonable burden on a person, class of persons, or interstate and foreign commerce, and (3) would serve little or no useful public purpose. We may act under 49 U.S.C. 10505 only after an opportunity for a proceeding. The notice and request for comments on the petition for exemption provided that opportunity. We must now determine whether the proposed exemption meets the statutory requirements.

Scope of the transaction. The threshold inquiry is whether the transaction is limited in scope.

The Ahnapee is a Wisconsin corporation, and constitutes a small 13.75 mile line of railroad which has been operated as a division of McCloud. Control of McCloud is, in turn, exercised by Itel, pursuant to authority granted by the Commission in Finance Docket No. 28371, *SSI Rail Corporation and Itel Corporation—Control—McCloud River Railroad Company*, (not printed, decided April 1, 1977). McCloud and its division, the Ahnapee, were acquired from U.S. Plywood, Champion Papers, Inc., which in turn, had acquired the Ahnapee a number of years ago pursuant to authorization of the Commission in Finance Docket No. 26329, *U.S. Plywood, Champion Papers, Inc. and McCloud River Railroad Company—Purchase—The Ahnapee & W Ry. Company*, (not printed, decided November 2, 1970). The Ahnapee at all times has operated and has been treated by the Commission, the courts, and other railroads as a common carrier in a distinct and identifiable sense both prior to its 1978 incorporation and subsequent thereto.

By order served January 5, 1979, in Finance Docket No. 28813, *The Ahnapee and Western Railway Company Stock*, the Ahnapee, as newly incorporated in Wisconsin, was authorized to issue 1000 shares of common stock $1 par value. As the stock application indicated, the McCloud owns all of the capital stock of Ahnapee except for five shares which are held by named directors. The Ahnapee is shown for purposes of rates as a separate carrier and it is regarded as such by the appropriate legal authorities. None of these factors will change as a result of the stock purchases.

By decision served October 12, 1978, in Finance Docket No. 28654 (Sub-No. 1), *Itel Corporation—Control—Green Bay and Western Railroad Company*, the Commission approved the application of Itel under 49 U.S.C. 11343 to acquire control of the Green Bay. That decision recognized the control by Itel of the McCloud, the Ahnapee, and the Hartford and Slocomb Railroad Company (which operates in Alabama).

The scope of this transaction is limited. Green Bay would acquire the stock of a 14 mile short-line carrier to whom it, and only it, physically connects, with whom it interchanges traffic. From an operational and economic point of view it appears to be more reasonable to have Green Bay control the Ahnapee, rather than McCloud, a California operation. This is a business judgment made by Green Bay that appears to be rationally made.

The record demonstrates that the proposal would be without operational import, competitive effect, or employee impact. We conclude that the acquisition of control by Green Bay, a subsidiary of Itel, of Ahnapee from McCloud, a subsidiary of Itel is a transaction of limited scope.

National Transportation Policy. To insure the development, coordination and preservation of a transportation system that meets the transportation needs of the United States, Congress has declared that it is the policy of the United States Government to provide for the impartial regulation of the modes of transportation subject to Subtitle IV of Title 49 *United States Code*. 49 U.S.C. 10101. In regulating those modes, the transportation policy is to (1) recognize and preserve the inherent advantage of each mode; (2) promote safe, adequate, economic, and efficient transportation; (3) encourage sound economic conditions in transportation, including conditions among carriers; (4) encourage reasonable rates without unreasonable discrimination or unfair or destructive competitive practices; (5) cooperate with each State and its officials on transportation matters; and (6) encourage fair wages and working conditions in the transportation industry.

We believe that advance scrutiny of this transaction is not necessary to carry out the national transportation policy. The proposed transaction should have no effect on any of the policy considerations since the only change involves the transfer of control of Ahnapee from one subsidiary of Itel to another.

Burden. Our consolidation procedures require the filing of a complete application so that we might reach a decision within the time constraints imposed by 49 U.S.C. 11345. Compilation of the necessary material is a time-consuming task, however, since much information must be presented in great detail to be useful. The two protests of the debenture holders as discussed above, do not change our findings that the transaction is of limited scope and minimal transportation importance, and that the development of a massive record on which to base a decision would place a grave strain on scarce resources. We believe that requiring Itel, Green Bay, McCloud, and Ahnapee to prosecute an application under 49 U.S.C. 11343–11347 would place an unreasonable burden on them and on interstate and foreign commerce. We do not believe that further hearings are required and accordingly, the request of protestants for further hearings is denied.

Public Purpose. Our function under 49 U.S.C. 11343–11347 is to determine whether a proposed transaction is consistent with the public interest. Having found that the instant proposal is of limited scope, and that our

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regulation of it would be both unnecessary and unreasonably burdensome, we conclude that our review of the matter would serve little or no useful public purpose.

Waiver. An alternative to exemption under 49 U.S.C. 10505, is a request for waiver of certain provisions of our consolidation procedures. By notice dated August 22, 1979, we held petitioner's request for waiver in abeyance pending a decision on the petition for exemption. Petitioners state that waiver had not been requested. In view of our determination regarding exemption the issue of waiver is moot.

We find: The application of the requirements of 49 U.S.C. 1143–1147 to the proposed acquisition of the stock of the Ahnapee from the McCloud by Green Bay is of a limited scope and (a) is not necessary to carry out the transportation policy of section 10101, (b) would be an unreasonable burden on petitioners and (c) would serve little or no useful public purpose. This decision is not a major Federal action significantly affecting energy consumption or the quality of the human environment.

It is ordered: (1) The request for further hearings is denied. The late-filed comments of Safe Deposit Company of New York and Ripple & Co. are accepted for filing and the motion to strike is denied.

(2) Green Bay, McCloud and Ahnapee are exempted under 49 U.S.C. 10505 from the requirements of 49 U.S.C. 11343–11347 for the limited purposes of the acquisition of the stock of Ahnapee by Green Bay from McCloud.

(3) If the authority is exercised within 60 days after consumation of the transaction Green Bay shall submit three copies of a sworn statement showing all general entries required to record the transaction.

(4) Public notice of our action shall be given to the general public by delivery of a copy of this decision to the Director, **Federal Register**, for publication.

(5) This exemption will only continue in effect for 90 days from the effective date of this decision.

(6) This decision shall be effective on January 30, 1980.

Dated: January 17, 1980.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins and Alexis; Chairman O'Neal did not participate and Commissioner Christian was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-2877 Filed 1-29-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 374]

Increased Freight Rates and Charges Western Railroads, 2 Percent; Authority To File Master Tariff

January 24, 1980.

By petition and verified statement filed January 21, 1980, United States railroads in the Western District seek authority to increase freight rates and charges by 2 percent within the Western Territory. This increase is preparatory to a request for a 4 percent nationwide increase which the railroads are preparing to submit on February 1, 1980. That increase would absorb the Western Railroads' proposed 2 percent interim rate increase requested here. The proposed increase is exclusive of the fuel cost pass-through authorized in Ex Parte No. 311. A copy of the petition and verified statement may be obtained from the Committee of Counsel for Western Railroads, Room 527, American Railroads Building, 1920 L Street, NW, Washington, D.C. 20036.

Petitioners seek permission to make the proposed increase effective February 3, 1980, subject to the condition that refunds shall be made in the event that, after any investigation that the Commission deems necessary, no increase or a lesser increase than that requested is authorized. Petitioners also seek entry of a decision modifying all outstanding Commission decisions to the extent necessary to enable the railroads to file and make effective the proposed increased rates and charges. The railroads further request that the Commission allow the entry of appropriate decisions under former sections 4 and 6 of the Interstate Commerce Act (49 U.S.C. 10726 and 10761–65).

The verified statement of Harvey A. Levine, Vice President in charge of the Economics and Finance Department of the Association of American Railroads, reveals that the amount of the wage increases which the Western Railroads are seeking to recover was determined by the change in the Consumer Price Index-Urban Wage Earners and Clerical Workers (CPI–W) between March and September 1979. The railroads knew, or should have known by October of last year, the amount of wage increase they would be facing on January 1, 1980. It was their duty to come to us with a properly documented petition before they began to incur these costs instead of asking for extraordinary relief after the wage increases went into effect.

The railroads have submitted one verified statement which constitutes their evidential case pursuant to the requirements set forth in Ex Parte No. 290, *Procedures Governing Rail Carrier General Increase Proceedings*, 49 CFR Part 1102. They have requested us to waive that part of Section 1102 which requires the filing of Schedules C, F, G, H, I, J, and K.

They have also requested that we:

(a) Waive the base period year requirement contained in § 1102.4(c) to permit use of a base period year ending September 30, 1979; and

(b) Waive the reporting requirements of § 1108.7(a).

The reason given by the railroads in support of their requested exceptions is that all of this material will shortly be presented to us in the forthcoming petition for a 4-percent increase nationwise. It may be examined then.

The Western Railroads' request for immediate relief is premised upon the need to meet labor cost increases which went into effect on January 1, 1980 and are now being incurred at a rate in excess of $470,500 per day.

Petitioners have given notice to the public and have submitted information of the type called for in Ex Parte No. 55 (Sub-No. 4), *Revised Guidelines for the Implementation of the National Environmental Policy Act of 1969*, 352 I.C.C. 451 and 49 CFR Part 1108, namely a supplemental evaluation of environmental considerations with regard to the petitioners' increased rate proposal. The petitioners contend that the requested increases will have no significant adverse effects upon the movement of the traffic or transportation of recyclable commodities by rail. Any person or persons believing that the requested increases, if authorized, would have a significant impact upon the quality of the human environment are invited to comment upon this matter in verified statements authorized to be filed pursuant to this decision. Environmental matters and the requirements of the National Environmental Policy Act of 1969 will be considered in any subsequent action on the merits of the requested general increases.

Although the petitioners maintain that their labor cost increases are "uncontrollable", they do not say to what extent the requested increase does or does not comply with the President's voluntary wage and price guidelines. We regard this as an important issue in this proceeding. Parties are invited to comment upon this matter in their verified statements, and we will consider it in our subsequent decision on the merits of the requested increases.

Among the filings the carriers seek to have waived are Schedules F&G required by Section 1102. Schedule F provides data on present and expected health and welfare costs, payroll taxes for old age benefits, unemployment insurance and pension plans. Schedule G summarizes direct and indirect labor costs, and provides a measure of past, present and future productivity.

The sole justification for the requested rate increase is increased labor costs. Schedules F and G provide data important to the accurate determination of labor cost increases. Accordingly, we decline to waive the requirement for their filing. The railroads will file these schedules when they file their proposed 2-percent interim increase tariff.

We find that the railroads have justified an authorization to file their tariff and an expedited procedural schedule for considering the proposed interim increase. Because the delay in filing the proposal is of their own making, we are unwilling to adopt their proposed procedural schedule. We will not unduly limit the time for filing protests or compress the time between our suspension decision and the effective date of the increase, if any.

It is ordered: 1. All common carriers by railroad are made respondents to this proceeding.

2. Under the special permission authority granted in conjunction with this decision, the tariff schedules shall be published and filed upon not less than 30 days' notice effective not earlier than February 27, 1980, nor later than February 29, 1980, *subject to protest and possible suspension.* These schedules are to contain an appropriate refund provision.

3. Any person opposing or wishing to comment on the proposed increase in rates and charges shall file and serve verified statements, as provided below, on or before February 8, 1980.[1]

(a) The verified statements shall contain all relevant evidence which the parties desire to have considered by the Commission as a basis for a decision on the merits. Any submissions on asserted environmental and energy impacts shall be segregated under an appropriate subheading.

(b) Verified statements may include arguments in support of an affiant's position, but arguments shall be segregated in a separate section of the document containing the verified statement or contained in a separate document simultaneously filed and served.

(c) Each verified statement shall be signed in ink by affiant and verified (notarized) in the manner provided by Rule 48 and Form No. 6 of the Commission's rules of practice (See 49 CFR 1100.48 and Appendix B, Form No. 6, to 49 CFR Part 1000). The post office address of affiant or his counsel shall be shown.

(d) Verified statements and arguments shall be filed and served as follows: The original and 24 copies of each document of the use of the Commission shall be addressed to the Secretary, and sent to the Office of Proceedings, Room 5340, Interstate Commerce Commission, Washington, DC 20423, except that a lesser number of copies may be filed upon a showing of good cause. All documents filed with the Commission in this matter shall contain the following notation on the envelope: Ex Parte No. 374. One copy shall be served upon the Committee of Counsel for Western Railroads, Room 527, American Railroads Building, 1920 L Street, NW, Washington, DC 20036, which service shall constitute service upon all respondents. However, all parties able to do so shall serve 20 copies upon the railroads' representative. In all cases, where service is made by mail, the document shall be mailed in time to be received by the respective due dates.

(e) Each verified statement shall contain a certificate of service stating that it has been timely served on opposing parties.

(f) Verified statements and arguments by persons opposed to the proposed increase in rates and charges shall include all matters which they desire the Commission to consider with respect to statutory suspension of the rates pending completion of the investigation, as well as evidence relevant to the ultimate decision.

4. On or after February 12, 1980, the respondents shall file with the Commission and serve upon opposing parties their replies to protests or other pleadings and rebuttal evidence. Rebuttal evidence shall be filed in accordance with the regulations published in 49 CFR Part 1102, governing opening statement, except that replies and rebuttal evidence need be served only upon the party (and his counsel if known) to whose evidence the reply or rebuttal is directed. However, replies or rebuttal statements proposing changes in the tariff shall be served on all parties. All such statements shall be furnished to interested parties upon requests.

5. The Commission will endeavor to issue its decision by February 15, 1980 so that the shipping public will have adequate time to adjust its pricing system to the Commission's action.

6. The request for fourth-section relief will be considered following the filing of verified statements and replies.

By special Permission Order No. 80–1290 served in conjunction with this decision, the Commission is authorizing the filing of tariff schedules increasing rates and charges sought in the petition. These tariff schedules are to become effective upon not less than 30 days' notice to the Commission and the general public, subject to protest and possible suspension as provided by the Interstate Commerce Act. All documents filed with the Commission in this matter shall contain the following notation on the envelope: Ex Parte No. 374.

Special Permission No. 80–1290

It is ordered: 1. All Western Railroads of the United States, and water and motor carriers to the extent they have joint rates with the railroads, and their tariff-publishing agents are authorized to depart from the Commission's tariff publishing rules in Part 1300 of Title 49 of the Code of Federal Regulations when publishing and filing tariffs and tariff amendments to become effective upon not less than 30 days' notice to the Commission and to the public, but not earlier than February 27, 1980, nor later than February 29, 1980, providing for increased rates and charges as set forth in the petition.

(a) By publishing and filing a master tariff of increased rates and charges, and supplements to the master tariff, providing increases by means of conversion tables of rates and charges, which shall include, and maintain in effect, a refund provision reading as follows:

In the event any increases resulting from the application of this tariff exceed the increases subsequently approved or prescribed by the Interstate Commerce Commission, the carriers will refund the difference between the increases resulting from the application thereof and any increases which may subsequently be approved or prescribed by the Interstate Commerce Commission with —— percent interest.[2]

In the event any increase resulting from the application of the tariff is disapproved by the Commission and no increase is authorized, the carriers will refund the full amount of the increase collected with —— percent interest.[2]

The master tariff shall be conditioned to expire with May 1, 1980, and all relief granted in this decision expires with that date, which may not be extended or cancelled except upon specific

[1] Section 10707(c) of the Interstate Commerce Act specifically requires the filing of *verified complaints* seeking suspension of proposed rate changes.

[2] The interest rate to be inserted in the refund provision shall be equal to the average yield (on the date such schedule is filed) of marketable securities of the United States which have a duration of 90 days. See Section 10707(d) of the Interstate Commerce Act.

[2] See footnote 2.

V 45 / 21 JA 30 80 UMI

authorization of this Commission. Respondents are placed on notice that they must comply with the regulations in 49 CFR 1300.32 governing the transfer of railroad general increases from master tariffs. The master tariff must initially contain all provisions necessary to permit application of every aspect of this proposal. Subsequently, provisions other than those of a general character may be cancelled and transferred to the particular tariff affected upon a common effective date with appropriate notation to that effect in the master tariff.

(b) By publication and filing of a connecting link supplement to each tariff to be made subject to the master tariff, connecting such tariffs with the master. Such supplements may be blanket supplements (a common supplement issued to two or more tariffs).

(c) The master tariff and connecting link supplements issued and filed under this decision shall not provide for nonapplication on interstate traffic competitive with intrastate traffic between the same points unless the interstate rates and routes are specifically identified in the connecting link supplements or other amendments to the tariffs.

(d) By publication and filing of tariffs or amendments to tariffs effective concurrently with the master tariff and upon the same notice which provide specifically increased rates and charges but which do not result in an increase in charges for transportation and other services greater than those specified in the petition, provided all such publication is identified in the tariffs and made subject to a refund clause worded substantially as in paragraph 1(a) above.

2. (a) The master tariff, as amended, and all other tariffs and amendments to tariffs, that employ the shortform methods authorized here shall bear the notation:

Form of publication authorized, I.C.C. permission No. 80–1290.

(b) Tariffs or amendments to tariffs publishing specifically increased rates or charges shall provide a notation reading:

Publication made in accordance with I.C.C. permission No. 80–1290.

3. Connecting-link supplements authorized here shall be exempted from the Commission's tariff-publishing rules governing the number of supplements and the volume of supplemental matter permissible.

4. The master tariff filed under this decision shall not be amended, except to correct errors and to comply with findings and orders of the Commission, without specific authorization. The terms of rule 9(e) (40 CFR 1300.9(e)) are not waived as to supplements to the master tariff.

5. Tariff publishing agents must furnish a copy of the master tariff to subscribers of all tariffs which are governed by the master tariff. This must be done not later than the date that copies are sent to the Commission. When there is more than one tariff of a subscriber governed by the master tariff, only one copy of the master tariff need be furnished to the subscriber unless additional copies are requested.

6. Outstanding decisions of the Commission are modified only to the extent necessary to permit the filing of tariff publications containing the proposed increase, and all tariff publications filed shall be subject to protest and possible suspension and rejection. In that regard, we direct petitioners' attention to our admonitions in prior general increase proceedings concerning maintenance and preservation of existing port relationships. See, for example, *Increased Freight Rates and Charges, 1972*, 341 I.C.C. 288, 336, and *Increased Freight Rates, 1970 and 1971*, 339 I.C.C. 125, 188.

Notice of the filing of a railroad general increase petition will be given by sending a copy of this decision to each party to the Ex Parte No. 368 proceeding, to the Governor and public utility regulatory body of each State, the Environmental Protection Agency, the Special Assistant to the President for Consumer Affairs, and by depositing a copy in the Office of the Secretary of the Commission at Washington, DC, and by filing a copy with the Director, Office of The Federal Register for publication in the **Federal Register**.

7. The requirements of Section 1102 for the filing of Schedules C, H, I, J, and K are waived.

8. The base period year requirement contained in § 1102.4(c) is waived. Petitioners may use a base period year ending September 30, 1979.

9. Reporting requirements of § 1108.7(a) are waived.

10. This Special Permission is contingent upon the prompt filing of the anticipated request for a 4 percent increase which meets all of the evidentiary requirements of Ex Parte 290, *Procedures Governing Rail Carrier General Increase Proceedings*, and will be fully supported in accordance with Section 1102 and which will include the present requested 2 percent increase.

11. This Special Permission will expire with May 1, 1980.

12. Volume coal rates which already include a factor for future labor wage increases shall not be subject to this increase. The proposed tariff will be amended to exempt all such tariffs if they have not already been excluded from this increase.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, and Alexis

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-2976 Filed 1-29-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

Correction

In FR Doc. 80–1813, appearing at page 3997 in the issue of Monday, January 21, 1980, on page 4027, in the first column, immediately above the paragraph "MC 144188 (Sub. 13TA)", insert the heading "Notice No. 249".

BILLING CODE 1505-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Deputy Administration and Assistant Administrators; Delegation of Authority

Pursuant to the authority delegated to me by IDCA Delegation of Authority No. 1 from the Director of the International Development Cooperation Agency (44 FR 57521) and in accordance with the provisions of section 624(b) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2384), it is directed as follows:

In the event of the absence, death, resignation, or disability of the Administrator, the following designated officers of the Agency for International Development shall, in the order of succession indicated, act as Administrator:

(1) Deputy Administrator,

(2) Assistant Administrator, Bureau for Program and Policy Coordination,

(3) Assistant Administrator, Bureau for Program and Management Services.

This Delegation of Authority amends and supersedes Delegation of Authority No. 98 of March 1, 1978 (43 FR 10663, March 14, 1978).

This Delegation of Authority is effective immediately.

Dated: January 15,1980.

Douglas J. Bennet, Jr.,

Administrator.

[FR Doc. 80-2945 Filed 1-29-80; 8:45 am]

BILLING CODE 4710-02-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-71]

Certain Anaerobic Impregnating Compositions and Components Therefor; Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference previously scheduled for February 19, 1980, is cancelled and rescheduled for February 25, 1980, at 9:30 a.m. in Room 610, Bicentennial Building, Washington, D.C.

The hearing previously scheduled for February 25, 1980 is cancelled and rescheduled for March 3, 1980, at 9:30 a.m. in Room 610, Bicentennial Building, Washington, D.C.

The Secretary shall publish this notice in the **Federal Register**.

Issued: January 22, 1980.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 80-2937 Filed 1-29-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-77]

Certain Computer Forms Feeding Tractors and Components Thereof; Notice of Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 19, 1979, and amended on January 9 and 10, 1980, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Precision Handling Devices, Inc., 63 South Main Street, Assonet, Massachusetts 02702, alleging that unfair methods of competition and unfair acts exist in the importation into the United States of certain computer forms feeding tractors, or in their sale, because such computer forms feeding tractors are allegedly covered by claim 5 of U.S. Letters Patent No. 3,825,162. The complaint alges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

Complainant requests that the Commission order temporary exclusion from entry into the United States of the imports in question during the pendency of the investigation, and permanent exclusion and a cease and desist order after a full investigation has been conducted.

Having considered the complaint, the Commission on January 15, 1980, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, (19 U.S.C. 1337), an investigation be instituted to determine whether there is reason to believe there is a violation and whether there is a violation of subsection (a) of this section in the unlawful importation of certain computer forms feeding tractors, or their components, or devices utilizing such tractors into the United States, or in their sale, because of the alleged infringement by such computer forms feeding tractors of claim 5 of U.S. Letters Patent No. 3,825,162, the effect or tendency of which is to destory or substantially injure an industry, efficiently and economically operated, in the United States.

(2) For the purpose of this investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Precision Handling Devices, Inc., 63 South Main Street, Assonet, Massachusetts 02702.

(b) The respondents are the following companies alleged to be engaged in the unauthorized importation of certain computer forms feeding tractors into the United States, or in their sale, and are parties upon which the complaint is to be served:

Shinshu Seike Co., 80 Hirooka, Shiojiri-shi, Nagano-ken, Japan.

Epson America, Inc., 23844 Hawthorne Boulevard, Torrance, California 90505.

(c) Wilhelm A. Zeitler, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Chief Administrative Law Judge, Donald K. Duvall, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's rules of practice and procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the Commission, New York Office, 6 World Trade Center, New York, New York 10048.

By order of the Commission.

Issued: January 25, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-3936 Filed 1-29-80; 8:45 am]

BILLING CODE 7020-02-M

Notice of Change in Due Date for Prehearing Statements in Investigation No. 701-TA-2 (Final), Pig Iron from Brazil

AGENCY: United States International Trade Commission.

ACTION: Change in the due date for prehearing statements in investigation No. 701–TA–2 (Final), Pig Iron from Brazil, from January 30, 1980 to January 31, 1980.

FOR FURTHER INFORMATION CONTACT: Daniel Leahy 523–1369.

SUPPLEMENTARY INFORMATION: In accordance with section 207.22 of the Commission's Rules of Practice and Procedure (44 F.R. 76458) prehearing statements must be submitted by parties to an investigation within 15 days after the date of service by the Commission of a public portion of its staff report. The staff report in the subject investigation was served to parties on January 17, 1980, therefore prehearing statements must be submitted on or before January 31, 1980.

By Order of the Commission.

Issued: January 28, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-3288 Filed 1-28-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 42-80]

Privacy Act of 1974; Deletion of System of Records

Notice previously published in the Federal Register pursuant to the Privacy Act relating to the system of records maintained by the Law Enforcement Assistance Administration (LEAA), entitled "General Investigative System (JUSTICE/LEAA-003)" is being rescinded. The notice was most recently published on September 30, 1977, in the Federal Register and again in a Federal Register document identified as the Privacy Act Issuances, 1978 Compilation, Volume III. It was originally published in the Federal Register on August 27, 1975. On that date (August 27, 1975) a proposed rule was published in the Proposed Rules Section to exempt this system from subsections (d), (e)(4)(G) and (H), and (f) of the Privacy Act.

These records were at that time included as a system of records under the Privacy Act because they were indexed by name or other personal identifier of individuals. Recent review of the records system indicates that the records are now filed according to geographical location and fiscal year and that information on individuals is not retrievable by any personal identifier.

Section 16.100(a), (b), and (c) of Title 28 of the Code of Federal Regulations, which exempted JUSTICE/LEAA-003 from provisions of the Privacy Act, is also being revoked by separate order on rulemaking being published in today's Federal Register.

The subject records will continue to be maintained at the LEAA Office of Audit and Investigation. Requests under the Freedom of Information Act for these records should be addressed to: Public Information Office, Law Enforcement Assistance Administration, 633 Indiana Avenue NW., Washington, D.C. 20531.

Dated: January 22, 1980.

Kevin D. Rooney,

Assistant Attorney General for Administration.

[FR Doc. 80-2880 Filed 1-29-80; 8:45 am]

BILLING CODE 4410-18-M

Drug Enforcement Administration

[Docket No. 79-12]

A G Pharmacy, Inc., d.b.a. Berson Pharmacy; Denial of Registration

On June 15, 1979, the Administrator of the Drug Enforcement Administration (DEA) directed to A G Pharmacy, Inc., d.b.a. Berson Pharmacy (Respondent), of Hartford, Connecticut, an Order to Show Cause proposing to deny the Respondent's pending application for registration under the Controlled Substances Act. The Respondent, through counsel, filed a request for a hearing on the issues raised by the Order to Show Cause and, following the completion of prehearing procedures, the hearing in this matter was held in Springfield, Massachusetts, on October 12, 1979. Administrative Law Judge Francis L. Young presided.

On January 10, 1980, pursuant to 21 CFR § 1316.65, Judge Young certified the record of these proceedings to the Administrator. The record included, *inter alia*, the hearing transcript; all of the exhibits placed in the record; the Administrative Law Judge's report or opinion, including his recommended ruling, decision, findings of fact and conclusions of law; the Respondent's exceptions; and the Government's response thereto.

After considering the record of these proceedings in its entirety, and pursuant to 21 CFR 1316.67, as amended, the Administrator hereby issues his final order based upon the following findings of fact and conclusions of law.

The Administrative Law Judge found that in June, 1972, David Silverstein, a fifty percent shareholder, president, and registered pharmacist-manager of the Respondent pharmacy, was convicted in Connecticut State court of felony offenses relating to controlled substances. The record clearly shows that in 1971 and 1972, Mr. Silverstein was a heroin dealer. He also sold methadone, and possibly other drugs, illegally, from the pharmacy he then owned or operated. The Administrator adopts the findings of fact of the Administrative Law Judge in their entirety.

The Respondent's half-owner, president and key employee has been convicted of felony offenses relating to controlled substances. The Administrator concludes, as did the Administrative Law Judge, that the Respondent's application may lawfully be denied. The Respondent would have the Administrator conclude that he has no discretion to deny the Respondent's application. The Respondent reads 21 U.S.C. 823(f) as requiring the registration of any State-licensed practitioner applicant, without regard to the fact that there are grounds extant for the revocation of such a registration. The Administrator disagrees.

The Administrator of the Drug Enforcement Administration and his predecessors have consistently held that where there are grounds for the revocation of a registration under 21 U.S.C. 824(a), those grounds also provide a lawful basis for the denial of an application for such registration. To conclude otherwise would mean that this agency would be required to grant a registration on one day only to revoke it on the next. The Administrator cannot conclude that the law requires such a useless act. See, for example, *Serling Drug Co.*, Docket No. 74-12, 40 Fed. Reg. 11918 (1975), affirmed without written opinion, 524 F.2d 1406 (6th Cir. 1975); *Norman Bridge Drug Co., Inc.*, 41 Fed. Reg. 3106 (1976); and *Rafael C. Cilento, M.D.*, Docket No. 79-2, 44 FR 30466 (1979).

The Administrator is fully aware of the considerable period of time which has passed since Mr. Silverstein's conviction. Likewise, he has considered the fact that Mr. Silverstein's licenses have been restored by Connecticut State authorities, as well as other factors noted in the Respondent's exceptions. Nevertheless, the Administrator finds that the public interest would not be served if Mr. Silverstein were to be entrusted with the responsibilities of a controlled substances registrant.

Therefore, the Administrator adopts the conclusions of law recommended by the Administrative Law Judge and concludes, as he did, that the Respondent's application must be denied.

Accordingly, pursuant to the authority vested in the Attorney General by sections 303 and 304 of the Controlled Substances Act, 21 U.S.C. 823 and 824, and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that the Respondent's application for registration be, and it hereby is, denied.

Dated: January 24, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80-2915 Filed 1-29-80; 8:45 am]

BILLING CODE 4410-09-M

Law Enforcement Assistance Administration

National Advisory Committee for Juvenile Justice and Delinquency Prevention; Meeting

Notice is hereby given that the National Advisory Committee for Juvenile Justice and Delinquency Prevention (the Committee) and it subcommittees will meet Thursday, Friday and Saturday, February 21-23 1980, at the Carolina Townhouse, Columbia, South Carolina. The meetings will be open to the public.

On Wednesday, February 20, preceding the full Committee meeting, the Executive Committee will meet at 6:00 p.m. The meeting of the full Committee is scheduled to convene at 9:00 a.m. on Thursday, February 21. The session will begin with an address by Richard Riley, Governor of the State of South Carolina, and reports from the Executive Committee and the Associate Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP). At 10:45 a.m., following a brief recess, there will be a presentation by the Chairperson of the National Criminal Justice Association. At 11:00 a.m. the full Committee will discuss reauthorization, Committee Assessment, OJJDP Program Plan for Fiscal Year 1981, and recommendations to the OJJDP. From 12:00 noon to 1:30 p.m. there will be a luncheon for the Committee members and invited guests; Mr. Norman Gross of the Law Related Education Project will be the speaker. Following the luncheon, the four subcommittees, Advisory Committee for the National Institute for Juvenile Justice and Delinquency Prevention, Advisory Committee to the Administrator on Standards for Justice, Advisory Committee to the Administrator of the Office, and Advisory Committee on the Concentration of Federal Effort, will meet until 3:30 p.m. Following a short recess the subcommittees will reconvene for the remainder of the day.

On Friday, February 22 at 1:30 p.m., the full Committee will reconvene, following a juvenile institution visitation and lunch, to review the recommendations arising from the previous day's meetings of the subcommittees. The first report will be from the Subcommittee to Advise the Administrator of the Office, followed by the Subcommittee on the Concentration of Federal Effort at 2:15 p.m. At 3:00 p.m. the Subcommittee to Advise the National Institute will report on recommendations concerning current controversial research. This will be followed by a short recess. At 4:00 p.m. the Subcommittee on Standards will report on the process for implementation. The remainder of the afternoon will be devoted to public commentary.

Following a meeting of the Executive Committee at 7:30 a.m., the full Committee will reconvene on Saturday, February 23, at 8:30 a.m., to continue the discussions of subcommittee recommendations on reauthorization of the JJDP Act. This will be followed by a report from the Executive Committee on the workplan, organization and election of the Vice-Chair for the Committee. The Committee will discuss the Serious Offender and the NAC portion of the Runaway Youth Act. This will be followed by a review of plans for the June meeting and joint meeting with the Coordinating Council on Juvenile Justice and Delinquency Prevention. The Committee will adjourn at 12:30 p.m.

For further information, contact Mr. James C. Shine, Executive Assistant and Special Counsel, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, Department of Justice, 633 Indiana Avenue, NW, Washington, D.C. 20531.

Ira M. Schwartz,

Associate Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 80-2910 Filed 1-29-80; 8:45 am]

BILLING CODE 4410-18-M

National Institute of Justice

Competative Resarch Grant/ Cooperative Agreement; Solicitation of Proposals

The National Institute of Justice announces a competitive research grant/cooperative agreement to support a study of the probable role of corrections in the United States in the final two decades of this century. The study must focus on identifying the historical antecedents and emerging social conditions that will shape correctional goals and practices, and must attempt to indentify the critical decisions like to be encountered by policy makers during the next twenty years.

The solicitation requests submissions of draft proposals rather than full, formal proposals. Full proposals will be requested from those applicants receiving favorable review by a peer review panel. In order to be considered, a draft proposal must be received by the National Institute of Justice no later than April 15, 1980. One grant-cooperative agreement is expected to be awarded under this announcement. A maximum of $100,000 will be awarded for a project with an expected duration of 15 months. To maximize competition, both profit makers and non-profit organizations may apply.

Additional information and copies of the solicitation may be obtained by writing: Solicitation Request, The Changing Role of Correction, National Criminal Justice Reference Service, Box 600, Rockville, Maryland.

Dated: January 18, 1980.

Harry M. Bratt,

Primary and Principal Assistant to the Acting Director, National Institute of Justice.

[FR Doc. 80-2840 Filed 1-29-80; 8:45 am]

BILLING CODE 4410-18-M

Notice of Solicitation

The National Institute of Justice announces a competitive research solicitation aimed at examining the Role of Private Counsel in Indigent Defense.

The solicitation asks for proposals to be submitted for peer review in accordance with the criteria set forth in the solicitation. In order to be considered, all proposals must be postmarked no later than March 28, 1980. A grant or cooperative agreement for a 21 month research project is planned, with funding support not to exceed $275,00. To maximize competition for this award, both profit-making and non-profit organizations are eligible to apply.

Copies of the solicitation may be obtained by sending a mailing label to: Solicitation Request, Role of Private Counsel in Indigent Defense, National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850.

For questions pertaining to this request for proposals, contact the Adjudication Division, Office of Research Programs, NIJ, 633 Indiana Avenue, NW., Washington, D.C. 20531, (301) 492-9114.

Dated: January 21, 1980.

Harry M. Bratt,

Primary and Principal Assistant to the Acting Director, NIJ.

[FR Doc. 80-2847 Filed 1-29-80; 8:45 am]

BILLING CODE 4410-18-M

LEGAL SERVICES CORP.

Central Massachusetts Legal Services, Inc., of Worchester, Mass; Grants and Contracts

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996/, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

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Central Massachussets Legal Services, Inc., of Worcester, Mass., to serve the remaining unserved areas of Worcester County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Boston Regional Office, 84 State Street, Room 520, Boston, Mass. 02109.

Antone G. Singsen III,

Vice President—Finance and Management.

[FR Doc. 80-2968 Filed 1-29-80; 8:45 am]

BILLING CODE 6820-35-M

Connecticut Legal Services, Inc., of Cromwell, Conn.; Grants and Contracts

January 25, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Connecticut Legal Services, Inc., of Cromwell, Connecticut to serve the towns of Avon, Bristol, Burlington, Farmington, Glastonbury, Marlborough, Rocky Hill, West Hartford, and Wethersfield.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Boston Regional Office, 84 State Street, Room 520, Boston, MA. 02109.

Antone G. Singsen III,

Vice President—Finance and Management.

[FR Doc. 80-2971 Filed 1-29-80; 8:45 am]

BILLING CODE 6820-35-M

Greater Boston Legal Services of Boston, Mass.; Grants and Contracts

January 25, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Greater Boston Legal Services of Boston, Mass., to serve the towns of Newton and Canton.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Boston Regional Office, 84 State Street, Room 520, Boston, Ma. 02109.

Antone G. Singsen III,

Vice President—Finance and Management.

[FR Doc. 80-2970 Filed 1-29-80; 8:45 am]

BILLING CODE 6820-35-M

Legal Services Corp. of Indiana, in Indianapolis; Grants and Contracts

January 25, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project . . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Services Organization of Indiana, Inc., in Indianapolis, Indiana, to serve Blackford, Clay, Crawford, Daviess, Dearborn, Dubois, Hamilton, Jay, Jefferson, Knox, Martin, Ohio, Parke, Putnam, Ripley, Sullivan, Switzerland, Vermillion and Washington Counties.

Interested persons are hereby invited to sumbit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Illinois 60604.

Antone G. Singsen III,

Vice President—Finance and Management.

[FR Doc. 80-2965 Filed 1-29-80 8:45 am]

BILLING CODE 6820-35-M

Legal Services Corp. of Iowa, in Des Moines Iowa; Grants and Contracts

January 25, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Services Corporation of Iowa in Des Moines, Iowa, to serve Adair, Adams, Audubon, Carroll, Clarke, Crawford, Decatur, Greene, Grundy, Guthrie, Hardin, Lucas, Ringgold, Sac, Shelby, Taylor, Union and Wayne Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Illinois 60604.

Antone G. Singsen III,

Vice President—Finance and Management.

[FR Doc. 80-2966 Filed 1-29-80 8:45 am]

BILLING CODE 6820-35-M

Legal Services for Cape Cod and Islands, Inc., of Hyannis, Mass.; Grants and Contracts

January 25, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Services for Cape Cod and Islands, Inc., of Hyannis, Mass., to serve the towns of Carver, Duxbury, Halifax, Hanson, Kingston, Lakeville, Marshfield, Marion, Middleborough, Pembroke, Plymouth, Plympton and Rochester.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Boston Regional Office, 84 State Street, Room 520, Boston, Mass. 02109.

Antone G. Singsen III,

Vice President—Finance and Management.

[FR Doc. 80-2962 Filed 1-29-80; 8:45 am]

BILLING CODE 6820-35-M

Merrimack Valley Legal Services of Lowell, Mass.; Grants and Contracts

January 25, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Merrimack Valley Legal Services of Lowell, Mass., to serve the towns of Burlington, North Reading, Reading and Wilmington.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Boston Regional Office, 84 State Street, Room 520, Boston, Mass. 02109.

Antone G. Singsen III,

Vice President—Finance and Management.

[FR Doc. 80-2963 Filed 1-29-80; 8:45 am]

BILLING CODE 6820-35-M

South Dakota Legal Services in Mission, S. Dak.; Grants and Contracts

January 25, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

South Dakota Legal Services in Mission, South Dakota, to serve Campbell, Corson, Haakon, Hughes, Jones, Potter, Stanley, Sully and Walworth Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Ill. 60604.

Antone G. Singsen III,

Vice President—Finance and Management.

[FR Doc. 80-2964 Filed 1-29-80; 8:45 am]

BILLING CODE 6820-35-M

South Middlesex Legal Services of Framingham, Mass.; Grants and Contracts

January 25, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

South Middlesex Legal Services of Framington, Mass., to serve the towns of Weston and Sharon.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Boston Regional Office, 84 State Street, Room 520, Boston, MA. 02109.

Antone G. Singsen III,

Vice President—Finance and Management.

[FR Doc. 80-2967 Filed 1-29-80; 8:45 am]

BILLING CODE 6820-35-M

Southeastern Massachusetts Legal Assistance Corp. of New Bedford, Mass.; Grants and Contracts

January 25, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Southeastern Massachusetts Legal Assistance Corporation of New Bedford, Mass., to serve the remaining unserved area of Bristol County and the towns of Abington, Hanover, Rockland and Whitman in Plymouth County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Boston Regional Office, 84 State Street, Room 520, Boston, MA. 02109.

Antone G. Singsen III,

Vice President—Finance and Management.

[FR Doc. 80-2969 Filed 1-29-80; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (80-6)]

NASA Advisory Council (NAC)

Aeronautics Advisory Committee (AAC); Meeting

A meeting of the Informal Subcommittee on Research of the NAC Aeronautics Advisory Committee will be held February 21–22, 1980 in Room 625, NASA Headquarters, 600 Independence Avenue, SW, Washington, DC 20546. The meeting will be open to the public up to the seating capacity of the room (about 40 persons

including committee members and participants).

The purpose of the Subcommittee on Research is to review the research components of NASA's aeronautics programs, particularly, the long range activities and plans. The Chairperson is Dr. Robert G. Loewy. There are 7 members on the Subcommittee. Following is the approved agenda for the meeting.

Agenda

February 21, 1980

8:30 a.m.—NASA Research Overview
9:30 a.m.—Center Overview:
- Langley Research Center
- Lewis Research Center
- Ames Research Center
- Dryden Flight Research Center

12:30 p.m.—Research Designee Reports
5:00 p.m.—Adjourn

February 22, 1980

8:30 a.m.—Discussion of Future Plans
11:00 a.m.—General Discussion
12:00 Noon—Adjourn

For further information, contact Mr. Ellis Whiting, Executive Secretary, (202/755–2488), NASA Headquarters, Code RT, Washington, DC 20546.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

January 21, 1980.

[FR Doc. 80-3000 Filed 1-29-80; 8:45 am]

BILLING CODE 7510-01-M

[Notice (80-9)]

NASA Advisory Council (NAC) Aeronautics Advisory Committee (AAC); Meeting

The Informal Subcommittee on Aerodynamics and Vehicle Systems of the NAC AAC will meet February 27–29, 1980, in Room 180, Building 1209 (Engineering Building), NASA Langley Research Center, Hampton, Virginia. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including the Subcommittee members and participants).

The Subcommittee was established to assist the NASA in identifying specific needs and objectives for improving aircraft aerodynamics and overall configurations, and to advise the NASA on the appropriateness and adequacy of its current and planned research and technology programs in this area. The Chairperson is Dr. Joseph J. Cornish. There are currently 14 Subcommittee members. Following is the approved agenda for the meeting:

Agenda

February 27, 1980

8:30 a.m.—Introductory Remarks
9:00 a.m.—NASA Presentation on Current and Planned Propulsion/Airframe Integration Programs
10:30 a.m.—Questions and Answers
11:00 a.m.—Presentation by Informal Ad Hoc Advisory Subcommittee on Propulsion/Airframe Integration
1:30 p.m.—Subcommittee Discussions of NASA Programs and Ad Hoc Subcommittee Conclusions and Recommendations
3:30 p.m.—NASA Presentation on Aerodynamics-Related Facilities Planning

February 28, 1980

8:00 a.m.–4:30 p.m.—Langley Research Center Presentations on Fundamental and Vehicle-Class Oriented Aerodynamics Research and Technology Programs

February 29, 1980

8:00 a.m.—Subcommittee Discussions Aerodynamics Programs, Preparation of Conclusions and Recommendations

February 29, 1980

11:30 a.m.—Adjourn

For further information contact Mr. Gerald G. Kayten, Executive Secretary of the Subcommittee, Code RJ, NASA Headquarters, Washington, DC 20546. Telephone 202/755–3227.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

January 23, 1980.

[FR Doc. 80-2804 Filed 1-29-80; 8:45 am]

BILLING CODE 7510-01-M

[Notice (80-7)]

NASA Advisory Council (NAC) Historical Advisory Committee; Meeting

The above named committee will meet from 8:45 a.m. to 4:00 p.m. February 22, 1980, at Ames Research Center, Moffett Field, California (bldg. 200, rm. 213). Except for the closed session (1:30 to 2:45 p.m.), the public will be admitted up to the seating capacity of the room, which is about 20 persons.

The committee will review NASA historical activities of the past nine months, status of projects, and possible future projects. The Ames history project will be discussed.

During the closed session, the committee will consider and make recommendations on candidates for undertaking various NASA historical activities. The committee will also recommend individuals to fill an anticipated vacancy on the committee. The personal and professional qualifications of the candidates, who are not members of the committee, will be candidly discussed and appraised. Public discussion of these matters would invade the privacy of the candidates and other individuals involved. Since this committee session will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that the session will be closed to the public.

For further information, call Monte D. Wright, (202) 755–3612.

Following is the approved agenda for the meeting.

22 February 1980

8:45 a.m.—Opening remarks.
8:55 a.m.—The history program since May 1979.
10:30 a.m.—Status of projects.
11:15 a.m.—Ames history project.
1:30 p.m.—Evaluation of current and potential authors. Recommendations for appointment to committee. Executive (closed) session.
2:45 p.m.—Preparation of committee report.
4:00 p.m.—Adjourn.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

January 21, 1980.

[FR Doc. 2862 Filed 1-29-80; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Meeting

The Twenty-Second meeting of the National Commission on Unemployment Compensation is scheduled to be held at the Hyatt Regency Nashville, Nashville, Tennessee. The meeting will begin at 9:00 A.M. on Thursday, February 28, and conclude at 5:30 P.M. on Sunday, March 2. The full agenda will be completed and published in the **Federal Register** at least two week prior to the meeting.

Telephone inquiries and communications concerning this meeting should be directed to: James M. Rosbrow, Executive Director, National Commission on Unemployment Compensation, 1815 Lynn Street, Room 440, Rosslyn, Virginia 22209, (703) 235–2782.

Signed at Washington, D.C. this 25th day of January, 1980.

James M. Rosbrow,

National Commission on Unemployment Compensation.

[FR Doc. 80-3104 Filed 1-29-80; 8:45 am]

BILLING CODE 4510-27-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittees on Emergency Core Cooling Systems and Reactor Fuels; Meeting

The ACRS Subcommittees on Emergency Core Cooling Systems and Reactor Fuels will hold a joint meeting on February 14, 1980 in Room 1046, 1717 H St., NW., Washington, DC 20555. Notice of this meeting was published January 22, 1980.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: *Thursday, February 14, 1980, 8:30 a.m. until the conclusion of business each day.*

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, Westinghouse, and other interested persons regarding: (1) proposed changes in the fuel clad rupture models for Appendix K to 10 CFR 50.54 and the effect of these changes on vendor evaluation models, (2) the effects of externally mounted thermocouples on LOFT fuel, (3) the results of the L3–1 Test, and (4) the analysis of small break LOCAs in Westinghouse UHI reactors.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463), that, should such sessions be required, it is necessary to close these sessions to protect proprietary information. See 5 U.S.C. 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Andrew L. Bates (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

Background information concerning items to be discussed at this meeting can be found in docments on file and available for public inspection at the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Dated: January 24, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-2778 Filed 1-29-80; 8:45 am]

BILLING CODE 7590-01-M

Study of NRC's Appellate System; Request for Public Comment

The Nuclear Regulatory Commission's Office of the General Counsel has prepared a study of the NRC's administrative appellate system. The study is entitled, "The Nuclear Regulatory Commission's Appellate System," NUREG–0648. The study is divided into five sections: (1) the history and capabilities of the present system; (2) a discussion of general administrative law including a study of the practices of a number of other agencies; (3) a statistical analysis of the Atomic Safety and Licensing Appeal Panel's workload (which draws upon data compiled by the Panel's staff); (4) a discussion and evaluation of the options available to the Commission; and (5) a conclusion which provides some recommendations for change.

The Commission wishes to receive comments on the study from interested members of the public before taking any further action. Any comments should be forwarded to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, by March 17, 1980.

A related study of the Commission's immediate effectiveness rule allowing nuclear power plant construction to begin after a favorable licensing decision but before completion of the Commission's appellate review has also been completed. This study is entitled "Report of the Advisory Committee on Construction During Adjudication," and is dated December 12, 1979. Interested persons might want to consider the options for change presented in this latter study in connection with their comments on the appellate system study.

Copies of both studies are available for public inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. Single copies of the studies may be obtained by written request addressed to: Director, Division of Technical Information and Document Control, Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Washington, D.C. this 23rd day of January 1980.

For the Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-2774 Filed 1-29-80; 8:45 am]

BILLING CODE 7590-01-M

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

Privacy Act of 1974; Systems of Records

AGENCY: President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research.

ACTION: Proposed Systems of Records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, Public Law 93–579, 5 U.S.C. 552a, the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, hereafter known as the Commission, hereby publishes for comment those systems of records subject to the Privacy Act of 1974 which are maintained by the Commission. Any person interested in commenting on the routine use portions of the system notices may do so by submitting comments in writing to the Executive Director of the Commission, 2000 K Street, N.W., Suite 555, Washington, D.C. Comments should be submitted on or before March 1, 1980. The Commission's procedures for access to records in the systems are contained in 1 CFR Part 482.

DATE: Comments are due on or before March 1, 1980. These systems will become effective on March 1, 1980 unless the Commission publishes notice to the contrary.

ADDRESS: Send comments to the Executive Director, President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, 2000 K Street, N.W., Suite 555, Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT:
Mary Ann Orlando, (202) 653–8051.

Signed this 22nd day of January 1980.

Barbara Mishkin,

Acting Director.

General Policy: It is the policy of the Commission to make records and documents in its possession available to the public to the greatest extent possible. All records of the Commission are available for public inspection and copying in accordance with this section except those records or portions of records as to which the Executive Director or his designee specifically determines that (1) they fall within a particular exemption in section 552(b) of the Freedom of Information Act; (2) disclosure would not be consistent with the national interest or the efficient conduct of Commission business; and (3) disclosure would violate individual rights as protected by the Privacy Act of 1974. The following recordkeeping procedures are proposed to implement the provisions of the Privacy Act as they affect Commission records.

SME-01

SYSTEM NAME:

Payroll records—President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research.

SYSTEM LOCATION:

General Services Administration, National Payroll Center; copies held by the Commission. (GSA holds records for the Commission.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and members of the Commission.

CATEGORIES OF RECORDS MAINTAINED IN THE SYSTEM:

Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records, requests for deductions; tax forms, W–2 forms, overtime requests; leave data; retirement records. Records are used by the Commission and GSA employees to maintain adequate payroll information for the Commission employees, and otherwise by the Commission and GSA employees who have a need for the record in the performance of their duties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. "Money and Finance," generally.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W–2, Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Executive Director, President's commision for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, 2000 K Street, N.W., Suite 555, Washington, D.C. 20006. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Executive Director.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and microfilm.

RETRIEVABILITY:

Social Security number.

SAFEGUARDS:

Stored in guarded building; released only to authorized personnel, including among others, GSA liaison staff and finance personnel; and the Commission administrative staff.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, 2000 K Street, N.W., Suite 555, Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Contact Executive Director or refer to the Commission access regulations contained in 1 CFR Part 482.

RECORD ACCESS PROCEDURES:

Contact Executive Director or refer to the Commission access regulations contained in 1 CFR Part 482.

CONTESTING RECORDS PROCEDURES:

Contact Executive Director or refer to the Commission access regulations contained in 1 CFR Part 482.

RECORD SOURCE CATEGORIES:

The subject individual; the Commission.

SME–02

SYSTEM NAME:

General Financial Records—President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research.

SYSTEM LOCATION:

General Services Administration, Central Office; copies held by the Commission. (GSA holds records for the Commission under contact.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Commission.

CATEGORIES OF RECORDS MAINTAINED IN THE SYSTEM:

SF–1038, Application and account for advance of funds; Vendor register and vendor payment tape. Information is used by accounting technicians to maintain adequate financial information and by other officers and employees of GSA and the Commission who have a need for the record in the performance of their duties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. "Money and Finance," generally.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Appendix. Records also are released to GAO for audits; to the IRS for investigation; and to private attorneys, pursuant to power of attorney.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and tape.

RETRIEVABILITY:

Manual and automated by name.

SAFEGUARDS:

Stored in guarded building; released only to authorized personnel, including among others, GSA liaison staff and finance personnel; and the Commission administrative staff.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, 2000 K Street, N.W., Suite 555, Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Contact Executive Director or refer to the Commission access regulations contained in 1 CFR Part 482.

RECORDS ACCESS PROCEDURES:

Contact Executive Director or refer to the Commission access regulations contained in 1 CFR Part 482.

CONTESTING RECORDS PROCEDURES:

Contact Executive Director or refer to the Commission access regulations contained in 1 CFR Part 482.

RECORD SOURCE CATEGORIES:

The subject individual; the Commission.

SME–03

SYSTEM NAME:

General Informal Personnel Files—President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research.

SYSTEM LOCATION:

President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The Commission members, staff and consultants, past and present.

CATEGORIES OF RECORDS MAINTAINED IN THE SYSTEM:

Biographic information; correspondence with members of the Commission.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S.C. "Government Organization and Employees," generally.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Appendix.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY:

Manual.

SAFEGUARDS:

Stored in lockable file cabinets, released only to authorized personnel, including among others, GSA liaison staff and the Commission administrative staff.

RETENTION AND DISPOSAL:

Retained until no longer needed, then discarded.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, 2000 K Street, N.W., Suite 555, Washington, D.C. 20006.

NOTIFICATION PROCEDURE:

Contact Executive Director or refer to the Commission access regulations contained in 1 CFR Part 482.

RECORD ACCESS PROCEDURES:

Contact Executive Director or refer to the Commission access regulations contained in 1 CFR Part 482.

CONTESTING RECORDS PROCEDURES:

Contact Executive Director or refer to the Commission access regulations contained in 1 CFR Part 482.

RECORD SOURCE CATEGORIES:

The subject individual; the Commission.

[FR Doc. 80–2882 Filed 1–29–80; 8:45 am]

BILLING CODE 6820–AV–M

SMALL BUSINESS ADMINISTRATION

[License No. 01/01–0299]

Boston Hambro Capital Co.; Issuance of License To Operate as a Small Business Investment Company

On March 16, 1979, a notice was published in the **Federal Register** (44 FR 16058) stating that Boston Hambro Capital Company, One Boston Place, Boston, Massachusetts 02106 had filed an Application with the Small Business Administration, pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102(1979)), for a license to operate as a small business investment company.

Interested parties were given until the close of business on April 2, 1979, to submit written comments on the Application to the SBA.

Notice is hereby given that no written comments were received, and having considered the Application and all other pertinent information, the SBA approved the issuance of License No. 01/01–0299 on January 4, 1980, to Boston Hambro Capital Company pursuant to Section 107.301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: January 24, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80–2883 Filed 1–29–80; 8:45 am]

BILLING CODE 8025–01–M

[License No. 06/06–0220]

Livingston Capital Ltd.; Issuance of License To Operate as a Small Business Investment Company

On June 27, 1979, a notice was published in the **Federal Register** (44 F.R. 37571) stating that an application had been filed by Livingston Capital Limited, 5701 Woodway, Suite 332, Houston, Texas 77057, with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 C.F.R. 107.102 (1979), for a license to operate as a limited partnership small business investment company (SBIC).

Interested parties were given until the close of business July 12, 1979, to submit their written comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, and after having considered the application and all other information, SBA issued License No. 06/06–0220, on January 7, 1980, to Livingston Capital Limited to operate as a limited partnership SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: January 24, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80–2884 Filed 1–29–80; 8:45 am].

BILLING CODE 8025–01–M

National Advisory Council; Public Meeting

The Small Business Administration National Advisory Council will hold a public meeting from 3:00 p.m., on Monday, February 25, 1980, to 5:00 p.m., on Wednesday, February 27, 1980, at the International Inn, Number 10 Thomas Circle, N.W., Washington, D.C. 20005, to discuss such business as may be presented be members, the staff on the Small Business Administration, and others attending.

For further information, call or write Michael B. Kraft, Deputy Advocate for Advisory Councils, U.S. Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20461—(202) 653–6748.

Dated: January 24, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80–2982 Filed 1–29–80; 8:45 am]

BILLING CODE 8025–01–M

Region V Advisory Council; Public Meeting

The Small Business Administration Region V Advisory Council, located in the geographical area of Madison, Wisconsin, will hold a public meeting from 9:30 a.m. until noon, Wednesday, March 12, 1980, in the Board Room of the First Wisconsin Bank of Mayfair, 2300 N. Mayfair Road, Wauwatosa, Wisconsin, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Lisa W. Perrin, Acting District Director, U.S. Small Business Administration, Madison District Office, Room 213, 212 East Washington Avenue, Madison, Wisconsin 53703—(608) 364–5268.

Dated: January 24, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80–2981 Filed 1–29–80; 8:45 am]

BILLING CODE 8025–01–M

[License No. 01/01–5301]

Mesbic Venture Capital of Connecticut, Inc.; Issuance of a License To Operate as a Small Business Investment Company

On September 28, 1979, a notice was published in the **Federal Register** (44 FR 190), stating that MESBIC Venture Capital of Connecticut, Inc., located at Hitchcock Corner, P.O. Box 816, 06426, has filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1979), for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business October 12, 1979, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 01/01–5301 to MESBIC Venture Capital of Connecticut, Inc., on January 10, 1980.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 24, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80–2923 Filed 1–29–80; 8:45 am]

BILLING CODE 8025–01–M

[Proposed License No. 05/05–5144]

Mutual Investment Co., Inc.; Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(b) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Mutual Investment Company, Inc. (MIC), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1979).

The officers, directors and principal stockholders of MIC are as follows:

Jack Najor, 3440 Lone Pine, W. Bloomfield, MI 48033; President, Gen. Manager, Director—100% Stockholder.
Richard Najor, 3440 Lone Pine, W. Bloomfield, MI 48033; Vice Pres., Director.
Raymond Najor, 27735 Cordoba Dr., Farmington Hills, MI 48018; Secretary, Director.
Robert Huhn, 31170 Lahser Road, Birmingham, MI 48008; Treasurer, Director.

MIC, a Michigan corporation, with its principal place of business located at 20101 James Couzens, Detroit, Michigan 48235, will begin operations with $602,000 of net combined paid-in capital and paid-in surplus derived from the sale of 602 shares of common stock to Jack Najor, President and Director, and Dorothy Najor, to hold said stock as joint tenants with full rights of survivorship. The Board of Directors of MIC are the same as set forth above.

MIC will conduct its activities primarily in the tri-county areas of Wayne County, Macomb County and Oakland County in the State of Michigan.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under this management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than February 14, 1980, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Detroit, Michigan.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 22, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80–2929 Filed 1–29–80; 8:45 am]

BILLING CODE 8025–01–M

[Proposal No. 10/10–0170]

Washington Trust Equity Corp.; Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration pursuant of § 107.102 of the SBA Regulations (13 CFR 107.102 (1979)), by Washington Trust Equity Corporation, Washington Trust Financial Center, West 707 Sprague Avenue, Spokane, Washington 99204 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et seq.*).

The proposed officers, directors and sole shareholder are:

Name and Address, Title and Relationship, and Percent of Ownership
Washington Trust Bank, P.O. Box 2127, Spokane, Washington 99210; Sole Stockholder— 100% Stockholder.
Thomas L. Perko, 1021 Comstock Court, Spokane, Washington 99203; Chairman of the Board, Director.
Alan Bradley, 3930 Chrystal Springs Drive, Bainbridge Island, Washington; President, Director, 98110.
Walker H. Collins, East 1415 Rockwood Boulevard, Spokane, Washington 99203; Secretary-Treasurer, Director.
Philip H. Stanton, East 1114 Christmas Tree Lane, Spokane, Washington 99203; Vice President, Director.
William K. Scammell, Jr., South 2058 Oneida Place, Spokane, Washington 99203; Vice President, Director.
John W. Pearce, South 2616 Madison, Spokane, Washington 99203; Vice President, Director.
Robert E. Brandon West 1314 20th Avenue, Spokane, Washington 99203; Director.

The Applicant proposes to begin operations with a capitalization $700,000 and will be a source of equity capital and long term loan funds for qualified small business concerns. The Applicant may render management consulting services to small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of the Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Spokane, Washington.

(Catalog of Federal Domestic Assistance Program 59.011, Small Business Investment Companies)

Dated: January 14, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80–2930 Filed 1–29–80; 8:45 am]

BILLING CODE 8025–01–M

[License No. 09/09–0184]

Grocers Capital Co., Inc.; Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Grocers Capital Company, Inc. (Grocers) 2601 S. Eastern Avenue, Los Angeles, California 90040, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration pursuant to § 107.1004 of the regulations governing small business investment companies (13 CFR 107.1004(1980)) for approval of a conflict of interest transaction.

Grocers proposes to loan $18,000 to Kaelin's Valley Center, Inc., d/b/a Kaelin's Valley Center (Valley), 1435 E. Main Street, El Cajon, California 92021. The proceeds of the loan will be used to purchase either capital goods or inventory from Grocers Equipment Company (G.E.C.).

All of Grocer's stock is owned by subsidiaries of Certified Grocers of California, Ltd. (Certified), a retail-owned grocery cooperative. G.E.C. a subsidiary of Certified, is a 41 percent shareholder of Grocers and is defined as an Associate of the Licensee by § 107.3 of the SBA Regulations. As a result, Grocers financing of Valley falls within the purview of § 107.1004(b)(5) of the SBA Regulations. In addition, Since 50 or more percent of the funds are to be used to purchase goods or services from an Associate of Grocers, the transaction also falls within the restrictions of § 107.1001(g) of the SBA Regulations. Grocers loan to Valley requires the prior written approval of SBA.

Notice is hereby given that any person may, not later than February 14, 1980, submit written comments to the Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W. Washington, D.C. 20416.

A copy of this Notice shall be published in newspapers of general circulation in the San Diego and Los Angeles Areas.

(Catalog of Federal Assistance Programs No. 95.011, Small Business Investment Companies)

Dated: January 24, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80–2938 Filed 1–29–80; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice 703]

State Department Peformance Review Board; Appointment of Members

In accordance with Section 4314(d)(1) through (5) of the Civil Service Reform Act of 1978 (Public Law 95–454), the Executive Resources Board of the Department of State has appointed the following persons to the State Department Performance Review Board Register, effective November 13, 1979:

Ronald D. Palmer, Deputy Assistant Secretary of Personnel, Bureau of Personnel
William I. Bacchus, Director, Office of Program Coordination, Bureau of Personnel
James R. Atwood, Deputy Legal Adviser, Office of the Legal Adviser
Mark B. Feldman, Deputy Legal Adviser, Office of the Legal Adviser
James B. Michel, Deputy Legal Adviser, Office of the Legal Adviser
Stephen M. Schwebel, Deputy Legal Adviser, Office of the Legal Adviser
William McAfee, Deputy Director for Coordination, Bureau of Intelligence and Research
Martin Packman, Deputy Director for Research, Bureau of Intelligence and Research
Carol Baumann, Deputy Director for Programming, Bureau of Intelligence and Research
Robert H. Baraz, Deputy Director, Office of Research and Analysis for the Soviet Union and Eastern Europe, Bureau of Intelligence and Research
Virginia Schafer, Deputy Assistant Secretary for Operations, Bureau of Administration
W. W. Francis, Deputy Assistant Secretary for Information Systems, Bureau of Administration
Robert B. Mantel, Director, Office of Security Assistance Special Projects, Bureau of Politico-Military Affairs
Charles J. Henkin, Deputy Director, Office of Disarmament and Arms Control, Bureau of Politico-Military Affairs
Wreatham E. Gathright, Member, Policy Planning Staff Jenonne Walker, Member, Policy Planning Staff
Ruth B. Phillips, Deputy Assistant Secretary, Bureau of Economic and Business Affairs
William A. Root, Director, Office of East-West Trade, Bureau of Economic and Business Affairs
Ralph C. Guzman, Deputy Assistant Secretary, Bureau of Inter-American Affairs
Sharon E. Ahmad, Deputy Assistant Secretary, Bureau of European Affairs
William D. Blair Jr., Deputy Assistant Secretary, Bureau of Public Affairs
Roger B. Feldman, Comptroller
Kelly C. Kammerer, Deputy General Counsel, Office of the General Counsel, Agency for International Development
Richard F. Weber, Director, Office of South American Affairs, Bureau of Latin America an the Caribbean, Agency for International Development

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Alfredo Perez, Washington Consultant, former President, Experiment in International Living

C. Payne Lucas, Executive Director, Africare

Members will serve for three years from the date of appointment unless circumstances such as status of employment warrant termination of membership by the State Department Executive Resources Board. Members will be drawn from the Performance Review Board Register to serve on Peformance Review Boards as necessary. Performance Review Boards will be responsible for making recommendations to the Director General of the Foreign Service and Director of Personnel relating to performance appraisal, awards and ranks, compensation, and adverse actions with respect to Department of State Members of the Senior Executive Service.

Dated: January 15, 1980.

Robert S. Gershenson,

Acting Director General of the Foreign Service and Director of Personnel.

[FR Doc. 80-3050 Filed 1-29-80; 8:45 am]

BILLING CODE 4710-15-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Disabilities Incurred by Conviction; Granting of Relief

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of Granting of Relief from Disabilities Incurred by Conviction.

SUMMARY: The persons named in this notice have been granted relief by the Director, Bureau of Alcohol, Tobacco and Firearms, from their disabilities imposed by Federal laws. As a result, these persons may lawfully acquire, transfer, receive, ship, and possess firearms if they are in compliance with applicable laws of the jurisdiction in which they live.

FOR FURTHER INFORMATION CONTACT: Special Agent in Charge Michael L. Hall, Firearms Enforcement Branch, Investigations Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20026, (202-566-7457).

SUPPLEMENTARY INFORMATION: In accordance with 18 U.S.C. 925(c), the persons named in this notice have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to the Director's satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

The following persons have been granted relief:

Bloom, Leo, 346 Nottingham Boulevard, West Palm Beach, Florida, convicted on March 6, 1973, in the United States District Court for the Eastern District of Pennsylvania.

Brown, Cleveland H., Route 3, Box 267B, Waynesboro, Virginia, convicted on June 19, 1970, in Circuit Court, August County, Virginia.

Brown, James R., RD #1, Ligonier, Pennsylvania, convicted on December 23, 1974, in the United States District Court for the Western District of Pennsylvania.

Brown, Robert G., Route 1, Box 646-A, Coden, Alabama, convicted on January 14, 1972, in United States District Court, Eastern District of Michigan, Southern Division.

Browning, Larry D., 29 Rosaria Road, Springfield, Illinois, convicted on October 21, 1970 and on January 17, 1972, in the Circuit Court of the 7th Judicial District, Sangamon County, Springfield, Illinois.

Buckowitz, Melvin D., 7-A Sage Court, Pikesville, Maryland, convicted on March 12, 1974, in United States District Court for the District of Maryland.

Burdick, Anson P., 2808 West Chandler Boulevard, Burbank, California, convicted on May 28, 1945, in State of New York County Court, Wyoming County.

Burgess, Thomas A., 4531 Lancaster, Hudsonville, Michigan, convicted on July 29, 1974, in the Circuit Court for the County of Kent, State of Michigan.

Burwell, Donna May, 696 Oakwood Terrace, Antioch, Tennessee, convicted on February 16, 1951, in the District Court of Wayandotte County, Kansas.

Butcher, Joseph N., Route 1, Box 149-AA, Traphill, North Carolina, convicted on November 7, 1967, in Federal District Court, Winston-Salem, North Carolina.

Caldwell, Theodore J. S., 2101 Cherry Avenue, Huntington, West Virginia, convicted on September 19, 1975, in United States Dirstrict Court, Charleston, West Virginia.

Cardwell, Ronald L., 4905 Columbus Avenue, S. Minneapolis, Minnesota, convicted on March 13, 1975, in the District Court for the 4th Judicial District, Minnesota.

Carpenter, Lonnie J., Jr., 4200 Danek, Crosby, Texas, convicted on May 17, 1976, in the 178th District Court of Harris County, Texas.

Clark, Clem M., 3604 Brenda Avenue, Birmingham, Alabama, convicted on January 15, 1974, in Circuit Court, Criminal Division, 10th Judicial District, Alabama.

Clemons, Fred A., Box 86, Baxter, Tennessee, convicted on December 17, 1971, in United States District Court for Middle District of Tennessee.

Coffin, Fred C., 431 South La Salle Street, Aurora, Illinois, convicted on February 7, 1973, in 7th Judicial Circuit Court, Sangamon County, Springfield, Illinois.

Coleman, Donald H., Route 1, Box 85, Moxee, Washington, convicted on July 16, 1952, in Superior Court of the State of Washington for Yakima County.

Cooper, James T., 428 Spaulding Road, Jacksonville, Florida, convicted in 1930 in United States District Court, Middle Judicial District of Florida; and in 1933 in Superior Court of Fulton County, Georgia.

Crain, Bobbie L., Box 73, Elk Mills, North Dakota, convicted on January 28, 1958, in Court of Common Pleas, New Castle County, Delaware.

Crema, David R., 5616 56th Avenue, Kenosha, Wisconsin, convicted on June 18, 1974, in Circuit Court, Kenosha County, Wisconsin.

DeFrancisco, Caesar, 164 W. Bruceton, Pittsburgh, Pennsylvania, convicted on April 16, 1962, and on November 5, 1969, in Allegheny County Pennsylvania Criminal Court.

Deihl, Walter W., 420 Valley Road, Twin Terrace, Bloomsburg, Pennsylvania, convicted on June 18, 1947, in Maryland Criminal Court, Baltimore; and on April 24, 1961, in Pennsylvania State Court.

DeJean, Ricky C., 425 West D'Amour, Chalmette, Louisiana, convicted on September 13, 1976, in the 25th Judicial District Court of Louisiana.

DeMars, Steven H., 4160 Libuse Drive, Baton Rouge, Louisiana, convicted on February, 2, 1973, in the 19th Judicial District Court, Parish of East Baton Rouge, Louisiana.

Driver, Robert E., Lot 1, Benbrook, RFD 3, Nashville, North Carolina, convicted on January 27, 1976, in Superior Court, Nash County, Nashville, North Carolina.

Dutton, Willis D., 1105 Garfield Avenue, Venice, California, convicted on April 11, 1957, in Los Angeles County Superior Court, Los Angeles, California.

Edwards, Howard E., 212 East 5th Street, Ogallala, Nebraska, convicted on March 7, 1974, in Keith County District Court, Keith County, Nebraska.

Edwards, Robert A., 917 South Empire Boulevard, Coos Bay, Oregon, convicted on October 14, 1969, in Circuit Court of Coos County, Coquille, Oregon.

Ellis, Earl R., 333 Briscoe Road, Chubbuck, Idaho, convicted on December 3, 1962, in United States District Court, Eastern District, Ohio.

Elwood, Clayton C., 2255 Orobangor Highway, Cabin G, Oroville, California, convicted on March 14, 1974, in Modoc County Superior Court, California.

Fine, Colbert C., 949 Buena Capri, Fallbrook, California, convicted on June 13, 1961, Los Angeles County Superior Court, Los Angeles, California.

Fisher, Arthur L., Sr., 1814 Pringle Street, Jackson, Mississippi, convicted on August 7, 1959, in 4th Judicial Circuit Court for the County of Jackson, Michigan.

Foley, Glenn E., Route 2, Box 166A, Ferrum, Virginia, convicted on May 5, 1975, in United States District Court for the Western Judicial District of Virginia.

Foster, Donald R., 520 E. Staat Street, Fortville, Indiana, convicted on April 17, 1970, in Orange County Superior Court, California.

Fouts, Edward E., 318 W. South Mountain Avenue, Phoenix, Arizona, convicted on

March 3, 1945, in Superior Court of the State of Arizona, County of Pima.

Fraley, Richard F., 223 East J Street, Shelton, Washington, convicted on September 8, 1966, in Superior Court of the State of Washington for Thurston County; and on June 16, 1971, in the Circuit Court of the State of Oregon for Douglas County.

Fresh, Russell T., Jr., 76 Christaur Street, Harahan, Louisiana, convicted on October 16, 1973, in the 1st Parish Court, Jefferson Parish, Louisiana.

Friday, Kevin L., 1008 North 4th Street, Yakima, Washington, convicted on April 19, 1976, in the United States District Court for the Eastern District of Washington.

Frye, Joseph E., 612 South "T", Muskogee, Oklahoma, convicted on July 9, 1971, in District Court in and for Cherokee County, State of Oklahoma.

Funderburk, James E., P.O. Box 171, Warm Springs, Georgia, convicted on February 26, 1975, in Superior Court, Meriwether County, Georgia.

Galizia, Nicholas, Box 281, Oneida, New York, convicted on February 28, 1977, in the United States District Court, Northern District, New York.

Glassford, Frederick J., 8355 Rickie Drive, Westland, Michigan convicted on June 21, 1971, in Van Buren County Circuit Court, Paw Paw, Michigan.

Goodwin, Richard Q., Route 5, Box 479, Gaffney, South Carolina, convicted on March 17, 1969, in United States District Court, Western District of North Carolina.

Gray, Frederick C., Jr., RFD #1, Box 261A, Charlestown, New Hampshire, convicted on February 11, 1974, in Vermont District Court, Windhum Circuit, Brattleboro, Vermont.

Griffin, Edward N., Route 4, Box 270, Breeze Hill Farm, Danville, Virginia, convicted on May 24, 1973, in the General Court of Justice, Superior Court Division, County of Caswell, State of North Carolina, Yanceyville, North Carolina.

Haas, Gerald K., 716 Ashbourne Avenue, Lancaster, Pennsylvania convicted on September 22, 1967, in Lancaster County Court, Lancaster County, Pennsylvania.

Halt, Fred T., 2445 Robinhood Place, Orange, California, convicted on December 30, 1965, in Superior Court in and for the County of Sacramento, State of California, Department Two, Sacramento, California.

Hanson, Craig F., 6301 Colony Way, Edina, Minnesota, convicted on December 21, 1977, in United States District Court for the Southern District of New York.

Harris, Gainer, 6147 Lansdowne Avenue, Philadelphia, Pennsylvania, convicted on or about February 24, 1933, in Court of Common Pleas, Philadelphia, Pennsylvania.

Harvey, William M., Sr., 1604 Batchelor Street, West Columbia, South Carolina, convicted on October 8, 1975, in the United States District Court, District of South Carolina, Columbia Division.

Hawkins, Timothy E., 3713 East Spann Avenue, Indianapolis, Indiana, convicted on May 12, 1975, in Shelby County Superior Court, Indiana.

Hellmeyer, Herman R., E. Ralston, R.R. #5, Lot #1, Centralia, Illionis, convicted on October 8, 1962, in Marion County Circuit Court, Salem, Illinois.

Hoover, David L., Route 3, Box 171, Dayton, Virginia, convicted on July 16, 1968, in Circuit Court of Rockingham County, Harrisonburg, Virginia.

Hudson, Billy W., route 1, Box 11C, Gladstone, Virginia, convicted on September 5, 1969, in Circuit Court, Appomattox County, Virginia.

Iverson, Lenard C., Route 3, Box 131, Black River Falls, Wisconsin, convicted on April 28, 1972, in United States District Court, Madison, Wisconsin; and on May 31, 1977, in United States District Court for the Western District of Wisconsin.

Jamsgard, Richard V., 17205 3rd Avenue, NE., Seattle, Washington, convicted on December 3, 1973, in Superior Court of the State of Washington, County of King.

Jones, Vernon L., Route 3, Box 48W, Ridgeville, South Carolina, convicted on February 19, 1974, in Court of General Sessions, Dorchester County, South Carolina.

Jordan, Michael D., 1106 Lakeview Boulevard, East, Seattle, Washington, convicted on August 3, 1977, in United States District Court, Western Judicial District of Washington, Seattle, Washington.

Jordan, Walter, General Delivery, Garrard, Kentucky, convicted on November 9, 1959, in United States District Court for the Eastern District of Kentucky.

Jurras, Stephen A., 6 Bluebird Drive, Colchester, Vermont, convicted on April 30, 1962, in Barre Municipal Court, State of Vermont, Washington County; on September 25, 1962, in Washington County Superior Court, State of Vermont; on January 30, 1963, in Chittenden County Superior Court, State of Vermont; on January 17, 1966, in Federal District Court, Houston, Texas; on November 3, 1969, in District Court of Vermont, Orange Circuit; and on December 15, 1969, in District Court of Vermont, Washington Circuit.

Kaye, Cabet, 120 Hillview Drive, Sullivan, Wisconsin, convicted on July 14, 1935, in Milwaukee County Court, Milwaukee, Wisconsin.

Kerr, James L., 1823 Opolika Road, Auburn, Alabama, convicted on August 23, 1962, in United States District Court for the Middle District of Alabama; and on June 8, 1966, in Circuit Court, Criminal Division, Lee County, Alabama.

Kirk, Dale W., 401 South Kentucky, Space 72, E. Wenatchee, Washington, convicted on April 30, 1975, in Butte County Superior Court, Butte County, California.

Kosko, Robert M., 1417 Mifflin Street, Homestead, Pennsylvania, convicted on August 28, 1967, in Northhampton County Criminal Court, Easton, Pennsylvania.

Kozfkay, Lawrence J., 1940 Lakeville Road, Oxford, Michigan, convicted on April 18, 1975, in Circuit Court for the County of Huron, Michigan.

Kunkel, Don C., 6306 E. Scaroscan, SE., Lacy, Washington, convicted on April 28, 1973, in the Superior Court of the State of Washington for the County of Cowlitz, Kelso, Washington.

Ladner, Garvis J., Route 2, Box 235-X, Gulfport, Mississippi, convicted on December 12, 1972, in United States District Court for the Southern District of Mississippi, Southern Division.

Landry, Gerald F., 2901 Hawthorne Street, Stuart, Florida, convicted on September 8, 1970, in Florida State Court, Stuart, Martin County, Florida.

Latraille, Robert F., 121 Eastern, Grafton, North Dakota, convicted on January 6, 1976, in United States District Court, 2nd Judicial District, Walsh County, North Dakota.

Leonard, Sammy L., 529 Alfa Drive, Frankfort, Kentucky, convicted on June 10, 1966, in Jefferson County Circuit Court, Kentucky.

Lockman, Charles B., Route 5, 5 Pinto Lane, Montgomery, Alabama, convicted on March 2, 1976, in United States District Court for the Middle District of Alabama.

Loehr, James M., Route 1, Box 144, Slaughters, Kentucky, convicted on March 22, 1976, in United States District Court for the Western District of Kentucky.

Lowe, Alfred A., 43 East 49th Place, North, Tulsa, Oklahoma, convicted on June 15, 1971, in United States District Court, Central District of California, Los Angeles, California.

Lowman, Larry L., Route 4, Dawsonville, Georgia, convicted on June 11, 1974, in Superior Court, Fulton County, Georgia.

Luiten, Jeffrey J., East 12509 Main Street, Spokane, Washington, convicted on or before November 23, 1976, in the Superior Court of the State of Washington for Lincoln County.

Lyon, Steven G., Sr., Route 2, Box 389, Wilkesboro, North Carolina, convicted on May 9, 1939, in United States District Court, Winston-Salem, North Carolina; and on July 20, 1940, in United States District Court, Wilkesboro, North Carolina.

Maleti, Salvatore J., 126 Burton Drive, Santa Cruz, California, convicted on January 12, 1965, in Superior Court, County of Santa Clara, California.

Malone, Kenneth J., P.O. Box 1511, Forks, Washington, convicted on May 9, 1975, in Superior Court, Pacific County, Washington.

Marko, Robert, Jr., Route 2, Bishop Road, Elk Mound, Wisconsin, convicted on December 4, 1975, in County Court, Eau Clair County, Wisconsin.

Masteron, James L., S. 2805 Inland Empire Way, Spokane, Washington, convicted on April 13, 1972, in District Court, 14th Judicial District, Wheatland County, Montana.

McKeever, Robert P., 4517 Woodland, Apt. 4, West Des Moines, Iowa, convicted on January 4, 1962, in the District Court of Iowa in and for Polk County, Iowa.

Meyer, Raymond J., 17816 East 6th Avenue, Greenacres, Washington, convicted on May 23, 1975, in Spokane County Superior Court, Spokane, Washington.

Miller, Willaim G., III, Route 1, Box 98-C, Leesburg, Virginia, convicted on June 26, 1972, in Circuit Court, Loudon County, Virginia.

Montgomery, James K., Jr., 984 Wrens Roost Circle, Memphis, Tennessee, convicted on July 23, 1976, in United States District Court for the Western District of Tennessee.

Moore, Nathaniel A., 26920 Penn, Inkster, Michigan, convicted on December 17, 1963, in United States District Court, Eastern District of Michigan.

Morawski, Joseph A., Route 1, Box 297-A, Morrisville, North Carolina, conviced on May 3, 1973, in Wake County Superior Court, Raleigh, North Carolina.

Murphy, William T., 200 Armour Drive, Apt. 120, Houma, Louisiana, convicted on

June 11, 1975, in United States District Court, Eastern District of Louisiana, New Orleans, Louisiana.

Nail, Jerry E., 2804 Noble Street, Anniston, Alabama, convicted on August 20, 1962, in Circuit Court, Calhoun County, Alabama.

Nichols, Stephen J., P.O. Box 555, Vernon, Alabama, convicted on March 18, 1975, in Circuit Court, Lamar County, Alabama.

Oritz, Victor R., 3508 Seminary Road, Oakland, California, convicted on February 23, 1972, in Superior Court, State of Wisconsin.

Osgood, Robert L., 3413 53rd Avenue, North, Apartment 106, Brooklyn Center, Minnesota, convicted on February 5, 1975, in Anoka County District Court, 10th Judicial District, State of Minnesota.

Owens, John R., 146 Moonlight Terrace, San Antonio, Texas, convicted on May 23, 1975, in 104th Judicial District Court, Dallas County, Texas.

Packard, Kenny A., 4–5 Murray Place, Elma, Washington, convicted on August 22, 1975, in Superior Court of Washington County of Grays Harbor, Montesano, Washington.

Parker, William C., Jr., 1424 Richmond, Houston, Texas, convicted on September 10, 1976, in 176th District Court, Harris County, Houston, Texas.

Patterson, Aaron L., Perryville, Kentucky, convicted on January 3, 1933, on April 18, 1940, on April 12, 1943, in Boyle County Circuit Court, Danville, Kentucky; on January 25, 1952, in Franklin County Circuit Court, Frankfort, Kentucky; and on February 9, 1955, in Mercer County Circuit Court, Harrodsburg, Kentucky.

Pavy, Wayne D., Route 2, Box 473, Parma, Missouri, convicted on November 24, 1969, in Dunklin County Circuit Court, Kennett, Missouri.

Pfeffer, Randy, 17630 Evan Fall Avenue, Box 335, Farmington, Minnestoa, convicted on September 19, 1973, and on August 13, 1975, in First Judicial District Court, Dakota County, Hastings, Minnesota.

Pipes, George H., 5917 East 45th Street, Indianapolis, Indiana, convicted on or about June 30, 1960, in Marion County, Indiana.

Porter, Robert W., 2717 Westside Drive, Pasadena, Texas, convicted on January 9, 1975, in District Court, Harris County, Texas.

Quackenbush, Thomas W., 825 E. 58th Street, Tacoma, Washington, convicted on November 17, 1961, in Superior Court of the State of Washington.

Rinier, Jack L., R.D. #1, Box 219, Bainbridge, Pennsylvania, convicted on January 8, 1965, in Court of Quarter Sessions, Criminal Division, Lancaster County, Pennsylvania.

Robinson, Donald E., 1607 Macon Road, Savannah, Tennessee, convicted on September 23, 1970, in Hardin County Circuit Court, Hardin County, Tennessee.

Rogers, Robert A., 5913 N. Michigan Place, Gladstone, Missouri, convicted on June 27, 1975, in Circuit Court of Platte County, Missouri.

Sandage, Larry E., 73 Lilac Lane, Springfield, Illinois, convicted on February 2, 1961, and on April 10, 1964, in Circuit Court of Montgomery County, Hillsboro, Illinois; and on March 20, 1969, in Circuit Court of Macoupin County, Carlinville, Illinois.

Saunders, Darrel W., 6425 93rd Street, Tacoma, Washington, convicted on Febraury 7, 1962, in United States District Court, Portland, Oregon.

Schmidt, Terry L., 119 Marion Street, Leavenworth, Kansas, convicted on December 5, 1977, in United States District Court for the District of Kansas.

Schroder, Jerry W., Route 1, Box 546, Ranier, Washington, convicted on May 5, 1975, in District Court of the Fourth Judicial District, Idaho.

Scott, William R., Pike Street, Sadieville, Kentucky, convicted on April 4, 1974, Scott County Circuit Court, Kentucky.

Severns, Kenneth R., 962 W. Mathews Road, French Camp, Georgia, convicted on June 5, 1967, in Superior Court, San Joaquin County, California.

Shackelford, James M., 1000 N. Hollywood Drive, Middlesboro, Kentucky, convicted on February 27, 1976, in United States District Court for the Eastern District of Kentucky.

Simmoneaux, Leroy H., 3009 Huntsville Avenue, Kennes, Louisiana, convicted on November 30, 1943, in Superior Court, Judicial Township #2, El Centro, California.

Simon, David M., 5991 Caminito Yucatan, San Diego, California, convicted on October 25, 1976, in Superior Court of California, County of San Diego.

Smith, Kinneth E., 514 West 12th, Coffeyville, Kansas, convicted on October 13, 1976, in District Court, Montgomery County, Kansas.

Solvie Adolph L., 216 S. Michigan, Conrad, Montana, convicted on November 28, 1967, in District Court of the 18th Judicial District for the State of Montana.

Spencer, Arnel C., Rural Route #1, Oakwood, Illinois, convicted on July 28, 1958, in United States District Court, Eastern District of Illinois.

Staebell, Michael C., 13900 Albrook Drive, Apt. 702, Denver, Colorado, convicted on March 11, 1977, in United States District Court, Madison, Wisconsin.

Stephenson, William C., Route 5 Box 542–A, Dunn, North Carolina, convicted on February 19, 1974, in United States District Court, Northern District of Alabama, Birmingham, Alabama.

Stoddart, Glen M., 2472 Oak Trail, Idaho Falls, Idaho, convicted on June 3, 1977, in United States District Court, Central District of Utah.

Sult, David H., 78 Monroe Street, Wilkes Barre, Pennsylvania, convicted on September 4, 1975, in Court of Common Pleas, County of Luzerne, Pennsylvania.

Sylvester, Cherryl L., 2921 Aberdeen Avenue, Hoquiam, Washington, convicted on April 12, 1976, in Superior Court, Judicial Township #2, El Centro, California.

Teschendorf, Lee R., 2612 Stevens Street, Madison, Wisconsin, convicted on September 14, 1971, in United States District for the Western District of Texas in El Paso, Texas, and on November 20, 1972, in United States District Court for the District of Arizona in Phoenix, Arizona.

Thompson, Keith M., 2285 F Street, Springfield, Oregon, convicted on April 9, 1970, in Circuit Court, State of Oregon, Lane County.

Titus, Daniel, 119 Morlyn Avenue, Bryn-Mawr, Pennsylvania, convicted on October 10, 1961, in the Court of Quarter Sessions of the Peace of the County of Philadelphia, Commonwealth of Pennsylvania.

Toft, Kent S., R.R. #1, New Richmond, Minnesota, convicted on August 8, 1977, in District Court, Third Judicial District, County of Waseca, Wisconsin.

Traylor, Jack G., Magnolia Oaks Apartments, 1205 Dubarry Street, Gautier, Mississippi, convicted on July 17, 1954, in the 4th Judicial District Court, Parish of Morehouse, State of Louisiana; on October 28, 1957, in the 4th Judicial District Court Parish of Ouachita, State of Louisiana, and on December 4, 1974, in City Court, City of Pascagoula, State of Mississippi.

Voorhees, Michael G., 8 Martin Drive, Umatilla, Oregon, convicted on February 16, 1970, in the Circuit Court of the State of Oregon for Umatilla County at Pendleton, Oregon.

Waddell, Thomas W., 3606 Sheffield Road, Springfield, Illinois, convicted on July 6, 1973, in United States District Court for the Southern District of Illinois, Southern Division.

Wagner, Jerome R., 127 Guilford Avenue, Sheboygan Falls, Wisconsin, convicted on September 8, 1976, in County Court, Branch #2 Court, Sheboygan County, Wisconsin.

Wallen, Edward D., Jr., 1005 N. Penn Street, Aberdeen, South Dakota, convicted on February 21, 1966, in Circuit Court of South Dakota for the Fifth Judicial Circuit.

Weinand, Dennis R., 19016 Rockport, Roseville, Michigan, convicted on May 26, 1966, in Circuit Court, Macomb County, Michigan.

Whipple, Donald E., General Delivery, Kootenai, Idaho, convicted on October 13, 1967, and April 5, 1974, in Stevens County, Washington Superior Court.

White, Cornelius B., Route 2, Box 580, Montross, Virginia, convicted on July 7, 1975, in the Circuit Court of Westmoreland County, Commonwealth of Virginia.

Wilcox, David E., 1825 S. Moorland Road, New Berlin, Wisconsin, convicted on May 13, 1958, in Municipal Court, Waukesha County, Wisconsin.

Wilcox, Glenn F., Greenwood Trailer Park #5, Whitefish, Montana, convicted on February 3, 1976, in District Court for Flathead County, Montana.

Wile, Harry L., Fir Street, Mon Alto, Pennsylvania, convicted on April 7, 1961, and on October 25, 1963, in Court of Quarter Sessions, Franklin County, Chambersburg, Pennsylvania.

Williams, Lawrence, White Star Section, Dayhoit, Kentucky, convicted on April 6, 1965, in United States District Court, London, Kentucky.

Williams, William M., Route 3, Box 435, North Wilkesboro, North Carolina, convicted on November 20, 1951, and on May 20, 1960, in United States District Court, Wilkesboro, North Carolina; and on October 7, 1965, in United States District Court, Charlotte, North Carolina.

Wilson, Price, 627 N. Cedar Street, Salisbury, North Carolina; convicted on November 19, 1974, in United States District Court, Middle District of North Carolina.

Wittbrodt, Arthur J., 253 N. Jackson, Bay City, Michigan, convicted on July 23, 1977, in Circuit Court for the County of Bay, Michigan.

Wright, Don C. 6240 East 116th Street, Tulsa, Oklahoma, convicted on May 8, 1959, in District Court of Tulsa County, Oklahoma.

Wyatt, Terry N. 2120 16th Street, Rock Island, Illinois, convicted on or about May 11, 1956, in Circuit Court, Madison County, Michigan; and on or about May 31, 1961, in District Court, Denver County, Colorado.

Compliance With Executive Order 12044

This notice of granting of relief does not meet the Department's criteria for significant regulations as set forth in the Federal Register of November 8, 1978.

Signed: January 17, 1980.

G. R. Dickerson,

Director.

[FR Doc. 80-2885 Filed 1-29-80; 8:45 am]

BILLING CODE 4810-31-M

Customs Service

[062391/521265]

Receipt of American Manufacturer's Petition Requesting the Reclassification of Footwear Known as Moon Boots

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of Receipt of American manufacturer's petition.

SUMMARY: The Customs Service has received a petition from an American manufacturer of waterproof footwear requesting that importations of certain footwear known as moon boots be reclassified as other footwear which is over 50 percent by weight of rubber or plastics under item 700.60, Tariff Schedules of the United States (TSUS), or, in the alternative, as other protective footwear under item 700.53, TSUS. It is currently the position of Customs that the particular moon boots in question, as well as footwear of the same class or kind, are classifiable as other footwear which is over 50 percent by weight of rubber or plastics and having uppers of which over 90 percent of the exterior surface area is rubber or plastics under item 700.58, TSUS.

DATES: Interested parties may comment on this petition. Comments (preferably in triplicate) must be received on or before March 31, 1980.

ADDRESS: Comments should be addressed ot the Commissioner of Customs, Attention: Regulations and Research Division, Room 2335, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Donald F. Cahill, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202–566–8181).

SUPPLEMENTARY INFORMATION:

Background

A petition has been filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), by an American manufacturer of waterproof footwear requesting that importations of certain footwear known as moon boots be reclassified under the provision for other footwear which is over 50 percent by weight of rubber or plastics (except footwear having uppers of which over 50 percent of the exterior surface area is leather) in item 700.60, Tariff Schedules of the United States (TSUS), dutiable at the rate of 20 percent ad valorem and subject to an American selling price (ASP) basis of valuation. Headnote 3(b), Schedule 7, Subpart 1A, TSUS. In the alternative, the petition argues for reclassification under the provision for other protective footwear which is over 50 percent by weight of rubber or plastics and having soles and uppers of which over 90 percent of the exterior surface area is rubber or plastics (except footwear with uppers of nonmolded construction formed by sewing the parts thereof together and having exposed on the outer surface a substantial portion of functional stitching) in item 700.53, TSUS, dutiable at the rate of 37.5 percent ad valorem. In Headquarters letter dated September 14, 1979, file No. 062391, the Customs Service held that moon boots of the kind in question were classifiable under the provision for other footwear which is over 50 percent by weight of rubber or plastics and having uppers of which over 90 percent of the exterior surface area is rubber or plastics (except footwear having uppers of which over 50 percent of the exterior surface area is leather or footwear having foxing or a foxing-like band applied or molded at the sole and overlapping the upper) in item 700.58, TSUS, dutiable at the rate of 6 percent ad valorem.

According to the American manufacturer's petition, the imported moon boot, which extends above the ankle and is designed to be worn over, or in lieu of, other footwear as a protection against water, cold, or inclement weather, is over 50 percent by weight of rubber or plastics, has soles and uppers of which over 90 percent of the exterior surface area is rubber or plastics, and has a pre-molded rubber/plastic shell bottom the sides of which extend upward from the bottom of the boot to above the insole of the boot. The sides of the pre-molded shell bottom are sewn to, and overlap by approximately ¼ inch, the polyurethane top portion of the boot. Further, the petition states that the polyurethane portion of the boot is lined with material other than polyvinyl chloride.

The basic issue is whether the subject moon boot has a foxing or foxing-like band applied or molded at the sole which overlaps the upper and which would preclude classification under item 700.58, TSUS.

The petitioner argues that the effect of Customs letter of September 14, 1979, is to rule that in order to constitute foxing or foxing-like band, the overlapping must occur at the insole. The petitioner insists that the statute does not require that overlapping of the upper occur at the insole.

It is pertinent to note that the portion of the pre-molded shall, i.e., that portion beginning just below the insole and extending upward about four inches, forms part of the upper of the boot inasmuch as the upper is defined as that part of the boot beginning just below the insole. The insole is that part which lies on the inside of the boot, directly beneath the foot. The overlapping occurs, therefore, several inches above the insole, i.e., on the upper of the boot.

Since the upper consists of both molded and nonmolded material, therefore, the petitioner argues, in the alternative, that the moon boot is not precluded from classification under the provision for other protective footwear in item 700.53, TSUS. The petitioner asserts that in order to be excluded from classification under item 700.53, TSUS, the entire upper, and not simply a part of the upper, must be of nonmolded construction. In view of the fact that a portion of the premolded shell of the boot forms part of the upper, petitioner concludes that classification under item 700.53, TSUS, is proper and that such classification would preclude Customs classification under item 700.58, TSUS.

Comments

Pursuant to § 175.21(a) of the Customs Regulations (19 CFR 175.21(a)), the Customs Service invites written comments on this petition from all interested parties.

The American manufacturer's petition, as well as all comments received in response to this notice, will be available for public inspection in accordance with sections 103.8(b) and § 175.21(b), Customs Regulations (19 CFR 103.8(b), § 175.21(b)), during regular business hours at the Regulations and Research Division, Headquarters, U.S. Customs Service, Room 2335, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Authority

This notice is published in accordance with § 175.21(a) of the Customs Regulations (19 CFR 175.21(a)).

Dated: January 24, 1980.

Donald W. Lewis,

Director, Office of Regulations and Rulings.

[FR Doc. 80-3304 Filed 1-29-80; 8:45 am]

BILLING CODE 4810-22-M

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Most-Favored-Nation Status for China

On Friday, February 1, 1980, the United States and the People's Republic of China will exchange notifications, pursuant to Article X of the Agreement on Trade Relations Between the United States of American and the People's Republic of China (the Agreement), that each has completed the legal procedures necessary for implementation of the agreement. Therefore, pursuant to Proclamation 4697 of October 23, 1979, the provisions of the Agreement, including the extention of non-discriminatory treatment to the products of the People's Republic of China, will be effective on February 1, 1980. Section 2 of Proclamation 4697, amending General Headnote 3(f) of the Tariff Schedules of the United States by deleting therefrom "China (any part of which may be under Communist domination or control)" and "Tibet" will be effective on February 1, 1980.

Robert C. Cassidy, Jr.,

General Counsel.

[FR Doc. 80-3345 Filed 1-29-80; 12:08 pm]

BILLING CODE 3190-01-M

Sunshine Act Meetings

Federal Register

Vol. 45, No. 21

Wednesday, January 30, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

[M-266 Amdt. 7]

CIVIL AERONAUTICS BOARD. Notice of change of status of item 4 from open to closed.

TIME AND DATE: 10:30 a.m., January 24, 1980.

PLACE: Room 1027 (open); room 1011 (closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 4. U.S. interior point-London normal economy fare (NEF) increases proposed by British Airways (memo No. 9430, BIA).

STATUS: Open (items 1–19); Closed (items 1a, 4, 20–23).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

SUPPLEMENTARY INFORMATION: Item 4 is being changed from open to a closed status because it was determined that it should be discussed in conjunction with Item 22, International fare increases proposed by Pan American, Braniff and TWA, which is being taken up at the closed portion of today's agenda. Negotiations may be affected by the resolution of these items. Public disclosure, particularly to foreign governments of opinions, evaluations, and strategies discussed could seriously compromise the ability of the United States Government to achieve understanding in future rate negotiations which would be in the best interests of the United States. Accordingly, the following Members have voted that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate future action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9) and 14 CFR section 310b.5(9)(B) and that today's discussion of this item should be closed:

Chairman Marvin S. Cohen.
Member Richard J. O'Melia.
Member Elizabeth E. Bailey.
Member Gloria Schaffer.

Persons Expected to Attend

Board Members: Chairman Marvin S. Cohen, Member Richard J. O'Melia, Member Elizabeth E. Bailey, and Member Gloria Schaffer.
Assistants to Board Members: Mr. David Kirstein, Mr. James L. Deegan, Mr. Daniel M. Kasper, and Mr. Stephen H. Lachter.
Managing Director: Mr. Cressworth Lander.
Executive Assistant to the Managing Director: Mr. John R. Hancock.
Bureau of International Aviation: Mr. Sanford Rederer, Mr. Douglas V. Leister, Mr. Ivars V. Mellups, Mr. Vance Fort, Mr. James S. Horneman, Mr. John H. Kiser, Ms. Carolyn K. Coldren, Mr. Francis S. Murphy, Mr. Joseph Di Bella, Jr., and Mr. Herbert P. Aswall.
Office of the General Counsel: Ms. Marvy McInnis Schuman, Mr. Peter B. Schwarzkopf, and Mr. Micahel Schopf.
Bureau of Domestic Aviation: Mr. Mark S. Kahan, Mr. Albert Halprin, Mr. Robert I. Stein, and Mr. Julien R. Schrenk.
Office of Economic Analysis: Mr. Robert H. Frank, Mr. Robert Preece, and Mr. David Sibley.
Bureau of Consumer Protection: Mr. Reuben B. Robertson and Mr. John T. Golden.
Office of the Secretary: Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9) and 14 CFR Section 310b.5(9)(B) and that the meeting may be closed to public observation:

Glen M. Bendixsen,

Acting General Counsel.

[S-183-80 Filed 1-28-80; 3:19 pm]

BILLING CODE 6325-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, February 8, 1980.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S-181-80 Filed 1-28-80; 1:22 pm]

BILLING CODE 6351-01-M

3

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: S-12-80 filed January 3, 1980; 11 a.m.

DATE AND TIME: February 7, 1980, 9:30–3:30.

PLACE: Room 823, National Institute of Education, 1200 19th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Approve November 30, 1979 Minutes (9:30 a.m.–9:35 a.m.).
2. Director's Report (9:35 a.m.–10 a.m.).
3. Authorization Legislation for NIE (10 a.m.–10:30 a.m.).
4. Budget—Fiscal Year 1981 (10:30 a.m.–11:30 a.m.).
5. Follow-up Review Discussion on NIE Dissemination (12:30 p.m.–3:30 p.m.).

CONTACT PERSON FOR MORE INFORMATION: Ella L. Jones, Administrative Coordinator, telephone: 202/254–7900.

Peter H. Gerber,

Chief, Policy and Administrative Coordination, National Council on Educational Research.

[S-182-80; Filed 1-28-80; 3:05 pm]

BILLING CODE 4110-39-M

4

RAILROAD RETIREMENT BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Volume 45, No. 18, Page 6229, Friday, January 25, 1980.

TIME AND DATE: 9 a.m., February 1, 1980.

PLACE: Board's meeting room on the eighth floor of its headquarters building at 844 Rush Street, Chicago, Illinois, 60611.

CHANGES IN THE MEETING: Additional item to be considered at the portion of the meeting which will be open to the public:

(4) National Managers Meeting. Portion closed to the public revised as follows:
(5) Intra-Board personnel matters.
(6) Appeal from referee's denial of disability annuity application, Victor J. Haughey.

V 45 / 21 JA 30 80 UMI

(7) Appeal from referee's denial of disabled widow's annuity, Catherine Martin.
(8) Appeal from referee's denial of disability annuity application, Wallace D. Werst.

CONTACT PERSON FOR MORE INFORMATION:
R. F. Butler, Secretary of the Board, COM No. 312–751–4920; FTS No. 387–4920.

[S–189–80 Filed 1–28–80; 12:38 pm]
BILLING CODE 7905–01–M

5

COMMODITY FUTURES TRADING COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, No. 19, Monday, January 28, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 AM January 29, 1980.

CHANGES IN THE MEETING: Delete: Proposal for Treatment of Congressional Requests for Section 8 Material.

[S–190–80 Filed 1–29–80; 3:36 pm]
BILLING CODE 6351–01–M

V 45 / 21 JA 30 80 UMI

federal register

Wednesday
January 30, 1980

Part II

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

Section 8 Housing Assistance Payments Program—State Housing Agencies; Interim Rule

V 45 / 21 JAN 30 80 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 883 and 884

[Docket No. R-80-760]

Section 8 Housing Assistance Payments Program—State Housing Agencies

AGENCY: Department of Housing and Urban Development.

ACTION: Interim rule.

SUMMARY: The regulation governing the Section 8 Program for State Housing Agencies is being completely revised to accomplish three major objectives. First, the language of the regulations has been simplified and the format appreciably altered to make the regulations easier to read and use. Also, the regulation has been reviewed to make sure that all necessary material is included and that material which is not appropriate for inclusion no longer appears. Second, some processing changes have been made to clarify recurring questions, reduce and level out field office workload, and assure coordination of this program with other Section 8 regulations (Parts 880, 881 and 882). Third, rent, cost and amenities limitations, and requirements for cost justification of rents in certain cases have been added in order to control and reduce the costs of the program. The relationship between State Agencies and HUD which allows them to certify that program requirements are met has not been altered in this interim regulation.

In addition, relocation requirements are revised to provide more equitable treatment to tenants temporarily and permanently displaced under the Program.

This regulation does not apply to projects developed under other Section 8 regulations including Parts 880, 881, 882 and 885, except as provided in those parts.

EFFECTIVE DATE: February 29, 1980.

COMMENT DUE DATE: Written comments and suggestions will be accepted on or before March 31, 1980. The Department will make any modifications it deems appropriate in the final regulations.

ADDRESS: Comments should be filed with the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Hoagland, Office of State Agency and Bond Financed Programs, Room 6138, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, 202-426-0730. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Section 8 Program for State Housing Agencies is a rental assistance program. Under this program, the government provides the difference between the approved rent for an eligible lower-income family, including the elderly and handicapped and the family's contribution to the established rent. Program funds are administered by State Agencies eligible to have contract authority set-aside for Agency assignment to existing, new construction, substantial rehabilitation and moderate rehabilitation projects. After HUD approval of new construction and substantial rehabilitation projects, selected by the Agency, which may be processed under special Fast Track procedures if the Agency provides permanent financing without Federal mortgage insurance, the construction and management is overseen by the State Agency. The Section 8 program does not provide construction or mortgage financing. The regular procedures are used for Existing and Moderate Rehabilitation projects. Amendments to the Section 8 New Construction Program regulations were published for comment on June 12, 1979 in the **Federal Register** at 44 FR 33804. After considering the comments received, the Department is publishing the New Construction amendments for effect at this time. The general requirements for the Section 8 Program for State Housing Agencies closely parallel those for the Section 8 New Construction Program and the changes made to the State Agency Regulations by these amendments are basically the same as those for the New Construction regulations which have recently been the subject of public comment. Therefore, the Department has determined that it is unnecessary to provide an opportunity for public comment prior to publication of these amendments to the regulations for the Section 8 Program for State Housing Agencies. Accordingly, these amendments are being published as an interim rule, effective February 29, 1980, but with a public comment period of 60 days after such publication (March 31, 1980).

This regulation does not propose any substantive changes to the joint HUD/Department of Agriculture Section 8 program regulations, Part 883, Subparts G and H, administered with the Farmer's Home Administration. The only change is to redesignate the regulations as Subparts A and B of a new Part 884.

A discussion of the principal changes to the regulation follows:

Language and Format

A primary purpose of this revision to Part 883 is to simplify the language of the regulation and generally improve readability and ease of use. A brief summary has been added as Subpart A so that the general concepts of this program can be understood without reading the entire regulation. To improve usability, the remainder of the regulation has been divided into various segments which generally flow chronologically from allocation and assignment of contract authority through project occupancy and management.

In order to aid in understanding the program, the revised regulation makes several changes in the basic terms used to describe the rent and assistance concepts of the program.

1. The term "total housing expense" has replaced the term "gross rent" which was confusing because the utility allowance (formerly "allowance for utilities and other services") making up part of the gross rent was not rent at all but rather an estimate of tenant-paid utilities and other services not included in the contract rent. Total housing expense is the sum of the contract rent and utility allowance, if any, for a unit.

2. The term "total family contribution" has replaced the term "gross family contribution." It consists of the "tenant rent," a new term which has been added to describe the portion of the total family contribution payable directly by the family to the owner, and any utility allowance for the unit the family is leasing.

3. The term "housing assistance payments" includes two payments—the "housing assistance payment to the owner" and in some cases an additional "housing assistance payment to the family." The housing assistance payment to the owner for a leased unit is the difference between the contract rent and the tenant rent described in number 2 above. An owner may also receive a housing assistance payment for a vacant unit. An additional housing assistance payment to the family is made only if the utility allowance described in number 1 above is greater than the total family contribution, in which case the family is paid the difference between the two in order that

the allowed total family contribution is not exceeded.

With these new terms, the basic rent and assistance concepts of the program can now be expressed in several simple formulas:

1. Total housing expense equals contract rent plus utility allowance.

2. Total family contribution equals tenant rent plus utility allowance. (Where the utility allowance is greater than the total family contribution, the tenant rent is zero and housing assistance payment to family equals utility allowance minus total family contribution.)

3. Housing assistance payment to owner equals contract rent minus tenant rent.

4. Housing assistance payments (to owner and to family, where applicable) equals total housing expense minus total family contribution.

Several other terms have been introduced or revised for purposes of clarification or simplification. For example, the regulation now uses "Fast Track Procedures" to describe the one-step processing available to state Agencies that finance without HUD mortgage insurance.

Allocation of Funds

The regulation now being revised was written prior to the development of Part 891, under which Section 8 contract authority is allocated. New language clarifying the relationships between field offices(s) and agencies in this process has been added to this Part consistent with Part 891.

Cost Containment

In the interest of providing housing at the lowest possible costs and rents, and thereby serving more families with available funding, the regulation includes the addition of several major cost containment features.

1. *Revised Limitation on Rents Including Cost Justification.* Although rent reasonableness has been a major determination of Section 8 project acceptability since the inception of the program, it has been implemented mainly through HUD handbooks, but an adequate explanation has never been included in the regulation. In addition to explaining rent reasonableness, the regulation includes more stringent standards in determining the reasonableness of rents.

The reasonableness test contained in the regulation would permit Section 8 rents to exceed comparable rents by a maximum of 20 percent, but only when justified by cost estimates during processing and by cost certification at the time the project is completed. Small and partially-assisted projects for non-elderly families would be exempt from this cost justification to the extent the proposed Contract Rents do not exceed 110 percent of the comparable rent.

This change, as well as the continuation of current Fair Market Rent limitations, is contained in § 883.305(b). The revision represents a major policy change which is expected to help avoid excessive expenditures under this program.

2. *Limitations on Replacement Costs.* To aid in controlling costs and assuring that Section 8 projects will be of "modest design," limits on project replacement costs have been included in § 883.305(c). The numerical limits are included in the regulation, and will be updated periodically by Notice published in the **Federal Register.**

This limitation will require the submission of a replacement cost estimate by the State Agency with each proposal.

3. *Limitation on Amenities.* The current regulation does not expressly exclude amenities or design features considered luxurious, and some fear has been expressed that luxury level projects could result under the program. The revised regulation prohibits the inclusion of amenities or design features which would exceed the standards of modest housing in the area in which the project is proposed. Partially-assisted projects for non-elderly families are exempt from this limitation because of their predominantly unassisted nature. See § 883.305(e).

Limitations on Distributions

Section 883.306 of the revised regulation limits the distributions that can be made to profit-motivated owners out of surplus project funds, with different rates of return for family and elderly housing. Distribution for elderly projects is limited to 6 percent on equity and for non-elderly projects to 10 percent on equity. The higher rates of return for family projects are intended to provide additional incentive for developers to provide this "hard to get" type of housing.

The Assistant Secretary for Housing may provide for an increase in later years' distributions. Any allowable adjustments will be made in accordance with a Notice published in the **Federal Register.** The HFA may approve a lesser or no increase.

Return is to be calculated annually, and shortfalls in one year may be paid from surplus project funds accumulated in future years.

Relocation and Land Acquisition Requirements

The revised regulation makes substantial changes in relocation requirements in order to provide more equitable treatment to tenants temporarily or permanently displaced as a result of activities under this part.

Section 883.311, Relocation and Land Acquisition Requirements, established the following:

1. The Uniform Relocation and Real Property Acquisition Policies Act of 1970 continues to apply to displacement resulting from the acquisition of real property by a public housing agency or other State agency.

2. For tenants temporarily or permanently relocated as a result of the project but not subject to the Uniform Act, the owner must provide adequate notice and assistance in relocating to a suitable unit, reasonable moving and related expenses (or in some circumstances, a fixed payment for moving), temporary relocation expenses, and other related provisions.

3. If replacement housing within the tenant's ability to pay cannot otherwise be identified and government assistance that would satisfy this requirement cannot be secured, the owner may satisfy the requirements of § 883.311 by providing the tenant with a lump sum payment equal to 48 times the amount, if any, necessary to reduce the monthly cost of a suitable replacement dwelling to 25 percent of the combined monthly gross income of all adult members of the tenant's household. This provision is applicable to tenants not subject to the Uniform Act.

4. Lower-income single persons, who are displaced as a result of the project, may return to occupy assisted units in accordance with 24 CFR Par 812.

Relationship Between HUD and State Housing Agencies

The current regulation contains a system under which State Agencies that finance new construction and substantial rehabilitation projects without Federal mortgage insurance may certify to most program requirements. This revised rule continues this system for new program requirements (e.g., replacement cost limitations, amenity limitations) as well as the current ones with only slight modifications (e.g., public notice of contract authority allocations, reasonable rents, etc.).

Financing Cost Contingency

Current regulations allow for the reservation of contract authority (the Financing Cost Contingency or FCC) in

the Annual Contributions Contract (ACC) between HUD and a State Housing Agency. The FCC is used to cover increases in the contract rents resulting from unanticipated increases in the debt service of a project. Such increases occur because agencies sell obligations to raise funds for developments after the ACC is executed but contract rents are established prior to execution of the ACC and based on a projected borrowing cost on these obligations. The FCC has been used only intermittently by agencies.

Until Fiscal Year 1979, the Department has reserved contract authority for FCCs with each project reservation. This system has resulted in an overstatement of the annual cost for projects financed by state agencies and the unnecessary reservation of contract authority as FCCs which could be used for additional units. In order to eliminate these problems and maintain the flexibility of the FCC concept, this interim regulation modifies it. The amount of Financing Cost Contingency will now be determined during processing but it will not be reserved at that time. The ACC will be amended later only if necessary to cover increased rents resulting from a higher than projected debt service and only if contract authority is available for this purpose.

Small and Partially Assisted Projects for Non Elderly Familes

In order to aid in deconcentration of assisted family housing, and thereby increase economic integration while at the same time lessening the impact of such housing on a neighborhood, the regulation contains exemptions from program requirements and special preferences to encourage development of small projects for non-elderly families (50 units or fewer) and partially-assisted projects for non-elderly families, i.e., projects of more than 50 units of which 20 percent or less are assisted under Section 8.

1. Small projects are exempt from the cost justification requirement of § 883.305(b)(2), if Contract Rents are no more than 10 percent above reasonable rents, and the limitation on distributions of § 883.306.

2. Partially assisted projects are exempt from the cost justification requirement of § 883.305(b)(2), if Contract Rents are no more than 10 percent above reasonable rents, from the limitation on replacement costs of § 883.305(c), from the limitation on amenities of § 883.305(e), and from the limitation on distributions of § 883.306. The State Agency may exempt projects from the replacement reserve requirements of § 883.703.

Processing Deadlines

The current regulation allows a six month period between the time when funds are reserved for a project and the time construction or rehabilitation must begin. Experience has shown this deadline to be too short for most new construction and substantial rehabilitation projects. This proposed regulation extends this time period to nine months.

Site and Neighborhood Standards Unchanged

The revised regulation does not alter the current site and neighborhood standards. Revisions to these standards have been published for comment. Comments have been received and are currently under study. When new standards are published, they will replace the standards contained in this regulation. It is noted that 24 CFR Part 200 Subpart N, Project Selection Criteria, does not apply to projects approved under Part 883.

Contract Provisions

Three major changes to be made in the Housing Assistance Payments Contract are reflected in the revised regulation. First, the provision for an initial term of five years renewable at the sole option of the owner for up to the maximum total term of the Contract has been deleted. Under § 883.603 of the revised regulation, the Contract will be executed for a single term without optional renewals. Second, where the estimated cost of the rehabilitation in a substantial rehabilitation project is less than 25 percent of the estimated value of the project after completion, the Contract will be executed for a single term of 15 years rather than for five years renewable for an additional five years at the sole option of the owner as authorized by the current regulation. The reason for these two changes is to assure that units developed under the Section 8 program remain available as assisted housing for the total term of the Contract. The third change, in § 883.605 has the same purpose. It places a 10 percent limitation on the leasing of assisted units to ineligible families without the prior approval of the State Agency and HUD and provides for appropriate remedies, including a reduction of the number of units covered by the Contract.

A new provision is included in § 883.410, similar to a provision in 24 CFR Part 811. It permits execution of the Contract upon acceptable physical completion of the project, even though evidence of completion in other respects is not yet acceptable. In such cases, however, and until acceptable completion of all such other requirements, housing assistance payments will be limited to the amount of debt service, and rent-up and occupany will be subject to HUD conditions.

Changes have been made in § 883.603 to limit the availability of a 40-year maximum Contract term to projects which:

1. Are not financed with the aid of a loan insured, co-insured, made, guaranteed or intended for purchase by the Federal Government,

2. Are owned or financed by a loan or loan guarantee from a state or local agency,

3. Are intended for occupancy by non-elderly families, and

4. Are located in an area designated by HUD as requiring special financing assistance.

Special Marketing Requirements

With respect to marketing of Section 8 non-elderly family units, the revised regulation requires the owner to undertake marketing activities in advance of marketing to other prospective tenants in order to provide opportunities to non-elderly families who are least likely to apply as specified in the Affirmative Fair Housing Marketing Plan, to non-elderly families expected to reside in the community by reason of current or planned employment, as indicated in the Housing Assistance Plan, if any, and to non-elderly families from impacted jurisdictions.

The requirement for advanced marketing to non-elderly families from impacted jurisdictions was also included in the revised Part 880 final rule published October 15, 1979 to be effective November 5, 1979. Because questions were subsequently raised over the nature and extent of the requirement, the Department suspended enforcement of the requirement in Part 880 pending issuance of a clarification. We expect that the clarification will be available prior to the effective date of this revised regulation; however, if it is not, enforcement of the requirement in this regulation (set forth with other requirements in § 883.702(a)(3)) will also be suspended pending the clarification.

Residency Requirements and Preferences

Section 883.704(b)(1) of the revised regulation prohibits residency requirements but allows residency preferences to the extent that they are not inconsistent with affirmative fair housing marketing objectives and the owner's HUD-approved Affirmative Fair Housing Marketing Plan.

Replacement Reserves

A replacement reserve has been added in § 883.703. Experience with both HUD mortgage insurance programs and the State Agency program indicates that reserves are an important form of insurance against default on the basis of operating shortfalls during the early years of a project and extraordinary maintenance, repair and capital costs in later years.

The replacement reserve is to be built up by annual deposits at least equal to .006 of the replacement cost with annual adjustment by the amount of the automatic annual adjustment factor. The reserve must be built up to and maintained at a level determined by the Agency to be sufficient to meet projected requirements. Should the reserve achieve that level, the rate of deposits may be reduced by the Agency.

Termination of Tenancy and Modification of Leases

The provisions regarding termination of tenancy have been rewritten to bring the language and format in line with the recently published regulations for the Section 8 moderate rehabilitation program. Section 883.708 now specifies that a tenancy may be terminated by the owner only for good cause and provides detailed notice requirements. This section also contains provisions concerning modification of leases as of the end of any lease term.

Other Management Changes

1. Section 883.702(d) adds a requirement for the submission annually of audited financial and operating statements to the State Agency. Upon request, these must be provided to HUD so the Department can assure that a project is being properly managed.

2. Section 883.704(c) provides that owners will use their best efforts to achieve occupancy by families with incomes averaging at least 40 percent of the median income in the area for the purpose of promoting economically-mixed housing as stated in Section 8(a) of the U.S. Housing Act of 1937, as amended.

3. A new provision is added permitting a family to report at any time a change in income or other circumstances that would result in a decrease of its required family contribution. An owner may require a family to report increases in income between scheduled reexaminations.

4. Section 883.709 contains a requirement for a security deposit from the tenant, rather than the permissive provision included in the current regulation.

Applicability

Provisions on the applicability of this revised regulation are contained in § 883.105.

NEPA

A finding of inapplicability regarding the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Accordingly, 24 CFR Chapter VIII is hereby amended as follows:

1. Part 883 is revised to read as follows:

PART 883—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—STATE HOUSING AGENCIES

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883.710 Adjustments of contract rents.
883.711 Adjustment of utility allowance.
883.712 Conditions for receipt of vacancy payments.
883.713 Reviews during management period.

Authority: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—Summary and Guide

§ 883.101 General.

(a) *Purpose.* (1) The purpose of the Section 8 program is to provide decent, safe and sanitary housing for lower income families through the use of a system of housing assistance payments. These needs may be met by statewide or special purpose housing agencies established by the various States.

(2) The regulations in this Part 883 contain the policies and procedures applicable to the Section 8 program for-

these State agencies. In addition to this regulation, Section 8 assistance may also be made available (i) in connection with financing by the Farmers Home Administration (24 CFR Part 884) or (ii) directly from HUD field offices for newly constructed housing (24 CFR Part 880), for substantially rehabilitated housing (24 CFR Part 881), for Existing or Moderately Rehabilitated housing (24 CFR Part 882), for elderly housing in conjunction with direct HUD loans (24 CFR Part 885) and for existing HUD-insured and HUD-held housing (24 CFR Part 886).

(3) This part establishes procedures for allocating set-asides of contract authority to State Agencies and sets the policies and procedures under which they must use this authority to provide assistance in newly constructed, substantially rehabilitated, moderately rehabilitated, and existing housing.

(b) *Housing Assistance.* Under the Section 8 program, monthly payments are made directly by the State Agency to the project owner to assist an eligible family leasing an assisted unit or for vacancies in certain cases. These payments, known as "housing assistance payments" are made pursuant to a Housing Assistance Payments Contract which has a maximum term of 40 years. This Contract is discussed in Subpart F of this part.

(c) *Tenant Rents and Eligible Families.* In addition to housing assistance payments, owners receive tenant rents directly from the eligible family occupying each assisted unit. The total amount received by the owner for rent is called the contract rent and is set forth in the Contract. "Eligible families," including elderly and handicapped individuals, must have incomes within HUD-specified limits (based on 80% of median income for the area), and pay between 15% and 25% of their income for rent (including utilities), adjusted according to HUD regulations in 24 CFR Part 889.

(d) *Rent, Cost and Mortgage Limitations.* In newly constructed and substantially rehabilitated units, rents, replacement costs and amenities must comply with limitations contained in Subpart C of this part. These limitations serve to establish the modest nature of housing assisted under the program and to assure that the rents in Section 8 housing are reasonable in relation to comparable unassisted housing in the area. After occupancy, rents may be adjusted to reflect changes in the costs of owning and operating rental housing. Different limitations on rents are applicable to the Existing Housing and Moderate Rehabilitation Programs, under 24 CFR Part 882.

(e) *Financing.* The Section 8 program provides only rental assistance. It does not provide construction or permanent financing. It is the responsibility of an agency participating in the program under this part to arrange for the financing of newly constructed or substantially rehabilitated housing assisted under it. It is the responsibility of the owner to arrange financing of moderately rehabilitated housing assisted under the program.

(f) *Eligible Owners.* All types of developers and sponsors, including profit-motivated, non-profit, and public agency developers or sponsors, are eligible to develop and own housing assisted under this program. In new construction and substantial rehabilitation projects, the owner is responsible for the determination of eligibility and selection of tenants. In Moderate Rehabilitation and Existing Housing Programs, the State Agency is responsible for the determination of eligibility and the owner is responsible for the selection of eligible families. Management responsibilities for newly constructed or substantially rehabilitated projects are generally contained in Subpart G of this part. The regulations governing administration of Existing Housing and Moderate Rehabilitation programs are contained in 24 CFR Part 882.

(g) *Contract Authority.* HUD commits funding for additional projects under the Section 8 program and increases the commitment for previously approved projects out of contract authority Congress appropriates for HUD annually. A portion of the contract authority is set aside for assignment to specific projects by State Agencies participating under this part. The contract authority for additional projects, including these set-asides, is allocated to HUD field offices on the basis of a "fair share" formula reflecting population, poverty, overcrowding, housing condition and similar indices of housing need. Each field office, in turn, suballocates this contract authority among the various allocation areas within its jurisdiction on essentially the same "fair share" basis. Where there is a set-aside for a State Agency, this suballocation process includes a determination of which allocation areas are to be served by the field office and by the State Agency or Agencies under this part. Contract authority for Agency set-asides may not be available in every allocation area. A further description of this process is contained in 24 CFR Part 891, Subpart D.

§ 883.102 Processing.

(a) *New Construction and Substantial Rehabilitation Projects.* Proposals from developers and owners for housing to be assisted under this part are received and selected by State Agencies participating in the program. The Agency normally provides the financing for these projects. If the Agency uses federal mortgage insurance or is the owner of a proposed project, HUD processes it and the work is carried out under the provisions of 24 CFR Part or 880 Part 881.

If the Agency provides permanent financing without federal mortgage insurance, except coinsurance under 24 CFR Part 250, it is processed and the work is carried out under the Fast Track Procedures of Subpart D. Under these procedures, Agencies must certify that the limitations and other requirements of the program are being met for each new construction and substantial rehabilitation proposal. Generally, HUD accepts these certifications, unless it has substantial reasons to question them and, based on them, approves each proposal. Execution of an Agreement between the owner and Agency and an ACC between HUD and the Agency is then authorized and construction can begin. The Agreement provides that a Contract will be executed upon proper construction, completion and acceptance of the project by the Agency. Details of this process are contained in Subpart D.

(b) *Moderate Rehabilitation and Existing Housing Projects.* Applications for the Moderate Rehabilitation or Existing Housing Programs may be initiated by State Agencies participating under this part using contract authority available for these programs. They will be processed in accordance with the requirements of 24 CFR Part 882 except as modified by Subpart E of this part.

§ 883.103 Construction and management of new construction and substantial rehabilitation projects.

(a) *Construction.* Construction of projects is carried out in conformance with the Agreement approved by HUD. Increases in contract rents and utility allowances are permitted during construction if they are necessary to cover cost increases as specified in § 883.408. Upon completion in accordance with the Agreement, the project will be accepted by the Agency which certifies to HUD that the project has been acceptably completed and a Contract executed. These provisions are contained in Subpart D, §§ 883.407 through 883.410.

(b) *Cost Certification.* As soon as possible after completion of a project, the owner, except in the case of certain types of exempted projects, will provide the Agency with cost certifications. The Agency will, based on these, certify the costs to HUD. It will also review the contract rents, based on the owner's certified cost, and reduce them where they are not justified. Section 883.411 details this process.

(c) *HAP Contract.* The Contract will be executed on satisfactory completion of the project. It provides that the owner will receive housing assistance payments for units being leased by eligible families and under certain circumstances, for vacant units. The owner may not reduce the number of units available to lower-income families by more than 10 percent without the prior approval of the State Agency and HUD. The term of the Contract varies depending on the type of financing the project's location and the type of tenants served (elderly or families). Administration of the Contract is done by the State Agency under an Annual Contributions Contract with HUD. Subpart F contains Contract provisions.

(d) *Management.* The owner is responsible for all management functions, including marketing, selection of tenants, reexamination of family incomes, evictions and other terminations of tenancy and collection of rents. The owner must also provide for a replacement reserve. Contract rents will be adjusted annually in accordance with 24 CFR, Part 886. Subpart G contains management provisions.

§ 883.104 Implementation of moderate rehabilitation and existing housing projects.

Implementation of Moderate Rehabilitation and Existing Housing projects is governed by the provisions of 24 CFR Part 882.

§ 883.105 Applicability of revised regulation.

(a) These revised Part 883 regulations apply to projects for which the initial application was submitted on or after the effective date. Projects for which applications or proposals were submitted before the effective date will be processed under the regulations and procedures in effect at the date of submission. If, however, the agency notifies HUD within 60 calendar days of the effective date of the regulations that they are choosing to have these revised regulations apply to a specific case, it must promptly modify the application(s) and proposal(s) to comply.

(b) Subpart F, dealing with the HAP contract and Subpart G, dealing with management, apply to all projects for which an Agreement was not executed before the effective date of these revised regulations. In cases where an Agreement has been executed:

(1) The Agency, owner and HUD may agree to make the revised Subpart F applicable and execute appropriate amendments to the Agreement or Contract;

(2) The Agency, Owner and HUD may agree to make the revised Subpart G applicable (with or without the limitation on distributions) and execute appropriate amendments to the Agreement or Contract.

(c) Section 883.708, Termination of Tenancy and Modifications of Leases, applies to new families who begin occupancy or execute a lease on or after 30 days following the effective date of this revision. This section also applies to families not covered by the preceding sentence, including families currently under lease, who have a lease in which a renewal becomes effective on or after the 60th day following the effective date of this regulation. A lease is considered renewed when both the landlord and the family fail to terminate a tenancy under a lease permitting either to terminate.

Subpart B—Allocation and Assignment of Contract Authority

§ 883.201 Applicability and relationships between HUD and State agencies.

(a) *Applicability.* This subpart applies to contract authority set aside for a State Agency. Newly constructed and substantially rehabilitated housing units using contract authority set aside under this subpart may be processed and the work accomplished under either the Fast Track Processing procedures contained in Subpart D or the regular procedures under 24 CFR Part 880 or 24 CFR Part 881. Section 883.401 contains the criteria used to qualify new construction and substantial rehabilitation proposals for Fast Track Processing. Moderate Rehabilitation and Existing Housing Programs using contract authority set aside under this subpart must be processed in accordance with the provisions of 24 CFR Part 882, except as indicated in Subpart E of this part.

(b) *General Responsibilities and Relationships.* Subject to audit and review by HUD to assure compliance with Federal requirements and objectives, Housing Finance Agencies (HFAs) shall assume responsibility for project development and for supervision of the development, management and maintenance functions of owners.

(c) *Certifications and HUD Monitoring.* (1) Generally, when reviewing any of the certifications of an HFA required by this part, HUD shall accept the certification as correct. If HUD has substantial reason to question the correctness of any element in a certification, HUD shall promptly bring the matter to the attention of the HFA and ask it to provide documentation supporting the certifications. When the HFA provides such evidence, HUD will act in accordance with the HFA's judgment or evaluation unless HUD determines that the certification is clearly not supported by the documentation.

(2) HUD will periodically monitor the activities of HFA's participating under this part only with respect to Section 8 or other HUD programs. This monitoring is intended primarily to ensure that certifications submitted and projects operated under this part reflect appropriate compliance with Federal law and requirements.

§ 883.202 Allocation of contract authority to field offices and State agencies.

(a) Funding authorization for the Section 8 program is assigned to HUD field offices and Agencies in the form of contract authority, which is the maximum amount authorized for annual payments under Contracts. Assignments are made pursuant to 24 CFR Part 891, Subpart D. HUD may set aside a portion of contract authority for use by Agencies out of amounts identified for this purpose and allocated in the Field Office allocation plan under Part 891, Subpart D.

(b) In the allocation process, the field office prepares an allocation plan consistent with Areawide Housing Opportunity Plans (AHOPs) and Housing Assistance Plans (HAPs) which specifies the amount of contract authority and approximate number of Section 8 units by housing type (new construction, rehab, and existing), household type (families, large families, and elderly), and program mixes to be provided in each allocation area. Any set-aside for a State Agency within the jurisdiction of a field office is included in this allocation plan which must not be finalized until after the field office has consulted with the State Agency. Allocation of the set-aside will provide for feasible sized projects by housing and household type which is consistent with the overall allocation plan.

§ 883.203 Eligibility for a set-aside.

(a) *Request for Set-Asides and/or Fast Track Procedures.* (1) In order to qualify for a set-aside and/or the Fast Track procedures set forth in this part, a State Agency must submit a letter showing that:

(i) It is a housing finance or development agency with statewide responsibility;

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(ii) It qualifies as a public housing agency (PHA), as defined in the U.S. Housing Act of 1937, and

(iii) It desires to participate under this part.

(2) The letter must be sent to the Assistant Secretary for Housing, U.S. Department of Housing and Urban Development (HUD), Washington, D.C. 20410. Enclosed with the letter shall be 2 copies of:

(i) The relevant enabling legislation,

(ii) Any rules and regulations adopted or about to be adopted by the State agency to govern its operations, and

(iii) An opinion from the agency counsel that the agency is legally qualified and authorized to participate in the Housing Assistance Payments Program. This opinion shall include an explanation of the basis and extent of the agency's legal authority, if any, for housing development or administration in the areas of operation of any existing PHAs.

(b) *Review and Approval of Requests for Participation.* After prompt review, the agency shall be notified as to whether or not, and in what respects, it is qualified to apply for and receive a set-aside and/or use the Fast Track procedures.

§ 883.204 Set-asides.

(a) *Notification of Agency of Set-Aside.* Agencies eligible for a set-aside must be consulted by the HUD field office in the process of preparing the field office allocation plan. When a set-aside is made available for a State Agency, HUD must notify the Agency in writing of the amount and terms of the contract authority set aside for it and provide a reasonable deadline by which the Agency must agree to the terms and amount. If HUD determines to deny a set-aside, it must notify the Agency by letter of its determination specifying the reasons for this determination. When the set-aside is made available to the Agency out of the Assistant Secretary's reserve under § 891.403(b), HUD must notify the Agency in writing of the amount and the provisions of paragraphs (b) and (c) of this section are inapplicable.

(b) *Agency Acceptance of Set-Aside.* In order to receive a set-aside, an Agency must submit a letter to HUD, within the time frame set forth in the Notification of a Set-Aside under paragraph (a) of this section, agreeing to the terms of the set-aside. If the Agency wishes to discuss the terms or amount of the set-aside further, it should do so within the time frame stated in the Notification of Set-Aside.

(c) *Determination of Set-Aside.* The determination of whether to grant a set-aside and the amount of any set-aside shall be made on the basis of the following criteria:

(1) The degree of the Agency's expertise as demonstrated, in part, by

(i) Past performance in the development of housing, and

(ii) The Agency's ability to administer a set-aside so that housing is placed under construction or rehabilitated quickly or assistance is provided in a timely manner to eligible families through the Existing Housing Program;

(2) The extent to which the Agency has identified and evaluated the unmet housing needs in the State and developed a plan for serving those not likely to be met effectively through other channels and for promoting mobility;

(3) The extent to which the Agency's program complements the allocation plan of the HUD field office;

(4) The Agency's ability and willingness to assist families in types of projects and in areas which meet particular HUD goals (e.g., spatial deconcentration, substantial rehabilitation, units for large families); and

(5) With respect to set-asides for new Construction, Substantial or Moderate Rehabilitation, the Agency's ability and willingness to provide permanent financing without Federal mortgage insurance (other than with coinsurance under Section 244 of the National Housing Act); or

(6) With respect to set-asides for Moderate Rehabilitation or Existing Housing, the extent to which the Agency is willing and capable of serving housing needs in areas not currently served by local Public Housing Agencies and will use the Existing Housing Program to promote mobility.

(d) *Agency Notification Requirements.* Promptly after the Agency receives notification of its set-aside from the field office, the Agency must make a public announcement that it has been allocated a set-aside, specify the amount of the set-aside by housing and household type as agreed under paragraph (b) of this section, when applicable, and indicate where and when applications to the Agency for fund commitments may be submitted by developers or owners. All State Agencies must certify that these notice requirements have been met.

§ 883.205 Submission of applications.

(a) *Application.* When a State Agency intends to assign a portion of its set-aside to a project, it must submit a separate application on the prescribed HUD form. This application must be accompanied by certifications that:

(1) For areas where there is no Housing Assistance Plan or Areawide Housing Opportunity Plan, there is need for housing assistance in the number and size of units applied for based upon an Agency's housing needs study or Agency-approved study, and

(2) The agency has or will comply with the public notification and selection procedures of § 883.204(d).

(b) *Agencies Using Set-Aside but Not Fast Track Processing.* If an Agency has a set-aside but does not qualify for or does not wish to utilize the Fast Track Procedures under Subpart D, it must follow the provisions set forth in 24 CFR Part 880 or 881, whichever is applicable, except as follows:

(1) The Agency may submit an Application with or without a Preliminary Proposal at any time to a HUD field office without reference to any Notification of Fund Availability (NOFA) pursuant to 24 CFR 880.304 or 881.304.

(2) Such Preliminary Proposal and related Final Proposal must be evaluated on the basis of acceptability in accordance with the requirements of the applicable part but will not be subject to the competitive ranking and selection provisions of 24 CFR Part 880.306 and 880.307 or 881.306 and 881.307;

(3) Even though Fast Track Procedures are not used, Subparts F and G of Part 883 apply.

§ 883.206 HUD review and approval of application.

(a) *Review of Applications.* Applications from State Agencies should be processed in the order received. Based on the policies set forth in § 883.201(c), HUD shall promptly review an application to determine whether or not the application is complete and accurate. HUD must make an independent determination that:

(1) The proposed project is consistent with the field office allocation plan;

(2) The addition of these units will not adversely affect occupancy in existing federally assisted projects;

(3) The State Agency meets all equal opportunity requirements in the operation of its programs; and

(4) The proposed project, when a specific site is designated, complies with 24 CFR Part 891.

(b) *Review and Comment by Local Governments.* An application or proposal under this Subpart must comply with the provisions of Part 891 concerning review and comment by units of general local government. In cases where the local government in which the assistance is to be provided objects in its local Housing Assistance Plan to the exemption for State Agency projects, the application (or proposal when the application does not designate a specific site) must be approved by HUD in accordance with 24 CFR Part 891, Subpart B. If no objection has been filed or where there is no applicable Housing Assistance Plan, the application (or proposal when the application does not designate a specific site) must be approved in accordance with 24 CFR Part 891, Subpart C.

(c) *Notification to State Agency.* (1) For proposed projects not using or not eligible for Fast Tract Procedures and after completion of the actions necessary to satisfy the requirements of Part 891, HUD shall notify the State Agency that its application or proposal has been accepted for processing under 24 CFR Part 880, or Part 881 as appropriate.

(2) For proposed projects using or eligible for Fast Track Procedures and after completion of the action necessary to satisfy the requirements of Part 891 HUD shall promptly complete its review and notify the HFA by letter that:

(i) The application and any portions of the proposal on which reviews have been completed, are approved (this letter will be called a Notification of Application Approval);

(ii) The application is disapproved and state the reasons, in detail for disapproval; or

(iii) HUD has substantial reason to question a certification of the HFA. The letter shall specify the reasons. Promptly after receipt of the HFA's response to this letter, HUD must notify the HFA of approval or disapproval of the application.

§ 883.207 Termination and transfer of set-asides.

(a) Contract authority in a set-aside which is not assigned to projects on or before the 45th day prior to the end of each Federal fiscal year will be terminated as of that date, unless the Assistant Secretary for Housing agrees in writing to extend the date. For purposes of this paragraph, set-aside authority is deemed assigned on the date HUD issues a notification of application approval, or a notification of application or proposal acceptance for processing for cases not processed under Subpart D;

(b) With respect only to projects processed under Subpart D, an Agreement, executed by the HFA and the owner, must be submitted to HUD within nine months of the date of Notification of Application Approval or the Notification will expire. Any units for which this Notification expires will be automatically cancelled, unless the Assistant Secretary for Housing agrees in writing to extend the date. Extensions to this deadline will be granted by the Assistant Secretary for Housing only for reasons clearly beyond the control of the HFA or owner.

(c) *Transfer of Set-Asides.* Where a specific portion of an Agency's set-aside is assigned to a particular project (as defined in paragrph (a) of this section) and it is subsequently determined that the portion so assigned cannot be used for that project, the Agency may retain use of that contract authority under the following rules.

(1) *Projects terminated or reduced on or before the 45th day prior to the end of the Federal fiscal year.* The Agency must notify HUD of any determination to terminate or reduce the contract authority assigned to specific project. The portion of the set-aside cancelled or reduced will be released and become available for assignment to another project through the 45th day prior to the end of the same fiscal year.

(2) *Project terminated or reduced after the 45th day prior to the end of the Federal fiscal year.* If the determination to terminate or reduce the contract authority assigned to a particular project is made after the 45th day prior to the end of the Federal fiscal year in which the assignment was made to that project, the Agency may transfer the released portion of the set-aside to another project or projects. When transferring contract authority under this paragraph, the Agency must (i) notify the HUD field office promptly after the determination is made, that the transfer is to a specific project, and (ii) provide full and complete information concerning the proposed transfer, including names and locations of the projects involved, the specific amount of set-aside to be transferred, and a written statement of assurance that an Agreement, executed by the Agency and the Owner, will be submitted to HUD within nine months. If an Agreement is not submitted within nine months, the transferred contract authority will be automatically terminated unless this deadline is extended in writing by the Assistant Secretary of Housing. For proposals to which contract authority is assigned under the provisions of this paragraph (c), HUD will comply with the provisions of §§ 883.206(a)(4) and 883.206(b).

Subpart C—Definitions, Project Eligibility and Requirements

§ 883.301 Applicability.

The provisions of this subpart are applicable to newly constructed and substantially rehabilitated housing allocated contract authority under Subpart B of this part and processed and constructed under the Fast Tract Procedures of Subpart D. The definitions contained in § 883.302 and the provisions of § 883.307(b) regarding review and approval of financing documents, however, apply to all of this part.

§ 883.302 Definitions.

ACC (Annual Contributions Contract)—The contract between the State Agency and HUD under which HUD commits to provide the Agency with the funds needed to make housing assistance payments to the Owner and to pay the Agency for administrative fees in cases where it is eligible for them.

Agency—See State Agency.

Agreement—(Agreement to enter into Housing Assistance Payments Contract.) The agreement between the owner and the State Agency on new construction and substantial rehabilitation projects which provides that, upon satisfactory completion of the project in accordance with the HUD-approved proposal or final proposal, the Agency will enter into a Housing Assistance Payments Contract with the owner.

Allocation Area—A municipality, county, one or more Indian areas or group of contiguous municipalities or counties identified by HUD or in an approved Areawide Housing Opportunity Plan for the purpose of allocating housing assistance to support economically feasible housing projects.

Allocation Plan—The plan developed by HUD field offices in accordance with 24 CFR Part 891, Subpart D on which the distribution of contract authority is based.

Assisted Unit—A dwelling unit eligible for assistance under a Contract.

Application—A request, submitted by a State Agency, to assign a portion of its set-aside to a specific jurisdiction or project.

Contract—(Housing Assistance Payments Contract). The Contract entered into by the owner and the State Agency upon satisfactory completion of a new construction or substantial rehabilitation project which sets forth the rights and duties of the parties with respect to the project and the payments under the Contract.

Contract Rent—The total amount of rent specified in the Contract as payable by the Agency and the tenant to the owner for an assisted unit.

Existing Housing—Housing assisted under a contract entered into pursuant to 24 CFR Part 882. (See Subpart E of this part.)

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Fair Market Rent (FMR)—HUD's determination of the rents, including utilities (except telephones), ranges and refrigerators, parking and all maintenance, management and other essential housing services, which would be required to obtain, in a particular market area, privately developed and owned, newly constructed or substantially rehabilitated rental housing of modest design with suitable amenities.

Family. (Eligible Family) A family which qualifies as a lower-income family, as defined in this section. For purposes of this definition, "family" will have the meaning of "family" contained in 24 CFR Part 812, (including single elderly, handicapped, disabled and displaced persons and the remaining member of a tenant family).

Fast Track Procedures—The procedures contained in Subpart D for processing and construction of new construction and substantial rehabilitation projects. In order to be eligible for these procedures, a State Agency must provide permanent financing without Federal mortgage insurance or a Federal guarantee except coinsurance under Section 244 of the National Housing Act.

Financing Cost Contingency (FCC)—The maximum amount of contract authority which may be used to amend the Annual Contributions Contract (ACC) and Housing Assistance Payments Contract (HAP Contract) to provide increased contract rents to cover higher than anticipated debt service on the loan for a new construction or substantial rehabilitation project.

Household Type. The three household types are (1) elderly and handicapped, (2) family, and (3) large family.

Housing Assistance Payment—The payment made to the owner of an assisted unit by the State Agency as provided in the Contract. Where the unit is leased to an eligible family, the payment is the difference between the total housing expense and the total family contribution. A housing assistance payment, known as a "Vacancy Payment", may be made to the owner when an assisted unit is vacant. A payment is made to the family if the utility allowance exceeds the total family contribution.

Housing Assistance Plan (HAP)—A housing plan submitted by a unit of general local or State government and approved by HUD as being acceptable under the standards of 24 CFR, Part 570.

Housing Type. The three housing types are new construction, substantial rehabilitation, and existing housing/moderate rehabilitation.

HFA (Housing Finance Agency)—A State Agency which provides permanent financing for newly constructed or substantially rehabilitated housing processed under Subpart D and financed without Federal mortgage insurance or a Federal guarantee except coinsurance under Section 244 of the National Housing Act.

HUD—The Department of Housing and Urban Development.

Impacted Jurisdiction. A jurisdiction in a Standard Metropolitan Statistical Area (SMSA) where the ratio of lower-income families to total families is materially higher than the ratio of lower-income families to total families for the entire SMSA.

Independent Public Accountant—Certified Public Accountant or a licensed or registered public accountant, none of which has a business relationship with the owner or State Agency except for the performance of audit, systems work and tax preparation. If not certified, the Independent Public Accountant must have been licensed or registered by a regulatory authority of a State or other political subdivision of the United States on or before December 31, 1970. In States that do not regulate the use of the title "public accountant," only Certified Public Accountants may be used.

Lower-Income Family. A family whose income does not exceed 80 percent of the median income for the market area, as determined by HUD, with adjustments for the size of the family. HUD may establish income limits higher or lower if necessary in certain cases. For purposes of this definition, "income" shall have the meaning of "income for eligibility" contained in 24 CFR Part 889.

MPS (Minimum Property Standards)—HUD Minimum Property Standards for new construction projects, or in Substantial Rehabilitation, the HUD Minimum Design Standards for Rehabilitation for Residential Properties, or standards which the Secretary finds are equivalent to or exceed such HUD standards.

Moderate Rehabilitation—The improvement of dwelling units in accordance with HUD requirements, under 24 CFR Part 882.

New Communities—New community developments approved under Title IV of the Housing and Urban Development Act of 1968 and Title VII of the Housing and Urban Development Act of 1970.

New Construction—Housing for which construction starts after execution of an Agreement, or housing which is already under construction when the Agreement is executed provided that:

(i) At the date an application is submitted to HUD, a substantial amount of construction (generally at least 25 percent) remains to be completed;

(ii) At the date of application to HUD, the project cannot be completed and occupied by eligible families without assistance under this part; and

(iii) At the time construction was initiated, all of the parties reasonably expected that the project would be completed without assistance under this part.

Override—The difference between an HFA's cost of borrowing on obligations issued to finance a new construction or substantial rehabilitation project and the lending rate at which they provide permanent financing for the project.

Owner—Any private person or entity (including a cooperative) or a public entity, having the legal right to lease or sublease dwelling units assisted under this part. The term Owner also includes the person or entity submitting a proposal to a State Agency under this part.

Partially-Assisted Project—A project for non-elderly families under this part which includes more than 50 units of which 20 percent or fewer are assisted.

Permanent Financing—An Agency is determined to provide permanent financing if HUD determines that (1) the Agency permanently finances a project from its own funds, including the sale of its obligations; or (2) permanent financing for projects developed or administered by the Agency is provided by the State government or by an agency or instrumentality thereof other than the Agency; or (3) the permanent financing (by a public or private entity other than the Agency) is backed by the commitment of the Agency to assume the risks of loss on default or foreclosure of the loan.

PHA (Public Housing Agency)—Any State, county municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of housing for lower-income families.

Project Account—A specifically identified and segregated account for each project which is established in accordance with § 883.604(b) out of the amounts by which the maximum Annual Contributions Contract commitment exceeds the amount actually paid out under the ACC each year.

Proposal—A proposal for a project that is submitted by an HFA to HUD for Section 8 assistance under this Part.

Rent—In the case of an assisted unit in a cooperative project, rent means the carrying charges payable to the cooperative with respect to occupancy of the unit.

Replacement Cost: (1) *New Construction*—The estimated construction cost of the project when the proposed improvements are completed. The replacement cost may include the land, the physical improvements, utilities within the boundaries of the land, architect's fees, miscellaneous charges incident to construction as approved by the Assistant Secretary for Housing.

(2) *Substantial Rehabilitation*—The sum of the "as is" value before rehabilitation of the property as determined by the Agency and the estimated cost of rehabilitation, including carrying and finance charges.

Secretary—The Secretary of Housing and Urban Development (or designee).

Small Project—A project for non-elderly families under this Part which includes a total of 50 or fewer units (assisted and unassisted).

State Agency (Agency)—An agency which has been notified by HUD in accordance with § 883.203 that it is authorized to apply for a set-aside and/or to use the Fast Track Procedures of this part.

Substantial Rehabilitation

(a) The improvement of a property to decent, safe and sanitary condition in accordance with the standards of this part from a condition below these standards. Substantial Rehabilitation may vary in degree from gutting and extensive reconstruction to the cure of substantial accumulation of deferred maintenance. Cosmetic improvements alone do not qualify as Substantial Rehabilitation under this definition.

(b) Substantial Rehabilitation may also include renovation, alteration or remodeling for the conversion or adaptation of structurally sound property to the design and condition required for use under this part, or the repair or replacement of major building systems or components in danger of failure.

(c) Housing on which rehabilitation work has already started when the Agreement is executed is eligible for assistance as a Substantial Rehabilitation project under this part provided:

(i) At the date of application to HUD, a substantial amount of construction (generally at least 25 percent) remains to be completed;

(ii) At the date of application to HUD, the project cannot be completed and occupied by eligible families without assistance under this part; and

(iii) At the time construction was nitiated, all of the parties reasonably expected that the project would be completed without assistance under this part.

Tenant Rent—The portion of the contract rent payable directly to the owner by an eligible family occupying an assisted unit. Tenant rent equals the total family contribution less any utility allowance.

Total Family Contribution—The portion of an eligible family's income payable toward the family's total housing expense, as determined in accordance with 24 CFR Part 889.

Total Housing Expense—The total monthly cost of housing an eligible family, which is the sum of the contract rent and any utility allowance for the assisted unit occupied by the family.

Utility Allowance—An estimate, accepted by HUD, of the cost of utilities (except telephone) and other essential housing services for an assisted unit which are not included in the contract rent paid directly to the owner but which are the responsibility of the eligible family leasing the unit.

Vacancy Payments—The housing assistance payment made to the owner by the State Agency for a vacant, assisted unit if certain conditions are fulfilled as provided in the Contract. The amount of vacancy payment varies with the length of the vacancy period and is less after the first 60 days of any vacancy.

Very Low-Income Family—An eligible family whose income does not exceed 50 percent of the median income for the market area, as determined by HUD, with adjustments for the size of the family.

§ 883.303 Project eligibility.

(a) For purposes of this part, an Agency may assign funds to and seek approval for new construction, substantial rehabilitation, moderate rehabilitation or existing housing projects.

(b) The Section 8 program under this part is for rental housing only. No assistance will be provided for any unit occupied by an owner. Cooperatives are considered rental housing rather than owner-occupied housing for the purposes of this part.

(c) The types of rental housing which can be assisted under this part include: (1) Single-family houses, mobile homes, which are excluded under the Substantial and Moderate Rehabilitation programs and may only be used under the New Construction and Existing Housing Programs, where appropriate, and multifamily structures; (2) housing designed for the elderly, disabled or handicapped; and (3) single-room occupant housing planned specifically as a relocation resource for eligible single persons.

(d) Newly constructed or substantially rehabilitated high-rise elevator projects for families with children are prohibited unless HUD determines that there is no practical alternative.

(e) Newly constructed high-rise elevator projects for the elderly may be approved only if the Agency determines that high-rise construction is appropriate after taking into account land costs, safety and security factors.

(f) Projects for non-elderly families are required, where practicable, to have at least 5 percent of the assisted housing units designed and accessible to the physically handicapped.

(g) Housing assisted under other provisions of the U.S. Housing Act of 1937, such as public housing assisted with annual contributions under Sections 5 and 9 of the Act, is not eligible for assistance under this part. Tax exemption under Section 11(b) of the Act is not considered assistance for this purpose.

(h) Conversions of projects under the Section 23 Leased Housing Program to the Section 8 program will be permitted, where appropriate: *Provided,* The Section 23 project qualifies as newly constructed or substantially rehabilitated as defined in this Subpart and all parties, including HUD, agree. Conversion of existing Section 23 projects to Section 8 will be governed by the provisions of Part 882.

§ 883.304 Fair market rents.

(a) Fair Market Rents are HUD's determination of the rents, including utilities (except telephone), ranges and refrigerators, parking and all maintenance, management and other essential housing services, which would be required to obtain in a particular market area privately developed and owned rental housing of modest design with suitable amenities. One schedule of Fair Market Rents (FMRs) has been developed for newly constructed and substantially rehabilitated housing and separate ones for existing and moderately rehabilitated housing.

(b) Separate Fair Market Rents for newly constructed or substantially rehabilitated housing are established by unit size (number of bedrooms), basic structure type (detached, semi-detached/row houses, walk-up apartments, and elevator apartments) and occupant group (family and elderly) for individual market areas.

(c) The Fair Market Rents for (1) dwelling units designated for the elderly or handicapped are those for the appropriate size units, not to exceed 2-bedrooms for the elderly, multiplied by

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1.05, rounded to the nearest whole dollar, (2) congregate housing dwelling units are the same as for non-congregate units, and (3) single room occupancy dwelling units are those for 0-bedroom units of the same type.

(d) Fair Market Rents for newly constructed mobile homes may be established for an area upon application to HUD. The application must show that there is a need and demand for mobile homes in the area for which they are proposed and that mobile homes are acceptable under local requirements in that area.

(e) Fair Market Rents will be published in the **Federal Register** at least annually in accordance with 24 CFR Part 888. Interim revisions for one or more market areas may be initiated by HUD at any time and may be published as market conditions dictate.

§ 883.305 Limitations on contract rents, replacement costs and amenities.

(a) *Purpose and Applicability of Limitations.* The purpose of the Section 8 program is to assist lower-income families in renting decent, safe and sanitary housing of modest design with suitable amenities. This section sets limitations on the contract rents, replacement costs and amenities for new construction and substantial rehabilitation projects constructed under this part. These limitations are intended to permit production of suitable housing without excessive costs, design features or amenities.

(b) *Limitation on Contract Rents.* The contract rents for a project from proposal submission through cost certification, must be within both of the following limitations:

(1) *Fair Market Rent.* The contract rent (including a possible adjustment using the FCC) plus any utility allowance for the unit must not exceed the Fair Market Rent in effect at the time of processing. The published Fair Market Rents will reflect a trended rent in order to allow for the period of construction as stated in the publication. If the scheduled construction time for a project is less, an appropriate reduction will be made in determining the approvable Contract Rent. The contract rent plus any utility allowance for the unit may exceed the applicable Fair Market Rent under special circumstances or if needed to implement a local Housing Assistance Plan or Areawide Housing Opportunity Plan:

(i) By up to 10 percent with the approval of the HUD field office manager, or

(ii) By up to 20 percent with the approval of the HUD Assistant Secretary for Housing, and

(2) *Rent Reasonableness.* The contract rent must be reasonable. The HFA must certify to HUD on the appropriate form that:

(i) The rents compare reasonably to or are below the rents of unassisted units of similar age, design and location which provide comparable amenities and services, or

(ii) Any rents which exceed those determined to compare reasonably do so by no more than 20 percent, and are warranted by cost and expense estimates acceptable to the HFA and cost certifications, as specified in § 883.411.

(iii) For small projects and partially-assisted projects, the rents exceed the rents for similar units by no more than 10 percent. Where rents exceed those determined to compare reasonably by more than 10 percent but no more than 20 percent, the cost justification set forth in paragraph (b)(2)(ii) applies.

(c) *Limitation of Replacement Costs.* (1) The HFA must certify to HUD that the estimated replacement costs for the dwelling units in any new construction or substantial rehabilitation proposal do not exceed the following limits:

(i) The basic limits are: (A) $23,720 per dwelling unit without a bedroom; (B) $27,129 per dwelling unit with one bedroom; (C) $32,983 per dwelling unit with two bedrooms, (D) $42,217 per dwelling unit with three bedrooms; and (E) $47,032 per dwelling unit with four or more bedrooms.

(ii) Where necessary to compensate for the higher costs incident to construction or rehabilitation of elevator type structures of sound construction and design, the HFA may certify that the replacements costs exceed the limits in paragraph (c)(1)(i) of this section but do not exceed: (A) $24,962 per dwelling unit without a bedroom; (B) $28,614 per dwelling unit with one bedroom; (C) $34,795 per dwelling unit with two bedrooms; (D) $45,011 per dwelling unit with three bedrooms; and (E) $49,409 per dwelling unit with four or more bedrooms.

(iii) For any market area where the cost levels so require, the Assistant Secretary for Housing may increase, at the request of the field office, the dollar limits set forth in paragraphs (c)(1) (i) and (ii) by an amount not to exceed 75 percent.

(iv) If the Assistant Secretary finds that, because of high costs, it is not feasible to construct dwellings in Alaska, Guam, or Hawaii without the sacrifice of sound standards of construction, design, livability, and within the limits in paragraph (c)(1) (i) and (ii), the principal amount of the replacement cost limits may be increased by amounts as are necessary to compensate for additional costs but not to exceed the maximum, including high cost area increases under paragraph (c)(1)(iii), if any, otherwise applicable by more than 50 percent.

(2) The HFA must also certify that the replacement cost and portion of the project not attributable to dwelling use are reasonable.

(3) Except for the exemption contained in paragraph (c)(4) of this section, the limitations on replacement costs apply to all projects in their entirety.

(4) Partially-assisted projects are exempt from the replacement cost limitations of this paragraph.

(5) Subsequent changes to the limitations on replacement costs under paragraph (c)(1)(i) of this section will be made by notice published in the **Federal Register** and will be available on request.

(d) *Excess Costs.* The limitations of paragraph (c) of this section will not prohibit the total actual cost of a project from exceeding the limits referred to in that paragraph. However, in determining or adjusting contract rents, the HFA will not take into account or give credit for any cost which exceeds the applicable replacement cost limits.

(e) *Limitation on Amenities.* (1) The HFA must certify that the amenities in all new construction and substantial rehabilitation projects assisted under this part are limited to those amenities which are generally provided in unassisted housing of modest design in the market area. Generally, the amenities included in the determination of Fair Market Rents for the area may be included in a project. The use of more durable, high quality materials to control or reduce maintenance, repair and replacement costs will not be considered an excess amenity.

(2) The limitation on amenities applies to all projects in their entirety.

(3) Partially-assisted projects are exempt from the limitation of this paragraph.

§ 883.306 Limitation on distributions.

(a) Non-profit owners are not entitled to distributions of project funds.

(b) For the life of the Contract, project funds may only be distributed to profit-motivated owners at the end of each fiscal year of project operation following the effective date of the Contract and after all project expenses have been paid, or funds have been set aside for payment, and all reserve requirements have been met. The first year's distribution may not be made until the HFA certification of project costs, (See § 883.411), where applicable, has been submitted to HUD. The HFA must certify that distributions will not exceed the following maximum returns:

(1) For projects for elderly families, the first year's distribution will be limited to 6 percent on equity. The Assistant Secretary for Housing may provide for increases in subsequent years' distributions on an annual or other basis so that the permitted return reflects a 6 percent return on the value, in subsequent years, as determined in accordance with HUD guidelines, of the approved initial equity. Any such adjustments will be made in accordance with a Notice in the **Federal Register.** The HFA may approve a lesser increase or no increase in subsequent years' distributions.

(2) For projects for non-elderly families the first year's distribution will be limited to 10 percent on equity. The Assistant Secretary for Housing may provide for increases in subsequent years' distributions on an annual or other basis so that the permitted return reflects a 10 percent return on the value, in subsequent years, as determined in accordance with HUD guidelines, of the approved initial equity. Any such adjustments will be made in accordance with a Notice in the **Federal Register.** The HFA may approve a lesser increase or no increase in subsequent years' distributions.

(c) For the purpose of determining the allowable distribution, an owner's equity investment in a project is deemed to be 10 percent of the replacement cost of the part of the project attributable to dwelling use accepted by the HFA at cost certification (See § 883.411), or as specified in the Proposal where cost certification is not required, unless the owner justifies a higher equity contribution through cost certification documentation accepted by the HFA.

(d) Any short-fall in return may be made up from surplus project funds in future years.

(e) If the HFA determines at any time that surplus project funds are more than the amount needed for project operations, reserve requirements and permitted distributions, the HFA may require the excess to be placed in a separate account to be used to reduce housing assistance payments or for other project purposes. Upon termination of the Contract, any excess project funds must be remitted to HUD.

(f) Owners of small projects or partially-assisted projects are exempt from the limitation on distributions contained in paragraphs (b) through (d) of this section.

§ 883.307 Financing.

(a) *Types of Financing.* A State Agency using the Fast Track Procedures of this part must provide permanent financing for any new construction or substantial rehabilitation project without Federal mortgage insurance, except coinsurance under Section 244 under the National Housing Act. Obligations issued by the HFA for this purpose may be taxable under Section 802 of the Housing and Community Development Act of 1974 or tax-exempt under Section 103 of the Internal Revenue Code, 24 CFR Part 811 or other Federal Law.

(b) *HUD Approval.* (1) A State Agency, prior to receiving HUD approval of its first New Construction or Substantial Rehabilitation Proposal using contract authority under this part, must submit copies of the documents relating to the method of financing Section 8 projects to HUD for review. These documents shall include bond resolutions or indentures, loan agreements, regulatory agreements, notes, mortgages or deeds of trust and other related documents, if any, but does not need to include the "official statement" or copies of the prospectus for individual bond issues. HUD review will be limited to making certain that the documents are not inconsistent with or in violation of these regulations and the administrative procedures used to implement them. After review, HUD must notify the Agency that the documents are acceptable or, if unacceptable, will request clarification or changes. This review and approval will meet the requirements of 24 CFR 811.107(a).

(2) When an Agency which has received HUD approval of its financing documents proposes substantive changes in them which affect the Section 8 program, the revised documents must be submitted for review. HUD review will be limited to the areas indicated in paragraph (b)(1) of this Section and must be carried our promptly. HUD will notify the Agency that the revised documents are acceptable, or, if unacceptable, will request clarification or changes.

(3) The review and approval of financing documents required under 24 CFR Part 811 will constitute HUD approval under this Section.

(4) The Agency must retain in its files, and make available for HUD inspection, the documentation relating to its financing of Section 8 projects, including any relating to the certifications of compliance with applicable Department of Treasury or HUD regulations (24 CFR Part 811) regarding tax-exempt financing.

(c) *Pledge of Contracts.* The HFA or owner may pledge, or offer as security for any loan or obligation, an Agreement, Contract, or ACC entered into pursuant this Part provided that such security is in connection with a project constructed pursuant to this Part. Any pledge of the Agreement, Contract, or ACC, or payments thereunder will be limited to the amounts payable under the Contract or ACC in accordance with its terms. If the pledge or other document provides that all payments will be paid directly to the HFA, other mortgagee or the trustee for bondholders, the HFA, other mortgagee or trustee may make all payments or deposits required under the mortgage or trust indenture and remit any excess to the owner.

(d) *Foreclosure and Other Transfers.* In the event of foreclosure, assignment, or sale in lieu of foreclosure, or other assignment or sale approved by HUD,

(1) The Agreement, the Contract and the ACC will continue in effect, and

(2) Housing assistance payments will continue in accordance with the terms of the Contract.

§ 883.308 Adjustments to reflect changes in terms of financing.

(a) *Certifications of Projected Financing Terms.* When an HFA, under this part, provides permanent financing for a project through the issuance of obligations and these are not sold until after the contract rents for a project have been set, the HFA must submit, with the Proposal, a certification of:

(1) Its projected rate of borrowing (net interest cost), based on a reasonable evaluation of market conditions, on obligations issued to provide interim and permanent financing for the project,

(2) The projected cost of borrowing to the owner on interim financing for the project,

(3) The projected loan amount for the project,

(4) The projected cost of borrowing and the term of the permanent financing to be provided to the owner for the project,

(5) The projected annual debt service for the permanent financing on which the Contract Rents are based, and

(6) The override, if any.

(b) *Revised Certifications.* If, at any time prior to the execution of the Agreement, the terms and conditions of financing change, other than the HFA's projected cost of borrowing, the HFA must submit revised certifications based upon the new terms.

(c) *Certifications of Actual Financing Terms.* After a project has been

permanently financed, the HFA must submit a certification which specifies the actual financing terms. The items that must be included in this certification include:

(1) The HFA's actual cost of borrowing (net interest cost) on obligations from which funds were used to permanently finance the project,

(2) The override, if any, added to the actual cost of borrowing on obligations in setting the rate of lending to the owner,

(3) The annual debt service to the owner for the permanent financing on which contract rents are based; and,

(4) The actual loan amount and the term on which the annual debt service is based.

(d) *Reduction of Contract Rents.* If the actual debt service to the owner under the permanent financing is lower than the anticipated debt service on which the Contract Rents were based, the initial Contract Rents, or the Contract Rents currently in effect, must be reduced commensurately, and the amount of the savings credited to the project account.

(e) *Increase of Contract Rents.* This paragraph (e) applies only if the HFA is using its set-aside for the project and it is processed under Subpart D. If the acutal debt service to the owner under the permanent financing is higher than the anticipated debt service on which the Contract Rents are based, the initial Contract Rents or the Contract Rents currently in effect may, if sufficient contract and budget authority is available, be increased commensurately based on the certification submitted under paragraph (c) of this section. The amount of this increase may not exceed the amount of the Financing Cost Contingency (FCC) authorized but not reserved for the project at the time the proposal is approved. The adjustment must not exceed the amount necessary to reflect an increase in debt service (based on the difference between the projected and actual terms of the permanent financing) resulting from an increase over the projected interest rate of not more than:

(1) One and one-half percent if the projected override was three-fourths of one percent or less, or

(2) One percent if such projected override was more than three-fourths of one percent but not more than one percent, or

(3) One-half of one percent if such projected override was more than one percent.

(f) *Recoupment of Savings in Financing Costs.* In the event that interim financing is continued after the first year of the term of the Contract and the debt service of the interim financing for any period of three months after such first year is less than the anticipated debt service under the permanent financing on which the Contract Rents were based, an appropriate amount reflecting the savings in financing cost will be credited by HUD to the Project Account and withheld from housing assistance payments payable to the owner. If during the course of the same year there is any period of three months in which the debt service is greater than the anticipated debt service under the projected permanent financing, an adjustment will be made so that only the net amount of savings in debt service for the year is credited by HUD to the Project Account and withheld from housing assistance payments to the owner. No increased payments will be made to the owner on account of any net excess for the year of actual interim debt service over the acticipated debt service under the permanent financing. Nothing in this paragraph will be construed as requiring a permanent reduction in the Contract Rents or precluding adjustments of Contract Rents in accordance with paragraphs (d) or (e) of this section.

(g) *Compliance with Other Regulations.* The HFA must also submit a certification specifying:

(1) That the terms of financing, the amount of the obligations issued with respect to the project and the use of the funds will be in compliance with any regulation governing the issuance of the obligations, e.g., Department of the Treasury Regulations regarding arbitrage or HUD Regulations regarding Tax Exemption of Obligations of Public Housing Agencies (24 CFR Part 811), and

(2) That the override, if any, on the permanent financing for the project will not be greater than the projected override nor greater than the override allowed for the borrowing as a whole under applicable regulations, e.g., the Department of Treasury Regulations regarding arbitrage. The certifications required under 24 CFR 811.107(a)(2) will be sufficient to meet the certification requirements of this paragraph (g).

§ 883.309 Site and neighborhood standards.

Proposed sites must meet the standards in this section.

(a) *New Construction or Substantial Rehabilitation Projects.* (1) Adequate utilities (water, sewer, gas and electricity) and streets will be available to service the site.

(2) The site and neighborhood shall be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto.

(3) The site must promote greater choice of housing opportunities and avoid undue concentration of assisted persons to areas containing a high proportion of low-income persons.

(4) The site must be free from serious, adverse environmental conditions, or there shall be evidence that any such conditions will be corrected by the time the housing is completed. (For new construction projects, see paragraph (b)(3) of this section.)

(5) The site must comply with any applicable conditions in the Local Housing Assistance Plan approved by HUD if applicable under § 883.206.

(6) The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.

(7) Travel time and cost via public transportation or private automobile from the neighborhood to places of employment providing a range of jobs for lower-income workers, must not be excessive. (While it is important that elderly housing not be totally isolated from employment opportunities, this requirement need not be adhered to rigidly for such projects.)

(8) The project may not be on a site which has occupants unless the relocation requirements referred to in § 883.311 are met.

(9) The project may not be in an area that has been identified by HUD as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, unless the project is covered by flood insurance as required by the Flood Disaster Protection Act of 1973, and it meets any relevant HUD standards and local requirements.

(b) *New Construction Projects Only.* (1) The site must be adequate in size, exposure and contour to accommodate the number and type of its units proposed.

(2) The site must not be located in: (i) An area of minority concentration unless (A) sufficient, comparable opportunities exist for housing of minority families, in the income range to be served by the proposed projects, outside areas of minority concentration; or (B) the project is necessary to meet

overriding housing needs which cannot otherwise feasibly be met in that housing market area. An "overriding need" may not serve as the basis for determining that a site is acceptable if the only reason the need cannot otherwise feasibly be met is that discrimination on the basis of race, color, religion, creed, sex, or national origin renders sites outside areas of minority concentration unavailable, or

(ii) A racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.

(3) The site must be free from adverse environmental conditions, natural or manmade, such as instability, flooding, septic tank backups, sewage hazards, or mudslides; harmful air pollution, smoke or dust; excessive noise vibration or vehicular traffic; rodent or vermin infestation; or fire hazards. The neighborhood must not be one which is seriously detrimental to family life or in which substandard dwellings or other undesirable elements predominate, unless there is actively in progress a concerted program to remedy the undesirable conditions.

§ 883.310 Property standards.

(a) *New Construction.* Projects must comply with:

(1) HUD's Minimum Property Standards;

(2) In the case of mobile homes, the Federal Mobile Home Construction and Safety Standards, pursuant to Title VI of the Housing and Community Development Act of 1974, and 24 CFR Part 3280;

(3) In the case of congregate or single room occupant housing, the appropriate HUD guidelines and standards,

(4) HUD requirements pursuant to Section 209 of the Housing and Community Development Act of 1974 for projects for the elderly or the handicapped;

(5) HUD requirements pertaining to noise abatement and control; and

(6) Applicable state and local laws, codes, ordinances, and regulations.

(b) *Substantial Rehabilitation.* Projects must comply with:

(1) Minimum Design Standards for Rehabilitation for Residential Properties; and,

(2) In the case of congregate or single room occupant housing, the appropriate HUD guidelines and standards,

(3) HUD requirements pursuant to Section 209 of the HCD Act for projects for the elderly or the handicapped;

(4) HUD requirements pertaining to noise abatement and control;

(5) HUD regulations issued pursuant to the Lead Based Paint Poisoning Prevention Act, 42 U.S.C. 4801; and

(6) Applicable State and local laws, codes, ordinances, and regulations.

§ 883.311 Relocation and land acquisition requirements.

(a) *Application of the Uniform Act.* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and HUD implementing regulations at 24 CFR Part 42 (Uniform Relocation Assisstance and Real Property Acquisition) apply to the acquisition of real property by a PHA or other State agency (as defined at 24 CFR 42.85) for a project assisted under this Part and to any displacement that results from such acquisition.

(b) *Displacement not Subject to the Uniform Act.* With respect to any residential tenants (not owner-occupants) who will be permanently or temporarily relocated from a project that is assisted under this Part, but who are not assisted under the Uniform Act, the following policies will apply:

(1) Such tenants are eligible for the relocation assistance and benefits described below if they are relocated following the submission to HUD of the Proposal for the project, except where (i) their tenancy is terminated on the grounds set forth in § 883.708(b) (i), or (ii) they take occupancy after HUD's approval of the proposal with notice from the owner of the pending proposal and potential displacement.

(2) Within a reasonable period of time prior to displacement, each tenant to be permanently relocated will be provided a reasonable choice of opportunities to move to a suitable replacement dwelling unit from among available units so located as to promote choice outside areas of low income and minority concentration.

(3) For purposes of this section, a suitable replacement dwelling is: (i) Decent, safe and sanitary as defined in 24 CFR 42.47.

(ii) Available within the tenant's ability to pay (i.e., the monthly rent and average estimated cost of utilities does not exceed 25 percent of the combined monthly income of all adult members of the tenant's household);

(iii) In an area not subject to unreasonable adverse environmental conditions, either natural or human-made;

(iv) In a location that is not generally less desirable than the location of the displaced tenant's dwelling with respect to public utilities, commercial and public facilities, and the tenant's place of employment (or to sources of employment, if the tenant is unemployed but employable).

(4) Each tenant will be reimbursed by the owner for reasonable moving and related expenses at the levels described at 24 CFR 42.303 or may receive, at the discretion of the owner, a fixed payment for moving expenses in accordance with 24 CFR 42.353.

(5) A tenant may be required to relocate for a temporary period only if this is necessary to carry out the project and he/she is permitted to occupy a dwelling in the completed project. If required, the temporary relocation will not exceed 12 months in duration; a decent, safe, and sanitary dwelling in an area not subject to unreasonable adverse environmental conditions will be available to the tenant for the period of the temporary relocation; and the tenant will be reimbursed actual, reasonable out-of-pocket expenses, including moving costs to and from the temporarily occupied dwelling and any increase in the monthly housing cost (rent and reasonable utility costs) incurred in connection with the temporary relocation. If the new dwelling unit is not ready for occupancy within the 12-month period, the tenant will be notified of the earliest date by which it will be ready, and the tenant in that case will have the right to agree to wait until the extended date or to request that he/she be treated as permanently displaced.

(6) All tenants occupying property on which units will be newly constructed or substantially rehabilitated will be provided with advance information in writing and by personal explanation sufficient to enable them to understand fully the reason for their displacement and the relocation opportunities and assistance which is available to them.

(7) All tenants will be provided appropriate advisory services necessary to minimize hardships in adjusting to required permanent or temporary relocation.

(8) No lawful occupant will be required to move from his/her dwelling or to move his/her business without at least 90 days advance written notice of the earliest date by which he/she may be required to move.

(i) If the tenant is provided but refuses a reasonable choice of opportunities to move to a suitable replacement dwelling, the owner will not be obligated to make further efforts to provide replacement housing.

(ii) If replacement housing within the tenant's ability to pay cannot be identified and government assistance that would satisfy this requirement cannot be secured, the owner's obligation under this section may be

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satisified by providing the tenant with a lump sum payment equal to 48 times the amount, if any, necessary to reduce the monthly housing cost (rent and utilities) of a suitable replacement dwelling to 25 percent of the combined monthly gross income to all adult members of the tenant's household.

(iii) A tenant who believe he/she has not received the proper relocation payments or opportunities to relocate to decent, safe and sanitary dwelling to which the tenant is entitled under this section may appeal first to the HFA and, if this appeal does not resolve the issue within a reasonable period of time, may appeal to the HUD field office with jurisdiction over the proposed project.

(iv) Owners are responsible for assuring that payments and services required by this Section are provided. Costs incurred by the owner in providing these services and payments may be included in project replacement cost (see § 883.403(c)) except that payments to tenants permanently relocated in accordance with paragraph (b)(8) (ii) of this section may not be included.

(c) *Eligibility of Lower Income Single Persons.* Lower income single persons who are displaced as a result of a project may return to occupy assisted units in accordance with 24 CFR Part 812.

§ 883.312 Other Federal requirements.

(a) *Equal Opportunity Requirements.* Participation in this program requires compliance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Orders 11063 and 11246, and Section 3 of the Housing and Urban Development Act of 1968, and all related rules, regulations and requirements.

(c) *National Environmental Policy Act.* Participation in this program requires compliance with the National Environmental Policy Act and all related rules, regulations and requirements.

(d) *Clean Air Act and Federal Water Pollution Control Act.* Participation in this program requires compliance with the Clean Air Act and the Federal Water Pollution Control Act and all related rules, regulations and requirements.

(e) *Davis-Bacon and Related Acts.* Participation in this program requires that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (49 Stat. 1011), be paid to all laborers and mechanics employed in the development of any new construction or substantial rehabilitation project with nine or more assisted units and all related rules, regulations and requirements.

(f) *Rehabilitation Act.* Participation in this program requires compliance with the Rehabilitation Act of 1973 and Executive Order 11914 and all related rules, regulations and requirements.

(g) *Other Federal Statutes and Regulations.* Participation in this program requires compliance with the National Historic Preservation Act (Pub. L. 89–665), the Archeological and Historic Preservation Act of 1974 (Pub. L. 93–291), and Executive Order 11593 on Protection and Enhancement of the Cultural Environment, including the procedures prescribed by the Advisory Council on Historic Preservation in 36 CFR Part 800.

Subpart D—Fast Track Procedures for New Construction and Substantial Rehabilitation Projects

§ 883.401 Applicability.

The Subpart provides special, simplified processing procedures (Fast Track Procedures) for new construction and substantial rehabilitation projects using contract authority from the set-aside of an Agency.

(a) The Agency may utilize the Fast Track Procedures set forth in this subpart only for new construction or substantial rehabilitation projects for which it provides permanent financing without Federal mortgage insurance, except coinsurance under Section 244 of the National Housing Act. An Agency using Fast Track Procedures is called a Housing Finance Agency (HFA).

(b) New Construction and Substantial Rehabilitation proposals initially selected by HUD under 24 CFR Part 880 or 881, for which an Agency agrees to provide permanent financing without Federal mortgage insurance (except coinsurance under Section 244) are eligible for Fast Track Procedures. Subsequent to selection by HUD, such proposals will be governed by the provisions of this part. Any material deviation in the Proposal submitted by the HFA under this subpart from the Preliminary Proposal, including a request for additional contract or budget authority, may be cause for reconsideration and rejection by HUD.

(c) If an Agency provides permanent financing with Federal mortgage insurance for a Section 8 project and does not utilize its set-aside for such project, the provisions of 24 CFR Part 880 or 881, whichever is applicable, and §§ 883.307(b) and 883.308 apply.

§ 883.402 Obtaining proposals.

HFAs may establish their own procedures (by published invitation, negotiation, or otherwise, in accordance with applicable State and local laws) for obtaining and selecting a Proposal for submission to HUD pursuant to § 883.403.

§ 883.403 HFA submission of proposals.

(a) *Submission to HUD.* Any proposal eligible for Fast Track Procedures submitted by an HFA must contain the certifications required by paragraph (d) of this section.

(b) *Previous Participation; A–95 Clearinghouse Review; and Review and Comment by Local Government.* (1) The HFA and the HUD field office may, where feasible, develop procedures by which the previous participation review, A–95 Clearance and the local government review and comment under Part 891 are initiated prior to Proposal submission. (A–95 Clearance depends on the degree of rehabilitation and, therefore, may not apply to all rehabilitation projects.) The Proposal may not be approved until the HUD field office has received a copy of the response from the appropriate A–95 Clearinghouse and the Chief Executive Officer of the unit of general local government where appropriate, pursuant to 24 CFR Part 891.

(2) If the HFA initiates the A–95 review, a copy of its letter of transmittal to the appropriate A–95 Clearinghouse must be included with its Proposal submission to HUD. The letters to the A–95 Clearinghouse(s) should request that copies of the response be forwarded to HUD.

(3) If special procedures as described in paragraph (b)(1) and (b)(2) of this section are not adopted, the HUD field office will conduct its previous participation review or initiate A–95 and Part 891 review and comment procedures after the Proposal has been submitted.

(c) *Proposal Contents.* Each Proposal must contain the following items, any one of which may be submitted and approved with the Application:

(1) The identity of the owner, developer, builder, architect, management agent (and other participants) and the names of officers and principal members, shareholders, investors, and other parties having a substantial interest in the project. This must include the previous participation of each person in HUD programs on the prescribed HUD form, a disclosure of any possible conflict of interest by any of these parties which would be a violation of the Agreement, the Contract, or the ACC and information on the qualifications and experience of the principal participants;

(2) A description of the proposed housing and amenities agreed to by the HFA and the owner, including appropriate sketches or schematic drawings;

(3) A neighborhood map showing the location(s) of the site(s) and the racial composition of the neighborhood;

(4) The anticipated date for completion of the work. If the owner will complete the project in stages, identification of the units comprising each stage and the estimated dates for commencement and completion of each stage;

(5) The proposed contract rents by unit size and structure type; which utilities and services are to be included in the contract rent; which utilities and services, if any, are to be paid directly by the families and the estimated Utility Allowance for these utilities and services, if any; and, a list of the equipment to be provided in each type of unit as part of the contract rent;

(6) The estimated replacement costs for each size of dwelling unit which may include the cost to the owner of relocation (except for payments to tenants permanently relocated under § 883.311(b)(8)(ii)) and the total estimated replacement cost of the entire project;

(7) A signed certification on the prescribed form of the owner's intention to comply with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, Executive Order 11246, Section 3 of the Housing and Urban Development Act of 1968, and of the owner's intention to undertake marketing activities as required by § 883.702(a).

(8) A statement describing how the proposal is consistent with any applicable Housing Assisance Plan, and/or Areawide Housing Opportunity Plan;

(9) For proposals for projects of five units or more, an Affirmative Fair Housing Marketing Plan;

(10) The proposed term of the contract and justification for it in accordance with § 883.603;

(11) A statement of the marketing activities the owner intends to take in accordance with the requirements of § 883.702(a)(3). Such efforts might include: participation in regional or sub-regional application pools and clearinghouses; establishment of a referral system with PHAs, other public agencies and Section 8 owners/managers in the surrounding area; contact with and provision of information about the project to employers and their employees, labor unions and interested community groups.

(d) *HFA Certifications.* The HFA must submit, with the Proposal, the following certifications:

(1) That the developer, builder, and owner are acceptable for purposes of meeting all the obligations of the Agreement.

(2) That the proposed site(s) meets the standards specified in §§ 883.309(a) (1), (4), (6) and (7) and 883.309(b) (1) and (3).

(3) That the proposal complies with §§ 883.305(b)(2) regarding the reasonableness of contract rents, 883.305(e) regarding amenities, and 883.306 regarding distributions to owners, and 883.305(c)(2) regarding replacement costs.

(4) The certifications required by § 883.308 regarding the terms of financing.

(5) That the owner and management agent, if any, are acceptable for purposes of meeting all the obligations of the contract, including marketing, management and maintenance responsibilities.

(6) That consideration has been given to whether there are site occupants who would have to be displaced, whether there is a feasible plan for relocation of site occupants, the degree of hardship which displacement might cause, the availability of funding for relocation payments and the requirements of § 883.311 have been met. If any displacement will occur: The number of households affected, by size and race, and the business concerns affected, by race, and whether they own or rent; the number of each to be temporarily or permanently displaced.

(7) That the form of lease required by the HFA to be used by the owner will meet the requirements of § 883.707, and be otherwise consistent with program requirements.

(8) That the proposed project is in compliance with the various regulations, statutes and executive orders set forth in § 883.312.

§ 883.404 HUD evaluation of proposals.

HUD's evaluation of Proposals submitted by HFAs shall be limited to determining whether the following requirements are satisfied:

(a) The Proposal and the HFA certifications contain all elements required in § 883.403 and are acceptable in accordance with § 883.201(c);

(b) The proposed contract rents plus any Utility Allowance do not exceed the HUD established Fair Market Rents, except as provided in § 883.305(b);

(c) The proposed replacement cost for the dwelling units do not exceed the dollar limits specified in § 883.305(c)(1);

(d) The Proposal satisfies the requirements of the National Environmental Policy Act. In determining whether this requirement, is met, HUD must complete all appropriate environmental reviews required under HUD regulations;

(e) The proposed site meets the site and neighborhood requirements of § 883.309(a) (2), (3), (5), (8) and (9) and, in the case of proposals for new construction, § 883.309(b)(2);

(f) The HFA and Owner are not in Violation of the equal opportunity requirements of § 883.312(a) and the Affirmative Fair Housing Marketing Plan is approvable by HUD;

(g) The determination has been made by HUD as to whether any project participants are on the list of debarred, suspended, and ineligible contractors and grantees, available to the field office. If any participants are found to be on that list, the proposal will not be approved unless the participant withdraws;

(h) In cases where the Application for a proposed project did not specify a site, the requirements of § 883.208 (a)(4) and (b) must be satisfied; and

(i) The Proposal complies with such other requirements as the Secretary will from time to time prescribe.

§ 883.405 Notification of acceptability of proposal.

(a) *HUD Determination.* HUD shall notify the HFA that the Proposal is:

(1) Approved; or

(2) Approvable only if specified deficiencies are corrected and if HUD receives amendments to the Proposal necessary to correct these deficiencies within a specified time; or

(3) Not approved with an indication of the reasons for disapproval.

(b) *Notification.* The appropriate A–95 Clearinghouse and the unit of general local government must be notified by HUD of its final action at the time the HFA is notified.

§ 883.406 HFA's submission of acceptance of notification, and certification of design and construction quality.

(a) *HFA's Acceptance.* The HFA must indicate its acceptance of the notification of approval of the Proposal by returning to HUD a copy indicating its acceptance, together with a covering letter stating:

(1) The date by which the HFA will submit the documentation required in paragraph (b) of this section; and

(2) The date when construction or rehabilitation, as appropriate, is expected to begin. This acceptance must be furnished within the time prescribed in the notification. If the HFA does not accept the notification by the date specified, HUD may rescind the notification.

(b) *Documentation to Follow Acceptance.* The HFA must submit to

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HUD, by the date specified in its acceptance letter under paragraph (a) of this section, the following documents:

(1) A Certification of Design and Construction Quality in accordance with paragraph (c) of this section;

(2) Four copies of the ACC, prepared by the HFA in accordance with the HUD precribed form and executed by the HFA; and

(3) Four copies of the Agreement, prepared by the HFA in accordance with the HUD prescribed form and executed by the HFA and the owner.

(c) *Certification of Working Drawings and Specifications.* The HFA must submit to HUD a certification by the HFA, based upon an analysis and report by the design architect of the project or by an architect employed or engaged by the HFA, that:

(1) (i) For new construction, the working drawings and specifications are consistent with the approved Proposal, or

(ii) For substanial rehabilitation, the working drawings and specifications, where required under HUD guidelines considering the nature and extent of rehabilitation, and the work write-up are consistent with the approved proposal, and

(2) The proposed construction or rehabilitation is permissible under the applicable zoning, building, housing, and other codes, ordinances or regulations as modified by any waivers obtained from the appropriate officials. This certification must also cover compliance with the appropriate Minimum Property Standards and other standards, guidelines and criteria applicable pursuant to § 883.310.

(3) The amenities in the proposed project are in compliance with § 883.305(e).

(d) *Working Drawings and Specifications.* The HFA must retain in its files one set of the working drawings and specifications, or work write-up where working drawings and specifications are not required. (See paragraph (c) of this section.) These drawings and specifications, or work write-up, must be available for examination by HUD so long as the contract is in effect or for such shorter period of time as approved by HUD.

§ 883.407 HUD execution of annual contributions contract and agreement.

(a) HUD must review the Certification of Design and Construction Quality, the ACC, and the Agreement and, if found acceptable, execute the ACC and approve the Agreement. The Agreement may provide for execution of the contract in stages where the construction will permit occupancy of units prior to completion of the entire project. After execution, HUD will return two copies of the ACC and the Agreement to the HFDA, retaining two copies for its records.

(b) In the case of a non-elderly family project located in a Standard Metropolitan Statistical Area (SMSA), the field office will promptly notify PHAs and Community Development Agencies in the SMSA as well as any metropolitan-wide clearinghouse, or fair housing organizations where there is no metropolitan-wide clearinghouse, of the execution of the Agreement; the size and bedroom distribution of the project; and the expected time of initial marketing and occupany. The notification will indicate that agencies should inform the owner if they wish to be contacted by the owner for referrals.

§ 883.408 Construction or rehabilitation period.

(a) *Timely Performance of Work.* After execution of the Agreement, the owner must proceed promptly with construction or rehabilitation as provided in the Agreement and complete the project within the time stated in the Agreement. If the owner fails to start promptly, diligently continue or complete construction, the HFA may rescind the Agreement, or take other appropriate action.

(b) *Delays.* Extensions of time may be granted for the reasons specified in the Agreement. However, contract rents will be increased only for the reasons stated in paragraph (d) of this section.

(c) *Inspections During Construction.* (1) All projects will be inspected by the HFA periodically to determine compliance with Davis-Bacon Act requirements.

(2) Projects which involve financing which requires HUD construction inspection will be subject to the applicable inspection requirements of the applicable regulations (e.g., Part 811 or Coinsurance).

(3) A review to determine contractor compliance with equal opportunity requirements may be conducted at any time during the construction period.

(d) *Increases in Contract Rents or Utility Allowances Before Contract Execution.* (1) Increases in Contract Rents or Utility Allowance after execution of the Agreement and prior to execution of the Contract are permitted only in the following circumstances:

(i) To correct substantial errors by HUD or the HFA in the original processing which would otherwise result in serious inequities;

(ii) To reflect substantial and necessary changes in the plans and specifications which have been approved by the HFA (no optional betterments may result in rent increases);

(iii) To reflect increases in actual debt service over projected debt service permitted under § 883.308(e);

(iv) To reflect additional costs for interest, taxes, hazard insurance, mortgage insurance premiums, and commitment fees, due to construction delays excusable under the Agreement;

(v) To reflect additional costs which result from requirements imposed by local or State governments, HUD, or other Federal agencies, which are beyond the control of the owner, which have been approved by the HFA and which could not have been anticipated at the time the Agreement was executed; or

(vi) To reflect increased costs which result from a change in contractors which is necessary because the original contractor became bankrupt, was terminated by the owner due to inadequate performance or abandoned the job.

(vii) To reflect additional costs incurred by the owner in providing the relocation assistance and payments required by § 883.311 (except for payments made to tenants permanently relocated under § 883.311(b)(8)(ii)), or as a result of altering construction work schedules in order to minimize displacement, or as a result of other activities which minimize displacement or related hardships.

(2) The HFA must certify that any increases granted are limited to the amount necessary to cover the specific cost increase associated with the applicable item cited in paragraph (d)(1) of this section and do not result in rents that exceed the limitations to which the HFA certified under § 883.305(b)(2) or the limitations in §§ 883.305(b)(1) and 883.305(c).

§ 883.409 Project completion.

(a) *Certifications Upon Completion.* Upon completion of the project, the HFA must submit to HUD the following certifications:

(1) A certification by the HFA that: (i) The project has been completed in accordance with the requirements of the Agreement;

(ii) The project is in good and tenantable condition;

(iii) There are no defects or deficiencies in the project other than minor items or work which is incomplete because of weather conditions;

(iv) There has been no change in the management capability or in the proposed management program (if one was required) specified in the Proposal, other than changes approved in writing by the HFA in accordance with the Agreement;

(v) There are no claims of underpayment or alleged violation of the provisions of the Agreement relating to the payment of not less than prevailing wage rates. In the event there are any such pending claims to the knowledge of the owner, HUD, or the HFA, the HFA certification must include a statement that the owner has placed a sufficient amount in escrow, as determined by the HFA or HUD to assure payment of any contested underpayment; and

(vi) The project has been constructed or rehabilitated in accordance with applicable zoning, building, housing and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials.

(2) A certification by the owner that: (i) The project has been completed in accordance with the requirements of the Agreement;

(ii) The project is in good and tenantable condition;

(iii) There are no defects or deficiencies in the project other than minor items or work which is incomplete because of weather conditions;

(iv) There has been no change in evidence of management capability or in the proposed management program (if one was required) specified in the Proposal, other than changes approved in writing by the HFA in accordance with the Agreement; and

(v) The provisions of the Agreement relating to the payment of not less than prevailing wage rates have been complied with and that there are no claims of underpayment in alleged violation of said provisions of the Agreement. In the event there are any such pending claims to the knowledge of the Owner, HUD, or the HFA, the Owner's certification shall include a statement that a sufficient amount has been placed in escrow, as determined by the HFA or HUD to assure such payments.

(3) In the case of substantial rehabilitation projects, a certification by the owner that the property has been treated and is in compliance with HUD Lead Based Paint regulations (24 CFR Part 35).

(b) *Additional Work to be Completed.* If the HFA certification states that the project is complete except for minor items or work which is incomplete because of weather conditions which do no preclude or affect occupancy, the project or appropriate stage will be accepted and the Contract executed subject to completion of these items within a reasonable period of time. When the owner reports to the HFA that the remaining work items have been completed, the HFA must inspect the work, and if it finds that the work has been completed satisfactorily, it must so certify to HUD. If HUD fails to receive this additional certification within a reasonable time period from acceptance of the project, HUD may, upon 30 days notice to the HFA and the owner cancel its approval of the Contract and require its termination or exercise its other rights under the ACC.

(c) *Completion in Stages.* If the project is to be completed in stages, the procedures of this section shall apply to each stage.

§ 883.410 Execution of housing assistance payments contract.

If the HUD Field Office determines that the certifications required by § 883.409 are in conformance with the requirements of that section, it will authorize execution of the Contract. If HUD finds that the evidence of completion is acceptable with respect to the physical completion of the project, including the certificate of occupancy and/or other official approvals required for occupancy, but the evidence of completion in other respects is not acceptable, it will, upon request by the HFA, approve execution of the Contract. In such cases, however, until the remaining evidence of completion is submitted and found acceptable by HUD:

(a) The contract rent for the purpose of computing housing assistance payments with respect to any unit will be the monthly amount of the debt service on the permanent obligations attributable to the unit, or, if the project is not yet permanently financed, the amount of debt service on the interim obligations; and

(b) Rent-up and occupancy will be subject to such conditions as HUD may require.

The contract will be executed first by the owner and the HFA and then approved by HUD.

§ 883.411 Cost certification.

(a) As soon as possible after execution of the Contract, the HFA must certify to HUD the actual cost based on its review of certified costs submitted by the owner. This actual cost may include relocation costs incurred by the owner under § 883.311. The owner's cost certifications must, at a minimum, be consistent with the HUD-prescribed format and be supported by the unqualified opinion of an Independent Public Accountant.

(1) There will be no cost certification submission required for projects with rents that are equal to or less than comparable rents or for partially assisted projects or for small projects except as required by § 883.305(b)(2); and

(2) The provisions of paragraph (a)(1) of this section do not preclude the imposition of different cost certification requirements prescribed as part of the HFA's project financing requirements.

(3) In order to assist HUD in gathering data, the HFA will be required to submit cost information in a format approved by HUD.

(b) If the certified costs provided in accordance with paragraph (a) of this section are less than the projected replacement costs provided under § 883.403(c), the contract rents will be reduced accordingly.

(c) If the contract rents are reduced pursuant to paragraph (b) of this section, the maximum ACC commitment will be reduced. If contract rents are reduced based on certification after Contract execution, any overpayments since the effective date of the Contract will be recovered from the owner by the HFA and returned to HUD.

Subpart E—Existing Housing and Moderate Rehabilitation Projects

§ 883.501 Modification of existing housing/moderate rehabilitation regulations.

If an Agency wishes to use all or part of its set-aside as agreed under § 883.204(b) for an existing housing or moderate rehabilitation program, it must follow the provisions set forth in the regulations for the Section 8 Housing Assistance Payments Program—Existing Housing, 24 CFR Part 882 except as follows:

(a) The Agency may submit to HUD at any time, without reference to any HUD Invitation, an application pursuant to 24 CFR Part 882 which must be in accordance with the provisions of that part.

(b) The Agency must at the same time submit to HUD, on the prescribed HUD form, an Application accompanied by:

(1) A Certification that it has made a public announcement that it has been allocated a set-aside, in accordance with § 883.204(d); and

(2) A demonstration that the proposed project complements the allocation program of the HUD field office.

(c) In implementing the provisions of 24 CFR Part 882, with respect to review and comment by local governments, the provisions of § 883.206(b) must be satisfied.

Subpart F—Housing Assistance Payments Contract

§ 883.601 Applicability.

The provisions of this Subpart apply to new construction and substantial

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rehabilitation projects using contract authority allocated under Subpart B, Allocation and Assignment of Contract Authority, or processed and constructed under Subpart D, Fast Track Procedures.

§ 883.602 The contract.

(a) *Contract.* The Housing Assistance Payments Contract sets forth rights and duties of the owner and State Agency with respect to the project and the Housing Assistance payments.

(b) *Effective Date of Contract.* The effective date of the Contract may be earlier than the date of execution, but no earlier than the date the Agency inspects and accepts the project except as provided in § 883.410.

(c) *Housing Assistance Payments to Owners under the Contract.* The Housing Assistance Payments made under the Contract are:

(1) Payments to the owner to assist eligible families leasing assisted units, and

(2) Payments to the owner for vacant assisted units ("vacancy payments") if the conditions specified in § 883.712 are satisfied.

The housing assistance payments are made monthly by the State Agency upon proper requisition by the owner, except payments for vacancies of more than 60 days, which are made semi-annually by the Agency upon proper requisition by the owner.

(d) *Amount of Housing Assistance Payments to the Owner.* (1) The amount of the housing assistance payments made to the owner of a unit being leased by an eligible family is the difference between the contract rent for the unit and the tenant rent payable by the family.

(2) A housing assistance payment will be made to the owner for a vacant assisted unit in an amount equal to 80 percent of the contract rent for the first 60 days of vacancy, subject to the conditions in § 883.712. If the owner collects any tenant rent or other amount for this period which, when added to this vacancy payment, exceeds the contract rent, the excess must be repaid as the Agency directs in accordance with HUD guidelines.

(3) For a vacancy that exceeds 60 days, a housing assistance payment for the vacant unit will be made, subject to the conditions in § 883.712, in an amount equal to the principal and interest payments required to amortize that portion of the debt attributable to the vacant unit for up to 12 additional months.

(e) *Additional Housing Assistance Payments to Families.* In those cases where the total family contribution of a family leasing an assisted unit is less than the utility allowance for the unit, the difference will be paid to the family as an additional housing assistance payment. The Contract will provide that the owner will make this payment on behalf of the Agency. Funds for this purpose will be paid to the owner in trust solely for the purpose of making the additional payment.

§ 883.603 Term of contract.

(a) *New Construction (except Mobile Homes).* The term of the Contract will be governed by the following provisions:

(1) For assisted units in a project financed with the aid of a loan insured by the Federal government (including coinsurance under Section 244 of the National Housing Act) or a loan made, guaranteed or intended for purchase by the Federal government, the term is 20 years.

(2) For assisted units in a project owned by or financed by a loan or loan guarantee from a state or local agency, where the assisted units are intended for occupancy by non-elderly families and where it is located in an area designated by HUD as one requiring special financial assistance, the term of the Contract will be the lesser of (i) the term of the permanent financing for the project (but not less than 20 years) or (ii) 40 years.

(3) For assisted units in all other projects, the term of the Contract will be the lesser of (i) the term of the permanent financing for the project (but not less than 20 years), or (ii) 30 years.

(b) *Maximum Term for Mobile Homes.* For mobile homes, the maximum initial term of the Contract is five years, subject to renewal by HUD, the State Agency and the owner for additional terms of not more than five years each up to a maximum total terms of 20 years. In this paragraph, the term "mobile home" means the original mobile home and any replacement(s) combined.

(c) *Substantial Rehabilitation Projects.* (1) Where the estimated cost of rehabilitation is less than 25 percent of the estimated value of the project after completion of the rehabilitation, the term of the Contract will be for a term of 15 years.

(2) Where the estimated cost of rehabilitation is 25 percent or more of the estimated value of the project after completion or rehabilitation, the contract may be for a term which:

(i) Will cover the longest term, but not less than 15 years, of a single credit instrument covering:

(A) The cost of rehabilitation or

(B) The existing indebtedness, or

(C) The cost of rehabilitation and the refinancing of the existing indebtedness, or

(D) The cost of rehabilitation and the acquisition of the property; and

(ii) For assisted units in a project financed with the aid of a loan insured by the Federal government (including Coinsurance under Section 244 of the National Housing Act), or a loan made, guaranteed or intended for purchase by Federal government, will not exceed 20 years for any dwelling unit; or

(iii) For assisted units in a project owned or financed by a loan or loan guarantee of a state or local agency where the assisted units are intended for occupancy by non-elderly families and where it is located in an area designated by HUD as one requiring special financial assistance, will not exceed 40 years for any dwelling unit; or

(iv) For assisted units in projects financed other than as described in paragraphs (c)(2) (ii) or (iii), will not exceed 30 years.

(d) *Staged Projects.* If a project is completed in stages, the term of the Contract must relate separately to the units in each stage unless the Agency and the Owner agree that only the units in the first stage will be assisted for the maximum term of the contract. The total Contract term for the units in all stages, beginning with the effective date of the Contract for the first stage, may not exceed the overall maximum term allowable for any one unit under this section, plus two years.

§ 883.604 Maximum annual commitment and project account.

(a) *Maximum Annual commitment.* The maximum annual contribution that may be contracted for in the ACC is the total of the contract rents and utility allowances for all assisted units in the project, plus the HUD-approved fees, if any, for State Agency administration of the Contract. (See § 883.606)

(b) *Project Account.* (1) A project account will be established and maintained by HUD as a specifically identified and segregated account for each project. The account will be established out of the amounts by which the maximum annual commitment exceeds the amount actually paid out under the ACC each year. Payments will be made from this account for housing assistance payments (and fees for Agency admininstration, if appropriate) when needed to cover increases in contract rents or decreases in tenant rents and for other costs specifically approved by the Secretary.

(2) Whenever a HUD-approved estimate of required payments under the ACC for a fiscal year exceeds the maximum annual commitment and would cause the amount in the project account to be less than 40 percent of the maximum, HUD will, within a reasonable period of time, take such additional steps authorized by Section 8(c)(6) of the U.S. Housing Act of 1937, as may be necessary, to assure that payments under the ACC will be adequate to cover increases in contract rents and decreases in tenant rents.

§ 883.605 Reduction of number of units covered by contract.

(a) *Limitation on Leasing to Ineligible Families.* Owners may not lease more than 10 percent of the assisted units in a project to ineligible families without the prior approval of HUD and the Agency. Failure on the part of the owner to comply with this prohibition is a violation of the Contract and grounds for all available legal remedies, including specific performance of the Contract, suspension or debarment from HUD programs and reduction of the number of units under the Contract, as set forth in paragraph (b) of this section.

(b) *Reduction for Failure to Lease to Eligible Families.* If, at any time, beginning six months after the effective date of the Contract, the owner fails for a continuous period of six months to have at least 90 percent of the assisted units leased or available for leasing by eligible families, the Agency and HUD may, on at least 30 days notice, reduce the number of units covered by the Contract. The Agency and HUD may reduce the number of units to the number of units actually leased or available for leasing, plus 10 percent (rounded up). This reduction, however, will not be made if the failure to lease units to eligible families is permitted in writing by the Agency and HUD under paragraph (a) of this section.

(c) *Restoration.* HUD will agree to an amendment of the ACC and the Agency may agree to an amendment to the Contract to provide for subsequent restoration of any reduction made pursuant to paragraph (b) of this Section if:

(1) HUD and the Agency determine that the restoration is justified by demand,

(2) the owner otherwise has a record of compliance with his obligations under the Contract, and

(3) contract authority is available.

§ 883.606 Administration fee.

(a) The State Agency is responsible for administration of the Contract subject to periodic review and audit by HUD.

(b) The Agency is entitled to a reasonable fee, determined by HUD, for administering a Contract on newly constructed or substantially rehabilitated units provided there is no override on the permanent loan granted by the Agency to the owner for a project containing assisted units.

§ 883.607 Default by owner and/or agency.

(a) *Rights of Owner if Agency Defaults under Agreement or Contract.* The ACC, the Agreement and the Contract will provide that, in the event of failure of the Agency to comply with the Agreement or Contract with the owner, the owner will have the right, if he/she is not in default, to demand that HUD investigate. HUD will first give the Agency a reasonable opportunity to take corrective action. If HUD determines that a substantial default exists, HUD will assume the Agency's rights and obligations under the Agreement or Contract and meet the obligations of the Agency under the Agreement or Contract including the obligation to enter into the Contract.

(b) *Rights of HUD if Agency Defaults under ACC.* The ACC will provide that, if the Agency fails to comply with any of its obligations, HUD may determine that there is a substantial default and require the Agency to assign to HUD all of its rights and interests under the Contract; however, HUD will continue to pay annual contributions in accordance with the terms of the ACC and the Contract. Before determining that an Agency is in substantial default, HUD will give the Agency a reasonable opportunity to take corrective action.

(c) *Rights of Agency and HUD if Owner Defaults under Contract.* (1) The Contract will provide that if the Agency determines that the owner is in default under the Contract, the Agency will notify the owner, and lender, if applicable, with a copy to HUD,

(i) Of the actions required to be taken to cure the default,

(ii) Of the remedies to be applied by the Agency including specific performance under the Contract, abatement of housing assistance payments and recovery of overpayments, where appropriate; and

(iii) That, if he/she fails to cure the default, the Agency has the right to terminate the Contract or to take other corrective action, in its discretion.

(2) If the Agency provided the permanent financing, the Contract will also provide that HUD has an independent right to determine whether the owner is in default and to take corrective action and apply appropriate remedies, except that HUD will not have the right to terminate the Contract without proceeding in accordance with paragraph (c) of this section.

Subpart G—Management of New Construction and Substantial Rehabilitation Projects

§ 883.701 Applicability.

The provisions of this Subpart apply to new construction and substantial rehabilitation projects using contract authority allocated under Subpart B, Allocation and Assignment of Contract Authority, or processed and constructed under Subpart D, Fast Track Procedures.

§ 883.702 Responsibilities of owner.

(a) *Marketing.* (1) The owner must commence diligent marketing activities in accordance with the Agreement not later than 90 days (or 60 days in the case of substantial rehabilitation) prior to the anticipated date of availability for occupancy of the first assisted unit of the project.

(2) Marketing must be done in accordance with the HUD-approved Affirmative Fair Housing Marketing Plan and all Fair Housing and Equal Opportunity requirements. The purpose of the Plan and requirements is to assure that eligible families of similar income in the same housing market area have an equal opportunity to apply and be selected for a unit in projects assisted under this Part regardless of their race, color, creed, religion, sex or national origin.

(3) With respect to non-elderly family units, the owner must undertake marketing activities in advance of marketing to other prospective tenants in order to provide opportunities to reside in the project to non-elderly families who are least likely to apply as determined in the Affirmative Fair Housing Marketing Plan, to non-elderly families expected to reside in the community by reason of current or planned employment, as indicated in the Housing Assistance Plan, if any, and to non-elderly families from impacted jurisdictions.

(4) At the time of Contract execution, the owner must submit a list of leased and unleased units, with justification for the unleased units, in order to qualify for vacancy payments for the unleased units. (See § 883.602 (c) and (d) and § 883.712.)

(b) *Management and Maintenance.* The owner is responsible for all management functions (including selection of tenants, reexamination of family incomes, evictions and other terminations of tenancy, and collection of rents) and all repair and maintenance functions (including ordinary and extraordinary maintenance and replacement of capital items). All these functions must be performed in

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compliance with applicable Equal Opportunity requirements.

(c) *Contracting for Services.* With approval of the Agency, the owner may contract with a private or public entity (except the Agency) for performance of the services or duties required in paragraphs (a) and (b) of this section. However, such an arrangement does not relieve the owner of responsibility for these services and duties.

(d) *Submission of Financial and Operating Statements.* (1) After execution of the Contract, the owner must submit to the Agency:

(i) Within 60 days after the end of each fiscal year of the project, financial statements for the project audited by an Independent Public Accountant in a form approved by HUD, and

(ii) Other statements as to project operation, financial conditions and occupancy as the Agency may require pertinent to administration of the Contract and monitoring of project operations.

(2) The State Agency will be required to keep copies of annual financial statements for 3 years and make them available to HUD upon request.

(e) *Use of Project Funds.* Project funds must be used for the benefit of the project, to make required deposits to the replacement reserve in accordance with § 883.703, and to provide distributions to the owner as provided in § 883.306. Any remaining project funds must be deposited with the Agency, other mortgagee or other HUD-approved depository in an interest-bearing residual receipts account. Withdrawals from this account will be made only for project purposes and with the approval of the Agency in accordance with HUD guidelines. In the case of HUD-insured projects, the provisions of this paragraph will apply instead of the otherwise applicable mortgage insurance provisions. Partially-assisted projects are exempt from the provisions of this section.

§ 883.703 Replacement reserve.

(a) A replacement reserve must be established and maintained in an interest-bearing account to aid in funding extraordinary maintenance and repair, and replacement of capital items.

(1) An amount equivalent to at least .006 of the cost of total structures, including main buildings, accessory buildings, garages and other buildings, or any higher rate as required from time to time by (i) the Agency, in the case of projects approved under Subpart D or (ii) HUD, in the case of all other projects, will be deposited in the replacement reserve annually. For projects approved under Subpart D, this amount may be adjusted each year by up to the amount of the automatic annual adjustment factor. For all projects not approved under Subpart D, this amount must be adjusted each year by the amount of the automatic annual adjustment factor.

(2) The reserve must be built up to and maintained at a level determined to be sufficient by the Agency to meet projected requirements. Should the reserve achieve that level, the rate of deposit to the reserve may be reduced with the approval of the Agency.

(3) All earnings, including interest on the reserve, must be added to the reserve.

(4) Funds will be held by the Agency, other mortgagee or trustee for bondholders, as determined by the Agency, and may be drawn from the reserve and used only in accordance with Agency guidelines and with the approval of, or as directed by, the Agency.

(b) The Agency may exempt partially-assisted projects approved under Subpart D from the provisions of this section. All partially-assisted projects not approved under Subpart D are exempt from the provisions of this section.

(c) In the case of HUD-insured projects, the provisions of this section will apply instead of the otherwise applicable mortgage insurance provisions except in the case of partially-assisted projects which are subject to the applicable mortgage insurance provisions.

§ 883.704 Selection and admission of tenants.

(a) *Application.* The owner must accept applications for admission to the project in the form prescribed by HUD. Both the owner (or designee) and the applicant, must complete and sign the application. On request, the owner must furnish to the Agency or HUD copies of all applications received.

(b) *Determination of Eligibility and Selection of Tenants.* The owner is responsible for determining whether the applicant is eligible in accordance with 24 CFR Parts 812 and 889 and for the selection of families.

(1) Local residency requirements are prohibited. Local residency preferences are discouraged and may be applied in selecting tenants only to the extent that they are not inconsistent with affirmative fair housing marketing objectives and the owner's HUD-approved Affirmative Fair Housing Marketing Plan. With respect to any residency preferences, persons expected to reside in the community as a result of current or planned employment will be treated as residents.

(2) If the owner determines that the family is eligible and is otherwise acceptable and units are available, the owner will assign the family a unit of the appropriate size in accordance with HUD standards. If no suitable unit is available, the owner will place the family on a waiting list for the project and notify the family of when a suitable unit may become available. If the waiting list is so long that the applicant would not be likely to be admitted for the next 12 months, the owner may advise the applicant that no additional applications are being accepted for that reason.

(3) If the owner determines that an applicant is ineligible on the basis of income or family composition, or if the owner is not selecting the applicant for other reasons, the owner will promptly notify the applicant in writing of the determination, the reasons for the determination, and that the applicant has the right to meet the owner or managing agent in accordance with HUD requirements. Where the owner is a PHA, the applicant may request an informal hearing. If the PHA determines that the applicant is not eligible, the PHA will notify the applicant and inform the applicant that he has the right to request a review by the Agency and HUD of the PHA's determination. The applicant may also exercise other rights if the applicant believes he/she is being discriminated against on the basis of race, color, creed, religion, sex, or national origin.

(4) Records on applicants and approved eligible families which provide racial, ethnic, gender and place of previous residence data required by HUD, must be maintained and retained for three years.

(c) *Income Mix.* In the initial renting of assisted units, the Agency must be able to verify to HUD that at least 30 percent of the units assisted under its program are leased to very low-income families. After initial renting, the Agency must be able to verify to HUD that owners use their best efforts to maintain at least 30 percent occupancy by very low-income families under the Agency's program. In addition, the Agency will use its best efforts to achieve leasing by owners to families with a range of incomes so that the average incomes of all families in occupancy is at or above 40 percent of the median income in the area.

(d) *Reexamination of Family Income and Composition.* (1) The owner is responsible for reexamining the income and composition of all families at least once each year (except that reviews may be made at intervals no longer than two years in the case of elderly families) and, upon verification of the information provided by the family, making appropriate adjustments in the total family contribution in accordance with the provisions of 24 CFR Part 889. The owner will adjust tenant rent and the housing assistance payment in accordance with any change in total family contribution. The owner may schedule reexaminations at intervals of less than one year when it is not possible to make a reasonable estimate of the family's income for a full year.

(2) If the family reports a change in income or other circumstances that would result in a decrease of total family contribution between regularly scheduled reexaminations, the owner, upon receipt of verification of the decrease in income, must promptly make appropriate adjustments in the total family contribution. The owner may require families to report increases in income or changes in family composition between scheduled reexaminations.

(3) A family's eligibility for housing assistance payments continues until its total family contribution equals the total housing expense for the unit it occupies. The termination of eligibility at this point will not affect the family's other rights under the lease nor will such termination preclude resumption of payments as a result of subsequent changes in income or other circumstances during the term of the Contract.

§ 883.705 Tenant rent.

The tenant rent is paid directly to the owner by the eligible family to whom an assisted unit is leased in partial payment of the contract rent. It is equal to the family's total family contribution minus any utility allowance for the unit. If the family's total family contribution is less than the utility allowance for the unit which it occupies, the tenant rent payable by the family to the owner is zero.

§ 883.706 Overcrowded and underoccupied units.

If the Agency determines that because of a change in family size an assisted unit is smaller than appropriate for the eligible family to which it is leased, or that the unit is larger than appropriate, housing assistance payments with respect to the unit will not be reduced or terminated until the eligible family has been relocated to an appropriate alternative unit. If possible, the owner will, as promptly as possible, offer the family an appropriate unit. The owner may receive vacancy payments for the vacated unit if the requirements of § 883.712 are met.

§ 883.707 Lease requirements.

(a) *Term of Lease.* The term of the lease will be for not less than one year. The lease may, or in the case of a lease for a term of more than one year must, contain a provision permitting termination on 30 days advance written notice by the family.

(b) *Form.* The form of lease must contain all require provisions, and none of the prohibited provisions specified below.

(1) *Required Provisions (Addendum to Lease).*

"The following additional Lease provisions are incroporated in full in the Lease between ———(Landlord) and ——— (Tenant) for the following dwelling unit: ———. In case of any conflict between these and any other provisions of the Lease, these provisions will prevail.

a. The total rent will be $— per month.

b. Of the total rent, $— will be payable by the State Agency (Agency) as housing assistance payments on behalf of the Tenant and $— will be payable by the Tenant. These amounts will be subject to change by reason of changes in the Tenant's family income, family composition, or extent of exceptional medical or other unusual expenses, in accordance with HUD-established schedules and criteria; or by reason of adjustment by the Agency of any applicable Utility Allowance; or by reasons of changes in program rules. Any such change will be effective as of the date stated in a notification to the Tenant.

c. The Landlord will not discriminate against the Tenant in the provision of services, or in any other manner, on the grounds of race, color, creed, religion, sex, or national origin.

d. The Landlord will provide the following services and maintenance:

_____

_____

e. A violation of the Tenant's responsibilities under the Section 8 Program, as determined by the Agency, is also a violation of the lease.

Landlord _____
By _____
Date _____
Tenant _____
Date _____

(2) *Prohibited Provisions.* Lease clauses which fall within the classifications listed below must not be included in any Lease.

a. *Confession of Judgment.* Consent by the tenant to be sued, to admit guilt, or to accept without question any judgment favoring the landlord in a lawsuit brought in connection with the lease.

b. *Seize or Hold Property for Rent or Other Charges.* Authorization to the landlord to take property of the tenant and/or hold it until the tenant meets any obligation which the landlord has determined the tenant has failed to perform.

c. *Exculpatory Clause.* Prior agreement by the tenant not to hold the landlord or landlord's agents legally responsible for acts done improperly or for failure to act when the landlord or landlord's agent was required to do so.

d. *Waiver of Legal Notice.* Agreement by the tenant that the landlord need not give any notices in connection with (1) a lawsuit against the tenant for eviction, money damages, or other purposes, or (2) any other action affecting the tenant's rights under the lease.

e. *Waiver of Legal Proceeding.* Agreement by the tenant to allow eviction without a court determination.

f. *Waiver of Jury Trial.* Authorization to the landlord's lawyer to give up the tenant's right to trial by jury.

g. *Waiver of Right to Appeal Court Decision.* Authorization to the landlord's lawyer to give up the tenant's right to appeal a decision on the ground of judicial error or to give up the tenant's right to sue to prevent a judgment being put into effect.

h. *Tenant Chargeable with Cost of Legal Actions Regardless of Outcome of Lawsuit.* Agreement by the tenant to pay lawyer's fees or other legal costs whenever the landlord decides to sue the tenant whether or not the tenant wins. (Omission of such a clause does not mean that the tenant, as a party to a lawsuit, may not have to pay lawyer's fees or other costs if the court so orders.)

§ 883.708 Termination of tenancy and modification of lease.

(a) *Applicability.* The provisions of this section apply to all decisions by an owner to terminate the tenancy of a family residing in a unit under Contract during or at the end of the family's lease term.

(b) *Entitlement of Families to Occupancy.*—(1) *Grounds.* The owner may not terminate any tenancy except upon the following grounds:

(i) Material noncompliance with the lease;

(ii) Material failure to carry out obligations under any state landlord and tenant act, or

(iii) Other good cause, which may include the refusal of a family to accept an approved, modified lease form (see paragraph (d) of this section).

No termination by an owner will be valid to the extent it is based upon a lease or a provision of State law permitting termination of a tenancy solely because of expiration of an initial or subsequent renewal term. All terminations must also be in accordance with the provisions of any State and local landlord tenant law and paragraph (c) of this section.

(2) *Notice of Good Cause.* The conduct of a tenant cannot be deemed "other good cause" under paragraph (b)(1)(iii) of this section unless the owner has given the family prior notice that the grounds constitute a basis for termination of tenancy. The notice must be served on the family in the same

manner as that provided for termination notices under paragraph (c) of this section and State and local law.

(3) *Material Noncompliance.* The term material noncompliance with the lease includes:

(i) One or more substantial violations of the lease, or

(ii) Repeated minor violations of the lease which disrupt the livability of a building, adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related project facilities, interfere with the management of a building or have an adverse financial effect on the building or project. Nonpayment of rent or any other financial obligation due under the lease (including any portion thereof) beyond any grace period permitted under State law will constitute material noncompliance with the lease. The payment of rent or any other financial obligation due under the lease after the due date but within the grace period permitted under State law will constitute a minor violation.

(c) *Termination Notice.* (1) The Owner must give the family a written notice of any proposed termination of tenancy, stating the grounds and that the tenancy is terminated on a specified date and advising the family that it has an opportunity to respond to the Owner.

(2) When a termination notice is issued for other good cause (paragraph (b)(1)(iii) of this section), the notice will be effective, and it will so state, at the end of a term and in accordance with the termination provisions of the lease, but in no case earlier than 30 days after receipt by the family of the notice. Where the termination notice is based on material noncompliance with the lease or material failure to carry out obligations under a State landlord and tenant act pursuant to paragraph (b)(1)(i) or (ii) of this section, the time of service must be in accord with the lease and State law.

(3) In any judicial action instituted to evict the family, the owner may not rely on any grounds which are different from the reasons set forth in the notice.

(d) *Modification of Lease Form.* The owner may, with the prior approval of the Agency, modify the terms and conditions of the lease form effective at the end of the initial term or a successive term, by serving an appropriate notice on the family, together with the offer of a revised lease or an addendum revising the existing lease. This notice and offer must be received by the family at least 30 days prior to the last date on which the family has the right to terminate the tenancy without being bound by the modified terms and conditions. The family may accept the modified terms and conditions by executing the offered revised lease or addendum, or may reject the modified terms and conditions by giving the owner written notice in accordance with the lease that the family intends to terminate the tenancy. Any increase in rent must in all cases be governed by Section 883.710 and other applicable HUD regulations.

§ 883.709 Security deposits.

(a) At the time of the initial execution of the lease, the owner must require each family to pay a security deposit in an amount equal to one month's total family contribution or $50, whichever is greater. The family is expected to pay the security deposit from its own resources or other public sources. The owner may collect the security deposit on an installment basis.

(b) The owner must place the security deposits in a segregated, interest-bearing account. The balance of this account must at all times be equal to the total amount collected from the families then in occupancy, plus any accrued interest. The owner must comply with any applicable State and local laws concerning interest payments on security deposits.

(c) In order to be considered for the return of the security deposit, a family which vacates its unit will provide the owner with its forwarding address or arrange to pick up the refund.

(d) The owner, subject to State and local law and the requirements of this paragraph, may use the security deposit, plus any accrued interest, as reimbursement for any unpaid family contribution or other amount which the family owes under the lease. Within 30 days (or a shorter time, if required by State or local law) after receiving notification of the family's forwarding address, the owner must:

(1) Refund to a family owing no rent or other amount under the lease the full amount of the security deposit, plus accrued interest; and

(2) Provide to a family owing rent or other amounts under the lease a list itemizing any unpaid rent, damages to the unit, and estimated costs for repair, along with a statement of the family's rights under State and local law. If the amount which the owner claims is owed by the family is less than the amount of the security deposit, plus accrued interest, the owner must refund the unused balance to the family. If the owner fails to provide the list, the family will be entitled to the refund of the full amount of the security deposit plus accrued interest.

(e) In the event a disagreement arises concerning the reimbursement of the security deposit, the family will have the right to present objections to the owner in an informal meeting. The owner must keep a record of any disagreements and meetings in a tenant file for inspection by the Agency. The procedures of this paragraph do not preclude the family from exercising its rights under State and local law.

(f) If the security deposit, including any accrued interest, is insufficient to reimburse the owner for any unpaid tenant rent or other amount which the family owes under the lease, and the owner has provided the family with the list required by paragraph (d)(2) of this section, the owner may claim reimbursement under the Contract, for an amount not to exceed the lessor of:

(1) The amount owed the owner, or

(2) One month's contract rent, minus the amount of the security deposit plus accrued interest. Any reimbursement under this section will be applied first toward any unpaid tenant rent due under the lease. No reimbursement may be claimed for unpaid rent for the period after termination of the tenancy.

§ 883.710 Adjustments of contract rents.

(a) *Automatic Annual Adjustment of Contract Rents.* Upon request from the owner to the Agency, contract rents will be adjusted annually on the anniversary of the Contract in accordance with 24 CFR Part 888.

(b) *Special Additional Adjustments.* For all projects, special additional adjustments will be granted, to the extent determined necessary by the Agency and HUD, to reflect increases in the actual and necessary expenses of owning and maintaining the assisted units which have resulted from substantial general increases in real property taxes, assessments, utility rates, and utilities not covered by regulated rates, which are not adequately compensated for by annual adjustments under paragraph (a) of this section. The owner must submit to the Agency required supporting data, financial statements and certifications.

(c) *Overall Limitation.* Any adjustments of contract rents for a unit after cost certification, where applicable, must not result in material differences between the rents charged for assisted units and comparable unassisted units except to the extent that the differences existed with respect to the contract rents set at Contract execution or cost certification, where applicable.

§ 883.711 Adjustment of utility allowance.

The owner must recommend to the Agency, in connection with annual and special adjustments of contract rents, and at other times, if appropriate, whether and to what extent the utility allowance for any assisted unit should be adjusted. Whenever a utility allowance for a unit is adjusted, the owner will promptly notify the families occupying assisted units and make a corresponding adjustment of the tenant rent and the amount of the housing assistance payment for the unit.

§ 883.712 Conditions for receipt of vacancy payments.

(a) *General.* Vacancy payments under the Contract will not be made unless the conditions for receipt of these housing assistance payments set forth in this section are fulfilled.

(b) *Vacancies During Rent-Up.* For each assisted unit that is not leased as of the effective date of the Contract, the owner is entitled to vacancy payments in the amount of 80 percent of the contract rent for the first 60 days of vacancy if the owner:

(1) Conducted marketing in accordance with § 883.702(a) and otherwise complied with § 883.702;

(2) Has taken and continues to take all feasible actions to fill the vacancy; and

(3) Has not rejected any eligible applicant except for good cause acceptable to the Agency.

(c) *Vacancies After Rent-Up.* If an eligible family vacates a unit, the owner is entitled to vacancy payments in the amount of 80 percent of the contract rent for the first 60 days of vacancy if the owner:

(1) Certifies that he/she did not cause the vacancy by violating the lease, the Contract or any applicable law;

(2) Notifies the Agency of the vacancy or prospective vacancy and the reasons for the vacancy immediately upon learning of the vacancy or prospective vacancy;

(3) Has fulfilled and continues to fulfill the requirements specified in § 883.702(a) (2) and (3) and § 883.712(b) (2) and (3); and

(4) For any vacancy resulting from the owner's eviction of an eligible family, certifies that he has complied with § 883.708.

(d) *Vacancies for Longer than 60 Days.* If an assisted unit continues to be vacant after the 60-day period specified in paragraph (b) or (c) of this section, the owner may apply to receive additional vacancy payments in an amount equal to the principal and interest payments required to amortize that portion of the debt service attributable to the vacant unit for up to 12 additional months for the unit if:

(1) The unit was in decent, safe and sanitary condition during the vacancy period for which payments are claimed,

(2) The owner has fulfilled and continues to fulfill the requirements specified in paragraph (b) or (c) of this section, as appropriate, and

(3) The owner and the Agency have demonstrated to the satisfaction of HUD that:

(i) For the period of vacancy, the project is not providing the owner with revenues at least equal to project expenses (exclusive of depreciation), and the amount of payments requested is not more than the portion of the deficiency attributable to the vacant unit, and

(ii) The project can achieve financial soundness within a reasonable time.

(e) *Prohibition of Double Compensation for Vacancies.* The owner is not entitled to vacancy payments for vacant units to the extent he/she can collect for the vacancy from other sources (such as security deposits, payments under § 883.709(f) and governmental payments under other programs).

§ 883.713 Reviews during management period.

(a) After the effective date of the Contract, the Agency will inspect the project and review its operation at least annually to determine whether the owner is in compliance with the Contract and the assisted units are in decent, safe and sanitary condition.

(b) In addition, HUD:

(1) Will periodically review the Agency's administration of the Contract to determine whether it is in compliance with the Contract, and

(2) May independently inspect project operations and units at any time.

(c) Equal Opportunity reviews may be conducted at any time.

2. A new Part 884 is added, and the sections previously contained in Subparts G and H of Part 883 are transferred to Subparts A and B, respectively, of the new Part 884 and redesignated, as follows:

PART 884—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING PROJECTS

Subpart A—Applicability, Scope and Basic Policies

Sec.

884.101 Applicability and scope.
884.102 Definitions.
884.103 Demonstration of need for new construction projects; compliance with Section 213 of HCD Act.
884.104 Maximum Total Annual Contract Commitment and Project Account (private-owner or PHA-owner projects).
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884.225 PHA reporting requirements [Reserved].

Authority: Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., November 8, 1979.

Morton A. Baruch,

Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 80-2866 Filed 1-29-80; 8:45 am]

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federal register

Wednesday
January 30, 1980

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations; Initial and Permanent Regulatory Programs; Correction and Addition to Notice of Suspension and Withdrawal

V 45 / 21 JA 30 80 UMI

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

Surface Coal Mining and Reclamation Operations; Initial and Permanent Regulatory Programs

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Correction and addition to notice of suspension and withdrawal.

SUMMARY: This document corrects, and adds Sections to, a notice of suspension and withdrawal of certain rules in 30 CFR Chapter VII, Subchapters B and K, of the initial and permanent programs, and a statement of policy regarding the effect of the notice on State programs and enforcement. Both were published at 44 FR 77447–77454, December 31, 1979. The material being added in this notice was inadvertently omitted in the original notice.

EFFECTIVE DATE: January 30, 1980.

FOR FURTHER INFORMATION CONTACT: Jose R. del Rio, Civil Engineer, Division of Technical Services, Office of Surface Mining, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240; 202–343–4022.

SUPPLEMENTARY INFORMATION: A notice of suspension and withdrawal of certain rules relating to total suspended solids effluent limitations and to sedimentation pond design criteria in 30 CFR Chapter VII, Subchapters B and K, and a statement of policy regarding the effect of the notice on State programs and enforcement during the initial and permanent programs were published by OSM on December 31, 1979 (44 FR 77447–77454). The notice contained two errors in section numbers on page 77452 and inadvertent omissions of supended portions of 30 CFR 817.46(d) and 817.46(h) from page 77454.

Dated: January 25, 1980.

Walter N. Heine,

Director, Office of Surface Mining Reclamation and Enforcement.

Corrections

On page 77452, column 1, the section numbers in the headings "§ 717.15(e)(4) [Amended]" and "§ 717.15(e)(8) [Amended]" are corrected to read "§ 715.17(e)(4) [Amended]" and "§ 715.17(e)(8) [Amended]," respectively.

On page 77453, column 2, the Section heading "§ 817.46(b) and (c) [Amended]" is revised to read "§ 817.46(b), (c), (d), and (h) [Amended]."

Additions

On page 77454, column 1, following Paragraph (4), the following paragraphs are added:

I. 30 CFR 817.46(d)

" * * * and shall have a discharge rate to achieve and maintain the required theoretical detention time."

J. 30 CFR 817.46(h)

" * * * when the volume of sediment accumulates to 60 percent of the design sediment storage volume. With the approval of the regulatory authority, additional permanent storage may be provided for sediment and/or water above that required for the design sediment storage. Upon the approval of the regulatory authority for those cases where additional permanent storage is provided above that required for sediment under paragraph (b) of this section, sediment removal may be delayed until the remaining volume of permanent storage has decreased to 40 percent of the total sediment storage volume provided the theoretical detention time is maintained."

Adoption of Utilization of EPA Precipitation Event Exemption

In light of the suspension of the provisions of 30 CFR 715.17(a)(1), 717.17(a)(3)(i), 816.46(b), and 817.46(b), OSM and State regulatory authorities will authorize exemption from the total suspended solids effluent limitations of 30 CFR 715.17(a), 717.17(a), 816.42(a)(7), and 817.42(a)(7) by utilizing the appropriate elements of EPA's revised precipitation event exemption, 40 CFR 434.22(c), 434.32(b), and 434.42(b), as amended.

[FR Doc. 80–3013 Filed 1–29–80; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office—

77440 12–31–79 / Surface coal mining and reclamation operations permanent regulatory program

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Commodity Credit Corporation—

69657 12–4–79 / 1980 Peanut Program; proposed loan and purchase determinations; comments by 2–4–80

69657 12–4–79 / Peanut warehouse storage loans and handler operations provisions for 1979 and subsequent crops; comments by 2–4–80

Farmers Home Administration—

70741 12–10–79 / Administration of the Business and Industry Loan Program; comments by 2–8–80

69937 12–5–79 / Revision and redesignation of regulations pertaining to management and supervision of multiple family housing borrowers and grant recipients; comments by 2–4–80

1411 1–7–80 / Tenant grievance and appeals procedure; comments period extended from 11–23–79 to 2–7–80

[Originally published at 44 FR 54963, Sept. 24, 1979]

Food and Nutrition Service—

70684 12–7–79 / Food Stamp Act of 1977; SSI/Food stamp joint application processing; comments by 2–7–80

Food Safety and Quality Service—

69659 12–4–79 / Meat and poultry products inspection; admistative provisions; comments by 2–4–80

CIVIL AERONAUTICS BOARD

19161 1–9–80 / Exemptions for carriers to provide free or reduced-rate transportation in connection with barter transactions and promotional programs; comments by 2–7–80

2018 1–10–80 / Joint fares involving intrastate pairs of points; comments by 2–8–80

COMMERCE DEPARTMENT

Economic Analysis Bureau—

1049 1–4–80 / Direct investment surveys; mandatory reporting requirement; comments by 2–4–80

National Oceanic and Atmospheric Administration—

69970 12–5–79 / Channel Islands Marine Sanctuary; designation; comments by 2–4–80

DEFENSE DEPARTMENT

Engineers Corps—

1096 1–4–80 / Implementation and procedures of the National Environmental Policy Act; comments by 2–4–80

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

2052 1–10–80 / Distribution access to Outer Continental Shelf Gas; comments by 2–8–80

3330 1–17–80 / Rule required under section 202 of the Natural Gas Policy Act of 1978; comments by 2–8–80

ENVIRONMENTAL PROTECTION AGENCY

70196 12–6–79 / Airborne carcinogens; identification; policies and procedures and organic chemical sources; comments by 2–7–80

1647 1–8–80 / Air quality planning; attainment status designation—Nevada; comments by 2–7–80

76827 12–28–79 / Hazardous waste management; availability of information; comments by 2–6–80

58642 10-10-79 / National emission standards for hazardous air pollutants; policy and procedures for identifying, assessing, and regulating airborne substances posing cancer risk; comments by 2-7-80

1643 1-8-80 / Oregon's field burning regulation; comments by 2-7-80

1108 1-4-80 / Proposed revision to New York State Implementation Plan; comments by 2-4-80

70754 12-10-79 / Results of review of proposed revision to New York State Implementation Plan; comments by 2-8-80

53 1-2-80 / Timber products processing point source category effluent limitations guidelines, pretreatment standards, and new source performance standards; comments period extended to 2-15-80

[Originally published at 44 FR 62810, Oct. 31, 1979]

FEDERAL COMMUNICATIONS COMMISSION

75418 12-20-79 / Fayette and Port Gibson, Miss.; radio station table of assignments; comments by 2-8-80

75683 12-21-79 / FM Broadcast station in Bernalillo, N. Mex.; proposed changes made in table of assignments; comments by 2-8-80

73131 12-17-79 / Fm broadcast station in Marana, Ariz.; changes in table of assignments; comments by 2-4-80

70498 12-7-79 / Inquiry concerning the multiple licensing of Land Mobile Radio Systems ("Community Repeaters") in the Bands 806-812 MHz; reply comments extended to 2-4-80

[Originally published at 44 FR 51720, Sept. 4, 1979]

2066 1-10-80 / MTS and WATS market structure; reply comments by 2-4-80

70499 12-7-79 / Providing for the amateur-satellite service; comments by 2-5-80

69689 12-4-79 / Provisions for operation of tactile paging devices for the deaf, blind, and physical handicapped; comments by 2-5-80

75419 12-20-79 / Rio Grande City and Roma-Los Saenz, Tex.; radio stations table of assignments; comments by 2-8-80

75420 12-20-79 / Warsaw, Ky.; radio station table of assignments; comments by 2-8-80

3070 1-16-80 / Use of subcarrier frequencies in the aural base band of television transmitters; comments period extended to 2-7-80

[Originally published at 44 FR 70201, Dec. 3, 1979]

FEDERAL ELECTION COMMISSION

5546 1-23-80 / Implementation of 1979 amendments to the Federal Election Campaign Act; comments by 2-7-80

FEDERAL EMERGENCY MANAGEMENT AGENCY

70424 12-6-79 / Procurement; personal property and nonpersonal services; comments by 2-4-80

FEDERAL RESERVE SYSTEM

72181 12-13-79 / Interstate banking restrictions for foreign banks; proposed interpretation; extension of comment to 2-3-80

[Originally published at 44 FR 62902, 10-30-79]

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

1085 1-4-80 / Erythromycin estolate; proposed revocation of provisions for certification of adult dosage forms; comments by 2-4-80

[Originally published at 44 FR 69670; 12-4-79]

69666 12-4-79 / Nonclinical laboratory studies; change in good laboratory practice provisions; comments by 2-4-80

1018 1-4-80 / Pentaerythritol adipate-stearate; amendments to food additive regulations; objections by 2-4-80

Human Development Services Office—

70064 12-5-79 / Grants to Indian organizations for social and nutrition services; comments by 2-4-80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of the Assistant Secretary—Federal Housing Commissioner—

70362 12-6-79 / Section 8 Housing Assistance Program for the disposition of HUD-owned projects; comments by 2-4-80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

70680 12-7-79 / Reproposal of critical habitat for two species of turtles; comments by 2-5-80

Geological Survey—

70196 12-6-79 / Oil, gas and sulfur operations in the outer continental shelf; comments by 2-4-80

INTERSTATE COMMERCE COMMISSION

1434 1-7-80 / Intercity bus passenger service; entry flexibility; comments period extended from 1-7-80 to 2-7-80

[Originally published at 44 FR 64845 Nov. 8, 1979]

LABOR DEPARTMENT

Office of the Secretary—

69675 12-4-79 / National Environmental Policy Act compliance procedures; comments by 2-4-80

PERSONNEL MANAGEMENT OFFICE

70483 12-7-79 / Excepted service; establishment of a new temporary Schedule C authority; comments by 2-5-80

POSTAL SERVICE

1427 1-7-80 / Revision of private express regulations; comments by 2-6-80

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

70177 12-6-79 / San Diego International Airport-Lindbergh Field, Calif.; petition for rulemaking; comments by 2-5-80

Federal Highway Administration—

70191 12-6-79 / Project agreements; comments by 2-4-80

National Highway Traffic Safety Administration—

807 1-3-80 / Consumer information; uniform fine quality grading; comments by 2-4-80

WAGE AND PRICE STABILITY COUNCIL

1816 1-8-80 / Anti-inflation price standards; financial institutions and providers of insurance; comments by 2-7-80

Next Weeks Meetings

AGRICULTURE DEPARTMENT

Forest Service—

75433 12-20-79 / Pacific Crest National Scenic Trail Advisory Council, Oregon Subcommittee, Portland, Oreg. (open), 2-8-80

Rural Electrification Administration—

1115 1-4-80 / Loan guarantee commitment to Allied Power Cooperative of Iowa, Missouri Valley, Iowa (open), 2-5-80

ARTS AND HUMANITIES, NATIONAL FOUNDATION

2716 1-14-80 / Humanities Panel Advisory Committee, Washington, D.C. (closed), 2-4, and 2-5-80

2423 1-11-80 / Media Arts Panel (AFI), Washington, D.C. (closed), 2-4 and 2-5-80

5424 1-23-80 / National Council on the Arts, Washington, D.C. (partially open), 2-8 and 2-9-80

CIVIL RIGHTS COMMISSION

3362 1-17-80 / California Advisory Committee, San Jose, Calif. (open), 2-9-80

3362 1-17-80 / Massachusetts Advisory Committee, Boston, Mass. (open), 2-7-80

2675 1-14-80 / Missouri Advisory Committee, St. Louis, Mo. (open), 2-8-80

1124 1-4-80 / New Jersey Advisory Committee, New Brunswick, N.J. (open), 2-5-80

COMMERCE DEPARTMENT

National Bureau of Standards—

1656 1-8-80 / National Bureau of Standards' Visiting Committee, Boulder, Colo. (open), 2-5-80

National Oceanic and Atmospheric Administration—

3746 1-21-80 / Gulf of Mexico Fishery Management Council, Jackson, Miss. (open), 2-5 through 2-7-80

5792 1-24-80 / North Pacific Fishery Management Council and Scientific and Statistical Committee and Advisory Panel, Anchorage, Alaska (open), 2-7 and 2-8-80

DEFENSE DEPARTMENT

Air Force Department—

3630 1-18-80 / USAF Scientific Advisory Board Ad Hoc Committee on Turbine Engine Loads Simulator, Tullahoma, Tenn. (open), 2-5 and 2-6-80

Army Department—

3630 1-18-80 / Army Science Board, Washington, D.C. (partially closed), 2-5 and 2-6-80

[See also 45 FR 63, 1-2-80]

2360 1-11-80 / National Board for the Promotion of Rifle Practice, The Pentagon, Washington, D.C. (open), 2-6-80

Engineers Corps—

3631 1-18-80 / Environmental Advisory Board of the Chief of Engineers, Fort Belvoir, Va. (open), 2-6 through 2-8-80

Office of the Secretary—

1663 1-8-80 / Defense Intelligence Agency Advisory Committee, Washington, D.C. (closed), 2-7 through 2-8-80

3369 1-17-80 / DOD Advisory Group on Electron Devices; Advisory Committee Meeting, New York, N.Y. (closed), 2-7-80

ENERGY DEPARTMENT

3369 1-17-80 / Consumer Affairs Advisory Committee and Subcommittees, Golden, Colorado (open), 2-4 and 2-5-80

3381 1-17-70 / Geothermal Panel of the Energy Research Advisory Board, Washington, D.C. (open), 2-5 and 2-6-80

5794 1-24-80 / National Petroleum Council, Task Group of the Committee on Unconventional Gas Sources, Dallas, Texas (open), 2-5-80

Conservation and Solar Energy Office—

68120 11-28-79 / Energy performance standards for new buildings:

Atlanta, GA., 2-4 through 2-6-80

Kansas City, Mo., 2-4 through 2-6-80

Energy Research Office—

3381 1-17-80 / Energy Research Advisory Board, Washington, D.C. (open), 2-7 and 2-8-80

FEDERAL COMMUNICATIONS COMMISSION

4385 1-22-80 / Telephone companies; jurisdictional separation; integration of rates and services, meeting, Honolulu, Hawaii (open), 2-5 and 2-7-80

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

4470 1-22-80 / Meeting, Washington, D.C. (open and closed), 2-7-80

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Center for Disease Control—

2107 1-10-80 / Investigation of a non-pharmacologic approach to hypertension control at the workplace, Cincinnati, Ohio (open), 2-7-80

2108 1-10-80 / Mine Health Research Advisory Committee, Tucson, Arizona (open), 2-5-80

Education Office—

4472 1-22-80 / National Advisory Council on Adult Education, Detroit, Mich. (open), 2-8-80

Food and Drug Administration—

2904 1-15-80 / Drug Abuse Advisory Committee, Rockville, Md. (open), 2-4 and 2-5-80

Health Services Administration—

3671 1-18-80 / Maternal and Child Health Research Committee, Rockville, Md. (partially open), 2-6 through 2-8-80

National Institutes of Health—

76406 12-26-79 / Committee on Cytology Automation, Bethesda, Md. (open), 2-7 and 2-8-80

2709 1-14-80 / Communicative Disorders Review Committee, Bethesda, Md. (partially open), 2-3 through 2-5-80

2709 1-14-80 / National Advisory Eye Council, Bethesda, Md. (partially open), 2-4 through 2-6-80

76409 12-26-79 / National Heart, Lung, and Blood Advisory Council; and Manpower Subcommittee and Research Subcommitte (open and closed), 2-6, 2-7, 2-8, and 2-9-79

HISTORIC PRESERVATION ADVISORY COUNCIL

3381 1-17-80 / Meeting, Washington, D.C. (open), 2-6 and 2-7-80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

75165 12-19-79 / Listing of *Sarracenia oreophila* as an endangered species, Gadsden, Ala. (open), 2-7-80

Land Management Bureau—

1458 1-7-80 / Butte District Grazing Advisory Board, Butte, Montana (open), 2-7-80

1455 1-7-80 / California Desert Conservation Area Advisory Committee Victorville, Calif. (open), 2-8 and 2-9-80

77272 12-31-79 / District Grazing Advisory Board, Alturas, Calif. (open), 2-5-80

2115 1-10-80 / Outer Continental Shelf Advisory Board; Mid-Atlantic Technical Working Group Committee, Baltimore, Md. (open), 2-6 and 2-7-80

64918 11-6-79 / Roswell District Grazing Advisory Board, Roswell District Office, New Mexico, (open) 2-7-80

National Park Service—

5407 1-23-80 / Chesapeake & Ohio Canal National Historical Park Commission, Washington, D.C. (open), 2-9-80

JUSTICE DEPARTMENT

National Institute of Justice—

3677 1-18-80 / Meeting, Alexandria, Va., 2-7 and 2-8-80

LABOR DEPARTMENT

Occupational Safety and Health Administration—

3679 1-18-80 / Federal Advisory Council on Occupational Safety and Health, Washington, D.C. (open), 2-5-80

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

3685 1-18-80 / NASA Advisory Council, Washington, D.C. (closed), 2-5 and 2-6-80

3686 1-18-80 / NASA Advisory Council, Space and Terrestrial Applications Advisory Committee, Ad Hoc Informal Executive Subcommittee, Washington, D.C. (open), 2-4-80

3686 1-18-80 / Space Science Steering Committee, Solar Terrestrial Theory Program Ad Hoc Advisory Subcommittee, Greenbelt, Md. (closed), 2-4 through 2-6-80

2423 1-11-80 / Space Science Steering Committee, Venus Orbiting Imaging Radar, Ad Hod Advisory Subcommittee, Goddard Space Flight Center, Greenbelt, Md. (closed), 2-4, 2-5, 2-6 and 2-7-80

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NATIONAL SCIENCE FOUNDATION

3122 1-16-80 / Advisory Committee for Science and Society, Subcommittee on Oversight, Washington, D.C. (closed), 2-7 and 2-8-80

3122 1-16-80 / Subcommittee on Psychobiology of the Advisory Committee for Behavioral and Neural Sciences, Washington, D.C. (closed), 2-4 and 2-5-80

NUCLEAR REGULATORY COMMISSION

4486 1-22-80 / Advisory Committee on Reactor Safeguards, Procedures and Administration Subcommittee, Washington, D.C. (open), 2-6-80

4487 1-22-80 / Advisory Committee on Reactor Safeguards, Reliability and Probabilistic Assessment Subcommittee, Washington, D.C. (open), 2-6-80

PENSION POLICY, PRESIDENT'S COMMISSION

4488 1-22-80 / Meeting, Washington, D.C. (open), 2-4-80

SMALL BUSINESS ADMINISTRATION

3690 1-18-80 / Region VI Advisory Council, Harlingen, Tex. (open), 2-5-80

STATE DEPARTMENT

4488 1-22-80 / Advisory Committee on the Law of the Sea, Washington, D.C. (open and closed), 2-7 and 2-8-80

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

2724 1-14-80 / Radio Technical Commission for Aeronautics (RTCA), Special Committee 139—Airborne Equipment Standards for Microwave Landing System (MLS), Washington, D.C. (open), 2-5 through 2-8-80

TREASURY DEPARTMENT

Office of the Secretary—

3421 1-17-80 / Treasury Small Business Advisory Committee, Washington, D.C. (open), 2-4 and 2-5-80

Next Week's Public Hearings

AGRICULTURE DEPARTMENT

Agriculture Marketing Service—

76551 12-27-79 / Milk in Southwestern Idaho—Eastern Oregon marketing area, Boise, Idaho, 2-5-80

Animal and Plant Health Inspection Service—

1615 1-8-80 / Scleroderris canker (European strain); quarantine; Albany, N.Y., 2-7-80

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

3619 1-16-80 / North Pacific Fishery Management Council; herring, Bethel, Tooksook Bay, Hooper, and Togiadk, Alaska, 2-9 through 2-11-80

CONSUMER AFFAIRS COUNCIL

3368 1-17-80 / Federal Consumer Programs, Workshop on E.O. 12160, Washington, D.C., 2-6-80

CONSUMER PRODUCT SAFETY COMMISSION

69578 12-3-79 / Urea-formaldehyde foam insulation, Minneapolis, Minn., 2-5-79

DEFENSE DEPARTMENT

Navy Department—

65623 11-14-79 / Naval Discharge Review Board, Portland, Oreg. and San Francisco, Calif., 2-3 through 2-9-80

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

1081 1-4-80 / Statewide exemptions from incremental pricing for natural gas, Washington, D.C., 2-5-80

Office of Conservation and Solar Energy—

2632 1-11-80 / Energy Conservation Program for Consumer Products; scope of testing procedures for room air conditioners as applied to packaged terminal air conditioners, Washington, D.C., 2-5-80

ENVIRONMENTAL PROTECTION AGENCY

53 1-2-80 / Discussion of proposed pretreatment standards for textile mills, leather tanning and finishing, timber products and gum and wood chemicals point source categories, Washington, D.C., 2-5-80

SELECTION COMMISSION ON IMMIGRATION AND REFUGEE POLICY

4468 1-22-80 / Hearing, Phoenix, Ariz., 2-4-80

4468 1-22-80 / Hearing, Los Angeles, Calif., 2-5-80

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

A complete listing for the first session of the 96th Congress was published in the Reader Aid section of the issue of January 17, 1980.

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the Federal Register during the previous week.

APPLICATIONS DEADLINES

5658 1-23-80 / HEW/IMS—Museum Services Program grants; apply by 3-7-80

3975 1-21-80 / HEW/OE—Arts in education program; closing date of 1-28-80 for transmittal of applications withdrawn

[Originally published at 44 FR 35186, June 18, 1979]

5838 1-24-80 / HEW/OE—Indochina Refugee Children Assistance Program; applications by 2-27-80

5838 1-24-80 / HEW/OE—Teachers Centers Program; applications by 3-17, 3-31, 4-7 and 4-21-80

6176 1-25-80 / HEW/PHS/HRA—Public health traineeships; apply by 3-3-80

4472 1-22-80 / HEW/PHS/HRA—Public health special projects; apply by 3-3-80

4481 1-22-80 / Labor/ETA—Youth employment and training programs and youth community and conservation improvement projects; applications must be postmarked or delivered by 3-17-80

6188 1-25-80 / Justice/LEAA—Effects of socio-economic trends on police services; submit preliminary proposals by 3-25-80

MEETINGS

6170 1-25-80 / HEW/ADAMHA—Various advisory committees dealing with grant applications, February meetings

3974 1-21-80 / HEW/NIH—Clinical Cancer Program Project Review Subcommittee, Bethesda, Md. (partially open), 3-24 through 3-26-80

[Originally published at 44 FR 73163, December 17, 1979]

6175 1-25-80 / HEW/NIH—General Research Support Review Committee, Chevy Chase and Bethesda, Md. (partially open), 3-28 through 3-28-80

6175 1-25-80 / HEW/NIH—Large Bowel and Pancreatic Cancer Review Committee, Large Bowel Subcommittee, Houston, Tex. (partially open), 2-28 and 2-29-80

6176 1-25-80 / HEW/NIH—National Institute of Dental Research, Special Grants Review Committee, Bethesda, Md. (partially open), 2-26 and 2-27-80

3976 1-21-80 / NFAH—Humanities Panel Advisory Committee, Washington, D.C. (closed), 2-4, 2-20, 2-25 through 2-29-80

OTHER ITEMS OF INTEREST

4483 1-22-80 / LSC—East Mississippi Legal Services; consideration of grant application

4484 1-22-80 / LSC—Evergreen Legal Services; consideration of grant application

6222 1-25-80 / LSC—Grants and contracts; Arkansas; comments solicited (3 documents)

6223 1-25-80 / Grants and contracts; Montana; comments solicited

6222 1-25-80 / LSC—Grants and contracts; Oklahoma; comments solicited

6221 1-25-80 / LSC—Grants and contracts; Nebraska; comments solicited

6221 1-25-80 / Grants and contracts; New Mexico; comments solicited

6221 1-25-80 / LSC—Grants and contracts; Pennsylvania; comments solicited

6221 1-25-80 / LSC—Grants and contracts; South Dakota; comments solicited

6222 1-25-80 / LSC—Grants and contracts; Texas; comments solicited

4484 1-22-80 / LSC—Idaho Legal Aid Services; consideration of grant application

4484 1-22-80 / LSC—Legal Aid Services, Inc.; consideration of grant application

4484 1-22-80 / LSC—Oregon Legal Services; consideration of grant application

4484 1-22-80 / Southeast Mississippi Legal Services; consideration of grant application

4485 1-22-80 / LSC—Southwest Mississippi Legal Services; consideration of grants applications

4485 1-22-80 / LSC—Spokane Legal Services; consideration of grant application

4485 1-22-80 / LSC—Wind River Legal Services; consideration of grant application

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January 31, 1980

Highlights

Briefings on How To Use the Federal Register—For details on briefings in **Washington, D.C.**, see announcement in the Reader Aids Section at the end of this issue.

6915 **National Poison Prevention Week, 1980** Presidential proclamation

7208 **Food Stamps** USDA/FNS issues rule on provision of social security numbers, and fraud disqualification and recovery (Part XI of this issue)

7224 **China** Treasury/Foreign Assets Control Office issues rule unblocking assets blocked because of an interest therein of the People's Republic of China or its Nationals; effective 1–31–80 (Part XII of this issue)

7029 **Public Service Archeology Grant Program** DOT/FHWA offers grants for academic year 1980–81

7003, 7004 **Family Planning** HEW/HSA announces project grants on general training and nurse practitioner training; apply by 4–1 and 5–1–80 (2 documents)

7004 **Occupational Cutaneous Hazards and Diseases** HEW/PHS announces competitive grants for research and demonstrations; apply by 3–1, 7–1, and 11–1–80

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Highlights

7156 **Oil Pollution Prevention** DOT/CG amends rules for vessels and marine oil transfer facilities; effective 3–3–80 (Part VIII of this issue)

7140 **Radioactive Materials** DOT/RSPA proposes to amend highway routing requirements; comments by 5–31–80 (Part VII of this issue)

6946 **Aircraft** DOT/MTB amends rules regarding accessibility requirements for radioactive materials; effective 1–31–80

6950 **Carcinogens** EPA extends comment period on proposed policy and procedures for identifying, assessing, and regulating airborne substances posing a risk; comments by 2–21–80, hearings 3–10, 3–12, and 3–13–80

6923 **Aircraft Operating Noise Limits** DOT/FAA issues compliance plans and expanded definition of "replacement airplanes"; effective 1–31–80, initial compliance plan due by 5–1–80

7072, 7082 **Housing** HUD/FHC issues two interim rules on Housing Assistance Payments Program for Substantial Rehabilitation regarding revisions to main program and changes for Neighborhood Strategy Area program; effective 2–20–80, comments by 3–31–80 (2 documents) (Parts II and III of this issue)

7122, 7139 **Light-Duty Motor Vehicles** EPA issues decision on applications for waiver of effective date, and issues revised standards for 1981 model year carbon monoxide emission standard; revised standards effective 2–25–80, (Part VI of this issue) (2 documents)

6951 **Motor Gasoline** DOE/ERA proposes allocation level for mail hauling; comments by 4–4–80, hearing 2–28–80, requests to speak by 2–21–80

6917 **Motor Gasoline Allocation** DOE/ERA amends rules regarding diesel fuel for surface passenger mass transportation; effective 1–24–80 and 3–1–80

7043 **Sunshine Act Meetings**

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Presidential Documents

Title 3—

The President

Proclamation 4719 of January 29, 1980

National Poison Prevention Week, 1980

By the President of the United States of America

A Proclamation

The past nineteen years have seen great progress in reducing accidental poisonings among children. Educational programs and the use of safety packaging have contributed considerably to the reduction in the number and severity of poisonings.

But this progress should not occasion complacency. It is estimated that over 80,000 children under five years of age will accidentally ingest potentially poisonous substances during 1980. These accidents will occur because of the momentary carelessness of parents and guardians, and because of ignorance of poison hazards in the home.

Protecting the lives and health of our children requires continued vigilance and increased efforts to educate every citizen to the dangers of accidental ingestion of drugs and common household products. By joint resolution of September 26, 1961 (75 Stat. 681, 36 U.S.C. 165), Congress has requested the President to issue annually a proclamation designating the third week in March as National Poison Prevention Week.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, designate the week beginning March 16, 1980, as National Poison Prevention Week.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of January, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 80-3500
Filed 1-30-80; 10:55 am]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
Vol. 45, No. 22
Thursday, January 31, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Parts 705 and 707

Availability of Proposed Form PM-1 (Second Program Year)

Cross reference: For a document announcing the availability of proposed Form PM-1; Report on Prices, Sales, and Profits (Second Program Year) see FR Doc. 80-3076 in the Notices Section of this issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 478]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period February 1-7, 1980. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on January 29, 1980, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is generally good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given the opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, phone 202-447-5975.

§ 907.778 Navel Orange Regulation 478.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period February 1, 1980, through February 7, 1980, are established as follows:

(1) District 1: 1,246,000 cartons;
(2) District 2: 126,000 cartons;
(3) District 3: Unlimited;
(4) District 4: 28,000 cartons.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", "District 4", and "carton" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: January 30, 1980.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-3108, Filed 1-30-80; 11:54 am]

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DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-79-25A]

Mandatory Petroleum Allocation Regulations; Amendments to Special Rule No. 9 Providing for the Special Allocation of Middle Distillates and to the Provisions Concerning the Allocation of Motor Gasoline for Priority Uses

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is amending Special Rule No. 9 to Subpart A, Part 211 to extend its effectiveness indefinitely. This action will promote energy efficiency by ensuring the future availability of diesel fuel for surface passenger mass transportation.

ERA also is revising its definition of passenger transportation services in § 211.51 to include van-pooling. The effect of this change will be to treat van-pooling as a first priority activity for allocation purposes under § 211.103(b). This revision will assist those engaged in van-pooling, an energy-efficient alternative to the private automobile, in obtaining gasoline during periods of tight supplies.

In addition, ERA is providing first priority treatment under § 211.103 to firms that resell gasoline solely to end-users engaged in first priority activities. This action will assist some consumers without their own storage but which nevertheless are engaged in a first

priority activity, such as van-pooling or taxi service, in obtaining adequate supplies of gasoline.

EFFECTIVE DATES: Special Rule No. 9: January 24, 1980; Other Amendments: March 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Office of Public Hearing Management), Economic Regulatory Administration, Room 2222–A, 2000 M Street NW, Washington, D.C. 20461 (202) 254–5201

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B–110, 2000 M Street NW., Washington, D.C. 20461 (202) 634–2170

William E. Caldwell (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 7202, 2000 M Street NW., Washington, D.C. 20461 (202) 254–3910

Alan T. Lockard (Office of Fuels Regulation), Economic Regulatory Administration, Room 6222, 2000 M Street NW., Washington, D.C. 20461 (202) 254–7422

Ben McRae (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–6739

SUPPLEMENTARY INFORMATION:

I. Extension of Special Rule No. 9.
II. Van-pooling.
III. Firms Selling Exclusively To Priority Users.
IV. Procedural Requirements.

I. Extension of Special Rule No. 9.

Special Rule No. 9 to Subpart A of Part 211 provides that those consumers of diesel fuel engaged in surface passenger mass transportation shall be supplied with their current requirements for diesel fuel on a priority basis. Since its adoption in the summer of 1979, this Rule has assisted many firms which operate energy-efficient forms of transportation, such as buses and passenger trains, to obtain adequate supplies of diesel fuel.

Special Rule No. 9 is currently scheduled to expire on January 31, 1980. In recognition of the potential continuing need for Special Rule No. 9, we proposed that the Rule be made permanent (44 FR 60307, October 19, 1979). A public hearing on this proposal and two related proposals was held in Washington, D.C. on December 13, 1979 and written comments were received through December 21, 1979. Fifty-eight of the sixty comments submitted on this proposal supported its adoption. The comments stressed that, in many instances, Special Rule No. 9 had prevented reductions or interruptions in the availability of energy-efficient mass transportation and that continuation of such activities without disruption requires the assurance, which Special Rule No. 9 gives, that sufficient diesel fuel will continue to be available.

We agree with those comments that support the adoption of the proposal. Accordingly, we are amending Special Rule No. 9 to delete the reference to a termination date and, thus, make the Rule effective indefinitely. Furthermore, we are making this amendment effective immediately so that there will be no interruption in the support which Special Rule No. 9 extends to energy-efficient mass transportation.

II. Van-pooling

At the same time that we proposed to make Special Rule No. 9 permanent, we also proposed two amendments to the allocation regulations that, among other things, would assist other types of energy-efficient transportation. Specifically we proposed to amend § 211.51 to revise the definition of passenger transportation services to include van-pooling. Under the proposal, van-pooling would be defined as eight or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry eight to fifteen adult passengers. Thirty-five of the thirty-seven comments on this proposal favored its adoption as a means of supporting an energy-efficient alternative to the private automobile.

We agree that van-pooling is an energy-efficient alternative to the private automobile and, as such, should be promoted. The inclusion of van-pooling within the activities classified as passenger transportation services would directly benefit those companies and governmental units that are bulk purchasers of gasoline for use in operating van-pools, since they would then be eligible to receive gasoline on a priority basis under the provisions of § 211.103. Generally, bulk purchasers include firms that maintain a gasoline storage tank at a fixed location.

In addition, including van-pooling in the category of passenger transportation services would permit each state to utilize the provisions of § 211.10(d)(2) to provide for preferential treatment of consumers engaged in van-pooling, but which purchase gasoline at retail sales outlets rather than receive gasoline into fixed storage tanks.

Accordingly, we are amending § 211.51 to include a revised definition of passenger transportation service and a new definition of van-pooling. These changes to § 211.51 are exactly the same as those which we proposed in the October 19 Notice.

III. Firms Selling Exclusively to Priority Users

In addition to the van-pooling proposal, we proposed an amendment to § 211.103 that would help the operators of energy-efficient vehicles, such as commuter vans and taxis, secure gasoline. Under the existing regulations, a person engaged in a first priority activity listed in § 211.103(b) can receive an allocation of gasoline on a first priority basis only if it qualifies as a bulk purchaser or a wholesale purchaser-consumer. Since a firm that supplies gasoline to individuals is a reseller with respect to the volumes so supplied, it cannot utilize the provisions of § 211.103 to receive such volumes on a priority basis, even though all the gasoline it sells is consumed in a priority activity. In order to promote the availability of gasoline to individuals engaged in priority activities, we proposed to treat a firm which sells gasoline solely to end-users engaged in a priority activity as a wholesale purchaser-consumer with respect to the volumes so sold and, thus qualify for priority treatment under the provisions of § 211.103.

Thus, for example, a taxi company that sells gasoline only to drivers who lease taxis from that company would be supplied the volumes so sold on the same priority basis as if it had operated those taxis itself. Similarly, a corporation that sells gasoline only to its employees who operate van-pools could be supplied the volumes so sold as if the company had used the volumes to operate a van-pool itself.

Fourteen of the eighteen comments on this proposal supported it as a means to ensure that gasoline was available for end-users who were not bulk purchasers but were nevertheless engaged in a priority activity. We agree that firms which sell gasoline solely to end-users engaged in first priority activities should be treated as wholesale purchaser-consumers with respect to volumes so sold. This will make gasoline more available to operators of energy-efficient transportation, such as taxis and commuter vans, during periods of tight supplies. Accordingly, we are amending § 211.103 to provide for such treatment.

IV. Procedural Requirements

A. Section 404 of the DOE Act

Section 404(a) of the Department of Energy Organization Act (Pub. L. 95–91, DOE Act) requires that the Federal Energy Regulatory Commission (FERC) be notified whenever the Secretary of Energy proposes to prescribe rules, regulations, and statements of policy of general applicability in the exercise of functions transferred to him under section 301 or section 306 of the DOE Act. If the FERC determines, within such period as the Secretary may prescribe, that the proposed action may significantly affect any of its functions under section 402(a) (1) or (b) of the DOE Act, the Secretary shall immediately refer the matter to the FERC.

Following an opportunity to review Special Rule No. 9, the FERC has declined to determine that it may significantly affect one of its functions under the sections noted above.

B. Executive Order 12044

Executive Order 12044 (43 FR 12661, March 23, 1978) requires the agencies subject to it to prepare a regulatory analysis for those significant regulations which are determined likely to have a major impact. Section 2(e) of the Executive Order directs the agencies to establish criteria to identify which regulations are significant. DOE's implementing procedures are contained in DOE Order 2030 (44 FR 1032, January 3, 1979). We have determined that the amendments adopted today will not have a major impact as that term is defined in DOE Order 2030 and, therefore, no regulatory analysis pursuant to Executive Order 12044 is required.

C. Section 553 of the Administrative Procedure Act

Section 553(d) of the Administrative Procedure Act requires that a substantive rule not become effective less than thirty days after its publication unless the agency for good cause finds this requirement impracticable, unnecessary or contrary to the public interest and publishes this finding together with the rule.

We have determined that good cause is found to waive the section 553(d) requirement with respect to the extension to Special Rule No. 9 since it would be contrary to the public interest to permit a situation to arise subsequent to January 31, 1980, the expiration date of the current rule and before thirty days from publication of this rule during which time the availability of energy-efficient surface passenger mass transportation might be disrupted due to a lack of sufficient supplies of diesel fuel. Moreover, this requirement is not necessary since the Rule continues a program that is already in effect and on which there has been ample opportunity for comments concerning its specific provisions.

The amendments to §§ 211.51 and 211.103 will not be effective until March 1, 1980.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 211 of Chapter II of Title 10 of the Code of Federal Regulations, is amended as set forth below. The effective dates of these amendments are as follows: (1) The modification of Special Rule No. 9 is effective January 24, 1980; (2) the amendments to §§ 211.51 and 211.103 will be effective on March 1, 1980.

Issued in Washington, D.C., January 24, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

1. The Appendix to Subpart A of Part 211 is amended by modifying Section (1) of Special Rule No. 9 to read as follows:

Appendix—Special Rule No. 9

Special Allocation of Middle Distillates for Surface Passenger Mass Transportation

1. *Scope.* Notwithstanding the provisions of paragraphs (b) and (c) of § 210.35 of Part 210 of this chapter and of paragraphs (b)(5) and (b)(6) of § 211.1 of this part, this Special Rule establishes a special allocation program for middle distillates.

* * * * *

2. Section 211.51 is amended as follows by the revision of the definition of "passenger transportation service" and the addition of a definition of "van-pooling" between the definitions of "utility" and "wholesale purchaser:"

§ 211.51 General definitions.

* * * * *

"Passenger transportation service" means (a) air and surface facilities and services, including water and rail, for carrying passengers whether publicly or privately owned, including tour and charter buses and taxicabs, which serve the general public; (b) bus transportation of pupils to and from school and school sponsored activities; and (c) van-pooling.

* * * * *

"Van-pooling" means eight or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry eight to fifteen adult passengers.

* * * * *

3. Paragraph (a) of section 211.103 is amended to read as follows:

§ 211.103 Allocation levels.

(a) *General.* The allocation levels listed in this section only apply to allocations made by suppliers to end-users which are bulk purchasers and to wholesale purchaser-consumers. Suppliers shall allocate to all purchasers to which the allocation levels apply in accordance with the provisions of § 211.10. End-users which are bulk purchasers and wholesale purchaser-consumers which are entitled to purchase motor gasoline under an allocation level not subject to an allocation fraction shall receive first priority and be supplied sufficient amounts to meet 100 percent of their allocation requirements. End-users which are bulk purchasers and wholesale purchaser-consumers which are entitled to purchase motor gasoline for all uses under an allocation level subject to reduction by application of an allocation fraction shall receive second priority. For purposes of this section, a firm which is a wholesale purchaser of gasoline and resells gasoline solely to end-users for a use set forth in paragraph (b) of this section shall be deemed to be a wholesale purchaser-consumer with respect to the volumes so sold.

* * * * * *

[FR Doc. 80–3027 Filed 1–30–80; 8:45 am]

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10 CFR Part 211

[Docket No. ERA–R–76–01C]

Mandatory Petroleum Allocation Regulations; Amendments To Extend Provisions of the Entitlements Program Relating to Residual Fuel Oil

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule and request for comments.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy hereby adopts amendments effective January 1, 1980, which will extend through September 30, 1980, those provisions of the domestice crude oil allocation program ("entitlements program") which were in effect December 31, 1979, and which provided that imports of residual fuel oil into the eligible market (defined as the Bureau of Mines East Coast Refining District and the State of Michigan) receive 50 percent

of the per barrel entitlements runs credit and that an entitlement penalty ("reverse entitlements") only applies to domestically refined residual fuel oil which is transported by foreign flag tanker for sale or use in that market. This rule implements Congressional policy on this issue.

DATES: The Rule is effective January 1, 1980. Comments are due by 4:30 p.m., April 15, 1980.

ADDRESSES: Send all comments to: Department of Energy, Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA–R–76–01C, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B–110, 2000 M Street, N.W., Washington, D.C. 20461 (202) 634–2170.

Josette L. Maxwell (Regulations and Emergency Planning), Economic Regulatory Administration, Room 7202, 2000 M Street, N.W., Washington, D.C. 20461 (202) 254–3010.

Douglas W. McIver (Office of Petroleum Operations), Economic Regulatory Administration, Room 6128, 2000 M Street, N.W., Washington, D.C. 20461 (202) 254–8660.

Joel M. Yudson or Jeffrey D. Stoermer (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252–6744.

SUPPLEMENTARY INFORMATION:

I. Background
II. Amendments Adopted
III. Procedural Requirements
IV. Comment Procedures

I. Background

On November 28, 1979, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) issued a notice of proposed rulemaking and public hearing (44 FR 68855, November 30, 1979) to extend through September 30, 1980, the provisions of the entitlements program with respect to residual fuel oil then in effect. This action was proposed to implement Congressional policy in this issue, as expressed in The Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1980.[1] On December 18, 1979, we held a public hearing to receive comments on our proposed rulemaking at which four speakers testified. Subsequently, eleven written comments were submitted for our review. A total of fifteen different firms, associations and governmental entities participated in this rulemaking either orally or in writing. These participants consisted of four utilities located in the East Coast market or Michigan, nine refiners, one trade association representing fuel terminal operators along the East Coast, and the government of Puerto Rico.

Five of the responding firms expressed unconditional support for the amendments as proposed. Three additional firms expressed support for the extension but suggested certain modifications of the program.

One suggested modification is to extend the 50 percent entitlements penalty to cover residual fuel oil transported by domestic refiners in subsidized (non-Jones Act) U.S. flag tankers. In light of the fact that such an amendment is beyond the scope of the rulemaking, we cannot adopt it at this time. However we are soliciting comments on the advisability of such a change to the imported residual fuel entitlements program and its potential economic effect on consumers and on competition in the residual fuel oil market.

Other modifications suggested by the comments would increase the entitlements benefits for imports of residual fuel oil to 100 percent, extend the entitlements program for residual fuel oil to other areas of the U.S. (including Puerto Rico), and include other imported petroleum products in the entitlements program. These suggestions would constitute major revisions in the entitlements program which are beyond the scope of this rulemaking. Moreover, we continue to believe that the current 50 percent entitlements benefit for imported residual fuel oil allows sufficient participation by import-dependent regions in the cost equalizing effects of the entitlements program. We have also determined that extension of the entitlements program for imported residual fuel oil to other areas of the U.S. is not justified because those areas are not as critically dependent upon imports of residual fuel oil as is the eligible market. We have decided not to extend the entitlements program to all imported petroleum products. Such a modification is not necessary because the volumes of such products imported from foreign sources are so minimal relative to total consumption that granting entitlement benefits would not materially affect any region or class of consumers.

Six refiners expressed opposition to the extension of the imported residual fuel oil entitlements program for various reasons. One recurring criticism of the program is that it is an unjustifiable grant of special benefits to one geographic area and to certain importers. To the contrary, we have previously noted our finding that this program is necessary to correct an inequitable situation: the relatively higher acquisition cost of petroleum which the consumers of the eligible market would otherwise be subjected to by reason of this area's heavy dependence upon imported residual fuel oil. Therefore, the program does not confer unjustified benefits on one area or on certain importers; rather the program serves to fulfill the objectives of the Emergency Petroleum Allocation Act by providing for (to the maximum extent practicable) "equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, * * * and among all users."

A second criticism of the program is that it encourages increased imports of residual fuel oil while it discourages needed construction of domestic refining capacity. Commenting refiners also criticized the program as contrary to the President's stated policy to limit imports of petroleum to 1977 levels and to reduce consumption of residual fuel oil by utilities by 50 percent. In response to these criticisms we observe that our evaluation of data submitted by utilities in the eligible market, and other available statistics, discloses that demand for imported residual fuel oil in this market is relatively inelastic in the short term and that import levels over the short term would be largely unaffected by a reduction in the entitlements benefits. Because of the lengthy lead time involved, decisions to construct additional domestic refining capacity are also largely unaffected by this nine-month extension of the program. Moreover, the entitlements program will end by October 1981 as domestic crude oil controls are gradually phased out. Similarly, the rate of conversion of powerplants from residual fuel oil to alternate fuels will be largely unaffected by this short-term extension due to length of construction lead time, environmental and safety constraints, and other factors.

Additionally, we observe that one of the main purposes of this rulemaking is to provide for the orderly and uninterrupted operation of the residual fuel oil entitlements program over a relatively short period of time. Any modification in the program and

[1] Pub. L. 96–126, November 27, 1979. A provision in that Act essentially required that any change in the entitlements program as it existed on April 30, 1979, be submitted to Congress as an "energy action" pursuant to section 551 of the Energy Policy and Conservation Act. See discussion in the Notice of Proposed Rulemaking.

especially the delay which would necessarily accompany such changes, could disrupt crucial supplies during the winter months as suppliers rearrange their behavior to maximize benefits under the changed provisions.

We have therefore declined to make any modifications in the program at this time. We will continue to evaluate the program in the light of current market conditions, and if warranted, will consider proposing amendments to the program.

II. Amendments Adopted

Under the amendments adopted today, imports of residual fuel oil into the East Coast market and Michigan (the "eligible market") will continue to be eligible to receive during the period January 1, 1980 through September 30, 1980, 50 percent of the per barrel entitlements runs credit. In addition, domestic refiners will receive only 50 percent of an entitlements runs credit during the same time period for each barrel of residual fuel oil produced for sale or use in the eligible market if shipment is made in foreign flag tankers. The time periods set forth in the definition of "eligible product" in 10 CFR § 211.62 and in paragraphs (a)(3) and (d)(4) of 10 CFR § 211.67 are therefore amended.

III. Procedural Requirements

A. Section 404 of the DOE Act: Review by FERC

Section 404(a) of the DOE Act requires that the Federal Energy Regulatory Commission (FERC) be notified whenever the Secretary of Energy proposes to prescribe rules, regulations, and statements of policy of general applicability in the exercise of functions transferred to him under section 301 or section 306 of the DOE Act. If the FERC determines, within such period as the Secretary may prescribe, that the proposed action may significantly affect any of its functions under sections 402 (a)(1) or (b) of the DOE Act, the Secretary shall immediately refer the matter to the FERC.

Following opportunity to review this rule, the FERC has declined to determine that it may significantly affect one of its functions under the sections noted above.

B. National Environmental Policy Act

It has been determined that these amendments do not constitute a "major Federal action significantly affecting the quality of human environment" within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and, therefore, an environmental assessment or an environmental impact statement is not required by NEPA or by the applicable DOE regulations for compliance with NEPA.

C. Executive Order 12044: Regulatory Analysis

A regulatory analysis of the potential impacts of the amendments in force December 31, 1979, was prepared and made publicly available on October 20, 1978. In addition, in connection with the June 1979 rule, we reviewed our October 1978 findings and made revised findings publicly available. Since today's actions will continue the effectiveness of those same provisions relating to residual fuel oil, the amendments adopted today do not require preparation of a further regulatory analysis

D. Section 553 of the Administrative Procedure Act: Waiver

Section 553(d) of the Administrative Procedure Act requires that a substantive rule not become effective less than thirty days after its publication unless the agency finds for good cause this requirement impracticable, unnecessary or contrary to the public interest, and publishes this finding together with the rule. We have determined that good cause exists to waive the section 553(d) requirement since it would be contrary to the public interest to alter or discontinue, even for a period of thirty days, the entitlements program with respect to residual fuel oil. Such alteration or discontinuance of the program would likely interrupt necessary supplies of residual fuel oil. These supplies are crucial for the import-dependent consumers of the eligible market, particularly during the winter heating season. Moreover, this requirement is not necessary because this Rule continues a program that is already in effect and with respect to which there has been ample opportunity for comment on its specific provisions.

IV. Comment Procedures

You are invited to participate in this proceeding by submitting data, views or arguments with respect to any matter relevant to this notice. All comments should be submitted by 4:30 p.m., e.s.t., April 15, 1980 to the appropriate address indicated in the "Addresses" section of this preamble and should be identified on the outside envelope and on documents submitted with the designation: "East Coast Residual Fuel Oil Entitlements; Further Comments," Docket No. ERA–R–76–01C. Ten copies should be submitted. All comments received by the ERA will be available for public inspection in the DOE Freedom of Information Office, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

You should identify any information or data considered by you to be confidential and submit it in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, Pub. L. 95–70, Pub. L. 95–619, and Pub. L. 96–30; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91, Pub. L. 95–509, Pub. L. 95–619, Pub. L. 95–620, and Pub. L. 95–621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 211 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective January 1, 1980.

Issued in Washington, D.C., January 25, 1980.

Douglas G. Robinson,
Acting Administrator, Economic Regulatory Administration.

1. The definition of "eligible product" in § 211.62 is revised to read as follows:

§ 211.62 Definitions.

For purposes of this subpart—

* * * * *

"Eligible product" means residual fuel oil imported into the eligible market in the period July 1, 1979 through September 30, 1980, except that an import of residual fuel oil into the United States customs territory which has been processed in the U.S. Virgin Islands shall not be considered an eligible product; *And provided,* that, Canadian residual fuel oil imported into the State of Michigan will qualify as an eligible product.

* * * * *

2. Subparagraphs (a)(3) and (d)(4) of § 211.67 are revised to read as follows:

§ 211.67 Allocation of domestic crude oil.

(a) *Issuance of entitlements* * * *

(3) For each month in the period July 1, 1979 through September 30, 1980, each eligible firm that has imported an eligible product in that month shall be issued a number of entitlements equivalent to fifty percent (50%) of the

number of entitlements that would be received by a refiner (without giving effect to the provisions of § 211.67(e)) in that month with respect to inclusion of a number of barrels of crude oil in that refiner's crude oil runs to stills equal to a number of barrels of that eligible product imported by that eligible firm. An eligible product is imported for purposes of this paragraph (a)(3) in the month, as specified on Customs Forms 7501 and 7505, as appropriate, in which importation takes place.

* * * * *

(d) *Adjustments to volume of crude oil runs to stills.* * * *

(4) For the period July 1, 1979 through September 30, 1980, for purposes of the calculations in paragraph (a)(1) of this section and the calculations for the national domestic crude oil supply ratio (but not for purposes of paragraph (e) of this section), the volume of crude oil runs to stills of any domestic refiner attributable to production of residual fuel oil transported in foreign flag tankers for sale (whether directly for consumption or for resale) or use in the eligible market (as defined in § 211.62) shall be reduced by fifty percent (50%). Any export sales of residual fuel oil giving rise to a deduction under paragraph (d)(2) above shall not be considered as residual fuel oil production for purposes of this paragraph (d)(4).

* * * * *

[FR Doc. 80-3158 Filed 1-30-80; 8:45 am]

BILLING CODE 6456-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Airworthiness Docket No. 79-ASW-25; Amdt. 39-3662]

Bell Models 204B, 205A-1 and 212 Helicopters; Airworthiness Directive

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment further amends an existing airworthiness directive (AD) 79-20-05, applicable to Bell Models 204B, 205A-1, and 212 helicopters by deleting reference to the .050-inch radius in the bottom of the pillow block bushing hole contained in paragraph (d). The amendment is needed because the FAA deleted by previous amendment an inspection for this radius size that was specified in paragraph (b)(1) of AD 79-20-05, Amdt. 39-3572. This amendment corrects an oversight when Amdt. 39-3626 was issued.

DATES: Effective January 18, 1980. Compliance schedule as prescribed in the AD.

ADDRESSES: The applicable maintenance manual revisions may be obtained from Publication Distribution, Logistics Department, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101 or from the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southwest Region, P.O. Box 1689, Forth Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT: James H. Major, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone number (817) 624-4911, extension 517.

SUPPLEMENTARY INFORMATION: This amendment further amends Amendment 39-3572, 44 FR 55556, AD 79-20-05, as amended by Amendment 39-3626, which currently requires an initial and then repetitive inspections at 2400-hour intervals and corrosion protection and sealing of the main rotor yokes on Bell Models 204B, 205A-1, and 212 helicopters. After issuing Amendment 39-3626, the FAA determined that reference to a radius less than .050 inch in the bottom of the pillow block bushing holes specified in paragraph (d) should be deleted also. This amendment corrects this oversight.

Since this amendment corrects an error and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-3572, 44 FR 55556, AD 79-20-05, as amended by Amendment 39-3626, by revising paragraph (d) to read as follows:

(d) Replace yokes having a crack or that exceed repair limits specified in the appropriate model maintenance or repair and overhaul manual with a serviceable yoke before further flight. The serviceable yoke must have been refinished and sealed as prescribed by Model 212 Component Repair and Overhaul, Revision 4, Chapter 65, or Revision 12, Model 204B Maintenance and Overhaul Manual, or Revision 1, Model 205A-1 Component Repair and Overhaul Manual.

This amendment becomes effective January 18, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Issued in Fort Worth, Texas, on January 3, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80-2723 Filed 1-30-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-NW-43 AD; Amdt. 39-3660]

Airworthiness Directives, Rockwell NA-265-60 and NA-265-80 Airplanes Modified in Accordance With Raisbeck Group STC SA687NW and STC SA847NW

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On December 7, 1979, an airmail letter Airworthiness Directive (AD) was issued and made effective to all known operators of Rockwell NA-265-60 and NA-265-80 airplanes which have been modified in accordance with The Raisbeck Group STC SA687NW and SA847NW. This AD required disassembly and visual inspection of the flap track support structure and flap tracks for deviations from the approved type design. This condition still exists and the AD is hereby published in the **Federal Register** to make it effective to all persons.

DATES: Effective date January 31, 1980. This AD was effective earlier to all recipients of the airmail letter AD dated December 7, 1979. Initial compliance: As prescribed in the body of the AD.

ADDRESSES: Raisbeck service bulletin specified in this directive may be obtained upon request to The Raisbeck Group, 7777 Perimeter Road, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: William M. Perrella, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: During the eddy current inspections required by Amendment 39-3658, one airplane had positive indications which could not be corrected by a reaming operation; consequently, the flap tracks were removed for inspection. The flap tracks, flap track support structure and wing skins had been improperly drilled and subsequently repaired. The repairs were not FAA approved and resulted in a substantial reduction in strength. As this condition is possible on all modified airplanes, an airmail letter AD was issued.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive: *Rockwell International:* Applies to Rockwell Model NA 265-60 and NA 265-80 airplanes equipped with the Raisbeck Mark Five modification in accordance with STC SA687NW or SA847NW. To prevent failure of the wing flap support structure accomplish the following:

A. Within the next 15 landings after publication in the **Federal Register**, unless previously accomplished, disassemble and visually inspect the flap tracks, flap track support structure, and lower wing skins at the flap track support locations for the following possible conditions:

1. Plugged holes
2. Oblong, eggshaped, oversized, or irregular holes
3. Tapered holes
4. Excess holes
5. Evidence of welding
6. Gouges
7. Parts deviations from Raisbeck Drawings 76-57606 Rev. IR-12 and 76-57607, Rev. A-6.
8. Any other irregularities which are not consistent with normal aircraft practice.

This inspection requires the removal of all track parts, except for the flap track supports, and the removal of paint and primers. FAA approved Raisbeck Service Bulletin No. 24 lists the detailed disassembly and inspection procedure. An FAA safety inspector (maintenance or manufacturing) must be present during this inspection.

B. If any of the above conditions are evident, report these through the FAA inspector to the Chief, Engineering and Manufacturing Branch, Northwest Region.

If no discrepancies are found, the airplane may be returned to service.

C. If discrepancies are found, on any part, one of the following three actions must be taken:

1. The part must be replaced.
2. The part must be repaired.
3. The part must be found acceptable as is.

Items 2 and 3 require the approval of the Chief, Engineering and Manufacturing Branch, Northwest Region.

It is permissible to ream holes which are out of tolerance to accept 1/64 oversize fasteners.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to The Raisbeck Group, 7777 Perimeter Road, Seattle, Washington 98108.

This amendment becomes effective on January 31, 1980 and was effective earlier to all recipients of the airmail letter AD dated December 7, 1979.

(Secs. 313(1), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979)

Issued in Seattle, Washington, on January 22, 1980.

C. B. Walk, Jr.,

Director, Northwest Region.

The incorporation by reference provisions in the document were approved by the Director of the **Federal Register** on June 19, 1967.

[FR Doc. 80-3083 Filed 1-30-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 91

[Docket Nos. 18955 & 18924; Amdt. No. 91-161A]

General Operating and Flight Rules, Aircraft Operating Noise Limits; Compliance Plans and Expanded Definition of "Replacement Airplanes"

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule: Notice of compliance dates.

SUMMARY: On December 20, 1979, the FAA published an amendment to its aircraft operating noise limits rule to require operators of turbojet airplanes covered by the rule to submit their respective plans for achieving timely and continuing compliance with the applicable noise limits (Amdt. 91-161: 44 FR 75558). The amendment established dates on which compliance plans and updates must be submitted. It called for the initial compliance plan to be submitted 90 days after notice is published in the **Federal Register** that the reporting requirements of new § 91.308 have been approved by the Office of Management and Budget (OMB). On December 31, 1979, OMB approved those provisions. Accordingly, this document announces that approval and the regulatory action contemplated by Amendment 91-116 to begin the running of the 90-day period before the initial compliance plans are due. In accordance with the provisions of § 91.308(b), initial compliance plans must be submitted on or before May 1, 1980, based on operator plans and airplane compliance status as of April 1, 1980 (30 days before the date for submission of the plan).

DATES: Effective date—January 31, 1980. Initial compliance plan due—May 1, 1980.

ADDRESSES: Submit compliance plans to: Director, Office of Environment and Energy (AEE-1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Richard N. Tedrick, Program Management Branch (AEE-110), Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 755-9027.

SUPPLEMENTARY INFORMATION: This amendment of § 91.308 is editorial in nature to provide the date-certain in the rule that is prescribed by the text of the bracketed material and is based on the proposal contained in Notice No. 79-9 (44 FR 24778; April 26, 1979). It also corrects two minor editorial errors in the text. Accordingly, I find that good cause exists for making this amendment effective upon its publication in the Federal Register.

Adoption of the Amendment

Accordingly, § 91.308 of Part 91 of the Federal Aviation Regulations (14 CFR Part 91.308) is amended, effective January 31, 1980, as follows:

§ 91.308 [Amended].

1. By amending paragraph (b)(1) by deleting the brackets and bracketed words and substituting for them the words "May 1, 1980."

2. By amending paragraph (c)(3)(x), after the words "January 1, 1985," by deleting the word "following."

3. By amending paragraph (c)(5), under the "Certificated technology"

column of the table for Code "F," by deleting the word "Nex" and substituting for it the word "New."

(Secs. 307, 313(a), 601, 603, 604, and 611, Federal Aviation Act of 1958, as amended (49 U.S.C. §§ 1348, 1354(a), 1421, 1423, 1424, and 1431); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); Executive Order 11514, March 5, 1970.

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C., on January 25, 1980.

Langhorne Bond,
Administrator.

[FR Doc. 80-3076 Filed 1-30-80; 8:45 am]
BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 385

[Regulation OR-163; Amdt. 96]

Requesting Proposals From Air Carriers To Provide Essential Air Transportation

AGENCY: Civil Aeronautics Board.
ACTION: Final rule.

SUMMARY: The CAB delegates to the Chief of the Essential Air Services Division the authority to seek proposals from air carriers interested in providing essential air service to points that are not receiving essential air service and for which no appeals of their service determinations are pending. This action is taken to speed the process of receiving essential air transportation at eligible points which are not now receiving it.

DATES: Adopted: January 24, 1980; Effective: January 24, 1980.

FOR FURTHER INFORMATION CONTACT: Patrick V. Murphy, Chief, Essential Air Services Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5408.

SUPPLEMENTARY INFORMATION: Eligible cities are guaranteed essential air transportation by section 419 of the Federal Aviation Act of 1958, as amended by the Airline Deregulation Act of 1978, Pub. L. 95-504. In accordance with section 419(a)(2)(A), the Bureau of Domestic Aviation has been defining essential air transportation for eligible points which on October 24, 1978, received service from one or fewer certificated air carriers. Section 325.7 of the Board's Procedural Regulations specifies that if no appeals of the Bureau's definitions are filed within 60 days after their issuance, the determinations become final, unless stayed by the Board.

Several eligible points are not receiving the level of air service defined by the Bureau as essential air transportation. In such cases, section 419 requires the Board to seek air carriers willing to provide essential air service to these points. Since this action has no bearing on carrier selection process or on a community's essential air service level, we are delegating to the Chief of the Essential Air Services Division of the Bureau of Domestic Aviation the authority to request carrier proposals in situations where communities are not receiving essential air transportation and for which no appeals of their determinations are pending. This action will speed the process of securing essential air service at eligible points which are not now receiving it.

Since this is a rule of agency procedure and practice, the Board finds that notice and comment are unnecessary and that it may be effective immediately.

Accordingly, the Civil Aeronautics Board amends § 385.14 of 14 CFR Part 385, *Delegations and Review of Action Under Delegation; Nonhearing Matters,* to read:

§ 385.14 Delegation to the Chief, Essential Air Services Division, Bureau of Domestic Aviation.

The Board delegates to the Chief of the Essential Air Services Division, Bureau of Domestic Aviation, the authority to:

(a) Renew, up to five times in succession, a Board order under section 419(a)(6) of the Act to an air carrier to continue providing essential air transportation while the Board attempts to find a replacement carrier.

(b) Request service and subsidy proposals from carriers interested in providing essential air transportation to an eligible point which is not receiving essential air service and for which no appeal of its service determination is pending.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324; Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989, 49 U.S.C. 1324 (note))

By the Civil Aeronautics Board,
Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-3140 Filed 1-30-80; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 7, 31, and 301

[T.D. 7670]

Income Tax; Temporary Income Tax Regulations; Employment Taxes; Procedure and Administration; Election by Nonresident Alien To Be Treated as Resident and Treatment of Community Income When Election not Made

AGENCY: Internal Revenue Service, Treasury.
ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the election by a nonresident alien to be treated as a resident and the treatment of community income where the election is not made. Certain provisions were added to the applicable tax law by the Tax Reform Act of 1976 and title VII of the Revenue Act of 1978. The regulations provide the public with the guidance needed to take advantage of these new provisions. The regulations affect certain taxpayers who are nonresident aliens or who are married to nonresident aliens and certain nonresident aliens who are not taxpayers but who are married to citizens or residents of the United States.

DATE: The regulations are effective as follows: in regard to the treatment of community income (§§ 1.879-1, 1.981, 1.981-0, and 1.981-1), for taxable years beginning after December 31, 1976; in regard to wage withholding under chapter 24 (§§ 31.3401(a)-1, 31.3401(a)(6)-1, 31.3402(f)(1)-1, and 31.3402(f)(6)-1), for remuneration paid after February 28, 1979; and in regard to the remaining sections, for taxable years ending on or after December 31, 1975.

FOR FURTHER INFORMATION CONTACT: Kenneth Klein of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On July 14, 1978, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) and the Regulations on Procedure and Administration (26 CFR Part 301) under sections 871, 879, 981, 6012, 6013, 6072, 6073, 6091, 6109, and 6851 of the Internal Revenue Code of 1954 (43 FR 30308). These amendments were proposed to conform the regulations to section 1012 of the Tax Reform Act of 1976 (90 Stat. 1612) and are to be issued under sections 6013 and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1612, 26 U.S.C. § 6013; 68A Stat. 917, 26 U.S.C. § 7805). After consideration of all comments submitted regarding the proposed amendments, the amendments are adopted as revised by this Treasury decision. The Treasury decision also reflects the technical amendments to the Tax Reform Act of 1976 made by section 701(u) (15) and (16) of the Revenue Act of 1978 (92 Stat. 2919). The Revenue Act has required minor revisions to the proposed amendments. Additional amendments to the Income Tax Regulations, the Temporary Income Tax Regulations under the Tax Reform Act of 1976 (26 CFR Part 7), and the Employment Tax Regulations (26 CFR Part 31) under sections 1441, 3401, and 3402 are included.

Statutory Bases

Section 1012(a) of the Tax Reform Act of 1976 amended section 6013 of the Internal Revenue Code of 1954 by adding subsections (g) and (h), which provide that a nonresident alien may, under certain circumstances, elect to be treated as a U.S. resident. The principal effect of this election is to permit the nonresident alien to file a joint return with a spouse who is a resident or citizen of the United States. Section 1012(b) of the Act repeals section 981 of the Code and adds in its place section 879 to provide rules for the treatment of community income where an election under section 6013 (g) or (h) is not in effect with respect to a nonresident alien spouse. Section 1012(c) of the Act amends section 6073 of the Code to provide that nonresident aliens are not required to file a declaration of estimated tax until the alien's income tax return for the prior taxable year is due. Section 701(u) (15) and (16) of the Revenue Act of 1978 makes several technical amendments to section 6013 (g) and (h). The technical amendments provide that an individual making the section 6013 (g) or (h) election will be treated as a resident for purposes of chapters 5 (tax on transfers to avoid the income tax) and 24 (collection of the income tax at the source on wages) in addition to chapter 1 (normal taxes and surtaxes).

Elections

The regulations provide that an election under section 6013 (g) or (h) generally is made by attaching a statement to the income tax return for the first year to which the election is to apply. The statement must contain a declaration that the election is being made and the names, addresses, and taxpayer identifying numbers of the electing spouses. The regulations provide that in most circumstances a voluntary revocation of the election under section 6013(g) is to be made in a similar manner.

The regulations provide that the determination of whether taxpayers meet the requirements of section 6013 (g) or (h) for any taxable year shall be made at the close of that taxable year. The regulations require as a prerequisite to the making of an election under section 6013 (g) or (h) that the spouse of the nonresident alien be a U.S. citizen or resident on the last day of the first taxable year to which the election applies.

Community Income

The regulations explain the treatment given various types of community income in those cases where the spouses do not make an election under section 6013 (g) or (h).

Summary of Changes and Public Comment

A number of revisions of the proposed regulations have been made by the final regulations, many in response to public comments. Several commenters inquired whether the spouse who is a citizen or resident must be a citizen or resident for the entire taxable year or only at the close of the taxable year in order to qualify for the section 6013(g) election. Example (2) of § 1.6013-6(c) illustrates the rule of § 1.6013-6(a)(1), that the resident or citizen spouse need be a resident or citizen only at the close of the year, not for the entire year. Similarly, several commenters inquired whether two married individuals who are both nonresident aliens at the beginning of the taxable year and resident aliens at the close of the year qualify for the section 6013(h) election. An amendment to § 1.6013-7(a)(1) (designated § 1.6013-8(a)(1) in the proposed regulations) makes it clear that the two individuals would qualify for the election.

Section 1.6013-7(a)(2)(v) of the proposed regulations concerned the general relationship of the section 6013 (g) and (h) elections to U.S. income tax treaties. The provision (now designated § 1.6013-6(a)(2)(v)) has been reserved in the final regulations for further consideration.

Section 1.6013-7(a)(4)(iii) of the proposed regulations provided that the election could be made with an amended return for taxable years ending on or after December 31, 1975, but before December 31, 1976. Several commenters suggested that the years for which the election can be made with an amended return should be extended. Section 1.6013-6(a)(4)(i) (designated § 1.6013-7(a)(4)(i) in the proposed regulations) has been amended to allow an election with an amended return to be made for all taxable years ending on or after December 31, 1975.

Section 1.6013-7(b)(1)(iii) of the proposed regulations provided that the filing of a separate return by either spouse would be considered a revocation of the election. The rule has been deleted in the final regulations. However, the election can only be made by filing a statement with a joint return for the first taxable year to which the election applies (see § 1.6013-6(a)(4)(i)).

Section 1.1441-1 of the regulations is amended to make it clear that withholding at the source of income will continue even though a nonresident alien individual makes an election under section 6013 (g) or (h).

One person commented that the definition of community income in § 1.879-1(a)(1) of the proposed regulations was unclear. The definition has been clarified in the final regulations. The final regulations also clarify the treatment of trade or business income as community income.

Some suggestions from the public were not incorporated into the final regulations, two of which are indicated below.

Several commenters suggested that the final regulations permit a second election to be made by an electing individual whose spouse dies or is divorced or legally separated from the individual. These suggestions were not followed because the statute and the legislative history make it clear that second elections are prohibited, even in cases of death, divorce, or legal separation.

Several commenters suggested that the final regulations should state that elections made under Temporary Regulation § 7.0(a)(2) are effective under the final regulations. As proper elections made under temporary regulations are valid and have continuing legal effect, unless stated otherwise in the regulations, it was decided not to follow the suggestion.

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Drafting Information

The principal author of these regulations is Kenneth Klein of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations both on matters of substance and style.

Adoption of Amendments to the Regulations

The amendments to 26 CFR Parts 1 and 301 which were set forth in the notice of proposed rulemaking are adopted subject to the revisions set forth below. In addition, other amendments to 26 CFR Parts 1, 7, 31, and 301 are hereby adopted, as set forth below.

Paragraph 1. The amendments to paragraph (a) of § 1.871–1, as set forth in paragraph 1 of the notice of proposed rulemaking, are revised to read as follows:

§ 1.871–1 Classification and manner of taxing alien individuals.

(a) *Classes of aliens.* * * * However, nonresident alien individuals may elect, under section 6013 (g) or (h), to be treated as U.S. residents for purposes of determining their income tax liability under chapters 1, 5, and 24 of the Code. Accordingly, any reference in §§ 1.1–1 through 1.1388–1 and §§ 1.1491–1 through 1.1494–1 of this part to nonresident alien individuals does not include those with respect to whom an election under section 6013 (g) or (h) is in effect, unless otherwise specifically provided. Similarly, any reference to resident aliens or U.S. residents includes those with respect to whom an election is in effect, unless otherwise specifically provided.

* * * * *

Par. 2. Section 1.879–1, as set forth in paragraph 3 of the notice of proposed rulemaking, is changed as follows:

1. Paragraph (a)(1) is amended by deleting the last sentence and revising the next to last sentence as set forth below.

2. Subdivision (i) of paragraph (a)(2) is revised as set forth below.

3. Paragraph (a)(3) is revised by deleting the phrase "producing factors, but does not include income treated as earned income under the second sentence of section 911(b)." and inserting in its place the phrase "producing factors.", by deleting the word "county" in the fifth sentence and inserting in its place the word "country" and by deleting the phrases "beauty parlor" in the sixth and seventh sentences, and inserting in their places the words "pharmacy".

4. The last sentence of paragraph (a)(5) and the first sentence of paragraph (a)(6) are revised as set forth below.

5. *Example (2)* of paragraph (a)(7) is amended by deleting subparagraph (c) and by revising subparagraph (b) as set forth below.

§ 1.879–1 Treatment of community income.

(a) *Treatment of community income*—(1) *In general.* * * * Community income for this purpose includes all gross income, whether derived from sources within or without the United States, which is treated as community income of the spouses under the community property laws of the State, foreign country, or possession of the United States in which the recipient of the income is domiciled. Income from real property also may be community income if so treated under the laws of the jurisdiction in which the real property is located.

(2) *Earned income.* * * *

(i) Community income from any trade or business carried on by the husband or the wife.

* * * * *

(5) *Income from separate property.* * * * The determination of what property is separate property for this purpose shall be made in accordance with the laws of the State, foreign country, or possession of the United States in which, in accordance with paragraph (a)(1) of this section, the recipient of the income is domiciled or, in the case of income from real property, in which the real property is located.

(6) *Other community income.* Any community income for the taxable year, other than income described in section 879(a) (1), (2), or (3), and paragraph (a) (2), (3), (4), or (5) of this section, shall be treated as income of that spouse who has a proprietary vested interest in that income under the laws of the State, foreign country, or possession of the United States in which, in accordance with paragraph (a)(1) of this section, the recipient of the income is domiciled or, in the case of income from real property, in which the real property is located. * * *

(7) *Illustration.* * * * *Example (2).* * * *

(b) If W exercises substantially all of the management and control over the retail merchandising company, then for U.S. income tax purposes the $10,000 profit is treated as the income of W.

* * * * *

Par. 3. Section 1.1441–1 is amended by adding a sentence at the end to read as follows:

§ 1.1441–1 Requirement for withholding of tax on nonresident aliens, foreign partnerships, and foreign corporations.

* * * The rules of chapter 3 of the Code and §§ 1.1441–1 through 1.1441–6 and §§ 1.1461–1 through 1.1464–1 apply to a nonresident alien individual even though the individual has an election in effect under section 6013 (g) or (h) of the Code.

Par. 3A. Paragraph (a)(4) of § 1.6013–2, as set forth in paragraph 9 of the notice of proposed rulemaking, is revised by deleting the phrase "but before December 31, 1978,".

Par. 4. Section 1.6013–7, as set forth in paragraph 10 of the notice of proposed rulemaking, is changed as set forth below.

1. Section 1.6013–7 is redesignated § 1.6013–6 and the heading is revised, as set forth below.

2. The second sentence of paragraph (a)(1) is revised to read as set forth below.

3. Subdivision (ii) of paragraph (a)(2) is revised to read as set forth below.

4. Subdivision (v) of paragraph (a)(2) is reserved.

5. Subdivision (i) of paragraph (a)(4) is revised to read as set forth below.

6. Subdivision (iii) of paragraph (a)(4) is deleted.

7. The last sentence of subdivision (i) of paragraph (b)(1) is revised by deleting the phrase "under chapter 1 of the Code".

8. Subdivision (iii) of paragraph (b)(1) is deleted and subdivisions (iv) and (v) are redesignated (iii) and (iv) respectively.

9. Subdivision (iii) of paragraph (b)(1), as redesignated, is revised by deleting the phrase "under chapter 1" in the first sentence.

10. Subdivision (iv) of paragraph (b)(1), as redesignated, is revised by substituting a new sentence for the next to last sentence, as set forth below.

11. The next to last sentence of paragraph (b)(4) is revised by substituting the phrase "chapters 1, 5, and 24" for the phrase "chapter 1".

12. A new paragraph (c) is added immediately after paragraph (b), as set forth below.

§ 1.6013–6 Election to treat nonresident alien individual as resident of the United States.

(a) *Election for special treatment*—(1) *In general.* * * * The effect of the election is that each spouse is treated as a resident of the United States for purposes of chapters 1, 5, and 24 and sections 6012, 6013, 6072, and 6091 of the Code for the entire taxable year.

* * * * *

(2) *Particular rules.* * * *

(ii) An individual's residence is determined by application of the principles of §§ 1.871–2 through 1.871–5 relating to what constitutes residence in the United States by an alien individual.

* * * * *

(4) *Time and manner of making an election.* (i) A husband and wife shall make the election under this section by attaching a statement to a joint return for the first taxable year for which the election is to be in effect. The election must be made before the expiration of the period prescribed by section 6511(a) (or section 6511(c) if the period is extended by agreement) for making a claim for credit or refund. If either or both spouses die after the close of the taxable year but before the joint return is filed, the election may be made by the executor, administrator, or other person charged with the property of the deceased spouse. If the election is made with a joint amended return, the amended return should be made on Form 1040 or 1040A, the word "Amended" should be written clearly on the front of the return, and an amended return also must be filed for each subsequent taxable year as to which a return previously has been filed by either spouse.

* * * * *

(b) *Termination of election*—(1) *Revocation.* * * *

(iv) * * * The statement must also include a list of the States, foreign countries, and possessions of the United States which have community property laws and in which—

(A) Each spouse is domiciled, or

(B) Real property is located from which either of the spouses receives income. * * *

* * * * *

(c) *Illustrations.* The application of this section is illustrated by the following examples.

In each case the individual's taxable year is the calendar year and the spouses are not legally separated.

Example (1). W, a U.S. citizen for the entire taxable year 1979, is married to H, a nonresident alien individual. W and H may make the section 6013(g) election for 1979 by filing the statement of election with a joint return. If W and H make the election, income from sources within and without the United States received by W and H in 1979 and subsequent years must be included in gross income for each taxable year unless the election later is terminated or suspended. While W and H must file a joint return for 1979, joint or separate returns may be filed for subsequent years.

Example (2). H and W are husband and wife and are both nonresident alien individuals. In June 1980 H becomes a U.S. resident and remains a resident for the balance of the year. H and W may make the section 6013(g) election for 1980. If H and W make the election, income from sources within and without the United States received by H and W for the entire taxable year 1980 and subsequent years must be included in gross income for each taxable year, unless the election later is terminated or suspended.

Example (3). W, a U.S. resident on December 31, 1981, is married to H, a nonresident alien. W and H make the section 6013(g) election and file joint returns for 1981 and succeeding years. On January 10, 1987, W becomes a nonresident alien. H has remained a nonresident alien. W and H may file a joint return or separate returns for 1987. As neither W nor H is a U.S. resident at any time during 1988, their election is suspended for 1988. If W and H have U.S. source or foreign source income effectively connected with the conduct of a U.S. trade or business in 1988, they must file separate returns as nonresident aliens. W becomes a U.S. resident again on January 5, 1990. Their election no longer is in suspense. Income from sources within and without the United States received by W or H in the years their election is not suspended must be included in gross income for each taxable year.

Example (4). H, a U.S. citizen for the entire taxable year 1979, is married to W, who is not a U.S. citizen. While W believes that she is a U.S. resident, H and W make the section 6013(g) election for 1979 to cover the possibility that later it would be determined that she is a nonresident alien during 1979. The election for 1979 will not be considered evidence that W was a nonresident alien in prior years. Income from sources within and without the United States received by H and W in 1979 and subsequent years must be included in gross income for each taxable year, unless the election later is terminated or suspended.

Par. 5. Section 1.6013–8, as set forth in paragraph 10 of the notice of proposed rulemaking, is changed as set forth below.

1. Section 1.6013–8 is redesignated § 1.6013–7.

2. Paragraph (a) is revised to read as set forth below.

§ 1.6013–7 Joint return for year in which nonresident alien becomes resident of the United States.

(a) *Election for special treatment*—(1) *In general.* Two individuals who are husband and wife at the close of a taxable year ending on or after December 31, 1975, may make an election under this section for that taxable year if one spouse is a citizen or resident of the United States on the last day of that taxable year and the other spouse is a nonresident alien at the beginning of that taxable year and a citizen or resident of the United States at the close of that taxable year. Two married individuals who are nonresident aliens at the beginning of a taxable year and who are U.S. citizens or residents on the last day of that taxable year qualify for the election. The effect of the election is that each spouse is treated as a resident of the United States for purposes of chapters 1, 5, and 24 and sections 6012, 6013, 6072, and 6091 of the Code for all of that taxable year. A husband and wife may not make an election if an election has previously been made under this section by either spouse.

(2) *Particular rules.* The rules in subdivisions (ii) through (v) of § 1.6013–6(a)(2) are applicable to this section.

(3) *Time and manner of making an election.* A husband and wife shall make the election under this section in accordance with the rules in § 1.6013–6(a)(4).

* * * * *

Par. 6. Paragraph (a)(2) of § 7.0 is amended to read as follows:

§ 7.0 Various elections under the Tax Reform Act of 1976.

(a) *Elections covered by temporary rules.* * * *

(2) Second category

185(d) of Code.	Amortization of railroad grading and tunnel bores.	All taxable years beginning after December 31, 1974.
528(c)(1)(E) of Code.	Certain homeowners associations.	Any taxable year beginning after December 31, 1973.
1057 of Code.	Transfer to foreign trusts etc.	Any transfer of property after October 2, 1975.

* * * * *

Par. 7. The first sentence of paragraph (b)(7) of § 31.3401(a)–1 is amended by inserting the phrase "(including, in regard to wages paid after February 28, 1979, an individual treated as a resident under section 6013 (g) or (h))" between the phrases "citizen or resident" and "of the United States".

Par. 8. Paragraph (a) of § 31.3401(a)(6)–1 is amended by adding a sentence at the end as follows:

§ 31.3401(a)(6)–1 Remuneration for services of nonresident alien individual paid after December 31, 1966.

(a) *In general.* * * * In regard to wages paid under this section after February 28, 1979, the term "nonresident alien individual" does not include a nonresident alien individual treated as a resident under section 6013 (g) or (h).

* * * * *

Par. 9. Subdivision (i) of § 31.3402(f)(1)–1(d)(4) is amended by inserting the phrase "(including, in regard to wages paid after February 28, 1979, an individual treated as a resident under section 6013 (g) or (h))" between the phrases "United States" and ", Canada,".

Par. 10. The first sentence of § 31.3402(f)(6)–1 is amended by inserting the phrase "(other than, in regard to wages paid after February 28, 1979, a nonresident alien individual treated as a resident under section 6013 (g) or (h))" between the phrases "nonresident alien individual" and "subject to withholding".

Par. 11. Section 301.6013–1 is amended by deleting the reference to § 1.6013–4 and inserting in its place a reference to § 1.6013–7.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: January 22, 1980.

Donald C. Lubick,
Assistant Secretary of the Treasury.

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PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. Paragraph (a) of § 1.871–1 is amended by adding three sentences at the end that read as follows:

§ 1.871–1 Classification and manner of taxing alien individuals.

(a) *Classes of aliens.* * * * However, nonresident alien individuals may elect, under section 6013 (g) or (h), to be treated as U.S. residents for purposes of determining their income tax liability under chapters 1, 5, and 24 of the code. Accordingly, any reference in §§ 1.1–1 through 1.1388–1 and §§ 1.1491–1 through 1.1494–1 of this part to nonresident alien individuals does not include those with respect to whom an election under section 6013 (g) or (h) is in effect, unless otherwise specifically provided. Similarly, any reference to resident aliens or U.S. residents includes those with respect to whom an election is in effect, unless otherwise specifically provided.

* * * * *

Par. 2. Paragraph (a)(1) of § 1.8971–13 is amended by adding two sentences at the end that read as follows:

§ 1.871–13 Taxation of individuals for taxable year of change of U.S. citizenship or residence.

(a) *In general.* (1) * * * This section does not apply to alien individuals treated as residents for the entire taxable year under section 6013 (g) or (h). These individuals are taxed under the rules in § 1.1–1(b).

* * * * *

Par. 3. There is added after § 1.878 the following new section:

§ 1.879–1 Treatment of community income.

(a) *Treatment of community income.*—(1) *In general.* For taxable years beginning after December 31, 1976, community income of a citizen or resident of the United States who is married to a nonresident alien individual, and the deductions properly allocable to that income, shall be divided between the U.S. citizen or resident spouse in accordance with the rules in section 879 and paragraph (a)(2) through (a)(6) of this section. This section does not apply for any taxable year with respect to which an election under section 6013 (g) or (h) is in effect. Community income for this purpose includes all gross income, whether derived from sources within or without the United States, which is treated as community income of the spouses under the community property laws of the State, foreign country, or possession of the United States in which the recipient of the income is domiciled. Income from real property also may be community income if so treated under the laws of the jurisdiction in which the real property is located.

(2) *Earned income.* Wages, salaries, or professional fees, and other amounts received as compensation for personal services actually performed, which are community income for the taxable year, shall be treated as the income of the spouse who actually performed the personal services. This paragraph (a)(2) does not apply, however, to the following items of community income:

(i) Community income derived from any trade or business carried on by the husband or the wife.

(ii) Community income attributable to a spouse's distributive share of the income of a partnership to which paragraph (a)(4) of this section applies.

(iii) Community income consisting of compensation for personal services rendered to a corporation which represents a distribution of the earnings and profits of the corporation rather than a reasonable allowance as compensation for the personal services actually performed, but not including any income that would be treated as earned income under the second sentence of section 911(b).

(iv) Community income derived from property which is acquired as consideration for personal services performed.

These items of community income are divided in accordance with the rules in paragraph (a)(3) through (a)(6) of this section.

(3) *Trade or business income.* If any income derived from a trade or business carried on by the husband or wife is community income for the taxable year, all of the gross income, and the deductions attributable to that income, shall be treated as the gross income and deductions of the husband. However, if the wife exercises substantially all of the management and control of the trade or business, all of the gross income and deductions shall be treated as the gross income and deductions of the wife. This paragraph (a)(3) does not apply to any income derived from a trade or business carried on by a partnership of which both or one of the spouses is a member (see paragraph (a)(4) of this section). For purposes of this paragraph (a)(3), income derived from a trade or business includes any income derived from a trade or business in which both personal services and capital are material income producing factors. The term "management and control" means management and control in fact, not the management and control imputed to the husband under the community property laws of a State, foreign country or possession of the United States. For example, a wife who operates a pharmacy without any appreciable collaboration on the part of a husband is considered as having substantially all of the management and control of the business despite the provisions of any community property laws of a State, foreign country, or possession of the United States, vesting in the husband the right of management and control of community property. The income and deductions attributable to the operation of the pharmacy are considered the income and deductions of the wife.

(4) *Partnership income.* If any portion of a spouse's distributive share of the income of a partnership, of which the spouse is a member, is community income for the taxable year, all of that distributive share shall be treated as the income of that spouse and shall not be taken into account in determining the income of the other spouse. If both spouses are members of the same partnership, the distributive share of the income of each spouse which is community income shall be treated as the income of that spouse. A spouse's distributive share of the income of a partnership that is community income shall be determined as provided in section 704 and the regulations thereunder.

(5) *Income from separate property.* Any community income for the taxable year, other than income described in section 879(a) (1) or (2) and paragraph (a) (2), (3), or (4) of this section, which is derived from the separate property of one of the spouses shall be treated as the income of that spouse. The determination of what property is separate property for this purpose shall be made in accordance with the laws of the State, foreign country, or possession of the United States in which, in accordance with paragraph (a)(1) of this section, the recipient of the income is domiciled or, in the case of income from real property, in which the real property is located.

(6) *Other community income.* Any community income for the taxable year, other than income described in section 879(a) (1), (2), or (3), and paragraph (a) (2), (3), (4), or (5) of this section, shall be treated as income of that spouse who has a proprietary vested interest in that

income under the laws of the state, foreign country, or possession of the United States in which, in accordance with paragraph (a)(1) of this section, the recipient of the income is domiciled or, in the case of income from real property, in which the real property is located. Thus, for example, this paragraph (a)(6) applies to community income not described in paragraph (a) (2), (3), (4), or (5) of this section which consists of dividends, interest, rents, royalties, or gains, from community property or of the earnings of unemancipated minor children.

(7) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). H, a U.S. citizen, and W, a nonresident alien individual, each of whose taxable years is the calendar year, were married throughout 1977. H and W were residents of, and domiciled in, foreign country Z during the entire taxable year. No election under section 6013 (g) or (h) is in effect for 1977. During 1977, H earned $10,000 from the performance of personal services as an employee. H also received $500 in dividend income from stock which under the community property laws of country Z is considered to be the separate property of H. W had no separate income for 1977. Under the community property laws of country Z all income earned by either spouse is considered to be community income, and one-half of this income is considered to belong to the other spouse. In addition, the laws of country Z provide that all income derived from property held separately by either spouse is to be treated as community income and treated as belonging one-half to each spouse. Thus, under the community property laws of country Z, H and W are both considered to have realized income of $5,250 during 1977, even though Z's laws recognize the stock as the separate property of H. Under the rules of paragraph (a) (2) and (5) of this section all of the income of $10,500 derived during 1977 is treated, for U.S. income tax purposes, as the income of H.

Example (2). (a) The facts are the same as in example (1), except that H is the sole proprietor of a retail merchandising company, which has a $10,000 profit during 1977. W exercises no management and control over the business. In addition, H is a partner in a wholesale distributing company, and his distributive share of the partnership profit is $5,000. Both of these amounts of income are treated as community income under the community property laws of country Z, and under these laws both H and W are treated as realizing $7,500 of the income. Under the rule of paragraph (a) (3) and (4) of this section all $15,000 of the income is treated as the income of H for U.S. income tax purposes.

(b) If W exercises substantially all of the management and control over the retail merchandising company, then for U.S. income tax purposes the $10,000 profit is treated as the income of W.

Example (3). The facts are the same as in example (1), except that H also received $1,000 in dividends on stock held separately in his name. Under the community property laws of country Z the stock is considered to be community property, the dividends to be community income, and one-half of the income to be the income of each spouse. Under the rule of paragraph (a)(6) of this section, $500 of the dividend income is treated, for U.S. income tax purposes, as the income of each spouse.

(b) *Definitions and other special rules.*—(1) *Spouses with different taxable years.* A special rule applies if the nonresident alien and the United States citizen or resident spouse of the alien do not have the same taxable years, as defined in section 441(b) and the regulations thereunder. The special rule is as follows. With respect to the U.S. citizen or resident spouse, section 879 and this section shall apply to each taxable year of the U.S. citizen or resident spouse for which no election under section 6013 (g) or (h) is in effect. With respect to the nonresident alien spouse, section 879 and this section apply to each period falling within the consecutive taxable years of the nonresident alien spouse which coincides with a taxable year of the U.S. citizen or resident spouse to which section 879 and this section apply.

(2) *Determination of marital status.* For purposes of this section, marital status shall be determined under section 143(a).

§ 1.981 [Revoked]

Par. 4. Section 1.981 is repealed.

Par. 5. There is added after § 1.972–1 the following new section:

§ 1.981–0 Repeal of section 981; effective dates.

The provisions of section 981 are not effective for taxable years beginning after December 31, 1976. For the treatment of the community income of aliens and their spouses for taxable years beginning after December 31, 1976, see section 879 and the regulations thereunder.

Par. 6. Section 1.981–1 is amended as follows:

1. The title is amended to read as follows:

§ 1.981–1 Foreign law community income for taxable years beginning after December 31, 1966, and before January 1, 1977.

2. Paragraph (a)(1) is amended by inserting the phrase "and before January 1, 1977," in the first sentence between the phrases "after December 31, 1966" and the phrase, "may make a binding election".

§ 1.6012–1 [Amended]

Par. 17. Section 1.6012–1 is amended as follows:

1. Paragraph (b)(1)(i) is amended by inserting the phrase "(other than one treated as a resident under section 6013 (g) or (h))" in the first sentence between the phrases "nonresident alien individual" and "who is engaged".

2. Paragraph (b)(2)(i) is amended by inserting the phrase "(other than one treated as a resident under section 6013 (g) or (h))" in the first sentence between the phrases "A nonresident alien individual" and "who at no time".

3. Paragraph (b)(2)(ii)(*a*) is amended by deleting the period at the end of the second sentence and inserting in its place the phrase , "unless an election under section 6013 (g) or (h) is in effect for the alien."

4. Paragraph (b)(2)(ii)(*b*) is amended by deleting the period at the end of the first sentence, and inserting in its place the phrase ", even if an election under section 6013(g) was in effect for the taxable year preceding the year of abandonment."

Par. 8. Paragraph (b) of § 1.6013–1 is revised to read as follows:

§ 1.6013–1 Joint returns.

* * * * *

(b) *Nonresident alien.* A joint return shall not be made if either the husband or wife at any time during the taxable year is a nonresident alien, unless an election is in effect for the taxable year under section 6013 (g) or (h) and the regulations thereunder.

* * * * *

Par. 9. Section 1.6013–2 is amended by adding a new paragraph (a)(4) which reads as follows:

§ 1.6013–2 Joint return after filing separate return.

(a) *In general.*

* * * * *

(4) A nonresident alien treated as a resident under section 6013 (g) or (h) for any taxable year ending on or after December 31, 1975, and the alien's U.S. citizen or resident spouse may file a joint return for that taxable year, even though one or both of the spouses have previously filed separate returns for that taxable year. In this case, the rule in paragraph (a)(3) of this section does not apply.

* * * * *

Par. 10. There is added immediately after § 1.6013–5 the following new sections:

§ 1.6013–6 Election to treat nonresident alien individual as resident of the United States.

(a) *Election for special treatment.*—(1) *In general.* Two individuals who are husband and wife at the close of a taxable year ending on or after

December 31, 1975, may make an election under this section for that taxable year if, at the close of that year, one spouse is a citizen or resident of the United States and the other spouse is a nonresident alien. The effect of the election is that each spouse is treated as a resident of the United States for purposes of chapters 1, 5, and 24 and sections 6012, 6013, 6072, and 6091 of the Code for the entire taxable year. An election made under this section is in effect for the taxable year for which made and for all subsequent years of the husband and wife, except—

(i) Any taxable year for which the election is suspended, as described in paragraph (a)(3) of this section, and

(ii) Any taxable year for which the election is terminated in accordance with paragraph (b) of this section and all subsequent taxable years.

A husband and wife may not make an election if an election previously made under this section by either spouse has been terminated under paragraph (b) of this section.

(2) *Particular rules.* (i) As used in paragraph (a)(3) of this section, the term "U.S. spouse" means any married individual who is a citizen or resident of the United States at any time during a taxable year.

(ii) An individual's residence is determined by application of the principles of §§ 1.871–2 through 1.871–5 relating to what constitutes residence in the United States by an alien individual.

(iii) Whether two individuals are married at the close of a taxable year is determined by application of the rules in § 1.6013–4(a).

(iv) The provisions of section 879 and the regulations thereunder shall not apply for any taxable year for which an election under this section is in effect.

(v) [Reserved]

(3) *Suspension of election.* (i) An election made under this section is suspended and is not in effect for a taxable year subsequent to the first taxable year for which made if neither spouse is a U.S. spouse during that subsequent taxable year. Thus, for example, the election is in suspense if both spouses are nonresident aliens for the entire taxable year.

(ii) If either spouse dies during any taxable year for which the election under this section is in effect, other than the first taxable year for which the election is to be in effect, the taxable year shall include, solely for purposes of this paragraph (a)(3), only those days during the taxable year on which both spouses are alive. Thus, for example, if the U.S. spouse dies during the taxable year, the election is not suspended for that year even if the surviving nonresident alien spouse never acquires U.S. citizenship or residency. Similarly, if the nonresident alien spouse dies during the taxable year, the election is not suspended for that year even if the surviving U.S. spouse subsequently abandons U.S. citizenship or residency. However, if neither spouse was a U.S. spouse at any time during the period of the taxable year when both spouses were alive, the election is suspended for that year even if the surviving spouse subsequently acquires U.S. citizenship or residency.

For the effect of the death of either spouse on the status of the election in subsequent taxable years, see paragraph (b)(2) of this section.

(4) *Time and manner of making an election.* (i) A husband and wife shall make the election under this section by attaching a statement to a joint return for the first taxable year for which the election is to be in effect. The election must be made before the expiration of the period prescribed by section 6511 (a) (or section 6511(c) if the period is extended by agreement) for making a claim for credit or refund. If either or both spouses die after the close of the taxable year but before the joint return is filed, the election may be made by the executor, administrator, or other person charged with the property of the deceased spouse. If the election is made with a joint amended return, the amended return should be made on Form 1040 or 1040A, the word "Amended" should be written clearly on the front of the return, and an amended return also must be filed for each subsequent taxable year as to which a return previously has been filed by either spouse.

(ii) The statement must contain a declaration that the election is being made and that the requirements of paragraph (a)(1) of this section are met for the taxable year. The statement must also contain the name, address, and taxpayer identifying number of each spouse. If the election is being made on behalf of a deceased spouse, the statement must contain the name and address of the executor, administrator, or other person making the election on behalf of the deceased spouse. The statement must be signed by both persons making the election.

(b) *Termination of election*—(1) *Revocation.* (i) An election under this section shall terminate if either spouse revokes the election. An election that is revoked terminates as of the first taxable year for which the last day prescribed by section 6072(a) and 6081(a) for filing the return of tax has not yet occurred.

(ii) Revocation of the election is made by filing a statement of revocation in the following manner. If the spouse revoking the election is required to file a return under section 6012, the statement is filed by attaching it to the return for the first taxable year to which the revocation applies. If the spouse revoking the election is not required to file a return under section 6012, but files a claim for refund under section 6511, the statement is filed by attaching it to the claim for refund. If the spouse revoking the election is not required to file a return and does not file a claim for refund, the statement is filed by submitting it to the service center director with whom was filed the most recent joint return of the spouses. The revocation may, if the revoking spouse dies after the close of the first taxable year to which the revocation applies but before the return, claim for refund, or statement of revocation is filed, be made by the executor, administrator or other person charged with the property of the deceased spouse.

(iii) A revocation of the election is effective as of a particular taxable year if it is filed on or before the last day prescribed by section 6072(a) and 6081(a) for filing the return of tax for that taxable year. However, the revocation is not final until that last day.

(iv) The statement of revocation must contain a declaration that the election under this section is being revoked. The statement must also contain the name, address, and taxpayer identifying number of each spouse. If the revocation is being made on behalf of a deceased spouse, the statement must contain the name and address of the executor, administrator, or other person revoking the election on behalf of the deceased spouse. The statement must also include a list of the States, foreign countries, and possessions of the United States which have community property laws and in which—

(A) Each spouse is domiciled, or

(B) Real property is located from which either of the spouses receives income.

The statement must be signed by the person revoking the election.

(2) *Death.* An election under this section shall terminate if either spouse dies. An election that terminates on account of death terminates as of the first taxable year of the surviving spouse following the taxable year in which the death occurred. However, if the surviving spouse is a citizen or resident of the United States who is entitled to the benefits of section 2, the election terminates as of the first taxable year following the last taxable year for which the surviving spouse is entitled to the benefits of section 2. If both spouses die within the same taxable year, the election terminates as of the first day after the close of the taxable year in which the deaths occurred.

(3) *Legal separation.* An election under this section terminates if the spouses legally separate under a degree of divorce or of separate maintenance. An election that terminates on account of legal separation terminates as of the close of the taxable year preceding the taxable year in which the separation occurs. The rules in § 1.6013–4(a) are relevant in determining whether two spouses are legally separated.

(4) *Inadequate records.* An election under this section may be terminated by the Commissioner if it is determined that either spouse has failed to keep adequate records. An election that is terminated on account of inadequate records terminates as of the close of the taxable year preceding the taxable year for which the Commissioner determines that the election should be terminated. Adequate records are the books, records, and other information reasonably necessary to ascertain the amount of liability for taxes under chapters 1, 5, and 24 of the code of either spouse for the taxable year. Adequate records also includes the granting of access to the books and records.

(c) *Illustrations.* The application of this section is illustrated by the following examples. In each case the individual's taxable year is the calendar year and the spouses are not legally separated.

Example (1). W, a U.S. citizen for the entire taxable year 1979, is married to H, a nonresident alien individual. W and H may make the section 6013 (g) election for 1979 by filing the statement of election with a joint return. If W and H make the election, income from sources within and without the United States received by W and H in 1979 and subsequent years must be included in gross income for each taxable year unless the election later is terminated or suspended. While W and H must file a joint return for 1979, joint or separate returns may be filed for subsequent years.

Example (2). H and W are husband and wife and are both nonresident alien individuals. In June 1980 H becomes a U.S. resident and remains a resident for the balance of the year. H and W may make the section 6013 (g) election for 1980. If H and W make the election, income from sources within and without the United States received by H and W for the entire taxable year 1980 and subsequent years must be included in gross income for each taxable year, unless the election later is terminated or suspended.

Example (3). W, a U.S. resident on December 31, 1981, is married to H, a nonresident alien. W and H make the section 6013 (g) election and file joint returns for 1981 and succeeding years. On January 10, 1987, W becomes a nonresident alien. H has remained a nonresident alien. W and H may file a joint return or separate returns for 1987. As neither W nor H is a U.S. resident at any time during 1988, their election is suspended for 1988. If W and H have U.S. source or foreign source income effectively connected with the conduct of a U.S. trade or business in 1988, they must file separate returns as nonresident aliens. W becomes a U.S. resident again on January 5, 1990. Their election no longer is in suspense. Income from sources within and without the United States received by W or H in the years their election is not suspended must be included in gross income for each taxable year.

Example (4). H, a U.S. citizen for the entire taxable year 1979, is married to W, who is not a U.S. citizen. While W believes that she is a U.S. resident, H and W make the section 6013(g) election for 1979 to cover the possiblity that later it would be determined that she is a nonresident alien during 1979. The election for 1979 will not be considered evidence that W was a nonresident alien in prior years. Income from sources within and without the United States received by H and W in 1979 and subsequent years must be included in gross income for each taxable year, unless the election later is terminated or suspended.

§ 1.6013–7 Joint return for year in which nonresident alien becomes resident of the United States.

(a) *Election for special treatment.*—(1) *In general.* Two individuals who are husband and wife at the close of a taxable year ending on or after December 31, 1975, may make an election under this section for that taxable year if one spouse is a citizen or resident of the United States on the last day of that taxable year and the other spouse is a nonresident alien at the beginning of that taxable year and a citizen of resident of the United States at the close of that taxable year. Two married individuals who are nonresident aliens at the beginning of a taxable year and who are U.S. citizens or residents on the last day of that taxable year qualify for the election. The effect of the election is that each spouse is treated as a resident of the United States for purposes of chapters 1, 5, and 24 and sections 6012, 6013, 6072, and 6091 of the code for all of that taxable year. A husband and wife may not make an election if an election has previously been made under this section by either spouse.

(2) *Particular rules.* The rules in subdivisions (ii) through (v) of § 1.6013–6(a)(2) are applicable to this section.

(3) *Time and manner of making an election.* A husband and wife shall make the election under this section in accordance with the rules in § 1.6013–6(a)(4).

(b) *Section 6013(g) election in effect.* If an election under section 6013(g) is in effect for a year subsequent to the first taxable year for which made and during that subsequent year the husband and wife meet the requirements of section 6013(h) and paragraph (a)(1) of this section, then the election under section 6013(g) shall apply to that subsequent taxable year. A separate election under section 6013(h) is not required for that subsequent taxable year.

§ 1.6072–1 [Amended]

Par. 11. Paragraph (c) of § 1.6072–1 is amended by inserting the phrase "(other than one treated as a resident under section 6013 (g) or (h))" in the first sentence between the phrases "nonresident alien individual" and "and of a foreign trust."

Par. 12. Paragraph (a) of § 1.6073–1 is amended by adding two sentences at the end that read as follows:

§ 1.6073–1 Time and place for filing declarations of estimated tax by individuals.

(a) *Individuals other than farmers or fishermen.* * * * A special rule applies to nonresident aliens who do not have wages subject to withholding under chapter 24 of the code and are not treated as residents under section 6013 (g) or (h) of the code. For taxable years beginning after December 31, 1976, these aliens are not required to file a declaration of estimated tax before June 15th.

* * * * *

§ 1.6091–3 [Amended]

Par. 13. Paragraph (d) of § 1.6091–3 is amended by deleting the period at the end, and inserting in lieu thereof the phrase "(other than one treated as a resident under section 6013 (g) or (h))."

§ 1.6851–2 [Amended]

Par. 14. Paragraph (b)(1)(ii) of § 1.6851–2 is amended as follows:

1. The phrase "(or treated as a resident under section 6013 (g) or (h))" is inserted in the first sentence between the phrases "possession thereof" and "who intends to continue."

2. The phrase "(or treatment as a resident)" is inserted in the first sentence between the phrases "to continue such residence" and "shall be treated."

PART 301—PROCEDURE AND ADMINISTRATION

Par. 15. Paragraph (g) of § 301.6109–1 is amended by adding a sentence at the end that reads as follows:

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§ 301.6109–1 Identifying numbers.

* * * * *

(g) *Nonresident alien exclusion.* * * *

The exclusion in this paragraph does not apply to nonresident aliens treated as residents under section 6013 (g) or (h).

* * * * *

PART 1 [AMENDED]

Par. 16. Section 1.1441–1 is amended by adding a sentence at the end to read as follows:

§ 1.1441–1 Requirement for withholding of tax on nonresident aliens, foreign partnerships, and foreign corporations.

* * * The rules of chapter 3 of the Code and §§ 1.1441–1 through 1.1441–6 and §§ 1.1461–1 through 1.1464–1 apply to a nonresident alien individual even though the individual has an election in effect under section 6013 (g) or (h) of the Code.

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Par. 17. Paragraph (a)(2) of § 7.0 is amended to read as follows:

§ 7.0 Various elections under the Tax Reform Act of 1976.

(a) *Elections covered by temporary rules.* * * *

(2) Second Category

195 (d) of Code.	Amortization of railroad grading and tunnel bores.	All taxable years beginning after December 31, 1974.
526 (c) (1) (E) of Code.	Certain homeowners associations.	Any taxable year beginning after December 31, 1973.
1057 of Code.	Transfer to foreign trusts etc.	Any transfer of property after October 2, 1975.

* * * * *

PART 31—EMPLOYMENT TAXES APPLICABLE ON AND AFTER JANUARY 1, 1955

§ 31.3401(a)–1 [Amended]

Par. 18. The first sentence of paragraph (b) (7) of § 31.3401 (a)–1 is amended by inserting the phrase "(including, in regard to wages paid after February 28, 1979, an individual treated as a resident under section 6013 (g) or (h))" between the phrases "citizen or resident" and "of the United States".

Par. 19. Paragraph (a) of § 31.3401 (a) (6)–1 is amended by adding a sentence at the end as follows:

§ 31.3401 (a) (6)–1 Remuneration for services of nonresident alien individual paid after December 31, 1966.

(a) *In general.* * * * In regard to wages paid under this section after February 28, 1979, the term "nonresident alien individual" does not include a nonresident alien individual treated as a resident under section 6013 (g) or (h).

* * * * *

§ 31.3402 (f)(1)–1 [Amended]

Par. 20. Subdivision (i) of § 31.3402 (f) (1)–1 (d) (4) is amended by inserting the phrase "(including, in regard to wages paid after February 28, 1979, and individual treated as a resident under section 6013 (g) or (h))" between the phrases "United States" and ", Canada,".

§ 31.3402 (f)(6)–1 [Amended]

Par. 21. The first sentence of § 31.3402 (f) (6)–1 is amended by inserting the phrase "(other than, in regard to wages paid after February 28, 1979, a nonresident alien individual treated as a resident under section 6013 (g) or (h))" between the phrases "nonresident alien individual" and "subject to withholding".

PART 301 [AMENDED]

§ 301.6013–1 [Amended]

Par. 22. Section 301.6013–1 is amended by deleting the reference to § 1.6013–4 and inserting in its place a reference to § 1.6013–7.

* * * * *

[FR Doc. 80-3163 Filed 1-30-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 79–019]

Drawbridge Operation Regulations; Greens Bayou, Texas

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Port of Houston Authority, the Coast Guard is establishing operation regulations for the draw of a railroad bridge across Greens Bayou, mile 2.8, to require at least four hours notice for an opening, except for certain return trips. This action will relieve the bridge owner of the burden of having a person available to open the draw at all times.

EFFECTIVE DATE: This amendment is effective on March 1, 1980.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G–WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202–426–0942).

SUPPLEMENTARY INFORMATION: On June 11, 1979, the Coast Guard published a proposed rule (44 FR 33431) concerning this amendment. The Commander, Eighth Coast Guard District, also published these proposals as a Public Notice dated June 11, 1979. Interested persons were given until July 13, 1979 to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Coleman Sachs, Project Attorney, Office of the Chief Counsel.

Discussion of Comments

Two comments were received which had no objection to the proposal.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new § 117.245(j)(32) immediately after § 117.245(j)(31) that reads as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(j) * * *

(32) Greens Bayou, Texas; Port Terminal Railroad Association, mile 2.8. The draw shall open on signal if at least four hours notice is given and on signal for three hours thereafter if the opening is for returning downbound vessels.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5)).

Dated: September 27, 1979.

J. B. Hayes,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 80-3077 Filed 1-30-80; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Parts 127 and 165

[CGD 17–78–1R2]

Port Valdez, Valdez, Alaska; Establishment of Safety Zone

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule establishes a safety zone in the port of Valdez, Alaska in lieu of the security zone currently in effect. It is believed that a safety zone is a more appropriate means of protecting the marine environment and vessels within Port Valdez.

EFFECTIVE DATE: March 4, 1980.

FOR FURTHER INFORMATION CONTACT: CDR F. N. Harrell, Chief, Port Safety Branch (mps), Seventeenth Coast Guard District, P.O. Box 3–5000, Juneau, Alaska 99802 (Phone 907–586–7195).

SUPPLEMENTARY INFORMATION: A proposal to change the current security zone in Port Valdez to a safety zone for enforcement purposes was published in the **Federal Register** December 28, 1978 (43 FR 60614). Subsequently, on February 8, 1979, a correction to the proposal and an extension of the comment period were published in the **Federal Register** (44 FR 7982). Comments were allowed until March 1, 1979. No comments were received on the proposal.

DRAFTING INFORMATION: The principal person involved in drafting this rule is LT David G. Dickman, Office of Marine Environment and Systems, Port Safety Branch (G–WLE–1/TP11), Room 1100, Trans Point Building, 2100 Second St. SW. Washington, DC 20593 (Phone 202–426–1927).

Discussion of Rule

Section 127.1701 presently designates a security zone that includes an area within 200 yards of any waterfront facility at the Alyeska Marine Terminal complex and an area within 200 yards of any tank vessel maneuvering to approach, moor, unmoor, or depart the Alyeska Marine Terminal complex. This security zone was established to protect the marine environment around the Alyeska Marine Terminal as well as vessels operating in that area. Security zones are authorized under the authority of the Magnuson Act (50 U.S.C. 191). Thus, violations of the security zone are subject only to the criminal penalties authorized under this Act. Because the security zone was originally established for safety and environmental reasons rather than security reasons, and because violations of a safety zone would result in civil penalties as safety zones are issued under the authority of the Ports and Waterways Safety Act (33 U.S.C. 1221–1232), this rule changes the security zone currently in effect to a safety zone.

In consideration of the foregoing, Chapter I of Title 33 Code of Federal Regulations is amended as follows:

PART 127—SECURITY ZONE

§ 127.1701 [Revoked]

1. By revoking § 127.1701.

PART 165—SAFETY ZONE

2. By adding a new § 165.1701 to read as follows:

§ 165.1701 Port Valdez, Valdez, Alaska.

The waters within the following boundaries are a safety zone: the area within 200 yards of any waterfront facility at the Alyeska Marine Terminal complex or vessels moored or anchored at the Alyeska Marine Terminal complex and the area within 200 yards of any tank vessel maneuvering to approach, moor, unmoor or depart the Alyeska Marine Terminal complex.

(33 U.S.C. 1225; 49 CFR 1.46(n)(4))

Dated: December 27, 1979.

Robert A. Duin,

Rear Admiral, U.S. Coast Guard, Commander, Seventeenth Coast Guard District.

[FR Doc. 80-3146 Filed 1-30-80; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 17

Veterans Health Care

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) has amended its "Medical Series" of regulations to comply with provisions of the Veterans Omnibus Health Care Act of 1976. The purpose of that legislation was to improve the quality of hospital care, medical services and nursing home care in VA health care facilities, and to make certain technical and conforming amendments to prior laws governing VA medical care. Several benefits were added, including: (1) expanded home health services; (2) expanded authority to enter into sharing agreements and contracts for scarce medical specialist services; (3) authority to provide outpatient dental care for nonservice-connected veterans on a posthospital care basis; (4) authority to provide emergency outpatient treatment on a humanitarian basis, and (5) authority to provide care under CHAMPVA (Civilian Health and Medical Program of the Veterans Administration) for the surviving spouse and children of a veteran who died while permanently disabled due to a service-connected disability. The Veterans Omnibus Health Care Act of 1976 also imposed certain restrictions on payments for beneficiary travel, established limitations for most posthospital outpatient treatment for nonservice-connected disabilities, and established a statutory hierarchy of priorities for enrolling eligible veterans in outpatient care programs at VA health care facilities.

EFFECTIVE DATE: October 21, 1976.

FOR FURTHER INFORMATION CONTACT: Joseph F. Fleckenstein (202–389–3785).

SUPPLEMENTARY INFORMATION: On pages 42234–42242 of the **Federal Register** of July 19, 1979, proposed amendments were published for 45 sections of Title 38, Code of Federal Regulations from §§ 17.30 through 17.220.

Interested persons were given 60 days to submit comments, suggestions, or recommendations to the proposed amendments. Three comments were received. All of the comments generally supported the proposed amendments, however, several suggestions were made.

One suggestion was that physician's services and drugs be excluded from the services covered by the VA maximum payment for community nursing home care. This is not contemplated at present because our present policy is sufficiently flexible to permit furnishing the more expensive drugs from VA pharmacies as supplemental to the VA maximum payment. The authorized maximum payment is intended to cover the usual physician's services for a nursing home patient. VA patients who require more than the usual services are expected to be returned to the VA medical center.

Another recommendation was to amend § 17.98(b) to specifically include psychologists in the otherwise extensive list of professionals with whom the VA may enter into contracts to provide scarce medical specialist services. Regulations implementing the "Veterans Health Care Amendments of 1979" will provide authority for using the services of psychologists on a fee for service basis for providing authorized readjustment counseling to certain Vietnam era veterans.

One respondent suggested liberalization of the present VA policy with respect to authorizing nursing home care for military retirees living in Hawaii. This cannot be done because legislative authority does not exist for authorizing community nursing home care for veterans except for those veterans requiring such care for a service-connected disability or for those veterans requiring such care for a nonservice-connected disability following an episode of VA hospital care.

V 45 / 22 JA 31 80 UMI

The proposed regulations are hereby adopted without change and are set forth below.

Approved: January 18, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

1. In § 17.30, paragraphs (k), (l), (m), (n), (p) and (u) are revised and paragraphs (v) and (w) are added so that the added and revised material reads as follows:

§ 17.30 Definitions.

* * * * *

(k) *Vietnam era.* The term "Vietnam era" means the period beginning August 5, 1964, and ending on May 7, 1975. (38 U.S.C. 101(29))

(l) *Hospital care.* The term "hospital care" includes:

(1) Medical services rendered in the course of hospitalization of any veteran and transportation and incidental expenses pursuant to the provisions of § 17.100.

(2) Such mental health services, consultation, professional counseling, and training for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of a veteran or dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of title 38, United States Code; (38 U.S.C. 601(5)) and

(3)(i) Medical services rendered in the course of the hospitalization of a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of title 38, United States Code, and (ii) transportation and incidental expenses for such dependent or survivor of a veteran who is in need of treatment for any injury, disease, or disability and is unable to defray the expense of transportation. (38 U.S.C. 601(5))

(m) *Medical services.* The term "medical services" includes, in addition to medical examination, treatment, and rehabilitative services:

(1) Surgical services, dental services and appliances as authorized in §§ 17.60(f), 17.120, 17.123 and 17.123a, optometric and podiatric services, and except for veterans authorized outpatient care under § 17.60(e), wheelchairs, artificial limbs, trusses and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services as are medically determined to be reasonable and necessary.

(2) Such consultation, professional counseling, training and mental health services as are necessary in connection with the treatment–

(i) Of the service-connected disability of a veteran pursuant to § 17.60(a) and (b);

(ii) Of the nonservice-connected disability of a veteran where such services were initiated during the veteran's hospitalization and the provision of such services is essential to permit the release of the veteran from inpatient care;

for the members of the immediate family or legal guardian of the veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of the veteran or dependent or survivor of a veteran receiving care under § 17.54(c). For the purposes of this paragraph, a dependent or survivor of a veteran receiving care under § 17.54(c) shall be eligible for the same medical services as a veteran.

(3) Transportation and incidental expenses for any person entitled to such benefits under the provisions of § 17.100. (38 U.S.C. 601(8))

(n) *Domiciliary care.* The term "domiciliary care" means the furnishing of a home to a veteran, embracing the furnishing of shelter, food, clothing and other comforts of home, including necessary medical services. The term further includes travel and incidental expenses pursuant to § 17.100.

* * * * *

(p) *Nursing home care.* The term "nursing home care" means the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care, but who require skilled nursing or intermediate care and related medical services, if such care and services are prescribed by, or are performed under the general direction of, persons duly licensed to provide such care. The term includes intensive care where the nursing service is under the supervision of a registered professional nurse. (38 U.S.C. 101(28), 620(e))

* * * * *

(u) *State home.* The term "State home" means a home established by a State (other than a possession) for veterans disabled by age, disease, or otherwise who by reason of such disability are incapable of earning a living. The term also includes a home which furnishes nursing home care for such veterans.

(v) *Rehabilitative services.* The term "rehabilitative services" means such professional counseling, and guidance services and treatment programs (other than those types of vocational rehabilitation services for the purpose of restoring employability) as are necessary to restore to the maximum extent possible the physical, mental, and psychological functioning of an ill or disabled person. (38 U.S.C. 601(8))

(w) *Veterans Administration facilities.* The term "Veterans Administration facilities" means:

(1) Facilities over which the Administrator has direct jurisdiction;

(2) Government facilities for which the Administrator contracts; and

(3) Private facilities for which the Administrator contracts when Government facilities are not capable of furnishing economical care because of geographical inaccessibility or of furnishing the care or services required in order to provide:

(i) Hospital care or medical services to a veteran for the treatment of a service-connected disability or a disability for which a veteran was discharged or released from the active military, naval, or air service, or

(ii) Medical services for veterans released from inpatient care to outpatient treatment status or to any veteran who has a service-connected disability rated at 50 percent or more, or

(iii) Hospital care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a veteran receiving hospital care in a facility for which the Administrator has direct jurisdiction or a government facility for which the Administrator contracts.

(iv) Hospital care for women veterans, or

(v) Hospital care for veterans in a State, territory, Commonwealth, or possession of the United States not contiguous to the 48 contiguous states. (38 U.S.C. 601(4))

2. In § 17.31, paragraph (b)(3) is revised to read as follows:

§ 17.31 Duty periods defined.

Definitions of duty periods applicable to eligibility for medical benefits are as follows:

* * * * *

(b) *Active duty.* The term "active duty" means

* * * * *

(3) Full-time duty as a commissioned officer of the National Oceanic and Atmospheric Administration or its predecessor organization the Coast and Geodetic Survey (i) on or after July 29, 1945, or (ii) before that date (*a*) while on transfer to one of the Armed Forces, or (*b*) while, in time of war or national emergency declared by the President,

assigned to duty on a project for one of the Armed Forces in an area determined by the Secretary of Defense to be of immediate military hazard, or (*c*) in the Philippine Islands on December 7, 1941, and continuously in such islands thereafter. (38 U.S.C. 101(21)(C))

* * * * *

§ 17.32 [Amended]

3. Section 17.32 is amended

(a) By deleting the word "his" and adding the words "his or her" in paragraph (a)(2).

(b) By deleting the words "he", "for him" and "his home" and inserting the words "he or she", "in order" and "to his or her home" in paragraph (c).

§ 17.33 [Amended]

4. Section 17.33 is amended by deleting "his" and inserting "his or her" in paragraph (a).

5. A new center title and § 17.34 are added as follows:

Protection of Patient Rights

§ 17.34 Informed consent.

(a) For the purpose of this section the term

(1) "Informed consent" means the knowing grant of permission by an individual or the individual's legally authorized representative, which is freely given without any element of fraud, duress, deceit, or other form of coercion to the administration or performance of a proposed diagnostic or therapeutic procedure or course of treatment.

(2) "Legally authorized representative" means an individual, organization, or other judicially recognized body empowered under the applicable State law to act on behalf of a legally incompetent individual.

(b) Each informed consent shall include documentation of the following:

(1) The name of the individual.

(2) The date the consent is obtained.

(3) The name(s) of the individual(s) immediately responsible for the performance of the procedure or administration of the treatment.

(4) The procedure to be performed or the treatment to be administered, explained in language which is understandable to the average lay person.

(5) Evidence that reasonable and available alternatives to the proposed treatment or procedure, together with recognized risks of the treatment or procedure and alternatives, were discussed with the individual in language understandable to the average lay person.

(6) An offer to answer inquiries concerning the procedure or treatment.

(7) A clear indication that the individual or the individual's legally authorized representative may withdraw consent at any time without prejudice to the individual.

(8) An authorization for the disposition of any tissue, organ, or body parts.

(9) The signatures of the individual or the individual's legally authorized representative and the person who obtained the consent.

(c) If a proposed course of treatment or procedure involves approved medical research in whole or in part, the individual shall be advised of this. Informed consent shall be obtained specifically for the administration or performance of that aspect of the treatment or procedure which is identified as involving such research. This consent shall be in addition to the consent to be obtained for the administration or performance of the nonresearch aspect of the treatment or procedure and it shall contain the various elements set forth in paragraph (b) of this section.

(d) The Chief Medical Director will establish an appropriate method for the periodic review of patients' consents in order to insure compliance with this section and other regulations and to maintain the protection of the patients' rights. (38 U.S.C. 4131)

§ 17.36 [Amended]

6. Section 17.36 is amended by deleting the word "his" and inserting the words "his or her" in paragraph (b)(1).

§ 17.37 [Amended]

7. Section 17.37 is amended.

(a) By deleting the word "He" and inserting the words "The veteran" in paragraphs (a) and (b).

(b) By deleting "(2) he is suffering from leprosy, or" and inserting "(2) the veteran is suffering from Hansen's disease, or" in paragraph (b).

8. Section 17.38 is amended as follows:

(a) By deleting the word "He" and inserting the words "The veteran" in paragraph (a) (1) and (2) and inserting "a" preceding the word "nonservice-connected" in paragraph (a)(2).

(b) By deleting the word "He" and inserting the words "He or she" in paragraph (b) (1) and (2) and deleting the word "he" following "1946" and following the word "and" in paragraph (b)(2).

(c) By revising paragraph (c)(2) to read as follows:

§ 17.38 Hospital or nursing home care at Veterans Memorial Hospital, Philippines.

* * * * *

(c) *For United States veterans.* * * *

(2) Care at the Veterans Memorial Hospital may be authorized for a veteran for a nonservice-connected disability if such veteran is unable to defray the expenses of necessary hospital care and so states under oath. (38 U.S.C. 624(c)).

* * * * *

9. Section 17.47 is amended as follows:

(a) By deleting ", by his personal efforts," and by deleting "station" and inserting "facility" in paragraph (c)(3)(vii).

(b) By deleting "desires" and inserting "or her desire" and deleting "station" and inserting "facility" in paragraph (c)(3)(viii).

(c) By revising paragraph (d), revoking paragraph (e) and redesignating paragraph (f) as paragraph (e) so that the revised paragraphs (d) and (e) read as follows:

§ 17.47 Eligibility for hospital, domiciliary or nursing home care of persons discharged or released from active military, naval or air service.

* * * * *

(d)(1) Hospital care for veterans suffering from a nonservice-connected disability, disease or defect which, being susceptible to cure or decided improvement, indicates need for hospital care, providing the veterans (except those in receipt of pension) swear they are unable to defray the expense of hospital care. (38 U.S.C. 610(a), 622).

(2) Nursing home care for veterans requiring such care for nonservice-connected conditions, providing the veterans (except those in receipt of pension) swear they are unable to defray the expense of nursing home care. (38 U.S.C. 610(a), 622).

(3) Domiciliary care for veterans suffering from a disability, disease or defect which, being essentially chronic in type, is producing disablement of such degree and of such probable persistency as will incapacitate the veteran from earning a living for a prospective period, and thereby indicates need for domiciliary care. The additional requirements for eligibility for domiciliary care enumerated in paragraph (c)(3) of this section are also applicable to these veterans applying for domiciliary care. (38 U.S.C. 610(b), 621).

(e) Hospital or nursing home care for any veteran for a nonservice-connected disability if such veteran is 65 years of age or older.

10. Section 17.48 is amended as follows:

(a) By deleting "submitted to him" in the first sentence and deleting "his" and inserting "his or her" in the last sentence of paragraph (a)(2).

(b) By deleting "(f) of § 17.47" and inserting "(e) of § 17.47" in the introductory portion of paragraph (d).

(c) By deleting "and exclusive" and by deleting "he" and inserting "the veteran" in paragraph (f).

(d) By revising the headnote and paragraphs (a)(1), (b) and (c)(2) as set forth below:

§ 17.48 Considerations applicable in determining eligibility for hospital, nursing home or domiciliary care.

(a)(1) For applicants discharged or released for disability incurred or aggravated in line of duty and who are not in receipt of compensation for service-connected or service-aggravated disability, the official records of the Armed Forces relative to findings of line of duty for its purposes will be accepted in determining eligibility for hospital care. Where the official records of the Armed Forces show a finding of disability not incurred or aggravated in line of duty and evidence is submitted to the Veterans Administration which permits of a different finding, the decision of the Armed Forces will not be binding upon the Veterans Administration, which will be free to make its own determination of line of duty incurrence or aggravation upon evidence so submitted. It will be incumbent upon the applicant to present controverting evidence and, until such evidence is presented and a determination favorable to the applicant is made by the Veterans Administration, the finding of the Armed Forces will control and hospital care will not be authorized. Such controverting evidence, when received from an applicant, will be referred to the adjudicating agency which would have jurisdiction if the applicant was filing claim for pension or disability compensation, and the determination of such agency as to line of duty, which is promptly to be communicated to the head of the field facility receiving the application for hospital care, will govern the facility Director's disapproval or approval of admission, other eligibility requirements having been met. Where the official records of the Armed Forces show that the disability for which a veteran was discharged or released from the Armed Forces under other than dishonorable conditions was incurred or aggravated in the line of duty, such showing will be accepted for the purpose of determining his or her eligibility for hospitalization, notwithstanding the fact that the Veterans Administration has made a determination in connection with a claim for monetary benefits that the disability was incurred or aggravated not in line of duty.

* * * * *

(b) Under paragraph (c)(3) of § 17.47:

(1) "No adequate means of support"—when an applicant is receiving an income of $265 or more per month from any source for personal use, this fact will be considered prima facie evidence of adequate means of support. This is subject to rebuttal by a showing that such income is not adequate to provide the care required by reason of the veteran's disability or that the income is not available for the veteran's use because of other obligations such as contributions in whole or in part to the support of a spouse, child, mother, or father. In all such cases of alleged inadequate means of support, the circumstances will be submitted to the Director for decision.

(c) Under paragraph (d) of § 17.47:

* * *

(2) "Unable to defray the expense of hospital, nursing home or domiciliary care"—the affidavit of the applicant on VA Form 10–10 that he or she is unable to defray the expenses of hospital, nursing home or domiciliary care will constitute sufficient warrant to furnish such care.

* * * * *

11. Section 17.49 is amended as follows:

(a) By deleting the word "his" and inserting the words "his or her" in the note following this section.

(b) By revising paragraph (a)(3)(iii)(*a*) and (*b*) to read as follows:

§ 17.49 Veterans Administration policy on priorities for hospital, nursing home and domiciliary care.

(a) *Priorities for hospital care.* Eligible persons will be admitted or transferred to a Veterans Administration facility in the following order:

* * * * *

(3) *Priority groups.* * * *

(iii) Group III includes:

(*a*) Veterans receiving hospital, nursing home or domiciliary care from Veterans Administration pursuant to § 17.47 (c), (d), or (e) as applicable, whose transfer to a Veterans Administration hospital has been requested for medical reasons except as follows: Veterans eligible under § 17.47 (d) or (e), admitted to general medical and surgical hospitals who subsequently are determined to require psychiatric care for more than 6 months will not be accorded priority for transfer under this group. (See group V.)

(*b*) Patients eligible under § 17.47 (a) or (b) who are in Veterans Administration hospitals which are not the nearest appropriate facility to the point of application, may be transferred to the appropriate hospital nearest the point of application provided the clinical findings indicate they will require 90 days or more of inpatient care in the latter facility.

* * * * *

§ 17.50 [Amended]

12. Section 17.50 is amended by deleting the word "he" and inserting the words "he or she" in the last sentence of the section.

13. Section 17.50b is amended as follows:

(a) By deleting the word "he" and inserting the words "the veteran" in paragraph (a) and deleting the words "him, or her" and inserting the words "the veteran who" in paragraph (c).

(b) By revising the introductory portion preceding paragraph (a) and paragraph (i) to read as follows:

§ 17.50b Use of public or private hospitals for veterans.

When it is in the best interests of the Veterans Administration and Veterans Administration patients, and subject to the limitations in § 17.30(w)(3), contracts may be entered into for the use of public or private hospitals for the care of veterans. When demand is only for infrequent use, individual authorizations may be used. Admissions in public or private facilities, however, subject to the provisions of § 17.50c, will only be authorized, whether under a contract or as an individual authorization, for any veteran, if: (38 U.S.C. 610, 601(4))

* * * * *

(i) *For emergent conditions arising during care in a Veterans Administration hospital or Government facility.* The veteran, while hospitalized in a Veterans Administration hospital or Government facility with which the Administrator contracts, who develops a need for emergency treatment of a condition which poses a serious threat to the veteran's life or health; and for which the facility is not staffed or equipped to perform, and transfer to a public or private hospital which has the necessary staff or equipment is the only feasible means of providing the necessary treatment, or—(38 U.S.C. 601(4))

* * * * *

14. Section 17.51 is amended as follows:

(a) By deleting "§ 17.47 (a), (b), (c), (d) or (f)" and inserting "§ 17.47" in paragraph (a)(1).

(b) By revising paragraph (b) (1) and (3) as follows:

§ 17.51 Use of community nursing homes.

* * * * *

(b) Such nursing home care will be subject to the following restrictions:

(1) Any veteran eligible under paragraph (a)(1) of this section shall be transferred to the nursing home care facility from a hospital under the direct jurisdiction of the Veterans Administration, except as provided for in § 17.51b, and

* * * * *

(3) The cost of the nursing home care will not exceed 45 percent of the cost of care furnished by the Veterans Administration in a general hospital as determined annually. However, the Administrator upon the recommendation of the Chief Medical Director may approve a higher rate not to exceed 50 percent of the cost of such care, and (38 U.S.C. 620(a))

* * * * *

15. Section 17.53 is revised to read as follows:

§ 17.53 Use of community medical services.

Subject to such terms and conditions as the Chief Medical Director may prescribe, community medical installations, professional associations or individuals may be authorized to furnish medical services of acceptable standards on a fee basis within the limitations of § 17.30(w)(3) or authorized to furnish such services pursuant to the terms of a sharing agreement, or pursuant to the terms of any other agreement, authority for the negotiation of which has been delegated in §§ 17.98 and 17.99 and 41 CFR Part 8–75, for any veteran eligible for the services at Veterans Administration expense. Except as provided in §§ 17.50b through 17.50f, services will not be authorized under the provisions of this section if furnishing services involves transfer of a veteran to a non-Veterans Administration facility as an inpatient. (38 U.S.C. 601(4), 612, 610, 5053, 621, 212)

16. Section 17.54 is amended as follows:

(a) By deleting the words "he enters" and inserting the word "entered" in the last sentence of paragraph (b) and deleting the word "his" in the first sentence of paragraph (c).

(b) By revising paragraph (a) to read as follows:

§ 17.54 Medical care for survivors and dependents of certain veterans.

(a) Medical care may be provided for: (1) The spouse or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability, and (2) The surviving spouse or child of a veteran who: (i) Died as a result of a service-connected disability, or (ii) At the time of death had a total disability, permanent in nature resulting from a service-connected disability, who are not otherwise eligible for medical care as beneficiaries of the Armed Forces under the provisions of chapter 55 of title 10, United States Code (CHAMPUS). (38 U.S.C. 613)

* * * * *

17. Section 17.60 is amended as follows:

(a) By deleting the word "him" and inserting the words "him or her" in paragraph (c).

(b) By revising the introductory portion preceding paragraph (a) and paragraphs (e), (f) and (h) and adding paragraph (j) to read as follows:

§ 17.60 Outpatient care for eligible persons.

Medical services may be furnished, within the limits of Veterans Administration facilities, to the following applicants under the conditions stated, except that applicants for dental treatment, as defined in paragraphs (a) to (d) inclusive of this section must also meet the applicable provisions of § 17.123:

* * * * *

(e) *For prehospital care.* Persons eligible for hospital care under § 17.47, where a professional determination is made that such care is reasonably necessary in preparation for admission of such persons for care, or (to the extent that facilities are available) to obviate the need for bed care. (38 U.S.C. 612(f))

(f) *For posthospital care.* Persons eligible for hospital care under § 17.47 who have been furnished hospital care, and outpatient medical care is reasonably necessary to complete treatment incident to such hospital care. Said service may be provided not to exceed 12 months after discharge from the inhospital treatment except where the attending physician finds that a longer period is required by virtue of the disability being treated. (38 U.S.C. 612(f))

* * * * *

(h) *For veterans 50 percent or more disabled from a service-connected disability.* Outpatient care, except outpatient dental treatment, may be authorized to treat any nonservice-connected disability of a veteran who has a service-connected disability rated at 50 percent or more. (38 U.S.C. 612)

* * * * *

(j) *Home health services.* Home health services determined by the Veterans Administration to be necessary for effective and economical treatment of a disability may be furnished to any veteran to include home improvement and structural alterations as are necessary to assure the continuation of treatment or to provide access to the home or to essential lavatory and sanitary facilities.

(1) The cost to the Veterans Administration or reimbursement by the Veterans Administration to the veteran will not exceed $2,500 for home improvement or structural alterations to veterans being treated for a service-connected disability, and,

(2) Will not exceed $600 for veterans being treated for a nonservice-connected disability and then only to veterans receiving authorized posthospital care under the authority of § 17.60(f) or to veterans rated at 50 percent or more service connected. (38 U.S.C. 612(f))

§ 17.60a [Amended]

18. Section 17.60a is amended by deleting the word "him" and inserting the words "the Administrator" in the last sentence.

§ 17.60d [Amended]

19. Section 17.60d is amended by deleting the word "he" and inserting the words "the veteran" in the first sentence and by deleting the word "his" and inserting the words "his or her" in the last sentence of paragraph (a).

20. Sections 17.60f, 17.60g and 17.60h are added to read as follows:

§ 17.60f Mental health services.

Mental health services, as defined in § 17.30(l)(2), may be furnished the members of the immediate family, or legal guardian of the person or the individual in whose household such person certifies an intention to live, provided the person is eligible for care under provisions of §§ 17.47, 17.54, or 17.60(a), (b) or (f). (38 U.S.C. 601(5), 601(6), 612, 613(b))

§ 17.60g Priorities for medical services.

Unless compelling medical reasons indicate otherwise, eligible veterans shall be furnished outpatient medical services on a priority basis in the following order:

(a) To any veteran for a service-connected disability,

(b) To any veteran with a service-connected condition, rated at 50 percent or more,

(c) To any veteran with a disability rated as service connected,

(d) To any veteran eligible under the provisions of § 17.60(i). (38 U.S.C. 612(i))

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§ 17.80h Immunizations under national programs.

Veterans receiving care for any disability in a Veterans Administration health care facility may have administered to them vaccines for immunization as part of a national immunization program. Participation by veterans in a national immunization program must be voluntary. (38 U.S.C. 612(j))

§ 17.96 [Amended]

21. Section 17.96 is amended by deleting "VA Hospital" and inserting "VA Medical Center".

22. Section 17.98 is revised to read as follows:

§ 17.98 Authority to approve sharing agreements, contracts for scarce medical specialist services and contracts for other medical services.

The Chief Medical Director is delegated authority to enter into

(a) Sharing agreements authorized under the provisions of 38 U.S.C. 5053 and § 17.210 and which may be negotiated pursuant to the provisions of 41 CFR 8-3.204(c);

(b) Contracts with schools and colleges of medicine, osteopathy, dentistry, podiatry, optometry, and nursing, clinics, and any other group or individual capable of furnishing such services to provide scarce medical specialist services at Veterans Administration health care facilities (including, but not limited to, services of physicians, dentists, podiatrists, optometrists, nurses, physicians' assistants, expanded function dental auxiliaries, technicians, and other medical support personnel); and

(c) When a sharing agreement or contract for scarce medical specialist services is not warranted, contracts authorized under the provisions of 38 U.S.C. 213 for medical and ancillary services. The authority under this section generally will be exercised by approval of proposed contracts or agreements negotiated at the health care facility level. Such approval, however, will not be necessary in the case of any purchase order or individual authorization for which authority has been delegated in § 17.99. All such contracts and agreements will be negotiated pursuant to 41 CFR Chapters 1 and 8. (38 U.S.C. 212, 213, 4117, 5053)

§ 17.99 [Amended]

23. Section 17.99 is amended by deleting "VA hospital" and "his" and inserting "VA medical center" and "his or her".

24. Section 17.100 is amended as follows:

(a) By deleting the words "he executes" and "he is" and inserting the words "the person executes" and "he or she is" in paragraph (h)(1).

(b) By deleting the word "station" and inserting the word "facility" in the first sentence of paragraph (1).

(c) By revising the introductory portion preceding paragraph (a) and paragraphs (a), (c), (d), (e), (f) and (k) and adding paragraph (g)(3) so that the added and revised material reads as follows:

§ 17.100 Transportation of claimants and beneficiaries.

Transportation at Government expense will be authorized for eligible claimants and beneficiaries. In no event shall payment be made under the provision of this section: unless the persons claiming reimbursement have been determined eligible based upon an annual declaration and certification of inability to defray expenses of such travel (except for the veteran receiving benefits for or in connection with a service-connected disability; for the cost of travel by privately-owned vehicle in any amount in excess of the cost of such travel by public transportation unless public transportation is not reasonably accessible or would be medically inadvisable; for the cost of travel in excess of the actual expense incurred by any person as certified by that person in writing.) (38 U.S.C. 111) Travel will be authorized for the following purposes:

(a) *Admission.* (1) Admission of applicants under §§ 17.47 and 17.54.

(2) Hospital admission for observation and examination.

(3) Admission for domiciliary care of applicants under § 17.47(c)(3) and (d).

* * * * *

(c) *Preparatory and posthospital care.* When necessary to the provision of medical services furnished veterans under § 17.80(e) and (f). The authority under this paragraph is subject to the exceptions stated in paragraph (h) of this section.

(d) *Authorized absence.* Transportation will not be furnished beneficiaries who are on authorized absence, to depart from or return to Veterans Administration health care facilities, except that if a patient or member in such status develops an emergent condition and the patient or member (or guardian, if there be one) is without funds to return such patient or member to a Veterans Administration health care facility, travel may be approved by the Director of the Veterans Administration facility to which the patient or member is to be returned.

(e) *Interfacility transfers for treatment, diagnosis, or domiciliary care.* Prior consent of the District Medical Director will be had for transfers of patients or members en bloc within the area, and of both District Medical Directors if interarea transfers are involved. Interfacility transfer will include transfer from a Veterans Administration medical center to nursing home care.

(f) *Discharge.* (1) Upon regular discharge from hospitalization for treatment, observation and examination, or nursing home, or domiciliary care, return transportation to the point from which the beneficiary had proceeded, or to another point if no additional expense be thereby caused the Government.

(2) A patient in a terminal condition may be discharged to his or her home or transferred to a hospital suitable and nearer that home, regardless of whether travel so required exceeds that covered in proceeding to the hospital of original admission.

(3) Transportation may be furnished to a point other than that from which a patient had proceeded to a hospital upon a showing of bona fide change of address of the patient's residence during the period of hospital care.

(4) No return transportation will be supplied a patient who receives an irregular discharge from hospital or nursing home care, unless the patient executes an affidavit of inability to defray the expense of return transportation.

(g) *Outpatient services.* * * *

(3) Claimants identified in § 17.30(m)(2) are entitled to reimbursement for transportation costs when authorized to report to a Veterans Administration health care facility. (38 U.S.C. 601(6))

* * * * *

(k) *Furnishing transportation and other expenses incident thereto.* In furnishing transportation and other expenses incident thereto, as defined, the Veterans Administration may (1) issue requests for transportation, meals, and lodging; or (2) reimburse the claimant, beneficiary or representative, for payment made for such purpose, upon due certification of vouchers submitted therefor, or (3) make mileage allowance. The provisions of § 17.100, 17.101 or 17.102 will be complied with in all instances when transportation costs are claimed. (38 U.S.C. 111)

* * * * *

§ 17.101 [Amended]

25. Section 17.101 is amended by deleting the word "his" in paragraph (b).

26. Immediately preceding § 17.119, a new center title is added to read "Automotive Equipment and Driver Training".

27. Section 17.119a is added to read as follows:

§ 17.119a Obtaining vehicles for special driver training courses.

The Administrator may obtain by purchase, lease, gift or otherwise, any automobile, motor vehicle, or other conveyance deemed necessary to conduct special driver training courses at Veterans Administration health care facilities. The Administrator may sell, assign, transfer or convey any such automobile, vehicle or conveyance to which the Veterans Administration holds title for such price or under such terms deemed appropriate by the Administrator. Any proceeds received from such disposition shall be credited to the applicable Veterans Administration appropriation. (38 U.S.C. 1903(e)(3))

28. A new § 17.123b is added and the former § 17.123b is amended and redesignated § 17.123c so that §§ 17.123b and 17.123c now read as follows:

§ 17.123b Posthospital outpatient dental treatment.

The Chief, Dental Service may authorize outpatient dental care which is reasonably necessary to complete treatment of a nonservice-connected dental condition which was begun while the veteran was receiving Veterans Administration authorized hospital care. (38 U.S.C. 612(b)(5))

§ 17.123c Patient responsibility in making and keeping dental appointments.

Any veteran eligible for dental treatment on a one-time completion basis only and who has not received such treatment within 3 years after filing the application shall be presumed to have abandoned the claim for dental treatment.

§ 17.155 [Amended]

29. Section 17.155 is amended as follows:

(a) By deleting the words "his death" and inserting the word "death" in the first sentence and by deleting the "he" and inserting the words "he or she" in the last sentence of paragraph (a).

(b) By deleting the words "his discretion he" and inserting the words "the Director's discretion he or she" in paragraph (b).

(c) By deleting the work "he" and inserting the words "the Director" in the first sentence of paragraph (f).

(d) By revising paragraph (c) as follows:

§ 17.155 Autopsies.

* * * * *

(c) If it is suspected that death resulted from crime or the cause of death is unknown and if the United States has jurisdiction over the area where the body is found, the Director of the Veterans Administration facility will inform the appropriate District Counsel of the known facts concerning the death. Thereupon the District Counsel will transmit all such information to the United States Attorney for such action as may be deemed appropriate and will inquire whether the United States Attorney objects to an autopsy if otherwise it be appropriate. If the United States Attorney has no objection, the procedure as to autopsy will be the same as if the death had not been reported to him or her.

* * * * *

§ 17.161 [Amended]

30. Section 17.161 is amended by deleting the title "Assistant Chief Medical Director for Administration and Facilities" and inserting the title "Assistant Chief Medical Director for Administration" in paragraph (b).

31. Immediately preceding § 17.165, the center title is changed to read "Aid to States for Care of Veterans in State Homes".

32. Section 17.165 is amended as follows:

(a) By deleting the words "of a war" in paragraph (c) and deleting "§ 17.166a(c)" and inserting "§ 17.166a(b)" in paragraph (d).

(b) By revising the introductory portion preceding paragraph (a) as follows:

§ 17.165 Recognition of a State home.

A State-operated facility which provides hospital, domiciliary or nursing home care to veterans must be formally recognized by the Administrator as a State home before Federal aid payments can be made for the care of such veterans. Any agency of a State (exclusive of a territory or possession) responsible for the maintenance or administration of a State home may apply for recognition by the Veterans Administration for the purpose of receiving aid for the care of veterans in such State home. A State home may be recognized if: (38 U.S.C. 210, 641)

* * * * *

§ 17.165a [Amended]

33. Section 17.165a is amended by deleting the words "his recommendation" and "his decision" and inserting the words "a recommendation" and "the decision".

§ 17.165b [Amended]

34. Section 17.165b is amended by deleting the word "war" in the last sentence and inserting the citation "(38 U.S.C. 641, 210)" at the end of the section.

35. Section 17.165c is revised to read as follows:

§ 17.165c Aid for period prior to recognition prohibited.

Payment of Federal aid will not be made for domiciliary, nursing home or hospital care for any period prior to the date of notification of recognition of a State home, and aid for domiciliary, nursing home or hospital care furnished any veteran in such home will not be paid for any period prior to the receipt of application for such care on behalf of such veteran except as provided for in § 17.166d. (38 U.S.C. 643)

36. Section 17.165d is added to read as follows:

§ 17.165d Prerequisites for payments to State homes.

No payment or grant may be made to any State home unless the State home meets the standards prescribed by the Administrator. These standards, with respect to nursing home care, shall be no less stringent than those prescribed by the Administrator for community nursing homes. (38 U.S.C. 642(a))

37. Sections 17.166, 17.166a, 17.166b and 17.166c are revised to read as follows:

§ 17.166 Aid for domiciliary care.

Aid may be paid to the designated State official for domiciliary care furnished in a recognized State home for any veteran if the veteran is eligible for domiciliary care in a Veterans Administration facility. (38 U.S.C. 641)

§ 17.166a Aid for nursing home care.

Aid may be paid to the designated State official for nursing home care furnished in a recognized State home for any veteran if:

(a) The veteran needs nursing home care and

(1) Has a service-connected disability for which nursing home care is being provided, or

(2) Has a nonservice-connected disability and is unable to defray the expenses of nursing home care and so states under oath, or

(3) Was discharged or released from active military, naval or air service for disability incurred or aggravated in line of duty, or

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(4) Is in receipt of, or but for the receipt of retirement pay would be entitled to receive, disability compensation, and

(b) The quarters in which the nursing home care is provided are in an area clearly designated for such care and not intermingled with those of either hospital patients or domiciliary members. (38 U.S.C. 641, 642(a))

§ 17.166b Aid for hospital care.

Aid may be paid to the designated State official for hospital care furnished in a recognized State home for any veteran if:

(a) The veteran is eligible for hospital care in a Veterans Administration facility, and

(b) The quarters in which the hospital care is carried out are in an area clearly designated for such care, specifically established, staffed and equipped to provide hospital type care, are not intermingled with the quarters of nursing home care patients or domiciliary members, and meet such other minimum standards as the Veterans Administration may prescribe.

§ 17.166c Amount of aid payable.

The amount of aid payable to a recognized State home shall be at the per diem rates of $5.50 for domiciliary care, $10.50 for nursing home care, and $11.50 for hospital care. In no case shall the payments made with respect to any veteran exceed one-half of the cost of the veteran's care in the State home. (38 U.S.C. 641)

§ 17.166d [Amended]

38. Section 17.166d is amended by deleting the word "he" and inserting the words "he or she" in the last sentence.

39. In § 17.210, paragraph (d) is added to read as follows:

§ 17.210 Sharing specialized medical resources.

* * * * *

(d) Reimbursement for medical care rendered to an individual who is entitled to hospital or medical services (Medicare) under subchapter XVIII of chapter 7 of title 42, United States Code, and who has no entitlement to medical care from the Veterans Administration will be made to such facility, or if the contract or agreement so provides to the community health care facility which is partly to the agreement in accordance with:

(1) Rates prescribed by the Secretary of Health, Education and Welfare, after consultation with the Administrator, and

(2) Procedures jointly prescribed by the Secretary and the Administrator to assure reasonable quality of care and service and efficient and economical utilization of resources. (38 U.S.C. 5053)

§ 17.212 [Amended]

40. Section 17.212 is amended by deleting "his" in the first sentence.

§ 17.220 [Amended]

41. Section 17.220 is amended by deleting "title IX of the Public Health Service Act" and inserting "part F, title XVI of the Public Health Service Act."

[FR Doc. 80-3089 Filed 1-30-80; 8:45 am]
BILLING CODE 3320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1402-1]

Approval of a Revision of the Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: This rule announces the Administrator's decision to approve a revision of the Virginia State Implementation Plan (SIP). The revision provides for the reduction of nonmethane hydrocarbon (NMHC) emissions from highway paving materials used by the Virginia Department of Highways and Transportation (DHT) through the use of emulsion or water-based asphalt rather than cutback or solvent-based asphalt and limits the NMHC emissions from the proposed refinery and terminal operations of the Hampton Roads Energy Company in Portsmouth, Virginia.

EFFECTIVE DATE: January 31, 1980.

ADDRESSES: Copies of the approved revision to the Virginia SIP and Rationale Document are available during normal business hours at the following locations:

United States Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106. Attn: Ms. Eileen M. Glen.

Virginia State Air Pollution Control Board, Region VI, Pembroke One, Suite 810, 281 Independence Blvd., Virginia Beach, Virginia 23462. Attn: Mr. Lucian B. McDonald.

Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Howard Heim, Chief, Air Programs Branch (3AH10), U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone (215) 597-8175.

SUPPLEMENTARY INFORMATION: On November 28, 1977, the Commonwealth of Virginia submitted to EPA, Region III a revision to the Virginia State Implementation Plan (SIP). The revision provides for the reduction of NMHC emissions through a program of substitution of emulsion-based asphalt for "cutback material" by the Virginia Department of Highways and Transportation (DHT). The Commonwealth certified that a public notice appeared in the appropriate newspaper and that a public hearing was held on September 20, 1977. The Commonwealth's submittal also included the original permit to construct the refinery and terminal issued to the Hampton Roads Energy Company (HREC) on December 8, 1975 by the Virginia State Air Pollution Control Board (VSAPCB) and the extension to this permit granted to HREC on October 5, 1977 by the VSAPCB. The Commonwealth requested the NMHC offset (achieved through the asphalt substitution program) and the October 5, 1977 permit be made part of the Virginia SIP.

Supplemental information was submitted on March 17, 1978, May 26, 1978, August 9, 1978, and October 5, 1979. This information included letters from the Commissioner of the Virginia DHT and the Deputy Attorney General confirming the emission offset and its enforceability. The August 9th submittal also included a revised permit issued to HREC on August 8, 1978. The October 5, 1979 submittal included the revised State permit issued on October 3, 1979 and amended on October 4, 1979.

This revision concerns the Hampton Roads Energy Company's proposed refinery and terminal in Portsmouth, Virginia. The Portsmouth area has been designated a nonattainment area with respect to National Ambient Air Quality Standards for Photochemical Oxidants. Therefore, this potential source of NMHC emissions must satisfy the requirements of EPA's December 21, 1976 Interpretative Ruling published at 41 FR 55524, amended and codified in Section 129 of the Clean Air Act Amendments of 1977, Public Law 95-95, 91 Stat. 685-796. These requirements include:

1. The new source must meet an emission limitation which specifies the lowest achievable emission rate (LAER) for such type of source.

2. The applicant must certify that all existing sources owned, operated or controlled by the applicant within the same AQCR are in compliance or in

compliance with the terms and conditions of an approved compliance schedule under a SIP or an enforcement order issued under Section 113 of the Clean Air Act.

3. Emission reductions (offsets) obtained from existing sources must be greater than the allowable emissions from the proposed new source.

4. The emission offsets must provide a positive net air quality benefit in the affected area.

The original SIP revision submitted on November 28, 1977 was deficient in that the offset obtained from the Virginia DHT was not specific and its enforceability was questionable. Furthermore, the permit (October 5, 1977) set annual emission rates for NMHC emissions rather than hourly limits. The Virginia State Air Pollution Control Board (VSAPCB) was notified of these deficiencies by EPA letter dated February 23, 1978.

On March 17, 1978, the VSAPCB submitted a letter from the Commissioner of the Virginia DHT agreeing to the specific reductions in the use of cutback asphalt and stating that this policy was legally binding on the DHT, its employees and its contractors. This submittal also included draft permit conditions specifying pounds per hour limitations rather than tons per year.

The May 26, 1978 submittal included a letter from the Virginia Deputy Attorney General stating that the Virginia DHT commitment to reduce NMHC emissions through the use of emulsion-based asphalt rather than cutback material was legally binding and enforceable.

The August 9, 1978 submittal included the revised permit issued to HREC on August 8, 1978. The revised permit specified NMHC emission limitations from combustion sources in pounds per hour.

The October 5, 1979 submittal included a revised State permit which extended the permit from October 8, 1979 to October 7, 1981. It also included a permit amendment issued to HREC on October 4, 1979 which clarified the requirement for an effective vapor recovery system at the marine terminal.

On October 10, 1978 (43 FR 46554) the Regional Administrator proposed the offset and permit as a revision to the Virginia SIP and provided for a 30-day comment period ending November 9, 1978.

Numerous comments were received during the public comment period and all were considered prior to reaching a decision. Significant comments have been summarized and addressed in the Rationale Document. Furthermore, additional information was requested from the Virginia State Air Pollution Control Board regarding the seasonal use of cutback asphalt and the NO_x monitor at Old Dominion University. This supplemental information was furnished by the VSAPCB on February 1 and February 6, 1979.

In response to these comments, as well as to statements from the VSAPCB and HREC, EPA published another Notice on May 1, 1979 (44 FR 25471) relative to the "seasonal" offset and the marine terminal emissions. During this subsequent comment period approximately 100 letters were received. These comments, as well as those received in response to the October 10, 1978 Notice, are addressed in the Rationale Document.

Today's approved revision to the Virginia SIP will provide a reduction in NMHC emissions of one thousand nine hundred thirty-one (1931) tons per year. This reduction is achieved through restricting the usage of cutback asphalts in road surfacing, and maintenance programs (See App. P, Rationale Document for an explanation of EPA's calculation). Thereby reducing the amount of NMHC used. The Virginia DHT will limit the amount of cutback asphalt used to 10% of the total amount; furthermore, the total use of cutback asphalt in the Richmond, Suffolk and Fredericksburg Highway Districts shall not exceed 4,850 tons per year. Emphasis on cutback usage reductions shall be during late spring-summer-early fall months, since this not only coincides with the periods of higher ozone concentrations but also coincides with the time-periods when most road-paving operations occur.

Finally, the approved revision limits NMHC emissions from the oil refinery storage facilities, process combustion, and fugitive sources to one thousand two hundred ninety-three (1293) tons per year.

The NMHC emissions from the terminal are limited to one hundred seventy-six and one-half (176.5) tons per year. If, after the product mix and distribution methods are finalized and emissions are determined to exceed the offsets obtained, additional offsets will be required prior to operation of the refinery and terminal. (See, letters dated May 29, 1979 and July 18, 1979 from the VSAPCB).

After evaluation of the State's submittal and the public comments received, the Administrator has determined that the Virginia revision meets the requirements of the Clean Air Act, as amended, the EPA December 21, 1976 Interpretative Ruling, and 40 CFR Part 51. Therefore, this amendment is approved as a revision to the Virginia Implementation Plan. Accordingly, 40 CFR § 52.2420 is amended and 40 CFR §§ 52.2425 and 52.2428 are added to reflect the Administrator's approval of this amendment.

In addition, amendments to § 52.2420 (Identification of Plan) of 40 CFR; Subpart VV (Virginia) which appeared in the November 9, 1977 **Federal Register** (42 F.R. 58405) were inadvertently listed under §§ 52.2420(c)(13) and 52.2420(c)(14). The proper designations of these amendments should be Sections 52.2420(c)(15) and (c)(16) respectively. In addition, an amendment to 40 CFR § 52.2420 which appeared in the August 3, 1978 **Federal Register** (43 F.R. 34129) was inadvertently listed under § 52.2420(c)(15). The proper description of this amendment should be § 52.2420(c)(19). This notice serves to make these corrections. Paragraphs (c)(1) through (c)(12), (c)(17), (c)(18), and (c)(20) through (c)(24) of 40 CFR Section 52.2420 remain unchanged.

Because issuance of the federal permits have delayed commencement of construction, EPA believes good cause exists for no further delay and therefore makes this SIP revision immediately effective upon publication of this notice.

Authority: 42 U.S.C. 1857c-5 and 1875g.

Dated: January 25, 1980.

Douglas Costle,
Administrator.

Part 52 of Chapter II, Title 40, Code of Federal Regulations, is amended as follows:

Subpart VV—Virginia

1. In Section 52.2420, the proper listing of paragraphs (c)(13) through (c)(19) should be as follows:

§ 52.2420 Identification plan.

* * * * *

(c) * * *

(13) AQMA designations were submitted on May 7, 1974 by the Governor of the State of Virginia.

(14) Revision deleting preface to the State air pollution control regulations submitted May 24, 1974 by the Virginia Air Pollution Control Board.

(15) An amendment to Section 2.05(a) (Variances) former Section 2.01(f) of the Commonwealth of Virginia Regulations for the Control and Abatement to Air Pollution submitted on August 14, 1975 by the Commonwealth Secretary of Commerce and Resources.

(16) A variance to allow the operation of the Alexandria City Incinerator in excess of the federally approved particulate emission limitations for incinerators until December 31, 1979, by

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the Commonwealth Secretary of Commerce and Resources.

* * * * *

(19) Amendments to Part I, Subpart 1.01 (Certain Terms Defined) and to Part IV, Section 4.52 (former Section 4.705.13) of the Commonwealth of Virginia Regulations for the Control and Abatement of Air Pollution submitted on April 16, 1974, by the Commonwealth Secretary for Commerce and Resources.

2. In Section 52.2420, paragraph (c)(26) is added to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified

* * *

(26) On November 28, 1977 the State submitted an amendment to the Virginia SIP consisting of a permit extension and an emission offset for the Hampton Roads Energy Company's proposed refinery and terminal in Portsmouth, Virginia. This submittal was supplemented by the Commonwealth on March 17, 1978, May 26, 1978, August 9, 1978, and October 5, 1979. The March 17th submittal included a letter dated March 6, 1978 from the Commission of the Virginia Department of Highways and Transportation committing to a reduction of nonmethane hydrocarbon emissions through the substitution of emulsion-based asphalt for solvent-based asphalt thus providing the needed emission offset. This letter is an addendum to the Virginia SIP. The State-issued permit to HREC, as amended, is also made part of the Virginia SIP.

3. Section 52.2425 is added to read as follows:

§ 52.2425 Control of asphalt paving material.

(a) Notwithstanding any provisions to the contrary in the Virginia State Implementation Plan, the Virginia Department of Highways and Transportation shall limit its use of cutback asphalts such that:

(1) The total use of cutback asphalts shall not exceed 10% of the total liquid asphalt used in construction and maintenance operations; and

(2) The total use of cutback asphalts in the Richmond, Suffolk and Fredericksburg Highway Districts shall not exceed 4,850 tons per year; and

(3) Emphasis on cutback usage reductions shall be during late spring, summer, and early fall months.

(b) The Virginia Department of Highways and Transportation is required to submit to the Virginia State Air Pollution Control Board, on a quarterly basis, for each of the affected Districts the number of gallons of each class of asphalt used. Copies of all reports must also be forwarded to EPA, Region III.

4. Section 52.2426 is added to read as follows:

§ 52.2426 Hampton Roads Energy Co.

(a) The permit issued by the Virginia State Air Pollution Control Board on August 8, 1978 as amended on October 3 and 4, 1979 is hereby incorporated by reference.

(b) Nonmethane hydrocarbon emissions from the HREC refinery in Portsmouth, Virginia are not to exceed a total of 1293 tons per year.

(c) Nonmethane hydrocarbon emissions from the HREC terminal in Portsmouth, Virginia are not to exceed a total of 176.5 tons per year.

[FR Doc. 80-3109 Filed 1-30-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 78-256; RM-3061; RM-3177; RM-3225]

FM Broadcast Stations in Decatur and Farmer City, Ill.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns Channel 252A to Farmer City, Illinois, as its first FM assignment and Channel 257A to Decatur, Illinois, as its third FM assignment. This action was taken in response to a petition filed by Decatur Christian Radio, an opposition and counterproposal filed by James Mudd d.b.a. Farmer City Broadcasting, and comments and an alternate proposal filed by Town and Country Broadcasting Company.

EFFECTIVE DATE: March 10, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Myra G. Kovey, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: January 23, 1980.

Released: January 31, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Decatur and Farmer City,[1] Illinois), BC Docket No. 78-256, RM-3061, RM-3177, RM-3225.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 43 FR 37723, released August 24, 1978, which proposed the assignment of Channel 252A to Decatur, Illinois, as its third FM assignment, in response to a petition from Decatur Christian Radio ("DCR"). An opposition and counterproposal, the assignment of Channel 252A to Farmer City, Illinois, were filed by James Mudd d.b.a. Farmer City Broadcasting ("Mudd").[2] Comments and an alternative proposal, the assignment of Channel 257A to Decatur, were filed by Town and Country Broadcasting Company ("Town and Country").[3] It is apparent from these pleadings that two options are available in this proceeding: (1) Assignment of both Channels 252A and 257A to Decatur, or (2) assignment of Channel 252A to Farmer City and Channel 257A to Decatur. For the reasons outlined below, we believe that the public interest favors adoption of the second course of action.

2. Decatur (pop. 87,000), seat of Macon County (pop. 125,010), is located approximately 250 kilometers (155 miles) southwest of Chicago and 70 kilometers (37 miles) east of Springfield, Illinois. It is served by local AM Stations WSOY (fulltime) and WDZ (daytime-only), and by Class B FM Stations WDZQ (Channel 236) and WSOY-FM (Channel 275). According to DCR, Decatur's population increased 15.4% between 1960 and 1970, making it fifth in population among Illinois cities. An unincorporated community of 2,217, Farmer City is located approximately 51 kilometers (32 miles) northeast of Decatur. It is, Mudd states, a major business and trade center for DeWitt County (population 16,975), a rich and growing agricultural area. Farmer City has at present no local aural service and Channel 252A is the only channel available for its use.[4]

3. The opposition of Farmer City is directed to the comparative aspects of Decatur and Farmer City as to which community should receive Channel 252A. However, since it is not necessary to make the choice, we have not detailed these arguments.

4. The assignment of Channel 252A to Farmer City would provide a first local service to the community, a major objective of our FM allocation rules. At the same time, as this assignment would not preclude assignment of Channel 257A to Decatur, the larger city can receive an additional channel to which its population clearly entitles it.[5] *Bakersfield, Calif.*, 5 FCC 2d 525, 531 (1966). The public interest, as noted earlier, is best served by assigning one channel to each community rather than two channels to Decatur. This approach satisfies the legitimate interests of both communities and sacrifices the interests of neither.

5. As for the question of preclusion, we see no difficulty with the proposed Channel 257A assignment.[6] Thus, while four communities with populations exceeding 1,000 would be denied use of the channel, one has existing aural services and the populations of the other three are small (below 2,000). Although Decatur has two Class B channel assignments, an additional Class B assignment is unavailable and intermixture is not an obstacle because both petitioners are willing to apply for and operate on the Class A channel despite the disadvantageous competition. See *Yakima, Wash.*, 42 FCC 2d 548 (1973).

6. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, that effective March 10, 1980, the FM Table of Assignments (§ 73.202(b) of the rules), is amended with respect to the following communities:

City	Channel No.
Decatur, Illinois	236, 257A, 275
Farmer City, Illinois	252A

7. It is further ordered, that the petition of Decatur Christian Radio to assign Channel 252A to Decatur, Illinois, is denied.

8. It is further ordered, that this proceeding is terminated.

9. For further information concerning this proceeding, contact Myra G. Kovey, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-3082 Filed 1-30-80; 8:45 am]

BILLING CODE 6712-01-M

[1] This community has been added to the caption.

[2] The assignment of Channel 252A cannot be made to both Decatur and Farmer City since these communities are 51 kilometers (32 miles) apart and the required spacing is 105 kilometers (65 miles), pursuant to § 73.207(a) of the Commission's rules.

[3] The proposals of Mudd and Town and Country were submitted as support for their positions in this proceeding and have been treated accordingly as responsive pleadings.

[4] The allegations of DCR that Channels 221A and 224A are available for use in Farmer City are incorrect. A construction permit to operate on Channel 224A at LeRoy, Illinois (which is ten miles from Farmer City), was recently granted by the Commission and a Farmer City operation on Channel 221A would be short-spaced to Stations WEIC-FM in Charleston, Illinois, and WSSR in Springfield, Illinois.

[5] This proposal was not formally accepted as a counterproposal since it did not conflict with any existing proposal. The previous Class A proposal provided adequate notice in our opinion.

[6] No preclusion study was submitted for Farmer City as it represents a first Class A assignment for a small community. See *Policy Statement to Govern Requests for Additional FM Assignments*, 8 FCC 2d 79 (1967).

47 CFR Part 73

[BC Docket No. 79-198; RM-3215]

FM Broadcast Station in Paradise, Calif.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns FM Channel 224A to Paradise, California, at the request of John C. Butler. This assignment will provide a second fulltime aural broadcast service to a growing community.

EFFECTIVE DATE: March 10, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Ira H. Smart or Mark N. Lipp, Broadcast Bureau, (202) 632-9660 or (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: January 22, 1980.

Released: January 31, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Paradise, California), BC Docket No. 79-198, RM-3215.

1. The Commission herein considers the *Notice of Proposed Rule Making*, adopted August 6, 1979, 44 FR 47963, which invited comments on a proposal to assign Channel 224A to Paradise, California, as that community's second Class A FM assignment, in response to a petition filed by John C. Butler ("petitioner"). Supporting comments were filed by petitioner in which he reaffirmed his intention to file for the channel, if assigned. An opposition was received from Robb Cheal ("Cheal"), receiver of North Valley Radio, Station KNVR (FM).[1] Petitioner filed reply comments.

2. Paradise (pop. 14,539),[2] in Butte County (pop. 101,069), is located approximately 145 kilometers (90 miles) north of Sacramento, California. It is presently served by daytime-only AM Station KEWG and FM Station KNVR (Channel 244A). The *Notice* indicated that since alternate channels are available to precluded communities, that factor is not an impediment to the proposed assignment.

3. Petitioner argues in his comments that if population trends continue, Paradise will become the largest community in the county within a few years. He contends that the growth in the population of Paradise has brought new issues and problems to the community. Petitioner notes that although there are two existing stations which provide local coverage, neither station programs local news on weekends. He adds that the residents of Paradise could benefit by the additional news coverage that a second FM assignment could bring. In addition, petitioner points out that while the construction industry is the single most important element in the local economy, agriculture also continues to play a role.

4. In opposition, Cheal contends that the information supplied by petitioner no longer represents an accurate picture of the Paradise community. He notes that Paradise is currently served by a daily and twice-weekly newspaper in addition to the *Chico Enterprise Record*, which has established a news bureau in Paradise to cover local daily events there. Cheal adds that petitioner's representation of the news programming provided by KNVR is also outmoded, as KNVR(FM) now provides hourly local newscasts from 6:00 a.m. to 6:00 p.m. on weekdays and from 6:00 a.m. until noon on Saturdays. Cheal contends that these changes undermine petitioner's contention that another radio station is needed in Paradise. Cheal asserts that the intensified local coverage of Paradise by newspapers and the increased news programming by KNVR make petitioner's argument for a second Class A FM assignment to Paradise obsolete. Lastly, Cheal adds that the economic prospects for a second FM

[1] On October 25, 1979, the Commission denied a request for extension of time filed by Kragwood Broadcasting, Inc. ("Kragwood"), licensee of an FM station in Chico, California. Kragwood indicated it desired to file a counterproposal in this proceeding which would propose assignment of Channel 224A to a more deserving community than Paradise in Butte County. However, as the *Order* indicated, Kragwood, as licensee of the Chico station, would find it difficult to operate another station in Butte County without a prohibited signal overlap in violation of the Commission's rules (§ 73.240(a)(1)). Further, since numerous alternate channels are available for assignment to Butte County, we found no basis on which to delay action on the proposed channel for Paradise, California.

[2] Population figures are taken from the 1970 U.S. Census.

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station in Paradise are not good based on KNVR's experience.

5. In reply comments, petitioner asserts that despite limited media expansion, there remains a need for another radio station in Paradise due to the fact that it is the fastest-growing community in Butte County. Petitioner contends that the rapid growth of Paradise alone is a strong consideration favoring assignment of a second FM frequency to the community under the Commission's criteria. Further, petitioner states that as operator of the proposed station, he plans to institute a "telephone-talk" program to enable the residents of Paradise to communicate directly to their government leaders on a "town meeting" basis. Petitioner also stated that he plans to offer a substantial news operation which would broadcast local news seven days a week. Lastly, petitioner cites several cases to support its contention that Cheal's claim of economic hardship are not properly raised at the rule making stage of proceedings.[3]

6. We have carefully considered the record in this proceeding and conclude that it would be in the public interest to make the requested assignment so as to provide Paradise, California, with its second Class A FM assignment. It appears that Paradise is a growing community and although Paradise is presently served by two radio stations, the choice of another source of programming would benefit the public. The arguments in opposition appear to be primarily concerned with the competitive impact of another station in the market, but that is an issue which can be more appropriately resolved in the context of an application processing, and further consideration shall be deferred until that stage. Likewise, any issue in connection with the programming aspect of petitioner's application should await the application stage.

7. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, that effective March 10, 1980, the FM Table of Assignments (§ 73.202(b)), is amended with respect to the community listed below:

City	Channel No.
Paradise, California	224A, 244A

8. It is further ordered, that this proceeding is terminated.

9. For further information concerning this proceeding, contact Ira H. Smart or Mark N. Lipp, Broadcast Bureau, (202) 632-9660 or (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307).)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-3069 Filed 1-30-80; 8:45 am]

BILLING CODE 6712-01-M

[3] Petitioner cites the cases of *Adrian, Michigan*, 37 FCC 2d 1021, 25 RR 2d 1731 (1972); *Sanders Brothers Radio Station* v. *FCC*, 309 U.S. 470 (1940); and *Carroll Broadcasting Co.* v. *FCC*, 250 F. 2d 440 (D.C. Cir. 1958).

47 CFR Part 73

[BC Docket No. 79-43; RM-3140]

Television Broadcast Stations in Glenwood Springs and Alamosa, Colo., and Price and Vernal, Utah; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: This action reassigns VHF television Channel 3 from Alamosa, Colorado, to Glenwood Springs, Colorado, as its first local commercial television assignment. It is expected that a translator station presently operating on the Alamosa channel may continue to do so despite the deletion of the assignment. Channel changes were also necessary for unoccupied assignments at Price and Vernal, Utah.

EFFECTIVE DATE: March 10, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations. (Glenwood Springs and Alamosa,[1] Colorado, and Price and Vernal, Utah), BC Docket No. 79-43, RM-3140.

Report and Order—Proceeding Terminated

Adopted: January 22, 1980.

Released: January 31, 1980.

1. In the *Notice of Proposed Rule Making*, adopted March 12, 1979, 44 FR 17197, we invited comments on a proposal to assign VHF television Channel 3 to Glenwood Springs, Colorado. To accommodate this assignment, it was also proposed to delete Channel 3 from Alamosa, Colorado, to substitute VHF television Channel 6 for Channel 3 at Price, Utah, and to substitute Channel 3 for Channel 6 at Vernal, Utah, each unoccupied.

2. Western Slope Communications, Inc. ("Western") proposes to operate a station on Channel 3 at Glenwood Springs, to serve portions of Eagle, Garfield, and Pipkin Counties, which have an estimated year-round population of 47,400 and visitors estimated to number between 30,000 to 40,000 winter and summer. In addition to the principal community, Glenwood Springs (pop. 4,106),[2] other communities which would be served by the station are Aspen and Vail, Colorado. Western claims that such a station would provide a predicted first Grade B television service to 43,500 people and a second Grade B service to an additional 71,800 persons. Ninety-six percent of the projected service area is stated to lack over-the-air television service, although cable television provides service to some of the local population centers. The area is reported to rely chiefly on mining, tourism and recreation, farming and ranching for economic support. Petitioner also notes the high level of cultural activities offered in the area.

3. Pikes Peak Broadcasting Company ("Pikes Peak"), the licensee of TV Station KRDO-TV, Colorado Springs, Colorado, and of translator Station KO3CO, Alamosa, Colorado, opposes the assignment of Channel 3 to Glenwood Springs, but states that if the Commission does make the allocation, it should permit a resultant short-spacing of 22.7 miles so as not to delete Channel 3 from Alamosa. Pikes Peak also urges that if Channel 3 is deleted from Alamosa, the Commission should, in any event, not require changes in the present operation of translator Station KO3CO, which has operated on Channel 3 in Alamosa for approximately 12 years and serves that place with a power of 100 watts. In a related matter, Pikes Peak initially sought, in a petition for reconsideration, to have the Commission set the *Notice of Proposed Rule Making* aside so as not to delete Channel 3 from Alamosa. We have, in a separate document, dismissed that petition since we had not yet taken a final action. Instead, we indicated that an opportunity would be afforded to comment on the proposal and that we would consider Pikes Peak's pleading as comments. As Pikes Peak's comments pointed out, it believed that the communities of Aspen and Vail might require translators to obtain service from the proposed station on Channel 3. It also noted that the proposed station may require the termination of operations of at least six translators serving communities in the local area.

4. We have previously held that an adverse impact on existing translators are not appropriate circumstance to warrant the denial of a full-fledged local television station. See *Washington, D.C., and Fairfax, Va.*, 44 FR 58720 (1979); *Medford, Ore.*, 43 FR 1503 (1978). All translators are licensed subject to the subsequent authorization of a full television station which would affect the continued operation of the translator. See § 74.702(c)(3) of the Commission's rules. Moreover, the fact that translators may be needed by the Glenwood Springs station in order to reach places within its normal service area owing to terrain factors, does not weigh heavily against the assignment of the channel. As Pikes Peak itself pointed out, the broken terrain of much of Colorado calls for the use of translators; and in fact most of the stations in Colorado Springs and elsewhere in the State utilize them.

5. We do not find merit in Pikes Peak's further alternative approach of leaving Channel 3 assigned to Alamosa. There is scant prospect for the use of the channel for a full television station there especially in light of the 22-mile site restriction which would need to be complied with. However, in view of the rugged terrain between Alamosa and Glenwood Springs, there appears to be very little chance that the continued operation of the 100-watt Alamosa Channel 3 translator would cause any interference to the service area of the future Glenwood Springs Channel 3 station. Therefore, we are inclined to look favorably on a waiver request of the translator power rule, Section 74.735. Pending receipt and action on that waiver request Pikes Peak may continue to operate KO3CO with its presently authorized translator output power of 100 watts.

6. The Association for Maximum Service Telecasters ("AMST") has objected to the short-spacing, but has indicated that its objection would not be directed to the Channel 3 assignment to Glenwood Springs if the Alamosa channel were deleted. AMST also indicated that Western Slope should be required to show the existence of transmitter sites at Glenwood Springs and Price, Utah, which would be located the required minimum distance from each other. We find that the availability for those sites has been sufficiently shown for purposes of this rule making action. AMST has also alluded to the requirement that principal city signal be provided to Glenwood Springs. We are also satisfied on that matter.

7. The Mayor of Rifle, Colorado, has commented to the effect that if a station on Channel 3 at Glenwood Springs would cause interference to translators now serving the Rifle area, a supportive resolution previously adopted by the town council and mayor would be withdrawn. The Roaring Fork TV Association, Inc., has indicated that it would expect an immediate impact on six television translator stations serving communities in the general vicinity of Glenwood Springs. Roaring Fork believes it would be preferable, therefore, to use Channel 13 for a Glenwood Springs assignment. This, however, would not be possible because of an extreme short-spacing to the Channel 13 assignment at Colorado Springs.

8. Having given due consideration to these and other arguments that have been advanced on the record in this proceeding, we conclude that the public interest would be served by assigning Channel 3 to Glenwood Springs as proposed. Accordingly, pursuant to authority in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, that effective March 10, 1980, the Television Table of Assignments (§ 73.606(b) of the rules, is amended with respect to the channel assignments to the following communities:

City	Channel No.
Alamosa, Colorado	*16
Glenwood Springs, Colorado	3-, *19+
Price, Utah	3+, *15
Vernal, Utah	6, *17+

9. It is further ordered, that this proceeding is terminated.

10. For further information concerning this proceeding, contact Louis C. Stephens, Broadcast Bureau, (202) 632-6302.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307).)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 80-3086 Filed 1-30-80; 8:45 am]

BILLING CODE 6712-01-M

[1] This community has been added to the caption.

[2] Population figures are taken from the 1970 U.S. Census.

47 CFR Part 87

Aviation Services; Editorial Amendment

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Amendment of the rules to add six frequencies which will be available to the aeronautical fixed service in Alaska without a showing that the licensee serves certificated air carriers. This action will bring the rules into conformity with licensing policy. The use of these frequencies was approved by the Interdepartment Radio Advisory Committee in 1970.

EFFECTIVE DATE: February 8, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Penny Wells, Private Radio Bureau (202) 632-7175.

SUPPLEMENTARY INFORMATION:

In the matter of editorial amendment of § 87.455(b)(2) of the Commission's rules. Order.

Adopted: January 22, 1980.

Released: January 24, 1980.

1. Section 87.455(b)(2) of the rules sets out a single frequency for use in the aeronautical fixed service in Alaska which is available to applicants regardless of whether they make the showing required by § 87.455(b)(1). That section requires that the licensees serve scheduled certificated air carriers as defined by the Civil Aeronautics Board. This frequency is authorized only in conjunction with authorizations for use of the aeronautical enroute frequencies specified in § 87.297(a).

2. Six additional frequencies were cleared some time ago for use under conditions similar to those described in § 87.455(b)(2) by the Interdepartment Radio Advisory Committee (IRAC). However, due to an oversight, our rules were not amended to reflect this. Licenses have been issued throughout this time period and dozens of stations are operating under this authority. This order will correct the omission of these frequencies from the rules.

3. Accordingly, the Commission's rules are being changed editorially. Authority for this amendment is contained in Sections 4(i) and 303 (c) and (r) of the Communications Act of 1934, as amended, and Section 0.231(d) of the Commission's rules. Since the amendment is editorial in nature, the public notice, procedure and effective date provisions of 5 U.S.C. 553 do not apply.

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4. In view of the above, *it is ordered*, that the rule amendment set forth in the attached Appendix is adopted effective February 8, 1980.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

R. D. Lichwardt,

Executive Director.

Appendix

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended to read as follows:

PART 87—AVIATION SERVICES

1. In § 87.455, paragraph (b)(2) is amended to read as follows:

§ 87.455 Assignment of frequencies.

* * * * *

(b) * * *

(2) The following frequencies are available for assignment to aeronautical fixed stations in Alaska. These frequencies will be authorized only in conjunction with authorizations for use of the aeronautical enroute frequencies specified in 87.297(a).

Frequencies available:

kHz	*kHz*
2642.5	5311.5
4045	5969
4969	8015.5
5124	

[FR Doc. 80-3028 Filed 1-30-80; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 175

[Docket No. HM-168; Amdt. No. 175-11]

Aircraft Accessibility Requirements for Radioactive Materials

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: This amendment changes the accessibility requirements pertaining to the transportation of radioactive materials aboard cargo-only aircraft. Prior to this amendment, radioactive materials in quantities acceptable only for cargo-only aircraft were required by § 175.85(b) to be carried in a location accessible to a crewmember during flight. This amendment revises § 175.85(b) to permit the carriage of radioactive materials in inaccessible locations. The change represents part of the MTB's efforts to keep crewmember exposure to radioactive materials as low as reasonably achievable (ALARA). It also facilitates the transportation of plutonium by air in a specially designed, highly crash resistant packaging (PAT-1) which, as a condition of its carriage, must be carried in the aftermost location on an aircraft which is often inaccessible.

EFFECTIVE DATE: January 31, 1980.

FOR FURTHER INFORMATION CONTACT: R. R. Rawl, Materials Transportation Bureau, Research and Special Programs Administration, Department of Transportation, Washington, D.C. 20590, (202) 426-2311.

SUPPLEMENTARY INFORMATION: On December 11, 1978, the MTB published a Notice of Proposed Rulemaking (Docket HM-168; Notice 78-13; 43 FR 57928) which contained proposals to amend certain regulations pertaining to the transportation of hazardous materials aboard aircraft. One proposal in Notice 78-13 was to exclude certain classes of materials from the accessibility requirements of § 175.85. Even though the final rule under Docket HM-168 will be published in the near future, the MTB believes it should immediately address the issue of accessibility requirements for radioactive materials. This amendment is concerned solely with an exclusion from accessibility requirements for radioactive materials.

Six commenters in Docket HM-168 specifically addressed the proposal to except certain classes of materials from accessibility requirements and all comments were favorable. Therefore, the proposal is considered noncontroversial and, with respect to radioactive materials, is adopted in this amendment. To effect the change, the phrase "Except for radioactive materials, . . ." has been added to the introductory sentence of paragraph (b) of § 175.85. The MTB has elected to proceed expeditiously in this matter for several reasons. The requirement that radioactive materials be accessible is not in keeping with good radiation protection principles the MTB's stated objectives regarding radioactive materials, nor the proposed (42 FR 37427) segregation requirements in Docket HM-152.

Good radiation protection principles dictate that exposures be kept "As Low As Reasonably Achievable" (ALARA) and it is reasonable to load packages of radioactive materials as far as practical from crewmembers. Requiring accessibility has negligible safety value since there is little or nothing a crew could or should do to mitigate leakage from a radioactive materials package. The MTB is working to incorporate the ALARA principle into its regulations and this rulemaking is a step in that direction. Also, the requirements proposed in Docket HM-152 for the segregation of radioactive materials packages would be difficult to achieve on modern aircraft if the packages were required to be accessible.

Furthermore, recent actions by Congress, the Nuclear Regulatory Commission and the Department of Energy require that plutonium be carried on aircraft only in a highly crash resistant packaging (PAT-1). Due to certain crash associated conditions, specifically longitudinal crush, the PAT-1 package is restricted to the aftermost location of an aircraft. This requirement, when coupled with the previous requirement for accessibility of the package, essentially thwarted the carriage of plutonium by air.

Primary drafters of this document are R. R. Rawl and E. T. Mazzullo of the Office of Hazardous Materials Regulation, MTB.

In consideration of the foregoing, 49 CFR Part 175 is amended as follows:

In § 175.85, the first sentence of paragraph (b) is revised to read as follows:

§ 175.85 Cargo location.

* * * * *

(b) Except for radioactive materials, each person carrying materials acceptable only for cargo-only aircraft shall carry those materials in a location accessible to a crewmember during flight. * * *

* * * * *

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53 and App. A to Part 1.)

Note.—The Materials Transportation Bureau has determined that this document will not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034), nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C. on January 22, 1980.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 80-2747 Filed 1-30-80; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket 25; Notice 37]

Consumer Information Regulations Uniform Tire Quality Grading; Correction

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule; correction.

SUMMARY: This notice corrects an inadvertent error in the text of the National Highway Traffic Safety Administration's (NHTSA) final rule modifying the tread label format used under the Uniform Tire Quality Grading (UTQG) Standards (49 CFR 575.104).

FOR FURTHER INFORMATION CONTACT: Dr. F. Cecil Brenner, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, 202-426-1740.

SUPPLEMENTARY INFORMATION: On November 29, 1979, NHTSA published a notice (44 FR 68475) making minor modifications in the final format of tire tread labels used to convey UTQG information to consumers. That notice contained an inadvertent error in the text of Figure 2 of the regulation in that the words "one and one-half" were substituted for the words "one and a half" under the heading "Treadwear" in Part II of the tread label text. The notice is therefore revised to reflect the intended wording.

FR Doc. 79-36522 appearing at 44 FR 68475 is corrected at page 68477 in the third column as follows:

Figure 2, Part II of the Uniform Tire Quality Grading Standards, 49 CFR 575.104, is corrected by subsitution of the words "one and a half" in place of the words "one and one-half" under the heading "Treadwear".

The principal author of this notice is Richard Hipolit of the Office of Chief Counsel.

(Secs. 103, 112, 119, 201, 203; Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1421, 1423); delegation of authority at 49 CFR 1.50 and 501.8).

Issued on January 22, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80-2823 Filed 1-30-80 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1423]

Union Pacific Railroad Co. Authorized To Reconsign Unit-Grain-Train

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1423.

SUMMARY: Service Order No. 1423 authorizes the Union Pacific Railroad Company to reconsign a unit-grain-train to Tacoma, Washington, to improve car utilization due to an embargo against Koppel Grain Company which has a 75-car unit-grain train on hand at Ogden, Utah. Koppel requests the reconsignment to Continental Grain Company since the train cannot be reconsigned under its Transcontinental Freight Bureau Tariff.

DATES: Effective date: 10:00 a.m., January 18, 1980. Expiration date: 11:59 p.m., January 25, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, (202) 275-7840.

Decided: January 18, 1980.

The Union Pacific Railroad Company (UP) has a 75-car unit-grain-train on hand at Ogden, Utah, which is destined to Koppel Grain Company at Long Beach, California. Because of an embargo against Koppel Grain, Koppel wants to reconsign this train to Continental Grain Company at Tacoma, Washington. The train is moving under authority of Transcontinental Freight Bureau Tariff 3029-P, ICC TCFB-3029-P, which provides in Item 2486.11-0 that diversion or reconsignment instructions will be accepted provided the unit to be diverted or reconsigned has not reached Rawlins, Wyoming. Since the train has passed Rawlins, the train cannot be reconsigned under the tariff. In order to improve car utilization, the UP requests authority to reconsign the train to Continental at Tacoma.

It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1423 Service Order No. 1423.

(a) *Union Pacific Railroad Company authorized to reconsign unit-grain-train.* The Union Pacific Railroad Company is authorized to reconsign one 75-car unit-grain-train now at Ogden, Utah, and which is consigned to Koppel Grain, Long Beach, California, to Continental Grain Company at Tacoma, Washington, moving under provisions of Transcontinental Freight Bureau Tariff 3029-P, ICC TCFB-3029-P, regardless of tariff provisions which prohibit reconsignments if the unit-train has passed Rawlins, Wyoming.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(c) The master waybill of the unit-grain-train authorized to be reconsigned by this order shall contain a notation that the train is reconsigned under authority of Service Order No. 1423.

(d) All tariff provisions not specifically modified by this order shall remain in effect.

(e) *Effective date.* This order shall become effective at 10:00 a.m., January 18, 1980.

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 25, 1980, unless otherwise modified, amended or vacated by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-3156 Filed 1-30-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 33

Opening of Certain National Wildlife Refuges in North Carolina, South Carolina, and Tennessee, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

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SUMMARY: The Director has determined that the opening to sport fishing of certain national wildlife refuges in North Carolina, South Carolina, and Tennessee is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. The name and address of each affected refuge and the special regulations for each refuge are set forth below.

EFFECTIVE DATES: See the dates listed for each refuge under Supplementary Information below.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate Refuge Manager at the address or telephone number listed below:

William C. Hickling, Area Manager, U.S. Fish and Wildlife Service, 279 Federal Building, Asheville, N.C. 28801. Telephone: 704–258–2850, Ext. 321.

Steven W. Frick, Refuge Manager, Mattamuskeet National Wildlife Refuge, Rt. 1, Box N–2, Swanquarter, N.C. 27885. Telephone: 919–926–4021.

Jerry L. Holloman, Refuge Manager, Pee Dee National Wildlife Refuge, P.O. Box 780, Wadesboro, N.C. 28710. Telephone: 704–694–4424.

Marvin T. Hurdle, Refuge Manager, Carolina Sandhills National Wildlife Refuge, Route 2, Box 130, McBee, South Carolina 29101. Telephone: 803–335–8401.

George R. Garris, Refuge Manager, Cape Romain National Wildlife Refuge, Rt. 1, Box 191, Awendaw, S.C. 29429. Telephone: 803–928–3368.

Paul Ferguson, Refuge Manager, Santee National Wildlife Refuge, Route 2, Box 66, Summerton, S.C. 29148. Telephone: 803–478–2217.

Samuel W. Barton, Refuge Manager, Cross Creeks National Wildlife Refuge, Route 1, Box 229, Dover, Tennessee 37058. Telephone: 615–232–7477.

J. C. Bryant, Refuge Manager, Hatchie National Wildlife Refuge, Box 187, Brownsville, Tennessee 38012. Telephone: 901–772–0501.

Wendell C. Crews, Refuge Manager, Reelfoot (and Lake Isom) National Wildlife Refuge, P.O. Box 96, Samburg, Tennessee 38254. Telephone: 901–538–2481.

SUPPLEMENTARY INFORMATION:

General

Sport fishing on portions of the following refuges shall be in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to sport fishing are designated by signs and/or delineated on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the Office of the Area Manager (addresses listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the areas were established. In addition, the Refuge Recreation Act requires that before any area of the refuge system is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that: (1) Such recreational use will not interfere with the primary purposes for which the area was established; and (2) funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Impact Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

North Carolina

Mattamuskeet National Wildlife Refuge

Sport fishing on the Mattamuskeet National Wildlife Refuge, North Carolina, is permitted on approximately 40,000 acres. Sport fishing and bow fishing seasons extend from March 1, 1980, through November 1, 1980, except that the following areas are open to bank fishing during the entire year: (a) State Highway 94 Causeway; (b) in the immediate vicinity of the Lake Landing Water Control Structure; and (c) in the immediate vicinity of the Outfall Canal Water Control Structure and the Central Canal bridge, in the Mattamuskeet Lodge area. (1) Herring (alewife) dipping will be permitted from March 1 through May 15 from the canal banks and water control structures in the immediate vicinity of the following locations: (a) Waupoppin Canal control structure—from ½ hour before sunrise to ½ hour after sunset. (b) Outfall Canal and Lake Landing control structures—from ½ hour before sunrise to 10:00 p.m. (2) Boats and outboard motors will be permitted from March 1 through November 1, except in areas posted closed to motorboat use. Airboats are prohibited.

Pee Dee National Wildlife Refuge

Sport fishing on the Pee Dee National Wildlife Refuge, North Carolina, is permitted on approximately 44 acres. The sport fishing season is year-round on Brown Creek within 100 yards of Brown Creek Bridge on U.S. Highway 52; from April 1, 1980, through September 30, 1980, on Brown Creek within 100 yards of both Bennett Bridge on SR–1627 and lower Brown Creek Bridge on SR–1634, on Sullivan, Little and Ross Ponds (Anson County), Andrews Pond (Richmond County), and on the Pee Dee River (Anson and Richmond Counties); and from July 5, 1980, through September 30, 1980, on Arrowhead Lake (Anson County).

Fishing is permitted from sunrise to sunset. Only bank fishing is permitted, except in Andrews Pond and Arrowhead Lake. Jon boats, up to 14 feet, and canoes will be permitted in Andrews Pond and Arrowhead Lake. All motors are prohibited.

Only cane poles and rods and reels are permitted. Trotlines, set hooks, and nets are prohibited in Refuge waters. No special refuge fishing permit is required. Parking is permitted only in designated areas.

South Carolina

Cape Romain National Wildlife Refuge

Sport fishing on the Cape Romain National Wildlife Refuge, South Carolina, is permitted on approximately 610 acres. The sport fishing season on the refuge extends from March 15, 1980, through September 30, 1980.

Fishing is permitted during daylight hours only. Boats with electric motors are permitted. Other motors are prohibited. Boats must be removed from the refuge at the close of each day. Moore's Landing will be open daily from 5:00 a.m. until 8:00 p.m. EST, for launching and loading boats. Dogs are prohibited.

Carolina Sandhills National Wildlife Refuge

Sport fishing on the Carolina Sandhills National Wildlife Refuge, South Carolina, is permitted on approximately 150 acres. The fishing season is year-round on the Black Creek Bridge areas on State Road 33, State Road 145, and U.S. Highway 1 and Wire Road; from March 10, 1980, through October 5, 1980, on Martins Lake, and Pools A, B, C, D, G, and H; and from March 10, 1980, through September 7, 1980, on Lake 17, and Pools J and L and Lynches River; from July 21, 1980, through December 31, 1980, on Lake Bee; and from July 21, 1980, through September 7, 1980, on Lake 16.

Fishing is permitted from sunrise until ½ hour after sunset. Unpowered boats and boats with electric motors are permitted only in Martins Lake, Lakes 16 and 17, and Lake Bee. Other types of motors are prohibited. All other areas are open only for bank fishing within posted areas. Fish baskets, nets, set hooks, and trotlines are prohibited.

Santee National Wildlife Refuge

Sport fishing on the Santee National Wildlife Refuge, South Carolina, is permitted on approximately 16,000 acres. Sport fishing is permitted 24 hours per day except for waters within land units which are limited to daylight use, bank fishing only. Sport fishing is permitted year-round except that Cantey Bay, Black Bottom, Savannah Branch, and waters within all land units are closed from November 1, 1980, to February 28, 1981. The overnight mooring of boats on the refuge is prohibited.

Tennessee

Cross Creeks National Wildlife Refuge

Sport fishing on the Cross Creeks National Wildlife Refuge, Tennessee, is permitted on approximately 3,260 acres. The open season for Elk and South Cross Creek Reservoirs and the 15 refuge impoundments extends from April 1, 1980, through September 15, 1980. Sport fishing on Barkley Lake is open year-round.

Fishing is permitted in designated areas from 30 minutes before sunrise to 30 minutes after sunset, except on Barkley Lake, which is open 24 hours per day. Outboard motor size is limited to 6 horsepower or less in Elk and South Cross Creek Reservoirs and the 15 refuge impoundments. Motor size is not restricted on Barkley Lake. Methods of fishing on the two reservoirs and the 15 refuge impoundments are limited to rod and reel and/or pole and line.

Overnight mooring of boats is prohibited on the refuge. Fishermen must park in designated areas. No special refuge fishing permit is required.

Hatchie National Wildlife Refuge

Sport fishing on the Hatchie National Wildlife Refuge, Tennessee, is permitted on approximately 150 acres which includes all lakes and streams. The sport fishing season extends from April 1, 1980, through November 14, 1980. Fishing is permitted during daylight hours only.

Boats powered with electric outboard motors are permitted. Gasoline motors are prohibited.

Methods of fishing are limited to pole and line, or rod and reel, using natural or artificial baits. Footpaths may be used to reach all lakes from Hatchie River.

Lake Isom National Wildlife Refuge

Sport fishing on the Lake Isom National Wildlife Refuge, Tennessee, is permitted on approximately 750 acres. The sport fishing season on the refuge extends from March 16, 1980, through September 30, 1980.

Fishing with bows and arrows is prohibited at all times. Boats with motors of not more than 6 horsepower may be used. Fishing is permitted during daylight hours only.

Reelfoot National Wildlife Refuge

Sport fishing on the Reelfoot National Wildlife Refuge, Tennessee, is permitted on approximately 9,092 acres. The fishing season on that portion of the refuge located north of Upper Blue Basin extends from February 15, 1980, through October 15, 1980. The fishing season on the portion of the refuge located south of Upper Blue Basin extends from January 21, 1980, until the day preceding opening of the 1980 waterfowl season. Fishing with bows and arrows is prohibited. Boats with motors of not more than 10 horsepower may be used. Fishing is permitted during daylight hours only.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

Dated: January 24, 1980.

William C. Hickling,

Area Manager

[FR Doc. 80–3056 Filed 1–30–80; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

Fishery Conservation and Management; Apportionment of Reserve Amounts

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Final regulations.

SUMMARY: These regulations make additional amounts of fish available to foreign fishing in accordance with the provisions of the Groundfish of the Gulf of Alaska Fishery Management Plan (FMP) and the regulations implementing this FMP (See 44 FR 64410, 50 CFR 672.20(c) and 50 CFR 611.92(b)(1)(ii)). These regulations apply to vessels of the United States and foreign nations fishing for groundfish in the Gulf of Alaska.

EFFECTIVE DATE: January 31, 1980.

FOR FURTHER INFORMATION CONTACT: Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone: (907) 586–7221.

SUPPLEMENTARY INFORMATION: Because of uncertainties about specifications of U.S. domestic annual harvest (DAH), including the extent to which U.S. vessels delivering to U.S. and foreign processors would harvest groundfish, the FMP established reserves of fish which could be apportioned to the total allowable level of foreign fishing (TALFF) if U.S. vessels did not harvest at anticipated levels.

On September 7, 1979, the Secretary of Commerce published an approved amendment to the FMP (44 FR 52214) which incorporated comments from, among others, the North Pacific Fishery Management Council. The Council suggested the establishment of certain reserve amounts of target species and their bycatch to assure an adequate supply of fish to U.S. vessels wishing to sell U.S.-caught fish to U.S. or foreign processors at sea. The amendment became effective November 1, 1979 (44 FR 64410).

The final regulations established standards and times of any reserve apportionment as well as a procedure for public comment on the extent to which vessels of the United States would harvest reserve amounts during the remainder of the year. The regulations provide that portions of the reserve amount will be released and added to TALFF as soon as practicable after January 2, March 2, May 2, and July 2 if it is determined that U.S. fishermen will not catch these amounts during the remainder of the fishing year.

Determination of Amount of Reserve Release

In accordance with the requirements of 50 CFR 672.20(c) and 50 CFR 611.92(b)(1)(ii), the Regional Director has determined that:

1. Twenty-five percent of the reserves of all species, except sablefish in the eastern regulatory area and "other rockfish" in the western and central regulatory areas, should be apportioned to TALFF.

2. The remaining reserves of all species in the Gulf of Alaska that are eligible for release on January 2, 1980, should be retained as reserves.

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Amounts of reserves (metric tons) that are being apportioned to TALFF or retained as reserves are summarized in the following table:

Jan. 2, 1980, Reserve Apportionment (1,000's mt) by Regulatory Area

Species	Western	Central	Eastern	Total
Pollock:				
Apportioned	2.85	4.79	0.83	8.44
Retained	8.55	14.38	2.49	25.32
Pacific Cod:				
Apportioned	0.828	1.677	0.495	3.0
Retained	2.484	5.031	1.485	9.0
Flounders:				
Apportioned	0.52	0.725	0.42	1.675
Retained	1.56	2.205	1.26	5.025
Pacific Ocean Perch:				
Apportioned	0.125	0.396	0.72	1.25
Retained	0.405	1.185	2.16	3.75
Other Rockfish:				
Apportioned	0	0	0.325	0.325
Retained	0.06	0.18	0.975	1.195
Sablefish:				
Apportioned	0.105	0.19	0	0.295
Retained	0.315	0.57	1.42	2.305
Atka Mackerel:				
Apportioned	0.234	1.042	0.159	1.435
Retained	0.702	3.125	0.479	4.306
Squid:				
Apportioned	0.05	0.1	0.1	0.25
Retained	0.15	0.3	0.3	0.75
Rattails:				
Apportioned	0.165	0.355	0.14	0.66
Retained	0.495	1.065	0.42	1.98
Idiot Rockfish:				
Apportioned				0.188
Retained				0.562
Other Species:				
Apportioned	0.22	0.43	0.16	0.81
Retained	0.66	1.29	0.48	2.43

In making this determination, the Regional Director considered the need for DAH to be supplemented with reserves. As of January 1980 U.S. harvests for all species had been minimal. The Regional Director has concluded that 25 percent of the reserves, except as noted above, will not be required to supplement DAH and should be apportioned to TALFF. He further concluded that because of the uncertainty in the amounts that will be caught by U.S. fishermen, the remaining reserves should be retained until at least the next apportionment date, March 2, 1980, when the adequacy of DAH will be evaluated further.

The rapid expansion of the U.S. sablefish fishery in the eastern regulatory area in recent years and the small quantity of other rockfish available in the central and western areas make it inappropriate to apportion the reserves of those species in those areas to TALFF at this time.

Response to Public Comments

Only one comment was received during the comment period. It is summarized and responded to below:

Comment: Reserves of sablefish in each regulatory area should be apportioned to TALFF to support longline fishing for sablefish.

Response: No sablefish reserves in the eastern regulatory area or "other rockfish" in the western or central regulatory areas will be apportioned to TALFF because of the uncertainty of the need for these reserves to supplement DAH. Twenty-five percent of the total reserves of all other species are being apportioned to TALFF. The remaining reserves are being retained until at least March 2, 1980, because of the uncertainty of the adequacy of DAH.

An environmental impact statement was prepared for the FMP for the groundfish of the Gulf of Alaska and is on file with the Environmental Protection Agency (EPA). A negative assessment of environmental impact prepared for the reserve release provisions of the groundfish FMP is also on file with the EPA.

The Regional Director has determined that these regulations should be effective immediately for the following reasons:

A. The regulations implementing the FMP provide adequate advance notice and invite public comment on this action;

B. No regulatory restrictions are imposed on any person as a result of this action;

C. This action relates to the extension of a benefit; and

D. Immediate implementation is required to achieve full utilization of the fishery resources concerned.

E. This action is not significant in relation to criteria prescribed by EO 12044, and a regulatory analysis is not required.

Signed at Washington, D.C., this 28th day of January, 1980.

Winfred H. Meibohn,

Executive Director, National Marine Fisheries.

[Authority: 16 U.S.C. Section 1801 *et seq.* 50 CFR 672.20 and 50 CFR 611.91 are amended by revising the Reserves and TALFF's only. Table I—OY–DAH–DAP–JVP–Reserve—and TALFF by Regulatory Area of paragraphs (a) and (b), respectively, as follows:

PART 611—FOREIGN FISHING

PART 672—GROUNDFISH OF THE GULF OF ALASKA

Table I—*OY–DAH–DAP–DNP–JVP–Reserve and TALFF by Regulatory Area (as Amended by the Jan. 2, 1980, Reserve Apportionment)*

(1,000's mt)

Species	Western	Central	Eastern	Total
Pollock:				
5. Reserve	8.55	14.38	2.49	25.32
6. TALFF	82.675	67.6	11.895	122.17
Pacific Cod:				
5. Reserve	2.484	5.031	1.485	9.0
6. TALFF	12.198	22.459	6.345	41.0
Flounders:				

Table I—*OY–DAH–DAP–DNP–JVP–Reserve and TALFF by Regulatory Area (as Amended by the Jan. 2, 1980, Reserve Apportionment)*—Continued

(1,000's mt)

Species	Western	Central	Eastern	Total
5. Reserve	1.56	2.205	1.26	5.025
6. TALFF	8.14	11.375	5.78	25.295
Pacific Ocean Perch:				
5. Reserve	0.405	1.185	2.16	3.75
6. TALFF	1.95	5.46	10.925	18.335
Other Rockfish:				
5. Reserve	(1)	(1)	0.975	1.195
6. TALFF	(1)	(1)	4.95	5.505
Sablefish:				
5. Reserve	0.315	0.57	(1)	2.305
6. TALFF	1.515	2.01	(1)	4.215
Atka Mackerel:				
5. Reserve	0.702	3.125	0.479	4.306
6. TALFF	3.686	16.631	2.008	22.325
Squid:				
5. Reserve	0.15	0.300	0.300	0.75
6. TALFF	0.82	1.84	1.84	4.1
Rattails:				
5. Reserve	0.495	1.065	0.42	1.98
6. TALFF	2.772	6.002	1.114	9.888
Idiot Rockfish (Sebastodidae), Gulf-wide OY:				
5. Reserve				0.562
6. TALFF				3.152
Other Species:				
5. Reserve	0.66	1.29	0.480	3.43
6. TALFF	3.34	6.69	1.62	12.05

[1] No change.

[FR Doc. 80-3161 Filed 1-30-80; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 45, No. 22
Thursday, January 31, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA–R–80–1]

Assignments and Adjustments to Firms; Allocation Level for Mail Hauling

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing a proposed rule which would set an allocation level of one hundred (100) percent of base period use not subject to an allocation fraction of motor gasoline for all mail hauling by the United States Postal Service (USPS). The proposed rule would also permit ERA, in considering applications for allocation assignments and adjustments, to treat as a separate firm all or part of an integrated business enterprise. It is reported that during the shortages of the past summer, USPS vehicles were unable to receive adequate volumes of motor gasoline and that, in part, this was caused by the allocation regulations.

DATES: Written comments by April 4, 1980; requests to speak by February 21, 1980, 4:30 p.m.; hearing date, February 28, 1980.

ADDRESSES: All comments, requests to speak and statements to: Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA–R–80–1, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Hearing Location: Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, Room 2214–B, 2000 M Street NW., Washington, D.C. 20461, (202) 254–5201
William Webb (Office of Public Information), Economic Regulatory Administration, Room B–110, 2000 M Street NW., Washington, D.C. 20461, (202) 634–2170
Gerald Emmer (Regulations & Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street NW., Washington, D.C. 20461, (202) 254–3910
Sue D. Sheridan or Joel Yudson (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–6754 or 252–6744

SUPPLEMENTARY INFORMATION:

I. Mail Hauling and Related Definitions

II. Assignments and Adjustments to Firms

III. Procedural Matters

IV. Written Comment and Public Hearing Procedures

I. Mail Hauling and Related Definitions

This notice proposes amendments to ERA's allocation regulations. The first proposal concerns the allocation of motor gasoline to United States Postal Service (USPS) facilities. We have been informed that during the shortages of the past summer, USPS vehicles were unable to receive adequate volumes of motor gasoline and that, in part, this was caused by the allocation regulations.

Section 211.103(b) of 10 CFR Part 211 sets forth the several categories of first priority users who are entitled to an allocation level of one hundred (100) percent of their base period use not subject to an allocation fraction. One class of users which have a first priority are bulk purchasers which engage in "cargo, freight and mail hauling by truck." At present, neither cargo, freight nor mail hauling is defined in the regulations. "Truck" is defined in 10 CFR 211.102 as a motor vehicle with a gross vehicle weight rating in excess of 20,000 pounds and includes less than one percent of the gasoline-powered vehicles used in mail delivery. Under the current regulations, mail hauling by all USPS vehicles other than "trucks" would be in the second priority and have an allocation level of 100 percent of base period use subject to an allocation fraction (under 10 CFR 211.103(c)(3)). When shortages occurred during the past summer, most suppliers had allocation fractions of less than one and reduced deliveries to second priority customers.

To the extent that the language "mail hauling by truck" in § 211.103(b)(8) excludes the vast majority of mail delivery vehicles from access to their full base period use, it may be inconsistent with the priority established by section 4(b)(1)(B) of the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159, EPAA) requiring that to the maximum extent practicable refined petroleum products shall be provided for the maintenance of services which serve the public at large. The amendment we are proposing would amend § 211.103(b)(8) to provide an allocation level of 100 percent of base period use not subject to an allocation fraction for mail hauling, without reference to the types of motor vehicle involved. Specifically, § 211.103(b)(8) would be amended to include 100 percent of base period use not subject to an allocation fraction for "cargo and freight hauling by truck and mail hauling."

We have also proposed to define mail hauling and cargo and freight hauling. Cargo and freight hauling would mean the transportation of goods in the regular course of business. Mail hauling would mean the transportation and delivery of letters, printed matter and parcels by or under contract to the United States Postal Service. As proposed, mail hauling would not include private firms engaged in similar businesses, such as courier services or parcel carriers. We have tentatively concluded that privately operated firms performing these activities should be treated the same as other businesses that deal directly with the public. In other words, such firms could receive second priority allocations as commercial users or first priority allocations to the degree that their activities would be included in "cargo and freight hauling by truck." We specifically request coments on an alternative definition of mail hauling that would not be limited to governmental postal systems.

As a further conforming change, we propose to amend our definition of bulk purchaser. Currently only bulk purchasers are eligible to receive allocations of gasoline. Under the present regulations, bulk purchasers include ultimate consumers that receive product either (a) into a storage tank under control of that firm at a fixed location, (b) with respect to use in agricultural production, into a storage tank with a capacity not less than 50 gallons or (c) for use in cargo, freight

and mail hauling by truck. Under the latter clause, any firm engaged in cargo, freight and mail hauling by truck, regardless of whether it has a storage tank at a fixed location, may receive an allocation. In practice, this latter provision does not work smoothly. It is not clear how a firm without a storage tank at a fixed location can regularly receive its allocation from a particular supplier, particularly if its hauling activity ranges over hundreds of miles. If the original intent of the regulation was to provide trucks with a priority at retail sales outlets, the inclusion of such users as bulk purchasers does not accomplish that result. Therefore, since we are proposing to amend and clarify our definitions of mail hauling and cargo and freight hauling, it is also appropriate to propose to amend our definition of bulk purchaser to provide that firms engaged in such uses will only be entitled to receive an allocation if they have a storage tank in place at a fixed location.

II. Assignments and Adjustments to Firms

The second proposed amendment concerns the treatment of an end-user or a wholesale purchaser as a firm eligible to receive allocations under § 211.11.

Under the regulations in effect prior to August 1979, first priority firms were entitled to receive their current requirements for gasoline instead of being limited to 100 percent of their base period use. Under those regulations, a certification to their supplier of increased requirements would have enabled such firms in many instances to meet their needs without having to apply to ERA for an assignment or adjustment as is currently required.

However, in August 1979 when we changed the allocation levels for first priority users, § 211.11(b)(1) became relevant to first priority users because for the first time they required ERA approval to receive gasoline for new facilities. That section provides that a firm, for purposes of qualifying as a wholesale purchaser-consumer or end user, means "all parts of the parent and the consolidated or unconsolidated entities (if any) which it directly or indirectly controls which act as ultimate consumers * * *." (A similar definition is included in § 211.11(b)(2) for resellers.) Under these definitions, ERA has had limited flexibility in making allocation assignments or adjustments to separate new facilities of existing corporate entities. This lack of flexibility was a contributing factor in the lack of adequate supplies of motor gasoline for USPS vehicles during the past summer.

For instance, under the existing regulations the entire USPS would be deemed a "firm." Thus, individual new USPS facilities are not eligible to receive separate assignments of a base period use based on their own needs considered independently from the entire USPS. To be entitled to receive additional gasoline for a new facility, the USPS would be required to seek an adjustment to the base period use of the entire agency which, under § 211.13(e), could only be granted to prevent serious hardship or gross inequity under the exceptions procedures of Subpart D of 10 CFR Part 205.

This proposal would enable ERA to make needed assignments and adjustments for *both* first and second priority users more expeditiously than under the current rule. The proposal would amend § 211.11(b) to permit ERA to treat as a separate "firm," in considering applications by wholesale purchasers and end users for allocation assignments, adjustments [1] or other relief, any part of a parent or consolidated or unconsolidated entity which it controls, including any site or facility. The change would give ERA the same discretion with respect to ultimate consumers and resellers.

It is important to note that for purposes of determining supply obligations and allocation entitlements, a firm would continue to mean all parts of the parent and consolidated and unconsolidated entities under its control except in those specific instances designated by ERA. In addition, by this change, we would not intend thereby to affect the outcome of petitions filed under § 211.106 relating to single firm treatment for retail sales outlets (to which Ruling 1974–13 would continue to apply). Furthermore, this change would not affect the treatment of a "firm" for pricing purposes.

The proposed amendment would permit ERA to treat as a separate firm any part of a parent reseller or ultimate consumer, or consolidated or unconsolidated entities which are under the parent organization's control. However, we specifically request comments regarding the alternative of providing this flexibility only for ERA's treatment of applications from ultimate consumers.

[1] The proposed amendment would be applicable to ERA's consideration of petitions for adjustments when such petitions are otherwise authorized by the allocation regulations. In a typical case, the USPS would be authorized under the proposed rule to request an *assignment* for a new facility, but would be able to apply for an *adjustment* to the base period use of a facility that already had a base period use only under the procedures of Subpart D of Part 205. Under the existing regulations, DOE's office of Hearings and Appeals is not constrained by the provisions of section 211.11.

III. Procedural Matters

A. *Section 404 of the DOE Act.* Pursuant to the requirements of Section 404(a) of the DOE Act, we are referring this proposed rule to the Federal Energy Regulatory Commission (FERC) for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. The FERC will have until the close of the comment period to make this determination.

B. *Section 7 of the FEA Act.* Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*, Pub. L. 93–275 as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

A copy of the notice was sent to the EPA Administrator. The Administrator commented that he does not foresee these actions having an unfavorable impact on the quality of the environment as related to the duties and responsibilities of the EPA.

C. *Executive Order 12044.* Executive Order 12044 (43 FR 12661, March 23, 1978) requires the agencies subject to it to prepare a regulatory analysis for those significant regulations which can be expected to have major economic consequences. The Executive Order further requires the agencies to establish criteria for determining which regulations require regulatory analyses. DOE's implementing Order 2030.1 (44 FR 1032, January 3, 1979) requires preparation of a regulatory analysis for all significant regulations which are likely to have a major impact. The proposed amendment is clearly significant under the criteria set forth in DOE Order 2030.1, since it affects important policy concerns. However, the proposal is unlikely to have a major impact, since it is not likely to impose gross economic costs of $100 million per year and does not fit any of the other criteria set forth in the Order for determination of likely major impact. Since the proposed amendments to Part 211 are not likely to have a major economic impact, a regulatory analysis is not required.

IV. Written Comment and Public Hearing Procedures

A. *Written Comments.* You are invited to participate in this proceeding by submitting data, views or arguments with respect to the matters contained in this notice. Comments should be submitted by 4:30 p.m., e.s.t., on the date set forth in the "Dates" section of this notice, to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the docket number and the designation: "Assignments and Adjustments to Firms; Allocation Level for Mail Hauling." Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. *Public Hearing.* 1. *Procedure for Requests to Make Oral Presentation.* If you have any interest in the matters discussed in the notice, or represent a group or class of persons that has an interest, you may make a written request for an opportunity to make oral presentation by 4:30 p.m., e.s.t., on the date set forth in the "Dates" section of this notice. You should also provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., e.s.t., on the next to the last business day before the hearing. You will be required to submit one hundred copies of your statement to the address for submission of statements indicated in the "Addresses" section of this notice, before 4:30 p.m., e.s.t., on the day before the hearing.

2. *Conduct of the hearing.* We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. It will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing to the address indicated above for requests to speak before 4:30 p.m., local time, on the day before the hearing. If you wish to have a question asked at the hearing, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection at the DOE, Freedom of Information Office, Room GA–152, James Forrestal Building, 1000 Independence Avenue SW., Washington, DC., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase copies of the transcript of the hearing from the report.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, we propose to amend Part 211 of Chapter II of Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., January 24, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

1. Section 211.11 is amended by adding a new paragraph (b)(3) to read as follows:

§ 211.11 Basis for purchaser's entitlement to allocation.

* * * * *

(b) *End-users and wholesale purchasers as a firm.* * * *

(3) The ERA may, in considering applications for assignments, adjustments or other relief, treat as a separate firm any part of the parent or consolidated or unconsolidated entities that it controls including any separate site or facility.

* * * * *

2. Section 211.102 is amended by revising the definition of "bulk purchaser" and inserting the new definitions of "cargo and freight hauling" and "mail hauling" in the appropriate alphabetical order to read as follows:

§ 211.102 Definitions.

* * * * *

"Bulk purchaser" means any firm which is an ultimate consumer which, as part of its normal business practices, purchases or obtains motor gasoline from a supplier and either (a) receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location, and (b) with respect to use in agricultural production, receives delivery into a storage tank with a capacity not less than 50 gallons substantially under the control of that firm.

"Cargo and freight hauling" means the transportation of goods in the regular course of business.

"Mailing hauling" means the transportation and delivery of letters, printed matter and parcels by or under contract to the United States Postal Service.

* * * * *

3. Section 211.103 is amended in paragraph (b)(8) to read as follows:

§ 211.103 Allocation levels.

* * * * *

(b) *Allocation levels not subject to an allocation fraction.* * * *

(8) *Cargo and freight hauling by truck and mail hauling.* * * *

[FR Doc. 80-3174 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79–NE–18]

Airworthiness Directives; Pratt & Whitney Aircraft JT8D–1, –1A, –B, –7, –7A, and –7B Turbofan Engines; Public Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The Federal Aviation Administration will hold a public meeting for the purpose of receiving

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comment and data pertaining to the Notice of Proposed Rulemaking (NPRM) issued November 30, 1979 (44 FR 72181).

DATE: The meeting will be held on February 6, 1980, at 10 a.m.

ADDRESS: The meeting will be held in the 4th floor conference room, at the Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Donald F. Perrault, Propulsion Section, ANE–214, Engineering and Manufacturing Branch, Flight Standards Division; telephone: (617) 273–7347.

SUPPLEMENTARY INFORMATION: The FAA will conduct a meeting open to the public on February 6, 1980, beginning at 10 a.m., to afford interested parties the opportunityto present their views and to submit relevant data in connection with the NPRM issued on November 30, 1979 (44 FR 72181). The proposed Airworthiness Directive would require an ultrasonic and visual inspection of all JT8D–1 and –7 model engines, in accordance with Pratt and Whitney Aircraft Alert Service Bulletin No. 5022, by July 1, 1981.

A stenographic transcript of the meeting will be made and placed in the public rules docket. Written comment may also be submitted by February 12, 1980.

Issued in Burlington, Massachusetts, on January 23, 1980.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 80-3058 Filed 1-30-80; 8:45 am]

BILLING CODE 4910-13-M

RAILROAD RETIREMENT BOARD

20 CFR Ch. II

Improving Government Regulations; Semiannual Agenda of Significant Regulations Under Development or Review

AGENCY: Railroad Retirement Board.

ACTION: Semiannual agenda of significant regulations under development or review.

SUMMARY: In accordance with Executive Order 12044, the Railroad Retirement Board hereby publishes its semiannual agenda of significant regulations under development or review.

EFFECTIVE DATA: January 31, 1980.

FOR FURTHER INFORMATION CONTACT: E. E. Koch, Chief Executive Officer, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, 312–751–4930.

SUPPLEMENTARY INFORMATION: Pursuant to section 20(a) of Public Law 96–101, known as the Milwaukee Railroad Restructuring Act, the Board has commenced the development of regulations to carry out the duties imposed upon the Board by that Act. Those regulations will set forth the procedures which the Board will follow in administering section 10 of the Act, Supplementary Unemployment Insurance, section 11, Employment of Milwaukee Railroad Employees, and section 12, New Career Training Assistance.

Although under the standards established by the Board these regulations would not be required to be considered as significant regulations, the Board's Chief Executive Officer has chosen, in his discretion, to treat these regulation as significant. Therefore, the proposal for regulations has been transmitted to the three member Board for preliminary review in accord with the Board's report under Executive Order 12044.

The Board is in the process of reviewing the proposal for regulations to determine the necessity of having regulations to implement the Milwaukee Railroad Restructuring Act. The Board is also exploring alternate approaches that might be taken to accomplish the desired result. In addition, the Board is presently planning the steps to be followed in providing notice and obtaining public comments and is establishing target dates to complete each step of the process. The Board has not as yet determined if a regulatory analysis of these regulations must or should be made.

Information concerning the status of the promulgation of these regulations may be obtained by contacting Ms. Sally A. Marn, Milwaukee Road Administrator, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60601, telephone number 312–751–4528 (FTS 387–4528).

In addition, as the Board stated in its report under Executive Order 12044 and in the agenda published in the **Federal Register** on July 31, 1979, a review and revision of existing regulations has been commenced by this agency. The parts of the present regulations under the Railroad Retirement Act which are currently being reviewed and revised are as follows:

PART 208—ELIGIBILITY FOR AN ANNUITY

PART 210—EXECUTION AND FILING OF AN APPLICATION FOR AN ANNUITY

PART 214—ANNUITY BEGINNING DATE

PART 220—DEFINITION AND CREDITABILITY OF SERVICE

PART 222—DEFINITION AND CREDITABILITY OF COMPENSATION

PART 225—COMPUTATION OF ANNUITY

PART 232—SPOUSES' ANNUITIES

PART 237—INSURANCE ANNUITIES AND LUMP SUMS FOR SURVIVORS

PART 238—RESIDUAL LUMP-SUM PAYMENTS

PART 239—PROOFS REQUIRED IN SUPPORT OF CLAIMS FOR BENEFITS

PART 250—REPORTS AND INFORMATION TO BE FILED BY EMPLOYEES

Finally, the Board has commenced review and revision of its regulations under the Railroad Unemployment Insurance Act, Part 300, *et seq.*, its regulations concerning garnishment of benefits and salaries paid by the Board, the Emergency Regulations, Part 395, and the regulations dealing with employee responsbilities and conduct, Part 396.

Information concerning the status of the review and revision of the above-listed parts of the Board's regulations may be obtained by contacting Mr. Steven A. Bartholow, Assistant General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, telephone number 312–751–4944 (FTS 387–4944).

By Authority of the Board.

Dated: January 23, 1980.

R. F. Butler,

Secretary of the Board.

[FR Doc. 80-2997 Filed 1-30-80; 8:45 am]

BILLING CODE 7905-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 151

General Grazing Regulations; Livestock Trespass

January 23, 1980.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: It is proposed to amend 25 CFR 151.24 by deleting that portion of the per diem penalty in states subject to the Eight Circuit ruling in *United States ex rel. Chase* v. *Wald*, 557 F.2d 157 (8th Cir. 1977), namely North Dakota, South Dakota, Nebraska, and Minnesota; and to strengthen the means of coping with livestock grazing trespass by providing for impoundment and sale of trespass livestock. The expenses incurred in gathering, impounding, caring for, and disposing of livestock shall be included in any settlement with the trespasser.

The circumstances which created this need include the decision of the United States Court of Appeals of the Eight Circuit, *United States ex rel. Chase* v. *Wald, supra*. That court ruled that existing regulations which provide for a penalty of $1 per head for each animal thereof for each day of trespass (25 CFR 151.24) were invalid and held that a civil penalty for livestock trespass on Indian lands of one dollar per animal for each day of trespass is an invalid exercise of the Secretary of the Interior's rulemaking authority and conflicts with the provision codified in 25 U.S.C. 179, which the court read as limiting such trespass penalty to one dollar per animal and imposing no per diem penalty.

The Eighth Circuit's decision is in direct conflict with the decision of the Tenth Circuit in *United States ex rel. Whitehorse* v. *Briggs*, 555 F.2d 283 (10th Cir. 1977) which upheld the per diem penalty. Despite the direct conflict between the circuits the Supreme Court refused certiorari. 434 U.S. 1002 (1977). The intended effect of this action is to assure compliance with a decision of the United States Court of Appeals for the Eighth Circuit while enforcing the per diem penalty in the other circuits; to discourage unauthorized use and abuse of Indian trust lands, and to provide for reimbursement of all expenses incurred in gathering, impounding, caring for, and disposing of trespass livestock.

DATES: Comments must be received on or before: April 29, 1980.

ADDRESSES: Written comments should be directed to: Director, Office of Trust Responsibilities, Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT: George E. Davis, Range Conservationist, Division of Trust Services, Office of Trust Responsibilities, Bureau of Indian Affairs, Washington, D.C. 20245. Telephone: (202) 343–4004.

SUPPLEMENTARY INFORMATION: The primary author of this document is George E. Davis whose address and telephone number are provided above.

This notice is published pursuant to the authority of 25 U.S.C. 466 and 25 U.S.C. 179, delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The Department of the Interior has determined that this proposed revision does not significantly affect the quality of the environment and does not require an environmental impact statement under section 102 (2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332 (2)(c).

It is proposed to revise § 151.24 of subchapter N-Grazing, of Chapter I, Title 25, of the Code of Federal Regulations to read as follows:

§ 151.24 Livestock trespass.

(a) *Acts prohibited on Indian trust, restricted or Government lands.* The following acts are prohibited on Indian trust or restricted lands under the jurisdiction of the Bureau of Indian Affairs:

(1) The grazing upon or driving across any individually owned, tribal, or Government lands of any livestock without an approved grazing or crossing permit.

(2) Allowing livestock to drift and graze on trust or restricted Indian lands without an approved permit.

(3) The grazing of livestock upon trust or restricted Indian lands within an area closed to grazing of that class of livestock.

(4) The grazing of livestock by permittee upon an area of trust or restricted Indan lands withdrawn from use for grazing purposes to protect it from damage by reason of the improper handling of livestock, after the receipt of notice from the Superintendent of such withdrawal, or refusal to remove livestock upon instructions from the Superintendent when an injury is being done to the Indian lands by reasons of improper handling of livestock.

(b) *Unauthorized grazing.* The owner of any livestock grazing in trespass on trust or restricted Indian lands is liable to a penalty of $1 per head for each animal thereof for each day of trespass (except in North Dakota, South Dakota, Nebraska and Minnesota where the penalty shall be $1 per head of cattle regardless of the number of days of trespass), together with the reasonable value of the forage consumed by their livestock and damages to property injured or destroyed, and for expenses incurred in impoundment and disposal. The Superintendent shall take action to collect all such penalties and damages, reimbursement for expenses incurred in impoundment and disposal, and seek injunctive relief when appropriate. All payments for such penalties and damages shall be credited to the landowners where the trespass occurs, and reimbursement for expenses incurred in impoundment and disposal shall be credited as appropriate.

(c) *Notice and order to remove.* (1) When it has been determined that a violation exists and the owner of the unauthorized livestock is known, written notice shall be served upon the alleged violator or his agent by certified mail with return receipt requested, or personal delivery and a copy of the notice shall be sent to any known lien holder. The notice shall set forth the act constituting the violation, the legal description of the land where the livestock were observed, the verification of brands in the State Brand Book, and the regulation alleged to have been violated. The notice shall also instruct the alleged violator to remove the livestock within a specified time, allow a specified time from receipt of the notice to show that there has been no violations, or to make settlement under § 151.24(d). If the alleged violator fails to comply with the notice, the Superintendent may impound the livestock under § 151.24(f).

(2) When neither the owner of the unauthorized livestock nor his representative is known, the Superintendent may proceed to impound the livestock under § 151.24(f).

(d) *Settlement.* The amount due the Indian landowner and/or the United States in settlement for unauthorized grazing use shall be determined by the Superintendent as follows:

(1) A penalty of $1 for each animal thereof for each day of trespass, except in the states of Minnesota, Nebraska, North Dakota, and South Dakota where the penalty shall be $1 for each animal

without regard to the number of days of trespass.

(2) A reasonable value of forage consumed based upon the average rate reveived per month for comparable grazing privileges on the reservation for the kind of livestock concerned, or the estimated commercial value for such privileges if no comparable grazing privileges are sold.

(3) Damages to Indian or Government property injured or destroyed.

(4) All expenses incurred in gathering, impounding, caring for, and disposing of livestock in cases which necessitate impoundment under § 151.24(f).

(5) Neither the imposition of any civil penalty nor any action by the Secretary of the Interior shall preclude either any civil action by the United States, an Indian, or an Indian tribe for damages caused by trespassing livestock or prosecution for any offense involved with such trespass.

(e) *Demand for Payment.* Where the livestock have been removed, but satisfactory settlement has not been made within the time prescribed under § 151.24(c), a certified letter, return receipt requested, shall be sent or personally delivered to the livestock owner or his agent, and a copy of the letter shall be sent to any known lien holder. The letter shall demand immediate settlement and advise the violator that unless settlement is received within five working days from date of receipt, the case may be referred to the Department of Justice for appropriate action.

(f) *Impoundment and disposal.* Unauthorized livestock remaining on trust or restricted Indian or Government lands which are not removed therefrom within the period prescribed in § 151.24(c) may be impounded and disposed of by the Superintendent as provided herein:

(1) A written notice of intent to impound shall be sent by certified mail, return receipt requested, or personally delivered to the owner, or his agent, and a copy of the notice shall be sent to any known lien holder. Any time after five days of delivery of the notice, the unauthorized livestock may be impounded.

(2) Where the owner or his agent is unknown, or a known owner or his agent refuses to accept delivery of the notice, a notice of intent to impound shall be published in a local newspaper, posted at the nearest community building and tribal council headquarters, and at a post office near the Indian or Government lands involved. Any time after five days of posting of the notice, the unauthorized livestock may be impounded.

(3) Unauthorized livestock that are owned by persons given notice under paragraphs (f)(1) and (2) of this section may be impounded without further notice any time within the 12-month period following the effective date of a notice given under this subsection.

(g) *Notice of public sale.* Following the impoundment of unauthorized livestock, a notice of sale of impounded livestock shall be published in a local newpaper, posted at the nearest community building and tribal council headquarters, and at a post office near the Indian or Government lands involved. The notice will describe the livestock and specify the date, time and place of sale. The date set shall be at least five days after the publication and posting of such notice. Any known owners or agents and known lien holders shall be notified in writing by certified mail, return receipt requested, or by personal delivery of the sale, and the procedure by which the impounded livestock may be redeemed prior to the sale as described in § 151.24(h).

(h) *Redemption.* Any owner or known lien holder of the impounded livestock may redeem them an any time before the time set for the sale by submitting proof of ownership and the settlement of all obligations described in § 151.24(d).

(i) *Sale.* If the livestock are not redeemed before the time fixed for their sale, they shall be sold at public sale to the highest bidder. If a satisfactory bid is not received, the livestock may be reoffered for sale, condemned and destroyed, or otherwise disposed of. When livestock are sold by the Superintendent pursuant to these regulations, he shall furnish the purchaser a bill of sale or other written instrument evidencing the sale.

(j) *Distribution of proceeds.* The net proceeds of the sale, after deduction of the prescribed penalty and the deduction of the necessary costs and expenses of the Secretary of the Interior as provided in § 151.14(d), shall be paid to the owner of the animal upon satisfactory proof of ownership submitted within six months of the date of the sale. Net proceeds of the sale of an animal, not paid to the owner, shall be deposited in the United States Treasury to the credit of the landowners where the trespass occurred.

Rick Lavis,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 80-3057 Filed 1-30-80; 8:45 am]

BILLING CODE 4310-02-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Improving Government Regulations; Delay in Publication of Agenda of Significant Regulatory Activity

AGENCY: Equal Employment Opportunity Commission.

ACTION: Delay in Publication of Agenda of Significant Regulatory Activity, January 31, 1980, Semiannual Agenda.

SUMMARY: The EEOC announced that it would publish its Agenda of Significant Regulatory Activity on January 31, 1980. This notice is to inform the public that it will not be published until February 15, 1980.

FOR FURTHER INFORMATION CONTACT: Federick D. Dorsey, Director, Office of Policy Implementation, 2401 E. Street, NW., Washington, D.C. 20506, 202-634-7060.

Signed at Washington, D.C., this 24th day of January 1980.

Eleanor H. Norton,

Chair, Equal Employment Opportunity Commission.

[FR Doc. 80-3044 Filed 1-30-80; 8:45 am]

BILLING CODE 6570-06-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 158

[CGD 77-029]

Ocean Dumping Surveillance System; Change in Comment Date

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule; change in comment date.

SUMMARY: The Coast Guard intended to establish a 60-day comment period for the proposed rule on ocean dumping surveillance system. The wrong data was published in the Federal Register dated December 13, 1979 (FR Doc. 79-38294, 44 FR 72188). Following a correction to the intended date of February 11, 1980, a request has been received to move the comment closing date back to the originally published date of March 3, 1980. Because the change may have created undue burden and hardship for the public, the Coast Guard is restoring the original date of March 3, 1980.

DATE: Comments must be received on or before March 3, 1980. For further information contact: Lt. (jg.) John M. Holmes, Regulations Officer, Marine Safety Council, U.S. Coast Guard, Telephone: (202) 426-1477.

(Pub. L. 92-532, Title I, sec. 108; 86 Stat. 1059 (33 U.S.C. 1418); 49 CFR 1.46(n)(5))

Dated: January 24, 1980.

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 80-3094 Filed 1-30-80; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 3

Veterans' Benefits; Institutional Awards

AGENCY: Veterans Administration.

ACTION: Proposed regulation amendment.

SUMMARY: The Veterans Administration is proposing to increase the amount of monthly compensation, pension or retired pay payable to a chief officer of a non-Veterans Administration institution on behalf of an incompetent veteran patient from $50 to $60. The need for this action results from enactment of the Veterans' and Survivors' Pension Improvement Act of 1978 which increased the amount of benefits payable to hospitalized veterans without dependents from $50 to $60.

DATES: Comments must be received before March 3, 1980. It is proposed to make this change effective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until March 11, 1980.

FOR FURTHER INFORMATION CONTACT: T. H. Spindle Jr. (202-389-3005).

SUPPLEMENTARY INFORMATION: Under 38 U.S.C. 3203(a) the amount of pension payable to a veteran without spouse or child who is being furnished domiciliary or nursing home care or hospitalization by the Veterans Administration, is subject to reduction to $60 monthly. This amount, which was $50, was increased to $60 monthly by the enactment of Pub. L. 95-588, (92 Stat. 2497), effective January 1, 1979.

Under § 3.852(b) the amount of an institutional award of pension, compensation or retired pay payable to the chief officer of a non-Veterans Administration institution on behalf of an incompetent veteran has been in agreement with the amount payable under 38 U.S.C. 3203(a). Consequently, we are proposing to amend § 3.852(b) so as to increase the amount of an institutional award payable to the chief officer of a non-Veterans Administration institution on behalf of a veteran from $50 to $60 monthly.

Under the procedures for implementing Executive Order 12044, "Improving Government Regulations" (44 FR 7026 (1979)) we have determined that this proposed regulation change is nonsignificant. It imposes no compliance costs or reporting burdens and it has no effect on the environment, public businesses or institutions.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections, regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until March 11, 1980. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: January 23, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

§ 3.850 [Amended]

1. Section 3.850 is amended to delete the words "widow or widower" and to insert the words "surviving spouse" in paragraph (a)(1)(ii) and to delete the words "wife or husband" and insert the word "spouse" in paragraph (a)(2).

§ 3.851 [Amended]

2. Section 3.851 is amended to delete the words "wife (or husband)" and to insert the word "spouse" in the second sentence.

3. Section 3.852 is amended as follows:

(a) By deleting the words "wife (or husband)" and inserting the word "spouse" in the first sentence of paragraph (b)(2);

(b) By revising the introductory portion of paragraph (b) preceding subparagraph (1) as follows:

§ 3.852 Institutional awards.

* * * * * *

(b) In an institutional award of pension, compensation or retirement pay there may be paid to the chief officer of a non-Veterans Administration institution on behalf of the veteran an amount not in excess of $60 per month. An institutional award of disability pension will not exceed $25 per month if the award is apportionable under § 3.454(a). (38 U.S.C. 210(c))

* * * * * *

[FR Doc. 80-3090 Filed 1-30-80; 8:45 am]

BILLING CODE 8320-01-M

38 CFR Part 17

Medical Benefits; Women's Air Forces Service Pilots

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: This regulation is proposed to show that service in the WASPs (Women's Air Forces Service Pilots), or other similar group(s) may be considered active duty for the purpose of VA medical benefit entitlement when the Secretary of Defense certifies and issues a discharge under honorable conditions. This proposal implements law.

DATES: Comments must be received on or before March 3, 1980. We propose to make this section effective as of November 23, 1977.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until March 11, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph Fleckenstein (202-389-3785), 810 Vermont Ave., NW., Washington, DC 20420.

SUPPLEMENTARY INFORMATION: Section 17.31(b)(7) is added to implement section 401, Pub. L. 95-202 (91 Stat. 1433). It permits the consideration of the service of members of the Women's Air Forces Service Pilots or similar group(s) as active duty when determined by the Secretary of Defense to be active duty and the Secretary issues a discharge under honorable conditions to such members.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding this proposal to the Administrator of Veterans Affairs

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(271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays), until March 11, 1980. Any person visiting the VA Central Office for the purpose of inspecting such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field facility will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: January 23, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

In § 17.31, paragraph (b)(7) is added to read as follows:

§ 17.31 Duty periods defined.

Definitions of duty periods applicable to eligibility for medical benefits are as follows:

* * * * *

(b) *Active duty.* The term "active duty" means

* * * * *

(7) Service of any person as a member of the Women's Air Forces Service Pilots, or the service of any person in any similarly situated group the members of which rendered service to the Armed Forces of the United States in a capacity considered civilian employment or contractual service at the time such service was rendered, when the Secretary of Defense has:

(i) Determined that the service of such group constitutes active military service, and

(ii) Issued the members a discharge from such service under honorable conditions. (Pub. L. 95–202, 91 Stat. 1433).

[FR Doc. 80-3091 Filed 1-30-80; 8:45 am]

BILLING CODE 3220-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 136

[FRL 1404–1]

Guidelines Establishing Test Procedures for the Analysis of Pollutants; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period on proposed regulations.

SUMMARY: In response to requests, this notice extends the time in which written comments may be submitted on the proposed regulations on guidelines for test procedures for the analysis of pollutants.

DATES: The comment period is to extend to 30 days from the time that notice is published in the **Federal Register** that the relevant support data on which the proposed guidelines are based have been compiled and are available for public review. Notice of availability should appear within the next two weeks.

FOR FURTHER INFORMATION CONTACT: Dr. Robert B. Medz, Quality Assurance and Monitoring Systems Division, Office of Research and Development, Environmental Protection Agency (RD–680), 401 M Street SW., Washington, D.C. 20460 or call (202) 426–4727.

SUPPLEMENTARY INFORMATION: On December 3, 1979, (44 FR 69464), the EPA published in the **Federal Register** proposed amendments to 40 CFR Part 136, "Guidelines for Test Procedures for the Analysis of Pollutants." The public comment period established was 60 days from the date of publication (December 3, 1979). Comments were requested to be submitted on or before February 1, 1980.

Since publication of the proposed amendments, the Agency has received comments stating that the support data referred to in the proposal were unavailable and consequently, a critical review and evaluation of the analytical procedures were not possible. The respondents requested an extension of the comment period until such information was made available for public review. The EPA considered the requests to have merit. Accordingly, the comment period is extended 30 days from the time the support data are made available from public reivew and comment. A **Federal Register** notice will be published concerning the availability of the relevant support data.

Copies of the pertinent support documents for the proposed analytical procedures will be distributed to the Public Information Reference Unit at the EPA Headquarters in Washington, D.C. and to each of the EPA Regional Offices, where they will be made available for public review (for inspection and copying only).

Dated: January 28, 1980.

Stephen J. Gage,

Assistant Administrator for Research and Development.

[FR Doc. 80-3079 Filed 1-30-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 50

[FRL 1402–7]

National Ambient Air Quality Standards; Establishment of Standard Review Docket for Nitrogen Dioxide

AGENCY: Environmental Protection Agency.

ACTION: Establishment of Standard Review Docket.

SUMMARY: On April 30, 1971, the U.S. Environmental Protection Agency published National Ambient Air Quality Standards (NAAQS) for Nitrogen Dioxide (NO_2) in the **Federal Register.** Since the promulgation of the long-term standard, scientific studies have suggested that some adverse health effects of NO_2 are associated with short-term peak exposures rather than chronic exposure to lower levels. In the 1977 amendments to the Clean Air Act, Congress directed the EPA to review the scientific basis for a short-term standard and promulgate such a standard unless it could be shown that a standard was not requisite to the protection of the public health.

A substantial amount of information has been received by EPA on the possible establishment of a short-term NO_2) standard and the review of the long-term standard. Because of the many complex issues that have become apparent, the Administrator has decided to establish a standard review docket in advance of a decision whether to propose revised standards or a new short-term standard, or to announce a final decision to retain the existing standards.

DATE: There is no deadline for comments at this time.

ADDRESS: Comments and information should be submitted to: United States Environmental Protection Agency, Central Docket Section OAQPS–78–9, Mail Drop A–130, 401 M. Street SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Joseph Padgett, Strategies and Air Standards Division (MD–12), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–5204 (FTS 629–5204).

SUPPLEMENTARY INFORMATION: On April 30, 1971, the U.S. Environmental Protection Agency published in the **Federal Register** (36 FR 8186) National Ambient Air Quality Standards (NAAQS) for nitrogen dioxide (NO_2) at a level of 0.05 ppm (100 $\mu g/m^3$), averaged over 1 year. The scientific and technical bases for the standards are contained in the air quality criteria document for oxides of nitrogen (AP–84), published by the Environmental Protection Agency in January 1971.

Since the promulgation of the long-term NO_2 standard, scientific studies have suggested that some adverse health effects of NO_2 are associated with short-term peak exposures rather than chronic exposure to lower levels. In the 1977 Amendments to the Clean Air Act, Congress directed EPA to review the scientific basis for a short-term standard and promulgate such a standard unless it could be shown that a standard was not requisite to protect public health for short-term exposure from NO_2.

EPA's Office of Research and Development subsequently prepared a draft criteria document setting forth the scientific basis for a short-term standard, *Health Effects of Short-Term Exposure to Nitrogen Dioxide,* an external review draft of which was issued in December 1977. The draft health effects document was reviewed by a subcommittee of EPA's Science Advisory Board on February 22, 1978.

On March 27, 1978, EPA announced in the **Federal Register** (43 FR 21753) that a public meeting would be held to receive comments on the need for a short-term NO_2 standard. The public meeting was held April 19, 1978. During the meeting and afterward, comments and a substantial amount of information were received related to establishment of a short-term NO_2 standard.

Subsequently, EPAS decided to combine its review of the need for a short-term NO_2 standard with the review of the original criteria document for oxides of nitrogen and the existing NAAQS for NO_2 under Sections 108(c) and 109(d)(1) of the Act. On December 12, 1978, EPA announced in the **Federal Register** (43 FR 58117) the availability of an appropriately expanded external review draft of the revised criteria doucment. The Science Advisory Board's Clean Air Scientific Advisory Committee (CASAC) subsequently, on January 29, and 31, 1979, held a public meeting to review the external review draft. In July 1979, EPA released a second external review draft for public comment and CASAC review. A CASAC public meeting to review the second external review draft is anticipated for February 1980.

During the last two years, a substantial amount of information has been received by EPA on the possible establishment of a short-term NO_2 standard and the review of the long-term NO_2 standard. Because of the many complex issues that have already become apparent as criteria document revision and standard reevaluation have proceeded, the Administrator has decided to establish a standard review docket in advance of a decision whether (1) to propose revised standards or new short-term standards or (2) to announce a final decision to retain the existing standards. The docket will facilitate public access to the documents and information referred to above and to other pertinent documents that may be written or received by EPA in the future. Until further notice, interested parties who wish to submit comments or information to the air quality standard review docket should use the following docket number and address:

United States Environmental Protection Agency, Central Docket Section OAQPS–78–9, Mail Drop A–130, 401 M Street, SW., Washington, D.C. 20460.

Should the Agency subsequently decide, as a result of its review, that proposal of new or revised nitrogen dioxide standards is appropriate, relevant parts of the standard review docket and the docket already established for criteria document revision will be incorporated in a rulemaking docket as provided in Section 307(d) of the Clean Air Act. If a rulemaking docket is established, the balance of the standard review and criteria revision dockets will continue to be available for public reference. (The existing docket established for revision of the criteria document is ECAO–CD–78–2, Mail Drop 52, Research Triangle Park, North Carolina 27711.)

Both the standard review and criteria document revision dockets are available for public review during regular business hours at the Central Docket Section, Room 2903B Waterside Mall, 401 M Street, S.W. Washington, D.C. 20460.

Dated: January 17, 1980.

David G. Hawkins,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 80-3162 Filed 1-30-80; 8:45 am]

BILLING CODE 1402-7-M

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40 CFR Part 52

[FRL 1402–5]

Availability of Implementation Plan Revision for State of Idaho

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability and advance notice of proposed rulemaking.

SUMMARY: EPA announces today that the State of Idaho Implementation Plan revision due for submittal by January 1, 1979 under the Clean Air Act Amendments of 1977 has been received and is available for public inspection. The public is invited to submit written comments to the record which will be held open for the receipt of public comments for a minimum period of thirty (30) days. A Notice of Proposed Rulemaking describing the Plan and the action that EPA intends to take regarding the proposed revisions will be published in the **Federal Register** after the initial thirty (30) day public comment period has closed. A second period for the submittal of written comments will extend for thirty (30) days after the publication of the Notice of Proposed Rulemaking.

DATE: Comments are due by March 3, 1980.

ADDRESSES: The Idaho submittal may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Library, Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, Washington 98101.

State of Idaho, Department of Health and Welfare, Statehouse, Boise, ID 83720.

State of Idaho, Department of Health and Welfare, 2110 Ironwood Parkway, Coeur d'Alene, ID 83814.

State of Idaho, Department of Health and Welfare, 636 Pershing, Pocatello, ID 83201.

State of Idaho, Department of Health and Welfare, 1525 Idaho, Lewiston, ID 83501.

COMMENTS SHOULD BE ADDRESSED TO: Laurie M. Kral, Air Programs Branch, M/S 629, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Michael J. Schultz, Air Programs Branch, M/S 625, Environmental Protection Agency, Telephone No. (206) 442–1226 (FTS 399–1226).

SUPPLEMENTAL INFORMATION: Section 172 of the Clean Air Act, as amended in August 1977, requires that States submit revisions to their implementation plans by January 1, 1979 to provide for the attainment of the national ambient air quality standards (NAAQS) in areas designated non-attainment. On March 3, 1978 (43 FR 8962) EPA designated certain areas in Idaho as non-attainment. Specific requirements for an approvable Part D SIP are described in a General Preamble published in the April 4, 1979, **Federal Register** (44 FR 20372); supplemented on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and

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November 23, 1979 (44 FR 67182). The General Preamble is hereby incorporated into this advance Notice of Proposed Rulemaking.

The State has responded by preparing implementation plan revisions as required by the Act for the non-attainment designation referred to above. The purpose of this notice is to call the public's attention to the fact that this revision has been formally submitted to EPA and is available for public inspection at the locations noted above. The public is encouraged to submit written comments regarding the proposed revisions and thus participate in this rulemaking activity.

Those interested may wish to first read the General Preamble for proposed rulemaking as published by the EPA which identifies the major considerations that will guide EPA's evaluation of SIP revisions. A more detailed description of the Idaho revision will be published in the **Federal Register** at a later date as part of a Notice of Proposed Rulemaking.

(Sec. 110, 172, Clean Air Act (42 U.S.C. 7410, 7502)).

Dated: January 21, 1980.

Donald P. Dubois,

Regional Administrator.

[FR Doc. 80-3003 Filed 1-30-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 61

[FRL 1402-6; Docket No. OAQPS 79-14]

Proposed Policy and Procedures for Identifying, Assessing, and Regulating Airborne Substances Posing a Risk of Cancer; Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of deadline for written comments.

SUMMARY: On October 10, 1979, the Environmental Protection Agency proposed in the **Federal Register** (44 FR 58642) a policy and procedures for identifying, assessing, and regulating carcinogens emitted into the ambient air from stationary sources. In the same **Federal Register** (44 FR 58662), EPA published an advance notice of proposed rulemaking, soliciting comments on draft generic work practice and operational standards for volatile organic compounds which could be applied quickly to reduce emissions of airborne carcinogens from certain source categories. This notice extends the deadline by two weeks for written comments on the proposed policy and generic standards.

DATES: Written comments on the proposed policy and generic standards should be postmarked no later than February 21, 1980. Notice of intent to appear at a public hearing should be postmarked no later than February 22, 1980. Hearings will be held in Washington, D.C. on March 10, 1980; in Boston, Massachusetts on March 12, 1980; and in Houston, Texas on March 13, 1980. Written comments responding to, supplementing, or rebutting written or oral comments received at public hearings must be submitted within 30 days after the hearing date.

ADDRESSES: All written comments should be addressed to: Central Docket Section, Room 2903B, Waterside Mall, 401 M Street, SW, Washington, D.C. 20460. ATTN: OAQPS 79-14. The locations of the hearings were published in the **Federal Register** on Dec. 6, 1979, 44 FR 70196.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph Padgett, telephone 919-541-5204 (FTS 629-5204).

SUPPLEMENTARY INFORMATION: The deadline for written comments has been extended at the request of the Environmental Defense Fund, the American Industrial Health Council, the Natural Resources Defense Council, the American Petroleum Institute and other interested organizations. The additional time is provided to enable commenters to incorporate consideration of the carcinogen policy recently promulgated by the Occupational Safety and Health Administration (45 FR 5002, January 22, 1980).

Dated: January 24, 1980.

David Hawkins,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 80-3173 Filed 1-30-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 85

[FRL-1401-4]

Emission Control System Performance Warranty Regulations—Short Test Establishment; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: Section 207(b) of the Clean Air Act requires the Administrator, after making certain findings, to promulgate regulations establishing an emissions short test which is correlatable with the Federal Test Procedure, and which, when used in conjunction with a State inspection program, could trigger an emissions performance warranty. Regulations to establish the short test were proposed on May 25, 1977 at 42 FR 26742 (hereinafter "proposal"), and the comment period for this proposal closed in October 1977. This notice reopens the period for comment on the proposal for the limited purpose of providing interested persons with an opportunity to comment on information gathered since the close of the original period for comment.

DATES: Comments received by the Central Docket Office on or before March 3, 1980 will be considered in the final rulemaking. The Agency intends that final regulations will be promulgated so as to be applicable to 1981 and later model year vehicles.

ADDRESS: Send 10 copies of written comment to: Public Docket MSAPC-A-79-57, Central Docket Section (A-130), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Bruce Everling, Office of Mobile Source, Air Pollution Control, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202) 755-0596

or

Richard W. Nash, Inspection/Maintenance Staff, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105 (313) 668-4412.

SUPPLEMENTARY INFORMATION: Public comment: The scope of materials which may be submitted during the 30 day comment period is limited to those portions of the May 25, 1977, proposal directly affected by the additional information described below. To the extent that the new information impacts upon the warranty regulations proposed on April 20, 1979, (44 FR 23784) or the aftermarket part certification program proposed on August 6, 1979 (44 FR 46686), comments may be submitted to public dockets EN-79-6 and EN-79-6, respectively.

Section 207(b) of the Clean Air Act, as amended (Act), requires motor vehicle manufacturers to warrant each motor vehicle's "emission control device and systems" for the motor vehicle's useful life. The Act requires two separate rulemakings for implementation of the warranty. The first set of regulations must establish test methods to ascertain whether a vehicle in actual use complies with emissions standards ("short test").[1] The second set of regulations must establish a warranty program under which an owner of a vehicle that fails to demonstrate in such a short test that it complies with emissions standards, may have the vehicle repaired by its manufacturer without cost to the owner if the owner had operated and maintained the vehicle in accordance with the manufacturer's written maintenance instructions. On May 25, 1977, EPA published a Notice of Proposed Rulemaking (NPRM) regarding establishment of the short test. On April 20, 1979, EPA proposed regulations to establish the warranty program.

Since the time of publication of the short test NPRM, EPA continued to gather data and perform analyses of that data in developing the final rule. Although data is continuing to be generated, all data used in development of the final rule was complete by April 1979. Upon request, EPA made all data and analyses available to the public as they were generated.

On December 21, 1979, the Motor Vehicle Manufacturers Association of the United States, Inc. (MVMA), filed a petition with the Administrator [2] requesting an opportunity to consider and comment on new data collected, technological changes to later model year vehicles, and new regulations adopted or proposed by the Agency since the time of the original proposal. MVMA wishes to comment on these changes and new data as they apply to the proposal on the basis that they have altered EPA's original perception of the section 207(b) short test.

EPA believes that the NPRM adequately apprised interested persons of the subjects and issues before the Agency, and that adequate opportunity was given to consider and comment on those subjects and issues, as well as on the sources of data and the alternative ways that EPA would consider using the data. Nevertheless, the Agency has decided to provide interested persons with an opportunity to comment on any specific data or analyses not available previously for comment. For that limited purpose, EPA is reopening the comment period for an additional 30 days beginning on January 31, 1980.

Due to the limited time remaining for promulgation of final regulations applicable to the 1981 model year, EPA does not plan to grant any extensions to the 30 day comment period. However, the Agency believes that the comment period is adequate for interested persons to address the issues discussed below.

In order to allow interested persons to focus their comments on the effect, if any, which specific new data or analyses have had on the proposed regulations, there is set out below a summary of the new data and EPA analyses and conclusions drawn from the data. All underlying information is available for inspection (or referenced) in Public Docket MSAPC-A-79-57, located at the address listed above.

Explanatory Information

Proposed Section 207(b) Short Test Regulations

In the May 25, 1977 proposal, five short tests correlatable to the Federal Test Procedure (FTP) were proposed (idle, Federal 3 Mode, Clayton Key Mode, Federal Short Cycle and NY/NJ Composite tests). The proposal also set forth methods by which a combination of standards (cutpoints) would identify vehicles failing the FTP when used with the short test procedures.

The test data available at the time of the proposal indicated that short test failure was unable to predict certification test failure with absolute certainty. Incorrect certification test failure predictations by the short test (errors of commission) and incorrect certification test passing predictions (errors of omission)were observed. Several methods of correlation analysis were proposed for the purpose of defining the extent of these errors. Methodologies for relating cutpoint selection and correlation errors were also proposed.

The proposal suggested that cutpoint selections could be made either for each model year (i.e., cutpoints applicable to 1985 model year vehicles would be selected using test data for 1985 model year vehicles) or for groups of model year cars (i.e., cutpoints applicable to several model years). It was suggested, on the basis of then available information, that cutpoints would have to be selected on a yearly basis. Cutpoint selection by the EPA or by the State was proposed, with possible contribution of data by the vehicle manufacturers.

The proposal listed the sources of test data which EPA planned to use in selecting the final correlating short tests and their related cutpoints. Requirements for test equipment, engineering practices and record keeping also were proposed to assure that the state emission test programs would be conducted in a manner which would maintain predicted correlation results in practice.

Final Section 207(b) Short Test Regulations

EPA plans to promulgate final Section 207(b) short test regulations applicable to 1981 and later model year vehicles after review of all comments, including additional comments received as a result of this notice. EPA presently is focusing consideration on three of the proposed short tests and potential cutpoints. The tests, potential cutpoints, equipment requirements, errors of commission and excess emissions identified are set forth in Table 1.

These results are based upon data for 2207 vehicles collected in the Portland, Oregon emission test program,[3] and

Table 1

	Idle	Two speed idle	Two mode loaded
Description	Idle	1. Idle 2. 2,500 RMP 3. Idle	1. 30 MPH/6 HP 2. Idle.
Cutpoints	1.2 percent CO 220 ppm HC	1.0 percent CO [1] 200 ppm HC [1]	1.2 percent CO [2] 220 ppm HC [2]
Equipment	Garage analyzer	Garage analyzer tachometer	Garage analyzer dynamometer
Errors of Commission	5.8 percent	4 percent	7 percent.
Excess Emissions [3] Identified HC	62 percent	81 percent	93 percent.
Excess Emissions Identified CO	84 percent	83 percent	93 percent.

[1] Cutpoints apply to the lowest HC (hydrocarbon measured on parts per million) and lowest CO (carbon monoxide measured in percent) emissions observed at idle. These standards can also be applied to the 2,500 RPM mode.

[2] Cutpoints apply to both idle and loaded mode, such that vehicle failure results if the cutpoints are exceeded in either mode.

[3] Excess emissions are emission levels above the Federal standards.

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[1] Section 207(b) of the Clean Air Act, 42 U.S.C. 7528(b) (Supp. I, 1977), requires that any test available for determining emissions compliance of in-use vehicles be capable of being correlated with the Federal Test Procedure conducted under Section 206(a)(1).

[2] Letter from Theodore Souris, Bodman, Longley & Dahling, to Douglas M. Costle, Administrator, EPA, and attached "Motor Vehicle Manufacturers Association's Petition for Reproposal", December 21, 1979.

[3] Element 1 of the EPA Portland Program (which is contained in computer files located in the EPA Laboratory, Ann Arbor, Michigan), is the first of three elements comprising the Portland study. Element 1 was completed in April 1979, and is the only element used in developing the short test regulations. EPA staff in Ann Arbor will cooperate to the fullest practicable extent in supplying the Portland data in an acceptable format to persons requesting the data.

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reflect the effect of existing equipment, real world engineering practice and vehicles in actual use. Other available test data for 3706 vehicles in eight cities were reviewed and found to support an assumption that similar results will occur in different geographic locations, at different altitudes or with different vehicles.

The methodology EPA is considering using to establish short test standards, utilizing the above data, is contained in a technical document located in the public docket.[4] The results cited in Table 1 are contained in the document, as well as explanatory information on EPA's current approach in establishing a short test.

The proposal discussed several alternative approaches, but suggested the need for annual selection of cutpoints for each model year. EPA presently is considering grouping all vehicles into one class with uniform short test standards. Such standards would be based on data from previous model year vehicles, which is a less stringent approach than that emphasized in the proposal, since future model year vehicles are expected to be subject to more stringent Federal standards, and therefore have similar or lower error of commission rates. For this reason, the cutpoints listed in Table 1 would remain valid for 1981 and future year vehicles. the basis for this approach is contained in the technical document cited above.

The additional Portland data and other supportive data and methodology have been made available to the public upon request. However, MVMA has expressed a desire that it, and other interested persons, be provided an opportunity to comment on the new data, as well as the methods used to analyze the data and the results derived from EPA analyses. The information is available for inspection in public docket MSAPC–A–79–57, and EPA will consider only those comments addressing the impact, if any, this information has on the proposal. Accordingly, the comment period is extended for the above-described purpose until March 3, 1980.

Dated: January 24, 1980.

David D. Hawkins,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 80-3059 Filed 1-30-80; 8:45 am]

BILLING CODE 6560-01-M

[4] EPA, "Light Duty Vehicle and Light Duty Truck Emission Performance Warranty: Short Tests and Standards," December 1979 (IMS–009/ST–1).

40 CFR Part 87

[Docket No. OMSAPC–78–1; FRL 1362–6]

Control of Air Pollution From Aircraft and Aircraft Engines: Proposed Amendments to Standards: Announcement of Availability of Economic Impact Assessment and Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period.

SUMMARY: On March 24, 1978, EPA proposed a number of changes to gaseous emissions regulations applicable to several classes of newly manufactured and newly certified aircraft engines (43 FR 12615). The purpose of the present notice is to announce the availability of two reports dealing with aircraft gas turbine smoke visibility and to invite public comments. The comment period is being reopened for 30 days to allow additional time for review and comment of these documents.

DATE: All relevant comments received on or before February 29, 1980, will be considered.

ADDRESS: Interested persons may participate in this rulemaking by submitting written comments to the Administrator, Environmental Protection Agency, Attention: Central Docket Section, Room 2903 (A–130), 401 M Street, SW., Washington, D.C. 20460. Ten copies are requested but not required.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Munt, Emission Control Technology Division, Office of Mobile Source Air Pollution Control, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105 (313) 668–4378.

SUPPLEMENTARY INFORMATION: On July 17, 1973, the Environmental Protection Agency (EPA) promulgated 40 CFR Part 87 establishing aircraft emission standards and test procedures (38 FR 19088). Several provisions of Part 87 are applicable to exhaust emissions of smoke from various categories of aircraft gas turbine engines (§§ 87.21(a), 87.21(b), 87.21(c), 87.21(e)).

On March 24, 1978, EPA proposed amendments to the standards for newly manufactured and newly certified aircraft engines (40 CFR Part 87) and proposed standards for in-use aircraft engines were published (43 FR 12615). The closing date for comments on the proposed action was announced as July 24, 1978, but was subsequently extended to December 2, 1978.

On August 29, 1979, EPA technical staff completed a report "Evaluation of Aircraft Smoke Standards for the Criterion of Invisibility," SDSB–79–25, which was placed in the public docket (OMSAPC–78–1). This report was intended to form the technological basis for the establishment of final revised smoke standards applicable to certain categories of aircraft gas turbine engines.

On October 26, 1979, a petition was submitted by General Motors Corporation requesting that finalization of smoke standards be delayed to provide opportunity for consideration of new information developed in their laboratories which shows that some of the information in the EPA report is not applicable to turboprop-type gas turbine engines. Their petition stated that a report summarizing the most current technical information bearing on this issue would be submitted at a later date.

On December 12, 1979, a report entitled "Determination of Visibility of Smoke Plumes from Turboprop Powered Aircraft," Engineering Department Report No. 10127, was submitted by General Motors Corporation. The GM report and their petition have been added to EPA public docket OMSAPC–78–1 along with the EPA report referred to earlier.

The agency is announcing the availability of these documents at this time to stimulate public comment and to solicit any additional new technical information bearing on the visibility characteristics of smoke emitted by aircraft gas turbine engines, for consideration by EPA before the revised smoke standards are finalized.

Dated: January 24, 1980.

David D. Hawkins,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 80-3082 Filed 1-30-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA 5773]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program; (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Room 5148, 451 7th Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer or insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Locations	#Depth in feet above ground. *Elevation in feet (NGVD)
Kentucky	City of Bardstown, Nelson County	Beech Fork	Just upstream of U.S. Highway 31E (New Haven Road)	*467
		Withrow Creek Tributary	Just upstream of Jones Avenue extended	*571
		Town Creek	Approximately 75 feet downstream of Old Gilkey Run Road	*487
			Just upstream of Broadway	*567
			Approximately 75 feet upstream of northernmost crossing of Old Bloomfield Road	*580
Maps available at Planning Commission Office, 113 E. Steven Foster, Bardstown, Kentucky 40004.				
Send comments to Mr. B. J. Greenwell, 113 E. Steven Foster, Bardstown, Kentucky 40004, or Mayor Guthrie M. Wilson, City Hall, Bardstown, Kentucky 40004.				
Kentucky	Unincorporated Areas of Nelson County.	Rolling Fork	Just upstream of State Highway 31E	*472
		Pottinger Creek (Backwater flooding from Rolling Fork).	Just upstream of State Highway 247	*477
		Rowan Creek	Just upstream of State Highway 49 Bridge	*502
		Town Creek	Just upstream of Old Gilkey Run Road	*490
			Approximately 100 feet upstream of Louisville and Nashville Railroad	*575
		East Fork Simpson Creek	Just upstream of Country Road	*606
		Withrow Creek	Confluence of Withrow Creek and Withro Creek Tributary	*487
		Withrow Creek Tributary	Kenneth Avenue Extended (Avenue located in the City of Bardstown)	*566
		Beech Fork	Confluence of Beech Fork and Withrow Creek	*485
Maps available at the Nelson County Planning Commission, 113 East Steven Foster, Bardstown, Kentucky 40004.				
Send comments to Mr. B. J. Greenwell, Nelson County Planning Commission, Steven Foster, Bardstown, Kentucky 40004, or Mayor Charles Roberts, Nelson County Judge, Nelson County Courthouse, Bardstown, Kentucky 40004.				
Kentucky	City of New Haven, Nelson County.	Rolling Fork	Mousers Alley (extended)	*470
			Approximately 500 feet downstream of U.S. Highway 31E	*472
Maps available at Planning Commission Office, 113 E Steven Foster, Bardstown, Kentucky 40004.				
Send comments to Mr. B. J. Greenwell, Planning Commission, 113 E Steven Foster, Bardstown, Kentucky 40004, or Mayor George Barry, New Haven City Hall, New Haven, Kentucky 40051.				
Louisiana	Town of Carencro, Lafayette Parish.	Beau Basin	Just upstream of Armand Street	*41
			Just downstream of Belizare Street	*42
		Gaston Coulee	At Andre Street	*41
			At St. Anne St.	*41
Maps available at City Hall, Andre Street, Carencro, Louisiana 70520				
Send comments to Mayor Tommy J. Angelle or Ms. D. L. Lemaire, Town Clerk, P.O. Drawer 10, Carencro, Louisiana 70520.				
Louisiana	Town of Church Point, Acadia Parish.	Bayou Plaquemine Brule	Just upstream of Louisiana Highway 95	*44
			Just upstream of Louisiana Highway 35	*46
Maps available at City Hall, 105 S. Main Street, Church Point, Louisiana 70525				
Send comments to, Mayor Harold Beaugh, or Ms. Mildred Bellard, City Clerk, City Hall, 105 S. Main Street, Church Point, Louisiana 70525.				
Massachusetts	Bourne, Town, Barnstable County	Cape Cod Bay	Northeast Coastline	*11
		Cape Cod Canal	Confluence with Cape Cod Bay	*11
			Confluence with Buzzards Bay	*15
		Buzzards Bay	Coastline north of Scraggy Neck	*15
			Coastline south of Scraggy Neck	*14
Certain areas of the community are subject to flood with velocity (wave action). See maps for areas affected by Zone V3, V10 designations.				
Maps available at the Office of the Town Clerk, 24 Perry Avenue, Buzzards Bay, Massachusetts.				
Send comments to Mr. Robert W. Parady, Chairmen of the Board of Selectmen, 24 Perry Avenue, Buzzards Bay, Massachusetts 02532				

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Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Locations	#Depth in feet above ground. *Elevation in feet (NGVD)
New Jersey	Montvale (Borough), Bergen County.	Bear Brook	At center of Van Riper Road crossing of Bear Brook	*315
		Cherry Brook	150 feet upstream from center of Middletown Road crossing of Cherry Brook.	*190
		Echo Glen Brook	30 feet upstream from center of Akers Avenue crossing of Echo Glen Brook.	*296
		Fieldstone Brook	160 feet north of the intersection of Dogwood Lane and Valemont Road.	*186
		Laurel Brook	At limit of Detailed Study (approximately 3,025 feet above mouth)	*341
		Mill Brook	30 feet upstream from center of Grand Avenue West crossing of Mill Brook.	*279
			At center of Summit Avenue crossing of Mill Brook	*363
		Muddy Creek	50 feet upstream from center of Kinderkamack Road crossing of Muddy Creek.	*158
		Pascack Brook	100 feet upstream from center of Grand Avenue crossing of Pascack Brook.	*144
			At center of Magnolia Avenue crossing of Pascack Brook	*193
		Stateline Brook	At Corporate Limits	*210

Maps available at Municipal Building, Memorial Drive, Montvale, New Jersey.

Send comments to Honorable Arthur V. Gelnaw, Mayor, Borough of Montvale, Municipal Building, Memorial Drive, Montvale, New Jersey 07645.

New York	Ogdensburg, City, St. Lawrence County..	Oswegatchie River	Lake Street	*[illegible]
			Ogdensburg Dam (Downstream)	*255
			Ogdensburg Dam (Upstream)	*265
			Upstream Corporate Limits	266

Maps available at the Office of Planning and Development, City Hall, Ogdensburg, New York.

Send comments to Mr. Gerald Johnson, City Manager, City Hall, 330 4th Street, Ogensburg, New York 13669.

North Carolina	Town of Haw River, Alamance County.	Haw River	Just upstream Southern Railway	*506
		East Back Creek	Just upstream Southern Railway	*515
			Just upstream U.S. Highway to (East Main Street)	*517
		Haw River Tributary "A" (Backwater Flooding from Haw River).	Just upstream Long Street	*507

Maps available at Town Hall, 403 E. Main Street, Haw River, North Carolina 27258.

Send comments to Mayor J. W. Smith or Mr. Aubrey L. Agnew, Mayor Protem, Town Hall, 403 E. Main Street, Haw River, North Carolina 27258.

North Carolina	Town of Hope Mills, Cumberland County.	Rockfish Creek	Just upstream of South Main Street (NC 59)	*91
		Little Rockfish Creek	Just upstream of Legion Road (State Route 1132)	*94
			Just upstream of Lake View Road (Hope Mills Dam)	*95
			Just downstream of Lake View Road (Hope Mills Dam)	*103

Maps available at Town Hall, 3700 S. Main Street, Hope Mills, North Carolina 28348.

Send comments to Mayor Edward Herring or Mr. A. N. Bradford, Town Manager, Town Hall, 3700 S. Main Street, Hope Mills, North Carolina 28348.

North Carolina	City of Lumberton, Robeson County.	Lumber River	Just downstream of Chippena Street	*115
			Approximately 350 feet upstream of Alamac Road	*119
			Just upstream of Interstate 95	*124
		Fivemile Branch	Just upstream of Interstate 95	*125
		Meadow Branch	Just upstream of Interstate 95	*125
			Just downstream of U.S. Highway 301	*132
			Just upstream of Walnut Street	*129
		Pole Cat Branch	Just downstream of U.S. Highway 301	*131
		Ivey Branch	Just upstream of U.S. Highway 301	*130

Maps available at City Hall, 501 E. 5th Street, Lumberton, North Carolina 28358.

Send comments to Mayor F. K. Biggs, or Mr. Ray Griffin, City Manager, City Hall, 501 E. 5th Street, Lumberton, North Carolina 28358.

North Carolina	Mebane, Town of Alamance County.	Mill Creek	Just upstream of State Highway 119	*570
		McAdams Creek	Just upstream of State Route 1997 Extended	*606
		Lake Michael Tributary	Just upstream of State Route 1306	*612
		Eastside Creek	Just upstream of State Highway 119	*593
			Just upstream of State Route 1996	*613
		Haw Creek	Just upstream of Interstate Highway 85	*604

Maps available at Town Hall, 106 E. Washington Street, Mebane, North Carolina 27302.

Send comments to Mayor Glendal Stephenson or Ms. Virginia Whitfield, Town Manager, 106 E. Washington Street, Mebane, North Carolina 27302.

Pennsylvania	Maxatawny, Township, Berks County.	Saceny Creek	Upstream Kutztown/Maxatawny Corporate Limits	*406
			Private Lane which intersects Deysher Road Upstream	*409
			Deysher Road crossing	*410
		Little Saceny Creek	Conrail crossing	*443
			Bowers Road crossing	*453
			Fleetwood Road crossing Upstream	*462
			Approximately 400 feet upstream of Fleetwood Road crossing	*465
			Upstream Corporate Limits	*475

Maps available at the Maxatawny Township Municipal Building.

Send comments to Mr. Carl Zettlemoyer, Chairman of the Board of Supervisors of Maxatawny, c/o Ruth Randazzo, Route 1, Box 219, Kutztown, Pennsylvania 19530.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Locations	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Phoenixville, Borough, Chester County.	Schuylkill River	Downstream Corporate Limits	*101
			State Route 113 upstream	*[illegible]
			Upstream Corporate Limits	*110
		French Creek	Confluence with Schuylkill River	*102
			State Route 113 (Upstream)	*108
			Paradise Street (Downstream)	*113
			Upstream Corporate Limits (Downstream)	*118

Maps available at the Phoenixville Municipal Building, 140 Church Street.

Send comments to Mr. Joseph Fabian, Council President of Phoenixville, 140 Church Street, Phoenixville, Pennsylvania 19460.

Pennsylvania	Royersford, Borough, Montgomery County.	Schuylkill River	Downstream Corporate Limits	*113
			100' upstream Main Street Bridge	*[illegible]15
			Conrail Bridge	*116
			Upstream Corporate Limits	*118

Maps available at the Borough Hall, Royersford, Pennsylvania 19460.

Send comments to Mr. Robert L. Weikel, Borough Manager of Royersford, 300 Main Street, Royersford, Pennsylvania.

Pennsylvania	Schuylkill, Township, Chester County.	Schuylkill River	Downstream Corporate Limits	*[illegible]
			Pawling Road	*90
			Downstream of Conrail	*97
			Upstream of Conrail	*[illegible]
			Upstream Corporate Limits	*101
		Pickering Creek	Confluence with Schuylkill River	*100
			State Route 23	*100
			Upstream side of Pickering Dam	*110
			6,850 feet upstream of Pickering Dam	*112
			Downstream of White Horse Road	*114
			Upstream of White Horse Road	*115
			Downstream of Creek Road	*128
			Upstream of Creek Road	*130
			Upstream Corporate Limits	*132

Maps available at the Schuylkill Township Building, 801 Valley Park Road.

Send comments to Mr. Lawrence Drake, Chairman of the Board of Supervisors of Schuylkill, 801 Valley Park Road, Phoenixville, Pennsylvania 19460.

South Carolina	City of Forest Acres, Richland County.	Gills Creek	Just upstream of Forest Drive (State Highway 12)	*169
			Just downstream of Forest Lake Dam	*172
			Just upstream of Forest Lake Dam	*179
		Pen Branch	Just upstream of Belt Line Boulevard	*197
			Just upstream of Budon Court	*[illegible]
		Orphanage Branch	Just upstream of Sunnyside Drive	*212
		Eightmile Branch	Just downstream of Gamewell Drive	*172
			Just downstream of Javrac Court	*181
			Approximately 75 feet downstream from Covenant Road	*197
			Just upstream of Covenant Road	*202
			Just upstream of Deerfield Drive	*216
		Tributary E-1	Just upstream of Roberts Spring Road	*204
			Just upstream of Barnes Spring Road	*217

Maps available at City Administrator's Office, 5205 Trenholm Road, Forest Acres, South Carolina 29206.

Send comments to Mr. F. C. Benton, City Administrator or James Scott, Planning Commissioner, 5205 Trenholm Road, Columbia, South Carolina 29206.

Texas	City of Bryan, Brazos County	Carters Creek	At confluence of Briar Creek	*274
			Just upstream of Harvey Road (FM 158)	*283
		Tributary B	Approximately 80 feet downstream of Old Reliance Road	*309
			Just upstream of Moss Street	*312
		Briar Creek	Just downstream of Briar Crest Drive	*283
			Approximately 80 feet upstream of Broadmore Street	*296
			Just upstream of Villa Maria Road	*305
		Hudson Creek	Just downstream of HWY 58	*279
		Burton Creek	Just upstream of West Frontage Road-State HWY 6 Bypass	*286
			Just upstream of Tangle Wood Drive	*293
		Tributary C	At confluence with Burton Creek	*292
		Tributary D	Just downstream of Texas Avenue	*294
			Just upstream of Villa Maria Road	*300
		Still Creek	Approximately 80 feet upstream of FM 2818	*280
			Approximately 30 feet upstream of FM 1687 (Sandy Point Road)	*296
			Just upstream of Mumford Road	*317
		West Fork of Still Creek	Approximately 10 feet downstream of U.S. HWY 190	*328
		Tributary A	Approximately 50 feet upstream of confluence with Still Creek	*290
		Cottonwood Branch	Approximately 500 feet upstream of FM 2818	*295
			Approximately 50 feet upstream of Palasota Drive	*320

Maps available at City Hall, 28th and Regent, P.O. Box 1000, Bryan, Texas 77801.

Send comments to Mayor Richard Smith or Mr. Ernest Clark, City Manager, 28th and Regent, P.O. Box 1000, Bryan, Texas 77801.

Texas	City of Castle Hills, Bexar County.	Olmos Creek	Just upstream southwestern corporate limits (Jackson Keller Road)	*772
			Just upstream of U.S. Highway 410 Westbound Access Road	*776
		Olmos Creek Tributary	Just upstream of Irongate Street	*806

Maps available at City Secretary's Office, Castle Hills City Hall, 6915 West Avenue, San Antonio, Texas 78213.

Send comments to Mayor H. P. Lundblade or Dawn Rogers, City Secretary, Castle Hills City Hall, 6915 West Avenue, San Antonio, Texas 78213.

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Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Locations	#Depth in feet above ground. *Elevation in feet (NGVD)
Texas	City of Lockhart, Caldwell County	Town Creek	Just upstream of East Market	*478
			Just upstream of North Commerce Street	*495
			Just downstream of North Blanco Street	*510
			Just upstream of Stueve Road	*536
	Maps available at City Hall, 308 W. San Antonio Street, Lockhart, Texas 78644.			
	Send comments to Mayor W. E. Chesser or Mr. C. E. Massey, City Manager, City Hall, 308 W. San Antonio Street, Lockhart, Texas 78644.			
Washington	Clallam County Unincorporated Areas.	Dungenes River	Intersection of river and Woodstock Road	*83
			Intersection of river and U.S. Highway 101	*246
		Morse Creek	75 feet upstream of intersection of creek and Chicago, Milwaukee, St. Paul and Pacific Railroad Bridge.	
			Intersection of creek and Four Seasons Road	*110
				*56
		Elwha River	40 feet upstream of intersection of river and Elwha Road	*72
			Intersection of river and Washington Highway 112	*100
		Indian Creek	Intersection of creek and U.S. Highway 101	*495
		Whiskey Creek Tributary	50 feet upstream of intersection of tributary and State Highway 112	*356
		Clallam River	50 feet downstream of intersection of river and Weel Road	*19
		Bogachiel River	Confluence with Calawah river	*90
		Calawah River	Intersection of river and U.S. Highway 101	*221
		Elk Creek	10 feet downstream of intersection of creek and County Road	*351
		Soleduck River	Intersection of river and downstream crossing of U.S. Highway 101	
			100 feet upstream of intersection of river and Maxfield Road	*272
			Intersection of river and upstream crossing of U.S. Highway 101	*404
		Lake Creek	Intersection of creek and Tyee Street	*397
		Turnwater Creek	150 feet upstream of intersection of creek and U.S. Highway 101	*171
		Ennis Creek	30 feet upstream of intersection of creek and County Road	*88
		White Creek	Intersection of creek and corporate limits of the City of Port Angeles	*822
		Valley Creek	Intersection of creek and the corporate limits of the City of Port Angeles.	*150
		Dry Creek	Intersection of creek and the corporate limits of the City of Port Angeles.	*189
		Mill Creek	75 feet upstream of intersection of creek and U.S. Highway 101 (Town of Forks corporate limits).	*298
		Warner Creek	40 feet upstream of intersection of creek and U.S. Highway 101 (Town of Forks corporate limits).	*301
		Ford Creek	75 feet upstream of intersection of creek and Peterson Road	*820
			Intersection of Peterson Road and East Division Street	#1
		Straight of Juan de Fuca	Intersection of Jamestown Road and Cemetery Road	*12
		Lake Pleasant	100 feet upstream of Tyee Street	*369
	Maps available from Clallam County Courthouse, 223 East 4th, Port Angeles, Washington.			
	Send comments to Mr. Dick Lotzgesell, Chairman, Board of County Commissioners, Clallam County, Clallam County Courthouse, Office of the Commissioner, 223 East 4th, Port Angeles, Washington 98362.			
Washington	Fife (City), Pierce County	Wapato Creek	Intersection of 12th Street East and channel	*10
			Intersection of Goldau Road and 20th Street East	*15
			Approximately 140 feet upstream from intersection of 54th Avenue East and channel	*18
			West of the intersection of Valley Avenue and the southern corporate limits.	*20
	Maps available from City Hall, 5209 Pacific Highway East, Tacoma, Washington.			
	Send comments to the Honorable Joe Vraves, Mayor, City of Fife, City Hall, 5209 Pacific Highway East, Tacoma, Washington 98424.			
Washington	Toledo (City), Lewis County	Cowlitz River	Intersection of Alder Street and Fifth Street	*100
			Intersection of Fifth Street and Augustus Street	*100
			Easternmost end of Augustus Street	*102
			Approximately 280 feet upstream of the intersection of 2nd Street and Hemlock Street.	*106
	Maps available at City Hall, 130 Second Street, Toledo, Washington.			
	Send comments to Ms. Shirley Grubb, Acting Mayor, City of Toledo, City Hall, P.O. Box 236, Toledo, Washington.			

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19967; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: January 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-2841 Filed 1-30-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 81 and 83

[Gen. Docket No. 80–1; RM–3101; RM–3128; and RM–3129]

Allocating Spectrum for an Automated Inland Waterways Communications System (IWCS) Along the Mississippi River and Connecting Waterways; Correction

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry Order And Notice Of Proposed Rule Making.

SUMMARY: This errata makes two editorial typographical corrections and inserts file numbers of certain applications for the sake of clarity.

DATES: Comments be received on or before March 24, 1980 and reply comments must be received on or before April 23, 1980.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION: Robert DeYoung or Walter Weaver, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

Errata

Released: January 25, 1980.

In the matter of Amendment of Parts 2, 81 and 83 of the Commission's Rules to Allocate Spectrum for an Automated Inland Waterways Communications System (IWCS) along the Mississippi River and Connecting Waterways and, Maritime Mobile Radio Services: Improvement in Service Through Provision for Automated VHF Common Carrier Systems and, VHF Frequency Assignments To The Maritime Radio Services In the New Orleans and Lower Mississippi Rivers Areas and on the coastlines of the contiguous states; Gen. Docket No. 80–1, RM–31101, RM–3128, RM–3129.

1. In the Notice of Proposed Rule Making, Order and Notice of Inquiry in the above-captioned proceeding, (FR Doc. 80–1369, 45 FR 3064, Jan. 16, 1980) released January 11, 1980, FCC 80–2, several corrections are needed for purposes of clarification.

2. Paragraph 3, page 4, Petition W–P–G–2279 should read: W–P–C–2279 * * *.

3. Paragraph 33 should read: IT IS FURTHER ORDERED, that the applications filed by Waterway Communications System, Inc. prior to the filing of RM–3101, File Nos. 70 through 77–M–L–35, ARE DISMISSED without prejudice as moot.

4. Attachment C, number 1, is corrected to read: * * * will provide 50 channels per megahertz.

Federal Communications Commission,

William J. Tricarico,

Secretary.

[FR Doc. 80-3188 Filed 1-30-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80–27; RM–3275

FM Broadcast Station in Snowmass Village, Colo.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes assignment of a first Class A FM channel to Snowmass Village, Colorado, in repsonse to a petition filed by Pitkin County Broadcasters, Inc. The proposed channel could provide for a station which could bring a first local aural broadcast service to Snowmass Village.

DATES: Comments must be filed on or before March 24, 1980. Reply comments must be filed on or before April 14, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assingments*, FM Broadcast Stations. (Snowmass Village, Colorado), BC Docket No. 80–27, RM–3275.

Adopted: January 22, 1980.

Released: January 31, 1980.

1. *Petitioner, Proposal, Comments*—(a) *Notice of Proposed Rule Making* is given concerning amendment of the FM Table of Assignments § 73.202(b) of the Commission's rules) as it relates to Snowmass Village, Colorado.

(b) Petition for rule making [1] was filed on behalf of Pitkin County Broadcasters, Inc. ("petitioner"), seeking the assignment of FM Channel 280A to Snowmass Village, Colorado.[2]

Supporting comments were filed by Mountain Wireless, Inc. An opposition was filed by Recreation Broadcasting of Aspen, Inc. ("RBA"), licensee of FM Station KSPN, Aspen, Colorado, to which petitioner replied.

(c) Channel 280A can be assigned to Snowmass Village in conformity with the minimum distance separation requirements.

2. *Community Data*—(a) *Location.* Snowmass Village, in Pitkin County, is located in the western part of Colorado, approximately 24 kilometers (15 miles) from Aspen, Colorado.

(b) *Population.* Snowmass Village—1500 [3]; Pitkin County—6,185.[4]

(c) *Local Aural Broadcast Service.* None. It receives service from FM Station KSPN (Channel 249A), Aspen, Colorado.

4. *Community Status.* Petitioner claims that Snowmass Village has been a communtiy for about 11 years and has been incorporated as a town for about a year. Therefore, no population figures were included in the Bureau of Census publications. However, it notes that the Snowmass Planning commission estimates a population of 1,500 in the community, and projects a population of 15,000 by 1990. Petitioner adds that the Rand McNally Trade Atlas publishes a seasonal population figure of 8,000. Petitioner attaches a letter from the General Manager of the Snowmass Resort which states that cultural activities include a ballet company, concerts, theatre groups, and a host of recreational activities. There has been a 55% increase in retail sales between 1975 and 1977 for all industries in Pitkin County, according to petioner. It asserts that Snowmass Vilalge is growing and has developed a need for its own radio service. Petitioner urges that a broadcast station at Snowmass Village would aid in promoting employment, expansion of business, publicizing of cultural and recreational facilities and opportunities, and public knowledge of national and international news.

5. RBA, in opposition, contends that other than a general allegaton that the resort has been recently incorporated as a town, petitioner shows nothing in the record to demonstrate either the boundaries of the so-called town or indicates that the resort functions as a town. RBA argues that the resort was developed as a result of favorable skiing

[1] Public Notice of the petition was given on December 21, 1978, Report No. 1156.

[2] Petitioner had previously referred to the requested community as Snowmass in its petition. It later amended its petition to clarify its intention to serve Snowmass Village as distinguished from the community of Snowmass which is located less than 5 kilometers (3 miles) from Snowmass Village. Petitioner notes that Snowmass Village is a newer community and substantially larger than Snowmass. It also indicates that no other change in its petition is necessary since the difference of less than 3 miles would not affect any presently licensed or assigned facilities.

[3] There is no Census figure listed for Snowmass Village. However, petitioner states that the Snowmass Planning commission estimates a population of 1,500.

[4] Population figure taken from the 1970 U.S. Census.

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conditions in the Aspen area and is one of several such resorts but does not qualify as a community by Commission standards. RBA cites Commission decisions in which similar requests were rejected.[5] Although petitioner indicates that Snowmass Village needs its own voice because of cultural activities, RBA contends that such matters hardly establish a community for the purpose of obtaining an FM assignment. RBA asserts that petitioner has failed to establish that Snowmass Village is a community or that it is otherwise entitled to an FM assignment.

6. In reply, petitioner contends that Snowmass Village has been incorporated and is organized and functioning as a town and there is no need to disassociate the town from the resort. It points out that Snowmass Village has a Mayor, City Council, two private schools, a bank, fire department, police force and civic organizations. It notes also that a new post office is under construction. Petitioner distinguishes the cited cases of *Coker, Alabama,* as not being an incorporated community, while *Camp Lejeune* relied too heavily on Jacksonville, North Carolina, for its economic well-being, and *Boca Chica Key, Florida,* another military installation, had declined substantially and planned to close. Finally, petitioner argues that while Snowmass Village was incorporated so recently that it does not yet have all the services that may be considered "indicia of a community," it already has the more important ones.

7. We are satisfied from the information supplied by petitioner that Snowmass Village has the necessary indicia to classify the place as a community. As an incorporated town with an autonomous governing body, it is able to function so as to provide service to residents. It appears that these residents, an identifiable unit, have separate interests, albeit resort-oriented, and needs which can be addressed by local broadcast service. Thus, we have no difficulty finding Snowmass Village to possess enough community characteristics to warrant a proposal for a local FM channel assignment.

8. Accordingly, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, as it pertains to Snowmass Village, Colorado, as follows:

[5] RBA cites *Camp Lejeune, N.C.*, 43 FR 33772 (1978); *Boca Chica Key, Fla.*, 43 FR 38607 (1978); and *Coker, Ala.*, 43 FR 26082 (1978).

City	Channel No.	
	Present	Proposed
Snowmass Village, Colorado		255A

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements, are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix below before a channel will be assigned.

10. Interested parties may file comments on or before March 24, 1980, and reply comments on or before April 14, 1980.

11. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission procedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or writen) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, replay comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-3080 Filed 1-30-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-22; RM-3286]

FM Broadcast Station in Mt. Vernon, Ohio; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This action proposes the assignment of Channel 252A to Mt. Vernon, Ohio, as its second FM assignment, in response to a petition filed by Bellevue Community Broadcasting. The proposal would offer a diversity of local broadcast ownership in Mt. Vernon.

DATES: Comments must be filed on or before March 24, 1980. Reply comments must be filed on or before April 14, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 22, 1980.

Released: January 31, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Mt. Vernon, Ohio), BC Docket No. 80-22, RM-3286.

1. The Commission has before it a petition for rule making filed by Bellevue Community Broadcasting ("Petitioner"), proposing the assignment of FM Channel 252A to Mt. Vernon, Ohio, as its second FM assignment.[1] No comments have been filed.

2. Mt. Vernon (pop. 13,373) [2] the seat of Knox County (pop. 41,795), is located in the center of the State of Ohio. It is approximately 65 kilometers (40 miles) northeast of Columbus. Mr. Vernon is presently served by the co-owned stations WMVO(AM) and WMVO-FM (Channel 229).

3. Petitioner states that the public interest will be served by a diversity of media ownership within the Mt. Vernon area. According to petitioner, his diversity of ownership will result in different views and programming being presented to listeners of the community. At present WMVO(AM) and FM are co-owned and simultaneously broadcast a portion of their daily programming. Petitioner has submitted a community profile of Mt. Vernon which adequately supports a need for a second FM assignment to that community.

4. Petitioner alleges that a proposd Class A FM station operating with maximum power and antenna height would serve, in addition to Mt. Vernon, several nearby communities without local aural service.

5. Channel 252A may be assigned to Mt. Vernon without affecting any existing FM assignment. However, the transmitter site must be located 8 kilometers (5 miles) north of the community. Since this location is within 250 miles of the U.S.-Canada border, Canadian concurrence must be obtained.

6. The requested assignment of Channel 252A to Mt. Vernon would cause no new preclusion on the adjacent channels (Channels 249A, 250, 251, 253, 254, 255). Only co-channel (Channel 252A) preclusion occurs. This newly precluded area is only a small section around the proposed transmitter site and does not contain any communities over 1,000 persons.

[1] Public Notice of the petition was given on January 3, 1979, Rept. No. 1157.

[2] Population figures are taken from the 1970 U.S. Census.

7. Since Mt. Vernon already has a Class B channel assigned and operating, the proposed Class A assignment would create intermixture of classes of channels. However, we generally permit this type of intermixture where, as here, there is a person interested in applying for the Class A channel despite the competitive disadvantage. See *Yakima, Washington,* 42 FCC 2d 548 (1973).

8. In view of the apparent need for a second FM station in Mt. Vernon, and the fact that no significant new preclusion would result from this assignment, we believe that consideration of the proposal described above would be in the public interest.

9. Accordingly, it is proposed to amend, the FM Table of Assignments, § 73.202(b) of the Commission's rules, as follows:

City	Channel No.	
	Present	Proposed
Mt. Vernon, Ohio	229	229,252A

10. Authority to institutte rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix below before a channel will be assigned.

11. Interested parties may file comments on or before March 24, 1980, and reply comments on or before April 14, 1980.

12. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communication's Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceedings, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of te Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 80-3081 Filed 1-30-80; 8:45 am]

BILLING CODE 6712-01-M

V 45 / 22 JAN 31 1980 UMI

47 CFR Part 73

[BC Docket No. 80-24; RM-3527]

FM Broadcast Station in Boyce, La.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a first Class A FM assignment to Boyce, Louisiana, in response to a petition filed by Robert Allen. The proposed channel can be used to bring a first local aural broadcast service to the community.

DATES: Comments must be filed on or before March 24, 1980, and reply comments must be filed on or before April 14, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 22, 1980.

Released: February 1, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Boyce, Louisiana), BC Docket No. 80-24, RM-3527.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making[1] was filed by Robert Allen ("petitioner"), proposing the asignment of FM Channel 252A to Boyce, Louisiana, as a first FM assignment. No responses to the petition have been received.

(b) The channel can be assigned in compliance with the minimum distance separation requirements.

(c) Petitioner states he will file for the channel, if assigned.

2. *Community Data*—(a) *Location.* Boyce, in Rapides Parish, is located on the west bank of the Red River, approximately 161 kilometers (100 miles) southeast of Shreveport, Louisiana.

(b) *Population.* Boyce—1,240[2]; Rapides Parish—18,078.

(c) *Local Aural Broadcast Service.* None.

3. *Economic Considerations.* Petitioner states that Boyce's present commercial and service economy consists of three types: Strip highway commercial development; central business district; and a small percentage of scattered neighborhood developments. He asserts that the proposed station would provide the community with a local information source for disaster and flood warnings, local news, public affairs and entertainment programming. Petitioner has submitted demographic data with respect to Boyce in order to show the need for a first local aural broadcast service in that community.

4. We believe it appropriate to consider the proposed assignment to bring a first local aural broadcast service to Boyce, Louisiana, and to that end are proposing to amend § 73.202(b) of the Commission's rules, the FM Table of Assignments, by the following addition:

City	Channel No.	
	Present	Proposed
Boyce, Louisiana		252A

5. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements, are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix below before a channel will be assigned.

6. Interested parties may file comments on or before March 24, 1980, and reply comments on or before April 14, 1980.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 80-3064 Filed 1-30-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Public Notice of the petition was given on November 19, 1979, Report No. 1200.

[2] Population figures are taken from the 1970 U.S. Census.

47 CFR Part 73

[BC Docket No. 80-23; RM-3486]

FM Broadcast Stations in Blue Earth and St. James Minn.; Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the deletion of FM Channel 265A from Blue Earth, Minnesota, and its reassignment to St. James, Minnesota, in response to a petition filed by Richard Rogers. The proposed St. James station could provide for a first local aural broadcast service to that community.

DATES: Comments must be filed on or before March 24, 1980, and reply comments must be filed on or before April 14, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 22, 1980.

Released: February 1, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Blue Earth and St. James, Minnesota), BC Docket No. 80-23, RM-3486.

1. The Commission has before it a petition for rule making [1], filed by Richard Rogers ("petitioner"), requesting the deletion of FM Channel 265A from Blue Earth, Minnesota, and its reassignment to St. James, Minnesota. Channel 265A at Blue Earth is unoccupied and unapplied for. No responses to the petition have been received.

2. Blue Earth (pop. 3,965) [2], in Faribault County (pop. 20,896), is located approximately 161 kilometers (100 miles) southwest of Minneapolis, Minnesota. It is served locally by daytime-only AM Station KBEW. It has one FM assignment, Channel 265A. St. James (pop. 4,027), in Watonwan County (pop. 13,298), is located approximately 199 kilometers (120 miles) southwest of Minneapolis, Minnesota. It has no local aural broadcast service or FM assignments.

3. Petitioner states that neither St. James, nor any other community in Watonwan County, has any aural broadcast service, or FM channel assignments. In support of its petition, petitioner has submitted information with respect to St. James in order to demonstrate the need for the assignment of a first FM channel.

4. The proposed assignment meets the minimum distance separation requirements. The channel deletion at Blue Earth represents the only change in any existing assignments in the Table of Assignments by petitioner's proposal. As indicated, Blue Earth already has a local aural broadcast service, and no interest has been expressed for use of the FM channel assigned to that community.[3] Since the proposed assignment could be used to bring a first local aural broadcast service to St. James, a somewhat larger community than Blue Earth, we are proposing the reassignment of Channel 265A from Blue Earth to St. James, Minnesota.

5. In view of the foregoing, and pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is proposed to amend the FM Table of Assignments (§ 73.202(b)) to read as follows:

City	Channel No.	
	Present	Proposed
Blue Earth, Minnesota	265A	
St. James, Minnesota		265A

6. Authority to institute rule making proceedings, showings required, cutoff procedures, and filing requirements, are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix below before a channel will be assigned.

7. Interested parties may file comments on or before March 24, 1980, and reply comments on or before April 14, 1980.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignments is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four

[1] Public Notice of the petition was given on September 19, 1979, Rept. No. 1192.

[2] Population figures are taken from the 1970 U.S. Census.

[3] In a letter from counsel for John E. Linden, the Commission was informed that although counsel's client was interested in applying for the Blue Earth assignment, it is no longer desirous of doing so.

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copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 80-3085 Filed 1-30-80; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-25; RM-3477]

FM Broadcast Station in Centralia, Mo.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposed the assignment of a Class A FM channel to Centralia, Missouri, in response to a petition filed by Kenneth W. Kuenzie and Ronald R. Wenneker. The proposed channel could provide for a station which can render a first FM aural broadcast service to the community.

DATES: Comments must be filed on or before March 24, 1980. Reply comments must be filed on or before April 14, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFOMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 22, 1980.

Released: February 1, 1980.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Centralia, Missouri), BC Docket No. 80-25, RM-3477.

1. *Petitioner, Proposal, Comments*—(a) *Notice of Proposed Rule Making* is given concerning amendment of the FM Table of Assignments (§ 73.202(b) of the Commission's rules) as it relates to Centralia, Missouri.

(b) A petition for rule making [1] was filed by Kenneth W. Kuenzie and Ronald R. Wenneker ("petitioners"), proposing the assignment of FM Channel 221A to Centralia, Missouri, as that community's first FM assignment. No responses to the petition were filed.

(c) Channel 221A can be assigned to Centralia in compliance with the minimum distance separation requirements.

(d) Petitioners state that they will apply for the channel, if assigned.

2. *Community Data*—(a) *Location.* Centralia, in Boone County, is located approximately 200 kilometers (125 miles) west of St. Louis, Missouri.

(b) *Population.* Centralia—3,623; Boone County—80,000.[2]

(c) *Local Aural Broadcast Service.* None.

3. *Economic Data.* Petitioners state that Centralia is an important agricultural area in which there are also several industries, including publishing and electronics. In addition, several universities are located nearby. Demographic data has been presented to show the necessity of having an FM channel assigned to Centralia to meet the growing needs of the agricultural, industrial, and educational communities.

4. In view of the need for a first local aural broadcast service in Centralia, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, as it pertains to Centralia, Missouri:

City	Channel No.	
	Present	Proposed
Centralia, Mo		221A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements, are contained in the attached Appendix below and are incorporated by reference herein.

Note:—A showing of continuing interest is required by paragraph 2 of the Appendix below before a channel will be assigned.

6. Interested parties may file comments on or before March 24, 1980, and reply comments may be filed on or before April 14, 1980.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this preceding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at it headquarters, 1919 M Street, NW., Washington, D.C.

[1] Public Notice of the petition was given on September 19, 1979, Report No. 1192.

[2] Population data are taken from the 1970 U.S. Census.

[FR Doc. 80-3087 Filed 1-30-80; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-26; RM-3332]

FM Broadcast Station in Ravenswood, W. Va.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a first Class A FM assignment to Ravenswood, West Virginia, in response to a petition filed by Rex Osborne. The proposed channel could provide for a first full-time local aural broadcast service to Ravenswood.

DATES: Comments must be filed on or before March 24, 1980. Reply comments must be filed on or before April 14, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 22, 1980.

Released: February 1, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Ravenswood, West Virginia), BC Docket No. 80-26, RM-3332.

1. *Petitioner, Proposal, Comments.* (a) A petition for rulemaking [1] was filed by Rex Osborne ("petitioner"), proposing the assignment of either FM Channel 272A or 288A to Ravenswood, West Virginia. The proposal of Channel 288A conflicts with a pending proposal for assignment of the same channel to Greenup, Kentucky (BC Docket No. 79-180). Therefore, rather than delay the proposal of a Class A assignment to Ravenswood, we are considering the alternative proposal to that community.

(b) The channel can be assigned in compliance with the minimum distance separation requirements.

(c) Petitioner states he will apply for the channel, if assigned.

2. *Community Data*—(a) *Location.* Ravenswood, in Jackson County, is located approximately 39 kilometers (24 miles) southwest of Parkersburg, West Virginia.

(b) *Population.* Ravenswood—2,240; [2] Jackson County—20,903.

(c) *Local Aural Broadcast Service.* Ravenswood is served locally by daytime-only AM Station WMOV.

3. *Economic Data.* Petitioner asserts that the most recent figures of the Ravenswood Chamber of Commerce show its population to be over 5,000. He states that manufacturing is the predominant industry in the Ravenswood area. Petitioner has submitted demographic and economic data with respect to Ravenswood in an effort to show the need for an FM assignment.

4. Since Ravenswood is located within 402 kilometers (250 miles) of the U.S.-Canada border, the proposed assignment of Channel 272A to Ravenswood, West Virginia, requires coordination with the Canadian Government before it can be adopted.

5. In view of the fact that the proposed FM channel could provide a first full-time local aural broadcast service, the Commission proposes to amendment the FM Table of Assignments, § 73.202(b) of the rules, with regard to Ravenswood, West Virginia, as follows:

City	Channel No.	
	Present	Proposed
Ravenswood, W. Va		272A

6. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix below before a channel will be assigned.

7. Interested parties may file comments on or before March 24, 1980, and reply comments on or before April 14, 1980.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rulemaking other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

[1] Public Notice of the petition was given on March 14, 1979, Report No. 1167.

[2] Population figures are taken from the 1970 U.S. Census.

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6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-3088 Filed 1-30-80; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. MC 137 [1]]

No Suspend Zone—Motor Common Carriers of Property

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Interstate Commerce Commission is considering establishment of a "no suspend zone" for freight rates published by motor common carriers of property. Here, the Commission is considering a no suspend zone for general application to the entire industry. In the subproceedings in Ex Parte No. MC–135, Master Certificates and Permits, the Commission proposes to consider refinement of the concepts raised here for application to each of the various specialized segments of motor common carriers of property. We contemplate that a no suspend zone developed in this proceeding or in Ex Parte No. MC—135 would only apply for rates published individually by carriers and would not extend to rate changes proposed by carriers collectively through a rate bureau.

Within the no suspend zone, proposed rates would neither be suspended nor investigated on grounds that the rates appear to be unreasonably high or low. The no suspend zone is expected to enhance ratemaking flexibility and rate competition, resulting in lower rates on balance and a greater diversity of rate/service alternatives to the benefit of the shipping and consuming public and the motor common carrier system. The approach is based in part on the recommendations contained in the Initial Report (published May, 1979) of the Motor Carrier Task Force. Copies of this document are available from the Commission's Secretary.

DATES: Comments are due March 3, 1980.

ADDRESSES: Send an original and 15 copies of comments to: Office of Proceedings, Room 5356, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard Felder, (202) 275–7693.

SUPPLEMENTARY INFORMATION: The Task Force recommended that rates for transportation of traffic handled pursuant to the relaxed entry procedures be published in individual tariffs to the carriers.

It is our belief that, through establishment of no suspend zone, increased competition may be readily translated into rates which are more representative of market conditions. The net result should be improved transportation, distribution, and location practices which produce benefits for the economy.

By this notice the Commission is seeking public comments on the Task force proposal the FTC petition, and possible amendments to both, as discussed herein, to establish a zone within which motor carriers may raise and lower their rates without risk of suspension or investigation on grounds that the rates are unreasonably high or low. We contemplate that proposed rates within this no suspend zone would be immune from challenge at the suspension level by other carriers of any mode of transportation, their rate bureaus, shippers, consignees, or any other persons, or by this Commission, unless the rates appear to be unfair and destructive competitive practices, unduly prejudicial and preferential, unjustly discriminatory, beyond the scope of the proponent's operating authority, or in violation of an outstanding order or regulation of this Commission. Otherwise, rate changes within the zone might be taken at any time and as needed, within the carrier's managerial discretion. We also seek comments on establishment of a more limited no notice zone within which rate changes would not be noticed and published nor subject to suspension or investigation on any grounds whatsoever. We further contemplate that these competitive ratemaking freedoms would only apply for rates published individually by carriers and would not extend to rate increases (or reductions) proposed by carriers collectively through a rate bureau.

The Task force recommended that the no suspend zone be established around a base rate; once a carrier has established its base rate subject to protest and possible suspension, the carrier may then, by tariff publication, designate a no suspend zone around that base rate within which its rates may fluctuate freely without fear of protest, except on limited grounds, from competing carriers or modes, or from shippers. The Task Force concluded that downside rate flexibility would enhance competition, while upside rate flexibility would provide incentive to assure that the full spectrum of service levels is available to shippers and receivers." Thus, the no suspend zone would enable motor carriers to respond rapidly to varying market conditions with rates which are competitively priced and which offer a broad variety of rate/service options, while at the same time enhancing the ability of carriers to meet their service commitments.

The Task Force recommended that the ceiling and floor of the zone be based on cost formulas. A "presumption of reasonableness" would attach to rates within the zone, and such rates could not be suspended unless they are "clearly unreasonable, predatory, or discriminatory, or represent an embargo on traffic." The Task Force also contemplated the creation, for certain segments of the motor common carrier industry, of a narrow "no notice zone" within the zone and built around the same base rate. Within this no notice zone a common carrier would be free to contract rate changes with shippers without public notice or publication, thus augmenting carrier responsiveness to changing local circumstances.

On April 6, 1979, the Federal Trade Commission filed a petition containing a similar proposal, which it also designated as a "zone of reasonableness". FTC suggested that, at least initially, present rates should be used as the base rate around which the zone would be contructed, and that the zone's bottom limit should be 40 to 50 percent below present rates. FTC recommended that rates on the downside of the zone be considered reasonable beyond any challenge, while rates on the upside of the zone be presumed reasonable but subject to protest.

The Commission's suspension authority is derived from 49 USC § 10708 (formerly section 216(g) of the Interstate Commerce Act). The United States Supreme Court has found that the Commission has complete discretion in the exercise of its suspension power. In *Arrow Transportation Co.* v. *Southern R. Co.*, U.S. 658 (1963), the Court found that sole and exclusive power to suspend is vested in the Commission and withdrawn from the judiciary. In *United States* v. *SCRAP*, 412 U.S. 669 (1973), the Court reaffirmed this principle, finding that a district court injunction against rates which the Commission refused to suspend "constitutes a direct interference with the Commission's discretionary decision whether or not to suspend the rates." In *In re Trans Alaska Pipeline Rate Cases*, 436 U.S. 631(1978), the Court found that the Commission has power ancillary to its suspension authority to establish maximum interim rates which it would allow to go into effect during the suspension period. Finally, in *Southern R. Co.* v. *Seaboard Allied Milling Corp.*, decided June 11, 1979, (no. 78–575), the Court held that the Commission's decision not to investigate, like a decision not to suspend, is discretionary and not subject to judicial review.

In addition, we take note of our general authority under 49 U.S.C. 10321 to prescribe rules for carrying out our responsibilities under the statute. We believe that authority permits adoption of general policies appropriate to particular classes of cases if they are consistent with the statute, based on consideration of all relevant factors, and rationally explained. Moreover, in the area of ratemaking, the Supreme Court has consistently accorded administrative agencies broad discretion to fashion effective and expeditious methods for performing their regulatory functions. See, e.g., *Permian Basin Area Rate Cases*, 390 U.S. 747, 776–777 (1968). As now informed, we believe that these statutory and judicial authorities provide ample basis for the proposed establishment of a no suspend zone.

We believe that the language of 49 USC 10708, as interpreted by the decisions of the Supreme Court, provides authority sufficient to permit establishment of a no suspend zone.[2]

Participants in this proceeding should also address the following matters:

1. Does the Commission's statutory authority (49 USC 10708) permit adoption of a no suspend zone? Might the Commission establish a no notice zone by blanket special permission under 49 USC 10762(d)?

2. In a competitive motor transportation environment, will a no suspend zone or no notice zone promote ratemaking flexibility and competitive pricing? Will they tend to foster reasonable rate levels and reliable service to shippers?

3. What effects will the proposal have on other modes of transportation? How might a no suspend zone for motor common carriers best be structured in view of our policies and pending proceedings regarding railroad ratemaking flexibility?

4. Should base rates, around which the zones would be calculated, be selected or are present rates practical and adequate for use as base rates? Should a cost formula, or some other approach, be used to devise the base rate? If so, what formula or other approach would be most appropriate?

5. In order to remain at a reasonable level, the base rate may require adjustments from time to time to take account of changes in activity and inflation on carrier operating cost. There are three alternative ways the adjustment could take place. First, the Commission could adjust the base; second, rate bureaus could propose adjustments that would be approved by the Commission and third, individual carriers could adjust their own individual bases. What are the relative merits of these three alternatives?

(a) In the event the Commission elects to adjust the base itself, should it develop and apply productivity and inflation standards or indicies for the motor common carrier industry generally, or by territories, or for specialized segments of the industry, or for individual carriers, how should standards or indicies be designed, and which standards or indices might be most appropriate? Should the Commission consider base readjustments for prospective changes in productivity and inflation?

(b) We believe non-competitive collection ratemaking carriers a potential for abuse in the absence of rate regulation. In the event the Commission elects to allow rate bureaus to propose increases in the base rates should they be treated as general rate increases? Are there any circumstances where the proposal should apply to increases in actual rates proposed by carriers collectively through a rate bureau or only for rates proposed by individual carriers entirely on their own initiative?

(c) If individual carriers are allowed to establish their own individual bases for the zone, one alternative is to allow any rate approved by the Commission, using the zone or using other procedures, to become the base for future changes? Is this practical? Are other alternatives available? Should the size of the zone be subject to change depending on changes in the rate of inflation and other factors?

6. What should be the upward and downward limits of the no suspend zone? "There should be expressed in terms of percentages above and below the base rate, such as 7% up and 25% down. N.B. the Commission is not limiting the zone to these particular numbers. No party should assume that larger percentages are out of the question." If the no suspend zone is fairly narrow, would a no notice zone within it still be useful?

The size of the zone is of special concern to the Commission. We wish to provide sufficient downward ratemaking flexibility to enable regulated motor carriers to compete with each other and with carriers of other modes, so that the benefits of competition can be fully realized by the shipping public and by consumers. Under the Commission's liberalized entry policy, new actual or potential competition should, for most segments, deter carriers from abusing their freedom to raise rates. However, an upward limit to the zone is necessary as long as there are even minimal barriers to entry. Otherwise, competitive abuses, could occur. On the other hand, upward rate flexibility must be sufficient to take account of transportation characteristics which are relatively costly to efficient carriers, to assure adequate service to those shippers and receivers whose traffic is less attractive, and to permit higher rates for premium services.

7. What factors, particularly measures of carrier costs, should be taken into account in calculating the upper and lower bounds of the no suspend zone or the no notice zone?

8. Should the extent of carrier competition be quantified and considered in establishing zone limits?

9. What other factors, in addition to cost of service and competition, should be considered in calculating the size of the zones?

10. We believe that a no suspend zone could encourage competition and increase efficiency by permitting quick rate adjustments for, for example, backhaul, seasonal, and other demand sensitive movements. We seek comments on these specific points.

11. Should the Commission attach a presumption of reasonableness to rates which it does not suspend? If so, should rates within the no suspend zone be presumed reasonable subject to protest, and rates within the no notice zone be declared reasonable beyond challenge? Or should all rates below the base rate be declared reasonable while rates on the upside of either zone be presumed reasonable but subject to protest? Should shippers or other interested parties remain free to file formal complaints on the reasonableness of rates falling within either of these zones? Should guidelines be drawn to limit complaints to certain situations only?

[1] In formulating this notice we have considered the Federal Trade Commission (FTC) petition docketed as No. 37160, Zone of Reasonableness—Petition for Rulemaking that proceeding will be closed and the petition transferred to the docket in this rulemaking.

[2] Although three of the cases cited involved railroad or oil pipeline rates, the statutory language interpreted by the Court was the same as that applicable to motor carriers.

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12. Should separate no suspend zones (and no notice zones) be developed for general commodities carriers and for specialized commodities carriers? Should separate zones be developed for each segment or groups of segments of specialized carriers (e.g., household goods carriers, heavy haulers, steel and metal haulers, bulk materials carriers, etc.) to reflect particular cost and operating conditions and the degree of competition among firms? What should be the criteria for differentiating among the different segments in this respect (costs, competition, fluctuation in demand or other relevant circumstances)? If costs, how should cost be calculated? By what formulas? With what evidence?

In this proceeding we are considering adoption of uniform zone limits (such as 7 percent up and 25 percent down) for all motor common carriers of property. However, differing cost and market factors may warrant establishment of separate no suspend zones (and no notice zones) for various specialized carrier segments. The limits of a general zone adopted in the proceeding for the entire industry may be expanded or contracted in one or both directions for each of the various specialized carrier segments to be addressed in the twelve sub-proceedings [1] to Ex Parte No. MC-135, Master Certificates and Permits. In those sub-proceedings, we intend to examine the need for varying zones for each of the carrier segments, and the limits of such zones. The degree of refinement, if any, or changes to a general zone if adopted in this proceeding, would depend on the particular competitive conditions shown to exist in each of the specialized fields, based on the record made in each of those sub-proceedings. Thus, the broad issues regarding adoption of a no suspend zone will be resolved here and parties to the sub-proceedings who wish to comment on the concept must do so in this proceeding. The sub-proceedings will rely on the record here insofar as broad issues are concerned. These issues may not be relitigated in the sub-proceedings.

13. Is the no suspend zone and a no notice zone best suited for application to point-to-point or distance commodity rates published independently by individual carriers? Or, if adopted should the zones also be applied to other proposed changes in tariff rates, charges, or provisions such as classification rating and class rates, truckload minimum weights, LTL minimum charges, accessorial charges, arbitrary or differential rates and charges, aggregate rates or charges, pickup or delivery charges, stopoff charges, capacity load charges, detention charges, allowances, released rates, or proposed changes in tariff rules or regulations, or practices?

14. What is the appropriate relationship between a no suspend zone and the existing fuel surcharge? Should the fuel surcharge apply when a firm is setting rates under the no suspend zone mechanism? Should the fuel surcharge be included in the calculation of the initial base rate?

15. Is it desirable for the Commission to use parallel regulatory schemes to control rates: one based on rate flexibility using a no suspend zone as described here, the other based on collective ratemaking under some general rate of return standard to limit carrier profitability?

16. Should carriers who chose to use one of these ratesetting mechanisms initially be permitted to switch to the other at a later date? If so, under what conditions? For example, should carriers who initially choose to operate under collective ratemaking, including perhaps a rate of return ceiling, be allowed to switch to the no suspend zone mechanism at a future date and use collectively determined rates as the "base rates" for the purpose of calculating the zone? Or, should the base rate be calculated from the initial "rate in effect" at the time the zone was promulgated with whatever standard adjustments were applied in the intervening period?

17. Should a carrier be allowed to use the no suspend zone mechanism for some rates while relying on collective ratemaking for others? Would the simultaneous use of these two mechanisms create difficulties for justifying or scrutinizing collectively proposed general rate increases?

18. How would the interaction of this proposal, the continuation of collective ratemaking, and the Commission's deliberations in Ex Parte No. MC-128, *Revenue Need Standards in Motor Carrier General Increase Proceedings* affect carriers and shippers?

Oral hearing and oral argument do not appear necessary at this time but may be scheduled later. Anyone wishing to present views and evidence will be permitted to do so by submitting for consideration written statements of facts, views and arguments on the subject mentioned above or any other subjects pertaining to the proceeding. Those involved in the sub-proceedings in Ex Parte No. 135 are reminded that the only issue relative to the no suspend zone that will be determined in those proceedings is whether refinements to the zone, if adopted here, will be made for particular groups. The petition filed by FTC on April 6, 1979, under Docket No. 37160, Zone of Reasonableness—Petition for Rulemaking, will be incorporated into the record in this proceeding and that docket number will be closed.

Dated: December 31, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Chairman O'Neal not participating. Vice Chairman Stafford, concurring in part, dissenting in part. Commissioner Gresham concurring.

Agatha L. Mergenovich,
Secretary.

Vice Chairman Stafford (Concurring in Part, Dissenting in Part)

My support for this proceeding is based on the usefulness which this record may provide Congress in its review of the motor carrier laws. Likewise, the data developed should assist the Commission in reaching its decision in the Ex Parte MC-135 cases. I dissent, however, from the negative statements made regarding the existing regulatory scheme and the current ratemaking process, and I would not limit this flexibility to individual carrier increases. I am also concerned about certain legal issues which are overlooked. For example, how does the "no-notice zone" impact on the common carrier obligation? Likewise, do the parties in the Ex Parte MC-135 cases have sufficient notice of the direct relation of this proceeding? Finally, I am concerned that some of the listed questions imply that we intend to implement this change prior to Congressional action in the motor carrier area. I believe this would violate our commitment to Congress to await possible statutory revisions.

Commissioner Gresham (Concurring)

I believe that the information which will be gathered in this proceeding may be useful to Congress in its reexamination of the laws which govern regulation of the motor carrier industry. For this reason I have agreed to the institution of this proceeding.

[FR Doc. 80-3157 Filed 1-30-80; 8:45 am]
BILLING CODE 7035-01-M

[1] Sub-No. 1—Heavy and Specialized Haulers (including oilfield haulers and others); Sub-No. 2—Temperature Controlled Service; Sub-No. 3—Lumber and building materials; Sub-No. 4—Metals; Sub-No. 5—Bulk Materials; Sub-No. 6—Household Goods; Sub-No. 7—Armored Car & Related Services; Sub-No. 8—Vehicles (Haulaway); Sub-No. 9—Wrecker Service; Sub-No. 10—Boats; Sub-No. 11—Courier Services; Sub-No. 12—Film Carriers.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

20 CFR Parts 404 and 416

[Regs. Nos. 4 and 16]

Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Experiments To Improve the Hearing Process by Having SSA Represented at the Hearing

AGENCY: Social Security Administration, HEW.

ACTION: Notice of public meetings.

SUMMARY: The Social Security Administration (SSA) announced proposed regulations in the **Federal Register** on January 11, 1980 (page 2345) dealing with a hearing experiment in four locations. The experiment would allow an SSA representative to present and defend SSA's case at a hearing before an Administrative Law Judge if the claimant is represented by an attorney at the hearing.

As stated in the Notice of Proposed Rule Making, the experiment is only one part of SSA's extensive efforts to improve the overall disability decisionmaking process. The thrust of all the changes under consideration is to provide better decisions earlier in the process, to sharpen the issues presented to the Administrative Law Judge and to streamline the process.

Recognizing the significance of these issues, we will conduct public hearings on the proposal during the 60-day public comment period. Comments are invited also on what other changes can be made to improve the decisionmaking process.

DATES: The hearings will be held in the four experimental sites as follows:

February 6, 1980—Phoenix, Ariz.
February 20, 1980—Roanoke, Va.
February 21, 1980—Columbia, S.C.
February 27, 1980—Boston, Mass.

ADDRESSES:

City, Date, and Place

Phoenix, Arizona
February 6, 1980
10:00 a.m.
Harasupai Room
Adams Hotel
Central at Adams
Phoenix, AR

Contact: Mr. Tony Vierra, Social Security Administration, 100 Van Ness Avenue, San Francisco, California 94102, telephone (415) 556-7029.

City, Date, and Place

Roanoke Virginia
February 20, 1980
1:00 p.m.
6th Floor Conf. Room
Poff Federal Building
210 Franklin Road
Roanoke, VA

Contact: Mr. Tom Niessen, Social Security Administration, P.O. Box 8788, 3535 Market Street, Philadelphia, Pennsylvania 19101, telephone (215) 596-1506.

City, Date, and Place

Columbia, South Carolina
February 21, 1980
1:00 p.m.
Room 817
Strom Thurmond Federal Building
1835 Assembly Street
Columbia, SC

Contact: Ms. Karen Pittman, Social Security Administration, Suite 2001, 101 Marietta Tower, Atlanta, Georgia 30323, telephone (404) 221-2475.

City, Date, and Place

Boston, Massachusetts
February 27, 1980
10:00 a.m.
Miniham Lecture Hall
C. F. Hurley Employment
Security Bldg.
Government Center
Boston, MA

Contact: Ms. Karen Reibstein, Social Security Administration, Room 1109, John F. Kennedy Federal Building, Boston, Massachusetts 02203, telephone (617) 223-6811.

If you wish to reserve speaking time or want more information, please contact the individual listed for your location. Oral comments should be limited to five (5) minutes, and may be supplemented in writing at the public meetings. Written comments may also be made to the Commissioner, of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203 before the close of the comment period on March 11, 1980.

FOR FURTHER INFORMATION CONTACT: Jack Camilleri, (703) 235-1808.

Dated: January 30, 1980.

William J. Driver,
Commissioner of Social Security.

[FR Doc. 80-3522 Filed 1-30-80; 12:03 pm]
BILLING CODE 4110-07-M

Notices

Federal Register
Vol. 45, No. 22
Thursday, January 31, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Detroit Grain Inspection Service, Inc. and Grain Inspection Services, Inc.; Expansion of Geographic Areas

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the expansion of the geographic areas of the Grain Inspection Services, Inc., Battle Creek, Michigan, and Detroit Grain Inspection Service, Inc., Detroit, Michigan, both existing official agencies, to perform official inspection services under the authority of the United States Grain Standards Act, as amended, in the Saginaw, Michigan, area.

EFFECTIVE DATE: February 24, 1980.

FOR FURTHER INFORMATION CONTACT:
J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

SUPPLEMENTARY INFORMATION: The June 29, 1979, issue of the **Federal Register** (44 FR 37984) contained a notice from the Federal Grain Inspection Service (FGIS) requesting applications for designation to provide official services under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act") for the nonexport locations in the Saginaw, Michigan, area. A total of three applications were received, two of which met the criteria for designation specified in section 7(f)(1)(A) of the Act. The two applicants are: Kenneth R. Hagelshaw, Grain Inspection Services, Inc., 247 First Street, Battle Creek, Michigan 49017, and; Roy A. Marchetti, Detroit Grain Inspection Service, Inc., 111 East Tarned Street, Detroit, Michigan 48226 ("applicants").

Grain Inspection Services, Inc., and the Detroit Grain Inspection Service, Inc., were originally designated as official agencies on August 31, 1978, and September 11, 1978, respectively. Both agencies were assigned geographic areas in which they would operate. The geographic area assigned in this notice is in addition to the applicants' original areas and will form a contiguous area in which each of the applicants will respectively provide official services. Each of the applicants applied for a portion of the entire Saginaw, Michigan, proposed geographic area. The two portions applied for by the applicants and, hereby assigned, comprise the entire area as was announced in the June 29, 1979, **Federal Register**.

The FGIS announced the names of the applicants and requested comments on the applicants in the December 7, 1979, issue of the **Federal Register** (44 FR 70504–05). One comment was received. The commenter favored the assignment of the geographic area, as applied for by Grain Inspection Services, Inc., to Mr. Hagelshaw because of his experience in grain inspection as well as his past history of prompt and professional service.

Geographic areas are assigned to each official agency pursuant to section 7(f)(2) of the Act. The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

After consideration of all information available, the comment received, and in view of the applicants each applying for a portion of the proposed area, the Administrator of the FGIS determined that each agency would be assigned to service the area for which they applied. Such assignments will facilitate official services in the area and therefore be in the best interest of the public. The portions designated to the applicants and described in this notice constitute the entire geographic area as originally proposed. The area assigned to each agency is as follows:

Grain Inspection Services, Inc.: The northern Iosco County line; the Lake Huron, Saginaw Bay shoreline from the northern Iosco County line south and east to State Route 53; State Route 53 south to State Route 46; State Route 46 west to Interstate 75; Interstate 75 southeast to the southern Saginaw County line; the Saginaw County line west to State Route 52; State Route 52 north to the northern Saginaw County line; the Saginaw County line north to the western Bay County line; the Bay County line north to the western Arenac County line; the Arenac County line north; the northern Arenac County line east to the western Iosco County line; the western Iosco County line north to the northern Iosco County line.

Detroit Grain Inspection Service, Inc.: The area assigned is described in two segments:

(1) State Route 53 north from State Route 46 to the Lake Huron shoreline; the Lake Huron shoreline east and then south to State Route 46, State Route 46 west to State Route 53.

(2) The northern Shiawassee County line from State Route 52 east to the western Genesee County line; the Genesee County line north; the northern Genesee County line east to Interstate 75; Interstate 75 north to State Route 46; State Route 46 east to State Route 24; State Route 24 south to the northern Lapeer County line; the Lapeer County line west to the eastern Genesee County line; the Genesee County line south; the southern Genesee County line; the western Genesee County line north to Interstate 69; Interstate 69 southwest to the western Shiawassee County line; the western Shiawassee County line north to State Route 21; State Route 21 east to State Route 52; State Route 52 north to the northern Shiawassee County line.

Effective February 24, 1980, Grain Inspection Services, Inc., and Detroit Grain Inspection Service, Inc., will be responsible for providing official services under the Act to the areas as indicated above.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the agencies will provide offical inspection services not requiring a licensed inspector to all other areas within their respective geographic area.

Interested persons may obtain a map the total geographic area of each Agency and a list of their specified service points by contacting the designated agencies or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8525.

(Secs. 8, 9, Pub. L. 94–582, 90 Stat. 2870, 2875 [7 U.S.C. 79, 79a]).

Done in Washington, D.C. on: January 25, 1980.

L. E. Bartelt,
Administrator.

[FR Doc. 80-3039 Filed 1-30-80; 8:45 am]
BILLING CODE 3410-02-M

Grain Inspection Services, Inc.; Assignment of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Grain Inspection Services, Inc., Battle Creek, Michigan, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: January 31, 1980.

FOR FURTHER INFORMATION CONTACT:
J. T. Abshier, Director., Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

SUPPLEMENTARY INFORMATION: The Grain Inspection Services, Inc. (the "Agency"), 24 First Street, Battle Creek, Michigan 49017, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on August 31, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned in an interim basis to the Agency was announced in the January 12, 1979, issue of the **Federal Register** (44 FR 2641). No comments were received. Accordingly, after due consideration of all information available to the United States Department of Agriculture, the geographic area shall remain as orginally proposed.

The geographic area assigned to the Agency is:

Bounded: on the north by the northern Mason County line from Lake Michigan east; the eastern Mason County line south to Newaygo County; the northern Newaygo County line east; the eastern Newaygo County line south to Montcalm County; the Montcalm County line east to Gratiot County; the northern Gratiot County line east to U.S. Route 27;

Bounded: on the east by U.S. Route 27 south to U.S. Route 127; U.S. Route 127 south to the Michigan-Ohio State line the Michigan-Ohio State line west to the eastern Williams County line, in Ohio; the Williams County line south to Definance County;

Bounded: on the south by the southern Williams County line west; the Ohio-Indiana State line north; the Michigan-Indiana State line west to Lake Michigan; and

Bounded: on the west by the Lake Michigan shoreline north to the northern Mason County line.

The above eastern and western boundaries have been restated for clarification purposes and do not alter the geographic area as originally proposed in any way.

In addition, the following locations which are outside of the foregoing contiguous geographic area and are to be serviced by the Agency shall be considered as part of the Agency's geographic area: North Star Elevator, North Star, Michigan, in Gratiof County; and Crop Aid, Hudson, Michigan, in Lenawee County.

An exception to this geographic area is the following location situated inside the Agency's area which has been and will continue to be serviced by the Detroit Grain Inspection Service, Inc., Detroit, Michigan: St. Johns Co-op., St. Johns, Michigan, in Clinton County.

These locations have been restated to more accurately describe the locations by listing the elevator sites serviced rather than by general reference to the city, town, or area in which situated.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8525.

(Sec. 8, 9, Pub. L. 94–582, 90 Stat. 2870, 2875 [7 U.S.C. 79, 79a])

Done in Washington, D.C. on: January 24, 1980.

L. E. Bartelt,
Administrator.

[FR Doc. 80-3038 Filed 1-30-80; 8:45 am]
BILLING CODE 3410-02-M

Forest Service

Northwest Region, Ochoco National Forest Grazing Advisory Board; Meeting

The Ochoco National Forest Grazing Advisory Board will meet at 10:00 a.m., April 11, 1980, in the Forest Supervisor's Office, Federal Building, Prineville, Oregon.

The purpose of this meeting is to discuss subjects concerning the develpment of allotment management plans and utilization of range betterment funds as presented by board members, permittees, and the general public.

The meeting will be open to the public. Persons who wish to attend should notify Jack Royle, P.O. Box 490, Prineville, Oregon 97754; phone (503) 447–6247. Written statements may be filed with the committee before or after the meeting.

Bill Olson,
Acting Forest Supervisor.

January 22, 1980.

[FR Doc. 80-3012 Filed 1-30-80; 8:45 am]
BILLING CODE 3410-11-M

[SAC 050595]

Partial Terminstion of Proposed Withdrawal and Reservation of Land

Notice of the Forest Service, United States Department of Agriculture, application SAC 050595 for withdrawal and reservation of land from prospecting, location, entry, and purchase under the mining laws for the establishment of recreation sites within the Tahoe National Forest located in Yuba, Placer, Nevada, and Sierra Counties, California, was published as FR Doc. 62–11998 on pages 12004, 12005, and 12006 of the issue of December 5, 1962. The applicant agency has cancelled its application as to the following described land:

Mount Diablo Meridian

Schoolhouse Creek

T. 18 N., R. 7 E.,
Sec. 13, Lots 3 and 4.
T. 16 N., R. 8 E.,
Sec. 19, Lot 1 and NE¼NW¼.

Celestial Valley

T. 18 N., R. 8 E.,
Sec. 22, N½SW¼SW¼NE¼, SW¼SW¼

SW¼NE¼,SE¼SE¼NW¼, and NE¼SW¼.

Little Willow Creek

T. 18 N., R. 8 E.,
Sec. 28, E½NE¼NW¼, SE¼NW¼, SE¼SW¼NW¼, and N½NW¼SW¼.

Freeman's Crossing

T. 18 N., R. 8 E.,
Sec. 28, SW¼SW¼SE¼.

Frog Hollow

T. 19 N., R. 8 E.,
Sec. 24, N½SW¼SW¼ and SW¼SW¼SW¼.

Casa Loma

T. 15 N., R. 11 E.,
Sec. 6, Lots 1, 2, and 3, and N½ of Lot 14.

Chicken Hawk

T. 15 N., R. 11 E.,
Sec. 34, SW¼NW¼SE¼.

South Yuba No. 2

T. 17 N., R. 11 E.,
Sec. 8, NW¼NW¼ and N½SW¼NW¼.

South Yuba No. 4

T. 17 N., R. 11 E.,
Sec. 9, Lot 7 and SE¼NE¼.

Fordyce Creek

T. 17 N., R. 12 E.,
Sec. 2, SE¼SE¼;
Sec. 12, NW¼NW¼.

Eagle Lakes

T. 17 N., R. 12 E.,
Sec. 12, SW¼NE¼, SE¼NW¼, and W½SE¼.

McMurray Lake

T. 18 N., R. 12 E.,
Sec. 5, SW¼NE¼.

Culbertson Lake

T. 18 N., R. 12 E.,
Sec. 22, NW¼NW¼.

Carr Lake

T. 18 N., R. 12 E.,
Sec. 28, S½NW¼NW¼.

Feeley Lake

T. 18 N., R. 12 E.,
Sec. 28, SW¼NE¼NE¼, S½NW¼NE¼, W½SE¼NE¼, S½NE¼NW¼, and SE¼NW¼.

Tamarack Lakes

T. 20 N., R. 12 E.,
Sec. 6, SW¼.

Lower Salmon Lake

T. 21 N., R. 12 E.,
Sec. 28, N½SW¼, N½NW¼SW¼SW¼, N½NE¼SW¼SW¼, and N½SE¼ SW¼;
Sec. 29, E½NE¼8E¼ and NE¼SE¼SE¼.

Boer Spring

T. 14 N., R. 13 E.,
Sec. 18, NE¼NW¼.

Tadpole

T. 15 N., R. 13 E.,
Sec. 4, Lot 7 (less patented S½S½W½).

Flat Ravine

T. 15 N., R. 13 E.,
Sec. 22, NE¼NE¼, SW¼NE¼, and N½SE¼NE¼.

Cold Springs

T. 17 N., R. 13 E.,
Sec. 25, N½N½, except 23 acres of patented land in NE¼NE¼.

Indian Springs

T. 17 N., R. 13 E.,
Sec. 30, Lot 1, SW¼NE¼, and S½NE¼NW¼.

Tollhouse

T. 18 N., R. 13 E.,
Sec. 16, NW¼NE¼.

Meadow Lake

T. 18 N., R. 13 E.,
Sec. 22, NE¼SW¼NE¼, W½SW¼NE¼, SE¼SE¼NW¼, and W½W½SE¼.

Baltimore Lake

T. 18 N., R. 13 E.,
Sec. 28, W½SW¼.

Lincoln Creek

T. 20 N., R. 13 E.,
Sec. 9, S½NE¼.

Dorsey Meadows

T. 20 N., R. 13 E.,
Sec. 10, S½NW¼, NW¼SW¼, and N½SW¼SW¼.

Talbot

T. 15 N., R. 14 E.,
Sec. 2, Lots 19 and 22.

Castle Peak

T. 17 N., R. 14 E.,
Sec. 2, SE¼.

Round Valley

T. 17 N., R. 14 E.,
Sec. 2, Lots 1 and 2, and S½NE¼.

Magonigal Camp

T. 17 N., R. 14 E.,
Sec. 6, Lot 4.

Lower Lola Montez Lake

T. 17 N., R. 14 E.,
Sec. 8, S½NE¼ and W½SE¼.

Upper Lola Montez Lake

T. 17 N., R. 14 E.,
Sec. 8, N½SW¼.

Cascade Lakes

T. 17 N., R. 14 E.,
Sec. 32, NW¼.

Sand Ridge Lake

T. 18 N., R. 14 E.,
Sec. 34, SE¼SW¼ and SW¼SE¼.

Paradise Lake

T. 18 N., R. 14 E.,
Sec. 26, E½NE¼.

Red Rock

T. 16 N., R. 16 E.,
Sec. 22, W½SW¼;
Sec. 27, NW¼NW¼.

Therefore, pursuant to the regulations contained in 43 CFR Part 2550, such lands at 10:00 a.m. March 3, 1980, will be relieved of the segregative effect of the above mentioned application.

Joan B. Russell,
Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc. 80-3011 Filed 1-30-80; 8:45 am]
BILLING CODE 4310-84-M

Prescott National Forest Grazing Advisory Board; Notice of Meeting

The Prescott National Forest Grazing Advisory Board will meet at 9 A.M. on February 29, 1980, at the Forest Supervior's Office in Prescott, Arizona.

The purpose of this meeting is to review items of mutual interest to grazing permittees and the Forest Service. Discussion will be limited to use of range betterment funds and management planning.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, Prescott National Forest, 344 South Cortez Street, Prescott, Arizona, telephone number 602–445–1762. Written statements may be filed with the Board before or after the meeting.

The Board has established the following rules for public participation:

Members of the public will be given an opportunity for comments and questions following discussion by the Advisory Board.

Dated: January 25, 1980.

Donald H. Bolander,
Forest Supervisor.

[FR Doc. 80-3000 Filed 1-30-80; 8:45 am]
BILLING CODE 3410-11-M

Science and Education Administration

National Agricultural Research and Extension Users Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the Science and Education Administration announces the following meeting:

Name: National Agricultural Research and Extension Users Advisory Board.

Date: February 18–20, 1980.

Time: 8:30 a.m.–5:00 p.m.—February 18. 8:30 a.m.–3:30 p.m.—February 19. 8:30 a.m.–4:00 p.m.—February 20.

Place: Holiday Inn, 6515 International Dr., Orlando, Florida.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: Time will be made for non-member statements on February 19, or the public may file written comments before or after the meeting with the contact person below.

Purpose: On February 19 the Board will hold an open forum to hear statements by food and agricultural research and extension users regarding their comments about funding, priorities, or other concerns about Food and Agricultural research and extension.

On February 18, 19, 20 the Board will be drafting its report to the President and the Congress regarding its appraisal of the 1981 executive budget as it relates to food and agricultural research and extension.

Contact Person for Agenda and more Information: Dr. James Meyers, Science and Education Administration, U.S. Department of Agriculture, Washington, DC 20250, telephone 202–447–3684.

Done At Washington, D.C. this 24th day of January 1980.

James Nielson,
Deputy Director, Joint Planning and Evaluation.

[FR Doc. 80-3150 Filed 1-30-80; 8:45 am]
BILLING CODE 3410-03-M

CIVIL AERONAUTICS BOARD

[Order 80-1-170]

Agreements Adopted by the International Air Transport Association Regarding Conditions of Carriage—Cargo

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 25th day of January, 1980.

Agreement CAB 2698, R–41;
Agreement CAB 2699, R–49;
Agreement CAB 2700, R–43; Agreement CAB 3119, Agreement CAB 7648, R–107; Agreement CAB 24475, R–4 and R–5, Docket 25280; Agreement CAB 25186, R–12, Docket 27573; Agreement CAB 25954, R–1, R–2, and R–3, Docket 27573; Agreement CAB 26701, R–9; Agreement CAB 27886, R–3.

Order

By petition dated January 18, 1980, Varig, S.A., has requested an extension of the stay granted in Order 79–7–166 [1] and expiring on January 26, 1980, so as to permit Varig to use its current air waybills containing the prior IATA cargo conditions of carriage until April 1, 1980.

In support of its petition, Varig states that: the Board in Order 79–10–101, October 17, 1979, modified the language prescribed for Article 1(6) of the conditions of carriage without extending the stay; it was not notified by IATA of the adoption of the change by the membership until December 10, 1979; it promptly ordered new air waybills at that time; it was subsequently informed by its printer on January 2, 1980, that its deadline could not be met and delivery would be made until the middle of February. Contending that it will require an additional month to complete the exchange of waybills at all stations, the carrier requests that it be granted an extension of the stay until April 1, 1980.

Comments in support of Varig's petition have been filed by various carriers,[2] all of whom, while citing similar printing and distribution difficulties, have requested extensions of various lengths. Trans Mediterranean, a Lebanese carrier, has encountered unusual difficulties and has been forced to seek printers abroad. Consequently, it has requested an extension through May 15, 1980.

We have determined there is a sufficient basis for a stay through May 15, 1980; accordingly, we stay the notice requirement of Order 79–7–166 for that period. As carriers other than Varig and Trans Mediterranean may require additional time, we have also determined in the interest of uniformity to make this a blanket extension, giving, in effect, all carriers the same amount of time to print and distribute their new waybills. On the other hand, it is imperative that shippers receive the benefit of the new liability conditions as soon as possible. Toward that end, we will condition our approval to require that the new liability rules be applied to all shipments carried on or after January 28, 1980, and we expect that the shippers will be given oral notification of the governing conditions of carriage not reflected in the air waybill. Further, we shall require that, in 14 days from the date of service of this order, written notice setting forth the governing conditions of carriage must accompany all air waybills. In addition, those carriers who already have waybill stock which complies with Orders 78–8–10, 79–7–166 and 79–10–101, will be permitted to phase in their air waybills at any time prior to May 15. Since this is the second stay of Order 78–8–10, we do not intend to grant any further extensions.

Accordingly,

1. We grant an extension of the stay imposed in Order 79–7–166 through May 15, 1980, to all carriers requiring additional time to incorporate notice of the new conditions of carriage in their air waybills, provided that: as between the carrier and the shipper, the new conditions of carriage shall apply in the interim, and that shippers are given oral notification of the new conditions of carriage;

2. We require that, in 14 days from the date of service of this order, shippers be given written notice setting forth the governing conditions of carriage; and

3. We permit introduction of the new air waybills containing the condition of carriage mandated in Orders 78–8–10, 79–7–166 and 79–10–101 on or before May 15, 1980.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.

All Members concurred.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-3099 Filed 1-30-80; 8:45 am]
BILLING CODE 6320-01-M

[1] Order 79–7–166 withdrew the conditional approval of Article 1(6) of the new IATA Cargo-Conditions of Carriage prescribing certain specific language therefor. Further, it stayed the effectiveness of Order 78–8–10, withdrawing Board approval and antitrust immunity from the then current conditions of carriage for six months, to allow carriers to prepare print and distribute new air waybills.

[2] Lot Polish Airlines, El Al, TWA and Trans Mediterranean.

Application for an All-Cargo Air Service Certificate

January 25, 1980.

In accordance with Part 291 (14 CFR Part 291) of the Board's Economic Regulations (effective November 8, 1978) notice is hereby given that the Civil Aeronautics Board has received an application, Docket 37402, from Ryan Aviation Corporation, Hanger #19, Mid-Continent Airport, Wichita, Kansas 67209 for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provision of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application on or before February 21, 1980. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-3098 Filed 1-30-80; 8:45 am]
BILLING CODE 6320-01-M

V45/22 JA31 80 UMI

[Order 80-1-164; Dockets 27048, 32661, 32750, 32855, and 33699]

Bahamasair Holdings, Ltd., et al.; Final Order on Applications for Foreign Air Carrier Permits

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 25th day of January, 1980.

Application of Various Foreign Air Carriers for foreign air carrier permits pursuant to section 402 of the Federal Aviation Act of 1958, as amended.

By Order 79-12-68, December 13, 1979, we directed all interested persons to show cause why we should not dismiss without prejudice the applications of Bahamasair Holdings, Ltd. (Docket 27048), Mober Aviation, Inc. (Docket 32661), CAT d/b/a Afrikan Airlines (Docket 32750), Hyack Air Limited (Docket 32855), and Air Algerie (Docket 33699). We noted that our tentative decision to dismiss these applications was purely a housekeeping measure and was not a decision on the merits of any of the applications. Each applicant could refile for any or all of the authority it requested so long as its new application contains all of the information required by Part 211 and Subpart Q of Part 302 of our Rules. Any such application would be given a new docket number.

The order directed persons objecting to our tentative decision to dismiss these applications to file their objections not later than January 16, 1980. In addition, the order provided that in the event no objections were filed, all further procedural steps would be deemed waived, and the secretary would enter an order making final our tentative decision.

No objections to Order 79-12-68 have been filed.

Accordingly,

1. We make final our tentative decision set forth in Order 79-12-68;

2. We dismiss without prejudice the applications of Bahamasair Holdings, Ltd. (Docket 27048), Mober Aviation, Inc. (Docket 32661), CAT d/b/a Afrikan Airlines (Docket 32750), Hyack Air Limted (Docket 32855), and Air Algerie (Docket 33699); and

3. We shall publish this order in the **Federal Register** and serve it on each of the foreign airlines listed in paragraph 2.

By the Civil Aeronautics Board.

All Members concurred.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-3087 Filed 1-30-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Maritime Administration

Retrofitting of Seven MA Design T8-S-100b Tankers and Two MA Design OB8-S-90a OBOs To Comply With the Port and Tanker Safety Act of 1978 (Public Law 95-474); Intent To Compute Foreign Cost

Notice is hereby given of the intent of the Maritime Subsidy Board, pursuant to the provisions of Section 502(b) of the Merchant Marine Act, 1936, as amended, to compute the estimated foreign cost for retrofitting seven MA Design T8-S-100b tankers and two MA Design OB8-S-90a OBOs to comply with the Port and Tanker Safety Act of 1978 (P.L. 95-474).

Any person, firm or corporation having any interest (within the meaning of Section 502(b)) in such computations may file written statements by the close of business on March 21, 1980, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th & E Streets, N.W., Washington, D.C. 20230.

Dated: January 25, 1980.

By Order of the Maritime Subsidy Board, Maritime Administration.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 80-2972 Filed 1-30-80; 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

Marine Fisheries Advisory Committee; Public Meetings

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., Appendix I, notice is hereby given of meetings of the Marine Fisheries Advisory Committee (MAFAC) and three Subcommittees. The Committee meeting (MAFAC XXIV) will be held on Thursday and Friday, February 21 and 22, 1980 at the Bayview Room, Kona Kai Club, 1551 Shelter Island Drive, San Diego, California 92106, with meetings starting at 8:30 a.m. Adjournment is planned for noon on Friday.

Two Subcommittees will meet from 2:30 p.m. to 5:30 p.m. on Wednesday, February 20, 1980, at the Kona Kai Club, address noted above. The Subcommittee on Marine Recreational Fishing will meet in the Bayview Room and the Subcommittee on Consumer Affairs will meet in the Marine Room.

Agenda items for the MAFAC Committee meeting include: Impact of Coastal Zone Management Plans on fisheries (including port development and construction of onshore facilities, territorial sea interjurisdictional management, and habitat protection and enhancement); Reports of two Subcommittees noted above which meet on February 20; progress report on actions taken by the National Marine Fisheries Service (MNFS) on Recommendations of Subcommittee on Seafood Processing Effluent Guidelines; discussion of agenda items for June 3-5, 1980 meeting in Anchorage, Alaska, and other miscellaneous items. The Committee and Subcommittee meetings are open to the public and there will be seating or approximately 30 public members available on a first come, first served basis. Members of the public having an interest in specific items for discussion are advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact:

Ms. Phyllis Bentz, Executive Secretary, Marine Fisheries Advisory Committee, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: (202) 634-7355.

At the discretion of the Chairperson, intested members of the public may be permitted to speak at times which allow an orderly conduct of Committee business, and a reasonable time relationship between the Committee's discussion of a given subject and comments to that same subject by a member of the public.

Interested members of the public who wish to submit written comments should do so at the address noted above. To receive due consideration and facilitate their inclusion in the record of the meeting, written statements should be received within 10 days after the close of the Committee meeting.

Dated: January 28, 1980.

Jack W. Gehringer,

Deputy Assistant Administrator for Fisheries.

[FR Doc. 80-3154 Filed 1-30-80; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $4.00 ($8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

Douglas J. Campion,

Patent Program Coordinator, National Technical Information Service.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street SW., Washington, D.C. 20324.

Patent application 6-035, 574: Low Friction Servo Valve; filed May 3, 1979.

Patent application 6-042, 470: Fluidic Pressure Ratio Sensor; filed May 25, 1979.

Patent application 6-043, 982: High Piezoelectric Coupling X-Cuts of Lead Potassium Niobate, Pb2 KNb5015, for Surface Acoustic Wave Applications; filed May 31, 1979.

Patent application 6-048, 874: Multiple Diameter Wire Bundle Support; filed June 15, 1979.

Patent application 6-048, 875: Laser Tensile Test Sample Holder; filed June 15, 1979.

Patent application 968,873: Alloy for Brazing Silicon to Metal; filed Dec. 22, 1979.

Patent 4,161,041: Pseudo Random Number Generator Apparatus; filed Oct. 6, 1978, patented July 10, 1979; not available NTIS.

Patent 4,161,434: Method for Separating Trialuminum Nickelide Fibers from an Aluminum Matrix; filed Oct. 12, 1978, patented July 17, 1979; not available NTIS.

Patent 4,161,826: Method of Deagglomeration of Aluminum Powder; filed Mar. 9, 1978; patented July 24, 1979; not available NTIS.

Patent 4,162,222: Grease Compositions; filed Aug. 15, 1978; patented July 24, 1979; not available NTIS.

Patent 4,162,777: Canted Spar with Intermediate Intercostal Stiffeners; filed May 2, 1978; patented July 31, 1979; not available NTIS.

U.S. Department of Agriculture, Program Agreements and Patents Branch, Administrative Service Division, Federal Building, Science and Education Administration, Hyattsville, MD 20782

Patent 4,141,174: Quantitative Apparatus for Sampling Athropods Associated with Field Crops; filed May 27, 1977, patented Feb. 27, 1979; not available NTIS.

Patent 4,141,302: Furrow Opener and Apparatus for No-Tillage Transplanters and Planters; filed Oct. 21, 1977, patented Feb. 27, 1979; not available NTIS.

Patent 4,146,705: Method for Increasing Solution Viscosity of 'Arthrobacter stabilis' Polysaccharides; filed June 17, 1977, patented Mar. 27, 1979; not available NTIS.

Patent 4,152,199: Interpolymer Paper Strength Additives; filed May 30, 1975; patented May 1, 1979; not available NTIS.

Patent 4,152,214: Production of Homodeoxyharringtonine and Other Cephalotaxine Esters by Tissue Culture; filed Oct. 7, 1977; patented May 1, 1979; not available NTIS.

Patent 4,152,278: Wax Esters of Vegetable Oil Fatty Acids Useful as Lubricants; filed May 19, 1978; patented May 1, 1979; not available NTIS.

Patent 4,152,333: Synthetic Cephalotaxine Esters Having Antileukemic Activity; filed Feb. 22, 1978, patented May 1, 1979; not available NTIS.

Patent 4,152,422: Attractant for Male Mediterranean Fruit Fly; filed Feb. 3, 1978, patented May 1, 1979; not available NTIS.

U.S. Environmental Protection Agency, Room W513, 401 M Street SW., Washington, D.C. 20460.

Patent application 6-015, 079: Process for Fixing Arsenic Bearing Materials and Arsenic Containing Composites Formed by Said Process; filed Feb. 26, 1979.

Patent application 798,544: Fluidized Bed Systems; filed May 19, 1977.

Patent application 876,099: Hopper; filed Feb. 8, 1978.

Patent application 882,673: Method of and Apparatus for Reducing Back Corona Effects; filed Mar. 2, 1978.

Patent 3,923,174: Non-Stop Refuse Collection Container; filed July 22, 1974, patented Dec. 2, 1975; not available NTIS.

Patent 4,033,117: Solid Fuel Fired Gas Turbine System Having Continuously Regenerating Granular Filter; filed Jan. 6, 1976, patented July 5, 1977; not available NTIS.

Patent 4,138,880: Vapor Emission Recovery and Measuring Method and Vapor Recovery Collection Boot; filed May 27, 1977, patented Feb. 13, 1979; not available NTIS.

Patent 4,153,020: Method and Apparatus for Spark Control of Engine Knock; filed July 26, 1977, patented May 8, 1979; not available NTIS.

U.S. Department of Health, Education, and Welfare, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, MD 20295.

Patent application 6-030, 315: Synthesis of Optically Pure Thromboxanes; filed Apr. 16, 1979.

Patent application 6-031, 749: Synthesis of 4a-aryldecahydroisoquinolines; filed Apr. 20, 1979.

Patent application 964,969: Method of Apparatus for Destroying Organic Matter to Facilitate Trace Inorganic Element Analysis; filed Nov. 30, 1978.

U.S. Department of the Interior, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240.

Patent application 6-037,089: Regeneration of Waste Metallurgical Process Liquor; filed May 8, 1979.

Patent application 6-044,434: Process for Recovering Ni(II), Cu(II) and Co (II) from an Ammoniacal-Ammonium Sulfate Leach Liquor; filed June 1, 1979.

Patent application 6-044,814: Process for Extracting Uranium Values from a Uranium-Containing Carbonaceous Oreo; filed June 1, 1979.

Patent 4,156,656: Preparation of Hydrosulfides; filed June 13 1978; patented May 29, 1979; not available NTIS.

Patent 4,157,204: Face Ventilation System for Coal Mines; filed July 27, 1978; patented June 5, 1979; not available NTIS.

Patent 4,157,371: Method of Agglomerating Fine Powders; filed Mar. 1975; patented June 5, 1979; not available NTIS.

Office of Naval Research, Field Support Group, Room 221, Arlington, VA 22217.

Patent 4,107,401: Super High Energy Density Battery; filed Jan. 24, 1978; Patented Aug. 15, 1978; not available NTIS.

Patent 4,148,514: Tension Release Latch; filed June 30, 1975; patented Apr. 10, 1979; not available NTIS.

Patent 4,150,346: Acoustic Periodic Structure; filed Nov. 9, 1977; patented Apr. 17, 1979; not available NTIS.

Patent 4,156,106: Multiplex-Data Bus Modulator/Demodulator; filed Dec. 22, 1977; patented May 22, 1979; not available NTIS.

Patent 4,156,824: Composite Low Frequency Transducer; filed Dec. 15, 1977; patented May 29, 1979; not available NTIS.

Patent 4,158,368: Magnetostrictive Transducer; filed May 12, 1976; patented June 19, 1979; not available NTIS.

Patent 4,160,169: Parallel Scanning System; filed Feb. 13, 1978; Patented July 3, 1979; not available NTIS.

Patent 4,160,314: Degraining, a Three Step Process to Obtain Propellant Samples from Case Bonded Motors; filed Apr. 28, 1978; patented July 10, 1979; not available NTIS.

Patent 4,161,691: Multi-Purpose Digital Measuring Apparatus; filed Mar. 6, 1978; patented July 17, 1979; not available NTIS.

Patent 4,161,780: Spin Rate Timing System; filed June 23, 1978; patented July 17, 1979; not available NTIS.

National Aeronautics & Space Administration, Assistant General Counsel for Patent Matters, NASA Code GP-4, Washington, D.C. 20546.

Patent application 6-027,558; Direction Sensitive Laser Velocimeter; Filed Apr. 6, 1979.

Patent application 6-060,435: Solar Tracking System; filed Feb. 25, 1979.

Patent application 6-061,327: Serial Data Correlator/Code Translator; filed July 27, 1979.

Patent 4,033,286: Chemical Vapor Deposition Reactor; filed July 12, 1976; patented July 5, 1977; not available NTIS.

Patent 4,159,262: Catalytic Trimerization of Aromatic Nitriles and Triaryl-S-Triazine

V 45/22 JA 31 80 UMI

Ring Cross-Linked High Temperature Resistant Polymers and Copolymers Made Thereby; filed May 12, 1977; patented June 26, 1979; not available NTIS.
Patent 4,159,834: Toggle Mechanisms for Pinching Metal Tubes; filed May 19, 1978; patented July 3, 1979; not available NTIS.
Patent 4,160,254: Microwave Dichroic Plate; filed Feb. 16, 1978; patented July 3, 1979; not available NTIS.
Patent 4,160,508: Controller Arm for a Remotely Related Slave Arm; filed Aug. 19, 1977; patented July 10, 1979; not available NTIS.
Patent 4,16,661: System for Automatically Switching Transformer Coupled Lines; filed Mar. 9, 1978; patented July 17, 1979; not available NTIS.
Patent 4,161,731: Thickness Measurement System; filed Oct. 31, 1977; patented July 17, 1979; not available NTIS.
Patent 4,161,747: Shock Isolator for Operating a Diode Laser on a Closed-Cycle Refrigerator; filed Feb. 24, 1978; patented July 17, 1979; not available NTIS.

[FR Doc. 80-3019 Filed 1-30-80; 8:45 am]
BILLING CODE 3810-04-M

Office of the Secretary

Non-Discrimination on the Basis of Age in Programs or Activities Receiving Federal Assistance

The Department of Commerce (DOC) gives notice that, until such time as it has adopted and published its own specific implementing regulations, it will operate in accordance with the regulations developed by the Department of Health, Education, and Welfare, the agency responsible for promulgating general regulations to implement the provisions of the Age Discrimination Act of 1975, as amended (Act), see 45 CFR Part 90. Since the effective date of the HEW regulations was July 1, 1979, that becomes the effective date for acceptance of age discrimination complaints by all operating units of the DOC who carry on programs of Federal financial assistance.

All age discrimination complaints will be screened and those deemed sufficient will be forwarded to the Federal Mediation and Conciliation Service in accordance with 45 CFR 90.43. Any person, individually or as a member of a class or on behalf of others, may file a complaint with the DOC alleging age discrimination, as such is defined in the HEW general regulations. Complaints concerning recipients and beneficiaries of assistance from the Economic Development Administration, the National Oceanic and Atmospheric Administration, the National Bureau of Standards, the National Telecommunications and Information Administration, the United States Travel Service, the Regional Action Planning Commissions and the Minority Business Development Agency (formerly Office of Minority Business Enterprise) shall be addressed to the Director, Office of Civil Rights, Room 4065, U.S. Department of Commerce, Washington, DC 20230.

Dated: January 23, 1980.

Calvin Brooks,

Director, Office of Civil Rights.

[FR Doc. 80-3007 Filed 1-30-80; 8:45 am]
BILLING CODE 3510-17-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Levels of Restraint for Certain Man-Made Fiber Textile Products From Haiti

January 28, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing by the application of swing the level of restraint established for man-made fiber brassieres in Category 649, produced or manufactured in Haiti, and decreasing by an equivalent amount the restraint level for man-made fiber hosiery in Category 632, both during the agreement period which began on May 1, 1979 and extends through April 30, 1980.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), April 12, 1979 (44 FR 21843), and December 20, 1979 (44 FR 75441))

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 17, 1979 provides, among other things, for percentage increases in certain specific ceilings during an agreement year (swing), balanced by equivalent reductions in other specific ceilings. Pursuant to the terms of the agreement, the restraint level for Category 649 is being increased by 69,490 dozen to 1,062,198 dozen and the level for Category 632 is being reduced by an equivalent square yard amount to 1,557,924 dozen pairs for the agreement year which began on May 1, 1979.

EFFECTIVE DATE: January 28, 1980.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On November 14, 1979, there was published in the **Federal Register** (44 FR 65620) a letter dated November 7, 1979 from the Chairman for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton and man-made fiber textile products, produced or manufactured in Haiti, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption during the twelve-month period which began on May 1, 1979 and extends through April 30, 1980. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the levels of restraint established for man-made fiber textile products in Categories 632 and 649 during that period.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

January 28, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, *Washington, D.C.*

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on November 7, 1979 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton and man-made fiber textile products, produced or manufactured in Haiti.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 17, 1979 between the Governments of the United States and Haiti; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 28, 1980, and for the twelve-month period which began on May 1, 1979 and extends through April 30, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Categories 632 and 649, produced or manufactured in Haiti, in excess of the following amended twelve-month levels of restraint:

Category	Amended 12-mo level of restraint [1]
632	1,557,924 dozen pairs
649	1,062,198 dozen.

[1] The levels of restraint have not been adjusted to reflect any imports after April 30, 1979.

The actions taken with respect to the Government of Haiti and with respect to imports of man-made fiber textile products from Haiti have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-3184 Filed 1-30-80; 8:45 am]
BILLING CODE 3510-25-M

COUNCIL ON WAGE AND PRICE STABILITY

Availability of Proposed Form PM-1—Second Program Year

On January 25, 1980, the Council on Wage and Price Stability submitted to the Office of Management and Budget (OMB) a request for forms clearance for Form PM-1 (Second Program Year). This form is a modification of Forms PM-1 and PM-1A, which had previously been approved by OMB. The modifications were needed to account for changes in the price standards between the first and second program years as well as to clarify the form and instructions to improve the quality of the date submitted to the Council.

The proposed form is available from the Council's Office of Public Affairs, Council on Wage and Price Stability, 600 17th Street, N.W., Room 200, Washington, D.C., 20506. Any comments may be submitted to the Council as well as to the Office of Management and Budget pursuant to OMB's separate **Federal Register** Notice.

Issued in Washington, D.C., January 25, 1980.

R. Robert Russell,

Director, Council on Wage and Price Stability.

[FR Doc. 80-3076 Filed 1-30-80; 8:45 am]
BILLING CODE 3175-01-M

DEPARTMENT OF DEFENSE

Defense Advisory Committee on Women in the Services (DACOWITS), Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Excutive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS) is scheduled to be held from 1:30 p.m. to 5:00 p.m., February 26, 1980 in Rm. 3D318 and from 9:30 a.m. to approximately 1:00 p.m., February 27, 1980 in Room 1E801, The Pentagon. Meeting sessions will be open to the public.

The purpose of the meeting is to plan the itinerary/program for the Seminar on Women in the Services to be held in conjunction with the Semi-annual Meeting scheduled for April 21-25, 1980 in Washington, D.C.

Persons desiring to make oral presentations or submit written statements for consideration at the Executive Committee Meeting must contact Captain Mary J. Mayer, Executive Secretary, DACOWITS, OASD (Manpower, Reserve Affairs, and Logistics), Rm. 3D322, The Pentagon, Washington, D.C. 20301, telephone 202-697-5655 no later than February 12, 1980.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

January 28, 1980.

[FR Doc. 80-3024 Filed 1-30-80; 8:45 am]
BILLING CODE 3810-70-M

Joint Strategic Target Planning Staff, Scientific Advisory Group, Closed Meeting

Pursuant to the provisions of Section 10 of Pub. L. 92-463, effective January 5, 1973 as amended by Pub. L. 94-409, notice is hereby given that a closed meeting of the Joint Strategic Target Planning Staff Scientific Advisory Group will be held at Offutt Air Force Base, Nebraska, during the period:

Tuesday, April 1, 1980 through Thursday, April 3, 1980.

The entire meeting is devoted to the discussion of classified information within the meaning of Section 552b(c)(1), Title 5 of the U.S. Code, and therefore will be closed to the public.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

January 28, 1980.

[FR Doc. 80-3023 Filed 1-30-80; 8:45 am]
BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Surprise Valley Area Service, Proposed New Electrical Facilities; Intent To Prepare Draft Environmental Impact Statement

The Bonneville Power Administration (BPA) hereby gives public notice of its intent to prepare and circulate a draft environmental impact statement (EIS).

BPA's EIS will address the location, construction, and operation of a proposed high-voltage transmission line from Malin, Oregon, to Alturas, California. These facilities are required to satisfy a low-voltage condition created by load increases experienced by the Surprise Valley Electric Cooperative, a BPA customer, as well as to provide for additional load growth. The greater loads stem from expanded use of irrigation in the Co-op's service area. Pacific Power & Light Company (PP&L), over whose facilities BPA now transmits power to the Alturas area, has indicated that it no longer has the excess capacity in its system to accommodate this increase.

Other electrically feasible plans of service will also be studied in the EIS. In addition to electrical transmission, we will consider the alternatives of local generation, conservation, and no action, as well as alternatives which are beyond BPA's jurisdiction.

Scoping for the EIS on this project will include consultations with (1) PP&L to identify on a one-utility basis, feasible electrical plans of service; (2) the U.S. Forest Service, the principal Federal permit-granting authority; and (3) other involved Federal, State, regional, and local agencies, as well as appropriate environmental organizations and landowners. While times and places have not yet been established, scoping meetings are also being planned. The specifics of the meetings will be announced separately at a later date.

Tentatively, we plan to file the draft environmental statement with the Environmental Protection Agency (EPA) in May 1981.

Although the completed draft EIS will be subject to extensive public and agency review, BPA is interested in receiving input to the EIS preparation process so that concerns identified now can be fully considered in development of the draft EIS.

Any suggestions or questions regarding the EIS should be directed to the Environmental Manager, Bonneville Power Administration, U.S. Department of Energy, P.O. Box 3621—SJ, Portland, Oregon 97208: Phone (503) 234–3361, Extension 5137.

Dated at Portland, Oregon, this 24th day of January, 1980.

Sterling Munro,

Administrator.

[FR Doc. 80-3131 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

Conservation and Solar Applications

Federal Photovoltaic Utilization Program Advisory Committee; Notice of Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Federal Photovoltaic Utilization Program Advisory Committee.

Date and Time: Wednesday, February 20, 1980—1:00 p.m.–4:30 p.m.

Place: Department of Energy, 1000 Independence Avenue SW., Forrestal Building, Room 6E083, Washington, D.C. 20585.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, 1000 Independence Avenue SW., Forrestal Building, Room 8G087, Washington, D.C. 20585, Telephone: 202–252–5187.

Purpose of Committee: The Committee was established by Pub. L. 95–619, Title V, to assist the Secretary in the establishment and conduct of a program to insure that photovoltaic electric systems acquired by the Federal Government reflect, to the maximum extent practicable, the most advanced and reliable technologies; to schedule such purchases so that they will stimulate the early development of a permanent low-cost private photovoltaic production capability in the United States; and to stimulate the private sector market for photovoltaic power systems.

Tentative Agenda: 1:00 p.m.—Presentation by DOE on Overall photovoltaic Program and Federal photovoltaic Utilization Program (FPUP); 2:00 p.m.—Selection of Committee Chairperson; 2:30 p.m.—Discussion and Adoption of Operational Guidelines; 3:30 p.m.—Planning of Next Meeting; 4:00 p.m.—Public Comment (10 minute rule).

Public Participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to the agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting concerned and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Freedom of information Public Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday except Federal holidays.

Executive Summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued at Washington, D.C. on January 25, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80-3136 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

Conservation and Solar Applications

Food Industry Advisory Committee and Subcommittees; Notice of Open Meetings

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meetings:

Name: Food Industry Advisory Committee and Subcommittees.

Date and Time: Tuesday, February 19, 1980—1:00 p.m. to 5:00 p.m.; Wednesday, February 20, 1980—9:00 a.m. to 5:00 p.m.

Place: Sheraton Town House Hotel, 2961 Wilshire Boulevard, Los Angeles, California 90010.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, 1000 Independence Avenue SW., Room 8G087, Washington, D.C. 20585, Telephone: 202–252–5187.

Purpose of Committee: To provide the Secretary of Energy with recommendations and advice with respect to the development and implementation of policies and programs affecting the food industry.

Tentative agenda: February 19, 1980—Subcommittee meetings from 1:00 p.m. to 5:00 p.m. in rooms listed below: Supply Subcommittee—Town House Room; Technology Implementation—California Room; Technology Development—Commonwealth Room; Transportation and Distribution—San Gabriel Room.

February 20, 1980—Full Committee—Outer Terrace Room.

Special presentations arising out of subcommittee work and reports on projects scheduled for completion in February as follows:

9:00 a.m.—Report from Transportation and Distribution Subcommittee—Recommendation on continuation of gasoline users conversion to diesel; report on work in progress.

10:30 a.m.—Final report of Supply Subcommittee—on energy contingency planning, including a presentation by Cliff Gardner, GAO; energy derived from biofuels, and nonfood sources, summary of AGRIMOD, energy allocation programs.

12:00 noon—Lunch.

1:00 p.m.—Technology Development Subcommittee—Recommendations regarding equipment manufacturers; report on cellulosic waste to liquid fuels project; review of *Energy and Food*, review of DOE sponsored workshops and ten project proposals for possible implementation within DOE.

2:45 p.m.—Technology Implementation—Presentations regarding state energy conservation plans; barriers to implementation of energy supply technologies; energy conservation guides; pilot guide for food consumers; catalog of energy conservation technologies; financial incentives.

4:00 p.m.—Trade association presentations.

4:30 p.m.—Public Comment (10 minute rule).

Public Participation: The meetings are open to the public. The Chairpersons of the Committee and Subcommittees are empowered to conduct the meetings in a fashion that will, in their judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee or Subcommittees will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting concerned and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Executive Summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued at Washington, D.C. on January 23, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80-2999 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-FC-80-001; ERA Case No. 52416-6120-22, 23-22]

Acceptance of Exemption Request Pursuant to the Interim Rules of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Acceptance of Exemption Request Pursuant to the Interim rules of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On October 2, 1979, Puget Sound Power & Light Company (Puget Sound) petitioned the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for a permanent peakload powerplant exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA) (42 U.S.C. 8301 *et seq.*) which prohibits the use of petroleum or natural gas in new powerplants. Criteria for petitioning for a peakload exemption from the provisions of FUA are published at 10 CFR Parts 501.3 and 503.41 (44 FR 28544, May 15, 1979), and at (44 FR 28996, May 17, 1979). Puget Sound proposes to install two 81,000 KW oil- and/or gas-fired combustion turbine units and certifies for each unit that it will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant.

FUA imposes statutory prohibitions against the use of petroleum or natural gas by new powerplants. ERA's decision in this matter will determine whether the proposed powerplant qualifies for the requested peakload powerplant exemption.

ERA has accepted this petition pursuant to 10 CFR 501.3 and 501.64. In accordance with the provisions of Sections 701(c) and (d) of FUA and 10 CFR Parts 501.31 and 501.33, interested persons are invited to submit written comments in regard to this matter, and any interested person may submit a written request that ERA convene a public hearing.

DATES: Written comments are due on or before March 17, 1980. A request for a public hearing must be made by any interested person within this same 45-day period.

ADDRESSES: Fifteen copies of written comments shall be submitted to: Department of Energy, Case Control Unit, box 4629, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Docket Number ERA–FC–80–001 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy. 2000 M Street NW., Room B–110, Washington, D.C. 20461, Phone (202) 634–2170.

James W. Workman, Director, Division of Existing Facilities Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room 3128, Washington, D.C. 20461, Phone (202) 254–7442.

Marilyn Ross, Office of General Counsel, 6G–087 Forrestal Bldg., Washington, D.C. 20461. Phone (202) 252–2967.

Robert L. Davies, Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street NW., Room 3128, Phone (202) 634–6557.

SUPPLEMENTARY INFORMATION: The Economic Regulatory Administration (ERA), on May 15 and 17, 1979, published in the **Federal Register** interim rules to implement provisions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) (FUA or the Act). The Act prohibits the use of natural gas or petroleum in certain new major fuel burning installations and powerplants unless an exemption to do so has been issued by ERA.

Puget Sound Power & Light Company (Puget Sound) submitted a sworn statement to each of the two petitions by Mr. D. H. Knight, Vice President of Puget Sound, as required by 10 CFR Part 503.41(b)(1). In his statement, Mr. Knight certifies that each of the proposed oil- and/or gas-fired combustion turbines (Whitehorn Generating Station Units 2 and 3) will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant. He also certified that the maximum design capacity of each of the powerplants is 81,000 KW and that the maximum generation that will be allowed during any 12-month period is the design capacity times 1,500 hours or 121,500,000 Kwh.

Under the requirements of 10 CFR Part 503.41(b)(2), the Administrator of the Environmental Protection Agency or the Director of the appropriate state air pollution control agency must certify to the Secretary of the Department of Energy that the use by the powerplant of any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within the region, of a pollutant for which any national air quality standard is or would be exceeded. However, since ERA has determined that there are no presently available alternate fuels which may be used in the proposed powerplant, no such certification can be made. The certification requirement is therefore waived with respect to this petition.

Puget Sound also furnished the information required by 10 CFR Parts 502.11 (Petroleum and natural gas consumption), 502.12 (Conservation measures), and 502.13 (Environmental impact analysis).

ERA retains the right to request additional relevant information from Puget Sound at any time during the pendency of these proceedings where circumstances or procedural requirements may so require.

The public file, containing documents on these proceedings and supporting materials is available for inspection upon request at: ERA, Room B–110, 2000 M Street NW., Washington, D.C. 20461, Monday–Friday, 8:00 a.m.–4:30 p.m.

Issued in Washington, D.C. on January 22, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-2987 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

Shockley's Exxon Service & Towing; Proposed Remedial Order

Pursuant to 10 CFR § 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Coe's Shockley's Exxon Service & Towing, 2340 High Street and County Line Road, Delano, CA 93215. This Proposed Remedial Order charges Coe Shockley's Exxon Service & Towing with pricing violations in the amount of $6,638.73, connected with the resale of motor gasoline during the period August 1, 1979 through October 16, 1979 in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111, phone (415) 556–7200. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR § 205.193.

Issued in San Francisco, California on the 8th day of January, 1980.

June F. Wallach,

Acting District Manager, Enforcement, Western District, Economic Regulatory Administration.

[FR Doc. 80-2988 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

Canadian Crude Oil Allocation Program Supplemental Allocation Notice for the January 1 Through March 31, 1980, Allocation Period

In accordance with § 214.32(c) of the Mandatory Canadian Crude Oil Allocation Regulations, 10 CFR Part 214.

the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues a supplemental allocation notice to reflect the export levels of Canadian light crude oil and Canadian heavy crude oil for the month of February 1980.

Since October 1979, exports of crude oil from Canada have been authorized on a monthly basis instead of a quarterly basis. Consequently, the volumes listed in the Allocation Notice issued on December 29, 1979 (45 FR 1664, January 8, 1980), represented only volumes to be exported in January. This Supplemental Notice lists only Canadian crude oil volumes which will be exported in the month of February.

The issuance of Canadian crude oil rights for February 1980 to refiners and other firms is set forth in the Appendix to this notice. As to this allocation period, the Appendix lists: (1) The name of each refiner and other firm to which rights have been issued; (2) the base period volume [1] of Canadian crude oil for each refiner's first or second priority refinery; (3) the base period volume of Canadian light and heavy crude oil, respectively, for each refiner's first or second priority refinery; (4) the nominations to ERA for Canadian light and heavy crude oil, respectively, of each refiner or other firm; (5) the number of rights for Canadian light and heavy crude oil, respectively, expressed in barrels per day, issued to each such refiner or other firm; and (6) the specific first or second priority refineries for which rights are applicable.

The NEB has formally advised ERA that the total volume of Canadian light crude oil authorized for export to the United States, and therefore subject to allocation under Part 214, for the month of February 1980 will be 50 barrels/day (B/D), all of which is operationally constrained through the Union Oil pipeline from the Reagan field in Canada to the Thunderbird refinery (second priority) at Cut Bank, Montana. The total volume of Canadian heavy crude oil authorized for export and subject to allocation under Part 214 will be 123,340 B/D for the month of February.

Pursuant to 10 CFR 214.35, ERA is continuing to give effect to the operational constraint regarding the Thunderbird refinery in the revised issuance of Canadian crude oil rights for the month of February set forth in the Appendix. The Canadian light and heavy crude oil rights were computed in accordance with the formulas set forth in the Allocation Notice issued on December 29, 1979, (45 FR 1664, January 8, 1980). However, the total amount of heavy crude oil available permitted allocations only through the first three steps specified in § 214.31(a)(3).

This notice is issued pursuant to Subpart G of ERA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before 30 days from the publication of this Notice.

Issued in Washington, D.C. on January 25, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Appendix.—*Canadian Allocation Program Rights—February 1980*

[Barrels per day]

Refiner/refinery	Priority	Base period volumes: Total Canadian runs	Base period volumes: Canadian light Crude oil	Base period volumes: Canadian heavy Crude oil	Nominations: Light	Nominations: Heavy	Allocation[1]: Light	Allocation[1]: Heavy
Amoco:								
Whiting, Ind.	II	26,751	25,560	1,191	0	10,000	0	574
Casper, Wyo.	II	2,991	2,991	0	0	0	0	0
Mandan, N.D.	II	8,996	8,996	0	0	0	0	0
Sugar Creek, Mo.	II	317	317	0	0	0	0	0
Arco: Cherry Point, Wash.	II	34,225	34,225	0	0	0	0	0
Ashland:								
Buffalo, N.Y.	II	36,752	32,033	4,719	0	0	0	0
Findlay, Ohio	II	2,198	33	2,165	0	0	0	0
St. Paul Park, Minn.	I	[2]14,707	[2]13,127	[2]1,580	35,000	31,000	0	[3]31,000
Clark: Blue Island, Ill.	II	18,764	18,764	0	0	0	0	0
Consumers Power:								
Essexville, Mich.	I	13,872	13,872	0	0	0	0	0
Marysville, Mich.	I	27,306	27,306	0	0	0	0	0
Conoco:								
Billings, Mont.	I	25,994	25,994	0	25,994	0	0	0
Denver, Colo.	II	4,639	4,639	0	4,639	0	0	0
Ponca City, Okla.	II	1,186	1,186	0	1,186	0	0	0
Wrenshall, Minn.	I	20,651	20,651	0	20,651	0	0	0
CRA:								
Coffeyville, Kans.	II	318	318	0	0	0	0	0
Phillipsburg, Kans.	II	173	173	0	0	0	0	0
Scottsbluff, Nebr.	II	401	401	0	0	0	0	0
Crystal: Carson City, Mich.	II	1,104	1,104	0	0	0	0	0
Dow Chemical, U.S.A.: Bay City, Mich.	II	2,767	2,767	0	0	0	0	0
Energy Cooperative: East Chicago, Ind.	II	10,804	10,267	537	0	0	0	0
Exxon: Billings, Mont.	I	15,908	15,908	0	16,500	0	0	0
Farmers Union: Laurel, Mont.	I	13,439	13,439	0	13,500	0	0	0
Gladieux: Fort Wayne, Ind.	II	774	774	0	0	0	0	0
Gulf: Toledo, Ohio	II	13,253	13,253	0	0	0	0	0
Husky:								
Cheyenne, Wyo.	II	4,865	4,865	0	0	0	0	0
Cody, Wyo.	II	806	806	0	0	0	0	0
Koch: Pine Bend, Minn.	I	[2]44,383	[2]3,396	[2]40,987	0	95,000	0	[3]74,383
Lake Superior D.P.: Ashland, Wisc.	I	125	125	0	0	0	0	0
Lakeside: Kalamazoo, Mich.	II	1,240	1,240	0	0	0	0	0
Laketon: Laketon, Ind.	II	141	10	131	0	200	0	83
Little America:								
Casper, Wyo.	II	2,248	2,248	0	0	0	0	0
Sinclair, Wyo.	II	709	709	0	0	0	0	0
Marathon: Detroit, Mich.	II	10,301	10,159	142	30,000	10,000	0	69

[1] Base period volume for the purposes of this notice means average number of barrels of Canadian crude oil included in a refinery's crude oil runs to stills or consumed or otherwise utilized by a facility other than a refinery during the base period (November 1, 1974 through October 31, 1975) on a barrels per day basis.

Appendix.—*Canadian Allocation Program Rights—February 1980—Continued*

[Barrels per day]

Refiner/refinery	Priority	Base period volumes: Total Canadian runs	Base period volumes: Canadian light Crude oil	Base period volumes: Canadian heavy Crude oil	Nominations: Light	Nominations: Heavy	Allocation[1]: Light	Allocation[1]: Heavy
Mobil:								
Buffalo, N.Y.	II	24,095	24,095	0	0	6,036	0	0
Ferndale, Wash.	II	45,444	45,444	0	0	10,875	0	0
Joliet, Ill.	II	14,606	2,132	12,474	0	12,985	0	8,016
Murphy: Superior, Wisc.	I	25,625	20,253	5,372	12,000	8,000	0	5,000
NCRA: McPherson, Kans.	II	836	836	0	0	0	0	0
Pester Refining Co.: El Dorado, Kans.	II	196	196	0	0	0	0	0
Phillips:								
Great Falls, Mont.	II	1,222	1,222	0	0	0	0	0
Kansas City, Kans.	II	3,352	3,105	247	0	0	0	0
Rock Island: Indianapolis, Ind.	II	1,063	1,063	0	0	0	0	0
Shell:								
Anacortes, Wash.	II	55,919	55,919	0	30,000	0	0	0
Wood River, Ill.		8,673	8,673	0	0	0	0	0
Sohio: Toledo, Ohio	II	29,182	29,182	0	15,000	10,000	0	0
Sun: Toledo, Ohio	II	16,427	16,427	0	0	0	0	0
Tenneco: Chalmette, La.	II	1,767	1,767	0	0	0	0	0
Texaco:								
Anacortes, Wash.	II	41,229	41,229	0	0	0	0	0
Casper, Wyo.		1,360	1,360	0	0	0	0	0
Lockport, Ill.		1,244	1,244	0	0	0	0	0
Texas American: West Branch, Mich.	II	2,011	2,011	0	0	0	0	0
The Refinery Corp.: Commerce City, Colo.	II	174	174	0	0	0	0	0
Thunderbird: Cut Bank, Mont.	II	554	554	0	50	0	*50	0
Total Petroleum: Alma, Mich.		9,727	3,020	6,707	0	8,000	0	3,235
Union Oil of California: Lemont, Ill.	II	11,711	11,711	0	10,000	20,000	0	0
United Refining: Warren, Pa.	II	9,917	9,789	128	0	0	0	0
Wyoming Refining Co.: New Castle, Wyo.	II	676	676	0	0	0	0	0
Total priority I		202,010	154,071	47,939	123,645	134,000	0	113,383
Total priority II		469,029	440,588	28,441	90,876	88,200	50	9,957
Total I and II		671,039	594,659	76,380	214,521	222,200	50	123,340

[1] Although nominations were made on a quarterly basis, allocations reflect the volumes of crude oil which must be exported from Canada only during the month of February.
[2] Adjusted.
[3] Adjustments to base period volumes not given effect in allocation of Canadian heavy crude oil.
[4] Operational constraint.

[FR Doc. 80-3145 Filed 1-30-80; 8:45 am]

BILLING CODE 6459-01-M

Energy Emergency Handbook

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of availability of the Energy Emergency Handbook.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that the *Energy Emergency Handbook* (EEH) has been completed and will be available for purchase in February 1980. The public can acquire the EEH for $25.00 from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. This purchase cost is for a one year subscription and includes the original document plus three periodic updates. Copies of the EEH have already been sent to the Governors, state energy offices, public utility commissions, and the DOE regional offices. Copies of the EEH are available for public review at the national and regional DOE offices:

National Office: Room GA-142, 1000 Independence Avenue SW., Washington, D.C. 20545.

Region I, 150 Causeway Street, Boston, Mass. 02114.
Region II, 26 Federal Plaza, New York, N.Y. 10007.
Region III, 1421 Cherry Street, Philadelphia, Pa. 19102.
Region IV, 1655 Peachtree Street NE., Atlanta, Ga. 30309.
Region V, 175 West Jackson Boulevard, Chicago, Ill. 60604.
Region VI, 2626 Mockingbird Lane, Dallas, Tex. 75235.
Region VII, 324 East 11th Street, Kansas City, Mo. 64106.
Region VIII, 1075 S. Yukon Street, Lakewood, Colo. 80226.
Region IX, 111 Pine Street, San Francisco, Calif. 94111.
Region X, 1992 Federal Office Building, 915 Second Avenue, Seattle, Wash. 98174.

FOR FURTHER INFORMATION CONTACT:

Energy Liaison Center, Economic Regulatory Administration, Department of Energy, Room 4126, 2000 M Street NW., Washington, DC 20461, 202-252-5155.
Grant Garrison, Office of General Counsel, Department of Energy, Room 5E064, Forrestal Building, Washington, DC 20585, 202-252-2900.

SUPPLEMENTARY INFORMATION:

I. Background Statement.
II. Summary of Handbook Contents.
III. Availability of Handbook.

I. Background Statement

Two prior notices on the EEH have appeared in the **Federal Register**. On March 22, 1979, ERA issued a notice of the development of the EEH and the opportunity for public comment (44 FR 17551). That notice indicated that the EEH was being developed as the result of recommendations made by the Winter Energy Emergency Plans Task Force of Winter 1977 and that it would replace the "Energy Emergency Planning Guide: Winter 1977-78." It also indicated that the EEH was designed to inform state and local governments of both federal and state emergency measures that are available to manage energy emergencies.

On August 14, 1979, ERA issued a notice of current status on the development of the EEH (44 FR 47566). That notice discussed the public comments on the EEH and indicated that the measures originally proposed

V45/22 JA31 80 UMI

for incorporation in the EEH were being reviewed and updated in light of recent legislative actions and current energy policies. It also indicated that a subsequent Federal Register Notice would inform the public of the availability of the EEH. The notice appearing today serves that purpose.

II. Summary of Handbook Contents

The Energy Emergency Handbook is designed to serve as a reference source for individuals and offices with energy emergency management responsibilities. The following chapters have been developed to be responsive to the changing demands energy emergencies place on both the private and public sectors.

Chapter 2, New Initiatives, provides summaries of major new initiatives and proposals for coping with energy emergency or pre-emergency situations. Initiatives are administrative or legislative in origin. They include federal programs as well as innovative state and local approaches to a specific problem. Narrative descriptions contained in this chapter highlight the specific program or proposal or summarize the major provisions of a new piece of legislation.

Chapter 3, Federal Energy Emergency Organizations, provides the user with a listing and description of the primary activities of the Department of Energy offices and other Federal agencies having specific responsibilities during short-term energy emergencies.

Chapter 4, Federal Energy Emergency Actions, discusses selected energy emergency response actions that may be taken by the Federal government, either on its own initiative, or in conjunction with state and local governments and private industry. It concentrates on the actions most commonly used or most likely to be implemented on a voluntary or mandatory basis in a short-term energy emergency.

Each action is described according to the following format:

- *Objective*—a brief statement of the intent of the action.
- *Status*—a statement of the current condition of the action (i.e., implemented or standby). If an action has been implemented recently a chronology of actions taken with appropriate citations is given.
- *Operation*—a description of the operational procedures and the scope of the action. Also presented here are key provisions of the program, eligibility requirements, allowable uses and limitations of the action and effective duration.
- *Reference and Publications*—citations of appropriate laws, regulations and published material for further information on each action.

Chapter 5—State Energy Emergency Actions, presents a variety of actions which may be initiated at the state level in response to a short-term energy emergency. This chapter follows the same format as Chapter 4, with the *Operation* section expanded to include a discussion of typical implementation procedures, including the method for initiating the action; any special laws or executive orders required for implementation; and the anticipated impacts of the action on the energy emergency.

The EEH also contains State and Federal directories. These directories, covering important State and Federal personnel, include name, addresses, telephone, telex, and TWX (or facsimile) numbers and descriptions of the duties of each individual with energy emergency responsibilities. Updates to the directories will periodically be made available since changes in personnel, office locations, and telephone numbers frequently occur. The directories have been designed so that the user is able to identify the appropriate organizational component with emergency responsibilities although the names and addresses of individuals with emergency responsibilities may change.

The Appendices of the EEH include lists of major legislative authorities related to energy emergencies (Appendix A), and the 34 major oil refining companies (Appendix B).

III. Availability of the Handbook

In February 1980, the public can purchase a copy of the EEH for $25.00 from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. This purchase price includes periodic updates.

Issued at Washington, D.C. on January 22, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

[FR Doc. 80-3143 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-CERT-114]

International Minerals and Chemical Corp.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

International Minerals and chemical corporation (International) filed an application for certification of an eligible use of natural gas to displace fuel oil at its facility in blue Mountain, Mississippi with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 on November 30, 1979. Notice of that application was published in the Federal Register (45 FR 1135, January 4, 1980) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed International's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that International's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C., on January 25, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Appendix I

January 25, 1980.

Re ERA Certification of Eligible Use, ERA Docket No. 79-CERT-114, International Minerals and Chemical Corporation.

Mr. Kenneth F. Plumb,
Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C.

Dear Mr. Plumb: Pursuant to the provisions of 10 CFR Part 595, I am hereby transmitting to the Commission the enclosed certification of an eligible use of natural gas to displace fuel oil. This certification is required by the Commission as a precondition to interstate transportation of fuel oil displacement gas in accordance with the authorizing procedures in 18 CFR Part 284, Subpart F. As noted in the certificate, it is effective for one year from the date of issuance, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. A copy of the enclosed certification is also being published in the Federal Register and provided to the applicant.

Should the Commission have any further questions, please contact Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street, N.W., Room 4128, Washington, D.C. 20461, telephone (202) 254-8202. All correspondence and inquiries regarding this certification should reference ERA Docket No. 79-CERT-114.

Sincerely,

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Enclosure.

By the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the International Minerals and Chemical Corp., ERA Docket No. 79-CERT-114

Application for Certification

Pursuant to 10 CFR Part 595, International Minerals and Chemical Corporation (International) filed an application for certification of an eligible use of 9,000 Mcf of natural gas per month at its facility in Blue Mountain, Mississippi, with the Administrator of the Economic Regulatory Administration (ERA) on November 30, 1979. The application states that the eligible seller of the gas is the IMC Exploration Company (IMC) and the gas will be transported by the Tennessee Pipeline Company, and the Ripley Gas Company. The application and supplemental information indicates that the use of this natural gas is estimated to displace approximately 70,000 gallons of No. 2 fuel oil (.01 percent sulfur) per month. The application also indicates that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the application, as well as other information available to ERA, the ERA hereby certifies, pursuant to 10 CFR Part 595, that the use of 9,000 Mcf of natural gas per month at International's Blue Mountain facility purchased from IMC is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. It is effective during this period of time for the use of up to the same certified volume of natural gas at the same facility purchased from the same eligible seller.

Issued in Washington, D.C., on January 25, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-3144 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-32-NG]

Midwestern Gas Transmission Co.; Application for Amendment to Existing Authorization To Import Natural Gas

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of receipt of application and invitation to submit petitions to intervene in the proceedings.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy gives notice of receipt of an application of Midwestern Gas Transmission Company (Midwestern) filed on October 31, 1979, in ERA Docket No. 79-32-NG for authorization pursuant to Section 3 of the Natural Gas Act for amendment of the import authorization granted by ERA in its order of August 9, 1979 in Docket No. 79-04-NG. ERA then amended ordering paragraph (F) of FPC Opinion No. 521 to the extent that Midwestern was authorized to import an additional daily volume of 350,000 Mcf per day during a period beginning November 16, 1978, to and including October 31, 1980, or until a total volume of 114,000,000 Mcf has been imported whichever comes first. Midwestern now seeks authority to increase this additional daily volume to a maximum of 600,000 Mcf per day with no change in the duration or total volume. Petitions to intervene are invited.

DATES: Petition to intervene are due on or before February 20, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Finn K. Neilsen, Director, Import/Export Division, 2000 M Street NW., Room 4126, Washington, DC 20461, telephone (202) 254-8202.

Mr. Martin S. Kaufman, Deputy Assistant General Counsel for International Trade and Emergency Preparedness, 1000 Independence Ave., SW., Forrestal Building, Room 5E064, Washington, DC 20585, telephone (202) 252-2900.

SUPPLEMENTARY INFORMATION: Midwestern seeks to have the authorization granted by ERA in its order issued on August 9, 1979 at Docket No. 79-04-NG amended only to the extent that the daily rate up to 350,000 Mcf per day will be increased to up to 600,000 Mcf per day. This requested increased daily volume is based on information available to Midwestern from TransCanada Gas Pipelines Limited (TransCanada) that it now expects to have, from time to time, daily quantities of up to 600,000 Mcf available for export Midwestern from Canada. No other amendments to authorizations granted pursuant to Midwestern's original application filed on March 13, 1979 have been requested. The current import authorization allows for a total 114,000,000 Mcf to be imported through October 31, 1980. No change has been requested in this total, only in the maximum daily authorized volume.

OTHER INFORMATION: The ERA invites petitions for intervention in this proceedings. Such petitions are to be filed with the Economic Regulatory Administration, Room 4128, 2000 M St., NW, Washington, DC 20461, in accordance with the requirements of rules of practice and procedure (18 CFR 157.10). Such petitions for intervention will be accepted for consideration if filed not later than 4:30 p.m., on February 20, 1980.

Any person wishing to become a party to this proceedings or to participate as a party in any hearing which may be convened therein must file a petition to intervene. Any person desiring to make any protest with reference to the application should file a protest with the ERA in the same manner as indicated above for petitions to intervene. All protests filed with ERA will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

A formal hearing will not be held unless a motion for such hearing is made by a party or intervener and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required. If such hearing is required, due notice will be given.

Copies of Applicants' petitions are available for public inspection and copying in Room B-120, 2000 M Street, NW., Washington, D.C. 20461, between the hours of 8 a.m., and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on January 25, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-3142 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

Dennis Wesley Chevron; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Dennis Wesley Chevron, 505 W. Silverlake Blvd., Los Angeles, CA 90026. This Proposed Remedial Order charges Dennis Wesley Chevron with pricing violations in the amount of $7,281.90, connected with the resale of motor gasoline during the period August 1, 1979, to November 19, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from June Wallach, Acting District Manager for Enforcement, 111 Pine Street, San Francisco, California 94111, phone (415) 556-7200. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, D.C. 20461, in accordance with 10 CFR Section 205.193.

Issued in San Francisco, California on the 16th day of January 1980.

June F. Wallach,

Acting District Manager, Office of Enforcement, Western District.

[FR Doc. 80-3138 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

John's Chevron Station; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to John's Chevron Service, 3631 Beverly Blvd., Los Angeles, CA 90004. This Proposed Remedial Order charges John's Chevron Service with pricing violations in the amount of $1,513.34, connected with the resale of motor gasoline during the period August 1, 1979, to October 13, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from June Wallach, Acting District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111, phone (415) 556-7200. Within 15 days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR Section 205.193.

Issued in San Francisco, California on the 16th day of January 1980.

June F. Wallach,

Acting District Manager, Office of Enforcement, Western District.

[FR Doc. 80-3137 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

Ted's Arco; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Taghi Lauassani; dba Ted's Arco, 2110 Old Middlefield Road, Mountain View, CA 94043. This Proposed Remedial Order charges Ted's Arco with pricing violations in the amount of $535.55, connected with the resale of motor gasoline during the period August 1, 1979 through October 27, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111, phone (415) 556-7200. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR Section 205.193.

Issued in San Francisco, California on the 11th day of January, 1980.

June F. Wallach,

Acting District Manager of Enforcement, Western District.

[FR Doc. 80-3140 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy and the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following retransfer: RTD/SW(EU)-109, from West Germany to Sweden, 10 irradiated fuel rods, containing 1,849 grams uranium, 57.3 grams U-235 (3.098%), for irradiation test and examination. Upon completion of these tests, the rods are to be returned to West Germany for further examination.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that approval of this retransfer will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Deparment of Energy.

Dated: January 28, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-3139 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Objection to Proposed Remedial Orders Filed With the Office of Hearings and Appeals; Week of November 26 Through November 30, 1979

Notice is hereby given that during the week of November 26 through November 30, 1979, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Within 20 days after publication of this notice, any person who wishes to participate in the proceeding which the Department of Energy will conduct the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). On or before March 3, 1980, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause show. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Issued in Washington, D.C.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

January 24, 1980.

Herb's Union 76, Wilmette, Ill., BRO-0200, motor gasoline

On November 26, 1979, Herb's Union 76, 1618 Sheridan Road, Wilmette, Illinois 60091, filed a Notice of Objection to a Proposed Remedial Order that the Department of Energy Central District Office of Enforcement issued to the firm on September 12, 1979. The Proposed Remedial Order found that during the period August 1, 1979 through September 7, 1979 Herb's Union 76 committed pricing violations of $643.41 in connection with the sale of motor gasoline in the State of Illinois.

[FR Doc. 80-2977 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders by the Office of Hearings and Appeals; December 31, 1979, Through January 4, 1980

Notice is hereby given that during the period December 31, 1979 through January 4, 1980, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date or receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of act or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

January 24, 1980.

Chevron U.S.A., Inc., San Francisco, Calif., DEE-5917 carbon dioxide

Chevron U.S.A., Inc. filed an Application for Exception from the provisions of 10 CFR 212.83(c)(2). The exception request, if granted, would permit Chevron to exclude costs associated with the production of carbon dioxide, which it intends to sell, in computing its maximum lawful prices for price controlled refined products. On January 4, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

District of Columbia, Washington, D.C., DEE-8329 motor gasoline

The District of Columbia filed an Application for Exception from the provisions of the DOE motor gasoline allocation regulations. The exception request, if granted, would increase the monthly gasoline allocation of each retail outlet within the District or establish a mechanism which would automatically result in exception relief of this nature if certain criteria were satisfied. On January 2, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Musolino and Sons, Inc., Alexandria, Va., DEE-8199 gasohol

Musolino and Sons, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Musolino and Sons to purchase additional quantities of unleaded gasoline for the purpose of marketing gasohol. On January 4, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted in part.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No., and Location

Best-Way Marketing, DEE-2608; Collinsville, Okla.
Limehouse Gulf Station, DEE-7511; Charleston, S.C.
Marine Oil Co., BEE-0398; Fulton, Ky.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case No., and Location

Burns Service Center, DEE-4430; Action, Mass.
Dick's Texaco Service, DEE-7438; Glendale, Calif.
FS Services, Inc., DEE-7938; Bloomington, Ill.
Tidmore Oil Co., DEE-6022; Washington, D.C.

[FR Doc. 80-2983 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders by the Office of Hearings and Appeals; January 7 Through January 11, 1980

Notice is hereby given that during the period January 7 through January 11, 1980, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-1200, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays.

Dated: January 24, 1980.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Fina Jobbers Association, Inc., State of Georgia, DEE-5568 motor gasoline

Fina Jobbers Association, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would permit branded jobbers of American Petrofina, Inc. to receive increased supplies of motor gasoline. On January 11, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted in part.

Flour Corp., Irvine, Calif., DEE-7117 motor gasoline

The Flour Corporation filed an Application for Exception which, if granted, would increase the firm's allocation of motor gasoline for the purpose of fueling its employee van-pool program. In considering the firm's request, the DOE found that the van-pool program conserved significant volumes of motor gasoline. Consequently, on January 9, 1980, the DOE issued a Proposed Decision and Order which determined that Flour's request be granted.

R. H. Bowles Co., Yakima, Wash., BEE-0049 gasohol

R. H. Bowles Company filed an Application for Exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would increase the firm's allocation of unleaded gasoline so that it could blend and market gasohol. On January 7, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

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Tomahawk Oil Co., Hiawatha, Kan., BEE–0331 gasohol

The Tomahawk Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would increase the firm's allocation of unleaded motor gasoline so that it could blend and sell gasohol. On January 11, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

J. M. Davis Industries, Inc., Morehead City, N.C., DEE–8061 gasohol

J. M. Davis Industries, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would increase the firm's allocation of unleaded motor gasoline so that it could blend and market gasohol. On January 7, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Whirlpool Corp., Benton Harbor, Mich., BEE–0232 consumer products

Whirlpool Corporation (Whirlpool) filed an Application for Exception from the provisions of 10 CFR 430, the Energy Conservation Program for Consumer Products. In its Application, Whirlpool requests that it be permitted to modify the energy efficiency test procedures specified in 10 CFR 430, Subpart B, Appendix j, which are applicable to two categories of clothes washers manufactured by Whirlpool. On January 11, 1980, the DOE issued a Proposed Decision and Order in which it determined that the Whirlpool exception request be denied.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No. and Location

Citadel Corp., BXE–0128; Washington, D.C.
Forrest General Chevron Service, DEE–7274; Hattiesburg, Miss.
Mickey's Anchor, BEE–0277; Dudley, Mass.
Murray Pet. Co., Inc., DEE–6993; Bakersfield, Calif.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case No. and Location

D. C. Curl, DEE–2911; Memphis, Tex.
Loden Oil Co., DEE–7491; Batesville, Miss.
Montbello Conoco, DEE–3306; Denver, Colo.
Rainbow Car Wash, DEE–6044; Madison, S. Dak.
W. J. Fletcher Arco, DEE–2980; Medford, N.J.
Warelubco, Inc., DEE–2398; Washington, D.C.
Williams General Store, DEE–7706; Tunbridge, Vt.

[FR Doc. 80–2984 Filed 1–30–80; 8:45 am]
BILLING CODE 6450–01–M

Issuance of Proposed Decisions and Orders by the Office of Hearings and Appeals; November 26 Through November 30, 1979

Notice is hereby given that during the period November 26 through November 30, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the data of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decison and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except federal holidays.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

January 24, 1980.

Commonwealth Oil Refining Co., Inc., Washington D.C. DEE–8020, crude oil

Commonwealth Oil Refining Co., Inc. filed an Application for Exception in which the firm requested that the Office of Hearings and Appeals issue an Order which would enable it to obtain additional crude oil supplies during the September–December 1979 period. On November 30, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Gas Marketing, Inc., Stafford, Kans., DEE–7646, crude oil

Gas Marketing, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Gas Marketing to sell the crude oil which it produces from the Bayou Boullion 3–D Lease at prices in excess of applicable ceiling prices. On November 27, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Gas Service, Inc., Nashua, N.H., DEE–0056, Reporting requirements

Gas Service, Inc. filed an Application for Exception from the reporting requirements set forth in Form EIA–149 ("Natural Gas Supply, Requirements, and Usage"). The exception request, if granted, would relieve the firm of the obligations to file the form with the Energy Information Administration. On November 28, 1979, the Department of Energy issued a Proposed Decision and Order which determined that partial exception relief should be granted modifying the data which the firm must submit in order to simplify gathering the required data.

R. W. Tyson Producing Co., Inc., Jackson, Miss., DEE—3143, DEE—3144, DEE—3145, DEE—3146, DEE—3147, crude oil

R. W. Tyson Producing Company, Inc. filed Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception requests, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from five crude oil producing properties: McClellan-Vickers No. 1 Well, McClellan No. 1 Well, Vickers No. 2 Well, Federal Land Bank No. 3 Well, and Carter No. 3 Well, located on the Ovett Field in Jones County, Mississippi, at upper tier ceiling prices. On November 30, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted, in part, with respect to all of the above properties, with the exception of Federal Land Bank No. 3 Well which was denied.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No., and Location

Anthony R. Barone, DEE–6721; Philadelphia, PA.
B&B Oil Company, Inc., DEE–5854; Spokane, WA.
Hawk Oil Company, Inc., DEE–5801; Scranton, PA.
M. D. Fisher Oil, DEE–4880; New Braunfels, TX.
Melton's Exxon, DEE–5474; Camden, SC.
Mission Car Wash, DEE–5198; San Gabriel, CA.
Publix Oil Company, DEE–8115; Washington, DC.
Schapeler Oil Company, DEE–7086; Rockville, MO.
Stefano's Gasoline, DEE–5183; Lodi, CA.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case No., and Location

Alf M. Jorgensen, DEE–5407; Old Saybrook, CT.
Camp Springs Car Wash, DEE–5203; Camp Springs, MD.
D & D Gulf Service, DEE–7179; Fitchburg, MA.
Fredericksburg Amoco, DEE–5789; Fredricksburg, VA.
Freeman's Mobil S.C., DEE–8501; Cape Girardeau, MO.
Freeway Autocare Shell, DEE–7539; Phoenix, AZ.
Gibble Oil Company, DEE–4343; Okalahoma City, OK.
Guadalajara Gas, DEE–5280; Los Angeles, CA.
Jack's Arco, DEE–6185; Belmont, MA.
Laconia Car Wash Corp., DEE–7156; Laconia, NH.
Mojave Pet. Co., DEE–2743; Austin, TX.
Reilly's Coin-Op Car, DEE–6356; Stockton, CA.
Savoley & Shepard Sunoco Station, DEE–5352; Lowell, MA.
South Braintree Mobil, DEE–4739; S. Braintree, MS.
Williams Grocery, DEE–6639; Edniburg, MS.
Woodbrook Cities Service, DEE–6202; Baltimore, MD.
Yates Stores, Inc., DEE–3091; Laredo, TX.

[FR Doc. 80–2985 Filed 1–30–80; 8:45 am]
BILLING CODE 6450–01–M

Objection to Proposed Remedial Orders Filed With the Office of Hearings and Appeals; Week of January 7 Through January 11, 1980

Notice is hereby given that during the week of January 7 through January 11, 1980, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Within 20 days after publication of this notice, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205–194 (44 FR 7928, February 7, 1979). Within 30 days of the publication of this notice, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20462. Issued in Washington, D.C.

January 24, 1980.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Warwick Oil Corp., Lafayette, La., BRO–0733, crude oil

On January 8, 1980, Warwick Oil Corporation, P.O. Box 52745, Oil Center Station, Lafayette, Louisiana 70505 filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest District Office of Enforcement issued to the firm on November 6, 1979. In the Proposed Remedial Order the Southwest District found that during the period January 1976 through November 1977, Warwick Oil Corporation committed pricing violations in the State of Louisiana in connection with the production and sale of crude oil. According to the PRO, Warwick's violations resulted in overcharges to its customers of $89,250.

[FR Doc. 80–2986 Filed 1–30–80; 8:45 am]
BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1403–1]

Bicycling and Air Quality Information Document; Availability

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of bicycling and air quality information document.

SUMMARY: The Bicycling and Air Quality Information Document is now available from EPA. This document meets part of the requirements of Section 108(f)(1) (ix), (x) and (xi) which requires EPA to provide information on processes, procedures, and methods which will reduce or control air pollutants. The Act emphasizes bike lanes, secure bicycle storage facilities, measures that limit portions of road surfaces or certain sections of a metropolitan area to non-motorized vehicles, and employer participation in programs to promote bicycling. The Bicycling and Air Quality Information Document is intended to provide urban areas with better information on bicycle strategies for use in development of State Implementation Plans. It summarizes the major factors affecting bicycle use and documents ways to increase bicycle use through a comprehenisve program of measures, including engineering safety education, and enforcement. Data on bicycle program effectiveness is reviewed, and potential air quality and energy impacts of bicycle strategies are discussed. The importance of integrating bicycle strategies into the 3–C transportation planning process is shown. Other implementation considerations such as legislation, institutional structure and funding sources are given. Case studies illustrate strong bicycle program implementation in Davis (California), Madison (Wisconsin), Denver (Colorado), and the States of North Carolina and California.

Availability: The document is intended to help air quality planners, transportation planners, local officials, and citizens develop and implement bicycle strategies. Limited copies are available from EPA. To obtain copies, State and local officials should contact respective EPA regional offices. Federal officials should contact EPA headquarters. All others can buy the document from the National Technical Information Service.

Dated: January 27, 1980.

David G. Hawkins,

Assistant Administrator for Air, Noise and Radiation.

Addresses

Region, Bicycle Coordinator, and States in Region

I—Denny Lawton, Environmental Protection Agency, Room 2302 JFK Federal Bldg., Boston, Massachusetts 02203, FTS 8–223–5630, 617–223–5630; Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.
II—John Filippelli, Environmental Protection Agency, Room 1005, 26 Federal Plaza, New York, New York 10007, FTS 8–264–7865, 212–264–7865; New Jersey, New York, Puerto Rico, Virgin Islands.
III—Peter Cosier/Bill Belanger, Environmental Protection Agency, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, FTS 8–597–8990 (Cosier), 215–597–8990; Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia.

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IV—Don Stone, Environmental Protection Agency, 345 Courtland NE., Atlanta, Georgia 30308, FTS 253–2864, 404–881–2864; Alabama, Georgia, Florida, Mississippi, North Carolina, South Carolina, Tennessee, Kentucky.

V—Michelle Rockawich, Environmental Protection Agency, Air Pollution Division, 230 S. Dearborn Street, Chicago, Illinois 60604, FTS 8–886–6082, 321–886–6082; Illinois, Indiana, Ohio, Michigan, Wisconsin, Minnesota.

VI—Ragan Broyles, Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270, FTS 8–729–2742, 214–767–2742; Arkansas, Louisiana, Oklahoma, Texas, New Mexico.

VII—Wayne Leidwanger, Environmental Protection Agency, Room 249, 324 E. 11th Street, Kansas City, Missouri 64106, FTS 8–758–2880, 816–374–2880; Iowa, Kansas, Missouri, Nebraska.

VIII—Barry Levene, Environmental Protection Agency, Suite 900, 1860 Lincoln Street, Denver, Colorado 80203, FTS 8–327–3711, 303–837–3711; Colorado, Utah, Wyoming, Montana, North Dakota, South Dakota.

IX—Eric Ginsburg, Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105, FTS 8–556–6695, 415–556–6695; Arizona, California, Nevada, Hawaii.

X—David DeBryun, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington, 98101, FTS 8–399–1226, 206–442–1226; Alaska, Idaho, Oregon, Washington.

EPA Headquarters: Nina D. Rowe, Bicycle Coordinator, Environmental Protection Agency, ANR–445, Office of Transportation and Land Use Policy, 401 M Street SW., Washington, D.C. 20460.

National Technical Information Service, Springfield, VA 22151.

[FR Doc. 80–3071 Filed 1–30–80; 8:45 am]

BILLING CODE 6560–01–M

[OPP—180401; FRL 1403–5]

California Department of Food and Agriculture; Crisis Exemption to Use Bromoxynil on Garlic To Control Broadleaf Weeds

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notice of temporary crisis exemption.

SUMMARY: EPA gives notice that the California Department of Food and Agriculture (hereafter referred to as "California") has availed itself of a crisis exemption to use bromoxynil on approximately 13,000 acres of garlic in California to control broadleaf weeds. Since treatment was expected to exceed 15 days, California submitted a request for a specific exemption for continuation of this use of bromoxynil.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E–124, Washington, D.C. 20460, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to California, garlic yield is reduced by competition for minerals, light, and water by the following broadleaf weeds: Russian thistle, mare's tail, common groundsel, London rocket, pineapple weed, wild sunflower, may weed, and blue (purple) mustard. California stated that common groundsel is a particularly costly pest to garlic growers. Garlic is frequently rotated to lettuce to which groundsel is closely related and is difficult to control without lettuce phytotoxicity problems. California stated that garlic production is valued at $24.7 million and that losses could reach $2.5 million this year due to abandoned, weed-infested fields or reduced yields. California further stated that the lack of effective controls and the impending garlic season made immediate treatment necessary. California used Buctril (EPA Reg. No. 359–564) and Brominal 2EC (EPA Reg. No. 264–204) at a rate of 0.5 to 1.0 pound active ingredient in 40 to 100 gallons of water by ground and at least 5 gallons of water by air per acre. A 24-hour field reentry interval and a 112-day pre-harvest interval were to be observed. Since treatment was to exceed 15 days, California submitted a request for a specific exemption to continue this program until April 30, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: January 24, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–3070 Filed 1–30–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1403–8]

Motor Vehicle Pollution Control Waiver of Carbon Monoxide Emission Standards; Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearing to consider applications for waiver of 1981 and 1982 model year light-duty vehicle emission standard for carbon monoxide (CO).

SUMMARY: On January 8, 1980, Automobile Peugeot (Peugeot) applied under section 202(b)(5) of the Clean Air Act, as amended, for a waiver of the effective date of the 1981 and 1982 CO emission standard for one of its engine families. On January 14, 1980, Regie Nationale des Usines Renault (Renault) reapplied for a CO Waiver for one of its engine families covered by an earlier waiver request which had been denied by the Administrator in a decision published on December 3, 1979 (44 FR 69417). The denial of Renault's original request was based on Renault's failure to establish that space limitations prevent the incorporation of effective emission control equipment into the vehicle of this engine family.

DATES: This notice announces that EPA will hold a public hearing in Washington, D.C., on February 12, 1980, and continuing through February 13, 1980, if necessary, to consider Peugeot's and Renault's waiver applications and any other manufacturer's application received by February 6, 1980. Interested parties may also submit written comments to the public docket on these waiver applications until February 25, 1980, to ensure consideration of those comments in the Administrator's evaluation of these waiver applications.

ADDRESS: All public portions of the CO waiver applications and other relevant information are available for public inspection between 8 a.m. and 4 p.m., Monday through Friday, at: U.S. Environmental Protection Agency, Central Docket Section (A–130), Room 2903B, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460 (Docket Number EN–80–1).

FOR FURTHER INFORMATION CONTACT: Mr. Glenn Unterberger, Manufacturers Operations Division, (EN–340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 472–9421.

SUPPLEMENTARY INFORMATION: Under section 202(b)(5)(A) of the Clean Air Act, as amended, 42 U.S.C. 7521(b)(5)(A) (1977) ("Act"), at any time after August 31, 1978, any manufacturer may file with the Administrator an application requesting the waiver of the effective date of the carbon monoxide (CO) emission standard applicable to any model of light-duty motor vehicles and engines manufactured by the applicant during model years 1981 and 1982. Section 202(b)(5)(C) requires the Administrator to issue a decision granting or denying such waiver within 60 days after receipt of the application and after public hearing. Guidelines for the submission of such waiver requests have been previously published in the

Federal Register, 43 FR 47272, October 13, 1978.

Section 202(b)(1)(A) requires that emissions of CO from 1981 and later model year light-duty motor vehicles be reduced by 90% from 1970 CO emission standards. A CO emission standard of 3.4 grams per vehicle mile, determined to achieve such reduction and made applicable by regulation to 1981 and later model year light-duty vehicles, has been published in the Federal Register 43 FR 37972, August 24, 1978. If the Administrator determines that a waiver from the CO standard of 3.4 grams per vehicle mile (gpm) should be granted, he must, simultaneously with such determination, prescribe by regulation CO emission standards to apply to those model vehicels or engines to which the waiver applies. Under section 202(b)(5)(B) the maximum CO level for which a waiver may be granted is 7.0 gpm.

Under section 202(b)(5)(C), the Administrator may grant such a waiver only if he finds that protection of the public health does not require attainment of the statutory CO standard of 3.4 gpm for those model years and vehicles for which the waiver is sought. In addition, a waiver may be granted only if the Administrator determines that (1) such waiver is essential to the public interest or the public health and welfare of the United States, (2) the applicant has made all good faith efforts to meet the established standards, (3) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available with respect to the model in question for a sufficient period of time to achieve compliance prior to the effective date of such standards, taking into consideration costs, driveability, and fuel economy, and (4) studies and investigations of the National Academy of Sciences and other information available to him have not indicated that technology, processes, or other alternatives are available to meet such standards.

In order for a waiver to be granted, the Administrator must determine that the applicant has provided information sufficient to satisfy each of the waiver criteria set out above. However, the Administrator is not required to make his determination solely on the record of the public hearing, and may consider any additional information as well. All information considered by the Administrator will be included in the public docket.

EPA has held public hearings regarding CO waiver applications on three separate occasions. The first hearing, which considered applications submitted by General Motors, Chrysler, American Motors, Volkswagen, Toyota and BL Cars, commenced July 9, 1979 and lasted four days. The Administrator's consolidated decision on those waiver applications was published on September 13, 1979. (44 FR 53376). The second hearings were conducted on September 12, 1979, and considered waiver applications from Toyo Kogyo, Nissan, Fuji Heavy Industries and Renault. The consolidated decision was published on December 3, 1979. (44 FR 69416). The third hearings, conducted on November 5, 1979, considered new waiver requests by Toyota, Chrysler, American Motors and General Motors for models previously denied waivers and requests by Lotus regarding vehicle models not previously addressed. A consolidated decision on this third set of waiver requests has been announced and will be published in the Federal Register shortly.

In addition to testimony provided by each waiver applicant, testimony has been given at these hearings by other automobile manufacturers and by several emission control system part supplies. Information considered for each of these decisions is contained in Public Dockets EN–79–4, EN–79–17 and EN–79–19, respectively. Each new docket in these waiver proceedings incorporates the previous waiver hearing docket by reference. Thus, Public Docket EN–80–1, pertaining to this latest group of waiver applications, will incorporate each of the three aforementioned dockets.

Peugeot submitted its CO waiver application on January 8, 1980. The sixty day decision period specified in the Act requires the Administrator to decide on the application on or before March 10, 1980. The Renault reapplication was submitted on January 14, 1980, and the Administrator's decision is therefore required on or before March 14, 1980.

EPA will hold a public hearing on Peugeot's and Renault's waiver applications and on applications received from any other motor vehicle manufacturers on or before February 6, 1980, in the General Services Administration Auditorium, 7th and D Streets, SW., Washington, D.C. 20460, commencing at 8:00 a.m. on February 12, 1980. EPA encourages all manufacturers still planning to request a CO waiver to file their applications by the February 6 deadline. This will facilitate review of as many outstanding waiver applications as possible in one consolidated proceeding. Submitting applications at a reasonable time before the scheduled proceedings will facilitate the Administrator in making a timely decision.

PROCEDURES: The public hearing is intended to provide an opportunity for interested persons to state their views or arguments, or to provide pertinent information concerning the action requested of the Administrator by the applicant. Any person desiring to make an oral statement at the hearing should file a notice of such intention and 10 copies of the proposed testimony and other relevant material in the Central Docket Section at the address listed above no later than February 6, 1980. If feasible at least 75 copies of such statement or material for the hearing record and for general circulation should be submitted to the Presiding Officer at the time of the hearing. In addition, any person may submit written questions at any time during the hearing to be propounded to the witnesses by the hearing panel to the extent practicable. Relevant statements and information not specifically required by the hearing panel may be filed in the public docket until February 25, 1980, to insure their consideration in the Administrator's evaluation of the waiver applications at issue. Submissions received after that date will be considered to the extent practicable in reaching decisions within the time periods specified by the Act.

Where appropriate, representatives of the applicants will be required under the subpoena authority of section 307(a)(1) of the Act to attend the hearing and respond to questions propounded by the hearing panel. Moreover, other parties may also be subpoenaed to produce relevant information and provide testimony before the hearing panel. Section 307(a)(1) also authorizes the administration of oaths to testifying parties.

The Presiding Officer will have the responsibility for maintaining order, excluding irrelevant or repetitious material, scheduling presentation, directing that corroborative material be submitted in writing and; to the extent possible, notifying participants of the time at which they may appear.

As was the case in the previous three CO waiver public hearings, presentations by the participants in this hearing should be addressed exclusively to the following considerations:

1. Whether protection of the public health requires attainment of the established CO standard of 3.4 gpm for the model years to which the waiver would apply.

2. Whether the requested waiver is essential to the public health and welfare of the United States.

3. Whether the applicants have made all good faith efforts to meet the CO standard for those model years and vehicles for which the waiver is sought.

4. Whether effective control technology, processes, operating methods, or other alternatives are not available or have not been available with respect to the model in question for a sufficient period of time to achieve compliance prior to the effective date of such standards, taking into consideration costs, driveability, and fuel economy.

5. Whether studies and investigations of the National Academy of Sciences and other information indicate that alternatives are available to meet such standards.

6. The level of CO emissions, not to exceed 7.0 gpm, which could be met in each of the model years for which a waiver is requested and which would reflect the greatest degree of emission control achievable by use of available technology, giving appropriate consideration to the cost of applying such technology within the available time period.

A verbatim record of the proceedings will be made and will be available for public inspection. A copy of the transcript may be requested from the reporter during the hearing and will be made at the expense of the person so requesting. Copies of other documents in the public record may also be obtained as specified in 40 CFR Part 2.

Dated: January 25, 1980.

Jeffrey G. Miller,

Acting Assistant Administrator for Enforcement.

[FR Doc. 80-3085 Filed 1-30-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP-30174; FRL 1403-4]

Pesticide Programs; Receipt of Application to Conditionally Register a Pesticide Product Containing New Active Ingredient

AGENCY: Office of Pesticide Programs, Environmental Protecton Agency (EPA, or the Agency).

ACTION: Notice of receipt of applicion.

SUPPLEMENTARY INFORMATION: Texas Biological Controls, Rt. 1, PO Box 163F4, Bastrop, TX 78602, has submitted to EPA an application to conditionally register the pesticide product Locustcide (EPA File Symbol 43356-R) containing 100% of the active ingredient *nosema locustae* which has not been included in any previously registered pesticide product. The application proposes that the pesticide be classified for general use for grasshopper control.

Notice of approval or denial of this application to conditionally register Locustcide will be announced in the **Federal Register.** Except for such material protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) and the regulations thereunder (40 CFR 162.6), the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved. Notice of receipt of this application does not indicate a decision by the Agency on the application.

COMMENTS/INQUIRIES: Interested persons are invited to submit written comments on this application. Comments may be submitted, and inquiries directed, to Product Manager (PM) 17, Mr. Franklin Gee, Room E-341, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/426-9417.

The Comments must be received on or before March 3, 1980, and should bear a notation indicating the EPA "File Symbol 43356-R". Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. The label furnished by Texas Biological Controls, as well as all written comments filed in connection with this notice, will be available for public inspection in the Product Manager's Office from 8:30 am. to 4:00 p.m., Monday through Friday, excluding holidays.

(Section 3(c)(4), FIFRA and 40 CFR 162.6.)

Dated: January 25, 1980.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 80-3088 Filed 1-30-80; 8:45 am]

BILLING CODE 6560-01-M

[OPTS-59002; FRL 1403-2]

Pesticides and Toxic Substances; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA, or the Agency).

ACTION: Receipt of application for exemption from premanufacture requirements for test marketing purposes; request for comments.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under Section 5(h) the Agency may, upon application, exempt any person from any requirement of Section 5 permit such person to manufacture or process a chemical for test marketing purposes. Section 5(h)(6) requires EPA to publish in the **Federal Register** a notice of receipt of any such application. This notice announces receipt of an application for an exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the exemption.

DATES: The Agency must either approve or deny this application by March 1, 1980. Persons should submit written comments on the application no later than February 15, 1980.

ADDRESS: Written comments should bear the identifying notation "OPTS-59002", and should be submitted in triplicate, if possible, to the Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, EPA, 401 M St. SW., Washington, D.C. 20460. All comments submitted and other nonconfidential information in the public record are available for public inspection from 9:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Room 447, East Tower, at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. George Bagley, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, EPA, Washington, D.C. 20460 (202/426-3936).

SUPPLEMENTARY INFORMATION: Under Section 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing chemical substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. (Notice of availabity of the Initial Inventory was published in the **Federal Register** on May 15, 1979 (44 FR 28558)). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

Section 5(a)(1) requires each PMN to be submitted in accordance with Section 5(d) and any applicable requirement of Section 5(b). Section 5(d)(1) defines the contents of a PMN. Section 5(b)(1) contains additional reporting requirements for chemical substances that are subject to testing rules under Section 4. Section 5(b)(2) requires additional information in PMN's for substances which EPA, by rules under Section 5(b)(4), has determined may present unreasonable risks of injury to health or the environment.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of Section 5. In particular, Section 5(h)(1) authorizes EPA, upon application, to exempt persons for any requirement of Section 5(a) or Section 5(b) to permit the persons to manufacture or process a chemical substance for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the **Federal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the **Federal Register** a notice of receipt of an application under section 5(h)(1) immediately after the Agency receives the application. The notice identifies and briefly describes the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application within 45 days, interested persons should provide comments within 15 days after the notice appears in the **Federal Register.**

EPA has proposed Premanufacture Notification Requirements and Review Procedures (44 FR 2242, January 10, 1979 and 44 FR 59764, October 16, 1979) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2268) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concering the section 5(h)(6) **Federal Register** notice. However, these requirements are not yet in effect. In the meantime, EPA has published a statement of Interim Policy (44 FR 28564, May 15, 1979) which applies to PMN's submitted prior to promulgation of the rules and notice forms.

Dated: January 28, 1980.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

Test Marketing Exemption
Application No.: 5AHQ-0180-0106
Close of Application Review Period: March 1, 1980
Applicant's Identity: Hercules Inc., Wilmington, DE 19889
Chemical Indentity: Dipropylene glycol polyester of byproducts from the manufacturer of dimethyl ester of 1,4-benzene-dicarboxylic acid.
Specific Use Information: 90-day humidity aging tests of rigid urethane foam and other performance tests.
Data:

The product is shipped molten and is loaded at a temperature range of 100-110° C (212-230° F).

Physical data	
Boiling point, 760 mm hg	Not applicable.
Vapor pressure @ 25°C	0.03 mm Hg dipropylene glycol.
Vapor density (air = 1)	4.6 dipropylene glycol.
Solubility in water percent by weight.	Appreciable.
Viscosity at 25°	32,000 cps max.
Specific gravity (H_2O = 1)	1.15 typical.
Percent volatile by volume	Unknown.
Evaporation rate (butyl acetate = 1).	<1.
Ph	
Fire and explosion hazard data	
Flash point	183° (361°F) COC.
Auto ignition temperature	Unknown.
Flammable limits in air	Lower 1.3 dipropylene glycol.
Percent by volume	Upper 8.5 dipropylene glycol.
Extinguishing media	Not applicable.
Special fire-fighting procedures.	Cool containers with water if exposed to fire.
Unusual fire and explosion hazards.	None.
Hazardous ingredients	*TSV-TWA values adopted by ACGIH 1979*
Free dipropylene glycol	10-15% ..... Not established.
Cobalt	<.50 ppm ..... 0.1 mg/m³.

Reactivity Data: The substance is stable, no conditions to avoid, no incompatibility (materials to avoid), no hazardous decomposition products, and hazardous polymerization will not occur.

The manufacturer states that the company's manufacturing process and normal customer handling of the material minimize the opportunity for worker exposure.

[FR Doc. 80-3087 Filed 1-30-80; 8:45 am]

BILLING CODE 6560-01-M

[OPTS—51018; FRL 1403-3]

Pesticides and Toxic Substances; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA, or the Agency).

ACTION: Receipt of a premanufacture notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. Section 5(d)(2) requires EPA to publish a summary of each PMN in the **Federal Register.** This Notice announces receipt of a PMN and provides a summary.

DATE: Persons who wish to file written comments on a PMN should submit their comments no later than 30 days before the applicable notice review period ends.

ADDRESS: Written comments should bear the PMN number "5AHQ0180-0099" and should be submitted in triplicate, to the Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, EPA, 401 M Street, S.W., Washington, D.C. 20460.

Nonconfidential portions of the PMN and other documents in the public record are available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Room E-447 at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Wilson, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, EPA, Washington, D.C. 20460, telephone: 202/426-3980.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. (Notice of availability of the Initial Inventory was published in the **Federal Register** on May 15, 1979 (44 FR 28558)). The requirement to submit a PMN for new chemical substances manufactured or imported for a commercial purpose became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms (44 FR 2242, January 10, 1979). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy (44 FR 28564, May 15, 1979) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see the section entitled "Notice in the **Federal Register**" on p. 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under Section 5(d)(2) EPA must publish in the

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Federal Register nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under Section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the Section 5(d)(2) notice is subject to § 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the **Federal Register**.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** Notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

EPA has 90 days to review a PMN once the Agency receives it (Section 5(a)(1)). The Section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under Section 5(c), EPA may for good cause extend the review period for up to an aditional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under Section 5(a)(1)(A).

(Section 5 of the Toxic Substances Control Act (90 Stat. 2012; 15 U.S.C. 2604))

Dated: January 28, 1980.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

PMN No.: 5AHQ–0180–0099.

Close of Review Period: April 8, 1980.

Manufacturer's Identity: Witco Chemical, 633 Court St., Brooklyn, NY 11231.

Specific Chemical Identity: Fatty acid, tall oil, epoxidized C7 alkyl, and C9 alkyl ester mixture.

Use: The product is used as an epoxy plasticizer in vinyl chloride polymer plastics. The manufacturer states that it is not intended or expected to be used in drinking water contact materials.

Data: Physical/Chemical Properties:

Specifications (applicable to both C7–C9 mixed ester and C8 ester of epoxidized tall oil fatty acid):

Color (Gardner)	1 maximum.
Specific gravity at 25°C	0.920 ± 0.010.
Oxirane oxygen (ASTM D 1682–73).	4.8% minimum.
Iodine value (Wijs method)	2.5 maximum.

Properties of laboratory preparation of C7–C9 mixed ester and C8 ester of epoxidized tall oil fatty acid made from the same lot of tall oil fatty acid:

	C7–C9 mixed ester	C8 ester
Color (Gardner)	1	1
Specific gravity at 25° C	0.916	0.917
Oxirane oxygen (ASTM D 1682–73)	4.96	4.97%
Iodine value (Wijs method)	1.78	1.73
Acid value (mg KOH/g)	0.72	0.08
Refractive index 25° C	1.4565	1.4566
Moisture	0.05%	0.05%
Flash point (C.O.C.)	220	220
Solubility in water, 20% C	<0.01%–<0.01%	

Human Exposure and Environmental Release:

The manufacturer stated that the product will be manufactured at a site in Taft, Louisiana with 8 workers employed in the operating unit. According to the manufacturer, this manufacturing operation normally runs 24 hours per day for 200–300 days per year, and the manufacturer estimates that between 50,000 kg and 10,000,000 kg of the product will be manufactured each year during the first three years of production. The company claims that due to the enclosed and continuous nature of the manufacturing process, worker exposure to the product under normal operating conditions is nil.

The manufacturer stated its belief that direct exposure of workers to the liquid product will occur only in accidental situations such as spills or leaks during loading or transferring of the product, and that its low volatility makes inhalation or other vapor exposure improbable. The manufacturer stated that it was unable to give any estimate of the exposure of workers to this substance at sites outside of its control. No estimates of consumer exposure were provided.

The company claims that because of the enclosed and continuous nature of the manufacturing process and the low volatility and water solubility of the product, environmental release of the product under normal operating conditions is nil.

[FR Doc. 80-3066 Filed 1-30-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1403–6]

Science Advisory Board; Water Quality Criteria Subcommittee; Open Meeting

Under Public Law 92–463, notice is hereby given that a meeting of the Water Quality Criteria Subcommittee of the Science Advisory Board will be held on February 22, 1980, beginning at 9:00 a.m., in the Shenandoah Conference Room A and B, Ramada Inn Rosslyn, 1900 North Fort Myer Drive, Arlington, Virginia.

This is the fifth meeting of the Water Quality Criteria Subcommittee. The Agenda includes consideration of the Subcommittee's revision of the draft report on the methodologies used in the development of water quality criteria to protect aquatic life and human health for the 27 specified pollutants, listed in the **Federal Register**, Part V, pages 15926–15981, March 15, 1979, and for the 26 specified pollutants listed in the **Federal Register**, Part III, pages 43660–43697, July 25, 1979, and on selected criteria documents.

The meeting is open to the public. Because of the limited seating capacity of the meeting room, all members of the public desiring to attend must preregister no later than February 19, 1980, and receive a confirmed reservation from Dr. J. Frances Allen, Staff Officer, Water Quality Criteria Subcommittee, or Ms. Anita Najera, (202) 472–9444.

Dated: January 28, 1980.

Richard M. Dowd,

Staff Director, Science Advisory Board.

[FR Doc. 80-3068 Filed 1-30-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-71]

Germania Federal Savings & Loan Association, Alton, Ill.; Final Action Approval of Conversion Application

Dated: January 25, 1980.

Notice is hereby given that on January 23, 1980, the Federal Home Loan Bank Board ("Board"), as governing head of the Federal Savings and Loan Insurance Corporation, by Board Resolution No. 80–53 approved the application of Germania Federal Savings and Loan Association, Alton, Illinois for permission to convert to the stock form of organization. Copies of the application are available for inspection through the Secretariat of said Board, 1700 G. Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Board at the Federal Home Loan Bank of Chicago, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80-3069 Filed 1-30-80; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

F & M National Corp.; Acquisition of Bank

F & M National Corporation, Winchester, Virginia, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by merger to Massanutten Bank and Trust, Harrisonburg, Virginia. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 25, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 23, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3064 Filed 1-30-80; 8:45 am]

BILLING CODE 6210-01-M

First Union Bancorp.; Acquisition of Bank

First Union Bancorporation, St. Louis, Missouri, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 90 per cent or more of the voting shares of First National Bank of Neosho, Neosho, Missouri. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 21, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 21, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3049 Filed 1-30-80; 8:45 am]

BILLING CODE 6210-01-M

Johnson State Bancshares, Inc.; Formation of Bank Holding Company

Johnson State Bancshares, Inc., Johnson, Kansas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 95 per cent or more of the voting shares of The Johnson State Bank, Johnson, Kansas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 25, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 23, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3051 Filed 1-30-80; 8:45 am]

BILLING CODE 6210-01-M

Indiana National Corp.; Proposed Acquisition of Indiana Mortgage Corporation

Indiana National Corporation, Indianapolis, Indiana, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire voting shares of Indiana Mortgage Corporation, Indianapolis, Indiana.

Applicant states that the proposed subsidiary would engage in the activities of making, acquiring for its own account or for the account of others, loans and other extensions of credit such as would be made, for example, by a mortgage company; servicing loans and other extensions of credit for any person; and leasing real property or acting as agent, broker, or advisor in leasing such property. These activities would be performed from offices of Applicant's subsidiary in Indianapolis, Indiana. The geographic areas to be served with respect to each activity are as follows: servicing permanent income property mortgage loans and leasing real property or acting as agent, broker or advisor in leasing such property, the State of Indiana excluding Lake and Porter Counties but including those Ohio and Kentucky counties located within the Cincinnati and Louisville SMSA's; originating and servicing residential mortgage loans, the eight counties in the Indianapolis SMSA; origination of permanent income property mortgage loans and interim construction and land development loans, the Indiana counties of Bartholomew, Boone, Brown, Clinton, Delaware, Hamilton, Hancock, Hendricks, Howard, Johnson, Madison, Marion, Monroe, Montgomery, Morgan, Owen, Putnam, Shelby, Tippecanoe, and Tipton. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of 25.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation

would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 25, 1980.

Board of Governors of the Federal Reserve System, January 22, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3053 Filed 1-30-80; 8:45 am]

BILLING CODE 6210-01-M

Minnesota Banc Holding Co.; Formation of Bank Holding Company

Minnesota Banc Holding Company, Waterville, Minnesota, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 81.3 per cent of the voting shares of Citizens State Bank of Waterville, Waterville, Minnesota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 25, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 24, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3052 Filed 1-30-80; 8:45 am]

BILLING CODE 6210-01-M

New England Merchants Company, Inc., Acquisition of Bank

New England Merchants Company, Inc., Boston, Massachusetts, has applied for the Board's approval under § 3(a)(5) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(5)) to merge with Massachusetts Bay Bancorp, Inc., Lawrence, Massachusetts. The factors that are considered in acting on the application are set forth in §3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 25, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 23, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3048 Filed 1-30-80; 8:45 am]

BILLING CODE 6210-01-M

River Valley Bancshares, Inc.; Formation of Bank Holding Company

River Valley Bancshares, Incorporated, Lewiston, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 79.6 percent of the voting shares of Lewiston State Bank, Lewiston, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 22, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3055 Filed 1-30-80; 8:45 am]

BILLING CODE 6210-01-M

The Salida Corp.; Formation of Bank Holding Company

The Salida Corporation, Salida, Colorado, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 95 per cent or more of the voting shares of The Chafee County Bank, Salida, Colorado. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than February 25, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 24, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3046 Filed 1-30-80; 8:45 am]

BILLING CODE 6210-01-M

Zions Utah Bancorp.; Acquisition of Bank

Zions Utah Bancorporation, Salt Lake City, Utah, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 99 per cent of the voting shares of Zions First National Bank of Orem, Orem, Utah. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 25, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 24,1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3047 Filed 1-30-80; 8:45 am]

BILLING CODE 6210-01-M

Zions Utah Bancorp.; Acquisition of Bank

Zions Utah Bancorporation, Salt Lake City, Utah, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 98.8 per cent of the voting shares of Zions First National Bank of Cedar City, Cedar City, Utah. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 25, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 24, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3050 Filed 1-30-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on January 18, 1980. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before February 19, 1980, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5108, 441 G Street NW., Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

Interstate Commerce Commission

The ICC requests an extension without change clearance of Annual Report, Form C–1, required to be filed by some 160 persons furnishing cars to railroads or express companies (other than refrigerator car lines owned or controlled by railroad companies) and owning or operating 10 or more cars. ICC states that the data collected are used for economic regulatory purposes. Reports are mandatory and available for public use. The ICC estimates reporting burden will average two hours per annual report.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-3152 Filed 1-30-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committees; Notice of Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory bodies scheduled to assemble during the month of February 1980:

National Advisory Mental Health Council
February 13–15, 1980, 9:30 a.m.
Conference Rooms G and H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland
Open—February 13
Closed—Otherwise
Contact: Mrs. Zelia Diggs, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301) 443–4333
Purpose: The National Advisory Mental Health Council advises the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, regarding the policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research, training, and services in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and the amount of, these grants.
Agenda: On February 13 the meeting will be open for discussion of NIMH policy issues. These will include current administrative, legislative, and program developments. Otherwise, the Council will conduct a final review of grant applications for Federal assistance and these sessions will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions set forth in Section 552(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).
Life Course, Review Committee
February 27–29, 1980, 9:00 a.m.
Counsel Room & Quorum Room, Sheraton Inn Washington-Northwest, 8727 Colesville Road, Silver Spring, Maryland 20910
Open—February 27, 9:00–10:00 a.m.
Closed—Otherwise
Contact: Mrs. Diana Souder, Room 9C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367
Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of child, family, and aging, and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00–10:00 a.m., February 27, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above. The NIMH Committee Management Officer who will furnish upon request summaries of the meetings and rosters of the committee members is Mrs. Zelia Diggs, Office of the Associate Director for Extramural Programs, NIMH, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-3016 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-88-M

Health Services Administration

Assistance Under the Public Health Service Act Project Grants for General Family Planning Training; Announcement of Availability of Grants

The Health Services Administration announces that competitive applications

are now being accepted for grants for fiscal year 1980 for general family planning training projects. These grants are authorized by section 1003(a) of the Public Health Service Act (42 U.S.C. 300–01(a)) which authorizes the Secretary of Health, Education, and Welfare to make grants to public or nonprofit private entities to provide training for personnel to carry out family planning service programs described in section 1001 of the Public Health Service Act (42 U.S.C. 300). The amount available under this announcement is $2,000,000.

The Secretary will make grants to eligible applicants to assist in the establishment and operation of projects which will promote the purposes of section 1003 of the Act, taking into account the degree to which the project meets the requirements of the regulations (see 42 CFR § 59.205 and § 59.206).

Applications are invited for the following 10 grants:

One general training grant for HEW Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont);

One general training grant for HEW Region II (New Jersey, New York, Puerto Rico, and Virgin Islands);

One general training grant for HEW Region III (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia);

One general training grant for HEW Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee);

One general training grant for HEW Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin);

One general training grant for HEW Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas);

One general training grant for HEW Region VII (Kansas, Missouri, Nebraska, and Iowa);

One general training grant for HEW Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming);

One general training grant for HEW Region IX (American Samoa, Arizona, California, Guam, Hawaii, Nevada, Trust Territory of Pacific Islands, and Wake Island); and

One general training grant for HEW Region X (Alaska, Idaho, Oregon, and Washington).

Applications must be submitted to the appropriate A–95 Clearinghouse Agency (see Office of Management and Budget Circular A–95, Revised) and to the appropriate Health Systems Agency(s) at least 60 days before the due date for completed applications to the Bureau of Community Health Services.

Application kits, including all necessary forms, instructions, and information relating to the grant applications may be obtained upon written request from: Grants Management Branch, Bureau of Community Health Services, 5600 Fishers Lane, Room 6–49, Rockville, Maryland 20857.

Completed applications must be received by May 1, 1980. Completed applications should be submitted to the Grants Management Branch at the above address.

Dated: January 21, 1980.

George I. Lythcott,

Administrator, Health Services Administration.

[FR Doc. 80-3002 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-84-M

Assistance Under the Public Health Service Act Project Grants for Family Planning Nurse Practitioner Training; Announcement of Availability of Grants

The Health Services Administration announces that competitive applications are now being accepted for award of grants in fiscal year 1980 for family planning, nurse practitioner training.[1] These grants are authorized by section 1003(a) of the Public Health Service Act (42 U.S.C. 300a–1(a) which authorizes the Secretary of Health, Education, and Welfare to make grants to public or nonprofit private entities to provide training for personnel to carry out family planning service programs described in section 1001 of the Public Health Service Act (42 U.S.C. 300). The amount available under this announcement is $1,000,000.

The Secretary will make grants to eligible applicants to assist in the establishment and operation of projects which will promote the purposes of section 1003 of the Act, taking into account the degree to which the project meets the requirements of the regulations (see 42 CFR § 59.205 and § 59.206).

Applications are invited for the following five grants: One nurse practitioner training grant for HEW Regions I, II, and III; One nurse practitioner training grant for HEW Region IV; One nurse practitioner tranining grant for HEW Region V; One nurse practitioner training grant for HEW Regions VI and VII; One nurse practitioner training grant for HEW Regions VIII, IX, and X.

Applications must be submitted to the appropriate A–95 Clearinghouse Agency (see Office of Management and Budget Circular A–95, Revised) and to the appropriate Health Systems Agency(s) at least 60 days before the due date for completed applications to the Bureau of Community Health Services.

Applications kits, including all necessary forms, instructions, and information relating to the grant applications may be obtained upon written request from: Grants Management Branch, Bureau of Community Health Services, 5600 Fishers Lane, Room 6–49, Rockville, Maryland 20857.

Completed applications must be received by April 1, 1980. Completed applications should be submitted to the Grants Management Branch at the above address.

Dated: January 21, 1980.

George I. Lythcott,

Administrator, Health Services Administration.

[FR Doc. 80-3008 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-84-M

[1] Such courses also may be called "obstetric-gynecologic nurse practitioner" training or "women's health care nurse practitioner" training.

National Institute for Occupational Safety and Health

Grants for Research and Demonstrations Relating to Occupational Cutaneous Hazards and Diseases

The National Institute for Occupational Safety and Health (NIOSH) announces that competitive grant applications are being invited for research and demonstration projects which will study occupational cutaneous hazards and diseases.

Up to $2,000,000 will be made available over a three-year period to support new grant applications in the area of occupational cutaneous hazards. Grant applications will be subjected to a competitive review procedure. Grantees will be expected to cost share a minimum of five percent.

Authority

Grants will be awarded and administered by NIOSH under the research and demonstration grant authority of Section 20(a)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(1)). Program regulations applicable to these grants are contained in Part 87 of Title 42, Code of Federal Regulations, "Research and Demonstration Grants Pertaining to Occupational Safety and Health." Except as otherwise indicated, the basic grant administration policies of the Public Health Service are applicable to this program. This program is not subject to OMB Circular A–95.

Eligible Applicants

Eligible applicants may be universities, colleges, research institutions and other public and private nonprofit organizations including State and local governments.

Background

The most *pervasive* current occupational *health problem* in the United States is widespead, debilitating, *work-related skin disorders.* More people suffer from occupational skin disorders than any other single category of occupational disease in America. The Bureau of Labor Statistics (BLS) has reported that skin diseases and disorders have accounted for more than 40 percent of all reported occupational diseases in recent years. Moreover, inadequate reporting masks the true incidence, which is suspected to be from 10 to 15 times greater than reported in the BLS data. Today, it is generally accepted that these disorders impose a serious personal and economic burden in terms of lost production, lost wages, increased medical costs, family disruption, personal discomfort and ill health.

Program Requirements

Intensive Scientific Investigation is Needed in a number of scientific and technological areas relative to workplace skin hazards. This Program Announcement identifies the present scope of NIOSH's interest in these problems. NIOSH is the principal federal organization responsible for research under the Occupational Safety and Health Act. The Institute is responsible for identifying occupational hazards and for recommending standards and approaches to limit them. Research sponsored by NIOSH offers an early step toward the development of standards which will have a far-reaching impact on the elimination or otherwise mitigation of cutaneous hazards in the workplace.

Research Goals and Scope

The goal of this announcement is to encourage *high quality* research and demonstration grants in the following specific domains:

Data Systems Research

Projects to identify the potential extent and societal impact of occupational skin disease—

- Develop a unified data collecting system that will properly identify high risk industries, processes, and agents. The system should possess: (1) a process-specific classification; (2) a specific hazardous substance file; (3) a specific hazardous physical process file; and (4) a system for correlating 1, 2, and 3.

Biochemical and Physiological Research

Studies to elucidate the nature of occupational skin disease—

- Develop new models for studying percutaneous absorption and estimating systemic uptake. These models should focus and elucidate the biochemical and physiological aspects of penetration as they may be affected by hydration, organic solvents, age, and by the physiochemical characteristics of the penetrant;
- Elucidate the structural (cellular) and biochemical aspects of non-allergic inflammatory reactions (direct irritation).
- Determine differences in pathophysiologic patterns as influenced by molecular characteristics of the irritant, rates of penetration, metabolism, lysosomal and kinin activities. These characteristics should be correlated with irritant capacity and type of irritant damage.
- Examine the action of marginal irritants on cell organelles.
- Determine the cellular and biochemical, or metabolic factors associated with the "turning off" of the inflammatory response on continued exposure.
- Determine the long-term cutaneous effect of polychlorinated biphenyls and dioxins in humans.
- Determine the biologic mechanisms involved in the pathogenesis of adverse skin effects of acnegenic agents, such as PCBs, dioxins, and dibenzofurans. Attention should be given to the action of such agents and metabolites on sebaceous cells, on keratinocytes, on lipid metabolism, on cutaneous flora which produce lipolytic enzymes, on endocrine activity (including direct or indirect androgenic effects), and on pigmentation and its relation to porphyrin metabolism and ultraviolet radiation reactivity.

Epidemiological Research

Studies which consider the epidemiology of occupational cutaneous diseases—

- Determine the long-term cutaneous effect of polychlorinated biphenyls and dioxins in humans.
- Determine the chronic effects, particularly those relating to skin, of exposure of workers and their families to 2, 3, 7, 8, tetrachlorodibenzodioxin in the last thirty years.
- Examine the dermatological manifestations of other occupational illnesses.
- Determine systemic manifestations (acute and chronic) of toxic substances absorbed through the skin.

Test Methdology Research

Projects to improve test methodologies and facilitate early identification of cutaneous hazards—

- Appraise current methods for predicting cutaneous hazards and develop new methods for assessing adverse effects, other than contact dermatitis or photosensitization, such as detection of marginal irritants, acnegenic substances, granulomatous agents, and pigment altering substances.
- Develop research methodologies, including non-biological screening techniques, to determine the potential cutaneous hazards of all existing and new commercial substances, processes and agents.

Control Technology Research

Studies to develop new and improved methods to prevent occupational skin disease—

- Develop new or improved methods to prevent skin penetration by specific types of compounds.
- Adapt existing methods, as well as develop new methods, of monitoring and controlling cutaneous hazards in the workplace.
- Seek to use innovative approaches, such as alternative materials, engineering controls, process modification, and protective equipment to prevent occupational skin disease problems already identified, and to solve emerging problems.

Health Education Research

Projects to increase awareness of the importance of occupational skin diseases—

- Develop education and training programs for health professionals, workers, and management to increase their awareness of occupational skin diseases.

Criteria for Review

Applications will be reviewed by an appropriate peer review group on the basis of scientific merit, including an assessment of the importance of the proposed research problem; the novelty and originality of the approach; the training, experience, and research competence on promise of the investigator(s); the adequacy of the experimental design; the suitability of the facilities; and the appropriateness of the requested budget relative to the work proposed. Demonstration grant

V 45 / 22 JAN 1980 UMI

applications will be reviewed additionally on the basis of the following criteria:

1. Degree to which project objectives are clearly established, obtainable, and for which progress toward attainment can and will be measured.

2. Availability, adequacy and competence of personnel, facilities, and other resources needed to carry out the project.

3. Degree to which the project can be expected to yield or demonstrate results that will be useful and desirable on a national or regional basis.

4. The substantive merit and potential contribution of the project toward developing knowledge and techniques for meeting the objectives of the Occuptional Safety and Health Act.

5. Extent of and expected cooperation of industry, unions, or other participants in the project, where applicable.

Application and Award

Applications should be submitted on Form PHS-398 (or PHS-5161-1 for State and local governments). Forms should be available from the institutional business offices or from the addresses listed below. The conventional presentation for grant applications should be utilized and the points identified under Criteria for Review must be fulfilled.

Care should be taken in following the instructions included with the application form making certain to fulfill the points identified under the heading "Criteria for Review."

An original and six copies (original and two for State and local governments) of the application should be sent or delivered to: Application Receipt, Division of Research Grants, NIH, Room 240, Westwood Building, Bethesda, Maryland 20205.

In the upper left hand corner of the face page under the words "Grant Application", the application must be labelled "In Response to Program Announcement: (CDC-NIOSH—OECSP-80—1) The name of the applicant institution, principal investigator, and title of the proposed project should be sent to NIOSH at: Grants Administration and Review Branch, OECSP, National Institute for Occupational Safety and Health, 5600 Fishers Lane, Room 8-63, Rockville, Maryland 20857.

The proposed timetable for receiving applications and awarding grants is as follows:

Application deadline	Review group meeting date	Expected start date
Mar. 1	June	Dec. 1.
July 1	October/November	Apr. 1.
Nov. 1	February/March	July. 1.

Applications received after a particular deadline date will be considered with the applications received for the next deadline date.

Awards will be made based on priority score ranking and emphasis area, as well as, availability of funds.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph West, Grants Management Officer, NIOSH, 5600 Fishers Lane, Room 8-35, Rockville, Maryland 20857, telephone: (301) 443-3122.

or

Mr. Roger A. Nelson, Research Grants Program Officer, NIOSH, 5600 Fishers Lane, Room 8-63, Rockville, Maryland 20857, telephone: (301) 443-4496.

(Catalog of Federal Domestic Assistance Program No. 13.262, Occupational Safety and Health Research Grants)

Dated: January 23, 1980.

William A. Felsing, Jr.,

Acting Director, National Institute for Occupational Safety and Health.

[FR Doc. 80-3015 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-87-M

Lockout and Interlock Systems and Devices; Request for Information

AGENCY: National Institute for Occupational Safety and Health, (NIOSH), Center for Disease Control, Public Health Service, HEW.

ACTION: Notice of request for information.

SUMMARY: NIOSH is requesting information concerning the use of effective lockout and interlock devices, systems, and procedures for the protection of workers.

A lockout device or system maintains a machine, system, or process in a safe condition during maintenance, repair, or trouble shooting. There are basically three types of situations where lockout devices or systems are involved for hazard reduction.

(1) Locking out to prevent movement or motion commonly involves electrically powered equipment, but does include hydraulic, pneumatic, steam and other energy sources.

(2) Lockouts are used to prevent hazardous atmospheric generation, most commonly encountered in confined space work, through the control of the process functions.

(3) Lockouts are used to preclude exposure to electrical currents. Some examples are mechanical means to block moving parts of machines, isolation of process piping systems by locking control valves, and electrical disconnect switches.

An interlock device or system causes a machine, system, or process to go to a safe condition without operator intervention. Electrical and mechanical interlocks play a vital role in ensuring that machines, systems, and processes are operated in a safe manner. Such interlocks are deliberately built into the design of the system in order to make sure that certain predetermined conditions are satisfied,before subsequent events or operational activities are allowed to take place. Examples are pressure switches, mechanical linkages, and limit switches.

The information being requested will be used by NIOSH to develop criteria for comprehensive recommendations for occupational safety and health standards.

DATES: Comments concerning this notice should be submitted by (60 days after publication).

ADDRESS: Comments and recommendations should be submitted in writing to: Mr. John A. Gerard, Chief, Standards and Consultation Branch, Division of Safety Research, *SCB No. 101,* National Institute for Occupational Safety and Health, 944 Chestnut Ridge Road, Morgantown, WV 26505.

FOR FURTHER INFORMATION CONTACT: Eugene D. Regad, Safety Engineer, Standards and Consultation Branch, Division of Safety Research, NIOSH, (304) 599-7574 or FTS 923-7574.

SUPPLEMENTARY INFORMATION: NIOSH conducts research and experimental programs to develop criteria for new and improved occupational safety and health standards. NIOSH is currently collecting information and data pertaining to lockout and interlock systems and devices. Interested persons are invited to submit information, suggestions and comments they believe relevant to criteria for interlocks and lockouts. At this time NIOSH is particularly interested in information in the following areas:

(1) What recommendations are appropriate in guides for determining lockout and/or interlock application? Cite examples and application.

(2) What training and motivation methods are effective in instructing workers in lockout and/or interlock systems operations?

(3) What types of permits and records have been found necessary or useful in safe operation of lockouts and/or interlocks?

(4) What devices are available to retrofit equipment that does not have interlocks or lockout facilities?

(5) What devices are available for interlock or lockout functions in new equipment designs?

(6) What is the appropriate content for manuals and procedures for implementing lockout and/or interlock systems, including removal and/or restart practices? Cite examples and specific application.

(7) What statistical data has been collected on accidents and injuries, including near-misses, related to problems with interlocks and/or lockouts?

(8) Are there case studies and investigation reports available to NIOSH on accidents, injuries and near-misses? Provide appropriate copies.

(9) Is there an appropriate warning or information symbol for lockouts or interlocks? What should be the role of related symbols in lockout and interlock systems?

All information received in response to this notice, except that designated as trade secret and protected by Section 15 of the Occupational Safety and Health Act, will be available for examination and copying at the above address.

Dated: January 23, 1980.

William A. Felsing, Jr.,

Acting Director, National Institute for Occupational Safety and Health.

[FR Doc. 80-3014 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-87-M

National Institutes of Health

Allergy and Clinical Immunology Research Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Allergy and Clinical Immunology Research Committee, National Institute of Allergy and Infectious Diseases on March 13 and 14, 1980, Building 31A, Conference Room 4, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public from 9:00 a.m. until 11:00 a.m. on March 13 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting of the Committee will be closed to the public on March 13 from 11:00 a.m. until 5:00 p.m., and on March 14 from 9:00 a.m. until 5:00 p.m. for the review, discussion, and evaluation of individual grant applications. These applications, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496-5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Harley G. Sheffield, Executive Secretary, Transplantation Biology and Immunology Committee, NIAID, NIH, Westwood Building, Room 706, telephone (301) 496-7465 will provide substantive program information.

Dated: January 23, 1980.

(Catalog of Federal Domestic Assistance Program No. 13.855, National Institutes of Health)

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-3029 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-08-M

Animal Resources Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Animal Resources Review Committee, Division of Research Resources, March 5, 1980, Conference Room 7, Building 31, National Institutes of Health, Bethesda, Maryland 20205.

The meeting will be open to the public on March 5 from 11:00 a.m. to adjournment, during which time there will be a brief staff presentation on the current status of the ARB Program as it relates to the function of the Primate Research Centers and the current status of primate supply. The Committee will select future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 5 from 8:00 a.m. to 11:00 a.m. for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Room 5B13, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Carl E. Miller, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5175, will furnish substantive program information.

Dated: January 25, 1980.

(Catalog of Federal Domestic Assistance Programs No. 13.306, National Institutes of Health)

Suzanne L. Fremeau,

National Institutes of Health Committee Management Officer.

[FR Doc. 80-3031 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-08-M

Animal Resources Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Animal Resources Review Committee, Division of Research Resources, March 12-14, 1980, Conference Room 9, Building 31, National Institutes of Health, Bethesda, Maryland 20205.

The meeting will be open to the public on March 12 from 8:30 a.m. to 5:00 p.m., during which time there will be a workshop on mycoplasmosis in rodents. The session beginning at 8:30 a.m. on March 13, 1980 will be open for a brief staff presentation on the current status of the Animal Resources Program. The Committee will select future meeting dates. Attendence by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 13 from 11:00 a.m. to 5:00 p.m. and March 14 from 8:30 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications submitted to the Laboratory Animal Sciences Program. These applications and the discussions could reveal confidential trade secrets or commerical property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Carl E. Miller, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Building 31, National Institutes of Health, Bethesda,

Maryland 20205, (301) 496–5175, will furnish substantive program information.

Dated: January 25, 1980.

(Catalog of Federal Domestic Assistance Programs No. 13.306, National Institutes of Health)

Suzanne L. Fremeau,

National Institutes of Health, Committee Management Officer.

[FR Doc. 80-3042 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-08-M

Biomedical Library Review Committee and the Subcommittee for the Review of Medical Library Resource Improvement Grant Applications; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biomedical Library Review Committee on March 10–11, 1980, convening each day at 8:30 a.m. in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, to adjournment on March 11, and the meeting of the Subcommittee for the Review of Medical Library Resource Improvement Grant Applications on March 12 from 9:00 a.m. to 12:00 noon in the 9th floor Conference Room of the Federal Building, 7550 Wisconsin Avenue, Bethesda, Maryland.

The meeting on March 10 will be open to the public from 8:30 to 11:00 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92–463, the regular meeting and the subcommittee meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications, as follows: March 10 from 11:00 a.m. to 5:00 p.m., March 11 from 8:30 a.m. to adjournment; and March 12 for the subcommittee meeting from 9:00 a.m. to 12:00 noon. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Division of Biomedical Information Support, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20209, telephone number: 301–496–4191, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

Dated: January 23, 1980.

(Catalog of Federal Domestic Assistance Program No. 13.879—National Institutes of Health.)

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-3044 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-08-M

Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Institute Board of Scientific Counselors, March 14 and 15, 1980, National Institutes of Health, Building 10, Room 7N214. This meeting will be open to the public from 9:30 a.m. to 5:00 p.m. on March 14 and 9:00 to 12 noon on March 15 for disscusion of the general trends in research relating to cardiovascular, pulmonary and certain hematologic diseases. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 12 noon to adjournment March 15 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the Board members. Substantive program information may be obtained from Dr. Jack Orloff, Director, Division of Intramural Research, NHLBI, NIH Building 10, Room 7N214, phone (301) 496–2116.

Dated: January 23, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institute of Health.

[FR Doc. 80-3034 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-08-M

Cellular and Molecular Basis of Disease Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cellular and Molecular Basis of Disease Review Committee, National Institute of General Medical Sciences, on March 10–11, 1980 at the National Institutes of Health, Building 31C, Conference Room 6, Bethesda, Maryland.

This meeting will be open to the public on March 10, 1980 from 8:30 a.m. until 10:30 a.m. for background information and discussion of issues relevant to the National Institute of General Medical Sciences and its National Research Service Award training activities and research programs. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 10, 1980 from 10:30 a.m. until 6:00 p.m. and on March 11, 1980 from 8:30 a.m. until adjournment for the review, discussion, and evaluation of individual grant applications. These applications and discussions could reveal personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Paul Deming, Public Information Officer, NIGMS, National Institutes of Health, Room 9A10, Westwood Building, Bethesda, Maryland 20205 (Telephone: 301/496–7301) will provide a summary of the meeting and a roster of committee members.

Dr. Lee Van Lenten, Executive Secretary, Cellular and Molecular Basis of Disease Review Committee, NIGMS, National Institutes of Health, Room 950, Westwood Building, Bethesda, Maryland 20205 (Telephone: 301/496–6125) will furnish substantive program information.

Dated: January 23, 1980.

(Catalog of Federal Domestic Assistance Program No. 13–863, General Medical Sciences)

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-3033 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-08-M

Clinical Trials Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, on March 1–2, 1980, at the Islandia Hyatt House, 1441 Quivira Road, San Diego, California.

This meeting will be open to the public from 8:00 p.m. to 9:00 p.m. on March 1, 1980, to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 1, 1980, from 9:00 p.m. to recess, and from 8:30 a.m. on March 2, 1980 to adjournment; for the review, discussion and evaluation of an individual contract proposal. The proposal and the discussions could reveal personal information concerning individuals associated with the proposal, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Building 31, Room 4A–21, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members. Dr. Fred P. Heydrick, Chief, Research Contracts Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Room 548B, phone (301) 496–7363, will furnish substantive program information.

Dated: January 25, 1980.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health)

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-3030 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-08-M

Maternal and Child Health Research Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Maternal and Child Health Research Committee, National Institute of Child Health and Human Development, on March 17–18, 1980, in the Landow Building, Conference Room A, first floor, 7910 Woodmont Avenue, Bethesda, Maryland.

This meeting will be open to the public on March 17 from 9:00 a.m. to 10:30 a.m. to discuss items relative to the Committee's activities including announcements by the Director, Deputy Director, Associate Director for Scientific Review and the Chiefs of the Human Learning and Behavior and the Clinical Nutrition and Early Development Branches and the Executive Secretary of the Committee. Concept clearance for contract programs of the Center for Research for Mothers and Children will be discussed. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Title 5, U.S. Code 552b(c)(4) and 552b(c)(6) and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 17 from 10:30 a.m. to adjournment on March 18 for the review, discussion and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 7C09, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of committee members. Dr. Jane Showacre, Executive Secretary, Maternal and Child Health Research Committee, NICHD, Landow Building, Room 7C09, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1696, will furnish substantive program information.

Dated: January 25, 1980.

(Catalog of Federal Domestic Assistance Program No. 13.865, National Institutes of Health.)

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-3043 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-08-M

Minority Access to Research Careers Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Minority Access to Research Careers Review Committee, National Institute of General Medical Sciences, on March 6–7, 1980, 9:00 a.m., National Institutes of Health, Building 31–C, Conference Room 7.

This meeting will be open to the public on March 6, 9:00 a.m., to 12:00 a.m. The meeting will consist of opening remarks and discussion of procedural matters. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Title 5, U.S. Code 552b(c)(6), the meeting will be closed to the public on March 6 from 1:00 p.m. to 5:00 p.m., and on March 7 from 9:00 a.m., until adjournment, for the scientific review, discussion and evaluation of institutional and individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Paul Deming, Public Information Officer, NIGMS, Westwood Building, Room 9A–10, 5333 Westbard Avenue, Bethesda, Maryland 20205, telephone (301) 496–7301, will furnish summary minutes of the meeting and a roster of committee members.

Substantive program information may be obtained from Mrs. Dolores Lowery, Acting Executive Secretary, Westwood Building, Room 950, Bethesda, Maryland 20205, telephone (301) 496–7941.

Dated: January 23, 1980.

(Catalog of Federal Domestic Assistance Program 13.880, General Medical Sciences)

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-3032 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-08-M

Study Sections; Meetings February–March 1980

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the following study sections for February and March 1980 and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to Study Section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Marian Oakleaf, Acting Chief, Grants Inquiries Office, Division of Research Grants, Westwood Building,

National Institutes of Health, Bethesda, Maryland 20205, telephone area code 301–496–7441 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each Executive Secretary whose name, room number, and telephone number are listed below each study section. Anyone planning to attend a meeting should contact the Executive Secretary to confirm the exact meeting time. All times are A.M. unless otherwise specified.

Study section	February–March 1980 meetings	Time	Location
Allergy and Immunology: Dr. Morton Reitman, Rm. 320, Tel. 301–496–7390.	February 22–25	7:00 p.m.	Miramar Hotel, Santa Barbara, CA.
Applied Physiology and Orthopedics: Ms. Jean E. Stewart, Rm. 350, Tel. 301–496–7561.	February 28–March 1	8:30	Room 9, Bldg. 31C, Bethesda, MD.
Bacteriology and Mycology: Dr. Milton Gordon, Rm. 304, Tel. 301–496–7340.	February 21–23	8:30	Holiday Inn, Bethesda, MD.
Bioanalytical and Metallobiochemistry: Dr. Asher Hyatt, Rm. 310, Tel. 301–496–7733.	February 22–24	9:00	Miramar Hotel, Santa Barbara, CA.
Biochemical Endocrinology: Dr. Norman Gold, Rm. A–17, Tel. 301–496–7430.	February 27–29	8:30	Holiday Inn, Bethesda, MD.
Biochemistry: Dr. Adolphus P. Toliver, Rm. 318, Tel. 301–496–7515.	February 27–March 1	9:00	Linden Hill, Bethesda, MD.
Biophysics and Biophysical: Chemistry A, Dr. James C. Gasset, Rm. 236, Tel. 301–496–7060.	February 29–March 2	9:00	Holiday Inn, Rosslyn, VA.
Biophysics and Biophysical: Chemistry B, Dr. John B. Wolff, Rm. 236, Tel. 301–496–7070.	February 21–23	8:30	Linden Hill, Bethesda, MD.
Bio-Psychology: Dr. A. Keith Murray, Rm. 220, Tel. 301–496–7058.	March 3–4	9:30	Sheraton Inn, Silver Spring, MD.
Cardiovascular and Pulmonary: Dr. Constance E. Weinstein, Rm. 336, Tel. 301–496–7901.	March 3–7	8:00	Holiday Inn, Georgetown, DC.
Cardiovascular and Renal: Dr. Rosemary S. Morris, Rm. 339, Tel. 301–496–7901.	February 20–23	8:30	Holiday Inn, Bethesda, MD.
Cell Biology: Dr. Gerald Greenhouse, Rm. 2A–04, Tel. 301–496–7020.	March 5–7	8:30	Room 9, Bldg. 31, Bethesda, MD.
Chemical Pathology: Dr. Edmund Copeland, Rm. 339, Tel. 301–496–7078.	February 19–21	8:00	Holiday Inn, Bethesda, MD.
Communicative Sciences: Dr. Michael Halasz, Rm. 321, Tel. 301–496–7550.	March 12–14	8:30	Room 7, Bldg. 31, Bethesda, MD.
Diagnostic Radiology and Nuclear Medicine: Dr. Catherine Wingate, Rm. 219, Tel. 301–496–7650.	February 25–27	8:30	Holiday Inn, Chevy Chase, MD.
Endocrinology: Mr. Morris M. Graff, Rm. 333, Tel. 301–496–7346.	March 17–20	7:00 p.m.	Vacation Village Hotel, San Diego, CA.
Epidemiology and Disease Control: Dr. Ann Schluederberg, Rm. 234, Tel. 301–496–7246.	February 27–March 1	8:30	Shoreham-Americana Hotel, Washington, DC.
Experimental Therapeutics: Dr. Anne R. Bourke, Rm. 319, Tel. 301–496–7839.	February 27–March 1	8:30	Kenwood Country Club, Bethesda, MD.
Experimental Virology: Dr. Eugene Zabovitz, Rm. 206, Tel. 301–496–7474.	March 4–7	8:30	Keystone Lodge, Keystone, CO.
General Medicine A: Dr. Harold Davidson, Rm. 354, Tel. 301–496–7797.	February 22–23	9:00	El Prado Inn, Santa Barbara, CA.
General Medicine B: Dr. William Davis, Jr., Rm. 333, Tel. 301–496–7730.	March 5–6	8:30	Linden Hill, Bethesda, MD.
Genetics: Dr. David Remondini, Rm. 349, Tel. 301–496–7271.	February 21–23	9:00	Room 6, Bldg. 31, Bethesda, MD.
Hematology: Dr. Clark Lum, Rm. 355, Tel. 301–496–7508.	February 28–March 1	8:30	In Town Motel, Bethesda, MD.
Human Development: Dr. Miriam Kelty, Rm. 303, Tel. 301–496–7025.	March 4–7	8:30	Gramercy Inn, Washington, DC.
Human Embryology and Development: Dr. Arthur Hoversland, Rm. 221, Tel. 301–496–7597.	March 5–8	8:30	Linden Hill, Bethesda, MD.
Immunobiology: Dr. Mischa Friedman, Rm. 233, Tel. 301–496–7780.	March 5–7	8:30	Linden Hill, Bethesda, MD.
Immunological Sciences: Dr. Lottie Kornfeld, Rm. 233, Tel. 301–496–7179.	February 27–29	8:30	Linden Hill, Bethesda, MD.
Mammalian Genetics: Dr. Halvor Aasletad, Rm. 349, Tel. 301–496–7271.	March 6–8	9:00	Room 10, Bldg. 31, Bethesda, MD.
Medicinal Chemistry A: Dr. Ronald Dubois, Rm. A–27, Tel. 301–496–7108.	March 5–8	9:00	Marriott Hotel, Bethesda, MD.
Metabolism: Dr. Robert Leonard, Rm. 334, Tel. 301–496–7091.	March 3–5	8:30	Room 10, Bldg. 31, Bethesda, MD.
Microbial Chemistry: Dr. Eileen Raizen, Rm. 357, Tel. 301–496–7130.	February 29–March 2	8:30	Stapleton Plaza, Denver, CO.
Molecular Biology: Dr. Donald Disque, Rm. 328, Tel. 301–496–7330.	February 21–23	8:30	Holiday Inn, Bethesda, MD.
Molecular Cytology: Dr. Ramesh Nayak, Rm. 222, Tel. 301–496–7149.	February 28–March 1	8:30	Rm. A, Landow Bldg., Bethesda, MD.
Neurological Sciences: Dr. Edwin Bartos, Rm. 207, Tel. 301–496–7000.	March 13–15	8:30	Sheraton Inn, Silver Spring, MD.
Neurology A: Dr. William Morris, Rm. 328, Tel. 301–496–7095.	March 5–8	9:00	Room 8, Bldg. 31, Bethesda, MD.
Neurology B: Dr. Willard McFarland, Rm. A–25, Tel. 301–496–7422.	February 20–23	8:30	Wellington Hotel, Washington, DC.
Nutrition: Dr. John R. Schubert, Rm. 204, Tel. 301–496–7178.	February 27–29	8:30	Room 7, Bldg. 31, Bethesda, MD.
Oral Biology and Medicine: Dr. Thomas Tarpley, Jr., Rm. 325, Tel. 301–496–7818.	February 22–25	8:30	Marriott Hotel, New Orleans, LA.
Pathobiological Chemistry: Dr. Ellen Archer, Rm. A–26, Tel. 301–496–7820.	February 18–21	8:30	Holiday Inn, Bethesda, MD.
Pathology A: Dr. Harold Waters, Rm. 337, Tel. 301–496–7305.	February 21–24	8:00	Howard Johnson Hotel, New Orleans, LA.
Pathology B: Dr. Earl Fisher, Rm. 352, Tel. 301–496–7244.	March 5–7	8:30	Linden Hill, Bethesda, MD.
Pharmacology: Dr. Joseph Kaiser, Rm. 206, Tel. 301–496–7408.	February 25–26	8:30	Holiday Inn, Bethesda, MD.
Physiological Chemistry: Dr. Harry Brodie, Rm. 336, Tel. 301–496–7837.	February 26–March 1	8:30	Ramada Inn, Arlington, VA.
Physiology: Dr. Martin Frank, Rm. 209, Tel. 301–496–7878.	February 21–23	9:00	Sheraton Inn, Silver Spring, MD.
Radiation: Dr. Robert L. Straube, Rm. 219, Tel. 301–496–7073.	March 5–7	9:00	Holiday Inn, Chevy Chase, MD.
Reproductive Biology: Dr. Dharam Dhindsa, Rm. 307, Tel. 301–496–7318.	February 25–26	8:30	Holiday Inn, Chevy Chase, MD.
Social Sciences and Population: Ms. Carol Campbell, Rm. 210, Tel. 301–496–7906.	February 29–March 2	8:30	Shoreham-Americana, Washington, DC.
Surgery, Anesthesiology and Trauma: Dr. Keith Kraner, Rm. 338, Tel. 301–496–7771.	March 6–7	8:30	Holiday Inn, Arlington, VA.
Surgery and Bioengineering: Dr. Joe Atkinson, Rm. 348, Tel. 301–496–7506.	February 28–29	8:30	Holiday Inn (Airport), Arlington, VA.
Toxicology: Dr. Raymond Bahor, Rm. 226, Tel. 301–496–7870.	March 7–9	8:30	Holiday Inn, Washington, DC.
Tropical Medicine and Parasitology: Dr. Betty June Myers, Rm. 319, Tel. 301–496–7494.	February 27–March 1	8:30	Connecticut Inn, Washington, DC.
Virology: Dr. Claire Winestock, Rm. 309, Tel. 301–496–7805.	March 6–8	8:30	Room 6, Bldg. 31, Bethesda, MD.
Visual Sciences A: Dr. Orvil E. A. Bolduan, Rm. 439, Tel. 301–496–7260.	March 3–5	9:00	Hyatt House, Arlington, VA.
Visual Sciences B: Dr. Luigi Giacometti, Rm. 325, Tel. 301–496–7251.	March 13–16	9:00	Holiday Inn, Georgetown, DC.

(Catalog of Federal Domestic Assistance Program Nos. 13.333, 13.337, 13.349, 13.393–13.396, 13.386–13.844, 13.846–13.871, 13.876, National Institutes of Health, HEW)

Dated: January 23, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-3045 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-08-M

Transportation Biology and Immunology Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Transplantation Biology and Immunology Committee, National Institute of Allergy and Infectious Diseases on March 10, 1980 in Building 31, Conference Room 7, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public from 9:00 a.m. until 11:00 a.m. to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting of the Committee will be closed to the public from 11:00 a.m. until 5:00 p.m. for the review, discussion, and evaluation of individual grant applications and contract proposals. These applications, proposals, and discussions could reveal confidential trade secrets or commerical property such as patentable material, and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Harley G. Sheffield, Executive Secretary, Transplantation Biology and Immunology Committee, NIAID, NIH, Westwood Building, Room 706, telephone (301) 496–7465 will provide substantive program information.

Dated: January 23, 1980.

(Catalog of Federal Domestic Assistance Program No. 13.855, National Institutes of Health.)

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-3035 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-08-M

Office of Education

Guaranteed Student Loan Program; Special Allowance for Quarter Ending December 31, 1979

The Commissioner announces that for the three-month period ending December 31, 1979, and under the statutory formula of section 438(b) of the Higher Education Act of 1965, a special allowance at an *annual rate* of nine percent will be paid to holders of eligible loans in the Guaranteed Student Loan Program.

Using the statutory formula, the special allowance for this *three-month* period was computed by determining the average of the bond equivalent rates of the 91-day Treasury bills for this period (12.40 percent), by subtracting 3.5 percent from this average, by rounding the resultant percent (8.90) upward to the nearest one-eighth of one percent (9.00), and by dividing the resultant percent by four (2.25 percent). Thus, the special allowance to be paid for this period will be 2.25 percent of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by lenders.

(Catalog of Federal Domestic Assistance No. 13.460, Guaranteed Student loan Program).

(20 U.S.C. 1087–1(b)).

January 25, 1980.

William L. Smith,

U.S. Commissioner of Education.

[FR Doc. 80-3027 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-02-M

Health Education Assistance Loan Program; Variable Interest Rate for Quarter Ending March 31, 1980

The Commissioner announces that for the three month period ending March 31, 1980, the variable interest rate on loans in the Health Education Assistance Loan (HEAL) Program shall be at the annual rate of 12¾ percent.

Using the regulatory formula (45 CFR 126.13(a) (2) and (3)), the Commissioner normally would compute the variable rate for this three month period by adding the fixed annual rate (7 percent) plus a variable component which is calculated by determining the average of the bond equivalent rates of the 91-day Treasury bills for the preceding calendar quarter (12.40 percent), by subtracting 3.5 percent from that average, and by rounding the resultant percent (8.90) upward to the nearest one-eighth of one percent (9.00).

However, the regulatory formula also provides that the annual rate of the variable interest rate for a three month period shall be reduced to the highest one-eighth of one percent which would result in a rate not in excess of 12 percent for any twelve month period. For the three previous quarters the

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variable interest at the annual rate has been as follows: 13¼ percent for the quarter ending June 30, 1979; 11 percent for the quarter ending September 30, 1979; and 11⅛ percent for the quarter ending December 31, 1979. Therefore, in order not to exceed the rate of 12 percent for the twelve month period ending March 31, 1980, the variable interest rate for the quarter ending March 31, 1980, will be at an annual rate of 12⅝ percent.

(Catalog of Federal Domestic Assistance No. 13.574, Health Professions Educational Assistance Act Insured Loans).

William L. Smith,

U.S. Commissioner of Education.

January 25, 1980.

[FR Doc. 80-3028 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-02-M

Social Security Administration

Redelegations of Authority To Make Determinations of Continuing Eligibility for Supplemental Security Income Benefits

Section 1611(c)(1) of the Social Security Act, as amended (the Act), authorizes the Secretary of Health, Education, and Welfare (the Secretary) to redetermine an individual's eligibility for, and the amount of, supplemental security income (SSI) benefits under title XVI of the Act, at such time or times as may be provided by the Secretary. Authority to make determinations of continuing eligibility for SSI benefits has been delegated by the Secretary to the Commissioner of Social Security (the Commissioner), with authority to redelegate (38 FR 15648, dated June 14, 1973). The Commissioner previously redelegated this authority to certain management and technical positions in the Social Security Administration (SSA). Notice is given that the Commissioner has also redelegated this authority to the following positions located in SSA's Office of Central Records Operations, Office of Central Operations:

Delegatee	Scope of authority
1. Redetermination Clerks and Lead Redetermination Clerks, Redeterminations Units, Redeterminations Processing Sections, Post-Eligibility Operations Branch, Division of Claims Operations.	1.—2. SSI redetermination cases assigned to their components, to the extent permitted by their functional responsibilities, as limited by their position descriptions and operational instructions.
2. Program Analysts, Post-Eligibility Operations Branch, Division of Claims Operations.	
3. All positions in the direct line of supervision above the positions specified in items 1. and 2. above.	

These redelegations are effective on the date that this notice is published in the **Federal Register**. Further redelegations may not be made. If any delegate exercises the subject authority before this notice is published in the **Federal Register**, that action is affirmed and ratified.

Dated: January 22, 1980.

William J. Driver,

Commissioner of Social Security.

[FR Doc. 80-3060 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Reassumption of Jurisdiction—Lac Courte Oreilles Band of Lake Superior Chippewa Indians, Hayward, Wis.

January 21, 1980.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary, Indian Affairs by 209 DM 8.

The Indian Child Welfare Act of 1978 provides, subject to certain specified conditions, that Indian tribes may petition the Secretary of the Interior for reassumption of jurisdiction over Indian child custody proceedings.

This is notice that a petition has been received by the Secretary from the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, for the tribal reassumption of jurisdiction over child custody proceedings. The petition is under review, and may be inspected and copied at the Great Lakes Agency, Bureau of Indian Affairs, Ashland, Wisconsin 54806.

Rick Lavis

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 80-3001 Filed 1-30-80; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[Coal Lease Application M43063(ND)]

Proposal to Lease Federal Coal; Notice of Hearing

The Department of the Interior, Bureau of Land Management, Dickinson District Office, P.O. Box 1229, Dickinson, North Dakota, 58601 hereby gives notice that a public meeting/hearing will be held on March 6, 1980 at 7:30 p.m., MST in the Civic Center in Beulah, North Dakota to discuss a proposal to lease Federal coal. Application has been made to the United States to lease certain coal resources in the public lands hereinafter described. The purpose of the meeting/hearing is to obtain public comments on the draft environmental assessment and on the following items: (1) The method of mining to be employed to obtain maximum economic recovery of the coal; (2) The impact that mining the coal in the proposed leasehold may have on the area, including but not limited to impacts on the environment; and (3) Methods of determining the fair market value of the coal to be offered.

The coal resource to be evaluated consists of the lower two seams of the Beulah-Zap bed (to be surface mined) in the following described land located approximately four miles southeast of Beulah, North Dakota:

T. 143 N., R. 87 W., 5th p.m.
Section 8, N½SE¼.
Containing 80 acres.

The estimated total strippable reserves are 1,003,000 tons. The coal quality is as follows: 6900 BTU/lb.; Sulfur—0.98 percent and Ash—7.60 percent. The Beulah-Zap coal bed averages 12 feet thick over 40 acres of the described lands.

A copy of the Environmental Assessment, the case file, and the comments submitted by the public on fair market value, except those portions identified as proprietary by the commenter and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Dickinson District Office, Bureau of Land Management, P.O. Box 1229, Dickinson, North Dakota 58601.

Dated: January 25, 1980.

Gerald F. Pittman,

Acting District Manager.

[FR Doc. 80-3017 Filed 1-30-80; 8:45 am]

BILLING CODE 4310-84-M

Arizona Strip District Grazing Advisory Board; Notice of Meeting

Notice is hereby given that the Arizona Strip District Grazing Advisory Board will meet at 10:00 a.m. on Monday, March 17, 1980, at the Four-Seasons Motor Inn and Convention Center, Suite No. 8, 747 East St. George Boulevard, St. George, Utah.

The purpose of the meeting is to discuss the implementation of Allotment Management Plans on the Vermillion Resource Area and range improvement plans for the entire District.

The meeting will be open. Any person wishing to make a presentation to the Board or submit a written statement should contact the official designated below at least five (5) days prior to the meeting.

Further information concerning this meeting may be obtained from the District Manager, Bureau of Land Management, 196 East Tabernacle Street, St. George, Utah 84770. (801 673-3545)

Billy R. Templeton,

District Manager.

January 22, 1980.

[FR Doc. 80-3030 Filed 1-30-80; 8:45 am]

BILLING CODE 4310-84-M

Socorro District Grazing Advisory Board; Meeting Notice

Notice is hereby given in accordance with Public Law 94-579, that a meeting of the Socorro District Grazing Advisory Board will be held on Tuesday, March 4, 1980.

The meeting will begin at 9:00 a.m. in the Hospitality Room of the First State Bank at 103 Manzanares Avenue NE, Socorro, New Mexico.

The agenda for the meeting will include:

(1) Discussion of the East Socorro Rangeland Program Document.

(2) Public comment period.

(3) Arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 1:00 and 2:00 p.m. or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 198 Neel Avenue NW., P.O. Box 1217, Socorro, New Mexico 87801, by February 29, 1980. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Arlen P. Kennedy,

District Manager.

January 17, 1980.

[FR Doc. 80-3009 Filed 1-30-80; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf Advisory Board; Alaska Regional Technical Working Group Committee; Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Public Law 92-643.

The Alaska Regional Technical Working Group Committee of the National Advisory Board will hold a meeting on February 19-20, beginning at 9:00 a.m. in Suite 311, Sheraton Hotel, 446 E. 5th, Anchorage, Alaska.

The meeting will cover the following principal subjects:

—Detailed discussion of working group function and organization
—A scoping session for sale 60, Lower Cook Inlet
—Updates on tract selections for sales 57 (Norton Basin), 70 (St. George Basin), and 71 (second generation Beaufort Sea)

The meeting is open to the public. Public attendance may be limited by the space available. Summary minutes of the meeting will be available at the Alaska OCS Office for public inspection and copying three weeks after the meeting.

For further information, contact Gordy Euler at the Alaska OCS Office, (907) 276-2955.

Dated: January 21, 1980.

Esther C. Wunnicke,

Manager, Alaska OCS Office.

[FR Doc. 80-3008 Filed 1-30-80; 8:45 am]

BILLING CODE 4310-84-M

NATIONAL COMMISSION ON AIR QUALITY

Meeting

The National Commission on Air Quality hereby gives notice of a meeting scheduled for February 11, 1980. The meeting will be held in Room No. 269 (auditorium) of the Main Post Office located at 1823 Stout Street, in Denver, Colorado, and will begin at 9:00 a.m.

The agenda for the meeting will include the following items:

1. Discussion of activities of the Commission's Research Committee.
2. Testimony on use of economic incentives in controlling air pollution.

Questions about the meeting should be directed to Mr. Morris A. Ward at (202) 245-6355.

National Commission on Air Quality.

William H. Lewis, Jr.,

Director.

[FR Doc. 80-3419 Filed 1-30-80; 8:45 am]

BILLING CODE 4820-35-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

Applicant: Capitol Reef National Park, Torrey, Utah 84711.

The applicant requests a permit to capture and release Utah prairie dogs (*Cynomys parvidens*) for scientific purposes enhancing their survival.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, DC 20240.

This application has been assigned file number PRT 2–4828. Interested persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: January 28, 1980.

Larry LaRochelle,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-3102 Filed 1-30-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: Chincoteague National Wildlife Refuge, PRT 2–374, P.O. Box 62, Chincoteague, Virginia 23336.

The applicant requests a renewal of his permit to capture, toe clip, and relocate Delmarva Peninsula fox squirrels (*Sciurus niger cinereus*) within the Chincoteague National Refuge for scientific purposes.

Applicant: Ronald F. Robbins, PRT 2–6234, Route 1, Headrick, OK 73549.

The applicant requests a permit to purchase 1 male captive bred Hawaiian goose (*Branta sandvicensis*) from the St. Louis, Missouri Zoo and 1 female and 1 male from the Denver Colorado Zoo for purposes of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish & Wildlife Service, WPO, Washington, D.C. 20240.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address.

Dated: January 28, 1980.

Larry LaRochelle,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 80-3101 Filed 1-30-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: Kansas City Zoological Park, Kansas City, Missouri 64132.

The applicant requests a permit to export in foreign commerce three white-handed gibbons *(Hylobates lar)* to the Agropecuaria El Caobanal, S.A. (Reserva Fauna Silvestre Caobanal), Guatemala for enhancement of propagation and survival.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2–4707. Interested persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: January 25, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-3103 Filed 1-30-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: Earl W. and Olive Lippoldt, P.O. Box 2067, South Padre Island, Texas 78597.

The applicant requests renewal of their permit to salvage sick or injured Atlantic ridley *(Lepidochelvys kempi)*, hawksbill *(Eretmochelys imbricata)* and leatherback *(Dermochelys coriacea)* sea turtles, and to add authorization to move eggs to a protected nest.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2–3340. Interested persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: January 28, 1980.

Fred L. Bolwahnn,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-3100 Filed 1-30-80; 8:45 am]

BILLING CODE 4310-55-M

[INT FEIS 80-5]

Office of the Secretary

Agricultural Development of Public Lands in Southwest Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Final Environmental Impact Statement.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental impact statement (FEIS) on agricultural development of public rangelands in Elmore, Owyhee, and Twin Falls Counties in southwestern Idaho.

SUPPLEMENTARY INFORMATION: The Department of the Interior Bureau of Land Management, has prepared a FEIS that addresses the impacts associated with the proposed agricultural development of public rangelands in southwest Idaho.

The proposed action would allow agricultural expansion under the Desert Land Act and Carey Act on 111,015 acres of public land. Six alternatives to the proposed action were analyzed, ranging from development of no new lands to a maximum development of 176,310 acres.

No final decision regarding this issue will be made for at least 30 days from the date of this **Federal Register** notice.

Copies of the FEIS are available for inspection at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, N.W., Washington, D.C. 20240, Telephone: (202) 343–5717.

Boise District Office, Bureau of Land Management, 230 Collins Road, Boise, Idaho 83702, Telephone: (208) 334–1582.

Idaho State Office, Bureau of Land Management, Federal Building, 500 West Fort Street, Boise, Idaho, 83724, Telephone: (208) 384–1582.

A limited number of single copies may be obtained from the Idaho State Director, the Boise District Manager, and the Office of Public Affairs, Bureau of Land Management at the above addresses.

Dated: January 28, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 80-2999 Filed 1-30-80; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Land Management

[U-910]

Utah; Announcement of Intensive Wilderness Inventory Decision on Unit Protested

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice announces the Utah State Director's decision on a protest received on Unit UT–050–070 which was inventoried under the Intermountain Power Project (IPP) special project. The original decision was to designate an 84,771 acre area as a wilderness study area (WSA). That decision is not changed as a result of the protest received and is now in effect. That portion of the unit not designated as a WSA is dropped from further wilderness review and the restrictions imposed by Section 603 of the Federal Land Policy and Management Act (FLPMA) are no longer in effect. The portion of the unit designated as a WSA will remain under restrictions imposed by Section 603 of FLPMA.

FOR FURTHER INFORMATION CONTACT: Herbert Hunt, wilderness specialist, Richfield, Utah (801) 896–8221.

Dated: January 23, 1980.

Gary J. Mich,

State Director.

[FR Doc. 80-3018 Filed 1-30-80; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 164]

Assignment of Hearings

January 25, 1980.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

AB 55 (Sub-29F), Seaboard Coast Line Railroad Company Abandonment Near Gordonville and Bartow, in Polk County, FL, now assigned for hearing on February 11, 1980 will be held at the Counsel Chambers, City Hall, 250 North Central Avenue, Bartow, FL.

AB 9 (Sub-13), St. Louis-San Francisco Railway Company Abandonment Near Wister and Antlers, In (Leflore and Pushmataha Counties), OK, now being assigned for hearing on March 4, 1980 (9 days), at Antlers, OK, in a hearing room to be designated later.

MC 133485 (Sub-26F), International Detective Service, Inc., now being assigned for hearing on March 19, 1980 (3 days), at Providence, RI, in a hearing room to be designated later.

MC 30521 (Sub-1F), H&L Bloom, Inc., now being assigned for hearing on March 24, 1980 (1 week), at Providence, RI, in a hearing room to be designated later.

MC 78687 (Sub-58F), Lott Motor Lines, Inc., now being assigned for hearing on March 10, 1980 (2 days), at New York, NY, in a hearing room to be designated later.

MC 19311 (Sub-59F), Central Transport, Inc., now being assigned for hearing on March 12, 1980 (3 days), at New York, NY. in a hearing room to be designated later.

MC113855 (Sub-461F), International Transport, Inc., now being assigned for hearing on March 13, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 142703 (Sub-13 & 14F), Intermodal Transportation Services, Inc., now assigned for continued hearing on March 12, 1980 (3 days), at Columbus, OH, in a hearing room to be designated later.

MC 85934 (Sub-97F), Michigan Transportation Company, now assigned for hearing on January 28, 1980 is canceled and transferred to Modified procedure.

MC 103926 (Sub-72F), W. T. Mayfield Sons Trucking Company, now assigned for hearing on February 5, 1980 will be held at the Social Security Administration, Southeastern Programs Service Center, 2001 12th Avenue, North Birmingham, AL.

MC 121060 (Sub-61F), Arrow Truck Lines, Inc., now assigned for hearing on February 7, 1980 will be held at the Social Security Administration, Southeastern Programs Service Center, 2001 12th Avenue, North Birmingham, AL.

MC 41406 (Sub-97F), Artim Transportation System, Inc., now assigned for hearing on February 13, 1980 will be held at the Grand Jury Room, U.S. Courthouse, 1800 5th Avenue, North Birmingham, AL.

MC C 7996, Film Transit, Inc., v Cape Air Freight, Inc., now being assigned for prehearing conference on March 10, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.

MC FC 77834, Plymouth Transport, Inc. Transferee and Danella Bros., Inc., Transferor now assigned for hearing on February 13, 1980 will be held in the New Court House, 601 Market Street, Philadelphia, PA.

AB 19 (Sub-42F), Baltimore and Ohio Railroad Company, Allegheny and Western Railway Company, Buffalo, Rochester and Pittsburgh Railway Company & Pittsburg and Western Railroad Company Abandonment and Discontinuance of Service between New Castle Branch, Big Run Branch and Marquis Spur, PA, now assigned for hearing on February 25, 1980 will be held on the First Floor Police Training Room, New Castle Municipal Building, New Castle, PA, and on February 27, 1980 will be held on the 2nd Floor Counsel Chambers, New Castle Municipal Building, New Castle, PA.

MC 116254 (Sub-241F), Chem-Haulers, Inc., now assigned for hearing on January 28, 1980 is canceled and transferred to Modified Procedure.

MC 142941 (Sub-35F), Scarborough Truck Lines, Inc., now assigned for hearing on February 20, 1980 will be held at the Federal Building, B–20, 125 South State Street, Salt Lake City, UT.

MC 115523 (Sub-176F), Clark Tank Lines, and MC 125916 (Sub-11F), Norwood Transportation, Inc., now being assigned for hearing on February 21, 1980 will be held at the Federal Building, B–20, 125 South State Street, Salt Lake City, UT.

MC 145980 (Sub-2F), H. C. Cook & Bobby Joe Cook, d.b.a. Cook Trucking, now being assigned for hearing on February 25, 1980, will be held in the Court Room 2, Room 215, Federal Building & Courthouse, 111 South Wolcott, Casper, WY.

MC 105120 (Sub-17F), Freightways Express, Inc., now assigned for hearing on January 21, 1980 is canceled and transferred to Modified Procedure.

MC C 10162, Dodds Truck Line, Inc. and Dodds Truck Line, Inc., Operator and Lessee of Bennett Truck Line, Inc., now assigned for hearing on January 21, 1980 is canceled and transferred to Modified Procedure.

MC 133485 (Sub-27F), International Detective Service, Inc., now being assigned for hearing on March 6, 1980 (2 days), at Providence, RI in a hearing room to be designated later.

MC 147907F, White's Garage, Inc., now being assigned for hearing on March 10, 1980 (1 week), at Boston, MA in a hearing room to be designated later.

MC 125433 (Sub-207F), F–B Truck Line Company, now assigned for hearing on March 4, 1980 at San Francisco, CA is canceled and Application Dismissed.

MC 65802 (Sub-65F), Lynden Transport, Inc., now assigned for hearing on February 11, 1980 will be held in Room No. 2868, Federal Building, 915 Second Ave., Seattle, WA.

MC 121423 (Sub-3F), Boyd Naegeli, Inc., now assigned for hearing on February 20, 1980 will be held in Suite 600–4th floor, 411-West 7th Street, Neil P. Anderson Building, Fort Worth, TX.

MC 145500 (Sub-1F), East Texas Cartage Company, now assigned for hearing on February 25, 1980 will be held in Suite 600–4th floor, 411-West 7th Street, Neil P. Anderson Building, Fort Worth, TX.

MC 26396 (Sub-223F), Popelka Trucking Company d.b.a. The Waggoners, now assigned for hearing on February 5, 1980

will be held in Room No. 5230, 316 North 26th Street, Billings, MT.
MC 129631 (Sub-63F), Pack Transport, Inc., now assigned for hearing on February 6, 1980 will be held in Room No. 5230, 316 North 26th Street, Billings, MT.
MC 136605 (Sub-63F), Davis Bros. Dist., Inc., now assigned for hearing on February 11, 1980 will be held in Room No. 5000, 316 North 26th Street, Billings, MT.
FD 21478, Great Northern Pacific & Burlington Lines, Inc., Merger, Etc.—Great Northern Railway Company Et al., and FD 21478 (Sub-4), Great Northern Pacific & Burlington Lines Inc.—Merger, Etc.—Great Northern Railway Company, Et al. (Chicago, Milwaukee, St. Paul & Pacific Railroad Company Application for Inclusion in Burlington Northern, Inc. Pursuant to Condition 33), now assigned for prehearing conference on January 29, 1980 is postponed to February 5, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.
MC 52858 (Sub-114), Convoy Company, now assigned for hearing on February 6, 1980 will be held in Room No. 1063, Federal Building, 1961 Stout Street, Denver, CO.
MC 111545 (Sub-265F), Home Transportation Company, Inc., now assigned for hearing on February 11, 12, 13, 1980 will be held at the Brown Palace Hotel, 321 17th Street, Denver, CO and on February 14, 15, 1980 will be held in Room No. 1063, Federal Building, 1961 Stout Street, Denver, CO.
MC 129631 (Sub-63F), Pack Transport, Inc., now assigned for hearing on February 6, 1980 is canceled and transferred to Modified Procedure.
MC 144672 (Sub-9F), Victory Express, Inc., now assigned for hearing on January 28, 1980 is canceled and transferred to Modified Procedure.
MC 14715 (Sub-1F), Passaic Valley Coach Lines, d.b.a. Passaic Valley Coaches, now being assigned for hearing on March 10, 1980 (2 days), at Newark, NJ, in a hearing room to be designated later.
MC 138627 (Sub-52F), Smithway Motor Xpress, Inc., now assigned for hearing on February 7, 1980 (2 days) at Omaha, NE in the Grand Jury Room, U.S. District Courthouse, 215 North 17th Street.
MC 106859 Clairmont Transfer, Co., now being assigned for hearing on March 25, 1980 (9 days) at Escanaba, MI, location of hearing room will be by subsequent notice.
MC 142416 (Sub-1 M1F), now assigned for hearing on February 25, 1980 (1 week) at Casper, WY, in Court Room 2, Room 215, Federal Building & Courthouse, 111 South Wolcott.
MC 531 (Sub-380F), Younger Brothers, Inc., now assigned for hearing on February 26, 1980 (2 days) at New Orleans, LA in Room 648 Abury Bldg., 600 South Street and also in Room 125, Hall Boggs Federal Bldg., 500 Camp Street.
MC 145370 (Sub-1F), Pharr Brothers, Inc., now assigned for hearing on February 28, 1980 (2 days) at New Orleans, LA in Room 125, Hall Boggs, Federal Bldg., 500 Camp Street.
MC 112801 (Sub-224F), Transport Service Co., now assigned for hearing on March 3, 1980 (1 day) at New Orleans, LA in Room 125, Hall Boggs Federal Bldg., 500 Camp Street.
MC 142207 (Sub-25F), Brannan Systems, Inc., now assigned for hearing on March 4, 1980 (4 days) at New Orleans, LA in Room 125, Hall Boggs Bldg., 500 Camp Street.
MC 45784 (Sub-31F), Robbins Motor Transportation, Inc., now being assigned for hearing on March 12, 1980 (3 days) at New York, NY in a hearing room to be designated later.
MC 133937 (Sub-31F), Carolina Cartage Company, Inc., Transferred to Modified Procedure.
MC 117169 (Sub-5F), Beasley Trucking Inc., now assigned for hearing on March 4, 1980 (9 days) at Denver, CO is canceled and application dismissed.
MC 138882 (Sub-183F), Wiley Sanders Truck Lines, Inc., now assigned for hearing on March 4, 1980 (2 days) at San Francisco, CA, locations of the hearing room will be by subsequent notice.
MC 113855 (Sub-469F), International Transport, Inc., now assigned for hearing on February 25, 1980 (2 days) at at Denver CO is canceled and application dismissed.
MC 145588 (Sub-9F), Gulf-Midwestern, Inc., now assigned for hearing on February 26, 1980 (2 days) at Denver, CO in Room No. C-503, U.S. Courthouse, 1961 Stout Street.
MC 145586 (Sub-10F), Gulf-Midwestern, Inc., now assigned for hearing on February 28, 1980 (2 days) at Denver, CO in Room C-508, U.S. Courthouse, 1961 Stout Street, also in Room No. 239—Second Floor, Federal Building, 1961 Stout Street.
MC 22301 (Sub-27F), Sioux Transportation Company, Inc., now assigned for hearing on February 26, 1980 (2 weeks) at Chicago, IL at De Paul College of Law, 25 East Jackson Street.

Note.—Report to Room No. 931 for hearing room assignment.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-3147 Filed 1-30-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

Correction

In FR Doc. 80-2057 appearing at page 5410 in the issue for Wednesday, January 23, 1980, on page 5411, in the first column, under the heading *"Motor Carriers of Property"*, insert *"Notice No. 240"*.

BILLING CODE 1505-01-M

Southwestern Freight Bureau; Released Rates Application

ACTION: Released Rates Application No. 1936.

SUMMARY: Southwestern Freight Bureau, Agent seeks authority on behalf of member carriers participating in its Tariff ICC SWFB 3003 series to publish a released value rate applying from Saskatoon, Saskatchewan to Gore, Oklahoma on Uranium Oxides (a nuclear material) in drums, minimum weight 80,000 pounds per car. The net effect will be to limit participating rail carriers' liability to a released or declared value not to exceed 10 cents per pound.

ADDRESSES: Anyone seeking copies of this application should contact: Mr. C. M. Herzberg, Tariff Publishing Officer, Southwestern Freight Bureau, 1015 Locust Street, St. Louis, MO 63101.

FOR FURTHER INFORMATION CONTACT: Mr. Howard J. Rooney, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423, telephone (202) 275-7390.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 U.S.C. 10730, formerly section 20(11) of the Interstate Commerce Act, to publish released value rates in the tariffs of Southwestern Freight Bureau, Agent.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-3148 Filed 1-30-80; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Stress Management for Corrections Personnel; Special Announcement

This announcement, the third in a planned series of seven, continues Program Solicitation SD-20, "Development of Staff Training Materials," originally published in the National Institute of Corrections' Annual Program Plan for Fiscal Year 1979, subsequently withdrawn, and then reinstated in October 1979.

The Institute is at this time soliciting proposals for development of information and training materials, packages, and manuals—including basic curricula—in the area of stress management for corrections personnel.

Designed for use by correctional agency trainers, the materials and curricula developed by the grantee are to be tailored for (1) line staff and (2) supervisory managerial staff.

Maximum funds available for this project are $30,000. Estimated length of project is six months.

Applicants should prepare a concept paper—maximum of five pages (doubled spaced), one of which contains budget information—entitled, "Stress Management Training for Correctional Personnel," and submitted in six copies to: National Institute of Corrections, 320 First Street, N.W., Washington, D.C. 20534.

The deadline for submission is March 31, 1980. If further information is needed, please contact William Wilkey or Mary Lou Commiso of the Institute's staff at 202-724-3106.

Robert L. Smith,
Director.

[FR Doc. 80-3006 Filed 1-30-80; 8:45 am]
BILLING CODE 4410-36-M

Employee Grievance Decisions in Correctional Agencies; Special Announcement

This announcement, the fourth in a planned series of seven, continues Program Solicitation SD-20, "Development of Staff Training Materials," originally published in the National Institute of Corrections' Annual Program Plan for Fiscal Year 1979, subsequently withdrawn, and then reinstated in October 1979.

The Institute is at this time soliciting proposals for development of a compliation (case law format) of employee grievance arbitration decisions in corrections over the last twenty-five years.

Maximum funds available for this project are $35,000.

Applicants should prepare a concept paper—maximum of five pages (doubled spaced), one of which contains budget information—entitled, "Employee Grievance Decisions in Correctional Agencies," and submitted in six copies to: National Institute of Corrections, 320 First Street, NW., Washington, D.C. 20534.

The deadline for submission is March 31, 1980. If further information is needed, please contact William Wilkey or Mary Lou Commiso of the Institute's staff at 202-724-3106.

Robert L. Smith,
Director.

[FR Doc. 80-3008 Filed 1-30-80; 8:45 am]
BILLING CODE 4410-36-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 80-5]

Accident Reports, Safety Recommendations and Responses; Availability

Aircraft Accident Report

Inlet Marine Inc., Gates Learjet Century III, Model 25C, Anchorage International Airport, Anchorage, Alaska, December 4, 1978 (NTSB-AAR-79-18).—The National Transportation Safety Board on January 23 released its formal investigation report on the crash of Gates Learjet N77RS which occurred during the landing phase following a visual approach. The aircraft was detroyed. Light to moderate icing was forecast in clouds below 12,000 ft in the Anchorage area and turbulence, accompanied by gusting winds, was reported in the airport vicinity. The flight path was normal almost to touchdown when the aircraft suddenly pitched up and began to bank steeply from side to side. The aircraft rolled to the right and continued over until the right wing struck the ground alongside runway 06R.

Of the seven occupants on board, the two pilots and three passengers were killed, including Mrs. Ted Stevens, wife of the senior U.S. Senator from Alaska. Senator Stevens and one other passenger survived.

On a 4-to-1 vote, the Safety Board determined that the probable cause of the accident was an encounter with strong, gusting crosswinds during the landing attempt, which caused the aircraft to roll abruptly and unexpectedly. The ensuing loss of control resulted from inappropriate pilot techniques during the attempt to regain control of the aircraft. Suspected light ice accumulations on the aerodynamic surfaces may have contributed to a stall and loss of control. The majority of the Board approving the probable cause comprised Chairman James B. King, Vice Chairman Elwood T. Driver, Member Patricia A. Goldman, and Member G. H. Patrick Bursley.

Member Francis H. McAdams disagreed with the majority for holding that loss of control was due to inappropriate pilot techniques and that "suspected" light ice accumulations may have contributed. In a separate statement included in the investigation report, Member McAdams said that in his opinion the probable cause was:

* * * an encounter with strong gusting crosswinds accompanied by strong vertical and horizontal wind shear, resulting in loss of control of the aircraft.

An increased rate of descent was probably induced by the encounter with the low altitude wind shear at a critical point in the landing, accompanied by strong horizontal gusts, and ice accumulation on the wings. The stall warning system was negated by ice accumulation and the aircraft rolled abruptly to the left due to a stall or partial stall of the left wing. The minimal altitude made the pilot's response time critical and under the circumstances produced a situation where the pilot's ability to make a safe landing or a go-around was greatly diminished. The aircraft's ability to cope under these circumstances was marginal at best due to its low roll sensitivity, and a safe recovery may have been beyond the normal capability of the pilot.

As a result of this accident and several others involving general aviation aircraft, the Safety Board reiterates the following recommendations made to the Federal Aviation Administration on April 13, 1978 (43 FR 18073, April 27, 1978):

Develop, in cooperation with industry, flight recorder standards (FDR/CVR) for complex aircraft which are predicated upon intended aircraft usage. (A-78-27)

Draft specifications and fund research and development for a low-cost FDR, CVR, and composite recorder which can be used on complex general aviation aircraft. Establish guidelines for these recorders, such as maximum cost, compatible with the cost of the airplane on which they will be installed and with the use for which the airplane is intended. (A-78-28)

In the interim, amend 14 CFR to require that no operation (except for maintenance ferry flights) may be conducted with turbine-powered aircraft certificated to carry six passengers or more, which require two pilots by their certificate, without an operable CVR capable of retaining at least 10 minutes of intracockpit conversation when power is interrupted. Such requirements can be met with available equipment to facilitate rapid implementation of this requirement. (A-78-29)

Railroad Accident Report

Derailment of Union Pacific Railroad Freight Train at Granite, Wyoming, July 31, 1979 (NTSB-RAR-79-12).—Also on January 23 the Safety Board released its formal investigation report concerning the derailment of Union Pacific freight train No. GRX 31. The train, eastbound, was moving on main track No. 2 at 75 mph when the second and third locomotive units derailed and overturned in a 3°05.8' curve, separated from the lead unit, destroyed the track, and caused the following 81 freight cars to derail. Two locomotive units were heavily damaged, 80 freight cars were destroyed, and two overpass bridges of Interstate 80 were damaged extensively. Total damage was estimated at $5 million.

The Safety Board determined that the probable cause of this accident was the loss of braking capability because of a closed angle cock in the train line, which resulted in the engineer's inability to control the speed of the train, and the failure of the conductor in the caboose to apply the train brakes in emergency when the spied became excessive.

As a result of its investigation of this accident, the Safety Board on January 10 issued to Union Pacific four recommendations (Nos. R-79-78 through 81) calling for instruction of employees concerning train brake tests, review of operating rules examination and retesting procedures, establishment of a monitoring system for employee

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compliance with rules for operating trains, and equipment of locomotives with brake pipe flow indicators to enable engineers to measure trainline air flow. Also on January 10 the Safety Board issued to Federal Railroad Administration four additional recommendations (Nos. R–79–82 through 85) which asked that train brake testing requirements for Union Pacific under 49 CFR Part 232 be enforced, that railroads be required to regularly instruct and test employee's knowledge of operating rules, that monitoring for rule compliance on the Union Pacific be reviewed to insure that supervision can adequately enforce provision of a safe and efficient operation, and that a study be made of the feasibility for requiring locomotives to be equipped with brake pipe flow indicators to enable engineers to measure trainline air flow. (See also 45 FR 5852, January 24, 1980.)

Aviation Safety Recommendation Letters

A–80–8.—On January 21 the Safety Board issued the following "Class II, Priority Action" safety recommendation to the Federal Aviation Administration:

> Disseminate to all Boeing 727 operators and flightcrews information of the type included in Boeing Operations Manual Bulletin 75–7 and TWA Flight Operations Safety Bulletin 79–3 which address control problems associated with high-speed asymmetrical leading edge slat configuration on B–727 aircraft. (A–80–8).

The recommendation was issued as a result of investigation of the high-speed spiral dive which a Trans World Airlines B–727 took while cruising at 39,000 feet last April 4 near Saginaw, Mich. The aircraft did not recover from the dive until the aircraft reached an altitude between 5,000 and 6,000 feet m.s.l. despite flightcrew actions to counteract the maneuver. The aircraft was then landed under emergency conditions at an alternate airport. The aircraft was damaged extensively, and the No. 7 leading edge slat on the right wing, the No. 10 spoiler panel, and several other components were missing.

During its investigation, the Safety Board examined the effects of full extension of the No. 7 slat on aircraft performance and control during level flight and descent. Using a Boeing engineering simulator, it was determined that the extended slat will generate a right roll which will be countered by the autopilot until its roll authority is exceeded. At the onset, the roll is readily recognizable and controllable as long as lateral controls are used with minimal delay and only to the extent needed to return the aircraft to a wings-level attitude. The Board notes that if the application of corrective controls is delayed and then used to full travel, an uncontrollable, steep descending spiral will develop. This occurs at certain Mach number and angle of attack relationships where the extended slat generates rolling moments that exceed the control authority available to the pilot. The spiral will continue until Mach number and angle of attack values are reduced or until the slat separates from the aircraft. The simulation results confirm the flightcrew's description of the spiral dive and the loss of roll control until the slat separated from the aircraft. Under certain conditions, recovery would not be possible.

The Safety Board believes that an extended No. 7 slat precipitated control problems that culminated in a loss of control. The Board is also aware of TWA Safety Bulletin 79–3 and Boeing Operations Manual Bulletin 75–7 that, to a degree, inform flightcrews of the recognition and control aspects of an asymmetric slat configuration. The board believes that flightcrews must be able to recognize and react to such a condition and that there is a need to more widely disseminate comprehensive guidance to flightcrews.

A–80–9 and 10.—On December 15, 1979, a Hughes 269C helicopter crashed 2 miles west of West Milton, Ohio, fatally injuring the pilot who was the only person on board the aircraft. Preliminary investigation has indicated that an in-flight separation of the tailboom occurred at the P/N 269A2324–7 tailboom center attach fitting which broke into more than three pieces that separated with the left and right tailboom support struts. The forward end of the fitting was attached to the tailboom tube by 16 rivets, with eight rivets on each side of the fitting centerline.

Fracture of the P/N 269A2324–7 fitting occurred in the web portion between the forward center portion and the left and right ends, incorporating the first three rivets forward on the left side and the second through fifth rivets forward on the right side. A preliminary metallurgical examination of the fitting fracture disclosed evidence of a large preexisting fatigue crack through approximately 90 percent of the left side fracture. High cycle, low stress fatigue crack initiations occurred at the intersection of the rivet holes and top surface of the web which mates with the tailboom tube, at the top surface of the web at the forward faying surface of the tailboom tube, and at the top surface of the flange in the forward center section of the fitting between the trust lugs. The fracture on the right side of the fitting showed evidence of a high stress, low cycle fatigue crack initiating in the web just forward of the rivets. Initiation of the right side fatigue crack was along the faying surface adjacent to the tube with fatigue progression through the fitting web thickness in the downward direction. The right side fracture appeared secondary to the left side fracture. Metallurgical examination of this component is continuing.

The Board notes that the accident aircraft had an upgraded P/N 269A2324–7 tailboom center attach fitting which had been redesigned with increased thickness in the forward lugs to make it less susceptible to cracks and structural damage than the original fitting P/N 269A2324 design. Hughes Service Information Notice (HSIN) No. N–82.3, dated September 19, 1977, prescribed an inspection of the center section fitting and other fittings in the area of the lugs but expressly states that the redesigned P/N 269A2324–7 fitting (factory equipped on all model 269C helicopters) is not subject to that notice. Moreover, HSIN No. N–82.3 does not pertain to any model 269C having a serial number greater than 589 and, therefore, was totally inapplicable to the accident aircraft.

FAA Airworthiness Directive 76–18–01, Amendment 39–2707, required inspection of the P/N 269A2324 fittings but excludes any examination of the redesigned P/N 269A2324–7 fittings. Therefore, no inspection requirements by airworthiness directive or HSIN exist for the P/N 269A2324–7 fitting. Separation of the P/N 269A2324–7 fitting will result in loss of the helicopter flights controllability. Accordingly, on January 23 the Safety Board issued two "Class I, Urgent Action" recommendations asking FAA to:

> Require an immediate inspection of all tailboom center section fittings, P/N 269A2324–7, installed in Hughes model 269 helicopters for evidence of cracks. (A–80–9)
>
> Establish a schedule for recurring inspections of that fitting based on an appropriate number of operating hours. (A–80–10)

Responses to Safety Recommendations

Aviation

A–77–30.—The Federal Aviation Administration on January 15 supplemented correspondence of November 3, 1978 (43 FR 55021, November 24, 1978) to advise that action has been completed with respect to this recommendation which concerned drive belt and overrunning clutch problems on Enstrom helicopters. FAA advises that the Enstrom Helicopter Corporation has issued Service Information Letters No. 0074, Drive Belt Inspection and Belt Life Requirements, and No. 0079, Overrunning Clutch. FAA notes that these instructions have improved the inspections and maintenance procedures for the drive belt and clutch.

Regarding FAA's earlier suggestion to Enstrom to add a note to the rotorcraft flight manual cautioning against rapid throttle movement, FAA reassessed its position and now believes that issuance of the Service Information Letters is a satisfactory resolution of the aforementioned problems. A copy of each Service Information Letter was provided by FAA.

A–79–80 and 81.—Also on January 15 FAA responded to recommendations issued last October 17 in view of the Safety board's concern that expansion of 14 CFR Part 135 operations, and particularly commuter air carrier operations, be accompanied by measures to assure a level of safety comparable with that of the air carriers certified under 14 CFR Part 121. (See 44 FR 61477, October 25, 1979.)

Recommendation A–79–80 asked FAA to require that pilots involved in 14 CFR Part 135 operations be thoroughly trained on the performance capabilities and handling qualities of aircraft when loaded to their maximum certified gross weight or to the limits of their center of gravity envelope, or both. FAA reports that is now amending Part 135 to require operating experience similar to that required in Part 121 for any pilot prior to designation as pilot-in-command on commuter air carrier operations. This operating experience, which would expose the pilot to various gross weight operations for each make and model aircraft to be flown, will be acquired under the supervision of a company check pilot. The estimated completion date for this regulatory action is March 1, 1980. Also, FAA is issuing a directive to be more specific as to testing standards regarding pilots, as in Part 135. Although present training and testing requirements cover aircraft performance, FAA says this additional directive, scheduled for completion February 1, 1980, will cover this area in more detail.

With respect to recommendation A–79–81, which asked FAA to expedite rulemaking which would make flight time and duty time limitations and rest requirements for commuter air carriers the same as those specified for domestic air carrier crewmembers under 14 CFR Part 121, FAA says that considerable work has been done on amending present flight and duty time requirements for both Parts 135 and 121 to provide compatible requirements; the final draft of the proposed rulemaking does provide for identical requirements for these parts. The supplemental notice of proposed rulemaking, Notice No. 78–3B, on this subject should be issued by the end of March 1980.

Highway

H–78–52.—The Federal Highway Administration on January 14 noted that the Safety Board on December 19 to FHWA's December 7 response (44 FR 76606, December 27, 1979) had expressed a desire to participate in a briefing to FHWA on a research study on "Impact Attenuators for Heavy Vehicles—A Feasibility Study," related to recommendation H–78–52. The briefing was to be made by the contractor's principal investigator. Since the Safety Board's staff engineer assigned to this subject area will not be available during the time the briefing was planned, it has been agreed to delay briefing the Board until the next quarterly meeting.

H–79–38.—On January 11 the California Department of Transportation advised the Safety Board that the contract for replacement of bridge rail on road 07–LA–10 at Post Mile 21.2 was awarded on December 21, 1979. This information was provided in connection with a recommendation developed as a result of the Safety Board's investigation of the penetration of a bridge rail by a station wagon near Alhambra, Calif., November 11, 1978. (See 44 FR 61478, October 25, 1979.)

Intermodal/Railroad

I–79–13 and R–78–43 through 47.—The Federal Railroad Administration on January 17 responded to recommendation I–79–13, issued last October 2, predicated on investigation of the Louisville & Nashville Railroad Company freight train derailment and puncture of hazardous materials tank cars, Crestview, Fla., April 8, 1979. The recommendation asked FRA to analyze risks to wreck-clearing personnel during wreck-clearing operations involving hazardous materials releases to determine needed health safeguards, operating precautions, and medical treatment capabilities for hazardous materials exposures, and establish appropriate safety requirements based on its findings. (See 44 FR 58821, October 11, 1979.)

In response, FRA reports that on October 31, 1978, a public hearing was held in Washington, D.C., for the purpose of receiving comments on the Association of American Railroads (AAR) requirement that all freight cars ordered after July 1, 1976, be equipped with provisions for lifting. Sixteen witnesses testified, including AAR representatives, two firms specializing in wreck-clearance operations, and tank car companies. Written submissions were received from several additional parties. An FRA Board of Inquiry addressed to witnesses questions based on the testimony presented and FRA data relating to wreck-clearance operations. As a result of this inquiry, FRA concluded that there is a need to develop techniques and guidelines for the safe conduct of wreck-clearance operations. Thus, FRA, Office of Research and Development, has awarded a contract to Edwards Air Force Base to study wreck-clearance procedures, with emphasis on the handling of hazardous materials cars following derailments. The study is scheduled to be completed in March 1981. FRA will seek active participation of the railroad industry and wreck-clearance specialists in the conduct of the study.

Also included with FRA's January 17 response to recommendation I–79–13 is a copy of FRA's November 2 response to recommendations R–78–43 through 47 which were developed following investigation of the Louisville & Nashville Railroad Company freight train derailment and puncture of anhydrous ammonia tank cars at Pensacola, Fla., November 9, 1977. (See 44 FR 68541, November 29, 1979.) Recommendations R–78–43 through 47 were reiterated in the October 2, 1979, letter to FRA issuing recommendation I–79–13.

Marine

M–79–107 through 110.—On December 4 both the Board of River Port Pilot Commissioners for the Port of New Orleans and the Crescent River Port Pilots Association, joint addressees, provided responses to recommendations issued following investigation of the December 4, 1977, collision of the Spanish Motor Tankship RIBAFORADA with Barge MB–5, Three Wharves, and Cargo Ship M/V TIARET at New Orleans, La. (See 44 FR 64931, November 8, 1979.)

Recommendation M–79–107 asked the addressees to prescribe procedures for pilots under their jurisdiction to specifically ascertain vessel maneuvering characteristics before getting underway, and discuss with the master before getting underway the essential feautures and relevant checkpoints for maneuvers to be undertaken. The Board of Commissioners states in response that it does not have statutory authority to establish requirements on Crescent River Port Pilots. The expertise and discretion brought by the licensed pilot to his profession is relied upon by the

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State Commission to assure the safe navigation of the vessel, according to the Commissioners. They further said, "The relationship between the pilot and the master is that of professionals. Unquestionably, sugestions of this sort addressed to the discretion and good judgment of the pilots, may very well be in order. Requirments of this sort are an entirely different matter."

The Association, also with respect to recommendation M–69–107, states that it has never prescribed procedures for members in connection with pilotage of vessels. For the pilots to insist on a conference with the master would, in a large percentage of cases according to the Association, require that the vessel be put to anchor while the master is called to the bridge. The problems inherent in such a procedure would be enormous. The anchorage facilities would be insufficient and the number of additional pilots required would make the cost of pilotage astronomical. The Association notes that a pilot confers with whatever bridge personnel are available when the pilot comes aboard.

In answer to recommendation M–79–108, which called for establishment of guidelines for pilot duty periods which provide for sufficient rest to avoid fatigue, the Commissioners state that such action is outside the legal scope of the Board of Commissioners. Noting that current demands for pilotage outstrip the supply of pilots, the Commission has urged that new pilots be recruited so as to provide for enough pilots to ensure a maximum 182 working day year. The Commissioners agree that sufficient rest be afforded, but there is no way to do such without seriously affecting traffic at the Port of New Orleans.

The Association in response to M–79–108 says it is engaged in an effort through the Louisiana Public Service Commission to have sufficient revenue provided to increase the number of Crescent River pilots. The increased number will allow for a decrease in the workload of pilots who now serve in excess of 280 days per year. The Association notes that establishment of guidelines for duty periods will not make for more hours of rest unless there are more pilots. Further, a separate problem is addressed in the Association's response—that of ship agents wasting the time of pilots by improper planning. The Association says it has had little cooperation from the shipping industry in efforts to reduce the wasting of pilots' time.

With respect to recommendation M–79–109, which called for development of physical standards for pilots to provide reasonable assurance that they are qualified for duty as pilots, the Commissioners state that they have had physical standards for pilots to provide substantial assurance that applicants are physically qualified. The Commissioners' Rule 1(g) reads:

> The applicant must be examined by a physician, clinic or group of physicians of the Board's choosing in respect of the applicant's physical condition. The examination report must reflect that the applicant's physical condition is satisfactory to the Board commensurate with the work and responsibilities attendant to pilotage.

However, these are entrance standards; once the applicant has been commissioned, the Board of Commissioners has no authority to require further physical examinations. The Association's response letter endorses the Commissioners' physical requirements. The Association further has established its own criteria for acceptance of applicants into its apprenticeship program. The Association states that by application of those criteria to applicants for apprenticeship and commissioning, a high standard of physical qualification of pilots has been achieved.

Recommendation M–79–110 called for requiring pilots to pass an initial physical examination as a condition for membership and before returning to duty after a serious illness. The Commissioners' response states that once a pilot has been commissioned, the Board of Commissioners has no authority to require further physical examinations. The Association's response to M–79–110 states that the issue of a requirement for a physical before returning to work after a major illness has not been addressed by the Association. The Association notes that the pilot of the RIBAFORADA was required to have a very rigorous physical by the Association prior to his returning to duty after his illness. The Association says it has sufficient rules to assure that a pilot returning to duty after a serious illness will be physically able to perform his professional duties.

Pipeline

P–79–8.—On January 8 the American Iron and Steel Institute (AIS) responded to a recommendation issued last May 18 as a result of investigation of the liquefied petroleum gas (LPG) pipeline rupture and fire which occurred August 4, 1978, near Donnellson, Iowa. The recommendation asked AISI and the American Petroleum Institute to undertake research for more stringent specifications for line pipe manufactured for LPG pipeline service to minimize or mitigate the effects of dents and gouges, and to consider the research being conducted by the American Gas Association (AGA) on this problem. (See 44 FR 30180, May 24, 1979.)

AISI, after consulting with other parties concerned with pipeline safety, submits these comments:

1. Battelle Columbus Laboratories is actively engaged in research under sponsorship of AGA to determine the effect of dents and gouges in line pipe.
2. Thus far, attempts to develop quantitative relationships between failure pressures and variables of gouge depth, denting, pipe strength level, pipe wall thickness and diameter, and temperature have had limited success and indicate synergistic and nonlinear actions among the variables.
3. A more direct attack on the problem would be to establish and adopt practices which avoid damage or remedy it if it occurs. This approach requires more careful control of procedures during installation and thorough inspection against damage. In service the pipe must be protected as well as possible from incursions.

AISI states that in view of the other work underway at Battelle, AISI should not undertake a research program on dents and gouges at the present time; such a research program would be a duplication of work. AISI states, however, that after this work is completed the results will be examined to determine whether more research is needed.

Note.—Single copies of the Safety Board's accident reports are available without charge, as long as limited supplies last. Copies of recommendation letters issued by the Board, response letters and related correspondence are also provided free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of reports issued by the Safety Board may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,
Federal Register Liaison Officer.
January 28, 1980.

[FR Doc. 80-3095 Filed 1-30-80; 8:45 am]
BILLING CODE 4910-58-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

January 23, 1980.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estmate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficult in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipated commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Office of Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447–6201

Revisions

Agricultural Marketing Service
Application for Appeal Inspection or Board Appeal Inspection
IN–202 (Formerly GR–202)
On occasion
Firms in the grain industry, 29,000 responses; 7,250 hours
Charles A. Ellett, 395–5080

Food and Nutrition Service
Claim for reimbursement—summer food service program
FNS–143 and 143–1
Monthly
Summer camps, 2,400 responses; 800 hours
Charles A. Ellett, 395–5080

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377–3627

Revisions

Bureau of the Census
New complete aircraft and aircraft engines, except military (shipments)
M–37G
Monthly
Complete aircraft and aircraft engine manufacturers, 660 responses; 165 hours
Off. of Federal statistical policy and standard, 673–7974

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697–1195

Revisions

Departmental and other
DD Form 48 and DD Form 48–3, personnel security questionnaire (updating)
On occasion
Employees of cleared DOD contractors 150,000 responses; 300,000 hours
Richard Sheppared, 395–3211

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—633–9770

New Forms

Evaluation of Transportation System for Nuclear Fuel Cycle Materials
NE–425
Single time
Firms involved in transport of nuclear materials, 125 responses; 875 hours
Jefferson B. Hill, 395–5867

Revisions

IEA Emergency Supply Report
EIA–142
Monthly.
Importers of oil, gas and petroleum products, 660 responses; 1,320 hours
Jefferson B. Hill, 395–5867

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755–5184

New Forms

Policy Development and Research
Study of no-children policies in rental housing markets [1]
Single time
Renters and landlords, 3,550 responses; 886 hours
Arnold Strasser, 395–5080

Policy Development and Research
Survey for evaluation of urban counties in CDBG
Single time
Key individual in 10 CDBG designated urban counties, 85 responses; 170 hours
Arnold Strasser, 395–5080

[1] The OMB plans to act on this request before expiration of the 10-day waiting period to permit the data collection and analysis to be accomplished in time for results to be incorporated into the Department of Housing and Urban Development's policy paper for the White House Conferences on the problems of families scheduled for June and July. The data collection for this study will be completed by March 15, 1980. The Department took steps to obtain public comments before submitting the proposal to OMB.

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DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—William L. Carpenter—343–6716

New Forms

Departmental and Other
Title VI Compliance Report—Recreation
On occasion
Local recreation agencies, 2,500 responses; 2,500 hours
Charles A. Ellett, 395–5080

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. Larue—633–3526

Revisions

Immigration and Naturalization Service
Application to extend time of temporary stay
I–539
On occasion
Nonimmigrant alien applying for extension of stay, 249,000 responses; 83,000 hours
Laverne V. Collins, 395–3214
Immigration and Naturalization Service
Application to file petition for naturalization
N–400
On occasion
Aliens filing for naturalization, 180,000 responses; 180,000 hours
Laverne V. Collins, 395–3214
Immigration and Naturalization Service
Application to file petition for naturalization in behalf of child
N–402
On occasion
U.S. citizen parents, 8,000 responses; 4,000 hours
Laverne V. Collins, 395–3214
Immigration and Naturalization Service
Petition to classify status of alien fiance or fiancee for issuance of nonimmigrant visa
I–129F
On occasion
Unmarried citizens of the U.S., 11,000 responses; 5,500 hours
Laverne V. Collins, 395–3214
Immigration and Naturalization Service
Application for Issuance or Extension of Refugee Travel Document
I–570
On occasion
Refugees, 11,000 responses; 11,000 hours
Laverne V. Collins, 395–3214

Extensions

Immigration and Naturalization Service
Alien Death Report
G–348
On occasion
State's bureau of vital statistics, 15,000 responses; 1,250 hours
Laverne V. Collins, 395–3214
Immigration and Naturalization Service
Notice of final naturalization hearing (children)
N–445B
On occasion
United States citizens, 6,000 responses; 500 hours
Laverne V. Collins, 395–3214

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523–6341

New Forms

Employment and Training Administration
Assessing the impact of the new employment service
Regulations structure on employment service operations
MT–302
Single time
Employment services central and local offices in 15 States, 644 responses; 483 hours
Arnold Strasser, 395–5080

Revisions

Employment and Training Administration
National longitudinal surveys of youth
MT–292D
Annually
Approximately 4,000 sec. schools attended by NLS youths, 4,000 responses; 2,000 hours
Off. of Federal Statistical Policy and Standard, 673–7974

OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Officer—John P. Weld—632–7737

Revisions

EWA 338, Individual Nominee Evaluation Form
EWA 338
Annually
High school counselors, 1,400 responses; 350 hours
Laverne V. Collins, 395–3214

C. L. Kincannon,
Acting Assistant Director for Office of Regulatory and Information Policy.

[FR Doc. 80–3153 Filed 1–30–80; 8:45 am]
BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–16538; File No. SR–NYSE–80–2]

New York Stock Exchange, Inc.; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on January 7, 1980, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend Article IX, Sec. 1(b) of the Exchange Constitution as follows: (new language *italicized*, deleted language in [brackets].

* * * * *

Sec. 1. The membership of the Exchange shall consist of:

* * * * *

(b) such number of members of the Exchange, as the Board of Directors may from time to time determine, consistent with available physical floor space and facilities *but not more than the number of such physical access members as existed prior to August 31, 1979*, each of whom shall have paid an annual dues, which [shall] *will* entitled such member, during the period for which dues have been paid and while such member remains in good standing, to enter physically upon the trading floor and to have facilities thereon for the execution of orders; and

* * * * *

Stated Purpose of Proposed Rule Change

The purpose of the proposed Constitutional amendment is to limit the number of NYSE annual memberships (physical access) to no more than the number existing on August 31, 1979. On that date there were two such members and currently there are four.[1]

The present provision of the Constitution leaves to the discretion of the NYSE Board of Directors the number of memberships to be issued beyond the 1,366 regular NYSE memberships, limited only by available NYSE floor space and facilities.

Stated Basis Under the Act for Proposed Rule Change

In its original filing to create Annual Membership (physical access)—as well as other forms of membership—(File NO. SR–NYSE–77–21) the Exchange expressed the view that the various forms of Exchange membership, including annual memberships (physical access), are consistent with Section

[1] The two applicants who were approved after August 31, 1979, each signed an agreement acknowledging that he has been informed by the Exchange of the pending Constitutional amendment and that if the amendment were approved by the Securities and Exchange Commission, he may lose all privileges as such a member.

6(b)(2) of the Act in that they enable any qualified person to become an Exchange member.

The Exchange also expressed the view that the various forms of Exchange membership increase the potential for access to the NYSE market and encourage greater participation therein. The Exchange further submitted that, in general, the existence of various forms of Exchange membership tends to remove impediments to the mechanism of a free and open market and, as such, is consistent with Section 6(b)(5) of the Act.[2] The Board opposed the constitutional amendment, and after the memberships vote approving it told the Alliance of Floor Brokers, Inc. ("Alliance"), the main proponents of the proposal, that it would not recommend that the Securities and Exchange Commission approve the proposed constitutional amendment. The Board invited the Alliance to prepare and submit written arguments in support of the proposed amendment, and particularly with respect to its basis under the Act and possible competitive impact.

The Alliance of Floor Brokers, Inc. states that the proposed rule change will accomplish the following: (i) Enable the Exchange to increase its capacity to carry out the purposes of the Act by eliminating sources of friction between regular members and annual physical access members; (ii) assist the Exchange in enforcing compliance with the Act by its members and persons associated with such members by eliminating a discriminatory, unworkable and ineffective constitutional provision; (ii) enable any qualified person to become a member of the Exchange either by purchasing a regular membership, or becoming a lessee of a regular member or by acquiring an electronic access membership; (iv) assure fair representation of the Exchange members in the administration of the affairs of the Exchange since the constitutional amendment was advanced by and approved by a majority of the members of the Exchange; and (iv) promote just and equitable principles of trade and assist in the removal of impediments to and perfection of the mechanism of a free and open market and a national market system by eliminating an experimental program which proved to be unfair, discriminatory and unworkable as compared to regular NYSE membership.

[2] The NYSE contends that the Commission expressly affirmed this position in its March 7, 1978, order approving NYSE annual memberships. *See*, Securities Exchange Act of 1934 Release No. 14535.

Statement of Comments Received From Members, Participants or Others on Proposed Rule Changes

The NYSE did not solicit comments on the membership vote. It has submitted papers, regarding the vote, the comments of the Alliance of Floor Brokers, Inc. as well as pleadings and the opinion filed in an action to enjoin the NYSE from granting physical access membership, commenced by a group of NYSE members in Supreme Court of the State of New York, county of New York, (*Higgins* v. *Hall*). These papers are available in the SEC public reference room. A few key comments are summarized herein.

Among other things, the comments state that members, exchange employees and clerks work on the Floor of the Exchange under conditions which are unsatisfactory and will be even worse if additional individuals are admitted as physical access members. They also maintain that the availability of physical access memberships has an adverse effect on the equity value of regular NYSE membership. Other comments state that physical access membership is a response to a Congressional concern that Exchange memberships be increase wherever appropriate and stress that when the Commission originally approved offering these memberships it found that they would be consistent with the provisions of the Exchange Act and the rules and regulations thereunder. The comments also point out that at its meeting on July 11, 1979, the NYSE Board of Directors determined that the facilities of the Exchange were adequate to accommodate additional people on the Floor and that there was no basis for denying further annual Exchange memberships at that time.

While some comments take the position that the creation and implementation of new forms of membership have enhanced the public credibility of the Exchange, and have contributed significantly to the ability of the Exchange to take a position of initiative and leadership in the significant issues which arise as the National Market System continues to evolve. Other comments urge that physical access memberships be eliminated for the following three reasons: (i) Access to the Exchange already exists in a variety of forms; (ii) physical access has not been mandated either by Congress or the SEC; and (iii) physical access membership is not found in any other major securities exchange.

Statement on Burden on Competition

The Alliance of Floor Brokers, Inc. states that the proposed amendment to restrict physical access membership would not impose a burden on competition since annual physical access has proven to be a failure with little prospects for the future. It states that the 1,366 regular memberships of the Exchange assures a level of competition equal or superior to any other Exchange in the country.

The NYSE Board of Directors has taken the position that physical access membership increases the potential for access to the NYSE market and encourages greater participation therein.

Within 35 days of the date of publication of this notice in the **Federal Register**, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and argument concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. The Commission is especially interested in receiving views on whether the proposal is consistent with the stated goals of the Act and whether it will impose any burden on competition. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW, Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number reference in the caption above and should be submitted on or before February 21, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

January 28, 1980.

[FR Doc. 80–3185 Filed 1–30–80; 8:45 am]
BILLING CODE 8010–01–M

V 45 / 22 J A 31 80 UMI

V45122 JA3180 UMI

Horizon Energy Corp.; Order Directing Private Investigation and Designating Officers to Take Testimony

January 24, 1980.

I

In the Matter of Horizon Energy Corporation (formerly Swing Bike), Union Pacific Oil and Gas, a Texas corporation, Horizon Mnaufacturing Corporation, (formerly Anderson Energy Systems, Inc.), Eugene R. Anderson, George R. Jensen, and Norman Standall (D–1664).

The Commission's public official files disclose that no registration statement has been filed or is in effect under the Securities Act of 1933 for the common stock of Horizon Energy Corporation, formerly Swing Bike, a Utah corporation.

II

Members of its staff have reported information to the Commission which tends to show that:

A. Horizon Energy, and others have been and are offering to sell, selling, offering to purchase, and purchasing certain securities, among others, the common stock of Horizon Energy.

B. While engaged in the offer to sell, selling, offering to purchase, and purchasing the common stock of Horizon Energy, Union Pacific Oil and Gas, Horizon Manufacturing Corporation, Eugene R. Anderson, George R. Jensen, Norman Standall, and others, made to sellers, purchasers, and prospective sellers and purchasers untrue statements of material facts and omitted to state material facts necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, concerning, among other things:

1. The workability and practical application of a process called the CRB process (CRB) which is a claimed process to disassociate the water molecule into component elements by catalytic action.

2. The testing and demonstration of the CRB process.

3. The method of conducting demonstrations of the CRB process and the chemical reactions actually produced, including techniques of generating combustible gases in demonstrations.

4. The method of financing the development and distribution of the CRB process and limitations and agreements existing between SB and controlling persons and affiliates.

5. The relationship between the issuer, SB, and affiliated corporations and individuals, and the stock holding positions of SB shares by controlling persons and affiliates.

6. The expectation that the corporation would develop a practical commercial product utilizing the CRB process.

7. The transactions of officers and affiliated persons of SB in purchasing and selling shares of SB in the market.

8. The scientific basis of the CRB process; and

C. While engaged in the offer, sale, purchase and delivery of such securities, such persons, directly and indirectly, made use of the mails and means and instruments of transportation and communication in interstate commerce, and of the means and instrumentalities of interstate commerce.

III

The Commission, having considered the staff report and deeming such acts and practices, if true, to be in possible violation of Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933, as amended, and Section 10(b) of the Securities Exchange Act of 1934, as amended, and Rule 10b–5 thereunder, finds it necessary and appropriate and hereby

Orders, pursuant to the provisions of Section 20(a) of the Securities Act of 1933, as amended, and Section 21(a) of the Securities Exchange Act of 1934, as amended, that a private investigation be made to determine whether the aforesaid persons or any other persons have engaged or are about to engage in any of the reported acts or practices or in any acts or practices of similar purport or object; and

It is further ordered, pursuant to the provisions of Section 19(b) of the Securities Act of 1933, as amended, and Section 21(b) of the Securities Exchange Act of 1934, as amended, that for the purposes of such investigation, Robert H. Davenport, Joseph F. Krys, Cecil S. Mathis, Robert M. Fusfeld, David A. Watson, G. Gail Weggeland, Delano S. Findlay, Harold G. Smith and Floyd G. Hastings, and each of them, is hereby designated an officer of this Commission and empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda or other records deemed relevant and material to the inquiry, and to perform all other duties in connection therewith as prescribed by law.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-3106 Filed 1-30-80; 8:45 am]

BILLING CODE 8010-01-M

John Milton Addison and Florence Kasin; Order Directing Private Investigation and Designating Officers to Take Testimony

January 24, 1980.

In the Matter of John Milton Addison and Florence Kasin; (D–1680)

I

The Commission's public official files disclose that:

A. No registration statement has been filed or is in effect with the Commission under the Securities Act of 1933, as amended, with respect to any securities of Florence Kasin.

II

Members of its staff has reported information to the Commission which tends to show that:

A. John Milton Addison and Florence Kasin and others have been and are offering to sell, selling and delivering after sale to members of the public, certain securities, namely, the secured promissory notes of Florence Kasin.

B. While engaged in the offer, sale and purchase of such securities, such persons made to purchasers, prospective purchasers, sellers and prospective sellers, untrue statements of material facts and omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading; concerning among other things:

1. The uses to be made of the investors' monies;

2. The status of the option on the land to be used for the Dolly-O-Denver development and the fact that such option expired on November 30, 1978 and would not be exercised or renewed; and

3. That no attempt had been made by the subjects to approach Douglas County planning authorities to consider and approve such a development which approval is required by Colorado law.

C. While engaged in the offer, sale and delivery of such securities, such persons, directly or indirectly, made use of the mails and means and instruments of transportation and communication in interstate commerce and of the means of instrumentalities of interstate commerce.

III

The Commission having considered the staff report and deeming such acts and practices, if true, to be in possible violation of Section 5(a), 5(c), and 17(a) of the Securities Act of 1933, as amended, and Section 10(b) of the Securities Exchange Act of 1934, as amended, and Rule 10b–5 thereunder, finds it necessary and appropriate and hereby

Orders, pursuant to the provisions of Section 20(a) of the Securities Act of 1933, as amended, and Section 21(a) of the Securities Exchange Act of 1934, as amended, that a private investigation be made to determine whether the aforesaid persons or any other persons have engaged or are about to engage in any of the reported acts or practices or in any acts or practices of similar purport or object; and

It is further ordered, pursuant to the provisions of Section 19(b) of the Securities Act of 1933, as amended, and Section 21(b) of the Securities Exchange Act of 1934, as amended, that for the purpose of such investigation, Robert H. Davenport, Joseph F. Krys, William J. Klein, and Andrew Vander Ploeg and each of them is hereby designated an officer of this Commission and empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda or other records deemed relevant and material to the inquiry, and to perform all other duties in connection therewith as prescribed by law.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-3107 Filed 1-30-80; 8:45 am]

BILLING CODE 8010-01-M

Perpetual Energy Products, Inc., Steven S. Glick; Order Directing Private Investigation and Designating Officers to Take Testimony

January 3, 1980.

In the Matter of Perpetual Energy Products, Inc., Steven S. Glick (LA–292)

I

The Commission's public official files disclose that:

A. Perpetual Energy Products, Inc., ("Perpetual") is a Delaware corporation located in Beverly Hills, California. Perpetual's common stock is registered with the Commission pursuant to Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act"). The company files periodic reports with the Commission pursuant to Section 13 of the Exchange Act.

B. Perpetual has not filed any annual or quarterly reports or made any other filings with the Commission since its Form 10–K report filed for the period ending March 31, 1978.

C. Steven S. Glick ("Glick"), a certified public accountant, certified Perpetual's financial statements which were filed with the Commission as part of the company's Form 10–K report for the fiscal year ending March 31, 1978.

D. No registration statement has been filed with the Commission or is in effect pursuant to the Securities Act of 1933 with respect to the securities of Perpetual.

II

Members of the staff have reported information to the Commission which tends to show that:

1. Perpetual, and others have been and are offering to sell, selling and delivering after sale to members of the public certain securities, namely, the common stock of Perpetual Energy Products, Inc.

2. While engaged in, and in connection with, the offer, sale and purchase of the common stock of Perpetual, Perpetual, Glick and others, have made in filings made with the Commission and otherwise, untrue statements of material facts and have omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading concerning, among other things:

a. the financial condition and results of operations of Perpetual;

b. the value of Perpetual's stock;

c. the amount of stockholders equity;

d. the value of corporate assets;

e. the risk associated with an investment in Perpetual's stock;

f. the independence of the certified public accountant who audited the financial statements; and

g. the extent to which Perpetual has complied with Commission's filing requirements.

3. Certain persons have been and are employing devices, schemes and artifices to defraud, engaging in acts, practices and courses of business which operate or would operate as a fraud or deceit in connection with the purchase and sale of Perpetual common stock in that they sold said stock to the public while in possession of material, non-public information, including, among other things, information that Perpetual's financial statement in its 1978 10–K was false and misleading.

4. Perpetual has failed to:

1. make and keep books, records, and accounts which accurately and fairly reflect its transactions and dispositions of its assets; and

2. devise and maintain a system of internal controls sufficient to provide reasonable assurances that:

a transactions are executed, and access to assets is permitted, only in accordance with management's general or specific authorization;

b. transactions are recorded as necessary (1) to permit preparation of financial statements in accordance with generally accepted accounting principles or other applicable criteria, and (2) to maintain accountability for assets; and

c. the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

5. While engaged in the above-described activities, such persons directly and indirectly made use of the mails and the means and instruments of transportation and communication in interstate commerce, and of the instrumentalities of interstate commerce.

III

The Commission, having considered the staff report and deeming such acts and practices, if true, to be in possible violation of Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933 and Sections 10(b), 13(a) and 13(b)(2) of the Securities Exchange Act of 1934 and Rules 10b–5, 13a–1 and 13a–13 thereunder, finds it necessary and appropriate and hereby

Orders, pursuant to the provisions of Section 20(a) of the Securities Act of 1933 and Section 21(a) of the Securities Exchange Act of 1934, that a private investigation be made to determine whether the aforesaid persons or any other persons have engaged or are about to engage in any of the reported acts or practices or in any acts or practices of similar purport or object; and

It is further ordered, pursuant to the provisions of Section 19(b) of the Securities Act of 1933 and Section 21(b) of the Securities Exchange Act of 1934, that for the purposes of such investigation, Leonard H. Rossen, Ralph H. Erickson, James R. Miller, Janet Kerr, James C. Johnson, Hillel T. Cohn, Jane E. Katz, Eugene Horwitz, Joe Dion, and each of them, is hereby designated an officer of the Commission and empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith as prescribed by law.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-3169 Filed 1-30-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/266]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold meetings on February 22 for two of the Working Groups of the Advisory Committee on International Investment, Technology, and Development. The Working Group on Restrictive Business Practices will meet from 9:30 to 12:00 and the Working Group on Transfer of Technology will meet from 1:30 to 4:00. Both meetings will be held in Conference Room 1406 of the State Department, 2201 C Street NW., Washington, D.C. The meeting will be open to the public.

The purpose of the meeting will be to discuss the current status of the negotiations on restrictive business practices and on the transfer of technology. Members of the U.S. delegations participating in the recently-held diplomatic conferences on these two areas will report on the negotiations and will seek advice on the results of the negotiations and on future approaches.

Requests for further information on the meeting should be directed to Richard Kauzlarich, Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-2728.

Members of the public wishing to attend the meeting must contact Mr. Kauzlarich's office in order to arrange entrance to the State Department building.

The Chairman of the working group, will as time permits, entertain oral comments from members of the public attending the meeting.

Dated: January 22, 1980.

Richard D. Kauzlarich,

Executive Secretary.

[FR Doc. 80-3072 Filed 1-30-80; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 79-047]

Port Access Routes; Study Dates, Areas, and Contacts Points—Modification

The purpose of this notice is to supplement the notice of the Port Access Routes Study announced on Monday, April 16, 1979, in the **Federal Register** (44 FR 22543). This supplemental notice includes minor administrative modifications and adds two new areas to the study. One area is off the mid-Atlantic coast, and the other area is in the vicinity of Puerto Rico and the U.S. Virgin Islands. The administrative changes primarily concern data submission dates and revised contact persons.

The Coast Guard is currently in the process of studying the potential vessel traffic density and the need for safe access routes for vessels operating in the approaches to U.S. ports and in the traditional routes between ports in the continental United States including Alaska. The results of this study could cause restrictions on the manner in which specific areas of the outer continental shelf leased after the date of the original Notice may be explored and developed for natural resources. Similar restrictions could result in the regions added to the study by this Notice, in areas leased after the date of this Notice. Further information regarding the purpose, policies, and potential results of this study may be found in the original notice, published on April 16, 1979. Any action taken as a result of the study would be consistent with subsection 4(c)(1) and 4(c)(2) of the Ports and Waterways Safety Act (PWSA), (Pub. L. 95-474, 92 Stat. 1473).

This study is being conducted under the standards contained in subsection 4(c)(3)(A) of the PWSA. As a result of this study it is anticipated that suitable ships' routing measures, such as shipping safety fairways and/or traffic separation schemes, may be proposed in a future **Federal Register**. Implementing regulations of any routing measures will be in accordance with the PWSA and the Administrative Procedures Act.

The area being added to this study off the mid-Atlantic coast is in the vicinity of the Baltimore Canyon. Interest in potential oil exploitation in this area has been renewed due to studies concerning the Mesozoic reef in that area. Much of the reef structure is located beyond the current area of the study. Since the possibility of fixed obstructions now exists in this area, there is a potential need for ships' routing measures in this new area. Therefore, in accordance with the PWSA this area is being added to the present study areas numbered 5 and 6.

Following a recent tanker collision in the Caribbean the American Institute of Merchant Shipping requested the Coast Guard evaluate the need for ships' routing measures in that region. In response to this request an area surrounding Puerto Rico and the Virgin Islands is being included in the study. Given the considerable tank vessel traffic to Bahia de Guayanilla, PR, and St. Croix, VI, and the proximity of Mona Passage, a prime shipping route between the South Atlantic and the Gulf of Mexico, the Coast Guard believes such action is warranted.

The establishment of any ships' routing measures in other areas of the Caribbean is beyond the jurisdiction of the Coast Guard. The PWSA limits establishment of such systems to the territorial seas of the United States and the high sea approaches to ports or places subject to the jurisdiction of the United States. The Inter-governmental Maritime Consultative Organization (IMCO) is recognized as the only international body responsible for establishing and recommending ships' routing measures on an international level. However, IMCO protocol requires that routing measures be proposed by the state or states immediately adjacent to the proposed routing measure. This is primarily because of jurisdiction and cost concerns. If, for instance, a traffic separation scheme was proposed for adoption which required additional navigation aids, the coastal states would be responsible for establishing and maintaining such aids.

As the work of the study has progressed, the need to modify the dates for completion of data collection and publishing of results has been realized. In certain study areas more time is needed in order to properly conduct the study; for these areas the dates are extended.

Due to the interrelationship of some study areas it has been found logical to gather the data for the adjacent study areas at the same time. This will simplify the administrative load on those parties desiring to submit information on these adjacent areas and will make the process of compiling this data more efficient. Once the data is available for these adjacent areas, development of any necessary routing measure can be most effectively done at one time. Also, in certain areas, the gathering of data is proceeding more expeditiously than had been anticipated. Therefore, in these study areas the time for the submission of data and publication of results has been reduced.

In consideration of the above, the following areas, dates, and contacts are substituted for or added to those in the original notice of the Port Access Routes Study (44 FR 22543) published on April 16, 1979.

Area Changes

Area 5: Includes New York, NY except Long Island Sound. (expanded area)
Enclosed by the coast and a line bearing 180° T from Montauk Point Light (41°04.3' N, 71°51.4' W) to 40°40.0' N latitude; thence a line bearing 090° T to 69°57.0' W. longitude; thence a line bearing 180° T to 39°44.5' N latitude; thence a line bearing 234° T to 38°31.4' N latitude, 72°07.0' W longitude; thence a line bearing 295° T to Atlantic City Light (39°21.9' N, 74°24.6' W).

Area 6: Includes Delaware Bay. (expanded area)
Enclosed by the coast and a line bearing 115° T from Atlantic City Light (39°21.9' N, 74°24.6' W) to 38°31.4' N latitude, 72°07.0' W longitude; thence a line bearing 230° T to 37°38.6' N latitude, 73°26.1' W longitude; thence a line bearing 302° T to Fenwick Island Light (38°27.1' N, 75°03.3' W).

Area 18a: Includes Puerto Rico and U.S. Virgin Islands. (new area.)
Enclosed by a line drawn from 21°00' N latitude, 67°00' W longitude to 15°30' N latitude, 68°30' W longitude to 17°45' N latitude, 64°05' W longitude, to 17°55' N latitude, 64°05' W longitude; thence northwesterly along the international boundary between the U.S. and the United Kingdom to 18°27' N latitude, 64°53' W longitude; thence along a line drawn to 21°00' N latitude, 65°50' W longitude; thence continuing to the origin (21°00' N, 67°00' W).

Date Changes

Area 3: Includes Boston, Massachusetts. (dates extended)
Dates: Complete data collection by March 1, 1980.
Publish study results—October 1, 1980 (estimated).

Area 5: Includes New York, NY, excludes Long Island Sound. (dates extended)
Dates: Complete data collection by April 1, 1980.
Publish study results—July 1, 1980 (estimated).

Area 6: Includes Delaware Bay. (dates extended)
Dates: Complete data collection by April 1, 1980.
Publish study results—July 1, 1980 (estimated).

Area 13: Include Cape Romain Area. (dates reduced)
Dates: Complete data collection by May 1, 1980.
Publish study results—January 1, 1981 (estimated).

Area 14: Includes Charleston, South Carolina, and Savannah, Georgia. (dates reduced)
Dates: Complete data collection by May 1, 1980.
Publish study results—January 1, 1981 (estimated).

Area 15: Includes Brunswick, Georgia, and Jacksonville, Florida. (dates extended)
Dates: Complete data collection by May 1, 1980.
Publish study results—January 1, 1981 (estimated).

Area 16: Includes Cape Canaveral Area. (dates reduced)
Dates: Complete data collection by May 1, 1980.
Publish study results—January 1, 1981 (estimated).

Area 17: Includes Port Everglades and Miami, Florida. (dates reduced)
Dates: Complete data collection by May 1, 1980.
Publish study results—January 1, 1981 (estimated).

Area 18: Includes the Florida Keys and Southwest Florida. (dates reduced)
Dates: Complete data collection by May 1, 1980.
Publish study results—January 1, 1981 (estimated).

Area 18a: Includes Puerto Rico and U.S. Virgin Islands. (New area.)
Dates: Complete data collection by June 1, 1980.
Publish study results—January 1, 1981 (estimated).

Area 19: Includes entrance to Tampa Bay. (dates reduced)
Dates: Complete data collection by May 1, 1980.
Publish study results—January 1, 1981 (estimated).

Area 20: Includes the Cedar Keys Area. (dates reduced)
Dates: Complete data collection by May 1, 1980.
Publish study results—January 1, 1981 (estimated).

Contact Changes

Areas 1-4: Coasts of Maine, New Hampshire, Massachusetts, and Rhode Island. (Old contact—LCDR F. P. Hopkins)
LT P. J. Howard, c/o Commander (m), First Coast Guard District, 150 Causeway Street, Boston, MA 02114 (617) 223-6915.

Areas 7-12: Coasts of Maryland, Virginia, and North Carolina. (Old contact—LT D. G. Bratton)
LCDR H. A. Tawney, c/o Commander (dpl), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, VA 23705 (804) 398-6270.

Areas 13-20: Coasts of South Carolina, Georgia, Peninsula of Florida, Puerto Rico, and the U.S. Virgin Islands. (Old contact—LCDR M. G. Cavett/LCDR R. M. Acker)
LCDR M. G. Cavett, c/o Commander (mps), Seventh Coast Guard District, 51 S. W. 1st Avenue, Miami, FL 33130 (305) 350-5651.

Area 21: Includes entire Gulf of Mexico coast from St. Marks, Florida to the west. (Old contact—LCDR G. J. E. Thornton)
LT M. J. Hall, c/o Commander (mps), Eighth Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130 (504) 589-6901.

Areas 23-25: Northern California. (Old contact—CDR R. G. Hall)
LT. G. D. Jenkins, c/o Commander (mps) Twelfth Coast Guard District, 630 Sansome Street, San Francisco, CA 94126 (415) 556-1380

Area 29: Includes the entrance to the Strait of Juan de Fuca. (Old contact—LCDR D. W. Powell)
CDR E. K. Roe, c/o Commander (mps), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, WA 98174 (206) 442-5737.

Areas 30-32: Alaska. (Old contact—LT D. P. Montoro)
CDR F. N. Harrell, c/o Commander (mps), Seventeenth Coast Guard District, P.O. Box 3-5000, Juneau, AK 99802 (907) 586-7195.

Correction

Areas 4 and 5a: The longitude of Watch Hill Light should read 71°51.5' W., not 70°51.5' W., as published in the original notice.

Further information can be obtained from and comments concerning specific areas of the study should be submitted to the individual listed as "CONTACT" for each study area as listed above. Comments addressing the study in general should be sent to: LCDR J. D. Bannan, c/o Commandant (G-WLE-4/11), U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, DC 20593 (202) 426-4958.

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 80-3061 Filed 1-30-80; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

[Summary Notice No. PE-80-3]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

V45122JA31 80 UMI

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before February 20, 1980.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Petition Docket No. ——, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-24), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW, Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., On Janaury 25, 1980.

Edward P. Faberman,

Acting Assistant Chief Counsel Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
19955	Frederick Community College	14 CFR §§ 65.71, 65.75, and 65.77.	To allow petitioner's students to take the general portion of the mechanic written examination prior to completing either the airframe or powerplant portion of the approved curriculum.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
15194	Compania Mexicana de Aviacion, S.A. (CMA)	14 CFR Parts 21, 61, 63, and 91	Petitioner requested an amendment to Exemption No. 2195 to change the classification of certain named Compania Mexicana de Aviation, S.A. (CMA) airmen listed in the appendix and to add the names of newly hired CMA airmen for operation of leased U.S.-registered B-727 aircraft until expiration of the lease agreement on November 24, 1980, for two aircraft and on June 7, 1980, for the remaining two aircraft. *Granted 1/10/80.*
19441	Pratt & Whitney	14 CFR Part 33	To permit deletion of establishing time for first overhaul and to use the Overhaul Test of FAR 33.90 as guidance for the Maintenance Review Board in establishing an engine maintenance program. To allow an initial rotor component cyclic life as determined by a prediction procedure which utilizes statistical analysis of material data, thermal and stress analyses and service experience. To establish definition of various types of mount loads and allow mounts to withstand ultimate loads without failure but they may exhibit permanent deformation. Following test, to permit rotor diametral growths no greater than 1% and no rotor may be cracked. During 30 minute period at idle to permit periodic engine accelerations to 60% N sub one speeds at ten minute intervals. To permit 5 minutes instead of 30 minutes at 75 degrees higher than maximum operating limit. *Granted 1/9/80.*
19498	Air Logistics of Alaska	14 CFR § 135.385 (b) and (c)	To permit the petitioner to operate its CASA 212 airplane without complying, to the extent necessary, with the performance limitations for landings. *Denied 1/15/80.*
19755	C & M Airlines	14 CFR § 135.243	To allow a pilot to serve as a Pilot in Command without having the prerequisite Airline Transport Pilot Certificate (ATPC). The pilot, although qualified in every other respect, is not 23 years of age. *Denied 1/10/80.*
19783	Terrell K. Moose	14 CFR § 121.383(c)	To permit the petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday. *Denied 1/10/80.*
19784	Henry E. Prall, Jr	14 CFR § 121.383(c)	To permit the petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday. *Denied 1/10/80.*
19785	H. E. Sargent	14 CFR § 121.383(c)	To permit the petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday. *Denied 1/10/80.*
19786	John F. Scott	14 CFR § 121.383(c)	To permit the petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday. *Denied 1/10/80.*
19787	Fred McLaughlin	14 CFR § 121.383(c)	To permit the petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday. *Denied 1/10/80.*
19795	Scenic Airlines—Capt. Timothy J. Duggan	14 CFR § 135.243	To allow Timothy J. Duggan to serve as Pilot in Command without holding an airline transport pilot certificate. *Granted 1/8/80.*
19833	Aeroservice International, Inc.	14 CFR § 63.37	To allow issuance of a Flight Engineer Certificate when an alternative method is used to meet the five hours of training in flight. *Denied 1/10/80.*

[FR Doc. 80-2976 Filed 1-30-80; 8:45 am]

BILLING CODE 4910-13-M

Federal Aviation Administation

Public Meeting on Airports Serving Cab-Certificated and Commuter Air Carriers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The purpose of this meeting is to discuss with the air carrier industry, airport operators, and the public the need to revise Federal Aviation Regulations applicable to the certification and operation of land airports serving air carriers certificated by the Civil Aeronautics Board (CAB). These revisions may be needed in light of recent liberalization of CAB policies and procedures, and the need to extend these regulations to certain airports serving commuter air carriers.

PLACE: Federal Aviation Administration Headquarters, Room 9A, B, C, 800 Independence Ave., SW, Washington, DC 20591.

DATE AND TIME: February 11, 1980, 10:00 a.m.

FOR FURTHER INFORMATION CONTACT: Mr. Harry D. Hink, Safety and Compliance Division (AAS-300), Office of Airport Standards, 800 Independence Ave., SW, Washington, DC 20591 Telephone (202) 426-3087.

SUPPLEMENTARY INFORMATION: The Federal Aviation Regulations concerning airport certification are applicable only to airports serving CAB-certificated air carriers. This limitation has worked well in the past and was consistent with the economic regulations of the CAB when service of the major terminals and routes was preformed by air carriers under certification of public convenience and necessity issued by the CAB. However, the liberalization by the CAB of its policies and regulations concerning the grant of economic authority and the implementation of the Airline Deregulation Act of 1978 has resulted in the issuance of multiple CAB certificates, exemptions and authorizations, with individual air carriers being allowed to conduct a variety of operations. In some cases CAB-certificated carriers are being allowd to drop terminal points and routes and commuter air carriers are being granted these terminal and route authorizations. In other cases CAB-certificated air carriers are being authorized to use the commuter air carrier rules when serving certain terminals and routes. In these cases the traveling public is moving from CAB-certificated air carrier service to commuter air carrier service (often in similar size and type aircraft) and will no doubt assume that the same level of service and safety will continue to be provided.

Recognizing the safety implications from this comingling of operations and the Congressional mandate for the prevention of any deterioration in established safety procedures, and the assignment and maintenance of safety as the highest priority in air commerce, the FAA is contemplating rulemaking action to extend the requirements for airport certification to certain airports serving commuter air carriers.

Interested persons are invited to participate in this meeting. The FAA will consider all comments in determining whether to initiate rulemaking in this matter.

Issued in Washington, D.C. on January 28, 1980.

William V. Vitale,

Acting Director, Office of Airport Standards.

[FR Doc. 3100 Filed 1-30-80; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Public Service Archeology Grant Program, Academic Year 1980-81

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: Pursuant to 23 U.S.C. §§ 307 and 321, the FHWA's National Highway Institute (NHI) is responsible for developing and administering training program of instruction for FHWA and State and local highway department employees engaged in or to be engaged in Federal-aid highway work. The NHI is offering grants for study at the graduate level in Public Service Archeology at the University of South Carolina. The student may choose a 14-week, 28-week, or 2-year program.

The FHWA has published a notice (N 4910.16, January 11, 1980) describing the program and furnishing the pertinent information. Copies of this notice are available at the NHI for public inspection and copying, and will be furnished on request.

FOR FURTHER INFORMATION CONTACT: Mr. Larry E. Jones, National Highway Institute, 202-426-3100, or Ms. Virginia I. Cherwek, Office of the Chief Counsel, 202-426-0786; Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

(23 U.S.C. §§ 307, 315, 321; 49 CFR 1.48(b))

Issued on: January 28, 1980.

John S. Hassell, Jr.,

Deputy Administrator.

[FR Doc. 80-3074 Filed 1-30-80; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statements; Notice of Intent

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Highway Administration (FHWA) is issuing this notice to advise the public that environmental impact statements (EIS's) will be prepared for proposed highway projects in the following States: Arkansas, Idaho, Illinois, Indiana, Maryland, Massachusetts, Minnesota, Nebraska, North Dakota, Texas, Vermont, and Virginia.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the National Environmental Policy Act 1969, as amended, the Council on Environmental Quality's implementing regulations (40 CFR Parts 1500-1508), and the Department of Transportation's procedures for considering environmental impacts (DOT Order 5610.1C), the FHWA hereby gives notice that environmental impact statements (EIS's) will be prepared for the following proposed Federal-aid highway projects:

Washington and Crawford Counties, Ark.

The Arkansas State Highway and Transportation Department has begun the scoping process for the preparation of an EIS for the improvement of U.S. 71 between Fayetteville and Interstate 40 (I-40) in Washington and Crawford Counties. Alternatives under consideration are upgrading the existing highway to a four-lane expressway; constructing a four-lane freeway on new location; and the "do nothing" alternative. Four alignments on new location have been identified. Approximate length of the project is 45-50 miles.

Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand. The urban area of Washington County is experiencing rapid growth, and U.S. 71 is the major transportation link to the transportation services of the Arkansas Valley (I-40, Arkansas River, pipelines, and rail facilities).

Letters describing the proposed action and soliciting comments have been sent to appropriate State agencies, Federal agencies, local government agencies, private organizations including conservation groups, groups and individuals who have voiced opposition to the project in the past, and to major Arkansas newspapers. Also, a series of six Public Involvement sessions were held between October 30 and November 8, 1979. Each was conducted in a mobile trailer situated directly in the areas to be affected. A formal scoping meeting is not planned at this time.

Comments or questions concerning this proposed action should be directed to: Mr. Paul W. Pool, District Engineer, Federal Highway Administration, 3128 Federal Office Building, Little Rock, Arkansas 72201, Telephone: (501) 378-5555.

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Wallace, Idaho

An EIS will be prepared for a 2-mile gap in Interstate Route 90 (I–90) through the city of Wallace in Shoshone County, Idaho.

Alternatives for a new Interstate facility through Wallace include a tunnel, an elevated highway over the river or railroad, and a hillside alignment. The "do nothing" alternative will also be considered. The proposed Interstate facility would require two interchanges. A total of seven interchange alternatives will be considered.

During the last 15 months, Federal, State, and local agencies and the local community have been involved in environmental studies for this proposed project. These studies will continue. A formal scoping meeting does not appear to be necessary for the preparation of this EIS.

Comments or questions concerning this proposal and EIS should be directed to: Mr. Glen Bedell, Field Operations Engineer, Federal Highway Administration, Idaho Division, 3010 West State Street, Boise, Idaho 83703, Telephone: (208) 384–1845.

Lake County, Ill.

The FHWA in cooperation with the Illinois Department of Transportation will prepare an EIS for a proposed 7 mile long highway improvement to be known as the Lake Front Parkway in Lake County, Illinois. The proposed action would consist of a multi-lane highway on new and partly new location in the corridor served by Buckley Road (Illinois Route 137) and Sheridan Road.

The proposed highway improvement would begin at the interchange of Buckley Road with the Tri-State Tollway (Interstate Highway 94) and would extend easterly and northerly through the city of North Chicago to an ending in the city of Waukegan. The proposed improvement would serve the transportation needs of the cities of North Chicago and Waukegan, including facilities such as the Waukegan Port Area, the Great Lakes Naval Training Station and the Downey Veteran's Administration Hospital.

The major alternatives under consideration are do nothing, upgrade existing arterial highway facilities, construction of an access controlled highway facility on new alignment, and construction of a highway facility which will comprise an access controlled portion on new alignment as well as an upgraded arterial type improvement. Incorporated into and studied with the various alternatives will be design variations of grade, alignment, grade separation, and access to adjacent existing and community planned public transportation facilities.

The proposed Lake Front Parkway was originally conceived in the early 1950's with early studies completed in 1956, and public hearings held in 1959. As a result of the earlier studies, coordination, and public hearing process a 1.5 mile portion of the facility was constructed from the north edge of the city of Waukegan southward. Studies on the remaining 7 miles were begun in the early 1970's and are currently continuing. Coordination has been ongoing with the U.S. Navy, Veterans Administration, private industry, Federal, State, regional, metropolitan, and local public agencies and community organizations. Contacts, comments, and input have been made through correspondence, telephone communications and individual or group public meetings. Additional information will continue to be gathered through the proposed project development. Because of the ongoing coordination process a formal scoping meeting is not anticipated.

The probable impacts of the project include relocation of families and businesses, modification of traffic patterns, and modification of access to some properties.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Agencies, organizations, and individuals interested in submitting comments or questions should contract: Mr. Lionel H. Wood, Staff Specialist for Environment, or Mr. Robert J. Deatrick, District Engineer, Federal Highway Administration, 320 W. Washington Street, 7th Floor, Springfield, Illinois 62701, Telephone: (217) 525–4600; or Mr. Cesar Nepomuceno, Chief, Bureau of Programming, Illinois Department of Transportation, 1000 Plaza Drive, Schaumberg, Illinois 60196, Telephone: (312) 884–4393.

Village of Northbrook, Cook County, Ill.

The FHWA in cooperation with the Illinois Department of Transportation and the Cook County Highway Department will prepare an EIS on a proposal to widen Sanders Road in the Village of Northbrook in Cook County, Illinois.

The project would extend from Lake-Cook Road to Willow Road, a distance of approximately 2.5 miles. The proposed action would address the safety and adequacy of the existing two-lane road as well as the social, economic and environmental impacts. The build and the no-build alternates will be fully developed. It is expected that the build alternate will examine provisions for four-lane improvement with some variations in location and design.

A draft section 4(f) evaluation will also be prepared as part of this project. It will address possible impacts to the Cook County Forest Preserve District land adjacement to Sanders Road.

No formal scoping meeting is planned on this proposed action. Numerous planning and coordination meetings as well as a formal public informational meeting have been held. If additional issues develop that need further coordination, then scoping meetings integrated with planning meetings will be held, as necessary, to resolve such issues.

To ensure that the full range of issues related to the proposed action are addressed, and all significant issues identified, comments and suggestions are invited from all interested parties. Agencies, organizations, and individuals who wish to inquire or comment on this proposal may contract: Mr. Lionel H. Wood, Staff Specialist for Environment, or Mr. Robert J. Deatrick, District Engineer, Federal Highway Administration, 320 West Washington Street, 7th Floor, Springfield, Illinois 62701, Telephone: (217) 525–4600; or Mr. Raymond M. Harris, Chief, Bureau of Local Roads and Streets, Illinois Department of Transportation, 1000 Plaza Drive, Schaumberg, Illinois 60172, Telephone: (312) 884–5000.

City of Elgin, Kane County, Ill.

The FHWA in cooperation with the Illinois Department of Transportation and the city of Elgin will prepare an EIS for a proposed new north-end bridge project and associated roadway construction in the city of Elgin in Kane County, Illinois.

This proposed improvement would be located between downtown Elgin and Interstate Highway 90. Its western limit is the intersection of Route 31 and Big Timber Road, and the eastern limit is the intersection of Summit Street (Illinois Route 58) at Dundee Avenue. The total length is approximately 1.7 miles.

The proposed action would consist of construction of a four-lane bridge on a new location over the Fox River and a four-lane roadway section partly on new location and partly along existing streets. The proposed action would serve the need for a river crossing at the north side of Elgin, to relieve congestion on existing river crossings and on the streets serving them in downtown Elgin, and to provide better continuity in the regional highway system. The build and the no-build alternates will be fully developed. The build alternate will examine a number of location and design variations.

A formal scoping meeting is not planned. Numerous planning and coordination meetings have already been conducted for this project, and a formal public information meeting was also held. The A–95 process has also been used to solicit comments from various agencies, and these comments are currently being analyzed and documented. If issues develop that need further coordination, then scoping meetings integrated with planning meetings will be held, as necessary, to resolve such issues.

To ensure that a full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Agencies, organizations, and individuals interested in submitting comments and suggestions should contact: Mr. Lionel H. Wood, Staff Specialist for Environment, or Mr. Robert J. Deatrick, District Engineer, Federal Highway Administration, 320 W. Washington Street, 7th Floor, Springfield, Illinois 62701, Telephone: (217) 525–4600; or Mr. Raymond M. Harris, Chief, Bureau of Local Roads and Streets, Illinois Department of Transportation, 1000 Plaza Drive, Schaumberg, Illinois 60172, Telephone: (312) 884–4000.

Macon, DeWitt and McLean Counties, Ill.

The FHWA in cooperation with the Illinois Department of Transportation (IDOT) will be preparing an EIS on a proposal to upgrade U.S. Route 51 between Maroa and Bloomington, Illinois, a distance of approximately 30 miles. The existing facility is a two-lane rural highway originally constructed in the mid-1920's. The proposed action is to use Federal-aid matching funds to reconstruct the highway as a multi-lane expressway with partial access control. Existing right-of-way and pavement would be used to the maximum extent possible.

The proposed improvement is being considered to fulfill a need for a highway with adequate capacity and design features to provide for safe and efficient transportation.

The following alternatives are being considered: (1) reconstruction on existing location, (2) reconstruction on existing and partly new location, including bypasses of towns, and (3) doing nothing. Modal alternatives such as mass transit will also be considered. The alternative of a fully access-controlled freeway on a new alignment has been studied in the past, but is not considered feasible.

The early coordination and scoping process has been undertaken as part of earlier studies. The following agencies, because of their interest or expertise in certain areas of environmental impact, will be requested to become cooperating agencies: U.S. Army Corps of Engineers; U.S. Environmental Protection Agency; U.S. Department of Agriculture, Soil Conservation Service; U.S. Department of the Interior, Illinois Department of Conservation.

A scoping meeting has not been planned at this time, but will be scheduled at the request of any cooperating agency, or if it becomes apparent that one is necessary.

To ensure that a full range of issues related to the proposed action are addressed, and all significant issues identified, comments and suggestions are invited from all interested parties. Agencies, organizations, and individuals who wish to submit comments or questions may contract: Mr. Lionel H. Wood, Staff Specialist for Environment, or Mr. Frank M. Johnson, District Engineer, Federal Highway Administration, 320 W. Washington Street, 7th Floor, Springfield, Illinois 62701, Telephone: (217) 525–4600; or Mr. Robert E. Kronst, District Engineer, Illinois Department of Transportation, State Highway Building, Paris, Illinois 61644, Telephone: (217) 465–4181.

DuPage and Will Counties, Ill.

The FHWA in cooperation with the Illinois Department of Transportation, Division of Highways, has instituted studies for the southern extension of an existing freeway facility (Interstate Route 290 and Illinois Route 53) from Army Trail Road to Interstate Route 55, a length of 16 miles. An environmental impact statement will be prepared for the proposed action. The proposed highway improvement is locally known as the Lake-Will Freeway.

Major alternatives under consideration are do nothing, upgrade the existing Illinois Route 53 arterial highway, and construct a freeway on new alignment. Incorporated into and studied with the various alternatives will be design variations of grade, alignment, grade separation, interchange location and stage construction options.

The proposed Lake-Will Freeway was originally conceived in the early 1950's with early studies completed in the late 1960's and construction of the north-south portion of Interstate Route 290, from Dundee Road (Illinois Route 68) on the north to the Lake Street (U.S. Route 20) Army Trail Road terminal on the south, completed in the early 1970's. The completed portion is about 15 miles in length. Studies on the southern extension of 16 miles began in the 1960's with Federal, State and local coordination meetings, public meetings and a series of multiple sets of public hearings. The study remained idle until the mid 1970's and has currently been reactivated. Coordination has been ongoing throughout these years and is currently continuing.

The scoping will be initiated with correspondence to all previously contacted Federal, State, local and municipal agencies as well as all persons who have expressed interest in being notified on the progress of the studies. At the present time individual meetings are currently being held or scheduled with agencies of areawide jurisdiction and regulatory permit authority such as the U.S. Army Corps of Engineers. Additional information will be gathered during the project development process through a series of public meetings to be scheduled over the next year. Because of the ongoing and past coordination process a formal scoping meeting is not anticipated, but a scoping meeting may be scheduled if new information indicates that such a meeting will help in further refining issues attendant to the proposed action.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Agencies, organizations and individuals interested in submitting comments or questions should contact: Mr. Lionel H. Wood, Staff Specialist for Environment, or Mr. Robert J. Deatrick, District Engineer, Federal Highway Administration, 320 W. Washington Street, 7th Floor, Springfield, Illinois 62701, Telephone: (217) 525–4600; or Mr. Cesar Nepomuceno, Chief Bureau of Programming, Illinois Department of Transportation, 1000 Plaza Drive, Schaumburg, Illinois 60196, Telephone: (312) 884–4393.

Adams County, Ind.

The FHWA and the Indiana State Highway Commission cooperatively have been preparing, since June 1975, a draft EIS for the improvement of U.S. 27 from State Route 124 five miles south of Decatur north to the newly constructed four-lane section of U.S. 27 and U.S. 33 approximately one mile north of Decatur.

The proposed action would consist of a four-lane highway facility. There are various alternates under consideration

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at present which vary in length from 9 to 12.5 miles. Two alternates are west of the Decatur corporate limits while another passes each of Decatur. The last alternate consists of upgrading the existing facility which passes through the west edge of Decatur. Each of the western alternates and the upgrading of the existing facility would include a connector roadway between U.S. 33 and the selected alternate south of the corporate limits of Decatur. This connector roadway would be two to three and one-half miles in length. A "do-nothing" alternate is also under study.

Environmental impacts resulting from this proposed action would include crossing of the St. Mary's River (all build alternates) and the taking of 283 to 439 acres of property for right-of-way (varying as to alternate selected). All build alternates would require the relocation of families and/or businesses (3 families and no businesses to 46 families and 35 businesses) and the acquisition of some prime farmland. One alternate would impact a portion of a wetland (Type 3). All of the build alternates would have a beneficial effect of removing some of the heavy truck traffic from the central business district of Decatur.

Preparation of this draft EIS has been coordinated with the U.S. Department of the Interior, Fish and Wildlife Service; U.S. Department of Agriculture; Federal Aviation Administration and various State and local agencies. The general public has been involved in the development of this project through a public information meeting. No formal scoping meeting will be held.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Agencies, organizations, and individuals interested in submitting comments or questions should contact: Mr. John W. Breitwieser, Federal Highway Administration, 575 North Pennsylvania Street, Room 254, Indianapolis, Indiana 46204, Telephone: (317) 269–7481.

Lake County, Ind.—City of Hammond

The FHWA in cooperation with the Indiana State Highway Commission has been preparing, since May 1977, a draft EIS on a project to relocate and consolidate the railroad corridors through Hammond, Indiana. The proposed project may include upgrading existing railroad crossings, construction of grade separation structures, relocation of rail lines and interchanges, and abandoning rail yards.

The proposed project is intended to improve roadway operations and safety, improve railroad operations, conserve energy and stimulate community development. The project may require the use of additional land and may have an adverse effect on noise quality. Depending on the alternative chosen, there would be some relocation as well as possible impacts on historical buildings and wetland areas.

Alternatives under consideration for this project include (1) a rerouting of the N & W rail lines through Hammond; (2) a limited build alternative consisting of improving the surface condition of at-grade crossings and construction of several grade separation structures; and (3) the "do nothing" or "no build" alternative.

All affected Federal, State and local agencies have participated in the early coordination for this draft EIS. These agencies include Indiana's Department of Natural Resources, U.S. fish and Wildlife Service, NIRPC, Indiana Air Pollution Control Division and U.S.C Soil Conservation Service, among other. No formal scoping meetings are planned.

In addition, the Steering Committee, serving as a forum for all interested organizations and other persons, has met seven times during the course of the project's development. The general public has been involved in the development of this project and their input has been solicited through a series of seven public information meetings.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Agencies, organizations, and individuals interested in submitting comments or questions should contact: Mr. John W. Breitwieser, Federal Highway Administration, 575 N. Pennsylvania Street, Room 254, Indianapolis, Indiana 46204, Telephone: (317) 269–7481.

Anne Arundel and Howard Counties, Md.

An EIS is being prepared for a section of Maryland Route 32 in Anne Arundel and Howard Counties, Maryland. The proposed action is being studied as a freeway-type facility with two preliminary alignments having been identified (Anne Arundel County Master Plan Alternate and the State Highway Administration Alternate). Both alignments proceed in a northwesterly direction from existing Maryland Route 32 at Maryland Route 3 to a previously approved section of Maryland Route 32 east of U.S. 1. The alignments would intersect the Baltimore-Washington Parkway between Maryland Routes 198 and 175. The "do nothing" alternative will also be considered.

The proposed action would address the need to provide lateral access across the Baltimore-Washington transportation corridor. The project would include an Odenton by-pass which would alleviate the heavy through traffic movement on Maryland Route 175 and provide considerable relief to existing Maryland Route 32 in the vicinity of Fort Meade and the project corridor.

The project corridor has potential involvements with the 100-year floodplain, wetlands, and historic resources. The action is consistent with regional, county and local development plans as well as the Fort Meade Master Plan.

No formal scoping meetings will be held on this proposed action. Agencies or individuals who wish to be involved as the study develops should contact: Mr. Hal Kassoff, Director, Office of Planning and Preliminary Engineering, State Highway Administration, 300 West Preston Street, Baltimore, Maryland 21201.

The FHWA contact for this project is Mr. Roy D. Gingrich, District Engineer, The Rotunda, Suite 220, 711 West 40th Street, Baltimore, Maryland 21211, Telephone: (301) 962–4011.

Pittsfield and Lenox, Mass.

An EIS will be prepared for the proposed relocation of U.S. Route 7 in Pittsfield and Lenox, Massachusetts. Five alternatives, including the No-Build Alternative, are being considered.

The No-Build Alternative includes no major improvements to the existing highway system in Pittsfield and Lenox. Only routing and normally scheduled improvements would occur.

The Mass Transit Alternative is similar to the No-Build Alternative in that there would be no major improvements to highway facilities in the study area. Major expansion of service by the Berkshire Regional Transportation Authority (BRTA) would be accomplished by scheduling new routes with increased frequency throughout the area.

The Street Improvements Alternative entails widening or otherwise improving Route 7 and other major streets on their existing locations and designating several street segments as one-way. New roadway construction would extend Park Street and a relocated part of East Street in Pittsfield.

The other two alternatives each call for construction of a four-lane divided controlled-access highway with several two and four-lane undivided connecting roadways. The Eastern Alternative would extend 9.8 miles on new location from the northern end of the Lenox Bypass near East Dugway Road in Lenox to a connecting road to Route 8 near the Pittsfield-Lanesborough town line. It would skirt the urbanized core on the east and would have connecting links to U.S. Route 20 west of the Pittsfield Central Business District (CBD), to the CBD itself, to Route 8, and to Lanesborough.

The Western Alternative would be 10.8 miles long, also extending from East Dugway Road to Route 8 near the Pittsfield-Lanesborough line. It would be built on new location to the west of existing Route 7 and the Pittsfield urbanized core. It would have two connecting links to downtown Pittsfield (one through Lanesborough) and one connecting link to Route 7 and 20 in southern Pittsfield.

This proposed project is designed to alleviate the congestion both within and approaching the Pittsfield CBD that presently exists during peak hours of travel. Construction of either the Eastern or Western Alternative would provide a through route for north county traffic to the Interstate System as well as direct access to the Pittsfield CBD.

Early coordination and scoping will be accomplished through letters, telephone conversations, and, if necessary, meetings. No formal scoping meeting is planned at this time. However, if the early coordination indicates that the impacts are more complex than anticipated, a formal scoping meeting will be scheduled.

For additional information, please contact: Mr. Patrick C. Donovan, Environmental Specialist, Federal Highway Administration, 100 Summer Street, Suite 1517, Boston, Massachusetts 02110, Telephone: (617) 223–2875.

Le Sueur and Sibley Counties, Minn.

The FHWA and the Minnesota Department of Transportation intend to develop an EIS for a proposed project involving the replacement of the Trunk Highway (T.H.) 93 bridge over the Minnesota River (Bridge No. 3945) and a railroad bridge over T.H. 93 (Bridge No. 4629) at Lesueur.

Bridge No. 3945 is a steel high truss that is 409.3 feet long, has a roadway width of 20.8 feet and was built in 1923. Bridge No. 4629 is a steel beam truss that is 36.5 feet long, has a roadway width of 28.3 feet and was built in 1922. These bridges are structurally deficient and functionally obsolete. The major deficiencies with Bridge No. 3945, over the Minnesota River, are its low deck geometry (roadway width), waterway adequacy, and restricted load capacity. The major deficiency with Bridge No. 4629, under the C&NW Railroad, is its inadequate under clearance. In addition, both bridges are over 50 years old (50 years is normal expected life) and repairs to antiquated and inadequate structures are not normally economical.

Many bridge replacement alternatives were formulated in the early planning stages in an attempt to alleviate or minimize the existing problems of inadequate clearance above high water elevation and the restrictive (inadequate) clearance under the railroad bridge. These two problems are in direct conflict with each other, i.e., if the river bridge is raised to provide sufficient clearance above high water elevation, the roadway clearance under the railroad bridge will decrease from an already inadequate 12.5 feet.

The alternatives to be evaluated in the draft EIS have two aspects, grade and alignment. The two alignment (horizontal) alternatives are the existing bridge street location and the Ferry Street location. There are three grade (vertical) options under consideration. One option involves relocating the river channel and the other two are an at-grade railroad crossing and a bridge spanning the river and railroad with railroad grade depressed 9 feet. Combinations of the grade and alignment options result in 6 alternatives, plus the no-build, which would require eventual removal of the existing bridge.

In addition to the replacement of the two bridges, there are several alternatives that include upgrading or realignment of T.H. 93. Presently T.H. 93 is not an all weather (flood-proof) road. The roadway has an overflow section or saddle that is about 3–4 feet below the flood of record elevation. Historically this roadway has been impassable for 2–3 weeks in 1 out of every 10 years.

The scoping process for this project involved the circulation of a Scoping Document to concerned agencies and individuals on August 1, 1979. Comments were solicited in an effort to aid early coordination. A "scoping meeting" and field review was held with agencies that were requested to become "Cooperating Agencies" (Department of the Army, Corps of Engineers; City of Lesueur; Minnesota Department of Natural Resources; Minnesota Pollution Control Agency; and the U.S. Fish and Wildlife Service) on August 28, 1979, at Lesueur. This meeting covered the project development path and alternatives, public and agency involvement and environmental impacts.

The following persons may be contacted for questions or comments concerning this proposed project or the EIS as it is being developed: Mr. E. Dean Carlson, Federal Highway Administration, Suite 490, Metro Square Building, St. Paul, Minnesota 55101, Telephone: (612) 724–7003; or Mr. Marcus R. Flygare, Project Manager, Preliminary Design Engineer, Minnesota Department of Transportation, 501 South Victory Drive, Mankato, Minnesota 56001, Telephone: (507) 389–6351.

Nobles, Jackson, Cottonwood, and Watonwan Counties, Minn.

The FHWA and the Minnesota Department of Transportation intend to develop an EIS for a proposed project involving the improvement of a 53-mile segment of Trunk Highway (T.H.) 60 from Worthington to St. James.

The need to improve this segment exists because of deficiencies such as narrow land widths, narrow gravel shoulders, numerous "no-passing" zones, frequent steep shoulder slopes and narrow ditches, old and deteriorating pavement, two hazardous railroad crossings, frequent at-grade road and entrance approaches without turn lanes or other safety features, and urban sections that delay thru traffic and create conflicts with pedestrian and local traffic.

This project has undergone extensive study and citizen involvement. The most recent study was conducted by a ten-member, bi-regional Citizens' Advisory Committee whose members were selected by the Regional Development Commissions involved at the direction of the Commissioner of the Minnesota Department of Transportation (MN/DOT). Through a series of open discussions and work tasks, aided by technical studies, the committee developed and evaluated the various two-lane and four-lane expressway alternatives including some by-pass alternatives at Butterfield, Mt. Lake, and Windom.

On August 3, 1979, copies of the "T.H. 60 Improvement Study, Summary Report" (by the T.H. 60 Citizens' Advisory Committee) were distributed to concerned agencies and individuals.

A "scoping meeting" was held on August 23, 1979, at the MN/DOT District 7 Office in Mankato, Minnesota. This meeting covered engineering social and economic impacts, environmental and miscellaneous impacts, and public involvement for the proposed project. The alternatives recommended for detailed study were basically the same as those recommended by the Citizens' Advisory Committee. Comments were requested from agencies that were unable to attend.

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The following may be contacted for questions or comments concerning this proposed project or the EIS as it is being developed: Mr. E. Dean Carlson, Federal Highway Administration, Suite 490, Metro Square Building, St. Paul, Minnesota 55101, Telephone: (612) 725–7003; or Mr. Marcus R. Flygare, Project Manager, Preliminary Design Engineer, Minnesota Department of Transportation, 501 South Victory Drive, Mankato, Minnesota 56001, Telephone: (507) 389–6351.

St. Paul, Minn.

The FHWA, Minnesota Department of Transportation and the Metropolitan Council of the Twin Cities area intend to develop an EIS for the St. Paul, Minnesota section of Interstate Route 35E (I–35E). The proposed action is located in the city of St. Paul, Ramsey County, Minnesota. The project would extend from the existing I–35E bridge over the Mississippi River to an area north of the central business district of St. Paul where it would again intersect with existing I–35E. The proposed action would be between 4 and 6 miles in length depending on the alternative that is selected. Most sections would be built on acquired right-of-way. The facility would have several lanes with additional auxiliary lanes in select locations. The construction would meet FHWA standards for an urban Interstate section.

The purpose of Interstate 35E is to provide a north-south, high volume highway for the regional movement of people and goods. In addition to fulfilling Federal and State transportation objectives, the proposed highway section would provide regional accessibility to downtown St. Paul and would serve the subregional and local travel demands of Dakota and Ramsey Counties—particularly needs of those cities on and adjacent to the I–35E segment in the Metropolitan Area.

A comprehensive analysis was conducted to identify corridors which fulfilled the stated needs in Phase 1 of the I–35E Study. Seven corridors were evaluated based on transportation criteria incorporating environmental consideration. Five were determined to be unreasonable since they did not meet the transportation needs. The two corridors that were identified as reasonable were Pleasant Avenue and Shepard Road. Freeway designed facilities will be evaluated in each of these corridors. In addition the no-build alternative remains a viable alternative.

Based on the input from agencies and residents during the Phase 1 corridor selection study a number of potential impacts were identified. These were used to develop six design alternatives within the Pleasant Avenue Corridor in addition to the freeway design mentioned above. The design elements which vary in these alternatives are:

1. Direct or indirect connection with existing I–94 north of the central business district of St. Paul. The direct connection would utilize a typical freeway to freeway interchange. The indirect connection would require that local streets or frontage roads be used to access existing I–94 from the proposed action.

2. Parkway Design. Under some of the alternatives a parkway-type facility is being proposed, within the Pleasant Avenue Corridor. The parkway design would differ from a freeway in three ways: A speed limit lower than 55 mph, restrictions of heavy trucks, and extensive landscaping.

The scoping process was initiated in April 1978 when the Phase 1 corridor evaluation study began. Recorded below are the procedures that have been used to scope the project to date and the steps that will be utilized in the future.

I–35E Study Phase 1 Report—Corridor Evaluation and Alternative Identification

1. A Project Management Committee was appointed with representatives of the Minnesota Department of Transportation, Metropolitan Council of the Twin Cities Region (this is the Metropolitan Planning Agency responsible for A–95 Review) and the FHWA.

2. A series of six workshops and informational meetings were held throughout the affected area. Representatives of local communities, counties, residents and State and Federal agencies attended these meetings. One of the principal outputs from these meetings was a list of significant concerns that needed to be addressed in the draft and final EIS's.

3. A public meeting was held after the workshops. Notices were sent to local and county governments and the State and Federal agencies. Comments include significant concerns to be addressed in the draft EIS.

I–35E Study Phase 2—Draft Environmental Impact Statement

1. The same Project Management Committee has been retained to direct the preparation of the draft EIS.

2. A Coordinating Group was formed with representatives of concerned local communities and counties. The advisory group has input into all elements of the study. One of the first tasks carried out by this group was to identify significant concerns to be addressed in the draft EIS.

3. Scoping letters were sent to all concerned local and county governments and regional, State and Federal agencies.

4. A series of 10 presentations were made to local and county governmental officials and neighborhood groups. One of the principal objectives of these meetings was to identify significant concerns to be addressed in the draft EIS.

5. Individual meetings have been held with the Minnesota Pollution Control Agency concerning the content of air and noise analysis.

6. A number of interviews will be held with community leaders from the neighborhoods surrounding the proposed action. These individuals will be asked to identify potential impacts that may result in their neighborhood should the various alternatives be built. This information will be used to identify significant impacts to be addressed in the draft EIS.

7. A series of technical environmental studies will be prepared as input into the draft EIS. These studies will be circulated to State and Federal agencies for review prior to their use in the draft EIS.

Any comments or questions can be addressed to the following individuals: Mr. E. Dean Carlson, Division Administrator, Federal Highway Administration, Metro Square Building, St. Paul, Minnesota 55105, Telephone: (612) 725–7001; Mr. Charles Weaver, Chairman, Metropolitan Council of the Twin Cities Region, 300 Metro Square Building, St. Paul, Minnesota 55105, Telephone: (612) 291–6453; or Mr. Richard P. Braun, Commissioner, Minnesota Department of Transportation, Room 411, John Ireland Boulevard, St. Paul, Minnesota 55155, Telephone: (612) 296–3000.

Scott and Carver Counties, Minn.

The FHWA and the Minnesota Department of Transportation (MN/DOT) are intending to develop an EIS for the relocation and upgrading of U.S. Highways 212 and 169, between Norwood and Eden Prairie, and across the Minnesota River, between Scott and Carver Counties. A draft EIS prepared in 1974 is no longer considered to be valid because of environmental regulations and recent land development. This project would ease truck and auto traffic by reducing through trips on existing roads.

For most of its 29-mile length, the existing U.S. 212 is a two-lane highway with many local access, intersection, sight-distance, and grade problems. The road design is inadequate for the heavy truck traffic from western and southwestern Minnesota, and the commuter and local traffic which mixes with it enroute to the Twin Cities. Minnesota Road 5, an east-west alternate route north of U.S. 212, has the same deficiencies. The nearest highway south of U.S. 212 is across the Minnesota River. It does not serve the same communities near the Twin Cities.

Across the Minnesota River, existing U.S. 169 is a four-lane highway which handles large numbers of trucks. Truck traffic is expected to increase in the future, aggravating safety problems in the downtown Shakopee area through which it passes. A new U.S. 169 bridge, west of Shakopee, would serve these trucks which must now pass through Shakopee. The bridge would be a four-lane high-level design. Minnesota Road 41 (a two-lane bridge to the west), Scott 9-Carver 45 (a two-lane bridge further to the west), and Hennepin County 18 (a temporary bridge to the east) all are low-level bridges. The latter two bridges are flooded at least once annually.

Several locations are being considered for U.S. 212. These alternatives are in an area ranging from Minnesota Road 5 to the north to U.S. 212 to the south. Two alternatives for the U.S. 169 crossing, either west or east of Nyssens-Strunks Lake, are also being considered. For the U.S. 212 portion of the project, upgrading is an alternative. For both the U.S. 212 and U.S. 169 portions, the no-build alternative will also be considered. Because of the diversity of destination of the trucks, the low population density, and the length of the project, other modes of transportation will not be alternatives.

The Metropolitan Council has approved the U.S. 212 and U.S. 169 corridors and incorporated their general southwest locations into its seven-county transportation plan. (This organization serves as a regional planning and taxing agency, and as the A–95 and COGS clearinghouse.) While primarily establishing a viable truck route for commodities from southwestern and western Minnesota, the proposed project is important to the cities through which it passes. It has been included for many years on their comprehensive economic and land use plans.

As of November 6, 1979, eleven meetings of a citizens' advisory committee had been held. The committee has representatives from every affected community. The committee has been meeting (often in a workshop atmosphere) to help MN/DOT narrow down alternatives. It has been careful to keep these altnernatives within environmental guidelines. MN/DOT and the committee will continue to meet through December. MN/DOT has held meetings with Federal and State agencies, county officials, city staffs, city councils, a school board, and a city planning commission. Efforts have been made to identify wetlands concerns of the U.S. Fish and Wildlife Service and the Minnesota Department of Natural Resources. MN/DOT established informal ties by asking affected agencies to name official contacts. In addition, agencies with known concerns have been asked to state major concerns at two citizens' committee meetings. The first informal scoping meeting was held October 17, 1979. The second was held November 28, 1979. Many meetings have also been held with neighborhood groups, civic organizations, developers, and private citizens. MN/DOT also held one-day open houses in the project area in December. Additional comments on the scope of the project should be received by MN/DOT at the address below not later than 30 days after publication of this notice in the **Federal Register.**

Comments or questions concerning this proposed action should be directed to: Mr. Frederick A. Behrens, District Engineer, (612) 725–5956, or Mr. James M. Shrouds, Staff Specialist for Environment, (612) 725–7003, Federal Highway Administration, Suite 490, Metro Square Building, St. Paul, Minnesota 55101; or Mr. Robert H. Paine, Project Manager, Layout, Research and Development, Minnesota Department of Transportation, 5801 Duluth Street, Golden Valley, Minnesota 55422, Telephone: (612) 545–3761.

Wabasha, Minn.

The FHWA and the Minnesota Department of Transportation intend to develop an EIS for the proposed replacement of the existing bridge and approaches over the Mississippi River at Wabasha, Minnesota.

This bridge carries Minnesota Trunk Highway 60 (T.H. 60) and Wisconsin State Highway 25 (W.S.H. 25) between Wabasha, Minnesota, and Nelson, Wisconsin. The study length is 3.9 miles and the study termini are the T.H. 60–U.S. 61 junction in Wabasha and the W.S.H. 25–W.S.H. 35 junction in Nelson.

The existing bridge was constructed in 1931, is 19 feet wide and 2229 feet long, and contains several structural and alignment deficiencies. The proposed action would provide continuance of the area Interstate highway transportation system.

Five bridge alternatives at various locations in Wabasha and a no-build alternative are being considered. Other alternatives investigated and dismissed include up and downstream corridors, channel relocation, lift bridge, tunnel and ferry.

On April 13, 1978, a public information meeting was held in Wabasha. A "Scoping Meeting" was held on April 23, 1979, in Wabasha with 9 State and Federal agencies reviewing the natural resource impacts. Extensive coordination has been accomplished over the past 7 years in the development of this project leading to a draft EIS. The draft EIS is essentially complete except for a determination of historic effects which is expected to be completed by early 1980.

Comments or questions concerning this proposed action should by directed to: Mr. Frederick A. Behrens, District Engineer, (612) 725–5956; or Mr. James M. Shrouds, Staff Specialist for Environment, (612) 725–7003, Federal Highway Administration, Suite 490, Metro Square Building, St. Paul, Minnesota 55101; or Mr. Roy Larson, District Engineer, Minnesota Department of Transportation, P.O. Box 6177, Rochester, Minnesota 55901, Telephone: (507) 285–7374.

Lincoln, Nebr.

An EIS will be prepared for the widening of 4.3 miles of 27th Street in Lincoln, Nebraska, between Potter Street and Arbor Road. The project includes construction of a rail overpass and an interchange with Interstate 80.

Needs which would be fulfilled by the proposed action include: (1) elimination of at-grade rail crossings, (2) increased traffic capacity, (3) improved drainage, (4) new fairgrounds access, and (5) improved access to a developing area.

Alternatives being considered include: doing nothing, upgrading the existing facility, and construction on a new alignment.

Early coordination through meetings and correspondence will be attained with the public, Lincoln/Lancaster County Railroad Transportation Safety District, Corps of Engineers, State Fair Board, State Historical Society and other local and State agencies. A formal scoping meeting will not be held.

Comments or questions concerning this proposed action should be directed to: Mr. Walter Running, Federal Highway Administration, Federal Building, 100 Centennial Mall North, Lincoln, Nebraska 68508, Telephone: (402) 471–5527.

Benson and Ramsey Counties, N. Dak.

An EIS will be prepard for a proposed improvement to U.S. highway 2 in Benson and Ramsey Counties, North Dakota.

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The proposed project would involve the construction of a two-lane roadway parallel to the existing roadway from the junction of U.S. Highway 281 south and U.S. 2 (just west of Churchs Ferry) to the existing four-lane roadway (just west of Devils Lake). The project would provide a four-lane divided highway approximately 18 miles long, and would require additional right-of-way. The two-lane and the do nothing alternatives will be discussed. Other alternates consist of which side of the existing roadway the proposed roadway should be located on at three locations.

This project would improve the quality of travel for motorists by providing a four-lane facility that would reduce the conflicts between slow moving local vehicles and faster moving through traffic, thereby creating more relaxed driving conditions and safer, more efficient operation of motor vehicles.

A public hearing will be held. A scoping meeting will not be held. Letters soliciting views and comments on the proposed project were sent to various Federal, State, and local agencies. The draft EIS will be available for public and agency review and comment.

Questions about the proposed action and the draft EIS can be answered by Mr. George Seaworth, Division Administrator, Federal Highway Administration, P.O. Box 1755, Bismarck, North Dakota 58501, Telephone: (701) 255–4011.

Grand Forks, N. Dak.

An EIS will be prepared for the proposed construction of a railroad overpass on Columbia Road in the city of Grand Forks, North Dakota.

The proposed overpass would provide improved access between the northern and southern portions of the city which are bisected by the Burlington Northern railway switchyards.

Environmental impacts would result from increasing the traffic volume on the Columbia Road corridor. Columbia Road extends into the eastern edge of the University of North Dakota campus, but it does not continue across the switchyard at the present time. The proposed action would result in Columbia Road becoming a connecting route between the northern and southern portions of the city.

Letters soliciting views and comments on the proposed project were sent to various Federal, State and local agencies. Draft and final negative declarations were prepared and approved. A public hearing was held. However, a legal action was instituted, objecting to the processing of this action with a negative declaration. As a result, it was agreed that an EIS would be prepared. A scoping meeting will not be held but another public hearing will be held. The draft EIS will be circulated for review by agencies and the public prior to the public hearing.

Questions about the proposed action and the draft EIS can be answered by Mr. George Seaworth, Division Administrator, Federal Highway Administration, P.O. Box 1755, Bismarck, North Dakota, 58501, Telephone: (701) 255–4011.

Mott, N. Dak.

An EIS will be prepared for a proposed replacement of the Cannonball River crossing in Mott, North Dakota.

The proposed project would involve the removal and reconstruction of the bridge crossing the Cannonball River in Mott, North Dakota. Two alternate bridge sites and the do nothing alternate will be discussed. The structure has been determined to be eligible for the National Register of Historic Places. Therefore, a section 4(f) evaluation will be prepared that will discuss alternates to avoid and alternates to mitigate adverse effects.

The project would improve the quality of travel for motorists within Mott by replacing an existing inadequate bridge. In addition, the project would alleviate flooding of west Mott caused by the inadequate waterway opening of the existing bridge.

A public hearing will be held to discuss alternatives and impacts of the proposed action. Public notice will be given for the time and place of the public hearing.

A scoping meeting will not be held. The project has been discussed at local meetings in Mott. Coordination has begun and will continue with the State Historic Preservation Officer.

Letters soliciting views and comments on the proposed project were sent to various Federal, State and local agencies. The draft EIS will be available for public and agency review and comment.

Questions about the proposed action and the draft EIS can be answered by Mr. George Seaworth, Division Administrator, Federal Highway Administration, P.O. Box 1755, Bismarck, North Dakota 58501, Telephone: (701) 255–4011.

Travis and Williamson Counties, Tex.

The proposed project would consist of the upgrading of U.S. Highway 183 (U.S. 183) to a multi-lane controlled access facility. U.S. 183 is located in Travis and Williamson Counties primarily within the corporate limits of the city of Austin. The corridor study limits of U.S. 183 to be considered begin at State Highway 71 and end at Ranch to Market (R.M.) Highway 620, a distance of approximately 20 miles.

The existing facility is basically a four-lane roadway with six-lane sections existing from R.M. 620 to Interstate Highway 35 (I–35). The existing facility, especially the section from R.M. 620 to I–35, is within the fastest growing corridor in Austin and is rapidly becoming inadequate for current traffic volumes (57,800 vehicles per day between I–35 and North Lamar).

The improved section of U.S. 183 would provide three basic transportation needs for the city of Austin. As a part of the loop around the city, it would serve the local citizens desiring to travel between sections of Austin. By segregating the short local trips from the local long-distance trips and through trips, the access to local housing and businesses would be improved. As a result of the improved access to major routes serving Austin, business and pleasure trips into and out of the city would be enhanced.

Three alternates will be considered for this proposed project: (1) upgrading the existing facility, (2) a new route to bypass much of the existing congested areas, and (3) no-build.

A public meeting will be held during the early stages of project planning in the spring of 1980 within the project area. Adequate public notice will be given through news media as to the time and place that the meeting will be held. No formal scoping meeting is planned at this time.

The following person should be contacted if there are any questions or comments concerning the proposed action or the EIS: Mr. William L. Hall, P.E., District Engineer, Federal Highway Administration, 826 Federal Office Building, 300 East 8th Street, Austin, Texas 78701, Telephone: (512) 397–5511.

Bennington and Pownal, Vt., and Hoosick, N.Y.

The FHWA in cooperation with the Vermont Agency of Transportation is in the process of preparing an EIS on a proposal to improve U.S. 7 in the towns of Pownal and Bennington, Vermont, for a distance of about 6½ miles. Also included in the proposal is the improvement of VT 9 (NY7) in the towns of Bennington, Vermont, and Hoosick, New York. The proposed project is intended to reduce traffic congestion and improve existing highway deficiencies in and around Bennington Village.

Alternatives under consideration for this project include (1) taking no action; (2) using alternate travel modes; (3) reconstructing the existing two-lane highways as four-lane non-limited access highways through the village; (4) constructing a new two-lane limited access by-pass west and south of the village; and (5) constructing a new two-lane limited access by-pass east and north of the village.

All affected Federal, State and local agencies and any interested persons are invited to participate in the scoping process for this EIS. Numerous meetings and public hearings were held on this proposed action from the late 1950's through 1969. Pursuant to the State of Vermont Action Plan, various Federal, State and local agencies and groups have been contacted regarding the proposed action and have already provided input to the EIS.

Based on information collected and comments received to date, several issues related to the proposed action have been identified and will be addressed in the EIS. These include impacts to wetlands, water quality, aquatic and wildlife habitat, agricultural land, historic sites and the Town Plan.

To ensure that the full range of issues related to this proposal are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. No formal scoping meetings will be held on this proposed action.

Written statements and requests for additional information should be directed to: Mr. George A. Jensen, Federal Highway Administration, Federal Building, Montpelier, Vermont 05602, Telephone: (802) 223–5294.

Middlebury, Vt.

The FHWA in cooperation with the Vermont Agency of Transportation is in the process of preparing an EIS on a proposal to improve U.S. 7 in Middlebury, Vermont, for a distance of about 5 miles. The proposed project is intended to reduce traffic congestion in and around Middlebury Village.

Alternatives under consideration for this project include (1) taking no action; (2) using alternate travel modes; (3) reconstructing the existing two-lane highway as a four-lane non-limited access highway through the village; (4) constructing a new two-lane limited access by-pass west of the village; and (5) constructing a new two-lane limited access by-pass east of the village.

All affected Federal, State and local agencies and any interested persons are invited to participate in the scoping process for this EIS. During the mid 1970's, a citizens committee was formed to obtain local input. Pursuant to the State of Vermont Action Plan, various Federal, State and local agencies and groups have been contacted regarding the proposed action and have already provided input to the EIS.

Based on information collected and comments received to date, several issues related to the proposed action have been identified and will be addressed in the EIS. These include impacts to wetlands, the Otter Creek, aquatic and wildlife habitat, agricultural land and historic sites.

To ensure that the full range of issues related to this proposal are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. No formal scoping meetings will be held on this proposed action.

Written statements and requests for additional information should be directed to: Mr. George A. Jensen, Federal Highway Administration, Federal Building, Montpelier, Vermont 05602, Telephone: (802) 223–5294.

South Burlington, Vt.

The FHWA in cooperation with the Vermont Agency of Transportation is in the process of preparing an EIS on a proposed highway project in the city of South Burlington, Vermont. Beginning at the intersection of U.S. Route 7 and Town Highway 26 in the city of South Burlington, the project extends northerly approximately two miles to connect with Interstate 189 in the city of Burlington.

Alternates to be considered are No Action, Alternate Modes of Transportation, Rebuild on Existing Location, and Build on New Location. The highway would be four-lane, limited access with partial control, if built on new location. If constructed on existing location, this project would have six lanes, with turning lanes where necessary, and uncontrolled access.

Construction of this project would increase safety and convenience, and improve commuter travel between South Burlington and the Burlington Central Business District. No significant environmental impacts have been identified at this time.

Pursuant to the State of Vermont Action Plan all affected Federal, State and local agencies have been contacted regarding the proposed action, and have provided input to the EIS. Nineteen meetings over a period of 21 months were held with a committee of South Burlington citizens. Substantial input to the planning process was supplied by the committee. No formal scoping meeting will be held for this project.

To ensure that all significant issues related to this project are addressed, comments and suggestions are invited from all interested parties. Written statements and requests for additional information should be directed to: Mr. George A. Jensen, Federal Highway Administration, Federal Building, Montpelier, Vermont 05602, Telephone: (802) 223–5294.

Bluefield, Va.

An EIS is being prepared for the proposed Bluefield Bypass in Bland and Tazewell Counties, Virginia. The Virginia Department of Highways and Transportation (VDH&T) is proposing to construct a four-lane divided highway to connect previously four-laned sections of Route 19/460 east and west of Bluefield, Virginia. All proposed alternatives begin at the intersection with Route 720 west of Bluefield and terminate at the completed four-lane section east of Bluefield at the West Virginia State line for a total project length of 3.6 miles.

The proposed limited access highway is needed to reduce congestion on local streets in the town of Bluefield and provide for rapid and safe movement of traffic around Bluefield.

Alternatives studied to meet the needs for this project included the no-build and three build alternatives. One build alternative would upgrade existing Route 720, while the other two alternatives are on new alignment. A combined highway and transit alternative will also be discussed.

In the preparation of the environmental document, VDH&T requested comments from eight local and regional agencies, seven State agencies, and five Federal agencies. In addition, coordination meetings were held on July 12, and August 16, 1978, with the U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, Virginia Commission of Game and Inland Fisheries, and the Virginia State Water Control Board for the purpose of evaluating project impacts on the aquatic environment. No additional scoping meetings are planned.

For further information concerning this project, please contact Mr. Robert B. Welton, Federal Highway Administration, P.O. Box 10045, Richmond, Virginia 23240, Telephone: (804) 782–2805.

Buchanan and Dickenson Counties, Va.

The FHWA in cooperation with the Virginia Department of Highways and Transportation will be preparing an EIS to upgrade Route 460 to a four-lane divided highway from the community of Deel to the vicinity of the intersection of Routes 80 and 610 in Buchanan and Dickenson Counties for a total project length of approximately 13 miles. The proposed project is intended to achieve

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the following goals: (a) reduce traffic congestion in the town of Grundy and (b) provide an improved east-west transportation corridor through Buchanan and Dickenson Counties for safe, efficient movement of passenger, commercial, and emergency vehicles. The proposed project would also be consistent with the goals of the Appalachian Development Highway Program.

The proposed environmental study will include and analysis of the no-build alternative and several alternate highway location routes within the corridor.

The FHWA and the Virginia Department of Highways and Transportation will follow current procedures for contacting other government agencies. There are currently no plans to hold a formal scoping meeting on this proposal.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Agencies, organizations, and individuals interested in submitting comments or questions should contact: Mr. Robert B. Welton, Federal Highway Administration, P.O. Box 10045, Richmond, Virginia 23240, Telephone: (804) 782–2805.

Issued on: January 25, 1980.

John S. Hassell, Jr.,

Deputy Administrator.

[FR Doc. 80–3073 Filed 1–30–80; 8:45 am]

BILLING CODE 4910–22–M

Federal Railroad Administration

[Docket No. RFA 511–80–1]

Guarantee of Obligations; Receipt of Application

Project: Notice is hereby given that Richard B. Ogilvie ("applicant"), Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company having its principal business address at 516 West Jackson Boulevard, Chicago, Illinois 60606, has filed an application with the Federal Railroad Administration ("FRA") under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, 45 U.S.C. 831, and section 15 of the Milwaukee Railroad Restructuring Act ("MRRA"), 45 U.S.C. 914, to obtain a guarantee by the United States of obligations of the applicant in the principal amount of $75,000,000.

The obligations will provide immediate funds for employee protection in accordance with the terms of an employee protection agreement which the applicant maintains is in accordance with section 9 of the MRRA. Pursuant to section 15(b) of the MRRA, the guarantee is to be secured by according claims arising thereunder the status of expenses of the applicant's administration.

Comments: Interested persons may submit written comments on the application to the Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, not later than February 15, 1980. Such submission shall indicate the docket number shown on this notice and state whether the commenter supports or opposes the application and the reasons therefor.

If the commenter wishes to receive an acknowledgment of the Federal Railroad Administration's receipt of the comments, the commenter should include a self-addressed stamped postcard with the comments. The comments will be taken into consideration by the Federal Railroad Administration in evaluating the application. However, no other formal acknowledgment of the comments will be provided.

The FRA has not approved or disapproved this application, nor has it passed upon the accuracy or adequacy of the information contained therein.

Comment closing date: February 15, 1980.

Dated: January 21, 1980.

William E. Loftus,

Associate Administrator for Financial Assistance.

[FR Doc. 80–2771 Filed 1–30–80; 8:45 am]

BILLING CODE 4910–06–M

Minority Business Resource Center Advisory Committee

Pursuant to Section 19(a) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463); 5 U.S.C. App. I, notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held February 21, 1980, at 11:00 a.m. until 2:00 p.m. at the Department of Transportation, 400 7th Street, S.W., Conference Room 3442, Washington, D.C. 20590. The agenda for the meeting is as follows:

Business Development and Financial Assistance Program.

Report on Local Outreach Center Program.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Betty Chandler, Advisory Committee Staff Assistant, Minority Business Resource Center, Federal Railroad Administration, 400 7th Street, S.W., Washington, D.C. 20590, telephone: (202) 426–2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on January 25, 1980.

Miles S. Washington, Jr.,

Acting Director.

[FR Doc. 80–3014 Filed 1–30–80; 8:45 am]

BILLING CODE 4910–06–M

[FRA Waiver Petition Docket HS–79–26]

Ontario Central Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR Section 211.41 and Section 211.9, notice is hereby given that the Ontario Central Railroad (ONCT) has petitoned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Public. L. 91–169, 45 U.S.C. 64a(e)). That petition requests that the ONCT be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The ONCT seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS–79–26, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Department of Transportation (Nassif Building), 400 Seventh Street, SW., Washington, D.C. 20590.

Communications received before February 22, 1980, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 8211, Department of Transportation (Nassif Building), 400 Seventh Street, SW., Washington, D.C. 20590.

Authority: Section 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d).

Issued in Washington, D.C. on January 11, 1980.

J. W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 80–3021 Filed 1–30–80; 8:45 am]

BILLING CODE 4910–06–M

[FRA Waiver Petition Docket HS–79–25]

Ontario Midland Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR Section 211.41 and Section 211.9, notice is hereby given that the Ontario Midland Railroad (OMID) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91–169, 45 U.S.C. 64a(e)). That petition requests that the OMID be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The OMID seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner assets that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS–79–25, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Department of Transportation (Nassif Building), 400 Seventh Street, S.W., Washington, D.C. 20590.

Communications received before February 22, 1980, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 8211, Department of Transportation (Nassif Building), 400 Seventh Street, S.W., Washington, D.C. 20590.

Authority: Section 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d).

Issued in Washington, D.C. on January 11, 1980.

J. W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 80–3020 Filed 1–30–80; 8:45 am]

BILLING CODE 4910–06–M

[Docket No. RFA 505–79–5]

Purchase of Redeemable Preference Shares; Receipt of Application

Project: Notice is hereby given that the Columbus and Greenville Railway ("applicant"), 201 19th Street North, Columbus, Mississippi 39701, has filed an application with the Federal Railroad Administration ("FRA") under section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976, 45 U.S.C. 825, seeking financial assistance through the sale to the United States of redeemable preference shares having an aggregate par value of $3,466,000. Applicant proposes to issue preference shares with mandatory dividend and redemption requirements as set forth in section 506 of the Act. Other provisions and terms of the proposed financing are to be negotiated with FRA.

The proceeds of the sale of preference shares are to be used by the applicant to fund two projects associated with the rehabilitation of applicant's facilities over the next 18 months, as set forth below:

Project	Funds required
Bridge rehabilitation—(137 bridges)	$1,434,000
Track rehabilitation (25 main line miles)	1,205,000
Administration	517,000
Subtotal	3,156,000
Contingency	310,000
Total amount of section 505 assistance sought	3,466,000

These two projects proposed are part of a long-term rehabilitation program which applicant believes will reduce deferred maintenance on applicant's system.

Justification for Project: The applicant states that the proposed projects are undertaken to improve service and safety on the railroad and to enhance the prospects for industrial development along the rail line and in the region. The applicant believes it offers unique east-west service in the region and states that it is the rate-base-making line for many products and commodities hauled to the Southeastern United States. The applicant suggests it is also a unique intermodal facility with its connections to the Mississippi River at Greenville and the Yazoo Waterway at Greenwood, and its future connection with the Tennessee-Tombigbee Waterway at Waverly.

Comments: Interested persons may submit written comments on the application to the Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, not later than the comment closing date shown below. Such submission shall indicate the docket number shown on this notice and state whether the commenter supports or opposes the application and the reasons thereof.

Consistent with applicable law, the application will be made available for inspection during normal business hours in Room 5415 at the above address of the FRA in accordance with the regulations of the Office of the Secretary of Transportation set forth in Part 7 of Title 49 of the Code of Federal Regulations.

The comments will be taken into consideration by the FRA in evaluating the application. Any commenter who wishes to have FRA acknowledge the receipt of his or her comments should include a self-addressed, stamped post card with the comments. No other acknowledgment of the comments will be provided.

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The FRA has not approved or disapproved this application, nor has it passed upon the accuracy or adequacy of the information contained therein.

Comment closing date: March 3, 1980.

Dated: January 21, 1980.

William E. Loftus,

Associate Administrator for Federal Assistance, Federal Railroad Administration.

[FR Doc. 80-2770 Filed 1-30-80; 8:45 am]

BILLING CODE 4910-06-M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in October 1979. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo-vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		Renewals		
4262-X	DOT-E 4262	Schlumberger Well Services, Houston, Tex	49 CFR 172.101, 173.53(a), 173.60	To ship cargo oil well jet perforating guns with initiators attached. (Mode 1.)
4453-P	DOT-E 4453	Wycoff Co., Salt Lake City, Utah; Mountain State Bit Service, Inc., Morgantown, W. Va.	49 CFR 173.182(c)	To become a party to Exemption 4453. (Mode 1.)
5179-X	DOT-E 5179	Union Carbide Corp., Tarrytown, N.Y	49 CFR 173.302, 173.304, 178.45–17.	To ship certain flammable and nonflammable compressed gases in non-DOT specification cylinders complying with DOT Specification 3T with certain exceptions. (Modes 1, 3.)
5403-X	DOT-E 5403	Halliburton Services, Duncan, Okla	49 CFR Part 173, 178.343-2(b), 178.343-5 (b)(1)(i), (b)(2)(i).	To ship certain corrosive materials in non-DOT specification cargo tanks meeting the requirement of DOT Specification MC-312 with certain exceptions. (Modes 1, 3.)
5456-X	DOT-E 5456	J. T. Baker Chemical Co., Phillipsburg, N.J	49 CFR Part 173	To ship certain poison B and liquid corrosive materials in non-DOT specification glass carboys, overpacked in an expanded polystyrene drum. (Modes 1, 2, 3.)
5485-X	DOT-E 5485	Union Carbide, Tarrytown, N.Y	49 CFR 172.101, 173.315(a)	To ship liquid helium in non-DOT specification insulated cargo tanks. (Mode 1.)
5600-X	DOT-E 5600	Amoco Oil Co., Whiting, Ind.; Ozark-Mahoning Co., Tulsa, Okla.	49 CFR Part 173, 178.3	To ship certain hazardous materials in a non-DOT specification cylinder complying with DOT Specification 3A with certain exceptions. (Modes 1, 2, 4.)
6113-X	DOT-E 6113	Roadway Express, Inc., Akron, Ohio	49 CFR 172.101, 173.315(a)	To ship certain flammable gases in a non-DOT specification cargo tank. (Mode 1.)
6253-X	DOT-E 6253	Hapag-Lloyd AG, Hamburg, West Germany; Contrans, Hamburg, West Germany; Interpool Ltd., New York, N.Y.; Akzo Zout Chemie Nederland, Amsterdam, Holland; Atlantic Cargo Services AB, Gothenburg, Sweden; Bacardi International Ltd., Hamilton, Bermuda; Containertechnik, Hamburg, West Germany; Eurotainer, Paris, France.	49 CFR Part 173	To ship certain hazardous materials in non-DOT specification intermodal portable tanks. (Modes 1, 2, 3.)
6267-X	DOT-E 6267	Coastal Industries, Inc., Carlstadt, N.J.; Georgia-Pacific Corp., Newport Beach, Calif.	49 CFR 173.217(a)	To ship certain oxidizing materials in non-DOT specification fiberboard boxes. (Modes 1, 2, 3.)
6325-P	DOT-E 6325	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.154(a)	To become a party to Exemption 6325. (Mode 1.)
6468-X	DOT-E 6468	Martin Marietta Chemicals, Charlotte, N.C	49 CRR 173.365	To ship a certain Class B poison in insulated DOT Specification MC-304 cargo tanks. (Mode 1.)
6518-P	DOT-E 6518	Arapahoe Chemicals, Inc., Boulder, Colo	49 CFR 172.101, 172.302, 173.119, 173.134, 173.154.	To become a party to Exemption 6518. (Modes 1, 3.)
6530-P	DOT-E 6530	Red Ball Oxygen Co., Inc., Shreveport, La	49 CFR 173.302(c)	To become a party to Exemption 6530. (Modes 1, 2.)
6543-X	DOT-E 6543	The Synthatron Corp., Edgewater, N.J	49 CFR 172.101, 173.135(a)(6), 173.136(a)(5), 173.247, 175.3.	To ship a certain corrosive liquid and certain flammable liquids in non-DOT specification stainless steel cylinders. (Modes 1, 3, 4.)
6554-X	DOT-E 6554	Aspen Industries, Inc., Tully, N.Y	49 CFR 173.154, 173.217	To certain dry oxidizing materials in non-DOT specification single-trip, molded, removable-head, polyethylene containers. (Modes 1, 2, 3.)
6652-X	DOT-E 6652	Airesearch Manufacturing Co. of Arizona, Phoenix, Ariz.	49 CFR 173.302(a)(1), 175.3	To manufacture, mark and sell non-DOT specification filament-wound fiberglass cylinders for shipment of certain compressed gases. (Modes 1, 4.)
6702-X	DOT-E 6702	The Dow Chemical Co., Midland, Mich	49 CFR 173.25, 173.242(a), 173.266	To ship certain corrosive liquids in glass bottles packed inside a DOT-12A fiberboard box. (Modes 1, 2, 3, 4.)
6758-X	DOT-E 6758	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.; Atlas Powder Co., Dallas, Tex.; Hercules, Inc., Wilmington, Del.; IMC Chemical Group, Inc., Allentown, Pa.	49 CFR 173.87, 177.835	To ship Class A or B explosives in an IME 22 container or compartment on the same vehicle with nonmass detonating blasting caps. (Mode 1.)
6774-X	DOT-E 6774	Hydraulic Research Textron, Pacoima, Calif	49 CFR 173.302(a)(2), 175.3	To ship a nonflammable gas in non-DOT specification cylinder complying with DOT Specification 3HT with certain exceptions. (Modes 1, 4.)
6826-X	DOT-E 6826	Atlantic Research Corp., Gainesville, Va	49 CFR 173.92(b), 175.3	To ship a Class B explosive in DOT Specification 15A wooden box. (Modes 1, 4.)
6902-P	DOT-E 6902	Synthatron Corp., Parsippany, N.J	49 CFR 173.314(c), 179.300–15	To become a party to Exemption 6902. (Modes 1, 2.)
6922-P	DOT-E 6922	PCR, Inc., Gainesville, Fla	49 CFR 173.314(c), 179.300–15	To become a party to Exemption 6922. (Modes 1, 2, 3.)
7001-X	DOT-E 7001	Caslan Chemicals, Jacksonville, Fla	49 CFR 173.217(a)	To ship certain oxidizers in a non-DOT specification removable head polyethylene container. (Mode 1.)
7023-P	DOT-E 7023	Texas Instruments, Inc., Dallas, Tex	49 CFR 173.245(a), 173.264(a), 173.266, 173.266(h)(5), 173.272 (g), (k)(4).	To become a party to Exemption 7023. (Mode 1.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		Renewals—Continued		
7046-X	DOT-E 7046	J. T. Baker Chemical Co., Phillipsburg, N.J	49 CFR 173.266, 178.340–5(c)	To ship certain corrosive liquids and a certain oxidizer in non-DOT glass lined cargo tanks complying with DOT Specification MC-312 with certain exceptions. (Modes 1, 3.)
7455-X	DOT-E 7455	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 176.177 (g), (h), (m), (q), (r), 176.410(e).	Authorizes handling and storage of explosive material in an anchored and unmanned barge. (Mode 3.)
7512-X	DOT-E 7512	Puerto Rico Maritime Shipping Authority, Elizabeth, N.J.	46 CFR 98.35–3, 90.05–35; 49 CFR Part 173.	To ship flammable and combustible liquids in non-DOT specification portable tanks complying with DOT Specification MC-306 with certain exceptions. (Modes 1, 2, 3.)
7526-P	DOT-E 7526	Sherex Chemical Co., Inc., Dublin, Ohio	49 CFR 173.134	To become a party to Exemption 7526. (Modes 1, 3.)
7607-P	DOT-E 7607	Gulf Oil Corp., Pittsburgh, Pa	49 CFR 172.101, 175.3	To become a party to Exemption 7607. (Mode 5.)
7658-X	DOT-E 7658	Spectro Industries, Inc., Jenkintown, Pa	49 CFR 173.1200	To ship consumer commodities classed as ORM-D in non-DOT specification corrugated fiberboard trays. (Mode 1.)
7716-P	DOT-E 7716	Kinepak, Inc., Lewisville, Tex	49 CFR 173.153(b)(1)	To become a party to Exemption 7716. (Modes 1, 2.)
7835-P	DOT-E 7835	AGA Burdox Inc., Detroit, Mich.; Airco Industrial Gases, Murray Hill, N.J.	49 CFR 177.848; Part 107 Appendix B(1).	To become a party to Exemption 7835. (Mode 1.)
7857-X	DOT-E 7857	W. P. Butterfield Ltd., Shipley West, Yorkshire, England.	49 CFR 173.315	To ship certain hazardous materials in certain non-DOT specification portable tanks. (Modes 1, 3.)
7857-P	DOT-E 7857	Makhteshim Darom Ltd., Beer Sheva, Israel; Industria Chimica Del Ticino, s.p.a., Via Del Porto, Italy.	49 CFR 173.315	To become a party to Exemption 7857. (Modes 1, 3.)
7886-X	DOT-E 7886	W. M. Barr & Co., Memphis, Tenn	49 CFR 173.245, 178.210	To ship a corrosive liquid in non-DOT specification metal can/fiberboard box packaging. (Modes 1, 3.)
7938-P	DOT-E 7938	Sea Containers, Inc., New York, N.Y	49 CFR Part 173	To become a party to Exemption 7938. (Modes 1, 2, 3.)
7969-X	DOT-E 7969	Royalvac, Inc., Fort Lauderdale, Fla	49 CFR 173.119(a)(17), 173.245(a)(30), (31), 178.340–7, 178.342–5, 178.343–5.	To manufacture, mark, and sell non-DOT specification single compartment cargo tanks for shipment of waste flammable and corrosive liquids. (Mode 1.)
7998-P	DOT-E 7998	FMC Corp., Philadelphia, Pa	49 CFR 173.154	To become a party to Exemption 7998. (Modes 1, 2.)
8002-P	DOT-E 8002	Lowaco, S.A., Geneva, Switzerland	46 CFR 90.05–35; 49 CFR Part 173	To become a party to exemption 8002. (Modes 1, 2, 3.)
8037-X	DOT-E 8037	Mauser-Werke G.m.b.H., New York, N.Y	49 CFR 173.127, 173.184, 178.224	To manufacture, mark, and sell non-DOT specification fiberboard drums for shipment of certain flammable liquids and flammable solids. (Modes 1, 2, 3.)
8060-P	DOT-E 8060	SLEMI, Paris France	49 CFR 173.315(a)	To become a party to Exemption 8060. (Modes 1, 2, 3.)
8125-X	DOT-E 8125	Fauvet-Girel, Paris France	49 CFR 173.123, 173.315	To ship certain flammable and non-flammable gases and flammable liquids in non-DOT specification portable tanks, (Modes 1, 3.)
8125-P	DOT-E 8125	Transport Int'l Containers, Paris, France	49 CFR 173.123, 173.315	To become a party to Exemption 8125. (Modes 1, 3.)
8126-P	DOT-E 8126	Transport Int'l Containers, Paris, France	49 CFR 173.123, 173.315	To become a party to Exemption 8126. (Modes 1, 3.)
8171-P	DOT-E 8171	Sea Containers, Inc., London, England	46 CFR 90.05–35, 49 CFR Part 173	To become a party to Exemption 8171. (Modes 1, 2, 3.)
8196-P	DOT-E 8196	Eurotainer, Paris, France; Societe Auxiliaire de Transports et d' Paris, France; Compagnie des Containers Reservoirs, Neuilly-sur-Seine Cedex, France; G.C.S. Container Service, Chiasso, Switzerland.	49 CFR 173.315(a)	To become a party to Exemption 8196. (Modes 1, 2, 3.)
8231-N	DOT-E 8196	ANF Industrie, Paris, France	49 CFR 173.315(a)	To become a party to Exemption 8231. (Modes 1, 2, 3.)
		New Exemptions		
8105-N	DOT-E 8105	Active Steel Drum Co., Long Island, N.Y	49 CFR 173.28(m)(3), 175.3, 178.118–10(a).	To recondition, mark, and sell non-DOT Specification 55 open head steel drums for shipment of certain hazardous materials. (Modes 1, 2, 3, 4.)
8108-N	DOT-E 8108	Allied Chemical Corp., Morristown, N.J	49 CFR 173.24(c)(6), 173.245(a)(27)	To ship certain corrosive liquids in DOT Specification 33A expanded polystyrene cases. (Modes 1, 2, 3.)
8162-N	DOT-E 8162	Structural Composites Industries, Inc., Azusa, Calif.	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	To manufacture, mark, and sell non-DOT specification FRP cylinders (aluminum lined) for shipment of nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
8186-N	DOT-E 8186	King-Seeley Thermos Co., Kendallville, Ind	49 CFR 173.202, 174.3, 175.3	To ship sodium potassium liquid alloy sealed in the stainless steel temperature sensing bulb of a thermostat to be shipped in a non-DOT specification corrugated fiberboard box. (Modes 1, 2, 4.)
8194-N	DOT-E 8194	Pennwalt Corp., Buffalo, N.Y	49 CFR 173.119(m)(6), 173.211(a)(3), 178.205, 178.210–10.	To ship liquid organic peroxides in Specification 2E bottles overpacked a fiberboard box complying with DOT Specification 12B with certain exceptions. (Modes 1, 3.)
8206-N	DOT-E 8206	Rexnord, Brookfield, Wis	49 CFR 173.245(a)(17), 178.131	To ship certain corrosive materials in a modified DOT Specification 37A, 26 gallon drum. (Mode 1.)
8207-N	DOT-E 8207	Rexnord, Brookfield, Wis	49 CFR 173.245(a)(17), 178.131	To ship certain corrosive materials in a modified DOT Specification 37A, 27 ga. drum. (Mode 1.)
8215-N	DOT-E 8215	Olin Corp., East Alton, Ill	49 CFR 173.60, 173.74, 173.78, 173.93, 173.101, 173.107.	To transport a certain Class A, B, and C explosives packed in non-DOT specification containers over public roads within plant confine. (Mode 1.)
8219-N	DOT-E 8219	Hercules Inc., Wilmington, Del	49 CFR 173.93	To ship Class B explosives in a non-DOT specification polyethylene-lined polypropylene bag. (Mode 1.)
8235-N	DOT-E 8235	Mobay Chemical, Pittsburgh, Pa	49 CFR 173.346	To ship certain poison B liquids in a non-DOT specification portable tank. (Modes 1, 2, 3.)
8236-N	DOT-E 8236	Ford Motor Co., Dearborn, Mich	49 CFR 173.153, 173.154, 175.3	To ship a passive restraint system classed as a flammable solid, in a DOT Specification 12H65 fiberboard box. (Modes 1, 2, 3, 4.)
8236-P	DOT-E 8236	Talley Industries of Arizona, Inc., Mesa, Ariz	49 CFR 173.153, 173.154, 175.3	To become a party to Exemption 8236. (Modes 1, 2, 3, 4.)
8254-N	DOT-E 8254	Applied Environments Corp., Van Nuys, Calif	49 CFR 173.302(a), 175.3	To manufacture, mark, and sell non-DOT specification welded steel spheres for shipment of nonflammable gases. (Modes 1, 2, 4.)
8279-N	DOT-E 8279	Hamler Industries Inc., Chicago Heights, Ill	49 CFR 178.337–17	To ship anhydrous ammonia in a DOT Specification MC-330 cargo tank having a reproduced identification plate. (Mode 1.)

Denials

8031–N—Request by Fisher Scientific Company, Fair lawn, N.J.—To extend the metric measure equivalency to DOT–12P packagings not exceeding 20 liters capacity, denied October 23, 1979, as being unnecessary.

8033–N—Request by Fisher Scientific Company, Fair lawn, N.J.—To extend the metric measure equivalency to DOT–17C and 37P metal drums not exceeding 20 liters capacity, denied October 23, 1979, as being unnecessary.

8187–N—Request by PPG industries, Inc., Pittsburgh, Pa.—For use of a DOT Specification 17E steel drum of 20/18 gauge, and having triple-seamed top and bottom chimes, for shipment of paint or lacquer thinning compounds with flash points of 20°F. or less, denied October 17, 1979.

8199–N—Request by Dow Corning Corp., Midland, Mich.—To use certain cargo tanks having design service temperature above the liquefaction temperature of the proposed gas, denied October 12, 1979.

Withdrawals

8124–N—Request by Alloy Products Corp., Waukesha, Wis.—To manufacture, mark and sell a non-DOT specification steel drum having a 6 inch closure for the shipment of certain flammable liquids and corrosive materials, withdrawn October 23, 1979.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulations, Materials Transportation Bureau.

[FR Doc. 80-2729 Filed 1-30-80; 8:45]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1979 Rev., Supp. No. 12]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on federal bonds is herby issued to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $98,000 has been established for the company.

Name of Company, Business Address, and State in Which Incorporated

Contractors Bonding and Insurance Company
1213 Valley Street
Seattle, Washington, 98109
Washington

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: January 23, 1980.

D. A. Pagliai,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 80-3025 Filed 1-30-80; 8:45 am]

BILLING CODE 4810-35-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 22
Thursday, January 31, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Wednesday, January 30, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Commission open meeting.

CHANGES IN THE MEETING: Deletion of the following items:

Agenda, Item Number, and Subject

Common Carrier—2—Title and Summary: Application for Review of Order by Chief, Common Carrier Bureau rejecting Western Union's tariff revisions filed under its Transmittal No. 7369 for failure to comply with the requirements of Section 61.38 of the Commission's Rules. (At the request of the Common Carrier Bureau.)

Private Radio—6—Eligibility of OAS for licensing in the General Mobile Radio Service. (At the request of the Private Radio Bureau.)

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632–7260.

Issued: January 29, 1980.

[S–187–80 Filed 1–30–80; 2:48 pm]

BILLING CODE 6712–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION. Notice of Changes in Subject Matter of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, January 28, 1980, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation regarding the liquidation of assets acquired by the Corporation from Franklin National Bank, New York, New York (Case No. 44,213–L).

Notice of acquisition of control: First Bank of Hollywood Beach, Hollywood, Florida.

Memorandum regarding the liquidation of assets acquired by the Corporation from Coronado National Bank, Denver, Colorado (Legal Division memorandum dated January 18, 1980).

Two requests pursuant to section 19 of the Federal Deposit Insurance act for consent to service of a person convicted of an offense involving dishonesty or a breach of trust as a director, officer, or employee of an insured bank.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: January 28, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–192–80 Filed 1–29–80; 3:37 pm]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION. Notice of Changes in Subject Matter of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, January 28, 1980, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

A memorandum and resolution proposing that banks be provided with Statements of Reasons for Board of Directors' Action on Certain Bank Applications.

A resolution relating to the organizational location of the Office of Consumer Affairs and Civil Rights.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: January 28, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–193–80 Filed 1–29–80; 3:37 pm]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION. Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:30 p.m. on Tuesday, February 5, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance

Timberline Community Bank, a proposed new bank, to be located at 117 N. Main Street, Yreka, California, for Federal deposit insurance.

Denver West Bank and Trust, a proposed new bank, to be located at 14505 West Colfax Avenue, Jefferson County (P.O. Golden), Colorado, for Federal deposit insurance.

Community State Bank, a proposed new bank, to be located at 1610 South First

Street, Lufkin, Texas, for Federal deposit insurance.

Application for consent to establish a branch
American Bank of Commerce, Phoenix, Arizona, for consent to establish a branch at 2302 East Southern Avenue, Tempe, Arizona.

Request for exemption pursuant to section 348.4(b)(2) of the Corporation's rules and regulations entitled "Management Official Interlocks":
Citizens Fidelity Bank, Bristol, Tennessee.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:
Case No. 44,210–SR—Citizens State Bank, Carrizo Springs, Texas.
Case No. 44,214–NR—United States National Bank, San Diego, California.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:
Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:
Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

Grievance Officer's report and recommendations with respect to the formal grievance of a Corporation employee.
Name of employee authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: January 29, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–194–80 Filed 1–29–80; 3:56 pm]

BILLING CODE 6714–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION. Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 3:00 p.m. on Tuesday, February 5, 1980, to consider the following matters:

Disposition of minutes of previous meetings.
Memorandum and Resolution re: Unsecured Short-Term Commercial Paper Issued by Mutual Savings Banks-Exemption from 12 C.F.R. Part 329.
Memorandum and Resolution re: Technical Corrections to Final Regulations (12 C.F.R., Section 304.4 and new Part 349), Implementing the Reporting Requirements of Titles VIII and IX of the Financial Institutions Regulatory and Interest Rate Control Act of 1978.
Memorandum and Resolution re: Procedures for Administrative Enforcement of the Post-Employment Conflict of Interest Provisions of the Ethics in Government Act of 1978.
Memorandum re: Purchase and Assumption Agreement.
Reports of committees and officers:
Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.
Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: January 29, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–196–80 Filed 1–29–80; 3:56 pm]

BILLING CODE 6714–01–M

6

FEDERAL ELECTION COMMISSION.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, January 31, 1980 at 10 a.m.

CHANGE IN MEETING:

Impact of H.R. 5010 (continued): Commission Policy for the Establishment of Filing Dates for Special Elections.
Contributions to and Expenditures by Delegates: Notice of Proposed Rulemaking.
Legislative Recommendations.
Iterim Enforcement Procedures.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, Telephone: 202–523–4065.

Marjorie W. Emmons

Secretary to the Commission.

[S–193–80 Filed 1–29–80; 1:13 pm]

BILLING CODE 6715–01–M

7

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., February 6, 1980.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Agreement No. 6200–20: Modification of the U.S. Atlantic & Gulf/Australia-New Zealand Conference to extend its ratemaking authority to inland points in Australia, New Zealand, and South Pacific Islands.
2. Docket No. 79–102: Sea-Land Service, Inc., Proposed 25% General Rate increases in the Puerto Rico Trades—Petition of the Government of the Virgin Islands for reconsideration of the order instituting the proceeding.
3. Docket No. 79–1: Amendments to Part 531 of Title 46 CFR Governing the Publishing, Filing and Posting of Tariffs in Domestic Offshore Commerce—Proposed final rules.
4. Informal Docket No. 704(I): Dow Corning Corporation v. United States Navigation, Inc.—Review of Settlement Officer's Decision.
5. Docket No. 79–61: Rene Lopez and David Romano d.b.a. United Dispatch Service—Independent Ocean Freight Forwarder License No. 1381—Consideration of the record.
6. Docket No. 77–13: First International Development Corporation v. Ships Overseas Services, Inc.—Reconsideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–195–80 Filed 1–29–80; 4:00 p.m.]

BILLING CODE 6730–01–M

8

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

January 24, 1980.

TIME AND DATE: 10 a.m., Thursday, January 31, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will also consider and act upon the following: 1. Arch Mineral Corporation, WEST 79–58 (Petition for Interlocutory Review).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S–185–80 Filed 1–29–80; 10:13 am]

BILLING CODE 6820–12–M

9

January 28, 1980.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., Thursday, January 31, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will also consider and act upon the following: 2. National Gypsum Company, Docket No. VINC 79–154–PM, (Petition for Discretionary Review).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S–189–80 Filed 1–29–80; 2:50 pm]

BILLING CODE 6820–12–M

10

[NM–80–6]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, February 7, 1980.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Highway Accident Report*—Multiple Vehicle Collision in a Construction Zone, U.S. Interstate 80, near Laramie, Wyoming, August 22, 1979.
2. *Recommendation to* Federal Highway Administration re highway accident near Laramie, Wyoming, August 22, 1979.
3. *Recommendation* to Wyoming State Highway Department re highway accident near Laramie, Wyoming, August 22, 1979.
4. *Briefing* by Hamilton Standard Division, United Technologies Corporation, on data recorder development.

CONTACT PERSON FOR MORE INFORMATION: SHARON FLEMMING, 202–472–6022.

January 29, 1980.

[S–191–80, Filed 1–29–80; 3:50 pm]

BILLING CODE 4910–58–M

11

NUCLEAR REGULATORY COMMISSION.

DATE: January 31, 1980.

PLACE: Commissioner Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

Thursday, January 31

10:00 a.m.

1. Briefing on USC 2.206 Petition on Indian Point (approximately 1¼ hours, public meeting).
2. Affirmation Session (approx 5 minutes), (public meeting).
   a. Licensing Requirements for Uranium Mills.
   b. Reporting of Significant Events at Operating Reactors.
   c. Final Parts 25 and 95 (tentative).
   d. Export of Minor Quantities of Nuclear Material.

1:30 p.m.

1. Continuation of Discussion of Policy, Planning and Program Guide (approximately 2 hours, public meeting).

CONTACT PERSON FOR MORE INFORMATION: ROGER TWEED (202) 634–1410.

Roger M. Tweed,

Office of the Secretary.

[S–190–80 Filed 1–30–80; 3:47 pm]

BILLING CODE 7590–01–M

12

RAILWAY ASSOCIATION.

TIME AND DATE: 9 a.m., February 7, 1980.

PLACE: 955 L'Enfant Plaza North SW., Board Room, room 2–500, fifth floor, Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS:

Portions Closed to the Public

9 a.m.

1. Consideration of internal personnel matters.
2. Review of Conrail proprietary and financial information for monitoring and investment purposes.
3. Litigation report.

Portions Open to the Public

1 p.m.

4. Approval of minutes of the January 10, 1980 Board of Directors meeting.
5. Report on 1979 Delaware & Hudson monitoring.
6. Report on Conrail monitoring.
7. Consideration of Waiver to Financing Agreement.
8. Consideration of Conrail drawdown request for February.
9. Consideration of shortfall in 211(h) loan program.
10. Contract Actions (extensions and approvals).

CONTACT PERSON FOR MORE INFORMATION:
Alex Bilanow (202) 426–4250.

[S–188–80 Filed 1–29–80; 2:49 pm]

BILLING CODE 8240–01–M

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Thursday
January 31, 1980

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Section 8 Housing Assistance Payments Program for Substantial Rehabilitation; Special Procedures for Neighborhood Strategy Areas

federal

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 881

[Docket No. R-80-755]

Section 8 Housing Assistance Payments Program for Substantial Rehabilitation—Subpart G, Special Procedures for Neighborhood Strategy Areas

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner (HUD).

ACTION: Interim rule.

SUMMARY: The regulations governing the Section 8 Neighborhood Strategy Areas (NSA) program have been revised to reflect recent policy decisions to permit certain local governments to implement NSA programs using contract authority allocated under Section 891.404 ("fair share funds"). Any local government of an area designated as a separate allocation area or participating in an Areawide Housing Opportunity Plan (AHOP) allocation area may be authorized to use all or a portion of its substantial rehabilitation fair share to either create new NSAs or expand existing NSAs.

EFFECTIVE DATE: February 20, 1980.

COMMENTS DUE: Written comments and suggestions will be received on or before March 31, 1980. The Department will make such modifications as it deems appropriate in the final regulation.

ADDRESS: Comments should be filed with the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: George O. Hipps, Office of Multifamily Housing Development, Room 6120, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410; 202-755-5720. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Section 8 program provides rent subsidies on behalf of lower-income families to help them afford decent housing in the private market. HUD makes up the difference between what a lower-income household can afford and the approved fair market rent for an adequate housing unit. No eligible tenant need pay more than 25 percent of adjusted income toward rent. Housing thus subsidized by HUD must meet certain standards of safety and sanitation, and rents for these units must fall within the fair market rent limitations as determined by HUD. This rental assistance may be used in existing housing, in new construction, or in moderately or substantially rehabilitated units. Different procedures apply in each case.

The Neighborhood Strategy Areas program concentrates Section 8 substantial rehabilitation units in certain areas which also receive Community Development Block Grant funds. Local governments nominate areas for NSA designation and prepare specific revitalization plans using various combinations of HUD's assisted and insured housing and community development programs, local government funds, and private investment to accomplish their goals.

Approval of a request from a unit of local government to use these special procedures (1) assures the general availability of HUD mortgage insurance in the NSA, (2) sets aside a specific amount of Section 8 substantial rehabilitation contract authority for use in the NSA, and (3) authorizes the local government to solicit Section 8 substantial rehabilitation proposals for up to the amount of contract authority set aside. The concentration of funds and technical assistance provided to the NSAs is expected to accomplish neighborhood revitalization within a five-year period.

These amendments make it possible for eligible communities to create new NSAs and expand existing NSAs during Fiscal Year 1980. They allow local governments to target to HUD-approved NSAs the substantial rehabilitation contract authority they will receive from the fair share allocations currently being made. The time period required to publish these regulations first for comment and then for effect would mean that Field Offices would receive authorization to fund NSAs too late to do so from this year's allocations. Therefore, the Department has determined that the public interest would be served by making these amendments effective 20 days after publication. The regulations are nevertheless subject to public comment and written comments will be received on or before the date and at the address indicated above. A discussion of the principal changes follows.

Requirements for New Construction. Section 881.701(f)(1) clarifies the processing requirements for new construction proposals using contract authority set aside for NSAs approved during Fiscal Year 1978. Although local governments may solicit, prepare, and submit new construction proposals to Field Offices in the same manner as described in this Subpart for substantial rehabilitation proposals, the regular technical requirements for new construction, including property standards, site and neighborhood standards, and other Federal requirements shall apply.

Contract and Budget Authority Provided. Section 881.702 enables the Assistant Secretary for Housing to make contract and budget authority available for the NSA program from either "headquarters reserve" funds (allocated under Section 891.403(b) or from fair share funds (allocated under Section 891.404)). Any local government of an area designated as a separate allocation area or participating in an AHOP allocation area, and which has an NSA approved or conditionally approved during Fiscal Year 1978, may request to use in its NSA all or a portion of contract and budget authority made available through the fair share formula during Fiscal Year 1980. An eligible local government may also request to use this authority to create new NSAs. Whether or not it had an NSA approved prior to September 30, 1978, a local government of an area designated as a separate allocation area or participating in an AHOP allocation area may request approval of new NSAs or additional units in existing NSAs to be funded from 1981 fair share contract and budget authority.

Solicitation and Development of Proposals for Projects Within NSAs. Sections 881.706 through 881.708 are revised to clarify the different requirements for Section 8 projects that are HUD-insured, not HUD-insured, and State Agency-financed. The types of proposals which may be submitted for projects in NSAs are described and readers are referred to the appropriate Sections for processing requirements. In addition, Section 881.706 has been amended to incorporate the additional information needed to make the determinations on replacement cost, limitation on amenities, and other determinations now required by Part 861, Subparts A through F.

Relocation Policies. Section 881.709 continues the special relocation provisions applicable to all NSAs approved or conditionally approved during Fiscal Year 1978. For these NSAs, local governments assume the cost of relocation benefits. However, any new NSAs or additional units approved in accordance with these regulations will be subject to the revised relocation requirements for Section 8 substantial rehabilitation found in Section 881.209, which places the obligation for certain relocation costs on private owners.

INAPPLICABILITY OF NEPA: A Finding of Inapplicability regarding the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Accordingly, Part 881, Subpart G, is amended in its entirety as follows:

Subpart G—Special Procedures for Neighborhood Strategy Areas

Sec.

881.701 Applicability and scope.
881.702 Contract and budget authority available for use under this Subpart.
881.703 Requests by local government for NSA designation.
881.704 HUD review of requests for NSA designation.
881.705 Approval or other action on requests for NSA designation.
881.706 Solicitation and development of proposals for projects within NSAs.
881.707 Submission, review and approval requirements for NSA proposals which are not HUD-insured, and not State Agency-financed.
881.708 Requirements for NSA proposals which request HUD mortgage insurance.
881.709 Relocation requirements for section 8 NSA proposals.

Subpart G—Special Procedures for Neighborhood Strategy Areas

§ 881.701 Applicability and Scope.

(a) *General.* This Subpart provides the special policies and procedures to be followed by HUD, State Housing Finance and Development Agencies (State Agencies) and local governments in carrying out the Neighborhood Strategy Areas (NSA) Program. The NSA Program permits local governments to designate priority areas for revitalization and, upon approval of the area by HUD, to solicit, help to prepare and submit to HUD for approval Section 8 substantial rehabilitation proposals. This enables local governments to better coordinate housing rehabilitation activities within the neighborhood with community development activities.

(b) *Eligible Applicants.* Units of general local government eligible to participate are those which are applying for or are receiving assistance under the community development block grant (block grant) program, pursuant to 24 CFR 570.102 and 570.103, and have requested that an area be designated as an NSA. NSAs may be approved in localities which receive block grant funds from another unit of general local government such as an urban county. However, both the request for approval of the NSA designation and any Section 8 proposals must be submitted by the block grant recipient.

(c) *Eligible Areas.* To be approvable, a proposed NSA must be a residential area where concentrated housing and block grant-assisted physical development and public service activities are being, or are to be, carried out in a coordinated manner to serve a common objective or purpose pursuant to a locally developed plan or strategy for neighborhood improvement, conservation or preservation. The area shall be of manageable size and condition so that block grant and other resources to be committed to the area can reasonably be expected to meet the identified physical development and housing needs within five-year period.

(d) *Applicability of subparts.* The provisions of Subparts A, B, C, D, E and F are applicable except as modified herein. Sections 881.702 through 881.708(b) shall apply in lieu of §§ 881.302 through 881.308(a) of Subpart C for proposals processed under this subpart.

(e) *Use of other housing assistance programs.* Use in connection with NSAs of other assisted housing programs, such as public housing, the Section 8 new construction and moderate rehabilitation programs, and Section 235 and the appropriate mortgage insurance programs, may be necessary. In addition, preference for displacees may be provided in selecting Certificate holders to participate in the Section 8 existing housing program serving the applicant's locality. Such assistance should be requested in accordance with the regulations for these programs. Upon request and as necessary for a particular proposal, appropriate waivers of the regulations governing other housing assistance programs will be considered to facilitate their use in, or in support of, NSAs. However, only in unusual circumstances can there be waivers of the site and neighborhood standards, and there can be no waivers of the mortgage insurance programs regulations.

(f) *Special Provisions for NSAs Selected in FY 1978.* (1) *Use of new construction.* Certain NSA localities approved or conditionally approved during FY 1978 were authorized to use up to 20 percent of the contract authority made available to the NSA for new construction. In these cases local governments are authorized to solicit, prepare and submit new construction proposals to Field Offices in the same manner as described in this Subpart for substantial rehabilitation. However, the technical requirements for new construction provided in 24 CFR Part 883, Subpart B, including property standards (§ 880.207); site and neighborhood standards (§ 880.208); and other Federal requirements (§ 880.210) shall apply.

(2) *Relocation requirements.* The special relocation requirements provided in § 881.709 apply to any proposal submitted from those NSAs which were approved or conditionally approved during FY 1978, unless the units requested are in addition to the total number of units originally approved for the NSA. Such additional units will come under the relocation provisions of § 881.209.

§ 881.702 Contract and budget authority available for use under this subpart.

(a) *Basic Policy.* Contract and budget authority for the NSA Program may be made available in two ways:

(1) Contract authority and budget authority may be made available by HUD from the Headquarters reserve established in accordance with 24 CFR 891.403(b).

(2) Any local government of an area designated as a separate allocation area or participating in an AHOP allocation area may be authorized to use in NSAs all or a portion of the contract authority allocated for Section 8 substantial rehabilitation in accordance with 24 CFR 891.404 ("fair share funds").

(b) *Authority Made Available From the Headquarters Reserve.* When HUD determines that contract authority will be made available from the Headquarters reserve for the NSA Program, it will publish a notice in the **Federal Register** providing:

(1) The amount of contract authority to be made available under this Subpart and the approximate number of units this authority is expected to assist;

(2) Applicable policies and procedures not already covered by this Subpart; and

(3) The date by which requests for approval of NSA designation must be submitted.

(c) *Authority Provided from Fair Share Funds.* (1) Contract and budget authority for NSAs approved or conditionally approved in Fiscal Year 1978 shall be provided to projects in NSAs on a priority basis from the fair share authority allocated to Field Offices having jurisdiction during Fiscal Year 1980 before any suballocations are made in accordance with 24 CFR 891.404.

(2) Local governments referenced under § 881.702(a)(2), for which NSA

applications were approved or conditionally approved prior to September 30, 1978, may request HUD to approve applications for new NSAs, or additional units in previously approved NSAs. Such applications must be submitted to the Field Office by February 29, 1980. The local government may request to use in the NSAs all or a portion of the contract and budget authority for substantial rehabilitation made available to the allocation area through the fair share formula during FY 1980.

(3) Whether or not they had an NSA approved or conditionally approved prior to September 30, 1978, local governments referenced under § 881.702(a)(2) may request prior to September 30, 1980, approval of new NSAs or additional units in previously approved NSAs to be funded by contract and budget authority expected to be made available to the allocation area through the fair share formula in FY 1981.

(d) *Use of contract authority not reserved.* If proposals containing a sufficient number of units to utilize the contract and budget authority made available pursuant to § 881.702 for use in an NSA under this subpart are not submitted in accordance with the schedule provided in § 881.705(c)(4) or any approved extensions thereto, or if an approved proposal fails to result in an Agreement, the Field Office shall follow the provisions of subparagraph (1) or (2) as follows, depending upon the source of the authority.

(1) Unused authority originally made available pursuant to § 881.702(a)(1) shall be returned to the Headquarters reserve.

(2) Unused authority originally made available pursuant to § 881.702(a)(2) shall be utilized according to the procedures set forth in §§ 881.302, 303, 304, or 307(e), whichever is appropriate, *or* the local government shall be authorized to submit other proposals for projects within the approved NSAs to utilize the remaining contract and budget authority.

§ 881.703 Requests by local government for NSA designation.

(a) *Pre-Request Activities.* After the local government has notified the Field Office of its intention to request NSA designation or expansion for one or more neighborhoods, a conference shall be scheduled to discuss the local government's plan for the neighborhood(s) and HUD program and submission requirements, and to schedule a site visit. Both the conference and the site visit shall be attended by appropriate Field Office and local government representatives as well as representatives of the State Agency, if State Agency financing is anticipated. Following the conference and the site visit the Field Office shall make a preliminary finding of whether the proposed NSA is eligible and, if so, invite the local government to submit a formal request. If the proposed NSA is found ineligible, the Field Office shall notify the local government to that effect and furnish the reasons for the rejection.

(b) *Coordination with the Community Development Planning Process.* NSA activities should be an integral part of the block grant planning process. Block grant commitments that are made for the NSA program should be reflected in the block grant application. Whenever possible the request for NSA designation should be submitted with the block grant application, but it will not be considered a part of that application.

(c) *Submission Requirements.* As part of its request for NSA designation, the local government shall provide, in a format acceptable to HUD:

(1) A map or maps of the applicant's jurisdiction which clearly show and identify:

(i) Location of the proposed NSA;

(ii) Existing land uses and major traffic routes in the proposed NSA, and an area at least one block deep outside the perimeter of the NSA;

(iii) Location of shopping, public transportation stops, personal services, social services, and community services, either inside or outside the NSA, which would serve the NSA.

(2) A description of the proposed NSA's demographic and physical characteristics. Demographic characteristics shall include total population, income of households, age, and racial composition.

(3) A brief narrative description of the overall revitalization strategy for the neighborhood which demonstrates how the proposed NSA meets the criteria sets forth in Section 881.701(c).

(4) A neighborhood revitalization plan which:

(i) Describes the current condition of all major neighborhood public facilities and services and includes an assessment of the extent to which the area currently meets the site and neighborhood standards contained in Section 881.206, and the environmental standards contained in Section 881.210.

(ii) Provides a specific plan for correcting the identified neighborhood deficiencies. The plan shall include a description of all activities being undertaken or to be undertaken to correct the deficiencies, the cost and sources of funding for the activities, and a schedule for completion of the activities. A description should also be provided of private initiatives and activities existing or planned in the neighborhood.

(5) A housing revitalization plan which:

(i) Includes a description of the housing stock in the neighborhood including number of units, tenure type (owner-occupied or rental), vacancy status, and condition;

(ii) Provides a rehabilitation or demolition plan for all non-standard units and identifies any new construction that is contemplated;

(iii) Identifies the funding sources and completion schedule for all rehabilitation and demolition that is contemplated and an evaluation of the feasibility of rehabilitation, given the condition of the buildings and the general willingness and financial capacity of the owners to participate in the revitalization efforts.

(iv) Identifies the number of substantial rehabilitation units for which contract authority under this Subpart is being requested. The request should specify sizes (number of bedrooms), structure type, financing method and household type (elderly, family, large family) being requested and should estimate the amount of contract authority required. When the local government proposes to use financing provided by a State Agency or by a Public Housing Agency (PHA), the request shall include a letter from the appropriate State Agency or PHA stating that the agency has examined the NSA and the local government's strategy and that it intends to finance or develop projects in the NSA and will submit applications and proposals to HUD pursuant to the local government's housing revitalization program and in accordance with the applicable program regulations. Any anticipated waivers to be requested should be noted in the letter.

(v) Provides a schedule for submission of Section 8 proposals.

(6) A statement describing the means by which residents and property owners of the proposed NSA are and will continue to be involved in the development and execution of the neighborhood strategy. (This statement shall not substitute for the Citizen Participation Certification required by the block grant program.)

(7) A relocation statement which provides the following information:

(i) An estimate of the number of individuals, families and businesses that would be temporarily and permanently displaced;

(ii) A demonstration that relocation is feasible;

(iii) A statement that relocation assistance will be provided in accordance with Section 881.209 and that all services will be provided which are necessary to provide displaced tenants the opportunity to take advantage of housing choices outside areas of minority and low-income concentration.

(iv) A description of the administrative procedures that will be followed in providing relocation assistance to displaced residential tenants.

(8) An administrative plan which:

(i) Describes the administrative structure the local government proposes to use to implement the NSA Program;

(ii) Describes the number and qualifications of the staff that will be made available;

(iii) Identifies the individual who shall serve as the primary local government contact for the field office.

(9) A statement that the request is consistent with the HUD-approved Housing Assistance Plan and Area-wide Housing Opportunity Plan.

(10) A statement that the NSA request was submitted to the A–95 Clearinghouse prior to or simultaneously with the submission of the request to HUD, and that the Clearinghouse has been requested to send its comments to HUD within 30 days from the date the request was sent to HUD.

§ 881.704 HUD review of requests for NSA designation.

(a) *Field Office Review.* The Field Office shall review each request to determine whether it meets the following requirements. (This review does not substitute for the HUD Field Office independent review requirements of 24 CFR 891.205, which are to be followed for each Section 8 proposal subsequently submitted.)

(1) The request is consistent with the local Housing Assistance Plan and any Area-wide Housing Opportunity Plan that has been approved by HUD.

(2) The proposed NSA is an eligible area pursuant to § 881.701(c) and the local government has presented all submissions required in § 881.703.

(3) The area contains no major obstacles to meeting the site and neighborhood standards of Section 881.206 or the environmental requirements of Section 881.210 that cannot be remedied in an acceptable time frame by the proposed activities. This review does not substitute for the environmental or site and neighborhood standards reviews which are to be completed for each Section 8 proposal subsequently submitted. The neighborhood revitalization plan includes the public improvements, services and other physical development activities that are necessary to provide a suitable living environment upon completion of the plan.

(4) The housing revitalization plan is acceptable according to the following criteria:

(i) A sufficient number of sites suitable for rehabilitation under this Subpart are located in the area, either on sites which conform to the site and neighborhood standards in § 881.206 or on sites which will conform when the activities described in the NSA request are completed;

(ii) Appropriate funding sources have been identified and schedules established for both Section 8 and non-Section 8 housing rehabilitation;

(iii) The need for demolition has been appropriately identified and documented;

(iv) The proposed rehabilitation appears feasible given the condition of the buildings and the general willingness and financial capacity of owners and interested developers.

(5) The local government's citizen participation program has involved the residents and property owners of the NSA in the development of the strategy and is designed to facilitate their continuing participation in the implementation, monitoring, evaluation and adjustment of the strategy.

(6) The relocation statement presented by the local government is acceptable.

(7) The administrative structure proposed by the local government appears to be appropriate.

(b) *A–95 Comment.* HUD shall review and consider any comments received from the A–95 Clearinghouse early in the processing cycle to allow sufficient time to resolve potential problems.

(c) *Additional Information and Modifications.* If, during review of the request, HUD finds that additional information is necessary or that modifications are necessary, it shall request such additional information of modifications and/or meet with representatives of the local government to resolve outstanding questions concerning the request.

§ 881.705 Approval or other action on requests for NSA designation.

(a) *Field Office Determinations.* When the request is to be funded using contract authority allocated under 24 CFR 891.404, the HUD Field Office has approval authority and may either:

(1) Approve the request and send to the local government the notification letter described in paragraph (f) below;

(2) Grant conditional approval specifying in writing to the local government the conditions which must be met before approval can be given;

(3) Reject the request, specifying in writing to the local government the reasons for the rejection. Local governments may request a review or reconsideration of Field Office determinations from the appropriate Regional Administrator.

(b) *Headquarters Determinations.* When the NSA request is for contract authority to be provided by HUD from the Headquarters reserve pursuant to 24 CFR 891.403(b) and HUD has announced the availability of funds pursuant to 881.702(b), the Field Office shall submit those requests which it determines acceptable to the Assistant Secretary for Housing for approval. If the Field Office determines that a local government's request is not acceptable, it shall notify the local government of the reasons for the rejection. Local governments may request a review or reconsideration of Field Office rejections from the appropriate Regional Administrator. The Assistant Secretary for Housing shall select among the proposals endorsed by Field Offices using the following criteria:

(1) The overall quality and feasibility of the program described in the request;

(2) The degree of local public commitment to the program as evidenced by Community Development Block Grant and other Federal, State, or local programs and funds that have been designated for supporting activities;

(3) The extent of existing or proposed private commitments such as private financing in the area.

(4) The extent of temporary and permanent relocation that is anticipated and the quality and feasibility of the local government's plans to address relocation needs;

(5) The demonstrated capacity of the local government to carry out housing and community development programs;

(6) The demonstrated capacity of the local government to promote fair housing and equal opportunity for low-income families, members of minority groups and female heads-of-household;

(7) The potential of achieving, in the speediest manner possible, the reservation of housing units under this Subpart.

(c) *Notification of local governments.* The Field Office shall notify each local government as to which NSAs are approved or disapproved. If the request is not approved, the notification shall indicate the reasons for the disapproval. If the request is approved, the notification shall include:

(1) An identification of the approved NSA and a statement that Section 8

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substantial rehabilitation proposals may be submitted and processed pursuant to these special procedures.

(2) The amount of contract and budget authority which has been made available for use in the NSA and the approximate number of units by household type this authority is expected to support.

(3) A statement that HUD mortgage insurance will be generally available in the NSA and that, for purposes of making underwriting determinations under the National Housing Act, the improvements pledged in the request shall be considered as though they were now complete. However, this provision does not eliminate the requirement for an individual underwriting review of each proposal.

(4) A schedule, mutually agreed upon by the Field Office and local government, for submission of proposals.

(5) A statement which notifies the local government that if the local government fails to complete the activities that were committed in the request and subsequent negotiations with HUD, in accordance with the approved schedule, HUD may withdraw the budget and contract authority which remains unused in accordance with the conditions set forth in 881.702(d).

(d) *Notification of Other Agencies.* If the local government plan includes substantial rehabilitation contract authority for projects to be financed by a State Agency or owned by a PHA, the notification shall indicate the amount of such contract authority. Additionally, the Field Office shall notify the appropriate State Agency or PHA of the approval and indicate that the contract authority is available for use only in the NSA in accordance with the local government's housing revitalization plan.

§ 881.706 Solicitation and development of proposals for projects within NSAs.

(a) *Types of Proposals.* Proposals for projects may take one of four basic forms based upon the method of financing. There also may be other financing methods approved by HUD.

(1) NSA Section 8 proposals for which neither HUD mortgage insurance nor State Agency financing is contemplated. Submission, review and approval requirements for these proposals are provided in § 881.707.

(2) NSA Section 8 proposals for which HUD mortgage insurance is requested but which are not to be financed by a State Agency. Submission, review and approval requirements for these proposals are provided in § 881.708.

(3) NSA Section 8 proposals which are to be financed by a State Agency but will not utilize HUD mortgage insurance. Submission, review and approval requirements are identical to the regular requirements for State Agency non-insured proposals provided in 24 CFR Part 883.403 through 883.405, except that the proposal must contain the local government certifications, the relocation information and the statement concerning conflict of interest described in Section 881.707.

(4) NSA Section 8 proposals for which both State Agency financing and HUD mortgage insurance is contemplated. Submission, review and approval requirements are identical to the regular requirements for substantial rehabilitation proposals requesting mortgage insurance as described in 24 CFR 881.306(d) with the addition of the local government certifications required by § 881.707(b).

(b) *Solicitation of Proposals.* After the notification by HUD that contract and budget authority pursuant to Section 881.702 has been made available, the local government shall publish a notice in a newspaper of general local circulation which sets forth the number of units by household type available and the boundaries of the NSA. This notice shall also describe how the local government (and if applicable, the State Agency and/or PHA) will solicit and process proposals, such as through negotiation or advertisement.

(c) *Basic Information.* The local government shall provide basic information to interested owners and developers concerning the special procedures of this Subpart including: (1) A copy of these regulations; (2) where Minimum Design Standards for Rehabilitation for Residential Properties or HUD Minimum Property Standards and other applicable regulations, standards, and forms, may be obtained; (3) requirements and information necessary to enable the interested parties to submit a proposal; and (4) the assistance the local government will provide to owners. The local government shall also provide information to interested parties about how to obtain financing, other rental assistance, or mortgage insurance which the local government has determined will be necessary to achieve the revitalization of the NSA.

(d) *Assistance in Development and Review of Proposals by Local Government.* The local government shall, to the extent necessary to assure adequate owner and developer interest and viable proposals, assist owners in the preparation of proposals. The local government shall review comprehensively all proposals to make the certifications required by Section 881.707(b). The local government shall transmit to HUD for review Section 8 substantial rehabilitation proposals it believes are approvable.

(e) *Timely Submissions.* The local government shall assure that proposals are prepared and submitted in accordance with the agreed upon schedule provided for in Section 881.705(c)(4). If approvable proposals sufficient to use the contract and budget authority made available for use in NSAs have not been submitted by the established deadline, including any extensions approved by the field office, HUD shall follow the procedures of Section 881.702(d) concerning unused contract authority.

§ 881.707 Submission, review and approval requirements for NSA proposals which are not HUD-insured and not State agency-financed.

(a) *Proposal Submission Requirements.* The local government shall submit the following:

(1) The address(es) of the property(ies) proposed to be rehabilitated.

(2) The identity of the owner(s), rehabilitator(s) (if known), and architect(s) (if applicable and identity is known); the officials, principal mmebers, shareholders, investors, and other parties having substantial interest, and the prior participation of each in HUD programs on the prescribed forms; and a disclosure by each party of any possible conflict of interest which would be in violation of the ACC, Agreement, or Contract.

(3) A description of the property(ies) "as is," including number and type of structures, number of stories, structural system, number of units by size (number of bedrooms), living area and composition of each size of unit, special amenities or features, if any; and sketches for the interior, showing dimensions. If appropriate, typicals may be provided.

(4) A description of the proposed rehabilitation covering each basic element (e.g. roof, exterior walls, porches and steps; interior walls, ceilings and floors; kitchen and bathroom facilities and equipment; plumbing, heating and electrical equipment; landscaping; etc.) indicating the nature of the work to be done on each element. If alteration, renovation, or remodeling is indicated, a description of such work and sketches showing the layout after completion of rehabilitation shall be submitted. If appropriate, typicals may be provided.

(5) The number of units by unit size (number of bedrooms) and type of occupancy (elderly (including handicapped), family, large family) proposed after completion of the rehabilitation.

(6) A listing of proposed amenities.

(7) The anticipated time required for completion of the rehabilitation after the Agreement is signed. If the rehabilitation is to be completed in stages, an identification of the units comprising each stage and the estimated date for commencement and completion of each stage shall be provided.

(8) The proposed Contract Rent per unit, including an indication of which utilities, services and equipment are included in the rent and which are not. For those utilities and services which are not included, an estimate of the average monthly cost for each unit type for the first year of occupancy.

(9) The estimated replacement cost per unit by size and structure type, operating expenses, income and debt service as required by Section 881.308(a)(8).

(10) A description of the existing utility combination, whether or not a change to a different combination is proposed and, if so, a description of the new combination. To the extent feasible, individual meters should be utilized where an exising system is replaced.

(11) A statement as to whether the services of a registered architect will be utilized for preparation of final working drawings and specifications.

(12) Information concerning displacement of site occupants. If any displacement will occur: the number of households affected, by size and race, and the business concerns affected, by race, and whether they own or rent; the number to be temporarily or permanently displaced; the steps, if any, to be taken to minimize displacement; a demonstration that relocation is feasible; and a statement as to how necessary relocation payments will be funded (see Sections 881.709 and 881.209 for relocation requirements).

(13) A signed certification on the prescribed form of the owner's intention to comply with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, Executive Order 11246 and Section 3 of the Housing and Urban Development Act of 1968, and of the owner's intention to undertake marketing activities as required by Section 881.601(a).

(14) The proposed method (e.g., conventional mortgage, Farmers Home, or tax exempt obligations) and anticipated terms of financing (e.g., interest rates, discounts, amortization plan and term) and evidence of review and interest by a lender, bond underwriter, or counsel, or similar evidence that financing would likely be available should the proposal be selected. Such evidence of financing is not required if the owner proposes to utilize the FmHA Section 515 Rural Rental Housing Program. In such case, evidence that a preapplication has been submitted to the FmHA shall be submitted with the proposal. A statement shall be included in all proposals as to whether the owner intends to pledge or offer the agreement and/or Contract as security for any loan or obligation (see Section 881.208(1)).

(15) The proposed term of each Contract, and justification for such term in accordance with § 881.502.

(16) The identity of the contract administrator entity (PHA or HUD).

(17) *Evidence of management capability.* For projects of more than 20 units a proposed management plan and certification in the prescribed form; if the proposed project is for less than 20 units, evidence of capability of providing necessary management and maintenance services. If the owner proposes to contract with another entity for management and/or maintenance services for the project, a copy of the proposed contract(s) shall be included.

(18) Submission of the form of lease the owner proposes to use. The form of lease shall be in accordance with Section 881.606.

(19) If the proposed project consists of five or more units, submission of an Affirmative Fair Housing Marketing Plan. A statement of the marketing activities the owner intends to take in accordance with the requirements of section 881.601(a)(3). Such efforts might include: participation in regional or sub-regional application pools and clearinghouses; establishment of a referral system with PHAs, other public agencies and Section 8 owners/managers in the surrounding area; contact with and provision of information about the project to employers and their employees, labor unions and interested community groups.

(b) *Additional information to be submitted by local government.* Each proposal shall be accompanied by the following information from the local government:

(1) A certification by the chief executive officer of the local government that (i) the property proposed for substantial rehabilitation is within the designated NSA; and (ii) the proposal is consistent with the requirements and restrictions of the approved local Housing Assistance Plan, the HUD approved Area-wide Housing Opportunity Plan and the approved NSA.

(2) A certification that the owner has title to the property, an option on the property or other legal commitment for the property.

(3) If demolition is proposed for any structures, a certification that the proposed reuse is consistent with local zoning or other land use restrictions and will promote the restoration and revitalization of the neighborhood.

(4) A certification that the proposed rehabilitation is permissible under applicable zoning, building, housing and other local codes, ordinances, or regulations.

(5) Identification of properties included in, or eligible for inclusion in, the National Register of Historic Places within the area affected by the proposal and information on the proposal's effect on such properties. This is a requirement of the National Historic Preservation Act (16 U.S.C. SS470 as amended by P. L. 94–422), the Procedures for the Protection of Historic and Cultural Properties (36 CFR Part 800), the Archeological and Historical Preservation Act of 1974 (P. L. 93–291), and Executive Order 11593, "Protection and Enhancement of the Cultural Environment."

(c) *Evaluation of proposals.* Each proposal shall be evaluated by HUD to determine whether:

(1) The proposal and the certifications submitted by the local government contain all the elements required by section 881.707(a) and (b).

(2) The proposed Contract Rents plus any allowances for utilities and other services and the estimated replacement costs do not exceed the limitations of § 881.204(b)(1) and (c).

(3) The proposed Contract Rents are reasonable pursuant to § 881.204(b)(2).

(4) The proposed term of the Contract is acceptable in accordance with § 881.502.

(5) The form of lease meets the requirements of § 881.606.

(6) The previous experience of the owner and other key participants in development and management is acceptable.

(7) The management capability of the owner and/or his managing agent, the proposed management plan, and the proposed management agreement/contract(s) are acceptable.

(8) The Affirmative Fair Housing Marketing Plan is acceptable.

(9) The provisions for relocation are acceptable (see §§ 881.709 and 881.209.).

(10) The proposal as a whole, including the rehabilitation plan and

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design, will result in decent, safe, and sanitary housing.

(11) The nature and extent of the rehabilitation are such that the services of a registered architect must be used.

(12) The proposed method and terms of financing are acceptable (see also § 881.208).

(13) The proposed utility combination is acceptable.

(14) There are no apparent conflicts of interest which would be in violation of the Agreement, Contract, or ACC.

(d) *Environmental Review.* HUD will conduct an environmental review of the proposal in accordance with HUD procedures.

(e) *Review for Consistency with HAP and AHOP Plans.* Local government certification as to the proposal's consistency with the HUD-approved local Housing Assistance Plan and Area-wide Housing Opportunity Plan is not intended to substitute for the independent HUD review for HAP and AHOP consistency.

(f) *A–95 Comments.* HUD shall review and consider any comments about the proposal received from the A–95 Clearinghouse.

(g) *Clarification or Modification.* HUD may request clarification of individual items, additional information, or modification of the proposal including substitution of alternate properties.

(h) *HUD Review of Local Government Certifications.* Generally, in review submissions required by this Part, HUD shall accept the certification as correct. However, if HUD has substantial reason to question any certification, HUD shall promptly bring the matter to the attention of the local government and ask the local government to review its findings. After such review HUD will act in accordance with the judgment or evaluation of the local government unless HUD determines that the certification is not supported by available evidence.

(i) *HUD Determination.* HUD shall notify the local government and the owner that the proposal is:

(1) *Approved.* This notification shall include the statements required by Section 881.307(c) except that reference to the submission of a final proposal shall not be included. Following approval, the proposal shall be deemed to be a final proposal within the meaning of Section 881.308 and the following Sections of Subpart C. All further actions with regard to proposals approved pursuant to this paragraph (i) shall be in accordance with Subparts C through F of these regulations starting with Section 881.310.

(2) *Approved with conditions.* The notification letter, in addition to the information identified in (i)(1), above, shall include any conditions which must be resolved before full approval can be given.

(3) *Not approved.* The notification shall indicate the reasons for disapproval, and, where appropriate, that the local government may submit substitute proposals to use remaining contract and budget authority.

(j) *Clearinghouse notification.* In all cases, the appropriate A–95 Clearinghouse shall be notified by HUD of its final action at the time the local government is notified.

§ 881.708 Requirements for NSA proposals which request HUD mortgage insurance.

(a) *Concurrent processing.* Where an owner indicates that he/she intends to request HUD mortgage insurance, the following procedures shall be followed:

(1) *Preapplication meeting.* There will be a preapplication meeting, attended by representatives of the Field Office and the local government, to discuss any proposals requesting simultaneous processing for HUD mortgage insurance. The Field Office will advise the local government of any major obstacles to approval of the mortgage insurance discovered during the meeting. If such a meeting has not been held, Field Offices will not accept proposals requesting simultaneous processing.

(2) *Initial Submission Requirements.* Each submission shall include the following:

(i) The owner's application for a feasibility letter on the prescribed form with appropriate exhibits.

(ii) Documentation required from the owner by Section 881.707(a) that is not already provided in (a)(2)(i) above.

(iii) Certifications required from the local government by Section 881.707(b) (1), (3), (4), and (5).

(3) *Evaluation of Submission.* Each submission shall be evaluated by HUD to determine:

(i) The acceptability and feasibility of the application for HUD mortgage insurance purposes. In making underwriting determinations for all HUD mortgage insurance programs, the improvements pledged in the request shall be considered as though they were now complete.

(ii) The acceptability of the proposal for Section 8 assistance in accordance with Sections 881.707(c) (1), (2), (3), (4), (5), (9), (10), (11), and (14).

(iii) The consistency of the proposal with the HUD-approved local HAP and AHOP plans. (Local government certification does not substitute for the independent HUD review for such consistency.)

(4) *HUD Determination.* HUD shall notify the local government and the owner that the submission is:

(i) *Approved.* A notification of proposal approval for Section 8 assistance in accordance with § 881.307(c) shall be transmitted simultaneously with the feasibility letter.

(ii) *Approvable with conditions.* HUD may issue a letter which conditions approval of the proposal, for mortgage insurance and/or Section 8 assistance, upon compliance with specified conditions.

(iii) *Not approved.* If the proposal is not approved, a letter shall be sent indicating the reasons for such disapproval.

(b) *Delayed mortgage insurance processing.* If an owner does not indicate in the proposal an intent to utilize HUD mortgage insurance and applies for HUD mortgage insurance after approval by HUD of the proposal for Section 8 assistance, he/she risks (1) having the proposal rejected for HUD mortgage insurance, and (2) having lower rents approved under the mortgage insurance program than the rents set forth in the proposal approved under this Subpart.

(c) *Subsequent processing.* Following approval of a proposal involving HUD mortgage insurance, subsequent processing shall be in accordance with Subparts C through F of these regulations starting with Section 881.308(b).

§ 881.709 Relocation requirements for section 8 NSA proposals.

The provisions of this Section apply to all proposals submitted from those NSAs which were approved or conditionally approved during Fiscal Year 1978, unless units requested are in addition to the total number of units originally approved for the NSA. Such additional units will come under the relocation provisions of Section 881.209.

(a) *Applicability of Uniform Act.* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and HUD implementing regulations at 24 CFR Part 42 (Uniform Relocation Assistance and Real Property Acquisition) apply to the acquisition of real property by a PHA or other State agency (as defined at 24 CFR 42.85) for a project assisted under this Part and to any displacement that results from such acquisition.

(b) *Tenants Displaced by Private-Owner or by PHA Rehabilitation Without Acquisition.* Although the Uniform Act does not apply to the displacement of tenants as a result of acquisition by a private developer or as a result of rehabilitation by a PHA without acquisition for a Section 8 project, HUD has determined that any family, individual, business, or nonprofit organization that is a tenant (not an owner-occupant) occupying a property to be rehabilitated pursuant to this Subpart on the date the proposal is submitted to HUD (see Sections 881.707 and 881.708) and who is thereafter required to move, shall be eligible for relocation payments and assistance to be determined on the same basis as provided by 24 CFR Part 42, as modified by paragraphs (c) through (h) of this Section, as if the tenant were a "displaced person" within the meaning of the Uniform Act. For purposes of the regulations at 24 CFR Part 42, the local government's transmittal of the proposal to HUD shall be deemed to be the "initiation of negotiations."

(c) *Preliminary Notice to each Residential Tenant.* No later than 30 days after the transmittal of any proposal to HUD or to the State Agency, in the case of State Agency-financed projects, the local government shall issue to each residential tenant occupying the property a written notice which:

(1) Informs the tenant that a proposal for assistance under this Subpart has been transmitted to HUD and the date thereof;

(2) Insofar as possible, informs the tenant whether permanent relocation will be required if the proposal is approved;

(3) States that if the tenant moves after the date the proposal was submitted to HUD for any reason, except after being issued a notice of displacement as described in paragraph (e) of this Section, the tenant will not be entitled to relocation payments or other assistance provided under/or determined in accordance with 24 CFR Part 42, as modified by this Section;

(4) Indicates that as soon as practical, but not later than 60 days after the HUD notification of the approval of the proposal, the tenant will receive an appropriate notice as specified under paragraph (d) or (e) of this Section. The provisions of the notices that are referred to shall be generally described;

(5) Generally describes the relocation payments and other assistance for which the tenant would be eligible, if required to relocate; and

(6) Informs the tenant of the applicable policies contained in paragraph (f)(1) and (f)(2) of this Section.

(d) *Notice of right to continue in occupancy.* No later than 60 days after the HUD notification of the approval of the proposal, the local government shall furnish each residential tenant who will not be displaced, a written notice of the tenant's right to continue in occupancy. The notice shall contain the following conditions:

(1) The tenant shall have the right to lease and occupy a decent, safe, and sanitary dwelling which is either the current dwelling or a suitable dwelling located within the same building or nearby building located on the same site, for a continuous period of at least four years. The four-year period shall begin on the date of HUD notification of the approval of the proposal, or the date the dwelling is placed in decent, safe, and sanitary condition, or the termination date of any required temporary relocation, whichever is later.

(2) If the tenant is an "eligible" family as defined in § 881.201 and 24 CFR Part 812, the amount of rent payable by the tenant shall be determined in accordance with 24 CFR Part 889 and any necessary subsidy shall be provided pursuant to Section 881. If the tenant does not qualify as an eligible family as defined in Section 881.201 and 24 CFR Part 812, the amount payable by the tenant for rent and utilities and other services shall not exceed 25 percent of monthly income, which income shall be calculated in accordance with 24 CFR Part 889 and any necessary subsidy shall be provided by the local government.

(3) The tenant shall not be required to move from the dwelling unit other than for cause unless the move is necessary to permit rehabilitation of demolition. If a move is required:

(i) Not more than one temporary relocation by the tenant shall be required;

(ii) The temporary relocation, if any, shall not exceed twelve months in duration;

(iii) A decent, safe, and sanitary dwelling shall be available to the tenant for the period of any temporary relocation; and

(iv) The local government shall pay actual reasonable out-of-pocket expenses, including any moving costs or increase in monthly housing cost incurred by the tenant in connection with the move, any temporary relocation, or both.

(4) If the tenant is required to vacate the dwelling during the four-year period for any reason other than for cause, or if any of the commitments to the tenant under this notice are not met, the tenant shall automatically be deemed to have been issued a notice of displacement as described in paragraph (e) of this Section and to be entitled to relocation payments and other relocation assistance available to displaced persons provided in 24 CFR Part 42, as modified by this Section.

(e) *Notice of displacement.* Not later than 60 days after the HUD notification of the approval of the proposal, the local government shall issue a written notice of displacement to each residential tenant to be displaced. The notice shall state that if the tenant moves or moves personal property from the property on or after the date of HUD notification of approval of the proposal, the tenant will be entitled to certain relocation payments and other assistance which shall be described, including the maximum allowable dollar amount or range of each payment for which the tenant will apparently be eligible, the conditions of eligibility, and the procedures for obtaining the payment(s).

(f) *Automatic notice of displacement.* (1) If a tenant is not issued a preliminary notice as described in paragraph (c) of this Section within 30 days after the transmittal of the proposal to HUD, the tenant shall be deemed to have been issued a notice of displacement effective 31 days after the transmittal of the proposal to HUD, if such proposal is later approved by HUD. However, if the local government later issues a preliminary notice to a tenant who has not yet moved and agrees to reimburse the tenant for any expenses incurred to satisfy any binding contractual relocation obligations entered into during the period in which the notice of displacement was in effect, such automatic notice of displacement is cancelled.

(2) If a tenant is not issued a written notice of displacement or a notice of right to continue in occupancy within 60 days after the date of the HUD notification of the approval of the proposal, the tenant shall be deemed to have been issued a notice of displacement effective on the date of the HUD notification of the approval of the proposal.

(g) *Tenants continuing in occupancy.* The local government shall take such steps as may be necessary to insure that no tenants who continue in occupancy under the provisions of this Section are subjected to an unreasonable change in the character of their immediate environment without being given the opportunity to move and qualify for relocation assistance as a displaced person. For example, an elderly tenant shall not be subjected, without alternatives, to a sharp increase in the number of children occupying nearby units.

(h) *Section 8 assistance to tenants displaced by private owner.* If a residential tenant who has been displaced by an owner pursuant to

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paragraph (b) of this Section has voluntarily selected a replacement rental dwelling unit, the local government shall provide a rental assistance payment as described in 24 CFR Part 42, unless a PHA provides a Certificate of Family Participation under the Section 8 Housing Assistance Payments Program—Existing Housing, 24 CFR Part 882. The latter can occur only when the displaced family or individual is eligible to participate in that program, the replacement rental dwelling unit meets the requirements of that program, and the landlord of the replacement rental dwelling unit is willing to participate in that program. If the tenant elects to rent a replacement dwelling that cannot be assisted under the Section 8 Existing Housing Program, he/she must be offered the rental assistance payment described at Section 42.453. (If an eligible tenant voluntarily selects a dwelling unit that meets the Section 8 requirements and the owner is willing to participate in the Existing Housing Program but the tenant refuses the Section 8 assistance, the tenant is not entitled to a rental assistance payment. Regardless of the source of any rental assistance payments provided, the local government shall provide moving expenses.

(i) *Nonresidential tenants.* The modifications in paragraphs (c) through (h) of this Section do not apply to the displacement of any business, farm, or nonprofit organization which has been displaced as a result of an action described in paragraph (a) of this Section. Such businesses, farms, or nonprofit organizations shall be provided relocation payments and other assistance in accordance with the regulations of 24 CFR Part 42 and the policies and procedures contained in HUD Handbook 1376.1, Relocation and Real Property Acquisition, September 1979.

(j) *Manner of notices.* Any notice required under this Section shall be personally served, receipt documented, or sent by certified or registered first-class mail, return receipt requested.

(k) *Responsibility for Relocation Payments and Assistance.* The local government is responsible for providing the relocation payments and assistance described in this Section from funds other than those provided under these special procedures.

Authority: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C. December 17, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-3267 Filed 1-30-80; 8:45 am]

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January 31, 1980

Part III

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

Section 8 Housing Assistance Payments Program for Substantial Rehabilitation

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 881

[Docket Number R-80-751]

Section 8 Housing Assistance Payments Program for Substantial Rehabilitation

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner (HUD).

ACTION: Interim rule.

SUMMARY: The regulation governing the Section 8 substantial rehabilitation program has been revised to accomplish three major objectives. First, the language of the regulation has been simplified and the format altered to make the regulation easier to read and use. Second, rent, cost and amenities limitations, and requirements for cost justification of rents in certain cases, have been added in order to control and reduce the costs of the program. Third, processing changes have been made to assure coordination of Section 8 and HUD mortgage insurance programs with fewer developer submissions and to reduce and level out field office workload in order to improve the efficiency and quality of processing.

In addition, relocation requirements have been revised to provide more equitable treatment to tenants temporarily and permanently displaced as a result of rehabilitation activities.

This regulation does not apply to projects developed under other Section 8 regulations, including Parts 880, 882, 883 and 885, except as provided in those Parts.

EFFECTIVE DATE: February 20, 1980.

COMMENTS DUE: Written comments and suggestions will be received on or before March 31, 1980. The Department will make such modifications as it deems appropriate in the final regulation.

ADDRESS: Comments should be filed with the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: George O. Hipps, Office of Multifamily Housing Development, Room 6128, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410; 202–755–5720. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The Section 8 substantial rehabilitation program is a rental assistance program. Under this program, the government provides the difference between the approved rent for an appropriate housing unit and the amount paid by an eligible lower-income family, including the elderly and handicapped. Proposals from private owners or public housing agencies are generally submitted in response to a public advertisement. They are competitively evaluated and the best one(s) selected for further processing, development and eventual occupancy. Although the program does not provide construction or mortgage financing, an owner may use any method of financing available to him, including HUD mortgage insurance.

Amendments to the Section 8 New Construction program regulations were published for comment on June 12, 1979, in the **Federal Register** at 44 FR 33804. After considering the comments received, the Department is publishing the New Construction amendments for effect at this time. The processing procedures for the Section 8 Substantial Rehabilitation program closely parallel those for the Section 8 New Construction program and the changes made to the Substantial Rehabilitation regulations by these amendments are basically the same as those made to the New Construction regulations. In addition, this rule is to apply to the Fiscal Year 1980 Section 8 Substantial Rehabilitation program and all applications submitted early in the fiscal year are to be reviewed and approved in conformance with the regulation. Therefore, the Department has determined that the public interest would be served by making the amendments effective as soon as possible. The regulation is nevertheless subject to public comment and written comments will be received on or before the date and at the address indicated above. A discussion of the principal changes follows:

Language and Format. A primary purpose of this revision of Part 881 is to simplify the language of the regulation and generally to improve readability and ease of use. A brief summary has been added as Subpart A so that the general concepts of the program can be understood without reading the entire regulation. To improve usability, the remainder of the regulation has been divided into various segments which generally flow chronologically from proposal submission through project occupancy and management.

In order to aid in understanding the program, the revised regulation makes several changes in the basic terms used to describe the rent and assistance concepts of the program.

1. The term "total housing expense" has replaced the term "gross rent" which was confusing because the utility allowance (formerly "allowance for utilities and other services") making up part of the gross rent was not rent at all but rather an estimate of tenant-paid utilities and other services not included in the contract rent. Total housing expense is the sum of the contract rent and utility allowance, if any, for a unit.

2. The term "total family contribution" has replaced the term "gross family contribution." It consists of the "tenant rent," a new term which has been added to describe the portion of the total family contribution payable directly by the family to the owner, and any utility allowance for the unit the family is leasing.

3. The term "housing assistance payments" includes two payments—the "housing assistance payment to the owner" and in some cases an additional "housing assistance payment to the family." The housing assistance payment to the owner for a leased unit is the difference between the contract rent and the tenant rent described in number 2 above. An owner may also receive a housing assistance payment for a vacant unit. An additional housing assistance payment to the family is made only if the utility allowance described in number 1 above is greater than the total family contribution, in which case the family is paid the difference between the two in order that the allowed total family contribution is not exceeded.

With these new terms, the basic rent and assistance concepts of the program can now be expressed in several simple formulas:

(1) Total housing expense equals contract rent plus utility allowance.

(2) Total family contribution equals tenant rent plus utility allowance. (Where the utility allowance is greater than the total family contribution, the tenant rent is 0 and housing assistance payment to family equals utility allowance—total family contribution.)

(3) Housing assistance payment to owner equals contract rent—tenant rent.

(4) Housing assistance payments (to owner and to family, where applicable) equals total housing expense—total family contribution.

Several other terms have been introduced or revised for purposes of clarification or simplification. For example, the regulation now uses "contract administrator" to describe either HUD or the PHA as the party contracting with the owner for housing assistance payments.

Cost Containment

In the interest of providing housing at the lowest possible costs and rents, and thereby serving more families with available funding, the regulation includes the addition of several major cost containment features.

1. *Revised Limitation on Rents Including Cost Justification.* Although rent reasonableness has been a major determination of Section 8 project acceptability since the inception of the program, it has been implemented mainly through HUD handbooks, and an adequate explanation has never been included in the regulation. In addition to explaining rent reasonableness, the regulation includes more stringent standards in determining the reasonableness of rents.

The current rent reasonableness test allows rents in Section 8 projects to exceed rents for comparable unassisted units by up to 15 percent without cost justification of any kind (to compensate for increased security and management costs for family housing, and the additional costs for management and special amenities and design features for elderly housing, and for higher financing costs for all assisted housing), and by an additional 5 percent with cost justification. The new reasonableness test would permit Section 8 rents to exceed comparable rents by a maximum of 20 percent, but only when justified by cost estimates during processing and by cost certification at the time the project is completed. Small and partially-assisted projects for non-elderly families would be exempt from this cost justification to the extent the proposed Contract Rents do not exceed 110 percent of the comparable rent.

This change, as well as the continuation of current Fair Market Rent limitations, is contained in Section 881.204(b). The revision represents a major policy change which is expected to help avoid excessive expenditures under this program.

2. *Limitations on Replacement Costs.* To aid in controlling costs and assuring that Section 8 projects will be of "modest design," limits on project replacement costs have been included in § 881.204(d). The numerical limits are included in the regulation, and will be updated periodically by Notice published in the **Federal Register.**

The numerical limits as proposed are high enough to allow the use of all HUD mortgage insurance programs. Also, the regulation contains provisions similar to HUD mortgage insurance programs which provide for increases in the limits in high cost areas and additional increases in Alaska, Guam and Hawaii.

This limitation will require the submission of a replacement cost estimate by the developer at the preliminary proposal stage.

3. *Limitation on Amenities.* The current regulation does not expressly exclude amenities or design features considered luxurious, and some fear has been expressed that luxury level projects could result under the program. The revised regulation prohibits the inclusion of amenities or design features which would exceed the standards of modest quality housing in the area in which the project is proposed. Partially-assisted projects for non-elderly families are exempt from this limitation because of their predominantly unassisted nature. See § 881.204(e).

Limitations on Distributions. Section 881.205 of the revised regulation limits the distributions that can be made to profit-motivated owners out of surplus project funds, with different rates of return for family and elderly housing. Distribution for elderly projects is limited to 6 percent on equity and for non-elderly projects to 10 percent on equity. The higher rates of return for family projects are intended to provide additional incentive for developers to provide this "hard to get" type of housing.

The Assistant Secretary for Housing may provide for an increase in later years' distributions.

Any such adjustments will be made by Notice published in the **Federal Register.**

Return is to be calculated annually, and shortfalls in one year may be paid from excess funds accumulated in future years.

The appropriate FHA program regulations will be amended by the addition of a provision stating that distribution of project funds to mortgagors and the use of funds remaining after distribution will be governed by the Part 881 regulation in those cases where an insured project receives Section 8 assistance.

Relocation and Land Acquisition Requirements. The revised regulation makes substantial changes in relocation requirements in order to provide more equitable treatment to tenants temporarily or permanently displaced as a result of activities under this Part.

Section 881.209, Relocation and Land Acquisition Requirements, establishes the following:

1. The Uniform Relocation and Real Property Acquisition Policies Act of 1970 continues to apply to displacement resulting from the acquisition of real property by a public housing agency or other State agency.

2. For tenants temporarily or permanently relocated as a result of the project but are not subject to the Uniform Act, the owner must provide adequate notice and assistance in relocating to a suitable unit, reasonable moving and related expenses (or in some circumstances, a fixed payment for moving), temporary relocation expenses, and other related provisions.

3. If replacement housing within the tenant's ability to pay cannot otherwise be identified and government assistance that would satisfy this requirement cannot be secured, the owner may satisfy the requirements of Section 881.209 by providing the tenant with a lump sum payment equal to 48 times the amount, if any, necessary to reduce the monthly cost of a suitable replacement dwelling to 25 percent of the combined monthly gross income of all adult members of the tenant's household. This provision is applicable to tenants not subject to the Uniform Act.

4. Lower-income single persons who are displaced as a result of the project, may return to occupy assisted units in accordance with 24 CFR Part 812.

Pipeline Processing. The regulation, in Section 881.302, requires that previously submitted high quality approvable proposals "in the pipeline" which have not been funded be reviewed first when any new contract authority becomes available. This will both reduce and level out field office workload by requiring the offices to consider previously submitted, high quality proposals before soliciting the submission of new proposals which would require full reviews.

Preapproved Sites. Currently, requests for preapproved sites may be submitted at any time. Such requests may be received when no contract authority is available, or when the field office has little time to review such requests. Also, scattered submissions preclude comparison of requests. The revised regulation (Section 881.303) states that to the extent feasible such requests should be submitted early in the fiscal year. The purpose is to enable field offices to compare and approve requests prior to publication of the Notification of Fund Availability.

The revised regulation also permits local government selection of developers on a competitive basis for preapproved sites acquired with Community Development Block Grant (CDBG) funds.

Finally, in order to reduce field office processing, projects on preapproved sites not subject to competitive selection may skip the preliminary proposal stage. The first submission is comparable to a final proposal.

NOFA. Under current procedures, a field office issues various Notifications of Fund Availability (NOFAs) throughout the year requesting the submission of proposals for the various allocation areas within its jurisdiction. The process is repetitive and time-

consuming for the field office, and occasionally causes NOFAs to be deferred until so late in the fiscal year that proper processing and selection become difficult. Also, developers are frequently unaware of when NOFAs will be issued for areas in which they are interested and, therefore, are unable to plan accordingly.

Section 881.304 of the regulation requires a single publication which will provide notice that the field office will accept proposals for the various allocation areas within its jurisdiction. Specific information for each allocation area will be contained in a detailed NOFA which will be provided by the field office on request.

Proposals for projects for non-elderly families will be accepted as long as contract authority remains available and will be reviewed on a monthly cycle. Proposals for projects for the elderly will be accepted only up to a set deadline date. The reason for the differentiation between proposals for family and elderly projects is the relatively small number of proposals for family projects.

Small and Partially-Assisted Projects for Non-Elderly Families. In order to aid in deconcentration of assisted family housing, and thereby increase economic integration while at the same time lessening the impact of such housing on a neighborhood, the regulation contains exemptions from program requirements and special preferences to encourage development of small projects for non-elderly families (50 units or fewer) and partially-assisted projects for non-elderly families, i.e., projects of more than 50 units of which 20 percent or less are assisted under Section 8.

1. Small Projects. Exempt from cost justification requirement of Section 881.204(b)(2), if Contract Rents are no more than 10 percent above reasonable rents, and the limitation on distributions of Section 881.205. Option for use of a portion of contract authority made available in the NOFA for small projects only (Section 881.304(c)). Special preferences in selection for technical processing (Section 881.306(b)) and ranking (Section 881.307).

2. Partially-Assisted Projects. Exempt from cost justification requirement of Section 881.204(b)(2), if Contract Rents are no more than 10 percent above reasonable rents, limitation on replacement costs of Section 881.204(c), limitation on amenities of Section 881.204(e) and limitation on distributions of Section 881.205. Special preferences in selection for technical processing (Section 881.306(b)) and ranking (Section 881.307).

Rehabilitation Work Write-Up. Section 881.307(f) requires the performance of a rehabilitation work write-up by representatives of the owner and HUD. The purpose of this revision is to ensure essential agreement between the owner and HUD about the nature and extent of the proposed rehabilitation prior to submission of the final proposal.

Changes in Selection Procedures. The current regulation permits field offices to (1) place all acceptable proposals in technical processing and then rank all those found approvable in order to make selections or (2) identify clearly superior proposals, place only those clearly superior proposals in processing, and select those projects without further comparison to any others submitted. In some cases, field offices have processed far more proposals than could be funded, which creates costly delays to both the field office and the prospective developers. In other cases, where the clearly superior standard was used to reduce the processing burden on the field office, it was not applied in a consistent manner because it was not defined but was left to subjective judgment.

The revised regulation continues the requirement for a preliminary evaluation of all proposals. If the number found acceptable for further processing substantially exceeds the number which can be processed expeditiously, the field office is authorized to reduce the number of proposals to be placed in technical processing by use of specified comparison factors (see Section 881.306(b)) instead of the clearly superior standard. This approach assures that competition is maintained, and a pipeline of approvable proposals is identified, without causing undue delay and processing burden.

Improved Coordination of Section 8 and Mortgage Insurance Programs. The revised regulation has eliminated any request at preliminary proposal for special submissions for projects requesting mortgage insurance. At later stages of processing, all duplication of documents and reviews between the two programs has been eliminated. Section 8 documents and processing will constitute only a minor addition to the HUD mortgage insurance program requirements. (See Sections 881.306(d) and 881.308(b)).

Review of Architectural Drawings. The revised regulation requires field office review of all final architectural drawings and specifications to assure that excessive amenities are not included. (See Section 881.310.) HUD also reserves the right to review on a case-by-case basis for compliance with HUD Minimum Design Standards; this review is now and will continue to be done for all HUD mortgage-insured projects as part of mortgage insurance processing.

Site and Neighborhood Standards Unchanged. The revised regulation does not alter the current site and neighborhood standards. Revisions to these standards have been published for comment. Comments have been received and are currently under study. When new standards are published, they will replace the standards contained in this regulation. It is noted that 24 CFR, Part 200 Subpart N, Project Selection Criteria, does not apply to projects approved under Part 881.

Contract Provisions. Three major changes in the Housing Assistance Payments Contract are included in the revised regulation. First, the provision for an initial term of five years renewable at the sole option of the owner for up to the maximum total term of the Contract has been deleted. Under Section 881.502 of the revised regulation, the Contract will be executed for a single term without optional renewals. Second, where the estimated cost of the rehabilitation is less than 25 percent (25%) of the estimated value of the project after completion, the Contract will be executed for a single term, of 15 years rather than for five years renewable for an additional five years at the sole option of the owner as authorized by the previous regulation. The reason for these two changes is to assure that units developed under the Section 8 program remain available as assisted housing for the total term of the Contract. The third change, in Section 881.504, has the same purpose. It places a 10 percent limitation on the leasing of assisted units to ineligible families without the prior approval of HUD and provides for appropriate remedies, including a reduction of the number of units covered by the Contract.

A new provision is included in Section 881.501(a), similar to a provision in 24 CFR, Part 811. It permits execution of the Contract upon acceptable physical completion of the project, even though evidence of completion in other respects is not yet acceptable. In such cases, however, and until acceptable completion of all such other requirements, housing assistance payments will be limited to the amount of debt service, and rent-up and occupancy will be subject to field office conditions.

Changes have been made in Section 881.502(a) to limit the availability of a 40-year maximum Contract term to projects which:

(1) Are not financed with the aid of a loan insured, co-insured, made guaranteed or intended for purchase by the Federal Government,

(2) Are owned or financed by a loan or loan guarantee from a state or local agency,

(3) Are intended for occupancy by non-elderly families, and

(4) Are located in an area designated by HUD as requiring special financing assistance.

Special Marketing Requirements. With respect to marketing of Section 8 non-elderly family units, the revised regulation requires the owner to undertake marketing activities in advance of marketing to other prospective tenants in order to provide opportunities to non-elderly families who are least likely to apply as specified in the Affirmative Fair Housing Marketing Plan, and to non-elderly families expected to reside in the community by reason of current or planned employment, as indicated in the Housing Assistance Plan, if any.

Residency Requirements and Preferences. Section 881.603(b)(1) of the revised regulation prohibits residency requirements but allows residency preferences to the extent that they are not inconsistent with affirmative fair housing marketing objectives and the owner's HUD-approved Affirmative Fair Housing Marketing Plan.

Replacement Reserves. A replacement reserve has been added in Section 881.602. Experience with both HUD mortgage insurance programs and the state agency program indicates that reserves are an important form of insurance against default on the basis of operating shortfalls during the early years of a project and extraordinary maintenance, repair and capital costs in later years.

The replacement reserve is to be built up by annual deposits equal to .006 of the replacement cost with annual adjustment by the amount of the automatic annual adjustment factor. The reserve must be built up to and maintained at a level determined by HUD to be sufficient to meet projected requirements. Should the reserve achieve that level, the rate of deposits may be reduced with the approval of HUD. On the other hand, should withdrawals from the reserve and projected requirements make this necessary, higher rates of deposit may be required by HUD from time to time.

Termination of Tenancy and Modification of Leases. The provisions regarding termination of tenancy have been rewritten to bring the language and format in line with the recently published regulations for the Section 8 moderate rehabilitation program. Section 881.607 now specifies that a tenancy may be terminated by the owner only for good cause and provides detailed notice requirements. This section also contains provisions concerning modification of leases as of the end of any lease term.

Other Management changes. 1. Section 881.601(d) adds a requirement for the submission annually of audited financial and operating statements so that HUD can assure that a project is being properly managed.

2. Section 881.603(c) provides that owners will use their best efforts to achieve occupancy by families with incomes averaging at least 40 percent of the median income in the area for the purpose of promoting economically-mixed housing as stated in Section 8(a) of the U.S. Housing Act of 1937, as amended.

3. A new provision is added permitting a family to report at any time a change in income or other circumstances that would result in a decrease of its required family contribution. An owner may require a family to report increases in income between scheduled reexaminations.

4. Section 881.608 contains a requirement for a security deposit from the tenant, rather than the permissive provision included in the current regulation.

Related Section 8 Changes. 1. *Other Section 8 Regulations.* The program regulations for new construction (Part 880) and housing finance and development agencies (Part 883) are currently in the process of being revised also. Each of these regulations will reflect the major programmatic changes such as the addition of new cost containment factors. In addition, all three regulations will contain provisions which pertain to the unique aspects of the individual programs.

Neighborhood Strategy Areas and Demonstration Rehabilitation Program. Subpart C in the old regulation detailed procedures for Neighborhood Strategy Areas (NSAs). This rule redesignates Subpart C to cover "Proposed Submission to Start of Construction" and designates a new Subpart G to cover NSA procedures. Subpart G, however, is being reserved in this document and a revised regulation for the NSA program is published as a separate document in this edition of the **Federal Register.**

The former Subpart D containing procedures for the Demonstration Rehabilitation Program is deleted from this regulation. For all projects selected under the former Subpart D, a preliminary proposal has been submitted; therefore, the provisions of the subpart are no longer needed.

Applicability of the Regulation. 1. The revised Part 881 applies to all proposals for which a notification of selection was not issued before the effective date of the revision. Where a notification was issued for a proposal before the effective date, the revised Part applies if the owner notifies HUD within 60 calendar days that it wishes the revision to apply and promptly brings the proposal into conformance.

2. Subparts E and F apply to all projects for which an Agreement was not executed before the effective date of the revision. Where an Agreement was executed:

(a) The owner and HUD may agree to make the revised Subpart E applicable and to execute appropriate amendments to the Agreement and/or Contract.

(b) The owner and HUD may agree to make the revised Subpart F applicable (with or without the limitation on distribution) and to execute appropriate amendments to the Agreement and/or Contract.

(3) However, Section 881.607, Termination of Tenancy and Modification of Leases, applies to new families who begin occupancy or execute a lease on or after 30 days after the effective date of this revision. With respect to existing families under lease, this section applies when the lease is renewed on or after the 60th day following the effective date of this revision.

Inapplicability of NEPA: A Finding of Inapplicability regarding the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Accordingly, Part 881 is amended in its entirety as follows:

Accordingly, Part 881 is amended in its entirety as follows:

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR SUBSTANTIAL REHABILITATION

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881.104 Applicability of revised regulation.
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Subpart A—Summary and applicability

§ 881.101 General.

(a) *Purpose.* (1) The purpose of the Section 8 program is to provide lower-income families with decent, safe and sanitary rental housing through the use of a system of housing assistance payments. This Part contains the policies and procedures applicable to the Section 8 substantial rehabilitation program. The assistance may be provided to public housing agency owners or to private owners either directly from HUD or through public housing agencies.

(2) In addition to this regulation, Section 8 substantial rehabilitation assistance may also be made available through state housing finance and development agencies (24 CFR, Part 883), or in connection with direct HUD loans for housing for the elderly or handicapped (24 CFR, Part 885). Section 8 may also provide assistance in newly constructed housing (24 CFR, Part 880) or in existing housing in acceptable condition or needing only moderate rehabilitation (24 CFR, Part 882).

(3) This Part does not apply to projects developed under other Section 8 program regulations, including Parts 880, 882, 883 and 885, except to the extent specifically stated in those Parts.

(b) *Housing Assistance.* Under the Section 8 substantial rehabilitation program, monthly payments are made directly by the contract administrator (HUD or a public housing agency) to the project owner to assist an eligible family leasing an assisted unit or for vacancies in certain cases. These payments, known as "housing assistance payments," are made pursuant to a Housing Assistance Payments Contract, which is executed upon satisfactory completion and HUD acceptance of a project and which has a maximum term of from 15 to 40 years depending on how the project is financed. This Contract is discussed in Subpart E.

(c) *Tenant rents and eligible families.* In addition to the housing assistance payment, the project owner receives a tenant rent directly from the eligible family occupying an assisted unit. The total amount received by the owner for rent is called the contract rent and is set forth in the Contract. "Eligible families," including elderly and handicapped individuals, must have incomes within the HUD specified limits (based on 80% of median income for the area), and pay between 15% and 25% of their income for rent (including utilities), adjusted in accordance with HUD regulations in 24 CFR, Part 889.

(c) *Rent, cost and amenities limitations.* In the Section 8 substantial rehabilitation program, rents, replacement costs and amenities must comply with limitations contained in Subpart B. These limitations serve to establish the modest nature of housing assisted under the program and to assure that the rents in Section 8 housing are reasonable in relation to comparable unassisted housing in the area. After occupancy, rents will be adjusted to reflect changes in the costs of owning and operating rental housing.

(e) *Financing.* The Section 8 program provides only rental assistance. It does not provide construction or permanent financing. Section 8 may be used with any type of construction or permanent financing, such as FHA mortgage insurance programs, tax-exempt financing (see 24 CFR, Parts 811 and 883) and loans from conventional lending institutions. The owner can pledge the commitment to make housing assistance payments contained in the contract to support financing.

(f) *Eligible owners.* All types of private developers and sponsors, including profit-motivated and non-profit, and public housing agency developers and sponsors, are eligible to develop and own housing assisted under this program. In all cases, the owner is responsible for the determination of eligibility and selection of tenants and for all management and maintenance functions. The provisions governing project management are contained in Subpart F.

(g) *Allocation of contract authority.* HUD commits funding for substantial rehabilitation projects under the Section 8 program and increases the funding commitment for previously approved projects pursuant to contract authority provided by Congress. The contract authority for new projects is allocated to HUD field offices on the basis of a "fair share" formula reflecting population, poverty, overcrowding, housing condition and similar indices of housing need. Each field office, in turn, suballocates its contract authority among the various allocation areas within its jurisdiction on essentially the same "fair share" basis. Not every area receives an allocation of contract authority for substantial rehabilitation. A further description of this process is

contained in 24 CFR, Part 891, Subpart D.

§ 881.102 Processing.

Proposals for housing to be assisted under this Part are submitted to HUD field offices and processed differently depending on several criteria.

(a) Previously submitted "pipeline" proposals which are of high quality and were found approvable but not funded in the prior fiscal year are reviewed first when any new contract authority becomes available. If additional authority remains, HUD may consider preapproved sites, and, in certain areas, permit selection of developers by local governments. Where there are set-asides for projects to be owned by local public housing agencies or to be located in HUD-approved New Communities or for other purposes, proposals may be received, processed and approved without the need to await specified acceptance periods or to undergo formal competition. Sections 881.302 and 881.303 of Subpart C set forth these procedures.

(b) HUD receives other proposals under this Part from owners (developers) in response to public invitations, called notifications of fund availability (NOFAs), which request the submission of preliminary proposals containing a maximum number and type of units in a particular area. Interested owners obtain copies of the detailed developers' packet from the HUD field office which published the NOFA.

(c) HUD reviews all proposals received in response to a NOFA for deficiencies in documentation and content in order to determine eligibility for further processing. If there are more acceptable proposals than can be approved under available Section 8 contract authority, HUD evaluates the proposals, ranks them and selects the highest ranking proposals. Those not selected which are of high quality are placed in the pipeline for possible later funding. Proposals for projects for non-elderly families are accepted as long as contract authority remains available and are reviewed on a monthly cycle. Proposals for projects for elderly families must be submitted by the specified deadline date and are reviewed at the end of the submission period. Details of this process are contained in Subpart C, §§ 881.304 through 881.307.

(d) After HUD selects a preliminary proposal, the owner of the selected proposal submits a final proposal for the project. This proposal contains a more detailed description of the project, including cost and expense estimates where required, and more detailed plans for design, construction, financing and management. If the nature and extent of the rehabilitation are determined by HUD to require the sevices of a registered architect and the preparation of working drawings and specifications, such working drawings and specifications will be reviewed by HUD for compliance with program amenities limitations and may be reviewed by HUD, at its option, for compliance with "Minimum Design Standards for Rehabilitation for Residential Properties" contained in HUD Handbook 4940.4. After approval of the final proposal, an Agreement is executed by the owner and the contract administrator (either HUD or a public housing agency) and rehabilitation work begins. Details of this process are contained in Subpart C, §§ 881.308 through 881.311. The Agreement provides that a Contract will be executed upon proper construction, completion and acceptance by HUD of the project.

881.103 Development and management.

(a) *Development.* Development of the project is carried out in conformance with the Agreement. Increases in contract rents or utility allowances are permitted with HUD approval during the rehabilitation period only if they are necessary to cover cost increases as specified in § 881.403. The project will be accepted by HUD and a Contract executed upon completion in accordance with the Agreement. These provisions are contained in Subpart D, Sections 881.401 through 881.404.

(b) *Cost Certification.* As soon as possible after completion of a project, the owner, except in the case of exempted projects, will provide HUD with cost certifications. HUD will review the contract rents based on the owner's certified cost and reduce them where not justified by actual cost. Section 881.405 details this process.

(c) *Contract.* The owner and the contract administrator will execute the Contract on satisfactory completion of the project. The Contract provides that the owner will receive housing assistance payments for units being leased by eligible families and, under certain circumstances, payments for vacant units. The owner may not reduce the number of units in a project available for lower-income families by more than 10 percent without the prior approval of HUD. The term of the Contract varies depending on the extent of rehabilitation involved and the type of financing used by the owner. Administration of the Contract is done either by HUD or by a public housing agency under an Annual Contributions Contract with HUD to assure that the owner meets his/her obligations under the Contract. Subpart E contains provisions concerning the Contract.

(d) *Management.* The owner is responsible for all management functions, including marketing, selection of tenants, reexamination of family incomes, evictions and other terminations of tenancy and collection of rents. The owner must also provide for a replacement reserve. Contract rents will be adjusted annually in accordance with 24 CFR, Part 888. Subpart F contains management provisions.

§ 881.104 Applicability of revised regulation.

(a) The revised Part 881 applies to all proposals for which a notification of selection was not issued before the effective date of this revision. Where a notification of selection was issued for a proposal before the effective date, the revised Part will apply if the owner notifies HUD within 60 calendar days that he/she wishes the revision to apply and promptly brings the proposal into conformance.

(b) Subparts E (Housing Assistance Payments Contract) and F (Management) apply to all projects for which an Agreement was not executed before the effective date of the revision. Where an Agreement was so executed:

(1) The owner and HUD may agree to make the revised Subpart E applicable and to execute appropriate amendments to the Agreement and/or Contract.

(2) The owner and HUD may agree to make the revised Subpart F applicable (with or without the limitation on distributions) and to execute appropriate amendments to the Agreement and/or Contract.

(c) Section 881.607, Termination of Tenancy and Modification of Leases, applies to new families who begin occupancy or execute a lease on or after 30 days after the effective date of this revision. This section also applies to families not covered by the preceding sentence, including existing families under lease, with respect to all leases in which a renewal becomes effective on or after the 60th day following the effective date of this revision. A lease is considered to be renewed where both the landlord and the family fail to terminate a tenancy under a lease permitting either party to terminate.

§ 881.105 Applicability to proposals and projects under 24 CFR, Part 811.

Where proposals and projects are financed with tax-exempt obligations under 24 CFR Part 811, the provisions of Part 811 will be complied with in

addition to all requirements of this Part. In the event of any conflict between this Part and Part 811, Part 811 will control.

Subpart B—Definitions, Project Eligibility and Other Requirements

§ 881.201 Definitions.

ACC. (Annual Contributions Contract) For a private-owner/PHA project, for which the Contract is administered by a PHA, the ACC is the contract between the PHA (as contract administrator) and HUD. Under the ACC, HUD commits to provide the PHA with the funds needed to make housing assistance payments to the owner and to pay the PHA for HUD-approved administrative fees, and the PHA agrees to perform the duties of a contract administrator.

Agreement. (Agreement to Enter into Housing Assistance Payments Contract) The Agreement between the owner and the contract administrator which provides that, upon satisfactory completion of the project in accordance with the HUD-approved final proposal, the administrator will enter into the Contract with the owner.

Allocation Area. A municipality, county, one or more Indian areas, or group of contiguous municipalities or counties identified by HUD or in an approved Areawide Housing Opportunity Plan for the purpose of allocating housing assistance to support economically feasible housing projects.

Assisted Unit. A dwelling unit eligible for assistance under a Contract.

Contract. (Housing Assistance Payments Contract) The Contract entered into by the owner and the contract administrator upon satisfactory completion of the project, which sets forth the rights and duties of the parties with respect to the project and the payments under the Contract.

Contract Administrator. The entity which enters into the Contract with the owner and is responsible for monitoring performance by the owner. The contract administrator is a PHA in the case of private-owner/PHA projects, and HUD is private-owner/HUD and PHA-owner/HUD projects.

Contract Rent. The total amount of rent specified in the Contract as payable by HUD and the tenant to the owner for an assisted unit.

Decent, Safe and Sanitary. Housing is decent, safe and sanitary at project completion if the dwelling units and related facilities are accepted by HUD as meeting the requirements of the Agreement. Housing continues to be decent, safe and sanitary if it is maintained in a condition substantially the same as at the time of acceptance.

Elderly Family. An elderly family as defined in 24 CFR, Part 812, including an elderly, disabled or handicapped individual.

Fair Market Rent. HUD's determinations of the rents, including utilities (except telephone), ranges and refrigerators, parking, and all maintenance, management and other essential housing services, which would be required to obtain in a particular market area privately developed and owned, newly constructed or substantially rehabilitated rental housing of modest design with suitable amenities.

Family. (Eligible Family) A family which qualifies as a lower-income family, as defined in this section. For purposes of this definition, "family" will have the meaning of "family" contained in 24 CFR, Part 812 (including single, elderly, handicapped, disabled and displaced persons and the remaining member of a tenant family).

Final Proposal. The detailed description of a proposed project to be assisted under this Part, which an owner submits after selection of the preliminary proposal, except where a preliminary proposal is not required under Section 881.303(c). The final proposal becomes an exhibit to the Agreement and is the standard by which HUD judges acceptable construction of the project.

Household Type. The three household types are (1) elderly and handicapped, (2) family, and (3) large family.

Housing Assistance Payment. The payment made by the contract administrator to the owner of an assisted unit as provided in the Contract. Where the unit is leased to an eligible family, the payment is the difference between the total housing expense and the total family contribution. A housing assistance payment, known as a "vacancy payment," is made to the owner when an assisted unit is vacant. A payment is made to the family if the utility allowance is greater than the total family contribution.

Housing Assistance Plan. A housing plan which is submitted by a unit of general local government and approved by HUD as being acceptable under the standards of 24 CFR, Part 570.

Housing Type. The three housing types are new construction, rehabilitation, and existing housing.

HUD. The Department of Housing and Urban Development.

Independent Public Accountant. A Certified Public Accountant or a licensed or registered public accountant, having no business relationship with the owner except for the performance of audit, systems work and tax preparation. If not certified, the Independent Public Accountant must have been licensed or registered by a regulatory authority of a State or other political subdivision of the United States on or before December 31, 1970. In States that do not regulate the use of the title "public accountant," only Certified Public Accountants may be used.

Lower-Income Family. A family whose income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for the size of the family. HUD may establish income limits higher or lower if necessary in certain cases. For purposes of this definition, "income" shall have the meaning of "income for eligibility" contained in 24 CFR, Part 889.

New Communities. New community developments approved under Title IV of the Housing and Urban Development Act of 1968 and Title VII of the Housing and Urban Development Act of 1970.

NOFA. (Notification of Fund Availability) The notice published by HUD announcing the availability of contract authority for housing assistance and inviting the submission of proposals.

Owner. Any private person or entity (including a cooperative) or a public entity which qualifies as a PHA, having the legal right to lease or sublease substantially rehabilitated dwelling units assisted under this Part. The term owner also includes the person or entity submitting a proposal under this Part.

Partially-Assisted Project. A project for non-elderly families under this Part which includes more than 50 units of which 20 percent or fewer are assisted.

PHA. (Public Housing Agency) Any State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of housing for lower-income families.

PHA-Owner/HUD Project. A project under this Part which is owned by a PHA. For this type of project, the Agreement and the Contract are entered into by the PHA, as owner, and HUD, as contract administrator.

Preliminary Proposal. The application describing a proposed project under this Part which an owner submits in response to a NOFA in order to be selected for housing assistance.

Private-Owner/HUD Project. A project under this Part which is owned by a private owner. For this type of project, the Agreement and Contract are entered into by the private owner, as owner, and HUD, as contract administrator.

Private-Owner/PHA Project. A project under this Part which is owned by a private owner. For this type of project, the Agreement and Contract are entered into by the private owner, as owner, and the PHA, as contract administrator, pursuant to an ACC between the PHA and HUD. The term also covers the situation where the ACC is with one PHA and the owner is another PHA.

Project Account. A specifically identified and segregated account for each project which is established in accordance with Section 881.503(b) out of the amounts by which the maximum annual commitment exceeds the amount actually paid out under the Contract or ACC, as applicable, each year.

Rent. In the case of an assisted unit in a cooperative project, rent means the carrying charges payable to the cooperative with respect to occupancy of the unit.

Replacement Cost. The sum of the "as is" value before rehabilitation of the property as determined by HUD and the estimated cost of rehabilitation, including carrying and finance charges.

Secretary. The Secretary of Housing and Urban Development (or designee).

Small Project. A project for non-elderly families under this Part which includes a total of 50 or fewer (assisted and unassisted) units.

Substantial Rehabilitation. (a) The improvement of a property to decent, safe and sanitary condition in accordance with the standards of this Part from a condition below those standards. Substantial rehabilitation may vary in degree from gutting and extensive reconstruction to the cure of substantial accumulation of deferred maintenance. Cosmetic improvements alone do not qualify as substantial rehabilitation under this definition.

(b) Substantial rehabilitation may also include renovation, alteration or remodeling for the conversion or adaptation of structurally sound property to the design and condition required for use under this Part or the repair or replacement of major building systems or components in danger of failure.

Tenant Rent. The portion of the contract rent payable directly to the owner by an eligible family occupying an assisted unit. Tenant rent equals the total family contribution less any utility allowance.

Total Family Contribution. The portion of an eligible family's income payable toward the family's total housing expense, as determined in accordance with 24 CFR, Part 889.

Total Housing Expense. The total monthly cost of housing an eligible family, which is the sum of the contract rent and any utility allowance for the assisted unit occupied by the family.

Utility Allowance. An estimate, made or approved by HUD, of the cost of utilities (except telephone) and other essential housing services for an assisted unit which are not included in the contract rent paid directly to the owner but which are the responsibility of the eligible family leasing the unit.

Vacancy Payment. The housing assistance payment made to the owner by the contract administrator for a vacant assisted unit if certain conditions are fulfilled as provided in the Contract. The amount of the vacancy payment varies with the length of the vacancy period and is less after the first 60 days of any vacancy.

Very Low-Income Family. An eligible family whose income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for the size of the family.

§ 881.202 Project eligibility.

(a) For purposes of this Part, "substantial rehabilitation" refers to (1) housing for which rehabilitation work starts after execution of the Agreement, or (2) housing which is already undergoing rehabilitation when the Agreement is executed provided that:

(i) At the date of application to HUD, a substantial amount of rehabilitation work (generally at least 25 percent) remains to be completed;

(ii) At the date of application to HUD, the project cannot be completed and occupied by eligible families without assistance under this Part; and

(iii) At the time rehabilitation was initiated, all parties reasonably expected that the project would be completed and occupied without assistance under this Part.

(b) The Section 8 substantial rehabilitation program is for rental housing only; no assistance will be provided for any unit occupied by an owner. Cooperatives are considered rental housing rather than owner-occupied housing for purposes of this Part.

(c) Various types of rental housing can be assisted under this Part including: (1) single-family houses and multifamily structures; (2) housing designed for the elderly, disabled or handicapped, and (3) single-room occupant housing planned specifically as a relocation resource for eligible single persons.

(d) High-rise elevator projects for families with children are prohibited unless HUD determines that there is no practical alternative.

(e) Projects for non-elderly families are required, where practicable, to have at least 5 percent of the housing units designed and accessible to the physically handicapped.

(f) Housing assisted under other provisions of the U.S. Housing Act of 1937, such as public housing assisted with annual contributions under Sections 5 and 9 of the Act, is not eligible for assistance under this Part. Tax exemption under Section 11(b) of the Act is not considered assistance for this purpose.

(g) Conversions of substantially rehabilitated projects under the Section 23 Leased Housing Program to the Section 8 program will be permitted, where appropriate, provided that the Section 23 project qualifies as substantial rehabilitation under paragraph (a) of this section and that all parties, including HUD, agree.

(h) No proposal for housing under this Part may be approved unless the requirements of 24 CFR, Part 891, implementing Sections 213(a), (b) and (c) of the Housing and Community Development Act of 1974, as amended, concerning review and comment by units of general local government, have been satisfied. (See Section 881.306 (c)(1).)

§ 881.203 Fair market rents.

(a) Fair Market Rents are HUD's determinations of the rents, including utilities (except telephone), ranges and refrigerators, parking, and all maintenance, management and other essential housing services which would be required to obtain in a particular market area privately developed and owned, newly constructed and substantially rehabilitated rental housing of modest design with suitable amenities.

(b) Separate Fair Market Rents are established by unit size (number of bedrooms), basic structure type (detached, semi-detached/row, walk-up and elevator apartments) and occupant group (non-elderly family and elderly family, including handicapped) for individual market areas.

(c) The Fair Market Rents for (1) dwelling units designed for the elderly or handicapped are those for the appropriate size units, not to exceed 2-bedrooms for the elderly, multiplied by 1.05, rounded to the nearest whole dollar, (2) congregate housing dwelling units are the same as for non-congregate units, and (3) single room occupancy dwelling units are those for 0-bedroom units of the same type.

(d) Fair Market Rents are published in the Federal Register at least annually in accordance with 24 CFR, Part 888. Interim revisions for one or more market areas may be initiated by HUD at any

time and may be published as market conditions dictate.

§ 881.204 Limitations on contract rents, replacement costs and amenities.

(a) *Purpose and applicability of limitations.* The purpose of the Section 8 program is to assist lower-income families in renting decent, safe and sanitary housing of modest design with suitable amenities. This section sets limitations on the contract rents, replacement costs and amenities of projects developed under this Part. These limitations are intended to permit production of suitable housing without excessive costs, design features or amenities.

(b) *Limitation on contract rents.* The contract rents for a project from proposal submission through cost certification, must be within both of the following limitations:

(1) *Fair market rent.* The contract rent plus any utility allowance for the unit must not exceed the Fair Market Rent in effect at the time of processing except that for projects where the estimated cost of rehabilitation is less than 25 percent of the estimated value of the property after rehabilitation, the contract rent plus any utility allowance may not exceed 75 percent of the Fair Market Rents. The published Fair Market Rents will reflect a trended rent in order to allow for the period of rehabilition work as stated in the publication. If the secheduled rehabilitation period for a project is less, an appropriate reduction will be made in determining the approvable contract rent. The contract rent plus utility allowance may exceed the applicable Fair Market Rent or 75 percent thereof, under special circumstances or if needed to implement a local Housing Assistance Plan or Areawide Housing Opportunity Plan:

(i) By up to 10 percent with the approval of the HUD field office manager, or

(ii) By up to 20 percent with the approval of the HUD Assistant Secretary for Housing; and

(2) *Rent reasonableness.* The contract rent must be reasonable. Contract rents will be considered reasonable only under the following conditions:

(i) When HUD determines that the rents compare reasonably to or are below the rents of unassisted units of similar age, design and location which provide comparable amenities and services; or

(ii) Rents may exceed those determined by market comparison by no more than 20 percent only in cases where warranted by cost and expense estimates provided by the owner at final proposal and cost certification at completion, as specified in Sections 881.308 and 881.405; or

(iii) For small projects and partially-assisted projects, the rents may exceed the comparable rents by up to 10 percent without the cost justification set forth in paragraph (ii).

(c) *Limitation on replacement costs:*

(1) No proposal for a project to be assisted under this Part will be selected or approved by HUD, and no Agreement may be executed for a project, with an estimated replacement cost greater than the following limits plus any additional cost not attributable to dwelling use to the extent approved by HUD. The limits applicable to the part of the project attributable to dwelling use, as determined by HUD, are as follows:

(i) The basic limits are: (A) $23,720 per dwelling unit without a bedroom; (B) $27,129 per dwelling unit with one bedroom; (C) $32,983 per dwelling unit with two bedrooms; (D) $42,217 per dwelling unit with three bedrooms; and (E) $47,032 per dwelling unit with four or more bedrooms.

(ii) Where necessary to compensate for the higher costs incident to use of elevator type structures of sound standards of construction and design, HUD may increase the limits provided in paragraph (c)(1)(i) of this section, not to exceed: (A) $24,962 per dwelling unit without a bedroom; (B) $28,614 per dwelling unit with one bedroom; (C) $34,795 per dwelling unit with two bedrooms; (D) $45,011 per dwelling unit with three bedrooms; and (E) $49,409 per dwelling unit with four or more bedrooms.

(iii) For any market area where cost levels so require, the Assistant Secretary for Housing may increase, at the request of the field office, the dollar amount limits set forth in paragraphs (c)(1)(i) and (ii) by an amount not to exceed 75 percent.

(iv) If the Assistant Secretary finds that, because of high costs, it is not feasible to develop dwellings under this part in Alaska, Guam, or Hawaii without the sacrifice of sound standards of construction, design, and livability within the limits in paragraphs (c)(1)(i) and (ii), the principal amount of the replacement cost limits may be increased by amounts as are necessary to compensate for additional costs, but not to exceed the maximum, including high cost area increases under paragraph (c)(1)(iii), if any, otherwise applicable by more than 50 percent.

(2) Except for the exemption contained in paragraph (3), the limitation on replacement costs applies to all projects in their entirety.

(3) Partially-assisted projects are exempt from the replacement cost limitation of this paragraph.

(4) The mortgage amount of a HUD-insured proposal will be determined in accordance with the limitations and requirements of the applicable mortgage insurance program.

(5) Subsequent changes to the limitations on replacement costs under paragraphs (c)(1) will be made by Notice published in the **Federal Register** and will be available on request.

(d) *Excess costs.* The limitation of paragraph (c) will not prohibit the total actual cost of a project from exceeding the limit referred to in that paragraph. However, in determining or adjusting contract rents, HUD will not take into account or give credit for any cost which exceeds the applicable replacement cost limit.

(e) *Limitation on amenities.* (1) Amenities in projects assisted under this Part will be limited to those amenities which are generally provided in unassisted housing of modest design in the market area, as determined by HUD. Generally, the amenities included in the determination of Fair Market Rents for the area may be included in a project. The use of more durable, high quality materials to control or reduce maintenance and repair and replacement costs will not be considered an excess amenity.

(2) The field office will prepare a list(s) of acceptable amenities for use within its jurisdication. Other amenities will not be permitted unless the owner provides justification for each additional amenity to HUD, and its inclusion is approved by HUD.

(3) Except for the exemption contained in paragraph (4), the limitation on amenities applies to all projects in their entirety.

(4) Partially-assisted projects are exempt from the limitation of this paragraph.

§ 881.205 Limitation on distributions

(a) Non-profit owners are not entitled to distributions of project funds.

(b) For the life of the Contract, project funds may only be distributed to profit-motivated owners at the end of each fiscal year of project operation following the effective date of the Contract after all project expenses have been paid, or funds have been set aside for payment, and all reserve requirements have been met. The first year's distribution may not be made until cost certification, where applicable, is completed. Distributions may not exceed the following maximum returns:

(1) For projects for elderly families, the first year's distribution will be limited to 6 percent on equity. The Assistant Secretary for Housing may provide for increases in subsequent years' distributions on an annual or other basis so that the permitted return reflects a 6 percent return on the value in subsequent years, as determined by HUD, of the approved initial equity. Any such adjustment will be made by Notice in the **Federal Register.**

(2) For projects for non-elderly families, the first year's distribution will be limited to 10 percent on equity. The Assistant Secretary for Housing may provide for increases in subsequent years' distributions on an annual or other basis so that the permitted return reflects a 10 percent return on the value in subsequent years, as determined by HUD, of the approved initial equity. Any such adjustment will be made by Notice in the **Federal Register.**

(c) For the purpose of determining the allowable distribution, an owner's equity investment in a project is deemed to be 10 percent of the replacement cost of the part of the project attributable to dwelling use accepted by HUD at cost certification (see § 881.405), unless the owner justifies a higher equity contribution by cost certification documentation in accordance with HUD mortgage insurance procedures.

(d) Any short-fall in return may be made up from surplus project funds in future years.

(e) If HUD determines at any time that project funds are more than the amount needed for project operations, reserve requirements and permitted distribution, HUD may require the excess to be placed in an account to be used to reduce housing assistance payments or for other project purposes. Upon termination of the Contract, any excess funds must be remitted to HUD.

(f) Owners of small projects or partially-assisted projects are exempt from the limitation on distributions contained in paragraphs (b) through (d).

(g) In the case of HUD-insured projects, the provisions of this section will apply instead of the otherwise applicable mortgage insurance program provisions.

§ 881.206 Site and neighborhood standards.

Proposed sites for substantial rehabilitation projects must be approved by HUD as meeting the following standards:

(a) Adequate utilities (water, sewer, gas and electricity) and streets must be available to service the site.

(b) The site and neighborhood must be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto.

(c) The site must promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.

(d) The site must be free from serious adverse environmental conditions, or there must be evidence that any such conditions will be corrected by the time the rehabilitation is completed. Compliance with Environmental Criteria and Standards in accordance with 24 CFR, Part 51 is required.

(e) The site must comply with any applicable conditions in the local Housing Assistance Plan approved by HUD.

(f) The housing must be accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.

(g) Travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for lower-income workers, must not be excessive. (While it is important that elderly housing not be totally isolated from employment opportunities, this requirement need not be adhered to rigidly for such projects.)

(h) The project may not be located on a site that has occupants unless the relocation requirements referred to in Section 881.209 are met.

(i) The project may not be located in an area that has been identified by HUD as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, unless the project is covered by flood insurance as required by the Flood Disaster Protection Act of 1973, and it meets any relevant HUD standards and local requirements. Compliance with HUD regulations issued pursuant to Executive Order 11988 on Flood Plain Management and to Executive Order 11990, on Protection of Wetlands is required.

§ 881.207 Property standards.

Projects must comply with:

(a) HUD Minimum Design Standards for Rehabilitation for Residential Properties (HUD Handbook 4940.4);

(b) in the case of congregate or single room occupant housing, the appropriate HUD guidelines and standards;

(c) HUD requirements pursuant to Section 209 of the Housing and Community Development Act of 1974 for projects for the elderly or handicapped;

(d) HUD requirements pertaining to noise abatement and control;

(e) HUD regulations issued pursuant to the Lead Based Paint Poisoning Prevention Act, 42 USC 4601; and

(f) applicable State and local laws, codes, ordinances and regulations.

§ 881.208 Financing.

(a) *Types of financing.* Any type of construction financing and long-term financing may be used, including: (1) conventional loans from commercial banks, savings banks, savings and loan associations, pension funds, insurance companies or other financial institutions; (2) mortgage insurance programs under the National Housing Act; and (3) financing by tax-exempt bonds or other obligations.

(b) *HUD approval.* HUD must approve the terms and conditions of the financing to determine consistency with these regulations and to assure they do not purport to pledge or give greater rights or funds to any party than are provided under the Agreement, Contract, and/or ACC. Where the project is financed with tax-exempt obligations, the terms and conditions will be approved in accordance with the following:

(1) Issuers of tax-exempt obligations pursuant to Section 11(b) of the U.S. Housing Act of 1937 will be subject to 24 CFR, Part 811.

(2) Issuers of tax-exempt obligations exempt from Federal taxation under any provisions of law or governmental regulation other than Part 811 (except for State Agencies qualified under Part 883) must submit all documents required by 24 CFR, Sections 811.107, 811.108, 811.109, and 811.110 to the field office for review and approval. The terms and use of these obligations and the operation of the project will comply with the requirements of Part 811. (See also 24 CFR, Section 811.117.)

(3) Issuers of tax-exempt obligations which are State Agencies qualified under Part 883 and which are not subject to Part 811 will comply with the requirements of Part 883 with regard to approval of tax-exempt financing.

(c) *Pledge of contracts.* An owner may pledge, or offer as security for any loan or obligation, an Agreement, Contract or ACC entered into pursuant to this Part: Provided, however, that such financing is in connection with a project constructed pursuant to this Part and approved by HUD. Any pledge of the Agreement, Contract, or ACC, or payments thereunder, will be limited to

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the amounts payable under the Contract or ACC in accordance with its terms. If the pledge or other document provides that all payments will be paid directly to the mortgagee or the trustee for bondholders, the mortgagee or trustee will make all payments or deposits required under the mortgage, trust indenture of HUD regulations and remit any excess to the owner.

(d) *Foreclosure and other transfers.* In the event of foreclosure, assignment or sale approved by HUD in lieu of foreclosure, or other assignment or sale approved by HUD:

(1) The Agreement, the Contract and the ACC, if applicable, will continue in effect, and

(2) Housing assistance payments will continue in accordance with the terms of the Contract.

§ 881.209 Relocation and Land Acquisition Requirements.

(a) *Application of the Uniform Act.* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and HUD implementing regulations at 24 CFR Part 42 (Uniform Relocation Assistance and Real Property Acquisition) apply to the acquisition of real property by a PHA or other State agency (as defined at 24 CFR 42.85) for a project assisted under this Part and to any displacement that results from such acquisition.

(b) *Displacement not subject to the Uniform Act.* With respect to any residential tenants (not owner-occupants) who will be permanently or temporarily relocated as a direct result of a project that is assisted under this Part, but who are not assisted under the Uniform Act, the following policies will apply:

(1) Such tenants are eligible for the relocation assistance and benefits described below if they are relocated following the submission to HUD of the preliminary proposal for the project (or first proposal if the proposal is submitted in accordance with Section 881.303, Special Categories) except where (i) their tenancy is terminated on the grounds set forth in Section 861.607(b)(1), or (ii) they take occupancy after HUD's preliminary approval of the proposal with notice from the owner of the pending proposal and potential displacement.

(2) Within a reasonable period of time prior to displacement, each tenant to be permanently relocated will be provided a reasonable choice of opportunities to move to a suitable replacement dwelling unit from among available units so located as to promote choice outside areas of low income and minority concentration.

(3) For purposes of this section, a suitable replacement dwelling is:

(i) Decent, safe and sanitary as defined in 24 CFR 42.47.

(ii) Available within the tenant's ability to pay (i.e., the monthly rent and average estimated cost of utilities does not exceed 25 percent of the combined monthly gross income of all adult members of the tenant's household);

(iii) In an area not subject to unreasonable adverse environmental conditions, either natural or man-made;

(iv) In a location that is not generally less desirable than the location of the displaced tenant's dwelling with respect to public utilities, commercial and public facilities, and the tenant's place of employment (or to sources of employment, if the tenant is unemployed but seeking work).

(4) Each tenant will be reimbursed by the owner for reasonable moving and related expenses at the levels described at 24 CFR 42.303 or may receive, at the discretion of the owner, a fixed payment for moving expenses in accordance with 24 CFR 42.353.

(5) A tenant may be required to relocate for a temporary period only if this is necessary to carry out the project and he/she is permitted to occupy a dwelling in the completed project. If required, the temporary relocation will not exceed 12 months in duration; a decent, safe, and sanitary dwelling in an area not subject to unreasonably adverse environmental conditions will be available to the tenant for the period of the temporary relocation; and the tenant will be reimbursed actual, reasonable out-of-pocket expenses, including moving costs to and from the temporarily occupied dwelling and any increase in monthly housing cost (rent and reasonable utility costs) incurred in connection with the temporary relocation. If the new dwelling unit is not ready for occupany within the 12-month period, the tenant will be notified of the earliest date by which it will be ready, and the tenant in that case will have the right to agree to wait until the extended date or to request that he/she be treated as permanently displaced.

(6) All tenants occupying property on which substantial rehabilitation units will be developed will be provided with advance information in writing and by personal explanation that is sufficient to enable them to understand fully the reason for their displacement and the relocation opportunities and assistance which is available to them.

(7) All tenants will be provided appropriate advisory services necessary to minimize hardships in adjusting to required permanent or temporary relocation.

(8) No lawful occupant will be required to move from his/her dwelling or to move his/her business without at least 90 days advance written notice of the earliest date by which he/she may be required to move.

(i) If the tenant is provided but refuses a reasonable choice of opportunities to move to a suitable replacement dwelling, the owner will not be obligated to make further efforts to provide replacement housing.

(ii) If replacement housing within the tenant's ability to pay cannot otherwise be identified and government assistance that would satisfy this requirement cannot be secured, the owner's obligation under this section may be satisfied by providing the tenant with a lump sum payment equal to 48 times the amount, if any, necessary to reduce the monthly housing cost (rent and utilities) of a suitable replacement dwelling to 25 percent of the combined monthly gross income of all adult members of the tenant's household.

(iii) A tenant who believes he/she has not received the proper relocation payments or opportunities to relocate to a decent, safe and sanitary dwelling to which the tenant is entitled under this Section may appeal to the HUD field office.

(iv) Owners are responsible for assuring that payments and services required by this section are provided. Costs incurred by the owner in providing these services and payments may be included in project replacement cost (see Sections 881.403(a)(6) and 881.405(a)) except that payments to tenants permanently relocated in accordance with paragraph (ii) may not be so included.

(c) *Eligibility of lower-income single persons.* Lower-income single persons, who are not elderly or handicapped but who are displaced as a result of the project, may return to occupy assisted units in accordance with 24 CFR, Part 812.

§ 881.210 Other Federal requirements.

(a) *Equal opportunity requirements.* Participation in this program requires compliance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Orders 11063 and 11246, and Section 3 of the Housing and Urban Development Act of 1968, and all related rules, regulations and requirements.

(b) *National Environmental Policy Act.* Participation in this program requires compliance with the National Environmental Policy Act and all related rules, regulations and requirements.

(c) *Clean Air Act and Federal Water Pollution Control Act.* Participation in this program requires compliance with the Clean Air Act and the Federal Water Pollution Control Act and all related rules, regulations and requirements.

(d) *Davis-Bacon and related acts.* Participation in this program requires that payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (49 Stat. 1011), be paid to all laborers and mechanics employed in the development of any project with nine or more assisted units and compliance with all other related rules, regulations and requirements.

(e) *Rehabilitation Act.* Participation in this program requires compliance with the Rehabilitation Act of 1973 and Executive Order 11914 and all related rules, regulations and requirements.

(f) *Other Federal statutes and regulations.* Participation in this program requires compliance with the National Historic Preservation Act (Public Law 89–665), the Archeological and Historic Preservation Act of 1974 (Public Law 93–291), and Executive Order 11593 on Protection and Enhancement of the Cultural Environment, including the procedures prescribed by the Advisory Council on Historic Preservation in 36 CFR, Part 800.

Subpart C—Proposal Submission To Start of Construction

§ 881.301 Allocation of contract authority to field offices.

(a) Funding authorization for the Section 8 program is assigned to HUD field offices annually in the form of contract authority, which is the maximum amount authorized for annual commitments under Contracts. Assignments are made pursuant to 24 CFR, Part 891, Subpart D. Each field office suballocates this authority to the areas within its jurisdiction, also in accordance with Part 891, Subpart D.

(b) In the allocation process, the field office determines the amount of contract authority and the approximate number of units of Section 8 substantial rehabilitation specifically designed for elderly families, non-elderly families and for large non-elderly families (5 or more persons) which will be made available in each allocation area.

(c) For the contract authority made available in each allocation area, the HUD field office will process proposals as provided for in Sections 881.302, 881.303, and 881.304.

§ 881.302 Procedures for resumption of processing of proposals and preapproved site requests.

(a) *Review of pipeline.* Prior to the publishing of a NOFA or the consideration of requests for preapproved sites, the pipeline of approvable proposals which are of high quality relative to the standards and requirements of this Part submitted in the same or the prior fiscal year and preapproved site requests will be reviewed to determine whether to resume processing for any or all of them. In making the decision as to whether to resume processing, the following will be considered:

(1) Whether the proposal or preapproved site request is consistent with the final or tentative allocation plan for the area in which the project is proposed to be located;

(2) Whether the proposal or preapproved site request conforms to the housing type and household type requirements of any applicable Housing Assistance Plan;

(3) Whether the proposal or preapproved site request is consistent with priorities for targeting of contract authority to localities which have previously been underfunded relative to their needs and the funding of the needs of other localities in that allocation area.

(b) *Notice to owners or local governments.* Owners of proposals or local governments with preapproved site requests which are eligible in accordance with paragraph (a) to resume processing will be sent a letter requesting them to advise HUD within a specified time, generally 5 days, as to whether or not they wish processing to be resumed on their proposals or requests and, if their decision is in the affirmative, to submit to HUD the following within a specified time, generally 10 days (for a total of 15 days):

(1) For proposals, updated proposed rents;

(2) For proposals, the replacement cost estimate required by § 881.305;

(3) Up-to-date evidence of site control; and

(4) Any information on other factors which might affect the current approvability of their proposals or requests.

Owners or local governments may submit any other information they wish, but the field office is not required to consider this additional information.

(c) *Section 213 and A–95 clearance.* Upon receipt of notification from an owner that he/she wishes processing of a proposal to be resumed, the unit of general local government and A–95 clearinghouse, where applicable, will be notified under Part 891 of the resumption of processing and asked for comments (1) if the proposal is more than 6 months old or (2) if there has been a substantive change in the local Housing Assistance Plan.

(d) *Resumption of processing.* Upon receipt of the updated information, the field office will resume processing of the proposal or request in accordance with Section 881.306(c) or 881.303(a).

(e) *Notice where processing not resumed.* Owners of proposals and local governments with preapproved site requests for which processing is not resumed because of failure to meet the requirements of paragraphs (a) and (b), or for which owners or local governments do not request resumption of processing, will be notified in writing that their proposals or requests will not be processed further. One file copy of each such notice will be retained by the field office.

§ 881.303 Special procedures for certain categories of proposals.

(a) *Preapproved sites.* (1) Units of general local government may submit written requests to the field office for preapproval of sites. To the extent feasible, such requests should be submitted early in the fiscal year. Requests for preapproval must indicate the anticipated number of units, structure type, household type, bedroom distribution and the price at which the site will be made available. Further, the local government must indicate if it wishes to select the proposal as allowed under paragraph (a)(5) of this section.

(2) If the field office determines that use of a site for which preapproval has been requested may be appropriate, it will review the request to determine compliance with site and neighborhood standards (Section 881.206) and environmental standards, and to determine the acceptability, as to both reasonableness and feasibility, of the proposed price at which the site will be made available. The request will also be reviewed for consistency with the allocation plan for the area, any applicable Housing Assistance Plan and targeting priorities described in Section 881.302(a)(3).

(3) If the site meets all of these requirements, the field office will advise the unit of general local government:

(i) That the site is approvable for Section 8 use;

(ii) Of the approximate number of units, by structure type, household type and bedroom distribution that may be assisted;

(iii) Of the contract authority required;

(iv) Whether HUD has reserved such contract authority, will do so as soon as sufficient contract authority becomes

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available or will retain the request in the pipeline for consideration in accordance with § 881.302; and

(v) How processing will proceed, including how selection of the proposal will be accomplished.

(4) Reservations of contract authority for preapproved sites may be made only after the amount of authority necessary for pipeline proposals has been determined.

(5) For approvable sites in Federally-assisted urban renewal areas selection of the proposal may be under applicable urban renewal procedures, subject to the field office approval. For sites acquired or to be acquired with Community Development Block Grant funds or located in non-Federally-assisted urban renewal areas, the local government may select the proposal in accordance with a competitive method approved by the field office and consistent with State law.

(6) For approvable sites outside those areas set forth in paragraph (a)(5) of this section, selection of the proposal will be accomplished by the field office by publishing a NOFA requesting proposals for that site pursuant to Section 881.304.

(b) *Other categories.* Where set-asides are made for projects to be owned by PHAs, for projects to be located in New Communities or for other purposes, proposals may be obtained by invitation or other appropriate means, as determined by the field office, or the New Communities Development Corporation where appropriate. Selection procedures may be modified, as approved by the Assistant Secretary for Housing, to meet the objectives of the set-asides. Prior to submission of proposals, prospective owners will be advised of the modified procedures.

(c) *Proposal submissions for special categories of projects.* Preliminary proposals are not required for projects submitted pursuant to paragraphs (a) or (b), except in the case of proposals under paragraph (a)(6) of this section. The first proposal submitted for such projects may be a final proposal in accordance with Section 881.308.

(d) *Special local government option.* Local governments may be authorized by the Assistant Secretary for Housing to select proposals on sites located in their jurisdictions. Procedures for local government selection of proposals under this paragraph will be published by Notice in the **Federal Register**.

§ 881.304 Publication of NOFA and receipt of proposals.

(a) After determination of the amount of contract authority necessary for pipeline proposals as provided in Section 881.302, and any commitments of contract authority for preapproved sites or other categories as provided in Section 881.303, the field office will publicize the availability of the remaining contract authority, if any, in accordance with paragraph (b) of this section.

(b) A summary notification of fund availability (NOFA) for all allocation areas within the jurisdiction of the field office will be published at least once a week for two consecutive weeks in a newspaper(s) of general circulation in the allocation areas. The summary NOFA will identify the estimated contract authority and approximate number of units by housing and household type for each allocation area. Specific information for each allocation area will be contained in a detailed NOFA which will be provided upon request. The detailed NOFA will identify the geographic area of each allocation area for which contract authority is available and include the following information for each area:

(1) The contract authority available for substantial rehabilitation and the approximate number of units for elderly, non-elderly and large non-elderly families that the contract authority is expected to support;

(2) The first and last dates for acceptance of preliminary proposals for projects for elderly families and the first date for acceptance of proposals for projects for non-elderly families;

(3) The fact that proposals for projects for non-elderly families will be accepted at any time after the initial acceptance date so long as contract authority remains available, and that all such proposals received during one 30-day period will be processed and, if necessary, ranked against each other;

(4) The fact that the NOFA will be cancelled for an allocation area when all available contract authority has been or is expected to be used or when a decision by HUD pursuant to Section 891.405 to reallocate any unused contract authority has been made;

(5) The fact that developer's packets for each allocation area and type of proposal will be available prior to the opening date for submission of proposals and that information and assistance are available from the field office.

(c) Where practical, the NOFA may indicate that in order to encourage submission of proposals for small projects, a specific portion of the contract authority available under the NOFA may be utilized only for small projects.

(d) Copies of the detailed NOFA will be provided to minority and fair housing organizations, media and the chief executive officer of each jurisdiction with a Housing Assistance Plan.

(e) Field offices may issue Conditional NOFAs subject to the sufficiency of a future allocation of contract authority. Proposals received in response to a Conditional NOFA will be processed in accordance with the provisions of Section 881.308, but notifications of selection will not be sent until contract authority becomes available and is reserved.

(f) Proposals will be accepted by the field office beginning on the published opening date for submission and may be opened for review immediately. The contents will remain confidential until sent by the field office to the A-95 clearinghouses or local government for review or, in the case of projects for elderly families, until the deadline date has passed, whichever is earlier.

§ 881.305 Contents of preliminary proposal.

Each preliminary proposal must contain:

(a) Identification of the property(ies) proposed to be rehabilitated and a map showing the location of the site(s) and the racial composition of the neighborhood(s).

(b) Evidence that the owner has site control or a description of the action likely to result in such control.

(c) A description of the property "as is" in accordance with instructions in the developer's packet.

(d) A description of the proposed rehabilitation in accordance with instructions in the developer's packet.

(e) The number of units by unit size (number of bedrooms) and the type of occupacy (elderly (including handicapped), family, large family) proposed after completion of the rehabilitation.

(f) Listing of amenities.

(g) Estimated date of completion and whether or not it will be completed in stages.

(h) Evidence that the proposed rehabilitation is permitted by current building, housing and other codes, zoning ordinances or regulations or evidence to indicate that needed action required to make the rehabilitation permissible is likely and will not delay the project.

(i) The proposed contract rent per unit, including an indication of which utilities, services and equipment are included in the rent and which are not. For those utilities and services which are not included, an estimate of the average monthly cost for each unit type for the first year of occupancy.

(j) The estimated replacement cost per unit and the estimated total replacement cost, including any cost not attributable to dwelling use.

(k) A statement describing how the proposal is consistent with any applicable Housing Assistance Plan, and/or Areawide Housing Opportunity Plan;

(l) If demolition is proposed for any structure, a description of the proposed reuse of the land including sketch plans for architectural and landscape treatment.

(m) A description of the existing utility combination, whether or not a change to a different combination is proposed and, if so, a description of the new combination. To the extent feasible, individual meters should be utilized where an existing system is replaced.

(n) A statement as to whether or not the services of a registered architect will be utilized for preparation of final working drawings and specifications.

(o) Information concerning displacement of site occupants. If any displacement will occur: the number of households affected, by size and race, and the business concerns affected, by race, and whether they own or rent; the number to be temporarily or permanently displaced; the steps, if any, to be taken to minimize displacement; a demonstration that relocation is feasible; and a statement as to how necessary relocation payments will be funded (see Section 881.209 for relocation requirements);

(p) A signed certification on the prescribed form of the owner's intention to comply with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, Executive Order 11246, and Section 3 of the Housing and Urban Development Act of 1968, and of the owner's intention to will undertake marketing activities as required by Section 881.601(a).

(q) The identity of the owner, developer, builder, architect (if applicable and identity is known), management agent (and other participants) and the names of officers and principal members, shareholders, investors, and other parties having a substantial interest; the previous participation of each in HUD programs on the prescribed HUD form; and a disclosure of any possible conflict of interest by any of these parties which would be a violation of the Agreement, the Contract, or the ACC, if any; and information on the qualifications and experience of the principal participants;

(r) The proposed financing method and proposed terms of financing. For proposals not requesting mortgage insurance, written evidence of review and interest by a lender which may include a state housing finance agency or financing agency under Part 811, or bond underwriter, indicating that the financing is likely to be available for the proposed project;

(s) The proposed term of the contract, and justification for the term, in accordance with § 881.502;

(t) The identity of the contract administrator entity (PHA or HUD).

(u) Whether the owner wishes to designate alternative properties for consideration by HUD, in its discretion, if the principally designated properties are not acceptable; if so, the owner should include for each alternative property, the information required in paragraphs (a), (c), (e), (i), and (o).

§ 881.306 Preliminary evaluation and technical processing.

(a) *Preliminary evaluation.* (1) After receipt of a preliminary proposal for a project for elderly families received prior to the deadline date in the NOFA, the field office will make a preliminary evaluation of the proposal in accordance with paragraph (a)(3) of this section. Proposals received after the deadline date will be returned unopened.

(2) After receipt of a preliminary proposal for a project for nonelderly families, the field office will, so long as contract authority remains available, make a preliminary evaluation of each such proposal in accordance with paragraph (a)(3) of this section.

(3) In performing the preliminary evaluation, the field office will determine whether it appears, without field review, that:

(i) the proposal contains all of the required documentation in the proper form; and

(ii) the proposal is responsive to and in compliance with the requirements of the NOFA, developer's packet, and program policies and regulations, including Fair Market Rent, replacement cost, and amenities limitations.

(4) If a proposal is found deficient in accordance with paragraph (a)(3), it may be rejected. If a deficiency is minor, or if there are not sufficient proposals to use the available contract authority, the field office may request correction of the deficiency (including designation of alternative properties designated in the proposal, if any) within a specified time period.

(5) If the proposal is not deficient, or if necessary corrections are made within the time limit established by the field office, the proposal will be considered in accordance with paragraph (b) or (c) as appropriate.

(b) *Selection for technical processing.* (1) In the event the number of proposals found eligible for technical processing exceeds the number that the field office can process expeditiously, the field office may limit the proposals placed into technical processing to those which comprise a total number of units approximately equal to two to four times the number of units which can be approved. In order to determine which proposals to place into technical processing, the field office will, in order to eliminate the excess, rank the proposals by household type (elderly and non-elderly) considering the following factors and such other factors as may have been recommended by the field office and approved by the Assistant Secretary (if the NOFA indicated that a specific portion of contract authority may be utilized for small projects, any proposals for such projects shall be ranked separately and not in competition with other nonelderly proposals):

(i) The previous experience and qualifications of the owner, developer, builder, architect, management agent and other participants in development, marketing and management (particularly of non-elderly housing);

(ii) Responsiveness to the preferences and priorities contained in any applicable Housing Assistance Plan;

(iii) The current suitability of the site for development and the availability of utilities and services;

(iv) The permissiveness of current zoning, building, housing and other codes, ordinances and regulations;

(v) The likelihood of financing and the relative speed with which a firm financing commitment can be obtained;

(vi) The relative need for and prior housing assistance to the jurisdiction in which the housing would be located; and

(vii) Where consistent with local priorities, the extent to which the project provides assisted housing opportunities in neighborhoods that are or will be experiencing displacement caused by revitalization and an influx of higher income households.

(2) Preference points in selection of proposals for technical processing will be given to small projects (where no specific amount of contract authority is made available in the NOFA) and partially-assisted projects.

(3) The owners of proposals not selected for technical processing will be notified that their proposals will not be processed further and will not be considered for selection under the provisions of § 881.302.

(4) One copy of each proposal will be retained by the field office.

(c) *Technical processing.* (1) In accordance with the procedures in 24 CFR, Part 891, a description of each

proposal placed in technical processing will be sent to the unit of general local government for review and comment. In accordance with OMB Circular A–95 and 24 CFR Part 891, a copy of each proposal will also be sent to the A–95 state and areawide clearinghouses.

(2) Technical processing in the field office will include a review of the rents (see paragraph (3)), site, physical condition of the property, its suitability for rehabilitation and whether or not the work proposed is adequate and can be feasibly accomplished; overall design; experience of the owner and other participants, local government and A–95 clearinghouse comments, extent of displacement and feasibility of relocation, feasibility of the project as a whole (including financing and marketability) and compliance with all applicable standards and requirements, including a HUD review for consistency with the Housing Assistance Plan, or for determination of need in areas without a Housing Assistance Plan, pursuant to 24 CFR, Part 891. Any deficiencies found will be treated in the same manner as deficiencies found during preliminary evaluation (see paragraph (a)(4) of this section).

(3) The field office will evaluate proposed rents in accordance with § 881.204(b)(2).

(i) If the proposed rents are no more than the rents determined to be comparable, or are within 110 percent of comparable rents for small and partially-assisted proposals, the rents will be accepted.

(ii) If the proposed rents exceed the comparable rents by not more than 20 percent, they can be tentatively accepted subject to cost estimation at final proposal (see Sections 881.308(a) and 881.309(a)(2)) and cost certification after completion (see Section 881.405).

(iii) If the proposed rents exceed the comparable rents by more than 20 percent, the field office may either reject the proposal or tentatively accept rents up to 120 percent of the comparable rents subject to cost estimation at final proposal and cost certification after completion.

(4) Amenities and design features will be reviewed to assure that they do not exceed those normally provided in housing of modest design in the general area of the proposed project.

(5) HUD will conduct an environmental review of the Proposal in accordance with HUD procedures.

(d) *Proposals Requiring Mortgage Insurance.* Proposals requiring mortgage insurance need not contain more information than is required for a preliminary proposal not requiring mortgage insurance. Technical processing of such proposals will include a preliminary determination of eligibility under the applicable mortgage insurance program. If such proposals are selected, subsequent processing will be in accordance with Section 881.308(b), and applicable mortgage insurance requirements. If the proposal is ineligible for mortgage insurance, it may be rejected, or the field office may request the owner to submit documentation showing availability of an alternative method of financing.

§ 881.307 Selection of proposals and use of remaining or additional contract authority.

(a) All of the proposals found approvable in technical processing may be selected if sufficient contract authority is available. In no case will proposals be selected prior to completion of and without compliance with the allocation plan.

(b) If the available contract authority is insufficient to select all proposals found approvable in technical processing, all approvable proposals will be ranked by household type (elderly and non-elderly). If the NOFA indicated that a specific portion of the contract authority may be utilized only for small projects, any proposals for such projects shall be ranked separately and not in competition with other nonelderly proposals. The ranking factors are: rents; site (including minority concentration considerations); design; suitability and potential of property for rehabilitation and adequacy of rehabilitation proposed; previous experience of the owner and other participants in development, marketing and management (particularly of non-elderly family housing); comments from the A–95 clearinghouse and local government and responsiveness to preferences and priorities of any applicable Housing Assistance Plan and/or Areawide Housing Opportunities Plan; extent of displacement and feasibility of relocation; and feasibility of the project as a whole (including likelihood of financing and marketability). Within the ranking for non-elderly family proposals, preference points will be given to small projects (where no specific amount of contract authority is made available in the NOFA) and partially-assisted projects. Any deviation in the ranking procedures as set forth in this paragraph and the program handbook must be approved by the Assistant Secretary for Housing and included in the developer's packet.

(c) Owners who submit proposals will be notified in writing as to whether their proposals have been found not approvable, found approvable but not selected, or selected. Selection notifications will include any special conditions or requirements applicable to the proposal. Owners who are notified of the selection of their proposals must notify the field office of their acceptance of the notification within the time period specified in the notification and must submit a final proposal by the deadline stated in the notification unless an extension of the deadline is approved by the field office. Owners of proposals found not approvable will be notified of the reason for the finding. One file copy of each proposal will be retained by the field office. Proposals found approvable and determined to be of high quality but not selected will be retained by the field office for reconsideration when additional contract authority becomes available in the same or subsequent fiscal year (see § 881.302).

(d) Units of general local government and A–95 clearinghouses notified under § 881.306(c) will be notified of the field office's decision regarding the proposals within their jurisdiction.

(e) When contract authority remains available after selection of proposals for housing for elderly families, or after a decision is made to reallocate unused contract authority for housing for non-elderly families, or additional contract authority becomes available due to cancellation or recapture of contract authority for a selected proposal, or due to the assignment of additional contract authority within the same fiscal year, the field office will determine the allocation areas and types of housing for which the contract authority will be used in accordance with 24 CFR, Part 891 and proceed in accordance with §§ 881.302, 881.303, and 881.304.

(f) Prior to preparation and submission of the final proposal, a project inspection, work write-up and cost estimates must be completed by representatives of the owner and HUD. In preparing the work write-up, care must be taken to assure that the rehabilitation work will not exceed applicable codes and ordinances or the Minimum Design Standards, whichever is more strict.

§ 881.308 Contents of final proposal.

(a) *Proposals for Uninsured Projects.* Final proposals for all projects except those requesting mortgage insurance will contain:

(1) A description of the proposed rehabilitation covering each element set forth in the work write-up and as requested in the developer's packet. If alterations, renovation, or remodeling is indicated, preliminary architectural drawings and outline specifications on the prescribed form and a listing of amenities.

(2) A statement that the documentation submitted with the preliminary proposal as required by § 881.305(a) through (c), (e), (h) through (o), and (q) through (t) has not changed or a statement of the changes. In the case of special categories of projects submitted in accordance with § 881.303(c), the original documentation required by § 881.305(a) through (u) must be submitted.

(3) Description of the terms and conditions of construction and permanent financing, including copies of the financing documents and the commitments for such financing from a lender or bond underwriter, or satisfactory evidence that commitments will be forthcoming before execution of the Agreement.

(4) For proposals for projects of five units or more, an Affirmative Fair Housing Marketing Plan.

(5) A statement of the marketing activities the owner intends to take in accordance with the requirements of § 881.601(a)(3). Such efforts might include: participation in regional or sub-regional application pools and clearinghouses; establishment of a referral system with PHAs, other public agencies and Section 8 owners/managers in the surrounding area; contact with and provision of information about the project to employers and their employees, labor unions and interested community groups.

(6) Evidence of management capability, and the proposed form of lease (see § 881.606). For projects of more than 20 units, a proposed management plan and certification in the prescribed form and a copy of any proposed contracts for management services.

(7) An indication of the estimated time for completion of the project after the Agreement is signed and, if the project is to be completed in stages, identification of the units and the scheduled completion of each stage.

(8) Cost estimates in the HUD prescribed form of the replacement cost, operating expenses, income, and debt service sufficient to enable the field office to determine the cost justified rent, where required under § 881.204(b)(2). The replacement cost may include the cost to the owner of relocation (except for payments to tenants permanently relocated pursuant to § 881.209(b)(8)(ii)). The cost estimate must indicate and reflect any anticipated benefits from land write-down, tax abatement, favorable financing terms and similar savings.

(b) *Proposals for insured projects.* (1) For projects requiring mortgage insurance, except special categories of proposals which are discussed in paragraph (b)(3), the complete final proposal will consist of the application for firm commitment, plus submissions in accordance with paragraphs (a)(2), (a)(5), (a)(6) and (a)(8).

(2) Although it is preferable for projects requiring mortgage insurance to proceed directly from preliminary proposal to the application for firm commitment/final proposal stage, an owner may elect to submit an application for feasibility or conditional commitment first. In these cases, no additional documentation other than that normally submitted for the mortgage insurance processing stage is required. Feasibility letters or conditional commitments issued for mortgage-insured projects which are infeasible without Section 8 assistance will be conditioned upon the subsequent review and approval of the application for firm commitment/final proposal.

(3) In the case of special categories of proposals submitted in accordance with § 881.303 which are requesting mortgage insurance, the first proposal may be an application for conditional or firm commitment plus the proposed form of lease, applicable information on staging, if any, and the documentation required by Section 881.305(k), (o), (p), (q) (with respect to possible conflicts of interest), (s) and (t).

§ 881.309 Review of final proposal.

(a) All final proposals will be reviewed for compliance with program policies and standards. Material deviations from the preliminary proposal will be reviewed and may cause rejection of the proposal.

(1) Preliminary architectural drawings (if required) will be reviewed for compliance with amenity standards and to assure that all items in the work write-up are included. Where such drawings are not required, HUD will review the work write-up to assure that all agreed upon items are included. In addition, HUD reserves the right to review for conformance with the HUD Minimum Design Standards, adequacy of design for tenant security and efficiency in construction and design; however, HUD has no obligation to do so and any such review or non-review will not constitute approval as to these standards.

(2) The field office will review the projected replacement cost to assure compliance with the limitations of § 881.204(c) in effect at the time. The field office will also review the proposed rents to assure that the rents are within the Fair Market Rent limitations of § 881.204(b)(1) and are cost justified, where required under § 881.204(b)(2) concerning reasonable rents. Cost justification at this stage will consist of a review by the field office of the cost and expense estimates to determine whether the estimates justify the need for rents above comparable rents based on a debt service calculation.

(3) Where the final proposal requests rents higher than were approved with the preliminary proposal, such rents may be approved only after the review required in paragraph (a)(2). In addition, the field office may approve the request for an increase only if it determines, based on documentation by the owner, that the need for increased rents is due to:

(i) Factors beyond the owner's control which could not reasonably have been foreseen;

(ii) Design changes approved by the field office which are necessary because of additional requirements imposed by governmental agencies or HUD; or

(iii) HUD-approved changes in the method or terms and conditions of financing.

(b) Each owner will be notified as to whether the final proposal has been approved, rejected, or could be approved with the submission of additional information or after correction of specified deficiencies. Notifications of approval will indicate a deadline for acceptance of the notification and, for projects not requiring mortgage insurance, a deadline for submission of working drawings and architect's certifications (if required).

§ 881.310 Owner's acceptance, submission and review of working drawings, architect's certification and requested changes.

(a) The owner should return to HUD by the date specified, a signed copy of the Notification of Selection indicating his acceptance thereof. Failure to do so may result in HUD's rescinding the selection.

(b) For projects which do not involve mortgage insurance but for which the services of a registered architect are required by HUD, the owner must submit working drawings and specifications to the field office for review after approval of the final proposal. The owner must also submit an architect's certification in the prescribed form that the drawings and specifications and proposed construction comply with the HUD Minimum Design Standards, local codes and ordinances, and zoning requirements. The working drawings

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and specifications will be reviewed for compliance with amenity standards. Any project may, at HUD's option, be reviewed for conformance with the HUD Minimum Design Standards, adequacy of design for tenant security and efficiency in construction and design; however, HUD has no obligation to do so and any such review or non-review will not constitute approval as to these standards.

(c) Any requests for rent increases or any material deviations from preliminary or final proposal which are submitted with the working drawings (or with the owner's acceptance if no working drawings are required) will be reviewed in the same manner as required in § 881.309(a).

(d) For projects involving mortgage insurance, working drawings are reviewed as part of the review of the application for firm commitment/final proposal.

§ 881.311 Execution of agreement (and ACC, if applicable).

(a) After receipt by HUD of a copy of the accepted Notification (for projects not requiring working drawings and specifications) or after review of the working drawings for compliance with amenity standards and acceptance of the architect's certification for projects not involving mortgage insurance, or at the time of initial endorsement in the case of projects involving mortgage insurance:

(1) In the case of private-owner/HUD and PHA-owner/HUD projects, HUD and the owner will execute the Agreement in the form prescribed by HUD; or

(2) In the case of private-owner/PHA projects, HUD and the PHA will execute the ACC in the form prescribed by HUD, and thereafter the PHA and the owner will execute the Agreement in the form prescribed by HUD, and HUD will approve it.

(b) No agreement will be executed unless HUD has approved the financing for the project, including a commitment from a lender for construction and permanent financing at rates, terms and conditions acceptable to HUD, and the final proposal is in all other respects unconditionally approved.

(c) In the case of a non-elderly family project located in a Standard Metropolitan Statistical Area (SMSA), the field office will promptly notify PHAs and Community Development Agencies in the SMSA as well as any metropolitan-wide clearinghouse, or fair housing organizations where there is no metropolitan-wide clearinghouse, of the execution of the Agreement; the size and bedroom distribution of the project; and the expected time of initial marketing and occupancy. The notification will indicate that agencies should inform the owner if they wish to be contacted by the owner for referrals.

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Subpart D—Rehabilitation Period and Cost Certification

§ 881.401 Timely performance of work

(a) After execution of the Agreement, the owner must proceed promptly with the rehabilitation work as provided in the Agreement and complete the project within the time stated in the Agreement. If the owner fails to start promptly, or diligently continue or complete the work, the contract administrator will have the right to rescind the Agreement or take other appropriate action.

(b) Extensions of the time may be granted for the reasons stated in the Agreement. However, contract rents will be increased only for the reasons stated in § 881.403.

§ 881.402 Inspections during the rehabilitation period.

(a) All project records will be inspected by HUD periodically to determine compliance with Davis-Bacon Act requirements.

(b) Projects which involve HUD mortgage insurance, or another type of financing which requires HUD construction inspection, will be subject to the applicable inspection requirements.

(c) A review to determine contractor compliance with equal opportunity requirements may be conducted at any time during the rehabilitation period.

§ 881.403 Increases in contract rents or utility allowances before contract execution.

(a) Increases in contract rents or utility allowances after execution of the Agreement and prior to execution of the Contract are permitted with HUD approval only:

(1) To correct substantial errors by HUD in the original processing which would otherwise result in serious inequities;

(2) To reflect substantial and necessary changes in the approved final proposal (where working drawings and specifications are not required) or in the plans and specifications which have been approved by HUD (no optional betterments may result in rent increases);

(3) To reflect additional costs for interest, taxes, hazard insurance, mortgage insurance premiums, and commitment fees, due to construction delays excusable under the Agreement;

(4) To reflect additional costs which result from new requirements imposed by local governments, HUD or other Federal agencies, which are beyond the control of the owner, which have been approved by HUD and which could not have been anticipated at the time the Agreement was executed; or

(5) To reflect increased costs which result from a change in contractors which is necessary because the original contractor became bankrupt, was terminated by the owner due to inadequate performance or abandoned the job.

(6) To reflect additional costs incurred by the owner in providing the relocation assistance and payments required by Section 881.209 (except for payments made to tenants permanently relocated pursuant to Section 881.209(b)(8)(ii)), or as a result of altering construction work schedules in order to minimize displacement, or as a result of other activities which minimize displacement or related hardships.

(b) Such increases will be:

(1) limited to the amount necessary to cover the specific cost increase associated with the applicable item cited in paragraph (a); and

(2) reviewed and approved only in accordance with the Fair Market Rent and rent reasonableness limitations of Section 881.204(b) and the replacement cost limitations of Section 881.204(c) which are in effect at the time of the review of the request.

(c) All requests for increases must be submitted promptly to the field office for review as soon as the need for the increases becomes apparent.

§ 881.404 Project completion.

(a) *Notification and evidence of completion.* (1) For projects for which working drawings and specifications are not required, the owner must notify HUD and the PHA, where the PHA is the contract administrator, when the work is completed and provide HUD with:

(i) A certificate of occupancy and/ or other official approvals necessary for occupancy, and

(ii) A certification in the prescribed form that the project has been completed and is ready for occupancy in accordance with the requirements of the Agreement.

(2) For projects for which working drawings and specifications are required the owner must notify HUD and the PHA, where the PHA is the contract administrator, when work is completed and provide HUD with:

(i) A set of as-built drawings;

(ii) A certificate of occupancy and any other official approvals necessary for occupancy;

(iii) A certification in the prescribed form that the project has been completed and is ready for occupancy in accordance with the requirements of the Agreement; and

(iv) For projects where a HUD construction inspection is not required during rehabilitation, a certification from the inspecting architect in the prescribed form which states that the work has been completed in accordance with the certified working drawings and specifications, HUD Minimum Design Standards, local codes and ordinances, and zoning requirements.

(b) *Review and inspection.* Within 10 working days of the receipt of the notification and evidence of completion, HUD will review the evidence of completion for adequacy and will inspect the project to determine whether it appears that the project has been completed in accordance with the Agreement.

(c) *Acceptance of the project.* (1) if HUD determines from review and inspection that the project (or a stage of the project) has been completed in accordance with the Agreement, the project (or stage) will be accepted.

(2) If there are any items of delayed completion which are minor items or which are incomplete because of weather conditions, and in any case which do not preclude or affect occupancy, and all other requirements of the Agreement have been met, the project (or stage) will be accepted. An escrow fund determined by HUD to be sufficient to assure completion for items of delayed completion will be required, as well as a written agreement between the contract administrator and the owner, to be included as an exhibit to the Contract, specifying the schedule for completion. If the items are not completed within the agreed time period, the contract administrator may terminate the Contract or exercise other rights under the Contract.

(3) If other deficiencies exist, HUD will determine whether and to what extent the deficiencies are correctable, and whether the contract rents should be reduced. The owner will be notified of HUD's decision. If the parties agree, HUD, the owner and the PHA, where applicable, will enter into an agreement for the correction of the deficiencies. If the deficiencies are corrected within the period of time allowed, HUD will accept the project.

(4) Otherwise, the project will not be accepted, and the owner and the PHA, where applicable, will be notified with a statement of the reasons for nonacceptance. (However, see Sections 88.501(a) for action where evidence of completion is acceptable only with respect to physical completion of the project).

(d) *Pending Davis-Bacon Act claims.* If there are pending claims under the provisions in the Agreement relating to the payment of prevailing wage rates, the owner will be required to place a sufficient amount, as required by HUD, in escrow as approved by HUD to assure such payments. The amount withheld may be disbursed with HUD approval for and on account of the owner or any subcontractor to the employees to whom it is due.

§ 881.405 Cost certification and adjustment of contract rents.

(a) *Submission by owner.* As soon as possible after acceptance of the project by HUD, the owner will certify the actual costs estimated under Section 881.308(a)(8), and submit a cost certification including the certificate of an Independent Public Accountant to HUD in the manner and form prescribed by HUD, based on the following guidelines:

(1) Projects which involve HUD mortgage insurance will be subject to the cost certification requirements of the applicable insurance program;

(2) For projects not insured by HUD, a simplified form of cost certification will be completed and submitted;

(3) There will be no cost certification submission required for projects with rents that are equal to or less than comparable rents or for partially-assisted projects or for small projects except as required by § 881.204(b)(2); and

(4) The provisions of paragraphs (a)(2) and (3) do not preclude the imposition of different cost certification requirements appropriate as part of project financing requirements (such as tax-exempt financing under 24 CFR, Part 811).

(b) *HUD review.* Cost certifications required by this regulation will be subject to review by HUD. As part of this review, the owner and/or contractor may be required to submit additional documentation.

(c) *Reduction of contract rents.* If the owner's certified costs provided in accordance with paragraph (a) of this section, as approved by HUD, are less than the cost estimate provided for in Section 881.308(a)(8), the contract rents will be reduced accordingly.

(d) *Reduction of maximum annual commitment.* If the contract rents are reduced pursuant to paragraph (c) of this section, the maximum annual Contract commitment (and the maximum ACC commitment, in the case of private-owner/PHA projects) will be reduced. If contract rents are reduced based on certification after Contract execution, any overpayment since the effective date of the Contract will be recovered from the owner by HUD.

Subpart E—Housing Assistance Payments Contract

§ 881.501 The contract.

(a) *Contract.* The Housing Assistance Payments Contract sets forth rights and duties of the owner and the contract administrator with respect to the project and the housing assistance payments. The owner and contract administrator execute the Contract in the form prescribed by HUD upon satisfactory completion of the project. If the field office finds that the evidence of completion is acceptable with respect to the physical completion of the project, including the certificate of occupancy and/or other official approvals required for occupancy, but the evidence of completion as required in Section 881.404 in other respects is not acceptable, the field office will, upon request by the owner, execute or approve the execution of the Contract. In such case, however, until the remaining evidence of completion is submitted to and found acceptable by the field office:

(1) The contract rent for the purpose of computing housing assistance payments with respect to any unit will be the monthly amount of the debt service on the permanent obligations attributable to the unit; and

(2) Rent-up and occupancy will be subject to such conditions as the field office may require.

(b) *Effective date of contract.* The effective date of the Contract may be earlier than the date of execution, but no earlier than the date HUD inspects and accepts the project, except as provided in paragraph (a).

(c) *Housing assistance payments to owners under the contract.* The housing assistance payments made under the Contract are:

(1) Payments to the owner to assist eligible families leasing assisted units, and

(2) Payments to the owner for vacant assisted units ("vacancy payments") if the conditions specified in Section 881.611 are satisfied.

The housing assistance payments are made monthly by the contract administrator upon proper requisition by the owner, except payments for vacancies of more than 60 days, which are made semi-annually by the contract administrator upon requisition by the owner.

(d) *Amount of housing assistance payments to owner.* (1) The amount of the housing assistance payment made to

the owner of a unit being leased by an eligible family is the difference between the contract rent for the unit and the tenant rent payable by the family.

(2) A housing assistance payment will be made to the owner for a vacant assisted unit in an amount equal to 80 percent of the contract rent for the first 60 days of vacancy, subject to the conditions in Section 881.611. If the owner collects any tenant rent or other amount for this period which, when added to this vacancy payment, exceeds the contract rent, the excess must be repaid as HUD directs.

(3) For a vacancy that exceeds 60 days, a housing assitance payment for the vacant unit will be made, subject to the conditions in Section 881.611, in an amount equal to the principal and interest payments required to amortize that portion of the debt attributable to the vacant unit for up to 12 additional months.

(e) *Additional housing assistance payments to families.* In those cases where the total family contribution of a family leasing an assisted unit is less than the utility allowance for the unit, the difference will be paid to the family as an additional housing assistance payment. The Contract will provide that the owner will make this payment on behalf of the contract administrator. Funds for this purpose will be paid to the owner in trust solely for the purpose of making the additional payment.

§ 881.502 Term of contract.

(a) *Term.* The term of the Contract will be as follows:

(1) Where the estimated cost of the rehabilitation is less than 25 percent of the estimated value of the project after completion of the rehabilitation, the contract may be for a term of 15 years for any dwelling unit.

(2) Where the estimated cost of rehabilitation is 25 percent or more of the estimated value of the project after completion of rehabilitation, the contract may be for a term which

(i) Will cover the longest term, but not less than 15 years, of a single credit instrument covering:

(A) The cost of rehabilitation or

(B) The existing indebtedness, or

(C) The cost of rehabilitation and the refinancing of the existing indebtedness, or

(D) The cost of rehabilitation and the aquisition of the property; and

(ii) For assisted units in a project financed with the aid of a loan insured or co-insured by the Federal government or a loan made, guaranteed or intended for purchase by the Federal government, will not exceed 20 years for any dwelling unit; or

(iii) For units in a project financed other than as described in paragraph (2)(ii) will not exceed 30 years for any dwelling unit except that this limit will be 40 years if (A) the project is owned or financed by a loan or loan guarantee from a state or local agency, (B) the project is intended for occupancy by non-elderly families and (C) the project is located in an area designated by HUD as one requiring special financing assistance.

(b) *Staged projects.* If the project is completed in stages, the term of the Contract must relate separately to the units in each stage. The total Contract term for the units in all stages, beginning with the effective date of the Contract for the first stage, may not exceed the overall maximum term allowable for any one unit under this section, plus two years.

§ 881.503 Maximum annual commitment and project account.

(a) *Maximum annual commitment.* Where HUD is the contract administrator, the maximum annual amount that may be committed under the Contract is the total of the contract rents and utility allowances for all assisted units in the project. Where the PHA is the contract administrator, the maximum annual contribution that may be contracted for in the ACC is the total of the contract rents and utility allowances for all assisted units plus an administrative fee for the PHA as approved by HUD.

(b) *Project account.* (1) A project account will be established and maintained by HUD as a specifically identified and segregated account for each project. The account will be established out of the amounts by which the maximum annual commitment exceeds the amount actually paid out under the Contract or ACC each year. Payments will be made from this account for housing assistance payments (and fees for PHA adminstration, if appropriate) when needed to cover increases in contract rents or decreases in tenant rents and for other cost specifically approved by the Secretary.

(2) Whenever a HUD-approved estimate of required annual payments under the Contract or ACC for a fiscal year exceeds the maximum annual commitment and would cause the amount in the project account to be less than 40 percent of the maximum, HUD will, within a reasonable period of time, take such additional steps authorized by Section 8(c)(6) of the U.S. Housing Act of 1937, as may be necessary, to assure that payments under the Contract or ACC will be adequate to cover increases in contract rents and decreases in tenant rents.

§ 881.504 Reduction of number of units covered by contract.

(a) *Limitation on leasing to ineligible families.* Owners may not lease more than 10 percent of the assisted units in a project to ineligible families without the prior approval of HUD. Failure on the part of the owner to comply with this prohibition is a violation of the Contract and grounds for all available legal remedies, including specific performance of the Contract, suspension or debarment from HUD programs and reduction of the number of units under the Contract, as set forth in paragraph (b) of this section.

(b) *Reduction for failure to lease to eligible families.* If, at any time beginning six months after the effective date of the Contract, the owner fails for a continuous period of six months to have at least 90 percent of the assisted units leased or available for leasing by eligible families, HUD (or the PHA at the direction of HUD, as appropriate) may, on at least 30 days' notice, reduce the number of units covered by the Contract. HUD may reduce the number of units to the number of units actually leased or available for leasing plus 10 percent (rounded up). This reduction, however, will not be made if the failure to lease units to eligible families is permitted in writing by HUD under paragraph (a) of this section.

(c) *Restoration.* HUD will agree to an amendment of the ACC or the Contract, as appropriate, to provide for subsequent restoration of any reduction made pursuant to paragraph (b) if:

(1) HUD determines that the restoration is justified by demand,

(2) the owner otherwise has a record of compliance with his obligations under the Contract, and

(3) contract authority is available.

§ 881.505 Contract administration and conversions.

(a) *Contract administration.* For private-owner/PHA projects, the PHA is primarily responsible for administration of the Contract, subject to review and audit by HUD. For private-owner/HUD and PHA-owner/HUD projects, HUD is responsible for administration of the Contract. The PHA or HUD may contract with another entity for the performance of some or all of its contract administration functions.

(b) *PHA fee for contract administration.* A PHA will be entitled to a reasonable fee, determined by HUD, for administering a Contract except under certain circumstances (see 24 CFR Part 883) where a state housing finance agency is the PHA and finances the project.

(c) *Conversion of projects from one ownership/contractual arrangement to another.* Any project may be converted from one ownership/contractual arrangement to another (for example, from a private-owner/HUD to a private-owner/PHA project) if:

(1) the owner, the PHA and HUD agree,

(2) HUD determines that conversion would be in the best interest of the project, and

(3) in the case of conversion from a private-owner/HUD to a private-owner/PHA project, contract authority is available to cover the PHA fee for administering the Contract.

§ 881.506 Default by owner—private-owner/HUD and PHA owner/HUD projects.

The Contract will provide:

(a) that if HUD determines that the owner is in default under the Contract, HUD will notify the owner and the lender of the actions required to be taken to cure the default and of the remedies to be applied by HUD including specific performance under the Contract, reduction or suspension of housing assistance payments and recovery of overpayments, where appropriate; and

(b) that if the owner fails to cure the default, HUD has the right to terminate the Contract or to take other corrective action.

§ 881.507 Default by PHA and/or owner—private owner/PHA projects.

(a) *Rights of owner if PHA defaults under agreement or contract.* The ACC, the Agreement and the Contract will provide that, in the event of failure of the PHA to comply with the Agreement or Contract with the owner, the owner will have the right, if he is not in default, to demand that HUD investigate. HUD will first give the PHA a reasonable opportunity to take corrective action. If HUD determines that a substantial default exists, HUD will assume the PHA's rights and obligations under the Agreement or Contract and meet the obligations of the PHA under the Agreement or Contract including the obligations to enter into the Contract.

(b) *Rights of HUD if PHA Defaults under ACC.* The ACC will provide that, if the PHA fails to comply with any of its obligations, HUD may determine that there is substantial default and require the PHA to assign to HUD all of its rights and interests under the Contract; however, HUD will continue to pay annual contributions in accordance with the terms of the ACC and the Contract. Before determining that a PHA is in substantial default, HUD will give the PHA a reasonable opportunity to take corrective action.

(c) *Rights of PHA and HUD if Owner Defaults under Contract.* (1) The Contract will provide that it the PHA determines that the owner is in default under the Contract, the PHA will notify the owner and lender, with a copy to HUD, (i) of the actions required to be taken to cure the default, (ii) of the remedies to be applied by the PHA including specific performance under the Contract, abatement of housing assistance payments and recovery of overpayments, where appropriate, and (iii) that if he fails to cure the default, the PHA has the right to terminate the Contract or to take other corrective action, in its discretion or as directed by HUD.

(2) If the PHA is the lender, the Contract will also provide that HUD has an independent right to determine whether the owner is in default and to take corrective action and apply appropriate remedies, except that HUD will not have the right to terminate the Contract without proceeding in accordance with paragraph (b) of this section.

Subpart F—Management

§ 881.601 Responsibilities of owner.

(a) *Marketing.*(1) The owner must commence diligent marketing activities in accordance with the Agreement not later than 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.

(2) Marketing must be done in accordance with the HUD-approved Affirmative Fair Housing Marketing Plan and all Fair Housing and Equal Opportunity requirements. The purpose of the Plan and requirements is to assure that eligible families of similar income in the same housing market area have an equal opportunity to apply and be selected for a unit in projects assisted under this Part Regardless of their race, color, creed, religion, sex or national origin.

(3) With respect to non-elderly family units, the owner must undertake marketing activities in advance of marketing to other prospective tenants in order to provide opportunities to reside in the project to non-elderly families who are least likely to apply, as determined in the Affirmative Fair Housing Marketing Plan, and to non-elderly families expected to reside in the community by reason of current or planned employment, as indicated in the Housing Assistance Plan, if any.

(4) At the time of Contract execution, the owner must submit a list of leased and unleased units, with justification for the unleased units, in order to qualify for vacancy payments for the unleased units. (See §§ 881.501(c) and (d) and § 881.611.)

(b) *Management and maintenance.* The owner is responsible for all management functions (including selection of tenants, reexamination of family incomes, evictions and other terminations of tenancy, and collection of rents) and all repair and maintenance functions (including ordinary and extraordinary maintenance and replacement of capital items). All these functions must be performed in compliance with applicable Equal Opportunity requirements.

(c) *Contracting for services.* With HUD approval, the owner may contract with a private or public entity (except the contract administrator) for performance of the services or duties required in paragraphs (a) and (b). However, such an arrangement does not relieve the owner of responsibility for these services and duties.

(d) *Submission of financial and operating statements.* After execution of the contract, the owner must submit to the contract administrator:

(1) Within 60 days after the end of each fiscal year of the project, financial statements for the project audited by an Independent Public Accountant in the form required by HUD, and

(2) Other statements as to project operation, financial conditions and occupancy as HUD may require pertinent to administration of the Contract and monitoring of project operations.

(e) *Use of Project Funds.*

(1) Project funds must be used for the benefit of the project, to make required deposits to the replacement reserve in accordance with Section 881.602 and to provide distributions to the owner as provided in Section 881.205. Any remaining project funds must be deposited with the mortgagee or other HUD-approved depository in an interest-bearing residual receipts account. Withdrawals from this account will be made only for project purposes and with the approval of HUD.

(2) Partially-assisted projects are exempt from the provisions of this section.

(3) In the case of HUD-insured projects, the provisions of this paragraph will apply instead of the otherwise applicable mortgage insurance provisions.

§ 881.602 Replacement reserve.

(a) A replacement reserve must be established and maintained in an interest-bearing account to aid in

funding extraordinary maintenance and repair and replacement of capital items.

(1) An amount equivalent to .006 of the cost of total structures, including main buildings, accessory buildings, garages and other buildings, or any higher rate as required by HUD from time to time, will be deposited in the replacement reserve annually. This amount will be adjusted each year by the amount of the automatic annual adjustment factor.

(2) The reserve must be built up to and maintained at a level determined by HUD to be sufficient to meet projected requirements. Should the reserve achieve that level, the rate of deposit to the reserve may be reduced with the approval of HUD.

(3) All earnings including interest on the reserve must be added to the reserve.

(4) Funds will be held by the mortgagee or trustee for bondholders, and may be drawn from the reserve and used only in accordance with HUD guidelines and with the approval of, or as directed by, HUD.

(b) Partially-assisted projects are exempt from the provisions of this section.

(c) In the case of HUD-insured projects, the provisions of this section will apply instead of the otherwise applicable mortgage insurance provisions, except in the case of partially-assisted insured projects which are subject to the applicable mortgage insurance provisions.

§ 881.603 Selection and admission of assisted tenants.

(a) *Application.* The owner must accept applications for admission to the project in the form prescribed by HUD. Both the owner (or designee) and the applicant must complete and sign the application. On request, the owner must furnish copies of all applications to HUD and the PHA, if applicable.

(b) *Determination of Eligibility and Selection of Tenants.* The owner is responsible for determining whether the applicant is eligible, in accordance with 24 CFR, Parts 812 and 889, and for the selection of families:

(1) Local residency requirements are prohibited. Local residency preferences may be applied in selecting tenants only to the extent that they are not inconsistent with affirmative fair housing marketing objectives and the owner's HUD-approved Affirmative Fair Housing Marketing Plan. With respect to any residency preference, persons expected to reside in the commmunity as a result of current or planned employment will be treated as residents. This does not prohibit an owner from giving preference to tenants occupying the property when the first proposal for the project was submitted to HUD.

(2) If the owner determines that the family is eligible and is otherwise acceptable and units are available, the owner will assign the family a unit of the appropriate size in accordance with HUD standards. If no suitable unit is available, the owner will place the family on a waiting list for the project and notify the family of when a suitable unit may become available. If the waiting list is so long that the applicant would not be likely to be admitted for the next 12 months, the owner may advise the applicant that no additional applications are being accepted for that reason.

(3) If the owner determines that an applicant is ineligible on the basis of income or family composition, or that the owner is not selecting the applicant for other reasons, the owner will promptly notify the applicant in writing of the determination, the reasons for the determination, and that the applicant has the right to meet the owner or managing agent in accordance with HUD requirements. Where the owner is a PHA, the applicant may request an informal hearing. If the PHA determines that the applicant is not eligible, the PHA will notify the applicant and inform the applicant that he has the right to request a review by HUD of the PHA's determination. The applicant may also exercise other rights if he believes he is being discriminated against on the basis of race, color, creed, religion, sex, or national origin.

(4) Records on applicants and approved eligible families, which provide racial, ethnic, gender and place of previous residency data required by HUD, must be maintained and retained for three years.

(c) *Income mix.* In the initial renting of assisted units, the owner must lease at least 30 percent of the assisted units to very low-income families except that if this requirement cannot be met because of families already residing in the property to be rehabilitated, HUD may permit the leasing of less than 30 percent of the units to very low-income persons provided this deficiency is compensated for by the leasing of more than 30 percent in other projects in the allocation area. After initial renting, the owner must use his best efforts to maintain at least 30 percent occupany by very low-income families. In addition, at all times, the owner will use his best efforts to achieve leasing to families with a range of incomes so that the average of incomes of all families in occupancy is at or above 40 percent of the median income in the area.

(d) *Reexamination of family income and composition.* (1) The owner is responsible for reexamining the income and composition of all families at least once each year (except that reviews may be made at intervals no longer than two years in the case of elderly families) and, upon verification of the information provided by the family, making appropriate adjustments in the total family contribution in accordance with the provisions of 24 CFR, Part 889. The owner will adjust tenant rent and the housing assistance payment in accordance with any change in total family contribution. The owner may schedule reexaminations at intervals of less than one year when it is not possible to make a reasonable estimate of the family's income for a full year.

(2) If the family reports a change in income or other circumstances that would result in a decrease of total family contribution between regularly scheduled reexaminations, the owner, upon receipt of verification of the decrease in income, must promptly make appropriate adjustments in the total family contribution. The owner may require families to report increases in income between scheduled reexaminations.

(3) A family's eligibility for housing assistance payments continues until its total family contribution equals the total housing expense for the unit it occupies. The termination of eligibility at this point will not affect the family's other rights under the lease nor will such termination preclude resumption of payments as a result of subsequent changes in income or other circumstances during the term of the contract.

§ 881.604 Tenant rent.

The tenant rent is paid directly to the owner by the eligible family to whom an assisted unit is leased in partial payment of the contract rent. It is equal to the family's total family contribution minus any utility allowance for the unit. If the family's total family contribution is less than the utility allowance for the unit which it occupies, the tenant rent payable by the family to the owner is zero.

§ 881.605 Overcrowded and underoccupied units.

If the contract administrator determines that because of change in family size an assisted unit is smaller than appropriate for the eligibile family to which it is leased, or that the unit is larger than appropriate, housing assistance payments with respect to the unit will not be reduced or terminated until the eligible family has been relocated to an appropriate alternative unit. If possible, the owner will, as promptly as possible, offer the family an appropriate unit. The owner may receive vacancy payments for the vacated unit if he complies with the requirements of Section 881.611.

§ 881.606 Lease requirements.

(a) *Term of lease.* The term of the lease will be for not less than one year. The lease may, or in the case of a lease for a term of more than one year must, contain a provision permitting termination on 30 days advance written notice by the family.

(b) *Form.* The form of lease must contain all required provisions, and none of the prohibited provisions specified in the developer's packet, and must conform to the form of lease included in the approved final proposal.

§ 881.607 Termination of tenancy and modification of lease.

(a) *Applicability.* The provisions of this section apply to all decisions by an owner to terminate the tenancy of a family residing in a unit under Contract during or at the end of the family's lease term.

(b) *Entitlement of families to occupancy.*—(1) *Grounds.* The owner may not terminate any tenancy except upon the following grounds: (i) Material noncompliance with the lease; (ii) Material failure to carry out obligations under any State landlord and tenant act; or (iii) Other good cause, which may include the refusal of a family to accept an approved modified lease form (see paragraph (d) of this section). No termination by an owner will be valid to the extent it is based upon a lease or a provisions of State law permitting termination of a tenancy solely because of expiration of an initial or subsequent renewal term. All terminations must also be in accordance with the provisions of any State and local landlord tenant law and paragraph (c) of this section.

(2) *Notice of good cause.* The conduct of a tenant cannot be deemed "other good cause" under paragraph (b)(1)(iii) of this section unless the owner has given the family prior notice that the grounds constitute a basis for termination of tenancy. The notice must be served on the family in the same manner as that provided for termination notices under paragraph (c) and State and local law.

(3) *Material noncompliance.* The term material noncompliance with the lease includes (i) one or more substantial violations of the lease or (ii) repeated minor violations of the lease which disrupt the livability of the building, adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related facilities, interfere with the management of the building or have an adverse financial effect on the building. Nonpayment of rent or any other financial obligation due under the lease (including any portion thereof) beyond any grace period permitted under State law will constitute a material noncompliance with the lease. The payment of rent or any other financial obligation due under the lease after the due date but with the grace period permitted under State law will constitute a minor violation.

(c) *Termination notice.* (1) The owner must give the family a written notice of any proposed termination of tenancy, stating the grounds and that the tenancy is terminated on a specified date and advising the family that it has an opportunity to respond to the owner.

(2) When a termination notice is issued for other good cause (paragraph (b)(1)(iii) of this section), the notice will be effective, and it will so state, at the end of a term and in accordance with the termination provisions of the lease, but in no case earlier than 30 days after receipt by the family of the notice. Where the termination notice is based on material noncompliance with the lease or material failure to carry out obligations under a State landlord and tenant act pursuant to paragraph (b)(1)(i) or (ii) of this section, the time of service must be in accord with the lease and State law.

(3) In any judicial action instituted to evict the family, the owner may not rely on any grounds which are different from the reasons set forth in the notice.

(d) *Modification of lease form.* The owner may, with the prior approval of HUD, modify the terms and conditions of the lease form effective at the end of the initial term or a successive term, by serving an appropriate notice on the family, together with the offer of a revised lease or an addendum revising the existing lease. This notice and offer must be received by the family at least 30 days prior to the last date on which the family has the right to terminate the tenancy without being bound by the modified terms and conditions by executing the offered revised lease or addendum, or may reject the modified terms and conditions by giving the owner written notice in accordance with the lease that the family intends to terminate the tenancy. Any increase in rent must in all cases be governed by Section 881.609 and other applicable HUD regulations.

§ 881.608 Security deposits.

(a) At the time of the initial execution of the lease, the owner will require each family to pay a security deposit in an amount equal to one month's total family contribution or $50, whichever is greater. The family is expected to pay the security deposit from its own resources and/or other public sources. The owner may collect the security deposit on an installment basis.

(b) The owner must place the security deposits in a segregated, interest-bearing account. The balance of this account must at all times be equal to the total amount collected from the families then in occupancy, plus any accrued interest. The owner must comply with any applicable State and local laws concerning interest payments on security deposits.

(c) In order to be considered for the return of the security deposit, a family which vacates its unit will provide the owner with its forwarding address or arrange to pick up the refund.

(d) The owner, subject to State and local law and the requirements of this paragraph, may use the security deposit, plus any accrued interest, as reimbursement for any unpaid family contribution or other amount which the family owes under the lease. Within 30 days (or shorter time if required by State or local law) after receiving notification of the family's forwarding address, the owner must:

(1) Refund to a family owing no rent or other amount under the lease the full amount of the security deposit, plus accrued interest;

(2) Provide to a family owing rent or other amount under the lease a list itemizing any unpaid rent, damages to the unit, and estimated costs for repair, along with a statement of the family's rights under State and local law. If the amount which the owner claims is owed by the family is less than the amount of the security deposit plus accrued interest, the owner must refund the unused balance to the family. If the owner fails to provide the list, the family will be entitled to the refund of the full amount of the security deposit plus accrued interest.

(e) In the event a disagreement arises concerning reimbursement of the security deposit, the family will have the right to present objections to the owner in an informal meeting. The owner must keep a record of any disagreements and meetings in a tenant file for inspection by the contract administrator. The procedures of this paragraph do not preclude the family from exercising its rights under State and local law.

(f) If the security deposit, including any accrued interest, is insufficient to

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reimburse the owner for any unpaid tenant rent or other amount which the family owes under the lease, and the owner has provided the family with the list required by paragraph (d)(2), the owner may claim reimbursement from HUD or the PHA, as appropriate, for an amount not to exceed the lesser of:

(1) The amount owed the owner, or

(2) One month's contract rent, minus the amount of the security deposit plus accrued interest.

Any reimbursement under this section will be applied first toward any unpaid tenant rent due under the lease. No reimbursement may be claimed for unpaid rent for the period after termination of the tenancy.

§ 881.609 Adjustment of contract rents.

(a) *Automatic annual adjustment of contract rents.* Upon request from the owner to the contract administrator, contract rents will be adjusted on the anniversary date of the Contract in accordance with 24 CFR, Part 888.

(b) *Special additional adjustments.* For all projects, special additional adjustments will be granted, to the extent determined necessary by HUD, to reflect increases in the actual and necessary expenses of owning and maintaining the assisted units which have resulted from substantial general increases in real property taxes, assessments, utility rates, and utilities not covered by regulated rates, and which are not adequately compensated for by annual adjustments under paragraph (a). The owner must submit to the contract administrator required supporting data, financial statements and certifications.

(c) *Overall limitation.* Any adjustments of contract rents for a unit after Contract execution or cost certification, where applicable, must not result in material differences between the rents charged for assisted units and comparable unassisted units except to the extent that the differences existed with respect to the contract rents set at Contract execution or cost certification, where applicable.

§ 881.610 Adjustment of utility allowances.

The owner must recommend to the contract administrator, in connection with annual and special adjustments of contract rents, and at other times if appropriate, whether and to what extent the utility allowance for any assisted unit should be adjusted. Whenever a utility allowance for a unit is adjusted, the owner will promptly notify the families occupying assisted units and make a corresponding adjustment of the tenant rent and the amount of the housing assistance payment for the unit.

§ 881.611 Conditions for receipt of vacancy payments.

(a) *General.* Vacancy payments under the Contract will not be made unless the conditions for receipt of these housing assistance payments set forth in this section are fulfilled.

(b) *Vacancies During Rent-up.* For each assisted unit that is not leased as of the effective date of the Contract, the owner is entitled to vacancy payments in the amount of 80 percent of the contract rent for the first 60 days of vacancy if the owner:

(1) Conducted marketing in accordance with § 881.601(a) and otherwise complied with § 881.601;

(2) Has taken and continues to take all feasible actions to fill the vacancy; and

(3) Has not rejected any eligible applicant except for good cause acceptable to the contract administrator.

(c) *Vacancies after rent-up.* If an eligible family vacates a unit, the owner is entitled to vacancy payments in the amount of 80 percent of the contract rent for the first 60 days of vacancy if the owner:

(1) Certifies that he did not cause the vacancy by violating the lease, the Contract or any applicable law;

(2) Notified the contract administrator of the vacancy or prospective vacancy and the reasons for the vacancy immediately upon learning of the vacancy or prospective vacancy;

(3) Has fulfilled and continues to fulfill the requirements specified in Section 881.601(a) (2) and (3) and Section 881.611(b) (2) and (3); and

(4) For any vacancy resulting from the owner's eviction of an eligible family, certifies that he has complied with Section 881.607.

(d) *Vacancies for longer than 60 days.* If an assisted unit continues to be vacant after the 60-day period specified in paragraph (b) or (c), the owner may apply to receive additional vacancy payments in an amount equal to the principal and interest payments required to amortize that portion of the debt service attributable to the vacant unit for up to 12 additional months for the unit if:

(1) The unit was in decent, safe and sanitary condition during the vacancy period for which payments are claimed;

(2) The owner has fulfilled and continues to fulfill the requirements specified in paragraphs (b) or (c), as appropriate; and

(3) The owner has demonstrated to the satisfaction of HUD that:

(i) For the period of vacancy, the project is not providing the owner with revenues at least equal to project expenses (exclusive of depreciation), and the amount of payments requested is not more than the portion of the deficiency attributable to the vacant unit, and

(ii) The project can achieve financial soundness within a reasonable time.

(e) *Prohibition of double compensation for vacancies.* The owner is not entitled to vacancy payments for vacant units to the extent he can collect for the vacancy from other sources (such as security deposits, payments under Section 881.608(f), and governmental payments under other programs).

§ 881.612 Reviews during management period.

(a) After the effective date of the Contract, the contract administrator will inspect the project and review its operation at least annually to determine whether the owner is in compliance with the Contract and the assisted units are in decent, safe and sanitary condition.

(b) In addition, for private-owner/PHA projects, HUD:

(1) Will review the PHA's administration of the Contract at least annually to determine whether the PHA is in compliance with the ACC, and

(2) May independently inspect project operations and units at any time.

(c) Equal Opportunity reviews may be conducted by HUD at any time.

Subpart G—Special Procedures for Neighborhood Strategy Areas

§§ 881.701–881.709 [Reserved]

Authority: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., October 5, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-2866 Filed 1-30-80; 8:45 am]

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federal register

Thursday
January 31, 1980

Part IV

Department of the Interior

Office of the Secretary

Improving Government Regulations; Semiannual Agenda of Rules Scheduled for Review or Development

DEPARTMENT OF THE INTERIOR

Office of the Secretary

18 CFR Ch. IV
25 CFR Ch. 1
30 CFR Chs. II, VI, and VII
36 CFR Chs. 1 and XII
41 CFR Chs. 14H and 14R
43 CFR Subtitle A, Chs. I–II
50 CFR Chs. 1 and IV.

Improving Government Regulations; Semiannual Agenda of Rules Scheduled for Review or Development

AGENCY: Department of the Interior.

ACTION: Semiannual Agenda of Rules Scheduled for Review or Development.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for review or development between January and June 1980, and the status of rules previously scheduled. A semiannual agenda is required by Executive Order 12044 and 43 CFR 14.8. We have listed rules which are significant and not significant. The determinations of significance and decisions on preparation of regulatory analyses may, in some cases, be subject to change as the rules are developed.

ADDRESSES: Unless otherwise indicated, all Knowledgeable Officials are located at the Department of the Interior, 1800 C Street NW, Washington, D.C. 20240, Area Code 202.

FOR FURTHER INFORMATION CONTACT: All comments and inquiries with regard to these rules should be directed to the appropriate Knowledgeable Official.

Dated: January 25, 1980.

Cecil D. Andrus,

Secretary.

Agenda of Rules Scheduled for Review of Development: January–June 1980; Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, VA 22203 (Area Code 703)

CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, VA 22203 (Area Code 703)						
43 CFR Part 4, Subpart A	General; Office of Hearings and Appeals.	Revision of regulations to update, reduce and simplify language.	No	No		Sara Russell, 557–8261.
43 CFR Part 4, Subpart D	Special rules Applicable to Proceedings in Indian Probate, including Hearings and Appeals; Tribal Purchase of Interests Under Special Statutes, including Hearings and Appeals; and Administrative Appeals in Indian Affairs Generally.	New regulation to revise § 4.354 to conform notice of appeal time limitations in appeals to Interior Board of Indian Appeals to the same time limits set by Bureau of Indian Affairs regulation in 25 CFR 2.19.	No	No		Franklin Ames, 557–1400.
		New regulation to provide rules governing intervention in appeals proceedings pending before Interior Board of Indian Appeals.	No	No		
43 CFR Part 4, Subpart H	Special Procedural Rules Applicable to Proceedings Conducted Pursuant to Enforcement of Executive Order 11246, as Amended by Executive Order 11375, and Rules, Regulations and Orders Issued Thereunder.	Deletion of these rules to comply with Executive Order 12066, which transfers all functions under Executive Order 11246, as amended by Executive Order 11375, to the Department of Labor.	No	No		Sara Russell, 557–9200.
43 CFR Part 4, Subpart K	Special Procedural Rules Applicable to Contest Proceedings To Disenroll Alaska Natives.	These rules will be removed from the CFR since the deadline of October 1, 1978, for disenrollment contest reviews has already passed. (Reference Bureau of Indian Affairs regulations in 25 CFR 43h.15(h)).	No	No		Sara Russell, 557–9200.
Office of Small and Disadvantaged Business Utilization						
43 CFR Part 35	Involvement of Minority and Female-Owned Business Enterprises in Outer Continental Shelf Leasing and Permit Activities.	To establish a program for the active participation of business enterprises owned and controlled by minorities and women in all activities related to the leasing of the Outer Continental Shelf. (Section 604 of the OCS Lands Act Amendments, 43 U.S.C. 1863).	No	No	Proposed Rule February 1980.	Kenneth T. Kelly, 343–8493.
U.S. Fish and Wildlife Service						
50 CFR Part 13	General Permit Procedures	To revise permit fee schedule and appeal procedures.	No	No	Proposed Rule March 1980.	Richard Parsons, 703–235–1937.
50 CFR Part 14	Importation, Exploration and Transportation of Wildlife.	To revise rules which provide controls for movement of wildlife. This was originally published as a proposed rule on March 27, 1978.	No	No	Final Rule February 1980.	Clark Bavin, 343–9242.
50 CFR Part 17	Endangered and Threatened Wildlife and Plants.	To revise import/export procedures, permit requirements and enforcement of some special rules.	No	No	Proposed Rule February 1980.	Richard Parsons, 703–235–1937.
		To revise self-defense rules to conform to the Endangered Special Act Amendments of 1978.	No	No		Clark Bavin, 343–9242.
50 CFR Part 18	Marine Mammals	To revise permit application information requirements, issuance criteria, and reporting requirements.	No	No	Proposed Rule February 1980.	Richard Parsons, 703–235–1937.

CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
U.S. Fish and Wildlife Service						
50 CFR Part 20, Subpart M	Migratory Bird Hunting	To revoke those rules pertaining to the establishment of certain wildlife development areas. A proposed rule was published on July 11, 1979.	No	No	Final Rule February 1980.	Clark Bavin, 343–9242.
50 CFR Part 20, Subpart C	Migratory Bird Hunting	To revise rules to allow paraplegics to take game from stationary motor vehicles (§ 20.21). A proposed rule was published on February 15, 1979.	No	No	Final Rule February 1980.	Clark Bavin, 343–9242.
50 CFR Part 21	Migratory Bird Permits	To except certain species from permit requirements and issuance criteria.	No	No		Clark Bavin, 343–9242.
		To revise permit application requirements and issuance criteria.	No	No	Proposed Rule March 1980.	Richard Parsons, 703–235–1937.
50 CFR Part 23	Endangered Species Convention	To incorporate recommendations of the parties to the Convention.	No	No	Proposed Rule February 1980.	Richard Parsons, 703–235–1937.
50 CFR Part 107	Mining and Mining Claims in Alaska National Wildlife Monuments.	To establish management regulations governing mining in Yukon Flats and Becharof National Wildlife Monuments. This was published as a proposed rule on January 11, 1980.	No	No		Byron Swift, 343–2172. Keith Schreiner, 1011 E. Tudor Rd., Anchorage, AK 99507, 907–276–3800.
Heritage Conservation and Recreation Service, 440 G Street NW., Washington, D.C. 20243 (Area Code 202)						
36 CFR Part 1212	National Natural Landmarks Program.	To publish as a final rule to formalize the Secretary's procedures and criteria for designating National Natural Landmarks. An interim rule was published on November 20, 1979.	No	No		Wayne Strum, 343–4243. Jim Orr, 343–4243.
36 CFR Part 1227	Federal Recreation Fees	To publish proposed amendment which would allow the Department of Interior land-managing agencies to establish recreation fees, primarily emphasizing that such fees be comparable with other Federal and non-Federal public agencies providing similar services and facilities.	No	No	Proposed Rule Jan. 21, 1980. Final Rule June 1980.	Jim Cook, 343–7685.
43 CFR Part 3	Preservation of American Antiquities, Definition of "Object".	To publish final rule for the definition of antiquity as used in the Antiquities Act of 1906 (Pub. L. 59–209). A proposed rule was published in the FEDERAL REGISTER on April 10, 1978.	No	No	February 1980	Roy W. Reaves, III, 343–7105.
36 CFR Part 1215	Archeological Resources Protection Act of 1979.	To publish rules to implement the new Archeological Resources Protection Act (Pub. L. 96–95). The determination of significance and the decision on preparation of a regulatory analysis have not been made at this time.			March 1980	Roy W. Reaves, III, 343–7105.
National Park Service						
36 CFR Part 6	Foreign Currency	The Service is developing a comprehensive policy concerning the acceptance of foreign currency which will be implemented in the form of regulations.	No	No		Harry Delashmutt, 343–4874.
36 CFR Part 7	Special Regulations of the National Park Service.	Proposed rules which address particular problems in individual parks will be published. The number and frequency of these regulations cannot be determined at this time.	No	No		Michael Finley, 343–5807.
36 CFR Part 7	Protection of Whales	The Service is developing regulations necessary to protect the whales within Glacier Bay National Monument, Alaska (§ 7.23).	No	No		Michael Finley, 343–5807.

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CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
National Park Service—Continued						
36 CFR Part 14	Rights-of-way and Easement Regulations.	Current regulations governing rights-of-way and easements found in 43 CFR Part 2800 are being revoked by the Bureau of Land Management. The Service has determined that it is necessary to develop a set of regulations specifically tailored to the needs of the Service.	No	No		Al Veitl, 343–4674.
Office of Surface Mining Reclamation and Enforcement						
30 CFR Part 211	State—Federal Cooperative Agreements.	Implement State-Federal Cooperative Agreement Initial Regulatory Program on Federal Lands in Colorado and New Mexico.	No	No	Proposed Rule January 1980.	Don Maurer, 343–5335.
30 CFR Part 700	General	Clarify the definition of "Surface Coal Mining Operations".	No	No	Proposed Rule January 1980.	Carl Pavetto, 343–5365.
30 CFR Part 701	Permanent Regulatory Program	To remove the discretion of the Regulatory Authority to grant an exemption for pre-existing, non-conforming structures.	No	No		David Maneval, 343–4264.
30 CFR Part 715	General Performance	To clarify the requirements pertaining to "Multiple Seam Mining".	No	No		David Maneval, 343–4264.
30 CFR Part 715	General Performance	To provide consistency in the guidelines on Finger Ridges pertaining to §§ 715.11, 716.2, 826.16 and 816.102–105.	No	No		David Maneval, 343–4264.
30 CFR Part 715	General Performance	To clarify the requirements pertaining to "Spoil"on Lower Bench".	No	No		David Maneval, 343–4264.
30 CFR Part 715	General Performance	Suspend portions of existing sedimentation pond regulations. Propose revised effluent standards, rainfall exemptions and design requirements. Coordinate with corresponding Environmental Protection Agency (EPA) rulemaking. The determination of significance and Regulatory Analysis has not yet been determined.			Notice of Intent to Propose Rulemaking was published Dec. 31, 1979. Proposed Rule March 1980..	David Maneval, 343–4264.
30 CFR Part 716	Special Performance Standards	Provide for interim program variances to return land mined in steep slope areas to the approximate original contour. Standards found in 30 CFR 716.2.	No	No	Proposed Rule Oct. 24, 1979. Final Rule February 1980.	Richard Robinson, 343–8061.
30 CFR Part 716	Special Performance Standards	To amend Anthracite coal interim regulations to include underground mining. Relates to section 30 CFR 716.5.	No	No	Proposed Rule April 1980.	David Maneval, 343–4264.
30 CFR Part 741	Permits	Establish permit fee schedule for Federal Lands.	No	No		Mel Schilling, 343–5335.
30 CFR Part 741	Permits	Establish schedule for Director's action on Federal Lands permit application.	No	No		Mel Schilling, 343–5335.
30 CFR Part 742	Bonds and Liability Insurance of Federal Lands.	Establish form of performance bond on Federal Lands.	No	No		Mel Schilling, 343–5335.
30 CFR Part 745	State—Federal Cooperative Agreements.	Implement State-Federal Cooperative Agreements for Permanent Regulatory Program of Federal lands.	No	No		Don Maurer, 343–5335.
30 CFR Part 761	Definition of Public Road	To Achieve consistency with the Secretary of The Interior's definition.	No	No	Proposed Rule February 1980.	Carl Close, 343–4225.
30 CFR Part 761	Valid Existing Rights	To allow state case law to be used for interpretation of documents relied upon to establish valid existing rights as found in CFR 761.5(c).	No	No	Proposed Rule February 1980.	Carl Close, 343–4225.
30 CFR Part 761	Areas Where Mining is Prohibited or Limited.	Elimination of "eligible" properties and private properties from those to be inlcuded as related to 30 CFR 761.11(c) and 30 CFR 761.12 (l).	No	No	Proposed Rule March 1980.	Bernadine Thompson, 343–5361.
30 CFR Part 761	Waivers	Clarify interpretation of waiver requirements as related to 30 CFR 716.12(e).	No	No	Proposed Rule February 1980.	Carl Close, 343–4225.
30 CFR Part 770	Coordination of NPDES Permit Requirements with SMCRA Regulations.	To coordinate Surface Mining permits with requirements of NPDES permitting procedures.	No	No	Proposed Rule April 1980.	David Maneval, 343–4264.

CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
Office of Surface Mining Reclamation and Enforcement—Continued						
30 CFR Parts 779, 783	Prime Farmland Investigation	To clarify the criteria as related to 30 CFR 779.27 and 30 CFR 783.27.	No	No	Proposed Rule April 1980.	Leroy DeMoulin, 343–2184.
30 CFR Part 783	Geology Description	Narrow application of requirement pertaining to 30 CFR 783.14.	No	No	Proposed Rule April 1980.	Chuan Y. Chen, 343–5244.
30 CFR Parts 783, 784, 817	Land Use Information	To allow operator to apply through the permit revision or renewal procedures of 30 CFR 78.12–15 for approval of alternative post-mining land use if original permit demonstrates land will be returned to pre-mining land use capability (As required by 30 CFR 817.133(a)).	No	No	Proposed Rule April 1980.	Charles Meyers, 343–2184.
30 CFR Part 785	Prime Farmlands	To change grandfather exemption from otherwise applicable prime farmland requirements (30 CFR 785.17(a)) and to reconsider and repropose regulations so guideline is established for compaction of replaced soil horizons on prime farmlands (30 CFR 785.17(b)(3)).	No	No	Proposed Rule April 1980.	Edward Johnson, 343–5261
30 CFR Part 786	Definition of Irreparable Damage	To redefine original definition as related to 30 CFR 786.5.	No	No	Proposed Rule February 1980.	Carl Pavetto, 343–5365.
30 CFR Parts 816, 817	Water Quality Guidelines	Provide guidance to inspectors on water sampling procedures pertaining to 30 CFR 816.42 and 30 CFR 817.42.	No	No	March 1980	David Short, OSM Region II, 530 Gay Street, Suite 500, Knoxville, TN 37902, 615–637–8060.
30 CFR Parts 816, 817	Subdrainage System for Coal Processing Waste Banks.	To provide exemption from underdrain requirement if the operator can demonstrate alternative will ensure structural integrity of the waste bank and protect water quality.	No	No	Proposed Rule April 1980.	Ray Aufmuth, 343–4022.
30 CFR Parts 816, 817	Treatment of Toxic Materials	To achieve consistency through rules (30 CFR 816.103 and 30 CFR 817.103) to provide for treatment as an alternative to covering toxic wastes.	No	No	Proposed Rule February 1980.	David Maneval, 343–4264.
30 CFR Part 817	Monitoring Ground Water	To eliminate the requirement of monitoring recharge capacity for underground mining.	No	No	Proposed Rule April 1980.	Don Willen, 343–8105.
30 CFR Part 817	Revegetation Standards for Success.	To provide that certain performance standards may be used as alternatives to measure revegetation success for permit areas of 40 acres or less in locations with annual precipitation of more than 26 inches.	No	No	Proposed Rule April 1980.	Arlo Dalrymple, 343–8032.
30 CFR Part 700	Two Acre Exemption	Clarify The Two Acre Definition	No	No	Proposed Rule February 1980. Final Rule April 1980.	Carl Pavetto, 343–5365
30 CFR Parts 900–999	State Program	Implement Section 504(a) of SMCRA (For States that do not submit or obtain approval)" Issue paper under consideration for codification of Federal Programs.	No	No	March 1980–July 1980.	Bernadine Thompson, 343–5361.
30 CFR Part 816	Sedimentation Ponds	To clarify and further define the requirements of 30 CFR 816.46 and 30 CFR 817.46.	No	No	Final Rule March 1980.	Bill Thomas, OSM Region II, 530 Gay Street, Suite 500, Knoxville, TN 37902, 615–637–8060.
Office of Water and Power Resources Service						
30 CFR Part 429	Sale of Replacement Farms	This Part has been scheduled for review. The determination of significance and decision on preparation of a regulatory analysis will be made if it is determined that revision is necessary.				T. G. Cooper, 343–5204.
Bureau of Land Management						
43 CFR Parts 4 and 1840	Procedure for handling review of wilderness inventory decisions.	Revise appeal procedure to include new procedures for specialized wilderness decisions.	No	No		Robert Lund, 343–8064. George Holle, 343–8735.
43 CFR Part 2400	Land Classification	Review existing regulations to determine if they are current. The determination of significance and the decision on preperation of a regulatory analysis will be made if it is determined that revision is necessary.				Keith Corrigal, 343–8731. Robert C. Bruce, 343–8735.

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CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
Bureau of Land Management—Continued						
43 CFR Part 2650	Alaska Native Selections—Miscellaneous Amendments.	Develop regulations to speed up the granting of miscellaneous selection process.	No	No	Proposed Rule March 1980.	Beaumont McClure, 343–6511. Robert C. Bruce, 343–8735.
43 CFR Part 3040	Environment and Safety—Oil and Gas Geophysical Exploration.	Develop regulations to manage oil and gas geophysical operations on the public lands.	No	No	Proposed Rule June 1980.	Doris Koivula, 343–7753. George Hollis, 343–8735.
43 CFR Part 3100	Oil and Gas Leasing—Simultaneous Leasing Procedures Amendments.	Develop amendments to the simultaneous drawing procedures to remove abuses from system. This was published as a proposed rule on September 28, 1979.	No	No	Final Rule June 1980.	Charles Weller, 343–7753. Robert C. Bruce, 343–8735.
43 CFR Part 3100	Oil and Gas Leasing—Simultaneous Leasing redrawing Procedures.	Develop amendments to the simultaneous drawing procedures to covering redrawings. This was published as a proposed rule on October 10, 1979.	No	No	Final Rule March 1980.	Dale Zimmerman, 343–2718. Robert C. Bruce, 343–8735.
43 CFR Subpart 3211	Bureau Motion—Land Previously Leased for Geothermal Resources.	Develop amendment to non-competitive Geothermal leasing procedure to expedite leasing of lands.	No	No	Proposed Rule June 1980.	Doris Koivula, 343–7753. Cecil Feeney, 343–8735.
43 CFR Subpart 3503	Fees, Rentals and Royalties	Develop minimum royalty regulations for potassium, sodium, sulphur and phosphate. This was published as a proposed rule on March 3, 1979.	No	No	Final Rule June 1980.	Dave Carly, 343–7763. Cecil Feeney, 343–8735.
43 CFR Part 3600	Mineral Material Disposals	Review regulations to develop new procedures for the disposal of mineral material.	No	No	Proposed Rule June 1980.	Robert Anderson, 343–7733. George Hollis, 343–8735.
43 CFR Part 8340	Off-Road Vehicles	Amend regulations to clarify area questioned by users.	No	No	Proposed Rule January 1980.	Larry Young, 343–9353. Cecil Feeney, 343–8735.
43 CFR Part 8350	Management Areas	Develop regulations covering enforcement of management decisions in Wild River areas.	No	No	Proposed Rule February 1980.	Larry Young, 343–9353. Robert C. Bruce, 343–8735.
43 CFR Part 8370	Use Authorizations	Develop regulations covering fees for use of recreation areas under Bureau of Land Management jurisdiction.	No	No	Final Rule June 1980.	Larry Young, 343–9353. Cecil Feeney, 343–8735.
43 CFR Part 9230	Trespass	Review existing regulations as they apply to trespass on coal for needed improvement. A Notice of Intent to propose rulemaking was published on October 22, 1979.	No	No		Walter Rewinski, 343–6821. Robert C. Bruce, 343–8735.
43 CFR Part 3500	Leasing of Minerals other than Oil and Gas; General.	Amend regulations to clarify definitions.	No	No	Proposed Rule May 1980.	Dave Carly, 343–7753. George Hollis, 343–8735.
Bureau of Indian Affairs						
25 CFR Part 89	Use of distribution of Indian Judgment Funds.	Will be rewritten to reflect anticipated amendments to Indian Judgment Funds Act of October 19, 1973, 87 Stat. 466, Pub. L. 93–134. Principal amendment would affect time period for submittal of Secretarial plans to the Congress.	No	No		Stephen E. Feraca; 343–4623.
25 CFR Part 43	Enrollment Regulations	Enrollment regulations are in compliance with the judgment funds plans and the Act of October 19, 1973 (87 Stat. 446) Public Law 93–134. Judgment fund plans to be published for:.				
		Dadds, Docket 326 and Ft. Sill Apache, Dockets 182 & 182A.	No	No	April 1980	Mitchell L. Bush, 703–235–8275.
		Goshute, Docket 326 B & J and Kickapoo, Docket 315 & 336.	No	No	May 1980	Mitchell L. Bush, 703–235–8275.
		Yankton Sioux, Docket 332–C–1.	No	No	June 1980	Mitchell L. Bush, 703–235–8275.
25 CFR Part 31c	Procedures and Practices	To codify procedures required by Public Law 95–561.	No	No	Proposed Rule June 1980.	Elizabeth Holmgren, 343–3151.
25 CFR Part 31f	Educational Standards	To codify standards mandated in Public Law 95–561.	No	No	Proposed Rule May 1980.	Elizabeth Holmgren, 343–3151.
25 CFR Part 31e	Dormitory Standards	To codify standards mandated in Public Law 95–561.	No	No	Proposed Rule May 1980.	Elizabeth Holmgren, 343–3151.
25 CFR	Aid to Federally Impacted Areas	To implement amendments to Public Law 81–874 contained in Public Law 95–561 which require establishment of procedures for Indian tribes to follow when conflicts arise between a tribe and a public school district as to the expenditure of impact aid funds for Indian Students in that district. As of this date a part number has not been assigned..	No	No	Proposed Rule March 1980.	Elizabeth Holmgren, 343–3151.

CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
Bureau of Indian Affairs—Continued						
25 CFR	Post-Secondary Schools	To provide for the complimentary administration of secondary schools in accordance with the provisions of Public Law 95–561. As of this date a part number has not been assigned.	No	No	Proposed Rule January 1980.	Leroy Falling, 343–7387.
25 CFR 32	Higher Education Applications for Educational Loans, Grants and Working Scholarships.	To develop new grant regulations in cooperation with the grant programs administered by the Department of Education..	No	No	Proposed Rule January 1980.	Leroy Falling, 343–7387.

Status of Rules Previously Scheduled for Review or Development

Review Period	CFR citation	Subject	Status	Knowledgeable official
Office of Inspector General				
1/79–6/79	43 CFR Part 20	Employee Responsibilities and Conduct.	Expected date as a proposed rule is in January 1980. Delays were made to incorporate recent GAO and Office of Government Ethics recommendations.	Gabriele J. Paone, 343–3932.
1/79–6/79	43 CFR Part 7	Employees: Interest in Lands and Resources.	Revision is deferred pending legal determination for need to change this part.	Gabriele J. Paone, 343–3932.
Office of the Solicitor				
1/79–6/79	41 CFR Part 14R–9	Inventions and patents: Data	This was published as a proposed rule on July 5, 1979. A final rule should be published in April 1980.	Gersten Sedowsky, 343–4471.
5/78–12/78	43 CFR Part 1	Practices Before the Department of the Interior.	Revision of this Part is deferred pending revision of 43 CFR Part 20 by the Office of Inspector General.	John D. Trezise, 343–5216.
Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, VA 22203 (Area Code 703)				
1/79–6/79	43 CFR Part 4, Subpart B	General Rules Relating to Procedures and Practice.	General rules are under development for inclusion in each of the several Subparts of 43 CFR Part 4; and when this has been accomplished, Subpart B will be removed from the CFR.	Sara Russell, 557–9200.
1/79–6/79	43 CFR Part 4, Subpart C	Special Rules Applicable to Contract Appeals.	Final rule should be published in Spring 1980, to amend and update procedural rules to conform to provisions of the Contract Disputes Act of 1978, and generally to conform with the procedural rules recommended by the Office of Federal Procurement Policy for Boards of Contract Appeals in the Federal Government.	David Doane, 557–1450.
1/79–6/79	43 CFR Part 4, Subpart D	Special Rules Applicable to Proceedings in Indian Probate, Including Hearings and Appeals; Tribal Purchase of Interests Under Special Statutes, Including Hearings and Appeals; and Administrative Appeals in Indian Affairs Generally.	Proposed rule was published on October 9, 1979 (44 FR 57948). Comment period was extended to January 24, 1980 (44 FR 68870, November 30, 1979). Final rule should be published by June 1980.	Sara Russell, 557–9200.
1/79–6/79	43 CFR Part 4, Subpart E	Special Rules Applicable to Public Land Hearings and Appeals.	Review is continuing on proposed rules. Proposed rules should be published in June 1980.	James Burski, 557–9040.
7/79–12/79	43 CFR Part 4, Subpart G	Special Rules Applicable to Other Appeals and Hearings.	Review is continuing on proposed clarification, simplification, and updating of existing rules and providing additional rules for appeals not within the appellate review jurisdiction of established appeals boards of the Office.	Kathryn Russell, 557–9037.
1/79–6/79	43 CFR Part 4, Subpart J	Special Rules Applicable to the Alaska Native Claims Settlement Act Hearings and Appeals.	Proposed rule was published on February 8, 1979 (44 FR 7963). Final rule should be published by July 1980.	Judith M. Brady, Chairman, Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99501, 907–265–5356.
5/78–12/78	43 CFR Part 4, Subpart L	Special Rules Applicable to Surface Coal Mining Hearings and Appeals.	Proposed rules are under development and should be published in June 1980 to add sections to govern hearings and appeals procedures provided for in the permanent regulatory program regulations (44 FR 15311, March 13, 1979).	Bruce Harris, 557–9037
7/79–12/79	43 CFR Part 4, Subpart M	Special Rules Applicable to Fish and Wildlife Civil Penalty Proceedings.	Review is continuing on proposed rules. Proposed rules should be published in June 1980.	James Burski, 557–9040.
Office of Youth Programs				
7/79–12/79	43 CFR Part 32	Young Adult Conservation Corps (YACC) State Grant Program.	Revision of this Part has been deferred pending final publication of Department of Labor regulations in 20 CFR 675–685.	Doyle Hughes, 343–4148.

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CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
Office for Equal Opportunity						
1/79–6/79	43 CFR Part 17, Subpart C	Nondiscrimination on the Basis of Age.	This was published as a proposed rule on January 9, 1980.			James Poole, 343–4331.
1/79–6/79	43 CFR Part 17, Subpart B	Nondiscrimination on the Basis of Handicap.	The advance notice of proposed rulemaking was published on April 13, 1979. The proposed rule will be published in January 1980.			James Poole, 343–4331.
1/79–6/79	43 CFR Part 34	Nondiscrimination in Activities Conducted Under and Authorized by Pub. L. 94–586, Alaska Gas Pipeline.	The proposed rule was published on October 12, 1979. The final rule should be published in February 1980.			Edward Shelton, 343–5893.
U.S. Fish and Wildlife Service						
5/78–12/78	50 CFR Part 18, Subpart C	Marine Mammal—General Exceptions.	The Service has determined that revisions are not needed at this time.			Clark Bavin 343–9242
5/78–12/78	50 CFR Part 17	Endangered and Threatened Wildlife and Plants.	Final rule published on September 21, 1979, to lessen paperwork burden for members of the public engaged in captive wildlife propagation.			Richard Parsons, 703–235–1937.
5/78–12/78	50 CFR Part 21	Migratory Bird Permits	Regulations for raptor propagation permits are currently being developed and a proposed rule should be published in early 1980.			Clark Bavin, 343–9242.
5/78–12/78	50 CFR Part 22	Eagle Permits	A proposed rule was published on January 3, 1980 ..			Clark Bavin, 343–9242.
5/78–12/78	50 CFR Part 25	National Wildlife Refuge System—Administrative Provisions.	Final rule to be published in February 1980			Ronald Fowler, 343–4305.
1/79–6/79	50 CFR Part 17	Marine Mammals—Manatee Protection Areas.	A final rule was published on October 22, 1979			Clark Bavin, 343–9242.
1/79–6/79	50 CFR Part 26	National Wildlife Refuge System—Public Entry and Use.	A final rule reflecting administrative changes was published on July 23, 1979.			Marcus Nelson, 343–4791.
1/79–6/79	50 CFR Part 32	Hunting on National Wildlife Refuge Areas.	A final rule reflecting administrative changes was published on July 23, 1979.			Marcus Nelson, 343–4791.
1/79–6/79	50 CFR Part 33	Sport Fishing on National Wildlife Refuge Areas.	A final rule reflecting administrative changes was published on July 23, 1979.			Marcus Nelson, 343–4791.
1/79–6/79	50 CFR Part 80	Federal Aid to States in Fish and Wildlife Restoration.	A proposed rule should be published in February 1980.			Charles Phenicle, 703–235–1526.
1/79–6/79	50 CFR Part 20, Subpart K	Annual Season, Limit and Shooting Hour Schedules.	Final rule frameworks for 1979–80 early seasons on certain migratory game birds published on July 24, 1979.			John P. Rogers, 254–3207.
			Supplemental proposed rules for frameworks for 1979–80 late seasons on certain migratory game birds published on August 10, 1979.			John P. Rogers, 254–3207.
			Final rule setting season dates, limits and shooting hours for early season migratory birding hunting published on published on August 20, 1979.			John P. Rogers, 254–3207.
			Final rule frameworks for 1979–80 late seasons on certain migratory game birds published on August 28, 1979.			John P. Rogers, 254–3207.
			Final rule setting season dates, limits and shooting hours for late season migratory game bird hunting published on September 28, 1979.			John P. Rogers, 254–3207.
1/79–6/79	50 CFR Part 410	Fish and Wildlife Coordination Act.	A Notice of Intent to prepare an Environmental Impact Statement was published on August 30, 1979. Further publication of rules is deferred pending preparation of this statement.			R. K. Robinson, 343–7242. T.J. Bond, 343–7242.
7/79–12/79	50 CFR Part 20, Subpart K	Annual Season, Limit and Shooting Hour Schedules.	Final rule establishing non-toxic shot areas for waterfowl hunting for 1979 was published on July 17, 1979.			Robert I. Smith, 254–3207.
			Notice of intent to develop rules establishing non-toxic shot areas and to propose specific areas for the 1980–81 season should be published in February 1980.			Robert I. Smith, 254–3207.
			Notice of intent and initial proposal to develop rules establishing 1980–81 annual seasons, limits and shooting hours schedules for migratory birds should be published in February 1980. The Service has determined that this rule is significant but that it does not require a regulatory analysis.			John P. Rogers, 254–3207.
7/79–12/79	50 CFR Part 17	Endangered and Threatened Wildlife and Plants.	Proposed rule revising listing procedures to ensure compliance with the Endangered Species Act Amendments of 1978 were published on August 15, 1979. A final rule should be published in May 1980.			John Spinks, 703–235–2771.
7/79–12/79	50 CFR Parts 95–100	National Wildlife Monuments	Proposed rule was published on June 28, 1979. A final rule should be published in April 1980.			Clay Hardy, 1101 E. Tudor Road, Anchorage, AK 99507, 907–276–3800.
7/79–12/79	50 CFR Part 402	Endangered Species—Interagency Cooperation.	Proposed rule to revice consultation procedures under § 7 should be published in February 1980. The Service has determined that this is not a significant rule and does not require a regulatory analysis.			John Spinks, 703–235–2771.
Heritage Conservation and Recreation Service, 440 G Street NW., Washington, D.C. 20243 (Area Code 202)						
5/78–12/78	36 CFR Part 61	Criteria for Comprehensive Statewide Historic Surveys and Plans.	To ensure issuance of a comprehensive rule publication has been delayed. Part will be transferred to 36 CFR Part 1201.			Larry E. Aten, 343–8221.
5/78–12/78	43 CFR Part 31	Grants and Allocations for Recreation and Conservation Use of Abandoned Railroad Right-of-Way.	This Part was transferred to 36 CFR Part 1226 on January 3, 1980.			Rowland T. Bowers, 343–7801.

CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
Heritage Conservation and Recreation Service, 440 G Street NW., Washington, D.C. 20243 (Area Code 202)—Continued						
1/79–6/79	36 CFR Part 1205	National Historic Landmarks	An interim rule with request for comments was published on December 18, 1979.			Bill Lebovich, 343–8401.
1/79–6/79	36 CFR Part 1210	Recovery of Scientific, Prehistoric, Historic and Archeological Data: Procedures for Notification, Reporting and Data Recovery.	Exigencies precluded review and publication of this regulation. Publication and transfer from 36 CFR Part 66 scheduled for March 1980.			Roy W. Reeves, III, 343–7105.
1/79–6/79	36 CFR Part 1228 Appendices A&B.	Urban Park and Recreation Recovery Program Criteria for Eligibility and List of Eligible Jurisdictions.	Final rule published in FEDERAL REGISTER on Oct. 9, 1979.			Sam L. Hall, 343–5971.
1/79–6/79	36 CFR Part 1228 Subpart B	Urban Park and Recreation Recovery Program Local Recovery Action Program.	Interim rule published in FEDERAL REGISTER on July 5, 1979. A final rule should be published in May 1980.			Sam L. Hall, 343–5971.
1/79–6/79	36 CFR Part 1228, Subparts A, C & D.	Urban Park and Recreation Recovery Program Grants Procedures.	Interim rule published in FEDERAL REGISTER on August 9, 1979. Final rule expected to be published in March 1980.			Sam L. Hall, 343–5971.
1/79–6/79	36 CFR Part 1230	Land and Water Conservation Fund State Assistance Program.	Draft of proposed rule in review process. Expected date of publication moved to February 1980.			Rowland T. Bowers, 343–7801.
7/79–12/79	36 CFR Part 1202	National Register of Historic Places.	Published interim amendment of rule and transferred rule from 36 CFR Part 60, Chapter 1 on November 7, 1979. Publication of final amendments to rule expected by June 1980.			Carol Shull, 343–8401.
7/79–12/79	36 CFR Part 1204	Determinations of Eligibility for Inclusion in the National Register of Historic Places.	Publication of interim rule as final rule with editorial corrections and transfer from 36 CFR Part 63 moved to June 1980 to permit adequate agency review.			Ray Luce, 343–8401.
7/79–12/79	36 CFR Part 1206	Historic Preservation Fund Grants Administration Procedures.	To provide for adequate agency review publication of Notice of Intent to provide a general presentation on the Historic Preservation Fund Grants Administration Procedures is moved to March 1980.			Stephen Newman, 343–4941.
7/79–12/79	36 CFR Part 1208	Historic Preservation Certifications Pursuant to the Tax Reform Act of 1976.	Publication to change existing regulations because of technical corrections in the Revenue Act of 1978 and to transfer from 36 CFR Part 67 moved to June 1980 to permit adequate review.			Sally Oldham, 343–8401. H. Ward Jandl, 343–9384.
7/79–12/79	36 CFR Part 1213	Procedures for the Identification and Protection of Archeological, Historic and Scientific Properties.	Proposed rule published in FEDERAL REGISTER on August 2, 1979. Publication of final rule expected in February 1980.			Roy W. Reeves III, 343–7105.
National Park Service						
5/78–12/78	36 CFR Parts 1–4	Miscellaneous provisions, public use and recreation, boating, vehicle and traffic safety.	Proposed revisions were reviewed and scheduled for publication as proposed rules during the Spring of 1980.			Michael Finley, 343–5607.
5/78–12/78	36 CFR Part 3	Boating	This Part has been rescheduled for revision by Fall of 1980.			Harry Delashmutt, 343–5607.
5/78–12/78	36 CFR Part 5	Commercial and Private Operations.	Revisions to this Part have been deferred for approximately six months.			Don Roush, 523–1714.
6/79–12/79	36 CFR Part 7	Special Regulations of the National Park Service.	New rules for Fishery Management at Everglades National Park published on September 14, 1979.			Michael Finley, 343–5607.
6/79–12/79	36 CFR Part 13	Alaska National Monuments	Proposed rules were published on June 28, 1979, for public use and recreation, subsistence and special Alaska provisions. Final rules will be published in Spring 1980.			Michael Finley, 343–5607.
6/79–12/79	36 CFR Part 50	National Capital Parks	An interim rule with request for comments on the sale and distribution of printed matter were published on October 3, 1979. (§ 50.24).			Rick Robbins, 343–4208.
			A revision of rules for demonstration activities should be published in the Spring 1980.			Rick Robbins, 343–4208.
6/79–12/79	36 CFR Part 51	Concession Contracts and Permits.	This was published as a final rule on November 11, 1979. (This was previously scheduled as 36 CFR 14).			Don Roush, 523–1741.
6/79–12/79	36 CFR Parts 1–4	Miscellaneous provisions, public use and recreation, boating and vehicles and traffic safety.	Special amendments to existing rules are proposed to comply with revised Service policy and to reduce the number of special regulations contained in 36 CFR Part 7. Proposed rules should be published in the Spring 1980.			Michael Finley, 343–5607.
Bureau of Mines, 2401 E Street NW., Washington, D.C. 20241 (Area Code 202)						
1/79–6/79	30 CFR Part 601	Sales of Helium by and Rental of Containers from Bureau of Mines.	Revised Fee Schedule and Amendment published as a Final rule on December 5, 1979 (44 FR 69927).			Ray D. Munnerlyn, 634–4734.
Geological Survey, National Center, Reston, VA 22092 (Area Code 703)						
5/78–12/78	30 CFR Part 221	Oil and Gas Operating Regulations.	A revision of 30 CFR 221.53–58 should be published as a proposed rule in June 1980.			Eddie Wyatt, 860–7536.
5/78–12/78	30 CFR Part 211	Coal Mining Regulations	A proposed rule should be published in February 1980.			Tom Leshendok, 860–7508.
5/78–12/78	30 CFR Part 250	Oil and Gas and Sulfur Operations on the Outer Continental Shelf.	30 CFR 250.34 was published as a final rule on September 14, 1979.			Gerald Rhodes, 860–7531.
			30 CFR 250.1–33 and 35–56 and 58–96 were published as final rules on October 26, 1979.			Gerald Rhodes, 860–7531.
			30 CFR 250.57 will be published as a final rule in February 1980.			John Goll, 860–7136.

CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
National Park Service—Continued						
1/79-6/79	30 CFR Part 241	Leasing and Acquisition of Water Wells.	A proposed rule will be published in June 1980			Charles Sours, 860-7521.
1/79-6/79	30 CFR Part 251	G & G Exploration of the Outer Continental Shelf.	A final rule will be published in February 1980			Gordon Burton, 860-7564.
1/79-6/79	30 CFR Part 252	Oil and Gas Information	A final rule was published on August 7, 1979			Gerald Rhodes, 860-7531.
Office of Surface Mining Reclamation and Enforcement						
7/79-1/79	30 CFR Part 705	Definition of Employee	Proposed rule published on September 6, 1979. Public Hearings held on September 25, 1979. Final rule Scheduled for publication in January 1980.			Art Abbe, 343-5351.
1/79-6/79	30 CFR Part 875	Abandoned Mine Land Performance Standards.	The Secretary decided on July 27, 1979 not to publish these standards as rules, but as guidelines. The proposed guidelines were published on November 6, 1979. Final guidelines are scheduled for publication in February 1980.			Richard Nalbandian, 343-4057.
7/79-12/79	30 CFR Part 725	Civil Penalties	Conform interim regulations to permanent regulations and adjust penalties in certain cases. Proposed rules will be published in January 1980. Final rules are anticipated to be published in March 1980..			Richard Robinson, 343-8061.
7/79-12/79	30 CFR Part 722	Enforcement Procedures	Minor adjustments in enforcement procedures (mine site review and service of notices and orders). Proposed rule published August 20, 1979. Final rule scheduled for January 11, 1980..			Richard Robinson, 343-8061.
7/79-12/79	30 CFR Part 850	Blasting Programs	To repropose blasting programs for blasters and members of blasting crews and certification programs for blasters. Proposed rules were published on June 29, 1979. Final rules to be published in January 1980..			David Maneval, 343-4264.
7/79-12/79	30 CFR Part 716	Prime Farmlands	To repropose prime farmlands regulations to replace those portions of the initial prime farmlands regulations which the court enjoined and remanded. Proposed rules were published on June 11, 1979. Final rules to be published in January 1980.			David Maneval, 343-4264.
7/79-12/79	30 CFR Part 770	Permit Requirements	A memorandum of understanding (MOU) between the Office of Surface Mining and the Environmental Protection Agency is being written to incorporate the NPDES (National Pollution Discharge Elimination System) permit requirements. The MOU itself will not be a rule, but the results of the final MOU will initiate rulemaking procedures to implement the agreed upon permit requirements. On September 6, 1979 the Department determined that this action was not a significant rule and did not require a regulatory analysis. Proposed MOU published on September 25, 1979. Final MOU to be published in April 1980.			David Maneval, 343-4264.
7/79-12/79	30 CFR Subchapter J	Bonding	The Department has determined that this amendment to this part of the regulation is not significant and does not require a regulatory analysis. Proposed rule scheduled for January 1980. Final rule to be published in April 1980.			David Maneval, 343-4264.
Water and Power Resources Service						
1/79-6/79	43 CFR Part 21	Cabin Sites	The Service has determined that this Part needs to be updated. The determination of significance and decision on preparation of a regulatory analysis have not been made at this time.			L. D. Williamson, 343-5204.
1/79-6/79	43 CFR Part 401	Entry on Reclamation Lands	The Service determined that this Part was no longer applicable and therefore it was removed from the CFR on January 9, 1980.			T. G. Cooper, 343-5204.
1/79-6/79	43 CFR Part 403	Unproductive Land	Minor corrections were made to this Part which were published on January 9, 1980.			T. G. Cooper, 343-5204.
1/79-6/79	43 CFR Part 406	Exchange/Amendment of Farm Units.	Minor corrections were made to this Part which were published on January 9, 1980.			T. G. Cooper, 343-5204.
Office of Water Research and Technology						
5/78-12/78	18 CFR Chapter IV	Office of Water Resources Research, Department of Interior.	The Department has determined that these regulations are no longer applicable. They will be removed from the CFR by March 1980.			F. W. Koop, 343-4607. George Casseday, 343-4607.
Bureau of Land Management						
5/78-12/78	43 CFR Group 2900	Land use, occupancy and development.	Proposed rulemaking should be published in Spring 1980, Final rulemaking in summer 1980.			Ralph Conrad, 343-8731. Robert C. Bruce, 343-8735.
5/78-12/78	43 CFR Group 2700	Land disposals (sales)	Proposed rulemaking published on October 26, 1979, Final rulemaking should be published in summer 1980.			Stephen Spector, 343-8731. Robert C. Bruce, 343-8735.
1/79-6/79	43 CFR Group 1600	Planning, programming and budgeting.	Final rulemaking published on August 7, 1979			Robert Jones, 343-5682. Robert C. Bruce, 343-8735.
1/79-6/79	43 CFR Part 1700	Advisory Boards	Proposed rulemaking published on October 1, 1979. Final rulemaking should be published early in 1980.			Lee Lasia, 343-5529. Cecil Feeney, 343-8735.
1/79-6/79	43 CFR Part 2200	Exchanges of public lands	Notice of intent to propose rulemaking published on August 2, 1979, Proposed rulemaking should be published early in 1980, with final rulemaking published in summer of 1980.			David Hamstreet, 343-8731. Robert C. Bruce, 343-8735.

CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
Bureau of Land Management—Continued						
1/79-6/79	43 CFR Part 2300	Withdrawal of public lands	Proposed rulemaking published on December 4, 1979. Final rulemaking should be published in summer of 1980.			Keith Corrigal, 343-8731. Robert C. Bruce, 343-8735.
1/79-6/79	43 CFR Parts 2540, 2740 and 9150.	Color-of-title and Omitted lands	Final rulemaking published on July 18, 1979			Stephen Spector, 343-8731. Robert C. Bruce, 343-8735.
1/79-6/79	43 CFR Part 2010	Carey Act grants	Final rulemaking awaiting action by Supreme Court on suit on issue.			Keith Corrigal, 343-8731. Robert C. Bruce, 343-8735.
1/79-6/79	43 CFR Part 2740	Recreation and Public Purposes Act.	Final rulemaking published July 25, 1979			Stephen Spector, 343-8731. Robert C. Bruce, 343-8735.
1/79-6/79	43 CFR Part 2800	Rights-of-way, principles and Procedure.	Proposed rulemaking published on October 9, 1979. Final rulemaking should be published in Summer 1980.			Robert Mollohan, 343-8537. Robert C. Bruce, 343-8735.
1/79-6/79	43 CFR Part 3802	Surface protection—wilderness	Final rulemaking should be published in January 1980.			Robert Anderson, 343-7739. Robert C. Bruce, 343-8735.
1/79-6/79	43 CFR Part 3809	Surface management of unpatented mining claims located on public lands.	Second proposed rulemaking should be published early in 1980.			Robert Anderson, 343-7739. Robert C. Bruce, 343-8735.
1/79-6/79	43 CFR Part 4100	Amendments to the Grazing Administration and Trespass regulations.	Proposed rulemaking published on July 30, 1979			David Little, 343-6011. Cecil Feeney, 343-8735.
1/79-6/79	43 CFR Part 3400	Coal Management	Final rulemaking published on July 19, 1979			Don Mitchell, 343-4827. Robert C. Bruce, 343-8735.
7/79-12/79	43 CFR Subpart 1881	Payments in Lieu of Taxes	Proposed rulemaking being drafted, should be published early in 1980, with final rulemaking in summer 1980.			Edward P. Greenberg, 343-3607. George Hollis, 343-8735.
7/79-12/79	43 CFR Part 2650	Alaska Native Selections Federal Installations.	Proposed rulemaking published on September 18, 1979, final rulemaking should be published early in 1980.			Beaumont McClure, 343-8611. Robert C. Bruce, 343-8735.
7/79-12/79	43 CFR Part 3300	Outer Continental Shelf Minerals and rights-of-way management.	Final rulemaking published June 29, 1979			William Quinn, 343-8457. Robert C. Bruce, 343-8735.
7/79-12/79	43 CFR Part 3500	Leasing of Minerals other than Oil and Gas.	Revision study continuing, with proposed rulemaking to be published in June 1980.			David M. Carty, 343-7763. Cecil Feeney, 343-8735.
7/79-12/79	43 CFR Part 4700	Wild Free Roaming Horses and Burro Protection, Management and Control.	Proposed rulemaking published on April 6, 1979			Robert J. Springer, 343-6811. Cecil Feeney, 343-8735.
7/79-12/79	43 CFR Part 7100	Protection of Endangered Plants	Study of this rulemaking and the extent of its application under review.			Richard J. Vermiman, 343-6188. Robert C. Bruce, 343-8735.
Bureau of Indian Affairs						
5/78-12/78	25 CFR Part 161	Rights-of-way over Indian lands	Proposed rule published on July 7, 1978. Final rule will be published in January 1980.			Richard S. McDermott, Palm Springs Area Ofc., 987 S. Palm Canyon Dr., Palm Springs, CA 92262, 714-325-2163.
5/78-12/78	25 CFR Part 104	Individual Indian Money Accounts	The Bureau has determined that this part is current and no revision is necessary.			William Bucholz, 343-2963.
5/78-12/78	25 CFR Part 141	General Forest Contracts	The Bureau has determined that this part is current and no revision is necessary.			George Smith, 343-2358.
5/78-12/78	25 CFR Part 174	Leasing of Restricted Lands of Members of Five Civilized Tribes, Oklahoma for Mining.	The Bureau has determined that this part is current and no revision is necessary.			Tom Riggs, 343-3722.
5/78-12/78	25 CFR Part 274	School Construction Contracts or Services for Tribally Operated previously Private Schools.	Proposed rule published August 23, 1978. Final rule will be published January 1980.			John Carmody, Albuquerque Area Ofc., P.O. Box 1788, Albuquerque, NM, 87103, 505-474-2905.
5/78-12/78	25 CFR Part 277	School Construction Contracts for Public Schools.	Proposed rule published August 23, 1978. Final rule will be published January 1980.			John Carmody, Albuquerque Area Ofc., P.O. Box 1788, Albuquerque, NM, 87103, 505-474-2905.
5/78-12/78	25 CFR Part 105	Deposit of Indian Funds in Banks.	This rule is no longer applicable and will be removed from the CFR by June 1980.			William Bucholz, 343-2963.
5/78-12/78	25 CFR Part 273	Education Contracts under Johnson-O'Malley Act.	Proposed rule should be published by February 1980.			Elizabeth Holmgren, 343-3151.
5/78-12/78	25 CFR Part 34	Vocational Training for Adult Indians.	Proposed rule was published on October 14, 1977. Final rule should be published by April 1980.			Bob Delaware, 703-235-8356.
5/78-12/78	25 CFR Part 171	Leasing of Tribal Lands for mining.	Proposed rule published on April 5, 1978. Final rule will be published in April 1980.			Tom Riggs, 343-3722.
5/78-12/78	25 CFR Part 177, Subpart A	Plans for Prospecting Mining on Indian Mineral lands: Reclamation of Non-mineral resources.	Originally published as proposed rule on April 5, 1978. Final rule now being processed and will be published in April 1980.			Tom Riggs, 343-3722.
1/79-6/79	25 CFR Part 31a	Indian Education Policies	Final rule published October 9, 1979			Elizabeth Holmgren, 343-3151.
1/79-6/79	25 CFR Part 31b	Transfer of Indian Education Functions.	Final rule published October 9, 1979			Elizabeth Holmgren, 343-3151.
1/79-6/79	25 CFR Part 31g	Education Personnel	Final rule published November 8, 1979			Elizabeth Holmgren, 343-3151.
1/79-6/79	25 CFR Part 42	Enrollment Appeals	Proposed rule was published May 30, 1978. New judicial rulings have necessitated publication of a new proposed rule. This will be done by June 1980.			Janet Parks, 703-235-8275.
1/79-6/79	25 CFR Part 20	Financial Assistance and Social Services Program.	The Bureau has determined that this part is current and no revision is necessary.			Ray Butler, 703-235-2758.
1/79-6/79	25 CFR Part 120a	Land Acquisitions	This was published as proposed new regulations on July 26, 1978. Final rulemaking document should be published in February 1980.			Raymond W. Jackson, Phoenix Area Ofc., P.O. Box 7007, Phoenix, AZ 85011, 602-261-4185.
1/79-6/79	25 CFR Part 121	Issuance of Patents in Fee, Certificates of Competency, Removal of Restrictions, and Sale of Certain Indian Lands.	Proposed revision was published on October 5, 1978. Final publication should be made by April 1980.			Wilford Bowker, Portland Area Ofc. P.O. Box 3785, Portland, OR 97208, 503-429-6714.
1/79-6/79	25 CFR Part 182	Oil and Gas Contracts	Proposed rule published April 5, 1977. Final rule being processed and will be published in April 1980.			Tom Riggs, 343-3722.

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CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
Bureau of Land Management—Continued						
1/79–6/79	41 CFR Part 14H	Buy Indian Act Contracting	Proposed rule under review. Will be published by June 1980.			Donald F. Aabra, 703–235–8061.
Bureau of Indian Affairs—Continued						
1/79–6/79	25 CFR Part 252	Business Practices on Navajo, Hopi and Zuni Reservations.	Proposed rule was published on October 16, 1979. Publication as Final rule delayed pending receipt of input from tribes.			Rugene Suarez, 343–5786.
1/79–6/79	25 CFR Part 31h	Indian School Equalization Program.	Final rule published October 26, 1979			Elizabeth Holmgren, 343–3151.
1/79–6/79	25 CFR Part 31i	Student Rights and Responsibilities and Due Process Procedures.	Proposed rule published May 22, 1979. Final rule should be published by February 1980.			Elizabeth Holmgren, 343–3151.
1/79–6/79	25 CFR Part 32b	Grants for Tribally Controlled Community Colleges and Navajo Community College.	Final rule published November 21, 1979. This was incorrectly listed in the previous agenda as 25 CFR Part 33.			Elizabeth Holmgren, 343–3151.
1/79–6/79	25 CFR Part 31h	Education of the Exceptional Child in Bureau Schools.	This regulation was listed separately in the previous agenda without a part number. This material has now been incorporated into 25 CFR Part 31h, which was published as a final rule on October 26, 1979.			Dr. Charles G. Cordova, 343–5517.
7/79–12/79	25 CFR Part 131	Leasing and Permitting	Proposed revision was published on October 2, 1979. Final publication should be made by March 1980.			Robert Schoewe, Minneapolis Area Otc., 831 Second Avenue, Minneapolis, MN 55402, 612–725–2914.
7/79–12/79	25 CFR Part 271	Contracts and Grants Under Indian Self-Determination and Education Assistance Act.	Proposed rule published August 23, 1978. Final rule will be published January 1980. This was listed in the previous agenda as "Contracting for Education Services under 638 or Regular Services".			Jay T. Suagee, 343–2708.
7/79–12/79	25 CFR Part 52	Conduct of elections to adopt or amend tribal constitutions and corporate charters.	Published as a proposed rule on July 10, 1979. The final rule should be published in January 1980.			Robert Farring, 343–4045.
7/79–12/79	25 CFR Part 53	Procedures for petitioning to request the Secretary or the Commissioner to take certain actions.	Published as a proposed rule on July 10, 1979. The final rule should be published in January 1980.			Robert Farring, 343–4045.
7/79–12/79	25 CFR Part 177, Subpart B	Surface Exploration, Mining and Reclamation of Lands.	Revision of this part has been deferred pending approval of state reclamation programs.			Tom Riggs, 343–3722.

[FR Doc. 80-2902 Filed 1-30-80; 8:45 am]
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federal register

Thursday
January 31, 1980

Part V

Department of Justice

Office of Justice Assistance Research and Statistics

Improving Government Regulations; Semiannual Agenda of Significant Regulations Under Development or Review

DEPARTMENT OF JUSTICE

Office of Justice Assistance Research and Statistics

28 CFR Ch. 1

Improving Government Regulations; Semiannual Agenda of Significant Regulations Under Development or Review

AGENCY: Office of Justice Assistance, Research and Statistics.

ACTION: Publication of the semiannual agenda of regulations.

SUMMARY: This Semiannual Agenda of Significant Regulations is issued pursuant to Section 2(a) of Executive Order No. 12044 (43 FR 12661), which requires the publication at least semiannually of an "agenda of significant regulations under development or review."

The purpose of this Semiannual Agenda is to provide the public with information about regulatory activity within the Office of Justice Assistance, Research and Statistics (OJARS), the Law Enforcement Assistance Administration (LEAA), the National Institute of Justice (NIJ), and the Bureau of Justice Statistics (BJS).

On December 27, 1979, the Justice System Improvement Act of 1979 was enacted. The Act established the OJARS, the LEAA, the NIJ, and the BJS. OJARS directly provides staff support to, and coordinates the activities of the NIJ, the BJS, and the LEAA. OJARS, as part of its coordination function, publishes the Semiannual Agenda of Significant Regulations. The last Agenda was published by the former Law Enforcement Assistance Administration on April 20, 1979.

FOR FURTHER INFORMATION CONTACT: For inquiries or comments related to specific regulations in the agenda, the public is encouraged to contact the appropriate knowledgeable official. Questions or comments concerning the overall agenda should be sent to Leonard Oberlander, Office of Planning and Management, Office of Justice Assistance, Research and Statistics, U.S. Department of Justice, 633 Indiana Avenue NW., Washington, DC 20531 (202) 724–7636.

SUPPLEMENTARY INFORMATION: The Semiannual Agenda covers new significant regulations under development at the time this agenda is prepared, or which are anticipated to be under development within the next twelve months. It also includes existing significant regulations under review with an eye toward possible revision, or ones anticipated to begin such review before the publication of the next Semiannual Agenda. For all regulations that were included in the last semiannual agenda published in the **Federal Register** on April 20, 1979, a status update is included. Following are agenda entries for each significant regulation under development or review, or anticipated to be so prior to the publication of the next semiannual agenda, and a status update for all entries that were included in the last semiannual agenda published on April 20, 1979 in the **Federal Register.**

A. Plans for Modifying Regulations

1. Title. Nondiscrimination in Federally Assisted Crime Control and Juvenile Delinquency Programs, 28 CFR 42.201 et seq.

The present nondiscrimination regulations are published as 28 CFR 42.201 *et seq.* The Justice System Improvement Act of 1979 provides in subsection 817(d) that within 120 days of the enactment of the subsection the Office of Justice Assistance, Research, and Statistics shall review existing civil rights regulations and conform them to the new legislation. The Act was enacted on December 27, 1979. Additionally, the regulations will be amended to define what discrimination in services is prohibited and to be consistent with LEAA's Equal Employment Opportunity Program Guidelines (28 CFR 42.301 *et seq.*) and the Equal Service Program Guidelines which are under development.

Legal Basis. Subsection 817d of the Justice System Improvement Act requires that existing civil rights regulations be reviewed and conformed to the new legislation.

Regulatory Analysis. No regulatory analysis is necessary.

Knowledgeable Official. Wilbur R. Brantley, Director, Office of Civil Rights Compliance, OJARS, 633 Indiana Avenue NW., Washington, DC 20531 (202) 633–2215.

B. New Regulations Under Development

1. Title. Urban Crime Prevention Program Guideline

Description of the Regulation. These guidelines will provide guidance to applicants who have the ability to draw together low and moderate income neighborhood community groups, local government, criminal justice agencies and the private/public sectors in community anti-crime efforts. The guidelines describe the structure that is required at the local level to ensure the forging of a partnership among all community elements. Further, project models that will receive major funding are outlined.

Legal Basis. Section 301 and 501 of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (42 U.S.C. 3701 *et seq.*)

Regulatory Analysis. A regulatory analysis is not required.

Knowledgeable Official. Ernest Milner, Director, Urban Crime Prevention Program, Office of Community Anti-Crime program, LEAA, 633 Indiana Ave. NW., Washington, DC 20531 (202) 724–5935.

2. Title. Community Anti-Crime Program Guidelines

Description of the Regulation. The Community Anti-Crime Program Guidelines will detail the specific requirements for applicants wishing to apply to the program. It will include program goals and objectives and describe for prospective applicants the kinds of project activities which will be considered for funding. It will also define the information which *must* be included in a proposal, the dollar range of grants, eligibility criteria, submission deadlines and criteria for selection.

This issuance is needed to ensure that applicants fully understand program requirements before submitting proposals.

Legal Basis. Sections 301 and 501 of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (42 U.S.C. 3701 *et seq.*)

Regulatory Analysis. A regulatory analysis will not be necessary.

Knowledgeable Official. Cornelius M. Cooper, Assistant Administrator, Office of Community Anti-Crime Programs, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., Washington, DC 20531 (202) 724–5550.

C. Status of Regulations Previously Listed in the Semiannual Agenda of Significant Regulations Published on April 20, 1979 (44 FR 23770)

1. Title. Guide for Graduate Research Fellowship Program, G5400.2B

The target dates for this regulation have been updated, the new target dates are:

Begin Draft—November 30, 1979.

Publish for Comment—February 29, 1980.

Issue Final Regulation—June 30, 1980.

For further information contact: Jean Moore, Chief, Program Development Division, Office of Criminal Justice Education and Training, LEAA, 633 Indiana Avenue, NW., Washington, DC 20531 (301) 492–9144.

2. Title. Administrative Review Procedure, 28 CFR Part 18

OJARS will publish for comment proposed regulations in the **Federal Register** in late January or early February 1980. Final regulations should be published within 60 days after the end of the comment period on the proposed regulations. More information about this regulation can be obtained from Mr. Thomas J. Madden, General Counsel, OJARS, at (202) 724–7792.

3. Title. Financial Management for Planning and Action Grants, M7100.1A

Revised target dates for this regulation are late January 1980 for publication of the draft proposed regulation in the **Federal Register** for comment, and April 1980 for publication of the final regulation in the **Federal Register.** For further information contact Mr. Arthur E. Curry, Office of the Comptroller, OJARS, at (202) 724–5863.

4. Title. Guide for Discretionary Grant Programs, M4500.1H

This guideline is now referred to as *Notional Priority Program and Discretionary Program Announcements* and *Application Kits for National Priority Programs and Discretionary Programs.* This simplified and streamlined format replaces the more cumbersome former M4500.1G. Revised target dates for publication of the Program Announcements in the **Federal Register** are now: (1) Request for public comment was published in the **Federal Register** on December 12, 1979, and (2) Program announcements will be published in final form within 60 days after the end of the public comment period. Revised target dates for publication of the Application Kits in the **Federal Register** are now (1) request for public comment on or about February 25, 1980, and (2) final publication of the Application Kits within 60 days after the end of the public comment period. Four Program Announcements and Application Kits for programs sponsored by the Office of Juvenile Justice and Delinquency Prevention will be published separately, as specified in the Semiannual Agenda Overview table below. For further information contact Mr. Michael Cronin, OJARS, at (202) 724–7631.

5. Title. Change to Guide for Discretionary Grant Programs, M4500.1G FY 79

a. Issuance of the final regulation (LEAA Program Announcement) for *Replicaton of Project New Pride: A Serious Offender Youth Treatment Program* was published in the **Federal Register** on July 3, 1979.

b. Issuance of the final LEAA Program Announcement, *Youth Advocacy Initiative* was published in the **Federal Register** on October 12, 1979.

c. Target dates for the *Alternative Education* Announcement were changed. LEAA published a draft announcement for comment on October 15, 1979. The final Program Announcement is expected to be published on or about January 31, 1980. For further information contact Ms. Marilyn Landon, Program Assistant, Office of Juvenile Justice and Delinquency Prevention, LEAA, at (202) 724–7751.

6. Title. Change to Guideline Manual for State Planning Agencies, M4100.1F

a. *Chapter 3, Paragraph 52(n)(2): Definition of a Juvenile Detention or Correctional Facility.* The final Guideline Revision for the Definition of a Juvenile Detention or Correctional Facility was published in the **Federal Register** on September 27, 1979.

b. *Changes to Chapter 3, Paragraph 51* have been cancelled.

This review is now part of the development of *Regulations Implementing Part D (formula grants) of the Justice System Improvement Act of 1979.*

7. Title. Equal Employment Opportunity Program Guidelines, 28 CFR 42.301 et seq. and

8. Equal Service Program Guidelines

Notice of Change in target dates for these proposed regulations (7) and (8) was published in the **Federal Register** on September 13, 1979.

OJARS expects to publish both sets of Guidelines, for comment, in January 1980 and to publish final Guidelines in April 1980.

For further information contact Thomas J. Madden, General Counsel, OJARS, (202) 724–7792.

9. Title. Regulations Implementing Part D of the Justice System Improvement Act of 1979

These guidelines set forth requirements for applications for formula grants to state and local governments authorized by Part D of the Justice and Delinquency Prevention Act.

Development of the guidelines was initiated in April 1979 with the formation of a Task Force comprised of LEAA and public interest group representatives to discuss and resolve issues in implementing the new formula grant program of the Justice System Improvement Act. Six Task Force meetings have been held to date. Major issues have been State and local roles in the program, allowable uses of formula grant monies, and the required content of grant applications.

OJARS published draft guidelines for comment in the **Federal Register** on January 14, 1980. After a period for public review and comment, final guidelines will be published in the **Federal Register.** For further information contact Allen Payne, Director, Policy and Management Planning Staff, LEAA, at (202) 724–7659.

D. Status of Regulations Initiated After the Publication of the Last Semiannual Agenda and Which Were Included in an Updated Agenda on File in the LEAA

1. Title. Additions to the Guide for Discretionary Grant Programs, FY 79 Guideline, Which Were Initiated After the Publication of the Last Semiannual Agenda

These additions were included in an updated Agenda on file in the Law Enforcement Assistance Administration, where it is available for public inspection.

a. *Guide for Discretionary Grant Programs, M4500.1G for FY 1979; National Victim/Witness Strategy.* The final Guideline for the National Victim/Witness Strategy Program was published in the **Federal Register** on July 10, 1979.

b. *Guide for Discretionary Grant Programs, M4500.1G, for FY 1979; Arson Control Assistance Program.* The final Guideline for the Arson Control Assistance Program was published in the **Federal Register** on July 24, 1979.

Semiannual Agenda Overview

Title of regulations	Target dates		
	Begin draft	Publish for comment	Issuance of final regulation
A. Regulations under Review and Revision:			
Nondiscrimination in Federally-Assisted Crime Control and Juvenile Delinquency Programs 28 CFR 42.201 *et seq.*	On passage of new legislation.	April 1980	( )
B. New Regulations under Development:			
1. Urban Crime Prevention Program Guideline	( )	Oct. 16, 1979	Feb. 1, 1980
2. Community Anti-Crime Program Guideline	( )	November 1979.	January 1980

Semiannual Agenda Overview—Continued

Title of regulations	Target dates		
	Begin draft	Publish for comment	Issuance of final regulation
C. Status of Regulations Previously Listed in the Semiannual Agenda of Significant Regulations Published on April 20, 1979 (44 FR 23770):			
1. Graduate Research Fellowship Program, G5400.2B	Nov. 30, 1979.	Feb. 29, 1980	June 30, 1980.
2. Administrative Review Procedure, 28 CFR Part 18		January or February 1980.	(1)
3. Financial management for Planning and Action Grants, M7100.1A		January 1980	April 1980.
4. Formerly Guide for Discretionary Grant Programs M4500.1H; now designated as Program Announcements and Applications Kits for National Priority and Discretionary Programs:			
(A) Program Announcements		Dec. 12, 1979	(1)
(B) Application Kits		Feb. 25, 1980	(1)
Parts of the above to be published for comment and issued as final on separate dates in the FEDERAL REGISTER. These are programs of the Office of Juvenile Justice and Delinquency Prevention.			
(A) Serious Juvenile Offender		Mar. 7, 1980	May 31, 1980.
(B) Removal of Youths from Adult Jails and Lockups in Rural Communities.		Mar. 15, 1980	May 31, 1980.
(C) Capacity Building		Feb. 25, 1980	April 30, 1980.
(D) Prevention Research and Demonstration		Mar. 1, 1980	May 20, 1990.
5. Change to Guide for Discretionary Grant Programs, M4500.1G FY 79:			
(A) New Pride			July 3, 1979.
(B) Youth Advocacy			Oct. 12, 1979.
(C) Alternative Education		Oct. 15, 1979	Jan. 31, 1980.
6. Change to Guideline Manual for State Planning Agencies, M4100.1F:			
(A) Chap. 3, par. 52			Sept. 27, 1979.
(B) Chap. 3, par. 51	Cancelled	Cancelled	Cancelled.
7. Equal Employment Opportunity Program Guidelines, 28 CFR part 42		January 1980	April 1980.
8. Equal Service Program Guidelines		January 1980	April 1980.
9. Regulations Implementing Part D (formula grants) of the Justice System Improvement Act of 1979.		Jan. 14, 1980	(1)
D. Status of Regulations Initiated after the publication of the last Semiannual Agenda and were included in an updated Agenda on file in the LEAA.			
Change to Guide for Discretionary Grant Programs, M4500.1G for FY 79:			
(A) National Victim Witness Strategy			July 10, 1979.
(B) Arson Control Assistance Program			July 24, 1979.

[1] Within 60 days after end of comment period.

Henry S. Dogin,

Acting Director, Office of Justice Assistance, Research and Statistics.

[FR Doc. 80-2901 Filed 1-30-80; 8:45 am]

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Thursday
January 31, 1980

Part VI

Environmental Protection Agency

1981 Model Year Carbon Monoxide Emission Standard for Light-Duty Motor Vehicles; Decision on Applications for Waiver of Effective Date and Adoption of Revised Standard

V 45 / 22 JA 31 80 UMI

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1397-7]

Applications for Waiver of Effective Date of the 1981 Model Year Carbon Monoxide Emission Standard for Light-Duty Motor Vehicles—Third Consolidated Decision of the Administrator

I. Introduction

This is the third consolidated decision I have issued under Section 202(b)(5) of the Clean Air Act, as amended (Act), 42 U.S.C. 7521(b)(5), regarding applications from automobile manufacturers for waiver of the 3.4 grams per vehicle mile (gpm) carbon monoxide (CO) emission standard scheduled to apply to 1981 and 1982 model year light-duty motor vehicles and engines.[1]

As both introductions to the previous consolidated decisions explain, section 202(b)(1)(A) of the amended Act establishes a schedule for implementing standards applicable to CO emissions for 1977 and later year light-duty motor vehicles and engines.[2] The 1977 amendments to the Act, However, included a new provision allowing the Administrator of the Environmental Protection Agency (EPA), under certain limited conditions, to delay for up to two model years implementation of the statutory 3.4 gpm CO standard scheduled to take effect for the 1981 model year.[3] These amendments require the Administrator to promulgate standards which do not permit CO emissions over 7.0 gpm for vehicles granted waiver applications.

Prior to the enactment of the 1977 amendments to the Act, EPA's Administrator had considered and granted requests from manufacturers for delays in implementing the statutory CO standards as provided by the earlier versions of the Act.[4] In those instances, the statute provided for consideration of waivers on a manufacturer-by-manufacturer basis, and the Administrator granted waivers covering the whole industry. The Act's current section 202(b)(5) requires the Administrator to reach a separate waiver decision for each vehicle model for which a manufacturer requests a waiver. This change indicates Congress' intent that any waivers granted under the new 1977 amendments be narrow in scope and not apply to the entire industry.

On October 13, 1978, EPA published "Guidelines for Applications for Waiver of the 1981 Carbon Monoxide Emission Standard".[5] These guidelines outlined the information which EPA sought from waiver applicants and directed applicants to submit a separate application for each vehicle model for which a waiver was requested. For purposes of the proceedings under section 202(b)(5), the guidelines defined "model" as synonymous with the term "engine family" as defined in 40 CFR 86.077–2 and 86.078–24(a)(2) through (a)(4) (1977).[6]

In response to waiver applications, EPA already has held two sets of public hearings and issued two consolidated decisions pursuant to section 202(b)(5)(A).[7] In those decisions, I denied waivers for certain engine families either because I determined that effective control technology[8] was available contrary to the requirement of section 202(b)(5)(c)(iii) of the Act or because the applicant failed to provide sufficient information to establish that effective control technology was not available. Furthermore, the applicants failed to establish that considerations of costs, driveability, or fuel economy gave me a basis for reaching a different conclusion. I granted the waiver applications covering the remaining engine families after determining that the requisite technology was not available and that the application met each of the statutory criteria for receiving a waiver.

From September 28 through November 2, 1979, the Agency received waiver applications from Toyota, Lotus, Chrysler, AMC, and GM.[9] Specifically, Lotus submitted a new application for three engine families, while GM and Toyota each submitted applications with new emission data for an engine family denied a waiver in the first consolidated decision because of insufficient information. AMC and Chrysler made applications for engine families denied waivers in the first decision and provided some new information. EPA held hearings on these applications on November 5, 1979.[10]

This decision will address the above waiver requests on the basis of previously offered and recently provided information from these manufacturers and from other sources.[11] However, this decision will not address Chrysler's waiver request, which, in addition to providing additional information for some engine families denied waivers in my first consolidated decision, also disputed the first decision in the areas of availability of effective control technology, decision methodology, public health effects, and public interest effects. I will address these issues in a separate opinion specifically responding to the Chrysler submission.

[1] The first consolidated decision was published at 44 FR 53376 (September 13, 1979). The second consolidated decision can be found at 44 FR 60417 (December 3, 1979).

[2] Regulations were promulgated on August 15, 1979, setting a CO standard of 3.4 gpm for 1981 and later model year vehicles. 40 CFR 86.081–8(a)(1)(ii), 43 FR 37972. This standard requires a 90 percent reduction in CO emissions from the CO standard applicable to 1970 model year vehicles.

[3] Section 202(b)(5)(c) of the Act provides, in part: The Administrator may grant such waiver if he finds that protection of the public health does not require attainment of such 90 percent reduction for carbon monoxide for the model years to which such waiver applies in the case of such vehicles and engines and if he determines that—

(i) Such waiver is essential to the public interest or the public health and welfare of the United States,

(ii) All good faith efforts have been made to meet the standards established by this subsection;

(iii) The applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available with respect to the model in question for a sufficient period of time to achieve compliance prior to the effective date of such standards, taking into consideration costs, driveability, and fuel economy; and

(iv) Studies and investigations of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that technology, processes, or other alternatives are available (within the meaning of clause (iii)) to meet such standards.

[4] See the discussion of this point in the introductions to the Administrator's first two consolidated CO waiver decisions. 44 FR 53376 (Sept. 13, 1979) and 44 FR 60422 (December 3, 1979).

[5] 43 FR 47272 (1978).

[6] As in the previous decision, I am distinguishing among engine families primarily on the basis of engine displacement. See footnote 17, second consolidated decision, 44 FR 60418 (Dec. 3, 1979).

[7] Testimony received at these two hearings, as well as all other information considered in deciding these two groups of waiver applications, are included in EPA Public Docket EN–79–4 and EN–79–17, respectively.

[8] As was the case in the earlier consolidated decisions, I am using the term "technology" in this decision to encompass the statutory language "technology, processes, operating methods, or other alternatives" included as part of section 202(b)(5)(c)(iii) of the Act.

[9] Respectively, Toyota Motor Co., Ltd.; Lotus Cars, Ltd.; Chrysler Corporation; American Motors Corporation; and General Motors Corporation.

[10] The transcript from this hearing is located in EPA Public Docket EN–79–19. This decision uses the following abbreviated citations:

AMC App.—American Motors Corporation Petition for Reconsideration dated October 26, 1979.

GM App.—General Motors Corporation Application for Waiver dated November 2, 1979, submitting new information on one engine family.

T. App.—Toyota Motor Co. Ltd. Application for Waiver dated September 24, 1979, submitting new information for one engine family.

L. App.—Lotus Cars Ltd. Application for Waiver dated Oct. 16, 1979.

Other previous submissions are referred to by the abbreviations stated in note 12, first consolidated decision 44 FR 53376, 53377 (Sept. 13, 1979).

[11] See discussion on consideration of other sources of information in previous decisions, e.g. section III B(1)C, 44 FR 60416, 60422 (Dec. 3, 1979).

II. Summary of Decision

A. Waiver Applications Granted

The waiver applications which I decided to grant cover 1981 model year vehicles of the following engine families:

Waiver Applications Granted

Manufacturer	Engine family
Lotus Cars, Ltd.	2.0L.
General Motors Corp.	3.8L/(231 CID) 4V Turbo.
American Motors Corp.	151 CID.

As discussed more fully below, I have concluded that applications covering these engine families meet each of the statutory criteria for receiving a waiver for the 1981 model year. I am prescribing an interim CO emission standard of 7.0 gpm for the 1981 model year for these engine families.[12] However, the statutory 3.4 gpm CO standard will remain effective for the 1982 model year vehicles of these engine families because these applicants have failed to establish that these engine families receiving waivers cannot incorporate effective control technology by 1982.

B. Waiver Applications Denied

I am denying waiver requests covering the following engine families for the model years specified:

Waiver Applications Denied

Manufacturer	Model year denied	Engine family
GM	1982	3.8L/231 CID–4V Turbo.
AMC	1982	151 CID.
Toyota	1981, 1982	108 CID.
Lotus	1981, 1982	2.2L, 2.2L Turbo.
	1982	E.O.L.

Toyota has not established that effective control technology, considering costs, driveability, and fuel economy, is not available to enable its 108 CID engine family to meet the statutory CO standard by the 1981 model year. The information in the record indicates that such technology is available for this family.

For the remaining engine families covered by waiver applications which I have denied, the applicants have failed to establish that effective CO control technology will not be available to them because the applicants have not provided sufficient information to permit assessment of the emission control capabilities of these engine families for the model years in question.[13]

Considerations of costs, driveability, or fuel economy, whether viewed separately or cumulatively, do not give me a basis for altering my determinations regarding the availability of technology for these engine families which have been denied waivers. The extra costs associated with implementing technology capable of meeting the 3.4 gpm standard for those engine families, while not necessarily insignificant, are not substantial enough compared to the costs of meeting a standard no higher than 7.0 gpm to justify a conclusion that use of that technology is not feasible.[14] I have determined, therefore, that these costs do not prevent the requisite control technology from being reasonably available to enable these engine families to achieve the 90% reduction in CO emissions which the Act establishes as an ultimate target for light-duty motor vehicles.

Furthermore, no waiver applicant has presented information which indicates that implementing technology capable of achieving the 3.4 gpm standard would have a sufficient adverse effect on driveability, relative to the driveability levels which an applicant reasonably could attain in conjunction with a standard not exceeding 7.0 gpm, to make the vehicles in question unacceptable to consumers.[15] Nor has any waiver applicant demonstrated that implementation of that technology either will prevent the manufacturer from meeting Federal fuel economy requirements or will cause an unreasonable fuel economy penalty relative to fuel economy levels achievable in conjunction with a standard not exceeding 7.0 gpm.[16]

While these engine families denied waivers may meet some, or all, of the remaining statutory criteria for receiving waivers, my determinations regarding available technology, considering costs, driveability, and fuel economy, preclude me from granting waivers covering these engine families.

III. Discussion

A. Availability of Technology

1. Methodology for assessing available technology.—The decisions I have made on whether to grant or deny requested waivers her turn primarily on whether technology is available to enable an engine family covered by one of these waiver applications to meet the 3.4 gpm CO standard in the 1981 model year, as was the case with the first two consolidated decisions. Section 202(b)(5)(C)(iii) of the Act expressly assigns an applicant the task of establishing that effective CO control technology is not available, taking into consideration costs, driveability, and fuel economy. Even if the Administrator determines that an applicant has met this burden, section 202(b)(5)(C)(iv) requires the Administrator to consider whether NAS studies or other information indicate that technology is available considering costs, driveability, and fuel economy, before granting a waiver request.

As was the case in the previous consolidated CO waiver decisions,[17] this consolidated decision relies on information contained in the waiver applications and other information found in the public record. Appendix A assesses the emissions performance of engine families first as described in the waiver application an then after factoring in one or more hypothetical system improvements through the use of "adjustment factors."[18] Appendix A contains this evaluation for each engine family for which sufficient emission test data were available by using a "Monte Carlo" statistical simulation technique used in previous suspension and waiver decisions.[19]

The results from this analysis indicate with high statitical confidence whether the engine families which were covered by waiver applications can certify to the 3.4 gpm CO standard for the 1981 and 1982 model years. Appendix A provides an assessment for each engine family for which adequate emission test data were available and describes the adjustment factors employed in projecting each family's ability to certify.

As part of my assessment of technology, section 202(b)(5)(C)(iv) of the Act requires that I consider the results of NAS studies and

[12] In making determinations for these engine families, I have not considered whether these engine families would be capable of meeting the 3.4 gpm CO standard by replacing their catalysts during their useful life. This is consistent with the policy I applied in the two previous consolidated CO waiver decisions. See 44 FR 53377 (Sept. 13, 1979), 44 FR 60416, 60419 (Dec. 3, 1979).

[13] Applicants providing insufficient emission data may reapply upon submission of new information regarding technology availability for 1982. See 44 FR 53376, 53385 (Sept. 13, 1979) 44 FR 60416, 60418 (Dec. 3, 1979).

[14] See App. A, Sections VI–VIII for discussion of costs, driveability, and fuel economy.

[15] Id., Section VII.

[16] Supra, note 14.

[17] 44 FR 53376, 53380–53402 (September 12, 1979), 44 FR 60416, 60418 and 60419 (Dec. 3, 1979).

[18] The adjustment factors which the methodology employs to account for the effects of the respective improvements to emission control systems often is purposely low compared to measured effects of those factors on emissions. For further discussion, see analysis of adjustment factors in the two previous decisions. 44 FR 53378, 53380 (Sept. 12, 1979), 44 FR 60416, 60421, (Dec. 3, 1979).

[19] See 38 FR 10317, 10323 (April 28, 1973), and discussion of Monte Carlo technique in previous decisions. 44 FR at 53380, 53384, 53390 (Sept. 12, 1979). 44 FR at 60421, 60431 (Dec. 3, 1979).

investigations [20] conducted under section 202(c) of the Act regarding available technology, processes, or other alternatives. For the reasons discussed in my earlier consolidated waiver decisions, the findings of the available NAS studies do not contradict my assessment regarding the unavailability of technology for the engine families for which I have decided to grant waivers for the 1981 model year.[21]

In addition, my review of available technolgy has encompassed other information incorporated into the record from non-applicant manufacturers and from parts suppliers and developers.[22] I also have reviewed dats from emission tests performed on vehicles for the purpose of receiving certification for the 1980 model year, including data regarding certification in California. This additional information, as well as other information available to me, does not indicate that the requisite technology, considering costs, driveability, and fuel economy, is available for the engine families for which waivers are being granted.

2. Individual applicants. Each automobile manufacturer has reached a state in its development of CO emission controls at which it has narrowed the range of strategies it contemplates employing to meet the 3.4 gpm standard. To support contentions that effective control technology is not available, the waiver applicants have provided both descriptions of the systems they have been considering in trying to attain the 3.4 gpm CO emission standard and emission test results they have measured from vehicles incorporating those systems. Each application proposed that I grant the requested waivers to cover engine families produced in both the 1981 and 1982 model years and that a 7.0 gpm CO standard apply to those families. Of the applications under consideration here, only that or Lotus represents a completely new request for a waiver. Toyota and GM are reapplying upon submission of additional emission test data, while AMC is requesting a reconsideration based upon new developments relating to the lead time needed to implement available technology supplied by GM.

a. American Motors Corporation. American Motors (AMC) requested reconsideration of the September 13, 1979, decision denying its application for a CO waiver for the GM-produced 151 CID engine family for model years 1981 and 1982. The previous waiver request was denied because Monte Carlo analysis and information supplied by GM indicated that this family could meet the 3.4 CO standard even considering costs, driveability, and fuel economy.[23] Specifically, the AMC petition is based upon additional information regarding AMC's progress in adapting and calibrating the 151 CID GM-supplied engine and emission control system to AMC vehicles prior to the 1981 model year. AMC contends that delay in obtaining this system from GM and unforeseen problems in engine-vehicle development have hampered its ability to adapt and calibrate this engine package to meet the 3.4 CO standard in time for the 1981 and 1982 model years.

The 151 CID engine for which AMC has requested a waiver is produced by GM and has been employed in vehicles certified by GM. However, GM's 1981 model year version of this engine (i.e., the second generation C–4 system) employs a microprocessor which must be recalibrated for use in AMC vehicles. In the first consolidated waiver decision, I rejected AMC's lead-time contentions based upon projections of AMC's probable ability to adapt, develop, and calibrate this engine family. However, new information indicates that AMC has been unable to achieve significant progress in developing this engine family [24] since the first consolidated waiver decision was announced, and that it has insufficient lead time to develop the requisite calibrations and test them in its own vehicles in time for the 1981 model year. AMC contends that the available 1980 system is incapable of meeting the 3.4 gpm CO standard.

I have therefore determined that effective technology will not be available to AMC with sufficient lead time to meet the 3.4 gpm CO standard in time for the 1981 model year because of its dependence upon GM for engines and emission control technology and because of the amount of time AMC has demonstrated will be involved in implementing that technology in its own vehicles. I have determined, however, that AMC has not established that such technology, considering costs, driveability, and fuel economy, will not be available in 1982 [25] because AMC has sufficient lead time to complete calibration of this system for the 1982 model year.

b. General Motors. General Motors (GM) reapplied for a waiver for its 3.8 liter 4V turbocharged engine family for 1981 and 1982. I denied a waiver for this engine family in my first consolidated CO waiver decision on the grounds that GM provided insufficient emission test data for evaulating the engine family's emission control capabilities.[26]

This reapplication provides additional emissions data and requests that I grant a waiver on the basis of these data and on the basis of GM's assertions that 1) technology for this engine is not available and 2) it is in the public interest to allow the marketing of the turbocharged engine technology.[27]

Appendix A projects this engine family to be unable to meet the 3.4 gpm CO standard in the 1981 model year. The Monte Carlo analysis of GM's extended mileage-emission data predicted that this family had very little probability of passing either the HC or CO statutory standards for 1981.[28] Therefore, I have determined that effective emissions control technology is not available for this engine family for 1981.

Information supplied in GM's application also indicates, however, that this engine family may be capable of meeting the 3.4 CO standard in 1982 by employing additional emission control components or techniques not available for use in the 1981 model year which, because of the additional lead time involved, could be available by the 1982 model year.[29] GM has submitted no data through which I can assess the emissions control capability of this engine family using these potentially available improvements.[30] As a result, I have determined that GM has not established that effective control technology, considering cost, driveability, and fuel economy, will not be available for this engine family for the 1982 model year.

c. Toyota. Toyota reapplied for a waiver for the 108 CID engine family, which was denied a waiver in my first consolidated decision on the basis of lack of sufficient information. Toyota supplied additional emission data and requested a waiver on the grounds that this engine family fails to meet Toyota's emission design targets and thereby fails to give Toyota the assurance it desires that the engine family will meet Federal emission requirements.[31]

Toyota has supplied information for two emissions control systems for its 108 CID engine family, labeled "system A" and "system B".[32] Toyota claims that system B is incapable of meeting the 3.4 CO standard and that system A (for which Toyota claims cost, fuel economy, and driveability penalties relative to system B) requires more development and testing and a possible catalyst change to ensure certification at the 3.4 CO standard.

Monte Carlo analysis of data supplied by Toyota on system A and system B projected that these systems were incapable of meeting the 3.4 gpm CO standard by the 1981 model year. However, the record for this decision also includes emission data from Toyota's 1980 108 CID California certification vehicle 80–CD–1.[33] The Monte Carlo analysis of the emission data from this vehicle indicated with a high degree of confidence that this engine family could pass certification testing at the 3.4 gpm CO standard with a start catalyst adjustment factor.[34]

The projections on available technology based on the Monte Carlo analysis are intentionally conservative in an effort to factor in considerations pertaining to any possible risks that engine families will not meet standards when mass produced. Thus, despite Toyota's concerns that its 108 CID engine family will not meet the design target it sets for itself, I am unable to determine that effective control technology will not be available to enable the 108 CID engine family to meet the 3.4 gpm CO standard.[35]

For reasons articulated in the first consolidated CO waiver decision, Toyota's claims pertaining to cost, driveability, and fuel economy penalties associated with technology available to meet the 3.4 gpm CO standard in 1981 are not accepted here.[36] As a result of the foregoing conclusions, I have determined that technology is available, considering costs, driveability, and fuel economy, to enable Toyota's 108 CID engine family to meet a 3.4 CO standard in the 1981 model year.

Although I was able to make a comprehensive evaluation of Toyota's waiver application, questions arose concerning the sufficiency of information provided in the application as evidenced by Toyota's failure to provide certain data for this engine family.[37] Although these data were otherwise available to EPA, I conisder this type of information to be an important component of any waiver application,[38] specifically where the data pertain to an engine-emission control system configuration that demonstrates the potential ability to meet statutory emission standards.[39]

d. Lotus. Lotus has applied for a waiver of the 3.4 CO standard for all of its engine families, the 2.0L, 2.2L, and 2.2L turbo. In support of its application, Lotus has submitted some emission test data and claimed lack of available effective control technology, development and lead time problems inimical to a low-volume manufacturer, and fuel economy, performance, and cost penalties.

Lotus failed to submit extended mileage emission data (hereinafter "durability data") as specified in the waiver application guidelines.[40] In my decisions on other waiver requests, I have denied waivers for engine families for which an applicant has failed to submit the specified durability data because without those data, I am unable to evaluate the deterioration of emission performance of an engine family over extended mileage.[41]

Section 86.080–24(e) of Title 40 of the Code of Federal Regulations provides that a manufacturer with less than 2000 vehicle sales per year may request a reduction in the number of "durability vehicles" which it would have had to run for purposes of certification testing.[42] Two Advisory Circulars have been issued articulating the Agency's policy to assign deterioration factors (DF) for small volume manufacturers when the cirteria set forth in these circulars for determining eligibility for an EPA assigned DF's in the certification procedure are met.[43] Lotus is a small volume manufacturer eligible for an assigned DF under this policy.

Although this policy was developed for use in the certification procedure, the rationale supporting this policy is equally applicable with respect to these waiver proceedings. The assigned DF was created solely for use by small volume manufacturers to ease the excessive financial burden of testing one or more certification vehicles for a period of 50,000 miles. For a small-volume manufacturer, this financial burden would be distributed over a relatively small number of production vehicles, thereby resulting in an inordinately high cost per vehicle increase. To ease these costs for eligible small-volume manufacturers, EPA developed DF's to predict probable emission control deterioration over the vehicle's 50,000-mile statutorily-defined "useful life."[44] Permitting a small-volume manufacturer the use of an assigned DF in a waiver proceeding would be consistent with allowing the use of an assigned DF in the certification process.

Thus, I am not requiring Lotus, as a small-volume manufacturer which has met all of the criteria specified in Advisory Circular 51A, to provide emission durability data to establish that effective control technology is not available for the engine families for which it has requested waivers. Instead, Appendix A employs a Monte Carlo analysis which applies the DF's EPA

[20] Report by the Committee on Motor Vehicle Emissions of the National Academy of Sciences, dated November 1974. See also discussions of the applicability of NAS studies in previous CO waiver decisions. 44 FR at 53376, 53386 (Sept. 13, 1979) and 44 FR at 69416, 69423, 69428 (Dec. 3, 1979).

[21] 44 FR 53376, 53386 (Sept. 13, 1979). 44 FR 69416, 69428 (Dec. 3, 1979).

[22] Much of this information was gathered for and included in the record for the previous consolidated CO waiver decisions. See EPA Public Dockets EN–79–4 and EN–79–17. Those records have been incorporated by reference into the record for this third consolidated decision. EPA Public Docket EN–79–19. See discussion in earlier waiver decisions concerning consideration of alternative sources of information. 44 FR 53376, 53378 (Sept. 13, 1979). 44 FR 69416, 69419 (Dec. 3, 1979).

[23] First consolidated decision 44 FR 53376, 53383 (Sept. 13, 1979). See also App. A, Section IX. AMC has already received a waiver for the 1981–82 NOx standard under section 202(b)(1)(B) of the Act as a small-volume, vendor-dependent manufacturer. See 44 FR 47880 (Aug. 15, 1979).

[24] AMC Pet. pp. 4–8. See also AMC supplemental submission dated Dec. 6, 1979, and App. A, section IX.

[25] App. A, Section IX.

[26] 44 FR 53376, 53385 (Sept. 13, 1979).

[27] App. A, Section IX, GM App. p. 8.

[28] Id., No adjustment factors were applied here because development data demonstrating the effect of any available emission improvements was unavailable.

[29] See App. A, Sections V, IX.

[30] Id., section V.

[31] Id.

[32] App. pp. 1–5.

[33] App. A, Section V.

[34] Id.

[35] Toyota has not provided production vehicle test data supporting the need for or reasonableness of its design targets generally or of the various factors (e.g. prototype-to-production slippage) used to develop those targets. See the discussion in the first consolidated decision at 44 FR 53376, 53384 (Sept. 13, 1979). In addition, the 1980 California durability vehicle of Toyota's 108 CID engine family, which did not employ any improvements, already has produced emission test results during 1980 California certification testing which meet 1981 Federal emission standards. These data tend to confirm the prediction of the Monte Carlo analysis regarding this engine family's ability to meet the 3.4 gpm CO standard.

[36] See also App. A., section VI and section VIII.

[37] App. A. Section V. Toyote's submissions did not refer to the existence of 1980 California certification data on this engine family until after EPA questioned Toyota on that matter at the public hearing. (Nov. 5 Tr., pp. 59–73). Nor did any Toyota submission refer to the existence of confirmatory test data on vehicles from its 1980 California engine family.

[38] See "Guidelines for Applications for Waiver of the 1981 Carbon Monoxide Emission Standard," 43 FR 47272, 47276 (Oct. 13, 1978).

[39] Supra, note 37. See also 43 FR 47272 (1978) and App. A., section V.

[40] 43 FR 47272, 47276 (Oct. 13, 1978).

[41] See 44 FR 53376, 53385 (Sept. 13, 1979), 44 FR 69416, 69427 (Dec. 3, 1979).

[42] Certification testing requires that a "durability vehicle" be tested at 5,000 mile intervals up to 50,000 miles to demonstrate emissions performance over extended mileage. See 40 CFR 86.079–24(a)(4).

[43] Advisory Circular No. 51, October 2, 1975, and A/C No. 51A, February 8, 1979. These circulars provide that, for a manufacturer to be eligible, the manufacturer must show: (a) production of less than 2000 vehicles per year; (b) emission data for one 4,000 mile test vehicle; (c) that the catalyst used is identical to a catalyst employed on a durability vehicle which has successfully completed certification testing; (d) a reasonable relationship between engine displacement and catalyst volume.

[44] 42 USC 7521(d)(1).

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assigned to Lotus for its engine families in certification.[46]

Appendix A indicates that application of available technological adjustments to the Lotus 2.0L engine family according to the Monte Carlo simulation does not predict successful certification at the 3.4 CO standard in 1981.[46] However, information supplied by Lotus also indicates that the addition of electronic fuel injection, which is not available for 1981, may enable this family to meet the 3.4 standard in 1982.[47] Lotus has submitted no data through which I can assess the emission control capability of this engine family in 1982. As a result, I have determined that Lotus has not established that effective control technology, considering costs, driveability, and fuel economy, will not be available for this engine family in 1982.

Lotus also did not supply any emission test data which would enable me to assess whether the 2.2L and 2.2l turbo engine families, by using available technology, are capable of meeting the 3.4 gpm standard for the 1981 or 1982 model year.[48] Therefore, I have determined that Lotus has failed to establish that effective control technology, considering costs, driveability, and fuel economy, will not be available for these engine families.

I have not considered Lotus' cost, driveability, or fuel economy concerns for those engine families for which Lotus failed to submit sufficient emission test data because I am unable to determine precisely what emission control equipment Lotus could use to enable these families to meet a 3.4 gpm CO standard of these vehicles.

B. Protection of Public Health

Section 202(b)(5)(C) of the Act requires that before I grant a waiver covering a given engine family, I must find that protection of the public health does not require attainment of a 3.4 gpm CO standard by the vehicles of the engine family receiving the waiver. Thus, I have examined this issue with respect to the three engine families for which I have determined that effective control technology, considering costs, driveability, and fuel economy, is not available in model year 1981. I have found as a result of this examination that any adverse health effects resulting from waiving the 3.4 standard for these 1981 model year engine families would be insignificant. The same statement is true regarding the combined health effects resulting from waiving the 3.4 standard for the 1981 model year for these engine families and for all the 1981 and 1982 model year engine families receiving waivers under the previous consolidated CO waiver decisions. As a result, protection of the public health does not require attainment of the 3.4 gpm CO standard for the engine families for which I have determined that effective control technology is not available for the 1981 model year.[49]

According to the express terms of the statute, there is no need for me to determine whether waiver applications covering engine families for which applicants failed to establish the unavailability of effective control technology (considering costs, driveability, and fuel economy) meet any of the remaining statutory criteria in order for me to deny these applications. The Act requires me to deny waiver applications where an applicant has failed to meet any one of the criteria, regardless of whether such applicant could meet the remaining criteria. Nevertheless, I will address these issues briefly in the course of discussing the remaining criteria as I did in the two previous waiver decisions.[50]

While waiving the 1981 and 1982 statutory CO standards for any one of the engine families covered by a waiver application arguably would not significantly affect the public health, noticeable increases in ambient CO levels could result from granting waivers industry-wide. In light of the fact that industry-wide waivers would not be protective of the public health, it is reasonable to grant waivers covering only that portion of the industry [51] consisting of engine families for which I have determined that effective control technology, considering costs, driveability, and fuel economy, is not available (presuming these families also meet the remaining statutory criteria).[52]

C. Essential to the Public Interest or to the Public Health and Welfare

Before I may grant a waiver request, section 202(b)(5)(C)(i) of the Act requires that I determine that granting the waiver is essential to the public interest or the public health and welfare.[53] I have determined, however, that granting waivers to the three engine families for which I have determined that effective control technology is not available in the 1981 model year is essential to the public interest. By granting these waivers, I will permit these manufacturers to market engine families which they otherwise most likely would not have been allowed to market.[54] Granting waivers for this reason is essential to the public's interest in maintaining a diversified and competitive automotive industry for the United States market.

GM asserted that granting a waiver to this engine family would serve the public interest by allowing the marketing and development of innovative turbocharger technology and its claimed associated fuel economy and performance benefits.[55] In addition, Lotus claimed that it is further essential to the public interest that I grant its requested waivers to allow it to continue producing high performance vehicles which demonstrate innovative safety or engineering features.[56]

These waivers may further serve the public interest to the extent that they permit certain innovative emissions control, safety, driveability, or fuel economy features available in conjunction with engine families which applicants could not have marketed without waivers.[57] However, my determination that these waivers are essential to the public interest does not rely upon consideration of these innovative features.

With respect to these three engine families in the 1982 model year, and with respect to the remaining engine families at issue here, I have determined that it is not essential to the public interest to grant waivers to these families, which are capable of meeting a

[46] App. A., section V.
[47] App. A., section IX.
[48] Id.
[49] App. A., section V. See also Lotus App., p. 5.

[50] See 44 FR 53376, 53382 and 53402 (Sept. 13, 1979), and 44 FR 69416, 69429 and 69456 (Dec. 3, 1979).
[51] Criteria found at section 202(b)(5)(C) (i–iv) of the Act. See 44 FR 53376, 53378 (Sept. 13, 1979) and 44 FR 69416, 69420 (Dec. 3, 1979).
[52] Several applicants disagreed with this interpretation. See, e.g., GM App., p. 6, T. App., p. 1–8. For further discussion concerning these contentions see first decision 44 FR 53376, 53381 and App. B at 44 FR 53402–53407 (Sept. 13, 1979).
[53] See discussion of ambient air quality effect of granting CO waivers as found in Appendix B in both decisions, 44 FR 53376, 53402–53407 (Sept. 13, 1979) and 44 FR 69416, 69450–69462 (Dec. 3, 1979). The engine families receiving waivers under both the first and second consolidated CO waiver decisions only constitute approximately 12% of total projected 1981 model year light-duty vehicle sales in the United States. Adding the engine families here increases this figure to 13.2%.

[54] See sections in previous decisions discussing public health and welfare effects of engine families denied waivers. 44 FR 53387, 44 FR 69429 (Sept. 13, 1979 and December 3, 1979).
[55] Supra, note 14. I rejected the alternative of allowing these models to be marketed with the requirement of an expensive catalyst change.
[56] GM App. p. 8. As explained in Appendix A, the use of a turbocharger does not in itself improve economy, but rather allows the use of smaller displacement engines which could be more fuel efficient.
[57] Cf. App. A. Section IX. L. App., p. 1.
[57] See also 44 FR 53387 (Sept. 13, 1979), citing 123 Cong. Rec. S. 13707 (Aug. 4, 1977) (remarks of Sen. Muskie).

3.4 gpm CO standard but which incur costs (or driveability or fuel economy penalties) in meeting the 3.4 gpm CO standard. No applicant has established here that the costs (or penalties) involved are so substantial as to present a significant risk to the waiver applicant's ability to produce and competitively market vehicles of that engine family, or vehicles generally.[58]

Finally, certain applicants [59] asserted that denial of waiver applications for certain engine families could preclude introduction of these fuel efficient vehicles, thereby compromising the manufacturer's ability to comply with Corporate Average Fuel Economy (CAFE) standards.[60] However, no manufacturer has established that any such family cannot meet the 3.4 CO standard; thus, no manufacturer has established that it will be unable to market such a family and use the fuel economy performance of that family to comply with CAFE requirements.

D. Good Faith

In order for me to grant a waiver to any applicant, section 202(b)(5)(c)(ii) of the Act requires that I determine that the applicant in question has made all good faith efforts to meet the emission standards established by this subsection. As a result, I have examined information regarding each applicant's previous and projected efforts toward meeting a 3.4 gpm CO emission standard for the engine families in question.

Each of the waiver applicants contended that it has acted in good faith in trying to meet the 3.4 gpm CO standard. In general, information in the record provides support for determining that each of the applicants has met the Act's good faith criterion [61] in developing emission control technology to meet the 3.4 gpm CO standard, although some applicants made only marginal showings.[62] In the absence of any other evidence supporting a contrary conclusion, however, I have determined that each of the applicants has met the good faith criterion with respect to each of the three engine families for which I have determined effective control technology to be unavailable in the 1981 model year.[63]

My conclusion regarding this criterion with respect to engine families for which waiver applicants failed to establish the unavailability of effective control technology, considering costs, driveability, and fuel economy, is the same as my conclusion regarding the good faith criterion with respect to engine families which do not have effective control technology available in the 1981 model year. Specifically, since I have no evidence which would enable me to determine other than that all applicants have met the good faith criterion of the Act, I find that all applicants have met this criterion.[64]

E. Risks in Determining Available Technology

In *International Harvester Co.* v. *Ruckelshaus,*[65] the Federal appellate court reviewed the Administrator's decision to deny manufacturers' requests for a one-year suspension (from 1975 to 1976) of the effective date of the statutory hydrocarbon (HC) and CO standards mandated by the 1970 version of the Act. The court stated, among other things, that the Administrator should have balanced the risk associated with erroneously denying the suspension requests versus the risk associated with erroneously granting them. The court indicated that the balancing process should consider the economc costs (in terms of jobs and misallocated resources) possibly associated with an erroneous denial versus the possible environmental benefits lost through an erroneous grant.

Even though the health risks associated with erroneous grants in the proceedings at hand may not be great, the risks associated with erroneous denials (which do not involve health considerations) also are limited significantly. My findings that technology is available for an engine family to meet certification testing requirements are based on conservative projections.[66] The move from today's state of technology to the technology required to achieve the 3.4 CO standard does not require any substantial shift to untried emission control methods. Furthermore, an incorrect determination here would have the potential to adversely affect the production of only one engine family, as opposed to the ability of the industry as a whole to produce cars for the public generally. In light of these counterbalancing risks, and in light of Congress' expressed intent to afford a statutory waiver only in exceptional circumstances rather than on an across-the-board basis,[67] I have concluded that it is appropriate to deny waiver applications insofar as they cover engine families for which the manufacturer had failed to establish that effective control technology, considering costs, driveability, and fuel economy, is available.

F. Conclusion

The three engine families for which I have determined that effective CO control technology is not avaiable for the 1981 model year are covered by waiver applications which meet each of the remaining criteria under section 202(b)(5)(C) of the Act. As a result, I am granting a waiver of the effective date of the 1981 statutory CO emission standard for the Lotus 2.0L, AMC 151 CID and Gm 3.8L/4V turbo engine families for the 1981 model year.

For the remaining engine families, the applicants have failed to establish that effective control technology is not avaiable for those families, considering costs, driveability and fuel economy. I have determined for Toyota's 106 CID engine family that effective control technology indeed is available to meet a 3.4 gpm CO standard by the 1981 model year, even after considering costs, driveability and fuel economy. I also have determined that AMC has failed to establish that lead-time constraints prevent effective control technology, considering costs, driveability, and fuel economy, from being available to enable its 151 CID engine family to meet a 3.4 gpm CO standard in the 1982 model year. Finally, I have determined that 1) GM has failed to provide sufficient emission data to establish that such technology, considering costs, driveability, and fuel economy, is not available for its 3.8L/4V turbo engine family in the 19832 model year, and 2) Lotus has failed to provide sufficient emission data to establish the unavailability of such technology, considering costs, driveability, and fuel economy, for its 2.0L engine family in

[58] See also public interest analysis in previous two decisions regarding engine families denied waivers. 44 FR 53376, 53385 (Sept. 13, 1979) and 44 FR 69416, 69430 (Dec. 3, 1979).
[59] See App. A. section VIII.
[60] See section VIII of Appendix A of the second decision and discussion in section III(C)(1)(b)(iii) of that decision. 44 FR at 69428 (Dec. 3, 1979). The so-called CAFE rquirements are the manufacturers' sales-weighted fuel economy standards set under § 502 of the Energy Policy Conservation Act, Pub. L. No. 94–163, 89 Stat. 871 (1975).
[61] 42 U.S.C. 7521(b)(5)(C)(iii).
[62] See App. A. Section V. GM, for example, failed to supply development information regarding alternative emissions control technology for its 3.8 L/4V turbo engine family.

[63] See discussion of good faith criterion for engine families granted waivers in my two previous decisions 44 FR 53376, 53383, (Sept. 13 1979), 44 FR 69416, 69424. (Dec. 3, 1979).
[64] See previous decisions. 44 FR 53376, 53383 (Sept. 13, 1979), and 44 FR 69416, 69424 (Dec. 3, 1979).
[65] 478 F. 2d 615 (D.C. Cir. 1973). For further discussion of this case, see 2nd decision. 44 FR 53376, 53388 (Sept. 13, 1979). Also see the discussion of the 1970 version of the Act in section I of this decision.
[66] App. A. Section V.

[67] Supra, note 23. See also discussion of this case in the two previous decisions 44 FR 53376, 53387 (Sept. 13, 1979), 44 FR 69416, 69429 and 69430. (Dec. 3, 1979). Lotus in particular raised the question of risk as applied to small-volume manufacturers (L. App., p. 1).

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the 1982 model year, and for its 2.2L and 2.2L Turbo engine families for the 1981 and 1982 model years.[68] Thus, even though these waiver applicants may meet one or more of the remaining statutory criteria for receiving waivers, I nevertheless must deny the waiver applications covering these remaining engine families.

IV. Interim CO Exhaust Emission Standards

As required by section 202(b)(5)(A) of the Act, I am simultaneously promulgating regulations prescribing an interim CO emission standard for 1981 model year vehicles of 7.0 gpm for the three engine families receiving waivers. For these three engine families, this action continues in effect for one additional model year the CO emission standard applicable to all 1980 model year light-duty vehicles.

Dated: January 22, 1980.

Douglas M. Costle,

Administrator.

Appendix A

Contents

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I. Introduction

The exhaust emission standards for 1981 and later model year light-duty vehicles are currently 0.41 gram per mile HC, 3.4 grams per mile CO, and 1.0 gram per mile NO_x. Section 202(b)(5)(A) of the Clean Air Act, as amended, 42 U.S.C. 7521(b)(5)(A) provides the opportunity for manufacturers to request a waiver of the 3.4 grams per mile CO standard to 7.0 grams per mile during model years 1981 and 1982.

The applicants being considered in this document are American Motors (AM), General Motors (GM), Lotus, and Toyota. This is the third group of CO waiver applications that have been considered by EPA. This is the second time that waiver requests have been considered by EPA from AM, GM, and Toyota. Chrysler has again requested a waiver for some of their engines. The Chrysler request will be discussed in a later document.

This appendix deals with the technological capability of those manufacturers to meet the 1981 and 1982 CO standard of 3.4 grams per mile. This appendix relies on three previous technical appendixes, particularly for discussion of the Monte Carlo simulation utilized in this analysis. These appendixes are:

[68] App. A, Section V.

1. Appendix B, Technical Appendix, to the Decision of the Administrator on Remand for the United States Court of Appeals for the District of Columbia Circuit, April 11, 1973.
2. Appendix A, Technical Appendix, to the Decision of the Administrator in re: Applications for Suspension of 1976 Motor Vehicle Exhaust Emission Standards, July 30, 1973.
3. Appendix A, Technical Appendix, to the Decision of the Administrator in re: Applications for Suspension of 1977 Motor Vehicle Exhaust Emission Standards, March 5, 1975.

As indicated in Section 202(b)(5)(c)(iii), the technological feasibility determination is based on the consideration of technological capability, cost, driveability, and fuel economy. This appendix contains discussion of each of the above topics.

II. Summary of Technological Capability

Tables II-1 to II-4 summarize the capability of the four applicant manufacturers to meet the 1981 and 1982 emission standards. The standards considered in these tables are 0.41 HC, 3.4 CO, 1.0 NO_x.

A guide to the summary tables is as follows: The first column lists engine displacement. The second column, which lists per cent of model year 1981 sales, is deleted because the values were derived in most cases from manufacturers' confidential sales estimates. The "as received" column refers to the emission data submitted by the manufacturer. "Improvements" refer to the projected technological improvements (factors) applied to the data submitted by the manufacturer.

The "no data" category is an abbreviated notation for the lack of acceptable data to perform EPA's technological analysis. The applicants have known for about six years what sort of data is necessary for EPA to make a determination whether or not a given vehicle would be projected to pass or fail a set of standards. Unfortunately, in many cases there was a lack of acceptable data for vehicles using specific engines. This effectively precluded EPA from making a pass/fail determination for those vehicles. In these cases the vehicles using these engines are called "no data" and no pass/fail determination was made.

Table II-1.—*Applicant: American Motors*

Engine	Percent estimated 1981 sales	Pass as received?	Pass with improvement?
151 CID		No, because lead time problems may not permit successful certification in 1981.	NA.[1]
		Yes in 1982	NA.

[1] NA means not applicable or that no hardware improvement factors were applied to these vehicles.

Table II-2.—*Applicant: General Motors*

Engine	Percent estimated 1981 sales	Pass as received?	Pass with improvement?
231 CID/3.7L-TC-4V		No for 1981	NA.[1]
		No data for 1982	No data for 1982.

[1] NA means not applicable or that no hardware improvement factors were applied to these vehicles.

Table II-3.—*Applicant: Lotus*

Engine	Percent estimated 1981 sales	Pass as received?	Pass with improvement?
2.0L		No for 1981	NA.[1]
		No data for 1982	No data.
2.2L		No data	No data.
2.2L Turbo		No data	No data.

[1] NA means not applicable or that no hardware improvement factors were applied to these vehicles.

Table II-4.—*Applicant: Toyota*

Engine	Percent estimated 1981 sales	Pass as received?	Pass with improvement?
108 CID		Yes	Yes.

III. Statistical Treatment of the Data

No changes have been made in the basic Monte Carlo methodology since its last use in a technical appendix. This methodology has been discussed in three previous technical appendixes:

1. Appendix B, Technical Appendix, to the Decision of the Administrator on Remand for the United States Court of Appeals for the District of Columbia Circuit, April 11, 1973.
2. Appendix A, Technical Appendix, to the Decision of the Administrator in re: Applications for Suspension of 1976 Motor Vehicle Exhaust Emission Standards, July 30, 1973.
3. Appendix A, Technical Appendix, to the Decision of the Administrator in re: Applications for Suspension of 1977 Motor Vehicle Exhaust Emission Standards, March 5, 1975.

IV. Factors

With respect to the vehicle emission data submitted by the manufacturers for EPA analysis, vehicles are often run and tested over durability mileage accumulation schedules without using the best technology that is available to the manufacturer for certification in the 1981 model year. There are many reasons why this occurs. First, such technology may have simply not been available in quantity when fleets of vehicles began mileage accumulation. Second, all vehicles submitted for EPA staff analysis may not have been specifically designed for the 1981 and 1982 Federal emission standards. Also the manufacturer may wish to maintain some technologies (with known durability) in reserve if their low mileage testing indicates that such technology may not be needed for compliance with the target emission standards. In addition, technology may not appear on durability vehicles because the manufacturer has made a decision that the technology would be too costly for production vehicles.

To account for the fact that the applicants did not in all cases conduct durability testing with the most effective emission control hardware, factors have been applied to some of the emission data submitted by the manufacturers to simulate the addition of more effective systems. Due to substantial lead time problems for implementation of new or additional technology by the 1981 model year, these factors have been applied only for currently known hardware that can be implemented in 1981 or 1982 certification and production. These improvements have been basically limited to additional catalyst (i.e., the addition of oxidation catalyst in some cases), the addition of air injection, and additional catalyst noble metal loadings. Other improvements in hardware were considered if the manufacturer indicated that they were available for 1981 or 1982.

The factors that have been applied to the data are dimensionless numbers that represent the improvement in emission performance that is predicted for the more effective simulated emission control technology. The factors are derived from data that reflect the emission performance of a vehicle with and without the more effective technology. For example a factor for CO of 0.90 indicates that a 10% reduction in CO is projected for the use of the more effective technology. In addition, when there are several different sources for the same improvement, EPA uses a conservative estimate of that projected factor, i.e., a factor greater in absolute value than that indicated by most of the data.

Other factors which were developed, but generally not used in the following analysis include factors for:

Warm up catalysts for 3W catalyst or 3W+OC systems
Deletion of power enrichment
Use of insulated or dual-walled exhaust pipes
Use of exhaust port liners
Use of throttle body fuel injection
Use of multiple point fuel injection
High energy ignition

Although the deletion of power enrichment and the use of insulated or dual-walled exhaust pipes were considered feasible for 1981, they were generally not used. Therefore, through these additional techniques, the manufacturers may have some additional cushion for certification over and above the factors used in EPA's analysis. Use of the other items was not considered possible for most manufacturers for most engine families before the 1982 model year.

Oxidation Start Catalyst Factor

The available CO control technology includes light-off or start catalysts. Start catalysts are small in size, have low thermal inertia and are mounted close to the engine. This combination of factors leads to rapid light-off for the start catalyst, which tends to lower HC and CO emissions.

The data used to develop the oxidation start catalyst factor came from Automobile Emission Control—The Current Status and Development Trends as of March, 1976 (S.R. 1976) page 4-14, and from subpoenaed information from Engelhard Industries [18 at Section II].* These data are shown in Table IV-3.

Table IV-1.—*Start Catalyst Effect*

	HC	CO	NO_x
	0.48	0.36	1.01
	0.62	0.45	1.00
	0.70	0.66	1.00
	0.80	1.01	0.99
	0.57	0.46	0.80
	0.56	0.72	1.20
	0.25	0.62	0.78
Average Factor as Calculated	0.56	0.61	0.96
Factor as used in Monte Carlo	.7	.7	1.0

V. Discussion of Individual Manufacturer's Technical Capability

This section will discuss all vehicles which (1) were submitted by each of the four applicants and (2) also are acceptable for input into the Monte Carlo simulation. Acceptable for input means (1) that the vehicle is a durability vehicle which has accumulated a minimum of 20,000 miles with the same major emission control components and (2) that a minimum of four valid 1975 FTP tests have been conducted on the vehicle.

Details of the pass/fail determinations in section II are also presented here. To pass the 1981 and 1982 emission standard (of 0.41 HC, 3.4 CO, 1.0 NO_x), the probabilities of passing each individual pollutant must be greater than or equal to 80%. If the probability of passing only HC, for example, is less than or equal to 70%, the vehicle fails—even if the probabilities for CO and NO_x greatly exceed 80% cutpoint.

Due to time for analysis, pass/fail analysis is provided only for emission standards of 0.41 HC, 3.4 CO and 1.0 NO_x. Analysis of the capability of the vehicles to meet the standard of 0.41 HC, 7.0 CO, 1.0 NO_x was not conducted. Consequently, vehicles designed for standard are included in the following discussions of vehicles which were acceptable for entry into the computer analysis, but are not discussed with respect to compliance at 7.0 CO.

In order that the Monte Carlo analysis not be cluttered with hundreds of failing vehicles utilizing inappropriate technology, prior certification vehicles are not considered in this analysis except in special cases where a manufacturer's ability to comply with the 1981 and 1982 emission standards is directly affected. It is not surprising that the durability vehicles from past certification would fail to achieve the 3.4 CO standard for two reasons. First, the 3.4 CO standard represents a substantial reduction in CO from prior model year standards. And second, major changes in technology are being planned for introduction in 1981 by most vehicle manufacturers to achieve the more stringent standards.

If a manufacturer's prime (prime means the system most capable of achieving the 1981 standards) 1981 emission control system has been tested in prior certification (generally 1980), these data are included in the analysis.

American Motors (AM)

The American Motors waiver request for vehicles using the 151 CID engine is very unique. General Motors is the supplier of both the engine and emission control system to AM. AM and GM have previously been denied a waiver for models using this engine because the technology is available to allow these vehicle to certify at 0.41 HC, 3.4 CO, 1.0 NO_x. This determination was made on the basis of GM vehicle Z-721 (not vehicles Z-721 and Z-625 as stated in the first consolidated decision). Since vehicles Z-625 and Z-721 used different emission control systems, the initial decision regarding the 151 CID engine would not have changed.

The status of the 1981 GM certification vehicles further supports the contention that the technology is available. The Monte Carlo results of the three 1981 Federal GM vehicles (which have accumulated 20,000 or more miles) are shown in Table V-1. The actual emissions data from those three vehicles are show in Table V-2. Barring any unforeseeable problems, two of the three GM vehicles appear to be approaching successful certification. Thus, all indications are that the two families will pass and that technology is available. Also, there is not doubt that GM has offered to provide the same technology to AM [12 at 4 to 8 and 12 at Appendix A].

* The notation [W at Y] means the reference is reference number W from section X of this document at page number Y.

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Table V–1.—*The Monte Carlo Results of 1981 Federal Certification Vehicles From GM Using 151 CID Engines (as Received)*

VIN	Emission control system	Catalysts	Probabilities of pass		
			HC	CO	NO_x
1200	FBC/EGR/AIR/ESA/3W/OC	3428/2961	83	98	100
1201	FBC/EGR/AIR/ESA/3W/OC	3480/4044	59	5	100
1202	FBC/EGR/AIR/ESA/3W/OC	3480/4048	100	99	100

Table V–2.—*1981 Federal Certification Results of GM Vehicles With 151 CID Engines*

VIN	IW	Trans	Miles	HC	CO	NO_x	MPG_c	Comments
1200	3000	A3	4,857	.15	1.07	.47		Reference 14, p. 85.
			10,058	.23	1.49	.49		
			14,894	.20	1.21	.48		
			20,136	.24	1.75	.46		
			25,077	.20	1.44	.57		
			30,05	.21	1.56	.47		Before maintenance.
			30,049	.23	2.05	.48		After maintenance.
			34,775	.20	1.77	.49		
			39,763	.40	1.79	.48		
			Calc 4K [1]	.16	1.19	.48		
			Calc	.35	2.10	.50		
			50K [1]					
			DI [1]	2.05	1.77	1.03		
1201	3000	A3	4,798	.25	2.49	.46		Reference 14, p. 87.
			9,778	.14	0.84	.47		
			15,026	.35	3.28	.45		
			19,803	.25	3.53	.47		
			24,839	.32	3.58	.48		
			30,011	.29	3.28	.40		Before maintenance.
			30,042	.31	3.06	.49		After maintenance.
			Calc 4K [1]	.23	1.98	.47		
			Calc	.40	4.57	.44		
			50 K [1]					
			DI [1]	1.74	2.31	.94		
1202	3000	A–	4,880	.09	0.50	.65		Reference 14, p. 89.
			10,092	.13	0.57	.61		
			15,075	.11	0.66	.63		
			19,940	.10	0.96	.60		
			24,776	.10	0.67	.65		
			29,912	.13	0.97	.65		Before maintenance.
			Calc 4K [1]	.10	0.50	.62		
			Calc	.13	1.27	.65		
			50K [1]					
			DI [1]	1.27	2.56	1.04		

[1] Based on less than the complete 50,000 miles of durability required for certification.

The unique part of the AM waiver request is that they apparently do not want to purchase the 1981 GM hardware, at least for Federal use in model year 1981. The reason for not wishing to purchase the hardware is inadequate lead time, according to AM [5 at 126 to 135]. This issue is discussed at length in the lead time section of this appendix. On the basis of lead time, the technical staff determined that AM would be unable to certify to a 3.4 CO standard in the 1981 model year. In 1982 AM is projected to be able to certify vehicles using the 151 CID engine to a 3.4 CO standard.

General Motors

This is the second waiver application which has been submitted by General Motors. The first application requested a waiver for virtually all of the 1981 and 1982 model GM vehicles. The current application requests a waiver for only those 1981 and 1982 models using the 3.8L/231 CID turbocharged engine with a four barrel feedback carburetor. Other basic emission components used on vehicles with these engines include back-pressure EGR, switched AIR injection, and a 3-way plus oxidizing catalyst.

No prototype durability vehicles were run by General Motors. Emission data were presented by GM for a total of eight 1980 and 1981 certification vehicles as shown in Table V–3. Only one of the vehicles (car number 59147) which were acceptable for Monte Carlo analysis was actually targeted for the 1981 Federal emission standards. The remaining four vehicles in the Monte Carlo analysis were designed for compliance with the 1980 California standards of 0.39 NMHC, 9.0 CO, 1.0 NO_x.

In the as received condition, none of the five vehicles passed as shown in Table V–4. All failed the 3.4 CO emission level, and only one passed the 0.41 HC level. Since no developmental emission data were reported by GM for vehicles using this engine, no hardware improvement factors could be applied.

The EPA technical staff believe that the use of known emission control techniques such as improved air/fuel metering systems, start catalysts, increased volume monolithic catalysts, and exhaust port liners will improve the emissions of this engine. Due to lead time constraints these components could not be applied in time for the 1981 model year, but they could be available for 1982.

Table V–3.—*Vehicles in GM Waiver Application*

Engine and VIN	Emission control system	Entered in Monte Carlo?	If not entered in Monte Carlo—why?	Comment	Reference
231–TC–4V, 5969	FBC/EPEGR/AIR/ESA/3W/OC	Yes		1980 California certification vehicle	17 at A–2 to A–5.
231–TC–4V, 5970	FBC/EPEGR/AIR/ESA/3W/OC	Yes		1980 California certification vehicle	17 at A–6 to A–7.
231–TC–4V, 5971	FBC/EPEGR/AIR/ESA/3W/OC	Yes		1980 California certification vehicle. Terminated due to carburetor solenoid failure.	17 at A–10 to A–11.
231–TC–4V, 48392	FBC/EPEGR/AIR/ESA/3W/OC	Yes		1980 California certification vehicle. Terminated due to turbocharger failure.	17 at A–14 to A–15.
231–TC–4V, 48393	FBC/EPEGR/AIR/ESA/3W/OC	No	Insufficient mileage accumulation.	1980 California certification vehicle. Terminated due to failure of throttle position switch.	17 at A–18 to A–19.
231–TC–4V, 59146	FBC/EPEGR/AIR/ESA/3W/OC	No	Insufficient mileage accumulation.	1981 certification vehicle. Terminated for high emissions	17 at A–22 to A–23.
231–TC–4V, 59147	FBC/EPEGR/AIR/ESA/3W/OC	Yes		1981 certification vehicle	17 at A–26 to A–27.
231–TC–4V, 59148	FBC/EPEGR/AIR/ESA/3W/OC	No	Insufficient mileage accumulation.	1981 certification vehicle. Terminated for high emissions	17 at A–30 to A–31.

Table V–4.—*Monte Carlo Results of GM Vehicles Using 231–4V Turbocharged Engines*

VIN	IW	Trans	3W [1] catalyst code	OC [1] catalyst code	Electronics [2]	Probability of pass		
						HC	CO	NO_x
5969	3500	A	3256(P)	2789(P)	Proto III	35	0	100
5970	3500	A	3339(M)	2886(M)	Proto III	85	17	100
5971	3500	A	3293(P)	2576(P)	Proto III	23	0	99
48392	3500	A	3428(M)	2961(M)	Proto III	86	0	100
59147	3500	L	3339(M)	2886(M)	Proto IV	48	0	100

[1] The catalyst code is a GM code number. It is always prefixed with the letters HN. The suffixes (P) or (M) mean pelleted or monolithic catalysts.

[2] Digital Prototype III systems have electronic control of air/fuel ratio, spark advance, and air switching. Digital Prototype IV systems have electronic control of air/fuel ratio, spark advance, air switching, evaporative canister purge, EGR and EFE vacuum, and the transmission converter clutch.

Since GM has not reported test results using any of these components, this family is considered to be a "no data" family for model year 1982. It is projected to fail in the 1981 model year.

Lotus

Lotus has requested a CO waiver for the three engines it plans to market for the 1981–1982 model years. These engines include the 2.0L, 2.2L, and 2.2L turbocharged engines.

Lotus stated that their first choice emission control system for meeting the 1981–1982 standards consisted of a three way catalyst with open loop carburetion and an aspirator system [5 at 28]. This system is also being used for 1980 California vehicles.

Lotus is also in the process of developing a closed loop fuel injection system which will be available (see discussion in the Lead Time Section) for the 1982 model year. Lotus did not submit emissions data for their emission control system with fuel injection. Lotus did not submit durability data. Lotus is a small volume manufacturer and is not required to run durability vehicles in their certification process as they receive assigned deterioration factors from EPA.

The EPA technical staff assumed that Lotus would receive the currently assigned d.f.'s of 1.3, 1.2, and 1.1 for HC, CO and NO_x respectively for their 1981–1982 model year vehicles. Lotus only submitted data on three vehicles, one emissions development vehicle (132S) and two fuel economy vehicles (499B and 387E). These vehicles were assigned suffix numbers by EPA for each test to help distinguish between tests (e.g. 132S was assigned 132S–1 etc.), and are listed in Table V–5 and in the Monte Carlo results with the EPA assigned vehicle identification numbers. Table V–5 lists the data submitted by Lotus and only includes tests performed according to the 1975 Federal Test Procedure.

Table V–5.—*Vehicles in Lotus Waiver Application*

	VIN	Emission control system	Test No.	Entered in Monte Carlo	If not entered in Monte Carlo, why?	References
Engine disposal (L):						
2.0	132S–1	3W/EGR	187901	Yes		6 at 1.9.
2.0	132S–2	3W/EGR	187904	Yes		6 at 1.11.
2.0	132S–3	AIR/OC	207902	Yes		6 at 1.13.
2.0	499B–1	PAIR/OC	307917	Yes		6 at Test No. 307917.
2.0	499B–2	PAIR/OC	357916	Yes		6 at Test No. 357916.
2.0	132S–4	AIR/3W/EGR	237911	Yes		6 at 1.15.
2.0	132S–5	AIR/3W/EGR	277902	Yes		6 at 1.17.
2.0	132S–6	AIR/3W/OC	267909	Yes		6 at 2.2.3.
2.0	132S	None	117901	No	No emission control system.	6 at 2.3.1.
2.0	132S	None	117903	No	No emission control system.	6 at 2.3.3.
2.0	132S–7	3W	197902	Yes		6 at 2.3.5.
2.0	132S–8	3W	197903	Yes		6 at 2.3.7.
2.0	132S–9	3W	207901	Yes		6 at 2.3.9.
2.0	132S–10	PAIR/3W	297910	Yes		6 at 2.3.13.
2.0	132S–11	PAIR/3W	307901	Yes		6 at 2.3.17.
2.0	132B–12	PAIR/3W	307906	Yes		6 at 2.3.19.
2.0	132S–13	PAIR/3W	307907	Yes		6 at 2.3.21.
2.0	132S–14	PAIR/3W	307908	Yes		6 at 2.3.23.
2.0	387E–1	PAIR/3W	297912	Yes		6 at Test No. 297912.
2.0	387E–2	PAIR/3W	317906	Yes		6 at Test No. 317906.

To facilitate application of the Monte Carlo, each test was treated as a 4000 mile test regardless of the actual mileage on the catalysts or the vehicles. For vehicle 132S, catalyst miles ranged from 300 to 2100 miles, and vehicle miles ranged from 3000 to 6000 miles. The test points for vehicles 499B and 387E fell between 4500 and 4700 miles. Of the 18 tests included in the Monte Carlo analysis, only four tests were performed with more than 4000 miles on the catalyst. For tests where the catalyst had less than 4000 miles on it, this procedure results in a conservative approximation of what would be the actual 4000 mile test point. This was the case for the 14 tests on vehicle 132S. Treating the four tests on vehicles 499B and 387E, as 4000 mile tests was more stringent than would actually be the case in certification, but the effect was insignificant.

In order for the Monte Carlo simulation to function properly, at least four test points are required. A feature of the computer program requires at least one of these points not to fall on the straight line between the 4000 mile point and the 50,000 mile point. The 50,000 mile test point was calculated by multiplying the estimated 4000 mile test point by the aforementioned d.f.'s. In order to generate two more test points, the 50,000 mile point was divided by 2 and the result used as the 26000 mile and 28000 mile test points. Part II of the Monte Carlo results (Deterioration Calculations) indicate a slight error in the d.f. calculations which was caused by rounding to only two decimal places for the three generated test points. The EPA technical staff judged that the errors created by these procedures did not affect the pass/fail situation of the Lotus vehicles.

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Pass/Fail Analysis for the Lotus 2.0 L Engine

The 2.0 L engine is projected to fail in 1981 and is considered a "no data" case for 1982. As shown in Table V–6, none of the vehicles passed the Monte Carlo simulation, and based on these results, the 2.0 L engine is projected to fail in 1981. In 1982 a new emission control system will be available to Lotus, which will include a closed-loop fuel injection system. Because Lotus did not submit any data on this system, the 2.0 L engine is considered to be a no data case for 1982.

Table V–6.—*Monte Carlo Results of Lotus Vehicles Using the 2.0L Engine*

VIN	Emission control system	Probability of pass		
		HC	CO	NO_x
132S–1	3W/EGR	0	0	92
132S–2	3W/EGR	19	0	81
132S–3	AIR/OC	0	0	6
132S–4	AIR/3W/EGR	0	0	100
132S–5	AIR/3W/EGR	0	100	70
132S–6	AIR/3W/EGR	0	33	69
132S–7	3W	0	0	94
132S–8	3W	0	0	85
132S–9	3W	0	0	69
132S–10	Pair/3W	7	0	69
132S–11	Pair/3W	49	0	70
132S–12	Pair/3W	30	0	67
132S–13	Pair/3W	30	0	100
132S–14	Pair/3W	94	0	70
499S–1	Pair/OC	94	0	0
499S–2	Pair/OC	92	0	0
367E–1	Pair/3W	96	0	71
367E–2	Pair/3W	94	52	83

Pass/Fail Analysis for the Lotus 2.2 L Engine

Lotus did not submit any emissions data for the 2.2 L engine and is therefore considered to be a no data case for both 1981 and 1982.

Pass/Fail Analysis for the Lotus 2.2 L Turbocharged Engine

The 2.2 L turbocharged engine is also considered to be a no data case for both 1981 and 1982 because Lotus failed to submit emissions data for this engine.

Toyota

Toyota has submitted their second CO waiver application for the 108 CID engine. Toyota's previous waiver request for this engine was denied in the CO Waiver Decision of September 5, 1979 due to insufficient data.

Toyota has two emission control systems designed to meet the 1981–1982 standards, which they categorize as systems "A" and "B". A third system was used for 1980 California certification. These systems are as follows:

System A (1981–1982)..... CL–AIR/OSC/3W/EGR.
System B (1981–1982)..... CL–AIR/3W/EGR.
1980 System..... CL–AIR/OC/EGR.

Toyota characterized system A as their design "to meet the 3.4 CO standard without particular regard to cost, available space . . . or other possible negative factors . . ." [2 at 1–5]. System B represents a preliminary, cost effective approach to meeting the 1981–1982 standards. Toyota stated that "despite our strong expectations for these system B emission controls, prototype testing proved them inadequate in each case . . ." [2 at 1–5]. Toyota stated that if a CO waiver is granted they would use system B [2 at 5–2].

Pass/Fail Analysis for the Toyota 108 CID Engine Family

Toyota provided durability data on six vehicles that were acceptable for the Monte Carlo analysis (see Table V–7). The EPA technical staff also included vehicle 80–CD–1, which is a 1980 California certification durability vehicle.

Vehicle 80–CD–1 was equipped with AIR/OC/EGR and its certification results were as follows:

Miles	HC	CO	NO_x	MPGu
4793	0.146	2.02	0.82	13.11
9803	0.181	3.39	0.79	23.97
15019	0.175	2.28	0.85	23.89
15038	0.196	3.99	0.78	23.85
20192	0.224	2.06	0.90	23.97
25193	0.196	2.72	0.81	24.24
30016	0.194	2.38	0.93	23.63
30036	0.227	2.55	0.80	23.06
35192	0.235	2.79	0.81	24.22
40192	0.222	2.80	0.85	24.63
45159	0.195	2.37	0.89	24.06
45178	0.244	3.07	0.81	23.18
49656	0.191	3.27	0.69	23.25
4,000 (extrapolated)	0.175	2.64	0.84	23.75
50,000 (extrapolated)	0.226	2.84	0.81	23.60

This vehicle has already certified at emission levels below the 1981–1982 standards.

Vehicles in Toyota Waiver Application

Engine and VIN	Emission control system	Entered in Monte Carlo	If not entered in Monte Carlo, why?	References
108, TE31–42	EM/AIR/EGR/OC/RM	No	Not current control system	1 at A–5–1.
108, 177B–16	EM/AIR/EGR/OC/RM	No	Not current control system	1 at A–5–2.
108, 353B–4	EM/AIR/EGR/OC/RM	No	Insufficient data	1 at A–5–3.
108, 215B–8	EM/AIR/EGR/OC/RM	No	Insufficient data	1 at A–5–4.
108, 130B–24	EM/AIR/EGR/OC/RM	No	Not current control system	1 at A–5–5.
108, 353B–45–1	EM/AIR/EGR/OC	No	Insufficient data	1 at A–5–6.
108, TE66–15–1	EM/AIR/EGR/OC	No	Insufficient data	1 at A–5–7.
108, 353B–40–1	EM/CL–AIR/EGR/3W	Yes		1 at A–5–8.
108, TE51–60	CL–AIR/EGR/3W	Yes		1 at A–5–9.
108, 231B–21–1	CL–AIR/EGR/3W	No	Insufficient data	1 at A–5–10.
108, 353B–40–2	CL–AIR/EGR/OSC/3W	Yes		1 at A–5–11.
108, 353B–46–2	CL–AIR/EGR/OSC/3W	Yes		1 at A–5–12.
108, TE51–50	CL–AIR/EGR/OSC/3W	Yes		1 at A–5–13.
108, TE66–15–2	CL–AIR/EGR/OSC/3W	No	Insufficient data	1 at A–5–14.
108, 235B–5	CL–AIR/EGR/3W	Yes		1 at A–5–15.
108, 80–CD–1 [1]	AIR/OC/EGR	Yes		1980 certification data.

EM—abbreviation for engine modification.
PM—abbreviation for reactive manifold.
OSC—abbreviation for oxidation start catalyst.
CL–AIR—abbreviation for a closed loop AIR system.
[1] Not included in waiver application.

Toyota presented the following assertions to show that vehicle 80–CD–1, which was equipped with a manual five speed transmission, did not demonstrate Toyota's technical ability to meet the 1981–1982 standards:

"The certification data of the 1980 model California emission data vehicles are shown in Table 4.

Table 4

Vehicle	Transmission	HC (g/mile)	CO (g/mile)	NO_x (g/mile)	F/E (miles/gallon)
CE–1	5M/T	0.180	2.66	0.66	23.1
CE–2	3A/T	0.207	4.40	0.61	23.0
CE–3	3A/T	0.240	5.95	10.77	22.5
CE–4	4M/T	0.169	2.44	0.68	24.2

We have not tried to test the 80–CD–1 type system in combination with a start catalyst or sweep-up catalyst and therefore, cannot give a precise answer. Although, it can be stated that a manual transmission vehicle with a start catalyst may be able to meet the 3.4 g/mile CO emission standard, it would not meet our development target. On the other hand, since the CO emission level of the automatic transmission vehicle is the same as the 1981 system B, then even if we adopt a start catalyst, it will be far from our development target of 2.3 g/mile of CO. A/T is necessary to satisfy our basic market demands" [7 at 9].

The EPA technical staff rejects Toyota's assertions concerning the 1980 California durability vehicle (80–CD–1) and the emission data vehicles CE–1, CE–2, CE–3, and CE–4 for the following reasons:

(1) The Monte Carlo simulation, rather than Toyota's emissions targets, is the critierion by which technical feasibility is determined. Table V–8 lists the Monte Carlo results of the vehicles entered. As shown, vehicle 80–CD–1 passes the analysis with a hardware improvement factor for a start catalyst. Also, without the start catalyst factor, 80–CD–1 passes HC and NO_x, and fails CO with a probability of 79%. This indicates that Toyota is very close to passing even without a start catalyst.

Table V–8.—*Monte Carlo Results of Toyota Vehicles Using the 108 CID Engine*

VIN	Control system	Probability of pass			Comments
		HC	CO	NO_x	
TE51–50	A	74	0	83	
TE51–60	B	80	0	100	
235B–5	B	53	0	100	
353–40–1	B	100	18	87	
353–40–2	A	97	5	100	
353–46–2	A	75	9	71	
80–CD–1	AIR/OC/EGR	100	79	86	
80–CD–1	AIR/OC/EGR	100	97	88	[1]

[1] Factors for a start oxidation catalyst.

(2) Toyota's assertion that "since the CO level of the automatic transmission vehicle is the same as the 1981 system B, then even if we adopt a start catalyst, it will be far from our development farget of 2.3 g/mile of CO" [7 at 9] was not substantiated given that in a prior statement Toyota said that "We have not tried to test the 80–CD–1 type system in combination with a start catalyst * * *" [7 at 9].

(3) The "certification data" Toyota included in Table 4 failed to include the confirmatory test data on which 1980 California certification of the 3T–C family was based. For example, Vehicle CE–3, equipped with an automatic transmission, achieved a CO level of 3.27 g/mi on the EPA confirmatory test, yet Toyota only reported the result from an earlier test with a CO result of 5.95 g/mi. In another example, Toyota submitted a test result of 2.44 g/mi CO on vehicle CE–4 but failed to include the confirmatory test result of 1.62 g/mi CO, which was the test for CE–4 on which certification was based.

These disparities are tabulated in Table V–9 and are misleading in that the automatic transmission vehicle, CE–3, is presented as having CO emissions over 80% higher than was actually the case with confirmatory testing. Toyota alluded that the results of vehicle 80–CD–1 should not be used to determine technical feasibility "since the CO emission level of the automatic transmission vehicle is the same as the 1981 system B, then even if we adopt a start catalyst, it will be far from our development target of 2.3 g/mile of CO. A/T is necessary to satisfy our basic market demands" [7 at 9]. Yet the "certification data" Toyota submitted to support this contention had been superceded by the confirmatory tests which Toyota failed to submit. As discussed at the hearings, Toyota also failed to include the data from vehicle 80–CD–1, which completed mileage accumulation with emissions below the 1981–1982 standards. The official test results listed in Table V–3 were performed on or before July 18, 1979. The Toyota waiver application is dated September 24, 1979.

Table V–9.—*Data Submitted by Toyota Versus Official Data on Which Certificate of Conformity Was Issued*

Vehicle and transmission	Official	Toyota
	HC	
CE–1, 5–MT	0.224	0.180
CE–2*, 3–AT	0.207	0.207
CE–3, 3–AT	0.159	0.240
CE–4, 4–MT	0.139	0.169
	CO	
CE–1, 5–MT	3.02	2.66
CE–2,* 3–AT	4.40	4.40
CE–3, 3–AT	3.27	5.95
CE–4, 4–MT	1.82	2.44
	NO_x	
CE–1, 5–MT	0.60	0.66
CE–2,* 3–AT	0.61	0.61
CE–3, 3–AT	0.62	0.77
CE–4, 4–MT	0.58	0.66

*No confirmatory tests performed at EPA.

"The Guidelines for Applications for Waiver of the 1981 Carbon Monoxide Emission Standard" state that, in Section 5; "the manufacturer should provide all the information regarding the availability of effective control technology. All the information and data requested in this section should *include and emphasize data regarding that configuration of the model, for which a waiver is requested, having the greatest likelihood of meeting the 3.4 gram-per-mile CO standard.* The information requested in this section, if provided with sufficient support material and in sufficient detail, will be considered by the Administrator to be the *minimum required of the applicant to establish his inability to comply with the standards."* [emphasis added] [9 at 47276]

Not only did Toyota fail to emphasize data on a configuration with the greatest likelihood of meeting the 3.4 CO standard, they failed to supply *any* data on vehicles using the 1980 oxidation catalyst system, which has already certified to the 1981–1982 standards.

(4) The vehicles in Table V–9 certified to a 1980 California CO standard of 9.0 g/mi and can be expected to show improved emissions when calibrated to meet a 3.4 g/mi CO standard.

The Monte Carlo results listed in Table V–8 show that the vehicles with systems A and B are not predicted to pass. Vehicle 80–CD–1 is predicted to pass with a hardware improvement factor for an oxidation start catalyst.

Because Vehicle 80–CD–1 has already completed its mileage accumulation for certification below the 1981–1982 standards, a Monte Carlo simulation is unnecessary. Based on the results of vehicle 80–cd–1, the 108 CID engine passes without hardware improvement factors. With a start catalyst factor the Monte Carlo results confirm Toyota's ability to certify the 108 CID engine Federally in 1981.

VI. Cost Analysis

EPA Cost Estimates

The costing methodology used here is essentially the same as that used in the two previous CO waiver decisions [4], [11 at 53400], [21 at 69450]. Additional responses to the EPA subpoena of August 8, 1979 enabled EPA to further revise cost estimates of certain emission control devices, notably monolithic three-way and oxidation catalysts. The subpoena requested prices that suppliers charge the automobile manufacturers for emission control devices or systems.

Table VI–1 presents EPA estimates of cost to the consumer of compliance with 3.4 vs 7.0 CO (due to lead time problems for certain emission control devices, separate estimates are necessary for 1981 and 1982). The changes in cost were calculated by individual engine size. These changes were based on the differences in emission control hardware between a) systems targeted to meet 7.0 CO, as described by each manufacturer in their applications and b) systems judged capable by EPA of meeting 3.4 CO, based on Monte Carlo results or successful 1980 certification of similar vehicles. Cars which passed Monte Carlo often needed improved emission control hardware to do so, and these technological improvements were all costed in.

As shown in Table VI–1, EPA did not find an increase in cost for every engine size which passed the .41 HC, 3.4 CO, 1.0 NO_x emission standard in the Monte Carlo analysis. (For example, certain Monte Carlo factors implied no change or a decrease in cost.) Engine sizes which are labeled "no data" or "fail" in the Monte Carlo analysis are automatically assumed to have no change in cost.

The range in cost for AM is basically attributable to the difference between the 1980 and 1981 C–4 electronics. AM could conceivably certify to 3.4 CO with either system in 1982.

Table VI–1.—*EPA Estimate—Cost of Compliance With 3.4 CO*

Manufacturer	CID	3.4 vs 7.0 CO in 1979 dollars	
		1981	1982
AM	151	0 (fail)	108–148.
GM	231 (3.8L) 4V Turbo.	0 (fail)	(No data).
Lotus	122 (2.0L)	0 (fail)	0 (no data).
	134 (2.2L)	0 (no data)	0 (no data).
	134 (2.2L) Turbo.	0 (no data)	0 (no data).
Toyota	108	−16*	−16*

*Includes the addition of an oxidizing start catalyst.

Manufacturers' Cost Estimates

Table VI–2 presents the manufacturers' estimates of cost to the consumer of compliance with the 3.4 CO standard over cost of meeting 7.0 CO [16 at Vol. I, Sec. V, p. D–2] [10 at A–6] [17 at 10] [5 at 10] [2 at 5–2]. Most manufacturers claimed some degree of confidentiality for their cost estimates; therefore, this table contains only that information which can be released. A cost of "0" dollars signifies that the manufacturer did not specify different control systems to meet 3.4 CO and 7.0 CO.

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Table VI-2.—*Manufacturers' Cost Estimates*

Manufacturer	Cost of compliance—3.4 CO v. 7.0 CO
AM	Confidential
GM	0
Lotus	$1000
Toyota	$90–$240

VII. Driveability

American Motors

The issue of driveability is of little importance in the determination of American Motors' ability to comply with the 1981 CO emission standard of 3.4 g/mile. No quantitative driveability data were included in any of their submissions regarding a waiver request for the 151 in³ engine family.

The only mention made of vehicle driveability was in American Motors contention that since their emission control systems are purchased from General Motors, they have lead time problems packaging these systems in their vehicles with adequate driveability [5 at 97]. AM says they will go with GM's second generation C–4 system to meet the 3.4 g/mile CO standard, or the first generation (1980 California) system if granted a waiver [5 at 170].

The representative from AM discussed driveability difficulties with their 1980 Federal systems, which were also purchased from GM.

"First of all, out 1980 application to passenger cars has been a rather unsuccessful application. We have two configurations of passenger cars certified for 49 state applications, both of which have outstanding running changes. The driveability of those packages in our vehicles is less than acceptable to our standard. So we are in the process of processing running changes to correct the immediate problems associated with those two calibrations." [5 at 16]

With regard to meeting the 3.4 CO standard, AM claims to need 16 months lead time to apply the second generation C–4 system. They say that a large portion of this lead time must be devoted to driveability testing. [5 at 127].

The absence of driveability data or even an appreciably rigorous testing procedure make it difficult for the EPA staff to assess the magnitude of AMC's alleged difficulties.

General Motors

Driveability was not raised as an issue in the determination of General Motors ability to meet the 1981 CO emission standard of 3.4 g/mile. No quantitative driveability data or even subjective commentary were included in any of their submissions regarding a waiver sought for the 3.8L turbocharged engine family. Driveability, therefore, will *not* be a crucial criterion in the decision for waiver of this engine family.

Lotus

No driveability data were submitted by Lotus Cars Ltd. in their application for CO waivers at the public hearing, or in their supplemental information. There were, however, occasional subjective driveability comments made in discussions of the development programs for exhaust gas recirculation, use of additional catalysts, electronic fuel injection, closed loop carburetion and turbochargers. No objective rating scheme or driveability test procedures were provided.

With regard to the EGR "system 5" with a variable vacuum regulator it was stated that "subjective driveability problems also existed in hard accelerations with this system although these were not quantified" [6 at section 1].

In their original application Lotus asserted, though they did not support their claims with data, that the addition of a second (oxidation) catalyst to their system would cause performance penalties associated with (a) the increased exhaust backpressure, (b) the extra weight of the additional catalyst, an air pump and the associated air management controls and (c) the horsepower absorbed by the air pump [3 at 5]. In their supplementary application, Lotus submitted emission data on vehicle 132S with an additional catalyst and an air pump [6 at 2.2.3], but stated . . .

"Our usual quantitative driveability test (measuring acceleration times) was not attempted because the car was so obviously slow." [6 at section 2]

The car was slow particularly during the cold phase. The driving trace could not be followed even under conditions of wide open throttle. However, the measurement of acceleration times is generally not considered a test of driveability. Driveability is usually assessed in terms of surge, hesitation, backfire, stall, startability, idle quality, run on, afterfire and similar phenomena. Evaluations such as acceleration times and power losses are usually measures of vehicle performance.

Tony Rudd, Corporate Research Director of Lotus Cars of England, mentioned a 6 to 8 horsepower performance penalty associated with the dual bed (three-way plus oxidation) catalyst alternative at the public hearing, but failed to submit the accompanying performance data [5 at 16–17].

Lotus is currently developing alternative technology for new engines aimed at improved economy and performance. They stated that . . .

". . . the design improvements due to be incorporated in the V8 engine will give further improved performance and economy. It is expected that with careful combustion control and digital fuel injection, emissions levels will be within 1982 statutory limits." [6 at section 6]

Another alternative, to be ready for use in 1980 (and 1981 if a waiver is granted), is the turborcharged engine. Lotus suggests that this engine will not meet the 1981 emission standards, but it feels it is a cost effective solution to satisfy customer demands for economy and performance until the new engines become available [6 at section 5].

As a bottom line to this discussion, Lotus declares that they cannot feasibly assess driveability because their present technology does not allow them a comparison:

"Since we have not achieved the 1981/82 statutory limits, we have no data available to accurately assess the effect on fuel economy and driveability of complying with these limits." [6 at section 4]

Toyota

Toyota has stated that the basic difference between their A and B systems with regard to engine family 3T–C is the addition of a monolithic oxidizing start catalyst to system A [5 at 54]. Systems A and B are targeted for the 3.4 and 7.0 g/mile CO standards, respectively. Driveability as assessed by Toyota is better with system A than system B, slightly superior under cold conditions and greatly improved under warmed-up conditions. This assessment is based on only one test vehicle, vehicle 230B–18, and the same vehicle was used for testing both the A and B systems [2 at 5–4]. No vehicle description for 230B–18 could be found in any of the documents provided by Toyota.

It is important to note that based on Toyota's criteria for acceptable driveability, system B is rated marginally unacceptable for the cold start and acceptable in the warmed-up portion of the test. System A meets the acceptable rating for both portions of the test [2 at 5–4]. Toyota concludes that based on this vehicle, system A has "good" driveability and system B has "adequate" driveability [2 at 5–5]. It is the opinion of the EPA technical staff that Toyota has shown better driveability on their 3T–C engine with a start catalyst than without one.

Toyota's 1980 certification vehicle, 80–CD–1, has passed the Monte Carlo simulation model with a start catalyst. However, no driveability data were submitted for vehicles using this type of emission control system.

VIII. Fuel Economy

Of the four applicants in this round of CO Waiver hearings, two manufacturers claimed a fuel economy loss would be incurred if their waiver applications were denied. Those manufacturers were Toyota and Lotus. Of the remaining manufacturers, General Motors did not address the subject of suffering a fuel economy penalty in order to meet 3.4 CO, and AM did not claim a fuel economy loss in meeting 3.4 CO but did indicate that if their waiver request was denied, then their inability to market vehicles with these smaller engines would result in a loss in Corporate Average Fuel Economy (CAFE).

Toyota

Toyota claimed that their 1981 system has the potential of increasing fuel economy from 5 to 20% over 1980 production vehicles [7 at 10 and 5 at 46], if the CO standard were waived to 7.0 g/mi. If the waiver were denied, Toyota claims they would need an additional oxidation catalyst added to the 1981 system which would result in a 2 to 3% fuel economy loss due to the additional backpressure of the catalyst [5 at 47]. However, as seen from the data in table VIII–1, the data supplied by Toyota do not support their claim. The fuel economy of Toyota's system A, for which Toyota is claiming a 5% loss due to an increase in backpressure, appears to show a fuel economy increase of 0.2 MPG compared to their system B, when the respective data are averaged. It is also interesting to note that vehicle #80–CD–1, which is a 1980 California certification vehicle, passed the emission levels of 0.41 HC, 3.4 CO and 1.0 NO_x. The 1980 California system passed these standards with a fuel economy of 23.8 MPGu when averaged throughout its durability. Since composite fuel economy has historically been over ten percent higher than urban fuel economy, vehicles using this engine will surely exceed the 1982 CAFE standard of 24 MPG.

Therefore Toyota has already exhibited that they have in their possession sufficient technology to meet CAFE as well as the emission standards simultaneously for both 1981 and 1982 for this engine family.

Table VIII-1.—*Toyota Fuel Economy Data*

	Exhaust system	Inertia weight	Engine displacement	Transmission	Axle ratio	Ave. durability F.E. (MPGu)	No. of data pts.
Vehicle I.D.:							
353B–40–2	A	2,500	155	A3	3.909	24.2	8
353B–46–2	A	2,500	155	M5	3.727	24.5	10
TE51–60	A	2,500	155	M5	3.727	24.4	6
TE66–15–2	A	2,625	155	M5	3.727	25.7	4
353B–40–1	B	2,500	155	A3	3.909	24.3	7
TE51–60	B	2,500	155	M5	3.727	24.5	6
231B–21–1	B	2,500	155	M4	3.727	23.8	7
235B–5	B	2,500	155	A3	3.909	25.5	6
[1] 80–CD–1	OC/Air/EGR	2,500	155	M5	3.73	23.8	13

[1] 1980 California certification data.
A = AI + OC + CL – 3W.
B = AI + CL – 3W.

Lotus

Lotus is apparently planning to use their 1980 California system in the '81 and '82 model years. This system has passed in 1980 Certification below the levels of 0.41 HC, 7.0 CO and 1.0 NO_x with fuel economy marginally above the 1980 CAFE standard. However, Lotus' attempts at improving this system have been somewhat limited since apparently they feel that they do not have a large enough portion of the U.S. market to justify such an expense. Lotus did report, however, that adding an additional oxidation catalyst to their 1980 California system, consisting of an open loop 3-way catalyst with air injection, results in a fuel economy loss of 2 MPG [5 at 12]. Lotus did not supply data to verify this claim, but it does appear to be a high estimate of the loss due to the additional backpressure. If Lotus does use the 1980 California system for 1981 and 1982, it appears doubtful that the fuel economy increase to the CAFE standards of 22 and 24 MPG respectively can be obtained without some type of hardware change. It seems that Lotus' fuel economy problems stem from insufficient technology (i.e. lack of feedback fuel control) and not due to the difference between the 3.4 and 7.0 CO standards, since Lotus' fuel economy would be below CAFE standards with this system. Lotus also reported that they plan to have EFI available to them by 1983 and expect an improvement such that they may be able to achieve 30 MPG_c with this system [5 at 8].

General Motors Corp. (GM)

GM did not address the subject of a fuel economy penalty resulting from meeting the 3.4 CO standard. Since this issue was not presented, it may then be interpreted that fuel economy is not an issue for GM in meeting 3.4 CO with vehicles using the 231 turbocharged engines. Thus it appears that GM has not changed its position from their earlier testimony.

American Motors Corp. (AM)

AM claimed that if their waiver request were denied, they would be left in a position where they would have no 4 cylinder engines to market. If this were in fact the case, AM claims they would be unable to meet the CAFE standard of 22 MPG_c for 1981. Therefore AM claims that they need this waiver such that the 4 cylinder engines can boost their CAFE fleet to an acceptable level [5 at 133].

Summary

As in the past CO hearings, none of the manufacturers who claimed a fuel economy penalty between 3.4 and 7.0 g/mi. CO provided substantiating data to confirm their claim. Also, as in past hearings, those manufacturers failed to submit fuel economy data at the levels of 0.41 HC, 3.4 CO, and 1.0 NO_x. The absence of such data tends to imply that the fuel economy penalties are due to differences in systems and not necessarily related to the differences in CO standard. The opinion of the EPA technical staff, after reviewing each manufacturers' respective data, remains unchanged; that a reduction in CO from 7.0 to 3.4 g/mi does not result in an inherent fuel economy penalty.

IX. Lead Time Considerations

American Motors (AM)

AM currently has certified their 1980 California versions of vehicles using the 151 CID engine from General Motors. The primary emission control components of that system include a feedback carburetor, ported EGR, a pelleted 3-way catalyst, and the first generation electronic control unit (ECU) [5 at 90–92]. These are the same components used by GM, though production calibrations are not identical [5 at 90, 98 and 150 to 152].

The primary emission control components of the 1981 GM system include a feedback carburetor, backpressure EGR, switched air injection (AIR), electronic spark advance (ESA), a monolithic 3-way catalyst, a monolithic oxidation catalyst, and the second generation ECU [5 at 61 to 92]. This is substantially different than the 1980 California system by the addition of ESA, AIR, and a clean up oxidation catalyst. Other differences do exist, but probably are not as important as those already mentioned.

AM already has received a waiver from 1.0 to 2.0 NO_x for the 1981 and 1982 model years. Due to the situation, a waiver to 7.0 CO would allow AM to carry over either their 1980 Federal or California emission control systems for Federal use in both the 1981 and 1982 model years. Since both are currently certified by EPA, no additional development or certification efforts would be required.

The original AM waiver request indicated that the 1980 California system would be used if a waiver were received [13 at 7]. The second AM waiver request said that AM would utilize the 1981 Federal GM system (the same one GM will use without a waiver) if they were to receive a waiver [12 at 4 to 6]. A new system with both warmup and main catalysts would be a back up system [12 at 8 to 10]. In their most recent submission, AM has stated they will use the 1980 California system at 7.0 CO [20 at 1]. This confusion in the AM situation was apparently generated when GM temporarily decided that they could not provide the 1980 California system to AM. This decision by GM was later reversed [12 at 4 to 6 and 5 at 149].

The contract, under which GM provides the 151 CID engine and emission control system to AM, allows AM to use the deterioration factors generated by Pontiac certification vehicles. The contract does not preclude AM from entering additional engine families into the certification process at their own expense. This is apparently the path which has been been chosen by AM in selecting their back up family using an oxidation catalyst system [12 at 8 to 10].

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It should be noted that the 1981 back up oxidation catalyst family will probably not be considered by AM at 7.0 CO now that the 1980 California system is available.

The emission control system which would be used by AM if a CO waiver is not received is the same as the 1981 Federal system being used by GM (called the C–4 system by GM). AM has stated that they will be unable to certify vehicles using the 151 CID engine in 1981 without a waiver due to lead time problems in learning to utilize the second generation system [12 at 11 and 5 at 126 to 135]. They stated that "we believe it is unreasonable and inconsistent with the intent of Congress and contrary to the technical reality to expect a vendor-dependent company such as American Motors to possess the necessary advanced emission control technology in the same model year other manufacturers are introducing it for the first time" [12 at 10].

AM believes that they cannot complete the certification of the system for 1981 because ". . . the [C–4] system has such a wide range of capabilities that we are overwhelmed with more flexibility than we can reasonably contain with our in manpower/facilities/time constraints [12 at 6]".

Key dates in the evaluation of the C–4 system at AM have been stated by GM and AM as follows:

Date	Event	Reference
February 1979	1. AM received components from GM that were used to "derive" current emission components.	5 at 138–139.
April 1979	2. AM received the second generation ECU	5 at 139.
May 1979	3. AM received the Pontiac "declaration of their prime package".	5 at 99.
Late August to early September 1979.	4. AM had assembled vehicles with the C–4 system in "useable, functional hardware, short of calibration".	5 at 98.
May 1980	5. AM estimates GM will have 4,000 mile vehicle calibrations developed—AM can then start to develop final calibrations.	5 at 98.
August 1980	6. AM estimates (with high risk) that they can certify the C–4 system to 7.0 CO.	5 at 129.
	7. AM estimates (with much less risk than above) it takes 16 months from August 1980 to certify to 3.4 CO with the C–4 system.	5 at 126–135.

There are several important things to discuss in this group of events which operates against AM's assertion that they need a two year waiver to provide adequate lead time to meet 3.4 CO. First, there was a substantial delay between the time when AM received components from GM and the time AM had a vehicle which was operational. This apparently was due to AM's emphasis on completing their 1980 California certification. The California certification was completed in October, 1979 and was not in time for AM's scheduled start of production in July, 1979 [12 at 11].

Second, AM has claimed that their final calibration efforts can not commence until GM has completed the calibration development for their emission data vehicles. This is peculiar in that AM extensively discussed, (1) the differences between the GM vehicles and the AM vehicles [5 at 107 to 109], (2) the historical differences in final calibration of the GM and AM vehicles [5 at 98 to 102], and (3) the AM responsibilities for the final vehicle calibration [5 at 97 to 99].

Third, it is peculiar that AM would even consider expending their limited efforts on the C–4 system for certification at a 7.0 level (at the time of their submission AM believed that the 1980 California system would not be available) as their 1980 Federal vehicles would already comply with the 0.41 HC, 7.0 CO, 2.0 NO_x standard.

Finally, the AM estimate of the need for a 16 month lead time (from August of 1980) to meet 3.4 CO seems extremely long. AM was asked to provide information supporting this estimate and the method used to obtain this estimate. The AM response is contained in reference 20. In the opinion of the technical staff, the need for sixteen months lead time was not substantiated by the AM submission.

On the more optimistic side, AM has several advantages that most other vehicle manufacturers do not have. First is their 2.0 NO_x standard in 1981 and 1982. This is the result of special legislation contained in section 202(b)(1)(B) of the 1977 Amendments to the Clean Air Act. Second, they have received the benefits of the GM/AM agreement. AM receives emissions control hardware and technical advice from GM. The advice from GM includes assistance in the calibration of AM vehicles [5 at 151]. Also AM stated that it is their current desire to introduce the second generation system in 1981 in California [12 at 8].

Nevertheless according to the most recent AM submission substantial difficulties are still being encountered with the second generation C–4 emission control system. As examples, AM is still having problems with the wiring of the C–4 system. Not a single vehicle is running properly as of December, 1979. And some emission control hardware is still being "cobbled" [20 at 4 to 5].

In view of the lack of progress at AM since the Administrator's initial decision for this engine the current AM problems discussed in the paragraph above, and the continuing lack of any emission data from AM on this engine, it is now the opinion of the technical staff that AM no longer has sufficient lead time to complete development and acceptable calibration of vehicles using the 151 CID engine for Federal use in 1981.

AM was not really sure that a waiver would be needed in the 1982 model year [5 at 125] and indicated that there was still a possibility of achieving 3.4 CO in 1981 with the second generation system. The latter possibility was considered to be "highly unlikely" by AM however [5 at 134 to 135]. With a waiver in 1981, AM will no longer need to expend effort on the calibration and certification of the second generation system for 0.41 HC, 7.0 CO, 2.0 NO_x. The effort saved here should enable AM to introduce the second generation system as planned in California in 1981. Assuming that AM makes a good faith effort to develop and calibrate the second generation C–4 system in 1981 for Federal use, they should have completely adequate lead time for successful federal certification in 1982.

General Motors

General Motors did not make much of an issue of lead time in their application for waiver of the 3.4 g/mile CO standard for the 3.8L turbocharged V–6 engine family. GM claims that the added thermal mass of the turbocharger slows warm-up of the system and delays light-off of the catalytic converter. Therefore, they say that the standard will be difficult to meet in the available time frame [5 at 156]. No evidence was presented, however, to show that this system could eventually meet the standard (in 1983), though GM expects to observe substantial improvements with their dual-bed C–4 technology [5 at 156].

GM would like the field experience with the turbocharger and with their spark knock limiter system. The turbo, they claim, will provide them with a small displacement engine with the power of a larger engine while maintaining many of the benefits of a smaller engine [5 at 154]. It is not evident to the EPA staff however, that it will take GM two additional years of field experience to achieve the 3.4 CO standard with this engine.

From the information submitted so far by GM, it appears that the 3.8L turbocharged engine will not meet the 3.4 g/mile CO standard by 1981 with the systems they have tested. Systems with which they have not really experimented, which might help them meet the standard, were discussed at the public hearing. These included warm-up catalysts, increased catalyst volumes and use of exhaust port liners.

GM did not test warm-up converters, but said that the available evidence indicated very high deterioration factors when warm-up converters were used [5 at 157]. They also did not consider placing a start catalyst or the three-way portion of a dual-bed system before the turbocharger where the exhaust is hotter. This, they explained, was an effort to keep the restriction level between the engine and the turbo as low as possible to conserve the heat for boosting the turbo as quickly as possible [5 at 158].

In a follow-up submission, GM showed data comparing a highly loaded 250 in^3 dual-bed pelleted converter, a 170 in^3 dual-bed monolithic converter and a 130 in^3 dual-bed pelleted converter. Due to the poor warm-up efficiency of 250 in^3 pelleted converter and the emission results and increased exhaust backpressure of the 130 in^3 pelleted converter, they selected the 170 in^3 dual-bed monolithic converter as their first choice system for this engine family [19 at 6–7]. The possibility of using a larger volume monolithic converter was not mentioned by GM.

No testing was done on exhaust port liners. GM explained that their engine has a fairly short exhaust port from the valve to the flange and they are concentrating their effort on providing a lower mass exhaust manifold [5 at 162].

In the opinion of the EPA technical staff the use of start catalysts, larger monolithic catalysts, and port liners would improve the emissions from this engine and could be developed for this engine in time for use in 1982 model year certification.

Lotus

An issue with which Lotus cars claims to have lead time difficulties is their development of electronic fuel injection. At the public hearing of November 5, 1979 the representative from Lotus stated . . .

"We do believe that we could meet the standard with the use of electronic fuel injection with a yet undeveloped system of measuring air flow control. We are actively pursuing development of this system to use on the new range of engines [5 at 9]."

In their supplementary submission, Lotus included a letter from the Lucas Company, their prime fuel injection program subcontractor, which contains a schedule of their program and a job one date of June 1981. Lotus noted that the job one date may be delayed three months due to industrial unrest in the United Kingdom, making September 1981 the start of production [5 at 33]. This means that Lotus could definitely use fuel injection technology on their 1982 model year vehicles.

In the letter, Lucas states that the objective of the program is . . .

"To apply Lucas digital electronic fuel injection to a new V8 Lotus engine for both Federal and European vehicle applications. The program is based on the 1982 model year and an annual production rate of 1000 engines [6 at section 6]."

Lotus is therefore placing initial emphasis on the development of electronic fuel injection for their new V8 engine rather than for the in-line four cylinder engines which are the subject of their current waiver application.

It appears logical that the development of fuel injection for a new V8 engine would take considerably more effort and lead time than a similar development program for the in-line four cylinder engines.

In other words, Lotus has sufficient lead time to apply electronic fuel injection to the engines for which a waiver is currently being sought by the 1982 model year.

Toyota

Lead time does not appear to be an issue with Toyota in their request for a waiver of the 1981–82 emission standards for engine family 3T–C. The only mention made of insufficient lead time was to accomodate their vehicles with a clean up oxidation catalyst [7 at 2]. Toyota has stated that they do not feel the clean up catalyst will assist them in meeting the emissions standards and that there is no room for it in their vehicles anyway [7 at 2]. They seem more concerned with meeting the fuel economy standards and having good driveability since the emissions requirements have already been met with their 1980 certification vehicle 80–CD–1 [5 at 67]. At the public hearing, it was confirmed that vehicles using the same emission control system as vehicle 80–CD–1 could be available for sale in the United States for model year 1981 [5 at 64]. Toyota prefers a system with an oxidizing catalyst and has more experience with it.

"The system with start catalyst has a great advantage for non-FTP emissions, especially for cold temperature conditions not under consideration." [7 at 2]

Use of oxidizing start catalysts on the 3T–C engine family is definitely not a question of lead time or availability since they have already been tested and used on development vehicles for system A.

It appears entirely possible then, that Toyota could produce a system like the one that passed 1980 certification with the addition of an oxidizing start catalyst to be used in time for the 1981 model year. This system has been evaluated, run and passed the EPA Monte Carlo simulation model. The system very nearly passed without the aid of a start catalyst so Toyota should have little difficulty meeting the emissions and fuel economy standards in 1981–82 with a start catalyst on their 3T–C engine.

X. References

1. Toyota Motor Co., Ltd. *Request For Waiver Carbon Monoxide Standard Applicable to 1981 and 1982 Light Duty Vehicles*, June 1979.

2. *Toyota CO Waiver Applicotion Supplementary Materials*, September 24, 1979.

3. *Lotus 1981/82 CO Standard Waiver Application.*

4. Leroy H. Lindgren, *Cost Estimations For Emission Control Related Component-Systems and Cost Methodology Description*, EPA Pub. #460/3–78–002, March 1978.

5. *Transcript of Proceedings—United States Environmental Protection Agency—In the Matter of: Applications For Waiver of 1981 Model Carbon Monoxide Emission Standards*, Acme Reporting Company, November 5, 1979.

6. *Lotus Cars Limited, CO Waiver Application Supplementary Information*, November 16, 1979.

7. Letter and Enclosures to Mr. Charles Freed (Manufacturers Operations Division of EPA) from Mr. J. Kawano (Toyota Motor Co., LTD.), November 20, 1979.

8. Letter and enclosures to Mr. Benjamin R. Jackson (Mobile Source and Noise Enforcement Division of EPA) from Mr. S. L. Terry (Chrysler Corporation), Nov. 19, 1979.

9. **Federal Register**, Vol. 43, No. 199; Friday, October 13, 1978.

10. Chrysler Corporation, *Petition For Reconsideration Of EPA's Decision Denying 1981–82 Model Year CO Waiver*, October 16, 1979.

11. **Federal Register**, Vol. 44, No. 179, September 13, 1979.

12. *American Motors Corporation petition for Reconsideration of a Waiver of the 1981 Carbon Monoxide Emission Standard for AM's 151 CID Engine Family*, October 20, 1979.

13. *American Motors Corporation Application For Waiver of the 1981 and 1982 Carbon Monoxide Emission Standard*, July 3, 1979.

14. *General Motors Documents Submitted in Response to EPA Subpoena Dated October 31, 1979, Re: American Motors Corporation CO Waiver Application for the 151 CID Pontiac Engine*, Submitted to Environmental Protection Agency; November 5, 1979.

15. *American Metal Market/Metalworking News*, Dec. 3, 1979.

16. *CO Waiver Application, Chrysler Corporation, Application for Waiver of the 1981–82 Model Year Carbon Monoxide (CO) Standard of 3.4 grams Per Vehicle Mile for Passenger Cars*, July 3, 1979.

17. *General Motors Application For Waiver of 1981 and 1982 Carbon Monoxide Emission Standard (Turbocharged 3.8 Liter Engine Family)*, November 2, 1979.

18. Engelhard Industries, July 9, 1979, *Response to the Environmental Protection Agency Subpoena* dated June 29, 1979.

19. Letter to Mr. Charles N. Freed (Manufacturers Operations Division of EPA) from T. M. Fisher (Environmental Activities Staff of GM), November 19, 1979.

20. *Supplemental Submission of American Motors Corporation Concerning Waiver of the 3.4 CO Emission Standard for the 151 CID 4-Cylinder Engine Family*, December 6, 1979.

21. **Federal Register**, Vol. 44, No. 233, December 3, 1979.

[FR Doc. 80–3731 Filed 1–30–80; 8:45 am]
BILLING CODE 6560–01–M

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL 1397-8]

Revised Motor Vehicle Exhaust Emission Standards for Carbon Monoxide (CO) for 1981 Model Year Light-Duty Vehicles.

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: This regulation establishes CO emission standards for 1981 model year light-duty vehicles belonging to certain engine families for which I have granted waivers from the standard otherwise applicable under section 202(b)(5) of the Clean Air Act, 42 U.S.C. § 7521(b)(5).

EFFECTIVE DATE: February 25, 1980.

FOR FURTHER INFORMATION CONTACT: Alex Varela, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 472-9413.

PUBLIC DOCKET: Information relevant to this rule is contained in Public Docket EN-79-19 at the Central Docket Section of the Environmental Protection Agency (EPA), Room 2903B, 401 M Street, S.W., Washington, D.C. 20460 and is available for review between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

SUPPLEMENTARY INFORMATION: Section 202(b)(1)(A) of the Clean Air Act ("the Act"), 42 U.S.C. 7521(b)(1)(A), requires that regulations applicable to CO emissions from light-duty vehicles or engines manufactured during or after the 1981 model year shall contain standards which require a reduction of at least 90 percent from CO emission levels allowable under the 1970 model year standards. Regulations implementing this requirement have established a CO standard, often referred to as the statutory standard for CO, of 3.4 grams per vehicle mile (gpm).

Section 202(b)(5) of the Act authorizes the Administrator, on application of any manufacturer, to waive the statutory CO standard for the 1981 and 1982 model years for any light-duty vehicle model regarding which the Administrator can make certain findings. In these cases, the Act requires that I promulgate substitute CO standards for 1981 and 1982 model year light-duty vehicles as discussed below. Applications for waivers considered here were submitted by American Motors Corporation (AMC), General Motors Corporation (GM), Toyota Motor Co. Ltd. (Toyota), and Lotus Cars, Ltd. (Lotus). The statutory criteria, my determinations regarding the criteria with respect to the vehicle models covered by the waiver applications, and my decisions to grant or deny the waiver applications appear in the consolidated decision published above. In that decision, I granted waivers covering the following vehicle models (engine families for purposes of that decision) for the 1981 model year only:

Manufacturer	Engine family
Lotus Cars, Ltd.	2.0L.
American Motors Corporation.	151 CID.
General Motors Corporation.	3.8L/231 CID-4V Turbocharged.

Once I have decided to grant waiver applications for these three 1981 model year vehicle models, the Act requires that I simultaneously promulgate regulations adopting emission standards not permitting CO emissions from 1981 model year vehicles of these Lotus, AMC, and GM, models to exceed 7.0 gpm. Moreover, that Act further requires that I promulgate regulations establishing these standards no later than 60 days after I receive the waiver application in question. The public has received an opportunity to comment on the waiver applications at issue, and I have considered those comments in making the consolidated decision which requires the promulgation of this rule. For these reasons, I find that providing notice and an opportunity to comment on this rulemaking before final promulgation is impracticable and unnecessary.

Note.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an economic impact analysis under Executive Orders 11821 and 11944 and OMB Circular A-107.

In addition, because the decision accompanying this rulemaking already is based on a detailed analysis indicating that this rulemaking will have a negligible effect on air quality, the Environmental Protection Agency has not prepared an Environmental Impact Statement to accompany this rulemaking as well.

Dated: January 22, 1980.

Douglas M. Costle,

Administrator.

40 CFR Part 86 is amended as follows: Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles, 1977 and Later Model Year New Light-Duty Trucks and 1977 and Later Model Year New Heavy-Duty Engines.

40 CFR 86.081-8(a)(1), published at 44 FR 69416 (December 3, 1979), is revised to read as follows:

§ 86.081-8 Emissions standards for 1981 and later model year light-duty vehicles.

(a)(1) Exhaust emissions from 1981 and later model year light-duty vehicles shall not exceed the following levels for the following pollutants:

(i) Hydrocarbons—0.41 grams per vehicles mile;

(ii) Carbon monoxide—3.4 grams per vehicle mile, except that

(A) carbon monoxide emissions from light-duty vehicles of the following 1981 and 1982 model year engine families shall not exceed 7.0 grams per vehicle mile:

Manufacturer	Engine family
American Motors Corporation.	258 CID.
BL Cars, Ltd.	TR6, XJ12.
Chrysler Corporation	1.7 liter; 3.7 liter; 5.2 liter/4-V.
General Motors Corporation.	2.8 liter/173 CID-2V; 3.8 liter/231 CID-2V.
Toyota Motor Company, Ltd.	88.6 CID.

(B) Carbon monoxide emissions from light-duty vehicles of the following 1981 model year engine families shall not exceed 7.0 grams per vehicle mile:

Manufacturer	Engine family
Toyo Kogyo Company, Ltd.	91 CID, 120 CID.
General Motors Corporation.	3.8 liter/231 CID-4V Turbo.
American Motors Corporation.	151 CID.
Lotus Cars, Ltd.	2.0 liter.

(iii) Oxides of nitrogen—1.0 grams per vehicle mile, except that:

(A) oxides of nitrogen emissions from 1981 and 1982 model year light-duty vehicles manufactured by American Motors Corporation shall not exceed 2.0 grams per vehicle mile;

(B) oxides of nitrogen emissions from light-duty vehicles of the following 1981 and 1982 model year engine families shall not exceed the prescribed levels:

Manufacturer	Engine family	Model year	NO_x (gpm)
General Motors Corporation.	5.7 liter	1981, 1982	1.5
Daimler-Benz AG.	2.4 liter	1981	1.5
		1982	1.25
	3.0 liter naturally aspirated.	1981, 1982	1.5
	3.0 liter turbocharged	1981, 1982	1.5
AB Volvo	2.4 liter naturally aspirated.	1981, 1982	1.5

(Section 202 and 301(a) of the Clean Air Act, as amended, 42, U.S.C. 7521 and 7501(a)).

[FR Doc. 80-2732 Filed 1-30-80; 8:45 am]

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federal register

Thursday
January 31, 1980

Part VII

Department of Transportation

Research and Special Programs Administration

Highway Routing of Radioactive Materials; Proposed Rulemaking

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 173 and 177

[Docket No. HM-164; Notice No. 80-1]

Highway Routing of Radioactive Materials

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish routing requirements to apply to carriers by highway of radioactive materials when placarding is required. General requirements would apply to all such carriers, and more specific requirements, concerning use of Interstate highways, written route plans, and driver training, would apply to carriers of large quantity packages (which would include commercial shipments of irradiated reactor fuel). Recent action by the Nuclear Regulatory Commission regarding physical security of irradiated reactor fuel offered for transportation by its licensees would be recognized and extended to all shippers of irradiated reactor fuel. Certain actions by State governments concerning radioactive materials routing by highway would be recognized. This proposal is intended to reduce the possibility of exposure and inadvertent releases in normal and accident situations in transportation, and to clarify the scope of permissible State and local action.

DATE: Comments must be received by May 31, 1980. Public hearings will be announced later.

ADDRESS: Comments should be addressed to: Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. It is requested that five copies be submitted. Dockets may be reviewed in Room 8426, 400 Seventh Street, S.W., Washington, D.C. between 9 am and 5:30 pm weekdays.

FOR FURTHER INFORMATION CONTACT: Marilyn E. Morris, Regulations Specialist, Standards Division, Office of Hazardous Materials Regulation, Room 8102, 400 Seventh Street, S.W., Washington, D.C. 20590, phone 202-426-2075.

SUPPLEMENTARY INFORMATION:

I. Historical Background

In 1976, truck shipments of irradiated reactor fuel (spent fuel) from Brookhaven Nationald Laboratories' Long Island facility were interdicted by an amendment to the New York City Health Code. The Health Code amendment had the practical effect of banning most commercial shipments of radioactive materials in or through the City. Associated Universities, Inc., which operates Brookhaven National Laboratories, asked DOT whether that ordinance was preempted by Federal transportation safety requirements issued under the Hazardous Materials Transportation Act (HMTA) (49 U.S.C. 1801 *et seq.*). On April 20, 1978, DOT published an Inconsistency Ruling (43 FR 16954) in which it viewed the City's Health Code amendment as an extreme routing requirement intended to protect the very dense urban population found inside the City. DOT concluded that the HMTA could preempt local requirements such as New York City had implemented, but because highway routing authority had not yet been exercised under the HMTA, the City's health code was not preempted by HMTA requirements.

A number of other State and local governments have either passed, or proposed, legislation that severly restricts transportation of certain radioactive materials through their jurisdictions. These actions do not seem to be based on the relative significance of previous accidents involving radioactive materials transportation. The information available to DOT through the Department's Hazardous Materials Incident Reporting System, to which carriers report incidents involving any release of a hazardous material in transportation, or any suspected radioactive contamination, indicates that radioactive materials transportation has a good safety record. In 1977 the DOT estimated that 2.5 million packages of radioactive materials were being transported by all modes yearly. This estimate closely approximates the 2.19 million packages reported in the study "Final Environmental Statement on the Transportation of Radioactive Material by Air and Other Modes" (December 1977) (NUREG 0170) (p. 1-18) as being shipped in 1975. From 1971, when the reporting system was established, until August 1979, a total of 463 incident reports were received involving radioactive materials (0.5% of the total reports received). In comparison, approximately 45,000 incident reports were received which involve flammable liquids (51% of the total). Of the 463 reports filed since 1971 involving radioactive materials, 323 concerned highway transportation, and of this number approximately 275 were reports of minor or suspected contamination to the container and/or transport vehicle due to improperly prepared shipments. The more severe of the reported highway incidents involved vehicle accidents which resulted in packages of radioactive materials being burned, thrown from the vehicle, or rolled on by the vehicle. These events occurred in about 15% of the reported incidents. Examples of such incidents reported last year include:

(1) The January 10 collision near Morristown, Tennessee of a truck tractor and flat-bed trailer carrying 5 cylinders, each containing 6800 pounds of radioactive material fissile, n.o.s. (Uranium Hexafluoride UF_6) into the rear end of a tank truck. The crash resulted in the total loss of the truck power unit and personal injuries to the driver. The cylinders however, remained intact and the trailer sustained very limited damage. The load was returned to Oak Ridge, Tennessee using another power unit. No loss of contents or increased radiation levels were detected.

(2) A single vehicle accident on March 22 involving a truck tractor and enclosed semi-trailer carrying 54 steel drums of 55 gallon capacity, each containing approximately 810 pounds of Radioactive Material, LSA, n.o.s. (yellowcake). In this incident the vehicle was travelling on a portion of I-235 near Wichita, Kansas. The shoulder of the road was composed of soft dirt due to a recent excavation required for the construction of an interchange. Travelling at a speed of 50-52 MPH the right rear wheels went into the soft shoulder on the right side of the road. When the driver attempted to steer the truck back onto the road, the truck began to swerve to the left, overturned, and landed across the road on its right side. As a result of the accident, 51 drums came through the roof of the trailer and scattered as far as 100 yards from the truck in the direction the truck was initially travelling. About 1800 pounds of the 43,782 pounds of yellowcake was spilled. Cleanup operations and recovery of the yellowcake required 9 days to complete. This incident resulted in personal injuries to the driver but no radiological damage occurred to personnel and essentially none to the environment.

(3) The loss of a package of radiopharmaceuticals (radioactive yellow-III label) from the rear of a local delivery truck on August 16 onto a city street in Des Moines, Iowa. The package weighing 29 pounds consisted of a lead shielded generator (Molybdenum 99/Technetium 99) and glass vials of a sterile saline solution. Extensive damage was incurred by the package from the wheels of passing motor vehicles resulting in the scattering of its contents. While several of the glass vials were broken the generator itself was not damaged to the point of releasing its contents, nor was there an increase in radiation levels.

None of these or any of the radioactive materials incidents reported to date resulted in radiological health consequences as severe as the consequences reported sometimes to result from the behavior of flammable liquids in transportation accidents. Nonetheless, it seems likely that State and local interest in radioactive materials transportation will continue. Reasons for this interest involve qualitative differences between transportation hazards posed by radioactive materials and transportation hazards posed by other materials.

Transportation accident risk and estimates of population doses from normal accident-free transportation for radioactive materials have been made in NUREG 0170 and in the preliminary report "Transport of Radionuclides in Urban Environs: A Working Draft Assessment" (May 1978, SAND77-1927) (Urban Environs Draft) (both documents are available for review in the public docket). Those estimated risks are within the magnitudes of other socially accepted risks, such as evidenced in highway traffic fatality rates.

Public concern with radioactive materials transportation, however, is more profound than those estimates would suggest is justified. In part this concern reflects the distinction between risks which are likely to be concentrated and similar risks spread over differing times and locations. The annual death rate from passenger car accidents, for example, usually is perceived as less catastrophic than major aircraft accidents, although far more people die in automobile accidents. This distinction may reflect the perceived limits of society to deal with catastrophic occurrences.

Discomfort from a lack of public familiarity with radiation hazards also increases the likelihood of local responses to radioactive materials transportation risks. Accident risk, for example, may be expressed in such unfamiliar terms as numbers of latent cancer fatalities, early deaths or morbidities, and genetic effects. Unlike other hazardous materials, radioactive materials present an impact during accident-free, or normal, transportation. This impact, called normal dose, results from the fact that under normal circumstances, some small amounts of radiation penetrate the outer surfaces of most packages of radioactive materials. Normal dose is very small, but it is statistically significant in terms of the overall impacts that result from radioactive materials transportation.

Radiation hazards themselves are comprised of a number of phenomena. A radioactive material may be solid, liquid, or gaseous, and thus may or may not easily be dispersed in a transportation accident. A radioactive material may be ingested or absorbed selectively and retained in plant, animal, and human tissues for varying lengths of time due to the basic chemical and physical characteristics of the different radioactive materials as well as the nature of the tissues. A person also can be exposed to radiation by being near an exposed radiation source. Radiation ordinarily cannot be detected except by instrumentation, unlike the well understood flammability hazard of such materials as gasoline.

Radiation health effects are not widely understood but include genetic effects and latent cancer, conditions which may not be mainfested until many years after exposure (which may not be recognized at the time it occurs). A thorough understanding of radiation and its known health effects requires a significant degree of technical knowledge. Other materials possess similar hazards, but the combination of these characteristics in the case of radioactive materials has produced a degree of public concern which has affected actions taken or being considered by State and local governments.

II. Discussion of Public Comments

In August 1976, DOT issued an advance notice of proposed rulemaking (43 FR 36492, August 17, 1976) opening this docket and asking for public comment to assist in deciding whether rules to govern highway routing of radioactive materials should be developed and proposed, and if so, what the rules should say. The advance notice did not propose any action but asked for comment on whether any action should be taken by DOT. Over 550 comments were received, falling principally into six groups.

A. Individuals; Public Interest and Environmental Organizations

This group comprises almost 70% of all comments received and falls into two subgroups:

(1) Individuals and organizations opposed to the transportation of nuclear materials or Federal involvement in local affairs. These commenters made two major points: local laws which are stricter than Federal regulations should be allowed to stand, and radioactive materials, particularly spent fuel, are inherently dangerous and should not be transported through heavily populated areas. One commenter urged MTB to adopt a full licensing scheme to apply to shipments involving a large number of curies (a unit of radioactivity) with an expressly reserved right in State and local governments to impose stricter standards. This commenter suggested banning large curie shipments from urban areas with population densities above 10,000 persons per square mile.

(2) Individuals and organizations favoring wider Federal preemption of State and local laws. These commenters stressed the excellent transportation safety record of radioactive materials and urged that additional requirements not be imposed. Many commenters in this group asked MTB to adopt a general routing rule which would specifically preempt unnecessary local restrictions that impede commerce.

B. State Governments and Political Subdivisions

Views were expressed by approximately 19 States, 7 counties and 10 cities or towns. Several States endorsed existing DOT requirements and supported a general routing rule such as that found at 49 CFR 397.9(a). Most commenting States appear to favor a general routing rule with provision for some State input. Most States also appear to be interested in obtaining more information on the types, quantities, and forms of radioactive materials shipped, and the routes actually used. Local governments, on the other hand, generally opposed any type of Federal interference with local laws and ordinances. Commenters from both urban and rural counties, as well as from cities, generally opposed transportation of radioactive materials through their jurisdictions.

C. Motor Carrier Industry

Commenters in the motor carrier industry were concerned with inconsistent State and local laws. The American Trucking Associations, Inc., (ATA) suggested that MTB establish a general routing rule which would give carriers some degree of flexibility within certain guidelines to use their own discretion over choice of routes. To provide for State input, ATA suggested that MTB prioritize highways for routing purposes by characteristics that States could use in determining specific routes within their jurisdictions. ATA also suggested the use of a "circuity limit" to establish maximum rerouting distances that could be required by States under

this scheme. Finally, ATA states that any such routing requirements should be keyed to vehicles carrying sufficient amounts of radioactive materials to require placarding. (When certain amounts of any hazardous material are carried in a motor vehicle, DOT requires that a placard, or warning sign, be affixed to the vehicle. For radioactive materials, the placard bears the word "RADIOACTIVE" and an appropriate symbol.)

D. Shippers of "Low-Level" Radioactive Materials and Other Hazardous Materials

This group includes commenters representing manufacturers, users, and shippers of radiopharmaceuticals, medical and industrial isotopes, and other "low hazard" radioactive materials. It also includes shippers concerned with possible future routing controls on other hazardous materials (a matter beyond the scope of this docket). These commenters generally saw little reason to impose more stringent rules, but felt that if such rules were to be imposed, low-level radioactive materials should be excepted because of their time-critical nature (many medical radioisotopes lose their radioactivity over a relatively short period of time), low transport hazard, and medical/research value. Suggestions ranged from excepting all Type A quantity (from 0.001 to 1,000 curies of material per package, depending on the material) and limited quantity packages (small amounts otherwise generally excepted from DOT specification packaging, marking and labeling requirements) to excepting all non-placarded shipments.

E. Shippers of Large Quantity or "High-Level" Radioactive Materials

This group primarily includes shippers or shipper organizations associated with the nuclear power industry. Although there were only nine commenters in this category, one commenter represented 24 electric utility companies which are operating 39 nuclear power generators and planning the construction of 61 new generators. This commenter maintained that routing controls applying only to radioactive materials cannot be justified on the basis of safety alone, but that the proliferation of local restrictions on transportation justify the imposition by MTB of a general routing requirement to preempt State and local requirements. One commenter suggested a general rule that would require avoidance of heavily populated areas when possible, would provide for "voluntary licensing" of carriers for specific routes, and would permit State and local governments to seek an order from MTB prohibiting transportation of certain radioactive materials over specific routes.

F. Bridge and Turnpike Authorities

Comments were received from bridge and turnpike authorities, and from the International Bridge, Tunnel and Turnpike Association. These commenters expressed concern that their facilities might become part of a "designated hazardous materials route" established by MTB and pointed out that such action might raise their insurance rates.

III. Regulatory Background

A. Synopsis of Proposed Rule

The proposal presented in this publication would establish a general rule which would apply to any motor vehicle carrying radioactive materials requiring placarding. The general rule would require such a vehicle to be operated on a route that presents a risk to the fewest persons unless there is not any practicable alternative highway route available or unless it is operated on a "preferred" highway as subsequently defined. Subject to this provision, the motor vehicle would have to be operated on a route which minimizes transit times, so as to minimize unnecessary exposure. The carrier would be responsible for notifying the driver of the presence of radioactive materials in the shipment and for indicating generally the route to be followed.

A second, additional and more specific rule would apply to any motor vehicle transporting a package containing a large quantity of radioactive materials, as defined by existing DOT regulations. Such a motor vehicle would be required to operate on "preferred" highways, defined as any highway approved for that purpose by an appropriate State agency, and any Interstate highway for which an equivalent substitute has not been provided by such State agency. The vehicle would operate in accordance with a written route plan prepared by the carrier before departure. State agencies could designate preferred highways, after consultation with local jurisdictions, based on the policy of an overall minimization of radiological and nonradiological impacts of both normal transportation and transportation accidents. When necessary, a motor vehicle containing a large quantity of radioactive materials could operate away from preferred highways under the provisions of the general rule. The driver of a motor vehicle containing a large quantity package would be required to receive specific training. Each shipper of a large quantity package would be provided by the carrier with a copy of the written route plan, which the shipper would file with MTB (except for irradiated reactor fuel covered by NRC requirements). The filed route plans would be used by MTB to provide data on routes, amounts and shipment frequencies for use in State and local emergency response planning. Information on the movements of irradiated reactor fuel would be available after the MTB received this information from the NRC.

The specific large quantity rule would require use of an Interstate urban circumferential or bypass route to avoid cities if available, instead of an Interstate through route, notwithstanding a minor transit time increase. For cities with Interstate through routes without Interstate circumferential or bypass routes, a State could designate any available circumferential or bypass route if it is essentially equivalent in performance or design to an Interstate circumferential or bypass situated in some other urban location.

B. Existing DOT Requirements for Transport of Radioactive Materials

This document focuses on routing and related operational controls for highway transportation of radioactive materials. Existing provisions in the DOT Hazardous Materials Regulations address required packaging and related transportation controls, which constitute the primary safety measures in radioactive materials transportation. A brief summary of those existing rules follows.

Packaging for radioactive materials transportation is based on amount, kind, and physical form of the radioactive material to be transported. Each radionuclide is assigned to a Transport Group, of which there are seven that are ordered to reflect the various radionuclides' degree of radiotoxicity and relative hazard in transportation. For each Transport Group, two quantity limits are established which define Type A and Type B quantities, for which Type A and Type B packaging then is prescribed. If the radionuclide is in "special form" rather than "normal form", quantity limits for Type A and B quantities are larger, because materials in special form are difficult to disperse, either because of the inherent properties of the materials (such as a solid metal) or because the materials are specially prepared (as through encapsulation).

In most cases, a warning label must be applied to each package of radioactive material. The kind of label required depends on the radiation dose rate at or near the surface of the package. The dose rate, in turn, is determined by the type of packaging and shielding used within the package, and by the type and quantity of radionuclides present in the package. There are three labels which may appear on a package of radioactive materials: White I, Yellow II, and Yellow III. The amount of surface radiation allowed for each type of label is identified subsequently in the discussion of radioactive materials covered by this rulemaking. It is sufficient to state here that any vehicle which carries a package labeled Yellow III must show the radioactive material placard on all four sides of the transport vehicle. In addition, all vehicles which carry Fissile Class 3 (certain fissile radioactive materials which require special transportation arrangements for that reason) and large quantity packages must be placarded regardless of the dose rate of the package.

Three other terms that affect packaging are "limited quantity", "low specific activity" (LSA), and "large quantity". Limited quantities of radioactive materials are small amounts, such as may be found in certain manufactured articles (instruments, electronic tubes). Limited quantities of the various radionuclides also are defined generally by an activity limit in millicuries or curies associated with each Transport Group. Such amounts are excepted from many transportation controls, such as requirements for specification packaging, marking of the shipping name on the package, and labeling the package for a radiation hazard.

LSA materials are materials that contain very little radioactivity per unit weight. Uranium ore, for example, may be shipped as LSA. These materials frequently are shipped in large volume shipments and are transported in Type A packaging unless moved in an exclusive use vehicle (*i.e.*, where a single shipper alone uses the vehicle and all loading and unloading occurs under the direction of the shipper or the consignee, a practice through which larger shipments are permitted).

"Large quantity" amounts of radioactive materials are defined by Transport Group and vary from a minimum of 20 or more curies (for materials such as plutonium, Transport Group I) to 50,000 or more curies (certain radioactive gases, Transport Groups VI and VII). Large quantity amounts must be shipped in Type B packaging, most of which require approval for that purpose, prior to use, by the Nuclear Regulatory Commission.

The distinction between Type A packaging and Type B packaging is significant. In addition to having adequate radiation shielding, Type A packaging is designed to withstand normal transportation conditions as simulated by tests described in the Hazardous Materials Regulations: exposure to the equivalent of extreme climatic conditions; and drop, penetration, compression and vibration tests representing other conditions encountered in normal transportation. Type B packaging, on the other hand, often must be heavily shielded and is designed to withstand extreme accident conditions as simulated by a 30-foot drop onto an unyielding surface; a 40-inch drop onto the end of a pointed steel bar; exposure to a temperature or fire of 1,475° F. for 30 minutes; and submersion in three feet of water for eight hours.

In the vast majority of possible accidents experimental work has indicated that in the event of an accident a release of 0.1 percent of the contents would be a reasonable assumption for Type A packages. On the basis of general handling experience it is further assumed that the actual intake of radioactive material into the body by a person coming into contact with air or surfaces contaminated by such a release is unlikely to exceed 0.1 percent of the amount released from the package. Thus, it is unlikely that any one person would ingest more than one-millionth of the maximum allowable package contents in the event of an accidental release. Stated differently the Type A package quantity limitations are such that an intake of one-millionth of the maximum allowable package contents would not result in a radiation dose to any organ in the body exceeding internationally accepted limits; nor a radiation level of 1 rem per hour at 10 feet from the unshielded contents.

Type B packaging, in a severe transportation accident, would be expected to survive without any significant release of its contents. Spent fuel assemblies, for example, are shipped by highway as large quantity shipments in massive packagings (casks) that may be five in diameter, fifteen feet long and weigh up to 35 tons. Casks are practically impervious to small-arms fire and small explosive charges.

In a highway accident near Oak Ridge, Tennessee, on December 8, 1970, a spent fuel cask was thrown more than 100 feet when a truck driver while negotiating a wide turn lost control after swerving to avoid another vehicle. Although the driver was killed in the impact, there was no release of spent fuel or increase in radiation. Spent fuel casks of an earlier design also have been subjected to destructive testing simulating severe, high speed highway and rail accidents. The casks survived with only minor damage that would have posed little or no risk to the public if the events had been real rather than simulated.

Associated with irradiated fuel and present during its transportation by highway are certain decay gases and volatile fission products along with the essentially solid materials. Given a set of circumstances in which the cask is subjected to extreme crushing forces of 200,000 pounds and a subsequent fire of 1675° F. for 2 hours duration, estimates have been made of the resulting radiological consequences. In Section 5-6 of NUREG 0170 some of these "worst-case" shipment scenarios were considered. One such hypothetical case involves a shipment of spent fuel being transported through a high-density urban area (15,444 people per square kilometer). It was hypothesized that if such an incident were to occur, 100% of the gaseous and volatile materials would be released as an aerosol and then dispersed into the atmosphere where wind currents and other weather conditions would influence both the area and degree of radioactive contamination. Under these particular circumstances it is estimated that the contaminated area would require evacuation for 10 days and the cost of clean-up, lost incomes and temporary living expenses would amount to $200 million (1975). Radiological health consequences are estimated to be minimal with no early or latent cancer fatalities. While an event such as this is likely to occur only once in 3 billion years, the data is significant when weighing its risk against other risk levels which are determined to be acceptable. Extreme incidents which involve the release of as little as 1% of the solids as an aerosol would have extremely serious consequences. Such an incident, however, is likely only once in 25 billion years and is thought by MTB not to warrant undue concern. A more typical high speed collision and fire in a highway accident is not likely to result in extensive radiological injuries or damage from the presence of either Type A, Type B or large quantity packages of radioactive materials.

C. Normal and Accident Exposure Resulting From Transport of Radioactive Materials

This proposal was developed after consideration of impacts from both transportation accidents and accident-free (normal) transportation. Accident

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risk includes both radiological risks and nonradiological risks (such as impact damage in a motor vehicle collision). Normal transportation is considered principally from the radiological standpoint of normal population dose. Nonradiological impacts of normal transportation are considered secondarily and largely consist of the costs associated with motor vehicle operation (such as fuel use).

Normal dose is the amount of radiation exposure received generally by persons who come near packages of radioactive materials during accident-free transportation, such as package handlers, truck crews, pedestrians and other passers-by. Normal dose usually is expressed in terms of rems (Roentgen Equivalent in Man, a measure of biological damage from radiation) or units thereof. The term "person-rem" is used to express total (integrated) population dose. The normal dose from a package of radioactive materials is dependent upon the amount of radiation emitted through the package surfaces, which is described by the Transport Index (usually a measure of radiation at three feet from the package surface). Essentially all packages of radioactive materials, from small Type A packages to spent fuel casks, emit at least small amounts of radiation even when in compliance with all Federal packaging requirements. The amount of radiation exposure received by the population as normal dose is proportional to the time during which exposure occurs. It declines at least geometrically with distance from the package. A longer trip means a longer period of exposure which results in greater normal doses to truck crews (drivers) and also may mean greater doses to the surrounding population. In highway transportation, the dose received by the truck crew is the largest single component of normal dose that can be changed by modifying transportation practices. The health effects discussed in this publication are those predicted by a health effects model used in NUREG 0170. Commenters wishing to address the validity and degree of certainty associated with that health effects model will find a brief discussion in NUREG 0170 on p. 3–11.

In NUREG 0170, the impact of normal dose from radioactive materials transportation is summed up in the following way for all modes of transportation.

> The estimated total annual population dose [from radioactive materials transportation] is 9,790 person-rem in 1975 and 25,400 person-rem in 1985. This dose has the same general characteristics as other chronic exposures to radiation such as natural background. The predicted result of public exposure to this radiation is approximately 1.19 latent cancer fatalities and 1.7 genetic effects in 1975 and 3.06 latent cancer fatalities and 4.4 genetic [effects] in 1985. When the value of 9,790 person-rem may seem large, it is small when compared with the [forty million] person-rem received by the total U.S. population in the form of natural background radiation . . . [T]he average annual individual dose [from radioactive materials transportation] is approximately 0.5 [millirem], which is a factor of 300 below the average individual dose from background radiation. [p. 4–49]

Total accident risk is an estimate that combines both the chance that an accident will occur and the probable consequences if it does. Total risk sums both radiological consequences and nonradiological consequences. Accident risk from radiological hazards depends on a variety of factors, but principally on the severity and rates of accidents on the roads traveled (other factors contribute to the accident probability, such as driver training and vehicle condition) and on the density and proximity of the population along the route. All else being equal, unsafe highways, long trips and dense populations near the highways result in higher accident risks. Accident risk also includes the nonradiological hazards, such as the injuries and damage that may be realized in any motor vehicle accident. Nonradiological accident risks generally appear to be much greater than radiological accident risks, but the prediction of radiological accident risks involves more variables than nonradiological accident risks and therefore is less confident.

Regarding radiological risk from potential transportation accidents in all modes of transportation, NUREG 0170 estimates that

> The accident risk for the 1975 level of shipping activity . . . is very small: roughly 0.005 additional [latent cancer fatalities] per year, or one additional [latent cancer fatality] every 200 years, plus an equal number of genetic effects. This number of [latent cancer fatalities] is only 0.3% of those resulting from normal transport population exposures.
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> * * * * *
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> The projected accident risk in 1985 is . . . about 3.5 times the 1975 risk, but is still very small in comparison to the [latent cancer fatalities] resulting from normal transport.
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> * * * * *
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> The principal nonradiological impacts are those injuries and fatalities resulting from accidents involving vehicles used exclusively for the transaport of radioactive materials. The number of expected annual nonradiological fatalities [in 1975] is almost 50 times greater than the expected number of additional [latent cancer fatalities] resulting from radiological causes [in transportation accidents] but is less than one fatality every five years. [pp. 5–52, 53]

D. Related Factors Affecting Route Selection Under Proposal

In view of statistics showing lower accident rates and reduced travel times in travel on Interstate highways, this proposal favors use of the Interstate System. MTB believes that in most cases this policy will produce the most significant transportation safety impact reduction and it offers a clear standard for compliance and enforcement purposes. However, the policy is modified by two other considerations which should be kept in mind by persons reviewing this proposal.

First, for reasons of cargo security discussed later in this document, the Nuclear Regulatory Commission (NRC) recently established interim physical security rules (44 FR 34466, June 15, 1979) for transportation of irradiated reactor fuel (spent fuel). Those rules include the following requirements for NRC licensees who ship spent fuel:

(a) Advance notice to and approval from the NRC for each shipment of spent fuel.

(b) Advance arrangements with law enforcement agencies along the route for emergency assistance.

(c) Use of routes that avoid heavily populated areas where practicable, and additional protective measures approved by the NRC where that is not possible.

(d) A trained escort accompanying each shipment.

(e) Motor vehicles that are equipped with radiotelephone and CB radio communications equipment and that are capable of being immobilized.

(f) Procedures for coping with threats and physical security emergencies.

The security of spent fuel in transit was a major concern to commenters in the 1978 hearing on the advance notice of proposed rulemaking in this docket and in the hearing in 1977 regarding the inconsistency ruling on the New York City Health Code amendment. Development of the current DOT proposal reflects existing arrangements between DOT and NRC wherein NRC exercises responsibility for any necessary physical security requirements during transportation. The DOT proposal is therefore directed at reducing impacts associated with normal and accident situations arising in transportation, while NRC is concerned with preventing malicious or deliberate release of radioactive materials. The DOT proposal, however, would extend the NRC physical security requirements to nonlicensee shippers, such as the Department of Energy.

Second, the proposal acknowledges that some local conditions may justify special routes for shipments of large quantity packages. One such condition is expressly recognized in the proposal and concerns cities which have an Interstate direct route and an Interstate (or equivalent) circumferential or bypass route. The proposal also provides for State action to establish or modify routes for carriers of large quantity packages.

The benefit of routing that avoids cities, or heavily populated areas generally, is difficult to predict, but involves a trade-off between the increased impacts due to longer shipment distances and the decreased impacts due to avoiding dense populations. Avoidance of heavily populated areas is a requirement that currently applies to all shipments of hazardous materials by motor vehicle if the amounts are sufficient to require placarding:

> Unless there is no practicable alternative, a motor vehicle which contains hazardous materials must be operated over routes which do not go through or near heavily populated areas, places were crowds are assembled, tunnels, narrow streets, or alleys. Operating convenience is not a basis for determining whether it is practicable to operate a motor vehicle in accordance with this paragraph. [49 CFR 397.9(a)].

Requiring motor vehicles to avoid heavily populated areas usually will increase trip distance and travel time. For the transportation of radioactive materials, under some circumstances those increases can result in an increased normal dose. If use of less safe highways or increased travel times are necessary to avoid heavily populated areas, accident risk also may be increased. The extent of the safety benefit that might result from motor vehicles avoiding heavily populated areas (such as a possible decrease in normal dose or in accident consequences) is influenced by factors such as differences in population densities, effectiveness of local emergency planning, physical features and weather conditions along the various routes that might be used and the times and days they are used. These factors are site-specific and hard to generalize on a national scale except on a statistical basis.

Some generalizations, however, can be made. Because of their lower accident rates and greater efficiency, use of Interstate highways usually will result in fewer accidents and in reduced travel times. Given equivalent roadways, routing radioactive materials carriers on longer Interstate circumferential roads, with adjoining populations that are less dense than those adjoining a shorter Interstate through route, usually will increase normal truck crew dose and the probability of an accident but usually will decrease total normal dose and accident consequences. The possible reduction in radiological accident consequences in such a situation depends on variable factors including population distribution in the area and meteorological conditions which can affect the movement of airborne debris.

Differences exist between Interstate routes through and around a city. A circumferential Interstate route may have a higher average speed and lower accident rate than an Interstate through route, but the accidents may be more severe. Because of the cost and availability of land, and greater access requirements, the design standards of some urban freeways may be less than optimal and possibly less than those of a suburban circumferential Interstate highway. Data from NUREG 0170 and recent traffic accident statistics indicate that routing to avoid cities may offer a slight reduction in overall radiological risk, but at the probable expense of a greater number of fatalities and injuries resulting from an increase in traffic accidents associated with increased distances. However, even though the resultant increase in nonradiological fatalities appears to be larger than the decrease in radiological fatalities anticipated, the difference is small in terms of absolute numbers (a difference of possibly one fatality every 100 years at 1985 levels of shipping activity). There also is necessarily more uncertainty in the prediction of radiological consequences from transportation than in the prediction of traffic fatalities, due to the number of variables involved, so a conservative approach also suggests circumferential routing.

There also are sound administrative reasons to require that Interstate circumferential and bypass routes be used. Circumferential routing around cities is more consistent than direct routing with requirements that apply to other hazardous materials transported by highway (49 CFR 397.9(a)).

The proposed required use of circumferential routes by large quantity carriers, however, is predicated on the safety and efficiency of transportation on Interstate highways. Where other highways are designated to establish an urban circumferential route, they should offer the same advantages as comparable Interstate circumferentials. For the designation of preferred highways other than urban circumferentials, the proposal would assume an evaluation of all factors pertinent to reducing the impacts of highway transportation of radioactive materials, rather than the abbreviated method of relying on the similarity of the perferred routes to Interstate highways. State action is more fully discussed later in this document.

From a regulatory standpoint, consideration must be given to the need for requirements which are efficient and comprehensible, which encourage compliance and which can be enforced. The term "heavily populated areas", not used in the proposal, is disfavored for this reason. Instead, an attempt has been made to state the routing factors which would be used for placarded vehicles, and to state that the carrier would be responsible for acting to ensure those factors are observed in the operation of its motor vehicles. MTB also must consider the extent to which State and local site-specific participation can be useful in establishing or modifying routes used by highway carriers of radioactive materials.

IV. Analysis of Proposed Rule

A. Radioactive Materials Subject to Routing Requirements

The proposal in this notice is based on the type of radioactive material shipped and the quantity (activity) per shipment. Essentially there are three transportation situations that would require different treatment under this proposal (see table "Examples of Radioactive Materials Under Proposal"):

(1) Packages for which the carrier is not required to placard his vehicle would be excepted from any routing restrictions. These packages comprise the majority of all radioactive materials shipped and include packages excepted from labeling or bearing the White I or Yellow II radioactive material label as a result of a relatively low radiation dose rate at or near the package surface (see CFR 172.403). A package is excepted from labeling under certain conditions if it contains limited quantities of radionuclides (identified in 49 CFR 173.391(a)), manufactured articles (clocks, smoke detectors, or electronic tubes) which contain limited quantities of radioactive materials, or certain other manufactured articles (identified in 49 CFR 173.391(c)). Also excluded from labeling are some low specific activity (LSA) radioactive materials when shipped in an exclusive use motor vehicle (see 49 CFR 173.392).

A radioactive White I label is required on all other packages which have a dose rate measuring up to 0.5 millirem per hour at any point on the external surface of the package (excluding Fissile Class II

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or III or large quantity radioactive materials). A radioactive Yellow II label is required on any package measuring more than 0.5 millirems but not more than 50 millirems per hour at any point on the external surface of the package, and not exceeding one millirem per hour at three feet from any point on the external surface of the package, (*i.e.*, the Transport Index may never exceed 1.0 for these packages). A wide range of radioactive materials thus would be excepted from any routing requirement since they are either excepted from labeling or carry the White I or Yellow II label and thus are excepted from placarding.

(2) Packages for which placarding is required would be subject to a general routing requirement. This category of packages includes those requiring a Yellow III label or containing Fissile Class III materials or a large quantity of radioactive material. Also, any package which measures more than 50 millirem per hour at any point on the package surface or which exceeds one millirem per hour at three feet from any point on the external surface of the package (i.e., the Transport Index is greater than 1.0; see 49 CFR 173.389(i)) requires placarding. The proposal would require all such packages, if not transported on an Interstate or specially designated highway, to be transported so as primarily to risk exposure to the least number of people and secondarily to minimize travel times.

Many commercial shipments of radioactive materials fall within this category. For example, many medical-use shipments, both Type A and B quantities, require a Yellow III label and must be placarded. Medical isotopes used for scanning procedures in hospitals such as Tc–99M, Au–198 or I–131 are occasionally packaged such that the Transport Index exceeds 1.0. Isotopes used for teletherapy and medical research such as Co–60 and Cs–137 usually require a Yellow III label. Many industrial-use shipments would also fall into this category. Isotopes such as americium, berylium, Cs–137, and Kr–85 are used by the well-logging industry to determine properties of rock formations. Ir–192 and Co–60 are used in radiography to measure structural integrity of welded joints. Isotopes which are used in industrial gauging devices include Ra–226, Sr–90, Am–241 and others. Many of these industrial isotopes would require a Yellow III label when packaged according to accepted practice.

In short, radioactive materials subject to the general routing requirement in proposed § 177.825(a) include any packaged radionuclide, regardless of quantity, which has a Transport Index of 1.0 or greater.

(3) Shipments of packages containing a large quantity of radioactive materials (defined at 49 CFR 173.389(b)), including spent fuel, would be subject to additional Federally imposed restrictions as well as the possibility of Federally recognized State restrictions. This category includes the most toxic radionuclides, which are found in Transport Groups I and II, when shipped in quantities over 20 curies per package as well as larger quantities in the other Transport Groups. Included in Transport Groups I and II are many shipments of nuclear fuel cycle material, plutonium, polonium, mixed fission products, some isotopes of uranium, and certain commonly shipped isotopes such as Am–241, Ra–226, and Sr–90. A large number of shipments of materials in the first two Transport Groups are already subject to stringent physical security requirements during transportation established by the NRC. Special nuclear materials, potential theft targets which include many shipments of plutonium and the uranium isotopes U–233 and U–235, as well as spend fuel, a possible terrorist target, when shipped by NRC licensees are subject to the physical security requirements in 10 CFR Part 73.

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EXAMPLES OF RADIOACTIVE MATERIALS UNDER PROPOSAL

Radioactive Materials Not Subject to Proposal	Radioactive Materials Subject to General Rule	Radioactive Materials Subject to Additional Restrictions
Shipments for which carrier not required to placard vehicle	Shipments which require carrier to placard vehicle- any Type A or Type B package with radiation levels such that Yellow III label required	Shipments which include any Large quantity package
1. Packages excepted from labeling	1. Medical and research use isotopes	1. Over 20 curies of most toxic radionuclides - Transport Groups I and II
-Smoke detectors -Clocks -Manufactured articles -Very small quantities of radionuclides	-Mo-99, Au-198, and I-131 used for scanning procedures -Small source Co-60 and Cs-137 for research activities	-Americium $\underline{1}/$ -Plutonium -Polonium -Spent reactor fuel $\underline{1}/$
2. Packages with either White I or Yellow II label	2. Industrial use isotopes	2. Any other radionuclide depending on the number of curies in package
-Most radiopharmaceuticals used in hospitals	-Ir-192 and Co-60 used for radiography	-Transport Group III - over 200 -Transport Group IV - over 200 -Transport Group V - over 5,000 -Transport Group VI-VII - over 50,000 -Special Form - over 5,000
	-Cs-137 and Kr-85 used in well-logging industry	-Example - Large source (10,000 curies) Co-60 used for teletherapy or large source Cs-137 (100,000 curies) used for medical research
	-Ra-226, Sr-90 and Am-241 used for industrial gauging devices	
	3. Low level radioactive wastes	
	-Packaged LSA in exclusive use vehicles	
3. Low Specific Activity (LSA) in Exclusive Use Vehicles		
-Limited to uranium ores and thorium ores unconcentrated		

$\underline{1}/$ Subject also to NRC physical security requirements in 10 CFR Part 73

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B. General Routing Requirement

The general routing scheme contained in proposed § 177.825(a) would require placarded vehicles carrying radioactive materials first to avoid areas posing hazards to large numbers of people and as a subordinate consideration to operate over routes selected to reduce time in transit. Consideration of "time in transit" includes a prudent evaluation of delays that may result from potential occurrences such as anticipated bad weather. Either of two exceptions permit variance from the condition that selected routes avoid population exposure: (1) when a practicable alternative highway route is not available, or (2) when the motor vehicle is operated on preferred highways under conditions set out in proposed § 177.825(b)(1). The criteria for determining when a "practicable alternative" highway route is not available are the same as those considered to apply under the existing hazardous materials routing rule in 49 CFR 397.9(a): operating necessity and safety. Operating necessity includes such factors as access to origin and destination points, and necessary fuel and repair stops. Safety includes considerations such as adverse weather and roadway conditions, but does not include travel time which is subordinate to the requirement to avoid population exposure. In no case is the operating convenience of the carrier a valid consideration. The second exception from the requirement relies on motor vehicle operation over routes that are intended for large quantity shipments under proposed § 177.825(b).

The requirement that transit time be minimized poses particular problems in multiple stop operations. This is because the number of possible routes between any two points and the number of possible sequential combinations of various stops theoretically can be a very large number. Consequently, for purposes of compliance with the proposed rule, it would be sufficient that a motor vehicle operator choose only the probable quickest route to his next stop, although any more efficient method of selecting routes to reduce transit time may be used.

The proposed general rule would apply only to motor vehicles which are required to be placarded. There are three reasons for this choice. First, hazardous materials placards are highly visible and easily observed by Federal, State and local enforcement authorities. Second, placarding itself is not required for most radiopharmaceuticals, industrial isotopes and other low-hazard radioactive materials. These materials are shipped in large numbers of packages and may be manufactured as well as used in the same urban area. They would be extremely difficult to control by routing requirements. Third, the existing routing rule in 49 CFR 397.9(a) applies to placarded motor vehicles. Carriers as well as enforcement authorities are familiar with the existing connection between placarding and routing control, a fact that should improve initial compliance with any final rules issued in this docket.

Commenters have suggested that cities with a population density of 10,000 to 12,000 persons or more per square mile should be avoided by radioactive materials carriers. The MTB has not used the term "heavily populated area". It does not appear practical to define it as a function of population densities or absolute population figures. The term is vague and its purpose difficult to enforce. In its interim rule on physical security of spent fuel, NRC uses census figures which are publicly available. That program, however, involves specific route approval from NRC for security reasons, which MTB does not consider justified in dealing with normal exposure and the possibility of accidents. A route restriction for placarded highway carriers based on a specific population figure would require an easily accessible, authoritative and highly detailed source of population information. Census figures usually are based on political boundaries, total populations, and total land areas. These figures do not distinguish uneven population distributions within a particular jurisdiction. Use of total jurisdictional figures (or population density figures averaged over a given jurisdiction) may result in unnecessary avoidance of entire jurisdictions or permitted transit through localized areas of high population density within a jurisdiction.

The proposal would require the carrier to affirmatively ensure that routes are selected to minimize the number of persons that may be exposed to a radiological risk. This is the basic goal to which any prohibition of travel in heavily populated areas would aim. Further comment on this is welcome.

C. Special Restrictions on Shipments of Large Quantities, Such as Spent Fuel Shipments

The large quantity package has been selected as the cutoff point for additional requirements presented in this proposal concerning required use of preferred highways, route plans and driver training. MTB recognizes that a substantial argument can be made for choosing some other cutoff point or for not using any such distinction at all, particularly in light of the NUREG 0170 estimates that for all modes of transportation, large quantity packages account for only about 2% of the normal population dose and 37% of the latent cancer fatalities expected to result from transportation accidents (1985 projection, NUREG 0170, pp. 4–44, 5–34). However, large quantity packages generally travel 30% to 50% farther per shipment than Type B and Type A packages (NUREG 0170, p. A–13). Large quantity packages are estimated to have comprised about 378 out of a total of 1.3 million packages of radioactive materials shipped by truck in 1975. NUREG 0170 projects that 1,911 large quantity packages will be shipped in 1985 out of a total of 3.5 million radioacitve materials packages shipped by truck (pp. A–11, A–21, 22), although an estimate of 600 large quantity packages would reflect reduced spent fuel shipments and absence of recycled plutonium shipments in the NUREG 0170 model for 1985. However, it is quite possible that the estimates for large quantity shipments for both years may be several times the stated estimates, due to the manner in which the information was gathered.

Of all the radioactive materials packages shipped, only large quantity packages pose even a remote risk of extraordinary or catastrophic accident consequences. Requiring specified routes for large quantity packages would add to the public certainty as to the location and nature of these unusual risks and permit more rational emergency response planning for remote events that nonetheless may require substantial planning efforts.

MTB thinks that the hazards associated with other than large quantity packages do not warrant requiring them to be routed on preferred highways (Interstate and State-designated highways) and that the enforcement, compliance and possibly economic costs of such a requirement could be substantial. By not requiring all placarded motor vehicles to operate on preferred highways, the proposed general rule acknowledges the pronounced differences between large quantity shipments and other placarded shipments, the fact that the annual volume of all placarded shipments is large, and that a substantial part of those shipments may involve local multiple-stop delivery operations. Although the proposal would not require all placarded motor vehicles to operate on preferred highways, that result is encouraged, subject to the carrier's judgement, since some circuitous travel and questions about population exposure may be avoided by an election to travel on a preferred highway. Required use of preferred highways, however, would be limited to motor vehicles that transport a large quantity package.

(1) *Type of roadway.* The type of roadway on which radioactive materials would be transported was thought by commenters from all groups to be a prime consideration in any routing requirement. MTB is proposing that large quantity shipments of radioactive materials be restricted to carriage only on a preferred highway. A preferred highway would be defined as any specific highway designated as a preferred highway by an appropriate State-wide agency, and any Interstate highway for which substitute is not provided by such an agency.

Interstate routes. An Interstate highway is an expressway usually with fully controlled access which is part of the 42,500-mile Interstate highway system as designated by Congress. However, the term as used in this proposal includes roadways which also are designated "temporary" Interstates.

The Interstate System is part of the Federal-aid primary system connecting principal cities of the United States. Interstate highways would be defined in the text of this proposal as preferred highways because the Interstate System is built to exacting and generaly uniform specifications and offers the safest and often most direct routes available. Statistics published by the Department's Federal Highway Administration for 1976 indicate that the possibility of an accident involving a fatality or injury on an Interstate highway is as little as 25% of what it is on a non-Interstate highway ("Fatal and Injury Accident Rates on Federal-Aid and Other Highway Systems/1976", September 1978). Since 1967 when such statistics first became available, the fatal accident rate (fatal accidents per 100 million vehicle miles) for Interstate highways consistently has been very much lower than the rate for non-Interstate highways. These figures suggest that travel on Interstate highways significantly reduces the probability of an accident. Consequently, in the absence of State action, MTB believes any vehicle carrying a large quantity shipment generally should be routed via Interstate highways. Restricting large quantity radioactive materials carriers to the Interstate System also is one of the few alternatives determined in NUREG 0170 to be cost-effective, because it substantially reduces overall normal population dose (p. 6–12).

State-designated routes. MTB believes that States may be able to offer useful refinements, particularly in view of the fact that State and local agencies also bear the basic emergency response duties and costs. The proposal would recognize action by appropriate State agencies to designate non-Interstate public roads as preferred highways, and to remove the preferred status of an Interstate highway if an equivalent route is provided. Permissible State action is further discussed later in this document under the heading "Guidelines for State regulation."

A motor carrier who is required to transport a large quantity package on a preferred highway, or a motor carrier of other radioactive materials packages who voluntarily uses a preferred highway would be required to use the most direct preferred highway and would not be required to evaluate population densities. However, in the absence of State action to the contrary, a carrier would be required to use an Interstate or other preferred circumferential or bypass route in favor of an Interstate route through a city. This position represents a compromise between considerations of normal population dose including that of motor carrier personnel, possible accident exposure and the need for uniform and efficient compliance and enforcement.

Exceptions. The motor vehicle would be authorized to leave or travel off preferred highways when necessity or safety considerations dictate and when necessary to travel from shipment origin to the nearest preferred highway and from a preferred highway to the shipment destination. Necessary food, rest, fuel, service and repair stops would be permitted. Any travel on nonpreferred highways would still be subject to the general rule stated in paragraph (a) of proposed § 177.825 including required routing to limit the number of persons potentially exposed to risks.

In the proposed rule, MTB has not attempted to answer the question of how far out of the way a carrier must go to access and use a preferred highway. It would be preferable that the question be answered by State agencies by means of designating additional preferred highways to account for situations wherein an unreasonable amount of circuitous travel may result from carriers accessing the Interstate highways of the State. However, MTB is considering several possible methods of establishing a limit on the circuity that a carrier must accept to access a preferred highway. Two possible rules, which differ in their effect, have been examined. One rule would generally state that a carrier need not increase travel distance more than 25% to access a preferred highway, measuring from points selected by the carrier. This approach has some effects which are much less than optimal. A second rule, which is more precise, would permit the use of a formula to select routes that include non-preferred highways: for each possible route, total mileage on non-preferred highways would be increased by 25% and added to mileage on preferred highways. The route with the smallest mileage sum, computed in that fashion, would be used. Both rules might be offered in the alternative, at the option of the carrier. For enforcement purposes, a violation could be shown only by a demonstration that neither rule was followed.

The proposal, as drafted, would rely on the mutual interests of carriers and State agencies to produce local accommodations on questions concerning access to preferred highways. Comment is solicited on this point.

Placards. MTB is giving serious consideration to proposing the required use of a distinctive mark or logo on radioactive hazard warning placards to permit the ready recognition of motor vehicles carrying large quantity packages. Under existing rules, large quantity packages could be identified only by examining the shipping paper or the package markings.

One method under discussion would involve the use of the placard background presently required for certain railcars (49 CFR 172.510, 172.527). MTB believes use of some such device to distinguish motor vehicles carrying large quantity packages may be necessary and solicits comment on this issue.

(2) *Route plans.* A motor carrier transporting a large quantity of radioactive materials would have to prepare a route plan complying with the provisions of paragraph (b) in proposed § 177.825. A similar requirement now applies to carriers of Class A explosives (see 49 CFR 397.9(b)). The route plan would be supplied to both the shipper and the driver of the vehicle, in most cases before departure. The shipper's copy, for nonexclusive use shipments, could be provided later by mail. The plan would contain specific information concerning the route selected, and emergency telephone numbers for each State traversed. DOT believes that it would be preferable to rely on a single telephone number to access all emergency response and is considering possible methods of achieving this

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result. For the purposes of this proposal, however, the text used indicates the basic intent: that the carrier be prepared in advance to contact State emergency response personnel immediately in the event of an accident. The State police in many cases may be the appropriate agency for summoning emergency response assistance.

The shipper would file a copy of each route plan submitted by the carrier with the MTB within 90 days of the date a large quantity shipment of radioactive materials is accepted for transportation. NRC licensees who already are required to provide this information to NRC under physical security requirements would be excepted from filing, since that information will be available to DOT. The MTB intends to make shipment information in accumulated route plans accessible to State agencies for emergency response planning and is considering several possible methods of providing this service. For shipments made under physical security requirements, however, some restrictions on release of information may have to be observed to avoid compromising that security.

(3) *Driver training requirements.* This proposal would apply a driver training requirement to motor carriers transporting large quantity packages of radioactive materials. The training would include instruction to the driver every two years on the Hazardous Materials Regulations pertaining to radioactive materials, the Federal Motor Carrier Safety Regulations (49 CFR Parts 390–397) applicable to operation of the motor vehicle, the hazards and characteristics of large quantities of radioactive materials, emergency features or other special characteristics of the vehicles to be used to transport those materials, and any emergency procedures to be followed in the event of an accident. The training would be evidenced by a certificate in the driver's qualification file and on his person during transportation. The driver training proposal was derived from a proposal now under development concerning drivers of tank trucks. A similar proposal also appears in Docket HM–115 (44 FR 12826, 12842, March 8, 1979) regarding drivers of certain tank trucks carrying flammable cryogenic liquids. For planning purposes, MTB is assuming that training would not exceed 20 hours a year for new drivers and would involve written training materials and written examination. The actual extent of training would be subject to the carrier's judgement and the driver's previous training.

D. Cargo Security

Spent fuel is the most widely recognized large quantity of radioactive materials routinely shipped. For that reason, spent fuel casks could become the target of terrorist activity, although the likelihood of a successful act of sabotage that breaches a spent fuel cask and disperses its contents may be quite small. The NRC recently established new interim physical security procedures in 10 CFR 73.37 for the shipment by its licensees of spent fuel. Those procedures are intended to remain until current studies of the ability of spent fuel casks to withstand acts of sabotage are completed. The MTB has reviewed the interim procedures and believes they will provide adequate physical protection for spent fuel shipments.

Because physical requirements under the NRC's rules may conflict with the DOT highway routing proposal made herein, paragraph (b)(4) of proposed § 177.825 would permit variation from the proposed rule's requirements if necessitated by security requirements under the NRC's rules. This provision also would permit variation for security reasons under previously established NRC rules applicable to special strategic nuclear materials.

Since the NRC interim safegurads rules only apply to NRC licensees, such as operators of commercial nuclear generating stations, MTB is proposing to require shipments of spent fuel by nonlicensees to be made in accordance with general requirements approved by MTB as being essentially equivalent to the NRC requirements. Some shipments made by contractors of the Department of Energy, such as Brookhaven National Laboratories, and possible contractors of the Department of Defense, may be subject to this provision.

In accordance with the DOT–NRC memorandum of understanding, the NRC has primary responsibility for physical security requirements. The MTB believes it is doubtful that terrorist acts would be directed against small source nonfissile isotopes, because of the small radiological consequences involved, and does not see a need for physical security requirements for such shipments. The NRC now is examining the possible need for physical protection of large source nonfissile isotopes and smaller quantities of special nuclear material during transportation. The MTB will await NRC judgment in this matter before considering any further action regarding physical security.

E. Guidelines for State Regulation

The result of stringent local regulation of highway carriers of radioactive materials has been described by some commenters to this docket as a "burden" on commerce. It is the MTB's view that the existence of a burden on commerce imposed by a State or local requirement is relevant to rulemaking responsibilities under the HMTA so far as it may affect transportation safety. The HMTA does not necessarily exclude State and local regulation of highway carriers of hazardous materials, nor is that result desirable. However, the HMTA does provide adequate preemptive authority to ensure that the Act and regulations issued under its authority are effective as intended.

The MTB believes it is important that State and local views be considered in routing decisions. There is, however, an obvious difficulty in permitting local governments to exercise what amounts to a veto power over interstate commerce. A small jurisdiction which does not directly benefit from shipping activities within its borders will often find attractive the option of diverting traffic into neighboring jurisdictions, with concomitant safety impacts in those jurisdictions. Local safety rules that are excessively stringent may produce counterproductive safety impacts and possible violation of Federal requirements in the transportation of improperly identified shipments. A balance is needed in routing decisions between local knowledge of local conditions and the wider demands of safety in interstate commerce. The proposed rule, for this reason, encourages routing participation by State and local governments through an agency with State-wide jurisdiction that would be accessible to all those persons that may be affected by routing decisions. The proposal reflects the current MTB view that a greater degree of uniformity in rules affecting radioactive materials transportation by highway is needed and that unless necessary to ensure the physical security of the cargo, as previously discussed (or otherwise justified by exemption or waiver of preemption), any State or local requirement that amounts to a transportation ban on highway carriage of radioactive materials is not reasonable.

The term "State agency with State-wide enforcement authority" is used in the proposal to describe those State agencies that may designate non-Interstate highways as preferred highways and disapprove (and thus terminate) the defined preferred status of a segment of an Interstate highway for which the State agency has provided an alternate and equivalent preferred highway. The term "agency" is intended to describe an entity (including a common agency of more than one State, such as one established by interstate compact) which is authorized to use State legal process to impose and enforce routing requirements on carriers of radioactive materials without regard to intrastate jurisdictional boundaries. This description would exclude, for example, a bridge authority unless that authority also is empowered to impose and enforce such rules concerning radioactive materials transporation on State highways generally. This description would not exclude the possibility of more than one agency in a single State sharing responsibility for designating preferred highways.

Reliance on routing designation by agencies with State-wide authority may pose particular problems for cities and for agencies which operate under interstate compacts and which have responsibility for areas with defined jurisdictional boundaries. For this reason, State action establishing a preferred highway must be preceded by consultation with affected local jurisdictions. A route modification to bypass a major city, for example, would require consultation with that city and with any impacted adjacent jurisdictions. A route modification that impacts jurisdictions in another State would require consultation with those jurisdictions. Also, bridge, tunnel and turnpike authorities would require action by a State-wide agency in order to restrict passage of radioactive materials carriers on an Interstate or other preferred highway. Note that the provision in 49 CFR 177.810, which saves for such agencies the right to restrict hazardous materials transporation generally, would be modified to reflect this part of the proposal. Commenters may wish to propose other methods of dealing with the problem of providing a forum for State routing decisions which permits all interests affected by such decisions to participate in the decision process.

Under the proposal, an appropriate State-wide agency would be able to take the following actions.

Designation or modification of preferred highways other than Interstate highways. The goal in designating a preferred highway would be an overall reduction in both radiological and nonradiological impacts from transporation of large quantity packages. Basic criteria for this goal would include:

(1) Normal radiological impacts—including radiation exposure to drivers, cargo handlers, persons in other vehicles and pedestrians, occurring during normal, accident-free transportation.

(2) Normal nonradiological impact—including costs to carriers and shippers, and other impacts of motor vehicle operation such as vehicle emissions and traffic congestion.

(3) Radiological accident impact—including injuries, deaths, property damage, cleanup costs, and costs of emergency response preparedness.

(4) Nonradiological accident impact—including deaths, injuries, and property damage.

This State agency action would be predicated on the results of a technical safety review of available routing choices. It would be prudent for the State agency to document the process.

Modification of the preferred status of Interstate highways. The preferred status of an Interstate highway could be removed as part of an action based on the above-stated criteria only if the continuity of the Interstate System would be maintained by designation of a preferred highway which is essentially equivalent.

Urban circumferentials and bypasses. The proposal would require an Interstate circumferential or bypass route to be used in favor of an urban Interstate through route. Where an urban Interstate through route exists without an Interstate circumferential or bypass route, an abbreviated designation process could be used by a State agency to establish a non-Interstate circumferential or bypass as the preferred route. In this situation, an urban Interstate through route could be replaced by any circumferential or bypass route which is equivalent to other urban Interstate circumferentials or bypass routes elsewhere in either design standards or performance (*i.e.*, actual traffic flows and accident rates).

Continuity must be maintained for Interstate highways, but for non-Interstate preferred highways, continuity would be a safety factor which might not be as important as other safety considerations. However, where a preferred highway would direct traffic to a State's boundary, jurisdictions in the next State which would be impacted by the traffic must be consulted and the impacts considered as part of the designation process. A State boundary, in other words, may define the limits of a State agency's authority, but it does not define the limits of the impacts which must be considered in exercising that authority.

Cargo security and the possibility of sabotage or deliberate release of radioactive materials from a large quantity package are not directly considered in the designation of preferred highways. As previously mentioned, under the current division of responsibilities between DOT and NRC, an accounting for these factors is an NRC responsibility which is discharged through NRC physical security requirements in 10 CFR Part 73 (or the equivalent under this proposal for non-NRC licensees) for which an allowance is made in this proposal. Those requirements, which now apply to shipments of spent fuel as well as special nuclear material, involve the NRC in approving routes and other countermeasures selected to reduce threats to the physical security of the cargo.

V. Alternatives Not Proposed

A. Intrastate Carriers

The HMTA provides authority to regulate intrastate commerce that affects interstate commerce (49 U.S.C. 1802(1)(B)). The existing Hazardous Materials Regulations do not apply to purely intrastate carriers, that is, carriers whose business does not involve them at any time in the transportation of materials in interstate commerce. Intrastate carriers operate only within a State and do not carry materials in transportation whose origin or destination points are not within the State. As a practical matter, such carriers would be most likely to be used in local pickup and delivery services, warehouse distribution and so forth. Intrastate carriers of radioactive materials are regulated by State law and further controlled by requirements expressed through conditions imposed by the NRC on its licensees. Those conditions include provisions which are identical to rquirements imposed on interstate carriers by DOT. Regulation of the routes used by intrastate carriers of large quantity radioactive materials shipments was considered but not proposed because of the primarily local character of such transportation, and the very limited number of such shipments likely to move by intrastate carrier. States are free, at the present time, to establish routing controls for intrastate carriers. Future action by MTB will be considered if new information warrants.

B. Other Modes and Other Hazardous Materials

Interest has been expressed in routing considerations applicable to rail carriers, in view of the amounts of spent fuel the railroads eventually may be called upon to carry. Rail operations, however, differ significantly from highway operations and rail routing raises a separate set of issues. Also, the

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routing choices available in rail operations with regard to populated or congested areas are considerably more limited than in highway transportation.

The MTB does not rule out the development of highway routing rules or guidelines for hazardous materials other than radioactive materials, especially for hazardous materials shipped in bulk by highway. It is not practical, however, to attempt to deal with this subject in this docket. A study currently is being conducted for the Federal Highway Administration which eventually may provide a basis for developing general hazardous materials highway routing criteria.

C. Full Licensing of Carriers

Both registration and licensing of highway carriers of large quantities of radioactive materials were considered. With the route plan requirements proposed, however, ready identification of carriers would be possible without registration. Moreover, carriers already are subject to safety and reporting requirements under the Federal Motor Carrier Safety Regulations, and this proposal would require specialized driver training. MTB sees little additional advantage in requiring registration or licensing and has not proposed to require either.

D. Transport Group Limitation

Instead of referencing packages containing a large quantity of radioactive materials as the key to required use of preferred highways, MTB considered referencing large quantities in Transport Groups I and II only. Those transport groups include the most toxic radionuclides which are defined as large quantity when shipped in packages containing more than 20 curies. However, in view of the substantial amounts of other transport groups that can be carried in individual packages, it was felt that use of the large quantity cutoff for this purpose was justified without reference to transport groups. MTB would be interested in suggestions as to other feasible cutoff points. Note that reference to transport groups and to large quantity is proposed to be eliminated in a scheduled revision of the DOT and NRC rules concerning radioactive materials (HM–169, 44 FR 1852, January 8, 1979; 44 FR 23266, April 19, 1979; 44 FR 47966, August 16, 1979; 44 FR 60771, October 22, 1979). Consequently, if the large quantity cutoff is retained, it may be expressed in terms of the A_2 values proposed in that rulemaking rather than transport groups. MTB also solicits views on whether special form materials should be treated separately. In this proposal, large quantity, in addition to specified amounts in each of the transport groups, means 5,000 or more curies of any material in special form. Under the HM–169 proposal, A_1 values also could be used for special form materials.

VI. Expected Environmental and Economic Impacts

The primary operational effect of this proposal would be to encourage use of the Interstate System by carriers of radioactive materials. Although carriers transporting packages containing a large quantity of radioactive materials are generally required to use either the Interstate System or State-designated preferred highways, carriers transporting packages containing lesser quantities are likely also to tend to use the Interstate and preferred highways especially in areas of heavy population, if this proposal is implemented. Overall radiological effects of this proposal would include a very slight reduction in total latent cancer fatalities attributable to normal dose in 1985 and a lesser reduction in the annual latent cancer fatality accident risk (based on NUREG 0170 projections). Some additional reduction in radiological consequences may result from State designation of preferred highways. A slight increase in nonradiological consequences may result from routing on preferred urban bypass or circumferentials. Overall, environmental impacts should be negligible.

Economic costs are expected not to exceed $330,000 annually under 1985 levels of shipping activity and mostly would consist of carrier costs for driver training and route plan preparation and filing. This estimate, however, does not include possible additional insurance costs to State and local bridge and tunnel authorities on the Interstate System or on highways that may be designated by future State action as preferred highways. At present, MTB lacks any quantitative data on this subject. Commenters are encouraged to provide any available estimates.

Because of the level of costs anticipated and the limited potential for environmental impact, the MTB does not consider the preparation of an environmental impact statement or a regulatory analysis necessary for this proposal. A more detailed examination of costs and environmental impacts is available in the draft regulatory evaluation and environmental assessment which may be obtained from the Dockets Branch at the address indicated at the beginning of this notice. Because this proposal varies from the highway routing requirement at 49 CFR 397.9(a), at the time a final rule is published, some further adjustment to § 397.9(a) is contemplated to avoid any conflict.

In consideration of the foregoing, Parts 173 and 177 of Title 49, Code of Federal Regulations, would be amended as follows:

1. In § 173.22, paragraph (b) would be revised and paragraph (c) would be added to read as follows:

§ 173.22 Shipper's responsibility.

* * * * *

(b) Prior to each shipment of fissile radioactive materials, and Type B or large quantity of radioactive material, the shipper shall notify the consignee of the dates of shipment and expected arrival. The shipper shall also notify each consignee of any special loading/unloading instructions prior to his first shipment. For any shipment of irradiated reactor fuel, the shipper shall provide physical protection in compliance with a plan established under—

(1) Requirements prescribed by the U.S. Nuclear Regulatory Commission, or

(2) Equivalent requirements approved by the Associate Director for Operations and Enforcement, MTB.

(c) For any package containing large quantity radioactive material (see § 173.389(b) of this subchapter) accepted for transportation by public highway, the shipper shall file the following information within 90 days with the Associate Director for Operations and Enforcement, MTB (this paragraph does not apply to packages shipped in compliance with physical security requirements of the U. S. Nuclear Regulatory Commission in 10 CFR part 73):

(1) The route plan required under § 177.825(b) of this subchapter;

(2) A statement identifying the name and address of the shipper, carrier and consignee; and

(3) A copy of the shipping paper (or the description of the radioactive material required by § 172.202 of this subchapter).

2. § 177.810 would be revised as follows:

§ 177.810 Vehicular tunnels.

Except as regards radioactive materials, nothing contained in Parts 170–189 of this subchapter shall be so construed as to nullify or supersede regulations established and published under authority of State statute or municipal ordinance regarding the kind, character, or quantity of any hazardous material permitted by such regulations to be transported through any urban vehicular tunnel used for mass transportation. For radioactive materials, see § 177.825 of this subchapter.

3. § 177.825 would be added preceding subpart B, to read as follows:

§ 177.825 Routing and training requirements for radioactive materials.

(a) The carrier shall act to ensure that any motor vehicle which contains a radioactive material for which placarding is required is operated as follows:

(1) The motor vehicle is operated on routes that risk radiological exposure to the fewest persons, considering time of day and day of week during which the transportation will occur, population density and activities, effectiveness of local emergency planning, terrain and physical features, and weather conditions. In performance of this requirement the carrier shall tell the driver that the motor vehicle contains radioactive materials and shall indicate the general route to be taken in pursuance of this requirement. This requirement does not apply when—

(i) There is only one practicable highway route available, considering operating necessity and safety, or

(ii) The motor vehicle is operated on a preferred highway under conditions described in paragraph (b)(1) of this section.

(2) Subject to paragraph (a)(1) of this section, the motor vehicle is operated on routes selected to reduce time in transit.

(b) A carrier and any person who operates a motor vehicle carrying a package which contains large quantity of radioactive materials as defined in § 173.389(b) of this subchapter shall ensure compliance with the following requirements:

(1) Except as otherwise provided in this section, the motor vehicle shall be operated over preferred highways selected by the person operating the motor vehicle to reduce time in transit. A preferred highway is any highway so designated, and any Interstate highway not disapproved, by a State agency with State-wide enforcement authority. Where a preferred circumferential or bypass route around a city and Interstate highway through that city are both available, the circumferential or bypass route shall be used. The motor vehicle—

(i) May deviate from preferred highways for emergencies and necessary stops; and

(ii) Shall be operated to comply with paragraph (a) of this section when operated off a preferred highway.

(2) The carrier (or his agent) shall prepare a written route plan and supply a copy before departure to the motor vehicle driver and a copy to the shipper (before departure for exclusive use shipments, or otherwise within fifteen working days following departure). The route plan contains—

(i) A statement of the origin and destination points, a route selected in compliance with this section, all planned stops, and estimated departure and arrival times; and

(ii) Telephone numbers which will access emergency assistance in each State that may be entered.

(3) The driver shall have in his immediate possession a certificate of training as evidence of training required by this section and shall operate the motor vehicle in compliance with the route plan.

(4) A person may transport irradiated reactor fuel only in compliance with a plan if required under § 173.22(b) of this subchapter that will ensure the physical security of the material. Variation for security purposes from the requirements of this section is permitted so far as necessary to meet requirements imposed under such a plan, or otherwise imposed by the U.S. Nuclear Regulatory Commission in 10 CFR Part 73.

(c) No person may transport large quantity radioactive material, as defined in § 173.389(b) of this subchapter, on a public highway unless—

(1) That person has provided, and the driver has received within the two preceding years, written training on:

(i) Requirements in Parts 172, 173 and 177 of this subchapter pertaining to the radioactive materials transported;

(ii) Requirements in the Federal Motor Carrier Safety Regulations (Parts 390–397 of this title) applicable to operation of the motor vehicle;

(iii) The properties and hazards of the radioactive materials transported;

(iv) Operating and handling characteristics of the vehicle the driver will be operating and any emergency features and load limitations; and

(v) Procedures to be followed in case of accident or other emergency.

(2) The driver is provided a certificate, and a copy is placed in his qualification file, showing—

(i) The driver's name and operator's license number;

(ii) The date the driver was provided the training.

(iii) The name and address of the person providing the training; and

(iv) That the driver has been trained in the hazards and characteristics of large quantity radioactive material.

(d) Actions to designate or disapprove a preferred highway are taken to minimize the total impact of highway transportation of radioactive materials. However, designation of a preferred circumferential or bypass route around a city as substitute for an Interstate highway may be based on design or performance criteria that approximate those of existing Interstate circumferential or bypass routes elsewhere. Designation and disapproval action is preceded by consultation with affected jurisdictions to ensure consideration of all impacts and continuity of preferred highways. Except as otherwise permitted under paragraph (b)(4) of this section, State and local requirements which apply to any person because that person transports radioactive materials are inconsistent with this subchapter if they have any of the following effects.

(1) Completely prohibiting travel between any two points serviced by highway;

(2) Prohibiting the use of an Interstate highway, including prohibition of travel based on time of day, without designation of an equivalent preferred highway as a substitute in accordance with the provisions of this section;

(3) Requiring use of a preferred highway except in accordance with the provisions of this section;

(4) Requiring prenotification or escort requirements, except as established under paragraph (b)(4) of this section; or

(5) Requiring special personnel or equipment.

(49 USC 1804, 49 CFR 1.53, App. A to Part 1, and paragraph (a)(4) of App. A to Part 106.)

Note.—The Materials Transportation Bureau has determined that this notice will not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034), or in a major Federal action significantly affecting the environment. A draft regulatory evaluation and environmental assessment is available in the public docket.

Issued in Washington, D.C. on January 25, 1980.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80–2933 Filed 1–30–80; 8:45am]

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Part VIII

Department of Transportation

Coast Guard

Oil Pollution Prevention—Vessels and Marine Oil Transfer Facilities

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 154, 155, and 156

[CGD 75-124]

Oil Pollution Prevention—Vessels and Marine Oil Transfer Facilities

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the Oil Pollution Prevention Regulations. Changes are necessary due to public and industry comments, Coast Guard experience in enforcing the existing regulations, the availability of economical and practicable pollution control and monitoring equipment, and new requirements accepted as necessary by the Intergovernmental Maritime Consultative Organization (IMCO) during the 1978 International Conference on Tanker Safety and Pollution Prevention (TSPP). The primary reason for revising the regulations is that frequent operational oil spills remain the greatest source of damage to the environment, rather than the occasional catastrophic spill. Cargo tank cleaning, bilge pumping, ballasting, faulty equipment and personnel errors cause more spills than the major catastrophes. These spills can be prevented by proper equipment, personnel and procedural requirements.

EFFECTIVE DATE: This amendment is effective on March 3, 1980.

FOR FURTHER INFORMATION CONTACT: LCDR John G. Busavage, Office of Marine Environment and Systems (G-W/TP12), Room 1200, U.S. Coast Guard Headquarters, 2100 Second Street S.W., Washington, D.C. 20593, (202) 426-9578.

SUPPLEMENTARY INFORMATION: On 27 June 1977, the Coast Guard published a proposed rule (42 FR 32670) concerning these amendments. Interested persons were given until 11 August 1977 to submit comments. On 4 August 1977, the comment deadline was extended until 2 September 1977 (42 FR 39408). On 27 October 1977, the deadline for comments was extended until 15 December 1977, and three public hearings were scheduled (42 FR 56625). The public hearings were held as scheduled: at New Orleans, LA, on 22 November 1977; at Washington, D.C., on 28 November 1977; and at St. Louis, MO, on 30 November 1977. Eighty-five (85) people attended the three public hearings, and 133 written comments were received between 27 June 1977 and 15 December 1977 in addition to the comments received during the public hearings.

Drafting Information: The principal persons involved in drafting this rule are: Lieutenant Commander John G. Busavage, Project Manager, Office of Marine Environment and Systems, and Michael N. Mervin, Project Attorney, Office of Chief Counsel.

Discussion of Major Comments

General Comments

1. There were 28 comments requesting public hearings. Three public hearings were scheduled and held in November 1977, at New Orleans, LA, Washington, D.C., and St. Louis, MO, in response to those requests.

2. Six comments requested time extension for comments. The initial comment deadline of 11 August 1977, was first extended to 2 September 1977 (42 FR 39408, 4 August 1977). It was later extended until 15 December 1977 (42 FR 56625, 27 October 1977) to allow time for the public hearings, and further written comments.

3. Two comments suggested that a joint Coast Guard-industry working group be established to draft the final regulations. This request was denied as being inappropriate. However, all industry and general public comments were completely considered in arriving at this final rule.

4. Numerous industry comments generally questioned the need for such detailed amendments and especially questioned their application to smaller vessels in the towing and offshore service industries. A number of changes were made in response to these broad comments. A supplemental notice of proposed rulemaking (NPRM), to be issued soon, will propose to give vessels of 100 or more gross tons but less than 400 gross tons alternatives to installing oil water separators. This supplemental NPRM is necessary because allowing alternatives to oil water separators is substantially different from the orginal proposal of June 27, 1977. Upon receipt of public comments a final rule will be issued for 33 CFR 155.330 to 155.410. In the meantime, the existing regulations in 155.330 to 155.410 remain in effect.

5. The National Oceanic and Atmospheric Administration and the New York Attorney General's office objected to Coast Guard authority to grant exemptions to any part of the regulations. There are strict guidelines for granting exemptions. The criteria for granting exemptions are considered reasonable, and the agency issuing regulations may relax the requirements in the absence of mandatory statutory constraints on the regulatory function if the guidelines are followed. The wide variety of conditions, locations, operations, equipment, and personnel being regulated makes some exemption authority necessary.

6. Five comments objected to granting discretion to the COTP/OCMI throughout the regulations. Where COTP/OCMI discretion is provided, it is deemed necessary to provide for reasonable compliance under varying local conditions. It is impossible to envision every conceivable contingency in a rule. Under the criteria specified for COTP/OCMI discretion, there is an insignificant hazard to the environment and there should be no unreasonable burden to any parties concerned.

7. Several comments stated that marinas should not be exempt. Marinas are not exempt if they transfer oil to or from vessels with a capacity for 250 barrels or more of oil. The 250 barrel limit is a reasonable guide since bulk transfers justify stringent regulations, while small quantities do not pose the same environmental risks. Also, enforcement for every marina fueling is not feasible or cost effective.

8. One comment stated that public vessels should not be exempt. Public vessels are exempted by the statute (FWPCA). However, Executive Order 11752 requires that Federal agencies take the lead in compliance with environmental standards. It is expected that public vessels and facilities will use these regulations as guidelines for their operations. Although transfers within or between public vessels themselves are exempted, all other transfers involving public vessels are regulated.

9. One comment cited Commandant Instruction 5000.2B policy against over-regulation of waterborne commerce. These regulations are essentially what was issued in 1972, revised and clarified with improvements based on experience.

10. One comment urged that 33 CFR 126 and 33 CFR 154 be reconciled as to facilities. There are no conflicts apparent in the existing Part 126 and Part 154 as amended. An advance notice of proposed rulemaking was published on April 10, 1978 (43 FR 15108) which would place all facility regulations (including those now in Parts 154 and 156) in 33 CFR Part 126. Completion of this project is some time off. The regulations will be consolidated for convenience.

11. The title of these regulations as printed in the **Federal Register** of 27 June 1977 (42 FR 32670) was "Pollution Prevention, Vessel and Oil Transfer Facilities". When the regulations are printed in the Code of Federal Regulations (CFR), only the heading for each part of the CFR will be printed. The descriptive wording of the regulations is thus eliminated, and the industry and general public could be misled as to the subject of each part of the CFR. To correct this, headings were given to each part.

12. The $65 million economic evaluation of the original proposal on June 27, 1977 (42 FR 32670) was based on estimates of costs for vessels to comply with the equipment requirements for oil water separators, monitors and alarms. Those requirements are deleted from this final rule and will be discussed in a supplemental notice of proposed rulemaking to be issued later. The economic assessment for the revised equipment requirements will be included in the supplemental NPRM.

This final rule generally relaxes existing requirements for containment on vessels and makes some changes to contents of the operations manual and oil transfer procedures, which can be accommodated with only minimal expense to vessel or facility owners. There may be some costs incurred by individual facilities to shield lighting or provide monitors if a COTP expressly requires such improvements as allowed by the final rule. However, the cost of monitors is under $5,000 and will seldom be required, while shielding of lights is very inexpensive.

The cost estimate for bulk oil transfer facilities and vessels to comply with this final rule is well below $3.5 million.

Specific Comments: Part 154

1. § 154.100—(a) Fifteen comments questioned the exemption for marinas in paragraph (c) of this section. Marinas do not normally transfer quantities of oil that justify stringent pollution regulations. Also Coast Guard personnel are not available to monitor all small quantity oil transfers. Marinas are subject to Part 154 during actual transfers involving vessels with a capacity of 250 or more barrels of oil.

(b) One comment suggested changing "capacity" to "amount" of 250 or more barrels of oil. A real pollution risk is posed for vessels with a capacity for 250 or more barrels of oil even when less than that amount is actually being transferred. The regulations are aimed at preventing discharges which are likely and threaten substantial pollution.

(c) Several comments suggested that towboats be exempted if marinas were. Marinas are not totally exempt and towboats with sizable fuel and lubricating oil tanks and machinery space bilges are a much larger pollution threat than small recreational vessels.

2. § 154.105—(a) The definition of "transfer" was added to all 3 parts for clarity since it is mentioned throughout Parts 154, 155, and 156. It makes clear that transfers of oil within vessels are also subject to the regulations.

(b) Two comments asked why the definition of "offshore facility" is limited to the navigable waters while vessels are regulated in the contiguous zone as well. The 1972 Federal Water Pollution Control Act (FWPCA) definition of "offshore facility" is used in the regulations. With the Clean Water Act of 1977 (CWA) the definition has been expanded to include the contiguous zone and beyond. A notice of proposed rulemaking will be published to allow public comment before incorporating the CWA amendments into the regulations. This final rule does not apply to Outer Continental Shelf (OCS) facilities.

(c) One comment suggested that "oil" be defined with a list of oils. This would be more restrictive than the statutory definition, which is sufficient. The definition has been deleted in the final rule because it added nothing to the statutory definition.

(d) One comment suggested defining "tank vessel" in terms of 250 barrel capacity and deleting "vessel" definition or specifying types. The definition of "vessel" has been dropped in the final rule, because the statutory definition is used. The definition of "tank barge" and "tank vessel" are retained, and "tank vessel" is limited to vessels that carry oil in bulk as cargo or in residue.

(e) The definition for "incompatible products" is nonspecific and may lead to confusion among users. Pending Coast Guard rulemaking addresses incompatible products. Therefore, this definition and references to incompatible products have been deleted from the final rule.

3. § 154.107—(a) This subpart was reworded so that the COTP is required to consider economic or physical practicality in granting an alternative since the regulations should not be altered without a good reason even where alternative protection is provided.

(b) The EPA suggested that alternative requests should document the equivalency of environmental protection and allow the Coast Guard to require other information such as economic and environmental assessments. Documentation of alternatives has been added, to include documentation of safety and pollution protection, and the COTP may request additional information, if necessary, to evaluate the proposed alternative. It will necessarily include an economic and environmental analysis. However, since an equivalent level of protection is required no formal environmental impact statement is necessary.

(c) Several comments requested that existing waivers be "grandfathered". This cannot be allowed since the waivers are now split into alternatives (granted by the COTP) and exemptions (granted only by the Commandant). All COTPs should review any existing waivers they have granted under sections 154.330 and 156.107 of the prior regulations to determine which ones may qualify for alternatives and which ones now will require Commandant approval as exemptions.

(d) One comment suggested that the COTP should have to respond within 30 days of receipt of a request for an alternative. This comment has been adopted as a reasonable time period for COTP response to requests, in light of a facility's need for planning operations.

4. § 154.108—(a) The National Oceanic and Atmospheric Administration (NOAA) suggested that exemptions be granted primarily based on minimal likelihood of oil discharge. This of course is a consideration. However, economic or physical practicality and availability of alternatives are equal factors in weighing an exemption request. The final rule was changed to prohibit an exemption that would substantially increase the likelihood of an oil discharge.

(b) NOAA also suggested other sources of information should be considered in addition to the facility's application. The regulation does not force the Commandant to consider only the facility's information. The Coast Guard's operational experience with the regulations and facility operations in general is also applied in deciding whether to grant any exemption.

(c) One comment requested that exemptions also be allowed where compliance would create a safety hazard. None of the pollution regulations are designed to create a safety hazard. Safety will always be considered in any exemption request, and safety has been added as a factor to be documented in any exemption request.

(d) The Commandant's office which determines exemptions has been specified for information purposes and as an express delegation of authority. The same was done for sections 155.110 and 156.110 of this chapter.

5. § 154.110—(a) One comment suggested that 30 days is sufficient to advise the COTP under paragraph (c) of this section. The word "immediately" has been replaced by the phrase "within 5 days" to allow more time, but 30 days is unduly long.

(b) One comment asked if an existing facility is required to resubmit a letter of

intent and modify its operation manual. A sentence has been added to paragraph (a) of this section that exempts existing letters of intent from resubmission. Contents of operations manuals are specified in § 154.310 and must be amended in accordance with § 154.320. If any problems in complying arise, an alternative or exemption may be requested.

6. § 154.120—Seven comments requested that tests and inspections be conducted reasonably, at specified times or only after a written request from the Commandant. It is understood that only reasonable tests or examinations will be required and then at reasonable times. However, examinations must be realistic and advance warning of examinations would likely lessen their utility. Facilities should be operated in compliance with the regulations at all times, not just at specified predesignated times. Normally, these examinations would be conducted during daylight working hours, however, the COTP must be able to conduct them whenever the facility is operational.

7. § 154.300—(a) Two comments suggested deleting the requirement to translate the operations manual where English is not predominant. Manuals are to be working manuals for personnel involved in oil transfers, and must be understood, as a minimum, by all persons in charge. The final rule has been changed to reflect this.

(b) Two comments requested confidentiality for operations manuals. This is generally not possible under the Freedom of Information Act (FOIA) which sets forth standards for release of information in public records. Another wanted a reference to the FOIA in the regulations. This is accomplished in the note following this section.

(c) Sixteen comments stated that there is no need for biennial review of operations manuals. This requirement has been replaced with review when substantial amendments are made and at COTP discretion.

(d) One comment suggested that the letter of adequacy be deleted. This suggestion was not accepted since the letter of adequacy is considered a reasonable, efficient means to ensure review of operations manuals.

(e) One comment suggested that the manual require a facility to demonstrate the emergency shutdown system to the vessel person in charge. Section 156.120(w) (8) and (12) requires that each person in charge understands emergency and shutdown procedures. If a vessel person in charge is not satisfied at the pre-transfer conference he or she should not proceed with the transfer. However, a demonstration of emergency procedures is not necessary for every transfer.

(f) One comment suggested submitting amended manuals to the COTP 18 months after the effective date of the rules for approval. This is unnecessary since existing manuals with proper indexing are now being "grandfathered." Three other comments sought exemption from the letter of adequacy. This is not necessary for the same reason.

(g) One comment suggested that paragraph (f) be amended to make clear that a vessel's person in charge does not get a copy of the facility manual. The word "facility" has been added in front of "person in charge" to make this clear. Section 156.120(t)(2) requires each person in charge to have a copy of the operations manual or vessel oil transfer procedures, as appropriate. Of course, each may refer to the other's manual or procedures before and throughout the transfer operations in order to comply with section 156.120(w) (5), (8) or (12).

8. § 154.310—(a) Twenty-three (23) comments suggested that the operations manual contents should not be in any specified order or requested a delay in rewriting manuals. In answer to these comments, paragraph (c) was added to this section to permit use of a cross referenced index page in the specified order. Also proposed subsection 154.310(b) was deleted since the information was for the convenience of COTP inspections, and it is available on file at the COTP office.

(b) One comment suggested that paragraph (a)(2) cover only safety equipment covered by this part. This is too restrictive; personnel should know the location of all safety equipment required to be at the facility by any regulations or law.

(c) Seventeen (17) comments suggested that time limits not be required for gaining access to oil spill containment material. Section 154.545(c) provides that time limits are to be set by the facilities themselves subject to COTP approval. This is necessary to ensure that equipment sharing agreements are realistic and can provide adequate response to oil discharges.

(d) Two comments suggested deleting the requirement to include in the manual the number and location of all operations manuals and the information on monitoring devices. It was decided that it is not necessary to include the number and location of operations manuals, and this was deleted. However, it is useful to include data on monitoring devices when they are required. The language in (a)(13) was changed to read "if required by § 154.525", since only rarely should COTPs require monitoring devices at facilities.

(e) One comment suggested deleting the requirement to send the operations manual with the letter of intent. This was not accepted since the COTP should know that the facility operator has established procedures which should permit the facility to be operated in an environmentally sound and safe manner.

(f) Two comments suggested deleting paragraph (a)(5)(ii) since cargo information is the responsibility of the vessel operator. This was not done since the data is readily available and is needed by the facility for safety and environmental reasons. This paragraph has been changed to list the necessary data rather than refer to another regulation. Also, paragraph (a)(5)(i) was changed from "category and trade name" to "generic or chemical name" for clarity.

(g) One comment suggested putting personnel names and telephone numbers on a separate sheet for easy amendment. This is a good idea and the regulations allow the entire operations manual to be loose leaf, which would facilitate any amendments.

(h) One comment suggested a briefer manual with details provided in a more complete procedures manual. This has not been accepted since the more detailed guide would likely not be used. The operations manual should be a working publication and a single source for learning standard operations as well as emergency procedures at a facility.

(i) Several comments suggested that NAVIC 9–73 language be added to the regulations or preamble. NAVIC 9–73 was issued by the Coast Guard in 1973 to interpret 33 CFR 154, 155 and 156. This has not been done since in some regards NAVIC 9–73 has become obsolete with this revision. To the extent this preamble or the preamble to the proposed version in the Federal Register of June 27, 1977 (42 FR 32670) fail to answer any questions a new interpretation may be required at a later date.

(j) Proposed item (7) of the operations manual has been deleted as explained in paragraph 2(e) above; proposed item (22) has been added to proposed item (16); and the items have been renumbered in the final rule because of these changes.

9. § 154.320—(a) Two comments requested that facility operators be allowed 30 (not 14) days to comment on COTP proposed amendments to the operations manual, and an unlimited time to petition the Commandant. These suggestions were not adopted since the existing regulations had the same requirements and the periods specified are reasonable.

(b) Two comments stated there is no need for COTP approval of minor changes. Paragraph (d) has been added in the final rule to allow minor changes in personnel or telephone number lists without prior COTP review.

(c) Three comments suggested there was no need for facility operators to submit proposals under paragraph (b) 30 days before the effective date, and said the COTP should be given 10 or 30 days to respond instead. These suggestions were not accepted since paragraph (b) was added to the prior rules to give the facility operators the right to initiate changes to the manual, and the COTP ought to have some review of all amendments. Paragraph (c) of this section provides that the COTP is to respond before the amendment is effective or immediately if an immediate amendment is requested. This is entirely reasonable.

10. § 154.325—(a) One comment suggested adding "either" after "effective" in paragraph (c) for clarity to show that there are 3 options, and this has been done in the final rule.

(b) Three comments suggested that previously accepted manuals should automatically receive letters of adequacy. This was not done since many changes have been made in the operations manual. Three years are allowed to update manuals, except that new facilities and ones making substantial amendments to their manual must get a letter of adequacy at the start of the operations or substantial change.

(c) Fourteen comments suggested that a simple notation on the operations manual would be better than a letter of adequacy. This suggestion was not adopted since the letter can be easily copied and placed in copies of the manual, and provides an effective means for the COTP to ensure a thorough review of operations manuals.

(d) One comment suggested using a permit or certificate rather than a letter of adequacy. A letter of adequacy ensures that certain matters are addressed in the operations manuals, but does not constitute Coast Guard approval or certification of any particular procedure or equipment mentioned. It addresses the scope of the contents rather than the details of the manual.

11. § 154.500—(a) Six comments discussed existing hose having the test and burst pressure stamped on hose. Paragraph (g) in the final rule requires that the burst pressure and the pressure used for the test required by section 156.170 not be on the hose to prevent confusion with the maximum allowable working pressure (MAWP). The burst and test pressures must be recorded at the facility but not on the hose. Other pressures marked on hoses presently in use may be obliterated by any suitable means until replaced by hose with new, proper markings.

(b) Twenty-three (23) comments suggested deleting paragraph (e), especially grade and product data for all products transferred. These comments have led to changing paragraph (e) to allow "oil service" but the remaining data still must be provided either on the hose or elsewhere at the facility.

(c) One comment questioned the reliability of back pressure nozzles and another questioned their use with large hose. There is no need to test back pressure nozzles since they are reliable for the small hoses with which they are used. They are not intended for large hose, but large hose are not used with flush deck fittings and containment is feasible for manifold connection points of large hose normally. Where containment is not possible for manifold connection points of large hose an alternative or exemption may be granted.

(d) Four comments were received that hose made before 1973 should be allowed even if not complying with the regulations. Most pre-1973 hose will be out of service hence the reference to 1973 is omitted. If a facility does have older hose in storage that does not meet all of the requirements, an alternative may be requested for unused pre-1973 hose under § 154.107.

(e) Four comments suggested color codes on hose and three suggested a multi-product or general category hose marking. As noted in paragraph (b) above, "oil service" is acceptable in paragraph (e)(1). Color coding was not deemed practical for all facilities.

(f) One comment suggested deleting paragraph (b) and two others suggested changing "maximum" to "minimum" and deleting "or more" in (b)(1). Neither suggestion was accepted, since the intent is to ensure that the hose can withstand normal working pressure of 150 psi with a burst pressure 4 times that amount. Most oil hoses in use have a maximum allowable working pressure (MAWP) of 150 psi with a 600 psi minimum design burst pressure.

(g) One comment suggested that full threaded connections should be changed to "ACME" type couplings for hose up to 2 inches in paragraph (d)(1), and two other comments suggested that slip on, welded and weld neck flanges should be allowed. The wording of paragraph (d) has been changed to make clearer that there is a choice among threaded connections, quick connect couplings, or flanges. The quick connect couplings must, however, be approved by the Commandant.

(h) One comment suggested clarifying paragraph (d) by adding an "or" after each option. The word "either" has been added to clarify that an option exists.

12. § 154.510—(a) One comment was received which suggested that loading arms constructed in the field should be tested locally rather than meet ANSI standards. This has not been changed in the final rule. The intent of the regulations is to have a uniform and safe standard; not one subject to local modification. An alternative under § 154.107 may be requested for locally constructed arms.

(b) Two comments suggested that the regulation should apply only to loading arms placed into service after June 30, 1973. This change has been made in the final rule since it was overlooked in the NPRM that old loading arms will not be replaced as fast as hose. They should not have to be replaced at great expense to comply retroactively with a regulation first effective on July 1, 1974.

13. § 154.520—(a) Three comments suggested that blanking devices for gasoline hose can create a safety hazard. The final rule remains as in the NPRM. There should be no hazard if gasoline lines are properly purged of fumes prior to blanking. The unsafe alternative would be to leave hose open to drain on decks where an even greater safety and pollution hazard would result.

(b) Fifteen comments suggested exempting dry, new, unused, or spare hose sections. The final rule has been changed to exempt new and unused hose, but none that have been used for oil transfer, which pose a risk of leaking oil through the unconnected ends of the hose.

(c) One comment suggested changing "each end of each hose" to read "the end of each hose". The regulation has been changed to read the "ends of each hose" to make it clear that a disconnected hose is to be blanked off at both ends to prevent oil leaking out. New, unused hose is exempt.

14. § 154.525—(a) Fourteen comments requested a definition of monitoring devices. This was added in § 154.105.

(b) Seven comments objected to the high cost of monitor installation and requested cost analysis. This section is intended only for those cases where visual surveillance is not sufficient to detect oil spills in very sensitive areas or where a complex operation would likely result in a spill without the device present. In each case use of the oil monitor must significantly increase the probability of detection or aid in limiting

the spread of a spill by early detection. Some devices are available for less than $5,000.

(c) Nine comments stated that existing monitors are not reliable. There are devices on the market which effectively detect oil sheens on water.

(d) Seven comments suggested deleting this entire section. The section remains in the final rule to allow the COTP another option in the case where an oil monitor will significantly increase the probability of detection which will aid in rapid control of an oil spill in a sensitive area, or where the products or complexity of operations increase the risk of spill.

(e) Two comments suggested that monitors be required for all transfers with no COTP discretion, but only after they prove reliable. Existing monitors for facilities are reliable, but the COTP may only require them in cases where the specified criteria exist. It would be an unreasonable economic burden, at this time, to require all transfers to be monitored by devices.

(f) Eight comments suggested that visual means are preferable to monitors. In the vast majority of oil transfers visual checks are preferred. However, under the circumstances specified, continuous monitoring is justified due to the higher risk.

(g) Thirteen comments objected to possible arbitrary and varying interpretations among different COTPs. Of course, over-reaction is possible with any regulations. However, the criteria listed are limiting, and this preamble stresses that use of monitoring devices is to be required only in the case where their use will "significantly" expedite response efforts to limit the size or severity of an oil discharge.

(h) Two comments objected because the monitors would not distinguish between facility spilled oil and oil from nearby sources. The purpose of the monitors is to detect oil and not attach legal responsibility for the oil on the water to that particular facility.

(i) Three comments stated that monitoring is a government duty. The Coast Guard and other agencies, State and Federal, do monitor, but the immediate legal obligation falls on those who own and transfer oil.

(j) One comment suggested that the Coast Guard publish a list of approved monitoring devices. This is not necessary since the devices will not be required often. The COTPs will provide data on devices available in their area when and if they require the installation of devices.

(k) One comment stated that all four criteria mentioned should be satisfied before the COTP can require monitoring devices. This is too restrictive on the COTP, and would limit the prevention methods to significantly limit the spread and severity of oil spills.

(l) The National Oceanic and Atmospheric Administration (NOAA) suggested COTP consultation with State and Federal agencies before requiring monitors. The COTP may consult with any agency before requiring monitors, but the COTP is not required to do so since a quick decision may be needed which precludes such consultation. NOAA also suggested that monitors should be mandatory for environmentally sensitive areas, or where the product transferred poses a significant threat. Other methods are better suited to prevent oil spills, the monitors would seldom be used, and the COTP should make the decision on monitors using the criteria specified.

15. § 154.530—(a) One comment stated that no facility can provide catchment between the face of the dock and a vessel and two others said more spills come from stowed hose, not ones moving for connection. The intent of this section is not to require containment over the water. Blanking of hose until connected and use of hose complying with section 154.500 should prevent most spills over the water.

(b) One comment pointed out the hazard from "lipped" small discharge containment along the edge of a pier or bulkhead. There is indeed some tripping hazard from any lip or protrusion on a dock, yet if sufficiently high to contain the oil required and properly constructed and marked the hazard should be minimal or eliminated. The same comment stated that if the pier is solid there would be no spill over the edge of a pier with no lip. This would be true only for small quantities of spilled oil that do not reach the edge of the pier before being cleaned up.

16. § 154.540—Nine comments suggested that the facility be required to provide some means to receive oil residue from containment systems on unmanned barges. While this is a very good suggestion, the Coast Guard has no clear authority to require a facility to provide such a service to a barge. Section 155.310(a)(2) requires tank vessels to have a means to drain containment devices. Section 155.310(b) requires proper draining of portable or fixed containment inside 4–6" coamings and the coamings themselves on barges. This can be done on the barge itself or through a voluntary arrangement with the facility, as long as oil is not discharged into the water.

17. § 154.545—(a) Fourteen comments stated that the section is unduly restrictive, vague, subject to conflicting interpretations, or punitive. The regulation sets specific criteria for determining time limits for deploying containment equipment and for requiring pre-transfer booming. Paragraph (d)(5) is added to ensure that pre-transfer booming is only required when it is the "only practical" way to avoid environmental damage from an oil transfer. It will only be unusual situations that require pre-transfer booming, and there should be no great COTP variance in interpreting the regulation with the guidance set forth in the section and this preamble. There is no intent for pre-transfer booming to be a common practice.

(b) Ten comments discussed the requirement for "enough" containment for "any" oil discharge. Paragraph (a) has been modified as suggested to require containment for any oil discharged on the water from operations at that facility. It requires sufficient containment to control the spread of oil whether from the facility or any vessel transferring oil at the facility, but does not require that containment equipment be available to contain oil from adjacent sources of oil not related to operations at that facility.

(c) Fourteen comments stated that time limits are not practical due to weather variations. The regulation requires time limits to ensure that equipment sharing is an effective means of containing spills at the facility. The facility itself establishes the time limits and may provide for a different time limit for bad weather. However, the time limit must be a reasonable response time to deal with discharges effectively and must be approved by the COTP concerned.

(d) One comment suggested deleting (d) since each COTP already has that authority and there is no need to emphasize it. The authority to deploy containment before transfer is specifically mentioned because in some rare cases it is the only practical way to protect the environment from particularly risky oil transfers.

(e) Five comments objected to the excessive cost of pre-transfer booming and one feared the effect on competition. As stated, such deployment will only rarely be required, and it is inexpensive in relation to the equipment costs which all oil transfer facilities must incur for the containment itself.

(f) Seven comments stated that booms will not work in tides and strong currents, and reference to currents has been deleted in paragraph (d). However, the facility operator should take currents into account in paragraph (c)(4) when establishing time limits for deploying booms in the event of a spill. While booms may not contain oil when deployed in rapid currents, they may be effective in directing the movement of the oil and in protecting some areas from environmental damage.

(g) One comment suggested that the COTP conduct a hearing before acting under (d). No hearing is provided for because of the need for immediate action in most cases, but the COTP will certainly consider input from the facility in making a decision to require pre-transfer booming. If the COTP insists on the booming and issues a suspension order, the operator may appeal the suspension order as provided in section 156.113(b).

(h) A number of comments objected to booming before transfer because it could delay cleanup; may be unsafe or impossible; and it is unnecessary as long as containment is available. Pre-transfer booming can be required by paragraph (d)(5) when it is the only practical means to reduce environmental damage under any of the circumstances presented in paragraph (d)(1)–(d)(4). It will only rarely be required. Safety considerations, particularly with gasoline transfers, will always be weighed by the COTP before requiring pre-transfer booming.

(i) NOAA commented that no COTP discretion should be allowed when environmental sensitivity or a significant threat exists. Such a safeguard is expensive and the relative benefit to the environment should be weighed against the feasibility and expense of booming. NOAA would allow COTP discretion in the case of prior record, large or complex operations, and swift current. COTP discretion is allowed throughout, but current has been removed as a criterion for booming since swift current normally makes booming ineffective.

(j) NOAA also suggested that the COTP should be required to consult with appropriate state and Federal agencies in determining the sensitivity of the area and significant threat. Of course the COTP should consult with any available source of data on all of the criteria. However, it may not be reasonable to consult with other agencies in all cases, especially where conditions require a rapid decision. Regional contingency planning and the Regional Response Teams are the appropriate mechanisms for the COTP consultation process.

(k) A comment from a Coast Guard unit in the Eleventh District stated that "facility type" lightering vessels (lightering beyond 12 miles) should comply with this section also. Although vessel to vessel transfers within 12 miles are subject to these regulations, this suggestion exceeds the scope of the original proposal. The Port and Tanker Safety Act of 1978 (§ 5(17)) requires specific regulations for offshore lightering, and a Notice of Proposed Rulemaking for offshore lightering operations was published on May 31, 1979, 44 FR 31486.

18. § 154.550—(a) Seven comments suggested that voice communications are adequate. Voice communications alone have not been satisfactory in many circumstances due to background noise.

(b) One comment stated that the existing regulation is sufficient to control emergencies. There were no limits set in the original regulations on the amount of time required to stop the flow of oil, but this is necessary to ensure rapid, effective action to minimize the size of any accidental oil spill.

(c) Four comments suggested that pumps be stopped prior to closing the pipeline to prevent rupture. Proper closure sequencing may be necessary and it is certainly not precluded by the regulation, provided the applicable time limit in paragraph (c) is met.

(d) Twenty-four comments were received concerning the time limits set for emergency shutdown. Most objected that the time was too fast and would cause equipment damage or rupture. Several suggested 75 to 90 seconds or 3–4 minutes was more reasonable. Others suggested 30–60 seconds to begin shutdown or offered general wording such as "means to stop the flow of oil to minimize loss in event of hose rupture or loading arm failure". All of these suggestions were considered, but the proposed time limits are considered feasible and very close to industry suggested time limits. Existing facilities, are given until 1 November 1980 to meet the 60-second shutdown requirement. New facilities or parts of facilities starting operations after that date must meet the 30 second requirement. The Coast Guard believes proper action can reasonably be taken within the limits set forth.

(e) Two comments suggested that "remotely" be deleted from paragraph (a)(2) to permit manual shutdown. This comment has been adopted and "remotely" is deleted from the final rule to allow manual or remote control shutdown.

(f) Several comments addressed valves. Three suggested that the valve location be left to the facility operator. One stated that if the emergency valve is too close to the manifold valve both may be damaged. Three objected that the industry's rapid shutdown record does not show a need for added quick acting valves. One asked how close to place the emergency valve to the manifold valve, and one suggested that valves are reliable and no backup valve is needed. Two objected to the high cost of a motor operated valve and said that portable communications are sufficient. The final rule does not specify a second valve, although that may be the cheapest or easiest emergency means of shutdown. The means, which may be a combination of pump control, surge tanks and valve controls, are left to the facility operator, together with the specific location. The primary intent is to avoid large continuing discharges due to failures of hose, loading arms or manifold valves, which are the most likely points for a rupture or accident during oil transfers.

(g) One comment stated that there is no rational relation between the effective date for existing facilities and the time required to stop the oil flow. The final rule has been changed to require facilities and parts of facilities that start operations before November 1, 1980 to achieve emergency shutdown within 60 seconds. All existing facilities thus have substantial time to ensure they can shutdown within that time limit. Any facilities starting operations after that date must be able to shutdown within 30 seconds of discovery of the oil discharge.

(h) One comment suggested letting the COTP require devices where a facility has a poor oil spill record. Emergency shutdown is important for all facilities, since lack of prior spills does not rule out accidental damage to the manifold valve.

19. § 154.560—One comment suggested vessels post a bond before receiving expensive commications gear provided by a facility. The security of communications gear is a matter between the facility and vessel. Paragraph (e) has been modified to correct the references to 46 CFR 110.

20. § 154.570—(a) One comment asked if the facility must provide adequate lighting for vessel to vessel transfers at the dock. Self-propelled vessels are required by section 155.790 to provide their own lighting and that for barges moored to them for oil transfer. A facility must provide lighting for all barges at the facility where no self-propelled vessel is involved.

(b) One comment asked why lighting is singled out for special testing when the COTP has authority to require necessary testing of all facility equipment. The final rule relaxes the prior requirement to meet specific lighting intensities during all oil transfer operations between sunset and sunrise. Only when the lighting appears

inadequate to the COTP is specific testing necessary. Lighting is a basic prerequisite for any night operation and objective standards are needed where the COTP is in doubt as to the adequacy of lighting.

(c) One comment suggested modifying paragraph (d) to change "interfere" to read "distracting or misleading" to navigation. The wording has been changed in the final rule to insure that lighting is shielded so that navigation on adjacent waterways is not adversely affected. The COTP must decide if there is interference with navigation.

(d) The illumination levels in paragraph (b) (1) and (2) have been left at 5.0 and 1.0 foot candles, as in the present rule. Those levels were based on a 1972 Coast Guard survey of facility lighting. No new data indicates a lower level is sufficient. The same is true for vessel lighting in section 155.790(b) (1) and (2).

21. §§ 154.710 and 154.730 as proposed are withdrawn. The existing sections 154.710 and 154.730 remain in effect although not republished with this final rule.

22. § 154.740—One comment suggested that records over 24 months old are not needed. In paragraph (e) of the final rule "each inspection" was changed to "all inspections * * * within the last 3 years". This will give the COTP a reference point to ensure that prior deficiencies have been corrected, but will allow facilities to dispose of inspection records after a reasonable period.

Specific Comments: Part 155

1. § 155.100—(a) One comment stated that it is not clear that all vessels operating in U.S. waters are subject to Part 155. The definition of "vessel", in subsection 311(a)(3), FWPCA applies to these regulations. It applies to all vessels, foreign or U.S. in the navigable waters of the U.S., or in the contiguous zone. A proposal to extend the regulations in 33 CFR 154, 155, and 156 beyond the contiguous zone, as the Clean Water Act of 1977 permits, is being prepared.

(b) Three comments suggested that this section departs from the 1973 Convention and should not apply to foreign vessels, unless provision is made for certification of foreign equipment. The existing Part 155 applied to foreign vessels too, as does the final rule. 46 CFR 162.050 (44 FR 53352, September 13, 1979) allows for certification of foreign equipment; however, sections 155.330 through 155.410 are not being issued as final rules due to substantive changes in the requirement for oil water separators on small vessels.

(c) One comment misinterpreted the last sentence in the proposed section to exempt uninspected U.S. vessels from compliance with Part 155. The last sentence has been deleted since it adds nothing to the regulation and is misleading. Part 155 applies to all vessels (not public vessels), foreign or U.S. 46 CFR Chapter I states that to get a Certificate of Inspection U.S. vessels must comply with Part 155 design and equipment requirements, among other requirements. Another comment asked if Part 155 applies to uninspected river towboats. The answer is yes, if they meet the criteria specified in the applicable section.

(d) One Coast Guard comment suggested that vessel to vessel transfers be treated like a facility type operation. The final rule standards are sufficient as written. A notice of proposed rulemaking for offshore lightering operations was published on May 31, 1979, 44 FR 31486.

2. § 155.105—(a) The definitions in § 154.105 apply to Part 155.

(b) One comment suggested specific definitions of "oily residue" and "oily mixtures". These are not terms of art and have their general meaning of some type of combination of oil and water or other material.

3. § 155.107—(a) The EPA recommended that each request for an alternative should document the equivalency of the alternative proposed. This was added to paragraph (a)(3) in the final rule and requires an equivalent level of safety and environmental protection.

(b) Also, to avoid requests for alternatives where not essential, the requirement was added that compliance with the existing regulation must be shown to be economically or physically impractical. This will avoid excessive local modification of the regulations.

(c) One comment suggested that the COTP respond to alternative requests within 30 days, and this has been added in paragraph (b) because it is a reasonable period of time.

4. § 155.110—One comment suggested adding "or creates a safety hazard" to paragraph (a)(2)(i). Paragraph (a)(2)(ii) has been changed to expressly add safety as a consideration in granting exemptions. See also paragraph 4(d) of the Part 154 preamble comments.

5. § 155.310—(a) The language in paragraph (a)(1) (i), (ii), (iii), (iv) and (v) was changed to clarify the requirements for hoses and loading arms.

(b) Paragraph (b)(1) was changed to require that the specified capacity exist in all conditions of vessel list or trim during the loading operations as required by paragraph (a)(1), and paragraph (b)(2) was changed to expressly allow fixed or portable containers within the coaming allowed for tank barges.

(c) New material was added at (b)(3) and (4) to make clear that if a tank barge uses a coaming instead of complying with paragraph (a), it must still be able to keep leaked oil within the coaming and portable containers until properly drained or removed, without discharging oil into the water.

(d) One comment suggested adding a definition of "mechanical means of closing scuppers" to paragraph (a)(3). The means that are acceptable are valves, threaded caps, or threaded plugs which eliminate the need for placing rags, concrete, plastic or wooden plugs or devices in or over drains in the fixed containment system. The procedures presently required by 46 CFR 35.35–10 for plugging general deck scuppers remain valid.

(e) Twelve comments suggested that facilities receive the product from tank barge containment systems because barges lack easy means to drain fixed containment. These regulations are not designed to require facilities to provide services to vessels. Arrangements between vessels and facilities for removal of oil spilled into containment systems are certainly permissible, but this is a matter to be resolved by those parties.

(f) Two comments suggested peripheral coaming instead of 4–6" coaming around each tank hatch. Coaming around the edge of a tank barge's entire deck poses serious safety and stability problems, which make it undesirable.

(g) One comment suggested that the size of tank barge coaming be left to local COTPs. The COTP may grant alternatives where the conditions of § 155.107 are met, however, generally, the 4–6" size is reasonable.

(h) One comment suggested that tank barges should not have a choice of paragraphs (a) and (b) but should have to have 4–6" coamings in all cases. Barges should be encouraged to meet the stricter requirements in paragraph (a) if possible, but they should not be forced to have coamings. Thus, compliance with (a) is preferred, with (b) as the alternative only for barges.

(i) One comment suggested deleting "without mixing incompatible products" from paragraph (a)(2), and this has been done for the reasons stated in paragraph 2(e) of the Part 154 preamble comments.

(j) One comment suggested that (a)(1) is inconsistent with (b) (1) and (2) in regard to fixed or portable containment.

All tank vessels are required to have fixed containment, except tank barges, which must have either fixed containment or 4–6" coamings around each hatch, manifold and transfer connection with portable or fixed containers under each manifold or transfer connection point within the coaming. Barges are allowed an option which other tank vessels do not have due to deck construction which often makes large fixed containment impractical or unsafe.

(k) One comment suggested that alternative solutions for barge operators under paragraph (b) should be clarified as it is for all tank vessels in paragraph (a). Subparagraphs (3) and (4) have been added to clarify what barge operators must do if they choose the option in paragraph (b). There are no varying containment sizes as in (a); a barge need only have a one-half barrel capacity within a 4–8" coaming due to limited deck space on barges.

6. § 155.320—(a) One comment suggested that fixed containment only be required for vents or overflows in an area not enclosed by a coaming with closable scuppers. If the vents or overflows are in an enclosed area with the required capacity they are in compliance. As noted above, however, a peripheral coaming is not allowed due to the safety and stability hazard.

(b) Several comments questioned the clarity of the requirements. The section was reworded to make it less confusing. Although the section applies to all vessels of 100 or more gross tons, the first division was made by construction dates and then gross tonnage.

(c) One Coast Guard unit commented that 5 gallons containment capacity is too small for vessels of 300 gross tons or larger. The five gallon capacity applies to each fuel oil or bulk lubricating oil tank vent, overflow and fill pipe, and is limited to existing vessels over 300 gross tons. This "grandfather" provision was to avoid expensive retrofitting of existing vessels. New vessels of 300 or more gross tons must have at least one-half barrel containment for each fuel oil or bulk lubricating oil tank vent, overflow and fill pipe.

(d) Several comments concerned whether the containment was required at all times or only during transfers. The section has been revised to require fixed containment at all times to ensure it is available at the time of transfer. Portable containment, where allowed, need only be in place during oil transfer operations. Portable containment may be provided by the facility or the vessel.

(e) A Coast Guard district office commented that "lube oil" is mutually excluded from sections 155.310 and 155.320. As noted in paragraph 2 of the preamble to the proposed regulations (42 FR 32670), the exemption throughout Parts 154, 155, and 156 for lube oil is deleted. When lube oil is carried as cargo the vessel must comply with section 155.310 for containment. Section 155.320 is revised in the final rule to cover lube oil which is carried in bulk as stores for consumption by that vessel. Few vessels carry large quantities of lube oil in bulk for their own consumption, but those which do are subject to this section rather than section 155.310 which covers only cargo oil.

7. Sections 155.330 through 155.410 as proposed require a supplemental notice of proposed rulemaking to allow public comment on the substantial changes necessitated by comments received on the initial proposal. The existing regulations in sections 155.330 through 155.410, therefore remain effective. The economic and environmental analyses for all of Parts 154, 155, and 156, except those sections, have been revised to cover the impact of all revisions, except those dealing with oil water separators, monitors, alarms, and other equipment required by proposed sections 155.330 through 155.410. New economic and environmental analyses for those sections will be completed before a final rule is issued on proposed sections 155.330 through 155.410.

8. § 155.440—(a) Thirteen comments were received that existing placards should be grandfathered. This has been done by adding a new paragraph (b). The minor wording change in the placard clarifies the scope of the pollution laws. Existing stocks of placards manufactured before the effective date of this final rule may be used for the life of the placard.

(b) Two comments suggested that foreign vessels should be exempt because translations would be needed, but one stated that English should always be used since it is the language of the "international fleet". Foreign vessels are not exempt. The placard should be readable by the crew on board so they will know not to spill oil. Not all vessel crews know English, but all are liable for an oil spill and need to know that.

9. § 155.700 and § 155.710—As a result of numerous comments received on these sections and recent IMCO tankerman discussions, the Coast Guard plans to issue a new proposal for these sections. The existing sections 155.700 and 155.710 therefore remain in effect, and sections 155.700 and 155.710 as proposed are withdrawn in the final rule.

10. § 155.720—(a) The intent of this section is that the oil transfer procedures must be on board whenever the vessel is in operation, while their use is required only during transfer operations.

(b) Twenty comments suggested that paragraph (b) should be deleted since there is no threat from tank to tank transfer. This has not been done because a number of Coast Guard districts have documented spills from fuel day tank transfers, cargo tank transfers and other internal vessel transfers. The procedures for internal vessel oil transfers need not be so complex as cargo or fuel oil transfers to a facility or another vessel, but they should be written, available and referred to before and during internal transfers. The Pollution Incident Reporting System (PIRS) documents approximately 140 spills from internal vessel transfers each year (1973–1977). There were 138 spills of a total volume of 23,811 gallons of oil in 1977 from such transfers. Contact with the First, Eighth, Eleventh and Twelfth Coast Guard Districts recently emphasized that procedures are necessary to prevent spills from internal oil transfers.

(c) Three comments suggested that tugs should be exempt. Specific types of vessels should not be exempt; the main criterion is capacity for 250 or more barrels (10,500 gallons) of oil.

(d) Two Coast Guard districts suggested that a requirement be added in Part 156 to use the procedures for tank to tank transfers. Section 155.730 states that the vessel operator shall require the use of the oil transfer procedures for each transfer. Section 156.120(u)(3) requires the vessel person in charge to conduct each transfer operation in accordance with the oil transfer procedures. Section 156.120(v)(2) requires that all vessel personnel involved follow the oil transfer procedures for each transfer. "Transfer" is defined in Parts 154, 155, and 156 to include transfers within a vessel.

(e) Two comments objected to possible varying COTP interpretations. The final rule makes it clear that the oil transfer procedures are required on board at all times, not just during oil transfers. That had been the subject of varying interpretations. As far as the content of the vessel procedures is concerned, if one COTP or OCMI approves of them, other COTPs or OCMIs will generally accept them. However, each COTP or OCMI may require changes based on local conditions. This preamble explains the intent, but alternatives may be requested as needed.

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(f) One comment stated that because fueling procedures are posted no manual is needed. Section 155.740(b) allows posted procedures. Oil transfer procedures with the contents required by section 155.750, can be simple enough to be posted. No separate manual is necessarily required.

11. § 155.740—One comment suggested that English alone should be required since it is the "official language" of the fleet. There is no true "official language" of the fleet, and the intent is that primary vessel personnel involved in oil transfers know the procedures regardless of their language. Vessel owners and operators make the decision what crews to hire, but whoever they have transferring oil must know how to do it with minimal risk of pollution.

12. § 155.750—(a) Nineteen comments addressed the requirement for the procedures to be in a certain order. The section has been amended in the final rule to allow use of a cross-referenced index for the specified order.

(b) Five comments stated that the transfer procedures should not be detailed training manuals for certified tankermen. The Coast Guard disagrees. In addition to the general knowledge a qualified tankerman has, the details for each vessel should be at the transfer site for use by the person in charge.

(c) Three comments suggested rewording paragraph (a)(4) [now (a)(3) in the final rule) to require the person in charge to be responsible for having the proper number of persons on duty. The proper number of personnel required for each type of transfer should be determined well in advance. Section 155.730 makes it clear that the vessel operator is responsible for maintaining and requiring vessel personnel to comply with the procedures. Section 156.120 (t) and (u) places the burden of compliance with the procedures on the person in charge and each person required to be on duty. Therefore, all involved vessel personnel are required to follow the oil transfer procedures approved by the COTP or OCMI.

(d) Three comments suggested deleting paragraph (a)(7), (10), (13), (14), and (15), since this material is covered elsewhere and the person in charge must already know it. Paragraph (a)(13) has been deleted, but (a)(7), (10), (14), and (15) remain in the final rule because it is necessary to specify how to meet those requirements in the oil transfer procedures. Knowledge by the person in charge is not enough; the vessel operator must ensure the procedures are effective and followed. In the final rule, paragraph (a)(7) has been moved to (a)(6); (a)(10) to (a)(2)(iii); (a)(14) to (a)(10); and (a)(15) to (a)(1) (i) and (ii).

(e) Two comments suggested that NVC 9–73 be incorporated into this section so it would not be used as a training manual. NVC 9–73 was issued over 5 years ago as an interpretation of the existing regulations. It does not belong in the regulations and is obsolete to the extent that the regulations have been changed. This preamble and the preamble to the proposal should answer most questions of interpretation. The guidance found in the preambles and any new guidance will be placed in the Marine Safety Manual (CG–495).

(f) Two comments suggested that listing all grade and trade names is an undue burden. Paragraph (a)(1) has been changed to require the generic or chemical name; to require cargo information described in § 154.310(a)(5)(ii) of this chapter; and to delete data on incompatible products for the reasons stated in paragraph 2(e) under the Part 154 preamble comments. The names are necessary to determine application of the oil transfer procedures.

(g) One comment suggested that duties not be preset by title in paragraph (a)(5) (now (a)(4)). The duties are preset by title to ensure that required functions are carried out regardless of personnel changes and to ensure that adequately qualified persons are assigned to each task.

13. § 155.760—(a) Four comments objected to possible varying amendments by different COTPs or OCMIs. The section allows for a petition to the Commandant which will resolve any conflicting requirements. Also an alternative may be requested from the COTP under section 155.107, if necessary.

(b) One comment suggested letting operators make amendments. The COTP or OCMI normally initiates the amendment process, however, the vessel operator may change the oil transfer procedures at any time, since there is no "letter of adequacy" for oil transfer procedures. Also, in response to COTP or OCMI initiated changes, a vessel operator may suggest amendments and may petition to the Commandant if the amendment is denied by the COTP or OCMI.

14. § 155.770—(a) Four comments suggested that this section be deleted as impractical and unnecessary. The intent is to prevent intentional use of the bilges for collecting waste oil and the final rule has been changed to prohibit intentional draining only. The bilge oil water separator requirement has been postponed, and greater control is needed to prevent the discharge of oil into the water during bilge pumping, which is an increasingly serious problem according to Coast Guard statistics.

(b) Five comments suggested exempting emergency situations as determined by the person in charge. This cannot be specified in the regulations, but common sense dictates that personnel safety will take precedence over pollution prevention. If a spill occurs, a civil penalty will be assessed. However, the existence of an emergency (as determined by the hearing officer) will be considered in determining the gravity of the violation and the amount of the penalty. If any pollution prevention regulation is violated, oil is spilled as a result, and if no true emergency existed at the time, the penalty is likely to be heavier. In addition, a penalty of up to $5,000 may be assessed for the violation of the prevention regulation itself.

(c) One comment stated that this section contradicts § 155.330 which assume that oil will be in the bilges and will need to be separated through an oil water separator. The regulation seeks to minimize the amount of oil introduced into bilges. Oil will still accumulate in the bilges to some extent. The oil water separator proposal (withdrawn from this final rule) would allow discharge of water from bilges after the oil had been separated.

15. § 155.780—(a) Two comments stated that personnel are readily available to close manual valves to stop oil from siphoning through a pump. In an emergency, many other things will be required, especially in a marine disaster, such as fire or collision, and manual shutdown may well be impractical. This requirement was already in the existing regulation.

(b) One comment suggested that paragraph (a) specify the vessel person in charge. This would normally be the case, but the regulation should not preclude a facility person in charge from acting. This section addresses the requirement to have a means of emergency shutdown on a vessel, not who uses it.

(c) One comment suggested setting a minimum time for closing a "quick-acting power operated valve" to prevent surging, and forbidding the use of such valves with reciprocating cargo pumps. The Coast Guard is currently reconsidering the use of quick acting valves. The final rule has been changed to clearly indicate a performance requirement, rather than require specific equipment. Surge tanks and pump control or other devices or procedures could well suffice. Vessel operators are given the option of a pump control, valve or other means and they may choose the means best suited for their engineering plant.

16. § 155.785—One comment suggested that voice communications are adequate when vessels are side by side transferring. The regulation requires continuous communication in order to insure rapid shutdown is possible among other reasons. Voice may not be sufficient due to noise levels in the area. Paragraph (d) has been modified to correct the references to 46 CFR 110.

17. § 155.790—(a) One comment asked why a test is only required for lighting. The existing regulation required the same test standards for all night operations. The final rule relaxes that requirement to apply only in cases where lighting appears inadequate to the COTP or OCMI. Objective standards are needed in such cases. Lighting is a basic requirement for any night operation, and it is essential for safety and pollution prevention.

(b) See also paragraph 20(d) of the part 154 preamble comments.

18. § 155.800—A Coast Guard unit suggested adding "and § 156.170" after § 154.500 to ensure that vessel operators have only inspected hose on board. The suggestion was not adopted, because the intent of the regulations is to impose a sanction only if the uninspected hose is used in oil transfer.

19. § 155.805—(a) The Second Coast Guard District commented that vessel closure devices should be in place at all times, not just during transfer operations unless the transfer system is empty and gas freed. The final rule has been reworded accordingly to implement the intent of the proposal that all oil hoses for a vessel's transfer system be blanked off at all times when not connected for oil transfer.

(b) Two comments suggested that new or standby hose be exempt from this section. Paragraph (b) has been added in the final rule to exempt only new hose that has never been used for oil transfer, and could therefore contain no oil residue.

20. § 155.815—(a) Paragraph (a) in the final rule has been revised to apply only to tank vessels, to expressly include a vessel at anchor, and to change "secured" to "closed" to clarify that the listed openings must be tightly shut to prevent the entry of water or loss of oil, except as allowed by paragraph (b).

(b) Paragraph (b) has been added in the final rule in response to six comments that the rule would prevent supervised tank cleaning, repairs, testing or purging while underway. As revised, any closure mechanism may only be opened underway after express authorization from a licensed officer or a tankerman required by 46 CFR 31.15–5(a). The actual cleaning, repair or other operation must also be supervised by a licensed officer or a tankerman required by 46 CFR 31.15–5(a) to ensure that the closure mechanism is properly opened and closed.

(c) One comment suggested that a paragraph be added to require the tankerman in charge to ensure that all openings on unmanned barges are closed prior to getting underway. The person in charge of transferring oil to or from a barge may be from the towing vessel or from a facility. The vessel operator must be responsible for the vessel's safety and for preventing the loss of oil into the water. Good seamanship requires that a towing vessel operator ensure the seaworthiness of any towed barge, rather than rely on some facility person in charge of oil transfer.

(d) Four comments suggested that this section apply only to loaded vessels. The final rule has been changed to apply only to tank vessels, which includes tank barges. "Tank vessel" is defined in this final rule as a vessel that carries oil in bulk as cargo or in residue. Thus, when tank vessels have oil cargo or oil residue onboard while in U.S. navigable waters or the contiguous zone they must comply with this section. Tank vessels that are gas free are clearly not covered by this section.

21. § 155.820—(a) Eight comments suggested that the Declaration of Inspection (DOI) be kept ashore in the case of barges. Barges have tubes or "mailboxes" for holding the Certificate of inspection, which may also be used for the DOI. The vessel records should be readily available to Coast Guard personnel who board the vessel.

(b) The requirement to keep records on valve inspection has been deleted, since 46 CFR 61 adequately regulates valve inspection.

Specific Comments: Part 156

1. § 156.100—(a) Three comments suggested correcting "156.170" to read "156.100" and this clerical error has been corrected.

(b) Three comments suggested that facility operations covered under this regulation be exempt from all portions of 33 CFR 126 not specifically cited. This has not been done in the final rule because Part 126 is currently being corrected to eliminate any duplication with 33 CFR 154 and 156, as well as other facility regulations.

(c) The wording has been changed slightly to clarify that oil transfers within a public vessel and the oil transfer operations on a public vessel are not covered by these regulations. However, public vessels are usually required by internal guidelines to meet or exceed FWPCA standards. All other vessels with a capacity of 250 or more barrels of oil are regulated for transfers to, from or within them, including fuel and lube oil internal transfers, which have been the source of numerous spills in the past.

2. § 156.105—(a) The definitions for this part are listed in Part 154 and are cross-referenced to avoid repetition.

3. § 156.107—(a) The comments for § 154.107 are also applicable to this section.

(b) Two comments suggested that alternatives, once granted, should be permanent, barring any future amendments to the statute or regulations. This is not feasible since local circumstances change and vessels transit more than one COTP zone. COTPs will normally honor alternatives granted by other COTPs or OCMIs, but a COTP may rescind an alternative that another COTP previously allowed based on actual operations on the facility or vessel, or due to some change in circumstances that makes the alternative unsafe or creates an unreasonable threat of pollution.

(c) Safety has been added to paragraph (a)(3) to ensure that an alternative is as safe as the regulatory requirement.

4. § 156.110—One comment suggested adding to (a)(2)(i) "or creates a safety hazard". The regulations should not create a safety hazard. If a safety hazard is created, it would be treated as making compliance "physically impractical", and the regulation would be amended to remove the hazard. Safety has been added to paragraph (a)(2)(ii), however, to ensure that the alternatives considered provide equivalent safety and environmental protection. See also paragraph 4(d) of the Part 154 preamble comments.

5. § 156.112—(a) One comment stated that this section (and § 156.113) is dictatorial and does not allow sufficient time for rebuttal by an operator. The intent of the regulation is to allow rapid suspension orders for serious conditions which threaten an imminent discharge of oil. A sentence was expanded to also allow suspension if the COTP or OCMI is not permitted to inspect the operation to ensure compliance with the regulations.

(b) Another comment objected to inexperienced personnel making the costly decision to stop oil transfers. Each COTP or OCMI has either delegated this authority to trained personnel or requires COTP or OCMI express approval prior to suspending operations. The COTP or OCMI should immediately be advised of any action

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suspending an oil transfer operation, and in most cases is consulted by his or her representative prior to any suspension order. In any event, the operator is free to immediately contact the COTP or OCMI to question the suspension order or to advise of corrective action taken or planned to have the order lifted.

6. § 156.113—This section was changed to permit the applicable OCMI or District Commander as well as the COTP to withdraw a suspension order. The final rule has also been substantially changed to ensure a rapid and fair appeal process for suspension orders. The intent is to have the same Coast Guard official who issued the suspension order or the District Commander withdraw it.

7. § 156.115—(a) Seventeen comments suggested that the existing rule be retained due to a fear of the COTP being too conservative in allowing one person to supervise more than one transfer at a time. The general rule should be that the facility and each vessel have a person in charge of an oil transfer, unless the COTP determines there is no increased risk of pollution from supervising more than one vessel. There are too many variables to list all of them in the regulation. In some cases, the conditions imposed in old section 156.110 were too restrictive and in others too loose to ensure proper supervision.

(b) One comment suggested deleting the requirement in paragraph (b) that the vessel and facility operators must agree before one person can act as person in charge of the oil transfer operation on both a vessel and a facility at the same time. This requirement has been deleted as not appropriate. However, the intent remains that the COTP should not approve of such a procedure if either the vessel or facility objects to it. Both persons in charge are required by section 156.120 of this chapter to agree on the procedures during transfer before the operation starts.

(c) One comment requested to know the intent behind the revised section. The intent is to remove specific conditions for serving as the person in charge for more than one vessel at a time. The decision is to be made by the COTP concerned, bearing in mind the general rule that normally each transfer operation should have its own person in charge.

(d) The Seafarers International Union suggested that a certified tankerman be required as a facility person in charge. The Coast Guard does not have the same certification authority for dock workers that it has long had for vessel personnel. Also, the facility personnel do not need all of the training required for a vessel tankerman. The facility person in charge criteria in section 154.710 are sufficient.

8. § 156.118—New section 156.118 has been added to the final rule in response to thirty-three comments that the 4 hours advance notice required for all transfers by subsection 156.120(a) is unnecessary and often impossible to meet. As changed, the 4 hours advance notice is discretionary with the COTP. It may only be required for oil transfer operations at facilities which meet the criteria in paragraph (a)(1)–(4), or for any vessel to vessel transfers.

9. § 156.120—(a) Proposed paragraph (a) of this section has been revised and moved to new section 156.118. Also, paragraph (m) has been added to ensure that whenever pretransfer booms are required they are in place before the transfer starts. The remaining paragraphs in this section have been relettered accordingly.

(b) One comment stated that this entire section is too detailed and the average tankerman lacks the education or desire to comply. The obligation for compliance falls on vessel or facility owners or operators as well as the personnel performing the transfer operations. Vessel and facility owners and operators are responsible for the actions or inactions of their employees, and have the responsibility to train personnel and demand compliance with safety and environmental standards. Because personnel error is the predominant cause of oil pollution, training and personnel compliance are essential to any pollution prevention program.

(c) One comment suggesting limiting this section to oil transfers of more than 250 barrels. The threat of pollution is best gauged by the capacity of the vessel transferring oil, and not the actual amount to be transferred. Section 156.120 specifies that oil transfers to or from a vessel with a capacity for 250 or more barrels of oil are regulated.

(d) One comment requested more specific criteria in proposed paragraph (b) (paragraph (a) in the final rule) for mooring. The intent of this requirement is to ensure that mooring lines are regularly checked throughout the transfer operation to prevent parting or strain on hoses that could well lead to an oil spill.

(e) One comment suggested that proposed paragraph (d) (paragraph (c) in the final rule) should include that "hose supports must be non-damaging to the cover or inner hose components." This suggestion was accepted by adding that hose should be supported to prevent "other damage" to it.

(f) One comment noted that proposed paragraphs (f) and (h) (paragraphs (e) and (g) in the final rule) conflict with the fixed piping requirements of 46 CFR 35.35–20. This comment exceeds the scope of the present regulations, since it deals with requiring fixed piping for substances other than oil. There are no conflicts with any section in 46 CFR 35.

(g)(1) Seven comments suggested that proposed paragraph (g) (paragraph (f) in the final rule) be revised to require blanking of hose except when disconnected at both ends. This has not been done since totally disconnected hose can have oil residue. However, sections 154.520 and 155.805 exempt new and unused hose from the blanking requirement.

(g)(2) One comment suggested that proposed paragraph (g) (paragraph (f) in the final rule) be clarified that closure devices are not part of the hose. This has not been done in the final rule, since the reference to sections 154.520 and 155.805 clearly indicates the nature of the closure devices.

(h) One comment objected to the "deep tank" exemption in proposed paragraph (h) (paragraph (g) in the final rule) due to safety considerations. NAVIC 9–73 stated that the existing rule in paragraph 156.120(f), which requires fixed piping with no "deep tank" exemption, superseded 46 CFR 35.35–20(d), which allowed loose hose transfers over the top for Grade D and E cargoes. 46 CFR 35.35–20(d) was to be amended accordingly, but never has been. Due to the fire hazard (static electricity combustion) produced from free falling Grade D and E cargoes, and the health hazard posed to personnel in the cargo hold above the "deep tank" from fumes, the proposed exemption has been deleted from paragraph (g) in the final rule. The existing rule does not allow the exemption, so there is no retro-fitting problem posed by deleting the exemption. Although there would be no direct pollution risk from the exemption, the fire and asphyxiation hazards preclude the exemption.

(i)(1) Five comments stated that proposed paragraph (i) (paragraph (h) in the final rule) is unreasonable and could cause spills if the ballast system is secured during transfer. They stressed that on a VLCC the draft and windage areas are controlled by ballast to ease the strain on mooring lines, and that time will be lost if ballasting and oil transfer are not done at the same time. The requirement has been modified slightly in the final rule to allow the ballasting and deballasting of segregated ballast tanks (SBT) and dedicated clean ballast tanks (CBT) in compliance with 33 CFR Part 157. In addition, the requirement allows the simultaneous ballasting and discharge of cargo tanks on a tank vessel with a crude oil washing (COW) system to prevent hydrocarbon vapor omissions in U.S. ports, provided the operation is conducted in compliance with 33 CFR 157. This modification prohibits simultaneous cargo transfer and ballasting or deballasting of cargo tanks except for specific circumstances which have been internationally accepted by the 1978 Protocol to the 1973 Marine Pollution Convention. These circumstances which allow simultaneous ballasting and cargo transfer are:

a. ballasting or deballasting SBT because the pump and piping system are separate from the cargo system;

b. ballasting or deballasting CBT in accordance with 33 CFR 157, which requires a double valve separation between CBT and cargo tanks that must be closed when loading cargo tanks; and

c. simultaneous ballasting and cargo discharge in accordance with 33 CFR 157 to prevent hydrocarbon vapor emissions on a tank vessel with a crude oil washing system.

The intent is to prevent accidental mixing of ballast water and cargo oil or loss of oily mixtures to the water.

(i)(2) Two comments stated that proposed paragraph (i) (paragraph (h) in the final rule) failed to delete the prior requirement to lock valves and also failed to prohibit simultaneous oil transfer and ballasting. As noted in paragraph 9(i)(1) above, segregated ballast tanks (SBT) or clean ballast tanks (CBT) may be ballasted or deballasted safely during an oil transfer. Valves should be sealed to warn against opening, but not locked, because locking valves prevents their use in an emergency, is an unsafe practice, and is prohibited by 46 CFR 35.35–10.

(i)(3) One comment suggested changing the wording in proposed paragraph (i) (paragraph (h) in the final rule) to read "each overboard discharge or sea suction valve that is connected to the vessel's oil transfer or cargo tank system not independent from tanks carrying cargo or transfer systems involved in cargo operations is to be sealed and lashed in the closed position." This wording is too confusing. The final rule has been changed, as noted in paragraph 9(i)(1) above, to allow SBT, CBT and crude oil washing (COW) procedures in compliance with 33 CFR 157.

(j) Six comments suggested defining "loose covers" in proposed paragraph (j) (paragraph (i) in the final rule) and allowing repair of gouges, cuts and scratches. The paragraph has been changed to prohibit any unrepaired defect or any defect which allows oil to leak through the hose material. "Reinforcement" is defined in the regulation. However, if the first fabric layer (or "breaker" layer) is loosely woven and primarily intended to aid in bonding the cover to the rest of the hose, it is not considered a reinforcement layer. Hose repairs are allowed, provided the reinforcement is not penetrated, there are no leaks, and the hose, as repaired, meets the testing requirements in section 156.170.

(k) Three comments suggested deleting proposed paragraph (m) (paragraph (l) in the final rule). This has not been done, because, in the few cases where the COTP requires them, monitoring devices should be in use to warn of oil spills.

(l) Three comments suggested deleting the requirement in proposed paragraph (n) (paragraph (n) in the final rule) to have containment drained provided automatic level control equipment is in place. The paragraph has been changed to require periodic draining to maintain the specified capacity. Automatic level control equipment, if operating properly, could provide the periodic draining required by the rule. The equipment would have to be adjusted to ensure that the required capacity is available at all times.

(m) Eight comments suggested that some small leakage from connections should be allowed by proposed paragraph (p) (paragraph (p) in the final rule). The requirement is necessary since leaking is a sign of weakness in a connection and can easily lead to a rupture or larger leak. Paragraph (p) has been changed to specify that leaks not exceed the required containment during the transfer operation.

(n)(1) Seventeen comments suggested rewording proposed paragraph (t)(2) (paragraph (t)(2) in the final rule) to "readily available" rather than "in his possession." This requirement remains in the final rule. It is not necessary for the person to carry the guide. It is necessary that the person in charge have the appropriate transfer guide in his or her immediate area so that it may be consulted throughout the transfer operation without leaving the area. Since the person in charge is required to be at the site of the oil transfer operation, the guide must be there also to be effective and used. "Readily available" cannot be used because it could be interpreted as allowing the guide to be kept in an office or other location accessible to the person in charge.

(n)(2) Two comments suggested clarifying being "at the site of the oil transfer" in proposed paragraph (t)(1) (paragraph (t)(1) in the final rule). The paragraph has been modified to make it clear that the person in charge must be available to supervise all oil transfer personnel during the transfer. "At the site" means the transfer point is in sight, and that the person in charge is in a position to supervise the overall transfer operation and respond to emergencies immediately.

(n)(3) One comment stated that proposed paragraphs (t) and (u) (paragraphs (t) and (u) in the final rule) are redundant. The requirements are not redundant. Paragraph (t) applies to the person in charge and (u) requires all personnel to be on duty and comply with transfer guides. If the person in charge is the only person involved then he or she must comply with both (t) and (u).

(o) Two comments concerned the requirements for an interpreter to comply with proposed paragraph (v) (paragraph (v) in the final rule). The requirement remains the same. Clear communications between persons in charge are absolutely essential. The means to ensure this are left to the vessel and facility owners and operators, but no requirements are given for either to provide an interpreter.

10. § 156.125—(a) Six comments suggested revising paragraph (a) to require stopping only the transfer that caused a spill. This is too restrictive, since an oil spill at the transfer site will affect operations and spread if not rapidly contained and removed. Only rarely will an oil spill near an oil transfer operation be unrelated to the facility or vessel involved in the transfer.

(b) Five comments concerned the criteria for resuming transfer. The intent is to control the spread of oil as well as stop the source before resuming the transfer. COTP authorization is required for normal transfer resumption, not the removal of discharged oil from the water and return to proper storage. As long as removal by the spiller is proper, the COTP (on-scene-coordinator for response activities) will not interfere in the spiller's cleanup operation. Cleanup should start immediately upon discovery and reporting of the discharge to federal and state authorities.

(c) Ten comments stated that the tankerman should be allowed to keep pumping or resume pumping without COTP approval if it prevents a larger spill. It will rarely help prevent a larger spill to continue transfer. In any event, subsection 311(b)(5), FWPCA requires immediate notification of a spill, and COTP approval to continue pumping can

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be requested upon notification of the discharge.

(d) One comment suggested that spills into containment devices which do not exceed the required capacity should not require shutdown of the transfer. There should be no spills or leaks during transfer in the operations work area. Of course, a leak into containment devices is not treated as a discharge into the water, and if the leak can be stopped without stopping the transfer that is sufficient. However, the containment capacity must be available throughout the transfer. The intent is not to require the transfer to be stopped for periodic small leaks into the fixed small discharge containment.

(e) One comment stated that this section is unnecessary in view of the added spill containment. The spill containment size requirement of the existing rule has been decreased in the final rule, not increased. This section is necessary to insure that spills are contained and properly removed immediately and not after the transfer is completed.

11. § 156.130—(a) One comment suggested substituting "tight" for "leak-free" seal. This is not sufficient; no proper transfer operation should allow leaks at connections.

(b) Two Coast Guard units stated that (a)(2) conflicts with 33 CFR 126.15(o)(2)(v) and 46 CFR 35.35–15(a) on the number of bolts required for flanges. There is no conflict. 33 CFR 126.15(o)(2)(v) requires "sufficient bolts" and 46 CFR 35.35–15(a) requires no less than 3 bolts for cargoes subject to subchapter D. The final rule simply requires at least 4 bolts in the case of flanges used for oil transfer.

(c) One comment suggested that foreign flanges of equivalent standards should be allowed. Paragraph (a)(3) allows the use of non-ANSI standard flanges if a bolt is in every hole. Another comment suggested that there should be a bolt in each hole in temporary connections even if the flange meets ANSI standards. ANSI standard flanges will provide a leak-free seal if at least 4 bolts are used.

12. § 156.150—(a) Nine comments were received which stated that keeping the declaration of inspection (DOI) on board unmanned barges is not practicable. Stowage tubes and other devices are in common use for storage of the Certificate of Inspection (COI) and the Certificate of Financial Responsibility (COFR) on unmanned barges. The DOI can easily be stowed with the COI and COFR on board any barge.

(b) Ten comments concerned the detail and signing of the DOI. Initialling of specific items before signing is the best way to ensure that the proper procedures have been followed in the transfer. An improperly checked DOI is an indication that proper transfer procedures are not being followed. Spill reports have shown that more attention to the details on the DOI would have prevented a substantial number of spills. A sample DOI has not been provided because of the number of possible variations which still meet the requirements.

(c) One Coast Guard unit commented that the DOI should define what the requirements are, not just list regulation references. Paragraph (c)(4) states that the DOI must contain a list of "the requirements" in § 156.120. It is not sufficient to simply refer to the paragraph of § 156.120. For example, the DOI should state "Vessel moorings are strong enough to hold during all expected conditions during the transfer operation". A reference to § 156.120(b) may be added but not substituted for the actual requirement.

(d) A towing company commented that the regulation should require facilities to provide blank copies of the DOI to vessels, especially for unmanned barges. Facilities may provide this service, but it is improper to require it by regulations.

(e) Two comments requested that the existing DOI forms should be acceptable. Existing DOI forms, modified to add the new requirements in § 156.120 are permissible.

(f) One comment suggested 2 separate DOIs signed by the opposite party before transfer. One DOI is required with each person in charge keeping a copy. This documents that both the receiving and transferring party have followed all of the requirements, and ensures a pretransfer conference, since both persons in charge must use the same DOI before transfer.

13. § 156.160—(a) One comment stated that this section is redundant and should be deleted. This section is in the existing rule and has been retained in the final rule. It is important, because it clearly requires the person in charge to authorize oil transfers before they begin, and prohibits any oil transfer actions unless supervised by the person in charge.

(b) One comment stated that any licensed deck officer is competent to supervise the connecting of cargo hose. This is permissible, but the person in charge must approve of this indirect supervision. The person in charge is in overall control of the oil transfer operation.

(c) Two comments suggested that "immediate vicinity" should be interpreted to allow the person in charge to use a shelter off the vessel in bad weather. The person in charge may use a shelter during an oil transfer if that person is in a position to observe and properly supervise the transfer operation.

(d) One comment suggested that paragraph (b) should be revised to allow only the "appropriate person in charge" to start the transfer rather than have two persons in charge. Both persons in charge (on the transferring and receiving side of the operation) must have a pretransfer conference and sign the DOI before the transfer starts. However, either one may actually instruct personnel to physically start the transfer. This should be determined during the pretransfer conference.

14. § 156.170—(a) Four comments concerning paragraph (e), recommended that specified test fluids be compatible with the hose materials. Paragraph (e) has been revised in the final rule to specify the use of test fluids that are compatible with the hose tube according to the hose manufacturer. Although using compatible oils as test fluids could pose a risk of pollution, under proper test conditions any leaks should be readily detected and corrected without a discharge into the water, especially with required containment devices in place. The threat of deterioration by using high aromatic content test liquids is sufficient reason to modify the regulation.

(b) One comment suggested that paragraph (c)(1)(iii) should read "facility working pressure". This has not been done in the final rule, because it is not reasonable to rely on a facility to use a reduced working pressure. A procedure should not compensate for an acceptable equipment standard. Testing at 1½ times a lower pressure routinely used by a facility will not expose weaknesses if the facility decides later to increase the routine transfer pressure to the design maximum allowable working pressure.

(c) Four comments objected to a higher test pressure, and said it will not prevent failure shortly after testing. Another suggested that testing to the relief valve pressure is sufficient. The higher test pressure is highly likely to expose a weakness or leak under controlled conditions, where corrective action can take place before a spill. If only the MAWP is used for the test, there is only a random chance that any leak will be discovered and corrected then rather than during routine transfers, which may not be as well supervised as the tests.

(d) Paragraph (c)(1)(iv) is added to the final rule to give the COTP a means to determine how much damage to the hose can be permitted.

(e) The language in paragraph (a) concerning the frequency of testing has been modified and placed in a new paragraph (f). As revised, facilities must be inspected each year, while vessels must either be inspected annually or as part of both the biennial and mid-period inspections (which is essentially once a year).

(f) One comment suggested exempting submarine pipelines from paragraph (c)(4) and relying instead on visual inspections during normal operations. This has not been done in the final rule. Visual inspection of submerged pipelines is not adequate or practical in many cases. A fluid other than oil may be used if the integrity of the pipeline is really doubtful.

(g) A Coast Guard district suggested clarifying this section to cover transfers from, to or within a vessel. The new definition of "transfer" in § 154.105, which applies to Parts 154, 155, and 156 clarifies that the regulations cover internal vessel transfers as well as those to or from a vessel.

(h) A hose manufacturer suggested amending paragraph (c)(2) to indicate that relief valves are not part of the hose; should never be set higher than 1½ times the MAWP; and should normally not be set above the MAWP. This has not been done in the final rule. There is no indication that relief valves are a part of oil hose. The setting or relief valves varies and is a function of facility construction and transfer procedure.

(i) One comment questioned how hose can have no "external deterioration" and still be allowed to have cuts, gouges, and abrasions that do not penetrate the first layer of reinforcement. The regulation is intended to prohibit hose that is likely to leak. Deterioration is an indication of a serious defect or breakdown in the material of a hose, while minor surface cuts and abrasions are not as serious, and without penetration of the reinforcement are not likely to allow oil to leak through the hose.

(j) One comment requested a definition of "reinforcement", and stated that there is no reason to prohibit loose covers if the outer ply can be cut under the regulation. Paragraph 9(j) under Part 156 comments of this preamble addresses the question reinforcement and loose covers.

(k) Two hose manufacturers suggested that oil hose be tested only in a horizontal position. This has not been added in the final rule because a realistic test is required to detect leaks before they become oil spills. The normal transfer position of the hose is the most realistic test position.

Final Evaluation

1. These regulations are considered to be "nonsignificant" and accordingly, a final evaluation has been prepared and placed in the public docket as required by the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11040–11045). The DOT Order requires that each evaluation include an economic analysis which quantifies, to the extent practicable, the estimated cost of the regulations to the private sector, consumers, and Federal, State and local governments, as well as the anticipated benefits and impact of the regulations.

2. As explained more fully in the Final Evaluation filed in this docket, the estimated total cost to comply with the amendments to 33 CFR 154, 155, and 156 is less than $3.5 million a year. The estimated total cost of $232 million to the U.S. consumer over a 10 year period ($23.2 million a year) and the $65 million cost estimate over a 2 year period for the towing industry, which were discussed in the preamble to the proposed rule (42 FR 32673) have been greatly revised downward. This is because the proposal for oil water separators, monitors and alarms has been totally deleted from this final rule. A supplemental notice of proposed rulemaking will be published later under CGD 75–124a. That supplemental proposal will contain a new environmental and economic evaluation, and will take into account the numerous comments received on CGD 75–124, which opposed oil water separators, monitors and alarms, especially for vessels under 400 gross tons. It also will take into account the 1978 protocol which amended the International Convention for the Prevention of Pollution from Ships, 1973. The $3.5 million estimate will cover the administrative costs of amending facility operations manuals, vessel oil transfer procedures, and Declarations of Inspection, plus the cost of facility monitors to detect oil spills and deployment of oil containment material (booms, etc.) before transfer in the limited cases where COTPs feel such added precautions are necessary for proper oil transfer operations.

3. The ultimate benefits of these amendments will be to ensure environmentally safe oil transfer operations in a realistic and cost effective manner. A very real added benefit to industry will be more conservation of precious oil resources, which will be transported more carefully where these regulations are followed, and resultant savings from avoided penalties for oil discharges under 33 U.S.C. 1321(b)(3) and cleanup costs under 33 U.S.C. 1321(f). The benefit to the general public will be more healthful waters and better protected shorelines, plants and wildlife. The savings to federal, state and local government will be in avoided federal removal costs and costs to restore or protect wildlife and plants from oil damage. Accordingly, in Title 33 of the Code of Federal Regulations, §§ 154.100 through 154.700; §§ 154.740 through 154.780; §§ 155.100 through 155.320; §§ 155.440 through 155.480; §§ 155.720 through 155.820; and Part 156 are revised to read as follows:

PART 154—OIL POLLUTION PREVENTION REGULATIONS FOR MARINE OIL TRANSFER FACILITIES

Subpart A—General

Sec.

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Subpart D—Facility Operations

154.700 General.
* * * * * —
154.740 Records.
154.750 Compliance with operations manual.
154.760 Reserved.
154.770 Reserved.
154.780 Reserved.

Authority: 33 U.S.C. 1321(j)(1)(C); E.O. 11735, 3 CFR, 1971–1975 COMP., p. 793; 49 CFR 1.46(m).

Subpart A—General

§ 154.100 Applicability.

(a) Except as provided in paragraphs (b) and (c) of this section, this part applies to each facility that is capable of transferring oil in bulk to or from any vessel or public vessel with a capacity of 250 or more barrels of that oil.

(b) This part does not apply to a facility in a caretaker status (one that is not operational or not capable of conducting oil transfer operations).

(c) This part does not apply to a marina (a facility that services primarily pleasure craft) unless it engages in the transfer of oil in bulk to or from a vessel or public vessel with a capactiy of 250 or more barrels of that oil.

§ 154.105 Definitions.

As used in this part:

"Captain of the Port" (COTP) means the U. S. Coast Guard officer commanding a Captain of the Port Zone described in Part 3 of this chapter, or that person's authorized representative.

"Commandant" means the Commandant of the Coast Guard or an authorized representative.

"Contiguous Zone" means the entire zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone, but not extending beyond 12 miles from the baseline from which the breadth of the territorial sea is measured.

"District Commander" means the officer of the Coast Guard designated by the Commandant to command a Coast Guard District, as described in Part 3 of this chapter or an authorized representative.

"Facility" means either an onshore facility or an offshore facility and includes, but is not limited to structures, equipment, and appurtenances thereto, used or capable of being used to transfer oil to or from a vessel or a public vessel. A facility includes federal, state, municipal, and private facilities.

"Facility operator" means the person who owns, operates, or is responsible for the operation of the facility.

"Mobile facility" means any facility that can readily change location, such as a tank truck or tank car, other than a vessel or public vessel.

"Monitoring device" means any fixed or portable sensing device used to monitor for a discharge of oil onto the water, within or around a facility, and designed to notify operating personnel of a discharge of oil.

"Officer in Charge, Marine Inspection" (OCMI) means the U. S. Coast Guard officer commanding a Marine Inspection Zone described in Part 3 of this chapter, or an authorized representative.

"Offshore facility" means any facility of any kind located in, on, or under any of the navigable waters of the United States other than a vessel or a public vessel.

"Person in charge" means an individual designated as a person in charge of oil transfer operations under §§ 154.710 (for facilities) or 155.700 (for vessels) or this chapter.

"Tank barge" means any tank vessel not equipped with a means of self-propulsion.

"Tank vessel" means any vessel that carries oil in bulk as cargo or in residue.

"Transfer" means any movement of oil to, from, or within a vessel by means of pumping, gravitation, or displacement.

"Vessel operator" means a person who owns, operates, or is responsible for the operation of a vessel.

§ 154.106 Incorporation by reference.

(a) The American National Standards Institute (ANSI) standards referred to in this Part are incorporated by reference. The incorporation by reference was approved by the Director of the Federal Register under the provisions of 1 CFR Part 51 on December 20, 1978.

(b) The standards are on file in the Federal Register library, and copies may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, NY 10017.

(c) The standards may also be examined at the Merchant Marine Technical Division (G–MMT–2/TP12), Room 1214, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, DC 20593 ((202) 426–2160).

§ 154.107 Alternatives.

(a) The COTP may consider and approve alternative procedures, methods, or equipment standards to be used by a facility operator in lieu of any requirement in this Part if—

(1) compliance with the requirement is economically or physically impractical;

(2) the alternative provides an equivalent level of safety and protection from pollution by oil, which is documented in the request; and

(3) The facility operator submits a written request for the alternative.

(b) The COTP takes final approval or disapproval action on the request, in writing, within 30 days of receipt of the request.

§ 154.108 Exemptions.

(a) The Chief, Office of Marine Environment and Systems, acting for the Commandant, grants an exemption or partial exemption from compliance with any requirement in this part if—

(1) a facility operator submits an application for the exemption via the COTP; and

(2) it is determined, from the application, that—

(i) compliance with the requirement is economically or physically impractical;

(ii) no alternative procedures, methods, or equipment standards exist that would provide an equivalent level of safety and protection from pollution by oil; and

(iii) the likelihood of oil being discharged is not substantially increased as a result of the exemption.

(b) If requested, the applicant must submit any appropriate information, including an environmental and economic assessment of the effects of and reasons for the exemption, and proposed procedures, methods or equipment standards.

(c) The exemption may specify the procedures, methods, or equipment standards that will apply.

(d) An exemption is granted or denied in writing. The decision of the Chief, Office of Marine Environment and Systems is a final agency action.

§ 154.110 Letter of intent.

(a) The facility operator of any facility to which this part applies must submit a letter of intent to operate a facility or to conduct mobile facility operations to the COTP not less than 60 days before the intended operations unless a shorter period is allowed by the COTP. Previously submitted letters of intent need not be resubmitted.

(b) The letter of intent required by paragraph (a) of this section may be in any form but must contain—

(1) the name, address, and telephone number of the facility operator;

(2) the name, address, and telephone number of the facility or, in the case of a mobile facility, the dispatching office; and

(3) except for a mobile facility, the geographical location of the facility in relation to the associated body of navigable waters.

(c) The facility operator of any facility for which a letter of intent has been submitted, shall within five (5) days advise the COTP in writing of any changes of information and shall cancel, in writing, the letter for any facility at which oil transfer operations are no longer conducted.

§ 154.120 Facility examinations.

(a) The facility operator shall allow the Coast Guard, at any time, to make any examination and shall perform, upon request, any test to determine compliance with this part and part 156, as applicable. The facility operator shall conduct all required testing of facility equipment in a manner acceptable to the Coast Guard.

(b) The COTP shall provide the facility operator with a written report of the results of the examination for the record required by § 154.740(e) and shall list the deficiencies in the report when the facility is not in compliance with the requirements in this part and Part 156 of this chapter.

Subpart B—Operations Manual

§ 154.300 Operations manual: general.

(a) The facility operator of each facility to which this part applies shall submit, with the letter of intent, an operations manual that—

(1) describes how the applicant meets the operating rules and equipment requirements prescribed by this part and Part 156 of this chapter;

(2) describes the responsibilities of personnel under this part and Part 156 of this chapter in conducting oil transfer operations; and

(3) includes translations into a language or languages understood by all designated persons in charge of transfer operations employed by the facility.

(b) The facility operator shall maintain the operations manual so that it is—

(1) current; and

(2) readily available for examination by the COTP.

(c) The COTP shall review the operations manual when submitted, after any substantial amendment, and as otherwise required by the COTP.

(d) In determining whether the manual meets the requirements of this part and Part 156 of this chapter the COTP shall consider the size, complexity, and capability of the facility.

(e) If the manual meets the requirements of this part and Part 156 of this chapter, the COTP shall issue a "letter of adequacy" as described in § 154.325.

(f) The facility operator shall ensure that a sufficient number of copies of the operations manual, including a sufficient number of the translations required by paragraph (a)(3) of this section, are readily available for each facility person in charge while conducting an oil transfer operation.

Note.—The facility operator may request that the contents of the operations manual or portions thereof be considered commercial or financial information that is privileged or confidential. Under the Freedom of Information Act, the Coast Guard would withhold any part of the contents of the operations manual from public disclosure upon determining that it is commercial or financial information that is privileged or confidential.

§ 154.310 Operations manual: contents.

(a) Each operations manual required by § 154.300 must contain—

(1) The geographic location of the facility;

(2) A physical description of the facility including a plan of the facility showing mooring areas, transfer locations, control stations, and locations of safety equipment;

(3) The hours of operation of the facility;

(4) The sizes, types, and number of vessels that the facility can transfer oil to or from simultaneously;

(5) For each product transferred at the facility—

(i) Generic or chemical name; and

(ii) The following cargo information:

(A) The name of the cargo, as listed in Table 30.25–1 of 46 CFR;

(B) A description of the appearance of the cargo;

(C) A description of the odor of the cargo;

(D) The hazards involved in handling the cargo;

(E) Instructions for safe handling of the cargo;

(F) The procedures to be followed if the cargo spills or leaks, or if a person is exposed to the cargo; and

(G) A list of fire fighting procedures and extinguishing agents effective with fires involving the cargo.

(6) The minimum number of persons on duty during transfer operations and their duties;

(7) The names and telephone numbers of facility, Coast Guard, and other personnel who may be called by the employees of the facility in an emergency;

(8) The duties of watchmen, required by § 155.810 of this chapter and 46 CFR 35.05–15, for unmanned vessels moored at the facility;

(9) A description of each communication system required by this part;

(10) The location and facilities of each personnel shelter, if any;

(11) A description and instructions for the use of drip and discharge collection and vessel slop reception facilities, if any;

(12) A description and the location of each emergency shutdown system;

(13) Quantity, types, locations, and instructions for use of monitoring devices if required by § 154.525;

(14) Quantity, type, location, instructions for use, and time limits for gaining access to the containment equipment required by § 154.545;

(15) Quantity, type, location, and instructions for use of fire extinguishing equipment required by § 126.15(j) of this chapter;

(16) The maximum relief valve setting (or maximum system pressure when relief valves are not provided) for each oil transfer system;

(17) Procedures for—

(i) Operating each loading arm including the limitations of each loading arm;

(ii) Transferring oil;

(iii) Completion of pumping; and

(iv) Emergencies;

(18) Procedures for reporting and initial containment of oil discharges;

(19) A brief summary of applicable federal, state, and local oil pollution laws and regulations;

(20) Procedures for shielding portable lighting authorized by the COTP under § 154.570(c); and

(21) A description of the training and qualification program for persons in charge.

(b) The facility operator shall incorporate a copy of each amendment to the operations manual under § 154.320 in each copy of the manual with the related existing requirement, or add the amendment at the end of each manual if not related to an existing requirement.

(c) The operations manual must be written in the order specified in paragraph (a) of this section, or contain a cross-referenced index page in that order.

§ 154.320 Operations manual: amendment.

(a) Using the following procedures, the COTP may require the facility operator to amend the operations manual if the COTP finds that the operations manual does not meet the requirements in this part:

(1) The COTP shall notify the facility operator in writing of any inadequacies in the operations manual. The facility operator may submit written information, views, and arguments on and proposals for amending the manual within 14 days from the date of the COTP notice. After considering all relevant material presented, the COTP shall notify the facility operator of any amendment required or adopted, or the COTP shall rescind the notice. The amendment becomes effective 30 days after the facility operator receives the notice, unless the facility operator petitions the Commandant to review the COTP's notice, in which case its effective date is delayed pending a decision by the Commandant. Petitions to the Commandant must be submitted in writing via the COTP who issued the requirement to amend.

(2) If the COTP finds that there is a condition requiring immediate action to prevent the discharge or risk of discharge of oil that makes the procedure in paragraph (a)(1) of this section impractical or contrary to the public interest, the COTP may issue an amendment effective on the date the facility operator receives notice of it. In

such a case, the COTP shall include a brief statement of the reasons for the findings in the notice. The owner or operator may petition the Commandant to review the amendment, but the petition does not delay the amendment.

(b) The facility operator may propose amendments to the operations manual by—

(1) Submitting any proposed amendment and reasons for the amendment to the COTP not less than 30 days before the requested effective date of the proposed amendment; or

(2) If an immediate amendment is needed, requesting the COTP to approve the amendment immediately.

(c) The COTP shall respond to proposed amendments submitted under paragraph (b) of this section by—

(1) Approving or disapproving the proposed amendments;

(2) Advising the facility operator whether the request is approved, in writing, before the requested date of the amendments;

(3) Including any reasons in the written response if the request is disapproved; and

(4) If the request is made under paragraph (b)(2) of this section immediately approving or rejecting the request.

(d) Amendments to personnel and telephone number lists required by § 154.310(a)(8) do not require prior COTP approval, but the COTP must be advised of such amendments as they occur.

§ 154.325 Operations manual: letter of adequacy.

(a) The letter of adequacy is a letter, from the COTP to the facility operator, certifying that the operations manual meets the requirements of this part.

(b) No person may use an operations manual for oil transfer operations, as required by § 156.120 (t)(2), (t)(3), and (u)(2) of this chapter, unless the facility operator has a valid letter of adequacy for the operations manual.

(c) The requirement in paragraph (b) of this section for a valid letter of adequacy is effective either on (date three years after effective date of the final rule); upon issuance to a facility operator of the first letter of adequacy; or upon any substantial amendment to the operations manual, whichever is earliest.

(d) The letter of adequacy is voided if the facility operator—

(1) amends the operations manual without following the procedures in § 154.320; or

(2) fails to amend the operations manual when required by the COTP.

Subpart C—Equipment Requirements

§ 154.500 Hose assemblies.

Each hose assembly used for transferring oil must meet the following requirements:

(a) The minimum design burst pressure for each hose assembly must be—

(1) At least 600 pounds per square inch; and

(2) At least four times the sum of the pressure of the relief valve setting (or four times the maximum pump pressure when no relief valve is installed) plus the static head pressure of the oil transfer system at the point where the hose is installed.

(b) The maximum allowable working pressure (MAWP) for each hose assembly must be—

(1) At least 150 pounds per square inch; and

(2) More than the sum of the pressure of the relief valve setting (or the maximum pump pressure when no valve is installed) plus the static head pressure of the oil transfer system at the point where the hose is installed.

(c) Each nonmetallic hose must be usable for oil service.

(d) Each hose assembly must either have—

(1) Full threaded connections;

(2) Flanges that meet standard B16.5—1977, *Steel Pipe Flanges and Flang Fittings,* or standard B.16.24—1971, *Brass or Bronze Pipe Flanges,* of the American National Standards Institute (ANSI); or

(3) Quick-connect couplings that are acceptable to the Commandant.

(e) Except as provided in paragraph (f) of this section, each hose must be marked with—

(1) The products for which the hose may be used or the words "oil service";

(2) Maximum allowable working pressure;

(3) Date of manufacture; and

(4) Date of the latest test required by § 156.170 of this chapter.

(f) The information required by paragraph (e)(3)–(4) of this section need not be marked on the hose if it is recorded elsewhere at the facility and the hose is marked to identify it with that information.

(g) The hose burst pressure and the pressure used for the test required by § 156.170 of this chapter must not be marked on the hose and must be recorded elsewhere at the facility as described in paragraph (f) of this section.

(h) Each hose used to transfer oil for fuel to a vessel that has a fill pipe for which containment can not practically be provided must be equipped with an automatic back pressure shutoff nozzle.

§ 154.510 Loading arms.

(a) Each mechanical loading arm used for transferring oil and placed into service after June 30, 1973, must meet the design, fabrication, material, inspection, and testing requirements in ANSI Standard B31.3—1976 with Addenda B31.3a—1978, *Petroleum Refinery Piping.*

(b) The manufacturer's certification that the standard in paragraph (a) of this section has been met must be permanently marked on the loading arm or recorded elsewhere at the facility with the loading arm marked to identify it with that information.

(c) Each mechanical loading arm used for transferring oil must have a means of being drained or closed before being disconnected after transfer of oil.

§ 154.520 Closure devices.

The facility must have enough butterfly valves, wafer-type resilient seated valves, blank flanges, or other means acceptable to the COTP to blank off the ends of each hose or loading arm that is not connected for the transfer of oil. New, unused hose is exempt from this requirement.

§ 154.525 Monitoring devices.

The COTP may require the facility to install monitoring devices if the installation of monitoring devices at the facility would significantly limit the size of a discharge of oil and either—

(a) The environmental sensitivity of the area requires added protection;

(b) The products transferred at the facility pose a significant threat to the environment; or

(c) The size or complexity of the transfer operation poses a significant potential for a discharge of oil.

§ 154.530 Small discharge containment.

(a) Except as provided in paragraphs (c) and (d) of this section, the facility must have fixed catchments, curbing, or other fixed means to contain oil discharged in at least—

(1) Each hose handling and loading arm area (that area on the facility that is within the area traversed by the free end of the hose or loading arm when moved from its normal stowed or idle position into a position for connection); and

(2) Each hose connection manifold area.

(b) The discharge containment means required by paragraph (a) of this section must have a capacity of at least—

(1) Two barrels if it serves one or more hoses of 6-inch inside diameter or smaller, or loading arms of 6-inch nominal pipe size diameter or smaller;

(2) Three barrels if it serves one or more hoses with an inside diameter of more than 6-inches, but less than 12 inches, or loading arms with a nominal pipe size diameter of more than 6 inches, but less than 12 inches; or

(3) Four barrels if it serves one or more hoses of 12-inch inside diameter or larger, or loading arms of 12-inch nominal pipe size diameter or larger.

(c) The facility may use portable means of not less than ⅓ barrel capacity each to meet the requirements of paragraph (a) of this section for part or all of the facility if the COTP finds that fixed means to contain oil discharges are not feasible.

(d) A mobile facility may have portable means of not less than five gallons capacity to meet the requirements of paragraph (a) of this section.

§ 154.540 Discharge removal.

The facility must have a means to safely and quickly remove discharged oil from the containment means required by § 154.530 without discharging the oil into the water.

§ 154.545 Discharge containment equipment.

(a) Each facility must have ready access to enough oil containment material and equipment to contain any oil discharged on the water from operations at that facility.

(b) For the purpose of this section, "access" may be by direct ownership, joint ownership, cooperative venture, or contractual agreement.

(c) Each facility must establish time limits, subject to approval by the COTP, for deployment of the containment material and equipment required by paragraph (a) of this section considering—

(1) Oil handling rates;

(2) Oil capacity susceptible to being spilled;

(3) Frequency of facility operations;

(4) Tidal and current conditions;

(5) Facility age and configuration; and

(6) Past record of discharges.

(d) The COTP may require a facility to surround each vessel conducting an oil transfer operation with oil containment material before commencing an oil transfer operation if—

(1) The environmental sensitivity of the area requires the added protection;

(2) The products transferred at the facility pose a significant threat to the environment;

(3) The past record of discharges at the facility is poor; or

(4) The size or complexity of the transfer operation poses a significant potential for a discharge of oil; and

(5) The use of vessel containment provides the only practical means to reduce the extent of environmental damage.

§ 154.550 Emergency shutdown.

(a) The facility must have an emergency means to enable the person-in-charge of the transfer of oil on board the vessel, at his or her usual operating station, to stop the flow of oil from the facility to the vessel. This means must be—

(1) An electrical, pneumatic, or mechanical linkage to the facility; or

(2) An electronic voice communications system continuously operated by a person on the facility who can stop the flow of oil immediately.

(b) The point in the oil transfer system at which the emergency means stops the flow of oil on the facility must be located near the dock manifold connection to minimize the loss of oil in the event of the rupture or failure of the—

(1) Hose;

(2) Loading arm; or

(3) Manifold valve.

(c) Not later than November 1, 1980, the means required by paragraph (a) of this section must be able to stop the flow of oil in—

(1) 60 seconds on any facility or portion of a facility which starts operations on or before November 1, 1980; and

(2) 30 seconds on any facility which starts operations after November 1, 1980.

§ 154.560 Communications.

(a) Each facility must have a means that enables continuous two-way voice communication between the person in charge of the vessel transfer operation and the person in charge of the facility transfer operation.

(b) Each facility must have a means, which may be the communications system itself, that enables a person on board a vessel or on the facility to effectively indicate the desire to use the means of communication required by paragraph (a) of this section.

(c) The means required by paragraph (a) of this section must be usable and effective in all phases of the transfer operation and all conditions of weather at the facility.

(d) A facility may use the system in § 154.550(a)(2) to meet the requirement of paragraph (a) of this section.

(e) Portable radio devices used to comply with paragraph (a) of this section during the transfer of flammable or combustible liquids must be intrinsically safe, as defined in 46 CFR 110.15–100(i), and meet Class I, Division I, Group D requirements as defined in 46 CFR 110.80.

§ 154.570 Lighting.

(a) Except as provided in paragraph (c) of this section, for operations between sunset and sunrise, a facility must have fixed lighting that adequately illuminates—

(1) Each transfer connection point on the facility;

(2) Each transfer connection point in use on any barge moored at the facility to or from which oil is being transferred;

(3) Each oil transfer operations work area on the facility; and

(4) Each oil transfer operations work area on any barge moored at the facility to or from which oil is being transferred.

(b) Where the illumination is apparently inadequate, the COTP may require verification by instrument of the levels of illumination. On a horizontal plane 3 feet above the barge deck or walking surface, illumination must measure at least—

(1) 5.0 foot candles at transfer connection points; and

(2) 1.0 foot candle in oil transfer operations work areas.

(c) For small or remote facilities, the COTP may authorize operations with an adequate level of illumination provided by the vessel or by portable means.

(d) Lighting must be located or shielded so as not to mislead or otherwise interfere with navigation on the adjacent waterways.

Subpart D—Facility Operations

§ 154.700 General.

No person may operate a facility unless the equipment, personnel, and operating procedures of that facility meet the requirements of this part.

* * * * *

§ 154.740 Records.

Each facility operator shall keep at the facility and make available for examination by the COTP—

(a) A copy of the letter of intent for the facility;

(b) The name of each person currently designated as a person in charge of oil transfer operations at the facility;

(c) The date and result of the most recent test or examination of each item tested or examined under § 156.170 of this chapter;

(d) The hose information required by § 154.500 (e) and (g) except that marked on the hose;

(e) The record of all examinations of the facility by the COTP within the last 3 years; and

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(f) The Declaration of Inspection required by § 156.150(f) of this chapter.

§ 154.750 Compliance with operations manual.

The facility operator shall require facility personnel to use the procedures in the operations manual prescribed by § 154.300 for operations under this part.

§ 154.760 [Reserved]

§ 154.770 [Reserved]

§ 154.780 [Reserved]

PART 155—OIL POLLUTION PREVENTION REGULATIONS FOR VESSELS

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155.810 Tank vessel security.
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Appendix A—Specifications for shore connection.

Authority: 33 U.S.C. 1321(j)(1) (C) and (D); E.O. 11735, 3 CFR, 1971–1975 COMP., p. 793; 49 CFR 1.46(m).

Subpart A—General

§ 155.100 Applicability.

This part prescribes procedures, methods, equipment and other requirements for equipment to prevent and contain oil discharges from vessels on the navigable waters and contiguous zone of the U.S.

§ 155.105 Definitions.

The definitions in Part 154 of this chapter apply to this part.

§ 155.107 Alternatives.

(a) The COTP or OCMI may consider and approve alternative procedures, methods, or equipment standards to be used by a vessel operator in lieu of any requirements in this part if—

(1) Compliance with the requirement is economically or physically impractical;

(2) The vessel operator submits a written request for the alternative at least 30 days before operations under the alternative are proposed; and

(3) The alternative provides an equivalent level of safety and protection from pollution by oil, which is documented in the request.

(b) The COTP or OCMI takes final approval or disapproval action on any alternative requested, in writing, within 30 days of receipt of the request.

§ 155.110 Exemptions.

(a) The Chief, Office of Marine Environment and Systems, acting for the Commandant, grants an exemption or partial exemption from compliance with any requirement in this part if—

(1) a vessel operator submits an application for exemption via the COTP or OCMI 30 days before operations under the exemption are proposed unless the COTP or OCMI authorizes a shorter time; and

(2) it is determined, from the application, that—

(i) compliance with a specific requirement is economically or physically impractical;

(ii) no alternative procedures, methods, or equipment standards exist that would provide an equivalent level of safety and protection from pollution by oil; and

(iii) the likelihood of oil being discharged as a result of the exemption is minimal.

(b) If requested, the applicant must submit any appropriate information, including an environmental and economic assessment of the effects of and reasons for the exemption and proposed procedures, methods or equipment standards.

(c) The exemption may specify the procedures, methods, or equipment standards that will apply.

(d) An exemption is granted or denied in writing. The decision of the Chief, Office of Marine Environment and Systems is a final agency action.

Subpart B—Vessel Equipment

§ 155.310 Cargo oil discharge containment.

(a) A tank vessel with a capacity of 250 or more barrels that is carrying oil cargo must have—

(1) under or around each oil loading manifold and each oil transfer connection point, a fixed container or enclosed deck area that, in all conditions of vessel list or trim encountered during the loading operation, has a capacity of at least—

(i) one half barrel if it serves one or more hoses with an inside diameter of 2 inches or less, or one or more loading arms with a nominal pipe size diameter of 2 inches or less;

(ii) one barrel if it serves one or more hoses with an inside diameter of more than 2 inches but less than 4 inches, or one or more loading arms with a nominal pipe size diameter of more than 2 inches but less than 4 inches;

(iii) two barrels if it serves one or more hoses with an inside diameter of 4 inches or more, but less than 6 inches, or one or more loading arms with a nominal pipe size diameter of 4 inches or more, but less than 6 inches;

(iv) three barrels if it serves one or more hoses with an inside diameter of 6 inches or more, but less than 12 inches, or one or more loading arms with a nominal pipe size diameter of 6 inches or more, but less than 12 inches; or

(v) four barrels if it serves one or more hoses with an inside diameter of 12 inches or more, or one or more loading arms with a nominal pipe size diameter of 12 inches or more;

(2) means of draining or removing discharged oil from each container or enclosed deck area without discharging the oil into the water; and

(3) a mechanical means of closing each drain and scupper in the container or enclosed deck area required by this section.

(b) A tank barge with a capacity of 250 or more barrels that is carrying oil cargo must meet paragraph (a) of this section or be equipped with—

(1) a coaming, at least 4 inches high but not more than 8 inches high, enclosing the immediate area of the cargo hatches, oil loading manifolds, and transfer connections, that has a capacity, in all conditions of vessel list and trim to be encountered during the loading operation, of at least one-half barrel per hatch, manifold, and connection within the enclosed area;

(2) a fixed or portable container, under each oil loading manifold and each oil transfer connection within the coaming, that holds at least one-half barrel;

(3) a mechanical means of closing each drain and scupper within the coaming; and

(4) a means of draining or removing discharged oil from the fixed or portable container and from within the coamings without discharging the oil into the water.

§ 155.320 Fuel oil and bulk lubricating oil discharge containment.

(a) A vessel of 300 gross tons or more constructed after June 30, 1974 must have a fixed container or enclosed deck area under or around each fuel oil or bulk lubricating oil tank vent, overflow, and fill pipe, which—

(1) for a vessel of 300 or more but less than 1600 gross tons has a capacity of at least one-half barrel; and

(2) for a vessel of 1600 or more gross tons has a capacity of one barrel.

(b) A vessel of 100 gross tons or more constructed before July 1, 1974, and a vessel of 100 or more but less than 300 gross tons constructed after June 30, 1974 must—

(1) meet paragraph (a)(1) of this section;

(2) equip each fuel oil or bulk lubricating oil tank vent, overflow, and fill pipe during oil transfer operations with a portable container of at least a 5 U.S. gallon capacity; or

(3) if the vessel has a fill fitting for which containment is impractical, use an automatic back pressure shut-off nozzle.

* * * * *

§ 155.440 Placard.

(a) A vessel, except a vessel of less than 26 feet in length, must have a placard of at least 5 by 8 inches, made of durable material, fixed in a conspicuous place in each machinery space, or at the bilge and ballast pump control station, stating the following:

Discharge of Oil Prohibited

The Federal Water Pollution Control Act prohibits the discharge of oil or oily waste into or upon the navigable waters of the United States or the waters of the contiguous zone if such discharge causes a film or sheen upon or discoloration of the surface of the water or causes a sludge or emulsion beneath the surface of the water. Violators are subject to a penalty of $5,000.

(b) Existing stocks of placards may be used for the life of the placard.

(c) The placard required by paragraph (a) or (b) of this section must be printed in a language or languages understood by the crew.

§ 155.470 Prohibited oil spaces.

A self-propelled vessel of 300 or more gross tons must not carry bulk oil or oily waste in any space forward of a collision bulkhead except—

(a) for vessels constructed after June 30, 1974, fuel oil for use on the vessel may be carried in tanks forward of a collision bulkhead, if such tanks are at least 24 inches inboard of the hull structure; or

(b) for vessels constructed before July 1, 1974, fuel oil for use on the vessel may be carried in tanks forward of a collision bulkhead, if such tanks were designated, installed, or constructed for fuel oil carriage before July 1, 1974.

§ 155.480 [Reserved]

Subpart C—Oil Transfer Personnel Procedures Equipment, and Records

* * * * *

§ 155.720 Oil transfer procedures.

The operator of a vessel that has a capacity for 250 or more barrels of oil must provide oil transfer procedures that meet the requirements of this part and Part 156 for—

(a) transfers of oil to or from the vessel; and

(b) transfers of oil from tank to tank within the vessel.

§ 155.730 Compliance with oil transfer procedures.

The vessel operator of each vessel required by § 155.720 to have oil transfer procedures shall maintain them current and shall require vessel personnel to use the oil transfer procedures for each oil transfer operation.

§ 155.740 Availability of oil transfer procedures.

The oil transfer procedures required by § 155.720 must be—

(a) available for inspection by the COTP or OCMI whenever the vessel is in operation;

(b) legibly printed in a language or languages understood by personnel engaged in oil transfer operations; and

(c) permanently posted or available at a place where the procedures can be easily seen and used by members of the crew when engaged in oil transfer operations.

§ 155.750 Contents of oil transfer procedures.

(a) The oil transfer procedures required by § 155.720 must contain, either in the order listed or by use of a cross-reference index page—

(1) a list of each product transferred to or from the vessel, including the following information:

(i) generic or chemical name;

(ii) cargo information as described in § 154.310(a)(5)(ii) of this chapter; and

(iii) applicability of oil transfer procedures;

(2) a description of each oil transfer system on the vessel including—

(i) a line diagram of the vessel's oil transfer piping, including the location of each valve, pump, control device, vent, and overflow;

(ii) the location of the shutoff valve or other isolation device that separates any bilge or ballast system from the oil transfer system; and

(iii) a description of and procedures for emptying the discharge containment system required by §§ 155.310 and 155.320;

(3) the number of persons required to be on duty during oil transfer operations;

(4) the duties by title of each officer, person in charge, tankerman, deckhand, and any other person required for each oil transfer operation;

(5) procedures and duty assignments for tending the vessel's moorings during the transfer of oil;

(6) procedures for operating the emergency shutdown and communications means required by §§ 155.780 and 155.785, respectively;

(7) procedures for topping off tanks;

(8) procedures for ensuring that all valves used during the oil transfer operations are closed upon completion of transfer;

(9) procedures for reporting oil discharges into the water; and

(10) procedures for closing and opening the vessel openings in § 155.815.

(b) Exemptions or alternatives granted must be placed in the front of the oil transfer procedures.

(c) The vessel operator shall incorporate each amendment to the oil transfer procedures under § 155.760 in the procedures with the related existing requirement, or at the end of the procedures if not related to an existing requirement.

§ 155.760 Amendment of oil transfer procedures.

(a) The COTP or OCMI may require the vessel operator of any vessel that is required to have oil transfer procedures under § 155.720 to amend those procedures if the COTP or OCMI finds that the oil transfer procedures do not meet the requirements of this part.

(b) The COTP or OCMI shall notify the vessel operator in writing of any inadequacies in the oil transfer procedures. The vessel operator may submit written information, views, and arguments on and proposals for amending the procedures within 14 days from the date of the COTP or OCMI

notice. After considering all relevant material presented, the COTP or OCMI shall notify the vessel operator of any amendment required or adopted, or the COTP or OCMI may rescind the notice. The amendment becomes effective 30 days after the vessel operator receives the notice, unless the vessel operator petitions the Commandant to review the COTP or OCMI notice, in which case its effective date is delayed pending a decision by the Commandant. Petitions to the Commandant must be submitted in writing via the COTP or OCMI who issued the requirement to amend.

(c) If the COTP or OCMI finds that there is a condition requiring immediate action to prevent the discharge or risk of discharge of oil that makes the procedure in paragraph (b) of this section impractical or contrary to the public interest, he or she may issue an amendment effective on the date the vessel operator receives notice of it. In such a case, the COTP or OCMI includes a brief statement of the reasons for the findings in the notice, and the vessel operator may petition the Commandant, in any manner, to review the amendment. The petition does not postpone the amendment.

§ 155.770 Draining of oil.

No person may intentionally drain oil or oily waste from any source into the bilge of any vessel.

§ 155.780 Emergency shutdown.

(a) A tank vessel with a capacity of 250 or more barrels of cargo oil that is carrying oil must have on board an emergency means to enable a person in charge of an oil transfer operation to stop the flow of oil to a facility, other vessel, or within the vessel.

(b) The means required in paragraph (a) of this section may be a pump control, a quick-acting, power actuated valve, or an operating procedure. If an emergency pump control is used, it must stop the flow of oil if oil could siphon through the stopped pump.

(c) The means required in paragraph (a) of this section must be operable from the cargo deck, cargo control room, or the usual operating station of the person in charge of the oil transfer operation.

§ 155.785 Communications.

(a) During vessel to vessel oil transfers, each tank vessel with a capacity of 250 or more barrels of cargo oil that is carrying oil must have a means that enables continuous two-way voice communication between the persons in charge of the transfer operations on both vessels.

(b) Each vessel must have a means, which may be the communication system itself, that enables a person on board each vessel to effectively indicate his desire to use the means of communication required by paragraph (a) of this section.

(c) The means required by paragraph (a) of this section must be usable and effective in all phases of the transfer operation and all conditions of weather.

(d) Portable radio devices used to comply with paragraph (a) of this section during the transfer of flammable or combustible liquids must be intrinsically safe, as defined in 46 CFR 110.15–100(i), and meet Class I, Division I, Group D requirements as defined in 46 CFR 110.80.

§ 155.790 Deck lighting.

(a) A self-propelled vessel with a capacity of 250 or more barrels of oil that is transferring oil between sunset and sunrise must have deck lighting that adequately illuminates each—

(1) transfer connection point on the vessel;

(2) transfer connection point in use on any barge moored to the vessel to or from which oil is being transferred;

(3) oil transfer operations work area on the vessel; and

(4) oil transfer operations work area on any barge moored to the vessel to or from which oil is being transferred.

(b) Where the illumination is apparently inadequate the OCMI or COTP may require verification by instrument of the levels of illumination. On a horizontal plane 3 feet above the deck the illumination must measure at least—

(1) 5.0 foot candles at transfer connection points; and

(2) 1.0 foot candle in oil transfer operations work areas.

(c) Lighting must be located or shielded so as not to mislead or otherwise interfere with navigation on the adjacent waterways.

§ 155.800 Oil transfer hose.

Hose used to transfer oil must meet the requirements of § 154.500 of this chapter.

§ 155.805 Closure devices.

(a) Each end of each oil transfer hose on board which is not connected for the transfer of oil must be blanked off with butterfly valves, wafer-type resilient seated valves, blank flanges, or other means acceptable to the COTP or OCMI.

(b) New, unused hose is exempt from the requirement in paragraph (a) of this section.

§ 155.810 Tank vessel security.

The vessel operator of each tank vessel that contains more oil than the normal clingage and unpumpable bilge or sump residues in any cargo tank shall maintain surveillance of that vessel by using a person who is responsible for the security of the vessel and for keeping unauthorized persons off the vessel.

§ 155.815 Tank vessel integrity.

(a) Except as provided in paragraph (b) of this section, a tank vessel underway or at anchor must have all closure mechanisms on the following openings properly closed:

(1) Expansion trunk hatches;

(2) Ullage openings;

(3) Sounding ports;

(4) Tank cleaning openings; and

(5) Any other tank vessel openings that maintain the seaworthy condition of the tank vessel and prevent the inadvertent release of oil in the event of a tank vessel accident.

(b) No person may open any of the closure mechanisms in paragraph (a) of this section while the tank vessel is underway or at anchor except when authorized and supervised by a licensed officer or the tankerman required by 46 CFR 31.15–5(a).

§ 155.820 Records.

The vessel operator shall keep a written record available for inspection by the COTP or OCMI of—

(a) the name of each person currently designated as a person in charge of oil transfer operations.

(b) the date and result of the most recent test and inspection of each item tested or inspected as required by § 156.170 of this chapter;

(c) the hose information required by § 154.500(e) and (g) of this chapter unless that information is marked on the hose; and

(d) the Declaration of Inspection as required by § 156.150–(f) of this chapter.

Appendix A—Specifications for Shore Connection

(See §§ 340, 350, 370 and 380 of this Part)

Item	Description	Dimension
1	Outside diameter.	215 mm. (8 in.).
2	Inside diameter.	According to pipe outside diameter.
3	Bolt circle diameter.	183 mm. (7 $^{9}/_{16}$ in.).
4	Slots in flange.	6 holes 22 mm. ($^{7}/_{8}$ in.) in diameter shall be equidistantly placed on a bolt circle of the above diameter, slotted to the flange periphery. The slot width is to be 22 mm. ($^{7}/_{8}$ in.).
5	Flange thickness.	20 mm. ($^{3}/_{4}$ in.).
6	Bolts and nuts.	6, each of 20 mm. ($^{3}/_{4}$ in.) in diameter and of suitable length.

The flange must be of steel having a flat face, with a gasket of oilproof material, and must be suitable for a service pressure of 6 kg./cm.2 (85 p.s.i.).

The steel materials used must meet the material specifications of standard B16.5, Steel Pipe Flanges and Flanged Fittings of the American National Standards Institute. (See § 154.106 of this chapter.)

PART 156—OIL POLLUTION PREVENTION REGULATIONS FOR OIL TRANSFER OPERATIONS INVOLVING VESSELS

Sec.

156.100 Applicability.
156.105 Definitions.
156.107 Alternatives.
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156.112 Suspension order.
156.113 Compliance with suspension order.
156.115 Person in charge: Limitations.
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156.120 Requirements for oil transfer.
156.125 Oil discharge cleanup.
156.130 Connections.
156.150 Declaration of inspection.
156.160 Supervision by person in charge.
156.170 Equipment tests and inspections.

Authority: 33 U.S.C. 1321(j)(1)(C) and (D); E.O. 11735, 3 CFR, 1971—1975 COMP., p. 793; 49 CFR 1.46(m).

§ 156.100 Applicability.

This part applies to the transfer of oil on the navigable waters or contiguous zone of the U.S. to, from, or within any vessel and to or from a public vessel with a capacity of 250 or more barrels of that oil, except that this part does not apply to the transfer operation within or on a public vessel.

§ 156.105 Definitions.

The definitions in Part 154 of this chapter apply to this part.

§ 156.107 Alternatives.

(a) The COTP may consider and approve alternative procedures, methods, or equipment standards to be used by a vessel or facility operator in lieu of any requirements in this part if—

(1) compliance with the requirement is economically or physically impractical;

(2) the vessel or facility operator submits a written request for the alternative at least 30 days before operations under the alternative are proposed, unless the COTP authorizes a shorter time; and

(3) the alternative provides an equivalent level of safety and protection from pollution by oil, which is documented in the request.

(b) The COTP takes final approval or disapproval action on any alternative requested, in writing, within 30 days of receipt of the request.

§ 156.110 Exemptions.

(a) The Chief, Office of Marine Environment and Systems, acting for the Commandant, grants an exemption or partial exemption from compliance with any requirement in this part if—

(1) the vessel or facility operator submits an application for exemption via the COTP at least 30 days before operations under the exemption are proposed, unless the COTP authorizes a shorter time; and

(2) it is determined, from the application, that—

(i) compliance with a specific requirement is economically or physically impractical;

(ii) no alternative procedures, methods, or equipment standards exist that would provide an equivalent level of safety and protection from pollution by oil; and

(iii) the likelihood of oil being discharged as a result of the exemption is minimal.

(b) If requested, the applicant must submit any appropriate information, including an environmental and economic assessment of the effects of and reasons for the exemption and proposed procedures, methods or equipment standards.

(c) The exemption may specify the procedures, methods, or equipment standards that will apply.

(d) An exemption is granted or denied in writing. The decision of the Chief, Office of Marine Environment and Systems is a final agency action.

§ 156.112 Suspension order.

The COTP or OCMI may issue a suspension order to suspend oil transfer operations to the vessel or facility operator when the COTP or OCMI finds there is a condition requiring action to prevent the discharge or threat of discharge of oil, or when the COTP or OCMI is unable to verify compliance with the regulations through an inspection. A suspension order—

(a) may be effective immediately;

(b) is issued in writing unless it is effective immediately and then it may be issued orally and followed up in writing;

(c) includes a statement of each condition requiring action to prevent the discharge of oil; and

(d) is withdrawn when the COTP, OCMI, or District Commander, as applicable, determines that the condition requiring action to prevent the discharge or threat of discharge of oil has been corrected or no longer exists.

§ 156.113 Compliance with suspension order.

(a) No vessel or facility operator to whom a suspension order has been issued may conduct oil transfer operations from the time the order is effective until that order is withdrawn by the applicable COTP, OCMI, or by the District Commander.

(b) The vessel or facility operator may request reconsideration of the suspension order either orally or in writing to the COTP or OCMI who issued it. The request may contain supporting documentation and evidence that the vessel or facility operator wishes to have considered.

(c) Any person not satisfied with a ruling made under the procedure contained in paragraph (b) of this section may appeal that ruling in writing, except as allowed under paragraph (e) of this section, to the Coast Guard District Commander of the district in which the suspension order was issued. The appeal may contain supporting documentation and evidence that the appellant wishes to have considered. The appeal does not stay the effect of the suspension order while the COTP or OCMI ruling is being reviewed. The District Commander issues a ruling after reviewing the appeal.

(d) The ruling by the District Commander is final agency action.

(e) If the delay in presenting a written appeal under paragraph (c) of this section would have a significant adverse impact on the appellant, the appeal may initially be presented orally. If an initial presentation of the appeal is made orally, the appellant must submit the appeal in writing within five days of the oral presentation to the District Commander to whom the oral appeal was made, containing, at a minimum the basis for the appeal and a summary of the material presented orally.

§ 156.115 Person in charge: Limitations.

(a) No person may serve as the person in charge of oil transfer operations on more than one vessel at a time during oil transfers between vessels or between two or more vessels and a facility unless authorized by the COTP.

(b) No person may serve as the person in charge of both a vessel and a facility during oil transfer operations unless authorized by the COTP.

§ 156.118 Advance notice of oil transfer.

(a) The COTP may require a facility operator to notify the COTP of the time and place of each oil transfer operation at least 4 hours before it begins for facilities that—

(1) are mobile;

(2) are in a remote location;

(3) have a prior history of oil spills; or

(4) conduct infrequent oil transfer operations.

(b) In the case of a vessel to vessel transfer, the COTP may require a vessel

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operator of a lightering or fueling vessel to notify the COTP of the time and place of each oil transfer operation, as specified by the COTP, at least 4 hours before it begins.

(c) No person may conduct such oil transfer operations until advance notice has been given as specified by the COTP.

Note.—The notification may be accomplished by submitting a written schedule, periodically updated to be current.

§ 156.120 Requirements for oil transfer.

No person may conduct an oil transfer operation unless—

(a) the vessel's moorings are strong enough to hold during all expected conditions of surge, current, and weather and are long enough to allow adjustment for changes in draft, drift, and tide during the transfer operation;

(b) oil transfer hoses and loading arms are long enough to allow the vessel to move to the limits of its moorings without placing strain on the hose, loading arm, or oil transfer piping system;

(c) each hose is supported to prevent kinking or other damage to the hose and strain on its coupling.

(d) each part of the oil transfer system is aligned to allow the flow of oil;

(e) each part of the oil transfer system not necessary for the transfer operation is securely blanked or shut off;

(f) the end of each hose and loading arm that is not connected for the transfer of oil is blanked off using the closure devices required by §§ 154.120 and 155.805 of this chapter;

(g) the transfer system is attached to a fixed connection on the vessel and the facility except that when a vessel is receiving fuel, an automatic back pressure shutoff nozzle may be used;

(h) each overboard discharge or sea suction valve that is connected to the vessel's oil transfer or cargo tank system is sealed or lashed in the closed position; except when used to receive or discharge ballast in compliance with 33 CFR 157;

(i) each oil transfer hose has no unrepaired loose covers, kinks, bulges, soft spots, or any other defect which would permit the discharge of oil through the hose material and no gouges, cuts, or slashes that penetrate the first layer of hose reinforcement ("reinforcement" means the strength members of the hose, consisting of fabric, cord and/or metal);

(j) each hose or loading arm in use meets §§ 154.500 and 154.510 of this chapter, respectively;

(k) each connection meets § 156.130;

(l) any monitoring devices required by § 154.525 of this chapter are installed and operating properly;

(m) the discharge containment equipment required by § 154.545 of this chapter is readily accessible or deployed as applicable;

(n) the discharge containment required by §§ 154.530, 155.310, and 155.320 of this chapter, as applicable, is in place and periodically drained to provide the required capacity;

(o) each drain and scupper is closed by the mechanical means required by § 155.310;

(p) all connections in the oil transfer system are leak free except that a component in an oil transfer system, such as the packing glands of a pump, may leak at a rate that does not exceed the capacity of the discharge containment provided during the transfer operation;

(q) the communications required by §§ 154.560 and 155.785 of this chapter are operable for the transfer operation;

(r) the emergency means of shutdown required by §§ 154.550 and 155.780 of this chapter, as applicable, is in position and operable;

(s) there is a person in charge on the transferring vessel or facility and the receiving vessel or facility except as otherwise authorized under § 156.115;

(t) each person in charge required by paragraph (s) of this section—

(1) is at the site of the oil transfer operation and immediately available to the oil transfer personnel;

(2) has in his or her possession a copy of the facility operations manual or vessel oil transfer procedures, as appropriate; and

(3) conducts the transfer operation in accordance with the facility operations manual or vessel oil transfer procedures, as appropriate;

(u) the personnel required, under the facility operations manual and the vessel oil transfer procedures, to conduct the oil transfer operation—

(1) are on duty; and

(2) conduct the transfer operation in accordance with the facility operations manual or vessel oil transfer procedures, as appropriate;

(v) at least one person is at the site of the oil transfer operation who fluently speaks the language or languages spoken by both persons in charge;

(w) the person in charge of oil transfer operations on the transferring vessel or facility and the person in charge of oil transfer operations on the receiving vessel or facility have held a conference, to ensure that each person in charge understands the following details of the transfer operation—

(1) the identity of the product to be transferred;

(2) the sequence of transfer operations;

(3) the transfer rate;

(4) the name or title and location of each person participating in the transfer operation;

(5) details of the transferring and receiving systems;

(6) critical stages of the transfer operation;

(7) federal, state, and local rules that apply to the transfer of oil;

(8) emergency procedures;

(9) discharge containment procedures;

(10) discharge reporting procedures;

(11) watch or shift arrangement;

(12) transfer shutdown procedures;

(x) the person in charge of oil transfer operations on the transferring vessel or facility and the person in charge of oil transfer operations on the receiving vessel or facility agree to begin the transfer operation;

(y) between sunset and sunrise the lighting required by §§ 154.570 and 155.790 of this chapter is provided; and

(z) for transfer operations between tank barges from sunset to sunrise, lighting is provided as described in § 155.790 of this chapter.

§ 156.125 Oil discharge cleanup.

(a) Each person conducting an oil transfer operation shall stop the transfer operation whenever oil from any source is discharged—

(1) in the transfer operation work area; or

(2) into the water or upon the adjoining shoreline in the transfer area.

(b) Except as permitted under paragraph (c) of this section, no person may resume an oil transfer operation after it has been stopped under paragraph (a) of this section, unless—

(1) oil discharged in the oil transfer operation work area is cleaned up; and

(2) oil discharged into the water or upon the adjoining shoreline is cleaned up, or is contained and being cleaned up.

(c) The COTP may authorize resuming the oil transfer operation if it is deemed appropriate.

§ 156.130 Connection.

(a) Each person who makes a connection for oil transfer operations shall—

(1) use suitable material in joints and couplings to ensure a leak-free seal;

(2) use a bolt in at least every other hole, and in no case less than four bolts, in each temporary bolted connection that uses a flange that meets American National Standards Institute (ANSI) standard flange requirements under § 154.500(d)(2) of this chapter;

(3) use a bolt in each hole in each temporary bolted connection that uses a flange other than one that meets ANSI standards;

(4) use a bolt in each hole of each permanently connected flange;

(5) use bolts of the correct size in each bolted connection; and

(6) tighten each bolt and nut uniformly to distribute the load and sufficiently to ensure a leak free seal.

(b) A person who makes a connection for oil transfer operations must not use any bolt that shows signs of strain or is elongated or deteriorated.

(c) Except as provided in paragraph (d) of this section, no person may use a connection for oil transfer operations unless it is—

(1) a bolted or full threaded connection; or

(2) a quick-connect coupling acceptable to the Commandant.

(d) No person may transfer oil to a vessel that has a fill pipe for which containment cannot practically be provided unless an automatic back pressure shutoff nozzle is used.

§ 156.150 Declaration of inspection.

(a) No person may transfer oil to or from a vessel unless each person in charge, desiganted under §§ 154.710 and 155.700 of this chapter, has filled out and signed the declaration of inspection form described in paragraph (c) of this section.

(b) No person in charge may sign the declaration of inspection unless he or she has determined by inspection, and indicated by initialling in the appropriate space on the declaration of inspection form, that the facility or vessel, as appropriate, meets § 156.120.

(c) The declaration of inspection may be in any form but must contain at least—

(1) the name or other identification of the transferring vessel or facility and the receiving vessel or facility;

(2) the address of the facility or location of the transfer operation if not at a facility;

(3) the date the transfer operation is started;

(4) a list of the requirements in § 156.120 with spaces on the form following each requirement for the person in charge of the vessel or facility to indicate by initialling that the requirement is met for the transfer operation; and

(5) a space for the date, time of signing, signature, and title of each person in charge of the vessel or facility to indicate by initialling that the requirement is met for the transfer operations on the transferring vessel or facility and space for the date, time of signing, signature, and title of each person in charge during oil transfer operations on the receiving facility or vessel.

(d) The form for the declaration of inspection may incorporate the declaration-of-inspection requirements under 46 CFR 35.35–30.

(e) The vessel and facility persons in charge shall each have a signed copy of the declaration of inspection available for inspection by the COTP during the oil transfer operation.

(f) The operators of each vessel and facility engaged in an oil transfer operation shall retain a signed copy of the declaration of inspection on board the vessel or at the facility for at least 1 month from the date of signature.

§ 156.160 Supervision by person in charge.

(a) No person may connect or disconnect a hose, top off a tank, or engage in any other critical procedures during an oil transfer operation unless the person in charge, required by § 156.120(s), supervises that procedure.

(b) No person may start the flow of oil to or from a vessel unless instructed to do so by either person in charge.

(c) No person may transfer oil to or from a vessel unless each person in charge is in the immediate vicinity and immediately available to the oil transfer personnel.

§ 156.170 Equipment tests and inspections.

(a) Except as provided in paragraph (d) of this section, no person may use any equipment listed in paragraph (c) of this section for oil transfer operations unless the vessel or facility operator, as appropriate, tests and inspects the equipment in accordance with paragraphs (b), (c) and (f) of this section and the equipment is in the condition specified in paragraph (c) of this section.

(b) During any test or inspection required by this section, the entire external surface of the hose must be accessible.

(c) For the purpose of paragraph (a) of this section—

(1) each nonmetallic oil transfer hose must—

(i) have no unrepaired loose covers, kinks, bulges, soft spots, or any other defect which would permit the discharge of oil through the hose material, and no gouges, cuts or slashes that penetrate the first layer of hose reinforcement, as defined in § 156.120(j).

(ii) have no external deterioration and, to the extent internal inspection is possible with both ends of the hose open, no internal deterioration;

(iii) not burst, bulge, leak, or abnormally distort under static liquid pressure at least 1½ times the maximum allowable working pressure; and

(iv) where a dispute arises under paragraph (c)(1)(i) of this section, be acceptable for use after a hydrostatic test is successfully completed in the presence of the COTP;

(2) each transfer system relief valve must open at or below the pressure at which it is set to open;

(3) each pressure gauge must show pressure within 10 percent of the actual pressure;

(4) each loading arm and each oil transfer pipe system, including each metallic hose, must not leak under static liquid pressure at least 1½ times the maximum allowable working pressure; and

(5) each item of remote operating or indicating equipment, such as a remotely operated valve, tank level alarm, or emergency shutdown device, must perform its intended function.

(d) No person may use any hose in underwater service for oil transfer operations unless the operator of the vessel or facility has tested and inspected it in accordance with paragraph (c)(1) or (c)(4) of this section, as applicable.

(e) The test fluid used for the testing required by this section is limited to liquids that are compatible with the hose tube as recommended by the hose manufacturer.

(f) The frequency of the tests and inspections required by this section must be—

(1) annually for facilities; and

(2) annually or as part of the biennial and mid-period inspections for vessels.

(33 U.S.C. 1321(j)(1)(C) and (D); E.O. 11735, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46(m)).

R. H. Scarborough,

Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc. 80-3004 Filed 1-30-80; 8:45 am]

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federal register

Thursday
January 31, 1980

Part IX

Department of Health, Education, and Welfare

National Institutes of Health

Recombinant DNA Research; Proposed Actions Under Guidelines; Recombinant DNA Advisory Committee; Meeting

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

Recombinant DNA Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee at the National Institutes of Health, Wilson Hall, Building 1, Bethesda, Maryland 20205, on March 6, 1980, from 9:00 a.m. to recess at approximately 6:00 p.m. and on March 7, 1980, from 8:30 a.m. to 5:00 p.m. This meeting will be open to the public on March 6 from 9:00 a.m. to recess at approximately 6:00 p.m., and on March 7, from 8:30 a.m. to 3:00 p.m., to discuss:

Amendment of Guidelines.

Containment practices appropriate for large-scale production.

Exceptions to prohibitions.

Exemptions for organisms that exchange genetic information.

Procedures for lowering characterized clones.

Review of large-scale experiments.

E. coli K–12 host-vector systems.

Host-vector systems other than *E. coli* K–12.

NIH risk-assessment plan.

Review of protocols for required containment levels.

Other matters requiring necessary action by the Committee.

Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(4), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 7 from 3:00 p.m. to 5:00 p.m. for the review, discussion and evaluation of proposal(s) from a commercial concern(s) for scale-up of recombinant DNA experiments. The proposal(s) and the discussions could reveal confidential trade secrets or commercial property such as patentable material.

Dr. William J. Gartland, Jr., Executive Secretary, Recombinant DNA Advisory Committee, National Institutes of Health, Building 31, Room 4A52, telephone 301–496–6051, will provide materials to be discussed at the meeting, rosters of committee members and substantive program information. A summary of the meeting will be available at a later date.

Dated: January 25, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-3040 Filed 1-30-80; 8:45 am]

BILLING CODE 4110-08-M

Recombinant DNA Research; Proposed Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, DHEW.

ACTION: Notice of proposed actions under NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth proposals for actions to be taken under the 1978 NIH Guidelines for Research Involving Recombinant DNA Molecules [Federal Register of December 22, 1978 (43 FR 60108)]. Interested parties are invited to submit comments concerning these proposals. After consideration of these proposals and comments by the NIH Recombinant DNA Advisory Committee (RAC) at its March 6–7, 1980, meeting, the Director of the National Institutes of Health will issue decision on these proposals in accord with the Guidelines.

DATE: Comments must be received by March 3, 1980.

ADDRESS: Written comments and recommendations should be submitted to the Director, Office of Recombinant DNA Activities, Building 31, Room 4A52, National Institutes of Health, Bethesda, Maryland 20205. All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Additional information can be obtained from Drs. Stanley Barban or Elizabeth Milewski, Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–6051.

SUPPLEMENTARY INFORMATION: The National Institutes of Health will consider the following changes and amendments under the Guidelines for Research Involving Recombinant DNA Molecules (43 FR 60108), as well as actions under these Guidelines.

1. *Amendment of Section IV–D–2–a.* As a comment on the Proposed Revised Guidelines for Research Involving Recombinant DNA Molecules published for comment in the Federal Register on November 30, 1979 (44 FR 69210), David Lester of Princeton, New Jersey, has proposed that Section IV–D–2–a, dealing with membership and procedures for the Institutional Biosafety Committee, be modified by adding as the penultimate sentence of IV–D–2–a the following:

"Such nonaffiliated members shall be appointed by the governing body of the community in which the institution is situated."

2. *Amendment of Section III–O of the Proposed Revised Guidelines.* Dr. Kent Wilcox of the Medical College of Wisconsin has suggested a clarification of the language of Section III–O, Classification of Experiments Using the *E. coli* K–12 Host-Vector Systems, of the proposed revised Guidelines published for comment in the Federal Register on November 30, 1979 (44 FR 69210). Section III–O is proposed to read, in part, as follows:

* * * For these experiments no Memorandum of Understanding and Agreement (MUA) as described in Section IV–D–1–c need be submitted, nor is any registration with NIH necessary. However, for these experiments, prior to their initiation, investigators must submit to their Institutional Biosafety Committee (IBC) a registration document that contains a description of (a) the source(s) of DNA, (b) the nature of the inserted DNA sequences, and (c) the hosts and vectors to be used. This registration document must be dated and signed by the investigator and filed only with the local IBC. The IBC shall review all such proposals but such review is not required prior to initiation of experiments. An exception, however, which does require prior review and approval by the IBC is any experiment in which there is a deliberate attempt to have the *E coli* K–12 efficiently express any gene coding for a eukaryotic protein * * *.

Dr. Wilcox suggests that the term "eukaryotic protein" is not well defined. He questions whether this term refers specifically to proteins encoded in the DNA of eukaryotic organisms and if so, whether animal viruses and viroids are considered to be eukaryotic organisms. Dr. Wilcox suggests that the last sentence of the above citation be modified to read as follows (modified text in italics):

* * * An exception, however, which does require prior review and approval by the IBC is any experiment in which there is a deliberate attempt to have the *E. coli* K–12 efficiently express *as a protein product the information carried in any gene derived either from a eukaryotic organism or from any virus or viroid which infects a eukaryotic organism* * * *.

3. *Amendment of Section III–O of the Proposed Revised Guidelines.* Dr. Stuart Levy of Tufts University School of Medicine has recommended an amendment to Section III–O of the Proposed Revised Guidelines (44 FR 69210). Dr. Levy notes that the plasmid studied in his risk-assessment studies was a nonconjugative poorly mobilizable plasmid. He suggests that a distinction be made between nonconjugative plasmids and nonconjugative plasmids which are also poorly mobilizable; such an amendment would provide additional biological containment. The relevant portion of Section III–O of the Proposed Revised Guidelines which would be amended reads as follows:

* * * Other experiments using *E. coli* K–12 shall use P1 physical containment and, except as specified in the last paragraph of this section, an EK1 host-vector system (i.e., (a) the host shall not contain conjugation-proficient plasmids or generalized transducing phages, and (b) lambda or lambdoid bacteriophages or nonconjugative plasmids shall be used as vectors) * * *.

The amended section proposed by Dr. Levy would read as follows (amended text in italic):

* * * Other experiments using *E. coli* K–12 shall use P1 physical containment and, except as specified in the last paragraph of this section, an EK1 host-vector system (i.e., (a) the host shall not contain conjugation-proficient plasmids or generalized transducing phages, and (b) *lambda or lambdoid bacteriophages or nonconjugative poorly mobilizable (able to be mobilized at a frequency of less than 10^{-6} by a derepressed conjugative plasmid in the same cell) plasmids shall be used as vectors)* * * *.

4. *Request to Eliminate Section I–D–3 from the Guidelines.* In response to the proposed revised Guidelines published in the Federal Register on November 30, 1979 (44 FR 69210), Dr. Clarence Kado of the University of California, Davis, has asked the NIH to consider deleting from the Guidelines Section I–D–3 which reads as follows:

Deliberate creation by the use of recombinant DNA of a plant pathogen with increased virulence and host range beyond that which occurs by natural genetic exchange.[2A]

Dr. Kado explains his arguments for elimination of the prohibition in a letter to ORDA.

5. *Request to Include all Species of the Genus Erwinia in Appendix A, Sublist A.* In response to the proposed revised Guidelines published in the Federal Register on November 30, 1979 (44 FR 69210), Dr. Clarence Kado of the University of California, Davis, has requested that the NIH consider the inclusion of all *Erwinia* species in Sublist A, Appendix A. Currently, only one *Erwinia* species, *E. amylovora*, is included on the list. Dr. Kado suggests that consideration be given to all *Erwinia* species on the basis of an exchange of genetic material by natural means with *E. coli* and a 20% DNA–DNA homology of *E. coli* with *Erwinia* species.

6. *Classification of Plant Pathogens.* In response to the proposed revised Guidelines for Research Involving Recombinant DNA Molecules published in the Federal Register on November 30, 1979 (44 FR 69210), M. T. Goff, Animal and Plant Health Inspection Service, United States Department of Agriculture, has proposed that a classification of plant pathogens be included in the Guidelines. Philip D. Harriman, National Science Foundation, has also submitted a similar proposal. Messrs. Goff and Harriman request that a portion of the Report of a Workshop on Risk Assessment of Agricultural Pathogens, dealing with a hazard classification of plant pathogens, be included in the Guidelines. This Workshop was held on March 20–21, 1978, and the report appeared as Appendix G to the Environmental Impact Assessment which accompanied proposed revised Guidelines published for comment in the Federal Register of July 28, 1978 (43 FR 33042). Specifically, they request that the following classification be added to Appendix B of the Guidelines:

IV. Plant Pathogens

Class 1A Agents—Plant pathogens not in Class 1B.

Class 1B Agents—All organisms that are subject to quarantine restrictions for any of the following reasons:

(i) Plant pathogens not known to occur in the United States.

(ii) Plant pathogens that are not widely distributed throughout the ecological range of their hosts in the United States.

(iii) Plant pathogens subject to U.S. Federal or State eradication or suppression programs.

A USDA permit [2] is required to import or to move plant pathogens across State lines.

Footnote 2 of Appendix B of the proposed revised Guidelines reads as follows:

USDA permit also required for import and interstate transport.

It is proposed that this footnote be modified to read as follows in order to serve as a single footnote for both animal and plant pathogens:

[2] A USDA permit, required for import and interstate transport of pathogens, may be obtained form the Animal and Plant Health Inspection Service, USDA, Federal Building, Hyattsville, MD 20782.

7. *Containment Standards for Large-Scale Research and Production.* A Working Group on Large-Scale Research and Production prepared a draft set of physical containment standards for recombinant DNA research involving more than 10 liters of culture.

Comments on the draft standards were invited through January 10, 1980, in an announcement in the Federal Register of November 1, 1979 (44 FR 63074). Preliminary comments were reviewed by the RAC at its December 6–7, 1979 meeting. Comments will be taken into account by the Working Group in its preparation of a revised draft. Revised draft standards will be available from ORDA on February 1, 1980, and will be considered along with comments at the March 6–7, 1980 RAC meeting.

If eventually approved by the NIH Director, the substantive standards for large-scale work could be combined with the procedural standards recommended by the RAC at the September 1979 meeting or a subsequently revised version. The combined standards could then constitute a new Part VII of the NIH Guidelines.

8. *Proposal To Amend Portions of Section III–A–2–a, Viruses of Eukaryotes, of the Proposed Revised Guidelines.* In portions of Section III–A–2–a of the proposed revised Guidelines a level of biological containment requiring the use of "an HV1 host and a vector certified for use in an HV2 system" has been substituted for "an EK1 host and a vector certified for use in an EK2 system." This level of biological containment is abbreviated as "HV1CV" in Table III of the proposed revised Guidelines. At the December 6–7, 1979 meeting, a working group was appointed to review the appropriateness of this level of biological containment for the experiments described in this section of the Guidelines. The working group proposes that HV2 biological containment be required for these experiments. Therefore, the working group proposes that "an HV2 host-vector" be substituted for "an HV1 host and a vector for use in an HV2 system" in Sections III–A–2–a–(1)–(a)–(2)–(c), III–A–2–a–(1)–(a)–(3)–(b), III–A–2–a–(1)–(b)–(1)–(b), III–A–2–a–(1)–(b)–(2)–(b), III–A–2–a–(2)–(a)–(1)–(b), III–A–2–a–(2)–(a)–(2)–(b), and III–A–2–a–(2)–(c)–(2)–(b). In Table III, "HV2" would be substituted for "HV1CV."

9. *Request for Exemption Under Section I–E–4.* Dr. Francis Macrina of the Virginia Commonwealth University has proposed that *Streptococcus mutans* and *Streptococcus sanguis* be included under the exemption category of Section I–E–4 of the Guidelines on the basis that these bacteria have been shown to exchange chromosomal DNA by known physiological processes. These two organisms would then constitute a new Sublist of Appendix A.

10. *Request for Approval to Clone Exotoxin A Gene of Pseudomonas aeruginosa.* Dr. C. W. Shuster of Case Western Reserve University has requested the RAC to consider whether

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the cloning of the exotoxin A gene of *Pseudomonas aeruginosa* in *E. coli* K–12 is permitted. Under exemption I–E–4, *P. aeruginosa* and genus *Escherichia* are listed in Appendix A, Sublist A. However, according to Section I–E, Exemptions:

It must be emphasized that the following exemptions (4) are not meant to apply to experiments described in the Sections I–D–1 to I–D–5 as being prohibited.

Section I–D–2 prohibits:

Deliberate formation of recombinant DNAs containing genes for the biosynthesis of toxins potent for vertebrates (2A) (e.g., botulinum, diphtheria toxins; venoms from insects, snakes, etc).

Dr. Shuster notes that exotoxin A and *P. aeruginosa* are safe under normal laboratory conditions. *P. aeruginosa* is an opportunistic pathogen and exotoxin A is only one of a series of virulence factor necessary to produce pathogenicity. This request was presented to the RAC at its December 6–7, 1979 meeting. At that time, the RAC felt that approval of the proposed experiments appeared to require an exception to a prohibition. Accordingly, the request is being published in the Federal Register for a 30 day comment period prior to being reconsidered by the RAC at its March 6–7, 1980 meeting.

11. *Request for Consideration of Appropriate Containment Levels.* Dr. Marvin Schwalb of New Jersey Medical School has requested that the RAC consider the containment levels appropriate to the return of *Schizophyllum commune* DNA cloned in *Saccharomyces cerevisiae* to *Schizophyllum commune*. In addition, Dr. Schwalb requests permission to clone the *S. cerevisiae* derived vector YR414/ura 3 and the *Saccharomyces* 2 plasmid containing yeast or *S. commune* sequences in *S. commune*.

2. *Request for Consideration of Appropriate Containment Levels.* Dr. Olen Yoder of Cornell University has asked the RAC to consider the appropriate containment level for the return of *Helminthosporanium maydis* DNA, which has been cloned in *Saccharomyces cerevisiae*, to the host of origin.

13. *Request to Lower Containment Conditions for Prokaryotic Cloning.* Dr. David Wilson of Cornell University has requested a lowering from P3 to P2 containment levels for experiments involving the cloning of the cellulase gene of *Sporocytophaga ep.* into a thermophilic *Bacillus*.

14. *Recombinant DNA Experiments Involving Foot-And-Mouth Disease Virus.* The RAC at its December 6–7, 1979 meeting recommended, and the Director, NIH, subsequently approved, the cloning of foot-and-mouth disease virus in *E. coli* K–12 at the Plum Island Animal Disease Center. The RAC further recommended, and the Director, NIH, subsequently approved, that prior to the shipment of any clones off of Plum Island, first a working group of the RAC and subsequently the full RAC would examine data arising from the foot-and-mouth disease virus recombinant DNA work on Plum Island.

If any such data are ready for presentation to the RAC, they will be considered at the March 6–7, 1980 meeting. The RAC analysis may include reexamination of the appropriate containment levels for experiments with any clones recommended to be shipped from Plum Island.

15. *Proposed EK2 Host-Vector Systems.* Dr. P. H. Pouwels of the Medisch Biologisch Laboratorium of Rijswijk, The Netherlands, has requested EK2 certification of several *trp* plasmids derived from plasmids pBR345 and pBR313. The *trp* vectors derived from pBR345 carry no antibiotic resistance genes. These plasmids would be used in conjunction with the host x1776 as an EK2 certified host-vector system.

16. *Revision of Section III–C–1–e of the Guidelines.* The proposed revised Guidelines (44 FR 69210), in Appendix C, cite a limited exemption, under Section I–E–5, for certain recombinant DNA experiments in tissue culture:

Under exemption I–E–5 of these Revised Guidelines are those recombinant DNA molecules that are propagated and maintained in cells in tissue culture and that are derived entirely from non-viral components (that is, no component is derived from a eukaryotic virus.).

This exemption was promulgated in the Federal Register of July 20, 1979 (44 FR 42914). In its original formulation (44 FR 22314), the exemption proposed to include recombinant DNA molecules that contain no more than one-fourth of the genome of a eukaryotic virus. At its December 6–7, 1979 meeting, Dr. Wallace Rowe submitted a document requesting that the RAC reconsider the question of allowing exemption for tissue culture experiments involving recombinant molecules containing no more than one-fourth of the genome of a virus. A working group was appointed to make recommendations for consideration at the March 6–7, 1980 meeting. It has been recommended that Sections III–C–1–e, III–C–1–e–(1), III–C–1–e–(1)–(a), and III–C–1–e–(1)–(b) of the Guidelines be changed and that a new Section III–C–1–e–(1)–(c) be added. Section III–C–1–e–(2) would remain unchanged. The proposed revised sections would read as follows:

III–C–1–e. *All Viral Vectors.*

III–C–1–e–(1). Other experiments involving eukaryotic virus vectors can be done as follows:

III–C–1–e–(1)–(a). Recombinant DNA molecules containing no more than two-thirds of the genome of any eukaryotic virus (all viruses from a single Family being considered identical) may be propagated and maintained in cells in tissue culture in the absence of helper virus using P1 containment. The DNA may contain fragments of the genomes of viruses from more than one Family but each fragment must be less than two-thirds of a genome. For such experiments, no MUA need be submitted but prior notice must be given to the IBC as described in Section III–D of the Guidelines. The IBC should handle such registration documents as described in Section III–D.

III–C–1–e–(1)–(b). Recombinants with less than two-thirds of the genome of any eukaryotic virus may be rescued with helper virus using P2 containment if wild type strains of the helper virus are not able to grow in human cells.

III–C–1–e–(1)–(c). Recombinants with less than two-thirds of the genome of any eukaryotic virus may be rescued with helper virus using P3 containment if wild-type strains of the helper virus are able to grow in human cells.

17. *Consideration of Appropriate Containment Levels.* Dr. Charles Jacobs of the University of Texas at Austin has requested permission from the RAC to clone *Wangiella dermatitidis* DNA in *Wangiella dermatitidis* using *Saccharomyces/E. coli* hybrid plasmids as vectors. Dr. Jacobs requests that the RAC assess appropriate containment conditions.

Dated: January 23, 1980.

Donald S. Fredrickson, M.D.,

Director, National Institutes of Health.

[FR Doc. 80-3041 Filed 1-30-80; 8:45 am]

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federal register

Thursday
January 31, 1980

Part X

Office of Management and Budget

Budget Rescission and Deferrals

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OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report two proposals to rescind a total of $122.2 million in budget authority previously provided by the Congress. In addition, I am reporting five new deferrals of budget authority totalling $1,028.5 million and ten revisions to previously transmitted deferrals increasing the amount deferred by $598.6 million.

The rescission proposals affect programs in the Department of the Interior and the Department of Health, Education, and Welfare.

The new defferals and revisions to existing deferrals involve programs in the Departments of Commerce, Defense, Health, Education, and Welfare, the Interior, Justice, State, Transportation, the Treasury, and the National Alcohol Fuels Commission.

The details of each rescission proposal and deferral are contained in the attached reports.

Jimmy Carter

THE WHITE HOUSE,
January 28, 1980.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission No.	Deferral No.	ITEM	Budget Authority
		Other Independent Agencies:	
	D80-28A	National Alcohol Fuels Commission	
		Salaries and expenses	730
		Subtotal, deferrals	1,866,886
		TOTAL, rescission proposals and deferrals	1,989,104
		**********	

SUMMARY OF SPECIAL MESSAGES
FOR FY 1980
(in thousands of dollars)

	Rescissions	Deferrals
Fourth special message:		
New items	122,218	1,028,486
Change to amounts previously submitted	---	598,698
Effect of fourth special message	122,218	1,627,073
Previous special messages	114	1,592,337
Total amount proposed in special messages	122,332	3,219,410 1/

1/ This amount represents budget authority except for $44 thousand in a general revenue sharing deferral of outlays only (D80-23).

* Detail does not add to total due to rounding.

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission No.	Deferral No.	ITEM	Budget Authority
		Department of Health, Education, and Welfare:	
		Health Resources Administration	
R80-2		Health resources	104,218
		Department of the Interior:	
		Geological Survey	
R80-3		Exploration of national petroleum reserve in Alaska	18,000
		Subtotal, rescission proposals	122,218
	Deferral No.		
		Department of Commerce:	
		National Oceanic and Atmospheric Administration	
	D80-5A	Construction	46,459
	D80-8A	Fisheries loan fund	5,207
		Department of Defense-Military:	
	D80-41	Shipbuilding and conversion, Navy	997,500
	D80-9A	Military construction, all services	387,166
	D80-42	Family housing, Defense	18,691
		Department of Health, Education and Welfare:	
		Office of Assistant Secretary for Health	
	D80-43	Scientific activities overseas (special foreign currency program)	10,000
		Department of the Interior:	
		Bureau of Land Management	
	D80-44	Oregon and California grant lands	1,136
		Bureau of Mines	
	D80-16A	Drainage of anthracite mines	1,463
		Department of Justice:	
		Legal Activities	
	D80-45	Fees and expenses of witnesses	1,181
		Federal Prison System	
	D80-27B	Buildings and facilities	50,351
		Department of State:	
		International Organizations and Conferences	
	D80-32A	Contributions to international peacekeeping activities	12,000
	D80-18A	United States emergency refugee and migration assistance fund	25,000
		Department of Transportation:	
		Federal Aviation Administration	
	D80-20A	Facilities and equipment (airport and airway trust fund)	304,282
		Department of the Treasury:	
		Bureau of the Mint	
	D80-24A	Construction of mint facilities	5,730
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Rescission Proposal No: R80-2

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Health, Education, and Welfare	New budget authority (P.L. 96-123): $688,203,000
Bureau: Health Resources Administration	Other budgetary resources: 7,284,526
Appropriation title & symbol: Health Resources 75X0712*, 756/00712, 75X0712	Total budgetary resources: 695,486,526
	Amount proposed for rescission: $104,218,000
OMB identification code: 75-0712-0-1-550	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☒ Multiple-year September 30, 1980 (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: During the 1960's and early 1970's, the supply of health professionals increased dramatically, primarily as a result of increased Federal subsidies to expanded numbers of health professions students and training programs. Since 1960, the Federal government has spent about $18 billion to help increase the supply of health professionals by 50%. Between 1960 and 1975, the number of physicians in active practice increased 46%. By 1990, the supply of active physicians is expected to reach nearly 600,000, or an increase of 58% between 1975 and 1990. Moreover, the physician to population ratio rose from 142:100,000 in 1960 to 174:100,000 in 1975, and is expected to reach 244:100,000 in 1990 or 40% greater than in 1975.

In recognition of these trends, the President's 1979 and 1980 Budgets proposed phasing down general institutional support and concentrating on alleviating the problems of geographic maldistribution through service commitment scholarships and of overspecialization of medical practice through support of primary care training programs. These policies are continued in the President's 1981 Budget. The current adequate supply and potential oversupply during the 1980's underscore the point that special Federal subsidies are no longer required to increase the supply of particular categories of health professionals.

* This account was the subject of a rescission proposal in FY 1979.

The $104,218,000 in health professions training funds proposed for rescission in 1980 includes $87,718,000 for capitation grants and $16,500,000 for health professions non-service student loans. These funds have been identified as unnecessary to program needs for meeting the goal of providing health services to the medically underserved. This is in keeping with the strategy articulated in the President's 1980 and 1981 Budgets to terminate capitation grants and initiate phaseout of other institutional subsidies and student assistance programs that in the past have served to increase the supply of health professionals without regard to specialty or geographic shortages.

Capitation grants are not an efficient means for correcting either specialty or geographic maldistribution problems. The Administration supports various training programs that are more effective in addressing the health services needs of the coming decade, including service commitment scholarships, family medicine and primary care residency training grants, and grants to develop family medicine departments and for the training of nurse practitioners and physician assistants. Health professions schools will be able to accommodate the loss of capitation subsidies -- which account for less than 5% of medical schools' total revenues -- through increased tuition, State appropriations, more efficient management, or by reducing the high faculty costs created by faculty to student ratios in medical schools currently at 10 faculty members for every 13 students. Average medical tuition is now only about $3,000 per year and as a percentage of total medical school revenues has remained at an average of 44-5% over the last ten years. Moreover, even with the loss of capitation subsidies, medical and other health professions schools will remain filled to capacity. The nation's 126 medical schools have 2.5 times as many qualified applicants as places and will be producing in excess of 16,000 new physicians annually during the 1980's.

The Budget proposes that the Health Professions Student Loan (HPSL) program be phased out in favor of service commitment programs, e.g., the National Health Service Corps (NHSC) scholarship program. While the HPSL program includes a partial Federal repayment provision (60% to 85%) for service in shortage areas, the Administration is proposing that the Health Education Assistance federally guaranteed loan program (HEAL) -- which has the same loan-repayment provision -- become the primary source of Federal loan support for graduate health professions training. The HEAL program will provide access to financial markets for health professions students who prefer not to make a service commitment. Health professions students are also eligible for

Department of Education guaranteed student loans, which have an interest subsidy but are limited in annual amounts to $5,000 and aggregate amounts to $15,000. For the 1980-1981 academic year, it is estimated that the HEAL program will provide loan guarantees totaling $40 million among 5,000 students in over 300 eligible institutions. The HPSL program will continue to support health professions training through existing revolving fund resources which total $16 million in 1980.

Estimated Effects: Federal support for HEW health professions training programs will continue at a level of $410.4 million in 1980, including $85.5 million for NHSC scholarships and $108.5 million for primary care and family medicine training, area health education centers, and grants for nurse practitioner and physician assistant training. The proposed rescission of $104 million will not affect the goal of providing improved health services to the medically underserved.

Outlay Effect: (estimated in millions of dollars)

1. Budget outlay estimate for FY 1980 (anticipates congressional aproval of this proposal)	$565.6
2. Outlay estimate if this proposal is not approved	578.1
3. 1980 outlay savings attributable to this proposal	12.5
Outlay savings for FY 1981	36.6
Outlay savings for FY 1982	55.1

HEALTH RESOURCES ADMINISTRATION

Health Resources

Of the funds provided for "Health resources" for fiscal year 1980 in P.L. 96-123, making further continuing appropriations for the fiscal year 1980, $104,218,000 are rescinded.

Rescission Proposal No: R80-3

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. 96-126): $175,627,000
Bureau: Geological Survey	Other budgetary resources: 21,105,397
Appropriation title & symbol: Exploration of National Petroleum Reserve in Alaska 14X 0805	Total budgetary resources: 196,732,397
	Amount proposed for rescission: $18,000,000
OMB identification code: 14-0805-0-1-271	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

Funds were appropriated to this account in fiscal year 1980 and prior years for the exploration and assessment of the National Petroleum Reserve in Alaska (NPR-A).

The 1980 budget recommended that federally funded drilling be concluded after completion of the 19th well. The Congress added $141.5 million to the FY 1980 appropriation to drill five additional wells in 1980 and to make preparations in 1980 to commence drilling four more wells in 1981. Congressional intent was to provide funds for drilling the latter wells in fiscal 1981. The legislative history of the 1980 appropriation bill indicates that an additional appropriation of between $160 and $190 million would be required to drill the four wells contemplated in 1981.

This proposal is to rescind $18 million that would otherwise be used in preparation for drilling the four additional exploratory wells in 1981. This includes $11 million appropriated for prepositioning supplies and equipment and $7 million for conducting seismic surveys to locate drilling sites. Under this proposal, the additional five wells for which 1980 funds were appropriated will be drilled. Funds for drilling additional wells in 1981 and beyond are affected by this rescission.

The President has recommended that Congress quickly enact the Administration's draft bill to open NPR-A to oil and gas exploration and development under private leasing. Adequate controls would be provided by that bill to protect surface values. The private leasing approach offers the fastest way to find and produce any commercial quantities of crude oil or natural gas in NPR-A. A number of firms conducting exploration under several exploration strategies have a higher probability of success than does exploration under a single government strategy. Also, under the private leasing strategy, instead of paying the cost of exploration, the Federal Government will receive payments from the oil companies for exploration and development rights.

The bill recommended by the President anticipates that the first lease sale would be conducted within 20 months after enactment. The 1981 budget would provide for resources to prepare for such leasing as well as $45 million in new budget authority to close the Federal exploration contract after completion of the 24 wells funded through FY 1980.

The Federal drilling program has contributed data for the preparation of an overall assessment of the petroleum resource potential of NPR-A. That assessment was an important element supporting the draft bill to open the Reserve to private leasing. The Administration strongly recommends that federally funded drilling be terminated in NPR-A and that the Congress approve this proposal.

Estimated Effects

Supplies and equipment will not be shipped to NPR-A to prepare for new drilling in 1981 and seismic surveys will not be completed to locate sites for such drilling.

Outlay Effect: (estimated in millions of dollars)

1. Budget outlay estimate for FY 1980 (anticipates congressional approval of this proposal)	$193.0
2. Outlay estimate if this proposal is not approved	211.0
3. 1980 outlay savings attributable to this proposal	18.0

Of the funds appropriated under this head in P.L. 96-126, making appropriations for the Department of the Interior and related agencies for fiscal year 1980, $18,000,000 are rescinded.

SUPPLEMENTARY REPORT

Report pursuant to Section 1014(c) of P.L. 94-344

This report revises Deferral No. D8Q-5 transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

This revision to a deferral for the National Oceanic and Atmospheric Administration's Construction account increases the amount previously reported as deferred from $7,000,000 to $46,459,000. This increase of $39,459,000 results from an expected reduction of $35,158,682 in FY 1980 obligations due to construction startup delays, and an increase of $4,300,318 in budgetary resources because the actual amount of unobligated balances brought forward on October 1, 1979, was higher than originally estimated.

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Deferral No: D80-5A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. _____): $ ---
Bureau: National Oceanic and Atmospheric Administration	Other budgetary resources: $4,300,318*
Appropriation title & symbol: Construction 13X1452 1/	Total budgetary resources: $4,300,318*
	Amount to be deferred: Part of year: $ ---
	Entire year: $46,459,000*
OMB identification code: 13-1452-0-1-306	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other _____
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

Justification:*

The Supplemental Appropriations Act, 1979 (P.L. 96-38) provided $60,000,000 to complete the construction of the National Oceanic and Atmospheric Administration's Western Regional Center in Seattle, Washington. Additional budgetary resources totalling $4,300,318 remain available from the 1978 appropriation. Due to construction startup delays, present program plans call for the obligation of only $17,841,318 in FY 1980. The remaining $46,459,000 for construction of piers and staging area, shops complex, education center, and research areas I and II, is planned for obligation in FY 1981, and is deferred for the remainder of this fiscal year. This deferral is consistent with congressional intent to provide no-year funding for this project and is taken under the provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effect:

This deferral has no programmatic or budgetary effect because the funds would not be obligated if made available.

Outlay Effect:

This deferral has no effect on outlays.

1/ This account was the subject of a similar deferral during FY 1979.

* Revised from previous report.

D80-8A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of P.L. 93-344

This report revises deferral No. D80-8 transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

This revision to a deferral for the Fisheries Loan Fund reflects a change in justification due to the Administration's 1981 legislative proposal to transfer any balance of funds remaining in, or other assets of, the Fisheries loan fund, as of September 30, 1980, to the fishing vessel portion of the Federal ship financing fund established under Title XI of the Merchant Marine Act of 1936 as amended (46 U.S.C. 1271-1280).

Deferral No: D80-8A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. _____): $ ---
Bureau: National Oceanic and Atmospheric Administration	Other budgetary resources: $5,906,961*
Appropriation title & symbol: Fisheries Loan Fund 1/ 137/04317	Total budgetary resources: $5,906,961*
	Amount to be deferred: Part of year: $5,206,961*
	Entire year: ---
OMB identification code: 13-4317-0-3-376	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act *
Grant program: ☐ Yes ☒ No	☐ Other _____
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1980 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☒ Other 16-USC-742c

Justification:*

This fund was established pursuant to the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742c). Its purpose is to provide funds for loans to segments of the fishing industry unable to obtain commercial loans on reasonable terms for financing the cost of purchasing, constructing, equipping, maintaining, repairing or operating new or used fishing vessels or gear.

In 1965, the Act was amended to require the National Oceanic and Atmospheric Administration (NOAA) to pay interest to the Treasury on the difference between the available funds and the cash balance at the end of the year. The current program covers the 1980 interest liability of $680,000 and provides $20,000 for the care and preservation of collateral throughout the year. Of the total budgetary resources in the fund, only these amounts are presently planned for expenditure in 1980 to support the estimated program requirements.

On February 20, 1973, the Administrator of NOAA declared a moratorium on accepting further loan applications effective March 1, 1973, due to a level of loans outstanding and loan applications pending which exceeded the Fund's capital. Additionally, the General Accounting Office concluded in a report issued February 22, 1973, that loans made from the Fisheries Loan Fund (1) allowed the continued use of inefficient vessels and (2) maintained or added vessels to segments of the fishing industry which were considered to have excess, but not necessarily efficient harvesting capacity. GAO recommended that the Secretary of Commerce develop criteria for evaluating vessel efficiency and priorities for directing these program funds.

In order to provide effective and efficient use of these funds, the Department is proposing legislation to transfer any balance of funds remaining in, or other assets of, the Fisheries Loan Fund, as of September 30, 1980, to the fishing vessel portion of the Federal ship financing fund established under Title XI of the Merchant Marine Act of 1936 as amended (46 U.S.C. 1271-1280). The legislation proposes the continuation of activities specified in Title XI for fishing vessels, and also provides for the guarantee of obligations incurred by fishing vessels engaged in the development of previously underutilized fisheries. Funds totalling $5,206,961 are deferred pending congressional approval and enactment of the transfer proposal.

Estimated Effect:

This deferral has no programmatic or budgetary effect because the funds would not be used if made available.

Outlay Effect:

This deferral action has no effect on outlays.

* Revised from previous report.
1/ This account was the subject of a similar deferral in FY 1979.

Deferral No: D80-41

D80-9A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense-Military	New budget authority (P.L. 96-154): $6,648,050,000
Bureau:	Other budgetary resources: 2,000,000
Appropriation title & symbol: Shipbuilding and Conversion, Navy - 170/41611 1/	Total budgetary resources: 8,650,050,000
	Amount to be deferred: Part of year: $---
	Entire year: 997,300,000
OMB identification code: 17-1611-0-1-051	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual; [X] Multiple-year September 30, 1984 (expiration date); [ ] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification:

These funds are proposed for deferral through September 30, 1980. Due to the long period of time required to build ships, the Congress makes appropriations available for five-year periods. The amount deferred is not expected to be needed to meet program requirements during this fiscal year.

Prudent financial management requires the deferral of those funds that could not be used effectively during the current year even if made available for obligation.

The above multiple-year appropriation is currently being deferred under the provisions of the Antideficiency Act (31 U.S.C. 665), which authorizes the establishment of reserves for contingencies.

Estimated Effect:

This deferral has no programmatic or budgetary effect because the funds would not be obligated if made available.

Outlay Effect:

This deferral action has no effect on outlays.

1/ This account was the subject of a similar deferral during FY 1979.

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D80-9 transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

This revision to a deferral of Department of Defense military construction funds increases the amount previously reported as deferred from $31,386,000 to $387,166,000. This increase of $355,780,000 results primarily from an increase in budgetary resources made available by the Military Construction Appropriation Act, 1980 (P.L. 96-130).

Deferral No: D80-9A

D80-9A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense - Military	New budget authority (P.L. 96-130): $1,170,455,000
Bureau:	Other budgetary resources: 3,143,540,783
Appropriation title & symbol: See coverage section below	Total budgetary resources: 4,313,995,783
	Amount to be deferred: Part of year: $387,166,000
	Entire year:
OMB identification code: See coverage section below	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [X] Annual; [ ] Multiple-year September 30, 1984 / September 30, 1983 (expiration date); [ ] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Coverage1/

Appropriation	Symbol	OMB Identification Code	Amount Deferred
Military construction, Army	210/42050	21-2050-0-1-051	$178,912,000
Military construction, Army	219/32050	21-2050-0-1-051	0
Military construction, Navy	170/41205	17-1205-0-1-051	0
Military construction, Navy	179/31205	17-1205-0-1-051	0
Military construction, Air Force	570/43300	57-3300-0-1-051	47,462,000
Military construction, Air Force	579/33300	57-3300-0-1-051	18,840,000
Military construction, Defense Agencies	9700500 2/	97-0500-0-1-051	81,800,000
Military construction, Defense Agencies	979/30500	97-0500-0-1-051	11,752,000
Military construction, Army National Guard	210/42085	21-2085-0-1-051	10,374,000
Military construction, Army National Guard	219/32085	21-2085-0-1-051	0
Military construction, Air National Guard	570/43830	57-3830-0-1-051	9,325,000
Military construction, Air National Guard	579/33830	57-3830-0-1-051	0
Military construction, Army Reserve	210/42086	21-2086-0-1-051	16,616,000
Military construction, Army Reserve	219/32086	21-2086-0-1-051	1,364,000
Military construction, Naval Reserve	170/41235	17-1235-0-1-051	4,836,000
Military construction, Naval Reserve	179/31235	17-1235-0-1-051	0
Military construction, Air Force Reserve	570/43730	57-3730-0-1-051	5,885,000
Military construction, Air Force Reserve	579/33730	57-3730-0-1-051	0
			$387,166,000

1/ These accounts were the subject of a similar deferral during FY 1979.
2/ A supplemental request (appropriation language) has been proposed that would extend the availability of this appropriation until September 30, 1984.

Justification:

The above amounts in the listed appropriations are currently deferred under provisions of the Antideficiency Act (31 U.S.C. 665) which authorizes the establishment of reserves for contingencies.

With the exception of a single appropriations account, noted above, the Congress made appropriations for this purpose available for five years beginning with fiscal year 1979. Previously, these appropriations were available for obligation until expended. The above funds are deferred due to administrative delays, such as project designs not being completed and incomplete coordination of projects with either other Federal agencies or local government agencies. Funds will be apportioned for individual projects throughout the year upon completion of project design and/or coordination.

Estimated Effects:

These deferrals have no programmatic or budgetary effect because the funds would not be obligated if they were made available.

Outlay Effects:

These deferrals have no effect on outlays.

Deferral No: D80-42

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense - Military	New budget authority (P.L. _____): $ _____
Bureau:	Other budgetary resources: 188,772,909
Appropriation title & symbol: Family Housing, Defense 979/3H701	Total budgetary resources: 188,772,909
	Amount to be deferred: Part of year: $ _____ Entire year: 18,651,000
OMB identification code: 97-0701-0-1-051	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1983 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

Justification:

These funds were appropriated in 1979 and prior years for family housing construction and debt payment. Savings from Navy construction contracts and proceeds from sales of surplus family housing facilities have created unprogrammed balances in the Family Housing account. The 1981 Budget proposes reappropriation of these funds for family housing construction. These funds are deferred pending congressional approval and enactment of the reappropriation request.

Estimated Effect:

This deferral has no programmatic or budgetary effect because the funds would not be obligated if made available. Sufficient funds are available to execute approved projects and to make necessary mortgage payments.

Outlay Effect:

This deferral action has no effect on outlays.

Deferral No: D80-43

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Health, Education and Welfare	New budget authority (P.L. 95-[illegible]): $ 6,520,000
Bureau: Office of Asst. Sec. for Health	Other budgetary resources: 13,440,177
Appropriation title & symbol: Scientific Activities Overseas (Special Foreign Currency Program) 75X1102	Total budgetary resources: 19,960,177
	Amount to be deferred: Part of year: $ --- Entire year: 10,000,000
OMB identification code: 75-1102-0-1-552	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

Justification:

The Scientific activities overseas program of the Department of Health, Education, and Welfare is funded with appropriations which consist of excess foreign currencies owned by the United States. The currencies of Egypt, Burma, Guinea, India, and Pakistan held by the Treasury have been designated as in excess of normal U.S. needs. Funds for this program, which remain available until expended, are used for scientific research projects in those countries.

The amount of funds to be obligated during FY 1980 and the amount to be deferred for the entire year was determined after a careful review of the scientific merit of project proposals in the countries for which excess currency is available. The research projects in those countries that will contribute toward meeting U.S. scientific needs have been selected for funding in FY 1980 by HEW. The amount being deferred is excess to current program requirements and is being reserved for contingencies under provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effect:

This deferral has no programmatic or budgetary effect because the funds would not be obligated if made available.

Outlay Effect:

This deferral action has no effect on outlays.

Deferral No: D80-44

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. 96-126): $ 55,000,000 1/
Bureau: Bureau of Land Management	Other budgetary resources: 8,833,570
Appropriation title & symbol: Oregon and California Grant Lands 2/ 14X5136	Total budgetary resources: 63,833,570
	Amount to be deferred: Part of year: $ --- Entire year: 1,133,570
OMB identification code: 14-5136-0-2-302	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☐ Appropriation ☐ Contract authority ☒ Other Appropriated Receipts

Justification:

The Interior and Related Agencies Appropriation Act, 1980 (P.L. 96-126) includes an indefinite no-year appropriation equivalent to 25 percent of timber sale receipts from revested Oregon and California Railroad grant lands. The appropriated receipts provide for management, development, and protection of Federal Oregon and California grant lands including the construction and maintenance of roads. Because the appropriation is based on receipts collected in the same fiscal period and the receipts are based on the timber harvested, the total amount which will be available for obligation can only be estimated. Not only may actual receipts vary from estimates, but receipts for the last two months of the fiscal period are not known in time to make programmatic adjustments to offset a possible shortfall between estimated and actual amounts. Deferral is planned to cushion fluctuating receipt levels. This deferral is taken pursuant to the Antideficiency Act (31 U.S.C. 665).

Total resources for this program are estimated at $63,833,570. In accordance with the provisions of P.L. 96-126, $62,700,000 is planned for obligation in FY 1980. The remaining balance of $1,133,570 is deferred.

1/ Estimated. The appropriation is for "an amount equivalent to 25 percent of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands."

2/ This account was the subject of a similar deferral during FY 1979.

D80-44

Estimated Effects:

There will be no programmatic impact from this deferral in FY 1980.

Outlay Effect:

This deferral action has no effect on outlays.

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SUPPLEMENTARY REPORT

Report pursuant to section 1014(c) of Public Law 93-344

This report revises Deferral No. D80-16 transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

This revision to a deferral for the drainage of anthracite mines account in the Department of the Interior increases the amount previously reported as deferred from $1,137,000 to $1,464,980. This increase of $327,980 is attributable to an adjustment in unobligated balances brought forward on October 1, 1979. The adjustment was necessary because the actual amount of unobligated balances brought forward was $327,980 higher than originally estimated.

Deferral No: D80-16A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. ____): $ ---
Bureau: Bureau of Mines	Other budgetary resources: 1,464,980*
Appropriation title & symbol: Drainage of Anthracite Mines 1/ 14X0956	Total budgetary resources: 1,464,980*
	Amount to be deferred: Part of year: $ ---
	Entire year: 1,464,980*
OMB identification code: 14-0956-0-1-306	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [X] Yes [ ] No	[X] Other: Matching grant provision of P.L. 84-219 (69 Stat 460)
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification:

Funds totalling $200,000 have been apportioned for this account to match funds anticipated to be made available by the Commonwealth of Pennsylvania for water monitoring stations and for sealing and other public health and safety projects. The remaining unobligated balance has been deferred because the Commonwealth of Pennsylvania is not expected to provide further matched funding during the year.

Estimated Effect:

This deferral has no programmatic or budgetary effect because the funds would not be obligated if made available.

Outlay Effect:

This deferral action has no effect on outlays.

1/ This account was the subject of a similar deferral during FY 1979.

* Revised from previous report.

Deferral No: D80-45

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Justice	New budget authority (P.L. 96-68): $ 27,000,000
Bureau: Legal Activities	Other budgetary resources: ---
Appropriation title & symbol: Fees and Expenses of Witnesses 1500311	Total budgetary resources: 27,000,000
	Amount to be deferred: Part of year: $ 1,181,000
	Entire year: ---
OMB identification code: 15-0311-0-1-752	Legal authority (in addition to sec. 1013): [ ] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other ____
Type of account or fund: [X] Annual [ ] Multiple-year ____ (expiration date) [ ] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification:

Funds totalling $1,181,000 of annual budget authority provided to the Department of Justice's Legal Activities for fees and expenses of witnesses are being deferred pending congressional approval and enactment of a transfer of these funds to help offset increased pay costs of the Department. The funds are proposed for transfer to the Drug Enforcement Administration, salaries and expenses account ($1,077,000) and to the Legal Activities, salaries and expenses account ($104,000).

These funds are proposed for transfer because of a lower-than-anticipated caseload in the U.S. Attorney's Office.

If the deferred funds are not approved for transfer, the Office of Management and Budget will reassess the activity in this account. At that time, consideration would be given to proposing the funds for rescission.

Estimated Effect:

The effect of this deferral is to preserve these funds pending congressional action on the transfer proposal.

Outlay Effect:

This deferral action has no effect on outlays.

D80-17B

SUPPLEMENTARY REPORT

Report pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D80-17A transmitted to the Congress on November 15, 1979, and printed as House Document No. 96-228.

This revision of a deferral for the Federal Prison System's Buildings and facilities account modifies the justification for the deferral and increases the amount previously reported as deferred from $37,741,400 to $50,351,400. These changes make the deferral consistent with a request in the 1981 Budget to transfer funds that are available as a result of the cancellation of plans to construct two correctional facilities and apply them for increased pay costs in other Department of Justice accounts.

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Deferral No: D80-17B

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Justice	New budget authority (P.L. 96-68): $5,960,000*
Bureau: Federal Prison System	Other budgetary resources: 74,167,264*
Appropriation title & symbol: Buildings and Facilities 1/ 15X1003	Total budgetary resources: 80,127,264*
	Amount to be deferred: Part of year: $28,214,000*
	Entire year: 22,137,400*
OMB identification code: 15-1003-0-1-753	Legal authority (in addition to sec. 1013): [X] Antideficiency Act ($22,137,400)* [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification:*

This appropriation finances planning, acquisition of sites, and construction of new penal and correctional facilities as well as construction, remodeling, and equipping of necessary buildings and facilities at existing penal and correctional institutions. Projects are undertaken to reduce overcrowding, close old and antiquated penitentiaries, and provide a safe and humane environment for staff and inmates. These funds were appropriated in the Departments of State, Justice, and Commerce, the Judiciary and Related Agencies Appropriation Act of 1980 and previous years. Due to the time required for planning, site acquisition, design efforts, and selection of contractors, it is not possible to complete the construction, renovation, and rehabilitation associated with all of these projects during FY 1980. The deferral of funds for the entire year, totalling $22,137,400, is consistent with congressional intent to provide no-year funding for the total cost of these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 665).

An additional $28,214,000 in funds are deferred in this account pending congressional approval and enactment of a transfer of these funds to help offset increased pay costs in eight other Department of Justice accounts. These funds are available for transfer due to the cancellation of plans to build both the Detroit Metropolitan Correctional Center and the Federal Correctional Institution at Camarillo, California. If these funds are not approved for transfer, the Office of Management and Budget will reassess program requirements in this account. At that time, consideration will be given to proposing these funds for rescission.

1/ This account was the subject of a similar deferral during FY 1979.

* Revised from previous report.

D80-17B

Estimated Effect: *

The amount deferred for the entire year would not be economically used, if made available, in fiscal year 1980, because of the planned and phased procurement, construction and installation cycle. The effect of the part-of-year deferral is to preserve these funds pending congressional action on the transfer proposal.

Outlay Effect:*

In light of current plans to transfer these funds for use in other accounts, no effect on outlays is anticipated from this deferral.

D80-32A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D80-32 transmitted to the Congress on November 15, 1979, and printed as House Document No. 96-228.

This revision to a deferral for Contributions to International Peacekeeping Activities in the Department of State reports a change in justification and increases the amount previously reported as deferred from $10,000,000 to $12,000,000. The increase is attributable to a final 1980 assessment by the United Nations of the U.S. share of the United Nations Disengagement Observer Force in the Golan Heights (UNDOF) and the United Nations Interim Force in Lebanon (UNIFIL) peacekeeping costs and close out costs for the United Nations Emergency Force in the Sinai (UNEF) which were only estimates at the time the initial deferral was reported. The change in justification involves a proposal to transfer the deferred funds to other State Department accounts to cover increased pay costs.

Deferral No: D80-32A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of State	New budget authority (P.L. 96-68): $67,000,000
Bureau: International Organizations and Conferences	Other budgetary resources:
Appropriation title & symbol: Contributions for International Peacekeeping Activities 1901124	Total budgetary resources: 67,000,000
	Amount to be deferred: Part of year: $12,000,000*
	Entire year:
OMB identification code: 19-1124-0-1-153	Legal authority (in addition to sec. 1013): [ ] Antideficiency Act* [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [X] Annual [ ] Multiple-year ____ (expiration date) [ ] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification:*

Three United Nations Middle East peacekeeping operations are provided for in this account--the United Nations Disengagement Observer Force in the Golan Heights (UNDOF), the United Nations Interim Force in Lebanon (UNIFIL), and the United Nations Emergency Force in the Sinai (UNEF).

In July 1979 the United Nations failed to extend the mandate of UNEF. As a result, the forces associated with UNEF were either rotated to other UN peacekeeping operations in the Middle East or returned to their country of origin. Of the $20,000,000 provided in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1980 (P.L. 96-68) for UNEF, only $8,000,000 was required to pay the U.S. share of UNEF close out costs and to pay our increased assessed share of UNEF and UNDOF costs.

The President's 1981 Budget proposes to transfer the remaining $12,000,000 to cover increased pay costs in other State Department accounts. These funds are deferred pending congressional approval and enactment of the proposed transfer. If the transfer is not approved, the Office of Management and Budget would recommend to the President that these funds be proposed for rescission.

Estimated Effect:

This deferral has no programmatic or budgetary effect because the funds would not be used if made available.

Outlay Effect:

This deferral has no effect on outlays.

* Revised from previous report.

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D80-18A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D80-18 transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

The amount deferred for the United States Emergency Refugee and Migration Assistance Fund is $25,000,000, an increase of $19,350,000 over the amount previously reported as deferred. This increase results from additional budgetary resources made available by the second 1980 continuing resolution (P.L. 96-123).

Deferral No: D80-18A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of State	New budget authority (P.L. 96-86, 96-123): $25,505,827*
Bureau:	Other budgetary resources: 7,494,173*
Appropriation title & symbol: United States Emergency Refugee and Migration Assistance Fund, Executive 1/ 11X0040	Total budgetary resources: 33,000,000*
	Amount to be deferred: Part of year: $25,000,000*
	Entire year:
OMB identification code: 11-0040-0-1-151	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund: [ ] Annual; [ ] Multiple-year (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification: *

Section 501(a) of the Foreign Relations Authorization Act, Fiscal Year 1976, Public Law 94-141, approved November 29, 1975, amended section 2(c) of the Refugee and Migration Assistance Act of 1962 (22 U.S.C. 2601) by authorizing a fund to enable the President to provide emergency assistance for unexpected urgent refugee and migration needs.

By Executive Order No. 11922 of June 16, 1976, the President allocated all funds appropriated to him for the Emergency Fund to the Secretary of State but reserved to himself the determination of assistance to be furnished and the designation of refugees to be assisted by the Fund.

Consistent with the President's reservation of authority set out in Executive Order No. 11922 and to achieve the most economical use of budgetary resources, $25,000,0000 of unobligated balances in the Fund have been deferred. It is anticipated that reapportionments may be made on a case-by-case basis as the President determines assistance to be furnished and designates refugees to be assisted by the Fund.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effect:

There are no programmatic or budgetary effects resulting from this deferral.

Outlay Effect:

This deferral action has no effect on outlays.

1/ This account was the subject of a similar deferral during FY 1979.
* Revised from previous report.

D80-20A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of P.L. 93-344

This report revises Deferral No. D80-20, transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

This revision of a deferral for facilities and equipment (Airport and Airway Trust Fund) in the Federal Aviation Administration increases the amount previously reported as deferred from $138,211,075 to $304,291,699. This increase of $166,080,624 results from additional budgetary resources made available to this account by the enactment of the Department of Transportation and Related Agencies Appropriation Act, 1980 (P.L. 96-131).

Deferral No: D80-20A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. 96-131): $250,000,000*
Bureau: Federal Aviation Administration	Other budgetary resources: 346,991,699*
Appropriation title & symbol: Facilities and Equipment (Airport and Airway Trust Fund), FAA 1/* 69X8107 699/18107 698/08107 690/48107	Total budgetary resources: 596,991,699*
	Amount to be deferred: Part of year: ---
	Entire year: 304,291,699*
OMB identification code: 69-8107-0-7-402	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund:* [ ] Annual 698/08107 Sept. 30, 1980 2/ 699/18107 Sept. 30, 1981; [X] Multiple-year 690/48107 Sept. 30, 1984 (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification:

Funds from this account are used to procure specific congressionally-approved facilities and equipment for the expansion and modernization of the national airway system. Projects financed from this account include construction of buildings and purchase of new equipment for new or improved air traffic control towers, automation of the en route airway control system, and expansion and improvement in the navigational and landing aid systems. These funds were appropriated in the Department of Transportation and Related Agencies Appropriation Acts of 1980 and prior years. The estimated total cost for each project is included in the budget submission and appropriation for the year in which it is requested. Because of the lengthy procurement and construction time for interrelated new facilities and complex equipment systems, it is not possible to obligate all funds necessary to complete each project in the year funds are appropriated. Therefore, it is necessary to apportion funds so that sufficient resources will be available in future periods to complete these projects. This deferral action is consistent with the congressional intent to provide multi-year funding for the total costs of these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 665) which authorizes the establishment of reserves for contingencies.

Estimated Effect:

This deferral action is consistent with the normal operation of this program. The amount deferred could not be economically used if made available in FY 1980 because of the planned

1/ This account was the subject of a similar deferral in FY 1979.
2/ None of these funds are deferred.
* Revised from previous report.

multi-year procurement, construction, and installation cycle.

Outlay Effect:

This deferral action has no effect on outlays.

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344.

This report revises Deferral No. D80-24 transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

This revision to a deferral for the construction of mint facilities in the Department of the Treasury's Bureau of the Mint reports a change in justification and increases the amount previously reported as deferred from $3,229,583 to $5,729,583. These revisions to the previous report reflect deferral of the entire amount remaining in this account pending congressional action on a request for transfer of the funds to cover increased pay costs of the United States Secret Service.

Deferral No: D80-24A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Treasury	New budget authority (P.L. ____): $ ---
Bureau: Bureau of the Mint	Other budgetary resources: 5,729,583
Appropriation title & symbol: Construction of Mint Facilities 1/ 20X1617	Total budgetary resources: 5,729,583
	Amount to be deferred: Part of year: $5,729,583 *
	Entire year: --- *
OMB identification code: 20-1617-0-1-803	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:*

The Department of the Treasury is no longer seeking funding authority to construct a new mint at Denver. Other, lower priority uses for these funds could be found. However, after considering these various other uses, the Administration has proposed a transfer of the remaining funds in this account to cover increased pay costs for the United States Secret Service. Therefore, $5,729,583 is deferred pending congressional approval and enactment of the proposed transfer.

Estimated Effect:*

The effect of this deferral is to preserve these funds pending congressional action on the transfer proposal.

Outlay Effect:*

In light of current plans to transfer these funds for use in another account, no significant effect on outlays is anticipated from this deferral.

*Revised from previous report.
1/ This account was the subject of a similar deferral in FY 1979.

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344.

This report revises Deferral No. D80-28 transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

This revision to a deferral for the National Alcohol Fuels Commission increases the amount previously reported as deferred from $250,000 to $750,000. This increase of $500,000 results from an increase in budgetary resources made available by the Department of Transportation and Related Agencies Appropriation Act, 1980 (P.L. 96-131).

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Deferral No: D80-28A

D80-28A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: National Alcohol Fuels Commission	New budget authority (P.L. 96-131): $1,500,000*
Bureau:	Other budgetary resources: 1,498,136*
Appropriation title & symbol: Salaries and expenses 1/ 48X1700	Total budgetary resources: 2,998,136*
	Amount to be deferred: Part of year: $---
	Entire year: 750,000*
OMB identification code: 48-1700-0-1-271	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification: *

Authorized by P.L. 95-599, the Federal Aid Highway Act of 1978, the National Alcohol Fuels Commission is undertaking a thorough investigation of the long and short-term potential of alcohol fuels from various sources as a way to meet the nation's energy needs. The Commission will recommend policies and provide an assessment of the associated costs and benefits of these policies. The commission must publish its report in December 1980, and phase out its operations by June 1981.

The Supplemental Appropriations Act, 1979 (P.L. 96-38) and the Department of Transportation and Related Agencies Appropriation Act, 1980 (P.L. 96-131) provided funds totalling $3.0 million to fund the Commission's activities. The latest Commission spending plan indicates funding requirements through FY 1980 will total $2.25 million, and $750,000 will be required for obligation in FY 1981. Therefore, $750,000 is deferred for the remainder of this fiscal year.

This deferral is consistent with the congressional intent to provide no-year funding for the Commission and is taken under the provisions at the Antideficiency Act (31 U.S.C. 665). The deferral will assure prudent financial management for the duration of the Commission and is consistent with their operating plan.

1/ This account was the subject of a similar deferral during FY 1979.

* Revised from a previous report.

Estimated Effects:

This deferral has no programmatic or budgetary effect because the funds would not be obligated if made available.

Outlay Effects:

This deferral action has no effect on outlays.

[FR Doc. 80-3204 Filed 1-30-80; 8:45 am]

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federal register

Thursday
January 31, 1980

Part XI

Department of Agriculture

Food and Nutrition Service

1979 Amendments to the Food Stamp Act: Provision of Social Security Numbers; Fraud Disqualification and Recovery; Rounding Procedures and Clarification on Hotline Alternatives

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amdts. 152, 154 and 161]

1979 Amendments to the Food Stamp Act: Provision of Social Security Numbers; Fraud Disqualification and Recovery; Rounding Procedures and Clarification on Hotline Alternatives

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rulemaking implements the 1979 Amendments to the Food Stamp Act of 1977 on provision of social security numbers, and fraud disqualification and recovery. Final rulemaking on group living arrangements will be published separately at a later date. The delay in publishing the final rulemaking on group living arrangements allows the Department additional time to consider all the ramifications of this provision. Proposed regulations on all three provisions were published at 44 FR 62862; October 31, 1979 and republished at 44 FR 63498; November 2, 1979. In addition, this rulemaking finalizes proposed rules revising the current rounding procedures published at 44 FR 57414, October 5, 1979; and provides new language to clarify outreach regulations published at 44 FR 64386, November 6, 1979.

Two major impacts are expected from these final regulations. The Department expects program integrity to be enhanced by the social security number and fraud procedures since these will provide the tools and incentives necessary to lessen fraud and abuse. The second impact the Department expects is that the rounding procedures (published proposed at 44 FR 57414; October 5, 1979) will improve program efficiency by increasing comparability between this program and public assistance programs.

EFFECTIVE DATE: January 31, 1980.

FOR FURTHER INFORMATION CONTACT: Larry R. Carnes, Chief, Policy/Regulations Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, FNS, USDA, Washington, D.C. 20250. (202) 447–9075.

SUPPLEMENTARY INFORMATION: 1979 Amendments to the Food Stamp Act of 1977.

This preamble articulates the basis and purpose behind any significant requirements which have been changed from the proposed rulemaking. The reasons supporting the provisions of the proposed rules which are unchanged by the final rules were carefully examined in light of the comments to determine the continued applicability of each justification. Unless otherwise stated, or unless inconsistent with the final rules or preamble, the rationale contained in the proposal should be regarded as a basis for the pertinent final rules. Thus, a thorough understanding of the grounds for the final rules may require reference to the proposed rulemaking.

The amendment sets forth procedures by which social security numbers may be obtained for all members of food stamp households as authorized by Section 4 of Pub. L. 96–58. That section amended the Food Stamp Act of 1977 (Title XIII of Pub. L. 95–113, 91 Stat. 958) to enable the Department to require as a condition of eligibility for participation in the Food Stamp Program, that each household member furnish to the State agency his or her social security account number or numbers.

In addition, this rulemaking amends the regulations so that individuals subject to disqualification from program participation for fraudulent conduct are required to agree to either a reduction in the household's food stamp allotment or to a repayment in cash in order to again participate in the Food Stamp Program, as mandated by Section 5 of Pub. L. 96–58.

This rule also amends Part 273 to reflect changes made by Section 6 of Pub. L. 96–58 to permit each State agency to retain 50 percent of the value of all funds or allotments recovered or collected through prosecutions or other State activities directed against individuals who fraudulently obtain food stamp allotments.

A total of 69 comment letters were received on the 1979 amendments on social security numbers, group homes and fraud disqualification and overissuance recovery. There were 23 comment letters received from State agencies, 32 from public interest groups, 4 from local agencies, two from other government agencies, two from regional offices and six from the general public.

It should be noted that all of the comments received by December 17, 1979 were given full consideration. The comments received after December 17, 1979 were considered to the fullest extent possible. There were several technical comments, relating to regulation references, word changes, etc. These are not specifically addressed in this preamble.

Social Security Numbers

Implementation

The section on implementation of the social security numbers (SSN) provisions received 17 comments. Two of the commenters misunderstood the proposed regulations, commenting that implementation of the SSN requirement by July 1980 is unrealistic. The Department did not intend that this requirement be fully implemented by July 1980. The final rules require that State agencies start requesting participants' and applicants' social security numbers no later than the first of the month, 120 days from the date of publication of final rules. The numbers will be requested at the time of application and recertification.

The Department feels that this implementation schedule will provide State agencies adequate time to prepare for implementation. One State agency commented that the proposed implementation schedule was reasonable and would not be disruptive to normal operations. The Department concurs with this position.

Fourteen commenters expressed the opinion that program participants should receive advance notification of this eligibility requirement and the consequences of the failure to comply. One local agency and 13 public interest groups suggested advance notification in the form of individual notices, media releases and other outreach efforts. The Department believes that these suggestions have merit, and the final rulemaking has been rewritten to include an advance notification requirement. Specifically, the final rulemaking allows the State agency to send a one-time notice prior to implementation or to send a notice of the SSN requirement when notices of expiration are sent. State agencies may use one or a combination of these alternatives. In addition the State agency will have to give some type of notice through the media, for example, a press release announcing the requirement.

Requirement for Participation

The four large areas of concern expressed by the commenters on this section were as follows: (1) Requiring the SSN as a condition of eligibility; (2) application of requirement to children; (3) status of aliens relative to the requirement; and (4) 90-day participation pending receipt of the number.

The first area, requiring SSN's as a condition of eligibility received a total of 32 comments with four State agencies and 11 public interest groups opposing

the requirement, and 12 State agencies, two local agencies, two government agencies and one public interest group supporting the requirement. One State agency opposing the requirement stated it could not serve any purpose related to cross matching of information in their State since they were on a manual system. One State was concerned about the increase in workload and administrative cost although this State, while not actually in support of the requirement for that reason, did not strongly oppose the requirement. One State agency questioned the value of SSN's as antifraud devices, especially to noncomputerized States. Another State agency was opposed to making the requirement mandatory. This State suggested that since Congressional legislation offered this provision as an option, at least initially, this option should be passed along to the States. It was believed, based on AFDC enumeration experience, that this requirement would consume an "extraordinary amount of staff time" and that the results did not justify the increased workload.

The public interest groups opposing this requirement gave numerous reasons. Those most often cited were as follows: clients are already overburdened with a process requiring excessive verification of personal situations; there are enough eligibility requirements already and further eligibility requirements will reduce program participation; the requirement is an overzealous attempt to eliminate fraud and constitutes harassment; it will be a hardship for poor people to obtain SSN's; and, finally, Congress intended to allow the requirement, not mandate it. As stated in the preamble to the proposed regulations, the Department researched Congressional intent in the area of requiring SSN's as a condition of eligibility. The legislative history views the use of an SSN as a positive measure to counteract fraud and program abuse. The Department has decided to mandate the requirement as the best way to effectively carry-out the Congressional intent. The Department also does not agree that this requirement will create an unmanageable workload or will result in reduced program participation by harassing and overburdening applicants and participants. It is estimated that over half of the food stamp caseload already has SSN's i.e., that portion of the caseload which has been subject to AFDC enumeration as well as participants who receive social security and/or SSI benefits and the working members of nonassistance food stamp households. The Department is allowing for program participation pending receipt of the SSN. Unless an applicant or participant actually refuses to cooperate it is unlikely that participation will be adversely affected.

The State agencies and other commenters supporting the requirement generally feel that the requirement will indeed reduce fraud, and that it clearly follows Congressional intent.

Some of the State agencies supporting the requirement did, however, comment in the second area of concern in this section, that is, the application of the requirement to children. Seven comments were received on this subject. One Regional Office, four States and two public interest groups wanted the requirement limited to adults or persons receiving income. Some of the commenters suggested limiting the requirement to members of households over 16 or 18 years of age. Another commenter suggested that the requirement be applied to all individuals who are or have been employed, or who are or have been receiving income from any source, regardless of age. These commenters all felt that there is very little benefit to be gained by requiring SSN's for children, particularly those without income. Delaware pointed out that based on their AFDC experience, social security enumeration requires a significant amount of staff time and that since most adults have social security numbers, most staff time is spent trying to enumerate infants and young children. They further note that "the number of infants and young children who are subsequently found on computer cross checks to have earned income is obviously zero; the number found to be receiving unreported SSI or OASDI benefits is very small". It was the opinion of the four States commenting on this that the benefits to be derived from enumerating children could not justify the manhours that would be expended in this effort.

After evaluating these comments, the Department has decided to require SSN's for household members 18 years and over and for those children under 18 years who receive countable income from any source. It is the Department's opinion that this responds both to the concern of the commenters and to the intent of Congress that SSN's be used for income cross-checking. The final rulemaking has been rewritten to reflect this decision.

The Department plans, at a later date, to evaluate the cost effectiveness of requiring SSN's as a condition of eligibility for all household members, regardless of age, and may expand the requirement in the future, if, contrary to the comments of these States, it is proven cost effective.

The third issue raised in this section concerned the application of the requirement for an SSN to aliens. Eight commenters, all public interest groups, stated that aliens should be exempt from the requirement until such time as SSA and USDA have negotiated an agreement for the provision of SSN's to aliens. As stated in the preamble to the proposed regulations, SSA currently issues SSN's to aliens admitted for permanent residence, for refugees and for those legal temporary aliens who are given employment authorization by the Immigration and Naturalization Service (INS). Moreover, legally admitted temporary aliens who do not have documentation that they are "employment authorized" are issued SSN's when they have valid nonwork reasons, for example if they have a bank account. Discussion with SSA indicates that applying for food stamps will be considered a valid reason for obtaining an SSN. However, there should not be significant problems relative to temporary aliens since most aliens, with status as alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country, are not eligible for food stamps, although they may be able to obtain an SSN as explained above.

Thirteen commenters addressed the last area of concern in this section, the provision of allowing 90-day participation pending receipt of an SSN. One State agency and seven public interest groups supported the 90-day provision as a fair and reasonable time to allow for participation pending receipt of an SSN. One government agency opposed 90 days as too long and suggested a 45–60 day time-period, although, as explained below, this may have been based on a misunderstanding of the time it takes to get an SSN. One State agency and one member of the general public suggested 180 days instead of 90 days, stating that 90 days is not long enough. The proposed regulations (in the preamble) noted that the 31 day average processing time was from the completion of the application for an SSN to the date of SSN issuance. SSA staff indicated that this should be reworded to state that, based on study information, the average processing time from the point at which *all required documentation has been submitted* to the date of SSN issuance is approximately 31 days. In many cases the individual applying for an SSN will need some time to obtain the documents required to be submitted with the

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application for the SSN. For example, an individual may need to write to a State or local agency to obtain a copy of a birth certificate and receipt of this document may take several weeks. To allow for a possibly longer processing time due to a delay in the receipt of required documentation the Department has reworded the final regulations to specify that the 90 day participation pending the receipt of an SSN shall begin at the date of the food stamp eligibility determination rather than the date of application. This provision, as well as allowing for participation in excess of 90 days (with good cause), should address those situations in which the process takes longer than 90 days. It is the Department's position that the 90 days as reworded, and, in addition, the good cause provision, will result in equitable treatment of program participants.

Obtaining SSN's for Household Members Required To Provide an SSN

There were four comments on this section of the proposed regulations. One local agency felt that it should be optional for the State agency to file the SS–5, to avoid requesting verification of citizenship which is not currently required in the Food Stamp Program. A public interest group wanted it made clear that States having agreements with SSA to allow filing of SS–5's for individuals without SSN's are obligated to file those applications. As both the proposed and final regulations note, it is actually up to the applicant or the participant to decide whether or not to request the State agency to take the applications for an SSN. If the individual requests this service and the State agency has such an agreement with SSA, then the State agency will process the application. SSA commented that State agencies with an agreement with SAA for AFDC enumeration should renegotiate new agreements with SSA to include the Food Stamp Program as soon as possible.

Language has been added to the final regulations to this effect and to require that all State agencies which currently have agreements with SSA have to renegotiate those agreements to include food stamps. One State suggested that USDA should come to some agreement with SSA to ensure prompt processing of applications for an SSN. The Department expects that SSA will handle these applications as expeditously as possible.

Verification of Social Security Numbers

The section on verification of SSN's at initial and subsequent certification received 15 comments. Six public interest groups supported certification pending verification of an SSN and there were no comments opposing this concept, which remains unchanged in the final rules. One Regional Office and one other government agency noted that State agencies do not have routine user status of BENDEX for food stamps purposes and until such status is approved BENDEX could only be used if the responsible individual representing the household signs an individual release of information form. This was true at that time but effective January 7, 1980, the Food Stamp Program was given routine user status of BENDEX (exclusive of use of wage information) and consequently no change to the proposed regulations is necessary.

SSA commented that it should not be directly queried by local food stamp staff until the State agency has been queried for SDX information since each State receives a SDX tape or printout. Local agencies should attempt to contact their State office for SDX information prior to contacting SSA directly for this information.

One Regional Office, two States and one public interest group suggested that the regulations specify that staff should not reverify an SSN that has already been verified for use in other programs such as AFDC, Medicaid, etc. The Department concurs with this suggestion and has included this in the final rulemaking. The Department has also clarified that once an SSN is verified it shall not be reverified unless the number or the identity of an individual becomes questionable.

Finally, two States commented on the methods of verification; one State suggested that verification of SSN's should be performed through a tape exchange with SSA and another State suggested that verification should be limited to either a copy of an actual social security card, verification from SSA through tapes or other means. The Department wants to allow State agencies the flexibility to handle the variety of case situations which they will face. For those States which have BENDEX and/or SDX tapes readily accessible the use of these tapes to verify SSN's would be practical. In situations where household members will not be either BENDEX or SDX or these tapes are not readily accessible, then the State agency will have to use, as verification of SSN's, documents containing the SSN which are provided by the household. If the State agency chooses to rely on the household to provide documentation then the State agency cannot specify that only one type of documentation; such as a social security card, is acceptable as verification.

Expedited Service

This section received 12 comments, 11 of which reflected a misunderstanding of the proposed rulemaking. A total of 11 public interest groups interpreted the proposed rules incorrectly, assuming that the Department was proposing to establish a shorter time standard for getting an SSN in those cases in which households receive expedited service. The Department never intended that households certified under expedited procedures would not receive the 90 days allowed other households to participate pending receipt of an SSN. The Department's intention was that households receiving expedited service be certified before being asked to furnish or obtain a social security number. Once these households receive their first allotment they will be required to furnish or apply for an SSN and allowed the full 90 days from the date of eligibility determination allowed other households to obtain the SSN. The final regulations have been rewritten to clarify this provision.

One State agency felt that applicants using expedited service should furnish or obtain their SSN's before receiving their first allotment. However, as stated in the preamble to the proposed regulations, Congress specifically indicated that individuals entitled to expedited service would be permitted to furnish an SSN after receiving their first allotment. This was intended to avoid a delay in benefits simply because an SSN cannot be furnished immediately. The final regulations as written reflect this intent.

Failure To Comply

This section of the proposed regulations prompted 11 comments. One government agency suggested that the disqualification should be applied to the entire household. As stated in the preamble to the proposed regulations the intent of Congress was very clear on this subject. The legislative history specifically references the individual without an SSN who fails to comply by either refusing to provide or to apply for an SSN. It never refers to disqualification of the entire household. Ten public interest groups expressed the opinion that only adults should be disqualified for failure to supply their SSN. The feeling of these commenters was that minors are not responsible for obtaining their own number and thus should not be disqualified if an adult member of a household acts irresponsibly. This concern is, of course, alleviated somewhat by the fact that the final rulemaking requires SSN's only for household members 18 years and over as well as for children under 18 who receive countable income. The Department, however, is of the opinion that obtaining SSN's for children under 18 who receive countable income is a household responsibility and that there would be no incentive for the responsible adult to obtain and furnish a number for such a child if it makes no differenre if they do not. The Department feels that it is more consistent with present disqualification policy and more straight forward to disqualify the household member who is receiving income and for whom the SSN is sought, even if this individual is a minor. The final rulemaking is this section is written to apply to each household member for whom an SSN is required.

Determining Good Cause

Ten comments were received on this section of the proposed regulations. One State and five public interest groups supported the section as written. Some commenters thought that the section should be more specific and one commenter felt that a requirement should be added to require a caseworker to assist a household member in obtaining the documents required by SSA to establish age, identity and citizenship or alien status if the individual is having difficulty obtaining these. The Department feels that the section is adequately specific: it is clear that as long as the individual has applied for and provided, or is trying to obtain, the documentation necessary for an SSN application, good cause will exist for a delay in furnishing an SSN. The Department has added language to this section suggesting that the State agency caseworker assist the individual in every way possible in obtaining the SSN. SSA has also suggested that it would be helpful if the State agencies distributed the SSA pamphlet "Applying for a Social Security Number" to program applicants and participants. State agencies are encouraged to do so and should contact SSA to obtain sufficient copies of this informational pamphlet.

Use of Social Security Numbers

This section of the proposed regulations received ten comments, nine of which were from public interest groups. These groups felt that the language was too broad and that it could result in abuse of "client privacy and rights." These commenters generally suggested that the use be limited to verification of income eligibility, preventing duplicate participation and facilitating mass changes. The remaining commenter, a government agency, felt that the language was too weak and that the use should be more specifically addressed, i.e., use of SSN's to match wage information, etc. As explained in the preamble to the proposed rulemaking, the Department felt that Congress did intend that SSN's be used as an antifraud device. Using the SSN's to avoid duplicate participation is an example of this use. The amendment specifies that State agencies shall have the same access provided to HEW to the information regarding individual food stamp program applicants and participants who receive benefits under title XVI of the Social Security Act, to the extent that the Secretaries of USDA and DHEW determine that access to SSI information is within the purposes set forth in the statute. Other uses not inconsistent with Federal or State privacy laws or other pertinent legislation, and which further administration of the program, would also be permitted. The proposed regulations allowed for such usage, and the final regulations remain unchanged.

SSN Disqualification

This section of the proposed regulations, concerning the sending of a notice of adverse action to a household containing a member who has failed to comply with the SSN disqualification, received six comments, all from public interest groups. The six commenters all requested that the notice of adverse action reference the household's right to a fair hearing and one commenter suggested that available legal aid be mentioned. There is no change needed in the final regulations to satisfy these comments. The content of a notice of adverse action is clearly defined in the October 17, 1978 regulations (43 FR 47846) and includes an explanation of the household's right to a fair hearing. A reference to the section of the October 17 regulations specifying the content of the notice has been included in the final regulations.

Mass Changes

This section received a total of 15 comments. One State, one local agency and seven public interest groups opposed the requirement to conduct desk reviews after July 1, 1980 for those households receiving social security/SSI benefits. These commenters felt that these households are being unfairly singled out. They also questioned the Department's requiring desk reviews in this situation when desk reviews were not mandated for the implementation of the new medical and shelter deductions. The Department gave State agencies the option of conducting desk reviews of cases affected by the medical and shelter deduction regulations. Desk reviews for medical expenses are pointless as the level of the deduction can only be determined through a report made by the household. Desk reviews for shelter expenses alone would duplicate effort to process reported changes in medical expenses. With these factors in mind the Department did not think it practical to mandate desk review conversion for the medical and shelter deduction amendment. State agencies do have available to them information on the SSI/Social Security cost-of-living increases and can act without contact from a participant. State agencies with the capability to make point-in-time changes through use of a computer or by other means will be able to make the change in benefits without the use of desk reviews. In addition, in most States some cases will be handled through recertifications which are due during the 180 days allowed to effect the cost-of-living increase change.

For the remaining cases, it is the Department's opinion that, in 1980, desk reviews of cases receiving social security/SSI cost-of-living increases, within 180 days of the effective date of the increase, will result in these cases being treated more uniformly and equitably than in the past. The variance between States in the handling of this change will be greatly reduced. For this reason the final regulations retain the desk review requirement for cases which are not changed through other means. The final regulations also allow States with the capability to perform an automated conversion, but which have some difficulty in doing so, to identify the affected cases by other means.

Six State agencies commented on the method of effecting the social security/SSI cost-of-living increase on an ongoing basis. One State agency felt that desk reviews were preferable to conducting complete recertifications of these particular cases. Two State agencies and one local agency were concerned about the increased workload resulting from mandatory mass reviews of social security and SSI cases each year. Another State agency, Kentucky, suggested that States "be given the latitude to either assign certification periods as provided in the proposed regulations or conduct desk reviews during July, August, and September on cases whose certification does not expire during one of these months." They felt that allowing this option would reduce the number of times elderly participants would need to come to the

certification office and also reduce the administrative burden on the State agency. The department has rewritten the final regulations to allow all State agencies without the capability to perform an automated conversion the option of effecting the social security/SSI cost-of-living increases through scheduled recertifications and/or through a desk review on these specific cases.

A State agency may use one or a combination of these options. If a State agency with the capability to perform an automated conversion has difficulty doing so, it may also effect the increases through recertification and/or desk reviews. Moreover, to lessen the workload burden on State agencies, the final rulemaking allows States to complete this conversion over a 120 day period. The Department wants to both allow States sufficient time and to ensure uniform treatment of these cases.

Fraud Disqualification, Recovery and Retention

Introduction

Of the 69 comment letters, 46 letters made one or more references to the proposed regulations on fraud claims. The comments were primarily on areas in which the Department has discretion and not areas set by the statute. Overall, 22 State and local agencies and 19 public interest groups submitted comments on the fraud provisions with the remaining comments from the general public and from FNS Regional Offices and other governmental offices. The primary issues discussed by commenters included the minimum amount of a claim for conducting a fraud hearing; implementation; the six-month disqualification for individuals convicted of fraud by a court when the court does not impose a period of disqualification; holding fraud hearings for current ineligibles, the rate of allotment reductions and claims repayment.

Increasing the Minimum Amount for Fraud Claims

In the preamble to the proposed rule, suggestions were requested on raising the present limit of $35 for conducting a fraud hearing. Fourteen comments suggested that the minimum be raised to $100, five suggested that the amount be tied to the cost of pursuing a fraud claim; and the remaining comments had various suggestions or opinions including a two-tiered system based on the amount of the claim and any previous offenses. Although the comments received provided various suggestions on the minimum level of claims to pursue, the Department does not believe that sufficient information is yet available to make a decision on changing the $35 minimum.

The comments did, however, point out the need for further study of the issue. The Department intends to survey States' costs for collecting fraud and nonfraud claims. After the results of the survey are evaluated, proposed rulemaking will be issued, if warranted.

Implementation

Two comments were received which discussed the implementation schedule. The issues raised were the 120-day implementation schedule and when the 50 percent retention rate becomes effective. The proposed 120-day implementation deadline was adopted for the final rule; however, the Department did clarify that implementation would be the first of the month following the 120th day after publication. The Department believes that this period gives States adequate time to make all necessary changes. Changes in reports required by FNS are currently being made and, if not completed by implementation, FNS will provide instructions on submitting interim reports.

One commenter suggested that the Department clarify whether fraud claims established or collected after implementation are subject to the new provisions including the 50 percent State retention. The Department is adding language to make clear that the State may keep half of fraud claims *collected* after implementation, even though the fraud claim was established prior to implementation. The 50% retention would even apply to fraud claims established under the 1964 Act which are collected after these provisions are implemented. However, the State agency may only apply the recovery provisions of these regulations to fraud claims which have been established through an administrative fraud hearing or a court of appropriate jurisdiction as provided for by the 1977 Act and subsequent regulations. These provisions are, therefore, retroactive to implementation of the fraud claims provisions under the 1977 Act.

Any individual who was found guilty of fraud either through an administrative hearing or by a court and who is not already making restitution must be notified (through the revised agreement letter) of the new recovery requirements and be notified that failure to agree to restitution will result in another period of disqualification until agreement is made. In addition to notifying these individuals, the State agency may want to notify persons making cash repayments of the changes in order to allow them to convert to allotment reduction. Regardless, should this latter category of individuals fail to continue its cash repayments subsequent to implementation, these individuals must be sent the agreement letter when cash repayments cease or diminish, before allotment reduction may be imposed.

Six-Month Disqualification

Another provision which received several comments was the imposition of an automatic six-month disqualification for individuals found guilty of fraud by a court which failed to address or specify a period of disqualification. The majority of comments opposed this provision. Seven comments opposed the six-month disqualification based on lack of legal authority although those States commenting on the issue generally supported it if the Deparment believed that there was sufficient legal authority. The rationale for this decision was provided in the preamble to the proposed regulations. The Department believes that disqualification of individuals found guilty of fraud is required by the Act and supported by the legislative history. A six-month disqualification is the minimum cited in the Act for a court decision of fraud. The Act specifically provides that an individual is ineligible upon being found criminally or civilly fraudulent for a period of not less than six and not more than 24 months as determined by the court. Thus, the Department believes Congress intended the court to have authority to set the period of disqualification but, without the court's determination, the individual would be ineligible to participate for six months by operation of the statute itself. This provision allows for more equity between individuals found guilty of fraud by a court as all such individuals would be disqualified, regardless of whether or not the court addressed the issue. It should be noted that the individual and his/her household would receive notice prior to the disqualification. The Department believes, therefore, that a six-month disqualification balances legislative intent and program uniformity with fairness to fraudulent individuals and provides for protection of their rights.

Fraud Hearings for Current Ineligibles

About 19 commenters expressed an opinion on holding an administrative fraud hearing for currently ineligible households; all but five opposed the provision. Of these, 12 public interest groups and one State agency were in opposition with five State agencies and the Department's Office of the Inspector General expressing support. The most frequent reason given for opposing the provision was that the individual's rights could be violated primarily because the person would be more likely not to attend the hearing when not participating. Most of those supporting the provision believed it would further curb abuse and be a meaningful deterrent to fraud.

The Department is retaining this provision as proposed. An opinion from the Department's Office of General Counsel (OGC) states that the Food Stamp Act clearly provides authority for administrative fraud hearings but "* * * is not explicit as to the appropriate time for them." Further, it is believed that this provision contributes to the clear Congressional intent of aggressive action to counteract fraud.

This provision will also assist individuals accused of fraud because the information necessary to oppose the allegation of fraud would be more current and witnesses more readily available. One commenter, a public interest group, conditionally supported this provision if "clear and specific notice" were provided. The notice procedures already set forth in the regulations would be followed, thus assuring timely notices of an impending hearing and an explanation of the household's rights.

Agreement Letters

Eleven letters contained comments on some aspect of the written agreement letter for restitution. Five commenters felt that States should not be permitted to deviate from the FNS-designed agreement letter. This suggestion is not adopted as States need the flexibility to develop forms compatible with their own systems. However, all State-designed forms must be approved by FNS which will closely monitor them to assure that the minimum requirements are met including a clear explanation of the household's rights. One commenter suggested that the names and addresses of available legal services be added. The Department has not adopted this suggestion since the notices telling the household of the fraud hearing and other hearing notices contain this information.

Two State agencies commented that the notice should contain language that advises the household that it will automatically be subject to benefit reduction for failure to make a scheduled cash payment. As a result of these regulations, changes in the claims forms are in preparation, and all the information required by these regulations is being incorporated, including language on this point. States will be allowed, however, to deviate from the FNS-designed forms under the same conditions allowed for other forms.

Changes in Household Composition

Only two comments were received on handling fraud claims when the guilty individual has left the household. One was technical and the other opposed taking recovery action against the household in which the fraudulent individual currently is a member. The Department is adopting the technical suggestion which is to delete the introductory phrase from § 273.18(d)(1) concerning collection of nonfraud claims. The provision on collection of fraud claims is retained and a clarification on pursuing nonfraud claims is added. The Department can only reiterate the reasons for this action from the proposed rule. This provision conforms most closely to the law which states that the fraudulent individual is responsible for making repayment of the overissuance. This provision places the liability with the individual thus making the individual's current household liable, not the former household.

Repayment of Fraud Claims

General. Numerous comments addressed various aspects of the fraud collection system. The majority of these comments were from public interest groups expressing concern that the regulations did not adequately ensure the negotiation of the amount of a repayment schedule or the renegotiation, if needed, of these items if the household's economic situation changes. The Department believes these rights are stressed in the regulations as the method of repayment and the amount of cash installments are discussed with the household and fully explained in agreement letters. Establishing a repayment schedule can only be accomplished with participation by the household. Consequently, the final decision of the State agency is based on discussion with the household and analysis of its economic situation.

The guilty individual has a responsibility to repay the fraudulent overissuance, and the regulations are structured to require repayment, either through cash or allotment reduction, or to enforce disqualification for failure to agree to repayment. Therefore, these provisions are revised slightly to require that the household be advised of its right to request a renegotiation of repayment agreements but the State agency retains its rights to enforce collection. Another area of concern was that the set rate of allotment reduction allows for only limited exceptions. The Department believes because allotment reduction is more administratively complex than cash repayment, and because the household is offered the option of cash repayments that the State agency must be permitted to recover an amount which will possibly provide a higher rate of return than cash especially when allotment reduction is imposed for failure to make scheduled cash payments. Therefore, the State agency is allowed a set rate, with the only exceptions being those that will allow for liquidation within a year or to make reduction easier to account for, both by the State agency and for the household to know exactly, from month to month, its allotment level.

Comments were received that stressed the need for reinstating the disqualified member as soon as possible at the end of disqualification period. This is desired to allow for prompt recovery of the fraudulent overissuance through allotment reduction should the individual fail to make cash repayment. However, due to statutory constraints, these regulations require that the fraudulent individual continue his/her disqualification period for failure to agree to restitution. The only time a State agency can automatically impose allotment reduction is when the fraudulent individual makes a lesser payment or no payment at all. These households will not receive a notice of adverse action as they are informed of the consequences of failure to make agreed to cash payments. The regulations do prevent participation by individuals who do not meet their responsibility to make restitution.

Other comments received suggested considering coupons "retained" during the individual's period of disqualification as recovered funds. The Department maintains that recovery and disqualification including disqualification for failure to agree to repayment are two separate and distinct issues and must remain so. The Act requires both disqualification *and* recovery and discusses these in terms of two separate actions. If benefits lost during disqualification were counted towards repayment, the fraudulent individuals are being credited benefits which, by law, they are ineligible to receive. The language from the proposed regulation prohibiting this action is retained. Another issue raised by commenters on this provision was that households should not be forced to liquidate all of its assets to make a lump sum cash repayment. It was never intended in the proposed rules that a household would be so compelled. Therefore, sentences are added to the

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final regulations to avoid this misunderstanding.

One commenter suggested that claims over $100 be subject to a combination of cash repayment and allotment reduction. This was not adopted as a requirement but it is not precluded by the regulations if voluntarily agreed to by both the State agency and the household. Because of the potential for administrative complexities in many States for tracking the two methods of payments, this was not mandated. The household would be informed of its rights especially including its right to renegotiate the monthly cash payment level should its economic circumstances change.

Two State agencies suggested that a minimum cash repayment amount be established. This prospect is not precluded by the regulations. The regulations allow for negotiation of the repayment schedule between the State agency and the household, with the State agency having to "accept installment payments." Therefore, the State agency has the right to refuse to settle on the amount tendered by the individual when it considers this amount to be insufficient. The individual would then be required to make adjustments or be subject to either disqualification or automatic allotment reduction depending on the timing of the negotiation.

One commenter suggested that repayment be postponed until the household's income reaches a set percent of the poverty guideline. This is not contemplated by the statute, and the Department has not adopted this suggestion. The law does not exempt any individual found guilty of fraud from repayment.

Rate of allotment reduction. About 39 comments were received on this aspect of fraud claims recovery. Of these, 13 suggested that the reduction be set at 25% or the pro-rata share of the fraudulent individual's entitlement, whichever is less. Four commenters supported the 25% figure; two opposed it without suggesting any alternatives; four simply suggested making the criteria more flexible, depending on the household's circumstances; and three suggested that the AFDC rate be adopted in lieu of the 25%.

Seven commenters suggested that a maximum percentage amount, not a minimum, be set, and two commenters preferred that a fixed dollar amount be set, not a percentage. The latter commenters felt the percentage method would require frequent recalculations of the recovery amounts. The remaining comments include extending the three-year payment period.

The Department adopted the suggestion that the rate of reduction be set at the lesser of 25% or the fraudulent individual's pro-rata share of the entitlement. This is adopted primarily because it has been determined that the regulations, as proposed, would have imposed an undue burden on the households of five or more and because of the number of commenters, including State agencies, that supported this procedure. Approximately 21 percent of the food stamp caseload (as of February, 1978) contain five or more persons. We feel this provision will not cause a significant administrative burden on the State agency due to the different calculation. This provision will, however, prevent the disincentive for larger households to not participate in the Program due to the relatively larger loss of coupons as compared to smaller households. The option for percentage reduction of a lesser amount if the claim amount can be recovered within a year is retained as is the exception for setting equal amounts.

As to comments about a maximum recovery level, the Department believes this was set by the 25% recovery rate and further constrained by adding the pro-rata share limit. Further, a household is able to choose either a negotiated cash repayment schedule or an allotment reduction.

The House Agriculture Committee recently considered an amendment to pending legislation which would have penalized the entire household for fraudulent conduct, not just the individual. This amendment was voted down, thus reaffirming Congress' intent that the individual be held responsible for fraud. Adding the pro-rata share method is, therefore, consistent with Congressional intent to have the liability rest with the individual by not subjecting larger households to losing a disproportionate share of its allotment; i.e., a share that reflects benefits for other household members in addition to the fraudulent individual.

State Retention of Funds

Only five comments were received on this provision—one opposed, two in support, and two suggesting that the coupons "retained" during disqualification be counted toward the State's retention level. The rationale for not considering coupons "retained" during disqualification as restitution was discussed earlier under the heading of repayment of fraud claims. Clearly, the State agency cannot be allowed to be credited for this method of recovery while the fraudulent individual is not. Clarification was also added that retention of 50% of recovered amounts applies to any claims *collected* after implementation, not just established. This will provide incentive for State agencies to reevaluate suspended claims and is also administratively easier as a dual accounting system is not required.

Outreach

The Department issued final outreach regulations in the November 6, 1979 **Federal Register** (44 FR 64386–64395). One provision of those regulations requires State agencies to operate, at the State level, toll-free statewide hotline services which participants and potential participants can use to obtain program information and applications, lodge complaints and make inquiries. There was some misunderstanding among readers as to what the November 6, 1979 regulations meant in reference to the use of machine answering systems. This amendment to the November 6, 1979 outreach regulations is intended only to resolve this misunderstanding. In no way does this amendment impose an additional regulatory requirement upon State agencies or weaken the requirement for either a hotline or an alternate system of equal quality.

The Department required the establishment of statewide Food Stamp hotlines because it believes that hotlines are the most effective way to offer the required services to participants and potential participants. However, the Department recognized that, in some States, a hotline service may not be the best way to offer the required services. Therefore, the regulations allowed State agencies, with FNS approval, to get exemptions from this requirement. According to the regulations, such exemptions would be granted to State agencies that can demonstrate that the low level of use of the hotline service does not warrant the continued expense of its operation. In lieu of the hotlines in these States, an alternative method of providing the required services to participants and potential participants must be established. These regulations clarify that a machine answering system may be used as one alternative that would be acceptable and that any alternative system must provide telephone access at no cost to the caller and assure that the calls are promptly answered.

Rounding Procedures

Introduction

On October 5, 1979 (44 FR 57414), the Department published a proposal to revise the current rounding procedures used to calculate net income and benefits in the Food Stamp Program. These procedures would have allowed State agencies to use either the standard rounding procedures or rounding procedure in effect for that State's AFDC program. At that time the Department invited interested parties to comment on the proposed rulemaking. Seventy-three organizations and individuals commented—25 State and local agencies, 25 interest groups, 21 members of the public, and two FNS Regional Offices. Their comments addressed the issues of the comment period, the implementation schedule, the rounding procedures, rounding as applied to shelter, net income and allotment figures, publication of allotment tables by FNS and the publication schedule of this final rulemaking.

Comment Period

Six commenters stated that there was an inconsistency between the Department's determination that the proposed rulemaking was significant and its decision to allow a comment period of only 45 days. To allow interested parties the fullest opportunity to comment, the Department extended the comment period until December 15, 1979.

Implementation

Two State agencies supported the Department's proposal to allow State agencies to implement any changes in the rounding procedures in three methods: at recertification, desk review, or mass conversion of all or part of the caseload. One commenter opposed the option of converting only part of a State agency's caseload at one time. One State agency suggested implementation should be restricted only to recertification or recomputation for currently certified households. One commenter suggested that State agencies be allowed to delay implementation for new applications until they conduct mass conversions by computer. The schedule allows State agencies to implement in accordance with their own respective capabilities. Gradual implementation of these regulations will result in slightly different treatment of similar households for a limited period of time. However, the impact upon most clients will be minimal or nonexistent while the impact upon program administration will be significant.

The Department has not revised the proposed implementation schedule except to require implementation for new applications and recertifications and conversions by July 1, 1980.

Calculating Net Income

This issue drew 72 comments. The procedure currently in use requires State agencies to drop the cents from all figures used in calculating net income and allotments, except for individual shelter expenses. Three State agencies, two local agencies, 25 interest groups and 19 members of the public supported the continued use of this procedure. The Department's proposal would allow State agencies either to round all figures to the nearest whole dollar or to follow their own AFDC rounding procedures. This proposed procedure received the support of 15 State agencies, two local agencies, and one member of the public. Two State agencies and one local agency suggested a third option, that is, allowing State agencies to implement the Department's proposal or to continue using the current procedure.

The final regulations contain the same rounding procedures proposed in the rulemaking of October 5, 1979. This decision was made after considering the comments, particularly as they related to the effects of the procedures on clients and State agencies, and the cost of the alternatives to the Department's proposal.

The new rounding procedures will assure greater consistency between AFDC and food stamps, which helps improve the administrative efficiency of both programs. In addition, under the old rounding procedures, some households' incomes were slightly overstated. The new rounding procedures will more accurately calculate the benefits to which households are entitled. The Department is not allowing State agencies to continue using the current method unless it is also used for AFDC because it does not calculate households' benefits as precisely as the procedure of rounding to the nearest whole dollar.

Calculating the Allotment

One State agency recommended that all cents be dropped from net monthly income before calculating the allotment; and one Regional Office recommended that rounding to the nearest whole dollar be used through to the calculation of the allotment. According to Section 8(a) of the Food Stamp Act of 1977 rounding in the calculation of the allotment must be to the nearest whole dollar. Therefore, the Department is changing the regulations by requiring that State agencies calculate the allotment by multiplying the household's net income (rounded in accordance with § 273.10(e)(1)(ii)) by 30 percent, rounding the product to the nearest whole dollar and subtracting the rounded product from the household's Thrifty Food Plan. The remainder is the household's allotment. This uniform method guarantees that all households with the same net monthly income will receive the same allotment.

Remaining Issues

One commenter recommended that rounding not be allowed in computing total shelter cost. The Department believes that State agencies should be allowed the flexibility to round the total shelter cost if they want to, or to use the actual unrounded amount. Consequently, this recommendation is not being adopted.

Two commenters recommended that FNS continue to provide allotment tables for use by State agencies. While the Department intends to continue this practice, two groups of tables will be needed until the end of the conversion period. The Department will attempt to continue to distribute tables at the earliest date practicable.

One commenter recommended that these regulations be published in conjunction with the final regulations implementing the 1979 Amendments to the Food Stamp Act of 1977. This is being done in this final rulemaking.

Rounding may also be necessary in other calculations involving the allotment, such as the benefit reduction calculation required by § 273.10(e)(2).

Therefore, Parts 272 and 273 are amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. New subparagraphs (8), (9) and (12) are added to § 272.1(g) to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(8) *Amendment 152.* The rounding procedure set forth in § 273.10(e) shall be in effect for new applications and recertifications no later than July 1, 1980. The State agency shall have up to 12 months following the implementation date of final regulations to convert the current caseload to the rounding procedure that is chosen under § 273.10(e)(1)(ii). The State agency shall have a choice of the following three options in converting households that are already participating at the time the new rounding procedure goes into effect: (i) convert households at recertification: (ii) convert households by conducting a desk review; or (iii) convert all households, or all households in a certain category, at a point-in-time. For example, the State agency may convert all public assistance households or all

households in a project area by computer. Point-in-time mass conversions shall be conducted no later than July 1, 1980. In any case, the State agency shall advise FNS regarding which rounding and caseload conversion procedures are chosen and when the conversion will be completed.

(9) *Amendment 154.* State agencies shall implement the program changes required by Amendment 154 as follows:

(i) State agencies shall begin requiring social security numbers for all new applications and recertifications no later than the first day of the first month which commences 120 days from the date of publication of final rules. Participating households shall be requested to provide or apply for social security numbers (SSN) for appropriate household members at recertification, or at the time of office contact for any other reason. The State agency shall provide advance notification of this requirement and the consequences of noncompliance by sending an individual notice to all participating households and by providing press releases for dissemination through the media. The individual notices may be sent as either a one-time notice prior to implementation and/or with the notices of expiration of a certification period.

(ii) If any affected member(s) of a household does not have his or her SSN readily available at the time of application, recertification, or any office contact, he or she shall follow the procedures for furnishing an SSN in accordance with § 273.6 as amended.

(iii) State agencies shall implement the fraud claims procedures contained in § 273.16 and § 273.18. Implementation shall be no later than the first of the month following the 120th day from the date of publication of final rules. By implementation the State agency shall also have an approved system for handling claims, including a method for accounting for the fifty percent retention of the value of funds collected from fraud claims. Any collection action on fraud claims after implementation is subject to the fifty percent retention including claims established under the Food Stamp Act of 1964 as amended and under the Food Stamp Act of 1977, as amended. However, only individuals found guilty of fraud through an administrative fraud hearing or through a court of law under regulations promulgating the Food Stamp Act of 1977, as amended, are subject to the recovery provisions in §§ 273.16 and 273.18 retroactive to implementation of fraud claim provisions under the 1977 Act.

* * * * *

(12) *Amendment 161.* The clarification on hotline alternatives in § 272.6(b)(8) is effective January 31, 1980

* * * * *

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.6 paragraph (b)(8) is amended and reads as follows:

§ 272.6 Outreach

* * * * *

(b) *Minimum requirements.* * * *

(8) *Hotlines.* State agencies shall operate toll free telephone hotline services at the State level that can be used by participants and potential participants to secure program information and application forms, lodge complaints and generally facilitate their participation in the Program. The Alaska State agency is exempt from the requirement for maintaining a toll free hotline at the State level. The Alaska State agency shall, however, provide an alternative means for participants and potential participants to secure program information and applications, lodge complaints and make inquiries. The alternate procedures for Alaska are subject to FNS approval through the Outreach Plan submitted in accord with paragraph (e) of this section. Other State agencies that can demonstrate conclusively that the number of calls received on the food stamp hotline does not justify the expense of its operation may be granted an exemption by FNS from this requirement, provided an alternative system is established to allow participants and potential participants, at no cost to themselves, to secure program information and applications, lodge complaints and make inquiries. State agencies requesting exemptions shall provide documented evidence of justification to FNS, including the average number of calls per month; the cost of hotline equipment, service, and staff; efforts to publicize the availability of the hotline service; and a description of the alternate service that will be offered in lieu of the hotline service. An example of an acceptable alternative would be a machine answering system where toll free calls are recorded and promptly returned by someone knowledgeable in program policy and procedures. The quality of a State agency's alternative system shall meet the hotline standards outlined in this paragraph, i.e., it must provide some means of telephone service at no cost to those who use it and the response to users shall be prompt.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

3. In § 273.2, a new subdivision (v) is added to § 273.2(f)(1), subdivision (i) of § 273.2(f)(9) is revised, and § 273.2 (i)(4)(i) is amended to read as follows:

§ 273.2 Application processing.

* * * * *

(f) *Verification.* * * *

(1) *Mandatory verification.* * * *

(v) *Social Security Numbers.* The social security number(s) (SSN) reported to the State agency by the household shall be verified by the State agency. However, the State agency shall not delay certification of an otherwise eligible household solely to validate any member's SSN, even if the 30 day processing period has not expired. As soon as all other steps necessary to certify a household are completed except for verification of an SSN, the State agency shall certify the household. If verification of an already reported SSN is not completed at inital certification, it shall be completed at the time of or prior to the household's next recertification. The SSN shall be verified in one of the following ways:

(A) Matching the reported SSN with information supplied by the Social Security Administration (SSA) such as BENDEX or SDX computer tapes or printouts;

(B) Observing the household member's social security card or any official document containing the SSN. If the individual has no social security card or other official document containing the SSN or the social security number appears questionable, the State agency shall verify the number either by matching it with SSA tapes or submitting or having the individual submit Form SS–5, Application for a Social Security Number, to the Social Security Administration. In the latter case, the State agency shall advise the individuals where to file and discuss with them what evidence will be needed. Once an SSN has been verified, the State shall annotate its file accordingly to prevent the need for reverification in the future. State agencies shall accept as verified an SSN which has already been verified through the Aid to Familes with Dependent Children program, Medicaid, or other similar programs. A verified SSN shall be reverified only if the identity of the individual or the SSN becomes questionable.

* * * * *

(9) *Verification subsequent to initial certification.*—(i) *Recertification.* At recertification, the State agency shall verify a change in income, medical expenses or actual utility expenses claimed by a household if the source has changed or the amount has changed by more than $25 since the last time they were verified. State agencies may verify income, actual utility expenses, or medical expenses claimed by households which are unchanged or have changed by $25 or less, provided verification is, at a minimum, required when information is questionable as defined in paragraph (f)(2) of this section. Unchanged information, other than income and medical or utility expenses, shall not be verified at recertification unless the information is questionable as defined in paragraph (f)(2) of this section. Newly obtained social security numbers shall be verified at recertification in accordance with verification procedures outlined in § 273.2(f)(1)(v).

* * * * *

(i) *Expedited service.* * * *

(4) *Special procedures for expediting service.* * * *

(i) To expedite the certification process, the State agency shall postpone the verification required by § 273.2(f). However, the household's identity and residency shall be verified through a collateral contact or readily available documentary evidence. Examples of acceptable documentary evidence which the household may provide include, but are not limited to, a driver's license, work or school I.D., voter registration card or birth certificate. Households entitled to expedited service shall not be required to furnish or apply for a social security number until after they have received their first allotment. However, these households shall be required to furnish an SSN before their next issuance in accordance with subdivision (iii) of this subparagraph. Those households unable to provide the required SSN's or who do not have one shall be allowed 90 days to obtain the SSN, in accordance with § 273.6(a)(2). The household's income statements shall be verified through a collateral contact, or readily available evidence whenever it can be done in sufficient time to meet the expedited processing standards. However, benefits shall not be delayed beyond the delivery standards described in paragraph (i)(3) of this section solely because income has not been verified.

§ 273.20 [Redesignated from § 273.6]

4. In § 273.6 SSI Cash-out States is renumbered § 273.20 and § 273.6 is retitled Social Security Numbers. The new § 273.6 reads as follows:

§ 273.6 Social security numbers.

(a) *Requirement for participation.* (1) The State agency shall require that a household participating or applying for participation in the Food Stamp Program provide the State agency with the social security number (SSN) for each household member 18 years or older and each child under 18 who receives countable income. If individuals have more than one number, all numbers shall be required. The State agency shall explain to applicants and participants that refusal to provide an SSN will result in disqualification of the individual for whom an SSN is not obtained in accordance with paragraph (c) of this section.

(2) If any household member(s) required to provide an SSN is unable to provide the State agency with an SSN prior to certification or recertification, the member who does not have an SSN, and therefore must apply for one, shall be allowed to participate for 90 days from the date of eligibility determination while awaiting receipt of the social security number.

(3) If the SSN has not been obtained within the 90 days from the date of eligibility determination and the participant cannot show good cause why an SSN has not been obtained, the participant shall be disqualified in accordance with § 273.6(c). If the SSN has not been obtained within the time limit but good cause has been established, then the participant may continue to participate provided the individual has documentation indicating he/she has, in fact, applied for the SSN. Household members without an SSN who are required to provide an SSN shall be eligible to participate while waiting for the Social Security Administration (SSA) to issue an SSN as long as they have filed an application for an SSN accompanied by the necessary verification and can document this.

(b) *Obtaining SSN's for food stamp household members 18 years and over and children receiving income.* (1) For those individuals who provide SSN's prior to certification, recertification or at any office contact, the State agency shall record the SSN and verify it in accordance with § 273.2(f)(1)(v).

(2) For those individuals required to provide an SSN who do not have one, the State agency shall use one of the following two procedures:

(i) In a State where an agreement exists between the State agency and SSA which allows the State agency to complete the application for an SSN, Form SS–5 the State agency shall offer to and shall complete this form at the household's request. State agencies which have such an agreement with SSA for AFDC and Medicaid shall be required to renegotiate these agreements for food stamp purposes as soon as possible in order to offer this service to food stamp applicants and participants. To complete Form SS–5, the State agency must document the verification of identity, age, and citizenship or alien status as required by SSA and forward the SS–5 to SSA. The State agency can complete the SS–5 only when this renegotiated agreement between SSA and the State exists.

(ii) If the household member elects to complete the SS–5 and apply to the SSA directly or in a State in which no agreement with SSA exists, the State agency shall inform the household member where to apply and what information will be needed. The State agency shall suggest that the household member ask for proof of application from SSA, in the event his or her application is not processed within the 90 day time period described in paragraph (a) of this section. SSA normally uses the Receipt for Application for a Social Security Number, Form SSA–5028, as evidence that an individual has applied for an SSN. State agencies may also use their own documents for this purpose.

(3) The State agency shall follow the procedures described in subparagraphs (2) (i) and (ii) above for individuals who do not know if they have an SSN, or are unable to find their SSN.

(c) *Failure to comply.* If the State agency determines that a household member(s) required to provide an SSN as a condition of eligibility has refused to provide it, then the individual without the SSN shall be ineligible to participate in the Food Stamp Program. If, at the end of the 90 day period allowed in paragraph (a) of this section, the State agency determines that a household member(s) required to provide an SSN has failed without good cause to attempt to supply the documentation required by SSA to be submitted with the application for an SSN, the individual without the SSN shall be ineligible to participate until that individual complies. The disqualification applies to the individual(s) for which the SSN is not provided and not to the entire household. The earned or unearned income of an individual disqualified from the household for failure to comply with this requirement shall be handled as outlined in § 273.9(b)(3) of these regulations.

(d) *Determining good cause.* In determining if good cause exists for failure to provide the State agency with an

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SSN, the State agency shall consider information from the household member, the Social Security Administration and the State agency (especially if the State agency was designated to send the SS–5 to SSA and either did not process the SS–5 or did not process it in a timely manner). Documentary evidence or collateral information that the household has applied for the number or made every effort to supply SSA with the necessary information shall be considered good cause for not complying timely with this requirement. If the household member(s) applying for an SSN has been unable to obtain the the documents required by SSA, the State agency caseworker should make every effort to assist the individual(s) in obtaining these documents.

(e) *Ending disqualification.* The household member(s) disqualified may become eligible upon providing the State agency with an SSN or demonstrating that an application has been made at SSA for a social security number.

(f) *Use of SSN.* The State agency is authorized to use social security numbers in the administration of the Food Stamp Program. To the extent determined necessary by the Secretary and the Secretary of HEW, State agencies shall have access to information regarding individual Food Stamp Program applicants and participants who receive benefits under title XVI of the Social Security Act to determine such a household's eligibility to receive assistance and the amount of assistance, or to verify information related to the benefits of these households. State agencies shall use the State Data Exchange (SDX) to the maximum extent possible. The State agency should also use the SSN's to prevent duplicate participation, to facilitate mass changes in Federal benefits as described in § 273.12(e)(3) and to determine the accuracy and/or reliability of information given by households.

5. In § 273.9, paragraph (b)(3) is revised to read as follows:

§ 273.9 Income and deductions.

* * * * *

(b) *Definition of income.* * * *

(3) The earned or unearned income of an individual disqualified from the household for fraud in accordance with § 273.16, for failing to comply with the student work registration requirements in § 273.7(b)(9)(i) or for failing to comply with the requirement to provide an SSN in accordance with § 273.6, shall continue to be counted as income, less the pro rata share for the individual. Procedures for calculating this pro rata share are described in § 273.11.

6. In § 273.10 paragraphs (e)(1)(ii) and (e)(2)(ii) are revised and a new paragraph (f)(3)(iv) is added as follows:

§ 273.10 Determining household eligibility and benefit levels.

* * * * *

(e) *Calculating net income and benefit levels.*—(1) *Net monthly income.* * * *

(ii) In calculating net monthly income, the State agency shall use one of the following two procedures: (A) Round down in each income and allotment calculation that ends in 1 through 49 cents and round up for calculations that end in 50 through 99 cents; or (B) apply the rounding procedure that is currently in effect for the State's Aid to Families with Dependent Children (AFDC) program. If the State AFDC program includes the cents in income calculations, the State agency may use the same procedure for food stamp income calculations. Whichever procedure is used, the State agency may elect to include the cents associated with each individual shelter cost in the computation of the shelter deduction and then to round the final shelter deduction amount.

* * * * *

(2) *Eligibility and benefits.* * * *

(ii) The household's monthly allotment shall be equal to the Thrifty Food Plan for the household's size reduced by 30 percent of the household's net monthly income as calculated in paragraph (e)(1) of this section. After multiplying the net income by 30 percent, the State agency shall round the product down if it ends in 1 through 49 cents and round the product up if it ends in 50 through 99 cents, prior to subtracting that amount from the Thrifty Food Plan. All eligible one and two-person households shall receive a minimum monthly allotment of $10. This rounding method shall be used in all determinations of allotments.

* * * * *

(F) *Certification periods.* * * *

* * * * *

(3) * * *

* * * * *

(iv) If a State agency opts to effect the Social Security/SSI cost-of-living increase through the process of recertification, the affected cases shall be assigned certification periods that ensure that they are due for recertification in accordance with § 273.12(e)(3)(ii). Households entitled to a certification period of up to 12 months as discussed in § 273.10(f)(5) shall, on a one-time basis, be certified for less than a year in order to comply with this provision.

* * * * *

7. In § 273.11 the introductory text of paragraph (c) is rewritten and a new subdivision (iii) is added to (c)(5) to read as follows:

§ 273.11 Action on households with special circumstances.

* * * * *

(c) *Treatment of income and resources of disqualified members.* Individual household members may be disqualified for fraud, for failure to meet the student work registration requirements during the school year or for failure to obtain, or refusal to provide, an SSN. During the period of time a household member is disqualified, the eligibility and benefit level of any remaining household members shall be determined as follows:

* * * * *

(5) *Reduction or termination of benefits within the certification period.* * * *

* * * * *

(iii) *SSN disqualification.* If a household's benefits are reduced or terminated within the certification period because one or more of its members required to provide an SSN is being disqualified for failure to meet the SSN requirement, the State agency shall issue a notice of adverse action, in accordance with § 273.13(a)(2), which informs the household that the individual without an SSN is being disqualified, the reason for the disqualification, the eligibility and benefit level of the remaining members, and the actions the household must take to end the disqualification.

* * * * *

8. In § 273.12, paragraph (e)(3) is revised to read as follows:

§ 273.12 Reporting changes.

* * * * *

(e) *Mass changes.* * * *

* * * * *

(3) *Mass changes in Federal Benefits.* (i) State agencies shall treat cost-of-living increases received in July 1981 and all other subsequent years and any other mass changes in social security and SSI payments as a mass change for food stamp purposes. The household shall not be responsible for reporting these changes. The State agency shall be responsible for automatically adjusting a household's food stamp benefit level to reflect the change in accordance with the procedures in paragraph (e)(2) of this section, or as noted in paragraph (e)(3)(ii) of this section.

(ii) State agencies which have the capability shall treat the increases as a mass change in accordance with the procedure in paragraph (e)(2) of this section. A State agency is capable of treating these changes as a mass change if the State agency's computer system can identify by social security number individual household members receiving social security or SSI payments and the amount of these payments, and the computer system can extract on a timely basis the new benefit data from BENDEX and/or SDX for each recipient. All other State agencies shall have the option to use any one, or a combination of the following methods: Schedule all households containing one or more members who receive social security or SSI benefits for recertification during July, August, September, and October of each year so that the cost-of-living increases can be reflected in a timely manner; conduct desk reviews to effect the change within the 120 day period. If a State agency with the capability to perform an automated conversion has difficulty doing so, it may use one or a combination of the other two methods described.

(iii) For cost-of-living increases scheduled for July 1980, State agencies which have the capability shall treat the increases as a mass change in accordance with the procedures in paragraph (e)(2) of this section. All other State agencies shall, within 180 days of the effective date of the increase, identify cases receiving social security and SSI payments by either desk reviews or at recertification and reflect the cost-of-living increase in the household's allotment. If a State agency with the capability to perform an automated conversion has difficulty doing so, then it may identify cases receiving social security and SSI payments using the methods discussed above and adjust the household's allotment.

9. In § 273.13, a new subparagraph (11) is added to paragraph (b) to read as follows:

§ 273.13 Notice of adverse action.

* * * * *

(b) *Exemptions from notice.* * * *

(11) Converting a household from cash repayment of a fraud claim to benefit reduction as a result of failure to make cash repayment as discussed in § 273.18.

10. In § 273.16, paragraphs (a), the introductory text of paragraph (d) and paragraphs (d) (9)(ii) and (e)(3) are amended and a new subparagraph (4) is added to § 273.16(e) to read as follows:

§ 273.16 Fraud disqualification.

(a) *Fraud disqualification penalties.* Individuals found to have committed fraud through an administrative fraud hearing shall be ineligible to participate in the program for 3 months. Individuals found guilty of criminal or civil fraud by a court of appropriate jurisdiction shall be ineligible for not less than 6 months and not more than 24 months as determined by the court. If the court fails to specify or address a disqualification period for the fraudulent act, the State agency shall impose a six-month disqualification period unless it is contrary to the court order. State agencies shall disqualify only the individual convicted of fraud and not the entire household. If the individual fails to agree to make restitution, the period of disqualification shall continue until the individual agrees to make restitution. Individuals or the remaining household members shall be permitted to make restitution during the period of disqualification in accordance with established procedures for cash repayment or allotment reduction.

* * * * *

(d) *Administrative disqualification.* Each State agency shall establish procedures for conducting fraud hearings which must conform with the procedures outlined in this section. An administrative fraud hearing should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an individual has committed one or more acts of fraud as defined in paragraph (b) of this section. Such cases may include those in which the State agency believes the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system. Other cases may be those previously referred for prosecution but for which prosecution was declined by the appropriate legal authority. The State agency may initiate an administrative fraud hearing regardless of the current eligibility of the individual. The disqualification period for nonparticipants at the time of the final hearing decision shall be deferred until the individual applies for and is determined eligible for program benefits. Fraud hearings shall not be conducted if the amount the State agency contends has been fraudulently obtained is less than $35 or if the value of the coupons used to obtain ineligible items is under $35. The burden of proving fraud is on the State agency. The administrative fraud hearing may be conducted regardless of whether other legal action is planned against the household member.

* * * * *

(9) *Notification of hearing decision.* * * *

(ii) If the administrative fraud hearing finds that the household member committed fraud, the State agency shall mail a written notice to the household member prior to disqualification. The notice shall inform the household member of the decision and the reason for the decision. The notice shall also advise the remaining household members, if any, of either the allotment they will receive during the period of disqualification, or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in § 273.11. For State level decisions, the notice shall inform the household member of the date disqualification will take effect. For local level decisions, the notice shall inform the household member of the deadline for requesting a State level hearing, the date disqualification will take effect unless a State level hearing is requested, and that benefits will be continued pending a State level hearing if the household is otherwise eligible. If the individual is no longer participating, the notice shall inform the individual that the period of disqualification will be deferred until such time as the individual again applies for and is determined eligible for program benefits. A written agreement letter for restitution explaining the repayment requirements in § 273.18(e) shall also be sent. The written agreement letter for restitution shall inform the individual of the amount owed; the reason for the claim; the period of time the claim covers; any offsetting that was done to reduce the claim; the types and terms of each restitution schedule which is offered; the date restitution must commence in order to avoid continuing the period of disqualification; and the household member's right to a fair hearing if the individual disagrees with the amount of the claim. The household shall also be informed of its rights to request renegotiation of any agreed to schedule should the household's economic circumstance change and contain spaces for the individual to complete indicating the method of repayment and a signature block. Deviations may be granted from the FNS-designed agreement letter under the conditions in § 273.2(b). A list of the household member's rights as contained in § 273.15(p) and the State level hearing procedures shall be enclosed with the local fraud hearing decision notice.

* * * * *

(e) *Court imposed disqualifications.* * * *

(3) State agencies shall disqualify an individual found guilty of fraud for the length of time specified by the court. If

disqualification is ordered but a date for initiating the disqualification period is not specified, the State agency shall initiate the disqualification period for currently eligible individuals with the first month following the date the disqualification was ordered. If the court fails to address or specify a disqualification period, the State agency shall impose a six-month disqualification period unless contrary to the court order. The court-imposed disqualification shall begin the first month following the date the court found a currently eligible individual guilty of civil or criminal fraud. If the individual is not eligible for the program at the time the disqualification period is to begin, the period shall be postponed until the individual applies for and is determined eligible for benefits. If the periods of disqualification imposed by a court and by an administrative fraud hearing coincide, the court-ordered disqualification shall run concurrently with the 3-month disqualification period imposed through an administrative fraud hearing. The State agency shall not initiate or continue a court imposed or administratively imposed fraud disqualification period contrary to a court order.

(4) If the court finds that the household member committed fraud, the State agency shall mail a written notice, designed or approved by FNS, to the household member. The notice shall be sent prior to disqualification, whenever possible. The notice shall inform the household member of the decision and the reason for the decision. The notice shall also advise the remaining household members, if any, of the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in § 273.11. The notice shall also inform the household member of the date disqualification will take effect and of the fraud claim repayment requirements in § 273.18(e). In addition, the State agency shall include the written agreement letter for restitution described in paragraph (e)(3) of this section.

* * * * *

11. In § 273.18 paragraphs (c) (3) and (4) are deleted and paragraph (c)(2), and paragraphs (d) and (e) are amended; paragraph (f)(2) is renumbered as (f)(3) and paragraphs (f)(1) and (f)(2) are amended. The amended paragraphs read as follows:

§ 273.18 Claims against households.

* * * * *

(c) *Fraud claim.* * * *

(2) *Collecting fraud claims.* (i) If a household member is found to have committed fraud (through an administrative fraud hearing or by a court of appropriate jurisdiction) the State agency shall send the individual a written agreement letter for restitution as indicated in § 273.16(d)(9)(ii). In addition, a personal contact shall be made, if possible. The State agency shall initiate such collection unless the household has repaid the overissuance as a result of nonfraud demand letters, the State agency has documentation which shows the household cannot be located, or the legal representative prosecuting a member of the household for fraud advises, in writing, that collection action will prejudice the case. In cases where a household member was found guilty of fraud by a court, the State agency shall request the matter of restitution be brought before the court.

(ii) One month prior to the end of the specified period of disqualification, if the household member found guilty of fraud has not responded to the written agreement letter, the State agency shall send a subsequent notice, as described in § 273.16(e)(3), advising the individual that he/she will remain disqualified until such time as an agreement to repay is executed in accordance with the procedures established in paragraph (e)(2) of this section. The disqualified member shall not be considered a household member until a repayment agreement is reached. The procedures for handling the income and resources of this disqualified member are described in § 273.11. A written demand letter for an unpaid or partially paid claim shall be sent even if the household has previously received a nonfraud demand letter because the time period covered by the claim and the method of collection are different for fraud and nonfraud claims. In addition to the written agreement letter a personal contact shall be made, if possible. The State agency may also initiate civil court action to obtain the claim.

(iii) The individual who committed fraud or the remaining household members may begin restitution prior to or during the period of disqualification imposed by an administrative fraud hearing or a court of law. The State agency shall follow the procedures for collecting and submitting payments as well as the applicable accounting procedures in paragraphs (e) and (f) of this section.

(iv) If the household executes a repayment agreement, the State agency shall follow the procedures prescribed in paragraph (e)(2) of this section for collecting and submitting payments or the procedures for reducing the food stamp allotment of the fraudulent individual's household.

(v) If the State agency can document that the fraudulent individual cannot be located, collection action shall be suspended. A claim shall be determined uncollectible after it is held in suspense for three years. The State agency may use a suspended claim to offset benefits in accordance with § 273.17.

(d) *Change in household composition*—(1) *Nonfraud claims.* The State agency shall initiate collection against the head of the household or against the individual who was the head of the household at the time of the nonfraud claim. If the head of the household is no longer living or cannot be located, the State agency shall initiate collection action against the household containing a majority of the individuals who were household members at the time the error occurred.

(2) *Fraud claims.* If the household member found guilty of fraud moves, resulting in a change in household membership, the State agency shall initiate collection action against the household currently containing the fraudulent individual.

(e) *Methods of collecting payments.* (1) State agencies shall collect payments for nonfraud claims in one of the following ways:

(i) *Lump sum.* State agencies shall collect payments from households in one lump sum if the household is financially able to pay the claim in one lump sum. However, the household shall not be required to liquidate all of its resources to make this repayment.

(ii) *Installments.* If the household has insufficient liquid resources or is otherwise financially unable to pay the claim in one lump sum, a payment schedule shall be negotiated with the household. Payments shall be accepted by the State agency in regular installments. If the full amount of the claim cannot be liquidated in 3 years, the State agency shall compromise the claim by reducing it to an amount that will allow the household to pay the claim in 3 years. A State agency may use the full amount (including any amount compromised) of the claim to offset benefits in accordance with § 273.17.

(2) State agencies shall collect payments for fraud claims in one of the following ways:

(i) *Reduction in food stamp allotment.* Prior to reduction, the State agency shall discuss with the household the amount of food stamps to be recovered each month. The amount of food stamps to be recovered each month shall be the lesser of 25 percent of the household's monthly allotment *or* the fraudulent individual's pro rata share of the entitlement. Recovery of less than these amounts shall be accepted only if it results in equal increments or if the full amount can be recovered within a year using a lesser percentage. If the full amount of the claim cannot be liquidated in 3 years, the State agency shall compromise the claim by reducing it to an amount that will allow the household to make restitution within 3 years. A State agency may use the full amount of the claim (including any amount compromised) to offset benefits in accordance with § 272.17.

(ii) *Repayment in cash.* If the household member found guilty of fraud agrees to a repayment in cash, and the individual is financially able to repay the claim in full, the State agency shall collect the payment in one lump sum. However, if the household has insufficient liquid resources or is otherwise unable to pay the claim in one lump sum, payments shall be accepted in regular installments. The household shall not be required to liquidate all of its resources to make this repayment. If the full amount of the claim cannot be liquidated in 3 years, the State agency shall compromise the claim by reducing it to an amount that will allow the individual to pay the claim in 3 years. A State agency may use the full amount of the claim (including any amount compromised) to offset benefits in accordance with § 2713.17.

(iii) If the household member fails to make a payment in accordance with the established cash repayment schedule, (either a lesser amount or no payment), the State agency shall send the individual a notice explaining that no payment or an insufficient payment was received. The notice shall also inform the individual that unless he or she makes the overdue payments or contacts the State agency to discuss renegotiation of the payment schedule, the State agency may invoke allotment reduction without a notice of adverse action. If the individual fails to respond to the notice, the State agency shall invoke allotment reduction. If the household does respond the State agency shall take one of the following actions as appropriate:

(A) If the individual makes the overdue payments and wishes to continue payments based on the previous schedule, permit the individual to do so;

(B) If the individual requests renegotiation, and if the State agency concurs with the request, negotiate a new payment schedule and execute a new written agreement letter;

(C) If the individual requests renegotiation of the amount of its cash repayment schedule but the State agency believes that the household's economic circumstances have not changed enough to warrant the requested settlement, the State agency may invoke allotment reduction or continue renegotiation until a settlement can be reached and executed. If allotment reduction is invoked, no notice of adverse action is required.

(iv) State agencies may initiate civil court action to obtain payment of the claim prior to the end of the disqualification period. However, the State agency shall not deny, terminate or reduce a household's benefits for failure to repay a claim, to agree to a repayment schedule or to make the agreed upon payment, except for the allotment reduction which shall occur when repayment of a claim is beginning after the period of disqualification and the household member found guilty of fraud does not make agreed to cash repayments in accordance with the procedures prescribed in this section.

(f) *Submission of payments.* (1) The State agency shall retain the value of funds collected for both fraud and nonfraud claims; this includes any claims collected or established after the date the State implements the fraud recovery provisions. This amount includes the total value of allotments reduced to repay fraud claims, except for allotments reduced during a period of disqualification. The States' letter of credit will be amended on a quarterly basis to reflect the States' retention of 50 percent of the value of fraud claims collected as well as full retention by FNS of all nonfraud overissuance recoveries.

(2) Each State shall submit monthly a Form FNS–209, Status of Claims Against Households, to detail the State's activities relating to claims against household. This report is due no later than 30 days after the end of each calendar month and shall be submitted to FNS even if the State agency has not collected any payments. In addition to reporting the amount of funds recovered from fraud claims each month on Form FNS–209, the State agency shall also report this amount on other letter of credit documents as required. In accounting for fraud claim collections, the State agency shall include cash repayments and the value of the allotments recovered or offset by restoration of lost benefits. However, the value of allotments reduced during periods of disqualification shall not be considered recovered allotments and shall not be used to offset a fraud claim. In addition, each State agency shall establish controls to ensure that officials responsible for fraud determinations will not benefit from the State share of recoveries.

* * * * *

Note.—These proposals have been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that these actions should not be classified as significant under those criteria.

Note.—Food Stamp forms are being revised in accordance with the requirements of this amendment. The reporting and/or record keeping requirements anticipated in this amendment resulting from the revisions of forms will be forwarded to the Office of Management and Budget for approval in accordance with the Federal Reports Act of 1942.

(91 Stat. 958 (7 U.S.C. 2011–2027).)

Final Impact Statements have been prepared and are available from Claire Lipsman, Director, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(Catalog of Federal Domestic Assistance Programs No. 10551, Food Stamps)

Dated: January 29, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-3485 Filed 1-30-80; 8:45 am]

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federal register

Thursday
January 31, 1980

Part XII

Department of the Treasury

Office of Foreign Assets Control

Foreign Assets Control Regulations Unblocking of Assets Blocked Because of an Interest Therein of the People's Republic of China or Its Nationals

V 45 / 22 JA 31 80 UMI

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 500

Foreign Assets Control Regulations Unblocking of Assets Blocked Because of an Interest Therein of the People's Republic of China or Its Nationals

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending § 500.201(d) of the Foreign Assets Control Regulations by the deletion of "China" from the Schedule of "designated countries," except for the limited purposes of the new Part II of the Schedule. In keeping with the amendment, the Office is amending §§ 500.204, 500.328, 500.557, 500.558, and 500.559 to delete references to China or nationals thereof. The purpose of the amendment is to implement the Agreement Concerning the Settlement of Claims entered into between the United States and the People's Republic of China on May 11, 1979, as amended by an exchange of notes on September 28, 1979, to provide for the unblocking on January 31, 1980 of assets blocked because of an interest therein of the People's Republic of China or its nationals. (See notice of postponement published in the **Federal Register** of October 1, 1979.) The effect of the amendment is to unblock these assets in the United States and to remove any reference to China as a blocked country, except for the limited purpose described below.

To assist the Government of the People's Republic of China and its nationals in locating and recovering assets following the general unblocking, the Office is also amending the Regulations by the addition of new § 500.206 which retains for a two-year period a prohibition on the transfer of these assets to state agencies under state laws governing abandoned or unclaimed property. The need for the amendment is that the transfer of these assets from the present holders to state agencies may unduly delay recovery of assets by their owners. The purpose and effect of the amendment is to place a temporary hold on such transfers to facilitate presentation of claims.

EFFECTIVE DATE: January 31, 1980, 11:59 p.m. eastern standard time.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, (202) 376-0236.

SUPPLEMENTARY INFORMATION: Under the provisions of the Agreement Concerning the Settlement of Claims entered into between the United States and the People's Republic of China (PRC) on May 11, 1979, as amended by an exchange of notes on September 28, 1979, the PRC will pay to the United States $80.5 million in settlement of claims. The first installment of $30 million, due on October 1, 1979, has been paid. The remainder of $50.5 million will be paid in five equal annual installments ending October 1, 1984. The United States agreed to unblock on January 31, 1980 assets blocked because of an interest therein of the PRC or its nationals.

To assist the PRC Government and its nationals in locating and recovering assets following the general unblocking, the Office of Foreign Assets Control is retaining a two-year hold on transfers of these assets to state agencies responsible for abandoned and unclaimed property. This decision was reached following consultations with the principal affected state agencies. The temporary hold on transfers to state agencies will afford owners time to trace their assets and present claims to the current holders. It will also enable state agencies to better determine which assets have been abandoned for purposes of state law.

Since these amendments involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation and a delay in effective date are inapplicable.

PART 500—FOREIGN ASSETS CONTROL REGULATIONS

31 CFR Part 500 is amended as follows:

§ 500.201 [Amended]

1. Section 500.201(d) is amended by (1) the division of the schedule into Parts I and II; and (2) the transfer of "China: December 17, 1950" to Part II, with the remaining countries being renumbered in Part I. As amended, paragraph (d) reads:

(d) The term "designated foreign country" means a foreign country in the following schedule, and the terms "effective date" and "effective date of this section" mean with respect to any designated foreign country, or any national thereof, 12:01 a.m. eastern standard time of the date specified in the following schedule, except as specifically noted after the country or area:

Part I

1. North Korea, i.e., Korea north of the 38th parallel of north latitude: December 17, 1950.

2. Cambodia: April 17, 1975.

3. North Viet-Nam; i.e., Viet-Nam north of the 17th parallel of north latitude: May 5, 1964.

4. South Viet-Nam, i.e., Viet-Nam south of the 17th parallel of north latitude: April 30, 1975 at 12:00 p.m. e.d.t.

Part II

1. China: December 17, 1950. The inclusion of China in this schedule is for purposes of the prohibition contained in § 500.206 of this Part, as well as for purposes of §§ 500.601 and 500.602 which shall continue to apply to all assets blocked as of January 30, 1980 in which China or any national thereof had any interest whatsoever.

With respect to any country and for any other purpose for which an "effective date" is not otherwise provided, the "effective date" shall be December 17, 1950.

§ 500.204 [Amended]

2. Section 500.204 is amended by the deletion from subsection (a)(1) of the words, "the People's Republic of China," wherever they appear.

3. Section 500.206 is added as follows:

§ 500.206 Transfers under State abandoned property laws of assets blocked because of an interest therein of China or its Nationals.

Except as specifically authorized by the Secretary of the Treasury (or any person, agency, or instrumentality designated by him) by regulations, rulings, instructions, licenses, or otherwise, the transfer under laws governing abandoned property to states of the United States or agencies thereof of property blocked as of January 30, 1980 under 500.201 because of the interest therein of China or any national thereof, is prohibited until January 31, 1982.

§ 500.328 [Amended]

4. Section 500.328 is amended by the deletion of the words "China" and the "Republic of China."

§ 500.538 [Deleted]

5. Section 500.538 is deleted.

§ 500.541 [Deleted]

6. Section 500.541 is deleted.

§ 500.546 [Deleted]

7. Section 500.546 is deleted.

§ 500.547 [Deleted]

8. Section 500.547 is deleted.

§ 500.555 [Deleted]

9. Section 500.555 is deleted.

§ 500.557 [Amended]

10. Section 500.557 is amended in the introductory text of paragraph (a) by deleting the word "Chinese" and by deleting the words "and in the case of a Chinese national, prior to May 7, 1971." In addition, the amendment redesignates paragraph (a)(3) as paragraph (a)(2), and renumbers the subsections in numerical order.

§ 500.558 [Amended]

11. Section 500.558 is amended by deletion of the word "China" wherever it appears.

§ 500.559 [Amended]

12. Section 500.559 is amended by the deletion of the words "China" and "Chinese" and the phrase "or to persons in China if the indebtedness existed prior to May 7, 1971."

§ 500.610 [Deleted]

13. Section 500.610 is deleted.

(Sec. 5, 40 Stat. 415, as amended; 50 U.S.C. App. 5, E.O. 9193, 7 FR 5205, 3 CFR, 1938–1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1945–1948 Comp., p. 748)

Dated: January 28, 1980.

Stanley L. Sommerfield,

Director, Office of Foreign Assets Control.

Approved:

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 80-3487- Filed 1-30-80; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
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DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

CIVIL AERONAUTICS BOARD

2313 1–11–80 / Charter trips by foreign air carriers, allowance of nonemergency wet leases

FEDERAL COMMUNICATIONS COMMISSION

77164 12–31–79 / Amendment to rules on protection of FCC monitoring stations from radio interference

TRANSPORTATION DEPARTMENT

Federal Railroad Administration—

77348 12–31–79 / Safety glazing standards; locomotives, passenger cars and cabooses

Listing of Public Laws

This is the first continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.J. Res. 478 / Pub. L. 96–186 To extend by sixty days the expiration date of the Defense Production Act of 1950. (Jan. 28, 1980; 94 Stat. 3) Price: $.75.

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: Feb. 22; March 7 and 21; at 9 a.m. (identical sessions)

WHERE: Office of the Federal Register, Room 9409, 1100 L Street N.W., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235. Gwendolyn Henderson, Assistant Coordinator, 202—523–5234.

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February 1980

CONTAINING:

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TITLES 17–27
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PARALLEL TABLE OF U.S.C.–C.F.R.

LSA—LIST OF CFR SECTIONS AFFECTED

The LIST OF CFR SECTIONS AFFECTED is designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles, except for Title 41, in which proposed rules follow each chapter.

HOW TO USE THIS FINDING AID

The CFR is revised annually according to the following schedule:

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To bring these regulations up to date, consult this LIST OF CFR SECTIONS AFFECTED for any changes, additions, or deletions published after the revision date of the volume you are using. Then check the CUMULATIVE LIST OF PARTS AFFECTED appearing at the front of the latest Federal Register for less detailed but timely changes published after the final date included in this publication.

Cite a page reference from this publication as 44 FR for 1979 page numbers. Example: Page 60024 cite as 44 FR 60024.

ISSUES TO BE SAVED

There is no single annual issue of the LIST OF CFR SECTIONS AFFECTED. Four ANNUAL ISSUES must be saved: the DECEMBER issue is the ANNUAL for Titles 1–16; the MARCH issue is the ANNUAL for Titles 17–27; the JUNE issue is the ANNUAL for Titles 28–41; the SEPTEMBER issue is the ANNUAL for Titles 42–50. ANNUAL ISSUES to be saved are clearly designated on the cover.

PARALLEL TABLE OF STATUTORY AUTHORITIES AND RULES

A table is included after Title 50 which contains references to the U.S. Code sections cited as authority for CFR regulations added or revised since July 1, 1979.

TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

A table is included at the end of this publication which identifies the inclusive page numbers and corresponding Federal Register issue dates for the period covered.

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INQUIRIES AND SUGGESTIONS

This publication was prepared under the editorial direction of Martha B. Girard assisted by Ruth C. Pontius, with Loren Myers as Chief Editor. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office will be welcomed by Ernest J. Galdi, Acting Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

(Comprising a complete CFR set)

Title	Price	Revision Date
1, 2 (2 Reserved)	$4.50	Jan. 1, 1980
3 (Compilation of 1978 Presidential documents and Parts 100 and 101)	6.00	Jan. 1, 1979
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25.785 (g) and (h) revised; (i) amended; (j) and (k) added 7755
25.787 (b) amended 7755
25.793 Added 7755
25.832 Added 3883
25.853 (c), (d), and (e) revised; (f) removed 7755
25.1413 (c) amended 7755
27.853 (c) revised 7755
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63.42 Heading revised 5673
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71.171 2011, 2012, 6355, 6356, 8287, 13055
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121.220 Added 3883
121.311 Heading and (e) revised; (f) through (j) added 7756
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121.585 (b) amended; (e) added 13060
127 Special FAA Reg. 36 amended; effective date extended to 1–23–82 5677
135 Special FAA Reg. 36 amended; effective date extended to 1–23–82 5677
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152.1 Introductory text revised; (e) added 10188
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380.31 (b), (c), and (e) revised 1856
380.32 (s) revised; (y) added 1857
380.33 (a)(5) added 1857
385.13 (u) introductory text revised 1857
385.14 Revised 2018, 6924
385.16 Heading and introductory text revised; (s) added 9260
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1203.202 (e), (f), and (g) revised 3888
1203.604 (d)(2)(i) revised 3888
1207.735–700—1207.735–704 (Subpart G) Added 5298
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302.12 (a) amended; (b) and (c) revised 767
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303.3 Introductory text amended 8958
303.4 (b)(7) added; undesignated text following (b) amended 8958
303.5 (a)(1), (2) and (3), and (b)(4) amended; (a)(5) added 8958
303.6 (e) amended 8959
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303.9 (a) introductory text, (1), and (2) revised 8959
303.10 Revised 8959
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371.4 (a)(2) revised; interim 1597
371.7 (a) revised; interim 1597
371.9 (a)(1) and (a)(2) introductory text revised; (b)(1), (3), and (4) removed; interim 1597
(a)(2) introductory text corrected 6362
(a)(1) corrected 6537
371.10 (a)(1) and (a)(2) introductory text revised; (b)(1) removed; interim 1597
(a)(2) introductory text corrected 6362
371.11 (b)(4) and (5) revised; (b)(6) and (7) removed; interim 1598
371.15 (b) revised; interim 1598
371.18 (a)(1) revised; interim 1598
371.19 (a) introductory text and (b)(1) introductory text revised; interim 1598
373.3 (a)(2) revised; interim 1598
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376.5 Added; interim 1884
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376.14 (a) revised; interim 1598

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376 Supplement No. 1 added; interim 1885
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377.8 Added; interim 1009
377.9 Added; interim 1010
385.1 Revised; interim 1598
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385.4 (d) corrected 6362
384.5 (a) introductory text revised; (a)(7) through (9), (d), and (e) added; interim 1599
386.7 (a) revised; interim 1886, 8292
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931.140—931.152 (Subpart L) Added 4309

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2301 Filing time extended 7780
2301.4 (c)(4) added 1991
2301.33 (a) amended 1991
(b) revised 8582
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13 Amended 1011, 1857, 8294, 8583, 8959, 9894, 9895, 13060
255.0 Amended 3872
255.1 Added 3872
255.2 Added 3872
255.5 Added 3873
438 Effective date stayed 1012

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1.3 (y) introductory text revised 29450
1.10 (g) revised; (h) added 65972
(g) revised; (h) added; republication *2022
1.11 Amended 37202
1.12 (b) amended 65973
(b) amended; republication *2022
(a) introductory text and (e) revised; (a)(1) and (b) amended; (f) redesignated as (g) and revised; new (f) and (h) added *6539
1.13 Revised 37202
1.16 (c)(5) amended 65973
(c)(5) amended; republication *2022
1.18 (a) revised; (b) amended 65973
(a) revised; (b) amended; republication *2023
1.35a–(T) Added 71819
1.37 Existing text designated as (a); (b) added 25434
1.52 (a) amended 65973
(a) amended; republication *2023
1.54 Revised *2314
9.12 Added 34936
10.3 (d) added 61327
15.00 (f), (g), (h), and (i) added 33846
15.03 (b) table corrected 32209
17.00 (c) added 25434
(d) added 33846
17.04 Added 25434
18.00 (h) added 33846
18.01 (a), (b), and (c) revised 33846
31.2 Added 55824
140.14 Added 33677
140.20 Added 65736
140.73 Added 72107
145.5 (d)(1)(i)(C) added 65974
(d)(1)(i)(C) added; republication *2023
145.9 (b)(1) revised *3257
147.3 (b)(4)(i)(A)(3) added 65974
(b)(4)(i)(A)(3) added; republished *2023
155.3 (e) removed 71821
170 Added 20651

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200.19b Revised 50834
200.21 (a) revised 50835
200.27 Amended 21566
200.30–3 (d) redesignated as (e); new (d) added 22716
(a)(28) added 26067
(a)(29) added 28318
(a)(30) added 29644
(a)(31) added 30681
(a)(32) added 46793
(a)(33) added 64070
(a)(34) added 70458
(a)(27) revised; eff. 4–5–80 *12391
200.30–4 (a)(6) added 22716
(a)(7) added 50835
(a)(8) added 76774
(a)(8) correctly designated *7781
200.30–5 (e) (3) through (6) added 76774
(a)(1)(xxi) through (xxiv) redesignated as (a)(1)(xxii) through (xxv); new (a)(1)(xxi) added *8002
200.30–6 (a) through (e) redesignated as (b) through (f); new (a) added 21566
(f) redesignated as (g); new (f) added 22716
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(e) through (h) correctly designated *7781
200.410 (a) revised 32366
200.500—200.511 (Subpart J) Added 65737
200.550—200.554 (Subpart K) Added 41176
200.735–8 (e) corrected; footnote 10 correctly designated as 11; authority citation correctly added 19186
201.20 (a)(1)(xii) and (xiii) revised; (a)(1)(xiv) added 41177
201.26 (a) and (b) revised 75383
201.27 Heading revised 35207
201.28 Added 35207
202.3 (a) amended 21567
202.5 (b) revised; (f) added 50835
202.6 (b) revised; (c) added 35208
203.2 Revised 50835
210.3–16 (f)(1) revised 45612
Technical correction 49651
(r) revised 65739
210.3–17 Note added 62889

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210.3–18 (k)(6)(ii) and (iii) revised; (k)(6)(iv) removed; (k)(6)(v) redesignated as (k)(9) and revised; (k)(7) and (8) added 57036
(k) introductory text revised 57038
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210.5–02 Amended 45612
210.5–04 (d) amended 45613
210.7–03 Amended 45613
210.7–06 (d) amended 45613
210.7a–03 Amended 45613
210.7a–06 (d) amended 45614
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230.148 (b)(1) revised; eff. 4–5–80 ..... *12391
230.156 Added 64072
230.175 Added 38814
230.242 Added *6367
230.255 (a) and (d) revised 33365
230.256 (a) introductory text revised; (i) added 33365
230.424 (a) revised 52818
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230.436 (c) and (d) added *1605
230.455 Revised 21567
230.463 (a) amended 21567
230.464 Added *13440
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230.477 Revised *13440
230.485 Introductory text revised *13441
231 Interpretative releases 21008, 21567, 26739, 43466, 21567, 26739, 43466, 46752, 56924, 61941, 70130, 74808
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239.16b Form S–8 amended *13441
239.27 Form S–16 amended 70132
239.28 Added 21567
239.90 Form 1–A amended 33365
239.242 Added *6370
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240.3a12–3 Revised 70137
240.3a40–1 Added 28318
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240.3b–6 Added 38815
240.10a–1 (a)(1) and (e)(5) revised; eff. 4–5–80 ..... *12390
240.11Aa3–1 Redesignated from 240.17a–15 and revised; eff. 4–5–80 ..... *12388
240.11Ac1–1 (a)(4), (5), (6), (8), and (15), and (b)(1)(ii) revised; eff. 4–5–80 ..... *12390
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240.12g3–1 Removed 19387
240.12g–4 Revised 46448
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240.12h–4 Added 46449
Effective date confirmed 55168
240.13a–13 (c)(1) revised 76778
240.13a–16 (a) introductory text, (1), and (2) revised 70137
240.13d–101 Amended 70340
240.13e–3 Added 46741
240.13e–4 Added 49410
240.13e–100 Added 46743
240.13e–101 Added 49412
240.14a–2 Revised 68769
240.14a–3 (b) introductory text, (1), (2), (4) note 2, (5), (6) note, (9) through (12), and (c) note amended 68456
(b)(1), (2), (4) Note 1, (5), (6) Note, (9), (10), (11) and (c) Note amended 72583
240.14a–4 (a) amended 68456
(a) and (b) revised 68770
240.14a–5 (f) added 68770
240.14a–7 Introductory text, (a)(1) and (2), (b)(2) and (3), and (c) amended 68456
240.14a–8 (a) introductory text, (1), (2), (3) introductory text and (i), and (4), (b), (c) introductory text, (4), (9), (11), and (12), (d) and (e) amended 68456
(a)(3)(i) revised 68770
240.14a–9 Note amended 38815
(c) amended 68456
240.14a–11 (c)(1) and (2) amended 67108
(c)(1), (2), (3), and (f) amended 68456
(c)(3) and (4) corrected 71821

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240.14b–1 (a) amended 72583
240.14c–2 (a) amended 72583
240.14c–101 Amended 68457
240.14d–1 Revised 70340
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240.14d–3 Revised 70341
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240.14d–5 Added 70342
240.14d–6 Added 70344
240.14d–7 Added 70345
240.14d–8 Added 70345
240.14d–9 Added 70345
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240.14d–101 Revised 70347
240.14e–1 Added 70348
240.14e–2 Added 70348
240.15b9–2 (b) revised 57388
240.15b10–12 Revised *5300
240.15c3–1 (a) introductory text, (e), and (f) revised 34885
240.15c3–1b Revised 34886
240.15c3–1d (b)(6)(iii), (7), (8), (10)(ii)(B), and (c)(2), (5), and (7) revised 34887
240.15d–13 (c)(1) revised 76778
240.15d–16 (a) introductory text, (1), and (2) revised 70137
240.15Bc7–1 Added 61946
240.16b–7 (c) amended 19386
240.17a–1 (c) revised *13443
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240.206d–1 Removed 21214
241 Interpretative releases 53159, 53426, 56924, 74808
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249.220 Removed; regulations consolidated in 249.220f 70137
249.220f Added 70137
249–306 Form 6–K amended 70138
249.308a Form 10–Q amended (effective date pending) 57376
Effective date confirmed 65739

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249.310 Form 10–K amended 21577
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249.320 Removed; regulations consolodated in 249.220f 70137
249.323 Form 12g–4 amended 46449
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249.325 Form 13F amended 39387
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249.333 Form 15d–6 amended 46449
Form 15d–6 effective date confirmed 55168
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249.617 Form X–17A–5 amended 34889
249.635 Revised 61944
249.1200 Revised 31504
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250.103A Added 38815
250.104 (c) revised 50836
259.101 Form U–1 amended 41177
260.0–6 Revised 50836
260.0–11 Added 38815
261 Interpretative releases 26739, 61941
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270.10f–3 Revised 36153
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270.14a–3 Added 29646
(a)(2)(ii) corrected 40064
270.15a–4 Added *1861
270.17a–6 (a) revised; (b) removed; (c) redesignated as (b) 48658
270.17a–8 Added *12409
270.17d–1 (d)(7) added 58503
Note removed; (d)(6) added 58908
(d)(8) added *12409
270.17e–1 Removed 37204
Added 37203
270.19b–1 (c) redesignated as (e); new (c) and (d) added 29647
(c)(1)(i) corrected 40064
270.22c–1 Revised 29647
(b) revised 48660
(a)(2) added *12409
270.22d–4 Added *12409
270.22d–5 Added *12409
270.24f–2 (b)(1) revised 19387
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274.106 Form N-1Q amended 36154
Technical correction 43264
275.204-2 (a)(15) added 42130
275.206(4)-3 Added 42130
275.206A-1(T) Removed 19387
279.1 Corrected 21008
279.3 Correctly added 21008
300.300—300.307 Undesignated center heading added 21211
300.300 Added 21211
300.301 Added 21211
300.302 Added 21212
300.303 Added 21212
300.304 Added 21212
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TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

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1.1 (f)(23) added 46451
(f)(23) rehearing applications denied 60282
1.7 (b) amended 46454
(d) amended 46451
(d) rehearing applications denied 60282
1.18 (e) revised 34940
(f) amended 34941
1.30 (c) (1) and (3) amended 34941
1.41 (a)(1) revised; (a)(2) redesignated as (a)(3); new (a)(2) added; new (a)(3)(ii)(A) amended; interim 60286
(a) hearing cancelled 77155
1.42 Added; interim 48173
1.43 Added; interim 48174
2.1 (a)(1)(i) (C), (D), (H), and (vii)(F) removed 34941
2.10 (b) removed; (a) designation and heading removed 61948
2.11 (c), (d), and appendix A-1 removed 61948
2.14 Removed 71832
2.58 Removed 65059
2.79 (k) redesignated as (o); new (k) through (n) added 60082
2.81 (a) revised 67650
(a) technical correction 75383
2.101 Added 51566
Hearing 52178
Clarification 56926
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Effective date stayed to 12-21-79 69936
Effective date stayed 76483
3.5 (f)(9) added 20077
(f)(1) introductory text and (iv) revised 24829
(f)(1)(iv) revised 30329
(a)(18), (g) (4), (5), and (10) removed; (a)(19) amended 46451

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Heading, (b)(6)(v), (f)(1) introductory text, (i) and (iv), (2) introductory text, (3), (4), (5), (7), and (8), and (g) (3), (11), (12), (14), (20), and (21) revised 46452
(b)(6)(vi) and (7), (f)(1)(vi) through (x), (2) (i), (ii), and (iii), and (10), (g)(22) through (36), (h) and (i) added 46452
(a)(18), (g)(4), (5), and (10) removals and (a)(19) rehearing applications denied 60282
(g)(37) added *6377
3.142 (a)(22), (23), (24), (25), (32), (42), and (45) removed 61948
3.170 (a)(27) and (30) removed 61948
4.1—4.7 Undesignated center heading designated as Subpart A 61334
4.1 Revised 61948
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4.3 Revised 61948
4.6 Revised 61948
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4.10—4.14 Undesignated center heading designated as Subpart B 61334
4.10 Revised 61948
4.14 Revised 61949
4.20—4.25 Undesignated center heading designated as Subpart C 61334
4.20 Revised 61949
4.25 Revised 61949
4.30—4.33 Undesignated center heading redesignated as Subpart D 61334
4.30—4.34 (Subpart D) Revised 61334
4.33 (a) corrected *6377
4.40—4.42 Undesignated center heading designated as Subpart E and heading revised 61334
4.41 Introductory text and Exhibits J, K, and R amended 61336
4.42 Removed 61336
4.50—4.51 Undesignated center heading designated as Subpart F and heading revised 61334
4.50—4.51 (Subpart F) Revised 67651
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4.50 Amended 61336
4.51 Amended 61336
4.60 Undesignated center heading designated as Subpart C 61334

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4.70—4.71 Undesignated center heading designated as Subpart H 61334
4.71 Exhibits A, B, C, D, J, K, and V amended 61336
4.80—4.86 Undesignated center heading designated as Subpart I and heading revised 61334
4.80—4.83 (Subpart I) Revised 61336
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(e) amended 46454
35.3 Authority citation corrected 20077
35.15 Amended 46454
35.19a Revised 53503
(a)(2)(iii)(A) amended 65740
(a)(2)(iii)(A) revised *3889
35.22 (d) amended 26068
(e)(5) amended 46454
46 Added *3569
46.2 (a) and (c) corrected *9730
46.3 (a) corrected *6377
101 Reconsideration extended 34471
104 Reconsideration extended 34471
131.2 Amended 61338
131.4 Amended 61338
131.10 Removed 61338
131.13 Amended 61338
141 Reconsideration extended 34471
141.1 Form No. 1 amended 65741
141.7 Removed 61949
141.11 Removed 61949
141.12 Removed 61949
141.13 Removed 61949
141.26 Removed 61949
141.60 Removed 61949
141.300 Removed 61949
154.38 (d)(5)(iv) amended 26068
(d)(4)(iv)(c) amended 53503
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(d)(1) and (4)(iv)(a) interpretations 60084
154.67 Revised 53503
(d)(2)(iii)(A) amended 65740
(d)(2)(iii)(A) revised *3890
154.94 (h)(1), (2)(iii), (8), Appendix A and Exhibit A amended; (h)(2)(i) revised; (h)(4)(iii) added 19389
(h)(8) and (i)(3) amended 26855
(h)(7), (8), and (i) petitions denied 30681

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154.102 Revised ---- 53504
(d) (2) (iii) (A) amended ---- 65740
(d) (2) (iii) (A) revised ---- *3890
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157.7 (b) introductory text and (4) revised ---- 30332
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(b) (4) (i) revised ---- *1862
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(c) (1) (v) redesignated as (c) (1) (v) (A); (c) (1) (v) (B) added ---- 48177
157.48 (b) (1) (i) filing requirements ---- 27980
157.49 (a) (2) (i) and (ii) amended ---- 52183
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157.100—157.105 (Subpart E) Added ---- 24829
157.102 (a) (2) corrected ---- 28789
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191 Amended ---- 57744
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270.102 (b) (6) revised ---- 34474
(b) (13) added; interim ---- 53493
270.102 (b) (9) amended ---- *5684
270.202 (d) filing requirements ---- 27980
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270.203 Revised ---- 66580
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271.101 (a) tables I and II revised ---- 26069, 62890
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(a) tables I and II revised ---- *7781
271.102 (c) revised ---- 26069
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271.301—271.305 (Subpart C) Revised ---- 49655
271.302 Revised ---- 26070
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271.304 Revised ---- 67111
271.305 (c) (2) corrected ---- 53505, 67112
271.401—271.403 (Subpart D) Revised ---- *1871
271.402 (a) and (c) (4) revised ---- 26070
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271.601—271.604 (Subpart F) Revised ---- *5684
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271.704 Revised ---- 34475
271.801—271.807 (Subpart H) Revised ---- 49662
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(b) (2) and (d) (1) introductory text revised; (d) (2) redesignated as (d) (3); (b) (3) and new (d) (2) added ---- 51567
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273.202 (c) amended ---- 31171
273.203 (b) (2) (ii) amended; interim ---- 66789
273.204 (a) (2) and (b) amended ---- 31171
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274.101—274.105 (Subpart A) Revised ---- 48668
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274.201—274.207 (Subpart B) Revised ---- *3894
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(d) (2) (ii) (F) corrected ---- 76779
274.203 (e) (3) amended ---- 69648
274.204 (d) (2) through (4) and (f) revised; (d) (5) added ---- 21009
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(f) revised ---- 49656
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274.205 (a) through (f) redesignated as (a) (1) through (6); introductory text designated as (a) introductory text; new (b) through (d) added; interim ---- 61953
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281 Petitions denied 37204
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281.201—281.215 (Subpart B) Added 26862
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281.203 (a)(16) revised 61344
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281.205 (b)(1) amended 61344
281.208 (b)(1)(i)(B) revised 62490
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281.209 (d)(1), (3), (e), and (f) revised 61344
281.211 (b)(1)(ii)(D) clarification 34941, 34970
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281.212 (b) and (c) amended 37500
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282.202 (a)(2) revised *779
282.204 (d)(3)(ii), (5)(ii), and (6) revised; interim *24
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282.301 (k)(3) revised *779
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282.502 (d)(2) revised *779
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292 Added; interim 65746
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301 Redesignated as 1301 30682
302 Redesignated as 1302 30682
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304 Redesignated as 1304 30682
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306 Redesignated as 1306 30682
308 Added 29648
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707 Added 69922
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4.64 Footnote 102 amended 61956
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4.98 (a) revised *3572
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(h)(5) corrected 35208
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7 Footnote 1 removed 61956
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22.2 Revised; footnote 3 amended 61956
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22.27 (b) revised; footnote 13 amended 61957
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133.51 (b) introductory text revised 31968
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141.19 (a) and (b)(2) amended; (b)(1) revised 46816
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141.83 (a) amended; (c) and (d) introductory text revised; (d)(3) and (4) removed 46820
141.86 (a) introductory text, (8), and (c) revised; (j) added 46820
141.89 (b)(1) introductory text and (E) revised 46821
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148.90 (d)(3) revised 31969
151.44 (a) amended 31969
151.47 (a) amended 46828
151.63 Heading and text amended 46828
151.64 (a) amended; (b) revised 46828
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162.21 (a) revised 31956
162.31 (a) amended 31956
162.32 (a) amended; (b) revised 31957
162.41 (b) and (c) revised 31957
(c)(1)(i) corrected 35208
162.43 (b) amended 31957
162.46 Heading revised; (a) amended; (e) added 31971
162.51 Revised 31957
(a)(1) introductory text corrected 36376
162.52 Added 31958
162.65 (c) amended; (d) revised 31958
162.70—162.79b (Subpart G) Added 31958
162.70 (a)(2) corrected 35208
162.74 (c)(1) corrected 35208
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171.14 Added 31962
(b) corrected 70459
171.22 (a) revised 31962
171.31a Added 31962
171.32 Amended 31962
172.2 (a) revised 31962
172.22 (b) and (d) introductory text revised 46830
172.32 Amended 31962
173.1 Amended 46830
173.4 (b) introductory text and (c) revised; (d) added 46830

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200 Technical correction 25203
200.735–102 (c) revised 23823
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201.1 Amended 76476
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201.7 Revised 76476
201.9 Nomenclature change 76476
201.11 (c) amended 76476
210.12 (a), (d), (e), and (g) amended; (f) redesignated as (h); (i) added 76476

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201.13 (a) amended 76476
207 Revised 76468

Chapter III—International Trade Administration, Department of Commerce

Chapter established *4937
353 Added *8190
355 Added *4937
355 Annex III amended *12413, 12414

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6 ..... 46880, 73122
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10 ..... *1633
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103 48709
134 ..... 47103, 48719, 58527
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155 ..... 57044, 59762
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201 59392
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TITLE 20—EMPLOYEES' BENEFITS

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208.5 Revised 37906
208.29 Revised *3260
237.102 (c) removed 37907
260.1 (b) and (d) revised 63096
(c) revised *3260
(c)(3)(vii) corrected *5685
260.2 (a), (b), and (c) revised 63096

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

404.203 (a), (d), and (f) amended; (m), and (n) revised *1607
404.205 Amended *1607
404.207 (a) amended *1607

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404.212a Revised *1608
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404.212c Revised *1608
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404.212d Revised *1609
404.212e Revised *1609
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404.212f Revised *1609
404.219 (a), (b)(2) and d revised *1610
404.221 (a)(1) amended; (c) through (e) revised *1610
404.244 (b)(3) revised *1610
404.301—404.394 (Subpart D) Revised 34481
404.321 (a) corrected 73015
404.330 Introductory text corrected 56691
404.340 (e) corrected 73015
404.346 (b) corrected 56691
404.348 (c) and (d) corrected 56691
404.352 (a)(1) corrected 56691
404.353 (b) corrected 56691
404.362 (b)(2) corrected 56691
404.366 (c) corrected 56691
404.392 (d) corrected 56691
404.402 (d)(2) through (6) redesignated as (d)(4) through (8); (b)(3), new (d)(2) and (3) added 29047
404.403 Revised *1611
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404.408a Revised 29047
(b) introductory text corrected 36376
404.501 (a)(7) amended 34942
404.502 (c) revised 20653
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404.507 Amended 34942
404.509 Amended 20653
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404.510 (l) revised 20653
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404.601—404.641 (Subpart G) Revised 37209
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404.1230 Amended; eff. 1–1–81 37607
404.1250 (a), (b), and (c) revised; eff. 1–181 37607

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404.1250a Revised; eff. 1–1–81 37607
404.1250b (c) and (d) revised; eff. 1–1–81 37607
404.1251 Revised; eff. 1–1–81 37607
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404.1254 Revised; eff. 1–1–81 37608
404.1255a (c) revised; (d) removed; eff. 1–1–81 37608
404.1261 (a)(1) and (2) amended; eff. 1–1–81 37608
404.1262 (a), (b)(1), and (c)(1) amended; eff. 1–1–81 37608
404.1263 (c) amended; eff. 1–1–81 37608
404.1281 (a) and (b) amended; eff. 1–1–81 37609
404.1282 (b) amended; eff. 1–1–81 37609
404.1285 (b) amended; (c)(1), (2), and (3) revised; (c)(4) removed; eff. 1–1–81 37609
404.1501—404.1539 (Subpart P) Appendix 2 corrected; CFR correction 47766
404.1534 Technical correction 22444
404.1901—404.1930 (Subpart T) Added 42964
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416.336 Added 38458
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416.901—416.985 (Subpart I) Appendixes corrected; CFR correction 47766
416.934 Technical correction 22444
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416.1216 (b) revised 43266
416.1218 (b) and (c) revised; (d) removed 43266
422.105 Correctly designated 20078
422.130 (a) amended 34942
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422.203 (a)(3) and (b)(2) amended 34942
422.205 (a), (b), and (d) amended 34942
422.210 (a) and (c) amended 34942
422.410 (k) added 34942
422.430 (a)(3) revised 34942
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615.12 (d)(2), (e)(2) and (3) revised *798
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651.6 Amended 31631
653.230 Revised *12205
654.4 (d) amended 26071
654.21 Introductory text amended 26071
655.100—655.110 (Subpart B) Revised 31631
655.202 (b)(4) revises *11799
655.207 (b) revised 32211
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655.211 (a) revised *11799
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675.5–1 (e) redesignated as (f) and republished; new (e) added *1017
675.5–5 Introductory text corrected 28654
675.5–6 (a) introductory text corrected 28654
675.5–8 (a)(1)(iii) revised; (b)(2) amended 56867
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676 Added 20002
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676.27 (a)(1) revised 72584
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676.31 (b) introductory text corrected 28654
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676.41–1 (d) corrected 28654
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676.47 (d) corrected 28654
676.68 (a) corrected 28654
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676.89 (b) and (e) corrected 28654
676.90 Correctly designated 28654
676.91 Correctly designated 28654
676.92 Correctly designated 28654
676.93 Correctly designated 28654
677 Added 20037
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677.26 Correctly added 28654
678 Added 20046
678.3 (h) corrected 28654
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679 Added 20048
679.3–4 Table of contents corrected 28654
680 Revised 56868
684 Added 64291
685 Added 50002
688 Added 64328
689 Added 30595
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689.107 (a)(3) revised *10330
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689.204–1 (d)(3) revised *10331
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5.25 Revised *7783
5.30 (d) revised 62281
5.37 (a)(7) added *8586
5.45 (e) revised *8586
5.47 Revised *8586
5.54 Revised *8587
5.55 Revised *8587
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5.71 (a) and (b) revised 54044
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10.200—10.290 (Subpart C) Added (effective pending OMB review) 59185
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16.22 (a)(5) added (effective pending OMB review) 59189
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73.2500 Added 65974
74.705 (d) revised; eff. 6–26–80 and 7–1–81 37220
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74.1705 (c) revised; eff. 6–26–80 and 7–1–81 37220
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81.32 Revised — 48966
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176.170 (a) (5) table amended — 20654, 48967, 51218
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177.1630 (e) (4) (iii) amended — 40886
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446.181d (a) (1) amended; (a) (3) (i) (b) and (b) (3) revised — 48189
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449.10 (b) (4) (iv) amended — 30333
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520.120 (c) (1), (2), and (3) amended; footnote 1 added 74818
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520.622c (b) (2) revised 72587
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520.863 (c) (1) through (4) amended; footnote 1 added 52190
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520.1628 Added 35211
520.1660b (c) (1), (2) and (3) amended; footnote added 44841
520.1720a (b) (3) amended *10333
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520.2022 (c) (1), (2), and (3) amended; footnote added *13445
520.2043 (b) (1) revised 36381
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520.2220b (b) (2) amended 65976
520.2300 (d) (1), (2), and (3) amended; footnote 1 added 43267
520.2520a (b) amended 63096
520.2560 (d) (1) and (2) amended; footnote added 44842
520.2582 (c) (1) through (4) amended; footnote 1 added 47539
520.2604 (c) (1) through (5) amended; footnote added *13443
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522.82 (c) (1) through (4) amended; footnote added *13444
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522.540 (c) (2) revised 76780
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522.690 (d) revised 63098
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522.863 (c) (1) through (4) amended; footnote 1 added 52190
522.995 Added 52191
522.1563 (b) amended 67114
522.1680 (b) amended 40283
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522.1962 (d) (1) (i) and (ii), (2), (3), and (4) amended; footnote 1 added 43268
522.2022 (c) (1), (2), and (3) amended; footnote added *13445
522.2220 (b) (2) amended 65976
522.2582 (c) (1) through (5) amended; footnote 1 added 47539
524.541 (c) (1), (2), (3) and (4) amended; footnote 1 added 46268
524.1000 (c) (1) and (2) amended; footnote 1 added 43269
524.1484a (c) (6) added 49666
524.1484d (c) (1), (2), and (3) amended; footnote 1 added 48970
524.1484f (c) (1), (2), and (3) amended; footnote 1 added 48970
524.1580 (c) amended; footnote 1 added 47540
524.1881a (c) (1) through (4) amended; footnote 1 added 48971
524.1883 (c) (1), (2), (3), and (4) amended; footnote added 44842
526.1014 (b) added 67114
529.1526 (b) amended 72587
536.518 Removed 22054
539.310 Revised 22054
539.310a Added 22054
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540.274b (c) (2) revised 20672
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540.874a (c) (4) added 47044
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540.874e (a), (b), and (c) (1) revised 55171
546.11d (a) (1) amended; (a) (5) (ii) (*a*) revised; (b) (4) added 48190
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548.110 Removed 22054
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548.314b (a), (b), and (c) (1) revised 22057
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556.190 Removed 39389
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556.310 Amended *10333
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558.15 (g) (2) table amended 66581
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558.105 (b) amended 67114
558.175 (b) (2) removed 20676
558.185 (b) (1) revised; (d) redesignated as (d) (1), (d) (2) added 54698
558.195 (c) (2) removed; (g) (1) table amended 20676
558.205 (b) amended 65976
558.225 Removed 39387
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558.325 (f) (3) (xi) and (xii) added 40887
558.355 (b) (5) and (6) removed 20673
(f) (1) (iii) revised *7787
558.366 (e) revised 40887
558.435 (f) revised 40283
558.505 Removed *10334
558.530 (e) (4) (xix) added 40887
558.625 (b) (18) revised 40887
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(f) (2) introductory text revised; (f) (2) (i) added 66582
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(b) (20) revised *1020
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561.53 Heading and (a) revised 49249
561.98 Revised 35212
561.175 (a) amended 38842
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650.14 Heading revised; (b) amended 40289
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1.356–3 (a) amended	26869
1.357 Removed	*6088
1.358 Removed	26869
1.358–1 (a) amended	26869
1.358–2 (b) amended; (d) added	26869
1.358–5 Added	26869
1.361 Removed	*6088
1.362 Removed	*6088
1.363 Removed	*6088
1.367 Removed	*6088
1.368 Removed	*6088
1.371 Removed	26870
1.372 Removed	26870
1.373 Removed	26870
1.373–1 Removed	26870
1.373–2 Removed	26870
1.373–3 Removed	26870
1.374 Removed	26870
1.374–2 Amended	26870
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1.381(a) Removed	*6088
1.381(b) Removed	*6088
1.381(c)(1) Removed	*6088
1.381(c)(2) Removed	*6088
1.381(c)(3) Removed	*6088
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1.381(c)(9) Removed	*6088
1.381(c)(10) Removed	*6088
1.381(c)(11) Removed	*6088
1.381(c)(12) Removed	*6088
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1.381(c)(22) Removed	*6089
1.381(c)(23) Removed	*6089
1.381(c)(24) Removed	*6089
1.381(d) Removed	*6089
1.382(a) Removed	*6089
1.382(b) Removed	*6089
1.382(c) Removed	*6089
1.382–2 Added	61593
1.383 Removed	*6089
1.383–1 Amended	61594
1.401–12 (a) and (c)(2)(iii) amended; (c)(1)(i) revised; (c)(2)(iv) and (n) added	23520
1.401–13 (f) added	47053
1.401(a)–12 Added	48195
1.401(e)–1 Added	47053
1.401(e)–2 Added	47053
1.401(e)–3 Added	47053
1.401(e)–4 Added	47053
1.401(e)–5 Added	47055
1.401(e)–6 Added	47056
1.402(a) Removed	*6089
1.402(b) Removed	*6089
1.402(c) Removed	*6089
1.402(d) Removed	*6089
1.402(e) Removed	*6089
1.403(a) Removed	*6089
1.403(b) Removed	*6089
1.404(e)–1 (i) added	47056
1.404(e)–1A Added	47056
1.404(f) Removed	*6089
1.405 Removed	*6089
1.413–1 (a), (c), (d), and (i) added	65063
1.413–2 (a) and (c) added	65065
1.414(g)–1 Added	27657
1.414(l)–1 Added	48195
1.421 Removed	*6089
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1.422–2 (a)(1)(i) amended; (i) added	*13453
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1.451–2 (a)(2) revised	76782
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1.483 Removed	*6089
1.501(a) Removed	*6089
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1.501(c)(1) Removed	*6089
1.501(c)(2) Removed	*6089
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1.501(c)(18) Removed	*6089
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1.501(c)(21)–1 Added	52197
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1.511–2 (a)(3)(iii) amended	42681
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1.512(b)–1 (d) redesignated as (d)(1); (d)(2) added; (j)(1) introductory text and (iii), and (l)(5) amended	42681
1.512(c) Removed	*6089
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1.514(a) Removed	*6089
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1.535–2 (a)(2)(ii) amended	60086
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1.545–2 (a)(3)(ii) amended	60086
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1.586 Removed	*6089
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1.592 Removed	*6089
1.593–6A (b)(5)(vi) amended	31177
1.594 Removed	*6089
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1.596–1 (c) added	40496
1.601 Removed	*6089
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1.641(a) Removed	*6089
1.641(b) Removed	*6089
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1.642(d) Removed	*6089
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1.642(i) Removed	61596
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1.642(i)–1 Revised	61596
1.642(i)–2 Added	61596
1.643(a) Removed	*6089
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1.662(a) Removed	*6089
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1.663(c) Removed	57926
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1.663(c)–3 (e) revised	42682
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1.665(a)A Removed	*6089
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1.666(a) Removed	*6089
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1.667 Removed	*6089
1.667(a)A Removed	*6089
1.667(b)A Removed	*6089
1.668(a)A Removed	*6089
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1.668(a) Removed	*6089
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1.669(a)A Removed	*6089
1.669(b)A Removed	*6089
1.669(c)A Removed	*6089
1.669(d)A Removed	*6089
1.669(e)A Removed	*6089
1.669(f)A Removed	*6089
1.669(a) Removed	*6089
1.669(b) Removed	*6089
1.671 Removed	*6089
1.672(a) Removed	*6089
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1.674(a) Removed	*6089
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1.675 Removed	*6089
1.676(a) Removed	*6089
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1.677(a) Removed	*6089
1.677(b) Removed	*6089
1.678(a) Removed	*6089
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1.681(a) Removed	*6089
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1.682(c) Removed	*6089
1.683 Removed	*6089
1.691(a) Removed	*6089
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1.691(d) Removed	*6089
1.691(e) Removed	*6089
1.691(f) Removed	*6089
1.701 Removed	*6089
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1.735 Removed	*6089
1.736 Removed	*6089
1.741 Removed	*6089
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1.807	Removed	*6089
1.809	Removed	*6089
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1.811	Removed	*6089
1.812	Removed	*6089
1.813	Removed	*6089
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1.818	Removed	*6089
1.819	Removed	*6089
1.820	Removed	*6089
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1.823	Removed	*6089
1.824	Removed	*6089
1.825	Removed	*6089
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1.832	Removed	*6089
1.841	Removed	*6089
1.842	Removed	*6089
1.843	Removed	*6089
1.851	Removed	*6089
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1.853	Removed	*6089
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1.856	Removed	*6089
1.857	Removed	*6089
1.858	Removed	*6089
1.861	Removed	46457
1.861–1	(a)(4) added	46457
1.861–9	Added	46457
1.862	Removed	46459
1.862–1	(c) added	46459
1.863	Removed	*6089
1.864	Removed	*6089
1.871A	Removed	*6089
1.871	Removed	*6089
1.871–1	(a) amended	*6928
1.871–13	(a)(1) amended	*6928
1.872	Removed	*6089
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1.875	Removed	*6089
1.876	Removed	*6089
1.877	Removed	*6089
1.878	Removed	*6089
1.879–1	Added	*6928
1.881	Removed	*6089
1.882	Removed	*6089
1.883	Removed	*6089
1.884	Removed	*6089
1.892	Removed	*6089
1.893	Removed	*6089
1.894	Removed	*6089
1.895	Removed	*6089
1.896	Removed	*6089
1.901–1	(f) revised	47058
1.902	Removed	*6089
1.902–1	(a)(6), (b)(3), (c)(3), and (d)(3), and (k) examples (4) and (6) removed; (a)(7) and (8), and (k) example (5) redesignated as (a)(6) and (7), and (k) example (4)	60086
	(b)(1)(i), (iii), and (iv), (c)(1), (d)(1), (j), (k) examples (1), (3), new (4) and (l) amended; (b)(2), (c)(2), (d)(2), (e), (f), and (k) example (2) revised	60086
1.902–2	Revised	60087
1.903	Removed	*6089
1.904	Removed	*6089
1.905	Removed	*6089
1.911	Removed	27080
	Removed	*6089
1.911–1	Removed	27080
1.911–2	Removed	27080
1.912	Removed	*6089
1.921	Removed	*6089
1.922	Removed	*6089
1.931	Removed	*6089
1.932	Removed	*6089
1.933	Removed	*6089
1.934	Removed	*6089
1.935	Removed	*6089
1.936–1	Added	*8588
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1.941	Removed	*6089
1.942	Removed	*6089
1.943	Removed	*6089
1.951	Removed	*6089
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1.954	Removed	*6089
1.955	Removed	*6089
1.956	Removed	*6089
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	(c)(2) revised; (c)(4) examples (1), new (2), new (3), and new (4), new (h)(1)(ii), and (3) example amended	60089
1.960–2	(e) example (2) removed; (e) examples (3) through (8) redesignated as examples (2) through (7); (e) introductory text, example (1) and new examples (2) through (7) amended	60089
1.960–3	Nomenclature change; (c) examples (1) and (2) amended	60089
1.960–4	(f) example (4) removed; (f) examples (1), (2), and (3) amended	60089
1.960–5	(b) example amended	60089
1.960–6	(b) example amended	60089
1.960–7	Added	60089
1.961	Removed	*6089
1.962	Removed	*6089
1.963	Removed	*6089
1.964	Removed	*6089
1.970	Removed	*6089
1.971	Removed	*6089
1.972	Removed	*6089
1.981	Removed	*6089, 6929
1.981–0	Added	*6929
1.981–1	Heading revised; (a)(1) amended	*6929
1.991	Removed	*6089
1.992	Removed	*6089
1.993	Removed	*6089
1.994	Removed	*6089
1.995	Removed	*6089
1.996	Removed	*6089
1.997	Removed	*6089
1.1001	Removed	*6089
1.1002	Removed	*6089
1.1011	Removed	*6089
1.1012	Removed	*6089
1.1013	Removed	*6089
1.1014	Removed	*6089
1.1015	Removed	*6089
1.1016	Removed	*6089
1.1017	Removed	*6089
1.1018	Removed	*6089
1.1019	Removed	*6089
1.1020	Removed	*6089
1.1021	Removed	*6089
1.1022	Removed	*6089
1.1031(a)	Removed	*6089
1.1031(b)	Removed	*6089
1.1031(c)	Removed	*6089
1.1031(d)	Removed	*6089
1.1031(e)	Removed	*6089
1.1032	Removed	*6089
1.1033(a)	Removed	31013
	Removed	*6089
1.1033(a)–1	Nomenclature change; (a) amended	31013
1.1033(a)–2	Nomenclature change; heading revised; (a) amended; paragraph following (c)(3)(ii) added	31013
1.1033(a)–3	Removed; new 1.1033(a)–3 redesignated from 1.1033(b)–1 and amended	31013
1.1033(a)–4	Removed	31013
1.1033(b)	Removed	31013
	Removed	*6089
1.1033(b)–1	Redesignated as 1.1033(a)–3 and amended; new 1.1033(b)–1 redesignated from 1.1033(c)–1 and amended	31013
1.1033(c)	Removed	31013
	Removed	*6089
1.1033(c)–1	Redesignated as 1.1033(b)–1 and amended; new 1.1033(c)–1 redesignated from 1.1033(d)–1 and amended	31013
1.1033(d)	Removed	31013
	Removed	*6089
1.1033(d)–1	Redesignated as 1.1033(c)–1 and amended; new 1.1033(d)–1 redesignated from 1.1033(e)–1	31013
1.1033(e)	Removed	31013
	Removed	*6089
1.1033(e)–1	Redesignated as 1.1033(d)–1; new 1.1033(e)–1 redesignated from 1.1033(f)–1 and amended	31013
1.1033(f)	Removed	31013
	Removed	*6089
1.1033(f)–1	Redesignated as 1.1033(e)–1 and amended; new 1.1033(f)–1 redesignated from 1.1033(g)–1 and (b) redesignated as (c) and revised and new (b) added	31013
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1.1033(h) Removed	31013
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1.1033(h)–1 Redesignated as 1.1033(g)–1 and amended	31013
1.1034 Removed	*6089
1.1034–1 (h)(1) amended	31013
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1.1038 Removed	*6089
1.1039 Removed	*6089
1.1051 Removed	*6089
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1.1071 Removed	*6089
1.1081 Removed	*6089
1.1082 Removed	*6089
1.1083 Removed	*6089
1.1091 Removed	*6089
1.1101 Removed	*6089
1.1102 Removed	*6089
1.1103 Removed	*6089
1.1201 Removed	*6089
1.1202 Removed	*6089
1.1212 Removed	73019
Removed	*6089
1.1212–1 (a)(2)(i) and (3)(ii) and (iii) amended; (a)(3)(iii)(g) added	73019
1.1221 Removed	*6089
1.1222 Removed	*6089
1.1223 Removed	*6089
1.1231 Removed	*6089
1.1232 Removed	*6089
1.1232–3 (b)(1)(iii)(a) amended; (b)(1)(iii)(e) added	76782
1.1233 Removed	*6089
1.1234 Removed	62282
Removed	*6089
1.1234–1 (b) revised	62282
1.1234–2 Heading and (e) revised	62282
(e) corrected	67657
1.1234–3 Added	62282
(b)(4) corrected	67657
1.1235 Removed	*6089
1.1236 Removed	*6089
1.1237 Removed	*6089
1.1238 Removed	*6089
1.1240 Removed	*6089
1.1241 Removed	*6089
1.1242 Removed	*6089
1.1243 Removed	*6089
1.1244(a) Removed	*6089
1.1244(b) Removed	*6089
1.1244(c) Removed	*6089
1.1244(d) Removed	*6089
1.1244(e) Removed	*6089
1.1245 Removed	*6089
1.1247 Removed	*6089
1.1248 Removed	*6089
1.1249 Removed	*6089
1.1250 Removed	*6089
1.1251 Removed	*6089
1.1252 Removed	*6089
1.1301 Removed	*6089
1.1302 Removed	*6089
1.1303 Removed	*6089
1.1304 Removed	*6089
1.1305 Removed	*6089
1.1311(a) Removed	*6089
1.1311(b) Removed	*6089
1.1312 Removed	*6089
1.1313(a) Removed	*6089
1.1313(b)–(c) Removed	*6089
1.1314(a) Removed	*6089
1.1314(b) Removed	*6089
1.1314(c) Removed	*6089
1.1314(d)–(e) Removed	*6089
1.1315 Removed	*6089
1.1321 Removed	*6089
1.1331 Removed	*6089
1.1332 Removed	*6089
1.1333 Removed	*6089
1.1334 Removed	*6089
1.1335 Removed	*6089
1.1336 Removed	*6089
1.1337 Removed	*6089
1.1341 Removed	*6089
1.1342 Removed	*6089
1.1346 Removed	*6089
1.1347 Removed	*6089
1.1348 Removed	*6089
1.1361 Removed	*6089
1.1371 Removed	*6089
1.1372 Removed	*6089
1.1374 Removed	*6089
1.1375 Removed	*6089
1.1376 Removed	*6089

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1.1377 Removed	49446
Removed	*6089
1.1377–4 Added	49446
1.1378 Removed	*6089
1.1381 Removed	*6089
1.1382 Removed	*6089
1.1383 Removed	*6089
1.1385 Removed	*6089
1.1388 Removed	*6089
1.1401 Removed	*6089
1.1402(a) Removed	*6089
1.1402(b) Removed	*6089
1.1402(c) Removed	*6089
1.1402(d) Removed	*6089
1.1402(e) Removed	*6089
1.1402(f) Removed	*6089
1.1402(g) Removed	*6089
1.1402(h) Removed	*6089
1.1403 Removed	*6089
1.1441 Removed	*6089
1.1441–1 Amended	*6932
1.1442 Removed	*6089
1.1443 Removed	*6089
1.1451 Removed	*6089
1.1461 Removed	*6089
1.1462 Removed	*6089
1.1463 Removed	*6089
1.1464 Removed	*6089
1.1465 Removed	*6089
1.1471 Removed	*6089
1.1481 Removed	*6089
1.1491 Removed	*6089
1.1492 Removed	*6089
1.1493 Removed	*6089
1.1494 Removed	*6089
1.1501 Removed	*6089
1.1502–5 (a), (b)(1) and (2), and (c) revised; (b)(3) redesignated as (b)(5) and amended; new (b)(3) and (4) added	46840
1.1502–26 (a) revised	40497
1.1502–32 (b)(2)(iii)(a) amended; (d)(6) revised; (d)(11) added	46841
1.1502–42 Revised	46841
1.1502–77 (a) amended	*8588
1.1503 Removed	*6089
1.1504 Removed	*6089
1.1505 Removed	*6089
1.1551 Removed	*6089
1.1552 Removed	*6089
1.1562 Removed	*6089
1.1563 Removed	*6089
1.1564 Removed	*6089
1.6001 Removed	*6089
1.6012 Removed	*6089
1.6012–1 (b)(1)(i), (2)(i), (ii)(a), and (ii)(b) amended	*6929
1.6012–3 (a)(2) revised	20079
1.6013 Removed	*6089
1.6013–1 (b) revised	*6929
1.6013–2 (a)(4) added	*6929
1.6013–6 Added	*6929
1.6013–7 Added	*6931
1.6014 Removed	*6089
1.6015(a) Removed	*6089
1.6015(b) Removed	*6089
1.6015(d) Removed	*6089
1.6015(e) Removed	*6089
1.6015(f) Removed	*6089
1.6015(g) Removed	*6089
1.6015(h) Removed	*6089
1.6015(i) Removed	*6089
1.6015(j) Removed	*6089
1.6016 Removed	*6089
1.6017 Removed	*6089
1.6031 Removed	*6089
1.6032 Removed	*6089
1.6034 Removed	*6089
1.6035 Removed	*6089
1.6036 Removed	*6089
1.6037 Removed	*6089
1.6038 Removed	*6089
1.6039 Removed	*6089
1.6041 Removed	*6089
1.6042 Removed	*6089
1.6042–4 (c)(1) amended	31012
1.6043 Removed	*6089
1.6044 Removed	*6089
1.6045 Removed	*6089
1.6046 Removed	*6089
1.6049 Removed	*6089
1.6049–3 (c)(1)(i) amended	31012
1.6050 Removed	*6089
1.6052 Removed	*6089
1.6052–1 (a)(1)(i) amended; (a)(2) revised	28800
1.6052–2 (e) revised	28800
1.6056 Removed	*6089
1.6060–1 Revised	49451
1.6061 Removed	*6089
1.6062 Removed	*6089
1.6063 Removed	*6089
1.6065 Removed	*6089
1.6071 Removed	*6089
1.6072–1 (c) amended	*6931
1.6073 Removed	*6089
1.6073–1 (a) amended	*6931
1.6074 Removed	*6089
1.6081–1 (b)(1) amended	61597
1.6091–3 (d) amended	*6931
1.6102 Removed	*6089
1.6107–1 (b) amended	49452

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1.6151	Removed	*6089
1.6152	Removed	*6089
1.6153	Removed	*6089
1.6154	Removed	*6089
1.6161	Removed	*6089
1.6162	Removed	*6089
1.6164	Removed	*6089
1.6165	Removed	*6089
1.6302	Removed	*6089
1.6411	Removed	*6089
5.6411–1	Added	*8295
1.6414	Removed	*6089
1.6425	Removed	*6089
1.6428	Removed	*6089
1.6655	Removed	*6089
1.6695–1	(e) revised	49452
1.6696–1	Added	27985
1.6851–2	(b)(1)(ii) amended	*6931
1.7476	Removed	*6089
5.44B–1	Added	19190
5.51–1	Added	19191
5.466–1	Added	63522
5.466–2	Added	63523
5.852–1	Revised	*5689
5.852–2	Removed	*5689
5.857–1	Revised	*5692
5.857–2	Removed	*5689
5a	Added	*6779
5b.911–1	Added	27080
	(c) revised	77156
5b.911–2	Added	27080
5b.911–3	Added	27081
5b.911–4	Added	27081
5b.911–5	Added	27082
5b.911–6	Added	27082
5b.911–7	Added	27083
5b.913–1	Added	27083
5b.913–2	Added	27083
5b.913–3	Added	27084
5b.913–4	Added	27084
5b.913–5	Added	27085
5b.913–6	Added	27085
5b.913–7	Added	27087
5b.913–8	Added	27088
5b.913–9	Added	27088
5b.913–10	Added	27088
5b.913–11	Added	27089
5b.913–12	Added	27089
5b.913–13	Added	27089
7.0	(a) table revised	*6932
	(c)(5) removed; (c)(6) redesignated as (c)(5)	*8589
7.190–1—7.190–3	Removed	43273
7.367(b)–13	Added	57390
10.3	(c)(1) amended; (d)(2) revised	*6378
12.1	Removed	46459
15.1	Removed	*6089
16.3	Removed	*6089
20.0–1	(c) revised	*6089
20.2001	Removed	*6089
20.2002	Removed	*6089
20.2011	Removed	*6089
20.2012	Removed	*6089
20.2013	Removed	*6089
20.2014	Removed	*6089
20.2015	Removed	*6089
20.2016	Removed	*6089
20.2031	Removed	*6089
20.2032	Removed	*6089
20.2033	Removed	*6089
20.2034	Removed	*6089
20.2035	Removed	*6089
20.2036	Removed	*6089
20.2037	Removed	*6089
20.2038	Removed	*6089
20.2040	Removed	*6089
20.2041	Removed	*6089
20.2042	Removed	*6089
20.2042–1	(c)(6) amended	28800
20.2043	Removed	*6089
20.2044	Removed	*6089
20.2051	Removed	*6089
20.2052	Removed	*6089
20.2053	Removed	*6089
20.2053–3	(c)(3) revised	23525
20.2054	Removed	*6089
20.2055	Removed	*6089
20.2056(a)	Removed	*6089
20.2056(b)	Removed	*6089
20.2056(c)	Removed	*6089
20.2056(d)	Removed	*6089
20.2056(e)	Removed	*6089
20.2101	Removed	*6089
20.2102	Removed	*6089
20.2103	Removed	*6089
20.2104	Removed	*6089
20.2105	Removed	*6089
20.2106	Removed	*6089
20.2107	Removed	*6089
20.2108	Removed	*6089
20.2201	Removed	*6089
20.2202	Removed	*6089
20.2203	Removed	*6089
20.2204	Removed	*6089
20.2205	Removed	*6089
20.2206	Removed	*6089
20.2207	Removed	*6089
20.2208	Removed	*6089
20.2209	Removed	*6089
20.6001	Removed	*6089

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		Page
20.6011	Removed	*6089
20.6018	Removed	*6089
20.6036	Removed	*6089
20.6061	Removed	*6089
20.6065	Removed	*6089
20.6071	Removed	*6089
20.6075	Removed	*6089
20.6081	Removed	*6089
20.6091	Removed	*6089
20.6151	Removed	*6089
20.6161	Removed	*6089
20.6163	Removed	*6089
20.6165	Removed	*6089
20.6166	Removed	*6089
20.6314	Removed	*6089
20.6322	Removed	*6089
20.6323	Removed	*6089
20.6324	Removed	*6089
20.6325	Removed	*6089
20.6601	Removed	*6089
20.6905	Removed	*6089
20.7101	Removed	*6089
20.7404	Removed	*6089
25.0–1	(d) revised	*6089
25.2501	Removed	*6089, 8004
25.2501–1	(a)(5) added	*8004
25.2502	Removed	*6089
25.2503	Removed	*6089
25.2504	Removed	*6089
25.2511	Removed	*6089
25.2512	Removed	*6089
25.2513	Removed	*6089
25.2514	Removed	*6089
25.2515	Removed	*6089
25.2516	Removed	*6089
25.2521	Removed	*6089
25.2522(a)	Removed	*6089
25.2522(b)	Removed	*6089
25.2522(c)	Removed	*6089
25.2522(d)	Removed	*6089
25.2523(a)	Removed	*6089
25.2523(b)	Removed	*6089
25.2523(c)	Removed	*6089
25.2523(d)	Removed	*6089
25.2523(e)	Removed	*6089
25.2523(f)	Removed	*6089
25.2524	Removed	*6089
25.6001	Removed	*6089
25.6011	Removed	*6089
25.6019	Removed	*6089
25.6061	Removed	*6089
25.6065	Removed	*6089
25.6075	Removed	*6089
25.6081	Removed	*6089
25.6091	Removed	*6090
25.6151	Removed	*6090
25.6161	Removed	*6090
25.6165	Removed	*6090
25.6321	Removed	*6090
25.6322	Removed	*6090
25.6323	Removed	*6090
25.6324	Removed	*6090
25.6601	Removed	*6090
25.6905	Removed	*6090
25.7101	Removed	*6090
31.3101	Removed	*6090
31.3102	Removed	*6090
31.3111	Removed	*6090
31.3112	Removed	*6090
31.3113	Removed	*6090
31.3121(a)	Removed	*6090
31.3121(a)(1)	Removed	75139
	Removed	*6090
31.3121(a)(1)–1	(a)(3) amended	75139
31.3121(a)(2)	Removed	*6090
31.3121(a)(3)	Removed	*6090
31.3121(a)(4)	Removed	*6090
31.3121(a)(5)	Removed	*6090
31.3121(a)(6)	Removed	*6090
31.2121(a)(7)	Removed	*6090
31.2121(a)(8)	Removed	*6090
31.2121(a)(9)	Removed	*6090
31.2121(a)(10)	Removed	*6090
31.2121(a)(11)	Removed	*6090
31.2121(a)(12)	Removed	*6090
31.2121(a)(13)	Removed	*6090
31.2121(a)(14)	Removed	*6090
31.2121(a)(15)	Removed	*6090
31.2121(b)	Removed	*6090
31.3121(b)(1)	Removed	*6090
31.3121(b)(2)	Removed	*6090
31.3121(b)(3)	Removed	*6090
31.3121(b)(4)	Removed	*6090
31.3121(b)(5)	Removed	*6090
31.3121(b)(6)	Removed	*6090
31.3121(b)(7)	Removed	*6090
31.3121(b)(8)	Removed	*6090
31.3121(b)(9)	Removed	*6090
31.3121(b)(10)	Removed	*6090
31.3121(b)(11)	Removed	*6090
31.3121(b)(12)	Removed	*6090
31.3121(b)(13)	Removed	*6090
31.3121(b)(14)	Removed	*6090
31.3121(b)(15)	Removed	*6090
31.3121(b)(16)	Removed	*6090
31.3121(b)(17)	Removed	*6090
31.3121(b)(18)	Removed	*6090
31.3121(b)(19)	Removed	*6090
31.3121(c)	Removed	*6090
31.3121(d)	Removed	*6090
31.3121(e)	Removed	*6090
31.3121(f)	Removed	*6090
31.3121(g)	Removed	*6090
31.3121(h)	Removed	*6090

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31.3121(i) Removed	*6090
31.3121(j) Removed	*6090
31.3121(k) Removed	59524
Removed	*6090
31.3121(k)–4 Added	59524
31.3121(l) Removed	*6090
31.3121(m) Removed	*6090
31.3121(n) Removed	*6090
31.3121(o) Removed	*6090
31.3121(p) Removed	*6090
31.3121(q) Removed	*6090
31.3121(r) Removed	*6090
31.3121(s)–1 Added	75139
31.3122 Removed	*6090
31.3123 Removed	*6090
31.3124 Removed	*6090
31.3125 Removed	*6090
31.3126 Removed	*6090
31.3201 Removed	*6090
31.3202 Removed	*6090
31.3211 Removed	*6090
31.3212 Removed	*6090
31.3221 Removed	*6090
31.3231(a) Removed	*6090
31.3231(b) Removed	*6090
31.3231(c) Removed	*6090
31.3231(d) Removed	*6090
31.3231(e) Removed	*6090
31.3231(f) Removed	*6090
31.3231(g) Removed	*6090
31.3232 Removed	*6090
31.3233 Removed	*6090
31.3301 Removed	*6090
31.3302(a) Removed	*6090
31.3302(b) Removed	*6090
31.3302(c) Removed	*6090
31.3302(d) Removed	*6090
31.3302(e) Removed	*6090
31.3303 Removed	*6090
31.3304 Removed	*6090
31.3305 Removed	*6090
31.3306(a) Removed	*6090
31.3306(b) Removed	*6090
31.3306(b)(1) Removed	75142
Removed	*6090
31.3306(b)(1)–1 (a)(3) amended	75142
31.3306(b)(2) Removed	*6090
31.3306(b)(3) Removed	*6090
31.3306(b)(4) Removed	*6090
31.3306(b)(5) Removed	*6090
31.3306(b)(6) Removed	*6090
31.3306(b)(7) Removed	*6090
31.3306(b)(8) Removed	*6090
31.3306(b)(9) Removed	*6090
31.3306(b)(10) Removed	*6090
31.3306(c) Removed	*6090
31.3306(c)(1) Removed	*6090
31.3306(c)(2) Removed	*6090
31.3306(c)(3) Removed	*6090
31.3306(c)(4) Removed	*6090
31.3306(c)(5) Removed	*6090
31.3306(c)(6) Removed	*6090
31.3306(c)(7) Removed	*6090
31.3306(c)(8) Removed	*6090
31.3306(c)(9) Removed	*6090
31.3306(c)(10) Removed	*6090
31.3306(c)(11) Removed	*6090
31.3306(c)(12) Removed	*6090
31.3306(c)(13) Removed	*6090
31.3306(c)(14) Removed	*6090
31.3306(c)(15) Removed	*6090
31.3306(c)(16) Removed	*6090
31.3306(c)(17) Removed	*6090
31.3306(c)(18) Removed	*6090
31.3306(d) Removed	*6090
31.3306(e) Removed	*6090
31.3306(f) Removed	*6090
31.3306(g) Removed	*6090
31.3306(h) Removed	*6090
31.3306(i) Removed	*6090
31.3306(j) Removed	*6090
31.3306(k) Removed	*6090
31.3306(l) Removed	*6090
31.3306(m) Removed	*6090
31.3306(n) Removed	*6090
31.3306(p)–1 Added	75142
31.3307 Removed	*6090
31.3308 Removed	*6090
31.3309 Removed	*6090
31.3401(a) Removed	*6090
31.3401(a)(1) Removed	*6090
31.3401(a)–1 (b)(7) amended	*6932
31.3401(a)(2) Removed	*6090
31.3401(a)(3) Removed	*6090
31.3401(a)(4) Removed	*6090
31.3401(a)(5) Removed	*6090
31.3401(a)(6) Removed	*6090
31.3401(a)(6)–1 (a) amended	*6932
31.3401(a)(6)A Removed	*6090
31.3401(a)(7) Removed	*6090
31.3401(a)(8)(A) Removed	*6090
31.3401(a)(8)(B) Removed	*6090
31.3401(a)(8)(C) Removed	*6090
31.3401(a)(9) Removed	*6090
31.3401(a)(10) Removed	*6090
31.3401(a)(11) Removed	*6090
31.3401(a)(12) Removed	*6090
31.3401(a)(13) Removed	*6090
31.3401(a)(14) Removed	*6090
31.3401(a)(15) Removed	*6090
31.3401(a)(16) Removed	*6090
31.3401(b) Removed	*6090

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31.3401(c) Removed	*6090
31.3401(d) Removed	*6090
31.3401(e) Removed	*6090
31.3401(f) Removed	*6090
31.3402(a) Removed	76484
Removed	*6090
31.3402(a)–2 Revised	76484
31.3402(b) Removed	76484
Removed	*6090
31.3402(c) Removed	76484
Removed	*6090
31.3402(d) Removed	76484
Removed	*6090
31.3402(e) Removed	76484
Removed	*6090
31.3402(f)(1) Removed	76484
Removed	*6090
31.3402(f)(1)–1 (d)(4) amended	*6932
31.3402(f)(2) Removed	76484
Removed	*6090
31.3402(f)(3) Removed	76484
Removed	*6090
31.3402(f)(4) Removed	76484
Removed	*6090
31.3402(f)(5) Removed	76484
Removed	*6090
31.3402(f)(6) Removed	76484
Removed	*6090
31.3402(f)(6)–1 Amended	*6932
31.3402(g) Removed	76484
Removed	*6090
31.3402(h)(1) Removed	76484
Removed	*6090
31.3402(h)(2) Removed	76484
Removed	*6090
31.3402(h)(3) Removed	76484
Removed	*6090
31.3402(h)(4) Removed	76484
Removed	*6090
31.3402(i) Removed	76484
Removed	*6090
31.3402(j) Removed	76484
Removed	*6090
31.3402(k) Removed	76484
Removed	*6090
31.3402(l) Removed	76484
Removed	*6090
31.3402(m) Removed	50337, 76484
Removed	*6090
31.3402(n) Removed	76484
Removed	*6090
31.3402(o) Removed	76484
Removed	*6090
31.3402(p) Removed	76484
Removed	*6090
31.3403 Removed	*6090
31.3404 Removed	*6090
31.3501 Removed	*6090
31.3502 Removed	*6090
31.3503 Removed	*6090
31.3504 Removed	*6090
31.3505 Removed	*6090
31.6001 Removed	*6090
31.6011(a) Removed	*6090
31.6011(b) Removed	*6090
31.6051 Removed	68466
Removed	*6090
31.6051–1 (d)(1) and (2) revised	68466
31.6053 Removed	*6090
31.6061 Removed	*6090
31.6065(a) Removed	*6090
31.6071(a) Removed	*6090
31.6081(a) Removed	*6090
31.6091 Removed	*6090
31.6101 Removed	*6090
31.6109 Removed	*6090
31.6151 Removed	*6090
31.6157 Removed	*6090
31.6161(a)(1) Removed	*6090
31.6201(b) Removed	*6090
31.6205 Removed	*6090
31.6302(b) Removed	*6090
31.6302(c) Removed	*6090
31.6317 Removed	*6090
31.6402(a) Removed	*6090
31.6404(a) Removed	*6090
31.6413(a) Removed	*6090
31.6413(b) Removed	*6090
31.6413(c) Removed	*6090
31.6413(d) Removed	*6090
31.6414 Removed	*6090
31.6513(e) Removed	*6090
31.6601(k) Removed	*6090
31.6652 Removed	*6090
31.6674 Removed	*6090
31.6682 Removed	*6090
31.7805 Removed	*6090
36.3121(l)–0 (c) amended	*6090
36.3121(l)(1) Removed	*6090
36.3121(l)(2) Removed	*6090
36.3121(l)(3) Removed	*6090
36.3121(l)(4) Removed	*6090
36.3121(l)(5) Removed	*6090
36.3121(l)(6) Removed	*6090
36.3121(l)(7) Removed	*6090
36.3121(l)(8) Removed	*6090
36.3121(l)(9) Removed	*6090
36.3121(l)(10) Removed	*6090
38 Added	27090
41.0–1 (c) revised	*6090
41.4483 Removed	*6090
41.4484 Removed	*6090

Note: Symbol (*) refers to 1980 page numbers

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		Page
41.6001	Removed	*6090
41.6011(a)	Removed	*6090
41.6071(a)	Removed	*6090
41.6081(a)	Removed	*6090
41.6091	Removed	*6090
41.6101	Removed	*6090
41.6109	Removed	*6090
41.6151(a)	Removed	*6090
41.6156	Removed	*6090
41.6161(a)–(1)	Removed	*6090
41.6302(b)	Removed	*6090
41.7701	Removed	*6090
41.7805	Removed	*6090
44.0–1	(c) revised	*6090
44.4401	Removed	*6090
44.4402	Removed	*6090
44.4403	Removed	*6090
44.4404	Removed	*6090
44.4405	Removed	*6090
44.4411	Removed	*6090
44.4412	Removed	*6090
44.4413	Removed	*6090
44.4414	Removed	*6090
44.4421	Removed	*6090
44.4422	Removed	*6090
44.4423	Removed	*6090
44.4901	Removed	*6090
44.4902	Removed	*6090
44.4904	Removed	*6090
44.4905	Removed	*6090
44.4906	Removed	*6090
44.6001	Removed	*6090
44.6011(a)	Removed	*6090
44.6071	Removed	*6090
44.6091	Removed	40498
	Removed	*6090
44.6091–1	Revised	40498
44.6151	Removed	*6090
44.6419	Removed	*6090
44.7262	Removed	*6090
44.7272	Removed	*6090
44.7701	Removed	*6090
44.7805	Removed	*6090
45.0–1	(c) revised	*6090
45.4461	Removed	*6090
45.4462	Removed	*6090
45.4463	Removed	*6090
45.4464	Removed	*6090
45.4591	Removed	*6090
45.4592(a)	Removed	*6090
45.4593(a)	Removed	*6090
45.4801	Removed	*6090
45.4802	Removed	*6090
45.4803	Removed	*6090
45.4804	Removed	*6090
45.4805	Removed	*6090
45.4806	Removed	*6090
45.4811	Removed	*6090
45.4812	Removed	*6090
45.4813	Removed	*6090
45.4814	Removed	*6090
45.4815(a)	Removed	*6090
45.4815(b)	Removed	*6090
45.4816	Removed	*6090
45.4817	Removed	*6090
45.4818	Removed	*6090
45.4819	Removed	*6090
45.4821	Removed	*6090
45.4822	Removed	*6090
45.4826	Removed	*6090
45.4831	Removed	*6090
45.4832	Removed	*6090
45.4833	Removed	*6090
45.4834	Removed	*6090
45.4836	Removed	*6090
45.4841	Removed	*6090
45.4842	Removed	*6090
45.4846	Removed	*6090
45.4851	Removed	*6090
45.4852	Removed	*6090
45.4853	Removed	*6090
45.4854	Removed	*6090
45.4861	Removed	*6090
45.4862	Removed	*6090
45.4863	Removed	*6090
45.4864	Removed	*6090
45.4865	Removed	*6090
45.4871	Removed	*6090
45.4872	Removed	*6090
45.4873	Removed	*6090
45.4874	Removed	*6090
45.4875	Removed	*6090
45.4876	Removed	*6090
45.4877	Removed	*6090
45.4901	Removed	*6090
45.4902	Removed	*6090
45.4903	Removed	*6090
45.4904	Removed	*6090
45.4905	Removed	*6090
45.4906	Removed	*6090
45.4907	Removed	*6090
45.6001	Removed	*6090
45.6061	Removed	*6090
45.6065	Removed	*6090
45.6071	Removed	*6090
45.6081(a)	Removed	*6090
45.6091	Removed	*6090
45.6101	Removed	*6090
45.6109	Removed	*6090
45.6151	Removed	*6090
45.6161(a)(1)	Removed	*6090
45.6804	Removed	*6090
45.6805	Removed	*6090

Note: Symbol (*) refers to 1980 page numbers

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		Page
45.6806	Removed	*6090
45.7011	Removed	*6090
45.7208	Removed	*6090
45.7209	Removed	*6090
45.7233	Removed	*6090
45.7234	Removed	*6090
45.7235	Removed	*6090
45.7236	Removed	*6090
45.7239	Removed	*6090
45.7263	Removed	*6090
45.7264	Removed	*6090
45.7265	Removed	*6090
45.7266	Removed	*6090
45.7267	Removed	*6090
45.7271	Removed	*6090
45.7272	Removed	*6090
45.7273	Removed	*6090
45.7274	Removed	*6090
45.7303	Removed	*6090
45.7326(a)	Removed	*6090
45.7328	Removed	*6090
45.7492	Removed	*6090
45.7493	Removed	*6090
45.7510	Removed	*6090
45.7641	Removed	*6090
45.7701	Removed	*6090
45.7805	Removed	*6090
46.0–1	(c) revised	*6091
46.4371	Removed	*6091
46.4372	Removed	*6091
46.4373	Removed	*6091
46.4374	Removed	*6091
46.4375	Removed	*6091
46.4501	Removed	*6091
46.4502	Removed	*6091
46.4503	Removed	*6091
46.4504	Removed	*6091
46.4881	Removed	*6091
46.4882	Removed	*6091
46.4883	Removed	*6091
46.4884	Removed	*6091
46.4885	Removed	*6091
46.4886	Removed	*6091
46.6001	Removed	*6091
46.6011(a)	Removed	*6091
46.6061	Removed	*6091
46.6065	Removed	*6091
46.6071(a)	Removed	*6091
46.6081(a)	Removed	*6091
46.6091	Removed	*6091
46.6101	Removed	*6091
46.6109	Removed	*6091
46.6151	Removed	*6091
46.6161(a)(1)	Removed	*6091
46.6302(b)	Removed	*6091
46.6302(c)	Removed	*6091
46.6402(a)	Removed	*6091
46.6404(a)	Removed	*6091
46.6412(d)	Removed	*6091
46.6417	Removed	*6091
46.6418	Removed	*6091
46.6511(e)	Removed	*6091
46.7240	Correctly removed	*6091, 10334
46.7654	Removed	*6091
46.7701	Removed	*6091
46.7805	Removed	*6091
47.0–1	(c) revised	*6091
47.4301	Removed	*6091
47.4302	Removed	*6091
47.4303	Removed	*6091
47.4304	Removed	*6091
47.4305	Removed	*6091
47.4311	Removed	*6091
47.4312	Removed	*6091
47.4313	Removed	*6091
47.4314	Removed	*6091
47.4315	Removed	*6091
47.4321	Removed	*6091
47.4322	Removed	*6091
47.4323	Removed	*6091
47.4324	Removed	*6091
47.4331	Removed	*6091
47.4332	Removed	*6091
47.4333	Removed	*6091
47.4341	Removed	*6091
47.4342	Removed	*6091
47.4343	Removed	*6091
47.4344	Removed	*6091
47.4345	Removed	*6091
47.4346	Removed	*6091
47.4351	Removed	*6091
47.4352	Removed	*6091
47.4353	Removed	*6091
47.4354	Removed	*6091
47.4361	Removed	*6091
47.4362	Removed	*6091
47.4363	Removed	*6091
47.4371	Removed	*6091
47.4372	Removed	*6091
47.4373	Removed	*6091
47.4374	Removed	*6091
47.4375	Removed	*6091
47.4381	Removed	*6091
47.4382	Removed	*6091
47.4383	Removed	*6091
47.4384	Removed	*6091
47.6001	Removed	*6091
47.6801	Removed	*6091
47.6802	Removed	*6091
47.6804	Removed	*6091
47.6805	Removed	*6091
47.7208	Removed	*6091
47.7209	Removed	*6091
47.7270	Removed	*6091

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		Page
47.7271	Removed	*6091
47.7701	Removed	*6091
47.7805	Removed	*6091
48.4041–14	Redesignated from 138.4041(k)–1 and revised	69925
48.4081–2	Redesignated from 138.4081(c)–1 and revised	69925
48.4216(b)–1	Added	23824
48.4216(b)–2	Added	23825
	(b) corrected	47767
48.4216(b)–3	Added	23825
48.4216(b)–4	Added	23826
	(f)(1) corrected	47767
48.4218	Removed	*6091
48.4219	Removed	*6091
49.0–1	(c) removed	*6091
49.4241	Removed	*6091
49.4242	Removed	*6091
49.4243	Removed	*6091
49.4251	Removed	*6091
49.4252	Removed	*6091
49.4253	Removed	*6091
49.4254	Removed	*6091
49.4261	Removed	*6091
49.4262(a)	Removed	*6091
49.4262(b)	Removed	*6091
49.4262(c)	Removed	*6091
49.4263	Removed	*6091
49.4264(a)	Removed	*6091
49.4264(b)	Removed	*6091
49.4264(c)	Removed	*6091
49.4264(d)	Removed	*6091
49.4264(e)	Removed	*6091
49.4264(f)	Correctly removed	*6091, 10334
49.4286	Removed	*6091
49.4287	Removed	*6091
49.6011(a)	Removed	*6091
49.6071(a)	Removed	*6091
49.6091	Removed	*6091
49.6109	Removed	*6091
49.6151	Removed	*6091
49.6302(c)	Removed	*6091
53	Heading revised	52198
53.4941(a)	Removed	*6091
53.4941(b)	Removed	*6091
53.4941(c)	Removed	*6091
53.4941(d)	Removed	*6091
53.4941(d)–4	(b)(1) amended; (f) added	*12416
53.4941(e)	Removed	*6091
53.4942	Removed	21644
	Removed	*6091
53.4942(a)–2	(d)(2)(x) added	21644
53.4944	Removed	*6091
53.4945	Removed	*6091
53.4946	Removed	*6091
53.4947	Removed	*6091
53.4948	Removed	*6091
53.4951–1—53.4952–1	(Subpart J) Added	52198
53.6001—53.7101–1	(Subpart J) Redesignated as Subpart K; new 53.4951–1—53.4952–1 (Subpart J) added	52198
53.6001	Removed	*6091
53.6011	Removed	*6091
53.6061	Removed	*6091
53.6065	Removed	*6091
53.6071	Removed	*6091
53.6081	Removed	*6091
53.6091	Removed	*6091
53.6151	Removed	*6091
53.6161	Removed	*6091
53.6165	Removed	*6091
53.6601	Removed	*6091
53.6651	Removed	*6091
53.7101	Removed	*6091
138	Added	25217
138.4041(k)–1	Added	35218
	Redesignated as 48.4041–14 and revised	69925
138.4064–1	Added	*8590
138.4081(c)–1	Added	35218
	Redesignated as 48.4081–2 and revised	69925
138.4222–1	Added	*8592
140	Added	76485
144.1	Removed	*6091
145.3	Removed	*6091
145.4	Removed	*6091
154.1	Removed	*6091
154.2	Removed	*6091
154.3	Removed	*6091
154.4	Removed	*6091
301	Technical correction	24285
301.6001	Removed	*6091
301.6011	Removed	*6091
301.6012	Removed	*6091
301.6013	Removed	*6091
301.6013–1	Amended	*6932
301.6014	Removed	*6091
301.6015	Removed	*6091
301.6016	Removed	*6091
301.6017	Removed	*6091
301.6018	Removed	*6091
301.6019	Removed	*6091
301.6020	Removed	*6091
301.6021	Removed	*6091
301.6031	Removed	*6091
301.6032	Removed	*6091
301.6033	Removed	*6091
301.6034	Removed	*6091

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		Page
301.6035	Removed	*6091
301.6036	Removed	*6091
301.6037	Removed	*6091
301.6038	Removed	*6091
301.6039	Removed	*6091
301.6040	Removed	*6091
301.6041	Removed	*6091
301.6042	Removed	*6091
301.6043	Removed	*6091
301.6044	Removed	*6091
301.6045	Removed	*6091
301.6046	Removed	*6091
301.6047	Removed	*6091
301.6048	Removed	*6091
301.6049	Removed	*6091
301.6050	Removed	*6091
301.6051	Removed	*6091
301.6052	Removed	*6091
301.6061	Removed	*6091
301.6062	Removed	*6091
301.6063	Removed	*6091
301.6064	Removed	*6091
301.6065	Removed	*6091
301.6071	Removed	*6091
301.6073	Removed	*6091
301.6074	Removed	*6091
301.6075	Removed	*6091
301.6081	Removed	*6091
301.6091	Removed	*6091
301.6096	Removed	50337
	Removed	*6091
301.6096–1	(b) revised	50338
301.6101	Removed	*6091
301.6102	Removed	*6091
301.6103(a)	Removed	*6091
301.6103(b)	Removed	*6091
301.6103(c)	Removed	*6091
301.6103(d)	Removed	*6091
301.6103(e)	Removed	*6091
301.6103(f)	Removed	*6091
301.6104	Removed	*6091
301.6105	Removed	*6091
301.6106	Removed	*6091
301.6108	Removed	*6091
301.6109	Removed	*6091
301.6109–1	(g) amended	*6932
301.6111	Removed	*6091
301.6151	Removed	*6091
301.6152	Removed	*6091
301.6153	Removed	*6091
301.6154	Removed	*6091
301.6155	Removed	*6091
301.6156	Removed	*6091
301.6157	Removed	*6091
301.6161	Removed	*6091
301.6162	Removed	*6091
301.6163	Removed	*6091
301.6164	Removed	*6091
301.6165	Removed	*6091
301.6166	Removed	*6091
301.6201	Removed	*6091
301.6202	Removed	*6091
301.6203	Removed	*6091
301.6204	Removed	*6091
301.6205	Removed	*6091
301.6206	Removed	*6091
301.6207	Removed	*6091
301.6211	Removed	*6091
301.6212	Removed	*6091
301.6213	Removed	*6091
301.6214	Removed	*6091
301.6215	Removed	*6091
301.6216	Removed	*6091
301.6301	Removed	*6091
301.6302	Removed	*6091
301.6303	Removed	*6091
301.6304	Removed	*6091
301.6311	Removed	*6091
301.6312	Removed	*6091
301.6313	Removed	*6091
301.6314	Removed	*6091
301.6315	Removed	*6091
301.6316	Removed	*6091
301.6317	Removed	*6091
301.6321	Removed	*6091
301.6322	Removed	*6091
301.6323(a)	Removed	*6091
301.6323(b)	Removed	*6091
301.6323(c)	Removed	*6091
301.6323(d)	Removed	*6091
301.6323(e)	Removed	*6091
301.6323(f)	Removed	*6091
301.6323(g)	Removed	*6091
301.6323(h)	Removed	*6091
301.6323(i)	Removed	*6091
301.6324	Removed	*6091
301.6325	Removed	*6091
301.6326	Removed	*6091
301.6331	Removed	27987
	Removed	*6091
301.6331–1	(a)(1) revised; (a)(4)(i), (ii), and (iii) amended; (c) removed	27987
301.6331–2	Added	27988
301.6332	Removed	27988
	Removed	*6091
301.6332–1	(b)(1) revised	27988
301.6333	Removed	27988
	Removed	*6091
301.6334	Removed	27988
	Removed	*6091
301.6334–1	(a) introductory text and (8) heading revised; (a)(9) added	27988

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		Page
301.6334–2	Added	27988
301.6334–3	Added	27989
301.6334–4	Added	27989
301.6334–5	Added	27989
301.6334–6	Added	27990
301.6334–7	Added	27990
301.6335	Removed	*6091
301.6336	Removed	*6091
301.6337	Removed	*6091
301.6338	Removed	*6091
301.6339	Removed	*6091
301.6340	Removed	*6091
301.6341	Removed	*6091
301.6342	Removed	*6091
301.6343	Removed	*6091
301.6344	Removed	*6091
301.6401	Removed	*6091
301.6402	Removed	*6091
301.6403	Removed	*6091
301.6404	Removed	*6091
301.6405	Removed	*6091
301.6406	Removed	*6091
301.6407	Removed	*6091
301.6411	Removed	*6091
301.6412	Removed	*6091
301.6413	Removed	*6091
301.6414	Removed	*6091
301.6415	Removed	*6091
301.6416	Removed	*6091
301.6417	Removed	*6091
301.6418	Removed	*6091
301.6419	Removed	*6091
301.6420	Removed	*6091
301.6421	Removed	*6091
301.6422	Removed	*6091
301.6423	Removed	*6091
301.6425	Removed	*6091
301.6501(a)	Removed	*6091
301.6501(b)	Removed	*6091
301.6501(c)	Removed	*6091
301.6501(d)	Removed	*6091
301.6501(e)	Removed	*6091
301.6501(f)	Removed	*6091
301.6501(h)	Removed	*6091
301.6501(i)	Removed	*6091
301.6501(j)	Removed	*6091
301.6501(k)	Removed	*6091
301.6501(l)	Removed	*6091
301.6501(m)	Removed	*6091
301.6501(o)	Removed	*6091
301.6502	Removed	*6091
301.6503(a)	Removed	*6091
301.6503(b)	Removed	*6091
301.6503(c)	Removed	*6091
301.6503(d)	Removed	*6091
301.6503(e)	Removed	*6091
301.6503(f)	Removed	*6091
301.6503(g)	Removed	*6091
301.6504	Removed	*6091
301.6511(a)	Removed	*6091
301.6511(b)	Removed	*6091
301.6511(c)	Removed	*6091
301.6511(d)	Removed	*6091
301.6511(e)	Removed	*6091
301.6511(f)	Removed	*6091
301.6512	Removed	*6091
301.6513	Removed	*6091
301.6514(a)	Removed	*6091
301.6514(b)	Removed	*6091
301.6515	Removed	*6091
301.6521	Removed	*6091
301.6531	Removed	*6091
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301.6652–3	Corrected	24285
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301.6861	Removed	*6091
301.6862	Removed	*6091
301.6863	Removed	*6091
301.6864	Removed	*6091
301.6871(a)	Removed	*6091
301.6871(b)	Removed	*6091
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301.7101	Removed	*6091
301.7102	Removed	*6091
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301.7201	Removed	*6091
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301.7214	Removed	*6092
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301.7231	Removed	*6092
301.7232	Removed	*6092
301.7233	Removed	*6092
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301.7274	Removed	*6092
301.7275	Removed	*6092
301.7301	Removed	*6092
301.7302	Removed	*6092
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301.7304	Removed	*6092
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301.7444	Removed	*6092
301.7445	Removed	*6092
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301.7459	Removed	*6092
301.7460	Removed	*6092
301.7461	Removed	*6092
301.7462	Removed	*6092
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301.7481	Removed	*6092
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301.7483	Removed	*6092
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301.7486	Removed	*6092
301.7487	Removed	*6092
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301.7493	Removed	*6092
301.7501	Removed	*6092
301.7502	Removed	*6092
301.7503	Removed	*6092
301.7504	Removed	*6092
301.7505	Removed	*6092
301.7506	Removed	*6092
301.7507	Removed	*6092
301.7508	Removed	*6092
301.7509	Removed	*6092
301.7510	Removed	*6092
301.7512	Removed	*6092
301.7513	Removed	*6092
301.7514	Removed	*6092
301.7515	Removed	*6092
301.7516	Removed	*6092
301.7601	Removed	*6092
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301.7609	Removed	*6092
301.7621	Removed	*6092
301.7622	Removed	*6092
301.7623	Removed	*6092
301.7641	Removed	*6092
301.7651	Removed	*6092
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301.7655	Removed	*6092
301.7701	Removed	*6092
301.7701–13	Heading and (a) revised	28661
301.7701–13A	Added	28661
	(f) heading corrected	29048
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301.7803	Removed	*6092
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301.7808	Removed	*6092
301.7809	Removed	*6092
301.7810	Removed	*6092
301.7851	Removed	*6092
301.7852	Removed	*6092
400.1	Removed	*6092
400.2	Removed	*6092
400.3	Removed	*6092
400.4	Removed	*6092
400.5	Removed	*6092
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404.6103(h)(2)–1	Correctly removed	24285
404.6103(j)(1)–1	(b)(1) revised; (b)(2), (3), and (4) amended	*11803
404.6103(n)–1	(a), (b), and (d) revised; (e) added	*3904
601.101	(b) amended; (c) removed; (d) redesignated as (c) and amended	*7251
601.102	(b)(1)(iv) amended	*7251
601.103	(c)(2) and (3) amended	*7251
601.104	(a)(1) and (3), (b), (c)(1), (2), and (4) amended	*7251
601.105	(b)(1), (2)(ii), (3), (4), (5)(i)(*c*), (iii)(*b*), (*g*), (*h*), (iv), (v)(*e*), (viii)(*d*), (d)(1), and (i) amended; (k) revised	*7252
601.106	(a)(1)(i), (ii), (3) and (4), (b) heading and text, (c) heading and text, (d) heading, (1), (2)(i), (ii), (iii), (3)(i), (ii), and (iii) introductory text, (e)(1), (2) and (3), (f) introductory text, (1), (3), (4), (5) and (6), (g)(2) and (3), and (h)(1), (2), (3), and (4) amended	*7252
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	New (a)(1)(iii)(*c*) added; (a)(2), (d)(3)(iii)(*a*) through (*f*), (f)(2) and (8), and (g)(1) revised	*7252
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601.109	(a)(1) and (d) amended	*7255
601.201	(a)(7), (e)(2), and (o)(10)(iv) amended; (o)(10)(v) revised; (u) added	*7255
601.203	(a)(1), (b), (c)(1) introductory text, (iii), (2)(i)(*c*), (iv), and (3) amended	*7255
601.301	(c) introductory text, (7), (18), and (21) amended	*7256
601.304	Nomenclature change and (a) amended	*7256
601.306	Amended	*7256
601.308	Amended	*7256
601.309	Amended	*7256
601.311	Nomenclature change	*7256
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601.324	Nomenclature change	*7256
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601.327	(a), (b), and (c) amended	*7256
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601.402	(c)(2) and (3), (d)(1)(ii), (e)(1) and (3)	*7257
601.403	(d) amended	*7257
601.404	(a) revised; (b), (c), (f)(1), (h), (i), and (j) removed; (d), (e), (f), (g), and (k) redesignated as (b), (c), (d), (e) and (f); new (d)(2) through (5) redesignated as (d)(1) through (4); new (c), (d)(1) through (4), (f) heading and text amended	*7257
601.501	(a) and (b)(3) amended	*7257
601.502	(a), (b)(1) introductory text, (i), (iii), and (b)(1) undesignated paragraph, (3), (c)(1)(i), (c)(1) undesignated paragraph, (2)(i), (ii), (3)(i), (ii), (iii), and (5) amended; (b)(1)(iii) revised; (c)(3)(iv) removed	*7257
601.503	(a), (b), and (c) amended	*7258
601.504	(a), (b)(1)(iv), (2)(ii), (iii) and (v), and (e) amended; (b)(1)(ii) revised	*7258
601.505	(b) and (c)(2)(iv) amended	*7258
601.506	(b)(1) and (2) amended	*7258
601.507	Amended	*7258
601.509	Amended	*7259
601.521	Nomenclature change	*7259
601.522	Nomenclature change	*7259
601.524	Nomenclature change	*7259
601.526	Nomenclature change	*7259
601.527	Nomenclature change	*7259
601.701	(a) and (b)(1)(ii) amended; (b)(1)(iii) revised; (b)(2) removed; (b)(3) and (4) redesignated as (b)(2) and (3)	*7259
601.702	(b)(2), (b)(3)(i), and (ii), and (f)(1) amended; (d)(2) and (4) removed; (d)(3) and (5) through (11) redesignated as (d)(2) through (9); (d)(1) and new (d)(2) revised; new (d)(3), (4), and (5) amended	*7259
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139	50065, 67441
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TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

Chapter I—Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury

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1.52 Corrected	55837
1.57 Corrected	55837
1.59 Corrected	55838
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3 Authority citation corrected	55838
3.5 Corrected	55838
3.12 Introductory text corrected	55838
4 Authority citation corrected	55838
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5.2 Amended	71620
5.11 Corrected	55839
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5.22 (b)(1)(iii) corrected	55839
(b)(1)(iii) amended	71620
5.25—5.28 (Subpart Ca) Added	71620
5.31 (b) revised	71621
5.36 (a)(2) corrected	55839
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5.40 (a) amended	71621
5.42 (b)(1), (3), and (4) revised	71621
5.46 (b) revised	71622
5.47a (e) removed; (f) redesignated as (e) and revised	71622
5.49 Removed	71622
6 Authority citation corrected	55839
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7 Authority citation corrected	55839
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8 Authority citation corrected	55840
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13 Redesignated from Part 186 and revised	71622
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19 Redesignated from Part 201 and revised	71629
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70.36 (c) corrected	55841
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72.21 Amended	*8593
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170.304 (a) and (b) amended	71691
170.611 Revised	71691
170.612 Corrected	55841
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170.613—170.616 Undesignated center heading removed	71691
170.613 (a) introductory text and (b) revised	71691
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170.616 Revised	71692
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0.40—0.41 (Subpart H) Appendix added 54045
0.45 (b) revised; (i) added 40498
0.50 (a) amended 43468
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0.50—0.52 (Subpart J) Appendix amended 53080
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2.2 (b) correctly restored to prior status 38459
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2.14 (a) (2) (ii) revised; (b) (2) (iv) added 55004
2.17 (a) revised; interim 58508
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16.91 (k) and (l) removed; (m) through (t) redesignated as (k) through (r); (c), (d) introductory text, (e), (f) introductory text, new (m) and new (n) introductory text revised 54046
16.96 Revised *5301
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42.3 Added 77157
50.1 Removed 57927
50.13 (c) revised 57927
55 Appendix amended 43719
58 Added; interim *2316
60.3 (a) (3) amended 46459

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542.13 (b) revised 76726
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13 Removed 49673
14 Revised 57398
24 Added *1836
40.2 (i) revised 72588
40.43 (e) revised 75628
40.202 (a) introductory text revised 72588

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40.210 (a) amended 72588
89.19 (b) (3) (i) corrected 48201

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775.2 Revised 75629
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1613.801—1613.806 (Subpart H) Added; interim 50541
1625.11 Added 66799
1625.12 Added 66800
1627 Added; regulations transferred from Part 850 38459
1627.1 (c) added 66797
1627.17 Added 66797

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1910.217 (b) (8) (iv), (d) (3), (5), and (9) (i) corrected *8594
1910.1000 Table Z–1 partial stay of effective date rescinded 41427
1910.1025 (a) (2) revised 50338
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1910.1043 (e) (3) (iii), (f) (2) (vi), and (m) revised *12417
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1925.125 Added *6543

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1952.152 Authority citation corrected 74819
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1952.214 Heading revised; (p) added *10337
1952.234 (b) revised; (c) through (j) added *8596
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2200.51 (a) revised 70111
2200.75 Revised 70111
2200.91a Redesignated as 2200.92 70111
2200.92 Redesignated as 2200.94; new 2200.92 redesignated from 2200.91a 70111
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2618 Added 42185
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2620 Added *12778

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TITLE 30—MINERAL RESOURCES

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43 Authority citation corrected 52826
44 Authority citation corrected 52826
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48 Authority citation corrected 52827
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117.560 (f)(21) and (22) added 47932
117.620 Correctly removed 65750, 73020
117.712 (l)(3) revised *8980
117.810 (f)(7) revised 47335
124 Removed; interim 63675
126.05 (b) revised; interim 63675
126.10 Added; interim 63675
126.27 (b)(7) revised; (b)(8) removed; interim 63676
127 Temporary safety zones list *1419
127.369 Added (temporary) 57092
127.370 Added (temporary) 57927
127.708 Added (temporary) 44491
127.1701 Removed *6933
147.05–11.01—147.05–11.02 (Subpart 147.05) Added 49453
147.05–11.01 Revised 57928
147.05–11.02 Removed 57928
147.05–11.03 Added 73021
154.100—154.120 (Subpart A) Revised *7169
154.300—154.325 (Subpart B) Revised *7171
154.500—154.570 (Subpart C) Revised *7172
154.700 Revised *7173

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154.740 Revised *7173
154.750 Revised *7173
154.760 Removed *7174
154.770 Removed *7174
154.780 Removed *7174
155.100—155.110 (Subpart A) Revised *7174
155.310 Revised *7174
155.320 Revised *7175
155.440 Revised *7175
155.470 Revised *7175
155.480 Removed *7175
155.720—155.820 Revised *7175
155 Appendix A revised *7176
156 Revised *7177
157.01 Revised; interim 66516
157.03 (k), (n), and (v) revised; (bb) through (hh) added; interim 66517
157.06 Added; interim 66517
157.08—157.24 (Subpart B) Heading revised; interim 66517
157.08 (f) and (g) added; interim 66517
157.10 Added; interim 66517
157.10a Added; interim 66518
157.11 (d), (e), and (f) added; interim 66518
(b) introductory text corrected; (d), (e), and (f) effective date corrected to 6–1–81 76510
157.15 (b)(1) revised; interim 66519
157.24 (c) revised; interim 66519
157.26 Added; interim 66519
157.35 Revised; interim 66519
157.100—157.172 (Subpart D) Added; interim 66519
157.128 (e) corrected 76510
157.138 (b)(2) corrected 76510
157.155 (a)(12) corrected 76510
157.160 (a)(1) corrected 76510
157.200—157.228 (Subpart E) Added; interim 66525
157 Appendixes C and D added; interim 66527
160 Revised 62892
161.1—161.15 (Subpart A)—Added; interim 63676
161.380 Revised 70720
161.402 (b)(1), (2), and (3)(i) revised 47933
161.501—161.511 Undesignated center heading added 45383
Undesignated center heading effective date postponed 55005
161.501 Added 45383
Effective date postponed 55005

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161.503 Added 45383
Effective date postponed 55005
161.504 Added 45383
Effective date postponed 55005
161.505 Added 45383
Effective date postponed 55005
161.506 Added 45383
Effective date postponed 55005
161.507 Added 45383
Effective date postponed 55005
161.509 Added 45383
Effective date postponed 55005
161.511 Added 45384
Effective date postponed 55005
161.520—161.532 Undesignated center heading added 45384
Undesignated center heading effective date postponed 55005
161.520 Added 45384
Effective date postponed 55005
161.522 Added 45384
Effective date postponed 55005
161.524 Added 45384
Effective date postponed 55005
161.526 Added 45384
Effective date postponed 55005
161.528 Added 45384
Effective date postponed 55005
161.530 Added 45384
Effective date postponed 55005
161.532 Added 45384
Effective date postponed 55005
161.536—161.542 Undesignated center heading added 45384
Undesignated center heading effective date postponed 55005
161.536 Added 45384
Effective date postponed 55005
161.537 Added 48384
Effective date postponed 55005
161.538 Added 45384
Effective date postponed 55005
161.539 Added 45384
Effective date postponed 55005
161.540 Added 48384
Effective date postponed 55005
161.542 Added 45385
Effective date postponed 55005
161.570—161.575 Undesignated center heading added 45385
Undesignated center heading effective date postponed 55005
161.570 Added 45385
Effective date postponed 55005
161.572 Added 45385
Effective date postponed 55005

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161.573 Added 45385
Effective date postponed 55005
161.574 Added 45385
Effective date postponed 55005
161.575 Added 45385
Effective date postponed 55005
161.580—161.583 Undesignated center heading added 45385
Undesignated center heading effective date postponed 55005
161.580 Added 45385
Effective date postponed 55005
161.581 Added 45385
Effective date postponed 55005
161.582 Added 45385
Effective date postponed 55005
161.583 Added 45386
Effective date postponed 55005
164 Authority citation revised 66530
164.01 Revised 66530
164.02 Added 66530
164.30 Amended; final; eff. in part 6-1-80 and 6-1-82 ..... *2027
164.39 Added 66530
164.41 Added; final; eff. in part 6-1-80 and 6-1-82 ..... *2027
164.53 (b) revised; interim 63676
(b) amended; final; eff. in Part 6-1-80 and 6-1-82 ..... *2028
165 Temporary security zones list *1419
165.205 Added (temporary) 45925
165.206 Added (temporary) 44492
165.304 Added (temporary) 38470
165.309 Added 57929
165.510 Added 53745
165.520 Added (temporary) 38470
165.521 Added (temporary) 47933
165.522 Added (temporary) *7543
165.707 Added (temporary) 44492
165.709 Added (temporary) 47336
165.710 Added (temporary) 47336
165.711 Added 61958
165.801 Added 57929
165.802 Added (temporary) 61959
165.949 Added (temporary) 51586
165.1200 Added (temporary) 41178
165.1701 Added *6933
174.13 Revised 42195
174.14 Added 42195
174.19 (a)(15) removed; (e) added 42195
174.105 Revised 42195
174.106 Added 42195
175 Authority citation revised; eff. 1-1-81 73024
175.101—175.140 (Subpart C) Added; eff. 1-1-81 73024
175.201 (Subpart D) Added; eff. 8-1-80 73027
183.23 Revised; eff. 8-1-80 ..... *2029
183.25 Revised; eff. 8-1-80 ..... *2029
183.27 Revised; eff. 8-1-80 ..... *2030
183.39 Revised; eff. 8-1-80 ..... *2031
183.41 Revised; eff. 8-1-80 ..... *2030
183.43 Revised; eff. 8-1-80 ..... *2031
183.455 (b) revised 63524
(b) correctly revised 68466
183.601—183.630 (Subpart K) Added; eff. 8-1-80 73027
183.630 (a) introductory text and (1) corrected *7544

Chapter II—Corps of Engineers, Department of the Army

204.175 (b)(1) and (3) revised; (b)(5) removed *13072
204.230 (a) revised 69298
206.5 Removed 65977
206.15 Removed 65977
206.20 Removed 65977
206.25 Removed 65977
206.30 Removed 65977
206.35 Removed 65977
206.40 Text revised 65978
206.45 Revised 65978
206.46 Removed 65977
206.47 Revised 65980
206.50 Revised 65980
206.55 Removed 65977
206.60 Revised 65985
206.75 Removed 65977
206.80 Removed 65977
206.85 Removed 65977
206.90 Removed 65978
206.93 Republished 65985
206.95 Removed 65978
207.173 Removed; new 207.173 redesignated from 207.173a and revised *2317
207.173a Redesignated as 207.173 and revised *2317
207.184 Revised 42968
207.420 (b)(1), (4)(i) introductory text and (a), (10)(i), (17), and (18) revised; (b)(11) removed 67657
Technical correction 69650
208.19 Authority citation added 44157
209.135 (d)(11) revised 51587
(d)(11) corrected 54047, 55865
209.340 Revised 50338

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222.6 Revised 43469
222.8 Added 55336

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..... *2052, 12260, 13127, 13312
82 64843
110 ..... 41245, 51614
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117 ..... 45969, 61978, 68488, 72188
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150 69305
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158 ..... 72188, 76565
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160 69306
161 47349
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164 ..... 51620, 51622
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204 66213
207 ..... 53179, 55394, 75407
..... *1919, 9296
222 41246
232 61308
401—403 (Ch. IV) *12260, 13312

TITLE 34—GOVERNMENT MANAGEMENT

Chapter I—Office of Management and Budget

Chapter removed 60286
1 Redesignated as 5 CFR Part 1310 (Subchapter B) 60286

TITLE 35—PANAMA CANAL

Chapter I—Canal Zone Regulations

1 Removed 75308
3 Revised 75308
5 Removed 75308
7 Heading revised 75308
7.1 (b) through (f) revised 75308
7.5 (c)(2) revised 75308
7.6 (d) and (g) revised 75308
7.9 Revised 75308
9 Revised 75309
9.4 (a) through (e) and (f) introductory text revised 55865
9.5 (d) revised 55866
Technical correction 77161
9.11 Technical correction 77161
10 Revised 75312
10.8 (c) revised 55866

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10.9 (a) through (d) revised 55866
51 Authority citation revised 75317
51.181 (Subpart C) Removed 75317
53 Removed 75317
57 Removed 75317
59 Removed 75317
60 Revised 75317
61 Authority citation revised 75324
61.1—61.5 (Subpart A) Removed 75324
61.39 Removed 75324
61.70 Removed 75324
61.96 Removed 75324
61.131 Removed 75324
61.319 Removed 75324
61.331—61.335 (Subpart G) Removed 75324
61.351—61.364 (Subpart H) Removed; regulations transferred to 9.31—9.39 (Subpart B) 75324
61.365 Removed 75324
61.401 (Subpart J) Removed 75324
63 Removed 75324
65 Removed 75324
67 Revised 75324
69 Removed 75329
70 Authority citation revised 75329
101 Authority citation revised 75329
101.3 Revised 75329
101.14 Removed 75329
103 Authority citation revised 75329
103.42 Removed 75329
105 Authority citation revised 75329
105.7 Removed 75329
107 Authority citation revised 75329
107.7 Removed 75329
109 Authority citation revised 75329
109.8 Removed 75329
111 Authority citation revised 75329
111.2 (a) revised 75329
111.221 (Subpart F) Removed 75329
113 Authority citation revised 75329
113.181 (Subpart E) Removed 75329
115 Authority citation revised 75329
115.2 (a)(1), (2), and (3) revised 75329
117 Authority citation revised 75329
117.7 Removed 75329
119 Authority citation revised 75329
119.251 (Subpart G) Removed 75329
121 Authority citation revised 75330
121.191 (Subpart D) Removed 75329
123 Authority citation revised 75330
123.12 Removed 75330
125 Authority citation revised 75330
125.5 Removed 75330
127 Removed 75330

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133 Authority citation revised	75330
133.1 (a), (b), and (c) revised	56918
Revised	75330
135 Authority citation revised	75330
201 Authority citation revised	75330
201.1 Removed	75330
201.2 Removed	75330
251 Authority citation revised	75330
253 Authority citation revised	75330
253.8 (a) amended; (h) added	56693
(b)(14) added	*7788
253.131 (b) amended	56693
253.134 Existing text designated as (a); (b) added	56693
253.154 Revised	50837

Title 35—*Proposed Rules:*

9	68868
133	57941

TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

Chapter I—National Park Service, Department of the Interior

7.20 (b) added	44493
7.29 (c) added	44157
7.45 (e) through (h) added	*10353
7.86 Added	45128
28 Revised	*3265
50.52 Added; interim	56936
51 Added	62895
60 Redesignated as 1202	64406

Chapter II—Forest Service, Department of Agriculture

219 Added	53976
Technical correction	54294
Record of decision	65587
222.1—222.11 (Subpart A) Authority citation revised	61345
222.1 (b)(7) and (21) introductory text revised; (b)(20) amended	61345
222.2 (b) revised	61346
222.3 (c)(1) amended	61345
222.6 (a) amended	61345
222.10 (a) amended	61345
222.11 (a) and (b) amended	61345
223.1 (e)(3) revised	73029
223.5 (b) revised	73029
223.7 Revised	73029
223.9 (c) introductory text CFR correction	45925
223.10 Revised	73029

Chapter VI—American Revolution Bicentennial Administration

Chapter removed	64407
601—606 Removed	64407

Chapter VIII—Advisory Council on Historic Preservation

805 Added	*4353

Chapter IX—Pennsylvania Avenue Development Corporation

907 Added; interim	45926
922 Added; interim	51587
923 Added; interim	*12781

Chapter XI—Architectural and Transportation Barriers Compliance Board

1152 Added	52200

Chapter XII—Heritage Conservation and Recreation Service, Department of the Interior

1202 Redesignated from 60	64406
1202.12 (c) through (f) revised; (g) removed; interim	64407
Technical correction	65066
(g) added	*4355
1202.13; Revised; interim	64408
Technical correction	65066
1205 Added; interim	74826
1212 Added; interim	66599
1215 Notification of impending addition	*5302
1226 Redesignated from 43 CFR Part 31	*780
1228.1—1228.3 (Subpart A) Added; interim	47021
1228.10—1228.17 (Subpart B) Added; interim	39344
1228.30—1228.48 (Subpart C) Added; interim	47022
1228.50—1228.65 (Subpart D) Added; interim	47025
1228 Appendixes A and B added; final	58091

Title 36—*Proposed Rules:*

1—67 (Ch. I)	42701
	*7106

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222	40355, 46480, 49479, 61618
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223	44555
261	47110
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901—921 (Ch. IX)	56954, 58528
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1207—1228 (Ch. XII)	42701
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1213	45417, 51829
1227	*3924

TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter II—Copyright Office, Library of Congress

201.15 Revised	*13073

Chapter III—Copyright Royalty Tribunal

301.22 (c) revised	53161
302.2 Revised	60727
302.5 Removed	60727
302.6 Revised	60727
304.3 (a) and (d) amended	45130
304.4 (a) amended	45130
304.5 (c) amended	45130
304.6 (c)(1) and (2) amended	45130
(c)(2) corrected	50041
304.7 (b)(1), (2), (3) and (4) amended	45130
304.8 (b)(1) revised	45131

Title 37—*Proposed Rules:*

1—102 (Ch. I)	48976, 54166
201	47550, 52260, 73123
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TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

1.891—1.897 Undesignated center heading added	55172
1.891 Added	55172
1.892 Added	55172
1.893 Added	55172
1.894 Added	55172
1.895 Added	55172
1.896 Added	55172
1.897 Added	55172
1.955—1.970 Undesignated center heading revised	59905
1.955 Revised	59905
1.956 (a) introductory text and (1)(i) revised; (b) amended; authority citation added	59905
1.957 Revised	59906
1.958 Revised	59906
1.959 Revised	59906
1.960 Revised	59906
1.962 Introductory text revised; (b) amended; authority citation added	59906
1.963 (b) revised; authority citation added	59906
1.963a (b) and (e) revised; authority citation added	59906
1.964 (c) amended; authority citation added	59907
1.966 (a) and (b) introductory text amended; authority citation added	59907
1.967 (c) revised; authority citation added	59907
1.968 Removed	59907
1.969 Revised	59907
1.970 Revised	59907
3.1 (d)(2) amended; (u) through (x) added	45931
3.2 Introductory text added; (a) amended	45931
3.3 Revised	45931
3.12 (d)(5) revised	*2318
3.16 Amended	45932
3.17 Amended	45932
3.21 Revised	45932
3.23 Added	45933
3.24 Added	45933
3.25 Added	45934
3.26 Added	45934
3.27 Added	45934
3.28 Added	45935
3.29 Added	45935
3.30 Added	45935
3.57 (a)(1), (c)(1) and (3) amended; (d) added	45935
(a), (b), and (c) revised	*1878
3.59 (a) amended	45935
3.60 Added	45935
3.250—3.263 Undesignated heading added	45935
3.252 (a) revised	45935
3.262 (e)(1), (2), (4), and (g)(1) heading amended; (b)(2) revised	45936
3.263 (d) and cross reference amended	45936

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3.270 Added	45936
3.271—3.277 Undesignated center heading added	45936
3.271 Added	45936
3.272 Added	45936
3.273 Added	45937
3.274 Added	45938
3.275 Added	45938
3.276 Added	45938
3.277 Added	45938
3.310 Revised	50340
3.351 Revised	45939
3.450 (a)(1)(i) and (g) amended; (a)(1)(ii), (2), (c), and (e) revised; (h) removed	45939
3.451 Revised	45940
3.452 (a) and (c) revised	45940
3.454 Introductory text, (b) and (c) revised; (a) amended; (d) added	45940
3.458 (b), (c), (e), (f)(1), (2), and (g) amended	45940
3.459 (a) and (b) amended	45940
3.460 Introductory text amended; revised; (c) added	45940
3.501 (l)(2) revised	45941
3.551 (a) through (d) revised; (f) amended	45941
3.552 (e) and (j) revised	45941
3.556 Amended	45942
3.656 (a) introductory text and (d) revised	45942
3.657 Heading and text amended	45942
3.660 (a)(1) and (2), (b) introductory text and (2), (c) and (d) revised	45942
3.661 (a)(2) amended	45942
3.662 Removed	45942
3.666 (a) introductory text, (b) introductory text, (1) and (2), (c), (d)(1) and (2) amended; (a)(2) revised	45943
3.700 (a)(3) amended; (a)(4) added; (b)(1) and (2) revised	45943
3.701 (a) revised	45943
3.702 (b) amended	45943
3.708 (a)(3) and (b)(1) amended	45943
3.711 Revised	45943
3.712 Added	45943
3.713 Added	45944
3.955 Removed	45944
3.956 Removed	45944
3.960 Added	45944
3.961 Added	45944
3.962 Added	45944
3.1601 (a)(2) introductory text and (b) introductory text revised	58710
3.1604 (c) heading revised; (d) added	58710
3.1612 Added	58711
3.1612 (e)(2)(ii) revised	*11806
8.77 (b)(1) amended	*9732
8.79 Amended	*9732
8.80 Amended	*9732
8.80c Amended	*9732
8.81 Amended	*9732
17.30 (k), (l), (m), (n), (p), and (u) revised; (v) and (w) added	*6934
17.31 (b)(3) revised	*6934
17.32 (a)(2) and (c) amended	*6935
17.33 (a) amended	*6935
17.34 Undesignated center heading and section added	*6935
17.36 (b)(1) amended	*6935
17.37 (a) and (b) amended	*6935
17.38 (a)(1) and (2), and (b)(1) and (2) amended; (c)(2) revised	*6935
17.47 (c)(3)(vii) and (viii) amended; (d) revised; (e) removed; (f) redesignated as (e) and revised	*6935
17.48 Heading, (a)(1), (b), and (c)(2) revised; (a)(2), (d) introductory text, and (f) amended	*6936
17.49 (a)(3)(iii)(*a*) and (*b*) revised; note amended	*6936
17.50 Amended	*6936
17.50b (a) and (c) amended; introductory text and (l) revised	*6936
17.51 (a)(1) amended; (b)(1) and (3) revised	*6936
17.53 Revised	*6937
17.54 (a) revised; (b) and (c) amended	*6937
17.60 Introductory text, (e), (f), and (h) revised; (j) added; (c) amended	*6937
17.60a Amended	*6937
17.60d (a) amended	*6937
17.60f Added	*6937
17.60g Added	*6937
17.60h Added	*6938
17.96 Amended	*6938
17.98 Revised	*6938

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17.99 Amended	*6938
17.100 Introductory text, (a), (c), (d), (e), (f) and (k) revised; (g)(3) added; (h)(1) and (1) amended	*6938
17.101 (b) amended	*6938
17.119—17.119a Undesignated center heading added	*6939
17.119a Added	*6939
17.123b Redesignated as 17.123c and revised; new 123b added	*6939
17.123c Redesignated from 17.-123b and revised	*6939
17.155 (a), (b), and (f) amended; (c) revised	*6939
17.161 (b) amended	*6939
17.165—17.167 Undesignated center heading revised	*6939
17.165 Introductory text revised; (c) and (d) amended	*6939
17.165a Amended	*6939
17.165b Amended	*6939
17.165c Revised	*6939
17.165d Added	*6939
17.166 Revised	*6939
17.166a Revised	*6939
17.166b Revised	*6940
17.166c Revised	*6940
17.166d Amended	*6940
17.210 (d) added	*6940
17.212 Amended	*6940
17.220 Amended	*6940
21.133 Revised	62493
21.145 (a) revised	62493
21.201 (j)(1) and (2) revised; (j)(5) amended	62493
21.1021 Cross reference revised	62494
21.1032 (d) added	62494
21.1041 (a)(3), and (d) introductory text and (2) revised	62494
21.1042 (a) and (b) revised	62494
21.1043 Added	62494
21.1045 (a)(2) and (b)(2) revised; (h) and (i) added	62495
21.3032 (c) added	62495
21.3045 Amended	62495
21.3046 Introductory text and (c) introductory text revised; (c)(3) amended; (d) added	62495
21.3300 (c) revised	62496
21.3333 (a) and (b) revised	62496
21.4100 Revised	62496
21.4102 (b) heading and section amended	62496
21.4106 (a)(3) heading amended	62496
21.4130 Introductory text and (b)(2) revised	62496
21.4133 Added	62496
21.4136 (a) and (c) revised	62496
21.4137 (f) amended; (a) revised	62497
21.4138 Cross reference removed	62497
21.4145 (a) revised	62497
21.4146 (f) added	62498
21.4153 (c)(4) authority citation amended; (c)(3) revised	62498
21.4154 Added	62498
21.4201 Revised	62498
21.4203 (a) revised	62501
21.4206 (a) and (c) revised; (d) added	62501
21.4236 (c) and (d) revised	62501
21.4250 (a) introductory text	54707
21.4251 (a)(1) amended; (a)(6) and (f) revised; (h) and cross reference added	62501
21.4266 (c) cross reference added; (c)(2) introductory text revised	62503
21.4502 (b)(1) and (4) revised; (b)(6) removed; (c) added	62507
21.4503 (b)(2), (3) and (4) revised	62508
21.4504 (a)(4) revised	62508
21.4505 Redesignated as 21.4507 and revised; new 21.4505 added	62508
21.4506 Revised	62508
21.4507 Redesignated from 21.-4505 and revised	62510
21.5001—21.5500 (Subpart G) Added	*31
36.4212 (a) introductory text, (2) and (3) revised	56330
(a) introductory text, (1) and (3) revised	58508, 61178
(a)(2) and (3) revised	62510
(a) revised	*10340
36.4301 (l), (aa) and (ff) amended; (hh) revised	47337
36.4311 (a) revised	56330, 62510
(a) revised	*10341
36.4312 (d)(1)(vi) amended	47338
36.4350 (b)(5)(iii) amended	47338
36.4356 Added	47338
36.4357 Added	47339
36.4358 Revised	47339
36.4359 Added	47340
36.4360 Added	47341
36.4360a Added	47342

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228.92 Revised 61600

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302.35 (c)(1) revised *8987
302.50 (e) added *8987
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304.21 Effective 7-1-75 56939
304.23 (g) added *8987
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702.4 (g) revised 75149
702.4 (a) and (f) revised 75149
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702.18 (a)(1) and (3) revised 75151
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702.56 Nomenclature change 75151
703 Authority citation revised 75151
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1050.80-1—1050.80-3 (Subpart I) Attachment B added 61347
1050.130-1—1050.130-11 (Subpart O) Added *8299
1060.1-1—1060.1-3 (Subpart 1060.1) Heading and designation revised 56549
1060.2-1—1060.2-2 (Subpart 1060.2) Heading and designation revised 56549
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1061 Heading revised 56548
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Highlights

7496 **Energy Management** DOE/Solar proposes guidelines for use by Federal agenices in order to enhance the development of an overall 10 year plan to increase energy efficiency; comments by 3–3–80; hearing on 2–25–80 (Part V of this issue)

7268 **Medical Benefits** VA stipulates that although timely filing of claims is totally encouraged, payment of claims will not be made when received prior to the effective date of the grant of service connection; comments by 3–12–80

7321 **Native American Grantees** Labor/ETA informs public of estimated fiscal year 1981 funding levels under the Comprehensive Employment and Training Act of 1973

7261 **Elementary and Secondary Education** HEW/OE releases interpretation to clarify how guidance, counselling and testing projects may be conducted during school year 1979–80 with funds made available by Title IV of the Act

7227 **Certain School Programs** USDA/FNS issues emergency final rule on submission of claims for reimbursement; effective 2–1–80

7402 **Ethics in Government** OPM revises rules implementing restrictions on post employment activity; effective 3–3–80 (Part II of this issue)

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7263 **Back Pay** OPM proposes to implement amendments of the Civil Service Reform Act of 1978; comments by 4–1–80

7474 **Medical Devices** HEW/FDA publishes notices on voluntary standards of development and promulgates procedures for initiation and establishment; comments by 5–1–80; effective 7–30–80 (4 documents) (Part IV of this issue)

7318 **Federal Coal Leases** Interior/Sec'y solicits comments on policy options exercising discretion to extend 10 year diligent development

7514 **Equal Employment** EEOC and Labor/FCCPO publishes interpretative guidelines in order to provide guidance to the employer/contractor to ensure non-discrimination and equitable opportunities; comments by 6–2–80 (Part VI of this issue)

7521 **Employee Benefit Plan** Labor/P&WBP reopens comment period to 2–27–80 on the subject that certain assets be held in trust; hearing 2–27–80 (Part VII of this issue)

7525 **Labor-Management Reporting** Labor/Office of Labor Management Standards Enforcement permits labor organizations with less than $100,000 total annual receipts to file on the simplified Form LM–2; effective 3–3–80 (Part VIII of this issue)

7308 **Privacy** FLRA and Federal Service Impasses Panel publish document affecting systems of records

7362 **Privacy** WRC issues annual publication of systems of records

7265 **Improving Government Regulations** Justice/INS and Office of the Attorney General publish semiannual agendas

7533 **Improving Government Regulations** Treasury/ATF and Customs postpone semiannual agendas until 2–15–80 (Part X of this issue)

7364 **Sunshine Act Meetings**

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Federal Register
Vol. 45, No. 23
Friday, February 1, 1980

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210, 220 and 225

National School Lunch Program, School Breakfast Program, and Summer Food Service Program for Children; Submission of Claims for Reimbursement

AGENCY: Food and Nutrition Service, USDA.

ACTION: Emergency final rules.

SUMMARY: These final rules amend regulations for the National School Lunch and School Breakfast and Summer Food Service Programs for Children to clarify and expand upon recently issued amendments which required that (1) Claims for Reimbursement for meals served during fiscal year 1979 must be submitted to State agencies prior to January 1, 1980 in order to be eligible for payment and (2) any Claim for Reimbursement that is being adjusted due to audits or investigations may be paid, provided that the Claim for Reimbursement was originally submitted before January 1, 1980. These amendments implemented the mandate of Pub. L. 96–38 and were published on October 26, 1979 at 44 FR 65161 for School Nutrition Programs and on October 25, 1979 at 44 FR 61510 for the Summer Food Service Program for Children.

EFFECTIVE DATE: February 1, 1980. To be assured of consideration in the formulation of regulations covering fiscal year 1980 claims, comments on these amendments must be received by March 31, 1980.

FOR FURTHER INFORMATION CONTACT:

For School Nutrition Programs: Stanley C. Garnett, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–8150.
For the Summer Food Service Program: Jordan Benderly, Director, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–8211.

SUPPLEMENTARY INFORMATION:

Recognizing the problem of late submission of claims and the overall need to maintain tighter control over the programs, Congress has required ". . . that only claims for reimbursement for meals served during fiscal year 1979 submitted to State agencies prior to January 1, 1980, shall be eligible for reimbursement." This requirement was made a part of Pub. L. 96–38 which was enacted on July 25 of this year. In a House of Representative's conference report (H. Report 96–331), written during the development of Pub. L. 96–38, the conferees noted that ". . . adjustment to these (reimbursement) claims may arise pursuant to audits or investigations performed subsequent to submittal of claims."

The report went on to say that the conferees did not intend to stop proper payments of Claims for Reimbursement that were being adjusted due to audits or investigations if the claims were originally submitted before January 1, 1980.

The Department's Food and Nutrition Service, on October 23, 1979 issued a nondiscretionary final amendment 34 to Part 210 (National School Lunch Program) and a nondiscretionary final amendment 30 to Part 220 (School Breakfast Program) in order to comply with Pub. L. 96–38. On October 30, 1979, amendment 1 to Part 225 (Summer Food Service Program) was issued.

These regulations require that Claims for Reimbursement for meals served in FY 1979 must be submitted to State agencies prior to January 1, and that any claims so filed but subsequently amended by the State agency due to audits or investigations would be eligible for payment. The school program regulations specified that these audits or investigations must be at the Federal level.

Since the issuance of these amendments, many concerns have been expressed about the ability of these regulations to meet the intent of Pub. L. 96–38 to assure that the claims submission and payment process is completed in a timely and orderly fashion. One specific concern raised was that the amended language in the school program regulations would have permitted claims adjustments only as a result of Federal audits or investigations. It was pointed out that States' administrative procedures in processing claims involve a series of checks and reviews which often identify needed corrective action. For example, in many instances, typographical errors are discovered. In addition, the need to take corrective action on claims that were filed by the filing deadline may also be indicated by findings of non-Federal, as well as Federal, audits, investigations, reviews and other management tools which reveal that the claim is inadequate. A wording change to delete references to Federal level audits and investigations has been made in these amendments. These regulations also provide State agencies the needed flexibility to correct claims as determined necessary through their administrative review processes or through other means. State agencies must assure that any claims so corrected were submitted to the State agency prior to January 1, 1980.

It is imperative, and Pub. L. 96–38 intends, that the reimbursement process for fiscal year 1979 be completed at the earliest possible opportunity. It is critical that the Department firmly fix program obligations for FY 1979 in order to accurately assess budget needs. The Department believes the FY 1979 claim submission deadline provided by Pub. L. 96–38 will put State agencies in a position to promptly review all FY 1979 Claims for Reimbursement submitted by School Food Authorities and institutions and then submit their final Financial Status Reports (Form SF–269), final Reports of Child Nutrition Operations (Form FNS–10) and final monthly Reports of the Child Care Food Program and the Summer Food Service Program for Children (Form FNS–44) covering FY 1979 operations in a timely manner.

These amendments will provide two factors to expedite this process. First, States will be permitted to take corrective action resulting in reimbursement increases and decreases until the State files its final FY 1979 fiscal and program operations reports if reimbursement is to be made through the letter of credit process. The FY 1979 reporting deadline for these reports,

which are required under OMB Circular No. A-102 and existing program regulations, has been established at March 1, 1980 by these amendments. Secondly, claim corrections made after the reporting deadline and resulting in additional reimbursement due to School Food Authorities and institutions will be subject to FNS approval.

Payment for such reimbursements will be made by FNS to the extent that funds are available. Claim corrections made after the reporting deadline which require the collection of overpayments from School Food Authorities and institutions will continue to be made under existing procedures.

In view of the need to finalize fiscal year 1979 obligations of child nutrition program funds in a timely manner, and since these amendments are a liberalization of existing rules in the case of school nutrition program claim adjustments or are considered to be within the Department's existing administrative authorities in the case of year-end reporting and fiscal control requirements, these rules are being issued as final rules. The Department recognizes that these amendments afford minimal lead time to State agencies relative to the year-end reporting and fiscal control requirements and has attempted to provide advance notice to State agencies. Comments received on these amendments will be analyzed by the Department in order to assess the actual implementation of the claim submission requirement of Pub. L. 96-38 and the other requirements of these regulations. This analysis will be considered in rulemaking to implement the provision of Pub. L. 96-108, enacted on November 9, 1979, which requires that fiscal year 1980 Claims for Reimbursement be submitted by January 1, 1981 in order to be eligible for reimbursement.

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Accordingly, Part 210, National School Lunch Program, is amended by Amendment 38 as follows:

§ 210.13 paragraph (b) is amended by deleting the last sentence and adding the following:

§ 210.13 Reimbursement procedures.

* * * * *

(b) * * * Claims for Reimbursement for meals served during fiscal year 1979 must be filed with the State agency, or FNSRO where applicable, prior to January 1, 1980, in order to be eligible for reimbursement. The State agency, or FNSRO where applicable, shall, as determined necessary through its administrative review processes or otherwise, promptly take corrective action with respect to any such claim. Such corrective action must be completed in sufficient time to be reflected in the final Program Operations and Financial Status Reports for fiscal year 1979 if reimbursement for such claims is to be made from funds made available for fiscal year 1979 through the Letter of Credit process described under § 210.5(a) of this Part. The final Program Operations and Financial Status Reports for fiscal year 1979 must be submitted by March 1, 1980. Any requested increase in reimbursement level for fiscal year 1979, resulting from corrective action taken after submission of the final fiscal year 1979 Program Operations and Financial Status Reports, must be submitted to FNS for approval. The request will be accompanied by a written explanation of the basis for the adjustment and the actions taken to minimize the need for such adjustments in the future. If FNS approves of such increase, it will make payments subject to the availability of funds. Any reduction in reimbursement level for fiscal year 1979 resulting from corrective action taken after submission of the final fiscal year 1979 Program Operations and Financial Status Reports shall be handled in accordance with the provisions of § 210.16 of this Part except that amounts recovered may not used to make program payments.

* * * * *

PART 220—SCHOOL BREAKFAST PROGRAM

Part 220, School Breakfast Program, is amended by Amendment 31 as follows:

§ 220.11 paragraph (a) is amended by deleting the last sentence and adding the following:

§ 220.11 Reimbursement procedures.

(a) * * * Claims for Reimbursement for meals served during fiscal year 1979 must be filed with the State agency, or FNSRO where applicable, prior to January 1, 1980, in order to be eligible for reimbursement. The State agency, or FNSRO where applicable, shall, as determined necessary through its administrative review processes or otherwise, promptly take corrective action with respect to any such claim. Such corrective action must be completed in sufficient time to be reflected in the final Program Operations and Financial Status Reports for fiscal year 1979 if reimbursement for such claims is to be made from funds made available for fiscal year 1979 through the Letter of Credit process described under § 220.5 of this Part. The final Program Operations and Financial Status Reports for fiscal year 1979 must be submitted by March 1, 1980. Any requested increase in reimbursement level for fiscal year 1979, resulting from corrective action taken after submission of the final fiscal year 1979 Program Operations and Financial Status Reports, must be submitted to FNS for approval. The request will be accompanied by a written explanation of the basis for the adjustment and the actions taken to minimize the need for such adjustments in the future. If FNS approves of such increase, it will make payments subject to the availability of funds. Any reduction in reimbursement level for fiscal year 1979 resulting from corrective action taken after submission of the final fiscal year 1979 Program Operations and Financial Status Reports shall be handled in accordance with the provisions of § 220.14 of this Part except that amounts recovered may not be used to make program payments.

* * * * *

PART 225—SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

Part 225, Summer Food Service Program for Children, is amended by Amendment 2 as follows:

§ 225.13 paragraph (a) is amended by deleting the last two sentences and adding the following:

§ 225.13 Program payment procedures.

(a) * * * Claims for Reimbursement for meals served during fiscal year 1979 must be filed with the State agency, or FNSRO where applicable, prior to January 1, 1980, in order to be eligible for reimbursement. The State agency, or FNSRO where applicable, shall, as determined necessary through its administrative review processes or otherwise, promptly take corrective action with respect to any such claim. Such corrective action must be completed in sufficient time to be reflected in the final Program Operations and Financial Status Reports for fiscal year 1979 if reimbursement for such claims is to be made from funds made available for fiscal year 1979 through the Letter of Credit process described under § 225.8(b) of this Part. The final Program Operations and Financial Status Reports for fiscal year 1979 must be submitted by March 1, 1980. Any requested increase in reimbursement level for fiscal year 1979, resulting from corrective action taken after submission of the final fiscal year 1979 Program Operations and Financial Status Reports, must be submitted to FNS for approval. The request will be accompanied by a written explanation of the basis for the adjustment and the actions taken to minimize the need for such adjustments in the future. If FNS approved of such increase, it will make payments subject to the availability of funds. Any reduction in reimbursement level for fiscal year 1979 resulting from corrective action taken after submission of the final fiscal year 1979 Program Operations and Financial Status Reports shall be handled in accordance with the provisions of § 225.14 of this Part except that amounts recovered may not be used to make program payments.

* * * * *

(Title I Chapter I, Pub. L. 96-38, 93 Stat. 98 (42 USC 1776a))

Note.—Fiscal year 1979 ended September 30, 1979. Under Pub. L. 96-38, School Food Authorities and institutions must submit all final Claims for Reimbursement before January 1, 1980. These amendments to clarify and expand upon existing regulations must be finalized promptly in order that State agencies may provide for the expeditious processing of reimbursement claims payment of Fiscal Year 1979 funds to local School Food Authorities and comply with year-end fiscal and reporting requirements. These requirements are considered to be within the Departments' existing administrative authorities and are made a part of this rule to relate the reimbursement claim submission provision of Pub. L. 96-38 to overall claim payment and program reporting procedures for fiscal year 1979.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register**.

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Bob Greenstein, Administrator, FNS that the emergency nature of this final rule warrants publication without opportunity for public comment at this time. An Impact Analysis Statement has been prepared and is available from the Office of the Director, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: January 25, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-3301 Filed 1-31-80; 8:45 am]

BILLING CODE 3410-30-M

7 CFR Parts 272 and 273

[Amdts. 152, 154 and 161]

1979 Amendments to the Food Stamp Act: Provision of Social Security Numbers; Fraud Disqualification and Recovery; Rounding Procedures and Clarification on Hotline Alternatives

Note.—This document originally appeared in the **Federal Register** for Thursday, January 31, 1980. It is reprinted in this issue to meet the Tuesday/Friday publication schedule assigned to the Food and Nutrition Service, USDA.

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rulemaking implements the 1979 Amendments to the Food Stamp Act of 1977 on provision of social security numbers, and fraud disqualification and recovery. Final rulemaking on group living arrangements will be published separately at a later date. The delay in publishing the final rulemaking on group living arrangements allows the Department additional time to consider all the ramifications of this provision. Proposed regulations on all three provisions were published at 44 FR 62862; October 31, 1979 and republished at 44 FR 63496; November 2, 1979. In addition, this rulemaking finalizes proposed rules revising the current rounding procedures published at 44 FR 57414, October 5, 1979; and provides new language to clarify outreach regulations published at 44 FR 64386, November 6, 1979.

Two major impacts are expected from these final regulations. The Department expects program integrity to be enhanced by the social security number and fraud procedures since these will provide the tools and incentives necessary to lessen fraud and abuse. The second impact the Department expects is that the rounding procedures (published proposed at 44 FR 57414; October 5, 1979) will improve program efficiency by increasing comparability between this program and public assistance programs.

EFFECTIVE DATE: January 31, 1980.

FOR FURTHER INFORMATION CONTACT: Larry R. Carnes, Chief, Policy/Regulations Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, FNS, USDA, Washington, D.C. 20250. (202) 447-9075.

SUPPLEMENTARY INFORMATION: 1979 Amendments to the Food Stamp Act of 1977.

This preamble articulates the basis and purpose behind any significant requirements which have been changed from the proposed rulemaking. The reasons supporting the provisions of the proposed rules which are unchanged by the final rules were carefully examined in light of the comments to determine the continued applicability of each justification. Unless otherwise stated, or unless inconsistent with the final rules or preamble, the rationale contained in the proposal should be regarded as a basis for the pertinent final rules. Thus, a thorough understanding of the grounds for the final rules may require reference to the proposed rulemaking.

The amendment sets forth procedures by which social security numbers may be obtained for all members of food stamp households as authorized by Section 4 of Pub. L. 96-58. That section amended the Food Stamp Act of 1977 (Title XIII of Pub. L. 95-113, 91 Stat. 958) to enable the Department to require as a condition of eligibility for participation in the Food Stamp Program, that each household member furnish to the State agency his or her social security account number or numbers.

In addition, this rulemaking amends the regulations so that individuals subject to disqualification from program participation for fraudulent conduct are required to agree to either a reduction in the household's food stamp allotment or to a repayment in cash in order to again participate in the Food Stamp Program, as mandated by Section 5 of Pub. L. 96-58.

This rule also amends Part 273 to reflect changes made by Section 6 of Pub. L. 96-58 to permit each State agency to retain 50 percent of the value of all funds or allotments recovered or collected through prosecutions or other State activities directed against individuals who fraudulently obtain food stamp allotments.

A total of 69 comment letters were received on the 1979 amendments on social security numbers, group homes and fraud disqualification and overissuance recovery. There were 23 comment letters received from State agencies, 32 from public interest groups, 4 from local agencies, two from other government agencies, two from regional offices and six from the general public.

It should be noted that all of the comments received by December 17, 1979 were given full consideration. The comments received after December 17, 1979 were considered to the fullest extent possible. There were several technical comments, relating to regulation references, word changes, etc. These are not specifically addressed in this preamble.

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Social Security Numbers

Implementation

The section on implementation of the social security numbers (SSN) provisions received 17 comments. Two of the commenters misunderstood the proposed regulations, commenting that implementation of the SSN requirement by July 1980 is unrealistic. The Department did not intend that this requirement be fully implemented by July 1980. The final rules require that State agencies start requesting participants' and applicants' social security numbers no later than the first of the month, 120 days from the date of publication of final rules. The numbers will be requested at the time of application and recertification.

The Department feels that this implementation schedule will provide State agencies adequate time to prepare for implementation. One State agency commented that the proposed implementation schedule was reasonable and would not be disruptive to normal operations. The Department concurs with this position.

Fourteen commenters expressed the opinion that program participants should receive advance notification of this eligibility requirement and the consequences of the failure to comply. One local agency and 13 public interest groups suggested advance notification in the form of individual notices, media releases and other outreach efforts. The Department believes that these suggestions have merit, and the final rulemaking has been rewritten to include an advance notification requirement. Specifically, the final rulemaking allows the State agency to send a one-time notice prior to implementation or to send a notice of the SSN requirement when notices of expiration are sent. State agencies may use one or a combination of these alternatives. In addition the State agency will have to give some type of notice through the media, for example, a press release announcing the requirement.

Requirement for Participation

The four large areas of concern expressed by the commenters on this section were as follows: (1) Requiring the SSN as a condition of eligibility; (2) application of requirement to children; (3) status of aliens relative to the requirement; and (4) 90-day participation pending receipt of the number.

The first area, requiring SSN's as a condition of eligibility received a total of 32 comments with four State agencies and 11 public interest groups opposing the requirement, and 12 State agencies, two local agencies, two government agencies and one public interest group supporting the requirement. One State agency opposing the requirement stated it could not serve any purpose related to cross matching of information in their State since they were on a manual system. One State was concerned about the increase in workload and administrative cost although this State, while not actually in support of the requirement for that reason, did not strongly oppose the requirement. One State agency questioned the value of SSN's as antifraud devices, especially to noncomputerized States. Another State agency was opposed to making the requirement mandatory. This State suggested that since Congressional legislation offered this provision as an option, at least initially, this option should be passed along to the States. It was believed, based on AFDC enumeration experience, that this requirement would consume an "extraordinary amount of staff time" and that the results did not justify the increased workload.

The public interest groups opposing this requirement gave numerous reasons. Those most often cited were as follows: clients are already overburdened with a process requiring excessive verification of personal situations; there are enough eligibility requirements already and further eligibility requirements will reduce program participation; the requirement is an overzealous attempt to eliminate fraud and constitutes harassment; it will be a hardship for poor people to obtain SSN's; and, finally, Congress intended to allow the requirement, not mandate it. As stated in the preamble to the proposed regulations, the Department researched Congressional intent in the area of requiring SSN's as a condition of eligibility. The legislative history views the use of an SSN as a positive measure to counteract fraud and program abuse. The Department has decided to mandate the requirement as the best way to effectively carry-out the Congressional intent. The Department also does not agree that this requirement will create an unmanageable workload or will result in reduced program participation by harassing and overburdening applicants and participants. It is estimated that over half of the food stamp caseload already has SSN's i.e., that portion of the caseload which has been subject to AFDC enumeration as well as participants who receive social security and/or SSI benefits and the working members of nonassistance food stamp households. The Department is allowing for program participation pending receipt of the SSN. Unless an applicant or participant actually refuses to cooperate it is unlikely that participation will be adversely affected.

The State agencies and other commenters supporting the requirement generally feel that the requirement will indeed reduce fraud, and that it clearly follows Congressional intent.

Some of the State agencies supporting the requirement did, however, comment in the second area of concern in this section, that is, the application of the requirement to children. Seven comments were received on this subject. One Regional Office, four States and two public interest groups wanted the requirement limited to adults or persons receiving income. Some of the commenters suggested limiting the requirement to members of households over 16 or 18 years of age. Another commenter suggested that the requirement be applied to all individuals who are or have been employed, or who are or have been receiving income from any source, regardless of age. These commenters all felt that there is very little benefit to be gained by requiring SSN's for children, particularly those without income. Delaware pointed out that based on their AFDC experience, social security enumeration requires a significant amount of staff time and that since most adults have social security numbers, most staff time is spent trying to enumerate infants and young children. They further note that "the number of infants and young children who are subsequently found on computer cross checks to have earned income is obviously zero; the number found to be receiving unreported SSI or OASDI benefits is very small". It was the opinion of the four States commenting on this that the benefits to be derived from enumerating children could not justify the manhours that would be expended in this effort.

After evaluating these comments, the Department has decided to require SSN's for household members 18 years and over and for those children under 18 years who receive countable income from any source. It is the Department's opinion that this responds both to the concern of the commenters and to the intent of Congress that SSN's be used for income cross-checking. The final rulemaking has been rewritten to reflect this decision.

The Department plans, at a later date, to evaluate the cost effectiveness of requiring SSN's as a condition of eligibility for all household members, regardless of age, and may expand the requirement in the future, if, contrary to the comments of these States, it is proven cost effective.

The third issue raised in this section concerned the application of the requirement for an SSN to aliens. Eight commenters, all public interest groups, stated that aliens should be exempt from the requirement until such time as SSA and USDA have negotiated an agreement for the provision of SSN's to aliens. As stated in the preamble to the proposed regulations, SSA currently issues SSN's to aliens admitted for permanent residence, for refugees and for those legal temporary aliens who are given employment authorization by the Immigration and Naturalization Service (INS). Moreover, legally admitted temporary aliens who do not have documentation that they are "employment authorized" are issued SSN's when they have valid nonwork reasons, for example if they have a bank account. Discussion with SSA indicates that applying for food stamps will be considered a valid reason for obtaining an SSN. However, there should not be significant problems relative to temporary aliens since most aliens, with status as alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country, are not eligible for food stamps, although they may be able to obtain an SSN as explained above.

Thirteen commenters addressed the last area of concern in this section, the provision of allowing 90-day participation pending receipt of an SSN. One State agency and seven public interest groups supported the 90-day provision as a fair and reasonable time to allow for participation pending receipt of an SSN. One government agency opposed 90 days as too long and suggested a 45–60 day time-period, although, as explained below, this may have been based on a misunderstanding of the time it takes to get an SSN. One State agency and one member of the general public suggested 180 days instead of 90 days, stating that 90 days is not long enough. The proposed regulations (in the preamble) noted that the 31 day average processing time was from the completion of the application for an SSN to the date of SSN issuance. SSA staff indicated that this should be reworded to state that, based on study information, the average processing time from the point at which *all required documentation has been submitted* to the date of SSN issuance is approximately 31 days. In many cases the individual applying for an SSN will need some time to obtain the documents required to be submitted with the application for the SSN. For example, an individual may need to write to a State or local agency to obtain a copy of a birth certificate and receipt of this document may take several weeks. To allow for a possibly longer processing time due to a delay in the receipt of required documentation the Department has reworded the final regulations to specify that the 90 day participation pending the receipt of an SSN shall begin at the date of the food stamp eligibility determination rather than the date of application. This provision, as well as allowing for participation in excess of 90 days (with good cause), should address those situations in which the process takes longer than 90 days. It is the Department's position that the 90 days as reworded, and, in addition, the good cause provision, will result in equitable treatment of program participants.

Obtaining SSN's for Household Members Required To Provide an SSN

There were four comments on this section of the proposed regulations. One local agency felt that it should be optional for the State agency to file the SS–5, to avoid requesting verification of citizenship which is not currently required in the Food Stamp Program. A public interest group wanted it made clear that States having agreements with SSA to allow filing of SS–5's for individuals without SSN's are obligated to file those applications. As both the proposed and final regulations note, it is actually up to the applicant or the participant to decide whether or not request the State agency to take the applications for an SSN. If the individual requests this service and the State agency has such an agreement with SSA, then the State agency will process the application. SSA commented that State agencies with an agreement with SAA for AFDC enumeration should renegotiate new agreements with SSA to include the Food Stamp Program as soon as possible.

Language has been added to the final regulations to this effect and to require that all State agencies which currently have agreements with SSA have to renegotiate those agreements to include food stamps. One State suggested that USDA should come to some agreement with SSA to ensure prompt processing of applications for an SSN. The Department expects that SSA will handle these applications as expeditously as possible.

Verification of Social Security Numbers

The section on verification of SSN's at initial and subsequent certification received 15 comments. Six public interest groups supported certification pending verification of an SSN and there were no comments opposing this concept, which remains unchanged in the final rules. One Regional Office and one other government agency noted that State agencies do not have routine user status of BENDEX for food stamps purposes and until such status is approved BENDEX could only be used if the responsible individual representing the household signs an individual release of information form. This was true at that time but effective January 7, 1980, the Food Stamp Program was given routine user status of BENDEX (exclusive of use of wage information) and consequently no change to the proposed regulations is necessary.

SSA commented that it should not be directly queried by local food stamp staff until the State agency has been queried for SDX information since each State receives a SDX tape or printout. Local agencies should attempt to contact their State office for SDX information prior to contacting SSA directly for this information.

One Regional Office, two States and one public interest group suggested that the regulations specify that staff should not reverify an SSN that has already been verified for use in other programs such as AFDC, Medicaid, etc. The Department concurs with this suggestion and has included this in the final rulemaking. The Department has also clarified that once an SSN is verified it shall not be reverified unless the number or the identity of an individual becomes questionable.

Finally, two States commented on the methods of verification; one State suggested that verification of SSN's should be performed through a tape exchange with SSA and another State suggested that verification should be limited to either a copy of an actual social security card, verification from SSA through tapes or other means. The Department wants to allow State agencies the flexibility to handle the variety of case situations which they will face. For those States which have BENDEX and/or SDX tapes readily accessible the use of these tapes to verify SSN's would be practical. In situations where household members will not be either BENDEX or SDX or these tapes are not readily accessible, then the State agency will have to use, as verification of SSN's, documents containing the SSN which are provided by the household. If the State agency chooses to rely on the household to provide documentation then the State agency cannot specify that only one type of documentation, such as a social

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security card, is acceptable as verification.

Expedited Service

This section received 12 comments, 11 of which reflected a misunderstanding of the proposed rulemaking. A total of 11 public interest groups interpreted the proposed rules incorrectly, assuming that the Department was proposing to establish a shorter time standard for getting an SSN in those cases in which households receive expedited service. The Department never intended that households certified under expedited procedures would not receive the 90 days allowed other households to participate pending receipt of an SSN. The Department's intention was that households receiving expedited service be certified before being asked to furnish or obtain a social security number. Once these households receive their first allotment they will be required to furnish or apply for an SSN and allowed the full 90 days from the date of eligibility determination allowed other households to obtain the SSN. The final regulations have been rewritten to clarify this provision.

One State agency felt that applicants using expedited service should furnish or obtain their SSN's before receiving their first allotment. However, as stated in the preamble to the proposed regulations, Congress specifically indicated that individuals entitled to expedited service would be permitted to furnish an SSN after receiving their first allotment. This was intended to avoid a delay in benefits simply because an SSN cannot be furnished immediately. The final regulations as written reflect this intent.

Failure To Comply

This section of the proposed regulations prompted 11 comments. One government agency suggested that the disqualification should be applied to the entire household. As stated in the preamble to the proposed regulations the intent of Congress was very clear on this subject. The legislative history specifically references the individual without an SSN who fails to comply by either refusing to provide or to apply for an SSN. It never refers to disqualification of the entire household. Ten public interest groups expressed the opinion that only adults should be disqualified for failure to supply their SSN. The feeling of these commenters was that minors are not responsible for obtaining their own number and thus should not be disqualified if an adult member of a household acts irresponsibly. This concern is, of course, alleviated somewhat by the fact that the final rulemaking requires SSN's only for household members 18 years and over as well as for children under 18 who receive countable income. The Department, however, is of the opinion that obtaining SSN's for children under 18 who receive countable income is a household responsibility and that there would be no incentive for the responsible adult to obtain and furnish a number for such a child if it makes no difference if they do not. The Department feels that it is more consistent with present disqualification policy and more straight forward to disqualify the household member who is receiving income and for whom the SSN is sought, even if this individual is a minor. The final rulemaking is this section is written to apply to each household member for whom an SSN is required.

Determining Good Cause

Ten comments were received on this section of the proposed regulations. One State and five public interest groups supported the section as written. Some commenters thought that the section should be more specific and one commenter felt that a requirement should be added to require a caseworker to assist a household member in obtaining the documents required by SSA to establish age, identity and citizenship or alien status if the individual is having difficulty obtaining these. The Department feels that the section is adequately specific: it is clear that as long as the individual has applied for and provided, or is trying to obtain, the documentation necessary for an SSN application, good cause will exist for a delay in furnishing an SSN. The Department has added language to this section suggesting that the State agency caseworker assist the individual in every way possible in obtaining the SSN. SSA has also suggested that it would be helpful if the State agencies distributed the SSA pamphlet "Applying for a Social Security Number" to program applicants and participants. State agencies are encouraged to do so and should contact SSA to obtain sufficient copies of this informational pamphlet.

Use of Social Security Numbers

This section of the proposed regulations received ten comments, nine of which were from public interest groups. These groups felt that the language was too broad and that it could result in abuse of "client privacy and rights." These commenters generally suggested that the use be limited to verification of income eligibility, preventing duplicate participation and facilitating mass changes. The remaining commenter, a government agency, felt that the language was too weak and that the use should be more specifically addressed, i.e., use of SSN's to match wage information, etc. As explained in the preamble to the proposed rulemaking, the Department felt that Congress did intend that SSN's be used as an antifraud device. Using the SSN's to avoid duplicate participation is an example of this use. The amendment specifies that State agencies shall have the same access provided to HEW to the information regarding individual food stamp program applicants and participants who receive benefits under title XVI of the Social Security Act, to the extent that the Secretaries of USDA and DHEW determine that access to SSI information is within the purposes set forth in the statute. Other uses not inconsistent with Federal or State privacy laws or other pertinent legislation, and which further administration of the program, would also be permitted. The proposed regulations allowed for such usage, and the final regulations remain unchanged.

SSN Disqualification

This section of the proposed regulations, concerning the sending of a notice of adverse action to a household containing a member who has failed to comply with the SSN disqualification, received six comments, all from public interest groups. The six commenters all requested that the notice of adverse action reference the household's right to a fair hearing and one commenter suggested that available legal aid be mentioned. There is no change needed in the final regulations to satisfy these comments. The content of a notice of adverse action is clearly defined in the October 17, 1978 regulations (43 FR 47846) and includes an explanation of the household's right to a fair hearing. A reference to the section of the October 17 regulations specifying the content of the notice has been included in the final regulations.

Mass Changes

This section received a total of 15 comments. One State, one local agency and seven public interest groups opposed the requirement to conduct desk reviews after July 1, 1980 for those households receiving social security/SSI benefits. These commenters felt that these households are being unfairly singled out. They also questioned the Department's requiring desk reviews in this situation when desk reviews were not mandated for the implementation of the new medical and shelter deductions.

The Department gave State agencies the option of conducting desk reviews of cases affected by the medical and shelter deduction regulations. Desk reviews for medical expenses are pointless as the level of the deduction can only be determined through a report made by the household. Desk reviews for shelter expenses alone would duplicate effort to process reported changes in medical expenses. With these factors in mind the Department did not think it practical to mandate desk review conversion for the medical and shelter deduction amendment. State agencies do have available to them information on the SSI/Social Security cost-of-living increases and can act without contact from a participant. State agencies with the capability to make point-in-time changes through use of a computer or by other means will be able to make the change in benefits without the use of desk reviews. In addition, in most States some cases will be handled through recertifications which are due during the 180 days allowed to effect the cost-of-living increase change.

For the remaining cases, it is the Department's opinion that, in 1980, desk reviews of cases receiving social security/SSI cost-of-living increases, within 180 days of the effective date of the increase, will result in these cases being treated more uniformly and equitably than in the past. The variance between States in the handling of this change will be greatly reduced. For this reason the final regulations retain the desk review requirement for cases which are not changed through other means. The final regulations also allow States with the capability to perform an automated conversion, but which have some difficulty in doing so, to identify the affected cases by other means.

Six State agencies commented on the method of effecting the social security/SSI cost-of-living increase on an ongoing basis. One State agency felt that desk reviews were preferable to conducting complete recertifications of these particular cases. Two State agencies and one local agency were concerned about the increased workload resulting from mandatory mass reviews of social security and SSI cases each year. Another State agency, Kentucky, suggested that States "be given the latitude to either assign certification periods as provided in the proposed regulations or conduct desk reviews during July, August, and September on cases whose certification does not expire during one of these months." They felt that allowing this option would reduce the number of times elderly participants would need to come to the certification office and also reduce the administrative burden on the State agency. The department has rewritten the final regulations to allow all State agencies without the capability to perform an automated conversion the option of effecting the social security/SSI cost-of-living increases through scheduled recertifications and/or through a desk review on these specific cases.

A State agency may use one or a combination of these options. If a State agency with the capability to perform an automated conversion has difficulty doing so, it may also effect the increases through recertification and/or desk reviews. Moreover, to lessen the workload burden on State agencies, the final rulemaking allows States to complete this conversion over a 120 day period. The Department wants to both allow States sufficient time and to ensure uniform treatment of these cases.

Fraud Disqualification, Recovery and Retention

Introduction

Of the 69 comment letters, 46 letters made one or more references to the proposed regulations on fraud claims. The comments were primarily on areas in which the Department has discretion and not areas set by the statute. Overall, 22 State and local agencies and 19 public interest groups submitted comments on the fraud provisions with the remaining comments from the general public and from FNS Regional Offices and other governmental offices. The primary issues discussed by commenters included the minimum amount of a claim for conducting a fraud hearing; implementation; the six-month disqualification for individuals convicted of fraud by a court when the court does not impose a period of disqualification; holding fraud hearings for current ineligibles, the rate of allotment reductions and claims repayment.

Increasing the Minimum Amount for Fraud Claims

In the preamble to the proposed rule, suggestions were requested on raising the present limit of $35 for conducting a fraud hearing. Fourteen comments suggested that the minimum be raised to $100, five suggested that the amount be tied to the cost of pursuing a fraud claim; and the remaining comments had various suggestions or opinions including a two-tiered system based on the amount of the claim and any previous offenses. Although the comments received provided various suggestions on the minimum level of claims to pursue, the Department does not believe that sufficient information is yet available to make a decision on changing the $35 minimum.

The comments did, however, point out the need for further study of the issue. The Department intends to survey States' costs for collecting fraud and nonfraud claims. After the results of the survey are evaluated, proposed rulemaking will be issued, if warranted.

Implementation

Two comments were received which discussed the implementation schedule. The issues raised were the 120-day implementation schedule and when the 50 percent retention rate becomes effective. The proposed 120-day implementation deadline was adopted for the final rule; however, the Department did clarify that implementation would be the first of the month following the 120th day after publication. The Department believes that this period gives States adequate time to make all necessary changes. Changes in reports required by FNS are currently being made and, if not completed by implementation, FNS will provide instructions on submitting interim reports.

One commenter suggested that the Department clarify whether fraud claims established or collected after implementation are subject to the new provisions including the 50 percent State retention. The Department is adding language to make clear that the State may keep half of fraud claims *collected* after implementation, even though the fraud claim was established prior to implementation. The 50% retention would even apply to fraud claims established under the 1964 Act which are collected after these provisions are implemented. However, the State agency may only apply the recovery provisions of these regulations to fraud claims which have been established through an administrative fraud hearing or a court of appropriate jurisdiction as provided for by the 1977 Act and subsequent regulations. These provisions are, therefore, retroactive to implementation of the fraud claims provisions under the 1977 Act.

Any individual who was found guilty of fraud either through an administrative hearing or by a court and who is not already making restitution must be notified (through the revised agreement letter) of the new recovery requirements and be notified that failure to agree to restitution will result in another period of disqualification until agreement is made. In addition to notifying these individuals, the State agency may want to notify persons making cash

repayments of the changes in order to allow them to convert to allotment reduction. Regardless, should this latter category of individuals fail to continue its cash repayments subsequent to implementation, these individuals must be sent the agreement letter when cash repayments cease or diminish, before allotment reduction may be imposed.

Six-Month Disqualification

Another provision which received several comments was the imposition of an automatic six-month disqualification for individuals found guilty of fraud by a court which failed to address or specify a period of disqualification. The majority of comments opposed this provision. Seven comments opposed the six-month disqualification based on lack of legal authority although those States commenting on the issue generally supported it if the Deparment believed that there was sufficient legal authority. The rationale for this decision was provided in the preamble to the proposed regulations. The Department believes that disqualification of individuals found guilty of fraud is required by the Act and supported by the legislative history. A six-month disqualification is the minimum cited in the Act for a court decision of fraud. The Act specifically provides that an individual is ineligible upon being found criminally or civilly fraudulent for a period of not less than six and not more than 24 months as determined by the court. Thus, the Department believes Congress intended the court to have authority to set the period of disqualification but, without the court's determination, the individual would be ineligible to participate for six months by operation of the statute itself. This provision allows for more equity between individuals found guilty of fraud by a court as all such individuals would be disqualified, regardless of whether or not the court addressed the issue. It should be noted that the individual and his/her household would receive notice prior to the disqualification. The Department believes, therefore, that a six-month disqualification balances legislative intent and program uniformity with fairness to fraudulent individuals and provides for protection of their rights.

Fraud Hearings for Current Ineligibles

About 19 commenters expressed an opinion on holding an administrative fraud hearing for currently ineligible households; all but five opposed the provision. Of these, 12 public interest groups and one State agency were in opposition with five State agencies and the Department's Office of the Inspector General expressing support. The most frequent reason given for opposing the provision was that the individual's rights could be violated primarily because the person would be more likely not to attend the hearing when not participating. Most of those supporting the provision believed it would further curb abuse and be a meaningful deterrent to fraud.

The Department is retaining this provision as proposed. An opinion from the Department's Office of General Counsel (OGC) states that the Food Stamp Act clearly provides authority for administrative fraud hearings but "* * * is not explicit as to the appropriate time for them." Further, it is believed that this provision contributes to the clear Congressional intent of aggressive action to counteract fraud.

This provision will also assist individuals accused of fraud because the information necessary to oppose the allegation of fraud would be more current and witnesses more readily available. One commenter, a public interest group, conditionally supported this provision if "clear and specific notice" were provided. The notice procedures already set forth in the regulations would be followed, thus assuring timely notices of an impending hearing and an explanation of the household's rights.

Agreement Letters

Eleven letters contained comments on some aspect of the written agreement letter for restitution. Five commenters felt that States should not be permitted to deviate from the FNS-designed agreement letter. This suggestion is not adopted as States need the flexibility to develop forms compatible with their own systems. However, all State-designed forms must be approved by FNS which will closely monitor them to assure that the minimum requirements are met including a clear explanation of the household's rights. One commenter suggested that the names and addresses of available legal services be added. The Department has not adopted this suggestion since the notices telling the household of the fraud hearing and other hearing notices contain this information.

Two State agencies commented that the notice should contain language that advises the household that it will automatically be subject to benefit reduction for failure to make a scheduled cash payment. As a result of these regulations, changes in the claims forms are in preparation, and all the information required by these regulations is being incorporated, including language on this point. States will be allowed, however, to deviate from the FNS-designed forms under the same conditions allowed for other forms.

Changes in Household Composition

Only two comments were received on handling fraud claims when the guilty individual has left the household. One was technical and the other opposed taking recovery action against the household in which the fraudulent individual currently is a member. The Department is adopting the technical suggestion which is to delete the introductory phrase from § 273.18(d)(1) concerning collection of nonfraud claims. The provision on collection of fraud claims is retained and a clarification on pursuing nonfraud claims is added. The Department can only reiterate the reasons for this action from the proposed rule. This provision conforms most closely to the law which states that the fraudulent individual is responsible for making repayment of the overissuance. This provision places the liability with the individual thus making the individual's current household liable, not the former household.

Repayment of Fraud Claims

General. Numerous comments addressed various aspects of the fraud collection system. The majority of these comments were from public interest groups expressing concern that the regulations did not adequately ensure the negotiation of the amount of a repayment schedule or the renegotiation, if needed, of these items if the household's economic situation changes. The Department believes these rights are stressed in the regulations as the method of repayment and the amount of cash installments are discussed with the household and fully explained in agreement letters. Establishing a repayment schedule can only be accomplished with participation by the household. Consequently, the final decision of the State agency is based on discussion with the household and analysis of its economic situation.

The guilty individual has a responsibility to repay the fraudulent overissuance, and the regulations are structured to require repayment, either through cash or allotment reduction, or to enforce disqualification for failure to agree to repayment. Therefore, these provisions are revised slightly to require that the household be advised of its right to request a renegotiation of repayment agreements but the State agency retains its rights to enforce collection. Another area of concern was that the set rate of allotment reduction allows for only limited exceptions. The Department believes because allotment reduction is more administratively complex than cash repayment, and because the household is offered the option of cash repayments that the State agency must be permitted to recover an amount which will possibly provide a higher rate of return than cash especially when allotment reduction is imposed for failure to make scheduled cash payments. Therefore, the State agency is allowed a set rate, with the only exceptions being those that will allow for liquidation within a year or to make reduction easier to account for, both by the State agency and for the household to know exactly, from month to month, its allotment level.

Comments were received that stressed the need for reinstating the disqualified member as soon as possible at the end of disqualification period. This is desired to allow for prompt recovery of the fraudulent overissuance through allotment reduction should the individual fail to make cash repayment. However, due to statutory constraints, these regulations require that the fraudulent individual continue his/her disqualification period for failure to agree to restitution. The only time a State agency can automatically impose allotment reduction is when the fraudulent individual makes a lesser payment or no payment at all. These households will not receive a notice of adverse action as they are informed of the consequences of failure to make agreed to cash payments. The regulations do prevent participation by individuals who do not meet their responsibility to make restitution.

Other comments received suggested considering coupons "retained" during the individual's period of disqualification as recovered funds. The Department maintains that recovery and disqualification including disqualification for failure to agree to repayment are two separate and distinct issues and must remain so. The Act requires both disqualification *and* recovery and discusses these in terms of two separate actions. If benefits lost during disqualification were counted towards repayment, the fraudulent individuals are being credited benefits which, by law, they are ineligible to receive. The language from the proposed regulation prohibiting this action is retained. Another issue raised by commenters on this provision was that households should not be forced to liquidate all of its assets to make a lump sum cash repayment. It was never intended in the proposed rules that a household would be so compelled. Therefore, sentences are added to the final regulations to avoid this misunderstanding.

One commenter suggested that claims over $100 be subject to a combination of cash repayment and allotment reduction. This was not adopted as a requirement but it is not precluded by the regulations if voluntarily agreed to by both the State agency and the household. Because of the potential for administrative complexities in many States for tracking the two methods of payments, this was not mandated. The household would be informed of its rights especially including its right to renegotiate the monthly cash payment level should its economic circumstances change.

Two State agencies suggested that a minimum cash repayment amount be established. This prospect is not precluded by the regulations. The regulations allow for negotiation of the repayment schedule between the State agency and the household, with the State agency having to "accept installment payments." Therefore, the State agency has the right to refuse to settle on the amount tendered by the individual when it considers this amount to be insufficient. The individual would then be required to make adjustments or be subject to either disqualification or automatic allotment reduction depending on the timing of the negotiation.

One commenter suggested that repayment be postponed until the household's income reaches a set percent of the poverty guideline. This is not contemplated by the statute, and the Department has not adopted this suggestion. The law does not exempt any individual found guilty of fraud from repayment.

Rate of allotment reduction. About 30 comments were received on this aspect of fraud claims recovery. Of these, 13 suggested that the reduction be set at 25% or the pro-rata share of the fraudulent individual's entitlement, whichever is less. Four commenters supported the 25% figure; two opposed it without suggesting any alternatives; four simply suggested making the criteria more flexible, depending on the household's circumstances; and three suggested that the AFDC rate be adopted in lieu of the 25%.

Seven commenters suggested that a maximum percentage amount, not a minimum, be set, and two commenters preferred that a fixed dollar amount be set, not a percentage. The latter commenters felt the percentage method would require frequent recalculations of the recovery amounts. The remaining comments include extending the three-year payment period.

The Department adopted the suggestion that the rate of reduction be set at the lesser of 25% or the fraudulent individual's pro-rata share of the entitlement. This is adopted primarily because it has been determined that the regulations, as proposed, would have imposed an undue burden on the households of five or more and because of the number of commenters, including State agencies, that supported this procedure. Approximately 21 percent of the food stamp caseload (as of February, 1978) contain five or more persons. We feel this provision will not cause a significant administrative burden on the State agency due to the different calculation. This provision will, however, prevent the disincentive for larger households to not participate in the Program due to the relatively larger loss of coupons as compared to smaller households. The option for percentage reduction of a lesser amount if the claim amount can be recovered within a year is retained as is the exception for setting equal amounts.

As to comments about a maximum recovery level, the Department believes this was set by the 25% recovery rate and further constrained by adding the pro-rata share limit. Further, a household is able to choose either a negotiated cash repayment schedule or an allotment reduction.

The House Agriculture Committee recently considered an amendment to pending legislation which would have penalized the entire household for fraudulent conduct, not just the individual. This amendment was voted down, thus reaffirming Congress' intent that the individual be held responsible for fraud. Adding the pro-rata share method is, therefore, consistent with Congressional intent to have the liability rest with the individual by not subjecting larger households to losing a disproportionate share of its allotment; i.e., a share that reflects benefits for other household members in addition to the fraudulent individual.

State Retention of Funds

Only five comments were received on this provision—one opposed, two in support, and two suggesting that the coupons "retained" during disqualification be counted toward the State's retention level. The rationale for not considering coupons "retained" during disqualification as restitution was discussed earlier under the heading of repayment of fraud claims. Clearly, the State agency cannot be allowed to be credited for this method of recovery while the fraudulent individual is not. Clarification was also added that retention of 50% of recovered amounts

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applies to any claims *collected* after implementation, not just established. This will provide incentive for State agencies to reevaluate suspended claims and is also administratively easier as a dual accounting system is not required.

Outreach

The Department issued final outreach regulations in the November 6, 1979 **Federal Register** (44 FR 64386–64395). One provision of those regulations requires State agencies to operate, at the State level, toll-free statewide hotline services which participants and potential participants can use to obtain program information and applications, lodge complaints and make inquiries. There was some misunderstanding among readers as to what the November 6, 1979 regulations meant in reference to the use of machine answering systems. This amendment to the November 6, 1979 outreach regulations is intended only to resolve this misunderstanding. In no way does this amendment impose an additional regulatory requirement upon State agencies or weaken the requirement for either a hotline or an alternate system of equal quality.

The Department required the establishment of statewide Food Stamp hotlines because it believes that hotlines are the most effective way to offer the required services to participants and potential participants. However, the Department recognized that, in some States, a hotline service may not be the best way to offer the required services. Therefore, the regulations allowed State agencies, with FNS approval, to get exemptions from this requirement. According to the regulations, such exemptions would be granted to State agencies that can demonstrate that the low level of use of the hotline service does not warrant the continued expense of its operation. In lieu of the hotlines in these States, an alternative method of providing the required services to participants and potential participants must be established. These regulations clarify that a machine answering system may be used as one alternative that would be acceptable and that any alternative system must provide telephone access at no cost to the caller and assure that the calls are promptly answered.

Rounding Procedures

Introduction

On October 5, 1979 (44 FR 57414), the Department published a proposal to revise the current rounding procedures used to calculate net income and benefits in the Food Stamp Program. These procedures would have allowed State agencies to use either the standard rounding procedures or rounding procedure in effect for that State's AFDC program. At that time the Department invited interested parties to comment on the proposed rulemaking. Seventy-three organizations and individuals commented—25 State and local agencies, 25 interest groups, 21 members of the public, and two FNS Regional Offices. Their comments addressed the issues of the comment period, the implementation schedule, the rounding procedures, rounding as applied to shelter, net income and allotment figures, publication of allotment tables by FNS and the publication schedule of this final rulemaking.

Comment Period

Six commenters stated that there was an inconsistency between the Department's determination that the proposed rulemaking was significant and its decision to allow a comment period of only 45 days. To allow interested parties the fullest opportunity to comment, the Department extended the comment period until December 15, 1979.

Implementation

Two State agencies supported the Department's proposal to allow State agencies to implement any changes in the rounding procedures in three methods: at recertification, desk review, or mass conversion of all or part of the caseload. One commenter opposed the option of converting only part of a State agency's caseload at one time. One State agency suggested implementation should be restricted only to recertification or recomputation for currently certified households. One commenter suggested that State agencies be allowed to delay implementation for new applications until they conduct mass conversions by computer. The schedule allows State agencies to implement in accordance with their own respective capabilities. Gradual implementation of these regulations will result in slightly different treatment of similar households for a limited period of time. However, the impact upon most clients will be minimal or nonexistent while the impact upon program administration will be significant.

The Department has not revised the proposed implementation schedule except to require implementation for new applications and recertifications and conversions by July 1, 1980.

Calculating Net Income

This issue drew 72 comments. The procedure currently in use requires State agencies to drop the cents from all figures used in calculating net income and allotments, except for individual shelter expenses. Three State agencies, two local agencies, 25 interest groups and 19 members of the public supported the continued use of this procedure. The Department's proposal would allow State agencies either to round all figures to the nearest whole dollar or to follow their own AFDC rounding procedures. This proposed procedure received the support of 15 State agencies, two local agencies, and one member of the public. Two State agencies and one local agency suggested a third option, that is, allowing State agencies to implement the Department's proposal or to continue using the current procedure.

The final regulations contain the same rounding procedures proposed in the rulemaking of October 5, 1979. This decision was made after considering the comments, particularly as they related to the effects of the procedures on clients and State agencies, and the cost of the alternatives to the Department's proposal.

The new rounding procedures will assure greater consistency between AFDC and food stamps, which helps improve the administrative efficiency of both programs. In addition, under the old rounding procedures, some households' incomes were slightly overstated. The new rounding procedures will more accurately calculate the benefits to which households are entitled. The Department is not allowing State agencies to continue using the current method unless it is also used for AFDC because it does not calculate households' benefits as precisely as the procedure of rounding to the nearest whole dollar.

Calculating the Allotment

One State agency recommended that all cents be dropped from net monthly income before calculating the allotment; and one Regional Office recommended that rounding to the nearest whole dollar be used through to the calculation of the allotment. According to Section 8(a) of the Food Stamp Act of 1977 rounding in the calculation of the allotment must be to the nearest whole dollar. Therefore, the Department is changing the regulations by requiring that State agencies calculate the allotment by multiplying the household's net income (rounded in accordance with § 273.10(e)(1)(ii)) by 30 percent, rounding the product to the nearest whole dollar and subtracting the rounded product from the household's Thrifty Food Plan. The remainder is the household's allotment. This uniform method guarantees that all households with the same net monthly income will receive the same allotment.

Remaining Issues

One commenter recommended that rounding not be allowed in computing total shelter cost. The Department believes that State agencies should be allowed the flexibility to round the total shelter cost if they want to, or to use the actual unrounded amount. Consequently, this recommendation is not being adopted.

Two commenters recommended that FNS continue to provide allotment tables for use by State agencies. While the Department intends to continue this practice, two groups of tables will be needed until the end of the conversion period. The Department will attempt to continue to distribute tables at the earliest date practicable.

One commenter recommended that these regulations be published in conjunction with the final regulations implementing the 1979 Amendments to the Food Stamp Act of 1977. This is being done in this final rulemaking.

Rounding may also be necessary in other calculations involving the allotment, such as the benefit reduction calculation required by § 273.18(e)(2).

Therefore, Parts 272 and 273 are amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. New subparagraphs (8), (9) and (12) are added to § 272.1(g) to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(8) *Amendment 152.* The rounding procedure set forth in § 273.10(e) shall be in effect for new applications and recertifications no later than July 1, 1980. The State agency shall have up to 12 months following the implementation date of final regulations to convert the current caseload to the rounding procedure that is chosen under § 273.10(e)(1)(ii). The State agency shall have a choice of the following three options in converting households that are already participating at the time the new rounding procedure goes into effect: (i) convert households at recertification: (ii) convert households by conducting a desk review; or (iii) convert all households, or all households in a certain category, at a point-in-time. For example, the State agency may convert all public assistance households or all households in a project area by computer. Point-in-time mass conversions shall be conducted no later than July 1, 1980. In any case, the State agency shall advise FNS regarding which rounding and caseload conversion procedures are chosen and when the conversion will be completed.

(9) *Amendment 154.* State agencies shall implement the program changes required by Amendment 154 as follows:

(i) State agencies shall begin requiring social security numbers for all new applications and recertifications no later than the first day of the first month which commences 120 days from the date of publication of final rules. Participating households shall be requested to provide or apply for social security numbers (SSN) for appropriate household members at recertification, or at the time of office contact for any other reason. The State agency shall provide advance notification of this requirement and the consequences of noncompliance by sending an individual notice to all participating households and by providing press releases for dissemination through the media. The individual notices may be sent as either a one-time notice prior to implementation and/or with the notices of expiration of a certification period.

(ii) If any affected member(s) of a household does not have his or her SSN readily available at the time of application, recertification, or any office contact, he or she shall follow the procedures for furnishing an SSN in accordance with § 273.6 as amended.

(iii) State agencies shall implement the fraud claims procedures contained in § 273.16 and § 273.18. Implementation shall be no later than the first of the month following the 120th day from the date of publication of final rules. By implementation the State agency shall also have an approved system for handling claims, including a method for accounting for the fifty percent retention of the value of funds collected from fraud claims. Any collection action on fraud claims after implementation is subject to the fifty percent retention including claims established under the Food Stamp Act of 1964 as amended and under the Food Stamp Act of 1977, as amended. However, only individuals found guilty of fraud through an administrative fraud hearing or through a court of law under regulations promulgating the Food Stamp Act of 1977, as amended, are subject to the recovery provisions in §§ 273.16 and 273.18 retroactive to implementation of fraud claim provisions under the 1977 Act.

* * * * *

(12) *Amendment 161.* The clarification on hotline alternatives in § 272.6(b)(8) is effective January 31, 1980

* * * * *

2. In § 272.6 paragraph (b)(8) is amended and reads as follows:

§ 272.6 Outreach

* * * * *

(b) *Minimum requirements.* * * *

(8) *Hotlines.* State agencies shall operate toll free telephone hotline services at the State level that can be used by participants and potential participants to secure program information and application forms, lodge complaints and generally facilitate their participation in the Program. The Alaska State agency is exempt from the requirement for maintaining a toll free hotline at the State level. The Alaska State agency shall, however, provide an alternative means for participants and potential participants to secure program information and applications, lodge complaints and make inquiries. The alternate procedures for Alaska are subject to FNS approval through the Outreach Plan submitted in accord with paragraph (e) of this section. Other State agencies that can demonstrate conclusively that the number of calls received on the food stamp hotline does not justify the expense of its operation may be granted an exemption by FNS from this requirement, provided an alternative system is established to allow participants and potential participants, at no cost to themselves, to secure program information and applications, lodge complaints and make inquiries. State agencies requesting exemptions shall provide documented evidence of justification to FNS, including the average number of calls per month; the cost of hotline equipment, service, and staff; efforts to publicize the availability of the hotline service; and a description of the alternate service that will be offered in lieu of the hotline service. An example of an acceptable alternative would be a machine answering system where toll free calls are recorded and promptly returned by someone knowledgeable in program policy and procedures. The quality of a State agency's alternative system shall meet the hotline standards outlined in this paragraph, i.e., it must provide some means of telephone service at no cost to those who use it and the response to users shall be prompt.

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PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

3. In § 273.2, a new subdivision (v) is added to § 273.2(f)(1), subdivision (i) of § 273.2(f)(9) is revised, and § 273.2 (i)(4)(i) is amended to read as follows:

§ 273.2 Application processing.

* * * * *

(f) *Verification.* * * *

(1) *Mandatory verification.* * * *

(v) *Social Security Numbers.* The social security number(s) (SSN) reported to the State agency by the household shall be verified by the State agency. However, the State agency shall not delay certification of an otherwise eligible household solely to validate any member's SSN, even if the 30 day processing period has not expired. As soon as all other steps necessary to certify a household are completed except for verification of an SSN, the State agency shall certify the household. If verification of an already reported SSN is not completed at inital certification, it shall be completed at the time of or prior to the household's next recertification. The SSN shall be verified in one of the following ways:

(A) Matching the reported SSN with information supplied by the Social Security Administration (SSA) such as BENDEX or SDX computer tapes or printouts;

(B) Observing the household member's social security card or any official document containing the SSN. If the individual has no social security card or other official document containing the SSN or the social security number appears questionable, the State agency shall verify the number either by matching it with SSA tapes or submitting or having the individual submit Form SS–5, Application for a Social Security Number, to the Social Security Administration. In the latter case, the State agency shall advise the individuals where to file and discuss with them what evidence will be needed. Once an SSN has been verified, the State shall annotate its file accordingly to prevent the need for reverification in the future. State agencies shall accept as verified an SSN which has already been verified through the Aid to Familes with Dependent Children program, Medicaid, or other similar programs. A verified SSN shall be reverified only if the identity of the individual or the SSN becomes questionable.

* * * * *

(9) *Verification subsequent to initial certification.*—(i) *Recertification.* At recertification, the State agency shall verify a change in income, medical expenses or actual utility expenses claimed by a household if the source has changed or the amount has changed by more than $25 since the last time they were verified. State agencies may verify income, actual utility expenses, or medical expenses claimed by households which are unchanged or have changed by $25 or less, provided verification is, at a minimum, required when information is questionable as defined in paragraph (f)(2) of this section. Unchanged information, other than income and medical or utility expenses, shall not be verified at recertification unless the information is questionable as defined in paragraph (f)(2) of this section. Newly obtained social security numbers shall be verified at recertification in accordance with verification procedures outlined in § 273.2(f)(1)(v).

* * * * *

(i) *Expedited service.* * * *

(4) *Special procedures for expediting service.* * * *

(i) To expedite the certification process, the State agency shall postpone the verification required by § 273.2(f). However, the household's identity and residency shall be verified through a collateral contact or readily available documentary evidence. Examples of acceptable documentary evidence which the household may provide include, but are not limited to, a driver's license, work or school I.D., voter registration card or birth certificate. Households entitled to expedited service shall not be required to furnish or apply for a social security number until after they have received their first allotment. However, these households shall be required to furnish an SSN before their next issuance in accordance with subdivision (iii) of this subparagraph. Those households unable to provide the required SSN's or who do not have one shall be allowed 90 days to obtain the SSN, in accordance with § 273.6(a)(2). The household's income statements shall be verified through a collateral contact, or readily available evidence whenever it can be done in sufficient time to meet the expedited processing standards. However, benefits shall not be delayed beyond the delivery standards described in paragraph (i)(3) of this section solely because income has not been verified.

§ 273.20 [Redesignated from § 273.6]

4. In § 273.6 SSI Cash-out States is renumbered § 273.20 and § 273.6 is retitled Social Security Numbers. The new § 273.6 reads as follows:

§ 273.6 Social security numbers.

(a) *Requirement for participation.* (1) The State agency shall require that a household participating or applying for participation in the Food Stamp Program provide the State agency with the social security number (SSN) for each household member 18 years or older and each child under 18 who receives countable income. If individuals have more than one number, all numbers shall be required. The State agency shall explain to applicants and participants that refusal to provide an SSN will result in disqualification of the individual for whom an SSN is not obtained in accordance with paragraph (c) of this section.

(2) If any household member(s) required to provide an SSN is unable to provide the State agency with an SSN prior to certification or recertification, the member who does not have an SSN, and therefore must apply for one, shall be allowed to participate for 90 days from the date of eligibility determination while awaiting receipt of the social security number.

(3) If the SSN has not been obtained within the 90 days from the date of eligibility determination and the participant cannot show good cause why an SSN has not been obtained, the participant shall be disqualified in accordance with § 273.6(c). If the SSN has not been obtained within the time limit but good cause has been established, then the participant may continue to participate provided the individual has documentation indicating he/she has, in fact, applied for the SSN. Household members without an SSN who are required to provide an SSN shall be eligible to participate while waiting for the Social Security Administration (SSA) to issue an SSN as long as they have filed an application for an SSN accompanied by the necessary verification and can document this.

(b) *Obtaining SSN's for food stamp household members 18 years and over and children receiving income.* (1) For those individuals who provide SSN's prior to certification, recertification or at any office contact, the State agency shall record the SSN and verify it in accordance with § 273.2(f)(1)(v).

(2) For those individuals required to provide an SSN who do not have one, the State agency shall use one of the following two procedures:

(i) In a State where an agreement exists between the State agency and SSA which allows the State agency to complete the application for an SSN, Form SS–5 the State agency shall offer to and shall complete this form at the household's request. State agencies which have such an agreement with SSA for AFDC and Medicaid shall be required to renegotiate these agreements for food stamp purposes as soon as possible in order to offer this service to food stamp applicants and participants. To complete Form SS–5, the State agency must document the verification of identity, age, and citizenship or alien status as required by SSA and forward the SS–5 to SSA. The State agency can complete the SS–5 only when this renegotiated agreement between SSA and the State exists.

(ii) If the household member elects to complete the SS–5 and apply to the SSA directly or in a State in which no agreement with SSA exists, the State agency shall inform the household member where to apply and what information will be needed. The State agency shall suggest that the household member ask for proof of application from SSA, in the event his or her application is not processed within the 90 day time period described in paragraph (a) of this section. SSA normally uses the Receipt for Application for a Social Security Number, Form SSA–5028, as evidence that an individual has applied for an SSN. State agencies may also use their own documents for this purpose.

(3) The State agency shall follow the procedures described in subparagraphs (2) (i) and (ii) above for individuals who do not know if they have an SSN, or are unable to find their SSN.

(c) *Failure to comply.* If the State agency determines that a household member(s) required to provide an SSN as a condition of eligibility has refused to provide it, then the individual without the SSN shall be ineligible to participate in the Food Stamp Program. If, at the end of the 90 day period allowed in paragraph (a) of this section, the State agency determines that a household member(s) required to provide an SSN has failed without good cause to attempt to supply the documentation required by SSA to be submitted with the application for an SSN, the individual without the SSN shall be ineligible to participate until that individual complies. The disqualification applies to the individual(s) for which the SSN is not provided and not to the entire household. The earned or unearned income of an individual disqualified from the household for failure to comply with this requirement shall be handled as outlined in § 273.9(b)(3) of these regulations.

(d) *Determining good cause.* In determining if good cause exists for failure to comply with the requirement to provide the State agency with an SSN, the State agency shall consider information from the household member, the Social Security Administration and the State agency (especially if the State agency was designated to send the SS–5 to SSA and either did not process the SS–5 or did not process it in a timely manner). Documentary evidence or collateral information that the household has applied for the number or made every effort to supply SSA with the necessary information shall be considered good cause for not complying timely with this requirement. If the household member(s) applying for an SSN has been unable to obtain the the documents required by SSA, the State agency caseworker should make every effort to assist the individual(s) in obtaining these documents.

(e) *Ending disqualification.* The household member(s) disqualified may become eligible upon providing the State agency with an SSN or demonstrating that an application has been made at SSA for a social security number.

(f) *Use of SSN.* The State agency is authorized to use social security numbers in the administration of the Food Stamp Program. To the extent determined necessary by the Secretary and the Secretary of HEW, State agencies shall have access to information regarding individual Food Stamp Program applicants and participants who receive benefits under title XVI of the Social Security Act to determine such a household's eligibility to receive assistance and the amount of assistance, or to verify information related to the benefits of these households. State agencies shall use the State Data Exchange (SDX) to the maximum extent possible. The State agency should also use the SSN's to prevent duplicate participation, to facilitate mass changes in Federal benefits as described in § 273.12(e)(3) and to determine the accuracy and/or reliability of information given by households.

5. In § 273.9, paragraph (b)(3) is revised to read as follows:

§ 273.9 Income and deductions.

* * * * *

(b) *Definition of income.* * * *

(3) The earned or unearned income of an individual disqualified from the household for fraud in accordance with § 273.16, for failing to comply with the student work registration requirements in § 273.7(b)(9)(i) or for failing to comply with the requirement to provide an SSN in accordance with § 273.6, shall continue to be counted as income, less the pro rata share for the individual. Procedures for calculating this pro rata share are described in § 273.11.

6. In § 273.10 paragraphs (e)(1)(ii) and (e)(2)(ii) are revised and a new paragraph (f)(3)(iv) is added as follows:

§ 273.10 Determining household eligibility and benefit levels.

* * * * *

(e) *Calculating net income and benefit levels.*—(1) *Net monthly income.* * * *

(ii) In calculating net monthly income, the State agency shall use one of the following two procedures: (A) Round down in each income and allotment calculation that ends in 1 through 49 cents and round up for calculations that end in 50 through 99 cents; or (B) apply the rounding procedure that is currently in effect for the State's Aid to Families with Dependent Children (AFDC) program. If the State AFDC program includes the cents in income calculations, the State agency may use the same procedure for food stamp income calculations. Whichever procedure is used, the State agency may elect to include the cents associated with each individual shelter cost in the computation of the shelter deduction and then to round the final shelter deduction amount.

* * * * *

(2) *Eligibility and benefits.* * * *

(ii) The household's monthly allotment shall be equal to the Thrifty Food Plan for the household's size reduced by 30 percent of the household's net monthly income as calculated in paragraph (e)(1) of this section. After multiplying the net income by 30 percent, the State agency shall round the product down if it ends in 1 through 49 cents and round the product up if it ends in 50 through 99 cents, prior to subtracting that amount from the Thrifty Food Plan. All eligible one and two-person households shall receive a minimum monthly allotment of $10. This rounding method shall be used in all determinations of allotments.

* * * * *

(F) *Certification periods.* * * *

* * * * *

(3) * * *

* * * * *

(iv) If a State agency opts to effect the Social Security/SSI cost-of-living increase through the process of recertification, the affected cases shall be assigned certification periods that ensure that they are due for recertification in accordance with § 273.12(e)(3)(ii). Households entitled to a certification period of up to 12 months as discussed in § 273.10(f)(5) shall, on a one-time basis, be certified for less than a year in order to comply with this provision.

* * * * *

7. In § 273.11 the introductory text of paragraph (c) is rewritten and a new subdivision (iii) is added to (c)(5) to read as follows:

§ 273.11 Action on households with special circumstances.

* * * * *

(c) *Treatment of income and resources of disqualified members.* Individual household members may be disqualified for fraud, for failure to meet the student work registration requirements during the school year or for failure to obtain, or refusal to provide, an SSN. During the period of time a household member is disqualified, the eligibility and benefit level of any remaining household members shall be determined as follows:

* * * * *

(5) *Reduction or termination of benefits within the certification period.*

* * *

* * * * *

(iii) *SSN disqualification.* If a household's benefits are reduced or terminated within the certification period because one or more of its members required to provide an SSN is being disqualified for failure to meet the SSN requirement, the State agency shall issue a notice of adverse action, in accordance with § 273.13(a)(2), which informs the household that the individual without an SSN is being disqualified, the reason for the disqualification, the eligibility and benefit level of the remaining members, and the actions the household must take to end the disqualification.

* * * * *

8. In § 273.12, paragraph (e)(3) is revised to read as follows:

§ 273.12 Reporting changes.

* * * * *

(e) *Mass changes.* * * *

* * * * *

(3) *Mass changes in Federal Benefits.* (i) State agencies shall treat cost-of-living increases received in July 1981 and all other subsequent years and any other mass changes in social security and SSI payments as a mass change for food stamp purposes. The household shall not be responsible for reporting these changes. The State agency shall be responsible for automatically adjusting a household's food stamp benefit level to reflect the change in accordance with the procedures in paragraph (e)(2) of this section, or as noted in paragraph (e)(3)(ii) of this section.

(ii) State agencies which have the capability shall treat the increases as a mass change in accordance with the procedure in paragraph (e)(2) of this section. A State agency is capable of treating these changes as a mass change if the State agency's computer system can identify by social security number individual household members receiving social security or SSI payments and the amount of these payments, and the computer system can extract on a timely basis the new benefit data from BENDEX and/or SDX for each recipient. All other State agencies shall have the option to use any one, or a combination of the following methods: Schedule all households containing one or more members who receive social security or SSI benefits for recertification during July, August, September, and October of each year so that the cost-of-living increases can be reflected in a timely manner; conduct desk reviews to effect the change within the 120 day period. If a State agency with the capability to perform an automated conversion has difficulty doing so, it may use one or a combination of the other two methods described.

(iii) For cost-of-living increases scheduled for July 1980, State agencies which have the capability shall treat the increases as a mass change in accordance with the procedures in paragraph (e)(2) of this section. All other State agencies shall, within 180 days of the effective date of the increase, identify cases receiving social security and SSI payments by either desk reviews or at recertification and reflect the cost-of-living increase in the household's allotment. If a State agency with the capability to perform an automated conversion has difficulty doing so, then it may identify cases receiving social security and SSI payments using the methods discussed above and adjust the household's allotment.

9. In § 273.13, a new subparagraph (11) is added to paragraph (b) to read as follows:

§ 273.13 Notice of adverse action.

* * * * *

(b) *Exemptions from notice.* * * *

(11) Converting a household from cash repayment of a fraud claim to benefit reduction as a result of failure to make cash repayment as discussed in § 273.18.

10. In § 273.16, paragraphs (a), the introductory text of paragraph (d) and paragraphs (d) (9)(ii) and (e)(3) are amended and a new subparagraph (4) is added to § 273.16(e) to read as follows:

§ 273.16 Fraud disqualification.

(a) *Fraud disqualification penalties.* Individuals found to have committed fraud through an administrative fraud hearing shall be ineligible to participate in the program for 3 months. Individuals found guilty of criminal or civil fraud by a court of appropriate jurisdiction shall be ineligible for not less than 6 months and not more than 24 months as determined by the court. If the court fails to specify or address a disqualification period for the fraudulent act, the State agency shall impose a six-month disqualification period unless it is contrary to the court order. State agencies shall disqualify only the individual convicted of fraud and not the entire household. If the individual fails to agree to make restitution, the period of disqualification shall continue until the individual agrees to make restitution. Individuals or the remaining household members shall be permitted to make restitution during the period of disqualification in accordance with established procedures for cash repayment or allotment reduction.

* * * * *

(d) *Administrative disqualification.* Each State agency shall establish procedures for conducting fraud hearings which must conform with the procedures outlined in this section. An administrative fraud hearing should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an individual has committed one or more acts of fraud as defined in paragraph (b) of this section. Such cases may include those in which the State agency believes the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system. Other cases may be those previously referred for prosecution but for which prosecution was declined by the appropriate legal authority. The State agency may initiate an administrative fraud hearing regardless of the current eligibility of the individual. The disqualification period for nonparticipants at the time of the final hearing decision shall be deferred until the individual applies for and is determined eligible for program benefits. Fraud hearings shall not be conducted if the amount the State agency contends has been fraudulently obtained is less than $35 or if the value of the coupons used to obtain ineligible items is under $35. The burden of proving fraud is on the State agency. The administrative fraud hearing may be conducted regardless of whether other legal action is planned against the household member.

* * * * *

(9) *Notification of hearing decision.*

* * *

(ii) If the administrative fraud hearing finds that the household member committed fraud, the State agency shall mail a written notice to the household member prior to disqualification. The notice shall inform the household member of the decision and the reason for the decision. The notice shall also advise the remaining household members, if any, of either the allotment they will receive during the period of disqualification, or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in § 273.11. For State level decisions, the notice shall inform the household member of the date disqualification will take effect. For local level decisions, the notice shall inform the household member of the deadline for requesting a State level hearing, the date disqualification will take effect unless a State level hearing is requested, and that benefits will be continued pending a State level hearing if the household is otherwise eligible. If the individual is no longer participating, the notice shall inform the individual that the period of disqualification will be deferred until such time as the individual again applies for and is determined eligible for program benefits. A written agreement letter for restitution explaining the repayment requirements in § 273.18(e) shall also be sent. The written agreement letter for restitution shall inform the individual of the amount owed; the reason for the claim; the period of time the claim covers; any offsetting that was done to reduce the claim; the types and terms of each restitution schedule which is offered; the date restitution must commence in order to avoid continuing the period of disqualification; and the household member's right to a fair hearing if the individual disagrees with the amount of the claim. The household shall also be informed of its rights to request renegotiation of any agreed to schedule should the household's economic circumstance change and contain spaces for the individual to complete indicating the method of repayment and a signature block. Deviations may be granted from the FNS-designed agreement letter under the conditions in § 273.2(b). A list of the household member's rights as contained in § 273.15(p) and the State level hearing procedures shall be enclosed with the local fraud hearing decision notice.

* * * * *

(e) *Court imposed disqualifications.* * * *

(3) State agencies shall disqualify an individual found guilty of fraud for the length of time specified by the court. If disqualification is ordered but a date for initiating the disqualification period is not specified, the State agency shall initiate the disqualification period for currently eligible individuals with the first month following the date the disqualification was ordered. If the court fails to address or specify a disqualification period, the State agency shall impose a six-month disqualification period unless contrary to the court order. The court-imposed disqualification shall begin the first month following the date the court found a currently eligible individual guilty of civil or criminal fraud. If the individual is not eligible for the program at the time the disqualification period is to begin, the period shall be postponed until the individual applies for and is determined eligible for benefits. If the periods of disqualification imposed by a court and by an administrative fraud hearing coincide, the court-ordered disqualification shall run concurrently with the 3-month disqualification period imposed through an administrative fraud hearing. The State agency shall not initiate or continue a court imposed or administratively imposed fraud disqualification period contrary to a court order.

(4) If the court finds that the household member committed fraud, the State agency shall mail a written notice, designed or approved by FNS, to the household member. The notice shall be sent prior to disqualification, whenever possible. The notice shall inform the household member of the decision and the reason for the decision. The notice shall also advise the remaining household members, if any, of the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in § 273.11. The notice shall also inform the household member of the date disqualification will take effect and of the fraud claim repayment requirements in § 273.18(e). In addition, the State agency shall include the written agreement letter for restitution described in paragraph (e)(3) of this section.

* * * * *

11. In § 273.18 paragraphs (c) (3), and (4) are deleted and paragraph (c)(2), and paragraphs (d) and (e) are amended; paragraph (f) (2) is renumbered as (f)(3) and paragraphs (f)(1) and (f)(2) are amended. The amended paragraphs read as follows:

§ 273.18 Claims against households.

* * * * *

(c) *Fraud claim.* * * *

(2) *Collecting fraud claims.* (i) If a household member is found to have committed fraud (through an administrative fraud hearing or by a court of appropriate jurisdiction) the State agency shall send the individual a written agreement letter for restitution as indicated in § 273.16(d)(9)(ii). In addition, a personal contact shall be made, if possible. The State agency shall initiate such collection unless the household has repaid the overissuance as a result of nonfraud demand letters, the State agency has documentation which shows the household cannot be located, or the legal representative prosecuting a member of the household for fraud advises, in writing, that collection action will prejudice the case. In cases where a household member was found guilty of fraud by a court, the State agency shall request the matter of restitution be brought before the court.

(ii) One month prior to the end of the specified period of disqualification, if the household member found guilty of fraud has not responded to the written agreement letter, the State agency shall send a subsequent notice, as described in § 273.16(e)(3), advising the individual that he/she will remain disqualified until such time as an agreement to repay is executed in accordance with the procedures established in paragraph (e)(2) of this section. The disqualified member shall not be considered a household member until a repayment agreement is reached. The procedures for handling the income and resources of this disqualified member are described in § 273.11. A written demand letter for an unpaid or partially paid claim shall be sent even if the household has previously received a nonfraud demand letter because the time period covered by the claim and the method of collection are different for fraud and nonfraud claims. In addition to the written agreement letter a personal contact shall be made, if possible. The State agency may also initiate civil court action to obtain the claim.

(iii) The individual who committed fraud or the remaining household members may begin restitution prior to or during the period of disqualification imposed by an administrative fraud hearing or a court of law. The State agency shall follow the procedures for collecting and submitting payments as well as the applicable accounting procedures in paragraphs (e) and (f) of this section.

(iv) If the household executes a repayment agreement, the State agency

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shall follow the procedures prescribed in paragraph (e)(2) of this section for collecting and submitting payments or the procedures for reducing the food stamp allotment of the fraudulent individual's household.

(v) If the State agency can document that the fraudulent individual cannot be located, collection action shall be suspended. A claim shall be determined uncollectible after it is held in suspense for three years. The State agency may use a suspended claim to offset benefits in accordance with § 273.17.

(d) *Change in household composition*—(1) *Nonfraud claims.* The State agency shall initiate collection against the head of the household or against the individual who was the head of the household at the time of the nonfraud claim. If the head of the household is no longer living or cannot be located, the State agency shall initiate collection action against the household containing a majority of the individuals who were household members at the time the error occurred.

(2) *Fraud claims.* If the household member found guilty of fraud moves, resulting in a change in household membership, the State agency shall initiate collection action against the household currently containing the fraudulent individual.

(e) *Methods of collecting payments.* (1) State agencies shall collect payments for nonfraud claims in one of the following ways:

(i) *Lump sum.* State agencies shall collect payments from households in one lump sum if the household is financially able to pay the claim in one lump sum. However, the household shall not be required to liquidate all of its resources to make this repayment.

(ii) *Installments.* If the household has insufficient liquid resources or is otherwise financially unable to pay the claim in one lump sum, a payment schedule shall be negotiated with the household. Payments shall be accepted by the State agency in regular installments. If the full amount of the claim cannot be liquidated in 3 years, the State agency shall compromise the claim by reducing it to an amount that will allow the household to pay the claim in 3 years. A State agency may use the full amount (including any amount compromised) of the claim to offset benefits in accordance with § 273.17.

(2) State agencies shall collect payments for fraud claims in one of the following ways:

(i) *Reduction in food stamp allotment.* Prior to reduction, the State agency shall discuss with the household the amount of food stamps to be recovered each month. The amount of food stamps to be recovered each month shall be the lesser of 25 percent of the household's monthly allotment *or* the fraudulent individual's pro rata share of the entitlement. Recovery of less than these amounts shall be accepted only if it results in equal increments or if the full amount can be recovered within a year using a lesser percentage. If the full amount of the claim cannot be liquidated in 3 years, the State agency shall compromise the claim by reducing it to an amount that will allow the household to make restitution within 3 years. A State agency may use the full amount of the claim (including any amount compromised) to offset benefits in accordance with § 272.17.

(ii) *Repayment in cash.* If the household member found guilty of fraud agrees to a repayment in cash, and the individual is financially able to repay the claim in full, the State agency shall collect the payment in one lump sum. However, if the household has insufficient liquid resources or is otherwise unable to pay the claim in one lump sum, payments shall be accepted in regular installments. The household shall not be required to liquidate all of its resources to make this repayment. If the full amount of the claim cannot be liquidated in 3 years, the State agency shall compromise the claim by reducing it to an amount that will allow the individual to pay the claim in 3 years. A State agency may use the full amount of the claim (including any amount compromised) to offset benefits in accordance with § 273.17.

(iii) If the household member fails to make a payment in accordance with the established cash repayment schedule, (either a lesser amount or no payment), the State agency shall send the individual a notice explaining that no payment or an insufficient payment was received. The notice shall also inform the individual that unless he or she makes the overdue payments or contacts the State agency to discuss renegotiation of the payment schedule, the State agency may invoke allotment reduction without a notice of adverse action. If the individual fails to respond to the notice, the State agency shall invoke allotment reduction. If the household does respond the State agency shall take one of the following actions as appropriate:

(A) If the individual makes the overdue payments and wishes to continue payments based on the previous schedule, permit the individual to do so;

(B) If the individual requests renegotiation, and if the State agency concurs with the request, negotiate a new payment schedule and execute a new written agreement letter;

(C) If the individual requests renegotiation of the amount of its cash repayment schedule but the State agency believes that the household's economic circumstances have not changed enough to warrant the requested settlement, the State agency may invoke allotment reduction or continue renegotiation until a settlement can be reached and executed. If allotment reduction is invoked, no notice of adverse action is required.

(iv) State agencies may initiate civil court action to obtain payment of the claim prior to the end of the disqualification period. However, the State agency shall not deny, terminate or reduce a household's benefits for failure to repay a claim, to agree to a repayment schedule or to make the agreed upon payment, except for the allotment reduction which shall occur when repayment of a claim is beginning after the period of disqualification and the household member found guilty of fraud does not make agreed to cash repayments in accordance with the procedures prescribed in this section.

(f) *Submission of payments.* (1) The State agency shall retain the value of funds collected for both fraud and nonfraud claims; this includes any claims collected or established after the date the State implements the fraud recovery provisions. This amount includes the total value of allotments reduced to repay fraud claims, except for allotments reduced during a period of disqualification. The States' letter of credit will be amended on a quarterly basis to reflect the States' retention of 50 percent of the value of fraud claims collected as well as full retention by FNS of all nonfraud overissuance recoveries.

(2) Each State shall submit monthly a Form FNS–209, Status of Claims Against Households, to detail the State's activities relating to claims against household. This report is due no later than 30 days after the end of each calendar month and shall be submitted to FNS even if the State agency has not collected any payments. In addition to reporting the amount of funds recovered from fraud claims each month on Form FNS–209, the State agency shall also report this amount on other letter of credit documents as required. In accounting for fraud claim collections, the State agency shall include cash repayments and the value of the allotments recovered or offset by restoration of lost benefits. However, the value of allotments reduced during periods of disqualification shall not be considered recovered allotments and shall not be used to offset a fraud claim. In addition, each State agency shall establish controls to ensure that officials responsible for fraud determinations will not benefit from the State share of recoveries.

* * * * *

Note.—These proposals have been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that these actions should not be classified as significant under those criteria.

Note.—Food Stamp forms are being revised in accordance with the requirements of this amendment. The reporting and/or record keeping requirements anticipated in this amendment resulting from the revisions of forms will be forwarded to the Office of Management and Budget for approval in accordance with the Federal Reports Act of 1942.

(91 Stat. 958 (7 U.S.C. 2011–2027).)

Final Impact Statements have been prepared and are available from Claire Lipsman, Director, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(Catalog of Federal Domestic Assistance Programs No. 10551, Food Stamps)

Dated: January 29, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-3485 Filed 1-30-80; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 237]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation established the quantity of fresh California-Arizona lemons that may be shipped to market during the period February 3–9, 1980. Such action is needed to provide orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: February 3, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* The regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on January 29, 1980, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is somewhat easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opporunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of the regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS USDA, Washington, D.C. 20250, telephone 202–447–5975.

§ 910.537 Lemon Regulation 237.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period February 3, 1980, through February 9, 1980, is established at 190,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 30, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural and Marketing Service.

[FR Doc. 80-3606 Filed 1-31-80; 8:45 am]

BILLING CODE 3410-02-M

Agricultural Marketing Service

7 CFR Part 959

Onions Grown in South Texas; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of onions grown in designated counties in South Texas to be inspected and meet minimum size and quality requirements. The regulation should promote orderly marketing of such onions and keep less desirable qualities and sizes from being shipped to consumers.

EFFECTIVE DATE: March 3, 1980.

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews (202) 447–3824.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR Part 959) regulate the handling of onions grown in designated counties of South Texas. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The South Texas Onion Committee, established under the order, is responsible for its local administration.

Notice was published in the November 14, 1979 **Federal Register** (44 FR 65592) regarding the proposal. It afforded interested persons an opportunity to file written comments by January 14, 1980.

One comment was received from Mrs. Darlene Barter, manager of the South Texas Onion Committee. Mrs. Barter was concerned that there was no limit on the number of 40 pound cartons permitted under paragraph (f)(3), experimental shipments. Such a limit was in the regulation last year but was removed this year in order to give the committee more latitude in reaching decisions regarding experimental shipments. However, at the request of the committee, the 4,000 carton limit again is being made a part of the regulation.

One other comment was received from Mr. George Eisenberg of the Eisenberg Company, Omaha, Nebraska. Three of the five items Mr. Eisenberg was concerned with were the

percentage of defects in each lot, the effect of onions with loose skins, and the requirements for jumbo size onions. In its open meeting on October 17, 1979, the committee carefully deliberated the many factors that are involved in recommending regulations. As a result of these deliberations the committee recommended the regulation hereinafter set forth, including appropriate grade and size tolerances, as being in the best interests of both the consumer and the industry. The Department believes, therefore, that the points covered by these suggestions have been considered by the committee in formulating its recommendation. Mr. Eisenberg also suggested that consideration be given to adding the metric weight equivalent on all printed bags. The Department finds merit in this suggestion and is currently studying ways to implement it both for this and other commodities. And finally it was suggested that the grade of the onions be marked on the bag to comply with certain State requirements. This suggestion cannot be accepted since the order does not authorize container markings.

This regulation is based upon recommendations made by the committee at its public meeting in Laredo, Texas, on October 17, 1979. The recommendations of the committee reflect its appraisal of the expected volume and composition of the 1980 early spring crop of South Texas onions and of the marketing prospects for the shipping season which is expected to begin about March 3, 1980.

The grade and size requirements are similar to last season's and are designated to prevent onions of poor quality or undesirable sizes from being distributed in fresh market channels.

Thus, only onions that contain not more than 20 percent defects of U.S. No. 1 grade and are not packed or loaded on Sunday except for export may be shipped from March 3 through May 10, 1980. In order to provide more orderly marketing from all districts, the inspection and container requirements are extended through June 14, 1980.

The container requirements will prevent the use of off-size or deceptive containers which could adversely affect the reputation and returns of South Texas onions. However, they will not preclude the use of containers customarily packed for the retail trade. The prohibition on packaging and loading onions on Sunday is intended principally to provide more orderly marketing by tailoring shipments from the production area more closely to the ability of receiving markets to accept marketings. Handlers are permitted, with the approval of the committee, to grade, package and load onions on Sunday for export, provided that they shut down packing and loading operations on the first working day after shipment for the same length of time as they operated on Sunday. This prevents handlers who ship on Sunday for export from gaining a competitive advantage due to longer packing hours over handlers who do not have export orders.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements are inappropriate or unreasonable. Up to 110 pounds of onions may be handled, other than for resale, per day without regard to requirements of this section in order to avoid placing an unreasonable burden on persons handling noncommercial quantities of onions.

The requirements with respect to special purpose shipments allow the shipment of onions for experimental purposes or the use of containers including bulk bins which have been the subject of test shipments during past seasons, and should encourage exports by allowing the use of containers required for such purposes. Onions for canning and freezing are exempt under the legislative authority for this part. Shipments for relief or charity are exempt since no useful purpose would be served by regulating such shipments.

Findings. After consideration of all relevant comments, including the proposal set forth in the notice, it is hereby found that the handling regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

This regulation has been reviewed under USDA criteria for implementing Executive Order 12044. A determination has been made that this action should not be classified "significant." A final impact analysis is available from Robert F. Matthews (202) 447–3824.

§ 959.319 [Terminated]

Section 959.319 is hereby terminated and § 959.320 is added. The regulation is as follows:

§ 959.320 Handling regulation.

During the period March 3 through June 14, 1980, no handler may package or load onions on Sunday or handle any onions except red varieties, unless they comply with paragraphs (a) through (d) or (e) or (f) of this section. However, the requirements of paragraphs (a) and (b) and the Sunday prohibition shall terminate at 11:59 p.m. on May 10, 1980.

(a) *Grade requirements.* Not to exceed 20 percent defects of U.S. No. 1 grade. In percentage grade lots, tolerances for serious damage shall not exceed 10 percent including not more than 2 percent decay. Double the lot tolerance shall be permitted in individual packages in percentage grade lots. Application of tolerances in U.S. onion standards shall apply to in-grade lots.

(b) *Size requirements.* (1) "Small"—1 to 2¼ inches in diameter, and limited to whites only;

(2) "Repacker"—1¾ to 3 inches in diameter, with 60 percent or more 2 inches in diameter or longer;

(3) "Medium"—2 to 3¼ inches in diameter; or

(4) "Jumbo"—3 inches or larger in diameter.

(5) Tolerances for size in the U.S. onion standards shall apply except that for "repacker" and "medium" sizes not more than 20 percent, by weight, of onions in any lot may be larger than the maximum diameter specified. Application of tolerances in the U.S. onion standards shall apply.

(c) *Container requirements.* Except as provided in paragraph (f), only the following containers may be used:

(1) 25-pound bags, with an average net weight in any lot of not more than 27½ pounds per bag, and with inside dimensions not larger than 29 inches by 31 inches; or

(2) 50-pound bags, with an average net weight in any lot of not more than 55 pounds per bag, and with inside dimensions not larger than 33 inches by 39½ inches.

(3) These container requirements shall not be applicable to onions sold to Federal agencies or for export.

(d) *Inspection.* (1) No handler may handle any onions regulated hereunder, except pursuant to paragraphs (e) or (f)(1) of this section, unless an inspection certificate has been issued covering them and the certificate is valid at the time of shipment.

(2) No handler may transport by motor vehicle or cause such transportation or any shipment of onions for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or by documentary evidence on forms furnished by the committee identifying truck lots to which a valid inspection certificate is applicable and a copy of such inspection certificate or committee document is surrendered upon request to authorities designated by the committee.

(3) For purposes of operation under this part each inspection certificate or committee form required as evidence of inspection is hereby determined to be valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate.

(4) Handlers shall pay assessments on all assessable onions according to the provisions of § 959.220.

(e) *Minimum quantity exemption.* Any handler may handle, other than for resale, up to, but not to exceed 110 pounds of onions per day without regard to the requirements of this section, but this exemption shall not apply to any shipment or any portion thereof of over 110 pounds of onions.

(f) *Special purpose shipments.* (1) The minimum grade, size, quality, container, and inspection requirements set forth in paragraphs (a) through (d) of this section shall not be applicable to shipments of onions for charity, relief, canning and freezing if handled in accordance with paragraph (g) of this section.

(2) Onions may be packed in 50-pound cartons or in 2, 3 or 5 pound containers customarily used for the retail trade. Such shipments shall be exempt from paragraph (c) of this section but must meet the provisions of paragraphs (a), (b) and (d) or paragraph (e) of this section and be handled in accordance with paragraph (g) of this section.

(i) Shipments of such containers shall not exceed 10 percent of a handler's total weekly onion shipments.

(ii) The average gross weight per lot of onions packed in master containers shall not exceed 115 percent of the designated net contents.

(iii) The average net weight per lot of 50-pound cartons shall not exceed 55 pounds.

(3) *Experimental shipments.* (i) Upon approval of the committee, onions may be shipped in bulk bins with inside demensions of 47 inches by 37½ inches by 36 inches deep and having a volume of 63,450 cubic inches, or containers deemed similar by the committee. Each container shall have a new perforated polyethylene liner at least 2 mils in thickness. Also, onions may be shipped in 40-pound cartons not to exceed 4,000 cartons, upon approval of the committee. Such experimental shipments shall be exempt from paragraph (c) of this section but shall not exceed ten percent of a handler's total weekly onion shipments and shall be handled in accordance with safeguard provisions of § 959.54 and paragraph (g) of this section. The receiver shall furnish the committee with a report on the arrival condition of each shipment.

(ii) Upon approval of the committee, onions may be shipped for other experimental purposes exempt from regulations issued pursuant to §§ 959.42, 959.52 and 959.60, provided they are handled in accordance with safeguard provisions of § 959.54 and paragraph (g) of this section.

(4) *Export shipments.* (i) Upon approval of the committee, the prohibition against packaging or loading onions on any Sunday may be modified or suspended to permit the handling of onions for export provided such handling complies with the procedures and safeguards specified by the committee.

(ii) Following approval, if the handler grades, packages and ships onions for export on any Sunday, such handler shall on the first workday following shipment, cease all grading, packaging and shipping operations for the same length of time as the handler operated on Sunday. Upon completion of such shipments, the handler shall report thereon as prescribed by the committee.

(iii) Export shipments shall also be exempt from all container requirements of this section.

(5) *Onions failing to meet requirements.* Onions failing to meet the grade, size and container requirements of this section, and not exempt under paragraphs (e) or (f) of this section, may be handled only pursuant to § 959.126. Such onions not handled in accordance with paragraph (g) of this section shall be mechanically mutilated at the packing shed rendering them unsuitable for fresh market.

(g) *Safeguards.* Each handler making shipments of onions for relief, charity, canning, freezing or experimental purposes or onions packed in 50-pound cartons or 2, 3 or 5 pound containers customarily packed for the retail trade shall:

(1) Apply to the committee for and obtain a Certificate of Privilege to make such shipments;

(2) Furnish reports of each shipment made under the applicable Certificate of Privilege;

(3) Such reports, in accordance with § 959.80, shall be furnished to the committee in such manner, on such forms and at such times as it may prescribe. Each handler shall maintain records of such shipments pursuant to § 959.80(c), and the records shall be subject to review and audit by the committee to verify reports thereon.

(h) *Definitions.* "U.S. onion standards" mean the United States Standards for Grades of Bermuda-Granex-Grano Type Onions (7 CFR 2851.3195–2851.3209), or the United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Types) (7 CFR 2851.2830–2851.2854), whichever is applicable to the particular variety, or variations thereof specified in this section. The term "U. S. No. 1" shall have the same meaning as set forth in these standards. All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 143, as amended, and this part.

(i) *Applicability to imports.* Onions imported during the period March 24 through May 10, 1980, will be in most direct competition with onions produced in South Texas and regulated under Marketing Order No. 959, as amended. Therefore, under Section 8e of the act and § 980.117 "Import Regulations" (43 FR 5499) such imported onions shall have not more than 20 percent defects of U. S. No. 1 grade and be at least 1 inch in diameter for white varieties and at least 1¾ inches in diameter for all other varieties. In percentage grade lots, tolerances for serious damage shall not exceed 10 percent including not more than 2 percent decay. Double the lot tolerance shall be permitted in individual packages in percentage grade lots. Applications of tolerance in the U.S. Grade Standards shall apply to in-grade lots.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Dated January 29, 1980, to become effective March 3, 1980.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-3434 Filed 1-31-80; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 2006

Management; Operations Review

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) removes its regulations pertaining to operations review from the Code of Federal Regulations (CFR). The intended effect of this action is to remove these regulations from the CFR since they involve only internal Agency management.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. George S. W. Marvin, (202) 447–2369.

SUPPLEMENTARY INFORMATION: It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This change, however, is not being published for public comment since it involves only internal Agency management. Therefore, publication for public comment is unnecessary. This

determination has been made by Mr. Joseph H. Linsley.

Accordingly, Subpart M of Part 2006, chapter XVIII, Title 7, Code of Federal Regulations, is hereby deleted and reserved.

This document has been reviewed in accordance with FmHA Instruction 1901–G "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969 P.L. 91–190 an Environmental Impact Statement is not required.

This final rule has been reviewed for applicability of the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this rule involves agency management only and is therefore exempt from those procedures. A determination has also been made that this action should not be classified "significant" under the USDA criteria.

(7 U.S.C. 1989; 42 U.S.C 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: January 24, 1980.

Gordon Cavenaugh,

Administrator, Farmers Home Administration.

[FR Doc. 80-3067 Filed 1-31-80; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 78

Brucellosis Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: These amendments add the county of Bonneville in Idaho and Adams in Iowa, to the list of Certified Brucellosis-Free Areas and delete such counties from the list of Modified Certified Brucellosis Areas. It has been determined that these counties qualify to be designated as Certified Brucellosis-Free Areas. The effect of this action will allow for less restrictions on cattle moved interstate from these areas. These amendments also add the county of Alcorn in Mississippi, to the list of Modified Certified Brucellosis Areas and delete it from the list of Certified Brucellosis-Free Areas because it has been determined that this county now qualifies only as a Modified Certified Brucellosis Area. The effect of this action will provide for more restrictions on cattle and bison moved interstate from this area.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. A. D. Robb, USDA, APHIS, VS, Room 805, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8713.

SUPPLEMENTARY INFORMATION: A complete list of brucellosis areas was published in the **Federal Register** (44 FR 76751–76754) effective December 28, 1979. These amendments add the county of Bonneville in Idaho and Adams in Iowa, to the list of Certified Brucellosis-Free Areas in § 78.20 and delete such counties from the list of Modified Certified Brucellosis Areas in § 78.21, because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area contained in § 78.1(l) of the regulations. These amendments add the county of Alcorn in Mississippi to the list of Modified Certified Brucellosis Areas in § 78.21 and delete this county from the list of Certified Brucellosis-Free Areas in § 78.20, because it has been determined that it now qualifies only as a Modified Certified Brucellosis Area as defined in § 78.1(m) of the regulations. This list is updated monthly and reflects actions taken under criteria for designating areas according to brucellosis status.

Accordingly, Part 78, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

§ 78.20 [Amended]

1. In § 78.20, paragraph (b) is amended by adding: *Idaho.* Bonneville; *Iowa.* Adams; and deleting: *Mississippi.* Alcorn.

§ 78.21 [Amended]

2. In § 78.21, paragraph (b) is amended by adding: *Mississippi.* Alcorn; and by deleting: *Idaho.* Bonneville; *Iowa.* Adams.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f), 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25)

The amendment designating areas as Certified Brucellosis-Free Areas relieves restrictions presently imposed on cattle moved from the areas in interstate commerce.

The restrictions are no longer deemed necessary to prevent the spread of brucellosis from such areas and, therefore, the amendment should be made effective immediately in order to permit affected persons to move cattle interstate from such areas without unnecessary restrictions.

The amendment designating an area as a Modified Certified Brucellosis Area imposes restrictions presently not imposed on cattle and bison moved from that area in interstate commerce. The restrictions are necessary in order to prevent the spread of brucellosis from such area.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register**.

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Paul Becton, Director, National Brucellosis Eradication Program, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 28th day of January 1980.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 80-3139 Filed 1-31-80; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 135

[Doc. No. 20011; Amdt. No. 135–3]

Air Taxi Operators and Commercial Operators; Commuter Pilot in Command Operating Experience Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment requires that each commuter air carrier pilot meet increased operating experience levels before serving as a pilot in command. The intended effect is to upgrade the amount of pilot experience in the aircraft being flown in order to achieve a higher level of safety. The necessity for this amendment is indicated by recent fatal commuter accidents involving pilots with low pilot time in the aircraft being operated.

DATES: Effective date: March 1, 1980. Comments by: April 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Edward McCorvey, Regulatory Projects Branch, Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755–8716.

ADDRESS: Comments on this proposal may be mailed in duplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–24), Docket No. 20011, 800 Independence Avenue, SW., Washington, D.C. 20591.

Or be delivered in duplicate to: Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

Comments delivered must be marked "Docket No. 20011." Comments may be inspected at Room 916 between 8:30 a.m. and 5 p.m.

SUPPLEMENTARY INFORMATION:

Background

On September 24, 1978, the FAA issued an extensive set of new and revised Part 135 regulations governing commuter air carriers and on-demand air taxi operators. These were published in the **Federal Register** on October 10, 1978 (43 FR 46783; Docket No. 16097). These regulations had two basic premises. First, operating experience over a representative number of years established the need to generally upgrade the requirements of Part 135. Second, in the light of airline economic deregulation legislative proposals which were progressing through Congress in 1977 and 1978, it was contemplated that the air taxi industry generally, and especially its commuter air carrier segment, would be called upon under deregulation to provide even more air transportation services than that rapidly growing air transportation component had furnished prior to 1977. It was expected that under economic deregulation, large air carriers would pull out of small markets and that in many cases commuter air carriers would step in and shoulder the job of providing air transportation.

Accordingly, in the development of revised Part 135, the agency placed heavy emphasis upon upgraded requirements for commuter air carriers. These requirements were constructed in the regulations by making some provisions explicitly applicable to commuter air carrier operations while others were made applicable to those aircraft customarily found in commuter operations.

Congress likewise recognized the increased role that commuter air carriers would be called upon to assume under deregulation when it passed the Airline Deregulation Act of 1978 on October 24, 1978 (Pub. L. 95–504). In that Act, Congress required the FAA to establish regulations which, to the maximum feasible extent, provide a level of safety to passengers traveling on commuter air carriers equivalent to that afforded passengers traveling on certificated carriers. Congress also charged the agency with the duty to periodically assess the pertinent safety achievements and report to the Congress. The agency had already recognized the need for a continuing review of Part 135 safety regulations when it noted in the preamble to revised Part 135 that a review of those regulations would be announced early in 1980.

The foresight and wisdom of Congress and the agency in planning for deregulation has been established. Commuter air carriers have enjoyed remarkable growth in the slightly more than 1 year since the Airline Deregulation Act was passed and, in general, that industry has responded well to the challenges.

Need for this Regulatory Change

During 1979 there have been 13 fatal accidents in commuter air carrier operations, several of which involved multiple fatalities.

The FAA has analyzed these accidents with the goal of identifying adverse trends and determining how these trends can be stopped. This analysis shows that there were significant numbers of single pilot operations where the pilot was not able to cope with an abnormal or emergency situation arising during the takeoff or early phase of flight. Further analysis reveals that the single pilot, although possessing significant experience in multiengine airplanes, had a low experience level in the specific make or model being operated at the time of the accident. For example, in a March 1, 1979 accident which killed the pilot and all seven passengers, the pilot was engaged in his first flight in the particular make and model being flown, although he did have 15 hours in a virtually identical make and model of airplane. In an accident on August 9, 1979, resulting in three fatalities, the single pilot had 30 hours in the make and model. In an October 8, 1979, accident which killed all eight persons on the airplane, the single pilot had 28 hours in the make and model, which included 20 hours line operating experience and a flight check with the company check pilot. However, the check pilot did not cover emergency procedures on the flight check. The FAA withdrew the check pilot's authorization on account of this deficiency. Finally, on November 2, 1979, the pilot and 5 passengers were killed in a commuter air carrier accident. Although the pilot had a total of approximately 10,000 total hours, he had only 2 hours in the make and model used on the fatal flight.

These accidents and general operating experience show that extensive total time or multiengine time do not establish that a pilot in command can safely operate a particular make and model of aircraft. Accordingly, there is a compelling need to establish minimum operating experience requirements which must be met before a pilot may be designated to serve as pilot in command on a commuter air carrier passenger-carrying flight. Moreover, although the single pilot operations accidents which have occurred were in VFR conditions, they indicate pilot deficiencies which, have serious implications in operations under the greater demands imposed in IFR conditions where a single pilot operation is conducted with an autopilot in lieu of a second in command. If abnormal or emergency situations similar to those which occurred in the accidents discussed above were to occur under IFR conditions, the single pilot with a low level of experience in the make and model would be faced not only with handling the specific problem, but also with operating the aircraft under IFR conditions. Low levels of experience in the make and model of aircraft flown present an unacceptable safety risk in this latter type of situation also. The FAA recognizes that this amendment may have an economic impact on the affected certificate holders; however, the safety consideration, set forth above, requires its adoption.

The Amendment

These amendments will require two things. First, certain minimum levels of operating experience in the make and model of aircraft as a pilot in command under the supervision of a qualified check pilot must be acquired before a person may be designated to serve as a pilot in command in any commuter air carrier passenger carrying operation. The number of hours ranges from 10 for a relatively simple single-engine piston aircraft to 25 for a complex, high performance turbojet airplane. The operating experience requirement is

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similar in many respects to that required of pilots of large, certificated carriers in § 121.434. Thus, this change follows the mandate of the Airline Deregulation Act of 1978.

Second, with respect to the single pilot autopilot operation, before a person can serve as a pilot in command of a commuter air carrier passenger flight, that person must have logged not less than 100 hours in the make and model of aircraft to be flown and have met all other pertinent requirements of Part 135. This change would ensure that a pilot has aircraft familiarity and proficiency sufficient to adequately cope with situations such as those encountered in the single pilot accidents discussed above if those or similar situations occur under IFR conditions.

Persons designated prior to the effective date of this amendment as pilot in command on the make and model of aircraft to be flown are not subject to the operating experience requirement. The 100-hour requirement under § 135.105 applies to all pilots in command, including those designated as pilot in command prior to the effective date of this amendment. The 100 hours may be obtained in operations under VFR conditions or in operations governed by Part 91, or it may have been accumulated in operations under this part prior to the effective date of this amendment.

Need for Immediate Adoption

In view of the number and nature of recent commuter air carrier accidents, there is an urgent need for effecting these amendments as soon as possible. Accordingly, I find that notice and public procedure are impracticable and contrary to the public interest. However, interested persons are invited to submit such comments as they may desire regarding these amendments. Communications should identify the docket number and be submitted in duplicate to the address specified above.

All communications received on or before the date for comments specified above will be considered by the Administrator and these amendments may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this invitation to comment must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 20011." The postcard will be date/time stamped and returned to the commenter.

Adoption of the Amendment

Accordingly, Part 135 of the Federal Aviation Regulations (14 CFR Part 135) is amended effective March 1, 1980, as follows:

PART 135—AIR RAXI OPERATORS AND COMMERCIAL OPERATIONS

1. By adding a new § 135.244 to Part 135 of Subchapter G as follows:

§ 135.244 Operating experience.

(a) No certificate holder may use any person, nor may any person serve, as a pilot in command of an aircraft operated by a Commuter Air Carrier (as defined in § 298.2 of this title) in passenger-carrying operations, unless that person has completed, prior to designation as pilot in command, on that make and model aircraft and in that crewmember position, the following operating experience in each make and model of aircraft to be flown:

(1) Aircraft, single engine—10 hours.

(2) Aircraft multiengine, reciprocating engine-powered—15 hours.

(3) Aircraft multiengine, turbine engine-powered—20 hours.

(4) Airplane, turbojet-powered—25 hours.

(b) in acquiring the operating experience, each person must comply with the following:

(1) The operating experience must be acquired after satisfactory completion of the appropriate ground and flight training for the aircraft and crewmember position. Approved provisions for the operating experience must be included in the certificate holder's training program.

(2) The experience must be acquired in flight during operations under this part. However, in the case of an aircraft not previously used by the certificate holder in operations under this part, operating experience acquired in the aircraft during proving flights or ferry flights may be used to meet this requirement.

(3) Each person must acquire the operating experience while performing the duties of a pilot in command under the supervision of a qualified check pilot.

(4) The hours of operating experience may be reduced to not less than 50 percent of the hours required by this section by the substitution of one additional takeoff and landing for each hour of flight.

2. By amending § 135.105 by revising paragraph (a) to read as follows:

§ 135.105 Exception to second in command requirement; approval for use of autopilot system.

(a) Except as provided in §§ 135.99 and 135.111, unless two pilots are required by this chapter for operations under VFR, a person may operate an aircraft without a second in command, if it is equipped with an operative approved autopilot system and the use of that system is authorized by appropriate operations specifications. No certificate holder may use any person, nor may any person serve, as a pilot in command under this section of an aircraft operated by a Commuter Air Carrier (as defined in § 298.2 of this title) in passenger-carrying operations unless that person has at least 100 hours pilot in command flight time in the make and model of aircraft to be flown and has met all other applicable requirements of this part.

* * * * *

(Secs. 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. §§ 1354(a), 1421 and 1424); sec. 6(c) of the Department of Transportation Act (49 U.S.C. § 1655(c)).)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA has determined that the expected impact of the regulation is so minimal that it does not require an evaluation.

Issued in Washington, D.C., on January 30, 1980.

Langhorne Bond,

Administrator.

[FR Doc. 80-3374 Filed 1-31-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-68]

New Natural Gas and Certain Natural Gas Produced from the Outer Continental Shelf; Final Rule

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Rehearing denial.

SUMMARY: On November 29, 1979, the Federal Energy Regulatory Commission issued Order No. 42–A in Docket No. RM79–68 which, among other things, promulgated a new definition of "commercially producible" for purposes of section 102(d)(2)(B)(iii) of the Natural Gas Policy Act of 1978, Pub. L. 95–621 (NGPA) in § 271.204(c) of the Commission's regulations. A petition for rehearing was filed December 20, 1979, in which petitioners claimed error in § 271.204(c). In this order the Commission denies rehearing for reasons expressed in Order No. 42–A and clarifies that while the general rule concerning "commercially producible" is expressed in the subject regulation, the details of implementing that rule are left to the United States Geological Survey.

DATE: Issuance date: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Scott E. Koves, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357–8317.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, Matthew Holden, Jr., and George R. Hall.

Order Denying Rehearing of Order No. 42–A

Issued: January 28, 1980.

I. BACKGROUND.

On November 29, 1979 the Federal Energy Regulatory Commission (Commission) issued Order No. 42–A in Docket No. RM79–68. (44 FR 69642, December 4, 1979) [1] Among other things, Order No 42–A issued a final regulation in § 271.204(c) defining the term "commercially producible", as that term is employed in section 102(d)(2)(B)(iii) of the Natural Gas Policy Act of 1978 (NGPA), in terms of an out-of-pocket operating cost test. In Order No. 42–A, the Commission determined that the same economic test should be applied by the United States Geological Survey (USGS) to establish the "commercial producibility" of a reservoir as it applied to establish the capability of a reservoir to produce in "paying quantities." The Commission reasoned that both rely on the same tests described in OCS Order No. 4. Furthermore, both are used to establish the date of "discovery" of a reservoir for purposes of NGPA section 102(d). Section 102(d) provides that the new natural gas price can be applied to production from an "old OCS lease" as long as the reservoir from which the gas is produced was not "discovered" prior to July 27, 1976.

On December 28, 1979, Shell Oil Company filed a Petition for Rehearing of Order No. 42–A specifying two points of error with respect to § 271.204(c).

[1] Order Denying Motion for Reconsideration and Granting In Part and Denying In Part Petitions For Rehearing of Order No. 42. (Published on December 4, 1979 at 42 FR 69642)

Specifications of Error

a. Shell's first point of alleged error in Order No. 42–A is as follows:

The Commission erred in promulgating 18 CFR § 271.204(c) as a final rule by failing to define the NGPA § 102(d)(2)(B)(iii) term "commercially producible" to incorporate an economic test taking into account all costs which would have been required to be incurred after the date the relevant tests or evidence were obtained in order to produce and market the gas from the reservoir in question, including any necessary capital costs.

This specification of alleged error is simply a reiteration of an argument raised in a motion for reconsideration filed by Shell on October 11, 1978, on behalf of itself and other indicated producers.

On mimeo pages 20–21 we described the reasons for amending the § 271.204(c) definition of "commercially producible" to coincide with the definition of "capable of producing in paying quantities" in § 271.204(b). At mimeo pages 21–22, we specifically addressed and rejected the identical argument made here by Shell. For the same reasons, we now deny rehearing of this issue.[2]

b. Shell's second specification of alleged error is as follows:

The Commission erred in promulgating 18 CFR 271.204(c) as a final rule by failing to specify the span of time over which its "out-of-pocket cost" test is to be applied.

This specification of alleged error is grounded on the same basic arguments underlying the first allegation. In calling for a clarification in the rule concerning the "time span" over which the out-of-pocket operating cost test is to be determined, Shell merely reiterates its claim that the "commercially producible" economic test should consider all prospective costs to produce and market the subject reserves, including, for example, capital costs of platforms. Accordingly, for the same reasons expressed in Order No. 42–A at mimeo pages 19–22, we shall again reject this argument and deny rehearing.

However, we recognize that the out-of-pocket test employed in defining "capable of producing in paying quantities" and "commercially producible" is not precisely delineated. Sections 271. 204(b) and (c) are intended only to describe the general economic test historically applied by the U.S.G.S. Given the imprimatur of Congress in section 102(d)(2)(B), the specifics of this test are left to the discretion of the U.S.G.S.

The Commission finds no new facts or principles of law raised in Shell's petition which warrant a reversal of the positions taken in Order No. 42–A.

The Commission orders: The Petition of Shell Oil Company for Rehearing of Order No. 42–A filed on December 28, 1979 in Docket No. RM79–68 is denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-3430 Filed 1-31-80; 8:48 am]

BILLING CODE 6450-01-M

[2] Shell also asserts that the Commission should amend § 271.204(b), the "paying quantities" definition, to reflect this same full cost approach. We reject this for the same reasons that apply in the case of paragraph (c). We note that this argument seems to contradict the position Shell took at page 6 (Part III) of its Motion for Reconsideration of Order No. 42, filed October 10, 1979 in Docket No. RM79–68. There, at least with respect to NGPA section 102(d)(2)(B) (i) and (ii), Shell recognized that "Congress has clearly adopted long-standing standards implemented and administered by the United States Geological Survey." The full cost standard Shell advocates is not one of these standards.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 510 and 558

New Animal Drugs and New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations to reflect approval of a new animal drug application (NADA) filed for Farm Bureau Services, Inc., providing for safe and effective use of 4- and 10-gram-per-pound tylosin premixes for making complete swine feeds. The regulations are also amended to add Farm Bureau Services, Inc., to the list of approved NADA sponsors.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT:
Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Farm Bureau Services, Inc., P.O. Box 30960, Lansing, MI 48909, is the sponsor of NADA (118–780) providing for safe and effective use of premixes containing 4 and 10 grams of tylosin (as tylosin phosphate) per pound. The premixes are used for increased rate of weight gain and improved feed efficiency. Approval of this application relies upon safety and effectiveness data contained in Elanco Product Co.'s approved NADA 12–491. Use of the data in NADA 12–491 to

support this application has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy, issued in the Federal Register of December 23, 1977 (42 FR 64367), the approval of this NADA has been treated as would an approval of a Category II supplement and did not require reevaluation of the safety and effectiveness data in NADA 12-491.

Farm Services Bureau, Inc., has not previously been included in the regulations under the list of approved sponsors. The regulations are amended to reflect this approval and to include this firm in the list of sponsors.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 558 are amended as follows:

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Farm Bureau Services, Inc., P.O. Box 30960, Lansing, MI 48909	020584
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
020584	Farm Bureau Services, P.O. Box 30960, Lansing, MI 48909.
* * * * *	

2. In Part 558, § 558.625 is amended by adding new paragraph (b)(64) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(64) To 020584: 4 and 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

* * * * *

Effective date. This regulation is effective February 1, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 23, 1980.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 80-3098 Filed 1-31-80; 8:45 am]

BILLING CODE 4110-83-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 601

Statement of Procedural Rules; Miscellaneous Amendments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Amendment of Statement of Procedural Rules.

SUMMARY: This document contains miscellaneous amendments to the Statement of Procedural Rules (SPR). The SPR sets forth the procedural rules of the Internal Revenue Service for all taxes administered by the Service as well as certain rules that apply to the Bureau of Alcohol, Tobacco and Firearms. These amendments make certain changes in the Service's procedure, eliminate discriminatory language, and bring certain provisions of the SPR up to date.

DATE: The amendments are effective February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Benedetta A. Kissel of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, D.C. 20224, Attention: CC:LR:T (202-566-3458 not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the SPR (26 CFR Part 601). These amendments do not meet the Treasury Department criteria for a significant regulation set forth in paragraph 8 of the Treasury Directive for improving government regulations, published in the Federal Register for November 8, 1978 (43 FR 52120). The amendments are issued under the authority contained in 5 U.S.C. 301 and 552. .

These amendments fall into several categories. A description of the most significant amendments in each category follows:

Conforming Amendments

Several amendments reflect the delegation of authority within the Bureau of Alcohol, Tobacco and Firearms. For example, the change in § 601.327(a) from Director, Alcohol, Tobacco and Firearms Division to Assistant Director (Regulatory Enforcement), Bureau of Alcohol, Tobacco and Firearms reflects the delegation of authority in ATF Order 1100.63B (43 FR 55305). Other amendments relating to the Bureau change nomenclature, addresses, and cross-references.

Several amendments conform the SPR to the procedures set forth in the Internal Revenue Code of 1954 for the assessment, collection, refund, and credit of excise taxes imposed by Chapters 41 through 44 of the Code.

Several sections are changed to conform to the amendments made by section 1202 of the Tax Reform Act of 1976 (Pub. L. No. 94-455, 90 Stat. 1667), which revised section 6103 of the Code, relating to disclosure of returns and return information, and repealed section 6106 of the Code, relating to publicity of unemployment tax returns. Thus, § 601.702(d)(1) is revised to reflect the amendment to section 6103 deleting the provision that returns are open to inspection only upon order of the President and under rules and regulations approved by the President. Paragraphs (d) (2) and (4) of § 601.702, which relate to disclosure of information as to persons filing certain tax returns, are deleted to reflect the amendment of section 6103(f) and the repeal of section 6106.

Paragraphs (a)(1)(i), (a)(2), and (d)(3) of § 601.106, relating to Appeals functions, are amended to conform to Delegation Order 60 (Rev. 5) (1979-48 I.R.B. 20), Delegation Order No. 66 (Rev. 9) (44 FR 33509), and Rev. Proc. 79-59 (1979-48 I.R.B. 21). The amendments relate to limitations upon Appeals authority and to the processing of cases docketed in the United States Tax Court.

Section 601.203(a)(1) is amended to conform to Delegation Order 11 (Rev. 11) (44 FR 50128), which authorizes certain officials to accept or reject offers in compromise for specified categories of civil and criminal cases.

Amendments deleting out-of-date material

Sections 601.101(c) and 601.501(a) are amended by deleting references to the Economic Stabilization Program, which has been terminated.

Section 601.105(i) is amended by deleting reference to review by the National Office Examination Division of examined cases closed in the Office of International Operations. The National Office no longer performs that function.

Section 601.404, relating to miscellaneous excise taxes collected by sale of revenue stamps, is amended to reflect the repeal of some of these excise taxes.

Amendments clarifying the SPR

Section 601.105(k) is amended to provide further guidance with respect to the transfer of returns between districts for examination or the closing of a case. The amendment makes clear that the transfer of returns is not mandatory and that the effective administration of the tax laws will be considered in determining if returns will be transferred to another district.

Amendments reflecting changes in procedure

Section 601.106(a)(1)(ii), relating to Appeals procedures, is amended to reflect the Service's requirement that a written protest be submitted on all post-assessment penalty appeals.

Paragraph (b)(1) of § 601.502, relating to requirements for recognition to practice before the Revenue Service, is amended to reflect the requirement that taxpayer representatives present satisfactory identification before they appear on behalf of any taxpayer. Paragraph (b)(1)(iii) is amended to extend to enrolled agents the requirement of filing a written declaration of qualification and authorization.

Section 601.504(b)(1), relating to execution of a power of attorney or a tax information authorization, is amended to provide that a husband and wife can authorize separate representatives with respect to joint returns. A separate representative cannot, however, perform any act with respect to a joint return year that the spouse represented could not perform alone.

Section 601.506(b)(2), relating to delivery of refund checks in cases in litigation, is amended to provide a procedure for delivery of such checks in actions arising in the United States Tax Court. Under this procedure a check is delivered to the appropriate Internal Revenue Service District Counsel or, in certain cases, to the appropriate member of the National Office Trial Staff, for delivery to the taxpayer or to the counsel of record.

Amendments eliminating discriminatory language

Many sections of the SPR are amended to eliminate the exclusive use of masculine pronouns in referring to taxpayers, internal revenue agents, etc. For example, in § 601.103(c)(3) "he" is changed to "the taxpayer."

Miscellaneous amendments

Additional miscellaneous amendments are included, such as the correction of a clerical error, the change of a publication number, the addition of form numbers, and other amendments of a similar nature.

Drafting Information

The principal author of these amendments to the Statement of Procedural Rules is Benedetta A. Kissel of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service participated in developing the amendments, both on matters of substance and style.

Adoption of amendments to the Statement of Procedural Rules

Accordingly, 26 CFR Part 601 is amended as follows:

PART 601—STATEMENT OF PROCEDURAL RULES

§ 601.101 [Amended]

Paragraph 1. Section 601.101 is amended as follows:

1. Paragraph (b) is amended by deleting "Titles 26 and" from the eleventh sentence and inserting instead "Title".

2. Paragraph (c) is deleted.

3. Paragraph (d) is redesignated paragraph (c) and is amended by deleting "the terms 'Alcohol, Tobacco, and Firearms Division', 'assistant regional commissioner (alcohol, tobacco and firearms)', and 'chief special investigator (alcohol, tobacco and firearms)' shall be construed as meaning respectively 'Bureau of Alcohol, Tobacco and Firearms', 'regional director, Bureau of Alcohol, Tobacco and Firearms', and 'special agent-in-charge, Bureau of Alcohol, Tobacco and Firearms'." from the third sentence, by deleting "Also," and "used in Subpart C of this part," from the fourth sentence, by deleting "director" the first time it appears in the fourth and fifth sentences and inserting instead "regulatory administrator", by deleting "and their geographical compositions" from the last sentence, and by deleting "27 CFR 71.22(b)(3)(ii)" from the last sentence and inserting instead "Appendix A to Subpart C, 27 CFR Part 71".

§ 601.102 [Amended]

Par 2. Paragraph (b)(1)(iv) of § 601.102 is amended by deleting "chapter 42" and inserting instead "chapters 41 through 44".

§ 601.103 [Amended]

Par 3. Section 601.103 is amended as follows:

1. Paragraph (c)(2) is amended by deleting "gift, and excise" from the first sentence and inserting instead "and gift", by inserting "excise" between "and" and "taxes" in the first sentence, and by deleting "chapter 42" from the first sentence and inserting instead "chapters 41 through 44".

2. Paragraph (c)(3) is amended by deleting "He" from the fourth sentence and inserting instead "The taxpayer", and by deleting "he" from the seventh sentence and inserting instead "the taxpayer".

§ 601.104 [Amended]

Par. 4. Section 601.104 is amended as follows:

1. Paragraph (a)(1) is amended by deleting "he himself" from the first sentence and by inserting instead "the taxpayer", by deleting "him" from the third sentence and by inserting instead "the taxpayer", and by deleting "his" from the ninth sentence and inserting instead "the Secretary's".

2. Paragraph (a)(3) is amended by deleting "or" the second time it appears in the first sentence and inserting instead "and", by inserting "or her" between "his" and "estimated tax" in the first sentence, and by deleting "$40" from the first sentence and inserting instead "$100".

3. Paragraph (b) is amended by inserting "or her" between "his" and "return" in the sixth sentence, and by deleting "and paying the unpaid balance of tax due with the return" from the sixth sentence and inserting instead "accompanied by payment of the full amount of the estimated unpaid tax liability".

4. Paragraph (c)(1) is amended by deleting "regional" from the first

sentence and inserting instead "appropriate".

5. Paragraph (c)(2) is amended by inserting "chapters 41 through 44," between "estate," and "or" in the third sentence.

6. Paragraph (c)(4) is amended by deleting "regional" from the first and third sentences and inserting instead "appropriate".

§ 601.105 [Amended]

Par. 5. Section 601.105 is amended as follows:

1. Paragraph (b)(1) is amended by deleting "examining officers" wherever it appears and inserting instead "examiners" and by deleting "examining officer" wherever it appears and inserting instead "examiner".

2. Paragraph (b)(2)(ii) is amended by deleting "examining officer" wherever it appears and inserting instead "examiner", by deleting "his" wherever it appears and inserting instead "the", by deleting "with him" from the sixth sentence, and by deleting "he" from the seventh sentence and inserting instead "the taxpayer".

3. Paragraph (b)(3) is amended by deleting "examining officer" from the second sentence and inserting instead "examiner".

4. Paragraph (b)(4) is amended by deleting "examining officer" wherever it appears and inserting instead "examiner", by deleting "his" from the second sentence and inserting instead "the", by deleting "him" from the third sentence and inserting instead "the taxpayer", by deleting "against him and paid by him" from the eighth sentence and inserting instead "against, and paid by, the taxpayer", by deleting the last word of the eighth sentence and inserting instead "the taxpayer", and by deleting "his" from the ninth sentence and inserting instead "the taxpayer from".

5. Paragraph (b)(5)(i)(*c*) is amended by deleting "he" from the first sentence.

6. Paragraph (b)(5)(iii)(*b*) is amended by deleting "examining officer" from the second sentence and inserting instead "examiner".

7. Paragraph (b)(5)(iii)(*g*) is amended by deleting "he" wherever it appears in the first sentence and inserting instead "the taxpayer" and by deleting "his" from the first sentence and inserting instead "the taxpayer's".

8. Paragraph (b)(5)(iii)(*h*) is amended by deleting "he" the first place it appears and inserting instead "the taxpayer", by deleting "his" and inserting instead "the", and by deleting "he desires such a conference" and inserting instead "such a conference is desired".

9. Paragraph (b)(5)(iv) is amended by deleting "examining officer" wherever it appears and inserting instead "examiner".

10. Paragraph (b)(5)(v)(*e*) is amended by deleting "his" the first place it appears and inserting instead "a taxpayer's", by deleting "his" the second place it appears and inserting instead "the", by deleting "Income Tax" and inserting instead ", Corporation Tax", and by deleting "Miscellaneous and Special Provisions Tax" and inserting instead "Individual Tax".

11. Paragraph (b)(5)(viii)(*d*) is amended by inserting "or she" between "he" and "may".

12. Paragraph (d)(1) is amended by deleting "examining officer" from the first sentence and inserting instead "examiner", by deleting "examining officer's" from the fifth sentence and inserting instead "examiner's", by deleting "he" the first place it appears in the sixth sentence and inserting instead "the taxpayer", by inserting "or she" in the sixth sentence between "he" and "indicate", by deleting "his" from the sixth sentence, by deleting "to him" from the seventh sentence, and by inserting "or she" in the seventh sentence between "he" and "disagrees".

13. Paragraph (i) is amended by deleting the second sentence.

14. Paragraph (k) is revised to read as follows:

§ 601.105 Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.

* * * * *

(k) *Transfer of returns between districts.* When a request is received to transfer returns to another district for examination or the closing of a case, the district director having jurisdiction may transfer the case, together with pertinent records, to the district director of such other district. The Service will determine the time and place of the examination. In determining whether a transfer should be made, circumstances such as the following will be considered:

(1) Change of the taxpayer's domicile, either before or during examination.

(2) Discovery that taxpayer's books and records are kept in another district.

(3) Change of domicile of an executor or administrator to another district before or during examination.

(4) The effective administration of the tax laws.

Par. 6. Section 601.106 is amended as follows:

1. Paragraph (a)(1)(i) is amended by deleting the fifth sentence and inserting instead a new sentence, reading as set forth below.

2. Paragraph (a)(1)(ii) is amended by adding after the last sentence a new sentence reading as set forth below.

3. Paragraph (a)(1)(iii)(*c*) is redesignated (a)(1)(iii)(*d*), paragraph (a)(1)(iii)(*d*) is redesignated (a)(1)(iii)(*e*), and a new (a)(1)(iii)(*c*) is added to read as set forth below.

4. Paragraph (a)(2) is revised to read as set forth below.

5. Paragraph (a)(3) is amended by deleting "the Appellate Division" and inserting instead "Appeals".

6. Paragraph (a)(4) is amended by deleting "Appellate jurisdiction" and inserting instead "Appeals jurisdiction" and by deleting "Appellate Division" and inserting instead "Appeals official".

7. Paragraph (b) is amended by deleting "the *Appellate Division"* from the title and inserting instead *"Appeals"*, by deleting "Appellate" from the first sentence and inserting instead "Appeals", by inserting ", (c)(1) and (c)(2) of 601.105," in the first parenthetical of the first sentence between "§§ 601.103" and "and", by deleting "regional office of the Appellate Division" from the first sentence and inserting instead "Appeals organization", by deleting "Appellate Division of the region" from the fourth sentence and inserting instead "Appeals activity", by deleting "the Appellate Division" from the fifth sentence and inserting instead "Appeals", by deleting "Appellate Division" from the sixth sentence and inserting instead "Appeals", by deleting "his" from the seventh sentence and inserting instead "a", by deleting "the Appellate Division" from the seventh sentence and inserting instead "Appeals", and by deleting "the Appellate Division" from the ninth sentence and inserting instead "Appeals".

8. Paragraph (c) is amended by deleting *"the Appellate Division"* from the title and inserting instead *"Appeals"*, by deleting "the Appellate Division" from the first sentence and the first place it appears in the fifth sentence and inserting instead "Appeals", by deleting "he and the Appellate Division" from the fifth sentence and inserting instead "the Appeals", by inserting "and the district director" in the fifth sentence between "authority" and "deem", by deleting "Regional" from the last sentence and inserting instead "District", and by inserting "or she" in the last sentence between "he" and "so".

9. Paragraph (d) is amended by deleting *"the Appellate Division"* from the title and inserting instead *"Appeals"*.

10. Paragraph (d)(1) is amended by deleting "Appellate Division" from the first sentence and inserting instead "Appeals office" and by deleting "the Appellate Division" from the second sentence and inserting instead "Appeals".

11. Paragraph (d)(2)(i) is amended by deleting "the Appellate Division of the region" from the first sentence and inserting instead "Appeals" and by deleting "he" from the first sentence and inserting instead "the taxpayer".

12. Paragraph (d)(2)(ii) is amended by revising the first sentence to read as set forth below, by deleting "Appellate Division" from the second sentence and inserting instead "Appeals office", by deleting "the Appellate Division" from the fourth sentence and inserting instead "Appeals", by deleting "service center director or returned to the district director" from the fifth sentence and inserting instead "appropriate function", by deleting "such" from the fifth sentence, and by deleting from the fifth sentence "the Appellate Division as may be appropriate, such as the preparation of a notice of adjustment, or the collection of any additional tax in excise and employment tax cases or of the 100-percent penalty" and inserting instead "Appeals".

13. Paragraph (d)(2)(iii) is amended by deleting "chapter 42" from the first sentence and inserting instead "chapters 41 through 44,", by deleting "said" from the first sentence, and by inserting "(or portion thereof of divisible taxes)" in the first sentence between "tax" and "when".

14. Paragraph (d)(3)(i) is amended by deleting "the Appellate Division" from the first sentence and inserting instead "Appeals".

15. Paragraph (d)(3)(ii) is amended by deleting "the Appellate Division" wherever it appears and inserting instead "Appeals" and by deleting "regional" and inserting instead "appropriate district".

16. Paragraph (d)(3)(iii) is amended by deleting "Appellate Division" wherever it appears in the first sentence and inserting instead "Appeals office" and deleting "regional" from the first sentence and inserting instead "district".

17. Paragraphs (d)(3)(iii) (*a*) through (*f*) are revised to read as set forth below.

18. Paragraphs (d)(3)(iii) (*g*) and (*h*) are deleted.

19. Paragraphs (d)(3)(iii)(*i*) is amended by redesignating it (d)(3)(iii)(*g*) and by deleting the last two sentences.

20. Paragraph (e)(1) is amended by deleting "A Regional Appellate Division" from the first sentence and inserting instead "An Appeals office", by deleting "his" from the first sentence and inserting instead "the taxpayer's", and by deleting "Appellate" from the last sentence and inserting "Appeals".

21. Paragraph (e)(2) is amended by deleting "A Regional Appellate Division" from the first sentence and inserting instead "An Appeals office", by deleting "his" from the first sentence and inserting instead "the petitioner's", and by deleting "Appellate" from the second sentence and inserting instead "Appeals".

22. Paragraph (e)(3) is amended by inserting "or she" between "he" and "may", by deleting "Appellate Division of the region" and inserting instead "Appeals office", and by inserting "or her" between "his" and "personal".

23. Paragraph (f) is amended by deleting "the Appellate Division" from the first sentence and the first place it appears in the second sentence and inserting instead "Appeals".

24. Paragraph (f)(1) is amended by deleting "Appellate Division" from the second sentence and inserting instead "Appeals", and by inserting "or her" in the second sentence between "his" and "conclusions" and in the third sentence between "his" and "duty".

25. Paragraph (f)(2) is revised to read as set forth below.

26. Paragraph (f)(3) is amended by deleting "Appellate Division conferee" from the first sentence and inserting instead "Appeals officer", by deleting "the Appellate Division" from the first sentence and inserting instead "Appeals", and by deleting "Appellate Division" from the second sentence and inserting instead "Appeals office".

27. Paragraph (f)(4) is amended by deleting "Appellate Division" wherever it appears and inserting instead "Appeals" and by inserting "or her" in the second sentence between "his" and "office".

28. Paragraph (f)(5) is amended by inserting "unagreed" in the first sentence between "an" and "income", by deleting "the Appellate Division" from the third and fourth sentences and inserting instead "Appeals", by deleting "Appellate Division" the first place it appears in the last sentence and inserting instead "Appeals Division", by deleting "Appellate Divisions" from the last sentence and inserting instead "Appeals office" and by deleting "Appellate Division" the second place it appears in the last sentence and inserting instead "Appeals".

29. Paragraph (f)(6) is amended by deleting "the Appellate Division" wherever it appears and inserting instead "Appeals" and by inserting "or her" in the last sentence between "his" and "consideration".

30. Paragraph (f)(8) is revised to read as set forth below.

31. Paragraph (f)(9) is deleted.

32. Paragraph (f)(10) is redesignated (f)(9) and is amended by deleting "*Rule X*" from the heading and inserting instead "*Rule IX*".

33. Paragraph (g)(1) is revised to read as set forth below.

34. Paragraphs (g)(2) and (g)(3) are amended by deleting "the Appellate Division" and inserting instead "Appeals".

35. Paragraph (h)(1) is amended by deleting "the Appellate Division" wherever it appears and inserting instead "Appeals" and by deleting "Assistant Regional Commissioner (Appellate)" from the last sentence and inserting instead "Regional Director of Appeals".

36. Paragraph (h)(2) is amended by deleting "the Appellate Division" from the first sentence and inserting instead "Appeals", by deleting "Assistant Regional Commissioner (Appellate)" from the first sentence and inserting instead "Regional Director of Appeals", by deleting "Appellate Division" from the second sentence and inserting instead "Appeals", and by deleting "Appellate" from the last sentence and inserting instead "Appeals".

37. Paragraph (h)(3) is amended by deleting "the Appellate Division" wherever it appears and inserting instead "Appeals" and by deleting "Assistant Regional Commissioner (Appellate)" from the last sentence and inserting instead "Regional Director of Appeals".

38. Paragraph (h)(4) is amended by deleting "the Appellate Division" wherever it appears and inserting instead "Appeals".

§ 601.106 Appeals functions.

(a) *General.* (1)(i) * * * After the filing of a petition in the Tax Court the Appeals office will have exclusive settlement jurisdiction, subject to the provisions of subparagraph (2) of this paragraph, for a period of 4 months (but no later than the receipt of the trial calendar in regular cases and no later than 15 days before the calendar call in S cases), over cases docketed in the Tax Court. * * *

(ii) * * * A written protest is required on all postassessment penalty appeals.

(iii) * * *

(*c*) Penalties that are subject to an administratively granted preassessment appeal procedure such as that provided in § 1.6694–2(a)(1) because taxpayers are able to protest such penalties prior to assessment;

* * * * *

(2) The authority described in subparagraph (1) of this paragraph does not include the authority to:

(i) Negotiate or make a settlement in any case docketed in the Tax Court if the notice of deficiency, liability or other determination was issued by Appeals officials;

(ii) Negotiate or make a settlement in any docketed case if the notice of deficiency, liability or other determination was issued after appeals consideration of all petitioned issues by the Employee Plans/Exempt Organizations function;

(iii) Negotiate or make a settlement in any docketed case if the notice of deficiency, liability or final adverse determination letter was issued by a District Director and is based upon a National Office ruling or National Office technical advice in that case involving a qualification of an employee plan or tax exemption and/or foundation status of an organization (but only to the extent the case involves such issue);

(iv) Negotiate or make a settlement if the case was docketed under Code sections 6110, 7477, or 7478;

(v) Eliminate the ad valorem fraud penalty in any case in which the penalty was determined by the district office or service center office in connection with a tax year or period, or which is related to or affects such year or period, for which criminal prosecution against the taxpayer (or related taxpayer involving the same transaction) has been recommended to the Department of Justice for willful attempt to evade or defeat tax, or for willful failure to file a return, except upon the recommendation or concurrence of Counsel; or

(vi) Act in any case in which a recommendation for criminal prosecution is pending, except with the concurrence of Counsel.

* * * * *

(d) *Disposition and settlement of cases before Appeals.* * * *

(2) *Cases not docketed in the Tax Court.* * * * (ii) If after consideration of the case by Appeals it is determined that there is a deficiency in income, profits, estate, gift tax, or chapter 41, 42, 43, or 44 tax liability to which the taxpayer does not agree, a statutory notice of deficiency will be prepared and issued by Appeals. * * *

* * * * *

(3) *Cases docketed in the Tax Court.* * * *

(iii) * * *

(*a*) The Appeals office will have exclusive settlement jurisdiction for a period of 4 months over certain cases docketed in the Tax Court. The 4-month period will commence at the time Appeals receives the case from Counsel, which will be after the case is at issue. Appeals will arrange settlement conferences in such cases within 45 days of receipt of the case. In the event of a settlement, Appeals will prepare and forward to Counsel the necessary computations and any stipulation decisions secured. Counsel will prepare any needed settlement documents for execution by the parties and filing with the Tax Court. Appeals will also have authority to settle less than all the issues in the case and to refer the unsettled issues to Counsel for disposition. In the event of a partial settlement, Appeals will inform Counsel of the agreement of the petitioner(s) and Appeals may secure and forward to Counsel a stipulation covering the agreed issues. Counsel will, if necessary, prepare documents reflecting settlement of the agreed issues for execution by the parties and filing with the Tax Court at the appropriate time.

(*b*) At the end of the 4-month period, or before that time if Appeals determines the case is not susceptible of settlement, the case will be returned to Counsel. Thereafter, Counsel will have exclusive authority to dispose of the case. If, at the end of the 4-month period, there is substantial likelihood that a settlement of the entire case can be effected in a reasonable period of time, Counsel may extend Appeals settlement jurisdiction for a period not to exceed 60 days, but not beyond the date of the receipt of a trial calendar upon which the case appears. Extensions beyond the 60-day period or after the event indicated will be granted only with the personal approval of regional counsel and will be made only in those cases in which the probability of settlement of the case in its entirety by Appeals clearly outweighs the need to commence trial preparation.

(*c*) During the period of Appeals jurisdiction, Appeals will make available such files and information as may be necessary for Counsel to take any action required by the Court or which is in the best interests of the Government. When a case is referred by Counsel to Appeals, Counsel may indicate areas of needed factual development or areas of possible technical uncertainties. In referring a case to Counsel, Appeals will furnish its summary of the facts and the pertinent legal authorities.

(*d*) The Appeals office may specify that proposed Counsel settlements be referred back to Appeals for its views. Appeals may protest the proposed Counsel settlements. If Counsel disagrees with Appeals, the Regional Counsel will determine the disposition of the cases.

(*e*) If an offer is received at or about the time of trial in a case designated by the Appeals office for settlement consultation, Counsel will endeavor to have the case placed on a motions calendar to permit consultation with and review by Appeals in accordance with the foregoing procedures.

(*f*) For issues in docketed and nondocketed cases pending with Appeals which are related to issues in docketed cases over which Counsel has jurisdiction, no settlement offer will be accepted by either Appeals or Counsel unless both agree that the offer is acceptable. The protest procedure will be available to Appeals and regional counsel will have authority to resolve the issue with respect to both the Appeals and Counsel cases. If settlement of the docketed case requires approval by regional counsel or Chief Counsel, the final decision with respect to the issues under the jurisdiction of both Appeals and Counsel will be made by regional counsel or Chief Counsel. See Rev. Proc. 79–59.

* * * * *

(f) *Conference and practice requirements.* * * *

(2) *Rule II.* Appeals will ordinarily give serious consideration to an offer to settle a tax controversy on a basis which fairly reflects the relative merits of the opposing views in light of the hazards which would exist if the case were litigated. However, no settlement will be made based upon nuisance value of the case to either party. If the taxpayer makes an unacceptable proposal of settlement under circumstances indicating a good faith attempt to reach an agreed disposition of the case on a basis fair both to the Government and the taxpayer, the Appeals official generally should give an evaluation of the case in such a manner as to enable the taxpayer to ascertain the kind of settlement that would be recommended for acceptance. Appeals may defer action on or decline to settle some cases or issues (for example, issues on which action has been suspended nationwide) in order to achieve greater uniformity and enhance overall voluntary compliance with the tax laws.

* * * * *

(8) *Rule VIII.* In cases not docketed in the United States Tax Court on which a conference is being conducted by the Appeals office, the district counsel may be requested to attend and to give legal advice in the more difficult cases, or on matters of legal or litigating policy.

* * * * *

(g) *Limitation on the jurisdiction and function of Appeals*—(1) *Overpayment of more than $200,000.* If Appeals determines that there is an overpayment of income, war profits, excess profits, estate, or gift tax, or any tax imposed by chapters 41 through 44, including penalties and interest, in excess of $200,000, such determination will be considered by the Joint Committee on Taxation. See § 601.108.

* * * * *

§ 601.108 [Amended]

Par. 7. Section 601.108 is amended as follows:

1. Paragraph (a) is amended by deleting "imposes with respect to private foundations or pension plans under chapter 42 or 43" from the first sentence and inserting instead "imposed by chapters 41 through 44".

2. Paragraph (b) is amended by deleting "the Appellate Division" from the first sentence and inserting instead "Appeals", and by revising the last sentence to read as set forth below.

§ 601.108 Review of overpayments exceeding $200,000.

* * * * *

(b) *Reports to Joint Committee.* * * * In cases in which a protest has been made, the report to the Joint Committee is prepared by an Appeals officer; in cases in which a petition is docketed, either an Appeals officer or a Counsel attorney prepares the report, depending on the circumstances.

§ 601.109 [Amended]

Par. 8. Section 601.109 is amended as follows:

1. Paragraph (a)(1) is amended by deleting "agricultural composition," from the sixth sentence, by deleting "sections 75," from the sixth sentence and inserting instead "section", and by deleting "section 75 or" from the seventh sentence".

2. Paragraph (d) is amended by deleting "75 (1)," from the third sentence and by inserting "or abandoned" in the last sentence between "exempt" and "property".

Par. 9. Section 601.201 is amended as follows:

1. Paragraph (a)(7) is amended by inserting after the fifth sentence a new reference to read as set forth below.

2. Paragraph (e)(2) is amended by inserting after the parenthetical reading "(Revenue Procedure 73–17 sets forth the information to be included in the request for a ruling under section 332, 334 (b)(1), or 334 (b)(2).)" a new reference, reading as set forth below.

3. Paragraph (o)(10)(iv) is amended by making the sentence beginning with "The steps described" flush material and revising it to read as set forth below.

4. Paragraph (o)(10)(v) is revised to read as set forth below.

7. A new paragraph (u) is added to read as set forth below.

§ 601.201 Rulings and determination letters.

(a) *General practice and definitions.* * * *

(7) * * * See, for example, Rev. Proc. 78–15, 1978–2 C.B. 488, and Rev. Proc. 78–16, 1978–2 C.B. 489. * * *

* * * * *

(e) *Instructions to taxpayers.* * * *

(2) * * * See Rev. Proc. 77–30, 1977–2 C.B. 539, Rev. Proc. 78–18, 1978–2 C.B. 491, relating to rules for the issuance of an advance ruling that a proposed sale of employer stock to a related qualified defined contribution plan of deferred compensation will be a sale of the stock rather than a distribution of property. * * *

* * * * *

(o) *Employees' trusts or plans.* * * *

(10) *Exhaustion of administrative remedies.* * * *

(iv) * * * The step described in paragraph (o)(10)(i)(*c*) of this section will not be considered completed until the Internal Revenue Service has had a reasonable time to act upon the appeal. * * *

(v) The administrative remedy described in paragraph (o)(10)(i)(*c*) of this section will not be available to an applicant with respect to any issue on which technical advice from the National Office has been obtained.

* * * * * *

(u) *Conditions for issuing rulings involving bonuses and advanced royalties of lessors under § 631 (c) of IRC of 1954.*

(1) *In general.* Rev. Proc. 77–11, 1977–1 C.B. 568, provides that the tax liability of a lessor who received a bonus or an advance royalty is required to be recomputed for the taxable year or years in which such payment or payments were received if the right to mine coal or iron ore under the lease expires, terminates, or is abandoned before (with respect to bonuses) any coal or iron ore has been mined; or (with respect to advance royalties) the coal or iron ore that has been paid for in advance is mined. In such recomputation, the lessor is required to treat the bonus payment or payments or any portion of the advance royalty payment or payments attributable to unmined coal or iron ore, as ordinary income and not as received from the sale of coal or iron ore under section 631 (c) of the Code.

(2) *Condition for issuing rulings.* Prior to issuing a ruling to lessors who request a ruling that they may treat bonuses or advance royalties received under a lease for coal or iron ore as received from a sale of coal or iron under section 631 (c) of the Code, the Internal Revenue Service will require that the lessor enter a closing agreement in which the lessor agrees that—

(i) If the lease under which the lessor received a bonus or an advance royalty expires, terminates, or is abandoned before (with respect to a bonus) any coal or iron ore has been mined or (with respect to an advance royalty) the coal or iron ore that has been paid for in advance is mined, the tax liability of the lessor will be recomputed for the taxable year or years of receipt of (A) the bonus by treating the bonus payment or payments as ordinary income or (B) the advance royalty by treating any portion or the advance royalty payment or payments attributable to unmined coal or iron ore as ordinary income;

(ii) If the recomputation described in paragraph (u)(2)(i) of this section is required, the lessor will pay the additional amount, if any, of all federal income tax finally determined as due and payable by the lessor for the taxable year or years of the receipt of the bonus or advance royalty; and

(iii) If any of the described events has occurred, the lessor will notify the appropriate district director of such event in writing within 90 days of the close of the taxable year in which the lease expires, terminates, or is abandoned.

§ 601.203 [Amended]

Par. 10. Section 601.203 is amended as follows:

1. Paragraph (a)(1) is amended by deleting the second and third sentences and inserting instead four sentences to read as set forth below and by deleting "Alcohol, Tobacco and Firearms Division" from the next-to-the-last sentence and inserting instead "Bureau of Alcohol, Tobacco and Firearms".

3. Paragraph (b) is amended by deleting "(Rev. 2–69)" from the first sentence.

4. Paragraph (c)(1) is amended by inserting "or she" in the fourth sentence between "he" and "will".

5. Paragraph (c)(1)(iii) is amended by deleting "(including in the case of narcotics, smoking opium, and marihuana taxes only those specific penalties which involve delinquency in registration or delinquency in payment)".

6. Paragraph (c)(2)(i)(*c*) is amended by deleting "(without regard to the class of tax involved)" and inserting instead "; in

joint liability cases, where either taxpayer is deceased".

7. Paragraph (c)(2)(iv) is amended by inserting "or her" in the last sentence between "his" and "recommendation" and by deleting "his" the second place it appears in the last sentence and inserting instead "the".

8. Paragraph (c)(3) is amended by deleting "Appellate Division" from the second sentence and inserting instead "Appeals office".

§ 601.202 Offers in compromise.

(a) *General.* (1) * * * Certain functions of the Commissioner with respect to compromise of civil cases involving liability of $100,000 or more, based solely on doubt as to liability, have been delegated to regional commissioners and, for cases arising in the Office of International Operations, to the Assistant Commissioner (Compliance). The authority concerning liability of $100,000 or more based on doubt as to collectibility or doubt as to both collectibility and liability has been delegated to the Director, Collection Division and regional commissioners. The authority with respect to compromise of civil cases involving liability under $100,000, and of certain specific penalties has been delegated to district directors, assistant district directors, the Director of International Operations, the Assistant Director of International Operations, regional directors of Appeals, and chiefs and associate chiefs, Appeals offices. The authority concerning offers in compromise of penalties based solely on doubt as to liability, if the liability is less than $100,000, has also been delegated to service center directors and assistant service center directors. * * *

* * * * *

§ 601.301 [Amended]

Par. 11. Section 601.301 is amended as follows:

1. Paragraph (c) is amended by revising the fifth sentence to read as set forth below and by deleting "this chapter" wherever it appears and inserting instead "Title 27 CFR".

2. Paragraph (c)(7) is further amended by inserting "Bureau of" in the last sentence between "the" and "Alcohol" and by deleting from the last sentence "Division".

3. Paragraph (c)(18) is further amended by deleting "internal revenue" from the last sentence and inserting instead "ATF".

4. Paragraph (c)(21) is further amended by deleting "198" and inserting instead "18".

§ 601.301 Imposition of taxes, qualification requirements, and regulations.

* * * * * *

(c) *Regulations.* * * * ATF publication 1322.1, which contains a listing of alcohol, tobacco and firearms public-use forms, may be obtained from the ATF Distribution Center, 3800 South Four Mile Run Drive, Arlington, Va. 22206. * * *

§ 601.304 [Amended]

Par. 12. Section 601.304 is amended as follows:

1. All paragraphs of this section are amended by deleting "this chapter" wherever it appears and inserting instead "Title 27 CFR".

2. Paragraph (a) is further amended by deleting "director" from the last sentence and inserting instead "regulatory administrator".

§ 601.306 [Amended]

Par. 13. Section 601.306 is amended by deleting "Alcohol, Tobacco, and Firearms Division" from the first and second sentences and inserting instead "Bureau of Alcohol, Tobacco and Firearms", by deleting "Internal Revenue Service," from the second sentence, and by deleting "20224" from the second sentence and inserting instead "20226".

§ 601.308 [Amended]

Par. 14. Section 601.308 is amended by inserting "Bureau of" in the first sentence between "Director," and "Alcohol," and by deleting "Division" from the first sentence.

§ 601.309 [Amended]

Par. 15. Section 601.309 is amended by deleting "before the Service,", by inserting "Bureau of" between "Director," and "Alcohol,", and by deleting "Division".

§ 601.311 [Amended]

Par. 16. Section 601.311 is amended by deleting "this chapter" wherever it appears and inserting instead "Title 27 CFR".

§ 601.312 [Amended]

Par. 17. Section 601.312 is amended by deleting "Internal Revenue Service" wherever it appears in paragraphs (a) and (b) and inserting instead "Bureau of Alcohol, Tobaccco and Firearms".

§ 601.315 [Amended]

Par. 18. Section 601.315 is amended by deleting "assistant regional commissioner (alcohol, tobacco, and firearms)" from the first sentence of paragraph (i) and inserting instead "regional regulatory administrator".

§ 601.318 [Amended]

Par. 19. Section 601.318 is amended by deleting "assistant regional commissioners (alcohol, tobacco, and firearms)" from the second sentence and inserting instead "regional regulatory administrators in the Bureau of Alcohol, Tobacco and Firearms", by deleting "IRS Publication No. 480" from the third sentence and inserting instead "ATF Publication 1322.1", by deleting "purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402" from the third sentence and inserting instead "obtained from the ATF Distribution Center, 3800 South Four Mile Run Dr., Arlington, Va. 22206", and by deleting "Internal Revenue Service" from the fourth sentence and inserting instead "Bureau of Alcohol, Tobacco and Firearms".

§§ 601.320–601.321 [Amended]

Par. 20. Sections 601.320 and 601.321 are amended by deleting "this chapter" wherever it appears and inserting instead "Title 27 CFR".

§ 601.321a [Amended]

Par. 21. Section 601.321a is amended by deleting "180" wherever it appears and inserting instead "47" and by deleting "this chapter" wherever it appears and inserting instead "Title 27 CFR".

§ 601.321b [Amended]

§ 601.324 [Amended]

Par. 22. Sections 601.321b and 601.324 are amended by deleting "this chapter" wherever it appears and inserting instead "Title 27 CFR".

§ 601.326 [Amended]

Par. 23. Section 601.326 is amended by deleting "172" from the first sentence and inserting instead "72" and by deleting "this chapter" from the first sentence and inserting instead "Title 27 CFR".

§ 601.327 [Amended]

Par. 24. Section 601.327 is amended as follows:

1. Paragraph (a) is amended by deleting "internal revenue" the second place it appears in the first sentence and inserting instead "ATF", by deleting ";" between "taxes" and "(2)" in the third sentence and inserting instead "and", by deleting from the third sentence "; and (3) liabilities arising under chapter 52 of the Code (cigars, cigarettes, and cigarette papers and tubes)", by deleting "Director, Alcohol, Tobacco and Firearms Division" from the fourth and ninth sentences and inserting instead "Assistant Director (Regulatory Enforcement), Bureau of Alcohol, Tobacco and Firearms", by inserting ", 52," in the fourth sentence between "51" and "and", by deleting "Commissioner" from the fifth sentence and inserting instead "Director, Bureau of Alcohol, Tobacco and Firearms,", by deleting "Internal Revenue Service" from the sixth sentence and inserting instead "Bureau of Alcohol, Tobacco and Firearms", and by deleting "assistant regional commissioner" from the ninth sentence and inserting instead "regional regulatory administrator".

2. Paragraph (b) is amended by deleting "Director, Alcohol, Tobacco, and Firearms Division" from the second and fourth sentences and inserting instead "Assistant Director (Regulatory Enforcement) Bureau of Alcohol, Tobacco and Firearms", by deleting "internal revenue" from the third sentence and inserting instead "ATF", and by deleting "assistant regional commissioner" from the fourth sentence and inserting instead "regional regulatory administrator".

3. Paragraph (c) is amended by deleting "special agent in charge (alcohol, tobacco and firearms)" from the first sentence and inserting instead "regional administrative officer, Bureau of Alcohol, Tobacco and Firearms,", by deleting "Internal Revenue Service, including liabilities to forfeiture under the internal revenue laws pertaining to wagering" from the first sentence and inserting instead "Bureau of Alcohol, Tobacco and Firearms", by deleting "chief special investigator (alcohol, tobacco, and firearms)" from the second sentence and inserting instead "regional administrative officer, Bureau of Alcohol, Tobacco and Firearms" and by deleting the third sentence.

§ 601.401 [Amended]

Par. 25. Section 601.401 is amended as follows:

1. Paragraph (a)(3) is amended by deleting "he may at his election" from the tenth sentence and inserting instead "the employer may elect to", by deleting "he" from the last sentence and inserting instead "the employee", and by inserting "or her" in the last sentence between "his" and "income".

2. Paragraph (a)(5) is amended by inserting *"and trust companies"* in the heading between *"banks"* and *"in"*.

3. Paragraph (a)(5)(i) is amended by deleting "his" from the last sentence and inserting instead "the employer's".

4. Paragraph (a)(5)(iv) is amended by inserting "or trust company" in each sentence after the words "authorized commercial bank".

5. Paragraph (a)(5)(v) is amended by inserting "or trust company" in the first sentence between "bank" and "authorized".

6. Paragraph (a)(6) is amended by deleting "he" from the first sentence and inserting instead "the employer".

7. Paragraph (b)(1) is amended by deleting "has in his employ" from the last sentence and inserting instead "employs" and by deleting "his" the last place it appears in the last sentence and inserting instead "the employer's".

8. Paragraph (c)(1) is amended by deleting "his" from the second and third sentences and inserting instead "the".

9. Paragraph (d)(1) is amended by deleting the footnote.

10. Paragraph (d)(3) is amended by deleting "he" from the first sentence and inserting instead "the employee".

§ 601.402 [Amended]

Par. 26. Section 601.402 is amended as follows:

1. Paragraph (c)(2) is amended by deleting "him" from the first sentence and inserting instead "the taxpayer".

2. Paragraph (c)(3) is amended by deleting "his" from the fifth sentence and inserting instead "the taxpayer's", by deleting "his" from the seventh sentence and inserting instead "the purchaser's", and by deleting "he" from the seventh sentence and inserting instead "such purchaser".

3. Paragraph (d)(1)(ii) is amended by deleting "his" from the first sentence and inserting instead "the person's".

4. Paragraph (e)(1) is amended by deleting "his" from the fifth and sixth sentences and inserting instead "the".

5. Paragraph (e)(3) is amended by deleting "he" wherever it appears in the first sentence and inserting instead "the importer" and by deleting "his" from the first sentence. .

§ 601.403 [Amended]

Par. 28. Section 601.404 is amended as follows:

Par. 27. Section 601.403 is amended by deleting "he is not required to file a return with respect to such taxes" from paragraph (d) and by inserting instead "a return is not required to be filed with respect to such taxes".

§ 601.404 [Amended]

1. Paragraph (a) is revised to read as set forth below.

2. Paragraphs (b) and (c) are deleted.

3. Paragraph (d) is redesignated paragraph (b).

4. Paragraph (e) is amended by redesignating it paragraph (c) and by deleting the first sentence.

5. Paragraph (f)(1) is deleted.

6. Paragraph (f)(2) is amended by deleting the first two sentences.

7. Paragraph (f)(3) is amended by deleting the first sentence and by deleting "Commodity and occupational" from the second sentence and inserting instead "Occupational".

8. Paragraph (f)(4) is amended by deleting the second sentence.

9. Paragraph (f)(5) is amended by deleting "miscellaneous" from the first sentence and by deleting "revenue" from the first sentence and inserting instead "occupational tax".

10. Paragraph (f) is further amended by redesignating it paragraph (d) and by redesignating subparagraphs (2) as (1), (3) as (2), (4) as (3), and (5) as (4).

11. Paragraph (g) is amended by redesignating it paragraph (e).

12. Paragraphs (h), (i) and (j) are deleted.

13. Paragraph (k) is amended by redesignating it paragraph (f), by deleting *"special or"* from the heading, and by deleting "form 11 (relating to adulterated and process or renovated butter and filled cheese)," from the fourth sentence.

§ 601.404 Miscellaneous excise taxes collected by sale of revenue stamps.

(a) *General.* Excise taxes collected by sale of revenue stamps apply to wagering and to gaming devices. A brief description of these taxes is set forth in paragraph (b) of this section.

* * * * * *

§ 601.501 [Amended]

Par. 29. Section 601.501 is amended as follows:

1. Paragraph (a) is amended by deleting ", except economic stabilization matters" from the first sentence.

2. Paragraph (b)(3) is amended by deleting "his" from the first sentence and inserting instead "the taxpayer's".

§ 601.502 [Amended]

Par. 30 Section 601.502 is amended as follows:

1. Paragraph (a) is amended by deleting "his" wherever it appears and inserting instead "the taxpayer's".

2. Paragraph (b)(1) is amended by inserting "presents satisfactory identification and" in the first sentence between "person" and "is" and by inserting "or she" in the second sentence between "he" and "meets".

3. Paragraphs (b)(1)(i) and (b)(1)(ii) are amended by inserting "or she" between "he" and "is" and between "he" and "acts".

4. Paragraph (b)(1)(iii) is revised to read as set forth below.

5. Paragraph (b)(1) is amended by deleting "his" from the last sentence and inserting instead "the".

6. Paragraph (b)(3) is amended by inserting "or her" in the last sentence between the words "his" and "employer" the first time they appear and by deleting "his" the second time it appears in the last sentence and inserting instead "the".

7. Paragraph (c)(1)(i) is amended by deleting "his" from the second sentence and inserting instead "the taxpayer's".

8. Paragraph (c)(1) is amended by deleting "him" from the last sentence and inserting instead "the taxpayer".

9. Paragraph (c)(2)(i) is amended by deleting "examining officer's" from the third sentence and inserting instead "examiner's", by deleting "his" from the third sentence and inserting instead "the taxpayer's", and by deleting the fourth sentence.

10. Paragraph (c)(2)(ii) is amended by deleting "he" and inserting instead "the representative".

11. Paragraph (c)(3)(i) is amended by deleting "his" from the second sentence and inserting instead "the taxpayer's".

12. Paragraph (c)(3)(ii) is amended by deleting "that he" and inserting instead "that he or she".

13. Paragraph (c)(3)(iii) is amended by inserting "or her" between "his" and "authority" in the second sentence.

14. Paragraph (c)(3)(iv) is deleted.

15. Paragraph (c)(5) is amended by inserting "or her" between "his" and "authority".

§ 601.502 Requirements for conference-recognition to practice and, in certain cases, power of attorney or tax information authorization.

* * * * *

(b) *Requirements to be met by taxpayer's representative in order to be recognized.*

(1) *Explanation of recognition to practice.* * * *

(iii) Any person currently enrolled as an agent pursuant to the requirements of Circular No. 230, and who is not currently under suspension or disbarment from practice before the Revenue Service, and who files with the Revenue Service a written declaration that he or she is so currently qualified and is authorized to represent the particular party on whose behalf he or she acts (hereinafter referred to in this subpart as an enrolled agent); and

* * * * *

§ 601.503 [Amended]

Par. 31. Section 601.503 is amended as follows:

1. Paragraph (a) is amended by deleting "present himself" from the first sentence and inserting instead "appears", by inserting "or she" in the first sentence between "he" and "represents", by inserting "or she" in the first sentence between "he" and "acts", by deleting "or a" from the third sentence and inserting instead, "a", by inserting ", or an enrolled agent" in the third sentence between "accountant" and ", the", by deleting "and (ii)" from the third sentence and inserting instead ", (ii), and (iii)", and by deleting the last sentence.

2. Paragraph (b) is amended by inserting "(Form 2848 and Form 2848–D)" in the next-to-the-last sentence between "forms" and "are".

3. Paragraph (c) is amended by deleting "or certified public accountant" from the second sentence and inserting instead ", certified public accountant, or enrolled agent", by deleting "or (ii)" from the second sentence and inserting instead ", (ii), or (iii)", and by deleting the last sentence.

§ 601.504 [Amended]

Par. 32. Section 601.504 is amended as follows:

1. Paragraph (a) is amended by deleting "his" from the third and fourth sentences and inserting instead "the taxpayer's" and by inserting "(Forms 2848 and 2848–D)" in the next-to-the-last sentence between "forms" and "are".

2. Paragraph (b)(1)(ii) is revised to read as set forth below.

3. Paragraph (b)(1)(iv) is amended by inserting "or she" between "he" and "has".

4. Paragraph (b)(2)(ii) is amended by inserting "or her" in the third and fourth sentences between "his" and "authority".

5. Paragraph (b)(2)(iii) is amended by inserting "or her" in the second sentence between "his" and "authority".

6. Paragraph (b)(2)(v) is amended by inserting "or her" in the last sentence between "his" and "appointment".

7. Paragraph (d)(2) is amended by inserting "or she"; between "he" and "is".

8. Paragraph (e) is amended by inserting "or xerographic" in the first sentence between "photographic" and "processes" and by inserting "or she" in the last sentence between "he" and "has".

§ 601.504 Requirement for execution, attestation, acknowledgement or witnessing, and certification of copies of power of attorney and tax information authorization.

* * * * *

(b) *Execution of a power of attorney or a tax information authorization*—(1) *Ordinary cases.* * * *

(ii) *Husband and wife.* In the case of any taxable year for which a joint return was made by husband and wife, by both husband and wife if both are to be represented by the same representative, except that either spouse may sign for the other if such signature is duly authorized in writing by the other spouse. In the case of any taxable year for which a joint return was made by husband and wife, by either the husband or the wife if both are not represented by the same representative; however, the representative cannot perform any act with respect to a joint return year that the spouse represented cannot perform alone.

§ 601.505 [Amended]

Par. 33. Section 601.505 is amended as follows:

1. Paragraph (b) is amended by revising the last sentence to read as set forth below.

2. Paragraph (c)(2)(iv) is amended by deleting "to act for him" from the first sentence, and also by deleting "he" from the second sentence and inserting instead "the taxpayer".

§ 601.505 Requirements for changing representation.

* * * * *

(b) *Cases where taxpayer may be contacted directly.* * * * Moreover, if the district director deems it advisable, he or she may refer the matter to the Director of Practice for possible disciplinary proceedings under section 10.23 of Department Circular No. 230.

§ 601.506 [Amended]

Par. 34. Section 601.506 is amended as follows:

1. Paragraph (b)(1) is amended by inserting "or her" between "him" and "to" in the second sentence and by deleting the clause beginning with ": *Provided*".

2. Paragraph (b)(2) is amended by inserting at the end of the paragraph a sentence to read as set forth below.

§ 601.506 Notices to be given to recognized representatives; delivery of refund checks to recognized representatives.

* * * * *

(b) *Delivery of checks in payment of refunds.* * * *

(2) *Cases in litigation.* * * * In an action arising in the U.S. Tax Court, the check will be sent to the appropriate Internal Revenue Service District Counsel, or member of the National Office Trial Staff where a case is tried in the National Office, for delivery to the taxpayer or the counsel of record in the court proceeding.

§ 601.507 [Amended]

Par. 35. Section 601.507 is amended by deleting "or not he" wherever it appears in the third sentence and inserting instead "the representative" and by inserting "or her" in the third and fourth sentences between "his" and "own".

§ 601.509 [Amended]

Par. 36. Section 601.509 is amended by deleting "the Appellate Division" from the last sentence and inserting instead "Appeals".

§ 601.521 [Amended]

§ 601.522 [Amended]

§ 601.524 [Amended]

§ 601.526 [Amended]

§ 601.527 [Amended]

Par. 37. Sections 601.521, 601.522, 601.524, 601.526, and 601.527 are amended by deleting "Alcohol, Tobacco, and Firearms Division" wherever it appears and inserting instead "Bureau of Alcohol, Tobacco and Firearms".

§ 601.701 [Amended]

Par. 38. Section 601.701 is amended as follows:

1. Paragraph (a) is amended by revising the first sentence to read as set forth below, and by inserting "(Freedom of Information Act)" in the first sentence of the flush material between "552" and "are".

2. Paragraph (b)(1)(ii) is amended by deleting "inforcement" and inserting instead "enforcement", by deleting "or" between "action," and "(C)", and by deleting ";" at the end and inserting instead ", or (D) use of parking facilities, regulation of lunch hours, statements of policy as to sick leave and the like;".

3. Paragraph (b)(1)(iii) is amended to read as set forth below.

4. Paragraph (b)(2) is deleted.

5. Paragraphs (b)(3) and (b)(4) are redesignated (b)(2) and (b)(3).

§ 601.701 Publicity of information.

(a) *General.* Section 552 of title 5 of the United States Code, as amended, prescribes rules regarding the publicizing of information by Federal agencies. * * *

(b) *Exemptions*—(1) *In general.* * * *

(iii) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld (e.g., I.R.C. sections 6103, 6110, and 4424); * * *

* * * * *

§ 601.702 [Amended]

Par. 39. Section 601.702 is amended as follows:

1. Paragraph (b)(2) is amended by deleting "and 18 U.S.C. 1905" from the last sentence.

2. Paragraph (b)(3)(i) is amended by deleting "481" from the fourth sentence and inserting instead "676", and by revising the fifth sentence to read as set forth below.

3. Paragraph (b)(3)(ii) is amended by deleting from the address of the North Atlantic Region "90 Church Street" and inserting instead "120 Church Street, Room 805,".

4. Paragraph (d)(1) is revised to read as set forth below.

5. Paragraph (d)(2) is deleted.

6. Paragraph (d)(3) is amended by redesignating it paragraph (d)(2), by revising the first sentence to read as set forth below, and by deleting the last sentence.

7. Paragraph (d)(4) is deleted.

8. Paragraph (d)(5) is amended by redesignating it paragraph (d)(3), by deleting "for a 4-year period" from the first sentence, and by deleting "or of the Director of the Mid-Atlantic Regional Service Center" from the second sentence.

9. Paragraph (d)(6) is amended by redesignating it paragraph (d)(4) and by inserting ", and any letter or other document issued by the Internal Revenue Service with respect to such applications," in the first sentence between "501(a)" and "will".

10. Paragraph (d)(7) is amended by redesignating it paragraph (d)(5), by inserting "as well as copying" in the first sentence between "inspection" and "(i) in", and by deleting the second sentence and inserting instead a new sentence to read as set forth below.

11. Paragraphs (d)(8), (d)(9), (d)(10), and (d)(11) are redesignated (d)(6), (d)(7), (d)(8), and (d)(9), respectively.

12. Paragraph (f)(1) is amended by inserting "for time expended in" in the second sentence between "asserted," and "deleting".

§ 601.702 Publication and public inspection.

* * * * *

(b) *Public inspection and copying.* * * *

(3) *Public reading rooms*—(i) *In general.* * * * Fees will be charged for copying materials in the reading rooms as provided in paragraph (f) of this section. * * *

* * * * *

(d) *Rules for disclosure of certain specified matters*—(1) *Inspection of tax returns and return information.* The inspection of returns and return information is governed by the provisions of the internal revenue laws and regulations thereunder promulgated by the Secretary of the Treasury. See section 6103 and the regulations thereunder.

(2) *Record of seizure and sale of real estate.* Subject to the rules on disclosure set forth in section 6103, Record 21, "Record of seizure and sale of real estate", is open for public inspection in offices of district directors and copies are furnished upon application.

* * * * *

(5) *Accepted offers in compromise.* * * * After the 1-year period has expired, the documents will continue to be available upon request, although they may have been removed from the Freedom of Information Reading Room. * * *

* * * * *

These amendments to the Statement of Procedural Rules are issued under the authority contained in 5 U.S.C. §§ 301 and 552.

Jerome Kurtz,
Commissioner of Internal Revenue.

A. R. Dickerson,
Director of the Bureau of Alcohol, Tobacco and Firearms.

[FR Doc. 80-3484 Filed 1-31-80; 8:45 am]

BILLING CODE 4830-01-M

Fiscal Service

31 CFR Part 240

Forms of Indorsement on U.S. Treasury Checks

AGENCY: Fiscal Service, Treasury.

ACTION: Final Rule.

SUMMARY: On January 4, 1980, a final rule was published (45 FR 1020), concerning forms of indorsement on U.S. Treasury checks. One of the paragraphs affected was paragraph 240.8 (a) (2) (i), *Acceptable indorsement.* This paragraph outlined the proper manner of indorsing a U.S. Treasury check on behalf of the payee or payees. The Social Security Administration has raised a concern that the wording may be misconstrued to imply that a person may sign for someone else without formal authority conferred by or under law or other regulation. Specifically, they were concerned about the possible implication that the formalities required by the Social Security Administration for the appointment of beneficial payee may be avoided. This was not and is not intended. Therefore, wording is being added to the paragraph to explain that one may indorse on behalf of the named payee or payees only pursuant to

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authority expressly conferred by or under law or other regulation. In addition, several paragraphs are being renumbered for added clarity.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Michael D. Serlin, Assistant Commissioner, Disbursement and Claims, Room 416, Annex Building, Pennsylvania Avenue and Madison Place NW., Washington, D.C. 20226 (202) 566–2392.

SUPPLEMENTARY INFORMATION: It is not deemed necessary to invite comment on this issue, since the net effect is to clarify Treasury's intent in a final rule which becomes effective February 1, 1980.

Accordingly, Part 240, Title 31 of the Code of Federal Regulations, is revised as follows:

§ 240.8 [Amended]

1. By revising Section 240.8 (a) (2) (i), to read as follows:

(a) * * * * *

(2) * * * * *

(i) *Acceptable indorsement.* The only acceptable indorsement of a check by another on behalf of the named payee or payees (except when a check is indorsed by a financial organization under the payee's or payees' authorization) is one which indicates that the person indorsing is doing so on behalf of the named payee or payees. Such an acceptable indorsement shall include the signature of the indorser and sufficient wording to indicate that the indorser is indorsing on behalf of the named payee or payees, pursuant to authority expressly conferred by or under law or other regulation. An example would be: "John Jones by Mary Jones". This example states the minimum indication acceptable. However, Sections 240.9 (a) (1), 240.10 (a) (1) and 240.12 (d) specify the addition of an indication in specified situations of the actual capacity in which the person other than the named payee is indorsing. Checks indorsed "for collection" or "for deposit only to the credit of the within named payee or payees", are acceptable without any signature. However, in the absence of a signature, the presenting bank will be deemed to guarantee its good title to such checks to all subsequent indorsers and to Treasury.

2. By renumbering the following paragraphs as follows:

Section 240.8 (a) (1) becomes 240.8 (b).
Section 240.8 (a) (2) becomes 240.8 (c).
Section 240.8 (a) (3) becomes 240.8 (d).
Section 240.8 (a) (4) becomes 240.8 (e).
Section 240.8 (a) (5) becomes 240.8 (f).

* * * * *

Signed this 29th day of January, 1980.

D. A. Pagliair

Commissioner.

[FR Doc. 80-3360 Filed 1-31-80; 8:45 am]

BILLING Code 4810-35-M

GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service

41 CFR Chapter 101

[FPMR Temp. Reg. H-21]

Federal Property Management Regulations; Recovery of Costs of Care and Handling of Surplus Personal Property Under the Control of the Department of Defense

AGENCY: Federal Property Resources Service, General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation establishes policies and procedures governing the recovery of the costs of care and handling of surplus personal property under the control of the Department of Defense that is disposed of under the provisions of section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(j)).

DATES:

Effective date: January 1, 1980.

Expiration date: September 30, 1980.

Comments due on or before: March 15, 1980.

ADDRESS: Comments should be addressed to: General Services Administration (DP), Washington, DC 20406.

FOR FURTHER INFORMATION CONTACT: E. L. Harper, Assistant Commissioner for Personal Property (703–557–1798).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purpose of Executive Order 12044.

Authority: The provisions of this regulation are issued under section 764 of Pub. L. 96–154.

In 41 CFR Chapter 101, the following temporary regulation is listed in the appendix at the end of Subchapter H to read as follows:

Federal Property Management Regulations—Temporary Regulation H–21

January 25, 1980

To: Department of Defense.

Subject: Costs of care and handling.

1. *Purpose.* This regulation establishes policies and procedures governing the recovery of the costs of care and handling of surplus personal property under the control of the Department of Defense that is disposed of under the provisions of section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(j)).

2. *Effective date.* This regulation is effective on January 1, 1980.

3. *Expiration date.* This regulation expires September 30, 1980, unless revised or superseded sooner. Prior to the expiration date, this regulation will be codified in the permanent regulations of the General Services Administration (GSA) appearing in Title 41 CFR, Public Contracts and Property Management.

4. *Applicability.* The provisions of this regulation apply to the Department of Defense.

5. *Background.* Section 764 of Pub. L. 96–154, approved December 21, 1979, provides that none of the funds appropriated by that act shall be available for paying to the Administrator of General Services the standard level user charge established under section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490), for space and services for any month after January 1, 1980, unless, during that month, the Administrator has regulations in effect, provided for by section 203(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(j)), that require the recovery of the costs of care and handling of surplus property under the control of the Department of Defense that is disposed of under the provisions of that section. This regulation provides the necessary implementation of section 764 of Public Law 96–154.

6. *Policy.* The attachment to this regulation is hereby made a part of the regulations of GSA as 41 CFR Part 101–50, subject to the intent to codify these regulations as set forth in paragraph 3.

7. *Effect on other issuances.* When the provisions of other regulations and related directives are in conflict with the provisions of the attachment to this regulation, the provisions of the latter shall govern.

R. G. Freeman III,

Administrator of General Services.

PART 101–50—COST OF CARE AND HANDLING FOR DEPARTMENT OF DEFENSE SURPLUS PERSONAL PROPERTY

§ 101–50.000 Scope of part.

This part prescribes policies and procedures governing the recovery of the costs of care and handling of surplus personal property under the control of the Department of Defense that is disposed of under the authority of section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(j)).

§ 101–50.101 Costs incurred incident to donation.

The Department of Defense is required to recover the costs of care and handling of surplus personal property under its control that is disposed of under the provisions of section 203(j) of Federal Property and Administrative Services Act of 1949, as amended, provided that the costs are limited to the recovery of care and handling as defined in section 3(h) of the Federal Property and Administrative Services Act of 1949, as amended, and that these costs are specifically attributable and allocated to the items of property transferred for donation. Where these costs are incurred, they shall be reimbursed promptly by the State agency, the designated donee, or service educational activity upon appropriate billing by the Department of Defense. The Department of Defense shall maintain information on all billings and collections of care and handling costs incident to this part.

[FR Doc. 80-3203 Filed 1-31-80; 8:45 am]

BILLING CODE 6820-96-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

45 CFR Parts 134, 134a, and 134b

Grants to State Educational Agencies for Educational Improvement, Resources and Support

AGENCY: Office of Education, HEW.

ACTION: Notice of Interpretation for Funding of Guidance, Counselling and Testing Activities During Fiscal Year 1980.

SUMMARY: The Executive Deputy Commissioner for Educational programs is issuing this notice of interpretation to clarify for State educational agencies (SEAs) and local educational agencies (LEAs) how guidance, counselling and testing projects may be conducted during school year 1979–80 with funds made available by Title IV of Elementary and Secondary Education Act (ESEA).

EFFECTIVE DATE: This interpretation is expected to take effect 45 days after it is transmitted to Congress. Interpretations are usually transmitted to Congress several days before they are published in the **Federal Register**. The effective date is changed by statute if Congress disapproves the interpretation or takes certain adjournments. If you want to know the effective date of this interpretation, call or write the Office of Education contact person.

ADDRESSES: Submit comments to: Dr. Milbrey L. Jones, U.S. Office of Education, Office of Libraries and Learning Resources, 400 Maryland Avenue, S.W., ROB–3, Room 3600, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. Milbrey L. Jones, (202) 245–2488.

Background

Under the Title IV, ESEA program as authorized by the Education Amendments of 1974 (Pub. L. 93–380), an LEA could receive a subgrant of part B funds from its SEA that could be used at the LEA's discretion to acquire school library and instructional resources and to conduct guidance, counselling or testing activities for students in the elementary and secondary grades.

The Education amendments of 1978 (Pub. L. 95–561) reauthorized the Title IV, ESEA program but enacted several significant changes in it. Among those changes were the deletion of guidance, counselling and testing activities from part B of title IV and the creation of a separate part D for these purposes. The education Amendments were signed by the President on November 1, 1978. The changes made, however, were given a delayed effective date of October 1, 1979.

The Title IV, ESEA program is "advance funded," which means that funds for title IV programs conducted during the 1979–80 school year were included in the FY 1979 appropriation for the departments of Labor and Health, Education and Welfare (Pub. L. 95–480). This appropriation was signed by the President on October 18, 1978, approximately two weeks before the enactment of the Education Amendments of 1978. Accordingly, the appropriation included funds for title IV, part B but not for the new part D guidance, counselling, and testing authority which was enacted by the Education Amendments of 1978.

The interpretive question is whether LEAs and SEAs in school year 1979–80 may use the title IV, part B funds in the FY 1979 appropriation to support guidance, counselling, and testing activities. It is clear from reviewing the relevant legislative history of the FY 79 appropriation that Congress intended to make part B funds available for these activities during school year 1979–80.

In this connection, the House Committee on Appropriations has observed:

> The authorization existing at the time the Committee considered these programs, and under which the appropriation bill was enacted, provide[d] consolidated grants for school library and instructional resources—including guidance, counselling, and testing * * *. The purposes of all programs involved can best be served by allocating consolidated grants to the States under the authority of Title IV–B as it existed at the time the 1979 appropriation bill was enacted. (House Report No. 96–227, 96th Cong., 1st Session, at 72–73.)

Interpretation

Accordingly, it is the Commissioner's interpretation of Pub. L. 95–480 and Pub. L. 95–561 that LEAs may, at their discretion, expand part B funds appropriated by Pub. L. 95–480 for guidance, counselling, and testing projects during fiscal year 1980. (20 U.S.C. 3081 et seq.) (CFDA No. 13.570; Instructional Materials and School Library Resources).

Dated: January 25, 1980

William L. Smith,

U.S. Commissioner of Education.

[FR Doc. 80-3385 Filed 1-31-80; 8:45 am]

BILLING Code 4110-02-M

OFFICE OF PERSONNEL MANAGEMENT

45 CFR Part 801

Voting Rights Program; Appendix A; Louisiana

AGENCY: Office of Personnel Management.

ACTION: Final Rule.

SUMMARY: This notice identifies additional locations in Plaquemines, St. Helena, and East Carroll Parishes, Louisiana, for the filing of applications or complaints under the Voting Rights Act of 1965, as amended.

EFFECTIVE DATE: October 24,1979.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Clogston, Coordinator, Voting Rights Program, Office of Personnel Management, Washington, D.C. 20415, 202–632–4540.

SUPPLEMENTARY INFORMATION: The Attorney General has requested that additional examiner's offices be opened in Plaquemines, St. Helena, and East Carroll Parishes, areas previously designated as coming under the provisions of the Voting Rights Act of 1965, as amended.

Office of Personnel Management.

Roderick S. Speer,

Assistant Issuance System Manager.

January 29, 1980.

Accordingly, the Office of Personnel Management is amending 45 CFR Part 801, Appendix A to show three additional places under the heading "Dates, Times and Places" for filing in Louisiana, as follows:

Louisiana

Parish; Place for filing ; Begining date.

* * * * *

Plaquemines; Belle Chasse—US Naval Air Station, Administration Building, Room 46, Office of the Senior Chief of Command; October 19, 1979.

St. Helena; Greensburg—ASCS Office, Burrell Carter Building, Street Floor, South Main Street; October 19, 1979.

East Carroll; Lake Providence—ASCS Office, 205 North Hood; October 19, 1979.

(5 U.S.C. 1103,; Secs. 7, 9, 79 Stat. 440, 441, (42 U.S.C. 1973e, 1973g))

[FR Doc. 80-3369 Filed 1-31-80; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

Northern Common Dolphin; Prohibition on Take Incidental to Commercial Fishing Operations

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of take of northern common dolphin incidental to commercial fishing operations.

SUMMARY: A prohibition on taking northern common dolphin is being implemented due to the fact that the quota established in 1980 for northern common dolphin has been exceeded. Northern common dolphin may not be taken incidental to fishing operations pursuant to the general permit issued to the American Tunaboat Association, Category 2: Encircling Gear, Purse Seining Involving the Intentional Taking of Marine Mammals.

EFFECTIVE DATE: January 31, 1980.

ADDRESSES: Observer records may be reviewed at the Southwest Regional Office, Office of the Director, 300 So. Ferry Street, Terminal Island, California.

FOR FURTHER INFORMATION CONTACT: Richard Roe, Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235, Telephone: (202) 634-7461.

SUPPLEMENTARY INFORMATION: In the permit issued to the American Tunaboat Association for 1980, a limit of seventy (70) northern common dolphin mortalities was stipulated. That limit has been exceeded based on reports of National Marine Fisheries Service observers. In accordance with 50 CFR 216.24(d)(2)(i)(B) notice is hereby published of the date when a prohibition on further taking of northern common dolphin, except as allowed in 50 CFR 216.24(d)(2)(i)(C), becomes effective.

Date: January 29, 1980.

Winfred H. Meibohm,

National Marine Fisheries Service.

[FR Doc. 80-3490 Filed 1-31-80; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 45, No. 23

Friday, February 1, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 550

Pay Administration (General)

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management is proposing revised regulations to implement the back pay amendments of the Civil Service Reform Act of 1978 and to clarify and simplify the provisions of the current back pay regulations.

DATE: Comments must be received on or before April 1, 1980.

ADDRESS: Send written comments to Mr. Craig B. Pettibone, Director, Office of Pay and Benefits Policy, Compensation Group, Office of Personnel Management, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Donald J. Winstead, 202-632-5530.

SUPPLEMENTARY INFORMATION: Prior to the Civil Service Reform Act of 1978 (CSRA), the back pay law (5 U.S.C. 5596) provided for the payment of back pay when an appropriate authority determined that an employee had been affected by an unjustified or unwarranted personnel action that had resulted in the withdrawal or reduction of all or part of the pay, allowances, and differentials otherwise due the employee. The amendments made by section 702 of the CSRA provide, in addition, for the payment of reasonable attorney fees related to the personnel action when such payment is warranted in the interest of justice. The amendments also specify that (1) back pay is to be allowed for decisions, relating to unfair labor practices or grievances, (2) acts of omission as well as acts of commission are to be covered, (3) back pay under 5 U.S.C. 5596 does not apply to any reclassification action, and (4) the back pay law does not authorize the setting aside of an otherwise proper promotion by a selecting official from a group of properly ranked and certified candidates.

The proposed revisions to Subpart H of Part 550 of Title 5, Code of Federal Regulations, are intended to implement these amendments to the back pay law made by the CSRA. In addition, the proposes revisions clarify and simplify the current back pay regulations and make a number of editorial changes in them. OPM has determined this is a significant regulation for the purposes of E.O. 12044.

Section 702 of the CSRA amended section 5596(b) of title 5, United States Code, to read as follows:

(b)(1) An employee of an agency who, on the basis of a timely appeal or an administrative determination (including a decision relating to an unfair labor practice or a grievance) is found by appropriate authority under applicable law, rule, regulation, or collective bargaining agreement, to have been affected by an unjustified or unwarranted personnel action which has resulted in the withdrawal or reduction of all or part of the pay, allowances, or differentials of the employee—

(A) is entitled, on correction of the personnel action, to receive for the period for which the personnel action was in effect—

(i) an amount equal to all or part of the pay, allowances, or differentials, as applicable which the employee normally would have earned or received during the period if the personnel action had not occurred, less any amounts earned by the employee through other employment during that period; and

(ii) reasonable attorney fees related to the personnel action which, with respect to any decision relating to an unfair labor practice or a grievance processed under a procedure negotiated in accordance with chapter 71 of this title, shall be awarded in accordance with standards established under section 7701(g) of this title; and

(B) for all purposes, is deemed to have performed service for the agency during that period, except that—

(i) annual leave restored under this paragraph which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Office of Personnel Management, and

(ii) annual leave credited under clause (i) of this subparagraph but unused and still available to the employee under regulations prescribed by the Office shall be included in the lump-sum payment under section 5551 or 5552(1) of this title but may not be retained to the credit of the employee under section 5552(2) of this title.

(2) This subsection does not apply to any reclassification action nor authorize the setting aside of an otherwise proper promotion by a selecting official from a group of properly ranked and certified candidates.

(3) For the purpose of this subsection, "grievance" and "collective bargaining agreement" have the meanings set forth in section 7103 of this title, "unfair labor practice" means an unfair labor practice described in section 7116 of this title, and "personnel action" includes the omission or failure to take an action or confer a benefit.

Section 7701(g) of title 5, United States Code, reads as follows:

(g)(1) Except as provided in paragraph (2) of this subsection, the [Merit Systems Protection] Board, or an administrative law judge or other employee of the Board designated to hear a case, may require payment by the agency involved of reasonable attorney fees incurred by an employee or applicant for employment if the employee or applicant is the prevailing party and the Board, administrative law judge, or other employee, as the case may be, determines that payment by the agency is warranted in the interest of justice, including any case in which a prohibited personnel practice was engaged in by the agency or any case in which the agency's action was clearly without merit.

(2) If an employee or applicant for employment is the prevailing party and the decision is based on a finding of discrimination prohibited under section 2302(b)(1) of this title, the payment of attorney fees shall be in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)).

Accordingly, the Office of Personnel Management is proposing to revise the table of sections and Subpart H of Part 550 of Title 5, Code of Federal Regulations, as follows:

PART 550—PAY ADMINISTRATION (GENERAL)

* * * * *

Subpart H—Back Pay

550.801 Scope.
550.802 Definitions.
550.803 Determining entitlement to back pay.
550.804 Back pay computations.
550.805 Payment of reasonable attorney fees.
550.806 Prohibition against setting aside proper promotions.

* * * * *

Subpart H—Back Pay

Authority.—5 U.S.C. 5596.

§ 550.801 Scope.

(a) *Coverage.* This subpart applies to agencies and employees, as defined in § 550.802.

(b) *Applicability.* Section 5596 of title 5, United States Code, and this subpart apply in the computation and restoration of pay, allowances, and differentials, and the payment of reasonable attorney fees, for the purpose of making an employee financially whole (to the extent possible) when, on the basis of a timely appeal or an administrative determination (including a decision relating to an unfair labor practice or a grievance), the employee is found by an appropriate authority to have undergone an unjustified or unwarranted personnel action that resulted in the withdrawal, reduction, or denial of all or part of the pay, allowances, and differentials otherwise due the employee.

§ 550.802 Definitions.

In this subpart:

"Agency" means (a) an Executive agency (other than the Tennessee Valley Authority), as defined in section 105 of title 5, United States Code; (b) the Administrative Office of the United States Courts; (c) the Library of Congress; (d) the Government Printing Office; and (e) the government of the District of Columbia.

"Appropriate authority" means an entity having authority in the case at hand to correct or direct the correction of an unjustified or unwarranted personnel action. Such an entity may be (a) a court; (b) the Comptroller General of the United States; (c) the Office of Personnel Management; (d) the merit Systems Protection Board; (e) the Federal Labor Relations Authority; (f) the Equal Employment Opportunity Commission; (g) a grievance board established by section 692 of the Foreign Service Act of 1946, as amended; (h) an arbitrator in a binding arbitration case; (i) an entity established under District of Columbia law empowered to hear and decide appeals or grievances of employees of the government of the District of Columbia; or (j) the head of the employing agency or another official of the employing agency to whom such authority is delegated.

"Employee" means an employee or former employee of an agency.

"Grievance" has the meaning given that term in section 7103(a)(9) of title 5, United States Code.

"Pay, allowances, and differentials" means payments and entitlements that are provided by an agency to an employee in exchange for the performance of work.

"Unfair labor practice" means an unfair labor practice described in section 7116 of title 5, United States Code.

"Unjustified or unwarranted personnel action" means an act of the commission or an act of omission (i.e., failure to take an action or confer a benefit) that an appropriate authority subsequently determines, on the basis of substantive or procedural defects, to have been unjustified or unwarranted under applicable law, Executive order, rule, regulation, personnel policy established by an agency, or collective bargaining agreement. Such actions include personnel actions and pay actions (alone or in combination), but do not include any actions relating to the reclassification of a position to a higher grade.

§ 550.803 Determining entitlement to back pay.

(a) An Unjustified or unwarranted personnel action must be corrected under the provisions of section 5596 of title 5, United States Code, and this subpart unless an appropriate authority determines that the record contains clear and convincing evidence that the employee would not have received the applicable pay, allowances, and differentials even if the unjustified or unwarranted personnel action had not occurred.

(b) The requirement for a "timely appeal" referred to in section 5596 of title 5, United States Code, is met when:

(1) an employee or an employee's personal representative initiates a claim to the Comptroller General of the United States for settlement of his or her claim against the Government, or initiates an appeal or grievance under an appeal or grievance system, including appeal or grievance procedures included in a collective bargaining agreement, and

(2) that claim is accepted as timely filed by the Comptroller General, or that appeal or grievance is accepted as timely filed by the Government authority administering the appeal or grievance system, or is found to be timely filed by another appropriate authority.

(c) The requirement for an "administrative determination"-referred to in section 5596 of title 5, United States Code, is met when an appropriate authority determines, in writing, that an agency has taken an unjustified or unwarranted personnel action.

(d) The requirement for "correction of the personnel action" referred to in section 5596 of title 5, United States Code, is met when an appropriate authority consistent with law, Executive order, rule, regulation, personnel policy established by an agency, or collective bargaining agreement, after a review, corrects or directs the correction of an unjustified or unwarranted personnel action.

§ 550.804 Back pay computations.

(a) When an appropriate authority corrects or directs the correction of an unjustified or unwarranted personnel action, the agency shall recompute for the period covered by the corrective action the pay, allowances, and differentials the employee would have received if the unjustified or unwarranted personnel action had not occurred, but in no case will the employee be granted more pay, allowances, and differentials under section 5596 of title 5, United States Code, and this subpart than he or she would have been entitled to receive if the unjustified or unwarranted personnel action had not occurred.

(b) Except as provided in paragraph (c) of this section, in computing the amount of back pay under section 5596 of title 5, United States Code, and this subpart, the agency may not include:

(1) any period during which the employee was not ready, willing, and able to perform his or her duties because of an incapacitating illness or injury, or

(2) any period during which the employee was unavailable for the performance of his or her duties, for reasons other than those related to, or caused by, the unjustified or unwarranted personnel action.

(c) In computing the amount of back pay under section 5596 of title 5, United States Code, and this subpart, the agency shall grant, upon request of an employee, any sick or annual leave available to the employee for a period of incapacitation if the employee can establish that the period of incapacitation was the result of illness or injury.

(d) In computing the amount of back pay under section 5596 of title 5, United States Code, and this subpart, the agency shall deduct any amounts earned by an employee from other employment during the period covered by the corrected personnel action. The agency shall include as other employment only employment engaged in by the employee to take the place of the employment from which the employee was separated by the unjustified or unwarranted personnel action.

(e) Annual leave that is restored to an employee as a result of the correction of an unjustified or unwarranted personnel action and that is in excess of the maximum leave accumulation authorized by law shall be credited to a separate leave account for use by the employee. Annual leave in such a separate leave account must be scheduled and used by the end of the leave year ending 2 years after the date on which the annual leave is credited to the separate account.

§ 550.805 Payment of reasonable attorney fees.

(a) An employee or an employee's personal representative may file with the appropriate authority a request for payment by the employing agency of attorney fees.

(b) The appropriate authority shall provide an opportunity for an appropriate official of the employing agency to file with the appropriate authority a response to a request for payment by the employing agency of attorney fees.

(c) Except as provided in paragraph (d) of this section, when an appropriate authority determines that an employee is entitled to back pay under section 5596 of title 5, United States Code, and this subpart, the payment of reasonable attorney fees requested in accordance with paragraph (a) of this section shall be deemed to be warranted only if:

(1) such payment is in the interest of justice, including any case in which a prohibited personnel practice described in section 2302(b) of title 5, United States Code, was engaged in by the agency or any case in which the agency's action was clearly without merit, and

(2) there is a specific finding by the appropriate authority setting forth the reasons such payment is in the interest of justice.

If the appropriate authority determines that such payment is warranted, the appropriate authority shall require payment by the employing agency of attorney fees in an amount determined to be reasonable by the appropriate authority. If the appropriate authority determines that such payment is not warranted, no such payment shall be required.

(d) When an appropriate authority determines that an employee is entitled to back pay under section 5596 of title 5, United States Code, and this subpart based on a finding of discrimination prohibited under section 2302(b)(1) of title 5, United States Code, the payment of attorney fees requested in accordance with paragraph (a) of this section shall be in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(k)).

(e) The payment of attorney fees shall be allowed only for the services of members of the Bar and paralegals or law clerks assisting members of the Bar. However, no payment may be allowed under section 5596 of title 5, United States Code, and this subpart for the services of any employee of the Federal Government, except as provided in section 205 of title 18, United States Code.

(f) The determination by an appropriate authority concerning whether the payment of reasonable attorney fees is in the interest of justice and concerning the amount of any such payment shall be subject to review or appeal when provided for by the appropriate authority.

§ 550.806 Prohibition against setting aside proper promotions.

Nothing in section 5596 of title 5, United States Code, or this subpart shall be construed as authorizing the setting aside of an otherwise proper promotion by a selecting official from a group of properly ranked and certified candidates.

Office of Personnel Management.

Roderick S. Speer,

Assistant Issuance System Manager.

January 29, 1980.

[FR Doc. 80-3407 Filed 1-31-80; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Ch. I

Improving Government Regulations; Semiannual Agenda

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Semiannual Regulatory Agenda.

SUMMARY: The Semiannual Regulatory Agenda is a semi-annual summary of each proposed and each final regulation that the Immigration and Naturalization Service expects to publish in the **Federal Register** during the succeeding 12 months or such longer projected period as may be anticipated. The agenda also includes a semi-annual summary of the existing regulations that the Immigration and Naturalization service has selected for review and possible revocation or revision. The Semiannual Regulatory Agenda provides the public with information about the Service's regulatory activity. It is expected that this information will enable the public to be more aware of, and allow it to more effectively participate in, the Service's regulatory activity.

FOR FURTHER INFORMATION CONTACT:

General

For further information on the Semiannual Regulatory Agenda, in general, contact: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, DC 20536. Telephone: (202) 633–3048.

Specific

For further information about any particular item on the agenda contact the individual listed in the column headed "Contact" for that item.

SUPPLEMENTARY INFORMATION:

Background

Improving Government regulations is a prime goal of the Carter Administration. To help achieve this goal, and in accordance with Executive Order 12044 ("Improving Government Regulations"; 43 FR 12661; March 24, 1978), the Attorney General issued his final report (Report on the Implementation of Executive Order No. 12044, "Improving Government Regulations"; 44 FR 30161; May 25, 1979) to establish guidelines within the Department of Justice for implementation of the Executive Order. The guidelines include a requirement that each organizational component prepare a semiannual agenda of regulations for publication in the **Federal Register**. The Immigration and Naturalization Service, in compliance with the Departmental guidelines, prepared the Semiannual Regulatory Agenda which follows, summarizes each proposed and final regulation it expects to publish in the **Federal Register** during the succeeding 12 months or longer projected period, and also a semi-annual list of existing regulations it has selected for review and *revision for publication in the* **Federal Register.**

Explanation of Information on the Semiannual Regulatory Agenda

The agenda consists of three major subdivisions: (1) Significant Regulations; (2) Non-significant Regulations; and (3) Review. For each proposed and final regulation expected to be published, the Agenda provides the following information: (1) A short descriptive title; (2) a summary of the contents of the regulation; (3) nature of the latest agency action taken; (4) a contact official who can provide additional information; and (5) the related regulatory citation in the Code of Federal Regulations.

For non-significant regulations, and those scheduled for review, only the general category of the regulations, the

identity of a contact official, and that Part of the code of Federal Regulations affected are included except where specific sections can be identified at this time.

In the "Decision Date" column, NPRM stands for Notice of Proposed Rule Making and the date immediately following indicates the month and year such notice was, or will be published in the Federal Register. The "Target Date" indicates the date by which the review is expected to be completed and a decision made whether or not a regulation will be changed by revision, revocation, or amendment.

Purpose

The Immigration and Naturalization Service is publishing this Semiannual Regulatory Agenda in the Federal Register to share with the public the Service's anticipated future regulatory activity. Knowledge of the nature and scope of this activity, as well as specific proposals and reviews being considered, should result in more effective public participation in the Service's regulatory actions.

This publication in the Federal Register does not impose any binding obligation on the Service with regard to any specific item on the agenda. Regulatory action in addition to the items listed is not precluded.

Issued in Washington, D.C., on January 30, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

Semiannual Regulatory Agenda Immigration and Naturalization Service Significant Regulations

Title	Summary	Contact	Decision date
Revision to Service Fee Schedule	A. *Description:* This revision proposes changes in the fee schedule to reflect current costs of providing services. (8 CFR Part 103). B. *Why Significant:* Significant increases in fees charged will have an economic impact on petitioners nation-wide. We received opposition from attorneys practicing immigration law who felt the increased fees impose an unfair financial burden on the petitioners. C. *Regulatory Analysis:* Not required. D. *Need:* The fee schedule in this regulation no longer reflects current processing costs of Service applications and petitions as required by law. E. *Legal Basis:* 31 U.S.C. 483(a) and OMB Circular No. A-25. F. *Chronology:* Fee review data worksheets prepared May 1979. NPRM published October 1, 1979 (44 FR 56389). G. *Citation:* 8 CFR 103.7(b)(1)	Anthony Lascaris (202) 633-3240. Olaf Fagerli (202) 633-2897.	NPRM October 1979.
Amendment to 8 CFR 212.6(d) Nonresident Alien Border Crossing Cards.	A. *Description:* This revision provides that an alien seeking to enter the United States using a nonresident alien border crossing card as an entry document shall be advised of the right to a hearing before an immigration judge if a supervisory immigration officer at a port of entry determines that the entry document should be voided. B. *Why Significant:* This matter affects a sizeable population on the southern border of the United States, where such border crossing cards were previously taken from aliens without judicial review. C. *Regulatory Analysis:* Not required. D. *Need:* This amendment would ensure that an alien is not required to surrender a benefit without appropriate reviews of the action taken. E. *Legal Basis:* Sec. 103 and 212; 8 U.S.C. 1103 and 1182. F. *Chronology:* Published as a Notice of Proposed Rule Making in 44 FR 5668 on January 29, 1979 and republished as a NPRM in 44 FR 18979 on March 30, 1979. G. *Citation:* 8 CFR 212.6(d)	F. P. Murphy (202) 633-3275.	NPRM March 1979.
Nonimmigrant Alien (H-1) Nurses; Proposed Examination Requirement.	A. *Description:* This amendment would require nonimmigrant alien nurses to pass the screening examination given by the Commission on Graduates of Foreign Nursing Schools in order to qualify for the "H-1" nonimmigrant visa classification. B. *Why Significant:* This action bears upon a matter that is of importance to both the medical community and the public—the quality of nursing care being received in hospitals in the United States. C. *Regulatory Analysis:* Not required. D. *Need:* This amendment is intended to provide a test of the capabilities of foreign professional nurses in all areas of nursing for which American nurse graduates are responsible. This proposed requirement would afford an objective estimate of such alien nurse's ability to pass state licensure examinations in the United States and to perform services here of the "exceptional nature" required by the statute. E. *Legal Basis:* Sec. 103, 8 U.S.C. 1103, interpret or apply Sec. 214, 8 U.S.C. 1184. F. *Chronology:* Published as a proposed rule in 44 FR 50604 on August 29, 1979. G. *Citation:* 8 CFR 214.2(h)(2)(iv).	T. W. Simmons (202) 633-3946.	NPRM August 1979.
Voluntary Departure Prior to Commencement of Hearing.	A. *Description:* This proposed amendment sets forth criteria to be considered by the district director in determining whether there exist "compelling circumstances" which would justify the grant of voluntary departure to an alien prior to the commencement of hearing to determine deportability. (8 CFR Part 242). B. *Why Significant:* Voluntary departure, reduces the time the alien is held in detention and, in the case of voluntary surrender, avoids any detention. C. *Regulatory Analysis:* Not required. D. *Need:* Expeditious processing of an alien who agrees to depart voluntarily saves hearing time cost and allows the alien greater flexibility in arranging for his/her own departure. E. *Legal Basis:* Sec. 103 (8 U.S.C. 1103); interpret or apply Sec. 244 (8 U.S.C. 1254). F. *Chronology:* Proposed rule published in 44 FR 36193 dated June 21, 1979. Comments referred to the operating unit on September 7, 1979. Rule abandoned by the operating unit with the intent to incorporate procedural changes in the Service's Operating Instructions. G. *Citation:* 8 CFR 242.5(a)(2)(iii)	J.A. Simon (202) 633-4049.	NPRM June 1979
Apprehension, Custody and Detention of Aliens.	A. *Description:* This action would revise the procedure and criteria to be considered in determining the propriety of arrest and release on bond of aliens. B. *Why Significant:* Involves a matter that is of significant interest to the public as it involves enforcement action by the Service. C. *Regulatory Analysis:* Not required. D. *Need:* We need to clarify procedures that apply to aliens and to define clearly their rights.	J.A. Simon (202) 633-4049.	NPRM March 1979.

Semiannual Regulatory Agenda Immigration and Naturalization Service Significant Regulations—Continued

Title	Summary	Contact	Decision date
	E. *Legal Basis:* Sec. 103 and 242; (8 U.S.C. 1103 and 1252). F. *Chronology:* Published as proposed rule in 44 FR 12199 dated March 6, 1979 with a target date of August 1979 for final rule. Rule abandoned by the operating unit with the intent to incorporate procedural changes in the Service's Operating Instructions. G. *Citation:* 8 CFR 242.2(a)		
Replacement of Registration Receipt Cards	A. *Description:* This action would revise the regulation on replacement of Alien Registration Receipt Cards that have been lost, mutilated, destroyed, are obsolete, or where replacement is requested due to change of name. B. *Why Significant:* It is proposed to have an applicant for such a replacement card appear in person at the Service office to place one fingerprint and his/her signature on the data collection document from which the replacement card is to be made. Under the former procedure, replacement cards were processed by mail. C. *Regulatory Analysis:* Not required. D. *Need:* use of the new I-551, Alien Registration Receipt Card, requires the alien to be processed at a Service office. E. *Legal Basis:* Sec. 103 and 264; (8 U.S.C. 1103 and 1304). F. *Chronology:* Work plan prepared 7/79 involving all major operating units. G. *Citation:* 8 CFR 264.1(c)	E. W. Upton (202) 633-3946.	NPRM March 1980.
Various	A. *Description:* This revision would amend numerous sections of the regulations by setting forth criteria and factors to be considered by Service officers in the exercise of administrative discretion. B. *Why Significant:* Involves a matter of significant interest to the public seeking a benefit from the Service by informing the public of the criteria used by the Service for granting such benefits. C. *Regulatory Analysis:* Not required. D. *Need:* Clearly defined criteria for Service officers in the exercise of administrative discretion ensure uniformity and consistency in either granting or denying benefits to the public. E. *Legal Basis:* Sec. 103; 8 U.S.C. 1103. Interpret to apply secs. 205, 211, 212, 214, 223, 235, 243, 245, 248, 249, 250, 252, 258, 271, and 336; 8 U.S.C. 1155, 1181, 1182, 1184, 1203, 1225, 1253, 1255, 1258, 1259, 1286, 1282, 1284, 1286, 1321, and 1447. F. *Chronology:* Published as a proposed rule at 44 FR 36187 dated June 21, 1979. Comments referred to the operating unit on September 7, 1979 for analysis. G. *Citation:* 8 CFR §§ 103.2(b)(2); 103.6(a)(2); 103.7(c)(1); 108.2; 205.1(a)(3); 211.1(b)(3); 211.2 212.1(f); 212.2(j); 212.3; 212.4(h),(i); 212.5(a); 212.5(b); 2121.6; 212.7(a), (b), (c-1); 214.1(a); 223.1; 235.9(c); 243.4; 243.8; 245.4; 245.8; 246.3(c), (d), (e); 249.3; 249.4; 250.1; 252.1(d); 252.2; 254.1; 258.1; 271.1; and 336.16.	R. E. Coughlon (202) 633-3946.	NPRM June 1979.

Semiannual Regulatory Agenda Immigration and Naturalization Service Nonsignificant Regulations

Title	Summary	Contact	Decision date
Evidence Required to Accompany Petition for Orphan.	This action would amend the final rule published in 44 FR 5059 dated January 25, 1979 to provide clearer definitions of terms and to reformat the regulation to improve its read ability. (8 CFR 204.2(d)).	H. F. Klajbor (202) 633-3229.	Target date February 1980.
Proposed Rules for Employment Authorization for Certain Aliens.	This action would codify various Service Operations Instructions, policy statements, and other memoranda directed at Service field offices about procedures and criteria for granting employment authorization to aliens in the United States. (8 CFR Part 109). Published as a proposed rule in 44 FR 43480 dated July 25, 1979.	H. F. Klajbor (202) 633-3229.	NPRM July 1979.
Special Requirements for Admission, Extension and Maintenance of Status.	This action proposes an amendment to 8 CFR 214.2(h)(2)(v) to clarify criteria for determining if accompanying aliens such as managers, trainers, musical accompanists and other persons are essential to the successful performances of beneficiaries and may also be classified as H-1 aliens.	R. E. Coughlon (202) 633-3946.	NPRM February 1980.
Review: To Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant.	Review of section 204.1 Petition, concerning relatives, orphans, labor certification, filing dates, with preference petition for members of the professions and discretionary interview procedure. (8 CFR 204.1).	H. F. Klajbor (202) 633-3229.	Target date August 1980.
Review: Nonimmigrant Classes	Review of the special requirements for admission, extension, and maintenance of status of nonimmigrant classes. (8 CFR 214.2).	H. F. Klajbor (202) 633-3229.	Target date August 1980.
Review: Petitions for Approval of Schools	Review of the procedures for petitions for approval of schools including filing, supporting documents, interview of petitioner, approval of petition, denial of petition, reporting requirements, review of school approvals, enforcement of student regulations, and issuance of certificates of eligibility. (8 CFR 214.3).	H. F. Klajbor (202) 633-3229.	Target date August 1980.
Review: Withdrawal of school approval	Review of the grounds and procedural requirements for withdrawal of school approval, including notice, hearing, pleading, order, appeal and reopening by motion. (8 CFR 214.4).	H. F. Klajbor (202) 633-3229.	Target date August 1980.
Review: Field Officers; powers and duties	Up-date of existing regulation to reflect current case law if required. (8 CFR Part 287)	E. L. Carlson (202) 633-3094 or	No change—action complete.
Review: Inspection of Persons Applying for Admission.	Up-date of existing regulation to reflect current statutory and case law if required. (8 CFR Part 235).	T. C. Leupp (202) 633-3078.	Target date June 1980.
Review: Landing of Alien Seamen	Up-date of existing regulation to reflect current statutory and case law if required. (8 CFR Part 252).	E. L. Carlson (202) 633-3094 or T. C. Leupp (202) 633-3078.	Target date June 1980.
Review: Petition to classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant.	As part of an ongoing process, Part 204 of 8 CFR has been reviewed by the operating unit and no significant changes are needed in the following: 8 CFR 204.2; 8 CFR 204.3; 8 CFR 204.4; 8 CFR 204.5; 8 CFR 204.6; 8 CFR 204.7.	R. E. Coughlon (202) 633-3946.	Action complete.
Review: Requirements for Admission, Extension and Maintenance of Status.	8 CFR 214.1 has been reviewed and no significant change is needed.	R. E. Coughlon (202) 633-3946.	Action complete.
Review: Special Requirements for Admission, Extension, and Maintenance of Status.	Special requirements as they apply to students will be reviewed for possible modification. (8 CFR 214.2(f)).	R. E. Coughlon (202) 633-3946.	Target date March 1980.
Review: Inspection of Persons Applying for Admission	Various sections of Part 235 of 8 CFR have been reviewed and no significant changes are needed: 8 CFR 235.4, Notations on Documents; 8 CFR 235.5, Preinspection; 8 CFR 235.8, Temporary Exclusion; 8 CFR 235.10, U.S. Citizen Identification Card.	W. F. Doyle (202) 633-4033.	Action complete.

[FR Doc. 80-3814 Filed 1-31-80; 8:45 am]

BILLING CODE 4410-10-M

V 45 / 23 FEB 80 UMI

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 58

[Docket No. 76N-0400]

Nonclinical Laboratory Studies; Amendment of Good Laboratory Practice Regulations

Correction

In FR Doc. 79-36991 appearing at page 69666 in the issue for Tuesday, December 4, 1979, on page 69668, second column, eleventh line of the second paragraph, delete "326".

BILLING CODE 1505-01-M

21 CFR Part 353

[Docket No. 78N-0196]

Oral Mucosal Injury Drug Products for Over-the-Counter Human Use, Establishment of a Monograph; Proposed Rulemaking

Correction

In FR Doc. 79-32590, published at page 63270, on Friday, November 2, 1979, on page 63283, in the first column, under "References", in the fourth line of paragraph (1)., "MD, Section 11, * * *" should be corrected to read "MD, Section II, * * *".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Ch. I

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Office of the Attorney General, Department of Justice.

ACTION: Semiannual agenda of regulations.

SUMMARY: The Office of the Attorney General is publishing its semiannual agenda of regulations under Executive Order 12044.

FOR FURTHER INFORMATION CONTACT: Guadalupe Salinas, Special Assistant to the Attorney General, Department of Justice, Washington, D.C. 20530, 202/633-2927.

Semiannual Agenda of Regulations—Draft Consumer Program—Discussion of the Regulation

Executive Order 12160 established the Consumer Affairs Council and requires agencies to review and revise their operating procedures so that consumer needs and interest are adequately considered and addressed. A draft consumer plan was published in 44 FR 71384-71389 and is presently in a period of public comment, which will end on March 10, 1980. Approximately 90 days thereafter, on June 9, 1980 the Department will publish its Consumer Affairs Program. The Program will create a Consumer Affairs Committee to coordinate consumer-related activities of the Department. The Program will establish procedures for consumer participation in the development and review of rules, policies and programs, provide for publication and distribution of consumer information, establish procedures for systematically handling consumer complaints and provide for specialized training of agency consumer affairs personnel.

Legal Basis

Providing for Enhancement and Coordination of Federal Consumer Programs. Executive Order 12160, 44 FR 55787.

Regulatory Analysis

A regulatory analysis is not required.

Knowledgeable Official

Guadalupe Salinas, Office of the Attorney General, Department of Justice, Washington, D.C. 20530. 202/633-2927.

Guadalupe Salinas,

Special Assistant to the Attorney General.

[FR Doc. 80-3013 Filed 1-31-80; 8:45 am]

BILLING CODE 4410-01-M

VETERANS ADMINISTRATION

38 CFR Part 17

Medical Benefits; Timely Filing of Claims for Payment

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: This proposed amendment clarifies the present regulation on timely filing of claims to include that payment of claims will not be made for medical care received prior to the effective date of the grant of service connection.

DATES: Comments must be received on or before March 3, 1980. It is proposed to make this change effective the date of final approval.

Comments will be available for inspection at the address shown below during normal business hours until March 12, 1980.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420.

FOR FURTHER INFORMATION CONTACT: Joseph F. Fleckenstein (202-389-3785).

SUPPLEMENTARY INFORMATION: The current text of 38 CFR 17.85(b) implies that veterans may be entitled to payment of unauthorized claims for medical care up to 2 years prior to filing for service-connected status regardless of the date of the grant of service connection. This change clarifies that payment will not be made for care received prior to the effective date of the grant of service connection in addition to restricting payment to no more than 2 years prior to filing or reopening a claim.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections, regarding this proposal to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until March 12, 1980. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: January 25, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

§ 17.82 [Amended]

1. Section 17.82 is amended by deleting the word "his" and adding the word "his/her".

§ 17.84 [Amended]

2. Section 17.84 is amended by deleting the words "Veterans Administration hospital" and inserting the words "Veterans Administration facility" in paragraph (a); by deleting the words "Veterans Administration Hospital" and inserting the words "Veterans Administration Medical Center" in paragraph (c); and by deleting the words "Veterans Administration Center" and inserting the words "Veterans Administration Medical and Regional Office Center" in paragraph (e).

3. In § 17.85, paragraph (b) is revised to read as follows:

§ 17.85 Timely filing.

Claims for payment or reimbursement of the expenses of medical care or services not previously authorized must be filed within the following time limits:

* * * * *

(b) In the case of care or services rendered prior to a Veterans Administration adjudication allowing service connection, a claim must be filed within 2 years of the date of notification of such allowance of an original or reopened claim for service connection of the disability for which treatment was rendered, except payment will not be made for any care rendered prior to the effective date of the grant of service connection or more than 2 years prior to filing the original or reopened claim for service connection which resulted in allowances, whichever is later, or

* * * * *

[FR Doc. 80-3436 Filed 1-31-80; 8:45 am]

BILLING CODE 8320-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 83

[PR Docket No. 79-336]

Granting a General Exemption From the Radiotelegraph Requirements of Title III, Part II of the Communications Act to U.S. Cargo Vessels of 1,600 Gross Tons and Upward Navigated Solely on Domestic Voyages Along the East, West, of Gulf Coast of the Contiguous 48 States; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order

SUMMARY: The Federal Communications Commission released a Notice of Proposed Rule Making and Notice of Inquiry on January 3, 1980 which appeared in the **Federal Register** (45 FR 1924) of January 9, 1980. This notice proposed to grant a general exemption from the radiotelegraph requirements of the Communications Act to U.S. cargo vessels of 1600 gross tons or more when navigated on domestic voyages along the coasts of the contiguous 48 states, and solicited comments relative to the effectiveness of the radiotelegraph and radiotelephone safety systems as applicable to vessels navigated in these areas. The American Radio Association and Radio Officers Union requested an extension of time to collect and organize this data from submission in this matter affecting maritime safety to life and property.

DATES: Comments must be received on or before April 18, 1980, and reply comments must be received on or before May 30, 1980.

ADDRESSES: Send comments to: Federal Communications Commission Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bagnato, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

[45 FR 1924]

Adopted: January 25, 1980.

Released: January 28, 1980.

In the Matter of Amendment of Part 83 to grant a general exemption from the radiotelegraph requirements of Title III, Part II of the Communications Act to United States cargo vessels of 1600 gross tons and upward navigated solely on domestic voyages along the east, west or Gulf coasts of the contiguous 48 states; PR Docket No. 79-336.

1. The American Radio Association and Radio Officers Union, AFL-CIO (ARA-ROU), pursuant to Sections 0.331 and 1.46 of the Commission's rules, has requested the Chief, Private Radio Bureau to extend the time for filing comments from March 7, 1980 to April 18, 1980 and reply comments from March 27, 1980 to May 30, 1980.

2. ARA-ROU state that the matters involved in this proceeding are extremely important to maritime safety of life and property. The Commission should have all relevant information before it to make a proper disposition of the matter. ARA-ROU desire to submit this information but require additional time for collection and organization of the material.

3. We find that the public interest will be served by the extension of time for filing comments and reply comments as requested by ARA-ROU. Accordingly, the Motion For Extension of Time filed by ARA-ROU is granted, and the date for filing comments and reply comments are extended to April 18, 1980 and May 30, 1980 respectively.

Federal Communications Commission.

Carlos V. Roberts,

Chief, Private Radio Bureau.

[PR Doc. 80-3408 Filed 1-31-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[PR Docket No. 79-191; RM-3360]

Designating Frequencies in the 806-821 and 851-866 MHz Bands for Slow Growth Land Mobile Radio Systems of Utilities and Public Safety Agencies; Order To Accept Late Filed Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order to accept late filed reply comments in proposed rulemaking.

SUMMARY: This order allows acceptance into the records of late filed reply comments submitted by the International Association of Chiefs of Police in PR Docket 79-191 relating to designating frequencies in the 806-821 and 851-866 MHz bands for slow growth land mobile radio systems of utilities and public safety agencies.

DATES: Non-Applicable.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Radio Bureau, Rules Division, (202) 632-6497.

Adopted: January 23, 1980.

Released: January 28, 1980.

V 45 / 23 FEB 1 80 UMI

By the Chief, Private Radio Bureau:

In the matter of amendment of Part 90 of the Commission's rules to designate frequencies in the 806–821 and 851–866 MHz bands for slow growth land mobile radio systems of utilities and public safety agencies.

1. Because additional comments concerning this proceeding emerged at a January 7–9, 1980, meeting of the International Association of Chiefs of Police (IACP) Research Committee and National Advisory Committee for Law Enforcement Equipment and Technology, the IACP was unable to meet the January 10, 1980, deadline for submission of reply comments.

2. IACP has requested either a 30 day extension of time in which to file reply comments, or as an alternate to the extension of time, asked that the Commission accept their late filed reply comments when submitted.

3. It is felt that sufficient justification has been made, and that the public interest would be served by accepting IACP's late filed reply comments.

4. Accordingly, it is ordered, pursuant to §§ 0.331 and 1.46 of the Commission's rules, that late filed reply comments to be filed by the International Association of Chiefs of Police in the proceedings of PR Docket 79–191 be accepted into the records.

Carlos V. Roberts,

Chief, Private Radio Bureau.

[FR Doc. 80-3439 Filed 1-31-80; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 45, No. 23
Friday, February 1, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Cancelled Meeting

Notice is hereby given in accordance with Section 800.6(d)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that the Council meeting scheduled for February 6–7, 1980, (which appeared in the Federal Register on January 17, 1980, pg. 3361) has been cancelled.

Dated: January 24, 1980.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 80-3178 Filed 1-31-80; 8:45 am]

BILLING CODE 4310-10-M

CIVIL AERONAUTICS BOARD

Southwest Airlines Co., et al.; Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended January 25, 1980 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming application in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportaton cases).

Subpart Q Applications

Date filed	Docket No.	Description
Jan. 23, 1980	37498	Southwest Airlines Co., c/o Paul Y. Seligson, Wilner & Scheiner, 2021 L Street, N.W., Washington, D.C. 20036. Application of Southwest Airlines Co. pursuant to Section 401 of the Act and Subpart Q, requests a certificate of public convenience and necessity authorizing it to perform scheduled air transportation of persons and property between and among the terminal point Dallas (Love Field), Texas, on the one hand, and the alternate terminal points Tulsa, Oklahoma; Oklahoma City, Oklahoma; and Albuquerque, New Mexico, on the other hand. Conforming Applications and Answers are due February 20, 1980.
Jan. 24, 1980	37503	USAir, Inc., Washington National Airport, Washington, D.C. 2001. Application of USAir, Inc. pursuant to Section 401 of the Act and Part 201 and Subpart Q of Part 302 of the Economic Regulations of the Civil Aeronautics Board, requests amendment of its certificate of public convenience and necessity for Route 97 so as to authorize USAir to engage in scheduled nonstop air transportation of persons, property and mail between Detroit, Michigan, on the one hand, and Philadelphia, Pennsylvania, on the other hand, by removing USAir's stop restriction in the Detroit-Philadelphia market. Conforming Applications and Answers are due February 7, 1980.
Jan. 24, 1980	37504	USAir, Inc., Washington National Airport, Washington, D.C. 20001. Application of USAir, Inc. pursuant to Section 401 of the Act and Part 201 and Subpart Q of Part 302 of the Board's Economic Regulations, requests amendment of its certificate of public convenience and necessity for Route 97 so as to authorize USAir to engage in scheduled nonstop air transportation of persons, property and mail between Columbus, Ohio, on the one hand, and Washington, D.C. (National) and Washington, D.C. (Dulles), on the other hand, by removing USAir's stop restriction in the Columbus-Washington market. Conforming Applications and Answers are due February 7, 1980.
Jan. 24, 1980	37505	USAir, Inc., Washington National Airport, Washington, D.C. 20001. Application of USAir, Inc. pursuant to Section 401 of the Act and Part 201 and Subpart Q of Part 302 of the Board's Economic Regulations, requests amendment of its certificate of public convenience and necessity for Route 97 so as to authorize USAir to engage in scheduled nonstop air transportation of persons, property and mail between Dayton, Ohio, on the one hand, and Washington, D.C. (National) and Washington, D.C. (Dulles), on the other hand, by removing USAir's stop restriction in the Dayton-Washington Market. Conforming Applications and Answers are due February 7, 1980.
Jan. 14, 1980	37507	Pan American World Airways, Inc., Pan Am Building, New York, New York 10017. Application of Pan American World Airways, Inc. pursuant to Section 401 of the Act and Subpart Q requests a certificate of public convenience and necessity authorizing it to engage in nonstop air transportation of persons, property and mail on a permissive basis in the following markets: "Between the terminal point New York, N.Y./Newark, N.J. and the terminal point New Orleans, La." Conforming Applications and Answers are due February 21, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-3433 Filed 1-31-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 35508]

Fitness Investigation of Pacific Alaska Airlines; Hearing (on Remand)

Notice is hereby given pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on February 12, 1980, at 10:00 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C. before the undersigned administrative law judge.

Dated at Washington, D.C., January 28, 1980.

Richard M. Hartsock,

Administrative Law Judge.

[FR Doc. 80-3431 Filed 1-31-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

High Plains-Ogallala Aquifer Regional Study, Colorado, Kansas, Nebraska, New Mexico, Oklahoma, and Texas; Intent To Prepare an Environmental Impact Statement

Notice is hereby given that, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Economic Development Administration (EDA) of the U.S. Department of Commerce will prepare an Environmental Impact Statement (EIS) on the High Plains-Ogallala Aquifer Regional Study authorized by section 193 of Pub. L. 94–587. The High Plains-Ogallala Aquifer covers portions of Colorado, Kansas, Nebraska, New Mexico, Oklahoma, and Texas. The objectives of the study are to assure

adequate water supplies to the area, promote economic vitality of the High Plains region, develop plans to increase water supplies in the area, and assure continued growth and vitality to the region.

A major element of the study will be alternatives consideration. The EIS will address the potential impacts of major alternatives and otherwise assist in developing any decisions on the study for future courses of action.

In accordance with the Council on Environmental Quality's regulations, scoping meetings will be held to inform interested parties and to solicit their comments. These meetings also will serve as part of the public outreach program of the study. A notice will be published in a local newspaper prior to the meetings indicating the time, date, and location of each scoping meeting. Comments and questions regarding the EIS should be addressed to:

Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, ATTN: Mr. Andrew E. Kauders.

Dated: January 25, 1980.

Robert T. Hall,

Assistant Secretary for Economic Development.

[FR Doc. 80-3186 Filed 1-31-80; 8:45 am]

BILLING CODE 3510-24-M

International Trade Administration

Portable Electric Typewriters From Japan; Antidumping Hearing

A "Withholding of Appraisement Notice" in connection with the antidumping investigation of portable electric typewriters from Japan was signed on December 28, 1979 and published in the **Federal Register** on January 4, 1980, (Vol. 45 No. 3 pages 1220–1222). Pursuant to section 102(b)(2) of the Trade Agreements Act of 1979, (19 U.S.C. 1671; 93 Stat 189) a preliminary determination made prior to January 1, 1980 is deemed to have been made on January 1, 1980 under section 733 of the Tariff Act of 1930, as amended, (19 U.S.C. 1673 b; Stat 163). This notice provided an opportunity to interested parties, pursuant to § 153.40, of the Customs Regulations to present written views or arguments, or to request in writing an opportunity to present oral views. Pursuant to this notice, interested parties have requested opportunities to present their views orally.

Therefore, a public hearing in the matter of portable electric typewriters from Japan will be held at the U.S. Department of Commerce, Room 5611, 14th & Constitution Avenues, N.W., Washington D.C. 20230, beginning at 10 a.m. Friday, February 8, 1980. Interested persons other than those who have requested an opportunity to present their views may appear at the hearing provided that a written request is filed with the Office of the Assistant Secretary for Trade Administration, Room 3850 U.S. Department of Commerce, Washington, D.C. 20230.

These requests shall contain: (1) the name, address and telephone number of the requester. (2) the number of participants and reason for attending. All requests are subject to the approval of the Assistant Secretary, and must be received by 5:00 p.m. Monday, February 4, 1980.

Dated: January 28, 1980.

Stanley Marcuss,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 80-3185 Filed 1-31-80; 8:45 am]

BILLING CODE 3510-25-M

Brigham Young University; Decision on Application for Duty Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666–11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 79–00447. Applicant: Brigham Young University, 105 NICB, Chemistry Department, Provo, Utah 84602. Article: Gas Chromatograph, Model 4160 and Accessories. Manufacturer: Carlo Erba Strumentazione, Italy. Intended use of article: The article is intended to be used in research to evaluate the performance of glass capillary columns which have been prepared by different procedures. The article will also be used for training the Chemistry 589R–Special Problems and Chemistry 729R–Selected Topics in Analytical Chemistry.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides on-column sample injection. The National Bureau of Standards advises in its memorandum dated December 13, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 80-3356 Filed 1-31-80; 8:45 am]

BILLING CODE 3510-25-M

California Institute of Technology et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666–11th Street N.W., Washington, D.C.

Decision: Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons: Subsection 301.8 of the Regulations provides in pertinent part:

> The applicant shall *on or before the 20th* day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90-day period.
>
> * * * If the applicant fails, within the applicable time periods specified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Deputy Assistant Secretary on the application within the context of Subsection 301.11. (Emphasis added).

The meaning of the subsection is that should an applicant either fail to notify the Deputy Assistant Secretary of its intent to resubmit another application for the same article to which the denial without prejudice relates *within the 20-day* period, or fails to resubmit a new application within the 90-day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Subsection 301.8 further provides:

> * * * the Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission, of the **Federal Register** for publication, to the Commissioner of Customs, and to the applicant.

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Deputy Assistant Secretary.

Docket No.: 79–00020. Applicant: California Institute of Technology, 1201 E. California Street, Pasadena, California 91125. Article: Gas Chromatograph/Mass Spectrometer, Model MS–25 and Accessories. Date of denial without prejudice to resubmission: September 5, 1979.

Docket No.: 79–00100. Applicant: Princeton University, Flight Research Laboratory, Forrestal Campus, Princeton, NJ 08540. Article: Research Aircraft Navigation Computer. Date of denial without prejudice to resubmission: July 31, 1979.

Docket No.: 79–00136. Applicant: Loma Linda University Medical Center, 11234 Anderson Street, Loma Linda, CA 92350. Article: AECL Therac 20—Saturne Linear Accelerator. Date of denial without prejudice to resubmission: August 3, 1979.

Docket No.: 79–00199. Applicant: Veterans Administration Medical Center, Laboratory Service (113), Electron Microscope Unit, Hines, Illinois 60141. Article: LKB 2128–010 Ultrotome IV Ultramicrotome and Accessories. Date of denial without prejudice to resubmission: July 31, 1979.

Docket No.: 79–00204. Applicant: UCLA Lab. of Nuclear Medicine, 900 Veteran Avenue, Los Angeles, California 90024. Article: DC Power Supply. Date of denial without prejudice to resubmission: August 24, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 80-3355 Filed 1-31-80; 8:45 am]

BILLING CODE 3510-25-M

Fresh Cut Roses From Israel; Initiation of Countervailing Duty Investigation

AGENCY: United States Department of Commerce.

ACTION: Initiation of investigation.

SUMMARY: This notice is to advise the public that a petition has been received and as a result an investigation is being started for the purpose of determining whether or not benefits are granted by the Government of Israel to manufacturers, producers, or exporters of fresh cut roses which constitute a bounty or grant within the meaning of the countervailing duty law. Unless the case is extended, a preliminary determination will be made not later than March 26, 1980, and a final determination not later than June 9, 1980.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION: A petition was received in satisfactory form on November 16, 1979, from counsel on behalf of Roses Incorporated, Haslett, Michigan, alleging that payments or bestowals, conferred by the Government of Israel upon the production and exportation of fresh cut roses from Israel constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) (the Act). It should be noted that Israel is not a country under the Agreement within the meaning of section 701(b) of the Act (19 U.S.C. 1671(b)). Therefore, section 303 of the Act continues to apply to this investigation. Title I of the Trade Agreements Act of 1979 ("TAA") applies to the extent indicated in section 103 of that Act. The effective date of that Title was January 1, 1980. Since no action had been taken on the petition prior to that time, the time limits and applicable procedural requirements of that Title apply to the initiation and conduct of this investigation.

In accordance with section 303 of the Act (19 U.S.C. 1303), I hereby determine that an investigation should be initiated to determine whether the Government of Israel pays or bestows any bounty or grant upon the manufacture, production or exportation of fresh cut roses.

Imports covered by this investigation are described as cut roses, fresh, provided for in item 192.1900, Tariff Schedules of the United States Annotated (TSUSA).

The alleged bounties or grants arise from various programs which provide incentives for capital investment and exportation of capital goods in general, as well as programs designed to aid the flower industry in particular. Programs designed to encourage capital investments are set forth in the capital Investments Law and include favorable tax treatment for property taxes on buildings and property, grants for portions of the cost of property and equipment, a grant for a portion of the export value added, favorable depreciation rates, and a lower tax rate on income. Programs designed to encourage exports are described in the Israel Investors' Manual and include refunds of indirect taxes included in production of export products, refunds of portions of marketing and export insurance expenses, various forms of preferential financing for export related businesses, and cash rebates of a percentage of export sales. The remaining programs are alleged to encourage the flower industry specifically. It is stated that the Government of Israel subsidizes intensive research and development in the growing, preserving, and transportation of roses. In addition, the Government of Israel, through a marketing company known as AGREXCO, is said to underwrite a portion of marketing expenses and to insure preferential financing of delivery trucks, packing houses, and working capital. It is also alleged that the flower industry receives further support through expanded extension services and a Government backed minimum price program.

Pursuant to section 703(b) of the Act (19 U.S.C. 1671b(b)), the International Trade Administration is required to issue a preliminary determination as to whether or not there is a reasonable basis to believe or suspect that a bounty or grant is being paid or bestowed within the meaning of the statute within 85 days after the filing, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. If the case is extended pursuant to section 703(c) of the Act (19 U.S.C. 1671b(c)), the preliminary determination may be postponed until not later than 150th day after filing. Pursuant to section 705(a) of the Act (19 U.S.C. 1671d(a)), a final

decision is required within 75 days after the preliminary determination.

Therefore, a preliminary determination on this petition will be made no later than March 26, 1980, as to whether or not alleged payments or bestowals conferred by the Government of Israel upon the manufacture, production, or exportation of the above described merchandise constitute a bounty or grant within the meaning of section 303 of the Act. A final determination will be issued no later than June 9, 1980. If the case is extended, a preliminary determination will be made not later than May 30, 1980, and a final determination not later than August 13, 1980.

This notice is published pursuant to section 702(c)(2) of the Act (19 U.S.C. 1671a).

Donald Furtado,

Acting Under Secretary for International Trade.

January 24, 1980.

[FR Doc. 80-3387 Filed 1-31-80; 8:45 am]

BILLING CODE 3510-22-M

Fresh Cut Roses From the Netherlands; Initiation of Countervailing Duty Investigation

AGENCY: United States Department of Commerce.

ACTION: Initiation of investigation.

SUMMARY: This notice is to advise the public that a petition has been received and as a result an investigation is being started for the purposes of determining whether or not subsidies are provided by the Government of the Netherlands to producers, manufacturers, or exporters of fresh cut roses. Unless the case is extended, a preliminary determination will be made within 85 days after publication in the **Federal Register**, and a final determination will be made within 75 days after the date of the preliminary determination.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230; (202-566-5492).

SUPPLEMENTARY INFORMATION: A petition was received in satisfactory form on November 16, 1979, from counsel on behalf of Roses Incorporated, Haslett, Michigan, alleging that payments or bestowals, conferred by the Government of the Netherlands upon the manufacture, production, or exportation of fresh cut roses from the Netherlands constitute the payment or bestowal of bounties or grants within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) (the Act).

On January 1, 1980, Title I of the Trade Agreements Act of 1979 (P.L. 96-39, 93 Stat. 144) ("TAA") became effective. Since no action had been taken on the petition prior to that time, the provisions of Title I of the TAA apply to the initiation and conduct of this investigation. Section 702 (b), (c), and (d) of the Act, as amended by the TAA (93 Stat. 152, 19 U.S.C. 1671a (b), (c), (d)) provide the requirements covering initiation of countervailing duty investigations by petition.

In accordance with section 702(c) of the Act (93 Stat. 152, 19 U.S.C. 1671a(c), I hereby determine that the petition alleges the elements necessary for the imposition of a duty under section 701(a) of the Act (93 Stat. 151, 19 U.S.C. 1671(a)) and contains information reasonably available to the petitioner supporting the allegations. Therefore, an investigation to determine whether a subsidy is being provided with respect to fresh cut roses from the Netherlands is being initiated.

Imports covered by this investigation are described as cut roses, fresh, provided for in item 192.1900, Tariff Schedules of the United States Annotated (TSUSA).

The alleged subsidies arise from interest rate subsidies received by farmers for participation in a European Economic Community program designed to increase productivity through modernization. Further benefits are said to be derived from grants enacted under a system known as Wet Investeringsrekening (WIR) which provides incentives for investing in new operating assets. In addition, the government is said to assume certain social security costs and to provide a wage subsidy program.

The petitioner claims that the domestic rose growing industry has sustained material injury as the result of the importation of subsidized roses. It is alleged that the subsidized imports have depressed prices at a time when domestic growing costs have risen rapidly, thus causing a sharp decline in the profit margin of the domestic industry. The petitioner further claims that a recent increase in the importation of roses combined with a general weakening of the domestic growers' position constitute critical circumstances within the meaning of section 703(e) of the Act (19 U.S.C. 1671b(e)).

In accordance with section 702(d) of the Act (19 U.S.C. 1671a(d)), the U.S. International Trade Commission ("U.S.I.T.C.") is being notified of this determination. A copy of the information on the basis of which the investigation is being initiated is being delivered to the U.S.I.T.C. All nonprivileged and nonconfidential information in the files of the International Trade Administration is being made available to the U.S.I.T.C., and all privileged and confidential information in the files will be made available upon confirmation that the confidentiality of such information will be maintained and that it will not be disclosed, either publicly or under the administrative protective order, without the express written consent of the Assistant Secretary for Trade Administration.

Pursuant to section 703(a) of the Act (19 U.S.C. 1671b(a)), the U.S.I.T.C. will within 45 days after the date on which the petition was filed with it (January 3, 1980) make a determination as to whether there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, by reason of imports of fresh cut roses from the Netherlands. If that determination is negative, this investigation will be deemed terminated and no further notice will be published by the International Trade Administration. Otherwise, the investigation will continue to conclusion.

Pursuant to section 703(b) of the Act (19 U.S.C. 1671b(b)), the International Trade Administration is required to issue a preliminary determination as to whether or not there is a reasonable basis to believe or suspect that a subsidy is being provided within the meaning of the statute within 85 days after filing, but not before an affirmative determination by the U.S.I.T.C. as required by section 703(a) of the Act (19 U.S.C. 1671b(a)). If the case is extended pursuant to section 703(c) of the Act (19 U.S.C. 1671b(c)), the preliminary determination may be postponed until not later than the 150th day after filing. Pursuant to section 705(a) of the Act (19 U.S.C. 1671d(a)), a final decision is required within 75 days after the date of the preliminary determination.

This notice is published pursuant to section 702(c)(2) of the Act (19 U.S.C. 1671a(c)(2)).

Donald Furtado,

Acting Under Secretary for International Trade.

January 24, 1980.

[FR Doc. 80-3386 Filed 1-31-80; 8:45 am]

BILLING CODE 3510-22-M

International Trade Administration

Withdrawal of Application for Duty-Free Entry of Scientific Article

The Baylor College of Medicine has withdrawn Docket Number 80-00094 an application for duty-free entry of an Electron Microscope.

Accordingly, further administrative proceedings will not be taken by the Department of Commerce with respect to this application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 80-3354 Filed 1-31-80; 8:45 am]

BILLING CODE 3510-25-M

Decision on Application for Duty Free Entry of Scientific Article; National Aeronautics and Space Administration

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket Number: 79-00327. Applicant: National Aeronautics and Space Administration, Goddard Space Flight Center, Greenbelt, Md 20771. Article: Scanning Electron Microscope, Model PSEM 500X and Accessories. Manufacturer: Philips Electronics Instruments, the Netherlands. Intended use of article: The article is intended to be used in materials research program covering a broad spectrum of applications. It will also be used extensively in the failure analysis of materials and spacecraft components both as a microscope and electron microprobe. Specific uses will include the following:

(a) To identify elements present in a specimen, determine their distribution and concentration on a microscopic level.

(b) To conduct fractographic studies of metals such as 301 and 17-7PH stainless steels and 6061 aluminum.

(c) To conduct diffusion studies of nobel metals into base metal matrices such as the diffusion of gold into Kovar (and iron-nickel-cobalt alloys).

(d) To characterize the microstructure of alloys and weldments, and

(e) To determine phase identification of grain boundary precipitates in alloy research.

Comments: No comments have been received with respect to this application. A letter received September 5, 1979 from AMRAY Inc. (AMRAY) is being treated as an offer to provide additional information in accordance with Subsection 301.10(a) of the regulations. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (August 14, 1978). Reasons: The foreign article provides a fully eucentric goniometer specimen stage. In its comments on the application's initial submission (Docket Number 78-00389) and the additional information provided for the submission (Docket Number 79-00327), AMRAY contended that its Model 1000A was scientifically equivalent to the foreign article for the applicant's intended program. AMRAY did not contend that the 1000A or any other AMRAY instrument provided a fully eucentric goniometer stage and specifications for the 1000A provided by AMRAY indicate that the goniometer stage of this model is not fully eucentric. The National Bureau of Standards advises in its memorandum dated December 17, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose (2) AMRAY does not provide a fully eucentric goniometer stage and (3) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistant Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Program Staff.

[FR Doc. 80-3353 Filed 1-31-80; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Addition

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to Procurement List 1980 a service to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: February 1, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: On November 16, 1979 the Committee for Purchase from the Blind and Other Severely Handicapped published notice (44 F.R. 66010) of proposed addition to Procurement List 1980, November 27, 1979 (44 F.R. 67925).

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following service is hereby added to Procurement List 1980:

SIC 7349

Janitorial Service, Leo W. O'Brien Federal Building, Clinton Avenue & N. Pearl Street, Albany, New York 12207.

C. W. Fletcher,

Executive Director.

[FR Doc. 80-3382 Filed 1-31-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement list 1980, Proposed Deletions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Proposed deletion from procurement list.

SUMMARY: The Committee has received proposals to delete from Procurement list 1980 services provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 5, 1980.

ADDRESS: Committee for Purchase From the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

It is proposed to delete the following commodities from Procurement List 1980, November 27, 1979 (44 FR 67925):

SIC 0782

Grounds Maintenance, State Line Park, West Point Lake, West Point, Georgia.

SIC 7641

Furniture Rehabilitation, Upholstery portion only, Fairbanks, Alaska, plus 30-mile radius.

C. W. Fletcher,

Executive Director.

[FR Doc. 80-3393 Filed 1-31-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1980, Proposed Additions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1980 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 5, 1980.

ADDRESS: Committee for Purchase From the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

It is proposed to add the following commodities and services to Procurement List 1980 November 27, 1979 (44 FR 67925):

Class 8440

Scarf, Man's Wool: 8440-00-005-2558, 8440-00-160-6843, 8440-00-823-7520.

SIC 7349

Janitorial Service, Waltham Federal Building, Waltham, Massachusetts.

Commissary Shelf Stocking and Custodial Service, Sheppard Air Force Base, Wichita Falls, Texas.

SIC 0782

Grounds Maintenance, Fort Ord, California. For the following Areas: 1. Football Field, 2. Multipurpose Field, 3. Durham Field, 4. Sober Field, 5. Bowling Alley, 6. Building #3015.

C. W. Fletcher,

Executive Director.

[FR Doc. 80-3394 Filed 1-31-80; 8:45 am]

BILLING CODE 6820-33-M

COPYRIGHT ROYALTY TRIBUNAL

Cable Royalty Distribution Proceeding

January 29, 1980.

The Copyright Royalty Tribunal (Tribunal) on December 19, 1979 published an Order in the **Federal Register** (44 FR 75201) directing claimants In the Matter of Distribution of Cable Royalty Fees to submit not later than January 31, 1980 "a pre-hearing memorandum" on certain identified subjects relating to the presentation of evidence during the cable royalty distribution proceeding and directing that memoranda on these matters shall be submitted in accordance with certain statements enumerated in the Order.

The National Association of Broadcasters (NAB) on January 17, 1980 filed a Petition for Review of the December 19 Order with the United States Court of Appeals for the District of Columbia. On January 18 the Tribunal received a petition from NAB on behalf of various broadcasting stations claiming cable royalty fees requesting a stay of the Tribunal's Order, and further requesting that all proceedings directed in the December 19 Order "be postponed to a date three weeks after a final decision on this application has been published in the **Federal Register.**"

The Tribunal, prior to action on the NAB petition, received written comments on behalf of the American Society of Composers, Authors, and Publishers, the Motion Picture Association of America, Inc., its member companies, and other program producers and distributors, the Joint Sports Claimants, National Collegiate Athletic Association, and Broadcast Music, Inc.

Prior Proceedings.—On September 12, 1979 the Tribunal, pursuant to 17 USC 111(d)(5)(B), declared the existence of a controversy concerning the distribution among copyright owners of cable royalty fees paid by cable operators during 1978. At a pre-hearing conference on October 11, 1979 representatives of the major claimants, including NAB, requested the Tribunal in the interest of an efficient proceeding to identify certain issues for early consideration. On October 17, 1979 the Tribunal published an Order (44 FR 59930) directing briefing and oral argument on specified issues. Oral arguments on these issues were held December 5 and 6, 1979.

Arguments by Claimants.—In support of its petition, the NAB asserts: 1. "The Broadcasters Have Clearly Met the Standards Required For Issuance Of A Continuance And A Stay", 2. "The Tribunal's December 19, 1979 Decision Should Be Stayed Pending Review Since There Is A Substantial Likelihood That It Will Be Reversed On Appeal", 3. Absent The Relief Requested, The Broadcasters And Countless Other Regulated Parties Will Suffer Irreparable Harm", 4. "Other Interested Parties Suffer Little, If Any, Harm From Issuance Of A Stay".

All comments received by the Tribunal in reply to the NAB petition urged the Tribunal to deny the requested relief. Each of these submissions analyzed and rejected the arguments advanced by NAB and specifically commented that the Tribunal had not made any final decision which is now appropriate for judicial review in accordance with 17 USC 810.

Tribunal Response.—All actions taken by the Tribunal must be rooted in the special procedures established by the Congress in Title 17 for the distribution of cable royalty fees. The Congress was well acquainted with the complexity of cable royalty fee distribution. It knew the problem and devised a *specific mechanism* and a *specific procedure* to resolve it. At the same time, the Congress gave the Tribunal wide discretion to fashion its procedures to accomplish its statutory functions. For as is stated at page 97 of House Report 94-1476 on S. 22, the bill for the general revision of the copyright law, "The Committee recognizes that the bill does not include specific provisions to guide the Copyright Royalty Commission in determining the appropriate division among competing copyright owners of the royalty fees collected from cable systems under Section 111."

Under the procedure established in the Copyright Act, copyright owners are required to file claims concerning the secondary transmission of their works by cable television systems with the Tribunal each July "in accordance with requirements that the Tribunal shall prescribe by regulation." To facilitate the distribution of cable royalty fees, 17 USC 111(d)(5)(A) suspended the provisions of the antitrust laws so that "claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them."

Section 111(d)(5)(B) requires the Tribunal to "determine whether there exists a controversy concerning the distribution of royalty fees." Once the Tribunal finds the existence of a controversy, it is required to initiate without delay a proceeding to determine the distribution of the royalty fees and in accordance with 17 USC 804(e) the Tribunal is required to "render its final decision in any such proceeding within one year".

Section 803(d) requires that every final determination of the Tribunal shall be published in the **Federal Register** and shall state the criteria that the Tribunal "determined to be applicable to the particular proceeding, the various facts that it found relevant to its determination in that proceeding, and the specific reasons for its determination." Finally, Section 810 provides that the final decision of the Tribunal in a cable royalty distribution proceeding may be appealed to the United States Court of Appeals.

It is thus clear that the Congress, in constructing the royalty distribution proceeding, sought an expeditious and orderly procedure controlled by the specific provisions of the copyright law. The Congress did not intend, and in fact precluded, the interruption of the proceeding following any interim or interlocutory orders issued by the Tribunal.

Ludicrous results would necessarily flow from the Tribunal's granting of the stay or concurrence in the NAB argument that judicial review is now authorized and appropriate. If the proceedings are stayed until the final conclusion of the appellate process, the delay will be of unpredictable duration, but highly likely to extend beyond the statutory deadline of this proceeding. Presumably, it will be argued that the judicial review in some fashion acts to suspend the clear language of Section 804(e).

When the appellate process if finally concluded and the Tribunal resumes the proceeding, it would in due course, because of the complexity of the subject matter, necessarily publish additional orders. Presumably, one or more of the 450 claimants would have an objection to the provisions of such orders and argue that the Tribunal should stay the proceeding until the claimant could obtain judicial review. If the Tribunal were to grant the relief requested by the NAB, it would be acting in an arbitrary manner if in the future it did not permit each claimant an equal opportunity to stay the proceeding pending judicial review. A cable royalty distribution proceeding would thus continue for years—a result that the Congress clearly feared and acted to preclude in the drafting of the governing provision of the copyright law.

In considering the various arguments advanced by the petitioner, the Tribunal must take note of the structure of this agency established by the Congress. The Tribunal is composed of five Commissioners nominated by the President to serve specified and staggered terms. The Congress has directed that the Commissioners shall directly perform all statutory functions and consequently all proceedings before the Tribunal are conducted before the entire membership of the Tribunal.

The current terms of two Commissioners expire during 1982. Based on the experience of other agencies, it would not be unusual if one or more Commissioners did not serve a full term. If the Tribunal were to accept the petitioner's theories concerning the timing of judicial review, it would not be unlikely that the Tribunal would be rendering a "final determination" in the current distribution proceeding at a time when a majority of the Tribunal's membership would not have particiapted during substantial periods of the cable distribution proceeding.

The Tribunal need not consider at this time whether it would be a denial of due process for the adjudication of claims to be determined in a proceeding where a majority of those required by statute to make the adjudication did not particpate for substantial periods. It is enough to say that such a proceeding would not promote the search for an informed and equitable distribution of cable royalties. It would be a result alien to the intent of Congress, and one that cannot be accepted by the Tribunal.

Even in the absence of the specific requirements of the copyright law which bar the relief sought by NAB, the Tribunal has concluded that the petitioner has failed in both law and equity to establish any justification for its request. The Supreme Court has held that the determination of ripeness for judicial review has two parts: "first to determine whether the issues tendered are appropriate for judicial resolution, and second to asses the hardship to the parties if judicial relief is denied at that stage." *Toilet Goods Association Inc. v. Gardner,* 387 US 158, 162 (1967).

As to the first of these questions, we note that any judicial review at this stage of the December 19 Order would require the court to speculate as to how the Tribunal may proceed in the remaining months of this proceeding and how the statements in the Order may be applied finally, if at all, to the adjudication of any particular claim. We believe that consideration of any underlying legal issues will be facilitated on review if they are examined in the context of a specific application to the claims being adjudicated.

The NAB petition correctly states that the December 19 Order was issued following formal procedures before the Tribunal, including oral argument on certain issues. However, the Supreme Court has held that the presence of these factors is not dispositive of the appropriateness of judicial resolution and may be "outweighted by other considerations" *Cf. Toilet Goods,* 162.

Nor will the absence of review at this time prejudice the interests of the petitioner. The Order merely controls the conduct of the current phase of the royalty distribution proceeding. It places no new obligations on the broadcaster claimants, and does not regulate or control their day-to-day operations. *Cf. Abbott Laboratories v. Gardner,* 387 US 136, 152 (1967).

As requested by the petitioner, we have reviewed the factors in *Virginia Petroleum Jobbers Association v. FPC,* 104 US App. D.C. 106, 259 F. 2d 921, 925 (D.C. Cir. 1958] "considered by the courts in determining whether justice requires that administrative action be stayed pending judicial review". These are whether there is a likelihood of probable success on the merits, whether petitioner will suffer irreparable damage if the stay is not granted, whether substantial harm will be caused to the interested parties and whether the public interest calls for denial of the stay.

NAB states that "None of these factors is in itself dispositive; each must be balanced against the other equitable considerations which *Virginia Petroleum* requires the court to consider." The Tribunal does not need to balance the identified factors since it has not been persuaded that NAB's petition meets the standard of any of these factors, or "other equitable considerations."

Concerning probability of success on the merits, *Virginia Petroleum* states that "Without such a substantial indication of probable success, there would be no justification for the court's intrusion into the ordinary process of administration and judicial review." We have already discussed our view that judicial review of the December 19 Order is barred by the copyright law since it is not a final decision. However, even if a court were to conclude that it has jurisdiction and that the Order is ripe for review, NAB has failed in its memorandum to establish any basis for a conclusion at the present time that there is a significant probability of success on the issues that it wishes to pursue.

V 45 / 23 FE 1 80 UMI

This is the first cable distribution proceeding. There are no agency or judicial precedents. There has been no judicial construction of the relevant provisions of the copyright law. The interrelationship of various sections of the complex. All these factors preclude any finding of "probable success" let along "a substantial indication of probable success."

With regard to irreparable injury, *Virginia Petroleum* says:

> The key word in this consideration is *irreparable*. Mere injuries, however substantial, in terms of money, time and energy necessarily expended in the absence of a stay, are not enough. The possibility that adequate compensatory or other corrective relief will be available at a later day, in the ordinary course of litigation, weighs heavily against a claim of irreparable harm.
>
> *259 F. 2d at 925.*

The petition states that "the Tribunal's decision virtually impacts the whole fabric of the cable television industry. There is every indication that the regulated parties will conduct their day-to-day business affairs with reliance upon the Tribunal's interpretation of Section 111(d)(4) of the Copyright Act."

The Tribunal does not regulate the cable television industry. It does not regulate the broadcasting industry of the motion picture industry. It lacks any general rulemaking jurisdiction over those business entities whose programs are transmitted by cable systems. Its only jurisdiction in the current proceeding is to resolve disputes among certain copyright owners concerning the distribution of royalty fees paid by cable operators for the secondary transmission of certain copyrighted programs during 1978.

The copyright law was passed October 19, 1976 and the cable provisions became effective January 1, 1978. the record before the Tribunal suggests that broadcasters and program suppliers may be reviewing their contractural arrangements in light of the new legislation. Regardless of the December 19 Order, or indeed regardless of what final determination the Tribunal may make in the current preceeding, the allocation of rights among the various parties will be the subject of negotiations among the parties and will ultimately be determined by whatever contractual arrangements are reached.

Concerning the impact of the requested stay on other parties and the public interest, these considerations have been essentially addressed by the Congress during its consideration of the copyright law. A protracted and disjointed distribution proceeding is adverse to the rights of claimants to copyright royalties. The Congress has obviously determined that the public interest is served by the expeditious and uninterrupted progress of the proceeding.

The Order of December 19 governs the terms and scope of "a pre-hearing memorandum", a pre-hearing conference, and one phase of an evidentiary hearing. We have not voted to reject any claim—all claims are still pending. The Order does not preclude, as the proceeding continues, the issuance of additional orders on subjects relevant to the proceeding, including the issues discussed in the NAB memorandum. Indeed, it would not be surprising if the Tribunal in due course were to issue additional orders which may be of greater significance to the ultimate allocation of royalty fees than the items enumerated in the December 19 Order.

Request for Continuance.—The NAB requests that all proceedings scheduled in the December 19 Order be postponed to a date three weeks after the publication of the Tribunal's action on the petition for a stay.

The Tribunal in the exercise of its discretion usually is sympathetic to reasonable requests for extension of time. It is unable to do so in this instance because the relief requested is inconsistent with the statutory requirement for an expeditious proceeding. There is much work to be done in this proceeding in the limited time remaining to the Tribunal. The Tribunal may grant a continuance, but there is no way for the Tribunal to receive a continuance.

It is therefore ordered that the petition of NAB for a stay of the December 19 Order pending an appeal and for a continuance for three weeks of the proceedings scheduled in the December 19 Order are denied.

Mary Lou Burg,

Chairman, Copyright Royalty Tribunal.

[FR Doc. 80-3358 Filed 1-31-80; 8:45 am]

BILLING CODE 1410-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare a Draft Environmental Impact Statement For River Des Peres, Mo.

AGENCY: St. Louis District, U.S. Army Corps of Engineers.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement for River Des Peres, Missouri.

SUMMARY: 1. *Proposed Action.* The proposed action is to prepare a Draft Environmental Impact Statement for the River des Peres, Missouri, General Investigation Study regarding flooding and related land resource problems. Nonstructural measures will address controlling the future land use and type of future development in the floodplain area to: Prevent or reduce flood damages; create opportunities to enhance, conserve and/or preserve environmental values; and provide outdoor recreation opportunities. Structural measures will provide a means to prevent or reduce flood damages and streambank erosion.

2. *Alternatives.* Alternatives studied will include applicable nonstructural and structural measures such as: Floodplain evacuation; floodplain regulation; fish and wildlife management; open space acquisition; diversion ditches; levees/floodwalls; barrier dam; detention basins; floodproofing; channel modifications; aquatic habitat structures; fish ponds; linear parks; combined linear park and detention sites; and the consequences of no action.

3. *Scoping Process.*

a. *Public Involvement Program.* The public involvement program began during the St. Louis Metropolitan Area, Missouri and Illinois Study (St. Louis Metro Study, Sept. 1977). Public input received during the St. Louis Metro Study regarding water resource related problems and needs led to the River des Peres project being initiated as an interim study. In November 1978, representatives of Federal, State, and local agencies as well as private interests made a field reconnaissance of the study area to review the problems and needs of the area. Throughout the remainder of the study, meetings and workshops will be scheduled to inform the interested public about study progress, and to receive opinions and comments as input to be considered in selecting the development plan. To insure an opportunity for as many as possible to express an opinion, additional input will be received via telephone and correspondence contacts. The scoping process, as outlined by the Council of Environmental Quality (29 November 1978), will be incorporated into the Corps of Engineers' existing planning process.

b. *Significant Issues.* Significant issues addressed in the Draft Environmental Impact Statement will include: A description of natural resources, wildlife and aquatic habitat, endangered species, linear park development, and archeological and historical sites; and an analysis of the impact on the environment regarding the alternative of the future with project conditions.

c. *Lead Agency and Cooperating Agency Responsibilities.* The St. Louis District, U.S. Army Corps of Engineers, is the lead agency responsible for preparing the Draft Environmental Impact Statement. Coordination will be maintained with the U.S. Fish and Wildlife Service, the Environmental Protection Agency, the Heritage Conservation and Recreation Service, the U.S. Geological Survey, the Soil Conservation Service, the state of Missouri, the Metropolitan St. Louis Sewer District, the city of St. Louis, St. Louis County, the East-West Gateway Coordinating Council, local municipalities, and environmental groups.

d. *Environmental Review and Consultation Requirements.* The completed Draft Environmental Impact Statement will be made available to appropriate Federal, state, and local agencies; representatives of environmental groups; and other interested individuals. The Draft Environmental Impact Statement will contain records of compliance with designated consultation requirements found applicable during the course of this study.

4. *Scoping Meeting.* The scoping process was initiated during the St. Louis Metro Study. This scoping process will continue as formal public meetings, workshops, and coordination meetings will be scheduled at intermediate points throughout the duration of the study.

5. *Draft Environmental Impact Statement Preparation.* The Draft Environmental Impact Statement is tentatively scheduled to be completed in the third quarter of fiscal year 1983 (June, 1983).

ADDRESS: Questions concerning the proposed action and the Draft Environmental Impact Statement can be answered by: Mr. Jack F. Rasmussen, Chief, Planning Branch, U.S. Army Engineer District, St. Louis, 210 Tucker Blvd., North, St. Louis, Missouri 63101.

Dated: January 24, 1980.

Robert J. Dacey,

Colonel, CE, District Engineer.

[FR Doc. 80-3161 Filed 1-31-80; 8:45 am]

BILLING CODE 3710-85-M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that a subgroup of the Command, Control, and Communications Sub-Panel of the Chief of Naval Opererations (CNO) Executive Panel Advisory Committee will meet on February 20–21, 1980, from 9:00 a.m. to 5:00 p.m. each day, at the Pentagon, Washington, D.C. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of command, control, and communications systems and the command and control Master Plan. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Commander Robert B. Vosilus, U.S. Navy, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 N. Beauregard Street, Room 392, Alexandria, VA 22311. Telephone no. (703) 756–1205.

Dated: January 25, 1980.

P. B. Waker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 80-3191 Filed 1-31-80; 8:45 am]

BILLING CODE 3810-71-M

Department of the Navy

Secretary of the Navy's Advisory Committee on Naval History; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Secretary the Navy's Advisory Committee on Naval History will meet on March 27, 1980, at 9:00 a.m., in room 4D710, the Pentagon, Washington, D.C.

The purpose of the meeting is to review the naval historical activities of the past eighteen months and to make comments and recommendations on these activities to the Secretary of the Navy.

Depending on available space, public attendance may be limited to those persons who have given written notice of their intention to attend. Such notice should be given at least 5 days prior to the meeting.

For further information about this notice and the Secretary of the Navy's Advisory Committee on Naval History, contact: Captain K. C. Spayde, Jr., U.S. Navy, Deputy Director of Naval History, Building 220, Washington Navy Yard, Washington, D.C. 20374, telephone No. (202) 433–2379.

Dated: January 25, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 80-3400 Filed 1-31-80; 8:45 am]

BILLING CODE 3810-71-M

Naval Discharge Review Board; Hearing Locations

In November 1975, the Naval Discharge Review Board commenced to convene and conduct prescheduled discharge review hearings for a number of days each quarter in locations outside of the Washington, D.C. area. The cities in which these hearings are scheduled are determined in part by the concentration of applicants in a geographical area.

The following Naval Discharge Review Board itinerary for February 1980 through June 1980 has been approved, but remains subject to modification if required:

3 through 16 February 1980—Portland, OR; San Francisco, CA
3 through 14 March 1980—Memphis, TN; Dallas, TX; Kansas City, MO
17 through 28 March 1980—Boston, MA; Albany, NY
21 April through 2 May 1980—Chicago, IL; Minneapolis, NM
4 through 16 May 1980—San Diego, CA; San Francisco, CA
16 through 27 June 1980—Atlanta, GA; New Orleans, LA; Tampa, FL

Any former member of the Navy or Marine Corps who desires a discharge review, either in Washington, D.C., or in a city nearer to his or her residence, should file an application with the Naval Discharge Review Board, using DD Form 293. If a personal appearance is requested, the petitioner should enter on the application which location is preferred. Application forms (DD 293) may be obtained from, and the completed application should be mailed to, the following address: Naval Discharge Review Board, Suite 910, 801 North Randolph Street, Arlington, Virginia 22203.

Notice is hereby given that, since the foregoing itinerary is subject to modification and since, following receipt of a new application, the Naval Discharge Review Board must obtain the applicant's military records before a hearing may be scheduled, the submission of an application to the

Naval Discharge Review Board is not tantamount to scheduling a hearing. Applicants and/or their representatives will be notified by mail of the date and place of their hearing when personal appearance has been requested.

For further information concerning the Naval Discharge Review Board, contact: Captain James C. Price, U.S. Naval Reserve, Executive Secretary, Naval Discharge Review Board, Suite 910, 801 North Randolph Street, Arlington, Virginia 22203, telephone No. (202) 696–4881.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant, Judge Advocate General (Administrative Law).

[FR Doc. 80-3329 Filed 1-31-80; 8:45 am]
BILLING CODE 3810-71-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

Civil Uses of Atomic Energy; Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Venezuela Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out involves the extension of the Agreement Between the International Atomic Energy Agency, the government of the Republic of Venezuela and the Government of the United States of America for the Application of Safeguards in accordance with Section 33 of that Agreement.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the extension of this safeguards transfer agreement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: January 30, 1980.

Frederick F. McGoldrick,

Acting Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-3554 Filed 1-31-80; 8:45 am]
BILLING CODE 6450-01-M

Economic Regulatory Administration

Domestic Crude Oil Allocation program Entitlement Notice for November 1979

AGENCY: Department of Energy, Economnic Regulatory Administration.

ACTION: November 1979 entitlement notice.

SUMMARY: Under the Department of Energy's (DOE) domestic crude oil allocation (entitlements) program, this is the monthly entitlement notice which sets forth the entitlement purchase or sale requirements of domestic refiners for November 1979.

DATES: Payments for entitlements required to be purchased under this notice must be made by January 31, 1980. The monthly transaction report specified in § 211.66(i) shall be filed with the DOE by February 10, 1980.

FOR FURTHER INFORMATION CONTACT:

Douglas McIver (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street NW., Room 6128I, Washington, D.C. 20461 (202) 254–8660

Kristina Clark (Office of General Counsel), Department of Energy, Forrestal Building, 1000 Independence Avenue SW., Room 6A–127, Washington, D.C. 20585 (202) 252–6744

SUPPLEMENTAL INFORMATION: In accordance with the provisions of 10 CFR 211.67 relating to the domestic crude oil allocation program of the Department of Energy (DOE), administered by the Economic Regulatory Administration (ERA), the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for November 1979 submitted to the DOE by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports, middle distillate imports, eligible petroleum substitutes, and imported naptha utilized as a petrochemical feedstock in Puerto Rico; application of the entitlement adjustment for residual fuel oil production shipped in foreign flag tankers for sale in the East Coast market provided in § 211.67(d)(4); application of the entitlement adjustments for California lower tier and upper tier crude oil provided in § 211.67(a)(4); December 1979 deliveries of crude oil for storage in the Strategic Petroleum Reserve; and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for November 1979 is calculated to be .218041.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of November 1979, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .618943 of a barrel of deemed old oil.

The issuance of entitlements for the month November 1979 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR 211.67(i)(4), the price at which entitlements shall be sold and purchased for the month of November 1979 is hereby fixed at $20.12, which is the exact differential as reported for the month of November between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil.

In accordance with 10 CFR 211.67(b), each refiner that has been issued fewer entitlements for the month of November 1979 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of November 1979 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of November 1979 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements.

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by ERA pursuant to § 211.67(h).

Included in the appendix are entitlements issued pursuant to the provisions of 10 CFR 211.67(a)(5) under which ERA may approve a firm's application for designation as a producer of a petroleum substitute.

The listing contained in the Appendix identifies in a separate column labeled "Exceptions and Appeals" additional entitlements issued to refiners pursuant to relief granted by the Office of Hearings and Appeals (prior to March 30, 1978, the Office of Administrative Review of the Economic Regulatory Administration). Also set forth in this column are adjustments for relief granted by the Office of Hearings and Appeals for 1975 and 1976, which adjustments are reflected in monthly installments. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, *see Bacon Oil Company, et al,* 4 FEA par. 87,024 (November 5, 1976).

The listing contained in the Appendix continues the "Consolidated Sales" entry initiated in the October 1977 entitlement notice. The "Consolidated Sales" entry is equal to the November 1979 entitlement purchase requirement of Arizona Fuels. The purpose of providing for the "Consolidated Sales" entry is to ensure that Arizona Fuels is not relieved of its November 1979 entitlement purchase requirement and that no one firm will be unable to sell its entitlements by reason of a default by Arizona Fuels. For a full discussion of the issues involved, *see Entitlement Notice for October 1977* (42 FR 64401, December 23, 1977).

For purposes of § 211.67(d) (6) and (7), which provide for entitlement issuances to refiners or other firms for sales of imported crude oil to the United States Government for storage in the Strategic Petroleum Reserve, the Government made no purchases of imported crude oil.

For the month of November 1979, imports of residual fuel oil eligible for entitlements issuances totaled 22,526,477 barrels.

In accordance with § 211.67(a)(4), the number of barrels of California lower tier and upper tier crude oil as reported by refiners to the DOE, and the weighted average gravity thereof are as follows:

	Volumes	Weighted average gravity
California lower tier crude oil	3,546,163	22°
California upper tier crude oil	4,782,316	25°

The total number of entitlements required to be purchased and sold under this notice is 23,030,983.

Based on reports submitted to the DOE by refiners as to their adjusted crude oil receipts for November 1979, the pricing composition and weighted average costs thereof are as follows:

	Volumes	Weighted average cost	Percent of total volumes [1]
Lower tier	58,442,273	$8.59	12.0
Upper tier	85,424,833	14.26	18.1
Exempt domestic:			
Alaskan	39,696,367	21.81	8.4
Heavy oil	8,420,462	19.70	1.8
Naval petroleum reserve	3,421,864	25.84	0.7
Newly discovered	6,572,180	23.57	1.4
Stripper	50,152,952	29.49	10.6
Tertiary	325,592	23.34	0.07
Total domestic	250,456,153	17.65	53.18
Total imported	220,542,880	27.02	46.82
Total uncontrolled (exempt domestic and imported)	325,132,127	25.71	69.8
Total reported crude oil receipts	470,999,033	22.04	
Total reported crude oil runs to stills	457,213,503		

[1] Volumes may not add due to rounding.

Payment for entitlements required to be purchased under 10 CFR 211.67(b) for November 1979 must be made by January 31, 1980.

On or prior to February 10, 1980, each firm which is required to purchase or sell entitlements for the month of November 1979 shall file with the DOE the monthly transaction report specified in 10 CFR 211.66(i) certifying its purchases and sales of entitlements for the month of November. The monthly transaction report forms for the month November have been mailed to reporting firms. Firms that have been unable to locate other firms for required entitlement transactions by January 31, 1980 are requested to contact the ERA at (202) 254–3336 to expedite consummation of these transactions. For firms that have failed to consumate required entitlement transactions on or prior to January 31, 1980, the ERA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(k).

This notice is issued pursuant to Subpart G, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before March 3, 1980.

Issued in Washington, D.C. on January 28, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

Notice of Entitlements for Domestic Crude Oil

[November 1979]

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position: Total issued	Exceptions and appeals	Entitlements: Product	Entitlements: California	Required to buy	Required to sell
-Consol'd-Sales	−55,501	0	0	0	0	0	55,501
A-Johnson	0	22,472	0	−27,285	0	0	22,472
Adm	0	9,383	0	0	0	0	9,383
Akron-Ohio	0	5,433	0	0	0	0	5,433
Allied	39,892	57,297	0	0	0	0	17,405
Amer-Petrofina	858,132	934,249	0	0	0	0	576,117
Amerada-Hess	1,606,965	3,503,648	0	45,119	0	0	1,896,684
Ames-Iowa	0	3,150	0	0	0	0	3,150
Amoco	10,349,217	6,242,942	0	0	0	4,106,275	0
Anchor	194	35,431	0	0	20	0	35,237
Anschutz	0	35,152	0	35,152	0	0	35,152
Arco	2,311,873	5,200,986	0	0	19,553	0	2,889,113
Arizona	88,474	32,973	0	0	2,294	55,501	0
Asamera	115,819	107,617	0	0	0	8,202	0
Ashland	1,315,895	2,734,193	0	0	0	0	1,418,298
Basin	−22,167	52,721	0	0	−2,726	0	74,888
Bayou	29,176	29,855	0	0	0	0	677
Beacon	43,459	303,194	217,492	0	2,969	0	259,735
Belcher	0	137,936	0	137,936	0	0	137,936
Bi-Petro	0	27,718	0	0	0	0	27,718
Bruin	178,612	99,425	0	0	0	79,187	0
C&H	0	362	0	0	0	0	362
Calcasieu	88,052	94,651	0	0	0	0	6,599

Notice of Entitlements for Domestic Crude Oil—Continued

[November 1979]

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position					
		Total issued	Exceptions and appeals	Entitlements		Required to buy	Required to sell
				Product	California		
Calumet	16,782	17,520	0	0	0	0	738
Canal	125,829	53,018	0	0	0	72,805	0
Carbonit	149,108	94,852	0	0	0	54,256	0
Carlow	64,689	37,994	0	0	0	26,695	0
Castle	0	21,956	0	21,956	0	0	21,956
Central	0	13,867	0	13,867	0	0	13,867
Champlin	1,688,651	608,802	0	0	82,626	1,079,849	0
Charter	405,489	458,614	−4,391	0	0	0	53,125
Charter-Bahamas	0	391,658	0	391,658	0	0	391,658
Chevron	5,402,143	7,868,571	0	11,421	101,976	0	1,266,428
Cibro	0	226,727	0	69,670	0	0	226,727
Citgo	1,736,736	1,677,339	0	0	0	59,397	0
Claiborne	74,032	26,677	0	0	0	47,355	0
Clark	297,281	744,306	0	0	0	0	447,025
Coastal	150,567	1,377,271	0	80,786	0	0	1,226,704
Colonial-Pasco	0	45,752	0	0	0	0	45,752
Colonial	0	24,303	0	24,303	0	0	24,303
Conoco	2,314,107	2,125,272	0	0	23,022	166,835	0
Consumers-Power	0	61,985	0	61,985	0	0	61,985
Copano	39,802	24,188	0	0	0	15,614	0
Coral	0	192,261	0	0	0	0	192,261
Coroo	0	651,454	0	189,187	0	0	651,454
CRA-Farmland	309,529	538,017	0	0	0	0	228,488
Crass	58,948	67,501	0	0	0	0	8,553
Crown	245,974	602,276	0	0	0	0	356,302
Crystal-Oil	123,650	81,026	0	0	0	42,624	0
Crystal-Ref	0	19,734	0	0	0	0	19,734
Delta	209,992	297,603	0	0	0	0	87,611
Dermmco	4,375	35,141	0	0	1,420	0	30,763
Detroit-Ed	0	43,457	0	43,457	0	0	43,457
DFSC	0	8,616	0	8,616	0	0	8,616
Diamond	540,416	324,269	0	0	0	216,147	0
Dillmun	0	220	0	0	0	0	220
Dorchester	9,143	11,679	0	0	0	0	2,536
Dow	83,857	80,150	0	0	0	0	16,293
E-Seaboard	0	70,852	0	70,852	0	0	70,852
Eco	14,403	34,135	0	0	1,673	0	19,732
Eddy	47,740	26,926	0	0	0	20,814	0
Energy-Coop	0	591,902	0	0	0	0	591,902
Enterprise	0	9,714	0	9,714	0	0	9,714
Ergon	20,056	79,927	0	0	0	0	59,869
Erickson	77,112	87,739	0	0	0	0	10,627
Essex-Union	0	1,440	0	0	0	0	1,440
Evangeline	30,494	15,151	0	0	0	15,343	0
Exxon	11,348,636	8,553,615	0	424,825	0	2,795,021	0
Ez-Serve	2,483	0	0	0	0	2,483	0
Farmers-Un	127,354	224,447	0	0	0	0	97,093
Fletcher	312,311	202,398	0	0	2,653	109,913	0
Flint	5,504	5,288	0	0	0	516	0
Friendswood	62,375	56,601	0	0	0	5,774	0
Funding	39,224	35,343	0	0	0	3,881	0
Gary	198,862	80,491	0	0	0	118,391	0
Getty	1,191,939	1,263,598	0	0	0	0	71,659
Giant	2,515	32,114	0	0	0	0	29,599
Gibson	0	27,946	0	0	0	0	27,946
Glacier-Park	99,782	32,605	0	0	0	67,177	0
Gladieux	79,596	82,937	0	0	0	0	3,306
Golden-Eagle	0	81,863	0	0	0	0	81,863
Goldking	243,264	136,061	0	0	0	107,223	0
Good-Hope	4,549	341,669	0	0	0	0	337,120
Guam	0	217,074	0	0	0	0	217,074
Gulf	9,016,965	6,012,498	0	21,107	24,533	2,004,487	0
Gulf-Energy	41,007	24,749	[5]0	0	0	16,258	0
Gulf-Sts	133,604	80,973	0	0	0	52,631	0
Hiri	0	438,685	0	0	0	0	438,685
Howell	171,485	237,446	0	0	0	0	65,961
Hrr	0	28,395	0	0	0	0	28,395
Hudson-Oil	36,900	125,706	0	0	0	0	88,806
Hunt	245,609	224,785	0	0	0	20,835	0
Huntway	−39,011	28,431	0	0	881	0	67,442
Husky	869,660	869,660	[5]543,217	0	0	0	0
Independent-Ref	185,981	99,675	0	0	0	86,306	0
Indiana-Farm	45,543	127,143	0	0	0	0	81,600
Indust-Fuel	26,603	9,967	0	0	0	16,636	0
Inter-Process	44,628	161,056	0	0	0	0	116,428
Irving	0	20,103	0	20,103	0	0	20,103
Kanco	32,707	24,619	0	0	0	8,088	0
Kentucky	16,136	15,887	6,495	0	0	249	0
Kern	233,398	154,643	0	0	5,617	78,755	0
Kern-McGee	1,190,626	794,443	0	0	0	396,183	0
Koch	875,544	894,855	0	18,541	0	0	19,311
Lagloria	335,425	218,091	0	0	0	117,334	0
Lake-Charles	27,228	35,262	0	0	0	0	8,034
Lakeside	7,292	19,479	0	0	0	0	12,087
Laketon	82,965	133,711	72,726	0	0	0	50,746
Little-Amer	432,649	563,364	0	0	0	0	130,715

Notice of Entitlements for Domestic Crude Oil—Continued

[November 1979]

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position					
		Total issued	Exceptions and appeals	Entitlements		Required to buy	Required to sell
				Product	California		
Los Angeles-Ca	0	1,474	0	0	0	0	1,474
Louisiana-Land	713,054	280,202	0	0	0	432,852	0
Macmillan	79,249	90,546	0	0	6,173	0	11,297
Madison-Chatham	0	57	0	0	0	0	57
Mallard	102,620	30,374	0	0	0	72,246	0
Manatee	0	4,599	[5]0	0	0	0	4,599
Marathon	4,415,566	3,088,541	0	0	0	1,327,047	0
Marion	79,799	148,687	0	0	0	0	74,888
Metropolitan	0	182,720	0	182,720	0	0	182,720
Mid-Amer	778	22,327	0	0	0	0	21,551
Midwest-Solv	0	2,029	0	0	0	0	2,029
Mobil	5,859,811	4,700,907	0	26,884	47,178	1,158,904	0
Mobile-Bay	1,981	83,097	0	0	0	0	81,116
Mohawk	302,693	163,744	0	0	11,127	116,949	0
Monoco	0	10,950	0	10,950	0	0	10,950
Monsanto	378,791	211,361	0	0	0	167,430	0
Morrison	15,615	7,689	0	0	0	8,926	0
Mountaineer	4,688	1,310	0	0	0	3,378	0
Mt-Airy	115,725	98,627	0	0	0	17,098	0
Murphy	1,058,749	829,871	0	0	0	228,878	0
N-Amer-Petro	111,410	155,870	0	0	0	0	44,460
Nashville-Tenn	0	13,888	0	0	0	0	13,888
Natl-Coop	260,051	354,306	0	0	0	0	94,255
Navajo	474,432	211,691	0	0	0	262,741	0
Nevada	2,439	19,815	0	0	0	0	17,376
New-Edgington	249,241	158,332	0	0	29,767	60,909	0
New-Engl-Power	0	30,269	0	30,269	0	0	30,269
Newhall	83,679	121,269	0	7,676	0	0	37,590
Northeast-Petro	0	56,517	0	56,517	0	0	56,517
Northland	21,017	21,017	14,486	0	0	0	0
Oke	139,555	48,064	0	0	0	91,491	0
Okla-Ref	36,334	110,472	0	0	0	0	74,138
Oxnard	14,165	25,505	0	0	2,119	0	11,340
Pantasa	0	55,112	0	0	0	0	55,112
Pennzoil	543,566	373,459	0	0	0	170,109	0
Pester	197,999	157,884	0	0	0	0	19,885
Petraco-Valley	0	20,526	0	0	0	0	20,526
Petro-Heat-Pa	0	11,965	0	11,965	0	0	11,965
Phillips	2,321,958	1,776,690	0	0	1,634	545,268	0
Phillips-PR	0	169,046	0	169,046	0	0	169,046
Pioneer	91,045	40,651	0	0	0	50,394	0
Placid	529,262	310,340	0	0	0	218,942	0
Plateau	250,146	140,736	0	[5]0	0	109,410	0
Port	−3,217	9,246	0	0	0	0	12,463
Powerine	135,721	218,020	0	0	13,974	0	82,299
Pride	176,676	96,030	0	0	0	78,646	0
Quaker-St	28,937	185,031	0	0	0	0	156,094
Quitman	4,466	52,581	0	0	0	0	48,112
Rahway	0	796	0	0	0	0	796
Rancho-Ref	0	26,975	0	0	0	0	26,975
Resco	0	9,608	0	0	0	0	9,608
Reserve-Syn	0	5,025	0	0	0	0	5,025
Richards	129	37	0	0	0	102	0
Road-Oil	0	80,222	0	0	0	0	80,222
Rock-Island	166,488	309,929	0	0	0	0	143,441
Saber-Tex	52,560	124,667	0	0	0	0	72,107
Sabre-Cal	−5,212	11,364	0	0	−787	0	16,576
San-Joaquin	0	106,137	0	0	0	0	106,137
Scallop	0	157,587	0	157,587	0	0	157,587
Scanoil	0	38,947	0	38,947	0	0	38,947
Schutze	676	1,864	0	0	0	0	1,188
Seaview	0	174,989	0	0	0	0	174,989
Sector	63,238	30,398	0	0	0	32,840	0
Seminole	11,943	88,778	0	0	0	0	76,835
Sentry	0	152,678	51,787	0	0	0	152,678
Shell	8,102,172	6,086,754	0	0	88,197	2,015,418	0
Shepherd	28,034	88,839	0	0	0	0	60,815
Sigmor	243,837	148,268	0	0	0	0	121,429
Silver-Eagle	3,463	2,968	0	0	0	495	0
Slapco	161,724	94,775	0	0	0	66,949	0
So-Hampton	95,057	103,332	0	0	0	0	8,275
Sohio	1,197,954	3,103,004	0	0	0	0	1,905,050
Somerset	22,898	20,143	0	0	0	0	2,245
Sound	0	59,193	0	0	0	0	59,193
Southern-Union	55,255	180,355	0	0	0	0	125,100
Southland	309,902	187,414	22,761	0	0	122,488	0
Southwestern	8,088	4,092	0	0	0	4,004	0
Sprague	0	130,212	0	130,212	0	0	130,212
Stewart	0	39,389	0	39,389	0	0	39,389
Sunland	4,956	84,599	0	0	157	0	79,643
Sunoco	3,556,564	3,348,066	0	26,979	0	549,496	0
Swann	0	25,127	0	25,127	0	0	25,127
T&S	13,015	26,016	0	0	0	0	13,001
Tamicone	0	39,231	0	39,231	0	0	39,231
Tenneco	1,410,035	801,193	0	0	3,581	606,842	0

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Notice of Entitlements for Domestic Crude Oil—Continued

[November 1979]

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position: Total issued	Exceptions and appeals	Entitlements: Product	Entitlements: California	Required to buy	Required to sell
Tesoro	233,372	416,529	0	0	0	0	183,157
Texaco	7,870,974	5,924,243	[1]27,495	171,723	24,356	1,946,731	0
Texas-American	52,464	54,750	0	0	0	0	2,286
Texas-Asph	35,975	12,059	0	0	0	[4]23,916	0
Texas-City	428,641	669,516	0	0	0	0	239,575
Thagard	52,211	75,457	0	0	4,115	0	23,245
Thriftway	54,821	36,430	0	0	0	16,491	0
Thunderbird	76,648	75,488	0	0	0	1,158	0
Tipperary	55,867	47,019	0	0	0	8,948	0
Tonkawa	95,383	63,683	0	0	0	31,700	0
Tosco	1,066,550	1,164,069	0	0	28,829	0	97,519
Total-Petroleum	−34,043	542,518	0	0	0	0	576,561
UCC-Caribe	0	177,252	0	177,252	0	0	177,252
Uni-Ref	8,232	129,886	0	0	0	0	120,654
Union-Carbide	0	15,045	0	15,045	0	0	15,045
Union-Oil	2,527,708	2,692,512	0	0	35,945	0	164,804
United-Ref	109,943	216,110	0	0	0	0	106,167
US-Oil	14,166	116,454	0	0	1,129	0	102,288
USA-Petrochem	84,929	112,995	0	0	5,954	0	28,066
Val-Verde	5,257	4,033	0	0	0	1,204	0
Vickers	151,016	427,193	0	0	0	0	276,177
Vicksburg	7,600	36,458	0	0	0	0	28,858
Waller	0	8,541	0	8,541	0	0	8,541
Warrior	39,008	45,393	24,532	0	0	0	6,385
West-Coast	14,537	56,484	0	0	2,073	0	41,947
Western	113,687	70,136	0	0	0	43,551	0
Winston	99,464	109,225	0	0	0	0	9,761
Wireback	0	417	0	0	0	0	417
WITCO	24,426	134,300	0	0	682	0	109,874
Wyoming	0	73,678	0	0	0	0	73,678
Yeiter	0	345	0	0	0	0	345
Young	59,413	61,034	37,046	0	0	0	1,621
Total	106,291,022	106,291,022	1,013,616	2,071,334	521,324	23,030,983	23,030,983

[1] See discussion in Notice.

[2] Correction of error in previous month for entitlements issued pursuant to the regulation issued May 24, 1979 (44 FR 31162, May 31, 1979) and amended August 31, 1979 (44 FR 52170, September 7, 1979) which provides entitlements benefits for imports of middle distillates for the months May 1979 through October 1978.

[3] This is consistent with the court's order prohibiting any further entitlement purchase requirements by this firm pursuant to the terms of the court's Judgment in *Husky Oil Co.* v. *DOE, et al.*, Civ. Action No. C77–190–B (D.Wyo., filed March 14, 1978), *remanded* ___ F.2d ___ (No. 10–18 TECA, August 10, 1978).

[4] This does not include the purchase obligation stayed by court order in *Texas Asphalt & Refinery Co.* v. *FEA*, Civ. Action No. 4–75–298 (N.D.Tex., filed October 31, 1975).

[5] No entitlement purchase obligation is imposed on this company in the current list with respect to the start-up inventory, pursuant to a Temporary Restraining Order issued by the U.S. District Court for the Northern District of Texas, 12/14/79.

[6] No entitlement purchase obligation is imposed on this company in the current list with respect to the start-up inventory, pursuant to a Temporary Restraining Order issued by the U.S. District Court for the Northern District of Fla., 1/18/80.

[FR Doc. 80-3346 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

Oceana Terminal Corp. et al.; Action Taken on Proposed Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of final action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) as the successor to the Federal Energy Administration (FEA) announces final action of a Consent Order.

FOR FURTHER INFORMATION CONTACT: Herbert Maletz, New York Audit Group Manager, Northeast District, 252 Seventh Avenue, New York, New York 10001.

SUPPLEMENTARY INFORMATION: On August 22, 1979, the DOE executed a Proposed Consent Order with Oceana Terminal Corporation, Cibro Sales Corporation, Cibro Petroleum Products, Inc., Cibro Terminal, Inc., Cibro Petroleum/Bx., Inc., Cibro Petroleum/Bklyn., Inc., Cibro Petrol/L.I., Inc., Cibro Gasoline Corporation, Cibro Petroleum/Westchester, Inc. of Bronx, NY. Under 10 CFR 205.199(c) a Proposed Consent Order becomes effective only after the ERA has published notice of its execution and solicits and considers public comments with respect to its terms. Therefore, the ERA published a Notice of Proposed Consent Order and invited interested persons to comment on the Proposed Order.

At the conclusion of the thirty-day comment period, the ERA had received no public comments.

Accordingly, the ERA had concluded that the Consent Order as executed between the DOE and Cibro is an appropriate resolution of the compliance proceedings which it described, and it shall become effective as proposed, without modification, upon publication of this Notice.

Issued in Philadelphia, PA on January 16, 1980.

Herbert M. Heitzer,

District Manager, Office of Enforcement, Northeast District.

[FR Doc. 80-3360 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

Petroleum Heat and Power Co., Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of final action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) as the successor to the Federal Energy Administration (FEA) announces final action of a Consent Order.

FOR FURTHER INFORMATION CONTACT: James J. Dowd, Audit Director, Enforcement, Department of Energy, 150 Causeway, Boston, Massachusetts 02114.

SUPPLEMENTARY INFORMATION: On July 31, 1979 the DOE executed a proposed Consent Order with Petroleum Heat and Power Co., Inc. of Stamford, Connecticut. Under 10 CFR 205.199(c) a proposed Consent Order becomes effective only after the ERA has published notice of its execution and solicits and considers public comments with respect to its terms. Therefore, the ERA published a Notice of Proposed Consent Order and invited interested persons to comment on the proposed Order.

At the conclusion of the thirty-day comment period, the ERA had received no public comments.

Accordingly, the ERA had concluded that the Consent Order as executed between the DOE and Petroleum Heat and Power Company is an appropriate resolution of the compliance proceedings which it described, and it shall become effective as proposed, without modification, upon publication of this Notice.

Issued in Philadelphia, PA on January 16, 1980.

Herbert M. Heitzer,

District Manager, Office of Enforcement, Northeast District.

[FR Doc. 80-3351 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Order

Pursuant to 10 CFR Section 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of Proposed Remedial Order issued to the following firm, charging them with pricing violations, connected with the retail sale of gasoline during the time periods stated:

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Edward F. Momorella, Program Manager for Product Retailers, Department of Energy, Northeast Enforcement District, 1421 Cherry Street, 10th Floor, Philadelphia, Pa. 19102. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 "M" Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR Section 205.193.

Issued in Philadelphia, Pennsylvania, on the 16th day of January 1980.

Herbert M. Heitzer,

District Manager, Northeast District Enforcement.

[FR Doc. 80-3352 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

Firm	Location	Amount	Audit period
Anthony Spagnolia, SPAG's Ashland	550 W. Main St., Clarksburg, W. Va.	$120.00	Aug. 1 to Dec. 20, 1979.

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Action Taken on Consent Orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of December 1979. These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum Price Regulations and the General Allocation and Price Regulations, and they do not address or limit any liability with respect to the consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions.

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. Post the maximum lawful selling price, or a certification that the current selling price is equal to or less than the maximum allowed, for each grade of gasoline on the face of each pump in numbers and letters not less than one-half inch in height, or in a prominent place elsewhere at the retail outlet in numbers or letters not less than four inches high;

3. Properly maintain records required under the aforementioned regulations; and

4. Cease and desist from employing any discriminatory and/or lawful business practices prohibited by the aforementioned regulations.

For further information regarding these Consent Orders, please contact Edward F. Momorella, Program Manager for Product Retailers, Department of Energy, Northeast District, 1421 Cherry Street, Philadelphia, PA 19102, Telephone Number (215) 597–2633.

Firm Name, Firm Address, Audit Date

Young's Exxon Service, 764 N. King St., Northampton, MA—12–3–79
Legate's Service Station, 301 Montcalm St., Chicopee, MA—12–4–79
Bibeau Service Station, 532 High St., Holyoke, MA—12–4–79
Ernie's Texaco, 72 King St., Northampton, MA—12–5–79
Turnpike West, Mass Turnpike, Westboro, MA—12–13–79
Kramp's Exxon, Washington St., (Rte. 3), Hanover, MA—12–6–79
Bob's Mobil Station, 681 Dickinson St., Springfield, MA—12–4–79
Kusek Kar Kare, 63 Center St., Chicopee, MA—12–6–79
Superior Auto Sales, 1333 Westfield St., W. Springfield, MA—12–7–79
Mass. Pike Exxon, Mass Turnpike, Charlton, MA—12–11–79
Columbia Road Gulf, 868 Dorchester Ave., Dorchester, MA—12–12–79
Ed's Mobil, 1232 Wash. St., Newton, MA—12–13–79
Newton Sunoco, 675 Wash. St., Newtonville, MA—12–13–79
Natick Pike Citgo, Box 27, Cochituate, MA—12–13–79
Jim's Automotive Center, 575 East St., Ludlow, MA—12–11–79
Quabbin Service Center, North Main St., Belchertown, MA—12–13–79
Hadley Service Center, 72 Russell St., Hadley, MA—12–14–79
Dave's Filling Station, 758 Union St., W. Springfield, MA—12–14–79
Ludlow Westbound, P.O. Box 302, Ludlow, MA—12–14–79
Mass Pike East, Charlton, MA—12–14–79
A&L Auto Clinic, Rte. 20 & South St., Auburn, MA—12–17–79
Maury's Service Station, 480 Sumner Ave., Springfield, MA—12–14–79
Breault's Auto Service, 1270 Grafton St., Worcester, MA—12–20–79
Tarka's Exxon, College Highway, Southampton, MA—12–19–79
Plaza Auto Clinic, 1300 St. James Ave., Springfield, MA—12–28–79
Hampden Gulf Service, 42 Somers Road, Hampton, MA—12–12–79
Testa's Texaco, 899 Washington St., Newtonville, MA—12–17–79
Newtonville Gulf, 911 Washington St., Newtonville, MA—12–17–79
Framingham Turnpike Mobil, Mass Pike, Framingham, MA—12–28–79
Maggie's Sunoco, Rte. 1, Freeport, ME—12–5–79
Bart's Exxon, 100 Main St., Topsham, ME—12–4–79
Leclerc & Sons Shell, 15 Main St., Topsham, ME—12–4–79
Carney's Exxon, Mallett Drive, Freeport, ME—12–4–79
Cahill's Chevron, Court St., Bath, ME—12–5–79

Tony's Circle Getty, Rts. 28, Danforth Circle, Derry, NH—12–5–79
University Exxon, Dover Road, Durham, NH—12–9–79
Wickford Tire Sales, 8230 Post Road, N. Kingston, RI—12–27–79
Kleber's Garage, Briston & Bensalem Rds., Croyden, PA—12–4–79
Laird's Gulf, 949 Montgomery Ave., Narbeth, PA—12–5–79
Carrow's Sunoco, Montgomery Ave., & Woodbine Rd., Narberth, PA—12–5–79
Jones' Arco, 59th & Market Sts., Philadelphia, PA—12–5–79
Albert Lawrence Sunoco, 46th & Walnut Sts., Philadephia, PA—12–5–79
Don's Mobil, West Chester Pike & St. Albans Rd., Newtown Square, PA—12–6–79
Watkin's Shell, Rt. 413 & Trenton Rd., Levittown, PA—12–7–79
Neshaminy Mall Shell, Bristol Rd. & Neshaminy Blvd., Neshaminy, PA—12–7–79
Jerry's Texaco, 5700 Grand Avenue, Neville Island, PA—12–10–79
Shower's Exxon, Rd. 1, Milton, PA—12–11–79
Bob's Mobil Service, Baltimore Pike & Sproul Rd., Springfield, PA—12–11–79
Shamolin Exxon Servicenter, Inc., Shamokin & Sunbury Sts., Shamnokin, PA—12–12–79
Ernie & Bill's Auto Service, Rts. 1 & 413, Langhorne, PA—12–12–79
Duny's Mobil, 228 Braod St., W. Milton, PA—12–13–79
Parker's Exxon, Rts. 11 & 15, Port Treverton, PA—12–14–79
Bethel Park Sunoco, Bethel Church & Library Rds., Bethel Park, PA—12–18–79
Kruemmling & Schmeis Arco, Lancaster Ardmore Avenues, Ardmore, PA—12–18–79
Pisiechko's Sunoco, Lancaster & Woodside Avenues, Ardmore, PA—12–21–79
Concord Exxon, 2902 Concord Pike, Wilmington, DE—12–18–79
Elliot's Shell, 618 York Road, Baltimore, MD—12–21–79
Dick Himmel's Texaco Service, Inc., 782 Elmwood Ave., Buffalo, NY—12–11–79
James Facen Arco, 1829 Genesee Street, Buffalo, NY—12–21–79
James Exxon, 100 B. Main St., Sutton, WV—12–17–79
Epperly Exxon, US 50, WV 16, Ellenboro, WV—12–19–79
Cipoletti's Exxon, 1400 Commerce Street, Wellsburg, WV—12–7–79
Richardson Mobil, 3652 Buffalo Avenue, Niagara Falls, NY—12–10–79
Parkside Service Station, 340 4th Avenue, Brooklyn NY—12–3–79
Luigi's Service Station, 1420 86th Street, Brooklyn, NY—12–3–79
2461 Central Park Ave. Service Station, 2461 Central Park Ave., Yonkers, NY—12–5–79
C&S Service Station, 605 Merrick Road, Rockville Centre, NY—12–4–79
Jim Hamburger Service, Mill Road & Peninsula Blvd. Hewlitt, NY—12–4–79
New Dorp Service Center, 2485 Hylan Blvd., Staten Island, NY—12–5–79
Liberty & Sutphin Service Station, 97–44 Sutphin Blvd., Jamaica, NY—12–7–79
Stynan Associates Amityville, Inc., Bayview Avenue & Merrick Rd., Amityville, NY—12–7–79
Merrick Super Shell, 1650 Merrick Road, Merrick, NY—12–5–79
J&A Exxon, 499 Old Country Road, Hicksville, NY—12–3–79
Plainview Manor Service Station, 567 Old Country Road, Plainview, NY—12–3–79
Westchester Gulf, 1866 Westchester Ave., Bronx, NY—12–11–79
Willie Matthews Shell Service Center, 1776 Park Ave., New York, NY—12–11–79
Dreyers Estates Service Station, 187–39 Hillside Ave., Jamaica, NY—12–11–79
Richmond Road Service, 977 Narrows Road, Staten Island, NY—12–10–79
E&M Service Station, 2150 Hylan Blvd., Staten Island, NY—12–5–79
Rothco Service Station, 5101 Northern Blvd., Woodside, NY—12–14–79
Joe's Exxon, 720 W. Broadway, Woodmere, NY—12–20–79
GJC Service, 5420 West Henrietta Road, West Henrietta, NY—12–20–79
Tradesmen Auto, 1159 Utixa Ave., Brooklyn, NY—12–12–79
McGuire's Service Station, 3755 E. Tremont Ave., Bronx, NY—12–12–79
Gold Automotive, 15–04 149 Street, Whitestone, NY—12–12–79
Bill & Mack Service Station, 1166 Castle Hill Ave., Bronx, NY—12–12–79
A&S Service Station, 153–70 South Conduit Ave., Ozone Park, NY—12–14–79
M&R Service Station, 7702 Flatlands Ave., Brooklyn, NY—12–12–79
Henry's Service Station, 1205 West Broadway, Hewlitt, NY—12–17–79
Goodwill Service Station, 945 Broadway, Woodmere, NY—12–31–79
AMZ Service Station, 651 Merrick Ave., East Meadow, NY—12–31–79
T&M Service Station, 1723 Richmond Road, Staten Island, NY—12–7–79
Automotive Center of 31–65 Vernon, 31–55 Vernon Blvd., Astoria, NY—12–20–79
Grasmere Service Center, 2050 Clove Road, Staten Island, NY—12–20–79
George's County Service, 325 Merrick Ave., Merrick, NY—12–14–79
Noemy Service Station, 1419 Bruckner Blvd., Bronx, NY—12–6–79
RVL Model Service, 518 Merrick Rd., Rockville Centre, NY—12–11–79
T's Auto Service, 121–22 101 Ave., Richmond Hill, NY—12–26–79
Walt's Auto Repair, 3530 Webster Ave., Bronx, NY—12–27–79
Gulf Bushwick Service Station, Bushwick & Flushing Ave., Brooklyn, NY—12–27–79
Steve's Service Station, 2294 Forest Ave., Staten Island, NY—12–27–79
Oron Service Station, 745 Richmond Ave., Staten Island, NY—12–27–79
J. Cicero, 2000 Victory Blvd., Staten Island, NY—12–27–79
Olympic Service Station, 4911 Avenue H, Brooklyn, NY—12–12–79
Big B Auto, Inc., 15 Ocean Avenue., Brooklyn, NY—12–20–79
Merrick Service Station, 165 Merrick Road, Merrick, NY—12–26–79
Hicksville Exxon, 240 Old Country Road, Hicksville, NY—12–26–79
Miller Brothers Exxon, Dennison Parkway & Cedar, Corning, NY—12–26–79

Issued in Philadelphia, PA on the 16th day of January 1980.

Harbert M. Heltzer,

District Manager, Office of Enforcement.

[FR Doc. 80–3416 Filed 1–31–80; 8:45 am]

BILLING CODE 6450–01–M

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Action Taken on Consent Orders

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of December, 1979. The Consent Orders represent resolutions of outstanding compliance investigations or proceedings by the DOE and the firms which involve a sum of less than $500,000 in the aggregate, excluding penalties and interest. For Consent Orders involving sums of $500,000 or more, notice will be separately published in the **Federal Register.** These Consent Orders are concerned exclusively with payment of the refunded amounts to injured parties for alleged overcharges made by the specified companies during the time periods indicated below through direct refunds or rollbacks of prices.

For further information regarding these Consent Orders, please contact Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, CA 94111, telephone number (415)556–7200.

Firm name and address	Refund amount	Product	Recipients of refund
Albina Fuel Co. 3426 NE Broadway Portland, OR 97204.	$88,921	PS–300	School districts.
	75,745		Commercial.
	5,751		Other.
	9,598	PS–400M	School districts.
	82,368		Commercial.
	636		Other.
	1,108	PS–400I	School districts.
	57,974		Commercial.
	57,451		Other.
	10,450	#2 diesel	Commercial.
Total	380,000		

Issued in San Francisco, California on the 14th day of January, 1980.

June F. Wallach,

Acting District Manager Office of Enforcement, Western District Economic Regulatory Administration.

[FR Doc. 80–3412 Filed 1–31–80; 8:45 am]

BILLING CODE 6450–01–M

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Action Taken on Consent Orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of December. These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum Price Regulations and the General Allocation and Price Regulations, and they do not address or limit any liability with respect to the consenting firm's prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions:

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;
2. Post the maximum lawful selling price, or a certification that the current selling price is equal to or less than the maximum allowed, for each grade of gasoline on the face of each pump in numbers and letters not less than one-half inch in height, or in a prominent place elsewhere at the retail outlet in numbers or letters not less than one and one half inches high;
3. Properly maintain records required under the aforementioned regulations; and
4. Cease and desist from employing any discriminatory and/or unlawful business practices prohibited by the aforementioned regulations.

For further information regarding these Consent Orders, please contact June F. Wallach, Acting District Manager, U.S. Department of Energy, Office of Enforcement, Western District, 111 Pine Street, San Francisco, California 94111, telephone number (415) 556–7200.

Firm Name, Address, Audit Date

Flores Shell, 3600 E. Third, Los Angeles, CA 90063—11–26–79
A & B Brake & Drum, 9177 E. Las Tunas, Temple City, CA 91780—11–29–79
Fred's Exxon, 2186 Hacienda Blvd., Hacienda Heights, CA—11–29–79
Hassan's Exxon, 934 N. Hacienda, La Puente, CA—11–29–79
H. Beckman Chevron, 1506 N. Normandie, Los Angeles, CA—11–30–79
Jim's Chevron Service, 901 N. Alameda, Los Angeles, CA 90012—11–30–79
Felix Chevron Service, 1209 N. Main Street, Los Angeles, CA 90012—11–30–79
Harvy's Service Center (Mobil), 1277 N. Western Ave., Hollywood, CA 90029—11–30–79
Dixons Texaco, 6750 S. Rosemead, Pico River, CA—11–30–79
Ruiz Mobil Center, 137 N. Oxnard Blvd., Oxnard, CA 93030—11–30–79
Mo's Chevron Service, 866 E. California, Pasadena, CA 91106—12–3–79
San Gabriel Arco Service, 1901–1921 S. Del Mar, San Gabriel, CA 91776—12–3–79
Verma Chevron Service, 673 E. Valley Blvd., Colton, CA 92324—12–3–79
McNemar's Exxon, 805 E. Valley Blvd., Colton, CA 92323—12–3–79
Ed Tarolli Union 76, 1490 University Ave., Riverside, CA 92507—12–4–79
Clark's Exxon, 3400 University Ave., Riverside, CA 92501—12–4–79
Yim S Union, 308 E. Willow, Long Beach, CA 90806—12–4–79
Kariana Texaco, 892 N. Garfield, Montebello, CA—12–4–79
Paige-Texaco Service, 1196 Los Angeles Ave., Simi Valley, CA 93065—12–4–79
Al's Service Center, 1853 E. Palmdale Blvd., Palmdale, CA 93350—12–4–79
Rosewood Super Service, 500 N. Larchmout, Los Angeles, CA 90004—12–5–79
Norman Union 76, 1808 University Ave., Riverside, CA 92507—12–5–79
A–1 Exxon, 1295 University Ave., Riverside, CA—12–5–79
A–1 Exxon, 1300 Blaine Street, Riverside, CA—12–5–79
University Car Wash, 1810 University Ave., Riverside, CA 92507—12–5–79
Orlando's Service Station, 4870 Bellflower Blvd., Lakewood, CA 90713—12–5–79
Joyce Petroleum Corp.—Mobil, 1200 E. Artesia, N. Long Beach, CA—12–5–79
Suree's Exxon, 1800 Ximeno Ave., Long Beach, CA 90815—12–5–79
Dave Sexton's Chevron, 5739 N. Bellflower, Lakewood, CA—12–5–79
Parker Mobil Service, 7200 Avalon, Los Angeles, CA—12–5–79
Garo's Texaco, 10324 Zelzah, Northridge, CA 91324—12–5–79
Bacon's Store, 13905 Sycamore Rd., Lytle Creek, CA 92358—12–5–79
Miracle Mile Exxon, 2050 N. Miracle Mile Strip, Tucson, AZ 85705—12–5–79
Anderson's Chevron, First & Grant, Tucson, AZ 85719—12–5–79
Citrus Shell, 877 E. Alosta, Azusa, CA 91702—12–7–79
David's Shell, 1221 Artesia Blvd., Manhattan Beach, CA—12–7–79
Tom Preurtt Chevron, 22890 Washington, Colton, CA 92324—12–7–79
Ron Palmer Chevron, 2505 E. Highland Ave., Highland, CA—12–7–79
J. C. Baumbeck Chevron, 858 So. Oxnard Blvd., Oxnard, CA 93030—12–7–79
Hal Dikes Chevron Service, 2199 So. Victoria Ave., Ventura, CA—93303—12–7–79
Joe Nassaney Mobil, 17836 Devonshire, Northridge, CA 91324—12–7–79
Terry Heiden Chevron, 17011 Devonshire, Northridge, CA—12–7–79
Hollymont Car Wash, 1686 N. Vermont Ave., Los Angeles, CA 90027—12–10–79
Martin's Chevron, 3604 Redondo Beach Blvd., Torrance, CA—12–10–79
George's Chevron, 6219 S. Vermont, Los Angeles, CA 90044—12–10–79
Keith Enco, 20500 San Fernando Rd., Newhall, CA—12–10–79
Chris Houser Chevron, 957 E. Palmdale, Palmdale, CA 93550—12–10–79
Vanlon Shell, 1358 E. Palmdale, Palmdale, CA 93550—12–10–79
Ben's Exxon, 2402 E. Highland, Highland, CA—12–10–79
Oaks Texaco, 3050 E. Thousand Oaks Blvd., Thousand Oaks, CA 91360—12–10–79
C. E. Rasher Chevron Service, 20904 Devonshire Street, Chatsworth, CA 91311—12–10–79
John's Friendly Mobil, 855 Wendy Drive, Newbury Park, CA 91320—12–10–79
Dick's Friendly Mobil Service, 1099 E. Los Angeles Ave., Simi Valley, CA 93065—12–10–79
Lake Lindero Exxon, 30245 Canwood Rd., Agoura, CA 91301—12–10–79
O'Leary's Texaco Service, 18470 Devonshire St., Northridge, CA—12–10–79
Mike MacLaughlin Chevron, 16156 Devenshire Street, Granada Hills, CA—12–10–79
Rob's Chevron, 1152 Los Ardoles, Thousand Oaks, CA 91360—12–11–79
Lloyd's Chevron Service, 4480 Sunset Blvd., Los Angeles, CA 90027—12–11–79
Hal Hanna Mobil Service, 20505 Sherman Way, Canoga Park, CA 91306—12–11–79
B & M Service Station, 7151 Lindley Ave., Reseda, CA 91335—12–11–79
Husain Mobil, 4507 W. Artesia, Lawndale, CA 90260—12–12–79
Monte's Exxon, 17350 Hawthrone Blvd., Torrance, CA 90504—12–12–79
Rudy's Arco, 2401 Artesia Blvd., Redondo Beach, CA 90279—12–12–79
4th Street Shell, 1521 E. 4th, Ontario, CA 91762—12–12–79
Matulik's Exxon, 1998 E. Highland Ave., San Bernardino, CA 92404—12–12–79
Art Chevron, 2400 Lincoln Blvd., Venice, CA 90291—12–12–79
Gary's Automotive Service, 16900 Sherman Way, Van Nuys, CA 91406—12–12–79
Fitt & Walker, 11062 Balboa Blvd., Granada Hills, CA—12–12–79
Gary Walker Union Service, 17000 Rinaldi St., Granada Hills, CA 91344—12–12–79
Hank's Automotive Center, 16961 Rinaldi Street, Granada Hills, CA 91344—12–12–79
Bob Candee Chevron Service, 10690 Balboa Blvd., Granada Hills, CA—12–12–79
Steve Marshall's Chevron, 9101 Reseda Blvd., Northridge, CA 91324—12–12–79
G & G Mobil, 7208 Reseda Blvd., Reseda, CA 91335—12–12–79
Tony Saso Chevron Service, 9106 Balboa Blvd., Northridge, CA 91324—12–12–79
Chevron Station, 15255 Sherman Way, Van Nuys, CA 91406—12–12–79
Elmore's Mobil Service, 32 S. 22nd Street, Banning, CA 92220—12–12–79
De Young Chevron, 3029 S. Robertson, Los Angeles, CA 90034—12–13–79

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Classic Chevron Service, 334 N. Verdugo Rd., Glendale, CA 91206—12–13–79
Bert Mennes Chevron, 5230 Sepulveda Blvd., Torrance, CA 90505—12–13–79
Hanks Freeway Mobil Service, 110 E. Palmdale Blvd., Palmdale, CA 93550—12–13–79
Palmdale Freeway Shell, 135 W. Palmdale Blvd., Palmdale, CA 93550—12–13–79
Brentwood Mobil Service, 604 S. Palm Canyon Dr., Palm Springs, CA 92262—12–13–79
F.L. Vick Texaco Dealer, 1700 E. Vista Chino, Palm Springs, CA 92272—12–13–79
Victoria Texaco Service, 2439 S. Victoria Ave., Ventura, CA 93003—12–13–79
Marv's Chevron Service, 7100 Melrose Ave., Los Angeles, CA 90046—12–14–79
Joe & Tom's Chevron, 1869 N. Hillhurst, Los Angeles, CA 90027—12–14–79
Chou Exxon, 3411 W. Florence, Los Angeles, CA—12–14–79
Don Wheaton Chevron Service, 9094 W. Washington, Culver City, CA—12–14–79
Lee's Shell Service, 1553 W. Manchester, Los Angeles, CA—12–14–79
Isaacs Chevron Service, 8687 Baseline, Alto Loma, CA 91701—12–14–79
Don Walters Exxon, 555 Vinton, Pomona, CA 91767—12–14–79
La Verne Texaco, 2010 Bonita Ave., La Verne, CA 91750—12–14–79
Desert Exxon Service, 4633 E. Ramon Rd., Palm Spring, CA 92262—12–14–79
Beverly Petroleum Inc., 401 S. Beverly Drive, Beverly Hills, CA 90212—12–17–79
George Kubeisy Chevron, 20050 Van Owen Street, Canago Park, CA—12–17–79
Sunrise Shell, Inc., 1690 E. Ramon Rd., Palm Springs, CA 92262—12–17–79
Al's Chevron, 2800 W. Valley Blvd., Alhambra, CA 91803—12–18–79
Harout Arco, 1550 W. Colorado, Pasadena, CA 91105—12–18–79
Coscrow Chevron, 11960 W. Washington Blvd., Culver City, CA—12–18–79
Ron Chevron Service, 2602 S. Western, Los Angeles, CA—12–18–79
Claremont Mobil, 747 S. Indian Hill, Claremont, CA 91711—12–18–79
Hollypark Car Wash, 3350 W. Century Blvd., Inglewood, CA 90303—12–18–79
Tarzana Car Wash, 19348 Ventura Blvd., Tarzana, CA 91356—12–18–79
Jakop's Texaco, 9500 Resede Blvd., Northridge, CA—12–18–79
Woodland Hills Chevron, 5536 Canoga Ave., Woodland Hills, CA—12–18–79
Andre Haddad Chevron, 15709 Van Owen Street, Van Nuys, CA—12–18–79
Terry Texaco, 9858 Beibon Blvd., Northridge, CA—12–18–79
Palm Desert Exxon, 69–600 Highway 111, Rancho Mirage, CA 92270—12–18–79
Chuck Morgan Chevron Service, 10830 N. National, Los Angeles, CA 90064—12–19–79
Ed's Chevron Service, 5930 Monterey Rd., Los Angeles, CA 90024—12–19–79
George's Chevron Service, 9615 National Blvd., Los Angeles, CA—12–19–79
Joe's Chevron, 2850 E. Palmdale Blvd., Palmdale, CA 93550—12–19–79
Cuco's Arco Service, 801 S. Oxnard Blvd., Oxnard, CA 93030—12–19–79
Peterson Shell Service, 200 S. Azusa Ave., West Covina, CA 91791—12–20–79
Bud Yates Shell, 1900 White, La Verne, CA 91750—12–20–79
Ray's Super Shell, 2295 N. Garey, Pomona, CA 91767—12–20–79
George Farris Chevron, 301 S. Lincoln, Venice, CA—12–20–79
Hassan Jober Mobil, 4544 E. Pax. Const. Highway, Long Beach, CA 90804—12–26–79
Jober Mobil, 490 W. Anaheim Street, Long Beach, CA 90813—12–26–79
Parkside Olympic Service, 2200 19th Avenue, San Francisco, CA 94116—12–3–79
Highland Arco Service, 3711 Mission Street, San Francisco, CA 94110—12–6–79
Robert A. Wood Exxon, 7201 Stockton, Sacramento, CA 95823—12–6–79
Saf and Sav Automotive, 1151 Mac Arthur Blvd., Oakland, CA 94610—12–3–79
Julien's Union 76 Service, 1501 "A" Street, Antioch, CA 94509—12–6–79
George's Union 76, 1499 University Avenue, Berkeley, CA 94702—12–3–79
Loi Le Exxon Service, 1568 Carlson Blvd., Richmond, CA 94804—12–3–79
Moe's Union, 1503 Carlson Blvd., Richmond, CA 94804—12–3–79
Ben's Chevron, 4838 MacDonald Avenue, Richmond, CA 94804—12–4–79
Ben's Chevron, 1015 Carlson Blvd., Richmond, CA 94804—12–4–79
Rich's Union, 1830 Solano Avenue, Berkeley, CA 94707—12–5–79
Quiett's Texaco, 1599 Tara Hills Drive, Pinole, CA 94564—12–5–79
Al Horvath Union 76, 401 Parker Avenue, Rodeo, CA 94572—12–6–79
Hillsdale Union, 2800 El Camino, San Mateo, CA—12–3–79
Len Stopper Chevron, 610 N. El Camino, San Mateo, CA—12–4–79
Palo Alto Exxon, 830 E. Charleston Road, Palo Alto, CA—12–5–79
Mike's Union 76, 234 El Camino, Redwood City, CA—12–5–79
Alba's Arco Service, 1995 Warburton Avenue, Santa Clara, CA—12–6–79
Coyer J. King Jr. Chevron, 403 So. Saratoga Avenue, San Jose, CA 95129—12–6–79
Furlow's Union 76, 1080 Fresno Street, Fresno, CA 93706—12–3–79
A–1 Super Shell, 3550 Mission Street, San Francisco, CA 94110—12–10–79
Givisto Service, 4249 Mission Street, San Francisco, CA 94110—12–11–79
Tony's Service Station, 4199 Mission Street, San Francisco, CA—12–11–79
Joe & Larry's Union, 2501 Sacramento Street, Berkeley, CA 94702—12–11–79
Pinole Valley Shell, 2860 Pinole Valley Road, Pinole, CA 94564—12–12–79
Pinole Valley Union, 2995 Pinole Valley Road, Pinole, CA 94564—12–10–79
Rodeo Service, 650 Parker Avenue, Rodeo, CA 94522—12–10–79
Luchine's Exxon Service, 678 San Pablo Avenue, Rodeo, CA 94572—12–10–79
C. Desmond & Sons, 1000 Loring Avenue, Crockett, CA 94525—12–10–79
Jack Culver Chevron, 14501 San Pablo Avenue, San Pablo, CA 94806—12–14–79
El Sobrante Shell, 3621 San Pablo Dam Road, El Sobrante, CA 94803—12–12–79
T. B. Newby Standard, 606 Saratoga Avenue, San Jose, CA 95129—12–11–79
Bill Steffen Chevron, 19795 Stevens Creek Blvd., Cupertino, CA 95014—12–10–79
Williams & Lovdahl Texaco, 495 S. Camino Real, San Carlos, CA 94070—12–10–79
Busta Monte's Auto Service, 600 South Van Ness, San Francisco, CA 94110—12–18–79
Bill Sharp—Union Oil Dealer, 1400 Van Ness, San Francisco, CA 94110—12–19–79
Hablet's Auto Service, 3885 Irving's Service, San Francisco, CA 94112—12–20–79
Buchen's Texaco, 2509 San Pablo Dam Road, San Pablo, CA 94806—12–18–79
Mike Silva's Chevron Serv., 11690 San Pablo Avenue, El Cerrito, CA 94530—12–20–79
Mike's Texaco Service, 2900 Homestead Road, Santa Clara, CA 95051—12–17–79
Hamilton Service Center, 690 Hamilton Avenue, Campbell, CA 95008—12–27–79
Julio Shell, 899 Valencia Street, San Francisco, CA—12–27–79
Texaco Car Barn, 95 Ocean Avenue, San Francisco, CA—12–27–79
41st and Irvin Chevron, 4000 Irving Street, San Francisco, CA 94112—12–21–79
7th and Lincoln Chevron, 1200 7th Avenue, San Francisco, CA 94107—12–26–79
Wally Damm Chevron, 3549 Dam Road, El Sobrante, CA 94803—12–28–79
Steve's Union, 3160 Carlson Blvd., El Cerrito, CA 94530—12–28–79
Craig's Texaco, 12500 San Pablo Avenue, Richmond, CA 94805—12–27–79
David Prowse Mobil, 707 So. Mathilda Avenue, Sunnyvale, CA—12–26–79
O'Brien Country Store, 33096 Redwood Hwy., O'Brien, OR 97534—12–1–79
Jim's Chevron, 433 S. Ellensburg, Gold Beach, OR 97444—12–3–79
Winter's Mobil, 1137 NE Oregon, Box 131, Port Orford, OR 97465—12–1–79
Chappell Chevron, 665 2nd St., Bandon, OR 97411—12–3–79
Winchester Bay Chevron, Hwy. 101, P.O. Box 116, Winchester Bay, OR 97467—12–4–79
Garth Pelton's Chevron, Hwy 101 & 14th St., Reedsport, OR 97467—12–4–79
Marv's Chevron, 648 SW Coast Hwy., Newport, OR 97365—12–5–79
Ken Larsen Chevron, Hwy. 101 & Dunes Rd., Lincoln City, OR 97367—12–5–79
Interstate Texaco, 4920 N. Interstate, Portland, OR 97217—12–5–79
Marty's Chevron, 1004 E. First, Newburg, OR 97132—12–5–79
Jeff's Chevron Service, 2333 N.E. Fremont St., Portland, OR 97212—12–5–79
Hood River Chevron, I–80N & Bridge Road, Hood River, OR 97031—12–3–79
Glenndale Auto, 5129 SW 101, Lincoln City, OR 97367—12–5–79
Jim's Chevron, P.O. 297, Hebo, OR 97122—12–5–79
Wheeler Motor Service, Box 37, Hwy. 101, Wheeler, OR 97147—12–6–79
Nestucca Marina, 34560 Brooten Road, Pacific City, OR 97135—12–6–79
Wilsonville Chevron, 9140 SW Wilsonville Rd., Wilsonville, OR 97070—12–7–79
Bill's Chevron, 2320 NE Hwy 101, Lincoln City, OR 97367—12–10–79
John's Chevron, 1202 Commercial, Anacortes, WA 98221—12–27–79
Herb's Texaco, 5th & Canal, Redmond, OR 97756—12–10–79
Interstate Shell Service, 4616 N. Interstate, Portland, OR 97217—12–10–79
Jack Cain Chevron, 13110 NE Sandy Blvd., Portland, OR 97230—12–27–79
Nick's Exxon Station, 5200 168th SW, Lynnwood, WA 98036—12–12–79
Keith's Corner Service, 4711 Sunnyside Blvd., Marysville, WA 98270—12–14–79
Olson's Resort, P.O. Box 216, Sekiu, WA 98381—12–3–79
Bob's Mobil, 1055 S. Riverside, Medford, OR 97501—12–30–79
Fair Grounds Texaco, 780 Union Ave., Grants Pass, OR 97601—12–1–79

Issued in San Francisco, California on the 10th day of January, 1980.

June F. Wallach,
Acting District Manager, Office of Enforcement, Western District, Economic Regulatory Administration.

[FR Doc. 3413 Filed 1–31–80; 8:45 am]
BILLING CODE 6450–01–M

Michael E. Sweeney d.b.a. Exeter Shell Service, Inc.

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Michael E. Sweeney, d/b/a/ Exeter Shell Service, Inc., 84 Portsmouth Avenue, Exeter, New Hampshire. This Proposed Remedial Order Charges Exeter Shell with pricing violations in the amount of $12,123.63 connected with the resale of motor gasoline during the period January 1, 1974 through April 30, 1974 in the State of New Hampshire.

A copy of the Proposed Remedial Order with confidential information deleted, may be obtained from James Dowd, Audit Director, Department of Energy, Northeast District, 150 Causeway Street, Boston, Massachusetts 02114. On or before March 3, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 "M" Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR Section 205.193.

Dated: January 16, 1980.

Herbert M. Heitzer,
District Manager, Office of Enforcement, Northeast District.

[FR Doc. 80–3414 Filed 1–31–80; 8:45 am]
BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER80–195]

Appalachian Power Service Corp.; Filing

January 25, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on Janaury 21, 1980, tendered for filing on behalf of its affiliates, Appalachian Power Company (Appalachian), Ohio Power Company (Ohio), and Wheeling Electric Company (Wheeling), Modification No. 9 dated January 1, 1980 to the Operation Agreement dated June 1, 1971 among Appalachian, Ohio, Wheeling, Monongahela Power Company and West Penn Power Company designated Appalachian Rate Schedule FERC No. 55, Ohio Rate Schedule FERC No. 73 and Wheeling Rate Schedule FERC No. 5.

Section 1 of Modification No. 9 provides for connection services as follows: (1) When the supplying party is the AEP parties, an increase in the demand charge for Short Term and Limited Term Power from $0.70/kW-week and $3.75/kW-month to $0.85/kW-week and $4.50/kW-month respectively and Short Term and Limited Term Power transmission charges for third party transactions from $0.175/kW-week and $0.75/kW-month to $0.24/kW-week and $1.100/kW-month respectively, (2) when the supplying party if the APS parties an increase in the demand charge for Short Term Power and Limited Term Power from $0.70/kW-week and $3.75/kW-month to $0.85/kW-week and $4.50/kW-month respectively and Short Term and Limited Term Power transmission charges for third party transactions from $0.175/kW-week and $0.75/kW-month to $0.20/kW-week and $0.85/kW-month respectively, and (3) when the supplying party is the APS parties a cap of $0.002 per kilowatt per hour for the 10% adder of the out-of-pocket cost of providing Short Term Operating Capacity, Short Term Energy, Limited Term Operating Capacity and Limited Term Energy. All of the aforementioned Schedules proposed to become effective January 1, 1980. Applicant states that since the use of Short Term and Limited Term Power cannot be accurately estimated, it is impossible to estimate the increase in revenues resulting from this Modification for such period.

Applicant's Exhibit I which was included with the filing of this Modification, demonstrate that the increase in revenues, which would have resulted had the Modification been in effect during the twelve-month period ending December 1979, would have been $3,053,826.28 (i.e., from $75,143,470.10 to $78,197,296.38).

Copies of this filing were served upon Allegheny Power Service Corporation, to the Public Utilities Commission of Ohio, to Virginia State Corporation Commission, to Public Service Commission of West Virginia and to Public Service Commission of Pennsylvania.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 80–3388 Filed 1–31–80; 8:45 am]
BILLING CODE 6450–01–M

[Docket No. ER80–197]

Boston Edison Co.; Filing

January 25, 1980.

The filing Company submits the following:

Take notice that on January 21, 1980, Boston Edison Company ("Edison") tendered for filing one supplemental Exhibit A to a Service Agreement for the Town of Hingham, Massachusetts, under its FERC Electric Tariff, Original Volume No. III, Non-Firm Transmission Service ("the Tariff"). The Exhibit A specifies the amount and duration of transmission service required by Hingham under the Tariff.

Edison requests an effective date for the Exhibit A of November 1, 1979, the date on which service commenced.

Edison states that it has served the filing on the Town of Hingham and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3300 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-194]

Carolina Power & Light Co.; Filing

January 25, 1980.

The filing Company submits the following:

Take notice that Carolina Power & Light Company on January 22, 1980, tendered for filing changes in its electric service agreement with the Town of Farmville to provide metering pulse information under Company's additional facilities plan.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3301 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP75-82]

Cities Service Gas Co.; Settlement Conference

January 25, 1980.

Take notice that on January 31, 1980, at 9:30 a.m., a further and hopefully final session of the settlement conferences that began on December 6, 1979, will be held at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Parties to the instant proceeding should arrive prepared to discuss the outline of settlement proposal presented by Cities Service and the reactions to the outline of settlement proposal expressed at the January 14, 1980 session.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene in this matter by order of the Commission, attendance will not be deemed to authorize intervention as a party in these proceedings.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3302 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-194]

Edison Sault Electric Co.; Filing

January 25, 1980.

The filing Company submits the following:

Take notice that Edison Sault Electric Company (Edison), on January 21, 1980, tendered for filing a Supplemental Agreement No. 3 between Edison and Cloverland Electric Cooperative, Inc. (Cloverland) dated November 1, 1979, which agreement will supplement an existing Contract for Electric Service, dated February 1, 1977, between the same two parties. The contract between the parties, dated February 1, 1977, has been designated Rate Schedule FERC No. 8 (Docket No. ER77-477). The proposed supplemental agreement provides for a change in the wheeling rate schedule as provided in the contract, dated February 1, 1977, under subsection (d) wheeling change, Section 5, Rate.

Copies of the filing were served upon Cloverland Electric Cooperative, Inc. and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said agreement, should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this agreement are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3303 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-193]

Florida Power Corp.; Filing

January 25, 1980.

The filing Company submits the following:

Take notice that on January 21, 1980, Florida Power Corporation ("Florida Power") tendered for filing one Interconnection Agreement ("Agreement") between Florida Power and the Cities of Kissimmee and St. Cloud, Florida ("Joint Cities") dated December 1, 1979. The Agreement provides for the following interconnection services: emergency energy, short-term firm capacity and energy, economy energy and long-term firm capacity and energy. Florida Power asks that the sixty (60)-day notice requirement be waived so that the Agreement, in accordance with its terms, may be permitted to become effective on December 1, 1979.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before February 19, 1980, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The documents filed by Florida Power are on file with the Commission and available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3304 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-190]

Florida Power & Light Co.; Filing

January 25, 1980.

The filing company submits the following:

Take notice that Florida Power & Light Company (FPL), on January 22, 1980, tendered for filing an executed Agreement, entitled "Agreement To Provide Specified Transmission Service Between Florida Power & Light Company and Orlando Utilities Commission."

FPL states that under the Agreement FPL will transmit power and energy for the Orlando Utilities Commission (Orlando) as is required by Orlando in the implementation of its interchange agreements with the City of Homestead, Florida, the Lake Worth Utilities Authority, the Fort Pierce Utilities Authority, the Tampa Electric Company, the City of Vero Beach, Florida, the New Smyrna Beach Utilities Commission, and the Jacksonville Electric Authority.

FPL requests an effective date of no later than 60 days after the date of filing. According to FPL, copies of the filing were served upon Orlando's Assistant Manager for Electric Operations.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before February 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3305 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-172]

Great Lakes Gas Transmission Co. Application

January 24, 1980.

Take notice that on January 7, 1980, Great Lakes Transmission Company (Applicant), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP80-172, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a compressor station in order that increased volumes of natural gas may be delivered to TransCanada PipeLines Limited (TransCanada) at Sault Ste. Marie, Ontario, Canada (Sault Ste. Marie), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to add a new 2,200 horsepower compressor station to transport additional volumes requested by TransCanada for delivery at the interconnection of existing facilities of Applicant and TransCanada near Sault Ste. Marie.

TransCanada's contract with Applicant dated September 12, 1976, as amended, provides for the transportation of up to 815,000 Mcf of gas per day to be delivered by Applicant at St. Clair, Michigan (St. Clair) and Sault Ste. Marie in such volumes to each delivery point as TransCanada shall designate from time to time, it is stated. TransCanada has informed Applicant that it would require deliveries of additional volumes of gas up to a maximum of 33,000 Mcf per day at Sault Ste. Marie effective November 1, 1980. Applicant states that it currently delivers to TransCanada up to a maximum of 55,000 Mcf per day at this delivery point. After installation of the proposed compression facilities, Applicant asserts, it would be able to meet TransCanada's requirements of up to 88,00 Mcf per day at Sault Ste. Marie. A corresponding reduction in volumes would be made to TransCanada at the St. Clair delivery point, it is stated; hence, no new volumes of natural gas beyond those previously authorized to be imported and exported are involved in this application. Applicant states all volumes would continue to be transported pursuant to the terms and conditions of Applicant's Rate Schedule T-4.

In order to effect the delivery of additional natural gas at Sault Ste. Marie, Applicant proposes to construct the new compressor station which would include the installation of two 1,100 horsepower turbine compressor units and related facilities at Brevort in Mackinac County, Michigan. Applicant proposes to commence construction of the proposed facilities the summer of 1980 in order to commence deliveries of additional volumes by November 1, 1980, as requested by TransCanada. Applicant states that the cost of the proposed facilities is estimated at 2,440,777, which would be provided from internally generated funds together with borrowing from banks under short-term lines of credit.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 15, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3306 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES80-17]

Illinois Power Co.; Supplemental Application

January 25, 1980.

Take notice that on January 15, 1980, Illinois Power Company (Applicant) filed an Amendment to its application in Docket No. ES80-17 seeking a supplemental order pursuant to Section 204 of the Federal Power Act authorizing the increase of the principal amount of short-term notes to $175,000,000 that may be issued by Applicant to December 31, 1981 from $125,000,000 previously authorized by the supplemental order of the Commission issued December 28, 1979 in Docket No. ES80-17.

The net proceeds from the issuance of the notes will be added to working capital for ultimate application toward the cost of gross additions to utility

properties and/or to reimburse Applicant's treasury for construction expenditures. Applicant's construction program, as now scheduled, calls for expenditures of approximately $1,355,000,000 for the five-year period of 1979–1983 after giving effect to participation of 20% by certain electric cooperatives in the ownership of the Clinton Nuclear Power Station.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in acordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 11, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3307 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2976]

Light and Power Board, City of Traverse City; Application for Preliminary Permit

January 24, 1980.

Take notice that an application was filed on October 3, 1979, under the Federal Power Act, 16 U.S.C. § 791(a)–825(r), by the Light and Power Board of the City of Traverse City for a preliminary permit. The project is located on the Boardman River in the county of Grand Traverse near Traverse City, Michigan. Correspondence with the Applicant on this matter should be addressed to: William P. Strom, Executive Director/Secretary, Light and Power Board of the City of Traverse City, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan 49684.

Purpose of Project—The Light and Power Board of the City of Traverse City would sell the total power generated at the project to customers of the Light and Power Department of Traverse City.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it proposes to conduct economic and environmental studies, prepare application for necessary state and federal permits, and to develop preliminary and final designs of the project. The Applicant estimates the cost of the proposed studies would be $34,000.00.

Project Description—The Keystone Dam Project would consist of: (1) an existing 240-foot-long and 20-foot-high earth dam; (2) a proposed powerhouse containing one generator rated at 470-kW; (3) an existing reservoir with a storage capacity of 130 acre-feet at normal power pool elevation of 678 feet m.s.l.; (4) an existing 13.8 kV transmission line; and (5) appurtenant facilities. The estimated average annual output of the proposed project would be 3,167,000 kWh.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee during the terms of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and other necessary information for inclusion in an application for license.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 31, 1980 either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 30, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (as amended 44 Fed. Reg. 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (as amended, 44 Fed. Reg. 61328, October 25, 1979).

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, Section 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before March 31, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3306 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2977]

Light and Power Board, City of Traverse City; Application for Preliminary Permit

January 24, 1980

Take notice that an application was filed on October 3, 1979, under the Federal Power Act, 16 U.S.C. § 791(a)–825(r), by the Light and Power Board of the City of Traverse City for a preliminary permit. The project is located on the Boardman River in the county of Grand Traverse near Traverse City, Michigan. Corresponsence with the Applicant on this matter shoud be addressed to: William P. Strom, Executive Director/Secretary, Light and Power Board of the City of Traverse City, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan 49684.

Purpose of Project—The Light and Power Board of the City of Traverse City would sell the total power generated at the project to customers of the Light and Power Department of Traverse City.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it proposes to conduct economic and environmental studies, prepare application for necessary state and federal permits, and to develop preliminary and final designs of the project. The Applicant estimates the cost of the proposed studies would be $16,000.00.

Project Description—The Union Street Dam Project would consist of: (1) an existing 200-foot-long and 15-foot-high concrete dam; (2) a 250 foot long earth dike; (3) an existing reservoir with a storage capacity of 9,500 acre-feet at normal power pool elevation of 590 feet m.s.l.; (4) a proposed powerhouse containing one generating unit rated at 200 kW; (5) and appurtenant facilities. The estimated annual output of the proposed project would be 1,509,000 kWh.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and other necessary information for inclusion in an application for license.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 31, 1980 either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 30, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (as amended 44 FR 61328, October 25, 1979). A competing applicatiion must conform with the requirements of 18 CFR, 4.33 (a) and (d), (as amended, 44 FR 61328, October 25, 1979.)

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, Section 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before March 31, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3308 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2978]

Light and Power Board, City of Traverse City; Application for Preliminary Permit

January 24, 1980.

Take notice that an application was filed on October 3, 1979, under the Federal Power Act, 16 U.S.C. § 791(a)–825(r), by the Light and Power Board of the City of Traverse City for a preliminary permit. The project is located on the Boardman River in the county of Grand Traverse near Traverse City, Michigan. Correspondence with the Applicant on this matter should be addressed to: William P. Strom, Executive Director/Secretary, Light and Power Board of the City of Traverse City, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan 49684.

Purpose of Project—The Light and Power Board of the City of Traverse City would sell the total power generated at the project to customers of the Light and Power Department of Traverse City.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it proposes to conduct economic and environmental studies, prepare application for necessary state and federal permits, and to develop preliminary and final designs of the project. The Applicant estimates the cost of the proposed studies would be $4,000.00.

Project Description—The Brown Bridge Dam Project would consist of: (1) an existing 2400-foot-long and 15-foot-high earth embankment; (2) an existing powerhouse containing two generators each rated at 400 kW; (3) an existing reservoir with a storage capacity of 325 acre-feet at normal pool elevation of 797.5 feet m.s.l.; (4) an existing 13.8 kV transmission line 13 miles long; and (5) appurtenant facilities. The estimated annual output of the proposed project would be 2,887,000 kWh.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and other necessary information for inclusion in an application for license.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 31, 1980 either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 30, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (as amended 44 Fed. Reg. 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (as amended, 44 Fed. Reg. 61328, October 25, 1979.)

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtain directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, Section 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10

for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before March 31, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3370 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2979]

Light and Power Board, City of Traverse City; Application for Preliminary Permit

January 24, 1980

Take notice that an application was filed on October 3, 1979, under the Federal Power Act, 16 U.S.C. § 791(a)–825(r), by the Light and Power Board of the City of Traverse City for a preliminary permit. The project is located on the Boardman River in the county of Grand Traverse near Traverse City, Michigan. Correspondence with the Applicant on this matter should be addressed to: William P. Strom, Executive Director/Secretary, Light and Power Board of the City of Traverse City, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan 49684.

Purpose of Project—The Light and Power Board of the City of Traverse City would sell the total power generated at the project to customers of the Light and Power Department of Traverse City.

Proposed Scope and Cost of Studies under permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months. during which time it proposes to conduct economic and environmental studies, prepare application for necessary state and federal permits, and to develop preliminary and final designs of the project. The Applicant estimates the cost of the proposed studies would be $15.000.00.

Project Description—The Boardman Dam Project would consist of: (1) an existing 700-foot-long and 18-foot-high earth dam; (2) an existing 200-foot-long, 18-foot-wide and 15-foot-high concrete bridge-dam structure; (3) an existing reservoir with a storage capacity of 61 acre-feet at normal pool elevation of 654.8-feet m.s.l.; (4) an existing 13.8 kV transmission line; (5) an existing powerhouse containing two generators, each rated at 485 kW, for a total installed capacity of 970 kW; and (6) appurtenant facilities. The estimated annual output of the proposed project would be 6,582,000 kWh.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and other necessary information for inclusion in an application for license.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 31, 1980 either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 30, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (as amended 44 Fed. Reg. 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (as amended, 44 Fed. Reg. 61328, October 25, 1979.)

Agency comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, Section 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments protest, or petition to intervene must be filed on or before March 31, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3371 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2980]

Light and Power Board, City of Traverse City; Application for Preliminary Permit

January 24, 1980.

Take notice that an application was filed on October 3, 1979, under the Federal Power Act, 16 U.S.C. § 791(a)–825(r), by the Light and Power Board of the City of Traverse City for a preliminary permit. The project is located on the Boardman River in the county of Grand Traverse near Traverse City, Michigan. Correspondence with the Applicant on this matter should be addressed to: William P. Strom, Executive Director/Secretary, Light and Power Board of the City of Traverse City, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan 49684.

Purpose of the Project—The Light and Power Board of the City of Traverse City would sell the total power generated at the project to customers of the Light and Power Department of Traverse City.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it proposes to conduct economic and environmental studies, prepare application for necessary state and federal permits, and to develop preliminary and final designs of the project. The Applicant estimates the cost of the proposed studies would be $15,000.00.

Project Description—The Sabin Dam Project would consist of: (1) an existing concrete dam, 110-feet-long and 20-feet-high, (2) an existing powerhouse containing two generators, each rated at 335 kW, for a total installed capacity of 670 kW; (3) an existing reservoir with a storage capacity of 37 acre-feet at normal power pool elevation of 613.8-feet m.s.l; (4) an existing 13.8 kV transmission line; and (5) appurtenant facilities. The estimated annual output of the proposed project would be 3,315,000 kWh.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and other necessary information for inclusion in an application for license.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 31, 1980 either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 30, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (as amended 44 Fed. Reg. 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d), (as amended, 44 Fed. Reg. 61328, October 25, 1979.)

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Invervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practie and Procedure, 18 CFR, Section 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before March 31, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3372 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-512]

Long Island Lighting Co.; Filing

January 25, 1980

The filing Company submits the following:

Take notice that on January 7, 1980, Long Island Lighting Company (LILCO) submitted the following documents in the above styled-proceeding:

1. Data concerning cost of providing service.

2. Statement which states how the rate was developed.

3. LILCO's Case-in-Chief.

Copies of this filing have been served upon the parties to this proceeding.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3373 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-108]

Missouri Public Service; Order Accepting Rates for Filing, Suspending Proposed Rate Increase, and Establishing Procedures

January 22, 1980.

On November 27, 1979, Missouri Public Service Company (MPS) submitted for filing a proposed rate increase for firm power service to eight municipal customers.[1] The proposal would increase revenues from those customers by $484,258 (14.5 percent) annually, based on projected revenues for the 12-month period ending January 25, 1981. MPS requests that its proposed rates be allowed to become effective on January 26, 1980, with respect to the cities of El Dorado Springs, Galt, Harrisonville, Liberal, Pleasant Hill, and Rich Hill, and "as soon as possible by contract" with respect to the cities of Odessa and Gilman City.

Notice of MPS' filing was issued on December 4, 1979, with protests or petitions to intervene due by December 24, 1979. The cities of Odessa and Galt filed letters of protest on December 18 and 24, 1979, respectively. Odessa contends that the rate increase, as to Odessa, should be rejected because its contract with MPS, which expires on March 11, 1984, is a fixed-rate contract with no provision for unilateral change. Galt objects to the rate increase because it would result in increased rates for the city's residents, 75 percent of whom are on fixed incomes, and because it follows MPS' 1978 rate increase in Docket No. ER79-89.

Our reviews of MPS' filing indicates that the proposed rate increase has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Therefore, with respect to the cities other than Odessa and Gilman City, we shall accept MPS's proposed rates for filing and suspend them for three months to become effective April 27, 1980, subject to refund. We shall also hold a hearing concerning the justness and reasonableness of the rates proposed by MPS.

The contracts for the cities of Odessa and Gilman City have previously been found to provide for fixed rates over fixed terms with no reservation of power to unilaterally change the existing rates.[2] In its present filing, MPS has not sought to supplant its contractual obligations to these cities. The tendered

[1] Cities of El Dorado Springs, Galt, Harrisonville, Liberal, Pleasant Hill, Rich Hill, Odessa, and Gilman City, Missouri. See Attachment A for rate schedule designations.

[2] *Missouri Public Service Co.*, Docket No. ER79-89, Jan. 31, 1979, mimeo at 3.

rate schedule is expressly made subject to the existing fixed-rate contracts and MPS does not propose to increase rates to the two cities until expiration of their respective contracts.[3] This comports with the *Mobile-Sierra* doctrine.[4]

Consistent with orders issued by the Federal Power Commission in *Alabama Power Co.*, 46 FPC 1386 (1971), *reconsideration den.*, 47 FPC 280 (1972), *aff'd sub nom., Municipal Electric Assoc. of Alabama* v. *FPC*, 485 F.2d 967 (D.C. Cir. 1973), we shall waive Section 35.3 of the Regulations to permit MPS to file proposed rates more than 120 days before their proposed effective dates for service to Odessa and Gilman City. However, no change in rate may become effective as to these customers until the expiration, or renegotiation of their respective contracts and the filing of superseding service agreements under Section 205(d). MPS's filing of new service agreements will afford the Commission a renewed opportunity to inquire into the lawfulness of the rate schedule and to suspend the effectiveness of the rate and service agreement pending such investigation.

We note that MPS has functionalized general plant on a basis other than functional wage and salary ratios. In accordance with our policy on this matter, MPS shall have the burden—in the hearing to be ordered in this proceeding—of showing that the use of labor ratios is unreasonable as applied to the company.[5]

We also note that both MPS' present and proposed rates contain a tax and license rider which adjusts the customers' bills for gross receipts, franchise, occupational, and license taxes. However, MPS states that there are no such taxes or fees currently in effect. Before this rider could be implemented MPS would have to make a timely filing under § 35.13 of our Regulations under the Federal Power Act.[6]

The Commission orders:

(A) The rates proposed by MPS for the cities of El Dorado Springs, Galt, Harrisonville, Liberal, Pleasant Hill, and Rich Hill are accepted for filing and suspended for three months, to become effective April 27, 1980, subject to refund.

(B) The 120 days notice requirement of § 35.3(a) of our Regulations is hereby waived with regard to the filing of proposed rate schedules applicable to the Cities of Odessa and Gilman City. Any rate change for service to these customers may only become effective upon the expiration, or renegotiation of their respective contracts and the filing, subject to Section 205(e) review, of a superseding service agreement for each contract.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and its Regulations under the Federal Power Act (18 CFR ch. 1 (1979)), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by MPS in this proceeding.

(D) The staff shall serve top sheets in this proceeding on or before April 20, 1980.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing discovery conference in this proceeding to be held within 35 days of the issuance of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. This conference will be for the purpose of expediting discovery and resolving any initial controverises relating to data requests and discovery. In addition, the presiding judge shall convene a formal settlement conference to be held within 10 days of the service of top sheets. The presiding judge is authorized to established procedural dates and to rule upon all motions (except motions to consolidate or serve and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A—Missouri Public Service Co. [Docket No. ER80-109]

Rate Schedule Designations

Filed: November 27, 1979.
Dated: Undated.

Designation	Description	Other party
Supplement No. 6 to Rate Schedule FPC No. 35 (supersedes Supplement No. 3 thereto).	Rates	El Dorado Springs, Mo.
Supplement No. 7 to Rate Schedule FPC No. 35 (supersedes Supplement No. 4 thereto).	Fuel clause	Do.
Supplement No. 6 to Rate Schedule FERC No. 36 (supersedes Supplement No. 4 thereto).	Rates	Galt, Mo.
Supplement No. 7 to Rate Schedule FERC No. 36 (supersedes Supplement No. 5 thereto).	Fuel clause	Do.
Supplement No. 6 to Rate Schedule FERC No. 38 (supersedes Supplement No. 4 thereto).	Rates	Harrisonville, Mo.
Supplement No. 7 to Rate Schedule FERC No. 38 (supersedes Supplement No. 5 thereto).	Fuel clause	Do.
Supplement No. 6 to Rate Schedule FPC No. 36 (supersedes Supplement No. 3 thereto).	Rates	Liberal, Mo.
Supplement No. 7 to Rate Schedule FPC No. 36 (supersedes Supplement No. 4 thereto).	Fuel clause	Do.
Supplement No. 6 to Rate Schedule FPC No. 34 (supersedes Supplement No. 3 thereto).	Rates	Pleasant Hill, Mo.
Supplement No. 7 to Rate Schedule FPC No. 34 (supersedes Supplement No. 4 thereto).	Fuel clause	Do.
Supplement No. 6 to Rate Schedule FPC No. 37 (supersedes Supplement No. 3 thereto).	Rates	Rich Hill, Mo.
Supplement No. 7 to Rate Schedule FPC No. 37 (supersedes Supplement No. 4 thereto).	Fuel clause	Do.
Supplement No. 5 to Rate Schedule FPC No. 29 (supersedes Supplement No. 1 thereto).	Rates	Gilman City, Mo.
Supplement No. 6 to Rate Schedule FPC No. 29 (supersedes Supplement No. 4 thereto).	Fuel clause	Do.
Supplement No. 5 to Rate Schedule FPC No. 31 (supersedes Supplement No. 1 thereto).	Rates	Odessa, Mo.
Supplement No. 6 to Rate Schedule FPC No. 31 (supersedes Supplement No. 4 thereto).	Fuel clause	Do.

[FR Doc. 80-3374 Filed 1-31-80; 8:45 am]
BILLING CODE 6450-01-M

[Dockets Nos. CP77-71, CP77-118, and CP77-125]

Natural Gas Pipeline Co. of America, etc.; Notice Scheduling Oral Argument Before the Commission

January 17, 1980.

In the matter of Natural Gas Pipeline Co. of America, Columbia Gas Transmission Corporation, Columbia Gulf Transmission Company and Texas Gas Transmission Corporation.

Notice is hereby given that an oral argument will be held before the Commission in the above-captioned proceedings commencing at 10 a.m. on February 19, 1980 in Hearing room A of the Commission's offices, 825 North Capitol Street, N.E., Washington, D.C. The argument has been scheduled by the Commission on its own motion to assist the Commission in its resolution of the issues involved.

Of particular interest to the Commission is the broad range of policy questions addressed by the parties in their briefs. The Commission does not seek further argument regarding the specific factual circumstances of the subject transaction for which a certificate is sought. The existing record is deemed adequate for the Commission to speak to the pending applications. However, the Commission may choose to consider and decide the broader policy issues surrounding the transportation of industry owned reserves, however acquired.

The specific issues on which the Commission seeks oral argument are as follows:

1. Does Title I of the Natural Gas Policy Act of 1978 (NGPA) implicitly prohibit in-place sales of reserves? Can the unit price of the gas sold be ascertained with reasonable certainty at time of sale?

2. Will industry acquisition of gas reserves circumvent the legislative scheme embodied in Title IV of the NGPA?

3. What is and will be the impact on system gas supply of industrial purchase of, exploration for, and development of gas reserves?

4. Is pipeline capacity threatened now or in the future? What categories of user owned gas should have first call on pipeline capacity? Should NGPA curtailment priorities be adopted?

5. How should the length of long term transportation certificates be decided? Case by case? Fixed terms established by rule? Limits established by rule with case by case determination?

Any party to these proceedings desiring to participate in the oral argument shall so notify the Secretary of the Commission not later than February 5, 1980, including a statement of the time deemed necessary for that party's presentation.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-3675 Filed 1-31-80; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. TA80-1-26 (PGA80-2, IPR80-2, GRI80-2, AP80-1, LFUT80-1, and TT80-1)]

Natural Gas Pipeline Co. of America; Change in Rates

January 25, 1980.

Take notice that on January 21, 1980, Natural Gas Pipeline Company of America (Natural) submitted for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the below listed tariff sheets to be effective March 1, 1980:

Fortieth Revised Sheet No 5
Twelfth Revised Sheet No. 5A
Third Revised Sheet No. 5B
First Revised Sheet No.5C
First Revised Sheet No. 5D

Natural states the purpose of the filing is to reflect rate adjustments under various sections of the General Terms and Conditions of its tariff and various articles of the Stipulation and Agreement in Docket No. RP78-78 (hereinafter settlement) which was approved by Commission letter order issued October 4, 1979. The overall effect of the filed for adjustments to Natural's DMQ-1 sales rate is an increase of $0.04 in the demand component and a decrease of 0.50¢ in the commodity component. Appropriate adjustments were also made to Natural's other sales rate schedules. Rate reductions were also made to storage Rate Schedules MS-2, LS-1, LS-2 and LS-3.The annualized revenue decrease amounts to approximately $3.81 million. the various components are summarized below:

	Rate schedule DMQ-1 rate adjustment		Annualized jurisdictional revenue increase (decrease)
	Demand	Commodity	
Purchased Gas Cost Adjustment:			
Producer Supplier		5.86¢	$39.47
Pipeline Supplier		(0.49)	(4.97)
Deferred Purchased Gas Cost		(7.82)	(79.37)
Total PGA		(2.45)¢	$(24.87)
Gas Research Institute		(0.01)¢	(.10)
Louisiana First Use Tax		0.75¢	7.71
Advance Payments		(0.27)¢	(2.74)
Transportation Adjustment	$0.05	1.55¢	17.83
Tax Adjustment	$(0.01)	(0.08)¢	(1.25)
Storage Service			(.39)
Total	$0.04	(0.50)¢	$(3.81)

The filing also reflects projected incremental pricing surcharges (MSAC) of $4,300 for the six month period beginning March 1, 1980. Natural states it had only one sale-for-resale customer that had MSAC. All of Natual's remaining sale-for-resale customers reported zero MSAC due to actions taken by their state regulatory commissions. Natural's four direct industrial customers have either furnished exemption affidavits or are exempt based on information contained in Natural's records.

Natural also filed to amend the GRI surcharge of 0.48¢ effective as of January 1, 1980, since Natural sells gas on a 14.65 psia pressure base corrected to 1000 Btu. Natural states that under its billing basis and using the system Btu of 1025 included in its currently effective rates the GRI surcharge of 0.48¢ should be converted to 0.47¢

Natural requests waiver of the Commission regulations to the extent, if any, required to put the propose tariff sheets into effect on March 1, 1980.

A copy of this filing has been mailed to Natural's jurisdictional customers and to interested state regulatory agencies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Feb. 12, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a part must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3370 Filed 1-31-80; 8:45 am]
BILLING CODE 6450-01-M

[Project No. 803]

Pacific Gas & Electric Co.; Issuance of Annual Licenses

January 25, 1980.

On November 18, 1976, Pacific Gas and Electric Company (Company), Licensee for the DeSabla-Centerville Project No. 803, located on West Branch Feather River, Butte Creek, and Philbrook Creek in Butte County, California filed an application for new license pursuant to the Federal Power Act and Commission regulations thereunder.

The license for Project No. 803 was issued effective October 12, 1929 for a period ending October 11, 1979. In order to authorize the continued operation and maintenance of the project, pending the Commission's action on the Company's

[3] As noted *supra*, Odessa's contract expires on March 11, 1984; Gilman City's contract expires on October 27, 1982.

[4] *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956); and *Federal Power Commission* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

[5] *See, Black Hills Power & Light Co.*, Docket No. ER79-429, Aug. 6, 1979; *Southern California Edison Co.*, Docket No. ER79-150, Mar. 15, 1979; and *Central Kansas Power Co.*, Docket No. ER79-80, Jan. 31, 1979.

[6] 18 C.F.R. § 35.13 (1979).

V45/23 FE1 80 UMI

application, it is appropriate and in the public interest to issue an annual license to the Company.

Take notice that an annual license has been issued to the Company for a period of October 12, 1979 to October 11, 1980, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of Project No. 803, subject to the terms and conditions of the original license. Take further notice that if issuance of a new license does not take place on or before October 12 a new annual license will be in effect each year thereafter, effective October 12 of each year, until such time as a new license is issued, or other appropriate action is taken by the Commission, without further notice being given by the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3377 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Projects Nos. 2929, 2969, 2995, and 3004]

Pennsylvania Hydroelectric Development Corp., et al.; Consolidating Proceedings and Denying Petition to Intervene

January 24, 1980.

In the matter of Pennsylvania Hydroelectric Development Corporation, Borough of Weatherly, Pennsylvania, Borough of Lehighton, Pennsylvania, Delaware River Basin Commission.

The four applicants in the above-captioned proceedings have each filed an application for a preliminary permit to study the installation of hydroelectric generating facilities at the Francis E. Walter Dam, located on the Lehigh River in Carbon County, Pennsylvania. The applications were all filed during the last eight months. Public notice of only one of the applications has been given.

To ease the procedural burden on the applicants and the Commission from conducting four separate proceedings for these competing applications, these dockets are being consolidated. This will, among other things, automatically make all of the applicants parties to each others' proceeding until the applications are acted upon without requiring them to incur the expense of filing multiple petitions to intervene. The one currently outstanding petition to intervene, that filed by the Delaware River Basin Commission (applicant for Project No. 3004) in the proceeding involving the Pennsylvania Hydroelectric Development Corporation's application (Project No. 2929), is denied as moot.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3378 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-196]

Pennsylvania-New Jersey-Maryland Interconnection; Filing

January 25, 1980.

The filing Company submits the following:

Take notice that on January 21, 1980, the Office of the Pennsylvania-New Jersey-Maryland Interconnection (PJM) filed Schedules 5.03, 7.03, 8.04, and 9.02 to the Interconnection Agreement between CEI and the PJM Group dated September 30, 1965.

The schedules provide for replacing the traditional percentage adders used in pricing Emergency, Extended Emergency, and Short Term Energy and Operating Capacity transactions, with cost justified fixed adders based upon identifiable costs. The demand rates for Extended Emergency transactions are changed from a daily to an hourly basis.

The Schedules also provide for increasing the demand rate for supply of Short Term Power from $500 to $800 per megawatt per week. The demand rate for transmitting Short Term Power purchased from another system is increased from $125 to $200 per megawatt per week.

No new facilities will be installed nor will existing facilities be modified in connection with the Schedules. The filing party has requested a waiver of any otherwise applicable Rules and Regulations not already complied with and has requested an effective date of April 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before February 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3379 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 1025]

Safe Harbor Water Power Corp.; Granting Intervention

January 24, 1980.

On April 21, 1977, Safe Harbor Water Power Corporation filed an application for a new license for its existing Safe Harbor Project No. 1025. Notice of the application was issued with a due date of December 6, 1978, for the filing of protests or petitions to intervene.

On September 14, 1979, the Susquehanna River Flood Committee (SRFC) filed a late petition to intervene. SRFC states that it is an association of landowners having property located along the reservoir impounded by the Safe Harbor Project. SRFC states that its members desire Safe Harbor to adopt certain operating procedures that would assure that the Safe Harbor Project is properly operated during times when the Susquehanna River is frozen to prevent recurrent ice damage to SRFC's members' properties. SRFC states that in past years, Safe Harbor has been negligent in operating its project during periods of ice movement, causing ice to jam up onto SRFC's members' properties.

SRFC states that because the association was not formally organized until February, 1979, and because it represents an important public interest that is not adequately represented in this proceeding, its late intervention should be granted.

Safe Harbor opposes the granting of the petition to intervene on the ground that the operation of the Safe Harbor Project does not contribute to the ice jams above the project. Safe Harbor also asserts that SRFC's interests are unrelated to the application for new license for the Safe Harbor Project. Safe Harbor also argues that SRFC has not provided enough facts which demonstrate its interest in this proceeding.

It appears that SRFC's participation in this proceeding may be in the public interest. SRFC has raised an issue related to operation of the Safe Harbor Project. This subject is considered and addressed in relicensing proceedings. With regard to Safe Harbor's suggestion that SRFC should file a complaint under § 1.6 of the Commission's Regulations in lieu of filing its petition to intervene, SRFC has chosen the relicensing proceeding as the forum to consider its concerns. It is therefore inappropriate at this time to second-guess SRFC and no further comment is necessary.

Pursuant to § 3.5(a) of the Commission's Rules of Practice and Procedure (Rules), 18 CFR 3.5(a) (1978), as promulgated by Federal Energy Regulatory Commission rulemaking RM78-19 (issued August 14, 1978), Petition is permitted to intervene in this proceeding subject to the Commission's Rules and Regulations under the Federal Power Act. 16 U.S.C. 791(a)-825(r). Participation of the intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in its petition to intervene. The admission of the intervenor shall not be construed as recognition by the Commission that they might be aggrieved by any order entered in this proceeding.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3380 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-71]

Sea Robin Pipeline Co.; Filing of Revised Tariff Sheets

January 25, 1980.

Take notice that Sea Robin Pipeline Company (Sea Robin), on January 22, 1980, tendered for filing, as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets:

Substitute Fourth Revised Sheet No. 5
Substitute Third Revised Sheet No. 6
Substitute Fourth Revised Sheet No. 7
Substitute Original Sheet No. 7-A
Substitute Original Sheet No. 7-B
Substitute Original Sheet No. 7-C
Substitute Original Sheet No. 7-D
Substitute Original Sheet No. 12
Substitute Original Sheet No. 13
Substitute Original Sheet No. 14
Substitute Original Sheet No. 15
Substitute Original Sheet No. 16
Substitute Original Sheet No. 17
Substitute Original Sheet No. 18
Substitute Original Sheet No. 19
Substitute Original Sheet No. 20
Substitute Original Sheet No. 21
Substitute Original Sheet No. 22

Sea Robin states it has revised Sections 1, 3, 4 and 5 of its FERC Gas Tariff, Original Volume No. 1. These revisions are being made to take account of (1) the changes to the incremental pricing regulations adopted in Order No. 49-A, issued December 27, 1979 in Docket No. RM79-14 and (2) the changes in the regulations relating to computation of the carrying charge component of the PGA provision (Sections 1.9 and 4.9), which changes were adopted in Order No.47, issued September 10, 1979, Order No. 47-A, issued November 8, 1979, and Order No. 47-B, issued December 28, 1979, all in Docket No. RM77-22.

These revisions will not cause any change in the rates which became effective on January 1, 1980. Sea Robin requests that these changes be made effective as of December 1, 1979, the date that tariff provisions implementing incremental pricing must be made effective under Order No. 49. Sea Robin requests that the Commission waive its regulations to the extent necessary to allow the tendered tariff sheets to become effective as requested.

Copies of the proposed tariff sheets will be mailed to Sea Robin's customers and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 12, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3381 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-151]

Transcontinental Gas Pipe Line Corp.; Amended Notice of Application

January 25, 1980.

Take notice that on December 21, 1979, Transcontinental Gas Pipeline Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP80-151 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.221 of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) for a certificate of public convenience and necessity for blanket authorization to transport natural gas for other interstate pipeline companies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The notice issued January 9, 1980, in the instant docket failed to include Applicant's notation that in its comments filed in Docket No. RM79-74 wherein the Commission promulgated Subpart G of Part 284 of the regulations under the NGPA, it requested the Commission to clarify its proposal "to expressly recognize that this particular condition (Section 284.103(d)(1) concerning crediting of revenues in excess of 1 per cent per Mcf to Account No. 191) would apply only in the event that a pipeline's rate settlement agreement does not contain a provision governing the treatment of transportation revenues." It is stated that in its final rule, the Commission took note of Applicant's request and provided that an application for a blanket certificate "may call to the Commission's attention any provision of a previous settlement which may conflict with the requirements of § 284.103(d)." The Commission further explained, it is stated, that the provisions of § 284.103(d) would apply to all transactions covered by the certificate "unless otherwise provided in the order."

Applicant states that Article X of its Agreement as to Rates in Docket No. RP77-108, approved by Commission letter order issued October 11, 1979, is in conflict with § 284.103(d). Therefore, Applicant requests that the Commission's order herein specifically provide that Article X of Applicant's agreement governs with respect to revenues received for transportation service rendered under the instant blanket authorization so long as the Docket No. RP77-108 rates are in effect.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons having heretofore filed after issuance of the

notice of January 9, 1980, in this proceeding need not do so again.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3302 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-30 (PGA80-2, IPR80-2, AP80-1, LFUT80-1, and TT80-1)]

Trunkline Gas Co.; Change in Tariff

January 25, 1980.

Take notice that on January 15, 1980 Trunkline Gas Company (Trunkline) tendered for filing Thirty-First Revised Sheet No. 3–A and Second Revised Sheet No. 3-B to its FERC Gas Tariff, Original Volume No. 1. Trunkline submits that these revised tariff sheets reflect rate adjustments as follows:

(1) A PGA Rate Adjustment in accordance with (A) Section 18 of the General Terms and Conditions; and (B), Article VII (Transportation Revenues and Credits) of the Agreement as to Rates and Related Matters in Docket No. RP78–11 which reflects increases in the current cost of gas and recovery of amounts in the deferred purchased gas cost account; and

(2) A Louisiana First Use Tax (LFUT) Rate Surcharge in accordance with Section 20 of the General Terms and Conditions; and

(3) An Advance Payment tracking adjustment pursuant to Article V of the Agreement as to Rates and Related Matters in Docket No. RP78–11, and

(4) A purchased Gas Transmission and Compression tracking adjustment pursuant to Article VI of the Agreement as to Rates and Related Matters in Docket No. RP78–11.

(5) A "Reduced PGA" rate, and projected incremental pricing surcharges for each direct sale non-exempt industrial boiler fuel facility and each sale-for-resale customer in accordance with Section 21 of the General Terms and Conditions.

An effective date of March 1, 1980 is proposed.

Trunkline states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N. E., Washington, D. C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3303 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP 80-30-]

United Gas Pipe Line Co.; Filing of Revised Tariff Sheets

January 25, 1980.

Take notice that United Gas Pipe Line Company (United), on January 22, 1980, tendered for filing, as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets:

Substitute Fourth Revised Sheet No. 74–B
Substitute Fifth Revised Sheet No. 74–C
Substitute Fourth Revised Sheet No. 74–D
Substitute Fifth Revised Sheet No. 74–E
Substitute Fifth Revised Sheet No. 74–F
Substitute Original Sheet No. 74–F1
Substitute Original Sheet No. 74–F2
Substitute Original Sheet No. 74–P
Substitute Original Sheet No. 74–Q
Substitute Original Sheet No. 74–R
Substitute Original Sheet No. 74–S

United States it has revised Sections 19 and 23 of its FERC Gas Tariff, First Revised Volume No. 1. These revisions are being made to take account of (1) the changes to the incremental pricing regulations adopted in Order No. 49–A, issued December 27, 1979 in Docket No. RM79–14 and (2) the changes in the regulations relating to computation of the carrying charge component of the PGA provision (Section 19.9), which changes were adopted in Order No. 47, issued September 10, 1979, Order No. 47–A, issued November 8, 1979, and Order No. 47–B, issued December 26, 1979, all in Docket No. RM77–22.

These revisions will not cause any change in the rates which became effective on January 1, 1980. United requests that these changes be made effective as of December 1, 1979, the date that tariff provisions implementing incremental pricing must be made effective under Order No. 49. United requests that the Commission waive its regulations to the extent necessary to allow the tendered tariff sheets to become effective as requested.

Copies of the proposed tariff sheets will be mailed to United's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 12, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3304 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. G-9547, et al.]

United Gas Pipe Line Co., et al.; Filing of Pipeline Refund Reports and Refund Plans

January 25, 1980.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket numer, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 12, 1980. Copies of the respective filings are on file with the Commission and available for public inspection.

Lois D. Cashell,

Acting Secretary.

Appendix

Filing date	Company	Docket No.	Type filing
1/10/80	United Gas Pipe Line Company.	G-9547, *et al.*	Report.
1/15/80	Northern Natural Gas Company.	RP71-107	Report.
1/16/80	Northern Natural Gas Company.	G-16640	Report.

[FR Doc. 80-3305 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-112]

Upper Peninsula Power Co.; Order Accepting for Filing and Suspending Proposed Rate Changes, Summarily Disposing of an Issue, Granting Intervention and Establishing Procedures

January 21, 1980.

Upper Peninsula Power Company (Upper Peninsula) on November 29, 1979 filed with the Commission a proposed change in rate schedule WR–1 for service to the Alger-Delta Cooperative Electric Association, the Ontonagon County Rural Electrification Association, Village of Baraga, City of Gladstone, Village of L'Anse, City of Negaune, and to the Wisconsin Electric Power Company.[1] The proposed rate change would constitute an increase in revenues to Upper Peninsula of $249,558 (6.35%) based on the 12 month period succeeding the proposed effective date of January 31, 1980.

Notice of the filing was issued on December 4, 1979, with responses due on or before December 26, 1979. On December 17, 1979. Wisconsin Electric Power Company (WEP) filed a petition to intervene which raised no susbstantive issues.

Under the holding of Opinion No. 19,[2] accumulated deferred investment tax credits (ADITC) must be distributed proportionately throughout the capital structure or eliminated entirely. As part of its filing, Upper Peninsula has improperly included ADITC as a separate component of its capitalization at the company-claimed overall rate of return.

While Upper Peninsula's treatment of ADITC has no effect on the company's claimed overall rate of return, it results in a lower weighted debt cost. If the interest deduction utilized in computing a Federal income tax allowance were synchronized by using this lower weighted debt cost, the result would be an artificial reduction in the interest deduction and a corresponding increase in the computation of the utility's imputed tax liability. However, since Upper Peninsula has not synchronized its interest deduction to its weighted cost of long-term debt, but rather has used a per books interest deduction, its treatment of ADITC has no immediate dollar effect on its cost of service as filed. Accordingly, we shall summarily dispose of the ADITC issue directing that Upper Peninsula eliminate ADITC as a separate component of its capital structure. We shall not, however, require Upper Peninsula to refile its cost of service pending our ultimate determination of the just and reasonable rates.[3]

Our review indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. We shall therefore accept Upper Peninsula's submittal for filing and suspend the proposed rates, for four months, to become effective May 30, 1980, subject to refund after hearing and decision thereon. WEP's participation in this proceeding may be in the public interest and we shall grant its petition to intervene.

The Commission orders:

(A) The rates proposed by Upper Peninsula Power Company are hereby accepted for filing and suspended for four months, to become effective May 30, 1980, subject to refund at the outcome of this proceeding.

(B) Summary disposition is hereby ordered of Upper Peninsula's inclusion of ADITC as a separate component of its capital structure.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and to the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Upper Peninsula Power Company.

(D) Winsonsin Electric Power Company's petition to intervene is hereby granted in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* that participation by intervenor shall be limited to the matters set forth in its petition to intervene and *Provided, further,* that the admission of the intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order entered in this proceeding.

(E) Staff shall serve top sheets in this proceeding on or before April 25, 1980.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge for that purpose, shall convene a conference in this proceeding to be held within 10 days of the serving of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding administrative law judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(G) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A—Upper Peninsula Power Co.

Rate Schedule Designations—Docket No. ER80–112

Filed: November 29, 1979

Descriptions: (a) WR–1—Wholesale Service to Electric Utilities. (b) Fuel Clause Adjustment

Wisconsin Electric Power Company; Rate Schedule FPC No. 2. (a) Supplement No. 12 (Supersedes Supplement No. 11). (b) Supplement No. 13 (Supersedes Supplement No. 9).

Wisconsin Electric Power Company; Rate Schedule FPC No. 3. (a) Supplement No. 13 (Supersedes Supplement No. 12). (b) Supplement No. 14 (Supersedes Supplement No. 10).

Village of Baraga; Rate Schedule FPC No. 6. (a) Supplement No. 12 (Supersedes Supplement No. 11). (b) Supplement No. 13 (Supersedes Supplement No. 9).

Village of L'Anse; Rate Schedule FPC No. 7. (a) Supplement No. 12 (Supersedes Supplement No. 11). (b) Supplement No. 13 (Supersedes Supplement No. 9).

City of Negaune; Rate Schedule FPC No. 11. (a) Supplement No. 10 (Supersedes Supplement No. 9). (b) Supplement No. 11 (Supersedes Supplement No. 7).

City of Gladstone; Rate Schedule FPC No. 13. (a) Supplement No. 9 (Supersedes Supplement No. 8). (b) Supplement No. 10 (Supersedes Supplement No. 6).

Alger-Delta Cooperative Electric Association; Rate Schedule FPC No. 14. (a) Supplement No. 12 (Supersedes Supplement No. 11). (b) Supplement No. 13 (Supersedes Supplement No. 9).

Ontonagon County Rural Electrification Association; Rate Schedule FPC No. 15. (a) Supplement No. 12 (Supersedes Supplement No. 11). (b) Supplement No. 13 (Supersedes Supplement No. 9).

[FR Doc. 80-3306 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

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[1] *See* Attachment A for rate schedule designations.

[2] *Carolina Power and Light Company,* Opinion No. 19 issued August 2, 1978, slip at p. 10.

[3] *El Paso Electric Company,* Docket No. ER79–526, suspension order issued September 24, 1979, mimeo at 3–4; *see Alabama Power Company,* Opinion No. 54, issued August 1, 1979; *Public Service Company of New Mexico,* Docket Nos. ER79–478 and ER79–479, order on rehearing issued December 18, 1979; *New England Power Company,* Docket Nos. ER80–66, ER80–67 and ER80–68, suspension order issued December 31, 1979.

V 45 / 23 FEB 1980 UMI

Office of Hearings and Appeals

Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of November 12 Through November 16, 1979

Notice is hereby given that during the week of November 12 through November 16, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Requests for Exception

Bennett's Standard, Middleton, Wis. DEO–0325, motor gasoline

Bennett's Standard filed an Application for Exception from the provisions of 10 CFR 211.102 which, if granted, would result in an increase in the firm's base period allocation of motor gasoline. On July 26, 1979, the DOE issued a Proposed Decision and Order denying Bennett's exception request. After considering the Statement of Objections which Bennett's filed to the Proposed Decision and Order, the DOE reaffirmed its finding that Bennett's will not experience a severe financial hardship in the absence of the requested exception relief. The DOE noted that the firm incurred a loss during its 1978 fiscal year solely as a result of its decision to award cash bonuses to its employees. The DOE also found that the change in the allocation base period did not prevent Bennett's from realizing the economic benefits of its capital investment. Accordingly, Bennett's Application for Exception was denied.

Champlin Petroleum Co., Fort Worth, Tex., DXE–7969, crude oil

Champlin Petroleum Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit Champlin to sell at upper tier ceiling prices 83.95 percent of the crude oil produced from the State of New Mexico No. 18 Property.

Equipment, Inc., Lafayette, La., DXE–8154, crude oil

Equipment, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit Equipment, Inc. to sell (1) 37.14 percent of the crude oil produced from the Hayes No. 1 Well at market price levels not to exceed $28.63 per barrel and the remaining 62.81 percent of the production from that well at upper tier ceiling prices, and (2) 100 percent of the crude oil produced from the Hayes A–1 Well at market price levels not to exceed $83.34 per barrel.

The Farley Co., Hartford, Conn., DEE–7899, temperature restrictions

The Farley Company filed an Application for Exception from the provisions of 10 CFR, Part 490, in which the firm sought a temporary exception on behalf of The Exchange from the heating set back requirements for periods when buildings are unoccupied. In considering the request, the DOE found that temporary exception relief was necessary to enable the firm to install automatic night set back controls. Accordingly, temporary exception relief was granted.

Gulf Oil Corp., Houston, Tex., DXE–8084, crude oil

Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit Gulf to sell at upper tier ceiling prices 100 percent of the crude oil produced from the E. G. Robinson, *et al.*, Unit.

Gulf Oil Corp., Houston, Tex., DEE–7936, crude oil

Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit Gulf to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Ruth Fleming, *et al.*, "A" Lease.

Pennzoil Producing Co., Houston, Tex., DXE–7852, crude oil

Pennzoil Producing Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit Pennzoilto sell at upper tier ceiling prices 85.12 percent of the crude oil produced from the Perry Sand Waterflood Unit, North Segment.

Petroleum, Inc., Wichita, Kans., 262, crude oil

Petroleum, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit Petroleum, Inc. to sell at upper tier ceiling prices 65.71 percent of the crude oil produced from the Crowder Lease.

Standard Oil Co. (Indiana), Chicago, Ill., DEE–7370, crude oil

Standard Oil Company (Indiana) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit Standard to sell at upper tier ceiling prices 57.83 percent of the crude oil produced from the South Middle Ground Shoal Unit.

Remedial Order

Bulk Sales Corp., Somerville, N.J., DRO–0237, motor gasoline

On June 8, 1979, the Northeast Enforcement District issued an Interim Remedial Order for Immediate Compliance (IROIC) to the Bulk Sales Corporation. In that IROIC, the Northeast Enforcement District alleged that Bulk Sales failed to supply the D. J. Witman Company with the volume and grade of motor gasoline due the firm in March 1979. Subsequent to the issuance of the IROIC, Bulk Sales voluntarily supplied Witman. The proceeding against Bulk Sales was therefore dismissed.

Interlocutory Order

Office of Special Counsel; Atlantic Richfield Co.; Gulf Oil Corp.; Standard Oil Co. of Calif.; Standard Oil Co. of Ind.; Louisiana Land and Exploration Co., Washington, D.C., BRZ–0011, crude oil

The Office of Special Counsel of the DOE and several firms involved in enforcement proceedings pending before the Office of Hearings and Appeals filed submissions regarding the deposition of a witness to be designated by the Special Counsel. In considering the submission, the Office of Hearings and Appeals noted that Texaco, Inc., another firm involved in the enforcement proceeding, had already been authorized to take the deposition of OCS's witnesses and that the Texaco deposition was expected to conclude shortly. The Office of Hearings and Appeals therefore determined that the rights of other parties to take the deposition of that witness should be determined after the Office had an opportunity to examine the transcript of the Texaco deposition and consider the need for further depositions.

Supplemental Orders

American Petrofina, Inc., Dallas, Tex., BEX–0008, motor gasoline

The DOE issued a Supplemental Order in order to clarify the intent of a temporary exception granted to Fina Jobbers Association, Inc. *American Petrofina, Inc.*, Case No. DMR–0072 (September 14, 1979). The DOE stated that the obligations of American Petrofina, Inc. to supply its base period customers in accordance with the allocation levels set forth in the September 14, 1979 Order were not subject to any conditions.

Occidental Petroleum Corp., Los Angeles, Calif., BEX–0009, crude oil

Occidental Petroleum Corporation and its wholly owned subsidiary, The Permian Corporation filed an Application for an Extension of a Stay of certain provisions of a Decision and Order issued by the Office of Hearings and Appeals to Energy Cooperative, Inc. (EIC) on October 3, 1979. The October 3 Order required in part that Permian supply ECI with 1,835,000 barrels of crude oil during the period October 1 through December 31, 1979 at a price not to exceed Permian's weighted average acquisition cost of crude oil during the preceding three months. The Order itself, however, provided for a stay of those provisions in order to all Permian and Occidental to submit objections to the terms of the October 3 Order which affected Occidental and Permian. In support of its request, Occidental stated that ECI has not shown that it will suffer irreparable injury if a stay of the proceedings requiring Permain to supply ECI with 1,835,000 barrels is extended, or that public policy objectives require that ECI be granted immediate relief with respect to the provisions affecting Permian. At the culmination of a hearing in the matter which was held on October 31, 1979, the Presiding Officer found that the requirements of Paragraphs (8) and (9) of the October 3 Order merited further consideration. Accordingly, Paragraphs (8) and (9) of the October 3 Order issued to ECI were stayed pending further order by the Office of Hearings and Appeals.

Protective Orders

The following firm filed an Application for Protective Order. The application, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following application and issued the requested Protective Order as an Order of the Department of Energy:

Company Name, Location and Case No.

Service Oil Co., Inc., Washington, D.C., DEZ–0000.

Interim Orders

The following firms were granted Interim Exception Relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company Name, Location, and Case No.

Thompson's Texaco, Washington, D.C.; DEN–2706.
Atlantic Richfield Co., Dallas, Tex.; BEN–0002.
Cave Springs Chevron No. 8044, Dunsmuir, Calif.; DEN–6878.
Fasgo, Inc., Washington, D.C.; DEN–7922.
The Carport, San Rafael, Calif.; DEN–5570.
Pine Grove Exxon, Pioneer, Calif.; BEN–0003.
Sharon Motors, Sharon Springs, N.Y.; DEN–6724.
J & B Automotive, Patchogue, N.Y.; DEN–6585.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The Requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted:

Company Name, Location, and Case No.

Ozark County Gas Co., Branson, Mo.; DEE–2513.
Auto Row Texaco, San Jose, Calif.; DEL–8233.
Bassett's 66 Service, Bartonville, IL; DXE–8242.

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company Name and Case No.

Francis & Gottlieb, DEE–5752
Mobil Oil Distributor, DEE–4085; DES–4085
Round's Service Station, DEE–7096
A. J. Harris, Inc., DEE–5754
Astro Oil & Gas Co., DEE–3377; DES–3377, DST–3377; DST–0047
Currier's Garage, DEE–5672
General Aluminun Corporation, DEE–7730
Save OK Oil & Gas of Lakeland, DEE–2048
Spinx Oil Company, DEE–2840; DES–2840
Fasgo, Inc., DES–7922
Pinehurst Citgo, DST–3524
The Carport, DES–5570
Acomi Corporation, DES–0206
Black Gold Marine, Inc., DEE–7452
Bongiorno's Texaco, DEE–4015
Chevron USA, Inc., DEA–0605; DES–0605; DST–0605; DEA–0606; DES–0606; DST–0606
Cibro Petroleum Products, DEE–8287
Demetriou, Del Guercio & Lovejoy, BFA–0000
Edmondson Oil Company, DEE–3136; DST–3136
Elson & Winland Sunoco, DEE–6805
Ernie's Texaco, DEE–7090
Gary Kelley Chevron, DEE–3236
H. M. Anrew, DEE–4828
Heinz Hall for the Performing Arts, DEE–7652
Henry Peterson, DEE–5831
Jerry's Chevron, DRO–0296
Lyon Oil Company, DEE–6149
Mallard Resources, DSG–0065
Mary Kay Thompson, DEE–7782
McMahon Oil Co., Inc., DEE–6692; DES–6692
R. W. Mathews & Sons, DEE–7711
Richard Ham, BEE–0256
Richome Oil & Gas, BRO–0008
Robert A. Williams d/b/a/ Heights Shell, DRO–0291
Saveway Super Service Stations, Inc., DES–3522; DST–3522
Shoreline Petroleum Co., BEE–0251
Silco Oil Company, DEE–2702
Stan-Ann Oil Company, DEE–6408
Suffolk Oil Company, BEE–0220; BEL–0220
The Washington Post, BFA–0027
Tri-C Arco, BEO–0096
W. A. Egan Company, DEE–2736; DST–2736
William N. Tipka, DEE–8310

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

January 24, 1980.

[FR Doc. 80-3410 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of December 3 through December 7, 1979

Notice is hereby given that during the week of December 3 Through December 7, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

Amdahl Corp., Bethesda, Md., BFA–0047, freedom of information

Amdahl Corporation filed an Appeal from a partial denial by the Assistant to the Manager Oak Ridge Operations, Department of Energy, of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Director acted properly in withholding proposal pricing data pursuant to Exemption 4.

Commonwealth Oil Refining Co., Inc., Washington, D.C., DEA–0628, crude oil

Commonwealth Oil Refining Co., Inc. (Corco) filed an Appeal from an Order issued to it by the Economic Regulatory Administration (ERA) of the DOE on August 30, 1979. The ERA Order denied Corco's request for an emergency allocation of crude oil pursuant to Section 211.65 of the DOE Buy/Sell Program. Corco requested in its Appeal that the ERA Order be reversed and that it be granted an emergency allocation of crude oil during the last four months of 1979. In considering the Corco Appeal, the DOE found that the ERA had correctly concluded that it was not in a position to consider Corco's overall financial position in determining whether the firm qualified for an emergency allocation of crude oil. The DOE also found that Corco had been offered crude oil at representative world market prices. Accordingly, the Corco Appeal was denied.

Kinetic research, Inc., Goleta, Calif., BFA–0041, freedom of information

Kinetic Research, Inc. filed an Appeal from a partial denial by the Deputy Director of the Office of Procurement Operations of the Department of Energy of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE held that a proposal was properly withheld under Exemption 4 because it contained confidential financial and commercial data. The Kinetic Research Appeal was therefore denied.

Marathon Oil Co., Findlay, Ohio, DEA–0508 through DEA–0516, motor gasoline

Marathon Oil Company (Marathon) filed Appeals from nine Temporary Assignment Orders issued to the firm by Region IV ERA. The Appeals, if granted, would result in the rescission of the Orders. In considering the Appeals, the DOE determined that the Region appeared to have issued the Orders solely on the basis of the applicants' low allocation fraction. The DOE held that an allocation fraction below .75 is a threshold requirement for the issuance of an assignment order but that the Region must make a further finding that the firm is experiencing "dire circumstances" before an assignment order may be issued. In addition, the DOE determined that Marathon had not been given an adequate opportunity to submit comments to the Region prior to the issuance of the Orders. Specifically, the Region failed to notify Marathon of the firm's right to comment when Marathon was given telephone notification of the Orders. Furthermore, Region IV informed Marathon that the firm had already been selected as a supplier for the Orders, thereby rendering any comments which the firm might submit meaningless. In light of these facts, the Orders were remanded to the Region and Marathon was given an opportunity to comment. After considering these comments, the Region shall reissue, modify, or rescind the Orders.

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Remedial Order

Anthony Fava d.b.a. Tony Fava Sports Center, Vineland, N.J., DRO–0307, motor gasoline

Anthony Fava d.b.a. Tony Fava Sports Center objected to an Interim Remedial Order for Immediate Compliance (IROIC) which the New Jersey Department of Energy issued to the firm on July 5, 1979. In the IROIC, the New Jersey DOE found that Fava was charging prices for motor gasoline which exceeded its maximum permissible prices. The U.S. DOE found that Fava had filed its Statement of Objections two months after it was due. The DOE therefore concluded that the IROIC should be issued as a final Order.

Louise Barge, Decatur, Ga., and David Krathen, Ft. Lauderdale, Fla., DEE–6468, DEE–7656, Emergency Building Temperature Restrictions

Louise Barge and David Krathen filed Applications for Exception from the provisions of 10 CFR 490 in which they sought permission to lower the minimum cooling temperature below 78° F in the offices. In considering the request, the DOE found that exception relief was necessary to alleviate a serious health risk.

Continental Construction Corp., Milwaukee, Wis., DEE–7558, Emergency Building Temperature Restrictions

Continental Construction Corporation filed and Application for Exception from the provisions of 10 CFR 490 in which the firm sought permission to lower the minimum summer temperature to 72° F and raise the maximum winter temperature to 70° F in its business establishment. In considering the request, the DOE found that exception relief was necessary to alleviate a serious health risk to one of Continental's employees.

San-Ann Service, Inc., Boaz, Ala., DEE–2330, motor gasoline

San-Ann Service, Inc., filed an Application for Exception from the provisions of 10 CFR 212 in which the firm sought the assignment by the DOE of a new, lower priced supplier to furnish San-Ann with additional volumes of motor gasoline. In considering the request the DOE found that San-Ann had not experienced a significant price disparity during the base period which would justify the granting of exception relief. Accordingly, exception relief was denied.

Siesta Shell Service, Sarasota, Fla., BEO–0025, motor gasoline

Siesta Shell Service filed an Application for Exception from the provisions of 10 CFR 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request the DOE found that the firm failed to demonstrate either that it had experienced an anomolous base period or that it was currently experiencing any financial hardship. Accordingly, exception relief was denied.

Requests for Modification and/or Rescission

Acomi Corp., Washington, D.C., BMR–0008, motor gasoline

Acomi Corporation filed an Application for Modification or Rescission from the requirements of a prior order of the Office of Hearings and Appeals. In considering the Application, the DOE determined that Acomi had failed to demonstrate that the Application was based on significantly changed circumstances. The application was therefore denied.

Young Refining Corp., Douglasville, Ga., BMR–0004, crude oil

Young Refining Corporation filed an Application for Modification of a Supplemental Decision and Order issued to the firm on June 19, 1979. The Supplemental Decision and Order had the effect of immediately implementing exception relief from the provisions of 10 CFR 211.67 (the Entitlements Program) which was tentatively found appropriate for Young in a Proposed Decision and Order issued on the same date. Young's request for modification, if granted, would have resulted in the issuance of a further order increasing the monthly amount of exception relief from $266,754 to 100 percent relief from any obligation to purchase entitlements during the months of September through November 1979. In considering the request, the DOE found that the firm had failed to show the existence of significantly changed circumstances which formed a proper basis for a modification of the Supplemental Order. Accordingly, Young's request for additional exception relief was denied.

Requests for Special Refund Proceedings

Office of Enforcement (Albert B. Alkek: Vickers Energy Corp.), Washington, D.C., BEZ–0013, BEZ–0014, special refund procedures

The Office of Enforcement filed two Petitions for the Implementation of Special Refund Procedures pursuant to 20 CFR, Part 205, Subpart V. Both Petitions related to Consent Orders the firms entered into with the DOE concerning alleged violations of DOE Mandatory Petroleum Price Regulations. The first Consent Order relates to $3,240,000 submitted to the DOE by Albert B. Alkek. These funds are temporarily being held in a Treasury account. The second Consent Order concerns $2,850,000, which is being placed in escrow by Vickers Energy Corporation pending DOE distribution. The Office of Hearings and Appeals agreed to accept jurisdiction of these proceedings under 10 CFR, Part 205, Subpart V, to determine the persons entitled to specific refunds from the amounts stated above.

Interim Orders

The following firms were granted Interim Exception relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company Name, Case No., and Location

Happy Valley Exxon, DEN–7945; Lochgelly, W. Va.
Roarda, Inc., DEN–3342; Washington, D.C.
Service Oil Co., DEN–8286; Washington, D.C.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firm filed Applications for Exception, Stay, Temporary Stay and/or Temporary Exception from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the request be denied.

Company Name, Case No., and Location

Southern Bell Telephone & Telegraph, DEL–0002; Ft. Lauderdale, Fla.

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:
Name and Case No.
C&B Warehouse Distributing Inc., BEA–0064
Community Fuel, DEE–6979
Crest Intl. Pet. Corp., DEE–6953
Don's Mobil, DEE–5661
Yokoyama Bros., Inc., DEE–5093
Archer Oil Company, DEE–7386
Ballentine Gulf, DEE–7224
Blue Grass Oils, Inc., DEE–3620; DST–3620
Bd. of Public Works of Bamberg, S.C., DEE–0344
Bob Webb's Arco, DEE–6686
Bonnie Brae Conoco, DEE–4646; DST–4646
City of Carterville, Ga., BEE–0375
Evans Oil Company, DRC–0017
Cibro Pet. Products, DEA–0329
Don's Shell, DST–3616
Huntway Ref. Co., BES–0022
Roarda, Inc., DES–3342; BEL–0003
Tesoro Pet. Corp., DRO–0382
Vi's Corner Gas, DEE–5083; DES–5083
Herndon Phillips 66, DEE–4797
Ladysmith Gulf, DEE–7263
Lenny's Sunoco, BRO–0060
McLoon Farms—New-Castle, DEE–4207
McNaugton's Grocery, DEE–6828
Middlesex Auto Center, DEE–5690
Quality Oil Company, DEE–5841; DES–5841
Roberts Exxon, DEE–4274
Russian River C. of C., DEE–6276; DES–6276
Schultz Oil Company, BEE–0134
Snyder's Mini Mart, DEE–5577; DES–5577
Stop-N-Go Food Stores, DEE–3675; DST–3675
T&J Auto Laundry, FRO–0254
Watts Labor Community Action Committee, DEE–5461
Thomas & Horne Oil Co., Inc., DEE–2705
Wayne F. Johnson, Inc., DEE–7540
Chevron USA, Inc., DEN–4506
Downtown Exxon, DEE–5491
Exxon Co., USA, DRA–0570
H. S. & L., Inc., DEE–4574; DES–4574; DST–4574
Navajo Ref. Co., DXE–3716
Perry's Service St., DEE–4803
Poweram Oil Co., Inc., DRO–0386
Pryor Interprises, DEE–2202
F–S Services, Inc., DEE–4283; DES–4283; DST–4283
G. Ali Mansoori, BRA–0042
Jim Bowers Exxon, DEE–3534
Perris Valley Airport, DEE–5049
Robert E. Augustine, BRA–0051
Western Manufacturing Company, DEE–5987
Barksdale Texaco, DEE–3981
Benjamin Buikanyo, DEE–3262
Colesville Exxon, DEE–8083
Jim's Skelly Service, DEE–3048
John Johnson, DEE–6906
Robert E. Lamburn, DEE–7016

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Mangement: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein,
Director, Office of Hearings and Appeals.
January 24, 1980.

[FR Doc. 80–3411 Filed 1–31–80; 8:45 am]
BILLING CODE 6450–01–M

Cases Filed With the Office of Hearings and Appeals; Week of December 7, 1979, Through December 14, 1979

Notice is hereby given that during the week of December 7, 1979 through December 14, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Melvin Goldstein,
Director Office of Hearings and Appeals.
January 24, 1980.

Date	Name and location of applicant	Case No.	Type of submission
Dec. 7, 1979	Gulf Oil Corporation, Houston, Texas	BMR–0016	Request for Modification. If granted: The November 17, 1979, Decision and Order issued to Ashland Oil, Inc., regarding Gulf Oil Corporation's crude oil supply obligations to Ashland Oil, Inc., would be modified.
Dec. 7, 1979	Kenneth H. White Company, Troy, Michigan	BRD–0019	Motion for Discovery. If granted: Discovery would be granted to Kenneth H. White Company in connection with the Statement of Objections (Case No. DRO–0341), submitted in response to the Proposed Remedial Order issued to Consumers Power Company.
Dec. 7, 1979	Petroleum Energy Producing Corporation, Chicago, Illinois.	BEE–0497	Exception from Reporting Requirements. If granted: Petroleum Energy Producing Corporation would not be required to file Form EIA–23.
Dec. 10, 1979	Balcooil Company, Inc., Bridgeport, Ohio	DEE–0473	Allocation Exception. If granted: Balcooil Company, Inc., would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 10, 1979	B.O.P. Corporation, Hamilton, Kansas	BEE–0492	Price Exception. If granted: B.O.P. Corporation would receive an exception which would permit the firm to resell crude oil at prices in excess of those permitted under 10 CFR Part 212.
Dec. 10, 1979	Chronister Oil Company, Springfield, Illinois	BEE–0475	Allocation Exception. If granted: Chronister Oil Company would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 10, 1979	Riverside Oil, Inc., Evansville, Indiana	BEE–0476	Allocation Exception. If granted: Riverside Oil, Inc., would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 10, 1979	Scullin Oil Company, Sunbury, Pennsylvania	BEE–0474	Allocation Exception. If granted: Scullin Oil Company would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 10, 1979	Vickers Petroleum Corporation, Wichita, Kansas	BES–0018 and BST–0018.	Requests for Stay and Temporary Stay. If granted: Vickers Petroleum Corporation would receive a stay and temporary stay of the provisions of 10 CFR 212.83, pending a final determination on the Application for Exception which the firm intends to file.
Dec. 10, 1979	Western Biomass Services, Bellingham, Washington.	BEE–0471	Allocation Exception. If granted: Western Biomass Services would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 10, 1979	Western Oil of Nebraska, Inc., Grand Island, Nebraska.	BEE–0472	Allocation Exception. If granted: Western Oil of Nebraska, Inc., would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 11, 1979	Bratz Skelly Service, Centerville, Iowa	BEE–0469	Allocation Exception. If granted: Bratz Skelly Service would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Nov. 11, 1979	Cities Service Company, Tulsa, Oklahoma	BRH–0094 and BRD–0094.	Motion for Discovery; Motion for Evidentiary Hearing. If granted: An evidentiary hearing would be convened and discovery would be granted to Cities Service Company in connection with the Statement of Objections submitted in response to the August 21, 1979 Proposed Remedial Order (Case No. RCSF00401), issued to Cities Service Company by the DOE Office of Special Counsel.
Dec. 11, 1979	Jim's Marathon, Palatine, Illinois	BRW–0001	Proposed Remedial Order finalization. If granted: A Proposed Remedial Order issued to Jim's Marathon on September 21, 1979, would be issued as a final Remedial Order.
Dec. 11, 1979	Marcum Oil Company, Savannah, Missouri	BEE–0483	Allocation Exception. If granted: Marcum Oil Company would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 11, 1979	Daniel Monaco, Groton, Connecticut	BEA–0098	Appeal of Assignment Order. If granted: The September 28, 1979, Assignment Order issued to Hendel's, Inc., by the Economic Regulatory Administration, Region I, would be modified.
Dec. 11, 1979	Palatine Service, Palatine, Illinois	BRW–0002	Proposed Remedial Order finalization. If granted: A Proposed Remedial Order issued to Palatine Service on September 17, 1979, would be issued as a final Remedial Order.
Dec. 11, 1979	Self Enterprises, Inc., Alamitos, California	BEE–0480	Allocation Exception. If granted: Self Enterprises, Inc., would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 11, 1979	Walter Wholesale Company, Denver, Iowa	BEE–0491	Allocation Exception. If granted: Walter Wholesale Company would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 13, 1979	Chapman Service Center, Friendswood, Texas	BEE–0502	Allocation Exception. If granted: Chapman Service Center would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 13, 1979	Dale Olson Oil Company, Sioux Falls, South Dakota.	BEE–0501	Allocation Exception. If granted: Dale Olson Oil Company would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 13, 1979	G & M Fuel Oil Co., Inc., Stowe, Pennsylvania	BEH–0158	Request for Evidentiary Hearing. If granted: An evidentiary hearing would be convened in connection with the Statement of Objections submitted in response to a Proposed Decision and Order (Case No. 03–DEE–0906), issued to G & M Fuel Oil Company, Inc.

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Date	Name and location of applicant	Case No.	Type of submission
Dec. 13, 1979	Richard P. Cruikshank, Northbrook, Illinois	BES-0033	Request for Stay. If granted: Richard P. Cruikshank would receive a stay of the provisions of 10 CFR Part 211, pending a determination on its Statement of Objections (Case No. BEO-0439), to a Proposed Decision and Order.
Dec. 13, 1979	Travelers Construction, Inc., Oklahoma City, Oklahoma.	BEE-0504, BEL-0504, BES-0504.	Allocation Exception, Request for Stay and Temporary Exception. If granted: Travelers Construction, Inc., would receive an exception, a stay and a temporary exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 14, 1979	Atlantic Richfield Company, Los Angeles, California	BEA-0001	Appeal of Assignment Order. If granted: The June 28, 1978, Assignment Order issued to Millikan and Servas, Inc., by the Economic Regulatory Administration, Region X, regarding Millikan and Servas, Inc.'s, supply obligations to R. F. Cameron, Inc., would be rescinded.
Dec. 14, 1979	Energy Cooperatives, Inc., Rosemont, Illinois	BEE-0508, BES-0508, BEL-0508, and BSG-0009.	Allocation Exception; Request for Stay; Petition for Special Redress. If granted: Energy Cooperatives, Inc., would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an additional supply of crude oil in order to continue the operation of its refinery. The firm would receive a stay and temporary exception pending a final determination on its Application for Exception.
Dec. 14, 1979	Ergon Refining, Inc., Vicksburg, Mississippi	BEE-0499	Allocation Exception. If granted: Ergon Refining, Inc., would receive an exception from the provisions of 10 CFR 211.65, which would permit the firm to receive an allocation of crude oil.
Dec. 14, 1979	Getty Refining & Marketing Company, Tulsa, Oklahoma.	BES-0062	Request for Stay. If granted: Getty Refining and Marketing Company would receive a stay of the October 11, 1979, Assignment Order issued to Getty Refining and Marketing Company by the Economic Regulatory Administration, Region VII, pending a final determination on its Appeal of the Order (Case No. BEA-0062).
Dec. 14, 1979	Murray Oil Company, Allocation Exception	BEE-0507	Allocation Exception. If granted: Murray Oil Company would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Nov. 14, 1979	Office of Enforcement (Panhandle), Kansas City, Missouri.	BFF-0003	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, in connection with the May 15, 1979, Consent Order issued to Panhandle Eastern Pipeline Company.

List of Cases involving the Standby Petroleum Product Allocation Regulations for motor gasoline

Week of December 7 Through December 14, 1979

If granted: The following firms would receive an exception which would increase their base period allocation of motor gasoline.

December 7, 1979.

Brookles Service, BEE-0485, New Hampshire.
Du-Cor Service Stations, Inc., BEE-0494, New York.
Executive Auto Service, BEE-0498, Massachusetts.
H & G Bantam Market, BEE-0466, West Virginia.
Mike Capone's Gulf, BEE-0468, Louisiana.
Village Gro, BEE-0496, North Carolina.

December 10, 1979.

Bing's Arco Mini Mart, BEE-0477, Virginia.
Bow Mobil, BEE-0469, New Hampshire.
L. C. Hudson Co., Inc., BEE-0478, Missouri.
Mooney's Gulf Service, BEE-0479, Louisiana.
Pacific Oil Heat, Inc., BEE-0480, Massachusetts.
Ruthinowski & Warner Auto., BEE-0470, New York.
Wakefield, Paul J., BEE-0493, South Dakota.

December 11, 1979.

A. G. Inc., Town Line Service, DEE-6541, Massachusetts.
Classic Auto Service, BEE-0485, Ohio.
Community Fuel, BEE-0486, Connecticut.
Ed's Pit Stop, BEE-0488, Massachusetts.
Gold Oil Company, DEE-4344, Illinois.
Meador, Charles "Buddy", BEE-0484, West Virginia.

December 12, 1979.

Parkway Service, BEE-0487.
South End Gulf Service, BEE-0482, Florida.
Stewart Swerling, BEE-0495, Massachusetts.

December 13, 1979.

Don Harrell's Grocery, BEE-0582, Arkansas.
Grisson Grocery, BEE-0581, Arkansas.
Mull Oil Co., BEE-0500, North Carolina.
TJ's South Road Mobil, BEE-0503, New York.

December 14, 1979.

Dow Jones & Co., Inc., BEE-0506, New Jersey.
Howard & Darell's Shell, BEE-0505, Michigan.

[FR Doc. 80-3415 Filed 1-31-80; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. A-7]

AM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: January 29, 1980.
Cutoff Date: March 14, 1980.

Notice is hereby given that the applications listed in the attached appendix below are hereby accepted for filing. They will be considered to be ready and available for processing after March 14, 1980. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on March 14, 1980, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., not later than the close of business on March 14, 1980.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on March 14, 1980.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix

BP-790511AB (New) Morovis, Puerto Rico, Morovis Radio Associates, Req: 1580 kHz, 1 kW, DA-1, U.
BP-790515AE KAKC, Tulsa, Oklahoma, Mark/Way, Inc., Has: 970 kHz, 1 kW, DA-2, U Req: 970 kHz, 1 kW, 2.5 kW-LS, DA-2, U.
BP790523AB (New) Bullhead City, Arizona, Holiday Broadcasting Co., Req: 1000 kHz, 1 kW, Day.
BP-790618AJ KGFL, Clinton, Arkansas, Victor R. Weber & Sidney R. King, d.b.a. Weber-King Radio, Has: 1110 kHz, 250 W, Day, Req: 1110 kHz, 1 kW, Day.
BP-790618AR WLQH, Chiefland, Florida, White Construction Company, Has: 940 kHz, 500 W, Day, Req: 940 kHz, 1 kW, Day.
BP-790619AB KWOK, Wagoner, Oklahoma, Sherman Enterprises, Inc., Has: 1530 kHz, 250 W, Day, Req: 1530 kHz, 500 W, Day.
BP-790620AA (New) Penn Yan, New York, Robert Raide, tr/as Broadcast Facilities, Req: 850 kHz, 500 W, DA-Day.
BP-790621AA KTYN, Burlington, North Dakota, Kitten Radio, Inc., Has: 1430 kHz, 5 kW, Day (Minot, North Dakota), Req: 1430 kHz, 5 kW, DA-N U (Burlington, North Dakota).
BP-790629AB (New) Alpharetta, Georgia, North Fulton Broadcasting, Inc., Req: 1400 kHz, 250 W, 1 kW-LS, U.
BP-790705AF (New) Guayama, Puerto Rico, Radio Musical, Inc., Req: 1540 kHz, 250 W, Day.
BP-790713AE (New) Concord, New Hampshire, Tully-Warwick Corporation, Req: 1320 kHz, 5 kW, DA-Day.

[FR Doc. 80-3403 Filed 1-31-80; 8:45 am]
BILLING CODE 6712-01-M

[BC Docket No. 78-219]

Computer Tape of Radio Deregulation Data Made Available

A computer tape containing the Commission's data for Michigan and Ohio stations which were used in the Radio Deregulation Proceeding has been made available to interested parties through the National Technical Information Service. This data was also previously included in BC Docket No. 79-219 on January 11, 1980 (see item 16, Report No. 15448). A copy of the tape can be obtained from: National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22151.

Requests should specify "The Ohio-Michigan Radio Deregulation Data File." The price is $210.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 80-3402 Filed 1-31-80; 8:45 am]
BILLING CODE 6712-01-M

[Report No. 1210]

Petitions for Reconsideration of Actions in Rulemaking Proceedings Filed

January 25, 1980.

Docket or RM No.	Rule No.	Subject	Date received
BC 78-101	73.636(a)	Amendment of § 73.636(a) of the Commission's rules (Multiple Ownership of Television Stations). (Filed by Jeffrey H. Olson, Nolan A. Bowie & Wilhelmina Reuben Cooke for The National Association for the Advancement of Colored People, The Office of Communication of the United Church of Christ, The National Council of LaRaza, The National Organization for Women, The National Media Committee and Citizens Communications Center).	Jan. 17, 1980.
		(Filed by David Honig, Research Director for The National Black Media Coalition)	Jan. 17, 1980.
CC 78-219	63.54 and 64.601	Revision of the processing policies for waivers of the telephone company-cable television "cross ownership rules". Sections 63.54 and 64.601 of the Commission's rules and regulations. (Filed by John W. Pettit & Joe D. Edge, Attorneys for The State of Alaska and The Alaska Public Broadcasting Commission).	Jan. 18, 1980.
		(Filed by Charles S. Walsh & Arthur H. Harding, Attorneys for Kansas Cable Television Assn., Missouri Broadband Communications Assn., Nebraska Cable Communications Assn, Oklahoma TV Cable Assn., Inc. and Mid-America CATV Assn.).	Jan. 18, 1980.
		(Filed by Robert W. Ross & Michael B. Isaacs, Attorneys & Kathyrn Hilton Creech, Senior Vice President Industry Affairs for National Cable Television Association, Inc.).	Jan. 18, 1980.

NOTE.—Oppositions to petitions for reconsideration must be filed on or before February 19, 1980. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 80-3404 Filed 1-31-80; 8:45 am]
BILLING CODE 6712-01-M

[Report No. 1212]

Petition for Reconsideration on Declaratory Ruling

January 30, 1980.

Docket or RM No.	Rule No.	Subject	Date received
	73	Reconsider refusal to issue a declaratory ruling or the application of the *Cheyenne* policy which permits the filing of competing applications when a Class A licensee seeks a modification of its license to a Class B/C channel. Filed by M. Scott Johnson, Attorney for Aurio Matos, Arzuaga & Davila Associates, Radio Musical, Inc. and Enrique Leon.	Jan. 21, 1980.

NOTE.—Oppositions to petitions for reconsideration must be filed on or before February 19, 1980. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 80-3401 Filed 1-31-80; 8:45 am]
BILLING CODE 6712-01-M

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FEDERAL COUNCIL ON THE AGING

Long-Term Care Committee

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 93–29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress, on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. app. 1, sec. 10, 1976) that the Committee will hold a meeting on Thursday, February 28, 1980 from 9:30 a.m. to 12:30 p.m. in Room 503–507A, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

The agenda will consist of a discussion with Federal officials on the implementation of the 1980 workplan of the Committee.

Further information on the Council may be obtained from the Federal Council on the Aging, Washington, D.C. 20201, telephone (202) 245–0441. FCA meetings are open for public observation.

Dated: January 24, 1980.

Nelson H. Cruikshank,

Chairman, Federal Council on the Aging.

[FR Doc. 80-3460 Filed 1-31-80; 8:45 am]

BILLING CODE 4110-02-M

Senior Services Committee Meeting

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 93–29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress, on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. app. 1, sec. 10, 1976) that the Committee will hold a meeting on Monday, March 3, 1980 from 8:30 a.m. to 2:30 p.m. in room 727H, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

The agenda will consist of a discussion of the Committee's ongoing employment study; a briefing on progress made in developing a small business initiative; an update on energy issues relating to the elderly; and, a discussion of future study options.

Further information on the Council and the Committee may be obtained from the Federal Council on the Aging, Washington, D.C., 20201, telephone (202) 245–0441. FCA meetings are open for public observation.

Dated: January 23, 1980.

Nelson H. Cruikshank,

Chairman, Federal Council on the Aging.

[FR Doc. 80-3462 Filed 1-31-80; 8:45 am]

BILLING CODE 4110-02-M

Social Security Task Force

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 93–29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress, on matters relating to the special needs of the older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. app. 1, sec. 10, 1976) that the Task Force will hold a meeting on Monday, March 3, 1980 from 3:30 p.m. to 5:30 p.m. in room 727H, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

The agenda will consist of a discussion of several issues concerning the social security benefit structure and its impact on women.

Further information on the Council and the Task Force may be obtained from the Federal Council on the Aging, Washington, D.C., 20201, telephone (202) 245–0441. FCA meetings are open for public observation.

Dated: January 23, 1980.

Nelson H. Cruikshank,

Chairman, Federal Council on the Aging.

[FR Doc. 80-3461 Filed 1-31-80; 8:45 am]

BILLING CODE 4110-02-M

FEDERAL LABOR RELATIONS AUTHORITY

Federal Service Impasses Panel

Privacy Act of 1974; Systems of Records

Pursuant to sections 301 and 303 of Reorganization Plan No. 2 of 1978 (3 CFR, 1978 Comp., p. 327) and sections 7104 and 7119 of the Federal Service Labor-Management Relations Statute (92 Stat. 1196, 1208), the Federal Labor Relations Authority and the Federal Service Impasses Panel replaced the Federal Labor Relations Council and the Federal Service Impasses Panel, established under Executive Order 11491 (3 CFR, 1966–1970 Comp., p. 864). The systems of records maintained by the Council and the Panel, pursuant to the Privacy Act of 1974, notice of which was published in the **Federal Register** on September 20, 1977 (42 FR 47402), are being maintained by the Federal Labor Relations Authority and the Federal Service Impasses Panel.

Dated: January 28, 1980.

By the Federal Labor Relations Authority.

Samuel A. Chaitovitz,

Executive Director.

By the Federal Service Impasses Panel.

Howard W. Solomon,

Executive Director.

[FR Doc. 80-3833 Filed 1-31-80; 8:45 am]

BILLING CODE 6325-15-M

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within *10* days after publication of this notice in the **Federal Register.** Any person desiring a hearing in the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. 9522–33.

Filing Party: Stanley Ol Sher, Esquire, Billig, Sher & Jones, P.C., 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 9522–33 amends the organic agreement of the Med-Gulf Conference to (1) rearrange and update the structure and language of the basic agreement, (2) more clearly define the scope and jurisdiction of the respective rate sections, (3) increase the admission fee for each section from $5,000 to $10,000, (4) delete specific authorizations for substituted service by land, (5) increase the faithful performance guarantee from $8,000 to $50,000, and (6) clarify and modify procedures for taking various actions, voting, meetings and self-policing.

By Order of the Federal Maritime Commission.

Dated: January 29, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-3388 Filed 1-31-80; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Issue of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Royal Hawaiian Cruises, Inc., One Maritime Plaza, Suite 2160, San Francisco, California 94111.

Dated: January 29, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-3417 Filed 1-31-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Notice of Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 C.F.R. § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than February 25, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. CITICORP, New York, New York (consumer finance and insurance activities; Nevada): to engage through its indirect subsidiary, Nationwide Financial Corporation of Nevada, in conducting previously approved activities including making or acquiring loans and other extensions of credit, secured or unsecured, for consumer and other purposes; purchasing and servicing for its own account sales finance contracts; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; acting as agent for the sale of credit life, accident and health insurance and property and casualty insurance directly related to extensions of credit in an expanded service area; and in conducting the additional activity of consumer personal lending. Credit related life, accident and health insurance may be underwritten by Family Guardian Life Insurance Company, an affiliate. The service area of the office will be expanded to include the entire State of Nevada.

2. CITICORP, New York, New York (consumer finance and insurance activities; New Mexico, Nevada, Arizona and California): to engage through its indirect subsidiaries, Citicorp Person-to-Person Financial Center, Inc. and Nationwide Financial Corporation of New Mexico in conducting previously approved activities including purchasing and servicing for its own account sales finance contracts; acting as agent for the sale of credit life, accident and health insurance and property and casualty insurance directly related to extensions of credit in expanded service areas. New activities to be conducted from each office include making or acquiring loans and other extensions of credit, secured or unsecured, for consumer and other purposes and the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes. Credit related life, accident and health may be underwritten by Family Guardian Life Insurance Company, an affiliate. The service area of the Office in San Diego, California will be expanded to include the entire States of California, Nevada and Arizona. The service area of the Sacramento, California office will be expanded to include the entire State of Nevada. The Albuquerque, New Mexico office service area will be expanded to include the entire State of New Mexico.

B. *Federal Reserve Bank of Philadelphia* (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

PHILADELPHIA NATIONAL CORPORATION, Philadelphia, Pennsylvania (commercial finance; Illinois, Indiana, Ohio, and Michigan): to engage through its subsidiary, Congress Financial Corporation, in origination of loans secured by accounts receivable, inventory, machinery and equipment and/or other commercial finance collateral, to businesses and corporations. These activities would be conducted from an office located in Chicago, Illinois serving the states of Illinois, Indiana, Ohio, and Michigan.

C. *Federal Reserve Bank of Atlanta* (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

FLAGSHIP BANKS, INC., Miami Beach, Florida (data processing activities; Florida): to continue to engage through its subsidiary Flagship Services Corporation, in the activity of acting as a bank data processing center for providing bank data processing services for affiliate and non-affiliate banks. This activity will be conducted from offices in Miami, Florida, serving Dade, Broward and Palm Beach Counties.

Board of Governors of the Federal Reserve Systems, January 24, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3348 Filed 1-31-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 C.F.R. § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than February 21, 1980.

A. *Federal Reserve Bank of Boston* (Richard E. Randall, Vice President) 30 Pearl Street, Boston, Massachusetts 02106:

1. FIRST FINANCIAL GROUP OF NEW HAMPSHIRE, INC., Manchester, New Hampshire (mortgage banking activities; New Hampshire): to engage through its direct subsidiary, First Mortgage Corporation, formerly Manchester Mortgage Corporation, in making, acquiring, and servicing loans and other extensions of credit secured by real estate mortgages. These activities will be conducted from offices in Manchester, New Hampshire, serving the State of New Hampshire.

2. INDUSTRIAL NATIONAL CORPORATION, Providence, Rhode Island (mortgage banking activities; California): to engage through its indirect subsidiary, Mortgage Associates, Inc., in the origination and sale of residential mortgages and the servicing of residential mortgage loans. These activities would be conducted from an office in Sacramento, California, servicing Butte, Colusa, Fresno, Glenn, Madera, Merced, a portion of Placer, Sacramento, San Joaquin, Shasta, Solano, Stanislaus, Sutter, Tehama, Yolo, and Yuba counties, California.

B. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

CITICORP, New York, New York (consumer finance and insurance activities; Arizona and California): to engage through its indirect subsidiaries, Citicorp Person-to-Person Financial Center and Nationwide Financial Corporation of California, in conducting previously approved activities including making or acquiring loans and other extensions of credit, secured or unsecured, for consumer and other purposes; purchasing and servicing for its own account sales finance contracts; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; acting as agent for the sale of credit life, accident and health insurance and property and casualty insurance directly related to extensions of credit in expanded service areas. Credit related life, accident and health may be underwritten by Family Guardian Life Insurance Company, an affiliate. The service area of the office in Scottsdale, Arizona will be expanded to include the entire State of Arizona. The service area of the Concord, California office will be expanded to include the entire States of Nevada and California.

C. *Federal Reserve Bank of Chicago* (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

MOR AMERICA FINANCIAL CORPORATION, Cedar Rapids, Iowa (consumer finance and credit insurance activities; Wisconsin): to engage, through its wholly-owned subsidiary, The Morris Plan of Wisconsin, Inc., Eau Claire, Wisconsin, in the following activities: making loans under chapter 138 and chapter 421, laws of Wisconsin; and selling credit related life and accident and health insurance under chapter 424, laws of Wisconsin. These activities would be conducted from three *de novo* offices in Green Bay, Fond du Lac, and Appleton, all in Wisconsin, serving areas within a fifteen mile radius of each of the three sites.

D. *Federal Reserve Bank of San Francisco* (Harry Green, Vice President) 400 Sansome Street, San Francisco, California 94120: This is a republication of a previous notice (44 FR 3667).

SECURITY PACIFIC CORPORATION, Los Angeles, California (finance and credit related insurance activities; Louisiana): to engage through its subsidiary American Finance Corporation of Louisiana, Inc., in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small business and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit-related life, accident and health insurance and credit-related property and casualty insurance. These activities would be conducted from an office of American Finance Corporation of Louisiana, Inc. located at 122 Arlington Drive, Lake Charles, Louisiana 70605, serving the State of Louisiana. Comments on this application must be received by February 11, 1980.

E. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, January 21, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3049 Filed 1-31-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[E-80-3]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Arizona Corporation Commission involving electric and gas utility rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Arizona Corporation Commission involving the application of the Arizona Public Service Company for increases in its gas and electric rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: January 25, 1980.

R. G. Freeman, III,

Administrator of General Services.

[FR Doc. 80-3194 Filed 1-31-80; 8:45 am]

BILLING CODE 6820-AM-M

[E-80-4]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the North Carolina Utilities Commission involving electric utility rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the North Carolina Utilities Commission involving the application of the Carolina Power and Light Company for an increase in its electric rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: January 25, 1980.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80-3195 Filed 1-31-80; 8:45 am]

BILLING CODE 6820-AM-M

[Intervention Notice 107; Docket No. 3006]

Texas Power and Light Co., the Public Utility Commission of Texas; Proposed Intervention in Electric Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Public Utility Commission of Texas concerning the application of the Texas Power and Light Company for an increase in electric rates. GSA represents the interest of the executive agencies of the U.S. Government as users of utility services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets, N.W., Washington, DC (mailing address: General Services Administration (LT), Washington, DC 20405), telephone 202-566-0750, within 30 days of the publication of this notice in the Federal Register, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a), Federal Property and Administration Services Act, 40 U.S.C. 481(a)(4))

Dated: January 22, 1980.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80-3193 Filed 1-31-80; 8:45 am]

BILLING CODE 6820-AM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

National Immunization Records Work Group; Open Meeting

The following meeting will be convened by the Center for Disease Control and will be open to the public for observation and participation, limited only by the space available:

Date: February 21, 1980.
Time: 9 a.m. to 3 p.m.
Place: Building 1, Room 207, Center for Disease Control, 1600 Clifton Road, N.E., Atlanta, Georgia.
Purpose: To explore possible activities (joint and individual) to be undertaken by participants to promote the concept, the production, and the use of a family-maintained standardized immunization record within every State.

Additional information may be obtained from: Alan R. Hinman, M.D., Director, Immunization Division, Bureau of State Services (6-210), Center for Disease Control, Atlanta, Georgia 30333, telephones: FTS: 236-3741. Commercial: 404/329-3741.

Dated: January 23, 1980.

William H. Foege,

Director, Center for Disease Control.

[FR Doc. 80-3200 Filed 1-31-80; 8:45 am]

BILLING CODE 4110-86-M

Museum Services Institute National Museum Services Board; Meeting

The National Museum Services Board (NMSB) will hold an open meeting February 8-9 in Washington, D.C. to discuss future policy directions of the Institute of Museum Services (IMS), including the Institute's Cornerstone Grants Program, budget request, and regulations pertaining to the fiscal year 1980 grants program. The NMSB will also consider IMS' transition to the newly created Department of Education.

The Board will meet from 9:00 a.m. to 4:30 p.m. February 8 in the Secretary's Conference Room of the Department of Education Building, Room 4000, 400 Independence Avenue, S.W. and from 9:00 a.m. to 12:30 p.m., February 9 at Dumbarton Oaks, 1703 32nd Street, N.W.

For further information, contact Loretta Ingraham, 202/472-2117.

Dated: January 29, 1980.

Lee Kimche,

Director.

[FR Doc. 80-3480 Filed 1-31-80; 8:45 am]

BILLING CODE 4110-24-M

Office of Education

National Advisory Council on Vocational Education, Public Hearing

Note.—This document originally appeared in the Federal Register for January 7, 1980. It is reprinted in this issue at the request of the issuing agency.

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of public hearings.

SUMMARY: This notice sets forth the schedule and purpose of two forthcoming hearings of the National Advisory Council on Vocational Education and describes the functions of the Council. Notice of these hearings is required under the Federal Advisory Committee Act, (5 United States Code, Appendix I, Section 10(a)(2)). This document is intended to notify the general public of its opportunity to attend.

DATES: (a) February 21 and 22, 1980; (b) March 13 and 14, 1980.

ADDRESSES: (a) The Court Room of the Criminal Justice Center, Sam Houston

State University, Avenue I and 16th Street, Huntsville, Texas; (b) Room 1194, State Office Building, 350 McAllister Street, San Francisco, California.

The National Advisory Council on Vocational Education was established under Section 104 of the Vocational Education Amendments of 1968, Pub. L. 90-576. The Council is directed to:

(a) Advise the President, Congress, the Secretary, and the Commissioner concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(b) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(c) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

On Thrusday, February 21, 1980, from 9:00 a.m. to 4:30 p.m. and on Friday, February 22, 1980, from 9:00 a.m. to 12:30 p.m., the National Advisory Council on Vocational Education, in conjunction with the National Institute of Education, will hold the third of four regional hearings on the status of vocational education in correctional institutions. This hearing will be held in the Court Room of the Criminal Justice Center (Avenue I and 16th Street) of Sam Houston State University in Huntsville, Texas. The fourth and final hearing will be held in San Francisco, California on Thursday, March 13, 1980, from 9:00 a.m. to 4:30 p.m. and on Friday, March 14, 1980, from 9:30 a.m. to 12:30 p.m. in Room 1194 of the State Office Building at 350 McAllister Street.

The purpose of these hearings is to examine the adequacy of vocational education programs for youth and adult offenders, and to explore ways to improve both the programs themselves and access to them. Specifically, the hearings will address the issues of: (1) federal policy as it relates to vocational education in corrections; (2) the use of federal funds for vocational programs and operations; (3) legislative provisions for corrections in the Vocational Education Amendments of 1976 and other acts; (4) the legal, attitudinal, and procedural barriers to providing access to quality vocational programs; (5) programs and activities which have found solutions to the barriers; and, (6) recommendations for change.

Records shall be kept of the four Council hearings and shall be developed into a final report and made available to the public through the office of the National Advisory Council on Vocational Education, located at 425 13th Street, NW., Suite 412, Washington, D.C. 20004. In addition, the submittal of written testimony directly to the National Advisory Council is encouraged and will be accepted through April 14, 1980.

Anyone interested in testifying at the hearings, and anyone seeking more information should call Ralph Bregman or Sarah Bennett at the National Council office (202) 376-8873.

Signed in Washington, D.C. on December 17, 1979.

Raymond C. Parrott,

Executive Director, National Advisory Council on Vocational Education.

[FR Doc. 80-435 Filed 1-4-80; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Colorado; Wilderness Study Area Recommendations and Commencement of Public Comment Period on Intensive Wilderness Inventory

This notice announces the beginning of the public review and comment period on the intensive wilderness inventory of public lands in Colorado. Pursuant to Section 603 of the Federal Land Policy and Management Act of 1976 (FLPMA) and in accordance with procedures outlined in the Bureau of Land Management (BLM) *Wilderness Inventory Handbook*, the State Director of Colorado through this notice, announces his Wilderness Study Area recommendations. The results of the initial wilderness inventory for Colorado were announced through notices in the **Federal Register** August 31, 1979, October 12, 1979, November 3, 1979, and December 13, 1979, and resulted in 1,316,804 acres of public land in Colorado being intensively inventoried.

Public Review Period

Beginning on the date of this announcement and running until April 30, 1980, the public is invited to review and provide comments on the State Director's Wilderness Study Area recommendations contained in this notice.

Following this, the comments will be analyzed and evaluated, and a final intensive inventory decision will be issued by the State Director in the summer of 1980. This final decision will announce those inventory units having wilderness characteristics and those which do not. Those having wilderness characteristics will become Wilderness Study Areas, and these, over the next 10 years, will be studied through the Bureau planning system to determine their suitability or nonsuitability for designation as "Wilderness Areas" by Congress.

All comments must be received by the BLM no later than 4:00 p.m., April 30, 1980 at the addresses contained in this announcement.

Wilderness Inventory Information

To facilitate public review and comment on the intensive phase of the wilderness inventory, the following information is available upon request:

Statewide map: Displays the boundaries of all intensive inventory units and shows BLM's proposed Wilderness Study Areas in rust colored shading. The scale is 1:500,000 and covers all of western Colorado. Available at no cost in the BLM Colorado State Office and in all BLM Colorado District Offices.

Summary document: Entitled *BLM Proposed Wilderness Study Areas*, this report contains summary narratives describing each intensive inventory unit. Also included are individual large scale, black-and-white maps of each inventory unit. Available at no cost in the BLM State Office and in BLM District Offices.

Intensive inventory reports: These reports, found in both the State and District Office files, detail the results of fieldwork and discuss specifically how wilderness criterion were evaluated in each inventory unit. These are accompanied by topographic maps and color photos. These reports can be reviewed in the BLM State Office of BLM District Offices.

Open Houses

The BLM will host five open houses which will include formal presentations of the review process and will provide the opportunity for exchange of information with the public.

The schedule for these meetings is as follows:

February 12—Craig, 7 p.m.; BLM Little Snake Resource Area Headquarters, 1 Block South of Highway 40 on Mack Lane (West side of Craig).

February 13—Grand Junction, 1 p.m. and 7 p.m.; BLM Grand Junction District Office, 764 Horizon Drive.

February 14—Montrose, 1 p.m. and 7 p.m.; Montrose County Courthouse Annex, South 1st and Cascade.

February 20—Canon City, 1 p.m. and 7 p.m.; Ramada Inn, Highway 50 and Dozier Avenue.

February 21—Denver, 1 p.m. and 7 p.m.; Regency Inn, Waterloo Room, 3900 Elati (I-25, Exit 108, 38th Ave.).

Written Comments

Persons wishing to submit comments other than at the open houses are encouraged to send them to: Wilderness, Colorado State Office, Bureau of Land Management, Main Post Office Building, P.O. Box 2266, Denver, CO 80201.

In addition, comments may be sent to the BLM District Offices listed in this announcement.

All comments, either written or verbal, must be received by the BLM at one of these offices no later than 4:00 p.m., April 30, 1980.

Toll Free Telephone

A toll free telephone has been installed in the BLM State Office in Denver. Calls may be made to it from anywhere within Colorado at no cost to the caller. Callers will receive a recorded message which will give pertinent data regarding the review process. Denver area local calls dial 837-3613; remainder of Colorado dial 1-800-332-3805.

Additional Information

Information on the wilderness review process and inventory units can be obtained by contacting BLM personnel at the following locations:

Canon City District Office, 275-7494, 3080 East Main Street, Canon City, Colo. 81212; District Manager: Mel Clausen. Wilderness Specialist: Phillip Neal.

Craig District Office, 824-3417, 455 Emerson Street, P.O. Box 248, Craig, Colo. 81625; District Manager: Marvin Pearson. Wilderness Specialist: Vaughn Baker.

Grand Junction District Office, 243-6552, 764 Horizon Drive, Grand Junction, Colo. 81501; District Manager: Dave Jones. Wilderness Specialist: Wade Johnson.

Montrose District Office, 249-7791, Highway 550 South, P.O. Box 1269, Montrose, Colo. 81401; District Manager: Marlyn Jones. Wilderness Specialist: Jon Sering.

In Denver contact:

Colorado State Office, Colorado State Bank Bldg., Room 700, 1600 Broadway, Denver, Colo. 80202; State Wilderness Coordinator: Harold Belisle—*837-3393*. Wilderness Specialist: Sally Collins—*837-3393*.

Intensive Inventory Recommendations.—*Craig District*

Inventory unit No.	Proposed as WSA	Not proposed as WSA	Approximate acreage	General location
CO-010-001 [1]	X		11,777	Northwestern Colorado, North of U.S. 40 (Moffat-Uintah Counties).
CO-010-002	X		14,006	Northeast of Dinosaur (Moffat County).
CO-010-003			13,740	East of Dinosaur (Moffat County).
CO-010-006B		X	8,353	West of Craig (Moffat-Rio Blanco Counties).
CO-010-007A	X		5,077	West of Meeker (Rio Blanco County).
CO-010-007B		X	8,679	West of Meeker (Rio Blanco County).
CO-010-007C	X		12,274	Northwest of Meeker (Rio Blanco County).
CO-010-046	X		17,740	South of Bangely (Rio Blanco County).
CO-010-00N1, N2, N3, N4A, N4B, N4C, N4D, N4E, N5, N6A.		X	16,140 (10 units)	Adjacent to Southern Boundary of Dinosaur National Monument (Moffat County).
CO-010-155	X		9,595	North of Kremmling (Grand County).
CO-010-168		X	9,570	Northeast of Hot Sulpher Springs (Grand County).
CO-010-178		X	8,500	North of State Bridge (Grand-Eagle-Routt Counties).
CO-010-208	X		14,484	Northwest Colorado Along Utah Border (Moffat-Daggett Counties).
CO-010-206E		X	8,368	Extreme Northwest Colorado (Moffat County).
CO-010-210		X	5,600	Northwest Colorado (Moffat County).
CO-010-210D		X	16,960	Northwest Colorado (Moffat County).
CO-010-214	X		32,680	Extreme Northwest Colorado (Moffat-Daggett Counties).
CO-010-230	X		17,480	Northwest Colorado (Moffat County).
CO-010-216, 216A, 224, 224A, 226, 227, 228, 229D, 271/N6B.		X	39,680 (9 units)	Adjacent to Northern and Eastern Boundaries of Dinosaur National Monument (Moffat County).
UT-080-104 [2]		X	4,520	Adjacent to Western Boundary of Dinosaur National Monument (Moffat-Daggett Counties).
UT-080-110 [2]		X	5,254	West of Dinosaur National Monument (Moffat-Daggett Counties).
UT-080-114 [2]		X	2,071	Adjacent to Western Boundary of Dinosaur National Monument (Moffat County).

Craig District totals:
Proposed as WSA: 10 units, 148,853 acres.
Not proposed as WSA: 29 units, 166,111 acres (this is an approximate figure and includes boundary adjustments as well as units not proposed as WSAs).

[1] Units CO-010-001A and CO-010-001B were joined to form one unit, CO-010-001, after intensive inventory fieldwork.
[2] Inventoried by Utah BLM under cooperative agreement.

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Intensive Inventory Recommendations.—*Montrose District*

Inventory unit No.	Proposed as WSA	Not proposed as WSA	Approximate acreage	General location
CO-030-053A	X		2,440	Adjacent to Gunnison National Forest (Gunnison County).
CO-030-057	X		6,070	Adjacent to Gunnison National Forest (Gunnison County).
CO-030-063	X		2,520	Adjacent to Gunnison National Forest (Gunnison County).
CO-030-065	X		400	Adjacent to Uncompahgre National Forest (Hinsdale County).
CO-030-066	X		880	Adjacent to Uncompahgre National Forest (Hinsdale County).
CO-030-068	X		1,120	Adjacent to Uncompahgre National Forest (Hinsdale County).
CO-030-069	X		50,060	Adjacent to Gunnison National Forest (Gunnison-Hinsdale Counties).
CO-030-206	X		38,880	Southwest of Lake City (Hinsdale County).
CO-030-210		X	5,980	Adjacent to Gunnison National Forest (Hinsdale County).
CO-030-211	X		1,890	Adjacent to Gunnison National Forest (Hinsdale County).
CO-030-212		X	80	Adjacent to Gunnison National Forest (Hinsdale County).
CO-030-213	X		720	Adjacent to Gunnison National Forest (Hinsdale County).
CO-030-217	X		6,700	Southeast of Ouray (Ouray-San Juan-Hinsdale Counties).
CO-030-229A	X		5,820	South of Silverton (San Juan County).
CO-030-229B	X		4,200	South of Silverton (San Juan-La Plata Counties).
CO-030-230B [1]	X		5,640	South of Silverton (San Juan County).
CO-030-236B [2]	X		2,240	Southwest of Silverton (San Juan County).
CO-030-241	X		15,780	Northeast of Silverton (San Juan-Hinsdale Counties).
CO-030-251	X		7,360	West of Durango (Montezuma County).
CO-030-252	X		6,320	West of Dusang (Montezuma County).
CO-030-253		X	720	Adjacent to eastern Mesa Verde National Park (Montezuma County).
CO-030-262		X	6,240	Southwest of Cortez (Montezuma County).
CO-030-263		X	12,413	West of Cortez (Montezuma County).
CO-030-265	X		9,160	Southwest of Cahone (Dolores-Montezuma Counties).
CO-030-265A	X		5,320	Southwest of Dove Creek (Dolores County).
CO-030265D [3]	X		6,385	West of Cahone (Dolores-Montezuma Counties).
CO-030-288	X		22,500	Northeast of Dove Creek (San Miguel-Dolores Counties).
CO-030-290	X		29,601	West of Naturita (Montrose-San Miguel Counties).
CO-030-300	X		8,814	North of Nucla (Montrose County).
CO-030-316A [4]	X		1,980	South of Gateway (Mesa-Montrose Counties).
CO-030-332	X		400	North of Ouray (Ouray County).
CO-030-353	X		13,943	Southwest of Delta (Montrose County).
CO-030-353A [5]	X		47,490	West of Delta (Mesa-Delta-Montrose Counties).
CO-030-370A [4] [5]	X		6,640	Northwest of Delta (Mesa-Delta Counties).
CO-030-370B [4]	X		10,720	Adjacent to Grant Mesa National Forest (Delta County).
CO-030-384	X		21,580	North of Montrose (Montrose-Delta Counties).

Montrose District totals:
Proposed as WSA: 31 units, 339,853 acres.
Not proposed as WSA: 5 units, 68,177 acres (this is an approximate figure and includes boundary adjustments as well as units not proposed as WSAs).

[1] Initial inventory unit CO-030-230A and a portion of unit CO-030-230 have been combined into one unit, CO-030-230B.
[2] Initial inventory units CO-030-236 and CO-030-236A and a portion of CO-030-230 have been combined into one unit, CO-030-236B.
[3] Initial inventory unit CO-030-265 has been divided into two units, CO-030-265 and CO-030-265D.
[4] Initial inventory unit CO-030-370A has been divided into two units, CO-030-370A and CO-030-370B.
[5] These units span district boundaries, and the acreage here reflects only that portion of the inventory unit in the Montrose District.

Intensive Inventory Recommendations.—*Canon City District*

Inventory unit No.	Proposed as WSA	Not proposed as WSA	Approximate acreage	General location
CO-050-002	X		6,486	South of Buena Vista (Fremont-Park Counties).
CO-050-010		X	12,950	Northwest of Cotopaxi (Fremont County).
CO-050-013	X		16,800	Southwest of Canon City (Fremont County).
CO-050-014	X		11,709	West of Canon City (Fremont County).
CO-050-016	X		26,210	Northeast of Canon City (Teller-Fremont-El Paso Counties).
CO-050-017	X		10,200	Southwest of Canon City (Fremont-Custer Counties).
CO-050-093	X		160	South of Westcliff (Custer County).
CO-050-131	X		2,300	Adjacent To Rio Grand National Forest (Saguache County).

Intensive Inventory Recommendations.—*Canon City District—Continued*

Inventory unit No.	Proposed as WSA	Not proposed as WSA	Approximate acreage	General location
CO-050-133	X		570	Adjacent to Rio Grande National Forest (Saguache County).
CO-050-135	X		1,644	Adjacent to Great Sand Dunes National Monument (Alamosa County).
CO-050-137	X		1,020	Adjacent to Rio Grande National Forest (Alamosa County).
CO-050-139B	X		720	Adjacent to Rio Grande National Forest (Alamosa County).
CO-050-140		X	9,114	Northeast of Antonito (Conejos County).
CO-050-141	X		5,440	Northeast of Antonito (Conejos County).
CO-050-142		X	3,300	Southeast of Antonito (Conejos County).

Canon City totals:
Proposed as WSA: 12 units, 86,532 acres.
Not proposed as WSA: 9 units, 38,646 acres (this is an approximate figure and includes boundary adjustments as well as units not proposed as WSAs).

Intensive Inventory Recommendations.—*Grand Junction District*

Inventory unit No.	Proposed as WSA	Not proposed as WSA	Approximate acreage	General location
CO-070-001 [1]		X	10,200	Northeast of Grand Junction (Garfield County).
CO-070-009	X		29,890	Northwest of Grand Junction (Garfield-Mesa Counties).
CO-070-015		X	17,120	North of Grand Junction (Garfield County).
CO-070-015A		X	13,000	Northwest of Grand Junction (Mesa County).
CO-070-015B		X	12,800	North of Grand Junction (Garfield County).
CO-070-031		X	26,740	Northeast of Grand Junction (Mesa-Garfield Counties).
CO-070-066	X		29,600	North of Grand Junction (Mesa County).
CO-070-103 [2]	X		4,600	Northwest of Delta (Mesa-Delta Counties).
CO-070-103A	X		2,100	Southeast of Grand Junction (Mesa County).
CO-070-113	X		18,150	West of Grand Junction (Mesa County).
CO-070-113A	X		49,190	West of Grand Junction (Mesa County).
CO-070-130		X	21,130	South of Grand Junction (Mesa County).
CO-070-130A		X	8,000	South of Grand Junction (Mesa County).
CO-070-132	X		26,120	North of Gateway (Mesa County).
CO-070-132A		X	3,120	Southwest of Grand Junction (Mesa County).
CO-070-132B [2]		X	6,720	Southwest of Grand Junction (Mesa County).
CO-070-138		X	8,360	Northeast of Gateway (Mesa County).
CO-070-150 [3]	X		31,990	West of Delta (Mesa-Delta-Montrose Counties).
CO-070-150A		X	11,550	Southeast of Grand Junction (Mesa County).
CO-070-179 [3]	X		17,480	South of Gateway (Mesa-Montrose Counties).
CO-070-316		X	8,589	North of Rifle (Garfield County).
CO-070-336		X	4,660	West of Glenwood Springs (Garfield County).
CO-070-372		X	4,200	Southwest of Carbondale (Pitkin County).
CO-070-392	X		390	Northwest of Aspen (Pitkin County).
CO-070-421		X	6,950	West of State Bridge (Eagle County).
CO-070-425	X		3,360	Northeast of Glenwood Springs (Garfield-Eagle Counties).
CO-070-430	X		15,000	North of Gypsum (Eagle County).
CO-070-433	X		12,000	North of Eagle (Eagle County).

Grand Junction District totals:
Proposed as WSA: 13 units, 239,810 acres.
Not Proposed as WSA: 13 units, 228,822 acres (this is an approximate figure and includes boundary adjustments as well as units not proposed as WSAs).

[1] As noted in the January 17, 1980 issue of the FEDERAL REGISTER, inventory unit CO-070-001, Prairie Canyon, underwent an accelerated inventory and was found not to contain wilderness characteristics.
[2] Initial Inventory Unit CO-070-132 has been divided into two units, CO-070-132 and CO-070-132A.
[3] These units span district boundaries and the acreage here reflects only that portion of the inventory unit in the Grand Junction District.

Colorado State totals:
Proposed as WSA: 63 units,[1] 815,048 acres.
Not Proposed as WSA: 53 units, 501,756 acres. [2]

[1] The inventory units spanning district boundaries, while given separate numbers, will be counted as 3 rather than 6 units since joint inventories were conducted on these, resulting in a statewide total of 63 units.
[2] This is an approximate figure and includes boundary adjustments as well as units not proposed as WSAs.

Dated: January 30, 1980.

Dale R. Andrus,

State Director, Bureau of Land Management, Colorado.

[FR Doc. 80-3182 Filed 1-31-80; 8:45 am]

BILLING CODE 4310-84-M

Montana; Open Season for Commercial Permit Applications on the Upper Missouri National Wild and Scenic River

This notice establishes an "open season" for applying for Special Recreation Use Permits on the Upper Missouri National Wild and Scenic River in Montana required of all commercial float boating operations. Applications must be sent to the Lewistown District, Bureau of Land Management, Lewistown, Montana between February 4 and March 10, 1980. Other requirements of commerical outfitting and guiding operations remain as outlined in the Federal Register, Vol. 44, No. 62, Thursday, March 29, 1979, entitled "Establishment of Recreation Use Permit System for the Upper Missouri National Wild and Scenic River".

John F. Fields,

District Manager.

[FR Doc. 80-3177 Filed 1-31-80; 8:45 am]

BILLING CODE 4310-84-M

[Nev-065862]

Nevada

January 24, 1980.

By quitclaim deed executed November 2, 1979, the Sierra Nevada Girl Scout Council, Inc. reconveyed the following described land to the United States:

Mount Diablo Meridian, Nevada

T. 17 N., R. 20 E.
Sec. 2, E½ of Lot 2 of NE¼.

The purpose of this notice is to inform the public that the Bureau of Land Management has accepted title to the above-described land on behalf of the United States. The land regained public land status on January 22, 1980.

Charles E. Hancock,

Acting Chief, Division of Technical Services.

[FR Doc. 80-3178 Filed 1-31-80; 8:45 am]

BILLING CODE 4310-84-M

Preparation of Alturas Resource Area Management Plan, Susanville, Calif.

Notice is hereby given in accordance with the Code of Federal Regulations Title 43 Part 1601.3 that the Alturas Resource Area of the Susanville District is starting the preparation of a Resource Management Plan for the Alturas Resource Area.

The General Issues which have been identified at this time which will be addressed in the plan are: (1) Competitive Forage Demand; (2) Wilderness; (3) Wild Horse and Burro Management; (4) Land Withdrawal Review; (5) Land Tenure Adjustments; (6) Archaeological and Historical Resources; (7) Wildlife Habitat Management; (8) Endangered Species; (9) Forest Product Production; (10) Geothermal Leasing; (11) Mineral Resource Development; (12) Material Site Development; (13) Off-Road Vehicle Designations; (14) Economics.

The disciplines to be represented on the interdisciplinary team are: Range Conservationist, Wildlife Biologist, Forest Specialist, Hydrologist, Soil Scientist, Recreation Planner, Geologist, Archaeologist, Botanist, Wilderness Specialist, Lands Specialist and Economist.

Public Participation activities will take place at least five times throughout the planning process; during identification of issues, comment on planning criteria, upon publication of a draft plan and draft environmental impact statement with protest period and a public notice of any significant change made to the plan as a result of a protest. Public participation activities will include requests for written comments, meetings, workshops, tours and similar events scheduled and held to foster public reactions and suggestions. The dates, times and locations of public participation activities will be announced by local media and mailings to interested parties prior to each activity.

Rick Schwabel, Alturas Area Manager, may be contacted for further information at the Alturas Resource Area Office, Centreville Road, P.O. Box 771, Alturas, California 96101 or (916) 233-4666. Documents relevant to the planning process will be located at the Alturas Resource Office during regular office hours.

Herman Kast,

Acting District Manager.

[FR Doc. 80-3180 Filed 1-31-80; 8:45 am]

BILLING CODE 4310-84-M

Boise District Idaho, Grazing Advisory Board; Meeting

In accordance with Public Law 92-463 the Federal Advisory Committee Act, and Public Law 94-579, the Federal Land Policy and Management Act, notice is given that the Boise District Grazing Advisory Board will meet on March 12, 1980. The meeting will begin at 9:00 a.m. in the Green Room of the Owyhee Plaza, 11th and Main Streets, Boise, Idaho.

The agenda for the meeting will include:

1. Discuss and make recommendations on the Range Betterment program for 1980.
2. Use of advisory board funds and project proposals for 1980.
3. A review of proposed allotment management plans recommended in the Owyhee Grazing Environmental Statement.
4. Election of new officers.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:30 and 4:30 p.m. or file written statements for the Board's consideration. Statements must be on agenda topics only. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 230 Collins Road, Boise, Idaho 83702, prior to the meeting. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Minutes of the Board meeting will be maintained in the District Office. They will be available for public inspection during regular business hours within 30 days following the meeting.

D. Dean Bibles,

District Manager.

January 24, 1980.

[FR Doc. 80-3418 Filed 1-31-80; 8:45 am]

BILLING CODE 4310-84-M

McCain Valley Resource Conservation Area; Designation of Western McCain Valley as Limited for Off-Road Vehicle Use

Pursuant to the McCain Valley Recreation Activity Management Plan, provisions of 43 CFR 8342.2, and Section 701 of the Federal Land Policy and Management Act, the public lands located generally to the west of the Bureau of Land Management's public road known as McCain Valley Road are designated for off-road vehicle use as either: (1) limited to existing areas and trails, or (2) limited to designated areas and trails. Public lands located to the east of McCain Valley Road were previously designated as closed to off-road vehicle travel in Federal Register Notice Vol. 44, No. 179, pages 53314-53315, September 13, 1979.

Public lands where off-road vehicle travel is limited to existing areas and trails are located to the west of McCain Valley Road and north, west and south of the Bureau's Lark Canyon Campground in: T. 16 S., R. 7 E., SBM., Sec. 32; and T. 17 S., R. 7 E., SBM., Sec. 4, 5, and 9.

Public lands where off-road vehicle travel is limited to designated areas and trails are: (1) within the campground boundary of Lark Canyon Campground; (2) south of the established closed off-road vehicle area in T. 17 S., R. 7 E., SBA., Sec. 23, 24, and 26; and (3) west of McCain Valley Road in T. 15 S., R. 6 E., SBM., Sec. 27, 33, 34, and 35; T. 16 S., R. 6 E., SBM., Sec. 2, 3, 4, 9, 10, 11, 13, 14, 15, 21, and 28; and T. 16 S., R. 7 E., SBM., Sec. 19, 20, and 29.

The public lands within these designated areas will remain open to other resource and recreation uses. All designations will be effective immediately and will remain in effect until further notice.

Areas of McCain Valley designated as limited to existing areas and trails are identified by signs posted along McCain Valley Road and along the area's northern boundary. The border fence of McCain Valley serves as the western and southern boundary of the existing areas and trails area. In areas limited to designated areas and trails, open areas and trails will be posted open. Areas and trails not posted open are closed to off-road vehicle use. Off-road vehicle use within Lark Canyon Campground is limited to access to and from campsites only. Off-road vehicle use within Cottonwood and White Arrow Campgrounds is prohibited. Leaflets identifying the affected areas are available at each developed campground in McCain Valley, the Bureau's Riverside District Office, 1695 Spruce Street, Riverside, California 92507, the El Centro Resource Area Office, 333 South Waterman, El Centro, California 92243, or from BLM Rangers patrolling McCain Valley. Any person who violates or fails to comply with the above designations is subject to arrest as prescribed in 43 CFR 8340.0-7. Penalties for violations may be a fine of not more than $1000.00 or imprisonment for not more than 12 months, or both.

Richard D. Freel,

Acting Riverside District Manager.

[FR Doc. 80-3136 Filed 1-31-80; 8:45 am]

BILLING CODE 4310-84-M

Tentative Sales Nos. 67 and 69; Gulf of Mexico; Call for Nominations of and Comments on Areas for Oil and Gas Leasing

Correction

In FR Doc. 80-2054 appearing on page 5405 in the issue of Wednesday, January 23, 1980, in the first column of page 5406, the "OCS Official Protraction Diagrams" list contained several typographical errors. The list is printed correctly below:

OCS Official Protraction Diagrams

Gulf of Mexico [1]	Latest approval or revision date
NG 14-3—Corpus Christi	1/27/76
NG 14-6—Port Isabel	1/27/76
NG 15-1—East Breaks	1/27/76

OCS Official Protraction Diagrams—Continued

Gulf of Mexico [1]	Latest approval or revision date
NG 15-2—Garden Banks	12/2/76
NG 15-3—Green Canyon	12/2/76
NG 15-4—Alaminos Canyon	9/26/76
NG 15-5—Keathley Canyon	12/2/76
NG 15-6—Walker Ridge	12/2/76
NG 16-1	12/2/76
NG 16-2	12/2/76
NG 16-3—The Elbow	12/2/76
NG 16-4	12/2/76
NG 16-5	12/2/76
NG 16-8	12/2/76
NG 17-1—St. Petersburg	12/2/76
NG 17-4—Charlotte Harbor	12/2/76
NH 15-12—Ewing Bank	12/2/76
NH 16-4—Mobile	12/21/77
NH 16-5—Pensacola	12/2/76
NH 16-7—Viosca Knoll	12/2/76
NH 16-8—Destin Dome	12/2/76
NH 16-9—Apalachicola	1/15/76
NH 16-10—Mississippi Canyon	12/2/76
NH 16-11—De Soto Canyon	12/2/76
NH 16-12—Florida Middle Ground	12/2/76
NH 17-7—Gainesville	1/27/76
NH 17-10—Tarpon Springs	12/2/76

[1] $2.00 per map.

BILLING CODE: 1505-01-M

National Park Service

Appalachian National Scenic Trail Advisory Council; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Southern Region of the Appalachian National Scenic Trail Advisory Council will be held at the East Tennessee State University in Johnson City, Tennessee on February 15, from 1 p.m. to 5 p.m., and February 16, from 2:30 p.m. to 5 p.m. The agenda for the meeting will include the Trail protection program and Comprehensive Planning for the project.

The Council has been re-established by Pub. L. 95-248 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to administration of the Appalachian National Scenic Trail. The Council was originally established by Pub. L. 90-543.

The meeting will be open to the public, although space will be limited. Persons will be accommodated on a first-come, first-served basis. Any person may file with the Council a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who will wish to submit written statements, may contact David A. Richie, Project Manager, Appalachian Trail Project Office, Harpers Ferry Center, Harpers Ferry, West Virginia 25425, at Area Code 304-535-2346.

Minutes of the meeting will be available for public inspection four weeks after the meeting at the above address. Copies of the minutes will also be available from Room 3120, Interior Building, 18th and C Streets, N.W., Washington, D.C. and at the headquarters of the Appalachian Trail Conference, Washington Street, Harpers Ferry, W. Va.

Dated January 30, 1980.

Jean Henderer,

Chief, Office of Cooperative Activities, National Park Service.

[FR Doc. 80-3189 Filed 1-31-80; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

[INT FEIS 80-6]

Availability of the Final Environmental Impact Statement Crossman Peak Radar Proposal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Final Environmental Impact Statement (EIS) of the Federal Aviation Administration's proposed radar installation on Crossman Peak near Lake Havasu City, Arizona.

SUMMARY: Pursuant to Section 102(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared an EIS concerning the Federal Aviation Administration's proposed radar installation on Crossman Peak near Lake Havasu City, Arizona. The environmental statement analyzes the impacts of the proposal and a two-site alternative, consisting of Cherum Peak near Kingman, Arizona and Harquahala Peak near Wenden, Arizona.

SUPPLEMENTARY INFORMATION: A limited number of copies of the EIS are available upon request at the following offices:

Arizona State Office (911), Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602) 261-5127.

Phoenix District Office, 2929 West Clarendon Avenue, Phoenix, Arizona 85017 (602) 761-4231.

Yuma District Office, P.O. Box 5680, Yuma, Arizona 85364 (602) 726-2612.

In addition to the above locations, copies of the draft EIS will be available for public reading and review at the following locations:

Office of Information, Bureau of Land Management, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240 (202) 343-5717.

Kingman Resource Area Office, 2475 Beverly Avenue, Kingman, Arizona 86401 (602) 757-3161.

James H. Rathlesberger,
Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 80-3367 Filed 1-31-80; 8:45 am]
BILLING CODE 4310-84-M

Extension to the Diligent Development Period on Federal Coal Leases

AGENCY: Office of the Assistant Secretary—Land and Water Resources, Interior.

ACTION: Request for public comments on policy options for exercising the Secretary's discretion to extend the 10 year diligent development period for Federal coal leases.

SUMMARY: Notice is hereby given of policy options the Department of the Interior currently is considering to exercise the Secretary's discretion in granting extensions to the 10 year diligent development period on Federal coal leases issued prior to August 4, 1976. Comments on the preliminary recommendations being considered for policy adoption should be submitted to the Office of Coal Leasing, Planning and Coordination no later than March 14, 1980.

(1) *Purpose.* A clear need exists to enable the Secretary to rule consistently on applications to extend the 10 year diligent development period on Federal coal leases issued prior to August 4, 1976 (43 CFR 3475.4(b)). As currently written, this section of the Federal coal management regulations provides no guidance to lessees on how the Secretary would use this discretion in granting extensions to the 10 year diligent development period. Clearly, the Federal Government's intent in allowing for an extension of the diligent development period should be to recognize only those lessees who genuinely plan to develop Federal coal and have a compelling reason for being unable to do so prior to June 1, 1986. Lessees on about 300 Federal coal leases issued prior to August 4, 1976, have yet to submit mine plans for approval, a fact suggesting the existence of a large pool of potential applicants who may apply for extensions to the diligent development period. Clear policy guidelines on diligence extensions are needed to enable lessees to gain a better understanding of what is required from them if their applications are to be successful, and to relieve the Interior Department from a potentially severe administrative burden.

(2) *Background.* The Secretary of the Interior's June 1, 1979, decision renewing the Department's commitment to enforce the 1976 diligence regulations requires all coal leases issued before August 4, 1976, to achieve diligent development by June 1, 1986 (43 CFR 3400.0-5(m)(2)) or risk cancellation. "Diligent development" requires the lessee to achieve timely preparation for, and initiation of, coal production on the logical mining unit (LMU) in which the Federal coal leases are contained. For leases issued before August 4, 1976, commercial quantities of coal—defined as one-fortieth of the LMU reserves (43 CFR 3400.0-5(i))—must actually be produced prior to June 1, 1986.

Prior to the August 1976 enactment of the FCLAA, the Department of the Interior developed a set of regulations on diligent development of Federal coal leases. Comments received and considered by various Interior agencies and the Assistant Secretaries led to a consensus regarding the desirability of allowing for extensions beyond the diligent development period under certain circumstances. Section 43 CFR 3475.4(b) of the Federal coal management regulations issued on July 19, 1979, restates the earlier regulations on this subject, and grants the Secretary necessary authority to extend the diligent development period.

Under 43 CFR 3475.4(b)(2), three basic situations are acknowledged permitting the Secretary discretionary authority to grant one extension, for up to 5 years, to the diligent development period. Specifically, the extension may be granted if any one of the following criteria applies:

(a) The lessee demonstrates a need for additional time to resolve technical problems associated with the development of an advanced technology utilizing the coal under lease; or

(b) The lessee requires extra time because of the magnitude of the project, defined as a mine in which the production from the LMU of which the leases are a part is expected to be at least two million tons if an underground mining operation or five million tons if a surface mining operation, during the first year after achievement of diligent development; or

(c) The lessee has obtained a firm contract to sell the first one-fortieth of the LMU reserves after the 10 year period.

Section 43 CFR 3475.4(b)(2) of the regulations requires that the lessee produce the first one-fortieth of the LMU reserves before the end of the extended term, regardless of the reason for granting an extension.

(3) *Policy Recommendations Under Consideration.* The Department of the Interior's current assessment of policy options in extending diligent development is limited to the discretionary provisions under 43 CFR 3475.4(b)(2). The intent of presenting the Secretary with policy options to deal with applications for an extension to the diligent development period on Federal coal leases is to assure a consistent policy on this subject that is equitable, reasonable, and neither arbitrary nor capricious. Such a policy would benefit lessees in particular by indicating how the Secretary would be likely to exercise his discretion in ruling on extension applications. To this end, public comment on the alternatives currently proposed for consideration by the Interior Department is essential to the policy analysis process.

Among the principal policy recommendations and options initially under review within Interior are the following:

(a) To provide a more concrete basis for the Secretary in determining whether to grant an extension under 43 CFR 3475.4(b)(2), the Interior Department is considering ways to require lessees to submit specific evidence with their application demonstrating good faith efforts in bringing into production Federal leases for which more time is needed to achieve diligent development. These methods of demonstrating good faith include:

1. For extension applications under 43 CFR 3475.4(b)(2)(i), the Secretary should require documentation of a lessee's substantial legal or financial commitment to build, underwrite, or otherwise participate in construction of a facility utilizing coal-based advanced technology, and/or proof that the coal under lease is needed to support such a facility. A flexible interpretation of the term "advanced technology" has been proposed to include coal mining methodologies and transport, as well as older synthetic fuels technology (such as the Lurgi process) which may not have attained mature commercial development.

2. Under subdivision (ii) of 43 CFR 3475.4(b)(2), the applicant for an extension should submit proof in the form of a mining plan deemed complete by the Office of Surface Mining, Reclamation, and Enforcement, together with evidence directly relating the magnitude of the proposed mine to difficulties in achieving diligent development by June 1, 1986, to the appropriate Area Mining Supervisor, U.S. Geological Survey.

3. Contracts to sell one-fortieth of the LMU reserves in the first year of full production should be arm's length agreements signed by both parties and binding on both parties to qualify an applicant for an extension under 43 CFR 3475.4(b)(2)(iii).

(b) Other potential policies under review include:

1. The Secretary should not consider lease acquisition costs in modifying or lessening the requirements for obtaining an extension.

2. Applications under 3475.4(b)(2)(iii) should be submitted no later than a certain cut-off date to prevent last minute attempts at obtaining contractual agreements by lessees who have not taken serious steps to develop their leases over most of the 10 year period since promulgation of the diligence regulations.

3. The Secretary should condition approval of an extension of diligent development on the lessee's formal agreement to the diligence regulations on all his leases, if he has not already done so.

4. As an option meant to encourage the early relinquishment of undeveloped leases for potential recycling in future competitive lease sales, the Department could require an applicant to surrender leases which he is unlikely to be able to develop as a condition for receiving an extension on those that will achieve production. The objective of this option would be to make available certain lands for competitive leasing prior to or around the June 1, 1986, diligent development cut-off date and to enable the Interior Department to have leases relinquished that should not be developed because of environmental and/or socio-economic concerns.

5. To encourage competition in western coal markets, the Secretary could as an option encourage new entrants by allowing them an extension conditioned on their agreeing to meet one of the three criteria under 3475.4(b)(2) within 2 years of submitting their extension applications (but not later than June 1, 1986).

6. New entrants would be defined as lessees meeting the Department of justice's antitrust review criteria whose only Federal leases belong in the same LMU as the lands in the extension application. A sub-option would be to exclude all but post-1976 assignees from the "new entrants" category so as not to reward lessees who have had the opportunity but have done little to develop their leases.

7. To discourage speculation, extensions granted under 3475.4(b)(2) would carry a proviso forbidding assignment of the lease before the end of the extended term.

8. For applications for an extension to the diligent development period that are linked with pending lease assignments, approval thereof will be granted simultaneously with approval of the transfer of record title to the lease.

9. The Department is also considering whether to grant a full 5 year extension in all cases or a shorter period based on actual time needed to produce one-fortieth of the LMU reserves.

ADDRESS: Comments should be sent to the Director, Office of Coal Leasing, Planning and Coordintion, Room 3411, Main Interior Building, 18th & C Streets, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:
Andrew Strasfogel or Charles Rech, Office of Coal Leasing, Planning and Coordination, (202) 343-4191.

Dated: January 29, 1980.

James W. Curlin,
Deputy Assistant Secretary, Land and Water Resources.

[FR Doc. 80-3479 Filed 1-31-80; 8:45 am]
BILLING CODE 4310-10-M

Office of Surface Mining Reclamation and Enforcement

Public Disclosure of Comments Received From Federal Agencies on the Texas Permanent Regulatory Program Submission

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM) U.S. Department of the Interior.

ACTION: Announcement of Public Disclosure of Comments on the Texas Program from EPA, DOA, and Other Federal Agencies.

SUMMARY: Before the Secretary of Interior may approve the Surface Mining Control and Reclamation Act of 1977, the views of certain Federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies, and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining, Reclamation and Enforcement, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, telephone: (816-374-3920).

OSM Headquarters, Department of the Interior, Room No. 135, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, telephone: (202-343-4728).

Texas Railroad Commission, Surface Mining and Reclamation Division, Field Office, Suite 125, 1121 East S.W. Loop 323, Tyler, Texas 75703.

Texas Railroad Commission, Surface Mining and Reclamation Division, Field Office, Shank Office Building, 1419 3rd Street, Floresville, Texas 78114.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Riedke, Assistant Regional Director, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, telephone: (816-374-3920); or

Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, telephone: (202-343-4225).

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the Texas permanent regulatory program submitted by Texas for his review on July 20, 1979. See 44 FR 44281 (July 27, 1979), 44 FR 66764 (November 20, 1979), 44 FR 75733 (December 21, 1979) and 45 FR 3398 (January 17, 1980). In accordance with 30 CFR 732.13(b)(1), the Texas Program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following Federal agencies were invited to comment on the Texas Program:

Department of Agriculture
- Soil Conservation Service
- Forest Service
- Agriculture Stabilization and Conservation Service
- Science and Education Administration

Advisory Council on Historic Preservation
Department of Labor
- Mine Safety and Health Administration

Environmental Protection Agency
Water Resources Council
Department of Energy
Department of the Interior
- Red Basin Inter-Agency Committee
- Bureau of Indian Affairs
- Bureau of Land Management
- Bureau of Mines
- Heritage Conservation and Recreation Service
- Bureau of Reclamation
- Fish and Wildlife Service
- National Park Service

U.S. Geological Survey
Council on Environmental Quality
U.S. Army Corps of Engineers

Of those agencies invited to comment, OSM received comments from the following offices:

U.S. Environmental Protection Agency
Mine Safety and Health Administration
Fish and Wildlife Service
Soil Conservation Service
Heritage Conservation and Recreation Service
Bureau of Mines
Forest Service
Geological Survey
Advisory Council on Historic Preservation

These comments are available for review and copying, during business hours, at the locations listed above under "Addresses."

V 45 / 23 FEB 1 80 UMI

Dated: January 29, 1980.

Carl C. Close,

Assistant Director State and Federal Programs.

[FR Doc. 80-3436 Filed 1-31-80; 8:45 am]

BILLING CODE 4310-05-M

Reopening of Public Comment Period on Montana Amended Program Submission for the Regulation and Control of Surface Mining

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Notice of reopening of public comment period on the Montana Amended Program Submission for the regulation and control of surface coal mining.

SUMMARY: OSM is reopening the period for review and comment on the proposed Montana regulatory program until February 6, 1980. This action amends procedures announced on November 20, 1979 (44 FR 225, page 66761) which provided for a public comment period until December 24, 1979. The new period provides additional opportunity for the public to review and comment on amendments to the proposed regulatory program submitted by Montana, and on summaries of meetings between OSM and Montana on these amendments.

DATES: All comments must be received on or before 5:00 p.m. on February 6, 1980, to be considered in the Secretary's decision on the proposed Montana regulatory program.

ADDRESSES: The proposed Montana regulatory program, as amended, is available for review during regular business hours at:

The Office of Surface Mining, Brooks Towers, Room 5010, 1020 15th Street, Denver, Colorado 80202; or

OSM Headquarters, Department of the Interior, Room 135, 1951 Constitution Avenue, N.W., Washington, D.C. 20240

Written comments should be delivered by 5:00 p.m. on February 6, 1980 to:

The Office of Surface Mining, Brooks Towers, Room 5010, 1020 15th Street, Denver, Colorado 80202; or

OSM Headquarters, Department of the Interior, Room 135, 1951 Constitution Avenue, N.W., Washington, D.C. 20240

SUPPLEMENTARY INFORMATION: The new period for public comment is necessary to allow additional opportunity for the public to review and comment on amendments to the proposed regulatory program and summaries of meetings between OSM and Montana on these amendments. This announcement is made in keeping with OSM's commitment to public participation as a vital component in fulfilling the purposes of the Surface Mining Control and Reclamation Act of 1977.

Dated: January 29, 1980.

Carl C. Close,

Acting Director, Office of Surface Mining, Reclamation and Enforcement.

[FR Doc. 80-3440 Filed 1-31-80; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket 29186 (Sub-1)]

Richard B. Ogilvie, Trustee of the Property of Chicago, Milwaukee, St. Paul & Pacific Railroad Co., Debtor—Trackage Rights—Over Indiana Harbor Belt Railroad Co. and Consolidated Rail Corporation in IL and IN

Richard B. Ogilvie, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Milwaukee Road), 516 West Jackson Boulevard, Chicago, Cook County, IL 60606, represented by William C. Sippel, Assistant General Solicitor and William L. Phillips, Assistant General Solicitor, 516 West Jackson Boulevard, Suite 888, Chicago, IL 60606, hereby gives notice that on the 18th day of January, 1980, it filed with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. 11343 for trackage rights over the main line of the Indiana Harbor Belt Railroad Company (IHB) between North Harvey, IL and Gibson, IN and over a line of Consolidated Rail Corporation (Conrail) between Gibson, IN and Terre Haute, IN.

This proceeding is related to AB–7 (Sub-No. 87F).

Applicant proposes to operate its own trains with its own locomotives and crews over the main line of the IHB between North Harvey, IL (Milepost 13.7) and a connection with Conrail at the east end of Gibson Yard in Hammond, IN (Milepost 4.3), a distance of 11.7 miles, then over a line of Conrail to Terre Haute, IN (Milepost 70.1), a distance of 167.2 miles; and over a line of Conrail between M.P. 85.2 and M.P. 84.6 at Danville, IL, a distance of 0.7 of a mile for a grand total distance over IHB/Conrail between North Harvey, IL and Terre Haute, IN of 179.6 miles. The IHB main line runs in an east-west direction through Cook County, IL and Lake County, IN. Conrail's line runs in a north-south direction through Lake, Newton, Benton, Warren and Vigo Counties, IN and Vermilion and Edgar Counties, IL.

Milwaukee Road presently operates its through train over the involved IHB line under authority of Service Order No. 1395 dated August 20, 1979, and over the involved Conrail lines under authority of Service Order No. 1390 dated July 31, 1979.

In accordance with the Commission's regulations (49 C.F.R. 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation-Nat'l Environmental Policy Act, 1969*, 352 I.C.C. 451 (1976), any protest may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation-Nat'l Environmental Policy Act, 1969, supra*, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 29186 (Sub-No. 1) and the original and two copies thereof shall be file with the Secretary, Interstate Commerce Commission, Washington, DC 20424.

The Commission has adopted the following Special Rules of Procedure for this Proceeding:

1. The proceeding will be conducted under modified procedure in accordance with the following provisions:

(a) Applicants' verified statements will be due 45 days after the date of the filing of the application is published in the **Federal Register.**

(b) Verified statements by all other parties shall be due 20 days thereafter.

Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may filed such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-3287 Filed 1-31-80; 8:45 am]

BILLING CODE 7035-01-M

Signed at Washington, D.C., this 17th day of January 1980.

Alexander S. MacNabb,

Director, Division of Indian and Native American Programs, Office of National Programs.

[FR Doc. 80-3106 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

Indian and Native American Programs; Native American Grantees Under Section 302 of the Comprehensive Employment and Training Act of 1973, as Amended

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The purpose of this Notice is to inform the public of the estimated Fiscal Year 1981 funding levels of Native American Grantees funded under the Comprehensive Employment and Training Act (CETA) of 1973, as amended, and the procedures for designating Native American Grantees.

FOR FURTHER INFORMATION CONTACT: William J. McVeigh, Manpower Development Specialist, Division of Indian and Native American Programs, Office of National Programs, 601 D Street, NW., Room 6414, Washington, D.C. 20213. Telephone (202) 376–7282.

SUPPLEMENTARY INFORMATION: Indian and Native American Programs under the Comprehensive Employment and Training Act of 1973, as amended, are administered nationally by the Division of Indian and Native American Programs (DINAP), Office of National Programs, Employment and Training Administration, Department of Labor, 601 D Street, NW., Room 6402, Washington, D.C. 20213, Telephone (202) 376–6102. Mr. Alexander S. MacNabb is the Director, DINAP.

The estimated funding levels for Fiscal Year 1981 are: $51,080,000 for Title II–D; $80,975,000 for Title III; $40,880,000 for Title VI; and $15,227,000 for the Summer Youth Employment Program under Title IV. Funding levels for other youth programs cannot be estimated at this time.

The details of applying for a grant are spelled out in 20 CFR 688.10 through 688.23. Applicants for a grant in Fiscal Year 1981 must submit certain documentation to DINAP by March 1, 1980. Applicants will be notified whether they have been designated a grantee by June 1, 1980.

Mine Safety and Health Administration

[Docket No. M–79–238–C]

Chestnut Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Chestnut Coal Company, Inc., P.O. Box 878, Jasper, Tennessee 37347, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 23 mine located in Sequatchie County, Tennessee. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. The petition concerns the illumination of underground working places in which self-propelled mining equipment is operated.

2. The petitioner states that if compliance with the standard is effected, a system failure would result in a sudden change in light intensity which would temporarily blind miners in the area, and that such failures occur frequently.

3. Petitioner further states that its foreman's performance will be impaired by application of the standard since he is required to travel continually from lighted to dark areas.

4. Petitioner further states that application of the standard to its mine would require side installation of lighting equipment, resulting in miners facing continuous glare, and causing maintenance problems.

5. For these reasons petitioner believes that compliance with the standard will result in diminution of safety to miners, and therefore requests variance from application of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 3, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 23, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-3109 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M–79–237–C]

Clinchfield Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Clinchfield Coal Company, Dante, Virginia 24237, has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its McClure No. 1 Mine located in Russell County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. The mine has been designed for two active longwall sections and supporting continuous miner units.

2. Large quantities of methane gas in the coal bed and adjacent strata are anticipated for the mine.

3. Bureau of Mines and DOE in conjunction with the company have drilled five vertical methane drainage holes into the coalbed. It is anticipated that vertical ventilation gob drainage holes will be necessary to bypass large amounts of methane from the return airways during extraction of longwall blocks.

4. Inherent roof conditions and maximum overburden of 2000 feet will limit the number of airways that can be developed safely.

5. For these reasons, petitioner proposes the following alternative method to guarantee the safety of the miners affected.

(a) All entries will be used for airways.

(b) A carbon monoxide (CO) detection system, approved by MSHA, will be installed in all belt entries near each belt tailpiece to constantly monitor the atmosphere for the presence of CO.

(c) A communication and monitoring system will be installed on the surface and attended by a fully trained responsible person while persons are underground.

(d) A maintenance program will be established which will include weekly functional tests and calibration tests every 30 days.

(e) Stoppings separating the belt haulage entry from intake and return aircourses will be erected and maintained in accordance with MSHA guidelines.

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Request for Comments

Persons interested in this petition may furnish written comments on or before March 3, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 23, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-3110 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-175-C]

L & H Mining Co., Inc.; Petition for Modification of Application Mandatory Safety Standard

L & H Coal Company, Inc., Honaker, Kentucky 41639, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its #7A Mine, located in Floyd County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. Petitioner states he is mining coal seams ranging from 35" to 47" with irregularities in roof and floor conditions.

2. Petitioner states that if installed on its existing equipment, lighting equipment would come in contact with the roof and be torn away.

3. Petitioner states miners crawl on hands and knees and their line of sight has a direct conflict with the light ray given off by luminaires, causing a diminution of safety.

4. For these reasons, the petitioner requests a modification of the application of the standard to its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 3, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 23, 1980.

Frank A. White,

Director, Regulations and Variances.

[FR Doc. 80-3108 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-174-C]

Newsome Coals, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Newsome Coals, Inc., Grethel, Kentucky 41631, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its #5 mine located in Floyd County, Kentucky. The petiton is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. Petitioner states he is mining coal seams ranging from 28" to 34" in height.

2. Petitioner states that if installed on its existing equipment, lighting equipment would come in contact with the roof and be torn away.

3. Petitioner states miners crawl on hands and knees and their line of sight has a direct conflict with the light ray given off by luminaires, causing a diminution of safety.

4. For these reasons, the petitioner requests a modification of the application of the standard to its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 3, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 23, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-3107 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-176-C]

T. & R. Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

T. & R. Coal Company, Inc., Harold, Kentucky 41635, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its #5 mine located in Floyd County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follow:

1. Petitioner states he is mining coal seams ranging from 28" to 40" in height.

2. Petitioner states that if installed on its existing equipment, lighting equipment would come in contact with the roof and be torn away.

3. Petitioner states miners crawl on hands and knees and their line of sight has a direct conflict with the light ray given off by luminaires, causing a diminution of safety.

4. For these reasons, the petitioner requests a modification of the application of the standard to its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 3, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 23, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-3108 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-240-C]

Walnut Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Walnut Coal Co., Inc., P.O. Box 678, Jasper, Tennessee 37347, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 25 mine located in Sequatchie County, Tennessee. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. The petition concerns the illumination of underground working places in which self-propelled mining equipment is operated.

2. The petitioner states that if compliance with the standard is effected, a system failure would result in a sudden change in light intensity which would temporarily blind miners in the area, and that such failures occur frequently.

3. Petitioner further states that its foreman's performance will be impaired by application of the standard since he is required to travel continually from lighted to dark areas.

4. Petitioner further states that application of the standard to its mine would require side installation of lighting equipment, resulting in miners facing continuous glare, and causing maintenance problems.

5. For these reasons petitioner believes that compliance with the standard will result in diminution of safety to miners, and therefore requests variance from application of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 3, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 23, 1980.

Frank A. White,

Office of Standards, Regulations and Variances.

[FR Doc. 80-3111 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-241-C]

Virginia Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Virginia Mining Company, Inc., P.O. Box 878, Jasper, Tennessee 37347, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 18 mine located in Marion County, Tennessee. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. The petition concerns the illumination of underground working places in which self-propelled mining equipment is operated.

2. The petitioner states that if compliance with the standard is effected, a system failure would result in a sudden change in light intensity which would temporarily blind miners in the area, and that such failures occur frequently.

3. Petitioner further states that its foreman's performance will be impaired by application of the standard since he is required to travel continually from lighted to dark areas.

4. Petitioner further states that application of the standard to its mine would require side installation of lighting equipment, resulting in miners facing continuous glare, and causing maintenance problems.

5. For these reasons petitioner believes that compliance with the standard will result in diminution of safety to miners, and therefore requests variance from application of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 3, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 23, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-3112 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Safety Subgroup Meeting

Notice is hereby given that the Safety Subgroup of the National Advisory Committee on Occupational Safety and Health (NACOSH) will meet on February 19, 1980 in the Federal Building, Room 4022, 550 Main Street, Cincinnati, Ohio. The meeting will begin at 8:30 a.m. The public is invited to attend.

The National Advisory Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 (Pub. L. 91-596) to advise the Secretary of Labor and the Secretary of Health, Education, and Welfare on matters relating to the administration of the Act.

The meeting agenda will include a discussion of the NIOSH Safety Research Strategies and Initiatives and drafting of recommendations to be presented to the Full Committee at the February 28-29 Meeting.

Written data or views concerning these agenda items may be submitted to the Division of Consumer Affairs. Such documents which are received before the scheduled meeting dates, preferably with 10 copies, will be presented to the Committee and included in the official record of the proceedings.

Anyone who wishes to make an oral presentation should notify the Division of Consumer Affairs before the meeting date. The request should include the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the chairman of the Committee to the extent which time permits.

For additional information contact: Clarence Page, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N-3635, Third Street and Constitution Avenue, NW., Washington, D.C. 20210, Telephone 202-523-8024.

Official records of the meetings will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, D.C. this 28th day of January 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-3441 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-26-M

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 80-4; Exemption Application No. D-1385]

Exemption From the Prohibitions for Certain Transactions Involving Alfa Profit Sharing Retirement and Savings Plan

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale of a 50% interest in a parcel of real property owned by the Alfa Profit Sharing Retirement and Savings Plan (the Plan) to Dieter P. Gerlach and Ilse M. Gerlach, parties in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 7, 1979, notice was published in the **Federal Register** (44 FR 70598) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the sale of a 50% interest in a parcel of real property owned by the Plan (the Property) to Deiter P. Gerlach and Ilse M. Gerlach, parties in interest with respect to the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any

interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that he has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedures 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 408(a), 408(b)(1), and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the sale of a 50% interest in a two acre unimproved parcel of real property located in the Township of Montville, Morris County, New Jersey by the Plan to Dieter P. Gerlach and Ilse M. Gerlach, parties in interest with respect to the Plan, for the greater of $37,500.00 cash or the fair market value of their undivided one-half interest in the Property at the time of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 24th day of January.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-3879 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D–1425]

Proposed Exemption for Certain Transactions Involving the Bradford Marine, Inc., Profit-Sharing Plan of Fort Lauderdale, Fla.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale by the Bradford Marine, Inc. Profit-Sharing Plan (the Plan) of its one-half interest in real property of Ocala, Florida and the sale by the Plan of its one-third beneficial interest in real property of the Samuel T. Decker Trust (Decker), to Mr. Charles R. Blickle, a party in interest to the Plan. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, Mr. Charles R. Blickle and other persons participating in the proposed transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before March 10, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–1425. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Newman, of the Department of Labor, telephone (202) 523–8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a)(1), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by Mr. Charles R. Blickle, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan, a profit sharing plan, had assets totaling $284,704.60 as of December 31, 1978 for the benefit of 48 participants. Investment decisions are made by Plan trustees, Mr. Charles R. Blickle and Mr. Hugh Donaldson.

2. On April 27, 1973, the Plan acquired an undivided one-fifth interest in Decker, a trust formed in 1969 to invest in real estate. Subsequent transactions have resulted in the Plan's present one-third interest in Decker at a total cost of $62,230. Decker currently holds a one-half undivided interest in 56.67 acres of land in Ocala, Marion County, Florida and a 100% interest in 241 acres of unimproved land also located in Marion County, Florida.

3. On September 9, 1974, the Plan acquired an undivided one-half interest in 56.67 acres of unimproved land located in Ocala, Marion County, Florida for $60,506. (The other one-half interest was acquired by Decker.)

4. The Plan has received little or no income from either investment.

5. Since early 1975, the Plan trustees have worked with several local registered real estate brokers in an attempt to sell the Plan's interests in Decker and the Ocala real property. There have been no offers for either property interest.

6. As of February 9, 1979, the Plan's interests in the Ocala land and Decker were appraised by an independent appraiser to have fair market values of $70,000 and $74,719, respectively. Mr. Blickle has offered to purchase these properties for cash at the appraised value provided the sales prices are not less than the fair market value of the properties at the time of the purchase.

7. The applicant represents that the criteria of section 408(a) of the Act will be satisfied by the proposed sales because: (1) they will be one time transactions for cash; (2) they will allow the Plan to sell the properties for a profit at a price determined by an independent appraisal; (3) they will not require the Plan to pay any real estate commissions; and (4) they will allow the Plan to eliminate a large percentage of Plan assets which produce no income.

Notice to Interested Persons

Notice of the proposed exemption will be given to all interested persons within ten days of the publication of the notice of Pendency in the Federal Register.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the code shall not apply to the cash sale of the Plan's one-half undivided interest in a 56.67 acre tract in Ocala, Marion County, Florida, for $70,000 and the cash sale of the Plan's undivided one-third beneficial interest in the Samuel T. Decker Trust for $74,719, to Charles R. Blickle, provided that the sales prices are not less than the fair market value of the property interests at the time of the sales.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 24th day of January, 1980.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-3881 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D–1633]

Proposed Exemption for Certain Transactions Involving the National Security Bank Profit Sharing Plan located in Chicago, Ill.

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed loan of $500,000 to the National Security Bank Profit Sharing Plan (the Plan) by the National Security Bank of Chicago (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Employer and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before March 20, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Consititution Avenue, NW., Washington, D.C. 20216. Attention: Application No. D–1633. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Consititution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small, of the Department of Labor, telephone (202) 523–7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18741, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application of file with the Department for the complete respresentations of the applicant.

1. The Plan is a profit sharing plan with 100 participants. As of December 31, 1978 the Plan had total net assets of approximately $700,000. The trustees of the Plan (the Trusees) are Mr. Walter McNeely, President of the Employer and Mr. Frank Julian, Cashier of the Employer is a national bank and a member of the Federal Reserve System.

2. The Employer proposes to lend $500,000 to the Plan for a period of two years (the Loan). The interest rate on the Loan is to be equal to the discount rate charged to member banks of the Federal Reserve System by the Federal Reserve Bank of Chicago for short-term loans,. but not higher than 12 percent perannum. The Plan will, on the same day as the Loan is made, invest the proceeds of the Loan in $500,000 worth of U.S. treasury notes (Treasury Notes) with a time period corresponding to the Loan. The Treasury Notes will be pledged by the Plan as security for the Loan. The Plan will receive as a net return the amount equal to the difference between the rate the Plan receives on the Treasury Notes and the rate the Plan is required to pay on the Loan. The Loan will not be made if at the time of its making the rate of interest which the Plan is required to pay to the Employer is equal to or more than the rate of interest on the Treasury Notes that would be purchased by the Plan.

3. The applicant represents that the Loan will satisfy the criteria of section 408(a) of the Act as follows: (1) the Trustees of the Plan represent that the Loan is in the best interests of the Plan; (2) the Loan will allow the Plan to receive a positive cash flow without the direct investment of Plan assets; and (3) the Loan is for a short term with Treasury Notes as collateral.

Notice to Interested Persons

Notice will be made within 20 days of the publication of the notice of pendency in the **Federal Register** to each participant currently employed by the Employer by hand delivery or by an insertion in such employee's pay envelope. Persons who are currently receiving benefits or who have terminated their employment with the Employer and who are entitled to benefits from the Plan will be notified by mail. The notice will contain a copy of the notice of pendency as published in the **Federal Register** and a statement informing interested persons of their right to comment or request a hearing within the period set forth in the notice of pendency.

Tax Consequences of Transaction

The Internal Revenue Service has previously held that the loaning of money by an employer to its plan at a rate less than the fair market rate will constitute a contribution to the plan to the extent of the difference between the rate at which the money is loaned and the fair market rate. The deductibility and other effects of such a contribution must be determined in accordance with generally applicable Federal income tax rules.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exempton, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to a two year loan of $500,000 by the Employer to the Plan which will be secured by Treasury Notes.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 24th day of January 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-3800 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80–3; Exemption Application No. L–1435]

Exemption From the Prohibitions for Certain Transactions Involving the Quad-City Builders-Local 111 Training Program Trust

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the purchase by the Quad-City Builders-Local 111 Training Program Trust (the Plan) of a parcel of real property improved by a building (the Property) from Mr. Dan Schlapkohl, a party in interest with respect to the Plan, and an extension of credit by Mr. Schlapkohl to the Plan with respect to the purchase.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523–8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 7, 1979, notice was published in the **Federal Register** (44 FR 70596) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) for the purchase by the Plan of the Property from Mr. Dan Schlapkohl, a party in interest with respect to the Plan, and an extension of credit by Mr. Schlapkohl to the Plan with respect to the purchase. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments were received by the Department.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Futhermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 406(a) of the Act and the procedures set forth in ERISA Procedures 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a) of the Act shall not apply to (1) the purchase by the Plan from Mr. Dan Schlapkohl, a principal owner of the All Steel Building Corporation, a contributing employer with respect to the Plan, of a certain parcel of real property known as Lot 6, Turkey Hollow Industrial Park, 3rd Addition to the City of Rock Island, Illinois, improved by a building thereon, and (2) an extension of credit by Mr. Dan Schlapkohl to the Plan with respect to the above purchase.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 24th day of January.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-3800 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-29-M

Office of Pension and Welfare Benefit Programs

[Application No. D–444]

Proposed Exemption for Certain Transactions Involving the Herman Frankel Co. Retirement Profit Sharing Plan and Trust and Administrative Services, Inc., Retirement Profit Sharing Plan and Trust Located in Orchard Lake, Mich.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the cash sale on June 25, 1976 by the Herman Frankel Company Retirement

Profit Sharing Plan and Trust (Frankel Plan) and the Administrative Services, Inc. Retirement Profit Sharing Plan and Trust (ASI Plan, collectively referred to as the Plans) of their respective undivided interests in a parcel of undeveloped real estate to Suburban Communities Inc. (Suburban) a party in interest with respect to the Plans. The proposed exemption, if granted, would affect participants and beneficiaries of the Plans, Suburban and Mr. Herman Frankel as a co-owner of an undivided interest in the property.

DATE: Written comments and requests for a public hearing must be received by the Department of Labor on or before March 17, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. D-444. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Paul R. Antsen of the Department of Labor, telephone (202) 523-6915. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on March 11, 1976 by Marcus Plotkin and Jack M. Schultz, attorneys representing the Plans, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Frankel Plan is a profit sharing plan having only one participant, Mr. Herman Frankel (Frankel). The ASI Plan is also a profit sharing plan having 12 participants. Frankel is the trustee for both Plans.

2. Frankel owns one hundred (100) percant of the outstanding stock of Herman Frankel Company (sponsoring employer of the Frankel Plan), Suburban and Administrative Services, Inc. (sponsoring employer for the ASI Plan).

3. Suburban is in the real estate development business of purchasing, subdividing and improving real property. Prior to passage of the Act there had been an understanding among the Plans and their employer creators to invest in raw land and hold the property jointly until such time as it became economically beneficial to develop the property for residential and/or multiple dwelling use, then when the economic conditions were appropriate, resell to the developer. The Plans never intended on developing the property for its rezoned use, and moreover, the Plans do not have the expertise or financial capability of accomplishing such development. The purpose of the investment by the Plans was to obtain the appreciation in land value.

4. On December 15, 1967, the Frankel and ASI Plans purchased undivided fourteen (14) percent interests in a parcel of undeveloped real property from Suburban for $12,292. The terms of the sale transactions provided for a payment of $8,640 in cash with the balance payable over 5 years with interest at 7 percent per annum. The undivided interests were purchased on the basis of independent appraisals. Simultaneously with the purchases by the Frankel Plan and the ASI Plan, Frankel individually purchased and undivided forty (40) percent interest in the same property. Suburban continued to hold the remaining thirty-two (32) percent interest. The land sale contracts executed at that time contained a provision that the seller, Suburban, might at some future time seek to rezone the property for development and that all owners of undivided portions of the subject real property were obligated to pay their pro rata share of any costs incurred by such actions. The applicant represents that the Plans did not incur any zoning costs relative to the development of the subject real property.

5. Late in 1975 it became apparent to the parties that it was economically essential to develop the subject property. While the exemption application was pending the applicant represented that time was of the essence and that it would be detrimental to the participants of the Plans if the transactions were not consummated immediately. Therefore, on June 25, 1976, pursuant to an independent appraisal, the Frankel Plan and the ASI Plan each sold their respective undivided interests back to Suburban for $40,640. Other than the appreciation in value, these assets have been non-income producing during the period they were held by the Plans. There was no real estate commission charged to the Plans in connection with the transaction for which exemptive relief is sought.

6. With respect to the advisability of the sale to Suburban it is alleged to be financially advantageous to Plan participants and beneficiaries inasmuch as the Plans had a ready and willing buyer to develop the property which enhanced its sales value. It is alleged that if an unrelated party could have been found in light of the seventy-two (72) percent majority ownership, the price such a party would have agreed to would not have approached the realized sale price. Additionally, the expense of legal proceedings to partition the property should the Plans not have sold to Suburban would also have adversely affected the value of their respective undivided interests. Therefore it was in the best interest of the Plans and their participants and beneficiaries to sell the undivided interests to Suburban.

7. In summary, the applicant represents that the criteria of section 408(a) of the Act have been satisfied with respect to the executed sale transaction because: (1) It was a one time transaction for cash; (2) the property was sold for a substantial profit at a price determined to be fair by an independent appraisal; (3) there was no real estate commission paid by either of the Plans in connection with the sale; (4) it permitted the Plans to divest themselves of illiquid, non-income producing assets; and (5) it was understood at the time of acquisition that said undivided interests would be repurchased by Suburban at some future date for residential development. The trustee represents that at the time the subject transaction was executed it was appropriate for and in the best interests of the Plans in that it would have been detrimental to the participants to have delayed the execution of the transaction.

Notice to Interested Persons

Within ten working days of publication of the proposed exemption in the Federal Register, all present participants in the Frankel Plan and the ASI Plan will receive by personal delivery or first class mail a written summary and description of the transaction, a copy of the notice of pendency and a written statement informing them of their right to comment on the proposed exemption, and the right to request that a hearing be held.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale on June 25, 1976 by the Frankel and ASI Plans of their respective undivided interests in a parcel of undeveloped real estate to Suburban for $40,640 which was paid in cash.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 28th day of January 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80-3409 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

[TA-W-6487]

Brin Machinery & Equipment Corp., Newark, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 30, 1979 in response to a worker petition received on November 27, 1979 which was filed on behalf of workers and former workers producing electrical push buttons at Brin Machinery and Equipment Corporation, Newark, New Jersey. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Brin Machinery and Equipment Corporation produced electrical push buttons exclusively for the NuTone Division of Scovill Incorporated. NuTone does not import electrical push buttons.

During April 1979, NuTone purchased Brin Machinery and Equipment. NuTone closed the Newark plant in mid-December 1979 and transferred all operations to its Harrodsburg, Kentucky plant.

Conclusion

After careful review, I determine that all workers of Brin Machinery and Equipment Corporation, Newark, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3114 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6356]

Cal-Sew Apparel, Inc., Los Angeles, Calif.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification

of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 13, 1979 in response to a worker petition received on October 10, 1979 which was filed on behalf of workers and former workers producing women's tops and blouses at Cal-Sew Apparel, Incorporated, Los Angeles, California. The investigation revealed that the plant produced primarily ladies' blouses and sportswear prior to going out of business in August 1979. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's misses' and children's blouses and shirts decreased absolutely in the January-September period of 1979 compared to the same period of 1978.

A survey was conducted by the Department of Labor of the manufacturers for whom Cal-Sew Apparel, Incorporated performed contract work. None of these manufacturers imported ladies' blouses or sportswear or contracted work out to foreign sources in 1978 or 1979. All but one of the manufacturers repored increases in sales of ladies' blouses and sportswear in 1979 as compared to 1978, and the remaining manufacturer reported that its sales had not been affected.

Conclusion

After careful review, I determine that all workers of Cal-Sew Apparel, Incorporated, Los Angeles, California are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3115 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6546]

Chrysler Corp., Winfield Foundry, Detroit, Mich.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 6, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Union, United Automobile, Aerospace and Agricultural Workers of America, in part, on behalf of workers and former workers producing castings at the Winfield Foundry of Chrysler Corporation, Detroit, Michigan. The investigation revealed that the Winfield Foundry is part of the Huber Foundry of Chrysler Corporation.

The petitioning group of workers was included in a determination issued on November 6, 1979 (revised December 26, 1979) which certified as eligible to apply for adjustment assistance all workers at the Huber Foundry of Chrysler Corporation, Detroit, Michigan. Since all workers identified in this petition, newly separated, totally or partially, from employment on or after August 28, 1978 (impact date) and before November 6, 1981 (expiration date of the certification) are covered by an existing determination, a new investigation would serve no purpose. Consequently, this investigation has been terminated.

Signed Washington, D.C., this 25th day of January, 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-3116 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6515]

Coronet Manufacturing Co., Union City, N.J., Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 3, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing men's and women's sweaters at Coronet Manufacturing Company, Union City, New Jersey. The investigation revealed that the firm primarily produces women's sweaters. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's sweaters increased relative to domestic production in 1978 compared with 1977.

A survey of manufacturers of Coronet Manufacturing Company revealed that some manufacturers decreased purchases from Coronet and increased purchases of imported sweaters in the January-October period of 1979 compared with the same period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's sweaters produced at Coronet Manufacturing Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Coronet Manufacturing Company, Union City, New Jersey who because totally or partially separated from employment on or after November 20, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3117 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6559]

Delaware Trucking Co., Inc., Muncie, Ind.; Negative Determination Regarding Application for Reconsideration

By letter of January 14, 1980, a worker requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers transporting Chrysler auto parts at Delaware Trucking Company, Inc., Muncie, Indiana. The determination was published in the Federal Register on January 8, 1980, (45 FR 1699).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The worker pointed out that the Delaware Trucking Company transported Chrysler automotive parts only and did not transport automobiles. The worker also indicated that while Delaware Trucking Company was completely independent of Chrysler it was 100 percent dependent on Chrysler for business since it only hauled Chrysler parts. Therefore, when Chrysler employees lost their jobs, workers at the Delaware Trucking Company lost theirs.

A review of the case filed indicates that the Department denied trade adjustment certification based on the fact that Delaware Trucking Company, Inc., is an independent firm and that Chrysler has no controlling interest in it nor does Delaware have a controlling interest in Chrysler. The employees of Delaware Trucking Company could not be considered as employees of Chrysler Corporation. Finally, the workers at the trucking company were engaged in the provision of trucking services.

Nothing in the application for reconsideration refutes the basis for the Department's original determination that workers of the Delaware Trucking Company, Inc., at Muncie, Indiana, do not produce an article and are not employees of a firm which produces an article.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 24th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Ecomonic Research.

[FR Doc. 80-3118 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6228]

Dickerson Trucking Co., Inc., Dehue, W.Va.; Negative Determination Regarding Application for Reconsideration

By letters of January 5 and 9, 1980, the union and counsel for the workers requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of that company. The determination was published in the Federal Register on December 11, 1979 (44 FR 71474).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union claims that the trucking of coal is an integral part of production of coal and that such hauling activities are subject to and dependent upon the production schedules of the coal companies. The union also claims that the employees of at least one of Dickerson's customers receives trade adjustment assistance. Further, counsel for the workers claims that workers of the Dickerson Coal Company should be certified eligible for trade adjustment assistance since that firm controlled one of its customers.

The Department's review revealed that the Dickerson Trucking Company, Inc., is engaged in providing the service of transportation of coal and, as such, does not produce an article within the meaning of Section 222(3) of the Trade Act.

In its further review, the Department confirmed that the Dickerson Trucking Company is an independent company providing a service and is not controlled by its customers. The Department's use of the term "control" does not mean control by production schedules or market forces but financial and administrative control such as personnel actions and payroll transactions. Workers providing services, like transportation services, may only be certified if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related by ownership to the firm providing the service, or a firm related by control with the reduction in demand for services originating at a production facility whose workers independently meet the statutory criteria for certification and that reduction must relate directly to the product impacted by imports. The Department did not find that workers of the Winding Shoals Coal Company—a customer of Dickerson Trucking Company—had been certified for trade adjustment assistance. Further, the Metco Mining Corporation whose workers receive trade adjustment assistance (TA-W-5133A) is an independent company not related in any way to the Dickerson Trucking Company.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 24th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3119 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6502]

E & F Associates, Inc., Newark, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 30, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing slacks and skirts at E & F Associates, Newark, New Jersey. The investigation revealed that the name of the firm is E & F Associates, Incorporated. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separation, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that the

manufacturers for which E & F Associates, Incorporated produces women's slacks and skirts did not use foreign contractors or purchase imported women's slacks and skirts. The manufacturers increased their total domestic contract work in the first 10 months of 1979 compared with the same period in 1978, and experienced increased total sales.

Conclusion

After careful review, I determine that all workers of E & F Associates, Incorporated, Newark, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3120 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6531]

Giardin Dress Co., Inc., Bloomfield, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 4, 1979 in response to a worker petition received on November 28, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' dresses at Giardin Dress Company, Incorporated, Bloomfield, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increase of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and the absolute decline in sales or production.

U.S. imports of ladies' dresses declined absolutely in the first nine months of 1979 compared to the same period of 1978.

A Departmental survey was conducted with the manufacturers from whom Giardin received contract work in 1977, 1978 and 1979. One of the manufacturers ceased contract work with Giardin in mid-1978; however, production at Giardin increased in both quantity and value in the third and fourth quarters of 1978 compared to the same quarters of 1977. The other manufacturer increased contract work with Giardin in 1979 compared to 1978, and in 1978 compared to 1977. None of the manufacturers from whom Giardin received contract work relied on imports or foreign contractors to fulfill their demand for ladies' dresses in 1977, 1978, or 1979.

Conclusion

After careful review, I determine that all workers of Giardin Dress Company, Incorporated, Bloomfield, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of January, 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3122 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 11, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 11, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 24th day of January 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: (Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Boardwalk, Inc., d.b.a. Park Place Sportswear (workers).	Pawtucket, R.I.	1/15/80	1/9/80	TA-W-6,841	Suits, dresses, and sportswear.
Famous Maid Brassiere Corp. (ILGWU)	Brooklyn, N.Y.	1/16/80	1/14/80	TA-W-6,842	Brassieres.
Fred Leathers (workers)	New York, N.Y.	12/26/79	12/15/79	TA-W-6,843	Leather coats and suede coats and jackets.
Frolic Footwear, a Division of Wolvering World-wide, Inc. (UFCW, Booth & Shoe Division).	Jonesboro, Ark.	1/15/80	1/31/79	TA-W-6,844	Ladies' shoes.

Appendix—Continued

Petitioner: (Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
(The) Goodyear Tire & Rubber Co. (URW)	Topeka, Kans.	1/18/80	1/14/80	TA-W-6,845	Earthmovers, passenger and truck tires.
International Silver Co. (workers)	Los Angeles, Calif.	1/17/80	1/9/80	TA-W-6,846	Warehouse and shipping and distribution.
(The) Valley Camp Coal Co., Alexander Mine (UMWA).	Moundsville, W. Va.	1/15/80	1/10/80	TA-W-6,847	Mining of coal.
Washburn Wire Co. (UMWU)	East Providence, R.I.	1/7/80	1/1/80	TA-W-6,848	Alloy steel rods and wire.

[FR Doc. 80-3119 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than

Interested persons are invited to submit matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 25th day of January 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

# Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Ford Motor Co., Ford Mahwah Assembly Plant (workers).	Mahwah, N.J.	1/23/80	1/16/80	TA-W-6,849	Light trucks, Granada-Monarch, Fairmont-Zephyr automobiles.
Ford Motor Co., Los Angeles Assembly Plant (UAW).	Pico Rivera, Calif.	1/23/80	1/11/80	TA-W-6,850	LTD automobiles.
Inland Steel Co., Indiana Harbor Works (USWA).	East Chicago, Ind.	1/14/80	1/7/80	TA-W-6,851	Basic steel, sheet.
Standard Products Co., Cee Bee Division (workers).	Brooklyn, N.Y.	1/21/80	1/16/80	TA-W-6,852	Plastic trim for automobiles.

[FR Doc. 80-3121 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance: Correction

In FR Doc. 80-983 appearing on page 2421-2422 in the Federal Register of January 11, 1980, the Appendix under petitioners Margaret's Doll Clothing Co., Inc., TA-W-6717, NuCar Driveway, Inc., TA-W-6718, Reid Stevens, Inc., TA-W-6719, the year received is corrected to read 1980.

Signed at Washington, D.C., this 24th day of January 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-3128 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6478 and 6479]

Island Creek Coal Co., V. P. Mine No. 3, Vansant, Va., and Beatrice Mine, Keen Mountain, Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 29, 1979 in response to worker petitions received on November 2 and 19, 1979 which were filed by the United Mine Workers of America on behalf of workers and former workers mining metallurgical coal at Island Creek Coal Company's V.P. Mine No. 3, Vansant, Virginia (TA-W-6578) and at the Island Creek Coal Company's Beatrice Mine, Keen Mountain, Virginia (TA-W-6479). In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the abolute decline in sales or production.

Evidence developed during the course of the investigation with respect to Island Creek Coal Company's V.P. Mine No. 3 (TA–W–6478), indicated that all production declines are attributable to a loss of export sales. Therefore, imports of coal or coke could not have contributed importantly to employment declines at the V.P. Mine No. 3.

Evidence developed during the course of the investigation with respect to Island Creek Coal Company's Beatrice Mine (TA–W–6479), indicated that production increased.

Production at the Beatrice Mine either increased or remained steady during each of the first three quarters of 1979 compared with the respective quarters of 1977. Due to distortions in 1978 data, caused by the United Mine Workers' strike and the strike against the Norfolk and Western Railroad, production data for 1978 was not used in comparison with 1979 production figures.

Conclusion

After careful review, I determine that all workers of the Island Creek Coal Company, V.P. Mine No. 3, Vansant, Virginia and Beatrice Mine, Keen Mountain, Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 23rd day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3123 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6481]

Judy Wayne, Inc., New York, N.Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 29, 1979 in response to a worker petition received on November 20, 1979 which was filed on behalf of workers and former producing women's knit dresses and separates at Judy Wayne, Incorporated, New York, New York. The investigation revealed that the firm produced women's dresses, skirts, jackets, blouses and pants. In the following determinations, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or producion.

U.S. imports of women's and misses' dresses decreased abosolutely in the first nine months of 1979 when compared with the same period in 1978.

U.S. imports of women's and misses' and children's skirts decreased absolutely in the first nine months of 1979 when compared with the same period in 1978.

U.S. imports of women's, misses' and children's coats and jackets decreased absolutely in the first nine months of 1979 when compared with the same period in 1978.

U.S. imports of women's, misses' and children's blouses and shirts decreased absolutely in the first nine months of 1979 when compared with the same period in 1978.

U.S. imports of women's, misses' and children's slacks and shorts decreased absolutely in the first nine months of 1979 when compared with 1978.

A sample of customers of Judy Wayne, Incorporated were surveyed by the Department of Labor. Most of the customers who reduced purchases of dresses, skirts, jackets, blouses and pants from the subject firm did not increase purchases of imports during the period under investigation.

Conclusion

After careful reveiw, I determine that all workers of Judy Wayne Incorporated, New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3124 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6493]

Kinnerit Contracting Inc., New York, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 30, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing women's clothing at Kinnerit Contracting, Incorporated, New York. The investigation revealed that the plant produces primarily ladies' blouses and skirts. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's blouses and shirts increased both absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of women's, misses' and children's skirts increased both absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of women's and misses' dresses increased both absolutely and relative to domestic production in 1978 compared to 1977.

Information collected during the investigation revealed that Kinnerit Contracting, Incorporated performed the majority of its contract work in 1977 and 1978 for one manufacturer. That manufacturer's sales of ladies' blouses and skirts declined in 1978 compared to 1977 and in the first 8 months of 1979 compared to the same period in 1978.

A survey conducted by the Office of Trade Adjustment Assistance of that manufacturer's customers revealed that several customers decreased purchases of ladies' blouses and skirts from that manufacturer and increased imports of ladies' blouses and skirts in 1978 compared to 1977 and in 1979 compared to 1978. These customers accounted for a substantial proportion of that manufacturer's sales decline in 1978 and 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' blouses and skirts produced at Kinnerit Contracting, Incorporated, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Kinnerit Contracting, Incorporated, New York, New York who became totally or partially separated from employment on or after November 21, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C, this 24th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3125 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6351]

Lebow Bros., Inc., Baltimore, Md.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 8, 1979 in response to a worker petition received on November 3, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's tailored clothing for Lebow Brothers, Incorporated. In the following determination, without regard to whether any of the other criteria have been met for workers producing men's suits and sportcoats, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Lebow Brothers' sales of suits and sportcoats increased, in value, from 1977 to 1978, and again in the first 10 months of 1979 compared to the same period in 1978. A Department of Labor survey revealed that customers of Lebow Brothers that decreased purchases of suits and sportcoats from Lebow and increased purchases of imported suits and sportcoats accounted for an insignificant portion of the firm's sales.

For workers producing men's slacks all of the criteria have been met.

U.S. imports of men's and boys' trousers and shorts increased absolutely and relative to domestic production from 1977 to 1978.

Lebow Brothers' sales of men's slacks declined from 1977 to 1978. Lebow Brothers discontinued the production of slacks in July 1979. A Department of Labor survey revealed that customers representing a significant portion of Lebow's slacks sales decreased purchases from Lebow and increased purchases of imported slacks in the first 10 months of 1979 compared to the same period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's tailored slacks produced at Lebow Brothers, Inc., in Baltimore, Maryland contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Lebow Brothers, Incorporated in Baltimore, Maryland engaged in employment related to the production of men's tailored slacks who became totally or partially separated from employment on or after June 1, 1979 and before August 31, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3126 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6536]

Manila Mining Co., Madison, W. Va.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 4, 1979 in response to a worker petition received on November 9, 1979 which was filed on behalf of workers and former workers mining metallurgical coal at Manila Mining Company, Madision, West Virginia. The petition alleges that imports of coke caused layoffs at the mine.

On July 19, 1979 workers of Manila Company were denied eligibility to apply for adjustment assistance (TA–W–5569). The petition alleged that Manila Company produced metallurgical coal and that imports of coke caused layoffs at the mine. The investigation revealed that Manila Mining Company produced only non-metallurgical steam coal. The investigation also revealed that imports of steam coal are negligible.

All production at Manila Mining Company ceased when the mine closed premanently on June 1, 1979. No production has occurred since the determination regarding TA–W–5569 was issued.

Since an investigation has already been conducted pursuant to the facts and statements presented in the current petition (TA–W–6536) and since the current petition presents no additional information pursuant to the previous determination (TA–W–5569) that would change the previous determination, another investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 24th day of January 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-3127 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6086]

Neal Coal, Inc., Formerly E&J Coal Co., Summersville, W. Va.; Revised Determination on Reconsideration

On January 10, 1980, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of Neal Coal, Inc., Summersville, West Virginia. This determination was published in the **Federal Register** on January 22, 1980, (45 FR 4483).

The petitioner claims that he was denied trade adjustment assistance while workers at another firm were certified eligible to apply for trade adjustment assistance despite the fact that both firms sold all their coal to the same coal company for cleaning, grading and shipping.

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The Department's review revealed that the coal mined by Neal Coal was sold to only one customer which sold most of its coal on the export market. The Department concluded, given the export orientation of the customer, that increased competitive imports cannot be considered to have contributed importantly to a loss of sales or production at Near Coal, Inc.

The Department found in its reconsideration that both the Alabama Fuel Company, Summersville, West Virginia, whose workers were certified eligible for trade adjustment assistance (TA–W–5550) and Neal Coal, Inc., Summersville, West Virginia, sold all their coal to the same company for cleaning, grading and shipping. This company sells a major share of its coal to the export market with the remainder being sold on the spot market where a large part goes to domestic steel makers who were found to have substituted imported coke for their decreased purchases of metallurgical coal.

Neal Coal, Inc., laid off its workers in January, 1979, and closed the mine a short time thereafter.

U.S. imports of metallurgical coal are negligible. However, the Department considers coke to be metallurgical coal at a later stage of processing. Hence, imports of coke as well as imports of metallurgical coal are considered in determining import injury to workers producing metallurgical coal.

U.S. imports of coke increased both absolutely and relative to domestic production in 1978 compared to 1977 and in 1977 compared to 1976.

Conclusion

After careful review of the facts obtained on reconsideration, it is concluded that increased imports of coke contributed importantly to the total or partial separation of workers and former workers at Neal Coal, Inc., Summersville, West Virginia. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers engaged in mining coal at Neal Coal, Inc., Summersville, West Virginia, who became totally or partially separated from employment on or after September 10, 1978, and before May 10, 1979, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3129 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6361]

Sparkle Mills, Inc., New York, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 15, 1979 in response to a worker petition received on November 2, 1979 which was filed on behalf of former workers producing men's knit shirts and sweaters at Sparkle Mills, Incorporated, New York, New York. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' sweaters, knit cardigans, and pullovers increased in quantity each year from 1975 to 1978.

U.S. imports of men's and boys' knit sport and dress shirts, excluding T-shirts, increased in quantity each year from 1974 to 1978.

A survey conducted by the Department revealed that some customers who reduced purchases from Sparkle Mills, Incorporated in 1978 and the first nine months of 1979 increased purchases of imported men's knit shirts and sweaters during the same period. Sparkle Mills, Incorporated closed on September 1, 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's knit shirts and sweaters produced at Sparkle Mills, Incorporated, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Sparkle Mills, Incorporated, New York, New York who became totally or partially separated from employment on or after August 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3130 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6316]

T & B Leather Fashions, Inc., New York, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 31, 1979 in response to a worker petition received on October 30, 1979 which was filed on behalf of workers and former workers producing leather coats and jackets at T & B Leather Fashions, Inc., New York, New York. It is concluded that all of the requirements have been met.

U.S. imports of leather coats and jackets increased absolutely and relative to domestic production in 1978 compared to 1977. Imports as a percentage of domestic production were 139.9 percent in 1978. Imports declined absolutely in the first three quarters of 1979 compared to the same period in 1978.

A U.S. Department of Labor survey revealed that customers were increasing purchases of imports while decreasing purchases from T & B Leather Fashions, Inc.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with leather coats and jackets produced at T & B Leather Fashions, Inc., New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of T & B Leather Fashions, Inc., New York, New York who became totally or partially separated from employment on or after April 20, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 23rd day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3131 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6272, TA-W-6272-A]

Torrington Co., Excelsior Plant, Torrington, Conn. and Piedmont-Oconee Needle Plant, Walhalla, S.C.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 25, 1979 in response to a worker petition received on September 25, 1979 which was filed by the United Automobile, Aerospace and Agricultural Implement Workers of America on behalf of workers and former workers producing sewing machine needles and knitting machine needles at the Torrington Company, Excelsior Plant, Torrington, Connecticut (TA–W–6272). The investigation was expanded to include workers and former workers producing knitting machine needles at the Torrington Company, Piedmont-Oconee Needle Plant, Walhalla, South Carolina (TA–W–6272–A). It is concluded that all of the requirements have been met.

U.S. imports of sewing machine needles increased relative to U.S. production in January–September 1979 compared to the same period in 1978. U.S. imports of knitting machine needles increased relative to U.S. production in January–September 1979 compared to the like period in 1978.

Imports of sewing machine needles by the Torrington Company increased relative to company production in January–September 1979 compared to the same period in 1978. Imports of knitting machine needles by the Torrington Company increased relative to company production in January–September 1979 compared to the like period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with sewing machine needles and knitting machine needles produced at the Excelsior Plant and at the Piedmont-Oconee Needle Plant of the Torrington Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Torrington Company, Excelsior Plant, Torrington, Connecticut (TA–W–6272) and all workers of the Torrington Company, Piedmont-Oconee Needle Plant, Walhalla, South Carolina (TA–W–6272–A) who became totally or partially separated from employment on or after September 22, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3132 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6321]

U.S. Steel Corp., Fairless Works; Fairless Hills, Pa.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 31, 1979 in response to a worker petition received on October 25, 1979 which was filed by the United Steelworkers of America Local 5030 on behalf of workers and former workers producing carbon steel pipe at the Fairless Works of the U.S. Steel Corporation in Fairless Hills, Pennsylvania. The investigation revealed that the petition was intended to cover workers producing welded carbon steel pipe and tubing. It is concluded that all of the requirements have been met.

All employees of the Fairless Works of the U.S. Steel Corporation in Fairless Hills, Pennsylvania engaged in employment related to the production of pipe and tubing who became totally or partially separated from employment on or after November 15, 1975 and on or before April 4, 1978 were previously certified eligible to apply for adjustment assistance on August 12, 1977 (TA–W–1437).

Imports of welded carbon steel pipe and tubing increased absolutely in 1978 compared to 1977 and continued to increase in the first three quarters of 1979 compared to the like 1978 period.

The Department of Labor conducted a survey of some of the customers of pipe and tubing of the Fairless Works. Several of the respondents reported reduced purchases of pipe and tubing from the Fairless Works and increased purchases from foreign sources in the first ten months of 1979 compared to the like 1978 period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with welded carbon steel pipe and tubing produced at the Fairless Works of the U.S. Steel Corporation in Fairless Hills, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Fairless Works of the U.S. Steel Corporation in Fairless Hills, Pennsylvania engaged in employment related to the production of carbon steel pipe and tubing who became totally or partially separated from employment on or after April 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3133 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6550]

U.S. Steel Corp., American Bridge Division, Shiffler Plant, Pittsburgh, Pa.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 20, 1979 in response to a worker petition received on December 17, 1979 which was filed on behalf of workers and former workers producing structural steel sizes and shapes at the U.S. Steel

Corporation, American Bridge Division, Shiffler Plant, Pittsburgh, Pennsylvania.

In a letter, the petitioner requested withdrawal of the petition. On the basis of this request, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 24th day of January 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 3136 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6419]

Wheeling-Pittsburgh Steel Corp., Allenport, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 21, 1979 in response to a worker petition received on November 16, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing seamless steel tubing at the Allenport, Pennsylvania plant oft he Wheeling-Pittsburgh Steel Corporation. The investigation revealed that the plant also produces hot and cold rolled sheet. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of seamless steel tubing declined absolutely and relative to domestic shipments in the first three quarters of 1979 compared to the same period in 1978.

A Department of Labor survey revealed that the customers which decreased purchases from the Allenport plant and incresed purchases of imported seamless steel tubing represented an insignificant proportion of the firm's decline in sales.

Conclusion

After careful review, I determine that all workers of the Allenport, Pennsylvania plant of the Wheeling-Pittsburgh Steel Corporation engaged in employment related to the production of seamless steel tubing are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3135 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6439]

Allied Chemical Corp. Harewood Mine and Preparation Plant, Montgomery, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 27, 1979 in response to a worker petition received on November 14, 1979 which was filed on behalf of workers and former workers producing metallurgical coal at the Harewood Mine and Preparation Plant of Allied Chemical Corporation's Semet-Solvay Division, Montgomery, W. Va.

Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Coke is metallurgical coal at a later stage of processing. Since a domestic article may be "directly competitive" with an imported article at a later stage or processing, imports of both coke and metallurgical coal can be considered in determining import injury to workers producing metallurgical coal at Allied Chemical's Harewood Mine and Preparation Plant.

U.S imports of metallurgical coal decreased absolutely and relative to domestic production in 1978 compared to 1977 and in January–September 1979 compared to January–September 1978. U.S. imports of coke decreased absolutely and relative to domestic production in January–September 1979 compared to the same period of 1978.

Evidence developed during the course of the investigation revealed that none of the customers of Allied Chemical's Harewood mine purchased imported metallurgical coal and only one customer purchased imported coke. That customer represented an insignificant proportion of the mine's sales in 1977 and 1978 and has not purchased coal from Harewood since April 1978, one year before layoffs at the mine and preparation plant took place.

A secondary survey of Allied Chemical's coke plant customers was conducted. None of Allied's customers increased their reliance on imported coke in 1979 compared to 1978.

Conclusion

After careful review, I determine that all workers of the Harewood Mine and Preparation Plant of Allied Chemical Corporation's Semet-Solvay Division, Montgomery, W. Va. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, DC., this 25th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3440 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6511]

Angie's Dress Shop, Inc., East Newark, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 3, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' dresses at Angie Dress Shop, East Newark, N.J.

The investigation revealed that the name of the firm is Angie's Dress Shop, Incorporated and that it also produces choir robes and ministerial robes. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that the manufacturers for which Angie's Dress Shop, Incorporated produced women's dresses did not purchase imported dresses and did not use foreign contractors.

Declines in production of women's dresses at Angie Dress Company, Incorporated account for the total production declines at the firm in 1978 compared with 1977 and in the first 3 quarters of 1979 compared with the same period in 1978. The manufacturers for which Angie's Dress Shop produced dresses were surveyed regarding their purchases and production of dresses. None of the manufacturers used foreign contractors or purchased imported dresses. Sales of dresses by each of the manufacturers were increasing during the second half of 1978. Angie's Dress Shop reduced its production of dresses and began production of choir robes, ministerial robes and other religious garements in the third quarter of 1978.

Conclusion

After careful review, I determine that all workers of Angie's Dress Shop, Incorporated, East Newark, N.J., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, DC, this 28th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 3441 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6410]

Bethlehem Steel Corp., Vernon, Calif.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 21, 1979 in response to a worker petition received on November 16, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing industrial fasteners, reinforcing bars, wire and wire products, carbon steel bars, alloy bars and structural shapes at the Vernon, Calif. plant of Bethlehem Steel Corporation. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that except in the case of workers producing wire and wire products, employment declines at the Vernon plant were temporary and attributable to normal business fluctuations.

Employment at the Vernon plant increased in 1978 compared to 1977 and in the first 11 months of 1979 compared to the first 11 months of 1978. Employment increased in every quarter of 1978 and in each of the first three quarters of 1979 when compared to the like quarter of the previous year.

The wire mill at the Vernon plant was closed in December 1978. Workers producing wire and wire products at the Vernon plant were certified eligible to apply for adjustment assistance on August 19, 1977; that certification expired on August 19, 1979 (see TA-W-1498). All workers separated from the Vernon plant as a result of the closure of the wire mill would thus have been covered under that certification.

Production of reinforcing bars, alloy bars and industrial fasteners increased or remained stable in January—November 1979 compared to the same period in 1978. These products accounted for nearly 100 percent of the Vernon plant's 1979 output.

Conclusion

After careful review, I determine that all workers of the Vernon, Calif. plant of Bethlehem Steel Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, DC., this 20th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3440 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6455]

Bodin Apparel, Inc., Miami, Fla.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 27, 1979 in response to a worker petition received on November 21, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's blouses, pants, blazers, tenniswear and knitted cloth at Bodin Apparel, Incorporated, Miami, FL. The investigation revealed that the plant produces women's coordinated sportswear which includes pants, skirts, blouses, dresses, blazers and sweaters. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's skirts; women's, misses' and children's blouses and shirts; women's, misses' and children's coats and jackets; and women's misses' and children's dresses increased both absolutely and relative to domestic production from 1977 to 1978.

U.S. imports of women's, misses' and children's sweaters increased relative to domestic production from 1977 to 1978.

U.S. imports of women's misses' and children's slacks and shorts decreased both absolutely and relative to domestic production from 1977 to 1978 and in the January–September period of 1979 compared to the same period in 1978.

The Department conducted both a random sample survey of the customers of Bodin Apparel and a survey of major customers of Bodin Apparel. The random sample survey revealed that customers' imports of women's sportswear increased absolutely and

satisfied a larger percentage of total customer demand in the first eleven months of 1979 compared to the like period in 1978. The survey conducted with major customers revealed that, in aggregate, major customers' purchases of imported women's sportswear increased absolutely and satisfied a larger percentage of total customer demand in 1978 compared to 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's coordinated sportswear, which includes pants, skirts, blouses, dresses, blazers and sweaters, produced at Bodin Apparel, Incorported, Miami, Fla. contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Bodin Apparel, Incorporated, Miami, Florida who became totally or partially separated from employment on or after November 15, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, DC., this 25th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3447 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6542]

Cannon Corp., Milroy, Ind.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 6, 1979 in response to a worker petition received on December 3, 1979 which was filed on behalf of workers and former workers producing interior decorative trim parts for automobiles at Cannon Corporation, Milroy, Indiana. The plant also produces typewriter and copy machine parts, instruction plates for refrigerators, trailor markings and decals, and safety plates for microwave ovens. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Total company sales of typewriter and copy machine parts, instruction plates for refrigerators, trailor markings and decals, and safety plates for microwave ovens increased in 1978 as compared to 1977 and in the first eleven months of 1979 as compared to the first eleven months of 1978.

Total company sales of interior decorative trim for automobiles increased in 1978 as compared to 1977. Sales declined in the first eleven months of 1979 as compared to the first eleven months of 1978.

The Department of Labor conducted a survey with customers which purchased automotive trim parts from Cannon Corporation. Results indicated that none of the respondents purchased imported interior decorative trim parts for automobiles in 1977, 1978 or during the first eleven months of 1979.

Industry sources indicate that U.S. imports of interior decorative trim parts for automobiles are negligible.

Conclusion

After careful review, I determine that all workers of Cannon Corporation, Milroy, Indiana are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3446 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6293]

Champion International Corp., Champion Building Products Div., McCloud Sawmill, McCloud, Calif.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 30, 1979 in response to a worker petition received on October 23, 1979 which was filed by the International Woodworkers' Union on behalf of workers and former workers producing dimension lumber at Champion Building Products, McCloud, California. The investigation revealed that Champion International Corporation, Champion Building Products Division, McCloud Sawmill, McCloud, California produces softwood lumber. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of softwood lumber decreased absolutely during the first three quarters of 1979 compared with the same period in 1978.

The exhaustion of primary growth timber supplies available for use by the McCloud sawmill is the reason for the recent downturn in operations at, and eventual closure of, that facility.

Customers who were surveyed reported that, to the extent that they imported lumber, such lumber was not to be regarded as competitive with the softwood lumber purchased from the McCloud sawmill.

Conclusion

After careful review, I determine that all workers of Champion International Corporation, Champion Building Products Division, McCloud Sawmill, McCloud, California are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3448 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6505]

Courtney Garments, Inc., Hayti, Mo.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assitance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 11, 1979 in response to a worker petition received on November 20, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' wool coats and blazers at Courtney Garment Company, Incorporated, Hayti, Missouri. In January, 1978, this firm's name was changed to Courtney Garments, Incorporated. The investigation revealed that the plant produced women's coats and jackets. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that Courtney Garments' parent corporation, Rice Coat and Suit Company, is transferring production from Courtney Garments to Courtney Apparel, Incorporated, a newly established corporation owned by Rice.

In November 1979, Courtney Garments, Incorporated was permanently closed, due to its lack of proximity to Rice Coat and Suit Company. Courtney Apparel will perform the coat production previously done by Courtney Garments and will utilize the production equipment from the Courtney Garments' plant.

To compensate for the closing of Courtney Garments, there was increased production of coats by Rice in the fourth quarter of 1979 compared to the fourth quarter of 1978, a period that normally reflects a seasonally low level of production. Courtney Apparel is scheduled to open in April, 1980 to coincide with the peak season of production.

Total company sales by Rice Coat and Suit Company was constant in 1978 compared to 1977 and increased in 1979 compared to 1978.

Conclusion

After careful review, I determine that all workers of Courtney Garments, Incorporated, Hayti, Missouri are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3449 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6556 & 6556A]

Daber Inc., Chesapeake, Va., Norcar Inc., Woodland, N.C.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 26, 1979 in response to a worker petition received on December 6, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's sport shirts at Daber Incorporated, Chesapeake, Virginia. The investigation was expanded to include Daber's wholly owned subsidiary—Norcar Incorporated, Woodland, North Carolina. It is concluced that all of the requirements have been met.

U.S. imports of men's and boys' woven sport shirts increased both absolutely and relative to domestic production in 1978 compared to 1977 and increased absolutely in January–September 1979 compared to the same period of 1978. U.S. imports of men's and boys' knit sport and dress shirts, excluding T-shirts, increased both absolutely and relative to domestic production in 1978 compared to 1977.

Company imports of men's sport shirts increased in 1978 compared to 1977 and in 1979 compared to 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's sport shirts produced at Daber Incorporated, Chesapeake, Virginia and Norcar Incorporated, Woodland, North Carolina contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Daber Incorporated, Chesapeake, Virginia and Norcar Incorporated, Woodland, North Carolina who became totally or partially separated from employment on or after April 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3451 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6517]

Dickerson Sportswear, Inc., Newark, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 3, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' dresses and sportswear at Dickerson Sportswear, Incorporated, Newark, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Production of women's dresses, suits and other sportswear at Dickerson Sportswear, Incorporated increased in 1978 compared with 1977, in the first 11 months of 1979 compared with the same period in 1978, and in the second and third quarters of 1979 compared with the same quarters in 1978. Production was lower in the first quarter of 1979 than in the first quarter of 1978.

The only manufacturer for which Dickerson Sportswear performed less contract work in that quarter did not used foreign contractors or purchase imported women's sportswear. That manufacturer increased its total domestic contract work in the first 11 months of 1979 compared with the same 1978 period, and experienced increased sales.

Conclusion

After careful review, I determine that all workers of Dickerson Sportswear, Incorporated, Newark, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3462 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6518]

Diolinda Sportswear, Inc., Newark, N.J., Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to aply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 3, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies' Garments Workers' Union on behalf of workers and former workers producing ladies' blouses at Diolinda Sportswear, Incorporated, Newark, New Jersey. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's blouses and shirts increased in 1978 compared with 1977, both absolutely and relative to domestic production.

Manufacturers for which Diolinda Sportswear performs contract work were surveyed regarding their purchases of women's shirts and blouses. One of the manufacturers reduced its work with Diolinda Sportswear in the first 3 quarters of 1979 compared with the same period in 1978, and began purchasing imported blouses in 1979. Another manufacturer which also reduced its work with Diolinda Sportswear in the first 3 quarters of 1979 compared with the same 1978 period reduced its total domestic contract work for women's blouses and experienced a decrease in its sales. Customers of this manufacturer increased their purchases of imported women's blouses in the first 3 quarters of 1979 compared with the same 1978 period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's blouses produced at Diolinda Sportswear, Incorporated, Newark, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Diolinda Sportswear, Incorporated, Newark, New Jersey who became totally or partially separated from employment on or after November 20, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of January 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-3463 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6567]

D'Leo Fashions, Inc., Hoboken, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 28, 1979 in response to a worker petition received on December 14, 1979 which was filed on behalf of workers and former workers producing women's coats at D'Leo Fashions, Incorporated, Hoboken, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's, misses' and children's coats and jackets decreased absolutely in the January–September period of 1979 compared with the same period of 1978.

D'Leo Fashions, Incorporated is a garment contractor that began producing women's outer coats in May 1978. Production is seasonal for D'Leo Fashions, lasting from May to November of a given year. Sales by D'Leo Fashions increased in the 1979 season compared with the 1978 season. Seasonal layoffs recurred October 26, 1979.

Conclusion

After careful review, I determine that all workers of D'Leo Fashions, Incorporated, Hoboken, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 3464 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6529]

Donora Sportswear Co., Inc., Donora, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 4, 1979 in response to a worker petition received on November 28, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's outerwear at Donora Sportswear Company, Incorporated, Donora, Pennsylvania. The investigation revealed that the plant also produces women's raincoats. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Donora Sportswear produces men's outercoats and women's raincoats. Production of all garments at Donora Sportswear increased in 1979 compared with 1978. Production increased in December 1978 compared with December 1977 and compared with November 1978. Production increased in each quarter of 1979 compared with the same quarter of 1978. Sales and production are equivalent as Donora Sportswear produces only to order.

Conclusion

After careful review, I determine that all workers of Donora Sportswear Company, Incorporated, Donora, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3465 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6443]

Empire Button Manufacturing Co., Inc., Union City, N.J.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment asistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 27, 1979 in response to a worker petition received on November 12, 1979 which was filed by the International ladies' Garment Workers' Union on behalf of workers and former workers producing buttons at Empire Button Manufacturing Company, Inc., Union City, New Jersey. The investigation revealed that the company maintained a retail outlet, Polly Button, in New York, New York. It is concluded that all of the requirements have been met.

U.S. imports of buttons increased absolutely in 1978 compared to 1977 and increased in the first three quarters of 1979 compared to the first three quarters of 1978.

A survey of customers who purchased buttons produced by Empire Button Manufacturing Company, Inc. revealed that some customers decreased purchases from Empire Button and increased purchases of imported buttons in 1978 compared to 1977 and in the first eleven months of 1979 compared to the same period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with butttons produced at Empire Button Manufacturing Company, Inc., Union City, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Empire Button Manufacturing Company, Inc., Union City, New Jersey engaged in employment related to the production of buttons who became totally or partially separated from employment on or after November 8, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic research.

[FR Doc. 80-3466 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6563]

Evenspun Yarn Inc., Philadelphia, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 10, 1979 in response to a worker petition received on December 3, 1979 which was filed on behalf of workers and former workers producing raw spun yarn at Evenspun Yarn Incorporated, Philadelphia, Pennsylvania. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of non-cellulosic yarn, and not imports of sweaters, must be considered in determining import injury to workers producing non-cellulosic yarn at Evenspun Yarn Incorporated, Philadelphia, Pennsylvania.

U.S. imports of non-cellulosic yarn decreased absolutely in the January–September period of 1979 compared with the same period of 1978.

A Departmental survey of customers of Evenspun Yarn Incorporated revealed that customers either did not import yarn or decreased purchases of imported yarn during the January–November period of 1979 compared with the same period of 1978.

Conclusion

After careful review, I determine that all workers of Evenspun Yarn Incorporated, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3467 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6504]

Felicia Frocks, Inc., Newark, N.J.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 30, 1979 in response to a worker petition received on November 28, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing raw spun yarn at Felicia Frocks, Newark New Jersey. The investigation revealed that the name of the firm is Felicia Frocks, Incorporated, and that it produces women's dresses, skirts, blouses and jackets. It is concluded that all of the requirements have been met.

U.S. imports of women's and misses' dresses increased in 1978 compared with 1977, both absolutely and relative to domestic production.

U.S. imports of women's, misses', and children's skirts, blouses and shirts, coats and jackets increased in 1978 compared with 1977, both absolutely and relative to domestic production.

Felicia Frocks, Incorporated produced a variety of women's wear for a number of manufacturers in 1977, 1978 and 1979. Several manufacturers, accounting for most of the production at Felicia Frocks, were surveyed regarding their contract work for women's wear with foreign and domestic sources. Respondents indicated that they reduced contract work for Felicia Frocks and reduced total domestic contract work in the first 11 months of 1979 compared with the same period in 1978, and increased contract work with foreign sources in the same period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's dresses, skirts and blouses produced at Felicia Frocks, Incorporated, Newark, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Felicia Frocks, Incorporated, Newark, New Jersey who became totally or partially separated from employment on or after November 20, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3456 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6505]

Gasby Fashions, Inc., Newark, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 30, 1979, in response to a worker petition received on November 26, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' blouses, skirts and pants at Gasby Fashions, Incorporated, Newark, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that the manufacturers providing most of the work to Gasby Fashions, Incorporated have not used foreign contractors and have not purchased imported women's sportswear. The manufacturers experienced an increase in their total sales of blouses, skirts, pants and other sportswear in the first 11 months of 1979 compared to the same period of 1978, and increased their total work with domestic contractors.

Conclusion

After careful review, I determine that all workers of Gasby Fashions, Incorporated, Newark, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3459 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6414]

Irving Greenberg, Inc., New York, N.Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 21, 1979 in response to a worker petition received on November 14, 1979 which was filed on behalf of workers and former workers producing men's trousers at Irving Greenberg, Incorporated, New York, New York. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of men's, and boys' dress and sport trousers and shorts declined in quantity in January-September period of 1979 compared to January-September 1978.

A survey conducted by the Department revealed that most customers surveyed who reduced purchases from Irving Greenberg, Incorporated in 1978 and 1979 did not purchase imported men's trousers during the same period. Customers surveyed who increased import purchases in 1978 and 1979, while decreasing purchases from Irving Greenberg, Incorporated during the same period, accounted for an insignificant percent of the total sales decline experienced by Irving Greenberg during this period.

Conclusion

After careful review, I determine that all workers of Irving Greenberg, Incorporated, New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3460 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6457]

Giamo, Inc., Miami, Fla.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 27, 1979 in response to a worker petition received on November 21, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's blouses, pants, blazers, tenniswear and knitted cloth at Giamo, Incorporated, Miami, Florida. The investigation revealed that the plant produces ladies' shorts, tops, jackets, warm-up suits and tennis dresses. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's, misses' and children's blouses and shirts; women's, misses' and children's slacks and shorts; women's, misses' and children's coats and jackets; and women's, misses' and children's dresses decreased in the January-September period of 1979 compared to the same period in 1978.

The Department conducted a random sample survey of Giamo's customers. The survey revealed that customers which decreased purchases from Giamo did not purchase imported ladies' tennis or active sportswear which includes shorts, tops, jackets, warm-up suits and tennis dresses, in the January-November period of 1979 compared to the same period in 1978.

Conclusion

After careful review, I determine that all workers of Giamo, Incorporated, Miami, Florida are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3461 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6490]

Gingert Laces, Inc., Haledon, N.J.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements to Section 222 of the Act must be met.

The investigation was initiated on November 30, 1979 in response to a worker petition received on November 23, 1979 which was filed on behalf of workers and former workers producing knitted lace scarves at Gingert Laces, Incorporated, Haledon, New Jersey. It is concluded that all of the requirements have been met.

U.S. imports of handkerchiefs and scarves remained constant in 1978 compared to 1977 and were greater in 1978 than the average of the previous four years.

The Department conduced a survey of Gingert Laces, Incorporated's customers for their purchases of knitted lace scarves. One manufacturer, that had decreasing sales did not import. Retail customers of this manufacturer were surveyed. Some of these firms indicated they had increased purchases of imported knitted lace scarves relative to their purchases of domestic knitted lace scarves.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with knitted lace scarves produced at Gingert Laces, Incorporated, Haledon, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Gingert Laces, Incorporated, Haledon, New Jersey who became totally or partially separated from employment on or after January 13, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3462 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6465, 6466]

Hyde Athletic Industries, Inc., Kutztown, Pa., Macungie, Pa.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 28, 1979 in response to a worker petition received on November 23, 1979 which was filed on behalf of workers and former workers producing athletic shoes at the Kutztown, Pennsylvania (TA-W-6465) and Macungie, Pennsylvania (TA-W-6466) plants of Hyde Athletic Industries. It is concluded that all of the requirements have been met.

U.S. imports of athletic footwear increased as a percentage of domestic production in the January-September period of 1979, compared with the same period of the previous year.

The Department of Labor conducted a survey of customers which purchased bowling shoes, cleated athletic shoes and running shoes from Hyde Athletic Industries. Several of the customers

which purchased bowling shoes, many of the customers which purchased cleated athletic shoes, and some of the customers which purchased running shoes decreased such purchases and increased purchases of imported athletic shoes in the January–November period of 1979, compared with the same period of the previous year.

Company imports of running shoes and running shoe uppers increased in the August–December period of 1979, compared with the same period of the previous year.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with bowling shoes and cleated athletic shoes produced at the Kutztown, Pennsylvania plant of Hyde Athletic Industries and with running shoes produced at the Macungie, Pennsylvania plant of Hyde Athletic Industries contributed importantly to the decline in sales or production and to the total or partial separation of workers at those plants. In accordance with the provisions of the Act, I make the following certification:

All workers at the Kutztown, Pennsylvania plant of Hyde Athletic Industries who became totally or partially separated from employment on or after February 1, 1979, and all workers at the Macungie, Pennsylvania plant of Hyde Athletic Industries who became totally or partially separated from employment on or after January 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3463 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6467]

Indian Coal Land Co., Beckley, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 28, 1979 in response to a worker petition received on November 23, 1979 which was filed on behalf of workers and former workers producing metallurgical coal at Indian Coal Land Company, Beckley, West Virginia. The investigation revealed that Indian Coal Land Company is headquartered in Beckley, West Virginia and all of its mines are located in Fayette County, West Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of the customers of Indian Coal Land Company. Respondents to the survey indicated that in 1977, 1978, and 1979 they did not purchase imported metallurgical coal or coke. Most respondents indicated that they increased purchases of metallurgical coal from domestic sources in 1979 compared with 1978. The one customer which decreased purchases of metallurgical coal from domestic sources reported that all coal was sold for export.

Conclusion

After careful review, I determine that all workers of Indian Coal Land Company, Beckley, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3464 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 11, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 11, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 28th day of January 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Banj-O/Mfg. (ACTWU)	Scranton, Pa	1/23/80	1/14/80	TA-W-6,853	Men's and boy's suits, sportcoats, vests and outerwear.
Cappellari, Inc. (company)	Summersville, W. Va	1/23/80	11/26/79	TA-W-6,854	Metallurgical coal.
Car-Fi International, Inc. (company)	Burbank, Calif	1/23/80	1/15/80	TA-W-6,855	Amplifiers and graphic equalizers as components for automobile stereos.
Chrysler Corp., Export/Import Division (workers).	Brownstown, Mich	1/18/80	1/13/80	TA-W-6,856	Automobile parts—exporting.
Deanegate, Inc. (ACTWU)	New Orleans, La	1/23/80	1/17/80	TA-W-6,857	Men's suits, pants, and coats, and ladies' jackets, skirts, and pants.
Dick Green Chrysler-Plymouth, Inc.—East (workers).	Detroit, Mich	1/23/80	1/14/80	TA-W-6,858	Sales and service of Chrysler Corp. cars, replacement part sales.
Everlock Detroit, Inc. (workers)	Sterling Heights, Mich	1/18/80	1/14/80	TA-W-6,859	Threaded industrial fasteners.
Federal Screw Works (UAW)	Detroit, Mich	1/23/80	1/17/80	TA-W-6,860	Bolts, steel for nuts, nuts.
Firestone Tire & Rubber Co. Area Plant [URW].	Memphis, Tenn	1/23/80	1/15/80	TA-W-6,861	Passenger tires.
General Industries, Electronics Co. (workers)	Forrest City, Ark	1/23/80	1/9/80	TA-W-6,862	Fractional horsepower electric motors.
K & R Handbags, Inc. (International Leather Goods Union).	Poughkeepsie, N.Y	1/23/80	1/18/80	TA-W-6,863	Ladies' handbags.
Ken Snyder, Inc. (company)	Detroit, Mich	1/23/80	1/14/80	TA-W-6,864	Sales of used cars.
Ogden Food Service (workers)	Warren, Mich	1/23/80	1/21/80	TA-W-6,865	Industrial food service at Chrysler Warren Truck plant.
St. Joe Lead (teamsters)	Herculaneum, Mo	1/23/80	1/18/80	TA-W-6,866	Lead and lead alloys.
Textile Prints Corp. (workers)	Branford, Conn	1/23/80	1/16/80	TA-W-6,867	Commission textile printer.
Uniroyal, Inc. (company attorney)	Detroit, Mich	1/25/80	1/23/80	TA-W-6,868	Bias and radial tires.

[FR Doc. 80-3445 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W -6444 and -6448]

Itmann Coal Co., Mine No. 1, Mine No. 2, Mine No. 3, Mine No. 4, Preparation Plant, Wyoming County, W. Va.; Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 27, 1979 in response to a worker petition received on October 29, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers mining metallurgical coal at the Mine No. 1 (TA–W–6444), Mine No. 2 (TA–W–6445), Mine No. 3 (TA–W–6446), Mine No. 4 (TA–W–6447) and Preparation Plant (TA–W–6448) of the Itmann Coal Company, Wyoming County, West Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Department survey revealed that neither of Itmann's domestic customers purchased any imported metallurgical coal in 1978 or 1979. One of these customers increased and the other decreased their purchases of imported coke in 1979 compared to 1978. The one that increased purchases of imported coke, however, had a large increase in its purchases of domestic coke that decreased its relative reliance on imported coke in 1979 compared to 1978.

Conclusion

After careful review, I determine that all workers of the Mine No. 1, Mine No. 2, Mine No. 3 and Mine No. 4 and Preparation Plant of the Itmann Coal Company, Wyoming County, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3465 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6492]

Jones & Laughlin Steel Corp., Louisville, Ohio Plant, Louisville, Ohio; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 30, 1979 in response to a worker petition received on November 27, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing stainless steel in sheets and coils at the Louisville, Ohio plant of the Jones & Laughlin Steel Corporation. The investigation revealed that the plant primarily produces stainless steel hot and cold rolled sheet and strip. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Employment of production workers at the Louisville, Ohio plant remained stable in 1978 compared to 1977. Plant sales of stainless steel products increased in 1978 compared to 1977, and in January–November 1979 compared to the same period in 1978.

Imports of stainless steel hot and cold rolled sheet and strip declined both absolutely and relative to domestic production in the first three quarters of 1979 compared to the same period in 1978.

Conclusion

After careful review, I determine that all workers of the Louisville, Ohio plant of the Jones & Laughlin Steel Corporation are denied eligibility to

apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3468 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6489]

Judson Steel Corp., Northern Division, Vancouver, Wash.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 28, 1979 in response to a worker petition received on November 23, 1979 which was filed on behalf of workers and former workers engaged in fabricating and installing reinforcing steel at the Judson Steel Corporation, Northern Division, Vancouver, Washington. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that the Northern Division of the Judson Steel Corporation fabricates and installs reinforcing steel as a subcontractor in construction projects. Imports of fabricated reinforcing steel are negligible. There is no evidence that the Northern Division lost any bids to foreign fabricators.

Conclusion

After careful review, I determine that all workers of Judson Steel Corporation, Northern Division, Vancouver, Washington are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3467 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6522]

Kanner Dress Co., Inc., Elizabeth, N.J.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of elibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 3, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sportswear at Kanner Dress Company, Incorporated, Elizabeth, New Jersey. It is concluded that all of the requirements have been met.

Imports of women's, misses' and children's dresses, skirts, coats, suits, jackets, and blouses each increased absolutely and relative to domestic production in 1978 compared to 1977.

Kanner Dress Company, Incorporated produces a variety of women's apparel, including dresses, skirts, blazers, suits and blouses.

Kanner Dress Company, Incorporated imports a variety of women's apparel competitive with the items produced at the Elizabeth, New Jersey plant. Imports increased in 1978 compared to 1977 and in the first eleven months of 1979 compared to the same period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' dresses, skirts, blazers, suits and blouses produced at Kanner Dress Company, Incorporated, Elizabeth, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Kanner Dress Company, Incorporated, Elizabeth, New Jersey who became totally or partially separated from employment on or after November 20, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3469 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6533 and TA-W-6535]

K-W Equipment Rental Co., Inc., Buffalo, N.Y., and Kulp-Waco Corp., Buffalo, N.Y.; Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 4, 1979 in response to worker petitions received on November 20, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers of K-W Equipment Rental (TA-W-6533) and Kulp-Waco (TA-W-6535) engaged in the rental of tractors, trailers, straight and fork trucks to Bethlehem Steel Corporation. The investigation revealed that the correct names of the firms are K-W Equipment Rental Company, Inc. and Kulp-Waco Corporation. Both firms are owned by Integrated Transportation, Inc., a holding company.

K-W Equipment Rental Company, Inc., a leasing company, is engaged in providing the service of renting fork trucks and equipment to independent users. Kulp-Waco Corporation is engaged in providing the service of transporting equipment and in the rental of tractors and trailers to several steel companies.

Thus, workers of K-W Equipment Rental Co., Inc., and Kulp-Waco Corporation do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to K-W Equipment Rental Co., Inc., and Kulp-Waco Corporation by ownership, or a firm related by control. In any case, the reduction in demand for serives must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

K-W Equipment Rental Co., Inc., and Kulp-Waco Corporation and their customers have no controlling interest in one another. The subject firms are not corporately affiliated with any company other than Integrated Transportation, Inc.

All workers engaged in the rental of fork trucks and equipment at K-W Equipment Rental Company, Inc. are employed by that firm. All workers engaged in the transporting of equipment and in the rental of tractors and trailers at Kulp-Waco Corporation are employed by that firm. All personnel actions and payroll transactions are controlled by K-W Equipment Rental Company, Inc. and by Kulp-Waco Corporation. All employee benefits are provided and maintained by K-W Equipment Rental Co., Inc., and by Kulp-Waco Corporation. Workers are not, at any time, under employment of supervision by customers of K-W Equipment Rental Company, Inc. or Kulp-Waco Corporation. Thus, K-W Equipment Rental Co., Inc., and Kulp-Waco Corporation, and not any of their customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of K-W Equipment Rental Co., Inc., Buffalo, New York and Kulp-Waco Corporation, Buffalo, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3468 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6450]

McDonnell Douglas Corp., McDonnell Aircraft Co. Division, St. Louis, Mo.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 27, 1979 in response to a worker petition received on November 14, 1979 which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing F-15 aircraft doors at the McDonnell Douglas Aircraft Company, St. Louis, Missouri. The investigation revealed that the correct name of the subject firm is the McDonnell Aircraft Company, which is a division of the McDonnell Douglas Corporation. The investigation further revealed that McDonnell Douglas produces the F-15 aircraft. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The investigation revealed that company imports do not account for a significant proportion of the loss of work in the affected departments of McDonnell Aircraft.

The McDonnell Aircraft Company produces the F-15 aircraft. Under an offset agreement, some of the avionics and landing gear doors for the F-15 are produced by foreign subcontractors. The production of avionics and landing gear doors for the F-15 at McDonnell Aircraft in St. Louis does not constitute a significant proportion of the work performed in the affected departments; nor does the foreign production of these components account for a significant proportion of the loss of work in these departments.

Loss of work at McDonnell Aircraft Company in 1979 is predominately attributable to a decreased rate of delivery of the F-15 aircraft to the U.S. Air Force in 1979 compared with 1978, and to the cessation of production in 1979 of the F-4 aircraft which was being produced for foreign customers. The U.S. Air Force was forced by budgetary constraints to reduce the delivery rate of the F-15 aircraft, but this rate reduction will not reduce the total orders for the F-15. The U.S. Air Force has not purchased any substitute aircraft and does not purchase imported fighter aircraft.

Conclusion

After careful review, I determine that all workers of the McDonnell Aircraft Company Division of McDonnell Douglas Corporation, St. Louis, Missouri are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3470 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6314]

M & M Valley Sportswear, Hoisopple, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 31, 1979 in response to a worker petition received on October 30, 1979 which was filed on behalf of workers and former workers producing women's and children's outerwear and sportswear at M and M Valley Sportswear, Hoisopple, Pennsylvania. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's, misses' and children's slacks and shorts, which include children's snow pants, decreased in January–September 1979 compared to the same period of 1978. U.S. imports of women's misses' and children's coats and jackets decreased in January–September 1979 compared to the same period of 1978. U.S. imports of women's, misses', and children's dresses decreased during January–September 1979 compared to the same period of 1978.

A survey of the manufacturer for which M and M Valley Sportswear performed most of its contract work indicated that this manufacturer did not purchase imports or use foreign contractors during 1978 or during January–September 1979.

A secondary survey of the customers of M and M Valley's primary manufacturer was conducted. Most of the surveyed customers did not increase purchases of imports. Customers that did increase imports increased purchases from other domestic sources in significantly greater quantities.

Conclusion

After careful review, I determine that all workers of M and M Valley Sportswear, Holsopple, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3471 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6495]

Pretty Bags, Inc., New York, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 30, 1979 in response to a worker petition received on November 26, 1979 which was filed on behalf of workers and former workers producing ladies' handbags at Pretty Bags, Incorporated, New York, New York. It is concluded that all of the rquirements have been met.

U.S. imports of handbags increased both absolutely and relative to domestic production in 1978 compared to 1977.

The Department of Labor surveyed the customers of Pretty Bags, Incorporated. The survey results revealed that customers, which represented a substantial portion of Pretty Bags' sales, reduced their purchases from Pretty Bags in 1979 compared to 1978. These customers also increased their purchases of imported handbags in the same time period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' handbags produced at Pretty Bags, Incorporated, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Pretty Bags, Incorporated, New York, New York who became totally or partially separated from employment on or after November 21, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3472 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6470]

Max Rubin Industries, Baltimore, Md.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 28, 1979 in response to a worker petition received on November 27, 1979 which was filed on behalf of workers and former workers producing men's clothing, suits and sport coats, at Max Rubin Industries, Baltimore, Maryland. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' tailored dress coats and sport coats increased absolutely and relative to domestic production in 1978 compared with 1977.

U.S. imports of men's and boys' tailored suits were greater absolutely and relative to domestic production in 1978 than the average level of imports during the preceding four years.

The Department conducted a survey of Max Rubin Industries' customers for their purchases of imported suits and sport coats. Some survey respondents indicated they had decreased purchases from the subject firm and increased purchases of imported suits and sport coats during the period 1977 through 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's clothing, suits and sport coats, produced at Max Rubin Industries, Baltimore, Maryland, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Max Rubin Industries, Baltimore, Maryland who became totally or partially separated from employment on or after November 27, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3473 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6367]

W. Seitchik & Sons, Inc., Philadelphia, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 13, 1979 in response to a worker petition received on November 3, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's suits and sportcoats at W. Seitchik & Sons, Inc. Philadelphia, Pennsylvania. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of men's and boys' tailored suits declined both absolutely and relative to domestic production in 1978 compared to 1977. U.S. imports of men's and boys' tailored suits, dress coats and sportcoats declined absolutely in January–September 1979 compared to the same period in 1978.

A Department of Labor survey revealed that customers who decreased purchases from W. Seitchik and Sons and increased purchases of imported men's suits and sportscoats represented an insignificant portion of the firm's sales.

Conclusion

After careful review, I determine that all workers of W. Seitchik & Sons, Inc., Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3474 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

Steel Tripartite Committee Working Group on Community and Labor Adjustment Assistance; Notice of Meeting

The Steel Tripartite Committee was established under the Federal Advisory Committee Act, 5 U.S.C. Appr. (1976), to advise the Secretary of Labor and the Secretary of Commerce on international and domestic issues affecting the U.S. steel industry, labor, and the public.

Notice is hereby given that the Steel Tripartite Committee's Working Group on Community and Labor Adjustment Assistance will meet at 2 p.m. on February 12, 1980, in room S4215A, U.S. Department of Labor, 200 Constitution Ave., N.W., Washington, D.C.

Discussion will center around the adjustment response developed in addressing the recent major steel plant closings and the applicability of that response as a model for any future closings. Due to the scheduling conflicts of many participants, insufficient time was available to give 15 days advance notice to the Working Group meeting. The public is invited to attend. A limited number of seats will be available to the public on a first-come basis.

For additional information contact: Mr. Joseph S. Papovich, Executive Secretary, Steel Tripartite Committee, Bureau of International Labor Affairs, U.S. Department of Labor, Washington, D.C., 20210, telephone (202) 523–6227; or Mr. A. M. Brueckmann, Director, Iron and Steel Division, Office of Basic Industries and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377–2084.

Official records of the meeting will be available for public inspection at room S5315, U.S. Department of Labor, Washington, D.C. 20210.

Signed at Washington, D.C., this 28th day of January 1980.

Dean K. Clowes,

Deputy Under Secretary for International Affairs, U.S. Department of Labor.

[FR Doc. 80-3442 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6320]

United Merchants & Manufacturing, Inc., Cohama Riverdale Decorative Fabrics Division, New York, N.Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 31, 1979 in response to a worker petition received on October 25, 1979 which was filed on behalf of workers and former workers producing decorative fabrics at United Merchants and Manufacturing, Inc., Cohama Decroative Fabrics Division, New York, New York. The investigation revealed that the Cohama Decorative Fabrics Division was merged with two other divisions of United Merchants and Manufacturing to form the Cohama Riverdale Decorative Fabrics Division in July 1979. In the following determinations, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of finished fabric have been 2.0 percent or less of domestic production from 1974–1978. Imports of finished fabric decreased in the first nine months of 1979 compared to the same period in 1978.

The Department surveyed customers of United Merchants concerning their purchases of finished fabric. Customers representing a significant portion of the subject firm's FY 1978 to FY 1979 sales decline did not increase purchases of imported finished fabric during the period under investigations. Those customers that did increase purchases of imports represented an insignificant portion of the firm's sales decline.

Conclusion

After careful review, I determine that all workers of United Merchants and Manufacturing, Inc., Cohama Riverdale Decorative Fabrics Division (formerly the Cohama Decorative Fabrics Division, the Seneca Fabrics Division and the Riverdale Fabrics Division) New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3475 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6385]

United States Steel Corp., Homestead, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 15, 1979 in response to a worker petition received on October 25, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing finished slab, plate, structurals and forgings at the Homestead, Pennsylvania plant of the United States Steel

Corporation. The investigation revealed that the plant produces carbon steel plate, stainless steel plate, structurals, pilings, and forgings, and that slab is only an intermediate stage of production. In the following determination, at least one of the criteria has not been met for the products identified below.

With respect to workers producing structurals and stainless steel plate, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales and production of structurals increased in 1978 compared to 1977. Sales and production of both structurals and stainless steel plate increased in January–October 1979 compared to the same period of 1978.

With respect to workers producing carbon steel plate, forgings and pilings, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of carbon steel plate and pilings both absolutely and relative to domestic shipments in January–September 1979 compared to the same period in 1978.

A Department of Labor survey revealed that customers of the Homestead plant did not increase their reliance on imported carbon steel plate or forgings. The survey failed to reveal any customer that decreased purchases from the plant and increased purchases of imported pilings.

Conclusion

After careful review, I determine that all workers of the Homestead, Pennsylvania plant of the United States Steel Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3479 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6584]

United States Steel Corp., McKees Rocks, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 10, 1979 in response to a worker petition received on December 3, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing railroad axles at the McKees Rocks, Pa. plant ot the United States Steel Corporation. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales and production of railroad axles increased in 1978 compared to 1977, and in January–November 1979 compared to the same period in 1978.

Conclusion

After careful review, I determine that all workers producing railroad axles at the McKees Rocks, Pennsylvania plant of the U.S. Steel Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3477 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6539 & 6583]

United States Steel Corp., Pittsburg Works, Pittsburg, Calif.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 4, 1979 (TA–W–6539) and December 10, 1979 (TA–W–6583) in response to worker petitions received on November 28, 1979 (TA–W–6539) and December 10, 1979 (TA–W–6583) which were filed by the United Steelworkers of America on behalf of workers and former workers producing wire and wire products and rod (TA–W–6539) and galvanized sheet and pipe and tubing (TA–W–6583) at the Pittsburg Works of the U.S. Steel Corporation in Pittsburg, California. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A. Rods

Imports of carbon steel rod declined both absolutely and relative to domestic shipments in 1978 compared to 1977 and in the first three quarters of 1979 compared to the like 1978 period.

Plant sales of rods increased in 1978 compared to 1977 and continued to increase in the first eleven months of 1979 compared to the like 1978 period.

B. Pipe and Tubing

All employees of the Pittsburg Works producing pipe and tubing who became totally or partially separated from employment on or after November 15, 1978 and before August 28, 1979 were previously certified eligible to apply for adjustment assistance.

Plant sales and production of pipe and tubing increased in the first eleven months of 1979 compared to the like 1978 period.

C. Wire and Wire Products

Imports of carbon steel wire and wire products declined both absolutely and relative to domestic shipments in the first three quarters of 1979 compared to the like 1978 period.

Plant sales of wire and wire products increased in 1978 compared to 1977 and continued to increase in the first eleven months of 1979 compared to the like 1978 period.

D. Galvanized Sheet

All employees of the Pittsburg Works producing galvanized sheet who became totally or partially separated from employment on or after June 30, 1978 and before January 1, 1979 were previously certified eligible to apply for adjustment assistance.

Imports of galvanized sheet declined both absolutely and relative to domestic shipments in the first three quarters of 1979 compared to the like 1978 period.

Plant sales and production of galvanized sheet increased in the first eleven months of 1979 compared to the like 1978 period.

Conclusion

After careful review, I determine that all workers of the Pittsburg Works of the United States Steel Corporation in Pittsburg, California engaged in employment related to the production of rod, wire and wire products, galvanized sheet, and pipe and tubing are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3478 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music Panel (New Music Performance and Chamber Music Sections); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (New Music Performance and Chamber Music Sections) to the National Council on the Arts will be held Feb. 25, 1980, 9:00 a.m.–5:30 p.m.; Feb. 26, 1980, 9:00 a.m.–5:30 p.m.; Feb. 27, 1980, 9:00 a.m.–5:30 p.m. Feb. 28, 1980, 9:00 a.m.–5:30 p.m.; Feb. 29, 1980, 9:00 a.m.–5:30 p.m.; Mar. 1, 1980, 9:00 a.m.–5:30 p.m.—in Room 1422, Feb. 25–Mar. 1, 1980, and in Room 1426 for a joint meeting of two sections, Feb. 28–Feb. 29, 1980, Columbia Plaza Office Building, 2401 E St., NW., Washington, D.C.

A portion of this meeting will be open to the public on Feb. 28, 1980, from 9:00 a.m.–12:00 a.m. for the discussion of Policy.

The remaining sessions of this meeting on Feb. 25, 9:00 a.m.–5:30 p.m.; Feb. 26, 9:00 a.m.–5:30 p.m.; Feb. 27, 9:00 a.m.–5:30 p.m.; Feb. 28, 12:00 a.m.–5:30 p.m.; Feb. 29, 9:00 a.m.–5:30 p.m.; and Mar. 1, 9:00 a.m.–5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register March 17, 1977, these sessions will be closed to the public pursuant to subections (c)(4), (6), and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

January 25, 1980.

[FR Doc. 80-3179 Filed 1-31-80; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Panel (Artists' Fellowships); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Panel (Artists' Fellowships) to the National Council on the Arts will be held February 19, 1980, from 9:30 a.m.–6:00 p.m.; February 20, 1980, from 9:30 a.m.–6:00 p.m.; February 21, 1980, from 9:30 a.m.–6:00 p.m.; and February 22, 1980, from 9:30 a.m.–6:00 p.m., in Room 1115, Columbia Plaza Office Building, 2401 E St., N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

January 25, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80-3180 Filed 1-31-80; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Panel (Craftsmen's Fellowships); Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Craftsmen's Fellowships) to the National Council on the Arts will be held March 10, 1980, from 9:30 a.m.–5:30 p.m.; March 11, 1980, from 9:30 a.m.–5:30 p.m.; March 12, 1980, from 9:30 a.m.–5:30 p.m.; March 13, 1980, from 9:30 a.m.–5:30 p.m.; and March 14, 1980, from 9:30 a.m.–5:30 p.m.; Room 1115, Columbia Plaza Office Building, 2401 E St. N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determinations of the Chairman published in the Federal Register of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of secion 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

January 25, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80-3175 Filed 1-31-80; 8:45 am]

BILLING CODE 7537-01-M

National Council on the Humanities Advisory Committee; Meeting

January 29, 1980.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463) notice is hereby given that a meeting of the National Council on the

Humanities will be conducted at Washington, D.C. on February 21–22, 1980.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Shoreham Building, 806 15th Street, NW., Washington, D.C. Because the proposes meeting on February 21, 1980 and the afternoon session on February 22, 1980 will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the committee.

The morning session on February 22, 1980 will convene at 8:30 a.m. in the 1st Floor Conference Room and will be open to the public. The agenda for the morning session will be as follows:

Minutes of the Previous Meeting

Reports

A. Introductory Remarks.
B. Program Review and Introduction of New Staff.
C. Chairman's Grants & Grants Departing from Council Recommendation.
D. Application Report.
E. Gifts and Matching Report.
F. FY 1980 Appropriations.
G. FY 1981 Appropriations Request.
H. Reauthorization.
I. Selected Project Evaluations.
J. Jefferson Lecture Arrangements.

The remainder of the proposed meeting will be closed to the public.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202–724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 80-3428 Filed 1-31-80; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-458]

Gulf States Utilities Co. River Bend Station, Unit 1; Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Note.—This document originally appeared in the Federal Register for Friday, January 11, 1980. It is reprinted in this issue at the request of the agency.

Gulf States Utilities Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed on October 26, 1979, information requested by the Attorney General for antitrust review as required by 10 CFR Part 50, Appendix L. This information adds Cajun Electric Power Cooperative, Inc. and Sam Rayburn G & T, Inc. as co-owners of the River Bend Station, Unit 1.

The information was filed by Gulf States Utilities Company in connection with their application for construction permits and operating licenses for the River Bend Station, Units 1 and 2. The site for this plant is located in West Feliciana Parish, Louisiana.

The original antitrust portion of the application was docketed on September 24, 1973, and Notice of Receipt of Application for Construction Permits and Operating Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matters, was published in the Federal Register on October 23, 1973 (38 FR 29245). The Notice of Hearing was published in the Federal Register on October 23, 1973 (38 FR 29243).

Copies of the above stated documents are available for public inspection at the Comission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Audubon Library, West Feliciana Branch, Ferdinand Street, St. Francisville, Louisiana 70775.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Reactor Regulatory Commission, Washington, D.C. 20555, Attention: Antitrust and Indemnity Group, Office of Nuclear Regulation.

Any person who wishes to have his views on the antitrust matters with respect to Cajun Electric Power Cooperative, Inc. and Sam Rayburn G & T, Inc., presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before March 10, 1980.

Dated at Bethesda, Maryland, this 26th day of December 1979.

For the Nuclear Regulatory Commission.

L. S. Rubenstein,

Acting Chief, Light Water Reactors Branch No. 4, Division of Project Management.

[FR Doc. 80-397 Filed 1-31-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. STN 50-592 and STN 50-593]

Arizona Public Service Co., et al.; Withdrawal of Application for Construction Permits and Facility Licenses

On March 31, 1978, the Nuclear Regulatory Commission docketed an application submitted by Arizona Public Service Company on behalf of itself and Southern California Edison Company, El Paso Electric Company, San Diego Gas & Electric Company, Nevada Power Company, Department of Water and Power of the City of Los Angeles, City of Anaheim, City of Burbank, City of Glendale, City of Pasadena, and City of Riverside, California. This application, filed pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, requested authorization to construct and operate two pressurized water reactors designated as Palo Verde Nuclear Generating Station, Units 4 and 5 located on a site in Maricopa County, Arizona.

Notice of receipt of this application was published in the Federal Register on May 8, 1978 (43 FR 19729). The related notice of hearing was also published in the Federal Register on May 8, 1978 (43 FR 19729).

On August 24, 1979, Arizona Public Service Company submitted to the Commission its notice of Withdrawal of Application. On September 27, 1979, the Atomic Safety and Licensing Board issued an order dismissing the proceedings.

Accordingly, the Commission considers the application submitted by Arizona Public Service Company to be withdrawn. Correspondence concerning this application will continue to be maintained at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. In addition, correspondence concerning this application will continue to be maintained for at least the next six months at the Phoenix Public Library, Science and Industry Section, 12 East McDowell Road, Phoenix, Arizona 85004.

Dated at Bethesda, Maryland this 25th day of January, 1980.

For the Nuclear Regulatory Commission.

Olan D. Parr,

Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 80-3434 Filed 1-31-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co., Big Rock Point Nuclear Plant; Hearing on Amendment of Facility Operating License

On July 23, 1979, the Nuclear Regulatory Commission published in the Federal Register a notice of a proposed issuance of an amendment to Faciltiy Operating License No. DPR–6 that had been issued to Consumers Power Company (the licensee) for operation of the Big Rock Point Plant (the facility) located in Charlevoix County, Michigan. 44 FR 43126. The proposed amendment would allow the addition of 3 racks with a close center-to-center spacing of spent fuel assemblies to the facility's spent fuel pool which would allow an increase in storage capacity from 193 to 441 fuel assemblies.

The notice provided that the licensee might file a request for a hearing and that any person whose interest may be affected by the proceeding might file a request for a hearing in the form of a petition for leave to intervene pursuant to 10 CFR 2.714 by August 22, 1979. By that date, petitions to intervene were received from 24 residents of communities surrounding the facility, John A. Leithauser on his own behalf and as attorney for Northwest Coalition, and John O'Neill, II. An Atomic Safety and Licensing Board (the Board) was designated to rule upon intervention petitions and requests for hearings, and to preside over the proceeding in the event that a hearing is ordered. The members of the Board are Dr. Oscar H. Paris, Mr. Frederick J. Shon and Mr. Herbert Grossman who will serve as Chairman of the Board.

On January 17, 1980, this Board granted the petitions of certain of the 24 residents (designated as "Christa-Maria") and of John O'Neill, II. As a result, a hearing to consider the proposed amendment to operating license will be held in Charlevoix County, Michigan at a time and place to be established.

Notwithstanding that limited appearance statements were heard at the special pre-hearing conference held on December 5, 1979, further statements will be heard at the hearing. Members of the public may request permission to make a limited appearance pursuant to § 2.715(a) of the Commission's rules of practice, 10 CFR Part 2. Persons desiring to make limited appearances are requested to inform the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A person making a limited appearance does not become a party but may state his position and raise questions which, if relevant, the Board may require be answered by the parties through evidence on the record. Limited appearances will be received at the time of the evidentiary hearing at the discretion of the Board, within such limits and on such conditions as may be fixed by the Board.

For further details with respect to this action, see the application for amendment dated June 26, 1979, and the supporting safety and environmental analyses submitted by the licensee's letter dated April 23, 1979, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Mich. 49720.

It is so ordered.

Dated at Bethesda, Maryland this 24th day of January, 1980.

For the Atomic Safety and Licensing Board.

Herbert Grossman,

Chairman.

[FR Doc. 80-3429 Filed 1-31-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-335]

Florida Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amedment No. 34 to Facility Operating License No. DPR–67 issued to Florida Power and Light Company (the licensee), which revised Technical Specifications (TS) for operation of St. Lucie Plant, Unit No. 1 (the facility), located in St. Lucie County, Florida. The amendment is effective as of its date of issuance.

This amendment deletes the fuel enrichment limit from TS 5.3.1 (Reactor Core/Fuel Assemblies) and adds a fuel enrichment limit to TS 5.6.1 (Fuel Storage/Criticality). This places the enrichment limit in the appropriate part of the TS.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 4, 1979, as supplemented December 12, 1979, (2) Amendment No. 34 to License No. DPR–67, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC., and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Fla. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 23rd day of January, 1980.

For The Nuclear Regulatory Commission

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 80-3430 Filed 1-31-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-309]

Maine Yankee Atomic Power Co., Maine Yankee Atomic Power Station; Postponement of Special Prehearing Conference

January 25, 1980.

The Atomic Safety and Licensing Board on January 4, 1980, issued an order convening a special prehearing conference in the above-identified proceeding on February 12, 1980, in Bethesda, Md. (45 FR 2439, January 11, 1980).

Petitioner Sensible Maine Power has requested that we postpone the special prehearing conference to a date beyond April 27, 1980. For good cause shown, the special prehearing conference will be rescheduled to a date as soon thereafter as practicable for all parties. A notice designating the time and place of the postponed special prehearing conference will be issued in the near future.

It is so ordered.

Dated at Bethesda, Maryland, this 25th of January 1980.

For the Atomic Safety and Licensing Board.

Robert M. Lazo,

Chairman.

[FR Doc. 80-3427 Filed 1-31-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. STN 50-568 and STN 50-569]

New England Power Co.; Withdrawal of Application for Construction Permits and Facility Licenses

On September 8, 1976, the Nuclear Regulatory Commission docketed an application submitted by New England Power Company on behalf of itself and 30 other utilities. The application, filed pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed an application to construct and operate two pressurized water reactors, designated as NEP-1 and NEP-2, on a site located in Washington County at Charlestown, Rhode Island.

Notice of receipt of this application was published in the **Federal Register** on October 12, 1976 (41 FR 44763). The related notice of hearing was also published in the **Federal Register** on October 12, 1976 (41 FR 44761).

On December 17, 1979, the applicants filed a motion to withdraw their application. On December 26, 1979, the Atomic Safety and Licensing Board issued an order granting the applicants' motion to withdraw their application.

Accordingly, the Commission considers the application submitted by the New England Power Company to be withdrawn. Correspondence concerning this application will continue to be maintained at the Commission's Public Document Room located at 1717 H Street, NW., Washington, DC. For historial purposes only, material will be retrained at the Unversity Library, University of Rhode Island, Government Publications Office, Kingston, R.I. 02881. This material may be viewed by interested members of the public. No new material will be forwarded to the University of Rhode Island Library.

Dated at Bethesda, Maryland, this 25th day of January 1980.

For the Nuclear Regulatory Commission.

Olan D. Parr,

Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 80-3425 Filed 1-31-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. STN 50-580 and STN 50-581]

Ohio Edison Co., et al. (Erie Nuclear Power Plant, Units 1 and 2); Dismissal of Proceedings

On January 23, 1980, Ohio Edison Company, the Applicant for Erie Nuclear Plant, Units 1 and 2, announced the decision by the co-owners to cancel those units. The Applicant requested the Board to terminate any further proceedings on these dockets.

The proceeding on Erie is hereby dismissed.

It is so ordered.

Dated at Bethesda, Maryland this 28th day of January 1980.

For the Atomic Safety and Licensing Board.

Elizabeth S. Bowers,

Chairman.

[FR Doc. 80-3438 Filed 1-31-80; 8:45 am]

BILLING CODE 7590-01-M

Petitions for Rulemaking; Issuance of Quarterly Report

The Nuclear Regulatory Commission has issued the December 31, 1979, quarterly report on petitions for rulemaking. The report is issued in accordance with 10 CFR 2.802 and is a quarterly summary of petitions for rulemaking.

A copy of this report, designated NRC Petitions for Rulemaking, December 31, 1979, is available for inspection and copying at the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Requests for single copies of this report, or a request to be placed on an automatic distribution list for single copies of future reports, should be made in writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Bethesda, Maryland this 24th day of January 1980.

For the Nuclear Regulatory Commission.

Joseph M. Felton,

Director, Division of Rules and Records, Office of Administration.

[FR Doc. 80-3439 Filed 1-31-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District (Rancho Seco Nuclear Generating Station); Order Scheduling an Evidentiary Hearing

January 24, 1980.

There will be an evidentiary hearing commencing at 9:30 a.m., (local time) on February 26, 1980, in Conference Room 1140, U.S. Federal Building, 2800 Cottage Way, Sacramento, California.

The Commission has determined the following issues will be heard:

1. Whether the actions required by subparagraphs (a) through (e) of Section IV of the Commission's Order of May 7, 1979, (44 FR 27779), are necessary and sufficient to provide reasonable assurance that the facility will respond safetly to feedwater transients, pending completion of the long-term modifications set forth in Section II. A contention challenging the correctness of the NRC Staff's conclusion that the actions described in subparagraphs (a) through (e) have been completed satisfactorily will be considered to be within the scope of the hearing. However, the filing of such a contention shall not of itself stay operation of the plant.

2. Whether the licensee should be required to accomplish, as promptly as practicable, the long-term modifications set forth in Section II of the Order.

3. Whether these long-term modifications are sufficient to provide continued reasonable assurance that the facility will respond safely to feedwater transients.

4. The competency of the utility management.

The public is invited. The first two days, February 26 and 27, will be set aside for limited appearance statements. There will be an evening session on Tuesday, February 26, from 7:00 p.m. to 10:00 p.m. to hear limited appearance statements.

Oral statements will be limited to five (5) minutes each but written statements without limitation in length may be submitted.

It is so ordered.

Dated at Bethesda, Md., this 24th day of January 1980.

For the Atomic Safety and Licensing Board.

Elizabeth S. Bowers,

Chairman.

[FR Doc. 80-3423 Filed 1-31-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Termination of ChoiceCare Health Plan's Participation in the FEHB Program; Correction

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: On January 4, 1980, the Office of Personnel Management (OPM) announced termination of participation by ChoiceCare Health Services, Inc., in the Federal Employees Health Benefits (FFEHB) Program. This document corrects the effective date for employees' or annuitants' change from ChoiceCare to another health plan.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Robert C. Gettys, Chief, Comprehensive Plans, Compensation Group, 202-632-6127.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 8902, on January 4, 1980, OPM announced termination of participation by ChoiceCare Health Services, Inc., of Ft. Collins, Colorado, in the FEHB Program (FR Document 80-249 at 45 FR 1181). The summary of that document incorrectly indicated the effective date for employees' or annuitants' change to another health plan in that area to be "the first day of the first pay period beginning on or after January 1, 1980." This notice corrects that date to read as follows: "The effective date of the change will be January 1, 1980."

Office of Personnel Management.

Roderick S. Speer,

Assistant Issuance System Manager.

January 29, 1980.

[FR Doc. 80-3301 Filed 1-31-80; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

In the Matter of Central and South West Corp., 2700 One Main Place, Dallas, Texas 75250; Central Power and Light Co., P.O. Box 2121, Corpus Christi, Texas 78403; Southwestern Electric Power Co.; P.O. Box 21106, Shreveport, Louisiana 71156; Public Service Company of Oklahoma, P.O. Box 201, Tulsa, Oklahoma 74102; West Texas Utilities Co.; P.O. Box 841, Abilene, Texas 79604; Central and South West Services, Inc., 2700 One Main Place, Dallas, Texas 75250.

Central and South West Corp. et al.; Proposal to Expand List of Banks from Which Short-Term Borrowings May Be Made and to Sell Commercial Paper Directly to Certain Institutions as an Alternative to the Sale of Bank Notes or Dealer-Placed Commercial Paper

[Release No. 21339; (70-6163); January 11, 1980]

Notice is hereby given that Central and South West Corporation ("CSW"), a registered holding company, and five of its wholly-owned subsidiaries, Central Power and Light Company, Public Service Company of Oklahoma, Southwestern Electric Power Company, West Texas Utilities Company and Central and South West Services, Inc. ("subsidiaries") have filed a post-effective amendment to an application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7, 9(a), 10, 12(b) and 12(f) of the Act and Rules 43, 45 and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to said post-effective amendment to the application-declaration which is summarized below, for a complete statement of the proposed transaction.

By orders dated June 30, 1978, October 27, 1978, March 29, 1979, May 9, 1979, June 13, 1979, July 19, 1979, July 31, 1979 and October 24, 1979 in this matter (HCAR Nos. 20608, 20749, 20978, 21041, 21097, 21150, 21166 and 21269) CSW and its subsidiaries were authorized to incur short-term borrowings through December 31, 1980 in a maximum aggregate collective amount of $200,000,000. The short-term borrowings are pursuant to a CSW System money pool under which CSW and its subsidiaries coordinate their short-term borrowings and make borrowings outside the money pool from banks and through the issuance of commercial paper. The money pool consists of funds from the following sources: (i) surplus funds of CSW: (ii) surplus funds of any of the subsidiaries; (iii) borrowings by CSW or the subsidiaries from banks; and (iv) proceeds from CSW's sales of commercial paper.

CSW administers the money pool by matching up, to the extent possible, short-term cash surplus and loan requirements of itself and its subsidiaries. Subsidiary requests for short-term loans are met first from surplus funds of the other subsidiaries which are available to the money pool and then from CSW's corporate funds, to the extent available. When these sources of funds are insufficient to meet short-term loan requests, borrowings are made from outside the system. CSW is authorized to issue and sell its commercial paper to commercial paper dealers or borrow from banks to meet short-term borrowing needs which cannot be met by the money pool.

It is now proposed to change the list of banks from which CSW and the subsidiaries may borrow by adding First City National Bank of Houston, Houston, Texas, and to increase the aggregate amounts of lines of credit with certain presently authorized banks, as set forth below:

	Amount of presently authorized line	Amount of proposed line	Compensation basis
BANK			
Bankers Trust Co	$25,000,000	$25,000,000	Balances.[1]
First National Bank of Chicago	15,000,000	15,000,000	Balances.[1]
First National Bank in Dallas	6,500,000	6,500,000	$4,000,000 balances[1] and $2,500,000 fees.[2]
Irving Trust Co	5,000,000	10,000,000	Balances.[1]
Marine Midland Bank	5,000,000	10,000,000	Balances.[1]
Republic National Bank	5,000,000	5,000,000	$2,500,000 balances[1] and $2,500,000 fees.[2]
Mercantile-Safe Deposit & Trust Co	5,000,000	5,000,000	Fees.[2]
Security Pacific National Bank	5,000,000	5,000,000	$2,500,000 balances[1] and $2,500,000 fees.[2]
Citibank	5,000,000	5,000,000	Fees.[2]
Chemical Bank	5,000,000	5,000,000	Fees.[2]
First City National Bank of Houston		5,000,000	$2,500,000 balances[1] and $2,500,000 fees.[2]
Bank of Delaware	4,500,000	4,500,000	Balances.[1]
First City Bank of Dallas	2,000,000	4,000,000	Balances.[1]
First National Bank of Denver	3,000,000	3,000,000	Balances.[1]
Harris Trust & Savings Bank	2,000,000	2,000,000	Balances.[1]
SERVICE AREA BANKS			
Central Power & Light Co. (23 local banks)	$39,939,000	$39,939,000	Balances.[1]
Public Service Co. of Oklahoma (2 local banks)	10,000,000	10,000,000	Balances.[1]
Southwestern Electric Power Co. (37 local banks)	24,215,000	26,458,000	Balances.[1]
West Texas Utilities (6 local banks)	11,875,000	11,875,000	Balances.[1]
Total	179,029,000	186,272,000	

[1] Balances maintained in support of lines of credit are generally nonsegregated working funds of the applicants and are not restricted as to withdrawal. These nonsegregated balances generally aggregate approximately 5% to 10% of the line of credit. Substantial usage under these lines of credit could result in increased compensating balance requirements.

[2] Line or designated portion thereof is supported by fee equal annually to 7% of principal amount times the prime rate.

[3] Line or designated portion thereof is supported by fee equal annually to ¾ of 1% of principal amount.

[4] Line or designated portion thereof is supported by fee equal to ⅝ of 1% of principal amount.

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In addition to the above, CSW and its subsidiaries have made arrangements for borrowings from funds managed by the trust departments of the following banks:

Bank	Amount of agreement	Compensation basis
*Texas Commerce Bank	$10,000,000	None.
Mercantile National Bank at Dallas.	5,000,000	None.
*Republic National Bank	5,000,000	None.
First City National Bank of Houston.	10,000,000	None.
First City Bank of Dallas	5,000,000	None.

*Agreements approved but not currently being used.

CSW also seeks authorization to sell commercial paper directly to certain approved financial institutions. Sale of commercial paper directly to such institutions would be undertaken only if the resulting cost of money was equal to or less than that available from dealer-placed commercial paper or bank borrowings. Direct sales of commercial paper would be made only to institutions on a list furnished in advance to the Commission. Terms for directly-placed notes would be indentical to those of dealer-placed notes.

The fees, commissions and expenses to be incurred in connection with the transactions proposed in the post-effective amendment are estimated at $150. It is stated that no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than February 4, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-3170 Filed 1-31-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 01/02-0029]

Connecticut Capital Corp.; Granting of Application for Transfer of Control of Licensed Small Business Investment Company

On November 14, 1979, a notice was published in the **Federal Register** (44 FR 65889) stating that an Application had been filed with the Small Business Administration pursuant to Section 107.701 of SBA Regulations (13 CFR 107.701 (1979)), for the Transfer of Control of Connecticut Capital Corporation (Connecticut), a Connecticut corporation and a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act), with its office presently located at 419 Whalley Avenue, New Haven, Connecticut 06511.

As mentioned in that notice, Connecticut's name is being changed to Asset Capital and Management Corporation, the principal office of which will be located at 608 Ferry Boulevard, Stratford, Connecticut 06497.

Interested parties were given until the close of business on November 29, 1979, to submit written comments on the Application of the SBA.

Notice is hereby given that no comments were received and having considered the Application and all other pertinent information, the SBA approved the Transfer of Control of Connecticut to Asset Capital and Management Corporation effective as of December 21, 1979.

(Catalog of Federal Domestic Program No. 59.011, Small Business Investment Companies.)

Dated: January 24, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80-3172 Filed 1-31-80; 8:45 am]

BILLING CODE 8025-01-M

Final SBA Procedures Implementing National Environmental Policy Act

AGENCY: Small Business Administration.

ACTION: Final SBA NEPA Procedures.

SUMMARY: The Small Business Administration is publishing its procedures to implement the National Environmental Policy Act, pursuant to Regulations issued by the Council on Environmental Quality (43 FR 55978; November 29, 1978). The procedures include provisions on necessary assessments by SBA of programs and actions as to significant environmental effect; possible preparation by SBA of environmental impact statements; and consideration in appropriate cases of alternatives to mitigate adverse environmental effects. Certain types of SBA actions are indicated as not ordinarily considered to significantly affect the quality of the environment.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Evelyn Cherry, Chief, Special Projects Division, Small Business Administration, 1441 L St., N.W., Washington, D.C. 20416, (202) 653-6696.

SUPPLEMENTARY INFORMATION: The CEQ Regulations require each Federal Agency to adopt and publish procedures to implement such Regulations in accord with the National Environmental Policy Act and Executive Order 11991 (May 24, 1977). On July 31, 1979, SBA published (44 FR 45002) its proposed procedures on this matter in the **Federal Register** for public comment. No public comments were received.

Comment was received from CEQ recommending that appropriate reference to the pertinent provisions of its regulations be inserted at various places in the procedures. This has been done.

A comment was made by an SBA office that the language exclusion of most SBA procurement assistance actions from requirements under the procedures is not clear. Accordingly, the last two sentences were deleted from paragraph 7d to clarify that SBA would not prepare environmental assessments or environmental impact statements on procurements by other Government agencies.

In cases where an environmental assessment is necessary applicants for assistance from SBA may be requested to provide the assessment or information and analyses to enable SBA to prepare the assessment. The SBA Office of Financing has been designated to develop guidelines for such information.

Accordingly, the following Standard Operating Procedure is adopted.

Dated: December 18, 1979.

A. Vernon Weaver,

Administrator.

National Environmental Policy Act

Introduction

1. *Purpose.* To set forth Agency procedures in accordance with the National Environmental Policy Act.

2. *Personnel Concerned.* Technical personnel in F&I, MA, PA, MSB/COD and Administration.

3. *Distribution.* Standard.

4. *Originator.* Office of Financing.

Contents

Paragraph
1. General.
2. Authority.
3. General Responsibilities.
4. Central Office Responsibilities.
5. Field Office Responsibilities.
6. Applicability to SBA Actions.
7. Categorical Exclusions.

Appendix
1. Environmental Review Requirements.

Compliance With the National Environmental Policy Act

1. *General.* These procedures apply the National Environmental Policy Act (NEPA) to SBA programs and activities. They include the designation of officials who would act as focal points within the decisionmaking process, consideration and identification by SBA of the environmental effects and possible alternatives to mitigate adverse environmental impacts, and preparation and circulation of draft and final environmental impact statements to interested persons and agencies. Certain types of SBA actions are indicated as not ordinarily considered to significantly affect the quality of the environment. In all cases, however, where a proposed SBA action could potentially have a significant effect on the environment, an environmental assessment will be made and an environmental impact statement prepared when appropriate.

2. *Authority.* The National Environmental Policy Act (NEPA) of 1969 (Pub. L. 91-190) and the regulations issued by the Council of Environmental Quality on November 28, 1978 (43 FR 55978-56007; revised 40 C.F.R. Parts 1500-1508) require each Federal Agency to describe and promulgate procedures which will carry out the requirements of NEPA.

NEPA authorizes and directs that, to the fullest extent possible, the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies for the protection of the environment set forth in NEPA; and that procedures be developed to insure that environmental values are given appropriate consideration in decisionmaking along with economic and technical considerations. It also requires that Federal agencies include in recommendations or reports on proposals for legislation, and other Federal actions having individually or cumulatively a significant effect on the quality of the human environment, a statement on environmental considerations. Executive Order 11514, as amended by Executive Order 11991, further specifies that Federal agencies develop their policies, plans and programs so as to help meet national environmental goals, and comply with CEQ NEPA regulations, except as inconsistent with statutory requirements.

3. *General responsibilities.* The responsible SBA official (either in the Central Office or in a field office) will when necessary:

a. Assess the potential environmental impact of recommendations or favorable reports on proposals for (1) legislation significantly affecting the quality of the human environment ("legislative actions") and (2) all other SBA actions which individually or cumulatively significantly affect the quality of the human environment ("administrative actions") as early as possible and in all cases prior to agency decision.

b. Consult with other appropriate Federal, State and local agencies and with the public in making environmental assessments.

c. Identify the issues involved in specific environmental assessments or impact statements.

d. Undertake or provide for initial environmental assessments, when required, with initial technical, economic and other studies.

e. Prepare and circulate, where required, a draft environmental impact statement in time to accompany the proposal through the SBA review process for the action in question. (CEQ § 1502.9(a)).

f. Invite and consider the comments of other Federal agencies and the public. (CEQ § 1503.1-1503.4).

g. Prepare and circulate final environmental impact statements where required, taking into account the comments received. (CEQ § 1502.9(b)).

4. *Central office responsibilities.* a. The Administrator has designated Arthur E. Armstrong, Director, Office of Financing to develop guidelines and information to enable applicants for SBA financial assistance to provide environmental impact information early in the application process, and to be responsible for review of SBA NEPA compliance. This official shall also provide technical assistance to other SBA offices on such compliance. Particular attention will be given to consultation with Council for Environmental Quality (CEQ), the Environmental Protection Agency, and State and local environmental agencies. This official will be involved in the decision process for proposed major SBA program changes and for review of other Central Office actions having environmental effects. (CEQ § 1501.2(d)).

b. The official should be consulted as early in the development of the action as possible. This consultative role of the SBA official may also be necessary in Inter-Agency activities. For example, if the SBA is involved in the development phase of a construction project, the SBA should participate in the evaluation of environmental impact. If however, SBA's involvement begins only after environmental assessments are completed and accepted, then SBA will not require any additional environmental evaluation. The objective of the review will be to evaluate whether the environmental impact of the proposed action would be likely to be significant. If such impact is considered likely to be significant the evaluation would recommend the preparation of an environmental assessment, or if appropriate, an environmental impact statement. Such evaluations (and any resulting environmental assessments or environmental impact statements) shall accompany the proposal through existing agency review processes (CEQ § 1505.1). The Associate Deputy Administrator for Programs or his designee shall determine whether an environmental assessment or environmental impact statement is necessary on such Central Office actions. If an environmental assessment is determined to be necessary, the procedures of subparagraphs 5b and d below shall be followed to the extent applicable.

5. *Field office responsibilities.* a. The processing loan officer (L/O) will make the initial evaluation. If the loan is for a project which is categorically excluded by these procedures, then this should be so stated in the loan officer's report. If the project for which SBA financial assistance is sought is likely to have significant environmental impact, the L/O should refer the file to the district director for evaluation. Note that these reviews should be part of the initial screening process so that if an environmental assessment is deemed appropriate, it can be prepared during the early phase of processing.

b. If the district director finds that the financial assistance application is for a project that is not categorically excluded by these procedures, an environmental assessment shall be prepared on the proposal before any SBA approval actions are taken (CEQ § 1508.9). Applicants for assistance from SBA may be requested to provide: (1) an environmental assessment, or (2) analyses and information for use in preparing environmental assessments. SBA will provide guidelines to enable applicants for SBA financial assistance to submit any required environmental impact information early in the application process, to avoid delays in processing applications (CEQ § 1501.2(d)). However, evaluation of the environmental issues will be the responsibility of SBA. To the extent practicable, information on environmental effects should be obtained from environmental agencies and from the public if an environmental assessment is made.

c. Upon the receipt of an application for a surety bond guaranty, the reviewing officer shall make the determination whether the project involved is categorically excluded under these procedures. It should be noted that those projects which will improve the quality of the environment should be given the same evaluation as those which may affect the environment in a negative fashion.

d. As set forth in CEQ § 1508.9, environmental assessments, when required should identify reasonable alternative actions that will avoid or minimize adverse impacts and should include concise evaluations of both the long and short-range implications of the proposed actions. The environmental factors shall be considered along with the net economic, technical and other benefits of proposed actions, consistent

with other essential considerations of national policy, to restore environmental quality as well as to avoid or minimize undesirable consequences. The assessments shall include a determination as to whether an Environmental Impact Statement (EIS) is required. If a significant environmental impact is found to exist then an EIS will be prepared as set forth in Part 1502 of the CEQ regulations; including a record of decision (CEQ § 1505.2). If however, the assessment finds that the SBA action will not have a significant impact, a finding of "no significant impact" will be made and documented, as required by CEQ Regulations § 1501.4 and 1508.13.

Further, an environmental assessment must also show that the proposed action is in compliance with other applicable environmental review requirements. Such requirements include Floodplain Management (E.O. 11990), Protection of Wetlands (E.O. 11988), National Historic Preservation Act of 1966 as amended, and others as are so designated. (See appendix)

6. *Applicability to SBA actions.* All SBA actions which individually or cumulatively have significant effect on the quality of the human environment are to be reviewed for possible environmental impacts. The types of actions subject to review under this part include:

a. recommendations or favorable reports relating to legislation;

b. new and continuing projects and program activities directly undertaken by SBA or supported in whole or in part through Federal contracts, guarantees, loans, or other forms of funding assistance;

c. making, modification, or establishment of regulations, rules, procedures, and policy; and

d. in those cases where other Federal Agencies or State or local governments have already required and have accepted an environmental assessment or impact statement, the SBA will not require any further environmental evaluation. If requested, however, in connection with SBA assistance, the SBA will participate in the preparation of these evaluations.

An environmental assessment on an SBA form (to be published at a later date) will be made when it appears that the proposed SBA action is not categorically excluded by these procedures and could potentially have significant environmental effects.

7. *Categorical exclusions (CEQ § 1508.4).* The following categories of SBA actions are not ordinarily considered to be Federal actions which significantly affect the quality of the environment. Therefore, generally, the SBA will not be preparing an environmental assessment or an EIS in these cases. It should be noted that the district director at the field level and the designated SBA official at the Central Office level can make the determination that a significant environmental impact exists when a case appears sufficiently likely to warrant an assessment. These determinations should be based on the official's evaluation of the specific circumstances in each situation and must be documented as to the factors causing such determination.

a. *Agency administrative action such as personnel actions.* Should these actions constitute the movement of large groups of people or the construction of building space, an assessment may have to be prepared.

b. *Legislative Reports.* In those cases where legislation is being enacted on SBA programs and could potentially have a significant environmental effect, an assessment may have to be prepared if the SBA report recommends legislation.

c. *Promulgation of rules, regulations, procedures, or interpretations.* In those cases where the new or changed rules, regulations, procedures or interpretations deal with construction projects or land purchases of a value greater than $300,000, then an assessment may have to be prepared.

d. *Procurement Assistance Actions.* No environmental assessments are necessary in the Agency's activities to assure that small business receives its share of existing procurements of other Agencies.

e. *Management and technical assistance actions.* In those cases where management or technical assistance is being provided in support of a construction project in the developmental stage (either funded through the SBA or another government Agency) the SBA may be required to participate in support of a lead agency in the preparation of an environmental assessment.

f. *Small Business Investment Company Program Actions.* In those cases where the SBA is approving an SBIC action of financing construction of facilities or purchase of land, then the SBA may be required to prepare an environmental assessment.

g. *Physical Disaster Loans and guarantees.* In those cases where the SBA may be providing funds in excess of $300,000 to businesses or individuals to restore their property to its original state and restoration work may potentially have significant environmental effects, the district director may require the preparation of an environmental assessment.

h. *Business Loans and guarantees (including EOL loans, HAL, Energy, and disaster loans for economic injury).* In those cases where loan proceeds for: (1) Construction and/or purchase of land exceeds $300,000 or

(2) the loan is in response to a government regulation which pertains to the environmental impact of the business operation,

an environmental assessment may be required.

i. *Surety Bond Guarantees.* Since the SBA becomes involved with the guaranteeing of a small business' ability to satisfy an existing contract, no environmental assessments are necessary. In those cases where the SBA does become involved in the development of a construction project under the Surety Bond Guaranty Program, then the SBA will support an environmental evaluation.

j. *Pollution Control Financing Guaranty Program actions.* In those cases where an individual business is being financed in excess of $500,000, an environmental assessment may be required.

k. *Local and Community Development loan and guarantee actions.* In those cases where the loan is being utilized for construction in excess of $300,000, then an environmental assessment may be required.

l. *Portfolio Management and Review actions.* No assessments will be required.

m. *Advocacy Program actions.* No assessments will be required.

n. *Property Sales or Lease Assistance actions.* However, in cases of construction exceeding $300,000 an environmental assessment may be required.

Appendix 1—National Historic Preservation Act of 1966

As amended, 16 U.S.C. §§ 470 et seq.

Administering Agency: Advisory Council On Historic Preservation; Heritage Conservation and Recreation Service, Department of the Interior.

Environmental Review Requirement: Section 106, 16 U.S.C. § 470f.

Regulations: Procedures for the protection of Historic and Cultural properties, 36 CFR Part 800 (Advisory Council Procedures);

36 CFR Part 60—National Register of Historic Places.

36 CFR Part 61—Criteria for Comprehensive Statewide Historic Surveys and Plans.

36 CFR Part 63—Determination of eligibility for Inclusion in the National Register.

Executive Order No. 11593, May 13, 1971.

36 CFR 8921, Protection and Enhancement of the Cultural Environment.

Program: The National Historic Preservation Act of 1966 establishes a comprehensive program to protect cultural resources from the adverse effects of Federal activities. The Act creates a National Register of Historic Places to which places of historic, architectural or archaeological significance can be named. Properties listed in or eligible for listing in the National Register are subject to special protections of the Act. The Act also creates an Advisory Council on Historic Preservation and establishes grant and technical assistance programs to benefit the preservation of cultural properties.

[FR Doc. 80-3171 Filed 1-31-80; 8:45 am]

BILLING CODE 6025-01-M

TENNESSEE VALLEY AUTHORITY

Proposed Development of a Coal Gasification Demonstration Plant; Notice of Intent To Prepare an Environmental Impact Statement and Invitation for Public Comment on the Scope of the Document

AGENCY: Tennessee Valley Authority.

ACTION: Notice is hereby given that, in accordance with the National Environmental Policy Act of 1969, the Tennessee Valley Authority (TVA) intends to prepare an environmental impact statement (EIS) to assess the environmental consequences of constructing and operating a commercial-scale coal gasification demonstration plant which TVA is considering. Of the alternative sites evaluated for the facility, the TVA-owned Murphy Hill power plant inventory site located in Marshall County, Alabama, at Tennessee River mile (TRM) 370L approximately 11 miles northeast of Guntersville, Alabama, appears to be preferable at this time.

FOR FURTHER INFORMATION CONTACT: Dr. Mohamed T. El-Ashry, Director of the Environmental Quality Staff, Office of Natural Resources, Forestry Building, Norris, Tennessee 37828, or call TVA's Citizen Action Office toll free: 1-800-362-9250 (in Tennessee) or 1-800-251-9242 (in Alabama, Georgia, Kentucky, Mississippi, North Carolina, Virginia, Missouri, and Arkansas).

SUPPLEMENTARY INFORMATION: Coal gasification technology makes it possible to produce and utilize coal gas directly as a clean energy source. The medium-Btu gas (MBG) produced can be used in both dispersed power generation technologies and industrial fuel and feedstock applications. This demonstration would help determine whether coal gasification is an economical and environmentally acceptable alternative energy source.

TVA is considering designing, constructing, and operating a commercial-scale coal gasification facility capable of processing up to 20,000 tons of coal feedstock per day. The facility would probably be constructed in a stepwise, modular manner, with the first gasification module capable of processing about 5,000 tons of coal feedstock per day. Subsequent modules would be added as the technology is refined and as a market for the product gas develops. Each module would consist of a number of parallel gasification trains designed to produce MBG from moderately to highly caking eastern United States coals. In addition to the modules, the plant would consist of coal receiving and handling, air separation systems, pollution control, and all necessary auxiliary facilities. The plant and associated pipeline system is estimated to cost $2 to $3 billion.

Coal gasification is a process which involves the reaction of coal with air, oxygen, and steam under high temperatures. This process would produce a raw product gas composed primarily of carbon monoxide, hydrogen, steam, carbon dioxide, and smaller amounts of methane, hydrogen sulfide, and nitrogen. The clean product gas would be composed of hydrogen, carbon monoxide, and methane, while the remaining gaseous components, carbon dioxide, nitrogen, hydrogen, sulfide, and steam would comprise the major emissions from the gasifier. The hydrogen sulfide would be removed from the tail gas in a sulfur recovery plant which would produce elemental sulfur. This sulfur would either be sold or stored. The emissions from the sulfur recovery plant would consist primarily of carbon dioxide, water vapor, and nitrogen and insignificant amounts of sulfur dioxide and nitrogen oxides.

In addition to the above emissions, the gasifiers would generate waste coal ash similar in nature to that produced by a conventional coal-fired boiler. Ash composition depends largely on the characteristics of the input coal, with major ash components being iron, aluminum, and silicon. Other anticipated wastes from the facility would be boiler blowdown from the waste heat recovery system and slurry blowdown from the raw product gas cleanup system. Each of these wastes would be treated with available environmental control technology.

TVA's preliminary evaluations have identified several possible sites for the facility. Based on the economies of scale associated with coal gasification and the costs associated with pipeline transmission, a large nearby market is an important economic consideration. TVA's studies to date indicate that a north Alabama location for the proposed facility would be attractive because of the proximity to large existing industrial gas markets. Of the locations evaluated, the TVA-owned Murphy Hill inventory site in Marshall County, Alabama, appears to be preferable.

Scope and Content of the EIS

In accordance with the National Environmental Policy Act, TVA intends to prepare an environmental impact statement (EIS) on the proposed coal gasification facility. This EIS will be considered by the TVA Board of Directors in taking action with respect to the project. The proposed scope or content of the EIS is discussed below. TVA requests comments on the scope of the document.

TVA proposes to construct and operate a coal gasification facility in order to help determine the economic and environmental acceptability of the technology. TVA intends to evaluate coal gasification processes, including entrained flow and fixed bed processes, and alternative sites. The no-action alternative will be discussed. Although TVA plans to work with the existing gas industry infrastructure in pipeline transmission, the EIS will also address environmental effects of pipeline construction and operation.

In addition to the positive benefit of determining the feasibility of this technology, the following issues will be discussed:

1. Socioeconomic and cultural effects associated with facility construction and operation;

2. Market availability for the product gas;

3. Pipeline construction impacts;

4. Effects of water consumption or water availability;

5. Impacts on terrestrial and aquatic ecology, including threatened and endangered species;

6. Impacts on floodplains, wetlands, and cultural and historical resources;

7. Air and water quality impacts associated with construction and operation of the facility;

8. Carcinogenic and toxic emissions, discharges, and wastes that may be associated with the facility;

9. Associated coal transportation and handling impacts; and

10. Noise and odor impacts.

This list is not intended to be all inclusive; nor is it intended to be a predetermination of impacts. A further evaluation of the proposed action will probably establish that some of these issues will not require a detailed evaluation. As preparation of the EIS proceeds, other unlisted issues may be revealed which will necessitate a detailed analysis.

Comments and Public Scoping Meetings

TVA invites interested persons and agencies to comment on the above suggested scope of the EIS and requests that comments be sent to Dr. Mohamed T. El-Ashry, Director of the Environmental Quality Staff, Office of Natural Resources, Forestry Building, Norris, Tennessee 37828. TVA will consider all comments received by March 21, 1980, in preparing the draft EIS which will be released for public review and comment. Those persons who choose not to comment on the scope of the document but desire a copy of the draft EIS in order to review and comment on it should send their names and addresses to Dr. El-Ashry.

TVA also intends to hold a public meeting in order to solicit additional comments on the scope of the document. Comments received at this meeting will be accorded the same weight as written comments. The meeting will be held on February 19, 1980, at 7:00 p.m. CST at the Wakefield Community Center, Langston, Alabama. A transcript of this meeting will be made by TVA and will be available at the following libraries: Guntersville Public Library, 1299 O'Brig Avenue, Guntersville, Alabama; and Scottsboro Public Library, 1002 South Broad Street, Scottsboro, Alabama.

V 45 / 23 FE 1 80 UMI

Dated: January 29, 1980.

Kenneth E. Gray,

Washington Representative.

[FR Doc. 80-3489 Filed 1-31-80; 8:45 am]

BILLING CODE 8120-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Solicitation of Individuals To Serve as Panelists for the Gatt Dispute Settlement Process

In accordance with the agreements negotiated in the Tokyo Round of Multilateral Trade Negotiations (MTN), pursuant of Section 102 of the Trade Act of 1974, and in accordance with Section 2 of the Trade Agreements Act of 1979 (93 Stat. 147), the United States Trade Representative (USTR) is compiling a list of individuals willing and available to serve as panalists to assist in settling disputes which arise in connection with the new agreements.

1. *Dispute Settlement Panels.* The respective MTN agreements and Articles XXIII of the General Agreement provide for the establishment of panels to assist the CONTRACTING PARTIES to settle trade disputes concerning the agreements which remain unresolved after consultation procedures. The purpose of the panels is to make an objective assessment of the facts of the case before them and to examine the applicability and conformity of the case with the General Agreement. The panels will consult regularly with the parties to the dispute and attempt to develop a mutually satisfactory solution. Each panel will consist of three to five members drawn from a list of qualified governmental and non-governmental persons maintained by USTR and the GATT Director General. Panel members will serve in their individual capacities and not as representatives of any government or organization. Panel proceedings will vary in length depending on the agreement and individual case, but are generally between three and fourteen months.

2. *Solicitation of Qualified Panalists.* The USTR is compiling a list of experts to serve as dispute settlement panelists. The USTR will maintain a file and supply names of potential panelists to the GATT Director General as requested. Individuals wishing to serve must be highly experienced in the fields of international trade relations, economic development, and other matters covered by the GATT. Potential panelists must also demonstrate specific expertise in the technical areas of one or more of the MTN codes: subsidies and countervailing duties, antidumping measures, import licensing procedures, customs valuation procedures, government procurement methods, technical barriers to trade (product standards), trade in civil aircraft, and trade in ment and dairy products.

3. *Responses.* Persons who wish to serve on a GATT dispute settlement panel should submit their qualifications in triplicate to W. Douglas Newkirk, Assistant U.S. Trade Representative for GATT Affairs, USTR, 1800 "G" Street, N.W., Washington, D.C. 20506.

W. Douglas Newkirk,

Assistant Special Trade Representative for GATT Affairs.

[FR Doc. 80-3187 Filed 1-31-80; 8:45 am]

BILLING CODE 3195-01-M

WATER RESOURCES COUNCIL

Privacy Act of 1964; Systems of Records; Annual Publication

The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires agencies to publish annually in the **Federal Register** a notice of the existence and character of their systems of records. The Water Resources Council last published the full text of its systems of records on December 7, 1978, 43 FR page 57470. Since the last publication of the systems, system WRC–3 Operating Personnel Records, has been destroyed because the Council now maintains the Official Personnel Folders. System WRC–4, Payroll Records, has had a change in the system location. The system is now located in the General Services Administration Region 6 Office. GSA holds these records for the Water Resources Council under contract.

The full text of the Water Resources Council systems of records also appears in Privacy Act Issuances, 1978 Compilation, Volume IV, page 894. The volume may be ordered through the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. The price of this volume is $10.50.

Dated at Washington, D.C., on January 24, 1980.

Leo M. Eisel,

Director.

WRC—4

SYSTEM NAME:

Payroll Records—U.S. Water Resources Council (WRC).

SYSTEM LOCATION:

General Services Administration Region 6 Office; copies held by the Council 2120 L Street, NW., Washington, D.C. 20037. (GSA holds records for the Council under contract.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and Present Council employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records; requests for deductions; tax forms; W–2 forms; overtime requests; leave data; retirement records. Records are used by Council and GSA employees to maintain adequate payroll infomation for Council employees, and otherwise by Council and GSA employees who have a need for the record in the performance of their duties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C., generally; 42 U.S.C. 1962a et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W–2, Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation.

The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Administrative Officer, U.S. Water Resources Council, 2120 L Street, NW., Washington, D.C. 20037. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is base on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Administrative Officer, U.S. Water Resources Council, 2120 L Street, NW., Washington, D.C. 20037.

In the absence of a withholding agreement, the Social Security Number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security Number, in accordance with Section 7 of the Privacy Act, Public Law 93–579.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and microfilm.

RETRIEVABILITY:

Social Security Number.

SAFEGUARDS:

Stored in guarded building; released only to authorized personnel.

RETENTION AND DISPOSAL:

Disposition of records will be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer, U.S. Water Resources Council, 2120 L Street, NW., Washington, D.C. 20037.

NOTIFICATION PROCEDURE:

Contact system manager listed above.

RECORD ACCESS PROCEDURES:

See Council access regulations in 18 CFR section 701.305.

CONTESTING RECORD PROCEDURES:

See Council access regulations in 18 CFR secton 701.307.

RECORD SOURCE CATEGORIES:

The subject individual; the Council.

[FR Doc. 80-3182 Filed 1-31-80; 8:45 am]

BILLING CODE 6410-01-M

DEPARTMENT OF THE TREASURY

Customs Service

Importation of Tuna and Tuna Products From Costa Rica Prohibited

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General Notice.

SUMMARY: This notice is to advise that under the Fishery Conservation and Management Act of 1976 ("the Act"), the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs has certified to the Secretary of the Treasury that a United States fishing vessel, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, was seized by Costa Rica as a consequence of a claim of jurisdiction which is not recognized by the United States. Pursuant to section 205(b) of the Act, the Secretary of the Treasury has determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Costa Rica is prohibited until the Department of State notifies the Secretary of the Treasury that the reasons for this prohibition no longer prevail.

EFFECTIVE DATE: This prohibition is effective as to tuna and tuna products from Costa Rica imported on or after February 1, 1980. Such importation shall not be entered for consumption or withdrawn from warehouse for consumption on or after that date.

FOR FURTHER INFORMATION CONTACT: Harrison C. Feese, Entry, Examination, and Liquidation Branch, Duty Assessment Division, Office of Trade Operations, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202–566–8651).

SUPPLEMENTARY INFORMATION:

Background

Section 205(a)(4)(C) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.), provides that the Secretary of State shall certify to the Secretary of the Treasury any determination that a fishing vessel of the United States, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, has been seized by a foreign nation as a consequence of a claim of jurisdiction not recognized by the United States. The responsibility for this certification was delegated to the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs by Department of State Delegation of Authority No. 138 of April 29, 1977.

Pursuant to section 205(b) of the Act, upon receiving this certification, the Secretary of the Treasury is required to take such action as may be necessary and appropriate to prohibit the importation of all fish and fish products from the fishery involved.

Section 205(c) of the Act provides that if the Secretary of State finds that the reasons for the import prohibition under section 205 no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove the import prohibition.

On December 13, 1979, the BOLD ADVENTURESS, a fishing vessel of the United States, was seized by authorities of the government of Costa Rica approximately 160 miles off the shore of Costa Rica for fishing tuna without Costa Rican authorization. Costa Rica claims jurisdiction over tuna within 200 miles of its coast. The United States does not recognize this jurisdiction.

Pursuant to section 205(a) of the Act, on January 14, 1980, the Assistant Secretary of State certified the seizure of the BOLD ADVENTURESS, while fishing in waters beyond the jurisdiction of Costa Rica.

Determination

Under the authority of section 205 (b) and (c) of the Fishery Conservation and Management Act of 1976, on January 28, 1980, the Secretary of the Treasury determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Costa Rica (the "country of origin") is prohibited until the Department of State notifies the Secretary of the Treasury that the reasons for this prohibition no longer prevail.

Drafting Information

The principal author of this document was Laurie Strassberg Amster, Regulations and Research Division, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Treasury Department participated in its development.

Richard J. Davis,

Assistant Secretary of the Treasury.

Dated: January 31, 1980.

[FR Doc. 80-3681 Filed 1—31—80; 12:32 am]

BILLING CODE 4810-22-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 23
Friday, February 1, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, February 6, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed negotiation of a bid for a new building for the Federal Reserve Bank of San Francisco.

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: January 29, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S–197–80 Filed 1–30–80; 9:21 am]

BILLING CODE 6210–01–M

2

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR January 29, 1980 p. 6686.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., January 30, 1980.

CHANGE IN THE MEETING: The following item has been added:

Item Number, Docket Number, and Company

CI–2: RI76–28, Arkansas Louisiana Gas Company v. Frank J. Hall, *et al.*

Kenneth F. Plumb,

Secretary.

[S–200–80 Filed 1–30–80; 1:10 pm]

BILLING CODE 6450–01–M

3

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR January 29, 1980, p. 6686.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., January 30, 1980.

CHANGE IN THE MEETING: The following item has been added:

Item Number, Docket Number, and Company

RP–5: RP79–81, Texas Eastern Transmission Corporation.

Lois D. Cashell,

Acting Secretary.

[S–201–80 Filed 1–30–80; 1:10 pm]

BILLING CODE 6450–01–M

4

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 6686, January 29, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., January 30, 1980.

CHANGE IN MEETING: The following items have been added:

Item Number, Docket Number, and Company

CAG–27:RP74–4 and RP79–76, Cities Service Gas Company.

M–11: RM79–76, High Cost Natural Gas Produced from Tight Formations.

CP–4: CP78–123, et al., Northwest Alaskan Natural Gas Transportation Company.

Lois D. Cashell,

Acting Secretary.

[S–202–80 Filed 1–31–80; 1:10 pm]

BILLING CODE 6450–01–M

5

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 4:30 p.m., January 20, 1980.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling (202–377–6677).

MATTERS TO BE CONSIDERED: Request for Modification of Bank Board Condition—Far West Financial Corporation and Bell Savings and Loan Association, San Mateo, California.

Announcement is being made at the earliest practicable time.

No. 314, January 30, 1980.

[S–203–80 Filed 1–31–80; 2:47 pm]

BILLING CODE 6720–01–M

6

NUCLEAR REGULATORY COMMISSION.

DATE: February 5, 1980.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Tuesday, February 5

10 a.m.

Briefing on Upgrade of NRC Operations Center (approximately 2 hours, public meeting).

2 p.m.

Briefing on Licensee Regulatory Performance Evaluation (approximately 2 hours, public meeting.

ADDITIONAL INFORMATION: By a vote of 3–0 (Commissioners Gilinsky and Hendie not present) on January 29, 1980, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules that Commission business required that the Affirmation Item, held that day, be held on less than one week's notice to the public.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Roger M. Tweed,

Office of the Secretary.

January 29, 1980.

[S–199–80 Filed 1—30–80; 1:10 pm]

BILLING CODE 7590–01–M

7

TENNESSEE VALLEY AUTHORITY:

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 6229, January 25, 1980.

CHANGES IN PREVIOUSLY ANNOUNCED TIME AND PLACE OF MEETING: Because of inclement weather, the previously announced time and place of the January 30 TVA Board meeting are changed, as follows:

Location Has Been Changed to: Conference Room B–32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

Time Has Been Changed to: 2:00 p.m., January 30, 1980.

CONTACT PERSON FOR MORE INFORMATION: Lee C. Sheppeard, Acting Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615–632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202–245–0101.

Dated: January 30, 1980.

[S–198–80 Filed 1—30–80; 11:31 am]

BILLING CODE 6120–01–M

8

CIVIL AERONAUTICS BOARD

The CAB will meet:

TIME AND DATE: 10:00 a.m.—February 5, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.

2. Docket 34825, *Aviation Consumer Action Project* v. *Alaska Airlines, Inc., et al.*, review on petition of BCP dismissal of third-party complaint for violation of the Board's Part 221a rules requiring fare summaries. (Memo #9441, OGC)

3. Dockets 33091, 36499, 36590, 37087, 37188, and 36590; Defferal of action on West Palm Beach authority pending completion of Environmental evaluation; *Northeast/Ohio Valley-Florida Show-Cause Proceeding*, draft order on reconsideration. (Memo #9446, BDA, BIA)

4. Docket 33091, *Florida Service Case.* (Memo #9162–A, OGC)

5. Dockets 37370, 36382, 37237, 36458, and 36546; Applications of Alaska, Continental, National, Northwest, and USAir, respectively, for San Diego-Los Angeles Area-Bay Area authority. (BDA)

6. Docket 34681, applications of Empire Airlines and Air North to provide essential air transportation, with subsidy, to Massena, Ogdensburg, Watertown, Plattsburgh, and Saranac Lake/Lake Placid, New York. (BDA)

7. Dockets EAS–336 and EAS–338; Appeals of Essential Air Transportation Determinations filed by Kingman and Prescott and the State of Arizona. (OGC, BDA, OCCR)

8. Docket 34513, Petition of the Port of Astoria for determination of essential air transportation at Astoria/Seaside, Oregon. (BDA)

9. Dockets 36426, 36434, and 36783; 30-day notice of Mississippi Valley Airlines of intent to terminate air transportation at Winona, Minnesota; 90-day notice of Republic Airlines of intent to terminate air transportation at Winona; application of the City of Winona for hyphenation with La Crosse, Wisconsin. (Memo #9134–B, BDA, OCCR)

10. Dockets 36834, EAS–560, United Air Lines' notice of intent to terminate service at Salem, Oregon, under section 401(j)(1) of the Act. (BDA)

11. Dockets 34203 and 34666; Notices of USAir and Ransome Airlines to suspend service at Catskill/Sullivan County, New York. (BDA, OCCR)

12. Docket 37142, Petition of Southeast Airlines for review of staff action denying request for exemption to operate charter flights on behalf of Norwegian Caribbean Lines. (Memo #9444, BDA)

13. Dockets 31892 and 34124; Flight Express Cargo, Inc. and Purolator Sky Courier, Inc.—reissuance of section 418 all-cargo air service certificates. (Memo #9442, BDA)

14. Docket 31874, Rapidair, Inc.—Revocation of Section 418 All-Cargo Air Service Certificate and air taxi authority. (Memo #9443, BDA)

15. Dockets 31651, 31896, 31905, and 31911; Meridian Air Cargo, Inc.; Nor-Cal Aviation, Inc.; Georgia Air Freight, Inc.; and Air Trans Commuter, Inc.—Revocation of Section 418 All-Cargo Air Service Certificates. (Memo #9073–A, BDA)

16. Docket 36596, Finalization of Order 79–9–65, which asked interested persons to show cause why intercarrier agreements fixing standard levels of commissions for sales of domestic air transportation by travel agents and restricting other forms of agent compensation and carrier solicitation of agents should not be disapproved. (BDA)

17. Amendment to Section 385.16 granting the Chief, Domestic Fares and Rates Division, Bureau of Domestic Aviation the authority to grant exemptions from Section 37(c) of the Airline Deregulation Act of 1978. (Memo #9297–A, BDA)

18. Docket 20244, *Aloha Airlines, Inc., Subsidy Mail Rates.* Show-cause order proposing to recapture $695,093 in subsidy from Aloha, reflecting proceeds from 1976 settlement of antitrust case against Hawaiian Airlines, Inc., "on account of" 1968–1960 overscheduling by Hawaiian, damages from which were the primary component of subsidy paid Aloha in 1972. (BDA, OGC, BALJ)

19. Docket 32660, IATA agreements proposing a revised U.S.–Japan fares structure. (Memo #9452, BIA)

20. Docket 36534, Rulemaking to amend Part 223 to permit free/reduced rate of transportation of security guards. (BIA, OGC)

21. Docket 35715, Application of Turks Air Limited for a renewal of its section 402 foreign air permit to operate nonscheduled cargo only service. (Memo #9454, BIA, OGC, BALJ)

22. Docket 32854, Application of North Coast Air Services Ltd. for an initial foreign air carrier permit to operate charters between Canada and the United States using large aircraft. (BIA, OGC, BALJ)

23. Dockets 33547 and 35802, Holland-America Lijn, N.V. application to renew and transfer its indirect foreign air carrier permit to Holland Amerika Lijn, N.V. (Memo #9448, BIA, OGC, BALJ)

24. Dockets 31099, 31100, 33586, 33642, 34058, 34271, 33890, 33940, 34312, 36921, 34037, 31217, 34245, and 33636; Applications of Braniff, Capitol, Davis, Delta, Lone Star, Northwest, Seaboard, Trans International, Trans World and World for U.S.-West Germany certificate authority. (BIA, OGC, BDA, BALJ)

25. Docket 35473, Application of The Flying Tiger Line, Inc. for authority to serve Travis Air Force Base, California. (Memo #9447, BIA)

26. Dockets 35455, 36185, 35929, 36977, 36157, 36177, and 36373; Application of Braniff Airways, Inc. for removal of certificate conditions pursuant to section 401(e)(7)(8) of the Federal Aviation Act of 1958, as amended. (Memo #9247–B, BIA)

27. Docket 37360, Application of Spanish Main International Airlines. (BIA, OGC, BALJ)

28. Instructional guide for use by Mexican carriers requesting a small aircraft charter permit from the Board. (BIA, OGC, BALJ)

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor,

The Secretary, (202) 673–5068.

[S–204–80 Filed 1–30–80; 3:46 pm]

BILLING CODE 6325–01–M

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9

COUNCIL ON ENVIRONMENTAL QUALITY

January 31, 1980

TIME AND DATE: Friday, February 8, 1980, 11:30 a.m.

PLACE: Conference Room, 722 Jackson Place NW., Washington, D.C., 20006.

STATUS: Open Meeting.

MATTERS TO BE CONSIDERED:

1. Old business.
2. Need for study of groundwater contamination of drinking wells.
3. Briefing on status of agencies NEPA procedures.

CONTACT PERSON FOR MORE INFORMATION:

John F. Shea, III, (202) 395-4616.

[S-211-80 Filed 1-31-80; 11:57 am]

BILLING CODE 3125-01-M

federal register

Friday
February 1, 1980

Part II

Office of Personnel Management

Post Employment Conflict of Interest; Restriction of Activities of Certain Former Federal Employees

V 45 / 23 FE 1 80 UMI

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 737

Post Employment Conflict of Interest

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is revising the regulations implementing the restrictions on post employment activity established by Title V of the Ethics in Government Act of 1978. These regulations provide specific guidance to the executive agencies in exercising the administrative enforcement authority; and establish the procedures for making certain determinations and designations under the Act.

EFFECTIVE DATE: March 3, 1980.

FOR FURTHER INFORMATION CONTACT: H. Lawrence Garrett at (202) 632–7642.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management ("OPM") is publishing final regulations to supplement and particularize the restrictions on post employment activity established by Title V of the Ethics in Government Act of 1978 ("the Act"). Interim regulations were published in the Federal Register on April 3, 1979 (44 FR 19974–19988). Changes have been made to conform to the amendments made to 18 U.S.C. 207 by Pub. L. 96–28, signed into law on June 22, 1979. In addition, editorial revisions and other changes have been made in order to simplify and clarify the regulations.

(1) Major Revisions

The following summarizes those provisions of the interim regulations that were changed to reflect the amendments made to Title V of the Act by Pub. L. 96–28.

A. The Subsection 207(b)(ii) Prohibition (§ 737.9)—Assistance in Representation

The language of the Act, as originally enacted, prohibited those designated as Senior Employees from providing assistance in representing any person, other than the United States, "concerning" any formal or informal appearance. The original language was not thought to accurately reflect the intention of Congress in that it allowed for two possible but clearly unintended interpretations: (i) that certain otherwise legitimate activities connected with the management of grants and contracts were barred, and (ii) that the "assistance in representing" bar extended both to matters in which the former Senior Employee had personally and substantially participated and matters which, although not having personally and substantially participated in them, had been actually pending under his/her official responsibility. The amendments to the Act provide that 18 U.S.C. 207(b)(ii) applies only to that assistance given within two years after leaving Government service, by "personal presence" at an appearance before the Government—for example, a negotiation or proceeding. The amendments further provide that this two-year bar applies only to matters in which the former employee had "personally and substantially" participated.

B. Limitation of Subsection 207(c) Prohibition (§ 737.11)

Subsection 207(c), as added by the Act, prohibits for one year an appearance by a former Senior Employee before his or her former department or agency. However, 18 U.S.C. 207(e), also added by the Act, in most cases removes that prohibition with respect to an appearance of such an individual before a separate statutory agency or bureau (other than the one he had served) within the parent department or agency.

Amendments to 18 U.S.C. 207(d) enacted by Pub. L. 96–28 give the Director of the Office of Government Ethics ("OGE") the authority to further limit the application of the one-year "cooling-off" bar mentioned above. More particularly, although a former Senior Employee will continue to be prohibited from contact with those non-statutory segments of his or her former department or agency where there is potential for unfair influence, he or she may be permitted appearances before "separate and distinct" components of the former department or agency where there exists no such potential. The new permission is not, however, available for those former Senior Employees who held Executive Level positions or for members of the uniformed services who served in pay grades 0–9 and 0–10. Unlike the provisions of 18 U.S.C. 207(c) regarding separate statutory agencies, those of 18 U.S.C. 207(d) make its benefit available in some instances to the former head of a separate component.

The amendments of Pub. L. 96–28 also make the prohibitions of subsection (c) of 18 U.S.C. 207 inapplicable to appearances, communications or representations made by a former Senior Employee who is an elected representative of a State or local government, or a regular employee of (i) such a government, (ii) a non-profit hospital or medical research institution, or (iii) a degree granting institution of higher education. Such appearances, communications or representations must be made on behalf of such governments or specified organizations in order to be exempt.

C. Modification of Senior Employee Designations (§ 737.25)

Under the original provisions of 18 U.S.C. 207(d)(3) all active duty commissioned officers of a uniformed service assigned to pay grade 0–7 and above were automatically designated by statute as Senior Employees for purposes of subsections (b)(ii) and (c) of 18 U.S.C. 207.

The amendments of Pub. L. 96–28 added a new provision (207(d)(1)(C)) which equalized the treatment of uniformed service officers, in relation to civilian personnel, by specifying that officers serving in pay grades 0–7 and 0–8 shall be made subject to the special restrictions for Senior Employees—(i.e., the two-year assistance bar (207(b)(ii)) and the one-year bar against doing business with one's former agency (207(c))—only if they held positions of "significant decision-making or supervisory responsibility" as designated by the Director, OGE.

Finally, the amendments restricted the civilian employee positions which may be designated, by the Director, OGE, as subject to the special restrictions for Senior Employees, to those positions for which the basic rate of pay is equal to or greater than the basic rate of pay for CS–17, or which are established in the Senior Executive Service. Essentially, the amendments codify the policy reflected in OPM's interim regulations published on April 3, 1979 (44 FR 19986).

(2) Analysis of Comments

The interim regulations provided a 45 day period for public comment. OPM received comments from 28 agencies, two law firms and two labor organizations. A number of the comments offered specific recommendations for clarifying or modifying specific provisions of the interim regulations. OPM has proposed modification of certain of the regulations, as discussed below. In addition, guidance issued through the Federal Personnel Manual System will address certain other concerns expressed during the public comment period.

A. General

Two commenters asked that the regulations specifically state that Part 737 does not incorporate or supplant restrictions contained in other laws and regulations or in professional codes of conduct. The recommendations were adopted and incorporated in the final regulations.

Only one commenter felt that, since 18 U.S.C. 207 can be enforced criminally, it was inappropriate for OPM to propound a definitive interpretation of its provisions, and that OPM should state that it is only providing an advisory interpretation. We believe, however, that it would be inappropriate to require Federal employees to make decisions regarding continued employment with the Government on the basis of unclear constraints or otherwise require them to act at their peril. Congress prescribed a relationship between OPM and the Department of Justice, giving the Director, OGE, the responsibility for developing regulations in consultation with the Attorney General. As to matters involving criminal proscriptions, it was decided early that these regulations should have the concurrence of the Attorney General so as to avoid the anomalous result that a particular activity might be viewed as triggering no administrative enforcement, while possibly triggering criminal enforcement. While criminal enforcement of the provisions of 18 U.S.C. 207 remains the exclusive responsibility of the Attorney General, the Attorney General has advised that these regulations are consistent with his interpretation for criminal enforcement responsibilities.

One commenter observed that it seems improper to have agencies advise present and former emloyees as to the requirements of the Act, when agencies also have an obligation to report alleged violations of law to the Department of Justice. (28 U.S.C. 535) OPM sees no such impropriety, but rather regards it the duty of such agencies to advise their employees so as to cause their conduct to conform to the law.

One commenter questioned the absence of any provision in the regulations dealing with a case in which a high-ranking Government official, who awarded a major contract to a private entity, is subsequently hired by the private entity. The regulations do not contain such a provision because the Act does not prohibit such employment, but only restricts the post employment representational activity of a former Government employee in relation to such a contract. Another commenter raised the situation of a former private sector employee, who, as a Government official, awards a contract to his or her former employer. Such a situation is not subject to the provisions of 18 U.S.C. 207 or these regulations, but might trigger 18 U.S.C. 208, given a current interest by such an employee.

One commenter asked for a clarification of when self-representation is permitted under subsections 207 (a), (b) and (c). Self-representation is generally permitted under subsections 207 (a) and (b). OPM will publish Federal Personnel Manual guidance periodically concerning self-representation, and OGE will publish formal advisory opinions concerning self-representation.

It was observed in one comment that since OMB Circular A–76 provides that a contractor must give the right of first refusal for jobs contracted out by an agency to Federal employees, the regulations should address the section 207 problems which might arise. OMB Circular A–76 further provides that the right of first refusal would apply only when consistent with the post employment conflict of interest standards. These regulations, in part, establish the standards controlling whether or not the right of first refusal would apply to a given situation.

B. Definitions

One commenter asked that the regulations be revised to make clear that an independent contractor could never be a "special Government employee" and another asked that it be made clear that a consultant could come within the definition. The definition of "special Government employee" has incorporated the essence of such recommendations.

One comment asked for technical clarifications of the term "Government employee" and questioned the appropriateness of applying the "supervised by" requirement, incorporated by reference to 5 U.S.C. 2104 and 2105, to that term. The Director, OGE, does not consider that the "supervised by" requirement found in 5 U.S.C. 2104 and 2105 contemplates direct supervision by the appointing official in order to find one to be an "officer" or "employee" as defined in sections 2104 and 2105; rather, the requirement encompasses supervision in the broader sense by Federal employees within the department or agency within which they serve.

C. Restrictions on Any Former Government Employee's Acting as Representative as to a Particular Matter in Which the Employee Personally and Substantially Participated

For purposes of § 737.5(b)(3), the act of conveying material to the United States in connection with a formal proceeding or application may be deemed to constitute an "appearance." There was a suggestion in one comment that the scope of this concept be broadened. Another commenter specifically mentioned that the use of the word "appearance" in Example 1 of § 737.5(b)(3) too narrowly construed the meaning of section 207(a) of title 18 U.S.C. OPM considers the provisions to be consistent with the statutory language.

With respect to what constitutes a "particular matter" for purposes of § 737.5(c)(1), one commenter felt that the term should not be deemed to include the formulation of standard terms to be used in contracts to which the Government is a party. The commenter further urged that as to a specific contract, the validity or meaning of standard terms should not be considered as aspects of the particular matter embodied in the contract in which there was substantial participation—but, should be considered merely ancillary under § 737.5(d)(2). Likewise, it was argued that an attorney who passed upon the legality, as opposed to the desirability, of a particular matter's outcome has dealt with only an ancillary aspect of the matter. This same comment was made with respect to § 737.7(b)(3). The recommendation that formulation of standard terms or clauses to be used generally in contracts not be considered a "particular matter" is appropriate under the statute and has been incorporated in the final regulations. OPM considers that advice concerning the validity or meaning of a standard term or clause embodied in a specific contract is an aspect of the "particular matter" and not merely ancillary under § 737.5(d)(2). Moreover, passing upon the legality, as opposed to the desirability, of a particular contract by an attorney does not constitute involvement with an ancillary aspect of a matter but is, rather, involvement which cannot reasonably be separated from the substantive merits of the particular matter. The final regulations do not, therefore, incorporate the recommendation that such involvement be considered merely ancillary.

An objection was raised in one comment as to the formulation of § 737.5(c)(3) with respect to contractual matters. It was urged that involvement in the preliminary dialogue concerning the subject matter of a contract should not be deemed to constitute the same "particular matter" as that embodied in the executed contract. The text of the final regulations has been altered to further refine the concept concerning the relationship of personal participation to the specificity of a particular matter. In order for such participation to rise to the

level of participation in a particular matter there must be more than the involvement in mere speculative discussion in the formative stages of a matter.

One commenter asked for more detailed guidance as to when a lawsuit, to which the United States is not a party, may be of direct and substantial interest to the United States or to a particular Federal agency for purposes of §§ 737.5(c)(5) and 737.11(e). Such guidance will be published through the formal advisory opinion service on a case-by-case basis.

One commenter felt that there should be some indication of the circumstances in which personal participation should not be deemed "substantial" participation. Such guidance is provided in § 737.5(d).

D. 2-Year Restriction on Any Former Government Employee's Acting as Representative as to a Particular Matter for Which the Employee had Official Responsibility

One commenter felt that an employee should not be considered to have "official responsibility" over that aspect of a particular matter which involves the non-discretionary use of standard contract terms. It was urged that this be considered an ancillary matter under § 737.7(b)(3). OPM believes that if the issue arises in relation to a specific contract then such an aspect would be considered as part of the "particular matter" and not merely ancillary.

One commenter questioned the use of the "actually pending" rule as it is employed in § 737.7(c), and suggested a reformulation of this concept. The concept is accurate as presented; further guidance will be promulgated on a case-by-case basis through the formal advisory opinion service.

It was suggested, correctly, in one comment that the conclusions reached in Example 1 of § 737.7(e) are inconsistent with the rules given in the text. The text of the final regulation has been revised to remove the inconsistency.

E. 2-Year Restriction on a Former Senior Employee's Assisting in Representing as to a Matter in Which the Employee Participated Personally and Substantially

Several Commenters asked for further delineation of permitted activities in the case of a former employee to whom section 207(b)(ii) applies. Such guidance, beyond that presented in the regulations, shall be provided through the formal advisory opinion service.

One commenter inquired as to the propriety of telephone communications during a negotiation, and as to when such communications should be deemed tantamount to "personal presence." This issue is addressed in § 737.5(b)(3) as it relates to § 737.9. A telephone call would normally constitute a communication, not an appearance, and a former Senior Employee could give assistance regarding (but could not make) such a call.

F. 1-Year Restriction on a Former Senior Employee's Transactions With a Former Agency on a Particular Matter, Regardless of Prior Involvement

One commenter urged that the final regulations clearly reflect that the qualifying language of section 207(d)(2) of the Act, as amended by Pub. L. 96-28, following "1954," in section 207(d)(2)(B), is applicable to both subparagraphs (A) and (B). The final regulations so reflect.

Another comment expressed the view that the section 207(d)(2) exemption is inequitable in that former Senior Employees employed by certain non-profit institutions could not conduct themselves in the same manner permitted former Senior Employees employed by an exempted institution. The Congress drew a clear distinction between those institutions, the employees of which would be exempt from the section 207(c) prohibitions and those who would not. OPM cannot, by regulation, go beyond that which is mandated by law.

Concern was expressed in one comment that the use of the word "hired" in § 737.11 might permit an agency to hire ex-employees as consultants, but not on a product contract basis. It was suggested that the regulations should permit any arrangement in which personal service by an ex-employee is contemplated. The final regulations substitutes "employed" for the word "hired."

One commenter felt that Example 3 of § 737.11(h) unduly broadens the statutory exception for "special knowledge." OPM considers that the example in question reflects a reasonable interpretation of the statute in regard to an area that would not normally create any actual or apparent conflict of interest on the part of a former Senior Employee.

G. Designations of Separate Statutory Agencies or Bureaus

One commenter felt that the regulations should contain a definition of " bureau," and urged the view that separate divisions within an agency do not fall within the exemption of section 207(e). The regulations contain clear guidance as to those separate statutory bureaus or agencies which qualify for treatment under section 207(e) of title 18 U.S.C. The final regulations further reflect the treatment of a separate and distinct subject matter component of an agency which may be treated separately for section 207(c) purposes. (See § 737.25(d).)

H. Partners of Present or Former Government Employees

One commenter asked for regulations pursuant to section 207(g) to cover the situation of current employees and their outside partners. The present regulations, however, are limited solely to post employment conflict of interest.

I. Officials of a State; Officials of Corporations Created by an Act of Congress and Public International Organizations

Greater clarification was requested by one commenter as to whether certain banking institutions and their directors are referred to by the provisions of § 737.23(b)(1). OPM will provide such clarification through the formal advisory opinion service when requested.

Another comment expressed concern about the treatment of former employees who join international organizations. Such former employees, except those serving under the conditions set forth in § 737.23(b)(2), would be subject to the restricitions of the law and these regulations.

J. Standards and Procedures for Designating Senior Employee Positions Pursuant to 18 U.S.C. 207(d)

Several comments raised technical questions concerning the designation of Senior Employee positions under section 207(d). One commenter asked about the situation of a consultant who voluntarily serves without pay in a position for which a rate of pay above GS-16 is authorized. The situation of a special Government Employee who serves for less than 60 days in each of two or more positions, but for a total of 60 days or more, was also presented. Such specific situations will be the subject of formal advisory opinions when requested.

One comment suggested that the regulations should not define "supervisory responsibility" in terms of the number of employees supervised, but in regard to the significance of the activities involved. The interim as well as the final regulations were drafted to emphasize the latter criteria rather than the former. Additional guidance was promulgated by OPM's memorandum to Designated Agency Ethics Officials dated April 26, 1979.

K. Administrative Enforcement Proceedings

One comment pointed out that in some cases law-enforcement powers are specifically denied to an agency. OPM considers that such situations will have to be addressed on a case by case basis.

Another commenter stated that the regulations should provide, as an alternative to § 737.27, that employees in units for which there is an exclusive representative should have the right of arbitration and to grieve the matters to be covered through the negotiated grievance procedure. The procedures set forth in § 737.27 are applicable only to former Government employees who are alleged to have violated the provisions of 18 U.S.C. 207. The recommended procedure is considered applicable to current rather than former employees and was not, therefore, adopted.

(3) Additional Sections

§ 737.13 of the interim regulations published on April 3, 1979, sets forth the standards and procedures to be applied in connection with designations of separate statutory agencies or bureaus within a department or agency for purposes of 18 U.S.C. 207(c). The Director, OGE, has determined that of those recommendations received, certain agencies and bureaus qualify for designation as separate statutory agencies. Such agencies and bureaus are designated in the new § 737.31 of the regulations.

§ 737.13 of the final regulations also sets forth the standards and procedures to be applied in connection with the designation of certain agencies, bureaus and offices as separate components within a department or agency for purposes of limiting the application of subsection (c) of 18 U.S.C. 207 pursuant to subsection (d)(1)(C) of that provision. The Director, OGE, has determined that of those recommendations received, certain agencies, bureaus and offices qualify for such designation. They are designated in new § 737.32 of the regulations.

(4) Senior Employee Designations

Interim regulations designating Senior Employee positions within certain departments and agencies were published in the **Federal Register** on September 25, 1979 (44 FR 55147–55160). Editorial revisions have been made and several erroneous designations have been revoked. The previously published designations are incorporated in new § 737.33. The Senior Employee designations listed in § 737.33 do not constitute all of the designations to be made by the Director, OGE, under the provisions of 18 U.S.C. 207(d)(1)(C). Additional designations for those departments and agencies not listed will be issued in the near future as a separate interim regulation to be incorporated in these regulations upon codification. The effective date of the Senior Employee designations listed in § 737.33 is February 28, 1980. OPM has determined this is a significant regulation for the purposes of E.O. 12044.

(5) Text of Law

For the use of readers in understanding the regulations, the text of Title V of the Ethics in Government Act of 1978 is set forth below: The statutory provisions concerning Post Employment Conflict of Interest appear in Title V of the Ethics in Government Act of 1978 (Pub. L. 95–521) as amended by Pub. L. 96–28, the text of which is as follows:

Title V—Post Employment Conflict of Interest

Sec. 501. (a) Section 207 of title 18, United States Code, is amended to read as follows:

"§ 207. Disqualification of Former Officers and Employees; Disqualification of Partners of Current Officers and Employees

"(a) Whoever, having been an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to—

"(1) any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and

"(2) In connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter invoving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

"(3) in which he participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, while so employed; or

"(b) Whoever, (i) having been so employed, within two years after his employment has ceased, knowingly acts agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to, or (ii) having been so employed and as specified in subsection (d) of this section, within two years after his employment has ceased, knowingly represents or aids, counsels, advises, consults, or assists in representing any other person (except the United States), by personal presence at any formal or informal appearance before—

"(1) any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and

"(2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

"(3) as to (i) which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility, or, as to (ii), in which he participated personally and substantially as an officer or employee; or

"(c) Whoever, other than a special Government employee who serves for less than sixty days in a given calendar year, having been so employed as specified in subsection (d) of this section, within one year after such employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, anyone other than the United States in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of anyone other than the United States, to—

"(1) the department or agency in which he served as an officer or employee, or any officer or employee thereof, and

"(2) in connection with any judicial, rulemaking, or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter, and

"(3) which is pending before such department or agency or in which such department or agency has a direct and substantial interest—

shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

"(d)(1) Subsection (c) of this section shall apply to a person employed—

"(A) at a rate of pay specified in or fixed according to subchapter II of chapter 53 of title 5, United States Code, or a comparable or greater rate of pay under other authority;

"(B) on active duty as a commissioned officer of a uniformed service assigned to pay grade of O–9 or above as described in section 201 of title 37, United States Code; or

"(C) in a position which involves significant decision-making or supervisory responsibility, as designated under this subparagraph by the Director of the Office of Government Ethics, in consultation with the department or agency concerned. Only

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positions which are not covered by subparagraphs (A) and (B) above, and for which the basic rate of pay is equal to or greater than the basic rate of pay for GS–17 of the General Schedule prescribed by section 5332 of title 5, United States Code, or positions which are established within the Senior Executive Service pursuant to the Civil Service Reform Act of 1978, or positions of active duty commissioned officers of the uniformed services assigned to pay O–7 or O–8, as described in section 201 of title 37, United States Code, may be designated. As to persons in positions designated under this subparagraph, the Director may limit the restrictions of subsection (c) to permit a former officer or employee, who served in a separate agency or bureau within a department or agency, to make appearances before or communications to persons in an unrelated agency or bureau, within the same department or agency, having separate and distinct subject matter jurisdiction, upon a determination by the Director that there exists no potential for use of undue influence or unfair advantage based on past government service. On an annual basis, the Director of the Office of Government Ethics shall review the designations and determinations made under this subparagraph and, in consultation with the department or agency concerned, make such additions and deletions as are necessary. Departments and agencies shall cooperate to the fullest extent with the Director of the Office of Government Ethics in the exercise of his responsibilities under this paragraph.

"(2) The prohibition of subsection (c) shall not apply to appearances, communications, or representations by a former officer or employee, who is—

"(A) an elected official of a State or local government, or

"(B) whose principal occupation or employment is with (i) an agency or instrumentality of a State or local government, (ii) and accredited, degree-granting institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965, or (iii) a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1954, and the appearance, communication, or representation is on behalf of such government, institution, hospital, or organization."

"(e) For purposes of subsection (c), whenever the Director of the Office of Government Ethics determines that a separate statutory agency or bureau within a department or agency exercises functions which are distinct and separate from the remaining functions of the department or agency, the Director shall by rule designate such agency or bureau as a separate department or agency; except that such designation shall not apply to former heads of designated bureaus or agencies, or former officers and employees of the department or agency whose official responsibilities included supervision of said agency or bureau.

"(f) The prohibitions of subsections (a), (b), and (c) shall not apply with respect to the making of communication solely for the purpose of furnishing scientific or technological information under procedures acceptable to the department or agency concerned, or if the head of the department or agency concerned with the particular matter, in consultation with the Director of the Office of Government Ethics, makes a certification, published in the **Federal Register**, that the former officer or employee has outstanding qualifications in a scientific, technological, or other technical discipline, and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former officer or employee.

"(g) Whoever, being a partner of an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, acts as agent or attorney for anyone other than the United States before any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which such officer or employee or special Government employee participates or has participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of his official responsibility, shall be fined not more than $5,000, or imprisoned for not more than one year, or both.

"(h) Nothing in this section shall prevent a former officer or employee from giving testimony under oath, or from making statements required to be made under penalty of perjury.

"(i) The prohibition contained in subsection (c) shall not apply to appearances or communications by a former officer or employee concerning matters of a personal and individual nature, such as personal income taxes or pension benefits; nor shall the prohibition of that subsection prevent a former officer or employee from making or providing a statement, which is based on the former officer's or employee's own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received, other than that regularly provided for by law or regulation for witnesses.

"(j) If the head of the department or agency in which the former officer or employee served finds, after notice and opportunity for a hearing, that such former officer or employee violated subsection (a), (b), or (c) of this section, such department or agency head may prohibit that person from making, on behalf of any other person (except the United States), any informal or formal appearance before, or, with the intent to influence, any oral or written communication to, such department or agency on a pending matter of business for a period not to exceed five years, or may take other appropriate disciplinary action. Such disciplinary action shall be subject to review in an appropriate United States district court. No later than six months after the effective date of this Act, departments and agencies shall, in consultation with the Director of the Office of Government Ethics, establish procedures to carry out this subsection."

(b) The item relating to section 207 in the table or sections at the beginning of chapter II of title 18, United States Code, is amended to read as follows:

"207. Disqualification of former officers and employees; disqualification of partners of current officers and employees."

Applicability

Sec. 502. The amendments made by section 501 shall not apply to those individuals who left Government service prior to the effective date of such amendments or, in the case of individuals who occupied positions designated pursuant to section 207(d) of title 18, United States Code, prior to the effective date of such designation; except that any such individual who returns to Government service on or after the effective date of such amendments or designation shall be thereafter covered by such amendments or designation.

Effective Date

Sec. 503. The amendments made by section 501 shall become effective on July 1, 1979.

Office of Personnel Management

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management is revising Part 737 of Title 5 of the Code of Federal Regulations, to read as follows:

PART 737—REGULATIONS CONCERNING POST EMPLOYMENT CONFLICT OF INTEREST

Subpart A—General Provisions

Sec.

737.1 Purpose and policy.
737.3 Definitions.

Subpart B—Substantive Provisions

737.5 Restrictions on any former government employee's acting as representative as to a particular matter in which the employee personally and substantially participated.
737.7 Two-year restriction on any former government employee's acting as representative as to a particular matter for which the employee had official responsibility.
737.9 Two-year restriction on a former senior employee's assisting in representing as to a matter in which the employee participated personally and substantially.
737.11 One-year restriction on a former senior employee's transactions with former agency on a particular matter, regardless of prior involvement.
737.13 Limitation of restrictions of 18 U.S.C. § 207(c) to less than the whole of a department or agency.

Sec.

737.15 Exemption for scientific and technological information.
737.17 Exemption for persons with special qualification in a technical discipline.
737.19 Testimony and statements under oath or subject to penalty of perjury.
737.21 Partners of present or former government employees.
737.23 Officials of a State; officials of corporations created by an act of Congress and public international organizations.
737.25 Standards and procedures for designating senior employee positions pursuant to 18 U.S.C. § 207(d).
737.27 Administrative enforcement proceedings.
737.29 Effective date of restrictions.
737.31 Separate statutory agencies; designations.
737.32 Separate components of agencies or bureaus: designations.
737.33 "Senior Employee" designations.

Authority: Pub. L. 95–521, 92 Stat. 1862–1863 (5 U.S.C. Appendix), 92 Stat. 1864–1867 (18 U.S.C. 207).

Note.—The following index of paragraphs is provided for the convenience of the reader; this index will not appear in the CFR.

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Subpart B—Substantive Provisions

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PART 737—REGULATIONS CONCERNING POST EMPLOYMENT CONFLICT OF INTEREST

Subpart A—General Provisions

§ 737.1 Purpose and policy.

(a) *Authority.* Title IV of the Ethics in Government Act of 1978 ("the Act") established the Office of Government Ethics within the Office of Personnel Management ("OPM"). Section 402(a) of the Act provides in part that the Director, Office of Government Ethics ("the Director") shall provide, under the general supervision of OPM, overall direction of executive branch policies related to preventing conflicts of interest on the part of officers and employees of any executive agency as defined in

section 105 of title 5, United States Code, and shall propose, in consultation with the Attorney General, rules and regulations to be promulgated by the President or by OPM. The purpose of this part is to issue regulations recommended by the Director which give content to the restrictions on post employment activity established by title V of the Act (18 U.S.C. 207) for administrative enforcement with respect to former officers and employees of the executive branch; generally to guide agencies in exercising the administrative enforcement authority reflected in section 18 U.S.C. 207(j); to set forth the procedures to be employed in making certain determinations and designations pursuant to the Act; and to provide guidance to individuals who must conform to the law. Criminal enforcement of the provisions of 18 U.S.C. 207 remains the exclusive responsibility of the Attorney General.

(b) *Consultation with the Attorney General.* In proposing these regulations, the Director consulted with the Attorney General as to the content of regulations governing substantive prohibitions as well as other matters. The Attorney General has advised that such regulations are consistent with his opinion as to the interpretation of the Act.

(c) *Policy and limitations.* These regulations bar certain acts by former Government employees which may reasonably give the appearance of making unfair use of prior Government employment and affiliations.

(1) When a former Government employee who has been involved with a particular matter decides to act as the representative for another person on that matter, such "switching of sides" undermines confidence in the fairness of proceedings and creates the impression that personal influence, gained by Government affiliation, is decisive.

(2) Similarly, when a former high-level employee assists in representing another by personal presence at an appearance before the Government regarding a matter which is in dispute, such assistance suggests an attempt to use personal influence and the possible unfair use of information unavailable to others. Different considerations are involved, however, with respect to assistance given as part of customary supervisory participation in a project funded by a Government contract or grant, since a former employee's knowledge may benefit the project and thus the Government, and regular communications with associates may properly be regarded as inherent in managerial responsibility. Such assistance, when not rendered by personal presence during an appearance, is not covered by the statute.

(3) When a former Senior Employee returns to argue a particular matter to the employee's former agency in the period immediately following the termination of official employment, it appears that Government-based relationships are being used for private ends.

(4) Former officers and employees may fairly be required to avoid such activities in the circumstances specified by statute and in these regulations.

(5) The provisions of 18 U.S.C. 207 do not, however, bar any former Government employee, regardless of rank, from employment with any private or public employer after Government service. Nor do they effectively bar employment even on a particular matter in which the former Government employee had major official involvement except in certain circumstances involving persons engaged in professional advocacy. Former Government employees may be fully active in high-level supervisory positions whether or not the work is funded by the United States and includes matters in which the employee was involved while employed by the Government. The statutory provisions are not intended to discourage the movement of skilled professionals in Government, to and from positions in industry, research institutions, law and accounting firms, universities and other major sources of expertise. Such a flow of skills can promote efficiency and communication between the Government and private activities, and it is essential to the success of many Government programs. Instead, only certain acts which are detrimental to public confidence in the Government are prohibited.

(6) Departments and agencies have primary responsibility for the administrative enforcement of the post employment restrictions found in the Act. The Department of Justice may initiate criminal enforcement in cases involving aggravated circumstances; agency heads are required to report substantiated allegations of violations of 18 U.S.C. 207 to the Department of Justice and the Director, OGE. It is essential that Title V of the Act be enforced so as to advance its objectives, which include improvement in government efficiency, equal treatment for equal claims, greater public confidence in the integrity of their government, elimination of the use of public office for private gain, and securing the integrity of the government's policy-making processes. Departments and agencies should avoid enforcement actions that do not advance these objectives but instead frustrate the Government's ability to employ the skilled persons who are needed to make the programs of the Federal Government succeed. Special attention should be given to the need to preserve the free flow of expertise, especially in scientific, technological and other technical areas, from private activities to the government.

(7) The examples contained in these regulations are intended to give guidance, but are illustrative, not comprehensive. Each agency may provide additional illustration and guidance in its own regulations, consistent with that contained herein, in order to address specific problems arising in the context of a particular agency's operations.

(8) Agencies have the responsibility to provide assistance promptly to former Government employees who seek advice on specific problems. The Office of Government Ethics will provide advice, promptly, upon request, to designated agency ethics officials in such situations, but will first coordinate with the Department of Justice on unresolved or difficult issues.

(9) These regulations do not supplant restrictions that may be contained in laws other than 18 U.S.C. 207 and do not incorporate restrictions contained in the code of conduct of a profession of which an employee may be a member.

§ 737.3 Definitions.

(a) *Statutory definitions.* The following are defined terms which largely repeat portions of the text of the statute. They are set out here to permit a simplified presentation of statutory requirements in the regulations which follow. Other definitions, which supplement the statutory language, are listed in paragraph (b) of this section and are set forth in detail in the substantive regulations.

(1) *"United States" or "Government"* means any department, agency, court, court-martial, or any civil, military or naval commission of the United States, the District of Columbia, or any officer or employee thereof.

(2) *"Agency"* includes an Executive Department, a Government corporation and an independent establishment of the executive branch, which includes an independent commission. (See 18 U.S.C. 6.)

(3) *"Government Employee"* includes any officer or employee of the Executive Branch (as defined in 18 U.S.C. 202 and, e.g., 5 U.S.C. 2104 and 2105); those appointed or detailed under 5 U.S.C. 3374, and a Special Government Employee, but shall not include an individual performing services for the United States as an independent contractor under a personal service contract.

(4) *"Former Government Employee"* means one who was, and is no longer, a Government employee.

(5) *"Special Government Employee"* means an officer or employee of an agency who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed 130 days during any period of three hundred and sixty five consecutive days, temporary duties either on a full time or intermittent basis (18 U.S.C. 202).

(6) *"Senior Employee"* means an officer or employee named in, or designated by the Director pursuant to, section 207(d) of title 18 U.S.C. to whom 207(b)(ii) and (c) shall apply (See 737.25 below.)

(7) *"Particular Government matter involving a specific party"* means any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest.

(b) *Interpretative definitions.* Other terms defined and interpreted in the substantive regulations are:

(1) *"Acting as Agent or Attorney"*: (See § 737.5(b).)

(2) *"Actually Pending"*: (See § 737.7(c).)

(3) *"Communicating with Intent to Influence"*: (See § 737.5(b).)

(4) *"Direct and Substantial Interest"*: (See § 737.11(f).)

(5) *"Participate Personally and Substantially"*: (See § 737.5(d).)

(6) *"Particular Matter Involving a Specific Party or Parties"*: (See § 737.5(c).)

(7) *"Particular Matter" (without parties)*: (See § 737.11(d).)

(8) *"Official Responsibility"*: (See § 737.7(b).)

(9) *"Rate of Pay"*: (See § 737.25(b)(4).)

Subpart B—Substantive Provisions

§ 737.5 Restrictions on any former government employee's acting as representative as to a particular matter in which the employee personally and substantially participated.

(a) *Basic prohibition of 18 U.S.C. 207(a).* No former Government employee, after terminating Government employment, shall knowingly act as agent or attorney for, or otherwise represent any other person in any formal or informal appearance before, or with the intent to influence, make any oral or written communication on behalf of any other person (1) to the United States, (2) in connection with any particular Government matter involving a specific party, (3) in which matter such employee participated personally and substantially as a Government employee.

(b) *Representation: Acting as agent or attorney, or other representative in an appearance, or communicating with intent to influence.*

(1) *Attorneys and agents.* The target of this provision is the former employee who participates in a particular matter while employed by the Government and later "switches sides" by representing another person on the same matter. [NOTE: The examples in these regulations do not incorporate the special statutory restrictions on Senior Employees, except where the terms "Senior Employee" or "Senior" are expressly used.]

Example 1: A lawyer in the Department of Justice personally works on an antitrust case involving Q Company. After leaving the Department; he is asked by Q Company to represent it in that case. He may not do so.

(2) *Others.* The statutory prohibition covers any other former employee, including managerial and technical personnel, who represents another person in an appearance or, by other communication, attempts to influence the Government concerning a particular matter in which he or she was involved. For example, a former technical employee may not act as a manufacturer's promotional or contract representative to the Government on a particular matter in which he or she participated. Nor could such employee appear as an expert witness against the Government in connection with such a matter. (See § 737.19 for specific rules relating to expert witnesses.)

(3) *Appearances; communications made with intent to influence.* An appearance occurs when an individual is physically present before the United States in either a formal or informal setting or conveys material to the United States in connection with a formal proceeding or application. A communication is broader than an appearance and includes for example, correspondence, or telephone calls.

Example 1: An appearance occurs when a former employee meets with an agency employee personally to discuss a matter; or when he submits a brief in an agency administrative proceeding in his own name.

Example 2: A former employee makes a telephone call to a present employee to discuss a particular matter that is not the subject of a formal proceeding. She has made a communication.

(4) *Government visits to others premises.* Neither a prohibited appearance nor communication occurs when a former Government employee communicates with a Government employee who, at the instance of the United States, visits or is assigned to premises leased to, or owned or occupied by, a person other than the United States which are or may be used for performance under an actual or proposed contract or grant, when such communication concerns work performed or to be performed and occurs in the ordinary course of evaluation, administration, or performance of the actual or proposed contract or grant.

(5) *Elements of "influence" and potential controversy required.* Communications which do not include an "intent to influence" are not prohibited. Moreover, acting as agent or attorney in connection with a routine request not involving a potential controversy is not prohibited. For example, the following are not prohibited: a question by an attorney as to the status of a particular matter; a request for publicly available documents; or a communication by a former employee, not in connection with an adversary proceeding, imparting purely factual information. (See also § 737.11(d) below.)

Example 1: A Government employee, who participated in writing the specifications of a contract awarded to Q Company for the design of certain education testing programs, joins Q Company and does work under the contract. She is asked to accompany a company vice-president to a meeting to state the results of a series of trial tests, and does so. No violation occurs when she provides the information to her former agency. During the meeting a dispute arises as to some terms of the contract, and she is called upon to support Q Company's position. She may not do so. If she had reason to believe that the contractual dispute would be a subject of the meeting, she should not have attended.

(6) *Assistance.* A former employee is not prohibited from providing in-house assistance in connection with the representation of another person.

Example 1: A Government employee administered a particular contract for agricultural research with Q Company. Upon termination of her Government employment, she is hired by Q Company. She works on the matter covered by the contract, but has no direct contact with the Government. At the request of a company vice-president, she prepares a paper describing the persons at her former agency who should be contacted and what should be said to them in an effort in increase the scope of funding of the

contract and to resolve favorably a dispute over a contract clause. She may do so.

(7) *Project responses not included.* In a context not involving a potential controversy involving the United States no finding of a "intent to influence" shall be based upon whatever influential effect inheres in an attempt to formulate a meritorious proposal or program.

Example 1: The employee of Q Company in the previous example is asked to design an educational testing program, which she does and transmits it to the Government. This is not prohibited despite the fact that her well-designed program may be inherently influential on a question of additional funding under the contract. She may not argue for its acceptance.

(c) *"Particular matter involving a specific party or parties."*

(1) *Specific matters vs. policy matters.* The prohibitions of subsections (a) and (b) of 18 U.S.C. 207, are based on the former Government employee's prior participation in or responsibility for a "judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties" in which the United States is a party or has a direct and substantial interest. Such a matter typically involves a specific proceeding affecting the legal rights of the parties or an insolatable transaction or related set of transactions between identifiable parties. Rulemaking, legislation, the formulation of general policy, standards or objectives, or other action of general application is not such a matter. Therefore, a former Government employee may represent another person in connection with a particular matter involving a specific party even if rules or policies which he or she had a role in establishing are involved in the proceeding.

Example 1: A Government employee formulated the policy objectives of an energy conservation program. He is not restricted from later representing a university which seeks a grant or contract for work emerging from such a program.

Example 2: A Government employee reviews and approves a specific city's application for Federal assistance for a renewal project. After leaving Government service, she may not represent the city in relation to that project.

Example 3: An employee is regularly involved in the formulation of policy, procedures and regulations governing departmental procurement and acquisition functions. Participation in such activities does not restrict the employee after leaving the Government as to particular cases involving the application of such policies, procedures, or regulations.

Example 4: An employee of the Office of Management and Budget participates substantially on the merits of a decision to reduce the funding level of a program, which has the effect of reducing the amount of money which certain cities receive to conduct youth work programs. After leaving the Government she may represent any of the cities in securing funds for its youth program, since her participation was in connection with a program, not a particular matter involving specific parties.

Example 5: An agency attorney participates in drafting a standard form contract and certain "standard terms and clauses" for use in future contracts. He is not thereafter barred from representing a person in a dispute involving the application of such a "standard term or clause" in a particular contract in which he did not participate as a Government employee.

(2) *Technical matters.* In connection with technical work, participation in projects generally involving one or more scientific or engineering concepts, in feasibility studies, or in proposed programs prior to the formulation of a contract will not restrict former Government employees with respect to a contract or specific programs entered into at a later date.

Example 1: A Government employee participates significantly in formulating the "mission need" of a project pursuant to OMB Circular No. A–109, and the award of a contract to Z Company, the purpose of which is to propose alternative technical approaches. He is not barred, after leaving Government service, from representing Q Company which later seeks a contract to manufacture one of the systems suggested by the Z Company.

Example 2: A Government employee, who has worked for years on the design of a new satellite communications system, joins C Company. Later, the Government issues a "request for proposals" ("rfp") to construct the new system, which is circulated generally to industry. The employee proposes to act as C Company's representative in connection with its anticipated proposals for the contract. He may do so. The satellite contract became a particular matter when the rfp was being formulated; it would ordinarily not become one involving a specific party or parties until initial proposals or indications of interest therein by contractors were first received. Moreover, if the employee's work for C Company were limited to the formulation and communication of a proposal in response to the rfp, it would not be prohibited to the extent it involved a communication for the purpose of furnishing scientific or technological information to the Government, exempt under 18 U.S.C. 207(f). See § 737.15 below. (See paragraph (3) below as to a case where the employee's own participation may cause a different result.)

(3) *Relationship of personal participation to specificity.* In certain cases, whether a matter should be treated as a "particular matter involving specific parties" may depend on the employee's own participation in events which give particularity and specificity to the matter in question. For example, if a Government employee (i) personally participated in that stage of the formulation of a proposed contract where significant requirements were discussed and one or more persons was identified to perform services thereunder and (ii) actively urged that such a contract be awarded, but the contract was actually awarded only after the employee left, the contract may nevertheless be a particular matter involving a specific party as to such former Government employee.

Example 1: A Government employee advises her agency that it needs certain work done and meets with private firm X to discuss and develop requirements and operating procedures. Thereafter, the employee meets with agency officials and persuades them of the need for a project along the lines discussed with X. She leaves the Government and the project is awarded by other employees to firm X. The employee is asked by X to represent it on the contract. She may not do so.

(4) *The same particular matter must be involved.* The requirement of a "particular matter involving a specific party" applies both at the time that the Government employee acts in an official capacity and at the time in question after Government service. The same particular matter may continue in another form or in part. In determining whether two particular matters are the same, the agency should consider the extent to which the matters involve the same basic facts, related issues, the same or related parties, time elapsed, the same confidential information, and the continuing existence of an important Federal interest.

Example 1: A Government employee was substantially involved in the award of a long-term contract to Z Company for the development of alternative energy sources. Six years after he terminates Government employment, the contract is still in effect, but much of the technology has changed as have many of the personnel. The Government proposes to award a "follow on" contract, involving the same objective, after competitive bidding. The employee may represent Q Company in its proposals for the follow-on contract, since Q Company's proposed contract is a different matter from the contract with Z Company. He may also represent Z Company in its efforts to continue as contractor, if the agency determines on the basis of facts referred to above, that the new contract is significantly different in its particulars from the old. The former employee should first consult his agency and request a written determination before undertaking any representation in the matter.

Example 2: A Government employee reviewed and approved certain wiretap applications. The prosecution of a person overheard during the wiretap, although not originally targeted, must be regarded as part of the same particular matter as the initial wiretap application. The reason is that the validity of the wiretap may be put in issue and many of the facts giving rise to the wiretap application would be involved. *Other examples:* See § 737.5(b)(1), Example 1, and (c), Example 2.

(5) *United States must be a party or have an interest.* The particular matter must be one in which the United States is a party, such as in a judicial or administrative proceeding or a contract, or in which it has a direct and substantial interest. The importance of the Federal interest in a matter can play a role in determining whether two matters are the same particular matter.

Example 1: An attorney participated in preparing the Government's antitrust action against Z Company. After leaving the Government, she may not represent Z Company in a private antitrust action brought against it by X Company on the same facts involved in the Government action. Nor may she represent X Company in that matter. The interest of the United States in preventing both inconsistent results and the appearance of impropriety in the same factual matter involving the same party, Z Company, is direct and substantial. However, if the Government's antitrust investigation or case is closed, the United States no longer has a direct and substantial interest in the case.

Example 2: A member of a Government team providing technical assistance to a foreign country leaves and seeks to represent a private contractor in making arrangements with the Government to perform the same service. The proposed new contract may or may not be considered a separate matter, depending upon whether the United States has a national interest in maintaining the original contract. The agency involved must be consulted by the former employee before the representation can be undertaken.

(d) *"Participate personally and substantially."*

(1) *Basic requirements.* The restrictions of section 207(a) apply only to those matters in which a former Government employee had "personal and substantial participation," exercised "through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise." To participate "personally" means directly, and includes the participation of a subordinate when actually directed by the former Government employee in the matter. "Substantially," means that the employee's involvement must be of significance to the matter, or form a basis for a reasonable appearance of such significance. It requires more than official responsibility, knowledge, perfunctory involvement, or involvement on an administrative or peripheral issue. A finding of substantiality should be based not only on the effort devoted to a matter, but on the importance of the effort. While a series of peripheral involvements may be insubstantial, the single act of approving or participation in a critical step may be substantial. It is essential that the participation be related to a "particular matter involving a specific party." (See paragraph (c) of this section.) (See also § 737.9(f) below.)

Example 1: If an officer personally approves the departmental budget, he does not participate substantially in the approval of all items contained in the budget. His participation is substantial only in those cases where a budget item is actually put in issue. Even then, the former Government employee is not disqualified with respect to an item if it is a general program rather than a particular matter involving a specific party. The former Government employee may, however, have official responsibility for such matters. (See § 737.7(b).)

Example 2: A Government lawyer is not in charge of, nor has official responsibility for a particular case, but is frequently consulted as to filings, discovery, and strategy. Such an individual has personally and substantially participated in the matter.

(2) *Participation on ancillary matters.* An employee's participation on subjects not directly involving the substantive merits of a matter may not be "substantial," even if it is time-consuming. An employee whose responsibility is the review of a matter solely for compliance with administrative control or budgetary considerations and who reviews a particular matter for such a purpose should not be regarded as having participated substantially in the matter, except when such considerations also are the subject of the employee's proposed representation. (See § 737.7(b)(3) below.) Such an employee could theoretically cause a halt in a program for noncompliance with standards under his or her jurisdiction, but lacks authority to initiate a program or to disapprove it on the basis of its substance.

(3) *Role of official responsibility in determining substantial participation.* "Official responsibility" is defined in § 737.7(b)(1). "Personal and substantial participation" is different from "official responsibility." One's responsibility may, however, play a role in determining the "substantiality" of an employee's participation. For example, ordinarily an employee's forbearance on a matter is not substantial participation. If, however, an employee is charged with responsibility for review of a matter and action cannot be undertaken over his or her objection, the result may be different. If the employee reviews a matter and passes it on, his or her participation may be regarded as "substantial" even if he or she claims merely to have engaged in inaction.

(e) *Agency responsibility in complex cases.* In certain complex factual cases, the agency with which the former Government employee was associated is likely to be in the best position to make a determination as to certain issues, for example, the identity or existence of a particular matter. Designated agency ethics officials should provide advice promptly to former Government employees who make inquiry on any matter arising under these regulations.

§ 737.7 Two-year restriction on any former Government employee's acting as representative as to a particular matter for which the employee had official responsibility.

(a) *Basic prohibition of 18 U.S.C. 207(b)(i).* No former Government employee, within two years after terminating employment by the United States, shall knowingly act as agent or attorney for, or otherwise represent any other person in any formal or informal appearance before, or with the intent to influence, make any oral or written communication on behalf of any other person (1) to the United States, (2) in connection with any particular Government matter involving a specific party (3) if such matter was actually pending under the employee's responsibility as an officer or employee within period of one year prior to the termination of such responsibility.

(b) *"Official responsibility."*

(1) *Definition.* "Official responsibility" is defined in 18 U.S.C. 202 as, "the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government actions."

(2) *Determining official responsibility.* Ordinarily, the scope of an employee's "official responsibility" is determined by those areas assigned by statute, regulation, Executive Order, job description or delegation of authority. All particular matters under consideration in an agency are under the "official responsibility" of the agency head, and each is under that of any intermediate supervisor having responsibility for an employee who actually participates in the matter within the scope of his or her duties.

(3) *Ancillary matters and official responsibility.* "Administrative" authority as used in the foregoing definition means authority for planning, organizing and controlling matters rather than authority to review or make decisions on ancillary aspects of a

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matter such as the regularity of budgeting procedures, public or community relations aspects, or equal employment opportunity considerations. Responsibility for such an ancillary consideration does not constitute responsibility for the particular matter, except when such a consideration is also the subject of the employee's proposed representation.

Example 1: An agency's comptroller would not have official responsibility for all programs in the agency, even though she must review the budget, and all such programs are contained in the budget.

Example 2: Within two years after terminating employment, an agency's former comptroller is asked to represent Q Company in a dispute arising under a contract which was in effect during the comptroller's tenure. The dispute concerns an accounting formula, under the contract, a matter as to which a subordinate division of the comptroller's office was consulted. She may not represent Q Company on this matter.

(4) *Knowledge of matter pending required.* In order for a former employee to be barred from representing another as to a particular matter, he or she need not have known, while employed by the Government, that the matter was pending under his or her official responsibility. However, the former employee is not subject to the restriction unless at the time of the proposed representation of another, he or she knows or learns that the matter had been under his or her responsibility. Ordinarily, a former employee who is asked to represent another on a matter will become aware of facts sufficient to suggest the relationship of the prior matter to his or her former agency. If so, he or she is under a duty to make further inquiry, including direct contact with an agency's designated ethics official where the matter is in doubt.

(5) *Self-disqualification.* A former employee cannot avoid the restrictions of this section on the ground by self-disqualification with respect to a matter for which he or she otherwise had official responsibility. However, self-disqualification is effective to eliminate the restriction of § 207(a).

(c) *"Actually pending."* "Actually pending" means that the matter was in fact referred to or under consideration by persons within the employee's area of responsibility, not that it merely could have been.

Example 1: A staff lawyer in a department's Office of General Counsel is consulted by procurement officers on the correct resolution of a contractual matter involving Q Company. The lawyer renders an opinion resolving the question. The same legal question arises later in several contracts with other companies, but none of the disputes with such companies is referred to the Office of the General Counsel. The General Counsel has official responsibility for the determination of the Q Company matter. The other matters were never "actually pending" under that responsibility, although as a theoretical matter, such responsibility extended to all legal matters within the department.

(d) *Other essential requirements.* All other requirements of the statute must be met before the restriction on representation applies. The same considerations apply in determining the existence of a "particular matter involving a specific party," a representation in an "appearance," or "intent to influence," and so forth as set forth under § 737.5 above.

Example 1: During her tenure as head of an agency, an officer's subordinates undertook major changes in agency enforcement standards involving occupational safety. Eighteen months after terminating Government employment, she is asked to represent Z Company which believes it is being unfairly treated under the enforcement program. The Z Company matter first arose on a complaint filed after the agency head terminated her employment. She may represent Z Company because the matter pending under her official responsibility was not one involving "a specific party." (Moreover, the time-period covered by 18 U.S.C. 207(c) has elapsed.)

(e) *Measurement of two-year restriction period.* The statutory two-year period is measured from the date when the employee's responsibility in a particular area ends, not from the termination of Government service, unless the two occur simultaneously. The prohibition applies to all particular matters subject to such responsibility in the one-year period before termination of such responsibility.

Example 1: The Director, Import/Export Division of A Agency retires after 26 years of service and enters private industry as a consultant. He will be restricted for two years with respect to all matters which were actually pending under his official responsibility in the year before his retirement.

Example 2: An employee transfers from a position in A Agency to a position in B Agency, and she leaves B Agency for private employment 9 months later. In 15 months she will be free of restriction insofar as matters which were pending under her responsibility in A Agency in the year before her transfer. She will be restricted for two years in respect of B Agency matters which were pending in the year before her departure for private employment.

§ 737.9 Two-year restriction on a former senior employee's assisting in representing as to a matter in which the employee participated personally and substantially.

(a) *Basic prohibition of 18 U.S.C. 207(b)(ii).* No former Senior Employee (see § 737.3(6)), within two years after terminating employment by the United States, shall knowingly represent or aid, counsel, advise, consult, or assist in representing any other person by personal presence at any formal or informal appearance, (1) before the United States, (2) in connection with any particular Government matter involving a specific party, (3) in which matter he or she participated personally and substantially.

(b) *Limitation to "representational" assistance by "personal presence" at an appearance.* Section 207(b)(ii) is limited to assistance "in representing" another person by "personal presence" at an "appearance" before the United States. Different in scope from sections 207(a) and 207(b)(i), it does not apply to assistance in connection with an oral or written communication made with an intent to influence which does not involve an appearance. Nor does it bar assistance in preparation for either a formal or informal personal appearance or an appearance by written submission in a formal proceeding where the former employee is not personally present before the Government or a Government employee. The provision is designed to prevent the former Senior Employee from playing any auxiliary role during a negotiation proceeding or similar transaction with the Government so that he or she does not appear to be lending personal influence to the resolution of a matter and cannot do so in fact.

Example 1: A former Senior Employee makes suggestions as to the content of a letter to be sent to the Government on a matter in which he had participated. No violation occurs.

(c) *Managerial and other off-scene assistance.* The statute does not prohibit a former Senior Employee's advice and assistance to his or her organization's representatives which does not involve his or her personal presence at an appearance before the Government. The former Senior Employee's preparation of documents to be presented in any formal or informal proceeding does not constitute personal presence at an appearance, even where submission of such a document might technically constitute an appearance.

Example 1: A former Senior Employee attends a hearing on a matter in which she had participated personally and substantially while in the Government. She speaks with the representative of a private party during the hearing. A violation occurs if the former Senior Employee lends assistance to the representative in that conversation.

Example 2: A Senior Justice Department lawyer personally works on an antitrust case against Z Company. After leaving the Department, she is asked to discuss legal strategy with lawyers representing Z Company on that same antitrust case, to write portions of a brief and to direct the research of the staff working on the case. Any such aid would not be prohibited by the statute, but would likely be prohibited by professional disciplinary rules.

(d) *Representational assistance.* The statute seeks to prevent a former Senior Employee from making unfair use of his or her prior governmental position by prohibiting all forms of assistance in the representation of another when personally present at an appearance, including giving advice as to how the representation in an appearance should be conducted, supplying information, participating in drafting materials, or dealing with forensic or argumentative matters (such as testimony, methods of persuasion, or strategy of presentation).

(e) *Measurement of restriction period.* The statutory two-year period is measured from the date of termination of employment in the Senior Employee position held by the former employee when he or she participated personally and substantially in the matter involved. (cf. § 737.7(e))

(f) *Other Essential Requirements.* All conditions of the statutory prohibition must be met. Specifically, the former employee, (1) must have been a "Senior Employee," (2) who "participated personally and substantially" (See § 737.5(d) above) in (3) a "particular matter involving a specific party." (See subpart § 737.5(c) above.)

(g) *General Examples:*

Example 1: A Senior Federal Trade Commission Employee, an economist by profession, participates in an investigation involving X Company, and a proceeding is commenced against X Company based on the investigation. After leaving the Commission, he offers to serve as a consultant to the lawyers for X Company on certain economic matters involved in the proceeding. He attends the proceeding and at the close of each day, meets in the lawyers' office to advise them. Such conduct violates the statute.

Example 2: A Senior Employee of the Department of the Treasury participates in a number of projects with universities and financial research institutions funded by Government grants. After leaving the Government, she becomes dean of a graduate school of business which performs work under a number of such grants. She may, in the discharge of her duties, supervise research and advise as to how funds under such a contract should be allocated, whether or not these matters are, as is likely, communicated to her former Department by the graduate school's representatives. (See § 737.11.)

Example 3: A Senior Defense Department official participated personally and substantially in a contract award to F Company for fighter planes. After leaving the Department, the former official goes to work for F Company. Subsequently, F Company desires to renegotiate prices and a pension provision on the fighter plane contract, matters in which dispute is anticipated. The former official could not attend a meeting with Government employees at which such matters will be discussed and give assistance to those representing F Company in the negotiations. He could generally render advice as long as he remained absent from the negotiations.

Example 4: A Senior Justice Department lawyer participated in an antitrust case against Q Company, which is represented by Y law firm. Immediately after leaving, the Department, she goes to work with Y law firm, and assists at a trial representing Q Company in a different antitrust case, not involving the allegations in the Government case. Such assistance would not be barred because it does not occur in connection with the same particular matter.

Example 5: A Senior Employee of the Department of Health and Human Services leaves to take a university position. The former official's new duties include various HHS contracts which the university holds. Some of the contracts were awarded by a division within HHS which was under her official responsibility. She is not barred from assistance in negotiations with respect to such contracts, because the restriction applies only to those matters in which she had participated personally and substantially, not to those matters for which she had official responsibility. Note, however, that any participation by her as a representative would be barred by 18 U.S.C. 207(b)(i) as described in § 737.7 above. (But see § 737.11.)

Example 6: A Senior scientist with the Food and Drug Administration was personally and substantially involved in a licensing proceeding concerning a specific drug. After leaving the FDA, he is employed by the manufacturer of the drug. There he engages in research, indicating that the drug is safe and effective, which his employer later presents to FDA in connection with the proceeding. He assists during this presentation. Such assistance would normally be restricted but may be allowed to the extent that the former official is furnishing scientific information to the Government. (See 18 U.S.C. 207(f) and § 737.15 below.)

Example 7: A former Senior Employee of the Federal Communications Commission leaves the agency to join a graduate school faculty. In one of his courses, which from time to time includes Government employees, he discusses, unfavorably to the Commission, a specific licensing case in which he was personally and substantially involved. The restriction does not apply because the conduct does not occur in connection with any representational activities.

§ 737.11 One-year restriction on a former senior employee's transactions with former agency on a particular matter, regardless of prior involvement.

(a) *Basic prohibition of 18 U.S.C. 207(c).* For a period of one year after terminating employment by the United States, no former Senior Employee (other than a special Government employee who serves for fewer than sixty days in a calendar year) shall knowingly act as an agent or attorney for, or otherwise represent, anyone in any formal or informal appearance before, or with the intent to influence, make any written or oral communication on behalf of anyone to (1) his or her former department or agency, or any of its officers or employees, (2) in connection with any particular Government matter, whether or not involving a specific party, which is pending before such department or agency, or in which it has a direct and substantial interest.

(b) *Transactions exempted from the basic prohibition of 18 U.S.C. 207(c).* The prohibition set forth above shall not apply to an appearance, a communication, or representation by a former Senior Employee, who is:

(1) an elected official of a State or local government, acting on behalf of such government, or

(2) whose principal occupation or employment is with (i) an agency or instrumentality of a State or local government, (ii) an accredited, degree-granting institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965, or (iii) a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1954, and the appearance, communication, or representation is on behalf of such government, institution, hospital or organization.

Example 1: A former Senior Employee of the Federal Highway Administration is appointed to the position of Secretary of Transportation for the State of Kansas. He would not be prohibited from transacting business with his former agency concerning new matters on behalf of the State. He would, however, be restricted as to 207(a) and 207(b) matters.

Example 2: A former Senior Employee of the Department of Housing and Urban Development establishes a consulting firm and is engaged by the City of Los Angeles to aid it in procuring a particular grant. He may not represent Los Angeles before his former Department because his "principal occupation or employment" is not with such city.

Example 3: A former Senior Employee of the Department of Education founds a vocational school for the training of legal paraprofessionals and associated staff. He desires to communicate with officials at his former Department for the purpose of establishing a program of assistance to such institutions. He may not do so, since the vocational school is not an "accredited, degree granting institution of higher education."

(c) *No prior involvement required.* The prohibition contained in this section

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applies without regard to whether the former Senior Employee had participated in, or had responsibility for, the particular matter and includes matters which first arise after the employee leaves Government service. The section aims at the possible use of personal influence based upon past Governmental affiliations to facilitate the transaction of business.

(d) *Specific parties unnecessary.* The particular matter in which the former Senior Employee proposes to act before his or her former agency need not be one "involving specific parties," and thus is not limited to disputed proceedings or contracts in which a party has already been identified. However, the restriction does not encompass every kind of matter, but only a particular one similar to those cited in the statutory language, *i.e.*, any judicial or other proceeding, application, request for a ruling or determination, contract, claim, controversy, investigation, charge, accusation, or arrest. Rulemaking is specifically included. Thus such matters as the proposed adoption of a regulation or interpretive ruling, or an agency's determination to undertake a particular project or to open such a project to competitive bidding are covered. Not included are broad technical areas and policy issues and conceptual work done before a program has become particularized into one or more specific projects. The particular matter must be pending before the agency or be one in which the agency has a "direct and substantial interest."

(Note.—Each post employment activity in the examples in this section is assumed to take place within one year of termination of Government employment.)

Example 1: A Senior Employee of the Department of Health and Human Services leaves Government employment for private practice, and shortly thereafter telephones a former associate urging that the Department (a) adopt a new procedure to put a ceiling on hospital costs; (b) not adopt a particular rule proposed for drug testing; and (c) oppose a bill pending in Congress relating to such drug testing. He is prohibited from attempting to influence his former co-worker on any of these matters. The first, not yet pending, is of interest to the Department; the second is pending in the Department; and the third is pending elsewhere, and is of interest to the Department. Note that the former Senior Employee may, however, communicate the same views to Congress, other agencies, the public or the press.

Example 2: A recently retired Senior Employee of the Department of Defense believes that the Department's general emphasis on manned aircraft is not in the national interest. After his departure, he may continue to argue the point to the Department.

(e) *Element of controversy or influence required.* The prohibition on acting as a representative or attempting to influence applies to situations in which there is an appreciable element of actual or potential dispute or an application or submission to obtain Government rulings, benefits or approvals, and not to a situation merely involving, for example: the transmission or filing of a document that does not involve an application for Government benefit, approval or ruling; a request for information; purely social or informational communications; or those required by law or regulations (in situations other than adversary proceedings). Each agency should, after consulting with the Director or the Attorney General, as appropriate, give guidance on the kinds of applications, filings and other matters which are not prohibited by section 207(c).

Example 1: A former Senior Employee of the Internal Revenue Service prepares and mails a client's tax return. This is not a prohibited act. Should any controversy arise in connection with the tax return, the former employee may not represent the client, but may be called upon to state how the return was prepared.

Example 2: A former Senior Employee of the Securities and Exchange Commission prepared and transmitted for filing to the Commission a client's annual report on form 10-K. This is not a violation, because the 10-K is a disclosure report, not intended to obtain a Government benefit or ruling.

Example 3: A former Senior Employee of the Securities and Exchange Commission becomes executive vice-president of a major industrial corporation, registered under the Securities Exchange Act of 1934. Pursuant to Commission regulations, the officers of the corporation are required to sign certain filings on behalf of the corporation, which are transmitted to the Commission. The employee may review, concur or request changes in, and sign any such filing required to be transmitted to the Commission.

(f) *Agency activity or interest in matter.* The restriction applies to the former employee's contacts with his or her former agency in connection with a matter before or of "direct and substantial interest" to the agency.

Example 1: A former Senior Employee of the Securities and Exchange Commission is asked to represent Z Company in a new matter before the Commission, one in which the former employee had no prior involvement. He may not do so.

Example 2: The matter in the foregoing example is referred to the Department of Justice for prosecution, and the former employee is asked for the first time to represent Z Company in the criminal proceeding. The matter is likely to be of direct and substantial interest to the Commission. If so, the former employee may not communicate with the Commission in the matter. However, the former Senior Employee may communicate with the Commission in order to determine whether it asserts a direct and substantial interest in the criminal proceeding. In the event of a negative answer to the question, the former Senior Employee may communicate with the Commission.

Example 3: In connection with an entirely new matter a former Senior Employee of the Securities and Exchange Commission undertakes the representation of Z Company in private litigation brought by Q Company, (*e.g.*, a private action arising under the Securities Exchange Act of 1934). Before the suit was commenced, there was no actual expression of interest by the Commission in the matter. As the litigation develops, an important question of statutory interpretation is raised, and the Commission files a brief as *amicus curiae* (friend of the court). The former Senior Employee may respond to the brief and need not withdraw from representation of Z Company, but he may not otherwise communicate with the Commission in the matter. If the Commission were to commence a proceeding or investigation again, Z Company on the basis of the same facts involved in the private litigation, the former employee could continue his representation in the private litigation, but could not represent Z Company in the Commission's proceeding until after the expiration of one year from the termination of his employment with the Commission.

[Note.—Where an agency becomes a party to a proceeding subsequent to its commencement, the question whether a former Senior Employee may continue representation should ordinarily be decided by the court on a motion for disqualification in the particular circumstances.]

Example 4: In connection with a new matter, a former Senior Employee of the Federal Food and Drug Administration, since retired to private law practice, is asked to consult and assist in the preparation of briefs to be filed with the Administration on a new particular matter. He may do so, but he should not sign briefs or other communications or take any other action that might constitute an appearance.

(g) *Application or proposals for funding of research.* In connection with any application or proposal for Government funding of research, the restrictions of this section do not prevent a former Senior Employee from assuming responsibility for the direction or conduct of such research and from providing scientific or technological information to the Senior Employee's former agency regarding such research. The former Senior Employee may not, however, submit the application on behalf of the applicant or argue for its approval or funding by the agency.

Example 1: A former Senior Employee of the National Institute of Health (NIH), employed by a non-exempt research institute, prepares an application to NIH for a research contract. The application is submitted to NIH by the institute and lists the Senior Employee as principal investigator. The Senior Employee does not violate 18 U.S.C. 207(c) by preparing the application or by being listed as principal investigator, since these are not representational activities. He may also sign an assurance to NIH, as part of the application, that he will be responsible for the scientific and technical direction and conduct of the project if an award is made. He may also communicate with NIH to provide scientific or technical information on the application, including presentation to NIH personnel at the research site, so long as he does not argue for approval or funding of the application.

(h) *Personal matters.* Unlike the provisions of subsections 207(a) and (b) the restrictions of this section apply when the former Senior Employee seeks to represent himself or herself. However, they do not apply to appearances or communications concerning matters of a personal and individual nature, such as personal income taxes, pension benefits, or the application of any provision of these regulations to an undertaking proposed by a Senior Employee. (See 18 U.S.C. 207(i).) A former Senior Employee may also appear *pro se* (on his or her own behalf) in any litigation or administrative proceeding, involving the individual's former agency. The former employee may not contact his or her former agency in order to secure an item of business, except for (1) discussions in contemplation of being employed by the agency as a consultant or otherwise; or (2) a proposal to furnish scientific or technological information to the Government.

Example 1: Any former Government Employee may contact his or her former agency to seek information or determinations as to matters in question under these regulations or under 18 U.S.C. 207, such as whether a particular matter is considered to have been under the employee's official responsibility, whether a matter is one in which the agency asserts a direct and substantial interest, or whether a current matter is considered to be the same as that in which the employee had been involved.

(i) *Statements based on special knowledge.* The restrictions of the section do not prevent a former Senior Employee from making or providing a statement, which is based on the former Senior Employee's own special knowledge in the particular area that is the subject matter of the statement, provided that no compensation is thereby received, other than that regularly provided by law or regulation for witnesses. (See 18 U.S.C. 207(i).)

Example 1: A former Senior Employee may make any statement of his own views to his former agency on any subject matter in which he has no substantial pecuniary interests, acting on his own behalf.

Example 2: A former Senior Employee is called by his successor at the agency for the purpose of eliciting some information on a matter in which he had been involved in an official capacity. His response is not prohibited.

Example 3: A former Senior Employee may recommend an individual to her former agency for employment, based on her own personal knowledge of the individual's qualifications and character.

(j) *Measurement of one-year restriction period.* The statutory one-year period is measured from the date when the individual's responsibility as a Senior Employee in a particular agency ends, not from the termination of Government service, unless the two occur simultaneously. (See 737.7(e).)

§ 737.13 Limitation of restrictions of 18 U.S.C. § 207(c) to less than that whole of a department or agency.

(a) *Authority.* There are two methods by which the application of the one-year "cooling-off" prohibition of 18 U.S.C. § 207(c) may be limited to less than the entirety of a department or agency. First, 18 U.S.C. 207(e) provides that the Director may by rule designate as "separate" a statutory agency or bureau which exercises functions that are distinct and separate from the remaining functions of the parent department or agency of which it is part. (see 737.31) Second, under the provisions of 18 U.S.C. 207(d)(1)(C), the Director may restrict the application of the prohibition as to a former employee (other than one who served in an Executive Level position or at a uniformed service grade level of 0-9 and above) insofar as it affects his or her communications with persons in an unrelated agency or bureau within his former parent department or agency which has separate and distinct subject matter jurisdiction from the agency or bureau in which he or she served. (see 737.32)

(b) *Distinctions between the 18 U.S.C. 207(e) and 207(d)(1)(C) provisions.* (1) The authority granted by 18 U.S.C. 207(e) is applicable solely to a separate *statutory* agency or bureau, that is, one created by statute or the functions of which are expressly referred to by statute in such a way that is appears that Congress intended that its functions were to be separable. A determination made under this 18 U.S.C. 207(e) does not, however, benefit former heads of the separate statutory agency or bureau. Such a determination does, however, work to the benefit of other employees at Executive Level or at uniformed service grade level of 0-9 or above.

(2) The determination made pursuant to § 207(d)(1)(C) is intended to provide similar recognition of separability where the subordinate agency or bureau has been *administratively* created. A determination of such separability does inure to the benefit of the head of the separate component if he is a Senior Employee designated by the Director. However, the determination is not beneficial to persons, including the head of a separate component, in positions at Executive Level or serving at uniformed service grade level of 0-9 above.

(c) *Separate Statutory Components*

(1) *Procedure.* Each agency shall notify the Director, in writing, of any separate statutory agency or bureau which it desires to submit for such designation under 18 U.S.C. 207(e), providing:

(i) A description of the functions of the agency or bureau, indicating the basis on which such functions are claimed to be distinct and separate from the parent organization;

(ii) The separate statutory basis of the agency or bureau; and

(iii) Identification of those positions in the parent agency with official responsibility for supervision of such separate statutory agency or bureau.

(2) *Standards.* A parent agency may propose as a "separate" statutory agency an agency or bureau (i) created specifically by statute, (ii) the functions of which are expressly referred to by statute in such a way as to indicate that a separate component was intended or (iii) which is the successor to either of the foregoing; but a decision as to the sufficiency of the statutory authority as well as the separability of functions shall be reserved to the Director, OGE.

(3) *Effect of designation.* If a subordinate part of an agency is designated as "separate" by the Director, then Senior Employees of such separate agency and those of the parent agency are not subject to the restrictions of section 207(c) as to each others' agencies—except that the prohibition of section 207(c) remains applicable to the former head of a "separate" subordinate agency and to former Senior Employees of the parent agency whose official responsibility included supervision of the subordinate agency.

Example 1: A former Senior Employee of the Product Agency in Executive Department leaves and joins a law firm which represents Q Corporation. Product Agency has been designated by the Director as separate from Executive Department. The former employee is not restricted from representing the Q Corporation on a new matter before the Executive Department.

(d) *Separate Nonstatutory Components*

(1) *Procedure.* Each agency may notify the Director, in writing, of a component agency, bureau or office having separate and distinct subject matter jurisdiction which it desires to submit for

designation under 18 U.S.C. 207(d)(1)(C), providing:

(i) A description of the subject matter jurisdiction of such component, indicating the basis on which such jurisdiction is claimed to be separate and distinct from certain other agencies, bureaus and offices of the parent agency;

(ii) A description of the nature of the connections and interactions between such component and certain other agencies, bureaus or offices of the parent agency indicating the basis on which the component is claimed to be unrelated;

(iii) A statement of the basis on which it is claimed that no potential exists for use by former Senior Employees of such component of undue influence or unfair advantage with respect to the named other agencies, bureaus or offices of the parent agency, based on past Government service; and

(iv) Identification of those organizational units of the parent agency having administrative or operational authority over such component agency, bureau or office.

(2) *Standards.*

(i) A parent agency may propose as "separate" from other parts of a department or agency any agency or bureau having subject matter jurisdiction separate and distinct from one or more other portions of the department or agency accompanied by a showing that there would be no potential for use of undue influence or unfair advantage based upon past Government service if a former employee of one such subordinate agency or bureau communicated with employees of such other portions of the department or agency.

(ii) A determination under this section rests solely with the Director, OGE, and is available only for those subordinate components which would, but for the lack of a statutory basis, qualify for separate agency treatment under 18 U.S.C. 207(e).

(iii) Where one component has supervisory authority over another, the two components may not be considered separate and distinct for purposes of this section.

(iv) The requirement of "separate and distinct subject matter jurisdiction" may be met in at least two ways. First, the substantive areas of coverage may be distinct. For example, an office or bureau within the parent agency may handle only maritime matters. Second, the regional area of coverage may be different. For example, one regional office may, on appropriate facts, be considered separate and distinct from other regional offices and from the parent agency—except for the bureau or office in the parent agency which is responsible for its supervision.

(v) It is necessary to specify the "unrelated agency or bureau within the same department or agency" as to which it is recommended that post employment communication be permitted. For example, one bureau may involve a subject matter distinct from some, but not all, parts of the parent department. Attempts to fractionalize a department could, however, become deeply complicated and involve difficult judgments and fact-finding. OGE will not usually act on such cases, and submissions should be confined to relatively clear cases.

(3) *Effect of determination.* If a component agency, bureau or office is determined to be separate by the Director, then Senior Employees of such component are not subject to the restrictions of 18 U.S.C. 207(c) and § 737.11 as to the remaining agencies, bureaus or offices of the parent agency (except certain such agencies, bureaus or offices as specified in § 737.32)—except that the prohibition of section 207(c) and § 737.11 shall remain applicable (i) to those former Senior Employees of such component who served in positions designated by 18 U.S.C. 207(d)(1)(A) and (B) and (ii) to former Senior Employees of such component with respect to the parent agency (as defined in § 737.13(e)). Such limited application of 18 U.S.C. 207(c) may be available for the head of a separate component, unlike the limitation of 18 U.S.C. 207(e), as determined by the Director

Example 1: In the Department of Justice, while the Antitrust Division may be "separate" from other Divisions, it is not separate from the immediate office of the Attorney General.

§ 737.15 Exemption for scientific and technological information.

(a) *Exemption.* The making of communications solely for the purpose of furnishing scientific or technological information pursuant to agency procedures is exempt from all prohibitions and restrictions set forth in §§ 737.5–737.11 of these regulations (subsections (a), (b), and (c) of 18 U.S.C. 207). This exemption allows the free exchange of such information regardless of a former Government employee's prior participation in or responsibility for the matter. The former Senior Employee should not argue for the acceptance of a proposal. The exemption is not limited to communications constituting the furnishing of information, but includes those "for the purpose of" doing so. No violation occurs when, for example, a former Government employee working on a project makes contact to determine the kind and form of information required, or the adequacy of information already supplied, so long as agency procedures are satisfied.

Example 1: A project manager, regardless of prior involvement in a particular matter, may contact the Government to determine deficiencies in system design or performance, furnish scientific or technological information relating to a solution or approach to a problem, seek related information from the Government; advise and supervise others who are involved as to such matters; and meet with Government technical experts for such purpose; provided in each case that there is compliance with such agency regulations as have been issued.

(b) *Necessary information.* Scientific and technological information includes feasibility, risk, cost, and speed of implementation, when necessary to appreciate fairly the practical significance of the information. The Government may and should be fully informed of the significance of scientific and technological alternatives.

(c) *Intent to influence.* The furnishing of meritorious or convincing scientific or technological proposals does not constitute an intent to influence. (See § 737.5(b)(7) above.)

(d) *Expert testimony.* This exemption does not include testimony as an "expert" in adversary proceedings in a matter in which the United States is involved or has an interest. Such testimony is governed by regulations set forth in § 737.19. As to assistance as an expert or consultant, see § 737.9(g), Example 7.

(e) *Agency responsibility for procedures.* The primary responsibility for developing procedures to guide activity under this exemption lies with each agency, so that such procedures comport with the particular characteristics of agency programs and needs. Such procedures will be reviewed periodically by the Director. In promulgating procedures, an agency may take into consideration: limiting communications to certain formats which are least conducive to the use of personal influence; segregating, to the extent possible, meetings and presentations involving matters of technical substance from those involving other aspects of the relationship; requiring that the designated agency ethics official be informed of instances where the exemption is used; or employing more restrictive practices in circumstances involving either immediate competition for contracts or applications for grants than in those involving an ongoing project.

§ 737.17 Exemption for persons with special qualification in a technical discipline.

(a) *Applicability.* A former Government employee may be exempted from the restrictions on post employment practices if the head of the agency concerned with the particular matter, in consultation with the Director, executes a certification published in the **Federal Register** that such former Government employee has outstanding qualifications in a scientific, technological, or other technical discipline; is acting with respect to a particular matter which requires such qualifications; and that the national interest would be served by such former Government employee's participation.

(b) *When appropriate.* This exemption should generally be utilized only where the former Government employee's involvement is needed on so continuous and comprehensive a basis that compliance with the procedures adopted for the communication of technical information (see § 737.15), or other actions to isolate the former Government employee from other aspects of the matter, would be burdensome and impractical.

(c) *Certification authority.* Certification should take place at no lower level than the head of the agency, the deputy thereof, or in the absence of both, the acting agency head. Consultation with the Director shall precede any certification. The exemption takes place upon the execution of the certification, provided that it is transmitted to the **Federal Register** for publication.

(d) *Agency registry.* An agency may establish a registry for current employees, wherein the nature of their qualifications in one or more technical fields is certified after review by a supervisor, as a basis for establishing such qualifications in connection with, and to expedite, a later request for certification, should the necessity for such request arise.

§ 737.19 Testimony and statements under oath or subject to penalty of perjury.

(a) *Statutory basis.* Section 207(h) provides:

"Nothing in this section shall prevent a former officer or employee from giving testimony under oath, or from making statements required to be made under penalty of perjury."

(b) *Applicability.* A former Government employee may testify before any court, board, commission, or legislative body with respect to matters of fact within the personal knowledge of the former Government employee. This provision does not, however, allow a former Government employee, otherwise barred under 18 U.S.C. 207 (a), (b), or (c) to testify on behalf of another as an expert witness except: (1) to the extent that the former employee may testify from personal knowledge as to occurrences which are relevant to the issues in the proceeding, including those in which the former Government employee participated, utilizing his or her expertise, or (2) in any proceeding where it is determined that another expert in the field cannot practically be obtained; that it is impracticable for the facts or opinions on the same subject to be obtained by other means, and that the former Government employee's testimony is required in the interest of justice.

(c) *Statements under penalty of perjury.* A former Government employee may make any statement required to be made under penalty of perjury, such as those required in registration statements for securities, tax returns, or security clearances. The exception does not, however, permit a former employee to submit pleadings, applications, or other documents in a representational capacity on behalf of another merely because the attorney or other representative must sign the documents under oath or penalty of perjury.

§ 737.21 Partners of present or former government employees.

(a) *Scope.* Section 207(g) of 18 U.S.C. prohibits a partner of a current Government employee from acting as agent or attorney before the United States in a particular Government matter in which such Government employee participates, or did participate, personally and substantially. To the extent such section involves the activities of current Government employees and their partners, it is beyond the scope of these regulations.

(b) *Imputation.* Neither the Act nor these regulations impute the restrictions on former employees to partners or associates of such employees. Imputation of the restrictions of sections 207 (b)(ii) and (c) to partners of former employees would be inappropriate for the additional reason that section 207(b)(ii) itself restricts secondary-level activity, and section 207(c) is directed at the exercise of influence personal to the former Senior Employee.

§ 737.23 Officials of a state; officials of corporations created by an Act of Congress and public international organizations.

For purposes of sections 207 (a), (b) and (c) of title 18 U.S.C.:

(a) An official whose powers are established by the constitution of any State of the United States does not act on behalf of "any other person" or "anyone" when acting in his or her official capacity, but rather constitutes the official authority of the State; and

(b) A former employee does not engage in unlawful activity when he or she acts on behalf of (1) a corporation specifically created by an Act of Congress if any of its directors is currently appointed by the United States; or (2) any public international organization if he or she serves by nomination or request of the United States or on temporary assignment from any agency.

§ 737.25 Standards and procedures for designating senior employee positions pursuant to 18 U.S.C. § 207(d).

(a) *Definitions.* As used in these regulations, "Senior Employee" refers to any person specified in or designated pursuant to 18 U.S.C. 207(d)(1); that is, employed by the United States:

(1) At a rate of pay specified or fixed according to subchapter II of chapter 53 of title 5, U.S.C., generally known as "Executive Level;" or

(2) On active duty as a commissioned officer of a uniformed service in a pay grade of 0–9 or above as described in 37 U.S.C. 201; or

(3) In a position in any pay system for which the basic rate of pay is equal to or greater than that for GS–17 as prescribed by 5 U.S.C. 5332 or positions which are established within the Senior Executive Service (SES) pursuant to the Civil Service Reform Act of 1978, or positions of active duty commissioned officers of the uniformed services assigned to pay grade 0–7 and 0–8, as described in 37 U.S.C. 201, and who has significant decision-making or supervisory responsibilities, as designated by the Director, pursuant to paragraph (b) of this section.

(b) *Designation procedures.* The following procedures will be followed in designation of Senior Employee positions pursuant to 18 U.S.C. 207(d)(1)(C):

(1) *Positions at GS–17 and 18 level, Senior Executive Service, and pay grades 0–7 and 0–8 of the uniformed services.* The following are designated effective February 28, 1980, unless exempted as provided in paragraph (b)(2) of this section: all positions classified at GS–17 or above in the General Schedule; those in any other pay system, the rate of pay for which is at least that of grade GS–17; those in the Senior Executive Service; and those active duty uniformed service officers serving in pay grades 0–7 and 0–8. Each

agency head shall submit to the Director, by May 15, 1979 and on every May 15 thereafter, a report consisting of: (i) a description of all positions as set forth in this paragraph; (ii) the agency's recommendation as to those positions that should not be designated, based on standards established in these regulations or any other reason; and (iii) the basis and reasons for each such recommendation. After making such additional inquiries as appear desirable, the Director will determine which positions should be exempt. Notwithstanding the foregoing, the effective date for Executive Level positions, whether or not included in the Senior Executive Service, is July 1, 1979.

(2) *Standards for designation and exemption.* Positions, or classes of positions, which do not have significant decision-making or supervisory responsibility will be exempted from designation. Initial exemptions will be retroactive. Classes of positions which may be considered for exemption are those in which decision-making responsibility does not regularly extend to major policy issues within the agency or in which supervisory responsibility extends to less than all of a directorate, bureau or department which has major policy or operational responsibility. The foregoing may include, without limitation, special assistants, technical and professional advisors to persons who make policy decisions, those involved primarily in research and technical work, and administrative law judges.

(3) *Senior Executive Service.* The establishment of positions within the Senior Executive Service pursuant to the Civil Service Reform Act of 1978 is the responsibility of the Office of Personnel Management. The choice of an individual to enter or not to enter the Senior Executive Service is not a relevant factor in the designation under these regulations of a position held by such person.

(4) *"Rate of pay."* As used in the definition of Senior Employee, the "rate of pay" is that specified by or pursuant to law without regard to the ceiling limitations of section 5306 or section 5373 of title 5 U.S.C.; except that an individual in an executive level or GS–17 or 18 position is deemed to be employed at the rate of pay specified for that position. Increases in pay due to "steps" are not considered in determining pay grade or level.

(c) *Differential designation.* Where appropriate, the Director may designate positions for purposes of 18 U.S.C. 207(c) without designating the positions for purposes of 18 U.S.C. 207(b)(ii).

Example 1: It may be determined that a given position or class of positions will be restricted as to contact in the first post employment year, but not as to assisting in representation.

(d) *Fair notice of designation.* No Senior Employee designation made pursuant to 18 U.S.C. 207(d)(1)(C) will be effective until the last day of the fifth full calendar month after the first publication of a notice by the Director of intention to designate; except as indicated in paragraph (i) of this section, and as to a person first occupying the position after such notice is published. The designation in paragraph (b)(1) of this section and the comparable designation in the interim regulations of April 3, 1979 (44 FR 19974) constitutes notice.

(e) *"Acting" or temporary positions.* An individual may serve in a position designated pursuant to 18 U.S.C. 207(d) for up to 60 days in an "acting" or temporary capacity without being subject to those restrictions which specially apply to such positions, unless such individual (1) was transferred or detailed from another designated position, or (2) without a significant break in continuity, is named permanently to such position.

(f) *Special Government Employee.* A Special Government Employee who serves on 60 days or less in a given calendar year may serve in a designated position without being subject to the restrictions which specially apply to such position. A Special Government Employee is deemed to serve only on those days actually engaged in work for the Government under his or her Special Government Employee arrangement.

(g) *Publication.* Positions designated by the Director pursuant to 18 U.S.C. 207(d)(1)(C) and not exempted will be published in the Federal Register.

(h) *Computation of time.* An individual who transfers from a designated position to one that is not designated shall compute the commencement of the time periods contained in 18 U.S.C. 207 (b)(ii) and (c) from the time of such transfer, except as indicated in paragraph (i) below. (See § 737.7(e).)

(i) *Position shifting.* In any case where a person transfers from a designated position to one that is not, the agency head shall within one month transmit to the Director a report reciting the functions of each position, the reason for the transfer, and the identities of the prior holder of the position assumed and the successor, if any, to the position departed. If the Director designates the newly assumed position pursuant to section 207(d)(1)(C) of title 18 U.S.C., such designation shall be effective retroactively to the date of transfer notwithstanding paragraph (d) of this section.

(j) *Revocation of Designations.* In the event the Director determines that a position previously designated should not have been, the designation will be revoked. Except for designations made under paragraph (i) of this section, the revocation may be made retroactive if the initial designation is determined to have been erroneous or if there is a change in standards for designation applicable to the position. Retroactive effect will not be given where the basis for revocation is a change in the functions or importance of a position.

§ 737.27 Administrative enforcement proceedings.

(a) *Basic procedures.* The following basic guidelines for administrative enforcement of restrictions on post employment activities are designed to expedite consultation with the Director as required pursuant to section 207(j) of title 18 U.S.C.

(1) *Delegation.* The head of an agency may delegate his or her authority under this subpart.

(2) *Initiation of administrative disciplinary hearing.* (i) On receipt of information regarding a possible violation of 18 U.S.C. 207, and after determining that such information appears substantiated, the agency head shall expeditiously provide such information, along with any comments or agency regulations, to the Director and to the Criminal Division, Department of Justice. The agency should coordinate any investigation on administrative action with the Department of Justice to avoid prejudicing criminal proceedings, unless the Department of Justice communicates to the Agency that it does not intend to initiate criminal prosecution.

(ii) Whenever an agency has determined after appropriate review that there is reasonable cause to believe that a former Government employee has violated any of these regulations or 18 U.S.C. 207(a), (b), or (c), it may initiate an administrative disciplinary proceeding by providing the former Government employee with notice as defined in paragraph (a)(3) of this section. Agencies may establish procedures to protect the privacy of former employees as to allegations made prior to a determination of sufficient cause to initiate an administrative disciplinary hearing.

(3) *Adequate notice.* (i) An agency must provide a former Government employee with adequate notice of an intention to institute a proceeding and an opportunity for a hearing.

(ii) Notice to the former Government employee must include:

A. A statement of allegations (and the basis thereof) sufficiently detailed to enable the former Government employee to prepare an adequate defense;

B. Notification of the right to a hearing; and

C. An explanation of the method by which a hearing may be requested.

(4) *Presiding official.* (i) The presiding official at proceedings under this subpart shall be the agency head or an individual to whom the agency head has delegated authority to make an initial decision (hereinafter referred to as "examiner").

(ii) Appropriate qualifications shall be established for examiners.

(iii) An examiner shall be impartial. No individual who has participated in any manner in the decision to initiate the proceedings may serve as an examiner in those proceedings.

(5) *Time, date and place.* (i) The hearing shall be conducted at a reasonable time, date, and place.

(ii) In setting a hearing date, the presiding official shall give due regard to the former Government employee's need for:

(A) Adequate time to prepare a defense properly, and

(B) An expeditious resolution of allegations that may be damaging to his or her reputation.

(6) *Hearing rights.* A hearing shall include, at a minimum, the following rights:

(i) To represent oneself or to be represented by counsel,

(ii) To introduce and examine witnesses and to submit physical evidence,

(iii) To confront and cross-examine adverse witnesses,

(iv) To present oral argument, and

(v) To receive a transcript or recording of the proceedings, on request.

(7) *Burden of proof.* In any hearing under this subpart, the agency has the burden of proof and must establish substantial evidence of a violation.

(8) *Hearing decision.* (i) The presiding official shall make a determination exclusively on matters of record in the proceeding, and shall set forth in the decision all findings of fact and conclusions of law relevant to the matters at issue.

(ii) Within a reasonable period of the date of an initial decision, as set by the agency, either party may appeal the decision to the agency head. The agency head shall base his or her decision on such appeal solely on the record of the proceedings or those portions thereof cited by the parties to limit the issues.

(iii) If the agency head modifies or reverses the initial decision, he or she shall specify such findings of fact and conclusions of law as are different from those of the hearing examiner.

(9) *Administrative sanctions.* The agency head may take appropriate action in the case of any individual who was found in violation of 18 U.S.C. 207 (a), (b), or (c) of these regulations after a final administrative decision or who failed to request a hearing after receiving adequate notice, by:

(i) Prohibiting the individual from making, on behalf of any other person except the United States, any formal or informal appearance before, or, with the intent to influence, any oral or written communication to, such department or agency on any matter of business for a period not to exceed five years, which may be accomplished by directing agency employees to refuse to participate in any such appearance or to accept any such communication; or

(ii) Taking other appropriate disciplinary action.

(10) *Judicial review.* Any person found to have participated in a violation of 18 U.S.C. 207 (a), (b), or (c) of these regulations may seek judicial review of the administrative determination.

(11) *Consultation and review.* Each agency shall submit a copy of its procedures for administrative enforcement to the Director.

§ 737.29 Effective date of restrictions.

(a) *Persons affected.* Any person who holds a Government position after June 30, 1979, becomes subject to any additional restrictions relating to the holder of that position contained in the amendments to 18 U.S.C. 207 as set forth in these regulations. Restrictions which depend on the designation of a position by the Director shall become applicable on the date such designation becomes effective.

(b) *Fair notice of substantive changes.* No change in the substance of these regulations shall become effective with respect to a Government employee who is adversely affected by such change until and unless such employee remains in a position to which such change is applicable for a period of five months following the first publication of a regulation in final form, reflecting or prescribing such change, or unless such employee accepts such a position after the publication.

§ 737.31 Separate statutory agencies: Designations.

In accordance with the provisions of 18 U.S.C. 207(e) and § 737.13, each of the following departments or agencies is determined, for purposes of 18 U.S.C. 207(c), to have within it separate statutory agencies or bureaus as set forth below:

Parent Agency: DEPARTMENT OF THE TREASURY
Separate Statutory Components:
- Bureau of Alcohol, Tobacco and Firearms
- Bureau of Engraving and Printing
- Bureau of the Mint
- Comptroller of the Currency
- Internal Revenue Service
- United States Customs Service
- United States Secret Service

Parent Agency: FEDERAL EMERGENCY MANAGEMENT AGENCY
Separate Statutory Components:
- United States Fire Administration

Parent Agency: OFFICE OF PERSONNEL MANAGEMENT
Separate Statutory Components:
- Office of Federal Procurement Policy
- Office of Government Ethics

Parent Agency: DEPARTMENT OF HEALTH AND HUMAN SERVICES
Separate Statutory Components:
- Education Division
- Food and Drug Administration
- Public Health Service
- Social Security Administration

Parent Agency: DEPARTMENT OF TRANSPORTATION
Separate Statutory Components:
- Federal Aviation Administration
- Federal Highway Administration
- Federal Railroad Administration
- National Highway Traffic Safety Administration
- Saint Lawrence Seaway Development Corporation
- United States Coast Guard
- Urban Mass Transportation Administration

Parent Agency: DEPARTMENT OF LABOR
Separate Statutory Components:
- Bureau of Labor Statistics
- Mine Safety and Health Administration
- Occupational Safety and Health Administration

Parent Agency: DEPARTMENT OF JUSTICE
Separate Statutory Components:
- Bureau of Prisons (including Federal Prison Industries, Inc.)
- Community Relations Service
- Drug Enforcement Administration
- Federal Bureau of Investigation
- Law Enforcement Assistance Administration
- Immigration and Naturalization Service
- United States Parole Commission

Parent Agency: DEPARTMENT OF DEFENSE
Separate Statutory Components:
- Department of the Army
- Department of the Navy
- Department of the Air Force
- Defense Civil Preparedness Agency
- Defense Mapping Agency

Parent Agency: DEPARTMENT OF ENERGY
Separate Statutory Components:
- Federal Energy Regulatory Commission

§ 737.32 Separate components of agencies or bureaus: designations.

In accordance with the provisions of 18 U.S.C. 207(d)(1)(C) and § 737.14, each of the component agencies or bureaus as set forth below is determined, for

purposes of 18 U.S.C. 207(c) and this Part 737, to be separate from the remaining agencies and bureaus of its parent agency (except such agencies and bureaus as specified):

Parent Agency: DEPARTMENT OF HEALTH AND HUMAN SERVICES
Separate Components:
Health Care Financing Administration
Parent Agency: DEPARTMENT OF TRANSPORTATION
Separate Components:
Alaska Railroad
Parent Agency: DEPARTMENT OF LABOR
Separate Components:
Employment and Training Administration
Employment Standards Administration
Labor-Management Services Administration
Parent Agency: DEPARTMENT OF DEFENSE
Separate Components:
Defense Communications Agency
Defense Intelligence Agency
Defense Nuclear Agency
National Security Agency
Parent Agency: DEPARTMENT OF STATE
Separate Components:
Foreign Service Grievance Board
International Joint Commission, United States and Canada (American Section)
Parent Agency: DEPARTMENT OF JUSTICE
Separate Components:
Office of United States Attorney (for each judicial district (95))—however, each such Office is not designated as separate from the Office of the U.S. Marshal for the same judicial district.
Office of United States Marshal (for each judicial district (95))—however, each such Office is not designated as separate from the Office of the U.S. Attorney for the same judicial district.

§ 737.33 "Senior Employee" designations.

(a) In accordance with § 737.25(b)(1), the following employee positions have been designated as "Senior Employee" positions for purposes of subsections 207(b)(ii) and (c) of title 18 U.S.C., as amended.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF MANAGEMENT AND BUDGET)

Positions: Grade and Title
GS–18 General Counsel
GS–18 Project Director, Federal Statistical Reorganization
GS–18 Deputy Associate Director, Information Systems Policy
GS–18 Deputy Associate Director, Intergovernmental Affairs
GS–18 Domestic Reorganization Coordinator
GS–18 Deputy Associate Director for Economic and Regional Development Organization
GS–18 Deputy Associate Director for Natural Resources, Energy and Environment Reorganization
GS–18 Deputy Associate Director for General Government Reorganization
GS–18 Deputy Associate Director for Budget Review
GS–18 Deputy Associate Director for International Affairs
GS–18 Deputy Associate Director for National Security
GS–18 Deputy Associate Director for Management, National Security and International Affairs
GS–18 Deputy Associate Director for Health and Income Maintenance
GS–18 Deputy Associate Director for Transportation, Commerce and Housing
GS–18 Deputy Associate Director for Natural Resources
GS–18 Deputy Associate Director for Energy and Science
GS–17 Assistant to the Director for Public Affairs
GS–17 Assistant to the Director for Administration
GS–17 Assistant Director for Legislative Affairs
GS–17 Deputy Assistant Director for Legislative Reference
GS–17 Assistant for Planning and Policy Coordination
GS–17 Deputy Assistant Director for Revaluation
GS–17 Deputy Associate Director for Regulatory Policy and Reports Management
GS–17 Chief, Financial Management Branch, Budget Review
GS–17 Chief, Fiscal Analysis Branch, Budget Review
GS–17 Deputy Chief, International Affairs Division
GS–17 Deputy Chief, National Security Division
GS–17 Associate Deputy Chief, National Security Division
GS–17 Deputy Associate Director for Labor, Veterans and Education
GS–17 Deputy Division Chief (Labor), Labor, Veterans and Education
GS–17 Deputy Associate Director for Management, Human Resources, Veterans and Labor
GS–17 Deputy Division Chief, Transportation, Commerce and Housing
GS–17 Deputy Associate Director for Justice, Treasury and General Management
GS–17 Deputy Division Chief, Natural Resources Division
GS–17 Deputy Division Chief, Energy and Science
GS–17 Deputy Associate Director for Management, Natural Resources, Energy and Science
SES Deputy General Counsel

OFFICE OF FEDERAL PROCUREMENT POLICY

GS–18 Associate Administrator for Systems and Technology
GS–18 Associate Administrator for Regulations and Procedure
GS–17 Associate Administrator for Acquisition Law
GS–17 Assistant Administrator for Logistics
GS–17 Assistant Administrator for Regulations
SES Assistant Administrator for Commercial Products
SES Assistant Administrator for Labor Affairs and Personnel

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (COUNCIL ON ECONOMIC ADVISERS)

Positions: No section 207(d)(1)(C) designations

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (DOMESTIC POLICY STAFF)

Positions: AD Associate Director (11)
AD Counselor to the President on Aging
AD Special Assistant to the President for Consumer Affairs
AD Expert/Drug Policy

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS)

Positions:
GS–18 General Counsel
GS–17 Assistant Special Trade Representatives(4)
GS–16 Assistant Special Trade Representatives(2)

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (COUNCIL ON ENVIRONMENTAL QUALITY)

Positions:
GS–16 General Counsel
GS–18 Executive Director

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (COUNCIL ON WAGE AND PRICE STABILITY)

Positions:
GS–18 Special Assistant to the Chairperson for Intergovernmental Affairs
GS–18 Deputy Director
GS–16 General Counsel
SES Deputy General Counsel
GS–17 Assistant Director for Operations
SES Assistant Director, Office of Government Programs and Regulations
SES Assistant Director, Office of Price Monitoring

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF SCIENCE AND TECHNOLOGY POLICY)

Positions:
SES Associate Director for National Security, International and Space Affairs
SES Associate Director for Human Resources and Social and Economic Services
SES Associate Director for Natural Resources and Commercial Services
SES Senior Policy Analyst

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF ADMINISTRATION)

Positions: No Section 207(d)(1)(C) designations

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF THE VICE PRESIDENT OF THE UNITED STATES)

Positions:
SES Chief of Staff
SES Counsel to the Vice President and Deputy Chief of Staff
SES Executive Assistant to the Vice President
SES Assistant to the Vice President for National Security Affairs
SES Assistant to the Vice President and Press Secretary

AGENCY: DEPARTMENT OF AGRICULTURE

Positions:

OFFICE OF THE SECRETARY

GS–18 Executive Assistant to the Secretary

OFFICE OF THE INSPECTOR GENERAL

GS–18 Inspector General
GS–17 Director of Investigation
GS–17 Assistant Inspector General for Investigations
GS–17 Director of Audit
GS–17 Assistant Inspector General for Auditing

OFFICE OF GOVERNMENTAL AND PUBLIC AFFAIRS

GS–17 Associate Director

OFFICE OF THE GENERAL COUNSEL

GS–18 Deputy General Counsel

OFFICE OF ADMINISTRATIVE LAW JUDGES

Positions: No section 207(d)(1)(C) designations

OFFICE OF PERSONNEL

GS–18 Director

OFFICE OF EQUAL OPPORTUNITY

Positions: No section 207(d)(1)(C) designations

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

SES Deputy Assistant Secretary for Administration

OFFICE OF OPERATIONS AND FINANCE

GS–18 Director
GS–17 Director, National Finance Center

OFFICE OF THE DIRECTOR, ECONOMICS POLICY ANALYSIS AND BUDGET

SES Deputy Director for Economics, Policy Analysis, and Budget

OFFICE OF BUDGET, PLANNING AND EVALUATION

SES Director
SES Deputy Director for Management and Budget

WORLD FOOD AND AGRICULTURAL OUTLOOK AND SITUATION BOARD

SES Chairman

ECONOMICS, STATISTICS, AND COOPERATIVES SERVICE

GS–18 Administrator
GS–18 Deputy Administrator for Statistics
GS–17 Deputy Administrator for Cooperatives
GS–17 Deputy Administrator for Economics

OFFICE OF THE ASSISTANT SECRETARY FOR RURAL DEVELOPMENT

SES Deputy Assistant Secretary for Rural Development

RURAL ELECTRIFICATION ADMINISTRATION

GS–17 Deputy Administrator

FARMERS HOME ADMINISTRATION

GS–18 Associate Administrator
SES Deputy Administrator, Financial and Administrative Operations
GS–17 Deputy Administrator, Rural Development
GS–17 Deputy Administrator, Farm and Family Programs
GS–17 Associate Administrator for Rural Development Policy Management and Coordination

SCIENCE AND EDUCATION ADMINISTRATION

GS–18 Associate Director
GS–17 Administrator, Human Nutrition Center
SES Associate Administrator, Human Nutrition Center
IPA(AD) Head, Competitive Research Grants Office
IPA(AD) Assistant Director, Higher Education
GS–17 Assistant Director for Program Management
SES Chief, International Programs
GS–18 Deputy Director for Extension
GS–17 Associate Deputy Director for Extension
GS–18 Deputy Director, Cooperative Research
GS–17 Associate Administrator, Cooperative Research
GS–17 Deputy Director, Administrative Management
GS–18 Deputy Director for Agricultural Research
GS–17 Associate Deputy Director, Agricultural Research

OFFICE OF THE ASSISTANT SECRETARY FOR CONSERVATION, RESEARCH, AND EDUCATION

SES Deputy Assistant Secretary for Conservation, Research and Education

SOIL CONSERVATION SERVICE

GS–18 Associate Administrator
GS–17 Deputy Administrator for Administration
GS–17 Deputy Administrator for Technical Services
GS–18 Deputy Administrator for Programs

FOREST SERVICE

GS–18 Associate Chief
GS–17 Deputy Chief for Administration
GS–18 Deputy Chief for Research
GS–17 Associate Deputy Chiefs for Research(2)
GS–18 Deputy Chief, National Forest Systems
GS–17 Associate Deputy Chiefs, National Forest Systems(2)
GS–18 Deputy Chief, State and Private Forestry
GS–17 Associate Deputy Chief, State and Private Forestry
GS–18 Deputy Chief for Programs and Legislation
GS–17 Associate Deputy Chief for Programs and Legislation

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

GS–17 Deputy Under Secretary for International Affairs and Commodity Programs
GS–18 Special Assistant for International Scientific and Technical Cooperation

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

GS–18 Associate Administrator
GS–18 Deputy Administrator, State and County Operations
GS–17 Deputy Administrator, Management
GS–17 Deputy Administrator, Commodity Operations

FEDERAL CROP INSURANCE CORPORATION

GS–18 Manager
SES Deputy Manager

FOREIGN AGRICULTURAL SERVICE

GS–17 Associate Administrator
GS–17 Assistant Administrator, Commodity Programs

OFFICE OF THE GENERAL SALES MANAGER

GS–17 General Sales Manager

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

SES Deputy Assistant Secretary for Food and Consumer Services

FOOD SAFETY AND QUALITY SERVICE

GS–18 Administrator
SES Associate Administrator
SES Deputy Administrator, Commodity Services
GS–17 Deputy Administrator, Meat and Poultry Inspection Field Operations
SES Deputy Administrator, Administrative Management

FOOD AND NUTRITION SERVICE

GS–18 Administrator
GS–17 Associate Administrator

OFFICE OF THE ASSISTANT SECRETARY FOR MARKETING AND TRANSPORTATION SERVICES

SES Deputy Assistant Secretary for Marketing and Transportation Services

AGRICULTURAL MARKETING SERVICE

GS–17 Deputy Administrator, Marketing Program Operations
GS–17 Deputy Administrator, Packers and Stockyards

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

GS–18 Associate Administrator
GS–17 Deputy Administrator, Veterinary Services

GS–17 Deputy Administrator, Plant Protection and Quarantine
GS–17 Deputy Administrator for Management

FEDERAL GRAIN INSPECTION SERVICE

SES Deputy Administrator, Program Operations

AGENCY: DEPARTMENT OF COMMERCE

Positions:

OFFICE OF THE SECRETARY

SES Special Assistants to the Secretary of Commerce(2)
SES Assistant to the Secretary of Commerce
SES Counsellor to the Secretary of Commerce

Office of Regional Affairs and Regional Coordination

SES Deputy Under Secretary for Regional Affairs
SES Chairperson, Federal Regional Council, Region V

Office of Congressional Affairs

SES Deputy Assistant Secretary for Congressional Affairs

Office of Public Affairs

SES Counsellor to the Secretary and Director, Public Affairs

Office of General Counsel

SES Deputy General Counsel

Office of Assistant Secretary for Policy

SES Deputy Assistant Secretary for Ocean, Resource and Scientific Policy
SES Deputy Assistant Secretary for International Policy Coordination
SES Deputy Assistant Secretary for Domestic Economic Policy and Coordination

Office of Assistant Secretary for Tourism

SES Deputy Assistant Secretary

Office of Minority Business Enterprise

SES Director, Office of Minority Business Enterprise
SES Deputy Director, Office of Minority Business Enterprise
SES Special Assistant for Minority Enterprise
SES Assistant Director for Program Resources

OFFICE OF ASSISTANT SECRETARY FOR MARITIME AFFAIRS

SES Deputy Assistant Secretary

Office of the General Counsel

SES General Counsel
SES Deputy General Counsel

Policy and Administration

SES Assistant Administrator for Policy and Administration

Maritime Aids

SES Assistant Administrator for Maritime Aids
SES Deputy Assistant Administrator

Operations

SES Assistant Administrator for Operations
SES Deputy Assistant Administrator
SES Director, Office of Ship Construction
SES Director, Office of Shipbuilding Costs

Commercial Development

SES Assistant Administrator for Commercial Development
SES Deputy Assistant Administrator for Commercial Development

Regional Offices

Position: No section 207(d)(1)(C) designations

U.S. Merchant Marine Academy

SES Superintendent

INDUSTRY AND TRADE ADMINISTRATION

Office of Assistant Secretary for Industry and Trade Administration

SES Deputy Assistant Secretary

BUREAU OF INTERNATIONAL ECONOMIC POLICY AND RESEARCH

GS–17 Deputy Assistant Secretary
SES Deputy Director

Bureau of Trade Regulation

SES Deputy Assistant Secretary for
SES Deputy Director

Bureau of East-West Trade

GS–17 Deputy Assistant Secretary and Bureau Director
SES Deputy Bureau Director

Bureau of Export Development

SES Deputy Assistant Secretary, National Export Expansion Coordinator & Bureau Director
SES Deputy Director

Bureau of Domestic Development

SES Deputy Assistant Secretary for
SES Deputy Director

Bureau of Field Operations

SES Deputy Assistant Secretary

OFFICE OF ASSISTANT SECRETARY FOR ADMINISTRATION

SES Deputy Assistant Secretary

Office of the Controller

SES Controller

Office of Budget and Program Evaluation

SES Director
SES Deputy Director, Budget

Office of Procurement and Automatic Data Processing Management

SES Director

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SES Deputy Assistant Secretary

Office of Planning and Policy Coordination

SES Director
SES Chief Counsel

Office of International Affairs

SES Director

Office of Federal Systems and Spectrum Management

SES Associate Administrator for
SES Deputy Associate Administrator

Office of Policy Analysis and Development

SES Associate Administrator
SES Deputy Associate Administrator

Office of Telecommunications Applications

SES Associate Administrator

Institute for Telecommunications Sciences

SES Associate Administrator
SES Deputy Associate Administrator

OFFICE OF THE CHIEF ECONOMIST

SES Chief Economist
SES Deputy Chief Economist
SES Director for Federal Statistical Policy & Standards

Bureau of Economic Analysis

SES Director
SES Deputy Director

Bureau of the Census

SES Deputy Director

Demographic Fields

SES Associate Director for

Electronic Data Processing

SES Associate Director for

Statistical Standards and Methodology

SES Associate Director for

Field Operations

SES Associate Director for

Economic Fields

SES Associate Director

OFFICE OF ASSISTANT SECRETARY FOR SCIENCE AND TECHNOLOGY

SES Deputy Assistant Secretary

Office of Environmental Affairs

SES Deputy Assistant Secretary

Office of Product Standards

SES Deputy Assistant Secretary

National Technical Information Service

SES Director
SES Deputy Director

NATIONAL BUREAU OF STANDARDS

SES Deputy Director
SES Associate Director for International Affairs

Office of Associate Director for Programs, Budget and Finance

SES Associate Director

Institute for Basic Standards

SES Director
SES Deputy Director

National Measurement Laboratory

SES Director
SES Deputy Director for Resources & Operations

National Engineering Laboratory

SES Director
SES Deputy Director

Institute for Computer Sciences and Technology

SES Director
SES Deputy Director
SES Associate Director for Teleprocessing and Supporting Communications Technology
SES Associate Director for Automatic Data Processing Standards

OFFICE OF ASSISTANT SECRETARY FOR ECONOMIC DEVELOPMENT

(Economic Development Administration)

SES Deputy Assistant Secretary

Office of Chief Counsel

SES Chief Counsel

Office of Special Projects

SES Director

Economic Development Policy and Planning

SES Deputy Assistant Secretary

Economic Development Operations

SES Deputy Assistant Secretary
SES Director, Local Public Works

Office of Public Works

SES Director

PATENT AND TRADEMARK OFFICE

GS–18 Deputy Commissioner

Board of Patent Interferences

Position: No section 207(d)(1)(C) designations

Office of Assistant Commissioner for Patents

GS–18 Assistant Commissioner
SES Deputy Assistant Commissioner

Office of Assistant Commissioner for Trademarks

GS–17 Assistant Commissioner

Office of the Solicitor

SES Solicitor
SES Deputy Solicitor

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

GS–17 Special Counsel for Law of the Sea

Office of the General Counsel

SES General Counsel
SES Deputy General Counsel

Office of Policy and Planning

SES Assistant Administrator for Policy and Planning

Coastal Zone Management

SES Assistant Administrator

National Marine Fisheries Service

SES Assistant Administrator for Fisheries
SES Deputy Assistant Administrator

Office of Research and Development

SES Assistant Administrator for Research and Development

Environmental Research Laboratories

SES Director

Office of Sea Grants

SES Director

Oceanic and Atmospheric Services

SES Assistant Administrator
SES Deputy Assistant Administrator

National Weather Service

SES Director
SES Deputy Director

National Ocean Survey

07–08 Director
SES Deputy Director

Environmental Data and Information Service

SES Director
SES Deputy Director

National Environmental Satellite Service

SES Director
SES Deputy Director

NOAA CORPS

07–06 Director

AGENCY: DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Positions:

OFFICE OF THE SECRETARY

SES Executive Assistants to the Secretary (2)
SES Assistant to the Secretary for International Affairs
SES Assistant to the Secretary for Labor Relations

OFFICE OF THE ASSISTANT SECRETARY FOR HOUSING

SES Deputy Assistant Secretary, Multifamily Housing Programs
SES Deputy Assistant Secretary, Single-Family Housing and Mortgagee Activities
SES Deputy Assistant Secretary, Public Housing and Indian Programs
SES Director, Office of Policy and Program Development

OFFICE OF THE ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT

SES Deputy Assistant Secretary for Interprogram and Areawide Concerns
SES Deputy Assistant Secretary for Urban Policy

OFFICE OF THE ASSISTANT SECRETARY FOR NEIGHBORHOODS, VOLUNTARY ASSOCIATIONS, AND CONSUMER PROTECTION

SES General Deputy Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection
SES Deputy Assistant Secretary for Neighborhoods and Consumer Affairs
SES Deputy Assistant Secretary for Regulatory Functions/Office of Interstate Land Sales Registration

OFFICE OF THE ASSISTANT SECRETARY FOR FAIR HOUSING AND EQUAL OPPORTUNITY

SES Deputy Assistant Secretary for Operations and Management
SES General Deputy Assistant Secretary for Fair Housing and Equal Opportunity

OFFICE OF THE ASSISTANT SECRETARY FOR POLICY DEVELOPMENT AND RESEARCH

SES Deputy Assistant Secretary for Research
SES Director, Division of Housing Research
SES Director, Division of Energy, Building Technology and Standards
SES Director, Division of Evaluation
SES Director, Division of Community Conservation Research
SES Deputy Assistant Secretary for Policy Development
SES Director, Division of Government Capacity Building
SES Deputy Assistant Secretary for Economic Affairs
SES Director, Office of Program Planning and Administration

OFFICE OF THE GENERAL COUNSEL

Position: No section 207(d)(1)(C) designations

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

SES Deputy Assistant Secretary for Administration

OFFICE OF THE ASSISTANT SECRETARY FOR LEGISLATION AND INTERGOVERNMENTAL RELATIONS

SES Deputy Assistant Secretary for Legislation and Intergovernmental Relations

OFFICE OF THE INSPECTOR GENERAL

Position: No section 207(d)(1)(C) designations

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

SES Vice President (Mortgage Finance)
SES Vice President (Mortgage Backed Securities)

NEW COMMUNITY DEVELOPMENT CORPORATION

SES Deputy General Manager for New Community Development Corporation

FEDERAL DISASTER ASSISTANCE ADMINISTRATION

SES Administrator
SES Deputy Administrator

FIELD OFFICES

Region I

SES Regional Administrator
SES Deputy Regional Administrator
SES Director, Boston Area Office

Region II

SES Regional Administrator
SES Deputy Regional Administrator
SES Director, New York Area Office
SES Director, Newark Area Office

Region III

SES Regional Administrator/Chairperson Federal Regional Counsel
SES Deputy Regional Administrator
SES Director, Philadelphia Area Office

Region IV

SES Regional Administrator
SES Deputy Regional Administrator
SES Director, Atlanta Area Office

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Region V
SES Regional Administrator
SES Deputy Regional Administrator
SES Director, Detroit Area Office
SES Director, Chicago Area Office
SES Director, Columbus Area Office

Region VI
SES Regional Administrator
SES Deputy Regional Administrator
SES Director, Dallas Area Office

Region VII
SES Regional Administrator
SES Deputy Regional Administrator

Region VIII
SES Regional Administrator/Chairperson Federal Regional Counsel
SES Deputy Regional Administrator

Region IX
SES Regional Administrator
SES Deputy Regional Administrator
SES Director, San Francisco Area Office
SES Director, Los Angeles Area Office

Region X
SES Regional Administrator
SES Deputy Regional Administrator

AGENCY: DEPARTMENT OF STATE

Positions:
FA01 Chief of Mission, Bangkok
FO01 Deputy Assistant Secretary, A/SY
FA01 Chief of Mission, Bucharest
FR01 Deputy Representative, S/AR
FANC Chief of Mission, Canberra
FO01 Assistant Chief of Mission, Berlin
FO01 Principal Officer, Sao Paulo
FA01 Chief of Mission, Bogota
FR01 Deputy Assistant Secretary, H
FR01 Deputy Assistant Secretary, EB/TRA
FO01 United States Representative, USM FAO Rome
FA01 Chief of Mission, Rangoon
FO01 Deputy Chief of Mission, Guatemala
FR01 Deputy Director for Planning, S/P
FA01 Chief of Mission, Khartoum
FO01 Principal Officer, Montreal
FO01 Principal Officer, Guayaquil
RU01 Deputy Assistant Secretary, PA
FO01 Deputy Chief of Mission, New Delhi
FA01 Chief of Mission, Lisbon
FA01 Chief of Mission, La Paz
FA01 Chief of Mission, Berlin
FO01 Deputy Chief of Mission, Vienna
FA01 Chief of Mission, Tunis
FA01 Chief of Mission, Ouagadougou
FA01 Chief of Mission, Ndjamena
FANC Chief of Mission, London
FO01 Inspector General, S/IG
FO01 Deputy Chief of Mission, Warsaw
RU01 Deputy Assistant Secretary, OES
FO01 Principal Officer, Leningrad
FA01 Chief of Mission, Georgetown
FO01 Deputy Assistant Secretary, ARA
FA01 Chief of Mission, Bamako
FO01 Deputy Assistant Secretary, EB/ORF
FA01 Ambassador at Large, S/SLG
FANC Chief of Mission, Buen. Aires
FANC Chief of Mission, Brussels
FA01 Chief of Mission, Add. Ababa
FO01 Deputy Chief of Mission, Buen. Aires
FA01 Chief of Mission, Valletta
FA01 Chief of Mission, Dakar
FO01 Principal Officer, Naples
FA01 Chief of Mission, Suva
FO01 Director of Management Operations, M/MO
FO01 Deputy Chief of Mission, Islamabad
FA01 Chief of Mission, Bujumbura
FO01 Principal Officer, Bombay
FO01 Deputy Assistant Secretary, NEA
FA01 Chief of Mission, Conakry
FO01 Deputy Chief of Mission, Caracas
FO01 Deputy Chief of Mission, Bern
FA01 Chief of Mission, Kinshasa
FO01 Principal Officer, Sydney
FA01 Chief of Mission, Beirut
FO01 United States Representative, Vienna-MBFR
FA01 Chief of Mission, Maputo
FA01 Chief of Mission San Salv
FO01 Principal Officer, Rio De Jan
FA01 Chief of Mission, Abu Dhabi
FO01 Principal Officer, Toronto
FO01 Deputy Chief of Mission, Panama
FO01 Deputy Chief of Mission, Ankara
FO01 Deputy Assistant Secretary, NEA
FO01 Deputy Chief of Mission, The Hague
RU01 Deputy Assistant Secretary, A/OPR
RU01 Deputy Assistant Secretary, M/MED
FO01 Deputy Chief of Mission, Tripoli
FO01 Director, Asian Develop, Asian DEV BK
FA01 Chief of Mission, Pretoria
FA01 Chief of Mission, Reykjavik
GS-17 Deputy Legal Advisor, L
FO01 Principal Officer, Milan
FA01 Chief of Mission, Port O Spain
FA01 Chief of Mission, Port Louis
FO01 Deputy Chief of Mission, Jakarta
FANC Chief of Mission, Rome
FO01 Deputy Chief of Mission, Moscow
FA01 Chief of Mission, Sofia
FR01 Director Political Military, PM/OD
FO01 Deputy Assistant Secretary, DGP/PER
FA01 Chief of Mission, Seoul
FO01 Deputy Chief of Mission, Brussels NTO
FANC Chief of Mission, New Delhi
FA01 Chief of Mission, Quito
FO01 Deputy Assistant Secretary, EUR
FO01 Deputy Assistant Secretary, ARA
FR01 Deputy Assistant Secretary, ARA
FO01 Deputy Assistant Secretary, AF
FO01 Deputy Assistant Secretary, OES/ENP
FANC Chief of Mission, Algiers
FA01 Chief of Mission, Kathmandu
FO01 Deputy Assistant Secretary, IO
FO01 Principal Officer, Munich
FR01 Dep US Representative, Vienna-MBFR
FO01 Deputy Chief of Mission, Rome
FA01 Chief of Mission, Lilongwe
FO01 Deputy Assistant Secretary, CA
FR01 Deputy Assistant Secretary, EB
FO01 Principal Officer, Istanbul
FANC Chief of Mission, Niamey
FANC Chief of Mission, Tegucigalpa
FO01 Principal Officer, Johnannesburg
FR01 Deputy Assistant Secretary, AF
FA01 Chief of Mission, PRT-AU-PRN
FANC Chief of Mission, The Hague
RU01 Deputy Director PM, PM/AC
FANC Chief of Mission, Budapest
RU01 Assistant Secretary, EB
FO01 Deputy Assistant Secretary, AF
FANC Chief of Mission, Stockholm
FO01 Deputy Chief of Mission, Tunis
FO01 Dep US Representative, IAEA Vienna
FANC Chief of Mission, Singapore
FO01 Deputy Director, Policy Analysis and Reso, S/P
FA01 Chief of Mission, Nouakchott
FO01 Deputy Chief of Mission, Ankara
FA01 Chief of Mission, Santiago
FO01 Principal Officer, Havana
FA01 Chief of Mission, Kingston
FANC Chief of Mission, Nairobi
FO01 United States Representative, Vienna
FO01 Principal Officer, Frankfurt
FO01 Dep US Representative, USUN
FANC Chief of Mission, Oslo
FA01 Chief of Mission, Tel Aviv
FO01 Principal Officer, Dhahran
FA01 Chief of Mission, Freetown
FA01 Chief of Mission, Lusaka
FA01 Chief of Mission, Luxembourg
FANC Chief of Mission, Mexico D.F
FA01 Chief of Mission, Caracas
FO01 Principal Officer, Vancouver
FA01 Chief of Mission, Kuwait
FO01 Deputy Director of Management Operation, M/MO
FANC Chief of Mission, Tokyo
FANC Chief of Mission, Copenhagen
FO01 Deputy Director INR, INR/DD
GS-18 Deputy Legal Advisor, L
FO01 Deputy Chief of Mission, Stockholm
FA01 Chief of Mission, Jakarta
FO01 Deputy Chief of Mission, Cairo
GS-17 Deputy Director for Coord, INR/DDC
FANC Dep US Representative, IO/OIC/MTN
FA01 Chief of Mission, Prague
FR01 Deputy Assistant Secretary, EB/IFD
FO01 Deputy Inspector General, S/IG
GS-17 Deputy Legal Advisor, L
FO01 Deputy Assistant Secretary, NEA
FA01 Chief of Mission, Kuala LMPR
FO01 Deputy Chief of Mission, Athens
FANC Chief of Mission, Panama
FA01 Chief of Mission, Manila
FO01 Deputy Chief of Mission, Tehran
FO01 Deputy Chief of Mission, Pretoria
FO01 Principal Officer, Jerusalem
FA01 Chief of Mission, Gaborone
RU01 Deputy Assistant Secretary, OES/NET
FO01 Deputy Director PM, PM/AS
FO01 Deputy Assistant Secretary, EA
FO01 Dep US Representative, Geneva
FA01 Chief of Mission, Port Moresby
RU01 Deputy Chief of Mission, Brussels
FA01 Chief of Mission, Bridgetown
FO01 Deputy Director for Personnel, PER/FCA
FO01 Deputy Executive Secretary, S/S
FA01 Chief of Mission, Mogadiscio
FA01 Chief of Mission, Montevideo
FO01 US Rep to Tex Sur Body of, US MIS GEN
FR01 Deputy Assistant Secretary, EB/TCA
FO01 Deputy Chief of Mission, Berlin
FR01 Spec Rep of Sec Pan Treaty, S/PTA
FO01 Principal Officer, Melbourne
FO01 Deputy Chief of Mission, Lima
FO01 Deputy Assistant Secretary, DGP/PER
FA01 Chief of Mission, Helsinki
FO01 Deputy Chief of Mission, Vientiane
FR01 United States Representative, EA/PIA
FO01 Deputy Chief of Mission, Lisbon
FO01 Deputy Chief of Mission, OECD Paris
FANC United States Representative, OECD Paris
FR01 Scientific & Tech Aff Off, UNESCO PRS

FA01 Chief of Mission, Brasilia
FA01 Chief of Mission, Dacca
FR01 Deputy Assistant Secretary, HA/HR
FANC Chief of Mission, Nassau
RU01 Deputy Legal Adviser, L
FO01 Principal Officer, Casablanca
FA01 Chief of Mission, Damascus
FANC Chief of Mission, Wellington
FANC Chief of Mission, Dublin
FO01 Deputy Chief of Mission, Tokyo
FO01 Principal Officer, Hong Kong
FR01 Spec Adv to the Sec for S/MS
FR01 Deputy Assistant Secretary for A/FBO
FA01 Chief of Mission, Accra
FANC Chief of Mission, Yaounde
FANC Chief of Mission, Managua
FO01 Dep US Representative, US MIS GEN
FA01 Chief of Mission, DAR-ES-SAL
GS-18 Director F S Institute, M/FSI
FO01 Deputy Chief of Mission, Canberra
FA01 Chief of Mission, Abidjan
FO01 Deputy Chief of Mission, Seoul
FO01 Deputy Assistant Secretary, NEA
FO01 Dep US Representative, USUN
FA01 Chief of Mission, Nicosia
FO01 Deputy Chief of Mission, London
FO01 Deputy Assistant Secretary, EA
FO01 Principal Officer, Rotterdam
FO01 SA to Sec & Exec Sec of S/S
FR01 Deputy Assistant Secretary, OES/APT
FO01 Assistant Secretary, A
FA01 Chief of Mission, Libreville
FR01 United States Representative, UNESCO PRS
FO01 Deputy Chief of Mission, Manila
FO01 Dep US Representative, ARA/USOAS
FANC United States Representative, US MIS GEN
FA01 Chief of Mission, Amman
FO01 Deputy Assistant Secretary, EUR
FANC Chief of Mission, Bern
FANC Chief of Mission, San Jose
FO01 United States Representative, USUN
FANC Chief of Mission, Jidda
FA01 Chief of Mission, Asuncion
FO01 Coordinator, T/CST
FANC Chief of Mission, Vienna
FANC Chief, US Liaison Office, Beijing
FANC Chief of Mission, Columbo
FO01 Deputy Chief of Mission, Lagos
FA01 Chief of Mission, Santo Dom.

AGENCY: DEPARTMENT OF THE TREASURY

Positions:

OFFICE OF THE SECRETARY
GS-18 Inspector General

OFFICE OF THE ASSISTANT SECRETARY FOR DOMESTIC FINANCE
GS-18 Deputy Assistant Secretary, Debt Management
GS-18 Deputy Assistant Secretary, Capital Markets Policy
GS-17 Deputy Assistant Secretary, State and Local Finance

OFFICE OF THE ASSISTANT SECRETARY FOR INTERNATIONAL MONETARY AFFIARS
GG-18 Deputy Assistant Secretary for International Monetary Affairs
GG-18 Deputy Assistant Secretary for Developing Nations Finance
GG-18 Deputy Assistant Secretary, Trade and Investment Policy
GG-18 Deputy Assistant Secretary, Commodities and Natural Resources

OFFICE OF THE ASSISTANT SECRETARY FOR TAX POLICY
GS-18 Deputy Assistant Secretary, Tax Policy
GS-18 Deputy Assistant Secretary, Tax Policy and Director, Office of Tax Analysis

LEGAL DIVISION
GS-18 Deputy General Counsel, Office of the General Counsel
GS-18 Assistant General Counsel and Director, Tax Legislative Counsel, Office of the General Counsel
GS-18 Deputy to the General Counsel for Tariff Affairs, Office of the General Counsel
GG-18 International Tax Counsel and Director, Office of International Tax Counsel, Office of the General Counsel

OFFICE OF CHIEF COUNSEL—CUSTOMS
SES Chief Counsel
SES Deputy Chief Counsel

OFFICE OF CHIEF COUNSEL—COMPTROLLER OF THE CURRENCY
GS-17 Chief Counsel
SES Deputy Chief Counsel

CUSTOMS SERVICE
GS-18 Deputy Commissioner
GS-18 Assistant Commissioner
GS-17 Assistant Commissioner, Regulations and Rulings
GS-17 Assistant Commissioner, Investigations
GS-17 Assistant Commissioner, Administration
SES Assistant Commissioner, Enforcement Support
SES Assistant Commissioner, Office of Security and Audit

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
GS-18 Director
GS-17 Deputy Director
SES Assistant Director, Regulatory Enforcement
SES Assistant Director, Criminal Enforcement
SES Assistant Director, Inspection
SES Chief Counsel
SES Deputy Chief Counsel

OFFICE OF CHIEF COUNSEL—ATF
GS-17 Chief Counsel
SES Deputy Chief Counsel

BUREAU OF ENGRAVING AND PRINTING
GS-18 Director
GS-17 Deputy Director
SES Legal Counsel

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS
GS-18 Commissioner

BUREAU OF THE MINT
GS-18 Director
SES Associate Director for Technology
SES Legal Counsel

BUREAU OF PUBLIC DEBT
GS-18 Commissioner of Public Debt

U.S. SECRET SERVICE
SES Legal Counsel

OFFICE OF THE COMPTROLLER OF THE CURRENCY
GG-17 Deputy Comptroller for Special Examinations
GG-17 Chief National Bank Examiner
GG-17 Deputy Comptroller of the Currency, Special Surveillance
GG-17 Deputy Comptroller, Multinational Banking
GG-17 Deputy Comptroller, Research and Economic Programs
SES Deputy Comptroller for Administration
SES Senior Advisor to the Comptroller
SES Director, Bank Organization and Structure
SES Deputy Comptroller, Customer and Community Programs
SES Deputy Comptroller of the Currency for Interagency Coordination
SES Chief Counsel
SES Deputy Chief Counsel

OFFICE OF CHIEF COUNSEL—INTERNAL REVENUE SERVICE
SES Deputy Chief Counsel, General
SES Deputy Chief Counsel, Litigation
SES Deputy Chief Counsel, Technical

INTERNAL REVENUE SERVICE
SES Assistant Commissioner (EP/EO)
SES Assistant Commissioner (Compliance)
SES Assistant Commissioner (Technical)
SES Assistant Commissioner (Resources Management)
SES Assistant Commissioner (Planning & Research)
SES Assistant Commissioner (Taxpayer Service & Returns Processing)
SES Assistant Commissioner (Inspection)
SES Assistant Commissioner (Data Services)
SES Regional Commissioner, North Atlantic Region
SES Regional Commissioner, Midwest Region
SES Regional Commissioner, Western Region
SES Regional Commissioner, Southeast Region
SES Regional Commissioner, Central Region
SES Regional Commissioner, Southwest Region
SES Regional Commissioner, Mid-Atlantic Region

OFFICE OF THE GENERAL COUNSEL
SES Deputy General Counsel

U.S. SECRET SERVICE
SES Legal Counsel

U.S. CUSTOMS SERVICE
SES Chief Counsel
SES Deputy Chief Counsel

AGENCY: ACTION

Positions:
FR-1 Assistant Director for Policy and Planning
FR-1 Assistant Director for Recruitment and Communications
FR-1 Assistant Director for Compliance
FR-1 Deputy Associate Director for Peace Corps

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FR–1 Deputy Director for Peace Corps Programs
FR–1 Regional Director for Latin America
FR–1 Regional Director for Africa
FR–1 Regional Director, North Africa, Near East, Asia and Pacific Regional Office
SES Executive Officer
SES General Counsel
SES Deputy Associate Director for Domestic and Anti-Poverty Operations
SES Assistant Director for Administration and Finance
SES Executive Assistant for Programs

AGENCY: ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Positions:
SES Executive Secretary
SES Executive Director

AGENCY: ADVISORY COUNCIL ON HISTORIC PRESERVATION

Positions:
SES Principal Deputy Executive Director
SES Deputy Executive Director

AGENCY: AMERICAN BATTLE MONUMENTS COMMISSION

Positions:
0–8 Secretary

AGENCY: APPALACHIAN REGIONAL COMMISSION

Positions: No section 207(d)(1)(C) designations

AGENCY: CIVIL AERONAUTICS BOARD

Positions:
SES Managing Director, Office of Managing Director
SES Director, Bureau of Carrier Accounts & Audits
SES General Director, Bureau of Domestic Aviation and Bureau of International Aviation
SES Director, Bureau of Domestic Aviation
SES Deputy Director, Bureau of Domestic Aviation
SES Director, Bureau of International Aviation
SES Deputy Director, Bureau of International Aviation
SES Director, Office of Economic Analysis
SES General Counsel, Office of the General Counsel
SES Deputy General Counsel, Office of the General Counsel
SES Director, Bureau of Consumer Protection
SES Deputy Director, Bureau of Consumer Protection
SES Director, Office of Human Resources
SES Comptroller, Office of Comptroller
SES Director, Office of Community & Congressional Relations

AGENCY: COMMODITY FUTURES TRADING COMMISSION

Positions:
SES Deputy Executive Director
SES Director, Division of Enforcement
SES Deputy Director, Division of Enforcement
SES Chief Economist, Division of Economics and Education
SES Deputy Chief Economist, Division of Economics and Education
SES Director, Division of Trading and Markets
SES Deputy Director, Division of Trading and Markets
SES Director, Division of Management, Program Planning and Evaluation
SES Regional Director, Central Region
SES Regional Director, Eastern Region
SES Deputy General Counsel, Office of General Council

AGENCY: CONSUMER PRODUCT SAFETY COMMISSION

Positions:
SES General Counsel
SES Deputy General Counsel
SES Executive Director
SES Deputy Executive Director
SES Associate Executive Director for Engineering and Science
SES Associate Executive Director for Hazard Identification and Analysis
SES Associate Executive Director for Field Operations
SES Associate Executive Director for Administration
SES Associate Executive Director for Compliance and Enforcement
SES Associate Executive Director for Communications
SES Director, Office of Program Management
SES Director, Office of Strategic Planning

AGENCY: ENVIRONMENTAL PROTECTION AGENCY

Positions:
SES Regional Administrator, Region I, Boston
SES Regional Administrator, Region II, New York
SES Regional Administrator, Region III, Philadelphia
SES Regional Administrator, Region IV, Atlanta
SES Regional Administrator, Region V, Chicago
SES Regional Administrator, Region VI, Dallas
SES Regional Administrator, Region VII, Kansas City
SES Regional Administrator, Region VIII, Denver
SES Regional Administrator, Region IX, San Francisco
0–7 Regional Administrator, Region X, Seattle
SES Associate Assistant Administrator for Research and Development
SES Associate Assistant Administrator for Planning and Management
SES Associate Assistant Administrator for Management Reform
SES Associate Assistant Administrator for Program Management and Policy
SES Deputy Assistant Administrator for Management and Agency Services
SES Deputy Assistant Administrator for Resource Management
SES Deputy Assistant Administrator for Planning and Evaluation
SES Deputy Assistant Administrator for Water Enforcement
SES Deputy Assistant Administrator for Mobile Source and Noise Enforcement
SES Deputy Assistant Administrator for General Enforcement
SES DAA/Mobile Source Air Pollution Control
SES Deputy Assistant Administrator for Radiation Programs
SES Deputy Assistant Administrator for Noise Abatement and Control
SES Deputy Assistant Administrator for Water Program Operations
SES Deputy Assistant Administrator for Water Planning and Standards
SES Deputy Assistant Administrator for Solid Waste
SES Deputy Assistant Administrator for Drinking Water
SES Deputy Assistant Administrator for Pesticides Programs
SES Deputy Assistant Administrator for Program Integration and Information
SES Deputy Assistant Administrator for Testing and Evaluation
SES Deputy Assistant Administrator for Chemical Control
SES Deputy Assistant Administrator for Monitoring and Technical Support
SES Deputy Assistant Administrator for Health and Ecological Effects
SES Deputy Assistant Administrator for Air, Land and Water Use
SES Deputy Assistant Administrator for Energy, Minerals, and Industry
SES General Counsel
SES Deputy General Counsel
SES Deputy Inspector-General for Audits
SES Deputy Inspector-General for Inspection
SES Executive Assistant (technical) to the Administrator
SES Assistant to the Deputy Administrator
SES Director of Environmental Review
SES Director of Legislation
SES Director, Registration Division (OTS)
SES Director, Control Action Division (OTS)
SES Director, Premanufacturing Review Divison (OTS)
SES Director, Criteria and Assessment Office—RTP (ORD)
SES Staff Director, Regulatory Council
SES Deputy Staff Director, Regulatory Council

AGENCY: EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Positions:
SES Associate General Counsel, Trial Division
SES Executive Director
SES Deputy Executive Director
SES Director, Office of Special Projects and Programs
SES Director, Office of Program Planning and Evaluation
SES Deputy General Counsel

AGENCY: EXPORT-IMPORT BANK OF THE UNITED STATES

Positions:
GS–18 General Counsel
GS–17 Deputy General Counsel
GS–17 Senior Vice President, Exporter Credits, Guarantees and Insurance

GS–17 Senior Vice President, Policy Analysis and Communications
GS–17 Senior Vice President, Direct Credits and Financial Guarantees
GS–17 Senior Vice President, International Affairs

AGENCY: FARM CREDIT ADMINISTRATION

Positions:
SES Senior Deputy Governor
SES Chief of Staff to the Senior Deputy Governor
SES General Counsel
SES Deputy Governor, Office of Supervision
SES Assistant Deputy Governor, Office of Supervision
SES Deputy Governor, Office of Finance
SES Deputy Governor and Chief Examiner
SES Deputy Governor, Office of Administration
SES Director, Administrative Division

AGENCY: FEDERAL COMMUNICATIONS COMMISSION

Positions:
SES General Counsel
SES Chief, Broadcast Bureau
SES Chief Scientist
SES Chief, Common Carrier Bureau
SES Chief, Field Operations Bureau
SES Deputy Chief, Broadcast Bureau
SES Executive Director
SES Managing Counsel, Compliance & Litigation Task Force
SES Chief, Private Radio Bureau
SES Chief, Opinions and Review
SES Deputy Chief Scientist
SES Deputy Chief, Common Carrier Bureau
SES Chief, Office of Plans and Policy
SES Deputy General Counsel
SES Chief, Cable Television Bureau
SES Deputy Chief, Cable Television Bureau
SES Deputy Chief, Field Operations Bureau

AGENCY: FEDERAL DEPOSIT INSURANCE CORPORATION

Positions:
AD–18 Executive Secretary and Deputy to the Chairman
AD–18 Assistant to Chairman
AD–18 Assistant to Director
GG–17 Director, Office of Employee Relations
GG–17 Director, Office of Personnel Management
AD–18 Controller
AD–18 Director, Division of Management Systems and Financial Statistics
GG–17 Deputy Director, Division of Management Systems and Financial Statistics
GG–17 Director, Corporate Audits
AD–18 Acting General Counsel
AD–18 Director, Division of Bank Supervision
GG–17 Deputy Directors, Division of Bank Supervision(2)
GG–17 Deputy Director, Division of Liquidation
AD–18 Director, Division of Liquidation
AD–18 Director, Division of Research
GG–18 Counsel to the Chairman of Board of Directors
GG–18 Special Assistant to the Chairman
GG–17 Deputy General Counsel

AGENCY: FEDERAL ELECTION COMMISSION

Positions: No Section 207(d)(1)(C) designations

AGENCY: FEDERAL ENERGY REGULATORY COMMISSION

Positions:
SES Executive Director, Office of the Executive Director
SES Director, Office of Electric Power Regulation
SES Deputy Director, Office of Electric Power Regulation
SES Director, Office of Pipeline and Producer Regulation
SES Deputy Director, Office of Pipeline and Producer Regulation
SES General Counsel, Office of General Counsel
SES Deputy General Counsel, Office of General Counsel
SES Director, Office of Regulatory Analysis
SES Chief Accountant, Office of Chief Accountant
SES Deputy Chief Accountant, Office of Chief Accountant
SES Director, Office of Enforcement
SES Director, Office of Opinions and Review
SES Deputy Director, Office of Opinions and Review

AGENCY: FEDERAL HOME LOAN BANK BOARD

Positions:
GS–18 General Counsel
GS–18 Director, Office of District Banks
GS–18 Director, Office of Community Investment
GS–18 Director, Office of Economic Research
GS–18 Director, Federal Savings and Loan Insurance Corporation
GS–17 Director, Office of Industry Development
GS–17 Executive Assistant to the Chairman

AGENCY: FEDERAL HOME LOAN MORTGAGE CORPORATION

Positions:
AD President—Chief Executive Officer
AD Executive Vice President—Chief Operating Officer
AD Executive Vice President—Chief Administrative Officer
AD Senior Vice President—General Counsel
AD Regional Senior Vice President—Los Angeles
AD Executive Vice President—Chief Financial Officer

AGENCY: FEDERAL LABOR RELATIONS AUTHORITY

Positions:
GS–18 Members of the Panel (7)
SES Executive Director of the Authority
SES Deputy Executive Director of the Authority
SES Chief, Representation and Unfair Labor Practice Division
SES Deputy General Counsel of the Authority

AGENCY: FEDERAL MARITIME COMMISSION

Positions:
SES General Counsel
SES Managing Director
SES Director, Bureau of Ocean Commerce Regulation
SES Deputy Director, Bureau of Ocean Commerce Regulation
SES Deputy General Counsel, Division of Reports, Opinions and Decisions
SES Deputy General Counsel, Division of Legislation, Orders and Legal Research and Assistance
SES Director, Bureau of Hearing Counsel
SES Director, Bureau of Certification and Licensing
SES Director, Bureau of Enforcement
SES Director, Bureau of Industry Economics
SES Secretary

AGENCY: FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Positions:
SES Executive Director
SES General Counsel

AGENCY: FEDERAL RESERVE SYSTEM

Positions:
FRO–I Secretary of the Board
FRO–I Staff Director for Monetary and Financial Policy
FRO–I Staff Director for Management
FRO–I Director, Division of Research and Statistics
FRO–I General Counsel
FRO–I Director, Division of Banking Supervision and Regulation
FRO–I Director, Division of International Finance
FRO–I Staff Director for Federal Reserve Bank Activities
FRO–II Assistants to the Board (3)
FRO–II Deputy Staff Director for Monetary and Financial Policy
FRO–II Director, Division of Federal Reserve Bank Examination and Budgets
FRO–II Director, Division of Consumer Affairs
FRO–II Director, Division of Data Processing
FRO–II Director, Division of Federal Reserve Bank Operations
FRO–II Executive Secretary, Federal Bank Examination Council
FRO–II Deputy General Counsel
FRO–II Director, Division of Personnel
FRO–III Controller
FRO–III Assistant to the Board

AGENCY: FEDERAL TRADE COMMISSION

Positions:
SES Director, Office of Policy Planning
SES General Counsel
SES Deputy General Counsel
SES Director, Bureau of Competition
SES Deputy Directors, Bureau of Competition
SES Director, Bureau of Consumer Protection

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SES Deputy Directors, Bureau of Consumer Protection
SES Director, Bureau of Economics
SES Executive Director
SES Assistant to the Chairman
SES Deputy Director, Office of Policy Planning
SES Deputy Director, Bureau of Economics

AGENCY: FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

Position: No section 207(d)(1)(C) designations

AGENCY: GENERAL SERVICES ADMINISTRATION

Positions:

OFFICE OF THE ADMINISTRATOR

SES Special Assistant to the Administrator
SES Assistant Administrator for Field Operations
SES Assistant Administrator for External Affairs
SES Deputy Assistant Administrator for External Affairs
SES Director of Information Security Oversight
SES Assistant Administrator for Acquisition Policy
SES Deputy Assistant Administrator for Acquisition Policy
SES Director, Acquisition Management and Review Directorate
SES Director, Contract Clearance Directorate
SES Director, Acquisition Policy Directorate

OFFICE OF MANAGEMENT, POLICY AND BUDGET

SES Assistant Administrator for Management, Policy and Budget
SES Deputy Assistant Administrator for Management, Policy and Budget
SES Director of Finance
SES Director of Budget
SES Director of Data Systems
SES Director of Planning and Analysis

AUTOMATED DATA AND TELECOMMUNICATIONS SERVICE (ADTS)

SES Deputy Commissioner, ADTS
SES Assistant Commissioner, Office of Policy and Planning, Program Management Officer
SES Assistant Commissioner, Office of Agency Services and Procurement, Program Management Officer
SES Assistant Commissioner, Office of Systems Engineering and Operations, Supervisory Electronics Engineer
SES Executive Director, ADTS; Program Management and Policy Planning Officer
SES Director, Voice Communications Systems Division, Supervisory Electronics Engineer
SES Director, Advanced Planning and Research Division, Supervisory Electronics Engineer
SES Director, Data Communications Systems Division, Supervisory Electronics Engineer

FEDERAL PROPERTY RESOURCES SERVICE (FPRS)

SES Commissioner, Federal Property Resources Service
SES Deputy Commissioner, Federal Property Resources Service
SES Assistant Commissioner, Office of Real Property
SES Assistant Commissioner, Office of Personal Property
SES Assistant Commissioner, Office of Property Management
SES Assistant Commissioner, Office of Stockpile Disposal

FEDERAL SUPPLY SERVICE (FSS)

SES Deputy Commissioner, FSS
SES Director, Quality Assurance and Reliability Office
SES Director, Office of Program Review and Resource Management
SES Director, Office of Programs and Requirements
SES Director, Office of Contracts
SES Director, Office of Requirements
SES Deputy Director, Office of Contracts
SES Director, Office of Supply

NATIONAL ARCHIVES AND RECORDS SERVICE (NARS)

SES Deputy Archivist
SES Executive Director

PUBLIC BUILDINGS SERVICE (PBS)

SES Deputy Commissioner, PBS
SES Assistant Commissioner for Program Support
SES Assistant Commissioner for Space Planning and Management
SES Assistant Commissioner for Buildings Management
SES Assistant Commissioner for Construction Management
SES Deputy Assistant Commissioner for Construction Management
SES Assistant Commissioner for Contracts
SES International Projects Officer
SES Deputy Assistant Commissioner for Construction Programs

TRANSPORTATION AND PUBLIC UTILITIES SERVICE (TPUS)

SES Assistant Commissioner, Office of Transportation and Travel Management
SES Deputy Commissioner, TPUS
SES Assistant Commissioner for Public Utilities
SES Assistant Commissioner for Motor Equipment

OFFICE OF GENERAL COUNSEL (OGC)

SES General Counsel
SES Deputy General Counsel

GSA BOARD OF CONTRACT APPEALS

Positions: No section 207(d)(1)(C) designations

REGIONAL OFFICES

SES Regional Administrator, Region 1 (Boston)
SES Regional Administrator, Region 2 (New York)
SES Regional Administrator, Region 3 (Philadelphia)
SES Regional Administrator, Region 4 (Atlanta)
SES Regional Administrator, Region 5 (Chicago)
SES Regional Administrator, Region 6 (Kansas City)
SES Regional Administrator, Region 7 (Fort Worth)
SES Regional Administrator, Region 8 (Denver)
SES Regional Administrator, Region 9 (San Francisco)
SES Regional Administrator, Region 10 (Auburn)
SES Regional Administrator, National Capital Area (Washington, D.C.)

OFFICE OF HUMAN RESOURCES AND ORGANIZATION

SES Assistant Administrator for Human Resources and Organization

AGENCY: INTERNATIONAL COMMUNICATION AGENCY

Positions:
GS–17 Executive Assistant to the Director
FSIO–1 Director, Congressional and Public Liaison
FSIO–1 Chief, Congressional Liaison Office
SES General Counsel
SES Deputy General Counsel
FSIO–1 Deputy Associate Director for Educational and Cultural Affairs
GG–18 Director for Institutional Relations
FSIO–1 Director of Cultural Centers and Resources
GG–17 Director, Office of Academic Programs

THE DIRECTORATE FOR BROADCASTING (THE VOICE OF AMERICA)

FSIO–1 Deputy Associate Director
SES Director of Administration
FSIO–1 Director, Office of Programs
SES Director of Engineering and Technical Operations

THE DIRECTORATE FOR MANAGEMENT

FSIO–1 Director of Administrative Services
SES Director of Comptroller Services
SES Director of Personnel Services
SES Director, Office of Systems Technology

THE DIRECTORATE FOR PROGRAMS

SES Director of Exhibits Service
FSIO–1 Director of Press and Publication Services
FSIO–1 Director of Television and Film Service
FSIO–1 Deputy Associate Director
SES Executive Officer
FSIO–1 Director of African Affairs
SES Deputy Director of African Affairs
FSIO–1 Director of European Affairs
FSIO–1 Deputy Directors of European Affairs (2)
FSIO–1 Deputy Director of European Affairs (Exchanges)
FSIO–1 Director of East Asian and Pacific Affairs
FSIO–1 Deputy Directors of East Asian and Pacific Affairs (2)
FSIO–1 Director of American Republic Affairs
FSIO–1 Deputy Director of American Republic Affairs
FSIO–1 Director of North African, Near Eastern and South Asian Affairs

FSIO–1 Deputy Director of North African and Near Eastern Affairs
FSIO–1 Deputy Director of South Asian Affairs
FSIO–1 Public Affairs Officers of Class I Posts

AGENCY: INTERSTATE COMMERCE COMMISSION

Positions:
SES Managing Director
SES General Counsel
SES Director, Bureau of Operations
SES Director, Bureau of Investigations and Enforcement
SES Director, Bureau of Traffic
SES Director, Bureau of Accounts
SES Director, Office of Proceedings
SES Director, Office of Policy and Analysis/Rail Services Planning Office
SES Assistant Managing Director
SES Deputy General Counsel
SES Associate Director, Office of Proceedings
SES Associate Director, Office of Policy and Analysis/Rail Services Planning Office

AGENCY: NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Positions:

OFFICE OF THE ADMINISTRATOR

Positions: No section 207(d)(1)(C) designations

OFFICE OF THE COMPTROLLER

SES Deputy Comptroller

OFFICE OF LEGISLATIVE AFFAIRS

SES Director, Legislative Affairs
SES Deputy Director, Legislative Affairs

OFFICE OF THE CHIEF ENGINEER

SES Chief Engineer, NASA
SES Deputy Chief Engineer, NASA

OFFICE OF SPACE AND TERRESTRIAL APPLICATIONS

SES Deputy Associate Administrator for Space and Terrestrial Application

OFFICE OF GENERAL COUNSEL

SES Deputy General Counsel, NASA

OFFICE OF PROCUREMENT

SES Director of Procurement
SES Deputy Director of Procurement

OFFICE OF EXTERNAL RELATIONS

SES Associate Administrator for External Relations
SES Deputy Associate Administrator for External Relations

OFFICE OF SPACE TRANSPORTATION SYSTEM ACQUISITION

SES Deputy Associate Administrator for Space Transportation System Acquisition

OFFICE OF MANAGEMENT OPERATIONS

SES Deputy Associate Administrator for Management Operations

OFFICE OF THE CHIEF SCIENTIST

Positions: No section 207(d)(1)(C) designations

OFFICE OF AERONAUTICS AND SPACE TECHNOLOGY

SES Deputy Associate Administrator for Aeronautics and Space Technology

OFFICE OF SPACE SCIENCE

SES Deputy Associate Administrator for Space Science

OFFICE OF SPACE TRACKING AND DATA SYSTEMS

SES Deputy Associate Administrator for Space Tracking and Data Systems

OFFICE OF EQUAL OPPORTUNITY PROGRAMS

SES Director of Equal Opportunity Programs
SES Deputy Director of Equal Opportunity Programs

INSPECTOR GENERAL

SES Deputy Inspector General

AMES RESEARCH CENTER

SES Director, NASA Ames Research Center
SES Deputy Director, NASA Ames Research Center

DRYDEN FLIGHT RESEARCH CENTER

SES Director, NASA Dryden Flight Research Center
SES Deputy Director, NASA Dryden Flight Research Center

GODDARD SPACE FLIGHT CENTER

SES Director, NASA Goddard Space Flight Center
SES Deputy Director, NASA Goddard Space Flight Center

JOHNSON SPACE CENTER

SES Director, NASA Johnson Space Center
SES Deputy Director, NASA Johnson Space Center

KENNEDY SPACE CENTER

SES Director, NASA Kennedy Space Center
SES Deputy Director, NASA Kennedy Space Center

LANGLEY RESEARCH CENTER

SES Director, NASA Langley Research Center
SES Deputy Director, NASA Langley Research Center

LEWIS RESEARCH CENTER

SES Director, NASA Lewis Research Center
SES Deputy Director, NASA Lewis Research Center

MARSHALL SPACE FLIGHT CENTER

SES Director, NASA Marshall Space Flight Center
SES Deputy Director, NASA Marshall Space Flight Center

NATIONAL SPACE TECHNOLOGY LABORATORIES

SES Manager, National Space Technology Laboratories
SES Deupty Manager, National Space Technology Laboratories

WALLOPS FLIGHT CENTER

SES Director, NASA Wallops Flight Center
SES Associate Director, NASA Wallops Flight Center

AGENCY: NATIONAL COMMISSION ON THE INTERNATIONAL YEAR OF THE CHILD

Positions:
GS–17 Executive Director

AGENCY: NATIONAL CREDIT UNION ADMINISTRATION

Positions:
SES General Counsel
SES Assistant Administrator for Examination and Insurance
SES Assistant Administrator for Administration and Regional Coordination
SES Assistant Administrator for Asset Management, Fiscal Affairs, and Information Systems
SES Assistant Administrator for Internal Audit and Investigation
SES Assistant Administrator for Research and Analysis
SES Regional Directors (6)
SES Director, Office of Policy Analysis
SES Deputy Director, Examination and Insurance
SES Deputy General Counsel

AGENCY: NATIONAL ENDOWMENT FOR THE ARTS

Positions:
GS–18 Deputy Chairman for Policy and Planning
GS–17 Deputy Chairman for Programs
GS–17 Deputy Chairman, Federal Council on the Arts and the Humanities
SES Director of Media Arts
SES Director of Architecture, Planning and Design
SES Director of Federal-State Partnership
SES Director of Expansion Arts
SES Director of Museums
SES General Counsel
SES Director of Program Coordination

AGENCY: NATIONAL LABOR RELATIONS BOARD

Positions:
SES Solicitor
SES Executive Secretary
SES Deputy General Counsel
SES Director, Office of Appeals

AGENCY: NATIONAL SCIENCE FOUNDATION

Positions:
SES Director, Office of Audit and Oversight
SES Director, Office of Government & Public Programs
SES Director, Office of Planning & Resources Management
SES Director, Office of Small Business Research & Development
SES Deputy Assistant Director, Science Education
SES Deputy Assistant Director, Astronomical Atmospheric, Earth & Ocean Sciences
SES Deputy Assistant Director, Mathematical & Physical Sciences & Engineering
SES Deputy Assistant Director, Scientific, Technological & International Affairs

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SES Deputy Assistant Director, Administration
SES Deputy Assistant Director, Biological Behavioral, & Social Sciences
SES General Counsel

AGENCY: NATIONAL TRANSPORTATION SAFETY BOARD

Positions:
SES Managing Director
SES Deputy Managing Director
SES General Counsel
SES Deputy General Counsel
SES Director, Bureau of Accident Investigation
SES Director, Bureau of Technology

AGENCY: OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Positions:
SES Executive Director
SES General Counsel

AGENCY: OFFICE OF PERSONNEL MANAGEMENT

Positions:
SES Assistant Director, Office of Intergovernmental Personnel Programs
SES Deputy Associate Director for Standards and Selection Methods
SES Assistant Director, Office of Labor-Management Relations
SES Director, Office of Planning and Evaluation
SES Deputy Associate Director for Staffing, Staffing Services Group
SES Chairman, Federal Prevailing Rate Advisory Committee
SES Deputy Associate Director for Benefits Policy, Compensation Group
SES General Counsel, Office of the General Counsel
SES Director—Southeast Regional Office
SES Executive Director, President's Commission on Personnel Interchange
SES Director, Retirement and Insurance Division, Compensation Group
SES Assistant Director for Agency Compliance and Evaluation, Agency Relations Group
SES Director, Office of Administrative Law Judges, Executive Personnel and Management Development Group
SES Assistant Director for Staffing, Staffing Services Group
SES Deputy Associate Director for Compensation Operations, Compensation Group
SES Director—Eastern Regional Office
SES Director, Retirement Operations Branch, Compensation Group
SES Director—Great Lakes Regional Office
SES Director—Mid-Atlantic Regional Office
SES Director—Southwest Regional Office
SES Director—Western Regional Office
SES Assistant Director, Insurance Operations Branch, Compensation Group
SES Director, Federal Executive Institute
SES Chief, Medical Operations Branch, Compensation Group
SES Deputy Assistant Director for Labor-Management Relations
SES Chief, Personnel Research and Development Center, Staffing Services Group
SES Assistant Director, Office of Affirmative Employment Programs
SES Deputy Assistant Director for Grants Administration, Office of Intergovernmental Personnel Programs
SES Director, President's Commission on White House Fellows
SES Deputy Assistant Director for Personnel Management Assistance, Office of Intergovernmental Personnel Programs
SES Director, Office of Management
SES Deputy Associate Director for Personnel Investigations

AGENCY: PENSION BENEFIT GUARANTY CORPORATION

Positions:
GS–17 Deputy Executive Director
GS–17 General Counsel
GS–17 Director, Office of Program Operations

AGENCY: POSTAL RATE COMMISSION

Positions:
GS–18 General Counsel of Commission
GS–18 Director of Planning and Operations

AGENCY: PRESIDENTIAL COMMISSION ON WORLD HUNGER

Positions:
SES Executive Director

AGENCY: RAILROAD RETIREMENT BOARD

Positions:
GS–17 Chief Executive Officer
GS–18 Director, Bureau of Retirement Claims
GS–17 Director of Research
GS–17 General Counsel
GS–17 Chief Actuary
SES Deputy Executive Officer
SES Director, Bureau of Data Processing and Accounts
SES Director, Bureau of Unemployment and Sickness Insurance
SES Director, Bureau of Budget and Fiscal Operations

AGENCY: SECURITIES AND EXCHANGE COMMISSION

Positions:
SES General Counsel
SES Director, Division of Corporation Finance
SES Director, Division of Corporate Regulation
SES Director, Division of Enforcement
SES Director, Division of Investment Management
SES Director, Division of Market Regulation
SES Deputy Director, Division of Corporation Finance
SES Deputy Director, Division of Market Regulation
SES Chief Accountant of the Commission
SES Deputy Chief Accountant
SES Executive Director
SES Regional Administrator, New York
SES Regional Administrator, Chicago
SES Regional Administrator, Los Angeles
SES Deputy Director, Division of Enforcement
SES Principal Associate General Counsel

AGENCY: SMALL BUSINESS ADMINISTRATION

Positions:
SES Director, Office of Business Development
SES Associate Administrator for Policy, Planning and Budgeting
SES Director, Office of Program Development
GS–18 Assistant Administrator for Data Management Services
SES Regional Director, Region I
SES Regional Director, Region II
SES Regional Director, Region III
SES Regional Director, Region IV
SES Regional Director, Region V
SES Regional Director, Region VI
SES Regional Director, Region VII
SES Regional Director, Region VIII
SES Regional Director, Region IX
SES Regional Director, Region X
SES Special Assistant to the Administrator and Director, Equal Employment Opportunity and Compliance
SES General Counsel
GS–17 Deputy General Counsel
SES Chief Counsel for Advocacy
SES Associate Administrator for Procurement Assistance
SES Associate Administrator for Management Assistance
SES Director, Office of Field Management

AGENCY: TENNESSEE VALLEY AUTHORITY

Positions: No section 207(d)(1)(C) designations

AGENCY: UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

Positions:
SES General Counsel
SES U.S. Commissioner, SCC
SES Public Affairs Adviser
SES The Special Assistant
SES The Counselor
SES Chief Scientist
SES GAC Executive Director
SES Administrative Director
SES Chief of Operations Analysis
SES Deputy General Counsel
SES Ambassador to CD, D
SES Deputy Assistant Director, MA
SES Deputy Public Affairs Adviser, PA
SES Representative to MBFR
SES Special Assistant, PA
SES Senior Negotiator for Arms Trf., WEC

AGENCY: UNITED STATES RAILWAY ASSOCIATION

Positions:
AD President
AD Vice President and General Counsel
AD Vice President Finance
AD Vice President Operations and Marketing

AGENCY: WATER RESOURCES COUNCIL

Positions:
SES Director
SES Chairman, Great Lakes Basin Commission
SES Chairman, Missouri River Basin Commission
SES Chairman, New England River Basin Commission
SES Chairman, Ohio River Basin Commission
SES Chairman, Pacific Northwest River Basin Commission
SES Chairman, Upper Mississippi River Basin Commission

(18 U.S.C. 207(d)(1)(C).)

[FR Doc. 80-2828 Filed 1-31-80; 8:45 am]
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federal register

Friday
February 1, 1980

Part III

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

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DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage & Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

None.

Modifications To General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the Federal Register are listed with each State.

Arkansas: AR79–4052—March 30, 1979.
California: CA78–5106—July 7, 1978 and CA78–5107—July 7, 1978.
District of Columbia: DC79–3039—October 19, 1979.
Georgia: GA79–1122—August 31, 1979 and GA79–1014—January 5, 1979.
Maryland: DC79–3039—October 19, 1979.
Nebraska: NE79–4027—February 16, 1979.
Tennessee: TN78–1090—October 20, 1978; TN78–1091—October 20, 1978; and TN80–1044—January 11, 1980.
Virginia: DC79–3039—October 19, 1979.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of decisions being superseded and their dates of publication in the Federal Register are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama: AL78–1082 (AL80–1014)—October 13, 1978.
Arkansas: AR79–4025 (AR80–4012)—February 2, 1979.
Colorado: CO79–5116 (CO80–5101)—May 16, 1978.
Nevada: NV78–5124 (NV80–5100)—September 15, 1978.
North Dakota: ND78–5125 (ND80–5102)—September 22, 1978 and ND79–5128 (ND80–5103)—August 3, 1979.

Ohio: OH75–2109 (OH80–2002)—September 12, 1975.
South Dakota: SD79–5121 (SD80–5104)—May 4, 1979 and SD79–5122 (SD80–5105)—May 4, 1979.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C., this 25th day of January 1980.

Dorothy P. Come,
Assistant Administrator, Wage and Hour Division.

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MODIFICATION PAGE 1

DECISION NO. AR79-4052
MOD. NO. 5
(44 FR 19103-March 30, 1979)
Pulaski county, Arkansas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos Workers	$12.05	.55	1.00		.02
Electricians:					
Electrician	11.50	.55	3%+.9%		4%
Cable splicers	11.625	.55	3%+.9%		4%
Plasterers	10.85				.02
Roofers	9.71		.30		
OMIT:					
Elevator Constructors:					
Helper	70%JR	.545	.35	4%+a+b	.02
Helpers-Probationary	50%JR				

MODIFICATION PAGE 2

DECISION NO. CA78-5106 - Mod. #7
(43 FR 38272-July 7, 1978)
Alamdea, Amador, Calaveras, Del Norte, El Dorado, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tehama, Tuolumne, Yolo and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Lathers:					
San Francisco County	$12.47	.86	$2.50	$1.00	.02
Plasterers:					
San Mateo County	13.58	1.00	2.25		.06
San Francisco County	13.58	1.00	2.25		.06
Omit:					
Lathers:					
N½ of San Mateo County	13.07	.66	2.00		.02
Southern half of San Mateo County	10.03	.32	1.00		
Add:					
Lathers:					
San Mateo County	12.47	.86	2.50	1.00	.02
Communications and Systems Technicians	10.80	.70	.30	1.87	

MODIFICATION PAGE 3

DECISION #CA78-5107-Mod. #12
(43 FR 2944-July 7, 1978)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Lathers:					
San Francisco County	$12.47	.86	$2.50	$1.00	.02
Plasterers:					
San Mateo County	13.58	1.00	2.25		.06
San Francisco County	13.58	1.00	2.25		.06
Omit:					
Lathers:					
N½ of San Mateo County	13.07	.66	2.00		.02
Southern half of San Mateo County	10.03	.32	1.00		
Add:					
Lathers:					
San Mateo County	12.47	.86	2.50	1.00	.02
Communications and Systems Technicians	10.80	.70	.30	1.87	

MODIFICATION PAGE 4

DECISION NO. DC79-3039
MOD. NO. 3
(44 FR 60513 - October 19, 1979)
District of Columbia, Maryland-Montgomery & Prince Georges; D. C. Training School; Virginia - Independent City of Alexandria Arlington & Fairfax Counties, Va.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Heavy Construction excluding water & sewer lines:					
All Counties					
Building Construction:					
Excluding Alexandria, Va.					
Tile Setters	$12.25	.70	.95		.04
Ironworkers:					
Reinforcing	11.55	.87	1.15		.07
Sewer and Water Lines:					
(District of Columbia and Montgomery County, Maryland Only)					
Ironworkers, Reinforcing	11.55	.87	1.15		.07

MODIFICATION PAGE 5

DECISION #GA79-1122 - Mod. #2 (44 FR 51491 - August 31, 1979) DeKalb & Fulton Counties, Georgia	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Brick masons	$10.80	.65	.57		.10
Cement masons/finishers	9.95	.60	.80		
Electricians	12.05	8%	12%		½ of 1%
Painters:					
Brush & roller	10.85	.55	.75		.05
Spray	11.85	.55	.75		.05
Waterproofers (roofers)	8.05	.35	.20		.02
Power Equipment Operators:					
Backhoe, crane, mechanic, & mucker	10.40	.63	.75		.09
Bulldozer, front end loader, & motor grader	10.05	.63	.75		.09
Oiler, greaser, & pump	7.20	.63	.75		.09

MODIFICATION PAGE 6

DECISION #GA79-1014 - Mod. #5 (44 FR 1632 - January 5, 1979) Clayton, DeKalb, & Fulton Counties, Georgia	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers & Stone masons	$10.80	.65	.57		.10
Cement masons	9.95	.60	.80		
Electricians:					
Wiremen	12.05	8%	12%		½ of 1%
Cable splicers	12.95	8%	12%		½ of 1%
Lathers	10.80	.25	.35		.06
Marble, Terrazzo, & Tile Workers	10.80	.65	.57		.03
Painters:					
Brush, roller & drywall finishers	10.85	.55	.75		.05
Paperhangers	11.10	.55	.75		.05
Drywall taping (where pressurized tools are used), boatswain chair & window-jack work, all steel above 25' (where no scaffold is erected), & any scaffold above 15' (not floored solid)	11.35	.55	.75		.05
Spray, steamcleaning, water-blasting, sandblasting, steeple-jack work, gold leafing, stencil designing, graining, & marbelizing	11.85	.55	.75		.05
Plasterers	10.42	.60	.80		
Power equipment operators (See Page #2 of Mod.)					
Roofers	8.05	.35	.20		.02

MODIFICATION PAGE 7

DECISION #GA79-1014 - Mod #5 POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$10.40	.63	.75		.09
GROUP B	10.05	.63	.75		.09
GROUP B-1	10.15	.63	.75		.09
GROUP C	7.87	.63	.75		.09
GROUP D-1	8.43	.63	.75		.09
GROUP D-2	7.20	.63	.75		.09
GROUP E	7.49	.63	.75		.09
GROUP F	6.41	.63	.75		.09

GROUP A - Backhoe operator, clamshell operator, concrete mix operator - mix plant, concrete pump operator - Ridley or similar type, crane operator (truck, tower, crawler, or locomotive), derrick operator, dragline operator, drill operator - Caisson foundation type, elevator operator - temporary construction elevator used to haul building material and personnel), elevating grader operator, hoisting engine operator, locomotive operator, mechanics - heavy duty, concrete paving mixer operator, pile driver operator, rock crusher operator, shovel operator, trenching machine operator over 6 ft. depth capacity, tugger hoist operator, well drill operator - performing foundation work, winch truck operator - hoisting material, air compressor operator - 365 C.F.M. and over (furnishing air simultaneously for more than one contractor.).

GROUP B - Bulldozer operator, dozer shovel operator, drill operator - Quarry Master type, fireman - stationary or portable, motor grader operator, motor scraper operator - (pans), pusher doser operator, self-propelled compactor operator with blade, tractor operator with special equipment, trenching machine operator - up to and including 6 ft. depth capacity.

GROUP B-1 - Dewatering system operator where multiple pumps are used, generator operator - 75 K.V.A. and over, elevator operator - inside electric permanent house elevator used to haul building materials and personnel, fork lift operator, oilers on cranes with earth boring drill attached with a separate power source, well point system operator (including the operation of all pumps on project operated by the contractor).

GROUP C - Air compressor operator - 600 CU. FT. and over, air compressor operator Batt. of Two (300 Cu. Ft. and over), hydrohammer operator, concrete batch plant operator.

GROUP D-1 - Oiler-grease truck, truck or locomotive crane.

GROUP D-2 - Oiler - unspecified, pump operator - over 4" (up to 4 batteries), welding machine operator (batteries of 4 or more, portable, gasoline, or diesel driven).

GROUP E - Concrete mixer operator (skip types, except paving mixers), concrete finishing machine operator, concrete paving machine operator, roller operator (asphalt type), well drill operator - not performing foundation work.

GROUP F - Air compressor operator - over 150 C.F.M. but less than 600 Cu. Ft., conveyor operator - chain or belt type, sand blasting machine operator, water pump operator 4" and over.

MODIFICATION PAGE 8

Decision # NE79-4027-Mod #1 (44 FR 10234 - February 16, 1979) Douglas, Sarpy & Otoe Counties, Nebraska	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	14.02	.70	.71		.03
Bricklayers, Stonemasons	12.36	.82	.60		.05
Carpenters:					
Carpenter	11.95	.82	.70		.05
Piledrivers	12.085	.82	.70		.05
Electricians - Douglas & Sarpy Cos.	13.61	.96	3%+.65		4%
Residential	9.30	.96	3%+.65		4%
Electricians - Otoe County	12.80	.75	3%+.85		.04
Ironworkers	11.15	.65	1.00	1.00	.05
Marble setters, tile and Terrazzo Workers	12.22	.30	.40		
Marble, Tile and Terrazzo Workers finishers	9.60				
Plasterers	11.53	.57	.50		
Plumbers	13.04	.95	1.05		.10
Roofers:					
Composition-Douglas & Sarpy Cos.	10.35	.70	.20		
Slate, tile - Douglas & Sarpy Cos.	10.65	.70	.20		
Sheet metal workers	12.45	.50			.07
Steamfitters	13.54	.70	.85		.15
Line Construction:					
Linemen	11.98	.45	3%		4%
Cable splicers	12.87	.45	3%		4%
Truck Driver	8.65	.45	3%		4%
Equipment operators	10.78	.45	3%		4%
Omit:					
Line Construction:					
Groundmen:					
(Inexperienced) 1st 6 months	3.69	.45	3%		4%
(Inexperienced) 2nd 6 months	5.44	.45	3%		4%
Thereafter	7.24	.45	3%		4%

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MODIFICATION PAGE 9

Decision # NE79-4027-Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
Line Construction:					
Groundmen	7.82	.45	3%		4%
Roofers					
Roofer's helpers (handling roofing materials, erecting and dismantling scaffold for roofers, and removing and cleaning up old roof)	50%J.R.	.70	.20		

MODIFICATION PAGE 10

DECISION #TN78-1090 - Mod. #5 (43 FR 49205 - October 20, 1978) All of Knox & Monroe Counties, and that portion of Anderson & Roane Counties which comprise the Oak Ridge Energy Research & Development Administration site, Tennessee	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos workers	$11.70	.55	.70		.06
DECISION #TN78-1091 - Mod. #7 (43 FR 49207 - October 20, 1978) Shelby County, Tennessee					
CHANGE:					
Carpenters, Piledrivermen, & Soft floor layers	$10.23	.75	.65		.085
Electricians:					
Wiremen & Technicians	12.23	.95	3% + .50		½ of 1%
Cable splicers	12.33	.95	3% + .50		½ of 1%
Line Construction:					
Linemen	12.23	.95	3% + .50		3/4 of 1%
Cable splicers	12.33	.95	3% + .50		3/4 of 1%
Special equipment operators	9.15	.95	3% + .50		3/4 of 1%
Groundmen	6.10	.95	3% + .50		3/4 of 1%
Pipefitters & Air conditioning Mechanics	13.42	.75	.30		
Sheet metal workers	12.47	1.21	.37		.06
DECISION #TN80-1044 - Mod. #1 (45 FR 2495 - January 11, 1980) Statewide, Tennessee					
CHANGE:					
Electricians:					
Shelby County 'only'	$12.23	.95	3% + .50		½ of 1%

SUPERSEDEAS DECISION

STATE: Alabama COUNTY: Montgomery
DECISION NUMBER: AL80-1014 DATE: Date of Publication
Supersedes Decision No.: AL78-1082 October 13, 1978 in 43-FR-47425
DESCRIPTION OF WORK: Building Construction Project does not include residential construction consisting of single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanics	5.72				
Bricklayers	7.15				
Carpenters	5.66				
Form setters	3.25				
Cement masons	4.15				
Electricians	7.58				
Elevator constructors	10.56	.895	.69	a+b	.03
Glaziers	7.15	.50	.40		
Ironworkers, structural & ornamental	4.40				
Ironworkers, reinforcing	4.00				
Laborers:					
Laborers	3.10				
Asphalt raker	3.75				
Pipelayers	4.00				
Lathers	6.75				
Painters:					
Brush	5.90				
Sandblasters and spray	7.80		.40		
Plasterers	5.75				
Plumbers & pipefitters	6.60				
Roofers	4.67				
Kettlemen	3.50				
Sheet metal workers	5.81				
Soft floor layers	5.41				
Sprinkler fitters	6.45				
Tile setters	6.00				
Truck drivers	3.75				
Welders - rate for craft					
POWER EQUIPMENT OPERATORS:					
Asphalt rollers	4.75				
Asphalt spreader	5.25				
Backhoe	4.90				
Bulldozers	6.00				
Crane operator	6.61				
Finishing machine	4.00				
Front end loader	4.85				
Motor grader	6.00				
Motor patrol	8.51				
Piledriver	5.50				
Screed operator	3.50				
Tractor	3.75				

AL80-1014 Page 2

PAID HOLIDAYS:
A-New Year's Day B-Memorial Day C-Independence Day D-Labor Day E-Thanksgiving Day F-Christmas Day

FOOTNOTES:
a. 6 paid holidays A through F

b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

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SUPERSEDEAS DECISION

STATE: ARKANSAS COUNTY: Statewide
DECISION NO. AR80-4012 DATE: Date of Publication
Supersedes Decision No. AR79-4025 dated February 2, 1979 in 44-FR-6864
DESCRIPTION OF WORK: Construction, alteration, and/or repair of streets, highways, runways, and water and sewer utilities, (but does not include building structures on highway rest areas).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$5.20				
CARPENTERS	5.20				
CONCRETE FINISHER	5.20				
ELECTRICIANS	6.50				
IRONWORKERS:					
Structural	4.50				
Reinforcing	3.75				
LABORERS:					
Air tool operator	3.65				
Asphalt heater operator	3.65				
Asphalt raker	4.20				
Carpenter tender	3.75				
Chain saw operator	3.75				
Checker grade	3.75				
Concrete finisher tender	3.75				
Concrete joint sealer	3.75				
Concrete saw operator	3.75				
Form setter	3.90				
Laborer	3.10				
Pipelayer	3.75				
Powderman	4.50				
Vibratorman	3.50				
PAINTER	4.50				
PILE DRIVER LEADMAN	4.50				
POWER EQUIPMENT OPERATORS:					
Aggregate spreader operator	4.00				
Asphalt plant fireman	3.25				
Asphalt plant drier operator	3.25				
Batch plant operator	4.00				
BULLDOZER OPERATOR:					
Finish	5.00				
Rough	4.25				
Bull float operator	4.00				
Concrete curing machine operator	4.25				

DECISION NO. AR80-4012

Page 2

Power Equipment Operators (cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Concrete mixer operator (less than 5 sacks)	$3.75				
Concrete mixer operator (5 sacks or over)	4.50				
Backhoe, operator -rubber tired (1 yard or less)	4.25				
Cherry picker operator	4.25				
Concrete paver operator	4.75				
Concrete spreader operator	4.75				
Crane, derrick, dragline, shovel, backhoe operator (1½ yd. or less)	5.00				
Crane, derrick, dragline, shovel, backhoe operator (over 1½ yd.)	5.25				
Crusher operator	4.00				
Distributor operator	4.00				
Drill operator (wagon or truck)	4.30				
Elevating grader operator	4.75				
Euclid or like equipment operator(bottom or end dump)	3.85				
Finishing machine operator	4.30				
Forklift operator	3.55				
Form grader operator	3.55				
Front end loader operator:					
Finish	4.75				
Rough	4.30				
Hydro seeder operator	3.85				
Mechanic	5.00				
Motor Patrol Operator:					
Finish	5.00				
Rough	4.25				
Mulching machine operator	3.85				
Oiler and greaser	3.75				
Pile driver operator	4.40				
Pub mill operator	3.55				
Roller operator (self-propelled)	3.85				

DECISION NO. AR80-4012

Page 3

Power Equipment Operators (cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Scraper Operator:					
Finish	$5.00				
Rough	4.25				
Sod slicing machine operator	3.50				
Stabilizer mixing machine operator	4.00				
Tractor operator (crawler type)	3.85				
Tractor operator (farm & wheel)	3.55				
Tractor operator wheel type(with attachments 1 yd. or under)	4.00				
Trenching machine operator	4.00				
STONEMASONS	5.20				
Truck Drivers:					
Distributor truck driver	3.90				
Semi-trailer	3.90				
Loyboy driver	4.30				
Transit mix truck driver	3.90				
Truck driver (heavy-maximum pay load in excess of 3000 lbs	3.60				
Truck driver (light-maximum pay load 3000 lbs.)	3.50				
Well drillers	5.00				

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contracts clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Colorado COUNTY: Statewide
DECISION NUMBER: CO80-5101 DATE: Date of Publication
Supersedes Decision No. CO79-5116 dated May 18, 1979, in 44 FR 29237
DESCRIPTION OF WORK: Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Carpenters					
*Zone 1	$ 9.87	.90	.95	.85	.07
*Zone 2	10.37	.90	.95	.85	.07
Underground Carpenters					
*Zone 1	10.07	.90	.95	.85	.07
*Zone 2	10.57	.90	.95	.85	.07
Working on Creosoted coated lumber or other toxic materials, Sawmen continuously assigned to 1½ HP saw at job site.	10.17	.90	.95	.85	.07
High work 35' above ground or above permanent floor or deck	10.22	.90	.95	.85	.07
CEMENT MASONS:					
*Zone 1	10.01	.55	1.25	.30	.12
*Zone 2	10.51	.55	1.25	.30	.12
ELECTRICIANS:					
Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Gilpin, Grand, Jefferson, Lake, Larimer, Logan, Morgan, Phillips, Sedgwick, Summit, Washington, Weld and Yuma Counties					
Electricians	13.00	.70	3%+.75		3/10%
Cable Splicers	13.25	.70	3%+.75		3/10%
Delta, Dolores, Garfield, Gunnison, Hinsdale, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Routt, San Juan and San Miguel Counties					
Electricians	12.85	.72	3%+.25		1½%
Cable Splicers	13.10	.72	3%+.25		1½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
Alamosa, Archuleta, Baca, Bent, Chaffee, Crowley, Custer, Fremont, Huerfano, Kiowa, Las Animas, Mineral, Otero, Prowers, Pueblo and Rio Grande Counties					
Zone 1 (within 12 miles from Pueblo Main Post Office)					
Electricians	$12.69	.72	3%+.80		1½%
Cable Splicers	13.96	.72	3%+.80		1½%
Zone 2 (12 to 20 miles from Pueblo Main Post Office)					
Electricians	13.44	.72	3%+.80		1½%
Cable Splicers	14.78	.72	3%+.80		1½%
Zone 3 (20 to 30 miles from Pueblo Main Post Office)					
Electricians	13.94	.72	3%+.80		1½%
Cable Splicers	15.33	.72	3%+.80		1½%
Zone 4 (32 to 50 miles from Pueblo Main Post Office)					
Electricians	14.57	.72	3%+.80		1½%
Cable Splicers	16.03	.72	3%+.80		1½%
Zone 5 (50 miles and over from Pueblo Main Post Office)					
Electricians	15.19	.72	3%+.80		1½%
Cable Splicers	16.71	.72	3%+.80		1½%
Electricians on electrical contracts less than $20,000 in Zones 3 and 4 Cheyenne, Elbert, El Paso, Kit Carson, Lincoln, Park, and Teller Counties					
Electricians	10.45	.72	3%+.80		1½%
	12.75	.72	3%+.50		.015
IRONWORKERS:					
Structural, Ornamental, and Reinforcing	11.60	1.04	1.25		.12

DECISION NO. CO80-5101 Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Cable Splicer	$13.91	.45	3%+.50		3/4%
Journeyman Lineman Cableman	13.01	.45	3%+.50		3/4%
Journeyman Lineman	12.94	.45	3%+.50		3/4%
Line Equipment Maintenance Man	10.99	.45	3%+.50		3/4%
Line Equipment Operator, Class 1: Crawler Equipment, Wire equipment pullers, Tensioners, cranes, over 8 tons, Heavy pole trucks (such as diesel, twin screws), All bucket trucks - 75 ft. reach and over, Trenchers, 4 ft. and over and Backhoes	10.99	.45	3%+.50		3/4%
Line Equipment Operators, Class 2: Trenchers under 4 ft. depth, Hydro cranes, under 8 tons, Bobcats, Trucks under 3 tons, G.T.M. classification	9.81	.45	3%+.50		3/4%
Groundman	9.04	.45	3%+.50		3/4%
PAINTERS:					
Adams, Arapahoe, Boulder, Clear Creek, Delta, Denver, Douglas, Eagle, Elbert, Garfield, Gilpin, Grand, Gunnison, Jackson, Jefferson, Lake, Larimer, Logan, Mesa, Moffat, Montrose, Morgan, Park (Northern half), Phillips, Pitkin, Rio Blanco, Routt, Sedgwick, Summit, Washington and Weld Cos.					
Brush	12.11	.75	1.15		.07
Spray, Swing Stage	12.71	.75	1.15		.07

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Baca, Bent, Crowley, Custer Huerfano, Kiowa, Las Animas, Otero, Prowers and Pueblo Cos.					
Brush	$ 9.57	.75	.50		.04
Steel	10.07	.75	.50		.04
Spray	10.57	.75	.50		.04
Steel Spray	11.07	.75	.50		.04
Archuleta, Chaffee, Cheyenne, Dolores, El Paso, Fremont, Hinsdale, Kit Carson, La Plata, Lincoln, Mineral, Montezuma, Ouray, Park, (southern half), Rio Grande, Saguache, San Juan, San Miguel and Teller Counties					
Brush	10.44	.75	.50		.04
Spray	11.19	.75	.50		.04
Steel	10.94	.75	.50		.04
Steel Spray	11.69	.75	.50		.04

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LABORERS	Basic Hourly Rates Zone 1*	Basic Hourly Rates Zone 2*	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 8.14	$8.64	.55	.65	.10	.05
Group 2	8.24	8.74	.55	.65	.10	.05
Group 3	8.54	9.04	.55	.65	.10	.05
Group 4	8.69	9.19	.55	.65	.10	.05
Group 5	8.89	9.39	.55	.65	.10	.05
LABORERS (Tunnels)						
Group 1	8.14	8.64	.55	.65	.10	.05
Group 2	9.04	9.54	.55	.65	.10	.05
Group 3	9.14	9.64	.55	.65	.10	.05
Group 4	9.22	9.72	.55	.65	.10	.05
Group 5	9.29	9.79	.55	.65	.10	.05
Group 6	9.94	10.44	.55	.65	.10	.05
(Shafts, Raises, Missile Silos and all underground work other than Tunnels)						
Group 1	9.14	9.64	.55	.65	.10	.05
Group 2	9.29	9.79	.55	.65	.10	.05
Group 3	9.39	9.89	.55	.65	.10	.05
Group 4	9.67	10.17	.55	.65	.10	.05
Group 5	9.72	10.22	.55	.65	.10	.05
Group 6	10.07	10.57	.55	.65	.10	.05

LABORERS

Group 1: Minimum Labor, including Caissons to 8'; Carrying Reinforcing Rods; Work on Cross Culverts, connections and side drains in connection with highway work, whether corrugated metal or concrete pipe; Fence Erectors; Metal Mesh; Dowel Bars; Tie Bars and Chairs in concrete paving; Flagman; Nursery Man including seeding, mulching and planting of trees, shrubs and flowers; Stake Chaser; Gabion Baskets and Reno Mattresses; Pipe plants and yards, stringing of pipe or skids, handling and signaling on pipe line work

Group 2: Chuck Tenders, Nippers, Core and Diamond Drill Tenders, Powdermen Helpers; Hot Asphalt Labor, Rakers, Boxtenders, Asphalt Curb Machines, Potmen (not mechanical); Multi-plate Culvert Pipe; Air, gas and electrical Tool Operators; Barco Hammers; Spaders, electric hammers; Air Tampers; Cutting Torches on demolition work; Caissons 8' to 12'; Cofferdams; Power operated Concrete Buggies; Operators of concrete saws on pavement (other than Gang Saws); Timber and Chain Saws; Stresser or Stretcherman on Post Tension or Prestressed Concrete on or off jobsite; Tool Room Man and Checkers; Cement Finisher Tender; Sand Blaster; Sand Blaster Helper; Concrete processing material; Monitor; Spotters; Signalmen; Dumpmen; Transverse Concrete Conveyor Operator; Mechanical Grouters; Boring Machine (air hydraulic); Automatic Concrete Power Curbing Machine; Jack Hammer; Vibrators; Paving Breakers; Frost proofing; Any Laborer performing bridge work over 40' above the ground or above a floor and working from a Bos'n Chair; Swing Stage, Life Belt or Block and Tackle as safety requirement.

Gunniting and Shotcrete Tenders; Caissons over 12'; Scalers; Timbermen, underpinning and shoring; Form-setters and/or Stringmen on roads, highways, streets and airport runways; Distribution, placing and hooking of landing mats; Bull Float (hand operated) and Center Expansion Machines; Grade Checkers if required by employer; Pipe Wrappers; Dopers; Jeep Holiday Detector Men, Bandage Makers; Laborers working in trenches on all pipe lines, sewer, water, gas, oil, telephone conduit, Pen Stock, Siphons, drainage lines, Caulkers, Yarners, Fine Graders, air, gas, electric and hydraulic tools, Boring Machines, Hydraulic Jacks, Drills, Tampers, and similar operated tools; Wiping of Joint Concrete Pipe, inside and out; Labor applicable to pipe coating or wrapping, plants and yards; Enamelers of pipe, inside and out

LABORERS (Cont'd)

Group 3: Powdermen and Blasters; Gunnite Nozzlemen; Shotcrete Operator; Pipe Layer on truck pipe lines in connection with highway work; Relining Pipe; Mixer Man; Pipelayer; Hydro-broom

Group 4: Wagon drills and Air Tracks; Jack Hammer Operators in Caissons over 12'; Bellers and Stemmen; Licensed Powdermen; Diamond and Core Drills powered by air

Group 5: Any work, other than on bridges, performed by Laborers working from a Bos'n Chair, Swinging Stage, Life Belt or Block and Tackle as a safety requirement. All lines and safety belts used shall be of a type approved by State and Federal laws; Pugs and Galleys in Dams

(Tunnels)

Group 1: Outside Labor

Group 2: Minimum Tunnel Labor, Dry Houseman

Group 3: Cable or Hose Tenders, Chuck tenders, Concrete Laborers, Dumpmen, Whirley Pump Operators

Group 4: Tenders on Shotcrete, Gunniting and Sand Blasting; Tenders, Core and Diamond Drills; Pot Tenders

Group 5: Cement Finisher Tender, applying concrete processing materials

Group 6: Collapsible form movers and setters, Miners, Machine Men and Bit Grinders, Nippers, Powdermen and Blasters, Reinforcing Steel Setters, Timbermen (steel or wood tunnel support, including the placement of sheeting when required) and all cutting and welding that is incidental to the Miner's work; Tunnel Liner Plate Setters; Vibrator Men, internal and external; Unloading, stopping and starting of Moran Agitator Cars; Diamond and Core Drill Operators; Cement Finisher (underground); Shotcrete Operator; Gunnite Nozzlemen, Sand Blasterers, Pump Concrete placement Men

LABORERS (Cont'd)
(Shafts, Raises, Missile Silos and all Underground Work other than Tunnels)

Group 1: Laborers, Topmen, Bottommen and Cagers

Group 2: Chucktenders, Concrete Laborers, Whirley Pump Operators

Group 3: Tenders in Shotcrete Gunniting and Sand Blasting; Tenders on Core and Diamond Drills; Pot Tenders; Cement Finisher Tenders; applying concrete processing materials

Group 4: Collapsible form movers and setters, Miners, Machine Men and Bit Grinders, Nippers, Powdermen and Blasters, Reinforcing Steel Setters, Timbermen (steel or wood tunnel support, including the placement of sheeting when required) and all cutting and welding that is incidental to the Miner's work; Liner Plate Setters; Vibrator Men, internal and external

Group 5: Diamond and Core Drill Operators; Cement Finisher (underground); Gunnite Nozzlemen; Shotcrete Operators; Sand Blasters and Pump Concrete Placement Men

Group 6: Any employees performing work underground from a Bos'n Chair, Swinging Stage, Life Belt or Block and Tackle as a safety requirement.

POWER EQUIPMENT OPERATORS (Other than for work in Tunnels, Shafts and Raises)	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	Zone 1*	Zone 2*				
Group 1	$9.25	$10.00	.79	$ 1.00	.45	.07
Group 2	9.60	10.35	.79	1.00	.45	.07
Group 3	9.95	10.70	.79	1.00	.45	.07
Group 4	10.10	10.85	.79	1.00	.45	.07
Group 5	10.25	11.00	.79	1.00	.45	.07
Group 6	10.40	11.15	.79	1.00	.45	.07
(For work in Tunnels, Shafts, and Raises)						
Group 1	9.40	10.15	.79	1.00	.45	.07
Group 2	9.75	10.50	.79	1.00	.45	.07
Group 3	9.85	10.60	.79	1.00	.45	.07
Group 4	10.10	10.85	.79	1.00	.45	.07
Group 5	10.25	11.00	.79	1.00	.45	.07
Group 6	10.65	11.40	.79	1.00	.45	.07

(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator smaller than Williams MF and similar; Helper to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generator, single unit conveyor; Pumps; vacuum Well Point System; Tractor, under 70 HP with or without attachments; Rodman, Chainman; Grade Checker

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable; Screening Plant with or without a spary bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts and Raises)

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Lay-down Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete Finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, Rotary, Churn, or Cable Tool; Elevating Graders, equipment lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and inlcuding 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; Single unit portable Crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welding; Winch on truck; Instrument Man

Group 4: Cable operated Crane, truck mounted; Cable operated Power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer, over 1 cu. yd; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer Mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Piledriver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

Group 5: Cable operated power Shovels, Draglines, Clamshells, and Backhoes over 5 cu. yds.; Crane, over 50 tons, carrier mounted; Derrick; Electric Rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers - single bowl including pups 40 cu. yds. and Tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or Truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

POWER EQUIPMENT OPERATORS (Cont'd)
(For Work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mechanic-welder, heavy duty; Mucking Machines and Front End Loaders, under-ground; Slusher; Mine Hoist Operator

Group 6: Mole

TRUCK DRIVERS	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	Zone 1*	Zone 2*				
Group 1	$ 8.78	$9.28	.84	.63	.30	
Group 2	8.88	9.38	.84	.63	.30	
Group 3	8.98	9.48	.84	.63	.30	
Group 4	9.03	9.53	.84	.63	.30	
Group 5	9.08	9.58	.84	.63	.30	
Group 6	9.13	9.63	.84	.63	.30	
Group 7	9.18	9.68	.84	.63	.30	
Group 8	9.23	9.73	.84	.63	.30	
Group 9	9.33	9.83	.84	.63	.30	
Group 10	9.38	9.88	.84	.63	.30	
Group 11	9.48	9.98	.84	.63	.30	
Group 12	9.63	10.13	.84	.63	.30	
Group 13	9.68	10.18	.84	.63	.30	
Group 14	9.78	10.28	.84	.63	.30	
Group 15	9.88	10.38	.84	.63	.30	
Group 16	9.98	10.48	.84	.63	.30	
Group 17	10.08	10.58	.84	.63	.30	
Group 18	10.28	10.78	.84	.63	.30	

TRUCK DRIVERS

Group 1: Pickups; Scalemen; Checkers; Spotters; Dumpmen

Group 2: Dump Trucks, to and including 6 cu. yds.; Sweepers; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Warehouse Men; Washers; Greasemen; Servicemen; Ambulance Drivers

Group 3: Dump Trucks, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack; Tandem axle; Battery Men; Mechanics' Tenders; Material Checkers; Cardex Men; Expeditors; Man Haul shuttle Truck or Buss

Group 4: Straddle Truck; Lumber Carrier; Liquid and Bulk Tankers, tandem axle

Group 5: Fork Lift Driver; Fuel Truck; Grease Truck; Combination Fuel and Grease

Group 6: Distributor Truck Driver; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination

Group 7: Multi-purpose Truck; Specialty and Hoisting

Group 8: Dump Trucks, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers; Dumptor type Youngbuggy, Jumbo and similar type equipment

Group 9: Truck Driver, Snow Plow

Group 10: Cement Mixer, Agitator Truck, over 10 cu. yds. to and including 15 cu. yds.

Group 11: Dump Trucks, over 29 cu. yds. to & including 39 cu. yds.

Group 12: Cement Mixer, Agitator Truck, over 15 cu. yds.

Group 13: Dump Trucks, over 39 cu. yds. to and including 54 cu. yds.; Fireman

Group 14: Mechanic

Group 15: Dump Trucks, over 54 cu. yds. to & including 79 cu. yds.

Group 16: Heavy Duty Diesel, Mechanics, Body Men, Welders or Combination Men

Group 17: Dump Trucks, over 79 cu. yds. to & including 104 cu. yds.

Group 18: Dump Trucks, over 104 cu. yds.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the Labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

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ZONE DESCRIPTION
FOR
CARPENTERS

Counties entirely within Zone 1:

Adams	Crowley	Gilpin	Morgan
Alamosa	Custer	Huerfano	Otero
Arapahoe	Delta	Jefferson	Phillips
Archuleta	Denver	La Plata	Prowers
Bent	Douglas	Lake	Pueblo
Boulder	Eagle	Larimer	Rio Grande
Chaffee	El Paso	Las Animas	Sedgwick
Clear Creek	Elbert	Logan	Teller
Conejos	Fremont	Mesa	Weld
Costilla	Garfield	Montezuma	

Counties entirely within Zone 2:

Baca	Jackson	Moffat	Routt
Cheyenne	Kiowa	Ouray	San Juan
Dolores	Kit Carson	Park	San Miguel
Grand	Lincoln	Pitkin	Summit
Gunnison	Mineral	rio Blanco	Yuma
Hinsdale			

Legal description of the portions of Montrose, Saguache and Washington Counties which are included within Zone 1, as follows:

All of Montrose County lying Northerly of the North Line of Ouray County and said North Line extended to the Township Line between R11W and R12W, said part being East of said Township Line of the New Mexico Principal Meridian and the Eastern portion of Saguache County; from Highway 285 to the Town of Saguache, and Highway 114 to the County Line, and all of Washington County lying North of the 40°00'00" Latitude base line.

Legal description of the portions of Montrose, Saguache and Washington Counties which are included within Zone 2, as follows:

All of Montrose County except that part lying Northerly of the North Line of Ouray County and said North Line extended West to the Township Line between R11W, and T12W, said point being East of said Township Line of the New Mexico Principal Meridian and the Western portion of Saguache County; from Highway 285 to Town of Saguache and Higheay 114 to County Line, and all of Washington County lying South of the 40°00'00" Latitude base line.

LABORERS

Zone 1: The area encompassed by 15 driving miles from the Main Post Office at Craig, Steamboat Springs, and Meeker. Also, included are all other Counties not outlined in Zone 2.

Zone 2. The Counties of Jackson, Moffat, Rio Blanco and Routt.

ZONE DESCRIPTIONS
CEMENT MASONS, POWER EQUIPMENT OPERATORS
and TRUCK DRIVERS

A. Counties entirely within Zone 1:

Alamosa	Custer	Huerfano	Otero
Archuleta	Delta	Jefferson	Phillips
Bent	Denver	La Plata	Prowers
Boulder	Douglas	Larimer	Pueblo
Chaffee	El Paso	Logan	Rio Grande
Clear Creek	Fremont	Mesa	Sedgwick
Conejos	Garfield	Montezuma	Teller
Costilla	Gilpin	Morgan	Weld
Crowley			

B. Counties entirely within Zone 2:

Baca	Jackson	Moffat	Saguache
Cheyenne	Kiowa	Ouray	San Juan
Dolores	Kit Carson	Park	San Miguel
Grand	Lake	Pitkin	Summit
Gunnison	Lincoln	Rio Blanco	Yuma
Hinsdale	Mineral	Routt	

C. Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose and Washington Counties which are included within Zone 1, as follows:

All of Adams, Arapahoe, Elbert and Las Animas Counties lying west of the Township line between R59W and R60W of the 7th Guide Meridian West; and all of Eagle County lying west of the Township line between R80W and R81W of the 10th Guide Meridian West. All of Montrose County lying East of said Township line of the New Mexico Principal Meridian and all of Washington County lying North of the 40°00'00" Latitude Base Line

D. Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose and Washington Counties which are included within Zone 2, as follows:

All of Adams, Arapahoe, Elbert and Las Animas lying East of the Township Line between R59W and R60W of the 7th Guide Meridian West, and all of Eagle County lying East of the Township Line between R80W and R81W of the 9th Guide Meridian West and all of Montrose County except that part lying Northerly of the North Line between R11W and R21W, said point being East of said Township Line of the New Mexico Principal Meridian and all of Washington County lying South of the 40°00'00" Latitude Base Line.

SUPERSEDEAS DECISION

STATE: Nevada

COUNTIES: Statewide (does not include the Nevada Test Site and Tonopah Test Range, and highway construction in Douglas County), Nevada

DECISION NUMBER: NV80-5100 DATE: Date of Publication

Supersedes Decision No. NV78-5124 dated September 15, 1978, in 43 FR 41351.

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), heavy and highway Projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Clark, Esmeralda, Lincoln, Nye Counties	$14.46	$1.10	$1.30		
Elko, Eureka, White Pine Counties	12.61	.77	1.37		
Remaining Counties	14.00	1.12	1.30	2.00	.11
BOILERMAKERS	15.21	1.175	1.25	1.00	.03
BRICKLAYERS; Stonemasons:					
Clark, Esmeralda, Lincoln, Nye County (south of Hwy. #6)	13.87	.90	.60		.06
Remaining Counties and Nye County (north of Hwy. #6)	13.10	.95	.75		.01
BRICK HOD CARRIERS:					
Statewide excluding Clark, Esmeralda, Lincoln, Nye County (south half)	10.80	.95	1.20		.05
CARPENTERS:					
Clark, Esmeralda County (south of Hwy. #6, Lincoln, Nye County (south of Hwy. #6, including City of Tonopah):					
Carpenters	14.21	.85	1.10		.10
Floor Layers; Patent Scaffold Erectors;					
Power Saw Operators	14.36	.85	1.10		.10
Piledrivermen	14.41	.85	1.10		.10
Millwrights	15.11	.85	1.10		.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Nye County (north of Hwy. #6, excluding City of Tonopah) and all Remaining Counties:					
Carpenters	$11.75	.95	$1.51	$1.00	.10
Floor Layers; Patent Scaffold Erectors;					
Power Saw Operators; Shingler	11.90	.95	1.51	1.00	.10
Piledrivermen	12.00	.95	1.51	1.00	.10
Millwrights	12.35	.95	1.51	1.00	.10
CEMENT MASONS:					
Clark, Lincoln, Nye Cos.:					
Cement Masons	13.00	1.10	1.00		.13
Cement Floor Finishing Machine and Color Work	13.35	1.10	1.00		.13
Lake Tahoe Area:					
Cement Masons	11.65	.90	1.00	1.45	.05
Mastic, Magnesite and all Composition Masons	11.90	.90	1.00	1.45	.05
Troweling Machine; Grinder Operator and Kelly Float	12.15	.90	1.00	1.45	.05
Remaining Counties:					
Cement Masons	10.20	.90	1.00	1.45	.05
Mastic, Magnesite and all Composition Masons	10.45	.90	1.00	1.45	.05
Troweling Machine; Grinder Operator and Kelly Float	10.70	.90	1.00	1.45	.05
DRYWALL INSTALLERS:					
Statewide excluding Clark, Esmeralda County (south of Hwy. #6), Lincoln, Nye County (south of Hwy. #6)	12.00	.95	1.51	1.00	.10
Clark, Esmeralda County (south of Hwy. #6), Lincoln, Nye County (south of Hwy. #6, including City of Tonopah)	14.38	.85	1.10		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Clark, Lincoln, Nye Co. (south of Mt. Diablo Base Line):					
Electricians; Technicians	$15.71	.98	3%+1.80		.08
Cable Splicers	16.04	.98	3%+1.80		.00
Nye County (north of Mt. Diablo Base Line) and Remaining Counties excluding Lake Tahoe Area:					
Electricians; Technicians	15.63	.99	3%+1.37		.08
Cable Splicers	17.19	.99	3%+1.37		.08
Lake Tahoe Area:					
Electricians; Technicians	16.63	.99	3%+1.37		.08
Cable Splicers	18.19	.99	3%+1.37		.08
ELEVATOR CONSTRUCTORS:					
Nevada east of 118° longitude and south of 39° north latitude:					
Elevator Constructors	14.53	.895	.69	a	.03
Nevada west of 118° longitude:					
Elevator Constructors	16.37	.895	.69	a	.03
GLAZIERS:					
Clark, Esmeralda, Lincoln and Nye Counties	15.46	.75	.40		.08
Remaining Counties	11.39	.81	1.60	1.39	
IRONWORKERS:					
Elko, Eureka, White Pine Counties:					
Fence Erectors; Machinery Movers; Ornamental; Reinforcing; Riggers; Structural	12.00	.75	1.35		.0

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Remaining Counties:					
Fence Erector	$11.51	$1.39	$ 2.82	1.90	.07
Ornamental; Reinforcing; Structural	12.50	1.39	2.82	1.90	.07
LINE CONSTRUCTION WORKERS:					
Clark, Lincoln, Nye County (south half):					
Groundman	12.64	.98	3%		3/4%
Line Equipment Operators	15.17	.98	3%		3/4%
Linemen	16.85	.98	3%		3/4%
Cable Splicers	17.69	.98	3%		3/4%
Lake Tahoe Area:					
Groundman	12.72	.99	3%+1.27		.08
Line Equipment Operators	15.07	.99	3%+1.27		.08
Linemen	16.63	.99	3%+1.27		.08
Cable Splicers	18.19	.99	3%+1.27		.08
Remaining Counties (excluding Lake Tahoe Area):					
Groundman	11.72	.99	3%+1.27		.08
Line Equipment Operators	14.07	.99	3%+1.27		.08
Lineman	15.63	.99	3%+1.27		.08
Cable Splicers	17.19	.99	3%+1.27		.08
MARBLE MASONS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	13.87	.90	.60		.06
Remaining Counties and Nye County (north half)	12.75	.95	.75		.01
MASON TENDERS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	11.62	.66	1.35		
PAINTERS:					
Clark, Esmeralda, Lincoln, Nye Counties:					
Brush; Roller	14.24	.80	.70		.06
Paperhangers; Spray; Steel; Swing Stage; Sandblasters; Sign; Tapers	14.59	.80	.70		.06

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Buffing Steel; Sandblasters, Structural Steel	$14.94	.80	.70		.06
Steeplejack	15.74	.80	.70		.06
Remaining Counties including Lake Tahoe Area:					
Brush and Roller	14.43	.70	.75		.02
Spray; Taper; Paperhangers	14.95	.70	.75		.02
Spray-swing stage up to 40 ft.; Spray-steel	15.20	.70	.75		.02
Brush-swing stage, up to 40 ft.; Brush-steel; Sandblaster	14.70	.70	.75		.02
PLASTER HOD CARRIERS:					
Statewide excluding Clark, Esmeralda, Lincoln, Nye County (south half):					
Plaster Hod Carriers serving Plasterers	11.95	.95	1.20		
Plaster Hod Carriers working on any type of Gun	12.55	.95	1.20		
PLASTER TENDERS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	13.12	.81	1.35		.11
PLASTERERS:					
Clark, Lincoln, Nye Cos.	13.49	1.10	1.00		.13
Remaining Counties	12.52	.70	1.20		.03
PLUMBERS; Steamfitters:					
Clark, Esmeralda, Lincoln, Nye County (south half)	13.75	1.25	2.50	2.00	.08
Remaining Counties and Nye County (north half)	13.74	1.13	1.00	1.95	.20
PLUMBERS (Utility):					
Statewide except Clark, Esmeralda, Lincoln, Nye County (south half)	13.74	1.13	1.00	1.95	.10
ROOFERS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	15.70	.80			

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS: (Cont'd)					
Remaining Counties and Nye County (north half)	$13.92	.85	$1.00		.05
SHEET METAL WORKERS:					
Clark, Esmeralda, Lincoln, Nye County (south half), White Pine Counties	14.00	1.14	1.62	2.00	.17
Remaining Counties and Nye County (north half)	12.22	1.14	2.13		.10
SOFT FLOOR LAYERS:					
Clark, Esmeralda, Lincoln, Nye Counties	14.87	.65			.15
Remaining Counties including Lake Tahoe Area	13.74	.70	.20	2.4%	.06
SPRINKLER FITTERS	16.97	.75	1.05		.08
TERRAZZO WORKERS; TILE SETTERS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	13.87	.90	.60		.06
Remaining Counties and Nye County (north half)	12.75	.95	.75		.01

FOOTNOTE:
a. Employer contributes 8% basic hourly rate for over 5 years' service and 6% basic hourly rate for 6 months' to 5 years' service as vacation pay credit. Seven paid holidays: A thru G.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Friday after Thanksgiving Day; G. Christmas Day.

LABORERS					
Clark, Esmeralda, Lincoln, Nye County (south half, including Hwy. 6):					
Group 1	$10.80	.81	$1.53		
Group 2	11.01	.81	1.53		
Group 3	11.11	.81	1.53		
Group 4	11.20	.81	1.53		
Group 5	11.30	.81	1.53		

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LABORERS

Clark, Esmeralda, Lincoln, Nye County (south half, including Hwy. #6)

Group 1: Cutting Torch Operator (demolition); Dry Packing of Concrete and Filling of Form-bolt Holes; Fine Grader, highway and street paving, airport runways and similar type heavy construction; Flagman, Spotter, Debris Handler and Dumpman; Gas and Oil Pipeline Laborer; Guinea Chaser; Laborer, demolition (cleaning of bricks, lumber, etc.); Laborer, general or construction; Laborer, packing rod steel and pans; Laborers, temporary water lines (portable type); Landscape Gardener and Nurseryman; Tarman and Mortarman, Kettleman, Potman and man applying asphalt, lay-kold creosote, lime and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Underground Laborer, including Caisson Bellowers; Window Cleaner

Group 2: Asphalt Raker, Ironer, Spreader, Luteman; Buggymobile Man; Cement Dumper (on 1 yard or larger mixers and handling bulk cement); Cesspool Digger and Installer; Chucktender (except tunnel); Concrete Core Cutter; Concrete Curer, Impervious Membrane and Oiler of all materials; Concrete Saw Man, excluding tractor type, cutting, scoring old or new concrete; Gas and Oil Pipeline Wrapper, Pot Tender and Form Man; Making and caulking of all non-metallic pipe joints; Operators and Tenders of pneumatic and electric tools, Vibrating Machines, hand-propelled Trenching Machines, Impact Wrench, multi-plate and similar mechanical tools not separately classified herein; Operator of Cement Grinding Machine; Riprap Stonepaver; Rotoscraper; Sandblaster (Pot Tender); Scaler; Septic Tank Digger and Installer (Lead Man); Tank Scaler and Cleaner; Tree Climber, Faller, Chain Saw Operator, Pittsburgh Chipper and similar type Brush Shredders

Group 3: Gas and Oil Pipeline Wrapper, 6 inch pipe and over; Jackhammer and/or Pavement Breaker; Laying of all non-metallic pipe, including sewer pipe, drain pipe, and underground tile; Oversize Concrete Vibrator, 70 lbs. and over; Rock Slinger; Scaler (using Bos'n Chair or Safety Belt or power tools)

Group 4: Cribber or Shorer, Lagging, Sheeting, Trench Bracing, hand guided Lagging Hammer; Head Rock Slinger; Powderman - blaster, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Sandblaster (Nozzleman); Steel Headerboard Man

Group 5: Driller (Core, Diamond or Wagon), Joy Driller Model TW-M-2A, Gardner-Denver Model DH 143 and similar type drills

LABORERS*:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Remaining Counties:					
Building Construction:					
Zone 1: Area within 5 road miles of the following communites - Carson City, Elko, Fallon, Hawthorne, Lovelock, Minden, Tonopah, Winnemucca; also area within 10 road miles of Reno, Nevada; also the area within 2 road miles of Yerington, Nevada, also Washoe Valley between Reno, Nevada, and Carson City, Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; also the area of Stead Air Force Base; also the Tahoe Basin from the Summit to the Lake					
Group 1	$ 9.00	.95	$1.20		.10
Group 2	9.10	.95	1.20		.10
Group 3	9.25	.95	1.20		.10
Group 4	9.50	.95	1.20		.10
Group 5	9.80	.95	1.20		.10
Group 6-A	9.80	.95	1.20		.10
Group 6-B	9.50	.95	1.20		.10
Group 6-C	9.15	.95	1.20		.10
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the above communities:					
Group 1	9.60	.95	1.20		.10
Group 2	9.70	.95	1.20		.10
Group 3	9.85	.95	1.20		.10
Group 4	10.10	.95	1.20		.10
Group 5	10.40	.95	1.20		.10
Group 6-A	10.40	.95	1.20		.10
Group 6-B	10.10	.95	1.20		.10
Group 6-C	9.75	.95	1.20		.10

LABORERS*: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Remaining Counties: (Cont'd)					
Building Construction: (Cont'd)					
Zone 3: Area over 20 and not more than 40 road miles from the communities named in Zone 1:					
Group 1	$ 9.80	.95	1.20		.10
Group 2	9.90	.95	1.20		.10
Group 3	10.05	.95	1.20		.10
Group 4	10.30	.95	1.20		.10
Group 5	10.60	.95	1.20		.10
Group 6-A	10.60	.95	1.20		.10
Group 6-B	10.30	.95	1.20		.10
Group 6-C	9.95	.95	1.20		.10
Zone 4: Area over 40 road miles from the communities named in Zone 1:					
Group 1	10.50	.95	1.20		.10
Group 2	10.60	.95	1.20		.10
Group 3	10.75	.95	1.20		.10
Group 4	11.00	.95	1.20		.10
Group 5	11.30	.95	1.20		.10
Group 6-A	11.30	.95	1.20		.10
Group 6-B	11.00	.95	1.20		.10
Group 6-C	10.65	.95	1.20		.10
Heavy and Highway Construction:					
Area 1:					
Group 1	9.00	.95	1.20		.10
Group 2	9.10	.95	1.20		.10
Group 3	9.25	.95	1.20		.10
Group 4	9.50	.95	1.20		.10
Group 5	9.80	.95	1.20		.10
Group 6-A	9.80	.95	1.20		.10
Group 6-B	9.50	.95	1.20		.10
Group 6-C	9.15	.95	1.20		.10
Area 2:					
Group 1	10.15	.95	1.20		.10
Group 2	10.25	.95	1.20		.10
Group 3	10.40	.95	1.20		.10
Group 4	10.65	.95	1.20		.10
Group 5	10.95	.95	1.20		.10
Group 6-A	10.95	.95	1.20		.10
Group 6-B	10.65	.95	1.20		.10
Group 6-C	10.30	.95	1.20		.10

*LABORERS - "Area Definition" following TRUCK DRIVERS

LABORERS
Remaining Counties

Group 1: All cleanup work of debris, grounds and building including windows and tile; Dumpman or Spotter (other than asphalt); General Laborer; Gardeners and Landscape Laborers; Limber, Brushloader and Piler; Flagman

Group 2: Choker Setter or Rigger (clearing work only); Pittsburgh Chipper and similar type Brush Shredders; Concrete Worker (wet or dry) all concrete work not listed in Group 3; Crusher or Grizzle Tender; Guinea Chaser (Stakeman); Panel Forms (wood or metal) handling, cleaning and stripping of; Loading and unloading, carrying and handling of all rods and material for reinforcing concrete; Railroad Trackmen (builders); Sloper; Semi-skilled Wrecker (salvaging of building materials other than those listed in Group 3); Greasing Dowels

Group 3: Asphalt Workers (Ironers, Shoveler, Cutting Machine); Buggymobile; Chainsaw, faller, logloader and bucker; Compactor (all types); Concrete Mixer, under 1/2 yd.; Concrete Pan Work (breadpan type) (handling, cleaning, stripping); Concrete Saw, Chipping, Grinding, Sanding, Vibrator; Cribbing, Shoring, Lagging, Trench Jacking, Hand-guided Lagging Hammer; Curbing or Divider Machine; Curb Setter (precast or cut); Ditching Machine (hand-guided); Driller's Tender, Chuck Tender; Form Raiser, Slip Forms; Grouting of concrete walls, windows and door jams; Headerboardman; Jackhammer, Pavement Breaker, Air Spade; Mastic Worker (wet or dry); Pipe Wrapper, Kettleman, Potman, and men applying asphalt, Creosote and similar type materials; All power tools (air, gas or electric) not listed in Group 5; Pipejacking; Posthole Digger (air, gas or electric); Post Driver; Riprap-stonepaver and Rock Slinger, including placing of sack concrete, wet or dry; Rototiller; Rigging and Signaling in connection with Laborers' work; Sandblaster, Potman, Gunman or Nozzleman; Vibrascreed; Skilled Wrecker (removing and salvaging of sash windows, doors, plumbing and electrical fixtures)

Group 4: Burning and welding in connection with Laborers' work; Joy Drill Model TWM-2A, Gardner Denver Model DH 143 and similar type Drills; Track Drillers, Diamond Core Drillers, Wagon Drillers, Mechanical Drillers on multiple units; High Scalers; Concrete Pump; Heavy Duty Vibrator with stinger 5" diameter or over; Pipelayer, Caulker and Bander; Pipelayer - waterline, sewerline, gasline, conduit; Asphalt Rakers

Group 5: Blasters and Powderman, all work of loading, placing and blasting of all powder and explosives of any type, regardless of method used for such loading and placing

Group 6-A: Nozzleman

Group 6-B: Gunman, Materialman

Group 6-C: Reboundman

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POWER EQUIPMENT OPERATORS Clark, Esmeralda, Lincoln, Nye Counties:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$11.60	$1.10	$2.60	.85	.14
Group 2	11.88	1.10	2.60	.85	.14
Group 3	12.17	1.10	2.60	.85	.14
Group 4	12.31	1.10	2.60	.85	.14
Group 5	12.53	1.10	2.60	.85	.14
Group 6	12.64	1.10	2.60	.85	.14
Group 7	12.76	1.10	2.60	.85	.14
Group 8	12.93	1.10	2.60	.85	.14
Group 9	13.06	1.10	2.60	.85	.14

Group 1: Brakeman; Compressor Operator; Engineer Oiler; Generator Operator; Heavy Duty Repairman Tender; Pump; Signalman; Switchman

Group 2: Concrete Mixer Operator, Skip type; Conveyor Operator; Fireman; Hydrostatic Pump Operator; Oiler Crusher (asphalt or concrete plant); Plant Operator, Generator, pump or compressor; Rotary Drill Tender (Oilfield); Skiploader - wheel type up to 3/4 yd. with attachment; Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant Operator; Trenching Machine Oiler; Truck Crane Oiler

Group 3: A-Frame or Winch Truck; Elevator Operator (inside); Equipment Greaser (rack); Ford Ferguson (with drag-type attachments); Helicopter Radioman (ground); Power Concrete Curing Machine; Power Concrete Saw; Power Driven Jumbo Form Setter; Ross Carrier; Stationary Pipe Wrapping and Cleaning Machine

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixerman (asphalt or concrete); Bridge type unloader and turntable Operator; Chip Spreading Machine; Concrete Pump (small portable); Dinky Locomotive or Motorman (up to and including 10 tons); Equipment Greaser (grease truck); Helicopter Hoist; Highline Cableway Signalman; Hydra-hammer-Aero Stomper; Power Sweeper; Roller (Compacting); Screed (asphalt or concrete); Trenching Machine (up to 6 feet)

POWER EQUIPMENT OPERATORS (Cont'd)
Clark, Esmeralda, Lincoln, Nye Counties

Group 5: Asphalt Plant Engineer; Concrete Batch Plant; Backhoe (up to and including 3/4 yds.); Bit Sharpener; Concrete Joint Machine (canal and similar type); Concrete Planer; Deck Engine; Forklift (under 5 ton capacity); Machine Tool; Maginnis Internal Full Slab Vibrator; Mechanical Berm (curb or gutter concrete or asphalt); Mechanical Finisher (concrete-Clary-Johnson-Bidwell or similar); Pavement Breaker; Road Oil Mixing Machine; Roller (asphalt or finish); Rubber-tired Earth Moving Equipment (single engine, up to and including 25 yds. struck); Self-propelled Tar Pipelining Machine; Slip Form Pump (power driven hydraulic lifting device for concrete forms); Tugger Hoist (1 drum); Tunnel Locomotive (over 10 and up to and including 30 tons); Stinger Crane (Austin-Western or similar type); Skiploader Crawler and wheel type (over 3/4 yds. and up to and including 1½ yds.)); Tractor - Bulldozer, Tamper, Scraper (single engine, up to 100 HP, Flywheel and similar types, up to and including D-5 and similar types)

Group 6: Asphalt or Concrete Spreading (tamping or finishing); Asphalt Paving Machine (Barber Greene or similar type); BHL Lima Road Pactor or similar; Bridge Crane; Pipe Laying Machine (cast in place); Combination Mixer and Compressor (gunite work); Concrete Pump (truck mounted); Concrete Mixer; Crane (up to and including 25 tons); Crushing Plant; Elevating Grader; Forklift (over 5 tons); Grade Checker; Gradeall; Grouting Machine; Heading Shield; Heavy Duty Repairman; Hoist (Chicago Boom and similar type); Kolman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Slab Machine (Vagtborg and similar types); Lift Mobile; Loader-Athey, Euclid, Sierra and similar type); Material Hoist; Mucking Machine 1/4 yd. - rubber tired, rail or track type); Pneumatic Concrete Placing Machine (Hackley-Presswell or similar type); Pneumatic Heading Shield (tunnel); Pumpcrete Gun; Rotary Drill (excluding caisson type); Rubber-tired Earth Moving Equipment Operator (single engine - Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds. struck); Rubber-tired Scraper (self-loading - paddle wheel type - John Deere, 1040 and similar single unit); Skiploader (Crawler and wheel type over 1½ yds., up to and including 6½ yds.); Surface Heaters and Planers; Rubber-tired Earth Moving Equipment, multiple engine (up to and including 25 yds., struck); Trenching Machine (over 6 ft. depth capacity, manufacturers rating); Tower Crane; Tractor Compressor Drill Combination; Tractor (any type larger than D-5, 100 flywheel HP and over or similar) (Bulldozer, Tamper, Scraper and Push Tractor, single engine); Tractor (boom attachments); Traveling Pipe wrapping, cleaning and bending; Tunnel Locomotive (over 30 tons); Shovel, Backhoe, Dragline, Clamshell (over 3/4 yd. and up to 5 cu. yds. M.R.C.)

POWER EQUIPMENT OPERATORS (Cont'd)
Clark, Esmeralda, Lincoln, Nye Counties

Group 7: Crane (over 25 tons up to and including 100 tons M.R.C.); Derrick Barge; Dual Drum Mixer; Hoist, Stiff Legs, Guy Derrick, or similar type, up to and including 100 tons; Monorail Locomotive (diesel, gas or electric); Motor Patrol-blade Operator (single engine); Multiple engine Tractor Operator (Euclid and similar type except Quad 9 Cat); Rubber-tired earth moving equipment (single engine over 50 yds. struck); Rubber-tired earth moving equipment (multiple engine, Euclid, Caterpillar and similar)(over 25 yds. and up to 50 cu. yds. struck); Tractor Loader Operator (Crawler and wheel type over 6½ yds.); Tower Crane Repairman; Shovel, Backhoe, Dragline, Clamshell Operator (over 5 cu. yds. M.R. C); Wood Mixer and similar Pugmill equipment; Heavy Duty Repairman - Welder Combination

Group 8: Auto Grader; Automatic Slip Form; Crane (over 100 tons); Hoist, Stiff Legs, Guy Derricks or similar types (capapble of hoisting 100 tons or more); Mass Excavator (less than 750 cu. yds.); Mechanical Finishing Machine; Mobile Form Traveler; Motor Patrol (mutli engine); Pipe Mobile Machine; Rubber-tired earth moving equipment (multiple engine, Euclid, Caterpillar and similar type over 50 cu. yds. struck); Rubber-tired self loading scraper (paddle wheel-auger type self-loading) (2 or more units); Tandem equipment (2 units only); Tandem Tractor (Quad 9 or similar type); Tunnel Mole Boring Machine; Rubber-tired Scraper (pushing without Push Cat, Push-pull) (50¢ per hour additional)

Group 9: Canal Liner; Canal Trimmer; Helicopter Pilot; Highline Cableway; Wheel Excavator (over 750 cu. yds.); Remote controlled earth moving equipment ($1.00 per hour additional to base rate)

*POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection) REMAINING COUNTIES	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1-A	$10.19	$11.34	$2.14	$2.50	$1.87	.10
Group 2	10.63	11.78	2.14	2.50	1.87	.10
Group 3	10.86	12.01	2.14	2.50	1.87	.10
Group 4	11.48	12.63	2.14	2.50	1.87	.10
Group 5	11.73	12.88	2.14	2.50	1.87	.10
Group 6	11.87	13.02	2.14	2.50	1.87	.10
Group 7	12.08	13.23	2.14	2.50	1.87	.10
Group 8	12.57	13.72	2.14	2.50	1.87	.10
Group 9	12.84	13.99	2.14	2.50	1.87	.10
Group 10	13.14	14.29	2.14	2.50	1.87	.10
Group 10-A	13.29	14.44	2.14	2.50	1.87	.10
Group 11	13.50	14.65	2.14	2.50	1.87	.10
Group 11-A	14.86	16.01	2.14	2.50	1.87	.10

*POWER EQUIPMENT OPERATORS - See "AREA DEFINITION" following TRUCK DRIVERS.

Group 1-A: Brakeman, Deckhand, Fireman, Oiler, Partsman (heavy duty repair shop parts room when needed), Switchman, Tar Pot Fireman; Boiler Tender

Group 2: Compressor; Material Loader and/or Conveyor (handling building materials); Pumps; Tar Pot Fireman (power agitated)

Group 3: Box Operator (bunker); Concrete Curing Machine (streets, highways, airports, canals); Conveyor Belt (tunnel); Engineer Generating Plant (500 K.W.); Fireman Hot Plant; Hydraulic Monitor; Lubrication and Service Engineer (mobile and grease rack); Mixer Box Operator (concrete plant); Motorman; Rotomist; Screedman (except (asphaltic or concrete paving); Oiler (truck crane); Rodman or Chainman; Bobcat or similar Loader, 1/4 cu. yds. or less

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POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Remaining Counties

Group 4: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper multiple-purpose; Boxman (asphalt plant); Concrete Mixer, skip type; Dinky; Fork Lift (construction job site); Ross Carrier; Skip Loader (under 1 cu. yd.); Tie Spacer; Line Master

Group 5: Concrete Mixer (over 1 cu. yd.); Concrete Pumps or Pumpcrete Guns; Elevator and material Hoist (1 drum); Screedman (Barber-Greene and similar)(asphalt or concrete paving); Shuttle Car; Signalman

Group 6: Boom Truck or Dual Purpose "A" Frame Truck; B.L.H. Lima Road Factor or similar; Chip Box Spreader (Flaherty type or similar); Concrete Batch Plant (wet or dry); Concrete Saws (highways, streets, airports, canals); Highline Cableway Signalman; Locomotive (over 30 tons); Maginnis International Full Slab Vibrator (airports, highways, canals, warehouses); Mechanical Berm, Curb and/or Curb Gutter Machine (concrete or asphalt); Power Jumbo (setting slip forms, etc., in tunnels); Roller (except asphalt); Self-propelled Compactor (single engine); Slip Form Pump (power driven by hydraulic, electric, air, gas, etc., lifting device for concrete forms); Stationary Pipe wrapping, cleaning and bending Machine; Pavement Breaker or Tamper (with or without Compressor combination); Pavement Breaker, truck mounted, with compressor combination; Small Rubber-tired Tractors; Self-propelled Tape Machine; Auger type drilling equipment up to and including 30 ft. depth drilling capacity M.R.C.

Group 7: Compressor (over 2); Concrete Conveyor; Concrete Conveyor or Concrete Pump, truck or equipment mounted (boom length to apply); Crusher Plant Engineer; Deck Engineer; Drilling and Boring Machinery, vertical and horizontal (not to apply to waterliners, wagon drills or jackhammers); Generators; Grade Setters; Grade Checker; Kolman Loader; Material Hoist (2 or more drums); Mechanical Finishers or Spreader Machine (asphalt, Barber-Greene and similar); Mine or Shaft Hoist; Pipe Bending Machines (pipelines only); Pipe Cleaning Machines (tractor propelled and supported); Pipe Wrapping Machines (tractor propelled and supported); Portable Crushing and Screening Plants; Pumps (over 2); Refrigeration Plants; Self-propelled Boom type lifting device (center mount)(10 ton capacity or less); Slusher; Soil Tester (certified); Surface Heater and Planer; Trenching Machine (maximum digging capacity 3 ft. depth); Truck type Loader; Welding Machines (gasoline or diesel); Roller (asphalt); Instrumentman; Auger type drilling equipent over 30 ft. depth digging capacity M.R.C.

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Remaining Counties

Group 8: Asphalt Plant Engineer; Car Passer; Cast-in-place Pipe Laying Machine; Combination Slusher and Motor; Doser; Concrete Batch Plant (multiple units); Elevating Grader; Grooving and Grinding Machine (highways); Heavy Duty Repairman and/or Welder; Ken-seal; Loader (up to and including 2½ cu. yds.); Mechanical Trench Shield; Mixer-mobile; Push Cats; Road Oil Mixing Machine; Wood-mixer (and other similar Pugmill equipment); Rubber-tired earth moving equipment (up to and including 35 cu. yds. "struck" M.R.C., Euclid, T-pulls, DW's 10, 20, 21 and similar); Self-propelled Compactor with Dozer; Sheepfoot; Small tractor (with boom); Soil Stabilizer (P&H or equal); Timber Skidder (rubber-tired or similar equipment; Tractor; Tractor drawn Scraper; Tractor mounted compressor drill combination; Trenching Machine (over 3 ft. depth); Tri-batch Paver; Tunnel Badger or Tunnel Boring Machine; Tunnel Mole Boring Machine; Vermeer T-600B Rock Cutter

Group 9: Canal Finger Drain Digger; Chicago Boom; Combination Backhoe and Loader (up to and including 3/8 yds.); Combination Mixer and Compressor (Gunite); Lull Hi-lift (20 ft. or over); Mucking Machine; Tractor with boom (D6 or larger); Track laying type earth moving machine (single engine with tandem scrapers); Sub-grader (Gurries or other types)

Group 10: Boom type Backfilling Machine; Bridge Crane; Carylift or similar; Chemical Grouting Machine; Derricks; Derrick Barges (except excavation work); Euclid Loader and similar types; Heavy Duty Rotary Drill Rigs; Lift-slab (Vagtborg and similar types); Loader (over 2½ cu. yds. up to and including 4 cu. yds.); Locomotive (over 100 tons)(single or multiple units); Multiple engine earth moving machines (Euclid, Dozers, etc.); Pre-stress Wire-wrapping Machine; Rubber-tired Scraper, self-loading; Self-propelled Reservoir-debris equipment floating (200 HP and over); Shuttle Car (reclaim station); Single engine Scraper (over 35 cu. yds.); Train Loading Station; Vacuum Cooling Plant; Whirley Crane (up to and including 25 tons); Trenching Machine; Multi-engine with sloping attachments (JEFFCO or similar); Chief of Party

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Remaining Counties

Group 10-A: Backhoe (up to and including 1 cu. yd. hydraulic); Backhoe (up to and including 1 cu.yd. cable); Cranes (not over 25 tons)(Hammerhead and Gantry); Grade-alls (up to and including 1 cu. yd.); Motor Patrol; Power Shovels, Clamshells, Draglines; Cranes (up to and including 1 cu. yd.); Rubber-tired Scraper, self-loading (twin engine); Self-propelled Boom-type lifting device (center mount)(over 10 tons); CMI dual Lane Auto-grader SP30 or similar

Group 11: Automatic Asphalt or Concrete Slip form Paver; Automatic Railroad Car Dumper; Canal Finger Drain Backfiller; Canal Trimmer; Cranes (over 25 tons); Highline Cableway Operator; Loader (over 4 yds. up to and including 12 cu. yds.); Multiple engine earth moving equipment (up to and including 75 cu.yds. "struck" M.R.C.); Power Shovels, Clamshells, Draglines, Backhoes, Gradealls (over 1 yd. and up to and including 7 cu. yds. M.R.C.); Self-propelled Compactor (with multiple propulsion power units); Single engine Rubber-tired earth moving machine (with tandem scraper); Slip Form Paver (concrete or asphalt); Tandem Cats and Scrapers; Tower Crane Mobile; Universal Liebher and Tower Cranes (and similar types); Wheel Excavator (up to and including 750 cu. yds. per hour); Whirley Cranes (over 25 tons); Euclid Loader when controlled from the Pullcat

Group 11-A: Band Wagons (in conjunction with wheel excavators); Loader (over 12 cu. yds.); Multi-engine earth moving equipment (over 75 cu. yds. "struck" M.R.C.); Operator of Helicopter (when used in construction work); Power Shovels and Draglines (over 7 cu. yds. M.R.C.); Remote Controlled earth moving equipment; Wheel Excavator (over 750 cu. yds. per hour)

POWER EQUIPMENT OPERATORS STEEL ERECTION Remaining Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$11.25	$2.14	$2.50	$1.87	.10
Group 2	11.70	2.14	2.50	1.87	.10
Group 3	12.93	2.14	2.50	1.87	.10
Group 4	13.10	2.14	2.50	1.87	.10
Group 4-A	13.47	2.14	2.50	1.87	.10
Group 5	14.07	2.14	2.50	1.87	.10
Group 6	14.59	2.14	2.50	1.87	.10
Group 6-A	15.30	2.14	2.50	1.87	.10
Group 7	16.56	2.14	2.50	1.87	.10

Group 1: Oiler

Group 2: Compressor Operator; Generator, gasoline or diesel-driven (100 K.W. or over); Truck Crane Oiler

Group 3: Compressors, Generators and/or Welding Machines or Combination (2 to 6) (Structural steel or tank erection only)

Group 4: Heavy Duty Repairman; Tractor Operator

Group 4-A: Combination Heavy duty Repairman-Welder

Group 5: Boom Truck or Dual Purpose A-Frame Truck; Boom Cat; Chicago Boom; Crawler Cranes and Truck Cranes (15 ton M.R.C. or less); Self-propelled Boom-type Lifting Device (center mount) (10 ton capacity or less M.R.C.); Single Drum Hoist; Tugger Hoist

Group 6: Crawler Cranes and Truck Cranes (over 15 tons M.R.C.); Derricks; Gantry Rider (or similar equipment); Highline Cableway; Self-propelled Boom-type Lifting Device (center mount) (over 10 tons); Tower Cranes Mobile; Universal Liebher and Tower Cranes (and similar types); Two or more drum hoist

Group 6-A: Cranes (over 125 tons)

Group 7: Operator of Helicopter

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POWER EQUIPMENT OPERATORS PILEDRIVING Remaining Counties	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$10.68	$2.14	$2.50	$1.87	.10
Group 1-A	11.09	2.14	2.50	1.87	.10
Group 1-B	11.34	2.14	2.50	1.87	.10
Group 2-A	11.34	2.14	2.50	1.87	.10
Group 2-B	12.25	2.14	2.50	1.87	.10
Group 3	12.61	2.14	2.50	1.87	.10
Group 3-A	13.12	2.14	2.50	1.87	.10
Group 4	13.78	2.14	2.50	1.87	.10
Group 5	13.99	2.14	2.50	1.87	.10
Group 6	15.36	2.14	2.50	1.87	.10

Group 1: Fireman; Oilman; Deckhand

Group 1-A: Compressor Operator

Group 1-B: Truck Crane Oiler

Group 2-A: Operator of Tugger Hoist (hoisting material only)

Group 2-B: Compressor Operator (over 2); Generator Operator; Pump Operator (over 2); Welding Machine Operator (powered other than by electricity)

Group 3: Deck Engineer; Fork Lift Operator; A-Frames; Self-propelled Boom-type Lifting Device (center mount) (10 ton capacity or less M.R.C.)

Group 3-A: Heavy Duty Repairman and/or Welder

Group 4: Operating Engineer in lieu of Assistant to Engineer tending Boiler or Compressor attached to Crane Piledriver; Operator of Piledriving Rigs, Skid or Floating and Derrick Barges; Operator of diesel or gasoline powered Crane Piledriver (without boiler) (up to and including 1 cu. yd. rating); Self-propelled boom-type Lifting Device (center mount) (over 10 tons); Truck Crane Operator (up to and including 25 tons)

Group 5: Operator of diesel or gasoline powered Crane Piledriver (without boiler) (over 1 cu. yd. rating); Operator of Crane (with steam, flash boiler, pump or compressor attached); Operator of steam powered Crawler, or Univeral type driver (Raymond or similar type); Truck Crane Operator (over 25 tons) (hoisting material or performing piledriving work)

Group 6: Cranes (over 125 tons)

TRUCK DRIVERS Clark, Esmeralda, Lincoln, Nye Counties	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$11.17	.68	$1.12		
Group 2	11.28	.68	1.12		
Group 3	11.33	.68	1.12		
Group 4	11.49	.68	1.12		
Group 5	11.67	.68	1.12		
Group 6	12.17	.68	1.12		

Group 1: Dump Trucks (less than 12 yds.); Trucks (legal payload capacity less than 15 tons); Water and fuel trucks (under 2500 gallons); Pickups; Service; Repairman Tender; Drivers of busses (on jobsite used for transportation of up to 25 passengers); Teamster equipment (highest rate for dual craft operation)

Group 2: Dump Trucks (12 yds. but less than 16 yds.); Trucks (legal payload capacity between 15 and 20 tons); Water and fuel trucks (2500 to 4000 gallons); Truck Driver working on gas and oil pipeline (including Winch Truck and all sizes of trucks); Truck Greaser and Fireman; Drivers of busses (on jobsite used for transportation of more than 25 passengers); Bootman

Group 3: Dumpcrete (less than 6½ yds.); Transit-mix (less than 3 yds.); Warehouse Clerk

Group 4: Dump Trucks (16 yds. up to and including 22 yds.); Trucks (legal payload capacity 20 tons but less than 30 tons); Water and fuel trucks (4000 gallons but less than 6000 gallons); Dumpcrete (6½ yds. and over); Transit-mix (3 yds. but less than 6 yds.); Euclid-type Spreader Trucks; Dumpster; Fork Lift; Ross Carrier - highway; Road Oil Spreading Truck, time spent spreading oil

Group 5: Dump Trucks (over 22 yds.); Trucks (legal payload capacity 20 tons and over); Water and fuel trucks (6000 gallons and over); Transit-mix (6 yds. and over); Truck Repairman

Group 6: D.W. and similar type equipment, D.W. 10 and D.W. 20; Euclid-type equipment, LeTourneau Pulls, Terra Cobras and similar types of equipment; also PB and similar-type trucks when performing work within Teamsters' jurisdiction, regardless of types of attachment including power unit pulling off highway Belly Dumps in Tandem

TRUCK DRIVERS* Remaining Counties	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$10.49	$11.64	$1.00	.91		.05
Group 2	10.54	11.69	1.00	.91		.05
Group 3	10.65	11.80	1.00	.91		.05
Group 4	10.71	11.86	1.00	.91		.05
Group 5	10.76	11.91	1.00	.91		.05
Group 6	10.81	11.96	1.00	.91		.05
Group 7	10.92	12.07	1.00	.91		.05
Group 8	10.98	12.13	1.00	.91		.05
Group 9	11.03	12.18	1.00	.91		.05
Group 10	11.09	12.24	1.00	.91		.05
Group 11	11.20	12.35	1.00	.91		.05
Group 12	11.25	12.40	1.00	.91		.05
Group 13	11.36	12.51	1.00	.91		.05
Group 14	11.53	12.68	1.00	.91		.05
Group 15	11.69	12.84	1.00	.91		.05
Group 16	11.86	13.01	1.00	.91		.05

*TRUCK DRIVERS - See "AREA DEFINITION" last page.

TRUCK DRIVERS
Remaining Counties

Group 1: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, under 4 yards

Group 2: Bus and Manhaul Drivers, single units, Pickup, up to 18,000 lbs.

Group 3: Bus and Manhaul Drivers, single unit, Pickup, 18,000 lbs. and over; Winch Trucks, A-Frame, under 18,000 lbs.; Road Oil Trucks or Bootman; Fuel Drivers; Fuel Man and Fuel Island Man

Group 4: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 4 yards and under 8 yards; Water Trucks and Jetting Trucks, up to 2,500 gallons; Flatrack, Industrial Lift with Mechanical Tailgate, single unit 2-axle; Warehouse Clerk

Group 5: Winch Trucks, A-Frame, 18,000 lbs. and over; Lift Jitneys and Fork Lifts

Group 6: Flatrack, Industrial Lift with Mechanical Tailgate, single unit 3-axle

Group 7: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 8 yards and under 18 yards; Transit Mix under 8 yards; Water Trucks and Jetting Trucks, 2,500 gallons and over; Tire Repairman

Group 8: Bootman, combination; Bootman and Road Oiler

Group 9: Transit Mix, 8 yards and including 12 yards

Group 10: Dump (single or multiple unit including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 18 yards and under 35 yards; Heavy Duty Transport (highbed); Heavy Duty Transport (Gooseneck Lowbed); Tiltbed or Flatbed Pull Trailers

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TRUCK DRIVERS (Cont'd)
Remaining Counties

Group 11: DW 20's and 21's and other similar Cat type; Terra Cobra, LeTourneau Pulls, Tournerocker, Euclid and similar type equipment when pulling Aqua/Pak; water Tank Trailers, Fuel and/or Grease Tank, or other miscellaneous trailers (except as defined under Dump Trucks)

Group 12: Transit Mix, over 12 yards; Truck Repairman

Group 13: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 35 yards and under 60 yards

Group 14: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 60 yards and under 75 yards; Helicopter Pilot (when transporting men or materials)

Group 15: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 75 yards and under 100 yards

Group 16: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 100 yards and over

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

AREA DEFINITIONS
Remaining Counties
LABORERS
Heavy and Highway Construction
POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)
TRUCK DRIVERS

AREA 1: All of Northern Nevada within the following lines:

Commencing at the N.E. corner of township 32N, range 18E, Mount Diablo Baseline and Meridian at the California-Nevada Border;
Thence easterly to the N.E. corner of township 32N, range 22E;
Thence southerly to the N.E. corner of township 20N, range 22E;
Thence easterly to the N.W. corner of township 20N, range 26E;
Thence northerly to the N.W. corner of township 22N, range 26E;
Thence easterly to the N.W. corner of township 22N, range 29E;
Thence northerly to the N.W. corner of township 30N, range 29E;
Thence easterly to the N.E. corner of township 30N, range 33E;
Thence southerly to the S.E. corner of township 24N, range 33E;
Thence westerly to the S.E. corner of township 24N, range 31E;
Thence southerly to the S.E. corner of township 16N, range 31E;
Thence westerly to the S.E. corner of township 16N, range 30E;
Thence southerly to the S.E. corner of township 15N, range 30E;
Thence westerly to the S.E. corner of township 15N, range 27E;
Thence southerly to the S.E. corner of township 14N, range 27E;
Thence westerly to the S.E. corner of township 14N, range 23E;
Thence southerly to the S.E. corner of township 13N, range 23E;
Thence westerly to the S.E. corner of township 13N, range 22E;
Thence southerly to the N.E. corner of township 10N, range 22E;
Thence easterly to the N.E. corner of township 10N, range 23E;
Thence southerly along the easterly line of range 23E to the intersection of the California-Nevada border;
Thence north-westerly, then northerly following the California-Nevada border to the point of beginning.

Area 1 also includes that portion of Northern Nevada included within the following lines:
Commencing at the S.W. corner of township 37N, range 52E;
Thence northerly to the N.E. corner of township 37N, range 52E;
Thence easterly to the N.W. corner of township 37N, range 58E;
Thence southerly to the S.W. corner of township 37N, range 58E;
Thence easterly to the S.E. corner of township 37N, range 58E;
Thence southerly to the N.E. corner of township 31N, range 58E;
Thence westerly to the N.W. corner of township 31N, range 58E;
Thence southerly to the S.W. corner of township 31N, range 58E;
Thence westerly to the S.E. corner of township 31N, range 52E;
Thence northerly to the N.E. corner of township 31N, range 52E;
Thence westerly to the S.E. corner of township 31N, range 51E;
Thence northerly to the point of beginning.

AREA 2: All area not included within Area 1 as defined above.

SUPERSEDEAS DECISION

STATE: North Dakota COUNTIES: Statewide
DECISION NUMBER: ND80-5102 DATE: Date of Publication
Supersedes Decision No. ND78-5125 dated September 22, 1978, in 43 FR 43222
DESCRIPTION OF WORK: Heavy and Highway Projects (does not include bridges designed to accommodate navigation; tunnels; rest areas which include building project; and railroad project)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS	$6.50				
ELECTRICIANS:					
Cass and Grand Forks Cos.	10.65	.40	3%	6%	1½%
Burleigh and Ward Cos.	10.60	.40	3%	6%	1½%
LABORERS:					
Group 1	4.00				
Group 2	4.15				
Group 3	4.30				
Group 4	4.45				

LABORERS

Group 1: General Construction Laborer; Reinforced Steel Setter; Sack Shaker (cement and mineral filler); Pipe Handler; Drill Runner Tender; Carpenter Tender; Salamander Heater and Blower Tender; Flagperson

Group 2: Semi Skilled Laborer; Bulk Cement Handler; Conduit Layer, telephone or electrical; Form Setter (pavement); Gas, electric or pneumatic tool operator; Chipping Hammer, Grinders and Paving Brakers (tamper-dirt); Concrete Vibrator Operator; Chain Saw Operator; Concrete Saw Operator; Concrete Curing Man (not water); Bituminous Worker (Shoveler, Dumper Raker and Floater); Kettleman (bituminous or lead); Concrete Bucket Signalman; Power Buggy Operator; Brick and Mason Tender; Multiplate Pipe Layer; Culvert Pipe Layer

Group 3: Caisson Worker; Bottom Man, (sanitary sewer, storm sewer, water, and gas lines); Concrete Mixer Operator (one bag capacity); Mortar Mixer

Group 4: Pipe Layers (sanitary sewer, storm sewer, water and gas lines); Drill Runner (includes Wagon Churn or Air Track); Powderman, gunite and sandblast, Nozzleman

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Group 1	$12.31	.45	3%		1/2%
Group 2	12.28	.45	3%		1/2%
Group 3	9.85	.45	3%		1/2%
Group 4	8.21	.45	3%		1/2%
Group 5	7.54	.45	3%		1/2%

Group 1: Journeyman Cable Splicers; Journeyman Lineman

Group 2: Tractor Dozer Operator, D-4 and larger; All Rigs erecting Steel Tower and "H" fixtures, also tension pulling machines

Group 3: Groundman - operating special equipment; Hole Digging Machines; Aerial Baskets on energized circuits; Tractors, D-4 and larger, Transmission Line Pole hauling; All fifth wheel trucks and other setting and assembly equipment excluding Steel Tower and "H" fixtures erection

Group 4: Groundman - Truck or Tractor Driver with Winch; Operators of trucks up to and including 2½ tons; Tractor including D-2 and smaller, including Wheel Tractors and Crawler Tractors

Group 5: Groundman - Truck or Tractor Driver without Winch; Operators of trucks up to and including 2½ tons, and Tractors, D-4 and smaller, including Wheel Tractors and Crawler Tractors

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$9.50	.70	.55		
Group 2	9.35	.70	.55		
Group 3	9.20	.70	.55		
Group 4	9.15	.70	.55		
Group 5	8.90	.70	.55		
Group 6	8.67	.70	.55		
Group 7	7.74	.70	.55		
Group 8	7.59	.70	.55		
Group 9	7.49	.70	.55		
Group 10	7.15	.70	.55		

Group 1: Cableway Operator; Crane Operator with boom over 135' all types; Derrick, Guy and Stiff Leg, power, skids and stationary; Front End Loader, over 10 cu. yds.; Gantry Crane Operator; Helicopter Operator; Mole Operator including power supply or Tunnel Mucking Machine; Power Shovel or other equipment with Shovel type controls, 3½ cu. yds. and over.

Group 2: Concrete Mixer Stationary Plant Operator, over 34E; Dredge Operator or Engineer; Dredge Operator (power) and Engineer; Elevator Grader Operator; Hydro Crane Operator, 15 tons and over; Locomotive Crane Operator; Master Mechanic (if employed, shall perform manual work); Mixer, paving; Concrete Paving Operator, road; Power Shovels and other equipment with shovel type controls up to 3½ cu. yds.; Scraper Tandem; Tandem Pusher, Quad 9 or similar; Tractor Operator (pipeline); Side Boom; Truck Crane Operator

Group 3: Dope Machine Operator (pipeline); Drill Rigs, heavy duty Rotary or Churn or Cable Drill; Front End Loader Operator, 6 cu. yds. and over; Locomotive, all types; Pipeline Wrapping, Cleaning and Bending Machine Operator; Power actuated Horizontal Boring Machine, over 6" (pipeline); Pumpcrete Operator; Refrigeration Plant Engineer; Slip Form Operator, power driven, paving; Tandem Scraper twin engine, 50 cu. yds. struck and over

POWER EQUIPMENT OPERATORS (Cont'd)

Group 4: Asphalt Paving Machine Operator; Asphalt Plant Operator and Console Board Operator; CMI Grading Operator; Crushing Plant Operator (gravel and stone or gravel washing, crushing and screening plant operator); Front End Loader Operator, 2 cu. yd. up to 6 cu. yds.; Grader or Motor Patrol, finishing earth work and bituminous; Mechanic or Welder (heavy duty); Rubber Tired Industrial Tractor with Backhoe attachment (water main sanitary sewer and storm sewer, truck line construction); Scraper Operator; Tractor type or rubber tired Dozer, D-6 and over; Trenching Machine Operator, sewer and water (except ditch witch or similar, use oiler rate); Turnapull Operator or similar type; Rotomill Operator

Group 5: Bituminous Spreader and Bituminous Finishing Operator (power); Concrete Distributor and Spreader Operator, Finishing Machine, Longitudinal Float Operator, Ft. Machine Operator and Spray Operator; Concrete Mixer Operator, on job site 16S or over; Paving Breaker or Tamping Machine Operator or including machine with power shovel attachments (power driven); Power actuated Augers and Boring Machine Operator; Power actuated Jacks Operator; Power Plant Engineer, 100 K.W. H. and over;

Push Tractor; Self-propelled Traveling Soil Stabilizer; Slip Form, Curb and Gutter Operator (electronic or automatic controls); Soil Cement Stabilizer; Truck Mechanic

Group 6: Bituminous Spreader and Bituminous Finishing Machine Operator (tender)(power); Concrete Saw Operator (multiple blade)(power operated); Distributor Operator; Fine Grade Operator; Roller, steel and self-propelled rubber, on hot mix asphalt paving; Sheepsfoot Packer with Dozer attachment; Tractor type or rubber tired Dozer under D-6 H.P.

Group 7: Brakeman or Switchman; Concrete Batch Plant Operator (cement, rock and sand) Electronic; Concrete Mixer Operator on job site, under 16S; Crane Truck Oiler; Fireman or Tank Car Heater Operator; Grader Operator (motor patrol)(haul road) Gravel Screening Plant Operator (portable not crushing or washing); Greaser (truck or tractor); Gunite Operator Gunall; Hoist Engineer (power); Hydro Crane Operator, under 15 ton; Launchman (Tankerman or Pilot license); Pick-up Sweeper, 1 yd. and over hopper capacity; Sheepsfoot Roller or Compactor (self-propelled); Shouldering Machine Operator (power) (Apsco or similar type) including Self-propelled Sand Chip Spreader Flaherty or similar

POWER EQUIPMENT OPERATORS (cont'd)

Group 8: Boom Truck Operator; Crawler type and/or Steiger or similar tractor pulling compaction or areating equipment; Farm type rubber tired tractor with backhoe attachment; Roller, steel and self-propelled rubber, on other than hot mix asphalt paving; Self-propelled Vibrating Packer Operator, pad type (35 HP and over); Off-road self-propelled watering equipment

Group 9: Concrete Batch Operator (cement, rock and sand) (manual); Form Trench Digger (power); Front End Loader Operator, up to 1 cu. yd.; Hyster Carrier or Forklift; Leverman; Mechanic's Tender or Greaser Tender; Oiler (power Shovel, Crane, Dragline); Pugmill Operator; Pump Operator (well points); Self-propelled Broom

Group 10: Conveyor Operator; Curb Machine Operator (manual); Dredge Deck Hand; Farm Tractors, rubber tired for compacting and areating; Front End Loader Operator (farm type rubber tired tractor); Paint Machine Striping Operator; Stump Chipper Operator; Tie Tamper and Ballast Machine Operator

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Single Axle	$ 7.36	.65	.35		
Tandem	7.46	.65	.35		
Agitator Dumpcrete; Lowboy; Off road heavy duty end dumps, 20 yds. and under; Tandem semi	7.73	.65	.35		
Euclid, over 20 yds.	8.41	.65	.35		

UNLISTED CLASSIFICATIONS NEEDED FOR WORK NOT INCLUDED WITHIN THE SCOPE OF THE CLASSIFICATIONS LISTED MAY BE ADDED AFTER AWARD ONLY AS PROVIDED IN THE LABOR STANDARDS CONTRACT CLAUSES 29 CFR, 5.5 (a)(1)(ii)

SUPERSEDEAS DECISION

STATE: North Dakota COUNTIES: Burleigh, Cass Grand Forks, Morton, Richland, Steele, Traill, Walsh and Ward

DECISION NUMBER: ND80-5103 DATE: Date of Publication

Supersedes Decision No. ND79-5128 dated August 3, 1979, in 44 FR 45856

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.05	.35	.64		.005
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS; Stonemasons:					
Burleigh and Morton Cos.	11.00		.30		
Grand Forks, Steele and Walsh Counties	11.95		.30		
Cass, Richland and Traill Counties	11.65	.60	.30		
Ward County	11.05		.30		
CARPENTERS:					
Burleigh and Morton Cos.:					
Carpenters	9.95	.65			
Piledrivermen	10.20	.65			
Grand Forks, Northern parts of Steele and Traill Cos.:					
Walsh County:					
Carpenters	10.28		.50		
Piledrivermen	10.54		.50		
Millwrights	9.86	.50	.50	.50	.02
Cass, Richland, Southern Parts of Steele and Traill Counties:					
Carpenters	10.59	.13	.40		.03
Ward County:					
Carpenters	9.83		.20		.02
Piledrivermen	10.08		.20		.02
Millwrights	9.86	.50	.50	.50	.02
CEMENT MASONS:					
Burleigh and Morton Cos. Grand Forks, Steele, Traill and Walsh Counties	9.55		.30		
Cass and Richland Counties	8.90				
Ward County	9.86				
DRYWALL TAPERS:	8.75				
Cass, Grand Forks, Richland, Steele, Traill and Walsh Counties	10.08	.45			

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Cass, Grand Forks, Richland, Steele, Traill and Walsh Counties					
Zone mileage from main P.O. in the Cities of Grand Forks, Valley City, Fargo and West Fargo					
Zone A: within 0-15 miles from each main P.O.					
Electricians	$10.65	.40	3%	6%	1/2%
Cable Splicers	11.18	.40	3%	6%	1/2%
Zone B: 15-30 miles from each main P.O.					
Electricians	11.27	.40	3%	6%	1/2%
Cable Splicers	11.80	.40	3%	6%	1/2%
Zone C: Over 30 miles from each main P.O.					
Electricians	12.15	.40	3%	6%	1/2%
Cable Splicers	12.68	.40	3%	6%	1/2%
Burleigh, Morton and Ward Counties					
Electricians	10.50	.50	3%+1.00	6%	1/2%
Cable Splicers	10.90	.50	3%+1.00	6%	1/2%
ELEVATOR CONSTRUCTORS	10.87	.895	.69	a	.035
GLAZIERS:					
Burleigh County	7.42	.25			
IRONWORKERS:					
Ornamental; Structural; Reinforcing	11.90	.60	.55		.10
MILLWRIGHTS	11.26	.65	.55		.02
PAINTERS:					
Cass, Grand Forks, Richland, Steele, and Traill Counties:					
Brush; Roller; Paperhangers	9.30				.02
Sandblasting; Structural Steel Spray	10.30				.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Burleigh and Morton Cos.:					
Brush; Roller; Paper and Vinyl Hanging	$ 8.70				
Spray Painting (more than 20 hours per week or 60 hours per month)	9.20				
Sandblast, Swing Stage, or Chair Work, Structural Steel and Bridges, Stacks, Water Towers, Storage Tanks	9.20				
Ward County:					
Brush	8.55				
Spray	8.90				
PLASTERERS:					
Grand Forks, Walsh, Steele, and Traill Counties	9.64		.30		
Ward County	8.75				
Cass and Richland Cos.	11.00				
PLUMBERS:					
Cass, Grand Forks, Richland, Steele, Traill and Walsh Counties	12.03	1.02	.89		.03
Burleigh and Morton Cos.	13.15	.75	.65		.02
Ward County	13.36	.75	.55		.04
ROOFERS:					
Cass and Richland Cos.	9.05				
SHEET METAL WORKERS:					
Burleigh, Grand Forks, Morton, Steele, Traill and Ward Counties	11.00		.25	.61	.04
Cass and Richland Cos.	12.15	.60	.45		.035
SOFT FLOOR LAYERS:					
Burleigh County	8.80				
Cass, Grand Forks, Richland, Steele, Traill, and Walsh Counties	8.95				
SPRINKLER FITTERS	12.90	.75	1.05		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: (Cont'd)					
Site Prpearation Excavation and Incidental Paving:					
Single Axle	$ 7.36	.65	.35		
Tandem	7.46	.65	.35		
Agitator Dumpcrete; Off Road Heavy End Dumps, 20 yards and under;					
Tandem Semi, Lowboy	7.73	.65	.35		
Euclid, over 20 yards	8.41	.65	.35		

FOOTNOTE:
a. Employer credits 6% basic hourly rate for employee with 6 months' to 5 years' service; 8% basic hourly rate with over 5 years' service as Vacation Credit Plan. Six Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
Building Construction					
Grand Forks, Steele and Traill Counties					
Group 1	$ 7.87	.35	.45		
Group 2	8.02	.35	.45		
Group 3	8.22	.35	.45		
Burleigh and Morton Cos.					
Group 1	7.40	.35	.45		
Group 2	7.50	.35	.45		
Group 3	7.60	.35	.45		
Cass and Richland Cos.					
Group 1	7.49	.35	.45		
Group 2	7.59	.35	.45		
Group 3	7.64	.35	.45		
Ward County					
Group 1	7.49	.35	.45		
Group 2	7.59	.35	.45		
Group 3	7.74	.35	.45		
Site Preparation Excavation and Incidental Paving					
Group 1	4.00				
Group 2	4.15				
Group 3	4.30				
Group 4	4.45				

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LABORERS (Cont'd)
Building Construction

Grand Forks and Steele Counties

Group 1: Laborers; Concrete Bucket Dumpman

Group 2: All power tools (air, gas and electric); Operators of tools that come under the Laborers' jurisdiction; Brick, Plaster and Finisher Tender; Sandblaster and Gunnite Pot Tender; Hose Tender where under the Laborers' jurisdiction

Group 3: Hod Carriers; Non-metallic Pipelayers; Gas Line Wrapping or Taping; Sand Blaster and Gunnite Nozzleman where under Laborers' jurisdiction; Cutting Torch for demolition

Burleigh and Morton Counties

Group 1: Laborers, Concrete Bucket Man

Group 2: All power tool Operators of tools that come under the Laborers' jurisdiction; Mortar Mixer; Brick and Plasterer Tenders

Group 3: Hod Carriers, Non-metallic Pipelayers; Gas Line Wrapping or Taping; Cutting Torch for demolition

Cass and Richland Counties

Group 1: Laborers; Concrete Bucket Dumpman

Group 2: All power tool Operators of tools that come under the Laborers' jurisdiction; Brick and Plasterer Tender; Mortar Mixer

Group 3: Hod carriers; Non-metallic Pipe Layer; Gas Line Wrapping and Taping (distribution ONLY); Cutting Torch for demolition

LABORERS (Cont'd)
Building Construction (Cont'd)

Ward County

Group 1: Laborers; Concrete Bucket Dumpman

Group 2: All power tool Operators of all tools that come under the Laborers' jurisdiction; Mortar Mixer; Plasterer Tender

Group 3: Non-metallic Pipe Layer; Gas Line Wrapping or Taping (distribution ONLY); Cutting Torch for demolition

Site Preparation Excavation and Incidental Paving

Group 1: General Construction Laborer (Chip Spreader Leverman, Fine Grader, Form Grader, Landscape Worker; Pump Operator (pre-water) Tunnel Worker; Sign Erector); Reinforce Steel Setter; Sack Shaker (cement and mineral filler); Pipe Handler; Salamander Heater and Blower Tender

Group 2: Semi-skilled Laborer (Joint Filler Machine Operator, Chip Spreader Operator); Bulk Cement Handler; Conduit Layer (telephone or electrical); Form Setter (pavement); Gas, electric or pneumatic tool Operator (Chipping Hammer, Grinders and Paving Breakers, Tamper (dirt); Concrete Vibrator Operator; Chain Saw Operator; Concrete Curing Man (not water); Bituminous Worker (Shoveler, Dumper, Raker and Floater); Kettlemen (bituminous or lead); Concrete Bucket Signalman; Power Buggy Operator; Brick and Mason Tender; Multi-plate Pipe Layer; Culvert Pipe Layer

Group 3: Caisson Work; Bottom Man (sanitary sewer, storm sewer, water and gas line); Concrete Mixer Operator (one bag capacity); Mortar Mixer

Group 4: Pipe Layers (sanitary sewer, storm water and gas lines); Drill Runner (including Wagon Churn or Air Track); Powderman, Gunite and Sandblaster, Nozzleman

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$10.30	.70	.55		
Group 2	9.35	.70	.55		
Group 3	8.75	.70	.55		
Group 4	7.75	.70	.55		
Site Preparation Excavation and Incidental Paving					
Group 1	9.50	.70	.55		
Group 2	9.35	.70	.55		
Group 3	9.20	.70	.55		
Group 4	9.15	.70	.55		
Group 5	8.90	.70	.55		
Group 6	8.67	.70	.55		
Group 7	7.74	.70	.55		
Group 8	7.59	.70	.55		
Group 9	7.49	.70	.55		
Group 10	7.15	.70	.55		

Building Construction

Group 1: Helicopter Operator, hoisting material; Truck and Crawler Cranes over 150 ft. boom, excluding jib; Traveling Tower Cranes

Group 2: Derrick, Guy or Stiff Leg; Tower Cranes; Overhead Cranes; Hoist Operator - 2 drums or more; All-Terrain Vehicle Cranes (Cherry Picker, etc.); Tractors with boom attachments; Drill Rigs-Rotary or Churn; Locomotive Operators; Hydraulic and Cable-type Backhoes 3/4 yards and over; Truck and Crawler Cranes 150 ft. boom and under, excluding jibs

Group 3: Mechanic Welder; Hoist Operator 1 drum; Boom Truck Operators; Tractor over 75 HP; Straddle Carrier or Forklift, 3,000 lbs. or over; Concrete Batch Plant Operator; Concrete Batch Mixer or Concrete Pump Operator; Boiler Operator; R.T. Tractor Backhoe, 3/8 to 3/4 yards; Front End Loader Operator over 1½ yards; Any air compressed operation over 300; Well Points; Power Plant Engineer, Oiler

POWER EQUIPMENT OPERATORS (Cont'd)
Building Construction (Cont'd)

Group 4: Greaser; Forklift under 3,000 lbs., Self-propelled Scissor Jax; Front End Loader 1½ yards and under; Self-propelled Compactors; Tractor 75 HP and under; Pickup Sweeper; Pump Operator over 3"; Gunite Operator; Brakeman; Air Compressor 300 and under

Site Preparation Excavation and Incidental Paving

Group 1: Cableway Operator; Crane Operator with over 135' boom, all types; Derrick (Guy and Stiff Leg)(power)(skids and stationary); Front End Loader, over 10 cu. yds.; Gantry Crane Operator; Helicopter Operator; Mole Operator, including power supply or Tunnel Mucking Machine; Power Shovel and/or other equipment with shovel type controls 3¼ cu. yds.

Group 2: Concrete Mixer Stationary Plant Operator over 34E; Dredge Operator or Engineer; Dredge Operator (power and engineer); Elevator Grader Operator; Locomotive, Crane Operator; Master Mechanic; Mixer (paving); Concrete Paving Operator, road; Power Shovel and/or other equipment with Shovels, and/or other equipment with shovel type controls up to 3¼ cu. yds.; Scraper Tandem; Tandem Pusher, Quad 9 or similar; Tractor Operator (pipeline); Side Boom; Truck Crane Hydrocrane Operator, 15 ton and over

Group 3: Dope Machine Operator (pipeline); Drill Rigs, Heavy Duty Rotary or Churn or Cable Drill; Front End Loader Operator, 6 cu. yds. and over; Locomotive, all types; Pipeline Wrapping, Cleaning and Bending Machine Operator; Power actuated Horizontal Boring Machine, over 6" Operator (pipeline); Pumpcrete Operator; Refrigeration Plant Engineer; Slip Form Operator (power driven)(paving); Tandem Scraper - twin engine, 50 cu. yds. struck and over

Group 4: Asphalt Paving Machine Operator, Asphalt Plant Operator and Console Board Operator; CMI Grading Operator; Crushing Plant Operator (gravel and stone or gravel washing, crushing and screening plant operator); Front End Loader Operator, 1 cu. yd. up to 6 cu. yds.; Grader or Motor Patrol, finishing earth work and bituminous; Mechanic or Welder (heavy duty); Rubber-tired Industrial Tractor with Backhoe attachment (water main sanitary sewer and storm sewer, truck line construction); Scraper Operator; Tractor type or rubber tired dozer, D-6 and over; Trenching Machine Operator, sewer and water (except Ditch Witch or similar, use Oiler rates); Turnapull Operator (or similar type)

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POWER EQUIPMENT OPERATORS (Cont'd)
Site Preparation Excavation and Incidental Paving (Cont'd)

Group 5: Concrete Distributor and Spreader Operator, Finishing Machine Longitudinal Float Operator, Ft. Machine Operator and Spray Operator, Concrete Mixer Operator on job site 16S or over, Paving Breaker or Tamping Machine Operation including machine with power shovel attachment (power driven), Power actuated Jack Operator, Power Plant Engineer 10 K.W.H. and over (when an Engineer is in charge of crushing or blacktop plant with the operation of these plants no power plant engineer shall be required); Push Tractor, self-propelled Traveling Soil Cement Stabilizer, Truck Mechanic

Group 6: Concrete Saw Operator (multiple blade)(power operated); Distributor Operator; Fine Grade Machine; Roller, steel and self-propelled rubber, on hot mix asphalt paving; Sheepsfoot Raker with Dozer attachment tractor type or rubber tired dozer under D-6 H.P.

Group 7: Brakeman or Switchman; Concrete Batch Plant Operator (cement, rock and sand); Electronic; Concrete Mixer Operator on job site under 16S; Crane Truck Oiler; Grader Operator (Motor Patrol)(hauling road); Gravel Screening Plant Operator (portable unit, crushing or washing); Greaser (truck or tractor); Gunnite Operator, gunall; Hoist Engineer (power); Launchman (Tankerman or Pilot license); Pick-up Sweeper, 1 yd. and over hopper capacity; Shouldering Sand Chip Spreader; Flaherty or similar; Sheepsfoot Roller or Compactor (self-propelled)

Group 8: Boom Truck Operator, Crawler type and/or Steiger or similar tractor pulling compaction or areating equipment, farm type rubber tired tractor with Backhoe attachment, off-road self-propelled rubber, on other than hot mix asphalt paving, self-propelled Vibrating Packer Operator, pad type 35 HP and over)

Group 9: Concrete Batch Operator (cement, rock and sand) (manual); Form Trench Digger (power); Front End Loader Operator, up to 1 cu. yd.; Hyster Carrier of Forklift, Leverman; Oiler (power Shovel, Crane, Dragline); Pugmill Operator; Pump Operator (well points); Self-propelled Broom

Group 10: Conveyor Operator; Curb Machine Operator (manual); Dredge Deck, hand; Farm Tractors, rubber-tired for compacting and areating; Front End Loader (Farm type rubber tired tractor); Paint Machine Striping Operator; Stump Chipper Operator; Tie Tamper and Ballast Machine Operator

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: OHIO COUNTIES: *See Below
DECISION NO.: OH80-2002 DATE: Date of Publication
Supersedes Decision No. OH75-2109 dated September 12, 1975 in 40 FR 42498
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and apartments up to and including 4 stories

*GREENE, MIAMI, MONTGOMERY, & PREBLE

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$8.50				
CARPENTERS	6.30				
CEMENT MASONS	7.15				
DRYWALL FINISHERS	6.00				
DRYWALL HANGERS	6.45				
ELECTRICIANS	6.40				
INSULATORS	5.47				
LABORERS:					
Common	4.28				
Mason Tenders	4.50				
PAINTERS	5.00				
PLUMBERS	7.29				
ROOFERS	6.00				
SHEET METAL WORKERS	5.20				
SOFT FLOOR LAYERS	7.10				
TILE SETTERS	7.60				
TRUCK DRIVERS	5.35				
POWER EQUIPMENT OPERATORS:					
Backhoes	7.02				
Bulldozers	7.00				
Front End Loaders	7.00				
Graders	7.99				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: South Dakota COUNTIES: Meade and Pennington
DECISION NUMBER: SD80-5104 DATE: Date of Publication
Supersedes Decision No. SD79-5121 dated May 4, 1979, in 44 FR 26534
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.44	.50	$1.00		
BOILERMAKERS	12.87	1.275	1.00		.05
BRICKLAYERS; Stonemasons	11.25		.30		
CARPENTERS:					
Carpenters, Acoustical Drywall Applicators	10.81	.30			.05
Piledrivermen	11.06	.30			.05
Millwrights	11.31	.30			.05
CEMENT MASONS	9.50	.35	.40		
ELECTRICIANS:					
Electricians	10.85	.50	3%	6%	1/2%
Cable Splicers	11.40	.50	3%	6%	1/2%
IRONWORKERS	11.05	.70	1.25		.25
LABORERS:					
Laborers; Power Tool Operator (all mechanical, air, gas or electric tools, including self-propelled buggies, wagon and air track drills); Pipelayer (nonmetallic); Sandblasting	6.62	.50	.15		
Mortar Mixer, Mason Tender, Plaster Tender	6.77	.50	.15		
Gunnite Nozzleman, Powderman, Miner, Timberman	7.12	.50	.15		
PAINTERS:					
Brush	9.00				
Spray	9.50				
Tapers	9.25				
PLASTERERS	10.20				
PLUMBERS; Steamfitters	11.04	.75	.60		.03
SHEET METAL WORKERS	11.35				.005
SPRINKLER FITTERS	12.15	.75	1.05		.08
WELDERS, Riggers: Receive rate prescribed for craft performing operation to which welding or rigging is incidental.					

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

[FR Doc. 80-2806 Filed 1-28-80; 8:45 am]

BILLING CODE 4510-27-C

SUPERSEDEAS DECISION

STATE: South Dakota COUNTY: Minnehaha
DECISION NUMBER: SD80-5105 DATE: Date of Publication
Supersedes Decision No. SD79-5122 dated May 4, 1979, in 44 FR 26535
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.44	.50	$1.00		
BOILERMAKERS	12.87	1.275	1.00		.05
BRICKLAYERS; Stonemasons	11.95	.45	.40		.05
CARPENTERS:					
Carpenters, Piledrivers, Drywall, and Acoustical	10.21		.20		.05
Millwrights	11.17		.20		.05
CEMENT MASONS	11.40				
ELECTRICIANS:					
Electricians	10.90	.40	3%+.50		1/2%
Cable Splicers	11.99	.40	3%+.50		1/2%
GLAZIERS	8.54				
LABORERS:					
Laborers	4.35				
Mortar Mixers, Paving Breakers, Jack Hammer Operator (Nozzleman (gunite, sandblast and shotcrete)	4.60				
LATHERS	9.96				.01
PAINTERS:					
Brush	9.00				
Spray	9.50				
Tapers	9.25				
PLASTERERS	9.36				.01
PLUMBERS; Steamfitters	10.75	.55	.50	.51	.03
SHEET METAL WORKERS	9.97		.35	1.00	
SPRINKLER FITTERS	12.15	.75	1.05		.08
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

UNLISTED CLASSIFICATIONS NEEDED FOR WORK NOT INCLUDED WITHIN THE SCOPE OF THE CLASSIFICATIONS LISTED MAY BE ADDED AFTER AWARD ONLY AS PROVIDED IN THE LABOR STANDARDS CONTRACT CLAUSES 29 CFR, 5.5 (a)(1)(ii)

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federal register

Friday
February 1, 1980

Part IV

Department of Health, Education, and Welfare

Food and Drug Administration

Medical Devices; Procedures for Performance Standards Development; Requests for Data, Information and Comments on Voluntary Standards Development and Policy, and Request for Data and Information on In Vitro Diagnostic Devices

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Parts 16, 20, 809, and 861

[Docket No. 78N-0002]

Medical Devices; Procedures for Performance Standards Development

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing procedures for initiating, developing, establishing, amending, and revoking performance standards for medical devices, including in vitro diagnostic products. The rule sets forth the contents of standards, summarizes the development procedures established by the agency, and identifies the conditions under which the agency may contribute funds toward the development of any standard. FDA is also revoking the existing regulations for the development of standards for in vitro diagnostic products because these regulations are now obsolete.

EFFECTIVE DATE: The reporting and recordkeeping requirements contained in this rule have been submitted for approval by the Office of Management and Budget (OMB) in accordance with the Federal Reports Act of 1942. This regulation will become effective July 30, 1980, provided that approval of the OMB is received by that date. If OMB does not approve, without change, the reporting and recordkeeping requirements contained in the rule, FDA will revise the rule as necessary to comply with the decision of OMB. FDA will publish a notice in a future issue of the **Federal Register** concerning OMB's decision on these requirements.

FOR FURTHER INFORMATION CONTACT: Robert J. Cangelosi, Bureau of Medical Devices (HFK-310), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7222.

SUPPLEMENTARY INFORMATION: This final regulation is based on a proposal that was published in the **Federal Register** of July 25, 1978 (43 FR 32264). Interested persons were given until September 25, 1978 to comment. Upon request, this comment period was extended to November 30, 1978 by a notice published in the **Federal Register** of October 31, 1978 (43 FR 50700). The agency received 36 comments on a wide range of issues. However, there were no major objections to the proposed regulation, and only minor changes have been made in the final regulation. Following is a summary of these comments and the agency's response to them.

General Provisions

1. Two comments suggested that the word "Performance" be added to "Standards Development" in the title of Part 861 to conform to the title of section 514 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301-392) (the act).

The agency agrees and has made the suggested change.

2. Several comments inquired how FDA would use voluntary standards and how the agency would establish priorities for the development of standards. Several comments suggested that FDA include a definitive statement of its policy regarding voluntary standards in its final performance standards development regulation.

FDA agrees that it would be helpful to persons subject to this procedural regulation if a statement of FDA's policy concerning voluntary standards were published. Thus, elsewhere in this issue of the **Federal Register**, the agency is publishing a request for data and information concerning development of voluntary standards and a statement of its policy concerning endorsement of voluntary standards.

3. One comment said the proposed regulations would discourage individual manufacturers from participating in the development of a medical device performance standard. The comment cited as an example that a manufacturer developing a standard would be subject to inspections under § 861.30(b)(2) (21 CFR 861.30(b)(2)) to determine whether satisfactory progress was being made toward completion of the standard. The comment said FDA should rely on individual manufacturers as the basic resource for developing the requirements for all standards, and less emphasis should be placed on Federal agency development of standards because regulations developed by Federal agencies may not be practical or even necessary.

In response to this comment, the agency notes that any person, including an individual manufacturer, a Federal agency, or a voluntary standards organization, may submit an offer to develop a proposed standard under section 514 of the act and, thus, under § 861.26. If FDA accepts the offer, that person would be subject to inspection by duly designated agency employees under § 861.30(b)(2). FDA recognizes also that individual manufacturers, through experience developed over the years, know whether standards are practical for their products. For that reason, § 861.30(a)(2) permits interested persons, including individual manufacturers, to participate in the performance standards development process. In this way individual manufacturers may raise the issue of the impracticality of a particular standard with the person developing the standard. The agency does not agree, however, that manufacturers should be given preferential status in the standards development process, as the comment suggests.

4. One comment suggested that the regulation should require FDA to establish the need or rationale for a proposed performance standard.

The agency does not believe that it is necessary to establish such a requirement. Under § 860.84 (21 CFR 860.84) of the regulations, each device to be classified into any of three device classes must be accompanied by a classification panel recommendation that includes a summary of the reasons for the recommendation, a summary of the data upon which the recommendation is based, accompanied by references to the sources containing such data, and identification of any health risks presented by the device. The recommendation, together with other available information, is considered by the agency in determining the appropriate class for a device. This information provides the rationale for the classification determination. A summary of the information is published in the **Federal Register** during the classification process. The agency does not believe it is necessary to repeat this step during the standards development process. Also, any notice inviting offers to develop a performance standard will include a summary of the data from which the agency has determined a need for initiating the proceeding (see § 861.22(d)). The agency concludes that these steps will adequately identify the need or rationale for a standard and that the comment requires no change in the regulation.

5. One comment said the procedure set forth in section 513(a)(1)(B) of the act for classifying a device into class II has not been followed consistently by classification panels. The comment states that panels erroneously have placed devices into class II either because a standard already existed or because one could easily be developed. The comment claimed the panels did not first identify the risk associated with a product and then determine that general controls were insufficient to provide reasonable assurance of the safety and effectiveness of the device. The comment stated that FDA has not corrected these errors, and its failure to do so is contrary to the purpose of the act.

FDA advises that a classification panel makes only recommendations regarding the classification of a device; the agency, after considering the recommendation and other available information, including comments from the general public, determines the appropriate classification for a particular device. The classification process includes publication of a proposed classification regulation and invitation for comment by any interested persons. Thus, there are opportunities for interested persons to give their views on the appropriateness of the classification of a particular device before publication of a final classification regulation. The agency, in response to these comments, may change the classification of a device. Also, under section 513(e) of the act, any interested person may petition for reclassification on the basis of new information any time after FDA issues a final regulation classifying a device. Moreover, for a class II device, an interested person may request reclassification of the device within 15 days of the date of publication of a notice initiating a proceeding for the development of a performance standard. The agency concludes that the classification process conforms to the purpose of the act and rejects the comment.

6. Two comments said Part 861 should describe the use of disclosure standards. Disclosure standards would allow the manufacturer to disclose the performance of a device for specific identified characteristics when tested in accordance with the test methods provided in a standard. One comment said disclosure standards would be significantly more economical for both FDA and industry because no written performance specifications would be used with disclosure standards. Instead, to inform sufficiently the user and FDA of relevant performance criteria, the manufacturer would state on the labeling the performance characteristics of the product.

The agency notes that "disclosure standards" as described in the comment are not, legally speaking, standards at all, but labeling requirements that may be imposed in appropriate cases under sections 502 and 701(a) of the act (21 U.S.C. 352 and 371(a)), without reliance upon section 514 of the act. Such labeling requirements have been required for hearing aid devices (21 CFR 801.420). In addition, under § 861.7, a performance standard may require the use of, and prescribe the form and content of, labeling for the proper installation, maintenance, operation, and use of a device. The standard may also require labeling to state the results that may be expected if the device is used properly. The requirement for labeling, however, is part of, and not a substitute for, a performance standard. Disclosure standards would permit label declaration of what a manufacturer believes to be appropriate performance characteristics without agreed-upon test methods or performance parameters. Thus, use of such standards could result in a lack of uniformity, effectively defeating the purposes and goals of both Part 861 and section 514 of the act. The comment is rejected.

7. One comment suggested that FDA consult regularly with voluntary standards organizations and consider the priorities and plans of these organizations in the development of standards. It was suggested that this consultation could be accomplished by FDA's giving interested voluntary standards organizations advance notice in the **Federal Register** of FDA's standards priorities and plans on a fiscal year basis.

The agency agrees that all interested persons should have the opportunity to participate in developing standards. Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice setting forth its priorities and plans for the development of standards. The notice invites voluntary standards organizations, as well as any other interested person to comment on these priorities and plans. FDA expects to publish additional similar notices in the future, although not necessarily on a fiscal year basis.

8. Another comment said small businesses with five or fewer employees will have little or no manpower available to review draft performance standards and participate in the standards development process.

FDA emphasizes that because a performance standard will be binding on all manufacturers of a device, it is in the best interest of any manufacturer to evaluate and comment on proposed performance standards that affect its marketed medical device products. The agency will carefully consider comments from small manufacturers that demonstrate difficulty in meeting the requirements of any proposed standard.

The Office of Small Manufacturers Assistance of the Bureau of Medical Devices will inform all small manufacturers registered with FDA of developments in the standards development process and will make available to those who request them copies of **Federal Register** notices and proposals concerning standards.

Contents of Standards

8a. One comment suggested that the term "performance criteria" be changed in § 861.7(a) to "performance characteristics" because the term "performance criteria" is not defined anywhere in the regulation and it is not used in the act.

The agency agrees with the comment. The term "performance characteristics," which is used in section 514(a)(2)(B)(iii) of the act (21 U.S.C. 360d(a)(2)(B)(iii)), has been substituted for the term "performance criteria" in the final regulation.

9. Several comments objected to proposed § 861.7(b), and five comments argued that the provision should be deleted. One comment said it should be deleted because the terms "design," "construction," "components," and "ingredients" are not included as performance standard characteristics under the act, and only the performance of a device should be used to determine whether a device is safe and effective. One comment said proposed § 861.7(b) is unnecessary because the good manufacturing practice (GMP) regulation addresses this provision.

The agency disagrees with these comments. Section 514(a)(2) of the act provides that, where necessary, a performance standard may include provisions respecting construction, components, ingredients, and properties of the device. (The term "design" is discussed in paragraph 10 of this preamble.) The GMP regulation, moreover, contains general guidelines to assist firms in the manufacture, packing, storage, and installation of safe and effective medical devices. Section 820.1(b) of the GMP regulation states: "In the event it is impossible to comply with applicable regulations, both in this part and in other parts of this chapter, the regulations specifically applicable to the device in question shall supersede any other regulations." The agency concludes, therefore, that should there be a conflict between a requirement in the GMP regulation and a regulation establishing a performance standard, the latter will supersede the GMP requirement.

10. Two comments said the word "design" should be deleted from proposed § 861.7(b). One comment suggested deletion because the term is not used in the act and the concept is adequately covered by other statutory language. Another comment suggested

that where it can be demonstrated that the safety and effectiveness of a device are not affected, § 861.7(b) should allow for deviations from design and other provisions in the standard.

The agency does not agree that the term "design" should be deleted. The legislative history reveals that Congress intended that performance standards include design-related requirements when necessary:

> Although use of the term "performance standard" reflects a preference for standards which allow the fullest use of technological alternatives, the committee does not intend the term to be construed as excluding design-related requirements, as it is when it is used in the engineering community. Design-related requirements that are necessary to provide reasonable assurance of safe and effective performance or that improve device safety and effectiveness by reducing the likelihood of human error should be included in a performance standard (House of Representatives Rept. No. 94–853, 94th Cong., 2d sess. p. 26).

The agency intends that, where necessary, design-related characteristics as well as the other performance characteristics in proposed § 861.7(b) will be included in performance standards.

The agency also disagrees that proposed § 861.7(b) should provide for deviations from design-related provisions and other provisions in the standard. These requirements will be included in a performance standard only as necessary to assure that a device will perform in a safe and effective manner. Deviations could result in a loss of safety and effectiveness that the standard was designed to assure. The agency, therefore, will not consider variances.

11. One comment stated that biocompatibility should be included in proposed § 861.7(b) as a possible element of a performance standard because it is an important performance characteristic regarding the safety and effectiveness of devices.

The agency agrees that biocompatibility can be a very important consideration, especially for implanted devices. This requirement, however, is considered to be an element of components and ingredients and need not be included as a separate provision in § 861.7(b). When the agency determines that biocompatibility is necessary for protection of the public health, it will be included as a provision in the applicable performance standard.

12. Eight comments argued that the requirements of proposed § 861.7(c) relating to manufacturing processes and quality control procedures should be deleted because they are either not authorized by the act or would create an overlap with requirements in the GMP regulation. Another comment said such provisions in a standard would severely compromise the confidentiality of a firm's proprietary information relating to this type of data.

The agency is not persuaded that proposed § 861.7(c) should be deleted. The legislative history indicates that Congress intended that quality control procedures and manufacturing processes be included as elements of a performance standard. The House Report stated: "Provisions for the measurement of performance characteristics of a device may include quality control procedures, means for users to ascertain device performance, and methods for use by the Secretary in judging compliance with a performance standard" (H.R. Rep. No. 94–853, p. 26). Adequate quality control is inseparable from manufacturing processes, and provisions regarding both will be required, when necessary, to ensure the safety and effectiveness of a device.

The agency disagrees that proposed § 861.7(c) would require the disclosure of confidential commercial information regarding a firm's manufacturing processes or quality control procedures in the development of a standard. Section 861.7(c) does not require the submission of any information: it only sets forth the possible contents of a standard. Manufacturers developing a standard ordinarily will not be required to submit confidential commercial information regarding their manufacturing processes or quality control procedures.

13. Comments argued that proposed § 861.7(d), which sets forth provisions for testing, should either be deleted or revised. Four comments argued that the provision should be deleted because testing is outside the scope of the act or is adequately regulated by the GMP regulation. One comment suggested that § 861.7(d) be revised to include the following phrase: "If it is determined that no other more practicable means are available to the Commissioner to assure the conformity of the device to the standard." The comment argued that this phrase would clarify and properly implement the intent of section 514(a)(2)(B)(ii) of the act and establish when tests should be conducted by FDA or a third person.

The agency concludes that § 861.7(d) should not be deleted from the regulation because it is authorized by section 514(a)(2)(B)(ii) of the act. The agency agrees, however, that the suggested revision of proposed § 861.7(d) will ensure conformity with, and proper implementation of, the statutory intent. Accordingly, this section of the final regulation is changed to qualify when a standard will provide for testing by the agency or a third person.

14. Two comments said proposed § 861.7(e), which requires that test results show that the device conforms to an applicable part of a standard, should be deleted because the provision is either outside the scope of the act or is sufficiently addressed by the GMP regulations.

The agency rejects this suggestion. This provision is authorized by section 514(a)(2)(B)(iv) of the act. The GMP regulations do not address the contents of a performance standard. The agency has revised this section to state that a performance standard may require the "publication of" test results. Subsection (d) provides that a standard may require testing and subsection (f) provides that it may require codification of test results. Clearly, publication of the test results is contemplated because unpublished test results are of no value.

15. Five comments stated that proposed § 861.7(f), relating to certification of compliance with a performance standard, should be deleted. One comment argued that the provision is unnecessary because the device would be adulterated under section 501 or misbranded under section 502 of the act if it does not comply with a performance standard. Another comment urged deletion because the manufacturer would be liable for signing a false statement if a person signs a certification statement and a nonconforming device is then shipped in interstate commerce. The comment said the proposed section is basically a method of giving the agency authority to approve a device prior to its marketing. Another comment said proposed § 861.7(f) ignores the preamble's description of the method of providing certification from the manufacturer to the purchaser, which is by letter or by a tag or label affixed to a device or packaging for a device, and that the preamble discussion should form the basis of § 861.7(f).

The agency is not persuaded that § 861.7(f) should be deleted. The House Report states:

> The bill's authority to require that a performance standard include a demonstration that a device is in comformity with portions of a standard for which tests are required would ordinarily be implemented through procedures whereby manufacturers either certify to purchasers that the device conforms to an applicable performance standard or periodically make such certification to the Secretary (H.R. Rep. No. 94–853, pp. 26–27).

This statement of congressional intent conforms to section 514(a)(2)(B)(iv) of the act. It describes the means by which the purchaser or the FDA is to be put on notice that the device conforms to portions of the standard for which tests are required. This provision is intended to serve as an adjunct to sections 501 and 502 of the act. Thus, § 861.7(f) will be used when necessary to ensure that a device is safe and effective.

The agency notes also that a person would be liable for false statements made on a certification only if the statements were false or misleading in any material respect, as provided in section 301(q)(2) of the act (21 U.S.C. 331(q)(2)). Moreover, the agency disagrees with the comment that certification to FDA is basically a means to have the agency approve the device prior to its marketing. Approval by FDA is not required, only certification by the manufacturer of conformance to the standard.

The need for certification and the type of certification required will depend on the nature of the device. Thus, the method of providing certification will be included, when necessary, as part of the proposed rulemaking for a performance standard. Therefore, the various methods described in the preamble to the July 25, 1978 proposal (e.g., by a letter, tag, or label affixed to the device) will not be made part of this final regulation.

16. One comment recommended deletion in § 861.7(f) of the requirement for certification to purchasers because purchasers know that manufacturers cannot market devices that are adulterated or misbranded.

The agency disagrees with the comment. A purchaser may not be aware of the manufacturer's compliance with the act. Also, a purchaser has a right to formal assurance that a device meets an applicable performance standard.

17. Two comments recommended that proposed § 861.7(f) be revised because it is unclear how certification will be achieved. One comment suggested that certification by FDA should be required only when no other means are available to ensure the safety and effectiveness of the device. Another comment said § 361.7(f), as proposed, is unacceptable because it makes the manufacturer an insurer of patient safety. Also, the comment stated that the provision is basically unnecessary because certification representations between a manufacturer and purchaser are voluntary and can be addressed by a warranty or guarantee.

The type of certification required will depend on the nature of the device. Therefore, the agency does not believe that it is appropriate to state in § 861.7(f) how certification will be achieved, but each performance standard which requires certification will state how certification is to be achieved for a particular device. Section 861.7 provides that certification will be included in a performance standard only when it is necessary to provide reasonable assurance of the safety and effectiveness of a device. The agency believes that it would be redundant to state also that no other means are available to assure the safety and effectiveness of the device. The agency does not believe that certification makes the manufacturer an insurer of patient safety because the manufacturer is certifying only that the device meets the applicable performance standard. Although the manufacturer may voluntarily certify to the purchaser by a warranty or guarantee that the device meets the applicable performance standard, the agency believes that it may be necessary to require in certain cases that the manufacturer certify to FDA or the purchaser that the device meets the applicable performance standard. For these reasons, the agency believes that it is not necessary to make any changes in § 861.7(f) and rejects the comments.

18. Three comments suggested that proposed § 861.7(g), which provides that a standard may include a provision restricting sale or distribution of a device under section 520(e) of the act, be deleted or revised because it does not conform to section 514(a)(2)(B)(v) of the act. Two comments suggested that § 861.7(g) be limited by adding the phrase: "but only to the extent provided under section 520(e) of the act." The comments argued that this would avoid the implication that all devices subject to performance standards are restricted devices.

The agency disagrees that § 861.7(g) should be deleted; it is virtually identical to section 514(a)(2)(B)(v) of the act. The agency agrees with the substance of the suggested revision, however, and the final regulation has been amended accordingly.

19. Three comments recommended deletion of proposed § 861.7(h), which sets forth provisions on labeling and instructions for use. One comment argued that the section should be deleted because it is not related to performance standards and, therefore, is outside the scope of section 514 of the act. Another comment suggested the provision is an intrusion on the practice of medicine and the care of patients. Another comment suggested that all but the first sentence of § 861.7(h) be deleted because the remainder is overly broad and confusing.

The agency disagrees that § 861.7(h) should be deleted. The first sentence of the paragraph is virtually identical to section 514(a)(2)(C) of the act, and the second sentence is virtually identical to the intent set forth in the legislative history of the act (H.R. Rep. No. 94–853, p. 27). The agency points out that the provisions in § 861.7(h) will be required only as necessary to reasonably assure the safety and effectiveness of a device. FDA will not monitor physicians using a class II device unless the device is the subject of an investigational exemption. The agency does not believe that this section is overly broad and confusing.

19a. A comment, which recommended deletion of § 861.7(h), argued that FDA is attempting to suppress the use of diagnostic instruments because an FDA representative could object to the "results" given by a device or the "procedure" used, or FDA could find that the operator of a device was not "skilled in its use." The comment objected that none of these terms is defined in proposed § 861.7(h) to prevent possible unfair determinations by FDA officials.

The terms "results," "procedure," and "skilled" are used in their ordinary dictionary meaning, and FDA does not believe that it is necessary to define them further. The agency notes that § 861.7(h) will be used only to establish labeling requirements and will not be used to regulate the actual use of the device. Where appropriate, the actual use of a device will be regulated in accordance with other sections of the act.

20. One comment recommended that the statement in proposed § 861.7(h) that provides that a standard may include a provision requiring the date and place of manufacture to be included on the labeling be deleted because this information is neither useful nor relevant for the purchaser.

FDA does not believe that this portion of proposed § 861.7(h) should be deleted. The date and place of manufacture may or may not be useful to the purchaser, but they will be helpful to FDA when investigating a complaint about the device.

21. Two comments recommended that proposed § 861.7(h) be broadened. One comment said that the labeling should provide for disinfection or sterilization of a medical device, if reusable. Another comment suggested that the labeling or instructions for use include the term "precautions" in addition to the term "warnings" because both terms provide a more specific statement. The same

comment also suggested that the phrase "accuracy of diagnosis" be replaced with "accuracy of diagnostic information" because "accuracy of diagnosis" would encompass the entire scope of a practitioner's diagnosis, i.e., his or her medical judgment and use of other medical and scientific tests.

FDA does not believe that it is necessary to add a specific labeling provision relating to disinfection or sterilization of a reusable medical device. The issue of reuse of a device will be more appropriately addressed in the proposal for a particular device standard. Also, the agency does not believe that the term "precaution" should be added to the term "warnings" because the use of both terms would be redundant. The agency agrees, however, that the phrase "accuracy of diagnosis" should be replaced with the recommended phrase, "accuracy of diagnostic information," because the latter is a more precise description of what is intended. Accordingly, the suggested phrase has been added to the final regulation.

22. Two comments objected to the provision of § 861.7(h) that a performance standard may contain a requirement that the labeling include a statement that the device is safe and effective only when used in the treatment of a patient found to have an illness or condition for which the device is indicated. The comments said this would not be appropriate for a diagnostic product that is used to determine whether the patient has an illness or condition.

Section 861.7 sets forth the provisions that may be necessary to address in any performance standard. A particular standard may contain one or more of these provisions as is necessary to provide reasonable assurance of the safety and effectiveness of the device, but will rarely contain all these provisions. A performance standard for a diagnostic product, for example, will not contain the type of provision to which the comments objected. Therefore, no change in § 861.7(h) is necessary.

Summary of Standards Development Process

23. One comment urged that Subpart B of Part 861 should include separate procedures for developing baseline standards. This comment suggested that these procedures should specify that the reclassification provisions of section 514(b) of the act do not apply to a baseline standard and that any performace standard for a specific device subject to the baseline standard should refer to the baseline standard and state to what extent the baseline standard is modified with respect to that particular device. The comment also stated that the procedures should provide that a baseline standard not apply to a device until the effective date of a performance standard for that particular device.

FDA believes that the procedures established in Part 861 provide for the development of baseline standards. A baseline standard addresses a particular hazard that may be presented by a number of devices, e.g., electrical safety. FDA may adopt an existing baseline standard or develop a baseline standard and then either list the devices to which the standard applies or include the baseline standard in any standards developed for individual devices. When initiating a proceeding to develop a baseline standard with the notice required by section 514(b) of the act, FDA may specify those devices to which the proposed baseline standard applies. Any interested person may then petition for the reclassification of any of these devices in accordance with section 514(b) of the act. If, however, an established baseline standard applies to a number of devices, FDA sees no reason why the baseline standard should not be made effective for any of these devices before the effective date of a performance standard for the individual device. If a performance standard is developed later for the individual device, it will either include the baseline standard or modify it as appropriate for the particular device.

24. Four comments objected that a person could not submit an adequate petition for reclassification within 15 days after the publication of a notice in the **Federal Register** initiating the development of a performance standard as required by § 861.20(a). Some comments recommended that this period be extended to 30 or 45 days, while one comment suggested that the petitioner only be required to submit a simple request for reclassification within 15 days and be allowed 30 days to submit the actual petition.

In response to these comments, FDA notes that the 15-day period is established by section 514(b)(1) of the act. Furthermore, interested persons will have been aware of the classification of the device before the notice initiating the development of a performance standard is published, and will, therefore, have had sufficient opportunity to develop the information for a reclassification petition. Also, any interested person may file a reclassification petition based on new information at any time under section 513(e) of the act and § 860.130 (21 CFR 860.130). The period provided by section 514(b) of the act and § 861.20(a) is short so that FDA may expedite the development of a standard.

25. One comment said § 861.20 is inconsistent with FDA procedures in § 860.130 for petitioning for reclassification. The comment said § 860.130 provides that FDA must either deny a petition for reclassification or give notice of its intent to initiate a change in classification within 180 days, while § 861.20(b) provides that FDA must respond within 60 days.

FDA advises that § 860.132 (21 CFR 860.132) describes the procedures applicable to reclassification petitions submitted under section 514(b)(2) of the act, whereas § 860.130 applies to reclassification proceedings under section 513(e) of the act. Section 860.132(b)(3) provides that the agency must act within 60 days after initiating a proceeding for development of a performance standard. This is consistent with § 861.20 (a) and (b), and the comment requires no change in any of the regulations.

26. Once comment said the provision in proposed § 861.20(c) allowing 60 days to submit a standard may not provide enough time in all cases for a voluntary organization to assess thoroughly FDA's stated priorities and plans and to develop a suitable response.

The agency advises that the 60-day time period is specified by section 514(c)(1)(A) of the act. Also, under proposed § 861.22, all pertinent information pertaining to the device, e.g., a statement of risks associated with the device, will be described in the **Federal Register** notice inviting offers to develop a proposed standard. This information will assist and guide an organization in developing a satisfactory response within 60 days.

27. Three comments objected to proposed § 861.20(d)(1), which provides that Federal agencies would be preferred over voluntary standards organizations as standards developers. One comment said this policy would be counter-productive and frequently would result in standards that are either technically or operationally ineffective. Another comment argued that a Federal agency would be less likely than a voluntary standards organization to have the personnel, expertise, and resources needed to develop a performance standard. Moreover, the comment asserted that this preference for Federal agencies ignores the legislative history of the act, which directs FDA to rely extensively on the resources in the voluntary standards community.

FDA disagrees with these comments. Section 514 (a)(5)(A) and (c)(4) of the act, as well as the legislative history, clearly indicates that Federal agencies, including FDA, should be preferred in developing a standard if they have the necessary expertise and experience (H.R. Rep. No. 94–853, p. 26). As discussed in the preamble to the July 25, 1978 proposal, FDA has already developed, or assisted in the development of, voluntary performance standards. However, if the required expertise and experience for developing a proposed standard are not available from a Federal agency, including FDA, the agency will look to expertise and experience outside the government. The agency knows that voluntary device standards have been, or are being, prepared by various voluntary standards-setting organizations. Voluntary standards organizations, if qualified, may have a standard accepted in whole or in part, as a proposed performance standard.

28. One comment said proposed § 861.20(e) does not state the time period allotted for submission of comments in response to publication in the **Federal Register** of a proposed performance standard.

FDA advises that § 861.20(e)(1) provides that a notice of proposed rulemaking will be governed by § 10.40 (21 CFR 10.40) of the agency's general administrative regulations. Section 10.40(b)(2) provides that ordinarily FDA will provide a 60-day comment period, but may reduce or extend the period for good cause.

29. One comment stated that § 861.20(f) does not establish when a final standard will become effective.

Section 861.36 sets forth the requirements concerning the effective date for standards, which ordinarily will be not sooner than 1 year after date of publication of a standard. As provided in section 514(g)(3)(B) of the act, FDA may provide a shorter time period if necessary to protect the public health and safety or if the standard has been established for a device that, by the effective date of the standard, has been reclassified from class III to class II.

Invitation for a Standard

30. One comment recommended that proposed § 861.22(a) be revised to require the offeror to spend at least 1 year developing a standard to avoid a hastily written, unsound standard.

The agency rejects the comment. Section 861.22(a) provides that FDA, not the offeror, will establish the time period. In establishing the time for development, the agency will take into account all relevant factors, including an appropriate comment period, conferences, and possible public health and safety problems associated with the device. Consequently, a time period longer, or shorter, than 1 year may be required to develop an effective standard.

31. One comment stated that it is essential that the **Federal Register** notice inviting offers to develop a proposed standard contain accurate and not merely speculative information regarding the statement of risks associated with the device. To minimize the possibility of misleading and false statements of risks associated with the device that could result in the device being too strictly regulated, the comment suggested that the agency should revise proposed § 861.22(c) to have the pertinent classification panel review the statement of risks before it is published in the **Federal Register.**

The agency disagrees with this suggestion. Before the initiation of the performance standard rulemaking process, the generic group of devices subject to a performance standard are first classified into class II by regulation. As a part of this process, the appropriate classification panel or panels identify the risks to health associated with the devices, and this determination is published in the **Federal Register** for public comment. At the time of final classification, the agency either adopts the panel's identification of risks to health or develops its own. There is no need to duplicate this process, as suggested by the comment.

32. One comment suggested that proposed § 861.22(e) be revised to require FDA to evaluate any existing standards known to the agency and to indicate, in the **Federal Register** notice inviting offers to develop a proposed standard, any deficiencies in these existing standards.

Generally, of course, FDA will review any existing standards before inviting offers to develop a standard and will discuss these standards in the **Federal Register** notice. FDA does not believe, however, that it is necessary to amend § 861.22(e) to require that this be done.

33. Three comments said the phrase "approximate number of products" in proposed § 861.22(f) needs clarification because it is not clear whether the term means the number of marketed units or the number of kinds of models within a particular type.

The agency agrees with this comment and therefore has added the phrase "(i.e., kinds of models)" to § 861.22(f).

Existing Standard as a Proposed Standard

34. Two comments suggested that the agency should consider the economic impact of a proposed performance standard on consumers and the device industry, particularly small manufacturers. One comment said an existing standard may be scientifically unimpeachable, yet be anticompetitive or reduce innovation in the device industry.

The agency agrees that it should consider the possible economic and anticompetitive effects of an existing standard that is being considered for adoption. The agency does not believe, however, that the comment requires any change in the regulation. Section 861.20(e) provides for the submission of comments by interested persons regarding a proposed standard. Interested persons may comment concerning any potential anticompetitive aspects of the standard. Anticompetitive features of a proposed performance standard will be carefully considered, especially as they may relate to smaller manufacturers. Nevertheless, a standard will not be accepted or developed that compromises safety and effectiveness.

35. One comment recommended that proposed § 861.24 be expanded to require FDA to consider whether the existing standard reflects the state-of-the-art, and whether it has a physiological significance to the ultimate user.

Section 861.24 sets forth the conditions under which FDA will accept an existing standard as a proposed standard. If an existing standard is accepted as a proposed standard, it will be the subject of a rulemaking proceeding, and interested persons will have an opportunity to comment on matters such as whether the existing standard reflects the current state-of-the-art and whether it has a physiological significance to the user. Then FDA will consider these comments before it establishes a final performance standard for the device. As a matter of practicality, however, the agency generally will not accept an existing standard if the result will be to prevent a device from being manufactured. Therefore, it is not necessary to revise § 861.24.

36. One comment suggested that the regulation should contain procedures that apply when two or more existing standards are submitted to FDA, including provisions for the solicitation of comments before the agency accepts one of the existing standards.

The agency notes that § 861.24(a)(1) requires the submission of an existing standard to include: "a description of the procedures used to develop the standard * * *" The procedures to be used must provide for an open, balanced evaluation of the standard, e.g., public meetings, reasonable notice, and opportunity to submit comments. Because the existing standard must have previously been analyzed and evaluated for any defects or lack of consensus on its structure, it would be a duplication of effort for FDA to solicit comments before making a decision on the existing standard(s) submitted.

The agency notes that it may select all, portions, or none of two or more submitted existing standards. Once the agency has made a decision, however, it must issue a notice of proposed rulemaking in the **Federal Register**, as provided in § 861.20. This procedure will present a further opportunity to comment on the adequacy of the accepted standard.

37. One comment suggested that the criteria for the acceptance of existing standards in proposed § 861.24 should be amended to include a requirement that the existing standard address the risks to health presented by the device because only those considerations are relevant.

Section 861.24 states what must be included in the submission of an existing standard; it does not establish the criteria for judging a standard. In determining whether a standard should be adopted, FDA will consider the risks to health presented by the device as well as other relevant information.

For example, a description of the procedures used to develop the standard is needed so that FDA may ascertain the scientific basis on which the existing standard was developed and whether the standard was developed through an adequate and open process. No change is necessary in the final regulation.

38. Two comments suggested that § 861.24(a)(2) be revised to require that the submission include a description of how each portion of the standard relates to the risks identified in § 861.22(c). This requirement would prevent the submission of irrelevant material.

FDA believes that the language in § 861.24(a)(2) adequately requires that this type of information be included in the submission, and therefore no change in the final regulation is necessary.

Offer To Develop a Proposed Standard

39. Five comments objected that under proposed § 861.26(a)(3), those offerors who are most capable of developing performance standards, e.g., manufacturers or standards organizations, could be excluded from consideration for developing a standard due to undefined, potential conflicts of interest. One comment suggested that this provision be clarified by adding to the end of the provision the statement "which may be relevant with respect to the offeror's qualifications to develop a standard for the particular device." The comment noted that this addition would more closely conform proposed § 861.26(a)(3) to the language of section 514(c)(3) of the act.

The agency agrees with the comment. The intent of the disclosure requirements is to provide the agency with information regarding potential conflicts of interest of the offeror that could affect the development of a standard. There will be no automatic disqualification for potential conflicts of interest. Disqualification of the offeror will occur when any potential conflicts of interest outweigh the offeror's expertise and experience. Accordingly, the recommended revision has been added to the final regulation with a stylistic modification, and the statement "with respect to the development of the standard," appearing at the beginning of proposed § 861.26(a)(3) has been deleted from the final regulation.

40. One comment argued that the submission of information respecting "all business entities in which the offeror has a financial interest" as required by proposed § 861.26(a)(3) is not needed to determine any potential conflicts of interest and borders on an invasion of privacy.

The agency agrees with the comment. As stated above, the agency has revised § 861.26(a)(3) to require only the submission of information "which may be relevant to the offeror's qualifications to develop a standard for the particular device."

41. One comment recommended that proposed § 861.26(a)(3) permit consideration of a person's offer, even if the employees or consultants of the offeror have a potential conflict of interest, when the employees or consultants possess the expertise and capability to develop performance standards.

The agency does not believe that a change is necessary. Section 861.26(a)(3) only requires the submission of information concerning potential conflicts of interest of an offeror's employees or consultants. The agency will not disqualify an offer because the employees or consultants may have potential conflicts of interest unless the offeror's efforts to develop a satisfactory standard would be affected.

42. Two comments argued that proposed § 861.26(a)(4) should be deleted because compliance with environmental regulations has no relevance to the offeror's ability to develop a standard, and it is adequately addressed in other regulatory procedures.

The agency is not persuaded that § 861.26(a)(4) should be deleted. The purpose of this provision is to put the agency on notice whether the offeror has complied with all Federal, State, and local environmental requirements, e.g., the Clean Water Act. When issuing a standard, whether the standard is developed within the agency or by an offeror, FDA must comply with the requirements of the National Environmental Protection Act. To ensure that the agency can meet their requirement, the agency must be satisfied that the offeror can comply with such requirements during the process of developing a standard.

43. One comment said proposed § 861.26(a)(6) and (7) contain no specific means for FDA to evaluate the descriptions submitted by competing offerors of how interested persons will be given reasonable and adequate notice of their right to participate in the development of standards and the methods of participation.

FDA does not believe that any change in the final regulation is necessary. FDA will judge competing offers in light of its self-imposed policy, stated in § 861.5, to invite participation, to the maximum extent practical, by all persons and organizations who may make a significant contribution to the standards. The provisions of § 861.26(a)(6) and (7), which implement section 514(e)(4)(B) of the act, provide that all offerors also must describe when and how any interested person, e.g., manufacturers, competitors, consumers, physicians, and academia, may participate. Such participation may include submission of written comments or discussions at public meetings regarding issues relating to the development of the performance standard. These requirements are mandatory, and if an offeror fails to provide sufficient opportunity to comment, FDA will reject that offer.

44. One comment suggested proposed § 861.26(a)(10) be modified to allow the offeror to submit appropriate existing test data obtained through previous experience with the device.

The agency agrees with the comment. Previously developed test data or other appropriate information could reduce the period required to develop the standard. Accordingly, the statement "or has used," has been inserted following the statement "the offeror intends to use * * *" in the final regulation.

45. One comment urged that proposed § 861.26(a)(12) require that all offerors develop a standard to be funded by FDA to prevent unnecessary influence from certain groups or individuals.

The agency rejects the comment because to provide compensation for all accepted offers would be an unnecessary expenditure of funds. Financial information submitted by an offeror under § 861.26(a)(12) will help demonstrate the need for funding by FDA, if the offeror requests it. Any undue influence by persons or groups on the offeror in the development of a standard should be prevented through information obtained from § 861.26(a)(3), which provides for the disclosure of potential conflicts of interest by the offeror and through the open public process required in § 861.26(a)(6) and (7).

Acceptance of Offer to Develop a Standard

46. Three comments argued that proposed § 861.28(a) should be revised to allow an offeror who is qualified to develop a sound performance standard to do so even if the offeror has a financial interest in the particular device or in the device industry generally. The comment argued that it would be unrealistic to reject an offeror who has a financial interest because voluntary standards organizations frequently obtain the technical expertise for writing a standard from industry members and physicians who have a financial interest in the device for which a standard is written. One comment said it is impractical to select a less qualified offeror who has no financial interest in the device or in the device industry generally over an offeror with more competence and experience but with a financial interest. The comment suggested that the offeror with lesser financial interests be selected only when two offerors are equally qualified.

In response to these comments, FDA advises that it will not reject an offer merely because the offeror has a financial interest in the device or in the device industry. Rather, the agency will weigh any potential conflict of interest against the offeror's expertise and experience. Other things being equal, however, the offeror with no conflict will be given preference as provided in § 861.28(a). Therefore, the change suggested by the comment is not accepted.

Development of Standards

47. One comment said Part 861 does not provide for submission of comments and objections by interested persons regarding the development of a standard or amendment or revocation of an existing standard.

FDA points out that § 861.30(a)(2) requires the developer of a standard to provide an opportunity for comment and to specify the method by which interested persons can submit oral or written comments. Regarding offers to develop a proposed standard, § 861.26(a)(6) and (7) describes how interested persons will be able to participate in the development of a standard. Where an existing standard is subject to an amendment or revocation proceeding, § 861.34(d) specifies that such proceeding is subject to the agency's rulemaking procedures in § 10.40 (21 CFR 10.40), which require that interested persons be given an opportunity to submit comments.

48. Two comments expressed concern that the present means of requesting and evaluating comments from interested persons by firms or standards-writing organizations was not sufficiently addressed in proposed § 861.30(a)(2). One comment said that publishing a notice to interested persons in the **Federal Register** or holding meetings would not result in a sufficiently broad-based participation. The comment urged that other, more popular, forums be used so that interested persons, particularly potential users of the device, may participate if they so choose. Another comment urged the agency to provide means whereby the section within the standards-setting organization that analyzes the comments or holds meetings is sufficiently balanced with consumers and professionals so that a meaningful and reasonable standard is developed.

FDA notes that private firms and voluntary standards organizations will not be able to use the **Federal Register** to make announcements. The agency will use the **Federal Register** to make announcements about the standards development process, whether developed by FDA or offerors, whenever it is appropriate. FDA will make sure that other standards developers use other methods to make interested persons aware that comments on a matter are requested or that meetings are to be held, and the agency itself will also use these other methods. Methods of making this information available to the general public will include press releases, mailing information to those parties registered with FDA as manufacturers of devices that are the subject of the standard, and providing information to nationally recognized professional associations known to have an interest in a product. The agency will monitor standards developers to assure that they are providing wide distribution of information regarding the development of standards.

FDA will carefully scrutinize the evaluation process employed by offerors to ensure that all comments have been carefully and impartially considered. Of course, if FDA determines that the requirements of § 861.30(a)(2) are not met, the agency will reject a standard developed by the offeror.

49. One comment said § 861.30 should be revised to include a requirement that persons who are developing a performance standard reveal any other interested persons they may represent.

The agency believes that a change in the regulation is not necessary to accomplish this goal. Section 861.24(a)(1) requires that an existing standard submitted to FDA include a list of persons and organizations that participated in the development of the standard, and § 861.26(a)(3) requires the maker of an offer to develop a standard to submit to FDA information relating to potential conflicts of interest. Such information is available for public disclosure as provided in § 861.26(b).

50. Two comments recommended deletion of the requirement in proposed § 861.30(b)(2) that a developer permit FDA inspection of a developer's facilities and development activities. One comment said such inspections would not be practical in determining whether satisfactory progress is being made toward developing the standard in accordance with the terms of the accepted offer, within the designated time period.

The agency is not persuaded that this requirement should be deleted. Section 514(e)(4)(C) of the act requires a developer to maintain records to disclose the course of the development of a proposed performance standard. Section 514(e)(4)(E) also requires a developer to submit periodic progress reports during the development of a proposed performance standard. It may be necessary for FDA to inspect a developer's facilities if, after examining the records and periodic progress reports, the agency is unable to determine whether satisfactory progress is being made. The comments are rejected.

51. One comment on proposed § 861.30(c) suggested that the third sentence—relating to actions the agency may take after determining whether the developer is able and willing to complete the proposed standard within the designated time period—be amended by adding the phrases "or a reasonable time period thereafter" and "or order the person to complete the standard within the agreed upon time

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schedule." This change would provide greater flexibility where the agency determines it is not appropriate to terminate the developer's participation in the development of a standard or to extend the standard development period.

The agency agrees in part with the comment, and § 861.30(c) in the final regulation is revised to provide that FDA may determine that a standard can be developed within the designated time period based on the information available to it. It is unnecessary to provide specifically for "a reasonable time" beyond the designated time period because the agency may extend the period for completion of a standard based on the facts relating to the specific standard. However, the phrase "or direct the person to complete the standard within the designated time period" has been added to the final regulation.

Contribution by the Food and Drug Administration to the Costs of Developing a Proposed Standard

52. Two comments objected to proposed § 861.32. One comment said FDA has no authority to fund participation in the development of a proposed standard. Another comment argued that the prohibition in § 861.32(c)(2) of providing funds for the "costs for the payment of salaries in excess of the amount paid by the offeror at the time immediately preceding the offer * * *" contradicts proposed § 861.32(b)(3), which allows FDA to fund "preparation of and participation in public review of draft standards."

FDA disagrees with these comments. Section 514(e)(3) of the act authorizes FDA to contribute funds towards certain costs incurred in the development of a standard. Any funding will be premised on a determination by FDA that the contribution is likely to result in the development of a more satisfactory standard. The language in § 861.32(c)(2) does not contradict the language in § 861.32(b)(3); it merely limits the extent to which FDA will fund preparation of and participation in public review of draft standards.

FDA also wishes to point out that Congress did not intend that the invitation to submit or develop a proposed performance standard be construed as procurement, and therefore it will not be subject to section 8 of the Small Business Act (relating to procurement contracts) or the requirement under 41 U.S.C. 5 (relating to the requirement of advertising before contracting) (H.R. Rep. No. 94–853 at 27).

Amendment or Revocation of a Standard

53. Two comments on § 861.34(a) recommended a periodic evaluation of standards at maximum specified intervals to account for progress in technology in the device industry. One comment said there should be an automatic review based on submission of relevant evidence.

FDA disagrees with the comments. Each standard regulates a different type of device. To examine all standards at fixed periods of time would be inappropriate and wasteful. A person with new or important data regarding either a standard or a device should notify FDA and request appropriate action.

54. One comment noted that proposed § 861.34, read together with proposed § 861.36(c), which deals with the effective dates of standards, would make an amendment or revocation of an existing standard effective immediately upon its publication in the Federal Register. The comment noted that this procedure could allow a competitor to develop a monopoly, as well as to prevent other firms from having an opportunity to comment on an amendment or revocation petition. The comment suggested that proposed § 861.34 be revised to require FDA to publish in the Federal Register a notice announcing receipt of a petition to amend or revoke a standard so that interested persons may comment on the petition. The comment noted that § 10.30(d) [21 CFR 10.30(d)], although providing for an opportunity for submission of comments on a petition, does not give interested persons any notice of receipt of a petition.

FDA believes that § 861.34 adequately provides an opportunity for comment. Section 861.34(d) provides that all proceedings to amend or revoke a performance standard shall be conducted in accordance with rulemaking procedures set forth in § 10.40, which provides for a notice and comment period. Thus, FDA will not ordinarily revoke or amend a performance standard without publishing a proposal in the Federal Register for comment. Any proposal that is published in response to a petition would state that fact, thereby providing notice of receipt of the petition, as well as opportunity to comment on it. Although § 861.36(c) provides that FDA may declare a regulation amending a standard effective immediately upon its publication in the Federal Register, the agency emphasizes that this section also provides that before publishing such an amendment, an informal hearing must be held, as provided in 21 CFR Part 16, to determine whether such an action would be in the public interest. Any interested person who attends a hearing held under Part 16 may participate to the extent of presenting relevant information.

55. Two comments argued that proposed § 861.34 (c) and (d) should be revised to provide for an additional, speedier means of effecting necessary changes in existing standards. One comment argued that the present method of amending or revoking standards is too slow to provide for innovations that could reduce the cost of patient care. Another comment suggested that a person, presumably a manufacturer or sponsor of medical devices, be given the opportunity to change a standard if: (1) the change does not affect the risk-benefit ratio, (2) the person notifies FDA before making the change, and (3) FDA does not notify the person within 60 days not to make a change in the standard.

FDA rejects the comments. The present structure of § 861.34 (b), (c), and (d) permits rapid amendment or revocation of an existing standard, if necessary, while also allowing public participation through notice and comment on rulemaking, as provided in § 10.40 (b) and (e). To allow a person on his or her own initiative to change a standard, even after notifying FDA, would render meaningless the public participation procedures set forth for establishing, amending, or revoking a standard and also could lead to a profusion of different, uncoordinated changes in existing standards. Such activities are not authorized by the act.

Effective Dates

56. Four comments objected to § 861.36(b), which provides that a standard generally will take effect 1 year after publication of the final standard in the Federal Register. One comment said this provision ignores the economic realities of device manufacturing because the time between the production and delivery of a device may be more than 1 year. Another comment said that a premature effective date could result in the disruption of patient care during the transition from old equipment to new equipment. One comment recommended that generally 2 years be allowed before a standard becomes effective, consistent with public health and safety.

FDA advises that the 1-year period is not intended to be the maximum time allocated for a standard to become effective. The agency will designate an effective date only after reviewing all available information, including economic factors and patient care needs. Section 514(g)(3)(B) of the act requires that the effective date "be established so as to minimize, consistent with the public health and safety, economic loss to, and disruption or dislocation of domestic and international trade." The legislative history states (H.R. Rep. No. 94–853, p. 30): "The committee recognizes that it will take some time for devices on the market on the date of the establishment of a performance standard to conform to the standard." Consequently, FDA, when necessary, may establish an effective date longer than 1 year, e.g., to provide for manufacturing and delivery of new devices that must conform to the regulation. A longer period of time may also be applied to amendments or revocation of an existing standard, unless, as with establishment of a new standard, an earlier effective date is required to protect the public health and safety. The agency emphasizes, however, that "stock-piling" of nonconforming devices is discouraged because all devices in commercial channels must conform to a standard on its effective date. Thus, the agency concludes that the comments do not warrant any change in the effective date provisions.

57. One comment suggested that § 861.36(b) be clarified to state that the effective date of a standard generally will be 1 year after publication unless a shorter or longer time is specified in each standard, or unless FDA, for purposes of public safety, deems another period necessary.

The suggestion is not adopted. FDA believes that § 861.36 clearly states the general rules with respect to the effective dates of performance standards.

58. One comment stated that a shorter period than 1 year should be used only on a finding that a serious health hazard to the public is involved, and then the standard should not become effective for at least 4 months.

The agency advises that a standard will not become effective earlier than 1 year after publication in the Federal Register unless an earlier effective date is needed to protect the public health and safety. The agency believes that given the widely varying nature of devices being regulated by performance standards, a fixed period of time, such as 4 months before a standard can become effective, would be too inflexible and would not serve the public interest.

59. One comment objected that under § 861.36(c) the manufacturer of a device for which an amended standard becomes effective upon publication of a proposed regulation would have to terminate production of the device upon publication of the proposal. The comment argued that the manufacturer could not make the product in conformance with the old standard because it could not be marketed after publication of the proposal; nor could the manufacturer make it in conformance with the amended standard because the amended standard could be changed as a result of comments.

The agency disagrees with the comment. Section 861.36(c) is virtually identical to section 514(g)(4)(B) of the act, which provides:

> The Secretary may declare a proposed amendment of a performance standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if he determines, after affording all interested persons an opportunity for an informal hearing, that making it so effective is in the public interest. A proposed amendment of a performance standard made so effective under the preceding sentence may not prohibit, during the period in which it is so effective, the introduction or delivery for introduction into interstate commerce of a device which conforms to such standard without the change or changes provided by such proposed amendment.

The legislative history (H.R. Rep. No. 94–853, p. 30) states: "This expedited approach is intended to stimulate desirable changes in standardized products without penalizing manufacturers of products on the market that conform to existing standards." Thus, a device that does not conform to the amended standard could continue to be marketed until final action is taken on the proposed amendment, although, in accordance with the expression of legislative intent, the agency encourages early compliance with any amended standard.

Standards Advisory Committees

60. Two comments objected to the general structure of proposed § 861.38. One comment said the use of standards advisory committees would be too slow and cumbersome to effect necessary changes in performance standards needed to keep pace with improvements in device technology. Another comment said current members of nongovernmental voluntary standards organizations could meet the objectives of the advisory committee.

FDA points out that section 514(g)(5)(A) of the act requires a standards advisory committee to provide FDA with a report and recommendation, together with all underlying data and information and a statement of the reason or basis for the recommendation, within 60 days after the agency refers a proposed regulation to it. Moreover, standards advisory committees will not be used automatically, but only when there is need for the exercise of scientific judgment not possessed by FDA. Beyond the fact that the act provides for the agency to establish formally advisory committees and established the time within which any advisory committee must respond to referral of a proposed regulation, the comment did not supply any evidence that this process would impede improvements in technology. The comment is rejected. The second comment was not clear as to the meaning of meeting the objectives of the advisory committee. However, assuming the comment was arguing that the voluntary standards-setting process would be faster or less cumbersome than the advisory committee process, the agency concludes that to request a report from an existing voluntary standards organization would not be faster or more logical because the act specifically provides for advisory committees to be used only when FDA, in its judgment, determines it is necessary. The second comment is also rejected.

61. Two comments recommended changes in § 861.38(a) regarding the composition of the standards advisory committees. One comment said FDA should appoint members of the appropriate classification panel to the advisory committee considering the standard to ensure a continuity in the development of a sound standard. Another comment suggested that consumer and industry representatives be given voting power on the advisory committee.

Although § 861.38(a) and section 514(g)(5)(B) of the act provide that a committee may not consist entirely of classification panel members, the preamble to the proposal and legislative history of the act provide that FDA may appoint individual members of the relevant classification panel to the committee. The agency, however, does not believe it is appropriate to require that every standards advisory committee contain classification panel members. Section 514(g)(5)(B) of the act and 21 CFR 14.84(b) prohibit consumer and industry representatives of the committees from voting. Thus, the comments do not require any change in the regulation.

62. One comment said §861.38(b) should be changed to provide that the standards advisory committee consider issues other than those requiring the exercise of scientific judgment.

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FDA disagrees. Section 514(g)(5)(A) of the act specifically limits the issues to be evaluated by the standards advisory committees to those requiring the use of scientific judgment. Other issues should be addressed during the comment period provided in the processes for developing both the classification and performance standard regulations.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 502, 513, 514, 701, 52 Stat. 1049–1051 as amended, 1055–1056 as amended, 90 Stat. 540–552 (21 U.S.C. 351, 352, 360c, 360d, 371)) and under authority delegated to the Commissioner (21 CFR 5.1), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 16—REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION

1. In Part 16, by adding new paragraph (b)(33) to § 16.1, to read as follows:

§ 16.1 Scope.

* * * * *

(b)* * *

(33) Section 861.36 of this chapter, relating to an immediate effective date for proposed regulations amending performance standards for medical devices.

PART 20—PUBLIC INFORMATION

2. In Part 20, by adding new paragraph (c)(32) to § 20.100, to read as follows:

§ 20.100 Applicability; cross-reference to other regulations.

* * * * *

(c) * * *

(32) Data and information submitted in offers to develop a proposed performance standard for medical devices, in § 861.26 of this chapter.

PART 809—IN VITRO DIAGNOSTIC PRODUCTS FOR HUMAN USE

3. In Part 809:

a. In § 809.3, by revising paragraph (a) and revoking and reserving paragraph (c) as follows:

§ 809.3 Definitions.

(a) "In vitro diagnostic products" are those reagents, instruments, and systems intended for use in the diagnosis of disease or other conditions, including a determination of the state of health, in order to cure, mitigate, treat, or prevent disease or its sequelae. Such products are intended for use in the collection, preparation, and examination of specimens taken from the human body. These products are devices as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act), and may also be biological products subject to section 351 of the Public Health Service Act.

* * * * *

(c) [Reserved]

* * * * *

b. By revising § 809.4, to read as follows:

§ 809.4 Confidentiality of submitted information.

Data and information submitted under § 809.10(c) that are shown to fall within the exemption established in § 20.61 of this chapter shall be treated as confidential by the Food and Drug Administration and any person to whom the data and information are referred. The Food and Drug Administration will determine whether information submitted will be treated as confidential in accordance with the provisions of Part 20 of this chapter.

c. By revising the introductory text of paragraph (c) of § 809.10, to read as follows:

§ 809.10 Labeling for in vitro diagnostic products

* * * * *

(c) A shipment or other delivery of an in vitro diagnostic product shall be exempt from the requirements of paragraphs (a) and (b) of this section and from a standard promulgated under Part 861 provided that the following conditions are met:

* * * * *

§§ 809.30, 809.34, and 809.35 [Revoked]

d. By revoking Subpart D—In Vitro Diagnostic Products for Human Use, including § 809.30 *Procedure for establishing, amending or repealing standards*, § 809.34 *Court appeal*, and § 809.35 *Regulatory action*.

4. By adding new Part 861, to read as follows:

PART 861—PROCEDURES FOR PERFORMANCE STANDARDS DEVELOPMENT

Subpart A—General

Sec.

861.1 Purpose and scope.
861.5 Statement of policy.
861.7 Contents of standards.

Subpart B—Procedures for Performance Standards Development and Publication

861.20 Summary of standards development process.
861.22 Invitation for a standard.
861.24 Existing standard as a proposed standard.
861.26 Offer to develop a proposed standard.
861.28 Acceptance of offer to develop a standard.
861.30 Development of standards.
861.32 Contribution by the Food and Drug Administration to the costs of developing a proposed standard.
861.34 Amendment or revocation of a standard.
861.36 Effective dates.
861.38 Standards advisory committees.

Authority: Secs. 501, 502, 513, 514, 701, 52 Stat. 1049–1051 as amended, 1055–1056 as amended, 90 Stat. 540–552 (21 U.S.C. 351, 352, 360c, 360d, 371).

Subpart A—General

§ 861.1 Purpose and scope.

(a) This part implements section 514 of the act with respect to the initiation, development, establishment, amendment, and revocation of performance standards applicable to devices intended for human use.

(b) Performance standards may be established for: (1) a class II device; (2) a class III device which, upon the effective date of the standard, is reclassified into class II; and (3) a class III device, as a condition to premarket approval under section 515 of the act to reduce or eliminate a risk or risks associated with such device.

(c) References in this part and Parts 12, 13, 14, 15, and 16 to regulatory sections of the Code of Federal Regulations are to chapter I of Title 21 unless otherwise noted.

§ 861.5 Statement of policy.

In carrying out its duties under this section, the Food and Drug Administration will, to the maximum extent practical:

(a) Use personnel, facilities, and other technical support available in other Federal agencies;

(b) Consult with other Federal agencies concerned with standard setting and other nationally or internationally recognized standard-setting entities; and

(c) Invite participation, through conferences, workshops, or other means, by representatives of scientific, professional, industry, or consumer organizations who can make a significant contribution.

§ 861.7 Contents of standards.

Any performance standard established under this part will include such provisions as the Food and Drug Administration determines are necessary to provide reasonable assurance of the safety and effectiveness of the device or devices for which it is established. Where necessary to provide such assurance, a standard will address (but need not be limited to):

(a) Performance characteristics of the device;

(b) The design, construction, components, ingredients, and properties of the device, and its compatibility with power systems and connections to such systems;

(c) The manufacturing processes and quality control procedures applicable to the device;

(d) Testing of the device on either a sample or a 100-percent basis by the manufacturer, or, if it is determined that no other more practical means are available to the Food and Drug Administration to assure the conformity of the device to the standard, providing for testing by the Food and Drug Administration or a third person to ensure that the device conforms to the standard;

(e) The publication of the results of each test or of certain tests of the device to show that the device conforms to the portions of the standard for which the test or tests were required;

(f) Manufacturers' certification to purchasers or to the Food and Drug Administration that the device conforms to the applicable performance standard;

(g) Restrictions on the sale and distribution of the device, but only to the extent authorized under section 520(e) of the act;

(h) The use, and the form and content, of labeling for the proper installation, maintenance, operation, and use of the device. Among the provisions that may be required in the labeling are warnings; storage and transportation information; expiration dates; the date and place of manufacture; the results that may be expected if the device is used properly; the ranges of accuracy of diagnostic information; instructions regarding the proper care of, and the proper components, accessories, or other equipment to be used with the device; and statements concerning the appropriate patient population, for example, a statement that the device is considered safe and effective only when used by, or in the treatment of, a patient who has been tested by particular designated procedures and found to have an illness or condition for which use of the device is indicated by a person skilled in the use of the device.

Subpart B—Procedures for Performance Standards Development and Publication

§ 861.20 Summary of standards development process.

The procedure by which a performance standard for a device may be developed and promulgated is as follows:

(a) The Food and Drug Administration will initiate a proceeding for the development of a performance standard for a device by publishing in the Federal Register a notice of opportunity to request (within 15 days of the date of publication of the notice) reclassification of the device in accordance with § 860.130.

(b) If, after publication of a notice under paragraph (a) of this section, the Food and Drug Administration receives a request to change the classification of the device, the Food and Drug Administration will, within 60 days of the publication of the notice, by order published in the Federal Register, either deny the request or give notice of intent to initiate a change in the classification.

(c) If the Food and Drug Administration determines that the device will remain classified in class II, a notice will be published in the Federal Register inviting any person, including any Federal agency, to submit within 60 days after the date of publication, either an existing standard as a proposed performance standard or an offer to develop such a standard.

(d) Following expiration of the 60-day period, the Food and Drug Administration will:

(1) Authorize a Federal agency to develop a proposed performance standard if the Food and Drug Administration determines that a performance standard can be developed by a Federal agency, based on the personnel, expertise, and resources of the agency; or

(2) Accept an existing standard as a proposed performance standard or as a basis upon which a proposed performance standard may be developed. An existing standard may be one that is submitted in response to the invitation for standards or it may be a standard that has been issued or adopted (or is being developed) by any Federal agency or any other qualified entity. The Food and Drug Administration will determine that such a standard is based upon scientific data and information and has been subjected to adequate scientific consideration; or

(3) Accept one or more offers to develop a proposed standard; or

(4) Proceed to develop a proposed standard; or

(5) Take other appropriate action to facilitate development of a performance standard for the device.

(e) After publication of a notice inviting the submission of an existing standard as a proposed performance standard or an offer to develop such a standard in accordance with § 861.22, the Food and Drug Administration may either:

(1) Publish in the Federal Register, in a notice of proposed rulemaking in accordance with § 10.40, a proposed performance standard for the device (the notice of proposed rulemaking will include proposed findings with respect to the degree of risk of illness or injury the proposed standard is designed to eliminate or reduce and the benefit to the public from the device); or

(2) Terminate the proceeding to develop and promulgate a performance standard by publishing in the Federal Register a notice to that effect, together with the reasons therefor and, unless such notice is issued because the device is a banned device under section 516 of the act, initiate a proceeding under section 513(e) of the act to reclassify the device; or

(3) Take other appropriate action.

(f) If the Food and Drug Administration initiates a rulemaking proceeding under paragraph (e)(1) of this section, the Food and Drug Administration will:

(1) Complete the proceeding and establish the performance standard for the device in accordance with this part and § 10.40; or

(2) Terminate the proceeding by publishing in the Federal Register a notice announcing such termination and the reasons therefor and, unless the proceeding is terminated because the device is a banned device, initiate a proceeding in accordance with section 513(e) of the act to reclassify the device; or

(3) Take other appropriate action.

§ 861.22 Invitation for a standard.

The notice to be published in the Federal Register inviting offers to develop a performance standard will contain the following information:

(a) The time period within which the standard is to be developed, which may be extended by the Food and Drug Administration for good cause;

(b) A description or other designation of the device for which a performance standard may be established;

(c) A statement of the risks associated with use of the device and which are intended to be controlled by a performance standard, including pertinent portions of panel classification recommendations with respect to the device;

(d) A summary of the data from which the Food and Drug Administration has determined a need for initiation of the proceeding to develop a performance standard, including pertinent portions of the recommendations of classification panels with respect to the device;

(e) Identification of any existing performance standard known to the Food and Drug Administration that may be relevant to the proceeding; and

(f) The approximate number of products (i.e., kinds of models) within the generic type of device that may be subject to the performance standard.

§ 861.24 Existing standard as a proposed standard.

(a) The Food and Drug Administration may accept an existing standard or a standard that is being developed, if it includes:

(1) A description of the procedures used to develop the standard and a list of the persons and organizations that participated in its development, to the extent that such information is available or reasonably obtainable;

(2) An identification of the specific portions of the existing standard that the person submitting the standard believes are appropriate for adoption as, or inclusion in, the proposed standard; and

(3) A summary of the test data, or, if requested by the Food and Drug Administration, all such data or other information supporting the specific portions of the standard identified by the person submitting the standard.

(b) The Food and Drug Administration will publish a notice in the **Federal Register** stating either that it has accepted, or has accepted with modification, as a proposed standard, an existing standard or one that is being developed, or that an existing standard is not acceptable, together with the reasons therefor.

§ 861.26 Offer to develop a proposed standard.

(a) The Food and Drug Administration may consider any offers to develop a proposed standard that include:

(1) Information on the offeror's expertise and experience that qualifies the offeror to develop a proposed standard for the particular device;

(2) Sufficient information on the offeror's financial stability to establish capability to conduct adequate standards development either with or without contribution by the Food and Drug Administration to the offeror's costs;

(3) Information relating to any potential conflicts of interest on the part of the offeror, its directors or officers, or any employees or consultants who may participate in the development of the standard, including any financial interest in the particular device or in the device industry generally, current industrial or commercial affiliates of the offeror, current sources of financial support for research, and all business entities in which the offeror has a financial interest which may be relevant to the offeror's qualifications to develop a standard for the particular device;

(4) Information regarding the offeror's compliance with Federal, State, and local environmental regulations;

(5) A detailed description of the procedures the offeror intends to utilize in developing the standard;

(6) A description of how the offeror intends to provide interested persons adequate and reasonable notice of their right and opportunity to participate in the development of the standard;

(7) A description of the method whereby interested persons who respond to the notice may participate, either in person or through correspondence, in the development of the standard;

(8) A statement describing the facilities or equipment the offeror intends to utilize in developing the standard, and how the offeror intends to gain access to them;

(9) An estimate of the time required to develop the standard, including a detailed schedule for each phase of the procedure;

(10) A description of the method the offeror intends to use or has used to acquire test data or other information needed to support the standard;

(11) A description of the method the offeror intends to use to maintain records of the development of the standard and other relevant matters and to make such records available for disclosure during development, and a schedule for meeting the periodic reporting requirements of § 861.30(b);

(12) If the offeror desires, a request for contribution by the Food and Drug Administration to the offeror's cost of developing the standard, which shall include:

(i) A list of the items of expense for which contribution is sought and the amount requested for each item;

(ii) A justification of each item of expense, including an explanation of how the contribution is likely to ensure development of a more satisfactory standard;

(iii) A statement that the offeror will employ an adequate accounting system (one in accordance with generally accepted accounting principles) to record the costs and expenditures allocable to development of the standard; and

(iv) A statement requesting an advance payment of funds, if necessary to enable the offeror to meet operating expenses during the development period.

(b) Information included in an offer to develop a proposed standard is to be made available to the public only if the offer is accepted (except for information exempt from disclosure under § 20.61), or if disclosure is required under Part 20 of this chapter.

§ 861.28 Acceptance of offer to develop a standard.

(a) In determining whether to accept an offer to develop a performance standard, the Food and Drug Administration will evaluate the qualifications of the offeror on the basis of the offeror's expertise, experience, financial stability, and potential conflicts of interest. In choosing among competing offerors, the offerors with no financial interest in the particular device for which a proposed standard is sought or in the device industry generally will be preferred, all other things being equal.

(b) If the conditions provided in § 861.20(d)(3) have been met, and one or more offers that satisfy the requirements of § 861.26 have been submitted, one or more qualifying offers to develop a proposed standard may be accepted.

(c) The Food and Drug Administration will publish in the **Federal Register** the name and address of each person whose offer to develop a standard is accepted and a summary of the terms of the accepted offer, including a statement of the extent to which the Food and Drug Administration will contribute, if at all, to the cost of developing the proposed standard.

(d) If the Food and Drug Administration does not accept an offer to develop a proposed standard submitted in response to a published invitation, the Food and Drug Administration will publish in the **Federal Register** a notice of that fact together with the reasons for the decision.

§ 861.30 Development of standards.

(a) Any person, including any Federal agency, engaged in the development of a proposed standard under this section shall:

(1) Support its proposed performance standard by such test data or other documents or materials as the Food and Drug Administration may reasonably require;

(2) Provide interested persons an opportunity to participate in the development of the standard by accepting comments and, where appropriate, holding public meetings on issues relating to development of the standard. Notice of the opportunity to participate in the development of the standard shall be furnished in a manner reasonably calculated to reach the majority of persons interested in the development of the standard. This requirement shall be satisfied by the Food and Drug Administration or any other Federal agency by publishing such a notice in the **Federal Register**. Whenever it is appropriate, FDA will use the **Federal Register** to make announcements about the standards development process of standard developers other than Federal agencies.

(3) Maintain records disclosing the course of development of the proposed standard, the comments and other information submitted by any person in connection with such development (including comments and information regarding the need for a standard), and such other information as may be required by the Food and Drug Administration to evaluate the standard.

(b) Any person engaged in the development of a standard shall, in addition to complying with paragraph (a) of this section:

(1) Submit progress reports on a quarterly basis or as otherwise required by the Food and Drug Administration;

(2) Cooperate fully with the Food and Drug Administration and permit duly authorized representatives of the Food and Drug Administration to inspect its facilities and developmental activities to determine whether satisfactory progress is being made toward completion of the standard;

(3) If receiving contributions from the Food and Drug Administration toward the cost of developing the proposed standard:

(i) Submit, on a quarterly basis, a full accounting of such contributions,

(ii) Remit all unexpended amounts within 60 calendar days after submission of the standard,

(iii) Maintain, for a period of 3 years after submission of the proposed standard, records that fully disclose the total costs and expenditures for the development of the standard and such other records as are necessary to permit and effective audit,

(iv) Grant access to and audit of any books, documents, papers, and other records relating to the expenditure of any funds contributed by the Food and Drug Administration.

(c) If it appears to the Food and Drug Administration that a person engaged in the development of a performance standard is not making satisfactory progress, that person will be afforded an opportunity either to demonstrate ability and willingness to complete the development of the standard within the designated time period or to justify the need for an extension of the development period. After evaluating available information, the Food and Drug Administration will terminate the person's role in the development process, extend the period for development of the proposed standard, or direct the person to complete the standard within the designated time period. Any person who has received a contribution from the Food and Drug Administration and whose role in the development process is terminated shall be required to submit to the Food and Drug Administration all information, records, and documents in its possession which relate to the development of the proposed standard, and to remit all funds contributed by the Food and Drug Administration that have not been expended. The Food and Drug Administration shall publish in the **Federal Register** a notice of the determination to terminate the role of any person in the development of a proposed standard, together with the reasons for this action.

§ 861.32 Contribution by the Food and Drug Administration to the costs of developing a proposed standard.

(a) If an offer to develop a proposed standard is accepted, the Food and Drug Administration may agree to contribute to the costs of developing the standard if it is determined that such contribution is likely to result in the development of a more satisfactory standard.

(b) The items of cost toward which the Food and Drug Administration may contribute are those allowable direct and indirect costs allocable to the development project as set forth in the applicable subparts of 41 CFR Parts 1–15 of the Federal procurement regulations. Typical standards development activities to which the Food and Drug Administration may contribute include:

(1) Research and analysis of the existing literature pertaining to the medical device that is the subject of the development effort;

(2) Testing of representative medical devices in support of the development effort; and

(3) Preparation of, and participation in public review of, draft standards.

(c) The items of cost to which the Food and Drug Administration may not contribute include:

(1) Costs for the construction or acquisition of any interest in land or buildings;

(2) Costs for the payment of salaries in excess of the amount paid by the offeror at the time immediately preceding the offer, excluding routine increases which may accrue during the development period;

(3) Costs for the payment of items in excess of the offeror's actual costs;

(4) Costs for an item with a usable lifespan extending beyond the development period, except that contribution may be made toward the portion of an item's cost allocable to the development of the proposed standard as determined by the difference between the item's estimated market value at the termination of the development period and the total cost of its acquisition; and

(5) Costs determined not to be allowable under generally accepted accounting principles and practices or 41 CFR Parts 1–15 of the Federal procurement regulations.

§ 861.34 Amendment or revocation of a standard.

(a) The Food and Drug Administration will provide for periodic evaluation of performance standards to determine whether such standards should be changed to reflect new medical, scientific, or other technological data.

(b) The Food and Drug Administration may, on its own initiative or upon petition of an interested party, amend or revoke by regulation a standard established under this part.

(c) Any petition to amend or revoke a standard shall:

(1) Identify the specific device and standard for which the amendment or revocation is sought; and

(2) Be submitted in accordance with the requirements of § 10.30.

(d) Proceedings to amend or revoke a performance standard shall be conducted in accordance with the rulemaking procedures of § 10.40. In addition, a notice of proposed rulemaking to amend or revoke a standard shall set forth proposed findings with respect to the degree of risk or illness to be eliminated or reduced and the benefit the public will derive from the proposed amendment or revocation.

§ 861.36 Effective dates.

(a) A regulation establishing, amending, or revoking a performance standard will set forth the date upon which it will take effect. To the extent practical, consistent with the public health and safety, such effective date will be established so as to minimize economic loss to, and disruption or dislocation of, domestic and international trade.

(b) Except as provided in paragraph (c) of this section, no regulation establishing, amending, or revoking a standard may take effect before 1 year after the date of its publication unless:

(1) The Food and Drug Administration determines that an earlier effective date is necessary to protect the public health and safety; or

(2) The standard has been established for a device that, by the effective date of the standard, has been reclassified from class III to class II.

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(c) The Food and Drug Administration may declare a proposed regulation amending a standard effective on publication in the **Federal Register** if it determines, after affording interested persons an opportunity for an informal hearing conducted in accordance with Part 16 of this chapter, that making the regulation so effective is in the public interest. A proposed amendment of a performance standard made effective upon publication may not prohibit the introduction or delivery for introduction into interstate commerce of a device that conforms to the standard without the change or changes provided in the proposed amendment until the effective date of any final action on the proposal.

§ 861.38 Standards advisory committees.

(a) The Food and Drug Administration will establish advisory committees to which proposed regulations may be referred, and these committees shall consider such referrals in accordance with this section and Part 14 of this chapter. Such advisory committees, which may not be classification panels, shall be considered ad hoc advisory committees. Their members shall be selected in accordance with §§ 14.82 and 14.84, except that no member may be a regular full-time FDA employee. Each advisory committee established under this section shall include as nonvoting members a representative of consumer interests and a representative of interests of the device manufacturing industry.

(b) A proposed regulation to establish, amend, or revoke a performance standard shall be referred to an advisory committee for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment if:

(1) The Food and Drug Administration determines that such referral is necessary or appropriate under the circumstances; or

(2)(i) Requested by an interested person, in the form of a citizen petition in accordance with § 10.30, within the period provided for comment on the proposed regulation; and,

(ii) The Food and Drug Administration does not determine the request to be without good cause or on a matter not involving scientific judgment.

(c) When a proposed regulation is referred to an advisory committee, the Food and Drug Administration will furnish the committee with the data and information upon which the proposed regulation is based. After independently reviewing the materials furnished by the Food and Drug Administration and any other available data and information, the advisory committee shall, within 60 days of the referral, submit a report and recommendation on the proposed regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation. A copy of the report and recommendation will be publicly displayed in the office of the Hearing Clerk, Food and Drug Administration.

(d) Where appropriate, each proposed regulation establishing a standard published in the **Federal Register** will include a call for nominations to the advisory committee for that particular standard.

Effective date. The reporting and recordkeeping requirements contained in this rule have been submitted for approval by the Office of Management and Budget (OMB) in accordance with the Federal Reports Act of 1942. This regulation will become effective July 30, 1980, provided that approval of the OMB is received by that date. If OMB does not approve, without change, the reporting and recordkeeping requirements contained in the rule, FDA will revise the rule as necessary to comply with the decision of OMB. FDA will publish a notice in a future issue of the **Federal Register** concerning OMB's decision on these requirements.

(Secs. 501, 502, 513, 514, 701, 52 Stat. 1049–1051 as amended, 1055–1056 as amended, 90 Stat. 540–552 (21 U.S.C. 351, 352, 360c, 360d, 371))

Dated: January 22, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-2905 Filed 1-31-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 79-0185]

Medical Devices Voluntary Standards Development; Request for Data and Information

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) requests data and invites voluntary standards organizations and other interested parties that are developing a standard for one or more of these devices or that are interested in developing a standard for one or more of these devices to submit information on the organization and its development of the standard. This will enable FDA to assess the present effort being expended outside of government on the development of voluntary standards and to coordinate the development of these standards with these organizations. This notice implements FDA's proposed voluntary standards for medical devices, which is published elsewhere in this issue of the **Federal Register**.

DATES: Written comments and information by May 1, 1980.

ADDRESS: Written comments and information to the Hearing Clerk, (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert J. Cangelosi, Bureau of Medical Devices (HFK–310), Food and Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 2091, 301–427–7182.

SUPPLEMENTARY INFORMATION: The Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295) establish a comprehensive system for the regulation of medical devices intended for human use. One provision of the amendments, section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c), establishes three classes of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories are as follows: class I, general controls; class II, performance standards, and class III, pre-market approval.

Under section 513 of the act, more than 1,200 medical devices have been recommended by classification panels, FDA advisory committees, for classification into class II. Performance standards for class II medical devices are developed under section 514 of the act (21 U.S.C. 360d). Because of the large number of devices recommended for classification into class II, FDA is aware that the establishment of performance standards (mandatory standards) for all class II devices will take considerable time, given the existing agency resources available for this activity. FDA recognizes that voluntary standards may help to assure the safety and effectiveness of this large number of class II devices and is, therefore, promoting their use. Elsewhere in this issue of the **Federal Register**, FDA is publishing its voluntary standards policy for medical devices.

Priorities for Standards Development for Class II Devices

For each device recommended for classification into class II, the classification panels also include a recommended priority (high, medium, or low) for establishing a performance standard.

FDA has reviewed all the high priority class II devices (excluding in vitro diagnostic products) to determine those that could be considered for immediate development of voluntary standards. Consideration was based on a preliminary priority ranking scheme that used the following factors:

a. Priority recommendations of the classification panels;

b. Risks associated with the use of a device;

c. Present and projected use of the device.

The class II devices reviewed by FDA using the preliminary priority ranking scheme resulted in a list of devices considered by the agency to warrant immediate consideration for development of performance standards. These devices, which are listed below, are arranged according to the speciality under which the classification review was made by the classification panels:

A. Neurological Devices

1. Aneurysm clip.
2. Central nervous system fluid shunt and components.

B. Cardiovascular Devices

1. Flow directed catheter.
2. Diagnostic intravascular catheter.
3. Percutaneous catheter.
4. Cardiopulmonary heart-lung machine, console.
5. Electrocardiograph.
6. Angiographic injector and syringe.
7. Cardiopulmonary bypass catheter, percutaneous introducer.
8. Intracardiac patch and pledget made of polypropylene, teflon, or dacron.
9. Vascular graft prosthesis of 6mm and greater diameter.
10. Vectorcardiograph.
11. Catheter guidewire.

C. Obstetric-Gynecologic Devices

1. Fetal scalp circular (spiral) electrode.
2. Obstetric-gynecologic unipolar endoscopic coagulator-cutter and accessories.
3. Obstetric-gynecologic ultrasonic imager.
4. Laproscopic insufflator.
5. Gynecologic laparoscope.
6. Intrauterine pressure monitor.
7. Fetal ultrasonic monitor.
8. Perinatal monitoring system (cardiotokograph).
9. Vacuum abortion system.
10. Obstetric ultrasonic transducer.

D. General Hospital Devices

1. Neonatal incubator.
2. Neonatal transport incubator.
3. Neonatal phototherapy unit.

E. Physical Medicine Devices

1. Rigid pneumatic structure orthosis.
2. Powered wheelchair.
3. Special grade wheelchair.

F. Anesthesiology Devices

1. Gas Scavenging apparatus.
2. Breathing circuit (with connector, adaptor, Y piece).
3. Hyperthermia device (blanket, plumbing, and heat exchanger).
4. Hypothermia device (blanket, plumbing, and heat exchanger).
5. Respiratory gas humidifier (direct patient interface).
6. Anesthesia/analgesia gas machine.
7. Cutaneous oxygen monitor.
8. Tracheal tube (with or without connector).
9. Nonheated anesthesia vaporizer.
10. Continuous ventilator (respirator).

G. Gastroenterology/Urology Devices

1. Suprapubic catheter and accessories.
2. Urological catheter.
3. Carbon-dioxide cystometric gas device.
4. Endoscope and/or accessories.
5. Extra-luminal blood pump.
6. Arteriovenous shunt cannula and adapters.
7. Single needle dialysis set.
8. Proportioning dialysate subsystem.
9. Dialysate delivery system.
10. Sorbent regenerated dialysate delivery system.

H. Ear, Nose, and Throat Devices

1. Audiometer (including automated).

2. Hearing aid, group, and auditory trainer.
3. Master hearing aid.
4. Caloric-air stimulator.
5. Caloric-water stimulator.

Request for Information

to assess the current effort being expended on the development of voluntary standards for those class II devices listed above, FDA needs to know which voluntary standard organizations, State and local governments, international organizations, or other interested parties are developing or planning to develop standards for these devices. Therefore, FDA is requesting the following information on existing and planned standards efforts:

a. The name or title of the organization developing or planning to develop voluntary standards.

b. A description of the existing or planned effort and any timetable for its completion.

c. The performance characteristics and hazards associated with the device which will be controlled by the standard.

d. The composition of the development organization or working group within the organization.

e. A description of the development process and opportunities afforded to interested persons to provide comment and provisions for appeal.

f. The process used to treat negative comments.

Coordination of Standards Activities

Upon review of the information submitted in response to this notice, FDA will coordinate voluntary standards activities with the Medical Device Standards Management Board of the American National Standards Institute, as previously announced by the agency in the Federal Register of August 12, 1976 (41 FR 34099). FDA may participate with interested organizations or persons in the development of voluntary standards for any or all of the listed devices or may develop mandatory performance standards.

Interested persons may, on or before May 1, 1980 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 22, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-3262 Filed 1-31-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79N–0345]

Voluntary Standards Policy for Medical Devices; Request for Comments

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is proposing a policy for FDA involvement in the development, support, endorsement, and use of voluntary performance standards for medical devices. This proposed policy establishes the relationship between mandatory and voluntary standards designed to assure the safety and effectiveness of medical devices. FDA proposes to endorse voluntary standards that conform to the "Criteria for Endorsement of Voluntary Standards" discussed in this notice. FDA may defer establishment of a mandatory standard if the medical device industry complies with an endorsed voluntary standard. FDA requests comments on this policy statement.

DATE: Comments by May 1, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administation, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Marilyn Barnett, Bureau of Medical Devices (HFK–300), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7187.

SUPPLEMENTARY INFORMATION: The Medical Device Amendments of 1976 (Pub. L. 94–295), establish a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c) establishes three classes of devices. Class I devices are subject only to general controls; class II devices are subject to performance standards; class III devices are subject to premarket approval. Section 514 of the act (21 U.S.C. 360d) authorizes FDA to establish performance standards to provide reasonable assurance of the safety and effectiveness of medical devices that are classified into class II. More than 1,200 devices will be classified into class II under section 513 (d), (e), and (f) of the act (21 U.S.C. 360c (d), (e), and (f)).

Section 358 of the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), authorizes FDA to establish performance standards for electronic products to control the emission of electronic product radiation. Under the authority of section 358 of the Public Health Service Act, FDA has prescribed performance standards for diagnostic x-ray systems (21 CFR 1020.30, 1020.31, and 1020.32), medical laser products (21 CFR 1040.11(a)), and ultrasonic therapy products (21 CFR 1050.10).

An important part of FDA's program to assure the safety and effectiveness of medical devices has consisted of technical and, in some cases, financial support of standards organizations that are involved in the development of voluntary standards for medical devices. FDA's participation, which was described in a notice in the Federal Register of August 12, 1976 (41 FR 34099), has involved both cooperation in standards development initiated by international and domestic voluntary standards organizations and in standards development efforts initiated by FDA. In supporting these activities, FDA has encouraged development and use of voluntary standards that, when conformed to by industry, will improve device safety and effectiveness and may serve as the basis for future mandatory medical device standards.

The establishment of mandatory standards for all 1,200 class II devices will take considerable time, given the existing agency resources available for this activity. However, FDA believes that its proposed voluntary standards policy can expedite the development of standards and help to assure the safety and effectiveness of medical devices.

FDA believes that endorsing adequate voluntary standards will (1) encourage manufacturers, voluntary standards organizations, and other interested persons to continue to develop performance standards in their areas of expertise, (2) result in a greater number of performance standards being established more rapidly with fewer FDA resources than if only mandatory standards were issued, and (3) permit FDA to concentrate on the development of standards for class II devices that are not the subject of adequate voluntary standards and are selected for their impact on the public health.

Both mandatory and voluntary standards will help to make medical devices safer and more effective. Standards may specify performance characteristics, address essential composition and design features, specify test methods, and identify needed

labeling. Devices that meet mandatory or voluntary standards for safety and effectiveness will be less likely to injure consumers.

Mandatory standards offer one important advantage over voluntary standards—FDA can require compliance with a mandatory standard and can take regulatory action against manufacturers that fail to comply or devices that fail to conform to that standard. With voluntary standards, however, FDA can take regulatory action against manufacturers of devices that fail to meet a voluntary standard only if the devices' labeling or advertising claims to meet that standard. All devices, whether the subject of a mandatory or voluntary standard, are subject to the act's misbranding and adulteration provisions.

FDA believes, however, that device manufacturers generally have a strong incentive to comply with voluntary standards, especially those endorsed by FDA. Hospitals and other device purchasers will be inclined to purchase devices that conform to FDA-endorsed voluntary standards because of their potential liability in the event that a patient or user is injured by a device that does not conform to an existing FDA-endorsed voluntary standard. Federal and State governments, major purchasers of medical devices, will be encouraged by FDA to purchase devices that conform to FDA/endorsed voluntary standards. In addition, FDA will encourage manufacturers of devices that conform to FDA-endorsed voluntary standards to label their devices as conforming.

FDA is thus changing its policy described in the Federal Register notice of August 12, 1976; the notice states "Voluntary or privately recognized performance standards will not be a substitute for the formal promulgation of standards under section 514 of the act for any device that is classified in the performance standard category." Under the policy that the agency now proposes, FDA will endorse particular voluntary standards and, if voluntary conformance is adequate, defer development of mandatory standards. FDA retains, however, the option of promulgating a mandatory standard whenever FDA determines a mandatory standard is necessary to provide reasonable assurance of the safety and effectiveness of a medical device.

Priorities for Class II Devices—Performance Standards

Elsewhere in this issue of the Federal Register, FDA is publishing a notice containing a list of priority medical devices currently classified, or recommended for classification, into class II for which the immediate development of standards is appropriate. In that notice, FDA requests information concerning current standards development efforts for the priority devices. FDA also requests that manufacturers, voluntary standards organizations, and other interested persons review the list and identify those devices for which they are interested in developing voluntary standards. After review of the information submitted in response to that notice, FDA will begin, in accordance with priorities, to establish mandatory performance standards for those devices which are not or will not be the subject of an adequate voluntary standard.

FDA Support of Voluntary Standards

Those persons developing voluntary standards may request assistance from FDA. FDA's participation in voluntary standards activities is subject to the requirements set forth in 21 CFR 10.95. FDA may provide indirect financial support for the development of a voluntary standard that will conform to the "Criteria for Endorsement of Voluntary Standards" set out in this notice. Such support may include:

a. Providing scientific and technical information and an identification of medical device hazards and risks;

b. Providing technical assistance, including research and engineering support, for the development of voluntary standards;

c. Assisting in the dissemination of information about the requirements of voluntary standards and their applications;

d. Evaluating a proposed voluntary standard to determine its effectiveness in reducing the risk of injury associated with a particular device;

e. Investigating the extent to which medical devices that will be subject to the voluntary standard already conform to the standard; and

f. Developing test methods to determine conformance with the voluntary standard.

FDA may also provide financial assistance in the form of travel funds and per diem costs to qualified consumer representatives when consumer participation will improve the development of a standard.

FDA has considered the extent to which the Federal Advisory Committee Act (5 U.S.C. App. 1 (FACA)) would apply to voluntary standards organizations that develop standards that are subsequently considered for FDA endorsement. The agency has concluded that the FACA would not apply to such organizations because they would not be functioning as advisory committees rendering advice or recommendations to FDA, within the meaning of the FACA. FDA specifically invites comment on this matter.

Criteria for Endorsement of Voluntary Standards

On determining whether to endorse a voluntary standard, FDA will consider the extent to which:

a. the standard provides reasonable assurance of the safety and effectiveness of medical devices;

b. The process for the development of the standard includes consideration of sound scientific and technical information and permits revisions on the basis of new information;

c. The process for standards development permits meaningful participation by manufacturers (especially small manufacturers), distributors, consumers, and regulatory agencies having jurisdiction over the product subject to the standard. In evaluating the quality of such participation, FDA will consider the extent to which the development process provides for those procedures set forth in paragraph 6(c) of Recommendation No. 78–4 of the Administrative Conference of the United States (ACUS), "Coordination and Cooperation with Standards-Developing Organizations," (1 CFR 305.78–4);

d. A proposed voluntary standard would not create anti-competitive effects or promote restraints of trade contrary to the public interest or does not contain excessively restrictive requirements that would preclude manufacturing of the device;

e. The adequacy of the standard is subject to periodic and timely review;

f. The standard stresses performance-oriented, and not design-restrictive, requirements;

g. Manufacturers are likely to comply with the voluntary standard;

h. There are provisions for appeal by an interested person who objects to all or part of a standard;

i. The process for review of the standard considers the involvement of such devices in injury patterns;

j. The standard identifies requirements for testing to determine whether devices conform to the standard; and

k. Documentation is available to support the rationale for, the development process for, and the safety and effectiveness requirements of, the standard as well as to identify other factors considered by the technical committee in developing or revising the standard.

In developing these criteria, FDA gave special consideration to Recommendation No. 78-4 of ACUS, which emphasizes the use of voluntary standards rather than mandatory standards and the need for public participation in the standards development process. FDA also considered the Federal Trade Commissions's (FTC) proposed trade regulation rule (TRR) on standards and certification, published in the Federal Register of December 7, 1978 (43 FR 57269). FTC's proposed TRR would establish prohibitions and requirements for standards developers, certifiers, and persons who reference standards or certifications in the marketing of products. The proposed TRR would apply to medical device standards development. Violation of the proposed TRR would be an unfair method of competition and an unfair or deceptive act or practice in commerce, within the meaning of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)).

Procedure for Endorsement and Promotion of Voluntary Standards

Voluntary standards under development will be evaluated against the "Criteria for Endorsement of Voluntary Standards." FDA will endorse adequate voluntary standards. FDA may endorse an entire standard or only those provisions of the standard that FDA believes are adequate and necessary.

FDA will notify the developer of a standard by letter of those provisions of the standard endorsed by FDA. The Bureau of Medical Devices will maintain a file of endorsement letters and endorsed standards. Copies of the letters only will be available to the public upon request. An address where requests may be sent will be published in the final notice implementing FDA's voluntary standards policy. In addition, FDA will publish periodically a notice in the Federal Register listing all FDA-endorsed voluntary standards. Copies of the endorsed standards may be obtained from the developer, at the address stated in the endorsement letter and published in the notice.

One a voluntary standard has been endorsed, FDA will promote the standard to consumer groups, individual health care professionals, professional health care organizations, hospital and clinic administrators and managers, medical device manufacturers and distributors, and other interested persons, such as regulators, insurers, and lawyers. The agency believes this will encourage conformance with an endorsed standard and the use of standard as part of purchasing requirements. FDA will utilize some or all of the following means of promotion:

a. Issuing press releases to medical, technical, legal, and consumer journals;

b. Publishing technical articles on individual voluntary standards;

c. Supplying lists of FDA-endorsed voluntary standards to interested persons;

d. Encouraging conformance to endorsed voluntary standards in the Government Wide Quality Assurance Program; and

e. Encouraging manufacturers of devices that conform to FDA-endorsed standards to label their products as conforming, e.g., "Meets Federally Endorsed * * * Standard * * *."

Existing Voluntary Standards

FDA will evaluate existing voluntary standards to determine the extent to which the standards were developed in accordance with the "Criteria for Endorsement of Voluntary Standards." Thus, FDA may conclude that a mandatory standard is unnecessary and encourage conformance to a voluntary standard if an existing standard is found adequate and there is an acceptable level of conformance to the standard by the medical device industry.

Based on its evaluation, FDA may, however, conclude that a voluntary standard does not conform to the "Criteria for Endorsement of Voluntary Standards." If so, FDA may request the developer of the standard to revise the standard to eliminate the identified inadequacies and may support the development of these revisions. Alternately, FDA may develop a performance standard using the acceptable provisions of the existing voluntary standard as a foundation. In this event, FDA may develop the standard either as a guideline under § 10.90(b) of the FDA's regulations (21 CFR 10.90(b)) or as a mandatory standard under section 514 of the act. A guideline represents the formal FDA position with respect to the matter involved; and, therefore, an individual may rely on such a guideline with the assurance that conformance to the standard is acceptable to FDA. A guideline, however, is not a legal requirement.

Voluntary standards organizations, manufacturers, and other interested persons that develop voluntary standards without FDA's participation are requested to submit the standards to FDA for evaluation. The submission shall include documentation of conformance with the "Criteria for Endorsement of Voluntary Standards."

Mandatory Standards

As noted above, elsewhere in this issue of the Federal Register, FDA is publishing a list of devices that should be considered for immediate standards development. FDA will defer development of mandatory standards for those priority devices (1) for which there is an adequate voluntary standard complied with by the medical device industry or (2) for which a voluntary standard is under development.

In the case of a device for which a voluntary standard is under development, FDA will continue to defer development of a mandatory standard, as long as FDA finds that the voluntary standard (1) was initiated before FDA issued an invitation under section 514(c) of the act for development of a mandatory standard, (2) conforms to the "Criteria for Endorsement of Voluntary Standards," and (3) will be completed expeditiously.

Persons developing voluntary standards are responsible for informing FDA of this fact and for submitting information to assess the adequacy of the standard. FDA may develop mandatory standards if it is unaware of current voluntary standards activities.

Although FDA encourages the establishment of voluntary standards, there are instances in which a mandatory standard will be required. For example, mandatory control may be necessary if an aspect of safety or effectiveness common to many devices is involved. FDA will respond to such needs by developing mandatory standards, even if voluntary standards exist or are under development.

FDA Attendance at Voluntary Standards Meetings

All meetings between FDA personnel and outside organizations shall be subject to the FDA policy on open meetings set forth in 21 CFR 10.65(b). The approval and authorization for attendance of FDA staff at meetings of standards groups and the participation of staff members in standards development activities shall be in accordance with the policy on participation in outside standard-setting activities set forth in 21 CFR 10.95.

Interested persons may, on or before May 1, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Comments should be in four copies (except that individuals may submit single copies) identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the Hearing Clerk's office between 9 a.m. and 4 p.m., Monday through Friday. All comments received shall be considered in developing the final policy statement.

Dated: January 22, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-2869 Filed 1-31-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80N-0100]

Medical Devices; Voluntary Standards Development; Request for Data and Information on in Vitro Diagnostic Devices

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) requests data and information from voluntary standards organizations and other interested persons concerning interest in participating in developing voluntary performance standards for certain in vitro devices. This notice implements FDA's proposed voluntary standards policy for in vitro diagnostic devices which is published elsewhere in this issue of the Federal Register.

DATES: Written comments and information by May 1, 1980.

ADDRESS: Written comments and information to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Alfred Bracey, Bureau of Medical Devices (HFK-320), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7178.

SUPPLEMENTARY INFORMATION: The Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295) establish a comprehensive system for the regulation of medical devices intended for human use. One provision of the amendments, section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c), establishes three classes of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories are as follows: class I, general controls; class II, performance standards; and class III, premarket approval.

Under section 513 of the act, more than 300 in vitro diagnostic devices have been recommended by classification panels, FDA advisory committees, for classification into class II. These classification recommendations are being reviewed by FDA and will be published separately as proposed regulations.

Performance standards for class II in vitro diagnostic devices are developed under section 514 of the act (21 U.S.C. 360d). Because of the large number of in vitro diagnostic devices recommended for classification into class II, FDA is aware that the establishment of performance standards (mandatory standards) for all class II in vitro diagnostic devices will take considerable time, given the existing agency resources available for this activity. FDA recognizes that voluntary standards can help to ensure the safety and effectiveness of this large number of class II devices and is, therefore, promoting their use. FDA's proposed policy on endorsing voluntary standards for devices is published elsewhere in this issue of the Federal Register and should be referred to in conjunction with this request for information.

Priorities for Standards Development for Class II in Vitro Diagnostic Devices

For each device recommended for classification into class II, the classification panels also included a recomended priority (high, medium, or low) for establishing a performance standard.

FDA has reviewed all of the panel recommendations for high priority class II in vitro diagnostic devices to determine those for which the immediate development of standards would appear to be appropriate. Consideration was based on a preliminary priority ranking scheme that used the following factors:

a. Priority recommendations of the classification panels;

b. Critical nature of the results obtained from an in vitro diagnostic device;

c. Present and projected use of the device's results.

The class II in vitro diagnostic devices reviewed by FDA using the preliminary priority ranking scheme resulted in a list of devices considered by the agency to warrant immediate consideration for development of performance standards. These devices, which are listed below, are arranged according to the clinical laboratory specialty under which the classification review was made by the classification panels. The listed in vitro diagnostic devices are intended to include all reagents, instruments, and systems marketed for each of the methodologies currently used for the listed in vitro diagnostic devices. The

agency perfers that standards address the performance requirements for all types of products in a particular group. FDA recognizes, however, that such an approach is not appropriate in every case and, therefore, FDA will consider other approaches as long as they satisfactorily address the relationship between the product performance and the intended use of the product. A standard should be technically appropriate and possess qualities that will enable an individual or testing facility having competence in the specialty area to determine conformity or nonconformity with the standard.

High Priority Class II in Vitro Diagnostic Devices

A. Clinical Chemistry

1. Alkaline phosphatase or isoenzymes test system.
2. Aspartate amino transferase (AST–SGOT) test system.
3. Bilirubin (total or direct) test system.
4. Blood gases (PCO_2, PO_2) and blood pH test system.
5. Blood specimen collection devices.
6. Calcium test system.
7. Clinical chemistry calibrator.
8. Creatine phosphokinase/creatine kinase or isoenzymes test system.
9. Creatinine test system.
10. Glucose test system.
11. Potassium test system.
12. Sodium test system.
13. Total triiodothyronine test system.
14. Total thryoxine test system.
15. Uric acid test system.

B. Clinical Toxicology and Therapeutic Drug Monitoring

1. Barbiturate test system.
2. Carbamazepine test system.[1]
3. Clinical toxicology calibrator.
4. Cocaine/cocaine metabolites test system.
5. Digoxin test system.
6. Diphenylhydantoin test system.
7. Ethosuximide test system.
8. Gentamicin test system.
9. Lead test system.
10. Lidocaine test system.[2]
11. Theophylline test system.[2]

C. Hematology

1. Abnormal hemoglobin assay.
2. Automated cell counters.
3. Calibrators for red cell and white cell counting.
4. Calibrators for cell indices.
5. Calibrators for hemoglobin and hematocrit measurement.
6. Calibrators for platelet counting.
7. Hematology quality control mixture.
8. Prothrombin time test.
9. Partial thromboplastin time test.

D. Immunology

1. Antinuclear antibody immunological test system.
2. Immunoglobulins (A, G, M, E) immunological test system.
3. Rheumatoid factor immunological test system.

E. Microbiology

1. *Entamoeba histolytica* serological reagents.
2. *Cryptococcus neoformans* serological reagents.
3. Culture media for anitmicrobial susceptibility test.
4. Rubella virus serological reagents.
5. *Toxoplasma gondii* seriological reagents.

Request for Information

To assess the current effort being expended on the development of voluntary standards for those class II in vitro diagnostic devices listed above, FDA needs to know which voluntary standards organizations, State and local governments, international organizations, or other interested parties are developing or planning to develop standards for these devices. Therefore, FDA is requesting the following information on existing or planned standards efforts:

a. The name or title of the organization developing or planning to develop voluntary standards;

b. A description of the existing or planned effort and any timetable for its completion;

c. The performance characteristics and hazards associated with the in vitro diagnostic device which will be controlled by the standard;

d. The composition of the development organization or working group within the organization;

e. A description of the development process and opportunities afforded to interested persons to provide comment and provisions for appeal; and

f. The process used to treat negative comments.

The agency recognizes that there may be disagreement with the product groupings that appear on this list. Some of that disagreement may more properly relate to the classification recommendations rather than to this proposal for priorities for development of standards. If, however, there are data available to demonstrate the need to add or delete product groups from this list of highest priority in vitro diagnostic devices for development of standards, FDA will consider such information in reaching its decisions to encourage the development or endorsement of specific voluntary standards.

[1] Recently recommended for classification by the Clinical Toxicology Section of the Clinical Chemistry and Hematology Devices Panel. A proposed classification regulation for this device will be published in a future issue of the **Federal Register**.

[2] Reclassified from class III to class II by order by the Director, Bureau of Medical Devices, following a recommendation on a petition for reclassification by the Clinical Toxicology Section of the Clinical Chemistry and Hematology Devices Panel (Lidocaine test systems, 77P–0341; Theophylline test systems, 77P–3040).

Coordination of Standards Activities

Upon review of the information submitted in response to this notice, FDA will coordinate voluntary standards activities with the Medical Device Standards Management Board of the American National Standards Institute, as previously announced by the agency in the **Federal Register** of August 12, 1976 (41 FR 34099). FDA may participate with interested organizations or persons in the development of voluntary standards for any or all of the listed in vitro diagnostic devices or may develop mandatory performance standards.

Interested persons may, on or before May 1, 1980, submit to the Hearing Clerk (HFA–305), Rm. 4–65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, written comments on this notice. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 22, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80–2994 Filed 1–31–80; 8:45 am]

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federal register

Friday
February 1, 1980

Part V

Department of Energy

Office of Conservation and Solar Energy

Guidelines for Energy Management in General Operations of the Federal Government

V 45 / 23 FE 1 80 UMI

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Part 436

Federal Energy Management and Planning Programs; Guidelines for Energy Management in General Operations of the Federal Government

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Department of Energy today proposes guidelines for use by Federal agencies in their efforts to develop an overall 10-year energy management plan to reduce the rate of energy consumption and increase energy efficiencies in their general operations. These guidelines pertain to all Federal general operations, including energy used for general transportation, services, industrial or production type activities, and for training and operational readiness functions. Guidelines for the related "buildings" aspects of the Federal Energy Management and Planning Programs such as heating, lighting, air conditioning and hot water systems were published as a final rule in the Federal Register on November 14, 1979.

The purposes of the General Operations Guidelines are: To reduce the rate of energy consumption, to increase energy efficiency, to provide a methodology for reporting agency progress in meeting the goals of those plans, and to promote contingency planning to assuage the impact of a sudden disruption in the supply of oil-based fuels, natural gas, or electricity. In addition, based on agency reports, the Department of Energy will have a factual basis to disseminate energy-saving information to both the public and private sectors; to initiate actions within the Federal Government that may be necessary to avoid occurrence of energy supply crises; and to promote the establishment and attainment of energy conservation goals on an agency by agency basis.

DATES: Written comments by March 3, 1980; requests to speak by February 15, 1980; hearing to be held on February 25, 1980.

ADDRESSES: Comments and requests to speak at the hearing to: Carol Snipes, Office of Conservation and Solar Energy, Department of Energy, 20 Massachusetts Ave., N.W., Washington, D.C., 20585.

Public hearing to be held in Room 2105, 2000 M St., N.W., Washington, D.C., beginning at 9:30 a.m., February 25, 1980.

FOR FURTHER INFORMATION CONTACT:

Paul G. Brumby, (202) 376–4720, Office of Conservation and Solar Energy, Department of Energy, 20 Massachusetts Ave., N.W., Washington, D.C. 20585.

Karen Griffin, (202) 252–4449, Office of Policy and Evaluation, Department of Energy, Forrestal Building, 1000 Independence Ave., S.W., Washington, D.C. 20461.

Carol Snipes, (202) 376–1651, Office of Conservation and Solar Energy, Department of Energy, 20 Massachusetts Ave., N.W., Washington, D.C. 20585.

Lewis W. Shollenberger, Jr., (202) 376–4730, Office of the General Counsel, Department of Energy, 20 Massachusetts Ave., N.W., Washington, D.C., 20585.

SUPPLEMENTARY INFORMATION:

I. Introduction
- A. Background and Authorities
- B. Energy Use by Major Federal Agencies
- C. Federal Energy Management Program Administration

II. General Operations 10-Year Plan
- A. General Operations Energy Management Program Elements
- B. Plan Format
- C. Plan Content

III. Program Goal Setting
IV. Energy Conservation Measures and Standards
V. Contingency Plan
VI. Reporting Requirements
VII. Plan and Waiver Submission, Review, and Approval
VIII. National Environmental Policy Act Review
IX. Comment and Hearing Procedures
- A. Written Comments
- B. Request Procedures
- C. Conduct of Hearings

I. Introduction

A. Background and Authorities

Today, and for the foreseeable future, Federal agencies are faced with rising energy costs and the possibility of a sudden, and possibly severe, reduction of oil-based energy resources, natural gas or electricity. To assist in the management of these problems, the Department of Energy today proposes guidelines to facilitate energy conservation in the general operations of Federal agencies and further, to promote contingency planning to reduce the impact upon Federal agencies of a sudden reduction in oil-based energy resources, natural gas or electricity. The proposed guidelines are intended to enable DOE to initiate necessary actions within the Federal Government to avoid energy supply crises and to promote the establishment and the attainment of energy conservation goals on an agency by agency basis. These guidelines are proposed pursuant to and in accordance with Section 381 of the Energy Policy and Conservation Act, as amended (EPCA) 42 U.S.C. 6361; Executive Order 11912, as amended by Executive Order 12003 (Executive Order), 42 FR 37523 (July 20, 1977); Title V, Part 3, of the National Energy Conservation Policy Act (NECPA), 92 Stat. 3275; Section 644 of the Department of Energy Organization Act, 42 U.S.C. 7254; Presidential Memorandum, (Reduction of Energy Use by the Federal Government, February 2, 1979); and Presidential Memorandum, (Required 5% Reduction in Agency Energy Use April 10, 1979); Executive Order 12185, 44 FR 75093 (December 17, 1979).

The Federal Energy Management and Planning Program (FEMP) was established in 1973 in response to a Presidential Memorandum which directed Federal departments and agencies to achieve a 7 percent energy use reduction in FY 1974 from the energy use levels of FY 1973. EPCA formalized a number of ongoing FEMP activities and added other conservation measures.

Under the Executive Order and by operation of Section 301 of the Department of Energy Organization Act, 42 U.S.C. 7151, the Secretary of DOE is responsible for developing a Federal 10-year energy management plan. The Executive Order requires that each Executive agency submit to DOE an overall Federal 10-year energy management plan for conserving fuel and energy in all of its operations. Each agency plan is to include a Buildings Plan and a General Operations Plan. Guidelines for establishing the Buildings Plans were published as final rule for inclusion in 10 CFR Part 436, Subpart C (44 FR 65714, November 14, 1979), and this notice proposes guidelines to establish the General Operations Plan.

These guidelines establish a series of actions to be taken by Federal agencies to reduce energy use. Such actions will include establishment of specific energy reduction goals; identification of appropriate baselines for charting and evaluating progress toward agency goals; formulation of long-term plans for achievement of goals; adoption of specific conservation measures; development of contingency plans and establishment of specific evaluation and reporting procedures. All such actions shall be undertaken in accordance with a time-phased program coordinated with the Department of Energy, a committee of Federal agency representatives, and the Office of Management and Budget. The guidelines are designed to assure the earliest possible implementation of all known cost-effective energy conservation measures. It is anticipated that any such action should not jeopardize attainment of fundamental agency functions or missions.

The Executive order sets forth a framework for the development of a Federal 10-year energy management plan for buildings with very specific goals, i.e., 20 percent and 45 percent reduction of average energy use per gross square foot of old and new buildings respectively, while general operations are less prescriptive because energy conservation in general operations must be balanced against agency primary missions. Improperly planned and implemented application of conservation measures could lead to a serious degradation in government services to the Nation; therefore, today's proposed guidelines leave goal-setting to each individual agency. DOE considered assigning annual energy consumption targets (energy Btu budgets) for each Federal agency during the near-term period of 1979–1985. However, information on individual agency missions and budgets for that time period was inadequate and designating a target might be misconstrued as a given constraint which could have an unacceptable impact upon respective agency missions. However, management methodologies for planning and control and selected operational measures for obtaining energy efficiencies or reductions are prescribed. Further, DOE intends to add to the guidelines, as needed, supplementary management controls, further energy conservation measures for agency consideration, and energy-related standards of operation.

Since the missions and operating responsibilities of Federal agencies vary widely, general operations planning consists of heterogeneous sets of agency-specific programs, projects and activities. Agency reports indicate that all major and most lesser energy-using agencies have ongoing programs to train, motivate, and educate employees; to review and revise administrative practices to make them more energy efficient; to eliminate unnecessary travel; to purchase fuel-efficient automobiles and other equipment; to curtail unnecessary activities and to improve operational scheduling and maintenance. These proposed guidelines stress procedures to utilize the heterogeneous plans in developing an overall Federal 10-year plan for energy management in the area of general operations. While most Federal agencies have already made progess toward reducing energy use, these guidelines are expected to reinforce ongoing energy conservation efforts and provide a more comprehensive and coordinated planning process for achieving greater reductions and efficiencies in energy use.

On April 10, 1979, the President directed heads of executive agencies to immediately reduce their energy use by 5 percent. This 5 percent reduction is to be achieved during the one year period from April 1, 1979 to March 31, 1980, as compared with the preceding twelve-month period. In reaching this objective, the executive agencies are directed to:

- Reduce their use of automotive fuels by 10 percent
- Set building thermostat settings at no lower than 80 degrees (subsequently 78 degrees by "Emergency Building Temperature Regulations", published at 44 FR 41205, July 16, 1979) during the summer cooling season and no higher than 65 degrees for working hours and 55 degrees for non-working hours during the heating season
- Take such other steps as may be necessary to achieve the level of 5 percent savings.

The Presidential Memorandum further required that, within thirty days, each Federal agency submit to the Department of Energy its specific plan for achieving the directed energy use reductions. The goals set forth in the April 10, 1979 Presidential Memorandum are to be taken into consideration by agencies in establishing goals under these proposed guidelines (see § 436.73).

Today's proposal was developed in consultation with the Office of Management and Budget (OMB), the General Services Administration (GSA), the Department of Defense (DOD), the Veterans Administration (VA) and other Federal agencies who provided advice, participated in interagency meetings, and reviewed drafts of the guidelines. The Director of OMB has concurred in today's proposal.

While the Executive Order speaks of "Executive agencies," the effect of Section 501 of the NECPA is to make many of the Executive Order provisions regarding the Federal 10-year energy management plan applicable to Executive agencies as defined by 5 U.S.C. 105 and the United States Postal Service. These agencies are referred to in this notice as "Federal agencies." In addition, because of the significant role of DOD in energy management, the Departments of the Army, Navy and Air Force and the collective DOD agencies will be reported separately. However, data from the military departments will be published under the heading of the Department of Defense, and all formal contact from DOE will be with DOD.

These proposed guidelines for general operations are promulgated as a Subpart of Part 436 of Title 10, Code of Federal Regulations, which is entitled "Federal Energy Management and Planning Programs." Part 436 comprises the DOE rules for conservation and solar programs for Federal energy use under Section 381 of the EPCA, the Executive Order, and Title V of the NECPA. The Subparts which are expected to be included are:

- Methodology and Procedures for Life Cycle Cost Analyses;
- Procedures for Preliminary Energy Audits;
- Guidelines for Buildings Plans;
- Solar in Federal Buildings Demonstration Program Rules;
- Federal Photovaltaic Utilization Program Rules; and
- Guidelines for General Operations Plans.

B. Energy Use by Major Federal Agencies

The Federal Government is the single largest user of energy in the Nation, accounting for 2.2 percent of the energy consumed in the United States in FY 1978. This energy is used by almost 6 million people, in more than 490,000 buildings and in operating more than 500,000 aircraft and motor vehicles of all types. For one year, this amount of energy would be sufficient to:

- Heat 11 million homes, or
- Operate 18 million automobiles—as many automobiles as are currently registered in the states of New York and California combined.

Federal energy use, by fuel type, is shown in Table 1. The major portion (59 percent) of the energy used is in the form of petroleum-based fuels, most of which is used in general operations as opposed to buildings. More than 170 million barrels of petroleum products were used in FY 1978. If fuels consumed by Government-owned and contractor-operated (GOCO) plants are defined as general operations, the total increases. Therefore, management's attention to the area of general operations is crucial to the President's overall energy management plan called for in the Executive Order.

Table 1.—*Fuel Use by Type in the Federal Government in Fiscal Year 1978*

Fuel type	Amount		
	Trillion Btu	Million barrels of oil equivalent (MBOE)	Percent of total
Jet fuel	601.2	103.6	36.5
Diesel and petroleum distillates	142.4	24.5	8.4
Fuel oil	177.1	30.5	10.4
Gasoline	59.9	10.3	3.5
Navy special	7.9	1.4	.5
Aviation gasoline	8.2	1.0	.4

Table 1.—*Fuel Use by Type in the Federal Government in Fiscal Year 1978*—Continued

Fuel type	Amount: Trillion Btu	Amount: Million barrels of oil equivalent (MBOE)	Percent of total
Electricity	476.6	82.2	29.1
Natural gas	144.8	25.0	8.5
Coal	67.0	11.5	4.0
Other [1]	11.7	2.0	.7
Total all fuels	1664.8	292.0	

[1] Other fuels include propane and purchased steam.

Source: DOE.

The ten largest energy-using Federal agencies account for over 98 percent of the energy consumed by the executive branch of the Federal Government. These agencies, in order of energy use, with approximate percentage are:

Agency:	Percent
• Department of Defense (DOD)	80.4
• Department of Energy (DOE)	5.0
• U.S. Postal Service (USPS)	3.2
• General Services Administration	2.6
• Veterans Administration (VA)	2.3
• Department of Transportation (DOT)	1.8
• National Aeronautics and Space Administration (NASA)	1.3
• Department of the Interior (DOI)	.7
• Department of Agriculture (DOA)	.6
• Department of Health, Education, and Welfare (HEW)	.5
Total	99.2

The remaining 56 agencies accounted for less than 1.8 percent of the total energy used by the Federal Government.

The Federal Government is engaged daily in a wide range of general operations designed to meet national needs in such areas as defense, law enforcement, power production, research and development, and communications. In performing these vital missions, Federal agencies use energy to power more than:

- 22,000 aircraft of all types
- 650,000 automobiles, trucks and other vehicles
- 23,000 facilities on 741 million acres

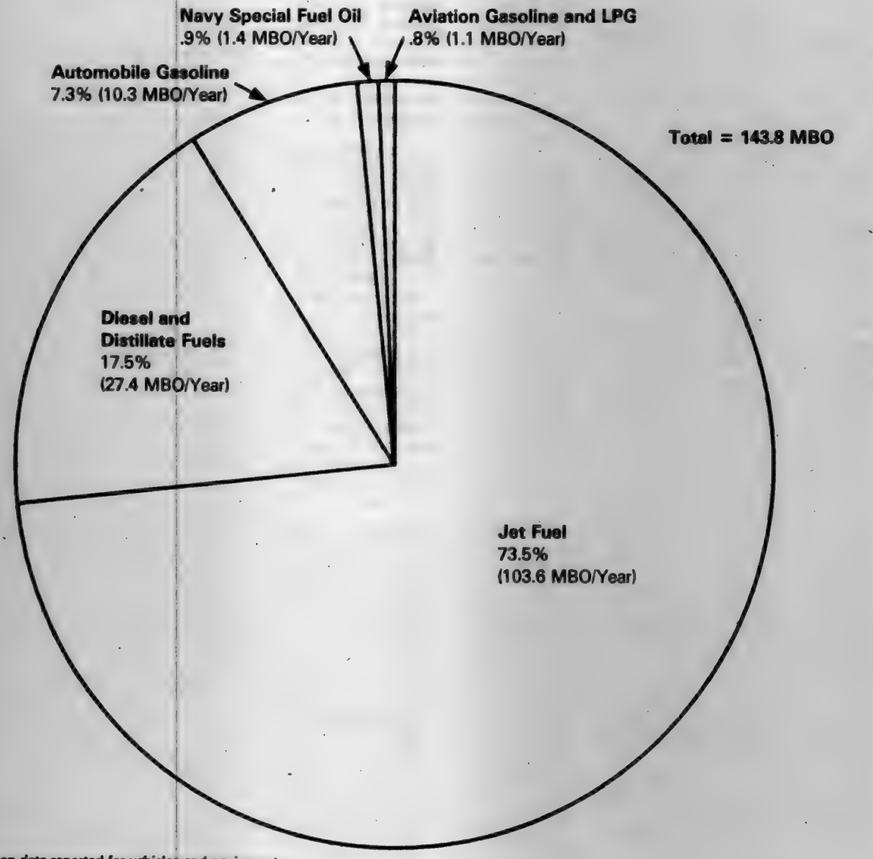

*Based on data reported for vehicles and equipment

Source: Department of Energy

FIGURE 1: MAJOR FUEL TYPES USED IN GENERAL OPERATIONS - FY 1978

Most fuels used in general operations are petroleum derivatives. Nearly 427,000 barrels per day of such products were used in FY 1978, three-fourths of which were used in aircraft operations. Figure 1 shows the use of fuel by type for general operations in FY 1978.

C. Federal Energy Management Program Administration

Section 656 of the DOE Organization Act requires the Secretaries of Defense, Commerce, Housing and Urban Development, Transportation, Agriculture and Interior; the Postmaster General of the United States Postal Service; and the Administrator of General Services, each to designate one Assistant Secretary or Assistant Administrator as the principal energy conservation officer of the respective Department or Administration. Each principal conservation officer is responsible for planning and implementing respective agency energy conservation programs and for coordinating energy matters with the Department of Energy. The designated appointees, along with the Under Secretary of DOE and senior representatives of NASA and the VA, comprise a committee known as the "656 Committee", chaired by the Under Secretary of DOE. This committee meets periodically and provides general oversight for interdepartmental FEMP matters. The proposed guidelines involve this committee under certain circumstances in the process of reviewing agency plans.

Within DOE, the Under Secretary has assigned the FEMP responsibilities to the Federal Programs Office, under the Assistant Secretary for Conservation and Solar Energy. The FEMP responsibilities include policy development, overall program coordination, promotion, monitoring and reporting.

Proposed § 436.72(b)(2)(iii) requires each Federal agency to designate the name and title of a principal energy conservation officer, such as an Assistant Secretary or Assistant Administrator, to be responsible for supervising, preparing, updating, and executing the general operations plan. Additionally, each agency must designate a middle-level staff member as a point of contact to interface with the DOE Federal Programs Office at the staff level.

II. General Operations 10-Year Plan

A. General Operations Energy Management Program Elements

In the process of determining requirements for Federal agency 10-year energy management plans, it was necessary for DOE to analyze and identify the elements which must be present to assure a workable energy management program for agency general operations. It is this program in each agency that bridges the gap between energy conservation plans and annual budgets. This analysis is contained in Appendix D, "Energy Conservation Program Elements".

Guidelines for a well-defined energy management program are necessary to ensure that consistent planning methodology and performance measurements are used throughout the Federal Government. This uniformity will facilitate annual performance reviews by the President and OMB. Further, consistent life cycle costing parameters will insure a proper allocation of resources by OMB during the budget review cycle. Each agency's energy management program, along with all other programs subject to the Federal five-year planning system, will address program resources required for the first five years of the 10-year planning period.

Proposed § 436.72(a) requires each Federal agency to prepare and submit a 10-year plan for managing energy conservation in its general operations. These plans are intended to provide the cornerstone of an agency's energy management programs.

B. Plan Format

Proposed § 436.72(b) sets forth the format and establishes the minimum requirements for individual Federal agency 10-year plans. The format calls for an executive summary and a text with appropriate appendices.

The executive summary is intended to enhance review by top management. The larger agencies should find this helpful, especially in later years, as plans become more complete and the requirement for revisions to plans pursuant to § 436.77 may be met by information contained in an executive summary. The text of the plan is designed to facilitate the preparation of the annual report to the President, mid-level management review, and the preparation of recommendations for plans and program and budget decisions by program managers. Appendices are to be included to provide for more lengthy discussion and documentation of innovative technologies or methods developed or used by an agency to promote energy conservation and energy efficiency, that may be disseminated to other Federal agencies or to the private sector. Such technologies include major studies and experimental programs in procurement, carpooling, vanpooling, cogeneration, urban waste, renewable resources, and others. DOE will work to facilitate the appropriate dissemination of such information.

C. Plan Content

Proposed § 436.72 outlines the *minimum* requirements for plan content. More detailed plan content was considered, but rejected because of the wide variance in the size and complexity of operations undertaken by Federal agencies. Agencies may elaborate upon the proposed content to meet their individual needs.

Section 436.72(b)(1)(i) calls for a brief description of the agency mission and the functional categories to facilitate managerial planning of a total program.

Section 436.72(b)(1) (ii), (iii) and (iv) are summaries of material to be contained in the text of the plan which will assist management in its review of the plan.

Section 436.72(b)(1)(v) will facilitate the presentation of significant problems which may impede the agency from meeting its energy management goals.

Section 436.72(b)(2)(i) requires each agency to relate energy conservation goals to primary mission goals, e.g., the Department of Defense's energy conservation goals with respect to unit readiness goals. The same section also calls for energy conservation goals to be projected through 1990. This provides a baseline for projecting and evaluating agency performance and the effectiveness of the energy conservation measures that have been implemented. Such information can be useful to other Federal, state and local agencies as well as to the public sector. Energy conservation measures which did not meet expectations are as important to document as those which met or exceeded expectations. Some "good" energy saving ideas that appear to be cost-effective may have detrimental legal, social, or environmental impacts. Others, such as the 55 mph speed limit, may not only save energy, but may also have safety or other benefits.

Section 436.72(b)(2)(ii) calls for a planned investment program for supporting energy use and efficiency goals. DOE recognized that many of the minimum cost measures for reducing consumption and increasing efficiencies have already been taken by Federal agencies and the additional resources and time are needed for meeting significantly higher goals. However, it is also recognized that any increases in Government spending for energy must be carefully evaluated against other National priorities, e.g., inflation. Therefore, all energy investments must be well-planned, justified and cost-

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effective. DOE has worked with OMB and the National Bureau of Standards and developed a life cycle costing methodology to help agencies further justify planned energy investments and develop credible annual budget programs.

The requirements of § 436.72(b)(2)(iii), (iv) and (v) should promote top management commitment to energy conservation, line management accountability, evaluation of technical expertise utilization, monitoring to validate employee conservation performance, and other key program elements contained in Appendix D. A middle-level staff member who deals directly with the DOE Federal Programs Office is to assist in developing recommendations to policy decision makers and be responsible for carrying out policy decisions in an efficient manner.

Section 436.72(b)(2)(vi) allows elaboration on issues contained in the executive summary pursuant to § 436.72(b)(1)(v) or the addition of problems or successes which are important but do not necessarily merit attention of the Secretary of DOE, Director of OMB, or the President.

III. Program Goal Setting

DOE considered three alternative methods for insuring that the requirements of the Executive Order were met:

- Have DOE prepare prescriptive rules and standards for energy use and efficiencies for each agency.
- Have DOE establish annual targets (energy budgets) for each agency.
- Allow each agency to participate in establishing its own goals and objectives.

After examining the implications of prescriptive rules and the many planning factors which would dictate energy budgets in general operations, DOE decided that it is more appropriate for each agency to establish its own goals and baselines. The guidelines require an explanation of the agency rationale or justification for its goals and baselines. This explanation will be general at best, considering the vagaries of public policy, international events, congressional interests, and public opinion. However, it is anticipated that annual updates of the plan will provide a firm basis for obtaining necessary funds. Energy use goals are to be established for each fuel type utilized in each functional category within the agency, using FY 1975 as the base year. This information, coupled with agency energy contingency plans called for in § 436.75 will assist the executive branch in reallocating fuels should the need arise. Further, most agencies already have active energy conservation programs for general operations, and in all likelihood will establish realistic goals. Should an agency encounter difficulty in establishing workable and realistic goals, or should its performance against a goal fall short of anticipated milestones or objectives, DOE can assist that agency in revising its initial plan or the annual plan update.

Energy efficiency goals, as well as energy use goals, are to be established. The tracking of energy efficiencies will assist in determining agency performance by normalizing changes in mission, e.g., energy consumption could be increasing, but services or production may be increasing at a greater rate. Conversely, an agency's missions and operations may be decreasing, but its energy use may not be falling at the same rate. Energy efficiency goals are to be selected to fit the following functional categories or others established prior to the publication of final rules:

- General Transportation: To include vehicles used for over-the-road driving as opposed to vehicles designed for off-road conditions; aircraft and marine vessels.
- Industrial/Production: Operation of buildings and plants which normally use large amounts of capital equipment, e.g., GOCO plants to produce goods (hardware).
- Services: The system or method of providing the use of something such as electric power, fuel, or the procurement of energy efficient automobiles and equipment.
- Training and Operational Readiness: Those functions which are necessary to establish or maintain an agency's capability to perform its primary mission. Included are activities to provide essential personnel strengths, skills, equipment/supply inventory, and maintain equipment condition.
- Other: A category established to accommodate those activities which utilize energy but do not fit into one of the other categories.

If functions defined do not satisfy unique agency missions, DOE will give consideration to expanding or redefining these categories; however, once functional categories are finally established, each agency must report its energy efficiency goals and performance within the framework of established categories. This area was the most difficult for DOE to define and agency comments and suggestions are invited.

IV. Energy Conservation Measures and Standards

Federal agencies must consider as part of their plan implementing all measures identified in Appendix C pursuant to § 436.74(a). DOE considered many measures which could be adopted by all Federal agencies for reducing energy consumption; however, after a more detailed assessment, it was determined that many of the measures were unique to only a few agencies, lacking in technical sufficiency, not cost-effective, or might cause severe degradation in mission or program performances. The measures specified in Appendix C were selected as proven methods for conserving energy or obtaining energy efficiencies with a minimum expenditure of funds. Further, most of them can be implemented with little delay and are oriented toward the people who are end users of energy or are maintaining energy-intensive capital equipment. Implementation of these measures will bring prompt reductions in energy use with minimum degradation in the effectiveness of other agency programs.

It is likely that, after evaluating the implementation of energy conservation measures listed in Appendix C, DOE will determine that it is necessary to make a measure listed in Appendix C a standard of operation under § 436.74(c). This will be done if it is determined that either the implementation of a measure is for some reason not being successfully accomplished by all agencies that could benefit from the measure, or that although implemented, because of a wide range of implementation procedures, the effectiveness of the measure is not sufficiently uniform across all of the agencies.

A standard under § 436.74(c) would differ from a measure under § 436.74(a) in that the description of its applicability and procedural elements would be more detailed. In addition, once applicability to a particular agency is established, rather than reporting to the Secretary any variance or decision not to adopt a particular measure, § 436.78 would require that a request for a waiver be filed. Waivers will only be granted if it is determined that the energy consevation measure being used by the agency in place of the standard is equal to or exceeds the energy savings potential of that standard.

Section 436.74(c) is established and Appendix A is reserved for the purpose discussed above. Standards, when issued, shall be incorporated into energy conservation plans.

DOE plans to increase its existing program of information transfer within the public sector and the private sector; therefore, many of the measures or standards which will be added in the future may come from other Federal, state and local agencies or the private sector. The DOD has already started an active program for information transfer between installation commanders and adjacent local governments. DOE is currently receiving feedback from programs initiated with state and local governments and with private industry. Again, this information will be evaluated for its applicability to Federal general operations, and those which are cost-effective will be incorporated into the guidelines either as measures or standards, as appropriate.

These guidelines, as stated in § 436.72(b)(2)(ii), require that all agency general operations plans contain a section which will describe all measures that are being taken or planned. Further, the cost and budgets for these measures must be stated in each agency plan.

Comments are invited with respect to any particular problems that might result from immediately applying measures proposed in Appendix C. Suggestions for elaboration or addition of measures or standards which are proven energy-savers in general operations are encouraged.

V. Contingency Plan

Proposed § 436.75 contains the guidelines for energy emergency planning by Federal agencies. All agencies are required to establish contingency plans for assuaging the impact of a sudden disruption in oil supplies, natural gas or electricity. Each agency will prepare plans for a mild, moderate, and severe reduction in oil-based products, natural gas and electricity.

For DOD, planning for reduction of oil-based products should take into account the provisions of Part 211.26 of Title 10, Code of Federal Regulations, which is entitled Department of Defense Allocations. It states that allocations of crude oil and any allocated product to the DOD (except for housekeeping requirements) shall be supplied at an allocation level of 100 percent.

The intent of the proposed rule is to promote contingency planning as a continuing process and to assuage that impact of a reduction of Federal services or production due to an actual sudden reduction of U.S. oil supplies, natural gas or electricity. DOE does not intend to review each agency's detailed contingency plan, but a summary and a schedule for plan development is to be provided pursuant to § 436.72(b)(2) (iv) and (vii).

VI. Reporting Requirements

Under current legislation and executive orders, the Department of Energy is required to prepare several reports on the management and the use of energy in the Federal Government. These reports are:

- The President's Annual Report to Congress required under Section 381 of the Energy Policy and Conservation Act (EPCA).
- An annual report to the President concerning Federal Government progress toward achieving the energy conservation goals established under Executive Order 12003.
- A comprehensive annual report to the President and Congress reporting on all activities and progress toward achieving the objectives of Title V, Part 3, of the National Energy Conservation Policy Act (NECPA).

In addition, DOE is responsible for insuring that the Federal Energy Management and Planning Program is implemented effectively and efficiently. This entails many special reports and answering inquiries received from numerous Federal agencies and instrumentalities including OMB, the President's office and Congress. In order that this responsibility be carried out, it is necessary that certain information be readily available within DOE. The proposed reporting requirements were established in § 436.76 after considering the need for this requirement and the DOE objectives of requesting minimum information from the Federal agencies and minimizing the costs of modifying an existing reporting systems. Quarterly performance reports will be required from any agency whose annual energy consumption exceeds one hundred billion Btu's. These reports will show progress against the baselines established by each agency for energy reductions by fuel type and functional category. DOE has developed a format for agencies to report quarterly progress. Reporting on energy efficiencies will be accomplished annually pursuant to § 436.76(a). It is recognized that establishing a baseline and a reporting system will take time, and this fact was considered in requiring each agency to develop an implementation schedule pursuant to § 436.72(b)(2)(v).

In addition to the annual reporting requirements outlined in § 436.76, those twenty-five agencies currently reporting to DOE using FEA Form U–502–Q–1, should continue to report their current integral energy use on a quarterly basis.

VII. Plan and Waiver Submission, Review, and Approval

Under these proposed guidelines, Federal agencies are required to submit plans within six months after rules publication, with annual plan updates to be submitted thereafter. Waivers must be submitted 60 days prior to the due date for submissions.

Under proposed § 436.77, DOE will review plans and revisions for conformance with the guidelines. DOE Federal Programs Office will offer assistance to those agencies whose plans are considered deficient. Major problem areas may be submitted for review by the 656 Committee. Status and results of plan reviews and requests for waivers will be published in the annual report to the President.

VIII. National Environmental Policy Act Review

After reviewing the proposed guidelines pursuant to DOE's responsibilities under the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 4321 *et seq.*, DOE has determined that the proposed administrative action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, no environmental impact statement (EIS) or environmental assessment is necessary to support this action. DOE will determine the nature and extent of additional environmental review required by NEPA for individual agency plans for conserving energy in their general operations at the time these plans are submitted to DOE for its review and approval.

IX. Regulatory Analysis and Period for Public Comment

In accordance with the provisions of Executive Order 12044, 43 FR 12661, implementing DOE directives, and OMB Circular A–116, it is hereby determined that neither a regulatory analysis nor an urban and community impact analysis is necessary or appropriate in connection with this rulemaking. Today's proposed guidelines are deemed to be "significant" because of the widespread impact on Federal agencies of the Executive Branch. The proposed rules are not considered to be "major", however, because they will not have the kind or degree of effect which, under Executive Order 12044, necessitates a regulatory analysis.

In consideration of the rapid depletion of the Nation's nonrenewable energy resources and the need to further intensify conservation efforts at the Federal level, it is clearly contrary to the

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public interest to delay final issuance of this rulemaking any longer than is absolutely required. Accordingly, it is further determined that a 30-day period rather than a 60-day period shall be provided for public review and comment on this proposed rulemaking.

X. Comment and Hearing Procedures

A. Written Comments

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to today's proposed guidelines. Comments should be submitted by March 3, 1980, to the address indicated in the beginning of this preamble. Comments should be identified on the outside of the envelope and on documents submitted to DOE with the designation "FEMP GENERAL OPERATIONS GUIDELINES—Proposed rule (Docket No. CAS–RM–80–117)". Fifteen copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room GA–142, Forrestal Building, 1000 Independence Ave., S.W., between 8:00 a.m. and 4:00 p.m., Monday through Friday.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information which he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy, and fifteen copies from which information claimed to be confidential has been deleted. In accordance with the procedures established in 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure.

B. Request Procedures

The time and place of this public hearing are indicated in the dates and addresses section of this preamble. DOE invites any person who has an interest in the proposed rulemaking issued today, or who is representative of a group or class of persons that has an interest in today's proposed rulemaking, to make a written request for an opportunity to make an oral presentation. Such a request should be directed to the address indicated in the addresses section of this preamble, must be received before February 15, 1980 and may be hand-delivered to such address, between the hours of 9:00 a.m. and 4:30 p.m.

The person making the request should briefly describe the interest concerned; if appropriate, state why she or he is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a telephone number where she or he may be contacted during the day.

DOE will notify each person selected to appear at the hearing before February 19, 1980. Each person selected to be heard should bring 15 copies of his or her statement to the hearing location.

C. Conduct of Hearings

DOE reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked by those conducting the hearing, and there will be no cross-examination. At the conclusion of all initial oral statements, each person who has made an oral statements will be given the opportunity to make a rebuttal statement. The rebuttal statement will be given in the order in which the initial statements were made and will be subject to time limitations.

Any person who wishes to have a question asked at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be asked.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made, and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Reading Room, Room GA–152, Forrestal Building, 1000 Independence Ave., S.W., Washington, D.C., 20461, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In consideration of the foregoing, the DOE hereby proposes to amend Chapter II of Title 10, Code of Federal Regulations, by establishing Subpart F and Appendices A, B, C, and D of Part 436 as set forth below.

Issued in Washington, D.C. January 25, 1980.

Worth Bateman,

Acting Under Secretary.

1. Part 436 of Chapter II, Title 10, Code of Federal Regulations, is amended by adding a new Subpart F and Appendices A, B, C, and D to read as follows:

Subpart F—Guidelines for General Operations Plans

Sec.

436.70 Purpose and scope.
436.71 Definitions.
436.72 General operations plan format and content.
436.73 Program goal setting.
436.74 Energy conservation measures and standards.
436.75 Contingency plan.
436.76 Reporting requirements.
436.77 Review of plan.
436.78 Waivers.
Appendix A to Subpart F of Part 436—Energy conservation Standards for General Operations [Reserved]
Appendix B to Subpart F of Part 436—Goal Setting Methodology
Appendix C to Subpart F of Part 436—General Operations Energy Conservation Measures
Appendix D to Subpart F of Part 436—Energy Conservation Program Elements
Appendix E to Subpart F of Part 436—Annual Report Format [Reserved]

Authority: Energy Policy and Conservation Act, as amended (42 U.S.C 6361); Executive Order 11912, as amended by Executive Order 12003, (42 FR 37523, July 20, 1977); National Energy Conservation Policy Act, Title V, Part 3, 92 Stat. 3275; Department of Energy Organization Act, (42 U.S.C. 7254); Executive Order 12185, (44 FR 75093, December 17, 1979).

Subpart F—Guidelines for General Operations Plans

§ 436.70 Purpose and scope.

(a) *Purpose.* The purpose of this Subpart is to provide guidelines for use by Federal agencies in their development of overall 10-year energy management plans to develop goals, to reduce the rate of energy consumption, to promote the efficient use of energy, to provide a methodology for reporting their progress in meeting the goals of those plans, and to promote agency contingency planning to assuage the impact of a sudden disruption in the supply of oil-based fuels, natural gas or electricity. The plan is intended to provide the cornerstone for a program to conserve energy in the general operations of an agency. A description of the elements necessary for a successful energy conservation program appears in Appendix D.

(b) *Scope.* This Subpart applies to all general operations of Federal agencies and is applicable to the management of all energy used by Federal agencies that is not included under the regulations in Subpart C. Energy use and energy-saving actions for Federal buildings excluded from the buildings plans under Subpart C, are to be included in the general operations plans under this Subpart.

§ 436.71 Definitions.

As used in this Subpart—

"Aviation gasoline (AVGAS)" means all special grades of gasoline for use in aviation reciprocating engines.

"Baseline" means a historic level of energy consumption based on known consumption during some base year, e.g., FY 1975, and from which comparisons may be made.

"Btu" means British thermal unit; the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit.

"Cogeneration" means the utilization of surplus energy, e.g. steam, heat or hot water produced as a by-product of the manufacture of some other form of energy, such as electricity. Thus, diesel generators are converted to cogeneration sets when they are equipped with boilers that make steam and hot water (usable as energy) from the heat of the exhaust and the water that cools the generator.

"Contingency Plan" means a set of instructions designed to provide guidance in the event of a possible, unforeseen, or unlikely occurrence.

"Diesel and petroleum distillate fuels" means the lighter fuel oils distilled-off during the refining process. Included are heating oils, fuels, and fuel oil. The major uses of distillate fuel oils include heating, fuel for on- and off-highway diesel engines, marine diesel engines and railroad diesel fuel.

"DOE" means the Department of Energy.

"Energy Efficiency Goal" means the ratio of energy used to production achieved.

"Energy use avoidance" means the amount of energy resource, e.g., gasoline not used because of initiatives related to conservation. It is the difference in Btu's between the baseline without a plan and actual consumption.

"Facility" means any structure or group of closely located structures, comprising a manufacturing plant, laboratory, office or service center, plus equipment.

"Federal agency" means any Executive agency under 5 U.S.C. 105 and the United States Postal Service, each entity specified in 5 U.S.C. 5721(1) (B), (H) and, except that for purposes of this Subpart, the Department of Defense shall be separated into four reporting organizations: the Departments of the Army, Navy and Air Force and the collective DOD agencies, with each responsible for complying with the requirements of this Subpart.

"Fiscal Year or FY" means, for a given year, October 1 of the prior year through September 30 of the given year.

"Fuel type" means electricity, fuel oil, natural gas, liquefied petroleum gas, coal, purchased steam, automotive gasoline, diesel and petroleum distillate fuels, aviation gasoline, jet fuel, Navy special, and other identified fuels.

"General operations" means world-wide Federal agency operations, other than building operations, and includes services; production activities; operation of aircraft, ships, and land vehicles; and operation of Government-owned, contractor-operated plants.

"Goal" means a specific statement of the intended purpose and performance requirements of a scheduled, time-phased result established to fulfill an objective within a prescribed time period and reflects expected energy use, assuming planned conservation programs are approved.

"Guidelines" means a set of instructions designed to prescribe, direct and regulate a course of action.

"Industrial or Production" means the operation of buildings and plants which normally use large amounts of capital equipment, e.g., GOCO plants, to produce goods (hardware).

"Jet fuel" means fuels for use, generally in aircraft turbine engines.

"Life cycle cost" means the total cost of acquiring, operating and maintaining a measure over its economic life, including its fuel costs, determined on the basis of a systematic evaluation and comparison of alternative investments in programs outside of FEMP.

"Liquefied petroleum gas" means propane, propylene-butanes, butylene, propane-butane mixtures, and isobutane that are produced at a refinery, a natural gas processing plant, or a field facility.

"Maintenance" means activities undertaken to assure that equipment and energy-using systems operate effectively and efficiently.

"Measures" means actions, plans, procedures, devices or other means for effecting energy efficient changes in general operations which can be applied by Federal agencies.

"Measure of performance" means a scale against which the fulfillment of a requirement can be measured.

"Navy special" means a heavy fuel oil that is similar to ASTM grade No. 6 oil or Bunker C oil. It is used to power U.S. Navy ships.

"Non-renewable energy source" means those energy resources such as fuel oil, natural gas, liquified petroleum gas, synthetic fuels, and purchased steam or electricity.

"Training and operational readiness" means those functions which are necessary to establish or maintain an agency's capability to perform its primary mission. Included are activities to provide essential personnel strengths, skills, equipment/supply inventory and equipment condition.

"Overall plan" means the comprehensive agency plan for conserving fuel and energy in all operations, to include both the Buildings Plan developed pursuant to Subpart C and the General Operations Plan.

"Plan" means those actions which an agency envisions it must undertake to assure attainment of energy consumption and efficiency goals without an unacceptable adverse impact on primary missions.

"Program" means the organized set of activities and allocation of resources directed toward a common purpose, objective, or goal undertaken or proposed by an agency in order to carry out the responsibilities assigned to it.

"Renewable energy sources" means sunlight, wind, geothermal, biomass, solid wastes, or other such sources of energy.

"Secretary" means the Secretary of the Department of Energy.

"Services" means the system or method of providing the use of something such as electric power, fuel, or the procurement of energy efficient automobiles or equipment.

"Specific Functional Category" means those Federal agency functions which consume energy, or which are directly linked to energy consuming activities and which fall into one of the following groups: Services, General Transportation, Industrial or Production, Training and Operational Readiness, and Other.

"Standard" means an energy conservation measure determined by DOE to be applicable to a particular agency or agencies. Once established as a standard, any variance or decision not to adopt the measure requires a waiver.

"Under Secretary" means the Under Secretary of the Department of Energy.

"Variance" means the difference between actual consumption and goal.

"656 Committee" means the Interagency Federal Energy Policy Committee, the group designated in Section 656 of the DOE Organization Act to provide general oversight for interdepartmental FEMP matters. It includes the designated Assistant Secretaries or Assistant Administrator of the Departments of Defense, Commerce, Housing and Urban Development, Transportation, Agriculture, Interior and the U.S. Postal Service and General Services Administration, along with the Under Secretary of DOE and senior representatives of the National Aeronautics and Space Administration and the Veterans Administration.

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§ 436.72 General operations plan format and content.

(a) Each Federal agency shall prepare and submit to DOE, within six months from the effective date of these guidelines, a general operations 10-year plan which shall consist of two parts, an executive summary and a text. Subsequent revisions to plans shall be forwarded to DOE by January 1 annually. A plan or revision to the initial plan will be considered deficient and returned to the Federal agency concerned within 60 days if it lacks any element or requirement identified in this section.

(b) The following information shall be included in each Federal agency general operations 10-Year plan for the period 1980–1990:

(1) An Executive Summary which includes—

(i) A brief description of agency mission and, (ii) the applicable functional categories pursuant to § 436.76(a)(2);

(ii) A Goals and Objectives Section which summarizes how goals and objectives were established, and the costs and benefits of measures planned for reducing energy consumption and increasing energy efficiencies. Assumptions of environmental, safety and health effects of the goals should be included;

(iii) A chart depicting the agency organizational structure for energy management, showing energy management program organization for agency headquarters and for major subordinate elements of the agency;

(iv) A shedule for completion of requirements directed in this Subpart, including phase-out of any procedures made obsolete by these guidelines; and,

(v) Identification of any significant problem which may impede the agency from meeting its energy management goals. This statement shall be concurred with by the Assistant Secretary or Assistant Administrator responsible for total agency energy management.

(2) A Text which includes—

(i) A Goals and Objectives Section developed pursuant to § 436.73 describing agency energy conservation goals; these goals will then be related to primary mission goals;

(ii) An Investment Section describing the agency planned investment program pursuant to Appendix B to this Part, all measures selected pursuant to § 436.74, and the estimated costs and benefits of the measure planned for reducing energy consumption and increasing energy efficiencies;

(iii) An Organization Section which includes: (A) designation of the principal energy conservation officer, such as an Assistant Secretary or Assistant Administrator, who is responsible for supervising the preparation, updating and execution of the Plan, for planning and implementation of agency energy conservation programs, and for coordination with DOE with respect to energy matters; (B) designation of a middle-level staff member as a point of contact to interface with the DOE Federal Programs Office at the staff level; and (C) designation of key staff members within the agency who are responsible for technical inputs to the plan or monitoring progress toward meeting the goals of the plan;

(iv) A Requirements and Procedures Section which includes: (A) specific tasking resulting from development of the Plan; (B) guidance for the development of contingency plans pursuant to § 436.75; (C) task milestones; and (D) listing of responsible sub-agencies and individuals at both agency headquarters and subordinate units;

(v) A Reporting and Administrative Section which includes: (A) reporting and administrative procedures for headquarters and subordinate organizations; (B) report schedules pursuant to § 436.76(c); (C) schedules for feedback in order to facilitate plan updating, to include reviews of contingency plans developed pursuant to § 436.75; (D) schedules for preparing and submitting the annual report on energy management pursuant to § 436.76(a); (E) schedules of plan preparation and publication; and (F) communication, implementation, and control measures such as inspections, audits, and others;

(vi) An Issues Section addressing problems, alternative courses of action for resolution, and agency recommendations that justify any decisions not to plan for or implement measures contained in Appendix C, and identify any special projects, programs, or administrative procedures which may be beneficial to other Federal agency energy management programs; and,

(vii) A Contingency Plan Summary Section pursuant to the requirements of § 436.75(c).

(3) Appendices as needed to discuss and evaluate any innovative energy conserving technologies or methods, not included in this Part, which the agency has identified for inclusion in its plan.

(c) Each plan must be approved and signed by the principal energy conservation officer designated pursuant to paragraph (b)(2)(iii) of this section.

§ 436.73 Program goal setting.

(a) In developing and revising plans for a projected 10-year plan each agency shall establish and maintain energy conservation goals in accordance with the requirements of this section.

(b) The goal setting methodologies outlined in Appendix B to this Part may be used to establish agency goals pursuant to paragraph (a) of this Section.

(c) General operations energy consumption goals shall be established by each Federal agency with the broad purpose of achieving reductions in total energy consumption, without mission degradation, in support of the President's program to reduce United States dependence on insecure and uncertain foreign energy supply. Within that broad framework, each agency should seek first to reduce energy consumption per unit of output in each applicable functional category. Particular attention should be given to increased energy use efficiency in non-renewable fuel consumption. The second focus of attention should be on initiatives which shift energy use from oil to other fuels in more plentiful supply from domestic sources.

§ 436.74 Energy conservation measures and standards.

(a) Each agency shall consider for inclusion in its plan the measures identified in Appendix C to this Part.

(b) Consideration of each measure pursuant to paragraph (a) of this section shall be based on an evaluation of the following questions:

(1) Does this measure provide an incentive or a disincentive?

(2) What is the estimate of savings by fuel type?

(3) What are the direct and indirect impacts of this measure?

(4) Is this measure to be mandatory throughout the agency?

(5) If not mandatory, under what circumstances will it be implemented, and who will be responsible for determining specific applicability?

(6) Who will be the direct participants in the implementation of this measure?

(7) What incentives (if any) are to be provided for the participants?

(8) When will this measure be implemented?

(9) Will this measure be implemented in a single step or will it be phased in? If it will be phased in, over what period of time?

(10) Will performance of the measure be evaluated and reported?

(11) By what criterion will performance be determined?

(12) Who will prepare performance reports?

(13) What is the reporting chain?

(14) What is the reporting period?

(c) Each agency shall take all necessary steps to implement the energy conservation standards for general operations listed in Appendix A.

§ 436.75 Contingency plan.

(a) Each agency shall establish a contingency plan, a summary of which shall be included in the general operations plan, for assuaging the impact of a sudden disruption in the supply of oil-based fuels, natural gas or electricity. Priorities for temporarily reducing missions, production, services, other programmatic or functional activities shall be developed in accordance with paragraph (b) of this section. Planning for such contingencies are to address both buildings and general operations. Provisions shall be made for exercising emergency programs to ascertain that they are effective.

(b) Federal agencies shall prepare contingency plans for mild (5 percent), moderate (10 percent), and severe (20 percent) reductions in oil-based fuels, natural gas or electricity for a period of up to 12 months. Priorities for the allocation of scarce resources are established by the Emergency Petroleum Allocation Act of 1973 (EPAA). The EPAA priorities ensure the preservation of national defense and public health and safety. The Emergency Energy Conservation Act (EECA) directs consideration be given to the reduction of energy use in buildings and equipment, and the reduction of energy use by increased use of car pooling and mass transit. In general, Federal agency priorities shall go to those activities which directly support the agencies' primary missions. Secondary mission activities which must be curtailed or deferred will be reported to DOE as mission impacts. The description of mission impacts shall include estimates of the associated resources and time required to mitigate the effects of the reduction in energy. Other factors or assumptions to be used in energy emergency planning are as follows:

(1) Agencies will be given 15–30 days notice to implement any given plan.

(2) Substitution of fuels for oil-based products and electricity are authorized, if the substitution can be completed within a 4 month period and the cost is within the approval authority of the executive branch. Renewable fuel sources should be used as a first priority. Thereafter, priorities are: coal first, and natural gas second.

(3) All costs and increases in manpower or other resources associated with activities or projects to assuage mission impacts will be clearly defined in respective agency plans. One-time costs will be identified separately.

(4) Operating budgets will be increased if justified by the agencies, e.g. if the cost of substitute resources for oil-based product is greater, or the oil-based product has been purchased and additional funds are needed to acquire substitute resources.

(5) All justified projects and increases in operating budgets within the approval authority of the executive branch will be expeditiously approved and funds made available for prompt implementation.

(c) Summary plans for agency-wide contingency management shall be provided to DOE pursuant to § 436.72(b)(2)(vii). Such summaries shall include:

(1) Agency-wide impacts of energy reductions as determined in accordance with paragraph (b) of this section.

(2) Actions to be taken agency-wide to alleviate the energy shortfalls as they occur.

(3) An assessment of agency services or production that may need to be curtailed or limited after corrective actions have been taken.

(4) A summation of control and feedback mechanisms for managing an energy contingency situation.

§ 436.76 Reporting requirements.

(a) By July 1 of each year (following approval of a Federal agency's 10-year plan) each Federal agency shall submit an "Annual Report on Management and Consumption of Energy In General Operations," to the Secretary of DOE. This report shall include:

(1) A summary evaluation of progress toward the achievement of energy use and energy efficiency goals established by the agency in its plan;

(2) The energy use over the reporting period specified for each of the following functional categories: general transportation, industrial or production, services, training and operations readiness, and other. At a minimum, each agency shall report usage in at least one functional area other than that designated as "Other". Usage not logically includable in the specific functional categories shall be combined under "Other". The following information is to be reported for the usage of each fuel type for each functional category:

(i) Total energy used (in Btu);

(ii) Total energy use avoidance (in Btu);

(iii) Variance;

(iv) Status of planned investments and, if different from investment program upon which existing goals are based, the expected impact on meeting projected goal; and

(v) Summary of any other benefits realized;

(3) The energy efficiencies, as calculated in accordance with Appendix B for the appropriate functional categories identified in paragraph (a)(2) of this section. The following information is to be reported for the energy efficiency for each fuel type by functional category:

(i) Efficiency for the reporting period.

(ii) Summary of any other benefits realized.

(b) Each agency's annual report shall be developed in accordance with the format described in Appendix E.[1]

(c) Agencies whose annual total energy consumption exceeds one hundred billion Btu's, shall, in addition to the annual report required under paragraph (a) of this section, submit quarterly reports of the energy usage information specified in § 436.70(a)(2).

§ 436.77 Review of plan.

(a) Each plan or revision of a plan shall be submitted to DOE and a determination of compliance with the requirements of this Subpart will be made within 60 days of submission. If a plan is determined to be in compliance, written notification of such determination will be sent to the agency submitting the plan or revision. This notification shall include a critique of the plan. If determined to be deficient under paragraph (b) of this section and after review pursuant to paragraph (c) of this section, DOE will return the plan to the head of the agency submitting the plan, with an explanation of deficiencies. Agencies shall be afforded an opportunity to correct deficiencies and return the plan within an appropriate period of time for review by the Under Secretary of DOE.

(b) A general operations plan under these guidelines is deficient if it—

(1) Lacks adequate information or plan content required to be included by § 436.72;

(2) Lacks adequate goal setting methodology or baseline justification as stated in § 436.73;

(3) Lacks a well-justified investment program which considers all measures included in Appendix C; or

(4) Otherwise fails to comply with the requirements of this Subpart.

(c) After reviewing agency plans or revisions of plans, the Under Secretary of DOE, may submit to the 656 Committee for its recommendation, major problem areas or common deficiencies.

(d) Status of the plan review, the Under Secretary's decisions, and any

[1] Appendix E to be proposed at a future date.

656 Committee recommendations, will be published in the DOE annual report to the President, titled "Energy Management in the Federal Government".

§ 436.78 Waivers.

(a) Any Federal agency may submit a written request to the Under Secretary for a waiver from the procedures and requirements of this Subpart. The request for a waiver must identify the specific requirements and procedures of this Subpart from which a waiver is sought and provide a detailed explanation, including appropriate information or documentation, as to why a waiver should be granted.

(b) A request for a waiver under this section must be submitted at least 60 days prior to the due date for the required submission.

(c) A written response to a request for a waiver will be issued by the Under Secretary no later than 30 days from receipt of the request. Such a response will either (1) grant the request with any conditions determined to be necessary to further the purposes of this Subpart, (2) deny the request based on a determination that the reasons given in the request for a waiver do not establish a need that takes precedence over the furtherance of the purposes of this Subpart, or (3) deny the request based on the failure to submit adequate information upon which to grant a waiver.

(d) A requested waiver may be submitted to the 656 Committee for its review and recommendation. The agency official that submitted the request may attend any scheduled meeting of the 656 Committee at which the request is planned to be discussed. The determination to approve or disapprove a request for a waiver shall be made by the Under Secretary.

(e) Status of the requests for a waiver, the Under Secretary's decisions, and any 656 Committee recommendations, will be published, as appropriate, in the DOE annual report to the President, entitled "Energy Management in the Federal Government."

Appendix A to Subpart F of Part 436—Energy Conservation Standards for General Operations [Reserved]

Appendix B to Subpart F of Part 436—Goal Setting Methodology

In establishing and updating agency goals for energy conservation the following methodology should be utilized:

(a) For overall energy consumption—

(1) An analysis shall be made to determine what factors have the most significant impact upon the amount of each fuel type used by the agency in performing functions in support of its overall mission. Consideration is to be given, but not limited to, the following factors: number of people using energy; number of vehicles using gasoline; amounts of other equipment using energy; tempo of operations (one, two, or three shifts); the type of operations (degree of equipment or labor intensity); equipment fuel limitations; environmental conditions (tropical versus arctic, etc.); budget levels for fuel, operations, maintenance, and equipment acquisition; and phase-out schedule (of older equipment or plants which may be inefficient). After identifying these factors, a further analysis shall be made to identify any projected changes in the quality or quantity of these factors on a yearly basis up to 1990.

(2) Based upon the analysis in (a)(1) and an evaluation of available information on past energy usage, a baseline of energy use by fuel type should be established. Figure B–1 is an example of one such baseline.

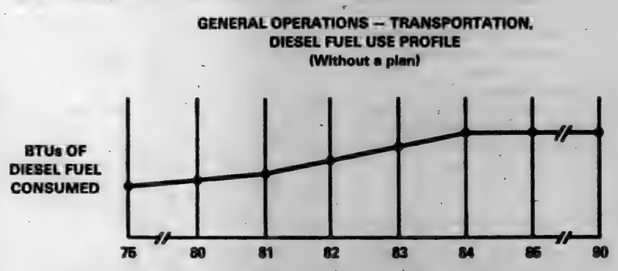

FIGURE B-1: GENERAL OPERATIONS — TRANSPORTATION, DIESEL FUEL USE PROFILE (W/O A PLAN)

This example shows an increase in energy use, for a specific fuel type, during the period 1975–1981, with a further increase from 1981 to 1984 and a leveling off and no growth from 1984–1990. A justification, based on factors as discussed above shall accompany each baseline.

(3) Thereafter, analyses should be made of the measures available for reducing the energy use profiles without adverse impact on mission accomplishment. Finding viable opportunities for reducing energy use will require consultation with specialists in the fields of operations, maintenance, engineering, design, and economics, and consideration of the measures identified in Appendix C. The DOE Federal Energy Programs Office can, upon request, provide information on where such resources can be located. Once these measures are identified, (using the life cycle costing rules of this Part) they are to be ranked and incorporated into a time-phase investment program. An estimate must then be made as to the lead time required to implement the program and realize energy reductions. Figure B–2 shows a summarized investment program, which should be accompanied by a detailed description of the measures, projects, and programs making up the total planned investments for each year.

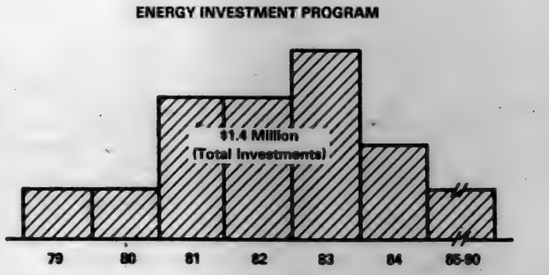

FIGURE B-2: ENERGY INVESTMENT PROGRAM

These analyses should enable the agency to project an energy use goal, with the assumption that funds for executing the planned projects will be approved. Figure B–3 shows a new energy type profile, with planned initiatives and related investments taken into consideration, and the resulting goal entitled "Energy Use With A Plan" superimposed on Figure B–1.

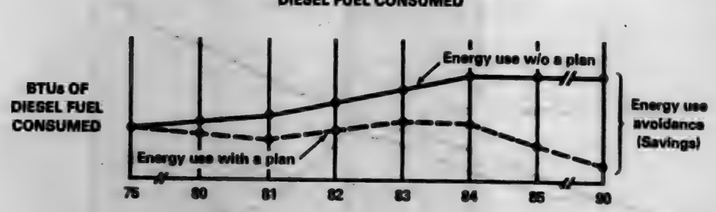

FIGURE B-3: GENERAL OPERATIONS — TRANSPORTATION, DIESEL FUEL CONSUMED

A comparison of these projections will show the energy use avoidance in Btu's resulting from the investment program as depicted in Figure B–2. Energy use or energy savings shall be calculated using the Btu conversion table in Subpart C to Part 436, except that a Federal agency may use the conversion factors of a standard engineering reference manual for energy sources which are not listed. Using the prices of fuel contained in Appendix C to Subpart A of Part 436, the dollars saved can be projected against the dollars invested by multiplying Btu's by fuel prices. Life cycle costing pursuant to Subpart A, will be used to determine priorities for submitting individual initiatives into the appropriate budget year.

(4) Planned initiatives and related investments shall be identified by a separate line item, or uniquely identified with the agency's energy management and planning program in each agency fiscal year budget request.

(b) For energy efficiencies—Energy efficiency baselines and goals shall be calculated using the same consumption factors and similar methodology to that outlined in paragraph (a). Energy consumption by fuel type shall be linked to mission through the functional categories listed in § 436.76(a)(2). This will identify a rate which will indicate energy efficiency trends. This linkage may be accomplished through the following algorithm:

Step 1: Determine functional categories from § 436.76(a)(2) which best describes the Agency overall mission.

Step 2: Determine types of fuels used to support the function by inventorying the equipment and/or activities using fuel within the functions selected in Step 1.

Step 3: Determine quantities of fuel consumed or planned for consumption over a specific period of time, i.e. yearly, quarterly, etc. Quantify in Btu's/period of time.

Step 4: Determine quantity of output of function for same period of time used in Step 3. Quantify output in a standard measure which best describes functional category.

Step 5: Determine the energy efficiency ratio by dividing quantity from Step 3 by quantity from Step 4.

This ratio of Btu's consumed to a unit measure of output will be used to develop a projection of a baseline and goals through 1990, and used in reporting variance. Examples of ratios that should be considered are:

- Production or industrial process type operations

$$\frac{\text{Btu's}}{\text{Ton of product}}$$

- Services, such as postal delivery

$$\frac{\text{Btu's}}{\text{Customers served or pounds delivered}}$$

- Services such as research and development, which do not produce hardware

$$\frac{\text{Btu's consumed annually}}{\text{Annual R\&D Budget (in constant dollars)}}$$

- General Transportation

$$\frac{\text{Passenger miles}}{\text{Gallon}} \qquad \frac{\text{Ton miles}}{\text{gallon}}$$

- Training

$$\frac{\text{Btu's}}{\text{Persons trained or in training}}$$

Agencies shall select one or more of these ratios, or justify use of more appropriate energy efficiency ratios, to describe their overall functions. Figure B–4 illustrates the planning baseline and goal resulting from this type of an analysis.

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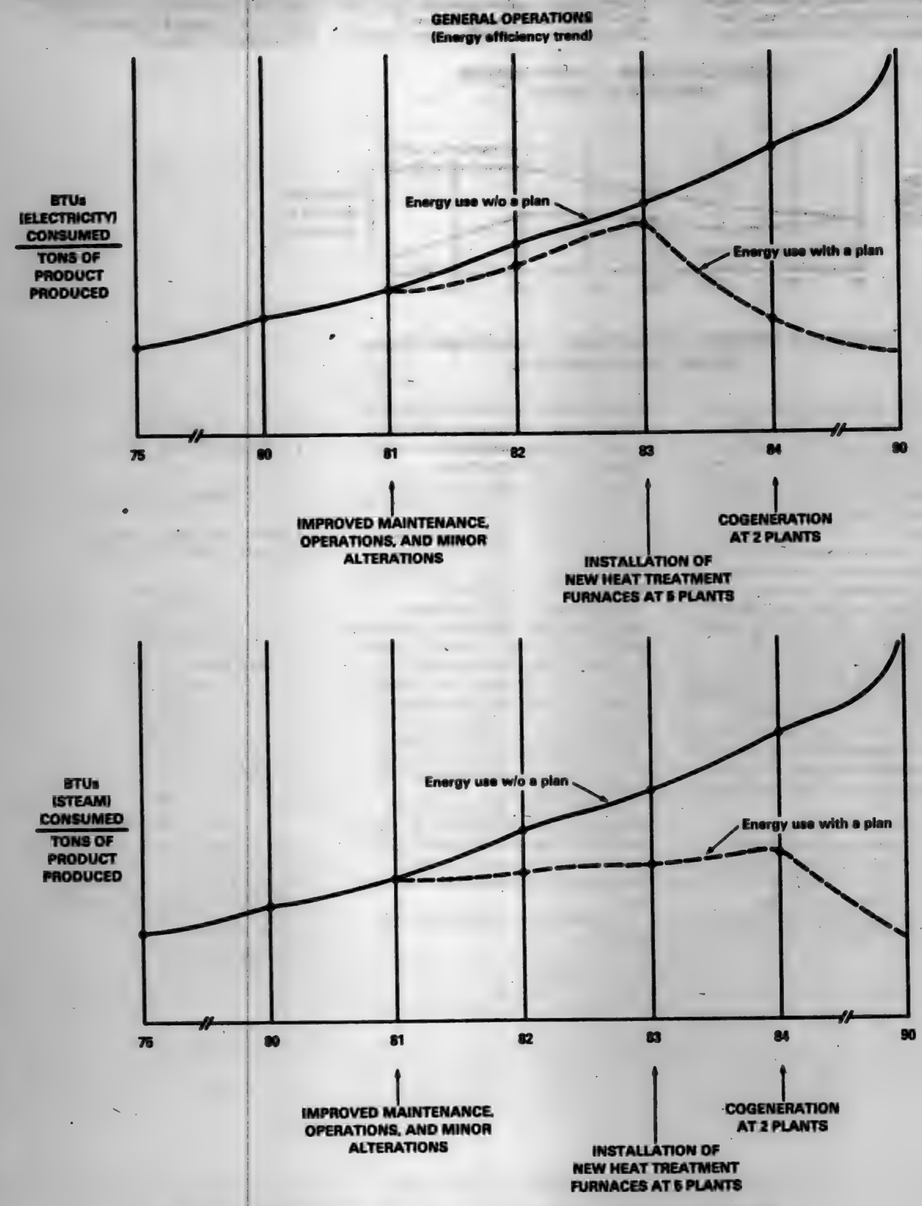

FIGURE B-4: GENERAL OPERATIONS, ELECTRICITY, STEAM CONSUMED

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Appendix C to Subpart F of Part 436—General Operations Energy Conservation Measures

(a) The following individual measures or set of measures must be considered for inclusion in each agency 10-year energy management plan.

(1) Federal Employee Ridesharing Programs—These measures would include the use of vanpooling and carpooling and would comply with existing GSA regulations governing parking.

(2) Fleet Profile Change—These measures would include energy considerations in equipment selection and assignment.

(3) Fleet Mileage Efficiency—These measures would be concerned with agency plans to implement existing orders and laws related to vehicle fuel economy.

(4) Driver Training—These measures would develop appropriate programs for training operators of U.S. Government vehicles in energy conservation.

(5) Maintenance Procedures Improvement—These measures would insure proper vehicle maintenance to optimize energy conservation.

(6) Operating Procedures Improvement—These measures should consider cooperative passenger shuttle and courier services on an interagency or other basis within each metropolitan area.

(7) Mass Transit—These measures would encourage employee use of existing services for business-related activities and commuting.

(8) Public Education to Promote Vanpooling and Carpooling—All agencies should consider measures to support the EPCA requirement to establish "responsible public education programs to promote vanpooling and carpooling arrangements" through their employee awareness programs.

(9) Elimination of Free or Subsidized Employee Parking—Free or subsidized employee parking must be eliminated on Federal installations in accordance with OMB Cir. A–118, August 13, 1979.

(10) Two-Wheeled Vehicle Programs—Measures which encourage the substitution of bicycles, mopeds, etc. for automobiles for commuting and operational purposes should be considered. These could include the establishment of weather-protected secure storage facilities and restricted routes for these vehicles on Federal property. Also, cooperative programs with local civil authorities could be established.

(11) Consolidation of Facilities and Process Activities—These measures would include such measures as physical consolidation of operations to minimize intra-operational travel and may include facility closure or conversion. Alternative work patterns, availability of transportation, energy resource availability, and technical and financial feasibility are among the considerations that should be evaluated.

(12) Procurement Programs—In addition to existing regulations, these measures could include additional incentives for contractor energy conservation.

(13) Energy Conservation Awareness Programs—These programs would be aimed toward gaining and perpetuating employeee awareness and participation in energy conservation measures on the job and in their personal activities.

(14) Communication—These measures would include substitution of communications for physical travel.

(15) Dress Codes—These measures would allow employees greater freedom in their choice of wearing apparel in view of the new thermostat regulations.

(16) Land Use—These measures would include energy considerations to be employed in new site selection.

(17) Automatic Data Processing (ADP)—These measures would address all energy aspects of ADP operation and equipment selection.

(18) Aircraft Operations—Energy-conserving measures should be developed for both military and Federal administrative and research and development aircraft operations.

(19) GOCO Facilities and Industrial Plants Operated by Federal Employees—These facilities and plants should develop energy conservation plans that include energy efficient periodic maintenance measures.

(20) Energy-Conserving Capital Plan and Equipment Modification—Energy conservation and life cycle cost parameter measures should be developed for replacement of capital plant and equipment.

(21) Process Improvements—Measures to improve energy conservation in industrial process operations should be developed. These could include consideration of equipment replacement or modifications, as well as scheduling and other operational changes.

(22) Improved Steam Maintenance and Management—Measures to improve energy efficiency of steam systems should be considered. These could include improved maintenance, installation of energy-conserving devices, and the operational use of substitutes for live steam where feasible.

(23) Improvements in Waste Heat Recovery—Measures utilizing waste hear for other purposes should be considered.

(24) Improvement in Boiler Operations—Energy-conserving retrofit measures should be considered for boiler operations.

(25) Improved Insulation—Measures addressing the addition or replacement of insulation on pipes, storage tanks, and in other appropriation areas should be considered.

(26) Scheduling by Major Electric Power Users—Measures to shift major electrical power demands to non-peak hours, to the maximum extent possible, should be considered.

(27) Alternative Fuels—Measures should be considered to alter equipment such as generators to lower quality fuels and to fill new requirements with those that use alternative fuels. The use of gasohol in stationary gasoline-powered equipment should be considered, in particular.

(28) Cogeneration—Measures to make full use of cogeneration in preference to single-power generation should be considered.

(29) General Training—All agencies should consider measures to support the EPCA requirement to establish and implement "a responsible public education program to encourage energy conservation and efficiency" through their employee awareness programs.

(30) Mobility Training and Operational Readiness—All agencies should consider measures which can reduce energy demands through the use of simulators, communications, computers for planning, etc.

(31) Energy Conservation Inspection or Instruction Teams—Agencies should consider measures which formalize and perpetuate the review of energy conservation through inspections to determine where specific improvements can be made and then followed by an instruction and training program.

(32) Intra- and Interagency Information Exchange Program—Measures providing a free exchange of energy conservation ideas and experiences between elements of an agency and between other agencies in the same geographic area should be considered.

(33) Recycled Waste—Agencies should consider measures to recycle waste materials to include glass, aluminum, concrete and brick, garbage, asphalt road materials and any material which requires a petroleum base.

(34) Coal Conversion—Measures to accomplish conversion from petroleum-based fuels to coal should be considered for appropriate equipment.

(35) Operational Lighting—Energy for lighting consumed in operational areas and GOCO plants may be reduced by: switching off by means of automatic controls; maximizing the use of daylight by floor planning; keeping window and light fixtures clean and replacing fixtures when they begin to deteriorate, rather than when they fail altogether; providing automatic dimmer controls to reduce lighting when daylight increases; and cleaning the work area during daylight, if possible, rather than at night.

(36) Lighting Fixtures—Energy efficiency of lighting can be increased. The following reveals the relative efficacies of common lamp types.

Lamp type	Lumens/watt	Improvement over tungsten
Tungsten Lamp	18	X1
Modern fluorescent lamp	85	X7
Mercury halide lamp	100	X8
High pressure sodium lamp	110	X9
Low pressure sodium lamp	190	X15

(37) Industrial Buildings Heating—Simple measures to improve the energy conservation of industrial buildings are: fixing holes in roofs, walls and windows; fitting flexible doors; fitting controls to heating systems; use of "economizer units" which circulate hot air back down from roof level to ground level; use of controlled ventilation; insulation of walls and roof; use of "optimisers" or optimum start controls to heating systems, so that the heating switch-on is dictated by actual temperature conditions rather than simply by time.

(38) Hull Cleaning and Antifouling Coating—Measures to reduce energy consumption through periodic cleaning of hulls and propellers to include the use of antifouling coatings.

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(39) Such other measures as DOE may from time-to-time add to this Appendix, or as the Federal agency concerned may find to be energy-saving or efficient.

Appendix D to Subpart F of Part 436—Energy Conservation Program Elements

(a) In all successful energy conservation programs, certain key elements need to be present. The elements listed below must be incorporated into each agency energy conservation program and must be reflected in the 10-year plan prescribed in Section 436.72. Those organizations that have already developed programs should review them to determine whether the present management systems incorporate these elements.

(1) *Top Management Commitment.* Top management must have a personal and sustained commitment to the program, provide active direction and motivation, and require regular review of overall energy usage at senior staff meetings.

(2) *Line Management Accountability.* Line managers must be accountable for the energy conservation performance of their organizations and should participate in establishing realistic goals and developing strategies and budgets to meet these goals.

(3) *Formal Planning.* An overall 10-year plan for this period 1980–1990 must be developed and formalized which sets forth performance-oriented conservation goals, including the categorized reduction in rates of energy consumption that the program is expected to realize. The plan will be supplemented by guidelines enumerating specific conservation procedures that will be followed. These procedures and initiatives must be life cycle cost-effective as well as energy efficient.

(4) *Goals.* Goals must be established in a measurable manner to answer the questions of "Where are we?" "Where do we want to go?" "Are we getting there?" and *"Are our initiatives for getting there life cycle cost-effective?"*

(5) *Monitoring.* Progress must be reviewed periodically both at the agency headquarters and at local facility levels to identify program weaknesses or additional areas for conservation actions. Progress toward achievement of goals should be assessed, and explanations should be required for non-achievement or unusual variations in energy use. Monitoring should include personal inspections and staff visits, management information reporting and audits.

(6) *Using Technical Expertise.* Personnel with adequate technical background and knowledge of programmatic objectives should be used to help management set technical goals and parameters for efficient planning and implementation of energy conservation programs. These technicians should work in conjunction with the line managers who are accountable for both mission accomplishment and energy conservation.

(7) *Employee Awareness.* Employees must gain an awareness of energy conservation through formal training and employee information programs. They should be invited to participate in the process of developing an energy conservation program, and to submit definitive suggestions for conservation of energy.

(8) *Energy Emergency Planning.* Every energy management plan must provide for programs to respond to contingencies that may occur at the local, state or National level. Programs must be developed for potential energy emergency situations calling for reductions of 5 percent, 10 percent and 20 percent for up to 12 months. Emergency programs must be exercised to ascertain the effectiveness.

(9) *Budgetary and Fiscal Support.* Resources necessary for the energy conservation program must be planned and provided for, and the fiscal systems adjusted to support needed energy management investments and information reporting.

2. It is proposed to amend Part 436 by adding Appendix E to Subpart F of Part 436, Annual Report Format, at a future date. For further information on this appendix, contact: Jack A. Vitullo, (202) 376–4720, Office of Conservation and Solar Energy, Department of Energy, 20 Massachusetts Ave., N.W., Washington, D.C., 20585.

[FR Doc. 80-3408 Filed 1-30-80; 2:53 pm]
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federal register

Friday
February 1, 1980

Part VI

Equal Employment Opportunity Commission

Department of Labor

Office of Federal Contract Compliance Programs

Interpretive Guidelines on Employment Discrimination and Reproductive Hazards

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1603

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Progams

41 CFR Part 60-20

Interpretive Guidelines on Employment Discrimination and Reproductive Hazards

AGENCY: Equal Employment Opportunity Commission and Department of Labor.

ACTION: Proposed rulemaking.

SUMMARY: This document sets forth for the first time proposed interpretations of the relationship between employment discrimination and the application of employer/contractor policies, practices and plans regarding reproductive hazards. The guidelines are intended to establish a consistent approach to enforcement of the legal responsibilities created under Title VII of the Civil Rights Act of 1964, as amended (Title VII), and Executive Order No. 11246, as amended (E.O. 11246). They are intended to provide guidance to the employer/contractor in meeting its responsibilities under Title VII and E.O. 11246 to ensure non-discrimination and to provide equal employment opportunity. These guidelines and the objectives of Title VII and E.O. 11246 are premised on the assumption that laws prohibiting discrimination in employment are consistent with those laws designed to assure a workplace free of conditions that threaten the health or safety of employees. It is recognized that the concerns of the enforcement agencies with respect to non-discrimination in employment are, however, distinct from the concerns of agencies responsible for health and safety regulation; these guidelines preserve those distinctions.

DATE: Written comments should be received by June 2, 1980.

ADDRESSES: Written comments may be addressed to: Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20506. All public comments may be reviewed from 9:30 a.m. to 4:30 p.m., Monday through Friday, at Library (Room 2303), Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Frederick D. Dorsey, Director, Office of Policy Implementation, Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20506, 202-634-7060, or James D. Henry, Associate Solicitor, Office of the Solicitor, Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, 202-523-8235.

SUPPLEMENTARY INFORMATION: An overview of the proposed Interpretive Guidelines on Employment Discrimination and Reproductive Hazards.

Introduction

These guidelines bring together the collective efforts and expertise of several federal agencies. These efforts were necessitated by charges presented to the Equal Employment Opportunity Commission (EEOC) and to the Office of Federal Contract Compliance Programs (OFCCP) (the enforcement agencies) alleging employment discrimination in workplaces containing substances and conditions hazardous to reproductive health. The issues addressed by these guidelines are especially important because employment policies, practices and plans relating to reproductive hazards can have the effect of denying employment opportunities to individuals.

In the course of its deliberations, EEOC, OFCCP and the Occupational Safety and Health Administration (OSHA) have had extensive discussions internally and with other federal agencies. The proposed guidelines clearly define the basic role of OSHA as one of consultation and coordination with EEOC and OFCCP, particularly with reference to scientific data. Sections 2(d)(2), 2(d)(8), 2(a)(3), 3(b)(1), and 3(c) of the proposed guidelines refer to the consultation and coordination that will be carried out, in part, through a Letter of Agreement among OSHA, EEOC and OFCCP.

It was also during this process that EEOC and OFCCP became aware of the increasing number of employers and contractors who are initiating policies excluding all women of childbearing capacity from certain jobs because of exposure to hazardous substances or conditions. Preliminary evidence indicates that as many as 20 million jobs may involve exposure in the workplace to alleged reproductive hazards. Chemicals and physical agents which have been alleged to pose such hazards include lead, polyvinyl chloride, radiation, estrogen, anesthetic gases, and organic solvents. In response to such exclusionary practices the EEOC, on April 21, 1978, issued a policy statement indicating its concern about whether such practices conform with federal anti-discrimination laws. In a May 31, 1978, letter from the Department of Labor's Assistant Secretary for Occupational Safety and Health, Eula Bingham, to all major American corporate medical directors, OSHA expressed its concern regarding employment practices which deny opportunities to any class of workers on the basis of safety and health. These guidelines specifically address those situations involving allegations of sex discrimination.

EEOC and OFCCP have determined that policy guidance must be issued because, in the absence of detailed federal policy on this issue, there is widespread confusion among employers, contractors and the public as to what is required. Guidelines provide the most structured method for communicating policy to the public and also for ensuring public participation and input from all interested and affected parties. Consistent with the desire for extensive comments, this notice of proposed guidelines provides for a 120 day comment period.

The enforcement agencies are especially interested in soliciting comments on the following:

(1) the nature and scope of exclusions from employment opportunities based on reproductive hazards in the workplace,
(2) the scientific evidence justifying or refuting the exclusion of sex-based classes,
(3) the provisions in the guidelines which allow the temporary emergency use of policies based on research on only one sex-based class,
(4) the requirements for balanced research, and
(5) the problem of tort or other liability of the employer/contractor because of compliance with proposed guidelines.

The enforcement agencies do not, at this point, see a need for a regulatory analysis. Comments on this are requested. The enforcement agencies especially note that the proposed guidelines do not attempt to implement or enforce federal policies related to health and safety. These guidelines affirm the goal of Title VII and E.O. 11246 to assure equality of employment opportunity. The task of assuring a workplace free of conditions that threaten the health or safety of employees remains with the federal agencies specifically granted that responsibility.

EXPLANATORY NOTE

Analysis

A number of employers and contractors have policies of not hiring women of childbearing capacity for jobs in which there is exposure to alleged

reproductive hazards and have terminated or transferred women to lower paying jobs based on such policies. Employers and contractors in establishing such practices often show a lack of concern for similar effects on men. Some employers and contractors have attempted to justify these policies on the basis of potential harm occurring to an unborn child through exposure of the mother. These policies have been developed without apparent regard to whether exposure of the father can result in harm to the unborn child.

Title VII and E.O. 11246 require that the enforcement agencies closely scrutinize the exclusion of a sex-based class from consideration for employment.

Section 2(a) reaffirms the unlawfulness of exclusions which by their terms are based on membership in a sex-based class. Such exclusions are *per se* violations of Title VII and E.O. 11246, because the exclusions are expressed or implemented in terms of membership in a class protected by Title VII and E.O. 11246.

Section 2(b) states that an employer/contractor's conduct which disparately treats members of a sex-based class raises a presumption of a violation of Title VII and E.O. 11246. Where such a presumption is raised, an employer/contractor will be given an opportunity to articulate a legitimate, non-discriminatory reason for the policy or practice. The enforcement agencies will then determine whether that reason is in fact a pretext for employment discrimination.

Section 2(c) is based upon the traditional concept of adverse impact. A facially neutral employment policy which has an adverse impact upon a specific sex-based class is an unlawful employment practice unless it is truly neutral (i.e., it is not a pretext for discrimination) [1] and is justified by the employer/contractor. [2]

It is important to note that, as a result of the Pregnancy Discrimination Act, Pub. L. 95-555, 92 Stat. 2067 (1978), women affected by pregnancy, childbirth or related medical conditions constitute a protected class under Title VII. All such women must be treated the same for employment-related purposes as other persons not so affected but similar in their ability or inability to work. For example, where an employer/contractor seeks to determine the hazardous reproductive effects on pregnant women from their exposure to a certain substance or condition, the employer/contractor must also determine the effects on males and non-pregnant females from their exposure.

If the hazard is known to affect the fetus through either parent, an exclusionary policy directed only at women would be unlawful under Title VII and E.O. 11246. Further, if the hazard is shown by reputable scientific evidence to affect the fetus through women only, the class excluded must be limited to pregnant women and not all women of childbearing capacity. Whether expressed in a policy or not, the employer/contractor's conduct will be examined by the enforcement agencies to determine whether the conduct is non-discriminatory or justified, as set out in section 2(d). In making this determination, at least the following factors, if relevant, will be considered. Whether:

1. the reproductive hazards policy has been applied consistently to both sexes;
2. the employer/contractor has complied with applicable occupational safety and health laws;
3. the employer/contractor has investigated the effects of all scientifically recognized reproductive hazards in its workplaces on those adversely affected and those not similarly affected;
4. the hazard is significantly greater for or confined to the excluded group;
5. the employer/contractor has a pattern of discrimination against the excluded group;
6. the policy is narrowly tailored to the type of hazard posed;
7. with respect to any reproductive hazard for which the employer/contractor takes action resulting in exclusion of a sex-based class, there is no evidence that the hazard poses a significant health risk to body systems other than the reproductive system for the class not excluded;
8. the employer/contractor has investigated alternatives to exclusion (in this regard it should be noted that the employer/contractor who is not in compliance with occupational safety and health laws relating to the hazardous substance or condition will be presumed to not have considered all available alternatives. This includes section 5(a)(1) of the Occupational Safety and Health Act, which requires an employer covered by the Act to furnish to each of its employees employment and a place of employment which are free from recognized hazards that are causing or likely to cause death or serious physical harm.);
9. the employer/contractor is monitoring scientific developments.

When justifying an exclusion or rebutting a presumption, the employer/contractor must demonstrate that the results of the research on which it relies are applicable to the circumstances in the employer/contractor's workplace where the substance is used or where the condition exists. This includes factors such as the level, duration and manner of exposure, and the characteristics (including sex) of the subjects studied—all compared to the substances use in the particular employer's workplace and the composition of the workforce in that workplace.

The enforcement agencies recognize that there may be situations where an employer/contractor has reputable scientific evidence of reproductive harm to one sex-based class, only, with no evidence regarding the other sex-based class. These guidelines would not prohibit a temporary policy to protect the endangered sex-based class, provided that the policy (a) is narrowly tailored to those individuals to whom harm is indicated, (b) reflects consideration and adoption of suitable alternatives, and (c) provides for timely completion of research on the other sex-based class.

This last requirement, in section 3(b), requires the completion of the scientific investigation necessary to determine the effects, if any, of a hazardous substance or condition on the class not adversely affected by the employer/contractor policy. For example, if scientific evidence has been compiled only as to the hazardous reproductive effects of a substance on women, appropriate studies must be done to determine if any reproductive hazards exist for men. It is the position of the enforcement agencies that the time provided in section 3(b) is sufficient for employer/contractors to investigate, initiate and/or complete any scientific research regarding the harmful effects of a particular reproductive hazard on both sexes. In consultation with OSHA, the National Institute of Occupational Safety and Health, and the National Institute of Environmental Health Safety, it was determined that such research could be performed in one year or less. Should preliminary research be needed to develop the appropriate protocol (method of exposure, dosage, etc.) a few additional months might be necessary. The time period was specified as the shortest feasible time not to exceed two years, to allow for unforeseeable delays in the research process.

Sections 3(b)(1) and 3(b)(3) are intended to acknowledge the problems a small employer/contractor might have in completing the requisite research individually. Most of the complaints and information received by the enforcement agencies to date involve large employers and contractors. The enforcement agencies are interested in receiving

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[1] *McDonnell Douglas Corp.* v. *Green*, 411 U.S. 792 (1973).

[2] *Griggs* v. *Duke Power Company*, 401 U.S. 424 (1971); *Robinson* v. *Lorillard Co.*, 44 F. 2d 791 (4th Cir. 1971); *Albemarle Paper Company* v. *Moody*, 422 U.S. 407 (1975); *Uniform Guidelines on Employee Selection Procedures* (1978), 41 CFR Part 60-3.

comments on the extent of the use of hazardous substances and conditions in small employer/contractor's workplaces, on the number of exclusionary policies, practices and plans due to such use, and on the burdens that would be placed on small employers and contractors from compliance with the research requirements of sections 3(b) and 3(b)(2). Should a small employer/contractor be unable to initiate and complete the required research individually, the guidelines provide two alternatives. The small employer/contractor can, and in fact is encouraged, to conduct the research with one or more other employer/contractors and/or through a trade association. The requirements of sections 3(b)(2) and 3(c) will apply to such research. The small employer/contractor can also request, within the time period required by section 3(b), OSHA to perform the necessary research. OSHA is prepared to act promptly to such requests for assistance. In determining whether an employer has the necessary capacity, the enforcement agencies will consider such factors as whether the employer has the facilities and personnel to perform the scientific research required; whether the employer in the course of its business performs scientific research similar to that required; whether the employer has the resources, either by itself or jointly with other employers, to sponsor or contract out for the necessary research; and whether the employer routinely sponsors or contracts out for scientific research. An approved request will satisfy the requirements of section 3(b)(2).

Section 3 will be applicable only during the interim period while an employer/contractor is completing the necessary research (either individually or jointly), or OSHA is completing the study for it. After that time all employment policies related to reproductive hazards must be in full compliance with the proposed guidelines.

Two final points should be noted. First, the *bona fide* occupational qualification exception does not apply to the situations covered by these guidelines. That narrow exception pertains only to situations where all or substantially all of a protected class is unable to perform the duties of the job in question. Such cannot be the case in the reproductive hazards setting, where exclusions are based on the premise of danger to the employee or fetus and not on the ability to perform.

Finally, these guidelines do not preclude an employer/contractor from temporarily removing employees of both sexes from work areas with reproductive hazards if such employees declare to the employer/contractor an intention to procreate and voluntarily request such exclusion. In advising employees of the potential risks posed by particular hazards, the employer/contractor shall do so on a non-discriminatory basis.

Signed at Washington, D.C. this 29th day of January, 1980.

Ray Marshall,
Secretary of Labor.

Eleanor Holmes Norton,
Chair For the Commission.

Donald Elisburg,
Assistant Secretary, Employment Standards Administration.

Weldon J. Rougeau,
Director, OFCCP.

It is contemplated that these guidelines, if adopted, would become a portion of 41 CFR Part 60–20 and would be added to 29 CFR Chapter XIV as a new Part 1603.

Interpretive Guidelines on Employment Discrimination and Reproductive Hazards

Sec. 1. *General requirements.* An employer/contractor whose work environment involves employee exposure to reproductive hazards shall not discriminate on the basis of sex (including pregnancy or childbearing capacity[1]) in hiring, work assignment, or other conditions of employment.

Sec. 2. *Nondiscriminatory policy to protect employees from reproductive hazards.* (a) An employer/contractor may not have policies, practices or plans designed to protect employees from reproductive hazards which, by their terms, exclude applicants or employees from employment opportunities on the basis of sex. Such policies are discriminatory on their face.

(b) An employer/contractor may not disparately treat individual applicants or employees on the basis of sex. Such treatment constitutes an apparent violation of Title VII and Executive Order No. 11246, as amended (Executive Order No. 11246).

(c) An employer/contractor may establish a neutral policy, practice or plan to protect all its employees from reproductive hazards. However, a facially neutral policy, practice or plan which has an adverse impact on one sex must be justified in accordance with relevant legal principles.[2]

(d) In determining whether an employer/contractor's conduct adversely affecting employment opportunities is non-discriminatory or justified pursuant to these guidelines, the following factors are among those which may be considered by the Equal Employment Opportunity Commission and the Office of Federal Contract Compliance Programs (hereinafter "the enforcement agencies"), where relevant:

(1) Whether the reproductive hazards policy, practice or plan is applied consistently to employees and applicants of both sexes, and to all scientifically recognized reproductive hazards in each of the employer/contractor's workplaces;

(2) Whether information obtained from the Occupational Safety and Health Administration (OSHA) or other federal, state or local authorities shows that the employer/contractor has complied with applicable occupational safety and health laws;

(3) Whether the employer/contractor has investigated the effects of all scientifically recognized reproductive hazards present in its workplaces not only on those classes adversely affected by the policy, practice or plan, but also on those relevant classes not adversely affected, and has relied upon reputable scientific evidence in developing its policy, practice or plan;

(4) Whether, with respect to any hazard for which the employer/contractor has an exclusionary policy, practice or plan, the hazard is significantly greater for or confined to the class excluded than for the class not excluded;

(5) Whether, prior to the institution of the reproductive hazard policy, practice or plan, the employer/contractor had provided the adversely affected sex with equal employment opportunities;

(6) Whether the class adversely affected by the policy, practice or plan in question is narrowly tailored to the type of hazard posed (overbroad policies, such as those which exclude all fertile women because of concern for possible harm to a fetus, are impermissible);

(7) Whether, with respect to any reproductive hazard for which the employer/contractor takes action resulting in exclusion of a sex-based class, there is no evidence that the hazard poses a significant health risk to body systems other than the

[1] Pregnancy Discrimination Act, Pub L. 95–555, 92 Stat. 2076 (1978). See Sec. 701 k of Title VII.

[2] *Griggs* v. *Duke Power Company*, 401 U.S. 424 (1971); see *Uniform Guidelines on Employee Selection Procedures* (1978), 41 CFR Part 60–3.

reproductive system for the class not excluded;

(8) Whether the employer/contractor has investigated alternatives to the exclusion of adversely affected employees from the workplace and, where feasible, adopted alternative means of protecting the affected employees from the reproductive hazard in question:

(i) Examples of such alternatives may include reduction of the level of exposure to the hazard so that the reproductive risk is minimized or eliminated; use of respirators or other protective devices to minimize exposure; product substitution; and transfer of affected employees, without loss of pay or other employment benefits and with continued accrual of seniority, to an area of the workplace in which exposure to the reproductive hazard is minimal or nonexistent;

(ii) In selecting from a group of alternatives, the employer/contractor shall select the alternative which has the least adverse impact upon the affected employees. In addition, whenever an employer/contractor is shown an alternative to the exclusionary policy, practice, or plan, or an alternative means of operating the business which has a lesser discriminatory impact, the employer/contractor must investigate the appropriateness of using the alternative,[3]

(iii) The employer/contractor, as part of the data supplied to the enforcement agencies, shall include an evaluation of the alternatives investigated;

(iv) There is a presumption that an employer/contractor who is not in compliance with occupational safety and health laws relating to the hazardous substance or condition has not considered all available alternatives to exclusion. This includes all applicable OSHA standards, and all obligations imposed by section 5(a)(1) of the Occupational Safety and Health Act;

(v) The enforcement agencies will consult with OSHA and others, as appropriate, on the relevant alternatives available in each particular situation;

(9) Whether the employer/contractor is monitoring scientific research and technological developments which may affect the appropriateness of its policy.

(e) Any evidence required by the enforcement agencies to show that an employer/contractor's conduct is non-discriminatory or justified pursuant to section 2(d) above must be made available by the employer/contractor to the enforcement agencies. The scientific evidence must be applicable to the conditions in the employer/contractor's workplace where the particular substance is used.

Sec. 3. *Temporary emergency exclusion.* There may be situations where an employer/contractor has obtained reputable scientific evidence that a workplace hazard causes or is likely to cause significant harm to the reproductive health of employees of one sex only, or of pregnant employees, and also where there is insufficient reputable scientific evidence concerning the reproductive harm to the other employees.

(a) In such situations, the employer/contractor may, as a temporary emergency measure, exclude susceptible applicants and remove endangered employees form the hazardous area provided the employer/contractor meets the following conditions:

(1) It has thoroughly searched the existing scientific evidence and the search reveals no reputable scientific evidence sufficient to suggest that the reproductive hazard might have a significant harmful effect on the reproductive health of employees not excluded by the policy in question.

(2) It has narrowly tailored its policy to limit any exclusionary impact solely to the group of employees or applicants endangered (see paragraph 2(d)(b).

(3) It has investigated and adopted suitable alternatives (see paragraph 2(d)(8).

(b) In addition to the conditions required under section 3(a)(1)–(3), within 6 months of the effective date of these guidelines, the employer/contractor with an exclusionary policy, practice or plan in existence on or before the date of these guidelines must initiate research designed to produce evidence of the effect of the reproductive hazard as used in the employer/contractor's workplace on the class not excluded. The employer/contractor developing such a policy, practice or plan after the effective date of these guidelines must initiate such research within six months of the implementation of the policy, practice or plan.

(1) If the employer/contractor does not have the capacity to conduct or sponsor the necessary research, OSHA will be available to facilitate this research on request. Such a request for assistance should be addressed to: Director, Office of Legislative and Inter-Agency Programs, Occupational Safety and Health Administration, Department of Labor, 200 Constitution Ave., NW., N–3623, Washington, D.C., 20210. An approved request for assistance is sufficient to bring such an employer/contractor into compliance with the requirement in Section 3(b) above as long as the employer/contractor subsequently cooperates with OSHA.

(2) All such research must be conducted according to accepted scientific methods. The study must be conducted in a manner designed to produce the data on the class not excluded in the shortest feasible time, not to exceed two years, from the date the study was begun. An extension will be granted only where the employer/contractor can show that, despite good faith efforts, circumstances beyond its control prevented completion within the required time.

(3) Employers/contractors are encouraged to sponsor or participate in these studies jointly. Such studies may satisfy the requirements of sections 3(b) and 3(b)(2).

(c) The scientific evidence necessary to meet the requirements of sections 3(a) and 3(b) must be applicable to the conditions in the employer/contractor's workplace where the particular substance is used.

(d) The enforcement agencies will not take enforcement action pursuant to these guidelines against an employer/contractor who meets the requirements set forth in section 3(a) and who meets the time frames established by section 3(b). However, this will not preclude the enforcement agencies from pursuing their administrative processes during the investigation of a charge or conduct of a compliance review, and does not relieve an employer/contractor from complying with any appropriate administrative and investigative processes.

(e) In any enforcement action brought by the enforcement agencies subsequent to the date by which an employer/contractor must have scientific research completed as required in section 3(b), no compensation for backpay will be sought for the interim period as long as the employer/contractor has complied with the conditions in Sections 3(a) and 3(b).

Sec. 4. *Requirements for employer/contractors with reputable scientific evidence.* Where the search conducted pursuant to section 3(a)(1) above reveals reputable scientific evidence or where the employer/contractor has reputable scientific evidence that the reproductive hazard does not have a significant harmful effect on the reproductive health of employees not excluded, and the employer/contractor meets the conditions set forth in sections 3(a)(2) and 3(a)(3) above, then the employer/contractor need not satisfy the conditions of section 3(b).

Authority: E.O. 11246, as amended and Title VII of the Civil Rights Act of 1964, as amended.

[FR Doc. 80-3510 Filed 1-31-80; 8:45 am]
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[3] *Albermarle Paper Company* v. *Moody*, 422 U.S. 407 (1975); *Robinson* v. *Lorillard Corporation*, 444 F. 2d 791 (4th Cir. 1971).

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federal register

Friday
February 1, 1980

Part VII

Department of Labor

Office of Pension and Welfare Benefit Programs

Definition of Employee Benefit Plan Assets; Trust Establishment; Hearing and Reopening of Comment Period

V 45 / 23 FE 1 80 UMI

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

29 CFR 2550

Proposed Regulations Relating to Definition of Plan Assets and to Establishment of Trust; Hearing and Reopening of Comment Period

AGENCY: Department of Labor.

ACTION: Notice of hearing and reopening of comment period.

SUMMARY: The Department of Labor (the Department) will hold a hearing on proposed regulations which would clarify what will be reqarded as assets of an employee benefit plan under the Employee Retirement Income Security Act of 1974 (the Act) and provide certain exemptions from the requirement that assets of an employee benefit plan be held in trust. In addition, the Department is reopening the comment period on the proposed regulations. The proposed regulations were set forth in the notice of proposed rulemaking published in the Federal Register at 44 FR 50363 (August 28, 1979).

DATES: The hearing will be held on Wednesday, February 27, 1980, beginning at 10 a.m. The comment period is reopened through February 27, 1980.

ADDRESSES: The hearing will be held in the Department Auditorium, Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C.

Written comments on the proposed regulations (preferably three copies) should be submitted to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Plan Asset Regulations.

FOR FURTHER INFORMATION CONTACT: Robert R. Bitticks, Esq., Office of the Solicitor, U.S. Department of Labor, Washington, D.C. (202) 523–8620.

SUPPLEMENTARY INFORMATION: On August 28, 1979, the Department issued a notice of proposed rulemaking concerning what constitutes "assets" of an employee benefit plan and proposing certain exemptions from the requirement that plan assets be held in trust. On October 26, 1979, the Department published in the Federal Register a notice that the period for public comment on the proposed regulations was extended until November 29, 1979. The period for public comment was subsequently reopened until January 7, 1980, by notice published in the Federal Register on December 18, 1979. In each notice the Department invited all interested persons to submit written data, views or arguments concerning the proposed regulations. The Department has received a number of comments concerning the proposals.

Several commentators, including members of the venture capital industry, have requested a public hearing on the proposed regulations. In light of these requests, and of the importance of, and widespread interest in, the proposed regulations, the Department has decided to hold a hearing on the proposals on Wednesday, February 27, 1980, beginning at 10 a.m. in the Department Auditorium, Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. Although the Department is interested in testimony on all aspects of the proposed regulations, it particularly invites testimony on the present and anticipated effects of the proposal on investment by employee benefit plans in companies which are sources of capital for small businesses, including venture capital companies. The Department is especially interested in receiving data relating to the effect of the proposed regulations on the ability of small businesses to raise capital.

Any interested person who wishes to be assured of an opportunity to present oral comments at the hearing should submit by 3:30 p.m., February 19, 1980: (1) a written request to be heard, and (2) an outline (preverably five copies) of the topics to be discussed, indicating the time to be allocated to each topic. The request to be heard and accompanying outline should be submitted to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Plan Asset Regulations Hearing. Individuals who do not file written comments regarding the proposed regulations may nonetheless request to make oral comments at the hearing.

The Department will prepare an agenda indicating the order of presentation of oral comments. In the absence of special circumstances, each commentator will be allotted ten minutes in which to complete his presentation. Information about the agenda may be obtained on or after February 25, 1980 by telephoning Robert R. Bitticks, Esq., Washington, D.C. (202) 523–8620. Individuals not listed in the agenda will be allowed to make oral comments at the hearing to the extent time permits. Those individuals who make oral comments at the hearing should be prepared to answer questions regarding their comments. The public hearing will be transcribed.

In view of its decision to hold a public hearing, the Department believes it would be appropriate to reopen the period for submitting public comments on the proposed regulations. Accordingly, the comment period is reopened until February 27, 1980.

All interested persons are invited to submit written data, views or arguments concerning the regulations proposed at 44 FR 50363 (August 28, 1979) on or before that date. These data, views or arguments (preferably three copies) should be submitted to the address set forth above.

A number of commentators assert that the proposed regulations, if adopted as proposed, would be disruptive to certain transactions entered into under interpretations of the Act which they assert differ from those contained in the proposed regulations. Some commentators have also suggested that the proposed regulations are having a disruptive effect on existing or contemplated transactions, and they have expressed concern as to the effective date of the regulations. The Department wishes to point out that the regulations have been proposed for comment and at this time the proposal has no regulatory effect. No final decision has been made with respect to the content of any final regulations which might be adopted. The Department also notes that the notice of proposed rulemaking of August 28, 1979 (44 FR 50363), states that the proposed regulations would be effective 30 days after they are adopted, and takes this opportunity to indicate that it expects that the proposed regulations, if adopted as proposed, would be prospectively effective.

Signed at Washington, D.C. this 31st day of January 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-3640 Filed 1-31-80; 10:12 am]

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Friday
February 1, 1980

Part VIII

Department of Labor

Office of Labor Management Standards Enforcement

Labor Organizations Which May File Simplified Annual Financial Reports

V 45 / 23 FE 1 80 UMI

DEPARTMENT OF LABOR

Office of Labor Management Standards Enforcement

29 CFR Part 403

Labor Organizations Which May File Simplified Annual Financial Reports

AGENCY: Department of Labor.

ACTION: Final rule.

SUMMARY: The Department hereby amends 29 CFR 403.4(a) to permit labor organizations with less than $100,000 total annual receipts to file the annual financial report required by the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA) on the simplified Form LM–2. The current regulations provide that labor organizations with less than $30,000 total annual receipts may file Form LM–3. These forms are also filed by Federal sector unions subject to the Civil Service Reform Act.

EFFECTIVE DATE: March 3, 1980.

FOR FURTHER INFORMATION CONTACT: Herbert Raskin (202) 523–7373.

SUPPLEMENTARY INFORMATION: Section 403.4(a) of the Department regulations (29 CFR 403.4(a)) provides that unions with less than $30,000 total annual receipts may file the annual financial report required by the LMRDA on the simplified Form LM–3. Other unions must file the more detailed Form LM–2.

Section 403.4(a) implements sections 201(b) and 208 of the LMRDA (29 U.S.C. 431(b) and 438). Section 201(b) provides that every union must annually report information "in such detail as may be necessary accurately to disclose its financial condition and operations." Section 208 provides that the Secretary shall prescribe the form of the reports required to be filed, including simplified reporting forms for smaller unions.

The Department has received a petition to amend 29 CFR 403.4(a) to allow unions with less than $100,000 total annual receipts to file the simplified Form LM–3. The purpose of the amendment is to reduce the reporting burden of smaller unions and to take into account the effects of inflation since the ceiling of $30,000 was set in 1962.

In order to ascertain the views of the public, a notice was published in the **Federal Register** on Feburary 9, 1979 (44 FR 8293) soliciting comments on the petition. The 60-day comment period which was provided in that notice was extended 30 days by a notice published in the **Federal Register** on April 10, 1979 (44 FR 21301).

The Department received comments from 37 individuals concerning the petition. The 31 comments in favor of the petition generally made the following points: Completing the LM–2 is much more difficult than completing the LM–3; inflation since 1962 has resulted in many smaller unions being required to file the detailed reporting form intended for larger unions; and the failure to raise the ceiling since 1962 has resulted in the imposition of an undue burden on smaller unions.

The other 6 comments either opposed the petition or expressed qualified support. These commenters generally emphasized the right of union members and the public to have complete information on the financial condition and activities of unions and argued that $30,000 is a significant amount of money.

The LMRDA requires not only that all unions file annual financial reports, but also that smaller unions be allowed to submit less detailed reports. Thus, in reviewing the petition and the comments submitted by the public, the Department must consider the burden to smaller unions in filing an unnecessarily detailed report as well as the rights of union members and the public to detailed information.

In considering these matters in the context of the inflation that has taken place since 1962, the Department has concluded that an increase in the ceiling to $100,000 for filing the simplified Form LM–3 is warranted and that such an increase would not have any substantial impact on the information available to union members and the public. First, all the specific information required by the LMRDA must be reported on the Form LM–3 as well as the Form LM–2. This information includes all disbursements to all officers and employees, disbursements to each officer by name, disbursements over $10,000 to each employee by name, all loans made by the union, all loans to any business enterprise by name, and all loans over $250 to each officer, employee and member by name. These items must be reported in approximately the same detail, although not the same format, on both the Form LM–3 and the Form LM–2.

Second, the greater detail of the other items and schedules of the Form LM–2 were designed for larger unions with more complicated financial transactions and more varied categories of assets, liabilities, receipts and disbursements. Analysis of recent data by the Department indicates that most unions with total annual receipts between $30,000 and $100,000 either do not use these specialized items and schedules or report only minimal amounts.

Finally, all funds and transactions must be reported on both the Form LM–2 and the Form LM–3, and every union must keep complete and accurate records concerning its financial condition and operations. The Department reviews the reports for completeness and accuracy, and investigates allegations of false reporting. It should also be noted that every member also has the right, enforceable by private civil action, to examine for just cause all the books and records of his or her union to verify the reports.

Under the authority of sections 201 and 208 of the Labor-Management Reporting and Disclosure Act of 1959, as Amended, and Secretary's Order No. 11–72 (May 12, 1972), I hereby amend 29 CFR 403.4(a) by deleting "$30,000" and inserting "$100,000." The amended regulation reads as follows:

§ 403.4 Simplified annual reports for smaller labor organizations.

(a) If a labor organization, not in trusteeship, has gross annual receipts totaling less than $100,000 for its fiscal year, it may elect, subject to revocation of the privileges as provided in section 208 of the Act, to file the annual financial report called for in section 201(b) of the Act and § 403.3 of this part on United States Department of Labor Form LM–3 (Revised) entitled "Labor Organization Annual Report (Revised)," in accordance with the instructions accompanying such form and constituting a part thereof.

* * * * *

Signed at Washington, D.C., this 29th day of January 1980.

William P. Hobgood,

Assistant Secretary of Labor for Labor-Management Relations.

[FR Doc. 80-3639 Filed 1-31-80; 9:57 am]

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federal register

Friday
February 1, 1980

Part IX

Department of the Treasury

Bureau of Alcohol, Tobacco, and Firearms

Distilled Spirits Plants; Transition to the All-In-Bond System

V 45 / 23 FEB 80 UMI

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

27 CFR Parts 19 and 250

[T.D. ATF-64]

Distilled Spirits Plants—Transition to the All-In-Bond System

AGENCY: Bureau of Alcohol, Tobacco, and Firearms (ATF).

ACTION: Temporary rule (Treasury decision).

SUMMARY: This temporary rule relates to the Distilled Spirits Tax Revision Act of 1979, Subtitle A of Title VIII of the Trade Agreements Act of 1979 (Pub. L. 96-39). This temporary rule provides additional deferral of the distilled spirits tax on wine contained in distilled spirits products.

EFFECTIVE DATE: The effective date of the temporary regulation is February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Edward J. Sheehan, E. J. Ference, John V. Jarowski, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Telephone: 202-566-7626.

SUPPLEMENTARY INFORMATION:

Background

Under the provisions of 26 U.S.C. Chapter 51 and the regulations issued thereunder, proprietors of distilled spirits plants may withdraw distilled spirits from ATF bond on detrmination, but before payments of tax. Deferral of payment is contingent on the filing of a withdrawal or unit bond of sufficient penal sum.

Regulations in 27 CFR Part 19 provide that, during calendar year 1980, deferred payment of distilled spirits tax for each semimonthly return period shall be due by the last day of the next succeeding return period plus five days. For return periods in calendar year 1980, the first three tax payments are due February 5, February 20, and March 5, 1980.

Similar deferral periods apply to taxpayers in Puerto Rico, for spirits brought into the United States on determination, but before payment of tax. Eligibility for deferred payment is contingent on filing of a tax deferral bond. Payment due dates for the first three tax returns applicable to 1980 are the same as for domestic distilled spirits plants.

Prior to the passage of the Distilled Spirits Tax Revison Act of 1979, taxpaid wine contained in distilled spirits products was not subject to the distilled spirits tax. The taxpaid wine used by distilled spirits plants was subject to a wine tax, usually $0.17 per wine gallon.

Presently, the law provides that the entire alcoholic content of distilled spirits products is taxable at the distilled spirits rate of $10.50 per proof gallon. In the case of wine contained in distilled spirits products, this can increase the tax attributable to the wine by as much as $9.89 per proof gallon.

Pending legislation (S. 1913, 96th Cong., 1st Sess. (1979)) would amend 26 U.S.C. Chapter 51 to restore the former tax status of wine contained in distilled spirits products. While the Treasury Department and the Bureau oppose enactment of such a measure, it appears very likely that S. 1913 or similar legislation will be enacted in the immediate future. In view of the apparent passage of legislation to restore the taxation of wine contained in distilled spirits products to its pre-1980 status, this temporary rule effectively postpones transition to the new method of taxation for an interim period extending from January 1, 1980, through, and not to exceed, March 20, 1980.

New provisions

This temporary rule revises the regulations in 27 CFR Parts 19 and 250 by providing for the additional deferral of part of the distilled spirits tax attributable to the wine component of distilled spirits products. The amount to be additionally deferred shall be reduced by the wine tax which would be applicable to the wine before addition to such products. The additional deferral applies to the first three semimonthly return periods applicable to spirits withdrawn during calendar year 1980. The tax so deferred shall be due and payable with the fourth semimonthly tax return, March 20, 1980. No further extension will be provided.

Drafting Information

The authors of this document are personnel of the Bureau of Alcohol, Tobacco and Firearms, assigned to the Regulations and Procedures Division (Regulatory Enforcement). Other personnel of the Bureau and the Treasury Department participated in the preparation of this document, both in matters of substance and style.

Waiver of Procedure Requirements of Treasury Directives

Expeditious adoption of the provisions contained in this document is necessary in order to provide immediate rules for use by the distilled spirits industry in the filing of returns and payment of tax under the Distilled Spirits Tax Revision Act of 1979. Since the deferral is limited to the first three return periods of 1980, it is necessary that the regulations be immediately implemented to achieve the desired transitional relief. The provisions of paragraph 10 of the Treasury Department directive implementing Executive Order 12044 must be waived.

Effective Date

Issuance of this Treasury decision with notice and public procedure under 5 U.S.C. 553(b)(3) or subject to the effective date limitations in 5 U.S.C. 553(d)(3) is impracticable because any delay in implementing these temporary rules, which will provide relief to distilled spirits plants proprietors, would nullify such relief.

Accordingly, this Treasury decision becomes effective on February 1, 1980.

Authority and Issuance

These regulations are issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917, as amended).

Accordingly, Title 27 Code of Federal Regulations is amended as follows:

PART 19—DISTILLED SPIRITS PLANTS

Pararaph 1. The table of sections for Part 19 is amended to reflect the addition of § 19.927 immediately following § 19.926. As amended, the table of sections for Part 19 reads as follows:

* * * * *

Sec.

19.927 Additional deferral of tax for products containing wine.

Paragraph 2. Section 19.927 is added immediately after § 19.926. As added, § 19.927 reads as follows:

§ 19.927 Additional deferral of tax for products containing wine.

(a) *General.* Each proprietor qualified to defer payment of distilled spirits tax as provided in § 19.243 or § 19.244 may additional defer a portion of such tax as provided in this section. That portion of the distilled spirits tax attributable to the wine compondent of a distilled spirits product containing wine may be additionally deferred, if the product was tax determined during the first, second or their semimonthly return period in 1980. The amount of tax to be additionally deferred shall be determined by: (1) establishing the amount of tax which is due under 26 U.S.C. 5091 on the wine contained in a distilled spirits product; and, (2) deducting from the figure the amount of tax under 26 U.S.C. 5041 which was applicable to the wine before its addition to a distilled spirits product.

(b) *Reporting of additional deferral.* The tax so deferred will be reported on the semimonthly tax return (Form 5110.35) covering the period during which the distilled spirits products containing wine were tax determined. The additional deferral shall be noted on Form 5110.35 by citing this section of regulations and showing that amount of tax on Schedule C as an adjustment decreasing the amount due.

(c) *Remittance of additionally deferred tax.* All distilled spirits tax deferred in accordance with this section shall be paid with the fourth semimonthly tax return (Form 5110.35), which shall be filed by March 20, 1980, as provied in § 19.522. The additionally deferred tax shall be noted in Form 5110.35 by citing this section and showing the amount of tax on Schedule A as an adjustment increasing the tax due.

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

Paragraph 3. The table of sections for Part 250 is amended to reflect the addition of § 250.112a. As amended, the table of sections for Part 250 reads as follows:

* * * * *

Sec.

§ 250.112a Additional deferral of tax for products containing wine.

* * * * *

Paragraph 4. Section 250.112a is added immediately after § 250.112. As added, § 250.112a reads as follows:

§ 250.112a Additional deferral of tax for products containing wine.

(a) *General.* Notwithstanding the requirement of § 250.112(f)(1), each person qualified to defer payment of distilled spirits tax as provided in § 250.66 may additionally defer a portion of such tax a provided in this section. That portion of the distilled spirits tax attributable to the wine component of a distilled spirits product containing wine may be additionally deferred, if the product was tax determined during the first, second, or third semimonthly return period in 1980. The amount of tax to be additionally deferred shall be determined by: (1) establishing the amount of tax which is due under 26 U.S.C. 5001 on the wine contained in the distilled spirits product; and, (2) deducting from that figure the amount of tax under 26 U.S.C. 5041 which was applicable to the wine before its addition to the distilled spirits product.

(b) *Reporting of additional deferral.* The tax so deferred will be reported on the semimonthly tax return (Form 5110.52), covering the period during which the distilled spirits products containing wine were tax determined. The additional deferral shall be noted on Form, 5110.52 by modifying the form to cite this section of regulations and show the amount of tax in available space in the schedule of taxable transactions, as an adjustment decreasing the total tax due.

(c) *Remittance of additionally deferred tax.* All distilled spirits tax deferred in accordance with this section shall be paid with the fourth semimonthly tax return (Form 5110.52) which shall be filed by March 20, 1980, as provided in § 250.112. The additionally deferred tax shall be noted on Form 5110.52 by modifying the form to cite this section of regulations and show the amount of tax in available space in the schedule of taxable transactions, as an adjustment increasing the total tax due.

Signed: January 31, 1980.

G. R. Dickerson,

Director.

Approved: January 31, 1980.

Richard J. Davis,

Assistant Secretary, (Enforcement and Operations).

[FR Doc. 80-3800 Filed 1-31-80; 12:16 pm]

BILLING CODE 4810-22-M

V 45 / 23 FE 1 80 UMI

federal register

Friday
February 1, 1980

Part X

Department of the Treasury

Bureau of Alcohol, Tobacco, and Firearms

Customs Service

Delay In Publication of Semiannual Agendas

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

U.S. Customs Service

27 CFR Ch. I

19 CFR Ch. I

Delay in Publication of Semiannual Agendas

AGENCY: Department of the Treasury.

ACTION: Delay in publication of semiannual agendas for the U.S. Customs Service and the Bureau of Alcohol, Tobacco and Firearms.

SUMMARY: Publication of the semiannual regulatory agendas for U.S. Customs Service and the Bureau of Alcohol, Tobacco and Firearms was scheduled for February 1, 1980. Delays have caused publication to be postponed to February 15, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen M. Creskoff, Department of the Treasury, Room 1134, 15th and Pennsylvania Avenue, N.W., Washington, D.C. 20220 (202) 566–2743.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 80–3662 Filed 1–31–80; 12:35 pm]

BILLING CODE 4810–22–M

V 45 / 23 FE 1 80 UMC

V 45 / 23 FE 1 80 UMI

Reader Aids

Federal Register
Vol. 45, No. 23
Friday, February 1, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders (GPO)
202-275-3054	Subscription problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, FEBRUARY

7227-7534.....1

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

TABLE OF EFFECTIVE DATES AND TIME PERIODS—FEBRUARY 1980

This table is for use in computing dates certain in connection with documents which are published in the Federal Register subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for Federal Register scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
February 1	February 19	March 3	March 17	April 1	May 1
February 4	February 19	March 5	March 20	April 4	May 5
February 5	February 20	March 6	March 21	April 7	May 5
February 6	February 21	March 7	March 24	April 7	May 6
February 7	February 22	March 10	March 24	April 7	May 7
February 8	February 25	March 10	March 24	April 8	May 8
February 11	February 26	March 12	March 27	April 11	May 12
February 12	February 27	March 13	March 28	April 14	May 12
February 13	February 28	March 14	March 31	April 14	May 13
February 14	February 29	March 17	March 31	April 14	May 14
February 15	March 3	March 17	March 31	April 15	May 15
February 19	March 5	March 20	April 4	April 21	May 19
February 20	March 6	March 21	April 7	April 21	May 20
February 21	March 7	March 24	April 7	April 21	May 21
February 22	March 10	March 24	April 7	April 22	May 22
February 25	March 11	March 26	April 10	April 25	May 27
February 26	March 12	March 27	April 11	April 28	May 27
February 27	March 13	March 28	April 14	April 28	May 27
February 28	March 14	March 31	April 14	April 28	May 28
February 29	March 17	March 31	April 14	April 29	May 29

CFR CHECKLIST; 1979 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1979. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is $450 domestic, $115 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1979):

Title	Price
1	$3.00
2 [Reserved]	
3	6.00
4	5.50
5 (Rev. 7/1/79)	7.50
6 (Rev. 7/1/79)	3.00
7 Parts:	
0–52	6.75
53–209	5.00
210–699	11.00
700–899	6.00
900–944	5.25
945–980	3.75
981–999	3.75
1000–1059	6.00
1060–1119	6.50
1120–1199	4.50
1200–1499	6.25
1500–2799	10.00
2852	6.00
2853–end	4.50
8	4.00
9	8.00
10 Parts:	
0–199	6.50
200–499 (Rev. 5/31/79)	8.00
500–end (Rev. 5/31/79)	7.00
12 Parts:	
1–199	8.00
200–299	8.00
300–end	8.50
13	5.00
14 Parts:	
1–59	7.50
60–199	7.25
200–1199	7.00
1200–end	3.50
15	7.50
16 Parts:	
0–149	5.00
150–999	4.25
1000–end	5.00

CFR Unit (Rev. as of Apr. 1, 1979):

17	12.00
18 Parts:	
0–149	6.50
150–end	7.00
19	7.50
20 Parts:	
1–399	5.50
400–499	7.00
500–end	6.50
21 Parts:	
1–99	5.50
100–199	7.50
200–299	4.00
300–499	7.00
500–599	7.00
600–1299	6.00
1300–end	4.25
1300–end—1306 Table	4.25
22	7.00
23	6.50
24 Parts:	
0–499	8.00
500–1699	7.50
1700–end	6.00
25	7.00
26 Parts:	
1 (§§ 1.0–1.169)	8.00
1 (§§ 1.170–1.300)	6.50
1 (§§ 1.301–1.400)	5.50
1 (§§ 1.401–1.500)	6.00
1 (§§ 1.501–1.640)	6.00
1 (§§ 1.641–1.850)	6.50
1 (§§ 1.851–1.1200)	7.50
1 (§§ 1.1201–end)	8.50
2–29	6.00
30–39	6.00
40–299	7.00
300–499	6.00
500–end	4.25
27	11.00

CFR Unit (Rev. as of July 1, 1979):

28	6.50
29 Parts:	
0–499	8.00
500–1899	9.00
1900–1919	11.00
	9.00
1920–end	7.50
31	8.50
32 Parts:	
40–399	8.50
400–699	9.50
700–799	7.50
800–999	7.50
1000–end	6.00
32A	5.50
33 Parts:	
1–199	8.50
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38	9.00
39	6.00
40 Parts:	
0–49	6.50
50–80	6.50
100–399	6.00
400–end	12.00
41 Chapters:	
1–2	9.00
3–6	7.50
7	4.00
8	4.00
9	7.00
10–17	6.50
18 (Pts. 1–52 SUPP.)	3.00
19–100	6.00
101–end	12.00
CFR Index	8.50

CFR Unit (Rev. as of Oct. 1, 1979):

42 Parts:	
1–399	8.00
400–end	8.00
43 Parts:	
1–999	5.50
45 Parts:	
1–99	6.50
100–149	7.00
150–199	7.00
200–499	5.00
500–1199	7.00
46 Parts:	
1–29	4.25
30–40	4.50
41–69	6.50
70–89	4.75
90–109	4.75
110–139	4.25
140–155	5.50
156–165	5.50
166–199	5.25
48 [Reserved]	
49 Parts:	
1–99	4.75
100–177	7.00
178–199	7.00
200–399	7.00
1200–1299	9.00
1300–end	6.00

AGENCY ABBREVIATIONS
Used in Highlights and Reminders

(This List Will Be Published Monthly in First Issue of Month.)

USDA Agriculture Department
AMS Agricultural Marketing Service
APHIS Animal and Plant Health Inspection Service
ASCS Agricultural Stabilization and Conservation Service
CCC Commodity Credit Corporation
CEA Commodity Exchange Authority
EMS Export Marketing Service
EOA Energy Office, Agriculture Department
EQOA Environmental Quality Office, Agriculture Department
ESCS Economics, Statistics, and Cooperatives Service
FmHA Farmers Home Administration
FAS Foreign Agricultural Service
FCIC Federal Crop Insurance Corporation
FNS Food and Nutrition Service
FS Forest Service
FSQS Food Safety and Quality Service
RDS Rural Development Service
REA Rural Electrification Administration
RTB Rural Telephone Bank
SCS Soil Conservation Service
SEA Science and Education Administration
TOA Transportation Office, Agriculture Department

COMMERCE Commerce Department
BEA Bureau of Economic Analysis
Census Census Bureau
EDA Economic Development Administration
FTZB Foreign-Trade Zones Board
ITA International Trade Administration
MA Maritime Administration
MBDA Minority Business Development Agency
NBS National Bureau of Standards
NOAA National Oceanic and Atmospheric Administration
NSA National Shipping Authority
NTIA National Telecommunications and Information Administration
NTIS National Technical Information Service
PTO Patent and Trademark Office
USTS United States Travel Service

DOD Defense Department
AF Air Force Department
Army Army Department
DCAA Defense Contract Audit Agency
DCPA Defense Civil Preparedness Agency
DIA Defense Intelligence Agency
DIS Defense Investigative Service
DLA Defense Logistics Agency
DMA Defense Mapping Agency
DNA Defense Nuclear Agency
EC Engineers Corps
Navy Navy Department

DOE Energy Department
APA Alaska Power Administration
BPA Bonneville Power Administration
EIA Energy Information Administration
ERA Economic Regulatory Administration
ERO Energy Research Office
ETO Energy Technology Office
FERC Federal Energy Regulatory Commission
OHADOE Hearings and Appeals Office, Energy Department
SEPA Southeastern Power Administration
SOLAR Conservation and Solar Energy Office
SWPA Southwestern Power Administration
WAPA Western Area Power Administration

HEW Health, Education, and Welfare Department
ADAMHA Alcohol, Drug Abuse, and Mental Health Administration
CDC Center for Disease Control
ESNC Educational Statistics National Center
FDA Food and Drug Administration
HCFA Health Care Financing Administration
HDSO Human Development Services Office
HRA Health Resources Administration
HSA Health Services Administration
MSI Museum Services Institute
NIH National Institutes of Health
NIOSH National Institute of Occupational Safety and Health
OE Office of Education
PHS Public Health Service
RSA Rehabilitation Services Administration
SSA Social Security Administration

HUD Housing and Urban Development Department
CARF Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD Community Planning and Development, Office of Assistant Secretary
EQO/HUD Environmental Quality Office, Housing and Urban Development Department
FDAA Federal Disaster Assistance Administration
FHC Federal Housing Commissioner, Office of Assistant Secretary for Housing
FHEO Fair Housing and Equal Opportunity, Office of Assistant Secretary
GNMA Government National Mortgage Association
ILSRO Interstate Land Sales Registration Office
NCA New Communities Administration
NCDC New Community Development Corporation
NVACP Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR Interior Department
BIA Bureau of Indian Affairs
BLM Bureau of Land Management
FWS Fish and Wildlife Service
GS Geological Survey
HCRS Heritage Conservation and Recreation Service
Mines Mines Bureau
NPS National Park Service
OHA Office of Hearings and Appeals, Interior Department
SMO Surface Mining Office
WPRS Water and Power Resource Service

JUSTICE Justice Department
DEA Drug Enforcement Administration
INS Immigration and Naturalization Service
LEAA Law Enforcement Assistance Administration
NIC National Institute of Corrections
OJARS Office of Justice Assistance, Research and Statistics

LABOR Labor Department
BLS Bureau of Labor Statistics
BRB Benefits Review Board
ESA Employment Standards Administration
ETA Employment and Training Administration
FCCPO Federal Contract Compliance Programs Office
LMSEO Labor Management Standards Enforcement Office
MSHA Mine Safety and Health Administration
OSHA Occupational Safety and Health Administration
PAWBP Pension and Welfare Benefit Programs
W&H Wage and Hour Division

STATE State Department
FSGB Foreign Service Grievance Board

DOT Transportation Department
CG Coast Guard
FAA Federal Aviation Administration
FHWA Federal Highway Administration
FRA Federal Railroad Administration
MTB Materials Transportation Bureau
NHTSA National Highway Traffic Safety Administration
OHMR Office of Hazardous Materials Regulations
OPSR Office of Pipeline Safety Regulations
RSPA Research and Special Programs Administration
SLSDC Saint Lawrence Seaway Development Corporation
UMTA Urban Mass Transportation Administration

TREASURY Treasury Department
ATF Alcohol, Tobacco and Firearms Bureau
Customs Customs Service
Comptroller Comptroller of the Currency
ESO Economic Stabilization Office (temporary)
FS Fiscal Service
IRS Internal Revenue Service
Mint Mint Bureau
PDS Public Debt Bureau
RSO Revenue Sharing Office
SS Secret Service

Independent Agencies
AC Aging, Federal Council
ATBCB Architectural and Transportation Barriers Compliance Board
CAB Civil Aeronautics Board
CASB Cost Accounting Standards Board
CEQ Council on Environmental Quality
CFTC Commodity Futures Trading Commission
CITA Textile Agreements Implementation Committee
CPSC Consumer Product Safety Commission
CRC Civil Rights Commission
CSA Community Services Administration
CWPS Wage and Price Stability Council
EEOC Equal Employment Opportunity Commission
EPA Environmental Protection Agency
ESC Endangered Species Committee
ESSA Endangered Species Scientific Authority
EXIMBANK Export-Import Bank of the U.S.
FCA Farm Credit Administration
FCC Federal Communications Commission
FCSC Foreign Claims Settlement Commission
FDIC Federal Deposit Insurance Corporation
FEC Federal Election Commission
FEMA Federal Emergency Management Agency
FEMA/USFA United States Fire Administration
FFIEC Federal Financial Institutions Examination Council
FHLBB Federal Home Loan Bank Board
FHLMC Federal Home Loan Mortgage Corporation
FLRA Federal Labor Relations Authority
FMC Federal Maritime Commission
FRS Federal Reserve System
FTC Federal Trade Commission
GPO Government Printing Office
GSA General Services Administration
GSA/ADTS Automated Data and Telecommunications Service
GSA/FPA Federal Preparedness Agency
GSA/FPRS Federal Property Resources Service
GSA/FSS Federal Supply Service
GSA/NARS National Archives and Records Services
GSA/OFR Office of the Federal Register
GSA/PBS Public Buildings Service
ICA International Communication Agency
ICC Interstate Commerce Commission
ICP Interim Compliance Panel (Coal Mine Health and Safety)
IDCA International Development Cooperation Agency
ITC International Trade Commission
IRLG Interagency Regulatory Liaison Group
LSC Legal Services Corporation
MB Metric Board
MBDA Minority Business Development Agency
MSPB Merit System Protection Board
MWSC Minimum Wage Study Commission
NACEO National Advisory Council on Economic Opportunity
NASA National Aeronautics and Space Administration
NCUA National Credit Union Administration
NFAH National Foundation for the Arts and the Humanities
NLRB National Labor Relations Board
NRC Nuclear Regulatory Commission
NSF National Science Foundation
NTSB National Transportation Safety Board
OMB Office of Management and Budget
OMB/FPPO Federal Procurement Policy Office
OPIC Overseas Private Investment Corporation
OPM Office of Personnel Management
OPM/FPRAC Federal Prevailing Rate Advisory Committee
OSTP Office of Science and Technology Policy
PADC Pennsylvania Avenue Development Corporation
PBGC Pension Benefit Guaranty Corporation
PRC Postal Rate Commission
PS Postal Service
ROAP Reorganization Office of Assistant to President
RRB Railroad Retirement Board
SBA Small Business Administration
SEC Securities and Exchange Commission
TVA Tennessee Valley Authority
USIA United States Information Agency
VA Veterans Administration
WRC Water Resources Council

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going into Effect Today

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

2630 1-14-80 / Federal Register subscription rate

FEDERAL COMMUNICATIONS COMMISSION

48178 8-17-79 / Induction cooking ranges

INTERIOR DEPARTMENT

Bureau of Mines—

69927 12-5-79 / Helium sales; revised fee schedule and amendment to regulations

TREASURY DEPARTMENT

Fiscal Service—

1020 1-4-80 / Forms of indorsement on U.S. Treasury checks

Rules Going into Effect February 3, 1980

LABOR DEPARTMENT

Employment and Training Administration—

797 1-3-80 / Federal-State extended benefits

POSTAL SERVICE

60727 10-22-79 / Preparation of bulk mailings

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing January 31, 1980

2-4-80
Vol. 45 No. 24
Pages 7535-7770

federal register

Monday
February 4, 1980

Highlights

7582 **Education Grants** HEW/OE proposes to amend rules for the Graduate and Professional Study Fellowships and Institutional Grants, the Public Service Education, and the Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships Programs; comments by 3-20-80

7625 **Migratory Children: Educational Needs** HEW/OE announces application closing date of 4-15-80 for grants to State educational agencies

7601 **Urban Crime Prevention Program** Justice/LEAA and ACTION implement program for FY 1980; applications for funds by 5-9-80, workshops February and March 1980

7695 **Consumer Programs** Consumer Affairs Council and 5 departments and agencies publish draft programs under EO 12160; comments by 4-4-80 (Part II of this issue)

7758 **Ammonium Sulfate Manufacture** EPA proposes standards of performance for new stationary sources; comments by 4-5-80, hearing 3-6-80, request to speak by 2-29-80 (Part IV of this issue)

7550 **Handicapped Children** HEW/OE amends reporting requirements for States receiving assistance for education

CONTINUED INSIDE

Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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7540 **Commuter Air Carrier Pilots** DOT/FAA publishes rule requiring increased operating experience before serving as a pilot in command; effective 3–1–80; comments by 4–1–80

7566 **U.S. and Foreign Air Carriers** CAB proposes to revise liability insurance requirements; comments by 3–12–80; reply comments by 4–1–80; objections by 3–12–80 (2 documents)

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Part 705

Anti-Inflation Price Standards; Standards for Financial Institutions; Correction

AGENCY: Council on Wage and Price Stability.

ACTION: Correction of Interim Final Standard for Financial Institutions for the Second Program Year.

SUMMARY: On January 8, 1980, the Council published an interim final price standard regarding financial institutions (6 CFR 705.50) for the second program year (45 FR 1817). The standard provides for a limitation on profits and, for institutions unable to comply with this restriction, a limitation on dividend payments and service charges. The limitation on dividend payments was expressed incorrectly and is, therefore, being corrected in advance of the close of the comment period.

DATES: The effective date for this correction is February 4, 1980.

FOR FURTHER INFORMATION CONTACT: Arthur Corazzini (202) 456–7730.

SUPPLEMENTARY INFORMATION: During the first program year, institutions subject to the limitation on dividend payments and service charges (6 CFR 705.50(a)(2)) were asked to limit dividends during the period March 15, 1979, through March 15, 1980, to 107 percent of dividends during the 12 months prior to March 15, 1979. The interim final standard published on January 8, 1980, was intended to continue the 107 percent growth limitation. As issued, the limitation was expressed incorrectly. With the correction issued today, the provision now limits dividend payments during the period from March 15, 1980, through the remainder of the second program year to 91 percent of the amount paid during the 12 months before March 15, 1979. The factor .91 was derived by multiplying $(1.07)^{\frac{3}{4}}$—the compounded 7 percent increase over two years—by .795, the fraction of a year represented by the period March 15, 1980, through December 31, 1980.

In paragraph (a)(2)(i) the word "repurchase" appeared as "purchase". The typographical error is now being corrected.

Issued in Washington, D.C., January 29, 1980.

R. Robert Russell,

Director, Council on Wage and Price Stability.

Accordingly, § 705.50 of Title 6 is revised as follows:

1. Paragraph (a)(2)(i) is revised to read as follows:

§ 705.50 Standard for financial institutions.

(a) * * *

(2) *Alternative Standard.* If the financial institution cannot comply with the standard in paragraph (a)(1) of this section, it should satisfy both the following conditions:

(i) It should limit cash dividends during the 12-month period beginning January 1, 1980, to no more than 107 percent of the dividends during the preceding 12-month period, or if subject to the alternative standard applicable during the first program year, it should limit cash dividends during the period March 15, 1980, through December 31, 1980, to no more than 91 percent of cash dividends paid during the 12-month period prior to March 15, 1979;

* * * * *

2. Paragraph (c)(4)(ii) is amended so that the phrase "agreements to purchase" in the first sentence is revised to read "agreements to repurchase."

[FR Doc. 80-3488 Filed 1-30-80; 9:20 am]

BILLING CODE 3175-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 590

[No. 80-58]

Federally Related Mortgage Loans; Preemption of State Usury Laws; Correction

January 29, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: This change amends the Board's recent regulations on the preemption of State usury laws. It provides that with respect to application of preemption to individual co-op loans of cooperative housing organizations, preemption is to apply to all cooperative housing organizations, instead of only to non-profit cooperatives. There is no basis in the public law to limit co-op loans to non-profit cooperative associations.

EFFECTIVE DATE: December 28, 1979.

FOR FURTHER INFORMATION CONTACT: James C. Steward, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W. Washington, D.C. 20552 (202–377–6457).

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, by Resolution No. 80–12, dated January 3, 1980 (45 FR 1853), January 9, 1980, adopted temporary regulations implementing section 105 of Pub. L. 96–161 concerning the Federal preemption of State usury laws. The statute permits preemption of State usury laws on loans secured by a first lien on stock in a residential cooperative housing corporation. In developing regulations to implement the statute the Board adopted the definition of a loan on an individual co-op unit from § 545.2a of its Federal regulations. That section limits loans by Federal associations on co-op units to such loans where the co-op organization is a non-profit organization. There is no basis in Pub. L. 96–161 to limit co-op loans to non-profit cooperative associations. Accordingly, the words "non-profit" are being deleted from the regulations.

As amended, § 590.2(b) reads as follows:

§ 590.2 Definitions.

For the purpose of this Part, the following definitions apply:

* * * * *

(b) "Loans, mortgages, or advances secured by first liens on stock in a residential cooperative housing corporation" means loans on the security of (1) a first security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization, and (2) an assignment of the borrower's interest in the proprietary lease or occupancy agreement issued by such organization.

Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80-3816 Filed 2-1-80; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

(Airworthiness Docket No. 79-ASW-69; Amdt. 39-3681)

Bell Model 205A-1 Helicopters; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires removal of aluminum rivets and installation of proper Monel rivets in a specific location of the two main beams of the fuselage on 293 Bell Model 205A-1 helicopters. The AD is prompted by the discovery of the installation of improper aluminum rivets in the fuselage main beams. The helicopter type design requires the use of Monel rivets and the structural integrity proven in the type design must be maintained to assure an adequate margin of safety.

DATES: Effective February 5, 1980. Compliance required prior to further flight after March 4, 1980.

ADDRESSES: A copy of the service bulletin may be obtained from Regional Counsel, Attention: Docket No. 79-ASW-69, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The applicable bulletins may be obtained from Product Support Department, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101, or from the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southwest Region, P.O. Box 1689, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT: James H. Major, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 624-4911, extension 516.

SUPPLEMENTARY INFORMATION: It has been discovered that 293 Bell Model 205A-1 helicopters may have improper aluminum rivets in the fuselage two main beams splice at WL 54 from station 127.5 to 154 as described in Bell Helicopter Textron Technical Bulletin No. 205-79-34. The type design data specified the installation of Monel rivets, P/N MS 206 15M. Reports concerning service problems or failures of these aluminum rivets have not been received; however, the helicopter type design requires the use of Monel rivets to assure an adequate margin of safety for continued airworthiness.

Since these helicopters are likely to have aluminum rivets where Monel rivets are necessary, an airworthiness directive is being issued that would require inspections for proper rivets and installation of proper Monel rivets, if necessary, in the noted area of the fuselage main beams splice on certain Bell Model 205A-1 helicopters.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

§ 39.13 [Amended]

Bell: Applies to Bell Model 205A-1 helicopters, S/N 30001 through 30287 and S/N 30289 through 30296, certificated in all categories.

Compliance required prior to further flight after March 4, 1980, unless already accomplished.

To assure fuselage structural integrity by installing Monel rivets in the fuselage main beams splice, in place of improper aluminum rivets, accomplish the following:

a. Inspect and replace, as necessary, rivets (33 each) in the right and left main beam splice (BL14), WL54 from station 127.5 to 154 as specified in Bell Helicopter Textron Technical Bulletin No. 205-79-34.

b. Equivalent means of compliance with this AD may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southwest Region.

c. The helicopters may be flown in accordance with FAR 21.197 to a base where inspections and repairs can be performed.

(Sections 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

Issued in Fort Worth, Texas, on January 21, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80-3197 Filed 2-1-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-EA-54; Amdt. 39-3682]

DeHavilland; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises and redesignates AD 79-10-07, applicable to DeHavilland DHC-6 type airplanes which required periodic inspections of the flap control rod tubes and replacement where necessary. Additional cracked tubes have resulted in the manufacturer's requiring shorter inspection intervals and improved replacement parts. The control rods affect the safety of flight. Therefore, AD 79-10-07 is being amended and renumbered to accommodate the safer restrictions.

EFFECTIVE DATE: February 7, 1980. Compliance is required as set forth in the AD.

ADDRESSES: DeHavilland Service Bulletins may be acquired from the manufacturer at Downsview, Ontario, Canada M3K 145.

FOR FURTHER INFORMATION CONTACT: C. Birkenholz, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2875.

SUPPLEMENTARY INFORMATION: In view of the continuing air safety problem, notice and public procedure hereon are impractical, and the amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by revising and redesignating AD 79-10-07, as follows:

§ 39.13 [Amended]

DeHavilland: Applies to all DHC-6 model airplanes, certificated in all categories.

To prevent possible asymmetric failure of the flap system due to cracking in the flap control rod tubes, accomplish the following:

1. On aircraft Serial Numbers 1 thru 427, within the next 20 hours in service or 30 days, whichever occurs first, after the effective date of this AD, unless previously accomplished within the last 180 hours in service or 60 days, whichever occurred last, visually inspect the tube ends of the rod assemblies P/N's C8CW 1029-1, C8CW 1051-1 or C8CW 1024-1, and C8CF 1085-1 or -3, with a dye penetrant method using at least a ten power glass. [See *WARNING* on page 4 of DeHavilland Service Bulletin 6/388, paragraph 4. and paragraphs 5. and 6. of ACCOMPLISHMENT INSTRUCTIONS.]

2. If cracks are found, the rod assembly must be replaced before further flight with rods of the same part number or equivalent inspected and found serviceable in accordance with paragraph 1; or with new rods with the same part number or equivalent; or with new Post-Mod 6/1487 rods, incorporating EO 66818; or Mod 6/1710 and 6/1714 whose part numbers are listed in DeHavilland Service Bulletin No. 6/388, Table I.

3. If cracks are not found, repeat inspection in paragraph 1. within 200 hours in service or 90 days, whichever occurs first, and install flap control rod sleeves in accordance with Service Bulletin 6/388, ACCOMPLISHMENT INSTRUCTIONS, or approved equivalent. Following the installation of sleeves, visually inspect using at least a ten power glass, in accordance with Service Bulletin 6/388, Page 9, Figure 1, at intervals not to exceed 400 hours in service or 90 days, whichever occurs first.

4. On aircraft Serial Numbers 1 thru 427, within 1600 hours in service or two years, whichever occurs first, from the effective date of this AD, unless previously accomplished, replace flap control rods listed in column entitled "Pre-Mod 6/1487" with the appropriate rods from the columns entitled "Retrofit Post-Mod 6/1487 Incorp. Mod 6/1710 and 6/1714" or "Post-Mod 6/1710 and 6/1714, New Product Rods", in Service Bulletin 6/388, Table 1. Following the replacement, inspect in accordance with requirements in paragraph 6.

5. On aircraft Serial Numbers 428 thru 656 and aircraft Serial Numbers 1 thru 427 incorporating Post-Mod 6/1487 control rods, inspect rod ends in accordance with method in paragraph 1. and accomplish Mod 6/1710 and 6/1714 in accordance with Service Bulletin 6/388 ACCOMPLISHMENT INSTRUCTIONS, or approved equivalent, no later than 800 hours in service or one year, whichever occurs first, from the last inspection. Following the modifications, inspect in accordance with requirements in paragraph 6.

6. On aircraft Serial Number 657 and subsequent, visually inspect control rods using at least a ten power glass, in accordance with Service Bulletin 6/388, Page 9, Figure 1, at intervals not to exceed 800 hours in service or one year, whichever occurs first.

7. Report positive findings, including crack length, from any of the above inspections, to the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, within 10 days of inspection. (Reporting approved by Office of Management and Budget under OMB No. 04-R0174).

8. Equivalent parts and procedures must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

9. Compliance times may be increased by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, upon receipt of substantiating data submitted through an FAA Maintenance Inspector.

Note.—DeHavilland Service Bulletin 6/388, can be referred to for Inspection and Replacement Instructions pertaining to this subject.

This Directive supersedes Airworthiness Directive 79-10-07.

Effective Date: This amendment is effective February 7, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89).

Issued in Jamaica, New York, on January 24, 1980.

Murray E. Smith,

Director, Eastern Region.

[FR Doc. 80-3198 Filed 2-1-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-GL-2-AD; Amdt. 39-3683]

General Electric Company CF6-6 Stage 2 High Pressure Turbine Disk; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires mandatory retirement of the CF6-6 Stage 2 high pressure turbine disk. This AD is being issued as a result of extensive analytical and experimental investigations by the manufacturer that showed the low cycle fatigue life was substantially lower than that previously thought. A disk failure such as this would be uncontained and failure in flight will result in a safety-of-flight condition.

DATES: Effective—February 8, 1980. Compliance schedule—As prescribed in body of AD.

ADDRESSES: Copies of applicable General Electic CF6-6 Service Bulletins (Service Bulletin 72-761 issued November 28, 1979) may be obtained by contacting General Electric Company, Cincinnati, Ohio 45215. Copies of the service information referenced in this AD are contained in the Rules Docket, Office of Regional Counsel, 2300 E. Devon Avenue, Des Plaines, Illinois 60018; and at FAA Headquarters, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Cornelius Biemond, Engineering and Manufacturing Branch, AGL-217, Flight Standards Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-4500, extension 460.

SUPPLEMENTARY INFORMATION: The General Electric Company has recently completed a life validation program which updated the stress and life analysis for all the critical areas on the Stage 2 HPT disk. Extensive testing was conducted by the General Electric Company to establish the basic fatigue properties of the material at room and elevated temperature, the stress concentrations due to the geometrical constraints imposed upon the disk, and the temperature induced stresses. The usage for this particular component was re-evaluated, and further analyses and tests showed that the calculation procedure for determination of component life was valid. The results of this effort indicate that the manual limit for the low cycle fatigue life should be reduced from 14,500 cycles to 8,500 cycles. This conclusion is based upon analytical results modified by test, experience and field inspection results.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

§ 39.13 [Amended]

General Electric. Applies to General Electric CF6-6 series engines, Stage 2 HPT disks, Part Numbers 9083M48P01, 9084M52P02, 9084M52P05, 9137M15P01, and 9137M15P02. Compliance is required as indicated. To preclude disk failure due to fatigue, these disks are to be removed from service as follows:

(a) All disks, except those noted in (c) below, which have more than 8400 cycles on the effective date of this AD are to be removed from service within 100 cycles.

(b) All disks, except those noted in (c) below, which have less than 8400 cycles are to be removed before they accrue 8500 cycles.

(c) Those disks, P/N 9137M15P02, with Serial Numbers MP036073, MP030786, MP030797, MP035005, and RP024722 because of their refurbishment schedule shall be removed from service before they accrue 8800 cycles.

(d) Other disks than those identified in (c) above may be allowed additional cycles on an individual basis when approved by the Chief, Engineering and Manufacturing Branch, FAA, Great Lakes Region.

CF6-6 Service Bulletin 72-761 dated November 28, 1979 also applies to this subject.

This amendment becomes effective on February 8, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—Due to the emergency nature of this AD, it is impracticable to follow the regulatory procedures prescribed by Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In accordance with the DOT guidelines, a regulatory evaluation is being prepared and will be placed in the public docket for this action.

Issued in Des Plaines, Illinois on January 24, 1980.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 80-3199 Filed 2-1-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 79-WE-37-AD; Amdt. 39-3684]

Airworthiness Directives; McDonnell Douglas DC-9 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This Amendment adopts a new Airworthiness Directive which provides for inspection for adequacy of fuel drainage, inspection for fuel leakage, and eventual installation of a baffle in the APU exhaust mainfold on certain McDonnell Douglas DC-9 series airplanes. This AD is required to prevent the fire hazard caused by possible accumulation of fuel from APU "false-starts" on lower aft fuselage inner surface.

DATES: Effective February 11, 1980. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Aircraft Company, Customer Service Department, 3855 Lakewood Boulevard, Long Beach, California 90846. Also, a copy of the service information may be reviewed at, or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591; or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: There have been a number of instances of fuel leaking into the aft fuselage area on McDonnell Douglas DC-9 series airplanes resulting in a fire condition.

Investigation has revealed that, after repeated APU false-starts, excessive fuel has seeped through the APU exhaust shroud expansion joint into the tail compartment on DC-9 aircraft not incorporating a baffle in the APU exhaust shroud joint.

In one incident, shortly after parking the aircraft at the gate, there was an APU Fire Warning and Shutdown followed by a No. 2 engine fire warning. Ground personnel noticed flame exiting from an access door in the aft fuselage area and extinguished the fire with a portable extinguisher. This fire resulted in extensive electrical harness damage in the right side of the tail compartment, and was apparently caused by the fuel leakage due to an APU false-start with a resulting Engine No. 2 and APU false fire warning, caused by circuit damage.

In another case, the aircraft was at the gate with APU running. Smoke was noticed from the right side of the fuselage through the aft fuselage access door. Considerable fire damage in the aft fuselage tail section area, near the APU exhaust shroud, was found.

The manufacturer, Douglas Aircraft Co., has issued a Service Bulletin 49-25 which details the procedure for installation of a baffle in the exhaust system to prevent this fuel leaking into the tail compartment.

Since the condition is likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive is being issued which requires repetitive aft fuselage inspections until the service bulletin is incorporated.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than thirty (30) days.

Adoption of the Amendment

Accordingly pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-9, Series 10, 20, 30, 40, and 50 airplanes and Military C-9 series airplanes certificated in all categories, not incorporating McDonnell Douglas Service Bulletin 49-25 dated November 10, 1973 or the production equivalent of this service bulletin.

To prevent fire hazard caused by possible accumulation of fuel from APU false-starts collecting on lower aft fuselage inner surface, accomplish the following:

(a) Within the next 100 hours' time in service from the effective date of this AD unless already accomplished within the last 150 hours' time in service, and thereafter intervals not to exceed 250 hours' time in service from the last inspection, accomplish the following:

(1) Verify that the area adjacent to and above the fuselage drain hole located after the pressure bulkhead at the 5 o'clock position is clear of debris and an open drain path is evident. Clean if necessary to remove debris; insure that the lower edge of the aft pressure bulkhead insulation blanket does not obstruct the drainhole, and

(2) Check tail compartment for any spilled fuel and clean before starting APU.

(b) Within 100 hours' time in service from the effective date of this AD:

(1) Record in the aircraft logbook all occurrences of APU false starts.

(2) Prior to restart attempt after false start occurrence, check for open drain hole at 5 o'clock position and check for any fuel spills in the aft compartment and clean before restart attempt.

(3) Install placard in cockpit and revise AFM to read, "Do not attempt to restart APU after a false start until check of drain and AFT fuselage has been accomplished."

The checks required by paragraph (b)(2) of this AD may be performed by the flight crew.

Note.—A maintenance record entry showing compliance and method of compliance with this AD is required by FAR 91.173 and FAR 121.380.

(c) Within one year's time in service from the effective date of this AD, unless already accomplished, incorporate the APU exhaust system modification consisting of a baffle on the exhaust duct assembly which diverts residual fuel away from the expansion joint, per McDonnell Douglas Service Bulletin 49-25, dated November 10, 1973.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections, modifications or repairs required by this AD.

(e) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective February 11, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Issued in Los Angeles, California on January 25, 1980.

W. R. Frehse,

Acting Director, FAA Western Region.

[FR Doc. 80-3403 Filed 2-1-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-WE-2-AD; Amdt. 39-3685]

Airworthiness Directives; Rockwell International NA-265 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection of elevator trailing edges for delamination and installation of drain holes. The AD is prompted by rain entrapment tests which indicate the possibility of trapping water in the elevators, which could result in elevator buffet, and elevator trailing edge delamination.

DATES: Effective February 11, 1980. Compliance schedule: Initial compliance required within 15 hours' time in service, or ten days from the effective date of this AD, whichever occurs sooner.

ADDRESSES: The applicable service information may be obtained from: Rockwell International, Sabreliner Division, 827 Lapham Street, El Segundo, California 90245.

Also, a copy of the service information may be reviewed at, or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591; or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: The FAA has determined that elevator trailing edge delamination has occurred in some Rockwell International Model NA-265-70 and NA-265-80 airplanes. This delamination may be initiated by water entrapment in the elevator. Tests of water entrapment, conducted by the manufacturer, reveal that a water quantity sufficient to produce a moment of 2.72 inch-pounds trailing edge down may be trapped. Should this problem go uncorrected, delamination of the elevator trailing edge and/or elevator unbalance possibly contributing to elevator buffet may occur.

Since this condition is likely to exist in other airplanes of the same type design, an airworthiness directive is being issued which requires the installation of drain holes in the elevator trailing edge, correction of delaminations discovered by the inspections required per this AD and elevator re-balancing which will increase the static balance.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Rockwell International: Applies to Model NA-265-70 and NA-265-80 Series airplanes certificated in all categories. Compliance required as indicated, unless already accomplished. To prevent elevator trailing edge delamination, accomplish the following:

(a) Within 15 hours' time in service or 10 days from the effective date of this AD, whichever occurs first, inspect elevator trailing edge for delamination as specified in paragraph 7, "Modification Instructions" of Rockwell International, Sabreliner Division, Service Bulletin No. 43 dated September 14, 1979.

(b) If evidence of delamination is found, prior to further flight, accomplish paragraph (d) of this AD.

(c) If no evidence of delamination is found, prior to the accumulation of 300 additional hours' time in service or 90 days from the effective date of this AD, whichever occurs first, accomplish paragraph (d) of this AD.

(d) Repair any delamination, enlarge existing 25 drain holes and add 75 drain holes as specified in "Modification Instructions" of Service Bulletin No. 43, and add elevator balance weights and accomplish static balance check as specified in Rockwell International, Sabreliner Division, Service Bulletin No. 44 dated September 14, 1979.

(e) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

This amendment becomes effective February 11, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Issued in Los Angeles, California on January 25, 1980.

W. R. Frehse,

Acting Director, FAA Western Region.

[FR Doc. 80-3404 Filed 2-1-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 73

[Airspace Docket No. 79-SO-78]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Special Use Airspace; Rescission of Final Rule

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Rescission of final rule.

SUMMARY: This action rescinds amendments to Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) specified in Airspace Docket No. 79-SO-78, which designated temporary restricted area airspace in the vicinity of Camp Lejeune, N.C., and was to be effective March 20, 1980. Because of cancellation of the planned joint military readiness exercise, the restricted areas are no longer required.

EFFECTIVE DATE: February 4, 1980.

FOR FURTHER INFORMATION CONTACT: George O. Hussey, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

History

On January 28, 1980, the FAA amended Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to designate as temporary controlled and special use airspace, areas identified as R-5316A, R-5316B, R-5316C, R-5316D, R-5316E, R-5316F, R-5316G and R-5316H to contain a major joint military readiness exercise.

Because of a change in operational requirements and in the interest of national defense, it was necessary to cancel the scheduled exercise. Accordingly, the designated temporary restricted area airspace is no longer required and I find the notice of proposed rulemaking is unnecessary and this rescission may be made effective in less than 30 days after publication. This rescission does not preclude future action of a similar nature concerning designation of temporary restricted area airspace.

Rescission of Final Rule

Accordingly, pursuant to the authority delegated to me by the Administrator, the amendments to Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) specified in Airspace Docket No. 79–SO–78 and published in the **Federal Register** (45 FR 6360) on January 28, 1980, which designated as temporary controlled and special use airspace the areas identified as R–5316A, R–5316B, R–5316C, R–5316D, R–5316E, R–5316F, R–5316G and R–5316H are rescinded effective upon publication in the **Federal Register**.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on January 30, 1980.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-3615 Filed 2-1-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 135

[Docket No. 20011; Amdt. No. 135–3]

Air Taxi Operators and Commercial Operators; Commuter Pilot in Command Operating Experience Requirements

Note.—This document originally appeared in the **Federal Register** for Friday, February 1, 1980. It is reprinted in this issue to meet requirements for publication on the Monday/Thursday schedule assigned to the Federal Aviation Agency.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment requires that each commuter air carrier pilot meet increased operating experience levels before serving as a pilot in command. The intended effect is to upgrade the amount of pilot experience in the aircraft being flown in order to achieve a higher level of safety. The necessity for this amendment is indicated by recent fatal commuter accidents involving pilots with low pilot time in the aircraft being operated.

DATES: Effective Date: March 1, 1980. Comments by: April 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Edward McCorvey, Regulatory Projects Branch, Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755–8716.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–24), Docket No. 20011, 800 Independence Avenue SW., Washington, D.C. 20591; or be delivered in duplicate to: Room 916, 800 Independence Ave. SW., Washington, D.C. 20591. Comments delivered must be marked "Docket No. 20011." Comments may be inspected at Room 916 between 8:30 a.m. and 5 p.m.

SUPPLEMENTARY INFORMATION:

Background

On September 24, 1978, the FAA issued an extensive set of new and revised Part 135 regulations governing commuter air carriers and on-demand air taxi operators. These were published in the **Federal Register** on October 10, 1978 (43 FR 46783; Docket No. 16097). These regulations had two basic premises. First, operating experience over a representative number of years established the need to generally upgrade the requirements of Part 135. Second, in the light of airline economic deregulation legislative proposals which were progressing through Congress in 1977 and 1978, it was contemplated that the air taxi industry generally, and especially its commuter air carrier segment, would be called upon under deregulation to provide even more air transportation services than that rapidly growing air transportation component had furnished prior to 1977. It was expected that under economic deregulation, large air carriers would pull out of small markets and that in many cases commuter air carriers would step in and shoulder the job of providing air transportation.

Accordingly, in the development of revised Part 135, the agency placed heavy emphasis upon upgraded requirements for commuter air carriers. These requirements were constructed in the regulations by making some provisions explicitly applicable to commuter air carrier operations while others were made applicable to those aircraft customarily found in commuter operations.

Congress likewise recognized the increased role that commuter air carriers would be called upon to assume under deregulation when it passed the Airline Deregulation Act of 1978 on October 24, 1978 (Pub. L. 95–504). In that Act, Congress required the FAA to establish regulations which, to the maximum feasible extent, provide a level of safety to passengers traveling on commuter air carriers equivalent to that afforded passengers traveling on certificated carriers. Congress also charged the agency with the duty to periodically assess the pertinent safety achievements and report to the Congress. The agency had already recognized the need for a continuing review of Part 135 safety regulations when it noted in the preamble to revised Part 135 that a review of those regulations would be announced early in 1980.

The foresight and wisdom of Congress and the agency in planning for deregulation has been established. Commuter air carriers have enjoyed remarkable growth in the slightly more than 1 year since the Airline Deregulation Act was passed and, in general, that industry has responded well to the challenges.

Need for This Regulatory Change

During 1979 there have been 13 fatal accidents in commuter air carrier operations, several of which involved multiple fatalities.

The FAA has analyzed these accidents with the goal of identifying adverse trends and determining how these trends can be stopped. This analysis shows that there were significant numbers of single pilot operations where the pilot was not able to cope with an abnormal or emergency situation arising during the takeoff or early phase of flight. Further analysis reveals that the single pilot, although possessing significant experience in multiengine airplanes, had a low experience level in the specific make or model being operated at the time of the accident. For example, in a March 1, 1979, accident which killed the pilot and

all seven passengers, the pilot was engaged in his first flight in the particular make and model being flown, although he did have 15 hours in a virtually identical make and model of airplane. In an accident on August 9, 1979, resulting in three fatalities, the single pilot had 30 hours in the make and model. In an October 8, 1979, accident which killed all eight persons on the airplane, the single pilot had 28 hours in the make and model, which included 20 hours line operating experience and a flight check with the company check pilot. However, the check pilot did not cover emergency procedures on the flight check. The FAA withdrew the check pilot's authorization on account of this deficiency. Finally, on November 2, 1979, the pilot and 5 passengers were killed in a commuter air carrier accident. Although the pilot had a total of approximately 10,000 total hours, he had only 2 hours in the make and model used on the fatal flight.

These accidents and general operating experience show that extensive total time or multiengine time do not establish that a pilot in command can safely operate a particular make and model of aircraft. Accordingly, there is a compelling need to establish minimum operating experience requirements which must be met before a pilot may be designated to serve as pilot in command on a commuter air carrier passenger-carrying flight. Moreover, although the single pilot operations accidents which have occurred were in VFR conditions, they indicate pilot deficiencies which have serious implications in operations under the greater demands imposed in IFR conditions where a single pilot operation is conducted with an autopilot in lieu of a second in command. If abnormal or emergency situations similar to those which occurred in the accidents discussed above were to occur under IFR conditions, the single pilot with a low level of experience in the make and model would be faced not only with handling the specific problem, but also with operating the aircraft under IFR conditions. Low levels of experience in the make and model of aircraft flown present an unacceptable safety risk in this latter type of situation also. The FAA recognizes that this amendment may have an economic impact on the affected certificate holders; however, the safety consideration, set forth above, requires its adoption.

The Amendment

These amendments will require two things. First, certain minimum levels of operating experience in the make and model of aircraft as a pilot in command under the supervision of a qualified check pilot must be acquired before a person may be designated to serve as a pilot in command in any commuter air carrier passenger carrying operation. The number of hours ranges from 10 for a relatively simple single-engine piston aircraft to 25 for a complex, high performance turbojet airplane. The operating experience requirement is similar in many respects to that required of pilots of large, certificated carriers in § 121.434. Thus, this change follows the mandate of the Airline Deregulation Act of 1978.

Second, with respect to the single pilot autopilot operation, before a person can serve as a pilot in command of a commuter air carrier passenger flight, that person must have logged not less than 100 hours in the make and model of aircraft to be flown and have met all other pertinent requirements of Part 135. This change would ensure that a pilot has aircraft familiarity and proficiency sufficient to adequately cope with situations such as those encountered in the single pilot accidents discussed above if those or similar situations occur under IFR conditions.

Persons designated prior to the effective date of this amendment as pilot in command on the make and model of aircraft to be flown are not subject to the operating experience requirement. The 100-hour requirement under § 135.105 applies to all pilots in command, including those designated as pilot in command prior to the effective date of this amendment. The 100 hours may be obtained in operations under VFR conditions or in operations governed by Part 91, or it may have been accumulated in operations under this part prior to the effective date of this amendment.

Need for Immediate Adoption

In view of the number and nature of recent commuter air carrier accidents, there is an urgent need for effecting these amendments as soon as possible. Accordingly, I find that notice and public procedure are impracticable and contrary to the public interest. However, interested persons are invited to submit such comments as they may desire regarding these amendments. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date for comments specified above will be considered by the Administrator and these amendments may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this invitation to comment must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 20011." The postcard will be date/time stamped and returned to the commenter.

Adoption of the Amendment

Accordingly, Part 135 of the Federal Aviation Regulations (14 CFR Part 135) is amended effective March 1, 1980, as follows:

1. By adding a new section 135.244 to Part 135 of Subchapter G as follows:

§ 135.244 Operating experience.

(a) No certificate holder may use any person, nor may any person serve, as a pilot in command of an aircraft operated by a Commuter Air Carrier (as defined in § 298.2 of this title) in passenger-carrying operations, unless that person has completed, prior to designation as pilot in command, on that make and model aircraft and in that crewmember position, the following operating experience in each make and model of aircraft to be flown:

(1) Aircraft, single engine—10 hours.

(2) Aircraft multiengine, reciprocating engine-powered—15 hours.

(3) Aircraft multiengine, turbine engine-powered—20 hours.

(4) Airplane, turbojet-powered—25 hours.

(b) In acquiring the operating experience, each person must comply with the following:

(1) The operating experience must be acquired after satisfactory completion of the appropriate ground and flight training for the aircraft and crewmember position. Approved provisions for the operating experience must be included in the certificate holder's training program.

(2) The experience must be acquired in flight during operations under this part. However, in the case of an aircraft not previously used by the certificate holder in operations under this part, operating experience acquired in the aircraft during proving flights or ferry flights may be used to meet this requirement.

(3) Each person must acquire the operating experience while performing the duties of a pilot in command under the supervision of a qualified check pilot.

(4) The hours of operating experience may be reduced to not less than 50 percent of the hours required by this

section by the substitution of one additional takeoff and landing for each hour of flight.

2. By amending § 135.105 by revising paragraph (a) to read as follows:

§ 135.105 Exception to second in command requirement; approval for use of autopilot system.

(a) Except as provided in §§ 135.99 and 135.111, unless two pilots are required by this chapter for operations under VFR, a person may operate an aircraft without a second in command, if it is equipped with an operative approved autopilot system and the use of that system is authorized by appropriate operations specifications. No certificate holder may use any person, nor may any person serve, as a pilot in command under this section of an aircraft operated by a Commuter Air Carrier (as defined in § 298.2 of this title) in passenger-carrying operations unless that person has at least 100 hours pilot in command flight time in the make and model of aircraft to be flown and has met all other applicable requirements of this part.

* * * * *

(Secs. 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. §§ 1354(a), 1421 and 1424); sec. 6(c) of the Department of Transportation Act (49 U.S.C. § 1655(c)).)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA has determined that the expected impact of the regulation is so minimal that it does not require an evaluation.

Issued in Washington, D.C., on January 30, 1980.

Langhorne Bond,

Administrator.

[FR Doc. 80-3674 Filed 2-31-80; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 297

[Docket 35586; Regulation ER-1159A]

Foreign Air Freight Forwarders and Foreign Cooperative Shippers Associations; Approval by the General Accounting Office

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the General Accounting Office has approved the reporting requirements contained in Part 297 of the Board's Economic Regulations (ER-1159, 44 FR 69633, December 4, 1979). This approval is required under the Federal Reports Act, and was transmitted to the Civil Aeronautics Board by letter dated January 23, 1980.

DATES: Adopted: January 29, 1980. Effective: January 29, 1980.

FOR FURTHER INFORMATION CONTACT: Clifford M. Rand, Chief, Data Requirements Division, Office of Economic Analysis, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673-6044.

SUPPLEMENTARY INFORMATION: ER-1159 provided that the effectiveness of sections 297.20 and 297.40 was delayed for GAO approval.

The reporting requirements contained in section 297.20 (CAB Form 297A) have been approved by the U.S. General Accounting Office under B-180226 (RO662). The reporting requirements contained in section 297.40 (CAB Form 296R) were previously approved by the U.S. General Accounting Office under B-180226 (RO586), and no further approval was necessary.

This amendment is issued by the undersigned pursuant to the delegation of authority from the Board to the Secretary in 14 CFR 385.24(b).

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324).

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-3625 Filed 2-1-80; 8:45 am]

BILLING CODE 6320-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

Procedural Regulations; 706 Designation

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations on designation of one State and Local Fair Employment Practices Agency so that it may handle employment discrimination charges within its jurisdiction, filed with the Commission.

EFFECTIVE DATE: February 4, 1980.

FOR FURTHER INFORMATION CONTACT: Franklin F. Chow, telephone 202-634-6040, Equal Employment Opportunity Commission (State and Local), 2401 E Street, NW, Washington, DC 20506.

SUPPLEMENTARY INFORMATION: Publication of this amendment to § 1601.74(a) effectuates the designation of the following agency as a 706 Agency:

Wisconsin State Personnel Commission [1]

Notice of proposed designation was published in the November 30, 1979 issue of the **Federal Register**, "44 FR 68858" with notice that written comments must have been filed with the Commission on or before December 15, 1979.

The Commission received no comments within the prescribed period for filing written comments regarding the proposed designation of the above agency. With the addition of the above mentioned agency, 29 CFR § 1601.74(a) and (b) are amended and published as follows:

§ 1601.74 Designated and notice agencies.

(a) The designated 706 agencies are:

Alaska Commission for Human Rights
Alexandria (Va.) Human Rights Office
Allentown (Pa.) Human Relations Commission
Anchorage (Alaska) Equal Rights Commission
Arizona Civil Rights Division
Augusta/Richmond County (Ga.) Human Relations Commission
Austin (Tex.) Human Relations Commission
Baltimore (Md.) Community Relations Commission
Bloomington (Ind.) Human Rights Commission
Broward County (Fla.) Human Relations Division
California Fair Employment Practices Commission
Charleston (W.Va.) Human Rights Commission
Clearwater (Fla.) Office of Community Relations
Colorado Civil Rights Commission
Colorado State Personnel Board
Commonwealth of Puerto Rico Department of Labor
Connecticut Commission on Human Rights and Opportunity
Corpus Christi (Tex.) Human Relations Commission
Dade County (Fla.) Fair Housing and Employment Commission
Delaware Department of Labor
District of Columbia Office of Human Rights
East Chicago (Ind.) Human Relations Commission
Evansville (Ind.) Human Relations Commission
Fairfax County (Va.) Human Rights Commission
Florida Commission on Human Relations

[1] The Wisconsin State Personnel Commission is being designated as a 706 Agency for all charges covering the employment practices of the agencies of the State of Wisconsin except those charges alleging retaliation under 704(a) of Title VII. Accordingly, for retaliation charges, it shall be deemed a Notice Agency pursuant to 29 CFR 1601.71(j).

Fort Wayne (Ind.) Metropolitan Human Relations Commission
Fort Worth (Tex.) Human Relations Commission
Gary (Ind.) Human Relations Commission
Georgia Office of Fair Employment Practices
Howard County (Md.) Human Rights Commission
Hawaii Department of Labor and Industrial Relations
Idaho Commission on Human Rights
Illinois Fair Employment Practices Commission
Indiana Civil Rights Commission
Iowa Commission on Civil Rights
Jacksonville (Fla.) Community Relations Commission
Kansas Commission on Human Rights
Kentucky Commission on Human Rights
Lexington-Fayette (Ky.) Urban County Human Rights Commission
Lincoln (Neb.) Commission on Human Rights
Madison (Wi.) Equal Opportunities Commission
Maine Human Rights Commission
Maryland Commission on Human Relations
Massachusetts Commission Against Discrimination
Michigan Civil Rights Commission
Minneapolis (Mn.) Department of Civil Rights
Minnesota Department of Human Rights
Missouri Commission on Human Rights
Montana Commission for Human Rights
Montgomery County (Md.) Human Relations Commission
Nebraska Equal Opportunity Commission
Nevada Commission on Equal Rights of Citizens
New Hampshire Commission for Human Rights
New Jersey Division on Civil Rights, Department of Law and Public Safety
New Mexico Human Rights Commission
New York City (N.Y.) Commission on Human Rights
New York State Division on Human Rights
North Dakota Department of Labor
Ohio Civil Rights Commission
Oklahoma Human Rights Commission
Omaha (Neb.) Human Relations Department
Oregon Bureau of Labor
Orlando (Fla.) Human Relations Department
Pennsylvania Human Relations Commission
Philadelphia (Pa.) Commission on Human Relations
Pittsburgh (Pa.) Commission on Human Relations
Prince George's County (Md.) Human Relations Commission
Rhode Island Commission for Human Rights
Rockville (Md.) Human Rights Commission
St. Louis (Mo.) Civil Rights Enforcement Agency
St. Paul (Mn.) Department of Human Rights
St. Petersburg (Fla.) Office of Human Rights
Seattle (Wa.) Human Rights Commission
Sioux Falls (S.D.) Human Relations Commission
South Bend (Ind.) Human Rights Commission
South Carolina Human Affairs Commission
South Dakota Division of Human Rights
Springfield (Oh.) Human Relations Department
Tacoma (Wa.) Human Rights Commission
Tennessee Commission for Human Development
Utah Industrial Commission
Vermont Attorney General's Office, Civil Rights Division
Virgin Islands Department of Labor
Washington Human Rights Commission
West Virginia Human Rights Commission
Wheeling (W. Va.) Human Rights Commission
Wichita (Ks.) Commission Civil Rights
Wisconsin Equal Rights Division, Department of Industry, Labor and Human Relations
Wisconsin State Personnel Commission
Wyoming Fair Employment Practices Commission

(b) The designated Notice Agencies are:

Arkansas Governor's Committee on Human Resources
Ohio Director of Industrial Relations
Raleigh (N.C.) Human Resources Department, Civil Rights Unit

(Sec. 713 (a) 78 Stat. 265 (42 U.S.C. 20003-12(a)).

Signed at Washington, D.C. this 30th day of January, 1980.

For the Commission.

Eleanor Holmes Norton,

Chair, Equal Employment Opportunity Commission.

[FR Doc 80-3588 Filed 2-1-80; 8:45 am]

BILLING CODE 6570-06-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD5-80-01R]

Chesapeake Bay, Hampton Roads Intracoastal Waterway, Deep Creek, Va.; Safety Zone Regulation

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Coast Guard's safety zone regulations establishes a safety zone in the Southern Branch of the Elizabeth River, Norfolk, Virginia bounded by a line beginning at 36-45-31.5N latitude 76-17-46.5W longitude thence to 36-45-31.5N latitude 76-18-01W longitude thence to 36-45-24N latitude 76-17-54.4W longitude thence to 36-45-24N latitude 76-17-14W longitude thence along the shoreline to the point of the beginning for all waterborne traffic. The Coast Guard has determined this safety zone is required to safeguard persons from injury when the Norfolk Dredging Company, Norfolk, Virginia conducts cable laying operations adjacent to the I-64 Bascule Bridge, Southern Branch of the Elizabeth River, Norfolk, Virginia commencing at 7:00 A.M. 4 February 1980. Waterborne traffic will be prohibited from entering or remaining in this safety zone without authorization from the Captain of the Port, Hampton Roads, Virginia.

EFFECTIVE DATE: This amendment is effective beginning at 7:00 A.M. 4 February 1980 and terminating at 7:00 A.M. 6 February 1980.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander H. F. Hirsh III, Chief, Port Operations Department, USCG Marine Safety Office, Hampton Roads, Norfolk Federal Building, 200 Granby Mall, Norfolk, Virginia 23510. Tel: (804) 441-3298, FTS: 827-3298.

SUPPLEMENTARY INFORMATION: This amendment is issued without publication of a notice of proposed rule making, and this amendment is effective in less than 30 days from the date of publication because public procedures on this amendment are impractical due to the insufficient time until the cable laying operations commence. A draft evaluation of this action has been prepared in accordance wtih DOT Notice 78-1, Improving Government regulations, and is available for inspection with the public docket at USCG Marine Safety Office, Hampton Roads, Norfolk Federal Building, 200 Granby Mall, Norfolk, Virginia 23510.

DRAFTING INFORMATION: The principal person involved in the drafting of this rule is Lieutenant Commander H. F. Hirsh III, Chief, Port Operations Department, USCG Marine Safety Office, Hampton Roads, Norfolk Federal Building, 200 Granby Mall, Norfolk, Virginia 23510. The project attorney is Lieutenant Mark Goodwin, c/o Commander, Fifth Coast Guard District (dl), Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705.

In consideration of the above, Part 165, of Title 33, Code of Federal Regulations, is amended by adding a new § 165.522 to read as follows:

§ 165.522. Hampton Roads, Elizabeth River, Norfolk, Virginia.

The area enclosed by the following boundary is a safety zone: A line beginning at 36-45-31.5N latitude 76-17-46.5W longitude thence to 36-45-31.5N latitude 76-18-01W longitude thence to 36-45-24N latitude 76-17-54.4W longitude thence to 36-45-24N latitude 76-17-14W longitude thence along the shoreline to the point of the beginning. This safety zone will be effective from 7:00 A.M. 4 February 1980 until 7:00 A.M. 6 February 1980.

(192 Stat. 1475 (33 U.S.C. 1225); 49 CFR 1.46(n)(4))

Dated: January 22, 1980.

C. R. Thompson,

Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads.

[FR Doc. 80-3643 Filed 2-1-80; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 183

[CGD 76-082]

Ventilation Safety Standards for Recreational Boats

AGENCY: Coast Guard, DOT.

ACTION: Correction of final rule.

SUMMARY: In FR Doc. 79-38640 appearing at page 73025 in the Federal Register of December 17, 1979, paragraph 183.630(a) is corrected by deleting "a" after the word "having", and paragraph 183.630(a)(1) is corrected by adding "A" to precede the word "supply".

FOR FURTHER INFORMATION CONTACT: Mr. Lars E. Granholm, Office of Boating Safety (G-BBT), U.S. Coast Guard, Department of Transportation, Washington, D.C. 20593 (202/426-4027).

Dated: January 30, 1980.

B. E. Thompson,

Rear Admiral, U.S. Coast Guard, Chief, Office of Boating Safety.

[FR Doc. 80-3641 Filed 2-1-80; 8:45 am]

BILLING Code 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[FRL 1384-3]

Nevada Plan Revision: Air Quality Control Region Redesignation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency takes final action to approve the redesignation of the Nevada portion (Clark County) of the Clark-Mohave Interstate Air Quality Control Region (AQCR) as an intrastate AQCR. On March 23, 1979, under section 107(e) of the Clean Air Act, as amended, the redesignation was submitted for EPA approval by the Governor of Nevada. The intended effect of this redesignation is to improve management of the air resources in southern Nevada and to be consistent with and in support of a redesignation action by the Governor of Arizona.

EFFECTIVE DATE: February 4, 1980.

FOR FURTHER INFORMATION CONTACT: Louise P. Giersch, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105, Attn: Douglas Grano, (415) 556-2938.

SUPPLEMENTARY INFORMATION:

Background

Under section 107 of the Clean Air Act, as amended, the Clark-Mohave Interstate AQCR was designated by the Administrator. This AQCR is described in 40 CFR 81.80 as including all of Clark County, Nevada, and Mohave and Yuma Counties, Arizona.

The Governor of Arizona, in a letter dated January 26, 1979, requested that the AQCR's in Arizona be redesignated to conform to the boundaries of the Arizona Planning Districts. This request included the redesignation of the Clark-Mohave Interstate AQCR to an intrastate AQCR consisting of Mohave and Yuma Counties. With the exception of the Clark-Mohave Interstate AQCR, the EPA will address the Arizona redesignations in a separate Federal Register notice.

Clark County Redesignation

In a letter dated March 23, 1979, the Governor of Nevada requested the EPA's approval of his redesignation of the Nevada portion (Clark County) of the Clark-Mohave Interstate AQCR as an intrastate AQCR.

As stated by Governor List, the redesignation will further improve management of the air resources in southern Nevada. The Governor also states that the provisions of section 126 of the Clean Air Act are adequate to protect the citizens of each state from air pollution from new sources located in the other state. Thus the redesignation of Clark County as an intrastate AQCR is expected to have no adverse effect upon interstate air pollution within the present Clark-Mohave Interstate AQCR.

Effects of Redesignation

As a result of this redesignation, minor revisions are being made to the *Code of Federal Regulations* (CFR). In 40 CFR part 81, the name and description of the AQCR in § 81.80 are being revised, and a new AQCR is being added. In 40 CFR § 52.121 and § 52.1471 (Classification of regions), and in 40 CFR § 52.130 (Source surveillance) the name of the AQCR is being changed.

The EPA is approving this redesignation because it meets the requirements of section 107(e) of the Clean Air Act, as amended, which requires, in effect, that the redesignation be for purposes of improved air quality management. In addition, the Governor of Arizona has consented to the proposed redesignation, as required by section 107(e).

On June 22, 1979 (44 FR 36434) the EPA published a Notice of Proposed Rulemaking, proposing to redesignate Clark County as an intrastate AQCR and inviting public comments on that proposal. No comments were received.

The EPA has determined that this document is not a significant regulation and does not require preparation of a regulatory analysis under Executive Order 12044.

(Sections 107, 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407, 7410, and 7601(a)))

Dated: January 29, 1980.

Douglas M. Costle,

Administrator.

Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart D—Arizona

1. Section 52.121 is revised to read as follows:

§ 52.121 Classification of regions.

The Arizona plan is evaluated on the basis of the following classifications:

Air quality control region	Pollutant				
	Particulate matter	Sulfur oxides	Nitrogen dioxide	Carbon monoxide	Ozone
Arizona-New Mexico Southern Border Interstate	IA	IA	III	III	III
Mohave-Yuma Intrastate	I	IA	III	I	I
Four Corners Interstate	IA	IA	III	III	III
Phoenix-Tucson Intrastate	I	I	III	I	I

2. Paragraphs (a) and (c)(1) of § 52.130 are revised to read as follows:

§ 52.130 Source surveillance.

(a) The requirements of § 51.19(a) of this chapter are not met since the plan does not contain legally enforceable procedures for requiring sources in Gila, Pinal, and Santa Cruz Counties in the Phoenix-Tucson Intrastate Region, in the Mohave-Yuma Intrastate Region, and in the Arizona portions of the Arizona-New Mexico Southern Border and Four Corners Interstate Regions to maintain records of and periodically report on the nature and amounts of emissions.

* * * * *

(c) *Regulation for source recordkeeping and reporting.* (1) The owner or operator of any stationary source in the counties of Gila, Pinal, or Santa Cruz in the Phoenix-Tucson Intrastate Region (§ 81.36 of this chapter); the Mohave-Yuma Intrastate Region (§ 81.288 of this chapter); or the Arizona portions of the Four Corners or Arizona-New Mexico Southern Border Interstate Regions (§§ 81.121 and 81.99 of this chapter) shall, upon notification from the Administrator, maintain records of the nature and amounts of emissions from such source or any other information as may be deemed necessary by the Administrator to determine whether such source is in compliance with applicable emission limitations or other control measures.

* * * * *

Subpart DD—Nevada

3. Section 52.1470, paragraph (c)(15) is added as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

(15) Redesignation of the Clark-Mohave Interstate AQCR submitted on March 23, 1979, by the Governor.

* * * * * *

4. Section 52.1471 is revised to read as follows:

§ 52.1471 Classification of regions.

The Nevada plan is evaluated on the basis of the following classifications:

Air quality control region	Pollutant				
	Particulate matter	Sulfur oxides	Nitrogen dioxide	Carbon monoxide	Ozone
Las Vegas Intrastate	I	IA	III	I	I
Northwest Nevada Intrastate	I	III	III	III	III
Nevada Intrastate	IA	IA	III	III	III

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart B—Designation of Air Quality Control Regions

5. Section 81.80 is revised to read as follows:

§ 81.80 Las Vegas Intrastate Air Quality Control Region.

The Las Vegas Intrastate Air Quality Control Region (Nevada) has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdiction or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 7602(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Nevada: Clark County.

6. Section 81.288 is added as follows:

§ 81.288 Mohave-Yuma Intrastate Air Quality Control Region.

The Mohave-Yuma Intrastate Air Quality Control Region (Arizona) has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 7602 (f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Arizona: Mohave County and Yuma County.

[FR Doc. 80-3619 Filed 2-1-80; 8:45 am]

BILLING CODE 3560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

41 CFR Part 3-3

Noncompetitive Procurement

AGENCY: Department of Health, Education, and Welfare.

ACTION: Final rule.

SUMMARY: The Office of the Secretary, Department of Health, Education, and Welfare is amending the departmental procurement regulations, 41 CFR Chapter 3, to add a new subpart concerning noncompetitive procurement. Coverage of noncompetitive procurement is presently located at § 3-3.802-50, and this section is being cancelled as a result of the establishment of the new Subpart 3-3.53, Noncompetitive Procurement. The regulation is being established as a subpart to emphasize the importance of the subject matter and to facilitate reference.

Changes to the existing regulation are being made in three areas. The first change concerns criteria, § 3-3.5303, where revisions have been made to clarify the term "sources sought synopsis" and to explain its use. The second change concerns review and approval, § 3-3.5306, where revisions have been made to accommodate a recent Federal Procurement Regulations amendment to § 1-3.101(d) which requires that noncompetitive procurements over $10,000 be reviewed and approved by an official above the contracting officer level prior to negotiations. The third change concerns whole project buys, § 3-3.5308, where a definition and explanation of its use have been added to clarify the concept.

EFFECTIVE DATE: February 4, 1980.

FOR FURTHER INFORMATION CONTACT: E. S. Lanham, Office of Procurement Policy, Office of Grants and Procurement, OASMB-OS, Department of Health, Education, and Welfare, Washington, D.C. 20201, 202-245-0481.

SUPPLEMENTARY INFORMATION: Since the noncompetitive procurement regulation was being restructured into the subpart format, some portions have been edited and rewritten for clarity and simplicity. However, the meaning and intent have not been altered from what is presently stated in § 3-3.802-50, except as indicated in the Summary.

It is the general policy of the Department to allow time for interested parties to participate in the rule making process. However, since the amendments are administrative in nature, the public rule making process is deemed unnecessary in this instance. The provisions of this amendment are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

Therefore, 41 CFR Chapter 3 is amended as set forth below.

Dated: January 28, 1980.

E. T. Rhodes,

Deputy Assistant Secretary for Grants and Procurement.

§ 3-3.802-50 [Deleted]

1. Under Subpart 3-3.8, Price Negotiation Policies and Techniques, of Part 3-3, Procurement by Negotiation, § 3-3.802-50, *Noncompetitive procurements,* is cancelled in its entirety.

2. Under Part 3-3, Procurement by Negotiation, Subpart 3-3.53, Noncompetitive Procurement, is established, and the table of contents for Part 3-3 is amended to add the following:

Subpart 3-3.53—Noncompetitive Procurement

Sec.

3-3.5300 Scope of subpart.
3-3.5301 Policy.
3-3.5302 Exceptions.
3-3.5303 Criteria.
3-3.5304 Procedures.
3-3.5305 Format for the Justification for Noncompetitive Procurement.
3-3.5306 Review and approval.
3-3.5307 Noncompetitive Review Board.
3-3.5308 Whole project buys.
3-3.5309 Implementation.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 3-3.53—Noncompetitive Procurement

§ 3-3.5300 Scope of subpart.

This subpart sets forth policies and procedures applicable to all noncompetitive procurements. It describes the criteria for use in determining whether a procurement may be made noncompetitively, describes the justification documents required, and prescribes review and approval requirements.

§ 3-3.5301 Policy.

(a) All negotiated procurements are to be conducted competitively, as required by §§ 1-1.301-1, 1-1.302-1(b), and 1-3.101(d), unless there are compelling and convincing reasons and/or circumstances which justify a noncompetitive procurement. When a proposed procurement appears to be noncompetitive, that is, only one source has been identified, the procuring activity is responsible for ensuring that competition is definitely not feasible, and that positive actions are taken to avoid the need for subsequent or continuing noncompetitive procurements. These actions should include an analysis of the reasons and/or circumstances leading to the determination of why the noncompetitive procurement has resulted, and what steps can be initiated to preclude noncompetitive procurements in the future.

(b) A noncompetitive procurement may also result from the submission of an unsolicited proposal. In this circumstance, the responsible program office may recommend that a noncompetitive procurement be made to the submitting organization or individual to perform work or services. This recommendation must be in writing and prepared in the "Justification for Acceptance of Unsolicited Proposal" format, as required by § 3-4.910, setting forth the information required by §§ 1-4.909(d) and 1-4.910(b). The "Justification for Acceptance of Unsolicited Proposal" is used in place of the "Justification for Noncompetitive Procurement." Negotiations with a source that has submitted an acceptable unsolicited proposal shall not be initiated until approval is obtained in accordance with this subpart.

§ 3-3.5302 Exceptions.

The provisions of this subpart apply to all negotiated procurements except:

(a) Procurements of $500, or less (see § 3-3.603-50(a));

(b) Procurements of professional services; e.g., for physician, veterinarian, dentist, or legal services negotiated under the authority of 41 U.S.C. 252(c)(4), or where the foregoing kinds of services are for $10,000 or less and are negotiated under 41 U.S.C. 252(c)(3) (see § 3-3.603-50(b)(4));

(c) Procurement of architect-engineer services (see §§ 1-4.10 and 3-4.10);

(d) Procurements of utility services where the services are available from only one source; and

(e) Acquisitions from or through other Federal Government agencies; e.g., interagency agreements, and contracts with the Small Business Administration pursuant to section 8(a) of the Small Business Act.

§ 3-3.5303 Criteria.

The criteria provided below are to be used in determining whether a proposed noncompetitive procurement is justifiable. The critical question to be answered in each justification is why the opportunity to meet a procurement requirement cannot be made available to more than one source. It is critical to the justification of a noncompetitive procurement that reasonable, informed opinions, which are supported by available facts, be provided. Each of the criteria is illustrative of possible reasons. The more facts that are offered and the more knowledgeable the opinions about the marketplace are, the greater is the support to conclude that a noncompetitive procurement is justified. If the contracting officer or the approving official concludes that the support offered to justify a noncompetitive procurement is not convincing, or where there is some unresolved doubt, a sources sought synopsis should be issued to test the marketplace. (The term "sources sought synopsis," as used in this subpart, means the type of synopsis specified in § 1-1.1003-7(b)(7). When the requirement is for other than research and development, the notice in § 1-1.1003-7(b)(7) should be appropriately modified to describe the specific type of service or item to be procured. The sources sought synopsis does not permit potential sources to request solicitations and, therefore, is merely an opportunity for the marketplace to indicate its interest in submitting bids, offers, or quotations for a future procurement.) If there is only one source identified as a result of the sources sought synopsis, this data may be used to support a justification for noncompetitive procurement. As each justification for noncompetitive procurement is reviewed against the following criteria, the reviewer should ask: why the procurement cannot be competed, are there sufficient grounds for excluding all other actual or potential offerors, what action can be taken to obtain competition in the instant procurement, and what action is needed to avoid the need for a subsequent or a continued noncompetitive procurement? Each applicable criterion cited below should be addressed in the justification, and specific rationale supporting each criterion must be provided.

(a) There is only one source in existence which can perform the contract requirements. The existence of one source for the purposes of this regulation should be a matter of fact, and not a matter dependent upon the relative and limited knowledge of sources known by the project or contracting officers. This criterion may not be used to justify a noncompetitive procurement prior to testing the marketplace by issuing a sources sought synopsis. If no new sources submit responses to the sources sought synopsis, this data may be used to support a justification for noncompetitive procurement.

(b) One source controls copyrights, patent rights, trade secrets, technical data, secret processes, or other proprietary data which are essential to the performance of the contract requirements; the source refuses to license or otherwise make the foregoing data available to other sources; and the requirement cannot be revised to allow other sources to compete who do not have access to the foregoing data. Factual information should be provided to support the use of this criterion, such as the citation of copyrights, exactly what is covered by the copyright or other data which is necessary to the contract performance, and why the requirement cannot be revised to permit competition. The mere existence of the rights does not in and of itself justify noncompetitive procurement. It must be shown that the Government cannot meet its requirement(s) without the use of the proprietary data. Any doubts should be resolved by summarizing the procurement requirement and issuing a sources sought synopsis. If no new sources submit responses to the sources sought synopsis, this data may be used to support a justification for noncompetitive procurement. (Note: When this criterion is to be used, the contracting officer is required to obtain legal advice from OGC-BAL.)

(c) One source or individual has a truly unique idea, approach, or equipment which has no like or equal, and this represents the only known item which can meet the Government's needs. (Unsolicited proposals are excluded from the provisions of this paragraph and shall be processed in accordance with §§ 1-4.9 and 3-4.9.) Except in very rare cases, the fact that a proposer submits a proposal containing a unique idea or approach does not, in itself, justify noncompetitive procurement. Mere claims of uniqueness must not be cited in justifications to deviate from the competitive process. There may be other potential sources with equally suitable approaches or ideas which could accomplish the same end results. Except in cases which are convincingly supported by a panel opinion or a consensus of experts who are very familiar with the sources available in the marketplace, the opinion of uniqueness should be tested. The claim that the unique item is the only one which can meet the Government's needs should be based on the objective requirements of the Government, not the personal preferences of the originator. When a test of the claim of uniqueness is appropriate, the project officer should draft a description of the activity's requirement that does not compromise the unique idea or proprietary data of the proposer, and the procurement office shall issue a sources sought synopsis. If no new sources submit responses to the sources sought synopsis, this data may be used to support a justification for noncompetitive procurement.

(d) A specific item of equipment must be obtained as part of an activity's program responsiblity to test and evaluate certain kinds and types of products. This criterion is limited to testing and evaluation purposes only and may not be used for initial outfitting or repetitive procurements. Project officers should support the use of this criterion with citations from their agency's legislation and the technical rationale for the item or equipment required.

(e) Only one source has complex or specialized physical facilities and/or equipment which, by reason of exclusive use, access or ownership, or by reason of clear superiority to facilities and equipment available to other sources, is capable of adequately meeting the technical requirements of the proposed procurement. It must be shown that the success of the proposed procurement is critically dependent upon the use of the facilities and equipment of this one source. Specific details should be provided as to why the facilities and/or equipment are mandatory for the contract performance, and why the facilities and/or equipment of others cannot meet the contract requirements. This criterion should not be used to justify a noncompetitive procurement without first defining what equipment and/or facilities are needed, and by issuing a sources sought synopsis asking for sources with comparable equipment and/or facilities. If no new sources submit responses to the sources sought synopsis, this data may be used to support a justification for noncompetitive procurement.

(f) Government-owned facilities which are essential to the performance of the contract are available to only one source. Efforts should be made to determine from the cognizant Government agency whether the Government-owned facilities can be made available to more than one source. If this is not possible, then a noncompetitive procurement may be justified.

(g) Full and free competition is precluded because of geographic, socio-economic, or epidemiologic considerations necessarily associated with the procurement. This criterion is intended to recognize certain limits to achieving full and free competition which sometimes follow from certain program legislation and special program requirements. This criterion may not be used in the absence of these established limits, and may be used only when it can be shown that there is only one source which can perform the particular procurement.

(h) The required services must be procured from a certain State, interstate, or local government unit, or from a non-profit organization comprised of officers or representatives of these governmental units, and the organization or unit is unique in its ability to meet the contract requirements. This criterion is intended to recognize that when dealing with governmental entities or their representatives, there are certain cases when only one entity is available to perform, and/or has a unique ability to accomplish, the work. This criterion should not be used to obtain supplies or services which are or can be provided from the commercial marketplace. Where there is more than one unit or organization which can meet the contract requirements, a noncompetitive procurement cannot be justified, unless a Federal or State statute dictates the source. The fact that the governmental units or other nonprofit organizations may offer a lower price or agree to cost share is not adequate reason to justify a noncompetitive procurement.

(i) Time is of the essence and only one known source can meet the Government's needs within the required time frame, and/or time will not permit the testing of a product offered by a source, other than a sole source, to meet the delivery schedule. However, the recognized extreme of public exigency in § 1-3.202 is not to be taken lightly. Public exigency, or other reasons causing situations where time is of the essence, may not be used to justify a noncompetitive procurement without first showing that a limited competition using abbreviated procedures is impossible. If a limited competition is impossible, it must be shown that the recommended contractor possesses the unique capability to perform the required work on time to the exclusion of all other firms. The considerable latitude of the contracting officer to determine the method best suited to satisfy the urgent need is limited by the need to try and achieve a limited competition, if at all possible, and, if not, to determine that the proposed contractor is uniquely able to meet the Government's requirements in time.

(j) There is existing equipment which, for reasons of compatibility and interchangeability, requires an item which is manufactured only by one source. This criterion in for use in procurements where a particular brand name item is required, and an "or equal" will not meet the Government's requirements. This criterion may not be used when there are other manufacturers available which may be able to produce acceptable items even

though their products might require some adjustments and modifications. These other manufacturers must be given the opportunity to compete.

(k) The segments of the project are so intertwined that it is impossible to successfully accomplish the project objectives if all segments are not procured from the same contractor (see § 3–3.5308). This criterion is intended for use under research and development procurements and the procurement of studies. It is only to be used when there is a necessity to procure the total package in order to successfully complete the project. This criterion cannot be used when segments of the project can be completed separately by different contractors. The possibility that additional work may be done more conveniently or even at less expense by the original contractor is not sufficient reason to justify a noncompetitive procurement.

§ 3–3.5304 Procedures.

(a) The program office should discuss prospective noncompetitive procurement requests with their supporting procuring activity as early as possible during the procurement planning stage (see § 3–3.50), preferably before submitting the requisition or request for contract. The discussions may resolve uncertainties, provide program offices with names of other sources, allow proper scheduling of the procurement, and avoid delays which might otherwise occur should it be determined that a noncompetitive procurement is not justified.

(b) When a program office desires to obtain certain goods or services by contract without competition, it shall, at the time of forwarding the request for contract, furnish the procuring activity a "Justification for Noncompetitive Procurement" prepared in accordance with this subpart. All justifications shall be submitted initially to the contracting officer.

(c) The contracting officer who receives a justification for processing shall ascertain whether the document is complete, shall request advice from pricing, audit, legal, and other staff offices as appropriate, and shall forward the justification, including his or her concurrence or non-concurrence, to the appropriate approving official. When the contracting officer does not concur with the justification, a written explanation setting forth the reasons must be provided the approving official. If the noncompetitive procurement is disapproved by the approving official, the contracting officer shall promptly notify the concerned program office.

(d) All required approvals shall be obtained prior to issuing a solicitation to, or commencement of contract negotiations with, the proposed contractor. Preliminary arrangements or agreements with the proposed contractor made by someone other than the contracting officer will have no effect or influence on the rationale to support a noncompetitive procurement.

(e) It is the responsibility of the approving official to determine whether a contract may properly be awarded without competition. The program office and project officer are responsible for furnishing the contracting officer and approving official with pertinent factual information and opinions necessary to make such determinations. Other staff offices shall advise the contracting officer and approving official as requested.

§ 3–3.5305 Format for the justification for noncompetitive procurement.

(a) The format for the justification for noncompetitive procurement in excess of $10,000 will be a separate, self-contained document. Justifications for noncompetitive procurements of $10,000 or less may be in the form of a paragraph or paragraphs contained in the requisition or request for contract.

(b) Justifications for noncompetitive procurement, whether over or under $10,000, shall fully express what is to be procured and the reasons why the requirement should not be competed. Justifications must offer reasons which go beyond inconvenience and must explain why it is impossible to obtain competition. The justification will be documented only with information that is based on facts rather than untested and unsubstantiated conclusions or opinions. Documentation in the justification should be sufficient to permit an individual with technical competence in the area to follow the rationale.

(c) Justifications for noncompetitive procurements in excess of $10,000 will be presented in two parts.

(1) Part I will contain background information about the program and a description of the procurement. The following information should be included:

(i) Date.

(ii) Agency, program office, and project officer (name, address, and telephone number).

(iii) Project identification (Program legislation including citations or other internal program identification data such as title, contract number, etc.).

(iv) Descriptive title of the project. (Attach a full description of the contract requirement. This may be a specification, purchase description, or statement of work. If the procurement, as contemplated at the outset, is a "whole project buy" (see § 3–3.5308) and is expected to exceed $100,000, a procurement plan, as required by § 3–3.50, shall be prepared by the project officer and attached to the justification. The description of the whole project buy must include what is being procured, the estimated cost of the whole and component parts, phases, options, continuations, etc., and the periods of time involved. The description is critical to the approving official's understanding of what he/she is being asked to approve, and for subsequent use by the procurement or project offices.)

(v) Explain whether the procurement is an entity in itself, whether it is one in a series, or part of a related group of procurements.

(vi) Proposed contractor (name and address).

(2) Part II will include the facts and reasons to justify a noncompetitive procurement.

(i) Part II will begin with the following statement:

I recommend that this procurement be noncompetitively negotiated with (Name of proposed contractor)

in the amount of _____ for the following reasons:

(ii) Immediately following the preceding statement, each of the applicable criteria listed in § 3–3.5303 must be addressed, and specific support for each criterion's use must be included.

(iii) At the end of Part II, signatory lines should be provided as follows:

Recommended:
Project Officer _____
Date _____
Concur:
Project Officer's Immediate Supervisor
_____
Date _____
Concur:
Contracting Officer _____
Date _____
Approved:
Approving Official _____
Date _____

§ 3–3.5306 Review and approval.

Justifications for noncompetitive procurements shall be processed for review and approval as follows:

(a) For small purchases over $500, but not over $10,000, the justification, which must address the applicable criteria in § 3–3.5303, may be in the form of a paragraph or paragraphs contained in the requisition or request for contract. The contracting officer is authorized to review and approve (or disapprove) the justification.

(b) For procurements over $10,000, but not over $99,999, the justification shall be submitted to the contracting officer for review. The contracting officer will either concur or nonconcur, and forward the justification to the principal official responsible for procurement for approval. (When the contracting officer and principal official responsible for procurement are the same individual, the approval will be made by the Noncompetitive Review Board or by the principal POC, agency, or regional official responsible for administration (see (c), below)). The principal official responsible for procurement may redelegate justification approval for procurements between $10,000 and $25,000 to the chief of the procurement office, provided that individual is at least one level above the contracting officer who will sign the contract.

(c) All justifications for noncompetitive procurements $100,000 or over shall be submitted through the contracting officer to the Noncompetitive Review Board (see § 3–3.5307) for approval, unless the POC head, agency head, or principal regional official has determined that the activity will not use a Noncompetitive Review Board. If the Board is not used, the justifications for $100,000 and over shall be submitted through the contracting officer for approval by the principal POC, agency, or regional official responsible for administration. This process shall apply to all activities except the Public Health Service. In the case of the Public Health Service, its agencies, and subelements, all justifications for noncompetitive procurements $100,000 and over shall be submitted to the contracting officer for review. For procurements ranging from $100,000 to $499,999, the contracting officer shall submit the justification through management channels to the "head of the agency" for approval. (This approval authority may be redelegated only to the deputy administrator, director, or commissioner.) For procurements of $500,000 or more, the contracting officer shall submit the justification through management channels to the Assistant Secretary for Health for approval. (This approval authority may be redelegated only to the Deputy Assistant Secretary for Health Operations.)

(d) Each POC, agency, or regional office may prescribe Board reviews for noncompetitive procurements under $100,000 if reduced levels of review would be more consistent with the dollar ranges of contracts awarded.

§ 3–3.5307 Noncompetitive Review Board.

(a) The Noncompetitive Review Board, referred to as the "Board", is responsible for comparing the reasons given in justifications for noncompetitive procurements against the criteria cited in § 3–3.5303, and for making judgments as to the applicability of the policy requirements for competition to specific procurements. If it is determined by the POC head, agency head, or principal regional official to use a Board, the Board shall be established and maintained in compliance with this section.

(b) Boards shall be established by the POC head, agency head, or principal regional official and be directly responsible to that individual. The POC heads are responsible for establishing Boards as needed in their POCs and respective elements. The Assistant Secretary for Management and Budget is responsible for establishing a Board in the Office of the Secretary. The principal regional officials are responsible for establishing Boards in their regional offices. The number and geographical location of Boards will be decided by the POC heads based upon the volume of noncompetitive procurements to be reviewed and the need for timely decisions, provided that the composition of the Boards meet the requirements of the following paragraph.

(c) The POC head, agency head, or principal regional official, as appropriate, shall appoint the Board members. The Board shall be established and delegated the authority by the appointing official to represent and make decisions on behalf of the appointing official with respect to approving or disapproving certain justifications for noncompetitive procurements. The Board shall be comprised of five members, or their alternates, as specified below:

(1) *Chairperson.* There will be a permanent chairperson on the Board who shall be the principal official responsible for administration. The chairperson should represent the appointing official and be able to review actions submitted to the Board from an activity-wide point of view. The chairperson will designate which of the alternate members will attend individual Board meetings and will assure that the proceedings of each meeting are recorded.

(2) *Procurement official.* There will be a key procurement official appointed to the Board. This official will be the principal official responsible for procurement. Where the activity has more than one contracting office, the principal officials responsible for procurement of the respective contracting offices will be designated alternate members. In this case, a principal official responsible for procurement will serve on the Board to review proposed noncompetitive procurements expected to be assigned to his/her office for procurement action. Whenever the principal official responsible for procurement and the contracting officer are the same individual, the official one administrative level above the principal official responsible for procurement shall represent the contracting office in the Board actions.

(3) *Program officials.* Two representatives will be selected from officials at the activity level which have responsibility for program policy or operations, program planning and evaluation, scientific affairs, research, etc., and/or from the program divisions of the activity that sponsor contract projects. The members should be selected on the basis of their knowledge of a program as a whole, but should not ordinarily be involved in the initiation and management of particular or single projects.

(4) *Contracting officer.* The contracting officer responsible for the procurement to which the justification for noncompetitive procurement relates shall serve as a nonvoting member. When Board meetings consider justifications for procurements involving more than one contracting officer, each contracting officer may attend and offer opinions on the justification pertinent to him/her.

As a further note, the project officer, that individual in the program office who originated the justification and who will be responsible for the project management of the contract project, cannot be a member or alternate on the Board. However, the project officer may be invited by the chairperson to the Board meeting during which the justification will be discussed. The project officer should be prepared to answer questions raised by the Board.

(d) Meetings of the Board shall be conducted as follows:

(1) If the estimated amount of the procurement is more than $500,000, a formal meeting of the Board is required. If the estimated amount of the procurement is $500,000 or less, a formal meeting of the Board need not be held if the chairperson, procurement official, and contracting officer concur that a noncompetitive procurement is justified. If any one of these three persons is of the opinion that a noncompetitive procurement is not justified, a formal meeting must be held. Formal meetings will include all appropriate members and will be convened by the chairperson. No action shall be considered by the Board unless the chairperson, procurement official, and two program officials are present.

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Decisions of the Board will be by majority rule. In case of a tie vote, the action will be resolved in favor of seeking competition.

(2) The chairperson may seek independent counsel from any source inside or outside of the activity if he/she feels that additional advice is necessary for the Board to reach a sound decision.

(3) The Board shall maintain a written record of the justifications reviewed and the decision made on each. If a justification is approved, only Board approval need be indicated. If a justification is disapproved, the reasons should be stated in writing and forwarded to the originator of the justification. The written decision of the Board should be made a part of the contract file.

§ 3-3.5306 Whole project buys.

(a) "Whole project buy" is a term used to describe a procurement concept whereby a project consists of distinctly identifiable segments or phases which are so interdependent that they must be viewed as a total package and must be procured from a single contractor to ensure consistency and to meet the overall project objectives. This concept is only to be used when it is necessary to procure the whole project or total package from a single contractor in order to complete the project successfully; that is, the identifiable segments or phases cannot be separated and procured individually from other than the single contractor without jeopardizing the successful completion of the project. The whole project buy concept serves as an excellent management tool in that it provides the Board or approving official with detailed and interrelated aspects of the proposed procurement action of a complex project. It also serves to motivate program and procurement personnel to focus their attention on the various aspects of the project and to plan and prepare an indepth analysis encompassing the total project and its component parts. This should result in the development of a procurement plan which identifies all pertinent information concerning the segments or phases of a project, while providing a comprehensive overview of the total project.

(b) Any whole project buy which exceeds $100,000 in the aggregate and which contemplates any noncompetitive procurement actions of any dollar value at any time during the project life shall be submitted to the Board or approving official for approval. This requirement applies even if the first of a series of related procurements in a whole project buy is less than $100,000. It applies to projects with several related procurement actions where the first part of the project is either competitively or noncompetitively awarded, and there are to be subsequent noncompetitive procurements with the original contractor. This requirement applies to all procurements regardless of whether the noncompetitive procurement is called a renewal, follow-on, continuation, extension, etc., is to be effected by means of a contract modification, or is a new start.

(c) Justifications of whole project buys submitted to the Board or approving official shall fully describe what the complete requirement is, how the requirement will be divided into procurement actions, the total estimated cost of the whole project and each individual procurement action, the total period of time for the whole project and each procurement action, and whether all or what parts of the whole project will be procured noncompetitively. For projects where an end point cannot be forecast with certainty, as in the case of basic research, the whole project buy will be the circumscribed amount of time which the program office presently intends to continue the effort.

(d) If the Board or approving official clearly approves the noncompetitive procurement action(s) at the outset of a whole project buy, and the whole project buy results in an original contract followed by either a noncompetitive new contract, or noncompetitive modification to the original contract for work, dollars, and time approved by the Board or approving official, these subsequent noncompetitive procurement actions will not have to be resubmitted for approval. However, whole project buys may not be approved in excess of three (3) years, and approval is limited to that explicitly contained in the justification. If a part of the whole project buy is not included in the justification or there are changes in the project which would amend the whole project buy as approved, the excluded part and/or changes will require a separate review and approval. If there are questions as to what was approved, the questionable material shall be submitted to the Board or approving official for clarification.

(e) Once a whole project buy has been approved at an appropriate level, any RFP issued for the procurement shall contain a notification to all potential offerors that the RFP is for the first phase of a whole project buy, the balance of which is projected to be awarded noncompetitively to the successful offeror. It shall also contain as complete a description as possible of the project so that potential offerors may gain an understanding of the full scope of the project. Finally, the notification shall also state that the Government reserves the right to conduct competitive procurements for the subsequent phases if this becomes possible.

§ 3-3.5309 Implementation.

Each POC, agency, and regional office is responsible for implementing this regulation. Implementing instructions and subsequent changes shall be furnished to the Deputy Assistant Secretary for Grants and Procurement, OS, for review and approval prior to implementation.

[FR Doc. 80-3500 Filed 2-1-80; 8:45 am]

BILLING CODE 4110-12-M

Office of Education

45 CFR Part 121a

Assistance to States for Education of Handicapped Children

AGENCY: Office of Education, HEW.

ACTION: Technical Amendment: Final rule.

SUMMARY: Two changes are made in the existing requirements for the annual report of children served:

(1) The date is changed on which State educational agencies count the number of children residing in the State who are receiving special education and related services. The "child count" is now a once a year requirement.

(2) Since these revisions make it possible for State educational agencies to finalize their count data two months earlier, this document also amends the due date for the report.

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to the Congress. They are transmitted to the Congress several days before they are published in the **Federal Register.** The effective date is changed by statute if Congress disapproves the regulations or takes certain adjournments. If you want to know the effective date of these regulations, call or write the Officer of Education contact person.

FOR FURTHER INFORMATION CONTACT:
Mr. William D. Tyrrell, U.S. Office of Education, Division of Assistance to States, Bureau of Education for the Handicapped, 400 Maryland Avenue SW. (Room 4920, Donohoe Building), Washington, D.C. 20202, Telephone: (202) 245-9405.

SUPPLEMENTARY INFORMATION: The proposed rules for the child count

requirements under Part B of the Education of the Handicapped Act, as amended by Pub. L. 94-142 were published September 8, 1976, 45 FR 37813-37817. The final regulations were included with the implementing regulations for Part B of the Education of the Handicapped Act which were published August 23, 1977, 45 FR 42474-42518. Section 1341 of the Education Amendments of 1978 (Pub. L. 95-561), which became effective fiscal year 1979 changed the dates for counting children who receive special education and related services. The count is now to be taken once a year, rather than twice a year. The "child count" report is required by statute as part of the funding formula used to distribute funds to State and local educational agencies to assist them in the education of handicapped children.

Since the change in dates is required by statute, and the other conforming amendment simply retains the same period for reporting the count (two months), the Commissioner has determined, in accordance with 5 U.S.C. 553, that public rulemaking is unnecessary and contrary to the public interest.

Citation of Legal Authority

The reader will find a citation of statutory or other legal authority in parentheses on the line following each provision.

(Catalog of Federal Domestic Assistance Number 13.449, Education of Handicapped Children, Part B)

Dated: January 29, 1980.

William L. Smith,

Commissioner of Education.

Part 121a of Title 45 of the Code of Federal Regulations is amended by revising §§ 121a.750(a) and 121a.751(a)(1) and (b) to read as follows:

§ 121a.750 Annual report of children served—report requirement.

(a) The State educational agency shall report to the Commissioner no later than February 1 of each year the number of handicapped children aged three through 21 residing in the State who are receiving special education and related services.

* * * * *

(20 U.S.C. 1411(a)(3))

* * * * *

§ 121a.751 Annual report of children served—information required in the report.

* * * * *

(a) * * *

(1) The number of handicapped children receiving special education and related services on December 1 of that school year;

* * * * *

(b) A child must be counted as being in the age group corresponding to his or her age of the date of the count: December 1.

* * * * *

(20 U.S.C. 1411(a)(3); 1411(a)(5)(A)(ii); 1418(b))

* * * * *

[FR Doc. 80-3579 Filed 2-1-80; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 25

[CGD 76-082A]

Ventilation of Boats

AGENCY: Coast Guard, DOT.

ACTION: Correction of final rule.

SUMMARY: In FR Doc. 79-38641 appearing at page 73047 in the Federal Register of December 17, 1979, paragraph 25.40-1(a) is corrected by deleting the words "appoint" and inserting in its place the word "a point".

FOR FURTHER INFORMATION CONTACT:
Mr. Lars E. Granholm, Office of Boating Safety (G-BBT), U.S. Coast Guard, Department of Transportation, Washington, D.C. 20593 (202/426-4027).

Dated: January 30, 1980.

B. E. Thompson,

Rear Admiral, U.S. Coast Guard, Chief, Office of Boating Safety.

[FR Doc. 80-3642 Filed 2-1-80; 8:45 am]

BILLING Code 4910-14-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 78-16; Notice 3]

Federal Motor Vehicle Safety Standards Steering Control Rearward Displacement; Correction

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; correction.

SUMMARY: On November 29, 1979, NHTSA published in the **Federal Register** a final rule extending the applicability of Standard No. 204, *Steering Control Rearward Displacement,* to light trucks, buses and multipurpose passenger vehicles with an unloaded vehicle weight of 4,000 pounds or less (44 FR 68470). In amendment number 5 on page 68475 describing the changes made to Standard No. 204, the notice said that a new section S6 was added to the standard. However, the noice did not provide the text for a new section S6. The reference to a new section S6 is an error. No such section was to be added to Standard No. 204. The purpose of this correction is to make clear that the only changes to Standard No. 204 are the amendments to sections S2 and S4 and the addition of a new section S5. All of those changes are fully described on page 68475 of the November 29, 1979, **Federal Register** notice.

FOR FURTHER INFORMATION CONTACT:
Mr. William Smith, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2242).

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on January 28, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80-3627 Filed 2-1-80; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[S.O. No. 1425]

Atchison, Topeka and Santa Fe Railway Co. Authorized To Transport Grain in Covered Hopper Cars to Mexico at Reduced Carload Minimum Weights

January 29, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1425.

SUMMARY: This Order authorizes The Atchison, Topeka and Santa Fe Railway Company to transport shipments of grain from transit houses at reduced minimum weights of 170,000 pounds in order to comply with Mexican weight limitations. The action is taken because it is the Commission's opinion that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people.

DATES: Effective date: 12:01 a.m., January 30, 1980. Expiration date: 11:59 p.m., April 30, 1980.

FOR FURTHER INFORMATION CONTACT:
J. Kenneth Carter, (202) 275-7840.

SUPPLEMENTARY INFORMATION: The Atchison, Topeka and Santa Fe Railway

Company (ATSF) is authorized to transport grain under Southwestern Freight Bureau Tariff (SWFB) 4026, Item 850, which reads that when in covered hopper cars marked capacity of cars used, except when loaded to within 12 inches of roof actual weight will apply, but in no case shall the minimum weight be less than 150,000 pounds per car used. This means that 200,000 pounds of grain would be loaded in many of the covered hopper cars if the cars are loaded to the marked capacity of the car. These rates have application to Rio Grande crossings and will be used extensively in the months ahead for shipments to Mexico. The rate and minimum weight on the date shipment was billed from transit origin applies on the entire movement. Grain on hand in transit houses will be subject to the higher minimum weights under this tariff.

The SWFB filed application for Special Permission to publish a minimum weight of 170,000 pounds from origin, which has been approved. Grain presently on hand in transit houses will still be subject to the higher minimum weights under this tariff. The ATSF requests authority to move the grain from transit houses at a minimum weight of 170,000 pounds in order to comply with the Mexican weight limitations.

It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1425 Service Order No. 1425.

(a) *The Atchison, Topeka and Santa Fe Railway Company authorized to transport grain in covered hopper cars to Mexico at reduced carload minimum weights.* The Atchison, Topeka and Santa Fe Railway Company (ATSF) is authorized to transport shipments of grain on hand in transit houses located on the ATSF on the service date of this order when moving in covered hopper cars, which carriers are not obligated to furnish, at a minimum weight of 170,000 pounds per car, subject to the rates in Items 38950 and 38958 series, in Southwestern Freight Bureau Tariff 4026, ICC SWFB 4026, when moving via Rio Grande crossings and destined to Mexico.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(c) Bills of lading covering movements authorized by this order shall contain a notation that shipment is moving under authority of Service Order No. 1425.

(d) *Rules and regulations suspended.* The operation of tariffs or other rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(e) *Effective date.* This order shall become effective at 12:01 a.m., January 30, 1980.

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 30, 1980, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. (10304–10305 and 11121–11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Robert S. Turkington and John L. Chaney. Members Joel E. Burns and John R. Michael not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-3506 Filed 2-1-80; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 45, No. 24
Monday, February 4, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. 1

Improving Government Regulations; Semiannual Agenda

AGENCY: Small Business Administration.

ACTION: Publication of the third Semiannual Agenda of Regulations under review or development by the Small Business Administration.

SUMMARY: SBA published its initial semiannual agenda of regulations and its plan for implementing EO 12044 "Improving Government Regulations" at 44 FR 8942. The second agenda was published at 44 FR 45412. Although not a regulatory Agency, SBA has drafted a plan and agenda designed to meet both the criteria and the spirit of the EO and enhance the regulatory review process.

The SBA agenda contains many regulations limited in public impact which are nevertheless published to increase public knowledge of all SBA regulatory activities and allow for increased public participation in the review and development process.

Public comments on the previous SBA Agendas have been general and all have been positive. No changes have been recommended.

The agenda format continues to track regulations under development which were listed on previous agendas. Regulations listed as final in previous agendas are deleted from subsequent agendas. In addition, a Part III, Existing Regulations Selected for Review, is included to inform the public of the regulation review which is currently the Agency priority. The agenda format will continue to be:

Part I: Status of Regulations on Prior Agendas.

Part II: Regulations under Review and Development.

Part III: Existing Regulations Selected for Review.

Publication of this agenda does not impose any binding obligation on SBA with regard to any specific item on the agenda. Additional regulatory action not listed on the agenda is not precluded.

FOR FURTHER INFORMATION CONTACT: For further information on agenda items, the public is encouraged to contact the individual listed for the particular item. For supplementary information on previously published agenda items, see the cited **Federal Register.**

For information concerning the overall SBA Regulatory Review and Development Program and general semiannual agenda questions, contact George M. Grant, Jr., Associate General Counsel for Legislation, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, 202/653–6662.

Dated: January 30, 1980.

A. Vernon Weaver,

Administrator.

Part I.—*Status of Regulations on Prior Agendas*

Title of regulation	Summary	Target date
January 1979 Proposals—Significant Regulations		
Procurement and Technical Assistance, 13 CFR Part 124, Research and Development Assistance, 13 CFR Part 125.	Complete revision of regulations governing SBA's Certificate of Competency, Prime Contract Assistance, Defense Production Pools, Property Sales Assistance, Subcontracting Assistance, and Technology Assistance Programs. Published as Part 125—Procurement Assistance	Proposed rule published June 13, 1979, 44 FR 33684. Final rule published October 19, 1979, 44 FR 60273.
Small Business Investment Companies, 13 CFR Part 107, §§ 107.3, 107.101(d) (1). and (2), and §§ 107.205, 107.808.	Small Business Investment Companies Amendments to Part 107 as a result of enactment of Pub. L. 95–507.	Proposed rule published April 10, 1979, 44 FR 21292 Final rule published August 1, 1979, 44 FR 45120.
Pollution Control, 13 CFR Part 111	Regulations redefining eligibility for SBA's Pollution Control Financing	Proposed rule published October 11, 1979, 44 FR 58745. Final rule to be published January 1980.
January 1979 Proposals—Nonsignificant Regulations		
Small Business Size Standards, 13 CFR Part 121.	Size standards applicable when a firm and its affiliated concerns are engaged in more than one industry	Advance Notice of Proposed Rulemaking April 23, 1979, 44 FR 23875. Proposed rule published July 13, 1979, 44 FR 40897. Final rule published on October 9, 1979, 44 FR 57914.
Small Business Investment Companies, 13 CFR 107.4.	Rule providing that leverage will be extended to unincorporated SBIC's on a non-recourse basis.	Proposed rule published April 10, 1979, 44 FR 23258. Final rule published on August 27, 1979, 44 FR 50028.
Business Loans, 13 CFR 120.3	New Guaranty Agreement for SBA Business Loans	Target Date February 1980.
Loans to State and Local Development Companies, 13 CFR Part 108.	Rules regarding the making of loans to State and Local Development Companies	Proposed Rule published March 2, 1979, 44 FR 11787 Final rule to be published in 1980.
July 1979 Proposals—Nonsignificant Regulations		
Title of regulation	Summary	Knowledgeable official / Target date
Business Loan Policy, 13 CFR Part 120.	Section 120.2(d) clarifies the criteria considered in determining which companies are eligible under SBA's Related Company Transaction (alter-ego) Policy.	Robert H. Bartlett, 202/653–6470 — Proposed rule published May 7, 1979, 44 FR 26748. Final rule published August 20, 1979, 44 FR 48653.
Business Loans, 13 CFR Part 122.	Section 122.5 limits the SBA share of a guaranteed loan to $350,000 unless exceptional situations exist in which case the SBA share can be $500,000. This change allows the SBA share of a guaranteed loan to be $500,000 without exceptional circumstances.	Evelyn Cherry, 202/653–6696 — Final rule published December 13, 1979, 44 FR 72102.

July 1979 Proposals—Nonsignificant Regulations—Continued

Title of regulation	Summary	Knowledgeable official	Target date
Small Business Energy Loans, 13 CFR Part 130.	This rule requires that all "energy" loans to the extent feasible be made under section 7(1) of the Small Business Act.	Evelyn Cherry, 202/653–6696	Final rule published November 28, 1979, 44 FR 67980.
Small Business Size Standards, 13 CFR Part 121.	Definition of small business for assistance by SBIC's and by development companies.	John L. Werner, 202/653–6672	Proposed rule published June 21, 1979, 44 FR 36195. Final rule published September 28, 1979, 44 FR 55815.
Small Business Investment Companies, 13 CFR Part 107.	Amendment of § 107.4 to specify that SBA will make nonrecourse loans to SBIC's formed as limited partnerships.	John L. Werner, 202/653–6672	Proposed rule published April 19, 1979, 44 FR 23258. Final rule published August 27, 1979, 44 FR 500.28.
Small Business Investment Companies, 13 CFR Part 107.	SBA considered changing the ratio of purely private capital to nonprivate capital required for leverage eligibility from SBA.	Peter F. McNeish, 202/653–6848	Notice of proposed rulemaking October 22, 1979, 44 FR 60745. No final rule will be issued.
Small Business Size Standards, 13 CFR Part 121.	Rule establishes a size standard for a small coal mining firm for purpose of small business set-aside leases on Federal coal land.	Harvey D. Bronstein, 202/653–6373	Proposed rule published March 14, 1979, 44 FR 15513 and republished August 10, 1979, 44 FR 47098. Published as final rule October 16, 1979, 44 FR 59504.
Small Business Size Standards, 13 CFR Part 121.	Eligibility criteria for SBA financial assistance to small water supply firms.	Robert N. Ray, Jr., 202/653–6521	Proposed rule published March 6, 1979, 44 FR 12200. Final rule published November 26, 1979, 44 FR 67980.
Loan Moratorium, 13 CFR Part 131.	Regulations implementing SBA's loan moratorium program under Section 5(e) of the Small Business Act, 15 U.S.C. 634(e) which authorizes suspension of a borrower's obligation under an SBA loan.	Timothy O'Leary, 202/653–6429	Proposed rule published April 11, 1979, 44 FR 21654. Final rule published October 22, 1979, 44 FR 60718.

Part II.—*Regulations Under Review and Development*

Nonsignificant Regulations

Title of regulation	Summary	Knowledgeable official	Target date
Small Business Size Standards, 13 CFR Part 121.	A new size standard for retail heating oil dealers	Robert N. Ray, Jr., 202/653–6521	Final rule published on August 10, 1979, 44 FR 47039.
Small Business Size Standards, 13 CFR Part 121.	A new size standard for the purchase of government procurement.	Robert N. Ray, Jr., 202/653–6521	Proposed rule published August 27, 1979, 44 FR 50045
Disaster Loans, 13 CFR Part 123	A new rule conforming SBA Disaster declaration procedures to Presidential Declarations in areas declared major disaster areas.	Julia B. Baysinger, 202/653–6757	Proposed rule published September 4, 1979, 44 FR 51610.
Business Loan Policy, 13 CFR Part 120; Business Loans, 13 CFR Part 122.	Rules regarding guarantee fees and fluctuating interest rates.	Arthur E. Armstrong, 202/653–6574	Proposed rule published September 21, 1979, 44 FR 54724. Final rule published December 7, 1979, 44 FR 70455.
New Section, 13 CFR Part 117	Proposed rules implementing the Age Discrimination Act of 1975 as it applies to SBA programs.	Arnold Feldman, 202/653–6054	Proposed rule published on October 17, 1979, 44 FR 60032.
Administration, 13 CFR Part 101	Delegations of authority needed to conduct program activities in SBA field offices.	Lee Waugh, 202/653–6703	Final rule published on October 16, 1979, 44 FR 54401.
Small Business Size Standards, 13 CFR Part 121.	A new size standard for retail heating oil dealers for purpose of SBA financial assistance.	Robert N. Ray, Jr., 202/653–6373	Final rule published on December 14, 1979, 44 FR 72582.
Small Business Energy Loans, 13 CFR Part 130.	Elimination of restrictions on use of proceeds	John W. Carrigan, 202/653–6570	Final rule published on January 7, 1980, 45 FR 1411.
Business Loans, 13 CFR Part 120.	Proposed change concerning servicing of business loans by lenders.	Timothy F. O'Leary, 202/653–6429	Proposed rule published on December 21, 1979, 44 FR 75655.

Part III.—*Existing Regulations Selected for Review*

Title of regulation	Summary	Knowledgeable official	Target date
Disaster Loans, 13 CFR Part 123	Regulation implementing Pub. L. 96–38 regarding interest rates.	Julia B. Baysinger, 202/653–6757	Proposed rule to be published February 15, 1980.
Disaster Loans, 13 CFR Part 123	Regulation decentralizing approval authority	Julia B. Baysinger, 202/653–6757	Proposed rule to be published February 15, 1980
Loans to State and Local Development Companies, 13 CFR Part 108.	Regulation making projects partially financed by sale of tax-exempt bonds ineligible for SBA assistance.	Julia B. Baysinger, 202/653–6757	Proposed rule to be published February 15, 1980.
Disaster Loans, 13 CFR Part 123	SBA has undertaken a complete revision and update of SBA disaster assistance regulations.	Julia B. Baysinger, 202/653–6757	Notice of proposed rulemaking to be published April 1980.
Small Business Size Standards, 13 CFR Part 121.	SBA is developing technical, procedural and clarifying changes to Part 121 to improve administration of field office and central office size determinations, and to better inform the public on size procedures and criteria.	Donald W. Farrell, 202/653–6860	Notice of proposed rulemaking to be published February 1980.
Pollution Control, 13 CFR Part 111	Section 111.4(d) restricts eligibility to concerns with five year history, the last three being profitable. A change is being considered to permit a finding of the equivalent of such experience.	Vincent A. Fragnito, 703/235–2902	Proposed rule to be published March 1980.
Small Business Investment Companies, 13 CFR 107.3.	Amendment of Definition of "Associate of a Licensee" Limited partner of or a Person controlling 10 percent or more of corporate Licensee's stock. No longer "Associate".	Peter F. McNeish, 202/653–6848	Proposed rule to be published February 1980.
Small Business Investment Companies, 13 CFR 107.3.	Amendment of Definition of "Associate of a Licensee" to exclude attorneys at law not under retainer to Licensee.	Peter F. McNeish, 202/653–6848	Proposed rule to be published March 1980.
Small Business Investment Companies, 13 CFR 107.301(c).	Increase maximum permissible interest charges (where local law imposes no lower ceiling) to 7 points over Federal Financing Bank rate on 10-year debentures in effect at time loan is made to Small Concerns.	Peter F. McNeish, 202/653–6848	Proposed rule to be published February 1980.

Part III.—*Existing Regulations Selected for Review*—Continued

Title of regulation	Summary	Knowledgeable official	Target date
Small Business Investment Companies, 13 CFR 107.	Amendment of 13 CFR 107.4 and other affected sections to allow limited partnerships with individual general partners to be licensed as small business investment companies.	Peter F. McNeish, 202/653–6848	Proposed rule to be published February 1980.
Small Business Investment Companies, 13 CFR 107.	Comprehensive review of entire Part in contemplation of issuance of Revision 6 of Part 107.	Peter F. McNeish, 202/653–6848	Proposed rule to be published July 1980.
Management Assistance, 13 CFR Part 129.	SBA is undertaking a revision of management assistance regulations.	John C. Patrick, Jr., 202/653–6626	Notice of proposed rulemaking July 1980.

[FR Doc. 80-3997 Filed 2-1-80; 8:45 am]

BILLING CODE 8025-01-M

13 CFR Part 121

Small Business Size Standards; Size Determination Regarding SBA Assistance for Concerns Which Have Been Approved for Participation in the 8(a) Program

AGENCY: Small Business Administration.

ACTION: Proposed Rule.

SUMMARY: This proposed rule provides a special procedure to determine the size status of concerns which have been approved for participation in the 8(a) program desiring SBA assistance to perform the project covered by the 8(a) subcontract. It is necessary because in this case the SBA size standard limitations tend to work at cross-purposes with the 8(a) program and, therefore, slow down the development of minority-owned small business or other economically/socially disadvantaged small business.

DATE: Written comments must be submitted by March 5, 1980.

ADDRESS: Kaleel C. Skeirik, Chief, Size Standards Division, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Robert N. Ray, Jr., (202) 653–6373.

SUPPLEMENTARY INFORMATION: Present SBA regulations require applicants for SBA assistance to comply with size standard regulations as stated in 13 CFR, 121.3, regardless of the applicant's status as a small business under other SBA programs.

This requirement, meeting the various SBA size standards, has proved to be difficult for concerns which have qualified for participation in the 8(a) program. These 8(a) firms have qualified under the procurement size standard applicable to their principal activity, but may not be eligible under the loan and other size standards. These concerns at times have required additional assistance which often is difficult to obtain without the help of the SBA. Thus, the size standard limitations at times tend to work at cross-purposes with the 8(a) program and, therefore, slow down the development of minority-owned or other socially or economically disadvantaged small business. It is therefore the SBA's contention that a concern which has been approved for participation in the 8(a) program and, that has received a subcontract under that program, should be eligible for additional forms of SBA assistance to assist it in satisfying the 8(a) subcontract. The proposal would allow eligibility for these 8(a) firms under various size standards including SBA loans, Government property sales, small business investment companies, and surety bond assistance.

These regulations are issued for proposed rulemaking. Accordingly, pursuant to authority contained in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, as amended, notice is hereby given that § 121.3–7, Chapter I, Title 13 of the Code of Federal Regulations is proposed to be amended by adding the following new paragraph (c):

§ 121.3–7 Differentials.

* * * * *

(c) Notwithstanding size criteria of 121.3–9, 10, 11, 12, and 15, a firm which is independently owned and operated and is not dominant in its field of operation which has been awarded a subcontract under Section 8(a) of the Small Business Act is an eligible small business including its affiliates under 121.3–9, 10, 11, 12, and 15 for purposes of receiving assistance which would allow it to perform such 8(a) subcontract.

Dated: January 23, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-3996 Filed 2-1-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80–NW–1–AD]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposed rulemaking, would require modifications to the main landing extension/retraction systems on Boeing Model 727 series airplanes. These modifications are necessary to prevent gear-up landings and possible resultant injury to occupants.

DATES: Comments must be received on or before April 1, 1980.

ADDRESSES: Send comments on the proposed rule in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 80–NW–1–AD, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald R. Mack, Airframe Section, ANW–212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767–2516.

SUPPLEMENTARY INFORMATION: Failures in the main landing gear lock system on Boeing Model 727 series airplanes have occurred which caused missequencing and subsequent jamming of the gear and wheel well door. Nine jamming incidents resulted in gear-up landings. Also, failures have occurred in the main landing gear manual extension system support structure which prevented extension of the gear by manual means, resulting in a gear-up landing when the "A" hydraulic system (which powers the normal extension system) was inoperative.

Amendment 39–3410, AD 79–04–01, as amended by Amendment 39–3577, requires inspections of the main landing

gear lock system components whose failure can or has caused the missequence condition. The AD requires replacement of certain parts, such as bolts, for which repetitive inspection has been determined to be inappropriate or impractical. Also, the AD requires inspections of the main landing gear manual extension system support structure components, made from 7079–T6 aluminum alloy, which have failed due to stress corrosion.

Recently, the FAA has reviewed the effectiveness of AD 79–04–01 in preventing further main landing gear-up landings due to extension/retraction system component failures. This was due, in part, to two gear-up landings which occurred subsequent to the issuance of AD 79–04–01. As a result of these two incidents, it was necessary to amend the AD (by Amendment 39–3577). Although the AD constitutes a comprehensive inspection and/or replacement program, the review indicated that it is only an interim action since failure of most of the extension/retraction system components (original or improved design), for whatever reason, will cause a missequence condition and result in a gear-up landing. Also, missequencing can and has occurred due to other malfunctions in the system, such as binding in the uplock hook assembly. Therefore, the ultimate action should be (1) complete prevention of wheel well door/gear jamming or (2) redesign and modification of the lock system.

Boeing has designed, tested and received FAA approval of an improved door safety bar mechanism which satisfies item (1) above. This mechanism is capable of withstanding hydraulic operated door loads associated with missequencing for which the original safety bar was not designed.

In addition, the FAA believes that the uplock assembly modification of Boeing Service Bulletin No. 737–32–245, Revision 4, should be accomplished within a specified time. This service bulletin provides for increased corrosion protection of installation of lubrication provisions and reduces binding of the uplock hook. Corrosion and binding have been attributed as the causes of several out-of-sequence operations. Presently, the AD allows for continued, repetitive force tests of the assembly.

Based on the above, the FAA proposes to issue an Amendment to AD 79–04–01 which would require replacement of the existing safety bar mechanism with an improved mechanism to prevent door/gear jamming when failures or malfunctions occur in the main landing gear lock system, and replacement of the main landing gear manual extension system support structure with parts of improved material, and modification of the uplock assembly.

The AD would allow for alternate modifications which can be shown to accomplish the same intent as that proposed.

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Directive Rules Docket, Docket No. 80–NW–1–AD, 9010 East Marginal Way South, Seattle, Washington 98108.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by further amending Airworthiness Directive 79–04–01, Amendment 39–3410 (44 FR 9735), as amended by Amendment 39–3577 (44 FR 56318), as follows:

1. By revising Paragraph C.2 to read as follows: Prior to July 1, 1981, accomplish the main landing gear uplock assembly modification specified in Boeing Service Bulletin No. 727–32–245, Revision 4, or later FAA approved revisions, or an alternate approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. This modification constitutes terminating action to the requirements of Paragraph C.1 above."

2. By redesignating Paragraphs F, G, and H as Paragraphs H, I, and J, respectively; and

3. By adding the following new Paragraphs F and G:

"F. Prior to July 1, 1982, install the improved main landing gear safety bar mechanism, Boeing Part Number 65C20388, LH and RH side assemblies, or equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. Accomplishment of this installation constitutes terminating action to Paragraphs A, D, and E of this AD. If Boeing Service Bulletin Numbers 727–32–237, Revision 2, 727–32–251, and 727–32–257, Revision 1, or later FAA approved revisions, or equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, have been accomplished, the above safety bar mechanism or approved equivalent need not be installed until December 31, 1983.

"G. Prior to July 1, 1982, (1) replace the main landing gear manual extension system gearbox horizontal supports, LH and RH sides, Boeing P/N 65–24575–1, with Boeing P/N 65–68156–1 in accordance with Boeing Service Bulletin No. 727–32–164, Revision 2, or later FAA approved revisions, or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, (2) replace the main landing gear manual extension system support yokes, LH and RH sides, Boeing P/Ns 65–26300–1/–2, 65–26300–7/–8, 65–61412–1/–2, 65–26300—11/ 12, and 65–26300–17/–18 with Boeing P/Ns 65–26300–21/–22 or 65–26300–23/24 in accordance with Boeing Service Bulletin No. 727–32–204, Revision 3, or later FAA approved revisions, or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, and (3) replace the main landing gear manual extension system gearbox housing, Boeing P/N 65–27485–1/–2, LH and RH sides, with Boeing P/N 65–27485–11/–12 in accordance with Boeing Service Bulletin No. 727–32–279, or later FAA approved revisions, or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. The replacement accomplished per this paragraph constitutes terminating action to Paragraph B of this AD."

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85).

Note.—The FAA has determined that this document involves a proposal which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on January 24, 1980.

C. B. Walk, Jr.,

Director, Northwest Region.

[FR Doc. 80–3200 Filed 2–1–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 80–CE–3–AD]

Airworthiness Directives; Cessna Model 150M, A150M, 152, A152, 172N and R172K Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This Notice proposes to adopt an Airworthiness Directive (AD) that would require modification of the wing flap position preselect follow-up system on certain Cessna Model 150M, A150M, 152, A152, 172N and R172K airplanes. The proposed AD is needed to prevent a possible failure which can result in sudden unexpected retraction of one wing flap, thereby creating possible unsafe conditions.

DATES: Comments must be received on or before February 24, 1980.

ADDRESSES: Send comments on the proposal to: FAA, Central Region, Office of the Regional Counsel, ACE–7, Attn: Rules Docket Clerk, Docket No. 80–CE–3–AD, 601 East 12th Street, Kansas City, Missouri 64106.

Cessna Single Engine Service Information Letters SE79–16 and SE79–16 (Supplement #1) and Cessna Service Kit Instructions Number SK172–60A, dated May 3, 1979, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201; Telephone (316) 685–9111. Copies of the service letters and the service kit instructions are contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and at Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Douglas W. Haig, Aerospace Engineer, Engineering and Manufacturing District Office #43, Room 220, Mid-Continent Airport, Wichita, Kansas 67209, Telephone (316) 942–4219.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the AD Docket Number and be submitted in duplicate to the address specified above. All comments received on or before the closing date for comments will be considered by the Administrator before action is taken on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Seven reports showing broken direct flap cables and ten reports showing frayed direct flap cables on certain Cessna 150, 152 and 172 series airplanes have been received. Failure of the direct flap cable results in sudden unexpected retraction of the left wing flap while the right flap stays down. This condition has a sudden adverse effect on airplane controllability. It has been demonstrated by flight test that the affected models of airplanes can be flown with one wing flap retracted. However, the dynamic effect of sudden retraction of one wing flap has not been tested. In addition, the affected airplanes are often flown by student and low time pilots who may not be able to successfully cope with sudden retraction of one wing flap. Failure of the direct flap cable is due to fatigue caused by bending stresses introduced into the cable at the point where the flap position preselect follow-up cable is clamped to the direct flap cable. Cessna has now issued Cessna Single Engine Service Information Letters Number SE79–16 and SE79–16 (Supplement #1) and Service Kit SK172–60A making available hardware and instructions for installation of a new improved wing flap position preselect follow-up cable clamp on the direct flap cable. The new preselect cable clamp is designed to perform its function without inducing fatigue type bending stresses into the flap direct cable. This will eliminate the unsafe condition resulting from fatigue failure of the direct flap cable caused by the original configuration preselect cable clamp. Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed AD would require installation of the new flap position preselect follow-up cable clamp in accordance with instructions in Cessna Service Information Letters SE79–16 and SE79–16 (Supplement #1) and Cessna Service Kit SK172–60A on certain serial numbers of Cessna Models 150M, A150M, 152, A152, 172N and R172K airplanes.

The Proposed Amendment

Accordingly, the FAA proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Cessna: Applies to the following models and serial number airplanes certificated in all categories:

Models and Serial Numbers

150M—15078506 through 15079405
A150M—A1500685 through A1500734
152—15279406 through 15283354
A152—A1500433, A1520735 through A1520867
172N—17261445, 17267585 through 17272447
R172K—R1722000 through R1723127

COMPLIANCE: Required as indicated unless already accomplished. To assure continued structural integrity of the wing flap direct cable, thereby preventing possible sudden unexpected retraction of the left wing flap accomplish the following:

(A) Prior to or upon accumulation of 1000 hours time-in-service for airplanes with less than 900 hours time-in-service on the effective date of this AD or within the next 100 hours time-in-service after the effective date of this AD for airplanes having 900 hours or more time-in-service on the effective date of this AD: Install a new Cessna Part Number 0560037–1 flap follow-up cable clamp and associated hardware in accordance with instructions in Cessna Single Engine Service Information Letters SE79–16 and SE79–16 (Supplement #1) and Cessna Service Kit SK172–60A dated May 3, 1979.

(B) A special flight permit, in accordance with FAR 21.197, is permitted for the purpose of moving affected airplanes to a location where the modification required by this AD can be accomplished.

(C) Any equivalent means of compliance with this AD must be approved by the Chief, Engineering and Manufacturing District Office #43, Wichita, Kansas, Telephone (316) 942–4219.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.85 of the Federal Aviation Regulations (14 CFR Sec. 11.85))

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

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A copy of the evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Federal Aviation Administration, Central Region, Office of the Regional Counsel, ACE-7, Attn: Rules Docket Clerk, Docket No. 80-CE-3-AD, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-5446.

Issued in Kansas City, Missouri on January 23, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-3201 Filed 2-1-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 78-WE-5-AD]

Airworthiness Directives; Lockheed L-188 Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD) applicable to Lockheed Model L-188 airplanes by providing for additional repetitive inspections of the wing structure and extending the applicability of the inspections to include lower-time airplanes, as well as those airplanes which had been previously modified. This AD is needed to detect and repair fatigue cracks which if uncorrected could result in loss of strength capability of the wing.

DATES: Comments must be received on or before April 7, 1980.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region. Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, Calif. 91520. Attention: Commercial Support Contracts, Department 63-11, U-33, B-1.

FOR FURTHER INFORMATION CONTACT: Jerry Presba, Executive Secretary Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, Calif. 90009. (213) 536-6351.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date of comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

This notice proposes to supersede Amendment 39-3204, 43 FR 19210, Ad-78-09-06 which currently requires repetitive inspections of the wing front spar lower cap and provides terminating action for such inspections on Lockheed Model L-188 airplanes. After issuing Amendment 39-3204, the Federal Aviation Administration (FAA) has received reports of cracks in wing structure in adjacent areas not covered by the existing AD. Additionally, the FAA has determined that fatigue damage occurs at an exposure threshold lower than the 35,000 hours' time in service presently established by the existing AD. Therefore, the FAA is considering superseding Amendment 39-3204 by increasing the effectivity to include airplanes with 30,000 hours' time in service, (was 35,000 hours); extending the inspections to include adjacent structure, and providing a more restrictive terminating action.

Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Lockheed-California Company: Applies to all Model 188A and 188C series airplanes certificated in all categories.

To prevent loss of strength capability of the wing due to fatigue cracking accomplish the following: unless previously accomplished:

(a) Before accumulating 30,000 hours' time in service or within the next 100 hours' time in service on those airplanes with 30,000 or more hours' time in service, unless accomplished within last 400 hours:

(1) Inspect the wing front spar lower cap per paragraph (d) of this AD; and

(2) Reinspect per paragraph (d) prior to accumulating 500 hours' time in service since the last inspection required by paragraph (a)(1).

(b) Within 400 hours' time in service since inspection required in (a)(2) and thereafter at intervals not to exceed 2,000 hours' time in service, inspect per paragraph (e) of this AD.

(c) Inspections per paragraph (e) of this AD (including the 2,000 hour repetitive inspection) may be substituted for the inspections required by paragraph (a)(1) and (a)(2) of this AD.

(d) Inspect wing front spar lower cap per paragraph 1.D.(1) of Lockheed Alert Service Bulletin 88/SB-699B dated July 13, 1979.

(e) Inspect spar cap adjacent structure per paragraph 1.D.(2), 1.D.(3), 1.D.(4), 1.D.(5), 1.D.(6), 1.D.(7), and 1.D.(8) of Lockheed ASB 88/SB-699B.

(f) Repair any detected cracks prior to further flight per Lockheed ASB 88/SB-699B.

(g) Incorporation of the modifications/repairs defined by the drawings listed below terminates the inspection requirements of this AD for the listed paragraphs in ASB 88/SB-699B.

(1) Drawing Numbers 842174 and 842181 for paragraphs 1.D.1, 1.D.3, 1.D.4 (spar cap only), 1.D.5 (spar cap at Station 203), 1.D.7 (spar cap at Stations 159 and 167).

(2) Drawing Numbers 842185 and 842186 for paragraphs 1.D.2 and 1.D.6.

(3) Drawing Number 842222 for paragraph 1.D.4 (spar web and cap at Station 203 only).

(4) Drawing Number 842217 for paragraph 1.D.4 (spar web at Station 216).

(5) Drawing Number 841738 (spar web at Station 160).

(h) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

[Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85]

Issued in Los Angeles, California on January 22, 1980.

W. R. Fresbe,

Acting Director, FAA Western Region.

[FR Doc. 80-3202 Filed 2-1-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-NE-23]

Transition Area; Alteration of Pittsfield, Mass., 700-Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice (NPRM) proposes to amend the Pittsfield, Mass., 700-foot transition area so as to provide protected airspace for aircraft executing new proposed NDB Runway 26 and LOC Runway 26 Standard Instrument Approach Procedures (SIAP), Pittsfield Municipal Airport, Pittsfield, Mass.

DATES: Comments must be received on or before February 29, 1980.

ADDRESS: Send comments to the Federal Aviation Administration, Office of the Regional Counsel, ANE-7, Attention: Rules Docket, Clerk, Docket No. 79-NE-23.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass.

FOR FURTHER INFORMATION CONTACT: Richard G. Carlson, Operations Procedures and Airspace Branch, ANE-536, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Mass. 01803; telephone (617) 273-7285

Comments Invited

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted to the Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 79-NE-23, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803. All communications received on or before February 29, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of the Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC. 20591, or by calling (202) 426-8085. Communications must identify the notice number of this NPRM.

Persons interested in being placed on a mailing list for future NPRMS should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Pittsfield, Mass. 700-foot transition area by revising the controlled airspace to the northeast. This action will provide the required controlled airspace for aircraft executing new proposed Standard Instrument Approach Procedures to the Pittsfield Municipal Airport.

The Proposed Amendment

Accordingly, pursuant to the Authority delegated to me, the Federal Aviation Administration proposes to amend the description of the Pittsfield, Mass. 700-foot transition area in § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by:

1. Deleting from the present description all after, "Pittsfield Municipal Airport, Pittsfield, Massachusetts * * *"

2. Inserting after Pittsfield Municipal Airport, Pittsfield, Massachusetts, "* * * and within 5-miles each side of the 085 degree bearing and the 245 degree bearing from the Dalton, Massachusetts NDB (latitude 42 degree 28' 15"N, longitude 73 degree 10' 14.8"W) extending from the 7-mile radius area to 12 miles northeast of the NDB."

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by Interim Department of Transportation guidelines (43 FR 8582; March 8, 1978) [Section 307(a), Federal Aviation Act of 1958, (49 USC 1348(a); and Section 6(c), Department of Transportation Act (49 USC 1655(c)].

Issued in Burlington, Massachusetts, on January 22, 1980.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 80-3198 Filed 2-1-80; 8:45 am]

BILLING Code 4910-35-M

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14 CFR Part 71

[Airspace Docket No. 18605/79-ASO-66]

Proposed Group II Terminal Control Area; Tampa, Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: As part of a comprehensive program announced on December 27, 1978, in the FAA Administrator's Plan for Enhanced Safety of Flight Operations in the National Airspace System, the FAA proposes to establish a Group II Terminal Control Area (TCA) at Tampa, Fla. Operations in the proposed TCA would be subject to the operating and equipment rules for operation in Group II TCAs specified in § 91.90(b) of Part 91 of the Federal Aviation Regulations. This includes, among other rules, the requirement to have an operable VOR, TACAN receiver, two-way radio, and a transponder to operate in the TCA. An altitude encorder would not be required. This action is intended to increase the capability of the Air Traffic Control (ATC) system to separate all aircraft in the terminal airspace around the Tampa International Airport, Tampa, Fla. It is based on data indicating that a high percentage of near midair collisions reported to the FAA in terminal areas involves visual flight rules (VFR) aircraft that are not required to be under ATC control. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of air space users.

DATES: Comments must be received on or before May 5, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 18605/79—ASO-66, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

The docket for this action may be examined at the office of the Regional Air Traffic Division, FAA Regional Headquarters, 3400 Whipple St., Room 648, East Point, Ga., 30344, or at the FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Clifford C. Monteau, Airspace and Procedures Branch, Air Traffic Division, (ASO-530), Southern Region, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320, telephone: (404) 763-7866.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga., 30320. All communications received on or before May 5, 1980 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the FAA Regional and Headquarters Rules Dockets for examination by interested persons.

Commenters wishing to have the FAA acknowledge receipt of their comments

submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 18605/79-ASO-66." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

Prior Public Participation

The Proposal contained in this notice was preceded with broad and helpful public participation with the FAA in considering the development of an airspace description for a TCA that is responsive to the need to increase safety and to the needs of both transient and local aircraft operators who might be affected. Initially, numerous meetings were held with known local groups to receive and discuss their needs and views for the preliminary TCA configuration. After those local meetings, a tentative TCA configuration was prepared for further public discussion at a subsequent local informal airspace meeting. An extensive publicity effort was made to invite all interested persons to participate in various meetings. In addition to published notices, notice was given through bulk mailings of notices to hundreds of persons believed to have an interest in the proposal, through posting of notices in airports, and through press, radio, and TV coverage. As a result of those meetings, further adjustments to TCA configurations have been made and are reflected in the configuration proposed in this notice. An additional opportunity for public participation is provided by this notice to ensure full consideration of public concerns at any stage of the rulemaking process. Based on the public participation and other available data, several locations that were originally included among the 44 candidates for new TCAs have been dropped from further consideration. Other locations may be dropped later if commensurate levels of safety can be sustained without TCA designations or operational requirements do not justify such designations.

Background: The Need for Increased Positive Control in Terminal Airspace

The takeoff and landing phases of flight result in the concentration of inflight aircraft in a relatively limited volume of airspace surrounding an airport. The number of aircraft per unit volume of airspace at a specific instant of time is a function of the number of aircraft using that airport and its proximity to one or more adjacent airports that share or abut that airspace. As air traffic activity at an airport increases, the need for increasingly precise control of aircraft and protection of airspace from unknown aircraft becomes essential for continued safe operations. The FAA has developed a spectrum of air traffic procedures which, when coupled with precision navigational aids, airport surveillance radar facilities, automated radar data processing capability, and a highly skilled work force, forms a comprehensive system to provide safe and efficient flight operations at all controlled airports.

The scope of services range from simple suggested airport traffic flows at lowest density airports, to terminal control areas at the busiest airports which provide positive controlled airspace. Within the latter, all aircraft are subject to specific operating rules and avionics equipment requirements.

The FAA is proposing to take action to extend or enhance the application of these proven control techniques and hardware subsystems to more airports to assure greater protection of air traffic in the airspace regions most commonly used by passenger-carrying aircraft.

An analysis of the need for extending the ability of ATC to separate visual flight rules (VFR) aircraft and instrument flight rules (IFR) aircraft in terminal airspace is contained in the Administrator's Plan for Enhanced Safety which announced FAA's intent to propose, for public comment, establishment of 44 new Group II TCAs, and the vertical and lateral enlargement of the 20 previously established TCAs. This proposal to establish a Group II TCA at the Tampa International Airport is in accordance with that plan.

Near Midair Collisions in Terminal Airspace

The FAA experience since the establishment of mandatory TCAs and voluntary Terminal Radar Service Areas indicates that, in terminal airspace, ATC control of VFR aircraft reduces the potential for hazardous traffic conflicts. A comparison of periods before and after the establishment of terminal control areas and terminal radar service areas is instructive. In 1968, the FAA conducted an extensive study of near midair collision hazard in the U.S. airspace. The results of this study were published in the "Near Midair Collision Report of 1968," July, 1969. A major portion of the report was devoted to the collision potential in terminal airspace. For the year 1968 (which preceded the establishment of terminal control areas), the report concluded that, for the airports now served by terminal control areas, there were 271 incidents reported as "hazardous" to flight. In response to that study, since 1970, 21 terminal control areas were established. For the fiscal years 1975, 1976, and 1977, there were a total of 64 reported near midair collisions (NMACs) in these terminal control areas. For comparison purposes, this translates into an average of approximately 20 reported incidents per year, under TCA requirements, in contrast with the 271 incidents for the year 1968. These figures are not conclusive indicators of the absolute numbers of incidents, but are viewed as pointing toward the critical relationship between the absence of control of all aircraft and the likelihood of hazardous traffic conflicts in terminal airspace. As a result of public comments, in response to Notice No. 78-19 (44 FR 1322, January 4, 1979), questioning the adequacy of FAA's near midair collision information, a comprehensive review of that information has been undertaken.

The Tampa terminal area contains eight civil public use airports, having a total of 895 based aircraft, and MacDill Air Force Base (AFB), a major military installation. In fiscal year 1978, Tampa Tower recorded 372,532 instrument operations. The three airports with FAA operated control towers in the area generated a total of 506,110 airport operations in fiscal year 1978 and this combined total is forecast to reach 620,000 operations by 1985. The complexity of aeronautical activity in the area is increased as the result of airport proximity. MacDill AFB and Tampa International Airport are 6.5 nautical miles (NM) apart. Peter O. Knight Airport is approximately 4.5 NM northeast of MacDill and directly aligned with Runway 4/22. St. Petersburg-Clearwater International Airport is within 7.25 NM of Tampa International Airport. Beyond the geographic arrangement of airports in the Tampa area and the overall traffic density, complexity is further increased as the result of high speed turbojet aircraft, both military and civil, mixing with slower, propeller driven aircraft.

The "Highest Degree" of Air Transportation Safety

The near midair collision statistics cited above indicate that, for all classes of users of terminal airspace, the furnishing of separation service by ATC, in addition to the duty of pilots; to see and avoid each other, can result in a higher level of air traffic safety. For the missions of air carrier passengers who enter and leave the major air terminals each year, the Congress has directed that the highest feasible degree of safety be achieved. The FAA believes that the continued presence of a "mix" of ATC controlled aircraft and uncontrolled VFR aircraft can interfere unnecessarily with this high safety objective.

The congressional mandate is clear with respect to the high level of safety intended for passengers in air transportation. Section 601 of the Federal Aviation Act of 1958 requires that the FAA give full consideration to the duty resting on air carriers to perform their services with the "highest possible degree of safety in the public interest . . ." This Congressional concern for air transportation, as a distinct class to be protected, was restated in the Airline Deregulation Act of 1978 (Pub. L. 95-504, October 24, 1978) which amended Section 102 of the Federal Aviation Act of 1958 to emphasize the "dedication of the Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public" (49 U.S.C. 1302(a)). The Airline Deregulation Act of 1978 also directed the Secretary of Transportation ("Secretary") to complete a thorough review of the safety regulations applicable to air carriers in order to ensure that "all classes of air carriers are providing the highest level of safe, reliable air transportation to all the communities served by those air carriers." The Administrator is directed to respond to the Secretary's review by promulgating regulations that may be needed to "maintain the highest standard of safe, reliable air transportation in the United States." The "highest standard of safety in air transportation" is also stressed in relation to annual reports to be submitted to the Congress by the Secretary beginning not later than January 31, 1980 (new Section 107 of the Federal Aviation Act of 1958, as amended by the Airline Deregulation Act of 1978). The orderly and extensive expansion of positive controlled airspace, including the proposal in this notice, would ensure that the system-wide capability of the FAA to assure separation protection for air carrier passengers remains commensurate with the encouragement and growth of a vigorous, safe and efficient air transportation system under the new act.

Building on Past Programs

While the TCA action described herein is proposed as part of the Administrator's Plan for Enhanced Safety, it follows, and is a logical extension of, programs that first gained momentum in 1962. That year, initiating many years of pilot participation in terminal radar service programs, such a program was established at Atlanta to solve communications workload problems and assist in aircraft sequencing. This was followed by a similar program at Merced Air Force Base, Calif., in 1965. This service was gradually extended until 1970, when the National Terminal Radar Program signalled a major expansion of ATC separation service following the 1968 Near Midair Collision Report (discussed below). Beginning with the Terminal Radar Service Area (TRSA) at Nashville, a total of 86 nonregulatory TRSAs covering 105 airports were established under that program, the last being the Peoria TRSA in 1976. The safety enhancement program includes the proposed addition of 60 new TRSAs in phases ending in 1983.

In addition to these nonregulatory programs, the 1970 National Radar Program initiated the regulatory development of TCAs, also in response to the 1968 Near Midair Collision Report. The TCA concept, as a regulatory means of providing positive control in terminal airspace, was added to the Federal Aviation Regulations in Amendments 71-6 and 91-78, which were published in the **Federal Register** (35 FR 7782) on May 21, 1970, to be effective on June 25 of that year. Those amendments, which defined the nature and operational aspects of TCAs, followed extensive public comment in response to Notice No. 69-41, issued on September 30, 1969, (34 FR 15252); 22 public meetings; and a supplemental notice of proposed rulemaking (Notice No. 69-41B) issued on March 11, 1970, (35 FR 4519). That regulatory history led to the issuance of § 71.12 of Part 71 of the Federal Aviation Regulations, under which TCAs are issued, and § 91.90 of Part 91 of the Federal Aviation Regulations, which describes the equipment and operating rules for a TCA. The TCA action proposed in this notice is issued under § 71.12 and incorporates, without changing, the provisions of § 91.90. While the safety enhancement plan identifies 44 new locations for possible Group II TCAs, the legal basis for, and description of, the TCA concept was established under these 1970 amendments to Parts 71 and 91. That regulatory concept would not be changed by this notice. It is to be noted that the 44 locations were only proposals. Each site is being evaluated on its own merits. In fact, the FAA's analysis to date has led to dropping the following cities from the original list—Des Moines, Iowa; El Paso, Texas; Jacksonville, Florida; Lihue, Hawaii; Salt Lake City, Utah; and Tucson, Arizona. The evaluation is continuing with the very real possibility that other cities may be dropped, even before the issuance of a notice of proposed rulemaking.

National Benefits

The Plan or Enhanced Safety contains an analysis of the safety increases, in terms of passengers protected, that were expected to result from the establishment of the 44 new TCAs originally under consideration. Six of those proposed sites are no longer under consideration at this time. However, if all of those TCAs were established the original analysis indicates that the percentage of air carrier enplaned passengers protected by mandatory ATC separation, compared with the 21 TCAs in existence in January 1978, would rise from 62 percent to 87 percent. In addition, those TCAs would expand the protected commuter passenger enplanements from 38.5 percent to 49.7 percent (in the contiguous 48 states). While those figures have been reduced because of the reduction of the number of candiate sites, the increased protection at the remaining locations is still substantial. This is during a period in which substantial increases in total enplanements are forecast for both classes of air transportation, with annual air carrier and commuter air carrier enplanements expected to exceed 418 million and 14 million, respectively, by 1989.

Parallel increases are also expected for general aviation. For this large and expanding class, the numbers of aircraft, and the total operations, are forecast to increase by more than 60 percent between 1977 and 1989. In addition, manufacturing trends indicate that increasing proportions of the general aviation fleet are being purchased with equipment intended for operation in the busy terminal airspace in which the "mix" of controlled and uncontrolled aircraft has been identified as a

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common factor in reported near midair collisions.

For all classes of airspace user, therefore, the FAA believes that the extensive expansion of TCAs at the remaining proposed sites would significantly increase the ability of ATC to provide an effective, additional margin of safety to that furnished by the pilot's duty to see and avoid other aircraft.

Local Benefits

The establishment of a Group II TCA, as proposed in this notice, would make a meaningful contribution to the systemwide increase in safety. During the 12 month period ending December 31, 1978, Tampa International Airport enplaned 3,360,842 passengers. This was 1.54 percent of the national enplaned passengers for the 12 month period ending June 30, 1978. The passenger total for Tampa is forecast to rise to 4,200,000 by 1985. Tampa Tower recorded 217,162 aircraft operations in fiscal year 1978 with 248,000 forecast by 1985. MacDill AFB reported 81,025 aircraft operations for the 12 month period ending March 1, 1979, and has announced replacement of 78 F–4 with 106 F–16 aircraft by 1981. Establishment of the Tampa TCA, as proposed, would by itself increase to 63.5 the percentage of all enplaned passengers that would receive full benefits of mandatory positive control in terminal airspace.

Economic Impacts

The FAA is committed to ensuring that the costs of establishing the Tampa, Florida, TCA are considered before final regulatory decisions are made. Since these costs may affect other TCA proposals announced in the Plan for Enhanced Safety, a comprehensive economic assessment, covering the entire program as described in that plan, was made available to those in attendance at the informal airspace meeting on March 20, 1979, held at the Tampa Golf and Racquet Resort, Tampa, Florida, and is in the Regional and Washington dockets for public comment. The assessment included systemwide assumptions concerning the impact of all 44 proposed TCAs, including the Tampa, Florida, TCA proposal. Since six of the original sites are no longer under current consideration, the cost impact systemwide is even less but the underlying assumptions are still valid as applied to the remaining candidate sites. In addition, to determine whether these general assumptions are valid for the particular TCA airspace description proposed for Tampa, Florida, the FAA has prepared a detailed addendum to the broad national study. This regional economic assessment is appended to the national assessment and is also in the Regional and Washington dockets. Public comment on these economic assessments is invited.

Environmental Impacts

In a manner similar to that described above for the national and local economic assessments, an environmental assessment has been prepared which addresses the overall national environmental assessment effect of the 44 proposed TCAs. This assessment addresses the aircraft noise, aircraft emissions, and fuel consumption impacts of the program as a whole, and concludes that these impacts would not significantly affect the quality of the human environment. This national assessment was also made available to those in attendance at the March 20, 1979, informal airspace meeting and is in the Regional and Washington dockets. In addition, like the economic study, this programwide assessment has been supplemented with an environmental assessment, responding to the site-specific impacts of the Tampa, Florida, TCA proposal. This local assessment is in both dockets for public comments. This will assist the Administrator in evaluating local and national environmental impacts before decisions are made concerning the proposed TCA. Public comment on these environmental assessments is invited.

Airspace Outside the United States

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States, is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigational facilities and services necessary to promote the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standard and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The Proposed Terminal Control Area

The airspace description for the proposed TCA action in this notice was developed by the FAA Southern Region in consultation with the affected users to minimize the potential impact of the proposal. In order to ensure that the airspace users of the Tampa area were given an opportunity to participate in the early, development stages of the TCA, Tampa Tower personnel conducted 39 informal planning meetings and discussions with interested persons at various locations in the Tampa area including adjacent locations, Sarasota and Lakeland. A total of 1,393 persons attended these meetings. In addition, 230 attended the informal airspace meeting held in Tampa on March 20, 1979. As a result of these discussions, the TCA configuration was adjusted and modified so that the proposal represents the minimum airspace required and has the least impact upon ongoing aeronautical activity in the Tampa area.

The Tampa TCA would be multi-tiered and consist of 11 areas, designated alphabetically, from the surface to 12,500 feet MSL. The proposed configuration recognizes a variety of requirements for airspace use that must be excluded from the TCA. For example, the area extending upward from 3,000 feet north of a line between West Pasco Airport and Pilot Country Airport was designed to accommodate cross country glider flights from Clearwater Executive Airport. The surface area around MacDill AFB was

reduced to a boundary ½ mile northwest and parallel to Runway 4/22 and the ground control approach (GCA) glide slope raised from 2.5 to 3 degrees in order to provide Peter O. Knight Airport airspace beneath the TCA with east-west access. These actions also provided additional airspace for Albert Whitted Airport operations. To accommodate St. Petersburg-Clearwater International and Albert Whitted activity, a relatively small area was established with a TCA floor of 2,600 feet. A TCA base of 4,000 feet was established over most training areas. After an initial study of a configuration that did not include MacDill AFB within the TCA, it was concluded that exclusion of the military base might tend to compress civil traffic circumnavigating the TCA into altitudes being used by high performance jet fighters and, thus, derogate overall safety. No objections were received to the inclusion of MacDill AFB in the proposed TCA during planning discussions or at the informal airspace meetings. Finally, concern was expressed about accommodating flight, particularly flight training aircraft, having a need to occasionally transit the "Surface Area" of the proposed TCA. Currently, a practice effectively employed within the Tampa TRSA, called the "Bridge Procedure," enables locally based aircraft that are not equipped with transponder to occasionally operate between airports lying east and west of Tampa International Airport. Use of the "Bridge Procedure" in the TRSA has enhanced safety, afforded some economic benefits, and has fostered fuel conservation within the Tampa aviation community. Numerous requests for continuance of the "Bridge Procedure" concept as part of the proposed TCA have been received. The FAA is able to preserve the advantages derived from the application of the "Bridge Procedure" under the current TCA rules. Section 91.24(c)(3) of the Federal Aviation Regulations (FAR) permits ATC authorization to deviate from the transponder equipment requirements under specified conditions. That limited authority may be exercised by Tampa Tower to preserve the benefits of the "Bridge Procedure." The rule states, ATC may authorize deviations from the transponder requirements (FAR § 91.24(b)), "on a continuing basis, or for individual flights, for operations of aircraft without a transponder, in which case the request for a deviation must be submitted to the ATC facility having jurisdiction over the airspace concerned at least four hours before the proposed operation." This provision is not, and should not be considered, as a general relaxation of the transponder equipment requirements of FAR § 91.90(b). It permits limited deviations at the discretion of the tower to allow flexibility in responding to varying conditions that actually develop. A VFR corridor was considered but is not proposed because it would be necessary to confine two way, VFR uncontrolled traffic to a narrow area. This would not be safe nor practical, because the frequency of thunderstorms and squalls is greater in that area than most locations in the nation. The prevalence of these weather conditions could cause unknown VFR aircraft to inadvertently stray from the corridor and enter the TCA without ATC knowledge or with little or no notice.

The following are responses to recommendations made during the informal airspace meeting that FAA proposes not to adopt.

It was recommended that Standard Instrument Departures (SIDs) and Standard Terminal Arrival Routes (STARs) be used in lieu of a TCA at Tampa. SIDs and STARs are in use; however, they are procedures used by arriving/departing flights under IFR but do not, and cannot, separate VFR aircraft from IFR aircraft. No additional safety benefits would be realized because the "mix" of controlled and uncontrolled, VFR, aircraft would remain.

Concern was expressed for the floor of the area directly north of Tampa Airport being set at 1,900 feet MSL instead of higher. The altitude for the final approach fix on the instrument approach to Runway 18L at Tampa is 1,980 feet MSL. To raise the floor in that area to an altitude higher than 1,900 feet MSL would place that segment of the instrument approach outside the confines of the proposed TCA and would not ensure separation between controlled and uncontrolled aircraft. Thus, raising the floor of that segment of the proposed TCA would derogate the safety of those aircraft in that area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.401(b) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 669) by adding a new Group II Terminal Control Area to read as follows:

Subpart K—Terminal Control Area

§ 71.401 Designation

* * * * *

(b) Group II, Terminal Control Areas:

* * * * *

Primary Airport

Tampa International Airport (27°56'59"N.; 82°31'38"W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 12,500 feet MSL within two areas—one bounded on the east by Long. 82°25'00"W., on the west by Long. 82°38'00"W., on the north by an east-west line through the Cosme radio beacon and on the south by a line beginning at the south side of the Gandy Bridge where it intersects the St. Petersburg coastline, then east along an extended line of the south side of the Gandy Bridge to, and then northeast along, an extended line of the southeast boundary of the Tampa International Airport Control Zone to the Seaboard Coastline Railroad tracks, east along the railroad tracks to Long. 82°25'00"W., excluding that airspace within the St. Petersburg-Clearwater Airport Control Zone; and the other area beginning at the coastline northeast of MacDill AFB at Ballast Point, then southwest along a line parallel to, and 1/2 SM northwest of, the extended centerline of MacDill AFB Runway 4/22 to the Tampa Bay Coastline, then via a direct line west to, and then south along, the St. Petersburg coastline to, and then counterclockwise along, the MacDill AFB Control Zone and a 5 SM arc east of MacDill AFB until intersecting a direct line between the mouth of Alafia River and Ballast Point, and then northwest along, this line to point of beginning.

Area B. That airspace extending upward from 700 feet MSL to and including 12,500 feet MSL within an area bounded by a line beginning at the coastline northeast of MacDill AFB at Ballast Point, then northeast along a line parallel to, and 1/2 SM northwest of, the extended centerline of MacDill AFB Runway 4/22 and counterclockwise along a 1 SM arc of the Peter O. Knight Airport to the coastline, then east and southeast along the coastline to the mouth of the Alafia River, then northwest along a direct line to point of beginning.

Area C. That airspace extending upward from 1,000 feet MSL to and including 12,500 feet MSL within two areas—one bounded by a line beginning at the south side of the Gandy Bridge where it intersects the St. Petersburg coastline, then east along an extended line of the south side of the Gandy Bridge to, and then northeast along, an extended line of the southeast boundary of the Tampa International Airport Control Zone to the Seaboard Coastline Railroad tracks, then east along the railroad tracks to Long. 82°25'00"W., then south along Long. 82°25'00"W., to, and then west along, the coastline to and then clockwise along a 1 SM arc of Peter O. Knight Airport to, and then southwest along, a line parallel to, and 1/2 Sm northwest of, the extended centerline of MacDill AFB Runway 4/22 to the Tampa Bay coastline, then along a direct line due west to, and then north along, the St. Petersburg coastline to point of beginning; the other area bounded by a line beginning where the MacDill AFB Control Zone intersects the

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coastline southwest of MacDill AFB, then southwest along a direct line to Lat. 27°46'00"N.; Long. 82°38'00"W., then south along Long. 82°38'00"W., to, and then southwest along, the 045°T(46°M) bearing from the Egmont Key radio beacon to the east side of the approach to the Skyway Bridge, then south along the east side of the Sky Bridge to the Tampa Bay Coastline at Terra Ceia, Florida, then northeast along the coastline to the mouth of the Alafia River, then northwest along a direct line toward Ballast Point until intersecting a 5 SM arc centered on and east of MacDill AFB, then clockwise along this arc to, and then along, the MacDill AFB, Control Zone to point of beginning.

Area D. that airspace extending upward from 1,300 feet MSL to and including 12,500 feet MSL within an area bounded by a line beginning at Lat. 27°57'15"N.; Long. 82°25'00"W., then south along Long. 82°25'00"W., to, and then along, the coastline to the mouth of the Alafia River, then east along the Alafia River to Long. 82°19'30"W., then north along Long. 82°19'30"W., to the Seaboard Coastline Railroad tracks, and then west along the railroad tracks to point of beginning.

Area E. That airspace extending upward from 1,600 feet MSL to and including 12,500 feet MSL within an area bounded by a line beginning at the mouth of the Alafia River, then east along the river to Long. 82°19'30"W., then south along Long. 82°19'30"W., to the Seaboard Coastline Railroad tracks, then southwest along the railroad tracks to Parrish, Florida, then west along a direct line to where the northeast side of the Skyway Bridge intersects the Tampa Bay coastline at Terra Ceia, Florida, and then northeast along the Tampa Bay coastline to point of beginning.

Area F. That airspace extending upward from 1,900 feet MSL to and including 12,500 feet MSL within an area bounded on the east by Long. 82°25'00"W., on the west by Long. 82°38'00"W., on the north by a 20 NM arc centered on and north of the Tampa International Airport and on the south by an east-west line through the Cosme radio beacon, excluding that airspace northwest of a direct line between the West Pasco Airport and the Pilot Country Airport.

Area G. That airspace extending upward from 2,600 feet MSL to and including 12,500 feet MSL beginning at Lat. 27°46'00"N.; Long. 82°38'00"W., then northeast along a direct line to where the MacDill AFB Control Zone intersects the coastline southwest of MacDill AFB, then north along the coastline to, and then west along an extended line of the south side of the Gandy Bridge to the St. Petersburg-Clearwater Airport Control Zone, then north along the control zone to Long. 82°38'00"W., and then south along Long. 82°38'00"W., to point of beginning.

Area H. That airspace extending upward from 3,000 feet MSL to and including 12,500 feet MSL within an area bounded on the west by Long. 82°38'00"W., on the north by a 20 NM arc centered on and north of the Tampa International Airport and on the southeast by a line between the West Pasco Airport and the Pilot Country Airport.

Area I. That airspace extending upward from 4,000 feet MSL to and including 12,500 feet MSL within three areas—one bounded by a line beginning where the 045°T(46°M) bearing from the Egmont Key radio beacon intersects Long. 82°38'00"W., then north along Long. 82°38'00"W., to, and then counterclockwise along, a 20 NM arc centered on and northwest of the Tampa International Airport to at Lat. 28°11'30"N.; Long. 82°49'00"W., then south to at Lat. 27°52'30"N.; Long. 82°51'15"W., then southeast along the Gulf coastline to, and then east along, the Pinellas Bayway bridges to, and then southeast along, the St. Petersburg coastline to, and then northeast along the 045°T(46°M) from the Egmont Key radio beacon to point of beginning; the second area bounded by a line beginning where a 20 NM arc centered on north of the Tampa International Airport intersects Long. 82°25'00"W., then clockwise along this arc to the Seaboard Coastline Railroad tracks, then southwest along the railroad tracks to, and then north along, Long. 82°19'30"W., to the Seaboard Coastline Railroad tracks southeast of the Vandenburg Airport, then west along the railroad tracks, to and then north along, Long. 82°25'00"W., to point of beginning; and the third area bounded on the north by a 30 NM arc centered on and north of the Tampa International Airport, on the south by a 20 NM arc north of the Tampa International Airport, on the east by Long. 82°25'00"W., and, on the west by Long. 82°38'00"W.

Area J. That airspace extending upward from 6,000 feet MSL to and including 12,500 feet MSL within a 30 NM arc from the Tampa International Airport, excluding that airspace west of Long. 83°00'00"W., and Areas A through I, previously described.

Area K. That airspace extending upward from 10,000 feet MSL to and including 12,500 feet MSL within two areas—one bounded on the east by Long. 82°25'00"W., on the west by the centerline of 350°T(349°M) radial of St. Petersburg, on the north by a 40 NM arc centered on and north of the Tampa International Airport and on the south by a 30 NM arc of the Tampa International Airport; the other area within 10 NM either side of the 133°T(132°M) radial of St. Petersburg and bounded on the northwest by a 30 NM arc centered on and southeast of the Tampa International Airport and on the southeast by a 40 NM arc centered on and southeast of the Tampa International Airport.

(Secs. 307, 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). However, establishment of this terminal control area in concert with the proposed establishment or alteration of many other terminal control areas has been determined to be significant. Therefore, this action is included in the draft evaluation prepared in conjunction with that comprehensive action. Copies of the evaluation are in the Washington and Regional dockets, and may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT . . ."

Issued in Washington, D.C., on January 30, 1980.

R. J. Van Vuren,

Acting Director, Air Traffic Service.

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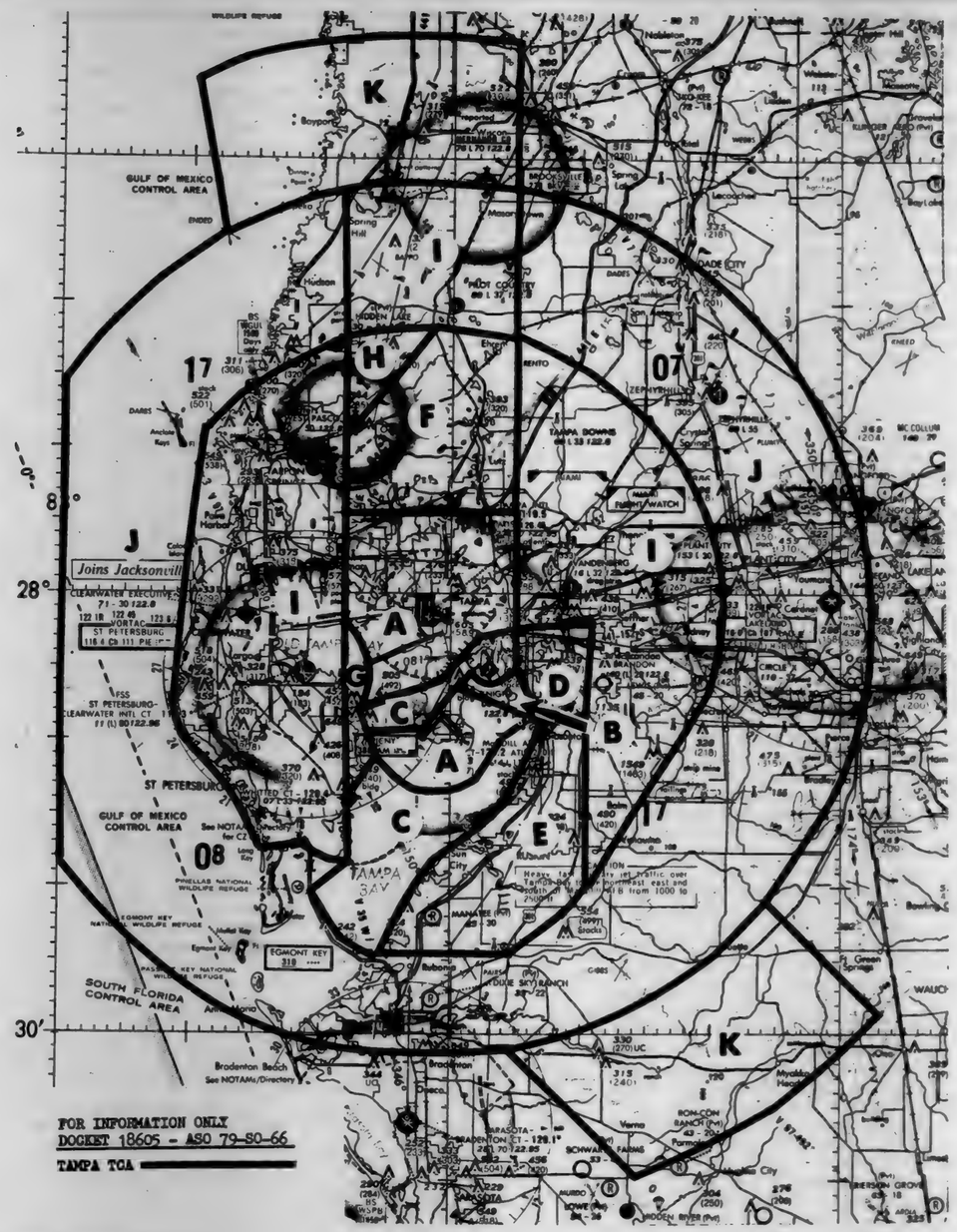
GULF OF MEXICO CONTROL AREA
ENDED
SOUTH FLORIDA CONTROL AREA
Joins Jacksonville
ST PETERSBURG
TAMPA BAY
TAMPA BAY APPROACH
TAMPA BAY DEPARTURE
TAMPA BAY TOWER
TAMPA BAY GROUND
TAMPA BAY CLEARANCE DELIVERY
TAMPA BAY ATIS
TAMPA BAY TOWER
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TAMPA BAY CLEARANCE DELIVERY
TAMPA BAY ATIS
TAMPA BAY APPROACH
TAMPA BAY DEPARTURE

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CIVIL AERONAUTICS BOARD

14 CFR Part 205

[Docket 37532]

Insurance Requirements for United States and Foreign Air Carriers; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Order to show cause; order 80-1-176.

SUMMARY: In FR Doc. 80-3435 which appears elsewhere in the proposed section of this **Federal Register**, the Board is proposing to modify the standard insurance conditions in foreign air carrier permits as a result of proposed new insurance requirements in a rulemaking proceeding. This order announces the deadline for filing objections to the proposed revision in insurance requirements for foreign air carriers.

DATES: Objections must be filed by March 12, 1980.

ADDRESSES: Objections should be filed in Docket 37532, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Richard Loughlin, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5690.

SUPPLEMENTARY INFORMATION: Simultaneously with adoption of this order, the Board approved a notice of proposed rulemaking (EDR-395) that proposes to impose new insurance requirements on all U.S. and foreign direct air carriers (attached as Appendix A). Under this proposal, foreign air carriers would be required to maintain at least $300,000 per person third party liability coverage, with a per occurrence minimum of $20,000,000 ($2,000,000 for aircraft with 60 seats or less). They would also be required to maintain at least $300,000 in per person passenger liability coverage with a per occurrence minimum of $300,000 times 75 percent of the aircraft seats. The Board's reasoning in support of these proposals is contained in EDR-395.

At present, insurance requirements for foreign air carriers are contained in the conditions to their foreign air carrier permits. For the reasons stated in EDR-395, we have tentatively decided that the present conditions in foreign air carrier permits that specify insurance requirements should be revised. The conditions would be amended to read: "The privileges granted by this permit are subject to the condition that the carrier comply with the requirements for minimum insurance coverage contained in 14 CFR Part 205." This new standard condition would then be included when the permits are re-issued on an individual basis.

We will give all interested persons 40 days from the date of publication in the **Federal Register** of this order to show cause why the tentative decision should not be made final. Replies to any filed answers shall be due 20 days later.

Accordingly, 1. We direct all interested persons to show cause why we should not issue an order making final the tentative decision stated above to revise the insurance condition in all foreign air carrier permits.

2. We direct any interested person having objections to the issuance of an order making final this tentative decision to file with us, not later than March 12, 1980, a statement of objections, setting forth in detail the reasons for the objections. Answers to objections shall be filed not later than April 1, 1980. Because objections are permitted, petitions for reconsideration will not be permitted.

3. If no objections are filed, the Board may issue an order making final these tentative decisions. The final order will become effective on the 61st day after its submission to the President under section 801(a) of the Act, or upon receipt of advice from the President that it will not be disapproved, whichever is earlier.

This order shall be published in the **Federal Register**, and a copy shall be sent to the President.

By the Civil Aeronautics Board.[1]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-3432 Filed 2-1-80; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Parts 205, 208, 291, and 298

[Economic Regulation Docket 37531 EDR-395, Dated: January 28, 1980]

Insurance Requirements for U.S. and Foreign Air Carriers

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing to revise its liability insurance requirements for all U.S. and foreign air carriers operating under its authority. Insurance requirements would be place on certificated route carriers for the first time, and the present cargo liability disclosure statement would be expanded and required for all carriers. All CAB insurance regulations would also be consolidated in a new part of the regulations. This rulemaking is at the Board's own initiative.

DATES: Comments by: March 12, 1980. Reply comments by: April 1, 1980.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: February 11, 1980. The Docket Section prepares the Service List and sends it to each person listed, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 37531, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Concerning foreign air carrier requirements, Richard Loughlin, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5880; concerning U.S. air carrier requirements, J. Kevin Kennedy, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5918.

SUPPLEMENTARY INFORMATION: The Airline Deregulation Act (P.L. 95-504) amended the Federal Aviation Act (49 U.S.C. 1301, *et. seq.*) to require all certificated air carriers to have liability insurance coverage as set forth by the Board. New section 401(q) of the Act states that unless a carrier complies with the Board's insurance regulations, no operating authorization may be given to it or remain in effect. Prior to adoption of this section of the Act, the Board was required to establish liability insurance regulations only for supplemental (now charter) carriers (14 CFR Part 208). The Board has, however, also imposed insurance requirements on air taxi operators under 14 CFR Part 298 and on domestic cargo carriers under 14 CFR Part 291, and has imposed some conditions for insurance in foreign air carrier permits.

By enacting section 401(q), Congress gave the Board ample authority to see that the public is insured against loss caused by carriers operating with Board authority (49 U.S.C. 1371(q)). Although there has not been a problem with the financial responsibility of existing scheduled route carriers, Congress concluded that deregulation would significantly reduce the barriers to entry into air transportation, which in turn could result in operations by new carriers less able to compensate the public for damage losses in an accident.

[1] All Members concurred.

The Board's present insurance regulations for U.S. air carriers are based on operating authority and aircraft size (see Appendix A). Charter air carriers are required to carry passenger bodily injury liability insurance in amounts of at least $75,000 per passenger and $75,000 times 75 percent of aircraft capacity per occurrence. For nonpassenger third-party bodily injury, the minimum limits are $75,000 for each person and $500,000 per occurrence. The minimum third-party property damage coverage required is $500,000. Air taxi operators must carry similar coverage, except that they need only have $300,000 in coverage per occurrence for nonpassengers, and $100,000 in coverage for property damage. When providing domestic cargo transportation, carriers need have no specific amount of passenger liability coverage, but they must disclose the extent of their cargo liability insurance, if any. The requirements for public liability coverage for the domestic all-cargo carriers depend on the size of the aircraft. For small aircraft (18,000 pounds payload capacity or less), insurance for public liability is required in the same amount as that for air taxi operators. For large aircraft operations, the required limits are $500,000 for each person and $20,000,000 for each occurrence.

Cargo deregulation is now almost complete, with entry for direct air carriers subject only to a fitness determination. Entry into direct air carrier passenger transportation will also soon be similarly eased, presumably with new carriers providing air transportation throughout the United States. Before deregulation, barriers to entry were substantial, and attainment of authority from the Board to operate was itself evidence of considerable financial resources. Now, new carriers may enter, having demonstrated financial fitness for continuing operations, without necessarily having the financial depth to sustain catastrophic losses.

In order to meet its statutory obligation of ensuring financial responsibility of air carriers sufficient to compensate the public for losses, the Board is proposing to establish liability insurance requirements for all U.S. and foreign direct air carriers. A summary of the existing and proposed requirements is presented as Appendices A and B.

The Board last reviewed its passenger liability requirements in 1967, during a rulemaking to raise the passenger liability insurance requirements for supplemental air carriers for $50,000 to $75,000 per passenger (ER-997, 42 FR 21610, April 28, 1977). We believe that the changes proposed are necessary to keep pace with the increasing value of losses suffered by the public in aircraft accidents. For example, in the first six months of 1974 (the latest year for which figures are available), 75.8 percent of the settlements for death claims resulting from non-Warsaw Convention traffic, which is primarily domestic U.S. traffic, exceeded $75,000, and 50.7 percent of the serious injury settlements also exceeded $75,000. For Warsaw traffic, the percentages are 7.7 and 9.0, respectively. See *Levels of Recoveries On Account of Passenger Deaths & Serious Injuries in Airplane Accidents (1960-1969), as subsequently revised for 1970-1974.*

In summary, the proposal would affect carriers as follows: (1) establish passenger and public liability insurance requirements, as well as public disclosure of cargo insurance and liability limits, which will be applied uniformly to all direct air carriers; (2) establish for the first time liability insurance requirements for certificated route carriers operating passenger aircraft in domestic and international air transportation and for those providing cargo service internationally; (3) increase the existing passenger liability insurance requirements and apply them uniformly to all direct air carriers, both U.S. and foreign, irrespective of the size of aircraft operated; and (4) establish uniform public liability insurance requirements based on the size of aircraft operated, eliminating the existing separate limits set for bodily injury or death and property damage in favor of combined single-limit coverage.

The new regulation would also consolidate all insurance regulations into one part, eliminating the present sections on insurance in Parts 208, 291, and 298. The separate regulations and cross-references have resulted in confusion and the need for users to switch continually from part to part. We would also continue our policy of allowing carriers to meet the minimum insurance amounts by self-insurance plans approved by the Board.

The Board, in establishing its public liability insurance requirements for domestic cargo carriers, concluded that aircraft size is not a good indicator of the risk of an accident. The size of involved aircraft is a major factor, however, in the potential extent of the public loss for which liability insurance should offer compensation. Therefore, as in the domestic cargo transportation rules, we have distinguished between large and small aircraft in proposing public liability insurance requirements, not between the kind of authority under which they operate. This distinction by size of aircraft, rather than by class of carrier, will also allow the proposed requirements to apply easily to carriers operating under dual authorizations, which several carriers now have under individual exemption orders.

Minimum Passenger Liability Limits

The Board's current requirements for passenger liability coverage apply only to charter carriers and to air taxi operators. The requirements set a minimum amount of coverages for each passenger of $75,000, and for each occurrence of $75,000, times 75 percent of aircraft seat capacity. The 75 percent adjustment factor is based on a projected aircraft load factor, and is used to hold down the potential cost of insurance for the carriers. Based on the settlement figures cited previously, the $75,000 minimum level, however, appears inadequate to protect passengers against possible loss. For example, in 1974 the average judgment and settlement for passenger death on non-Warsaw traffic was $233,210, and $171,323 for serious injuries.

We are proposing to increase the required minimum passenger liability to $300,000 for each passenger, and to $300,000 times 75 percent of the aircraft seat capacity for each occurrence for U.S. and foreign direct air carriers. This does not, of course, presume that a carrier would be able in that amount with respect to each passenger. The $300,000 amount would cover the majority of settlements awarded in claims involving passenger injury or death. In the first six months of 1974, 73.8 percent of non-Warsaw death settlements were under $300,000, as were 78.7 percent of the serious injury settlements. These limits would be required of certificated route carriers, charter carriers, and air taxi operators operating passenger or combination aircraft in domestic or foreign air transportation. They would not apply to all-cargo carriers.

Cargo Liability Disclosure

The Board does not now require cargo liability coverage for any class of air carrier, direct or indirect, in domestic cargo transportation. Indirect cargo carriers, such as freight forwarders, and direct cargo carriers in domestic cargo transportation, are, however, required to notify shippers in writing of the extent of the carrier's cargo liability insurance coverage, if any.

Under the present rules, indirect carriers are also specifically required to

notify shippers of limits on the extent of the carrier's liability, if any. There is no such requirement for the direct carriers. Although liability limits are part of the contract between the shipper, and the carrier, direct or indirect, we believe these limits are important enough to require their disclosure. For this reason, we are proposing that all U.S. and foreign air carriers of whatever type in both domestic and international cargo transportation be required to disclose the amounts of their liability insurance coverage, and the extent of their liability, on rate sheets and aiewaybills, and on any other documents given to a shipper when the shipment is accepted.

Minimum Public Liability Limits

As illustrated in Appendix A, the Boards's current requirements for nonpassenger public liability coverage are confusing, since they vary by class of air carrier, by size of the aircraft being operated, and by whether they apply to persons or property. In order to eliminate this confusion, we propose for all classes of U.S. and foreign direct air carriers a uniform minimum coverage of $300,000 per person, and depending on whether the aircraft operated is large or small, minimums of $20 million and $2 million, respectively, per occurrence for persons and property. The proposed $300,000 minimum for public liability insurance of nonpassengers is the same as that proposed for passengers. The result of the proposal on existing requirements would be to increase the required air taxi and charter air carrier per-person minimum coverage from $75,000 to $300,000, and reduce the domestic all-cargo carrier requirement in this respect from $500,000 to $300,000. We are proposing to retain the per-person limit, as opposed to a comprehensive single limit policy, because we understand that coverage arranged in this way is less expensive to obtain, and will insure a more equitable distribution of the total group coverage available to individuals suffering a loss.

Although the domestic all-cargo carrier insurance requirements (Part 291) were adopted only recently, we believe that $300,000 per person, rather than $500,000, more accurately represents the amount of coverage that should be required for all direct air carriers. We are not revising the $20 million total public liability requirements, which reflected the mean public liability coverage totals carried by original section 418 applicants operating large aircraft.

As far as coverage per occurrence is concerned, we propose a minimum public liability requirement of $20 million to cover both persons and property for any carrier operating large aircraft as defined in Part 298 (at present those having more than 60 seats or a payload capacity of more than 18,000 pounds) and $2 million for any carrier operating small aircraft. This approach would eliminate the distinction in Parts 208 and 298 between coverage for nonpassengers' bodily injury or death and that for property damage, in favor of one minimum for both types of coverage. In this way, the collective amount of insurance per occurrence would be available to cover third-party property damage or bodily injury and death claims. For example, under the present air taxi rules, if an aircraft in the course of an accident destroys a $300,000 building but does not harm or kill any person on the ground, only $100,000 of the total $400,000 third-party insurance is available to cover the loss. Under our proposal, the entire amount of public liability insurance could be used to settle the property damage claim. While we have eliminated the differences between classes of direct carriers, we do make a distinction between large and small aircraft, on the assumption that aircraft size is a primary factor in the amount of public loss or damage resulting from an aircraft accident.

Foreign Air Carriers

Foreign air carriers would be included under the proposed uniform liability insurance requirements. The Board has the responsibility to ensure that carriers operating within U.S. territory are adequately able to compensate third parties for losses. The expectations of U.S. citizens suffering losses caused by air operations in this country do not depend on whether the carrier is U.S. or foreign owned. Also, the requirements proposed here do not set liability limits, but only specify the minimum amount of insurance coverage to be maintained by the carriers.

The present standard condition in foreign air carrier permits requiring $1,000,000 single limit public liability coverage would be changed. We have tentatively decided to apply the $300,000 minimum per person public liability coverage (the same as for U.S. air carriers) to foreign air carriers operating flights to or from the United States. The requirement for U.S. carriers to have at least $20,000,000 ($2,000,000 for small aircraft) in such coverage would also apply to foreign air carriers.

For passenger liability coverage, the Board is also proposing the same minimum insurance coverage for foreign air carriers as proposed for U.S. air carriers. The United States is a party to an international convention, the Warsaw Convention, that sets a limit on the liability of carriers to passengers in international transportation involving points in signatory countries. By agreement of those carriers serving the United States, the so-called Montreal Agreement (Agreement CAB 18900, approved by Order E–23680, May 13, 1966), to which the permits of most foreign air carriers operating in the United States require adherence, sets the limit for per passenger liability at $75,000, waiving the liability limitations under the Warsaw Convention. The Senate is now considering ratification of Protocols to the Warsaw Convention that would raise the liability limitations to $100,000. The Board also has pending its reconsideration of the Supplementary Compensation Plan (Docket 28713, Order 77–7–85, July 20, 1977, CAB Agreement 25632), that would provide up to $300,000 in protection to passengers in foreign air transportation.

This Convention does not preclude the United States from ensuring that its own flag carriers or foreign carriers have the ability to compensate adequately passengers suffering injury while traveling to and from the United States. It sets limits on liability, not minimum amounts of insurance coverage, and therefore does not restrict the Board from setting required insurance amounts different from the liability limits of the Convention.

As shown earlier, even in those cases where it is held to be applicable, the settlement of claims by passenges in foreign air transportation already often exceeds the liability limit agreed to under the Montreal Agreement. The proposed insurance coverage would also cover that part of international traffic not covered by the Warsaw Convention, such as traffic to nonsignatory countries, or where courts have carved out exceptions to the Warsaw Convention, such as when inadequate notice is given to the passenger by the carrier of its liability limit.

We have tentatively decided to set the amount of minimum insurance coverage for foreign air carriers at the same levels as proposed for U.S. carriers. Passengers traveling on domestic segments of international flights, such as domestic fill-up traffic by U.S carriers, on charter and scheduled flights, and on U.S. or foreign carriers, would be protected by a uniform standard for minimum insurance coverage.

Simultaneously with this notice of proposed rulemaking, we are issuing an Order to Show Cause to amend the section 402 permits of foreign air carriers. The present insurance conditions in the permits would be removed and replaced with a condition stating that the foreign carrier must comply with the insurance requirements adopted by the Board.

General Conditions of Coverage

The general terms, conditions, and authorized exclusions for the insurance proposed in this part are modeled after the insurance regulations for air taxis in Part 298 of our regulations. The primary difference between those regulations and the ones proposed here is in the persons the insurance is designed to protect. The coverage proposed in this notice is intended to compensate the injured, not to protect the carriers from loss.

For this reason, the authorized exclusions would be substantially changed. No longer would the carrier and the insurer be able to agree to exclude from coverage instances where the carrier has violated safety or economic regulations or other legal requirements. Nor would other acts by the carrier of which the passenger or other injured parties would not be expected to have knowledge, such as flights in unauthorized geographic areas or with aircraft not listed in the policy, be a basis for exclusion. The insurance proposed in this notice would thus no longer be used to enforce operating requirements on the carriers, but to provide a minimum reimbursement for those injured because of air operations.

Other standard exclusions, such as employee coverage or instances that result from wars, however, would be authorized. We would like comment on whether these authorized exclusions should be retained, and whether others, such as for terrorist acts, should be included or specifically prohibited.

Also, the coverage proposed would be for use over and above other applicable insurance, and would not be used for double recovery. The proposal would continue the requirement that 10-day notice is required by the insurer to the Board before the policy may be canceled or modified to exclude any aircraft or reduce the extent of coverage. The nonrenewal notice is further required to be filed by the insurer no more than 30 days before the policy expiration.

Cost Impact

In developing these proposals, we have informally discussed various insurance requirement schemes with staff members of other government agencies, such as the Federal Aviation Administration and the Military Traffic Management Command, in an attempt to propose reasonable requirements. Also, in order to gauge the effects of changes in the Board's liability insurance requirements on the aviation and aviation insurance industries, we consulted informally with two insurance brokers who deal regularly with smaller certificated carriers, charter carriers, and air taxi operators.

We also consulted informally with the Air Transport Association, the Commuter Airline Association of America, and the National Air Transportation Association. From these conversations, we developed an estimate of the cost impact of our proposed revisions, and our previously stated estimate of average damage claim awards. A summary of these contacts will be placed in the docket.

Although the certificated route carriers have not previously been required to maintain insurance, most already have liability coverage in amounts equal to or greater than the limits we are proposing. There would thus appear to be little cost impact on these carriers from the proposal. In the case of charter air carriers, a similar situation exists. According to their certificates of insurance filed with the Board, the charter carriers, with one exception, have coverage already meeting the proposed limits. With regard to air taxi operators, it is our understanding that most of those air taxis that operate large aircraft or that have substantial operations, such as Allegheny Commuters, currently have liability insurance exceeding the proposed minimum requirements. These carriers usually have single limit comprehensive liability coverage. The remaining air taxi operators may have to increase their insurance coverage to meet our proposed requirements. The smaller operators, we are informed, usually carry this type of policy in the minimum amount recommended by the aviation insurance industry ($2,000,000), of else enough coverage to meet Department of Defense (DOD) requirements for military traffic. DOD requires passenger liability coverage of $100,000 per passenger, with a minimum limit per occurrence of $100,000 times 75 percent of the total number of seats on the aircraft. The DOD-required public liability coverage is $1 million for nonpassenger injury or death, and $1 million for property damage. Under our proposal, those operators carrying a $2 million comprehensive single-limit policy would have to increase their coverage by the amount needed to meet the proposed minimum required coverage for passenger liability.

We understand that a wide range of variables figure in aviation insurance underwriters' pricing decisions. Among these are air carrier location, aircraft type and size, aircraft fleet mix, carrier capitalization, and safety record. Thus, any attempt to gauge precisely the actual effects of the Board's proposed changes on costs runs the risk of over simplification. Nevertheless, we estimate that the proposed requirements would affect liability insurance costs for some air taxi operators approximately as illustrated below:

Aircraft size and type of coverage	Cost of existing requirements	Cost of proposed requirements
Large:		
Passenger liability	[1]$300	[1]$500
Public liability	[2]$1000	[2]$5000
Small:		
Passenger liability	[1]$250	[1]$500
Public liability	[2]$250	[2]$400

[1] Per seat.
[2] Per airplane.

Although the economic impact on the air taxis is difficult to judge, available data seem to suggest that the proposed rule would not create a serious barrier to entry for either air taxis or certificated carriers.

Since we propose reducing the required coverage for section 401 and 418 air carriers providing domestic air cargo transportation, they may realize a minimal decrease in insurance costs.

Effectiveness

We are proposing to delay the effectiveness of any rules and changed limits adopted for 120 days from the date of adoption. This would be intended to give the carriers and the insurers a transition period in order to implement any new regulations. This transition period would not be included in the rule, since it is administrative in nature. Upon the effectiveness of the rule change, carriers would be required to meet the new terms and coverages.

Request for Comment

We stress that these proposals are tentative, and ask that the public give them thorough consideration. We are especially interested in: (1) the advantages and disadvantages of alternative levels of coverage that may be more closely related to possible damages or to company size, (2) different organization and structure of the insurance regulation, and (3) whether there is a need for this type of comprehensive regulatory coverage. We also ask that commenters give us their views on estimated costs, with specific figures if possible.

Our present insurance regulations have required that if a surplus line insurer provides more thant ten percent of a carrier's coverage, the insurer must maintain a trust fund of $300,000 for the benefit of its policyholders. We have

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tentatively decided to eliminate the requirement for a trust fund. We have been unable to determine a reasonable basis for setting a specific amount for the trust fund. These insurers have been approved by each State. We would like to have specific comment on the role of surplus line insurers in providing air carrier insurance, and on the desirability and feasibility of making some of the State standards universally applicable.

Proposed Rule

The Board proposes to amend 14 CFR Chapter II as follows:

PART 208—TERMS, CONDITIONS AND LIMITATIONS OF CERTIFICATES, TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

§§ 208.10 through 208.14 [Reserved]

1. Sections 208.10 through 208.14, inclusive, of 14 CFR Part 208 would be revoked and reserved.

PART 291—DOMESTIC AIR CARGO TRANSPORTATION

§§ 291.21 and 291.22 [Reserved]

2. Sections 291.21 and 291.22 of 14 CFR Part 291 would be revoked and reserved.

PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

§§ 298.41 through 298.45 [Reserved]

3. Subpart E, of 14 CFR Part 298, §§ 298.41 through 298.45, inclusive, would be revoked and reserved.

4. Technical conforming amendments would be made in 14 CFR Parts 208, 291, 298.

5. A new Part 205 would be added to read:

PART 205—INSURANCE REQUIREMENTS FOR UNITED STATES AND FOREIGN AIR CARRIERS

Sec.

205.1 Purpose.
205.2 Applicability.
205.3 Basic requirements.
205.4 Filing of certificates of insurance and endorsements.
205.5 Minimum coverage.
205.6 Terms and conditions of coverage.
205.7 Authorized exclusions of coverage.
205.8 Cancellation, withdrawal, modification, expiration, or replacement of insurance coverage.
205.9 Cargo liability disclosure statement.

Authority: Sec. 204, 401, 402, and 416, Federal Aviation Act of 1958, as amended; 72 Stat. 743, 757, 771; 92 Stat. 1710, 1724, 1731, 1732; 49 U.S.C. 1324, 1371, 1372, 1386.

§ 205.1 Purpose.

This part states rules for liability insurance coverage needed by U.S. and foreign direct air carriers to obtain or to exercise any authority by the Board to operate in interstate, overseas, or foreign air transportation. It also establishes a disclosure statement for shippers about cargo liability coverage for all U.S. and foreign direct air carriers.

§ 205.2 Applicability.

These rules apply to all U.S. and foreign direct air carriers operating under Board authority that carry passengers or cargo in domestic or international air transportation. The liability insurance required by this part extends to all transportation by air in interstate, overseas, or foreign air transportation.

§ 205.3 Basic requirements.

(a) A U.S. or foreign direct air carrier shall not engage in air transportation unless it has in effect liability insurance coverage that meets the requirements of this part. The minimum amounts of insurance required may be provided either by insurance policies or by self-insurance plans approved by the Board. The currently effective policy of insurance or approved self-insurance plan shall be available for inspection by the Board or the public at the carrier's prinicpal place of business.

(b) For purposes of this part, a certificate of insurance is one or more certificates showing issuance by one or more insurers of currently effective and properly endorsed policies of aircraft liability insurance in compliance with this part. When more than one insurer is providing coverage, the limits and types of liability assumed by each insurer shall be clearly stated in the certificate of insurance. Insurance policies named in a certificate of insurance that accompanies an application for initial registration or for operating authority shall become effective not later than the proposed starting date for air carrier operations as shown in the application.

(c) The certificate of insurance shall list the types or classes of aircraft, or the specific aircraft by FAA or foreign government registration number, with respect to which the policy of insurance applies.

(d) Each certificate of insurance, and each endorsement limiting the permitted exclusions, shall be signed by an authorized officer or agent of the insurer.

(e) Evidence of insurance coverage meeting the requirements of this part, in the form of a certificate of insurance, shall be maintained on file at the Board at all times.

(f) Insurance coverage to meet the requirements of this part shall be obtained from one or more of the following: (1) insurance companies or associations that are licensed to issue aircraft liability policies in any State, Commonwealth, or Territory of the United States, or in the District of Columbia; or (2) surplus line insurers named on a current list of such insurers issued and approved by the insurance regulatory authority of any State, Commonwealth, or Territory of the United States or of the District of Columbia.

§ 205.4 Filing of certificates of insurance and endorsements.

(a) Prior to the operation of any aircraft in air transportation, the operating air carrier shall file with the Board's Special Authorities Division, Bureau of Domestic Aviation, when the insured is a U.S. air carrier, or with the Board's Bureau of International Aviation when the insured is a foreign air carrier, a certificate of insurance or plan for self-insurance that meets the requirements of this part, to be effective not later than the starting date for air operations. Self-insurance plans shall also be filed with the Board's Bureau of Carrier Accounts and Audits.

(b) Endorsements that add previously unlisted aircraft or aircraft types or classes to coverage, or that delete listed aircraft, types, or classes from coverage, shall be filed with the Board's Special Authorities Division, Bureau of Domestic Aviation, when the insured is a U.S. air carrier, or with the Board's Bureau of International Aviation when the insured is a foreign air carrier, not more than 30 days after the effective date of the endorsement. Aircraft shall not be listed in the carrier's operations specifications with the FAA and shall not be operated, unless liability insurance coverage has been attached.

§ 205.5 Minimum coverage.

(a) All U.S. or foreign direct air carriers operating passenger or cargo service shall maintain public liability insurance for bodily injury to or death of persons other than passengers, and for damage to property, with a minimum coverage of $300,000 for any one person in any one occurrence, and a total of $20,000,000 per involved aircraft for each occurrence, except that carriers operating aircraft of not more than 60 seats or 18,000 pounds maximum payload capacity need only maintain coverage of $2,000,000 per involved aircraft for each occurrence.

(b) All U.S. or foreign direct air carriers carrying passengers in air transportation shall in addition to the coverage required in paragraph (a) maintain liability insurance for bodily injury to or death of aircraft passengers or cargo handlers, with a minimum coverage of $300,000 for any one passenger or handler, and a total per involved aircraft for each occurrence of $300,000 times 75 percent of the number of passenger seats installed in the aircraft.

(c) In the case of comprehensive single-limit liability coverage, aircraft may be insured by a single policy or by a combination of primary and excess policies. Such policies or policy must have combined coverage equal to or greater than the required minimum coverages.

§ 205.6 Terms and conditions of coverage.

Liability insurance coverage shall meet the following minimum requirements:

(a) Insurance contracts and self-insurance plans shall provide for payment on behalf of the carrier, within the specified limits of liability, of all sums that the carrier shall become legally obligated to pay for bodily injury to or death of a person, or for damage to property of others resulting from the carrier's negligent operation or maintenance of aircraft in air transportation.

(b) The insurance shall cover all operations by the carrier in air transportation. The liability of the insurer shall not be subject to any exclusion because of violations by the carrier of any applicable safety or economic rule, regulation, order or other requirement legally imposed by any State, Federal, or foreign government agency, or of any State or Federal law. No special waiver or exemption issued by the FAA or the Board or a foreign government shall reduce liability coverage provided by the insurance policy or self-insurance plan.

(c) The liability of the insurer shall not contingent upon the financial condition, solvency, or freedom from bankruptcy of the carrier. The limits of the insurer's liability for the amounts required by this part shall apply separately to each occurrence. Any payment made under the policy because of any one occurrence shall not reduce the liability of the insurer for payment of other damages resulting from any other occurrence.

(d) Within the limits of liability required by this part, the insurer shall not be relieved from liability by any condition, warranty, or exclusion in the policy or any endorsement to the policy, or violation of the policy by the carrier, other than by the exclusions set forth in § 205.7 or other exclusions approved by the Board.

(e) The policy of insurance or self-insurance plan shall state that if any statute of any State, Commonwealth, Territory, or District of the United States so requires, the carrier designates the head of the insurance regulatory agency of that jurisdiction, or other officer specified for that purpose in the statute, as the air carrier's agent upon whom may be served process in any action arising out of the policy of insurance or self-insurance plan.

(f) With respect to certificates of insurance that list aircraft by FAA registration number, the policy of insurance shall state that, while an aircraft owned or leased by the carrier and declared in the policy is withdrawn from normal use because of its breakdown, repair, servicing, loss, or destruction, such insurance as is provided by the policy for that aircraft shall apply also to another aircraft of similar type, horsepower, and seating capacity, whether or not owned by the insured, while temporarily used as a substitute aircraft.

§ 205.7 Authorized exclusions of coverage.

Except for other exclusions specifically approved by the Board, a policy of insurance or self-insurance plan required by this part shall not contain any exclusion other than the following:

(a) Loss against which the carrier has other valid and collectible insurance. The coverage required under this part shall be available, however, in excess of the limits provided by such other insurance up to the limits in the carrier's certificate of insurance.

(b) Liability assumed by the carrier under any contract or agreement, unless the policy coverage would have attached to the carrier even in the absence of such contract or agreement. This exclusion shall not, however, include the carrier's waiver of liability limitations under the Warsaw Convention by the signing of a counterpart to the agreement of carriers (Agreement CAB 18900), as approved by Board Order E–23680, May 13, 1966), agreeing to a limit on the carrier's liability for injury or death of passengers of $75,000 per passenger, or any amendment or amendments to such agreement that may be approved by the Board and to which the carrier becomes a party.

(c) Bodily injury, sickness, disease, mental anguish, or death of any employee of the carrier while engaged in the duties of employment, or any obligation for which the carrier or any company as its insurer may be held liable under any workmen's compensation or occupational disease law;

(d) Loss of, or damage to, property owned, rented, occupied, or used by, or in the care, custody, or control of, the carrier, or carried in or on any aircraft with respect to which the insurance afforded by the policy applies;

(e) Personal injuries or death, or damage to, or destruction of, property, caused directly or indirectly by hostile or war-like action, including action in hindering, combating, or defending against any actual, impending, or expected attack by any government or sovereign power, de jure or de facto, or military, naval, or air forces, or by an agent of such government, power, authority, or forces; the discharge, explosion, or use of any weapon of war employing atomic fission or atomic fusion, or radioactive materials; insurrection, rebellion, revolution, civil war, or usurped power, including any action in hindering, combating, or defending against such an occurence; or confiscation by any government or public authority.

§ 205.8 Cancellation, withdrawal, modification, expiration, or replacement of insurance coverage.

Each policy of insurance shall specify that it shall remain in force, and may not be replaced, canceled, withdrawn, or in any way modified, to exclude any aircraft or reduce the extent of coverage, by the insurer or the carrier, nor expire by its own terms, until 10 days after written notice by the insurer (in the event of replacement, by the retiring insurer), describing the change, to the Board's Special Authorities Division, Bureau of Domestic Aviation, when the insured in a U.S. air carrier, or to the Board's Bureau of International Aviation when the insured is a foreign air carrier, (or, in the case of air taxi operators in Alaska, to the CAB Field Office, 701 C Street, Box 27 Anchorage, Alaska 99513), which 10-day notice period shall start to run from the date such notice is actually recieved at the Board. In the case of expiration by the policy's own terms, to be effective under this section a notice of nonrenewal by the insurer must be received not more than 30 days before the expiration date. For purposes of this part, a policy will not be considered to have expired if the same insurer renews its coverage without reduction in the extent of coverage or limits of liability, and without a break in coverage, whether or not a new policy is issued, and notice to the Board is not required in that event.

§ 205.9 Cargo liability disclosure statement.

Every U.S. or foreign direct air carrier providing air cargo service in air transportation shall give notice in writing to the shipper, when a shipment is accepted, of the extent of its cargo liability insurance, or the absence of such insurance, and the limits on the extent of its liability, if any. The notice shall be included clearly and conspicuously on all of its rate sheets and airwaybills, and on any other documents given to a shipper at the time of acceptance of a shipment.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

Appendix A.—*Present Liability Insurance Requirements for U.S. Air Carriers and Permit Conditions for Foreign Air Carriers*

	Certificated route carriers	Charter air carriers	Air taxi operators	Operators of all-cargo aircraft domestically (secs. 401 and 418)		Foreign air carriers
				Small aircraft	Large aircraft	
1. Bodily injury to or death of passengers:						
(a) Each passenger	None	$75,000	$75,000	None	None	$75,000.
(b) Per occurrence	None	$75,000×75% of seats on aircraft.	$75,000×75% of seats on aircraft.	None	None	No specified limit.
2. Cargo	None	None	None	None	None—public disclosure of carrier's cargo liability insurance coverage or its absence.	None—public disclosure of carrier's cargo liability insurance coverage or its absence.
3. Bodily injury to or death of non-passengers:						
(a) Each person	None	$75,000	$75,000	$75,000	$500,000	
(b) Per occurrence	None	$500,000	$300,000	$300,000	$20,000,000	$1,000,000.
4. Loss of or damage to property (each occurrence).	None	$500,000	$100,000	$100,000	This is included in the comprehensive limit in 3(b) above.	This is included in the comprehensive limit in 3(b) above.

Appendix B.—*Proposed Liability Insurance Requirements*

	Large aircraft	Small aircraft
1 Bodily injury to or death of passengers:		
(a) Each passenger	$300,000	$300,000
(b) Per occurrence	$300,000×75% of seats on the aircraft	$300,000×75% of seats on the aircraft.
2. Cargo	None—public disclosure of carrier's cargo liability insurance coverage, or its absence, and the limits of the carrier's liability, if any.	None—public disclosure of carrier's cargo liability insurance coverage, or its absence, and the limits of the carrier's liability, if any.
3. Public (third party) liability: Bodily injury to or death of non-passengers, and loss of or damage to property:		
(a) Each person	$300,000	$300,000
(b) Per occurrence	$20,000,000	$2,000,000.

Appendix C—*Standard Endorsement: Air Carrier Policies of Insurance for Aircraft Bodily Injury and Property Damage Liability*

[Proposed CAB Form 204–C]

The policy or self-insurance plan (hereinafter referred to as "policy") to which this endorsement is attached is hereby amended to assure compliance by the Named Insured with the provisions of Part 204 of the Economic Regulations of the Civil Aeronautics Board.

1. The Insurer hereby agrees to pay, within the limits of liability for coverages specified in the policy, all sums that the Named Insured shall become legally obligated to pay as damages for bodily injury to or death of persons or for loss of or damage to property of others, resulting from the Named Insured's negligent operation, maintenance, or use of aircraft in "air transportation" as that term is defined in the Federal Aviation Act of 1958. The limits of the Insurer's liability for the amounts specified in this policy shall apply separately to each occurrence. Any payment made under the policy because of any one occurrence shall not reduce the liability of the Insurer for payment of other damages resulting from any other occurrence. The liability of the Insurer is not contingent upon the financial condition, solvency, or freedom from bankruptcy of the Named Insured.

2. The Insurer also agrees that the attached policy shall remain in force, and cannot be replaced, cancelled, withdrawn, or in any way modified to exclude any aircraft or to reduce the extent of coverage, by the Insurer or the Insured, nor expire by its own terms, until ten (10) days after written notice by the Insurer (by the retiring Insurer, in the event of replacement) describing the change is received by the Board's Bureau of Domestic Aviation, Washington, D.C. 20428, when the Insured is a U.S. air carrier, or by the Board's Bureau of International Aviation, when the Insured is a foreign air carrier (or, in the case of air taxi operators in Alaska, to the CAB Field Office, Box 27, Anchorage, Alaska 99513), which 10-day notice period shall start to run from the date such notice is actually received at the Board. In addition, with respect to expiration by the policy's own terms, the Insurer agrees that to be effective the notice to the Board of nonrenewal must be received not more than 30 days before the expiration date.

3. The Insurer further agrees that, within the limits of liability for coverages specified in the policy, the Insurer shall not be relieved from liability with respect to bodily injury or property damage by any condition, warranty, or exclusion in the policy or any endorsement to the policy, or violation of the policy by the Named Insured, other than by the exclusions contained in this endorsement or other exclusions approved by the Board. In this connection, the Insurer expressly agrees that no violation by the Named Insured of any safety or economic rule, regulation, order, or other legally imposed requirement of any State or of the Federal Aviation Administration or the Civil Aeronautics Board or a foreign government, and no special waiver or exemption issued by the Federal Aviation Administration or the Civil Aeronautics Board or a foreign government shall affect the liability coverage afforded under this policy.

4. The Insurer further agrees that, while an aircraft owned by the named Insured and declared in this policy, is withdrawn from normal use because of its breakdown, repair, servicing, loss or destruction, such insurance as is provided by this policy for that aircraft applies also with respect to another aircraft of similar type, horse-power, and seating or payload capacity, whether or not owned by the Insured, while temporarily used as the substitute for such aircraft.

5. The Insurer further agrees that if any statute of any State, Commonwealth, Territory, or District of the United States so requires, the head of the insurance regulatory agency of that jurisdiction, or other officer specified for that purpose in the statute, is designated as the Insured's agent upon whom may be served process in any action arising out of the coverage afforded by this policy.

6. The Exclusions of the policy to which this endorsement is attached are deleted and are replaced by the following exclusions:

"Exclusions: Unless otherwise provided in the policy of insurance, the liability insurance afforded under this policy shall *not* apply to:

(a) Any loss against which the Named Insured has other valid and collectible insurance, except that the limits of liability provided under this policy shall be in excess of the limits provided by such other valid and collectible insurance up to the limits expressed elsewhere in this policy;

(b) Liability assumed by the Named Insured under any contract or agreement, unless such liability would have attached to the Insured even in the absence of such contract or agreement. This exclusion shall not, however, apply to the Named Insured's waiver of liability limitations under the Warsaw Convention by signing a counterpart to the agreement of carriers (Agreement CAB 18900), as approved by Board Order E–23680, May 13, 1966, agreeing to a limit on the Insured's liability for injury or death of passengers of $75,000 per passenger, or any amendment or amendments to such agreement which may be approved by the Board and to which the Named Insured becomes a party;

(c) Bodily injury, sickness, disease, mental anguish or death of any employee of the Named Insured while engaged in the duties of his employment, or any obligation for which the Named Insured or any company as his insurer may be held liable under any workmen's compensation or occupational disease law;

(d) Loss of or damage to property owned, rented, occupied or used by, or in the care, custody or control of the Named Insured, or carried in or on any aircraft with respect to which the insurance afforded by this policy applies;

(e) Personal injuries or death, or damage to or destruction of property, caused directly or indirectly, by hostile or warlike action, including action in hindering, combating or defending against an actual, impending or expected attack by any government or sovereign power, *de jure* or *de facto*, or military, naval, or air forces, or by any agent of such government, power, authority or forces; the discharge, explosion or use of any weapon of war employing atomic fission or atomic fusion or radioactive materials, insurrection, rebellion, revolution, civil war or usurped power, including any action in hindering, combating, or defending against such an occurrence; or confiscation by any government or public authority;

7. Any exclusions, conditions or provisions of this endorsement that have the effect of restricting or nullifying the coverage granted by this policy in the absence of this endorsement shall not apply.

Attached to and forming part of Policy NO(s). ————.

Issued by: ————

To: ————

Date: ————

By: ————

(Authorized Representative of Insurer)

BILLING CODE 6320-01-M

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Proposed CAB Form 204-A

Appendix D

CERTIFICATE OF INSURANCE

U.S. AIR CARRIER POLICIES OF INSURANCE FOR AIRCRAFT BODILY INJURY AND PROPERTY DAMAGE LIABILITY

THIS CERTIFIES THAT:

_____(Insurer)
(Name and address of Insurer)

has issued a policy or policies of Aircraft Liability Insurance to _____ (Name and address of Insured Air Carrier)

_____(Named Insured)

effective from _____ until ten (10) days after written notice from the Insurer of the intent to terminate coverage is received by the Civil Aeronautics Board.

1. The Insurer (check one):

☐ is licensed to issue aircraft insurance policies; or

☐ is an approved surplus line insurer, in the State(s) of _____

2. The Insurer assumes, under the policy or policies listed below, aircraft liability insured to minimums at least equal to the following during operation, maintenance or use of aircraft in "air transportation" as that term is defined in the Federal Aviation Act of 1958 (complete either section a or b below):

a. The aircraft covered by this policy are SMALL AIRCRAFT (i.e., with 60 or fewer seats or with a maximum payload capacity of 18,000 pounds or less) (check separate or combined coverage as appropriate):

☐ Separate coverages:

Policy No.	Type of Liability	Minimum Limit Each person	Minimum Limit Each occurrence
	Combined Bodily Injury (Excluding Passengers other than cargo attendants) and Property Damage Liability	$300,000	$2,000,000
	Passenger Bodily Injury Liability	$300,000	$ 300,000 x 75% of total number of passenger seats installed in the aircraft.

☐ Combined coverage:

This combined coverage is a single limit of liability for each occurrence at least equal to the required minimums stated above for bodily injury excluding passengers, passenger bodily injury, and property damage.

Policy No. _____ Amount of Coverage _____

☐ This policy covers CARGO operations only and excludes passenger liability insurance.

b. The aircraft covered by this policy are LARGE AIRCRAFT (i.e., with more than 60 seats or with a maximum payload capacity of more than 18,000 pounds) (check separate or combined coverage as appropriate):

Policy No.	Type of Liability	Minimum Limit Each person	Minimum Limit Each occurrence
	Combined Bodily Injury (Excluding Passengers other than cargo attendants) and Property Damage Liability	$300,000	$20,000,000
	Passenger Bodily Injury Liability	$300,000	$ 300,000 x 75% of total number of passenger seats installed in the aircraft.

☐ Combined coverage:

This combined coverage is a single limit of liability for each occurrence at least equal to the required minimums stated above for bodily injury excluding passengers, passenger bodily injury, and property damage.

Policy No. _____ Amount of Coverage _____

☐ This policy covers CARGO operations only and excludes passenger liability insurance.

3. The policy or policies listed in this certificate insure (check one):

☐ Operations conducted with the following types of aircraft:

☐ Operations conducted with the following aircraft:

FAA Registration	Manufacturer's Type	FAA Registration	Manufacturer's Type

4. Each policy listed in this certificate has been amended by attachment of a Standard Endorsement Form (CAB Form 204-C).

_____
(Name of Insurer)

_____
(Name of Broker, if applicable)

_____
(Address of Broker)

Date: _____ By: _____
(Officer, or authorized representative of insurer or broker)

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Proposed CAB Form 204-B

Appendix E

CERTIFICATE OF INSURANCE

FOREIGN AIR CARRIER POLICIES OF INSURANCE FOR AIRCRAFT BODILY INJURY AND PROPERTY DAMAGE LIABILITY

THIS CERTIFIES THAT:

_____(Insurer)
(Name and address of Insurer)

has issued a policy or policies of Aircraft Liability Insurance to _____ (Name and

_____

address of Insured Foreign Air Carrier

_____(Named Insured)

effective from _____until ten (10) days after written notice from the Insurer of the intent to terminate coverage is received by the Civil Aeronautics Board.

1. The Insurer (check one):

☐ is licensed to issue aircraft insurance policies; or

☐ is an approved surplus line insurer, in the State(s) of _____

2. The Insurer assumes, under the policy or policies listed below, aircraft liability insured to minimums at least equal to the following during operation, maintenance or use of aircraft in "air transportation" as that term is defined in the Federal Aviation Act of 1958 (complete either section a or b below):

a. The aircraft covered by this policy are SMALL AIRCRAFT (i.e., with 60 or fewer seats or with a maximum payload capacity of 18,000 pounds or less) (check separate or combined coverage as appropriate):

☐ Separate coverages:

Policy No.	Type of Liability	Minimum Limit Each person	Each occurrence
	Combined Bodily Injury (Excluding Passengers other than cargo attendants) and Property Damage Liability	$300,000	$2,000,000
	Passenger Bodily Injury Liability	$300,000	$ 300,000 x 75% of total number of passenger seats installed in the aircraft.

☐ Combined coverage:

This combined coverage is a single limit of liability for each occurrence at least equal to the required minimums stated above for bodily injury excluding passengers, passenger bodily injury, and property damage.

Policy No. _____ Amount of Coverage _____

☐ This policy covers CARGO operations only and excludes passenger liability insurance.

b. The aircraft covered by this policy are LARGE AIRCRAFT (i.e., with more than 60 seats or with a maximum payload capacity of more than 18,000 pounds) (check separate or combined coverage as appropriate):

Policy No.	Type of Liability	Minimum Limit Each person	Each occurrence
	Combined Bodily Injury (Excluding Passengers other than cargo attendants) and Property Damage Liability	$300,000	$20,000,000
	Passenger Bodily Injury Liability	$300,000	$ 300,000 x 75% of total number of passenger seats installed in the aircraft.

☐ Combined coverage:

This combined coverage is a single limit of liability for each occurrence at least equal to the required minimums stated above for bodily injury excluding passengers, passenger bodily injury, and property damage.

Policy No. _____ Amount of Coverage _____

☐ This policy covers CARGO operations only and excludes passenger liability insurance.

3. The policy or policies listed in this certificate insure (check one):

☐ Operations conducted with the following types of aircraft:

☐ Operations conducted with the following aircraft:

FAA or Foreign Flag Registration	Manufacturer's Type	FAA or Foreign Flag Registration	Manufacturer's Type

4. Each policy listed in this certificate has been amended by attachment of a Standard Endorsement Form (CAB Form 204-C).

_____
(Name of Insurer)

_____
(Name of Broker, if applicable)

_____
(Address of Broker)

Date: _____ By: _____
(Officer, or authorized representative of insurer or broker)

[FR Doc 80-3486 Filed 2-1-80; 8:45 am]
BILLING CODE 6320-01-C

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 239, and 274

[Release Nos. 33-6183, IC-11026]

"Money Market" Funds; Inclusion of a Standardized Yield Computation in Prospectuses

AGENCY: Securities and Exchange Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is soliciting comment concerning a proposed amendment to Form N–1, the registration form for open-end management investment companies, to require the inclusion of a standardized yield computation in the prospectuses of money market funds, and an amendment to Rule 434d to require money market funds to conform yield quotations used in Rule 434d advertisements to that standardized method. The Commission is also withdrawing a prior proposal relative to the standardization of money market fund yield quotations.

DATE: Comments must be received no later than April 7, 1980.

ADDRESS: Send comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments should refer to File No. S7–621 and will be available for public inspection.

FOR FURTHER INFORMATION CONTACT: Larry L. Greene, Esq. (202/272–2104) or Anthony A. Vertuno, Esq. (202/272–2107), Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is proposing amendments to Form N–1 [17 CFR 239.15, 274.11] under the Securities Act of 1933 [15 U.S.C. 77a–77aa] ("Securities Act") and the Investment Company Act of 1940 [15 U.S.C. 80a–1—80a–52] ("Act") and Rule 434d [17 CFR 230.434d] under the Securities Act. The proposed amendments would require certain investment companies, usually referred to as "money market" funds, to include in their prospectuses a yield figure computed according to a standardized method and to compute any yield quotations used in Rule 434d advertisements according to that standardized method. The proposed method would produce an annualized yield figure based on the average daily net investment income received or accrued by a fund over a seven day period. The requirement for the yield computation would apply to any open-end investment company holding itself out to be a "money market fund" or having an investment policy calling for investment of a least 80 percent of its assets in debt securities maturing in thirteen months or less.[1]

Importance of Comparable Yield Quotations and Purpose of Proposed Amendment

The Commission believes that yield quotations are an important factor affecting an investor's decision concerning money market funds. In this regard, such funds appear to be marketed largely on the basis of liquidity and yield. This is in contrast to traditional equity funds, where an investor's judgment as to competing funds' potential for capital appreciation is likely to be more important than a comparison of stated yields.

Despite the importance of yield quotations to investors making investment decisions and to money market funds in marketing their shares, yields reported and quoted by money market funds are not computed on a standardized basis and thus, in many cases, are not comparable. This lack of comparability of yield quotations may have the potential for confusing and misleading investors. The problem is made more serious by the fact that the use of yield quotations by money market funds for promotional purposes appears to be increasing in light of the adoption of new Rule 434d [17 CFR 230.434d] under the Securities Act, which permits a new class of investment company advertisements in the form of "omitting" propectuses.

The proposed amendment to Form N–1 will, if adopted, ensure that investors are supplied with yield figures in money market fund prospectuses, and that these figures are calculated in such a way as to help investors make useful comparisons. Furthermore, since the proposed amendment to Rule 434d will, if adopted, require that yield figures presented by money market funds in Rule 434d advertisements be calculated in the same way as the figures in the full prospectus, the yield figures used in such advertisements will also be comparable.

Of course, even if a standard computation of yield is adopted, the extent to which yield quotations can properly be compared will be limited by other considerations. These considerations include the extent to which the fund using the quotations might have unusual characteristics with respect to the quality of its portfolio securities, or the average weighted maturity of its portfolio. It is the responsibility of the person issuing a regular prospectus or advertisement which includes yield figures to include such other information as may be necessary to make those figures not misleading. The Commission has previously made clear that it will normally not prescribe rules containing specific standards as to what is or is not misleading in investment company sales literature,[2] and in the amendments being proposed herein specific requirements as to additional information to be included in money market fund prospectuses or advertisements have been kept to a minimum. Rather, the proposed amendment focuses on the yield computation itself, concerning which definitive guidance seems appropriate in order to achieve standardization.

Different Methods of Computing Yield and Earlier Efforts of the Commission at Standardization

While the lack of comparability in money market fund yield quotations exists for a variety of reasons, the Commission believes that one of the most significant reasons is the fact that various funds use different methods of computing yield. Yield computations may differ in many ways, including the manner of treating unrealized appreciation or depreciation, the weighting factors (if any) used, and the expenses which are included in the calculation. For example, those funds which compute their net asset values on the basis of either amortized cost or "penny-rounding" do not normally reflect changes in the market value of their underlying portfolio securities either in their determination of net asset value per share or in their daily dividend. Other funds recognize unrealized changes in the value of portfolio securities but adjust the daily dividend to reflect such changes and maintain a constant net asset value per share. Still other funds reflect unrealized

[1] Except for the definition of "money market" fund contained in the general instructions to Form N–1R [17 CFR 249.330, 274.101], which is limited in its applicability to that form, the term "money market fund" is not defined in any statutes or Commission rules thereunder. However, money market funds are generally considered to be those open-end investment companies whose portfolios consist primarily of short-term debt obligations, usually referred to as "money market instruments." These funds generally strive to maintain a constant net asset value per share while offering a relatively high yield. Typically, they are designed to attract short-term investors who seek preservation, rather than appreciation,of capital, together with a high level of income.

[2] See Securities Act Release No. 6140 (October 26, 1979) [44 FR 64070 (November 6, 1979)].

appreciation or depreciation in portfolio security values in the determination of net asset value per share.

In addition, the computation of yield may be weighted, with respect to each portfolio security, for dollar value, time remaining to mautrity, both of these factors, or neither. Finally, the items of expense netted against income in computing yield may or may not include charges made directly to an investor's account.

In 1975, the Commission issued two releases relating, at least in part, to the problems created by this lack of uniformity in yield calculations. One release proposed the standardization of portfolio valuation of short term debt securities by registered investment companies, including money market funds, by use of the "mark-to-the-market" method of portfolio valuation,[3] and the other proposed the standardization of yield quotations by money market funds by use of the yield to average life ("YAL") method.[4]

At the time of the Commission's proposals, some funds were using the mark-to-the-market method to value their portfolios, while other were using the amortized cost method.[5] In Release 8757, relating to valuation, the Commission proposed that the mark-to-the-market method be used exclusively, because it was concerned that amortized cost valuation did not satisfy the requirements of the Act and the rules thereunder regarding valuaton of investment company assets.[6] In addition, the Commission considered it undesirable for some money market funds to use the amortized cost method while other were using the mark-to-the-market method, because this disparity in methods of valuation impaired the comparability of yield quotations, which are based in part on net asset value.

After consideration of the public comments, the Commission in 1977 issued an interpretive release stating its position that section 2(a)(41) of the Act and Rule 2a–4 thereunder required money market funds to value all debt securities with remaining maturities of more then 60 days, by the mark-to-the-market method.[7] In addition, the Commission stated in that release its view that the net asset value per share of a money market fund should be calculated with an accuracy of at least one-tenth of one percent (equivalent to the nearest one-tenth of a cent on a net asset value of $1.00).

Subsequent to this release, a number of money market funds filed applications under section 6(c) [15 U.S.C. 80a–6(c)] of the Act, seeking to use methods of valuing portfolio securities or computing net asset value per share which were at variance with that prescribed in the interpretive release. The Commission ordered hearings on the applications,[8] and thereafter some of the applications were granted pursuant to a settlement arrangement between the applicants and the Commission.[9] In substance, the settlement provided for the use, under certain conditions, of the "penny-rounding" method of calculating net asset value per share. The remaining applications were also granted by the Commission,[10] and permit the use, under certain conditions, of the amortized cost method of portfolio valuation.[11] The use of this method, like penny-rounding, results generally in a stable net asset value for $1.00 per share funds.

Because both penny-rounding net asset value computation and amortized cost valuation either round away or ignore the impact of market value changes on a fund's portfolio, the orders granting the applications incorporate certain conditions designed to alleviate any harmful effects upon shareholders of funds using those methods.[12]

At present, a large number of money market funds maintain a stable net asset value through the use of either the pennyrounding computation or amortized cost valuation. (Other funds, while complying with the procedures prescribed in Release 9786, may attempt to maintain a stable net asset value by adjusting the daily divided to reflect any appreciation or depreciation in the value of their portfolio securities.) Thus, while the Commission's efforts to standardize the valuation of portfolio securities and computation of net asset value per share by money market funds have not resulted in complete uniformity, as a practical matter a substantial degree of standardization has developed in the area of valuation and computation of net asset value.

Such uniformity has not, however, been achieved with respect to yield quotations. The Commission's proposal with respect to YAL provided, in substance, that whenever a money market fund reported a current yield on an investment in the fund by telephone, newspaper, or otherwise, such report would have to include a statement of yield on a "yield to average life" basis. The proposal defined "yield to average life" to mean the rate of return which would be received by shareholders in the company if all of the securities currently in the company's portfolio, valued at market, were held to maturity, redeemed at par value, and the proceeds distributed to the shareholders. The release included the formula according to which the YAL was to be computed. The YAL quotation would have to have been accompanied by the dollar-weighted average portfolio maturity of the fund, and have been bases on market values as of not more than one business day prior to the day the quotation was used. The proposal would have permitted the use of a historical yield in addition to the YAL quotation under certain conditions.

Most of the comment letters received expressed opposition to the Commission's proposal. The principal arguments against the proposal were that: (1) the YAL calculation was so complex that it would be expensive to calculate and would likely be misunderstood by investors; and (2) because money market fund's portfolios contain instruments maturing at different times and are continually being replaced, the forward-looking yield quotation produced by the YAL computation would never represent a yield actually to be realized by any

[3] Investment Company Act Release No. 8757 (April 15, 1975) [40 FR 18467 (April 28, 1975)].

[4] Investment Company Act Release No. 8816 (June 12, 1975) [40 FR 27492 (June 30, 1975)].

[5] A fund using the mark-to-the-market method obtains a "quote" on each instrument in its portfolio or on one of comparable quality from the issuer or a dealer. A fund using the amortized cost method values a security at its cost on the date of purchase.

[6] Section 2(a)(41) of the Act [15 U.S.C. 80a–2(a)(41)] and Rule 2a–4 [17 CFR 270.2a–4] under the Act, as here relevant, require that the assets of registered investment companies be valued (1) at market value, if quotations are readily available, or (2) if quotations are not readily available, at fair value as determined in good faith by the board of directors.

[7] Investment Company Act Release No. 9786 (May 31, 1977) [42 FR 28999 (June 7, 1977)].

[8] Investment Company Act Releases No. 10201 (April 12, 1978) [43 FR 16830 (April 20, 1978)] and 10366 (August 18, 1978) [43 FR 38143 (August 25, 1978)].

[9] Investment Company Act Release No. 10451 (October 20, 1978) [43 FR 51485 (November 3, 1978)].

[10] Investment Company Act Release No. 10824 (August 8, 1979).

[11] See Footnote 5, *supra*.

[12] For example, both amortized cost and penny-rounding funds must maintain an average weighted portfolio maturity of 120 days or less, must not purchase securities with maturities beyond a year, and must maintain a portfolio with a specified quality.

In addition, funds using amortized cost valuation are required, among other things, to adopt procedures whereby the board of directors review the portfolio from time to time to determine the extent of any deviation of the net asset value per share (as determined by using available market quotations) from the $1.00 per share figure resulting from the use of the amortized cost method. If the deviation exceeds ½ of one percent and the board considers that that deviation may result in material dilution or other unfair results to investors or shareholderrs, it must take action to prevent the results by either marking to market or taking other steps to bring the fund's net asset value, when considered in light of available market quotations, within acceptable limits.

investor. It was argued that the figure could thus be misleading to investors, who might interpret it as a projection of future return. The Commission has taken no further action on the YAL proposal until now.

No-Action Request of the Investment Company Institute

By letter of November 6, 1979, the Investment Company Institute ("Institute") requested that the Commission's Division of Investment Management advise the Institute that it would not recommend enforcement action with respect to money market fund advertisements and prospectuses which contained yield quotations computed in accordance with a method described by the Institute, and which contained certain accompanying textual disclosures relative to yield.[13]

In substance, the Institute's no-action request involved the use of an annualized historical yield based on a period of seven calendar days. The yield would be calculated by dividing the average daily net investment income per share earned by the fund (that is, accrued interest income plus or minus amortized purchase discount or premium, less all accrued expenses) during the seven calendar day period, by the fund's average daily price per share over the same period and multiplying the result by 365, i.e.,

$$\frac{\text{average daily net investment income per share}}{\text{average daily net asset value per share}} \times 365 = \text{Yield}.^{14}$$

The resulting yield figure would be carried to at least the nearest hundredth of one percent. Net investment income would not include either realized gains and losses or unrealized appreciation and depreciation, but the average price per share would include any changes in net asset value during the seven day period. Any fees charged directly to shareholder accounts, such as fixed monthly shareholder service fees, would be included in the accrued expenses of the fund.

In its response to the Institute's letter, the staff stated that it would not recommend enforcement action if money market funds conformed their computations of yield to the method described by the Institute. However, consistent with previously expressed Commission policy,[15] the staff did not express any opinion as to the adequacy of the textual disclosure suggested by the Institute to accompany the yield quotations.[16]

The Commission's Proposal

The Commission has considered the method of computing current yield set forth in the Institute's no-action request, and believes that use of that method might be more appropriate for achieving standardization of yield quotations than the YAL method previously proposed by the Commission. Specifically, the Commission believes that the historical yield figures suggested by the Institute might be more easily understood by investors, and might be more easily verifiable, than the forward-looking yield figures which would have been required under the YAL proposal. Using a seven day base period for the yield computation, rather than basing the computation on the values of portfolio securities determined on one particular day, would seem to make the yield figure less likely to be affected by aberrant changes in portifolio values, and less susceptible to manipulation. Moreover, the treatment of expenses, charges to shareholders' accounts, and capital changes suggested by the Institute appears consistent with assumptions which might be made by many investors.

In light to these considerations and the seeming need for standardization in this area, the Commission is proposing to amend Form N–1, the registration form for open-end management investment companies, by adding a new Item 3A to require money market funds to include in their regular prospectuses: (1) a yield quotation based on the seven days ended on the date of the most recent balance sheet or statement of assets and liabilities included in the prospectus, and computed according to the Institute's recommended method as described above; and (2) a description of the method of yield computation. In addition, because the proposed standardized yield computation is based on certain assumptions as to operational and accounting practices, the instruction to the item would require funds whose practices differ in certain respects to make disclosure relating thereto. The proposed form amendment would apply to any open-end investment company holding itself out to be a "money market fund" or having an investment policy calling for investment of at least 80 percent of its assets in debt securities maturing in thirteen months or less.

In connection with its proposal to require the inclusion of yield quotations computed on a standardized basis in money market fund prospectuses, the Commission is also proposing two other amendments, one of which concerns the placement in the prospectus of the proposed mandatory yield figures, and the other of which concerns yield information which money market funds might choose to place in advertisements under Rule 434d.

As indicated earlier, the Commission believes that yield information is particularly important with respect to money market funds, in light of the fact that potential investors are likely to use a comparison of yield quotations as a primary basis for arriving at an investment decision. For this reason, it seems that the yield information required by proposed Item 3A should be placed near the beginning of the prospectus, in order to increase its visibility and utility to investors. In addition, because yield information relates to fund performance, it is closely related to the information presented in the per share table required by Item 3 of Form N–1. Therefore, the Commission is proposing an amendment to the General Instructions to Form N–1 to provide that the information disclosed pursuant to proposed Item 3A must follow immediately the per share table of income and capital changes required by Item 3.

The Commission is also proposing an amendment of Rule 434d under the Securities Act. The amendment would require any yield figures used in advertisements of money market funds to be computed by the same method as that which would have to be used for computing the yield information required in proposed new Item 3A. By its terms, the proposed amendment to Form N–1 requires only that a standardized method for computing yield be used for purposes of supplying the yield information required under proposed new Item 3A. Therefore, in the absence of a requirement to compute advertised yields in the manner required for prospectuses by proposed Item 3A, money market funds might arguably be free to compute advertised yields by non-standard methods so long as the "substance" of the yield advertisement is contained in the section 10(a) prospectus.

The proposed amendment to Rule 434d would protect against the lack of comparability in advertised yields which could result from such a practice. Yield information contained in a Rule 434d advertisement would not necessarily have to relate to the same seven-day period as the yield information supplied in the full prospectus,[17] but the amendment would require Registrants to specify in the advertisement the period for which yield is quoted.

It should be noted that the specific proposed requirements relative to textual disclosure which may accompany yield figures are limited to an instruction to the proposed form item relating to an aspect of the computation of the yield figure and a requirement in the rule amendment concerning identification of the period used for the computation. The absence of more comprehensive requirements, however, in no way relieves persons using yield quotations from their responsibility to make whatever disclosure is necessary to make such quotations not misleading, whether the quotations are used in a prospectus meeting the requirements of section 10(a) of the Securities Act [15 U.S.C. 77j(a)] or an "omitting" prospectus permitted under Rule 434d under the Securities Act. In this connection, the instructions to the form item will provide guidance for users of Rule 434d advertisements as well.

Withdrawal of Proposal

The Commission's proposal set forth in Release No. 8816 (June 12, 1975), [40 FR 27492], to require money market funds to use yield quotations based on the yield to average life method, is hereby withdrawn.

Text of the Proposed Amendments

The Commission proposes to amend Parts 239, 274 and 230 of Chapter II of Title 17 of the Code of Federal Regulation by revising Form N–1 as follows:

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

1. By adding a new Subsection (3) to Section G. 1. a. of the General Instructions and by adding New Item 3A. to Form N–1 [§§ 239.15 and 274.11] to read as follows:

§ 239.15 Form N–1, for open-end management investment companies registered on Form N–8A.

§ 274.11 Form N–1, registration statement of open-end management investment companies.

* * * * *

General Instructions

* * * * *

G. * * *

1. * * *

a. * * *

(3) The disclosure required by Item 3A, when applicable, must follow immediately the information required by Item 3.

* * * * *

Item 3A. *Yield Quotations of Money Market Funds.* (Prospectus Only)

(a) For a registrant which holds itself out to be a "money market" fund or has an investment policy calling for investment of at least 80% of its assets in debt securities maturing in thirteen months or less, furnish the following information:

(i) A yield quotation based on the seven days ended on the date of the most recent financial statements of the Registrant included in the prospectus, computed by dividing the Registrant's daily net investment income per share earned during such seven calendar day period by its average daily price per share for the same period and multiplying the result by 365, with the resulting yield figure carried to at least the nearest hundredth of one pecent; and

(ii) A description of the method by which the yield is computed.

(b) For purposes of the calculation required in subsection (a), above, Registrant's daily net investment income per share shall include its accrued interest income plus or minus amortized purchase discount or premium less accrued expenses, but shall not include realized gains and losses or unrealized appreciation and depreciation. For purposes of this computation, fees charged directly to shareholder accounts must be included in the accrued expenses of the fund, and the Registrant's average price per share must include any changes in net asset value during the seven day period.

Instructions: In connection with the presentation of the yield figure, the prospectus must disclose:

(1) if applicable, that the Registrant follows the practice of reflecting changes in portfolio values in its daily dividend, and

(2) if material, the net amount of any change in the yield figure which would result from:

(a) the inclusion in the determination of net investment income of realized gains or losses and unrealized appreciation or depreciation recognized by the Registrant but excluded from the computation pursuant to Item 3A(b).

(b) any change in net asset value during the period used for computing yield.

* * * * *

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

2. By deleting the word "and" from the end of paragraph (a)(4) of § 230.434d, adding the word "and" to the end of paragraph (a)(5), and adding a new paragraph (a)(6), to provide as follows:

§ 230.434d Advertisement by an investment company as satisfying requirements of section 10.

(a) * * *

(4) It states, conspicuously, from whom a prospectus containing more complete information may be obtained and that an investor should read that prospectus carefully investing,

(5) It contains the statement required by section 230.433(b) when used prior to effectiveness of the company's registration statement, and

(6) In the case of an investment company which holds itself out to be a "money market" fund or has an investment policy calling for investment of at least 80% of its assets in debt securities maturing in 13 months or less, any quotation of such company's yield contained in such advertisement is based on the method of computation prescribed in Item 3A of Form N–1, set forth in §§ 239.15 and 274.11 and identifies [the date of the last day in] the period used in computing that quotation.

(Sections 10 and 19(a) of the Securities Act [15 U.S.C. 77] and 77s(a)] and Section 38(a) of the Act [15 U.S.C. 80a–37(a)].)

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[13] *Investment Company Institute*, available November 16, 1979. By its terms the Institute's recommendations were limited to the presentation of yield quotations by a mutual fund at least 80% of whose portfolio consists, at the time of the calculation, of money market instruments having a maturity of thirteen months or less.

[14] The computations resulting from this formula can be illustrated by the following example. The assumed figures are on a per share basis:

Average accrued interest income	$0.000294
Average amortization of discount	0.000141
Total	0.000375
Average expenses	0.000020
Average net investment income	0.000355

Assuming an average net asset value per share of $1.00 for the relevant seven day period, the yield would be computed as follows:

$$\frac{\$0.000355}{\$1.00} \times 365 = 0.1296. \text{ (Yield} = 12.96\%)$$

[15] See Note 2, *supra*, and accompanying text.

[16] The staff has also responded to another no-action request concerning use of yield quotations in investment company advertisements, *Dechert Price & Rhoads*, available November 19, 1979. That request sought the staff's views concerning publication by a fund of an advertisement under Rule 434d containing current figures relative to portfolio composition, performance or yield, where th company's Section 10(a) [15 U.S.C. 77j(a)] prospectus contains an explanation of the derivation of such figures, as well a any assumptions on which the calculations are based and any other explanatory material necessary to avoid misleading inferences, but where the specific figures used in the advertisement are based on updated financial information not contained in the Section 10(a) prospectus.

In its response, the staff indicated the view that use of current yield quotations would not consttitute a violation of Rule 434d if (1) the company's Section 10(a) prospectus described the concepts of portfolio composition, performance, or yield that were used in the advertisement and (2) the current figures were based on facts which did not materially differ from those stated in the Section 10(a) prospectus.

[17] See the *Dechert Price & Rhoads* letter, discussed in note 10, *supra*.

By the Commission.
George A. Fitzsimmons,
Secretary.
Dated: January 28, 1980.
[FR Doc 80-3573 Filed 2-1-80; 8:45 am]
BILLING CODE 6010-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL 1404-3]

Commonwealth of Virginia; Section 107—Attainment Status Designations

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Commonwealth of virginia has revised its list of air quality attainment designations for one area within the State with respect to Ozone (O_3). The State has changed the designation for Smythe County from nonattainment of primary standards to attainment.

On August 28, 1979, the Commonwelath of Virginia submitted this revision to the Environmental Protection Agency, along with supporting information, for promulgation under Section 107(d) of the Clean Air Act.

EPA proposes to approve this change submitted by the Commonwealth of Virginia. The purpose of this notice is to solicit public comment on this proposed action. All other Section 107 designations for the Commonwealth of Virginia not discussed in this notice remain intact, 43 FR 40502 et seq.

DATE: Comments on the proposed designation change must be submitted on or before April 4, 1980.

ADDRESSES: Copies of the associated support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, 6th & Walnut Streets, Philadelphia, PA 19106.
Virginia State Air Pollution Control Board, Room 1106–Ninth Street Office Building, Richmond, Virginia 23219, ATTN: Mr. John M. Daniel, Jr.
Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

All comments should be addressed to:

Mr. Howard R. Heim Jr., Chief (3AH10), Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, 6th & Walnut Streets, Philadelphia, PA 19106.

FOR FURTHER INFORMATION CONTACT:
Ms. Milagros DeLeon (3AH12), U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, 6th & Walnut Streets, Philadelphia, PA 19106, Phone: 215/597–9555.

SUPPLEMENTARY INFORMATION

Background

Section 107(d)(1) of the Clean Air Act (Act) requires the States to submit to the Administrator a list identifying all air quality control areas, or portions thereof, that have not attained the National Ambient Air Quality Standards. The Act further requires that the Administrator promulgate this list, with such modifications as he deems necessary, as required by section 107(d)(2) of the Act. On March 3, 1978, the Administrator promulgated nonattainment designations for the Commonwealth of Virginia for Ozone (O_3), 44 FR 8962. These designations were effective immediately and public comment was solicited. On September 12, 1978, in response to the comments received, the Administrator revised and ammeded some of the original designations, 43 FR 40502. The Act also provides that a State from time to time, may review and revise its designations list and submit these revisions to the Administrator for promulgation (Section 107(d)(5) of the Act). The criteria and policy guidelines governing these revisions and the Administrator's review of them are the same that were used in the original designations and which are summarized in the Federal Register on March 3, 1978, 43 FR 8962, September 11, 1978, 43 FR 40412 and September 12, 1978, 43 Fed. Reg. 40502. The Commonwealth of Virginia has revised its original designations list and on August 28, 1979, submitted these revisions to EPA.

Proposed O_3 Redesignation

The Commonwealth of virginia has revised the O_3 designation for Smythe County from nonattainment of primary O_3 standards to attainment. On February 8, 1979, the Administrator promulgated a revision to the National Ambient Air Quality Standards for Ozone, 44 FR 8202 et seq. Pursuant to this revision, the State submitted air quality data supporting a redesignation request from nonattainment status for Smythe County since the area had never experienced readings greater than 0.12 ppm. Therefore, EPA proposes to redesignate this area to "attainment" in accordance with Virginia's revision.

Submittal of Public Comments

The public is invited to comment on whether or not Smythe County area, currently a nonattainment area for the O_3 standards, should be redesignated as an attainment area.

All comments received on or before April 4, 1980 will be considered. However, until EPA actually promulgates a final redesignation changing the area to attainment, the requirement to submit a State Implementation Plan revision for Smythe County satisfying Part D of the 1977 Clean Air Act Amendment will continue to apply. All comments should be addressed to:

Mr. Howard R. Heim Jr., Chief (8AH10), Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, 6th & Walnut Streets, Philadelphia, PA 19106.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirement of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sections 107(d), 171(2), 301(a) of the Clean Air Act as amended (42 U.S.C. 7407(d), 7501(2), 7601(a))

Dated: December 17, 1979.

A. R. Morris,
Acting Regional Administrator.

[FR Doc. 80-3505 Filed 2-1-80; 8:45 am]
BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

45 CFR Parts 179, 194, and 196

Graduate and Professional Study Fellowships and Institutional Grants; Public Service Education Program; and Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships

AGENCY: Office of Education, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commissioner of Education amends the regulations for the Graduate and Professional Study Fellowships and Institutional Grants Program; Public Service Education Program; and the Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships Program. The regulations are intended to increase the stipend amount to provide for cost of living increases that have occured since the stipend amount was last determined. The regulations also stipulate the rate of the institutional allowance which is paid, in lieu of tuition and fees, to the institutions participating in the Graduate and Professional Opportunities Fellowship Program.

DATES: Comments must be received on or before March 20, 1980.

ADDRESSES: Comments should be addressed to Dr. Donald N. Bigelow, Graduate Training Branch, Division of Training and Facilities, Bureau of Higher and Continuing Education, U.S. Office of Education (Room 3060, ROB–3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:
Dr. Donald N. Bigelow, telephone: (202) 245–2347.

SUPPLEMENTARY INFORMATION: Title IX–B of the Higher Education Act, as amended provides fellowships for graduate study to persons from groups traditionally underrepresented in graduate and professional fields. Final regulations for this program were published in the Federal Register on March 6, 1978.

Title IX–C of the same Act provides graduate fellowships in the field of public service. Final regulations were published in the Federal Register on August 9, 1977.

Title IX–D of the Act provides graduate fellowships for needy and well qualified students to study in fields related to domestic mining and mineral and mineral fuel conservation. Final regulations were published in the Federal Register on August 3, 1977.

Invitation to Comment

Interested persons are invited to submit comments, suggestions, and recommendations to be considered before the final regulations are issued. Comments, suggestions, or recommendations may be sent to the address provided above.

Comments submitted in response to these proposed regulations will be available for public inspection during and after the comment period in Room 3060, Regional Office Building No. 3, 7th and D Streets, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except on Federal holidays.

(Catalog of Federal Domestic Assistance Nos. 13.580; 13.555; 13.567).

Dated: January 29, 1980.

William L. Smith,
U.S. Commissioner of Education.

PART 179—GRADUATE AND PROFESSIONAL STUDY FELLOWSHIPS AND INSTITUTIONAL GRANTS

Part 179 of Title 45 of the Code of Federal Regulations is amended by revising § 179.50(a) and § 179.51 (a) and (b) to read as follows:

§ 179.50 Amount of the fellowship.

(a) The maximum stipend to any fellow is $4,500 for a 12 month year payable at the monthly rate of $375 for any period the fellow is enrolled in the program.

* * * * * *

§ 179.51 Institutional allowance.

(a) The institution of higher education at which the fellow is pursuing his or her course of study shall be paid $3,900 per 12 month period, except that any amount charged to and collected from the fellow by the institution as part of the fellow's instruction program shall be deducted from this amount. If the fellow is enrolled for less than 12 months the institution will be paid a pro rata share of the amount.

(b) Although the institutional allowance accrues on a monthly basis, the institution is entitled to claim one-half of this amount as soon as the fellow has been enrolled for two weeks. It is entitled to claim the remaining amount when the fellow has been enrolled for six and one-half months.

(20 U.S.C. 1134g(b))

* * * * *

PART 194—PUBLIC SERVICE EDUCATION PROGRAM

Part 194 of Title 45 of the Code of Federal Regulations is amended by revising § 194.27(a) to read as follows:

§ 194.27 Stipend.

(a) The maximum stipend to any fellow is $4,500 for a 12 month year payable at the monthly rate of $375 for any period the fellow is enrolled in the program.

* * * * *

PART 196—DOMESTIC MINING AND MINERAL AND MINERAL FUEL CONSERVATION FELLOWSHIPS PROGRAM

Part 196 of Title 45 of the Code of Federal Regulations is amended by revising § 196.7(a) to read as follows:

§ 196.7 Stipend.

(a) The maximum stipend to any fellow is $4,500 for a 12 month year payable at the monthly rate of $375 for any period the fellow is enrolled in the program.

* * * * * *

[FR Doc. 80-3578 Filed 2-1-80; 8:45 am]
BILLING CODE 4110-02-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 90 and 99

[Gen. Docket No. 80-7; RM-3059; RM-2726; and RM-2101; FCC 80-11]

Establishing a Disaster Radio Response Program in the Local Government Radion Service for States, Territories, and Possessions

AGENCY: Federal Communicatfons Commission.

ACTION: Proposed rulemaking.

SUMMARY: This notice of proposed rulemaking proposes to reallocate frequencies and provide standards and requirements in the Local government Radio Service (Part 90) to allow states, territories, and possessions to develop disaster radio response communications systems. This new program is in response to requests and proposals that the Commission has received in a number of petitions for rulemaking. This new program will permit state agencies, territories, etc. to provide effective communications capability in civil disasters and emergencies.

DATES: Comments must be received on or before April 4, 1980 and Reply Comments must be received on or before May 5, 1980.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Richard Taube, Private Radio Bureau (202) 632–6497.

Adopted: January 16, 1980.

Released: January 25, 1980.

In the matter of amendment of Parts 2, 90, and 99 of the Commission's rules to establish a disaster radio response program in the Local Government Radio Service for States, Territories, and Possessions. Gen. Docket No. 80–7, RM–3059, RM–2726, RM–2101.

By the Commission:

1. The Commission proposes amending its Rules to provide for the development of a civil disaster response program by States, Territories, and Possessions. The program may be titled "Operation SECURE", and acronym for State Emergency Capability Using Radio Effectively.

Background

2. This program is intended to respond to requests and proposals that we have received in a number of petitions for rule making. One of the petitions (RM–3059) is from the Associated Public-Safety Communications Officers, Inc. (APCO). APCO presents a well

documented need for both a rules structure and frequency allocations that would permit state agencies to provide effective communications response capability in civil disasters and emergencies. APCO states:

> State agencies charged with direction, control and coordination of rescue efforts after floods, tornadoes, hurricanes, and other disasters are often called upon to operate them when all other communication systems in impacted areas are destroyed or swamped in panic and confusion... In these situations, the State Civil Preparedness Agency should be able to drop into the impacted area a civil preparedness employee with portable, battery-powered equipment operating in the single-side band mode on a high band frequency which can establish a direct reliable link with the state EOC (Emergency Operating Center)... Sufficient frequencies * * * would thus enable the establishment and maintenance of professional, coordinated relief efforts necessary to extend the maximum effective relief to victims of a civil disaster.... It is APCO's conclusion that a state agency, which by statute is given the commanding role in civil relief efforts, cannot perform its functions to maximum effectiveness with the radio frequency resources available in the FCC Rules.

3. The frequencies APCO suggests for this emergency response capability are the high frequency (HF) channels between 2 and 10 MHz. APCO regards these bands as "the best available resource" by virtue of their long-range propagational characteristics. APCO also suggests that a new radio service to be designated the "Civil Preparedness Radio Service" be established to accommodate these licensing requirements.

4. A second petition (RM–2776) of a very similar nature has been filed by the State of Florida Division of Disaster Preparedness. Florida also asserts the need noted by APCO to provide emergency response capability on a statewide basis and notes:

> Present radio systems for civil defense are Lo-Band VHF Local Government Radio and the Radio Amateur Civil Emergency Service * * *. State and Area Emergency Operating Centers must have a high reliability point-to-point system for maintaining proper State to Area coordination during emergency response periods. Our Petition for Rule Making is based upon point-to-point radio communication being essential for our intrastate emergency response.... The allocation of frequencies in the 2–3 MHz, 4–5 MHz, and 6.5–8 MHz spectrum to the Local Government Radio Service using A3J emission (single sideband radiotelephony) is essential for successful emergency response. The success of any emergency response action, whether it be man-made or natural, is dependent on ability to transmit and receive essential information relevant to the operation.

5. We are including for consideration a third petition that deals with these same general problems. This petition (RM–2101) was submitted a number of years ago by the Southern California Civil Defense and Disaster Association (SCCDDA) but here the petitioner requests the allocation of frequencies in the 26 MHz band to address disaster radio communication needs. Action was deferred in this petition pending the recent expansion and development of Personal Radio Service operations into the 26 MHz band for addressing the communication requirements involved. However, it now appears that the emphasis and advantages lie in development of response capability at 2 to 10 MHz and we are including this petition on the merits of the more broad-based issues with respect to providing a national disaster response radio capability.

6. The proposals in these petitions, particularly APCO's requests, received a great deal of support. (Attachment A lists parties who commented) Essentially, there was agreement that the capability for States to set up private operational fixed communication sites in disaster areas where other communication systems proved to be unavailable or inoperative is a realistic and important requirement. The comments also agreed that present allocations and the various standards for their use in civil emergencies are inadequate to meet long-range point-to-point communication requirements. As to numbers and selection of frequency bands for accommodating disaster communication requirements, there was some diversity in the suggestions. However, generally, most parties agreed that the necessary favorable long-range propagational characteristics of HF frequency bands between 2 and 10 MHz indicated that only channels of this range would be feasible.

Discussion

7. The Commission has looked very closely and critically at the problems and requirements under the present radio service rules and frequency allocation structure with respect to civil disaster radio capability. We recognize fully that one of our missions as emphasized in the Communications Act is the promotion of safety of life and property through the use of radio communications. Over the years, radio frequencies have been allocated on a priority basis for public agencies whose job is to protect life and property on a day-to-day basis. As a result, we have seen the development of first class public safety radio communication systems in most local areas.

8. By contrast, the picture for emergency preparedness for extended area disaster situations is not nearly as bright. Historically, a major problem has been that resources for emergency response capability have usually been provided to local communities for development of local area emergency response programs. It is only very recently that most States are providing planning and resources for first-line emergency response capability. Another problem is that little of the planning for disaster response has contemplated that frequencies will be dedicated for widespread emergencies. Instead, most plans provide that radio systems that are ordinarily used for other purposes are to be converted to emergency use only when a disaster occurs. Thus, broadcast stations under existing plans may become emergency broadcasters, and police, fire, utility, local government, taxicab, etc., systems become communication linkages for an emergency and disaster response effort only on an as-needed basis with little assurance that they can meet the requirements either in numbers of frequencies or in terms of operational dependability. The point is that with few exceptions frequencies are not allocated or used exclusively for civil disaster preparedness purposes and this has curtailed the development of reliable systems for those purposes.

9. In light of these factors, we agree with the appraisal of the petitioners and their arguments advocating that the situation must be changed. This is reinforced by the experiences we have had in recent years with large scale floods, hurricanes, and with accidents such as have occurred at nuclear energy sites that demand that our communications response capabilities be improved. To this end, the Commission proposes a rule making initiative that is designed to foster, through the use of two-way radio facilities, nationwide disaster response planning and capability.

10. The key to the success of the program lies in the development of a frequency complex and assignment structure that can allow states to respond to disaster emergency requirements at any time or place. This is a difficult proposition since the frequencies that are needed for this purpose are going to have to come from low-band channels at 2–10 MHz. Frequencies in this range are able to provide the distance coverage necessary for establishing contact between state emergency centers and disaster scenes. At the same time, operation in any one segment of the 2–10 MHz band will not provide around-the-clock reliable capability for larger states where required transmittal distances could be hundreds of miles. There are also time-of-day factors which increase potential world-wide interference problems in this part of the spectrum. This is true because of the variations that occur in ionospheric propagation characteristics in different band segments. It is necessary, therefore, to have a complex of frequencies so as to accommodate these variations for operational dependability on a 24-hour basis.

The Proposals

11. With these factors in mind, we have examined the frequency structure and availability of channels at 2–10 MHz for private land mobile operations in disaster emergencies. We propose to reallocate or provide access to these frequencies to the extent feasible so that they may be used in the Local Government Radio Service (Part 90). The suggestion that a new radio service be established for these disaster communication requirements is not considered appropriate. Eligibility for necessary licensing is already provided in the Local Government Radio Service and it has been the Commission's policy to avoid proliferation of radio services. Eligibility for licensing would be limited to the fifty states, territories, and possessions. The development of disaster response capability at this level should solve the problems associated with the present fragmented approaches. Also, this licensing limitation should significantly simplify the development of programs and the operation of systems under area-wide plans that produce uniform and comprehensive coverage.

12. The first group of available frequencies is the total frequency complex available in the Disaster Communications Service (Part 99) and is just below the 2–10 MHz band. These frequencies are in the 1750–1800 kHz band.[1] For disaster radio, this band experiences significant propagational limitations which reduce effectiveness at long ranges. As a result, there are only about one dozen authorizations outstanding in the Disaster Communications Service. Nevertheless, we propose to retain these channels for the limited purposes that they can serve in disaster emergencies. The frequencies would be reallocated to the Local Government Radio Service as part of the emergency response program. However, the present authorizations would be "grandfathered" for an additional five-year license term. With this reallocation, the Disaster Communications Service would serve no further purpose and it is proposed to be deleted. Organizations of the type that are licensed in this radio service should be able to establish eligibility, if desired, as Disaster Relief Organizations for licensing in the Special Emergency Radio Service under Section 90.41 of the Commission's Rules.

13. A number of HF frequencies at 2–8 MHz are allotted to the Police Radio Service for mobile or fixed service use. These frequencies are allotted to police users for interzone radiotelegraphy operations, a use that no longer appears to be needed. A licensee survey shows that there are only eight police licensees—all in the fixed service—but they have been inactive for at least five years. Accordingly, we see no need for retaining these channels for this use and since they would add importantly to available spectrum at 2–8 MHz for the disaster response program, we are proposing that the following frequencies from this group be reallotted to the Local Government Radio Service for that purpose: 2323, 2326, 2411, 2414, 2419, 2422, 2463, 2466, 2471, 2474, 2801, 2804, 2808, 2812, 5132, 5135, 5140, 5192, 5195, 7477, 7480, 7802, 7805, 7932, and 7935 KHz.[2]

14. Six carrier frequencies from a reserved group at 2 MHz have been identified. These frequencies are presently unallotted and will also serve to accommodate requirements in a disaster response program. The frequencies proposed are 2439, 2487, 2511, 2535, 2569, and 2587 kHz.[3]

15. It is noted that APCO recommended that a total of ten frequencies be made available for assignment nationwide for disaster radio communications, out of which complex a licensee would select the number needed for its disaster communications system. As can be seen, we have proposed to allot many more than this number. This is because it appears to be unrealistic that ten frequencies can be found that are available at all locations nationwide. Further, there are many long-standing national and international commitments to the use of HF spectrum which can impact significantly on many, if not all, of the proposed frequencies. In addition, the results reached at the 1979 World Administrative Radio Conference[4] in Geneva, Switzerland, will affect access to high frequency (HF) spectrum and could well effect the availability of the bands and frequencies we have proposed. It is, however, too early to understand the full implications of the Conference and of any allocation change that may become necessary domestically after the ratification process. Although, it is expected that the impact on the bands and the frequencies proposed will be minimal, the Commission does solicit comments on this matter.

16. For these same considerations, in adition to the indicated specified frequencies, we have looked at frequency bands at 2–10 MHz that may be viable for use in this program, as set forth in Part 2.106, Table of Frequency Allocations, of our rules. In the interest of enhancing the available spectrum for disaster response capability, we propose to permit access wherever feasible to these 2–10 MHz bands. At the present time, apparent appropriate frequency bands for use in land mobile operations are as follow: 2194–2495, 2505–2850, 3155–3400, 4000–4063, 4438–4650, 4750–4995, 5005–5450, 5730–5950, 6765–7000, 7300–8195, 9040–9500, and 9775–9995 kHz. In these bands, applicants would make selection of frequencies only where the use would not interfere with existing operations in the same or other radio services. Applicants for such channels would be required to submit with their applications an engineering study showing interference potential to and from existing users. These could include Federal government users[4] and non-government users as indicated on Attachment B which is an excerpt from the Part 2 Table of Frequency Allocations.

Further, the assignment of frequencies in those bands that are specifically allocated for fixed common carrier services use is subject to pre-emption by re-assignment for such common carrier use.

17. As can be seen, the thrust of the proposals for this program is to see developed a nationwide radio capability for response to disaster emergencies. We believe that a program of this nature is timely and is consistent with the emphasis on emergency preparedness as evidenced by the efforts in both the State and federal sectors which are consolidating and upgrading disaster response capabilities. For example, the

[1] These frequencies are shared for use in the Radiolocation Radio Service (Part 90). Operations in that service do not impact on Disaster Radio Service systems.

[2] These frequencies are being coordinated with the Interdepartment Radio Advisory Committee (IRAC) for any conflict between their proposed use and Federal government operations. On the basis of determinations by IRAC, it may be necessary to modify these frequency re-allotments to some extent when final action is taken in this proceeding.

[3] Ibid.

[4] Copies of the draft Final Acts are available for inspection at the FCC Library at 1919 M Street, N.W.

[4] For Federal government use which is generally "classified," the Commission would accomplish necessary coordination.

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recent establishment of a "Plan for Nationwide use of the Emergency Broadcast System for State and Local Emergencies" developed by the Federal Communications Commission, the National Weather Service (NWS), the Defense Civil Preparedness Agency (DCPA), (DCPA is now part of the new Federal Emergency Management Agency), and the Commission's National Industry Advisory Committee (NIAC) is intended to organize and provide focus on Federal, state and local efforts to disseminate to the public warnings of possible or impending "short fuse" natural disasters or industrial hazards. This program has been successful and the EBS is being used by Governors, the NWS and state and local civil defense officials on an increasing basis. In consideration of these factors, the Commission considers it to be imperative that the use of spectrum allocated for this program be optimized to assure the reliability of the emergency radio response systems which are envisioned under this program. To these ends, we propose to include provisions that should help to promote spectrally-efficient systems that will cover all geographic locations comprehensively and effectively for the purposes of disaster emergency response. One important requirement proposed for these purposes is that the various applicant jurisdictions submit acceptable Emrgency Disaster Response Communications Plans with their applications. These plans would be required to be compatible with approved Emergency Broadcast Systems (EBS) planning or, in the absence of EBS plans, with approved State Communications Plans which deal with emergency broadcast requirements.

18. We recognize and take no issue with the likelihood that there will be as many variations as there are acceptable plans. Basically, however, we hope to see, as common denominators in any planning, standards which at least assure that all geographic sectors of a jurisdiction will be provided disaster radio coverage, that the radio equipment will be fully operable as demonstrated by adequate testing procedures, that the necessary site facilities and manpower resources are in place, and that required interface with surrounding jurisdictions has been accomplished.

19. Technical standards for use of the 2–10 MHz band frequencies are set forth in present rules provisions in Part 90. We propose to add a requirement that all systems employ single sideband (A3J) emission. Also, testing and technical standards for radio equipment to help to assure operability at all times would be included in rules adopted for accommodating this program.

20. Finally, since it would appear that the communications systems contemplated here would be operated only during emergencies and in training exercises, comments are invited on whether the same frequencies should also be made available for shared use by other non-essential purposes on a secondary basis. The comments should discuss fully any practical problems, and should identify the types of uses for which these frequencies should also be made available.

Conclusion

21. In consideration of the foregoing, the Commission concludes that it is in the public interest to initiate rule making that can provide effective radio capability in the Local Government Radio Service for response to disaster emergencies by state, territory and possession authorities. Essentially, amendment of the Commission's Rules would be effected as follows:

A. part 99 Disaster Communications Service, would be deleted.

B. Part 90, Local Government Radio Service, would be amended to establish a disaster response program. Frequencies for use in the program would include: 1750:1800 kHz channels re-allocated from the Disaster Communications Service; 25 channels between 2–8 MHz, re-allotted from the Police Radio Service; six frequencies allotted at 2 MHz from a reserve frequency group; access to unspecified frequencies in twelve 2–10 MHz bands as shown in Part 2, subject to the conditions specified in paragraph 16, above.

C. Eligibility for use of these frequencies would be limited to states, territories, and possessions.

D. Applications for use of these frequencies would require communications plans that are approved by the Commission.

22. Accordingly, the extent indicated herein, the petitions RM–3059, from the Associated Public-Safety Communications Officers, Inc., RM–2726, from the State of Florida Division of Disaster Preparedness, and RM–2101, from the Southern California Civil Defense and Disaster Association, ARE GRANTED, and Notice of Proposed Rule Making IS HEREBY ADOPTED TO AMEND Parts 2, 90 and 99 of the Commission's Rules to incorporate an emergency disaster response program as described herein in the Local Government Radio Service. Authority for issuance of this Notice is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to procedures set out in Section 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before April 4, 1980, and reply comments on or before May 5, 1980. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

23. In accordance with the provisions of Section 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A.—Comments Received in RM–3059

Dorchester County, Md. Civil Defense and Disaster Preparedness Agency
Washington, D.C. Office of Emergency Preparedness
Nebraska, Military Dept., State Civil Defense Agency
Ohio Disaster Services Agency
Alaska Division of Emergency Services
Wicomico County, Md. Civil Defense and Disaster Preparedness Agency
Baltimore, Md. Office of Disaster Control and Civil Defense
Morgan County, W.V., Office of Emergency Services
Allegany County, Md. Civil Defense and Emergency Planning Agency
St. Louis County, Missouri, Office of Civil Preparedness
Maryland Civil Defense and Disaster Preparedness Agency
Wisconsin Division of Emergency Government
Vermont Department of Public Safety
Florida Department of Community Affairs
Iowa Office of Disaster Services
Indiana Department of Civil Defense
Puerto Rico Office of Civil Defense
Defense Civil Preparedness Agency, Central Falls, RI

Washington County, Md., Civil Defense and Disaster Preparedness Agency
Defense Civil Preparedness Agency, Lincoln., RI
Carroll County, Md., Civil Defense and Emergency Planning Agency
Central Falls, RI, Defense Civil Preparedness Agency
Washington County, Md. Civil Defense and Disaster Preparedness Agency
West Virginia Office of Emergency Services
Colorado Dept. of Military Affairs, Director of Disaster Emergency Services
U.S. Civil Defense Council
Johnston, R.I. Defense Civil Preparedness Agency
New Jersey Dept. of Defense
Frank R. Warden, Jr., Little Compton, R.I.
Marshall County, W. Vir. Office of Emergency Services
Kent County, Md., Civil Defense and Disaster Preparedness Agency
Caroline County, Md., Civil Defense and Disaster Preparedness Agency
Calvert County, Md., Civil Defense and Emergency Planning Agency
Florida Civil Defense Association
Worcester County, Md., Civil Defense and Disaster Preparedness Agency
Hawaii Office of Civil Defense
Hartford County, Md., Dept. of Disaster Preparedness and Civil Defense
Georgia Dept. of Defense, Civil Defense Division
Smyrna, Georgia Civil Defense Department
Rhode Island Defense Civil Preparedness Agency
Virginia Public Telecommunications Council
Elbert O'Keeffe, Hagerstown, Md.
U.S. Dept. of Defense
Montgomery County, Md., Office of Civil Defense and Emergency Planning
Anne Arundel County, Md., Office of Civil Defense
Howard County, Md., Office of Civil Defense
Baltimore County, Md., Bureau of Civil Defense
Washington Dept. of Emergency Services
Charles County, Md., Civil Defense and Disaster Preparedness Agency
Virginia State Office of Emergency Services
Mercer County, Pa. Civil Defense
County of Bucks, Pa., Council of Civil Defense
Luzerne County, Pa., Civil Defense Council
Clearfield County, Pa., Civil Defense
St. Mary's County, Md., Civil Defense and Disaster Preparedness Agency
Georgia Civil Defense Association

Reply Comments

Associated Public Safety Communications Officers, Inc. (APCO)

Comments Received in RM–2101

Riverside, California, Office of Disaster Preparedness

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APPENDIX B

(PART 2 frequency bands to be made available)

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proposal in part when it imposed marginal reserve requirements on managed liabilities of institutions subject to reserve requirements (44 FR 60071, October 18, 1979).

Authority. Federal Reserve Act, 12 U.S.C. 461(a) and (b).

Staff contact. Gilbert T. Schwartz, Assistant General Counsel, Legal Division (202–452–3625).

2. E (Electronic Fund Transfers)

Action taken. In August 1979, the Board adopted an amendment to Regulation E to provide that written notice of loss or theft of an access device or possible unauthorized electronic fund transfers is effective at the time the consumer mails or otherwise sends the notice to the financial institution (44 FR 46432, August 8, 1979).

Authority. Electronic Fund Transfer Act, 15 U.S.C. 1693b.

Staff contact. Lynne B. Barr, Senior Attorney, Division of Consumer and Community Affairs, (202–452–2412).

3. H (Membership of State Banking Institutions in the Federal Reserve System)

Action taken. In June 1979, the Board adopted amendments to Regulation H to require that State member banks that effect certain securities transactions for customers provide confirmation and maintain records with respect to such transactions. At the same time the Board invited public comment on areas dealing with confirmation requirements as they apply to transactions in U.S. Government, federal agency and municipal securities and on the bank officers and employees reporting requirements as they apply to transactions in U.S. Government or federal agency obligations. Following review of the comments received, the Board in December 1979, adopted a final rule substantially similar to that adopted in June 1979 (44 FR 76481, December 27, 1979).

Authority. Federal Reserve Act, 12 U.S.C. 248(a) and (i), and 321. Federal Deposit Insurance Act, 12 U.S.C. 1818(b).

Staff contact. Robert S. Plotkin, Assistant Director, Division of Banking Surpervision and Regulation, (202–452–2782); Robert A. Wallgren, Chief, Trust Activities Program, Division of Banking Supervision and Regulation, (202–452–2717).

4. Z (Truth in Lending)

Action taken. In September 1979, the Board revoked an amendment and interpretation of Regulation Z which reduced the obligation of creditors to provide a right of recission for each transaction under open end accounts secured by consumer's residences (44 FR 55553, September 27, 1979). The revocation will be effective March 31, 1980.

Authority. Truth in Lending Act, 15, U.S.C. Section 1604.

Staff contact. Robert S. Plows, Assistant Director, Division of Consumer and Community Affairs, (202–452–3667).

II. Regulatory Matter That Have Been Proposed and Will Involve Further Board Consideration

A. Regulatory Actions Resulting From Recent Legislation, or From Regulatory Decisions of Other Federal Agencies

*** * 1. D (Reserves of Member Banks) Q (Interest on Deposits)**

Action taken. In July 1979, the Board, pursuant to provisions of the International Banking Act (IBA), approved publishing for public comment proposed amendments to Regulations D and Q to make United States branches and agencies of foreign banks subject to reserve requirements and interest rate ceilings currently applicable to member banks (44 FR 44878, July 31, 1979). The Board's proposals to implement the provisions of IBA will facilitate the conduct of monetary policy and will promote fair competition by treating branches and agencies like member banks to the fullest extent possible. The Board will review the comments received on the draft amendments and is expected to take final action within the next six months.

Authority. International Banking Act, 12 U.S.C. 3105.

Staff contract. Edward C. Ettin, Deputy Staff Director, Office of Staff Director for Monetary and Financial Policy, (202–452–3762).

*** * 2. F (Securities of Member State Banks**

Action taken. In December 1979, the Board issued for public comment proposed amendments to certain portions of Reglation F concerning form and content of financial statements included in registration statements, annual reports and other periodic reports (44 FR 76551, December 27, 1979). These changes are required, in part, to make the Board's Regulation F substantially similar to regulations of the Securities and Exchange Commission. Concurrently, the proposed incorporation by reference of instructions for the preparation of supervisory financial reports is an undertaking to reduce the reporting burden of registrant banks. The Board will review the comments received on the draft amendments and is expected to take final action on the proposal during the next six months.

Authority. Securities Exchange Act of 1934, 15 U.S.C. 78(i).

Staff contract. Thomas A. Sidman, Assistant Director, Division of Banking Supervision and Regulation, (202–452–3503); Richard M. Whiting, Senior Attorney, Legal Division, (202–452–3779).

*** * 3. L (Management Official Interlocks)**

Action taken. In June 1979, the Board and the other Federal agencies supervising federally insured depository institutions adopted final regulations under the Depository Institutions Management Interlocks Act that prohibit certain management official interlocks between depository organizations (44 FR 42212, July 19, 1979). The Board and the other agencies at the same time proposed clarifying amendments to the final regulations (1) to define the term "representative or nominee" under the Act, (2) to add provisions regarding grandfather rights and changes in circumstances, and (3) to request comment on the issue whether a corporation is a management official under the Act. In addition the Board and the other agencies invited public comment on the final regulation; following review of the comments received on both the proposed amendments and the final regulation, the Board will determine during the next six months what further action should be taken.

Authority. Depository Institutions Management Interlocks Act, 12 U.S.C. 3207.

Staff contact. Bronwen Mason, Senior Attorney, Legal Division, (202–452–3564).

*** * 4. O (Loans to Executive Officers of Member Banks)**

Action taken. In February 1979, the Board adopted regulations to implement certain additional requirements imposed on loans by member banks to certain persons under the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (44 FR 12959, March 9, 1979). The additional requirements relate to loans by a member bank to executive officers, directors and principal shareholders of the member bank and of its holding company affiliates. At the same time the Board invited public comment on the final regulation; following review of the comments received, the Board will determine during the next six months whether further action should be taken.

Authority. Section 22(h) of the Federal Reserve Act, 12 U.S.C. 375b.

Staff contact. James V. Mattingly, Assistant General Counsel, Legal Division, (202–452–3430).

**** 5. T (Credit by Brokers and Dealers)**

Action taken. In December 1976, April 1977, and August 1979 the Board issued for public comment a proposed amendment to Regulation T to permit options specialists to both purchase and sell short stock underlying the options in which they specialize, with a 25 percent margin requirement (41 FR 55552, December 21, 1976, 42 FR 22884, May 5, 1977, and 44 FR 47775, August 15, 1979). The proposed amendment also recognizes exchange rules approved by the Securities and Exchange Commission which allow trading inputs and calls by specialists on their specialty stock, and provides comparable relief for such hedging activities. The Board will review the comments received on the draft amendments and is expected to take final action on the proposal during the next six months.

Authority. Securities Exchange Act of 1934, 15 U.S.C. 78g.

Staff contact. Laura Homer, Chief Attorney; Theodore W. Prush, Senior Securities Regulation Analyst, Securities Regulation Section, Division of Banking Supervision and Regulation (202–452–2781).

**** 6. Y (Bank Holding Companies Change in Bank Control)**

Action taken. In February 1979, the Board adopted regulations to implement the Change in Bank Control Act, under which any person seeking to acquire control of any insured bank or bank holding company must provide 60 days' prior written notice to the appropriate Federal banking agency. At the same time the Board invited public comment on the final regulations (44 FR 7229, February 6, 1979); following review of the comments received, the Board will determine whether further action should be taken.

Authority. Change in Bank Control Act of 1978, 12 U.S.C. 18176(j).

Staff contact. James McAfee, Senior Attorney, Legal Division, (202–452–3707); Jack M. Egertson, Assistant Director, Division of Banking Supervision and Regulation, (202–452–3408).

*** * 7. Proposal to be made part of the new Board regulation governing international banking operations (Regulations K, International Banking Operations)**

Action taken. Under the International Banking Act (IBA), the Board in November 1979 issued for public comment proposals relating to the selection of a "home State" by foreign banks with U.S. offices (44 FR 62903, November 1, 1979). The IBA provides for the determination of a foreign bank's "home State."

Criteria for determining a foreign bank's home State and procedures for changing the home State once it is determined require Board regulation. The Board will review the comments received on the draft proposals and is expected to take final action within the next six months.

Authority. International Banking Act of 1978, 12 U.S.C. 3101. Bank Holding Company Act, 12 U.S.C. 1844.

Staff contact. C. Keefe Hurley, Jr., Senior Counsel, Legal Division (202–452–3289).

B. Actions Intended To Reduce Regulatory Burden or to Clarify Existing Regulations

**** 1. B (Equal Credit Opportunity)**

Action taken. In April 1979, the Board, in response to requests for clarification, requested public comment on how the specific rules of Regulation B should apply to various credit scoring practices (44 FR 23865, April 23, 1979). The Board will decide within the next six months what regulatory action appears appropriate.

Authority. Section 703(a) of the Equal Credit Opportunity Act, 15 U.S.C. 1691b(a).

Staff contact. Dolores S. Smith, Section Chief, Division of Consumer and Community Affairs (202–452–2412).

**** 2. B (Equal Credit Opportunity)**

Action taken. In October 1978 the Board proposed for comment several amendments to the regulation. In April of 1979 one of the proposals was adopted (44 FR 23813, April 23, 1979). The amendment clarified that persons who regularly refer consumers to creditors were subject to the general proscriptions against discrimination but were not subject to the mechanical and recordkeeping provisions of the regulation. Three proposals have yet to be acted upon. These proposals would extend record-keeping and adverse action notification requirements to business loans of under $100,000. Inquiries as to marital status of applicants would be prohibited in all business credit applications. It is expected that these matters will be considered by the Board during the next six months.

Authority. Equal Credit Opportunity Act, 15 U.S.C. 1691b.

Staff contact. Dolores S. Smith, Section Chief, Division of Consumer and Community Affairs, (202–452–2412).

**** 3. T (Credit By Brokers and Dealers)**

Action taken. In August 1979 the Board issued for public comment a proposed amendment to Regulation T to permit brokers and dealers to extend credit on fully paid for shares of open-end investment companies that are registered under the Investment Company Act of 1940. The amendment would remove the competitive disadvantage placed upon brokers and dealers as compared to banks and other lenders (44 FR 47776, August 15, 1979). Because of the restrictions contained in section 11(d)(1) of the Securities Exchange Act of 1934 a broker or dealer would not be permitted to extend credit on the initial purchase of such shares. The Board will review the comments received on the draft amendment and is expected to take final action on the proposal during the next six months.

Authority. Securities Exchange Act of 1934, 15 U.S.C. 78g.

Staff contact. Patsy Abelle, Senior Attorney; Theodore W. Prush, Senior Securities Regulation Analyst, Securities Regulation Section, Division of Banking Supervision and Regulation, (202–452–2781).

****4. Y (Bank Holding Companies and Change in Bank Control)**

Action taken. Following a review of its policies toward foreign bank holding companies, in April 1979 the Board issued for public comment a change in the definition of "foreign bank holding company" for purposes of section 4(c)(9) of the Bank Holding Company Act and section 225.4(g) of Regulation Y (44 FR 24864, April 27, 1979). Under current regulations, foreign bank holding companies are afforded certain exemptions from the nonbanking prohibitions applicable to bank holding companies. The proposed rule would amend the definition of "foreign bank holding company" to include only those foreign organizations principally engaged in banking outside the United States. The Board will review the comments received on the proposed amendment and is expected to take final action during the next six months.

Authority. Bank Holding Company Act, 12 U.S.C. 1844. International Banking Act of 1978, 12 U.S.C. 3106.

Staff contact. C. Keefe Hurley, Jr., Senior Counsel, Legal Division, (202–452–3289).

****5. Z (Truth in Lending)**

Action taken. In August 1978, the Board issued for public comment a

proposed interpretation of Regulation Z regarding an interest reduction on a time deposit used to secure a loan (43 FR 38849, August 31, 1978). Under Regulation Q, Interest on Deposits, the interest rate on a loan secured by a deposit must be at least 1% above the interest rate paid on the deposit. Where a state usury ceiling makes it necessary for a creditor to lower the interest on the deposit in order to maintain the rate differential required by Regulation Q, the proposed interpretation will require disclosure of the reduction, but the amount need not be included as part of the "finance charge." The Board is expected to take final action during the next six months.

Authority. Truth in Lending Act, 15 U.S.C. 1604.

Staff contact. Dolores S. Smith, Section Chief, Division of Consumer and Community Affairs, (202–452–2412).

C. Other Regulatory Activity

****1. B (Equal Credit Opportunity)**

Action taken. In July 1978, the five Federal financial regulatory agencies—Comptroller of the Currency, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, National Credit Union Administration, and the Federal Reserve Board—issued for public comment proposed uniform guidelines for enforcement of the Equal Credit Opportunity and Fair Housing Acts (43 FR 29256, July 6, 1978). The guidelines specify the kind of corrective action a creditor will be required to take for violations of the more substantive provisions of the Equal Credit Opportunity Act (Regulation B) and the Fair Housing Act. Based on the comments received, the agencies are reviewing a revised draft and further action is expected within the next six months.

Authority. Equal Credit Opportunity Act, 15 U.S.C. 1691. *et seq.* Federal Deposit Insurance Act, 12 U.S.C. 1818(b).

Staff contact. Jerauld C. Kluckman, Associate Director, Division of Consumer and Community Affairs, (202–452–3401).

****2. H (Membership of State Banking Institutions in the Federal Reserve System)**

Action taken. In April 1977, the Board issued for public comment a proposal to amend Regulation H to prohibit State member banks from purchasing loans on improved real estate or mobile homes located in flood hazard areas if the property is not covered by flood insurance (42 FR 20615, April 22, 1977). This proposal was issued under the Flood Disaster Protection Act, as amended, which presently required flood insurance on improved real estate that secures a loan of the property is located in a flood hazard area of a community that participates in the National Flood Insurance Program. The comments received on the proposed amendments have been reviewed by staff, and it is expected that the Board will take final action during the next six months.

Authority. Flood Disaster Protection Act, 42 U.S.C. 4012a(b) and 4128.

Staff contact: Daniel Rhoads, Attorney, Legal Division, (202–452–3711).

*** * 3. J (Collection of Checks and Other Items and Transfers of Funds)**

Action taken. In November 1979, the Board issued for public comment a proposed Subpart C to Regulation J. The purpose of proposed Subpart C is to set forth a system of rights and responsibilities governing the receipt and use of Federal Reserve electronic clearing and settlement services through automated clearing houses. At the present time individual agreements are in place with each of the 36 automated clearing house associations for which the Federal Reserve provides clearing and settlement services. This proposal is needed in view of the continuing increase in the volume of ACH transactions and the benefits that would be derived from the establishment of a uniform set of rules and responsibilities applicable to all participants in Federal Reserve ACH operations. The Board will review the comments received on the proposals and is expected to take final action within the next six months.

Authority. Federal Reserves Act, 12 U.S.C. 248(i)(j) and (o), 342 and 360.

Staff contact. Lee S. Adams, Senior Attorney, Legal Division, (202–452–3623).

*** * 4. J (Collection of Checks and Other Items and Transfers of Funds)**

Action taken. In April 1979, the Board requested public comment on the handling by Federal Reserve Banks of payment instruments that are not payable on demand (44 FR 24929, April 27, 1979). After consideration of the comments received, the Board will consider issuing for public comment during the next six months an amendment to Regulation J dealing with the treatment by Federal Reserve Banks in their check collection procedures of such instruments. This proposal will be considered in view of a recent court case in the Commonwealth of Pennsylvania where State-chartered savings banks are authorized to issue to their depositors noninterest bearing negotiable orders of withdrawal (NINOWs). The Pennsylvania Supreme Court recently determined that these instruments are not payable on demand, and thus Regulation J needs to be amended if Reserve Banks are to continue to collect these as cash items.

Authority. Federal Reserve Act, 12 U.S.C. 248(i), 248(o), 342 and 360.

Staff contact. Lee S. Adams, Senior Attorney, Legal Division, (202–452–3623).

*** * 5. Y (Bank Holding Companies and Change in Bank Control)**

Action taken. In March and May 1978, the Board issued for public comment proposals to amend its Regulation Y relating to permissible insurance activities for bank holding companies (43 FR 14970, April 10, 1978 and 43 FR 23588, May 31, 1978). These proposals would conform the regulation with the Federal court decision, *Alabama Association of Insurance Agents* v. *Board of Governors of the Federal Reserve System*, 553 F. 2d 224 (5th Cir. 1978), rehearing denied, 558 F. 2d 729 (1977), *cert.* denied 435 U.S. 904 (1978). In November 1979, the Board acted upon the latter of these proposals by amending Regulation Y so as to (1) permit, under certain circumstances, bank holding companies to engage in the activity of selling general insurance in towns with a population of 5,000 or less, and (2) prohibit bank holding companies from acting as general insurance agent in towns with inadequate insurance agency facilities (44 FR 65051, November 9, 1979). The Board will consider taking final action on the former of the two proposals during the next six months.

Authority. Bank Holding Company Act, 12 U.S.C. 1843(c)(8).

Staff contact. Richard M. Whiting, Senior Attorney, Legal Division, (202–452–3779).

III. Regulatory Matters the Board May Consider During the Next 6 Months

A. Regulatory Actions Resulting From Recent Legislation, or From Regulatory Decisions of Other Federal Agencies

*** * 1. AA (Unfair or Deceptive Acts and Practices)**

Anticipated action: The Board is required by the Federal Trade Commission Act, subject to certain exceptions, to adopt trade regulation rules applicable to banks that are substantially similar to those adopted by the FTC with regard to other creditors. The Board will consider issuing for public comment a new proposal to adopt a rule governing the preservation of consumers' claims and defenses (commonly known as the "creditor holder in due course rule") in response to a rule proposed by the FTC. The Board's rule was originally proposed on February 17, 1976 (41 FR 7110, February 17, 1976) before Regulation AA was adopted; the Board would consider the revised proposal as an amendment to Regulation AA. This proposal would require the insertion in certain credit contracts of a notice preserving a consumer's claims and defenses against a seller of goods or services against all holders of the contract. It is expected that the FTC will consider its proposed creditor rule on or about March 15, 1980.

Authority. Section 18(f) of Federal Trade Commission Act, 15 U.S.C. 41 *et. seq.*

Staff contact. Dolores S. Smith, Section Chief; David A. Myers, Attorney, Division of Consumer and Community Affairs, (202–452–2412).

**** 2. Proposal to be made part of the new Board regulation governing international banking operations (Regulation K, International Banking Operations)**

Anticipated action. Under the International Banking Act (IBA) the Board will consider issuing for public comment proposals relating to the nonbanking activities of foreign bank holding companies. A pending rulemaking proceeding would redefine the term "foreign bank holding company" and, thus, affect the eligibility of foreign organizations for exemptions from the nonbanking prohibitions of the Bank Holding Company Act. The IBA provides an exemption from the nonbanking prohibitions of the Bank Holding Company Act for certain qualifying banks. This exemption would permit foreign bank holding companies and foreign banks to engage in certain nonbanking activities indirectly in the United States and will be the subject of further Board regulation.

Authority. International Banking Act of 1978, 12 U.S.C. 3101. Bank Holding Company Act, 12 U.S.C. 1844.

Staff contact. C. Keefe Hurley, Jr., Senior Counsel, Legal Division, (202–452–3289).

B. Actions Intended To Reduce Regulatory Burden or To Clarify Existing Regulations

**** 1. K (International Banking Operations)**

Anticipated action. The Board will consider republishing for comment a proposal that would permit Edge Corporations to provide full banking services to a limited class of customers. Pursuant to the International Banking Act, a similar proposal was published for comment in February 1979, (44 FR 10509, February 21, 1979) to improve the competitive position of Edge Corporations.

Authority. International Banking Act of 1978, 12 U.S.C. 3101. Federal Reserve Act, 12 U.S.C. 601 and 615.

Staff contact. C. Keefe Hurley, Jr., Senior Counsel, Legal Division, (202–452–3289).

2. Q (Interest on Deposits)

Anticipated action. In response to a request from the public, the Board will consider issuing for public comment an amendment to Regulation Q (and Regulation D, Reserves of Member Banks) to increase the amount that business organizations may maintain in savings accounts at member banks from the present ceiling of $150,000. In considering this request, the Board will evaluate the potential effects such increases could have upon the conduct of monetary policy.

Authority. Federal Reserve Act, 12 U.S.C. 461(a) and (b) and 371b.

Staff contact. Gilbert T. Schwartz, Assistant General Counsel, Legal Division, (202–452–3625).

3. T (Credit by Brokers and Dealers)

Anticipated action. In response to requests from the New York Stock Exchange and the National Association of Securities Dealers, Inc., the Board will consider issuing for public comment proposed amendments to Regulation T regarding the time within which payment must be made for securities transactions in cash and margin accounts. The requested amendments would liberalize the time for payment provisions in the margin account and provide some flexibility to national securities exchanges or associations processing applications for extensions of time within which payment is due under the regulation.

Authority. Securities Exchange Act of 1934, 15 U.S.C. 78g.

Staff contact. Patsy Abelle, Senior Attorney; Theodore W. Prush, Senior Securities Regulation Analyst, Securities Regulation Section, Division of Banking Supervision and Regulation, (202–452–2781).

****4. Rules Regarding Availability of Information**

Anticipated action. The Board will consider issuing for public comment certain amendments to its Rules Regarding Availability of Information in order to bring them into conformity with existing information disclosure law as it has developed since the regulation was last amended, and also in order to take advantage of the staff's experience working with the Freedom of Information Act.

Authority. Freedom of Information Act, 5 U.S.C. 552.

Staff contact. Stephen L. Siciliano, Senior Counsel, Legal Division (202–452 3920).

****5. Regulatory Improvement Project**

Anticipated action. The Board's Regulatory Improvement Project involves, among other things, a substantive, zero-base review of all Federal Reserve regulations that affect the public to determine (1) the fundamental objectives of the regulation and the extent to which it is meeting current policy goals, (2) nonregulatory alternatives that would accomplish the objectives, (3) costs and benefits of the regulation, (4) unnecessary burdens imposed by the regulation, and (5) the clarity of the regulation.

During the past six months, reviews were completed of Regulation O (Loans to Executive Officers, Directors, and Principal Shareholders), and of methods of computation and disclosure of annual percentage rates under Regulation Z (Truth in Lending). Also, public comment was requested on a redrafted version of Regulation J (Collection of Checks and Other Items and Transfers of Funds).

Over the next six months revisions likely to be considered by the Board will include, but are not necessarily limited to: G (Securities Credit by Persons Other than Banks, Brokers or Dealers), H (Membership of State Banking Institutions in the Federal Reserve System), I (Issue and Cancellation of Capital Stock of Federal Reserve Banks), J (Collection of Checks and Other Items and Transfers of Funds), N (Relations with Foreign Banks and Bankers), P (Minimum Security Devices and Procedures for Federal Reserve Banks and State Member Banks), T (Credit by Brokers and Dealers), U (Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks), X (Rules Governing Borrowers Who Obtain Securities Credit), Y (Bank Holding Companies and Change in Bank Control), and Z (Truth in Lending). Requests for public comment on proposals concerning many of these regulations will be made over the coming six months.

Staff contact. Richard H. Puckett, Manager, Regulatory Improvement Project (202–452–3742).

C. Other Regulatory Activity

****1. H (Membership of State Banking Institutions in the Federal Reserve System)**

Anticipated action. The Board will consider issuing for public comment an

amendment to Regulation H to implement section 23(e) of the Securities Exchange Act of 1934 which authorizes Federal regulatory agencies to require a bank which exercises investment discretion with respect to an account to disclose its policies and practices with respect to commissions that will be paid for effecting securities transactions. The amendment would prescribe the manner and frequency of making such disclosures by State member banks. Similar regulations are expected to be considered by the Comptroller of the Currency and the Federal Deposit Insurance Corporation.

Authority. Securities Exchange Act of 1934, 15 U.S.C. 78b(e)(2).

Staff contact. Robert S. Plotkin, Assistant Director, Division of Banking Supervision and Regulation (202–452–2782); Robert A. Wallgren, Chief, Trust Activities Program, Division of Banking Supervision and Regulation (202–452–2717).

**2. Q (Interest on Deposits)

Anticipated action. The Board has statutory authority to prohibit unfair or deceptive acts or practices engaged in by banks. The Board's staff currently is reviewing practices of banks that may be regarded as unfair or deceptive, including the failure to make adequate disclosure of account terms to depositors. This review will include consideration of whether additional regulation is necessary or advisable and consultation with the other financial regulatory agencies. The results of this review will be considered by the Board in determining whether it is appropriate to issue for public comment an amendment to its Regulation Q to require banks to make additional disclosures of account terms.

Authority. Federal Reserve Act, 12 U.S.C. 371b. Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*

Staff contact. Anthony F. Cole, Senior Attorney, Legal Division, (202–452–3612); Dolores S. Smith, Section Chief, Division of Consumer and Community Affairs (202–452–2412).

3. T (Credit by Brokers and Dealers)

Anticipated action. In response to a request on behalf of a registered broker-dealer, the Board will consider whether it has the authority under the Securities Exchange Act of 1934 to amend Regulation T to permit the acceptance of bank depository receipts for gold by a broker or dealer to meet the margin requirements specified by the rule. The Board will also consider a possible amendment to section 220.6(j) of Regulation T regarding the use of foreign currency to meet margin requirements.

Authority. Securities Exchange Act of 1934, 15 U.S.C. 78g.

Staff contact. Laura Homer, Chief Attorney; Theodore W. Prush, Senior Securities Regulation Analyst, Securities Regulation Section, Division of Banking Supervision and Regulation (202–452–2781).

Comments on this agenda should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Board of Governors of the Federal Reserve System, January 28, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-3422 Filed 2-1-80; 8:45 am]

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 720

Availability of Information; Public Observation of Board Meetings

AGENCY: National Credit Union Administration.

ACTION: Proposed Rule.

SUMMARY: In accordance with 5 U.S.C. 552b(g), the National Credit Union Administration proposes rules to implement the open meeting provisions of the Government in the Sunshine Act (5 U.S.C. 552b (b) through (f)). These rules will set forth the open meeting provisions which govern public observation of Board meetings and availability of information regarding the decisionmaking process of the Board.

DATES: Comments will be received until March 5, 1980.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Beatrix D. Fields, Attorney-Adviser, at the same address or telephone (202) 357–1030.

SUPPLEMENTARY INFORMATION:

Applicability of the Sunshine Act

As the result of the establishment of a three member Board, the National Credit Union Administration (NCUA) became subject to the open meeting provisions of the "Government in the Sunshine Act" (Pub. L. 94–409, 5 U.S.C. 552b (b) to (f), hereinafter referred to as the "Sunshine Act" or the "Act") on September 4, 1979. Pending the promulgation of regulations to implement the Sunshine Act, the Board adopted, at its first scheduled meeting, an interim Sunshine Act policy statement to govern access to its deliberations and access to information regarding its decisionmaking process ("Sunshine Act Policy Statement"). The Sunshine Act Policy Statement was published and comments were encouraged (See 44 FR 70709, December 10, 1979).

The Sunshine Act requires that each agency promulgate regulations to implement the open meeting provisions of the Act. However, the Sunshine Act is silent as to the amount of time an agency newly subject to the Act has to promulgate regulations. Therefore, the National Credit Union Administration Board ("Board") decided to evaluate its experience under the interim Sunshine Act Policy Statement and evaluate comments received prior to developing Sunshine regulations. After considering the agency's operating experience and the public's comments, the Board has decided to adopt the interim Sunshine Act Policy Statement as its proposed regulations to implement the Act.

Special Features of the Proposed Sunshine Regulations

The proposed Sunshine Act regulations include additional provisions, beyond the requirements of the Act, to provide open access to the deliberations of the Board. Some of these features, briefly discussed below, refer to the use of cameras and audio equipment, the evaluation of public interest considerations, the decision to not adopt the expedited closing procedures, the provisions for a Sunshine mailing list and the keeping of open meeting records.

Public Observation. Though the Sunshine Act does not define "public observation" of Board meetings, public observation has been interpreted to include the ability to see and hear joint deliberations of the Board. However, both the Sunshine Act and its legislative history are silent as to whether public observation includes the ability to record such deliberations. In light of commentaries and studies on the Sunshine Act and comments on other agency regulations favoring the public recording of open meetings, the definition of public observation in the proposed regulations includes the ability to see, hear and record any open meeting. However, recordings by use of cameras or other electronic devices must be performed in an unobtrusive manner. Public observation does not allow public *participation* without prior Board approval.

Public Interest Consideration. The Sunshine Act requires that prior to closing the discussion of any matter the Board must determine first, whether there is an exemption available and second, whether the public interest requires that the matter be discussed in the open. Agency procedures have been proposed in §§ 720.43(b), 720.45(a) and 720.46 to assist the Board in adequately assessing the public interest. Section 720.43(b) proposes that the agency staff provide the Board with its recommendations on the public interest. Section 720.45(a) provides that the Board, in voting to close a meeting, will consider each agenda item separately. This will allow the Board to individually consider the public interest question for each agenda item. In addition, § 720.46 proposes that the public be given the opportunity to indicate to the Board its interest in observing the discussions of a matter otherwise scheduled to be heard in a closed meeting.

Use of the Expedited Closing Procedure. The two methods provided by the Sunshine Act for closing a meeting are the regular and the expedited procedures. The expedited procedure may only be used by an agency if the majority of its meetings could properly be closed under Sunshine Act exemptions 4, 8, 9(A) and 10, and if a rule is promulgated to provide for this procedure. The expedited procedure was provided in the Sunshine Act for those agencies that regulate financial institutions (including credit unions), securities, commodities, etc. and who would conduct business in private or on short notice. The expedited procedure does not require advance notice for closed meetings.

The interim Sunshine Act Policy Statement did not provide for the use of the expedited procedure. However, at the time the Policy Statement was adopted, the Board indicated that it would reconsider the need for the using this procedure. After evaluating its interim experience operating under the Policy Statement, it was determined that a majority of the Board's meetings were properly closed pursuant to the specified expedited exemptions. However, the Board has determined that the public benefits of not using the expedited procedure (i.e., seven days advance notice of all closed meetings) outweigh any internal procedural burdens inherent in not using the procedure. Further, the Board has determined that the lack of expedited closing procedures has not led to an abuse of the use of emergency meetings. Therefore, in keeping with the spirit of openness, the Board has decided not to adopt the expedited closing procedure.

Sunshine Mailing List. The Sunshine Act requires that at least one week advance notice be given of a meeting. NCUA has done this by posting notices in its Washington, D.C. headquarters and by publishing notices in the **Federal Register.** However, not all interested parties have access to these sources. Therefore, the proposed regulation establishes a Sunshine Act mailing list (§ 720.44(g)). This mailing list also provides a means for eliminating the public inconvenience associated with cancelled and postponed meetings. It is anticipated that those persons who regularly come to Board meetings would be included on the mailing list and could become aware of meeting cancellations and postponements. One may be placed on the mailing list by written or oral request to the Secretary of the Board.

Recordkeeping for open meetings. The Sunshine Act does not impose any recordkeeping requirements for deliberations at open meetings. However, the proposed regulation will require that open meetings be recorded and that the recordings be publicly available for at least three months following an open meeting. Thus, those persons unable to observe a meeting have the opportunity to hear a recording of the meeting. In addition, those persons who attended a meeting have the opportunity to more closely study Board deliberations on a matter of interest.

Comments on Interim Policy Statement

Only one comment letter was received on the interim Policy Statement. The recommendations suggested are discussed below.

First, in reference to the meeting exception for notation voting (see § 720.41(d)(3)), the commenter recommended the agency specify that the results of notation voting would be made available to the public "at or prior to the next open meeting of the Board." Under notation voting, action is taken once the Board members' votes are tallied. The voting sheets are publicly available as soon as the votes are tallied. To specify that the voting sheets would be available at or prior to a Board meeting is unnecessary and could justify a delay until the next meeting.

Secondly, it was recommended that § 720.44(e) be amended to indicate that meeting notices be communicated in a timely fashion to "any and all parties who have submitted written request" for Board meeting notices. To the extent practicable, the agency will give timely notice and has provided a mailing list in § 720.44(g) for this purpose. However, in some instances where it is impossible to given timely notice, methods other than the use a mailing list will be utilized to disseminate meeting notices. One may be placed on the mailing list by written or oral request to the Secretary of the Board.

The third recommendation refers to the statutory right of any person whose interests are directly affected by certain meeting agenda items to request the Board to close the discussion of that item. It was recommended that "any person" be expanded in § 720.45(b) to include "or the representative of any person." The phrase "any person" does impliedly include a representative with the legal right to act on behalf of the person directly involved.

Relationship to Freedom of Information Act

Written requests for copying and inspecting meeting records will be handled as Freedom of Information Act ("FOIA", (5 U.S.C. 552)) requests and should be made pursuant to Part 720, Subpart A of NCUA's Rules and Regulations. However, the Sunshine Act provides that the exemptions set forth in the Sunshine Act (§ 720.43(b)) shall govern in the case of any request made pursuant to FOIA to copy or inspect the transcripts, recordings or minutes described in § 720.48.

By the National Credit Union Administration Board, On January 30, 1980.

Rosemary Brady,

Secretary of the Board.

January 30, 1980.

Accordingly, it is proposed that Subpart C be added to Part 720 to implement the open meeting provisions of the Sunshine Act:

Subpart C—Public Observation of Board Meetings

720.40 Scope and purpose.
720.41 Definitions.
720.42 Open meetings.
720.43 Exemptions.
720.44 Public announcement of meeting.
720.45 Regular procedure for closing meeting discussions on limiting the disclosure of information.
720.46 Request for open meetings.
720.47 General counsel certification.
720.48 Maintenance of meeting records.
720.49 Public availability of meeting records and other documents.

Authority: Sec. 3(g), 90 Stat. 1241 (5 U.S.C. 552b(g)), sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and sec. 209, 84 Stat. 1014 (12 U.S.C. 1789).

Subpart C—Public Observation of Board Meetings Under 5 U.S.C. 552b

§ 720.40 Scope and purpose.

(a) This subsection contains the regulations of the National Credit Union

Administration implementing subsections (b) through (f) of 5 U.S.C. 552b as required by the Sunshine Act, Pub. L. 94–409. The primary purpose of these regulations will be to provide the public with full access to the deliberations and decision of the Board while protecting the rights of individuals and preserving the ability of the agency to carry out its responsibilities.

§ 720.41 Definitions.

For the purposes of this subpart:

(a) "Agency" means the National Credit Union Administration.

(b) "Board" means the National Credit Union Administration Board, whose members are appointed by the President with the advice and consent of the Senate.

(c) "Subdivision of the Board" means a group composed of two Board members authorized by the Board to act on behalf of the agency.

(d) "Meeting" means any deliberations by two or more members of the Board or any subdivision of the Board that determine or result in the joint conduct or disposition of official agency business with the exception of: (1) Deliberations to determine whether a meeting or a portion thereof will be open or closed to public observation and whether information regarding closed meetings will be withheld from public disclosure; (2) deliberations to determine whether or when to schedule a meeting; and (3) infrequent dispositions of official agency business by sequential circulation of written recommendations to individual Board members ("notation voting procedure"): *Provided,* The votes of each Board member and the action taken are recorded for each matter and are publicly available, unless exempted from disclosure pursuant to 5 U.S.C. 552 (the Freedom of Information Act).

(e) "Public observation" means that a member or group of the public may listen to and observe any open meeting and may record in an unobtrusive manner any portion of that meeting by use of a camera or any other electronic device, but shall not participate in any meeting unless authorized by the Board.

(f) "Public announcement" or "publicly announce" means making reasonable efforts under the particular circumstances to fully inform the public, especially those individuals who have expressed interest in the subject matters to be discussed or the decisions of the agency.

(g) "Sunshine Act" means the open meeting provisions of the "Government in the Sunshine Act", Pub. L. 94–409, 5 U.S.C. 552b (b) to (f).

§ 720.42 Open meetings.

Except as provided in § 720.43(a), any portion of any meeting of the Board shall be open to public observation. The Board and any subdivision of the Board, shall jointly conduct official agency business only in accordance with this subpart.

§ 720.43 Exemptions.

(a) Under the procedures specified in § 720.45, the Board may close a meeting or any portion of a meeting from public observation or may withhold information pertaining to such meetings as otherwise required to be disclosed: *Provided,* The Board has properly determined that the public interest does not require otherwise and that the meeting (or any portion thereof) or the disclosure of meeting information is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy, and (ii) in fact properly classified pursuant to such Executive Order;

(2) Relate solely to internal personnel rules and practices;

(3) Disclose matters specifically exempted from disclosure by statute (other than Section 552 of Title 5 of the United States Code, the Freedom of Information Act): *Provided,* That such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by a Federal agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of Federal agencies responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would (i) be likely to (A) lead to significant speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution; or (ii) be likely to significantly frustrate implementation of a proposed action, except that this subparagraph shall not apply in any instance where the Board has already disclosed to the public the content or nature of its proposed action, or where the Board is required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

(10) Specifically concern the issuance of a subpena, participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct or disposition of a particular case of formal agency adjudication pursuant to the procedures in Section 554 of Title 5 of the United States Code or otherwise involving a determination on the record after opportunity for a hearing.

(b) Prior to closing a meeting whose discussions are likely to fall within the exemptions listed in paragraph (a) of this section, the Board will balance the public interest in observing the deliberations of an exemptible matter and the agency's need for confidentiality of the exemptible matter. In weighing these interests, the Board is assisted by the General Counsel as provided in § 720.47, by expressions of the public interest set forth in requests for open meetings as provided by § 727.46(b), and by the brief staff analysis of public interest which will accompany each staff recommendation that an agenda item be considered in a closed meeting.

§ 720.44 Public announcement of meetings.

(a) Except as otherwise provided in this section the Board shall, for each meeting, make a public announcement, at least one week in advance of the meeting, of the time, place and subject matter of the meeting, whether it will be open or closed to public observation and the name and telephone number of the Secretary of the Board or the person designated by the Board to respond to requests for information about the meeting.

(b) Advance notice is required unless a majority of the members of the Board determine by a recorded vote that agency business requires that a meeting be called at an earlier date, in which case, the information to be announced in paragraph (a) of this section shall be publicly announced at the earliest practicable time.

(c) A change, including a postponement or a cancellation, in the time or place of a meeting after a published announcement may be made only if announced at the earliest practicable time.

(d) A change in or deletion of the subject matter of a meeting or any portion of a meeting or a redetermination to open or close a meeting or any portion of a meeting after a published announcement may be made only if (1) a majority of the Board determines by recorded vote that agency business so requires and that no earlier announcement of the change was possible and (2) public announcement of the change and of the vote of each member on such change shall be made at the earliest practicable time.

(e) Each meeting announcement or amendment thereof shall be posted on the Public Notice Bulletin Board in the reception area of the agency's headquarters and may be made available by other means deemed desirable by the Board. Immediately following each public announcement required by this section, the stated information shall be submitted to the **Federal Register** for publication.

(f) No announcement shall contain information which is determined to be exempt from disclosure under § 720.43(a).

(g) The agency shall maintain a mailing list of names and addresses of all persons who wish to receive copies of agency announcements of meetings open to public observation and amendments to such announcements. Requests to be placed on the mailing list should be made by telephoning or by writing to the Secretary of the Board.

§ 720.45 Regular procedure for closing meeting discussions or limiting the disclosure of information.

(a) A decision to close any portion of a meeting and to withhold information about any portion of a meeting closed pursuant to § 720.43(a) will be taken only when a majority of the entire Board votes to take such action. In deciding whether to close a meeting or any portion of a meeting or to withhold information, the Board shall independently consider whether the public interest requires an open meeting. A separate vote of the Board will be taken and recorded for each portion of a meeting to be closed to public observation pursuant to § 720.43(a) or to withhold information from the public pursuant to § 720.43(a). A single vote may be taken and recorded with respect to a series of meetings, or any portions of meetings which are proposed to be closed to the public, or with respect to any information concerning the series of meetings, so long as each meeting in the series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. No proxies shall be allowed.

(b) Any person whose interests may be directly affected by any portion of a meeting for any of the reasons stated in subparagraph (5), (6) or (7) of § 720.43(a), may request that the Board close such portion of the meeting. After receiving notice of a person's desire for any specified portion of a meeting to be closed, the Board, upon a request by one member, will decide by recorded vote whether to close the relevant portion or portions of the meeting. This procedure applies to requests received either prior to or subsequent to the announcement of a decision to hold an open meeting.

(c) Within one day after any vote is taken pursuant to paragraph (a) or (b) of this section, the Board shall make publicly available a written copy of the vote taken indicating the vote of each Board member. Except to the extent that such information is withheld and exempt from disclosure, for each meeting or any portion of a meeting closed to the public, the Board shall make publicly available within one day after the required vote, a written explanation of its action, together with a list of all persons expected to attend the closed meeting and their affiliation. The list of persons to attend need not include the names of individual staff, but shall state the offices of the agency expected to participate in the meeting discussions.

§ 720.46 Requests for open meetings.

(a) Following any announcement that the Board intends to close a meeting or any portion of any meeting, any person may make a written or telegraphic request to the Secretary of the Board that the meeting or a portion of a meeting be open. The request shall be circulated to the members of the Board, and the Board, upon the request of one member, shall reconsider its action under § 720.45 before the meeting or before discussion of the matter at the meeting. If the Board decides to open a portion of a meeting proposed to be closed, the Board shall publicly announce its decision in accordance with § 720.44(e). If no request is received from a Board member to reconsider the decision to close a meeting or portion thereof prior to the meeting discussion, the Chairman of the Board shall certify that the Board did not request reconsideration of its decision to close the discussion of the matter.

(b) The request to open a portion of a meeting shall be submitted to the Secretary of the Board in advance of the meeting in question. The request shall set forth the requestor's interest in the matter to be discussed and the reasons why the requester believes that the public interest requires that the meeting or portions thereof be open to public observation.

(c) The submission of a request to open a portion of a meeting shall not act to stay the effectiveness of Board action or to postpone or delay the meeting unless the Board decides otherwise.

(d) The Secretary of the Board shall advise the requestor of the Board's consideration of the request to open a portion of the meeting as soon as practicable.

§ 720.47 General Counsel certification.

For each meeting or any portion of a meeting closed to public observation under § 720.45, the General Counsel shall publicly certify, whether in his or her opinion, the meeting or portion thereof may be closed to public observation and shall state each relevant exemptive provision of law. A copy of the certification together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting and the persons present, shall be retained as a part of the permanent meeting records. As part of the certification, the General Counsel shall recommend to the Board whether the public interest requires that the meeting or portions thereof proposed to be closed to public observation be held in the open.

§ 720.48 Maintenance of meeting records.

(a) The Board shall maintain a complete transcript of electronic recording adequate to record fully the proceedings of each meeting, or any portion thereof, closed to public observation. However, for meetings closed under subparagraph (8), (9)(i), or (10) of § 720.43(a), the Board shall maintain either a transcript, a recording or a set of minutes. The Board shall maintain a complete electronic recording for each open meeting or any portion thereof. All records shall clearly identify each speaker.

(b) A set of minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons for taking such action. Minutes shall also include a description of each of the views expressed by each person in attendance on any item and the record of any roll call vote, reflecting the vote of each member. All documents considered in connection with any action shall be identified in the minutes.

(c) The agency shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes or a complete electronic recording of each meeting or any portion of a meeting, closed to public observation, for at least two years after such meeting or until one year after the conclusion of any agency proceeding with respect to which the meeting or any portion was held, whichever occurs later. The agency shall maintain a complete electronic recording of each open meeting for at least three months after the meeting date. A complete set of minutes shall be maintained on a permanent basis for all meetings.

§ 720.49 Public availability of meeting records and other documents.

(a) The agency sall make promptly available to the public, in the Public Reference Room, the transcript, electronic recording or minutes of any meeting, deleting any agenda item or any item of the testimony of a witness received at a closed meeting which the Board determined, pursuant to paragraph (c) of this section, was exempt from disclosure under § 720.43(a). The exemption or exemptions relied upon for any deleted information shall be reflected on any record or recording.

(b) Copies of any transcript, minutes or transcription of a recording, disclosing the identity of each speaker, shall be furnished to any persons requesting such information in the form specified in parapgraph (a) of this section. Copies shall be furnished at the actual cost of duplication or transcription unless waived by the Secretary of the Board.

(c) Following each meeting or any portion of a meeting closed pursuant to § 720.43(a), as the last item of business, the Board shall determine which, if any, portions of the meeting transcript, electronic recording or minutes not otherwise available under 5 U.S.C. § 552a (Privacy Act), contain information which should be withheld pursuant to § 720.43(a): *Provided, however,* That should be Board not make such determinations immediately following any such closed meeting, the Secretary of the Board, upon the advice of the General Counsel or the General Counsel's designee and after consulting with the Board, shall make such determinations. If at a later time, the Board determines that there is no further justification for witholding any meeting record or other item of information from the public which has previously been withheld, then such information shall be made available to the public.

(d) Except for information determined by the Board to be exempt from disclosure pursuant to paragraph (c) of this section, meeting records shall be promptly available to the public in the Public Reference Room. Meeting records include but are not limited to: The transcript, electronic recording or minutes of each meeting, as required by § 720.48(a); the notice of requirements of §§ 720.44 and 720.45(c); and the General Counsel Certification along with the presiding officer's statement, as required by § 720.47.

(e) These provisions do not affect the procedures set forth in this Part 720, Subpart A governing the inspection and copying of agency records, except that the exemptions set forth in § 720.43(a) and in 5 U.S.C. 552b(c) shall govern in the case of a request made pursuant to this Part 720, Subpart A to copy or inspect the meeting records described in this section. Any documents considered or mentioned at Board meetings may be obtained subject to the procedures set forth in this Part 720, Subpart A.

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Notices

Federal Register
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Monday, February 4, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Implementation of the Joint ACTION/LEAA Urban Crime Prevention Program (UCPP) for Fiscal Year 1980

AGENCIES: ACTION Agency and Law Enforcement Assistance Administration, Department of Justice.

ACTION: Responses to public comments and notice of program announcement—Urban Crime Prevention Program.

SUMMARY: These guidelines describe a new program jointly developed and administered by ACTION and the Law Enforcement Assistance Administration. The program was initiated by the President's Urban Policy Message of March 1978. Since the Law Enforcement Assistance Administration will provide the funding for the joint Urban Crime Prevention Program (UCPP), the basic requirements will be those from LEAA Guide for Discretionary Grant Programs, which are incorporated in the "UCPP Guidebook," and also LEAA Financial Guideline M7100.

Note.—It is not necessary to have a copy of M4500.1G because the "UCPP Guidebook" contains all the basic requirements.

The *Urban Crime Prevention Program* will not in any way impact upon the programs or regulations presently set out in the LEAA Manual M4500.1G, nor will the program affect the eligibility of those individuals applying for previously announced programs.

The program design and management are a joint venture by ACTION and the Law Enforcement Assistance Administration (LEAA) drawing upon ACTION'S expertise in volunteerism and community organizing and LEAA's expertise in the field of crime prevention.

FOR FURTHER INFORMATION CONTACT: W. Philip McLaurin, Director, Urban Crime Prevention Program, Office of Domestic and Anti-Poverty Operations, ACTION, Washington, D.C. 20525 (202) 254-3142, or Ernest Milner, Director, Urban Crime Prevention Program, Office of community Anti-Crime Programs, Department of Justice, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., Room 1300, Washington, D.C. 20531 (202) 724-5935.

SUPPLEMENTARY INFORMATION: ACTION and the Law Enforcement Assistance Administration (LEAA) are announcing a new program for the fiscal year 1980. ACTION, under the legislative authority of title I of the Domestic Volunteer Service Act of 1973, as amended, 42 U.S.C. 4951 ET SEQ. and LEAA, under the legislative authority of Title I of the Justice System Improvement Act of 1979, 42 U.S.C. 3701 ET SEQ. have jointly developed guidelines for this program entitled the Urban Crime Prevention Program. A draft announcement for the new Urban Crime Prevention Program appeared in the Federal Register on October 16, 1979 and the public was given 60 days in which to review and comment on the proposed program. An analysis of the comments received is provided below.

Nature of Comments and UCPP Response

The joint UCPP staff received 80 letters containing 150 comments on the draft UCPP guidelines which were published in the October 16, 1979 Federal Register. Analysis of the comments shows that an overwhelming majority of respondents supported the program design and focus and offered comments in the spirit of improving or clarifying certain points. Most of the comments can be grouped into three categories: the jurisdictional criteria for the grantee—54 comments, the project models—19 comments, and public agency participation—19 comments. These three categories account for 61 percent of all comments received.

Comments were received from 30 local private organizations, 18 local public organizations, 14 state organizations, eight national organizations, six mayors, two Congressmen, one U.S. Senator and one private citizen. The UCPP responses to comments received follow:

Jurisdictional Criteria for the Grantees

The UCPP received 29 suggestions that the city size requirements either be lowered or that some funds be reserved for cities with populations of less than 250,000. In addition, 25 respondents advocated expanding the locale in which the program would operate to include jurisdictional entities other than cities such as counties or SMSA's.

The UCPP has decided to lower the city size requirement to 150,000 based on the respondents' rationale that cities of this size have ample resources to accomplish the goals and objectives of the UCPP, and may also have crime problems as severe as those in cities with populations of 250,000 or more. The UCPP has retained the requirement that the program must be located in a city for the following reasons:

As part of the President's Urban Policy, the program's focus must be decidedly urban,

The program is restricted to low and moderate income neighborhoods which are found disproportionately in large cities, and

The possibility of multiple jurisdictional involvement would add to program complexity and promote unwieldy management structures.

Project Models

In the category of proposed models it was suggested that one element, under the Arson model, requiring the use of volunteers was repetitive and should be deleted. This suggestion was accepted.

Other comments suggested new or different models, opposed having models, or disagreed with the percentage of funds allotted to models. Because the current project models are based on national priorities, are amenable to the extensive use of volunteers, and offer a great deal of flexibility, no changes were made. Moreover, existing provisions allow that 40 percent of project funds may be used to support new, locally initiated projects.

Public Agency Participation

The UCPP received 12 comments requesting that public agencies be allowed to participate as grantees and seven comments advocating either an increased or decreased role for public officials. The UCPP maintained that public agencies are assured substantial participation in the program through

eligibility to act as project organizations, membership on the Advisory Council, and mayoral review of applications and grant award approval. Furthermore, the eligibility criteira require a grantee that can forge a partnership of diverse urban interests. The UCPP has determined that an established private nonprofit organization with a history of working with both neighborhood organizations and city government would most likely be able to develop and continue such a partnership.

Advisory Council

There were seven comments urging the mandatory inclusion of certain Advisory Council members. The UCPP felt that Council membership should reflect local circumstances and therefore opted not to require participation by any individual or organization other than the mayor and the project organizations. In response to one of the comments, however, the UCPP decided to encourage representation by county officials when county agencies are in any way involved in a UCPP grant. The UCPP envisioned that this might often occur because county agencies, especially those delivering social and human services, frequently operate within cities.

Several comments supported a requirement that the Advisory Council officially approve a grant application prior to submission for funding consideration. This suggested requirement was not adopted since the guidelines purposefully promote flexibility and local determination of Advisory Council functions.

Number, Size and Length of Grants

Several comments were received advocating either increases or decreases in the number, size, and length of grant awards. Based on the amount of available funds, and in consideration of the flexibility that is already built into these factors, the UCPP decided to retain provisions for up to 15 grants funded at up to $500,000 each for an 18-month grant period.

Allocation of Funds

UCPP received six comments urging increased allocations to project organizations. The UCPP decided to retain the $50,000 limit, reasoning that the current amount was sufficient to develop a neighborhood project yet not so large as to overwhelm the project organization or preclude evéntual local assumption of project costs.

Several respondents requested clarification on the percentage of funding allowed for administrative costs. In response, UCPP has incorporated language explaining that after the grantee subtracts its administrative costs from the grant award, the remainder of funds are considered project funds, and must be allocated to project organizations. Of these funds that are allocated to project organizations, 60 percent must be devoted to the project models.

One respondent suggested that the city government be reimbursed for any infrastructural costs it incurs. The UCPP believes that benefits accruing to the city will offset any costs incurred.

One respondent questioned the legality of a private nonprofit grantee allocating funds to a public agency. UCPP urges applicants to review local statutes to determine the legal implications of allocating funds in their area.

The Project Organization

Two respondents took issue with the language discouraging more than one project per neighborhood. The UCPP felt that the applicant should justify multiple allocations to a neighborhood because of the potential competition for resources within the neighborhood, and the difficulty of continuing two projects in a low or moderate income neighborhood once Federal funds were curtailed.

One respondent suggested that each grant be required to include at least one public agency as a project organization. The UCPP felt that the composition of a grant should reflect local conditions and that the guidelines, as written, adequately encourage public sector involvement.

The UCPP was questioned about the allowability of the grantee operating project organizations. Because this issue was not addressed in the guidelines, the UCPP has incorporated language stating that with compelling justification, the grantee, or a component of the grantee, may operate as a project organization.

Language Changes

Several respondents suggested language changes. Most of these changes, if incorporated, would have resulted in overly restrictive guidance. When changes resulted in clarifying rather than restricting the guidelines, changes were made.

Criminal Justice Coordinating Council

Several comments expressed concern over the role of the Criminal Justice Coordinating Councils (formerly SPA's) in the development and approval of applications. The UCPP welcomes the involvement of the Criminal Justice Coordinating Councils and local boards and has provided for their participation.

Requests For Greater Detail

Many respondents requested more detail on specific items. Additional specificity is provided in a UCPP Guidebook which is available from the UCPP staff.

Application Deadline

In response to recommendations that the deadline for submitting grant applications be extended, the guidelines now require that grant applications be postmarked no later than May 9, 1980.

The text of the final program announcement follows:

Urban Crime Prevention Program

A. *Program Goals:* The goals of this program are to increase neighborhood participation and problem-solving capacity, and to forge a working partnership among neighborhood groups, elected officials, criminal justice agencies and other public/private sector institutions in new community crime prevention efforts.

B. *Program Objectives:* The objectives of this program are divided into three main areas as follows:

1. *Innovative Approach:* a. To encourage projects which have not received significant emphasis in past federal funding.

b. To promote projects which expand the focus of attention beyond the actual commission of a crime to include the social and economic factors which are directly associated with criminal activity.

c. To generate activities which provide adoption of project models and other suggested and innovative projects which are consistent with the program's goals and objectives.

2. *Neighborhood Orientation:* a. Decrease the fear of crime among residents.

b. Increase a sense of responsibility for dealing with crime among residents.

c. Increase residents' perception of the importance of neighborhood groups in crime prevention.

d. Increase the number of neighborhood groups that work with a broad-based Advisory Council and are engaged in community crime prevention, including new or fledgling groups and those not previously involved.

e. Increase the financial and managerial competence of neighborhood groups to conduct a funded crime prevention program.

f. Increase the ongoing ability of neighborhood groups to define and analyze local crime problems, develop solutions, and implement projects designed to combat such problems.

g. Increase the ability of neighborhood groups to work in partnership with other private and public sector organizations and agencies on crime prevention efforts.

h. Achieve substantial volunteer participation by residents in UCPP funded projects.

i. Create new roles for and effectively utilize the talents of volunteers in the operation of crime prevention programs.

j. Increase cohesiveness among neighborhood residents through efforts directed at preventing criminal activity.

3. *Partnership:* a. Insure the input of a wide range of expert advice, data, and support in the planning and implementation of neighborhood crime preventation projects.

b. Assure the cooperation and support of urban government and other interests in carrying out intended crime prevention efforts.

c. Avoid duplication or conflict of prevention activities among projects being developed in the UCPP and other urban crime prevention efforts.

d. Set in motion a process of coalition-building which, over a period of time, will define mutual interests and forge cooperative relationships for initiating future crime prevention projects.

C. Structure and Operation of Grants: The UCPP will fund up to 15 programs in cities of 150,000 or greater in population. The basis for establishing the population size of a city will be either the 1970 Federal Bureau of Census figures, or a subsequent projection by the Bureau of Census. Grants will range up to $500,000 for an 18-month grant period. Grants awarded under the UCPP will not require a matching contribution.

The program's organizational structure at each of the local levels will operate through a grantee, its Advisory Council and project organizations. Each grant will be used to make allocations up to $50,000 each to 5 to 15 project organizations, which must use the allocations to conduct crime prevention projects.

Administrative costs associated with the grantee's overall management should not exceed 20 percent. The UCPP anticipates that generally these costs will be less. An important criterion in reviewing applications will be the extent to which the proposed administrative costs are minimized without sacrificing program quality. The remaining grant funds will be used to cover the administrative and operational costs of the projects.

1. *Local Level:* The organizational structure through which each local program must operate consists of the following:

a. *The Grantee.*

The grantee must be a private not-for-profit corporation with the legal responsibility for administering a UCPP grant and must have the demonstrated capacity to work with both public agencies and neighborhood groups. It is expected that the grantee will only administer the grant and overall program. However, in situations where a compelling justification exists, the grantee or its subsidiary may operate as a project organization.

A potential grantee is responsible for developing the UCPP grant application, the major part of which will describe the number of project organizations and the crime prevention projects each will carry out in a specific urban neighborhood. The proposal must be based on systematic project planning and incorporate relevant crime and demographic data as well as other supporting information. In developing its application, the potential grantee must consult with a wide range of interests to assess specific crime problems, attract potential project organizations, and design appropriate crime prevention projects.

During this process, the potential grantee will identify Advisory Council members; the grantee will also be responsible for overall administrative supervision and coordination of project activities and the fiscal management of the project organizations' budgets. The grantee will provide appropriate administrative services, and ensure adequate training for volunteers, project organizations and the Advisory Council. The grantee will be responsible for complying with grant reporting requirements which will include quarterly financial and narrative progress reports.

b. *The Advisory Council.*

The Advisory Council must bring together a broad range of public and private interests to assist in planning and conducting the grant. The Advisory Council should reflect the program's goals of forging a partnership of citywide resources to support neighborhood crime prevention. The mayor, or highest elected city official or his or her designee, and a representative of each awarded project organization must serve on the Advisory Council. Other members will be drawn from the following groups or interests:

(1) Volunteer citizen organizations.
(2) Social or human service agencies.
(3) Criminal justice agencies.
(4) Labor and business.
(5) Public interest organizations.
(6) County and other appropriate public agencies' representatives.
(7) Others as deemed appropriate.

While the specific duties, organization, and responsibility of the Advisory Council should be the decision of the grantee, the broad responsibilities of the Advisory Council will include: (a) Providing policy and program guidance to the grantee;

(b) Providing general oversight on matters of program implementation and maintenance, including involvement in the monitoring and evaluation process of the grant and in the review of project organizations;

(c) Providing, through its members, liaison with the access to public and private agencies whose assistance would be useful in carrying out the program's objectives;

(d) Publicizing the grant in the broader community;

(e) Serving as a forum in which information can be exchanged, mutual interests defined, and cooperative relations established among members.

c. *Project Organizations.*

Project organizations will for the most part be neighborhood groups, which typically are local community organizations but which can include other neighborhood elements such as churches, business associations, parent/school groups, community centers, local ethnic associations, or tenant organizations. While the majority of project organizations must be neighborhood groups, public sector agencies are also eligible. Project organizations which are from the private sector must be not-for-profit organizations, but need not be incorporated.

Grantees will provide funds for project organizations to conduct crime prevention projects which are located in and operated for the benefit of specific low or moderate income neighborhoods. These projects must involve neighborhood residents in the development and implementation of their activities. Neighborhood residents must actively participate in all projects rather than merely being served by them.

2. *Allocation of Grant Funds:* The allocations to project organizations may vary in size up to $50,000. A *minimum* of 60 percent of a grantee's project funds must be devoted to one or more of the project models described below. A higher proportion of project funds may be allocated to the project models if desired. Up to 40 percent of project funds may go to the suggested projects, mentioned below, or to original locally initiated projects.

Normally only one allocation will be made in a neighborhood. Allocations to more than one project organization in a specific neighborhood, however, will be permitted where a compelling justification is made in the grant application and where each

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organization indicates its willingness to cooperate with the other. Two or more project organizations in the same neighborhood can not run the same type of crime prevention project. Only one allocation of up to $50,000 will be made to a project organization. Typically, an allocation will fund one type of crime prevention project, although a project organization with sufficient justification may undertake more than one type of project.

3. *Grant Assistance and Requirements:* In addition to the overall management and administration of the program, provisions will be made at the federal level for: (a) technical assistance, (b) evaluation, and (c) monitoring and reporting requirements including on-site visits. Training will be provided by the grantee with some assistance by UCPP staff.

D. *Models, Suggested Project Areas and Locally Initiated Projects:* The principal means to further the UCPP goals and objectives will be the use of successful models, suggested project areas and original locally initiated community crime prevention projects. The UCPP will emphasize projects which address local crime problems of special concern to low and moderate income neighborhoods, which have not received substantial federal support to date, and which complement other federal anti-crime programs.

1. *Common Characteristics of all Projects:* All UCPP projects must include the following characteristics: a. They must be carried out at the neighborhood level by project organizations.

b. They must be based on the substantial participation of those who live or work in the local area.

c. They must include volunteers in key roles.

d. They must address important crime problems of a locale.

e. They must be developed in light of, and seen as a part of, broader efforts to address neighborhood problems while addressing the issues of crime prevention.

f. While the projects must deal with crime prevention, and must have the effect of strengthening the long-term capacity of neighborhood groups to address local crime problems, they must also improve neighborhood life generally.

g. They must foster working relations with urban resources which can assist in developing and implementing these local crime prevention projects.

h. While all projects must emphasize neighborhood action, a limited amount of funds may be used for research, data gathering, and conferences related to crime prevention and the overall objectives of the program.

In addition to neighborhood groups, public agencies which satisfy these project elements may be project organizations.

2. *Project Models:* Project models are presented in four particular areas and are predicated primarily on efforts which have been tried successfully in the past, but have not in their proposed form received major federal funding. Although the models must have the respective listed elements, considerable variation and adaptation to local needs is expected.

a. *Community Dispute Settlement Project:* For a variety of reasons many disputes are not reported to the police, nor is resolution sought through the courts. It has been demonstrated that for a wide range of minor disputes, particularly those between people who have an ongoing or prior relationship, a more informal process of dispute settlement may be more efficacious and satisfying.

The successful resolution of such disputes can prevent their recurrence and the more serious violence and property destruction which sometimes emerge from them.

(1) *Project Elements:* Projects under the Community Dispute Settlement model have the following characteristics:

(a) Projects must coordinate their activities with the prosecutor, court, and police.

(b) Projects must hold discussions with appropriate authorities about accepting referrals from the criminal justice system or other appropriate public or private sources. It is expected that the projects will have at least some disputes referred to them from criminal justice agencies.

(c) The dispute resolution must take place locally in the neighborhood.

(d) The principal third parties in the dispute settlement hearings must be people who live or work in the neighborhood.

(e) Projects must accept disputes which might be defined as minor crimes.

(f) Participation by disputant parties must be voluntary.

(g) Settlements must be based on voluntary agreement of the parties.

b. *Arson Project:* Arson is one of the fastest increasing serious crimes in urban America. Losses due to such criminal activity can be traced to unemployment, increased insurance rates, higher taxes, lost revenue, etc., in urban areas. Although exact statistics are unavailable, arson-for-profit is believed to be a significant part of a problem that causes the loss of lives and injuries to thousands of people each year. The UCPP will support the involvement of neighborhood groups in dealing with arson problems in their areas.

(1) *Project Elements:* Projects under the arson model must have the following characteristics: (a) Projects must document with data the seriousness of arson in a specific neighborhood.

(b) Projects must develop strategies to reduce both the opportunities and incentives to commit arson.

(c) Projects must demonstrate how their efforts to fight arson will lead to a reduction in such criminal activity.

(d) Projects must be able to demonstrate how their efforts will fight both arson and neighborhood deterioration.

(e) Projects must work in conjunction with appropriate authorities in identifying potential arson sites and prevention programs.

c. *Project to Reduce the Impact of Property Crime Victimization:* A significant portion of crime within urban neighborhoods involves crimes against property. A number of community crime prevention projects have sought to reduce the incidence of such crimes by educating citizens about protective measures that they can take as individuals or groups.

Successful efforts by neighborhood residents to reduce property crimes should increase the availability of insurance and thereby help to revitalize the neighborhood improve the local opportunities for employment, and enhance the safety and quality of neighborhood life.

When insurance providing protection from losses due to crimes against property is systematically denied, businesses and individuals have greater reluctance to purchase property or locate in a given area or they have greater incentive to leave. These conditions contribute to the general decay of the neighborhood.

(1) *Project Elements:* Projects under the model to Reduce the Impact of Property Crime Victimization must have the following characteristics:

(a) Projects must be community-based and must systematically gather data on the seriousness of the problem of insurance unavailability, the factors contributing to the problem, and appropriate alternatives to deal with the problem.

(b) Projects must extensively document the problem. The documentation must establish that there is a relationship between the problem and crime.

(c) Projects must find ways to involve community people in the development and implementation of strategies to address these problems.

(d) Projects must describe how actions on this problem are part of a more comprehensive strategy to enhance the neighborhood through related neighborhood improvement activities and crime prevention.

d. *Community Victim and Witness Project:* In recent years there has been a growing awareness of the failue to deal adequately with the interests and needs of victims and witnesses. Such conditions contribute to the problem of victim/witness non-cooperation in reporting, investigating and preventing crime. Victims/witnesses often feel that their concerns are not routinely elicited or given serious consideration in criminal justice decisions.

Neighborhood-based programs can provide an opportunity to assist specific victims and witnesses and to work to improve the more general practices of criminal justice agencies that affect the community of victim and witness.

(1) *Project Elements:* Projects under the Community Victim and Witness model must have the following characteristics:

(a) Projects must document the extent and nature of the problems victims and witnesses who live in a specific neighborhood are encontering as a result of their victimization or participation in the criminal justice process.

(b) Projects must show a willingness to cooperate with relevant criminal justice agencies.

(c) Projects must address the interests and needs of victims and witnesses of crime.

(d) Projects must be located in specific neighborhoods and must focus on promoting the interests and needs of victims and witnesses who live or work in those areas.

(e) Projects must incorporate community victims' and witnesses' needs and those of the criminal justice system to obtain victim/witness cooperation.

3. *Suggested Project Areas:* The UCPP also includes a number of suggested project areas in which grantees and project organizations are encouraged to consider developing projects. Since the UCPP provides fewer initial guidelines in these areas, more local creativity on the part of applicants is expected in developing these potential projects.

Applicants may develop projects using these suggestions and/or locally initiated projects, as explained below, or a combination of the two with up to 40 percent of the proposed project funds.

Below is a brief description of several suggested areas which address problems that are consistent with the objectives of the UCPP.

a. *Family Violence:* In recent years, people have become aware of the prevalence of child and spouse abuse, of which only a small proportion comes to the attention of the legal authorities or other agencies. A number of efforts, although not providing a long term solution to the problems, are being explored to provide assistance and protection to abused family members, as well as counseling and other services for the entire family.

The UCPP encourages grantees and project organizations to develop neighborhood projects with primary reliance on volunteers and community participation to seek to reduce and prevent the incidence of family violence.

b. *Consumer Fraud:* While accurate statistics are not available, it is generally agreed that consumer frauds represent a major cost to specific individuals and to the society as a whole.

Specific types of fraud may cause great hardships in certain urban areas. The UCPP encourages grantees and project organizations to identify fraud problems and work with criminal justice officials to document, to prosecute, and to prevent the recurrence of such crimes.

(c). *Unemployment and Crime: Although there are conflicting studies as to the extent of the relationship between unemployment and crime, it is now generally accepted that such a relationship does exist.*

While it is recognized that increases in unemployment are primarily determined by national or local economic conditions, other factors such as employment discrimination based on race, ethnic background, or prior contact with the criminal justice system also appear to contribute to such increases in many urban areas.

UCPP encourages the development of neighborhood-based projects which address unemployment and employment discrimination and youth opportunities as related to crime.

d. *Public Housing Anti-Crime Initiatives:* Organizations within and in areas surrounding public housing projects, including those participated in the Urban Initiatives Anti-Crime Program, sponsored by the Department of Housing and Urban Development, are eligible to become project organizations under the UCPP and are encouraged to develop proposed volunteer programs consistent with the UCPP goals and objectives.

e. *School crime:* Neighborhoods are often judged by the environment and quality of their schools. The willingness of people to move into or remain in a neighborhood may be based more on the reputation of its schools than on any other factors.

The UCPP encourages grantees and project organizations to develop projects in the prevention of school crime including combatting vandalism, alternatives to suspension as a disciplinary tool, and the counseling of disruptive students.

4. *Locally Initiated Projects:* Some original projects initiated at the local level may be funded under the UCPP. These projects must be consistent with the goals and objectives of the UCPP and must include the common characteristics referred to previously. In addition, the 40 percent limitation of the proposed project funds mentioned in Section C 2 above applies.

E. *Use of Volunteers:* Grantees and project organizations in the UCPP must involve volunteers in local projects. Volunteers in the UCPP may be community residents who volunteer a few hours a week, or full-time volunteers who receive a living allowance or members of established volunteer organizations whose interests coincide with those of local projects.

The grantee must include in its grant application a workplan for each UCPP full-time volunteer. These volunteers may function in a variety of roles, such as organizers, researchers, lawyers, and accountants; however, their activities must be ultimately directed toward mobilizing community resources and increasing the capacity of the target community to solve its own crime problems. It is expected that UCPP grants will reflect a minimun of one UCPP full-time volunteer for each project organization.

UCPP full-time volunteers should be recruited from the local area. Federal level UCPP staff will be available to assist in this process and in locating candidates from outside of the target area when necessary. Volunteer selection is the responsibility of project organizations with concurrence from respective grantees.

UCPP full-time volunteers will serve a minimum of 40 hours per week and are available, as needed, at other times. Consequently, they may not hold part-time jobs nor receive compensation from another volunteer program. Full-time volunteers must be at least 16 years of age, be United States citizens or have permanent visa status, should be in general good health, and may not be currently involved in criminal litigation. They may, however, be in parole or probation status. Project organizations are responsible for specifying skill level criteria. Full-time volunteers in the UCPP may receive a living allowance

equal to but not in excess of that which is provided VISTA volunteers.

F. *Eligibility and Selection Criteria:* All UCPP grants will be awarded on a competitive basis. Grant applicants will be required to complete the LEAA Standard Form 424 which is the application for UCPP funding.

1. *Eligibility Criteria:* The applicant must meet the following criteria: a. Be located in a city with a population of at least 150,000.

b. Be a private not-for-profit corporation.

c. Submit a CPA certification of accounting capability.

d. Propose projects which will be carried out in low and/or moderate income neighborhoods.

e. Propose projects in residential areas which meet one or more of the following criteria for being a neighborhood:

(1) Being known by a given name.

(2) Having generally agreed upon boundaries.

(3) Having some historical continuity.

(4) Having a territorial group which bears its name.

f. Assure that a majority of proposed projects are conducted by, and a majority of project funds are awarded to, neighborhood groups.

g. Develop crime prevention projects which are responsive to identified crime problems and which conform to UCPP's goals and objectives. The process utilized to determine crime problems must be clearly described in the application. Input on local crime problems should be obtained from public and private organizations including neighborhood groups.

h. Document each Advisory Council member's willingness to serve for the duration of the grant, whether he/she participated in the project planning, whether he/she is familar with the contents of the proposal, and whether or not a Council member's organization will receive an allocation.

i. Provide a description of how and where the applicant drew on sources of data, information, and expertise in developing its application.

j. Submit brief biographies of Advisory Council members describing their backgrounds and the group or interests they represent on the Council.

k. Provide in the grant application a separate description of: each project organization; its experience in carrying out neighborhood projects and involving neighborhood people in them; the specific activities to be conducted by each project organization and the nature of the crime problem which will be addressed; and a separate itemized budget and budget narrative for each project.

l. Describe any past and present community crime prevention efforts, including those receiving municipal, state, and/or federal assistance (e.g., LEAA, HUD, CETA, etc.).

m. Provide assurance of willingness to cooperate with a national contractor in the evaluation of grant activities.

n. Conform with federal level goals and objectives established for the UCPP.

o. Comply with all regulations, policies, and procedures established for the management of the UCPP grant.

p. Comply with the OMB Circular A–95 which requires appropriate areawide and state clearinghouse review.

q. Participate in the UCPP technical assistance component which will provide ongoing help in project implementation at no cost to grantees. All successful applicants must agree to participate in this training and technical assistance program. Each application must include a description of its anticipated technical assistance needs during the program's start-up and implementation phases.

r. Submit application to the mayor for review. Mayors will, in writing, indicate whether:

(1) The proposal was reviewed or not.

(2) He/she or a designated representative participated in developing the application.

(3) The mayor, or his or her designee is willing to serve on Council.

Responses to the above must be submitted with the application. If the mayor chooses not to act on the application, the applicant will provide evidence that the application has been submitted to the mayor. The mayor may endorse more than one application if he/she chooses. The lack of the mayor's willingness to serve or to designate a representative to serve on the Advisory Council makes selection of the application as a tentative finalist in the review process unlikely. Once the proposed grantees are identified by the UCPP staff, and prior to awards, the mayor will have a 30-day period to veto any proposed grant within his/her jurisdiction. His/her veto is conclusive. No grant will be made if vetoed by the mayor.

2. *Selection Criteria Priorities.*

The following criteria will be utilized to rank eligible applicants in determining the selection of grantees. The 16 criteria are divided into three categories based on the priority given to each criterion.

a. Primary importance will be given to: (1) Extent to which all proposed projects meet the common characteristics developed by the UCPP.

(2) Applicants' demonstrated ability to work with neighborhood groups and public and private organizations.

(3) Extent of volunteer involvement in proposed crime prevention projects.

(4) Degree to which the applicant involved public and private organizations, especially neighborhood groups and residents, in planning proposed crime prevention efforts.

(5) Applicant's experience in developing, implementing, and managing neighborhood programs in crime prevention or other areas.

(6) Extent to which proposed projects employing models fulfill UCPP-determined project elements.

b. Secondary importance will be given to: (1) Demonstration in the proposal development of a sound planning process which includes the use of the best available crime statistics and other evidence of crime and its impact.

(2) Extent to which those proposed project organizations which are neighborhood groups have a multi-issue orientation.

(3) Extent of experience in and/or plans for community organizing as part of the proposed crime prevention projects.

(4) Extent to which the proposed projects address crime problems identified in the planning process.

(5) Breadth, representativeness, and expertise of Advisory Council membership and the degree of their involvement in developing the proposal.

c. Consideration will also be given to: (1) Extent to which those proposed project organizations which are neighborhood groups have an established organizational structure, including elected officers and regular meetings, involve members in their decision-making processes, and promote participation of residents in their activities.

(2) Reasonableness of costs in relation to activities proposed and results anticipated.

(3) Capability of applicants to afford training to project organizations and volunteers.

(4) Adequacy of grantee and project organization staffing patterns and the expertise of individual staff members in implementing and managing a UCPP grant and projects.

(5) Adequacy of plans by project organizations for effective supervision of volunteers receiving living allowances.

G. *Application Deadline and Submission Procedures:* 1. All applications for fiscal year 1980 funds must be received by LEAA or postmarked no later than May 9, 1980. No applications will be considered if received or postmarked after that date.

2. In addition to the copies of the application sent to the state and local A–95 clearinghouses, the original plus two (2) copies of the entire application package should be sent to: The Control Desk, GCMD/FMGAB, Office of the Comptroller, LEAA, 633 Indiana Avenue, NW., Room 942, Washington, D.C. 20531.

3. In order to assist applicants, participants and other interested individuals in developing their plans to participate in the UCPP, pre-application technical assistance workshops will be held from 1:00 p.m. to 4:30 p.m. in the following ten cities according to the schedule below:

Region I, date: Monday, March 3, 1980, site: John W. McCormack Post Office and Court House, Federal Building, Post Office Square, Boston, Massachusetts 02109, Room 208

Region II, date: Tuesday, March 4, 1980, site: Federal Building 26 Federal Plaza, New York, New York 10007, Room 305

Region III, date: Thursday, March 6, 1980, site: William J. Green, Federal Building, 6th & Arch Street, Philadelphia, Pennsylvania 19106, Room 3306–3310

Region IV, date: Tuesday, February 26, 1980, site: Richard B. Russell, Federal Building, 75 Spring Street, Atlanta, Georgia 30303, Room–Auditorium

Region V, date: Monday, February 25, 1980, site: Everett McKinley Dirksen, Federal Building, 219 So. Dearborn Street, Chicago, Illinois 60604, Room 204A

Region VI, date: Friday, February 29, 1980, site: 1200 Main Tower, Dallas, Texas 75202, Room 1300

Region VII, date: Wednesday, February 27, 1980, site: Federal Building, 601 E. 12th Street, Kansas City, Missouri, Room 302

Region VIII, date: Tuesday, March 4, 1980, site: Lincoln Tower Building, 1860 Lincoln Street, Denver, Colorado 80203, Room Suite 1013

Region IX, date: Monday, March 3, 1980, site: Federal Building, 450 Golden Gate Avenue, San Francisco, California, Room 15018

Region X, date: Thursday, February 28, 1980, site: New Federal Building, 915 Second Avenue, Seattle, Washington 98101, Room 4th Floor, North Conference Room

Sam Brown,

Director, Action.

Homer F. Broome, Jr.,

Acting Administrator, Law Enforcement Assistance Administration.

[FR Doc. 80–3603 Filed 2–1–80; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. *et seq.*), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

MO–247, Douglas County Livestock Auction, Inc., Ava, Missouri, November 30, 1979

NC–158, Elizabethtown Livestock Market, Elizabethtown, North Carolina, November 15, 1979

NY–158, Langless Bros., Auction Market, Inc., Cherry Creek, New York, November 5, 1979

Done at Washington, D.C., this 28th day of January 1980.

J. Fred Matteson,

Acting Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc. 80–3612 Filed 2–1–80; 8:45 am]

BILLING CODE 3410–02–M

Office of the Secretary

Meat Import Limitations; First Quarterly Estimate; Correction

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Correction.

SUMMARY: This document is to correct FR Doc. 80–251.

EFFECTIVE DATE: December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Lloyd Fleck (FAS), 202/447–7198, Dairy, Livestock, and Poultry Division, FAS, USDA, Room 6621–S, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: In FR Doc. 80–251 appearing in the second column of page 813 of the **Federal Register** of Thursday, January 3, 1980, the phrase "calendar year 1979" is corrected to read "calendar year 1980" whenever it appears therein.

Issued at Washington, D.C., this 30th day of January 1980.

James H. Starkey,

Deputy Under Secretary for International Affairs and Commodity Programs.

[FR Doc. 80–3617 Filed 2–1–80; 8:45 am]

BILLING CODE 3410–01–M

Soil Conservation Service

Covert Township Park Public Water-Based Recreation and Critical Area Treatment R.C.&D. Measure, Michigan

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur H. Cratty, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517–372–1910, Ext. 242.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Covert Township Park Public Water-Based Recreation and Critical Area Treatment R.C.&D. Measure, Van Buren County, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Arthur H. Cratty, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment and public water-based recreation. The planned works of improvement include installing a day use parking area (20 cars); 90 camp sites with underground electric hookup, fireplace grill, and trash barrel; one dump station for self-contained travel trailers; signs; primitive tent camping areas; 1,100 feet of recreation trails and walkways; 2,500 feet of fencing; playground equipment; and erosion control by beachgrass planting (5 acres). Total construction cost is estimated to be $115,950; $59,475 R.C.&D. funds and $56,475 local funds.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Ageny. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Arthur H. Cratty, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517–372–1910, Ext. 242. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until March 5, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Public Law 87–703, 16 U.S.C. 590a–f, q.)

Dated: January 24, 1980.

David G. Unger,

Associate Administrator.

[FR Doc. 80-3572 Filed 2-1-80; 8:45 am]

BILLING CODE 3410-16-M

Lake Leon Critical Area Treatment R. C. & D. Measure, Texas

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. George C. Marks, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, 101 South Main Street, P.O. Box 648, Temple, Texas 76501, telephone 817–774–1214.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lake Leon Critical Area Treatment RC&D Measure, Eastland County, Texas.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan to stabilize three (3) acres of critically eroding areas below Lake Leon Dam. The planned works of improvement include excavation of the existing river bank to a stable slope and vegetation to a permanent grass cover, construction of a grass waterway above the riverbank to intercept and convey upland runoff to a safe outlet, and construction of a fence around the treated area for vegetative establishment and protection purposes.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George C. Marks, State Conservationists, Soil Conservation Service, W. R. Poage Federal Building, 101 South Main Street, P.O. Box 648, Temple, Texas 76501, telephone 817–774–1214. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of proposal will not be initiated until March 5, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Public Law 87–703, 16 U.S.C. 590a–f, q.)

Dated: January 24, 1980.

David G. Unger,

Associate Administrator.

[FR Doc. 80-3571 Filed 2-1-80; 8:45 am]

BILLING CODE 3410-16-M

Pickett County Critical Area Roadside Treatment R.C. & D. Measure, Tennessee

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Donald C. Bivens, State Conservationist, Soil Conservation Service, U.S. Courthouse, Room 675, 801 Broadway Street, Nashville, Tennessee 37203, telephone 615–749–5471.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Pickett County Critical Area Roadside Treatment RC&D Measure, Pickett County, Tennessee.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Donald C. Bivens, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for treatment of eroding roadbanks and fills along county roads in Pickett County, Tennessee. The planned works of improvement include sloping, fertilizing, liming, and seeding to perennial grasses and legumes.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Donald C. Bivens, State Conservationist, Soil Conservation Service, U.S. Courthouse, Room 675, 801 Broadway Street, Nashville, Tennessee 37203, telephone 615–749–5471. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until March 5, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Public Law 87–703, 16 U.S.C. 590a–f, q.)

Dated: January 24, 1980.

David G. Unger,

Associate Administrator.

[FR Doc. 80-3570 Filed 2-1-80; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Dockets Nos. 33363, 34922 and 34923]

Former Large Irregular Air Service Investigation; Application of Joseph S. Norman II; Postponement of Hearing

The hearing in the above-styled proceeding now set for February 11, 1980 (44 FR 67485, November 26, 1979) is hereby postponed until further notice.

Dated at Washington, D.C., January 29, 1980.

Alexander N. Argerakis,

Administrative Law Judge.

[FR Doc. 80-3618 Filed 2-1-80; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Connecticut Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut Advisory Committee (SAC) of the Commission will convene at 7:00 p.m. and will end at 9:00 p.m., on February 28, 1980, at 111 Pearle Street, Hartford, Connecticut.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is to discuss subcommittee report on Community Development Block Grant Program.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 28, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-3623 Filed 2-1-80; 8:45 am]

BILLING CODE 6335-01-M

Vermont Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Vermont Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 9:30 p.m., on February 25, 1980, at the Tavern Motor Inn, 100 State Street, Montpelier, Vermont.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is the Franco-American Project; Teacher Training Project; census; and pending civil rights bills.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 29, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-3621 Filed 2-1-80; 8:45 am]

BILLING CODE 6335-01-M

Virginia Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Virginia Advisory Committee (SAC) of the Commission will convene at 4:00 p.m. and will end at 7:00 p.m., on February 27, 1980, at the Ramada Inn, 1900 North Ft. Myer, Rosslyn, Virginia.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is the Virginia Advisory Committee will plan followup action on the fair housing study published by the U.S. Commission on Civil Rights in March 1979, and other committee activities for 1980.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 29, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-3622 Filed 2-1-80; 8:45 am]

BILLING CODE 6335-01-M

Washington Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Washington Advisory Committee (SAC) of the Commission will convene at 9:00 a.m. and will end at 12:00 p.m., on February 29, 1980, at 915 Second Avenue, Room 2886, Seattle, Washington 98174.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Washington 98174.

The purpose of this meeting is program plans.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 29, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-3622 Filed 2-1-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Pro-Am Skateboard Products, Inc., 9718 Washburn Road, Downey, California 90241, producer of skateboards and wheels (accepted January 17, 1980); (2) Garland Corporation, Oak Street, Brockton, Massachusetts 02401, producer of women's sweaters, tops, shirts, pants, skirts and dresses (accepted January 17, 1980); (3) Kickers for Her, Ltd., 1359 Broadway, New York, New York 10018, producer of women's jeans, shorts and rompers (accepted January 18, 1980); (4) G & H Decoys, Inc., P.O. Box 937, Henryetta, Oklahoma 74437, producer of water fowl decoys and hunting accessories (accepted January 18, 1980); (5) Orion's Belt, Inc., 5991 West State Road 48, Bloomington, Indiana 47401, producer of men's belt (accepted January 21, 1980); (6) Bryfogles, Inc., P.O. Box 359, Muncy, Pennsylvania 17756, producer of cut flowers and potted plants (accepted January 21, 1980); (7) Edmos Corporation, 20 Garvies Point Road, Glen Cove, New York 11542, producer of knit fabrics (accepted January 21, 1980); (8) Amer-Tex Industries, Inc., Green & Willow Streets, Skowhegan, Maine 04976, producer of shoe components (accepted January 21, 1980); (9) Henry Fashions of California, 3615 Broadway Place, Los Angeles, California 90007, producer of jeans for women, misses, and juniors (accepted January 23, 1980); (10) AmerSound Industries, Inc., 1727 Doan Avenue, East Cleveland, Ohio 44112, producer of automotive loudspeakers (accepted January 23, 1980); (11) Micro-Acoustics Corporation, 8 Westchester Plaza, Elmsford, New York 10523, producer of phonograph cartridges and replacement styli (accepted January 25, 1980); (12) Willits Shoe Company, Halifax, Pennsylvania 17032, producer of juvenile footwear (accepted January 25, 1980); (13) A & F Originals, Inc., 247 West 38th Street, New York, New York 10018, producer of women's cowhide outerwear (accepted January 25, 1980); (14) Kramer Jewelry Creations, Inc., 393 Fifth Avenue, New York, New York 10016, producer of costume jewelry (accepted January 28, 1980; (15) Kelly Slax, Inc., 1185 Avenue of the Americas, New York, New York 10036, producer of men's pants and shorts (accepted January 28, 1980); (16) Kluson Manufacturing Company, Inc., 3830 N. Kilbourn Avenue, Chicago, Illinois 60641, producer of machine heads (accepted January 28, 1980).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received

by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

Jack W. Osburn, Jr.,

Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 80-3498 Filed 2-1-80; 8:45 am]

BILLING CODE 3510-24-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a pemit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name—Ocean Park Limited (P43A).

b. Address—Wong Chuk Hang Road, Aberdeen, Hong Kong.

2. Type of Permit: Public Display.

3. Name and Number of Animals: California sea lions (*Zalophus californianus*)—5.

4. Type of Take: Rehabilitated beached/stranded animals will be obtained for permanent maintenance.

5. Location of Activity: California.

6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before March 5, 1980. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11614, March 12, 1975). In this regard, the application:

(a) was submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the Agriculture & Fisheries Department of Hong Kong, that Department being responsible, among other things, for ensuring the suitable care of animals in captivity:

(b) Includes a statement that the Agriculture & Fisheries Department:

i. has verified the information set forth in the application;

ii. will monitor compliance with the terms and conditions of the permit, and will do so, if and when necessary; and

iii. will have no objection to a NMFS decision to amend, suspend, or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Agriculture & Fisheries Department have been found appropriate and sufficent to allow consideration of this permit application.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: January 28, 1980.

William Aron,

Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 80-3629 Filed 2-1-80; 8:45 am]

BILLING CODE 3519-22-M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action to Implement the International Energy Program; Meetings

In accordance with Section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) notice is hereby provided of the following meetings:

I. A meeting of the Industry Working Party (IWP) to the International Energy Agency (IEA) will be held on February 12 and 13, 1980, at the offices of VEBA A.G., Karl-Arnold Plata 3, 4000 Dusseldorf, 30, Germany, beginning at 9:30 a.m. The agenda for the meeting is as follows:

1. Status of SOM and IWP activities and arrangements for future meetings.

2. Discussion of aspects of the oil products register and the reporting instructions covering this.

II. A meeting of the Industry Working Party (IWP) to the International Energy Agency (IEA) will be held on March 4, 5 and 6, 1980, at the offices of the IEA, 2 rue Andre Pascal, Paris, France, beginning at 9:30 a.m. on March 4. The purpose of this meeting is to permit attendance by representatives of the IWP at meetings of the IEA Standing Group on the Oil Market (SOM) and an ad hoc group of the SOM, which are being held at Paris on those dates.

The agenda for the meeting is under the control of the SOM and its ad hoc group. It is expected that the IWP representatives will be asked to discuss the following subject:

Further questions regarding the oil products register.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Issued in Washington, D.C., January 29, 1980.

Craig S. Bamberger,

Acting Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 80-3555 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Big Bend Truck Plaza

AGENCY: Economic Regulatory Administration, Department of Energy

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: Effective date: January 21, 1980

COMMENTS BY: March 5, 1980

ADDRESS: Send comments to: James C. Easterday, District Manager of Enforcement, 1655 Peachtree Street, N.W., Atlanta, Georgia 30309.

FOR FURTHER INFORMATION CONTACT: James C. Easterday, District Manager of Enforcement, 1655 Peachtree Street NE., Atlanta, Georgia 30309, telephone (404) 881–2661.

SUPPLEMENTARY INFORMATION: On January 21, 1980, the Office of Enforcement of the ERA executed a Consent Order with Big Bend Truck Plaza of Tallahassee, Florida. Under 10 C.F.R. 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution. Because of the settlement negotiations involved in this case and the desire to conclude this matter expeditiously, the DOE has determined that it is in the public interest to make the Consent Order with Big Bend Truck Plaza effective as of the date of its execution by the DOE and Big Bend Truck Plaza.

I. The Consent Order

Big Bend Truck Plaza (Big Bend), with its home office located in Tallahassee, Florida, was a retailer of petroleum products, and is subject to the jurisdiction of the DOE with regard to prices charged in sales of these products, pursuant to 10 C.F.R. Section 212.93. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Big Bend, the Office of Enforcement, ERA, and Big Bend entered into a Consent Order, the significant terms of which are as follows:

1. The Consent Order relates to sales of diesel fuel by Big Bend during the period November 1, 1973, through April 30, 1976.

2. From the audit conducted during the above period, ERA concluded that Big Bend's prices exceeded the maximum lawful selling prices permitted by the aforementioned regulations, resulting in overcharges in the sales of diesel fuel.

3. Big Bend agrees to refund the total sum of § 18,854.57 in full settlement and compromise of all outstanding overcharges found by DOE during the audit period.

4. The Consent Order provides that Big Bend shall make refunds totalling $18,854.57, with the initial refund being made within 30 days of the executed Consent Order in the amount of $5,500. Thereafter, four equal annual payments shall be made in the amount of $3,125.00 and additionally, refund by cashier's check in the amount of $854.57 shall be made directly to one identified overcharged customer.

5. The provisions of 10 C.F.R. 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Big Bend agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $18,854.57 on or before January 21, 1984. Refund methodology will be as specified in Section 1.4. above. Refunded overcharges in the amount of $18,000 will be in the form of certified checks made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 C.F.R. 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Allocation (Entitlements) Program, 10 C.F.R. 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 C.F.R. 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants.* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments.* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to James C. Easterday, District Manager of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia 30309. You may obtain a copy of this Consent Order with proprietary information deleted by writing to the same address.

Your should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Big Bend Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on March 5, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 C.F.R. 205.9(f).

Issued in Atlanta, Georgia on the 24th day of January 1980

James C. Easterday,

District Manager of Enforcement.

Approved for Signature.

Leonard F. Bittner,

Chief Enforcement Counsel.

[FR Doc. 80-3497 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 2100]

California Department of Water Resources; Application for Amendment of License

January 28, 1980.

Take notice that on August 21, 1979, the California Department of Water Resources (Licensee) filed an application for amendment of its license for the existing Feather River Project No. 2100, located on the Feather River and its tributaries in the County of Butte, California. Correspondence concerning the application should be sent to Mr. Ronald B. Robie, Director, Department of Water Resources, P.O. Box 388, Sacramento, California 95802.

The Licensee seeks authorization to construct: (a) an intake structure within the Thermalito Afterbay Dam at a point approximately 200 feet east of the existing river outlet; (b) a 1,000-foot-long, unlined, trapezoidal channel, with a bottom width of 160 feet, to carry water from the intake structure to the

Feather River south of the dam; (c) a powerhouse within the channel, about 200 feet downstream from the dam, containing a single generating unit with a rated capacity of 13,000 kW; and (d) a 34.5-kV transmission line, approximately 5½ miles long, that would connect the proposed powerhouse to the existing Thermalito Forebay Switchyard, north of powerhouse.

The Licensee estimates the capital cost of the proposed action to be $37,155,000, assuming that construction starts in January 1981 and the plant is in commercial operation by July 1984. The proposed power plant would become another feature of the Department of Water Resources' State Water Project. The energy generated would be used to aid in meeting the Water Project's pumping requirements.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1979).

Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before March 10, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3531 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP75-62]

Cities Service Gas Co.; Further Extension of Time

January 28, 1980.

On January 21, 1980, Cities Service Gas Company filed a request for a further extension of time to submit Briefs on Exceptions to the Initial Decision issued October 29, 1979, in the above-docketed proceeding. The motion states that the additional time is needed in order to facilitate further settlement negotiations which are scheduled for January 18, 1980. This motion was filed by Cities Service on behalf of all active parties to this proceeding.

Upon consideration, notice is hereby given that a further extension of time for filing Briefs on Exceptions is granted to and including February 15, 1980. Briefs Opposing Exceptions are due on or before March 6, 1980.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3532 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-11]

Columbia Gas Transmission Co.; Third Party Protests [1]

January 31, 1980.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23–B [2] and Order on Rehearing of Order No. 23–B, [3] the staff of the Commission protested on December 31, 1979, the assertion by the Columbia Gas Transmission Company (Columbia) that the contracts identified in its protest provide contractual authority for the producers to charge and collect the applicable maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA).

Staff stated that the contracts contained in Appendix A do not provide authority for the producer to increase prices to the extent claimed by Columbia in its evidentiary submission.

Take notice that the Associated Gas Distributors (AGD) also filed a third-party protest on December 5, 1979. AGD protests that the contracts in Appendix B do not provide contractual authority for the producer to increase prices charged and collected to the applicable NGPA maximum lawful price.

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the Commission, on or before February 13, 1980, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Lois D. Cashell,

Acting Secretary.

Appendix A

Producer	Date
Fred J. Russell d.b.a. Louden Properties	1–31–49
J. W. Kinzer	10–7–71
Dewey W. Waters and Victor Waters	10–22–70

Appendix B

Seller	Date
Harry C. Bogge	10–19–79
Braxton Oil & Gas	8–27–79
Jimmy Hamilton Oil & Gas	10–25–79
Yankee Energy Associates, Ltd	10–26–79
J & J Enterprises, Inc	10–8–79
Stevenson Resources, Inc	8–5–79
Petroleum Development Corp	7–20–79
Petroleum Technology Corp	8–8–79
R. E. Riley & Co	10–4–79
Sterling Drilling & Production Co., Inc	10–22–79
Union Drilling, Inc	8–3–79
Union Drilling, Inc	8–21–79
Union Drilling, Inc	8–28–79
Union Drilling, Inc	9–5–79
Union Drilling, Inc	10–8–79
Union Drilling, Inc	10–10–79
V–H Joint Venture	8–5–79
J. W. Kinzer	10–7–71
Fred J. Russell d.b.a. Louden Properties	1–31–49
Dewey H. Waters and Victor Waters	10–22–70
Luray Land, Inc	4–29–77
Roy G. Hildreth, Jr	1–8–79

[FR Doc. 80-3530 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-11]

Columbia Gas Transmission Co.; Third Party Protest [1]

January 29, 1980.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23–B [2], and "Order on Rehearing of Order No. 23–B," [3] the staff of the Commission protested on October 15, 1979, the assertion by the Columbia Gas Transmission Company (Columbia) that the contracts identified in its protest constitute contractual authority for the producers to charge and collect the applicable maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA).

Staff asserts that the contracts contained in Appendix A do not provide authority for the producer to increase prices to the extent claimed by Columbia in its evidentiary submission.

[1] The term "third party protest" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79–22, issued June 21, 1979.

[3] Docket No. RM79–22, issued August 6, 1979.

[1] The term "third party protest" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79–22, issued June 21, 1979.

[3] Docket No. RM79–22, issued August 6, 1979.

Take further notice that the Associated Gas Distributors (AGD) also filed a third-party protest on October 15, 1979. AGDprotests that the contracts in Appendix B do not provide contractual authority for the producer to increase prices to the applicable NGPA maximum lawful price. AGD's position has been adopted and incorporated in protests filed by the Arizona Corporation Commission, "Florida Cities", the Gas Consumers Group, the Kansas State Corporation Commission, the Cities of Mangum, Oklahoma and Winfield, Kansas, Congressman Andrew Maguire, the Memphis Light, Gas and Water Division, the Public Service Commission of the State of New York, the South Dakota Public Service Commission and the Minnesota Public Service Commission.

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to those protests should file with the Commission, on or before February 11, 1980, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR 154.94(j)(4)(ii), the seller is automatically joined as a party.

Lois D. Cashell,

Acting Secretary.

Appendix A

Producer	Rate Schedule No. or Contract date
Amoco Production Co	78
Amoco Production Co	173
Amoco Production Co	174
Amoco Production Co	190
Columbia Gas Development Corp	10, 17
Exxon Corp	28
Exxon Corp	357
Forest Oil Corp	50
Getty Oil Corp	26
Getty Oil Corp	223
Jay Simmons Trust	11–1–74
Petro-Lewis Funds, Inc	1–15–54
Rebstock Producing Co	11–1–74
Reeves Producing Co	1–11–74
Superior Oil Co	225
Texas Eastern Exploration Co	14
Union Oil Co. of California	168
Union Oil Co. of California	223
Union Oil Co. of California	234
Union Texas Petroleum	120
CNG Producing Co	44
Columbia Gas Development Corp	23, 25
Columbia Gas Development Corp	26
Columbia Gas Development Corp	34
Felmont Oil Corp	27
Forest Oil Corp	62
Forest Oil Corp	63
Issac Arnold, *et al.*	2
Exxon Corp	489
Texaco, Inc	2
Texaco, Inc	483
Amoco Production Co	760
Case Pomeroy Oil Corp	9
Felmont Oil Corp	29
Columbia Gas Development Corp	21
Columbia Gas Development Corp	22
Texaco, Inc	4
Texaco, Inc	306
Texaco, Inc	364
Texaco, Inc	539
Texaco, Inc	7–1–78
Columbia Gas Development Corp	7–10–78
Columbia Gas Development Corp	8–8–78
Columbia Gas Development Corp	9–29–78
Tenneco Exploration	16
Texas Oil & Gas Corp	7–10–78
Texas Oil & Gas Corp	9–29–78
Columbia Gas Development Corp	12–8–78
Pancanadian Petroleum Corp	1–9–79
Texaco, Inc	260
Columbia Gas Development Corp	8
Forest Oil Corp	49

Appendix B

Producer	Rate Schedule No. or contract date
Ada Land Co	
Windson Gas Corp	8
The Wiser Oil Co	5
Aminex U.S.A. Inc	6
Canadian Superior Oil, Ltd	8
Natresco, Inc	4
The Superior Oil Co	357
Aminoil USA, Inc	9–13–76
H. W. Bass & Sons	9–13–76
Case Pomeroy Oil Corp	7
Clark Oil Producing Co	9–13–76
CNG Producing Co	44
Columbia Gas Development Corp	18
Columbia Gas Development Corp	23
Columbia Gas Development Corp	26
Columbia Gas Development Corp	34
Felmont Oil Corp	24
Felmont Oil Corp	27
Felmont Oil Corp	29
Forest Oil Corp	62
Forest Oil Corp	63
Home Petroleum Corp	9–13–76
Amerada Hess Corp	5–10–79
Exxon Corporation	260
The Louisiana Land & Exploration Co	27
AMOCO Production Co	219
AMOCO Production Co	78
AMOCO Production Co	174
AMOCO Production Co	841
Oblelexo Corporation	6
Energy Reserves Group, Inc	106
Ethyl Development Corp	5–25–79
Exxon Corporation	563
Frank's Petroleum, Inc	6–13–66
General American Oil Co. of Texas	70
Oxy Petroleum Inc	11–1–66
Sun Oil Company	36
AMOCO Production Co	173
AMOCO Production Co	190
AMOCO Production Co	384
Arco Oil & Gas Co	518
The Superior Oil Co	217
Superior Oil Co	228
American Petrofina Company of Texas	9
American Petrofina Company of Texas	67
American Petrofina Company of Texas	188
Inexco Oil Co	11–7–77
M. L. Mayfield	1–25–54
Exchange Oil & Gas Corp	34
Exxon Corp	23
Exxon Corp	24
Exxon Corp	26
Exxon Corp	357
Exxon Corp	545
Exxon Corp	546
Exxon Corp	575
Exxon Corp	577
Exxon Corp	578
Exxon Corp	580
Exxon Corp	596
Exxon Corp	617
Exxon Corp	631
Exxon Corp	632
Exxon Corp	633
Exxon Corp	635
Exxon Corp	636
Exxon Corp	637

Appendix B—Continued

Producer	Rate Schedule No. or contract date
Exxon Corp	639
Gulf Oil Corp	363
Robert Mosbacher	8–30–78
Texas Pacific Oil Co	3
AMOCO Production Co	198
AMOCO Production Co	240
Sun Oil Co	367
AMOCO Production Co	431
AMOCO Production Co	731
Columbia Gas Development Corp	16
Columbia Gas Development Corp	17
Exxon Corp	516
Exxon Corp	526
Exxon Corp	530
Exxon Corp	541
Getty Oil Co	203
Getty Oil Co	229
Getty Oil Co	296
Phillips Petroleum Co	519
Texas Eastern Exploration Co	14
Texas Gulf, Inc	11–14–72
Texas Gulf, Inc	7–22–75
Union Oil Co. of California	166
Union Oil Co. of California	223
Union Oil Co. of California	234
Union Texas Petroleum	111
Exxon Corp	135
General American Oil Co. of Texas	80
General American Oil Co. of Texas	84
McMoran Exploration Co	7–26–78
Union Oil Co. of California	12
Exxon Corp	480
Exxon Corp	488
Exxon Corp	491
Exxon Corp	492
Exxon Corp	506
Exxon Corp	531
Exxon Corp	532
Exxon Corp	534
Exxon Corp	538
Exxon Corp	539
Texas Gas Exploration Co	32
Exxon Corp	567
Exxon Corp	574
Exxon Corp	588
Exxon Corp	605
Exxon Corp	610
Exxon Corp	489
Texaco Inc	446
Texaco Inc	454
Texaco Inc	460
AMOCO Production Co	723
AMOCO Production Co	644
Union Texas Petroleum	134
AMOCO Production Co	539
Bethlehem Steel Corp	9
C & K Marine Production Co	11–23–77
Can Del Oil (U.S.) Inc	11–23–77
Four M Properties Ltd	11–23–77
Ocean Production	22
St. Joe Petroleum (U.S.) Corp	11–23–77
Texas Exploration Co	28
Exxon Corp	585
Cattery Properties, Inc	8–31–73
Davis Oil Co	1–11–71
Edgewater Oil Co., Inc	5–31–67
Edgewater Oil Co., Inc	4–1–72
Exchange Oil & Gas Corp	22
Exchange Oil & Gas Corp	29
Robert Mosbacher	8–23–73
Texas International Petroleum Corp	4–26–72
W. W. F. Oil Corp	9–14–64
Columbia Gas Development Corp	6
Forest Oil Corp	49
Columbia Gas Development Corp	10
Forest Oil Corp	52
Columbia Gas Development Corp	12
Arco Oil & Gas Co	63
Arco Oil & Gas Co	156
Arco Oil & Gas Co	201
Apache Corporation	9–11–78
California Co. (Chevron Oil)	23
Columbia Gas Development Corp	19
Columbia Gas Development Corp	25
Earl P. Burke, Jr., et al	8–30–78
Earl P. Burke, Jr., et al	1–16–79
Hydrocarbon Exploration Co. Inc	2–6–79
Miles Kimball Co	1–16–79
Riner Exploration Corp	1–17–79

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Appendix B—Continued

Producer	Rate Schedule No. or contract date
Southport Exploration	2-9-79
Union Oil Co. of California	246
Columbia Gas Development Corp	15
Sun Oil Co	76
Union Texas Petroleum	120
Windson Gas Corp	4-1-72
Case Pomeroy Oil Corp	9
Columbia Gas Development Corp	9
Forest Oil Corp	50
Amoco Production Co	750
Isaac Arnold, et al	5-25-53
Watson Petroleum Exploration, Inc. et al	3-12-79
Amoco Production Co	760
Tenneco Exploration Ltd	16
Texaco Inc	2
Shell Oil Co	3-1-79
Tenneco Exploration Ltd	16
Watson Petroleum Exploration, Inc. et al	5-12-79
Texaco Inc	560
Texaco Inc	5
Texaco Inc	6
Sun Oil Co	98
Sun Oil Co	223
Phillips Petroleum Co	273
Oxy Petroleum Inc	12-6-78
James R. Moffett, et al	3-1-74
Petro-Lewis Funds, Inc	10-31-52
Tenneco Oil Co	96
Texaco Inc	306
Mobil Oil Corp	423
Mobil Oil Corp	491
Northwestern Mutual Life Ins. Co	1
Exxon Corp	618
Exxon Corp	623
Exxon Corp	627
Sun Oil Co	98
Sun Oil Co	223
Texaco Inc	560
Amoco Production Co	760
Great Southern Oil & Gas Company Inc	5-23-57
Momo Power Co	3-14-78
Mobil Oil Corp	534
Mesa Petroleum Co	1-4-79
Getty Oil Co	392
Getty Oil Co	404
Texas, Gulf Inc	9-12-72
Union Texas Petroleum	110
General American Oil Co	109
General American Oil Co of Texas	65
Frank's Petroleum Inc	2-14-79
Exxon Corp	640
Getty Oil Co	26
Margaret Cullen Marshall, et al	1-17-79
Exchange Oil & Gas Corp	8
Texaco Inc	2
Davis Oil Co	3-25-69
Petro-Lewis Funds, Inc	1-15-54
Petro-Lewis Funds, Inc	5-22-66
Exxon Corp	634
Texaco Inc	5
Texaco Inc	6
Shell Oil Co	3-1-79
Mobil Oil Corp	141
Curt Weaver Oil Co	7-10-75
Curt Weaver Oil Co	4-18-67
James H. Kepper, Jr., et al	11-1-74
Mid-Gulf Exploration Co	11-1-74
Rebstock Producing Co	11-1-74
Reeves Producing Co	1-11-74
Jay Simmons Turst	11-1-74
Crystal Oil Co	5-25-78
Crystal Oil Co	9-1-78
Harry H. Cullen, et al	5-30-79
Exxon Corp	624
Exxon Corp	626
Exxon Corp	644
Exxon Corp	1-11-79
Exxon Corp	5-1-79
General Crude Oil Co	4-6-79
Columbia Gas Development Corp	4-9-79
Phillips Petroleum Co	4-25-79
Columbia Gas Development Corp	7-10-78
Columbia Gas Development Corp	8-8-78
Columbia Gas Development Corp	8-29-78
Texas Oil & Gas Corp	7-10-78
Texas Oil & Gas Co	8-29-78
Columbia Gas Development Corp	20
Columbia Gas Development Corp	21

Appendix B—Continued

Producer	Rate Schedule No. or contract date
Columbia Gas Development Corp	22
Texaco Inc	3
Texaco Inc	4
Texaco Inc	562
Texaco Inc	538
Texaco Inc	539
Texaco Inc	7-1-76
Texaco Inc	364
Texaco Inc	370
Columbia Gas Development Corp	32
Columbia Gas Development Corp	12-6-78
Pancanadian Petroleum Co	1-9-79
Columbia Gas Development Corp	23

[FR Doc. 80-3535 Filed 2-1-80; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP78-278]

East Tennessee Natural Gas Co.; Petition To Amend

January 29, 1980.

Take notice that on January 10, 1980, East Tennessee Natural Gas Company (Petitioner), 8200 Kingston Pike, Knoxville, Tennessee 37919, filed in Docket No. CP78-278 a petition to amend the order issued April 12, 1979, in the instant docket pursuant to section 7(c) of the Natural Gas Act and § 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) so as to modify the end-use limitations on the transported gas, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner seeks to amend ordering paragraph (c)(2) of the April 12, 1979, order to comply with § 2.79(m) of the Commission's General Policy and Interpretations as amended by order issued October 5, 1979, in Docket No. RM80-1 so as to provide that the transportation customer is not limited from purchasing any volumes of natural gas from its suppliers which does not exceed its normal entitlements as defined in § 2.79 and that there are no end-use restrictions upon the natural gas transported; however, the customer's aggregate supply volumes may not exceed the greater of its high priority requirements, or the sum of its normal entitlement, plus the fuel oil displacement volume authorized to be delivered under Subpart F of Part 284 of the Commission's Regulations under the Natural Gas Policy Act plus the direct sale volumes authorized to be delivered under certificates issued pursuant to Subpart E of Part 157 of the Commission's Regulations under the Natural Gas Act.

Any person desiring to be hear or to make any protest with reference to said petition to amend should on or before February 19, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3536 Filed 2-1-80; 8:45]
BILLING CODE 6450-01-M

[Docket No. CP74-192]

Florida Gas Transmission Co.; Environmental Field Trip

January 28, 1980.

Take notice that commencing on February 4, 1980 members of the Environmental Evaluation branch of the Office of Pipeline and Producer Regulation will conduct an aerial inspection of the Florida Transmission Company pipeline for the purpose of preparing their supplemental Environmental Impact Statement in the above-referenced proceeding. For further information about this field trip, contact Richard Hoffmann, Room 7102B, 825 North Capitol Street NE., Washington, D.C. 20426 (202-357-8098).

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3537 Filed 2-1-80; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-194]

Montana-Dakota Utilities Co.; Application

January 30, 1980.

Take notice that on January 17, 1980, Montana-Dakota Utilities co. (Applicant), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP80-194 an application pursuant to section 7(c) of the Natural Gas Act and 157.7(b) of the regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during an indefinite period commencing April 1, 1980, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas supplies, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant and supplies of natural gas from Applicant's own production on acquired for system supply under sections 311 or 312 of the Natural Gas Policy Act of 1978.

Applicant states that its gas utility plant Account 101 was $170,794,157 as of November 30, 1979, and total expenditures, beginning with calendar year 1981, would not exceed 3 percent of such account balance and no single project would exceed 25 percent of the total limit. The cost of the proposed facilities would be financed from internally generated funds and/or interim short term bank loans. Applicant requests that expenditures for the remainder of 1980 be limited to 75 percent of the total annual expenditures permitted by § 157.7(b).

Any person desiring to be heard or to make any protest with reference to said application should on or before February 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unneccessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3538 Filed 2-1-80; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-19]

Mountain Fuel Supply Co.; Petition To Amend

January 30, 1980.

Take notice that on January 14, 1980, Mountain Fuel Supply Company (Petitioner), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP79-19 a petition to amend the order of June 5, 1979, issued in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to authorize the addition of four new points for the receipt of gas from Panhandle Eastern Pipe Line Company (Panhandle) and the expansion of the existing Kanda Exchange Point (Kanda) and utilization of such point to deliver gas to Colorado Interstate Gas Company (CIG), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Pursuant to a gas transportation and exchange agreement dated June 28, 1978, Petitioner was authorized by order issued June 5, 1979, to transport natural gas for Panhandle from the Moxa Arch area of Wyoming (Storm Shelter Receipt Point) to a point of interconnection between the system of Petitioner and CIG, where such natural gas is delivered to CIG for further transportation and ultimate delivery to Panhandle, it is stated. Petitioner states that since the execution of the original agreement, Panhandle has acquired additional commitments of gas reserves which can be connected to Petitioner's system for transportation to CIG pursuant to an amended agreement dated June 28, 1979.

Petitioner proposes to transport an additional 28,200 Mcf of natural gas per day for Panhandle which would be received at the following additional receipt points.

New Receipt Point, and Location

Fire Place Rock, Moffat County, Colorado
Yellow Creek, Uinta County, Wyoming
Rock Ridge, Sweetwater County, Wyoming
Salt Well, Sweetwater County, Wyoming

By order issued June 5, 1979, Petitioner states, it was authorized to construct and operate a new measuring station to redeliver gas to CIG for the account of Panhandle at the North Baxter exchange point, Sweetwater County, Wyoming. It is stated that an evaluation of the proposed expanded transportation service for Panhandle indicates that the total volumes of exchange gas cannot be delivered to CIG using the North Baxter point alone and that deliveries through the existing Kanda exchange point would be required which requires additional horsepower to increase its capacity to handle the extra volumes. Therefore, Petitioner proposes to install 2,975 horsepower of additional compression facilities at Kanda which would increase the capacity from 40,000 Mcf per day to 116,000 Mcf per day. It is stated the cost of the additional horsepower is estimated to be $1,505,925, which would be financed from funds on hand.

Petitioner requests authority to forego construction of the Baxter exchange point, as it would be redundant once the Kanda exchange point is modified, it is stated.

Petitioner states that Petitioner and Panhandle have executed a letter agreement dated June 28, 1978, which provides that Petitioner may add compression in order to effect the delivery of gas to CIG if compression is required and that Petitioner may charge Panhandle a compression charge for such service. The letter agreement further provides that the point of delivery to CIG be changed from the North Baxter exchange point to the Kanda exchange point, it is stated. Petitioner states that the initial rate which Petitioner would charge Panhandle for transportation of gas volumes which would be added as a result of this amendment would be 13.22 cents per Mcf. Petitioner states a cost of service based on a charge of 5.0 cents per Mcf would apply to all gas which requires compression for delivery to CIG at the Kanda exchange point in addition to reimbursement by Panhandle of its proportionate share of compressor fuel.

It is stated that the monthly volumes of gas received, transported and delivered would be thermally balanced, and to the extent possible, any out-of-balance condition would be made up during the following month.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 19, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the

Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3539 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP76-235]

Panhandle Eastern Pipe Line Co.; Petition To Amend

January 29, 1980.

Take notice that on January 7, 1980, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, and P.O. Box 1348, Kansas City, Missouri 64141, filed in Docket No. CP76-235 a petition to amend the order issued August 9, 1976,[1] in the instant docket, pursuant to section 7(c) of the Natural Gas Act, so as to authorize an increase of the average shut-in reservoir pressure from a maximum of 2,796 psig to 3,515 psig, the acquisition and placement in service of an additional 600 horsepower of compression facilities, and an additional period of time and modification of the injection-withdrawal schedule to complete the development of the North Hopeton Storage Project, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Panhandle states that is was authorized, by order issued August 9, 1976, to proceed with the construction and operation of facilities associated with the development of the North Hopeton Field, Woods County, Oklahoma, as a natural gas storage project. It is stated that the order stipulated that the average shut-in pressure should not exceed 2,796 psig.

Panhandle states that full development of the North Hopeton Field project by 1984 would be achieved more rapidly if it were allowed to increase the average shut-in reservoir pressure to a maximum of 3,515 psig. Panhandle further states that it has determined that by refraining from making withdrawals from North Hopeton until the normal withdrawal period commencing in 1982, the field can be fully developed as a natural gas storage project more rapidly.

Panhandle asserts that in order to achieve the maximum shut-in reservoir pressure to 3,515 psig it would be necessary to add 600 horsepower of compression facilities at its Alva Compressor Station. Such addition, it is stated, would cost $647,000, which would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 19, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3540 Filed 2-1-80; 8:45 am]

BILLING CODE 6455-01-M

[Docket No. CP80-185]

Panhandle Eastern Pipe Line Co.; Application

January 30, 1980.

Take notice that on January 11, 1980, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP80-185 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Anchor Hocking Corporation (Anchor Hocking) for a two-year period, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to transport for Anchor Hocking up to 3,990 Mcf of gas per day on an interruptible basis for a term of two years. Pursuant to a transportation contract between Applicant and Anchor Hocking dated January 9, 1980, Applicant states it has agreed to receive up to 3,990 Mcf of gas per day on an interruptible basis through arrangements with Columbia Gas Transmission Corporation (Columbia) for the account of Anchor Hocking. According to Applicant, this gas would be transported and delivered to Columbia for the account of Anchor Hocking by Gas Transport, Incorporated (Transport). Transport, it is stated, is a wholly-owned subsidiary of Anchor Hocking. The point of receipt would be an existing point of interconnection between the facilities of Applicant and Columbia in Drake County, Ohio, it is asserted. It it stated Applicant would then deliver equivalent volumes to Anchor Hocking at an existing point of interconnection of the facilities of Applicant and Anchor Hocking in Randolph County, near Winchester, Indiana.

It is stated Anchor Hocking has advised Applicant that the gas to be transported hereunder would be used to supply the direct-fired process uses at Anchor Hocking's Winchester, Indiana, glass container manufacturing plant. According to Applicant, Anchor Hocking has informed Applicant that the subject gas would be used to offset curtailment of volumes of gas available for Anchor Hocking's use at its Winchester, Indiana, plant.

Applicant states Anchor Hocking would pay Applicant 2.45 cents per Mcf for gas transported and delivered to its plant at Winchester, Indiana.

Applicant states no new facilities are herein proposed as Applicant has sufficient capacity in its existing system to transport the quantities of gas pursuant to this contract as well as the other volumes connected to Applicant's system.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3541 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. CP70-248]

Panhandle Eastern Pipe Line Co.; Amendment to Petition To Amend

January 30, 1980.

Take notice that on January 10, 1980, Panhandle Eastern Pipe Line Company (Petitioner), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP70-248 pursuant to section 7(c) of the Natural Gas Act, an amendment to its petition to amend filed September 14, 1979, in the instant docket, so as to incorporate a February 7, 1979, amendment to a gas purchase and sales agreement (Agreement) dated November 21, 1969, between Petitioner and Western Gas Interstate Company (Western), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Petitioner states that its September 14, 1979, petition seeks Commission authorization to implement a June 14, 1979, amendment of the November 21, 1969, agreement, and should also have included a February 7, 1979, amendment to that agreement.

Accordingly, Petitioner herein proposes to add an additional point of redelivery whereby Petitioner would redeliver exchange gas to Western at a point on Petitioner's pipeline located in section 26, T5N, R19ECM, Texas County, Oklahoma. Further Petitioner states that gas delivered by Western to Petitioner at the proposed point of receipt in section 10, T2N, R14ECM, Texas County, Oklahoma, pursuant to the June 14, 1979, amendment to the agreement shall be exchange gas. Consequently, Petitioner states that it would redeliver the full amount of exchange gas received in section 10 T2N, R14ECM, Texas County, Oklahoma, to one of the redelivery points mutually agreed upon by Petitioner and Western.

Any facilities necessary to add a new point of exchange would, it is stated, be built pursuant to Petitioner's budget-type certificate for gas supply facilities.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 19, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. All persons who have heretofore filed need not file again.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3542 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-189]

Producer's Gas Co.; Application

January 30, 1980.

Take notice that on January 15, 1980, Producer's Gas Company (Applicant), 950 One Energy Square, 4925 Greenville Avenue, Dallas, Texas 75206, filed in Docket No. CP80-189 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a delayed exchange of peaking gas with Panhandle Eastern Pipe Line Company (Panhandle), and the transportation of gas owned by Panhandle on an interruptible basis over a period of 15 years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant owns and operates the Mooreland and Dewey gas transmission systems located in northwestern Oklahoma. Applicant states that the sole customer served heretofore by these intrastate systems has been Western Farmers Electric Cooperative (WFEC). Applicant asserts that it occasionally has excess capacity on the Mooreland and Dewey systems and volumes of gas which are surplus to the needs of WFEC. It is further stated that, accordingly, Applicant and Panhandle have entered into a delayed exchange, transportation and gas purchase and sales agreement whereby Applicant would sell surplus gas to Panhandle when such gas is available.

Applicant states that the subject service would be rendered through Applicant's existing facilities.

Applicant further states that it is presently transporting and selling natural gas to Panhandle pursuant to section 311 of the Natural Gas Policy Act of 1978, but contemplates cessation of this service upon issuance of the authorization sought herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3543 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 199]

South Carolina Public Service Authority; Granting Extension of Time

January 28, 1980.

On January 21, 1980, a motion was filed on behalf of several landowners in the Dean Swamp subimpoundment [1] requesting an extension of time to appeal an order issued on December 26, 1979, by the Director of the Office of Electric Power Regulation. The motion states that the landowners were not aware of the decision until January 11, 1980, and that additional time is needed to research and present additional information in support of the appeal.

Upon consideration, notice is hereby given that an extension of time is granted to and including February 4, 1980, for filing an appeal of the December 26, 1979, order.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3544 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-184]

Southern Natural Gas Co.; Application

January 30, 1980.

Take notice that on January 10, 1980, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP 80-184 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline and appurtenant facilities to connect Diamond Shamrock Corporation's (Diamond Shamrock) wells with Applicant's existing pipeline, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to construct and operate approximately 3.7 miles of 6⅝-inch O.D. pipeline, 10.1 miles of 8⅝-inch O.D. pipeline and 500 feet of 3½-inch pipeline and necessary appurtenances, including a measurement station, to connect Diamond Shamrock's wells located in Blocks 114, 115, and 116, Main Pass Area, offshore Louisiana, to Applicant's existing 14-inch Main Pass Block 107 field pipeline at an underwater tap in Main Pass Block 129, offshore Louisiana.

Applicant proposes to construct approximately 1.8-mile and approximately 1.9-mile segments of 6⅝-inch pipeline from the producer's wells in Blocks 115 and 114, respectively, to an underwater tap proposed in Block 117 from which approximately 4.3 miles of 8⅝-inch pipeline would extend to Chevron's Main Pass 127-A platform in Block 127 (Chevron Platform). Applicant proposes to construct and operate measuring facilities on the Chevron Platform. Applicant states a 3½-inch pipeline approximately 500 feet in length would connect a well in Block 116 to the proposed 8⅝-inch pipeline upstream of the Chevron Platform, and a 3½-inch pipeline approximately 500 feet in length would connect a well in Block 116 to the proposed 8⅝-inch pipeline upstream of the Chevron Platform. From the Chevron Platform in Block 127, the 8⅝-inch pipeline would extend approximately 5.8 miles to an underwater tap in Block 129 on Applicant's 14-inch Main Pass Block 107 field pipeline, it is stated.

It is stated that the facilities proposed to be constructed by Applicant would enable Applicant to take delivery of volumes of natural gas which Applicant has arranged to purchase from Diamond Shamrock under a gas purchase agreement dated September 25, 1979.

The facilities, according to Applicant, would be operated as an integral part of Applicant's present system and would not result in expansion of Applicant's sales. Applicant states the estimated cost of the proposed pipeline and appurtenant facilities would be $5,157,308 which would be financed initially by short-term financing and/or cash from current operations and ultimately from permanent financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 19, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3545 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-188]

Southern Natural Gas Co.; Application

January 30, 1980.

Take notice that on January 15, 1980, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP80-188, an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a new meter station facility for delivery of natural gas to Alabama Gas Corporation (Alagasco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant and Alagasco entered into a letter agreement dated September 12, 1979, whereby Applicant agreed, in consideration of Alagasco's promise of reimbursement to Applicant for all costs incurred, to relocate its East Birmingham tap and meter station, it is stated. Relocation would be accomplished by abandonment of the present meter station facilities and the construction of new meter station as proposed herein, Applicant asserts.

It is stated that the East Birmingham tap and meter station, which was installed in 1965, is presently located at or near Mile Post 202.625 on Applicant's 24-inch second north main line and is being used by Applicant to make deliveries of gas and to measure such deliveries to Alagasco. It is stated that the aforementioned agreement provides that Applicant would abandon its East Birmingham tap and meter station in order that the relocation may be accomplished.

Pursuant to its agreement with Alagasco, Applicant proposes to construct, and operate a new meter station approximately 4 miles to the east of the existing East Birmingham tap and meter station along Applicant's system to a site in the vicinity of a point of intersection of Applicant's system with Alagasco's distribution system. According to Applicant, the new meter station would be constructed, to the extent practicable, from the equipment and facilities of the existing East Birmingham tap and meter station. Applicant does, however, state it would construct, and operate new equipment and facilities as would be reasonably necessary to the efficient and safe operation of the new meter station. It is stated the agreement provides that Applicant would be reimbursed by Alagasco for all costs of construction involving the new meter station proposed herein. Applicant estimates the total cost of all facilities to be $122,088, which would initially be financed by short-term financing and/or cash from current operations, and ultimately from permanent financing.

Applicant states that such relocation would reduce the distance Alagasco must transport its gas purchases to its resale customers which would enchance reliablility of service.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3546 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP78-92]

Southwest Gas Corp.; Filing

January 28, 1980.

Take notice that Southwest Gas Corporation (Southwest) on December 27, 1979, tendered for filing the following revised tariff sheets as part of its FERC Gas Tariff:

Substitute Sixth Revised Sheet No. 10
Substitute Fifth Revised Sheet No. 10
Second Substitute Fourth Revised Sheet No. 10
Substitute Third Revised Sheet No. 10
Second Substitute Second Revised Sheet No. 10
First Revised Sheet Nos. 28, 28, 29, 30, 31, 32, 33, 34 and 35
Second Revised Sheet Nos. 27 and 31.

Southwest states that these revised tariff sheets were filed pursuant to a Commission order of December 7, 1979, which approved a settlement agreement entered into in this docket.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 11, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are on file with the Commission and available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3547 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-178]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Application

January 30, 1980.

Take notice that on January 9, 1980, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP80-178 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to exchange natural gas with Gulf Oil Corporation (Gulf), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that, in an effort to transport gas purchased by Applicant in Block 31, South Timbalier Area, offshore Louisiana, such gas from Block 31 producers is delivered via a pipeline of said producers at Gulf's "D" platform in South Timbalier Block 35. Gulf, it is stated, would deliver equivalent volumes into Applicant's existing 12-inch pipeline on Gulf's "B" platform in South Timbalier Block 36.

It is stated that Applicant is currently purchasing limited quantities of casinghead gas from Gulf at Ship Shoal 154 (SS154) but Gulf maintains the right to use such volumes as are necessary to operate a gas lift system for the production of crude oil. It is further stated that the volumes and pressure of casinghead gas are now so low that it is not possible to resume production after a storm or other conditions requiring a shutdown of production from the platforms. Applicant asserts that in consideration for Gulf's undertaking the South Timbalier exchange, Applicant has agreed to an exchange with Gulf whereby Gulf would receive certain gas from Applicant's system at SS154.

Applicant states that the proposed exchange of natural gas is being made pursuant to an exchange agreement dated May 16, 1979, which is for a primary term of three years and from year-to-year thereafter. Applicant further states that there would be no charge to either party for this exchange service.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 19, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act

[1] H. W. Lane, Johnny James, R. F. Cothran, George Calloway, *et al.*

(18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3548 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. G-14562, et al.]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc., et al.; Extension of Time

January 28, 1980.

On January 8, 1980, the Tennessee Gas Pipeline Company filed a request for an extension of time to make refunds pursuant to a Commission Order issued October 1, 1979, in the above-docketed proceeding. The motion states that pursuant to a Commission directive regarding refunds in Order No. 49, which was issued subsequent to the October 1, 1979, order, Tennessee has revised its tariff and is presently reviewing its applicable records in order to calculate these refunds. The Company requires additional time because of the large volume of records which must be analyzed in order to make the appropriate refunds.

Upon consideration, notice is hereby given that an extension of time is granted to and including February 14, 1980, for the making of refunds pursuant to the Commission's October 1, 1979, Order.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3549 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 459]

Union Electric Co.; Application for Approval of Change in Land Rights

January 28, 1980.

Take notice that an application was filed on August 30, 1979, under the Federal Power Act, 16 U.S.C. 791(a)–825(r), by Union Electric Company (Applicant) for approval of a change in land rights at Osage Project No. 459. The project lands and waters affected are located in the Little Niangua Arm, lake mile 45.1 of Lake of the Ozarks, in Camden County, Missouri. Correspondence with the Applicant in this matter should be addressed to: Mr. Michael F. Barnes, Attorney for Union Electric Company, P.O. Box 149, St. Louis, Missouri 63166.

Applicant seeks Commission authorization to lease, for a 5-year period, certain lands and waters to Dredging, Inc., of Camdenton, Missouri (doing business as Scott's Concrete). The lease would permit extraction of approximately 20,000 tons of sand and gravel per year by means of hydraulic dredging from submerged lands within the project reservoir. The lease would essentially constitute a renewal of prior leasing agreements approved by the Commission on January 20, 1975, and February 14, 1977.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest, or petition to intervene must be filed on or before February 20, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3550 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-60]

Valley Gas Transmission, Inc.; Third-Party Protests[1]

January 29, 1980.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23–B,[2] and "Order on Rehearing of Order No. 23–B,"[3] the staff of the Commission protested on January 22, 1980, the assertion by Valley Gas Transmission, Inc. (Valley Gas) and certain producers that the contracts identified in its protest constitute contractual authority for the producers to charge and collect the applicable maximum lawful price under section 104 of the Natural Gas Policy Act of 1978 (NGPA).

Staff stated that the language of the contracts contained in Appendix A of this notice does not constitute authority for the producer to increase prices to the extent claimed by Valley Gas in its evidentiary submission.

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the Commission on or before February 11, 1980, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because, under 18 CFR 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Lois D. Cashell,

Acting Secretary.

Appendix A

Seller	Rate schedule	Contract date
Barth Energy (17)	CS-571-1118	1/27/60
Gulf Oil Corp. (106)	282	10/1/64
Marguire Oil Co. (135)	12	2/25/71
National Exploration Co. (137 and 139).	CS-71-484	5/23/74
Shell Oil Co. (107)	312	10/1/64

[FR Doc. 80-3551 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[1] The term "third party Protest" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79–22, issued June 21, 1979.

[3] Docket No. RM79–22, issued August 6, 1979.

[Docket No. CP80-180]

Western Gas Interstate Co.; Notice of Application

January 30, 1980.

Take notice that on January 9, 1980, Western Gas Interstate Company (Applicant), 1800 First International Building, Dallas, Texas 75270, filed in Docket No. CP80-180 an application pursuant to section 7 of the Natural Gas Act and § 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon, during the calendar year 1980, various field compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to enable Applicant to act with reasonable dispatch in constructing and abandoning facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of proposed construction and abandonment under § 157.7(g) would not exceed $500,000, and no single project would exceed 25 percent of the total budget amount. The cost, it is stated, would be paid out of funds on hand and with short term borrowings.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3552 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1397-6]

Intent to Transfer Confidential Information to a Contractor

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of intent to transfer confidential information to a contractor.

SUMMARY: The Environmental Protection Agency (EPA) intends to transfer confidential information collected under Section 308 of the Clean Water Act to an EPA contractor. This information will assist the contractor in developing, revising, and reviewing the technical data base which supports effluent limitations and standards established under the Clean Water Act.

DATES: Comments on the notice of transfer are due on or before February 14, 1980.

FOR FURTHER INFORMATION CONTACT: Elwood H. Forsht, Organic Chemicals Branch, Effluent Guidelines Division (WH-552), U.S. Environmental Protection Agency, 401 M Streets, SW., Washington, D.C. 20460 (202) 426-2497.

SUPPLEMENTARY INFORMATION: The Clean Water Act of 1977 requires the Environmental Protection Agency to develop, revise, and review effluent limitations and standards for industrial point sources. The Organic Chemicals Branch of the Effluent Guidelines Division is responsible for the carbon black, pesticides, pharmaceuticals, plastics and synthetics, rubber, organic chemicals, and miscellaneous organic chemicals industrial point source categories. EPA has awarded a contract to Walk, Haydel & Associates, Inc., of New Orleans, Louisiana (Contract No. 68-01-6024) to provide engineering services and other contract support to the Organic Chemicals Branch.

One of the sources of information which EPA will use to assess effluent limitations and standards is the data collected from questionnaires sent to various industries under authority of Section 308 of the Clean Water Act. Many of the responses to these questionnaires contain fundamental information about plant size and location, wastewater composition, wastewater treatment systems, wastewater volume, production processes, and solid waste disposal practices. The specific survey responses which EPA will use in the course of its assessment are:

Industry	SIC Code	Date survey disseminated
Drugs	2834	August and September 1977.
Plastic materials, synthetic resins and nonvulcanizable elastomers.	2821	1976 (BPT) and 1977 (BAT).
Synthetic organic fibers, except cellulosic.	2824	1976 (BPT) and 1977 (BAT).
Industrial organic chemicals, NEC.	2869	1976 (BPT) and 1977 (BAT).
Cyclic (coal tar) crudes and cyclic intermediates, dyes, and organic pigments (lakes and toners).	2865	1976 (BPT) and 1977 (BAT).
Chemicals and chemical preparations, NEC.	2899	July 25, 1978.
Pesticides and agricultural chemicals, NEC.	2879	July 25, 1978.

Many of these responses contain information which has been designated as confidential by the responding company.

The Agency has also used the authority of Section 308 to conduct numerous field sampling and analysis surveys of in-plant and end-of-pipe wastewater sources within these industries. Portions of this data also have been declared confidential by the sampled facilities.

EPA has determined that it is necessary to transfer this information to Walk, Haydel & Associates, Inc., in order that they may carry out the work required by their contract. The contract contains all confidentiality provisions required by EPA confidentiality regulations (40 CFR 2.302(h)(2–3)). In accordance with those regulations, sampled facilities and questionnaire respondents who have submitted confidential information have ten days from the date of this notice to comment on EPA's proposed transfer of this information to this contractor for the purposes outlined above (40 CFR 2.302(h)(2–3)).

Dated: January 17, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

[FR Doc. 80-3401 Filed 2-1-80; 8:45 am]

BILLING CODE 6560-01-M

[PF-164; FRL 1404-4]

Pesticide Programs; Filing of Pesticide Petition

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA, or the Agency).

ACTION: Notice of filing.

SUPPLEMENTARY INFORMATION: Sandoz, Inc., 480 Camino del Rio So., San Diego, CA 92108, has submitted a pesticide petition (PP OF2295) proposing that 40 CFR 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the insecticide *Nosema locustae* on rangeland forage.

COMMENTS/INQUIRIES: Comments may be submitted, and inquiries directed, to Product Manager (PM–17), Mr. Franklin Gee, Room E–341, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/426–9417. Comments submitted should bear a notation indicating the petition number "PP OF2295". Comments may be made at any time while the petition is pending before the Agency. Written comments filed in connection with this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 408(d)(1) Federal Food, Drug, and Cosmetic Act.)

Dated: January 29, 1980.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 80-3670 Filed 2-1-80; 8:45 am]

BILLING CODE 6560-01-M

[PF–165; FRL 1404–5]

Pesticide Programs; Filing of Pesticide, Food, and Feed Additive Petitions

AGENCY: Office of the Pesticide Programs, Environmental Protection Agency (EPA, or the Agency).

ACTION: Notice of filing.

SUPPLEMENTARY INFORMATION: EPA gives notice that the following petitions have been submitted to the Agency for considerations.

PP OF2307. ICI Americas, Inc., Wilmington, DE 19897. Proposes that 40 CFR 180.378 be amended by establishing a tolerance for residues of the insecticide permethrin [3-phenoxyphenyl) methyl (±)-*cis, trans*-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate in or on the raw agricultural commodity potatoes at 0.05 part per million (ppm). The proposed analytical method for determining residues is gas chromatography with multiple ion detector mass spectrometry. Product Manager (PM–17), Mr. Franklin Gee, Room E–341, telephone 202/426–9417.

PP OF2308. ICI Americans, Inc. Proposes that 40 CFR 180.378 be amended by establishing tolerances for residues of the above insecticide in or on the raw agricultural commodities fresh alfalfa at 4.0 ppm and alfalfa hay at 16 ppm. The proposed analytical method for determining residues is gas-liquid chromatography with mass spectroscopy. PM–17.

PP OF2312. Union Carbide, Inc., 300 Brookside Ave., Ambler, PA 19002. Proposes that 40 CFR 180.300 be amended by establishing a tolerance for residues of the plant regulator ethephon [(2-chloroethyl)phosphonic acid] in or on the raw agricultural commodity cottonseed at 0.75 ppm. The proposed analytical method for determining residues is gas chromatographic analysis using an alkali thermionic detector.

FAP OH5250. Union Carbide, Inc. Proposes that 21 CFR 193 be amended by permitting residues of the plant regulator ethephon in the commodity refined cottonseed oil at 1.5 ppm. PM–25.

FAP OH5250. Union Carbide, Inc. Proposes that 21 CFR 561 be amended by permitting residues of the plant regulator ethephon in or on the commodity refined cottonseed oil at 5.0 ppm. PM–25.

COMMENTS/INQUIRIES: Comments may be submitted, and inquiries directed, to the designated Product Manager (PM), Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, DC 20460 at the telephone numbers cited. Written comments should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Secs. 408(d)(1) and 409(b)(5), Federal Food, Drug, and Cosmetic Act).

Dated: January 29, 1980.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 80-3677 Filed 2-1-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before February 14, 1980. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No.: 10084–4.

Filing Party: William H. Fort, Esquire, Kominers, Fort, Schlefer & Boyer, 1776 F Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 10084–4 modifies the basic agreement of the Flota Mercante Grancolombiana S. A./Lykes Bros. Steamship Co., Inc. Equal Access Agreement to (1) provide that additional United States—flag lines may become members of the Agreement and (2) extend the duration of the Agreement for an indefinite period beyond its current expiration date of March 24, 1980.

Dated: January 30, 1980.

By order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-3600 Filed 2-1-80; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before February 25, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T–3516–2.

Filing Party: H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T–3516–2, between the Port of Seattle (Port) and Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui-O.S.K. Lines, Ltd., Nippon Yusen Kaisha Ltd., Showa Line, Ltd., and Yamashita-Shinnihon Steamship Company, Ltd. (the Lines), modifies the parties' Agreement No. T–3516–1, which relocated the Port's lease to the Lines from Terminal 18 to Terminal 37, Seattle, Washington, by adding the vessels of Korea Marine Transport Co., Ltd., as users of Terminal 37.

Agreement No.: T–3788–2.

Filing Party: H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T–3788–2 between the Port of Seattle (Port) and Japan Line, Ltd., Kawasaki Kisen Kaisha Ltd., Mitsui-O.S.K. Lines, Ltd., Nippon Yusen Kaisha, Ltd., Showa Line, Ltd., and Yamashita-Shinnihon Steamship Company, Ltd. (Lines), modifies the parties' basic agreement as amended, which provides for the Port's 20 month lease (with renewal options) to the Lines of certain premises at Terminal 37, Seattle, Washington to be used for the Lines' container freight station warehouse and operations incidental thereto. The modification provides for the inclusion of the vessels of Korea Marine Transport Co., Ltd. as a user of the premises.

Agreement No.: T–3884.

Filing Party: Robert W. Parkin, City Attorney, Harbor Branch Office, Harbor Administration Building, Post Office Box 570, Long Beach, California 90801.

Summary: Agreement No. T–3884, between the city of Long Beach, California (City) and H. Tourist, Inc., (Tourist) provides for the lease of City's Catalina Landing Facility, including 16,525 square feet of office and terminal facilities, 7,730 square feet of landscaped area, and 61,670 square feet of water area, to be used by Tourist as a passenger terminal with office space. The initial term of the lease is nine years, with three five-year renewal options. As compensation, Tourist will pay City an annual rental of $60,000.00.

Agreement No.: T–3886.

Filing Party: Burt Pines, City Attorney, By: Jonathan P. Nave, Deputy City Attorney, Harbor Division, P.O. Box 151, San Pedro, California 90733.

Summary: Agreement No. T–3886 between Los Angeles, California (City) and Fred F. Noonan, Co. Inc., and Rederi AB Soya (Wallenuis Lines) (Parties) provides for a joint and several guarantee to the City from the Parties as consideration for the issuance of a nonexclusive preferential berth assignment agreement. The berth assignment itself is not submitted for determination, and the rates to be paid are published in the Port of Los Angeles Tariff No. 3. The guarantee provides that Fred F. Noonan, Co. Inc., will import a specific minimum number of automobiles during each annual period as defined in the guarantee, and if this is not accomplished, they will pay the amount by which actual payment for dockage, wharfage and storage is less than $600,000. The guarantee provides a 90 days written cancellation notice. The guarantee is submitted to the Commission since it is possible that Fred F. Noonan Co. Inc., will pay an average charge per automobile higher than the charges published in the tariff in the event they do not meet the minimum.

Dated: January 30, 1980.

By order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-3601 Filed 2-1-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

First American Bancshares, Inc.; Formation of Bank Holding Company

First American Bancshares, Inc., Kingston, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 93 per cent of the voting shares of The Kingston Bank, Kingston, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 28, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 28, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3617 Filed 2-1-80; 8:45 am]

BILLING CODE 6210-01-M

First Beemer Corp.; Formation of Bank Holding Company

First Beemer Corporation, Beemer, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First National Bank, Beemer, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 28, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 28, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3516 Filed 2-1-80; 8:45 am]

BILLING CODE 6210-01-M

First National Bankshares of Sheridan Wyo.; Formation of Bank Holding Company

First American Bankshares of Sheridan, Wyoming, Sheridan, Wyoming, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First National Bank, Sheridan, Wyoming. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 29, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 29, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3515 Filed 2-1-80; 8:45 am]

BILLING CODE 6210-01-M

First Tipton Bancorporation; Formation of Bank Holding Company

First Tipton Bancorporation, Tipton, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 84.1 percent or more of the voting shares of First National Bank of Tipton, Tipton, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 28, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 28, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3520 Filed 2-1-80; 8:45 am]

BILLING CODE 6210-01-M

First Riesel Corp.; Formation of Bank Holding Company

First Riesel Corporation, Riesel, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 92 percent or more of the voting shares of First State Bank, Riesel, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 29, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 29, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3518 Filed 1-31-80; 8:45 am]

BILLING CODE 6210-01-M

G & R, Inc. (d.b.a. Needham Insurance Agency)

G and R, Inc., (d.b.a. Needham Insurance Agency), Troy, Kansas, has applied, pursuant to section 4(c) (8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in the sale of decreasing term credit life, credit accident and health and level term credit life sold only in connection with demand notes; all such insurance sold exclusively in connection with extensions of credit by Troy State Bank, Applicant's subsidiary bank. These activities would be performed from offices of Applicant's subsidiary in Troy, Kansas, and the geographic area to be served is Doniphan County. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 28, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 28, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3519 Filed 2-1-80; 8:45 am]

BILLING CODE 6210-01-M

Manufacturers National Corp.; Acquisition of Bank

Manufacturers National Corporation, Chicago, Illinois, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to retain 80 percent or more of the voting shares of Manufacturers Bank, Chicago, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank, not later than February 22, 1980.

Board of Governors of the Federal Reserve System, January 28, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3521 Filed 2-1-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were accepted by the Regulatory Reports Review Staff, GAO, on January 28, 1980. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CPSC and ICC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before February 22, 1980, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Consumer Product Safety Commission

The CPSC requests clearance of a new, single-time, voluntary questionnaire to be submitted to state designees involving the Commission's State Contracts Program. This program involves the Commission's contracting with the states to handle the Commission activities of inspection, sampling, and information and education activities. The proposed questionnaire is to be sent to both participating and nonparticipating states in this program, with the nonparticipating states receiving an abbreviated version of the questionnaire. The purpose of the survey is to evaluate the cost effectiveness of this CPSC program and to evaluate the current effectiveness of its administration. The evaluation is being conducted by the Division of Evaluation of the CPSC and will be used to assess the adequacy of the current program. In addition to the survey of designees for each state and Puerto Rico, the Virgin Islands, and the District of Columbia, the CPSC will also be surveying its regional office staff for a complete evaluation of the program. It is expected that the requested return date for the questionnaire will be approximately 30 days after the final GAO clearance. This evaluation is the first complete evaluation since the program began in 1974. The CPSC estimates the time to complete the questionnaire will average approximately 1 hour for nonparticipating states and 7 to 9 hours for participating states.

Interstate Commerce Commission

The ICC requests an extension without change clearance of Annual Report Supplement—Corporate Disclosure, in accordance with the order of the Interstate Commerce Commission in Docket No. 36141, Corporate Disclosure Regulations, decided May 13, 1977. The disclosure of corporate structure information will be filed by carriers with annual operating revenues of $20 million, or more, subject to Section 11145 of the Interstate Commerce Act. Included are motor carriers (property and passenger), inland and coastal waterway carriers, maritime carriers, private car lines, refrigerator car lines and freight forwarders. The Supplemental report will enable the Commission to effectively "help identify possible conflicts of interest, misuse of insider information, exertion of undue influence facilitated by concentration of control, and other possible problems contrary to public interest." The information requested will be beneficial to the public, government agencies and corporate management. The reporting will be mandatory and available for use by the public. The ICC estmates that respondents will number approximately 257 and that reporting burden will average 166 hours per report.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-3502 Filed 2-1-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

Graduate Medical Education, National Advisory Committee; Meeting Cancellation

In FR. Doc. 80-1080 appearing at page 2707 in the issue for Monday, January 14, 1980, the February 11-12, 1980, meeting of the "Graduate Medical Education National Advisory Committee" has been cancelled.

Dated: January 29, 1980.

James A. Walsh,

Associate Administrator for Operations and Management.

[Fr Doc. 80-3462 Filed 2-1-80; 8:45 am]

BILLING CODE 4110-83-M

Office of Education

Grants to State Educational Agencies To Meet the Special Educational Needs of Migratory Children; Closing Date for Receipt of Applications

AGENCY: Office of Education, HEW.

ACTION: Notice of Closing Date for Receipt of Applications for Fiscal year 1981.

Applications are invited for grants under the Migrant Education Program of Title I of the Elementary and Secondary Education Act.

Authority for this program is contained in Sections 141-143 of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

(20 U.S.C. 2761, 2762, 2763)

Eligible applicants are State educational agencies (SEAs).

The purpose of this program is to provide grants to SEAs to establish or improve programs designed to meet the special educational needs of migratory children of migratory agricultural workers or migratory fishers.

CLOSING DATE FOR TRANSMITTAL OF APPLICATIONS: Applications for grants must be mailed or hand delivered by April 15, 1980, unless, in response to a specific request, the U.S. Office of Education extends this closing date for a particular SEA.

The U.S. Office of Education may grant an extension if the applicant SEA can show that the April 15 closing date creates difficulties for that State because it has already planned its application development and submittal according to a different schedule. If an applicant SEA needs an extension of the April 15 closing date, it should request

one as soon as possible, and in any event, prior to April 1, 1980.

APPLICATIONS DELIVERED BY MAIL: An application sent by mail must be addressed to Mr. Vidal A. Rivera, Jr., Acting Director, Division of Migrant Education, Office of Compensatory Educational Programs, U.S. Office of Education, 400 Maryland Avenue, S.W. (FOB–6, Room 2031), Washington, D.C. 20202.

An applicant SEA must show proof of mailing consisting of one of the following:

(a) A legibly dated U.S. Postal Service postmark.

(b) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(c) A dated shipping label, invoice, or receipt from a commercial carrier.

(d) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing:

(a) A private metered postmark.

(b) A mail receipt that is not dated by the U.S. Postal Service.

An applicant SEA should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant SEA is encouraged to use registered or at least first class mail. Each late applicant SEA will be notified that its application will not be considered—unless that SEA has been granted an extension to the closing date.

APPLICATIONS DELIVERED BY HAND: An application that is hand delivered must be taken to the U.S. Office of Education, Division of Migrant Education, Office of Compensatory Educational Programs, Room 2031, Federal Office Building 6, 400 Maryland Avenue, S.W., Washington, D.C.

The Division of Migrant Education will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

PROGRAM INFORMATION: Grants are made to SEAs to establish or improve programs designed to meet the special educational needs of migratory children of migratory agricultural workers or migratory fishers. An applicant SEA must submit a State Program Plan covering a period of one program year and a State Monitoring and Enforcement Plan for a period of from one to three years.

APPLICATION FORMS: Application forms and instructions will be mailed to all eligible SEAs. Additional forms and instructions may be obtained by writing to the U.S. Office of Education, Division of Migrant Education, Office of Compensatory Educational Programs, 400 Maryland Avenue, S.W. (FOB–6, Room 2031), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program application package.

SPECIAL PROCEDURES: Each applicant SEA is subject to the requirement in the Office of Education's General Provisions for Programs Regulations (45 CFR Part 100b) that gives the State's Governor up to 45 days to comment on the State Plan.

Each applicant SEA is also subject to the requirements of Section 435 of the General Education Provisions Act with respect to publication of the State Program Plan. Section 435 of the General Education Provisions Act requires the SEA to publish the State Program Plan in a manner that assures circulation throughout the State. The SEA must publish the State Program Plan at least 60 days prior to its submission to the Commissioner, and must establish a 30-day comment period.

APPLICABLE REGULATIONS: The regulations applicable to this program include the following:

(a) The Migrant Education Program Regulations (45 CFR Part 116d). These regulations were published as a notice of proposed rulemaking in the **Federal Register** on May 14, 1979 (44 FR 28184). Applicant SEAs should base their applications on the notice of proposed rulemaking. When they are published as final regulations and become effective, these regulations will govern applications and grants under this program.

(b) The Title I General Provisions Regulations (45 CFR Part 116).

(c) The Office of Education's General Provisions for Programs Regulations (45 CFR Parts 100 and 100b).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in proposed form in the **Federal Register** on May 4, 1979 (44 FR 26298). When EDGAR is published as final regulations, it will supersede the Office of Education's General Provisions for Programs Regulations (the current 45 CFR Parts 100 through 100c). When it becomes effective, EDGAR will govern applications and grants under this program.

If material changes are made in the final regulations governing this program or in the EDGAR final regulations that relate to the preparation of applications for the current fiscal year, the Commissioner may extend the closing date to permit applicants to amend their applications.

FURTHER INFORMATION: For further information, contact Mr. Vidal A. Rivera, Jr., Acting Director, Division of Migrant Education, Office of Compensatory Educational Programs, U.S. Office of Education, 400 Maryland Avenue, S.W. (FOB–6, Room 2031), Washington, D.C. Telephone (202) 245–2222.

(20 U.S.C. 2761, 2762, 2763)

(Catalog of Federal Domestic Assistance No. 13.429; Educationally Deprived Children-Migrants)

Dated: January 29, 1980.

William L. Smith,

U.S. Commissioner of Education.

[FR Doc. 80-3498 Filed 2-1-80; 8:45 am]

BILLING CODE 4110-02-M

National Advisory Council for Career Education; Meeting

AGENCY: Office of Education, National Advisory Council for Career Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meeting of the National Advisory Council for Career Education. It also describes the functions of the Council. Notice of the meeting is required pursuant to Section 10 (a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463). This document is intended to notify the general public of their opportunity to attend.

DATE: March 6, 7, 1980.

ADDRESS: Room 3000, FOB #6, 400 Maryland Avenue SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. Frank K. Babcock, Office of Education, Office of Career Education, 7th and D Streets SW., Room 3100, ROB #3, Washington, D.C. 20202 (202) 245–2284.

The National Advisory Council for Career Education is established under section 406 of the Education Amendments of 1974, Pub. L. 93–380, (88 Stat. 552, 553.) The Council is directed to:

Advise the Commissioner of Education on the implementation of section 406 of the Education Amendments of 1974, sections 331–336 of the Education Amendments of 1976, and the Career Education Incentive Act and carry out such advisory functions as it deems appropriate, including reviewing the operation of these sections and all other programs of the Division of Education pertaining to the development and implementation of career education, evaluating their effectiveness in meeting the needs of career education throughout the United States, and in determining the need for further legislative remedy in order that all citizens may benefit from the purpose of career education as described in Section 406 and in the Career Education Incentive Act.

The Assistant Secretary shall, to the extent practicable, seek the advice and assistance of the Council concerning the lifelong learning activities authorized by sec. 133, Part B, Title I of the Higher Education Act of 1965, as amended.

The meeting of the Council shall be open to the public. The meeting will be held on Thursday, March 6, 1980 and will begin at 9:00 A.M. and end at 5:00 P.M.; and Friday, March 7, 1980 from 9:30 A.M. to 1:30 P.M. The meeting will be held at the Federal Office Building #6 (FOB #6), located at 400 Maryland Avenue, SW. (Room 3000), Washington, D.C. 20202.

The proposed agenda includes: (1) Swearing in of New Members; (2) Discuss Structure and Function of Council; (3) Update and Concept of Career Education; (4) Career Education in the 1980's; (5) Discussion of Council Concerns About Career Education; (6) Council Priorities for 1980; (7) Establishing Agendas for Future Meetings; (8) Other Business.

Records shall be kept of all Council proceedings and shall be available 14 days after the meeting for public inspection at the Office of Career Education located at 7th and D Streets, SW., Room 3100, ROB #3, Washington, D.C. 20202.

Signed at Washington, D.C. on February 1, 1980.

John Lindia,

Delegate, National Advisory Council for Career Education.

[Fr Doc. 80-3504 Filed 2-1-80; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Reassumption of Jurisdiction-Omaha Tribe of Nebraska, Macy, Nebr.

January 23, 1980.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary, Indian Affairs by 209 DM 8.

The Indian Child Welfare Act of 1978 provides, subject to certain specified conditions, that Indian tribes may petition the Secretary of the Interior for reassumption of jurisdiction over Indian custody proceedings.

This is notice that a petition has been received by the Secretary from the Omaha Tribe of Nebraska, for the tribal reassumption of jurisdiction over child custody proceedings. The petition is under review, and may be inspected and copied at the Winnebago Agency Office, Bureau of Indian Affairs, Winnebago, Nebraska 68071.

Rick Lavis,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 80-3500 Filed 2-1-80; 8:45 am]

BILLING CODE 4310-02-M

National Park Service

[INT FES 80-7]

Proposed Feral Burro Management and Ecosystem Restoration Plan, Grand Canyon National Park, Ariz.; Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a final environmental statement for the proposed Feral Burro Management and Ecosystem Restoration Plan, Grand Canyon National Park, Arizona.

The final environmental statement considers a management plan to restore natural ecosystems in four impacted areas of the park. The plan proposes to remove approximately 350 feral burros, primarily through live removal by private groups or individuals and secondarily by shooting. A 2.5-mile section of the park boundary will be fenced to prevent entry of cattle and burros from adjacent Federal land.

Copies are available from or for inspection at the following locations:

Western Regional Office, National Park Service, 450 Golden Gate Avenue, Box 36063, San Francisco, California 94102.

Southern Arizona Group Office, National Park Service, 1115 North First Street, Phoenix, Arizona 85004.

Grand Canyon National Park, P.O. Box 129, Grand Canyon, Arizona 86023.

Dated: January 30, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 80-3507 Filed 2-1-80; 8:45 am]

BILLING CODE 4310-70-M

[INT FES 80-4]

Voyageurs National Park, Minn.; Availability of Final Environmental Statement for the Proposed Master Plan

Pursuant to section 102(2)(C) of the National Environmental Policy Act, of 1969 (83 Stat. 852, 42 U.S.C. 4332) the Department of the Interior has prepared a final environmental statement for the proposed master plan for Voyageurs National Park.

The final environmental statement considers the probable effects of implementing proposals to acquire land, determine levels of visitation, develop park access and internal transportation systems, coordinate with other programs and undertake various other actions to implement the general and specific mandates of Congress.

Copies of the final environmental statement are available from or for inspection at the following locations:

Superintendent, Voyageurs National Park, P.O. Box 50, International Falls, Minnesota 56649.

Regional Director, Midwest Region, 1709 Jackson Street, Omaha, Nebraska 68102.

Dated: January 28, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 80-3506 Filed 2-1-80; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

[Secretary's Order 3027, AmdL 1]

Interim Legislative Authority for the Trust Territory of the Pacific Islands

This Notice is issued in accordance with the provisions of 5 U.S.C. 552(a)(1)(E). The Secretary of the Interior has issued Amendment 1 to Order No. 3027 dated December 31, 1979.

The Amendment, which is published in its entirely below, resulted from a December 3, 1979, meeting between the Secretary of the Interior and representatives of the out-going 6th Palau Legislature and the newly elected 7th Palau Legislature at which time spokemen from both legislative bodies requested that Order 3027 be amended so as to clarify questions concerning the organization of the Palau legislative body that had arisen following the publication of Order 3027. The amendment establishes that the legislature shall be organized, conduct its affairs in accordance with, and have the authority conferred on it by the Charter of the Palau Legislature of 1979; that the members of the Legislature may not simultaneously hold other

government employment; that the term of the 6th Legislature expired at noon on January 3, 1980, and the term of the 7th Legislature began at that time and date; that the terms of members-at-large comprised of members of the former Congress of Micronesia, as originally provided by Order 3027, expired at noon on January 3, 1980; and provides for revised procedures for the submission of legislation to the High Commissioner for approval or disapproval. The Amendment further provides that the 7th Palau Legislature shall remain in office until a successor Legislature is elected by law or a constitution has been adopted and put into effect in Palau.

Further information regarding the Amendment may be obtained from Mr. George Milner, Deputy Director, Office of Territorial Affairs, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202-343-4736.

Dated: January 25, 1980.

Larry E. Meierotto,

Assistant Secretary of the Interior.

Order No. 3027, Amendment No. 1

Subject: Interim transition to governments based on locally developed constitutions—Trust Territory of the Pacific Islands.

Section 1. *Purpose.* The purpose of this amendment is to clarify the purpose and intent of Order No. 3027 as it relates to the organization and status of the Palau Legislature and to revise and update sections 3 and 4 of that Order. This action is taken as a result of a meeting held by the Secretary of the Interior and representatives of the outgoing Sixth Palau Legislature and the incoming Seventh Palau Legislature on Monday, December 3, 1979, at which time it was agreed that clarifications are required.

Section 2. *Revocation.* Section 3, *Legislative Authority,* and Section 4, *Transition in Legislative Authority,* of Order 3027 are hereby revoked and a new Section 3, *Legislative Authority of the Palau Legislature,* and Section 4, *Members-at-Large,* are hereby approved to read as follows: "Section 3 *Legislative Authority of the Palau Legislature.* Pending the approval and the coming into effect of a constitution for Palau, the legislative authority of the Government of the Trust Territory within the District of Palau shall be vested in the Palau Legislature. The term of the 6th Palau Legislature shall expire as of noon on January 3, 1980. The term of the 7th Palau Legislature shall commence at noon on January 3, 1980, and it shall remain in office until a successor Legislature is elected according to law or a constitution has been adopted and put into effect in Palau. The Legislature shall be organized, conduct its affairs in accordance with, and shall have the authority conferred on it by the Charter of the Palau Legislature in effect on October 1, 1978, the effective date of Order No. 3027, subject to the following modifications:

a. *Legislative Power.* The legislative power of the Palau Legislature shall extend to all rightful subjects of legislation within the District of Palau except that no legislation may be inconsistent with:

(1) treaties or international agreements of the United States;

(2) laws of the United States applicable to the Trust Territory;

(3) Executive Orders of the President of the United States and Orders of the Secretary of the Interior; and

(4) Sections 1 through 12 of Title I of the Trust Territory Code (Bill of Rights).

No law shall be passed by the Palau Legislature imposing any tax upon property of the United States or property of the Trust Territory of the Pacific Islands, nor shall the property of non-residents be taxed at a higher rate than the property of residents. Any parts of any laws passed by the Palau Legislature in the aggregate imposing upon United States agencies, instrumentalities, contractors of the United States and their respective non-Micronesian citizen employees any greater tax, fee, revenue, duty, tariff, impost, charge, or cost of any kind than is imposed by Trust Territory of the Pacific Islands Public Law 4C-2 as amended prior to 1975 (77 TTC Chapter 11) shall to the extent that it imposed such tax, fee, revenue, duty, impost, charge, or cost, not be given effect, except that, the exemptions from such tax, fee, revenue, duty, tariff, impost, charge, or cost described above shall not be applicable to activities conducted exclusively for or on behalf of the Trust Territory of the Pacific Islands by (1) its agencies, instrumentalities, contractors, and their respective employees or (2) by non-military United States agencies, instrumentalities, contractors, and their respective employees. No import or export levies shall be imposed on goods between or among what were formerly the Districts of the Trust Territory, as described in Section 39 of the Code of the Trust Territory, or any political subdivision thereof.

b. *Regular Session.* There shall be a regular session of the Palau Legislature held in each year beginning on the third day of January and continuing for not to exceed fifty consecutive calendar days. The Legislature may provide for an additional regular session or sessions as it determines are necessary.

c. *Review of Bills.* In lieu of transmitting bills to the District Administrator pursuant to article IV of the Charter, bills passed by the Palau Legislature must be presented to and approved by the High Commissioner before they become law. The House of Chiefs shall be involved in the legislative process only in the manner prescribed by the Charter. If the High Commissioner does not act to approve or disapprove a bill within twenty calendar days of its receipt by him, it shall be deemed to become law as though he had approved it. If he disapproves a bill, he shall return it to the Legislature together with a statement of the reasons for his disapproval. If such a bill is repassed by a two-thirds majority vote of the Legislature, it shall again be presented to the High Commissioner. If he does not then approve it within twenty days of its receipt by him, he shall send it together with his comments thereon to the Secretary of the Interior. Within sixty days of receipt by him the Secretary of the Interior shall either approve or disapprove the bill. If he approves it, it shall become law; if he disapproves it or fails to act within sixty days, it shall not.

d. *Other Government Employment.* Members of the Legislature may not hold other Government office or employment during their terms of office. Any person employed by the Government of the Trust Territory or any political subdivision thereof must resign from such employment prior to the date upon which the person's legislative term of office commences. Service by legislative members on boards, authorities, commissions, committees, or similar bodies shall be without compensation.

e. *Executive Branch Proposed Legislation and Special Sessions.* Notwithstanding any other provision of the Charter of the Palau Legislature, the High Commissioner may submit proposed legislation to the Legislature prior to and during any regular session and may call special sessions of the Legislature if in his opinion the public interest so requires. No legislation shall be considered at any special session other than that specified in the call therefor or in any special message that the High Commissioner may send to the Legislature while in such special session.

f. *Rules of Procedure.* The standing rules of procedure of the Legislature shall be those adopted by that body in accordance with the Charter. Nothing in this Order shall preclude the Legislature from amending its rules of procedure in accordance with the Charter or this Order.

Section 4. *Members at Large.* The terms of office of the members-at-large of the Palau Legislature established pursuant to Section 4c of Order No. 3027, hereby revoked, shall expire coincidentally with those of the elected members of the Sixth Palau Legislature on January 3, 1980.

Section 3. *Other Legislative Bodies.* Nothing in this amendment to Order No. 3027 shall affect the legislative authority of the legislatures established under the constitutions of the Federated States of Micronesia or the Marshall Islands.

Section 4. *Definition.* Section 2.b. of Order No. 3027 is amended to read as follows: "As of the effective date of Amendment No. 1, the term 'Trust Territory Legislature' means the Palau Legislature unless the context of the Order clearly indicates otherwise."

Section 5. *Effective Date.* This amendment to Order No. 3027 is effective as of the date of issuance.

Dated: December 31, 1979.

Cecil D. Andrus,

Secretary of the Interior.

[FR Doc. 80-3604 Filed 2-1-80; 8:45 am]

BILLING CODE 4310-93-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: January 29, 1980.

In our decisions of January 8, 15, and 22, 1980, an 11.5-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 12.4 percent. Accordingly, we are authorizing a 12-percent surcharge for this traffic. All owner-operators are to receive compensation at the 12-percent level. In addition, we are authorizing a 2.1-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators, and a 4.6-percent surcharge for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy to the Director, Office of the Federal Register for publication therein.

It is ordered: This decision shall become effective Friday, 12:01 a.m., February 1, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, and Alexis. Commissioner Alexis absent and not participating.

Agatha L. Mergenovich,

Secretary.

Appendix.—*Fuel surcharge*

Base Date and Price Per Gallon (Including Tax)		
January 1, 1979		63.5¢
Date of Current Price Measurement and Price Per Gallon (Including Tax)		
January 28, 1980		109.9
Average Percent: Fuel Expenses (Including Taxes) of Total Revenue		
(1) From Transportation Performed by Owner Operators (Apply to All Truckload Rated Traffic)	(2) Other (Including Less-Truckload Traffic)	(3) Bus Carriers
16.9	2.9	6.3
Percent Surcharge Developed		
12.4	2.1	4.6
Percent Surcharge Allowed		
12.0	2.1	4.6

[FR Doc. 80-3560 Filed 2-1-80; 8:45 am]

BILLING CODE 7035-01-M

[Service Order No. 1399]

Pend Oreille Valley Railroad, Inc., Authorized To Operate Over Tracks of Chicago, Milwaukee, St. Paul & Pacific Railroad Co.

Decided: January 24, 1980.

Commission affirms service order granting authority to operate temporarily.

Under 49 U.S.C. 11123 Commission may in emergency situations grant authority for one carrier to operate temporarily over the lines of another carrier. The service order may be interpreted as a permit granting one carrier emergency authority to transport traffic over another carrier's lines when (1) an emergency exists due to a threatened or existing embargo, (2) another carrier is willing to operate without compensation over the embargoed line, and (3) the owner of the embargoed line does not object. *See* 49 U.S.C. 11123(a)(4).

John O' B. Clarke, Jr., for Railway Labor Executives' Association.

Ellen A. Efros and *Fritz R. Kahn* for Pend Oreille Valley Railroad, Inc., and the Port of Pend Oreille.

Thomas H. Ploss, John W. Rowe, and *Lawrence M. Stroik* for Richard B. Ogilvie, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company.

On September 26, 1979, the Commission's Railroad Service Board (RSB) decided that an emergency existed requiring that Pend Oreille Valley Railroad, Inc. (POV) be authorized to begin operations over approximately 61.1 miles of Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Milwaukee) tracks between Newport and Metaline Falls in Pend Oreille County, WA.

On September 27, 1979, Railroad Labor Executives' Association (RLEA) filed a petition to stay that decision and an appeal. On September 28, 1978 the RSB denied the petition to stay. For the reasons discussed below, we deny the appeal.

Background

This proceeding deals specifically with the Metaline Falls line of the Milwaukee. However, a brief review of recent events concerning the entire Milwaukee system will aid in our discussion.

A. The Milwaukee System

On December 19, 1977, the Milwaukee filed a petition for reorganization under section 77 of the Federal Bankrupty Act, 11 U.S.C. § 205. District Judge Thomas R. McMillen was assigned to oversee the reorganization. In turn he appointed first Stanley R. G. Hillman and then Richard B. Ogilvie as trustee.

In August of 1978 Trustee Hillman announced that the Milwaukee could no longer be operated as a transcontinental carrier. On April 23, 1979, Trustee Hillman petitioned the Court for permission to institute an embargo over approximately 8,000 miles of the Milwaukee's 10,000 mile system. On June 1, 1979, the Court denied the Trustee's embargo request.[1]

On August 10, 1979 the Trustee filed with the Court a reorganization plan proposing that service on all lines outside of a primarily Midwestern core of 3200 miles be discontinued. The Trustee also filed a second petition seeking an embargo of all lines outside the reorganization plan core as of October 1, 1979. On September 27, 1979, the Court ordered the embargo effective November 1, 1979.

Also in August the Trustee filed a petition with the Commission seeking abandonment of all lines west of Miles City, Montana. Docket No. AB-7 (Sub-No. 86), *Richard B. Ogilvie, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company—Abandonment—Portions of Pacific Coast Extension in Montana, Idaho, Washington and Oregon.*[2] These lines were excluded from the core system proposed in the reorganization plan.

On November 1, 1979, the Court-ordered embargo took effect. In response, Congress passed the Milwaukee Railroad Restructuring Act (MRRA or Milwaukee Act) on November 2; it was signed into law by the President on November 4, 1979.

Section 22(a) of the MRRA provided for continued operations over the Milwaukee's entire system as it existed on October 15, 1979, until the occurrence of an event described in section 22(b). The events listed in section 22(b) dealt with the filing, and eventual implementation of, an employee or employee-shipper ownership plan. On December 31, 1979, a section 22(b) event occurred when the Commission found the proposed employee-shipper ownership plan not feasible. Finance Docket No. 29171, *Richard B. Ogilvie, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company—Submissions under*

[1] On October 2, 1979, the United States Court of Appeals for the Seventh Circuit reversed the Court. *In the Matter chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor,* U.S.C.A. 7th Cir. No. 79-1494, decided October 2, 1979.

[2] This proceeding is still pending.

Section 6 of the Milwaukee Railroad Restructuring Act (not printed). At this time the Court has not authorized any cessation of service on the Milwaukee.

B. The Metaline Falls Branch

In August of 1978 Milwaukee filed an application to abandon service between Spokane and Metaline Falls, WA.[3] Docket No. AB–7 (Sub-No. 64F), *Stanley K. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company—Discontinuance and Abandonment Between East Spokane, WA and Metaline Falls, WA.*

On July 2, 1979, Judge McMillen had authorized the Trustee to enter into a lease option agreement with the Port of Pend Oreille (Port) to lease approximately 1095 acres of operating railroad property, including the Metaline Falls Line. As part of the agreement Port had the right to purchase that property for a total cash consideration of $1,385,000. Furthermore, the Trustee was authorized to convey the property without further court order if Port exercised the option.

On September 19, 1979, Milwaukee and Port executed the lease-option agreement. That same day Port entered into a lease and operating agreement with Kyle Railways, Inc. (KRI). the following day POV, a wholly-owned subsidiary of KRI, was formed to operate the Metaline Falls line. POV then sent a letter to the Commission requesting issuance of an emergency service order pursuant to 49 U.S.C. § 11123 permitting it to commence operations over the line on October 1, 1979. That request was granted on September 28, 1979.

In granting the request the RSB relied on three factors: (1) the uncertainty of continued operation of the line by Milwaukee, (2) the shippers' need for continued service, and (3) POV's desire to begin rehabilitation before the winter. At the time, there existed the possibility that a court-ordered embargo would occur on October 1. Therefore, the RSB found an emergency justifying operation by POV over the Metaline Falls line.

On September 27, 1979, RLEA filed its appeal and petition for stay, arguing that (1) applicants had not demonstrated an emergency allowing invocation of 49 U.S.C. § 11123, and (2) section 11123 could not be used to bypass the statutory requirements for transferring ownership and/or operation of a line. The petition to stay was denied on September 28, 1979. No action was taken on the appeal at that time.

[3] This proceeding was consolidated with Docket No. AB–7 (Sub-No. 86) on August 24, 1979.

On October 2, 1979, RLEA instituted a court action in the United States Court of Appeals, District of Columbia Circuit, seeking review of our decision.[4] That proceeding is still pending.

In its orders the RSB never authorized the Milwaukee to discontinue its service over the Metaline Falls line. Despite that fact, the Milwaukee notified the Commission on October 3, 1979, that it had embargoed all traffic over the line.

As to the transfer of the line, the Trustee on December 3, 1979, filed a motion with the court seeking instructions regarding its conveyance. The motion noted that Port wished to exercise its purchase option on January 1, 1980. Argument on the motion, which was originally scheduled for December 10, 1979, was heard on December 28, 1979. At that time the Court delayed final action. On December 4, 1979, POV filed an application with the Commission seeking a certificate of public convenience and necessity under 49 U.S.C. § 10901 authorizing its operation of the Metaline Falls line. That application was designated Finance Docket No. 29197F. Also on December 4, KRI and Willis B. Kyle (Kyle) filed a petition seeking waiver of certain regulations in advance of the filing of an application by KRI and Kyle to control POV pursuant to 49 U.S.C. § 11343. That petition was designated Finance Docket No. 29196F.

Procedural Matters

As discussed above, an appeal and a petition to stay the RSB's decision were filed by RLEA on September 27, 1979. While the stay was denied on September 28, 1979, no action was taken on the appeal.

On November 5, 1979, POV[5] filed a late reply to the appeal, with a motion for waiver of the time limit imposed in Rule 21. POV stated that it did not reply to RLEA's appeal earlier because it interpreted the decision denying the stay to have also been a denial of the appeal.

On November 21, 1979, RLEA filed a motion to strike POV's reply. Although it did not oppose the request for leave to file late, it did object to certain statements in the reply. Specifically, RLEA requested that pages 3–5 and Appendix C be striken because POV improperly asserted facts not in evidence.

[4] The proceeding is docketed at No. 79–2165, the *Railway Labor Executives' Association v. Interstate Commerce Commission and United States of America.*

[5] Joining in POV's pleadings were Port, Lehigh-Portland Cement Company and Louisiana-Pacific Corporation.

POV filed a memorandum in opposition to RLEA's motion to strike on December 10, 1979. It argued that, because of the emergency nature of the proceeding, a written record could not be developed prior to the RSB's decision. Furthermore, it noted that RLEA had also sought to supplement the record in a petition to reopen the record filed November 29, 1979. In reply to RLEA's petition to reopen POV stated that it did not oppose the receipt of RLEA's additional material, but requested an equal opportunity to supplement the record. The Trustee also requested that the record be reopened.

We will grant all the requests to reopen and supplement the record, since we find that consideration of the materials would not unduly burden the record or prejudice the parties.

Discussion and Conclusions

After considering the record, the recent events concerning the Milwaukee, and the relevant law, including the Milwaukee Act, we must deny RLEA's appeal. In making this determination we looked at two basic questions: (1) did we have the authority to issue the emergency service order, and (2) does an emergency situation warranting POV operations still exist? For the reasons set forth below we find that we had the authority to issue the order and that even with the changed circumstances, there is a continuing emergency.

49 U.S.C. § 11123(a) (formerly 49 U.S.C. 1(15)) lists four specific actions the Commission may take when it "considers that a shortage of equipment, congestion of traffic, or other emergency requiring immediate action exists in a section of the United States".

Section 11123 enables us to grant a carrier emergency authority to operate temporarily over another carrier's line without government subsidization. Finance Docket No. 29144/Service Order No. 1411, *St. Louis S.W. Ry. Co—Temp. Authority—Chicago, R.I. & P.*, 360 I.C.C. 539 (1979) *(Tucumcari-TA case)*. In that decision we noted that the threshold jurisdictional test under section 11123 is the finding that an "emergency requiring immediate action exists in a section of the United States." Moreover, we noted that the courts have consistently shown substantial deference to our determination that an emergency exists.

In *United States* v. *Southern Railway Co*, 364 F. 2d 86, 93 (5th Cir. 1966), *cert. denied* 386 U.S. 1031 (1967), the court held that:

[T]he only test for the exercise of this power, as outlined by Congress, was the "opinion" of "the Commission" as to the existence, at the time, of the type of emergency contemplated by the statute.

Significantly, the court also approved the analysis of the "emergency" standard by a three-judge court in *Daugherty Lumber Co.* v. *United States*, 141 F. Supp. 576, 580–81 (D. Or. 1956). That court concluded that the statute referred to a "legislative emergency," which has a broader meaning than:

[T]he common place meaning of "an unforeseen combination of circumstances which calls for immediate action." Legislative emergencies are those situations where the common good or public interest is legislatively declared to be paramount to individual interests. Common knowledge tells us that legislative action effective immediately has, on legion occassions, been adopted to correct an adverse public interest situation of long standing.

Having determined that the courts have generally deferred to our expertise as to whether an "emergency" exists, we now turn to the specific facts that support an emergency finding in this case. First, we must determine whether the RSB was correct in finding that an emergency existed on September 28, 1979. Secondly, if the RSB was correct we must determine if an emergency warranting that service order continues today.

The record clearly demonstrates that on September 28, 1979, when the RSB acted, an emergency existed. It appeared that a court-ordered embargo of all of the Milwaukee's lines west of Miles City, could go into effect October 1, 1979. As the RSB noted, that possibility made continued operation of the line uncertain. In view of the need for continued service to shippers and rehabilitation of the line before the winter, the RSB found an emergency.

It should be noted that if the Commission had not directed emergency service the Metaline Falls line would have been without service for several days. A court-ordered embargo of the lines west of Miles City did go into effect on November 1, 1979, and did remain in effect until November 4, 1979, when the President signed into law the Milwaukee Act.

We now must consider whether that service order is justified in light of more recent events. The most significant of those events is the enactment on November 4, 1979, of the MRRA. Section 22(a) of this Act requires the Milwaukee to maintain its entire railroad system as it existed on October 15, 1979, until the occurrence of an event described in section 22(b). Section 22(b) deals with the filing and eventual implementation of an employee or employee-shipper ownership plan. As noted above, the Commission on December 31, 1979, found the proposed plan not feasible. That finding constituted a section 22(b) event. Therefore, the Milwaukee can now "embargo traffic . . . or abandon or discontinue service over any part of its railroad system." Section 22(a).

The MRRA provides in section 7(d) for the guarantee of Milwaukee Trustee certificates by the Secretary of Transportation, at the Trustee's request.

To finance operations which the Milwaukee Railroad continues for the 60-day period beginning on the date of the occurrence of an event described in section 22(b) of this Act or on April 1, 1980, whichever first occurs.

Since a section 22(b) event has occurred, it is now within the trustee's discretion whether to seek funding for all or any portion of its rail system. However, in view of the Milwaukee's previous embargo of all traffic on the Metaline Falls line, its pending application to abandon the line, and its attempts to convey the line to Port, it is unlikely that the Trustee will seek additional Federal funding for operation of the line. We believe that, unless POV is allowed to continue emergency service over the Metaline Falls line, rail operations on that line may cease. Accordingly, the emergency of impending cessation of service still exists.

Under section 11123(a), when the Commission finds an emergency, it may:

* * * (2) take action during the emergency to promote service in the interest of the public and of commerce regardless of the ownership (as between carriers) of a locomotive, car, or other vehicle on terms of compensation the carriers establish between themselves subject to Subsection (b)(2) of this section; . . . and

(4) give directions for preference or priority in transportation, embargoes, or movement of traffic under permits.

In the *Tucumcari TA Case* we found that both of those subsections enabled us to grant a carrier emergency authority to operate temporarily over another carrier's line without government subsidization. That authorization is equally applicable here.

A review of the legislative history dealing with former section 1(15) supports this finding. The failure of the nation's rail system to handle the emergencies resulting from World War I, and the need for government control of the railroads for over 2 years, prompted Congress to confer on the Commission greater emergency powers. Towards that end the Commission's emergency powers listed in former section 1(15) were greatly expanded by the Transportation Act of 1920.

The congressional debate is replete with references to the broad grant of emergency powers given by the amended Act. The remarks of Congressman Esch, then Chairman of the House Committee on Interstate and Foreign Commerce, and principal author of the bill, are illustrative.

In his address to the House he states that after the bill's provisions were studied, Congress would "begin to realize to what extent we have enlarged the scope and power of the Federal authority in the great matter of transportation." 58 *Cong. Rec.* 8316 (1919). Specifically, in dealing with the powers granted the Commission he explains that

We also give the Commission greater power in cases of emergency . . . We want the Commission to have the power to act promptly on the spur of the moment in case of emergency . . . *Id.*

After discussing particular provisions of the amended Act he concludes:

We also give the Commission the right of treating each emergency as it arises and of also distributing cars and locomotives in order to meet such emergencies. With these powers granted and duly exercised we think many of the evils from which this county has suffered in years past may in a large degree be eliminated. *Id.*

Nowhere in Esch's remarks or in the debate is there any expression of congressional intent to limit the Commission's powers.[6] Indeed, the debate reveals the belief by all that the bill greatly expanded the Commission's powers, especially in dealing with emergencies.[7]

In light of this legislative history, we must act when an emergency exists, as it does here. Therefore, we believe our service order clearly to be an

[6] In further debate the question was raised by Congressman Cooper of whether the bill took away any of the Commission's regulatory powers. Congressman Sanders, replied, "Not a bit." Congressman Cooper then asked whether the bill did not give the Commission more power. Congressman Sanders replied, "All the power in the world, practically." *Id.* at 8340.

In light of these vast powers an amendment to strike former sections 1(15) and 1(16) from the Act was suggested. The amendment was defeated 141–68. *Id.* at 8540–41.

Finally, Congressman Mooney stated, "this bill has given to the Interstate Commerce Commission more power in my judgement, than is possessed by any government agency except, perhaps, the Supreme Court of the United States." *Id.* at 8543.

[7] In a treatise dedicated to analyzing the legislative history of regulatory agencies former section 1(15) is described as follows:

Paragraph (15) of the amended section broadens the power of the Commission, in times of shortage of equipment, congestion of traffic and other emergencies, to suspend existing rules for car service, and make other regulations in respect thereto and to the handling, movement, and routing of traffic, to the joint or common use of terminals, to preference or priority in transportation, to embargoes, and to the movement of traffic under permits. 2 *The Economic Regulation of Business and Industry*, 1474 (B. Schwartz ed. 1973).

appropriate action taken during an emergency to promote service in the interest of the public and of commerce, pursuant to section 11123(a)(2).

Furthermore, we take this opportunity to express our belief that section 11123(a)(4) gives us the power to issue permits for the movement of traffic during emergencies. Although we have allowed the Association of American Railroads to issue permits in the past, such a delegation in no way strips us of our legislative authority. Therefore, when (1) an emergency exists due to a threatened or existing embargo, (2) another carrier is willing to operate without compensation over the embargoed line, and (3) the owner of the embargoed line does not object, we can and will issue permits to direct movement of traffic. Since we regularly issue service orders in emergencies, we will interpret those orders as permits granting one carrier emergency authority to transport traffic over another carrier's lines. Therefore, our initial service order in this case shall now be considered a permit authorizing POV's temporary operations over the Metaline Falls line.

Having concluded that Congress, in amending former section 1(15) gave us these broad powers, we wish to address briefly another argument contending that we lack jurisdiction under section 11123. As noted in the *Tucumcari TA case*, the case primarily relied upon for arguing against our jurisdiction is *Peoria Ry. Co.* v. *United States*, 263 U.S. 528 (1924). We stressed that *Peoria* has been strictly limited to its particular facts. In 1926 Chief Justice Taft writing for a unanimous court discussed the *Peoria* decision. He noted that in *Peoria* the Court held that paragraph 15,

> Did not authorize the Commission to impose upon the terminal carrier, without a hearing, the affirmative duty not only of turning over its cars and equipment to another carrier, as contemplated in paragraph 15, but also that of itself doing the work of the transportation of and for another carrier. It was in this connection that this Court used the expression that car service connotes the use to which vehicles of transportation are put, but not the transportation service rendered by means of them. *United States* v. *Mich Cement Co.*, 270 U.S. 521, 527 (1926).

In conclusion, Taft notes that the *Peoria* opinion "expressly affirms the authority of the Commission to give regulatory directions for preference or priority in transportation." *Id. Peoria* does not prohibit the Commission from exercising its emergency powers as we did in the *Tucumcari TA case* or as the RSB did in authorizing POV's temporary operations.

Conclusion

For the foregoing reasons, we conclude that the RSB's decision authorizing POV to perform emergency operations over Milwaukee's Metaline Falls line should be affirmed. We note, however, that Milwaukee has an obligation to provide protection to the employees who were working on the Metaline Falls line when operations ceased. In a letter to the RSB dated October 1, 1979, Milwaukee informed the Commission that it would "honor and promptly process all valid labor protection claims directly related to the establishment of the new railroad service". We will hold Milwaukee to this commitment.

We find: This action will not significantly affect either the quality of the human environment or conservation of energy resources. *See* 49 CFR Part 1106, 1108 (1978).

It is ordered: (1) The motions to supplement the record filed by RLEA, POV and Milwaukee are granted.

(2) The appeal by RLEA is denied.

(3) This decision will be effective on its service date.

By the Commission: Chairman Gaskins, Vice Chairman Gresham, and Commissioners Stafford, Clapp, Trantum and Alexis. Commissioner Stafford concurring.

Agatha L. Mergenovich,

Secretary.

Commissioner Stafford, Concurring:

As I pointed out in my dissent in Finance Docket No. 29144, I question whether there is a legal basis for granting "temporary authority" in rail acquisitions.

Assuming *arguendo* that temporary authority is legally sustainable, this proceeding is typical of how we should exercise our now found power. Specifically, there are no rail protestants or evidence that rail carriers would be adversely affected. Moreover, the public will receive service and be free from the uncertainties facing the Milwaukee. Finally, the important issue of pre-judging the permanent application is somewhat academic because of the lack of rail and shipper protestants. Labor protestants generally are limited to employee protection conditions which can be handled efficiently in the context of the final decision.

In sum, I do not find the instant proceeding at all factually analogous to the Southern Pacific's 1,000 mile temporary authority application.

[FR Doc. 80-3585 Filed 2-1-80; 8:45 am]

BILLING CODE 7035-01-M

[Investigation and Suspension No. 9248]

Surcharge on Pulpboard, Southwest to Official Territory, Conrail, January 1980

AGENCY: Interstate Commerce Commission.

ACTION: Notice of reopening of related proceedings in which divisions of revenue have been prescribed.

SUMMARY: The cited pending proceeding involves proposed surcharges on joint rates. The surcharge would accrue only to one carrier party to the rate. The Commission has determined that it is necessary to reopen related divisions proceedings where the basis for the divisions of revenue has been prescribed.

The divisions proceedings are reopened to the extent necessary in this proceeding. All parties to the original divisions proceedings are here placed on notice that the Commission may approve a resettlement of divisions with respect to the commodities involved in this surcharge proceeding if doing so is found to be necessary and appropriate.

FOR FURTHER INFORMATION CONTACT: Richard Felder—(202) 275–7693.

SUPPLEMENTARY INFORMATION: The reopended divisions proceedings are as follows: New England Divisions, 132 I.C.C. 93 (1927), *Divisions of Freight Rates*, 253 I.C.C. 673 (1942), *Official Western Trunk Line Divisions*, 269 I.C.C. 765 (1948), *Official-Southwestern Divisions*, 292 I.C.C. 447 (1954), *Official-Southern Divisions*, 337 I.C.C. 74 (1970), *Akron C. & Y.R. Co. v. Atchison, T. & S. FD. Ry. Co.*, 339 I.C.C. 540 (1971), and *Cincinnati, N.O. & T.P. Ry. Co.* v. *Akron, C. & Y.*, 353 I.C.C. 165 (1976).

Dated: January 23, 1980.

By the Commission, George M. Chandler, Acting Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-3586 Filed 2-1-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-1 (Sub-68F)]

Chicago & North Western Transportation Co. Abandonment in Sac and Ida Counties, IA; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided November 20, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line Railroad Co.-Abandonment Goshen*, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company, a distance of 41.1 miles of line of railroad in Sac and Ida Counties, IA. The line extends from milepost 4.5 near Lake View to milepost 45.6 at Holstein, IA. A certificate of abandonment will be issued to the Chicago and North Western Transportation Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance of acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the **Federal Register** on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-3581 Filed 2-1-80; 8:45 am]

BILLING CODE 7035-01-M

[EX Parte MC71 (Sub-1)]

Owner-Operator Cost and Impact on the Rate Structure

AGENCY: Interstate Commerce Commission.

ACTION: Notice of termination of proceeding.

SUMMARY: The Regular Common Carrier Conference filed a request for investigation of the nature and level of owner-operator costs and their relation to the rate structure. Notice of this request was published (43 FR 6867, February 16, 1978). The notice indicated that the Commission would consider the institution of a proceeding related to owner-operator costs and sought comments on what such a proceeding might produce in the way of specific relief.

The Commission has studied the comments and has determined not to institute a proceeding. We do not believe that the prescription of rules in this area is warranted or appropriate. Accordingly, this proceeding is discontinued.

FOR FURTHER INFORMATION CONTACT: Richard Felder (202) 275–7693.

Decided: January 24, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, and Alexis.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-3582 Filed 2-1-80; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 253]

Motor Carrier Temporary Authority Applications

January 15, 1980.

The following are notices of filing of applications for temproary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC W-675 (Sub-5TA), filed September 26, 1979. Applicant: BULTEMA MARINE TRANSPORTATION, INC., P.O. Box 728, 559 East Western Avenue, Muskegon, MI 49443. Representative: Stanley Andrie, President, P.O. Box 728, 559 East Western Avenue, Muskegon, MI 49443. *General commodities* by non-self-propelled vessels and separate towing vessels and General towage by towing vessels. This is an extension of existing operating rights under authority in W-675. Between ports and points on Lake Ontario and tributary waterways as far as Montreal, Canada on the St. Lawrence Seaway. Applicant intends to tack with present authority for 180 days. Supporting shipper(s): CBI Nuclear Co., 2700 Channel Avenue, Memphis, TN 38113. Send protests to: C. R. Flemming, Room 201 Corr Building, 300 E. Michigan Avenue, Lansing, MI 48933.

MC 1824 (Sub-112TA), filed October 17, 1979. Applicant: PRESTON TRUCKING CO., INC., 151 Easton Blvd., Preston, MD 21655. Representative: Charles S. Perry, (same as applicant). *Bananas*, from Albany, NY, Baltimore, MD, and Port Newark, NJ, to points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MO, MN, NE, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI and DC, for 180 days. Supporting shipper(s): Chiquita Brands, Inc., 15 Mercedes Drive, Montvale, NJ 07645. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7 St., Philadelphia, PA 19106.

MC 1924 (Sub-16TA), filed September 21, 1979. Applicant: WALLACE-COLVILLE MOTOR FREIGHT, INC., N. 400 Sycamore, Spokane, WA 99220.

Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. *Common carrier:* regular routes: *General commodities (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* to serve the facilities of Hoerner Waldorf Division of Champion International Corp., at or near Schilling, MT as an off-route point in connection with applicant's otherwise authorized regular route operations, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Hoerner Waldorf Division of Champion International Corp., P.O. Drawer D, Missoula, MT 59806. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 2934 (Sub-54TA), filed November 20, 1979. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: James L. Beattey, 130 East Washington Street, Suite 1000, Indianapolis, IN 46204. *Television sets, cassetts recorders, video-tape recorders and accessories* from Bloomington, IN, to points and places in the States of AL, AR, CT, DC, DE, FL, GA, IL, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VA, VT, WV, and RI for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): RCA Corporation, Building 204–2, Route 38, Cherry Hill, NJ 08358. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 4024 (Sub-14TA), filed November 13, 1979. Applicant: HORN TRUCKING CO., 300 Schmetter Road, Highland, IL 62249. Representative: Edward D. McNamara, Jr., 907 South Fourth Street, Springfield, IL 62703. *Candy and confectionary, breakfast bars, snack food items, malt beverages, beer coolers and advertising materials,* between St. Louis, MO and its commercial zone and Chicago, IL and its commercial zone, on the one hand, and the States of IL, IN, MO, WI, and MI, for 180 days. Supporting Shipper(s): There are three supporting shippers. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Chicago, IL 60604.

MC 8515 (Sub-34TA), filed November 8, 1979. Applicant: TOBLER TRANSFER, INC., Jct. I–80 and I–89, Spring Valley, IL 61361. Representative: Leonard R. Kofkin, 39 S. LaSalle St., Chicago, IL 60603. *General commodities (except commodities in bulk, hhg as defined by the Commission, Classes A and B explosives, and those requiring special equipment),* between Burlington, IA; Quincy, Springfield, Decatur, and Delavan, IL; and LaFayette, IN on the one hand, and, on the other, points in IL on and north of U.S. Highway 36 and LaFayette, IN, for 180 days. An underlying ETA seeks 90 days authority. Applicant requests authority to interline at Chicago, Rockford, Rock Island, and Peoria, IL. Supporting Shipper(s): Caterpillar Tractor Co., 100 N.E. Adams St., Peoria, IL 61629. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 8535 (Sub-105TA), filed October 26, 1979. Applicant: GEORGE TRANSFER AND RIGGING CO., INC., P.O. Box 500, Parkton, MD 21120. Representative: James B. Nestor (same as applicant). *Iron or steel articles (except in dump vehicles),* from the facilities used by Weirton Steel Co. in Falls Township, Bucks County, at or near Morrisville, PA to points in CT for 180 days. Supporting shipper(s): Weirton Steel Div. National Steel Corp., S&M Bldg., Weirton, WV 26062. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 8535 (Sub-106TA), filed October 22, 1979. Applicant: GEORGE TRANSFER AND RIGGING CO., INC., P.O. Box 500, Parkton, MD 21120. Representative: James B. Nestor (same as applicant). *Hardboard, fibreboard or wall board and accessories and supplies used in their installation and distribution,* from the facilities of Homasote company at/or near Trenton, NJ to points in IL and IN, for 180 days. Supporting shipper(s): Homasote Company, Lower Ferry Rd., Trenton, NJ 08628. Send protests to: I.C.C., 101 N. 7th St., Philadelphia, PA 19106.

MC 11714 (Sub-4TA), filed November 20, 1979. Applicant: OLD HARBOR EXPRESS CO., INC., 307 White's Path, S. Yarmouth, MA 02633. Representative: John F. O'Donnell, Barrett and O'Donnell, 60 Adams St., P.O. Box 238, Milton, MA 02187. *Kerosene No. 2 fuel oil, No. 4 fuel oil, No. 6 fuel oil, and diesel fuel, in bulk, in tank vehicles,* from Providence and Tiverton, RI to points in Barnstable County, MA, for 180 days. Supporting shipper(s): Monomoy Fuel, Inc., 678 Main St., Chatham, MA 02633, Northeast Petroleum Corp. of Cape Cod, 3 Coast Guard Road, Sandwich MA 02563. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 13134 (Sub-75TA), filed November 2, 1979. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Oak Hill, OH 45656. Representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215. *Foundry sand additives,* from the facilities of The Hill & Griffith Co. at Cicero, IL to points in IN and OH on and north of U.S. Highway 70, for 180 days. Supporting shipper(s): the Hill & Griffith Company, 1262 State Avenue, Cincinnati, OH 45204. Send protests to: ICC Fed. Res. Bank Bldg., 101 N. 7th Street, Rm. 620, Philadelphia, PA 19106.

MC 13134 (Sub-80TA), filed November 13, 1979. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Oak Hill, OH 45656. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Iron and steel iron and steel articles,* from points in IN, IL, and PA to the facilities of Brown Steel Co. at Columbus, OH, for 180 days. Supporting Shipper(s): Brown Steel Co., 753 Marion Rd., P.O. Box 16502, Columbus, OH 43216. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Philadelphia, PA 19106.

MC 13134 (Sub-81TA), filed November 5, 1979. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Oak Hill, OH 45656. Representative: James M. Burtch, 100 East Broad St., Columbus, OH 43215. *Kyanite ore, bauxite ore, sand and magnesite,* from the facilities of C–E Minerals Division of Combustion Engineering, Inc., located in Wilkes and Sumter Counties, GA and Greene County, TN to points in IL, IN, KY, MI, MO, NY, OH, PA, WV, and WI for 180 days. Supporting Shipper(s): C–E Minerals Div., Combustion Engineering, Inc., P.O. Box 828, Valley Forge, PA 19482. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 14314 (Sub-38TA), filed November 20, 1979. Applicant: DUFF TRUCK LINE, INC., P.O. Box 359, Limia, OH 45802. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. Common carrier-regular routes: *General commodities (except those of unusual value, classes A & B explosives, commodities in bulk, and those requiring special equipment),* serving Wharton, OH and its commercial zone, as an off-route point in connection with carrier's otherwise authorized regular route operations, for 180 days. An underlying ETA seeks 90 days authority. Carrier intends to tack authority and to interline at all present interchange points. Supporting Shipper(s): Wharton Industries, Division of Continental Hydraulic Hose, P.O. Box 285, Wharton, OH 43359. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 20824 (Sub-46TA), filed November 8, 1979. Applicant: COMMERCIAL MOTOR FREIGHT, INC., 2141 South High School Road, Indianapolis, IN 46241. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46241. *Alcoholic Liquors* between the plant site of Hiram Walker & Sons, Inc., at Peoria, IL on the one hand, and, on the other, Bardstown, Coxs Creek and Louisville, KY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Hiram Walker & Sons, Inc., P.O. Box 479, Peoria, IL 61651. Send protests to: Beverly J. Williams, Trans. Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 28825 (Sub-44TA), filed November 21, 1979. Applicant: ANDREWS VAN LINES, INC., P.O. Box 1609, Norfolk, NE 68701. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. *Room heating devices* from Seattle, WA; San Diego, Los Angeles and San Francisco, CA to points in CA, OR and WA for 180 days. An underlying ETA seeks 90 days authority. Restriction: Restricted to the transportation of traffic having a prior movement by air or water. Supporting shipper(s): Energy Mart, Inc., Sam Frock, Traffic Manager, 14 Buxton Avenue, Springfield, OH 45505. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 30844 (Sub-666TA), filed November 8, 1979. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same address as applicant). *Toilet preparations (except commodities in bulk), when moving in vehicles equipped for protective service,* from Lakewood, NJ, to Davenport, Iowa City, and Cedar Rapids, IA, restricted to shipments originating at or destined to the facilities of Procter & Gamble at the named origin and destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Procter & Gamble Distributing Company, P.O. Box 599, Cincinnati, OH 45201. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 30844 (Sub-667TA), filed November 9, 1979. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same address as applicant). *Foodstuffs (except in bulk, in tank vehicles)* from the facilities of Sanna Division of Beatrice Foods Co. at Menomonie, Cameron, Vesper, Wisconsin Rapids, and Eau Claire, WI, to points in the U.S. (except AK and HI), restricted to the traffic of Sanna Division, Beatrice Foods Co., originating at the above origins and destined to the named destinations, for 180 days. Supporting Shipper(s): Sanna Division, Beatrice Foods Co., P.O. Box 8046, Madison, WI 53708. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 41404 (Sub-165TA), filed November 30, 1979. Applicant: ARGO-COLLIER TRUCK LINES CORPORATION, Box 440, Fulton Highway, Martin, TN 38237. Representative: Mark L. Horne, Box 440, Fulton Highway, Martin, TN 38237. *Foodstuffs, except in bulk,* from Peru, IN to AL, AR, FL, GA, KY, LA, MS, NC, SC, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Universal Foods Corporation, 433 East Michigan St., Milwaukee, WI 53201. Send protests to: Floyd A. Johnson, Suite 2006, 100 N. Main St., Memphis, TN 38103.

MC 52005 (Sub-4TA), filed November 13, 1979. Applicant: OREGON-WASHINGTON TRANSPORT, 3322 N.W. 35th Avenue, Portland, Oregon 97210. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. *General commodities,* except those of unusual value, and except dangerous explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading between points in the Seattle commercial zone on the one hand and points in Oregon on the other for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Far West Shippers Assoc., Kent, WA; Northwestern Glass/Seal, Seattle, WA; Taylor Edwards Warehouse & Transfer Co., Inc., Seattle, WA; Northern Lights Express, Seattle, WA; Sunset Northwest, Bellevue, WA; United Warehouse Co., Seattle, WA; Williams Form Engineering Corp., Bellevue, WA; Pacific Foods Products, Co., Seattle, WA; Alaska-Shell Inc., Seattle, WA. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S.W. Yamhill Street, Portland, OR 97204.

MC 52704 (Sub-259TA), filed November 9, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer H, LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *(1) Cellulose film or sheets, cellulose film coated with plastic, and plastic film, other than cellulose, and (2) Non-flammable compressed gases (dispersant or refrigerant gases), and cleaning compounds,* between the facilities of Southeastern Bonded Warehouse, Inc., located at or near Atlanta, GA, on the one hand, and, on the other, points in AL, FL, GA, NC and SC of 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southeastern Bonded Warehouse, Inc., 5180 Phillip Lee Drive, S.W., Atlanta, GA 30336. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 52704 (Sub-260TA), filed November 20, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Box "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Tires,* from the facilities of The Goodyear Tire & Rubber Company at or near Gadsden, AL, to points in NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Goodyear Tire & Rubber Company, 464 Goodyear Avenue, Gadsden, AL 35093. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 52704 (Sub-261TA), filed October 15, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth and John P. Tucker, Jr., 2200 Century Parkway, Suite 202, Atlanta, GA 30325. *Containers, container closures and container ends.* From the facilities of Texberry Container Corporation at or near Houston, TX to Opelousas, LA, for 180 days. Supporting shipper(s): Texberry Container Corporation, P.O. Box 33367, Houston, TX 77033. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 52704 (Sub-262TA), filed October 15, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Box "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Plastic containers,* from Birmingham, AL, to Pensacola, FL, for 180 days. Supporting shipper(s): Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 52704 (Sub-263TA), filed November 20, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Box "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Tires,* from the facilities of The Goodyear Tire & Rubber Company at or near Gadsden, AL, to points in NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Goodyear Tire & Rubber Company, 464 Goodyear Avenue, Gadsden, AL 35093. Send protests to: Mabel E. Holston, TA, ICC,

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Room 1616, 2121 Building, Birmingham, AL 35203.

MC 52704 (Sub-284TA), filed November 14, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Such commodities as are dealt in by retail or wholesale grocery or discount stores* between the facilities of Southeastern Bonded Warehouse, Inc., at or near Atlanta, GA, on the one hand, and on the other, points in KY, LA and MS for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southeastern Bonded Warehouse, Inc., 5180 Phillip Lee Drive, S.W., Atlanta, GA 30336. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 56244 (Sub-91TA), filed October 3, 1979. Applicant: KUHN TRANSPORTATION COMPANY, INC., P.O. Box 98, R.D. No. 2, Gardners, PA 17324. Representative: J. Bruce Walter, John M. Musselman, P.O. Box 1146, 410 N. Third St., Harrisburg, PA 17108. *(1) Metal and non-metallic strapping and (2) related strapping materials,* accessories, supplies and equipment, from the facilities of Samuel Strapping Systems at Columbus, OH and points in its commercial zone, to points in DE, MD, NY, NY, PA, VA, and Washington, DC, restricted to traffic originating at the named facilities and destined to the named destinations, for 180 days. Supporting shipper(s): Samuel Strapping Inc., 3900 Groves, Rd., Columbus, OH 43227. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 61825 (Sub-122TA), filed November 23, 1979. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone (same as applicant). *Furnaces, solar collectors, and air conditioners, and parts and accessories,* from Columbus, OH to Greensboro, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lennox Industries Inc., P.O. Box 400450, Dallas, TX 75240. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 61825 (Sub-123TA), filed September 20, 1979. Applicant: ROY STONE TRANSFER CORPORATION, V.C. Drive, P.O. Box 385, Collinsville, VA 24078. Representative: Johne D. Stone (same as applicant). *Dry animal feed* (except in bulk), from Columbus, OH to Lynchburg and Richmond, VA and points in Brunswick, Campbell, Henrico and Mecklenburg Counties, VA and points in Stokes County, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Boydton Farm Supply, P.O. Box 330, Boydton, VA 23917. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 65475 (Sub-33TA), filed October 18, 1979. Applicant: JETCO, INC., 4701 Eisenhower Avenue, Alexandria, VA 22304. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Iron and steel articles and equipment, materials, and supplies used in the manufacturing of iron and steel articles,* between Springfield, VA, and Burnsville, MN, on the one hand, and on the other, points in AL, CT, DE, FL, GA, IL, IN, IA, KY, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): VSL Corp., 8006 Haute Court, Springfield, VA 22150. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 85255 (Sub-70TA), filed November 19, 1979. Applicant: PUGET SOUND TRUCK LINES, INC., P.O. Box 24526, 3720 Airport Way So., Seattle, WA 98124. Representative: James F. Walker, 3720 Airport Way So., Seattle, WA 98124. *Paper and paper articles,* between Lewiston, ID and Seattle, Redmond and The Overlake Industrial Park, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ridgway Packaging Corporation, 4111 156th Ave. N.E., Redmond, WA 98052. Send protests to: Shirley M. Homes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 94265 (Sub-333TA), filed November 28, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. *Foodstuffs,* in vehicles equipped with mechanical refrigeration (1) from the facilities of Kaukauna Dairy Products at or near Little Chute, WI to points in DE, MD, NJ, NY, PA, VA, WV, and DC; and (2) from Philadelphia, PA, New York City, NY and points in NJ to the facilities of Kaukauna Dairy Products at or near Little Chute, WI, for 180 days. Support shipper(s): Kaukauna Dairy Products, P.O. Box 1974, Kaukauna, WI 54130. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 94265 (Sub-334TA), filed November 28, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. *Meat, meat products and meat by-products* (except in bulk), (1) from the plantsite and storage facilities used by Country Smoked Meats, Inc. at or near Wooster, OH to points in MD, NC, VA, WV and DC; and (2) from points in VA to the plantsite and storage facilities used by Country Smoked Meats, Inc. at or near Wooster, OH, for 180 days. Supporting shipper(s): Country Smoked Meats, Inc., P.O. Box 981, Wooster, OH 44691. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 94265 (Sub-335TA), filed November 5, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Manufactured tobacco and tobacco products, related advertising and packaging materials, and display racks* from the facilities of R. J. Reynolds Tobacco Company, Winston-Salem, NC to Fargo, ND, for 180 days. An underlying ETA seeks 90 days authority. Support shipper(s): R. J. Reynolds Tobacco Co., Fourth & Main Sts., Winston-Salem, NC 27102. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 94265 (Sub-336TA), filed November 7, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Toilet preparations,* from the facilities of Iodent Way Chemical Company, Inc., at Elizabethtown, TN, to points in GA, IN, KS, MA, MI, NV, NJ, NY, NC, OH, PA, RI, SC, TX, VA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Support shipper(s): Iodent Way Chemical Company, Inc., Elizabethtown, TN 37643. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 94265 (Sub-337TA), filed November 15, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. and 766,* from Southampton County, VA to points in NC and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): H. P. Beale and Sons, Inc., Route 2, Courtland, VA 23837. Send protests to: I.C.C, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 97394 (Sub-21TA), filed Nov. 29, 1979. Applicant: BOWLING GREEN EXPRESS, INC., P.O. Box 1899, Bowling Green, KY 42101. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. *General commodities,* (with usual exceptions), between Somerset, KY and Nashville, TN, and their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Applicant requests authority to interline at Nashville, TN. Supporting shipper(s): 7 Supp. Shippers—Domiciled in KY. (Somerset Area), 9 Supporting Carriers—Domiciled in TN. Total—16. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, Ky., 40202.

MC 98154 (Sub-19TA), filed November 9, 1979. Applicant: BRUCE CARTAGE, INCORPORATED, 3460 East Washington Road, Saginaw, MI 48601. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *Merchandise as is dealt in by retail department stores,* (1) from the facilities of Montgomery Ward & Co., Incorporated at Sharonville, OH and Chicago, IL and their respective commercial zones, to retail stores, warehouses and catalog outlets of Montgomery Ward & Co., Incorporated at various MI points. (2) from the facilities of suppliers of Montgomery Ward & Co., Incorporated located at various MI points to the facilities of Montgomery Ward & Co., Incorporated at Sharonville, OH and Chicago, IL and their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Montgomery Ward & Co., Incorporated, P.O. Box 7337, Chicago, IL 60680. Send protests to: C. R. Flemming, D/S ICC, Room 201, Corr Building, 300 East Michigan, Lansing, MI 48933.

MC 98614 (Sub-15TA), filed September 10, 1979. Applicant: ARKANSAS TRANSPORT COMPANY, P.O. Box 702, Little Rock, AR 72203. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. *Petroleum and petroleum products,* in bulk, in tank vehicles, from West Memphis, AR and its commercial zone to Hayti and Poplar Bluff, MO and points in the commercial zones of each, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Van Oil, Inc. & Cris-Tol Oil Co., Inc., P.O. Box 722, Prescott, AR 71857. F & S Petroleum Company, P.O. Box 3203, Little Rock, AR 72203. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 102295 (Sub-41TA), filed November 16, 1979. Applicant: GUY HEAVENER, INC., 480 School Lane, Harleysville, PA 19438. Representative: Gerald Heavener (same as applicant). *Stone,* from Bucks County, PA to Walworth County, WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The General Crushed Stone Co., Box 96, Quakertown, PA 18951. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 106674 (Sub-446TA), filed November 6, 1979. Applicant: SCHILLI MOTOR LINES, INC., U.S. Highway 24 West, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). *Insulating material* from Newark, OH to points in and east of MN, IA, MO, AR & LA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Owens-Corning Fiberglas Corporation, Fiberglas Tower, Toledo, OH 43659. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 106674 (Sub-447TA), filed October 25, 1979. Applicant: SCHILLI MOTOR LINES, INC., U.S. Highway 24 West, Remington, IN 47977. Representative: Jerry L. Johnson (same as applicant). *Gas or electrical appliances and parts, materials, supplies and equipment used in the distribution or repair of appliances* from the facilities of Whirlpool Corporation at Evansville, IN to all points in the states of AL, AR, CT, IL, MD, MI, MO, NJ, NC, NY, OH, PA, SC, TN, TX, VA, WI for 180 days. Supporting shipper: Whirlpool Corporation, 2000 U.S. 33, North, Benton Harbor, MI 49022. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 107064 (Sub-139TA), filed November 26, 1979. Applicant: STEERE TANK LINES, INC., P.O. Box 220998, Dallas, TX 75222. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. *Liquefied Petroleum Gases* from Maysville, OK to Euless and Poyner, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United LP Gas Marketing, Inc., 6350 LBJ Freeway, Dallas, TX 75240. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 107295 (Sub-953TA), filed November 29, 1979. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr, P.O. Box 146, Farmer City, IL 61842. *Bentonite and soapstone (except in bulk),* from Gonzales, TX, to Omaha, NE; Jackson, MS; Tampa, FL; and Dry Branch, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southern Clay Products, Inc., P.O. Box 44, Gonzales, TX 78629. Send protests to: Transportation Specialist, ICC, 219 S. Dearborn, Rm. 1386, Chicago, IL 60604.

MC 107295 (Sub-955TA), filed November 21, 1979. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Richard D. Vollmer, P.O. Box 146, Farmer City, IL 61842. (1) Roofing (except in bulk), from Morris County, TX, to points in AR, LA, MS, and OK, and (2) materials, equipment and supplies used in the manufacture and distribution of the commodities named in (1) above (over) from points in AR, LA, MS, and OK, to Morris County, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Daingerfield Manufacturing Co.; P.O. Box 639, Daingerfield, TX 75638. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Chicago, IL 60604.

MC 107295 (Sub-956TA), filed November 29, 1979. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr, P.O. Box 146, Farmer City, IL 61842. *Glassware NOE,* from Laredo, TX, to points in CA, VA, MD, NJ, and NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Riekes Crisa Corp., and Alco Standard Co., 1618 Leavenworth St., Omaha, NE 68102. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 107515 (Sub-1300TA), filed November 14, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., NE., Fifth Floor, Lenox Towers South, Atlanta, GA 30326 (1) *Liquid soap, in plastic containers,* (a) from the facilities of Minnetonka, Inc. in the Minneapolis/St. Paul commercial zone, MN to the facilities of Minnetonka, Inc. in the commercial zones of Chicago, IL; Columbus, OH; Atlanta, GA; Dallas, TX; Kansas City, KS; and those points in NY and NJ within the New York City commercial zone, and (b) from the facilities of Minnetonka, Inc. in the Atlanta, GA commercial zone to points in the commercial zones of Memphis, TN; New Orleans, LA; Greenville, SC; Charlotte, Raleigh, Greensboro, and Winston-Salem, NC; Orlando, Tampa, and Miami, FL; and Birmingham, AL; (2) *plastic dispensing bottles and parts and accessories therefor,* (a) from Winona,

MN; New Berlin, WI; Washington Courthouse, OH; Clifton, NJ; and Harrisonburg, VA to the facilities of Minnetonka, Inc. in the Minneapolis, MN commercial zone, and (b) from Port Clinton, OH and Chicago, IL to Winona, MN; (3) *soap*, from West Warwick, RI to the facilities of Minnetonka, Inc. in the Minneapolis, MN commercial zone, for a period of 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Minnetonka, Inc., Jonathan Industrial Park, Chaska, MN 55318. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St. NW., Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1301TA), filed November 15, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., Fifth Floor, Lenox Towers South, Atlanta, GA 30326. *Liquid soap, in plastic containers* from the facilities of Minnetonka, Inc. at or near San Jose, CA and Minneapolis, MN to Denver, CO and its commercial zone and Dallas, TX and its commercial zone for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Minnetonka, Inc., Jonathan Industrial Park, Chaska, MN 55318. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1307TA), filed November 21, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., Fifth Floor, Lenox Towers South, Atlanta, GA 30326. *Frozen potatoes and potato products* from Clark, SD to points in FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chef Reddy Foods Corp., Clark, SD 57225. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1308TA), filed November 30, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., Fifth Floor, Lenox Towers South, Atlanta, GA 30326. *Fresh and frozen meat, and packinghouse products*, from Nashville, TN to points in the U.S. in and east of ND, SD, NE, KS, OK, and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Baltz Brothers Packing Co., 1612 Elm Hill Rd., P.O. Box 7191, Nashville, TN 37201. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1310TA), filed November 29, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., Fifth Floor, Lenox Towers South, Atlanta, GA 30326. *Animal feed ingredients, in bags; released value not exceeding .50 per pound*, from Chattanooga, TN to Rosemont, IL; Dallas, TX; St. Paul, MN; Kansas City, MO; and St. Louis, MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 107544 (Sub-152TA), filed October 12, 1979. Applicant: LEMMON TRANSPORT CO., INC., P.O. Box 560, Marion, VA 24354. Representative: Daryl J. Henry (same as applicant). *Chemicals, in bulk, in tank vehicles*, from Kingsport, TN to points in KY, MS, NC, OH, PA, SC, TN, VA, & WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McCabe-Woody & Co., P.O. Box 876, Kingsport, TN 37662. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 109124 (Sub-95TA), filed November 5, 1979. Applicant: SENTLE TRUCKING CORP., P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. *Pulpboard, wallboard, and fiberboard* from the facilities of Owens-Corning Fiberglass Corp. at or near Meridian, MS to points in the states east of the Mississippi River, for 180 days. Supporting shipper(s): Owens-Corning Fiberglass Corp., Fiberglass Tower, Toledo, OH 43659. Send protests to: I.C.C., 101 N. 7 St., Philadelphia, PA 19106.

MC 109124 (Sub-96TA), filed October 31, 1979. Applicant: SENTLE TRUCKING CORP., P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. *Iron and steel articles (tinplate, sheet or scrap) and steel can ends*, between points in IN and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Can Corp., 8101 W. Higgins, Chicago, IL 60631. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7 St., Philadelphia, PA 19106.

MC 109124 (Sub-98TA), filed November 2, 1979. Applicant: SENTLE TRUCKING CORP., P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad St., Columbus, OH 43215. *Insulating material*, on flatbed trailers, from the facilities of Owens-Corning Fiberglass Corporation at Newark, OH, to points in the states east of the Mississippi River, for 180 days. Supporting shipper(s): Owens-Corning Fiberglass Corp., Fiberglass Tower, Toledo, OH 43659. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7 St., Rm. 620, Phila., PA 19106.

MC 109595 (Sub-23TA), filed October 10, 1979. Applicant: REX TRANSPORTATION COMPANY, Suite 207 Clausen Building, 1520 Woodward Avenue, Bloomfield Hills, MI 48013. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Cement*, from Detroit, MI, to points in OH and IN for 180 days. Supporting shipper(s): Medusa Cement Company, P.O. Box 5668, Cleveland, OH 44101. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 110325 (Sub-124TA), filed November 19, 1979. Applicant: TRANSCON LINES, 101 Continental Boulevard, El Segundo, CA 90245. Representative: Wentworth E. Griffin, Griffin, Dysart, Taylor, Penner & Lay, P.C. 1221 Baltimore Avenue, Kansas City, MO 64105. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)*, serving the terminal facilities of Transcon Lines, at or near New Castle, IN, as an off-route point in connection with carrier's otherwise authorized regular route operations, for 180 days. An underlying ETA seeks up to 90 days operating authority. Applicant request authority to interline at various points throughout Transcon Lines route system and to tack this authority with authority it presently holds in No. MC–110325 and Subs thereto. Supporting shipper(s): There are no certificates of support attached, as this is a carrier's application for the relocation of a terminal facility. Justification given in the Feasibility Statement. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 111274 (Sub-56TA), filed November 27, 1979. Applicant: SCHMIDGALL TRANSFER INC., P.O. Box 351, Morton, IL 61550. Representative: Fred C. Schmidgall, P.O. Box 351, Morton, IL 61550. *Contract carrier:* irregular route: *iron and steel and iron and steel articles*, from the facilities of U.S. Steel Corp. at or near Gary, IN, and South Chicago, IL, and Joliet, IL to the states of IL, (from Gary only), Iowa, KS, and MO, restricted to

shipments originating at the above named facility. Supporting shipper(s): United States Steel Corporation, 1000 E. 80th Pl., Merrillville, IN 46410. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Chicago, IL 60604.

MC 111594 (Sub-88TA), filed November 20, 1979. Applicant: CW TRANSPORT, INC., 610 High St., Wisconsin Rapids, WI 54494. Representative: Thomas O'Connor, 610 High St., Wisconsin Rapids, WI 54494. *General Commodities, except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, general commodities in bulk and those requiring special equipment*, from facility of the Richards Oil Co. at or near Savage, MN to all points in WI and the Upper Peninsular of MI, restricted to transportation of shipments originating at the facilities of Richards Oil Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Richards Roofing Co., Inc., Port Richards, Savage, MN 55378. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 112184 (Sub-70TA), filed November 8, 1979. Applicant: THE MANFREDI MOTOR TRANSIT CO., 11250 Kinsman Rd., Newbury, OH 44065. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Contract carrier-irregular routes: *Flour*, in bulk, in tank vehicles, from points in Cecil County, MD to points in CT, DE, MD, MA, NJ, NY, PA, VA, and DC, under continuing contract(s) with Ross Industries, Dept. of Cargill, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ross Industries, Dept. of Cargill, Inc., P.O. Box 2696, Wichita, KS 67201. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 112304 (Sub-225TA), filed October 12, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John D. Herbert (same as applicant). *Cranes, truck mounted, and parts and attachments*, from Cedar Rapids, IA, to all points in and east of WI and IL, and in and north of KY and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Harnischfeger Corp., P.O. Box 554, Milwaukee, WI 53201. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 112304 (Sub-226TA), filed November 13, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John D. Herbert (same as applicant). *Structural iron and steel*, from the facilities of Precipitair Pollution Control Co., at Longview, TX to Cumberland City, TN and points within 5 miles thereof, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Precipitair Pollution Control Co., P.O. Box 7202, Longview, TX 75601. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 112304 (Sub-227TA), filed October 26, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John D. Herbert (same as applicant). *Metal articles*, between Aberdeen, NC, on the one hand, and on the other, points in and east of MN, IA, MO, AR, and LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carolina Galvanizing Co., P.O. Box 60, Aberdeen, NC. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 112304 (Sub-229TA), filed November 8, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John D. Herbert (same address as applicant). *Iron and steel articles* (1) from Houston and Lone Star, TX to Owensville, MO, and (2) from Owensville, MO to points in WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): TSE Manufacturing, Inc., P.O. Box 515, Owensville, MO 60566. Send protests to: ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 112304 (Sub-230TA), filed November 16, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John D. Herbert (same as applicant). *FAB-RA-CAST Railroad/Highway Grade Crossings*, from Plant City, FL, to all points in the U.S., (except AK and HI), for 180 days, An underlying ETA seeks 90 days authority. Supporting shipper(s): Szarka Enterprises, Inc., P.O. Box 2027, Livonia, MI 48150. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 113165 (Sub-11TA), filed October 9, 1979. Applicant: PENINSULA TRUCK LINES, INC., 6314 7th Avenue South, Seattle, WA 98108. Representative: Carl A. Jonson, P.S., 300 Central Building, Seattle, WA 98104. *General commodities, except those of unusual value, high explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading*, between Seattle and Tacoma, WA on the one hand and points in Grays Harbor, Kitsap and Mason Counties, WA on the other hand, and between points in said counties, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 21 statements of support attached to this application which may be examined at the ICC in Washington, D.C., or copies thereof at the field office named below. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 113974 (Sub-86TA), filed September 17, 1979. Applicant: PITTSBURGH & NEW ENGLAND TRUCKING CO., 211 Washington Ave., Dravosburg, PA 15034. Representative: James D. Porterfield (same as applicant). *Sawmill machinery and parts thereof*, from the facilities of Forest-All Corporation located at Concord, NH to all points in the U.S. (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Forest-All Corp., 39 Sheep Davis Rd., Route 106, Concord, NH 03301. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 114284 (Sub-86TA), filed November 29, 1979. Applicant: FOX-SMYTHE TRANSPORTATION CO., 1700 S. Portland, P.O. Box 82307, Oklahoma City, OK 73148. Representative: M. W. Thompson (same address as applicant). *Meats, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carriers Certificates*, 61 M.C.C. 209 & 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corp., at Cedar Rapids, IA, to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 114334 (Sub-70TA), filed November 23, 1979. Applicant: BUILDERS TRANSPORTATION COMPANY, 3710 Tulane Road, Memphis, TN 38116. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. *Roofing materials and supplies (except in bulk)*, from Little Rock, AR and its commercial zone to points in TN, MS, AL and GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Tarco, Inc., P.O. Box 3330, N. Little Rock, AR 72117. Send protests to: Floyd A. Johnson, Suite 2006, 100 N. Main St., Memphis, TN 38103.

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MC 115654 (Sub-180TA), filed November 21, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 Thirteenth St., N.W., Washington, D.C. 20004. *Foodstuffs* (except in bulk), from the facilities of Green Giant Company at Belvidere, IL, to points in MO, MS, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Green Giant Company, 1100 N. 4th St., Le Sueur, MN 56058. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 115654 (Sub-176TA), filed November 20, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 Thirteenth St., N.W., Washington, D.C. 20004. *Lard, edible tallow, shortening, vegetable shortening, margarine, cooking oils, salad oils, and vegetable oils,* from the facilities utilized by Swift & Company at Chattanooga, TN, to points in AL, GA, NC, SC, VA, WV, KY, and MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Swift and Company, P.O. Box 7068, Chattanooga, TN 37410. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 116544 (Sub-190TA), filed November 23, 1979. Applicant: ALTRUK FREIGHT SYSTEMS, INC., 1703 Embarcadero Rd., Palo Alto, CA 94303. Representative: R. G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. *Canned foodstuffs,* other than frozen: (1) from St. Francisville, LA and Belledeau, LA to CO, FL, IA, IL, KS, MN, MO, NE, OK, TX, WI; and (2) from Turkey, NC to New York, NY, Philadelphia, PA, FL, IL, MO, NJ and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Joan of Arc Company, Inc., 2231 Altorfer Dr., Peoria, IL 61614. Send protests to: D/S Neil C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 116544 (Sub-191TA), filed November 23, 1979. Applicant: ALTRUK FREIGHT SYSTEMS, INC., 1703 Embarcadero Rd., Palo Alto, CA 94303. Representative: R. G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. *Foodstuffs,* other than frozen (except in bulk), from the facilities of Vlasic Foods, Inc., at or near Greenville, MS to FL, GA, LA, TX, OK, MO, KS, CO, IL, NM, and NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vlasic Foods, Inc., 33200 W. 14 Mile Rd. W., Bloomfield, MI 48033. Send protests to: D/S Neil C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 117165 (Sub-59TA), filed October 30, 1979. Applicant: ST. LOUIS FREIGHT LINES, INC., P.O. Box 2140, Michigan City, IN 46360. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Gypsum and gypsum products, and materials and supplies used in the manufacture, installation and distribution of gypsum and gypsum products,* from the facilities of Georgia-Pacific Corp.—Gypsum Division at Grand Rapids, MI to points in IL, IN, and OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Georgia-Pacific Corporation, Gypsum Division, 1062 Lancaster Ave., Rosemont, PA 19010. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 117574 (Sub-341TA), filed November 9, 1979. Applicant: DAILY EXPRESS, INC., 1076 Harrisburg Pike, P.O. Box 39, Carlisle, PA 17013. Representative: James W. Hagar, 100 Pine St., P.O. Box 1166, Harrisburg, PA 17108. (1) *Machinery and equipment,* and (2) *accessories, parts, materials and supplies used in connection with the installation, assembly, and construction of machinery and equipment used in the manufacture and production of color television picture tubes,* between Baltimore, MD; Cleveland, OH; Lancaster, PA; New York, NY; and Pittsburgh, PA, on the one hand, and on the other, all points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MN, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC, restricted to the transportation of shipments having a subsequent movement in foreign commerce, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): RCA, Cherry Hill Offices, Camden, NJ 08101. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 117765 (Sub-279TA), filed November 21, 1979. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). *Advertising matter and commodities used or distributed by retail or wholesale distributors or marketers of petroleum products in mixed truckloads with petroleum products,* (except products in bulk), from Ponca City, OK, to IL, IN, IA, MI, NE, and SD, for 180 days. Support shipper(s): Conoco, Inc., P.O. Box 2197, Houston, TX 77001. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73101.

MC 118865 (Sub-13TA), filed November 13, 1979. Applicant: CEMENT EXPRESS, INC., Hokes Mill Rd. & Lemon St., York, PA 17404. Representative: Jerome M. Mulroy (same address as applicant). *Cement (Portland and Masonry, in bulk or package),* from York, PA to points in IL, IN, and MI, for 180 days. An underlying ETA seeks 90 days authority. Support shipper(s): Medusa Cement Co., P.O. Box 5668, Cleveland, OH 44101. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Philadelphia, PA 19106.

MC 119864 (Sub-78TA), filed October 29, 1979. Applicant: CRAIG TRANSPORTATION CO., 28699 Eckel Road, Perrysburg, OH 43551. Representative: Brad A. James (same address as applicant). *Foodstuff* (except in bulk), from the facilities of Brooks Foods, Division of Curtice-Burns, Inc., located in Mt. Summit, IN to Chicago and Collinsville, IL, and St. Louis, MO commercial zone; from Collinsville, IL to Mt. Summit, IN, for 180 days. An underlying ETA seeks 90 days authority. Support shipper(s): Brooks Foods, Division of Curtice-Burns, Inc., Rt. 36, Mt. Summit, IN 47361. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 119864 (Sub-79TA), filed October 18, 1979. Applicant: CRAIG TRANSPORTATION CO., 28699 Eckel Road, Perrysburg, OH 43551. Representative: Brad A. James (same address as applicant). *Foodstuff* (except in bulk), from the facilities of Frigid Food Products, Inc. in Detroit, MI to points in OH, for 180 days. An underlying ETA seeks 90 days authority. Support shipper(s): Frigid Food Products, Inc., 1599 E. Warren Ave., Detroit, MI 48207. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 119974 (Sub-92TA), filed November 13, 1979. Applicant: L.C.L. TRANSIT COMPANY, 949 Advance Street, Green Bay, WI 54304. Representative: L. F. Abel, P.O. Box 949, Green Bay, WI 54304. *Pineapple juice, in bulk, in tank vehicles,* from the plantsites and storage facilities of International Pineapple Company, at San Antonio, TX to Geneva, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: International Pineapple Company, San Antonio, TX. Send protests to: John E. Ryden, DS, ICC, 517 East Wisconsin Ave., Rm., 619, Milwaukee, WI 53202.

MC 120544 (Sub-2TA), filed November 7, 1979. Applicant: KELLER TRUCKING COMPANY, INC., 470 Old Skokie Road, Park City (Waukegan), IL 60085. Representative: Paul J. Maton, 10 South LaSalle Street, Chicago, IL 60603. General commodities with the usual exceptions, between the counties of Lake, McHenry and Cook, IL and the counties of Kenosha, Racine, Milwaukee, Waukesha, Rock, Ozaukee and Walworth, WI. Between Galesburg, IL and the above named counties in WI for 180 days. An underlying ETA seeks 90 days authority. NOTE: Applicant does intend to interline with other carriers at Waukegan and Chicago, IL. Supporting shipper(s): There are 18 Supporting Shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Transportation Assistant, I.C.C., 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 121654 (Sub-36TA), filed November 28, 1979. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representative: Alan E. Serby; Marc A. Pearl, Serby & Mitchell, P.C., 3390 Peachtree Road, NE., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Air pollution equipment, except that which because of size or weight requires the use of special equipment* from the facilities of Andersen 2000 at or near College Park, GA to points in Kern County, San Luis Obispo County, Los Angeles County and Orange County, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Andersen 2000, 200 Sullivan Road, College Park, GA 30337. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 123405 (Sub-78TA), filed October 30, 1979. Applicant: FOOD TRANSPORT, INC., R.D. No. 1, Thomasville, PA 17364. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. *Frozen foodstuffs,* from the facilities of Imperial Freight Brokers, Inc. at Miami, FL to Hanover, PA, restricted to traffic originating at and destined to the above named origin and destination, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Imperial Freight Brokers, Inc., 7005 NW 41 St., Miami, FL 33166. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7 St., Phildelphia, PA 19106.

MC 123914 (Sub-1TA), filed October 25, 1979. Applicant: W. C. KLINE, INC., 3200 S. 10th Ave., Altoona, PA 16603. Representative: Thomas M. Mulroy, Esq., 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. *Pre-cast concrete products* from Portage, PA to points in WV, NY, NJ, MD, OH, and DE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dox Planks of Northeast Pa, Inc., Box 427, Portage, PA 15946. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 123914 (Sub-2TA), filed October 29, 1979. Applicant: W. C. KLINE, INC., 3200 South Tenth Avenue, Altoona, PA 16603. Representative: Thomas M. Mulroy, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. *Pre-cast concrete products,* from Portage, PA to points in PA, WV, NY, NJ, MD, OH, and DE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dox Planks of Northeast Pa., Inc., Box 427, Portage, PA 15946. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 125335 (Sub-94TA), filed October 26, 1979. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Such commodities as are dealt in by wholesale and retail discount stores* (except commodities in bulk) from points in Broome and Chemung Counties, NY, and Lackawanna, Lehigh, Luzerne, Northampton and Wayne Counties, PA to Troy and Cape Girardeau, MO and DuQuoin, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Northeastern Pennsylvania, Shipper's Cooperative Association, Inc., Penn Park Bldg., Suite 300, Pittston, PA 18640. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 128114 (Sub-9TA), filed October 1, 1979. Applicant: PAUL E. SAVAGE d.b.a., SAVAGE TRANSPORTATION COMPANY, P.O. Box 2422, Pasco, WA 99302. Representative; Donald A. Ericson, 708 Old National Bank Building, Spokane, WA 99201. *Fertilizer,* between points in WA, ID, and OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chevron Chemical Co. (a wholly owned subsidiary of Standard Oil of California), 7150 S.W. Hampton, P.O. Box 23048, Portland, OR 97223. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 129124 (Sub-27TA), filed October 26, 1979. Applicant: SAMUEL J. LANSBERRY, INC., P.O. Box 58, Woodland, PA 16881. Representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, PA 17108. *Cullet, in bulk, in dump vehicles,* from Baltimore, MD to Bridgeton, NJ and Port Allegany, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Woodland Equipment & Supply Co., Woodland, PA 16881. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 133805 (Sub-43TA), filed October 30, 1979. Applicant: LONE STAR CARRIERS, INC., Rt. 1, Box 48, Tolar, TX 76476. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. *Foodstuffs (except in bulk)* from the facilities of Anderson Clayton Foods, Inc. located at Jacksonville, IL to the facilities of Anderson Clayton Foods, Inc. located at Sherman, TX, for 180 days. Underlying ETA filed. Supporting shipper(s): Anderson Clayton Foods, Inc., P.O. Box 226165, Dallas, TX 75266. Send protests to: Marianne Minnich, TCS, Interstate Commerce Commission, Rm. 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135364 (Sub-42TA), filed August 8, 1979. Applicant: MORWALL TRUCKING, INC., R.D. 3, Box 760, Mosvow, PA 18444. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Contract; Irregular: Such commodities as are manufactured, processed, sold, used, distributed, or dealt in by manufacturers and converters of paper and paper products (except commodities in bulk),* (1) Between Fitchburg, MA, on the one hand, and, on the other, Washington, DC, Fort Meade, Riverdale and Suitland, MD, Franconia and Herndon, VA, Deferiet, NY, and Kimberly and Neenah, WI. (2) Between Lexington, SC, on the one hand, and, on the other, Carpentersville and Geneva, IL, Auburn and Portland, ME, Holyoke, MA, Syracuse, NY, Monroe and Tarboro, NC, Archbold and Cincinnati, OH, Temple, TX, Burlington, VT, and Ashippun and Wisconsin Rapids, WI. (3) Between Monroe, NC, on the one hand, and, on the other, Holyoke and Fitchburg, MA, Deferiet and New York, NY, and Kimberly and Neenah, WI. (4) Between Belleville, NJ, and Chicago, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Paper, Printing and Forms Group, of Litton Business Systems, Inc., 601 River St., Fitchburg, MA 01420. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 136445 (Sub-4TA), filed November 20, 1979. Applicant: ZENITH TRANSPORT, LTD., 2131 Willingdon Avenue, Burnaby, B.C., Canada V5C 5J4. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. *Contract carrier: irregular routes: coffee in bags,* from Ports of Entry on the International Boundary line in Whatcom County, WA to points in CA, for 180 days. An underlying ETA seeks 90 days

authority. Supporting shipper(s): Nabob Foods Limited, 3131 Lake City Way, Burnaby, B.C. V5A, 3A3; Kelly Douglas & Co. Ltd, 4700 Kingsway, Burnaby, B.C. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 138824 (Sub-32TA), filed October 29, 1979. Applicant: REDWAY CARRIERS, INC., P.O. Box 104, Waukegan, IL 60085. Representative: PAUL J. MATON, 10 S. LaSalle St., Rm. 1620, Chicago, IL 60603. *Contract carrier*: irregular routes: *Such commodities as are dealt in by wholesale and retail, chain grocery, hardware and drug stores, in containers; materials and supplies incidental to and used in the processing, manufacturing, of above items,* between facilities of S.C. Johnson & Son, Incorporated located at Racine and Waxdale, WI, on the one hand, and, on the other, points in the States of IL, IN, KS, KY, MI, MO, OH, and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): S. C. Johnson & Son, Inc., Domestic & International, 2512 Howe Street, Sturtevant, WI. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 138824 (Sub-33TA), filed November 6, 1979. Applicant: REDWAY CARRIERS, INC., P.O. Box 104, Waukegan, IL 60085. Representative: PAUL J. MATON, 10 S. LaSalle St., Suite 1620, Chicago, IL 60603. *Contract carrier*. irregular routes: *Food products, dry or liquid other than frozen, in containers; materials and supplies incidental to, and used in the processing, canning and bottling of said food products;* except commodities in bulk; between points and places in the states in and east of the states of ND, SD, NE, CO, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): RJR Foods, Inc., P.O. Box 3037, Winston-Salem, NC 27102. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Chicago, IL 60604.

MC 140435 (Sub-6TA), filed November 2, 1979. Applicant: ADOBE INTERNATIONAL, INC., Box 3629, R.D. #3, Grove City, PA 16127. Representative: Brian L. Troiano, 918 16 St. NW., Washington, DC 20006. Contract carrier—irregular routes: *Coal, in dump vehicles,* (1) between points in Butler, Mercer, and Venango Counties, PA; and (2) from points in Mercer and Venango Counties, PA to the facilities of Cleveland Electric Illuminating Co. at or near Ashtabula, OH, under continuing contract(s) with Pengrove Coal Company, a Division of Adobe Mining Co., for 180 days. Supporting shipper(s): Pengrove Coal Co., P.O. Box 3629, Grove City, PA 16127. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7 St., Philadelphia, PA 19106.

MC 140484 (Sub-70TA), filed October 29, 1979. Applicant: LESTER COGGINS TRUCKING, INC., 2671 E. Edison Ave., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same address as applicant). *Electric motors, electric welders, and parts and accessories for electric motors and electric welders, welding supplies and hand truck parts* (except commodities because of their size and weight requiring the use of special equipment) from the facilities of Lincoln Electric Company located in Cuyahoga and Lake Counties, OH to points in IA, KA, MN, and MO for 180 days. Supporting shipper(s): The Lincoln Electric Company, 22801 St. Clair Ave., Cleveland, OH 44117. Send protests to: Donna M. Jones, T/A, Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 142364 (Sub-27TA), filed October 26, 1979. Applicant: KENNETH SAGELY d.b.a. SAGELY PRODUCE, 2802 Kibler Rd., Van Buren, AR 72956. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. *Flour and corn meal* (except in bulk), *bird seed, popcorn, feed and feed ingredients* from the facilities of Shawnee Milling Company, at or near Shawnee, OK, to points in TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Shawnee Milling Company, Inc., P.O. Box 1567, Shawnee, OK 74801. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 142715 (Sub-77TA), filed October 29, 1979. Applicant: LENERTZ, INC., P.O. Box 479, So. St. Paul, MN 55075. Representative: K. O. Petrick, (same address as applicant). *Such commodities as are dealt in by wholesale, retail or chain food business houses (except commodities in bulk),* from the facilities of Carnation Company, Rochelle, IL, to points in IA, MN, MO, NE, ND, SD and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carnation Company, 5045 Wilshire Blvd., Los Angeles, CA 90036. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th Street, Minneapolis, MN 55401.

MC 142994 (Sub-8TA), filed October 22, 1979. Applicant: VIRGINIA COURIER SERVICE, INC., P.O. Box 287, Harrisonburg, VA 22801. Representative: Chester A. Zyblut, 1030 Fifteenth St. NW., Suite 366, Washington, DC 20005. *Drugs, medicine, and chemicals (except in bulk), and materials and supplies used in the manufacture of the aforementioned commodities, moving in express service,* between Riverside, PA and Rahway, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Merck & Co., Inc., P.O. Box 2000, Rahway, NJ 07065. Send protests to: ICC, Fed. Res. Bank Bldg., 110 N. 7th St., Rm. 620, Phila., PA 19106.

MC 143794 (Sub-12TA), filed November 29, 1979. Applicant: EAST-WEST MOTOR FREIGHT, INC., P.O. Box 525, Selmer, TN 38375. Representative: Bruce E. Mitchell, 3390 Peachtree Road, NE, 5th Floor, Atlanta, GA 30326. Such commodities as are utilized by hospitals, nursing homes, health care centers and laboratories, and materials, equipment and supplies used in the manufacture, distribution and sale thereof, from Mount Prospect, IL to the facilities of McGaw Laboratories at or near Irvine, CA and Atlanta and Milledgeville, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McGaw Laboratories, 4801 Welcome All Road, Atlanta, GA 30349. Send protests to: Floyd A. Johnson, Suite 2006—100 N. Main St., Memphis, TN 38103.

MC 144054 (Sub-9TA), filed November 23, 1979. Applicant: BILL LITTLEFIELD TRUCKING, INC., 775 E. Vilas Road, Medford, Oregon 97501. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, Oregon 97210, 503–228–3755. (1) Gift-Wrapped and Packaged Foods, Food Products, and Commodities Dealt in by Retail Gift Shops (Except Frozen) in Vehicles Equipped with Mechanical Refrigeration, (2) Plants and Bulbs when Moving at the same time and in the same Vehicle with the Commodities in (1) Above, and, (3) Empty Containers and Trailers between the facilities of Harry and David at Medford, Oregon, and Portland, Oregon, having a prior or subsequent movement by rail for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Harry and David, P.O. Box 712, Medford, Oregon 97501, 503–776–2075. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S. W. Yamhill Street, Portland, Oregon 97204.

MC 144585 (Sub-3TA), filed October 1, 1979. Applicant: SHANE TRANSPORTATION, INC., 403 Bank St., Lodi, OH 44254. Representative: E. H. van Deusen, Post Office Box 97, 220 W. Bridge St., Dublin, OH 43017. *Herbicides, (except in bulk),* from: North Little Rock, Arkansas to: Elkhart, Fort Wayne, Indianapolis and New Albany, Indiana; Chicago and Peoria, Illinois; Lexington and Louisville, Kentucky; Detroit, Grand Rapids, Kalamazoo and Lansing, Michigan; Buffalo, Rockester and Syracuse, New York; Cincinnati, Cleveland, Columbus, Dayton, Springfield, Toledo and Youngstown, Ohio and Pittsburgh, Pennsylvania for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lakeshore Equipment & Supply Co., 300 S. Abbe Rd., Elyria, OH 44035. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 145194 (Sub-6TA), filed September 21, 1979. Applicant: WOOSTER MOTOR WAYS, INC., 1357 Mechanicsburg Rd., Wooster, OH 44691. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Cleaning, washing, buffing,* or *polishing compounds, textile softeners, lubricants, hypochloride solutions, deodorants, or disinfectants, paints, stains, or varnishes,* except commodities in bulk, (1) between the facilities of Economic Laboratory, Inc. at Avenel, NJ, on the one hand, and, on the other, points in IN, IL, PA, and the lower peninsula of MI; (2) between the facilities of Economics Laboratory, Inc. at or near Joliet, IL, on the one hand, and, on the other, points in PA and NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Economics Laboratory, Inc., Osborn Building, St. Paul, MN 55102. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 145664 (Sub-14TA), filed November 28, 1979. Applicant: STALBERGER, INC., 223 South 50th Avenue West, Duluth, MN 55807. Representative: John M. LeFevre, James S. Holmes, Holmes & Graven, Chartered, 4610 IDS Center, Minneapolis, MN 55402. *Particle board or composition board,* from the United States—Canada International Boundary Line at or near Grand Portage, MN, to points in IL, IA, and to points in WI south of Hwy. 29; LIMITED TO traffic originating at facilities of MacMillan Bloedel Building Materials Limited and of Great Lakes Paper Company, Limited at or near Thunder Bay, Ontario, Canada, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): MacMillan Bloedel Bldg. Materials, Ltd., Transportation Co-ordinator, P.O. Box 608, Thunder Bay, ONT P7C 4W6. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Mpls., MN 55401.

MC 145765 (Sub-6TA), filed October 31, 1979. Applicant: WIEST TRUCKLINE, INC., 1305 6th Avenue S.W., Jamestown, ND 58401. Representative: William J. Gambucci, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58107. (1) *Frozen bread dough,* from the facilities of Dakota Bake & Serve located at or near Jamestown, ND, and Columbus, WI, to points in CO, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NV, ND, OH, OR, SD, UT, WA, WI and WY; and (2) *Raw materials, equipment and supplies used in the manufacture and distribution of frozen bread dough,* from points in IL, MN, MT and WI, to the facilities named in Part (1) above, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dakota Bake & Serve, Airport Road, Jamestown, ND 58401. Send protests to: H. E. Farsdale, DS, ICC, Room 268 Fed. Bldg., 657 2nd Avenue North, Fargo, ND 58102.

MC 146174 (Sub-6TA), filed October 17, 1979. Applicant: P. D. EXPRESS, 617 W. 5 Avenue, Columbus, OH 43212. Representative: Gregory A. Stayart, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. *Processed foodstuffs,* in containers, from Kokomo, IN, Leipsic, OH, Morton and Alsip, IL to points in OH, KY, PA, IN, MI, and WV, for 180 days, restricted to traffic originating at the facilities of Libby, McNeill & Libby at Kokomo, IN, Leipsic, OH, Morton and Alsip, IL and destined to the indicated destinations. Supporting shipper(s): Libby, McNeill & LIbby, 200 S. Michigan Ave., Chicago, IL 60604. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7 St., Philadelphia, PA 19106.

MC 146725 (Sub-7TA), filed October 17, 1979. Applicant: FREEPORT TRANSPORT, INC., P.O. Box 1275, Freeport Center, Clearfield, UT 84016. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. *Hardwood lumber and hardwood flooring* from Nashville, TN to Salt Lake City, UT, for 180 days. Supporting shipper(s): Diehl Lumber Products, Inc., 1756 South 700 West, Salt Lake City, UT 84104. Send protests to: Lyle D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 148414 (Sub-1TA), filed October 19, 1979. Applicant: UNIDYNE CORPORATION, 981 Scott St., Norfolk, Va. 23502. Representative: Dale E. Forwood, (same address as applicant). Contract carrier-irregular routes: (1) *metal (aluminum and steel) fabricated products, fixtures, and accessories, such as are used in department stores, assembled and in kit form, including but not limited to tie racks; hat racks and clothes racks;* (2) *metal (iron, steel with plastic) athletics goods, sporting and gymnastic equipment (NOI), such as are used for exercising to develop body muscles, in tubular form and boxes;* (3) *wood display products, fixtures and accessories, such as are used in department stores, finished, framed, with and without glass, with and without storage shelves, assembled and in kit form,* from the plantsite of Advanced Metal Products Company, at or near Los Angeles, CA to New Orleans, LA; St. Paul, MN; Chicago, IL; and points in CT, MO, OH, TX, WV, FL, NC, SC, VA, MD, PA, NY, NJ, DE and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Advanced Metal Products Company, 1441 West El Cengundo Blvd., Compton, CA 90223. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Philadelphia, PA 19106.

MC 147484 (Sub-1TA), filed October 29, 1979. Applicant: FRANK KAISER, doing business as CHRISANDAD UNIVERSAL, 5461 N. East River Road, Chicago, IL 60656. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. (1) *Automotive parts and materials and supplies used in the manufacture of automotive parts (except in bulk),* (a) from Ft. Wayne, IN to the facilities of L.A. Commutator, Inc. at Ft. Worth, TX; (b) from the facilities of L.A. Commutator, Inc. at Ft. Worth, TX to points in IL, IN, IA, KS, MI, MO, OH and OK; (c) between the facilities of International Products & Manufacturing, Inc. at Palatine, IL, on the one hand, and, on the other, the facilities of Wabash, Inc. at Farmington, MO; and (d) from the facilities of Wabash, Inc. at Wabash, IN to the facilities of International Products & Manufacturing, Inc. at Palatine, IL; and (2) *magnetic computer tape,* from the facilities of Wabash Tape Corporation at Huntley, IL to the facilities of Wabash Tape Corporation at Paoli, IN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wabash, Inc., 200 East Daniels Road, Palatine, IL 60067. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148175 (Sub-1TA), filed September 28, 1979. Applicant: ROBERT W. DENTON, doing business as SPIRIT TRUCKING, 8700 South Wolf Road, Hinsdale, IL 60521. Representative: Robert W. Denton (same address as applicant). *Cleaning compounds, supplies and materials used in manufacturing and distribution of cleaning compounds, (except in bulk),* from facilities or storage facilities of the Amway Corporation located at or near ADA or Holland, MI to Chicago, IL. Restricted to traffic having an immediately subsequent movement by rail for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Amway Corporation, 7575 E. Fulton Rd., Ada, MI 49355. Send protests

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to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148215 (Sub-1TA), filed September 27, 1979. Applicant: HAROLD T. BLANKENSHIP, doing business as MUSICIANS EQUIPMENT TRANSPORT, Route 4, Box 482–B, Portsmouth, OH 45662. Representative: Stephen C. Fitch, 155 East Broad St, 16th Floor, Columbus, OH 43215. *Contract; Irregular: Equipment used by musicians for shows and concerts,* for the continuous movement of said equipment between all points in the United States except Alaska and Hawaii, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pure Prairie League, Inc., P.O. Box 1745, Chillicothe, OH 45601. Send protests to: ICC Fed. Res. Bank Bldg., 101 N. 7th Street, Rm. 620, Philadelphia, PA 19106.

MC 148435R (Sub-1TA), filed October 16, 1979. Applicant: ED OCHYLSKI, doing business as ERO TRANSIT LINES, 4224 S. Racine, Chicago, IL 60609. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. (1) *Meat and meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* (2) *Packinghouse supplies and equipment,* (1) From the facilities of the Illinois Meat Company at or near Des Moines, IA and Chicago, IL to points in MA, MO, IL, IN, IA, OH, PA, NY, MA, NJ, WI, NE and MI. (2) From points in MN, MO, IL, IN, IA, OH, PA, NY, MA, NJ, WI, NE and MI to the facilities of The Illinois Meat Company at or near Des Moines, IA and Chicago, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Illinois Meat Company, 42245 Racine Avenue, Chicago, IL 60609. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148485 (Sub-1TA), filed October 26, 1979. Applicant: EARL P. SMITH doing business as, SMITH CARTAGE COMPANY, 104 S. Vine Ave., Marshfiled, WI 54449. Representative: James Spiegel, 6425 Odana Rd., Madison, WI 53719. Contract irregular: Barn stanchions, barn cleaners, water cups, barn ventilators, silo unloaders, cattle feeders, *manure pumps, and barn stalls,* between Manawa & Marshfiled, WI and points in IL, IA, MI, MN, ND & SD, restricted to transportation performed under a continuing contract(s) with Berg Equipment Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Berg Equipment Co., RFD #3, Marshfield, WI 54449. Send protests to: Gail Daugherty, TA, I.C.C., 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 48535 (Sub-1TA), filed October 22, 1979. Applicant: BAKERSTOWN TRANSPORTATION CORP., P.O. Box 12, Middlesex Street, Bakerstown, PA 15007. Representative: Arthur J. Diskin, Esquire, 806 Frick Building, Pittsburgh, PA 15219. *Contract; Irregular:* (a) *Petroleum and petroleum products* in containers, from McKees Rocks, PA, and Bakerstown, PA, to points in OH, WV, NY, and MI, under continuing contract with Arco Petroleum Products Co., of Los Angeles, CA; (b) *Empty steel drums* from points in OH, WV, NY, and MI to the plant site of Bakerstown Container Corp., in Bakerstown, PA., under continuing contract with Bakerstown Container Corp., of Bakerstown, PA., for 180 days. Supporting shipper(s): Bakerstown Container Corp., Box 51, Bakerstown, PA 15007. Arco Petroleum Products Company, 515 S. Flower Street, Los Angeles, CA 90071. Send protests to: ICC Fed. Res. Bank Bldg., 101 N. 7th Street, Rm. 620, Philadelphia, PA 19106.

MC 148624 (Sub-1TA), filed October 22, 1979. Applicant: BOB'S TRANSPORT & STORAGE CO., INC., 7081 Oakland Mills Rd., Columbia, MD 21046. Representative: Ronald K. Kolins, Esq., 333 N. Fairfax St., Alexandria, VA 22314. *Articles dealt in by wholesale and retail grocery stores, and in connection therewith, equipment, materials and supplies used in the conduct of such business,* between points in MD on the one hand, and, on the other, points in DE, NJ, NY, PA, VA, WV, and Washington, DC, for 180 days. Supporting shipper(s): There are six shippers. Their statement may be examined at the office listed below and Headquarters. Send protests to: I.C.C., 101 N. 7th St., Philadelphia, PA 19106.

MC 148634 (Sub-1TA), filed October 9, 1979. Applicant: COMPASS TRANSPORTATION COMPANY, 620 "C" Street, San Diego, California 92101. Representative: William R. Daly, San Diego Traffic Services, 4340 Vandever Avenue, Suite "S", San Diego, California 92120. *Contract;* Irregular; *Cleaning, scouring and washing compounds and green headless frozen shrimp,* between Los Angeles, California and Phoenix, Tempe and Nogales, Arizona, for 180 days. Supporting shipper(s): Ocean Garden Products, Inc., Traffic Coordinator, 620 "C" Street, San Diego, CA 92136. International Distributing company, Traffic Manager, 7130 Miramar Rd., San Diego, CA 92116. Send protests to: Irene Carlos, TA, I.C.C., 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 148744 (Sub-1TA), filed November 30, 1979. Applicant: BOWMAN TRUCKING, INC., 2606 2nd Street, LaGrande, OR 97850. Representative: Lenora Brewer (Double L's Bookkeeping Service), 1604 U Avenue, LaGrande, OR 97850, 503–963–6029. Ore in Bulk (Belly Dump Equipment) from the facilities of B. F. B. Enterprises, Inc. at or near Mountain City, Nevada to Tacoma, Washington, and/or Casper, Wyoming, Butte, Montana, Kellogg, Idaho, and Pinehurst, Idaho and Mountain Home, Idaho, for 180 days. Supporting shipper(s): B. F. B. Enterprises, Inc., Mountain City, NV 89831. Send protests to: R. V. Dubay, DS, ICC, 114 Pioneer Courthouse, 555 S. W. Yamhill Street, Portland, OR 97204.

MC 148785 (Sub-1TA), filed November 15, 1979. Applicant: SUDDEN MOVING & STORAGE, INC., doing business as SUDDEN TRUCKING COMPANY, 5154 Kennedy Avenue, Cincinnati, OH 45213. Representative: Boyd B. Ferris, 50 West Broad St., Columbus, OH 43215. *Such commodities as are dealt in or used by manufacturers of auto parts,* between Columbus, OH, on the one hand, and on the other, Leades, MO; Atlanta, GA; Van Nuys, CA; Chicago, IL; Indianapolis, IN; and Cadillac, Flint and Pontiac, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Harper Industries, Incorporated, 315 Graham St., Columbus, OH 43203. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 148794 (Sub-1TA), filed November 23, 1979. Applicant: THOMAS BROS. TRUCKING, INC., Ludlow, IL 60949. Representative: Robert T. Lawley, Attorney, 300 Reisch Bldg., Springfield, IL 62701. *Contract carrier:* irregular route: *windows and doors,* from Rantoul, IL to points in the United States, except AK and HI, for the account of Caradco Corp., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Caradco Corp. (A Subsidiary of Bendix Forest Products Corp.), P.O. Box 920, Rantoul, IL 91866. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 148854 (Sub-1TA), filed December 11, 1979. Applicant: KYKER TRANSPORT CO., 303 Sunset Lane, Mt. Morris, IL 61054. Representative: Abraham A. Diamond, 29 S. LaSalle, St., Chicago, IL 60603. *Contract carrier:* irregular route: (a) *Material handling machines and equipment; and* (b) *Material, equipment and supplies used in the manufacture sale and distribution of material handling machine and equipment,* between the facilities of General Kinematics Corporation at or near Crystal Lake, Rockford and Woodstock, IL on the one hand, and, on the other, points in AL, IN, KY, MI, NY, OH, PA, WV and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Kinematics Corporation, 777 Lake Zurich Rd., Barrington, IL 60010. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Chicago, IL 60604.

MC 148805 (Sub-TA), filed November 26, 1979. Applicant: POLAND SPRING LEASING CORP., Poland Spring, ME 04274. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181. Contract: Irregular: (1) *Water,* in containers, and (2) *equipment, material and supplies* used in the bottling and distribution of water between Poland Spring, ME, on the one hand, and, on the other, points in MA, RI, CT, NY, NJ, PA, MD, VA, and the District of Columbia, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Poland Spring, Inc., Poland Spring, ME 04274. Send protests to: Donald G. Weiler, District Supervisor, ICC, 76 Pearl St., Rm. 303, Portland, ME 04101.

MC 148965 (Sub-1TA), filed November 26, 1979. Applicant: CLARK BROS. TRANSPORTATION, INC., 1808 30th Street, North, Birmingham, AL 35203. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. (1) *Iron and steel and iron and steel articles;* (2) *Pipe, valves, hydrants and fittings;* (3) *Metal and metal articles:* (4) *Paper, plastic, paper and plastic articles;* (5) *Lumber, lumber products and particleboard;* (6) *Containers, ends and closures;* (9) *Materials, equipment and supplies used in the manufacture and sale of the foregoing commodities* (except commodities in bulk in tank vehicles), between points and places in the states of AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, and TX. Supporting shipper(s): There are 18 supporting shippers to this application, the statements of which can be examined in the Washington, DC, Office or the Birmingham, AL Field Office. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616–2121 Building, Birmingham, AL 35203.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-3584 Filed 2-4-80; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[TA-406-8]

Anhydrous Ammonia From the U.S.S.R.; Investigation and Hearing

Investigation instituted. Following receipt on January 18, 1980, of a request from the President (reproduced below), the U.S. International Trade Commission on January 28, 1980, instituted an investigation under section 406(a) of the Trade Act of 1974 (19 U.S.C. 2436(a)) to determine, with respect to imports of anhydrous ammonia, provided for in items 417.22 and 480.65 of the Tariff Schedules of the United States, which is the product of the Union of Soviet Socialist Republics (U.S.S.R.), whether market disruption exists with respect to an article produced by a domestic industry. Section 406(e)(2) of the Trade Act defines market disruption to exist within a domestic industry whenever "imports of an article, like or directly competitive with an article produced by such domestic industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat thereof, to such domestic industry."

The President made the request pursuant to section 406(c) of the Trade Act, having found under that section that there are reasonable grounds to believe that market disruption exists with respect to such anhydrous ammonia the product of the U.S.S.R. The President also found, pursuant to section 406(c), that emergency action was necessary and took action, under sections 202 and 203 of the Trade Act, limiting the quantity of such anhydrous ammonia the product of the U.S.S.R. which may enter the United States during the period January 24, 1980, to January 24, 1981, to 1,000,000 short tons (Proclamation 4714 of January 18, 1980, published in the **Federal Register** of January 21, 1980 (45 FR 3875)).

The text of the President's letter to the Commission is as follows—

January 18, 1980

The Honorable Catherine M. Bedell,
Chairman, International Trade Commission, Washington, D.C. 20436.

Dear Madam Chairman: Pursuant to section 406(c) of the Trade Act of 1974, I have today found that there are reasonable grounds to believe that market disruption exists with respect to imports to anhydrous ammonia, provided for in items 417.22 and 480.65 of the Tariff Schedules of the United States, from the Union of Soviet Socialist Republics. I therefore request that you initiate an investigation on such articles under section 406(a) of the Trade Act of 1974.

Sincerely,

Jimmy Carter.

Public hearing. A public hearing in connection with this investigation will be held in Washington, D.C., at 10:00 a.m., e.s.t., on Monday, March 3, 1980. The hearing will be held in the Hearing Room, United States International Trade Commission Building, 701 E Street, NW., Washington, D.C. All parties will be given an opportunity to be present, to produce evidence, and to be heard at the hearing. Requests to appear at the hearing should be received in writing in the Office of the Secretary to the Commission not later than 5:00 p.m., Tuesday, February 19, 1980.

A prehearing conference in connection with this investigation will be held in Washington, D.C., at 9:30 a.m., e.s.t., on Thursday, February 21, 1980, in Room 117, U.S. International Trade Commission Building, 701 E Street, NW.

Written statements. Interested parties may submit statements in writing in lieu of, and in addition to, appearing at the public hearing. A signed original and nineteen true copies of such statements should be submitted. To be assured of their being given due consideration by the Commission, such statements should be received not later than Monday, March 10, 1980.

Issued: January 30, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-3609 Filed 2-1-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-60]

Certain Automatic Crankpin Grinders; Commission Order

Complainant Landis Tool Company filed a motion with the United States International Trade Commission on December 28, 1979, seeking an order tolling the time for filing a petition for reconsideration pursuant to Commision rule 210.56 (19 CFR 210.56) of the Commission's determination and order in the Certain Automatic Crankpin Grinder Investigation No. 337-TA-60, until resolution of its petition for a writ of mandamus filed concurrently with the motion in the United States Court of Customs and Patent Appeals. Complainant's motion also sought an order tolling the time for filing an appeal

pursuant to section 337(c) of the Tariff Act of 1930, as amended (19 U.S.C. 1337).

After consideration of the matter, the Commission determined that good and sufficient reason for tolling the time for filing a petition for reconsideration has not been shown, and that the Commission has no authority to toll the time for filing an appeal in the United States Court of Customs and Patent Appeals.

Accordingly, it is hereby ordered that complainant's motion for a tolling of time is denied.

Issued: January 29, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-3610 Filed 2-1-80; 8:45 am]

BILLING CODE 7020-02-M

[TA-201-41]

Certain Fish; Report to the President Regarding Investigation

January 17, 1980.

To the President: In accordance with section 201(d)(1) of the Trade Act of 1974 (19 U.S.C. 2251(d)(1), 88 Stat. 1978), the United States International Trade Commission herein reports the results of an investigation relating to certain fish.

On the basis of the information developed in investigation No. TA-201-41 the Commission (Chairman Bedell not participating) determines that cod, cusk, haddock, hake, pollock, whiting, wolf fish, Atlantic Ocean perch, Pacific rockfish (including Pacific Ocean perch), flounder, turbot, and all other flatfish, except halibut, provided for in items 110.15, 110.35, 110.40, 110.45, 110.47, 110.50, 110.55, 110.57, and 110.70 of the Tariff Schedules of the United States, are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

The Commission instituted this investigation under the authority of section 201(b)(1) of the Trade Act on September 5, 1979, following receipt on August 20, 1979, of an amended petition filed by the Fishermen's Marketing Association of Washington, Inc., Seattle, Washington, and the Coast Draggers Association, Westport, Washington.

The investigation was undertaken to determine whether cod, cusk, haddock, hake, pollock, whiting, wolf fish, Atlantic Ocean perch, Pacific rockfish (including Pacific Ocean perch), flounder, turbot, and all other flatfish, except halibut, provided for in items 110.15, 110.35, 110.40, 110.45, 110.47, 110.50, 110.55, 110.57, and 110.70 of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

A public hearing in connection with the investigation was held in Seattle, Washington, on November 13 and 14, 1979. All interested persons were afforded the opportunity to be present, to produce evidence, and to be heard. A transcript of the hearing and copies of briefs submitted by interested parties in connection with the investigation are attached.[1] Notice of the investigation and hearing was duly given by publishing the notice in the Federal Register of September 12, 1979 (44 FR 53112). A corrected notice of investigation was issued on September 20, 1979, and published in the Federal Register of September 26, 1979 (44 FR 55442).

The information contained in this report was obtained from fieldwork, from questionnaires sent to domestic producers and importers, and from the Commission's files, other Government agencies, and information presented at the hearing and in briefs filed by interested parties.

Views of the Commission [2]

On the basis of information developed during this investigation, we determined that certain groundfish as described in the Commission's notices, are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat of serious injury, to the domestic industry producing the like or directly competitive products.

The Trade Act of 1974 (Section 201(b)(1)) requires that each of the following conditions be met before an affirmative determination can be made.

(1) There are increased imports (either actual or relative to domestic production) of an article into the United States;

(2) A domestic industry producing an article like or directly competitive with the imported article is seriously injured, or threatened with serious injury; and

(3) Such increased imports of an article are a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Specifically, we find that neither the second nor the third criteria under section 201(b)(1), as set forth above, have been met. We generally do not reach the third issue (causation) unless the first two are satisfied, but in this case we thought it appropriate to discuss issues frequently raised during the investigation.

The Domestic Industry and the Imported Articles of Concern

The petitioners are two fishermen's associations in the state of Washington, the Fishermen's Marketing Association, Seattle, Washington, and the Coast Draggers Association, Westport, Washington. However, the petition is supported by all major fishermen's associations on the west coast and two major fishermen's associations on the east coast. The domestic industry consists of those fishermen in the entire United States whose vessels are devoted to the harvesting of certain fish, specifically cod, cusk, haddock, hake, pollock, whiting, wolf fish, Atlantic Ocean perch, Pacific rockfish, except halibut, provided in TSUS item 110.15, 110.35, 110.40, 110.45, 110.47, 110.50, 110.55, 110.57, and 110.70. The above described fish are collectively refered to in these views as "groundfish" because they are generally found or caught on or near the sea bottom (the "ground"). The articles under investigation are only those groundfish that are fresh, chilled, or frozen and provided for in subpart A of part 3 of schedule 1 of the TSUS. They enter the United States in three general categories: (1) Whole groundfish—whole, or processed by removal of heads, viscera, fins, or scales, or any combination thereof, but not otherwise processed; (2) groundfish blocks—frozen blocks of fish that have been skinned and boned, whether or not divided into pieces, and frozen into blocks, each weighing over 10 pounds; and (3) groundfish fillets—fresh, chilled, or frozen fish in other forms, virtually all in the form of fillets.

A Domestic Industry Producing an Article Like or Directly Competitive With an Imported Article

Whole groundfish.—In 1978, nearly 60 percent of the U.S. imports of fresh, chilled, or frozen whole groundfish were imported in frozen form. While the level of imports of frozen fish in 1978 was higher than in any of the preceding four years, the U.S. fishermen that comprise the affected industry sell virtually all of their catch in fresh or chilled form, at substantially higher prices than could be obtained for frozen whole fish. In 1978, imports of the like and directly competitive products, fresh or chilled whole groundfish, were lower in volume than during any of the 4 preceding years. As discussed more extensively in the following section on groundfish fillets, the fresh or chilled products of the fisheries industry are not like or directly competitive with the frozen products.

Groundfish fillets.—During the period January 1974-September 1979, 97.5 percent of all imports of groundfish fillets were frozen. On the other hand, the U.S. fishermen sell nearly all their groundfish to wholesalers or processors at a price geared for the fresh whole fish and fresh fillet market. Since a fresh fillet is considered to be a better fish product than a frozen fillet, it commands a much higher price. Thus U.S. fishermen can obtain a premium price for fresh groundfish because processors can cover these costs and make a profit at current fresh fillet prices.

The price differential between fresh and frozen whole fish and fresh and frozen fillets is significant. For example, although prices of fresh domestic cod fillets and imported frozen fillets have both increased since 1974, the price differentials between the products and the rates of increase have varied sharply. The average monthly wholesale price of fresh domestic cod fillets at the New York City Fulton fish market was $1.02 in 1974 while the average wholesale price for packages of frozen Canadian cod fillets was $.71, a 31 cent differential. During the next year, the fresh fillet price rose to $1.26 while the frozen fillet price fell to 63 cents thus widening the margin to 63 cents. In the following three years, fresh fillet prices rose much more rapidly than those imported frozen fillets further widening the margin between the two products. By June of 1978, the last period for which comparisons are possible, fresh fillets were selling at $2.23 per pound, compared with only 89 cents for imported frozen fillets. Because movements in prices of domestic fresh fillets and imported frozen fillets are not related, these products are not truly like or directly competitive with each other.

U.S. production of frozen fillets occurs only when processors are unable to sell their fresh fillets in the market prior to spoilage. Once the fillet is frozen, the processors suffer a loss on the product because they have already paid a "premium" (or "fresh") prices for the groundfish from the fishermen and are forced to sell at the lower frozen price.

To sell frozen fillets successfully, the entire processing operation must be geared to the production of frozen fillets. The groundfish should be purchased in volume at low prices and then processed by machines and quickly frozen to retain as much texture and flavor as possible. Few groundfish processors in the United States engage in such operations. Rather, they freeze their fillets only as a last resort. Thus, it is clear that the vast majority of groundfish fillet imports, and the increasing imports of frozen whole groundfish, are not competitive with the U.S. produced article.

Groundfish blocks.—For the past several years, the United States has imported over 99 percent of its consumption of groundfish blocks. Until 1978, production of groundfish blocks in the United States was only an intermediate step by seafood processors in the production of their own fish sticks and fish portions. In late 1978 and 1979, two U.S. companies bought the production machinery necessary to commercially produce groundfish blocks. Their basic problem at present is securing a high volume of low-priced groundfish from U.S. fishermen. Furthermore, "prevention of establishment of an industry" is not an issue in investigations under section 201 of the Trade Act of 1974.[3] Clearly, increasing imports of fish blocks during 1974-78 were not like or directly competitive with the products of a U.S. industry. It is too early to tell how well the new U.S. fish block industry will compete with established import competition.

Increased Imports

In the categories which we find directly competitive with domestic products, imports increased slightly from 1974 through 1978. However, imports of fresh or chilled whole groundfish and groundfish fillets during the first three-quarters of 1979 exceeded imports for all of 1978. The import to consumption ratio for these categories climbed to 9.44 percent for January-September 1979 compared to 6.33 percent for the same period in 1978. Clearly, imports are increasing within the meaning of section 201(b)91).

Serious Injury

The second criterion concerns whether the domestic industry is suffering "serious injury or the threat thereof." The Trade Act does not define the term "serious injury," but instead provides guidelines in the form of economic factors which the Commission is to take into account. Section 201(b)(2) of the Trade Act provides that the Commission, in determining whether there is serious injury, is to take into account, "all economic factors which it considers relevant, including (but not limited to) * * * the significant idling of productive facilities in the industry, the inability of a significant number of firms to operate at a reasonable level of profit, and significant unemployment or underemployment within the industry * * *." We have also considered the following economic factors: Prices, production, cost of production and lost sales.

The information before us demonstrates that the economic health of the domestic fishermen improved in the years immediately prior to 1979. However, in 1979 the economic situation was not as positive.

Capacity and capacity utilization—After the introduction of the "200 mile limit", the U.S. industry started to modernize and expand the groundfishing fleet. Spurred by government guaranteed loans, the west coast groundfishing fleet increased by 95 new boats in 1979 alone. There have also been increases in the size of the fishing fleets in New England. Thus U.S. capacity to harvest groundfish has risen significantly. However, government conservation quotas on the east coast and trip limits by groundfish processors on the west coast have severely limited the utilization of the newly expanded fishing fleet. U.S. landings of groundfish have increased over the comparable period in 1978, but there are more vessels and thus each boat is catching fewer fish.

Profit-and-loss experience—From the limited number of questionnaires received from the U.S. fishermen, it appears that prior to 1979 the entire industry was on an upswing. As U.S. landings increased and prices also increased, the financial picture of the U.S. industry rapidly improved. The increased profitability probably contributed to the decision by many boat owners to invest in newer and larger boats. However, in 1979, the financial picture started to reverse itself. Factors which have aggravated the fishermen's financial situation in 1979 have included large increases in the cost of fuel, ice, and groceries. The

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[1] Attached to the original report sent to the President, and available for inspection at the U.S. International Trade Commission, except for material submitted in confidence.

[2] Vice Chairman Bill Alberger and Commissioners George M. Moore and Paula Stern. Chairman Catherine Bedell did not participate.

[3] Section 337(a) of the Tariff Act of 1930, as amended, (19 U.S.C. 1337) provides in relevant part that "Unfair methods of competition and unfair acts * * * the effect or tendency of which is * * * to prevent the establishment of such an industry * * * are declared unlawful." Under section 701(a)(2)(B) (countervailing duties) and section 731(2)(B) (antidumping) of the Trade Agreements Act of 1979, the Commission determines whether "the establishment of an industry in the United States is materially retarded". This investigation, however, is under a statute in which these issues are not relevant.

Commission did not receive any financial data from east coast fishermen.

Employment—Although the Commission received sparse employment data from U.S. fishermen, it is believed that the expansion of the fishing fleets has brought with it a large increase in employment in the groundfishing industry.

Prices—In general, prices received by U.S. fishermen have risen significantly in recent years. The largest increases have occurred in west coast markets. Between January of 1976 and January of 1979, prices of most classes of fresh groundfish rose by 50 to 100 percent. The largest increase was recorded for dressed black cod (sable fish), which more than tripled, rising from 24 cents per pound to 75 cents per pound during this period. By comparison, the U.S. Labor Department's wholesale price index for meat, fish, and poultry increased by only 26 percent between January of 1976 and January of 1979.

Partly as a result of seasonal factors and short term fluctuations caused by storms, trends in prices received by U.S. fishermen in east coast markets are difficult to analyze during the most recent three-year period. However, the data presented in tables 11b–14 of the report indicate that east coast prices for all classes of fresh fish surveyed rose significantly between January of 1974 and October of 1979. The largest increase was recorded for ocean perch, which climbed by more than 100 percent from 9.9 to 21.4 cents per pound during this period.

Prices of most types of imported fresh and frozen fillets and groundfish blocks have also risen significantly in recent years. Thus, there is no evidence from the data that these products, which compete in varying degrees with U.S. fresh fish, have been suppressing domestic prices.

Production—U.S. landings of groundfish increased from 395 million pounds in 1974 to 576 million pounds in 1978—an increase of 46 percent. As previously stated U.S. landings of groundfish in the first nine months of 1979 were higher than in the comparable period of 1978.

Cost of production—The doubling in fuel costs in 1979 severely affected the U.S. fishermen in their efforts to remain profitable. Furthermore large increases in the cost of ice and groceries increased the "costs of production" for groundfishing. These factors will continue to be a problem in the near future.

Lost sales—Although there were allegations of lost sales made at the public hearing in Seattle, Washington, the Commission did not receive any material to support such allegations.

Considering all these factors, we do not find that serious injury exists within the meaning of the Trade Act.

Substantial Cause

The only issue remaining is whether increased imports of whole fish (in 1979) and fresh fillets (in 1979) are a substantial cause of serious injury or threat thereof (neither of which were found to exist) to the U.S. industry that is dedicated to the "fresh fish market".

Imports might well be a problem to the U.S. fishing industry but our investigation has revealed that a too-rapid expansion of the fishing fleet on the west coast is the primary problem of west coast U.S. fishermen, and that the conservation quotas on the east coast are the primary problem for east coast fishermen.

In 1979, 95 new boats entered the Pacific fishing fleet, and more are currently being built. A number of new groundfish processors have entered the groundfish market to service many of the new boats. However, west coast landings have increased substantially and strict "trip limits" have been imposed by processors unable to sell all of the fish supplied to them by fishermen. Overproduction has glutted the west coast market which has not grown as rapidly as production.

On the east coast, the issue is fairly simple. Conservation quotas on cod, haddock and flounder, which dominate the catches of New England fishermen, have resulted in substantial reductions in capacity utilization of the New England fleet. The New England fishermen sell all that they are allowed to harvest and could sell more if the quota were liberalized. Their current problems are clearly the conservation quotas and not the small quantity of imports of fresh whole groundfish and fresh fillets.

Conclusion

We conclude that the domestic industry is *not* being "seriously injured" within the meaning of that term in the Trade Act. While some factors indicate problems in this industry, they are not caused by import competition.

Issued: January 27, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-3607 Filed 2-1-80; 8:45 am]

BILLING CODE 7020-02-M

[332-73]

Release for Public Comment of U.S. Administration Draft Comments on Draft Chapters of the Harmonized Commodity Description and Coding System

AGENCY: United States International Trade Commission.

ACTION: Release for public comment, pursuant to Commission investigation No. 332–73, under the authority of section 332(g) of the Tariff Act of 1930, as amended, of drafts of, and draft U.S. comments on, the following chapters of the Harmonized Commodity Description and Coding System.

Chapter 56: Wadding, felt and nonwovens; special yarn; twine, cordage, ropes and cables and articles thereof
Chapter 57: Textile floor coverings
Chapter 58: Knitted or crocheted fabrics; pile and chenille fabrics; tufted textile fabrics; woven fabrics of metallised yarn; gauze; tulle and other net fabrics; trimmings
Chapter 59: Impregnated or coated textile fabrics; elastic textile fabrics; textile articles of a kind suitable for industrial use
Chapter 60: Articles of apparel and clothing accessories, knitted or crocheted
Chapter 61: Articles of apparel and clothing accessories, not knitted or crocheted
Chapter 62: Other made up textile articles
Chapter 63: Old clothing and old textile articles; rags

WRITTEN SUBMISSIONS: Parties wishing to submit written comments should do so by February 29, 1980.

HEARING: Parties desiring the Commission to hold a hearing on these draft chapters of the Harmonized Code should contact the Secretary of the Commission by February 22, 1980, and show good cause for holding a hearing.

COPIES OF DOCUMENTS: Copies of the draft chapters and draft U.S. comments thereon which are the subject of this notice are available for public inspection at the offices of the Commission, 701 E Street, NW., Washington, D.C. 20436, or at 6 World Trade Center, New York, N.Y. 10048. The Commission will also send copies to interested parties upon request.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Nomenclature, Valuation and Related Activities, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, Telephone: 202/523–0370.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to obtain the comments and views of interested parties with respect to the above mentioned draft chapters of the Harmonized Commodity Description and Coding System, and of the draft U.S. comments thereon.

This notice is being issued pursuant to Commission investigation No. 332–73, instituted on January 31, 1975 (40 FR 6329), under section 332(g) of the Tariff Act of 1930. The investigation was initiated in accordance with section 608(c) of the Trade Act of 1974, which provides, in part, that the Commission shall institute an investigation which would provide the basis for—

(2) full and immediate participation by the United States International Trade Commission in the United States contribution to technical work of the Harmonized Systems [sic] Committee under the Customs Cooperation Council to assure the recognition of the needs of the United States business community in the development of a Harmonized Code reflecting sound principles of commodity identification and specification and modern producing methods and trading practices * * *.

The Harmonized Commodity Description and Coding System (Harmonized Code) is being developed by the Customs Cooperation Council (CCC), an 80-member international organization with headquarters in Brussels, as an international commodity classification system which will be adaptable for modernized customs tariff nomenclature purposes and for recording, handling, and reporting of transactions in international trade. The Harmonized Code will be based on, and in many respects will be an extension of, the Customs Cooperation Council Nomenclature (CCCN), formerly known as the Brussels Tariff Nomenclature (BTN).

Currently, the Technical Team working under auspices of the CCC prepares drafts of the various chapters of the Harmonized Code for consideration by the Harmonized System Committee, which was established in order to develop the code. These drafts are forwarded to the members and observers of the Committee for their review and submission of written comments. The Committee meets three times a year to consider these drafts and the written comments and presentations of the various delegations. The review of a particular chapter or group of chapters may extend to more than one meeting.

In 1971, the Department of the Treasury established an Interagency Advisory Commitee on Customs Cooperation Council Matters in order to provide a basis for interested Federal agencies to participate with respect to CCC matters. In order to establish and develop U.S. programs and policies with respect to the Harmonized Code, the interagency committee has instituted procedures which take into account the provisions of section 608(c) of the Trade Act of 1974, which call for the Commission to contribute to the U.S. technical input to the Harmonized System Committee. Under these procedures the Commission is preparing technical comments and proposals on the various chapters of the Harmonized Code for consideration by the interagency committee in the determination of U.S. proposals with respect to the Harmonized Code. In making proposals, the Commission is seeking and taking into consideration the views of trade and industry and other interested parties and of interested Government agencies.

The draft U.S. comments on the chapters of the Harmonized Code released for public comment today relate specifically to the Technical Team drafts of these chapters and should be read in conjunction therewith.

In its public notices of May 4, 1976 (41 FR 18716 of May 6, 1976), August 9, 1976 (41 FR 34370 of August 13, 1976), December 20, 1976 (41 FR 55948 of December 23, 1976), September 1, 1977 (42 FR 44852 of September 7, 1977), February 7, 1978 (43 FR 5902 of February 10, 1978), October 16, 1978 (43 FR 48723 of October 19, 1978), February 14, 1979 (44 FR 10435 of February 20, 1979), May 16, 1979 (44 FR 29740 of May 22, 1979), and September 5, 1979 (44 FR 53112 of September 12, 1979), the Commission identified those chapters which have been considered thus far by the Harmonized System Committee, and the chapters for which a Technical Team draft has been released.

Issued: January 28, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-3606 Filed 2-1-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Attorney General

Proposed Consent Decree in Action To Enjoin Discharge of Water Pollutants by Eastern Associated Coal Corp.

In accordance with Department policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that on January 17, 1979, a proposed consent decree in *United States of America* v. *Eastern Associated Coal Corp.*, Civil Action No. 77–367, was lodged with the United States District Court for the Western District of Pennsylvania. Eastern Associated Coal Corp. operates a coal mine known as the Delmont Mine in Westmoreland County, Pennsylvania.

The proposed consent decree brings the defendant into compliance by January 1, 1980 with the discharge limitations in its NPDES permit. The consent decree also requires the defendant to pay $60,000 within 60 days after entry of judgment. In addition, it requires Eastern Associated Coal Corp. to pay stipulated penalties to the United States if it fails to meet the terms of its compliance schedule.

The proposed consent decree may be examined at the office of the United States Attorney for the Western District of Pennsylvania, 66 United States Post Office & Courthouse, 7th Avenue and Grant Street, Pittsburgh, Pennsylvania 15219; at the Region III office of the Environmental Protection Agency, Enforcement Division, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 1728, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to the Deputy Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *Eastern Associated Coal Corp.*, W.D. Pennsylvania, Civil Action No. 77–367, D.J. 90–5–1–1–658.

Angus MacBeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-3501 Filed 2-1-80; 8:45 am]

BILLING CODE 4410-01-M

Law Enforcement Assistance Administration

National Minority Advisory Council on Criminal Justice; Meeting

This is to provide notice that the National Minority Advisory Council on Criminal Justice Results Conference subcommittee will meet on Friday, February 15, 1980. The meeting will be held at the Peachtree Plaza Hotel in Atlanta, Georgia, located at Peachtree and Cain Streets and will begin at 10:00 a.m.

The meeting will focus on the planning of the NMACCJ National Results Conference including topics for workshops, selection of speakers, and identification of participants.

Anyone wishing additional information should contact either Ms. Peggy Triplett, LEAA-NMACCJ Coordinator at 633 Indiana Avenue, NW, Washington, DC 20531, (202) 724-5933; or Mr. Alan G. Boyd, NMACCJ Staff Director, 1990 M Street, NW, Suite 200, Washington, DC 20036, (202) 862-9340.

Peggy E. Triplett,

Project Monitor, National Minority Advisory Council on Criminal Justice.

[FR Doc. 80-3605 Filed 2-1-80; 8:45 am]

BILLING CODE 6410-18-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-245]

Connecticut Light & Power Co., etc.; Issuance of Additional Relief from ASMW Section XI Inservice Inspection (Testing) Requirements

On September 19, 1979, the U.S. Nuclear Regulatory Commission (the Commission) issued Amendment No. 64 to Provisional Operating License No. DPR-21, and granted relief from certain requirements of the ASME Code, Section XI (44 FR 56411, October 1, 1979), to Northeast Nuclear Energy Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, and Connecticut Light and Power Company (the licensees), for the Millstone Nuclear Power Station, Unit No. 1 (the facility) located in Waterford, Connecticut.

The amendment incorporated into the Technical Specifications an inservice inspection and testing program that meets the requirements of 10 CFR 50.55a.

By letter dated December 18, 1979, as supported by the safety evaluation pages enclosed thereto, the Commission has granted additional relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to the licensee. The additional relief relates to the valve testing program for the facility's non-Emergency Core Cooling Systems. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The additional relief is effective as of its date of issuance.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter and the appropriate safety evaluation pages granting relief.

The Commission has determined that the granting of the relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this action.

For further details with respect to this action, see (1) the licensee's submittal dated September 13, 1979, (2) Amendment No. 64 to License No. DPR-21, dated September 19, 1979, and the Commission's related Safety Evaluation (SE), and (3) the Commission's letter to the licensee dated December 18, 1979, and the enclosed revised page 20 and new pages 22a through 22f for the above referenced SE. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 18th day of December, 1979.

For the Nuclear Regulatory Commission,

Dennis L. Ziemann,

Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 80-3626 Filed 2-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., etc.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 27 to Facility Operating License No. DPR-72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the Technical Specifications for operation for the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The amendment is effective as of the date of issuance.

This amendment revises the Technical Specifications to exclude the pressurizer steam space sampling line valve, CAV-1, from the provisions of TS 3.0.4 until startup from the next refueling outage (Cycle 3).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 11, 1980, (2) Amendment No. 27 to License No. DPR-72, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and at the Crystal River Public Library, Crystal River, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 23rd day of January, 1980.

For the Nuclear Regulatory Commission,

Robert W. Reid,

Chief, Operating Reactors Branch #4, Division of Operating Reactors.

[FR Doc. 80-3630 Filed 2-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

Jersey Central Power & Light Co.; Granting Interim Relief From ASME Section XI Inservice Inspection (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted interim relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Jersey Central Power & Light Company. The relief relates to the inservice inspection (testing) program for the Oyster Creek Nuclear Generating Station (the facility) located in Ocean County, New Jersey. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The interim relief relates to the ASME Code requirements for inservice inspection and testing which have been determined to be impractical within the limitations of design, geometry, and materials of construction of components. Imposition of these requirements would result in hardships or unusual difficulties without a compensating increase in the level of quality or safety. This interim relief is granted pursuant to 10 CFR 50.55a(g)(6)(i), pending completion of a detailed review of the licensee's September 6, 1979 submittal.

The interim relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting interim relief. Prior public notice of this action was not required since granting of interim relief from ASME Code requirements does not involve a significant hazards consideration.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the request for relief dated September 6, 1979, and (2) the Commission's letter to the licensee dated January 14, 1980.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Ocean County Library, Brick Township Branch, 401 Chambers Bridge Road, Brick Town, New Jersey 08723. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 14th day of January, 1980.

For the Nuclear Regulatory Commission.

Dennis L. Ziemann,

Chief, Operating Reactors Branch #2, Division of Operating Reactors.

[FR Doc. 80-3627 Filed 2-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

Jersey Central Power & Light Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 44 to Provisional Operating License No. DPR-16, issued to Jersey Central Power & Light Company (the licensee), which revised the Technical Specifications for operation of the Oyster Creek Nuclear Generating Station (the facility) located in Ocean County, New Jersey. The amendment is effective as of its date of issuance.

The amendment revises the definitions of shutdown and refuel condition in Section 1.0 of the Technical Specifications and eliminates unnecessary operability and surveillance requirements on specified protective instrumentation while in the shutdown, refuel, and startup modes. The amendment also allows the pressure relief function of the electromatic relief values to be inoperable or bypassed to permit the ASME Code System hydrostatic pressure tests at the end of the ten-year inspection interval. Typographical errors have been corrected and Technical Specifications Sections 2.1 and 3.5 have been clarified.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated November 16, 1979, (2) Amendment No. 44 to License No. DPR-16, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Ocean County Library, Brick Township Branch, 401 Chambers Bridge Road, Brick Town, New Jersey 08723. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 4th day of January, 1980.

For the Nuclear Regulatory Commission.

Dennis L. Ziemann,

Chief, Operating Reactors Branch #2, Division of Operating Reactors.

[FR Doc. 80-3624 Filed 2-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

Jersey Central Power & Light Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Provisional Operating License No. DPR-16, issued to Jersey Central Power & Light Company (the licensee), which revised the Technical Specifications for operation of the Oyster Creek Nuclear Generating Station (the facility) located in Ocean County, New Jersey. The amendment is effective as of its date of issuance.

The amendment consists of changes in the Technical Specifications that will allow the core to be unloaded and reloaded without control rod blade guides to support each rod in the inserted position and will allow single and multiple control rod and rod drive maintenance activities under specified conditions.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 16, 1979, (2) Amendment No. 43 to License No. DPR-16, and (3) the Commission's

related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Ocean County Library, Brick Township Branch, 401 Chambers Bridge Road, Brick Town, New Jersey 08723. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 4th day of January, 1980.

For the Nuclear Regulatory Commission,

Dennis L. Ziemann,

Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 80-3525 Filed 2-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-245]

Northeast Nuclear Energy Co., etc.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 65 to Provisional Operating License No. DPR-21, issued to Northeast Nuclear Energy Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, and Connecticut Light and Power Company (the licensees), which revised the Technical Specifications for operation of the Millstone Nuclear Power Station, Unit No. 1 (the facility) located in Waterford, Connecticut. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to allow operation at 40% of rated power when the Isolation Condenser is inoperable.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 9, 1980, (2) Amendment No. 65 to License No. DPR-21, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N. W., Washington, D.C., and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 17th day of January, 1980.

For the Nuclear Regulatory Commission,

Dennis L. Ziemann,

Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 80-3529 Filed 2-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 48 to Facility Operating License No. DPR-59, issued to Power Authority of the State of New York, which revised Technical Specifications for operation of the James A. FitzPatrick Nuclear Power Plant (the facility) located in Oswego County, New York. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to revise and add specifications for several instrumentation requirements as previously approved by Amendments Nos. 8, 14 and 40. In addition, errors and inconsistencies in the existing Technical Specifications have been rectified.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 13, 1979, (2) Amendment No. 48 to License No. DPR-59, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Oswego County Office Building, 46 E. Bridge Street, Oswego, New York 13126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 23rd day of January 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 80-3528 Filed 2-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-129]

West Virginia University; Order Authorizing Dismantling of Facility and Disposition of Component Parts

By application dated September 27, 1979, as supplemented November 30, 1979, the West Virginia University (the licensee) requested authorization to dismantle the AGN-211P Reactor (Serial No. 103) (the facility), a research reactor located in Morgantown, West Virginia, and to dispose of the component parts, in accordance with the plan submitted as part of the application. A "Notice of Proposed Issuance of Orders Authorizing Dismantling of Facility, Disposition of Component Parts, and Termination of Facility License" was published in the **Federal Register** on October 29, 1979 (44 FR 62087). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Nuclear Regulatory Commission (the Commission) has reviewed the application in accordance with the provisions of the Commission's rules and regulations and has found that the dismantling and disposal of component parts in accordance with the licensee's dismantling plan will be in accordance with the regulations in 10 CFR Chapter I, and will not be inimical to the common defense and security or to the health and safety of the public. The basis for the findings is set forth in the concurrently issued Safety Evaluation by the Office of Nuclear Reactor Regulation.

The Commission has prepared an environmental impact appraisal for this action, based on that appraisal, the Commission has determined that this action will not result in any significant environmental impact and that an environmental impact statement need not be prepared.

Accordingly, West Virginia University is hereby authorized to dismantle the AGN-211P Reactor (Serial No. 103) covered by Facility License No. R-58, as amended, and dispose of the component parts in accordance with their dismantling plan and the Commission's rules and regulations.

After completion of the dismantling and decontamination, the submission of a report on the radiation survey to confirm that radiation levels in the facility area meet the values defined in the dismantling plan and inspection by representatives of the Commission, consideration will be given to whether a further order should be issued terminating Facility License No. R-58.

For further details with respect to this action see (1) the application for authorization to dismantle facility and dispose of component parts dated September 27, 1979, as supplemented November 30, 1979, (2) the Commission's related Safety Evaluation, (3) the Commission's Environmental Impact Appraisal, and (4) the Commission's Negative Declaration dated 01/22/80 (which is also being published in the **Federal Register**. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. A copy of items (2) and (3) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 22nd day of January, 1980.

For the Nuclear Regulatory Commission,

William P. Gammill,

Acting Assistant Director for Operating Reactor Projects, Division of Operating Reactors.

[FR Doc. 80-3523 Filed 2-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. PRM-50-25 and PRM-50-25a]

State of Illinois and the Porter County Chapter of the Izaak Walton League of America, Inc., et al.

Notice is hereby given that the State of Illinois and the Porter County Chapter of the Izaak Walton League of America, Inc.; Concerned Citizens Against Bailly Nuclear Site; Businessmen for the Public Interest, Inc.; James E. Newman and Mildred Warner, by petitions dated December 20, 1979, have requested the Nuclear Regulatory Commission (NRC) to amend or rescind subsection 50.55(b) of the Commission's regulations in 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities."

Subsection 50.55(b) provides the procedure and basis for extending the completion date for the construction or modification of a nuclear generating plant, as outlined below. The petitioners request that § 50.55(b) be amended or rescinded to permit consideration of a broad range of issues in a proceeding to determine whether the completion date for a construction period should be extended.

Subsection 50.55(b) provides that if proposed construction or modification of a facility is not completed by the latest completion date allowed by a permit, the permit will expire. The subsection provides, however, that the NRC will extend the completion date for a reasonable time upon "good cause" for the delay being shown. As a basis for extending the date, § 50.55(b) provides that the Commission will consider ". . . developmental problems attributable to the experimental nature of the facility or fire, flood, explosion, strike, sabotage, domestic violence, enemy action, an act of the elements, and other acts beyond the control of the permit holder. . . ."

The petitioners request the Commission to

> * * * A. amend or rescind 10 CFR § 50.55(b) and B. promulgate a regulation which requires that a "good cause" proceeding concerning a requested amendment of a construction permit to extend the latest construction completion date, . . . consider whether the permittee has shown good cause for the continued construction of the plan[t] in light of all the circumstances at the time of considering the application. The Commission should determine that "good cause" should not be limited to the reasons why construction was not completed by the latest completion date in the construction permit.

The petitioners note that section 185 of the Atomic Energy Act permits construction permit extensions only upon good cause shown. They assert that by limiting consideration to reasons why construction was not completed, the statutory purposes of requiring consideration of "good cause" for the construction would be frustrated and would be a violation of section 185 of the Act.

The petitioners assert also that the application of § 50.55(b), if it is interpreted in a way which limits consideration to the reasons why construction was not completed by the latest completion date in the permit, ". . . would frustrate the statutory purpose of requiring that 'good cause' be shown for an extension." The petitioners request that a rule be established which reflects the statutory purpose of section 185 of the Atomic Energy Act, and that a regulation which is in violation of this statutory purpose should be rescinded or amended.

Simultaneously with the filing of the petition, the petitioners filed (a) a Petition for Leave to Intervene in the NRC proceeding which is considering a request of the Northern Indiana Public Service Company (NIPSCO) for an extension of the completion date for Bailly Generating Station, Nuclear 1; and (b) a Petition for Waiver of or Exception to 10 CFR 50.55(b). The petitioners request that if the relief requested by either of these petitions is granted, then the Petition for Rulemaking may be considered moot. If this relief is not granted, the petitioners request suspension of the Bailly proceeding pending disposition of their Petition for Rulemaking.

The petitions from the State of Illinois and the Porter County Chapter of the Izaak Walton League of America, et al., have been assigned Docket Numbers PRM-50-25 and PRM-50-25a, respectively.

Copies of the petitions for rulemaking, the petitions to intervene, and the petitions for waiver are available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. Copies of the petitions may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

All persons who desire to submit written comments or suggestions concerning the petitions for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch by April 4, 1980.

For further information contact: Joseph M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory

Commission, Washington, DC 20555, telephone 301–492–7211.

Dated at Washington, DC this 28th day of January 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-3421 Filed 2-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-129]

Negative Declaration for West Virginia University Research Reactor

The U.S. Nuclear Regulatory Commission (the Commission) has considered the order authorizing dismantling of facility and disposition of component parts for the West Virginia University (the licensee) AGN–211P Reactor operated under Facility License No. R–58. The order authorizes the licensee to disassemble the reactor which operated at power levels up to 75 watts (thermal), and to dispose of the component parts.

The U.S. Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, has prepared an environmental impact appraisal for this research reactor. On the basis of this appraisal, we have concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the proposed action. The environmental impact appraisal is available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Md. this 22nd day of January 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch #4, Division of Operating Reactors.

[FR Doc. 80-3308 Filed 2-1-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–21]

Universal Optical Co., Inc.; Petition Alleging Unreasonable and Unjustifiable Trade Practices and Policies by the Government of Switzerland

On December 12, 1979, the Chairman of the section 301 Committee received a petition from Universal Optical Company, Inc., alleging unreasonable and unjustificable trade practices and policies by the Customs Service of Switzerland which burden or restrict United States commerce. The petition was filed pursuant to section 301 of the Trade Act of 1974, as amended (19 U.S.C. 2411 et seq.). The petitioner has not requested a public hearing. The text of the petition follows:

December 6, 1979

Office of the Special Representative For Trade Negotiations, *1800 G Street N.W., Room 715, Washington, D.C. 20506*

Attention: Chairman Section 301 Committee.

Dear Sir: On behalf of our client, Universal Optical Co., Inc., Providence, Rhode Island 02901, this petition is filed pursuant to section 301 of the Trade Act of 1974.

Universal Optical Co., Inc., is a leading U.S. manufacturer of sunglasses and optical frames. Through its international division, UNICO, the company markets these products throughout the world.

This petition is filed against a practice by the Government of Switzerland, specifically Swiss Customs, which burdens, restricts and discriminates against the ability of the petitioner to sell and market its product in Switzerland and which constitutes an unjustifiable and unreasonable burden restricting United States commerce in that country. Such practices are violative of the General Agreement on Tariffs and Trade (GATT) and 19 U.S.C. 2411.

The violative practice complained of concerns the destruction of samples for taking orders which our client exports to Switzerland for evaluation and return to the United States. A necessary condition precedent to the sale of sunglasses and optical frames in foreign countries is the submission of samples to potential purchasers for evaluation as to saleability and otherwise. On several occasions in the past, such samples have been virtually destroyed by Swiss Customs in an apparent attempt to determine the gold content of the frames. Attached to this petition is a series of documents covering a shipment of a series of five sample sets which were shipped to an optical wholesaler, Knecht Optik, AG, located in Stein-Am-Rhein, Switzerland. It is requested that these attachments be exempted from public disclosure since confidential price information is contained thereon. The documents are submitted to identify a particular shipment and describe the samples involved. Preliminary arrangements had been made with this company to examine some of the Universal Optical samples to determine the saleability of these styles in Switzerland. In processing through Swiss Customs, every frame, both front and temple, was filed through the gold-filled layer, and the appearance of the frames totally destroyed. These sample sets were one-of-a-kind and for commercial purposes represented no significant value to the wholesale optical firm which was Universal's potential customer. They were returned to Universal after the evaluation by Knecht Optik.

This treatment of samples on this shipment and on similar shipments effectively precludes the ability of Universal Optical Co. to obtain orders on the samples when such destruction occurs. As a result, irreparable harm is done to the petitioner and sales of inestimable value are lost.

This practice constitutes an unjustifiable, unreasonable, and discriminatory burden on U.S. commerce. It should be noted that if companies in Switzerland were attempting to market their product in the United States, such samples could be imported into the United States, without any damage and reexported without payment of duty or any other discriminatory practice under the provisions of item 864.20 of Tariff Schedules of the United States (TSUS).

We respectfully urge that your office take every action available under the law to lodge a complaint against the Government of Switzerland in order to secure reciprocal treatment of samples of United States merchandise which are shipped to that country for the purpose of taking orders. The petitioner has requested no other relief under the Trade Act of 1974 or any other provision of law.

Respectfully submitted,

Patrick D. Gill.

PDG:sc

Enclosure.

Note.—The attachments to the Petition are not included in this notice. Copies are available in the public reading file of the section 301 Committee, Office of the United States Trade Representative, Room 715, 1800 G Street, Washington, D.C.

Interested parties are invited to submit views on the petition. Submissions should conform to the requirements for section 301 petitions and comments as outlined in the Code of Federal Regulations (15 CFR 2006). Twenty copies of the submission should be sent to Chairman, Section 301 Committee, Office of the United States Trade Representative, 1800 G Street NW, Room 715, Washington, D.C. 20506. Submissions should be received by the Chairman no later than February 22, 1980.

Michael Gadbaw,

Chairman, Section 301 Committee.

[FR Doc. 80-3302 Filed 2-1-80; 8:45 am]

BILLING CODE 3190-01-M

Section 201 Case: Leather Wearing Apparel; Solicitation of Public Views

Pursuant to section 201 of the Trade Act of 1974, the President received, on January 24, 1980, a report from the United States International Trade Commission (USITC) on the case of Leather Wearing Apparel (Investigation No. TA–201–40). The Commission submitted a report containing an affirmative determination that coats and jackets of leather provided for in items 791.7620 and 791.7640 of the Tariff Schedules of the United States (TSUS), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles. The report contained a negative determination on leather wearing apparel other than coats and jackets provided for in TSUS item 791.7660.

The Commission found and recommended that to prevent or remedy the serious injury to the domestic industry, it would be necessary to impose rates of duty, in addition to the present rates of duty, on coats and jackets of leather provided for in item 791.76, as follows—

Articles valued at not over $150 each

Year:	Percent ad valorem
1st	25
2d	20
3d	15

Within 60 days of receiving a report from the Commission containing an affirmative determination, the President must determine what method and amount of import relief he will provide or determine that the provision of relief is not in the national economic interest and whether he will direct expeditious consideration of adjustment assistance petitions.

In determining whether to provide import relief and what method and amount of import relief he will provide, the President must take into account, in addition to other considerations he may deem relevant, the following factors:

(1) The probable effectiveness of the import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relevant to the position of the industry in the nation's economy;

(2) The effect of import relief on consumers and on competition in the domestic markets for such articles;

(3) The effect of import relief on the international economic interest of the United States;

(4) The impact on United States industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

(5) The geographic concentration of imported products marketed in the United States;

(6) The extent to which the United States' market is a focal point for exports of such articles by reason of restraints on exports of such articles to, or on imports of such articles into, third country markets; and

(7) The economic and social costs which would be incurred by taxpayers, communities and workers if import relief were or were not provided.

The Office of the United States Trade Representative (USTR) chairs the interagency Trade Policy committee structure that makes recommendations to the President as to what action, if any, he should take on reports submitted by the USITC under section 201(d). In order to assist in the development of recommendations to the President as to what action to take under sections 202 and 203 of the Trade Act of 1974, the USTR welcomes briefs from interested parties on the above listed subjects. For further information contact: Tim Bennett, Room 725, telephone 202–395–3395. (Additional information on this case is available in USITC report TA–201–40).

Briefs should be submitted in twenty (20) copies, in conformity with 15 CFR 2003, to the Secretary, Trade Policy Staff Committee, Room 726, Office of the U.S. Trade Representative, 1800 G Street, N.W., Washington, D.C. 20506.

To be considered by the Office of the USTR, submissions should be received no later than the close of business Tuesday, February 19, 1980.

William B. Kelly, Jr.,

Associate U.S. Trade representative.

[FR Doc. 80-3303 Filed 2-1-80; 8:45 am]

BILLING CODE 3195-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 21408; 70–6406]

American Electric Power Co., Inc.; Proposal That Holding Company Act as Surety for Subsidiary

January 25, 1980.

Notice is hereby given that American Electric Power Company, Inc. ("AEP") 2 Broadway, New York, New York 10004, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 12(b) and 12(f) of the Act and rule 45 promulgated thereunder as applicable to the proposal. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposal.

AEP requests approval of a surety bond in the amount of $2,900,000 that is to be posted with the Public Service Commission of West Virginia ("State Commission") prior to april 13, 1980, by AEP as surety and Wheeling Electric Company ("Wheeling") as principal.

On November 14, 1979, Wheeling filed with the State commission new increased rates for electric service in West Virginia. By order dated December 13, 1979, the State commission suspended the increased rates until April 30, 1980, pending its investigation of such increased rates. The new increased rates can be made effective on and after April 13, 1980, subject to the posting by Wheeling of an appropriate bond to assure the making of appropriate refunds to its customers in the event the State Commission's final order in the proceeding should require refunds to be made. It is stated that the State Commission has indicated that it would permit AEP to become a surety for Wheeling in lieu of Wheeling posting the said bond. It is expected that the amount of the bond for the new increased rates will not exceed $2,900,000, which is equal to the estimated additional annual revenue that the new increased rates will provide.

The fees and expenses to be incurred in connection with the proposal are estimated at $2,500. The Public Service Commission of West Virginia has authorized the proposal. No other state commission and no federal commission, other than this Commission, has jurisdiction over the proposal.

Notice is further given that any interested person may, not later than February 25, 1980 request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other actions as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereto.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-3507 Filed 2-01-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 16535; SR-Amex-78-6]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

January 28, 1980.

On February 22, 1978, the American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, New York 10006 filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change to amend its Rules 903 and 917 to permit Amex to utilize trading rotations at the opening of trading each day and at the close of trading on the last day of trading in expiring options series.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34–14550, March 10, 1978) and by publication in the **Federal Register** (43 FR 11625, March 20, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

[1] The proposed rule change also would have authorized daily closing rotations. On January 23, 1980, the Amex filed an amendment with the Commission deleting reference to daily closing rotations.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-3506 Filed 2-1-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 16534; SR-CBOE-77-28]

Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

January 28, 1980.

On September 11, 1978, the Chicago Board Options Exchange, Incorporated ("CBOE") LaSalle at Jackson, Chicago, Illinois 60604 filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change to amend its Rule 5.5 to permit CBOE to utilize a closing rotation on the last day of trading in expiring options series commencing at 2:00 p.m. (C.S.T.).

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34–14277, December 15, 1977) and by publication in the **Federal Register** (42 FR 63976, December 12, 1977). All written statements with respect to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. §552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-3503 Filed 2-1-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 16540; SR-CBOE-79-10]

Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

January 29, 1980.

On September 13, 1979, the Chicago Board Options Exchange, Incorporated ("CBOE") LaSalle at Jackson, Chicago, Illinois 60604 filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change which amends Interpretation .05 of CBOE Rule 8.9 to eliminate the prohibition against transactions between participatants in a joint account.[1] On January 28, 1980, CBOE filed an amendment in the Commission which limits the effectiveness of the proposed rule change to a six month period commencing February 1, 1980 and ending on July 31, 1980.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34–16288, October 22, 1979) and by publication in the **Federal Register** (44 FR 62106, October 29, 1979). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-3508 Filed 2-1-80; 8:45 am]

BILLING CODE 8010-01-M

[1] Joint account participants, however, still may not effect transactions with the joint account in which they are participating.

[Rel. No. 16541; SR-CBOE-79-13]

Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

January 29, 1980.

On November 28, 1979, the Chicago Board Options Exchange, Incorporated ("CBOE"), LaSalle at Jackson, Chicago, Illinois 60604, filed with the Commission, pursuant to 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change to permit floor brokers, board brokers and order book officials holding options orders to sell at the market to convert such orders to limit orders to sell at ⅛ where the public limit order book is displaying sell orders at a price of ⅛, without resubmitting the order to the originating member firm office.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34–16429, December 17, 1979) and by publication in the **Federal Register** (44 FR 76897, December 28, 1979). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-3501 Filed 2-1-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11027; 812-4352]

Fidelity Money Market Trust; Filing of an Application for an Order of the Commission Amending a Previous Order Pursuant to Section 6(c) of the Act Granting Exemption From the Provisions of Rules 2a–4 and 22c–1 Under the Act

January 23, 1980.

Notice is hereby given that Fidelity Money Market Trust ("Applicant") 82 Devonshire Street, Boston, Massachusetts 02109, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on December 6, 1979, requesting an order of the Commission amending in the manner described below an earlier order of the Commission dated January 3, 1979 (Investment Company Act Release No. 10540). This earlier order, pursuant to Section 6(c) of the Act, exempted Applicant from the provisions of Rules 2a–4 and 22c–1 under the Act to the extent necessary to permit Applicant to compute its net asset value per share, for purposes of effecting sales, redemptions and repurchases of its shares, to the nearest one cent on a share value of one dollar. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund offering to institutional, corporate and substantial individual investors a convenient and economical means of investment in a professionally managed portfolio of money market instruments with the objective of obtaining as high a level of current income as is consistent with the preservation of capital and liquidity. Applicant further states that its shares are sold without a sales charge.

According to the application, Applicant consists of three portfolios, differentiated in their permitted investments, namely a U.S. Government Portfolio; a Domestic Money Market Portfolio and an International U.S. Dollar-Denominated Money Market Portfolio. Applicant further states that it invests exclusively in various high-grade money market instruments, including U.S. government and federal agency obligations; U.S. dollar-denominated obligations of the largest banks, including United States banks and their branches located outside of the United States and United States branches of foreign banks; prime commercial paper; high-grade corporate obligations which are rated AAA or AA by Standard & Poor's Corporation or Aaa or Aa by Moody's Investor Services, Inc.; and certain repurchase agreements with respect to obligations which, without regard to maturity, it is authorized to invest.

According to the application, all of Applicant's assets are invested in money market instruments maturing in less than one year, and the dollar-weighted average portfolio maturity of its portfolio may not exceed 120 days. The minimum initial investment in shares of the Applicant is $250,000 with additional investments accepted in any amount. Applicant further represents that at the close of business on October 31, 1979, its aggregate net assets were approximately $140,838,655. Fidelity Management and Research Company serves as investment adviser to Applicant.

Applicant represents that pursuant to the earlier order of the Commission dated January 3, 1979, Applicant presently computes its net asset value per share to the nearest one cent on a share value of one dollar utilizing the "penny rounding" valuation method. Applicant now seeks an order of the Commission, pursuant to Section 6(c) of the Act, amending this earlier order, which amended order would exempt Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant's assets to be valued according to the amortized cost valuation method. Applicant further states that under the amortized cost valuation method, portfolio instruments are valued at their cost as of the date of acquisition assuming a constant rate of amortization to maturity of any discount or premium, regardless of the impact of fluctuating interest rates on the market value of such instruments.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for with market quotations are readily available, the market value of such securities, and (ii) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a–4 adopted under the Act provides, as here relevant, that the

"current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things, (1) Ruel 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

According to the application, Applicant's Trustees have determined in good faith that in light of its characteristics as described above, including the conditions to which Applicant must adhere as set forth in the earlier order of the Commission dated January 3, 1979, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and in Applicant's best interests and reflects the fair value of such securities. Applicant further represents that under the amortized cost method its shareholders would continue to have all the conveniences and advantages of a stable purchase and redemption price of $1.00 per share as described in its previous application to support the exemptive relief granted in such earlier order of the Commission.

Applicant has agreed that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested:

(1) In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Trustees undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase at $1.00 per share.

(2) Included within the procedures to be adopted by the Board of Trustees shall be the following:

(a) Review by the Board of Trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of Applicant's net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1%, a requirement that the Board of Trustees will promptly consider what action, if any, should be initiated.

(c) Where the Board of Trustees believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; the sale of portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

(3) Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days.[2]

(4) Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

(5) Applicant will limit its portfolio investments, including repurchase agreements, to those U.S. dollar-denominated instruments which the Board of Trustees determines present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not so rated, of comparable quality as determined by the Board of Trustees.

(6) Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

Appliant submits that use of the amortized cost method of valuing its portfolio securities, subject to the conditions enumerated above, will benefit its shareholders by enabling the Appliant to more effectively maintain the $1.00 per share purchase and redemption price in a manner which is substantially similar to that permitted under the Commission's earlier order. The Applicant further believes that granting of the requested exemptions by the Commission is appropriate in the public interest and consistent with the protection of investors and the purposes

[1] Applicant states that to fulfill this condition, it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board of Trustees in the exercise of its discretion to be appropriate indicators of value. In addition, Applicant states that the quotations or estimates utilized may include *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of portfolio instruments results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce its dollar weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than February 14, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notifed if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–3557 Filed 2–1–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 21412; 70–6404]

New Orleans Public Service, Inc., and Middle South Utilities, Inc.; Proposed Issuance and Sale by Subsidiary of Common Stock to Holding Company and of Preferred Stock at Competitive Bidding

January 28, 1980.

Notice is hereby given that New Orleans Public Service Inc. ("NOPSI"), 317 Baronne Street, New Orleans, Louisiana 70112, an electric utility subsidiary company of Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, and its public-utility subsidiary company, New Orleans Public Service Inc., have filed an application with this Commission pursuant to Sections 6(b), 9(a), and 10 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder regarding the following proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

NOPSI proposes to issue and sell up to 150,000 shares of a new series of its preferred stock, $100 par value, subject to the competitive bidding requirements of Rule 50 under the Act. The new preferred stock will be created by appropriate corporate action and, except as to designation, dividend rate, redemption prices, and the terms and amount of sinking fund requirements for the purchase or redemption of shares of the new preferred stock, will have the same characteristics as, and rank *pari passu* with, the presently outstanding preferred stock of NOPSI.

The dividend rate of the new preferred stock (which will be a multiple of 1/25th of 1 percent), the price to be paid to NOPSI (which will be not less than $100 nor more than $102.75 per share, plus accrued dividends, if any), and the amount per share to be paid by the company to the successful bidder or bidders will be determined by competitive bidding. The terms of the new preferred stock will also include provisions for a sinking fund designed to redeem at $100 per share, plus accumulated dividends, 7,500 shares on each March 1 commencing in the year 1985, with NOPSI having a non-cumulative option to redeem an additional 7,500 shares on each March 1 during the sinking fund redemption period.

NOPSI also proposes to issue and sell to Middle South, and Middle South proposes to acquire, 1,000,000 shares of NOPSI's common stock having a par value of $10 per share ("additional common stock") at a cash purchase price of $10 per share, or $10,000,000 in the aggregate. NOPSI's Charter presently provides for 6,000,000 authorized shares of common stock having a par value of $10 per share, of which 5,935,900 shares, having an aggregate par value on the company's books of $59,359,000, are issued and outstanding and owned by Middle South. Accordingly, NOPSI further proposes, by appropriate corporate action and with the consent of Middle South, to amend its Charter, concurrently with the Charter amendment establishing the new preferred stock, so as to increase from 6,000,000 to 7,000,000 the number of authorized shares of its common stock, thereby providing the company with a sufficient number of authorized but unissued shares for purposes of consummating the proposed sale to Middle South of the additional common stock.

NOPSI and Middle South believe it is preferable for sales of the additional common stock to be timed to coincide with the company's cash needs from time to time, which are primarily determined by the nature and pace of its construction program. Therefore, NOPSI and Middle South have proposed that the sales of the additional common stock be effected from time to time at any time through and including December 31, 1980, in increments to be determined by the company and Middle South. Upon the consummation of the issuance and sale by NOPSI, and the acquisition by Middle South, of all the additional common stock, NOPSI intends to credit its Common Stock Account with the amount ($10,000,000) received by it for the additional common stock, and Middle South intends to debit its Investment Account with the amount ($10,000,000) of its cash investment in the additional common stock.

NOPSI intends to apply the net proceeds derived from the issuance and sale of the new preferred stock and the additional common stock to the payment of short-term borrowings, estimated to total $11,500,000 at the time of the sale of the new preferred stock, to the financing in part of NOPSI's 1980 construction program, which provides for expenditures of approximately $30,400,000, and to other corporate purposes.

The fees and expenses paid or to be incurred in connection with the proposed issuance and sale of the new preferred stock are estimated to total $140,000, including counsel fees of $45,000, accountants' fees of $15,000, and fees of Middle South Services, Inc., at cost, of $8,500. The fee of counsel for the purchasers of the new preferred stock is estimated at $21,000 and is to be paid by the successful bidders. It is stated that no special or separable fees are anticipated by either NOPSI or Middle South in connection with the issuance and sale of the additional common stock.

It is further stated that the City of New Orleans has jurisdiction over the proposed issuance and sale of securities by NOPSI and that no other State commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than February 25, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for

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such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-3559 Filed 2-1-80; 8:45 am]

BILLING CODE 8010-01-M

Release No. 34-16532; File No. SR-OCC-80-2]

Options Clearing Corp., Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on January 15, 1980, The above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would permit OCC to offset the value of certain exercised long positions carried by Clearing Members in customers' and firm non-lien accounts against the value of assigned short positions in the same accounts for the purpose of calculating the margin to be required by OCC in respect of the latter.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to permit OCC to offset the value of certain exercised options carried by clearing Members in their customer and firm non-lien accounts [1] with OCC against the value of assigned short positions carried in the same accounts, for the purpose of calculating the margin to be required by OCC in respect of the latter,

Under OCC's rules, long positions in put and call options carried by Clearing Members in their customers' accounts are generally treated as "segregated." OCC claims no lien on those positions, and does not take their value into account in determining the margin required in respect of short positions.

An exception to that rule occurs in cases where a Clearing Member is carrying a spread position for a customer, and the margin required from the customer on the short "leg" of the spread has been reduced to reflect the value of the long leg. In those cases, the Clearing Member may obtain a margin reduction from OCC by designating the long leg of the spread as an "unsegregated long position," which has the effect of pledging the long position to OCC as security for the Clearing Member's obligations to OCC in respect of its customers' account (OCC Rule 611). When a customers' account contains unsegregated long positions and short positions in a particular class of options, OCC subtracts the value of the unsegregated long positions from the value of the short positions (on a contract-for-contract basis), and requires margin only on the amount (if any) by which the value of the short positions exceeds that of the unsegregated long positions.

Article VI, Section 12 of OCC's By-Laws provides that a long position "shall be reduced by the number of option contracts . . . for which the Clearing Member thereafter files a notice of exercise." Consequently, when a Clearing Member exercises an option carried in an unsegregated long position, the exercise has the effect of reducing that position. If no other transactions take place in the Clearing Member's customers' account on the exercise date, the result will be an increase in the margin required by OCC, effective as of the following business day.

In most instances, the additional margin required by OCC due to the exercise of options carried in an unsegregated long position will not be material, relative to the total amount of margin required of the Clearing Member. However, in cases where a Clearing Member is carrying substantial customer spreads in "in the money" options with the same expriation, and the customers elect to "unwind" the spreads by holding them until the expiration date and then exercising the long leg, while being assigned on the short leg, the resulting increase in OCC's margin requirements can be substantial. Margin continues to be required on the assigned short position until settlement date, but is no longer reduced to reflect the value of the exercised long position, because the latter no longer qualifies as an unsegregated long position. The problem cures itself on the day after settlement date, when margin ceases to be required on the assigned short position; but in the interim, depending on the magnitude of the positions involved, a Clearing Member may experience difficulty in meeting OCC's margin requirements.

The proposed rule change would eliminate that problem by treating exercised options in customers' accounts as unsegregated long positions for margin purposes, to the extent that the customers' account contained offsetting assigned short positions in options of the same respective types and classes, with the same exercise settlement dates. OCC does not believe that the proposed change would involve any significant risk exposure to OCC, for the following reasons.

When an option carried in a customers' account is exercised, OCC automatically obtains a lien on the exercised option, whether it was previously unsegregated or not (*see* OCC Rules 1104 and 1107). If the exercising Clearing Member is suspended by OCC before the Clearing Member's correspondent clearing corporation becomes obligated to settle the exercise transaction on its behalf, the assigned Clearing Member is required, under OCC's rules, to close out the exercise transaction and to pay over the "profit" (the difference between the close-out price and the exercise price) to OCC, for deposit to the Liquidating Settlement Account of the suspended Clearing Member (OCC Rule 1107(c)). The Liquidating Settlement Account is the fund from which OCC would satisfy claims resulting from the closing out of exercise transactions where the suspended Clearing Member was the assigned Clearing Member.

Because of OCC's lien on exercised options, when a customers' account contains an exercised long position and an assigned short position of the same size (number of contracts), type (put or call), and class (underlying security), with the same exercise settlement date, the risk to OCC is limited to the amount, if any, by which the exercise price of the long position exceeds (if the options are calls) or is less than (if the options are puts) the exercise price of the short positions.[2]

The effect of the proposed rule change is to permit the value of the exercised long position (upon which OCC has a lien) to be set off against that of the assigned short position for margin purposes, thereby reducing the "base" upon which OCC's 130% margin requirement is computed to the amount (if any) by which the value of the short position exceeds that of the long position, which is the best measure of the net risk to OCC.

The proposed rule change serves the public interest by relieving Clearing Members of the burden of margin requirements that are not necessary for the protection of OCC.

Comments were not and are not intended to be solicited with respect to the proposed rule change.

OCC does not believe that the proposed rule change would impose any burden on competition. The proposed rule change may enhance competition by relieving smaller Clearing Members of unnecessarily burdensome margin requirements.

On or before March 10, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all wirtten submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 26, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

January 25, 1980.

[FR Doc. 80-3564 Filed 2-1-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 16533; SR-PSE-77-36]

Pacific Stock Exchange Inc.; Order Approving Proposed Rule Change

January 28, 1980.

On December 12, 1977, the Pacific Stock Exchange Incorporated ("PSE") 301 Pine Street, San Francisco, California 94104 filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change to amend PSE Rule VI, Section 4(b), to permit PSE to utilize a closing rotation on the last day of trading in expiring options series commencing at 12 p.m. (P.S.T.).

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-14278, December 15, 1977) and by publication in the **Federal Register** (42 FR 63983, December 12, 1977). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-3562 Filed 2-1-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16539; Jan. 28, 1980; File No. SR-PHLX-79-7, Amdt. No. 2]

Philadelphia Stock Exchange, Inc.; Proposed Rule Change

Relating to: Responses to the recommendations of the special study of the options markets as promulgated by the Securities and Exchange Commission in release No. 34-15575.

Comments Requested on or before February 26, 1980.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 21, 1980, the Philadelphia Stock Exchange, Inc. ("PHL X") filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II and III below, which have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of Terms of Substance of the Proposed Rule Changes.

The following is a summary of the rule changes proposed by PHLX. In certain instances, proposed revisions relate to amendments previously filed by PHLX (SR-PHLX-79-7).[1] In other instances, revisions to existing rules are proposed in this filing for the first time. The text of the proposed rule changes is attached as Exhibit A to this notice. Where applicable, brackets and italics indicate changes from the rules as set forth in the previous filing.

Rule 1024. Proposed Commentary .01(d) has been amended to require customer account records to indicate whether the accounts have been approved for discretionary trading.

Rule 1032. The Rule is proposed to be amended to require customer account statements to disclose any special account charges that are not itemized and disclosed on confirmations. The proposed revision would also require disclosure on margin account statements sent to options customers of the mark-to-market and market value of each

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[1] Hereinafter referred to collectively as "customers' accounts."

[2] Plus or minus any market movement that may occur in the interim between the closing of the two exercise transactions.

[1] Notice of filing of the proposed rule changes was given by publication of a Commission release (Securities Exchange Act Release No. 16253, October 5, 1979) and by publication in the **Federal Register** (44 FR 59692, October 16, 1979).

security position in the account, the outstanding balance in the account and account equity. Under the proposed rule, these statements must also contain a legend indicating that further information concerning options commissions and similar execution charges will be provided on request. A new Commentary .01 is proposed which would prescribe the manner of calculating margin account equity.

Rule 1070. A new subsection (b) is proposed to be added to the rule to require members to send to a central complaint registry all options-related complaints pertaining to the member or its associated persons. It is contemplated that the registry will be maintained by either the NASD or NYSE and will also include options-related complaints received by the self-regulatory organization and the SEC.

Rule 1025. This Rule is proposed to be amended to require members to develop and implement a written program under the supervision of the Senior ROP for review of customer accounts and options orders in such accounts. Commentary .03 of the Rule is proposed to be amended to require each member firm to maintain, at the principal supervisory office having jurisdication over the office servicing the customer's account, sufficient information to permit a timely review of each customer's options account to determine that options transactions are compatible with customer objectives and the terms of the account's approval, the size and frequency of options transactions, commission activity in the account, profit or loss in the account, undue concentration in any options class or classes, and compliance with FRB Regulation T.

Rule 1049. This Rule is proposed to be amended to clarify that standards governing communications to customers apply to persons associated with members as well as to the members themselves. The amendment also clarifies that these standards apply to communications to a single individual as well as to the general public. Commentary .01 is proposed to be amended to require prescribed disclosures in advertising and sales literature and to establish specific guidelines for other written communications. Commentary .03 is proposed to be amended to provide that sales literature must state that supporting documentation will be supplied on request. Subparagraph C of Commentary .03 is proposed to be revised to permit balanced representations regarding past performance that pertain to the firm as a whole. The use of summaries or averaged past performance records is proposed to be permitted without the disclosure of detailed supporting data if certain basic information is disclosed along with an offer to provide complete documentation. Finally, subparagraph F of Commentary .03 is proposed to be revised to prohibit the use of nonstandard wordsheets for a particular options strategy where a standard worksheet has been adopted.

Circular on Front-running. This circulan presents the Exchange's enforcement policy with respect to certain practices generally referred to as "front-running of blocks". It is filed in response to the recommendation of the Special Study of the Options Markets which states in Chapter III, page 64, that "all self-regulatory organizations should issue interpretations of their rules to make it clear that front-running is inconsistent with just and equitable principles of trade." The language contained in this circular has been agreed to by a task force composed of seven self-regulatory organizations. It is PHLX's understanding that all members of the task force who are required to comply with the above recommendation will make appropriate filings with the Commission on front-running which are substantially similar to PHLX's front-running circular.

II. Self-Regulatory Organization's Statements of Purpose and Statutory Basis of Proposed Rule Change

In its filing with the Commission, PHLX included the following statements concerning the purpose and basis of the proposed rule changes and discussed comments it received on the proposed rule change. Such statements are reproduced in sections (A), (B) and (C) below.

(A) *Self-Regulatory Organization's Statement of Purpose of and Statutory Basis for Proposed Rule Changes.*

This amendment to the original filing (SR–PHLX–79–7) is for the purpose of proposing rules amendments in response to certain recommendations of the Special Study of the Options Markets that were not addressed in the original filing, as well as proposing certain editorial and minor substantive amendments to previously filed proposals.

The statutory basis for all of these proposed rule changes remains as stated in the original filing. The purpose of each of the substantive proposed rule changes included in this filing is as follows:

Rule 1024. The minimum information that must be reflected in customers' account records has been expanded to include whether the account is approved for discretionary orders.

Rule 1032. In response to Options Study Recommendation I.A.2.a., we propose to revise Rule 1032 to expand the information which member organizations must disclose in the statement sent to customers having a general (margin) account. By limiting this requirement to margin accounts, the information will be furnished to most options customers without imposing undue burdens on member firms. The proposal will require that statements of margin accounts sent to such customers reflect the mark-to-the-market price and market value for all security positions in the account, the total of market value of all positions in the account, the debit (or credit) balance, and account equity. We have defined general (margin) account equity in proposed Commentary .01 to Rule 1032 as the difference between the total of long security values, including any credit balance, and the total of short security values, including any debit balance.

Finally, we propose to require a legend on account statements to the effect that information concerning commissions and other charges has been included in confirmations, and will be furnished to customers upon request.

Rule 1070. In response to Options Study Recommendation I.A.2.g. for the self-regulatory organizations to establish and maintain a central customer complaint file showing all complaints received by each SRO and the disposition thereof, we propose adding a new subsection (b) to Rule 1070 that would require each member firm to forward a copy of every options-related complaint pertaining to the member firm and its associated persons, and a report of any action taken in response thereto, to a designated joint self-regulatory organization complaint registry. The rule describes the complaint registry as containing all such complaints as well as options-related complaints received by the Exchange and other self-regulatory organizations and the SEC.

Rule 1025. Options Study recommendation I.A.2.e. calls for the adoption of rules requiring that the headquarters office of every options broker-dealer be in a position to timely review each customer's account to determine the extent of commissions and realized and unrealized losses relative to account equity, the existence of unusual credit extensions and unusual account risks or trading patterns.

In response, Rule 1025 is proposed to be revised to impose in explicit terms the obligation for firms to develop and implement headquarters account review procedures, and to impose recordkeeping requirements to facilitate such review. Recognizing the decentralized supervisory structure which many large securities firms have adopted, the proposed amendment is keyed to review by the "principal supervisory office having jurisdiction over the office supervising the customer's account."

Rule 1049. The proposed rule amendments as previously filed regarding customer communications have been modified in certain respects. First, the general rule regarding customer communications in paragraph (a) of the Rule has been clarified to cover communications by persons associated with member organizations and to apply to communications with an individual customer or member of the public. Also, the applicability of the various standards of the rule to different categories of communications (advertising, sales literature and other communications) has been further clarified. The circumstances and conditions under which past performance information may be used have also been clarified to emphasize that representations concerning past performance must be made in a balanced manner and must pertain to the member organization as a whole. Representations concerning the past performance of a particular registered representative are, thus, prohibited. We have also added specific requirements concerning the furnishing of supporting detail whenever statements involving past performance are made. Finally, a new requirement has been added to Commentary .02 to Rule 1049 barring the use of non-standard options worksheets where a member organization has adopted a standard form of worksheet for a particular options strategy.

(B) Self-Regulatory Organization's Statement on Burden on Competition

PHLX does not believe that the rule changes proposed in this Amendment No. 2 to File No. SR–PHLX–79–7 will impose any burdens on competition.

(C) Self-Regulatory Organization's Statement on Comments Received from Members, Participants, or Others on Proposed Rule Changes

Editorial revisions to those proposals reflected herein were not submitted to members for comments. Comments on proposed rule changes presented herein for the first time were solicited in response to a preliminary draft of the proposals that was mailed jointly to member firms by members of the joint task force. A large number of detailed comments were received in response to this mailing. The following is a summary of those comments that are relevant to the proposed rule changes in their present form.

Rule 1032. The proposals involving changes in customer account statements generated by far the greatest volume of member comment. However, most of the comments were directed toward the items which are not included in the proposal as filed (*e.g.*, disclosure regarding total commissions and aggregate account profit or loss). Most commentators opposed including information on the account statement that is already stated on confirmations. Members also criticized the mark-to-the-market requirement on the grounds that current prices may be unavailable in certain instances and, in any event, will be out of date by the time the statement is received. Small- and medium-sized firms criticized the cost involved with putting the proposed account statement requirements into effect.

Rule 1070. The requirement of a joint SRO complaint registry received widespread support from commentators: Several members commented that the standards governing the type of complaints which must be forwarded to the registry should be stated so that no doubt can exist. One commentator also indicated that members should be allowed access to registry complaint files.

Rule 1025. The requirement that each principal supervisory office be in a position to make certain determinations with respect to options customer's accounts (Commentary .03) was generally supported in members' comments. Several commentators indicated that the proposed Commentary is consistent with existing review programs. However, certain commentators criticized the cost of the proposal and sought more detailed standards for the inquiries required by the provision.

III. Date of Effectiveness of Proposed Rule Change and Timing for Commission Action

On or before March 10, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the PHLX consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of U.S.C. Section 522, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C.

Copies of such filings will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number reference in the caption above and should be submitted on or before February 26, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated Authority.

George A. Fitzsimmons,
Secretary.
January 28, 1980.

Exhibit A

(Where applicable, bracketing and italics identify changes from the rules as set forth in the original filing.)

Conduct of Accounts for Options Trading

Rule 1024

* * * * * *

. . . *Commentary*

.01 In fulfilling its obligations pursuant to paragraph (b)(ii) of this rule with respect to options customers that are natural persons, a member organization shall seek to obtain the following information at a minimum (information shall be obtained for all participants in a joint account):

* * * * * *

In addition, the customer's account records shall contain the following information, if applicable:

* * * * * *

d. Nature and[T] types of transactions for which account is approved (e.g., buying, covered writing, uncovered writing, spreading, *discretionary transactions*)

Statements of Accounts

Rule 1032

Statements of accounts required by Rule 752 shall be sent not less frequently than once every month to each customer in whose account there has been an entry during the preceding month with respect to an option

contract and at least quarterly to all accounts having a money or a security position during the preceding quarter. [The statement shall bear a legend requesting the customer to promptly advise the member of any material change in the customer's investment objectives or financial situation.] *Statements of accounts to customers shall show security and money positions, entries, interest charges and any special charges that have been assessed against such account during the period covered by the statement; provided, however, that such charges need not be specifically delineated on the statement if they are otherwise accounted for on the statement and have been itemized on transaction confirmations. With respect to options customers having a general (margin) account, such statement shall also provide the mark-to-market price and market value of each option position and other security position in the general (margin) account, the total market value of all positions in the account, the outstanding debit or credit balance in the account and the general (margin) account equity. The statement shall bear a legend stating that further information with respect to commissions and other charges related to the execution of listed option transactions has been included in confirmations of such transactions previously furnished to the customer, and that such information will be made available to the customer promptly upon request. The statement shall also bear a legend requesting the customer to promptly advise the member of any material change in the customer's investment objectives or financial situation.*

. . . Commentary

.01 For purposes of the foregoing rule, general (margin) account equity shall be computed by subtracting the total of the "short" security values and any debit balance from the total of the "long" security values and any credit balance.

Customer Complaints

Rule 1070

(a) Every member organization conducting customer business shall maintain and keep current a separate central log, index or other file for all options-related complaints, through which these complaints can easily be identified and retrieved. The term "options-related complaint" shall mean any written statement by a customer or person acting on behalf of a customer alleging a grievance arising out of or in connection with listed options. The central file shall be located at the principal place of business of the member organizaton or such other principal office as shall be designated by the member organization. At a minimum, the central file shall include: (i) identification of complainant, (ii) date complaint was received, (iii) identification of Registered Representative servicing the account, (iv) a general description of the matter complained of, and (v) a record of what action, if any, has been taken by the member organization with respect to the complaint. Each options-related complaint received by a branch office of a member organization shall be forwarded to the office in which the separate, central file is located not later than 30 days after receipt by the branch office. A copy of every options-related complaint shall be maintained at the branch office that is the subject of the complaint.

(b) In addition to maintaining a central file of options-related complaints as required by (a) above, every member organization conducting a customer business shall forward a copy of every options-related complaint pertaining to the member organization or its associated persons, within 30 days after receipt, to the designated custodian of the joint self-regulatory organization options complaint registry, and shall also promptly forward advice of any action taken by the member organization in response to such complaints. The options complaint registry is maintained by the ————. *Copies of complaints should be forwarded to the* ———— *at* ————. *The options complaint registry is a data bank consisting of a record of options-related complaints received by members of the Exchange and other SRO's, and of such complaints received directly by the SRO's and the SEC. Information in the options complaint registry will be made available only for bona fide regulatory purposes to national securities exchanges or associations, the SEC or other governmental regulatory agencies.*

Supervision of Accounts

Rule 1025

(a) Duty to Supervise; Senior Registered Option Principal.

* * * * *

. . . Commentary

.01 No change.

.02 No change.

.03 Each member organization shall maintain, at the principal supervisory office having jurisdiction over the office servicing the customer's account, information to permit review of each customer's options account, on a timely basis to determine (i) the compatability of options transactions with investment objectives and with the types of transactions for which the account was approved; (ii) the size and frequency of options transactions; (iii) commission activity in the account; (iv) profit or loss in the account; (v) undue concentration in any options class or classes, and (vi) compliance with the provisions of Regulation T of the Federal Reserve Board.

Communications to Customers

Rule 1049

(a) *General Rule.* No member or member organization *or person associated with a member* [, and no partner or employee thereof,] shall utilize any advertisement, sales literature or other communictions to *any* customer[s] *or member* of the public concerning options which:

* * * * *

. . . Commentary

.01 The special risks attendant to options transactions and the complexities of certain options investment strategies shall be reflected in any *advertisment or sales literature* [communication] which discusses the uses or advantages of options. *All advertisements and sales literature discussing the use of options should include a warning to the effect that options are not for everyone.* In the preparation of *written* communications respecting options, the following guidelines should be observed:

* * * * *

B. It should not be suggested that options are suitable for all investors. [All communications discussing the use of options should include a warning to the effect that options are not for everyone.]

* * * * *

.03 Written communications (other than advertisements) pertaining to options shall conform to the following standards:

A. [Such Communications] *Sales literature* shall state that supporting documentation for any claims (including any claims made on behalf of options programs or the options expertise of sales persons), comparisons, recommendations, statistics or other technical data, will be supplied upon request.

* * * * *

C. Such communications may feature records and statistics which portray the performance of past recommendations or of actual transactions *of the member organization (but not of an individual Registered Representative),* provided that:

(i) any *such portrayal is done in a balanced manner, and consists of* records or statistics *that are* [must be] confined to a specific "universe" that can be fully isolated and circumscribed and that covers at least the most recent 12-month period;

(ii) such communications include [or offer to provide] the date of each initial recommendation or transaction, the price of each such recommendation or transaction as of such date, and the date and price of each recommendation or transaction at the end of the period or when liquidation was suggested or effected, whichever was earlier; *provided that if the communications are limited to summarized or averaged records or statistics, in lieu of the complete record there may be included the number of items recommended or transacted, the number that advanced and the number that declined, together with an offer to provide the complete record upon request;*

* * * * *

[(iv) in the event such records or statistics are summarized or averaged, such communications include the number of items recommended or transacted, the number that advanced and the number that declined;]

[Renumber (v)–(vii) as (iv)–(vi)]

* * * * *

F. If a member organization has adopted a standard form of worksheet for a particular options strategy, non-standard worksheets for that strategy may not be used.

[Renumber paragraph F as paragraph G.]

Front-Running of Blocks—Circular

This information circular presents the Exchange's enforcement policy with respect to certain practices generally referred to as "front-running of blocks". Because a block transaction in an underlying security may have an impact on the market for that security or the options covering that security (or vice versa), the Exchange would be concerned if its members were to engage in the practice of trading in options or in underlying securities when they are in possession of material non-public information concerning block transactions in these securities. In keeping with its responsibility to assure the fairness of its market, the Exchange wishes to emphasize that this kind of activity on the part of market professionals is conduct inconsistent with just and equitable principles of trade and will be dealt with in disciplinary proceedings under the By-Laws and Rules of the Exchange.

Although it is not possible to provide an all-inclusive definition of front-running in all of its forms, the Exchange believes that it is important to provide standards describing the kind of conduct that will not be permitted, both in order to provide guidance for members and to avoid interfering with entirely legitimate transactions that do not involve front-running. For this purpose, the Exchange has prepared this circular discussing the kind of conduct involving the front-running of blocks that would be considered to be improper. It must be recognized that the following discussion of prohibited conduct is not exclusive, and that conduct not specifically described in this circular may nonetheless constitute front-running. Although the circular concentrates on proprietary trading of members, front-running violations may also occur in certain agency situations, such as where a member passes on non-public information concerning block transactions to a customer who then trades on the basis of the information.

The Exchange considers it to be conduct inconsistent with just and equitable principles of trade for a member or person associated with a member for an account in which such member or person has an interest, or for an account with respect to which such member or person exercises investment discretion, to cause to be executed

(1) an order to buy or sell an option when such member or person causing such order to be executed has knowledge of a block transaction in the underlying security, or

(2) an order to buy or sell an underlying security when such member or person causing such order to be executed has knowledge of a block transaction in an option covering that security,

prior to the time information concerning the block transaction has been made publicly available. Front-running may be based upon knowledge of less than all of the terms of the transaction, so long as there is knowledge that all of the material terms of the transaction have been or will imminently be agreed upon. Notwithstanding the foregoing, if a member firm receives at or about the same time a customer's order of block size relating to both an option and the underlying security, the member may position the other side of one or both components of the order, subject to applicable exchange rules governing crosses. However, the member firm would not be able to cover any resulting proprietary position by entering an offsetting order until information concerning all block transactions involved has been made publicly available.

The application of this circular is limited to transactions that are required to be reported on the last sale reporting systems administered by CTA or OPRA, and information as to a block transaction shall be considered to be publicly available when it has been disseminated via the tape or high speed communication line of one of those systems. Public outcry on the Exchange Floor shall not be deemed to make such information publicly available except in unusual circumstances with the advance approval of two Floor Officials.

A transaction involving 10,000 shares or more of an underlying security or options covering such number of shares shall be conclusively deemed to be a block transaction, although transactions of less than 10,000 shares may also be block transactions in appropriate cases. A block transaction that has been agreed upon does not lose its identity as such by arranging partial execution of the transaction in portions which themselves are not of block size. In this situation, the requirement that information concerning the transaction be made publicly available will not be satisfied until the entire block transaction has been completed and publicly reported.

Effectiveness Timetable

Rule and Number of Days Following Commission Approval [1]

1024(b)(ii) [2]—30 days
1024(b)(iii) [2]—30 days for initial verification; 60 days for subsequent verification
1032—180 days
1026—30 days
1070(a)—60 days
1025(a)—30 days
1025(b)—90 days
1025(c)—90 days
1025(.03)—90 days
619—30 days
610—Immediately
1049(a)—Immediately
1049(b)—90 days; until then under present 1049(a)
1049(c), (d) and (e)—Immediately
1070(b)—60 days following effectiveness of Commission rule authorizing central complaint registry
1043(a)—60 days
1043(b)—Immediately
1043(c)—60 days
1022(a) and (b)—60 days
"Front-running" circular under by Law 18–7—Immediately
1025(d)—90 days
1027(a)—60 days
1027(b)—90 days

[1] The Exchange may grant members additional time to comply with certain of these rules on a case-by-case basis, but no extension of time will be granted for more than 6 months after the effectiveness of the rule in question as stated in this table. In granting or denying requests for extensions of time the Exchange will act jointly with other self-regulatory organizations that have comparable rules insofar as the requesting parties are members of the Exchange and such other SRO's.

[2] Within 12 months following their effectiveness as stated in this table. Rules 1024(b)(ii) and (b)(iii) must be complied with in respect of customers' accounts that were approved for options transactions prior to the effectiveness of these rules in order for those accounts to remain so approved.

[FR Doc. 80-3558 Filed 2-1-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 16537; SR-Phlx-78-6]

Philadelphia Stock Exchange, Inc; Order Approving Proposed Rule Change

On May 3, 1978, the Philadelphia Stock Exchange, Inc. ("Phlx") 17th and Stock Exchange Place Philadelphia, Pennsylvania 19103, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change to amend its Rules 1047 and 1012 to permit Phlx to utilize trading rotations in options at the opening of each business day and at the close of trading on the last day of trading in expiring options commencing at 3:00 p.m. Eastern time.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34–14789, May 22, 1978, and by publication in the **Federal Register** (43 FR 23067, May 30, 1978)). On September 27, 1978 the Phlx filed an amendment with the Commission to delete that portion of SR–Phlx–78–6 which would have authorized daily closing rotations. All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder

applicable to national securities exchanges, and in particular, the requirements of Section 6, and the rules and regulations thereunder.

IT IS THEREFORE ORDERED, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-3365 Filed 2-1-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0387]

Finevalor Capital Corp. Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1979)), under the name of Finevalor Capital Corporation (Applicant), for a license to operate as a Small Business Investment Company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the rules and regulations promulgated thereunder.

The Applicant was incorporated under the laws of the State of New York, and it will commence operations with a capitalization of $1,020,000.

The Applicant will have its place of business at 745 Fifth Avenue, New York, New York 10022, and it intends to conduct operations primarily in the State of New York.

The officers, directors and stockholders of the Applicant will be:

Juan Zavala, president & director, 1020 Park Avenue, New York, New York 10028, 100%
Dr. Jacob Mayer, vice president & director, 12–73 35th Avenue, Jackson Heights, NY 11372
Alfred Davis, secretary/treasurer & director, 13–12 35th Avenue, Jackson Heights, NY 11372.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness in accordance with the Act and SBA Regulations.

Notice is hereby given that any person, may not later than February 19, 1980 submit written comments on the Applicant to the Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice shall be published by the Applicant in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies).

Dated: January 29, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80-3391 Filed 2-1-80; 8:45 am]

BILLING CODE 8025-01-M

Hasidic Jewish Americans; Determination of Social Disadvantage

Pursuant to the provisions of section 8(a) of the Small Business Act, 15 U.S.C. 637(a) as amended by Pub. L. 95–507, and 13 CFR 124.1–1(c)(3)(iii)(A), notice is hereby given that the Small Business Administration (SBA) has received a request that it consider Hasidic Jewish Americans (hereinafter group) to be a minority group which has members who are socially disadvantaged because of their identification as members of the group, for the purpose of eligibility for SBA's section 8(a) program.

SBA shall receive comments and information from the public, on or before March 5, 1980, which tends to show:

(1) If the group has suffered the effects of discriminatory practices or similar invidious circumstances over which its members have no control,

(2) If the group has generally suffered from prejudice or bias,

(3) If such conditions have resulted in economic deprivation for the group of the type of which Congress has found exists for the groups named in Pub. L. 95–507, and

(4) If such conditions have produced impediments in the business world for members of the group over which they have no control and which are not common to all small business people.

All such comments and information should be submitted to: Mr. William Clement, Associate Administrator, Minority Small Business and Capital Ownership Development, U.S. Small Business Administration, 1441 L Street, NW. Washington, D.C. 20416.

Subsequent to the close of the receipt of information on this matter, the SBA will publish its decision on the group's request in the form of a Notice in the **Federal Register**, pursuant to the provisions of 13 CFR 124.1–1(c)(3)(iii)(D).

Dated: January 25, 1980.

William A. Clement,

Associate Administrator, Minority Small Business and Capital Ownership Development, Small Business Administration.

[FR Doc. 80-3392 Filed 2-1-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1743; Amdt. No. 1]

New Mexico; Declaration of Disaster Loan Area

The above numbered Declaration (see 44 FR 75759) is amended by adding Luna County and adjacent counties within the State of New Nexico, as a result of inclement weather August 1–September 30, 1979, and severe frost October 23–25, 1979.

The termination date for filing applications remains the same, i.e., for physical damage until the close of business on June 13, 1980, and for economic injury until the close of business on September 15, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: January 25, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-3560 Filed 2-1-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1744; Amdt. 1]

Texas; Declaration of Disaster Loan Area

The above-numbered Declaration (see 45 FR 1465) is amended to include the following four counties, Briscoe, Foard, Garza and LaSalle and adjacent counties, within the State of Texas, as a result of natural disasters as indicated:

County, Natural Disaster(s) and Date(s)

Briscoe, Excessive wind and hail—9/1–10/29/79.
Foard, Drought—9/1–12/3/79.
Garza, Extreme drought and grasshopper infestation—7/1–11/9/79.
LaSalle, Drought—7/1/79–1/4/80.

The closing dates for accepting applications remains the same, i.e. until June 26, 1980, for physical damage, and for economic injury until September 26, 1980.

Dated: January 24, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-3389 Filed 2-1-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Special Committee 141—FM Broadcast Interference Related to Airborne ILS, VOR, and VHF Communications Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 141 on FM Broadcast Interference Related to Airborne ILS, VOR and VHF Communications Equipment to be held on February 26–27, 1980 in RTCA Conference Room 261, 1717 H Street, N.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Third Meeting held November 7–8, 1979; (3) Reports on Activities of Working Groups; (4) Review of Committee Draft Report; (5) Assignment of Tasks; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296–0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on January 28, 1980.

Karl F. Bierach,

Designated Officer.

[FR Doc. 80-3163 Filed 2-1-80; 8:45 am]

BILLING CODE 4910-13-M

Special Aviation Fire and Explosion Reduction (SAFER) Advisory Committee and its Technical Groups; Meetings

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the SAFER Advisory Committee, the SAFER Technical Group on Compartment Interior Materials, and the SAFER Technical Group on Post-Crash Fire Hazard Reduction to be held in the auditorium of the Aerospace Corporation main building at 2350 E. El Segundo Boulevard, El Segundo, California 90009. At this meeting, in addition to previously assigned status reports, the Federal Aviation Administration will respond to the recommendations which have been developed by the SAFER Committee. The schedule for this meeting will be as follows:

Tuesday, March 4, 1980

- 7:45 to 8:30—Registration.
- 8:30 to 11:15—Status reports on the recent work of the Advisory Group for Aerospace Research and Development (AGARD); aviation accident data statistics; personal protection breathing devices (smoke hoods); and the national data bank concept.
- 12:30 to 5:00—Inspection of aircraft manufacturing facility (aspects of manufacturing and installation pertinent to SAFER Committee tasks).

Wednesday, March 5, 1980

- 8:30 to 5:00—FAA responses to SAFER recommendations.

Thursday, March 6, 1980

- 8:30 to 11:15—Additional SAFER comments/recommendations.
- 12:30 to 5:00—Structure of final SAFER report.

The security requirements of the Aerospace Corporation facility require that each person must present personal identification prior to admittance to this meeting.

Attendance is opened to the interested public but is limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present an oral statement should notify, not later than one day before the meeting, Ed Wood, ASF–300, Special Programs Division, Office of Aviation Safety, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Telephone: 202–426–8198. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on January 30, 1980.

John R. Harrison,

Director of Aviation Safety.

[FR Doc. 80-3611 Filed 2-1-80; 8:45 am]

BILLING CODE 4910-13-M

VETERANS ADMINISTRATION

New Laundry, VAMC, Reno, Nev.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of a New Laundry facility at the Veterans Administration Medical Center (VAMC), Reno, Nevada.

The proposed project will provide additional space and facilities for the processing of a projected laundry workload of 1 million pounds per year. The facility will consist of new construction (one story) comprising 8,400 net square feet. Estimated construction cost is approximately $2.4 million.

Development of the proposed project will have impacts on the environment as it affects visual site qualities and existing noise levels during construction.

Mitigation of the proposed action's impacts on the environment include: implementation of erosion controls; onsite noise abatement measures and dust palliative measures. Use of vegetative screening and general landscape planting will be instituted in the project design.

The Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, (202–389–2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: January 25, 1980.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 80-3369 Filed 2-1-80; 8:45 am]

BILLING CODE 8320-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Report Act (44 USC, Chapter 35). Departments and agencies use a number

of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

Comments on Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

Revisions

Food and Nutrition Service
Child Care Food Program Regulations and Related Forms
Part 226
On occasion
State agencies, also institns. sponsoring orgs., 138,438 responses; 95,096 hours
Charles A. Ellett, 395-5080

Food and Nutrition Service
Application For Participation and Site Information (SFSPFC and SNP)
FNS-81 & 81-1
Annually
Service Institutions, 11,880 responses; 12,320 hours
Charles A. Ellett, 395-5080

Food and Nutrition Service
Summer Food Service Program for Children
Part 225, FNS-80 & 418
Annually
FNS regional offices, State agencies or sponsors, 11,844 responses; 23,586 hours
Charles A. Ellett, 395-5080

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697-1195

New Forms

Departmental and Other Civilian Physician Survey
Single time
Civilian physicians, 6,105 responses; 3,053 hours
Kenneth B. Allen, 395-3785

Extensions

Department of the Air Force
Report of Government Vehicles, Equipment, and Material in the Hands of Contractors
AFTO 439, AFLC 11, 392, 814, & 815
Other (See SF-83)
Air Force Depot Maintenance, 928,080 responses; 213,673 hours
John A. Caron, 395-3785

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—633-9770

Revisions

Foreign Crude Oil Cost Report
EIA-67
Monthly
Crude oil dealers, 192 responses; 1,536 hours
Jefferson B. Hill, 395-5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—William Riley—245-6511

New Forms

Alcohol, Drug Abuse and Mental Health Administration
Special Supplement of Physician Staff
Single time
State and county mental hospitals, 290 responses; 435 hours
Richard Eisinger, 395-3214

Department of Labor

(Agency Clearance Officer—Philip M. Oliver—523-6341)

Extensions

Employment and training administration
CETA Grant Application and Reporting Requirements
ETA 2202, 5134, etc.
Other (see SF-83)
State and local agencies, 3,897,331 responses; 3,104,317 hours
Arnold Strasser, 395-5080

Action

(Agency Clearance Officer—W. D. Baldridge—254-7845)

New Forms

Older American Volunteer Project Directors Salary Survey
Single time
All older American vol. prog. local proj. dir., 942 responses; 188 hours
Arnold Strasser, 395-6080

Revisions

Senior Companion Program Demonstration Project Impact Evaluation questionnaires
Annually
Participants in SCP demos & those on waiting list to part., 811 responses; 584 hours
Arnold Strasser, 395-5080

Community Services Administration

(Agency Clearance Officer—Jack Stoehr—254-5300)

Revisions

Project Progress Review Report
CSA 440
Quarterly
Grantees, 2,000 responses; 70,000 hours
Arnold Strasser, 395-5080

Environmental Protection Agency

(Agency Clearance Officer—John J. Stanton—245-3064)

New Forms

Reform Initiatives Report Comment Form
Single time
All users of reform initiatives report, 75,000 responses; 1,875 hours
Edward H. Clarke, 395-5867

Executive Office of the President (Other)

(Agency Clearance Officer—Roy A. Nierenberg—456-6286)

Revisions

Council on Wage and Price Stability
Report on prices, sales, and profits for second program year
PM-1 (second program year)
Quarterly
Largest non-financial corporations, 12,000 responses; 120,000 hours
Warren Topelius, 395-3211

Federal Reserve System

(Agency Clearance Officer—Carolyn B. Doying—452-3512)

Revisions

Daily Report of Dealer Positions, Transactions, and Financing
FR 2004
Other (SF 83)
Primary dealers in U.S. Government securities, 6,750 responses; 10,938 hours
Warren Topelius, 395-3211

National Science Foundation

(Agency Clearance Officer—Herman Fleming—634-4070)

Revisions

Survey of Industrial Research and Development 1979
RD-1, MA-121
Annually
Firms in indus. which conduct research & development, 1,500 responses; 27,000 hours
Off. of Federal Statistical Policy & Standard, 673-7974

Railroad Retirement Board

(Agency Clearance Officer—Pauline Lohens—312-751-4693)

Reinstatements

Statement of Marital Relationship: Statement Regarding Marriage
G-124 (10-53) & G-124A (10-53)
On occasion
Applicants: Witness, 800 responses; 325 hours
Barbara F. Young, 395-6132

Louis Kincannon,
Acting Assistant Director for Regulatory and Information Policy.

[FR Doc. 80-3683 Filed 2-1-80; 8:45 am]
BILLING CODE 3110-01-M

Sunshine Act Meetings

Federal Register

Vol. 45, No. 24

Monday, February 4, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY CREDIT CORPORATION.

TIME AND DATE: 1:30 p.m., January 30, 1980.

PLACE: Room 200-A, Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Closed.

MATTER CONSIDERED: Docket CZ 317 restabilization of grain market.

SUPPLEMENTAL INFORMATION: The General Counsel certified this meeting may be closed. All members of the Board present as follows voted to close this meeting:

1. Bob Bergland, Secretary of Agriculture, Chairman.
2. Jim Williams, Member.
3. Dale E. Hathaway, Member.
4. M. Rupert Cutler, Member.
5. P. R. Smith, Member.
6. Howard W. Hjort, Member.
7. Ray Fitzgerald, Member.

CONTACT PERSON FOR MORE INFORMATION: Bill Cherry, Secretary, Commodity Credit Corporation, room 202-W, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20013, telephone (202) 447-7583.

[S-207-80 Filed 1-31-80; 9:47 am]

BILLING CODE 3410-05-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, February 5, 1980.

PLACE: Commission conference room, No. 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Proposed Semiannual Regulatory Agenda.
2. Proposed Modification to a Contract.
3. Procurement of Library Materials.
4. Report on Commission Operations by the Executive Director.

CLOSED: Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice issued January 29, 1980.

[S-214-80 Filed 1-31-80; 2:24 pm]

BILLING CODE 6570-06-M

3

January 30, 1980.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., February 6, 1980.

PLACE: Room 9306, 825 North Capitol Street, NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Iems listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

Power Agenda—438th Meeting, Feb. 6, 1980, Regular Meeting (10 a.m.)

CAP-1. Projec No. 2004, Holyoke Water Power Co.
CAP-2. Docket Nos. E-8308 and E-7206, Detroit Edison Co.
CAP-3. Docket No. ER78-19 et al., Florida Power & Light Co.
CAP-4. Docket No. ER79-85, Sierra Pacific Power Co.
CAP-5. Docket No. ER78-19 et al. (phase II), Florida Power & Light Co.
CAP-6. Docket No. ER78-360, Indiana & Michigan Electric Co.

Miscellaneous Agenda—438th Meeting, February 6, 1980, Regular Meeting

CAM-1. U.S. Geological Survey—Alternative filing requirments for infill wells drilled in existing proration units in the Blanco Mesaverde and Bsin Dakota Pools in San Juan and Rio Arriba Counties, N.M.
CAM-2. Docket No. GP-80-3, State of Ohio, William N. Tipka, G. Sauser #1A well, JD 79-018447.
CAM-3. Docket No. RA79-9, H & K Oil Co., Inc.

Gas Agenda—438th Meeting, February 6, 1980, Regular Meeting

CAG-1. Docket No. TA80-1-22 (PGA80-1a, IPR80-1a), Consolidated Gas Supply Corp.
CAG-2. Docket No. TA80-1-31 (PGA80-1a, IPR80-1a), Arkansas Louisiana Gas Co.
CAG-3. Docket No. PR80-67, Consolidated Gas Supply Corp.
CAG-4. Docket No. PR78-62, Panhandle Eastern Pipe Line Co.
CAG-5. Docket Nos. RP78-85 and RP78-86, *Village of Pawnee, et al.* v. *Panhandle Eastern Pipe Line Co.* and *Kaskaskia Gas Co., et al.* v. *Trunkline Gas Co.*
CAG-6. Docket No. RP72-6, El Paso Natural Gas Co.
CAG-7. Docket No. TC79-8, Transcontinental Gas Pipe Line Corp.
CAG-8. Docket Nos. G-11826 et al., Marathon Oil Co.; Docket No. CI79-103, Exxon Corp.; Docket No. CI79-180, Sabine Production Co.; Docket Nos. CS67-25, et al., Parker & Parsley, Inc., et al., (Parker & Parsley, et al.); Docket No. CI78-1203, Sun Oil Co.; Docket No.CI78-1211, Forest Oil Corp.; Docket No.CI79-199, Exxon Corp.; Docket Nos. CI64-175 et al., Amoco Production Co. et al.; Docket No.CI77-288, Pennzoil Producing Co.; Docket No. CI77-711, Transco Exploration Co.; Docket No. CI78-962, Transco Exploration Co.; Docket No. CI78-1190, Transco Exploration Co.; Docket No. CI79-20, Transco Exploration Co.; Docket No. CI79-29, Transco Exploration Co.; Docket No. CI79-38, Florida Gas Exploration Co.; Docket No. CI80-50, Transco Exporation Co.; Docket Nos. CI76-496, et al., Pennzoil Producing Co., (Successor to Pennzoil Louisiana & Texas Offshore Inc.); Docket Nos. CI76-496 and CI76-564, Pennzoil Producing Co.; Docket No. CI76-634, Pennzoil Producing Co.; Docket No. CI76-635, Pennzoil Producing Co.; Docket Nos. CI64-175 et al., Amoco Production Co.; Docket No. CI78-1246, The Louisiana Land & Exploration Co.; Docket No. CI80-66, Getty Oil Co.; Docket No. CI79-94, Mesa Petroleum Co.; Docket No. CI79-65, Mobil Oil Corp.; and Docket No. CI79-179, Sabine Production Co.
CAG-9. Docket No. RI77-231, South States Oil & Gas Co.
CAG-10. Docket No. G-17136, Trice Production Co.; Docket No. G-18516, Oleum Inc., and Docket No. RI60-234, Trice Production Co.
CAG-11. Docket No. CP80-94, Columbia Gas Transmission Corp.
CAG-12. Docket No. CP80-20, Columbia Gas Transmission Corp.
CAG-13. Docket No. CP79-476, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
CAG-14. Docket No. CP80-53, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. and Trunkline Gas Co.; Docket No. CP80-79, Trunkline Gas Co.
CAG-15. Docket No. CP 79-352, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
CAG-16. Docket No. CP78-407, Transcontinental Gas Pipe Line Corp.; Docket No. CP77-566, Michigan Wisconsin Pipe Line Co.
CAG-17. Docket No. CP78-518, Trunkline Gas Co. and Transcontinental Gas Pipe Line Corp.
CAG-18. Docket No. CP77-481, El Paso Natural Gas Co.
CAG-19. Docket No. CP80-120, United gas Pipeline Co.

Power Agenda—438th Meeting, February 6, 1980, Regular Meeting

I. License Project Matters

P-1. Project No. 2786, Central Vermont Public Service Corp.; Project No. 2819, Vermont Electric Cooperative, Inc.; Project No. 2838, West River Basin Energy Committee, Inc.; and Project No. 2672, Town of Springfield, Vt.

II. Electric Rate Matters

ER-1. Docket No. ER80-71, Ceatral Illinois Public Service Co.
ER-2. Docket No. ER80-140, Public Service Co. of New Hampshire.
ER-3. Docket No. ER76-739, Public Service Co. of Indiana, Inc.
ER-4. Docket No. E-7704, *The Electric & Water Plant Board of the City of Frankfort, Ky.* v. *Kentucky Utilities Co.*; Docket No. E-7669, Public Service Co. of Indiana; Docket No. E-7937, Indianapolis Power & Light Co.; and Docket No. E-8053, Kentucky Utilities Co.
ER-5. Docket Nos. ER77-488 and ER78-520 (phase II), El Paso Electric Co.

Miscellaneous Agenda—438th Meeting, February 6, 1980, Regular Meeting

M-1. Docket No. RM79-64, Revision of § 35.13; Filing of changes in rate schedules.
M-2. Docket No. RM80-9, Reporting requirements under section 211 of the Public Utility Regulatory Policies Act of 1978.
M-3. Reserved.
M-4. Reserved.
M-5. Docket No. RM79-76, high-cost natural gas produced from tight formations.
M-6. Docket No. RM78-79, final rule defining the term new well under NGPA.
M-7. (A) Docket No. RM80- , rule required by section 206(a) defining small boiler fuel users; (B) Docket No. RM80- , exemptions from the rule required by section 206(a) defining small boiler fuel users.
M-8. (A) Docket No. RM80- , form to report purchases under sections 104 and 106(a) of the NGPA; (B) Docket No. RM80- , form to report sales under section 102, 103, 107, and 108 of the NGPA.
M-9. Docket No. RA80-5, San Ann Service, Inc.

Gas Agenda—438th Meeting, February 6, 1980, Regular Meeting

I. Pipeline Rate Matters

RP-1. Docket No. RP80-66, Grand Bay Co.
RP-2. Docket Nos. RP79-23 and RP79-24, Distribas of Massachusetts Corp. and Distrigas Corp.
RP-3. Docket No. RP79-81, Texas Eastern Transmission Corp.

II. Pipeline Certificate Matters

CP-1. Docket No. CP79-289, Michigan Wisconsin Pipe Line Co.
CP-2. Docket No. CP79-402, Lone Star Gas Co., a Division of Ensearch Corp.

[S-205-80 Filed 1-30-80; 4:28 pm]

BILLING CODE 6450-01-M

4

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR, 6228, January 25, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Approximately 11:30 a.m., Wednesday, January 30, 1980—following a recess at the conclusion of the open meeting.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting: Proposed publication schedule for the redefined monetary aggregates and related data series.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: January 30, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-210-80 Filed 1-31-80; 11:17 am]

BILLING CODE 6210-01-M

5

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Tuesday, February 5, 1980.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Consideration of Advance Notice of Proposed Rulemaking in Blue Shield Association et al., File No. 761-0036.

CONTACT PERSON FOR MORE INFORMATION: Ira J. Furman, Office of Public Information (202) 523-3830; Recorded message (202) 523-3806.

[S-215-80 Filed 1-31-80; 3:56 am]

BILLING CODE 6750-01-M

6

[Meeting Notice 1-80]

FOREIGN CLAIMS SETTLEMENT COMMISSION.

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Wednesday, February 6, 1980 at 10:30 a.m.—Canceled.
Wednesday, February 13, 1980 at 10:30 a.m.—Canceled.
Wednesday, February 20, 1980 at 10:30 a.m.—Canceled.
Wednesday, February 27, 1980 at 10:30 a.m.—Canceled.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Executive Director, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. 20579. Telephone (202) 653-6155.

Dated at Washington, D.C. on January 28, 1980.

Francis T. Masterson,

Executive Director.

[S-212-80 Filed 1-31-80; 11:58 am]

BILLING CODE 6775-01-M

7

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

TIME: 10:30 a.m. to 12 noon.

DATE: February 9, 1980.

PLACE: Hyatt Regency Phoenix, Phoenix, Ariz.

STATUS: Closed.

MATTERS TO BE DISCUSSED: Executive session (closed meeting, sec. 1703.202 (2) and (6) of the Code of Federal Regulations, 45 CFR, Part 1703).

CONTACT PERSON FOR MORE INFORMATION: Alphonse F. Trezza,

Executive Director, NCLIS (202) 653–6252.

Alphonse F. Trezza,

Executive Director, NCLIS.

January 28, 1980.

[S–208–80 Filed 1–31–80; 9:47 am]

BILLING CODE 7527-01-M

8

NUCLEAR REGULATORY COMMISSION.

DATE: February 5 (changes) and 6, 1980.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Tuesday, February 5

10 a.m.

1. Presentations by Commenters in UCS 2.206 Petition on Indian Point (approx 2 hours, public meeting) rescheduled from February 6.

2 p.m.

1. Briefing by Staff on UCS 2.206 Petition on Indian Point (approx 2 hours, public meeting) rescheduled from February 6.

Wednesday, February 6

10 a.m.

1. Briefing on Upgrade of NRC Operations Center (approx 2 hours, public meeting) rescheduled from February 5.

Note.—The meeting on Immediately Effective License Amendments scheduled for 2 p.m. on January 30, 1980 was cancelled.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Roger M. Tweed,

Office of the Secretary.

January 30, 1980.

[S–209–80 Filed 1–31–80; 10:29 am]

BILLING CODE 7590-01-M

9

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of February 4, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, February 5, 1980, at 10 a.m. and Thursday, February 7, 1980, immediately following the 10 a.m. and 2:30 p.m. open meeting. Open meetings will be held on Thursday, February 7, 1980, at 10 a.m. and 2:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402 (a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, and Pollack determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, February 5, 1980, at 10 a.m., will be:

Formal orders of investigation.
Settlement of injunctive action.
Litigation matters.
Settlement of administrative proceeding of an enforcement nature.
Subpoena enforcement action.
Order compelling testimony.
Institution of administrative proceeding of an enforcement nature.
Settlement of injunctive action and institution and settlement of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Opinions.
Administrative proceedings of an enforcement nature.

The subject matter of the closed meeting scheduled for Thursday, February 7, 1980, at 10 a.m., will be:

Regulatory matter bearing enforcement implications.

The subject matter of the closed meeting scheduled for Thursday, February 7, 1980, at 2:30 p.m., will be:

Post oral argument discussion.

The subject matter of the open meeting scheduled for Thursday, February 7, 1980, at 10 a.m., will be:

1. Consideration of whether to amend report Form U–13–60, revised to conform to the amended Uniform System of Accounts for Mutual and Subsidiary Service Companies adopted by the Commission on February 2, 1979 (HCAR No. 35–20919) (44 FR 8247) and to extend the filing date for the annual reports by mutual and subsidiary service companies under the Public Utility Holding Company Act of 1935 from April 1 to May 1 of each year. For further information, please contact Robert P. Wason at (202) 523–5159.

2. Consideration of what response to make to the Freedom of Information Act ("FOIA") appeal of Mr. Stephen M. Shaw from the FOIA Officer's denial of Mr. Shaw's request for waiver of fees. For further information, please contact Harlan Penn at (202) 272–2454.

3. Consideration of whether to affirm action, taken by the duty officer, authorizing the issuance of Securities Exchange Act Release No. 16501 (January 16, 1980) by which approval was given to the application of the Pacific Stock Exchange to list call options on Resorts International A Common Stock commencing January 21, 1980. For further information, please contact Gene Carasick at (202) 272–2409.

The subject matter of the open meeting scheduled for Thursday, February 7, 1980, at 2:30 p.m., will be:

Oral argument on an appeal by Irwin Schloss, president and chief executive officer of Marcus Schloss & Co., Inc., a member firm of the New York Stock Exchange, Inc. ("NYSE"), from disciplinary action suspending Schloss for one year from membership and employment in any capacity with any NYSE member or member organization.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: George Yearsich at (202) 272–2178

January 30, 1980.

[S–213–80 Filed 1–31–80; 1:08 pm]

BILLING CODE 8010-01-M

10

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 5899, January 24, 1980.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, January 22, 1980.

CHANGES IN THE MEETING: Deletion/additional item. The following item was not considered at an open meeting scheduled for Tuesday, January 29, 1980, at 9:30 a.m.

Consideration of whether to authorize publication of a release announcing the adoption of amendments to Rule 12b–25 under the Securities Exchange Act of 1934. For further information, please contact Bruce Mendelsohn at (202) 272–2589.

The following additional item will be considered at a closed meeting scheduled for Wednesday, January 30, 1980, at 10 a.m.

Regulatory matter bearing enforcement implications.

Chairman Williams and Commissioners Loomis, Evans, and Pollack determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Lowenstein at (202) 272–2092.

January 30, 1980.

[S–206–80 Filed 1–31–80; 4:58 pm]

BILLING CODE 8010-01-M

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Monday
February 4, 1980

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federal register

Monday
February 4, 1980

Part II—Section A

Consumer Affairs Council

Draft Consumer Programs

CONSUMER AFFAIRS COUNCIL
Open Letter to the American Consumer

THE WHITE HOUSE

WASHINGTON

February 4, 1980

Dear Consumer:

Do you ever feel there is a lack of information on food and drug labels? Does the absence of safety features in your automobile ever worry you? Do you think long distance railroad and trucking rates are set artificially high so you are paying more transportation costs than you should? Perhaps a better question would be, "How often do you get concerned about these kinds of problems?" Agencies of the Federal government make decisions every day that affect the health, safety, and pocketbooks of consumers. You are a consumer. For that reason, what the Federal government decides to do (or not do) about food and drug labeling, automobile safety, freight rates and a host of other consumer-related issues, should be of direct and vital concern to you.

You probably think that there is little, if anything, you can do to make your government listen to you, and that nothing you say can change what government does. Not any more. We have been working long and hard over the past three years to make your government more responsive to your wants, needs and concerns.

The culmination of our efforts came in September 1979, when President Carter issued an Executive Order to change the way citizens can work with their government. The President ordered Federal agencies to take steps to improve dramatically the effectiveness of Federal consumer programs. The voice of the consumer must and will be heard and considered by agencies in making regulations and policy. Agencies will be responsive to you. Now, you can talk to us and we will listen.

This publication outlines programs several Federal agencies have proposed to improve their consumer programs (31 other agencies published proposed programs on December 10, 1979). I do hope you will read and think about the programs of the agencies that concern you. And just as importantly, I hope you will tell the agencies what you think about their programs. Only through your comments and suggestions will Federal agencies be able to fulfill the promise of the President's Executive Order and establish consumer programs that are useful to the people who matter most — you.

Sincerely,

Esther Peterson
Chairperson
Consumer Affairs Council

BILLING CODE 3195-01-C

CONSUMER AFFAIRS COUNCIL

Draft Consumer Programs

AGENCY: Consumer Affairs Council.

ACTION: Draft Consumer Programs.

SUMMARY: In cooperation with the Consumer Affairs Council, agencies of the Federal government are proposing new or revised consumer programs. (These programs follow this introductory preamble.) We are taking this action in response to Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs." We expect this action to result in improved and more effective Federal consumer programs, consumer programs more responsive to the needs and wishes of the public.

DATES: We are asking for comments on the consumer programs described in this publication. Any comments submitted must be received no later than April 4, 1980.

ADDRESSES: Send your comments to the agency or agencies proposing the consumer programs in which you are interested.

FOR FURTHER INFORMATION CONTACT: 1. For information on the consumer program of a particular agency, contact the person or persons listed in that agency's draft consumer program.

2. For general information on the Consumer Affairs Council or Executive Order 12160, contact Belle O'Brien, Mark Goldberg, or Gregory Jones at the Consumer Affairs Council, 495 Old Executive Office Building, Washington, D.C. 20500, 202/456-6228 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

HERE'S WHAT'S COMING

I. Tried To Talk With Your Government Lately?
II. Have We Listened? (We Know We've Got Problems.)
III. Why An Executive Order? (What's In It For You?)
IV. What's Happened So Far?
V. Want To Talk With Your Government? Here's How.
VI. What's Next?
VII. You Can Help Us Do More.

Appendices

1. Executive Order 12160.
2. Guidelines for Implementation of Executive Order 12160.
3. Consumer Response Form for Executive Order 12160.
4. Executive Order 12160 Compliance Checklist.

I. TRIED TO TALK WITH YOUR GOVERNMENT LATELY?

Are you worried about the high cost of food, health care, or fuel? Do you travel on interstate highways? Do you ever visit national parks? Do you sometimes think about how much you pay in Social Security taxes? The chances are good that you answered "yes" to at least one of these questions. More than that, you probably answered "yes" to most, or all, of them. But whether your answers were mostly "yes" or mostly "no," you know that each of these areas is important to you, the consumer. As a result, your feelings are important to the Federal Government.

Unfortunately, government programs, policies, and regulations often seem remote to consumers. It is sometimes hard to get answers to simple questions. Filing a complaint with a Federal agency and getting a satisfactory response can be a struggle. Making your voice heard in a meaningful way in regulatory and policymaking decisions, which may have a substantial effect on you, can be a formidable barrier. Unless you are an attorney, or are represented before government agencies by an attorney, you may not be able to present your side of the story as persuasively as others. In the past, average consumers lacking legal counsel or an intimate understanding of how government agencies work were far too frequently at a disadvantage.

In September 1979, President Carter signed an Executive order, which we will discuss at greater length later, disigned to improve government consumer programs. The Order says that government consumer programs must be responsive to the needs of the consumer and requires that the voice of the consumer be heard and taken into account by agency decisionmakers.

This preamble discusses the background of the Executive order, the need for more effective consumer programs in government, and the consumer programs several agencies have proposed under the Executive order. (Thirty-one other agencies published proposed consumer programs in the **Federal Register** of December 10, 1979. See 44 FR 71101.) It outlines the content of the Executive order, and explains what we have done so far to implement the provisions of the Executive order. It asks for your thoughts on some of the consumer programs agencies are proposing and tells you how to let the government know what you think. Finally, it talks about steps still to be taken to make the promise of the Executive order a reality; and, it then seeks your continuing support and cooperation in making the consumer programs of the Federal government more responsive to your needs.

In reading this preamble, as well as the proposed consumer programs of agencies that interest you, you should recognize that one of our principal objectives in publishing detailed explanations of government consumer programs is to let you know how to make your voice heard in government. Although the Executive order concerns itself with a number of procedural matters, which may appear to be internal to government agencies, these matters do in fact affect you. Integrating consumer concerns into agency decisionmaking is at the base of the Executive order. We *want* to consider your thoughts and ideas and take them into account in making decisions, but we realize that we can do so only if you know how government operates and how to talk to us. Read this preamble. Then read the draft consumer programs of the agencies in which you are interested. If, having read

this preamble and various proposed agency consumer programs, you do not understand how the government intends to safeguard your interests, or how government agencies plan to consider your views in making decisions, let us know. If you have suggestions on how consumer programs in government might be improved, let us know that, too. Talking with your government is your right. But it is a right that is meaningful only if you exercise it. Exercise it!

II. HAVE WE LISTENED? (WE KNOW WE'VE GOT PROBLEMS)

There is no question that since the publication of Ralph Nader's *Unsafe at Any Speed,* which is sometimes cited as the dawn of the age of the consumer, government agencies have been more responsive to the needs of individual consumers than they were in the past. Over the past few years, many government agencies have established programs designed to assist the consumer in dealing with those agencies. These programs have varied in their scope and ambitiousness. Some have been very successful and have resulted in substantial consumer participation in agency decisionmaking processes. Sometimes, however, agency consumer programs have been superficial attempts to deal with what agencies think are the needs of the consumer and have not actually considered the consumer's concerns.

President Carter recognized that there was much room for improvement in Federal consumer programs, and in April 1978, he asked his Special Assistant for Consumer Affairs to search for ways to bring about more meaningful consumer involvement in government.

Specifically, the President asked the Special Assistant for Consumer Affairs to—

- Undertake a review of Federal agency consumer programs to determine if there was a meaningful consumer presence in each agency and whether existing programs were consistent with the consumer policies and goals of his Administration;
- Coordinate the activities of Federal agency consumer programs in order to avoid duplication and to ensure that they were efficiently administered;
- Make recommendations on how to improve consumer involvement in agency decisionmaking and advise him on the responsiveness of agencies to the needs of consumers.

To gather this information, the White House Consumer Affairs staff, with the cooperation of other government agencies and consumer, farm, labor and business groups, began a comprehensive survey and review of Federal consumer programs. A consumer program review of this magnitude had never been conducted.

In late fall 1978, a final analysis of this review was submitted to the Special Assistant for Consumer Affairs. After reviewing all the pertinent material, the President's Special Assistant for Consumer Affairs reached the following conclusions about Federal agency consumer activities:

1. Many consumer programs in Federal agencies are less effective now than they once were, and contain neither authority nor standards for their own maintenance. The decline in effectiveness of some agency consumer programs is a result principally of the low priority some agency heads give these programs, the lack of skilled management attention to the operation of existing programs, and the failure to allocate existing agency resources in a manner consistent with the Administration's consumer concerns. It is clear in most cases that a management problem exists in which no one person or office within an agency has the authority to set standards for consumer involvement and representation.

2. All too often, "consumer representation" at an agency is taken to mean the dissemination of favorable information about the agency, its personnel, and its programs.

3. Effective consumer involvement in agency decisionmaking depends upon the existence of agency procedures for public involvement. To ensure effective consumer involvement in agency decisionmaking, sufficient opportunity for citizen participation in each and every agency activity must be provided.

4. There are five primary areas in which Federal consumer programs should be functioning:

- Consumer advocacy;
- Consumer participation;
- Training of agency personnel in consumer affairs and technical assistance to consumer groups;
- Consumer education and information; and,
- Complaint handling.

Very few Federal agencies measure up in all five areas, but some agencies have developed imaginative and successful programs for the performance of key consumer functions. Collectively, the agencies are weakest in advocacy; that is, few agencies have a regular method for ensuring that agency decisionmakers are informed of the potential impact on consumers of proposed or existing policies, programs, and legislation.

III. WHY AN EXECUTIVE ORDER? (WHAT'S IN IT FOR YOU?)

On the basis of the findings highlighted in Section II, the Special Assistant for Consumer Affairs recommended that the President issue an Executive order to improve government consumer programs. (An Executive order is a directive from the President to Executive Branch government agencies.) The Order was drafted, and then reviewed by and circulated to the affected agencies and senior White House staff. The details of the Order were worked out in discussions with the Office of Management and Budget (OMB), the Office of Personnel Management, and the Department of Justice. OMB worked closely with the Special Assistant for Consumer Affairs to ensure that agency comments were considered. President Carter signed the Order on September 26, 1979.

The Executive Order establishes a comprehensive Federal policy to guide agencies in responding to consumer issues. It also stimulates the growth of a more effective group of Federal employees responsible for consumer affairs by giving them additional tools with which to serve consumers. More specifically, the Order, which is reprinted in Appendix I of this document, seeks to improve government services to consumers by mandating changes and reforms in a number of areas. A summary of the more significant provisions of the Order follows:

Consumer Affairs Council

The Order establishes the Consumer Affairs Council to provide leadership and coordination for government consumer programs. The Council is composed fo representatives of the twelve Cabinet-level Departments and is chaired by the President's Special Assistant for Consumer Affairs.

Consumer Program Reforms

By June 9, 1980, each agency must have a consumer program designed to satisfy the needs and interests of consumers. The Order requires the consumer program of each agency to have *at least* five elements:

- *Consumer Affairs Perspective.* Agencies must have consumer staff, and agency consumer staff must participate in the formulation of agency rules, policies, programs, and legislation.
- *Consumer participation.* Agencies must take steps to ensure that individual consumers and consumer organizations are able to participate in the development of agency rules, policies, and programs.
- *Informational materials.* Agencies must produce and distribute informational materials useful to consumers.
- *Education and training.* Agencies must educate and train their staffs in the principles underlying the Executive Order, and in the skills needed to implement the Order effectively.
- *Complaint handling.* Agencies must establish systematic procedures for the efficient handling of consumer complaints. Consumer complaints must be taken into account in the formulation of agency policy.

Senior-level Oversight

Each agency must designate a senior-level official to coordinate that agency's consumer program. The designated official must report directly to the head of the agency. The official's consumer oversight responsibility must be his or here *only* responsibility.

Budget Review

Each year, each agency must provide OMB with data showing the resources the agency intends to devote to its consumer program. The Chairperson of the Consumer Affairs Council must report to OMB on the adequacy of the resources devoted to agency consumer programs.

Civil Service Initiatives

The Office of Personnel Management must consult with the Consumer Affairs Council on the need for revised job classification standards for Federal employees engaged in consumer-related activities.

Implementation of Consumer Program Reforms

Each agency is required to publish a draft consumer program for public comment within 60 days of the signing of the Executive Order. Within 30 days of the close of the public comment period, each agency must submit a revised program to the Chairperson of the Consumer Affairs Council, who is responsible for approving agency programs. Final programs must be published in the **Federal Register** no later than 90 days after the close of the public comment period, and agency programs must take effect no later than 30 days after their publication.

Agency Compliance Guidelines

On October 4, 1979, the Chairperson of the Consumer Affairs Council issued guidelines to assist agencies in designing programs to comply with the Executive Order. These guidelines are reproduced in Appendix 2 of this document. They provide the affected agencies with what is essentially a checklist the Chairperson of the Consumer Affairs Council will use to evaluate compliance with the terms of the Order.

Although not every agency is subject to the Executive order—independent agencies, among others, are exempt—the Order will help us protect your interests in an effective manner. By combining the expertise of the Office of Consumer Affairs, the Office of Management and Budget, and the Office of Personnel Management, the Order will bring needed resources to bear on the effective delivery of consumer services.

IV. What's Happened so Far?

Since release of the Guidelines for Implementation of Executive Order 12160, the Office of the Special Assistant to the President for Consumer Affairs has been working with various government agencies to implement the Executive Order. On December 10, 1979, 31 Federal agencies published draft consumer programs under the Executive Order 12160. (See 44 FR 71101.) These draft consumer programs were the first tangible product of the Executive order and represented the first step in an attempt to make Federal consumer programs more responsive to the needs of consumers. (Publication of these proposals did not signify the approval or disapproval of any particular program by the Consumer Affairs Council.) The programs in this publication are from agencies that could not, for one reason or another, publish programs on December 10.

You should know that not every Federal agency is required to comply with the Executive order; one or more agencies in which you are interested may not be participating directly in the implementation of the Executive order. The President has asked *all* independent agencies to take part on a voluntary basis, however.

Determining which agencies must comply with the requirements of the Executive order has been a concern of the Consumer Affairs Council. The Order states that an agency is covered by the Order if it is a

"department or agency in the executive branch of the Federal government." Exempted, however, are:

- Independent regulatory agencies;
- Agencies to the extent their activities involve military or foreign affairs regulations, agency management or personnel regulations, procurement regulations, and regulations promulgated during an emergency; and,
- Agencies to the extent they are able to demonstrate to the satisfaction of the Chairperson of the Consumer Affairs Council that their activites have "no substantial impact" on consumers.

Several agencies sought, and were granted, exemptions from the Executive Order. A few requests for exemption are pending. Moreover, several agencies, though entitled to exemptions from the Executive order, are complying, in whole or in part, on a voluntary basis. An exemption from the Executive order based on a finding that an agency has no substantial impact on consumers is not necessarily irrevocable. If an agency changes its programs at some point in the future, so that it begins to have a substantial impact on consumers, its status under the Order will be re-evaluated at that time.

V. WANT TO TALK WITH YOUR GOVERNMENT? HERE'S HOW

In Section I, we said that talking with your government is your right, but that is a meaningless right unless you exercise it. The draft programs outlined here will guide agencies in the development and reform of their consumer programs for years to come. So if you wish to have an effect on the shape of consumer programs in the Federal agencies, this is your chance.

Keep in mind that agencies have had a relatively short time in which to prepare their proposals. Over the coming months, agencies will be revising and refining their programs, so programs not now in compliance with the Order—and there are several—will be amended to comply with the Executive Order before their final adoption.

To permit adequate time for comment, we will be providing 60 days for consumers to prepare and submit comments on the proposed consumer programs. In order to achieve maximum public participation, we have devised a number of ways in which you might make your views on particular agency consumer programs known. These include:

Written Comments

Traditionally, government agencies have obtained much of their information from the public concerning proposed agency action from written comments. We encourage you to read and comment on the proposals of the agencies in which you are interested. We are *most* interested in receiving detailed analyses of proposed agency programs, containing concrete suggestions for ways in which proposed programs might be made more responsive to consumers; however, we welcome *all* comments, suggestions, and criticisms. Send your comments to the agency on whose program you are commenting. The correct address appears near the beginning of the agency's proposed program later in this document. If you have specific questions about the proposals an agency has made, contact the person listed at the beginning of the agency's proposed program. But whatever you do, comment. The deadline for the submission of comments is April 4, 1980. The following are two ways we are making it easier for you to submit written comments on agency consumer programs:

Guidelines Checklist

It would be very helpful for the agencies—and it might be easier for you—if your comments rate the agencies' proposed consumer programs against the specific requirements of the Executive order and the Guidelines. To assist you in evaluating the proposed plans against the standards contained in the Order and the Guidelines, we have prepared a checklist that you may use as a tool for evaluating compliance with the Executive order. We have included one copy of this evaluative checklist for your use. If you wish to use the checklist to evaluate the proposed consumer programs of more than one agency, you may make duplicate copies yourself, or you may write for additional copies. Send your request to: Checklist, Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500.

Questionnaire

If you do not have enough time to provide a detailed critique of an agency's proposal, we hope you will take a few moments to complete the brief questionnaire appearing in Appendix 3 of this document. The questionnaire is not detailed, but asks a few general questions concerning your thoughts about the proposed consumer programs of the Federal agencies that interest you.

Oral Comments

Frequently, government agencies take particularly significant proposals directly to the public by organizing public hearings or workshops in various cities. To some degree, of course, it will be up to each agency to determine the amount of public participation it will encourage in this proceeding. But the Consumer Affairs Council is planning a workshop on the Executive order and consumer programs proposed under the Order. The Workshop will be held in Washington, D.C. on February 6, 1980. This workshop will give consumers a chance to discuss the Executive order and to meet informally with representatives of the participating agencies. We will publish notice of all hearings or workshops in the **Federal Register.** We will also do our best to ensure widespread publicity for any workshops or hearings held. But please keep your eyes and ears open.

One last word on talking with the government: whether you submit written or oral comments, in reading an agency's proposal, there are a number of general questions you should bear in mind—questions which will help you prepare better comments than you otherwise might. For example, is an agency's proposal understandable? If you think a particular proposal is "gobbledygook," say so! Ask yourself whether the agency has made a conscious effort to take *your* needs and interests into account in designing its program. Is the program adequate; that is, does it achieve the goals of the Executive Order effectively? Can you tell from the proposed program who is going to be responsible in the agency for providing decisionmakers with the consumer's perspective? Who will handle complaints, and how will complaints be handled? Unless an agency's proposal answers these and other related questions, it is deficient. And *you* should let the agency concerned know about it.

VI. WHAT'S NEXT?

As we indicated in the preceding section, publication of proposed agency consumer programs is only the first step in implementing Executive order 12160. Over the next few weeks, agencies will be receiving and evaluating comments from consumers on the proposed programs under the Executive order. The Consumer Affairs Council will continue to work with Federal agencies to implement the Executive order and to design consumer programs that are truly responsive to the needs of consumers. The Consumer Affairs Council, which at present is in its infancy, will begin to evolve into the sort of organization contemplated by the Executive order. The Council will provide leadership and will do what it can to promote efficiency in government consumer programs.

The following calendar outlines the things that still need to be done to implement Executive Order 12160 and gives the dates by which action needs to be taken:

February 4, 1980—Publication of Proposal in the **Federal Register.**

April 4, 1980—Comments on proposed programs due.

May 6, 1980—Revised program due to Chairperson of Consumer Affairs Council.

June 9, 1980—Publication of final programs in the **Federal Register.**

VII. YOU CAN HELP US DO MORE

The Executive order on improving government consumer programs is not a cure-all. It will not result in an overnight transformation of existing government consumer programs into programs completely and perfectly responsive to the needs of consumers. But it is a much-needed first step towards bringing more accountability and responsibility to Federal consumer programs.

The government has no monopoly on expertise in the area of consumer affairs. If we are to create useful and appropriate programs for the assistance of consumers, we will need your support and cooperation, both now and in the future. If you care about the activities of the Consumer Affairs Council and the activities of Federal agencies that affect consumers—and you should—please do what you can to assist us. Begin by commenting on the proposed consumer programs of the agency or agencies that interest you. (The draft agency programs published on December 10, are available from the Consumer Information Center, Department 645–H, Pueblo, Colorado 81009.) But don't stop there. Continue to work with those agencies and with the Consumer Affairs Council. If you don't, Federal consumer programs will not be as effective as they should.

Esther Peterson,

Chairperson, Consumer Affairs Council.

BILLING CODE 3195-01-M

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APPENDIX 1

Executive Order 12160 Providing for Enhancement and Coordination of Federal Consumer Programs.

Note.—Executive Order 12160 was originally published in the Federal Register on September 28, 1979 (44 FR 44787).

By virtue of the authority vested in me as President by the Constitution of the United States of America, and in order to improve the management, coordination, and effectiveness of agency consumer programs, it is ordered as follows:

1–1. *Establishment of the Consumer Affairs Council.*

1–101. There is hereby established the Consumer Affairs Council (hereinafter referred to as the "Council").

1–102. The Council shall consist of representatives of the following agencies, and such other officers or employees of the United States as the President may designate as members:

(a) Department of Agriculture.

(b) Department of Commerce.

(c) Department of Defense.

(d) Department of Energy.

(e) Department of Health, Education, and Welfare.

(f) Department of Housing and Urban Development.

(g) Department of the Interior.

(h) Department of Justice.

(i) Department of Labor.

(j) Department of State.

(k) Department of Transportation.

(l) Department of the Treasury.

Each agency on the Council shall be represented by the head of the agency or by a senior-level official designated by the head of the agency.

1–2. *Functions of the Council.*

1–201. The Council shall provide leadership and coordination to ensure that agency consumer programs are implemented effectively; and shall strive to maximize effort, promote efficiency and interagency cooperation, and to eliminate duplication and inconsistency among agency consumer programs.

1–3. *Designation and Functions of the Chairperson.*

1–301. The President shall designate the chairperson of the Council (hereinafter referred to as the "Chairperson").

1–302. The Chairperson shall be the presiding officer of the Council and shall determine the times when the Council shall convene.

1–303. The Chairperson shall establish such policies, definitions, procedures, and standards to govern the implementation, interpretation, and application of this Order, and generally perform such functions and take such steps, as are necessary or appropriate to carry out the provisions of this Order.

1–4. *Consumer Program Reforms.*

1–401. The Chairperson, assisted by the Council, shall ensure that agencies review and revise their operating procedures so that consumer needs and interests are adequately considered and addressed. Agency consumer programs should be tailored to fit particular agency characteristics, but those programs shall include, at a minimum, the following five elements:

(a) *Consumer Affairs Perspective.* Agencies shall have identifiable, accessible professional staffs of consumer affairs personnel authorized to participate, in a manner not inconsistent with applicable statutes, in the development and review of all agency rules, policies, programs, and legislation.

(b) *Consumer Participation.* Agencies shall establish procedures for the early and meaningful participation by consumers in the development and review of all agency rules, policies, and programs. Such procedures shall include provisions to assure that consumer concerns are adequately analyzed and considered in decisionmaking. To facilitate the expression of those concerns, agencies shall provide for forums at which consumers can meet with agency decisionmakers. In addition, agencies shall make affirmative efforts to inform consumers of pending proceedings and of the opportunities available for participation therein.

(c) *Informational Materials.* Agencies shall produce and distribute materials to inform consumers about the agencies' responsibilities and services, about their procedures for consumer participation, and about aspects of the marketplace for which they have responsibility. In addition, each agency shall make available to consumers who attend agency meetings open to the public materials designed to make those meetings comprehensible to them.

(d) *Education and Training.* Agencies shall educate their staff members about the Federal consumer policy embodied in this Order and about the agencies' programs for carrying out that policy. Specialized training shall be provided to agency consumer affairs personnel and, to the extent considered appropriate by each agency and in a manner not inconsistent with applicable statutes, technical assistance shall be made available to consumers and their organizations.

(e) *Complaint Handling.* Agencies shall establish procedures for systematically logging in, investigating, and responding to consumer complaints, and for integrating analyses of complaints into the development of policy.

1–402. The head of each agency shall designate a senior-level official within that agency to exercise, as the official's sole responsibility, policy direction for, and coordination and oversight of, the agency's consumer activities. The designated official shall report directly to the head of the agency and shall apprise the agency head of the potential impact on consumers of particular policy initiatives under development or review within the agency.

1–5. *Implementation of Consumer Program Reforms.*

1–501. Within 60 days after the issuance of this Order, each agency shall prepare a draft report setting forth with specificity its program for complying with the requirements of Section 1–4 above. Each agency shall publish its draft consumer program in the **Federal Register** and shall give the public 60 days to comment on the program. A copy of the program shall be sent to the Council.

1–502. Each agency shall, within 30 days after the close of the public comment period on its draft consumer program, submit a revised program to the Chairperson. The Chairperson shall be responsible, on behalf of the President, for approving agency programs for compliance with this Order before their final publication in the **Federal Register.** Each agency's final program shall be published no later than 90 days after the close of the public comment period, and shall include a summary of public comments on the draft program and a discussion of how those comments are reflected in the final program.

1–503. Each agency's consumer program shall take effect no later than 30 days after its final publication in the **Federal Register.**

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1–504. The Chairperson, with the assistance and advice of the Council, shall monitor the implementation by agencies of their consumer programs.

1–505. The Chairperson shall, promptly after the close of the fiscal year, submit to the President a full report on government-wide progress under this Order during the previous fiscal year. In addition, the Chairperson shall evaluate, from time to time, the consumer programs of particular agencies and shall report to the President as appropriate. Such evaluations shall be informed by appropriate consultations with interested parties.

1–6. *Budget Review.*

1–601. Each agency shall include a separate consumer program exhibit in its yearly budget submission to the Office of Management and Budget. By October 1 of each year the Director of the Office of Management and Budget shall provide the Chairperson with a copy of each of these exhibits. The Chairperson shall thereafter provide OMB with an analysis of the adequacy of the management of, and the funding and staff levels for, particular agency consumer programs.

1–7. *Civil Service Initiatives.*

1–701. In order to strengthen the professional standing of consumer affairs personnel, and to improve the recruitment and training of such personnel, the Office of Personnel Management shall consult with the Council regarding:

(a) the need for new or revised classification and qualification standard(s), consistent with the requirements of Title 5, United States Code, to be used by agencies in their classification of positions which include significant consumer affairs duties;

(b) the recruitment and selection of employees for the performance of consumer affairs duties; and

(c) the training and development of employees for the performance of such duties.

1–8. *Administrative Provisions.*

1–801. Executive agencies shall cooperate with and assist the Council and the Chairperson in the performance of their functions under this Order and shall on a timely basis furnish them with such reports as they may request.

1–802. The Chairperson shall utilize the assistance of the United States Office of Consumer Affairs in fulfilling the responsibilities assigned to the Chairperson under this Order.

1–803. The Chairperson shall be responsible for providing the Council with such administrative services and support as may be necessary or appropriate; agencies shall assign, to the extent not inconsistent with applicable statutes, such personnel and resources to the activities of the Council and the Chairperson as will enable the Council and the Chairperson to fulfill their responsibilities under this Order.

1–804. The Chairperson may invite representatives of non-member agencies, including independent regulatory agencies, to participate from time to time in the functions of the Council.

1–9. *Definitions.*

1–901. "Consumer" means any individual who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any real or personal property, tangible or intangible goods, services, or credit for personal, family, or household purposes.

1–902. "Agency" or "agencies" means any department or agency in the executive branch of the Federal government, except that the term shall not include:

(a) independent regulatory agencies, except as noted in subsection 1–804;

(b) agencies to the extent that their activities fall within the categories excepted in Sections 6(b)(2), (3), (4), and (6) of Executive Order No. 12044.

(c) agencies to the extent that they demonstrate within 30 days of the date of issuance of this Order, to the satisfaction of the Chairperson with the advice of the Council, that their activities have no substantial impact upon consumers.

THE WHITE HOUSE,
September 26, 1979.

Jimmy Carter

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APPENDIX 2

Guidelines for Implementation of Executive Order 12160

October 4, 1979.

Memorandum to the Heads of Executive Departments and Agencies

FROM: Esther Peterson, Special Assistant To the President for Consumer Affairs and Chairperson of the Consumer Affairs Council.

SUBJECT: Guidance Regarding the Development of Consumer Programs Required by Executive Order No. 12160.

On September 26, 1979, the President issued Executive Order No. 12160, entitled "Providing for Enhancement and Coordination of Federal Consumer Programs". He designated me Chairperson of the Consumer Affairs Council created by the order.

As Chairperson of the Council, I will be responsible, on behalf of the President, for reviewing and approving agency programs for compliance with the Order. Draft programs are to be completed, and published in the **Federal Register** for public comment, by November 25. (Section 1–5 of the Order sets out the timetable for development and implementation of these programs. A copy of the Order is attached.)

The Order requires each agency to develop and maintain a consumer program with, at a minimum, five elements:

(1) An identifiable consumer affairs staff authorized to participate in the development and review of all agency rules, policies, programs, and legislation;

(2) Effective procedures for consumer participation in the development and review of all agency rules, policies, and programs;

(3) Development of informational materials for consumers;

(4) Consumer affairs training for agency staff members and, to the extent considered appropriate, provision of technical assistance to consumers and their organizations; and

(5) Systematic procedures for complaint handling.

The Order requires that each agency revise its operating procedures to incorporate the consumer program developed under the Order. Each agency's program should indicate the mechanism (for example, Departmental order or rule) by which this will be accomplished.

The head of each agency is required to designate a senior-level official within the agency to exercise, as the official's sole responsibility, policy direction for, and coordination and oversight of, the agency's consumer activities. The designated official is to report directly to the agency head.

The purpose of this memorandum is to indicate briefly what I will be looking for in reviewing agency programs for compliance with the Order. I hope that you will find this preliminary guidance useful. If you have any questions about this memorandum, or about the Order itself, feel free to call me at 456–6590, or Belle O'Brien of my staff at 456–6534.

I look forward to working with you to make this Order a success. Thanks to the President, we now have an unprecedented opportunity to build into the structures and processes of government an enhanced responsiveness to the needs and interests of consumers.

Consumer Affairs Perspective

Requirement: Agencies shall have identifiable, accessible professional staffs of consumer affairs personnel authorized to participate, in a manner not inconsistent with applicable statutes, in the development and review of all agency rules, policies, programs, and legislation. (Subsection 1–401(a).)

Comment: Each agency's program for compliance with the Order should indicate:

- Where the consumer affairs staff will be located on the agency's organizational chart;
- How large it will be and what expertise and resources it will have;
- Whether the staff will have responsibilities in addition to those under 1–401(a);
- What its relationship will be to other staffs performing consumer affairs functions under the Order and to the principal operating components of the agency;
- How the consumer affairs staff will be apprised of opportunities for it to participate in the development and review of all rules, policies, programs, and legislation;
- At what stages of agency decisionmaking, in each of these four areas, participation by the consumer affairs staff will take place; and
- How the consumer affairs staff will participate (e.g., membership on agency task forces and working groups, meetings with key agency officials, written comments on proposals, and so forth).

Consumer Participation

Requirement: Agencies shall establish procedures for the early and meaningful participation by consumers in the development and review of all agency rules, policies, and programs. Such procedures shall include provisions to assure that consumer concerns are adequately analyzed and considered in decisionmaking. To facilitate the expression of those concerns, agencies shall provide for forums at which consumers can meet with agency decisionmakers. In addition, agencies shall make affirmative efforts to inform consumers of pending proceedings and of the opportunities available for participation therein. (Subsection 1–401(b).)

Comment: Each agency's program for compliance with the Order should indicate:

- At what stages of agency decisionmaking regarding rules, policies, and programs consumer participation will take place;
- What avenues of participation will be available to consumers in each of these types of processes (e.g., written comments, regional public hearings, membership in ad hoc working groups);

- What steps the agency will take to ensure that consumer concerns are adequately analyzed, and then considered, in decisionmaking;
- What staffs or officials in the agency will be responsible for implementing the agency's consumer participation responsibilities under the Order;
- The format, level of participating agency officials, geographical dispersion, and approximate number per year of forums the agency will hold to facilitate consumer interaction with agency officials; and
- What special efforts the agency will undertake to notify consumers of opportunities to participate in agency decisionmaking (e.g., publication of notices in periodicals other than the **Federal Register**).

Informational Materials

Requirement: Agencies shall produce and distribute materials to inform consumers about the agencies' responsibilities and services, about their procedures for consumer participation, and about aspects of the marketplace for which they have responsibility. In addition, each agency shall make available to consumers who attend agency meetings open to the public materials designed to make those meetings comprehensible to them. (Subsection 1–401(c).)

Comment: Each agency should include in its consumer program a discussion of printed and audiovisual informational materials in each of the three areas identified in the Order (agency responsibilities and services, procedures for consumer participation, and marketplace information), including:

- An assessment of the currency, completeness, and utility of current informational materials in each area;
- Plans for additional or revised informational materials to rectify present inadequacies;
- The timetable for new informational materials;
- The manner in which the informational materials will be distributed; and
- The staffs or officials who will be responsible for planning and carrying out the agency's consumer information program.

With respect to the requirement that agencies make available explanatory materials regarding meetings open to the public, each agency should indicate:

- Which staffs or officials will be responsible for preparing these materials;
- The format of the materials; and
- The manner in which their availability is to be publicized and their distribution effected.

Education and Training

Requirement: Agencies shall educate their staff members about the Federal consumer policy embodied in this Order and about the agencies' programs for carrying out that policy. Specialized training shall be provided to agency consumer affairs personnel and, to the extent considered appropriate by each agency and in a manner not inconsistent with applicable statutes, technical assistance shall be made available to consumers and their organizations. (Subsection 1–401(d).)

Comment: Each agency should indicate in its consumer program:

- Which staffs or offices will be responsible for edcuating staff members about the Order and the agency's activities under it;
- How that educational process will be carried out (e.g., briefing sessions for policymaking personnel, circulation of the Order and related materials);
- What steps the agency will take to ensure that significant changes in the structure or procedures of its consumer program will be promptly communicated to agency staff members;
- Who will be responsible for providing specialized training to consumer affairs personnel;
- In what areas (e.g., complaint-handling, consumer participation procedures, preparation of informational materials for consumers) training will be provided, and on what basis decisions will be made as to which consumer affairs personnel will be offered training and on what topics.

Agencies that decide to provide technical assistance to consumers and their organizations should indicate:

- By whom such assistance will be provided;
- What sort of technical assistance will be made available (e.g., answering scientific, technical, or procedural questions, assisting consumers and groups in the preparation of applications, forms, and other documents); and
- How decisions will be made as to which consumers and organizations, from among those seeking technical assistance, will be provided such assistance.

Agencies that decide not to provide technical assistance should include in their consumer programs a discussion of why such assistance is not considered appropriate.

Complaint Handling

Requirement: Agencies shall establish procedures for systematically logging in, investigating, and responding to consumer complaints, and for integrating analyses of complaints into the development of policy. (Subsection 1–401(c).)

Comment: Each agency should develop procedures to govern each stage of the complaint-handling process. Thus, each agency should indicate what procedures will be followed, and which officials and staffs will be responsible, for:

- Heightening public awareness of the receptivity of the agency to complaints, and the manner in which, and offices with which, such complaints are to be filed;
- Logging in, in a standard format and in accordance with standard topical categories, all complaints received by the agency, including those received by telephone. (The format, and categories used in logging in complaints should be designed to facilitate subsequent performance of tracking and analysis functions);
- Routing complaints to appropriate agency offices for investigation and analysis;
- Tracking agency handling of complaints, from receipt forward, to ensure that they are investigated and responded to expeditiously and to permit

identification of key bottlenecks in the complaint-handling process;

• Responding to complaints (these procedures should include a format for acknowledgements and responses, and should establish a deadline for the transmittal of acknowledgement of complaints, outlining steps that will be taken by the agency, indicating who may be contacted for further information, and specifying an expected resolution date);

• Statistical reporting of complaints according to topical categories, and analysis of the patterns of issues raised and their implications for agency policymaking;

• Regular reports to key agency officials regarding the patterns and policy implications of the complaints received; and

• Evaluation of the agency's complaint-handling system to assess the promptness and quality of agency responses.

Oversight

Requirement: The head of each agency shall designate a senior-level official within that agency to exercise, as the official's sole responsibility, policy direction for, and coordination and oversight of, the agency's consumer activities. The designated official shall report directly to the head of the agency and shall apprise the agency head of the potential impact on consumers or particular policy initiatives under development of review within the agency. (Subsection 1–402.)

Comment: Each agency should indicate the title, GS-level, and organizational placement of the designated official, and should describe with particularity the nature of the official's responsibilities and authority, and the ways in which the official will interact and interface with other agency offices and staff members, including those who are performing consumer affairs responsibilities under the Order.

Form Approved:
OMB No. 11&S79021

APPENDIX 3

CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The _____ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
   - ☐ I am interested in it as an individual consumer.
   - ☐ I am concerned about it, because I represent a public interest consumer group.
   - ☐ I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
   - ☐ Yes, it is clear and I understand it.
   - ☐ Yes, I understand most of it.
   - ☐ No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
   - ☐ Yes.
   - ☐ No. Why?_____
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
   - ☐ It seems adequate.
   - ☐ It is not adequate. Why?_____
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
   - ☐ Adequate.
   - ☐ Not adequate. Why?_____
6. After reading our proposed consumer program, do you know whom or which office in _____ (agency) to contact if you have:
   - A complaint? ☐ Yes. ☐ No.
   - A general question about the agency? ☐ Yes. ☐ No.
   - A question about how to take part in agency proceedings? ☐ Yes. ☐ No.
7. Do you know who or which office in _____ (agency) speaks for the consumer? ☐ Yes. ☐ No. Any suggestions for improvement? _____
8. Do you have any suggestions for improving our consumer program?
   - ☐ No.
   - ☐ Yes, in the following areas:
     - Consumer participation_____
     - Informational materials_____
     - Complaint handling_____

9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON WHICH YOU ARE COMMENTING

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FORM APPROVED:
OMB No. 116879021

APPENDIX 4

EXECUTIVE ORDER 12160 COMPLIANCE CHECKLIST

This checklist is based on the Guidelines for compliance with Executive Order 12160, issued on October 4, 1979 (Appendix 2 of this document). You may use this checklist, in conjunction with the Executive Order and the Guidelines, to study the consumer program of the agency that interests you. After you study the consumer program of an agency, send your comments directly to that agency.

AGENCY:	IS THE POINT COVERED?	WILL IT WORK?
CONSUMER AFFAIRS PERSPECTIVE		
Where is consumer staff on organization chart?		
Size, resources, expertise of staff?		
Staff have additional responsibility?		
What is relationship of consumer staff to other agency staff?		
How will consumer staff be told of opportunity to participate?		
When will consumer staff participate?		
How will consumer staff participate?		
CONSUMER PARTICIPATION		
At what stages will it occur?		
What avenues of participation are available?		
What steps will be taken to consider consumer concerns?		
What staff will be responsible for implementation?		
What about public forums?		
Any other special efforts?		
INFORMATIONAL MATERIALS		
Currency, completeness and utility of existing material?		
Plan to rectify inadequacy of existing material?		
Timetable for new material?		
How will it be distributed?		
What staff is responsible?		
For material concerning "open meetings"		
Who will prepare it?		
What format will be used?		
How about publicity/distribution?		

	IS THE POINT COVERED?	WILL IT WORK?
EDUCATION AND TRAINING OF AGENCY STAFF		
Who is responsible for educating agency staff about the Order?		
How will it be done?		
How will changes in the consumer program be communicated to the staff?		
Who is responsible for special training of consumer staff?		
In what areas will training be offered?		
For technical assistance to consumers:		
Who will provide it?		
What kind will be provided?		
How will decisions about who gets it be made?		
COMPLAINT HANDLING		
Heighten public awareness?		
Log all complaints?		
Route complaints properly?		
Track complaints?		
Respond to complaints?		
Statistical reports on complaints?		
Regular reports to key officials?		
Evaluation program?		
OVERSIGHT		
Title?		
GS (grade) level?		
Organizational placement?		
Responsibilities?		
How will official interact with others?		

_____
your name

_____
street

_____
city, state, zip

[FR Doc. 80-3164 Filed 2-1-80; 8:45 am]
BILLING CODE 3195-01-C

federal register

Monday
February 4, 1980

Part II—Section B

Equal Employment Opportunity Commission

Draft Consumer Program

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Draft Consumer Program

AGENCY: Equal Employment Opportunity Commission
ACTION: Draft Consumer Program

SUMMARY: As required by Executive Order 12160, the Equal Employment Opportunity Commission is publishing a draft report on its consumer affairs program. Comments from the public are welcomed and may be submitted on the questionnaire attached as Appendix A to this report or in any other form convenient for the individual.

COMMENT DATE: Comments must be received by April 4, 1980.

ADDRESS: Comments should be addressed to Marie Wilson, Executive Secretariat, Equal Employment Opportunity commission, 2401 E Street, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Constance L. Dupre, Associate General Counsel, Legal Counsel Division, 2401 E Street, N.W., Washington, D.C. 20506, (202) 634–6595.

DRAFT REPORT ON THE CONSUMER AFFAIRS PROGRAM OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

I. Introduction

The Equal Employment Opportunity Commission has always placed a high priority on serving the needs and soliciting the views of consumers and members of the public. The recent Presidential Order on Federal Consumer Programs requires each agency to review and improve its operating procedures to ensure that consumer needs and interests are adequately considered. Specifically, the Order requires that each agency's consumer activities include the following five elements:

1. *Consumer Affairs Perspective:* ensure that the consumer perspective is considered in the development and review of all agency rules, policies and programs;
2. *Consumer Participation:* provide opportunities for consumer participation in the development and review of all agency rules, policies and programs;
3. *Informational materials:* produce and distribute informational materials for consumers;
4. *Education and Training:* provide consumer affairs training for agency personnel; provide technical assistance to consumers and consumer organizations;
5. *Complaint Handling:* develop systematic procedures for investigating and responding to consumer complaints. This report will discuss the Commission's activities in each of these five areas. As a preliminary matter, the report will summarize the Commission's responsibilities and identify the consumers affected by the Commission's programs.

II. Consumers Affected by Commission Programs

The Equal Employment Opportunity Commission is responsible for enforcing several statutes which prohibit employment discrimination on the basis of race, color, religion, sex, national origin or age. The Commission is also responsible for assuring that equal employment opportunities are extended by the Federal Government to handicapped individuals.

In the area of private employment, the Commission's functions include receiving, investigating and attempting to conciliate complaints of employment discrimination. Where appropriate, the Commission may also bring suit in Federal court to enforce the statutes which it administers. The Commission performs the same functions concerning complaints of employment discrimination against State and local governments, except that court suits in some of these cases must be brought by the Attorney General.

In the area of Federal Government employment, the Commission is responsible for establishing procedures to be followed by other agencies in processing complaints of discrimination and for hearing appeals from agency decisions on such complaints. The Commission also oversees the affirmative action programs of other Federal agencies.

The Commission is engaged in some rulemaking activities. The Commission issues regulations setting forth its procedures for accepting, investigating and resolving complaints of discrimination. It also issues interpretative guidelines which define discriminatory employment practices. The Commission is also responsible for coordinating all equal employment opportunity programs and policies of the Federal Government in order to ensure consistency and eliminate duplication among these programs.

As can be seen from the above description, the work of the Commission has an impact on employees and applicants for employment whether in the public or private sector. Particularly affected are those individuals who feel that they have been the victims of discriminatory employment practices.

III. Consumer Affairs Perspective

Section 1–401(a) of the President's Order requires each agency to ensure that the consumer perspective is considered during the development and review of all agency rules, policies, programs and legislation. At the Equal Employment Opportunity Commission, this function is performed by the Commission's Office of Policy Implementation.

The Office of Policy Implementation is responsible for developing and reviewing Commission policy. It does this through the development of interpretative guidelines, regulations and policy statements for the Commission, and by writing Commission decisions on charges of discrimination which involve novel issues. The staff of the Office of Policy Implementation is involved in the development of Commission policy from the initial identification of areas needing policy guidance up until the final adoption of policy by the Commission. Staff members participate in the research and analysis of the issues, the drafting of policy documents, the solicitation of public comments, and the preparation of the final regulation or policy statement.

Policy options being considered by the Office of Policy Implementation are also discussed at the weekly meetings of the Staff Committee on Equal Employment Opportunity Commission Policy (SCEP). SCEP is chaired by a Commissioner on a rotating basis and is composed of the Special Assistants to the Commissioners, representatives of the Office of Policy Implementation, a designee of the Office of General Counsel, and other headquarters staff as appropriate. The function of SCEP is to ensure the Commissioners' early involvement in the development of policy. Once a regulation or a policy statement has been developed by the Office of Policy Implementation and SCEP, it is presented to the Commission for final approval.

The purpose of policy development at the Commission is to protect the right to equal employment opportunity and to provide adequate means for remedying instances of discrimination. Consideration of the needs and interests of individuals aggrieved by employment discrimination is a central and integral part of this process and the work of the Office of Policy Implementation. The Office of Policy Implementation keeps itself informed about consumer needs and views by soliciting public comments on proposed regulations and guidelines, and by holding informational hearings. The Office staff is composed of attorneys, economists and statisticians. It thus has the staff capability to analyze the impact of various proposals on the consumers of the Commission's services.

The President's Order calls for the establishment of a "consumer affairs" office within each agency to represent the consumer perspective in the agency's policy development process. The Commission has determined that compliance with this portion of the Order is neither necessary nor feasible in light of the Commission's mission and functions. The consumers of the Commission's services are employees and applicants for employment aggrieved by job discrimination. All policy development at the Commission is intended to protect the rights and provide for the needs of these "consumers." As stated above, consideration of the interests of individuals and groups who may be the victims of discrimination is a central part of the function of the Office of Policy Implementation. For this reason, the establishment of a separate office to consider the consumer perspective in policy development would not be appropriate. Such an office would merely duplicate functions necessarily performed by the Office of Policy Implementation.

IV. Consumer Participation

Section 1–401(b) of the Executive order requires each agency to "establish procedures for the early and meaningful participation by consumers in the development and review of all agency rules, policies and programs." The Commission's process for developing policy and regulations does provide substantial opportunity for consumer participation.

All significant proposed regulations developed by the Commission are published in the **Federal Register** for notice and public comment. Except in unusual circumstances, a 60 day public comment period is provided. Where appropriate, the Commission also holds hearings on proposed regulations, at which members of the public may make oral presentations. In the past, members of civil rights, labor, business and professional groups have actively participated in Commission hearings.

Over the last few years, the Commission has been making a concerted effort to involve members of the public at the earliest stages of policy development. A good example is provided by the process used to develop the Commission's proposed guidelines on religious discrimination. Before proposed guidelines were drafted, the Commission held extensive public hearings, at several locations across the country, on the problem of religious discrimination. This procedure permitted the views of affected groups to be expressed and considered before any basic policy choices were made by the agency. The information gathered at these hearings proved very useful in determining both the need for and the content of the Commission's proposed policy in this area. Once proposed guidelines were drafted, the public was again invited to comment. The Commission plans to use similar techniques in the future for involving the public at an early stage of policy formulation.

In future rulemaking proceedings, the Commission plans to experiment with a number of means, in addition to publication in the **Federal Register**, of notifying members of the public of their opportunity to comment on Commission proposals. The alternatives being considered include placing notices in periodicals likely to be read by individuals affected by the regulations and direct mailings to interested groups and individuals. Starting in January 1980, notices of opportunities to participate in Commission hearings and to submit written comments on proposed regulations will be published in a Commission magazine entitled "MISSION." (This magazine is discussed in greater detail in § V(b).) The Commission will also continue its current practice of issuing press releases concerning Commission rulemaking proceedings. These press releases include information on how the public may participate.

Comments received on a proposed regulation are carefully analyzed before the regulation is adopted in final form. The preamble to each final regulation contains a summary of the comments received and the Commission's response to these comments.

The office which develops a regulation is responsible for ensuring that public comments are solicited and considered during the rulemaking proceedings. Generally, the office developing the regulation will be the Office of Policy Implementation.

Commission Meetings

Most portions of the Commission's weekly meetings are open to public observation. Commission meetings are usually held on Tuesday mornings at the Commission's headquarters in Washington, D.C. The agenda for each meeting is published in the **Federal Register** a week in advance. Interested individuals may also call (202) 634–6748 for a recorded message

stating the time, place and agenda for the upcoming Commission meeting.

Consumer Forums

Since January 1978, the Chair of the Commission has been holding quarterly meetings with representatives of groups affected by the work of the Commission. Meetings have been held with representatives of groups concerned with discrimination against women, Hispanics, Asian Americans, the handicapped and workers over age 40. These meetings provide opportunities for consumers to voice their views on the problem of discrimination and the effectiveness of the Commission. Participants are also provided with information on new Commission programs and policies.

V. Informational Materials

Section 1–401(c) of the President's Order requires each agency to produce and distribute materials to inform consumers about: (1) the agency's responsibilities and services; (2) the agency's procedures for consumer participation; and (3) aspects of the market place for which the agency has responsibility.

a. Informational Material Currently Available

The Commission's Office of Public Affairs is responsible for publishing material designed to inform members of the public about Commission responsibilities and services. Current material available includes:

1. A pamphlet entitled "Know Your Rights" which explains the right to be free of job discrimination afforded by Title VII of the Civil Rights Act of 1964. It also explains how to file a charge of discrimination with the Commission;
2. A booklet entitled "EEOC: The Transformation of an Agency" which describes recent changes in procedures and functions of the Commission;
3. Various posters which explain the work of the Commission and the right to be free of job discrimination;
4. Pamphlets on the Commission's new responsibilities in the area of equal pay and age discrimination.

Through the Commission's bilingual information program, press releases and several of the Commission's pamphlets are made available to the public in Spanish as well as English.

In addition, the Commission issues reports concerning the employment of women and minorities in the United States. These are usually in the form of statistical tables which summarize employment data by geographical area, industry and job category.

b. Plans for Additional Material

The office of Public Affairs plans to revise several Commission publications which have become obsolete due to changes in the law and the transfer of new responsibilities to the Commission. One of these publications is "Laws and Rules You Should Know." This booklet is a helpful source of information for anyone interested in the field of equl employment opportunity law as it contains the text of relevant statutes, executive orders and regulations. The Commission also is preparing a new packet of informational material for consumers which summarizes the functions and structure of the Commission, and describes the laws which the Commission administers. This packet will include information on how to participate in Commission rulemaking proceedings.

Starting in January 1980, the Commission will resume publication of a quarterly magazine entitled "MISSION." The magazine will report on new programs and developments at the Commission and in the field of equal employment opportunity law. It will contain information on new Commission regulations and on proposed rulemaking. The magazine will be sent to community, public interest and civil rights groups and other interested members of the public. Individuals and groups interested in receiving "MISSION" may request to be included on the mailing list by writing to: Office of Public Affairs, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506.

c. Distribution of Material

The informational material described above is displayed in the Commission's District Offices and in the Office of Public Affairs at headquarters. Copies of Commission publications will be mailed to members of the public upon request. Material summarizing the work of the Commission and describing how to file a charge of discrimination has also been provided to the "Federal Information Centers." These centers are located across the country and are run by the General Services Administration of the Federal Government. Informational material is also distributed by Commission officials during their numerous speaking engagements before groups interested in equal employment opportunity.

d. Commission Offices Responsible for Publication and Distribution of Informational Material

Most of the Commission's informational material is published by the Commission's Office of Public Affairs. An exception is the Commission's statistical publications on the employment of women and minorities in the United States. This material is published by the Survey Branch of the Commission's Office of Program Planning and Evaluation.

e. Background Material for Commission Meetings

Section 1–402(c) of the President's Order also requires agencies to make available to consumers who attend agency meetings materials designed to make those meetings comprehensible to them. The weekly meetings of the Commission are generally open to the public. The Commission does not consider it feasible to publish written background materials for each of these weekly meetings. As noted previously, however, the agenda for each Commission meeting is published in the **Federal Register** a week in advance. Interested individuals may also call (202) 634–6748 for a recorded message stating the agenda of the upcoming meeting. If additional information is needed, individuals may leave a message at the conclusion of the recording and the call will be returned by a Commission official.

VI. Education and Training

Section 1–401(d) of the Executive order requires agencies to engage in three kinds of training activities concerning consumer affairs. These are: (1) educating staff members about the Federal consumer policy embodied in the Executive Order and about the Agency's program for carrying out that policy; (2) specialized training for consumer affairs personnel; and (3) technical assistance for consumers and their organizations. The Commission has the following training and technical assistance programs:

A. Educating Staff About the Federal Consumer Policy

The Commission plans to educate staff members about the Commission's consumer program by circulating copies of the President's Order and this report to the heads of all offices within the Commission and to all staff members in offices that will be directly involved in carrying out the program (for example, Office of Policy Implementation and Office of Public Affairs).

B. Specialized Training

The Commission currently is involved in an extensive effort to provide training to its staff on complaint handling procedures. New employees receive a two week course which includes training in equal employment opportunity law and case processing skills. Participants in the course receive instruction in counseling, intake, conducting fact-finding conferences, writing determinations and negotiating settlements. Class sizes are small (20–30 people), enabling participants to practice the skills being taught through role-playing. Experienced employees periodically receive training concerning new procedures and new developments in equal employment opportunity law. In addition, staff members in the Office of Public Affairs have attended seminars and training courses on how to produce more effective informational material for the consumer.

C. Technical Assistance to Consumers

The Commission has had a long-standing commitment to providing technical assistance to individuals who wish to pursue their right to equal employment opportunity through private lawsuits. These programs of technical assistance include:

1. *Attorney Referral System.* Each District Office of the Commission maintains a list of attorneys willing to and capable of representing plaintiffs in employment discrimination suits. Upon request, individuals who file charges of discrimination with the Commission may be referred to one of these attorneys.
2. *Area Bar Center Program.* This program provides technical assistance, litigation support and continuing legal education to attorneys representing plaintiffs in employment discrimination cases. The aim of the program is to ensure that sufficient trained and competent attorneys will be available to assist aggrieved individuals in exercising their rights under Federal law. The Commission has entered into contracts with educational and non-profit organizations that will administer the Area Bar Center program in each of five geographical areas. The contractors will conduct training seminars, provide sample legal pleadings (Complaints, Motions, Interrogatories) to attorneys, maintain background and research material on employment discrimination law and provide individual assistance to attorneys in their representation of persons aggrieved by employment discrimination.
3. *The Loan Fund Program.* This program provides loans ($1,500 for an individual action and $7,500 for a class action) to private attorneys to help defray the plaintiff's costs in bringing employment discrimination litigation. Certain criteria have been established to determine which cases receive priority funding. An attorney receiving a loan must reimburse the fund if the plaintiff prevails in the litigation and costs are recovered. The Commission has entered into contracts with non-profit organizations that will administer the Loan Fund Program in several Federal judicial circuits.

VII. Complaint Handling

Under the President's Order, agencies are required to establish procedures for systematically logging in, investigating and responding to consumer complaints, and for integrating an analysis of complaints into the development of policy. The Commission's primary statutory obligation is to investigate and resolve complaints of employment discrimination filed by members of the public. Over the last few years, the Commission has developed a highly professional and efficient system for processing these complaints.

A. Commission Procedures

The basic stages of complaint processing are established by statute. The Commission is required to accept charges of discrimination, conduct investigations, and issue determinations on whether there is reasonable cause to believe that the charges are true. If the Commission finds reasonable cause to believe that discrimination occurred, it is required to attempt conciliation of the charge. If conciliation fails, either the Commission or the complainant may bring suit in Federal court.

The Commission has 22 District and 27 Area Offices which receive and process charges of discrimination. In addition, the Commission has dual filing and work sharing agreements with some 69 State and local fair employment practice agencies which have enforcement authority over employment discrimination complaints. A complaint filed with one of these agencies is automatically filed with the Commission; one filed with the Commission is automatically filed with the State or local agency. By use of work sharing agreements, the combined resources of Federal, State and local agencies are utilized to the best advantage of the complainant, and duplication of investigation is minimized.

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In the past, the Commission has suffered from large backlogs of uninvestigated charges and lengthy processing delays. During the last two years, major reforms of the charge processing system have enabled the Commission to process current charges within reasonable timeframes and to retire a large percentage of its backlog. The major features of the Commission's new procedures are:

1. Professionalized intake counseling to ensure that the complainant has a problem falling within the jurisdiction of the Commission;

2. Innovative investigative techniques including a face to face conference between the complainant and the employer at which information is exchanged and voluntary settlement attempted;

3. Emphasis on early resolution of complaints through voluntary settlement; and

4. Use of a "litigation worthy" standard in determining whether violations of the law have occurred. This ensures that each Commission finding of discrimination is supported by a sound evidentiary record, thereby facilitating pursuit of the matter in court if conciliation fails.

Using these new procedures, the Commission has been able to resolve most new charges expeditiously, with a large number of complainants receiving monetary or non-monetary benefits through voluntary settlement.

If the Commission is unable to resolve a complaint through conciliation, either the Commission or the complainant may seek relief in Federal court. The Commission's Office of General Counsel has an active litigation program through which the Commission files suit on behalf of aggrieved individuals in appropriate cases. The Commission also participates in numerous discrimination suit brought by private individuals, either by intervening in those suits or by filing "friend of the court" briefs. Through these activities, the Commission exerts an influence on the development of equal employment opportunity law and makes its legal expertise available to persons complaining of employment discrimination.

In addition to investigating individual charges of discrimination, the Commission also initiates its own investigations of employers and unions whose employment practices tend to exclude women or minorities on a class-wide basis. These investigations are conducted by special "systematic units" in the Commission's 22 district offices and by the Office of Systemic Programs in headquarters. The Office of Systemic Programs is also responsible for providing guidance and support to the systemic units in the district offices. The Commission strives to resolve systemic charges during the administrative process, but suit will be filed in court when voluntary resolution is not possible.

B. Logging in, Tracking and Statistical Report of Complaints

The Commission has developed a computerized system for logging in and tracking complaints of discrimination. This system also generates considerable statistical data concerning the complaint process. Monthly reports summarizing the performance of the Commission's field offices are distributed to the Commissioners, senior staff in headquarters and the directors of the Commission's district offices. These reports include the following information for the month in question: (1) number of complaints received; (2) number of complaints closed; (3) disposition of the complaints; (4) monetary and non-monetary benefits achieved for the complainants; and (5) average processing times. These monthly reports are used primarily in management planning (for example, planning staffing patterns or revising procedures which are causing delays in resolving complaints). A second series of reports, prepared at least annually, summarizes the number of charges filed with each Commission district office according to the basis of the discrimination alleged (e.g. race, sex), and the type of respondent named in the charge (e.g. private employer, union). These reports, along with the information gathered by the Commission on the employment of women and minorities in the United States, are used in the development of Commission policy.

C. Public Knowledge of Complaint Procedures

By statute, employers, employment agencies and labor unions are required to post notices which inform employees and applicants of their right to equal employment opportunity and of the procedures for filing a compliant of discrimination with the Commission. Through its District Offices and the Federal Information Centers, the Commission also distributes pamphlets containing this information.

VIII. Offices To Contact

Individuals wishing to receive additional information on the Equal Employment Opportunity Commission may contact the following offices:

A. For information on how to file a charge of discrimination, contact any of the Commission's District or Area offices. The Commission has 49 such offices located in cities across the country. Individuals may also contact the Office of Public Affairs, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506, Telephone Number (202) 634–6930.

B. For information on Commission rulemaking proceedings and opportunities for public participation, contact the Office of Policy Implementation, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506, Telephone Number (202) 634–7060.

C. To find out the time, place and agenda of meetings of the Commission, contact the Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506, Telephone Number (202) 634–6748.

D. For informational material, pamphlets or general questions about the Commission, contact the Office of Public Affairs, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506. Telephone Number (202) 634–6930.

IX. Public Comments Invited

The Commission hopes this report has been helpful in explaining the Commission's consumer affairs activities. Members of the public are strongly encouraged to comment on this report.

Signed this 22nd day of January 1980.

For the Commission.

Eleanor Holmes Norton,

Chair.

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Appendix "A" OMB No. 1165/9021

CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The _____(agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?

   ☐ I am interested in it as an individual consumer.

   ☐ I am concerned about it, because I represent a public interest consumer group.

   ☐ I am concerned about it, because I represent a private company or organization.

2. After reading about our consumer program, do you think you understand how it works?

   ☐ Yes, it is clear and I understand it.

   ☐ Yes, I understand most of it.

   ☐ No. Much of it is not clear to me.

3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?

   ☐ Yes

   ☐ No. Why?_____

4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?

   ☐ It seems adequate.

   ☐ It is not adequate. Why?_____

   _____

5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?

   ☐ Adequate.

   ☐ Not adequate. Why?_____

6. After reading our proposed consumer program, do you know whom or which office in _____(agency) to contact if you have:

A complaint? ☐ Yes ☐ No

A general question about the agency? ☐ Yes ☐ No

A question about how to take part in agency proceedings? ☐ Yes ☐ No

7. Do you know who or which office in _____(agency) speaks for the consumer? ☐ Yes ☐ No Any suggestions for improvement?_____

8. Do have any suggestions for improving our consumer program?

☐ No

☐ Yes, in the following areas:

Consumer participation_____

_____

Informational materials_____

_____

Complaint handling_____

_____

9. Other comments or suggestions? (Use additional pages, if necessary.)

_____
your name

_____
your address

_____
city, state, zip

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON WHICH YOU ARE COMMENTING

[FR Doc. 80-2877 Filed 2-1-80; 8:45 am]
BILLING CODE 6570-06-C

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federal register

Monday
February 4, 1980

Part II—Section C

Federal Emergency Management Agency

Draft Consumer Program

FEDERAL EMERGENCY MANAGEMENT AGENCY

Draft FEMA Consumer Affairs Program

[Docket FEMA-MISC.-80-1]

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Request for Public Comment on Draft FEMA Consumer Affairs program.

SUMMARY: The draft program issued in accordance with E.O. 12160 sets out the organizational arrangements, including oversight, for the FEMA consumer affairs program, the procedures by which FEMA will involve consumers early in the development of agency programs, its informational, training, and educational activities for the consumer affairs program, and its complaint-handling process.

DATE: Send comments on or before April 4, 1980.

ADDRESS: Send Comments to Rules Docket Clerk, Federal Emergency Management Agency, 1725 I Street, N.W., Washington, D.C. 20472.

FOR INFORMATION CONTACT: John McKay, (202) 634-4179.

SUPPLEMENTARY INFORMATION: FEMA was established, effective April 1, 1979 in order to unify key federal emergency management and assistance functions. It consolidated emergency preparedness mitigation and response activities of five agencies, and added other emergency functions. They include the disaster relief, civil defense, flood insurance, civilian fire prevention and control, and federal mobilization programs. Statutory functions were either transferred to the Director of FEMA by Reorganization Plan No. 3 of 1978, or delegated by Executive Order 12148, effective July 15, 1979. FEMA is headed by a Director and has a headquarters staff located in Washington, D.C., and ten regional offices located in the ten Federal regional cities.

1. CONSUMER AFFAIRS PERSPECTIVE

The Federal Emergency Management Agency programs and activities cover a broad range of specific constituencies as well as the general public. Programs range from public and individual disaster assistance, the provision of flood insurance, personnel and administrative expenses for preparedness and emergency planning functions in state and local governments, a series of fire prevention programs and civilian aspects of defense mobilization. Because substantial financial assistance is furnished to state and local governments, the Agency's perspective on consumer issues includes its intergovernmental and constituency services as well as the general public.

Accordingly, the Director, FEMA, plans to redesignate the Division of State and Local Affairs in the office of Public Affairs as the Division of Intergovernmental and Consumer Affairs. The Division head will report directly to the Agency Director on consumer matters as well as the Associate Directors, Assistant Director, and Office Directors on matters pertaining to their responsibilities. FEMA feels that Intergovernmental Affairs and Consumer Affairs are essentially the same, and the functions of this division will be consumer oriented whether dealing with state and local governments, constitutency groups, or the general public.

A specific consumer affairs position will be created in the newly designated Division of Intergovernmental and Consumer Affairs. The Division will be responsible for the coordination and monitoring of all consumer functions in the Agency. Each program area will remain responsible for responding to consumer inquiries and, in conjunction with the Division of Intergovernmental and Consumer Affairs, for insuring that the programmatic, policy development, rulemaking, and legislative development processes are opened up to an affirmative program of consumer viewpoint solicitation. The Consumer Affairs office will have a mandate to become involved in all consumer-related affairs throughout the agency.

Each program area will designate a consumer affairs liaison officer who will apprise the Division of Intergovernmental and Consumer Affairs of opportunities for consumer involvement. The Division will actively solicit input from consumer representatives on draft documents through both correspondence and special consultative meetings with agency personnel.

The consumerist initiative of FEMA's Federal Insurance Administration begins with the Administrator, and finds expression in all of FIA's program elements.

The identifiable consumer affairs division in FIA coordinates the consumer-related activities, reports to the Administrator, and generally assures the consideration of legitimate consumer interests and the development and review of FIA rules, policies, program, and legislative proposals.

2. CONSUMER PARTICIPATION

Consumer participation in the Federal Emergency management Agency's policy, programmatic, and rulemaking functions will occur at all stages in the process. This will primarily consist of correspondence with identified representatives of consumer groups and special constituencies of specific programs involved. FEMA has issued a proposed rule requiring notice of and allowing public comment on FEMA rules before they become final even where normally exempt. Consumer participation on working groups will be arranged as appropriate. Notification of public hearings and other forums will be made through special mailings and notices as well as through the regular government channels.

In addressing flood insurance issues, FIA regularly meets with an ad hoc private sector committee which is comprised of insurance companies and agents associations, State insurance regulators, and consumer groups. Similarly, FIA meets with representatives of the mortgage banking industry and the Federal financial instrumentalities with respect to flood insurance program initiatives affecting that segment of the private sector.

Also, representatives of consumer groups have been invited to join local program advisory groups in each of five demonstration cities chosen to undertake an educational and promotional program relative to crime insurance and the availability of essential property insurance in the private insurance market.

3. INFORMATIONAL MATERIAL

The Office of Public Affairs, in conjunction with the program staff, will undertake a three-fold review of existing printed and audio-visual materials on each of the agency's programs to assess their accuracy, availability, and distribution to appropriate persons and groups. This review will result in a written assessment and recommendations for additions, deletions, or revisions of the information and how it is made available to appropriate individuals. This assessment should be completed, with new materials developed and distributed, by the end of Fiscal Year 1980.

This assessment will include participation by user and consumer groups. A list of the kinds of informational materials and activities undertaken by FEMA is included as Attachment I.

FIA has available to its consumers a variety of literature on its programs. Among these are Questions and answers, publications on its program areas, and brochures on how to read flood hazard boundary maps and flood insurance rate maps. The servicing agent for the NFIP also makes available a wide variety of promotional and informational material (see attached list—Attachedment 2).

EDUCATION AND TRAINING

It is the desire of the Federal Emergency Management Agency to develop a high degree of sensitivity to consumer needs and concerns among all agency staff. The Division of Intergovernmental and Consumer Affairs will work with Employment Development Division staff to develop a training program for all agency staff as well as to identify opportunities for more specialized training for consumer affairs personnel.

Immediate steps that will be taken will include, but not be limited to, the following:

- All agency employees will be provided a copy of Executive Order 12160 with appropriate explanatory material.
- All agency employees will be provided a copy of this draft Consumer Program.

Procedures for an ongoing internal distribution of consumer information, including materials developed under the activity outlined in the preceding section on "Informational Materials" will be developed by the Division of Intergovernmental and Consumer Affairs.

The Employee Development Division will work with the Consumer Affairs staff to identify existing training programs, develop new programs where there is a recognized need, and to assist consumer affairs personnel.

Technical assistance to consumer groups will be provided by the program offices. This assistance can be obtained by writing to the appropriate program office, the Division of Intergovernmental and Consumer Affairs or the Director of the Agency.

5. COMPLAINT HANDLING

A guide for complaint handling will be developed by the agency for implementation by the Regional Offices, program offices, and other agency elements. This guide will establish procedures for logging, routing, tracking, responding, and filing complaints. Additionally, an agency-wide reporting system will be developed to provide compreshensive reports to agency managements and the agency Director. These reports will serve as tools to detect problem areas and measure agency performance.

6. OVERSIGHT

The Director of the Division of Intergovernmental and Consumer Affairs will have oversight responsibilities for the agency's consumer affairs program and compliance with Executive Order 12160. The Division, administratively, is part of the Office of Public Affairs which is in the FEMA Director's office. The Director of the Division will report directly to the Director, FEMA on consumer matters and is responsible to the Director for policy direction, coordination, and oversight of the Consumer Affairs Program. The Director of the Division of Intergovernmental and Consumer Affairs is a GS-15.

John W. Macy, Jr.,
Director.

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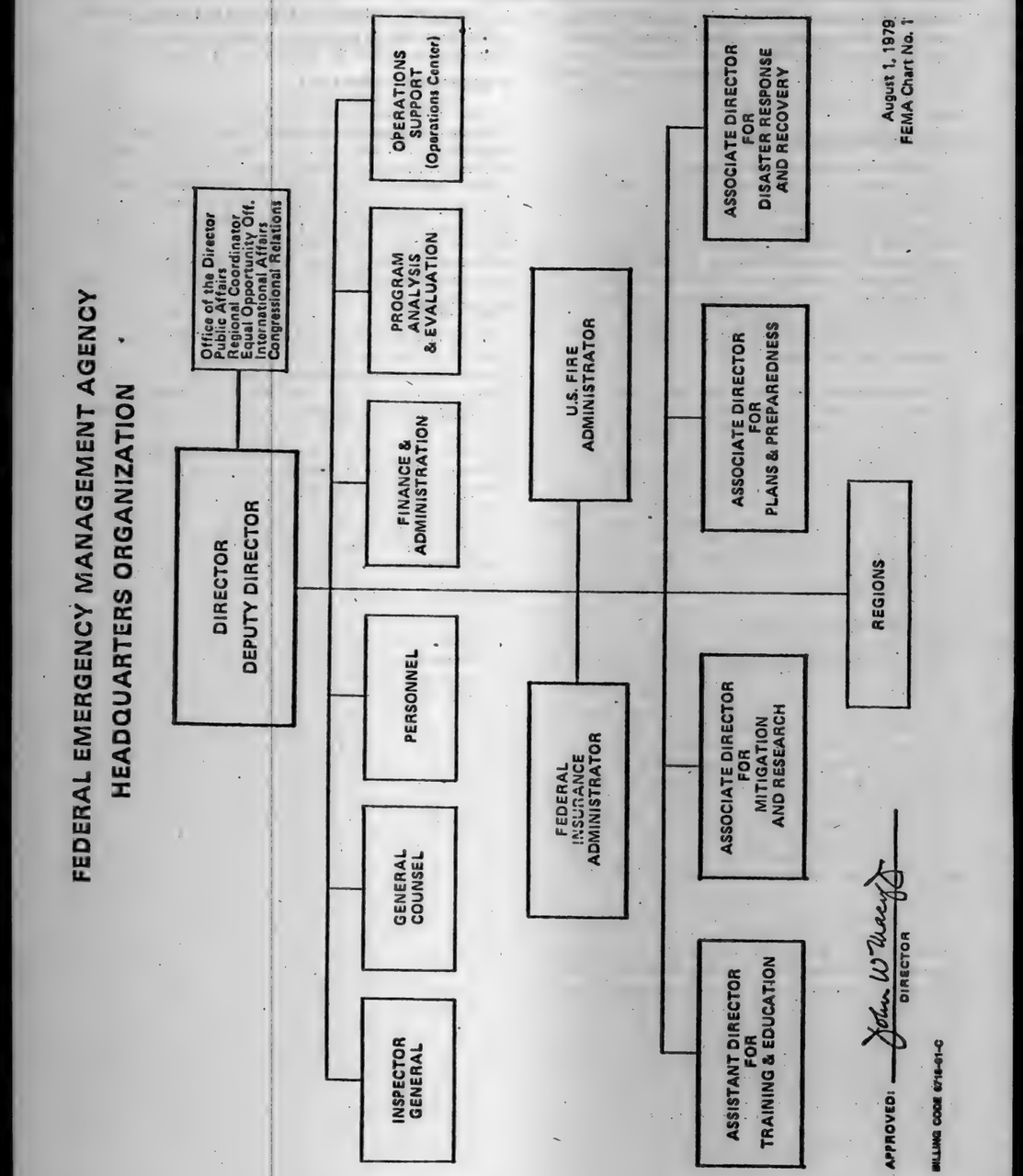

Attachment I—FEMA Outreach Methods and Mechanisms

Pamphlets
Brochures
Booklets
Fact Sheets
Curriculum Guides
Teacher and Student Readings
Discussion Leader Guides
Counter Cards
Transit Cards
Posters
Coloring Books
Comic Books
Newspaper Articles
Magazine Articles
Bill Stuffers
TV Public Service Announcements
Radio Public Service Announcements
Announcer Copy Newsettes
Slide-Tape Presentations
Films
Film Strips
Press Releases
Speeches
Staff Appearances on Mass Media
Disaster Hotline
Periodic Mailings
Workshops
Seminars
Public Display of Information
Exhibits
Conferences
Conventions
Hearings
Agency Newsletter
Spotmaster Service
Free Loan of Audio-Visual Materials
Consumer Information Center Distribution of Materials

Attachment 2—National Flood Insurance Program Informational and Marketing Materials

Promotional Materials

"You Are Now Eligible to Buy Flood Insurance"
"Winter Flood Watch . . ."
"Though April Showers, May Come Your Way"
"Hurricane Warning"—English
"Hurricane Warning"—Spanish
"Welcome to the Community . . ."
"Announcing: Increased Flood Insurance Protection Now Available . . ."
"In the Event of a Flood"—English
"In the Event of a Flood"—Spanish
Marketing Kit @ $4.50 each (includes Print Ads, Radio Announcements and 2-color, 17" x 22" Poster)

Forms

Emergency Program Applications (HUD 1660.1)
Regular Program Applications (HUD 1660)
Cancellation Forms (HUD 1692)
Change Endorsement Forms (HUD 1633)
Notice of Loss Forms (HUD 1697)
Map Request Forms (HUD 685)
Supply Order Forms
Certificate of Proof of Purchase of Flood Insurance (HUD 1506)
Certificate of Redetermination (HUD 1632)

Informational Literature

Flood Insurance Manual
HUD Question and Answer Booklet
"How to Read a Flood Hazard Boundary Map"—English (HUD–FIA–149–1)
"How to Read a Flood Hazard Boundary Map"—Spanish (HUD–FIA–442)
"How to Read a Flood Insurance Rate Map" (HUD–FIA–252)
"How Flood Insurance Policies Are Renewed"

Rating Aid

Flood Insurance Rate Calculation Pads

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Form Approved
OMB No. 1165-9021

APPENDIX 3

CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The _____ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
   - ☐ I am interested in it as an individual consumer.
   - ☐ I am concerned about it, because I represent a public interest consumer group.
   - ☐ I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
   - ☐ Yes, it is clear and I understand it.
   - ☐ Yes, I understand most of it.
   - ☐ No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
   - ☐ Yes.
   - ☐ No. Why?_____
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
   - ☐ It seems adequate.
   - ☐ It is not adequate. Why?_____
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
   - ☐ Adequate.
   - ☐ Not adequate. Why?_____
6. After reading our proposed consumer program, do you know whom or which office in _____ (agency) to contact if you have:

   A complaint? ☐ Yes. ☐ No.

   A general question about the agency? ☐ Yes. ☐ No.

   A question about how to take part in agency proceedings? ☐ Yes. ☐ No.
7. Do you know who or which office in _____ (agency) speaks for the consumer? ☐ Yes. ☐ No. Any suggestions for improvement? _____
8. Do you have any suggestions for improving our consumer program?
   - ☐ No.
   - ☐ Yes, in the following areas:

     Consumer participation_____

     Informational materials_____

     Complaint handling_____

9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON WHICH YOU ARE COMMENTING

[FR Doc. 80-2980 Filed 2-1-80; 8:45 am]
BILLING CODE 6716-01-C

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federal register

Monday
February 4, 1980

Part II—Section D

Department of Health, Education, and Welfare

Draft Consumer Program

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

Draft Response to Executive Order 12160

AGENCY: Department of Health, Education, and Welfare.

ACTION: Request for Comments on the Proposed Consumer Affairs Plan for the Department of Health and Human Services, Prepared in Response to Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs".

SUMMARY The proposed Consumer Affairs Plan for the new Department of Health and Human Services describes: the objectives of the Consumer Affairs Program, the organization of Consumer Affairs staff within the Department, special initiatives to meet the objectives of the program and generally how the Department will comply with the Executive Order.

DATE: Comments must be received by April 4, 1980.

ADDRESS: Comments should be addressed to: Assistant to the Secretary for Consumer Affairs, Office of the Secretary, Department of Health, Education, and Welfare, 200 Independence Avenue, S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Anne H. Cohn, Special Assistant to the Secretary, Office of the Secretary, Department of Health, Education, and Welfare, 200 Independence Avenue, S.W., Washington, D.C. 20201 (202) 245–9286.

Dated: January 25, 1980.

Patricia Roberts Harris,

Secretary.

INTRODUCTION

The Department of Health, Education, and Welfare has a longstanding and active concern for Consumer Affairs. In responding to Executive Order 12160 entitled "Providing for Enhancement and Coordination of Federal Consumer Programs", a Consumer Affairs Plan for the new Department of Health and Human Services has been developed with the goal of improving Consumer Affairs activities. Specifically, the objectives of the Plan are:

(1) To increase the Department's understanding of consumer concerns;

(2) To improve procedures for consumer participation in the development and review of rules, policies and programs;

(3) To provide mechanisms for Consumer Affairs staff to participate in the development and review of rules, policies, programs and legislation.

(4) To improve mechanisms for handling consumer complaints and concerns;

(5) To increase the public's awareness of the Department's programs;

(6) To improve the quality and distribution of consumer information materials; and

(7) To improve the coordination of Consumer Affairs activities within the Department.

This proposed Consumer Affairs Plan describes the Organization of Consumer Affairs within the Department to meet these objectives, special initiatives planned by the Department to meet these objectives and finally compliance with the requirements of the Executive Order to meet these objectives.

The Department welcomes comments from the consumer on the above objectives, and on the following plan to meet those objectives. All comments will be carefully analyzed as the Department completes this Consumer Affairs Plan.

ORGANIZATION OF CONSUMER AFFAIRS WITHIN THE DEPARTMENT TO MEET THE OBJECTIVES OF THE PLAN

As the basis for further development and implementation of the Department's Consumer Affairs Plan, the Secretary will identify Consumer Affairs staff within the Department as well as establish a Consumer Policy Council.

Consumer Affairs Staff

The Secretary will appoint an Assistant to the Secretary for Consumer Affairs, who will report directly to the Secretary. This Assistant will have as the sole responsibility policy direction for, and coordination and oversight of, the Department's consumer activities.

In addition to the Office of the Secretary, the Department of Health and Human Services will have four principal operating components. These include: The Public Health Service, the Office of Human Development Services, the Health Care Financing Administration and the Social Security Administration. The head of each of these principal operating components will appoint a Coordinator of Consumer Affairs. The Coordinator of Consumer Affairs will be responsible for policy direction for, and coordination and oversight of consumer activities within the operating component.

Each of the principal operating components of the Department, and the Office of the Secretary, contains a number of agencies or offices. For example, the Public Health Service includes the following agencies: the Center for Disease Control; the Food and Drug Administration; the Health Resources Administration; the Health Services Administration; the National Institutes of Health; and the Alcohol, Drug Abuse and Mental Health Administration. Each of the agencies or offices within the Department's principal operating components will have persons assigned to deal with Consumer Affairs and to be responsible for the coordination of program specific consumer activities. The number of people assigned will vary depending upon the nature and functions of the particular office or agency. Specific information on the number and functions of the Consumer Affairs staff within each agency or office will be included in the Department's final Consumer Affairs Plan.

Consumer Policy Council

In order to insure that Consumer Affairs activities within the Department are well coordinated, the Secretary will establish a Department-wide Consumer Policy Council. The Council, composed of the Consumer Affairs Coordinators from each of the Department's principal operating components and representatives from staff offices in the Office of the Secretary and certain agencies within the principal operating components, will be chaired by the Assistant to the Secretary for Consumer Affairs. The initial concern of the Consumer Policy Council will be reviewing public comments and completing the Department's Consumer Affairs Plan. Thereafter, the Council's basic function will be coordination of the implementation of the Consumer Affairs Plan.

SPECIAL INITIATIVES TO MEET THE OBJECTIVES OF THE PLAN

Recognizing that there are a number of ways in which the Department can improve its consumer programs, in order to meet the objectives of the Consumer Affairs Plan, the Secretary will instruct the Assistant to the Secretary for Consumer Affairs and the Consumer Policy Council to coordinate a number of special consumer initiatives. These initiatives, described briefly below, will be developed more fully in the final Consumer Affairs Plan, after public comment has been received.

(1) "Getting to Know HHS" Regional Conferences

In the spring of 1980, simultaneously with the creation of the new Department of Education, the Department of Health and Human Services will be established. In the interest of acquainting the public with the purpose and content of its programs, the Department of Health and Human Services plans to conduct "Getting to Know HHS" Conferences in each of the ten HHS regions of the country. The Conferences, which will be open to users of HHS programs and the general public, will seek to acquaint participants with HHS programs while providing the public with an opportunity to discuss and comment on these programs.

(2) Improved Distribution of Consumer Materials

The Department recognizes that distribution methods for consumer information materials can be improved. The Department produces hundreds of publications and documents of interest to consumers. These materials do not always reach the audiences for whom they are intended. As part of the Department's Consumer Affairs Program, a new distribution strategy will be developed which will among other things identify local outlets throughout the country which can become the basis for material dissemination.

(3) Consumer Referral Hotlines

The Department houses many different agencies and programs. It is often difficult for a member of the public to know who to call with a question or complaint about any particular program. The Department, as part of the Consumer Affairs Program, will make sure that there exists a well publicized, central telephone number in each region of the country which will serve as an Information and Referral Service for the general public.

(4) Outreach Through Consumer Polls

Currently the Department has no specific mechanisms in place to determine consumer attitudes toward the Department's programs and the general issues they are designed to address. Changes in existing programs or the development of new policy initiatives are often formatted and decided without the benefit of knowing public opinion on the specific issues in question. The Department is interested in assessing the value of conducting systematic surveys of consumer opinion as one strategy for introducing the consumer viewpoint into decision making. To this end, as part of the Consumer Affairs Program, the Department plans to conduct several consumer polls on major issue areas, and will assess the ability of the Department to use the resulting information in policy development and review.

(5) Outreach Through Constituency Groups

The Department recognizes that there is a large number of organizations across the country involved or interested in HHS programs. These organizations represent for the Department a point of access to the variety of consumer interests. While the Department has worked closely with these organizations in the past, as part of the Consumer Affairs Program, a more active program of activities, jointly sponsored by HHS and constituency groups, which provide the membership of these organizations with information about the new Department of Health and Human Services will be designed. This enhanced outreach program will have two objectives: first, to educate the consumer about the Department's programs and second to disseminate information about how the consumer can participate in the review of the Department's programs and policies.

(6) Consumer Education Campaigns

The Department annually conducts over thirty different health-related public information campaigns. Each of these campaigns is produced independently by separate components of the Department. Each competes with the other for the limited public service time available on radio and television. Many are aimed at essentially the same audiences. As part of the Consumer Affairs Program, the Department will develop a strategy for better coordinating these public information campaigns, assuring that more unified and valuable health messages are produced for the American public.

(7) Petitions for Rulemaking

The Department does not currently have specific procedures by which members of the public may petition for the issuance, amendment or repeal of

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Department rules. There is no uniform policy regarding where requests should be filed, who in the Department is responsible for determining the necessary action, and how such requests must be considered. Because of an interest in expanding opportunities for the public to influence policy decisions, the Department intends to improve its process for handling petitions. Uniform procedures for rulemaking petitions are currently under consideration. As part of the Consumer Affairs Program, the Department will issue a Notice of Proposed Rulemaking which would establish these uniform procedures.

(8) Consumer Reimbursement Demonstrations

Prohibitive costs are often cited as a barrier to the meaningful participation of the public in Federal agency decision making. Thus, the interests of consumers may go unrepresented. In response to this concern, the Department, through the Food and Drug Administration, has established a pilot program of public participation funding. As part of the Consumer Affairs Program, the Department intends to explore the possibility of expanding this demonstration program to other policy areas in order to more fully assess the need for and feasibility of public participation funding. Greater detail on this Demonstration will be provided in the final Consumer Affairs Plan.

COMPLIANCE WITH THE EXECUTIVE ORDER TO MEET THE OBJECTIVES OF THE PLAN

In addition to these eight special initiatives, the Department will take a number of other steps to comply with the Executive Order and to meet the objectives of the Plan.

(1) Consumer Affairs Perspective

The Executive order requires agencies to have identifiable, accessible professional staffs of Consumer Affairs personnel authorized to participate in the development and review of all agency rules, policies, programs and legislation.

There are many ways in which the Consumer Affairs staff will participate in the development and review of agency policy. However, in order to guarantee such participation, the Secretary will establish a new Department policy. Currently, before decisions on proposed rules, policies, programs and legislation are made by officials in the Department, they are reviewed by relevant staff. Staff comments and recommendations are forwarded to the official. As a new policy, Consumer Affairs staff in the principal operating components and the Office of the Secretary will be included in this clearance process. Thus, the Assistant to the Secretary for Consumer Affairs and the Coordinators of Consumer Affairs will have a clear opportunity to comment on the potential impact on consumers of proposed Departmental policies.

(2) Consumer Participation

The Executive order requires that agencies take steps to insure that individual consumers and consumer organizations are able to participate in the development of agency rules, policies and programs. The Department currently encourages consumer input in the review of agency rules, policies and programs in a variety of ways. However, the approaches used throughout the Department are not consistent and are at times inadequate. The Consumer Affairs staff in the Department will be given primary responsibility for making sure that consumers have adequate opportunities to participate in the development and review of Department policy. To this end, the Department's Consumer Policy Council will be instructed by the Secretary to analyze how the consumer perspective is now sought, what barriers to participation currently exist and how consumer participation can be improved. Preliminary findings of the Consumer Policy Council will be included in the Department's final Consumer Affairs Plan.

Several new initiatives, described above, will help improve consumer participation such as the extended use of constituency groups for outreach; the Consumer Reimbursement Demonstrations and new Departmental Procedures for Petitions for Rulemaking.

(3) Information Materials

The Executive order requires that agencies must produce and distribute informational materials useful to consumers. The Department currently prepares and distributes hundreds of different publications for use by professionals and the general public. All such informational materials are reviewed by the Office of the Assistant Secretary for Public Affairs prior to their release. The Office of the Assistant Secretary for Public Affairs will continue to improve mechanisms of quality control over Departmental publications as part of the Consumer Affairs Program. Beyond the question of quality and utility of information materials, the area requiring the most significant improvement is the distribution to consumers of those informational materials. Two special initiatives, described above, are planned to correct this problem: the development of a new distribution plan for HHS materials and the Consumer Education Campaigns.

(4) Education and Training

The Executive order requires that agencies must educate and train their staffs in the principles underlying the Executive Order, and in the skills needed to implement the Order effectively. The Consumer Affairs staff will take principal responsibility in educating Department personnel about the objectives of the Consumers Affairs Plan and the mechanisms by which it will be implemented. The Plan itself will be widely distributed, and Department personnel will be briefed on these aspects of the Plan which directly effect their activities.

The special initiative, described above, creating a Consumer Reimbursement Demonstration, will allow the Department to test mechanisms for providing assistance to consumers.

(5) Complaint Handling

The Executive order requires that agencies establish systematic procedures for the efficient handling of consumer complaints. Consumer complaints must be taken into account in the formulation of agency policy. The Department currently has a variety of mechanisms for receiving and responding to consumer complaints. There is a need, however, to develop a more consistent and useful structure for receiving and analyzing such complaints.

Thus, the Secretary will request that the Inspector General's Office conduct an assessment of complaint handling procedures in the Department and recommend mechanisms to improve these procedures. The Secretary will also establish procedures for compiling information on the number and types of complaints received by the Department on a quarterly and annual basis so that such information can be utilized in agency decision-making. The Department's final Consumer Affairs Plan will specify existing complaint handling mechanisms, the methods to be used to analyze these methods and the mechanisms by which the Department will inventory consumer complaints.

Several new initiatives, described earlier, will also enhance consumer complaint handling such as the Consumer Referral Hotlines which will provide consumers with a single number to call to find out who in the Department particular complaints ought to be lodged with; and the consumer surveys which will allow direct polling of consumer concerns.

(6) Oversight

The Executive order requires each agency to designate a senior-level official to coordinate the agency's consumer program. The designated official must report directly to the head of the agency. The official's consumer oversight responsibility must be the only responsibility exercised by this individual. The Assistant to the Secretary for Consumer Affairs will fulfill this requirement, assisted by the Coordinators of Consumer Affairs and the Departmental Consumer Policy Council. The Assistant to the Secretary for Consumer Affairs will be the Department's representative on the Federal Consumer Affairs Council.

[FR Doc. 80-2974 Filed 2-1-80; 8:45 am]
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Monday
February 4, 1980

Part II—Section E

National Credit Union Administration

Draft Consumer Program

NATIONAL CREDIT UNION ADMINISTRATION

AGENCY: National Credit Union Administration.

ACTION: Policy Statement 79-10: Notice of Proposed Consumer Program.

SUMMARY: In accordance with Executive Order 12160, NCUA sets forth a draft of its Consumer Program which outlines the procedures for dealing with its consumer affairs perspective, consumer participation, information materials, education and training, complaint handling and general oversight.

DATES: Comments must be received by April 4, 1980.

ADDRESS: Send comments to Office of Consumer Affairs, National Credit Union Administration, 1776 G, Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Linda M. Cohen, Director, Office of Consumer Affairs at the above address or telephone (202) 357-1080.

SUPPLEMENTAL INFORMATION: Executive Order 12160 requires executive agencies to review and revise their operating procedures so that consumer needs and interests are adequately considered and addressed in agency operations. The National Credit Union Administration (NCUA) is an independent regulatory agency not specifically subject to requirements of the Order. Nevertheless, NCUA intends to fully comply with this order. Accordingly, NCUA has reviewed its consumer program. The following proposed program, which contains revisions to implement the executive order, is the result of that review.

By the National Credit Union Administration Board, on December 21, 1979.

Rosemary Brady,

Secretary of the Board

Accordingly, the Board sets forth its proposed consumer program to implement Executive Order 12160.

CONSUMER AFFAIRS PERSPECTIVE

The present Division of Consumer Affairs in the Office of Examination and Insurance will become the Office of Consumer Affairs. The Office will be headed by a Director who will report directly to the NCUA Board.

The Office will initially consist of a Director, Deputy Director, six Consumer Affairs Analysts and three clerical personnel. Each staff member has special expertise in consumer credit laws and financial institution experience. In addition to this Washington, D.C. staff, each Regional Office of the National Credit Union Administration has two Consumer Affairs Analysts and technical support. These persons will implement the agency's consumer affairs program under the direct supervision of the Regional Director, but will look to the Office of Consumer Affairs for policy direction. Consumer Affairs activities will be funded separately in NCUA's budget as an Office.

The Office of Consumer Affairs will assume the responsibilities listed under section 1-1091(a) of Executive Order 12160. The staff will participate in the development and review of all agency rules, policies, programs and legislation which have potential consumer impact. Other responsibilities will continue to include consumer law enforcement, consumer education, consumer participation, complaint handling, unfair practices, participating in the training of credit union officials in cooperation with credit union trade organizations, and working with other financial institution regulators in the development of interagency consumer law enforcement policy, examination procedures, and examiner training.

In addition, NCUA plans to use special compliance examiners to examine credit unions for compliance with consumer laws and regulations. When this program is implemented, a primary responsibility of the Office of Consumer Affairs will be to develop and monitor comprehensive procedures for these separate consumer compliance examinations. The Office will provide policy direction and training for the agency's compliance examiners. In addition, the Office will provide general education on consumer laws and regulations to other NCUA examiners and staff.

The Office of Consumer Affairs will have the only staff performing consumer affairs policy functions covered under the Order. Regional office staff will implement policy formulated by the Office.

The Director will become aware of the development of all proposed NCUA rules, policies and programs through regular attendance at agency Executive staff meetings and planning conferences and through meetings with key agency officials.

The Office of Consumer Affairs will continue to prepare testimony in coordination with the Office of the General Counsel for Board members when they are called upon to testify or offer comments on proposed consumer legislation or regulations before Congress, the Federal Reserve Board or the Federal Trade Commission. In addition, it will review formal comments prepared by other agency components to assure that they address the consumer impact of the proposed action.

The Office will also comment on the consumer impact of proposed NCUA rules and regulations before they are published in the Federal Register and determine what type of consumer participation may be appropriate. (See below.) In addition, all proposed general policies and programs will be reviewed by the Office for consumer impact before they are submitted to the Board and a recommendation will be made by the Office as to whether consumer participation is appropriate. In any case where the policy or program is found to have consumer impact, the Office will offer comment to the Board concerning such impact, even if consumer participation is deemed inappropriate.

CONSUMER PARTICIPATION

Credit unions are cooperative institutions. NCUA's consumera are the owners of the credit union. Persons who are members of credit unions are, and must be, united by a common bond. This common bond, which may be the same employer, members of the same organization, or inhabitants of a defined community, is called the field of membership. In order to be eligible to be a member, an individual must fall within the credit union's field of membership. Thus, all rules, regulations, policies and programs affecting federal credit unions have potential consumer impact.

At the same time, certain decisions are made by NCUA which do not have impact on the consumer in the traditional sense. One example would be the removal of a credit union official for misconduct. In such cases, where the consumer impact of an NCUA decision goes solely to the consumer as part owner of the credit union, consumer participation will most likely not be appropriate.

NCUA also makes decisions concerning the safety and soundness of credit unions. These types of decisions are based on technical financial analysis. Questions of liquidity and eligibility for financial assistance affect members as consumers of credit union services. Nevertheless, such decisions are generally imappropriate for consumer participation because of the complexities involved and the necessity of keeping the financial condition of credit unions confidential.

Further, NCUA believes consumer participation is appropriate only in *general policy making.* Decisions on how to implement policy with regard to a specific credit union cannot benefit from consumer participation. Consumer participation in such situations would in addition severely impede the effective workings of the agency.

Where general policy decisions are determined by the NCUA Board (on recommendation from the Office of Consumer Affairs) to impact significantly on credit union members as consumers of credit union services, consume participation will occur. The Office will recommend that type of consumer participation which it considers most appropriate. This decision will be based on the following factors:

—degree of consumer impact
—urgency of the decision
—degree of controversy involved in the issue

The Office of Consumer Affairs will be responsible for implementing the agency's consumer participation responsibilities. The avenues of consumer participation will be written comments and/or oral hearings in the Washington office attended by one or more members of the Board. The type of consumer participation appropriate to the issue involved will be determined by the Office of Consumer Affairs. Guidelines will be developed to assist in making this decision. Because of the relatively small size of NCUA, any oral hearings will be held in Washington. NCUA will consider funding consumer groups and individual credit union members when appropriate to attend the hearings held in Washington.

Notices concerning hearings will be sent to all federal credit unions to be posted for the information of credit union officials and members. When approrpriate, notices will also be placed in the *NCUA Digest.* Organized consumer groups, not made up of credit union members exclusively, will be notified through special mailings.

INFORMATIONAL MATERIALS

Credit union members are generally aware of the presence and function of NCUA. They are made aware that NCUA insures credit union deposits through the NCUA logo, which is required to be displayed at credit union offices. They are aware of the agency's responsibility to enforce fair lending laws through the Fair Housing poster which each credit union is required to display and the notice that the credit union is required by the Equal Opportunity Act to send out when adverse action is taken on an application. With regard to marketplace information, we distribute general informational materials prepared by other, larger financial institution regulatory agencies. We believe these materials meet the needs of credit union members and disseminating them is, in our opinion, an efficient use of government resources.

In addition, we lend to credit unions on request an NCUA slide show on Regulation B. We intend to develop slide presentations on other consumer laws that we will also loan to credit unions on request. We will continue the present practice of placing educational material on consumer law developments in the *NCUA Digest.*

Another of our consumer education efforts has been duplication and dissemination of a "know your credit rights" card for women. We are also participating in an interagency effort to develop lesson plan modules on consumer affairs for use in high schools, and we are considering several other educational efforts designed to assist credit union consumers.

EDUCATION AND TRAINING

The Office of Consumer Affairs will be responsible for educating staff members about the Order. The Order and the agency's draft program was scheduled for presentation to the NCUA Board on December 6, 1979. The agency will announce the creation of the Office of Consumer Affairs in a memorandum to all personnel.

The Director of the Office of Consumer Affairs will be responsible for assuring that all Office staff receive appropriate training. At present, all Office staff receive extensive training and possess a high degree of expertise in the consumer laws and regulations. Such training opportunities will continue to be made available.

The Office will also be responsible for the in-depth training which will be provided to specialized consumer examiners. NCUA is currently participating with the Federal Reserve Board, Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board in the development of an interagency school for the training of consumer examiners. This school will be our primary training vehicle for consumer examiners. The Office of Consumer Affairs will also furnish regular informational updates to these examiners.

The Office of Consumer Affairs will continue to furnish technical information and comments on consumer matters to consumer groups, other agencies and Congress whenever such assistance is requested.

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COMPLAINT HANDLING

All complainants who telephone in their complaints or appear in person are requested to put their complaints into writing. All written complaints are assigned a number, classified by type (e.g. discrimination, debt collection practices), and logged into our computer information system, designed to facilitate tracking of complaints and compilation of data on complaint type and resolution.

Periodically, printouts of complaints by topical categories are made to assist in the analysis of patterns of issues raised. This data and analysis will continue to be used in consumer affairs policy making. Reports will be furnished at regular intervals to NCUA Board members concerning the pattern of complaints and the policy implications of the complaints received.

All complaints are forwarded to the appropriate regional office for investigation and analysis. If the complaints are forwarded by a member of Congress or by the Office of the President, the final responses are prepared in the Washington Office. Most other complaints are responded to directly by the Regional Office. A Consumer Affairs Analyst in the Office of Consumer Affairs specializing in the complaint process will be responsible for ensuring that complaints are investigated and responded to properly.

OVERSIGHT

The official designated to oversee the agency's consumer affairs effort will be the Director of the Office of Consumer Affairs. The Director will report directly to the NCUA Board. As head of the Office of Consumer Affairs, the Director will manage all activities within the Office, and the Office will have responsibility for all activities under the Order. The Director will be on the same level as the heads of other NCUA offices and will work with them directly. The Director will attend all senior level executive meetings and agency planning conferences.

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Part II—Section F

Department of Defense

Draft Consumer Program

DEPARTMENT OF DEFENSE

AGENCY: Department of Defense.

ACTION: Draft Consumer Program.

DATE: Comments must be received by April 4, 1980.

ADDRESS: Comments should be addressed to Honorable Robert B. Pirie, Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), The Pentagon, Room 3E808, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Schoenberger, (202) 697–9525.

I. CONSUMER AFFAIRS PERSPECTIVE

Objective

The central objective of the Department of Defense in consumer affairs is to ensure that the needs and interests of consumers are adequately considered and addressed in the formulation of Defense policies. Participation by consumers is fundamental to this aim. Although the Department and each of its components have programs in being, each of these programs will be upgraded with the objective being active advocacy on the part of all American consumers as well as the Department's military and civilian employees. Emphasis will be focused on the interests of the individual citizen as well as organized state and local consumer protection groups. Thus, the upgraded programs will be designed to increase overall public awareness of planned defense activities, changes in defense policies, and other actions planned or being taken by the Department insofar as the needs of national security will permit. They will provide a direct means of communicating consumer response to the Department and a responsive return channel. Additionally, data on consumer affairs will be collected by each Military Department and Defense Agency and evaluated annually as part of the ongoing effort to upgrade their programs and increase the responsiveness of the Department of Defense to the needs of its consumers.

Staff Location

The Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) is responsible for and will be Advisor to the Secretary of Defense for consumer affairs.

Size and Resources

As Advisor, the Assistant Secretary for Manpower, Reserve Affairs and Logistics, will be assisted by the Under Secretaries and the other Assistant Secretaries on a regular basis and as needed to fulfill these functions under the Executive Order. The Consumer Affairs Advisor will have overall responsibility for coordinating consumer affairs issues arising within any component of the Department of Defense. The Advisor will participate in the development and review of all Departmental policies, programs, legislation and rules on consumer related issues. To ensure that the Advisor will be kept fully abreast of consumer activities he will be assisted by the Director of Economic Adjustment, DASD (Energy, Environment and Safety), DASD (Supply, Maintenance, Transportation and Services), DASD (Installations and Housing), DASD (Program Management), DASD (Requirements, Resources, and Analysis), DASD (Equal Opportunity), DASD (Civilian Personnel Policy), DASD (Military Personnel Policy), DASD (Reserve Affairs) and the Reserve Forces Policy and Armed Forces Chaplains Boards. They will be responsible for keeping the Advisor informed on all consumer-related issues in their areas of authority. In addition, they will systematically report to the Advisor on a semi-annual basis the status of consumer issues as well as those they anticipate may develop in the future.

Relationship With Military Departments and Defense Agencies

Each Military Department and Defense Agency is responsible for developing its own consumer affairs program consistent with the overall program of the Secretary of Defense. They will continue to have primary responsibility for addressing consumer concerns related to the Military Department or Agency's activities. To implement their plans and to coordinate consumer related activities within their Department or Agency, they will establish a Consumer Affairs Committee. The Consumer Affairs Committee shall consist of one person designated by the head of each major organizational directorate of the Department or Agency. Such designee will serve as "Consumer Affairs Representative" and shall be the person with responsibility for handling public inquiries and complaints and/or programs with significant public involvement and/or impact.

Participation in Development and Review of Department or Agency Rules, Policies, Programs, and Legislation

1. Notification Procedure

The Consumer Affairs Representative will be notified whenever a Directorate of the Department or Agency is considering a new policy or program initiative that may have impact on consumers. The Representative shall also initiate communications at all levels within the Department or Agency to keep informed about all rules, policies, programs and legislation under consideration.

2. Stage at Which Participation Begins

The Representative may participate at any stage of decisionmaking to the extend permitted by law to facilitate consideration of consumer concerns.

3. Methods of Participation

The Representative may participate in whatever manner is deemed appropriate.

II. CONSUMER PARTICIPATION

General

The Secretary of Defense will issue a statement supporting direct consumer participation in early policy and program development in appropriate matters. He will direct that each Military Department and Defense Agency, and each of his staff elements, consider the viewpoint of consumers in matters of consumer concern. To implement this goal, the Advisor shall consult with the head of each Military Department, Defense Agency, and staff element to consider matters appropriate for consumer participation. The Advisor and the head of each Military Department and Defense Agency shall devise and implement a plan for early and meaningful consumer participation in such matters. Should the Advisor and the Department or Agency head disagree on the appropriateness of consumer participation or of a particular form of consumer participation in a given matter, the Secretary of Defense will resolve the question. Consumer participation shall begin in designated matters at the policy development stage or at the rule or legislative drafting stage.

Avenues of Participation

1. The Secretary of Defense will direct all Military Departments, Defense Agencies, and staff elements to give full consideration in the course of decisionmaking to concerns or consumers.

2. The Department will maintain a calendar of all matters issued for public comment with the appropriate closing date and, through its Public Affairs Office, inform interested consumer groups that such matters are pending for public comment. The Advisor shall compile a list of persons interested in notification and they shall be placed on the appropriate mailing list.

3. A public forum for the direct expression of consumer views on Department of Defense programs and policies will be provided for all major defense construction and base realignments or closures in accordance with statutes governing the filing of Environmental Impact Statements and, as applicable, in accordance with the Coastal Zone Management Act and the Intergovernment Coordination Act.

4. Unless specifically exempted in writing by the Secretary of Defense or the head of a Military Department or Defense Agency, a consumer representative body will be established for each commissary store, military exchange, military or civilian employee recreation fund, open mess, membership association, common support services nonappropriated fund instrumentality (NAFI), and supplemental mission services NAFI. Each consumer representative body will be constituted to ensure that it is repsonsive to the needs of the personnel served. Functions will include—but not be limited to—advising management on product selection; adequacy of service; hours of operation; consumer education programs; responsiveness to patron requirements, suggestions, or complaints; and consumer oversight and evaluation.

5. The Advisor may recommend to the Military Departments and Defense Agencies or to the Secretary of Defense other appropriate mechanisms and opportunities for consumer participation.

6. The means by which the DoD consumer participates in the present decision process will also continue:

(a) The Department provides opportunities for consumers to express their views in the field and at headquarters levels as well as at serveral points in the Department decision making process. In addition, the Inspector General organizations will continue to function as the primary, direct means of communication between the consumer and the headquarters commander.

(b) Civil Works Program.

(1) The Secretary of the Army is responsible for the Civil Works Program as administered by the U.S. Corps of Engineers. The primary purpose of the Civil Works Program is to provide benefits to the American public by the conservation and development of the Nation's water resources. The Chief of Engineers and principal managers throughout the program participate in natural resources and public policy conferences to keep abreast with plans and programs of industry, nonprofit organizations and consumer groups. When letters to the Corps indicate an issue of significant national consumer interest, the Office of the Chief of Engineers holds hearings to solicit consumer input to the policy formulation process. When an area of continuing consumer concern is identified, an advisory board is established to obtain a continuing source of input from consumer representatives. One such board is the Chief of Engineers Environmental Advisory Board, composed of members representing conservation organizations, the news media, and other consumer interests. The boards aid the Chief of Engineers in defining and meeting the Corps' obligations and responsibilities in environmental matters and in promoting mutual understanding.

(2) At local district offices there is a more visible consumer input to the Civil Works Program. Consumer input is solicited by a variety of mechanisms.

(i) Public meetings are conducted by the Corps at critical decision-making points in the planning process.

Meetings are held to obtain input from the consumer regarding the problems and need for a study; to obtain consumer reactions to proposed alternative solutions; and to obtain consumer reaction on the plan.

(ii) The following mechanisms are established to ensure that input from consumers are adequately solicited and evaluated:

—A consumer involvement program is developed at the beginning of a study;

—A summary of consumer involvement program implementation must be incorporated in planning reports;

—A requirement that testimony presented and discussions held at public meetings, are recorded verbatim and reviewed in the evaluation and decision-making process by a district office and higher echelons.

(iii) Mailing lists and public notices are maintained to facilitate this consumer education process. In addition, there is wide distribution of publications. For example, a water resource booklet, which includes information on all Corps activities in a State, is prepared for each State. Pamphlets on all of its reservoir recreation areas are pubished. Publications are also available on special subjects of high consumer interest. Consumers are also provided with flood-plain and public safety information and training sessions are conducted for flood emergencies. A catalog of information films on water resources and related subjects is widely distributed and the films are available for loan upon request. And each Corps office has a speakers bureau available to requesting consumer groups.

(c) Environmental Impact and Economic Adjustment Assistance.

(1) Under the provisions of the National Environmental Policy Act (NEPA) of 1969, as amended, and as implemented by DoD Directive 6050.1, each proposed action by the Department of Defense must be assessed to ascertain its enviornmental impact. In this assessment process, the direct impact on the natural environment is considered, as well as secondary impacts, such as traffic patterns, employment and housing. If the proposed action significantly impacts the quality of human environment or if it is anticipated to be environmentally controversial, then an Environmental Impact Statement (EIS) is prepared, and public, Federal, State and local comments on the proposal solicited. The substantive comments received are addressed and incorporated into a final impact statement and filed with the Council on Enviornmental Quality (CEQ). No administrative action on the proposal is taken for 30 days after the EIS is filed. This provides the Environmental Protection Agency an opportunity to fulfill its statutory requirements under Section 309 of the Clean Air Act of 1970. Notice of the filing of both the draft and the final EIS are noted in the **Federal Register**. The final impact statement accompanies the proposal through the Military Departments or Agencies review process so that the decision-maker can give due consideration to the environmental impact concurrent with technical, operational, economic and other factors in making the final decision.

(2) Whether or not an EIS is prepared, if individuals and local communities are adversely affected by a DoD decision or action, assistance is provided under the Economic Adjustment Program, DoD Directive 5410.12. This assistance program is carried out under the auspices of the President's Economic Adjustment Committee which is chaired by the Secretary of Defense. The Committee coordinates the use of available Federal resources to help impacted communities generate new jobs to replace those lost.

(i) Employment Impact

The effect on the area's manpower requires the Committee to give major emphasis to the needs of the affected employees in transferring, retiring, retraining or obtaining placement assistance with the private sector. The Defense Priority Placement Program, DoD Directive 1400.20 provides maximum placement assistance prior to and subsequent to reduction-in-force separations.

(ii) Housing Impact

—The Homeowners Assistance Program, DoD Directive 5100.54 assists both military and civilian employee homeowners by reducing loses incident to the disposal of their homes. When the local housing market is seriously affected by closure cutbacks at military installations, employees are assisted in disposing of their residences at a small discount from fair-maket value.

—In addition to the assistance to individual homeowners, the Committee works closely with the community and its business leaders on the orderly acquisition and disposal of surplus military housing at former military installations. Close coordination between Federal and local authorities is required to assure that the disposal of this housing does not seriously disrupt the local housing market.

(iii) Property Impact

—The Committee assists communities in the conversion of former DoD bases to meet public needs and job-generating uses such as industrial, educational, health and transportation. Disposition of this property requires cooperation with the citizenry and public bodies in each of the impacted areas. The focus of the Committee is to work with local leaders and citizens on developing a base-use plan, arranging interim use of these facilities, and facilitating final conveyance of this property to the community.

(iv) School Impact

—The Committee works with area educators to alleviate the impact caused by the relocation of personnel and the loss of Federal education assistance funds.

(v) Small Business Impact

—Many small business firms are affected by these realignment actions as a result of their subcontracts with the base or with a major prime contractor. These include firms in the real estate, service, construction, and financial sectors. The assistance provided through the Committee to these enterprises is directed at each of the individual firms and the peculiar problems these firms face in diversifying their product lines and service orientation.

(iv) Community Impact

—A major realignment action often highlights the need to address specific community needs that may be met through the acquisition of surplus base property. Dependent upon the size and character of the base, various parts may be utilized for public purposes at much less cost than constructing new facilities.

(d) Dissemination of Scientific and Technical Information.

—The Department of Defense conducts a broad program of research, development, test and evaluation. The results have potential for use by the private sector, other Government agencies and State and local governments in the solution of critical domestic problems. This (unclassified) information is made available to the public through the Department of Commerce clearing-house, the National Technical Information Service (NTIS), which announces and disseminates this information to the general public.

(e) Consumers of Goods and Service Offered in DoD Activities.

(1) Inherent in the military establishment are numerous procedures at the installation level which permit individuals to initiate views regarding their interest as consumers of goods or services offered by DoD-sponsored activities. It is here, in the military community, that likes and dislikes are first made known, corrective action taken, or referral to higher levels accomplished. The accessibility of local assistance, however, does not preclude the use of other available channels of communications.

(2) Consumer suggestions and comments are analyzed and passed from advisory groups and staff elements to the appropriate decision level. These suggestions are received from:

—Written correspondence
—Direct contact by consumers with local responsible officials
—Consumer participation conferences
—Consumer advisory groups
—Inspectors General interview and complaint systems
—Sample surveys
—Military community service organizations
—In-store interviews
—Patron purchase panels
—Suggestion boxes
—Customer "Want" slips

(3) Communications to Consumers on Issues and Decisions. Consumers are made aware of issues and pending final decisions which affect them through publication in the **Federal Register**, internally disseminated information, service press, local press, and legislative releases. Policies are promulgated by such means as directives, regulations and instructions.

(4) Feedback to Consumers About Their Comments. Written comments from consumers receive a direct reply. Responsible local officials respond to individual or group consumer suggestions. Moreover, local commanders, or their representatives, participate in on-base consumer group activities, such as personnel advisory councils and clubs, to discuss the development and status of consumer suggestions of general interest.

(5) Consumer Education. There is a continuing effort to educate consumers. Examples include commanders' calls, telephone and installation newspapers, "hotlines," books, pamphlets, fact sheets, films, and Armed Forces Radio and Television programs overseas where topics such as "best buys, open dating, and unit pricing" are discussed.

III. INFORMATIONAL MATERIALS

Agency Information Services

1. Usefulness of Current Material

The Department has publications available that provide information about the Department or areas of public concern.

(a) DoD Directive 6050.1, "Environmental Effects in the United States of DoD Actions," July 30, 1979.

(b) DoD Directive 5410.12, "Economic Adjustment Assistance to Defense-Impacted Communities," April 21, 1973.

(c) DoD Directive 1400.20, "DoD Program for Stability of Civilian Employment," August 13, 1971.

(d) DoD Directive 5100.54, "Homeowners Assistance Program." December 29, 1967.

(e) DoD Directive 5400.9, "Publication of Proposed and Adopted Regulations Affecting the Public," December 23, 1974.

(f) DoD Directive 5400.7 "Availability to the Public of Department of Defense Information," February 14, 1975.

(g) DoD Directive 1344.7, "Personal Commercial Affairs," July 1, 1969 governs the conduct of private solicitation on the Department's installations and prescribes the intent of the Department to safeguard and promote the welfare and interests of its personnel as consumers.

(h) DoD Directive 1344.1, "Solicitation and Sale of Insurance on Department of Defense Installations," August 31, 1977 establishes standards of conduct in soliciting and selling insurance on the Department's installations.

(i) DoD Directive 1344.9, "Indebtedness of Military Personnel," May 7, 1979 sets forth procedures for

processing claims of indebtedness against members of the Military Services.

(j) DoD Directive 1330.9, "Armed Services Exchange Regulations," October 29, 1971, establishes patron eligiblity and presicribes authorized goods and services.

(k) DoD Directive 1330.17, "Armed Services Commissary Store Regulations," May 4, 1978 establishes patron eligibility and prescribes authorized goods and services.

2. Plans for Improvement

The Advisor shall review the Department's informational materials and make recommendations for improvement.

The Advisor shall consult appropriate governmental entities, including the General Services Administration Consumer Information Center/Federal Information Center, regarding methods for achieving optimum distribution of the Department's informational materials.

The Department will consider distribution of the Consumer's Resource Handbook within the Department to provide guidance on handling public inquiries and complaints.

3. Officials Responsible for Consumer Information Program

The Advisor, together with his/her permanent designees, shall review current informational materials and shall provide advice regarding the preparation of new materials.

Information on Agenda of Public Meetings

Explanatory materials for consumer meetings of the Department shall be prepared by the unit involved with appropriate assistance from the Advisor. The materials shall describe general topics of concern as well as the date, time, place and format for the meeting. They shall invite suggestions for additional topics to be addressed at the meeting. These materials shall be made available through the Public Affairs Office and shall be mailed to appropriate organizations in the area in which the meeting is to take place.

IV. EDUCATION AND TRAINING

Areas in Which Training Provided

Training shall be provided in complaint handling and in other matters the Advisor concludes would help implement the plan.

Method of Education

The Secretary of Defense will advise each Department and Agency of the existence of the final consumer plan and of their responsibilities. The Advisor to the Secretary of Defense shall respond to inquiries about the plan and shall assist the Departments and Agencies in their implementation.

Specialized Training for Consumer Affairs Personnel

Departments and Agencies shall train individuals in complaint handling and other consumer affairs responsibilities. The training shall cover the major consumer resources of the Department and other government agencies, courtesy and attitude in responding to mail and telephoned inquiries, guidelines for appropriate responses to inquiries, and disclosure policies regarding pending Departmental matters.

The Departments and Agencies will sponsor the attendance of consumer program representatives and others at training sessions provided by other agencies as may be appropriate.

V. COMPLAINT HANDLING

Agency Interest in and Methods for Filing

The Department's Public Affairs Office, after consultation with the Advisor, shall issue press releases containing information to educate consumers on the Department's mission and to invite information, comment and complaints. The releases shall specify the offices within the Department to which written comments, reports and complaints should be directed.

All Department of Defense Informational publications shall be reviewed by the Advisor to consider whether revisions are appropriate, to indicate Departmental receptivity to comments and complaints, and to designate a point of contact within the Department.

Format for Logging Complaints

The Advisor shall survey the Military Departments, Defense Agencies, and staff elements of the Office of the Secretary of Defense to determine the volume and types of consumer inquiries received and the procedures used in handling inquiries. The Advisor shall also review mailroom and telephone switchboard procedures to insure that complaints receive timely, courteous and appropriate responses, and that the complaint procedures facilitate the gathering of statistical and summary information for analysis by Departmental officials. The Advisor shall direct Consumer Program Representatives to establish a system, categorizing complaints for statistical analysis.

Investigation and Analysis

Standards issued by the Advisor shall seek to insure that complaints received are considered promptly and appropriately by officials of the Department.

Response Procedure

The Advisor shall prepare a Consumer Resource Handbook for Departmental use in responding to consumer inquiries.

Evaluation of Complaint Handling System

After issuing and implementing standards, the Advisor shall regularly evaluate the results of the systems and the promptness and quality of the Departmental responses to consumer inquiries.

Statistical Analysis

The Advisor shall prepare an annual report to the Secretary of Defense analyzing the complaints received by the Department. The Secretary of Defense and heads of the Military Departments and Defense Agencies shall consider the patterns of complaints received and the concerns expressed regarding Departmental policies and practices. Policy changes will be made as needed.

VI. OVERSIGHT

The Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) is designated as the Consumer Affairs Advisor (See Section I.) The Advisor shall work in conjunction with designated officials throughout the Department of Defense, as articulated heretofore in this Plan, and may bring to the direct attention of the Secretary of Defense any matters relevant to a unit's performance under this Plan for consideration and action. In addition to an annual report evaluating the status of this program, the Advisor may make ad hoc assessments as deemed necessary to determine the effectiveness of various aspects of this program.

H. E. Lofdahl,

Director, Corres. & Directives, Washington Headquarters Service, Department of Defense.

January 30, 1980.

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February 4, 1980

Part III

Department of Transportation

Federal Aviation Administration

Airworthiness Review Program; Amendment No. 8: Cabin Safety and Flight Attendant Amendments

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 23, 25, 27, 29, 91, and 121

[Dockets Nos. 14779 and 14324; Amendments Nos. 23-25; 25-51; 27-17; 29-18; 91-162 and 121-155]

Airworthiness Review Program; Amendment No. 8: Cabin Safety and Flight Attendant Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The purpose of these amendments to the Federal Aviation Regulation is to update and improve the airworthiness standards applicable to cabin safety and to those affecting flight attendants. These amendments are part of the Airworthiness Review Program.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: Everett W. Pittman, Safety Regulations Staff, (AVS-22) Federal Aviation Administration, 800 Independence Ave., SW., Washington, D.C. 20591, telephone (202) 755-8714.

SUPPLEMENTARY INFORMATION: These amendments concern cabin and flight attendant safety and are part of the Airworthiness Review Program. They are based on two Notices of Proposed Rule Making—Notice 75-10 published in the **Federal Register** on March 7, 1975 (40 FR 10802), and Notice 75-31 published in the **Federal Register** on July 11, 1975 (40 FR 29410). Because of the Federal Aviation Administration's serious concern for cabin and flight attendant safety, these proposals are being handled separately in this amendment. This action completes disposition of the proposals contained in Notice 75-10; the remainder of the proposals contained in Notice 75-31 will be treated in a subsequent rulemaking action.

The following amendments have previously been issued as part of this Airworthiness Review Program:

Title and FR Citation
Form Number and Clarifying Revisions (40 FR 2576; Jan. 14, 1975).
Rotorcraft Anticollision Light Standards (41 FR 5290; Feb. 5, 1976).
Miscellaneous Amendments (41 FR 55454; Dec. 20, 1976).
Powerplant Amendments (42 FR 15034; March 17, 1977).
Equipment and Systems Amendments (42 FR 36960; July 18, 1977).
Flight Amendments (43 FR 2302; Jan. 16, 1978).
Airframe Amendments (43 FR 50578; Oct. 30, 1978).

Interested persons have been afforded the opportunity to participate in the making of these amendments and due consideration has been given to all matters presented.

Background

In late 1978, the Administrator ordered a review of all cabin safety programs and projects within the various FAA offices. While the agency's several programs all pursued the same goal of improving safety, there was lacking a cohesiveness of effort, a central focal point. After assessing the status of these projects, the Administrator in early 1979, directed the agency to integrate all aspects of cabin safety into one program. The agency's new approach is to comprehensively deal with the problems by relating all aspects of cabin safety into a "total" cabin safety program with one program manager, the Director of Aviation Safety.

The integrated cabin safety program consists of a number of key activities which individually exist at various stages of completion. This amendment, as one element of that program, converts all but one of the proposals concerning cabin safety contained in the outstanding notices of proposed rulemaking, into final rules. The proposal concerning lower deck service compartments, § 25.819 (Proposal 8-40) has been deferred to later rulemaking action.

Other portions of the overall program, which are not dealt with in this action, concern such areas as the smoke, toxicity, and flammability characteristics of cabin interior materials and fuel explosion suppressive devices. These matters are currently the subjects of intensive research and development work which will form the basis of future regulatory standards.

The FAA's concern for improving the cabin safety environment for the traveling public, and for the flight crews and flight attendants serving that public, was underscored by the numerous comments received in response to Notices 75-10 and 75-31. While those notices contained many proposals for rule changes in other important airworthiness certification areas, the widespread concern over cabin safety has prompted the FAA to treat the subject by separate amendment at this time.

The proposals which form the basis for this amendment cover aircraft certification requirements for seats to be occupied by flight crew-members, flight attendants, and forward observers. Relative to the seats, the proposals also speak to seat belts and shoulder harnesses. Other items of cabin safety include stowage and service compartments, floor surfaces, and waste receptacles. In addition to the proposals related to type certification requirements, this amendment also completes action on proposals for operating rule changes that will impose some similar requirements on currently operating aircraft.

The FAA has determined that this document involves a proposed regulation which in non-significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The regulatory evaluation prepared for the regulations is contained in the regulatory docket. A copy of the regulatory evaluation may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT * * *"

Discussion of Comments

The following discussion is keyed to like-numbered proposals contained in Notice 75-31. Proposals from Notice 75-10 are identified and discussed with the related Notice 75-31 proposals.

Proposals 8-36 and 2-80. In addition to the proposed revision of § 25.785 in Notice 75-31 dealing with the design and location of seats, berths, safety belts, and harnesses, a proposed Airworthiness Directive (AD), Docket No. 14912, was issued on August 7, 1975 (40 FR 34139) proposing the removal of side-facing flight attendant seats and establishing criteria for the design, location, and removal of other flight attendant seats.

Both Notice 75-31 and the proposed AD contained similar proposals for flight attendant seats, and comments were received on both proposals. An AD was subsequently issued on February 23, 1976 (41 FR 8766) to require the removal of each side-facing flight attendant seat. The AD did not require corrective action on the other items contained in the proposed AD, since it was intended that the design or removal of other flight attendant seats would be considered in connection with final rulemaking action under Proposals 8-36 and 8-117 in Notice 75-31. Comments received on the proposed AD have been considered under related proposals in Notice 75-31. The energy absorbing rest requirement of proposed § 25.785(h)(2)(i) is intended to answer numerous comments received in the AD docket relating to allegedly hazardous characteristics of certain galley mounted flight attendant jumpseats now used in air carrier service. Since § 25.785(h)(2)(i) is specifically made applicable to air carrier operations in proposed § 121.311(f), present flight attendant jumpseats not designed to provide necessary arm, shoulder, head and spine support will be prohibited from use during air carrier operations upon the effective date of this amendment.

A commenter suggested that proposed § 25.785(g) only apply to required flight crew station seats and not to other flight deck seats such as rest seats or observer seats. The FAA does not agree. Nonrequired flight station personnel occupy seats that are very close to those of required personnel and, if these nonrequired flight station personnel are not properly restrained, their unrestrained movements during an emergency situation could interfere with operations by the flight crew. Therefore, the requirement of proposed § 25.785(g) is applicable to all seats on the flight deck.

Several commenters questioned whether the words "means to secure" in proposed §§ 25.785 (g) and (h) were intended to require a specific device or whether an operational procedure could be used that would require that the seat belt and shoulder harness be secured when not in use. Another commenter questioned whether the fastening of the harness around the seat when not occupied would meet the intent of the rule. The intent of the proposal for §§ 25.785 (g) and (h) is to provide a means or procedure for ensuring that the restraint system, when not in use, will not interfere with normal operation of the airplane or interfere with rapid egress of personnel in an emergency situation. The fastening of the restraint system around the seat would be acceptable if it meets this intent. The word "combined" which appears between the words "be" and "means" in the second sentence of proposed § 25.785(g) has been deleted as redundant. Several commenters questioned whether the term "when not in use" in proposed §§ 25.785 (g) and (h) related to not in use on a particular flight or not in use due to the seat having been momentarily vacated. However, the wording makes clear that the rule would apply in both instances.

Numerous comments were received on proposed § 25.785(h) to require that flight attendant seats be located near approved floor level exits and be equipped with a combined seat belt and shoulder harness.

Several commenters suggested that applicability of the proposed paragraph be restricted to seats provided for those attendants required by the operating rules, since excess flight attendants usually occupy passenger seats and the redesign of passenger seats to accept approved shoulder harnesses would be prohibitive in cost. The FAA maintains that flight attendants required by § 121.391 should have seats that meet the requirements of § 25.785(h). The phrase "required by § 121.391" has been deleted from § 121.311(f) and a new § 121.311(f)(3) has been added to clarify that the requirements of § 25.785(h) are not applicable to passenger seats occupied by flight attendants not required by § 121.391.

Two commenters suggested that shoulder harnesses not be required on rearward facing flight attendant seats, stating that a seat belt alone would offer secure and safe restraint. The FAA does not agree. Lateral restraint is required for rearward facing as well as for forward facing seats. A shoulder harness provides the degree of lateral restraint necessary to warrant its use at all flight attendant seats.

A commenter questioned whether mirrors could be used to meet the intent of the proposed § 25.785(h)(1), which would require that flight attendant seats be located to provide a view of the cabin area. The intent of the proposal is to require a direct view, and mirrors or other such devices are not considered acceptable because of their limitations. The proposed § 25.785(h)(1) is therefore revised to specify "direct view" and to make nonsubstantive editorial changes.

Two commenters stated that where galley doors are used as emergency exits, the placement of the attendant seats near the floor level exit, as required in proposed § 25.785(h), could preclude compliance with the requirement of proposed § 25.785(h)(1) that the flight attendants be provided a direct view of the cabin area. To cover this situation, a commenter suggested that the § 25.785(h)(1) requirement be conditioned to apply insofar as practicable and without compromising the proximity to required floor level exits. The FAA agrees that the requirement for location of the flight attendant seats near the floor level exits in this case is more important than the requirement that the flight attendant have a direct view of the cabin. Accordingly, the proposal is revised in the manner suggested.

Another commenter stated that access to the communication system when seated is not necessary for all flight attendants, and in particular those in excess of the number required by the operating rules. After further review, the FAA has concluded that the wording of proposed § 25.785(h)(1) referring to access to the communications system when seated may be ambiguous and cause misunderstandings when compared to the newly adopted provisions of §§ 25.1411(a)(2) and 121.319 of this Chapter (Amendment 7; 43 FR 50578). Newly adopted § 25.1411(a)(2) describes the requirements for the public address system microphone, whereas the § 121.319 requirement for a crewmember interphone system is also regarded as a communication system. However, there is no mention in Part 25 of the crewmember interphone described in § 121.319. To make the changes necessary to resolve this ambiguity would be beyond the scope of this proposal. Accordingly, the FAA has deleted the last portion of proposed § 25.785(h)(1) referring to access to the communications system when seated. The FAA will propose future rulemaking action to incorporate provisions in §§ 25.785 (h)(2)(i) and (h)(2)(ii).

Four commenters objected to proposed §§ 25.785 (h)(2)(i) and (h)(2)(ii) to require energy-absorbing rests on only rearward facing seats and suggested that forward facing seats also be required to have such rests. The FAA agrees, and the proposed § 25.785(h)(2) has been revised accordingly. A commenter suggested that the proposed § 25.785(h)(2) is redundant, since current § 25.785(c) already requires a seat with energy absorbing rests. The FAA does not agree. The § 25.785(c) requirement does not specify the energy absorbing rest that would be required by § 25.785(h)(2) for rearward and forward facing flight attendant seats.

Two commenters suggested deletion of the word "arms" if the intent is to require arm rests or side panels, for these would preclude the use of the fold-up seats needed to provide the necessary clearance and access to aisles and exits. The proposed rule is not intended to eliminate the use of fold-up seats. The intended arm support could be provided by a sufficiently large seat back, and this would not preclude the use of fold-up designs. Another commenter suggested that clarification of the word "energy absorbing rest" is necessary and suggested that the term "padding" was less confusing. The FAA believes that the term "energy absorbing rest" as currently employed in present § 25.785(c) is sufficiently clear and unambiguous. Moreover, introducing new terminology at this time would only lead to confusion.

Several comments were received on proposed § 25.785(h)(3), which would require that flight attendant seats be positioned to prevent interference with the use of passageways and exits. The commenters questioned whether the requirement would apply to unoccupied flight attendant seats. The FAA agrees

that the proposed requirement should be clarified and it has been revised to indicate that the requirement applies to flight attendant seats when not in use. Revised § 25.785(h)(3) has been redesignated and adopted as § 25.785(h)(2)(ii).

A commenter suggested the addition of a new § 25.785(h)(4) to state requirements for the design and location of supplemental oxygen equipment for use by the flight attendants. Since standards for the location of such equipment are presently under consideration in the Operations Review, that suggestion will be treated as a part of the Operations Review rulemaking.

A commenter suggested deletion of the words "during any operation" from the proposed § 25.785(j), which would require that each seat be located to minimize the probability of its occupant suffering injury by being struck by dislodged items. The commenter stated that the phrase was meaningless, unnecessary, and would be a source of never-ending controversy as to its intent. The FAA agrees, and proposed § 25.785(j) has been revised accordingly.

Several commenters questioned whether the proposed § 25.785(j) was intended to pertain to all passenger and flight attendant seats or merely to flight attendant seats. A commenter suggested that injury from dislodged contents of galleys or storage compartments is common to all seats in the cabin and that the flight attendant seats should not be singled out for action. Consistent with the wording of the previously issued AD dealing with flight attendant seats, the intent of proposed § 25.785(j) in Notice 75–31 was directed to flight attendant seats. Although all occupants of an airplane should be protected from injury from dislodged items, the FAA does not agree that all occupants are vulnerable to flying debris by reason of seat location. The flight attendant seats, being adjacent to exits, are frequently in aisles, passageways, or near galleys, and are therefore more vulnerable to being struck by objects dislodged from closets, galleys, supply racks, or shelves. Service experience shows that flight attendants are struck more often than other cabin occupants and proposed § 25.785(j) is revised to clarify its applicability to flight attendant seats.

Another commenter suggested that a strict interpretation of proposed § 25.785(j) would result in an incompatibility with the requirements that cabin attendant seats be near or adjacent to approved floor level exits, especially when such exits are galley service doors. The commenter suggested inclusion of the phrase "insofar as is practicable and without compromising the proximity to approved floor level exits * * *." The FAA does not agree. The requirement that flight attendant seats be located near approved floor level exits should not be compromised nor should locating such seats near galleys compromise the safety of the seated flight attendant. In this connection, proper galley design and seat location can greatly minimize the probability of the flight attendant being injured by dislodged items.

Finally, one commenter suggested a revision to § 25.785(j), by listing specific items to be considered in minimizing the likelihood of occupants being injured by dislodged items. The same commenter proposed that the description of likelihood of injury be changed from a "probability" to a "possibility". The FAA does not agree. Proposed § 25.785(j) would require that flight attendant seats be located to minimize the "probability" of occupant injury from dislodged items. Substantial design difficulties would be encountered in locating flight attendant seats to minimize harm from any possibility during flight operations. The commenter's proposal would create the unwarranted implication that seat locations be subject to statistical analysis. Nor is it necessary to enumerate all items capable of being dislodged, as the proposed wording would require that all items normally found in galleys, storage compartments, and serving carts must be considered. The same commenter's further suggestion for specifying means for securing all stowage compartments and related loose items is unnecessary since such structural considerations are adequately covered in the wording of § 25.785(j).

Disposition of Proposal 2–60 to amend § 25.785 (Notice 75–10) was deferred at the time of issuing the amendment published at 41 FR 55454 so that it could be considered in connection with Proposal 8–36. No unfavorable comments were received on Proposal 2–60. However, in view of the changes being made to § 25.785 under Proposal 8–36 of Notice 75–31, the changes proposed in 2–60 of Notice 75–10, with the exception of the word changes in paragraph (i) and the addition of a new paragraph (h), are unnecessary and are withdrawn. Proposed paragraph (h) concerning the forward observers' seat is adopted and redesignated as § 25.785(k).

Proposal 8–37. Two commenters objected to the wording "extremely improbable" in the proposed revision to § 25.787(b). One commenter stated that this wording implies a requirement for a reliability analysis, which the commenter indicated was unwarranted. The FAA concurs, and the requirement that an unwanted opening be extremely improbable is withdrawn.

Two commenters suggested that the intent of proposed § 25.787(b) is adequately covered in present § 25.789. However, the intent of the proposed section is to prevent inadvertent opening of the latched doors of stowage compartments by specifically requiring that service wear and deterioration be considered in the design. The § 25.787(b) requirement is therefore different than the § 25.789 requirement which is directed to retention of items of mass subjected to maximum load factors.

After consideration of the comments received and after further review, the FAA has determined that a clarification of the proposal is needed to indicate that the proposal applies only to stowage compartments in passenger and crew cabins. The proposal is revised accordingly.

Proposal 8–39. A commenter objected to the proposal for a new § 25.793 to require slip resistant properties on floor surfaces of all areas likely to become wet, stating that there appears to be no such hazard in general aviation airplanes. The FAA does not agree. Airplanes type certificated under Part 25 may be operated both as air carrier and general aviation type airplanes. Any transport category aircraft may be susceptible to this problem regardless of its type of operation.

A second commenter suggested that the wording of the proposal be revised to require consideration only of those areas "likely to become wet in service." The FAA agrees and the proposal is revised accordingly.

Several commenters questioned the term "slip resistant" as used in the proposal. A commenter stated that a definition of the term should be adopted. The FAA maintains that the term "slip resistant" is generally understood, and that no useful purpose would be served by providing a rigorous definition which might unduly restrict design choice.

Proposals 8–42, 2–18, 2–65, 2–114 and 2–160. Proposal 2–65 to revise § 25.853(c) is similar to Proposals 2–18, 2–114 and 2–160 to revise §§ 23.853(c), 27.853(c), and 29.853(c), respectively. Each of these proposals was set forth in Airworthiness Review Notice No. 2 (Notice 75–10) and their disposition was deferred for consideration with Proposal 8–42 (see Amendment No. 3 (41 FR 55454)). All comments on Proposals 2–18, 2–65, 2–114, and 2–160 are discussed herein.

Commenters pointed out that proposed § 25.853(c) contained "No Smoking" sign provisions which were already set forth in current § 25.791, and suggested that one or the other be revised to avoid confusion. The FAA agrees and § 25.853(c) has been revised to refer to § 25.791 for the requirements for signs that notify passengers when smoking is prohibited. Because of this revision to Proposal 8–42, § 25.853(c) is not identical to §§ 23.853(c), 27.853(c), and 29.853(c); however, substantively identical language exists in § 25.791, referenced in the revised § 25.853(c) if § 25.853(c) were to be identical to §§ 23.853(c), 27.853(c), and 29.853(c), corresponding changes to § 25.791 and § 121.317(a) would be necessary. Such changes would unnecessarily complicate this amendment and would provide no meaningful advantage.

A commenter objected to proposed § 27.853(c)(2) on the grounds that "No Smoking" signs are not justifiable for normal category rotorcraft, which are limited to 6,000 pounds gross weight. It was contended that the passenger capacity of such rotorcraft is relatively small and that even when the crew and passenger compartments are separated, a simple "No Smoking" placard, or oral instructions from the crew, or both, would accomplish the intent of the proposal. With regard to a "No Smoking" placard, the FAA agrees that such a placard would be sufficient if smoking is to be prohibited. However, the FAA believes that when the crew compartment is separated from the passenger compartment, oral communication from crew to passenger may not be possible.

A commenter suggested that the distinction between the term "when illuminated" in proposed § 27.853(c)(2)(i), and the term "when illuminated internally" in proposed § 27.853(c)(2)(ii), should be made more clear. The FAA's intent was to require the lights to be so constructed that the crew can turn them on and off, consistent with similar requirements in current §§ 25.791, 121.317 and 127.115. Accordingly, the term "when illuminated internally" is deleted from §§ 23.853(c)(2)(ii), 27.853(c)(2)(ii) and 29.853(c)(2)(ii).

Several commenters objected to the requirement in proposed § 25.853(d) (Proposal 8–42) that towel, paper, and waste receptacles be fireproof, contending that—(1) Experience and tests have demonstrated that proper design using fire resistant materials provides entirely adequate fire containment; (2) the other requirements in proposed § 25.853(d) ensure fire containment in fire resistant receptacles; and (3) use of fireproof rather than fire resistant materials would result in a considerable weight penalty, particularly on large airplanes. In light of these comments, and after further consideration, the FAA concludes that fire resistant materials would be adequate for these receptacles. Proposed § 25.853(d) is revised accordingly.

Two commenters pointed out that proposed § 25.853(d) could be construed as applying to towel and paper dispensing equipment. The FAA's intent was to cover only those receptacles that are used for the *disposal* to towels, paper, and waste since these are receptacles in which fires have occurred in service. To make this clear, § 25.853(d) is revised by inserting the word "disposal" before the word "receptacle."

A commenter objected to the term "extremely improbable" in proposed § 25.853(d) because it implies a type of reliability analysis which the commenter claimed would not be appropriate to the requirements specified. Another commenter objected to the same term on the ground that it would be impossible to demonstrate. The FAA agrees that "extremely improbable" is not appropriate and the second sentence of § 25.853(d) is revised to read "* * * under all probable conditions of wear, misalignment, and ventilation expected in service * * *." The word "effects" is deleted as redundant.

One commenter stated that proposed § 25.853(d) would require that the receptacle have a lid and that this may not be practical when a chute leads from a spring-loaded door in the sink counter top into a container below. The FAA believes that a practical design complying with the proposal can be achieved by considering the combination of spring-loaded door, chute, and container as constituting the receptacle.

Two commenters objected to proposed § 25.853(e), stating that it was more restrictive than Airworthiness Directive (AD) 74–08–09, which deals with similar safety issues. In particular, the commenters stated that the AD allowed the use of—(1) "No Smoking" signs as an alternative to "No Smoking in Lavatory" signs; (2) signs "of sufficient size and contrast" as opposed to the proposed "red letters at least one inch high on a white background of at least two inches high"; (3) one ashtray to serve more than one lavatory door if the ashtray could be seen readily from the cabin side of each lavatory served. Concerning the first and third points, the FAA finds, after further consideration, that the less restrictive language in the AD would provide an adequate level of safety. Concerning the second point, the FAA believes it is necessary to require minimum standards for the size and contrast of the placards specified in proposed § 25.853(e). However, after further consideration, the FAA has concluded that these placards would be sufficiently conspicuous if the red letters and white background were one-half inch high and one inch high respectively. Section 25.853(e) is revised accordingly.

A commenter suggested that proposed § 25.853(e) be revised to allow the use of symbols to indicate "No Smoking in Lavatory" instead of letters. The FAA maintains that for lavatory placards, letters rather than symbols must be used to minimize the probability that the placard message would not be understood by the lavatory occupant. In contrast to the situation in the general cabin area, there would not be a person nearby who could explain the symbol if its meaning were not grasped. However, symbols may be included on the placard with the letters to further describe the no smoking condition.

A commenter who supported proposed §§ 25.853 (d) and (e) suggested that additional regulations should be developed to provide an active means of fire detection and extinguishing in compartments such as lavatories; however, the commenter did not make any specific recommendations.

Proposal 8–52. No unfavorable comments were received on the proposal to amend § 25.1413(c). Accordingly, the proposal is adopted without substantive change.

Proposal 8–116. Several commenters agreed in principle with the proposed § 91.200 to add a requirement that transport category aircraft be equipped with shoulder harnesses meeting the requirements of § 25.785 at each crewmember seat and flight attendant seat. Two of these commenters disagreed with the proposed one year compliance time, stating that two or three years was a more appropriate compliance time. The FAA finds that the one year proposed is a realistic time for accomplishing these tasks. However, the FAA recognizes that conditions beyond the control of an operator can occur to delay compliance with the rule. This could be the case even though a good faith effort was made by an operator to comply. Because of this, the proposal has been revised to provide, under appropriate circumstances, for a limited extension of the compliance date in accordance with a schedule acceptable to the FAA. Before granting any extension, the FAA will scrutinize each operator's request to determine if the operator made the showing required by § 91.200(b). In addition to demonstrating that circumstances beyond its control

make timely compliance impossible, the operator must submit a schedule showing that compliance will be achieved at the earliest practicable date. Any extension granted will be based upon the FAA's judgment as to the earliest date on which compliance is possible.

A commenter stated that some airplanes do not have adequate structure available at some flight attendant and jump seat locations to install a supported shoulder harness, particularly at those seats which are side facing. However, side-facing seats are no longer an issue since Airworthiness Directive 76-05-02 (Docket No. 14912, Amendment No. 39-2534) requires the removal of side-facing flight attendant seats from all transport category airplanes.

A commenter suggested that the proposal be revised to require compliance only when flight attendants are being carried, rather than at all times a flight attendant seat is installed. The commenter pointed out that some airplanes operate under Part 91 when conducting ferry or training flights. The FAA does not agree, since Proposal 8-117 would require that shoulder harnesses be installed for operations conducted under Part 121 and they would therefore already be in the airplane for the operation described by the commenter.

Several commenters on Proposal 8-117 pointed out that certain existing shoulder harness installations at pilot-in-command, second-in-command, and flight engineer stations are designed to less than the present 9g forward load factor requirement of § 25.785, and that to require a redesign to 9g would be impractical and prohibitive in cost. Other commenters noted that many flight attendant seats already have FAA-approved shoulder harnesses but not all are "combined safety belts and shoulder harness unit(s) with a single point release." The commenters stated that these installations have proved satisfactory in service and, since the operators voluntarily installed such FAA-approved shoulder harnesses, it would be unfair to now penalize them by requiring a retrofit restraint system with a single point release. The FAA finds that the comments submitted on Proposal 8-117 are equally appropriate for Proposal 8-116 and agrees with the commenters' recommendations. Proposed § 91.200 has been appropriately revised to allow the use of previously installed restraint systems at crewmember stations, provided the crewmember can perform assigned duties with the restraint system fastened, and it allows for existing restraint systems which were designed to the inertial load factors established under the certification basis of the airplane.

See Proposals 8-117 and 8-36 for related discussions.

Proposal 8-117. As in Proposal 8-116, several commenters objected to the proposed changes to § 121.311 which would require shoulder harnesses at each flight deck station. Several commenters also pointed out that shoulder harness installations now exist on airplanes which are designed to less than the present 9g requirements of § 25.785. Other commenters noted that many flight attendant seats already have FAA-approved shoulder harnesses but not all possess a single point release. For a discussion of all of these comments see Proposal 8-116. Qualifying statements have been added to the proposal to revise §§ 121.311 (e) and (f). These changes are substantively identical to those added to § 91.200(a) and discussed in Proposal 8-116.

A commenter objected to the requirement in proposed § 121.311(f) that would require all flight attendant seats to meet the requirements of § 25.785 of this chapter. The commenter stated that some passenger seats are being used for required flight attendants due to their proximity to floor level exits. The FAA maintains that all flight attendants required by § 121.391 should have seats that meet the requirements of § 25.785. The phrase "required by § 121.391" has been deleted from § 121.311(f) and a new § 121.311(f)(3) has been added to clarify that the requirements of § 25.785(h) are not applicable to passenger seats occupied by flight attendants not required by § 121.391.

A commenter pointed out that there was no time period for effecting compliance and suggested at least two years be allowed for retrofit of these restraint systems. In order to provide some time for compliance, proposed § 121.311(f) is revised substantively identical to revised § 91.200(b) (see Proposal 8-116).

Several commenters pointed out that the compliance time proposed for §§ 121.311 (e)(2), (f), (g), and (h) does not permit adequate time for design, fabrication, and retrofit. The FAA is satisfied that the time proposed is a realistic period for accomplishing these tasks. However, the FAA recognizes that conditions beyond the control of a certificate holder can occur to delay compliance with the rule. This could be the case even though a good faith effort was made by a certificate holder to comply. Because of this, proposed §§ 121.311 (e)(2), (f) and (h) have been revised to provide, under appropriate circumstances, for a limited extension of the compliance date in accordance with a schedule acceptable to the FAA. Section 121.311(j) describes the prerequisites for any operator to obtain an extension of the compliance dates established by the amendment. To be eligible for an extension, each operator must demonstrate that it is unable to comply due to circumstances beyond its control. In addition, the operator must submit a schedule showing that compliance will be achieved at the earliest practicable date. Any extension granted under this provision will be based upon the FAA's judgment as to the earliest date on which compliance is possible.

A commenter pointed out that proposed § 121.311(h) requires that each occupant of a seat equipped with a shoulder harness have the restraint system secured about him/her during takeoff and landing but does not require the occupant to be able to perform assigned duties with the shoulder harness fastened. Since the obvious intent of proposed § 121.311(h) was to require that the occupant of the seat be able to perform assigned duties with the shoulder harness attached, proposed § 121.311(h) is revised accordingly.

No unfavorable comments were received on the proposal to amend § 121.311(i) and the proposal is adopted without substantive change.

Proposal 8-118. The FAA withdrew the proposed new § 121.312(b) in a notice published in the Federal Register on August 24, 1978 (43 FR 37703).

A commenter pointed out that airplanes in service have already been required to comply with the essential substance of proposed new § 121.312(c) by means of Airworthiness Directive 74-08-09, which applies to all transport category airplanes, and recommended that this proposal be deleted. The FAA agrees. Airworthiness Directive 74-08-09 applies to airplanes operated under Parts 91, 121, and 135 of the Federal Aviation Regulations, and the proposed new § 121.312(c) is redundant with respect to airplanes operated under Part 121. The proposed new § 121.312(c) is therefore withdrawn.

Proposal 8-119. No unfavorable comments were received on the proposal to delete § 121.321. Accordingly, the proposal is adopted without substantive change. For related Discussion see Proposal 8-117.

Adoption of the Amendment

Accordingly, Parts 23, 25, 27, 29, 91, and 121 of the Federal Aviation Regulations are amended as follows, effective March 6, 1980.

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

1. By deleting § 23.853(b) and marking it "[Reserved]" and by revising § 23.853(c) to read as follows:

§ 23.853 Compartment interiors.

* * * * *

(b) [Reserved].

(c) If smoking is to be prohibited, there must be a placard so stating, and if smoking is to be allowed—

(1) There must be an adequate number of self-contained, removable ashtrays; and

(2) Where the crew compartment is separated from the passenger compartment, there must be at least one illuminated sign (using either letters or symbols) notifying all passengers when smoking is prohibited. Signs which notify when smoking is prohibited must—

(i) When illuminated, be legible to each passenger seated in the passenger cabin under all probable lighting conditions; and

(ii) Be so constructed that the crew can turn the illumination on and off; and

* * * * *

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

2. By inserting a comma between the words "seat" and "berth" and by deleting the words "or harness," between the words "belt" and "at" and inserting the words ", harness or both" in place thereof in the first sentence of § 25.785(i), and by revising §§ 25.785 (g) and (h) and adding new (j) and (k) to read as follows:

§ 25.785 Seats, berths, safety belts, and harnesses.

* * * * *

(g) Each seat at a flight deck station must have a combined safety belt and shoulder harness with a single-point release that permits the flight deck occupant, when seated with safety belt and shoulder harness fastened, to perform all of the occupant's necessary flight deck functions. There must be a means to secure each combined safety belt and shoulder harness, when not in use, to prevent interference with the operation of the airplane and with rapid egress in an emergency.

(h) Flight attendant seats in passenger compartments must be near required floor level emergency exits and be equipped with a restraint system consisting of a combined safety belt and shoulder harness unit with a single-point release. There must be means to secure each combined safety belt and shoulder harness, when not in use, to prevent interference with rapid egress in an emergency. In addition—

(1) To the extent possible without compromising their proximity to required floor level emergency exits, flight attendant seats must be located to provide a direct view of the cabin area for which the flight attendant is individually responsible.

(2) Flight attendant seats must—

(i) Either be forward or rearward facing, with an energy absorbing rest that is designed to support the arms, shoulders, head, and spine; and

(ii) Be positioned so that when not in use they will not interfere with the use of passageways and exits.

* * * * *

(j) Each flight attendant seat must be located to minimize the probability of its occupant suffering injury by being struck by items dislodged in a galley, or from a stowage compartment or serving cart. All items expected in these locations in service must be considered.

(k) Each forward observer's seat required by the operating rules must be shown to be suitable for use in conducting the enroute inspections prescribed by § 121.561(a).

3. By adding a sentence to the end of § 25.787(b) to read as follows:

§ 25.787 Stowage compartments.

* * * * *

(b) * * * For stowage compartments in the passenger and crew cabin, if the means used is a latched door, the design must take into consideration the wear and deterioration expected in service.

4. By adding a new § 25.793 to read as follows:

§ 25.793 Floor surfaces.

The floor surface of all areas which are likely to become wet in service must have slip resistant properties.

5. By deleting § 25.853(f) and revising § 25.853 (c), (d), and (e) to read as follows:

§ 25.853 Compartment interiors.

* * * * *

(c) If smoking is to be prohibited, there must be a placard so stating, and if smoking is to be allowed—

(1) There must be an adequate number of self-contained, removable ashtrays; and

(2) Where the crew compartment is separated from the passenger compartment, there must be at least one sign meeting the "No Smoking" sign requirements of § 25.791 notifying all passengers when smoking is prohibited.

(d) Each disposal receptacle for towels, paper, or waste must be fully enclosed and constructed of at least fire resistant materials, and must contain fires likely to occur in it under normal use. The ability of the disposal receptacle to contain those fires under all probable conditions of wear, misalignment, and ventilation expected in service must be demonstrated by test. A placard containing the legible words "No Cigarette Disposal" must be located on or near each disposal receptacle door.

(e) Lavatories must have "No Smoking" or "No Smoking in Lavatory" placards located conspicuously on each side of the entry door, and self-contained removable ashtrays located conspicuously on or near the entry side of each lavatory door, except that one ashtray may serve more than one lavatory door if the ashtray can be seen readily from the cabin side of each lavatory door served. The placards must have red letters at least one-half inch high on a white background of at least one inch high. (A "No Smoking" symbol may be included on the placard.)

§ 25.1413 [Amended]

6. By adding the words "and shoulder harness" after the words "each belt" in § 25.1413(c).

PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

7. By revising § 27.853(c) to read as follows:

§ 27.853 Compartment interiors.

* * * * *

(c) If smoking is to be prohibited, there must be a placard so stating, and if smoking is to be allowed—

(1) There must be an adequate number of self-contained, removable ashtrays; and

(2) Where the crew compartment is separated from the passenger compartment, there must be at least one illuminated sign (using either letters or symbols) notifying all passengers when smoking is prohibited. Signs which notify when smoking is prohibited must—

(i) When illuminated, be legible to each passenger seated in the passenger cabin under all probable lighting conditions; and

(ii) Be so constructed that the crew can turn the illumination on and off.

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

8. By revising § 29.853(c) to read as follows:

§ 29.853 Compartment interiors.

* * * * *

(c) If smoking is to be prohibited, there must be a placard so stating, and if smoking is to be allowed—

(1) There must be an adequate number of self-contained, removable ashtrays; and

(2) Where the crew compartment is separated from the passenger compartment, there must be at least one illuminated sign (using either letters or symbols) notifying all passengers when smoking is prohibited. Signs which notify when smoking is prohibited must—

(i) When illuminated, be legible to each passenger seated in the passenger cabin under all probable lighting conditions; and

(ii) Be so constucted that the crew can turn the illumination on and off.

* * * * *

PART 91—GENERAL OPERATING AND FLIGHT RULES

9. By adding a new § 91.200 to read as follows:

§ 91.200 Shoulder harness.

(a) Except as provided in paragraph (b) of this section, after March 6, 1981, no person may operate a transport category airplane unless it is equipped with a combined safety belt and shoulder harness that meets the applicable requirements specified in § 25.785 of this chapter at each required flight attendant seat in the passenger compartment and at each flight deck station, except that—

(1) Shoulder harnesses and combined safety belt and shoulder harnesses that were approved and installed before March 6, 1980, may continue to be used; and

(2) Safety belt and shoulder harness restraint systems may be designed to the inertia load factors established under the certification basis of the airplane.

(b) An operator may obtain an extension of the compliance date specified in paragraph (a) of this section, but not beyond March 6, 1982, from the Director, Office of Flight Operations, if the operator:

(1) Shows that, due to circumstances beyond its control, it cannot comply by the specified compliance date; and

(2) Submits, by the specified compliance date, a schedule for compliance, acceptable to the Director, indicating that compliance will be achieved at the earliest practicable date.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

10. By revising the heading of § 121.311, revising § 121.311(e), and adding new §§ 121.311 (f), (g), (h), (i), and (j) to read as follows:

§ 121.311 Seats, safety belts, and shoulder harnesses.

* * * * *

(e) No person may operate a transport category airplane—

(1) That was type certificated after January 1, 1958, unless it is equipped with a shoulder harness at the pilot-in-command station, the second-in-command station, and the flight engineer station; and

(2) Except as provided in paragraph (j) of this section, after March 6, 1981, no person may operate a transport category airplane unless it is equipped with a combined safety belt and shoulder harness that meets the applicable requirements specified in § 25.785 of this Chapter at each flight deck station, except that—

(i) Shoulder harnesses and combined safety belt and shoulder harnesses that were approved and installed before March 6, 1980, may continue to be used; and

(ii) Safety belt and shoulder harness restraint systems may be designed to the inertia load factors established under the certification basis of the airplane.

(f) Except as provided in paragraph (j) of this section, after March 6, 1980, each flight attendant must have a seat for takeoff and landing in the passenger compartment that meets the requirements of § 25.785 of this chapter, except that—

(1) Combined safety belt and shoulder harnesses that were approved and installed before March, 6, 1980, may continue to be used; and

(2) Safety belt and shoulder harness restraint systems may be designed to the inertia load factors established under the certification basis of the airplane.

(3) The requirements of § 25.785(h) do not apply to passenger seats occupied by flight attendants not required by § 121.391.

(g) Until March 6, 1981, each occupant of a seat equipped with a shoulder harness must have the shoulder harness properly secured about that occupant during takeoff and landing except that a flight crewmember need not fasten the shoulder harness if that crewmember cannot perform assigned duties with the shoulder harness fastened.

(h) Except as provided in paragraph (j) of this section, after March 6, 1981, each occupant of a seat equipped with a combined safety belt and shoulder harness must have the combined safety belt and shoulder harness properly secured about that occupant during takeoff and landing and be able to properly perform assigned duties.

(i) At each unoccupied seat, the safety belt and shoulder harness, if installed, must be secured so as not to interfere with crewmembers in the performance of their duties or with the rapid egress of occupants in an emergency.

(j) A certificate holder may obtain an extension, not to exceed one year, of the compliance date specified in paragraphs (e), (f), and (h) of this section from the Director, Office of Flight Operations, if the certificate holder:

(1) Shows that, due to circumstances beyond its control, it cannot comply by the specified compliance date; and

(2) Submits by the specified compliance date, a schedule for compliance, acceptable to the Director, indicating that compliance will be achieved at the earliest practicable date.

§ 121.321 [Reserved]

11. By deleting § 121.321 and marking it "[Reserved]."

(Secs. 313(a), 601, 603, and 604, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, 1424); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a proposed regulation which is non-significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the regulatory evaluation prepared for the regulations is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT * * *"

Issued in Washington, D.C., on January 29, 1980.

Langhorne Bond,
Administrator.

[FR Doc. 80-3556 Filed 2-1-80; 8:45 am]
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federal register

Monday
February 4, 1980

Part IV

Environmental Protection Agency

Ammonium Sulfate Manufacture; Proposed Standards of Performance and Notice of Public Hearing

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL 1353-3]

Standards of Performance for New Stationary Sources; Ammonium Sulfate Manufacture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule and Notice of Public Hearing.

SUMMARY: The proposed standards would limit atmospheric emissions of particulate matter from new, modified, and reconstructed ammonium sulfate manufacturing dryers. The standards implement section 111 of the Clean Air Act and are based on the Administrator's determination that ammonium sulfate manufacturing plants contribute significantly to air pollution. The intended effect is to require new, modified, and reconstructed ammonium sulfate manufacturing plants to use the best demonstrated system of continuous emission reduction, considering costs, nonair quality health and environmental impact, and energy impacts.

A public hearing will be held to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standards.

DATES: *Comments.* Comments must be received on or before April 5, 1980.

Public Hearings. The public hearing will be held on March 6, 1980 (about 30 days after proposal) beginning at 9 a.m.

Request to Speak at Hearing. Persons wishing to present oral testimony at the hearing should contact EPA by February 29, 1980 (one week before hearing).

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to Central Docket Section (A-130), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Attention: Docket No. A-79-31.

Public Hearing. The public hearing will be held at The Environmental Research Center Auditorium Rm B-102, Research Triangle Park, N.C. Persons wishing to present oral testimony should notify Shirley Tabler, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5421.

Background Information Document. The background information document for the proposed standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Ammonium Sulfate Manufacture—Background Information for Proposed Emission Standards," EPA-450/3-79-034.

Docket. A docket, number A-79-31, containing information used by EPA in development of the proposed standards, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (A-130), Room 2903B, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Don R. Goodwin, Director, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5271.

SUPPLEMENTARY INFORMATION:

Proposed Standards

The proposed standards would limit atmospheric particulate matter emissions from new, modified, and reconstructed ammonium sulfate dryers at caprolactam by-product ammonium sulfate plants, synthetic ammonium sulfate plants, and coke oven by-product ammonium sulfate plants.

Specifically, the proposed standards would limit exhaust emissions from ammonium sulfate dryers to 0.15 kilogram of particulate matter per megagram of ammonium sulfate production (0.30 lb/ton). An opacity emission standard is also proposed and would limit emissions from the affected facility to no more than 15 percent.

The proposed standards would require continuous monitoring of the pressure drop across the control system for any affected facility to help ensure proper operation and maintenance of the system. Flow monitoring devices necessary to determine the mass flow of ammonium sulfate feed material to the process would also be required.

Summary of Environmental, Energy, and Economic Impacts

The proposed standards would reduce projected 1985 particulate emissions from new, modified, and reconstructed ammonium sulfate dryers from about 670 megagrams (737 tons) per year, the level of emissions under a typical State Implementation Plan, to about 131 megagrams (144 tons) per year. Compliance with the proposed standards would amount to an 80 percent reduction of particulate emissions under a State Implementation Plan and would bring the overall collection efficiency to near 99.9 percent of the uncontrolled emissions. This reduction in emission would result in reduction of ambient air concentrations of particulate matter in the vicinity of new, modified, and reconstructed ammonium sulfate plants. The proposed standards are based on the use of venturi scrubbing or fabric filtration to control particulate matter. No water discharge would be generated by the control equipment required and all captured particulate matter would be reclaimed; therefore, the proposed standards would have no adverse impact on water quality or solid waste.

The proposed standards would not significantly increase energy consumption at ammonium sulfate plants and would have a minimal impact on national energy consumption. The incremental energy needed to operate control equipment to meet the standards would range from 0.10 percent of the total energy required to run a synthetic or coke oven by-product ammonium sulfate plant to 0.65 percent of the total energy required to operate a caprolactam by-product ammonium sulfate plant.

Economic analysis indicates that the impact of the proposed standards is reasonable. Cumulative capital costs of complying with the proposed standards for the ammonium sulfate industry as a whole would be about $1.0 million by 1985. Annualized cost to the industry in the fifth year of the proposed standards would be about $0.5 million. The industry-wide price increase necessary to offset the cost of compliance would amount to less than 0.01 percent of the wholesale price of ammonium sulfate. Costs of emission control required by the proposed standards are not expected to prevent or hinder expansion or continued production in the ammonium sulfate industry.

Rationale

Selection of Source for Control

The Priority List (40 CFR 60.16, 44 FR 49222, August 21, 1979) identifies various sources of emissions on a nationwide basis in terms of quantities of emission from source categories, the mobility and competitive nature of each source category, and the extent to which each pollutant endangers health and welfare. The Priority List reflects the Administrator's determination that emissions from the listed source categories contribute significantly to air pollution and is intended to identify major source categories for which standards of performance are to be promulgated. The ammonium sulfate manufacturing industry is listed among those source categories for which new source performance standards (NSPS) must be promulgated.

Ammonium sulfate has been an important nitrogen fertilizer for many years. Its early rise to importance as a fertilizer resulted from its availability as a by-product from such basic industries as steel manufacturing and petroleum refining. By-product generation has continued to dominate the industry. By-product ammonium sulfate from the caprolactam segment of the synthetic fibers industry is now the single largest source, accounting for more than 50 percent of ammonium sulfate production.

Production of ammonium sulfate as a by-product also ensures that it will continue as an important source of nitrogen fertilizer in the United States. This is illustrated by the fact that, in response to an increase in demand, caprolactam production is expected to increase at compounded annual growth rates of up to 7 percent through the year 1985; and for every megagram of caprolactam produced, 2.5 to 4.5 megagrams of ammonium sulfate are produced as a by-product.

Over 90 percent of ammonium sulfate is generated from three types of plants: Synthetic, caprolactam by-product, and coke oven by-product. Investigation has shown that the impact of regulation and potential for emission reduction is significant only within these three industry sectors. Synthetic ammomium sulfate is produced by the direct combination of ammonia and sufuric acid. Caprolactam ammomium sulfate is produced as a by-product from streams generated during caprolactam manufacture. Ammonia recovered from coke oven off-gas is reacted with sulfuric acid to produce coke oven ammonium sulfate. These three major segments of the ammonium sulfate industry would be regulated by the proposed new source performance standards.

Selection of Pollutant

Study of the ammonium sulfate industry has shown that ammonium sulfate emissions are the principal pollutant emitted to the atmosphere from ammonium sulfate plants. At operating temperatures, the ammonium sulfate emissions occur as solid particulate matter, a "criteria" pollutant for which national ambient air quality standards have been promulgated.

Currently, a variety of wet collection systems are employed to control ammonium sulfate particulate emissions to levels of compliance with State and local air pollution regulations (typically a reduction of 97 to 98 percent). Existing State regulations range from a low of 0.71 kilogram of particulate per megagram of ammonium sulfate production to a high of 1.3 kilograms per megagram. By the year 1985, new, modified, and reconstructed ammonium sulfate manufacturing dryers would cause annual nationwide particulate emissions to increase by about 670 Mg/year (737 tons/year), with emissions controlled to the level of a typical State Implementation Plan (SIP) regulation. (Estimate based on growth rate demonstrated over past decade.)

Volatile organic compounds (VOC) are also emitted from process dryers at caprolactam by-product ammonium sulfate plants. Test data indicate that the caprolactam VOC mass emissions are largely in the vapor phase and at least two orders of magnitude lower than ammonium sulfate particulate emissions (110 kg/Mg for particulate matter versus 0.78 kg/Mg for the VOC emissions). In addition, wet collectors currently in use as particulate control systems have demonstrated an 88 percent removal efficiency of uncontrolled caprolactam VOC emissions. At this control level, new, modified, and reconstructed caprolactam ammonium sulfate plants would add only about 76 megagrams per year to nationwide VOC emissions by 1985. Therefore, the only pollutant recommended for control by the proposed standards is particulate matter.

Selection of the Affected Facility

Ammonium sulfate crystals are formed by continuously circulating a mother liquor through a crystallizer. When optimum crystal size is achieved, precipitated crystals are separated from the mother liquor (dewatered) usually by centrifuges. Following dewatering, the crystals are dried and screened to product specifications.

Nearly all of the particulate matter emitted to the atmosphere from ammonium sulfate manufacturing plants is in the gaseous exhaust streams from the process dryers. Other plant processes, such as crystallization, dewatering, screening, and materials handling, are not significant emission sources.

Ammonium sulfate dryers can be either of the fluidized bed or the rotary drum type. All fluidized bed units found in the industry are heated continuously with steam-heated air. The rotary units are either direct-fired or steam heated. Air flow rates for the ammonium sulfate dryers at caprolactam plants range from 560 scm/Mg of product to 3,200 scm/Mg of product. The lower value represents direct-fired rotary drum units and the higher value represents fluidized bed drying units using steam-heated air. At synthetic plants, air flow rates range from 360 scm/Mg to 770 scm/Mg of product. All drying units at synthetic plants are of the rotary drum type.

One consequence of the wide range of gas flow rates for the differing drying systems is that particulate emission rates, which are directly related to the gas-to-product ratio, also vary considerably for each drying unit involved. (Gas-to-product ratio is defined as the volume of dryer exhaust gas per unit of production, e.g., dry standard cubic meters per megagram of ammonium sulfate produced.) Emission tests using EPA Method 5 show an uncontrolled ammonium sulfate emission range of 0.44 kg/Mg to 76.7 kg/Mg for rotary dryers. The one fluidized bed dryer tested showed an uncontrolled emission rate of 110 kg/Mg of ammonium sulfate production.

Since the process dryer is the only significant source of ammonium sulfate particulate emissions, the ammonium sulfate manufacturing industry can be effectively controlled by specifying emission limitations for the process dryer. Therefore, the ammonium sulfate dryer has been selected as the affected facility for which particulate matter regulations are proposed.

Selection of the Format of the Recommended Standards

A number of regulatory formats are available for standards limiting the emission of particulate matter to the atmosphere. Among the formats judged as inappropriate for application in the ammonium sulfate industry were a mass per unit time performance standards and such non-performance standards as design, equipment, work practice, and operational specifications. A standard based on mass per unit time (e.g., kg/hr) would require that a relationship be constructed showing how the allowable mass rate of emissions would vary with both production and time. Such a relationship could not be determined without extensive source tests performed at great expense.

Section 111(h) of the Clean Air Act establishes a presumption against design, equipment, work practice, and operational standards. For example, a standard based on a specific type of drying equipment without add-on controls or a standard limiting the dryer air flow rate cannot be promulgated unless a standard of performance is not feasible. Performance standards for control of ammonium sulfate dryer particulate emissions have been determined as practical and feasible; therefore, design, equipment, work

practice, or operational standards were not considered as regulatory options.

Two additional formats for the proposed standards were considered: mass standards, which limit emissions per unit of feed to the ammonium sulfate dryer or per unit of ammonium sulfate processed by the dryer; and concentration standards, which limit emissions per unit volume of exhaust gases discharged to the atmosphere.

Mass standards, expressed as allowable emissions per unit of production, are related directly to the quantity of particulate matter discharged to the atmosphere. They regulate emissions based on units of input or output, thereby denying any dilution advantage. Mass standards also allow for variation in process techniques such as decreasing the air flow rate through the dryer. A primary disadvantage of mass standards, as compared to concentration standards, is that their enforcement may be more time consuming and therefore more costly. The more numerous measurements and calculations required also increase the opportunities for error. Determining mass emissions requires the development of a material balance on process data concerning the operation of the plant, whether it be input flow rates or production flow rates. The need for such a material balance is particularly relevant in the case of ammonium sulfate plants. The determination of throughput in the ammonium sulfate dryer is seldom direct. None of the plants investigated during development of the proposed standards made direct measurements of the dryer input or output. Process weights were determined indirectly through monitoring of input stream feed rates.

In general, enforcement of concentration standards requires a minimum of data and information, thereby decreasing the costs of enforcement and reducing the chances of error. However, in the ammonium sulfate industry, enforcement of concentration standards may be complicated by use of two-stage fluidized bed dryers which add ambient air streams at the discharge end of the dryer. There is a potential for circumventing concentration standards by diluting the exhaust gases discharged to the atmosphere with excess air, thus lowering the concentration of pollutants emitted but not the total mass emitted. For combustion operations, this problem can usually be overcome by correcting the concentration measured in the gas stream to a reference condition such as a specified oxygen or carbon dioxide percentage in the gas stream. However, in the ammonium sulfate industry the drying process frequently does not involve direct combustion operations. The drying air may be heated by an outside source; therefore, it is not always possible to "correct" the amount of exhaust air to account for dilution.

Since design dryer gas flow rates vary from process to process, concentration standards applied to the ammonium sulfate industry would penalize those plant operators who chose to use a low air flow rate for the ammonium sulfate dryer. A decrease in the amount of dryer air decreases the volume of gases released but not necessarily the quantity of particulate matter emitted. As a result, the concentration of particulate matter in the exhaust gas stream would increase even though the total mass emitted might remain nearly the same.

Because mass standards directly limit the amount of particulate matter emitted into the atmosphere per megagram of ammonium sulfate production, the same emission limit can be applied to all dryer types and sizes, production rates, and air flow rates. The flexibility of mass standards to accommodate process variations, such as the wide gange of gas-to-product ratios found in the industry, allows all segments of the ammonium sulfate industry to be regulated with a single mass emission standard. These advantages outweigh the drawbacks associated with the determination of process weight. Consequently, mass standards were judged more suitable for regulation of particulate emissions from ammonium sulfate dryers and were selected as the format for expressing the standards of performance for ammonium sulfate manufacturing plants.

The mass limit proposed will apply to the exhaust gas streams as they discharge from control equipment. The proposed standards express allowable particulate emissions in kilograms per megagram (kg/Mg) of ammonium sulfate production.

Selection of the Best System of Emission Reduction and the Numerical Emission Limits

Section 111 of the Clean Air Act requires that standards of performance reflect the degree of emission control achievable through application of the best demonstrated technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact, and energy requirements) has been adequately demonstrated. The proposed standards were developed based on information derived from (1) available technical literature on the ammonium sulfate manufacturing industry and applicable emission control technology, (2) technical studies performed for EPA by independent research organizations, (3) information obtained from the industry during visits to ammonium sulfate plants and meetings with various representatives of the industry, (4) comments and suggestions solicited from experts, and (5) results of emission measurements conducted by EPA.

Control Technology

Both venturi scrubbing and fabric filtration represent the most efficient add-on control techniques available to abate particulate emissions. In application to particulate collection from ammonium sulfate dryers, both have the potential to reduce ammonium sulfate emissions from process dryers to less than 0.15 kilogram per megagram of ammonium sulfate production, although energy requirements and costs may differ considerably.

Venturi scrubbers are most suitable for application to ammonium sulfate dryers. In caprolactam by-product ammonium sulfate plants, ammonium sulfate feed streams are used as a scrubbing liquor and in synthetic ammonium sulfate plants the condensate from the reactor/crystallizer is used as the scrubbing liquor. This allows the collected particulate to be easily recycled to the system without the addition of excess water. Because medium-energy (25 to 33 centimeters water guage (W.G.) pressure drop) venturi scrubbing with high liquid-to-gas ratios achieves a high collection efficiency and because venturi scrubbing is compatible with and complimentary to the processes involved, it is considered the most attractive add-on control system.

The fabric filter baghouse should also be able to achieve the level of control required by the standards based on similar applications in other industries. Normal operation of a baghouse for ammonium sulfate particulate collection, i.e., at temperatures above the dewpoint of the exhaust gas, should be feasible. However, in asseessing fabric filters as an emission control option, the following factors must be considered. For high gas flow rates, capital and operating costs as well as energy requirements are higher for fabric filters than for medium energy scrubbers of the same construction material. For caprolactam by-product plants using steam-heated fluidized bed dryers, the ratio of gas flow to product rate is at least an order of magnitude higher than that of the direct-fired rotary drum dryer operating with fabric filters. As the size of a baghouse becomes larger, capital and annual operating costs increase. For example, maintaining the temperature of the exhaust gas and baghouse surfaces above the dewpoint may require more energy than would ordinarily be required to operate the dryer.

With caprolactam by-product ammonium sulfate plants apparently providing most of the anticipated growth in the ammonium sulfate industry, consideration should also be given to caprolactam VOC mass emissions from ammonium sulfate dryers. Available test data indicate that most of the caprolactam emissions associated with the ammonium sulfate dryer are in the vapor state. This suggests that the caprolactam emissions would pass through a fabric filter collection system. On the other hand, a venturi scrubber has demonstrated removal efficiency of 88 percent of the caprolactam from ammonium sulfate dryers. Thus, use of venturi scrubbers would, at a minimum, maintain existing VOC control levels now achieved by in-use wet collection systems.

Emission Tests

Based on a survey of the ammonium sulfate production industry, four plants were selected for EPA Method 5 particulate emission testing. These four ammonium sulfate manufacturing plants were then tested by EPA in order to evaluate control techniques currently used for controlling particulate emissions from ammonium sulfate dryers.

Presently throughout the ammonium sulfate industry, a variety of wet-scrubbing systems are employed to control ammonium sulfate particulate emissions. The majority of these are low-energy wet scrubbers, although medium-energy venturi scrubbers are being used with some ammonium sulfate dryers. For wet scrubbing systems in general, collection efficiency tends to increase with increased energy input, i.e., the higher the pressure drop, the higher the removal efficiency of particulates. This was borne out by analysis of EPA test results. For example, a synthetic ammonium sulfate plant, with a rotary drum drying facility controlled by a low-energy wet scrubber operating at a pressure drop of 15 centimeters (6 inches) W.G., showed a particulate collection efficiency of 97 percent. EPA test results from facilities with increased energy inputs, e.g., venturi scrubbers operating at pressure drops of 25.9 centimenters and 33 centimeters (10 and 13 inches) W.G. showed typically higher control efficiencies. In these latter cases, control efficiencies of 99.8 and 99.9 percent by weight were demonstrated with outlet particulate emission rates of 0.158 kg/Mg and 0.156 kg/Mg of ammonium sulfate production, respectively, at a synthetic ammonium sulfate plant using a rotary dryer and a caprolactam by-product ammonium sulfate plant using a fluidized bed dryer.

Additional emission test data on wet scrubbing control units have been provided by ammonium sulfate plant operators. At one facility, test results using EPA Method 5 show an average particulate emission rate of 0.135 kg/Mg of ammonium sulfate production. The facility, a caprolactam ammonium sulfate plant with a fluidized bed dryer, is controlled by a centrifugal scrubber preceded by a series of cyclones. The scrubber operates at 34 centimeters (13.4 inches) W.G. pressure drop.

Alternative emission control techniques were also examined. The one dry ammonium sulfate particulate control system in use (a fabric filter unit) was tested by EPA because it represents a unique application of this control method in the ammonium sulfate industry. The facility, a synthetic ammonium sulfate plant using a rotary dryer, did achieve a low mass emission rate, 0.007 kg/Mg (0.014 lb/ton); however, this emission rate is not considered representative of a typical ammonium sulfate facility. For example, the baghouse in use was originally designed for another application, and the gas flow rate to this unit is appreciably lower than normal direct-fired gas flow. This constraint on gas flow rate, by restricting the ratio of dryer exhaust gas-to-product rate, results in a significantly lower uncontrolled inlet emission rate than most other dryers used in the industry. In fact, the fabric filter inlet uncontrolled particulate emission rate was 0.41 kg/Mg of production, while those of facilities controlled by venturi scrubbers were 110 kg/Mg and 77 kg/Mg. This represents an uncontrolled mass emission difference in the range of two orders of magnitude. Thus, comparison of the outlet mass emissions for this facility with those of the other facilities tested is, in this situation, somewhat misleading.

Regulatory Options

Review of the performance of the emission control techniques led to the identification of two regulatory options. The two options are based on emission control techniques representative of two distinct levels of control. Each option specifies numerical emission limits for ammonium sulfate dryers applicable to the three major sectors of the ammonium sulfate industry. Option I is equivalent to no additional regulatory action. For this option, particulate emission levels would be set by existing SIP regulations, typically in the range of 0.71 kg/Mg to 1.3 kg/Mg of ammonium sulfate production. This option is characterized by the use of a low energy wet scrubber to meet the required emission limit, a reduction of 97 to 98 percent. Option II, based on the use of a venturi scrubber or fabric filter, would set an emission limit of 0.15 kilogram of particulate per megagram of ammonium sulfate production. As applied to the ammonium sulfate industry, both the venturi scrubber and the fabric filter control systems are capable of greater than 99.9 percent control efficiency. Option II therefore represents the most stringent control level that can be met by all segments of the ammonium sulfate industry.

Using model plants for the new, modified, and reconstructed ammonium sulfate facilities, the environmental impacts, energy impacts, and economic impacts of each regulatory option were analyzed and compared. Each ammonium sulfate manufacturing sector is unique from a technical standpoint. Dryer types and sizes, gas-to-product flow rates, and uncontrolled particulate emission rates vary from one sector to another and often within each sector. For these reasons it was apparent that no single model plant could adequately characterize the ammonium sulfate industry. Accordingly, several model dryers were specified in terms of the following parameters: Production rate, dryer types, exhaust gas flow rates, emission rates, stack height, stack diameter, and exit gas temperatures. The evaluation of these parameters may be found in Chapters 6, 7, and 8 of the document, "Ammonium Sulfate Manufacture—Background Information for Proposed Emission Standards."

Under Option I, annual nationwide particulate emissions from new, modified, and reconstructed ammonium sulfate manufacturing plants would increase by about 670 Mg/year (737 tons/year) between 1980 and 1985. Under Option II, nationwide particulate emissions would increase by 131 Mg/year (144 tons/year) during the same period. This represents a reduction of about 80 percent in the particulate emissions emitted under Option I, a typical SIP regulation.

Dispersion analysis under "worst case" atmospheric and meteorological conditions shows that the maximum 24-hour concentration of particulates in the vicinity of a new, modified, and reconstructed ammonium sulfate plant would be reduced by a factor of 80

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percent (from 224 to 47.4 micrograms per cubic meter) by controlling to Option II rather than the SIP emission limit. The maximum annual average is reduced from 29.1 to 6.15 micrograms per cubic meter under Option II.

Effluent guidelines set forth in 40 CFR 418.60 limit water pollution from synthetic and coke oven ammonium sulfate plants. In the caprolactam by-product ammonium sulfate plant, water is removed in the crystallizer, condensed and recycled to the principal plant for plant use. The addition of a scrubber for emission control would not create a water pollution problem since all scrubbing liquor would be recycled to the process. The use of a baghouse would not create a water pollution problem since it is a dry collection system. Consequently, the water pollution impact of Option II would be zero.

The ammonium sulfate plants generate no solid waste as part of the process since all collected ammonium sulfate is recycled to the process. Furthermore, no significant increase in noise level is anticipated under Option II.

For typical plants in the ammonium sulfate manufacturing industry, an increase in energy consumption would result from compliance with Option II. The energy required, in excess of that required by a typical SIP regulation, to control caprolactam by-product ammonium sulfate plants to the level of Option II would be 8.8 gigawatt hours of electricity per year in 1985 using venturi scrubbers. The overall energy increase would amount to less than 0.65 percent of the total energy required to operate a typical caprolactam by-product ammonium sulfate plant. For synthetic and for coke oven by-product ammonium sulfate plants, the 1985 incremental energy increase would be 0.61 and 0.14 gigawatt hours per year, respectively, or less than a 0.1 percent increase. The total industry-wide energy increment would be 9.5 gigawatt hours per year in 1985. This figure indicates that Option II would not significantly increase energy consumption at ammonium sulfate plants and would have minimal impact on national energy consumption.

Economic analysis also indicates that the impact of Option II is minimal. The capital cost of the installed emission control equipment necessary to meet Option II, on all new, modified, and reconstructed ammonium sulfate facilities coming on line nationwide during the period 1980 to 1985, would be about $958,000. The total annualized cost of operating this equipment during the same period would be about $480,200. These costs are considered reasonable, and are not expected to prevent or hinder expansion or continued production in the ammonium sulfate manufacturing industry. The incremental cost necessary to offset the cost of meeting Option II would be about 0.01 percent of the wholesale price of ammonium sulfate.

Consideration of the beneficial impact on national particulate emissions; the lack of water pollution impact or solid waste impact; the minimal energy impact; the reasonable cost impact; and the general availability of demonstrated emission control technology leads to the selection of Option II as the basis for the proposed standards of performance for ammonium sulfate dryers.

Selection of Opacity Emission Limits

The best indirect method of ensuring proper operation and maintenance of emission control equipment is the specification of exhaust gasopacity limits. Determining an acceptable exhaust gas opacity limit is possible because opacity levels were evaluated for ammonium sulfate dryers during EPA tests; therefore, the data base for the particulate standards includes information on opacity. Ammonium sulfate dryers were observed to have no opacity readings greater than 15 percent opacity, and a total of 90 minutes of opacity of less than or equal to 15 percent but greater than 10 percent during observation periods of 180, 120, 438, and 408 minutes (1146 minutes total). Therefore, a standard of 15 percent opacity is proposed for all affected facilities to ensure proper operation and maintenance of control systems on a day-to-day basis.

Selection of Performance Test Methods

The use of EPA Reference Method 5—"Determination of Particulate Emissions from Stationary Sources" would be required to determine compliance with the mass standards for particulate matter emissions. Results of performance tests using Method 5 conducted by EPA on existing ammonium sulfate dryers comprise a major portion of the data base used in the development of the proposed standards. EPA Reference Method 5 has been shown to provide a representative measurement of particulate matter emissions. Therefore, it is included for the purpose of determining compliance with the proposed standards.

Method 5 calculations require imput data obtained from three other EPA test methods conducted previous to the performance of Method 5. Method 1, "Sample and Velocity Traverse for Stationary Sources," must be used to obtain representative measurements of pollutant emissions. The average gas velocity in the exhaust stack is measured by conducting Method 2, "Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube)." The analysis of gas composition is measured by conducting Method 3, "Gas Analysis for Carbon Dioxide, Oxygen, Excess Air, and Dry Molecular Weight." These three tests provide data necessary in Method 5 for determining concentration of particulate matter in the dryer exhaust. All opacity observations would be made in accordance with the procedures established in EPA Method 9 for stack emissions.

Since the proposed standards are expressed as mass of emissions per unit mass of ammonium sulfate production, it will be necessary to quantify production rate in addition to measuring particulate emissions. Ammonium sulfate production in megagrams shall be determined by direct measurement using product weigh scales or computed from a material balance. A material balance computation based on the chemical reactions used in the formation of ammonium sulfate is an acceptable method of determining production rate since the formation reactions used in all industrial sectors are quantitative and irreversible.

If a material balance is used, the ammonium sulfate production rate for synthetic and coke oven by-product ammonium sulfate plants shall be calculated from the metered sulfuric acid feed rate to the reactor/crystallizer. For caprolactam by-product ammonium sulfate plants, production rate shall be determined from the oximation ammonium sulfate solution flow rate and the oleum flow to the caprolactam rearrangement reaction.

Selection of Monitoring Requirements

To further ensure that installed emission control systems continuously comply with standards of performance through proper operation and maintenance, monitoring requirements are generally included in standards of performance. In the case of ammonium sulfate dryers, the most straightforward means of ensuring proper operation and maintenance is to require monitoring of actual particulate emissions released to the atmosphere. Currently, however, there are no continuous particulate monitors in operation for ammonium sulfate dryers; and resolution of the sampling problems and development of performance specifications for continuous particulate monitors would entail a major development program. For these reasons, continuous monitoring of particulate emissions from ammonium sulfate dryers is not required by the proposed standards.

The best indirect method of monitoring proper operation and maintenance of emission control equipment is to continuously monitor the opacity of the exhaust gas. The proposed opacity limit for ammonium sulfate dryers is 15 percent. However, in the case of ammonium sulfate dryers, the character of the exhaust gas when wet scrubbers are used for emission reduction precludes the use of continuous in-stack opacity monitors. Where condensed moisture is present in the exhaust gas stream, in-stack continuous monitoring of opacity is not feasible; water droplets and steam can interfere with operation of the monitoring instrument. Since most affected facilities are likely to use wet scrubbers, continuous monitoring of opacity is not required by the proposed standards.

An alternative to particulate or opacity monitors is the use of a pressure drop monitor as a means of ensuring proper operation and maintenance of emission control equipment. For venturi scrubbers, particulate removal efficiency is related directly to pressure drop across the venturi; the higher the pressure drop, the higher the removal efficiency. For fabric filters, pressure drop is used as an indicator of excessive filter resistance or damaged filter media. Therefore, in order to provide a continuous indicator of emission control equipment operation and maintenance, the proposed standards would require that the owner or operator of any ammonium sulfate manufacturing plant subject to the standards install, calibrate, maintain, and operate a monitoring device which continuously measures and permanently records the total pressure drop across the process emission control system. The monitoring device shall have an accuracy of ±5 percent over its operating range.

The proposed standards would also require the owner or operator of any ammonium sulfate manufacturing plant subject to the standards to install, calibrate, maintain, and operate flow monitoring devices necessary to determine the mass flow of ammonium sulfate feed material to the process. The flow monitoring device shall have an accuracy of ±5 percent over its operating range. The ammonium sulfate feed streams are: for synthetic and coke oven by-product ammonium sulfate plants, the sulfuric acid feed stream to the reactor/crystallizer; for caprolactam by-product ammonium sulfate plants, the oximation ammonium sulfate stream to the ammonium sulfate plant and the oleum stream to the caprolactam rearrangement reaction.

Records of pressure drop and calibration measurements would have to be retained for at least 2 years following the date of the measurements by owners and operators subject to this subpart. This requirement is included under § 60.7(d) of the general provisions of 40 CFR Part 60.

Public Hearing

A public hearing will be held to discuss these proposed standards in accordance with section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the ADDRESSES section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Docket address given in the ADDRESSES section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (See ADDRESSES section of this preamble.)

Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The principal purposes of the docket are: (1) To allow interested persons to identify and locate documents so that they can intelligently and effectively participate in the rulemaking process, and (2) to serve as the record for judicial review. The docket requirement is discussed in section 307(d) of the Clean Air Act.

Miscellaneous

As prescribed by section 111 of the Act, this proposal of standards has been preceded by the Administrator's determination that emissions from ammonium sulfate manufacturing plants contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare (40 CFR 60.16, 44 FR 49222, August 21, 1979). In accordance with section 117 of the Act, publication of these proposed standards was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues.

It should be noted that standards of performance for new stationary sources established under section 111 of the Clean Air Act reflect:

> • • • application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. (section 111(a)(1))

Although there may be emission control technology available that is capable of reducing emissions below those levels required to comply with standards of performance, this technology might not be selected as the basis of standards of performance because of costs associated with its use. Accordingly, these standards of performance should not be viewed as the ultimate in achievable emission control. In fact, the Act requires (or has the potential for requiring) the imposition of a more stringent emission standard in several situations.

For example, applicable costs do not necessarily play as prominent a role in determining the "lowest achievable emission rate" for new or modified sources locating in nonattainment areas; i.e., those areas where statutorily-mandated health and welfare standards are being violated. In this respect, section 173 of the Act requires that new or modified sources constructed in an area which exceeds the national ambient air quality standard (NAAQS) must reduce emissions to the level which reflects the "lowest achievable emission rate" (LAER), as defined in section 171(3), for such category of source. The statute defines LAER as that rate of emissions based on the following, whichever is more stringent:

> (A) The most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or
>
> (B) The most stringent emission limitation which is achieved in practice by such class or category of source.

In no event can the emission rate exceed any applicable new source performance standard (section 171(3)).

A similar situation may arise under the prevention of significant deterioration of air quality provisions of the Act (Part C). These provisions require that certain sources (referred to in section 169(1)) employ "best available control technology" (as defined in section 169(3)) for all pollutants regulated under the Act. "Best available control technology" (BACT) must be determined on a case-by-case basis,

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taking energy, environmental, and economic impacts and other cost into account. In no event may the application of BACT result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard established pursuant to section 111 (or 112) of the Act.

In all events, State Implementation Plans (SIPs) approved or promulgated under section 110 of the Act must provide for the attainment and maintenance of the national ambient air quality standards (NAAQS) designed to protect public health and welfare. For this purpose, SIP's must in some cases require greater emission reductions than those required by standards of performance for new sources.

Finally, States are free under section 116 of the Act to establish even more stringent emission limits than those established under section 111 or those necessary to attain or maintain the NAAQS under section 110. Accordingly, new sources may in some cases be subject to limitations more stringent than EPA's standards of performance under section 111, and prospective owners and operators of new sources should be aware of this possiblility in planning for such facilities.

EPA will review this regulation four years from the date of promulgation. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, and improvements in emission control technology.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under section 11(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to ensure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the background information document.

Dated: January 28, 1980.

Douglas M. Costle,
Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

It is proposed that 40 CFR Part 60 be amended by adding a new Subpart P as follows:

Subpart PP—Standards of Performance for Ammonium Sulfate Manufacture

Sec.
60.420 Applicability and designation of affected facility.
60.421 Definitions.
60.422 Standards for particulate matter.
60.423 Monitoring of operations.
60.424 Test methods and procedures.

Authority: Sec. 111, 301(a), Clean Air Act as amended, (42 U.S.C. 7411, 7601(a)), and additional authority as noted below.

Subpart PP—Standards of Performance for Ammonium Sulfate Manufacture

§ 60.420 Applicability and designation of affected facility.

The affected facility to which the provisions of this subpart apply is each ammonium sulfate dryer with an ammonium sulfate manufacturing plant in the caprolactam by-product, synthetic, and coke oven by-product sectors of the ammonium sulfate industry.

§ 60.421 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act and in Subpart A of this part.

(a) "Ammonium sulfate manufacturing plant" means any plant which produces ammonium sulfate.

(b) "Ammonium sulfate dryer" means a unit or vessel in which ammonium sulfate is charged for the purpose of reducing the moisture content of the product using a heating gas stream. The unit includes foundations, superstructure, material charger systems, exhaust systems, and integral control systems and instrumentation.

(c) "Caprolactam by-product ammonium sulfate manufacturing plant" means any plant which produces ammonium sulfate as a by-product from process streams generated during caprolactam manufacture.

(d) "Synthetic ammonium sulfate manufacturing plant" means any plant which produces ammonium sulfate by direct combination of ammonia and sulfuric acid.

(e) "Coke oven by-product ammonium sulfate manufacturing plant" means any plant which produces ammonium sulfate by reacting sulfuric acid with ammonia recovered as a by-product from the manufacture of coke.

(f) "Ammonium sulfate feed material streams" means the sulfuric acid feed stream to the reactor/crystallizer for synthetic and coke oven by-product ammonium sulfate manufacturing plants; and means the oximation ammonium sulfate stream to the ammonium sulfate manufacturing plant and the oleum stream to the caprolactam rearrangement reaction for caprolactam by-product ammonium sulfate manufacturing plants.

§ 60.422 Standards for particulate matter.

On or after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator of an ammonium sulfate dryer subject to the provisions of this subpart shall cause to be discharged into the atmosphere, from any ammonium sulfate dryer, particulate matter at emission rates exceeding 0.15 kilogram of particulate per megagram of ammonium sulfate produced (0.30 pound of particulate per ton of ammonium sulfate produced) and exhaust gases with opacity of greater than 15 percent opacity.

§ 60.423 Monitoring of operations.

(a) The owner or operator of any ammonium sulfate manufacturing plant subject to the provisions of this subpart shall install, calibrate, maintain, and operate flow monitoring devices which can be used to determine the mass flow of ammonium sulfate feed material streams to the process. The flow monitoring device shall have an accuracy of ± 5 percent over its range.

(b) The owner or operator of any ammonium sulfate manufacturing plant subject to the provisions of this subpart shall install, calibrate, maintain, and operate a monitoring device which continuously measures and permanently records the total pressure drop across the emission control system. The monitoring device shall have an accuracy of ± 5 percent over its operating range.

(Sec. 114, Clean Air Act as amended (42 U.S.C. 7414))

§ 60.424 Test methods and procedures.

(a) Reference methods in Appendix A of this part, except as provided in § 60.8(b), shall be used to determine compliance with § 60.422 as follows:

(1) Method 5 for the concentration of particulate matter.

(2) Method 1 for sample and velocity traverses.

(3) Method 2 for velocity and volumetric flow rate.

(4) Method 3 for gas analysis.

(b) For Method 5, the sampling time for each run shall be at least 60 minutes and the volume shall be at least 1.50 dry standard cubic meters (53 dry standard cubic feet).

(c) for each run, the particulate emission rate, E, shall be computed as follows:

$$E = Q_{sd} \times C_s \div 1000$$

(1) E is the particulate emision rate (kg/hr),

(2) Q_{sd} is the average volumetric flow rate (dscm/hr) as determined by Method 2; and

(3) C_s is the average concentration (g/dscm) of particulate matter as determined by Method 5.

(d) For each run, the rate of ammonium sulfate production, P (Mg/hr), shall be determined by direct measurement using product weight scales or computed from a material balance. If production rate is determined by material balance, the following equations shall be used.

(1) For synthetic and coke oven by-product ammonium sulfate plants, the ammonium sulfate production rate shall be determined using the following equation:

$$P = A \times B \times C \times 0.0808$$

where:

P = Ammonium sulfate production rate in megagrams per hour.
A = Sulfuric acid flow rate to the reactor/crystallizer in liters per minute averaged over the time period taken to conduct the run.
B = Acid density (a function of acid strength and temperature) in grams per cubic centimeter.
C = Percent acid strength in decimal form.
0.0808 = Physical constant for conversion of time, volume, and mass units.

(2) For caprolactam by-product ammonium sulfate plants the ammonium sulfate production rate shall be determined using the following equation:

$$P = [D \times E \times F \times (0.8612)] + [G \times H \times I \times (1.1620)]$$

where:

P = Production rate of caprolactam by-product ammonium sulfate in megagrams per hour.
D = Oximation ammonium sulfate process stream flow rate in liters per minute averaged over the time period taken to conduct the run.
E = Density of the process stream solution in grams per liter.
F = Percent ammonium sulfate in the process solution in decimal form.
G = Oleum flow rate to the rearrangement reaction in liters per minute averaged over the time period taken to conduct the run.
H = Density of oleum in grams per liter.
I = Equivalent sulfuric acid percent of the oleum in decimal form.
0.8612 = Physical constant for conversion of time and mass units.
1.1620 = Physical constant for conversion of time and mass units.

(e) For each run, the dryer emission rate shall be computed as follows:

$$R = E/P$$

where:

(1) R is the dryer emission rate (kg/Mg);

(2) E is the particulate emission rate (kg/hr) from (c) above; and

(3) P is the rate of ammonium sulfate production (Mg/hr) from (d) above.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

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Monday
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Part V

Department of Energy

Administrative Claims Under Federal Tort Claims Act; Final Rulemaking

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DEPARTMENT OF ENERGY

10 CFR Parts 714 and 1014

Administrative Claims Under Federal Tort Claims Act; Final Rulemaking

AGENCY: Department of Energy.

ACTION: Notice of final rulemaking.

SUMMARY: The Department of Energy (DOE) hereby publishes its regulations for processing administrative claims under the Federal Tort Claims Act (FTCA) for all of the Department's constituent organizations (including the Federal Energy Regulatory Commission and the several Power Marketing Administrations).

Part 1014 implements the FTCA, 28 U.S.C. 2672, *et seq.*, and contains the DOE regulations applying to claims under the FTCA for money damages against the United States for injury to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of DOE while acting within the scope of office or employment.

The Department of Energy Organization Act, Pub. L. 95–91, 42 U.S.C. 7254, 91 Stat. 2754, consolidated in DOE various functions previously performed by several agencies, and provides for continuation of formerly applicable policy and regulations until modified, superseded, or terminated.

This regulation, 10 CFR Part 1014, consolidates into a single regulation the DOE provisions for processing administrative claims under the FTCA.

Authority with respect to claims against the DOE is vested under the regulation in the General Counsel, the Deputy General Counsel, the Deputy General Counsel for Legal Services, the Assistant General Counsel for Legal Counsel, and other employees of the DOE who are from time to time designated by the General Counsel to receive and act on tort claims for the DOE.

EFFECTIVE DATE: March 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Kenneth E. Cohen, Acting Assistant General Counsel for Legal Counsel, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–8618.

Richard E. Benesh, Office of the General Counsel, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–8618.

SUPPLEMENTARY INFORMATION:

A. Background

The DOE published its proposed rule in the **Federal Register** of September 21, 1979, 44 FR 54719. Public comments were invited on or before October 22, 1979. No public comments have been received.

The findings and determinations remain unchanged from those stated in the preamble to the proposed rule.

B. Minor Changes

To eliminate unnecessary restrictions on the delegation powers of the General Counsel and to provide appropriate flexibility in delegated settlement authority, the phrase in § 1014.5, "employees of the Office of the General Counsel," is changed to read, "employees of the Department."

Other minor changes in language have been made under DOE policy for making regulations as simple and clear as possible.

Issued in Washington, D.C. on January 29, 1980.

Lynn R. Coleman,
General Counsel.

PART 714—ADMINISTRATIVE CLAIMS UNDER FEDERAL TORT CLAIMS ACT [REDESIGNATED AS PART 1014]

10 CFR Part 714 is redesignated as 10 CFR Part 1014 and revised as set forth below.

PART 1014—ADMINISTRATIVE CLAIMS UNDER FEDERAL TORT CLAIMS ACT

Sec.

1014.1 Scope of regulations.
1014.2 Administrative claim; when presented; appropriate office.
1014.3 Administrative claim; who may file.
1014.4 Administrative claims; evidence and information to be submitted.
1014.5 Authority to adjust, determine, compromise, and settle.
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1014.8 Investigation and examination.
1014.9 Final denial of claim.
1014.10 Action on approved claims.
1014.11 Penalties.

Authority: Sec. 1(a), 60 Stat. 306, (28 U.S.C. 2672); 28 CFR Part 14. Sec. 644, Pub. L. 95–91, 91 Stat. 599, (42 U.S.C. 7254).

§ 1014.1 Scope of regulations.

(a) These regulations shall apply only to claims asserted under the Federal Tort Claims Act, as amended, accruing on or after January 18, 1967, for money damages against the United States for injury to, or loss of, property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Department of Energy (DOE) while acting within the scope of office or employment.

(b) The terms "DOE", "Department", and "Department of Energy" as used in this part mean the agency established by the Department of Energy Organization Act (Pub. L. 95–91), 42 U.S.C. 7101, et seq., including the Federal Energy Regulatory Commission, but do not include any contractor of the Department.

(c) The regulations in this part supplement the Attorney General's regulations in Part 14 of Chapter 1 of Title 28, Code of Federal Regulations, as amended. Those regulations, including subsequent amendments thereto, and the regulations in this part apply to the consideration by DOE of administrative claims under the Federal Tort Claims Act.

§1014.2 Administrative claim; when presented; appropriate office.

(a) For purposes of these regulations, a claim shall be deemed to have been presented when DOE receives, at a place designated in paragraph (b) of this section, an executed Standard Form 95 or other written notification of an incident, accompanied by a claim for money damages in a definite amount for injury to or loss of property, personal injury, or death, that is alleged to have occurred by reason of the incident. A claim that should have been presented to DOE but which was mistakenly addressed to or filed with another Federal agency, shall be deemed to be presented to DOE on the date the claim is received by DOE. A claim mistakenly addressed to or filed with DOE shall be transferred to the appropriate Federal agency, if ascertainable, or returned to the claimant.

(b) Claims should be mailed in envelopes marked "Attention Office of General Counsel." Claims shall be mailed or delivered to the DOE installation or office employing the person or persons whose acts or omissions are alleged to have caused the loss, damage, or injury, unless the claimant does not know that address. If the proper address is unknown, claims may be mailed or delivered to: The General Counsel, U.S. Department of Energy, Washington, D.C. 20585. Forms may be obtained from the same places.

(c) A claim may be amended by the claimant at any time before final DOE action or before the exercise of the claimant's option under 28 U.S.C. 2675(a). Amendments shall be submitted in writing and signed by the claimant or a duly authorized agent or legal representative. If an amendment to a pending claim is filed in time, the DOE shall have 6 months to decide the claim as amended. The claimant's option under 28 U.S.C. 2675(a) shall not accrue until 6 months after the filing of an amendment.

§1014.3 Administrative claim; who may file.

(a) A claim for injury to or loss of property may be presented by the owner of the property interest that is the subject of the claim or the owner's duly authorized agent or legal representative.

(b) A claim for personal injury may be presented by the injured person or the claimant's duly authorized agent or legal representative.

(c) A claim based on death may be presented by the executor or administrator of the decedent's estate or by any other person legally entitled to assert such a claim under the applicable State law.

(d) A claim for a loss that was wholly compensated by an insurer with the rights of a subrogee may be presented by the insurer. A claim for loss that was partially compensated by an insurer with the rights of a subrogee may be presented by the insurer or the insured individually, as their respective interests appear, or jointly. Whenever an insurer presents a claim asserting the rights of a subrogee, it shall present with its claim appropriate evidence that it has the rights of a subrogee.

(e) A claim presented by an agent or legal representative shall be presented in the name of the claimant, be signed by the agent or legal representative, show the title or legal capacity of the person signing, and be accompanied by evidence of authority to present a claim on behalf of the claimant.

§ 1014.4 Administrative claims; evidence and information to be submitted.

(a) *Death.* In support of a claim based on death, the claimant may be required to submit the following evidence or information:

(1) An authenticated death certificate or other competent evidence showing the cause of death, the date of death, and the age of the decedent.

(2) Decedent's employment or occupation at time of death, including monthly or yearly salary or earnings (if any), and the duration of last employment or occupation.

(3) Full names, addresses, birth dates, kinship, and marital status of the decedent's survivors, including identification of those survivors who were dependent for support upon the decedent at the time of death.

(4) The degree of support afforded by the decedent to each survivor dependent upon decedent for support at the time of death.

(5) Decedent's general physical and mental condition before death.

(6) Itemized bills for medical and burial expenses incurred by reason of the incident causing death, or itemized receipts of payment for such expenses.

(7) If damages for pain and suffering prior to death are claimed, a physican's detailed statement specifying the injuries suffered, the duration of pain and suffering, any drugs administered for pain, and the decedent's physical condition between injury and death.

(8) Any other evidence or information that may have a bearing on either the responsibility of the United States for the death or the amount of damages claimed.

(b) *Personal injury.* In support of a claim for personal injury, including pain and suffering, the claimant may be required to submit the following evidence or information:

(1) A written report by the attending physician or dentist setting forth the nature and extent of the injury, the nature and extent of treatment, any degree of temporary or permanent disability, the prognosis, the period of hospitalization, and any diminished earning capacity. In addition, the claimant may be required to submit to a physical or mental examination by a physician employed by the DOE or another Federal agency. A copy of the physician's report shall be made available to the claimant upon the claimant's written request, provided that the claimant has, upon request, made or agrees to make available to the DOE any physician's reports previously or thereafter made of the physical or mental condition which is the subject matter of the claim.

(2) Itemized bills for medical, dental, and hospital expenses incurred, or itemized receipts of payment for such expenses.

(3) If the prognosis reveals that future treatment will be needed, a statement of the expected expenses of such treatment.

(4) If a claim is made for loss of time from employment, a written statement from the claimant's employer showing actual time lost from employment, whether the claimant is a full-time or part-time employee, and the wages or salary actually lost.

(5) If a claim is made for loss of income and the claimant is self-employed, documentary evidence showing the amounts of earnings actually lost.

(6) Any other evidence or information that may bear on either the responsibility of the United States for the personal injury or the damages claimed.

(c) *Property damage.* In support of a claim for injury to or loss of property, real or personal, the claimant may be required to submit the following evidence or information:

(1) Proof of ownership of the property interest that is the subject of the claim.

(2) A detailed statement of the amount claimed with respect to each item of property.

(3) An itemized receipt of payment for necessary repairs or itemized written estimates of the cost of such repairs.

(4) A statement listing date of purchase, purchase price, and salvage value, where repair is not economical.

(5) Any other evidence or information that may bear on either the responsibility of the United States for the injury to or loss of property or the damages claimed.

§ 1014.5 Authority to adjust, determine, compromise, and settle.

The General Counsel, the Deputy General Counsel, the Deputy General Counsel for Legal Services, the Assistant General Counsel for Legal Counsel, and any employees of the Department designated by the General Counsel to receive and act on tort claims at Headquarters and field locations are authorized to act on claims.

§ 1014.6 Limitation on authority.

(a) An award, compromise, or settlement of a claim in excess of $25,000 shall be made only with the prior written approval of the Attorney General or his or her designee. For the purposes of this paragraph, a principal claim and any derivative or subrogated claim shall be treated as a single claim.

(b) An administrative claim may be adjusted, determined, compromised, or settled only after the Department of Justice has been consulted if, in the opinion of the General Counsel or designee:

(1) A new precedent may be involved;

(2) A question of policy may be involved;

(3) The United States may be entitled to indemnity or contribution from a third party and the DOE is unable to adjust the third party claim; or

(4) The compromise of a particular claim, as a practical matter, may control the disposition of a related claim in which the amount to be paid may exceed $25,000.

(c) An administrative claim may be adjusted, determined, compromised, or settled only after consultation with the Department of Justice when the DOE is aware that the United States or an employee, agent, or cost-type contractor of the United States is involved in litagation based on a claim arising out of the same incident or transaction.

(d) The authority of DOE subordinate claims officials to make awards, compromises, and settlements of over $10,000 is subject to the approval of the General Counsel, the Deputy General Counsel, or the Deputy General Counsel for Legal Services.

§ 1014.7 Referral to Department of Justice.

(a) When Department of Justice approval or consultation is required under § 1014.6, the referral or request shall be transmitted to the Department of Justice by the General Counsel or designee.

(b) When a designee of the General Counsel is processing a claim requiring consultation with, or approval of, either the DOE General Counsel or the Department of Justice, the referral or request shall be sent to the General Counsel in writing and shall contain (1) a short and concise statement of the facts and of the reasons for the referral or request, (2) copies of relevant portions of the claim file, and (3) a statement of recommendations or views.

§ 1014.8 Investigation and examination.

The DOE may investigate, or may request any other Federal agency to investigate, a claim and may conduct, or request another Federal agency to conduct, a physical examination of a claimant and provide a report of the physical examination.

§ 1014.9 Final denial of claim.

(a) Final denial of an administrative claim shall be in writing and sent to the claimant, or the claimant's attorney or legal representative by certified or registered mail. The notification of final denial may include a statement of the reasons for the denial and shall include a statement that, if the claimant is dissatisfied with the Department's action, the claimant may file suit in an appropriate U.S. District Court not more than 6 months after the notification is mailed.

(b) Before the commencement of suit and before the 6-month period provided in 28 U.S.C. 2401(b) expires, a claimant, or the claimant's duly authorized agent, or legal representative, may file a written request with the DOE General Counsel for reconsideration of a final denial of a claim. Upon the timely filing of a request for reconsideration the DOE shall have 6 months from the date of filing to decide the claim, and the claimant's option under 28 U.S.C. 2675(a) shall not accrue until 6 months after the request for reconsideration is filed. Final DOE action on a request for reconsideration shall be made in accordance with the provisions of pargarph (a) of this section.

§ 1014.10 Action on approved claims.

(a) Payment of any approved claim shall not be made unless the claimant executes (1) a Standard Form 1145, (2) a claims settlement agreement, or (3) a Standard Form 95, as appropriate consistent with applicable rules of the Department of Justice, Department of the Treasury, and the General Accounting Office. When a claimant is represented by an attorney, the voucher for payment shall designate both the claimant and the attorney as payees, and the check shall be delivered to the attorney, whose address shall appear on the voucher.

(b) If the claimant or the claimant's agent or legal representative accepts any award, compromise, or settlement made pursuant to the provisions of section 2672 or 2677 of Title 28, United States Code, that acceptance shall be final and conclusive on the claimant, the claimant's agent or legal representative, and any other person on whose behalf or for whose benefit the claim has been presented. The acceptance shall constitute a complete release of any claim against the United States and against any employee of the Government whose act or omission gave rise to the claim, by reason of the same subject matter.

§ 1014.11 Penalties.

A person who files a false claim or makes a false or fraudulent statement in a claim against the United States may be liable to a fine of not more than $10,000 or to imprisonment for not more than 5 years, or both (18 U.S.C. 1001), and, in addtion, to a forfeiture of $2,000 and a penalty of double the loss or damage sustained by the United States (31 U.S.C 231).

Effective date: This Part 1014 shall become effective March 1, 1980.

[FR Doc. 80-3828 Filed 2-1-80; 8:45 am]
BILLING CODE 6450-01-M

Reader Aids

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Monday, February 4, 1980

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

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Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

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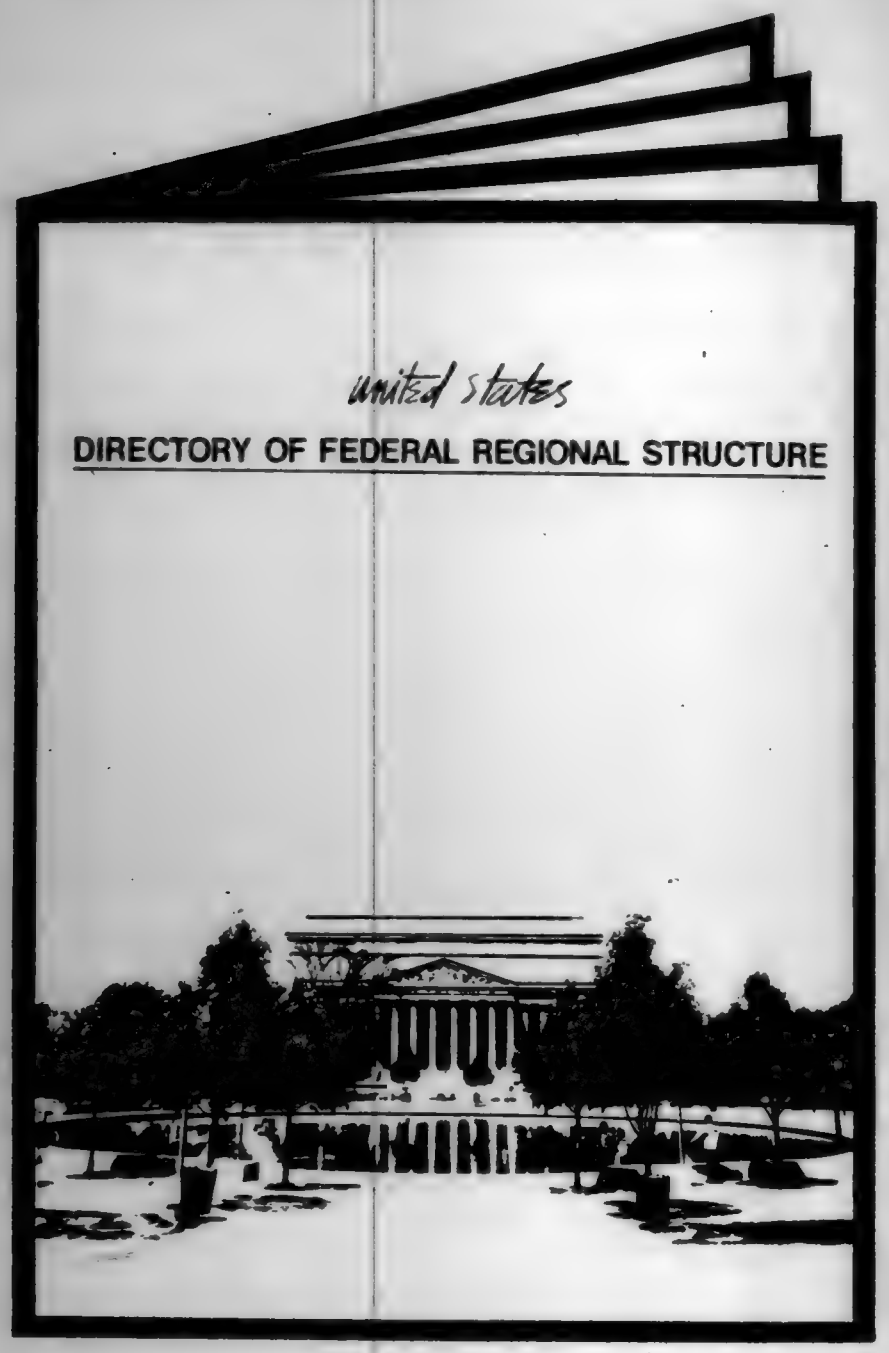

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7773 **Advisory Committee on Small and Minority Business Ownership** Executive order

7779 **Energy Conservation** DOE/Office of Conservation and Solar Energy announces change in allocation of grant funds for schools, hospitals and buildings owned by units of local government and public care institutions; effective 1–29–80

7879 **Organized Crime Problem in United States** Justice/LEAA announces competitive long-term research program; apply by 4–4–80

7780 **Public Telecommunications Facilities Program** Commerce/NTIA extends time to March 21, 1980 in which applicants for fiscal year 1980 grants may amend their applications; effective 1–31–80

7992 **Regulatory Calendar** U.S. Regulatory Council requests public comment on guidelines for entries in the Calendar of Federal Regulations; comments by 2–19–80 (Part V of this issue)

7978 **Improving Government Regulations** HUD publishes semiannual agenda of significant regulations (Part IV of this issue)

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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7818 **Civil Service** OPM proposes use of performance appraisal systems to determine reduction in force retention; comments by 4-7-80

7974 **Unemployment Compensation** Labor/ETA proposes procedures for computing benefits to individuals earning wages in two or more States; comments by 3-6-80 (Part III of this issue)

7883-7887 **Treasury Securities** Treasury/Office of the Secretary announces auction of 3½ year notes, 7¼ year notes and 30 year bonds

7788 **Clean Water** EPA issues regulations establishing policies and procedures by which States may enter cooperative agreements for protecting and restoring publicly owned freshwater lakes

7877 **Privacy Act** Justice publishes a document affecting the systems of records

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7781 **Natural Gas** DOE/FERC publishes maximum lawful prices for the months of February, March, and April 1980; effective 1-29-80

7904-7971 **Cardiovascular Devices** HEW/FDA issues final regulations regarding general provisions applicable to classification; effective 3-6-80 (Part II of this issue) (139 documents)

7819 **Electric Borrowers** USDA/REA proposes to review regulations covering policies and procedures to be followed when contracting to procure materials, equipment and construction of facilities; comments by 3-6-80

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Title 3—

The President

Proclamation 4720 of February 1, 1980

Modification of Tariffs on Certain Sugars, Sirups, and Molasses

By the President of the United States of America

A Proclamation

1. Headnote 2 of Subpart A of Part 10 of Schedule 1 of the Tariff Schedules of the United States, hereinafter referred to as the "TSUS", provides, in relevant part, as follows:

"(i) . . . if the President finds that a particular rate not lower than such January 1, 1968, rate, limited by a particular quota, may be established for any articles provided for in item 155.20 or 155.30, which will give due consideration to the interests in the United States sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade, he shall proclaim such particular rate and such quota limitation, . . ."

"(ii) . . . any rate and quota limitation so established shall be modified if the President finds and proclaims that such modification is required or appropriate to give effect to the above consideration; . . ."

2. I find that the modifications hereinafter proclaimed of the rates of duty applicable to items 155.20 and 155.30 of the TSUS give due consideration to the interests in the United States sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by the Constitution and statutes, including section 201 of the Trade Expansion Act of 1962, and pursuant to General Headnote 4 and Headnote 2 of Subpart A of Part 10 of Schedule 1 of the TSUS, do hereby proclaim until otherwise superseded by law:

A. The rates of duty in rate columns 1 and 2 for items 155.20 and 155.30 of Subpart A of Part 10 of Schedule 1 of the TSUS are modified and the following rates are established:

	Rates of duty	
	1	*2*
155.20	0.6625¢ per lb. less 0.009375¢ per lb. for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 0.428125¢ per lb.	1.9875¢ per lb. less 0.028125¢ per lb. for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 1.284375¢ per lb.
155.30	Dutiable on total sugar at the rate per lb. applicable under Item 155.20 to sugar testing 100 degrees.	Dutiable on total sugars at the rate per lb. applicable under Item 155.20 to sugar testing 100 degrees.

B. Those parts of Proclamation 4334 of November 16, 1974, Proclamation 4463 of September 21, 1976, Proclamation 4466 of October 4, 1976, and Proclamation 4539 of November 11, 1977, which are inconsistent with the provisions of paragraph (A) above are hereby terminated.

C. The provisions of this Proclamation shall apply to articles entered, or withdrawn from warehouse, for consumption on and after the date of this Proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of February, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 80-3787
Filed 2-1-80; 2:32 pm]
Billing code 3195-01-M

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Presidential Documents

Executive Order 12190 of February 1, 1980

Advisory Committee on Small and Minority Business Ownership

By the authority vested in me as President by the Constitution of the United States of America and in order to implement Section 7(j)(3)(A) of the Small Business Act (92 Stat. 1765, 15 U.S.C. 636(j)(3)(A)), which directs the creation of an advisory committee for certain purposes, it is hereby ordered as follows:

1–1. *Establishment of Committee.*

1–101. There is established an Advisory Committee on Small and Minority Business Ownership composed of five high-level officers from five United States businesses and five representatives of minority small businesses.

1–102. The President shall appoint the members of the Committee and designate a Chairman from among its members.

1–103. In selecting the members, the President shall give due consideration to the particular skills desirable to accomplish the purpose and functions of the Committee.

1–2. *Functions of the Committee.*

1–201. (a) The Committee shall assist in monitoring and encouraging the placement of subcontracts by the private sector with eligible small businesses, particularly with small minority businesses, and shall study and propose the incentives and assistance needed by the private sector to help in the training, development, and upgrading of such businesses.

(b) Eligible small businesses are those located in areas of high concentration of unemployed or low-income individuals, businesses owned by low-income individuals, and those businesses eligible for assistance under Section 8(a) of the Small Business Act (15 U.S.C. 637(a), 92 Stat. 1761).

1–202. The Committee shall make periodic reports and recommendations to the President through the Administrator of the Small Business Administration and shall offer such other advice and at such times as the President through the Administrator may request.

1–203. The Committee, through its Chairman, shall report annually to the President and to the Congress on the activities of the Committee during the preceding calendar year.

1–3 *Administrative Provisions.*

1–301. The Committee may request any Executive agency to furnish such information as may be useful in fulfilling the Committee's functions. Each such agency is authorized, to the extent permitted by law, to furnish such information to the Committee.

1–302. Each member of the Committee who is not otherwise employed by the Federal Government shall receive no compensation from the United States by virtue of their service on the Committee, but all members may receive transportation and travel expenses, including per diem in lieu of subsistence, as authorized by 5 U.S.C. 5702 and 5703.

1–303. All necessary administrative staff services, support, facilities, and expenses of the Committee shall, to the extent permitted by law, be furnished by the Small Business Administration.

1–4. *General Provisions.*

1–401. The functions of the President under the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), except that of reporting annually to the Congress, which are applicable to the Committee, shall be performed by the Administrator of the Small Business Administration in accordance with guidelines and procedures established by the Administrator of General Services.

1–402. The Committee shall terminate on December 31, 1980.

Jimmy Carter

THE WHITE HOUSE,
February 1, 1980.

[FR Doc. 80-3788
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Billing code 3195-01-M

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Rules and Regulations

Federal Register
Vol. 45, No. 25
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 781

Disclosure of Foreign Investment in Agricultural Land

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: These amendments adopted by the Agricultural Stabilization and Conservation Service revise the regulations concerning the Disclosure of Foreign Investment in Agricultural Land published in the **Federal Register** on February 6, 1979, as amended by provisions published in the **Federal Register** on August 14, 1979. The changes made by this final rule will establish guidelines for determining the amount of the penalty to be imposed for various types of violation of the reporting obligations specified in § 781.3 and the procedures for actually challenging allegations of violation or the amount of the penalty to be imposed. The amendments are needed in order to improve the nature of the penalty determination process as well as assure those allegedly in violation of the reporting obligation of an opportunity to either deny the accuracy of the allegation or question the amount of the penalty to be imposed.

EFFECTIVE DATE: February 5, 1980.

FOR FURTHER INFORMATION CONTACT: Walter C. Ferguson, Confidential Assistant to the Administrator, Office of the Administrator, ASCS, U.S. Department of Agriculture, Room 218 Administration building, P.O. Box 2415, Washington, D.C. 20013. (202) 447–8165.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking relating to this final rule was published in the **Federal Register** on October 26, 1979 (44 FR 61601). A 60-day comment period ending December 26, 1979 followed during which comments were received from farm organizations, law firms, land trust companies, banks, oil companies, farmers, and the general public. The rule issued today was revised after consideration of the suggestions offered in such comments in light of the congressional intent as reflected in the Act.

Discussion of Major Comments

Fifteen comments were received. The majority of the comments expressed no major opposition to the proposed regulations. Specific changes in the proposed language were suggested, however.

Returning Incomplete Reports

One commentator suggested that reports which the department considers "incomplete" should be returned to the reporting entity for completion, within a reasonable time, before any penalty is assessed. In light of the fact that the primary objective of the program is to obtain information relative to the extent of foreign investment in U.S. agricultural land, the practicality of this suggestion has prompted a change reflected in this final rule. Specifically, the change provides that a reporting entity will not be viewed as having filed an incomplete report until such entity has been given thirty days from the date of the letter returning the report to complete and return the earlier incomplete report.

Nature of Reporting Violations

Two commentators offered suggestions concerning the state of mind which an entity allegedly violating its reporting obligation must have in order to be considered in actual violation. In particular, the following suggestions were made: A failure to report should not be considered a violation unless it occurred "willfully"; submission of a report containing false or misleading information should not be considered a violation unless submitted in "bad faith" with the false or misleading information being "deliberately" included for the "purpose of deceiving" the Department; submission of a report which is incomplete or which contains false or misleading information should not be considered a violation unless the reporting entity "knows" the report is incomplete or contains false or misleading information—it is not enough that one "knowingly" submits a report which simply happens to be incomplete or contains false or misleading information.

Section 3(a)(1) of the Agricultural Foreign Investment Disclosure Act of 1978 (hereinafter cited as the Act) does not provide that one who has failed to submit a report in accordance with a reporting obligation is in violation only if such failure was "willful". Similarly, section 3(a)(2)(B) of the Act does not provide that one who has submitted a report containing false or misleading information is in violation only if such information was "deliberately" supplied in "bad faith" for the "purpose of deceiving" the Department. This reading of section 3 does not appear to be contradicted by anything in the legislative history. Thus, we have decided to reject the suggestions that a failure to file be accompanied by "willfulness" and that submission of false or misleading information be "deliberate," in "bad faith," and for the "purpose of deceiving" the Department in order to constitute violations of the Act.

Our decision to adopt the suggestion that submission of an incomplete, false, or misleading report not be considered a violation unless the reporting entity "knew the report was incomplete, false, or misleading" (rather than simply "knew a report was submitted" which happened to be incomplete, false, or misleading) was based on the legislative history. While the plain language of section 3 of the Act conveys the impression that the submission of an incomplete, false, or misleading report is a violation if the submission was "knowingly" made, the legislative history indicates that such submissions are to be considered violations only if the reporting entity "knew the report was incomplete, false, or misleading." Therefore, this final rule is changed in order to reflect the intent of Congress as evidenced in the legislative history.

Assessment of Penalties

Several comments discussed the assessment of penalties. One person urged that the proposed rule be changed to provide that the violation of a reporting obligation merely "entitles" the Department to subject the reporting entity to a penalty. This would be

accomplished by removing the word "shall" from opening sentence in § 781.4(b) and substituting in lieu thereof the word "may." This suggestion was rejected since it appears that the use of the word "shall" in the first sentence of section 3(a) of the Act is a specific Congressional directive to at least "subject" every person in violation of a reporting obligation to a penalty, even though the amount of such penalty will, in the end, be determined by the Department. The interests of the foreign person allegedly violating the reporting requirements can be satisfactorily protected during the process to determine both the violation and the extent of the ultimate penalty.

One commentator further suggested, in reference to the assessment of penalties, that the final rule should make clear that the value of the land used in computing the penalty should be only the value of the reportable agricultural land and, further, that the value should be that on the date the reporting obligation attached, rather than that on the date the penalty is assessed. The latter suggestion reflects recognition of the fact that the value of the land may increase substantially during the period of time between the date the reporting obligation attached, or was violated, and the date a penalty is actually assessed.

The Department is sensitive to both of these concerns. Consequently, we have inserted a change in the final rule which clarifies the fact that the amount of the penalty will be determined on the basis of the value of the agricultural land with respect to which the violation occurred. In addition, we have also inserted language in § 781.3(c) to indicate that if the nature of the land with respect to which the violation occurred is no longer agricultural on the date the penalty is assessed, then the value used for calculating the amount of the penalty will be the value of the land on the date it was last used as agricultural land. Since section 3(b) of the Act authorizes the imposition of a penalty not to exceed 25 percent of the fair market value of the land on the date the penalty is assessed, in all cases where the land is still agricultural, the Department will continue to use the value on the date the penalty is assessed.

Miscellaneous

In addition to the foregoing, a comment was also received about the applicability of the final rule to violations occurring before the rule's effective date. It would seem satisfactory simply to note that since this rule amends the existing § 781.4, pursuant to which penalties have not yet been assessed, this final rule will apply to all violations occurring from the outset of the reporting program.

In view of the fact that this final rule amends the existing provisions of Part 781 of 7 CFR, pertaining to determination of violation and the assessment of penalties, so as to provide a procedure guaranteeing those accused of violations an opportunity to either deny the accuracy of the allegation or to question the amount of the penalty to be imposed, a procedure not present in the existing provisions, we believe that good cause exists for making this rule effective immediately rather than postponing the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553).

Accordingly, 7 CFR § 781.4 is amended and a new § 781.5 is added as follows:

§ 781.4 Assessment of penalties.

(a) Violation of the reporting obligation will consist of:

(1) Failure to submit any report in accordance with § 781.3 or

(2) Submission of a report which the foreign person knows:

(i) Does not contain, initially or within thirty days from the date of a letter returning for completion such incomplete report, all the information required to be in such report, or

(ii) Contains misleading or false information.

(b) Any foreign person who violates the reporting obligation as described in paragraph (a) of this section shall be subject to the following penalties:

(1) Late filed reports: One-tenth of one percent of the fair market value, as determined by Agricultural Stabilization and Conservation Service, of the interest in the agricultural land, with respect to which such violation occurred, for each week or portion thereof that such violation continues, but the total penalty imposed shall not exceed twenty-five percent of the fair market value of the interest in such land.

(2) Submission of an incomplete report or a report containing misleading or false information, or failure to submit a report required to be submitted pursuant to § 781.3: Twenty-five percent of the fair market value, as determined by Agricultural Stabilization and Conservation Service, of the interest in agricultural land with respect to which such violation occurred.

(3) Penalties prescribed above are subject to downward adjustment based on factors including:

(i) Total time the violation existed.

(ii) Method of discovery of the violation.

(iii) Extenuating circumstances concerning the violation.

(iv) Nature of the information misstated or not reported.

(c) The fair market value for the land, with respect to which such violation occurred, shall be such value on the date the penalty is assessed, or if the land is no longer agricultural, on the date it was last used as agricultural land. The price or current estimated value reported by the foreign person, as verified and/or adjusted by the county Agricultural Stabilization and Conservation Committee for the county where the land is located, will be considered to be the fair market value.

§ 781.5 Penalty review procedure.

(a) Whenever it appears that a foreign person has violated the reporting obligation as described in paragraph (a) of § 781.4, a written notice of apparent liability will be sent to his/her last known address by the Agricultural Stabilization and Conservation Service. This notice will set forth the facts which indicate apparent liability, will identify the type of violation listed in paragraph (a) of § 781.4 which is involved; will state the amount of the penalty to be imposed; will include a statement of fair market value of the foreign person's interest in the subject land; and will summarize the courses of action available to the foreign person.

(b) The foreign person involved shall respond to a notice of apparent liability within 60 days after the notice is mailed. If a foreign person fails to respond to the notice of apparent liability, the proposed penalty shall become final. Any of the following actions by the foreign person shall constitute a response meeting the requirements of this paragraph:

(1) Payment of the proposed penalty in the amount specified in the notice of apparent liability and filing of a report, if required, in compliance with § 781.3. The amount shall be paid by check or money order drawn to the Commodity Credit Corporation and shall be mailed to the Treasurer of Commodity Credit Corporation, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. The Department is not responsible for the loss of currency sent through the mails.

(2) Submission of a written statement denying liability for the penalty in whole or in part. Allegations made in any such statement must be supported by detailed factual data. The statement should be mailed to the Administrator, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

(3) Submission of a written request for a Hearing with the Administrator or with the Administrator's designee. The request should be submitted to the Administrator, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

Submission of such a request does not preclude submission of the statement described in paragraph (b)(2) of this section; either or both may be submitted.

(c)(1) If a Hearing is requested, it will be held in Washington, D.C. at a place determined by the Administrator of the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture or the Administrator's designee. The Administrator or the Administrator's designee will preside at the Hearing. The appellant shall bear all personal costs connected with such a Hearing.

(2) The Hearing will be scheduled for any mutually convenient time within 30 days after the request is filed with the Administrator, or at a time designated by the Administrator or the Administrator's designee.

(3) At the Hearing, the foreign person may appear personally or be represented by a person of the foreign person's choice, and will be afforded an opportunity to state a position and question ASCS about the factual basis for the notice of apparent liability and the amount of the penalty to be imposed.

(4) A summary of the Hearing will be prepared by the presiding official and transmitted to the Administrator.

(5) The failure of the foreign person to appear at the time and place appointed for the Hearing shall constitute a waiver of the foreign person's right of such a Hearing.

(d) After the submission of a written statement and/or after the Hearing, as prescribed in paragraph (b) and (c) of this section, the Administrator will make a determination based on all relevant information available.

(e) Notice of the Administrator's determination, stating whether a report must be filed or amended in compliance with § 781.3, the amount of the penalty (if any), and the date by which it must be paid, will thereupon be mailed to the foreign person involved by the Administrator or the Administrator's designee. The foreign person shall file or amend the report as required by the Administrator. The penalty in the amount stated shall be paid by check or money order drawn to the Commodity Credit Corporation, and shall be mailed to Treasurer of Commodity Credit Corporation, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. The Department is not responsible for the loss of currency sent through the mails.

(f) If the foreign person contests the notice of apparent liability by submitting a written statement as provided in paragraph (b)(2) of this section, the foreign person may elect either to pay the proposed penalty or decline to pay the proposed penalty pending resolution of the matter by the Administrator. If the foreign person elects to pay the proposed penalty, no further fines will accrue following the date of the notice of apparent liability pending the decision of the Administrator as described in paragraph (d) of this section. If the Administrator determines that the foreign person is not liable for the proposed penalty or is liable for less than the amount paid, the payment will be wholly or partially refunded. If the foreign person declines to pay the proposed penalty and the Administrator ultimately determines that foreign person is liable, the penalty finally imposed shall include fines accrued up until the day of the notice in paragraph (e) of this section.

(g) If a foreign person fails to respond to the notice of apparent liability as required by paragraph (b) of this section, or fails to pay the penalty imposed by the Administrator under paragraph (d) of this section, the case will, without further notice, be referred by the Department to the Department of Justice for prosecution in the appropriate District Court to recover the amount of the penalty.

(h) Any amounts approved by the U.S. Department of Agriculture for disbursement to a foreign person under the programs administered by the Department may be setoff against penalties assessed hereunder against such person, in accordance with the provisions of 7 CFR Part 13.

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Administrator, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

(Pub. L. 95-460, 92 Stat. 1265; 7 U.S.C. 3501)

Signed at Washington, D.C. on January 30, 1980.

Weldon B. Denny,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-3705 Filed 2-4-80; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 1000

General Provisions of Federal Milk Marketing Orders; Order Terminating Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of rules.

SUMMARY: This document terminates certain provisions in the General Provisions that are common to and part of each Federal milk marketing order. The provisions require the market administrator of an order to execute and deliver to the Secretary a bond covering himself and a bond covering each employee designated to act in his stead. This termination conforms with Pub. L. 92-310, which exempts Federal government employees from bonding requirements.

EFFECTIVE DATE: February 5, 1980.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202/447-7311.

SUPPLEMENTARY INFORMATION: This order of termination is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) and of the General Provisions of Federal milk marketing orders (7 CFR Part 1000).

It is hereby found and determined that the following provisions of the General Provisions do not tend to effectuate the declared policy of the Act:

§ 1000.3 [Amended]

1. In § 1000.3, paragraph (c)(1) in its entirety.

§ 1000.3 [Amended]

2. In § 1000.3(c)(3), the provisions "bond and" and "and the necessary bonds of his employees".

Statement of Consideration

This action terminates certain provisions in the General Provisions that are common to and part of each Federal milk marketing order. The provisions require that a market administrator "execute and deliver to the Secretary a bond covering himself and a bond covering any person designated by the Secretary to act in his stead." The provisions also specify a time period in which the administrator must deliver the bonds and state that they shall be in an amount and with surety thereon satisfactory to the Secretary.

This action conforms with the provisions of Public Law 92-310 which

exempts Federal government employees from bonding requirements.

It is therefore ordered, That the aforesaid provisions of the General Provisions are hereby terminated upon publication of this order in the Federal Register.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Signed at Washington, D.C., on January 30, 1980.

P. R. "Bobby" Smith,

Assistant Secretary for Marketing and Transportation.

[FR Doc. 80-3706 Filed 2-4-80; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Office of Alien Property

8 CFR Chapter II

Deletion of Chapter

Editorial Note.—The Office of the Federal Register has received a letter from the Department of Justice that states in part:

* * * The Attorney General is the successor to the Alien Property Custodian under Executive Order 9788, October 14, 1946, 11 FR 11981. The vesting program conducted by the Alien Property Custodian under the authority of the Trading with the Enemy Act, 50 U.S.C. App. 1 et seq., and all administrative claims under Sections 32 and 34 of the Act, which were governed by the Rules of the Office of Alien Property, have now been determined.

Although the Attorney General continues to the present as successor to the Alien Property Custodian, the Department of Justice's remaining functions relate principally to the management and disposal of the records of the former Office of Alien Property, and correspondence relating to the World War II vesting program; none of these functions are governed by the Rules of the Office of Alien Property.

There exists, therefore, no further justification for the periodic republication of the Rules of the Office of Alien Property, and I recommend that the republication of Chapter II, Title 8, Code of Federal Regulations be discontinued beginning in 1980.

PARTS 501–510—[DELETED]

Therefore, the regulations codified in Chapter II of Title 8, Code of Federal Regulations, consisting of Parts 501 through 510 inclusive, are deleted as obsolete.

BILLING CODE 6820-27-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

Importation of Certain Animals and Poultry and Certain Animal and Poultry Products; Inspection and Other Requirements for Certain Means of Conveyance and Shipping Containers Thereon; Harry S Truman Animal Import Center

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations concerning the issuance of special permits to be drawn on a lottery basis for the allotment of quarantine space for the second group of cattle to be imported through the Harry S Truman Animal Import Center. This action is being taken to allow special permits to be allotted permittees of first importation of cattle through the Harry S Truman Animal Import Center (HSTAIC) that were not able to obtain cattle qualified for such importation. The intended effect of this action is to exempt such persons from having to participate in the lottery drawing for the second importation of animals into HSTAIC in order to receive a special permit for the second importation.

EFFECTIVE DATE: January 30, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 815, Hyattsville, Md. 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION: On August 19, 1977 (42 FR 41848–41849) procedures were established for awarding special import permits to prospective importers of cattle from countries affected with foot-and-mouth disease (FMD). These procedures include prospective importers submitting and application for a special permit to import an animal into HSTAIC. The awarding of such special permits is made through a lottery drawing of the applications. On November 2, 1979, there was published in the **Federal Register** (44 FR 63083) an amendment to 9 CFR Part 92 which established a specific date on which applications would be accepted for special permits to be drawn on a lottery basis for the allotment of quarantine space for the second group of cattle to be imported through HSTAIC. On Friday, December 14, 1979, there was published in the **Federal Register** (44 FR 72574) an amendment that extended the specific date for receipt of applications for such special permits to February 1, 1980, and extended the date for the second drawing for allocation of quarantine space for that importation from January 28, 1980, to February 15, 1980.

The special permit holders for the 400 available spaces for the first importation of cattle through HSTAIC all designated Brazil as the country of origin of the cattle. Upon notification by the Department that they would receive a special permit, the special permittee had the responsibility to secure cattle which would qualify for entry into HSTAIC in accordance with the Department's requirements.

Representatives of the Department met with animal health authorities of the central Brazilian government to establish the manner by which cattle from that country would qualify for entry into HSTAIC. At the time of these meetings, those parties determined that the pre-entry requirements would include a certification by the Brazilian animal health authorities that herd of cattle were determined by herd health history records to have not been on a premises for the five years immediately prior to certification where foot-and-mouth disease existed during that time. The Department's officials believed that a five-year health history record was necessary to insure that the cattle would be free from foot-and-mouth disease. The central Brazilian government animal health authorities believed that for a large number of cattle, records did exist to which certification could be made. However, when the Department's representatives went to Brazil to commence the pre-entry examination and testing of cattle, it was determined that there was great difficulty in locating herds with satisfactory official five-year animal health history records. These records are maintained by the various state governments of Brazil. In many instances, the records either did not exist for the cattle, or existed for only a two-year period, or five-year records showed that the herds had experienced foot-and-mouth disease within the five-year period. Additionally, for those cattle for which satisfactory five-year records did exist, testing of the animals indicated that the animals were positive on official tests for communicable animal disease and therefore not qualified for export to HSTAIC. Further, because time had already been reserved for cattle to be placed in the Brazilian foreign embarkation facility for preparation for entry into HSTAIC, additional time to search for other herds was not possible. Also, delaying the processing of the cattle into the foreign embarkation facility would have increased the chance of exposure to disease of those animals which had already qualified for entry into the embarkation facility. Consequently, the number of available cattle in Brazil among which the special permit holders could select for entry into HSTAIC was extremely limited and the number which actually qualified was extremely limited.

Therefore, because of the aforementioned circumstances, the Department has determined that it would be equitable for the holders of special permits issued for the first importation and for which cattle have not been qualified for entry into HSTAIC, to be given a preference in the drawing for the second importation. Those persons issued special permits for the first importation who submit both an application and the required cooperative agreement and funds or payment bond by the specified date of February 14, 1980, for the second drawing, will be issued permits and allotted space for the second importation of cattle through HSTAIC. For each such individual, a permit will be issued for not more than the number of cattle specified in his special permit for the first importation less the number of cattle which he has imported into HSTAIC for the first quarantine period.

For such applicants who desire to import additional animals in the second importation, special permits will be issued on a lottery basis in accordance with the established procedures of § 92.41(a).

Additionally, the regulations have been revised to reflect the availability of the protocol for importing cattle into HSTAIC. The protocol contains the tests and procedures which cattle must comply with in order to be eligible for entry into HSTAIC. These tests and procedures must be adhered to in order to insure to the greatest degree possible, that diseased animals, particularly those affected with foot-and-mouth disease, do not enter HSTAIC. This is in keeping with the intent of Congress in establishing the Animal import center. Congress established the Center to improve the quality of livestock in the United States. However, at the same time, Congress made it clear that the Department must take all necessary measures to insure that communicable animal diseases such as foot-and-mouth disease do not enter the United States through the operation of HSTAIC (See 1970 U.S. Code Cong. and Adm. News p. 2998).

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended in the following respects:

1. In § 92.41, paragraph (a)(2), the first sentence is amended to read:

§ 92.41 Requirements for the importation of animals into the United States through the Harry S Truman Animal Import Center.

(a) * * *

(1) * * *

(2) *Drawing for permits.* At least 6 months before the proposed date of entry of cattle into the Harry S Truman Animal Import Center and at the time, date, and place specified in the Notice of Drawing, a Department employee shall consecutively draw the names of applicants until a maximum of 400 names have been selected to receive one special permit for one animal each, except that each person holding a special permit for the first importation shall, prior to the second drawing, be awarded space for not more than the number of animals specified on said first importation special permit less the number of animals entered by the person under the permit into the HSTAIC for the first quarantine period, and; Provided, That the Cooperative Trust Fund Agreement required by section 92.41(c) of these regulations has been signed by the applicant and delivered to the Department by February 14, 1980, along with the required funds or payment bond.* * *

* * * * *

§ 92.41 [Amended]

2. In § 92.41(c), subparagraph A.7., a reference to footnote 15 is added at the end of the first sentence, and a new footnote 15 is added to read:

[15] The protocol containing the tests and procedures which must be performed in order for cattle to be imported into the United States through the Harry S Truman Animal Import Center may be obtained upon request from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782.

(Sec. 2, 32 Stat. 792, as amended; sec. 1, 84 Stat. 202 (21 U.S.C. 111, and 135); 37 FR 28464, 28477; 38 FR 19141)

The amendment revises and clarifies the method of importing cattle into the Harry S Truman Animal Import Center. Applications for the second importation are required to be received by the Department by February 1, 1980. The drawing for the second importation is scheduled for February 15, 1980. The second importation of animals to be imported into the Harry S Truman Animal Import Center is scheduled for June, 1980. It is in the public interest that the Department advise prospective importers of the revised procedure as soon as possible in order that those affected may adjust their plans accordingly. The amendment is of an emergency nature and must be placed in effect immediately in order to serve the purpose intended.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Dr. M. J. Tillery, Director, National Program Planning Staffs, Veterinary Services, Animal and Plant Health Inspection Service, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 30th day of January 1980.

John K. Atwell,

Acting Deputy Administrator Veterinary Services.

[FR Doc. 80-3628 Filed 2-4-80; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Part 455

Technical Assistance and Energy Conservation Measures: Grant Programs for Schools and Hospitals and Buildings Owned by Units of Local Government and Public Care Institutions

AGENCY: Department of Energy.

ACTION: Change in allocation of funds among States for first grant program cycle.

SUMMARY: The allocation of funds among States for the first grant program cycle, published in the Federal Register

on April 17, 1979, is hereby changed. Table 5 (appearing at 44 FR 22947) is hereby replaced with a new Table 5 set forth in this notice. The new allocation of funds necessitated by the reappropriation (Public Law 96–126; November 27, 1979), at a reduced level, of the fiscal year 1978 funds appropriated to and allocated by DOE for the first grant program cycle. The amounts set forth in the new Table 5 do not reflect reallocations and adjustments in accordance with 455.12(b) and 455.12(d). Such reallocations and adjustments will be reflected in the allocation of funds for the second grant program cycle.

Grants awards for technical assistance programs for schools and hospitals in any State within the first grant program cycle shall not exceed 30 percent of the amount allocated to that State.

FOR FURTHER INFORMATION CONTACT:
Michael Willingham, Institutional Buildings Grants Program Division, Office of Conservation and Solar Energy, Department of Energy, Room 2H–043, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Issued in Washington, D.C. January 28, 1980.

T. E. Stelson,
Assistant Secretary, Conservation and Solar Energy.

Table 5

DOE region State	Schools and hospitals	Local government public care
Region I:		
Connecticut	2,326,893	291,067
Maine	1,245,569	155,806
Massachusetts	3,969,388	496,674
New Hampshire	1,030,381	128,798
Rhode Island	981,742	122,718
Vermont	797,966	99,746
Region II:		
New Jersey	4,709,812	588,727
New York	11,302,550	1,412,819
Puerto Rico	1,786,845	223,356
Virgin Islands	508,534	63,567
Region III:		
Delaware	747,305	93,413
Dist. of Columbia	834,010	104,251
Maryland	2,629,458	328,557
Pennsylvania	7,440,927	930,116
Virginia	2,915,002	364,375
West Virginia	1,428,049	178,506
Region IV:		
Alabama	2,043,146	255,268
Florida	3,596,958	449,570
Georgia	2,531,891	316,486
Kentucky	2,244,997	280,625
Mississippi	1,458,589	183,574
North Carolina	2,889,420	361,177
South Carolina	1,663,669	207,959
Tennessee	2,493,871	311,734
Region V:		
Illinois	7,588,450	948,556
Indiana	3,638,257	454,786
Michigan	6,500,363	812,545
Minnesota	3,742,892	467,862
Ohio	8,823,328	852,841
Wisconsin	3,808,303	476,038
Region VI:		
Arkansas	1,356,487	169,561
Louisiana	1,893,125	236,641
New Mexico	985,975	123,247
Oklahoma	1,764,202	220,525
Texas	5,704,404	713,050
Region VII:		
Iowa	2,452,168	306,524
Kansas	1,792,140	224,017
Missouri	3,203,066	400,383
Nebraska	1,489,675	186,209
Region VIII:		
Colorado	2,132,099	266,512
Montana	989,976	123,747
North Dakota	984,971	123,121
South Dakota	934,535	116,554
Utah	1,211,361	151,423
Wyoming	696,810	87,101
Region IX:		
American Samoa	454,829	56,853
Arizona	1,459,228	182,403
California	7,101,839	887,730
Guam	486,895	60,862
Hawaii	726,358	90,795
Nevada	767,492	95,935
Region X:		
Alaska	824,068	103,009
Idaho	960,852	120,106
Oregon	1,561,566	195,196
Washington	2,354,955	294,369
U.S. total	138,999,993	17,500,000

[FR Doc. 80-3644 Filed 2-4-80; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

15 CFR Part 2301

Public Telecommunications Facilities Program; Extension of Time Within Which to File Amendments to FY 1980 Grant Applications

AGENCY: National Telecommunications Information Administration, Commerce Department.

ACTION: Order Extending Time Within Which to File Amendments to FY 1980 Grant Applications.

SUMMARY: The National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce, is extending to March 21, 1980, the time in which applicants for FY 1980 grants under the Public Telecommunications Financing Act of 1978 (Pub. L. 95–567, 92 Stat. 2405), may amend their applications. This action is being taken because NTIA has switched from a manual to a computerized record keeping system. The start up of this system will take enough time so that adherence to the 45 day amendment period provided in Section 2301.5(b) of the PTFP Rules may be insufficient for the initial review of applications. NTIA also recognizes that the short period of time between the conclusion of the FY 1979 and the FY 1980 grant rounds may have been insufficient to permit applicants to prepare the strongest possible applications.

EFFECTIVE DATE: January 31, 1980; time extended to March 21, 1980 to file amendments to FY 1980 Grant Applications.

FOR FURTHER INFORMATION CONTACT:
Dr. John Cameron, Director, Public Telecommunications Facilities Division, National Telecommunications and Information, Room 298, 1325 G Street, N.W., Washington, D.C. 20005. (202) 724–3307.

Adopted: January 31, 1980.

In the Matter of the Public Telecommunications Facilities Program.

The National Telecommunications and Information Administration (NTIA) is extending to March 21, 1980, the time within which applicants for FY 1980 Public Telecommunications Facilities Program (PTFP) grants may amend their applications under Section 2301.5(b) of the PTFP Rules.[1] The FY 1980 closing date for the filing of applications was January 9, 1980, and amendments are due by February 25, 1980. (The 45th day, February 23rd, falls on a Saturday.)

The filing date for amendments is being extended for two reasons. First, the PTFP has switched for a manual to a computerized file system for logging in applications describing the proposals and keeping track of the applications' PTFP and FCC status. While this new system will prove to be an efficient and timesaving improvement, its initial start up time will be such that we believe applicants and PTFP staff should have more time to review and amend applications than Section 2301.5 of the Rule provides. Second, the time between the awarding of FY 1979 grants at the end of September 1979 and the FY 1980 closing date was shorter than we would ordinarily like. This resulted from the transfer of the program from the Department of Health, Education, and Welfare to NTIA, our need to adopt rules, priorities and an application form within sufficient time to solicit and review applications and award grants before the end of FY 1979. As a result, we believe that applicants may not have had enough time to prepare the strongest possible applications. For these reasons, we have decided to extend the amendment period to March 21, 1980.

This action is being taken pursuant to Section 392(e) of the Public Telecommunications Financing Act of 1978 (Pub. L. No. 95–567, 92 Stat. 2405) and Section 2301.37 of the PTFP Rules.

Henry Geller,
Administrator.

[FR Doc. 80-3735 Filed 2-4-80; 8:45 am]
BILLING CODE 3510-60-M

[1] This section provides that: An applicant may amend its application or submit additional information at any time up to 45 calendar days after the closing date published pursuant to § 2301.9 of the Rules.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. IA-710A]

Delegations of Authority to the Director of the Division of Investment Management, the Director of the Division of Enforcement, and the Regional Administrators; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendments; correction.

SUMMARY: This document corrects final rule amendments on delegations of authority to the Director of the Division of Investment Management, the Director of the Division of Enforcement, and the Regional Administrators which appear at page 76773 of the Federal Register of December 28, 1979, FR Doc. 79–39620.

EFFECTIVE DATE: December 19, 1979.

FOR FURTHER INFORMATION CONTACT:
Michael J. Eizelman, Esq., Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549 (202) 272–2079.

SUPPLEMENTARY INFORMATION: On page 76774 the first paragraph under the heading "Authority, Effective Date" should read as follows: The Commission hereby amends Rules 30–4, 30–5 and 30–6 of the rules of the Commission relating to general organization (17 CFR 200.30–4, 30–5 and 30–6) by adding new paragraph (a)(8) to Rule 30–4; by adding new paragraphs (e)(3), (4), (5) and (6) to Rule 30–5; and by redesignating paragraphs (e), (f) and (g) of Rule 30–6 as paragraphs (f), (g) and (h) respectively, and by adding a new paragraph (e) thereto, pursuant to the authority contained in the Act of August 30, 1962, Pub. L. No. 87–592, 76 Stat. 394 (15 U.S.C. 78d–1, 78d–2) and Section 211(a) of the Advisers Act (15 U.S.C. 80b–11(a)).

§ 200.30–4 [Corrected]

1. (a) Under the heading "Commission Action," Amendment No. 1 should read "By adding new paragraph (a)(8) to § 200.30–4 as follows:"

(b) In the regulatory text the paragraph designation is changed from (6) to (8).

§ 200.30–6 [Corrected]

2. (a) Amendment No. 3 should read "By redesignating paragraphs (e), (f) and (g) of § 200.30–6 as paragraphs (f), (g) and (h) respectively and by adding a new paragraph (e) thereto as follows:"

(b) In the regulatory text the paragraph designation is changed from (d) to (e).

January 24, 1980.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80-3575 Filed 2-1-80; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM80–23]

Ceiling Prices, Publication of Prescribed Maximum Lawful Prices Under the Natural Gas Policy Act of 1978; Amendments to Final Regulations

Issued: January 29, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: This rule amends § 271.101(a) of the Federal Energy Regulatory Commission's regulations implementing the Natural Gas Policy Act of 1978 (NGPA). By this amendment, the Commission publishes the Maximum Lawful Prices under the NGPA for the months of February, March and April of 1980. Section 101(b)(6) of the NGPA requires that the Commission compute and make available prices and inflation adjustments before the beginning of any month for which such figures apply.

EFFECTIVE DATE: January 29, 1980.

FOR FURTHER INFORMATION CONTACT:
Mark G. Magnuson, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8511.

A. Background

Section 101(b)(6) of the NGPA requires that the Commission compute and make available maximum lawful prices and inflation adjustments before the beginning of any month for which such figures apply. Pursuant to that mandate, the Commission is amending its regulations implementing the NGPA to issue the maximum lawful prices for the months of February, March and April of 1980, by the publication of price tables for the applicable quarter.

Table I specifies the maximum lawful prices for gas subject to sections 102, 103, 106(b)(1)(B), 107, 108 and 109 of the NGPA. Table II specifies the prices for section 104 and 106(a); Table III sets forth the inflation adjustments.

B. Summary of Amended Regulations

The Commission's regulations under the NGPA are being amended by the publication of Tables I, II, and III establishing the maximum lawful prices and inflation adjustment factors for February, March and April of 1980. This amendment affects the Subpart A of Part 271, entitled:

"Summary Tables and Calculations" (§§ 271.101(a) and 271.102(c)).

C. Public Procedure and Effective Date

The Commission is making these amendments effective upon the date of issuance of this order upon a finding that it is impractical and unnecessary to comply with the notice and public procedure provisions of 5 U.S.C. 533. Section 101(b)(6) of the NGPA requires that maximum lawful prices and inflation adjustments be made available by the Commission before the beginning of the month to which they apply. However, publication of the GNP Implicit Price Deflator by the Department of Commerce at least 8 days before the most recent calendar quarter, does not provide sufficient time for comment before the maximum lawful prices and inflation adjustments go into effect. Notice and public comment are unnecessary as well as impractical because the changes do not change the substance of the regulations and because the changes in prices and inflation adjustments are mandated by statute. Good cause exists to make these amendments regarding the rate changes for February, March and April of 1980, effective immediately. Such a procedure is required in order to comply with the NGPA, and, if such a procedure is not followed, producers may bill and file incorrectly for the affected categories of gas.

(Natural Gas Act, as amended, 15 U.S.C. § 717 *et seq.*; Natural Gas Policy Act of 1978, Pub. L. 95–621, 92 Stat. 3350; Department of Energy Organization Act, 42 U.S.C. § 7107, *et seq.*, E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,
Secretary.

PART 271—CEILING PRICES

§ 271.101 [Amended]

1. Section 271.101 is amended in paragraph (a) by inserting the maximum lawful prices for February, March and April of 1980 in Tables I and II.

Table I.—*Natural Gas Ceiling Prices (Other Than NGPA Secs. 104 and 106(a))*

Subpart of part 271, NGPA section, and category of gas	Maximum lawful price per MMBtu for deliveries made in: Dec. 1978	Jan. 1979	Feb. 1979	Mar. 1979	Apr. 1979	May 1979	June 1979	July 1979	Aug. 1979	Sept. 1979	Oct. 1979	Nov. 1979	Dec. 1979	Jan. 1980	Feb. 1980	Mar. 1980	Apr. 1980
B, 102, New Natural Gas, Certain OCS Gas	$2.076	$2.096	$2.116	$2.136	$2.156	$2.177	$2.198	$2.220	$2.244	$2.268	$2.292	$2.314	$2.336	$2.358	$2.381	$2.404	$2.428
C, 103, New Onshore Production Wells	1.969	1.980	1.993	2.006	2.019	2.033	2.047	2.062	2.079	2.096	2.113	2.126	2.143	2.158	2.173	2.188	2.204
F, 106(b)(1)(B), Alternative Maximum Lawful Price for Certain Intrastate Rollover Gas.[2]	1121	1.128	1.136	1.144	1.152	1.160	1.168	1.176	1.185	1.195	1.205	1.213	1.221	1.229	1.238	1.247	1.256
G, 107, High Cost Gas (below 15,000 Only) [3]	2.076	2.096	2.116	2.136	2.156	2.177	2.198	2.220	2.244	2.268	2.292	2.314	2.336	2.358	2.381	2.404	2.428
H, 108, Stripper Gas	2.224	2.243	2.264	2.285	2.306	2.329	2.352	2.375	2.400	2.426	2.452	2.475	2.499	2.523	2.548	2.573	2.598
I, 109, Not Otherwise Covered	1.630	1.639	1.650	1.661	1.672	1.684	1.696	1.708	1.722	1.736	1.750	1.762	1.774	1.786	1.799	1.812	1.825

[1] Section 271.602(a) provides that for certain gas sold under an intrastate rollover contract the maximum lawful price is the higher of the price paid under the expired contract, adjusted for inflation or an alternative Maximum Lawful Price specified in this table. This alternative maximum lawful price for each month appears in this row of Table I.

[2] Commencing November 1, 1979, the price of natural gas finally determined to be eligible as high-cost gas under Section 107(c)(1) through (4) of the NGPA is deregulated. The prices shown for November 1979 through April 1980 only apply to interim collection of the 107(c)(1) (below 15,000 feet only) category of high cost gas.

Table II.—*Natural Gas Ceiling Prices: NGPA Secs. 104 and 106(a) (Subpart D, Part 271)*

Category of natural gas and type of sale or contract	Maximum lawful price per MMBtu for deliveries made in: Dec. 1978	Jan. 1979	Feb. 1979	Mar. 1979	Apr. 1979	May 1979	June 1979	July 1979	Aug. 1979	Sept. 1979	Oct. 1979	Nov. 1979	Dec. 1979	Jan. 1980	Feb. 1980	Mar. 1980	Apr. 1980
Post-1974 gas, All producers	$1.630	$1.639	$1.650	$1.661	$1.672	$1.684	$1.696	$1.708	$1.722	$1.736	$1.750	$1.762	$1.774	$1.786	$1.799	$1.812	$1.825
1973–1974 Biennium gas:																	
Small producer	1.379	1.387	1.396	1.405	1.414	1.424	1.434	1.444	1.456	1.468	1.480	1.490	1.500	1.510	1.521	1.532	1.543
Large producer	1.058	1.064	1.071	1.078	1.085	1.093	1.101	1.109	1.118	1.127	1.136	1.144	1.152	1.160	1.168	1.176	1.184
Interstate Rollover gas:																	
Small producer	.702	.715	.715	.715	.715	.715	.715	.715	.715	.715	.715	.715	.715	.728	.728	.728	.728
Large producer	.603	.607	.611	.615	.619	.623	.627	.631	.030	.641	.646	.650	.654	.658	.664	.669	.674
Replacement contract gas or recompletion gas:																	
Small producer	.771	.775	.780	.785	.790	.796	.802	.808	.815	.822	.829	.835	.841	.847	.853	.858	.866
Large producer	.599	.596	.600	.604	.608	.612	.616	.620	.625	.630	.635	.639	.643	.647	.652	.657	.662
Flowing gas:																	
Small producer	.393	.395	.398	.401	.404	.407	.410	.413	.416	.419	.422	.425	.428	.431	.434	.437	.440
Large producer	.332	.334	.336	.338	.340	.342	.344	.346	.349	.352	.355	.357	.359	.361	.364	.367	.370
Certain Permian Basin gas:																	
Small producer	.462	.465	.468	.471	.474	.477	.480	.486	.487	.491	.495	.498	.501	.504	.508	.512	.516
Large producer	.405	.407	.410	.413	.416	.419	.422	.425	.428	.431	.434	.437	.440	.443	.446	.449	.453
Certain Rocky Mountain gas:																	
Small producer	.462	.465	.468	.471	.474	.477	.480	.486	.487	.491	.495	.498	.501	.504	.508	.512	.516
Large producer	.393	.395	.396	.401	.404	.407	.410	.413	.416	.419	.422	.425	.428	.431	.434	.437	.440
Certain Appalachian Basin gas:																	
North Subarea contracts dated after 10-7-69	.368	.370	.372	.374	.376	.378	.382	.385	.388	.391	.394	.397	.400	.403	.406	.409	.412
Other Contracts	.344	.346	.348	.350	.352	.355	.358	.361	.364	.367	.370	.373	.376	.379	.382	.385	.388
Minimum Rate Gas,[1] All Producers	.203	.204	.205	.206	.207	.208	.209	.210	.212	.214	.216	.217	.218	.220	.222	.224	.226

[1] Prices for minimum rate gas are expressed in terms of dollars per Mcf., rather than per MMBtu.

§ 271.102 [Amended]

2. Section 271.102 is amended in paragraph (c) by the insertion of the inflation adjustment factor for the months of February, March, and April of 1980 in Table III.

Table III.—*Inflation adjustment*

Month of delivery	Factor [1]
1977:	
May	1.00636
June	1.00636
July	1.00431
August	1.00431
September	1.00431
October	1.00463
November	1.00463
December	1.00463
1978:	
January	1.00597
February	1.00597
March	1.00597
April	1.00889
May	1.00889
June	1.00889
July	1.00581
August	1.00581
September	1.00581
October	1.00581
November	1.00581
December	1.00581
1979:	
January	1.00581
February	1.00667
March	1.00667
April	1.00667
May	1.00713
June	1.00713
July	1.00713
August	1.00805
September	1.00805
October	1.00805
November	1.00690
December	1.00690
1980:	
January	1.00690
February	1.00713
March	1.00713
April	1.00713

[1] By which price in preceding month is multiplied.

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BILLING CODE 6450-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 5

Revised Delegations of Authority

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations for delegations of authority to the Commissioner of Food and Drugs and the redelegation of authority to agency officials. This action is taken because of revised delegations of authority under various sections of the Public Health Service (PHS) Act.

EFFECTIVE DATE: February 5, 1980.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA-340), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: 1. On June 7, 1979, the Assistant Secretary for Health issued a revised delegation of authority under section 301 of the Public Health Service (PHS) Act giving the Commissioner the authorities added to section 301 by Pub. L. 95-622.

Amendments by Pub. L. 95-622 to section 301(a) of the PHS act authorize the provision of substances and living organisms to individuals and entities for biomedical and behavioral research. The amendments added section 301(b), which requires studies and testing of substances for harmful biological effects, research into the biological effects of low-level ionizing radiation, and studies of human nutrition, and authorizes support of these activities through contracts and grants. The revised delegation of authority under section 301 adds these authorities to the authority previously delegated to the Commissioner.

2. On August 20, 1979, the Director, Office of Management, PHS, issued a revised delegation of authority under section 501 of the PHS Act giving the Commissioner the authority to accept gifts, excluding the acceptance of gifts of real property. The revised delegation of authority under section 501 of the PHS act supersedes the previous delegation of authority by the Assistant Secretary for Health to the Commissioner, removes the previous monetary limitation of $1,000 with respect to the value of gifts, and authorizes the Commissioner to redelegate only the authority to accept gifts valued at $5,000 or less.

3. On September 7, 1979, the Director, Office of Management, PHS, issued a revised delegation of authority under section 223 of the PHS Act terminating the Commissioner's authority to establish volunteer service programs and accept volunteer services. The revised delegation of authority under section 223 of the act terminates all previous delegations of authority and redelegates the authority within the PHS only to the Alcohol, Drug Abuse, and Mental Health Administration, Health Services Administration, and the National Institutes of Health.

4. Section 314(f) of the PHS act, which authorized the interchange of personnel with States, has been repeated. Consequently, the authority that had been delegated to the Commissioner under section 314(f) has been eliminated.

5. Section 5.1 is being amended to show the revised delegation of authority under section 301 to the Commissioner, to delete the delegation of authority under section 314(f), and to show the delegation of authority under section 501.

6. Section 5.25 is being revised to delegate the expanded research, investigation, and testing authorities to the bureau level.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis, unless prohibited by a restriction written into the document designating him or her as "acting," or unless it is not legally permissible.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 5 is amended as follows:

1. In Subpart A, § 5.1 is amended by revising the section heading, by revising paragraph (a)(2), by deleting paragraph (a)(20), by revising paragraph (c), and by adding new paragraph (e) to read as follows:

§ 5.1 Delegations from the Secretary, the Assistant Secretary for Health, and Public Health Service Officials.

(a) * * *

(2) Functions vested in the Secretary under section 301 (Research and Investigation), as amended by Pub. L. 95-622; section 307 (International Cooperation); section 310 (Health Education and Information); and section 311 (Federal-State Cooperation) of the Public Health Service Act (42 U.S.C. 241, 2421, 242o, 243) which relate to the functions of the Food and Drug Administration.

* * * * *

(20) [Reserved].

* * * * *

(c) The Assistant Secretary for Health has redelegated to the Commissioner of Food and Drugs, with authority to redelegate, the authority delegated to him by the Assistant Secretary for Administration and Management, to certify true copies of any books, records, or other documents on file within the Department, or extracts from such; to certify that true copies are true copies of the entire file of the Department; to certify the complete original record or to certify the nonexistence of records on file within the Department; and to cause the Seal of the Department to be affixed to such certifications and to agreements, awards, citations, diplomas, and similar documents.

* * * * *

(e) The Director, Office of Management, Public Health Service, has redelegated to the Commissioner of Food and Drugs, with authority to redelegate authority to accept gifts of $5,000 or less, the authority under section 501 of the Public Health Service Act (42 U.S.C. 219) to accept offers of gifts, excluding the acceptance of gifts of real property, providing the total costs associated with acceptance will not exceed the cost of purchasing a similar item and the cost of normal care and maintenance.

2. In Subpart B, § 5.25 is revised to read as follows:

§ 5.25 Research, investigation, and testing programs.

(a) The Directors of Bureaus, the Executive Director of Regional Operations, and the Director of the National Center for Toxicological Research are authorized under sections 301 as amended by Pub. L. 95-622, 307, and 311 of the Public Health Service Act to establish research, investigation, and testing programs which relate to their assigned functions and to approve grants for conducting such programs.

(b) The Director of the Bureau of Radiological Health is authorized to establish an electronic product radiation control program and to approve grants for conducting the program under section 356 of the Public Health Service Act.

(c) The Associate and Deputy Associate Commissioner for Management and Operations, the Director and Deputy Director of the Division of Contracts and Grants Management of the Office of Management and Operations, and the Chief of the Grants Management Branch of that Division and Office are authorized to sign and issue all notices of grant awards and amendments thereto and sign and issue notices of suspension and termination thereof for grants approved under the authority delegated in paragraphs (a) and (b) of this section.

Effective date: This regulation shall be effective February 5, 1980.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: January 29, 1980.
Joseph P. Hile,
Associate Commissioner for Regulatory Affairs.
[FR Doc. 80-3670 Filed 2-4-80; 8:45 am]
BILLING CODE 4110-03-M

21 CFR Part 146

[Docket No. 78P-0039]

Lemon Juice; Standards of Identity and Fill of Container

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document establishes standards of identity and fill of container for lemon juice. These standards were developed after considering the Codex Alimentarius Commission's "Recommended International Standard for Lemon Juice Preserved Exclusively by Physical Means," and the comments received in response to the proposal. This action will promote honesty and fair dealing in the interest of consumers and facilitate international trade.

DATES: These standards become effective July 1, 1981, for all affected products initially introduced into interstate commerce on or after this date.

Voluntary compliance may begin March 7, 1980.

Objections by March 6, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: The standards in this final rule will, among other things, (1) permit the addition of concentrated lemon juice to lemon juice at a maximum level of 15 percent on an acid weight basis to adjust the acidity; (2) allow for the use of safe and suitable preservatives as a method of preservation, in addition to physical methods of preservation; (3) standardize "lemon juice from concentrate" at a minimum soluble solids content of 6 percent by weight and a minimum acidity of 4.5 percent by weight, calculated as anhydrous citric acid; and (4) establish a standard of fill of container based upon a minimum of 90 percent of the total capacity of the container but exempting frozen lemon juice and certain individual serving-size packages of the food from such a fill of container requirement.

In the **Federal Register** of April 7, 1978 (43 FR 14678), the Food and Drug Administration (FDA) issued a proposal to establish standards of identity and fill of container for lemon juice. These proposed standards would (1) provide for the use of concentrated lemon juice, with appropriate labeling, as a source of juice ingredient; (2) allow for the use of safe and suitable preservatives as a method of preservation, in addition to physical methods of preservation including heat sterilization, freezing, and refrigeration; (3) standardize "lemon juice from concentrate" at a minimum soluble solids content of 6 percent by weight and a minimum acidity of 4.5 percent by weight, calculated as anhydrous citric acid; (4) permit the addition of lemon oil and lemon essence derived from lemons in accordance with good manufacturing practice; (5) establish a standard of fill of container based upon a minimum of 90 percent of the total capacity of the container; and (6) employ a statistical sampling plan for determining compliance with the fill of container requirement.

The proposal invited interested persons to submit comments with supporting data concerning the benefit of including a provision permitting the addition of concentrated lemon juice to lemon juice. Comments were invited on the limitations that should be placed on the amount of concentrate which may be added to lemon juice as well as the type of labeling that would be appropriate to inform the consumer of such addition.

In the **Federal Register** of June 6, 1978 (43 FR 24547), the agency issued a notice granting an industry request to extend the comment period for 60 days, until August 7, 1978, to provide processors additional time to submit information and comments. Eight letters each containing one or more comments were received from four food processors and four industry associations. One comment supported the proposal but suggested minor editorial changes. The remaining comments and the agency's responses are as follows:

"Fresh" Lemon Juice

1. Two comments suggested that a separate standard of identity for "fresh" lemon juice should be established.

The agency disagrees. No data were submitted, nor is the agency aware of any data that support the establishment of a separate standard of identity for "fresh" lemon juice. Therefore, without the evidence to demonstrate otherwise, the agency concludes that a regulation covering this product is unnecessary. This is in keeping with the President's directive not to promulgate needless regulations. Any interested person who believes that a separate standard for "fresh" lemon juice is necessary is invited to submit a petition with supporting data that demonstrate this need.

Acidity

2. One comment from a major manufacturer of lemon juice from concentrate (producing approximately 80 percent of the total U.S. market) in favoring the proposed 4.5 percent acidity level for reconstituted lemon juice stated, "* * * while the 4.5 percent acidity appeared appropriate, the soluble solids level was somewhat lower for such acidity level than had been experienced with domestic lemon juice." Following a review of its lemon juice data of soluble solids/acidity levels, the manufacturer commented further, "we have concluded, while domestic lemon juice of 4.5 percent acidity would likely have a slightly higher soluble solids level than 6.0 percent, the difference is not significant enough to justify official U.S. standards that differ from the International Codex standards, particularly since the characterizing component of lemon juice is the acidity rather than the soluble solids."

Five comments suggested that the minimum acidity of 4.5 percent proposed for lemon juice from concentrate should be increased to 5 percent and should apply to both lemon juice and lemon juice from concentrate. They pointed out that the acidity level is one of the most important characteristics of the food's identity and, therefore, should be set at a uniform level. One processor submitted data that showed the mean citric acid level by month in single-strength lemon juice for the period 1965-1976 to vary from 4.9 to 5.4 percent.

The agency disagrees with the suggestion that the minimum acidity level required for lemon juice from concentrate should be increased from 4.5 to 5.0 percent. The agency is basing this decision on data that indicate that the average acidity of juice from all lemons will be somewhat more than 5 percent but that there will be some seasons and some portions of seasons when, in fact, a majority of the juice will be less than 5 percent. Consequently, the proposed 4.5 percent minimum acidity requirement for lemon juice concentrate is retained in § 146.114(a)(1). Further, the agency does not agree that a minimum acidity requirement should be established for a single strength lemon juice which has not been prepared from concentrated lemon juice. Seasonal environmental factors, such as soil and climatic conditions, may have an effect on the citric acid content of the individual fruit. Because of these variables the agency historically has not set minimum acidity requirements in the standards of identity for other fruit juices prepared from unconcentrated, undiluted extract from mature fruits. For the same reason the agency is not setting a minimum acidity requirement for single-strength lemon juice which has not been prepared from concentrated lemon juice as provided for in the regulation as set out below.

Addition of Concentrated Lemon Juice

3. In response to the request for comments, six comments supported permitting the addition of concentrated lemon juice to single-strength lemon juice. Five of these comments suggested that the level of concentrate permitted should be not more than 15 percent on an acid weight basis. One processor stated: "The significance of 15 percent or less of added acid from concentrate is evident when it is considered that lemon juice is not consumed directly as a food or beverage and that the suggested maximum would be necessary only in extreme, highly unlikely instances. Further, lemon juice invariably is diluted to 13 percent or less before use as a beverage, so that the percentage of the food as consumed which would be derived from the concentrate would not be more than 2 percent * * *".

The agency agrees that the addition of a limited amount of concentrated lemon juice to nonreconstituted lemon juice, in an amount reasonably necessary to adjust the acidity of the finished product, will be in the interest of consumers. Therefore, the final regulation (21 CFR 146.114(a)(1)) provides for the adjustment of the acid content of lemon juice by permitting the addition of the optional concentrated lemon juice ingredient at a maximum level of 15 percent on an acid weight basis.

Preservation

4. One comment pointed out an omission in § 146.114(a)(1) of the proposal which states "* * * when sealed in a container to be held at ambient temperatures, it is so processed by heat, before or after sealing, as to prevent spoilage." The comment argues that lemon juice is commonly cold filled, "relying on the preservative to inhibit the growth of microorganisms."

The agency agrees that there was an omission and is correcting § 146.114(a)(1) of the final regulation by inserting immediately before the phrase "so processed by heat," the phrase "preserved by the addition of safe and suitable preservatives or."

Optional Ingredients

5. Several comments indicated that there may be industry confusion as to which ingredients are optional and must be declared in the ingredient statement. One comment indicated that the standard of identity for lemon juice from concentrate should include the use of lemon juice as a diluent in addition to water.

The agency agrees with these comments and is adding new § 146.114(a)(2) which provides for the use of lemon juice as a diluent and lists the optional ingredients permitted.

Labeling

6. Six comments opposed the label declaration of water when used to reconstitute lemon juice to the single-strength juice. It was pointed out that the Codex proposal does not include such a requirement. Two of the comments maintained that the implication of such labeling is that water addition constitutes inferiority. They contended that there is no significant compositional difference between unconcentrated lemon juice and lemon juice from concentrate. Four of the comments argued that the proposed labeling for lemon juice from concentrate is redundant in that it requires that the reconstitution of the product be declared both in the product's name and in the ingredient statement. They also contended that declaring water in the ingredient statement will mislead consumers into believing that the juice has been "watered down."

While FDA acknowledges that the ultimate compositional characteristics of lemon juice from concentrate and unconcentrated lemon juice may be quite similar, the agency believes that it is reasonable to require the ingredient statement of lemon juice from concentrate to disclose that water is an ingredient. In addition, lemon juice also may be added as a diluent in the manufacture of lemon juice from concentrate. Therefore, the agency concludes that water and lemon juice are optional ingredients and subject to label declaration as required by the applicable sections of Part 101.

7. Six comments expressed dissatisfaction that the proposal did not provide for the labeling of "blends" of lemon juices (i.e., lemon juice, concentrated lemon juice, and/or lemon juice from concentrate). They stated that unless lemon juice products were allowed to be labeled "lemon juice," problems would result including consumer confusion and increased costs from the necessity of maintaining inventories of labels for each of the product blends.

The agency agrees with the contentions raised by these comments. Therefore, § 146.114(a)(3)(i)(*a*)(*2*) has been added to provide for the name "lemon juice" for the food prepared from unconcentrated, undiluted liquid from lemons to which concentrated lemon juice is added to adjust acidity as prescribed in § 146.114(a)(1). The agency believes that the listing of concentrated lemon juice in the ingredient statement will be sufficient to inform the consumer of its presence in the product. Section 146.114(a)(3)(i)(*b*) has been added to require the name "lemon juice from concentrate"or "reconstituted lemon juice" for those foods prepared from concentrated lemon juice and water and/or lemon juice, or from lemon juice from concentrate and lemon juice.

8. One comment asserted that a minimum type size should be specified and that the qualifying words "reconstituted" or "from concentrate" should appear in a type size not less than one-half the size type as the words "lemon juice."

The agency agrees with the comment and is specifying the type size in § 146.114(a)(3)(i) (*b*) accordingly.

Fill of Container

9. Two comments requested that single service containers of lemon juice, with a declared net volume of 2 ounces or less, or any container covered by 21 CFR 1.24(a)(3) (pertaining to food exemptions from required label statements), be exempted from the 90-percent fill of container requirement. The comments noted that the FDA's regulation for the determination of fill of container, as set forth in 21 CFR 130.12(b), provides for the measurement of rigid containers, i.e., cans. They stated that single-service portions of lemon juice are generally packaged in sealed pouches made of flexible films or laminates. The physical nature of these containers makes a determination of their volume or capacity difficult, if not impossible. They stated further that while standards of fill are generally thought to be for protection of consumers, a 90-percent fill requirement for single-service portions of lemon juice would be a real disadvantage to consumers. A single-service container of lemon juice filled to 90-percent capacity, even it packaged in a rigid cup, would likely spill or squirt as the consumer attempted to open the container. They argued that this problem is especially acute whenever single-service containers are used in settings that

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involve motion—cars, trains, or airplanes. For a flexible film container that must be torn open by a consumer, a 90-percent fill would "create a mess."

The agency agrees with the arguments presented in support of an exemption from the 90-percent fill of container requirement for single-service containers of lemon juice. For two reasons, however, the agency concludes that an exemption for a net volume of ½ ounce, rather than the suggested 2 ounces, should be granted as the maximum single service size. First, the comments provided no data to support the 2-ounce level. Second, the U.S. Department of Agriculture's "Household Food Consumption Survey—1956–66" results indicate that a portion of lemon juice for an "eating occasion" is equivalent to ½ fluid ounce or less. Therefore, § 146.114(c)(1) has been revised so that the proposed exemption to the 90-percent fill of container requirement "when the food is frozen" now appears in paragraph (c)(1)(i), and the new exemption for "when the food is packaged in individual serving-size packages containing ½ fluid ounce or less for use as described in § 1.24(a)(3) of this chapter" is added in paragraph (c)(1)(ii).

After consideration of the comments received and other relevant information in the record, the agency concludes that it will promote honesty and fair dealing in the interest of consumers to establish standards of identity and fill of container for lemon juice as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 146 is amended by adding new § 146.114 to read as follows:

§ 146.114 Lemon juice.

(a) *Identity*—(1) *Description.* Lemon juice is the unfermented juice, obtained by mechanical process, from sound, mature lemons (*Citrus limon* (L.) Burm. f.), from which seeds (except embryonic seeds and small fragments of seed which cannot be separated by good manufacturing practice) and excess pulp are removed. The juice may be adjusted by the addition of the optional concentrated lemon juice ingredient specified in paragraph (a)(2) of this section in such quantity so that the increase in acidity, calculated as anhydrous citric acid, does not exceed 15 percent of the acidity of the finished food. The lemon oil and lemon essence (derived from lemons) content may be adjusted in accordance with good manufacturing practice. The juice may have been concentrated and later reconstituted. When prepared from concentrated lemon juice, the finished food contains not less than 6 percent, by weight, of soluble solids taken as the refractometric sucrose value (of the filtrate), corrected to 20° C, but uncorrected for acidity, in accordance with the "International Scale of Refractive Indices of Sucrose Solutions" in table 52.012 of "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th ed., 1975 [1] and has a titratable acidity content of not less than 4.5 percent, by weight, calculated as anhydrous citrus acid. The food may contain one or any combination of the safe and suitable optional ingredients specified in paragraph (a)(2) of this section. Lemon juice, as defined in this paragraph, may be preserved by heat sterilization (canning), refrigeration, freezing, or by the addition of safe and suitable preservatives. When sealed in a container to be held at ambient temperatures, it is preserved by the addition of safe and suitable preservatives or so processed by heat, before or after sealing, as to prevent spoilage.

(2) *Optional ingredients.* The optional safe and suitable ingredients referred to in paragraph (a)(1) of this section are:

(i) Concentrated lemon juice (lemon juice from which part of the water has been removed).

(ii) Water and/or lemon juice to reconstitute concentrated lemon juice in the manufacture of lemon juice from concentrate.

(iii) Preservatives.

(3) *Labeling.* (i) The name of the food is:

(*a*) "Lemon juice "(*1*) if the food is prepared from unconcentrated, undiluted liquid extracted from mature lemons; or (*2*) if the food is prepared from unconcentrated, undiluted liquid extracted from mature lemons to which concentrated lemon juice is added to adjust acidity as provided for in paragraph (a)(1) of this section.

(*b*) "Lemon juice from concentrate" or "reconstituted lemon juice" (*1*) if the food is prepared from concentrated lemon juice and water and/or lemon juice; or (*2*) if the food is prepared from lemon juice from concentrate and lemon juice. The words "from concentrate" or "reconstituted" shall be shown in letters not less than one-half the height of the letters in the word "lemon juice."

(ii) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) [Reserved].

(c) *Fill of container.* (1) The standard of fill of container for lemon juice, except when the food is frozen, is not less than 90 percent of the toal capacity of the container as determined by the general method for fill of container prescribed in § 130.12(b) of this chapter, except (i) when the food is frozen or (ii) when the food is packaged in individual serving-size packages, containing ½ fluid ounce or less, for use as described in §1.24(a)(3) of this chapter.

(2) Compliance is determined as specified in § 146.3(g)(2).

(3) If the lemon juice fails to meet the standard of fill as prescribed in paragraph (c)(1) and (2) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein prescribed.

Any person who will be adversely affected by the foregoing regulation may at any time on or before March 6, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin March 7, 1980, and all affected products initially introduced into interstate commerce on or after July 1, 1981 shall fully comply. Notice of the filing of objections or lack thereof will be published in the Federal Register.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: January 25, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3679 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

[1] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or examined in the Office of the Federal Register Library.

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Monensin and Bacitracin

AGENCY: Food and Drug Administration, HEW.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a supplemental new animal drug application (NADA) filed by Elanco Products Co., providing for safe and effective use of a higher range of bacitracin methylene disalicylate (MD) in combination with monensin in finished broiler feeds.

EFFECTIVE DATE: February 5, 1980.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV–147), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4317.

SUPPLEMENTARY INFORMATION: Elanco Products Co., a Division of Eli Lilly & Co., 740 South Alabama St., Indianapolis, IN 46206, filed a supplemental NADA (49–463) providing for use of 5 to 25 grams of bacitracin MD per ton of finished broiler feed in combination with 90 to 110 grams of monensin sodium per ton. Approval of its supplement permits Elanco to increase only the bacitracin MD range (now 5 to 10 grams per ton) of the currently approved combination. The feeds are used for increased rate of weight gain, improved feed efficiency, and as an aid in prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*

The Director of the Bureau of Veterinary Medicine concludes that approval of this supplemental application poses no increased human risk from exposure to residues of the new animal drugs, monensin and bacitracin, because the number of food-producing animals receiving medication will not significantly increase as a result of this approval and because the drugs are already approved in combination at the requested dosage ranges for the same indication. Accordingly, under the bureau's proposed supplemental NADA approval policy (see the Federal Register of December 23, 1977 (42 FR 64367)), this Category II approval did not require a reevaluation of the safety and efficacy data supporting the parent application.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information supporting approval of this application is available for public examination at the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.355 is amended by revising paragraph (f)(1)(iii) to read as follows:

§ 558.355 Monensin.

* * * * *

(f) * * *

(1) * * *

(iii) *Amount per ton.* Monensin, 90–110 grams plus bacitracin, 5–25 grams.

* * * * *

Effective date. This amendment is effective February 5, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 29, 1980.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 80-3511 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 841

[Docket No. N–80–972]

Public Housing Program, Development Phase; Prototype Cost Limits for Low-Income Public Housing

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Notice of Prototype Cost Determination.

SUMMARY: On June 6, 1979, the Department published a revised schedule of "Prototype Cost Limits for Low-Income Public Housing." After consideration of additional factual data, revisions are necessary to increase per unit prototype cost limits for low-income public housing with elevators in Kennewick, Washington.

DATES: February 5, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Jack R. VanNess, Director, Technical Support Division, Office of Public Housing, Room 6248, 451 7th Street, S.W., Washington, D.C., 20410, (202) 755–4956 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The United States Housing Act of 1937 requires determination by HUD of the costs in different areas for construction and equipment (prototype costs) of new dwelling units suitable for occupancy by low-income families. The prototype costs constitute a limit on development cost for construction and equipment of new public housing projects.

These schedules establish per unit limits on prototype costs (dwelling construction and equipment) for development of low-income public housing under the United States Housing Act of 1937. Section 6(b) of the Act provides that the prototype costs shall be effective upon the date of publication in the Federal Register, and this Notice is, therefore, made effective upon publication.

Timely written comments will be considered and additional amendments will be published if the Department determines that acceptance of the

comments is appropriate. Comments with respect to cost limits for a given location should be sent to the address indicated above.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969, has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, 451 7th Street, S.W., Washington, D.C. 20410.

Accordingly, the per unit cost schedules setting Prototype Cost Limits for Low-Income Housing are amended as follows:

At 24 CFR Part 841, Appendix A, Prototype Cost Limits for Low-Income Public Housing, revise the per unit cost schedule for elevator dwellings, as shown on the prototype per unit cost schedule, Region X, Kennewick, Washington.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d); Sec. 6(b) U.S. Housing Act of 1937, 42 U.S.C. 1437(d))

Issued at Washington, D.C. on January 28, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing-Federal Housing Commissioner.

Region X

	Bedrooms						
	0	1	2	3	4	5	6
Kennewick, Wash.:							
Detached and semidetached							
Row dwellings							
Walkup							
Elevator-structure	27,800	30,600	36,850				

[FR Doc. 80-3683 Filed 2-4-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF DEFENSE

Department of the Army

35 CFR Part 253

Panama Canal Commission Personnel Matters

AGENCY: Secretary of the Army.

ACTION: Final rule.

SUMMARY: The Panama Canal Act of 1979, Pub. L. No. 96-70, 93 Stat. 452, creates two statutory positions in the Panama Canal Commission: A Chief Engineer and an Ombudsman. This rule excludes those positions and their principal assistants from the Merit System established pursuant to section 10 of an Act of July 25, 1958, Pub. L. No. 85-550, 72 Stat. 408 and continued under Title 2, Canal Zone Code, Section 149, 76A Stat. 10, and section 1214 of the Panama Canal Act of 1979. The rule will also exclude the positions from various other provisions of the employment system applicable to employment in Federal agencies in the Republic of Panama. Because this rule pertains to personnel matters of the Panama Canal Commission it is unnecessary to issue a notice of proposed rulemaking under Title 5, U.S.C., Section 553.

EFFECTIVE DATE: January 13, 1980.

ADDRESS: Department of the Army, Washington, D.C. 20310.

FOR FURTHER INFORMATION CONTACT: Colonel Michael Rhode, Jr., Office of the Assistant Secretary of the Army (CW), Washington, D.C. 20310; telephone (202) 695-1370.

Adoption of Amendment

Accordingly, effective January 13, 1980, 35 CFR 253.8(b) is amended by adding a new subparagraph (14) to read as follows:

§ 253.8 Exclusions.

* * * * *

(b) * * *

(14) The positions in the Panama Canal Commission of Ombudsman, Chief Engineer, Assistant to the Ombudsman, and Deputy Chief Engineer.

* * * * *

(Panama Canal Act of 1979, sec. 1212. 93 Stat. 452, 465: 35 CFR 251.2(a)(1))

Clifford L. Alexander, Jr.,

Secretary of the Army.

[FR Doc. 80-3681 Filed 2-4-80; 8:45 am]

BILLING CODE 3640-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[FRL 1388-4]

Cooperative Agreements for Protecting and Restoring Publicly Owned Freshwater Lakes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes policies and procedures by which States may enter into cooperative agreements to assist in carrying out approved methods and procedures for restoring publicly owned freshwater lakes, and protecting them against degradation, as authorized by section 314 of the Clean Water Act (33 U.S.C. 1251 *et seq.*). This regulation was proposed on January 29, 1979 (44 FR 5685) for a sixty-day public comment period. EPA received 48 letters of comment which we have considered in developing this regulation.

EFFECTIVE DATE: This regulation governs only clean lakes cooperative agreements which are awarded after February 5, 1980. Cooperative agreements and grants that are awarded before February 5, 1980, will continue according to their original terms subject to the regulations under which the funds were awarded. Clean lakes applications received before February 5, 1980 will be processed according to past procedures.

ADDRESSES: Comments submitted on these regulations may be inspected at the Public Information Reference Unit, EPA Headquarters, Room 2922, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460, between 8 a.m. and 4 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Joseph A. Krivak, Criteria and Standards Division (WH-585), Environmental Protection Agency, Washington, D.C. 20460. Telephone: (202) 755-0100.

SUPPLEMENTARY INFORMATION: This regulation contains the policies and procedures governing the provision of Federal financial assistance to States for the protection and restoration of publicly owned freshwater lakes as authorized by the Clean Water Act (33 U.S.C. 1251 *et seq.*) Section 314. The program is called the clean lakes program.

The Federal Grant and Cooperative Agreement Act requires all Federal Agencies to classify each assistance transaction as either a grant or a cooperative agreement. EPA will award grants when little Federal involvement

in the project is expected, and cooperative agreements when significant Federal involvement is anticipated. We expect significant EPA involvement in all Clean Lakes projects and have designated cooperative agreements as the appropriate award instrument.

Section 314 requires each State to prepare and submit a report to EPA including: (1) An identification and classification of all publicly owned freshwater lakes in that State according to eutrophic condition; (2) procedures, processes, and methods (including land use requirements) to control sources of pollution of these lakes; and (3) methods and procedures, in conjunction with appropriate Federal agencies, to restore the quality of these lakes. Section 314 also provides financial assistance to States to implement lake restoration and protection methods and procedures approved by the Administrator.

Pub. L. 95-217, amended section 314(b) of the Clean Water Act by adding the following: "The Administrator shall provide financial assistance to States to prepare the identification and classification surveys required in subsection (a)(1) of this section." On July 10, 1978, EPA published a notice of availability in the Federal Register for States to: identify and classify their publicly owned freshwater lakes according to trophic condition, establish priority rankings for lakes in need of restoration; and conduct diagnostic-feasibility studies to determine methods and procedures to protect or restore the quality of those lakes (43 FR 29617). Total assistance of up to $100,000 is available to each State for this lake classification survey. No award can exceed 70 percent of the eligible cost of the proposed project.

EPA carefully evaluated the performance of the clean lakes program during 1977 to determine how it might be improved. Based on this evaluation, we developed the revised procedures contained in this regulation. We published the proposed section 314 regulation, in the Federal Register (44 FR 5685) on January 29, 1979, for a sixty-day public comment period. In addition, we sent approximately 1000 copies of the proposed rule to the people identified on the current mailing list of the Environmental Resources Unit of the University of Wisconsin—Extension, to State agencies, environmental interest groups and specific requestors. The official comment period closed on March 30, 1979, and EPA has received 48 comment letters.

The following discussion responds to the comments received on the proposed regulation and is arranged in the order of the sections of the regulation. Changes made in the final form of the regulation in response to public comment are discussed. Our responses to significant comments that did not lead to changes are also discussed.

Definitions

Freshwater lake

Some commenters believed that the definition of freshwater lake (§ 35.1605-2) should not include a limiting value for total dissolved solids (TDS). Section 314 allows funding only for publicly owned "freshwater" lakes. Since TDS is found in various scientific texts as a measure to distinguish freshwater from brackish water and saltwater, we believe it is relevant. We have selected a value of 1 percent TDS which is ten times the value used on page 306 in the *Water Encyclopedia*, Water Information Center, Inc., Port Washington, New York, 1970. We used the high value so that freshwater lakes that have received a high TDS loading a result of irrigation return flows and other land management practices (primarily in the far West) can be eligible.

Publicly owned freshwater lake

Several comments concerned the definition of "publicly owned freshwater lake" (§ 35.1605-3). We proposed that a publicly owned freshwater lake is, "[a] freshwater lake that offers public access to the lake through publicly owned contiguous lands so that any member of the public may have the same or equivalent opportunity to enjoy privileges and benefits of the lake as any other member of the public or as any resident around the lake." We understand that a lakeshore property owner stands to receive greater benefit from a lake than a day visitor. We have omitted reference to the lakeside resident, but we are still concerned about the potential for the clean lakes program providing benefits to the lakeshore property owner rather than the general public. However, since projects demonstrating the greatest public benefits will receive the highest priority under the review criteria in § 35.1640-1, we do not expect problems.

Other commenters questioned the appropriateness of requiring publicly owned contiguous land as the public access point. We believe the requirement is necessary to ensure that the public maintains unrestricted use of a lake after it is improved. Even so, in some cases where publicly owned contiguous land is not available, the lake may have substantial public use and benefit. One State indicated that by State statute all lakes greater than 10 acres surface area are in the public domain even if the shoreline is totally private. The State statute also guarantees that public access will be provided. In these cases EPA will require the State to define exactly where the public access points are, and to provide written agreements between the State and particular private property owners specifying the conditions and limitations of the public access. We will also require permanent signs to show the public access points and specify any lake use limitations. Similarly, States could negotiate long terms leases or similar arrangements with private land owners, including private non-profits groups, to provide the necessary public access points. Again, we will require signs to indicate the limitations and extent of the public access. These arrangements would have to be completed before the award.

Eligibility

Some commenters suggested that section 314 cooperative agreements should continue to be awarded to local agencies. They contend that, otherwise, there will be a substantial erosion of the grassroots orientation of the program. We support the need to keep a grassroots thrust in the clean lakes program because of the voluntary nature of this assistance program. However, section 314 permits award of assistance only to States. Even so, since some States may not provide all the matching support required in clean lakes cooperative agreements, local agencies may provide the required remaining matching funds. We believe this funding partnership will preserve the grassroots nature of the program. We will work with the appropriate State agencies to assure that they minimize associated paperwork and "redtape," and provide clear concise guidance to local agencies. This will help to maintain the enthusiasm and involvement of local agencies.

EPA received several comments concerning the eligibility of Indian Tribes for section 314 funding. The commenters were concerned that, because Indian lands do not fall under the dominion of State Government, Tribal Governments may not be able to participate in this program. The statutory requirements of section 314 restricts award of assistance only to States. Section 35.1615 allows States to make financial arrangements with agencies located within the State including Indian Tribes to support lake restoration projects.

Some commenters objected to EPA's policy of not awarding assistance for lakes that are used only as drinking

water supplies. EPA has operated under this policy since the first awards under the clean lakes program in January 1976. We believe that the primary purpose of section 314 is to implement the goals of the Clean Water Act stated in section 101(a) as they relate to publicly owned freshwater lakes. Section 101(a)(2) states that, "* * * it is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for *recreation* in and on the water be achieved by July 1, 1983." (emphasis added) The conference committee report of the 95th Congress, first session (House Report No. 95–830) made special note on page 94 in the comments of changes made to the Clean Water Act by the 1977 Amendments, that EPA should give special attention to restoring lakes which offer the potential for high utility as recreation areas. In keeping with the existing EPA policy and in support of the Congressional intent, we do not believe it is appropriate to allow funding of projects for lakes that are used only as drinking water supplies. Other funding sources are available to assist municipalities and States with protecting or improving drinking water supplies. Most communities accomplish this by assessing an appropriate water users fee under a regular billing procedure to support reservior and processing plant operation and maintenance costs. Also, a portion of city and county taxes is likely to be used for such high priority community expenses.

Funding Levels

In the preamble of the proposed regulation, we requested comments on the proposed phasing of clean lakes cooperative agreements and the funding levels designated for each. The seventeen commenters who responded did not present persuasive arguments that the program would be more effective if the proposed matching requirements were reduced.

We continue to believe that the 50 percent matching requirement requires sufficient State/substate (non-Federal) commitment to assure the best project is implemented and proper maintenance of the project is continued after implementation is complete.

Lake Classification Requirement

A number of the comments concerned § 35.1630, requiring States to classify their publicly owned freshwater lakes in need of protection and restoration by January 1, 1982 in order to be eligible for funding support after that date under section 314. As explained in the preamble of the proposed rule, this requirement does not mean that all of a State's publicly owned freshwater lakes must be surveyed, but a State must provide EPA with survey results of their priority lakes and the rationale for selecting the lakes surveyed. Other comments concerned EPA financial assistance to the States to perform the lake classification requirement. EPA will continue to award this cooperative agreement to States on a one-time-basis, under the July 10, 1978, **Federal Register** notice, until September 30, 1981. Approximately 20 States applied for this funding assistance. Most projects will be conducted over 18 months. We will restrict funding of this activity to a one-time award until all States electing to participate have initiated these efforts, and we have reviewed the overall program results.

Monitoring

A few commenters suggested the EPA should make available a third award phase for intensive monitoring of perhaps 10 percent of the implementation projects. The projects would be carefully selected to evaluate those lake restorative techniques that have little documentation on their capabilities and effectiveness. Although committed to strengthen the understanding of procedures to protect and restore the quality of the Nation's lakes, we continue to believe that some monitoring of each project during and after project implementation will provide us with a better review of program effectiveness than intensive monitoring in a few projects. However, we are encouraging EPA's Office of Research and Development to conduct a greater number of intensive investigations of lake protection and restoration techniques under the 104(h) authority of the Clean Water Act. We believe this approach will be responsive to both the program needs and the intent of the legislation.

Application and Priority

Several commenters asked how many Phase 1 and Phase 2 project applications an individual State could submit for funding consideration. The regulation does not specify a number. However, all applications must receive a State priority and we will consider the State priority placed on an application along with the other criteria presented in § 35.1640–1 when developing funding recommendations. We do foresee instances where, after considering all of these factors, a State may receive more than one of each type of cooperative agreement.

A significant number of comments where received on the required content of Phase 1 project applications. Most of these comments indicated that the information required is excessive and costly to assemble or obtain. As discussed in the preamble of the proposed rule, we believe that this information should be readily available to States and local agencies. No study or water quality monitoring is necessary to obtain the information since only the presentation of existing information is required. Furthermore, the information required in Phase 1 applications is precisely the information that participating States are required to assemble under their lake classification surveys conducted under the July 10, 1978, **Federal Register** notice.

We have reduced the mandatory information required in Phase 1 applications in response to those comments. Although not mandatory, § 35.1620–2(b) still includes a list of information that EPA believes should be in a Phase 1 application to allow EPA to effectively evaluate project applications and make funding decisions. Applications describing a proposed project in more complete terms may receive higher rating when evaluated according to the review criteria in § 35.1640–1.

EPA received four comments on the State requirement to set priorities on Phase 1 and Phase 2 projects as stated in § 35.1620–5. The commenters were concerned principally with the State capability to foresee specific projects 12 to 18 months in advance in sufficient detail to allow them to apply realistic funding priorities. We understand the problems associated with these procedures and realized that projects and associated priorities set more than a year in advance are subject to change. In § 35.1620–5 we have allowed States to alter project priority lists with a minimum of State effort. We need the information contained on State priority lists to determine program needs. We also need it to provide a basis for adjusting our workforce to match the identified workload.

Allotment

In the preamble of the proposed regulation we request comments regarding the allocation of clean lakes program appropriations to assure an equitable distribution of funds among the States. We received 6 comments on this issue; 4 supporting the status quo, one supporting the specification in the regulation of an annual deadline for application submission, and the other suggesting that an allocation of appropriations be made directly to the States, although no formula was proposed. EPA's Office of General Counsel (OGC) and Grants Administration Division (GAD) suggested that a Regional allocation formula be considered as a means of providing equitable funding distribution. Despite the relatively small amount of program appropriations, we believe an allocation procedure has considerable merit. The advantages include: Regional flexibility in the negotiations with States for lake restoration projects, and better Regional capability to forecast workloads and develop appropriate manpower plans for annual budget submissions. Considering the advantages mentioned above, EPA will provide each Regional office a resource target from the section 314 appropriation based on State's identification of clean lakes work in the State WQM work programs. The State identification will consist of a two year forecasting of clean lakes applications, with funding needs, as part of the annual work program. The summation of these forecasts, coupled with the Congressional appropriation, will permit EPA to provide equitable resource targets. Regional offices will use these targets to negotiate projects within each State.

Targetting, based upon two year forecasting in work programs, will take effect in fiscal year 1982. For fiscal year 1981, EPA will target resources based on State-supplied information in existing State/EPA agreements, WQM work programs, and from the WQM Needs Survey.

Review Criteria

We have changed the application review criteria presented under § 35.1640–1 to reflect several comments. We have added a criterion to emphasize the importance of improving fish and wildlife habitat, and improving the populations of fish species.

A few commenters questioned the applicability of application review criteria § 35.1640–1(a)(4)(ii–iv). We believe that these criteria should be considered by States to judge the cost of a project in relation to public benefits derived, e.g., the more persons using a restored or protected lake the greater the benefits from the expenditure of public funds. Further, persons with low incomes cannot travel easily to lakes for recreational purposes unless the lakes are close to have sufficient public transportation to them. Such factors should be considered in the decision making process. This component is not intended to preclude lakes in rural settings from receiving financial assistance under the clean lakes program.

The project award procedures under § 35.1650 have been changed. All EPA funding decisions will be made in the EPA Regional office by officials designated by the Regional Administrator. Program guidance and technical assistance will be supplied by EPA Headquarters, and all project applications will receive Headquarters review and technical recommendations.

Limitations on Award

Most comments on § 35.1650–2 were editorial and only minor changes in the language of this section have been made. Specific comments questioned the exclusion of aquatic plant harvesting as a lake restoration procedure. Section 35.1650–2(b)(5) does not exclude aquatic plant harvesting from supportable lake restoration programs. However, we believe that aquatic plant harvesting is only a temporary restorative measure in cases where pollution control measures are not implemented in the watershed to the greatest practicable extent. Even in cases where such pollution controls are in place, nutrient loading to the lake may be so great that harvesting aquatic vegetation may be required regularly to allow use of the lake. We will not generally consider a project for aquatic plant harvesting unless it will result in long lasting improvements.

A few commenters were confused regarding the relationship between 208 State and areawide wastewater management planning and the eligibility of a State to receive section 314 support. Section 208 planning does not have to be approved for a State to receive clean lakes assistance. If a 208 plan has been approved, the pertinent and applicable pollution controls identified in the 208 plan must be included in a clean lakes implementation plan. If a 208 plan has not been approved but has been developed, the pertinent and applicable pollution controls identified in the 208 plan should be included in the clean lakes project. If there is no 208 planning, then the lake protection and restoration procedures developed under a section 314 project should be consistent with 208 planning procedures so that the lake restoration planning can be included in any future 208 planning activities for the particular lake area.

In order to assure that these procedures are followed, States must certify under § 35.1620–2(a), that a project is consistent with the State Water Quality Management work program (see § 35.1513). Under § 35.1620–2(b), Phase 1 applications shall include written certification from the appropriate areawide or State 208 planning agency that work conducted under the proposed project will not duplicate work completed under any 208 planning grant, and that the applicant proposes to use any applicable approved 208 planning in the clean lakes project design. Under § 35.1620–2(c), Phase 2 applications must contain written certification from appropriate areawide or State 208 planning agencies that the proposed Phase 2 lake restoration proposal is consistent with any approved 208 planning.

One commenter suggested that 314 funding should be restricted so that it is not used to enhance boating or onshore recreational opportunities. EPA did not include these restrictions in the regulations for a variety of reasons. Lakes are traditionally used as recreational sites by the general public, and the degradation of those recreational sites through water pollution prompted the Congress to include section 314 in the Clean Water Act. EPA is supportive of the multiple use concept in the use of public funds. Frequently, the heavy use of the immediate lake shore will promote excessive pollutant loading, e.g., sediment and plant nutrients. In some cases, outright purchase of these lands to provide buffer strips is the most effective method of pollution control. Often lake shores can be used for low intensity recreational activities. Similarly, land abutting the lake may be purchased to provide an area to build a lake treatment structure and these areas should be considered for recreational opportunities.

Since recreational opportunities and water quality can sometimes be improved by removal of accumulated lake sediments, it would be inappropriate for EPA to ban dredging as an element of a comprehensive lake restoration project solely because it would benefit recreational activities.

As a means to assure that adverse environmental impact mitigation procedures are implemented in a lake restoration project, we have removed the 20 percent restriction on the cost of mitigation activities. All necessary mitigation activities should be included in the project. If mitigation costs are excessive, then the public benefits, when evaluated against project costs, will be lower and a proposed project will have lower priority for funding.

Conditions on Award

Numerous commenters were concerned about payment of the non-Federal share of a project by the State. We have modified § 35.1650–3(a)(2) to allow a State to arrange financing through substate financial agreements.

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We understand that in many instances local agencies will be providing some or all of the required non-Federal matching share for clean lakes projects. It should be noted that as the only eligible award recipient, the State assumes the ultimate responsibility for the non-Federal share.

Some commenters argued that the monitoring program required under Appendix A (b)(3) is defined too rigidly. We agree, so we have modified the regulation to allow States and project officers to negotiate a program that is appropriate for each project.

Most commenters on the award conditions believe the requirement that States must maintain a project for ten years after a project is completed is excessive. We believe that States should agree to an operation and maintenance program that would assure that effective pollution controls are maintained to maximize the benefits in relation to the cost of the project. We believe that 10 years is a reasonable amount of time. Because we have no data to defend the cost effectiveness of this condition, it has been modified to cover only the project period. We believe the commitment by a State to an effective operation and maintenance program in the post project period is important and should be given special consideration in the evaluation of project proposals. Therefore, the evaluation criteria have been modified in § 35.1640–1 to include an assessment of the adequateness of the proposed post project operation and maintenance program.

We have changed section 35.1650–3(b) to allow Phase 1 recipients to negotiate with the project officer the project scope of work that is stated in section (a)(10) of Appendix A. Many commenters argued that the information required by section (a)(10) should be determined on a case by case basis. We believe that flexibility is desirable and will minimize project costs without sacrificing program integrity and public benefits. Similarly, we have modified § 35.1650–3(c) to allow flexibility on the design of Phase 2 monitoring programs to fulfill the requirement of section (b)(3) of Appendix A. Again, EPA project officer approval is required before the scope of work can be modified.

EPA received a significant number of comments on the reporting requirements in § 35.1650–5. The commenters were critical of the number of reports required and the amount of information required in Phase 1 project progress reports. Accordingly, we have modified the reporting requirements so that Phase 1 reports are only required semi-annually, and the final report will be the only Phase 1 report requiring the submission of water quality data. The frequency of Phase 2 reporting will not exceed quarterly and will be based on the complexity of the project. The reporting requirement will be stipulated in the cooperative agreement.

Several commenters requested clarification of subsection (a)(7) of Appendix A. We believe that recipients and EPA should have sufficient information about the usability of other lakes in proximity to the project lake to evaluate the benefits in relation to the costs of a proposed project. The funds available to support lake protection and restoration activities are limited. Information required by subsection (a)(7) should be helpful to States in establishing priorities for projects. The regulations do not require States to conduct exhaustive surveys of lake resources within a 80 kilometer radius of the project lake, but we do need an understanding of similar lake use opportunities in that distance to assure appropriate use of public funds.

A few comments concerned the procedures used to determine the limiting nutrient in lakes. Section (a)(10) of Appendix A requires the calculation of total nitrogen to total phosphorus ratios and/or the use of the algal assay bottle tests. One commenter stated that the algal assay bottle test should be a required procedure. Although the bottle test is an excellent investigative procedure, we believe that many States lack the appropriate equipment to perform these analyses and the costs would be excessive in some cases. Other commenters suggested that other forms of nitrogen and phosphorus should be used to calculate the N/P ratio. We are aware of the significant controversy over the appropriateness and reproducibility of tests using other fractional chemical forms of these nutrients. EPA believes that at this time, the total nitrogen and total phosphorus ratio is the most desirable test. Appendix A calls for the measurement of several chemical forms of these nutrients. Investigators and EPA may wish to calculate other ratios in addition to total nitrogen to total phosphorus using these measurements.

Since the publication of the proposed rules, EPA's Administrator on June 14, 1979, signed a memorandum to assure that all environmental measurements done with EPA funding result in usable data of known quality. Any clean lakes cooperative agreements, awarded after OMB approves the Administrator's directive under the Federal Reports Act will contain a condition requiring compliance.

State/EPA Agreement

In these and other regulations, we are developing the concept of a State/EPA Agreement. The Agreement will provide a way for EPA Regional Administrators and States to coordinate a variety of programs under the Clean Water Act, the Resource Conservation and Recovery Act, the Safe Drinking Water Act and other laws administered by EPA. This subpart governs only that part of the State/EPA Agreement which relates to cooperative agreements under the clean lakes program. Other programs included in the State/EPA Agreement will be governed by provisions found elsewhere in this chapter. Beginning in FY 1980, State programs funded under section 314 of the Act will be part of the State/EPA Agreement and the State/EPA Agreement must be completed before grant award. EPA will issue guidance concerning the development and the content of the State/EPA Agreement.

Regulatory Analysis

We have determined that this regulation does not require regulatory analysis under Executive Order 12044.

Evaluation

Section 2(d)(8) of Executive Order 12044 requires that each regulation be accompanied by a plan for evaluating a regulation after it issued. In order to comply with this requirement, EPA will conduct an evaluation of this regulation which will either be presented in the section 304(j) report, which is scheduled to be published in December 1981, or published separately.

Dated: January 28, 1980.

Douglas M. Costle,

Administrator.

PART 35, SUBPART H ADDED

EPA is amending Title 40 of the Code of Federal Regulations by adding a new Subpart H to Part 35 to read as follows:

PART 35—STATE AND LOCAL ASSISTANCE

* * * * *

Subpart H—Cooperative Agreements for Protecting and Restoring Publicly Owned Freshwater Lakes

Sec.

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Appendix A Requirements for diagnostic-feasibility studies and environmental evaluations.

Authority: Secs. 314 and 501, Clean Water Act (86 Stat. 816; 33 U.S.C. 1251 *et seq.*)

Subpart H—Cooperative Agreements For Protecting and Restoring Publicly Owned Freshwater Lakes

§ 35.1600 Purpose.

This subpart supplements the EPA general grant regulations and procedures (Part 30 of this chapter) and establishes policies and procedures for cooperative agreements to assist States in carrying out approved methods and procedures for restoration (including protection against degradation) of publicly owned freshwater lakes.

§ 35.1603 Summary of clean lakes assistance program.

(a) Under section 314 of the Clean Water Act, EPA may provide financial assistance to States to implement methods and procedures to protect and restore publicly owned freshwater lakes. Although cooperative agreements may be awarded only to States, these regulations allow States, through substate agreements, to delegate some or all of the required work to substate agencies.

(b) Only projects that deal with publicly owned freshwater lakes are eligible for assistance. The State must have assigned a priority to restore the lake, and the State must certify that the lake project is consistent with the State Water Quality Management Plan (§ 35.1521) developed under the State/EPA Agreement. The State/EPA Agreement is a mechanism for EPA Regional Administrators and States to coordinate a variety of programs under the Clean Water Act, the Resource Conservation and Recovery Act, the Safe Drinking Water Act and other laws administered by EPA.

(c) These regulations provide for Phase 1 and 2 cooperative agreements. The purpose of a Phase 1 cooperative agreement is to allow a State to conduct a diagnostic-feasibility study to determine a lake's quality, evaluate possible solutions to existing pollution problems, and recommend a feasible program to restore or preserve the quality of the lake. A Phase 2 cooperative agreement is to be used for implementing recommended methods and procedures for controlling pollution entering the lake and restoring the lake. EPA award of Phase 1 assistance does not obligate EPA to award Phase 2 assistance for that project. Additionally, a Phase 1 award is not a prerequisite for receiving a Phase 2 award. However, a Phase 2 application for a proposed project that was not evaluated under a Phase 1 project shall contain the information required by Appendix A.

(d) EPA will evaluate all applications in accordance with the application review criteria of § 35.1640–1. The review criteria include technical feasibility, public benefit, reasonableness of proposed costs, environmental impact, and the State's priority ranking of the lake project.

(e) Before awarding funding assistance, the Regional Administrator shall determine that pollution control measures in the lake watershed authorized by section 201, included in an approved 208 plan, or required by section 402 of the Act are completed or are being implemented according to a schedule that is included in an approved plan or discharge permit. Clean lakes funds may not be used to control the discharge of pollutants from a point source where the cause of pollution can be alleviated through a municipal or industrial permit under section 402 of the Act or through the planning and construction of wastewater treatment facilities under section 201 of the Act.

§ 35.1605 Definitions.

The terms used in this subpart have the meanings defined in section 502 of the Act. In addition, the following terms shall have the meaning set forth below.

§ 35.1605–1 The Act.

The Clean Water Act, as amended (33 U.S.C. 1251 *et seq.*).

§ 35.1605–2 Freshwater lake.

Any inland pond, reservoir, impoundment, or other similar body of water that has recreational value, that exhibits no oceanic and tidal influences, and that has a total dissolved solids concentration of less than 1 percent.

§ 35.1605–3 Publicly owned freshwater lake.

A freshwater lake that offers public access to the lake through publicly owned contiguous land so that any person has the same opportunity to enjoy non-consumptive privileges and benefits of the lake as any other person. If user fees are charged for public use and access through State or substate operated facilities, the fees must be used for maintaining the public access and recreational facilities of this lake or other publicly owned freshwater lakes in the State, or for improving the quality of these lakes.

§ 35.1605–4 Nonpoint source.

Pollution sources which generally are not controlled by establishing effluent limitations under sections 301, 302, and 402 of the Act. Nonpoint source pollutants are not traceable to a discrete identifiable origin, but generally result from land runoff, precipitation, drainage, or seepage.

§ 35.1605–5 Eutrophic lake.

A lake that exhibits any of the following characteristics: (a) Excessive biomass accumulations of primary producers; (b) rapid organic and/or inorganic sedimentation and shallowing; or (c) seasonal and/or diurnal dissolved oxygen deficiencies that may cause obnoxious odors, fish kills, or a shift in the composition of aquatic fauna to less desirable forms.

§ 35.1605–6 Trophic condition.

A relative description of a lake's biological productivity based on the availability of plant nutrients. The range of trophic conditions is characterized by the terms of oligotrophic for the least biologically productive, to eutrophic for the most biologically productive.

§ 35.1605–7 Desalinization.

Any mechanical procedure or process where some or all of the salt is removed from lake water and the freshwater portion is returned to the lake.

§ 35.1605–8 Diagnostic-feasibility study.

A two part study to determine a lake's current condition and to develop possible methods for lake restoration and protection.

(a) The diagnostic portion of the study includes gathering information and data to determine the limnological, morphological, demographic, socio-economic, and other pertinent characteristics of the lake and its watershed. This information will provide recipients an understanding of

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the quality of the lake, specifying the location and loading characteristics of significant sources polluting the lake.

(b) The feasibility portion of the study includes: (1) Analyzing the diagnostic information to define methods and procedures for controlling the sources of pollution; (2) determining the most energy and cost efficient procedures to improve the quality of the lake for maximum public benefit; (3) developing a technical plan and milestone schedule for implementing pollution control measures and in-lake restoration procedures; and (4) if necessary, conducting pilot scale evaluations.

§ 35.1610 Eligibility.

EPA shall award cooperative agreements for restoring publicly owned freshwater lakes only to the State agency designated by the State's Chief Executive. The award will be for projects which meet the requirements of this subchapter.

§ 35.1613 Distribution of funds.

(a) For each fiscal year EPA will notify each Regional Administrator of the amount of funds targeted for each Region through annual clean lakes program guidance. To assure an equitable distribution of funds the targeted amounts will be based on the clean lakes program which States identify in their State WQM work programs.

(b) EPA may set aside up to twenty percent of the annual appropriations for Phase 1 projects.

§ 35.1615 Substate agreements.

States may make financial assistance available to substate agencies by means of a written interagency agreement transferring project funds from the State to those agencies. The agreement shall be developed, administered and approved in accordance with the provisions of 40 CFR 33.240 (Intergovernmental agreements). A State may enter into an agreement with a substate agency to perform all or a portion of the work under a clean lakes cooperative agreement. Recipients shall submit copies of all interagency agreements to the Regional Administrator. If the sum involved exceeds $100,000, the agreement shall be approved by the Regional Administrator before funds are released by the State to the substate agency. The agreement shall incorporate by reference the provisions of this subchapter. The agreement shall specify outputs, milestone schedule, and the budget required to perform the associated work in the same manner as the cooperative agreement between the State and EPA.

§ 35.1620 Application requirements.

(a) EPA will process applications in accordance with Subpart B of Part 30 of this subchapter. Applicants for assistance under the clean lakes program shall submit EPA form 5700–33 (original with signature and two copies) to the appropriate EPA Regional Office (see 40 CFR 30.130).

(b) Before applying for assistance, applicants should contact the appropriate Regional Administrator to determine EPA's current funding capability.

§ 35.1620–1 Types of assistance.

EPA will provide assistance in two phases in the clean lakes program.

(a) *Phase 1—Diagnostic-feasibility studies.* Phase 1 awards of up to $100,000 per award (requiring a 30 percent non-Federal share) are available to support diagnostic-feasibility studies (see Appendix A).

(b) *Phase 2—Implementation.* Phase 2 awards (requiring a 50 percent non-Federal share) are available to support the implementation of pollution control and/or in-lake restoration methods and procedures including final engineering design.

§ 35.1620–2 Contents of applications.

(a) All applications shall contain a written State certification that the project is consistent with State Water Quality Management work program (see § 35.1513 of this subchapter) and the State Comprehensive Outdoor Recreation Plan (if completed). Additionally, the State shall indicate the priority ranking for the particular project (see § 35.1620–5).

(b) Phase 1 applications shall contain: (1) A narrative statement describing the specific procedures that will be used by the recipient to conduct the diagnostic-feasibility study including a description of the public participation to be involved (see § 25.11 of this chapter);

(2) A milestone schedule;

(3) An itemized cost estimate including a justification for these costs;

(4) A written certification from the appropriate areawide or State 208 planning agency that the proposed work will not duplicate work completed under any 208 planning grant, and that the applicant is proposing to use any applicable approved 208 planning in the clean lakes project design; and

(5) For each lake being investigated, the information under subparagraph (5)(i) of this paragraph and, when available, the information under subparagraph (5)(ii) of this paragraph.

(i) Mandatory information.

(A) The legal name of the lake, reservoir, or pond.

(B) The location of the lake within the State, including the latitude and longitude, in degrees, minutes, and seconds of the approximate center of the lake.

(C) A description of the physical characteristics of the lake, including its maximum depth (in meters); its mean depth (in meters); its surface area (in hectares); its volume (in cubic meters); the presence or absence of stratified conditions; and major hydrologic inflows and outflows.

(D) A summary of available chemical and biological data demonstrating the past trends and current water quality of the lake.

(E) A description of the type and amount of public access to the lake, and the public benefits that would be derived by implementing pollution control and lake restoration procedures.

(F) A description of any recreational uses of the lake that are impaired due to degraded water quality. Indicate the cause of the impairment, such as algae, vascular aquatic plants, sediments, or other pollutants.

(G) A description of the local interests and fiscal resources committed to restoring the lake.

(H) A description of the proposed monitoring program to provide the information required in Appendix A paragraph (a)(10) of this section.

(ii) Discretionary information. States should submit this information when available to assist EPA in reviewing the application.

(A) A description of the lake watershed in terms of size, land use (list each major land use classification as a percentage of the whole), and the general topography, including major soil types.

(B) An identification of the major point source pollution discharges in the watershed. If the sources are currently controlled under the National Pollutant Discharge Elimination System (NPDES), include the permit numbers.

(C) An estimate of the percent contribution of total nutrient and sediment loading to the lake by the identified point sources.

(D) An indication of the major nonpoint sources in the watershed. If the sources are being controlled describe the control practice(s), including best land management practices.

(E) An indication of the lake restoration measures anticipated, including watershed management, and a projection of the net improvement in water quality.

(F) A statement of known or anticipated adverse environmental impacts resulting from lake restoration.

(c) Phase 2 applications shall include: (1) The information specified in Appendix A in a diagnostic/feasibility study or its equivalent; (2) certification by the appropriate areawide or State 208 planning agencies that the proposed Phase 2 lake restoration proposal is consistent with any approved 208 planning; and (3) copies of all issued permits or permit applications (including a summary of the status of applications) that are required for the discharge of dredged or fill material under section 404 of the Act.

§ 35.1620–3 Environmental evaluation.

Phase 2 applicants shall submit an evaluation of the environmental impacts of the proposed project in accordance with the requirements in Appendix A of this regulation.

§ 35.1620–4 Public participation.

(a) *General.* (1) In accordance with this Part and Part 25 of this chapter, the applicant shall provide for, encourage, and assist public participation in developing a proposed lake restoration project.

(2) Public consultation may be coordinated with related activities to enhance the economy, the effectiveness, and the timeliness of the effort, or to enhance the clarity of the issue. This procedure shall not discourage the widest possible participation by the public.

(b) *Phase 1.* (1) Phase 1 recipients shall solicit public comment in developing, evaluating, and selecting alternatives; in assessing potential adverse environmental impacts; and in identifying measures to mitigate any adverse impacts that were identified. The recipient shall provide information relevant to these decisions, in fact sheet or summary form, and distribute them to the public at least 30 days before selecting a proposed method of lake restoration. Recipients shall hold a formal or informal meeting with the public after all pertinent information is distributed, but before a lake restoration method is selected. If there is significant public interest in the cooperative agreement activity, an advisory group to study the process shall be formed in accordance with the requirements of § 25.3(d)(4) of this chapter.

(2) A formal public hearing shall be held if the Phase 1 recipient selects a lake restoration method that involves major construction, dredging, or significant modifications to the environment, or if the recipient or the Regional Administrator determines that a hearing would be beneficial.

(c) *Phase 2.* (1) A summary of the recipient's response to all public comments, along with copies of any written comments, shall be prepared and submitted to EPA with a Phase 2 application.

(2) Where a proposed project has not been studied under a Phase 1 cooperative agreement, the applicant for Phase 2 assistance shall provide an opportunity for public consultation with adequate and timely notices before submitting an application to EPA. The public shall be given the opportunity to discuss the proposed project, the alternatives, and any potentially adverse environmental impacts. A public hearing shall be held where the proposed project involves major construction, dredging or other significant modification of the environment. The applicant shall provide a summary of his responses to all public comments and submit the summary, along with copies of any written comments, with the application.

§ 35.1620–5 State work programs and lake priority lists.

(a)(1) A State shall submit to the Regional Administrator as part of its annual work program (§ 35.1513 of this subchapter) a description of the activities it will conduct during the Federal fiscal year to classify its lakes according to trophic condition (§ 35.1630) and to set priorities for implementing clean lakes projects within the State. The work plan must list in priority order the cooperative agreement applications that will be submitted by the State for Phase 1 and Phase 2 projects during the upcoming fiscal year, along with the rationale used to establish project priorities. Each State must also list the cooperative agreement applications, with necessary funding, which it expects to submit in the following fiscal year. This information will assist EPA in targeting resources under § 35.1613.

(2) A State may petition the Regional Administrator by letter to modify the EPA approved priority list established under paragraph (a)(1) of this section. This may be done at any time if the State believes there is sufficient justification to alter the priority list contained in its annual work program, e.g., if a community with a lower priority project has sufficient resources available to provide the required matching funding while a higher priority project does not, or if new data indicates that a lower priority lake will have greater public benefit than a higher priority lake.

(b) Clean lakes restoration priorities should be consistent with the Statewide water quality management strategy (see § 35.1511–2 of this subchapter). In establishing priorities on particular lake restoration projects, States should use as criteria the application review criteria (§ 35.1640–1) that EPA will use in preparing funding recommendations for specific projects. If a State chooses to use different criteria, the State should indicate this to the Regional Administrator as part of the annual work program.

§ 35.1620–6 State and local clearinghouse procedures.

In accordance with § 30.305 of this subchapter, all requirements of OMB Circular A–95 must be met before States submit applications to EPA.

§ 35.1630 State lake classification surveys.

States that wish to participate in the clean lakes program shall establish and submit to EPA by January 1, 1982, a classification, according to trophic condition, of their publicly owned freshwater lakes that are in need of restoration or protection. After December 31, 1981, States that have not complied with this requirement will not be eligible for Federal financial assistance under this subpart until they complete their survey.

§ 35.1640 Application review and evaluation.

EPA will review applications as they are received. EPA may request outside review by appropriate experts to assist with technical evaluation. Funding decisions will be based on the merit of each application in accordance with the application review criteria under § 35.1640–1. EPA will consider Phase 1 applications separately from Phase 2 applications.

§ 35.1640–1 Application review criteria.

(a) When evaluating applications, EPA will consider information supplied by the applicant which address the following criteria:

(1) The technical feasibility of the project, and where appropriate, the estimated improvement in lake water quality.

(2) The anticipated positive changes that the project would produce in the overall lake ecosystem, including the watershed, such as the net reduction in sediment, nutrient, and other pollutant loadings.

(3) The estimated improvement in fish and wildlife habitat and associated beneficial effects on specific fish populations of sport and commercial species.

(4) The extent of anticipated benefits to the public. EPA will consider such factors as (i) the degree, nature and sufficiency of public access to the lake;

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(ii) the size and economic structure of the population residing near the lake which would use the improved lake for recreational and other purposes; (iii) the amount and kind of public transportation available for transport of the public to and from the public access points; (iv) whether other relatively clean publicly owned freshwater lakes within 80 kilometer radius already adequately serve the population; and (v) whether the restoration would benefit primarily the owners of private land adjacent to the lake.

(5) The degree to which the project considers the "open space" policies contained in sections 201(f), 201(g), and 208(b)(2)(A) of the Act.

(6) The reasonableness of the proposed costs relative to the proposed work, the likelihood that the project will succeed, and the potential public benefits.

(7) The means for controlling adverse environmental impacts which would result from the proposed restoration of the lake. EPA will give specific attention to the environmental concerns listed in Section (c) of Appendix A.

(8) The State priority ranking for a particular project.

(9) The State's operation and maintenance program to ensure that the pollution control measures and/or in-lake restorative techniques supported under the project will be continued after the project is completed.

(b) For Phase 1 applications, the review criteria presented in paragraph (a) of this section will be modified in relation to the smaller amount of technical information and analysis that is available in the application. Specifically, under criterion (a)(1), EPA will consider a technical assessment of the proposed project approach to meet the requirements stated in Appendix A to this regulation. Under criterion (a)(4), EPA will consider the degree of public access to the lake and the public benefit. Under criterion (a)(7), EPA will consider known or anticipated adverse environmental impacts identified in the application or that EPA can presume will occur. Criterion (a)(9) will not be considered.

§ 35.1650 Award.

(a) Under 40 CFR 30.345, generally 90 days after EPA has received a complete application, the application will either be: (1) Approved for funding in an amount determined to be appropriate for the project; (2) returned to the applicant due to lack of funding; or (3) disapproved. The applicant shall be promptly notified in writing by the EPA Regional Administrator of any funding decisions.

(b) Applications that are disapproved can be submitted as new applications to EPA if the State resolves the issues identified during EPA review.

§ 35.1650-1 Project period.

(a) The project period for Phase 1 projects shall not exceed three years.

(b) The project period for Phase 2 projects shall not exceed four years. Implementation of complex projects and projects incorporating major construction may have longer project periods if approved by the Regional Administrator.

§ 35.1650-2 Limitations on awards.

(a) Before awarding assistance, the Regional Administrator shall determine that:

(1) The applicant has met all of the applicable requirements of § 35.1620 and § 35.1630; and

(2) State programs under section 314 of the Act are part of a State/EPA Agreement which shall be completed before the project is awarded.

(b) Before awarding Phase 2 projects, the Regional Administrator shall further determine that:

(1) When a Phase 1 project was awarded, the final report prepared under Phase 1 is used by the applicant to apply for Phase 2 assistance. The lake restoration plan selected under the Phase 1 project must be implemented under a Phase 2 cooperative agreement.

(2) Pollution control measures in the lake watershed authorized by section 201, included in an approved 208 plan, or required by section 402 of the Act have been completed or are being implemented according to a schedule that is included in an approved plan or discharge permit.

(3) The project does not include costs for controlling point source discharges of pollutants where those sources can be alleviated by permits issued under section 402 of the Act, or by the planning and construction of wastewater treatment facilities under section 201 of the Act.

(4) The State has appropriately considered the "open space" policy presented in sections 201(f), 201(g)(6), and 208(b)(2)(A) of the Act in any wastewater management activities being implemented by them in the lake watershed.

(5)(i) The project does not include costs for harvesting aquatic vegetation, or for chemical treatment to alleviate temporarily the symptoms of eutrophication, or for operating and maintaining lake aeration devices, or for providing similar palliative methods and procedures, unless these procedures are the most energy efficient or cost effective lake restorative method. (ii) Palliative approaches can be supported only where pollution in the lake watershed has been controlled to the greatest practicable extent, and where such methods and procedures are a necessary part of a project during the project period. EPA will determine the eligibility of such a project, based on the applicant's justification for the proposed restoration, the estimated time period for improved lake water quality, and public benefits associated with the restoration.

(6) The project does not include costs for desalinization procedures for naturally saline lakes.

(7) The project does not include costs for purchasing or long term leasing of land used solely to provide public access to a lake.

(8) The project does not include costs resulting from litigation against the recipient by EPA.

(9) The project does not include costs for measures to mitigate adverse environmental impacts that are not identified in the approved project scope of work. (EPA may allow additional costs for mitigation after it has reevaluated the cost-effectiveness of the selected alternative and has approved a request for an increase from the recipient.)

§ 35.1650-3 Conditions on award.

(a) *All awards.* (1) All assistance awarded under the Clean Lakes program is subject to the EPA General Grant conditions (Subpart C and Appendix A of Part 30 of this chapter). (2) For each clean lakes project the State agrees to pay or arrange the payment of the non-Federal share of the project costs.

(b) *Phase 1.* Phase 1 projects are subject to the following conditions:

(1) The recipient must receive EPA project officer approval on any changes to satisfy the requirements of (a)(10) of Appendix A before undertaking any other work under the grant.

(2) (i) Before selecting the best alternative for controlling pollution and improving the lake, as required in paragraph (b)(1) of Appendix A of this regulation, and before undertaking any other work stated under paragraph (b) of Appendix A, the recipient shall submit an interim report to the project officer. The interim report must include a discussion of the various available alternatives and a technical justification for the alternative that the recipient will probably choose. The report must include a summary of the public involvement and the comments that occurred during the development of the alternatives. (ii) The recipient must obtain EPA project officer approval of the selected alternative before conducting additional work under the project.

(c) *Phase 2.* Phase 2 projects are subject to the following conditions:

(1) (i) The State shall monitor the project to provide data necessary to evaluate the efficiency of the project as jointly agreed to and approved by the EPA project officer. The monitoring program described in paragraph (b)(3) of Appendix A of this regulation as well as any specific measurements that would be necessary to assess specific aspects of the project, must be considered during the development of a monitoring program and schedule. The project recipient shall receive the approval of the EPA project officer for a monitoring program and schedule to satisfy the requirements of Appendix A paragraph (b)(3) before undertaking any other work under the project. (ii) Phase 2 projects shall be monitored for at least one year after construction or pollution control practices are completed.

(2) The State shall manage and maintain the project so that all pollution control measures supported under the project will be continued during the project period at the same level of efficiency as when they were implemented. The State will provide reports regarding project maintenance as required in the cooperative agreement.

(3) The State shall upgrade its water quality standards to reflect a higher water quality use classification if the higher water quality use was achieved as a result of the project (see 40 CFR 35.1550(c)(2)).

(4) If an approved project allows purchases of equipment for lake maintenance, such as weed harvesters, aeration equipment, and laboratory equipment, the State shall maintain and operate the equipment according to an approved lake maintenance plan for a period specified in the cooperative agreement. In no case shall that period be for less than the time it takes to completely amortize the equipment.

(5) If primary adverse environmental impacts result from implementing approved lake restoration or protection procedures, the State shall include measures to mitigate these adverse impacts at part of the work under the project.

(6) If adverse impacts could result to unrecorded archeological sites, the State shall stop work or modify work plans to protect these sites in accordance with the National Historic Preservation Act. (EPA may allow additional costs for ensuring proper protection of unrecorded archeological sites in the project area after reevaluating the cost effectiveness of the procedures and approving a request for a cost increase from the recipient.)

(7) If a project involves construction or dredging that requires a section 404 permit for the discharge of dredged or fill material, the recipient shall obtain the necessary section 404 permits before performing any dredge or fill work.

§ 35.1650-4 Payment.

(a) Under § 30.615 of this chapter, EPA generally will make payments through letter of credit. However, the Regional Administrator may place any recipient on advance payment or on cost reimbursement, as necessary.

(b) Phase 2 projects involving construction of facilities or dredging and filling activities shall be paid by reimbursement.

§ 35.1650-5 Allowable costs.

(a) The State will be paid under § 35.1650-4 for the Federal share of all necessary costs within the scope of the approved project and determined to be allowable under 40 CFR 30.705, the provisions of this subpart, and the cooperative agreement.

(b) Costs for restoring lakes used solely for drinking water supplies are not allowable under the Clean Lakes Program.

§ 35.1650-6 Reports.

(a) States with Phase 1 projects shall submit semi-annual progress reports (original and one copy) to the EPA project officer within 30 days after the end of every other standard quarter. Standard quarters end on March 31, June 30, September 30, and December 31. These reports shall include the following:

(1) Work progress relative to the milestone schedule, and difficulties encountered during the previous six months.

(2) A brief discussion of the project findings appropriate to the work conducted during the previous six months.

(3) A report of expenditures in the past six months and those anticipated in the next six months.

(b) *Phase 2.* States with Phase 2 projects shall submit progress reports (original and one copy) according to the schedule established in the cooperative agreement. The frequency of Phase 2 project progress reports shall be determined by the size and complexity of the project, and shall be required no more frequently than quarterly. The Phase 2 progress report shall contain all of the information required for Phase 1 progress reports indicated in paragraph (a) of this section. This report also must include water quality monitoring data and a discussion of the changes in water quality which appear to have resulted from the lake restoration activities implemented during the reporting period.

(c) *Final Report.* States shall prepare a final report for all grants in accordance with § 30.635-2 of this subchapter. Phase 1 reports shall be organized according to the outline of information requirements stated in Appendix A. All water quality data obtained under the grant shall be submitted in the final report. Phase 2 reports shall conform to the format presented in the EPA manual on "Scientific and Technical Publications," May 14, 1974, as revised or updated. The States shall submit the report within 90 days after the project is completed.

(d) *Financial Status Report.* Within 90 days after the end of each budget period, the grantee shall submit to the Regional Administrator an annual report of all expenditures (Federal and non-Federal) which accrued during the budget period. Beginning in the second quarter of any succeeding budget period, payments may be withheld under § 30.615-3 of this chapter until this report is received.

Appendix A—Requirements for Diagnostic-Feasibility Studies and Environmental Evaluations

Phase 1 clean lakes projects shall include in their scope of work at least the following requirements, preferably in the order presented and under appropriate subheadings. The information required by paragraph (a)(10) and the monitoring procedures stated in paragraph (b)(3) of this Appendix may be modified to conform to specific project requirements to reduce project costs without jeopardizing adequacy of technical information or the integrity of the project. All modifications must be approved by the EPA project officer as specified in §§ 35.1650-3(b)(1) and 35.1650-3(c)(1).

(a) A diagnostic study consisting of:

(1) An identification of the lake to be restored or studied, including the name, the State in which it is located, the location within the State, the general hydrologic relationship to associated upstream and downstream waters and the approved State water quality standards for the lake.

(2) A geological description of the drainage basin including soil types and soil loss to stream courses that are tributary to the lake.

(3) A description of the public access to the lake including the amount and type of public transportation to the access points.

(4) A description of the size and economic structure of the population residing near the lake which would use the improved lake for recreation and other purposes.

(5) A summary of historical lake uses, including recreational uses up to the present time, and how these uses may have changed because of water quality degradation.

(6) An explanation, if a particular segment of the lake user population is or will be more adversely impacted by lake degradation.

(7) A statement regarding the water use of the lake compared to other lakes within a 80 kilometer radius.

(8) An itemized inventory of known point source pollution discharges affecting or which have affected lake water quality over the past 5 years, and the abatement actions for these discharges that have been taken, or are in progress. If corrective action for the pollution sources is contemplated in the future, the time period should be specified.

(9) A description of the land uses in the lake watershed, listing each land use classification as a percentage of the whole and discussing the amount of nonpoint pollutant loading produced by each category.

(10) A discussion and analysis of historical baseline limnological data and one year of current limnological data. The monitoring schedule presented in paragraph (b)(3) of Appendix A must be followed in obtaining the one year of current limnological data. This presentation shall include the present trophic condition of the lake as well as its surface area (hectares), maximum depth (meters), average depth (meters), hydraulic residence time, the area of the watershed draining to the lake (hectares), and the physical, chemical, and biological quality of the lake and important lake tributary waters. Bathymetric maps should be provided. If dredging is expected to be included in the restoration activities, representative bottom sediment core samples shall be collected and analyzed using methods approved by the EPA project officer for phosphorus, nitrogen, heavy metals, other chemicals appropriate to State water quality standards, and persistent synthetic organic chemicals where appropriate. Further, the elutriate must be subjected to test procedures developed by the U.S. Army Corps of Engineers and analyzed for the same constituents. An assessment of the phosphorus (and nitrogen when it is the limiting lake nutrient) inflows and outflows associated with the lake and a hydraulic budget including ground water flow must be included. Vertical temperature and dissolved oxygen data must be included for the lake to determine if the hypolimnion becomes anaerobic and, if so, for how long and over what extent of the bottom. Total and soluble reactive phosphorus (P); and nitrite, nitrate, ammonia and organic nitrogen (N) concentratons must be determined for the lake. Chlorophyll *a* values should be measured for the upper mixing zone. Representative alkalinities should be determined. Algal assay bottle test data or total N to total P ratios should be used to define the growth limiting nutrient. The extent of algal blooms, and the predominant algal genera must be discussed. Algal biomass should be determined through algal genera identification, cell density counts (numbers of cells per milliliter) and converted to cell volume based on factors derived from direct measurements; and reported in biomass of each major genus identified. Secchi disk depth and suspended solids should be measured and reported. The portion of the shoreline and bottom that is impacted by vascular plants (submersed, floating, or emersed higher aquatic vegetation) must be estimated, specifically the lake surface area between 0 and the 10 meter depth contour or twice the Secchi disk transparency depth, whichever is less, and that estimate should include an identification of the predominant species. Where a lake is subject to significant public contact use or is fished for consumptive purposes, monitoring for public health reasons should be part of the monitoring program. Standard bacteriological analyses and fish flesh analyses for organic and heavy metal contamination should be included.

(11) An identification and discussion of the biological resources in the lake, such as fish population, and a discussion of the major known ecological relationships.

(b) A feasibility study consisting of:

(1) An identification and discussion of the alternatives considered for pollution control or lake restoration and an identification and justification of the selected alternative. This should include a discussion of expected water quality improvement, technical feasibility, and estimated costs of each alternative. The discussion of each feasible alternative and the selected lake restoration procedure must include detailed descriptions specifying exactly what activities would be undertaken under each, showing how and where these procedures would be implemented, illustrating the engineering specifications that would be followed including preliminary engineering drawings to show in detail the construction aspects of the project, and presenting a quantitative analysis of the pollution control effectiveness and the lake water quality improvement that is anticipated.

(2) A discussion of the particular benefits expected to result from implementing the project, including new public water uses that may result from the enhanced water quality.

(3) A Phase 2 monitoring program indicating the water quality sampling schedule. A limited monitoring program must be maintained during project implementation, particularly during construction phases or in-lake treatment, to provide sufficient data that will allow the State and the EPA project officer to redirect the project if necessary, to ensure desired objectives are achieved. During pre-project, implementation, and post-project monitoring activities, a single in-lake site should be sampled monthly during the months of September through April and biweekly during May through August. This site must be located in an area that best represents the limnological properties of the lake, preferably the deepest point in the lake. Additional sampling sites may be warranted in cases where lake basin morphometry creates distinctly different hydrologic and limnologic sub-basins; or where major lake tributaries adversely affect lake water quality. The sampling schedule may be shifted according to seasonal differences at various latitudes. The biweekly samples must be scheduled to coincide with the period of elevated biological activity. If possible, a set of samples should be collected immediately following spring turnover of the lake. Samples must be collected between 0800 and 1600 hours of each sampling day unless diel studies are part of the monitoring program. Samples must be collected between one-half meter below the surface and one-half meter off the bottom, and must be collected at intervals of every one and one-half meters, or at six equal depth intervals, whichever number of samples is less. Collection and analyses of all samples must be conducted according to EPA approved methods. All of the samples collected must be analyzed for total and soluble reactive phosphorus; nitrite, nitrate, ammonia, and organic nitrogen; pH; temperature; and dissolved oxygen. Representative alkalinities should be determined. Samples collected in the upper mixing zone must be analyzed for chlorophyll *a*. Algal biomass in the upper mixing zone should be determined through algal genera identification, cell density counts (number of cells per milliliter) and converted to cell volume based on factors derived from direct measurements; and reported in terms of biomass of each major genera identified. Secchi disk depth and suspended solids must be measured at each sampling period. The surface area of the lake covered by macrophytes between 0 and the 10 meter depth contour or twice the Secchi disk transparency depth, whichever is less, must be reported. The monitoring program for each clean lakes project must include all the required information mentioned above, in addition to any specific measurements that are found to be necessary to assess certain aspects of the project. Based on the information supplied by the Phase 2 project applicant and the technical evaluation of the proposal, a detailed monitoring program for Phase 2 will be established for each approved project and will be a condition of the cooperative agreement. Phase 2 projects will be monitored for at least one year after construction or pollution control practices are completed to evaluate project effectiveness.

(4) A proposed milestone work schedule for completing the project with a proposed budget and a payment schedule that is related to the milestone.

(5) A detailed description of how non-Federal funds will be obtained for the proposed project.

(6) A description of the relationship of the proposed project to pollution control programs such as the section 201 construction grants program, the section 208 areawide wastewater management program, the Department of Agriculture Soil Conservation Service and Agriculture Stabilization and Conservation Service programs, the Department of Housing and Urban Development block grant program, the Department of Interior Heritage Conservation and Recreation Service programs and any other local, State, regional and Federal programs that may be related to the proposed project. Copies of any pertinent correspondence, contracts, grant applications and permits associated with these programs should be provided to the EPA project officer.

(7) A summary of public participation in developing and assessing the proposed project which is in compliance with Part 25 of this chapter. The summary shall describe the matters brought before the public, the measures taken by the reporting agency to meet its responsibilities under Part 25 and related provisions elsewhere in this chapter, the public response, and the agency's response to significant comments. Part 25.8 responsiveness summaries may be used to meet appropriate portions of these requirements to avoid duplication.

(8) A description of the operation and maintenance plan that the State will follow, including the time frame over which this plan will be operated, to ensure that the pollution controls implemented during the project are continued after the project is completed.

(9) Copies of all permits or pending permit applications (including the status of such applications) necessary to satisfy the requirements of section 404 of the Act. If the approved project includes dredging activities or other activities requiring permits, the State must obtain from the U.S. Army Corps of Engineers or other agencies the permits required for the discharge of dredged or fill material under section 404 of the Act or other Federal, State or local requirements. Should additional information be required to obtain these permits, the State shall provide it. Copies of section 404 permit applications and any associated correspondence must be provide to the EPA project officer at the time they are submitted to the U.S. Army Corps of Engineers. After reviewing the 404 permit application, the project officer may provide recommendations for appropriate controls and treatment of supernatant derived from dredged material disposal sites to ensure the maximum effectiveness of lake restoration procedures.

(c) States shall complete and submit an environmental evaluation which considers the questions listed below. In many cases the questions cannot be satisfactorily answered with a mere "Yes" or "No". States are encouraged to address other considerations which they believe apply to their project.

(1) Will the proposed project displace any people?

(2) Will the proposed project deface existing residences or residential areas? What mitigative actions such as landscaping, screening, or buffer zones have been considered? Are they included?

(3) Will the proposed project be likely to lead to a change in established land use patterns, such as increased development pressure near the lake? To what extent and how will this change be controlled through land use planning, zoning, or through other methods?

(4) Will the proposed project adversly affect a significant amount of prime agricultural land or agricultural operations on such land?

(5) Will the proposed project result in a significant adverse effect on parkland, other public land, or lands of recognized scenic value?

(6) Has the State Historical Society or State Historical Preservation Officer been contacted? Has he responded, and if so, what was the nature of that response? Will the proposed project result in a significant adversely effect on lands or structures of historic, architectural, archaeological or cultural value?

(7) Will the proposed project lead to a significant long-range increase in energy demands?

(8) Will the proposed project result in significant and long range adverse changes in ambient air quality or noise levels? Short term?

(9) If the proposed project involves the use of in-lake chemical treatment, what long and short term adverse effects can be expected from that treatment? How will the project recipient mitigate these effects?

(10) Does the proposal contain all the information that EPA requires in order to determine whether the project complies with Executive Order 11988 on floodplains? Is the proposed project located in a floodplain? If so, will the project involve construction of structures in the floodplain? What steps will be taken to reduce the possible effects of flood damage to the project?

(11) If the project involves physically modifying the lake shore or its bed or its watershed, by dredging, for example, what steps will be taken to minimize any immediate and long term adverse effects of such activities? When dredging is employed, where will the dredged material be deposited, what can be expected and what measures will the recipient employ to minimize any significant adverse impacts from its deposition?

(12) Does the project proposal contain all information that EPA requires in order to determine whether the project complies with Executive Order 11990 on wetlands? Will the proposed project have a significant adverse effect on fish and wildlife, or on wetlands or any other wildlife habitat, especially those of endangered species? How significant is this impact in relation to the local or regional critical habitat needs? Have actions to mitigate habitat destruction been incorporated into the project? Has the recipient properly consulted with appropriate State and Federal fish, game and wildlife agencies and with the U.S. Fish and Wildlife Service? What were their replies?

(13) Describe any feasible alternatives, to the proposed project in terms of environmental impacts, commitment of resources, public interest and costs and why they were not proposed.

(14) Describe other measures not discussed previously that are necessary to mitigate adverse enivironmental impacts resulting from the implementation of the proposed project.

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40 CFR Parts 51, 52

[FRL-1404-6]

Prevention of Significant Deterioration; Partial Stay of Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Partial stay of regulations.

SUMMARY: By the administrative order which appears below, EPA stays its existing regulations for the prevention of significant air quality deterioration, 40 CFR 51.24 and 52.21 (1978), as to any source or modification which either (1) would not be major under the amendments to those regulations proposed at 44 FR 51924 (September 5, 1979) or (2) would be located in an area designated under Section 107 of the Clean Air Act as nonattainment for each pollutant for which the source or modification would be major under the proposed amendments.

EFFECTIVE DATE: The effective date of the stay is the date of signature of this notice. (January 30, 1980)

FOR FURTHER INFORMATION CONTACT: James Weigold, Standards Implementation Branch (MD-15), Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, 919/541-5292.

SUPPLEMENTARY INFORMATION: In June 1979, the United States Court of Appeals for the District of Columbia Circuit in a preliminary opinion held invalid certain key provisions of the regulations for the prevention of significant air quality deterioration which EPA had promulgated approximately one year earlier ("the 1978 PSD regulations"). *See Alabama Power Company* v. *Costle*, 13 ERC 1225. Those regulations appear at 40 CFR 51.24 and 52.21 (1978).

In September 1979, EPA proposed comprehensive amendments to the 1978 PSD regulations in response to the preliminary opinion in *Alabama Power*. *See* 44 FR 51924. Among those amendments are rules that would replace the provisions the court held invalid. Also among them are important provisions that would complement the replacements, for example, certain *de minimis* exemptions (*see id.* at 51937-38).

On December 14, 1979, the Court of Appeals in a final opinion reaffirmed its earlier decisions on the validity of the provisions at issue in *Alabama Power*. *See* 13 ERC 1993. Hence, when the opinion comes into effect, it will render ineffective key elements of the 1978 PSD regulations.

EPA will be unable to complete the rulemaking it began in September until at least June 1980. The comments EPA has received so far are voluminous and raise important issues that deserve serious consideration. In addition, in response to numerous requests, EPA recently reopened the comment period for comment on the September proposals in light of the final opinion of the court. Furthermore, EPA is reanalyzing the proposed *de minimis* exemptions and completing an economic impact assessment of the proposals. Finally, internal review of drafts of the final amendments will require considerable time.

To avoid the uncertainty and confusion that would occur if the opinion came into effect before EPA completed the rulemaking it began in September, EPA and many of the petitioners in *Alabama Power* have asked the court to keep the opinion from coming into effect until June 2, 1980, on the condition that EPA issue the administrative stay which appears below.

The purpose of the administrative stay is to relieve from the permitting requirements of the 1978 PSD regulations roughly those sources and modifications that would not be subject to the permitting requirements of valid replacement regulations that would comport with the *Alabama Power* opinion. Obviously, it would be unfair and unnecessary to force such sources and modifications to get a PSD permit under the 1978 PSD regulations during this transition period.

EPA has decided to issue the administrative stay before the court acts on the request of the various parties in *Alabama Power*. Many persons are ready to begin construction of sources and modifications that would need a PSD permit under the 1978 PSD regulations, but not under valid replacement regulations. EPA has concluded that to allow the 1978 PSD regulations to interfere any longer with such construction would be both unfair and unnecessary. Hence, it is issuing the administrative stay which appears below.

EPA regards the issuance of the administrative stay as "nationally applicable" "final action" within the meaning of Section 307(b)(1) of the Clean Air Act (the "Act"), 42 U.S.C. 7607(b)(1). EPA does not, however, regard the stay as the "promulgation or revision of regulations" within the meaning of Section 307(d)(1)(I) of the Act, 42 U.S.C. 7607(d)(1)(I). The stay is merely an order providing equitable relief during the period before the completion of the rulemaking that EPA began in September. The procedural requirements of Section 307(d), therefore, do not apply to the issuance of the administrative stay.

In any event, those requirements, as well as the notice and comment requirements of Section 4 of the Administrative Procedure Act (the "APA"), 5 U.S.C. 553, do not apply for other reasons. First, meeting either set of requirements would be "contrary to the public interest" within the meaning of Section 4(b)(B) of the APA, 5 U.S.C. 553(b)(B), since it would unnecessarily delay the construction of those sources and modifications to which the stay applies. Meeting those requirements would also be "unnecessary" within the meaning of that section, since the stay provides relief which is generally consistent with the final opinion of the court in *Alabama Power*. Finally, meeting those requirements would be "impracticable" within the meaning of Section 4(b)(B), since it would defeat the very purpose of the stay: to provide relief as soon as possible and, together with a judicial stay of the effect of the final opinion, free the agency to concentrate on the rulemaking it began in September. *See* Clean Air Act § 307(d)(1)(N), 42 U.S.C. 7607(d)(1)(N). For the same reasons, EPA finds that it has good cause to make the administrative stay immediately effective. See APA § 4(d), 5 U.S.C. 553(d).

The administrative stay opens a gap in the coverage of the new source review requirements for nonattainment areas that EPA intends to close in the near future through the promulgation of final rules. In general, those nonattainment requirements currently do not apply to a source or modification that, although locating in an area designated nonattainment for each pollutant for which it would be major, would not significantly impact those portions of the area where pollution actually exceeds the appliable national ambient air quality standard or standards (NAAQS). *See, e.g.*, 40 CFR Part 51, Appendix S, § II(D), 44 FR 3283 (January 16, 1979). In establishing that "clean pocket" exemption, EPA assumed that PSD permitting requirements would apply to any such source or modification, thereby filling the gap in the coverage of the

nonattainment requirements. The administrative stay, however, in effect exempts any such source or modification from those PSD requirements. Consequently, in general, no PSD or nonattainment new source review requirements now apply to a source or modification that would locate in an area designated nonattainment for each pollutant for which the source or modification would be major and that would neither significantly aggravate nor cause a NAAQS violation. EPA is now preparing final rules which would apply new source review requirements to any such source or modification and plans to promulgate them in 30 to 45 days.

(Clean Air Act, 42 U.S.C. 7401 *et seq.*)

Dated: January 30, 1980.

Douglas M. Costle,
Administrator.

Order Staying the Application of Regulations at 40 CFR 51.24 and 52.21 (1978) as to Certain Sources and Modifications

In view of the decision of the United States Court of Appeals for the District of Columbia Circuit dated December 14, 1979, in *Alabama Power Company* v. *Costle* (No. 78-1006 and consolidated cases), the court has been asked to stay issuance of mandate in those cases. During the time issuance of mandate is stayed, I will continue to administer the regulations for the prevention of significant air quality deterioration which appear at 40 CFR 51.24 and 52.21 (1978) ("the 1978 PSD regulations"). However, I hereby stay the application of the 1978 PSD regulations as to any major stationary source or major modification as defined in those regulations which either (1) would not be a major stationary source or major modification under the amendments to the PSD regulations as proposed at 44 FR 51924 (September 5, 1979), or (2) would be located in an area designated under Section 107 of the Clean Air Act, 42 U.S.C. 7407, as nonattainment for each pollutant for which the source or modification would be major under the proposed amendments. Thus, a source or modification would not be subject to PSD review if either the 1978 PSD regulations would not apply to it or this stay applies to it.

In issuing this stay, I intend that no state or local entity to which I have delegated any authority under 40 CFR 52.21(v) (1978) may apply 40 CFR 52.21 (1978) to any source or modification to which this stay applies during the time the stay remains in effect. I do not intend, however, to affect in any way the status of any state-adopted PSD program which I have approved.

I intend that all additional substantive requirements relating to best available control technology, monitoring, and source applicability in the upcoming final regulations shall not be applied retroactively to any source or modification which has commenced construction or submitted a completed permit application prior to the effective date of those final regulations, unless otherwise ordered by a court.

This stay applies immediately.

[FR Doc. 80-3708 Filed 2-4-80; 8:45 am]
BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1406-1]

Final Rulemaking on Conditional Approval of Colorado State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: In an October 5, 1979, Federal Register notice EPA solicited comments on the deadlines for conditional approval items in the Colorado plan and on the adequacy of the Denver and Larimer-Weld Transportation Control Measure schedules. These deadlines were also proposed by EPA as dates by which conditions needed to be met in order to avoid imposition of Federal funding and economic growth limitations. EPA has reviewed comments received and has decided to make minor changes to the conditional approval deadlines. The conditional approval of the Denver and Larimer-Weld transportation control measure schedules remain unchanged.

ADDRESSES: Comments received on this proposal may be examined during normal business hours at:

Environmental Protection Agency, Region VIII Library, 1860 Lincoln Street, Denver, Colorado 80295.
Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street, SW., Washington, D.C. 20460.

EFFECTIVE DATE: Effective February 5, 1980.

FOR FURTHER INFORMATION CONTACT: Robert R. DeSpain, Chief Air Programs Branch, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3711.

SUPPLEMENTARY INFORMATION: EPA received comments from three organizations which requested an extension of the proposed March 1, 1980 deadline for the State of Colorado to submit required inspection and maintenance (I/M) legislation and related schedules for implementation. However, these comments were not submitted by an organization representing the Colorado Legislature (e.g., Office of Legislative Council. The bulk of the responsibility for I/M rests with the Legislature, the March 1, 1980 date was established by the Legislature and the Legislature chose not to comment. Thus, EPA believes the March 1, 1980 date is reasonable and will not extend it.

EPA received two comments requesting an extension of the January 1, 1980, date for the State of Colorado to submit to EPA an air quality modeling demonstration showing attainment of the 24-hour total suspended particulate standard in Pueblo. EPA believes that it underestimated the time needed to perform such a complex analyses and that an extension to February 1, 1980, is necessary due to unforeseen delays in the modeling analysis.

EPA received one comment regarding an extension of the March 1, 1980, date for the Colorado Air Quality Control Commission ("Commission") to revise Regulation 7, "Control of Volatile Organic Compounds" so that it requires reasonably available control technology for existing Group I sources. (See 44 FR 20372-20380 for further explanation of this requirement.) EPA recognizes that the State administrative requirements make the March 1, 1980, and interim schedule dates difficult to meet. Therefore, EPA will revise the schedules as follows:

January 10, 1980—Notice of public hearing and draft regulations submitted to EPA
March 13, 1980—Public hearing
April 10, 1980—Adopt new regulation and submit to EPA

EPA received one comment that noted the lack of funding information previously submitted in the DRCOG measures and schedules. The commentor specifically requested that schedules not be approved as is. The EPA notes that this comment is addressed by the condition in the approval of the schedules 52 CFR 327(a)(3) and 52 CFR 328(a)(3).

The commentor also noted that relevant information on control measures is found in various DRCOG planning documents but that it is difficult to relate these documents and to actually follow the development of measures. For that reason, the commentor provided a standard format for schedules which relates to various documents and suggested that it be required by EPA. In the conditional approval, EPA required that measures be more clearly related to transportation

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planning documents. However, EPA believes that requiring a specific format is beyond the Agency's authority.

One commentor stated that the Denver region plan did not meet the requirements of Section 110(a)(3)(D) and 110(c)(5)(B) with respect to basic transportation needs. This comment was also made as a result of an earlier Federal Register notice proposing action on the Colorado SIP and was addressed in a final rulemaking action on October 5 (44 FR 57401). The commentor also found that the attainment demonstration for Denver submitted on July 27, 1979, and the schedule for submitting additional analyses were inadequate. These comments address elements of the plan for which final action has already been taken (44 FR 57401). Consequently these comments are not addressed here.

In the October 5 rulemaking (44 FR 57401) EPA gave notice of its intention to reimpose the constriction ban and to impose funding restrictions under Sections 176(a) and 316 no later than March 1, 1980 if Colorado had not by that time certified that it had adequate legal authority for a vehicle emission control program. Comments were also received on the appropriateness of EPA's intention to impose Federal assistance and economic growth limitations if the responsible agencies failed to comply with the deadlines, particularly the deadlines related to adoption and submittal of adequate legal authority to implement and enforce a program to control emissions from in-use vehicles. The commenter suggested that EPA should not make a decision regarding funding restrictions until a deadline is actually missed, and then, only after considering public comment. EPA believes that: (1) The issue of whether adequate legal authority exists is relatively clear-cut, and thus as anticipatory determination regarding the appropriateness of the funding restrictions can be made; and (2) the public has had adequate notice of EPA's intention regarding sanctions and an opportunity to comment.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of final rulemaking is issued under authority of section 110 of the Clean Air Act as amended.

Dated: January 30, 1980.

Douglas M. Costle,

Administrator.

Title 40, Part 52 of the Code of Federal Regulation is amended as follows:

Subpart G—Colorado

1. Section 52.327 is revised as follows:

§ 52.327 Control strategy: Ozone.

(a) *Part D Conditional Approval*—The Denver Plan is approved provided that the following conditions are satisfied:

(1) The plan includes an adequate vehicle emissions control inspection/maintenance program. The conditional approval is based on the State meeting the following schedule:

January 1, 1980—Senate Bill 1 study completed, submitted to legislature
January 12, 1980—I/M included on list of Governor's Call items for the 1980 legislative session
February 1, 1980—Study results in the form of a draft final report reported to legislature
February 1, 1980—Bill introduced in legislature—copy submitted to EPA
March 1, 1980—Submission to EPA of legislation signed into law by the Governor, as well as schedules (milestones, dates, responsible agency) to implement the I/M program and corrections to other noted deficiencies discussed in 44 FR 57401 (October 5, 1979).

(2) The plan provides for implementation of reasonably available control technology on existing sources of volatile organic compounds. EPA's conditional approval of Regulation 7 is based upon the State meeting the following schedule:

January 10, 1980—Notice of public hearing and draft regulations submitted to EPA
March 13, 1980—Public Hearing
April 10, 1980—Adopt new regulation and submit to EPA

(3) Regulation 3 is revised by March 1, 1980, so that it is consistent with Section 173 of the Act.

(4) Section 172(b)(11)(A) programs adopted by March 1, 1980.

(5) The Denver transportation control measures schedules include by January 1, 1980, the following:

(i) Milestones for obtaining funds, possible funding sources, and target amounts associated with each measure.

(ii) Additional description of the HOV lane study, the parking management plan, and the vanpool demonstration program to demonstrate that such activities reflect progress over that already achieved.

2. Section 52.328 is revised as follows:

§ 52.328 Control strategy: Carbon Monoxide.

(a) *Part D Conditional Approval*—The Denver, Colorado Springs and Larimer-Weld plans are approved provided that the following conditions are satisfied:

(1) The plan includes an adequate vehicle emissions control inspection/maintenance program. The conditional approval is based on the State meeting the following schedule:

January 1, 1980—Senate Bill 1 study completed, submitted to legislature
January 12, 1980—I/M included on list of Governor's Call items for the 1980 legislative session
February 1, 1980—Study results in the form of a draft final report reported to legislature
February 1, 1980—Bill introduced in legislature—copy submitted to EPA
March 1, 1980—Submission to EPA of legislation signed into law by the Governor, as well as schedules (milestones, dates, responsible agency) to implement the I/M program and corrections to other noted deficiencies

(2) Section 172(b)(11)(A) programs adopted by March 1, 1980.

(3) The Denver transportation control measures include by January 1, 1980, the following:

(i) Milestones for obtaining funds, possible funding sources, and target amounts associated with each measure.

(ii) Additional description of the HOV lane study, the parking management plan, and the vanpool demonstration program to demonstrate that such activities reflect progress over that already achieved.

(4) The Larimer-Weld transportation control measure schedules are revised by January 1, 1980, to include detailed schedules for implementation and study of measures identified in Section 108(f) of the Clean Air Act.

3. Section 52.329 is revised as follows:

§ 52.329 Rules and Regulations.

(a) *Part D—Conditional Approval*—Regulation 3 is approved as satisfying Part D requirements provided that the following conditions are satisfied by March 1, 1980:

(1) The exemption for sources increasing emissions by less than 10% will be deleted.

(2) The exemption for sources with actual emissions less than the applicable cutoffs will be changed to allowable emissions.

(3) The State offset requirements are modified as follows:

(i) As required by Section 173(1)(A), offsets, in addition to being greater than one-for-one, must represent reasonable further progress, when considered with the revised plan.

(ii) The definition of "source" and "facility" are the same as defined by EPA's Emission Offset Interpretative Ruling (FR Vol. 44, January 16, 1979).

(iii) "Significant" as defined in Section (D)(3)(d) is the same as defined by EPA's Emission Offset Interpretative Ruling, Section (II)(D).

4. Section 52.330 is revised as follows:

§ 52.330 Control strategy: Total suspended particulates.

(a) *Part D—Conditional Approval*—The Pueblo plan is approved conditioned upon the State demonstrating, by February 1, 1980, attainment of the 24-hour standards, by air quality modeling, while considering emissions from major air pollution sources.

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BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1405-6]

Approval and Promulgation of State Implementation Plans; Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The purpose of this notice is to approve conditionally revisions to the New York State Implementation Plan (SIP) for four upstate areas generally identified as the Capital District and Town of Catskill, Rochester, Syracuse, and Southern Tier. These plan revisions were prepared by the State to meet the requirements of Part D (Plan Requirements for Nonattainment Areas) of the Clean Air Act, as amended in 1977.

On July 30, 1979, the Environmental Protection Agency (EPA) published in the Federal Register a notice of proposed rulemaking which described the nature of the SIP revisions, discussed certain of their provisions which in EPA's judgment did not comply with the requirements of the Clean Air Act, and requested public comment. Comments were received from the Natural Resources Defense Council, Inc. and the New York State Department of Environmental Conservation.

This notice provides the final determination arrived at by EPA based on its review of all information submitted and defines further actions required of the State to obtain full unconditional approval of its SIP.

EFFECTIVE DATE: This action is effective February 5, 1980.

ADDRESSES: Copies of the SIP revision submitted by New York State, supplementary information, and public comments are available for inspection at the following addresses:

Environmental Protection Agency, Region II, 26 Federal Plaza, Room 906, New York, New York 10007.
Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007, (212) 264-2517.

SUPPLEMENTAL INFORMATION:

A. Background

Pursuant to the requirements of Section 107(d) of the Clean Air Act, on January 25, 1979 the Environmental Protection Agency (EPA) published in the Federal Register at 44 FR 5119 a designation of the attainment status with respect to each national ambient air quality standard for every area within New York State. These designations represented revisions, corrections and elaborations to designations originally published in the March 3, 1978 issue of the Federal Register at 43 FR 8962. On December 7, 1979, EPA published in the Federal Register at 44 FR 70466 a further revision to the ozone attainment status designations for portions of the State of New York. This action revised the designation of certain areas from "nonattainment" to "attainment/unclassifiable," thus eliminating the need for a plan submission addressing attainment of the ozone standard. The reader is referred to the January 25, 1979 and December 7, 1979 notices for a detailed description of the geographic areas covered by this final rulemaking action. A general description is contained in the revisions to § 52.1682 promulgated at the end of this notice.

Part D of the Clean Air Act requires that for each area designated as not meeting a national ambient air quality standard, a State Implementation Plan (SIP) revision must be developed by the state and submitted to EPA by January 1, 1979. The SIP revision must provide for attainment of the contravened standard by December 31, 1982 or, for certain pollutants, no later than December 31, 1987. The required contents of such SIP revisions are described in Part D and, more generally, in Section 110(a) of the Clean Air Act. These requirements are further discussed and elaborated upon in Federal Register notices published on April 4 (44 FR 20372), July 2 (44 FR 38583), August 28 (44 FR 50371), September 17 (44 FR 53761) and November 23 (44 FR 67182), 1979.

On March 26, 1979 the Governor of the State of New York formally adopted SIP revisions intended to meet these Clean Air Act requirements. The title of the SIP revision documents covered by this action, the dates on which these documents were submitted to EPA and the areas, pollutants and, where applicable, standards which each document covers are:

New York State Air Quality Implementation Plan—Syracuse Area—submitted March 19, 1979—covering total suspended particulates (primary and secondary standard nonattainment), carbon monoxide and ozone.

New York State Air Quality Implementation Plan—Southern Tier (Binghamton, Elmira-Corning, Jamestown)—submitted April 5, 1979—covering total suspended particulates (secondary standard nonattainment) and ozone.

New York State Air Quality Implementation Plan—Rochester Area—submitted April 5, 1979—covering carbon monoxide and ozone.

New York State Air Quality Implementation Plan—Capital District and Town of Catskill-submitted March 19, 1979—covering total suspended particulates (secondary standard nonattainment), carbon monoxide and ozone.

New York State Air Quality Implementation Plan—Utica-Rome Area—submitted March 19, 1979—covering ozone.

In addition, on May 23, 1979, May 31, 1979, June 12, 1979, June 18, 1979, September 26, 1979, August 10, 1979, October 1, 1979 and November 14, 1979, the State submitted to EPA additional information for inclusion in these SIP revision documents.

It should be noted that because of the attainment status redesignations promulgated in December 7, 1979 Federal Register notice at 44 FR 70466, the need for plan revisions addressing attainment of the ozone standard in the Southern Tier East and Southern Tier West Air Quality Control Regions (addressed by the Southern Tier plan revision), Herkimer and Oneida Counties (addressed by the Utica-Rome plan revision), Schoharie, Montgomery and Fulton Counties and approximately the northern two-thirds of Saratoga County (addressed by the Capital District and Town of Catskill plan revision) has been eliminated. On this basis, EPA is not taking any rulemaking action on this aspect of these plans. However, to the extent that regulatory revisions have been submitted with broad geographical applicability (generally, Statewide), such regulations are being approved or conditionally approved as submitted except as they apply to the nonattainment areas in the

Niagara Frontier (Erie and Niagara Counties) and the New York City metropolitan area (Bronx, Kings, Queens, New York, Richmond, Nassau, Suffolk, Rockland and Westchester Counties), where rulemaking action is still pending. Therefore, although today's notice addresses only five areas specifically, the regulations will be enforceable, as part of the SIP, in all areas of New York State identified by the regulations, except for the Niagara Frontier and New York City metropolitan areas.

B. General Discussion

On July 30, 1979, EPA proposed action on the subject SIP revisions requested comment on its determinations with regard to the State's fulfillment of the requirements for approval. This notice, published at 44 FR 44556, raised several issues (identified as "unfulfilled requirements") which, based on EPA's review, required additional action by the State. These issues, the corrective actions necessary and their time frame, as well as the general contents of the submissions and determinations arrived at by EPA, were identified in this **Federal Register** notice and public comment was requested. In response, comments were received from the New York State Department of Environmental Conservation (letter dated September 26, 1979) and the Natural Resources Defense Council, Inc. (letter dated September 28, 1979). In addition, general comments, addressed at national EPA policy, were submitted by Covington & Burling, on behalf of the Manfacturing Chemists Association (letter dated July 5, 1979), and the Natural Resources Defense Council, Inc. (letter dated August 6, 1979).

The reader is referred to the July 30, 1979 **Federal Register** notice for a detailed discussion of EPA's proposed conditions on approval. The following discussion describes EPA's final determination based on its review of the supplemental information and comments received. EPA finds that good cause exists for making this action immediately effective for the following reasons:

(1) Implementation plan revisions are already in effect under state law and EPA approval imposes no additional regulatory burden;

(2) EPA has a responsibility under the Act to take final action on the portion of the SIP which addresses Part D requirements by July 1, 1979, or as soon thereafter as possible.

C. Disposition of Proposed Conditions for Approval

(1) *The State must, on an annual basis beginning January 1, 1980, submit regulations requiring reasonably available volatile organic compound control technology on air pollution sources in categories addressed by the Control Technology Guideline documents published by January of the proceeding year. If, for a given source category, there are no such sources in the State, the State may instead certify this fact to EPA.*

Comment: The State indicated in its September 26, 1979 comments that EPA policy on the date that the second group of reasonably available control technology (RACT) regulations were due was changed and the categories included had changed. It also questioned the conditional approval of the SIP on the basis of a future requirement. The State also indicated that these future regulations may not be needed for attainment of the ozone standard in the areas addressed by this notice.

Response: As noted in the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas (44 FR 20376, April 4, 1979), the minimum acceptable level of stationary source control for ozone SIPs such as New York's is RACT—requirements for VOC sources covered by CTGs the EPA issued by January 1978 and schedules to adopt and submit by each future January additional requirements for sources covered by CTGs issued by the previous January. The submittal date for the first set of additional RACT regulations was revised from January 1, 1980 to July 1, 1980 by **Federal Register** notice of August 28, 1979 (44 FR 50371). This was done in recognition of the fact that state regulatory adoption procedures are more lengthy than was first anticipated. Today's approval of the ozone portion of the New York plan is contingent on the submittal of the additional RACT regulations which are due July 1, 1980 (for CTGs published between January 1978 and January 1979). In addition, by each subsequent January beginning January 1, 1981, RACT requirements for CTGs published by the preceding January must be adopted and submitted to EPA. The above requirements are set forth in the "Approval status" section of the final rule. If the RACT requirements are not adopted and submitted to EPA according to the time frame set forth in the rule, EPA will promptly take appropriate remedial action. While EPA proposed to conditionally approve the ozone portion of the SIP based on the above requirements, today's action in adding the requirements to the "Approval Status" section of the rule provides similar assurance that the regulations will be submitted in the specified time frame.

EPA inadvertently included the "vegetable oil processing" category in the list of CTG categories to be addressed by July 1, 1980. In a June 22, 1979 memorandum (W. Barber, OAQPS to Directors, Air & Hazardous Materials Division), the requirement for development of regulations addressing this source category was postponed pending additional field tests and study.

Finally, it should be noted that the proposed condition addressed CTG documents published between February 1979 and January 1980; this was, in fact, another inadvertent error. The requirement is for submission of applicable regulations addressing those CTGs published before January of the preceding year—in this case January 1, 1979 through December 31, 1979. In view of the final EPA action on this issue, this information is offered as clarification as to future requirements.

(2) *The State must submit to EPA, by September 1, 1979, an enforceable procedure for minimizing the solvent content in all emulsified asphalt usage.*

Comment: The State, in its September 26, 1979 submission, indicated general agreement with the substance of this condition, but not the time frame for completing the corrective action. The state indicated that, in order to develop specific limitations for different emulsified asphalt categories, a data collection program would be necessary. This process, as well as the regulatory revision process, would require approximately 18 months, resulting in adoption of any necessary regulatory revisions by April 1981.

Response: EPA believes that the plan of action proposed by the State is consistent with current EPA policy with regard to the correction of general solvent content exemptions. A detailed discussion of this policy is contained in an October 4, 1979 memo (R. Rhoads, OAQPS to Directors, Air & Hazardous Materials Division). Elsewhere in today's **Federal Register**, EPA is proposing to approve the State's schedule for taking action on this deficiency. While the State's schedule involves an 18 month delay the State has demonstrated that it will require this amount of time to gather the necessary data and revise the regulation. On this basis, EPA is promulgating this condition as applicable to the ozone plans for Rochester, Syracuse, and the Capital District and Town of Catskill:

The State shall submit to EPA either acceptable justification for retaining the provisions of 6 NYCRR Part 211, "General Prohibitions," which exempt from control cutback asphalt used in the manufacture of asphalt emulsions with low volatile organic compound content or an adopted revised regulation which corrects this apparent deficiency.

No comments, other than the State's, were received.

This condition is listed in § 52.1674, "Part D—Conditions on Approval."

(3) *The State must, by January 1, 1980, either hold public hearings to revise 6 NYCRR Part 229, "Gasoline Storage and Transfer," to regulate all petroleum liquid storage in fixed roof tanks or must provide EPA with an acceptable justification for not regulating petroleum liquids other than gasoline. If the State elects to revise Part 229, the revised regulation must be adopted and submitted to EPA by April 1, 1980.*

Comment: In its September 26, 1979 submission, the State requested that the condition be made more flexible in regard to allowing revision to regulations other than Part 229 to address this requirement. The State, on November 14, 1979, also requested additional time in carrying out the necessary action based on the fact that a longer period than anticipated by EPA would be necessary to complete the administrative process. The State requested that January 1, 1980 be changed to February 1, 1980 and April 1, 1980 be changed to August 1, 1980.

Response: EPA finds the State's requests acceptable and is promulgating a revised condition, as applicable to the ozone plans for Syracuse, Rochester, and the Capital District and Town of Catskill:

On or before February 1, 1980 the State must either hold public hearings to revise its regulations to regulate the storage of all petroleum liquids in fixed roof tanks or must provide EPA with an acceptable justification for not regulating the storage of petroleum liquids other than gasoline. If the State elects to revise its regulations such revisions must be adopted and submitted to EPA on or before August 1, 1980.

EPA finds that for good cause additional notice and comment on this action are unnecessary (see 5 U.S.C. Section 553(b)(B)—the Administrative Procedure Act). The State is the party responsible for meeting the deadlines and the State has agreed to undertaking the corrective action necessary. In addition, the public has had an opportunity to comment generally on the concept of conditional approval, on the substance of this specific condition, and on the deadlines applicable to this condition; no comments, other than the State's, were received.

This condition is listed in § 52.1674.

(4) *Criteria and procedures for making consistency and conformity assessments between the output of the transportation planning process and the applicable SIP must be developed and submitted by the State to EPA by July 1, 1980.*

Comment: No comment was received.

Response: EPA is promulgating this condition in Section 52.1674. This condition is applicable to the ozone and carbon monoxide plans for Syracuse, Rochester, and the Capital District and Town of Catskill.

(5) *The State must submit to EPA, by July 1, 1981, additional emissions inventory data for the baseline year and projected attainment year in a format equivalent to that presented in the EPA document, "Workshop on Requirements for Nonattainment Area Plans," April 1978.*

Comment: No comment was received.

Response: EPA is promulgating this condition in Section 52.1674. This condition is applicable to all plans for Syracuse, Rochester, the Capital District and Town of Catskill, and Southern Tier.

(6) *With regard to requiring lowest achievable emission rate control technology on sources locating in areas where standards are violated, the State must issue policy guidance by August 1, 1979, hold public hearings on a clarifying revision to 6 NYCRR Part 231 by January 1, 1980, and adopt this revision by April 1, 1980.*

Comment: In its October 1, 1979 submittal, the State has provided a "policy memorandum" which serves to clarify that the requirement for lowest achievable emission rate (LAER) control technology is applicable to major sources and modifications to be located in areas where standards are violated. The State, on November 14, 1979, also requested additional time to carry out the required revision based on the fact that the period its administrative adoption of revised regulations is longer than anticipated. The State requested that the condition require submission of the adopted revised regulation by August 1, 1980.

In its comments on the July 30, 1979 notice, the National Resources Defense Council, Inc. was in general agreement with the substance of this condition, but raised a number of other issues (see the "Other Specific Comments/Issues" section of this notice, comments and responses (2) through (8)) regarding the State's new source review program. These other issues are addressed elsewhere in this notice.

Response: EPA finds the State's submittal adequately meets the first part of the condition, requiring the issuance by August 1, 1979 of policy guidance with regard to the LAER requirement. Therefore, EPA is not promulgating this provision as a condition on its approval. EPA also finds acceptable the State's request to delay the milestone requiring adoption of regulatory changes. Finally, since the date for holding public hearings is only an interim requirement not fully relevant to correcting the deficiency, EPA is not promulgating this requirement.

On this basis, EPA is promulgating a revised condition, as applicable to all plans for Syracuse, Rochester, and the Capital District and Town of Catskill:

On or before August 1, 1980, the State must adopt and submit to EPA revisions to § 231.3(b) of 6 NYCRR indicating that, regardless of whether or not a source will have a "significant" impact on the area's air quality, LAER control technology is required on new major sources or existing sources undergoing major modification if such sources are located in an area where standards are actually violated.

EPA finds that for good cause additional notice and comment on this action are unnecessary (see 5 U.S.C. Section 553(b)(B)—the Administrative Procedure Act). The State is the party responsible for meeting the deadlines and the State has agreed to undertaking the corrective action necessary. In addition, the public has had an opportunity to comment generally on the concept of conditional approval, on the substance of this specific condition, and on the deadlines applicable to this condition.

This condition is listed in § 52.1674.

(7) *The State must establish procedures, by August 1, 1979, to initiate and document actual public involvement and feedback to the interested publics during its ongoing public participation program.*

Comment: In its September 26, 1979 supplementary submittal, the State has provided documentation of its procedures. No other comment was received.

Response: EPA finds that the State's submittal adequately meets the requirement set forth as the proposed condition. The documentation submitted by the State adequately identifies procedures to initiate a public participation program. These include:

- Procedures for identifying pertinent issues,
- Procedures for identifying and involving potential interest groups, and
- Procedures for documenting contact with the public and its feedback.

On this basis, EPA is not promulgating this requirement as a condition for approval of the subject SIP revisions. EPA further finds that, for good cause, notice and comment on this action is unnecessary (see 5 U.S.C. Section 553(b)(B)—the Administrative Procedure Act) insofar as the corrective action was clearly identified in the proposal and the State's submission fully meets the proposed requirement. No other comment was received in response to the proposal.

(8) *The State must provide documentation of the consultation process with local government in Jamestown by August 1, 1979.*

Comment: In its September 26, 1979 supplementary submittal, the State has provided documentation of the intergovernmental consultation process in Jamestown. No other comment was received.

Response: EPA finds that the State's submittal adequately meets the requirement set forth as the proposed condition. The submission documents involvement by local elected officials of Jamestown, New York. This consists of correspondence between the New York State Department of Environmental Conservation and locally elected officials. On this basis, EPA is not promulgating this requirement as a condition for approval of the subject SIP revisions. EPA further finds that, for good cause, notice and comment on this action is unnecessary (see 5 U.S.C. Section 553(b)(B)—the Administrative Procedure Act) insofar as the corrective action was clearly identified in the proposal and the State's submission fully meets the proposed requirement. No other comment was received in response to the proposal.

(9) *The State must certify, by September 1, 1979, that the following parts of 6 NYCRR have been adopted as originally submitted and are legally enforceable: Parts 200, 211, 212, 223, 226, 228, 229 and 231.*

Comment: In its August 10, 1979 submittal, the State provided a comprehensive package of its regulatory revisions, as adopted. No other comment was received.

Response: Based on its review of this submittal, EPA finds that the proposed condition has been met with two exceptions. The package submitted by the State contains revised Parts 200, 211, 223, 226, 228, and 229 as adopted in substantively unrevised form; the State has not adopted its proposed revisions to Part 212, and prior to adoption has included a substantive revision to the provisions of proposed Part 231.

With regard to Parts 200, 211, 223, 226, 228, and 229, EPA is not promulgating the proposed condition on approval. EPA finds that further notice and comment on this issue is unnecessary (see 5 U.S.C. Section 553(b)(B)—the Administrative Procedure Act).

With regard to Part 212, based on the fact that the unadopted revisions to this regulation do not affect the approvability of the SIP under Part D of the Clean Air Act (i.e., they deal with exemptions for source categories specifically regulated under other Parts of the State's air code), EPA is not promulgating the proposed condition on approval.

However, in its review of the State's submittal, EPA noted that Part 212 had been revised to a greater extent than originally indicated by the State. This apparent discrepancy results from the fact that Part 212 had been previously revised by the State without incorporation of these revisions into the SIP. Therefore, EPA and the State currently are enforcing different versions of Part 212. While, in order to correct this situation, the State has submitted its entire regulation as a non-Part D SIP revision, only those revisions to Part 212 submitted as a Part D revision (which exempt those processes covered by revised or new Part D regulations) are being addressed by EPA in this notice. EPA action on the remaining earlier revisions to Part 212 will be taken at a future date.

With regard to Part 231, EPA is requiring additional conditions. Part 231 requires new major sources and major modifications locating in a nonattainment area to offset new emissions by providing reductions at existing sources beyond those required by control strategies in the SIP. The regulation also apparently was intended to apply to new major sources and major modifications locating outside nonattainment areas, but significantly impacting air quality in nonattainment areas. However, § 231.9(d) could be read as exempting such sources from the provisions of Part 231 until EPA delegates to the State responsibility for new source review related to the Prevention of Significant Deterioration provisions of the Clean Air Act. Therefore, EPA requested an interpretation from the State of § 231.9(d) and also of § 231.6(a) which could be subject to a similar misinterpretation. In response the State has submitted to EPA a Declaratory Ruling issued pursuant to Section 204 of the New York State Administrative Procedures Act and 6 NYCRR 619 indicating that the provisions of Part 231 do, in fact, apply to new major sources and major modifications locating in attainment areas, but significantly impacting nonattainment areas. In addition, in order to further clarify these two sections, the State had indicated that it will formally revise the wording of these sections by April 1, 1980. EPA conditionally approves the proposed SIP revisions on the condition that §§ 231.6(a) and 231.9(d) are revised to reflect the Declaratory Ruling. Elsewhere in today's Federal Register, EPA is proposing to require that the State adopt this revision by April 1, 1980.

Also, in accordance with the requirements of Section 173(3) of the Clean Air Act, the regulation must require that any other major sources owned or operated by the same person and located in the State be in compliance or meeting the requirements of an approved compliance schedule. However, although Part 231 requires a permit applicant to demonstrate that all of its major sources in the State are in compliance or are meeting a schedule for compliance with applicable emission standards, the regulation does not require the same showing of sources owned or operated by any entity controlling, controlled by, or under common control with the applicant. EPA, in agreement with comment from NRDC, has determined that the State's definition of "owner" appearing in Section 200.1(pp) of 6 NYCRR Part 200, "General Provisions," is not equivalent to the definition in Section 173(3) of the Clean Air Act. Therefore, EPA conditionally approves the proposed SIP revisions on the condition that the State change the definition of "owner" in Part 200 to conform to the definition in the Clean Air Act. Elsewhere in today's Federal Register, EPA is proposing to require that the State adopt this revision by August 1, 1980.

The following SIP improvement actions have therefore been found to be necessary and are being promulgated by EPA:

The State must adopt and submit to EPA revisions to §§ 231.6(a) and 231.9(d) of 6 NYCRR Part 231, "Major Facilities," to reflect its interpretation that the provisions of Part 231 apply to new major sources and major modifications locating outside nonattainment areas, but significantly impacting the air quality of nonattainment areas.

The State must adopt and submit to EPA a revision to § 200.1(pp) of Part 200, "General Provisions," which defines "owner" in a manner consistent with Section 173 of the Clean Air Act.

EPA finds that for good cause notice and comment on these additional conditions is unnecessary (See 5 U.S.C. Section 553(b)(B)—the Administrative Procedure Act). The deficiencies

involved are relatively minor; and, with regard to the requirement that "owner" be properly defined, the change was made in response to a comment. In addition, the public has had a chance to comment generally on Part 231.

D. Extensions

EPA proposed to extend for 18 months the deadline for submitting plan revisions implementing attainment of the particulate matter secondary national ambient air quality standard in the Syracuse central business district and the Village of Solvey. Since no comment was received on this issue, EPA is promulgating this extension in § 52.1672, "Extensions"; this is further reflected in § 52.1682, "Attainment dates for national standards."

E. Other Specific Comments/Issues

The following comments submitted by the Natural Resources Defense Council, Inc. (NRDC) deal specifically with the July 30, 1979 notice of proposed rulemaking.

Comment No. 1: NRDC indicates that the State has proposed a 1995 deadline for attainment of the secondary ambient air quality standard for particulate matter in the Syracuse Area. It is indicated that this time frame is in violation of Sections 110(a)(2)A and 172(a)(1) of the Clean Air Act which require attainment of a secondary standard "as expeditiously as practicable."

Response No. 1: EPA agrees with the position stated. However, it finds no substantive discrepancy between this position and the discussion provided in the July 30, 1979 notice of proposed rulemaking or the information contained in the State's plan revision. The State, in fact, identifies 1995 as the latest time for which attainment is projected, absent any additional control beyond that identified in its present revision. The modeling demonstration, which is acceptable to EPA, indicates that attainment of the secondary standard for particulate matter is projected by 1980 for the majority of the areas addressed by the Syracuse plan.

Therefore, the attainment date for particulate matter secondary standards within the Syracuse area, with the exception of the areas identified as "the Syracuse Central Business District" and "the Village of Solvay" by EPA and identified as areas "A", "B", and "C", by the State in its plan revision document, is December 31, 1982; this is reflected in § 52.1682, Attainment dates for national standards. As noted above with regard to the remaining areas, the Syracuse Central Business District and the Village of Solvay, EPA is granting the State an 18-month extension to the deadline for submission of a SIP revision demonstrating attainment of the secondary standard for particulate matter. For these areas, as reflected in § 52.1682, the attainment date will be defined by the July 1, 1980 plan revision submission.

Comment No. 2: NRDC indicates that enforceable measures are not available to insure that sources will not commence construction before final adoption of acceptable regulations.

Response No. 2: As indicated in Section C, "Disposition of Proposed Conditions for Approval," condition (6), the State has adopted Part 231 to address the requirements of Section 173 of the Clean Air Act. As discussed in this notice, Part 231 contains some minor inadequacies which have been corrected on an interim basis by State policy directives and a Declaratory Ruling. Fulfillment of the requirements of conditional approval will lead to ultimate correction by regulatory revision. Therefore, the State is and will be implementing a new source review program fully consistent with the requirements of Section 173 of the Clean Air Act.

Furthermore, EPA has promulgated a regulation (40 CFR 52.24) prohibiting the constuction or modification of any major source which would impact the air quality of any nonattainment area for which an approved Part D plan revision does not exist (See 44 FR 38473, July 2, 1979). For the geographic areas covered by today's action this limitation became applicable on July 1, 1979 and has remained in effect until today. Today's notice, in promulgating conditional approval of the New York State "upstate" plan revisions, revokes this sanction. In this regard, should the State fail to meet any of the conditions on approval promulgated today in Section 52.1674, conditional approval will be withdrawn, the plan will be disapproved, and the major source construction restriction will be reimposed.

Comment No. 3: NRDC indicates that New York State's proposed regulations do not meet all of the requirements for a new source permit program outlined in Section 173 of the Clean Air Act in that major stationary sources would be exempt if certain ambient air quality impacts could not be predicted. NRDC agrees with EPA's finding that these exemptions do not meet the requirements of the Act and should be removed from the final regulations.

Response No. 3: This issue is addressed under "Disposition of Proposed Conditions for Approval" in this notice under condition (6).

Comment No. 4: NRDC states that the State's proposed regulations fail to insure that construction of new facilities will not impair the State's ability to meet the attainment deadlines set forth in the Clean Air Act because:

- They do not require emission reductions sufficient to insure reasonable further progress towards attainment, and
- They do not require growth of minor sources to be taken into account in calculating the necessary emission reductions.

Response No. 4: As discussed in the July 30, 1979 Federal Register proposal, in order to assure that emission increases from new stationary sources or modificatons of existing stationary sources will not exceed the projected "growth allowance" incorporated in the reasonable further progress demonstration, the State, on June 18, 1979, submitted procedures providing for "offsetting" of emissions from major sources or modifications and for tracking of all minor and area source emission changes. If minor and area source growth exceeds these annual emission allowances, the State is committed to requiring new major sources and major modifications to obtain emission reductions not already relied upon in the plan so as to provide for reasonable further progress toward attainment of standards. The emission "offsets" are required in accordance with the State regulation, 6 NYCRR Part 231, "Major Facilities." EPA finds that these procedures, based on tracking minor as well as major source growth, meet the requirement for assuring "reasonable further progress." Since the basis for the program is regulatory in nature, EPA does not find the fact that these procedures to administer the program are not in regulatory form to be a deficiency.

Comment No. 5: NRDC states that the requirements of the new source review program could easily be circumvented in that "offsets" are not required to be "legally binding" prior to operation of the new source.

Response No. 5: As discussed in a May 25, 1979 memo (R. Rhoads, OAQPS and E. Reich, DSSE to Directors, Air and Hazardous Materials Division), State permits which have been either issued in accordance with SIP procedures approved by EPA or incorporated into the SIP as revisions are enforceable under the plan's provisions. EPA has reviewed the State's provisions relating to its new source review program and finds that "offsets" are, in fact, "legally binding." This finding is based on the provisions of the State plan dealing with permit issuance, 6 NYCRR Part 201,

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"Permits and Certificates." In its May 23, 1979 submission, the State has defined its procedures as follows:

• Any emission offset would be reflected in an amendment to the permit to operate for the source providing the offset,

• If the emission offset is provided by shuting down an existing source, this source's permit to operate would be withdrawn, and

• An emission offset would be required prior to issuance of a permit to construct to the new source or the source to undergo modification.

• Issuance of a permit for a source subject to provisions of Part 231 would be handled as a SIP revision.

Comment No. 6: NRDC indicates that the proposed regulations exempt temporary sources and fugitive dust emissions from the "offset" program and that the Clean Air Act does not authorize such an exemption. NDRC believes that the inclusion of these exemptions would contavene the intent of the permit program.

Response No. 6: EPA has reviewed § 231.5 of 6 NYCRR Part 231 and has determined that emissions from temporary sources and fugitive dust emissions are only exempted insofar as they do not have to be used in calculating cumulative emissions to determine the need for an air quality impact evaluation. This exemption is consistent with EPA's interpretation of new source review requirements, presented in a January 16, 1979 **Federal Register** notice (44 FR 3274), "Emission Offset Interpretative Ruling."

Comment No. 7: NRDC states that the State's proposed regulations would not define "lowest achievable emission rate" in a manner consistent with Section 173(3) of the Clean Air Act, because the permit applicant does not bear the burden of demonstrating the inapplicability of the most stringent limitation.

Response No. 7: EPA has reviewed the State's definition of LAER as defined in 6 NYCRR Part 200, "General Provisions," and finds the definition is consistent with the definition in Section 173(3) of Clean Air Act. Further, § 231.3(d) requires the permit applicant to make a demonstration that "lowest achievable emission rate . . . will be applied," which implies that if the applicant's definition of LAER differs from the State's, the applicant must justify its definition.

Comment No. 8: NRDC states that the State's proposed regulations would not require a permit applicant to demonstrate that all of its major sources in the State are in compliance or on a schedule for compliance with applicable emission standards with regard "to sources owned or operated by any entity controlling, controlled by, or under common control with the applicant." This provision is included in Section 173(3) of the Clean Air Act.

Response No. 8: EPA agrees with this comment and is addressing this issue by adding a condition requiring the appropriate changes in the State's regulation. This is addressed under "Disposition of Proposed Conditions for Approval" in this notice under condition (9).

Comment No. 9: NRDC states that the requirements for an adequate permit fee system (Section 110(a)(2)(K) of the Clean Air Act) and proper composition of state boards (Sections 110(a)(2)(F)(vi) and 128 of the Clean Air Act) must be satisfied to assure that permit programs for nonattainment areas are implemented successfully. Therefore, while expressing support for the concept of conditional approval, it is argued that EPA must secure a state commitment to satisfy the permit fee and state board requirements before conditionally approving a plan under Part D. In those states that fail to correct the omission within the required time, the commentators urged that restrictions on contruction under Section 110(a)(2)(I) of the Clean Air Act must apply.

Response No. 9: To be fully approved under Section 110(a)(2) of the Act, a state plan must satisfy the requirements for state boards and permit fees for all areas, including nonattainment areas. Several states have adopted provisions satisfying these requirements, and EPA is working with other states to assist them in developing the required programs. However, EPA does not believe these programs are needed to satisfy the requirements of Part D of the Clean Air Act. Congress placed neither the permit fee nor the state board provision in Part D. While legislative history of the Act states that these provisions should apply in nonattainment areas, there is no legislative history indicating that they should be treated as Part D requirements. Therefore, EPA does not believe that failure to satisfy these requirements is grounds for conditional approval under under Part D, or for application of the construction restriction under Section 110(a)(2)(I) of the Act.

Comments No. 10 and No. 11 are general comments, addressed at national EPA policy, submitted by Covington and Burling and NRDC.

Comment and Response No. 10: Covington and Burling submitted extensive comments which it requested to be made a part of the public comment record for each state plan. Each of the points raised by the commentator and EPA's response to each follow. Although some of the issues raised are not relevant to provisions in New York State's submissions, EPA is notifying the public of its reponse to these comments at this time.

1. The commentator asked that comments it has previously submitted on the Emission Offset Interpretative Ruling, as revised on January 16, 1979 (44 FR 3274), be incorporated by reference as part of its comments on each state plan. EPA will respond to" those comments in its response to comments on the Offset Ruling.

2. The commentator objected to general policy guidance issued by EPA on the grounds that EPA's guidance is more stringent than that required by the Act. Such a general comment concerning EPA's guidance is not relevant to EPA's decision to approve or disapprove a SIP revision since that decision rests on whether the revision satisfies the requirements of Section 110(a)(2) and Part D of the Clean Air Act. However, EPA has considered the comment and concluded that its guidance conforms to the statutory requirements.

3. The commentator noted that the recent court decision on EPA's regulations for the prevention of significant deterioration (PSD) of air quality affects EPA's new source review requirements for Part D plans as well. (The decision is *Alabama Power Co.* v. *Costle,* 13 ERC 1225). In the commentator's view, the court's rulings on the definition of "source," "modification," and "potential to emit" should apply to Part D as well as PSD new source review programs. In addition, the commentator believes that the court decision precludes EPA from requiring Part D review of sources located in designated clean areas.

The preamble to the Emission Offset Interpretative Ruling, as revised January 16, 1979, explains that the interpretations in the Ruling of the terms "source," "major modifications," and "potential to emit," and the areas in which new source review applies govern State plans under Part D (44 FR 3275 col. 3 through 3276 col. 1, January 16, 1979). In proposed rules published in the **Federal Register** on September 5, 1979 (44 FR 51924), EPA explained its views on how the *Alabama Power* decision affects new source review requirements for Part D state plans. The September 5, 1979 proposal addressed some of the issues raised by the commentator. To the extent necessary, EPA will respond in greater detail to the commentator's concerns in its response to comments on the September 5, 1979, proposal and its response to comments on the Offset Ruling.

As part of the September 5, 1979 proposal, EPA proposed regulations for Part D plans in 40 CFR 51.18(j), "Review of new stationary sources and modifications." EPA also proposed, for now, to approve a SIP revision if its satisfies either existing EPA requirements, or the proposed regulations. Prior to promulgation of final regulations, EPA proposed to approve state-submitted relaxations of previously submitted SIPs, so long as the revised SIP meets all proposed EPA requirements. To the extent EPA's final regulations are more stringent than the existing or proposed requirements, states will have nine months, as provided for in Section 406(d) of the Clean Air Act, to submit revisions after EPA promulgates its final regulations.

In some instances, EPA's action on a state's new source review provisions, as revised to be consistent with EPA's proposed or final regulations, may create the need for the state to revise its growth projections and provide for additional emission reductions. States will be allowed additional time for such revisions after the revised new source review provisions are approved by EPA.

4. The commentator questioned EPA's alternative emission reduction options policy (the "bubble" policy). As the commentator noted, EPA has set forth, on January 18, 1979, its proposed bubble policy in a separate **Federal Register** publication at 44 FR 3720. EPA will respond to the comments on the "bubble" approach in the final "bubble" policy statement.

5. The commentator questioned EPA's requirement for a demonstration that application of all reasonably available control measures (RACMs) would not result in attainment any faster than application of less than all RACMs. In EPA's view, the statutory deadline is that date by which attainment can be achieved as expeditiously as practicable. If application of all RACMs results in attainment more expeditiously than application of less than all RACMs, the statutory deadline is the earlier date. While there is no requirement to apply more RACMs than is necessary for attainment, there is a requirement, in Section 172 of the Clean Air Act, to apply controls which will ensure attainment as soon as possible. Consequently, the State must select the mix of control measures that will achieve the standards most expeditiously, as well as assure reasonable further progress.

The commentator also suggested that all RACMs may not be "practicable." By definition, RACMs are only those measures which are "reasonable." If a measure is impracticable, it would not constitute a reasonably available control measure.

6. The commentator found the discussion in the April 4, 1979 **Federal Register** (44 FR 20372—"General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas") of reasonably available control technology for volatile organic compound sources covered by Control Technique Guidelines to be confusing in that it appeared to equate RACT with the guidance in the CTGs. EPA did not intend to equate RACT with the CTGs. The CTGs provide recommendations to the states for determining RACT, and serve as a "presumptive norm" for RACT, but are not intended to define RACT. Although EPA believes its earlier guidance was clear on this point, the Agency has issued a supplement to the General Preamble clarifying the role of the CTGs in plan development. (See 44 FR 53761, September 17, 1979).

7. The commentator suggested that the revision of the ozone standard justified an extension of the schedule for submission of Part D plans. This issue has been addressed in the General Preamble.

8. The commentator questioned EPA's authority to require states to consider transfers of technology from one source type to another as part of LAER determinations. EPA's response to this comment will be included in its response to comments on the revised Emission Offset Interpretative Ruling.

9. The commentator suggested that if a state fails to submit a Part D plan revision, or if the submitted plan is disapproved, EPA must under Section 110(c) of the Clean Air Act promulgate a plan which may include restrictions on construction as provided in Section 110(a)(2)(I). In the commentator's view, the Section 110(a)(2)(I) restrictions cannot be imposed without such a federal promulgation. EPA has promulgated regulations (40 CFR 52.24) which prohibit major source construction or modification in any nonattainment area not having an approvable Part D plan revision. (See 44 FR 38473, July 2, 1979). Section 110(a)(2)(I) does not require a complete federally promulgated SIP before these restrictions may go into effect.

Comment No. 11: NRDC, in its August 6, 1979 letter addressing national EPA policy, stated that the requirements for an adequate permit fee system (Section 110(a)(2)(K) of the Act) and proper composition of state boards (Sections 110(a)(2)(F)(vi) and 128 of the Act) must be satisfied to assure that permit programs for nonattainment areas are implemented successfully.

Response No.11: This comment was addressed earlier in the "General Comments" section of this notice as Comment No. 9.

F. Other General Issues of Interest

(1) *Conditional Approval.* EPA is taking final action to conditionally approve certain elements of the New York State "upstate" plan revisions. A discussion of conditional approval and its practical effect appears in a supplement to the General Preamble which was published at 44 FR 38583 on July 2, 1979. The conditional approval of the SIP revisions discussed in today's notice requires the State to submit additional material by the deadlines specified or those proposed elsewhere in today's **Federal Register.** There will be no extensions to the deadlines for meeting the conditions which are being promulgated today. EPA will apply the following procedures to determine whether or not the State has satisfied a condition.

1. When the State submits required documentation showing that a condition was met on schedule, EPA will publish a notice in the **Federal Register** announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submission.

2. EPA will evaluate the State's submission to determine if the condition was fully met. After review is complete, a **Federal Register** notice will be published either proposing or taking final action to find that either the condition has been met and the plan can be approved, or to find that the condition has not been met and that conditional approval is withdrawn and the plan is disapproved. If the plan is disapproved, the Section 110(a)(2)(I) restrictions on new major source construction will be in effect.

3. If the State fails to submit the required materials needed to meet a condition in a timely fashion, EPA will publish a **Federal Register** notice shortly after the expiration of the deadline for submission. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved and that Section 110(a)(2)(I) restrictions on growth are in effect.

Elsewhere in today's **Federal Register** deadlines by which conditions must be met are being proposed. Although public comment is solicited on the deadlines, and the deadlines may be changed in light of comment, the State remains bound by its commitment to meet the proposed deadlines, unless they are

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changed. Certain deadlines for satisfying conditions have been changed and are being promulgated today without prior notice and comment. EPA finds that, for good cause, notice and comment are unnecessary (See U.S.C. Section 553(b)(B)—the Administrative Procedure Act), because the changes are consistent with State administrative procedures. The State is the party responsible for meeting the deadlines and the State has agreed to the deadlines. In addition, the public has had an opportunity to comment generally on the concept of conditional approval and on what deadlines should apply for these conditions (See 44 FR 38583, July 2, 1979 and 44 FR 44556, July 30, 1979).

(2) *Attainment Dates and Compliance Deadlines.* 40 CFR 52.1682, "Attainment dates for national standards," lists the deadlines for attaining each national ambient air quality standard in the various areas of the State of New York. The version of this list appearing in the 1978 edition of the *Code of Federal Regulations* does not reflect the new deadlines provided for by Section 172(a) of the Clean Air Act, as amended in 1977. Today's notice updates this list where later dates were provided by the State in its SIP revisions and where these later dates were approved by EPA.

However, sources subject to plan requirements and deadlines established prior to the 1977 Amendments to the Clean Air Act remain obligated to comply with those requirements as well as with the new Section 172 plan requirements. Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. These new deadlines were not intended to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

"Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear congressional intent to construe Part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D." (123 Cong. Rec. H 11958, daily ed. November 1, 1977).

To implement Congress' intention that sources remain subject to preexisting plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. EPA cannot approve such compliance date extensions even though a Section 172 plan revision with a later attainment date has been approved. Even when a new requirement is being added to a SIP, the existing requirement may not ordinarily be relaxed or revoked. The new requirement does not supersede or replace the old requirement. Instead the existing requirement must remain an enforceable provision of the SIP, and must co-exist with the new requirement in the applicable implementation plan. The present emission control requirement must be retained because the source must be prevented from operating without controls (or with less stringent controls) while it is moving toward compliance with (or challenging) the new requirement.

There are some exceptions, however. A state may submit a relaxation or revocation of an existing requirement (or, for an existing requirement promulgated by EPA, have EPA relax or revoke it) if the requirement is in one or more of the following categories:

- Any existing requirement that conflicts with a new, more stringent requirement, making it highly impractical for a source to comply with the old requirement. Any exemption granted must be drawn as narrowly as possible, on a case-by-case basis, and will be acted upon by EPA as a SIP revision.
- Any federally promulgated indirect source review program and any bridge toll requirement revocable under Section 110(c)(5)(A) of the Act.
- Any existing inspection/maintenance or transportation control measure to the extent the measure is demonstrated not to be reasonably available, if the revised SIP satisfies all Part D requirements.
- Any new requirement in a 1979 SIP submittal designed for the 0.08 ozone level as long as the control measures in the revised SIP satisfy all requirements for the 0.12 level.

A relaxation or revocation is also permissible if it will not contribute to concentrations of pollution where there is a violation of an ambient air quality standard or of a Prevention of Significant Deterioration increment. Where relaxation of a requirement is allowed, but where the deadline for compliance is not relaxed, the new requirement must call for compliance no later than the existing deadline for compliance so that there is no gap in enforceability.

Summary of EPA Action:

The following summary identifies plan improvement actions which EPA has found to be necessary for full unconditional approval of the Rochester, Syracuse, Capital District and Town of Catskill, and Southern Tier SIP revisions. As discussed, the Southern Tier plan is being addressed only with regard to its ability to control particulate matter; no action is being taken on the ozone plan for this area in view of its reclassification from "nonattainment" to "attainment/unclassifiable." Also, no action is being taken on the Utica-Rome plan, which addressed only attainment of the ozone standard, in view of the reclassification of this area from "nonattainment" to "attainment."

A. *Conditions.* (1) The State shall submit to EPA either acceptable justification for retaining the provisions of 6 NYCRR Part 211, "General Prohibitions," which exempt from control cutback asphalt used in the manufacture of asphalt emulsions with low volatile organic compound content or an adopted revised regulation which corrects this apparent deficiency.

(2) On or before February 1, 1980, the State must either hold public hearings to revise its regulations to regulate the storage of all petroleum liquids in fixed roof tanks or must provide EPA with an acceptable justification for not regulating the storage of petroleum liquids other than gasoline. If the State elects to revise its regulations, such revisions must be adopted and submitted to EPA on or before August 1, 1980.

(3) On or before July 1, 1980, the State must submit to EPA criteria and procedures for making assessments of the consistency and conformity of the outputs of the transportation planning process with the SIP.

(4) On or before July 1, 1981, the State must submit to SIP additional emissions inventory data for the baseline year and projected attainment year indicated in each SIP revision document. Such data shall be in a format equivalent to that presented in the EPA document, *Workshop on Requirements for Nonattainment Area Plans,* April 1978 and shall be generated, in part, as a result of the emissions inventory improvement programs identified in the plans.

(5) On or before August 1, 1980, the State must adopt and submit to EPA revisions to § 231.3(b) of 6 NYCRR

indicating that, regardless of whether or not a source will have a "significant" impact on the area's air quality, "lowest achievable emission rate" control technology is required on new major sources or existing sources undergoing major modification if such sources are located in an area where standards are actually violated.

(8) The State must adopt and submit to EPA revisions to §§ 231.6(a) and 231.9(d) of 6 NYCRR Part 231, "Major Facilities," to reflect its interpretation that the provisions of Part 231 apply to new major sources and major modifications locating outside nonattainment areas, but significantly impacting the air quality of nonattainment areas.

(7) The State must adopt and submit to EPA a revision to § 200.1(pp) of Part 200, "General Provisions," which defines "owner" in a manner consistent with Section 173 of the Clean Air Act.

B. *Applicability of Conditions.* The conditions discussed in the previous section are applicable to EPA's approval of the subject SIP revisions with respect to the following areas and pollutants:

Condition Number Applicable to Each Area and Pollutant

Area	Pollutant addressed by the plan revision		
	Particulate matter	Ozone	Carbon monoxide
Syracuse	4,5,6,7	1,2,3,4,5,6,7	3,5,6,7
Capital District & Town of Catskill	4,5,6,7	1,2,3,4,5,6,7	3,5,6,7
Rochester	NA	1,2,3,4,5,6,7	3,5,6,7
Southern Tier	4,5,6,7	NA	NA
Utica-Rome	NA	NA	NA

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 172, 301, Clean Air Act, as amended (42 U.S.C. 7410, 7502 and 7601))

Dated: January 29, 1980.

Douglas M. Costle,

Administrator, Environmental Protection Agency.

Title 40, Chapter I, Subchapter C, Code of Federal Regulations is amended as follows:

Subpart HH—New York

1. Section 52.1670 paragraph (c) is amended by adding new paragraphs (c)(40 through 44) as follows:

§ 52.1670 Identification of plans.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(40) A document entitled, "New York State Air Quality Implementation Plan—Syracuse Area," submitted on March 19, 1979 by the New York State Department of Environmental Conservation.

(41) A document entitled, "New York State Air Quality Implementation Plan—Southern Tier (Binghamton, Elmira-Corning, Jamestown)," submitted on April 5, 1979 by the New York State Department of Environmental Conservation, only insofar as it deals with attainment of the national ambient air quality standards for particulate matter.

(42) A document entitled, "New York State Air Quality Implementation Plan—Rochester Area," submitted on April 5, 1979 by the New York State Department of Environmental Conservation.

(43) A document entitled, "New York State Air Quality Implementation Plan—Capital District and Town of Catskill," submitted on March 19, 1979 by the New York State Department of Environmental Conservation.

(44) Supplementary submittals of SIP revision information from the New York State Department of Environmental Conservation, insofar as they deal with all areas of the State except the New Jersey-New York-Connecticut and Niagara Frontier Air Quality Control Regions, dated:

- May 23, 1979, dealing with new source review and growth tracking provisions, adoption of proposed regulations, schedule for hydrocarbon emissions inventory improvements, identification of resources necessary to carry out the SIP, schedule for development of a public participation program, schedule for development of transportation planning process improvements, the need for an 18-month extension for the City of Syracuse and Village of Solvay, demonstration of control strategy adequacy for the area addressed by the Capital District and Town of Catskill plan revision document, compliance schedules for two facilities in the Hudson Valley Air Quality Control Region, and development of a local government consultation program in Jamestown, New York.
- May 31, 1979, dealing with adoption of proposed regulations, hydrocarbon emissions inventory improvements, schedule for development of transportation planning process improvements, and compliance schedules for two facilities in the Hudson Valley Air Quality Control Region.
- June 12, 1979, providing a final draft of the proposed regulations, information on the compliance schedule for a facility in the Hudson Valley Air Quality Control Region, and general information on development of compliance schedules. The proposed regulations to be incorporated in Title 6 of the New York Code of Rules and Regulations are as follows:
  - Part 200, General Provisions (revision);
  - Part 211, General Prohibitions (revision);
  - Part 212, Process and Exhaust and/or Ventilation Systems (revision);
  - Part 223, Petroleum Refineries (revision);
  - Part 226, Solvent Metal Cleaning Processes (new);
  - Part 228, Surface Coating Processes (new);
  - Part 229, Gasoline Storage and Transfer (new); and
  - Part 231, Major Facilities.
- June 18, 1979, dealing with new source review provisions, general information on development of compliance schedules, and adoption of proposed regulations.
- August 10, 1979, providing a comprehensive set of adopted regulations. Action is only taken on adopted regulatory revisions previously submitted on June 12, 1979—Parts 200, 211, 223, 226, 228, 229, and 231.
- September 26, 1979, providing additional information regarding the EPA notice of proposed rulemaking (44 FR 44556, July 30, 1979) which deals with the adoption of regulations for control of volatile organic compound sources for source categories addressed by Control Technology Guideline documents issued subsequent to December 1977, regulatory revisions to 6 NYCRR Parts 211 and 229, the transportation planning process, emissions inventory improvements, new source review procedures, public participation and local government consultation programs, and adoption of regulations.
- October 1, 1979, dealing with new source review procedures.
- November 14, 1979, providing supplemental documentation on the administrative process of revising regulations.

2. Section 52.1672 is amended by revoking paragraphs (a) through (e) and by adding a new paragraph (a) as follows:

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§ 52.1672 Extensions.

(a) The Administrator hereby extends for 18 months (until July 1, 1980) the statutory timetable for submission of New York's plan for attainment and maintenance of the secondary standards for particulate matter in the City of Syracuse and Village of Solvay areas of the Central New York Intrastate Air Quality Control Region.

3. Section 52.1673 is revised to read as follows:

§ 52.1673 Approval status.

With the exceptions set forth in this subpart, the Administrator approves New York's plans for the attainment and maintenance of the national standards under Section 110 of the Clean Air Act. Furthermore, the Administrator finds that the plan satisfies all requirements of Part D, Title 1, of the Clean Air Act, as amended in 1977, except as noted below in § 52.1674 and for the New Jersey-New York-Connecticut and the Niagara Frontier Air Quality Control Regions. In addition, continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on the adoption and submittal of RACT requirements by July 1, 1980 for the sources covered by CTGs issued between January 1978 and January 1979 and adoption and submittal by each subsequent January of additional RACT requirements for sources covered by CTGs issued by the previous January.

4. Section 52.1674 is added as follows:

§ 52.1674 Part D—Conditions on approval.

The following actions must be carried out by the State for the correction of unfulfilled requirements of Part D of the Clean Air Act:

(a) The following condition shall be applicable to the New York State plan with regard to its provisions for attainment of the ozone standard in those areas of the Central, Genesee Finger Lakes, and Hudson Valley Air Quality Control Regions designated as nonattainment for this pollutant in § 81.333 of this chapter, when last revised.

(1) The State shall submit to EPA either acceptable justification for retaining the provisions of 6 NYCRR Part 211, "General Prohibitions," which exempt from control cutback asphalt used in the manufacture of asphalt emulsions with low volatile organic compound content or an adopted revised regulation which corrects this apparent deficiency.

(2) On or before February 1, 1980, the State must either hold public hearings to revise its regulations to regulate the storage of all petroleum liquids in fixed roof tanks or must provide EPA with an acceptable justification for not regulating the storage of petroleum liquids other than gasoline. If the State elects to revise its regulations, such revisions must be adopted and submitted to EPA on or before August 1, 1980.

(b) The following condition shall be applicable to the New York State plan with regard to its provisions for attainment of the ozone and carbon monoxide standards in those areas of the Central, Genesee Finger Lakes, and Hudson Valley Air Quality Control Regions designated as nonattainment for each of these pollutants in § 81.333 of this chapter, when last revised.

(1) On or before July 1, 1980, the State must submit to EPA criteria and procedures for making assessments of the consistency and conformity of the outputs of the transportation planning process with the SIP.

(c) The following condition shall be applicable to the New York State plan with regard to its provisions for attainment of the ozone and particulate matter standards in those areas of the Central and Hudson Valley Air Quality Control Regions, the particulate matter standard in those areas of the Southern Tier West Air Quality Control Region, and the ozone standard in those areas of the Genesee Finger Lakes Air Quality Control Region designated as nonattainment for each of these pollutants in § 81.333 of this chapter, when last revised.

(1) On or before July 1, 1981, the State must submit to EPA additional emissions inventory data for the baseline year and projected attainment year indicated in each SIP revision document. Such data shall be in a format equivalent to that presented in the EPA document, *Workshop on Requirements for Nonattainment Area Plans,* April 1978 and shall be generated, in part, as a result of the emissions inventory improvement programs identified in the plans.

(d) The following condition shall be applicable to the New York State plan with regard to its provisions for attainment of the ozone, carbon monoxide, and particulate matter standards in those areas of the Central and Hudson Valley Air Quality Control Regions, the ozone and carbon monoxide standards in those areas of the Genesee Finger Lakes Air Quality Control Region, and the particulate matter standard in those areas of the Southern Tier West Air Quality Control Region designated as nonattainment for each of the pollutants in § 81.333 of this chapter, when last revised.

(1) On or before August 1, 1980, the State must adopt and submit to EPA revisions to § 231.3(b) of 6 NYCRR indicating that, regardless of whether or not a source will have a "significant" impact on the area's air quality, "lowest achievable emission rate" control technology is required on new major sources or existing sources undergoing major modification if such sources are located in an area where standards are actually violated.

(2) The State must adopt and submit to EPA revisions to §§ 231.6(a) and 231.9(d) of 6 NYCRR Part 231, "Major Facilities," to reflect its interpretation that the provisions of Part 231 apply to new major sources and major modifications locating outside nonattainment areas, but significantly impacting the air quality of nonattainment areas.

(3) The State must adopt and submit to EPA a revision to § 200.1(pp) of Part 200, "General Provisions," which defines "owner" in a manner consistent with Section 173 of the Clean Air Act.

5. Section 52.1682 is revised to read as follows:

§ 52.1682 Attainment dates for national standards.

The following table presents the latest dates by which the national standards are to be attained. These dates reflect the information contained in the New York State plan. Further information on the specific boundaries of the "nonattainment" "unclassifiable," and "attainment" areas is found in § 81.333 of this chapter.

Air quality control region and nonattainment area	Pollutants						
	TSP		SO_2		NO	CO	O_3
	Primary	Secondary	Primary	Secondary			
Niagara Frontier Interstate	a	a	a	a	a	a	a
New Jersey-New York-Connecticut Interstate	a	a	a	a	a	a	a
Southern Tier East Interstate	a	a	a	a	a	a	a
Champlain Valley Interstate	a	a	a	a	a	a	a
Southern Tier West Interstate:							
City of Jamestown	a	b	a	a	a	a	a
Remainder of AQCR	a	a	a	a	a	a	a
Genesee Finger Lakes Interstate:							
Monroe County (portion)	a	a	a	a	a	b	b
Remainder of AQCR	a	a	a	a	a	a	b
Central New York Interstate:							
County of Onondaga:							
City of Syracuse (portion)	b	c	a	a	a	b	b
Remainder of City of Syracuse	a	b	a	a	a	a	b
Village of Solvay	a	c	a	a	a	a	b
Village of East Syracuse	a	b	a	a	a	a	b
Remainder of County	a	a	a	a	a	a	b
County of Cayuga	a	a	a	a	a	a	b
Remainder of AQCR	a	a	a	a	a	a	a
Hudson Valley Interstate:							
County of Albany:							
City of Albany (portion)	a	b	a	a	a	b	b
City of Watervliet	a	a	a	a	a	b	b
Town of Colonie (portion)	a	a	a	a	a	b	b
Remainder of County	a	a	a	a	a	a	b
County of Columbia	a	a	a	a	a	a	b
County of Dutchess	a	a	a	a	a	a	b
County of Greene:							
Town of Catskill (portion)	a	b	a	a	a	a	b
Remainder of County	a	a	a	a	a	a	b
County of Orange	a	a	a	a	a	a	b
County of Putnam	a	a	a	a	a	a	b
County of Rensselaer:							
City of Troy	a	a	a	a	a	b	b
Remainder of County	a	a	a	a	a	a	b
County of Schenectady:							
City of Schenectady	a	a	a	a	a	b	b
Remainder of County	a	a	a	a	a	a	b
County of Ulster	a	a	a	a	a	a	b
County of Saratoga:							
Town of Waterford	a	a	a	a	a	b	b
Town of Clifton Park	a	a	a	a	a	a	b
Town of Halfmoon	a	a	a	a	a	a	b
City of Mechanicville	a	a	a	a	a	a	b
Remainder of AQCR	a	a	a	a	a	a	a
Niagara Frontier Interstate	a	a	a	a	a	a	a
New Jersey-New York-Connecticut Interstate	a	a	a	a	a	a	a
Southern Tier East Interstate	a	a	a	a	a	a	a
Champlain Valley Interstate	a	a	a	a	a	a	a
Southern Tier West Interstate:							
City of Jamestown	a	b	a	a	a	a	a
Remainder of AQCR	a	a	a	a	a	a	a
Genesee Finger Lakes Interstate:							
Monroe County (portion)	a	a	a	a	a	b	b
Remainder of AQCR	a	a	a	a	a	a	b
Central New York Interstate:							
County of Onondaga:							
City of Syracuse (portion)	b	c	a	a	a	b	b

a. Air Quality levels presently attain standards or area is unclassifiable.

b. December 31, 1982.

c. 18-month extension, until July 1, 1980, for plan revision submission granted. The earlier attainment date remains applicable until the plan revision is approved; this date is set out in the 1978 edition of the *Code of Federal Regulations* at 40 CFR Part 52, § 52.1682.

d. December 31, 1987 or such earlier date as defined in plan revision to be submitted by July 1, 1982; extension for plan revision submission granted.

e. Revision of earlier date to be defined at such time as formal action is taken on the plan revision submitted pursuant to Part D requirements of the Clean Air Act, as amended. The earlier attainment date is set out in the 1978 edition of the *Code of Federal Regulations* at 40 CFR Part 52, § 52.1682.

NOTES

1. Footnotes which are underlined are prescribed by the Administrator because plan did not provide a specific date the date provided was not acceptable.

2. Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out in the 1978 edition of the *Code of Federal Regulations* at 40 CFR Part 52, § 52.1682.

[FR Doc. 80-3714 Filed 2-4-80; 8:45 am]

BILLING CODE 6560-01-M

§ 8-3.705 Procedure.

Contracting officers will request the Director, Contract and Special Audit Service (52C), to audit proposed overhead rates for use in cost-reimbursement contracts whenever the estimated amount of the contract is in excess of $100,000. Such requests by field station contracting officers will be submitted through the Director, Supply Service, Central Office. In the case of smaller contracts, the contracting officer will perform a review and validation of the data submitted for accuracy and reasonableness of proposed rates. He/she may, if in Central Office, request the Director, Contract and Special Audit Service (52C), to perform an audit or render such accounting assitance or technical advice as is deemed desirable. A field station contracting officer may direct request for such service on smaller contracts to the local fiscal activity serving the contracting officer.

2. In § 8-3.801-2, paragraph (b) is revised to read as follows:

§ 8-3.801-2 Responsibility of contracting officers.

* * * * *

(b) When in the opinion of the contracting officer, the complexity of the proposed contract warrants, he/she will submit the proposed contract to the Director, Supply Service for review and comment. When deemed advisable, the Director, Supply Service, will request the General Counsel to accomplish a legal review.

3. Section 8-3.801-3 is revised to read as follows:

§ 8-3.801-3 Responsibility of other personnel.

The Director, Contract and Special Audit Service, will provide advice, assistance or cost audits as provided in §§ 8-3.705, 8-3.809, and 8-3.813.

§ 8-3.805-1 [Revoked]

4. Section 8-3.805-1 is revoked.

5. In § 8-3.807-3, the title, paragraphs (b) and (c) and the introductory portion of paragraph (d) are revised to read as follows:

§ 8-3.807-3 Cost or pricing data.

* * * * *

(b) When cost or pricing data is required and the amount of any negotiated fixed-price or cost-reimbursement contract or contract modification is expected to exceed $100,000, the cost or pricing data, after evaluation by the contracting officer, will be forwarded to the Director, Contract and Special Audit Service (52C), for prior audit as to the adequacy, accuracy and applicability of the costs

VETERANS ADMINISTRATION

41 CFR Parts 8-3, 8-5, 8-8

Procurement; Miscellaneous Amendments

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: The Veterans Administration is revising its procurement regulations to make miscellaneous technical corrections and to reflect implementation of OMB directives. Involved are updates of organizational titles and revised provisions relating to interagency agreements.

EFFECTIVE DATE: This rule is effective February 12, 1980.

FOR FURTHER INFORMATION CONTACT: A. G. Vetter, Supply Service, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202-389-2334).

SUPPLEMENTARY INFORMATION: It is the general policy of the Veterans Administration to allow time for interested parties to participate in the rulemaking process (38 CFR 1.12). The amendments herein, however, involve implementation of Federal directives and other matters of agency practice and procedures. Therefore, the public rulemaking process is deemed unnecessary in this instance.

Approved: January 29, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

PART 8-3—PROCUREMENT BY NEGOTIATION

1. In Part 8-3, Procurement by Negotiation, § 8-3.705 is revised to read as follows:

included. Such requests for prior audit will be submitted by field station contracting officers, through the Director, Supply Service.

(c) In the case of smaller contracts the contracting officer will perform a review and validation of the data submitted for accuracy and reasonableness of proposed costs. He/she may, if in Central Office request the Director, Contract and Special Audit Service (52C), to perform an audit or render such accounting assistance or technical advice as deemed desirable. A field station contracting officer may request such assistance and advice from the local fiscal activity serving the contracting officer.

(d) Cost of pricing data may, but need not, be submitted to the Director, Contract and Special Audit Service (52C), for prior audit, for the following transactions:

* * * * *

6. Section 8–3.809 is revised to read as follows:

§ 8–3.809 Contract audit as a pricing aid.

The Director, Contract and Special Audit Service, or a recognized audit agency, e.g., the Defense Contract Audit Agency, at the request of the Director, Contract and Special Audit Service, will provide advisory audits, special surveys or audit analysis of price or cost, when required by this Subpart 8–3.8 or when assistance is requested by the contracting officer.

7. Section 8–3.813 is revised to read as follows:

§ 8–3.813 Preproduction and startup and other nonrecurring costs.

In evaluating startup and other nonrecurring costs, the extent to which these costs are included in the proposed price and the intent to absorb or recover any such costs in any future noncompetitive procurement or other pricing action will be determined. The contracting officer will ascertain, with the assistance of the Director, Contract and Special Audit Service, as required or considered necessary, that payment of such costs is not duplicated. For example, cost of equipment paid for by the Government through a setup or connection agreement will not be included in depreciation costs of a subsequently negotiated agreement.

PART 8–5—SPECIAL AND DIRECTED SOURCES OF SUPPLY

8. In Part 8–5, Special and Directed Sources of Supply, § 8–5.5001 is revised to read as follows:

§ 8–5.5001 Authorization and policy relating to placing and filling orders.

The obtaining of products and services from another Government agency under the authority of the Economy Act requires a finding that such products or services cannot be as conveniently or more cheaply performed by private agencies. In obtaining from another Government agency those products and services that are commercial in nature, OMB Circular NO. A–76 (as amended) provides additonal guidelines which must be followed. The circular, however, is not applicable to hospital, domiciliary and medical care covered by Chapter 17 of Title 38, U.S.C., or to formal program for managing excess capacity. (Transmittal Memorandum No. 4 of March 29, 1979, to OMB Circular No. A–76 and Supplement No. 1 to that circular, Cost Comparison Handbook, have been distributed to all field stations.)

9. In § 8–5.5002, paragraph (c) is revised to read as follows:

§ 8–5.5002 Interagency support agreement.

* * * * *

(c) Proposed interagency support agreements with any other Government department or agency involving the expenditures of Veterans Adminstration funds of $5,000 or more will be forwarded by the approving offical to the Director, Supply, Service, for legal review and approval, as required by § 8–1.403–52(a)(3).

(1) Proposed agreements, both new and renewal, will be submitted in an original and four copies so as to reach Central Office 60 days prior to the effective date of the agreement.

(2) Complete justification for all proposed agreements will be submitted, as approval depends on the adequacy of the justification.

10. Section 8–5.5003 is added to read as follows:

§ 8–5.5003 Field contract support cross-servicing program.

(a) Pursuant to the Government program to foster interagency cross-servicing in field contract support services, contracting officers of the Veterans Administration will utilize the support services of other agencies to the extent feasible. Examples of such services are: Preaward surveys; quality assurance and technical inspection of contract items; and review of contractors' procurement systems.

(1) A Federal Contract Administration Cross-Servicing Directory is published by the Department of Defense, and will be distributed to contracting offices through the Veterans Administration Forms and Publications Depot.

(2) Requests for contract audit services will be transmitted to the Director, Contract and Special Audit Service (52C), in accordance with § 8–3.807–3(b) and (c). At the Director's discretion, the contract audit will either be performed by his/her staff or arranged with a support audit agency. All related contracts with the support audit agency will be made through the Director, Contract and Special Audit Service.

(b) Reimbursement for any charges for services obtained under cross-servicing arrangements will be made from funds available for the related contract. The hourly rate established under the cross-servicing agreement of the Department of Defense and the National Aeronautics and Space Administration may be employed to facilitate reimbursement arrangements (ref. Policy Letter No. 76–4, August 6, 1976, Office of Federal Procurement Policy).

(c) Both the requesting and supporting activities are responsible for prudent use of support services provided under cross-servicing arrangements. Accordingly, servicing activities will, when deemed appropriate, counsel the requesting agency concerning the desirability and practicality of relaxing or waiving any controls or surveillance not necessary to ensure satisfactory performance of contracts.

PART 8–8—TERMINATION OF CONTRACTS

11. In Part 8–8, Termination of Contracts, § 8–8.206 is revised to read as follows:

§ 8–8.206 Fraud or other criminal conduct.

When the circumstances set forth in FPR 1–8.206 are encountered, the contracting officer will immediately discontinue all negotiations. He/she will submit to the Director, Supply Service, all of the pertinent facts necessary to support his/her reasoning. The Director, Supply Service, will review the submission and fully develop the facts. If he/she concurs that the evidence indicates fraud or other criminal conduct, he/she will forward the submission with his/her recommendations, through channels, to the General Counsel for a determination as to whether submission to the Department of Justice for criminal or civil action is indicated. The contracting officer will be advised by the Director, Supply Service, as to any further action to be taken by him/her. Pending receipt of this advice, the matter will not be discussed with the contractor. If inquiry is made by the contractor, he/she will be advised only that his/her proposal has been forwarded to higher authority.

12. Section 8–8.207 is revised to read as follows:

§ 8–8.207 Accounting review of prime contract settlement proposals and of subcontract settlements.

In compliance with the provisions of FPR 1–8.207, contracting officers will submit all settlement proposals to the Director, Contract and Special Audit Service (52C), for review and audit prior to taking any further action.

13. Section 8–8.211–1 if revised to read as follows:

§ 8–8.211–1 Settlement review boards.

The Chief Medical Director and the Assistant Administrator for Construction will each establish within his/her own organization a settlement review board. These boards will be established in accordance with the provisions for FPR 1–8.211–1 for the purpose of reviewing proposed settlements of contracts that have been terminated for the convenience of the Veterans Administration.

14. In § 8–8.211–2, paragraphs (a) and (b) are revised to read as follows:

§ 8–8.211–2 Required review and approval.

(a) When a review of a proposed settlement is required by FPR 1–8.211–2 and the contract covers supplies, equipment or services, other than construction chargeable to Construction Appropriations, the contracting officer will submit the proposed settlement or determination to the settlement review board through the Chief Medical Director (134).

(b) When the contract covers construction chargeable to Construction Appropriations and review is required, the proposed settlement or determination will be submitted by the contracting officer to the settlement review board through the Assistant Administrator for Construction.

* * * * *

(38 U.S.C. 210(c); 40 U.S.C. 486(c))

[FR Doc. 80-3706 Filed 2-4-80; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5692

[27114]

New Mexico; Partial Revocation of Public Land Order No. 995

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will restore 2,400 acres of lands to national forest status and open them to such forms of disposition as may by law be made of national forest lands.

EFFECTIVE DATE: March 5, 1980.

FOR FURTHER INFORMATION CONTACT: Evelyn Tauber, 202–343–6486.

By virtue of the authority contained in section 204 of the Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 995 of August 19, 1954, withdrawing certain lands for use of the Department of the Army in connection with Sandia Base, is hereby revoked so far as it affects the following described lands:

New Mexico Principal Meridian

T. 9 N., R. 5 E.,
Sec. 13, NW¼, S½;
Secs. 24, 25 and 36.

The area described contains 2,400 acres in Bernalillo County.

2. At 10 a.m., on March 5, 1980, the lands shall be open to such forms of disposition as may by law be made of national forest lands. The lands revert to national forest status and management as established by the Proclamations of November 6, 1906, and April 16, 1908, withdrawing lands for national forest purposes.

Guy R. Martin,
Assistant Secretary of the Interior.
January 28, 1980.

[FR Doc. 80-3689 Filed 2-4-80; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 5693

[I-9902]

Idaho; Withdrawal for National Forest Pine Seed Orchard

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 70 acres of national forest land in the Payette National Forest from the operation of the mining laws only. The land will be use as a pine seed orchard.

EFFECTIVE DATE: February 5, 1980.

FOR FURTHER INFORMATION CONTACT: Evelyn Tauber 202–343–6486.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described national forest land is hereby withdrawn from entry or location under the mining laws (30 U.S.C., Ch. 2), in order to protect them for use as a pine seed orchard in aid of a cooperative Federal and State program of the Department of Agriculture.

Payette National Forest

Boise Meridian

Calf Pen Ponderosa Pine Seed Orchard

T. 19 N., R. 3 W.
Sec. 9: S½N½NE¼NE¼, S½NE¼NE¼, E½SE¼NW¼NE¼, E½NE¼SW¼NE¼, N½SE¼NE¼, N½S½SE¼NE¼.

The area described contains approximately 70 acres in Adams County.

2. The withdrawal made by this order does not alter the applicability of those public lands laws governing the use of the land under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws of the United States.

Guy R. Martin,
Assistant Secretary of the Interior.
January 28, 1980.

[FR Doc. 80-3688 Filed 2-4-80; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 5694

[CA-2642]

California; Withdrawal of Lands for Desert Tortoise Habitat

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws lands in aid of a Bureau of Land Management program to preserve and protect the desert tortoise habitat area.

EFFECTIVE DATE: February 5, 1980.

FOR FURTHER INFORMATION CONTACT: Sue Bosma, 202–343–6486.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2751; 43 U.S.C. 1714), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands, which are under the jurisdiction of the

Secretary of the Interior, are hereby withdrawn from location and entry under the general mining laws, 30 U.S.C. Ch. 2, in aid of a program of the Department of the Interior for the preservation and protection of the desert tortoise.

Public Lands

Mount Diablo Meridian

T. 30 S., R. 38 E.
Sec. 13, Lots 9, 10, and 11;
Sec. 23, Lots 6, 7, 8, 11, and 12;
Sec. 24, Lots 1, 2, 3, and 5 through 16;
Sec. 26, Lots 1, 2, 4, and 5, E½, SW¼;
Sec. 34, S½.
T. 31 S., R. 38 E.
Secs. 1 through 4;
Sec. 5, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 8, All;
Sec. 9, N½, E½SW¼, SE¼;
Sec. 10, All;
Sec. 11, N½, SW¼;
Secs. 12 and 14;
Sec. 18, N½, SE¼;
Secs. 20, 22, 24, 26, 28, 30, 32, and 34.
T. 32 S., R. 38 E.
Secs. 4 and 6

Private Lands Programmed for Acquisition

Mount Diablo Meridian

T. 30 S., R. 38 E.
Sec. 13, Lots 1 and 2, E½SE¼, and those 67.76 acres of the NE¼ lying easterly of the meander line of Koehn Dry Lake as defined by Dependent Resurvey approved July 30, 1971;
Sec. 23, Those 90.11 acres of the S½ lying easterly of the meander line of Koehn Dry Lake as defined by Dependent Resurvey approved July 30, 1971;
Secs. 25, 35, and 36.
T. 31 S., R. 38 E.
Sec. 5, SW¼SE¼, SE¼SW¼, W½SW¼;
Sec. 9, W½SW¼;
Sec. 11, SE¼;
Secs. 13, 15, 16, and 17;
Sec. 18, Lots 1 and 2 of SW¼;
Secs. 19, 21, 23, 27, 29, 31, and 33.
T. 32 S., R. 38 E.
Sec. 5, All.

The areas described aggregate 25,465.04 acres in Kern County.

2. The fee (private) lands described in paragraph one above will be subject to this order upon acceptance of title on behalf of the United States.

3. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

4. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

January 28, 1980.

Guy R. Martin,

Assistant Secretary of the Interior.

[FR Doc. 80-3666 Filed 2-4-80; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 5695

[I-3812]

Idaho; Revocation of Public Land Order No. 726

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will restore 1,440 acres to operation of the public land laws generally, including the mining and mineral leasing laws.

EFFECTIVE DATE: March 5, 1980.

FOR FURTHER INFORMATION CONTACT: Evelyn Tauber, 202-343-6486.

By virtue of the authority contained in section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 726 of June 6, 1951, withdrawing land for use of the Department of the Army as a National Guard target range is hereby revoked:

Boise Meridian

T. 2 N., R. 3 W.,
Sec. 20, S½S½;
Sec. 21, W½, W½E½;
Sec. 27, SW¼;
Sec. 28, N½, SE¼, NE¼SW¼;
Sec. 29, N½NE¼, NE¼NW¼.

The area described aggregates 1,440 acres in Canyon County, Idaho.

The lands are situated in the southwest portion of Canyon County approximately 15 miles from the Idaho-Oregon border. The terrain varies from slightly rolling to very steep, with elevations ranging from 2,560 to 3,083 feet above sea level. Soils vary from deep silt loams on the lower lying portions of the tract to shallow rocky profiles at the higher elevations. The tract is characterized by a sagebrush-grassland type vegetative cover.

2. At 10 a.m., on March 5, 1980, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m., on March 5, 1980, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m., on March 5, 1980, the lands will be open to location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Mangement, P.O. Box 042, Boise, Idaho 83724.

Guy R. Martin,

Assistant Secretary of the Interior.

January 28, 1980.

[FR Doc. 80-3667 Filed 2-4-80; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

50 CFR Part 32

Hunting; Piedmont National Wildlife Refuge, Georgia

AGENCY: Fish and Wildlife Service.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of Piedmont National Wildlife Refuge in Georgia is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming turkey season on Piedmont National Wildlife Refuge, Georgia.

DATES: April 7 to April 12, 1980.

FOR FURTHER INFORMATION CONTACT: The Area Manager or Refuge Manager at the address or telephone number listed below. Area Manager, Donald J. Hankla, U.S. Fish and Wildlife Service, 900 San Marco Boulevard, Jacksonville, Florida 32207. Telephone: (904) 791-2267. Refuge Manager, Ronnie L. Shell, Piedmont National Wildlife Refuge, Round Oak, Georgia 31080. Telephone: (912) 986-5441.

SUPPLEMENTARY INFORMATION: Hunting is permitted on Piedmont National Wildlife Refuge in accordance with 50 CFR Part 32, State regulations, and the following special regulations. The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires: (1) that no area of the National Wildlife Refuge System is used for forms of recreation not directly related to the primary purposes for which the area was established and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Piedmont National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.32 Special Regulations: big game; for individual wildlife refuge areas.

Piedmont National Wildlife Refuge, Georgia

Hunting of eastern wild turkey will be permitted on Piedmont National Wildlife Refuge in accordance with the following: (a) *season*—April 7–9, 1980 (first hunt) and April 10–12, 1980 (second hunt); (b) *bag limit*—one bearded turkey per hunter; (c) *hunting hours*—one-half hour before sunrise to 1:00 p.m. Eastern Standard Time; (d) *hunting area*—approximately 30,000 acres; (e) *closed areas*—areas posted with silver boundary paint and "area closed" signs plus compartments 21, 22, and 25; (f) *camping*—camping and fires will be allowed only in the Pippins Lake Campground, compartment 19 (campground will be open 8:00 a.m. April 6, 1980 thru 12:00 a.m. April 13, 1980); (g) *permits*—50 permits per hunt will be issued and permittees will be selected by public drawing from applications received at refuge headquarters by drawing deadline which is 9:00 a.m., March 10, 1980 (all hunters must possess a permit to hunt, permits are nontransferrable and must be carried on person while hunting, hunters under age 18 must be under the supervision of an authorized adult and children under 12 years of age are not permitted on the turkey hunt); (h) *maps*—a copy of special regulations applying to this hunt and a map delineating the hunt area are available at refuge headquarters; (i) *access*—ingress and egress points for motor vehicles are limited to designated check stations, specified gravel roads, or other specified areas; (j) *check station*—all hunters must check in and check out before and after each hunt and turkeys harvested must be checked by refuge personnel on the day killed and prior to leaving the refuge; (k) *weapons*—same as current Georgia Hunting Regulations; (l) *stands*—stands must be of a portable nature and removed by the last day of the hunt (it is unlawful to drive a nail, spike, or other metal object into any tree or to hunt from a tree in which a nail, spike, or other metal object has been driven); (m) *dogs*—dogs are not permitted on the refuge; and (n) *alcoholic beverages*—possession and use of alcoholic beverages are prohibited in the hunting area.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Dated: January 28, 1980.

Sam O. Drake, Jr.,

Acting Area Manager.

[FR Doc. 80-3670 Filed 2-4-80; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 45, No. 25
Tuesday, February 5, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 351

Reduction in Force

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations with comments invited for consideration in final rulemaking.

SUMMARY: These proposed regulations would provide for agency use of performance appraisal systems prescribed by the Civil Service Reform Act to determine the weight of performance as a reduction in force retention factor.

COMMENT DATE: Written comments will be considered if received no later than April 7, 1980.

ADDRESS: Send or deliver written comments to Associate Director, Staffing Services, Office of Personnel Management, 1900 E Street, N.W., Room 6526, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Theodore R. Dow or Thomas A. Glennon, (202) 632–4422.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management proposes to make the following specific changes in Part 351:

(1) Section 351.404(c) is revised to provide that an employee with a notice of proposed removal based on "Unacceptable Performance" is not a competing employee under the reduction in force regulations.

(2) Section 351.504(b) is revised to include material formerly contained in paragraphs (b) and (c). This paragraph now specifically covers the weight of performance as a reduction in force retention factor in agencies which continue to use summary adjective performance ratings pending implementation of new performance appraisal systems, established by the Civil Service Reform Act, under Part 430 Subpart B of this title (5 CFR Part 430 Subpart B).

(3) Section 351.504(c) is amended to include new material which specifically covers the weight of performance as a reduction in force retention factor in agencies that have implemented performance appraisal systems under Part 430 Subpart B.

Note.—OPM has determined that this is a significant regulation for the purposes of E.O. 12044.

Office of Personnel Management.

Beverly M. Jones,

Issuance Systems Manager.

Accordingly, OPM proposes to amend 5 CFR Part 351 as follows:

(1) Section 351.404 is revised as set out below:

§ 351.404 Retention register.

(a) Each agency shall establish a separate retention register from the current retention records of employees in, and employees temporarily promoted from, each competitive level affected when a competing employee is to be released from a competitive level under this part.

(b) The agency shall enter on the retention register in the order of his or her retention standing the name of each competing employee in, and each competing employee temporarily promoted from, a competitive level (whether in duty, leave, or furlough status), except an employee on military duty with a restoration right.

(c) The agency shall enter on a list apart from the retention register the name and expiration date of the appointment or promotion of each employee serving in a position under specifically limited temporary appointment or temporary promotion, followed by the name of each employee serving in the competitive level with, as applicable:

(1) A performance rating of less than "Satisfactory" in an agency that has not implemented a performance appraisal system meeting all the requirements of 5 U.S.C. 4302 and Subpart 430–B of this title; or

(2) A notice of proposed removal under § 432.204(a) of this title, based on "Unacceptable Performance" as defined in § 432.202 of this title.

(2) Section 351.504 is revised as set out below:

§ 351.504. Credit for performance.

(a) Each employee's performance rating of record on the date of issuance of specific reduction in force notices shall determine the employee's entitlement to additional service credit for performance under this section.

(b) An agency that has not implemented a performance appraisal system meeting all the requirements of 5 U.S.C. 4302 and Part 430 Subpart B of this title, and assigns summary adjective performance ratings, shall credit the following employees with additional service, which is added to each employee's creditable service under this part:

(1) Each employee who has an "Outstanding" performance rating shall receive 4 years of additional service; and

(2) Each employee who has a performance rating between "Satisfactory" and "Outstanding" shall receive 2 additional years of service.

(c) An agency that has implemented a performance appraisal system meeting all the requirements of 5 U.S.C. 4302, and Part 430 Subpart B of this title, is responsible for using employee performance appraisals to credit employees with additional service toward retention standing. This additional service is added to each employee's creditable service under this part. Each employee who has an "Outstanding," or highest appraisal under the agency's system, shall receive 4 additional years of service. Each employee whose performance is less than fully "Acceptable," but above the minimum level required for retention in the position, shall receive 0 additional years of service. Agencies may use employee performance appraisals to assign other employees, whose performance is at least fully "Acceptable," and amount of service credit for retention ranging from 0 to less than 4 years. Each agency is responsible for ensuring that these provisions are:

(1) Consistent with Part 430 Subpart B of this title; and

(2) Uniformly and consistently applied in any one reduction in force.

(5 U.S.C. 1302, 3502)

[FR Doc. 80-3737 Filed 2-4-80; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1701

Contract Policies and Procedures; Proposed Revision of REA Bulletin 40–6

AGENCY: Rural Electrification Administration.

ACTION: Advance Notice of proposed rulemaking.

SUMMARY: REA proposes to review its rules and regulations covering policies and procedures to be followed by electric borrowers for contracting to procure materials, equipment and construction of facilities. The procedures with which REA is especially concerned relate to the expenditure of funds loaned or guaranteed by REA, the protection of the security of such loans and the details of REA's necessary control over these funds. REA is hopeful that this review will indicate ways to simplify procedures for its borrowers and its staff and to reduce the cost of its borrowers doing business, while maintaining REA's loan security and protecting the financial interest of REA borrowers. REA hereby solicits comments and recommendations from interested parties regarding changes that should be made and the reasons those changes are needed.

DATE: Public comments must be received by REA no later than March 6, 1980.

ADDRESS: Submit written comments to the Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Archie W. Cain, telephone number (202) 447–4413.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 CFR 901 et. seq.) REA proposes to revise REA Bulletin 40–6, "Construction Methods and Purchase of Materials and Equipment." All written submissions made pursuant to this notice will be made available for public inspection during regular business hours at the above address.

Dated: January 28, 1980

Joe S. Zoller,

Assistant Administrator—Electric.

[FR Doc. 80-3512 Filed 2-4-80; 8:45 am]

BILLING CODE 3410-15-M

FEDERAL RESERVE SYSTEM

12 CFR Part 210

[Reg. J; Doc. No. R-0262]

Automated Clearing House Items

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule: Extension of comment period.

SUMMARY: The Board of Governors of the Federal Reserve System has extended until March 14, 1980, the period for receipt of public comment on its proposal that a Subpart C be added to the present Regulation J. The proposed new Subpart would establish the respective duties and responsibilities of the Federal Reserve Banks and those financial depository institutions using the Federal Reserve operated electronic clearing and settlement facilities to transfer funds. These facilities are known as automated clearing house facilities.

DATE: Comments must be received on or before March 14, 1980.

ADDRESS: Comments, which should refer to Docket No. R–0262, may be mailed to Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., D.C. 20551, or delivered to Room B–2223 between 8:45 a.m. and 5:15 p.m. Comments received may also be inspected at Room B–1122 between 8:45 a.m. and 5:15 p.m., except as provided in section 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

FOR FURTHER INFORMATION CONTACT: Lee S. Adams, Senior Attorney (202/452–3623), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On November 28, 1979 (44 FR 67995), the Board requested comment on a proposal to add a Subpart C to the present Regulation J. The proposed Subpart would govern the clearing and settlement of credit and debit items by automated clearing houses operated by Federal Reserve Banks. Automated clearing house operations and the Federal Reserve's role in such operations essentially parallel check clearing operations except that the payment information is contained on electronic media as opposed to paper checks. Comment was requested on the proposal by January 31, 1980. The Board has been requested to extend the comment period in order to provide interested parties with additional time in which to present their views. In light of the issues involved in the proposal and in order to encourage public participation in this matter, the comment period has been extended to March 14, 1980.

By order of the Board of Governors, acting through its Secretary under delegated authority, January 30, 1980.

Theodore E. Allison

Secretary of the Board.

[FR Doc. 80-3884 Filed 2-4-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 292

[Docket No. RM79–55]

Small Power Production and Cogeneration—Rates and Exemptions; Meeting With State Regulatory Commissioners on Staff Draft

January 30, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Meeting with State Regulatory Commissioners on Staff Draft of the Final Rule in RM79–55.

SUMMARY: On October 18, 1979, the Federal Energy Regulatory Commission (Commission) issued a Notice of Proposed Rulemaking (published October 24, 1979, 44 FR 61190) under Section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA). Section 210 requires the Commission, after consultation with Federal and State regulatory agencies having ratemaking authority for electric utilities, to prescribe rules which the Commission determines necessary to encourage small power production and cogeneration, including rules regarding rates and exemptions for qualifying small power production and cogeneration facilities.

Pursuant to this requirement, the Commission is holding a public meeting with State regulatory commissioners, who are primarily responsible for implementing the Commission's rules in this docket, so that these Commissioners may comment on the draft rule before it is placed on the Commission's agenda.

The draft rule was placed in the public file on January 29, 1980.

All interested persons are invited to attend to observe the proceedings but only the State commissioners and their staff will be permitted to participate.

DATE: Public meeting: February 5, 1980 at 2:00 p.m. to 5:00 p.m.

ADDRESS: Public meeting location: Federal Energy Regulatory Commission, Room 9308, 825 North Capitol Street, NE., Washington, D.C. 20426.

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FOR FURTHER INFORMATION CONTACT:
Ross Ain, Associate General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8446, Adam Wenner, Executive Assistant to the Associate General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8033.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-3722 Filed 2-4-80; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 348

[Docket No. 78N-0301]

External Analgesic Drug Products for Over-the-Counter Human Use; Establishment of a Monograph and Notice of Proposed Rulemaking

Corrections

In FR Doc. 79–36583 appearing on page 69768 in the issue of Tuesday, December 4, 1979, make the following changes:

1. On page 69770, first column, eighteenth line from the bottom, "C.G. Smith Products" should be made a separate entry.

2. On page 69772, first column, second entry under the paragraph designated 4, the last word should read "sassafrassy".

3. On page 69774, third column, eighth line of the fifth full paragraph, the word "of" should read "or".

4. On page 69777, first column, sixth line of the first full paragraph, "conductina" should read "conducting".

5. On page 69780, second column, seventeenth line from the bottom, that line and the two lines that follow should read: "warmth and produce analgesia. This has been mentioned in the discussion on analgesics. (See part II. paragraph F.1. above—Topical analgesics.)".

6. On page 69782, second column, third line from the bottom should read: "(10) Lim, R.K., F. Guzman, D.W. Rodgers,".

7. On page 69784, first column, nineteenth line from the top, "inactively" should read "in actively".

8. On page 69790, (a) first column, ninth line from the bottom, insert "analgesic" after "external"; (b) second column, the heading numbered **"II External Analgesics"** should read **"III External Analgesics"**, and in the second line from the bottom, delete the word "not"; (c) third column, in the table, a hyphen should be in front of footnotes 1 and 3 wherever they appear.

9. On page 69805, third column, twenty-fourth line from the bottom, insert a comma after "chincocaine".

10. On page 69808, (1) first column, ninth line of the second full paragraph from the top, "dimenthisoquin" should read "dimethisoquin"; (b) second column, fifteenth line from the bottom, "proritus" should read "pruritus".

11. On page 69810, (a) first column, second line of the reference designated 4, delete the first word and insert "Dimethylaminoethyl"; (b) second column, last line of the reference designated 11, "17" should read "179".

12. On page 69813, (a) second column, twenty-third line from the bottom, insert "(3)" in front of "Is"; (b) third column, sixteenth line of the second paragraph under (i) should read as follows: "than 1,800 mg/kg at day 7, 591 mg/kg at".

13. On page 69815, second column, fourteenth line from the top, "11" should read "21".

14. On page 69817, second column, (1) first line from the top, "flourinated" should read "fluorinated"; (2) fifth line of the second full paragraph, "flourinated" should read "fluorinated", and in the fourtheenth line of that same paragraph, "indiced" should read "induced".

15. On page 69823, second column, second line of the reference designated 9, "ACHT" should read "ACTH".

16. On page 69841, (a) first column, first line of the reference designated 7, the second "M." should read "N."; in the first line of the reference designated 12, the second "C." should read "D."; and in the first line of the reference designated 13, "Klingman" should read "Kligman"; (b) second column, eighth line of the paragraph designated a, "bits" should read "bites".

17. On page 69851, second column, ninth line of the first full paragraph, "reason" should read "reaction".

18. On page 69853, second column, seventh line of the paragraph designated (2), insert the following after "treated": "with 0.1 percent hexylresorcinol and 50 subjects were treated".

19. On page 69855, second column, fifth line of the first full paragraph, *"volgaris"* should read *"vulgaris"*.

20. On page 69857, first column, second line of the second paragraph under the heading designated *C*, "data" should read "date".

21. On page 69862, third column, eighth line from the top, "skin" should read "pain".

22. On page 69865, third column, sixth line of paragraph (a)(1), § 348.50, "§ 348.11 (b)(10)" should read "§ 348.10 (b)(10)".

23. On page 69866, first column, seventh line from the bottom, "March 6, 1980." should read "March 3, 1980.".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Attorney General

28 CFR Part 16

[AAG/A Order No. 45–80]

Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: In the Notice section of today's **Federal Register**, the Department of Justice proposes to exempt a new system, the Office of Professional Responsibility Record Index System (JUSTICE/OPR–001), from certain provisions of the Privacy Act, 5 U.S.C. 552a. This exemption is proposed in those cases where a request for access to a complaint file is made prior to administrative resolution of the complaint. It is needed to ensure unhampered investigatory and disciplinary efforts during the complaint and discipline process and to protect the identity of confidential sources.

DATES: All comments must be received on or before March 6, 1980.

ADDRESS: All comments should be addressed to the Administrative Counsel, Justice Management Division, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT:
William J. Snider (202) 633–3452.

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

It is proposed to amend 28 CFR Part 16 by adding § 16.80 to read as follows:

§ 16.80 Exemption of Office of Professional Responsibility System—limited access.

(a) The following system of records is exempt from 5 U.S.C. 552a(c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f) and (g):

(1) Office of Professional Responsibility Record Index (JUSTICE / OPR–001)

These exemptions apply only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), and (k)(5).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because release of the disclosure accounting would enable the subject of an investigation to gain information concerning the existence, nature and scope of the investigation and seriously hamper law enforcement efforts.

(2) From subsections (c)(4), (d), (e)(4)(G) and (H), (f) and (g) because these provisions concern individual access to records and such access might compromise ongoing investigations, reveal confidential informants and constitute unwarranted invasions of the personal privacy of third persons who provide information in connection with a particular investigation.

(3) From subsections (e)(1) and (5) because the collection of information during an investigation necessarily involves material pertaining to other persons or events which is appropriate in a thorough investigation, even though portions thereof are not ultimately connected to the person or event subject to the final action or recommendation of the Office of Professional Responsibility.

(4) From subsection (e)(2) because collecting the information from the subject would thwart the investigation by placing the subject on notice of the investigation.

(5) From paragraphs (e)(3) and (e)(8) because disclosure and notice would provide the subject with substantial information which could impede or compromise the investigation. For example, an investigatory subject occupying a supervisory position could, once made aware that a misconduct investigation was ongoing, put undue pressure on subordinates so as to preclude their cooperation with investigators.

Dated: January 23, 1980.
William D. Van Stavoren,
Acting Assistant Attorney General for Administration.

[FR Doc. 80-3503 Filed 2-4-80; 8:45 am]
BILLING CODE 4410-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1405-7]

Approval and Promulgation of State Implementation Plans; Proposed Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: Elsewhere in today's **Federal Register**, EPA is conditionally approving portions of the New York plan where there are deficiencies and the State has provided assurances that it will submit corrections. This notice solicits comments on the deadlines specified for correction of the deficiencies.

DATE: Comments must be received on or before March 6, 1980.

ADDRESSES: Comments should be directed to: Richard T. Dewling, Acting Regional Administrator, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007.

Copies of the SIP revision, supplementary information, and public comments are available for inspection at the following locations:

Environmental Protection Agency, Region II, Room 908, 26 Federal Plaza, New York, New York 10007.
Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:
William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007, (212) 264–2517.

SUPPLEMENTARY INFORMATION: The deficiencies discussed elsewhere in today's **Federal Register** and the time schedules in which the State must correct them are:

1. On or before April 1, 1980 the State must adopt and submit to EPA revisions to §§ 231.6(a) and 231.9(d) of 6 NYCRR Part 231, "Major Facilities," to reflect its interpretation that the provisions of Part 231 apply to new major sources and major modifications locating outside nonattainment areas, but significantly impacting the air quality of nonattainment areas.

2. On or before August 1, 1980 the State must adopt and submit to EPA a revision to § 200.1(pp) of Part 200, "General Provisions," which defines "owner" in a manner consistent with Section 173 of the Clean Air Act.

3. On or before May 1, 1981 the State shall submit to EPA either acceptable justification for retaining the provisions of 6 NYCRR Part 211, "General Prohibitions," which exempt from control cutback asphalt used in the manufacture of asphalt emulsions with low volatile organic compound content or an adopted revised regulation which corrects this apparent deficiency.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This rulemaking action is issued as required by Section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted on the deadlines imposed by EPA with respect to carrying out the subject SIP improvement actions. Comments received by March 6, 1980, will be considered in EPA's final decision. All comments received will be available for inspection at the Region II Office of EPA at 26 Federal Plaza, Room 908, New York, New York 10007.

(Secs. 110, 172, 301, Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601))

Dated: January 28, 1980.
Richard Dewling,
Acting Regional Administrator, Environmental Protection Agency.

[FR Doc. 80-3713 Filed 2-4-80; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 180

[PP 7E1922/P129; FRL 1407-4]

Proposed Exemption From the Requirement of a Tolerance for the Pesticide Chemical *N*-Methylpyrrolidone

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes an exemption from the requirement of a tolerance for residues of the pesticide chemical *N*-methylpyrrolidone on blueberries, cranberries, and peaches. The proposal was submitted by EM Industries, Inc. This amendment to the regulations would allow the presence of residues of *N*-methylpyrrolidone on blueberries, cranberries, and peaches in certain circumstances despite the absence of tolerances establishing maximum permissible levels of the substance on those commodities.

DATE: Comments must be received by March 6, 1980.

ADDRESS: Send comments to: Mr. Henry Jacoby, Product Manager (PM) 21, Office of Pesticide Programs, Registration Division (TS–767), EPA, East Tower, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:
Mr. Henry Jacoby at the above address (202/755–2562).

SUPPLEMENTARY INFORMATION: EM Industries, Inc., 500 Executive Blvd.,

Elmsford, NY 10523, has submitted a pesticide petition (PP 7E1922) to the EPA. This petition requests that the Administrator propose that 40 CFR 180 be amended by the establishment of an exemption from the requirement of a tolerance for residues of the solvent *N*-methylpyrrolidone in or on the raw agricultural commodities blueberries, cranberries, and peaches when used in formulations with the fungicide triforine (*N,N'*-[1,4-piperazinediylbis(2,2,2-trichloroethylidene)]bis-[formamide]) applied between early bloom and petal fall.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed exemption from the requirement of a tolerance included a subacute mouse feeding study and a subacute rat feeding study. The no-observed-effect level (NOEL) determined from the subacute rat feeding study is 2,000 parts per million (ppm) based on findings of increased thyroid weight in the 5,000 ppm-dosed males. While it is not exactly clear what the NOEL is in the mouse NMP study, it is apparent that the NOEL is not markedly lower than the lowest level used in the mouse study (400 ppm). If the NOEL were as little as 0.01 of the lowest level used in the mouse NMP study, we would conclude that there was an ample margin of safety, greater than 2,000, to support these exemptions. However, in order to clarify this deficiency, an additional 3-month dog feeding study is presently being conducted. An analytical method (gas chromatography with flame ionization detection) is available. The residues of *N*-methylpyrrolidone and its metabolites from the proposed use pattern are not expected to exceed 0.1 ppm in or on blueberries, cranberries, or peaches.

No actions are currently pending against the use of *N*-methylopyrrolidone as an inert ingredient in pesticide formulations. Other considerations in establishing this tolerance exemption include the establishment of tolerances for residues of triforine in or on the raw agricultural commodities blueberries, cranberries, and peaches when this proposal becomes a final rule.

N-Methylpyrrolidone is considered useful for the purpose for which the tolerance exemption is sought. There is no reasonable expectation of residues in eggs, meat, milk, or poultry as delineated in 40 CFR 180.6(a)(3). The Agency has determined that the proposed exemption from the requirement of a tolerance will protect the public health. Therefore, it is proposed that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request by March 6, 1980 that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP 7E1922/P129". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of PM 21, Room 305, East Tower, from 8:30 a.m. to 4 p.m. Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e)])

Dated: February 1, 1980.

Douglas D. Campt,

Director, Registration Division.

It is proposed that Part 180, Subpart D, be amended by adding the new § 180.1047 to read as follows:

§ 180.1047 N-Methylpyrrolidone; exemption from the requirement of a tolerance.

N-Methylpyrrolidone is exempted from the requirement of a tolerance for residues in or on the raw agricultural commodities blueberries, cranberries, and peaches when used in accordance with good agricultural practice in formulations with the fungicide triforine (*N,N'*-[1,4-piperazinediylbis(2,2,2-trichloroethylidene)]bis[formamide]) if such formulations contain not more than 30 percent *N*-methylpyrrolidone and are applied to the growing crops only after the start of early bloom and prior to petal fall.

[FR Doc. 80-3835 Filed 2-4-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

[PP 7E1943/P128; FRL 1407-5]

Proposed Exemption From the Requirement of a Tolerance for the Pesticide Chemical Dimethylformamide

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes an exemption from the requirement of a tolerance for residues of the pesticide chemical dimethylformamide on blueberries, cranberries, and peaches. The proposal was submitted by EM Industries, Inc. This amendment to the regulations would allow the presence of residues of dimethylformamide on blueberries, cranberries, and peaches in certain circumstances despite the absence of tolerances establishing maximum permissible levels of the substance on those commodities.

DATE: Comments must be received by March 6, 1980.

ADDRESS: Send comments to: Mr. Henry Jacoby, Product Manager (PM) 21, Registration Division Office of Pesticide Programs, Registration Division (TS-767), EPA, East Tower, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Henry Jacoby at the above address (202/755-2562).

SUPPLEMENTARY INFORMATION: EM Industries, Inc., 500 Executive Blvd., Elsmford, NY 10523, has submitted a pesticide petition (PP 7E1943) to the EPA. This petition requests that the Administrator propose that 40 CFR 180 be amended by the establishment of an exemption from the requirement of a tolerance for residues of the solvent dimethylformamide in or on the raw agricultural commodities blueberries, cranberries, and peaches when used in formulations with the fungicide triforine (*N,N'*-[1,4-piperazinediylbis(2,2,2-trichloroethylidene)]bis[formamide]) applied between early bloom and petal fall.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed exemption from the requirement of a tolerance included a subacute mouse feeding study and a subacute rat feeding study. The no-observed-effect level (NOEL) determined from the subacute mouse feeding study is 540 parts per million (ppm) based on finding congested livers at higher levels. The NOEL determined from the subacute rat feeding study is 750 ppm based on finding slightly altered liver volumes at higher levels. An adequate analytical method (gas chromatography with flame ionization detection) is available.

The residues of dimethylformamide (DMF) and its metabolites from the proposed use pattern are not expected to exceed 0.1 ppm in or on blueberries, cranberries, and peaches.

No actions are currently pending against the continued exemption of dimethylformamide used as an inert ingredient in pesticide formulations. Other considerations in establishing this tolerance exemption include the establishment of tolerances for residues of triforine and its metabolites in or on the raw agricultural commodities blueberries, cranberries, and peaches when applied preharvest as a fungicide.

Dimethylformamide is considered useful for the purpose for which the tolerance exemption is sought. There is no reasonable expectation of residues in eggs, meat, milk, or poultry as delineated in 40 CFR 180.6(a)(3). The Agency has determined that the proposed exemption from the requirement of a tolerance will protect the public health. Therefore, it is concluded that the proposed amendment to 40 CFR Part 180 be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request by March 6, 1980 that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP 7E1943/P128". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of PM 21, Room 305, East Tower, from 8:30 a.m. to 4 p.m. Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e)])

Dated: February 1, 1980.

Douglas D. Campt,

Director, Registration Division.

It is proposed that Part 180, Subpart D, be amended by revising the item "Dimethylformamide * * *" in § 180.1001(d) and by adding the new § 180.1046, as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Dimethylformamide (See also § 180.1047).	* * *	* * *
* * *	* * *	* * *

§ 180.1046 Dimethylformamide; exemption from the requirement of a tolerance.

Dimethylformamide is exempted from the requirement of a tolerance for residues in or on the raw agricultural commodities blueberries, cranberries, and peaches when used in formulations with the fungicide triforine (*N,N'*-[1,4-piperazinediylbis(2,2,2-trichloroethylidene)]bis[formamide]) applied between early bloom and petal fall.

[FR Doc. 80-3836 Filed 2-4-80; 8:45 am]

BILLING CODE 6560-01-M

V 45 / 25 FEB 5 80 UMI

Notices

Federal Register
Vol. 45, No. 25
Tuesday, February 5, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Gospel-Hump Advisory Committee; Meeting

The Gospel-Hump Advisory Committee will meet at Moscow, Idaho, February 23, 1980 (exact time and location to be announced by the University of Idaho). The purpose of this meeting will be to review in depth the work done to date by University of Idaho and Intermountain Research & Experiment Station research personnel.

The meeting will be open to the public. Persons who wish to attend should notify Ed Laven, 319 East Main, Grangeville, Idaho; telephone 208/983–1950. Written statements may be filed with the Committee before or after the meeting.

Don Biddison,
Forest Supervisor.
January 28, 1980.
[FR Doc. 80-3671 Filed 2-4-80; 8:45 am]
BILLING CODE 3410-11-M

Rural Electrification Administration

Northern Michigan Electric Cooperative, Inc.; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $101,400,000 to Northern Michigan Electric Cooperative, Inc., of Boyne City, Michigan. These loan funds will be used to finance nuclear fuel reload cost and increased costs of construction associated with the previous REA loan guarantee for the purchase of an 11.22 percent undivided ownership interest in the Detroit Edison Company's Enrico Fermi No. 2 nuclear-powered 1100 MW generation unit.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Clyde L. Johnson, Jr., General Manager, Northern Michigan Electric Cooperative, Inc., P.O. Box 138, Boyne City, Michigan 49712.

In order to be considered, proposals must be submitted on or before March 6, 1980 to Mr. Johnson. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Northern Michigan Electric Cooperative, Inc., and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 29th day of January 1980.

Robert W. Feragen,
Administrator, Rural Electrification Administration.
[FR Doc. 80-3514 Filed 2-4-80; 8:45 am]
BILLING CODE 3410-15-M

Wolverine Electric Cooperative, Inc.; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $80,000,000 to Wolverine Electric Cooperative, Inc., of Big Rapids, Michigan. These loan funds will be used to finance nuclear fuel reload cost and increased costs of construction associated with the previous REA loan guarantee for the purchase of an 8.78 percent undivided ownership interest in the Detroit Edison Company's Enrico Fermi No. 2 nuclear-powered 1100 MW generation unit.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. John N. Keen, General Manager, Wolverine Electric Cooperative, Inc., P.O. Box 1133, Big Rapids, Michigan 49307.

In order to be considered, proposals must be submitted on or before March 6, 1980 to Mr. Keen. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Wolverine Electric Cooperative, Inc., and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 29th day of January 1980.

Robert W. Feragen,
Administrator, Rural Electrification Administration.
[FR Doc. 80-3513 Filed 2-4-80; 8:45 am]
BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

[Order 80–1–184; Docket 32660; Agreement C.A.B. 28059, R–10

Traffic Conferences of the International Air Transport Association; North Atlantic Passenger, Fares; Order Withdrawing Approval

Agreement adopted by the Traffic Conferences of the International Air Transport Association relating to North Atlantic passenger fares.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of January, 1980.

By Order 80–1–27, January 4, 1980, the Board acted upon that portion of an IATA agreement which proposed a third round general fuel-ralated increase in North Altantic fares. As proposed, the increase was five percent across-the-board in all fares with allowance for individual IATA member carriers to vary its magnitude by two percent, providing for a range of increases of from three to seven percent. While disapprpving its application to normal economy fares, the Board approved the increases for transatlantic firstclass and promotional fares.

Over several years, our policy objective has been to foster an international fares situation in which competitive forces operate, with minimal intervention by governments, to provide consumers with as many price/quality options as possible. This, we believe, benefits consumers by making travel more widely available at the lowest price and benefits carriers by expanding their total market for air travel. To achieve these goals, we must, among other things, support the right of all carriers to an equal opportunity to compete in offering those prices which in their judgment are best suited to the market and insure that the range and flexibility of their pricing initiatives not be unduly abridged by governmental interference.

Unfortunately, this state of affairs has not prevailed in U.S.-Scandinavian markets. There, Scandinavian authorities have consistently intervened in carrier pricing decisions in order to protect S.A.S., and have refused to accept innovative fare proposals of U.S. carriers, most recently Northwest's proposed liberalization of its U.S.-Scandinavia non-affinity group fare. In these circumstrances, we must now partially withdraw our approval of the IATA-agreed transatlantic face increase and disapprove it insofar as it applies in air transportation between the U.S., on the one hand, and Denmark, Norway and Sweden, on the other, in order to preserve U.S. carrier rights in pursuit of our competitive goals.

Acting under the Federal Aviation Act of 1958, as amended, and particularly sections 102, 204(a) and 412; we find that the following resolution, incorporated in Agreement C.A.B. 28059 as indicated, is adverse to the public interest and in violation of the Act insofar as it pertains to fares between the United States, on one hand, and Denmark, Norway and Sweden, on the other:

Agreement CAB:	IATA No.	Title	Application
28059: R–10.....	003t	TC12/TC123 General Increase in Passenger Fares U.S.A.-Europe/Israel/TC3.	1/2; 1/2/3

Accordingly,

1. We withdraw our approval of Agreement C.A.B. 28059, R–10, in Order 80–1–27 to the extent it applies to fares between the United States, on the one hand, and Denmark, Norway, and Sweden on the other; and

2. We disapprove Agreement C.A.B. 28059, R–10, insofar as it applies to fares between the United States, on the one hand, and Denmark, Norway and Sweden, on the other.

We will publish this order in the Federal Register.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.
[FR Doc. 80-3730 Filed 2-4-80; 8:45 am]
BILLING CODE 6320-01-M

[Dockets 33363, 33688, and 33689]

Former Large Irregular Air Service Investigation, Phase III and Applications of Lone Star Airways, Inc.; Rescheduling of Hearing

Pursuant to request by Lone Star Airways, Inc., and there being no objection by the Bureau of Domestic Aviation, notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding, which was assigned to be held on February 5, 1980 (45 FR 6421, January 28, 1980), is rescheduled for February 20, 1980, at 1:00 p.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., January 31, 1980.

Richard M. Hartsock,
Administrative Law Judge.
[FR Doc. 80-3729 Filed 2-4-80; 8:45 am]
BILLING CODE 6320-01-M

[Order 80–1–185; Docket 35723]

Kodiak-Western Alaska Airlines, Inc.; Order Fixing Temporary Service Mail Rates

Issued under delegated authority January 30, 1980.

In the matter of the petition of Kodiak-Western Alaska Airlines, Inc. to Increase Service Mail Pay.

By Order 80–1–96, served January 17, 1980, we directed all interested persons, particularly Kodiak-Western Alaska Airlines, Inc. and the Postmaster General, to show cause why the Board should not adopt the proposed findings and conclusions and fix, determine, and publish the temporary rate specified therein to be effective on and after May 31, 1979, until issuance of an order establishing a final mail rate in this proceeding.

The time designated for filing notice of objection has elapsed and no person has filed a notice of objection or answer to the order. All persons have therefore waived the right to a hearing and all other procedural steps short of fixing a temporary rate.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 204(a) and 406 thereof, the Board's Procedural Regulations, 14 CFR Part 302, and the authority delegated by the board in its Organization Regulations, 14 CFR 385.16(g),

1. We make final the tentative findings and conclusions set forth in Order 80–1–96.

2. The fair and reasonable temporary rate of compensation to be paid in its entirety by the Postmaster General pursuant to the provisions of section 406 of the Federal Aviation Act of 1958, as amended, to Kodiak-Western Alaska Airlines, Inc. on and after May 31, 1979, for the transportation of mail by aircraft over its intra-Alaska routes, the facilities used and useful therefor, and the services connected therewith, is $7.25 per great-circle mail ton-mile. The compensation provided herein shall be in lieu of, not in addition to, the service mail compensation already received by the carrier for mail transported on and after May 31, 1979, and shall be effective until issuance of an order establishing a final mail rate in this proceeding.

V 45 / 25 FE 5 80 UMI

3. We shall serve this order upon the Postmaster General and Kodiak-Western Alaska Airlines, Inc.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten (10) days after the service date of this order.

We shall make this order effective and an action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review is filed or the board gives notice that it will review this order on its own motion.

We shall publish this order in the Federal Register.

By Julien R. Schrenk, Chief Domestic Fares and Rates Division Bureau of Domestic Aviation.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-3731 Filed 2-4-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Mayo Foundation; Decision on Application for Duty Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 79-00378. Applicant: Mayo Foundation, 200 First Street, S.W., Rochester, Minnesota 55901. Article: Gas Chromatograph/Mass Spectrometer/Computer System, Model MS-5076 and Accessories. Manufacturer: Kratos (AEI Scientific Instruments), United Kingdom. Intended use of article: The article is intended to be used in conducting the following research projects:

1. Profiling of human body fluids in healthy and diseased states using gas chromatography and mass spectrometry.
2. Development of clinical drug assays.
3. Analysis of the metabolism of drugs.
4. Chemical carcinogens and their metabolites.
5. Protein sequencing.
6. Lipid/sugar analysis in cell membranes.
7. Rapid identification of bacterial infection.
8. Environmental monitory of possible carcinogens.
9. Identification and structure proof of organic compounds.
10. Structural identification of new biochemical compounds.
11. Development of new ultrasensitive and ultra-specific methods of quantitative analysis.

The article will also be used in the graduate Pharmacology course for graduate students titled Gas Chromatography-Mass Spectrometry in Biomedical Research.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a guaranteed resolution of 150,000 (10 percent valley definition). The Department of Health, Education and Welfare advises in its memorandum dated December 5, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 80-3649 Filed 2-4-80; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

Request for Removal, Without Disapproval, From Roster of Approved Trustees

Notice is hereby given, pursuant to 46 CFR 221.28, that Bank of Oklahoma, with offices at P.O. Box 2300, Tulsa, Oklahoma, has requested removal, without disapproval, from the Roster of Approved Trustees. In its request for removal, Bank of Oklahoma certified that it is no longer acting or proposing to act as Trustee under a Vessel or Shipyard Financing Trust pursuant to Publ. L. 89-346 and 46 CFR 221.21-221.30.

Dated: January 31, 1980.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 80-3734 Filed 2-4-80; 8:45 am]

BILLING CODE 3510-15-M

Request for Removal, Without Disapproval, From Roster of Approved Trustees

Notice is hereby given, pursuant to 46 CFR 221.28, that Alaska National Bank of the North, with offices at College Office and Administrative Center, P.O. Box 60730, Fairbanks, Alaska, has requested removal, without disapproval, from the Roster of Approved Trustees. In its request for removal, Alaska National Bank of the North certified that it is no longer acting or proposing to act as Trusteee under a Vessel or Shipyard Financing Trust pursuant to Pub. L. 89-346 and 46 CFR 221.21-221.30.

Dated: January 31, 1980.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 80-3735 Filed 2-4-80; 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council; Meeting

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) will hold a Scoping Meeting to discuss the preparation of the Amendments for the Atlantic Squid, Atlantic Mackerel, and Atlantic Butterfish Fishery Management Plans for the 1981/1982 fishing year. The Scoping process is the initial step in preparing the Amendments for the above Fishery Management Plans and notice hereof is intended to satisfy the Notice of Intent to Prepare Environmental Impact Statements for these three plans. The scoping process is discussed in § 1501.7 of regulations (43 FR 55978) implementing the National Environmental Policy Act.

DATE: February 19, 1980, at 10 a.m.

ADDRESS: Room 2108, Federal Building, North and New Streets, Dover, Delaware 19901.

FOR FURTHER INFORMATION CONTACT: John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, North and New Streets, Dover, Delaware 19901. Phone: (302) 674-2331.

Dated: January 31, 1980.

Winfred H Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-3733 Filed 2-4-80; 8:45 am]

BILLING CODE 3510-22-M

American Samoa Coastal Zone Management Program; Intent To Prepare an Environmental Impact Statement

The Office of Coastal Zone Management (OCZM) in the National Oceanic and Atmospheric Administration (NOAA) intends to prepare a draft environmental impact statement (DEIS) on the proposed approval of the American Samoa Coastal Zone Management Program under the provisions of Section 306 of the Federal Coastal Zone Management Act of 1972 (Pub. L. 92-583, as amended), and distribute it in May, 1980.

Federal approval of the American Samoa Coastal Zone Management Program would allow program administrative grants to be awarded to the Territory and require that Federal actions be consistent with the Program.

The Program consists of numerous policies on diverse management issues which will be prescribed by executive orders and enforced by the laws of the Territory, and is the culmination of two years of development. The American Samoa Program will condition, restrict or prohibit some uses in parts of the management area, while encouraging development and other uses in other parts. The Program should improve the decision-making process for determining appropriate coastal land and water uses in light of resource considerations and increase public awareness of coastal resources. The Program will possibly result in some short-term economic impacts on coastal users but should lead to increased long-term protection of the Territory's coastal resources. Federal alternatives will delaying or denying approval if certain requirements of the Coastal Zone Management act have not been met. Territory alternatives include the possiblilty to modify parts of the Program or withdraw its application for Federal approval.

In order to determine the scope and significance of issues to be addressed in the DEIS, OCZM would like to solicit comments on the proposed action, particularly with respect to the following issues:

(1) The extent to which the Territory should promulgate regulations to provide further specificity to the agencies implementing the Program;

(2) The adequacy of the mechanisms for administrative review and enforcement of compliance of agency and village decisions;

(3) The extent to which the Program addresses the economic impact of fisheries, tourist/resort related and major facilities development and their relationship to socio-cultural attitudes and trends;

(4) The means by which the Program in the future will provide for the continued designation of additional areas of particular concern.

Persons or organizations wishing to submit comments on these or other issues should do so by February 29, 1980. Any comments received after that time will be considered in the response to comments on the DEIS. Please submit all comments to: Ms. Eileen Mulaney, Pacific Regional Manager, Office of Coastal Zone Management, 3300 Whitehaven Street NW., Washington, D.C. 20235, 202/254-7100.

Dated: January 28, 1980.

Michael Glazer,

Assistant Administrator, Coastal Zone Management.

[FR Doc. 80-3686 Filed 2-4-80; 8:45 am]

BILLING CODE 3510-08-M

Northern Mariana Islands Coastal Zone Management Program; Intent To Prepare an Environmental Impact Statement

The Office of Coastal Zone Management (OCZM) in the National Oceanic and Atmospheric Administration (NOAA) intends to prepare a draft environmental impact statement (DEIS) on the proposed approval of the Northern Mariana Islands Coastal Zone Management Program under the provisions of Section 306 of the Federal Coastal Zone Management Act of 1972 (Pub. L. 92-583, as amended), and distribute it in April, 1980.

Federal approval of the Northern Mariana Islands Coastal Zone Management Program would allow program administrative grants to be awarded to the Commonwealth and require that Federal actions be consistent with the Program.

The Program consists of numerous policies on diverse management issues which will be prescribed by executive orders and enforced by the laws of the Commonwealth, and is the culmination of two years of development. The Northern Mariana Islands Program will condition, restrict or prohibit some uses in parts of the management area, while encouraging development and other uses in other parts. The Program should improve the decision-making process for determining appropriate coastal land and water uses in light of resource considerations and increase public awareness of coastal resources. The Program will possibly result in some short-term economic impacts on coastal users but should lead to increased long-term protection of the Commonwealth's coastal resources. Federal alternatives will include delaying or denying approval if certain requirements of the Coastal Zone Management Act have not been met. Commonwealth alternatives include the possibility to modify parts of the Program or withdraw its application for Federal approval.

In order to determine the scope and significance of issues to be addressed in the GEIS, OCZM would like to solicit comments on the proposed action, particularly with respect to the following issues:

(1) The extent to which the Commonwealth should promulgate regulations to provide further specificity to the agencies implementing the Program;

(2) The adequacy of the mechanisms for administrative review and enforcement of compliance of agency decisions;

(3) The extent to which the Program addresses the economic impact of fisheries, tourist/resort related and major facilities development and their relationship to socio-cultural attitudes and trends;

(4) The means by which the Program in the future will provide for the continued designation of additional areas of particular concern.

Persons or organizations wishing to submit comments on these or other issues should do so by February 22, 1980. Any comments received after that time will be considered in the response to comments on the DEIS. Please submit all comments to: Ms. Eileen Mulaney, Pacific Regional Manager, Office of Coastal Zone Management, 3300 Whitehaven Street, NW., Washington, D.C. 20235, 202/254-7100.

Dated: January 28, 1980.

Michael Glazer,

Assistant Administrator, Coastal Zone Management.

[FR Doc. 80-3685 Filed 2-4-80; 8:45 am]

BILLING CODE 3510-08-M

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DEPARTMENT OF ENERGY

Peaceful Uses of Atomic Energy; Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy and the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/EU(SW)–50, from Sweden to West Germany, two irradiated fuel elements containing .34 grams U–233, .39 grams U–235, .49 grams U–234 and U–236, and .31 grams U–236 or a total of 1.53 grams total uranium, and two unirradiated fuel elements containing 2.23 grams uranium with 2.0 grams of U–235. These fuel elements will be utilized for post-irradiation examination and for physical measurements.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the approval of this retransfer will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: January 31, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-3734 Filed 2-4-80; 8:45 am]

BILLING CODE 6455-01-M

Economic Regulatory Administration

[Docket No. ERA–FC–80–002; OFC Cases Nos. 61020–9140–01–11, 61020–9140–05–11, 61020–9140–08–11, 61020–9140–01–12, 61020–9140–05–12, and 61020–9140–08–12]

Convent Chemical Corp.; Acceptance of Petition for Exemptions Pursuant to Interim Rules Implementing Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Acceptance of Petition for Exemptions Pursuant to the Interim Rules Implementing the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On December 31, 1979, Convent Chemical Corporation (Convent) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting three new major fuel burning installations (MFBI's) from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*), which prohibits the use of petroleum and natural gas as a primary energy source in certain new MFBI's. Criteria for petitioning for exemptions from the prohibitions of FUA are published at 44 FR 28530 (May 15, 1979) and at 44 FR 28950 (May 17, 1979) (Interim Rules).

The MFBI's for which the petition is filed are two package boilers (identified as Units 31–F–5 and 31–F–6) and one field erected bioler (identified as Unit 31–F–1) to be installed at Convent's new facility located at Convent, Louisiana. Unit 31–F–1 has a design heat input rate of 303 million Btu's per hour, and Units 31–F–5 and 31–F–6 have design heat input rates of 176 and 181 million Btu's per hour, respectively. Unit 31–F–1 will be capable of burning coal, oil and natural gas; Unit 31–F–5 will be capable of burning industrial waste gas, and natural gas; and Unit 31–F–6 will be capable of burning industrial waste gas, natural gas and oil. Under § 505.26 of the Interim Rules, Convent has requested a permanent exemption for certain fuel mixtures for each of the three units.

FUA imposes statutory prohibitions against the use of natural gas and petroleum as a primary energy source by new MFBI's which consist of a boiler. ERA's decision is this matter will determine whether the three boilers will be granted permanent exemptions to use certain fuel mixture.

Concurrent with this petition, Convent requested temporary public interest exemptions under § 505.15 of the Interim Rules to permit operation of the three boilers during an initial "testing and start-up" phase, expected to begin during the last quarter of 1980 and end with the commencement of normal plant operations during the third or fourth quarters of 1981. Convent stated that this initial period was required to test individual items of equipment and processes and to gradually increase the operating rates of such equipment and processes. ERA determined that the petition for the temporary public interest exemptions is complete and in accordance with § 501.3(d) of the Interim Rules. ERA notified Convent by letter dated January 30, 1980, that its petition for temporary public interest exemptions, as filed was not acceptable.

ERA has determined that the petition for permanent fuel mixtures exemptions is complete in accordance with the Interim Rules. Pursuant to § 501.3(c) of the Interim Rules, ERA notified Convent, by letter dated January 30, 1980, that its petition for permanent exemptions, as filed, was acceptable. ERA retains the right to request additional relevant information from Convent at any time during the pendency of these proceedings where circumstances or procedural requirements may so require. A review of the petition is provided in the SUPPLEMENTARY INFORMATION section below.

As provided for in Section 701(c) and (d) of FUA and §§ 501.31 and 501.33 of the Interim Rules, interested persons are invited to submit written comments in regard to this matter, and any interested person may submit a written request that ERA convene a public hearing.

DATES: Written comments are due on or before March 21, 1980. A request for public hearing must also be made within this same 45 day public comment period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Economic Regulatory Administration, Case Control Unit, Box 4629, Room 2313, 2000 M Street, NW., Washington, D.C. 20461. Docket Number ERA–FC–80–002 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128, Washington, D.C. 20461, Phone (202) 254–7814.

Allan Stein, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6G–087, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252–2967.

Edward J. Peters, Jr., New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128, Washington, D.C. 20461, Phone (202) 634–7593.

SUPPLEMENTARY INFORMATION: ERA published in the **Federal Register** on May 15 and 17, 1979, its Interim Rules implementing the provisions of Title II of FUA. The Act prohibits the use of natural gas and petroleum as a primary energy source in certain new MFBI's unless an exemption to do so has been granted by ERA. The three MFBI's for which the permanent fuels mixtures exemptions are requested are: (1) A field-erected boiler (No. 31–F–1) with a design heat input rate of 303 million Btu's per hour, and a steam generating capacity of 250,000 pounds per hour, that is designed to burn coal, oil, and natural gas; and (2) a package boiler (No. 31–F–5) with a design heat input rate of 176 million Btu's per hour, and a steam generating capacity of 150,000 pounds per hour, that is designed to burn industrial waste-gas, and natural gas; and (3) a package boiler (No. 31–F–6) with a design heat input rate of 181 million Btu's per hour, and a steam generating capacity of 150,000 pounds per hour, that is designed to burn industrial waste gas, natural gas and oil. Convent states that the steam generated will be used in the production of chlorine, caustic and ethylene dichloride (EDC) in its new industrial chemical plant located at Convent, Louisiana.

Section 505.26 of the Interim Rules provides for a permanent exemption from the prohibitions of FUA for certain fuel mixtures containing natural gas or petroleum. To qualify, a petitioner must demonstrate to the satisfaction of ERA that:

(1) It proposes to use a mixture of natural gas or petroleum and an alternate fuel as a primary energy source; and

(2) The amount of petroleum or natural gas proposed for use in the mixture will not exceed the minimum percentage of the total annual Btu heat input needed to maintain operational reliability of the installation consistent with maintaining a reasonable level of fuel efficiency.

If the exemptions are granted, ERA will not require that the percentage of petroleum or natural gas used in the mixture be less than 25 percent of the total annual Btu heat input of the primary energy sources to be used in the installation.

In addressing these eligibility requirements, and the evidentiary requirements in §§ 505.28(a)(1) and (c)(4), Convent states that it will be using a coal-natural gas or oil mixture as a primary energy source in Unit 31–F–1. Convent also states that it will be using an industrial waste gas-natural gas or oil mixture as a primary energy source in Unit 31–F–6, and a waste gas-natural gas mixture in Unit 31–F–5. Further, they certify that the total amount of natural gas or petroleum, that is proposed to be used in each of the boilers, will not exceed 25 percent of the total annual Btu heat input of each of the three boilers.

Convent contends that supplementation of coal and industrial waste gas in the three subject boilers with oil and natural gas is required to meet plant steam requirements when either the largest boiler (Unit 31–F–1) and its subsystems, or its flue gas desulfurization and baghouse collection systems must be shut down for repair or maintenance. Convent states that such supplementation with oil and natural gas will provide sufficient steam to insure continuous plant operation during such system malfunctions.

In accordance with Part 502 of the Interim Rules, in support of its petition, Convent has addressed the remaining Fuels Decision Report (FDR) requirements including design specifications for the units for which these exemptions are requested and an engineering assessment of the proportions of natural gas (or oil) needed to maintain operational reliability and a reasonable level of fuel efficiency.

ERA hereby accepts the filing of the petition for the permanent fuel mixtures exemptions as adequate for filing. ERA retains the right to request additional relevant information from Covent at any time during the pendency of these proceedings where circumstances or procedural requirements may so require. As set forth in § 501.3(g) of the Interim Rules, the acceptance of the petition by ERA does not constitute a determination that Convent is entitled to the exemptions requested.

The public file, containing documents on these proceedings and supporting materials is available for inspection upon request at: Economic Regulatory Administration, Room B–110, 2000 M Street, NW., Washington, D.C., Monday–Friday, 8:00 a.m.–4:30 p.m.

Issued in Washington, D.C., on January 30, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-3723 Filed 2-4-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. EL79–20]

Buckeye Power, Inc.; Granting Extension of Time

January 30, 1980.

On January 25, 1980, Schiff, Hardin & Waite and Drexel D. Journey filed a motion for an extension of time to file a response to the Order Disqualifying Counsel which was certified to the Commission on January 22, 1980. The motion states that additional time is necessary because of the seriousness of the issues and the brief period allowed for answers. The motion further states that none of the parties objects to the motion. Requests for extensions were also filed by Wilmer & Pickering and Cincinnati Gas & Electric Company.

Upon consideration, notice is hereby given that the time for filing responses to the Order of January 22, 1980, is extended to and including February 11, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-3725 Filed 2-4-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1405–6; OPP–50449]

Abbott Laboratories & Mobay Chemical Corp.; Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 275–EUP–13. Abbott Laboratories, North Chicago, Illinois 60064. This experimental use permit allows the use of a tank mixture of ten pounds each of the plant growth regulators gibberellic acid and 6-benzyladenine on apples to evaluate improvement of shape of fruit. The experimental use permit is effective from March 19, 1980, to March 19, 1981. (Mr. Robert Taylor, PM–25, Room E–359, Telephone: 202/755–2196)

No. 275–EUP–16. Abbott Laboratories, North Chicago, Illinois 60064. This experimental use permit allows the use of a tank mixture of four pounds each of the plant growth regulators gibberellic acid and 6-benzyladenine on apples to evaluate improvement of shape of fruit. A total of approximately 224 acres is involved for both this permit and the one above; the programs are authorized only in the States of Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Caroline, Texas, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin. This permit is also effective from March 19, 1980, to March 19, 1981. The permits will use the same active ingredient, but different formulations. Permanent tolerances for residues of the active ingredients in or on apples have been established (40 CFR 180.224 and 180.376). (Mr. Robert Taylor, PM–25, Room E–359, Telephone: 202/755–2196)

No. 3125–EUP–166. Mobay Chemical Corporation, Kansas City, Missouri 64120. This experiment use permit allows the use of 1.500 pounds of the herbicide 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one on corn to evaluate control of

weeds. The experimental use permit is effective from February 15, 1980, to February 15, 1982. (Mr. Robert Taylor, PM–25, Room E–359, Telephone: 202/755–2196)

No. 3125–EUP–167. Mobay Chemical Corporation, Kansas City, Missouri 64120. This experimental use permit allows the use of 1,500 pounds of the herbicide 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one on corn to evaluate control of weeds. A total of 12,000 acres is involved for both this permit and the one above; the programs are authorized only in the States of Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin. This experimental use permit is also effective from February 15, 1980, to February 15, 1982. The permits will use the same active ingredient, but different formulations. Permanent tolerances for residues of the active ingredient in or on corn, corn forage and fodder have been established (40 CFR 180.332). (Mr. Robert Taylor, PM–25, Room E–359, Telephone: 202/755–2196)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Divison (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; (7 U.S.C. 136)))

Dated: January 30, 1980.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 80-3702 Filed 2-4-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1406–3]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A–104), U.S. Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements (EIS's) which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the weeks of January 21, 1980 to January 25, 1980.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from February 1, 1980 and will end on March 17, 1980. The 30-day review period for final EIS's as calculated from February 1, 1980 will end on March 3, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

For hard copy reproduction: Environmental Law Institute, 1346 Connecticut Avenue NW., Washington, D.C. 20036.

For hard copy reproduction or microfiche: Information Resources Press, 2100 M Street NW., Suite 316, Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review (A–104), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 245–3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ Regulations became effective. Pursuant to § 1506.10(a), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of January 21, 1980 to January 25, 1980 the 30-day review period will be calculated from February 1, 1980. The review period will end on March 3, 1980.

Appendix I below sets forth a list of EIS's filed with EPA during the week of January 21, 1980 to January 25, 1980. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date of the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this Notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II below sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the **Federal Register** and the newly established date for comments.

Appendix III below sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV below sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V below sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI below sets forth official corrections which have been called to EIS's attention.

Dated: January 31, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A–104).

Appendix I—EIS's Filed With EPA During the Week of January 21 Through 25, 1980

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412–A Admin. Building, Washington, D.C. 20250, (202) 447–3965.

Draft

National Soil and Water Conservation Program, RCA, Programmatic, January 24: Proposed is the National Soil and Water Conservation Program as required by the Soil and Water Resources Conservation Act of 1977. The program would guide future conservation activities on the nation's private and nonfederal lands. A wide array of alternative strategies are considered including: (1) fund sources, (2) program management techniques which encompass education, regulations, and tax and financial incentives. (EIS order No. 800063.)

The USDA has announced that a series of public meetings will be held between February 17, 1980 and February 29, 1980 to discuss and solicit comments on the National Soil and Water Conservation program, RCA and the above EIS. Details were published by the USDA in the Friday, Februrary 25, 1980 **Federal Register.**

Forest Service

Final

Encampment River Wild and Scenic Rivers Study, Jackson County, Colo., January 22: Proposed for inclusion in the National Wild and Scenic Rivers System is the Colorado portion of the Encampment River along with 2,635 acres of adjacent lands in Routt National Forest, Jackson County, Colorado. The statement also discusses Rare II, the development of a Mt. Zirkel wilderness management plan and the development of a forest land and resource management plan for the Medicine Bow and Routt National Forests. Four alternatives are considered. (FES–02–11–79–01–LEG). Comments made by: DOI, FERC, EPA, AHP, State agencies, groups and businesses. (EIS Order No. 800054.)

Island Park Geothermal Area, Leasing/Development, Fremont County, Idaho; Gallatin County, Mont.; and Teton County, Wyo.; January 23: Proposed is the leasing of 488,031 acres of the Island Park Geothermal Area (IPGA) located in Fremont County, Idaho; Gallatin County, Montana; and Teton County, Wyoming. The IPGA contains two areas classified as known geothermal resource areas (KGRA). These lands are administered by USDA (447,346 acres) and DOI (10,685 acres). The six alternative actions range from no leasing, to partial leasing with conditions, to entire area leasing. More than 200 lease applications have been submitted for lands outside the KGRA and would be approved noncompetitively. Comments made by: DOI, USDA, HEW, EPA, AHP, State and local agencies, groups, individuals and business. (EIS order No. 800061.)

Final

Priest River, Wild and Scenic Class., Kaniksu NF, Boundary and Bonner Counties, Idaho, Jan. 22: It is proposed that 16.5 miles of the Priest River and about 5,732 acres of adjacent land located in the Kaniksu National Forest, Boundary and Bonner Counties, Idaho, be included in the National Wild and Scenic Rivers System and be classified, designated and administered as a wild river area. Approximately 360 acres of private land which is owned by Burlington Northern Inc. will be acquired through exchange. Administration will be by the USDA except for 140 acres of State land to be administered by Idaho. Specific management directions are also discussed. (USDA–FS–R1–(04)–DES–LEG–78–10). Comments made by: USDA, USA, DOC, DOW, HUD, DOI, DOT, EPA, FERC, State agencies, groups and individuals. (EIS order No. 800053.)

RURAL ELECTRIFICATION ADMINISTRATION

Final Supplement

Wolcott-Malta Transmission Lines and Terminal Facilities, Eagle, Pitkin, and Lake Conuties, Colo., January 21: Proposed is the issuance of guaranteed loan funds for the construction of the Wolcott-Malta Transmission Lines and related facilities in the Counties of Eagle, Pitkin and Lake, Colorado. The 230 KV and 345 KV transmission lines would extend for 143.3 miles from the Wolcott Substation to the Malta Substation. Both substations will be modified to accommodate the terminal facilities for the lines. New substations will be built along the line near Eagle and Basalt. The alternatives consider: (1) no action, (2) alternate transmission line corridors, (3) alternate construction methods, (4) alternate construction materials, and (5) load management and conservation. (USDA–REA–ES–(ADM)–74–2–F). Comments made by: DOI, USDA, DOT, COE, EPA, FERC, groups, individauls and businesses. (EIS Order No. 800051).

U.S. Army Corps of Engineers

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272–0121.

Draft

Crown Bay Port Facility, Charlotte Amalie, Permit, Virgin Island, January 21: Proposed is the issuance of a dredging and fill permit for the construction of a New Port facility in Crown Bay, St. Thomas Island within the Virgin Islands. The project would involve dredging 1,827,000 cubic yards of material from 108 acres in Crown Bay to provide a navigation channel and berthing areas, and the filling of 32 acres of the bay to provide new land on which to construct a cruise ship terminal, cargo handling and storage facilities, and a tourist-oriented retail shopping area. (EIS Order No. 800049).

Kenmore Navigation Channel, Lake Washington, King County, Wash., January 21: Proposed is the construction of channel improvements in Lake Washington for the Kenmore Industrial Park, King County, Washington. The Project would involve dredging about 123,000 cubic yards of material for the channel and 3,000 cubic yards for the berthing channel area. The alternatives consider: (1) no action, (2) three different channel depths, (3) four upland sites, and (4) two open-water disposal sites. (Seattle District). (EIS Order No. 800050).

Wilmington Harbor, NE Cape Fear River, Wilmington, New Hanover County, N.C., January 24: Proposed is the widening and deeping of an existing deep draft ship channel and turning basin located in Wilmington, New Hanover County, North Carolina. Other features of the project are: (1) acquiring fee simple or conservation rights on 2,800 acres of wetland and upland attendant to the river, (2) maintaining the new navigation improvements, (3) providing for controlled access to the navigation channel, and 4) management of the acquired 2,800 acre conservation area. (Wilmington District). Comments made by: DOC, DOI, USDA, EPA, State and local agencies, individuals and businesses. (EIS Orders No. 800064).

Miss. R., additional harbor facilities, Memphis, Tenn., January 25: Proposed are improvements to the Mississippi River which will include harbor development in the vicinity of Memphis, Tennessee. The improvements would include dredging a channel extending from the Tennessee chute to the west and north of the existing harbor facilities. Hydraulic fill from channel dredging will be used to create a 1,000 arce industrial area to the west of the existing harbor fill. In addition to no action, four site alternatives are considered. This project is located in Shelby County. (Memphis District). Comments made by: DOC, HEW, HUD, USDA, DOI, DOT, State agencies. (EIS Order No. 800065).

DEPARTMENT OF COMMERCE

Contract: Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377–4335.

National Oceanic and Atmospheric Administration

Draft

Coastal Migratory Pelagic (Mackerels), FMP, Gulf of Mexico and Atlantic Ocean, January 25: Proposed is a fishery management plan for the coastal migratory pelagic resources (Mackerels) of the Gulf of Mexico and South Atlantic fishery conservation zones. The species involved are King, Spanish, and Cero Mackeral, Little Tunny, Cobia, Dolphin and Bluefish. The basic objectives are to manage the fishery to obtain the optimum yield, establish a statistical reporting system for monitoring catch, and minimize gear and user group conflicits. (EIS Order No. 800068).

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Clinton Spotts, Region VI, Environmental Protection Agency, First International Building, 1201 Elm Street, Dallas, Tex. 75270, (214) 767–2716.

Draft

Fancy Hill Barite Mine, NPDES permit, Montgomery County, Ark., January 24: Proposed is the issuance of a NPDES permit by EPA and the approval of a mining and reclamation plan by the USGS for the Fancy Hill (Milchen) Barite Mine and processing plant in Montgomery County, Arkansas. The permit would allow the discharge of wastewater from the facility into the South Fork of the Caddo River. Spoil will be placed in one of three spoil disposal areas, used as fill during construction or returned to mined-out portions of the open pits. This statement was jointly done by the EPA and the geological survey. (EIS Order No. 800062).

FEDERAL ENERGY REGULATORY COMMISSION

Contact: Dr. Jack M. Heinemann, Advisory on Environmental Quality, Room 3000 S–22, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 275–4150.

Draft

Cross Generating Station, license, January 25: Proposed is the issuance of a license for the construction and operation of the Cross Generating Station located near the Town of Cross, Berkeley County, South Carolina. The station would consist of four coal-fired steam electric generating units with a capacity of 510 MWE each, at a new plant site to be located adjacent to the diversion canal connecting Lakes Marion and Moultrie. Approximately 180 miles of new transmission line would connect the plant to existing substations at four primary load centers. (FERC Project No. 190). (EIS Order No. 800069).

For the above DEIS No. 800069, entitled Cross Generating Station, Berkeley County,

South Carolina, anyone desiring to protest or file a petition to intervene with the Federal Energy Regulatory Commission should do so in accordance with the requirements of FERC's rules of practice and procedure, 18 CFR 1.8, 1.10 (1979), by March 17, 1980.

DEPARTMENT OF HUD

Contact: Mr. Richard H. Brown, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6300.

Draft

Bluewater Bay Village Development, Niceville, Okaloosa County, Fla., January 23: Proposed is the issuance of HUD home mortgage insurance for the Bluewater Bay Village planned unit development located in Niceville, Okaloosa County, Florida. The Development would contain approximately 5,714 dwelling units on 1,600 acres. Types of housing planned include single-family units. Acreage has been set aside to accommodate the need for school sites, municipal types services, and commercial and industrial development. (HUD–RO4–EIS–78–10). (EIS Order No. 800058).

North Hills Acres 2nd/Washington 4th Developments, Stark County, N. Dak., January 23: Proposed is the issuance of HUD home mortgage insurance for the North Hills acres 2nd and Washington 4th residential developments located in Dickinson, Stark County, North Dakota. North Hill Acres will contain 168 units on 67 acres, and Washington 4th contains 376 units on 105 acres, all units would be single family detached. (HUD–RO8–EIS–80–ID). (EIS Order No. 800057).

Final

Schubert-Sterchi Subdivision, Knox County, Tenn., January 23: Proposed is the issuance of HUD home mortgage insurance for the Schubert-Sterchi Subdivision located in the city of Knoxville, Knox County, Tennessee. The subdivision is part of a 900 acre tract. The portion to be developed will consist of 328 lots and single-family homes. (HUD–RO4–EIS–78–07–F). Comments made by: EPA, TVA, USDA, HUD, AHP, HEW, State and local agencies, businesss. (EIS Order No. 800059).

Final

Stonebridge Residential Community, Memphis, Shelby County, Tenn., January 23: Proposed is the issuance of HUD home mortgage insurance for the Stonebridge Residential Community located near Memphis, Shelby County, Tennessee. The subdivision will be located on 602.2 acres of land and will include single and multifamily units, along with commercial land uses. The project, when completed, will consist of approximately 3,753 dwelling units. (HUD–RO4–EIS–78–09F). Comments made by: FERC, USDA, AHP, HEW, DOI, EPA, TVA, State and local agencies. (EIS Order No. 800060).

Steeplechase Subdivision, Mortgage Insurance, Harris County, Tex., January 25: Proposed is the issuance of HUD home mortgage insurance for the Steeplechase Subdivision located in Harris County, Texas. The subdivision is located on 1005 acres and will contain approximately 15,700 residences. The project will also contain schools, and shopping and recreational facilities. (HUD–RO6–EIS–80–1F). Comments made by: EPA, AHP, USDA, COE, DOE, HEW, DOT, State agencies. (EIS Order No. 800066).

Section 104(h)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Final

City of Oakland Convention Center/Hotel (UDAG), Alameda County, Calif., January 25: Proposed is the issuance of a UDA grant to the city of Oakland in Alameda County, California for the construction of a convention center, hotel and parking garage. The alternatives considered are: (1) no project, (2) construct convention center on project site but place hotel in city center project area, (3) place parking garage underground, (4) limit project to one block rather than two blocks, and (5) construct project on another site in downtown Oakland. Comments made by: DOT, EPA, GSA, USDA, State agencies. (EIS Order No. 800067).

Final

Cadillac Center, Construction (CDBG), Wayne County, Mich., January 11: Proposed is the issuance of CDBG funding for the construction of the Cadillac Center to be located in the downtown retail core of the city of Detroit, Wayne County, Michigan. The center will be a major regional shopping center housing three department stores and approximately 100 retail or service-oriented shops. In addition to no action, two alternatives are considered which vary in the location of the J. L. Hudson Company Department Store. Comments made by: COE, DOT, AHP, EPA, DOT, State and local agencies, individuals. (EIS Order No. 800028).

The above EIS was published in the January 22, 1980 **Federal Register** with an incorrect project description. The description above is correct. (See Appendix VI).

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426–4357.

Federal Highway Administration

Draft

U.S. 20/Dodge Street Improvement, Dubuque, Dubuque County, Iowa, January 23: Proposed is the improvement of U.S. 20, also known as Dodge Street, from just west of Grandview Avenue to near Bluff Street located in the city and county of Dubuque, Iowa. The length of the project is approximately 1.5 miles. The improvements would include two through traffic lanes in each direction, needed turning lanes, and relocation/consolidation of entrances to homes and businesses along Dodge Street. Three construction alternatives are considered. (FHWA–IA–EIS–80–01–D) (EIS Order No. 800056).

Final

MA–146, Improvement and relocation, Worchester County, Mass., January 23: Proposed are various improvements for MA–146 in the towns of Sutton, Northbridge, Douglas, Uxbridge and Millville in Worchester County, Massachusetts. The facility would be reconstructed to dual lanes from the vicinity of central turnpike in the town of Sutton to the vicinity of Mill Street in the town of Uxbridge. From this point MA–146 would be relocated to the RI state line in the towns of Uxbridge and Millville. The entire project is about 13½ miles in length and will consist of a four-lane divided highway. The alternatives consider: No action, mass transit, alternative alignment, and improvements on present alignment. (FHWA–MASS–EIS–75–03–F). Comments made by: AHP, DOI, DOC, HUD, USDA, TREA, GSA, EPA, State and local agencies, groups. (EIS Order No. 800055).

EIS's Filed During the Week of Jan. 21 Through Jan. 25, 1980

(Statement title index—by State and county)

State	County	Status	Statement title	Accession No.	Date filed	Original agency No.
		Draft	Cross Generating Station, License	800069	01–25–80	FERC
Arkansas	Montgomery	Draft	Fancy Hill Barite Mine, NPDES Permit	800062	01–24–80	EPA
Atlantic Ocean		Draft	Coastal Migratory Pelagic (Mackerels), FMP	800068	01–25–80	DOC
California	Alameda	Final	City of Oakland Convention Center/Hotel (UDAG)	800067	01–25–80	HUD
Colorado	Jackson	Final	Encampment River Wild and Scenic River Study	800054	01–22–80	USDA
	Eagle	Final Supp	Wolcott-Malta Transmission/Terminal Facilities	800051	01–22–80	USDA
	Pitkin	Final Supp	Wolcott-Malta Transmission/Terminal Facilities	800051	01–22–80	USDA
	Lake	Final Supp	Wolcott-Malta Transmission/Terminal Facilities	800051	01–22–80	USDA
Florida	Okaloosa	Draft	Bluewater Bay Village Development, Niceville	800058	01–23–80	HUD
Gulf of Mexico		Draft	Coastal Migratory Pelagic (Mackerels), FMP	800068	01–25–80	DOC

EIS's Filed During the Week of Jan. 21 Through Jan. 25, 1980

(Statement title index—by State and county)

State	County	Status	Statement title	Accession No.	Date filed	Original agency No.
Idaho	Fremont	Final	Island Park Geothermal Area, Leasing/Development.	800061	01–23–80	USDA
	Bonner	Final	Priest Wild/Scenic River, Kunlkau National Forest	800063	01–22–80	USDA
	Boundary	Final	Priest Wild/Scenic River, Kunlkau National Forest	800063	01–22–80	USDA
Iowa	Dubuque	Draft	U.S. 20/Dodge Street Improvement, Dubuque	800066	01–23–80	DOT
Massachusetts	Worchester	Final	MA–146, Improvement and relocation	800055	01–23–80	DOT
Montana	Gallatin	Final	Island Park Geothermal Area, Leasing/Development.	800061	01–23–80	USDA
North Carolina	New Hanover	Final	Wilmington Harbor, New Cape Fear River, Wilmington.	800064	01–24–80	COE
North Dakota	Stark	Draft	North Hills Acres 2nd/Washington 4th Development.	800057	01–23–80	HUD
Programmatic		Draft	National Soil and Water Conservation Program, RCA.	800069	01–24–80	USDA
Tennessee		Final	Miss. R., Additional Harbor Facilities, Memphis	800065	01–25–80	COE
	Knox	Final	Schubert-Sterchi Subdivision	800059	01–23–80	HUD
	Shelby	Final	Stonebridge Residential Community, Memphis	800060	01–23–80	HUD
Texas	Harris	Final	Steeplechase Subdivision, Mortgage Insurance	800066	01–25–80	HUD
Virgin Islands		Draft	Crown Bay Port Facility, Charlotte Amalie, Permit	800049	01–21–80	COE
Washington	King	Draft	Kenmore Navigation Channel, Lake Washington	800050	01–21–80	COE
Wyoming	Teton	Final	Island Park Geothermal Area, Leasing/Development.	800061	01–23–80	USDA

Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/ extension	Date review terminates
DEPARTMENT OF TRANSPORTATION					
Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426–4357.	I–78, Hasbville to Still Valley, New Jersey and Pennsylvania.	Final 791139	Nov. 19, 1979	Extension	Feb. 19, 1980.

Appendix III.—*EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Date of withdrawal
None.				

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/No.	Date notice published in "Federal Register"	Reason for retraction
None.				

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal Agency Contact	Title of report	Date made available to EPA	Accession No.
U.S. ARMY CORPS OF ENGINEERS			
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272–0121.	Missouri River Levee System Unit R–616, Additional Information.	Jan. 22, 1980	800052

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Correction
DEPARTMENT OF AGRICULTURE				
Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412–A, Admin. Building, Washington, D.C. 20250, (202) 447–3965.	Cooperative 1980 Maine Spruce Budworm Suppression Project; Cooperative 1980 Gypsy Moth Suppression and Regulatory Program.	Draft 791272; Draft 791270.....	Jan. 4, 1980.....	Extensions were published in Appendix II of the January 28, 1980, FEDERAL REGISTER with an incorrect date of termination. The correct date is Feb. 19, 1980.
DEPARTMENT OF INTERIOR				
Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343–3891.	Atlantic/Gulf Coasts Protective Barrier Islands, Atlantic Coast.	Draft 800036.....	Jan. 25, 1980....	This EIS was published with an incorrect status. The correct status is draft. The comment period remains the same.
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT				
Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755–6300.	Cadillac Center, Construction (CDBG).	Final 800025.....	Jan. 22, 1980....	This EIS was published in the Jan. 22, 1980, FEDERAL REGISTER with an incorrect project description. The correct description appears in Appendix I.

[FR Doc. 80-3690 Filed 2-4-80; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1405-5; OPP-180358A]

California Department of Food and Agriculture; Amendment to Specific Exemption To Use Ethephon as a Growth Regulator on Grapes

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of amendment to specific exemption.

SUMMARY: EPA has issued an amendment to a specific exemption granted to the California Department of Food and Agriculture (hereafter called the "Applicant") to use ethephon (Ethrel) as a growth regulator on 74,000 acres of grapes in California. The amendment changes the pre-harvest interval from 30 days to 14 days.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street SW., Room: E–124, Washington, D.C. 20460, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: On September 18, 1979 (44 FR 54109), EPA published a notice in the **Federal Register** which announced the granting of a specific exemption to the Applicant to use up to 37,000 pounds of ethephon as a plant regulator on 74,000 acres of grapes. Since then, the Applicant has requested that the pre-harvest interval be lowered from 30 days to 14 days. The Applicant had originally suggested the 30-day pre-harvest interval. Data, submitted to EPA in support of a tolerance for ethephon in or on grapes, indicate that residues of ethephon are not expected to exceed 2 parts per million.

After reviewing the application and other available information, EPA has determined that the requested amendment would not significantly change the specific amendment nor would it pose an additional hazard to the environment. Accordingly, EPA has granted the amendment so that the pre-harvest interval has been changed from 30 days to 14 days. All other provisions and restrictions of the specific exemption granted on August 3, 1979, still apply.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819 (7 U.S.C. 136))

Dated: January 30, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-3701 Filed 2-4-80; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1405-3; OPP-180321]

Commonwealth of Puerto Rico; Issuance of Specific Exemption To Use of Lindane To Control "White Grubs" in Sugarcane Fields

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has granted a specific exemption to the Puerto Rico Department of Acriculture (hereinafter referred to as the "Applicant") to use lindane on a maximum of 14,100 acres of sugarcane fields in Puerto Rico to control larvae of the West Indian sugarcane root borer weevil and the May beetle (known locally as "white grubs"). The specific exemption expires on May 19, 1980.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E–124, Washington, D.C. 20460, Telephone: (202) 426–2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: Sugarcane is grown in two cycles in Puerto Rico, between July and November and between February and May, Ratoon crops, which grow from the cut stumps of the previously harvested cane, follow both cane crops. Due to low production costs, the ratoon crop can be the most profitable cycle of sugarcane cultivation.

The West Indian sugarcane root borer weevil (*Diaprepes abbreviatus*) and the May beetle (*Phyllophaga portoricensis*), or white grubs, are major pests of sugarcane in Puerto Rico. Damage caused by the larvae can kill the plant, but usually results in stunted growth and reduced plant sugar production. Root damage also makes the plant more easily uprooted by mechanical harvesters and thus reduces future yields by removing cane stools which produce the ratoon crop. The root borer weevil larvae live in the soil and injure the cane by feeding on the plant's roots and, when more mature, by tunneling up into the cane stalk. Adult weevils emerge from the soil in large numbers in the early and late summer and feed on a wide variety of succulent weeds. May beetle larvae are root pruners that feed on sugarcane plant roots. May beetle larvae are also present year round with most adult beetles emerging in May or June.

According to the Applicant, aldrin was used extensively throughout the sugarcane producing regions as a pre-plant treatment, until it was banned. Registered pesticides (Furadan, Dasanit) are of adequate toxicity to control the larvae when applied as a soil-incorporated treatment. However, they do not prevent reinfestation because of insufficient residual activity under the conditions that exist in Puerto Rico. The only method currently being used for control of white grubs in sugarcane is soil cultivation, which is only practical during the time of planting. It lowers the larval populations but does not prevent their recovery.

Sugarcane and sugar production play an important role in Puerto Rico's economy. The Sugar Corporation is a publicly owned organization which produces and/or controls the production of most of the sugarcane grown on the island. It has reported millions of dollars of losses in the past few years. The Applicant estimates that white grub larvae cause an annual sugarcane yield reduction valued at $21.8 million.

The Applicant proposed to make a soil-incorporated application of lindane in sugarcane fields at the time of planting. A single application of a lindane 25 percent wettable powder formulation will be made at a maximum rate of 2.0 pounds active ingredient (a.i.) per acre. The Applicant plans to use an adulticide, probably carbofuran (a registered product), against the adult root borer weevil at times of peak emergence, as well as the one-time application of lindane. No adulticide program is planned for the May beetles since their feeding patterns do not allow effective large scale pest measures. Once the larval populations are under control, a continuing adulticide program is expected to keep root borer weevil populations below economic injury levels by preventing egg laying by adults. May beetle control will depend upon the effectiveness of the soil-incorporated application of lindane.

EPA has determined that residues of lindane in molasses or sugar are not likely to exceed 0.01 part per million (ppm) from the proposed use. Tolerances for residues of lindane in or on raw agricultural commodities have been established, ranging from 7 parts per million (ppm) in or on the fat of meat from cattle, goats, horses, and sheep, to 0.01 ppm (negligible residue) in or on pecans. Established tolerances will not be exceeded by feeding of treated sugarcane or byproducts to animals, since the feeding of sugarcane tops will be prohibited. Neither the bagasse nor the sugarcane molasses are animal feed items in Puerto Rico. Because of toxicological considerations and possible cancer risk to applicators and loaders/mixers, appropriate restrictions and clothing requirements have been imposed. No unreasonable adverse effects to the environment are expected as a result of this program.

It should be noted that a rebuttable presumption against registration of pesticide products containing lindane was published in the **Federal Register** on February 17, 1977 (42 FR 9816); however, no decision has yet been made by EPA as to appropriate regulatory action in this matter.

After reviewing the application and other available information, EPA has determined that (a) pest outbreaks of the West Indian sugarcane root borer weevil and the May beetle have occurred; (b) there is no effective pesticide presently registered and available for use to control the white grub in Puerto Rico; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the white grub is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until May 19, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. A lindane 25 percent wettable powder product will be applied at a maximum rate of 2.0 pounds a.i. per acre;

2. Applications will be limited to a single pre-plant treatment with ground equipment. No field will be treated more than once;

3. A maximum of 14,100 acres will be treated;

4. A maximum of 28,200 pounds a.i. is authorized for use;

5. Applicators and mixer/loaders will be trained employees of the Sugar Corporation;

6. Applicators will wear protective clothing which includes: Gloves, helmets, long sleeve shirts, and long pants. Applicators will not be involved with any phase of the mixing and loading operation. Paper masks will be worn during the mixing operations. Applicators and mixer/loaders will be required to shower and wash at the end of the work day;

7. Re-entry workers will be required to wear protective gloves and boots;

8. Children and women of child-bearing age will not participate in any phase of the mixing and loading or application of lindane. Use of this pesticide will be avoided near children or where children will be exposed;

9. All workers will be instructed as to the symptoms of lindane poisoning. Workers will be required to leave the exposure areas if symptoms become evident;

10. The Applicant must advise EPA of any changes in the proposed use of lindane;

11. The feeding of sugarcane tops, bagasse or molasses to animals is prohibited;

12. Treated fields will not be planted with crops which do not have established tolerances, within twelve months of application of lindane;

13. Data indicate that residues of lindane in run-off water after a heavy rain could reach a level of 37 parts per billion. Although this level of lindane exceeds the LC50's for species of fresh-water fishes and aquatic invertebrates, an acute hazard is not anticipated, provided run-off is adequately diluted by surface water in draining ditches, streams and rivers, and estuarine areas. A 370-fold dilution factor is necessary to protect (from acute effects) the most sensitive, aquatic invertebrate species tested, and a 10-fold dilution factor is necessary to protect fresh-water fishes. These factors should be taken into consideration when lindane is being applied in areas where fresh-water fishes and aquatic invertebrates are important natural resources;

14. Lindane may not be applied where excessive run-off will occur. Care must be taken to prevent contamination of water by cleaning of equipment or disposal of wastes;

15. All applicable directions, restrictions, and precautions on the product label must be followed;

16. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met;

17. Sugarcane and sugar with residues of lindane not exceeding 0.01 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action; and

18. The EPA shall be immediately informed of any adverse efects resulting from the use of lindane in connection with this exemption.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819 (7 U.S.C. 136))

Dated: January 30, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Products.

[FR Doc. 80-3699 Filed 2-4-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1405-1; OPP-180409]

Deputy Assistant Secretary of Defense (Energy, Environment and Safety); Issuance of Specific Exemption To Use Methoprene To Control the Pharaoh Ant

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the Deputy Assistant Secretary of Defense (Energy, Environment and Safety), Mr. George Marienthal, (hereafter referred to as the "Applicant") to use methoprene to control the Pharoah ant at the Brooke Army Medical Center (BAMC), Fort Sam Houston, Texas. The specific exemption expires on June 30, 1980.

FOR FURTHER INFORMATON CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: The Pharaoh ant (*Monomorium pharaonis*) is a cosmopolitan species that is widely distributed throughout the United States and Canada. The species has a predilection for invading areas such as hospitals, bakeries, and hotels. The vector potential of the Pharaoh ant has been reported on for the pathogens *Salmonella* spp., *Pseudomonas aeruginosa, Staphylococcus* spp., *Streptococcus* spp., and *Clostridium* spp. BAMC has an infestation of Pharaoh ants. According to the Applicant, lack of adequate control of the ant is resulting in: (1) An increased risk of infection to patients, especially burn victims and newborn infants; (2) the reapplication of medication and dressings when ants are observed on patients; (3) contamination of operating room equipment and/or supplies; (4) a traumatic effect on families and visitors who observe ants in the hospitals; and (5) an increased workload on an already overworked staff to prevent or react to contamination by ants.

The Applicant states that repeated attempts to control the ant with registered pesticides have failed. Currently registered pesticides for Pharaoh ant control include Kepone, toxaphene and chlorpyrifos. The Applicant goes on to state that, as a result of documented hazards associated with Kepone and toxaphene and the regulatory actions taken (cancellation and rebuttable presumption against registration) by EPA, their use in BAMC is unacceptable to the Department of the Army for control of the Pharaoh ant. Chlorpyrifos has been registered for this use by Texas, but is not federally registered.

The Applicant reports that products labeled for use in hospitals for control of the broad category "ants" have been used. Residual treatments have been made using diazinon, bendiocarb, boric acid dust, and propoxur bait. Nonresidual treatments have been made with ultra-low volumes of pyrethrin. These efforts to reduce the ant population were not successful, the Applicant claims, due to the inability of being able to treat the entire medical facility at one time, the limitation imposed on the use of residual pesticides in patient areas, and the inaccessibility of the broods.

The Applicant believes that adequate control of the Pharaoh ant infestation at BAMC will be realized only if a baiting program utilizing a toxicant which can be transported back to the colony by the foraging workers is implemented. Currently, there are no bait formulations registered with EPA which will meet this requirement.

The Applicant plans an overall program which will consist of efforts to reduce sources of food to the foraging worker ants, a pre-baiting survey of marked stations throughout the hospital complex, and a methoprene bait program. Preparation of the bait will be in accordance with guidance provided by the manufacturer, Zoecon Corporation. One 5-milliliter (ml) bottle of 10% methoprene will be added to 100 grams (g) of dry liver powder, honey and sponge cake mixture. This quantity will be sufficient to bait 100 stations (1 g of formulated bait per station). A caulking gun will be used to distribute the bait at a rate of 1 per 3 square meters. An estimated 6,700 bait stations, consisting of adhesive tape placed at selected locations, will be required. As with the survey bait stations, all methoprene bait stations will be numbered and marked as to placement on the map of the hospital interior. Two weeks following the initial baiting, fresh bait and adhesive bait stations will be distributed. It is expected that 1,440 milligrams of the 10% methoprene will be utilized. The Applicant proposed to use no residual or nonresidual insecticides, except for emergency situations, in the major bait areas to insure that foraging worker ants are not prohibited from carrying the toxicant back to the colony. (While approving the general plan, EPA has recommended continued use of residual and nonresidual insecticides to prevent proliferation of the Pharaoh ant population and thus an increased hazard of infection to patients due to the ants' vector potential for pathogens. Such treatments should not jeopardize the program since the ant population has been increasing despite their use).

As a follow-up to the baiting program, a liver bait survey will be conducted to determine the effectiveness of the program and to isolate those areas which may require future bait treatments. Once the ant population has been significantly reduced, residual treatments will be made. All applicators in the entire program will be trained and certified in accordance with the EPA-approved Department of Defense certification plan.

EPA found no data available to support the efficacy of methoprene with respect to ants; however, EPA agrees that registered pesticides are not controlling the Pharaoh ants. It has been determined that the mode of action of methoprene is such that it may control the ants by destroying the young and making the females infertile. The proposed use of methoprene should not pose an unreasonable hazard to patients in the hospital.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of Pharaoh ants has occurred; (b) there are no effective pesticides currently registered and available to control the Pharaoh ant in the BAMC; (c) there are no alternative means of control available, taking into account the efficacy and hazard; (d) significant health problems may result if the Pharaoh ant is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until June 30, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The Zoecon product, Pharogone Pharaoh's Ant Bait Concentrate, containing 10% methoprene may be used;

2. The product is to be used at a rate of ½% methoprene in a liver powder, honey and sponge cake bait formulation;

3. Individual baits, consisting of one g of formulated bait, may be distributed at a rate of one bait per three square meters;

4. A total of 1,440 ml of the 10 percent methoprene is authorized;

5. Labeling used to ship the Zoecon product should contain the following:

An ingredient statement
Appropriate warnings and cautions
A net content statement
An EPA establishment registration number
The name and address of the producer
The product name

Use of the product is to be in accordance with the program submitted;

6. Application of the pesticide will be by personnel trained and certified in accordance with the Department of Defense certification plan for pesticide applicators;

7. The EPA shall be immediately informed of any adverse effects from the use of methoprene in connection with this exemption; and

8. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a final report summarizing the results of this program by September 30, 1980.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; (7 U.S.C. 136).)

Dated: January 30, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-3697 Filed 2-4-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1405-2; OPP-180411]

Florida Department of Agriculture and Consumer Services; Issuance of Specific Exemption To Use Benomyl To Control Stalk Rot of Potatoes

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has issued a specific exemption to the Florida Department of Agriculture and Consumer Services (hereafter referred to as the "Applicant") to use up to 21,000 pounds of Benlate, containing the active ingredient (a.i.) benomyl, for the control of stalk rot on 7,000 acres of white potatoes in Dade County, Florida. The specific exemption ends on March 30, 1980.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-124, Washington, D.C. 20460, Telephone: 202/426-0223.

SUPPLEMENTARY INFORMATION: According to the Applicant, stalk rot, which is caused by the phytopathogenic fungus *Sclerothinia sclerotiorum,* is a major pest of white potatoes in Dade County. The fungus was considered a minor pest of potatoes until the 1960's, when the South Florida Water Management District drained the potato production fields by digging drainage ditches. The fields no longer stay flooded over a long enough period of time to kill the sclerotia (hardened masses of hypae) which survive through the summer. On potatoes, *S. sclerotiorum,* has been observed on occasion to attack the young vines very soon after emerging; however, the disease is observed more often at layby when the leaves touch the soil. At this time, there is an optimum environment for this fungus to produce spores which land on the vines, geminate, infect, and eventually kill the infected tissue. This disease occurs annually on the potato crops from November through March.

The Applicant stated that there are no fungicides registered for control of this fungus on potatoes in Florida. While it would be possible to flood the fields artificially, the Applicant claims flooding would create a hazard to homes which have been built on the flood plains since the drainage canals were dug.

Over the past three years, the Applicant estimated that yield losses due to *S. sclerotiorum,* have averaged 34 percent. This represents a loss of $2 million to the producers.

The Applicant proposed to use Benlate, applied by ground equipment, at a dosage rate of 1 to 1.5 pounds product in sufficient water to obtain uniform coverage. The higher rate will be used under severe conditions. All of the treatments will be confined to 7,000 acres of potatoes in Dade County, once the presence of the fungus is verified.

EPA has determined that residues of benomyl in or on potatoes as a result of this program should not exceed 0.05 part per million (ppm). This level has been judged adequate to protect the public health.

It should be noted that a rebuttable presumption against registration of pesticide products (RPAR) containing benomyl was published in the **Federal Register** on December 6, 1977 (42 FR 61788). On Thursday, August 30, 1979 (44 FR 51166), EPA published in the **Federal Register** a preliminary notice of determinatin concluding the RPAR against benomyl. As developed in the position document, EPA has determined that benomyl poses risks of mutagenicity (as a spindle poison), teratogenicity, and spermatogenic depression to humans and acute toxicity to aquatic organisms. EPA determined that other areas of concern had been successfully rebutted. EPA will require modification of labeling of benomyl pesticide products packaged in five-pound or larger bags or with aerial application directions. EPA has reflected this preliminary determination in imposing appropriate precautions in the specific exemption to protect employees working with benomyl and the environment.

Overall, this short-term use of benomyl should not significantly affect any populations of either invertebrates or vertebrates that are well established. There are two endangered species known to frequent Dade County: The Cape Sable Sparrow (*Ammospiza maritima mirabilis*) and the American Crocodile (*Crocodylus acutus*). However, it is not firmly established that these species occur in the particular area of Dade County in which the potato fields are located; it is highly unlikely, for example, that the American Crocodile would be present near drained agricultural fields. Nonetheless, special precautions concerning treatment will be taken in connection with these two endangered species.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of *S. sclerotiorum,* has occurred; (b) there is not pesticide presently registered and available for use to control this pest in Florida; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the fungus is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specified exemption to use the pesticide noted above until March 30, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The du Pont product Benlate 50W, EPA Reg. No. 352-354, containing the active ingredient benomyl, is authorized at a dosage of from 1.0 to 1.5 pounds product (0.50 to 0.75 pound a.i.) per 100-125 gallons of water/acre. Two

applications are authorized, the first approximately 7 to 8 weeks after planting and the second 2 to 3 weeks later. If an unregistered label is used, it must contain the identical applicable precautions and restrictions which appear on the EPA-registered product label;

2. Up to 21,000 pounds of product are authorized;

3. The presence of *S. sclerotiorum*, in a given potato growing area must be verified by Florida State Extension personnel before applications of benomyl are made;

4. Treatment is authorized in the following area of Dade County: the marl soils east of Highway U.S. 1, and bound on the west by Country Club Road (S.W. 202nd Avenue);

5. Applications may be made by either private or commercial applicators. Applications must be made by ground equipment only;

6. All applicable directions, precautions, and restrictions on the EPA-registered label must be followed;

7. Potatoes with residues of benomyl and its metabolites not exceeding 0.05 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

8. All applicators involved in the preparation of spray suspension must wear protective gloves and masks;

9. All clothing worn during the preparation of spray suspension must be removed and cleaned after each day of use;

10. All individuals must wash immediately upon dermal contact with benomyl or the spray suspension;

11. EPA has determined that benomyl causes birth defects and reduced sperm production in laboratory animals. Exposure to benomyl during pregnancy should be avoided. Exposure to benomyl might cause a depressed sperm count. In case of accidental spills or other unusual exposure, work must cease immediately and the directions for contact with benomyl must be followed;

12. The Applicant is responsible for ensuring that all the provisions of the specific exemption are met and must submit a report summarizing the results of this program to EPA by the end of September, 1980;

13. The EPA shall be immediately informed of any adverse effects resulting from the use of benomyl in connection with this exemption; and

14. The Applicant must take precautions to insure that application of benomyl will not be made in areas where the Cape Sable Sparrow and the American Crocodile are known to occur.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; (7 U.S.C. 136)).)

Dated: January 30, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-3698 Filed 2-4-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1404-7; PF-166]

Monsanto Co.; Filing of Pesticide Petition

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA, or the Agency).

ACTION: Notice of filing.

SUPPLEMENTARY INFORMATION: Monsanto Co., 1101 17th St. NW., Washington, D.C. 20460, has submitted a pesticide petition (PP OF2313) proposing that 40 CFR 180.249 be amended by increasing the established tolerance for the combined residues of the herbicide alachlor [2-chloro-2',6'-diethyl-*N*-(methoxymethyl)-acetanilide] and its metabolites (calculated as alachlor) in or on the raw agricultural commodity peanuts from 0.05 to 0.10 part per million (ppm). The proposed analytical method for determining residues is gas liquid chromatography using a flame ionization detector.

COMMENTS/INQUIRIES: Comments may be submitted, and inquiries directed, to Product Manager (PM-25), Mr. Robert Taylor, Room E-359, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460, telephone number 202/426-2196. Comments submitted should bear a notation indicating the petition number "PP OF2313". Comments may be made at any time while the petition is pending before the Agency. Written comments filed in connection with this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 408(d)(1), Federal Food, Drug, and Cosmetic Act)

Dated: January 30, 1980.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 80-3703 Filed 2-4-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1405-4; OPP-180394]

Oklahoma Department of Agriculture; Crisis Exemption To Use Diazinon To Control White Grubs in Winter Wheat

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notice of temporary crisis exemption.

SUMMARY: EPA gives notice that the Oklahoma Department of Agriculture (hereafter referred to as "Oklahoma") availed itself of a crisis exemption to use Diazinon to control white grubs on a maximum of 200,000 acres of winter wheat in Oklahoma. The program has ended.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: On August 24, 1979, Oklahoma requested a specific exemption for the use of 0,0-diethyl 0-(2—isopropyl-6-methyl-4-pyrimidinyl) Phosphorothioate (manufactured by Ciba-Geigy as Diazinon 14G, EPA Reg. No. 100-469, and Diazinon AG500, EPA Reg. No. 1000461) to control white grubs in winter wheat in fourteen counties in Oklahoma. According to Oklahoma, there was insufficient time to wait for the specific exemption, since the need was immediate, and Oklahoma availed itself of a crisis exemption for this use on September 11, 1979. On October 22, 1979, Oklahoma withdrew its request for a specific exemption and requested that a safe level for residues of the active ingredient be set for the wheat treated under the crisis exemption.

Oklahoma claimed that white grubs exceeded the economic threshold levels in many fields planted this fall in Alfalfa, Blaine, Cotton, Dewey, Ellis, Garfield, Grant, Kay, Kingfisher, Major, Tillman, Washita, Woods, and Woodward Counties. According to Oklahoma, losses of up to $2 million could have been incurred by the Oklahoma wheat industry if the white grubs were not effectively controlled. Oklahoma stated there was no effective pesticide registered for this purpose.

Oklahoma made a single pre-plant, ground application of Diazinon at a maximum rate of two pounds active ingredient in sufficient water to obtain

coverage per acre. The pesticide was disked or worked into the soil to depths of two to four inches. The program was under the direction of entomology personnel of the Oklahoma State University Extension Service. No unreasonable hazard to the environment was anticipated.

After reviewing the use pattern and other available information, EPA determined that residues of the active ingredient in or on wheat grain and forage should not exceed 0.03 part per million for this use. This level has been judged adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been notified of this action.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; (7 U.S.C. 136)))

Dated: 30, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-3700 Filed 2-4-80; 8:45 am]

BILLING CODE 6560-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Records and Reports, Apprenticeship Information Report EEO-2; Extension of Deadline for Filing Report

Notice is hereby given that the deadline for filing the 1979 Apprenticeship Information Report EEO-2 required by 29 CFR 1602.15 is extended from September 30, 1979 to March 31, 1980. The payroll period for the EEO-2 report remains unchanged.

Signed at Washington, D.C. this 29th day of January 1980.

Eleanor Holmes Norton,

Chair, Equal Employment Opportunity Commission.

[FR Doc. 80-3676 Filed 2-4-80; 8:45 am]

BILLING CODE 6570-06-M

Records and Reports, Local Union Report EEO-3; Extension of Deadline for Filing Report

Notice is hereby given that the deadline for filing the 1979 Local Union Report EEO-3 required by 29 CFR 1602.22 is extended from November 30, 1979 to March 31, 1980. The payroll period for the EEO-3 report remains unchanged.

Signed at Washington, D.C. this 29th day of January 1980.

Eleanor Holmes Norton,

Chair, Equal Employment Opportunity Commission.

[FR Doc. 80-3677 Filed 2-4-80; 8:45 am]

BILLING CODE 6570-06-M

FEDERAL COMMUNICATIONS COMMISSION

Radio Technical Commission for Marine Services; Notice of Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 75

"Minimum Performance Standards—Automatic Coordinate Conversion Systems"
Notice of 1st Meeting
Thursday, February 28, 1980—9:30 a.m.
Conference Room 7200
Nassif (DOT) Building
400 Seventh Street, S.W. (at D Street)
Washington, D.C.

Agenda

1. Call to Order.
2. Committee organization.
3. Discussion on Terms of Reference.
4. Presentations of technical and operational issues.
5. Designation of Working Groups.
6. Establishment of future meeting schedule.

Mortimer Rogoff, Chairman, SC-75, Booz, Allen & Hamilton, 4330 East-West Hwy., Bethesda, MD 20014, Phone: (301) 951-2100.

Executive Committee Meeting

Notice of February Meeting
Thursday, February 21, 1980—9:30 a.m.
Conference Room 7204
Nassif (DOT) Building
400 Seventh Street, S.W., at D Street
Washington, D.C.

Agenda

1. Administrative Matter..
2. Acceptance of FY-1980 First Quarter Financial Statement.
3. Report of Nominating Committee.

Special Committee No. 74

"Digital Selective Calling"
Notice of 10th Meeting
Wednesday, February 20, 1980—9:30 a.m.
Thursday, February 21, 1980—8:00 a.m.
(Full-day meetings)
Conference Room 7200/7202
Nassif (DOT) Building
400 Seventh Street, S.W. (at D Street)
Washington, D.C.

Agenda

February 20, 1980

1. Call to Order; Chairman's Report.
2. Administrative Matters.
3. Meeting of Ship Station Working Group and Coast Station Working Group.

February 21, 1980

1. Administrative Matters.
2. Working Group Reports.

CDR J. G. Williams, Chairman, SC-74, U.S. Coast Guard Headquarters, Washington, D.C., Phone: (202) 426-1345.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-3719 Filed 2-4-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-72]

Metropolitan Savings Association, Farmington Hills, Mich.; Final Action Approval of Conversion Application

Dated: January 30, 1980.

Notice is hereby given that on January 23, 1980, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 80-54, approved the application of Metropolitan Savings Association, Farmington Hills, Michigan, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W. Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Indianapolis, 2900 Indiana Tower, One Indiana Square, Indianapolis, Indiana 46204.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80-3720 Filed 2-4-80; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 79-2, Agreement No. 10293; and Docket No. 79-3, Agreement No. 10295]

Flota Mercante Grancolombiana, S.A., et al.; Availability of Finding of No Significant Environmental Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Environmental Analysis (OEA) has determined that the environmental issues relative to the referenced dockets do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.* and that preparation of an environmental impact statement is not required under section 4332(2)(c) of NEPA.

These investigations were instituted to determine whether to approve, disapprove or modify Agreements Nos. 10293 and 10295 under section 15 of the Shipping Act, 1916. Agreement No. 10293 is a space charter arrangement between Flota Mercante Grancolombiana, S.A. (Flota) and Andino Chemical Shipping, Inc. for the transport of bulk liquid cargoes between U.S. Gulf ports and Colombian Atlantic Coast ports. Agreement No. 10295 is a similar arrangement between Flota and Maritima Transligra, S.A. for the transport of bulk liquid cargoes between U.S. Gulf ports and Colombian Pacific Coast ports. The major environmental concern with these agreements was that some of the chemicals carried by these services are considered to be hazardous substances by the Environmental Protection Agency. The use of energy and certain environment impacts were also considered. The OEA evaluated whether the Commission's action regarding these agreements would increase the possibility of hazardous substances spills, use of energy and air pollution. The OEA has determined that any decision made by the Commission in these proceedings would have no significant impact on the environment and use of energy.

The environmental assessment is available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725. Interested parties may comment on the environmental assessment on or before February 25, 1980. Such comments are to be filed with the Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573. If a party fails to comment within this period, it will be presumed that the party has no comment to make. Copies of all future correspondence and pleadings filed in these proceedings shall be served on Chief, Office of Environmental Analysis, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573.

Francis C. Hurney,

Secretary.

[FR Doc. 80-3647 Filed 2-4-80; 8:45 am]

BILLING CODE 6730-01-M

Fast Shipping Co., et al.; Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Fast Shipping Co., P.O. Box 523363, Miami, FL 33152. Officers: Enrique V. del Riego, President/Treasurer, Ernesto O. del Riego, Vice President/Secretary.

Middle East Shipping Co., Inc., 36 S. Wabash, Suite 950, Chicago, IL 60603. Officers: Ali R. Rezaian, President, Mahmoud A. Monen, Vice President, Mohammad A. Badr, Traffic Manager.

Miking, Inc., 156 N.W. 73rd Street, Miami, FL 33150. Officers: George J. Morrison, President, Leslie K. Thelwell, Vice President.

Kenneth A. Anderson, Jr., 69 Long Wharf, Boston, MA 02110.

Hub Forwarding Company, Inc., 10 Woodland Drive, Cohasset, MA 02023. Officers: Hubert P. C. van der Lugt, President, Wilhelmina J. van der Lugt, Vice President, Joseph W. MacDonald, Clerk.

By the Federal Maritime Commission.

Dated: January 31, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-3646 Filed 2-4-80; 8:45 am]

BILLING CODE 6730-01-M

[Docket Nos. 79-84 and 79-92]

Matson Navigation Co.; Availability of Finding of No Significant Environmental Impact

In the matter of Docket No. 79-84, Matson Navigation Company proposed 5.90 percent bunker surcharge increase in Tariffs FMC-F Nos. 164, 165, 166 and 167; Docket No. 79-92, Matson Navigation Company (Matson)—proposed 6.66 percent bunker surcharge increase in Tariffs FMC-F Nos. 164, 165, 166 and 167; Notice of availability of finding of no significant impact.

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Environmental Analysis (OEA) has determined that the environmental issues relative to the referenced dockets do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NPA), 42 U.S.C. 4321 *et seq.* and that preparation of an environmental impact statement is not required under section 4332(2)(c) of NEPA.

These investigations were instituted to determine whether Matson's proposed bunker surcharges are unjust, unreasonable or otherwise unlawful under section 18(a) of the Shipping Act, 1916, and sections 3 and 4 of the Intercoastal Shipping Act, 1933. The surcharges apply to Matson Freight Tariffs FMC-F Nos. 164, 165, 166 and 167 under which Matson provides service in the Pacific Coast/Hawaiian trade. The OEA considered whether these surcharges will adverely affect the movement of recyclables, the use of energy and air, water and noise pollution. The OEA has determined, however, that any decision made by the Commission in these proceedings would have no significant impact on these environmental factors and believes it is appropriate to satisfy the requirements of NEPA by issuing the instant Notice.

The associated environmental assessment is available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725. Interested parties may comment on the environmental assessment on or before February 15, 1980. Such comments are to be filed with the Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573. If a party fails to comment within this period, it will be presumed that the party has no comment to make.

Copies of all future correspondence and pleadings filed in these proceedings shall be served on the chief, Office of Environmental Analysis, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

Francis C. Hurney,

Secretary.

[FR Doc. 80-3648 Filed 2-4-80; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committees; Filing of Annual Reports

Notice is hereby given that pursuant to section 13 of Pub. L. 92-463 (5 U.S.C. Appendix I), Annual Reports for Alcohol, Drug Abuse, and Mental Health Administration Committees have been filed with the Library of Congress. These are:

Alcohol Abuse Prevention Review Committee
Alcohol Biomedical Research Review Committee
Alcohol Psychosocial Research Review Committee
Alcohol Training Review Committee
Basic Behavioral Processes Research Review Committee
Basic Psychopharmacology and Neuropsychology Research Review Committee
Basic Sociocultural Research Review Committee
Board of Scientific Counselors, NIMH
Cognition, Emotion, and Personality Research Review Committee
Community Alcoholism Services Review Committee
Community Processes and Social Policy Review Committee
Criminal and Violent Behavior Review Committee
Drug Abuse Biomedical Research Review Committee
Drug Abuse Clinical, Behavioral, and Psychosocial Research Review Committee
Drug Abuse Resource Development Review Committee
Epidemiologic and Services Research Review Committee
Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism
Life Course Review Committee
Mental Health Research Education Review Committee
Mental Health Services Manpower Development Review Committee
Mental Health Small Grant Review Committee
Minority Advisory Committee, ADAMHA
Minority Group Mental Health Review Committee
National Advisory Council on Alcohol Abuse and Alcoholism
National Advisory Council on Drug Abuse
National Advisory Mental Health Council
Paraprofessional Education Review Committee
Psychiatric Nursing Education Review Committee
Psychiatry Education Review Committee
Psychology Education Review Committee
Psychopathology and Clinical Biology Research Review Committee
Research Scientist Development Review Committee
Social Work Education Review Committee
Treatment Development and Assessment Research Review Committee

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, and on weekdays between 9:00 a.m. and 4:30 p.m., at the Department of Health, Education, and Welfare, Department Library, North Building, Room 1436, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone (202) 245-6791.

Dated: January 29, 1980.

Gerald L. Klerman,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-3657 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-86-M

Advisory Committees; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory bodies scheduled to assemble during the month of February 1980.

Psychiatric Nursing Education Review Committee

February 13-14, 9:00 a.m.
Conference Room L, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857
Open—February 13, 9:00 a.m.-10:00 a.m.
Closed—Otherwise
Contact: Barbara A. Graves, Room 9-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-1737

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities characteristically innovative in educational design methodology, to increase the number of Master prepared nurses for practice in public mental health facilities, i.e., State mental health hospitals, community mental health/health centers, State mental health departments, long-term care facilities, located in underserved or unserved geographic areas, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9-10 a.m. February 13, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Psychology Education Review Committee

February 23-25, 9:00 a.m.
Silver North Room, Holiday Inn-Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910
Open—February 23, 9:00 a.m.-10:00 a.m.
Closed—Otherwise
Contact: Mrs. Joanna L. Kieffer, Room 9C-00, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-1220

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities for psychology education/training personnel to provide mental health services to unserved or underserved geographic areas, populations, and/or public mental health facilities; for increasing the supply of minority mental health manpower; for developing strategies of primary prevention; and for increasing mental health skills and knowledge of general health care personnel, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9-10 a.m. February 26, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Social Work Education Review Committee

February 26-29, 9:00 a.m.
Conference Room K, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857
Open—February 26, 9:00 a.m.-10:00 a.m.
Closed—Otherwise
Contact: Mrs. Judith Ann Lynch, Room 9-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4606

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities for education and manpower development support in the field of social work, including those which strongly reflect the recommendations of the President's Commission on Mental Health, and in accord to the degree to which these address one or more of the NIMH priority areas on behalf of social work education, i.e., categories of basic mental health education, continuing education, short-term mental healt training, and special projects, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9-10 a.m. February 26, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above. The NIMH Committee Management Officer who will furnish upon request summaries of the

meeting and rosters of the committee members is Mrs. Zelia Diggs, Office of the Associate Director for Extramural Programs, NIMH, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone number: AC 301/443–4333.

There were plans to hold meetings of these committees during March. It became necessary to reschedule because of delayed action on the process of submitting documents to renew the committees, all of which are scheduled to terminate March 1.

Dated: January 30, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-3658 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-88-M

Food and Drug Administration

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by J. M. Taylor, District Director, Boston District Office, Boston, MA.

DATE: The meeting will be held at 10 a.m., Friday, February 15, 1980.

ADDRESS: The meeting will be held at the Food and Drug Administration, 585 Commercial St., Second Floor Conference Rm., Boston, MA.

FOR FURTHER INFORMATION CONTACT: Yolan L. Harsanyi, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, 585 Commercial St., Boston, MA 02109, 617–223–5857.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Boston District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: January 29, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 3656 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

Ophthalmic Devices Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel; Change of Location of Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The location of the Ophthalmic Devices Section meeting scheduled for February 11, 1980, and announced by notice in the **Federal Register** of January 15, 1980 (45 FR 2905) has been changed. The meeting will take place on both February 11 and 12 and will be held in Rm. 6104, 400 Maryland Ave. SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Max Talbott, Bureau of Medical Devices (HFK–460), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7538.

DATED: January 29, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3505 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79F-0434]

R. T. Vanderbilt Co., Inc.; Filing of Food Additive Petition

Correction

In FR Doc. 80–352, published on page 1690, on Tuesday, January 8, 1980, in the second column, in the fourteenth line of the "Supplementary Information" paragraph "No. 77079–27–3" should be corrected to read "No. 7779–27–3".

BILLING CODE 1505-01-M

Office of the Secretary

Secretary's Advisory Committee on the Rights and Responsibilities of Women; Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health, Education, and Welfare on the impact of the policies, programs, and activities of the Department on the status of women, will meet with women's organizations in the Denver region on February 21, 1980, from 6:00 to 8:00 p.m. at the Cosmopolitan Hotel, Broadway Arms Room, 1780 Broadway, Denver, Colorado.

The agenda will include a discussion of social security reform, domestic violence, discrimination in health and human services programs, and other family policy programs.

Further information on the Committee may be obtained from: Cheryl Yamamoto, Executive Secretary, telephone: 202–245–8454. This meeting is open to the public.

Dated: January 29, 1980.

Cheryl Yamamoto,

Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc. 80-3721 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-12-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 165]

Assignment of Hearings

January 30, 1980.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 135874 (Sub-145F), LTL Perishables, Inc., now assigned for continued hearing on February 12, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC

MC 89684 (Sub-49, 54, 57, 58, 63, 74, 78, 81, 85, 91, 92, 100, 103, M1F), Wycoff Company Incorporated, now assigned for continued hearing on February 11, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 1083 (Sub-3F), Bower Transportation Services, Inc., now being assigned for hearing on April 10, 1980 (2 Days) at Portland, OR. in a hearing room to be designated later.

MC 108119 (Sub-115F), E. L. Murphy Trucking Co., now assigned for hearing on April 7, 1980 is cancelled and application dismissed.

MC 117993 (Sub-16F), Fruitbelt Trucking Inc., now being assigned for hearing on March 10, 1980 (1 day) at Buffalo, NY, location of hearing room will be by subsequent notice.

MC 30787 (Sub-7F), Niagara Scenic Bus Lines, Inc., now assigned for hearing on March 11, 1980 (3 days) at Buffalo, NY, location of hearing room will be by subsequent notice.

MC 61788 (Sub-37F), Georgia-Florida-Alabama Transportation Company, transferred to Modified Procedure.

MC 141124 (Sub-21F), Evangelist Commercial Corporation, now being assigned for hearing on March 24, 1980 (1 day) at Philadelphia, PA, location of hearing will be by subsequent notice.

MC 110420 (Sub-798F), Quality Carriers, Inc., now being assigned for hearing on March 25, 1980 (1 day) at Philadelphia, PA, location of hearing room will be by subsequent notice.

MC 4484 (Sub-8F), Crown Transport, Inc., now being assigned for hearing on March 26, 1980 (1 day) at Philadelphia, PA, location of hearing room will be by subsequent notice.

MC 146690 (Sub-1F), Northeast Towing, Inc., now being assigned for hearing on March 27, 1980 (2 days) at Philadelphia, PA, location of hearing room will be by subsequent notice.

No. 37325, Independent Bakers Association v. Consolidated Rail Corporation, Etal, now being assigned for hearing on March 10, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.

AB 6 (Sub-73F), Burlington Northern, Inc. Abandonment Near Laclede and Unionville, MO, now assigned for hearing on March 31, 1980 at Unionville, MO is postponed to April 29, 1980 at Unionville, Mo, hearing room will be by subsequent notice.

MC 145733 (Sub-2F), American Auto Shippers, now being assigned for Prehearing Conference on March 11, 1980 at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 26377 (Sub-25F), Leonardo Truck Lines, Inc., now being assigned for hearing on March 19, 1980 (3 days) at Portland, OR, location of hearing room will be by subsequent notice.

MC 112822 (Sub-469F), Bray Lines Incorporated, now being assigned for hearing on March 24, 1980 (1 week) at Portland, OR, location of hearing room will be by subsequent notice.

MC 113678 (Sub-797F), Curtis, Inc., now being assigned for hearing on March 24, 1980 (1 week) at Portland, OR, location of hearing room will be by subsequent notice.

MC 127207 (Sub-2F) American Pacific Express, Inc., now being assigned for hearing on April 16, 1980 (3 days) at San Francisco, CA, location of hearing room will be by subsequent notice.

MC 138174 (Sub-3F), JJ & JL Company, Inc., now being assigned for hearing on March 25, 1980 at Portland, OR, location of hearing room will be by subsequent notice.

MC 108119 (Sub-128F), E. L. Murphy Trucking Company, transferred to Modified Procedure.

MC 141804 (Sub-179F), Western Express, Division of Interstate Rental, Inc., now being assigned for hearing on March 6, 1980 (2 days) at San Francisco, CA, location of hearing room will be by subsequent notice.

AB-1 (Sub-76F), Chicago and North Western Transportation Company Abandonment in LaCrosse and the Mpeauleau Counties, WI, transferred to Modified Procedure.

No. 37251, Landmark, Inc. v. Consolidated Rail Corporation, now being assigned for hearing on March 3, 1980 (3 days) at Columbus, OH, location of hearing room will be by subsequent notice.

MC 76993 (Sub-28F), Express Freight Lines, Inc., now assigned for continued hearing on February 26, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 144897 (Sub-1F), Sun Freight, Inc., now assigned for hearing on February 6, 1980 at Roswell, NM at Chavez County Courthouse, 400 North Main.

MC–F–12730, Pacific Transportation Lines, Inc.—Purchase—Jackson Distribution Corp., now being assigned for hearing on March 6, 1980 (2 days) at Buffalo, NY, location of hearing room will be by subsequent notice.

MC–142048 (Sub-7F), now being assigned for hearing on March 6, 1980 (3 days) at Buffalo, NY, location of hearing room will be by subsequent notice.

I&SM 27312, Restructured Rates and Charges, Central States Territory, now being assigned for prehearing conference on March 11, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 114274 (Sub-58F), Vitalis Truck Lines, Inc., now being assigned for hearing on March 25, 1980 (1 Day), at Chicago, IL. in a hearing room to be designated later.

MC 145371 (Sub-1F), MFCH, Inc., now being assigned for hearing on March 26, 1980 (1 Day), at Chicago, IL. in a hearing room to be designated later.

MC 142743 (Sub-13F), Fast Freight Systems, Inc., now being assigned for hearing on March 27, 1980 (1 Day), at Chicago, IL. in a hearing room to be designated later.

MC 140820 (Sub-12F), A & R Transport, Inc., now being assigned for hearing on March 28, 1980 (1 Day), at Chicago, IL. in a hearing room to be designated later.

MC 30032 (Sub-6F), Crane Transportation Lines, Inc., now being assigned for hearing on March 31, 1980 (1 Week), at Chicago, IL. in a hearing room to be designated later.

MC 93236 (Sub-1F), Bondy Cartage Limited, now being assigned for hearing on March 4, 1980 (9 Days), at Columbus, OH. in a hearing room to be designated later.

MC 146609F, Delta Express, Inc., is transferred to Modified Procedure.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-3689 Filed 2-4-80; 8:45 am]

BILLING CODE 7035-01-M

Fourth Section Application for Relief

January 31, 1980.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before February 20, 1980.

FSA 43793, Western Trunk Line Committee, Agent No. A–2759, on rotary kilns, in carloads, from Salt Lake City, Utah to stations in Western Trunk Line, Official and Southeastern Territories. It is published in Supplement 209 to Trans-Continental Freight Bureau, Agent tariff ICC TCFB 1014–A, Supplement 38 to Western Trunk Line Committee, Agent tariff ICC WTL 3134–S, effective February 25, 1980. Also, in Supplement 1 to Western Trunk Line Committee, Agent tariff ICC WTL 3120–L, which became effective June 10, 1979. Grounds for relief—rate relationships.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-3686 Filed 2-4-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 241, Rule 19; Revised Exemption No. 143, Amdt. No. 4]

Exemption Under Mandatory Car Service Rules

To: All railroads.

Upon further consideration of Revised Exemption No. 143 issued January 24, 1979.

It is ordered, That, under authority vested in me by Car Service Rule 19, Revised Exemption No. 143 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is amended to expire April 30, 1980.

This amendment shall become effective January 31, 1980.

Issued at Washington, D. C., January 28, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80-3692 Filed 2-4-80; 8:45 am]

BILLING CODE 7035-01-M

[Service Order No. 1344; I.C.C. Order No. 55; Amdt. No. 1]

Rerouting Traffic

To: All railroads.

Upon further consideration of I.C.C. Order No. 55, and good cause appearing therefor:

It is ordered, I.C.C. Order No. 55 is amended by substituting the following paragraph (g) for paragragh (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., May 15, 1980, unless otherwise modified, amended or vacated.

Effective date. This amendment shall become effective at 11:59 p.m., January 31, 1980.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 31, 1980.

Interstate Commerce Commission.
Joel E. Burns,
Agent.
[FR Doc. 80-3994 Filed 2-4-80; 8:45 am]
BILLING CODE 7035-01-M

[Decision Notice Vol. 272]

Permanent Authority Decisions

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is name.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed on or before March 6, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices on or before March 6, 1980, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

[Volume No. 265]

Decided: January 14, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones. Member Joyce not participating.

MC 200 (Sub-360F), filed June 20, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). Transporting *brass, bronze, and copper sheet*, in coils, from Cleveland, OH, to Trenton, MO. (Hearing site: Kansas City, MO.)

MC 42261 (Sub-147F), filed June 19, 1979. Applicant: LANGER TRANSPORT CORP., Box 305, Jersey City, NJ 07303. Representative: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017. Transporting *petroleum products*, in bulk, in tank vehicles, from Paulsboro, NJ, to points in NC, SC, and WV. (Hearing site: New York, NY, or Washington, DC.)

MC 48441 (Sub-50F), filed June 18, 1979. Applicant: R.M.E. INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street NW., Washington, DC 20001. Transporting *glass containers*, from Lincoln, IL, to points in IA, IN, KY, MI, MO, and OH. (Hearing site: Chicago, IL.)

MC 52469 (Sub-247F), filed June 15, 1979. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th St., P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615 East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *canned foodstuffs*, from points in Benton, Crawford and Washington Counties, AR, and Adair and Haskell Counties, OK, to points in AL, FL, GA, KS, MO, MS, NC, SC, TN, and TX, restricted to the transportation of traffic originating at the facilities of Allen Canning Company. (Hearing site: Tulsa, OK.)

MC 60430 (Sub-28F), filed June 6, 1979. Applicant: FRIEDMAN'S EXPRESS, INC., P.O. Box 480, Wilkes-Barre, PA 18703. Representative: Stanley J. Gutkowski (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Northumberland and Williamsport, PA, (a) from Northumberland over PA Hwy 147 to junction U.S. Hwy 220, then over U.S. Hwy 220 to Williamsport and return over the same route, serving all intermediate points and serving Hughesville, Montgomery, Turbotville, and Watsontown, PA, as off-route points, and (b) from Williamsport over U.S. Hwy 15 to junction U.S. Hwy 11, then over U.S. Hwy 11 to Northumberland and return over the same route, serving all intermediate points, and (2) between Schuylkill Haven and Pine Grove, PA, over PA Hwy 443, serving all intermediate points. (Hearing site: Williamsport or Wilkes-Barre, PA.)

MC 67450 (Sub-90F), filed June 18, 1979. Applicant: PETERLIN CARTAGE CO., a corporation, 9651 S. Ewing Ave., Chicago, IL 60617. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603. Transporting *sugar*, from points in LA, to St. Louis, MO, and points in IL, IN, KY, and OH. (Hearing site: Chicago, IL.)

MC 95490 (Sub-50F), filed June 15, 1979. Applicant: UNION CARTAGE COMPANY, a corporation, 9A Southwest Cutoff, Worcester, MA 01604. Representative: Edward J. Kiley, 1730 M St. NW., Washington, DC 20036. Transporting *plastic articles*, from Leominster, MA, to Bridgeport, CT, Bethlehem and Scranton, PA, Baltimore and Halethorpe, MD, and Washington, DC. (Hearing site: Boston, MA, or Washington, DC.)

MC 103051 (Sub-460F), filed June 18, 1979. Applicant: FLEET TRANSPORT COMPANY, INC., 934-44th Ave., N., Nashville, TN 37209. Representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. Transporting *commodities*, in bulk, in tank vehicles, (1) between points in AL, FL, GA, NC, SC, and TN, and (2) between points in AL, FL, GA, NC, SC, and TN, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. Dual operations may be involved. (Hearing site: Nashville, TN, or Atlanta, GA.)

MC 110420 (Sub-822F), filed June 14, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425-13th St. NW., Washington, DC 20004. Transporting *Liquid chemicals*, in bulk, in tank vehicles, from the facilities of Sherex Chemical Company, Inc., at or near Mapleton, IL, to points in the United States (except AK and HI). (Hearing site: Chicago, IL., or Washington, DC.)

MC 110761 (Sub-16F), filed June 15, 1979. Applicant: CARROLL TRANSPORT, INC., 1702 Frick Bldg., Pittsburgh, Pa 15219. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *iron and steel articles*, from (1) the facilities of Jones & Laughlin Steel Corporation, at Cleveland and Youngstown, OH, to points in the lower peninsula of MI, and (2) Warren, MI, to the facilities of Jones & Laughlin Steel Corporation, at Cleveland, OH. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 111320 (Sub-74F), filed June 15, 1979. Applicant: KEEN TRANSPORT, INC., P.O. Box 1417, Hudson, OH 44236. Representative: Michael Spurlock, 275 East State St., Columbus, OH 43215. Transporting (1) *construction and earth-moving equipment*, and (2) *parts* of the commodities described in (1) above, between Cleveland, OH, on the one hand, and, on the other, points in AZ, CA, CO, I D, MN, NM, NV, OR, UT, WA, and WY. (Hearing site: Columbus, OH.)

MC 112750 (Sub-351F), filed June 14, 1979. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park, New Hyde Park, NY 11042. Representative: Elizabeth L. Henoch (same as the applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commercial papers, documents* and *written instruments*, (except currency, and negotiable securities), as are used in the business of banks and banking institutions, between Cincinnati, OH, on the one hand, and, on the other, points in Bell, Breathitt, Clay, Elliot, Estill, Floyd, Harlan, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, McCreary, Magoffin, Martin, Menifee, Morgan, Owsley, Perry, Pike, Powell, Pulaski, Rockcastle, Whitley and Wolfe Counties, KY. Under continuing contract(s) with banks and banking institutions. (Hearing site: Washington, D.C.)

Note.—Dual operations may be involved.

MC 113300 (Sub-12F), filed June 14, 1979. Applicant: WILLIAM T. HERRON TRUCKING, INC., R.F.D. 3, Marietta, OH 45750. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. Transporting *lime*, in bulk, from points in VA, KY, and WV (except those in Hancock, Brook, Ohio, and Marshall Counties), to points in OH and PA. (Hearing site: Columbus, OH.)

MC 113651 (Sub-307F), filed June 14, 1979. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). Transporting *meats, meat products, meat by products*, and *articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and 766, (except commodities in bulk) between points in AL, FL, GA, LA, and MS, on the one hand, and, on the other, points in IA, IL, IN, MA, MI, MO, NJ, NY, OH, PA, and WI. (Hearing site: Dallas, TX, or Washington, DC.)

MC 114890 (Sub-96F), filed June 14, 1979. Applicant: COMMERCIAL CARTAGE CO., a corporation, 343 Axminster Dr., Fenton, MO 63026. Representative: David A. Cherry, P.O. Box 1540, Edmond, OK 73034. Transporting *barium sulfide slurry*, in bulk, in tank vehicles, from Coffeyville, KS, to Memphis, TN. (Hearing site: St. Louis or Joplin, MO.)

MC 117940 (Sub-349F), filed June 18, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. Transporting *foodstuffs* (except in bulk), from the facilities of General Mills, Inc., at Chicago, IL, to Buffalo, NY, Mechanicsburg, PA, and points in IN, IA, MI, MN, MO, SD, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated

destinations. (Hearing site: Minneapolis or St. Louis, MN.)

MC 119560 (Sub-21F), filed June 19, 1979. Applicant: SOUTHERN BULK HAULERS, INC., P.O. Box 278, Harleyville, SC 29448. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave., and 13th St., NW, Washington, DC 20004. Transporting *lumber and fiberboard*, from the facilities of Holly Hill Lumber Company, at Holly Hill and Waterboro, SC, to those points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada. (Hearing site: Columbia, SC, or Washington, DC.)

MC 119641 (Sub-170F), filed June 14, 1979. Applicant: RINGLE EXPRESS, INC., 450 East Ninth St., Fowler, IN 47944. Representative: Robert A. Kriscunas, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting (1) *zinc, zinc dross, zinc residue, and zinc skimmings*, and (2) *materials, equipment and supplies* used in the manufacture of zinc and zinc products between the facilities of St. Joe Zinc Company, at Josephtown (Potter Township), PA, on the one hand, and on the other, points in IA, IL, IN, MI, MN, MO, OH, and WI. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 119641 (Sub-173F), filed June 20, 1979. Applicant: RINGLE EXPRESS, INC., 450 East Ninth St., Fowler, IN 1301 Merchants Plaza, 47944. Representative: Alki E. Scopelitis, Indianapolis, IN 46204. Transporting *lumber, lumber products, lumber mill products, forest products, and wood products*, from Greenville and Madison, GA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 120631 (Sub-5F), filed June 15, 1979. Applicant: STEPHENS TRUCK LINE, INC., P.O. Box 484, Dickson, TN 37055. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. Transporting (1) *pneumatic tire valves*, (2) *parts* for pneumatic tire valves, and (3) *materials and supplies* used in the manufacture of the commodities in (1) and (2) above, between the facilities of Scovill, Schrader Division at or near Dickson, TN, and Gadsden, AL, (4) *poly film and poly bags*, and (5) *materials and supplies* used in the manufacture of the commodities in (4) above, between LaGrange, GA, and points in Dickson County, TN. (Hearing site: Nashville, TN.)

MC 120761 (Sub-55F), filed June 20, 1979. Applicant: NEWMAN BROS. TRUCKING COMPANY, a corporation, 6559 Midway Rd., P.O. Box 18728, Ft. Worth, TX 76118. Representative: R. E. Newman (same address as applicant). Transporting (1) *automotive lifts*, from Ft. Worth, TX, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of automotive lifts, in the reverse direction. (Hearing site: Dallas, TX, or Washington, DC.)

MC 120761 (Sub-57F), filed June 19, 1979. Applicant: NEWMAN BROS. TRUCKING COMPANY, a corporation, 6559 Midway Rd., P.O. Box 18728, Fort Worth, TX 76118. Representative: Clint Oldham, 1108 Continental Life Bldg., Fort Worth, TX 76102. Transporting *iron and steel articles*, from the facilities of A. M. Castle & Co., at or near Franklin Park, IL, to Los Angeles, San Francisco and Fresno, CA, Wichita, KS, Baltimore, MD, Kansas City, MO, Galion and Cleveland, OH, Tulsa, OK, Salt Lake City, UT, and Milwaukee, WI. (Hearing site: Dallas, TX.)

MC 121101 (Sub-3F), filed June 19, 1979. Applicant: FORGE VILLAGE TRANSPORTATION CO., INC., 39 Central Ave., Ayer, MA 01432. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Transporting (1) *general commodities* (except commodities in bulk, household goods as defined by the Commission, classes A and B explosives, wool, wool products, those of unusual value, and those requiring special equipment), between points in MA, (2) *wool and wool products*, between Newton, MA, on the one hand, and, on the other, Brighton, Newton, Waltham, and Watertown, MA, (3) *paper*, from Tewksbury, MA, to points in CT and RI, and (4) *printed matter*, and *materials, equipment and supplies* used in the manufacture and distribution of printed matter (except commodities in bulk), between Brattleboro, VT, and points in MA, on the one hand, and, on the other, points in CT, IL, IN, KY, MA, MD, MI, MO, NJ, NY, OH, PA, RI, TN, VT, and VA. NOTE: The purpose of this application is (A) to convert applicant's Certificate of Registration in MC 121101 Sub-1, to a Certificate of Public Convenience and Necessity in parts (1) and (2) above, and (B) to apply for an extension of authority in parts (3) and (4) above. (Hearing site: Boston, MA.)

MC 124821 (Sub-49F), filed June 14, 1979. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. Transporting (1) *television picture tubes*, (2) *parts for television picture tubes*, and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between Dunmore, PA, and Bloomington, IN. (Hearing site: Harrisburg, PA.)

MC 127651 (Sub-46F), filed April 26, 1979. Applicant: EVERETT G. ROEHL, INC., East 29th St., Box 7, Marshfield, WI 54449. Representative: Richard A. Westley, 4506 Regent, Suite 100, Madison, WI 53705. Transporting *malt beverages*, from St. Louis, MO, to Marshfield, WI. (Hearing site: Minneapolis, MN, or Milwaukee, WI.)

MC 127651 (Sub-49F), filed April 30, 1979. Applicant: EVERETT G. ROEHL, INC., East 29th St., Box 7, Marshfield, WI 54449. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting (1) *lawn and garden lime and gypsum*, and (2) *sand*, from the facilities of F. Hurlbut Company, at or near Green Bay, WI, to points in IL, IN, and MI. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 127651 (Sub-50F), filed April 30, 1979. Applicant: EVERETT G. ROEHL, INC., East 29th St., Box 7, Marshfield, WI 54449. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting *particleboard*, from the facilities of Weyerhaeuser Company, at or near Marshfield, WI, to points in IN, MI, and OH. (Hearing site: Chicago, IL.)

MC 128030 (Sub-123F), filed June 18, 1979. Applicant: THE STOUT TRUCKING CO., INC., P.O. Box 98, Urbana, IL 61801. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. Transporting (1) *plastic containers*, from Danville, IL and Springdale, OH, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Chicago, IL.)

MC 128940 (Sub-41F), filed June 18, 1979. Applicant: RICHARD A. CRAWFORD, d.b.a. R. A. CRAWFORD TRUCKING SERVICE, P.O. Box 303, Gambrills, MD 21054. Representative: Edward N. Button, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. To operate as a *contract carrier*, by motor vehicles, in interstate or foreign commerce, over irregular routes, transporting *laboratory reagents and culture media*, from Cockeysville, MD, to points in AR, CO, IL, IA, KS, MN, NE, NM, NV, OK, OR, SC, UT, WA, WI, WV, and DC, under continuing contract(s) with BBL Micro Biological Systems, of Cockeysville, MD. (Hearing site: Washington, DC, or Baltimore, MD.)

MC 135410 (Sub-69F), filed June 14, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting (1) *welding materials and supplies*, (2) *electric motors, electric welders, and hand trucks*, and (3) *parts and accessories* for the commodities in (2) above, from the facilities of The Lincoln Electric Company, at Cleveland and Mentor, OH, to points in IA, IL, IN, MI, MO, PA, and WI. (Hearing site: Chicago, IL.)

MC 135410 (Sub-70F), filed June 14, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting *canned and preserved foodstuffs*, from the facilities of Heinz USA, Division of H. J. Heinz Company, at or near Muscatine and Iowa City, IA, to points in IL, IN, MI, MO, OH and PA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 135410 (Sub-72F), filed June 20, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting (1) *paper and paper products*, and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between the facilities of International Paper Company, at or near Indianapolis, IN, on the one hand, and, on the other, points in IL, IA, MI, MO, and OH, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: New York, NY or Washington, DC.)

MC 138841 (Sub-16F), filed June 15, 1979. Applicant: BLACK HILLS TRUCKING CO., a corporation, P.O. Box 2130, Rapid City, SD 57709. Representative: James W. Olson, P.O. Box 1552, Rapid City, SD 57709. Transporting (1) *beer and malt beverages*, from St. Louis, MO, and points in IL, MN, NJ, and WI, to Rapid City, SD, and (2) *soda pop*, from points in IL, NJ, MN, and WI, to Rapid City, SD. (Hearing site: Rapid City, SD.)

MC 143540 (Sub-18F), filed June 15, 1979. Applicant: MARINE TRANSPORT COMPANY, a corporation, P.O. Box 2142, Wilmington, NC 28402. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. Transporting *soybean flour*, in bags, from the facilities of Ralston Purina Company, at or near (a) Hager City, WI, (b) Louisville, KY, (c) Memphis, TN, and (d) Red Wing, MN, to Wilmington, NC. (Hearing site: Wilmington, NC.)

MC 143621 (Sub-40F), filed June 15, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Ave. North, P.O. Box 5748, Nashville, TN 37208. Representative: Sidney T. Stanley (same address as applicant). Transporting (1) *central heating and air conditioning units*, and (2) *accessories and parts* for the commodities in (1) above, from the facilities of Heil-Quaker Corp., at or near Nashville, TN, to points in the United States (except AK and HI). (Hearing site: Nashville, TN.)

MC 144330 (Sub-70F), filed June 18, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218 Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same address as applicant). Transporting *lumber, lumber mill products, and wood products* (except commodities in bulk), from points in ID, MT, OR, and WA to points in AR, AZ, CO, IL, IN, KS, MO, NM, OK, TX, UT, and WY, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Denver, CO.)

MC 144330 (Sub-71F), filed June 18, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218 Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same address as applicant). Transporting *lumber*, from points in TN, to points in CO, MT, and WY, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Denver, CO.)

MC 144570 (Sub-3F), filed June 18, 1979. Applicant: DIVERSIFIED CARRIERS, INC., 903 Sixth St., Rochester, MN 55901. Representative: D. Douglas Titus, Suite 510 Benson Bldg., Sioux City, IA 51101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles distributed by meatpacking houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Luverne, MN, to points in FL, under continuing contract(s) with Iowa Beef Processors, Inc., of Dakota City, NE. (Hearing site: Minneapolis/St. Paul, MN, or Omaha, NE.)

MC 145950 (Sub-27F), filed June 14, 1979. Applicant: BAYWOOD TRANSPORT, INC. P.O. Box 2611, Waco, TX 76706. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 66 Eleventh St., N.W., Washington, DC 20001. Transporting *fruit juice concentrates*, in vechicles equipped with mechanical refrigeration, from Ontario, CA, to points in AL, CT, GA, IA, IL, IN, LA, MA, MD, MI, MO, MS, NC, NJ, NY, OH, PA, SD, TX, VA, and WI. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 146071 (Sub-13F), filed June 15, 1979. Applicant: DELTA TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 30203. Transporting *such commodities* as are dealt in or used by manufacturers, convertors, and printers of paper and paper products (except commodities in bulk), between the facilities of Brown Company, at Eau Clair and Ladysmith, WI, on the one hand, and, on the other, points in the United States (except AK, HI, and WI), restricted to the transportation of traffic originating at or destined to the named origins. (Hearing site: Chicago, IL.)

MC 146461 (Sub-2F), filed June 15, 1979. Applicant: J H TRUCKING, INC., Route 4, Box 112, Amarillo, TX 79119. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. Transporting *meats, meat products and meat by-products* and *articles distributed by meat-packing houses* as described in sections A and C of Appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk, in tank vehicles), from the facilities of Thies Packing Co., Inc., at Great Bend and Wichita, KS, to points in AR, AZ, CA, CO, CT, DE, IA, IO, IL, IN, KY, MA, MD, MI, MN, MO, MI, NE, NH, NJ, NM, NV, NY, OH, OK, OR, PA, RI, TN, TX, UT, VA, VT, WA, WI, WV, WY, and DC, restricted to the transportation of traffic originating at named origins and destined to the indicated destinations (except traffic moving in foreign commerce). (Hearing site: Wichita, KS).

MC 146890 (Sub-7F), filed June 19, 1979. Applicant: C & E TRANSPORT, INC., d.b.a. C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. Representative: E. Stephen Heisley, 805

McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. Transporting (1) *such commodities* as are dealt in by grocery and food business houses, and (2) *materials* and *supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Ralston Purina Company, at or near (a) Minneapolis, MN, (b) Clinton and Davenport, IA, (c) Battle Creek, MI, (d) Lancaster and Sharonville, OH, (e) Mechanicsburg, PA, (f) Dunkirk, NY, (g) Louisville, KY, and (h) Jersey City, NJ, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, LA (except LA, MS, AL, GA, FL, and SC). (Hearing site: St. Louis, MO).

Note.—Dual operations may be involved.

MC 147581F, filed June 13, 1979. Applicant: RKM, INC., P.O. Box 201, 107 Eastman St., Easton, MA 02334. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *toilet preparations, cleaning compounds*, and *motor fuel water absorption and anti-icing compounds*, (except commodities in bulk), from Holbrook, MA, to points in CT, GA, IL, MD, ME, NH, NJ, NY, PA, RI, VA, VT, WV, and DC, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities described in (1) above, (except commodities in bulk), from points in NJ, NY, and PA, to Holbrook, MA, under continuing contract(s) with The Barcolene Company, of Holbrook, MA. (Hearing site: Boston, MA).

MC 147571F, filed June 14, 1979. Applicant: TWIN RIVERS TRANSPORTATION COMPANY, a corporation, 500 Waukegan Road, Deerfield, IL 60015. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *frozen foodstuffs, and materials, equipment and supplies* used in the manufacture and distribution of frozen foodstuffs (except commodities in bulk), (a) between the facilities of Kitchens of Sara Lee, Inc., at or near (i) Deerfield and Chicago, IL, and (ii) New Hampton, IA, on the one hand, and, on the other, points in the United States (except AK or HI), and (b) between the facilities of Idaho Frozen Foods Corp., at or near (iii) Nampa and Twin Falls, ID, and (iv) Clearfield, UT, on the one hand, and, on the other, points in the United States (except AK and HI), (2) *foodstuffs and materials, equipment and supplies* used in the manufacture and distribution of foodstuffs (except commodities in bulk), (a) between the facilities of Booth Fisheries Corporation, at (1) Portsmouth, NH, (ii) Lubec, ME, and (iii) Brownsville, TX, on the one hand, and, on the other, points in the United States (except AK and HI) and (b) between the facilities of Chef Pierre, Inc., at or near (iv) Traverse City and Grand Rapids, MI, and (v) Forest, MS, on the one hand, and, on the other, points in the United States (except AK and HI), (3) *flavorings, stabilizers, chocolate coatings, sticks, and paper products*, (except commodities in bulk), from Englewood, NJ, and City of Industry, CA, to Des Plaines, IL, Boston, MA, Green Bay, WI, Dallas, TX, Los Angeles, CA, and Tampa, FL, (4) *chocolate cocoa powder*, (except in bulk) from Pennsauken, NJ, to City of Industry, CA, and (5) *sticks, fruit, fruit juice, and applesauce* (except commodities in bulk), from points in FL, ME, and WA, to Englewood, NJ, and City of Industry, CA, under continuing contracts in (1)(a) above with Kitchens of Sara Lee, Inc., of Deerfield, IL, in (b) with Idaho Frozen Foods Corp., of Twin Falls, ID, in (2)(a) with Booth Fisheries Corporation of Chicago, IL, in (b) with Chef Pierre, Inc., of Traverse City, MI, and in (3), (4), and (5) with Popsicle Industries, Inc., of Englewood, NJ. (Hearing site: Chicago, IL.)

MC 147580F, filed June 14, 1979. Applicant: DAVID ESPY TRUCKING, INC., 7007 Hudson River Dr., Tampa, FL 33619. Representative: David A. Townsend, 100 Madison St., Suite 301, Tampa, FL 33602. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting, *expandable polystyrene, in bulk* from Monaca, PA, to Mulberry and Sun City, FL, under continuing contract(s) with (1) Master Containers, Inc., of Mulberry, FL, and (2) Speedling, Inc., of Sun City, FL. (Hearing site: Tampa, FL.)

[Volume No. 271]

Decided: January 9, 1980.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman. Member Boyle not participating.

MC 200 (Sub-358F), filed June 18, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), serving the facilities of Pepsi Cola Bottling Company (Summit Cannery), at Princeton, WV, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Kansas City, MO.)

MC 200 (Sub-364F), filed June 25, 1979. Applicant: RISS INTERNATIONAL CORPORATION, A Delaware Corporation, 903 Grand Ave., Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). Transporting *toys*, from Grafton, WV, to points in CO, IA, IL, IN, KS, MO, NE, OK, TX, and UT. (Hearing site: Kansas City, MO.)

MC 531 (Sub-412F), filed June 21, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Rd., P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). Transporting *vegetable oils*, in bulk, in tank vehicles, between Opelousas, LA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: New Orleans, LA.)

MC 1380 (Sub-24F), filed June 14, 1979. Applicant: COLONIAL MOTOR FREIGHT LINE, INC., P.O. Box 7027, High Point, NC 27264. Representative: Max H. Towery (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in AL, GA, MD, NC, SC, TN, and DC. (Hearing site: High Point, NC, or Washington, DC.)

MC 5470 (Sub-198F), filed June 20, 1979. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Brain L. Troiano, 918—16th St., NW., Washington, DC 20006. Transporting *waste and scrap materials*, in dump vehicles, between Pittsburgh, PA, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, MD, MA, MI, MO, NJ, NY, NC, OH, RI, SC, VA, and WV. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 47171 (Sub-130F), filed June 21, 1979. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). Transporting *lumber and fiberboard*, from the facilities of Holly Hill Lumber Company, at Holly Hill and Walterboro, SC, to those points in the United States east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochinching Counties, MN, to the international boundary line between the United States and Canada. (Hearing site: Columbia, SC.)

MC 53841 (Sub-34F), filed June 26, 1979. Applicant: W. H. CHRISTIE & SONS, INC., Box 517, East State St., Knox, PA 16232. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Transporting *transformers* and parts for transformers, from Zanesville, OH, to points in NJ, NY, and PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 67450 (Sub-92F), filed June 25, 1979. Applicant: PETERLIN CARTAGE CO., a corporation, 9651 S. Ewing Ave., Chicago, IL 60617. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603. Transporting *sugar*, from New York, NY, Philadelphia, PA, and Baltimore, MD to points in IA, IL, IN, KY, MI, OH, and WI. (Hearing site: Chicago, IL.)

MC 73081 (Sub-1F), filed June 25, 1979. Applicant: ANYTIME DELIVERY SYSTEMS, INC., 375 Western Hwy., Tappan, NY 10983. Representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, NY 11368. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), between points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT, and DC. (Hearing site: New York, NY or Newark, NJ.)

MC 83850 (Sub-13F), filed June 27, 1979. Applicant: JOHNSON'S TRANSFER, INC., 6951 Norwitch Dr., Philadelphia, PA 19153. Representative: Harold P. Boss, 1100 Seventeenth St., N.W., Washington, DC 20036. Transporting (1) *pipe, and pipe fittings* and *couplings*, (2) *materials and supplies* used in the installation of the commodities in (1) above, and (3) *plastic building materials*, from the facilities of CertainTeed Corporation, at Williamsport, MD, to points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT, WV, and DC. (Hearing site: Philadelphia, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 89021 (Sub-3F), filed June 27, 1979. Applicant: LEVINE'S EXPRESS & TRUCKING COMPANY, a corporation, P.O. Box 237, Carteret, NJ 07008. Representative: Robert B. Pepper, 163 Woodbridge Ave., Highland Park, NJ 08904. Transporting *advertising materials*, between points in the United States, (except AK and HI). (Hearing site: Newark, NJ).

MC 90870 (Sub-31F), filed June 21, 1979. Applicant: RIECHMANN ENTERPRISES, INC., Route 2, Box 137, Alhambra, IL 62001. Representative: Cecil L. Goettsch, 1100 Des Moines, Bldg., Des Moines, IA 50309. Transporting (1) *iron and steel railroad wheels*, and (2) *parts and accessories* for the commodities in (1) above, from Keokuk, IA, to points in IL and MO. (Hearing site: Chicago, IL, or Washington, DC).

MC 108651 (Sub-24F), filed June 21, 1979. Applicant: ROY B. MOORE, INC., P.O. Box 628, Kingsport, TN 37662. Representative: Daniel H. Moore (same address as applicant). Transporting *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk), from Alton, Leicester, Leroy, Oakfield, Phelps, Shortsville, and South Dayton, NY, to Charlotte, NC. (Hearing site: Kingsport, TN, or Washington, DC).

Note.—Applicant may tack this authority with regular-route authority at Oakfield to serve points between and including Buffalo and Rochester, NY.

MC 109490 (Sub-17F), filed June 20, 1979. Applicant: HEDING TRUCK SERVICE, INC., P.O. Box 97, Union Center, WI 53962. Representative: Ronald E. Laitsch, 113 N. 3rd St., Watertown, WI 53094. Transporting (1) *Wood burning furnaces and wood burning boilers*, from Elroy, WI, to points in the United States (except AK and HI), and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction. (Hearing site: Milwaukee, WI; Madison, WI).

MC 110420 (Sub-826F), filed June 20, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th st., NW., Washington, DC 20004. Transporting *liquid chemicals*, in bulk, from Houston, TX, to points in the United States (except AK and HI). (Hearing site: Washington, DC).

MC 110420 (Sub-829F), filed June 27, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. Transporting *tallow*, in bulk, (1) from the facilities of Iowa Beef Processors, Inc., at or near (a) Amarillo, TX, (b) Dakota City and West Point, NE, (c) Denison and Ft. Dodge, IA, (d) Luverne, MN, and (e) Emporia, KS, to points in IL, IN, MA, MN, NJ, OH, and WI, (2) from the facilities of Iowa Beef Processors, Inc., at or near (a) Amarillo, TX, and (b) Emporia, KS, to points in IA, and MO, and (3) from the facilities of Iowa Beef Processors, Inc., at or near Amarillo, TX, to points in LA and TX, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations (except traffic moving in foreign commerce). (Hearing site: Chicago, IL, or Washington, DC.)

MC 115311 (Sub-361F), filed June 18, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting (1) *board, lumber, poles and posts*, (2) *materials and supplies* used in the installation, manufacture, and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), between those points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities used by Weyerhaeuser Company. (Hearing site: Chicago, IL, or Memphis, TN.)

MC 115311 (Sub-362F), filed June 19, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Paul M. Daniell, P.O. Box 56387, Atlanta, GA 30343. Transporting (1) *paper and paper products*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between those points in the United States in and east of States of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Champion International Corporation. (Hearing site: Cincinnati, OH, or Atlanta, GA.)

MC 116300 (Sub-53F), filed June 21, 1979. Applicant: NANCE AND COLLUMS, INC., P.O. Box Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting *salt cake*, from Weeks Island, LA, to points in MS and TX. (Hearing site: New Orleans, LA.)

MC 116371 (Sub-16F), filed June 18, 1979. Applicant: LIQUID CARGO LINES LIMITED, P.O. Box 269, Clarkson, Ontario, Canada. Representative: John W. Ester, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. To operate as a *common carrier*, by motor vehicle in foreign commerce only, over irregular routes, transportation *liquid sugar*, in bulk, in tank vehicles, from ports of entry on the international

boundary line between the United States and Canada, to points in IL, IN, and NJ. (Hearing site: Buffalo, NY, or Detroit, MI.)

NOTE: Dual operations may be involved.

MC 118270 (Sub-13F), filed June 26, 1979. Applicant: PRODUCE TRANSPORT SERVICE, INC., 181 West Rampo St., Mahwah, NJ 07403. Representative: Joseph F. Hoary, 121 South Main St., Taylor, PA 18517. Transporting *dairy products*, from Arcade, NY, to points in ME, MA, NH, VT, RI, CT, NJ, NY, PA, MD, DE, NC, SC, VA, GA, FL, and WV. (Hearing site: New York, NY).

MC 11941 (Sub-214F), filed June 21, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., NW, P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *bakery goods*, (except frozen), from the facilities of Midwest Biscuit Company, at Burlington, IA, to points in AR, CA, CO, CT, IL, IN, KS, MA, MI, MN, MO, ND, NE, NJ, NM, OH, OK, PA, SD, TX, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Des Moines, IA).

MC 127840 (Sub-118F), filed June 26, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. Transporting *liquid corn products*, from Denver, CO, to points in MT, WY, UT, NM, AZ, and CO. (Hearing site: Des Moines, IA).

MC 129410 (Sub-14F), filed June 21, 1979. Applicant: ROBERT BONCOSKY, INC., 4811 Tile Line Rd., Crystal Lake, IL 60014. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid corn products*, in tank vehicles, between the facilities of Clinton Corn Processing Co., at (a) Chicago, IL, and (b) Clinton, IA, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Clinton Corn Processing Company, of Clinton, IA. (Hearing site: Chicago, IL.)

MC 129410 (Sub-18F), filed June 21, 1979. Applicant: ROBERT BONCOSKY, INC., 4811 Tile Line Rd., Crystal Lake, Illinois 60014. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, Illinois 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid sweeteners*, in bulk, in tank vehicles, between the facilities of Amstar Corporation, at Chicago, IL, on the one hand, and, on the other, points in IN, KY, MI, and OH, under continuing contract(s) with Amstar Corporation, of Chicago, IL. (Hearing site: Chicago, IL.)

MC 133591 (Sub-75F), filed June 26, 1979. Applicant: WAYNE DANIEL TRUCK, INC., Post Office Box 303, Mount Vernon, MO 65712. Representative: Charles A. Daniel (same address as applicant). Transporting *cheese*, from the facilities used by the Stockton Cheese Company, Stockton, MO, to Salt Lake City, UT. (Hearing site: Kansas City, or St. Louis. MO).

Note.—Dual operations may be involved.

MC 134501 (Sub-55F), filed June 21, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. Transporting *furniture, fixtures, and hospital equipment*, from Batesville, IN, to points in the United States (except AK and HI). (Hearing site: Cincinnati, OH, or Indianapolis, IN).

MC 134821 (Sub-6F), filed June 20, 1979. Applicant: DONALD L. DROSTE, d/b/a DON DROSTE TRUCKING, INC., 1004 West Carroll St., Portage, WI 53901. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Armco, Inc., at or near South Bend, IN, to points in IA, IL, MN, WI, and the Upper Peninsula of MI, under continuing contract(s) with Armco, Inc, of Middletown, OH. (Hearing site: Chicago, IL).

MC 135410 (Sub-73F), filed June 20, 1979. Applicant: COURTNEY J. MUNSON, d/b/a MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting (1) *paper and paper products*, and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between the facilities of International Paper Company at or near Ticonderoga, NY, on the one hand, and, on the other, points in IA, IN, IL, KS, KY, MA, MI, MN, MO, NE, OH, PA, and WI, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: New York, NY or Washington, DC).

MC 138841 (Sub-18F), filed June 18, 1979. Applicant: BLACK HILLS TRUCKINC CO., a Corporation, P.O. Box 2130, Rapid City, SD 57709. Representative: James W. Olson, P.O. Box 1552, Rapid City, SD 57709. Transporting meat and *meat products* from Worthington, MN, and Gibbon, NE, to points in OR and CA, (2) *packinghouse supplies* from points in CO, IA, IL, and MN, to Rapid City, SD, and (3) *meats, meat products and meat byproducts, and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except meat, hides, and commodities in bulk), from the facilities of Black Hills Packing Co., at Rapid City, SD, to points in AR, AZ, CT, DE, ID, IN, KS, ME, MD, MO, MT, ND, NE, NJ, NM, NV, OH, OK, PA, TN, TX, UT, VA, and WY. (hearing site: Rapid City, SD).

MC 138861 (Sub-14F), filed June 26, 1979. Applicant: C-LINE, INC., Tourtellot Hill Rd., Chepachet, RI 02814. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, N.W., Washington, DC 20036. Transporting *lard, edible tallow, margarine, and vegetable oil*, from Bradley, IL, to points in CT, DE, MD, ME, MA, NH, NJ, NY, PA, RI, VT, VA, and DC. (Hearing site: Washington, DC or Boston, MA.)

Note.—Dual operations may be involved.

MC 139571 (Sub-3F), filed June 20, 1979. Applicant: A. S. MASON, INC., 3110 Gibson St., Bakersfield, CA 93308. Representative: Michael J. Stecher, 256 Montgomery St., San Francisco, CA 94104. Transporting *oilfield materials, equipment, and supplies*, between points in CA, on the one hand, and, on the other, points in NV. (Hearing site: Bakersfield or Los Angeles, CA.)

MC 141811 (Sub-7F), filed June 26, 1979. Applicant: SCHEDULED TRANSPORT, INC., 9000 Keystone Crossing, Indianapolis, IN 46240. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *flour*, in bulk, in tank vehicles, from Lake Station, IN, to Massillon, OH. (Hearing site: Omaha, NE.)

MC 142291 (Sub-4F), filed June 26, 1979. Applicant: MDI, INC., 6202 Concord Blvd. East, Inver Grove Hts., MN 55075. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *beverages* (except commodities in bulk), from points in CA, CT, FL, IL, IN, KY, MA, MI, MO, NJ, NY, OH, and PA, to Hibbing, MN, under continuing contract(s) with Sunny Hill Distributors, Inc., of Hibbing, MN. (Hearing site: St. Paul, MN.)

MC 143621 (Sub-19F), filed June 21, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Ave. North, P.O. Box 5748, Nashville, TN 37208. Representative: Sidney T. Stanley (same address as applicant). Transporting *iron and steel articles*, from the facilities of Republic Steel Corporation, at or near Gadsden, AL, to points in IN, KY, OH, and TN. (Hearing site: Nashville, TN, or Birmingham, AL.)

MC 145911 (Sub-1F), filed June 25, 1979. Applicant: TRECHO TRANSPORT, INC., 2756 Short St., York, NY 14592. Representative: Robert D. Gunderman, 710 Statler Bldg., Buffalo, NY 14202. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of dairy products, (1) from Friendship, NY, to New York, NY, Coatesville, PA, and points in FL, and (2) from New York, NY, and Ludlow, MA, to Friendship, NY. (Hearing site: Buffalo, NY.)

Note.—Dual operations may be involved.

MC 146021 (Sub-2F), filed June 21, 1979. Applicant: RALPH OWENS TRUCKING CO., INC., 311 Park Ave., P.O. Box 711, Hereford, TX 79045. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Transporting *corrugated fiberboard cartons and corrugated pulpboard cartons*, knocked down, from the facilities of Southwest Forest Industries, at El Paso, TX, to Portales, NM. (Hearing site: El Paso, TX, or Lubbock, TX.).

MC 147291 (Sub-4F), filed June 26, 1979. Applicant: OCCO TRANSPORT, INC., Industrial Park Boulevard, Cokato, MN 55321, Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wooden reels*, from Pine River, MN, to St. Joseph, MO, under continiung contract(s) with Durkee Manufacturing Company, of Pine River, MN. (Hearing site: St. Paul, MN.)

MC 147591F, filed June 18, 1979. Applicant: UNITED LIMO, INC., "B" Terminal, Philadelphia International Airport, Philadelphia, PA 19153. Representative: Leonard A. Jaskiewicz, 1730 M Street, N.W., Suite 501, Washington, DC 20036. Transporting (1) *passengers and their baggage*, in charter operations, and (2) *baggage*, between Philadelphia, PA, on the one hand, and, on the other, points in DE, MD, NJ, NY, PA, VA, and DC, restricted in (2) above to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Philadelphia, PA.)

MC 147601F, filed June 27, 1979. Applicant: MARVIN C. VAN KAMPEN, d.b.a. M. C. VAN KAMPEN TRUCKING, 4495 Herman, SW, Wyoming, MI 49509. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *newspaper and magazine inserts, and lottery tickets*, from the facilities of George F. Valassis & Co., at Livonia, MI, to points in the United States (except AK and HI) under continuing contract(s) with George F. Valassis & Company, of Livonia, MI. (Hearing site: Detroit, MI.)

[Volume No. 272]

Decided: January 11, 1980.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman. Member Liberman not participating.

MC 8535 (Sub-90F), filed June 27, 1979. Applicant: GEORGE TRANSFER AND RIGGING COMPANY INCORPORATED, P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth St., NW, Washington, DC 20036. Transporting *iron and steel articles*, from the facilities of Armco Inc., at (a) Ashland, KY, (b) Middletown and Zanesville, OH, and (c) Butler, PA, to points in IL, IN, MI, and TN. (Hearing site: Cincinnati, OH, or Washington, DC.)

MC 8535 (Sub-92F), filed June 29, 1979. Applicant: GEORGE TRANSFER AND RIGGING COMPANY INCORPORATED, P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth St., NW, Washington, DC 20036. Transporting *iron and steel articles*, from the facilities of Roanoke Electric Steel Corporation, at Roanoke, VA, to points in IL, IN, and TN, restricted to transportation of traffic originating at the named origin. (Hearing site: Washington, DC.)

MC 29555 (Sub-100F), filed June 26, 1979. Applicant: BRIGGS TRANSPORTATION CO., a corporation, N. 400 Griggs-Midway Bldg., St. Paul, MN 55104. Representative: Stephen F. Grinnell (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Des Moines, IA and Kansas City, MO, over Interstate Hwy 35, serving no intermediate points. (Hearing site: Kansas City, MO, or Des Moines, IA.)

MC 106644 (Sub-284F), filed July 2, 1979. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, GA 30301. Representative: Louis C. Parker, III (same address as applicant). Transporting (1) *parts* for cooling towers and heat exchangers, and (2) *iron and steel articles*, betweén the facilities of Rogers Galvanizing Co., at or near Tulsa, OK, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Tulsa, OK, or Washington, DC.)

MC 106674 (Sub-404F), filed June 26, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting *iron and steel articles*, from the facilities of Laclede Steel Company, at Alton, IL, to points in KY, TN, NC, SC, and MS, and points in IN on and south of U.S. Hwy 40. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 113855 (Sub-490F), filed June 6, 1979, previously published in the FR issue of December 6, 1979. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, MN 55901. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58126. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of (a) agricultural equipment and (b) industrial equipment, (except commodities in bulk), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Allis Chalmers Corporation, and its dealers.

Note.—This republication adds the term "and its dealers", to the facilities of Allis Chalmers Corporation.

MC 116254 (Sub-275F), filed June 27, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). Transporting *petroleum and petroleum products* (except commodities in bulk), from points in AL, AR, FL, GA, KY, LA, MS, NC, SC, and TN, to points in Marshall County, AL. (Hearing site: Chicago, IL, or Washington, DC.)

MC 116254 (Sub-282F), filed June 29, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). Transporting *caustic soda*, in bulk, in tank vehicles, from the facilities of Convent Chemical Corporation, at or near Memphis, TN, to points in AR, LA,

MS, and TX. (Hearing site: Cleveland, OH, or Washington, DC.)

MC 116254 (Sub-283F), filed June 29, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). Transporting *liquid caustic soda*, in bulk, in tank vehicles, from Muscle Shoals, AL, to points in TN on and east of U.S. Hwy 27. (Hearing site: Cleveland, OH, or Washington, DC.)

MC 117765 (Sub-267F), filed June 28, 1979. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). Transporting *such commodities* as are dealt in or used by distributors of petroleum and petroleum products, (1) from Enid, OK, to points in KS and MO, and (2) from Ponca City, OK, to points in MO. (Hearing site: Oklahoma City, OK.)

MC 121654 (Sub-25F), filed June 29, 1979. Applicant: COASTAL TRANSPORT & TRADING CO., a corporation, P.O. Box 7438, Savannah, GA 31408. Representative: Alan E. Serby, 3380 Peachtree Road, N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. Transporting *lumber and lumber products*, between points in NC, SC, TN, AL and FL, restricted to the transportation of traffic originating at or destined to the facilities of ITT Rayonier, Inc. (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 125894 (Sub-18F), filed June 27, 1979. Applicant: J&R SCHUGEL TRUCKING, INC., 301 North Water Street, New Ulm, MN 56073. Representative: Robert S. Lee, 1000 First National Bank, Minneapolis, MN 55402. Transporting *inedible sugar*, in bulk, between points in IL, IN, IA, MN, NE, and ND. (Hearing site: St. Louis, MO, or Minneapolis, MN.)

Note.—Dual operations may be involved.

MC 133095 (Sub-248F), filed April 11, 1979. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Marshall Kragen, 1835 K St., NW, Suite 600, Washington, DC 20006. Transporting (1) *chemicals*, and *adhesives* (except commodities in bulk), from points in TX, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above (except commodities in bulk), from the destination points named in (1) above, to Euless, TX. (Hearing site: Dallas, TX.)

MC 134224 (Sub-15F), filed June 21, 1979. Applicant: HAUSER TRUCKING CORP., P.O. Box 241, Cobleskill, NY 12043. Representative: Neil D. Breslin, 600 Broadway, Albany, NY 12207. Transporting *scrap metal* and *non-ferrous metal articles*, (1) from Hartford and Waterbury, CT, and Springfield, MA, to points in Albany County, NY, and (3) from Hartford, CT, to Springfield, MA. (Hearing site: Albany, NY.)

MC 136035 (Sub-18F), filed June 27, 1979. Applicant: TREADWAY CARRIERS, INC., P.O. Box 364, Westfield, IN 46074. Representative: Orville G. Lynch (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *canned and preserved foodstuffs*, (a) from Austin and Brownstown, IN, to points in IL, MI, and MO, and (b) from Converse and Franklin, IN, to points in CT, FL, IL, MD, MI, MO, MA, NJ, NY, NC, OH, PA, SC, VA, and WV, and (2) *materials* used in the manufacture and distribution of canned and preserved foodstuffs (except commodities in bulk), in the reverse direction, under continuing contract(s) in (1) and (2) above, with Morgan Packing Co., Inc., of Austin, IN. (Hearing site: Indianapolis, IN.)

Note.—Dual operations may be involved.

MC 139495 (Sub-465F), filed June 27, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting *coffee and coffee products*, (except commodities in bulk), from the facilities of Procter & Gamble Company, at or near Sherman, TX, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 139495 (Sub-466F), filed June 28, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting (1) *plastic articles*, (except in bulk), and *artificial Christmas trees* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above, (except commodities in bulk), from the facilities of General Foam Plastics Corp., at or near (a) Norfolk VA, (b) Lebanon, IN, and (c) Scranton, PA, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 139495 (Sub-470F), filed July 2, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting *paper and paper products*, from West Point, VA, to points in AR, CT, DE, IN, IL, IA, KS, KY, MA, MD, ME, MI, MN, MO, NH, NJ, NY, OH, OK, PA, RI, TN, TX, VT, and WI. (Hearing site: Washington, DC.)

MC 143775 (Sub-102F), filed June 28, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), (1) from Atlanta, GA, Boston, MA, New York, NY, Charlotte and Greensboro, NC, Philadelphia, PA, and Greenville, SC, to points in AZ, CA, and NM, and (2) from Los Angeles, CA, to Phoenix, AZ, and Kansas City, MO, restricted in (a) and (2) above, to the transportation of traffic originating at or destined to the facilities of LAWI/CSA Consolidators, Inc. (Hearing site: Los Angeles, CA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 145904 (Sub-12F), filed June 28, 1979. Applicant: SOUTH WEST LEASING, INC., P.O. Box 152, Waterloo, IA 50704. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Transporting *meats, meat products, meat byproducts, and articles distributed by meatpacking houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at (1) Cedar Rapids, IA, to points in KS, MO, and NE, (2) Marshall, MO, to points in IL and those in IN within the Chicago, IL commercial zone, (3) Omaha, NE, to points in IA and IL, those points in IN within the Chicago, IL commercial zone, and those in MO within the East St. Louis, IL commercial zone, restricted in (1), (2) and (3) above, to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Des Moines, IA.)

MC 146434 (Sub-2F), filed July 2, 1979. Applicant: GENE HICKS, 240 Ridgecrest Drive, Madisonville, TN 37354. Representative: Richard L. Hollow, P.O. Box 550, Knoxville, TN 37901. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber and lumber mill products*, from Madisonville, TN, to points in KY, NC, GA, AL, IN, and OH, under continuing contract(s) with Melvin Sheets Lumber Co., of Madisonville, TN. (Hearing site: Knoxville, TN, or Nashville, TN.)

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Decided: January 18, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 200 (Sub-361F), filed June 20, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). Transporting *glass bottles*, serving Dunkirk, IN, as an off-route points in connection with applicant's otherwise authorized regular-route operations. ((Hearing site: Kansas City, MO).

MC 531 (Sub-413F), filed July 2, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Rd., P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same as above). Transporting *liquid chemicals*, in bulk, in tank vehicles, from Circleville, OH, to Torrance, CA. (Hearing site: Columbus, OH or Washington, DC).

MC 531 (Sub-414F), filed July 2, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, Houston, TX 77021. Representative: Wray E. Hughes (same as above). Transporting *tallow*, in bulk in tank vehicles, from facilities of Iowa Beef Processors, Inc. at or near (1)(a) Amarillo, TX; (b) Dakota City and West Point, NE; (c) Denison and Ft. Dodge, IA; (d) Luverne, MN; and (e) Emporia, KS to points in AR, AZ, CA, CO, LA, NV, OK, TN, and UT, and (2)(a) Dakota City and West Point, NE; (b) Denison and Ft. Dodge, IA; (c) Luverne, MN; and (d) Emporia, KS to points in OH and TX. (Hearing site: Omaha, NE or Sioux City, IA).

MC 730 (Sub-454F), filed July 9, 1979. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a corporation, 25 No. Via Monte, Walnut Creek, CA 94595. Representative: E. E. Reddick (same address as applicant). Transporting *frozen foods*, between the facilities of Pet Incorporated, Frozen Foods Division, at or near Frankfort and Hart, MI, on the one hand, and on the other, points in CA, CO, and UT. (Hearing site: Detroit, MI, or San Francisco, CA).

MC 2770 (Sub-22F), filed July 6, 1979. Applicant: SANBORN'S MOTOR EXPRESS, INC., 550 Forest Ave. Portland, ME 04101. Representative: Mary E. Kelley, 22 Stearns Avenue, Medford, MA 02155. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Berlin, NH, and Derby Line, VT, from Berlin over NH Hwy 110 to junction U.S. Hwy 3, then over U.S. Hwy 3 to junction VT Hwy 105, then over VT Hwy 105 to junction VT Hwy 114, then over VT Hwy 114 to junction VT Hwy 111, then over VT Hwy 111 to Derby, and return over same route, serving no intermediate points. Purpose of the application is to eliminate Boston, MA, gateway on traffic moving between Canada and points in Maine and New Hampshire. (Hearing site: Boston, MA, or Portland, ME).

Note.—Dual operation may be at issue.

MC 2860 (Sub-191F), filed June 26, 1979. Applicant: NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, NJ 08360. Representative: Peter J. Nickles, 888 16th Street, N.W., Washington, D.C. 20006. Transporting *general commodities*, (except classes A and B explosives, articles of unusual value, commodities in bulk, commodities requiring special equipment, and household goods as defined by the Commission), (1) Between Columbus, Atlanta, Augusta, GA, and points in SC and NC, on the one hand, and, on the other, points in VA on and east of U.S. Hwy 15, points in MD, PA, DE, NJ, NY, CT, RI, and MA; and (2) Between Savannah, GA, on the one hand, and, on the other, points in SC, NC, VA, on and east of U.S. Hwy 15, points in MD, PA, DE, NJ, NY, CT, RI, and MA, and (3) between Atlanta, Augusta, Columbus and Savannah, GA, on the one hand, and, on the other, points in SC. (Hearing site: Washington, DC.)

Note.—The purpose of this application is to eliminate the gateways at Richmond, VA, Baltimore, MD, Darlington, McBee and Hartsville, SC. This proceeding is a gateway elimination request filed pursuant to the Commission's Policy Statement in Ex Parte No. 55 (Sub-No. 6) noticed in the Federal Register of December 9, 1974, and is directly related to Docket No. MC-F-14060F and indirectly to Docket Nos. MC-F-12190 (Sub-No. 144).

MC 2900 (Sub-388F), filed July 6, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). Transporting *plastic material and plastic products*, from the facilities of Borg-Warner Chemicals, at Parkersburg and Washington, WV, to points in MI in and south of Mason, Lake, Osceola, Gladwin, and Arenac Counties, MI. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 4491 (Sub-20F), filed June 29, 1979. Applicant: GREAT COASTAL EXPRESS, INC., 5600 Midlothian Turnpike, Richmond, VA 23225. Representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, VA 23229. Transporting *(1) paper and paper articles; and (2) materials, equipment, and supplies (except commodities in bulk in tank vehicles) used in the manufacture, distribution of the commodities in (1) above*, between, Franklin, VA, on the one hand, and, on the other, New York, NY, points in Orange, Rockland and Westchester Counties, NY, those points in PA on and east of U.S. Hwy. 220, and points in CT, DE, MD, MA, NJ, RI and DC. (Hearing site: Richmond, VA, or Washington, DC.)

MC 4941 (Sub-53F), filed June 28, 1979. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello Street, Brockton, MA 02403. Representative: Russell S. Callahan (same address as applicant). Transporting (1) *gypsum and gypsum products, and (2) materials, equipment, and supplies used in the manufacture, installation, and distribution of the commodities in (1) above, (except commodities in bulk)*, between the facilities of Georgia-Pacific Corporation at Akron and Buchanan, NY, and Wilmington, DE, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 5470 (Sub-197F), filed July 6, 1979. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Brian L. Troiano, 918 16th Street, N.W., Washington, DC 20006. Transporting *pig iron*, in dump vehicles, from Chicago, IL, to points in AL, CT, DE, DC, ME, MA, MS, NH, NJ, NC, ND, RI, SC, SD, VT, VA, and WV. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 9291 (Sub-12F), filed July 2, 1979. Applicant: CARROL BALL TRANSPORT, INC., P.O. Box 53, 312 E. Market, Centerville, KS 66014. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting *salvage railroad tracks; railroad ties and salvage bridge steel*, between points in MO, IA, IL, AR, SD, NE, KS, OK and CO, and (2) *equipment, materials, and supplies used in the construction and repair of railroads*, from Denver, CO, Columbus, MS, Houston and Texarkana, TX, Kansas City, MO, Madison and Carbondale, IL, Birmingham, AL, Atlanta, GA, E. St. Louis, MO to points in MT, WY, NV, UT, CO, NM, ND, SD, NE, KS, OK, TX, MN, IA, IL, IN, KY, TN,

MS, AL, and GA. (Hearing site: Kansas City, MO).

MC 18121 (Sub-28F), filed June 20, 1979. Applicant: ADVANCE TRANSPORTATION COMPANY, a corporation, P.O. Box 719, Milwaukee, WI 53201. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Paducah, KY, and Mount Vernon, IL; from Paducah, over U.S. Hwy 60 to junction Interstate Hwy 24, then over Interstate Hwy 24 to junction Interstate Hwy 57, then over Interstate Hwy 57 to junction IL Hwy 15, then over IL Hwy 15 to Mount Vernon, and return over the same route, serving all intermediate points; (2) Between Rochelle, IL, and Madison, WI, over U.S. Hwy 51, serving all intermediate points; (3) Between Madison, WI, and Milwaukee, WI, over Interstate Hwy 94, serving all intermediate points; (4) Between Madison, WI, and Two Rivers, WI, over U.S. Hwy 151, serving all intermediate points; (5) Between Milwaukee, WI, and Menominee, MI, over U.S. Hwy 41, serving all intermediate points; (6) Between Milwaukee, WI, and Green Bay, WI, over U.S. Hwy 57, serving all intermediate points; (7) Between Green Bay, WI, and Chicago, IL; from Chicago over Interstate Hwy 94 to junction Interstate Hwy 43, then over Interstate Hwy 43 to junction U.S. Hwy 141, the over U.S. Hwy 141 to Green Bay, and return over the same route, serving all intermediate points; (8) Between Chicago, IL, and Fond du Lac, WI, over U.S. Hwy 45, serving all intermediate points; (9) Between Fond du Lac, WI, and Sheboygan, WI, over U.S. Hwy 23, serving all intermediate points; (10) Between Appleton, WI, and Manitowoc, WI, over U.S. Hwy 10, serving all intermediate points; (11) Between U.S Hwy 41, at or near Little Chute, WI, and U.S. Hwy 151, at or near Brothertown, WI, over WI Hwy 55, serving all intermediate points; (12) Between Beloit, WI, and Milwaukee, WI, over WI Hwy 15, serving all intermediate points, and serving all points in Brown, Calumet, Dane, Dodge, Door, Fond du Lac, Jefferson, Kenosha, Kewaunee, Manitowoc, Milwaukee, Outagamie, Ozaukee, Racine, Rock, Sheboygan, Walworth, Washington, Waukesha and Winnebago Counties,WI, as off-route points. (Hearing site: Madison or Milwaukee, WI).

MC 19311 (Sub-62F), filed June 18, 1979. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077 Representative: Elmer J. Maue, Suite 1200, 755 West Big Beaver, Troy, MI 48084. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, Transporting *General commodities* (except commodities in bulk), over irregular routes between Akron, Cleveland, Columbus, Mansfield, Springfield, and Toledo, OH, and Coal City, IL, on the one hand, and, on the other, Aurora, Chicago, Chicago Heights, Elgin, Joliet, and Waukegan, IL and Elkhart, Fort Wayne, Frankfort, Indianapolis, Hammond, Kentland, Lafayette, Michigan City, Muncie, Plymouth, Richmond, South Bend, and Warsaw, IN; Ann Arbor, Battle Creek, Benton Harbor, Detroit, Flint, Jackson, Kalamazoo, Lansing, Mt. Clemens, Pontiac, Rochester, and St. Joseph, MI; Cincinnati, Dayton, Findlay, Lima, Sidney, and Toledo, OH; Kenosha, Milwaukee, and Racine, WI. Serving only those intermediate points and off-route points on the routes specified in paragraph (B) and serving all intermediate points for purposes of joinder, over regular routes (A) (1) Between Akron, OH, and Milwaukee, WI: from Akron, OH, over Interstate Hwy 77 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Milwaukee, and return over the same route. (2) Between Akron, OH, and junction OH Hwy 18 and U.S. Hwy 25, over OH Hwy 18, (3) Between Akron, OH, and junction Interstate Hwy 76 and Interstate Hwy 71, over Interstate Hwy 76, (4) Between Akron, OH, and junction U.S. Hwy 224 and U.S. Hwy 24, over U.S. Hwy 224, (5) Between Akron, OH and Cincinnati, OH, from Akron over OH Hwy 585 to OH Hwy 3, then over OH Hwy 3 to Cincinnati, and return over the same route, (6) Between Cleveland, OH, and Cincinnati, OH, over Interstate Hwy 71, (7) Between Cleveland, OH, and Elgin, IL, over U.S. Hwy 20. (8) Between Cleveland, OH, and Joliet, IL, over U.S. Hwy 6, (9) Between Cleveland, OH and Cincinnati, OH, over U.S. Hwy 42, (10) Between Columbus, OH, and Flint, MI, over U.S. Hwy 23, (11) Between junction U.S. Hwy 23 and OH Hwy 53 and junction OH Hwy 53 and junction OH Hwy 100, from junction U.S. Hwy 23 and OH Hwy 53 over OH Hwy 53 to junction OH Hwy 100, and return over the same route. (12) Between Columbus, OH and Benton Harbor, MI, over U.S. Hwy 33, (13) Between Columbus, OH and Hammond, IN, from Columbus over Interstate Hwy 70 to junction Interstate Hwy 65, then over Interstate Hwy 65 to Hammond, and return over the same route. (14) Between Mansfield, OH and Aurora, IL, over U.S. Hwy 30, (15) Between Mansfield, OH, and Pontiac, MI: From Mansfield over OH Hwy 39 to junction OH Hwy 103 then over OH Hwy 103 to junction OH Hwy 100 then over OH Hwy 100 to junction OH Hwy 53 then over OH Hwy 53 to junction U.S. Hwy 20 then over U.S. Hwy 20 to junction OH Hwy 51 then over OH Hwy 51 to junction U.S. Hwy 24 then over U.S. Hwy 24 to Pontiac, and return over the same routes. (16) Between Mansfield, OH, and Lafayette, IN: From Mansfield over OH Hwy 309 to junction OH Hwy 4 then over OH Hwy 4 to junction OH Hwy 47 then over OH Hwy 47 to junction IN Hwy 28 then over IN Hwy 28 to junction IN Hwy 38 then over IN Hwy 38 to Lafayette, and return over the same routes. (17) Between Springfield, OH and Findlay, OH over U.S. Hwy 68, (18) Between Springfield, OH and Xenia, OH, over U.S. Hwy 68, (19) Between Springfield, OH, and Battle Creek, MI, from Springfield over U.S. Hwy 40 to junction U.S. Hwy 27 then over U.S. Hwy 27 to junction Interstate 94 then over Interstate 94 to Battle Creek, and return over the same routes, (20) Between Toledo, OH, and Lansing, MI: From Toledo over U.S. Hwy 223 to junction U.S. Hwy 127 then over U.S. Hwy 127 to Lansing, and return over the same routes. (21) Between Toledo, OH, and Rochester, MI, from Toledo over Interstate Hwy 75 to junction MI Hwy 150 then over MI Hwy 150 to Rochester, and return over the same route. (22) Between Toledo, OH, and Kentland, IN, over U.S. Hwy 24, (23) Between Toledo, OH, and Indianapolis, IN, from Toledo via OH Hwy 2 to junction IN Hwy 37 then over IN Hwy 37 to junction Interstate Hwy 69 then over Interstate Hwy 69 to Indianapolis, and return over the same routes. (24) Between Toledo, OH, and Cincinnati, OH, over Interstate Hwy 75, (25) Between Coal City, IL, and Mt. Clemens, MI, from Coal City over IL Hwy 113 to junction U.S. Hwy 66 then over U.S. Hwy 66 to junction Interstate Hwy 80 then over Interstate Hwy 80 to junction Interstate Hwy 94 then over Interstate Hwy 94 to Mt. Clemens, and return over the same routes, (26) Between junction Interstate hwy 94 and Interstate Hwy 69 and Flint, MI, from junction Interstate Hwy 94 and Interstate Hwy 69 over Interstate Hwy 69 to Flint, and return over the same route, (27) Between Coal City, IL, and Detroit, MI, from Coal City over IL Hwy 113 to junction IL Hwy 53 then over IL Hwy 53 to junction U.S. Hwy 30 then over U.S. Hwy 30 to junction IN Hwy 49 then over IN Hwy 49 to junction U.S. 12 then over U.S. 12 to Detroit, and return over the same routes, (28) Between Coal City, IL, and Cincinnati, OH from Coal City over IL Hwy 113 to junction IL Hwy 17 then over IL Hwy 17 to junction U.S. Hwy 52 then over U.S. Hwy 52 to Cincinnati, OH, also over specified routes, to junction U.S. Hwy 52 and Interstate Hwy 57 then over Interstate Hwy 57 to junction Interstate Hwy 74 then over Interstate Hwy 74 to Cincinnati, OH, and return over the same routes, (29) Between Coal City, IL and Milwaukee, WI: From Coal City, IL over IL Hwy 113 to junction Interstate Hwy 55 then over Interstate Hwy 55 to junction U.S. Hwy 45 then over U.S. Hwy 45 to Milwaukee, WI, and return over the same routes, (30) Between Coal City, IL, and Van Buren, OH, from Coal City over IL Hwy 113 to junction IL Hwy 17 then over IL Hwy 17 to junction In Hwy 2 then over IN Hwy 2 to junction U.S. Hwy 41 then over U.S. Hwy 41 to junction IN Hwy 14 then over IN Hwy 14 to junction OH Hwy 613 then over OH Hwy 613 to Van buren, and return over the same routes, (31) Between junction U.S. Hwy 40 and U.S. Hwy 35 and Michigan City, IN, from junction U.S. Hwy 40 and U.S. Hwy 35 over U.S. Hwy 35 to Michigan City, IN, and return over the same route. (B) Serving the intermediate and off-route points of: (1) Bellwood, Berwyn, Blue Island, Burnhouse, Calumet City, Chicago Heights, Chicago Ridge, Cicero, Des Plaines, Dolton, Downers Grove, Elmhurst, Evenston, Harvey, Justice Park, Kenilworth, La Grange, Lyons, Maywood, Niles, Oaklawn, Oak Park, Palos Park, Park Ridge, Riverdale, Villa Park, Willmet, Winnetka, Worth, York Center, IL; East Chicago, Hammond and Whitting, IN; Berkley, Dearborn, Dundee, East Detroit, Ecorse, Farmington, Ferndale, Grosse Pointe Farms, Lincoln Park, Pleasant Ridge, Plymouth, River Rouge, Royal Oak, Southfield, Wayne, MI; Avondale, Cumminsville, Fairmount, Linwood, Norwood, Oakley, St. Bernard, Sedamsville, and Westwood, OH; Bellvue, Covington, Dayton, Fort Thomas, Newport, Wilders, KY; Cudahy, Fox Point, Greendale, North Milwaukee, Root Creek, South Milwaukee, Wauwatosa, West Allis and White Fish Bay, WI. (2) All points within the area bounded ad follows: Beginning at junction U.S. Hwy 41 and U.S. Hwy 30 over U.S. Hwy 30 to junction IL Hwy 31 then over IL Hwy 31 to junction U.S. Hwy 20 then over U.S. Hwy 20 to junction U.S. Hwy 41 north of Chicago, including all points on highways specified and Commercial Zone of Chicago as defined by the Commission. (3) All points located on (including termini) (a) U.S. Hwy 20 between Chicago, IL, and Elkhart, IN; (b) IN Hwy 19 between Elkhart, IN and the Indiana-Michigan State line; (c) MI Hwy 205 between the Indiana-Michigan State line and U.S. Hwy 12; (d) U.S. Hwy 25 Between Cincinnati, OH and Mt. Clemens, MI; (e) MI Hwy 150 Between Detroit, MI and Rochester, MI; (f) U.S. Hwy 127 between U.S. Hwy 12 and Lansing, MI; (g) U.S. Hwy 23 between Toledo, OH and Flint, MI; (h) Interstate Hwy 94 between Chicago, IL and Detroit, MI; (i) U.S. Hwy 12 between junction Interstate Hwy 94 and U.S. Hwy 12 (near New Buffalo, MI) and Detroit, MI; (j) U.S. Hwy 31 between MI Hwy 89 and Niles, MI; (k) MI Hwy 40 between Interstate 94 and Niles, MI; (l) MI Hwy 89 between U.S. Hwy 31 and Fennville, MI; (m) County roads between Fennville, MI and Interstate Hwy 94 passing thru Grand Junction, Bangor and Hartford, MI; (n) MI Hwy 78 between Interstate 94 and U.S. Hwy 27; (o) U.S. Hwy 27 between MI Hwy 78 and MI Hwy 43; (p) MI Hwy 43 between MI Hwy 78 and unnumbered highway (formerly U.S. Hwy 16); (q) Unnumbered highway (formerly U.S. Hwy 16) between MI Hwy 78 and Interstate Hwy 96; (r) Interstate Hwy 96 between junction unnumbered Hwy (formerly U.S. Hwy 16) and Detroit, MI; (s) MI Hwy 78 between Lansing, MI and junction U.S. Hwy 10; (t) U.S. Hwy 10 between junction MI Hwy 78 and Detroit, MI; (u) U.S. 223 between U.S. Hwy 12 and Toledo, OH; (v) U.S. Hwy 24 between Toledo, OH and Detroit, MI; (w) MI Hwy 50 between U.S. Hwy 23 and Monroe, MI; (x) U.S. Hwy 41 between Chicago and U.S. Hwy 52; (y) U.S. Hwy 30 between U.S. Hwy 41 and OH Hwy 309 (formerly U.S. Hwy 30); (z) U.S. Hwy 52 between U.S. Hwy 41 and Cincinnati, OH; (aa) IN Hwy 44 between U.S. Hwy 52 and Liberty, IN; (bb) U.S. Hwy 27 between Richmond, IN and OH Hwy 73; (cc) OH Hwy 73 between U.S. Hwy 27 and Middletown, OH; U.S. Hwy 127 between U.S. Hwy 35 and Cincinnati, OH; (ee) OH Hwy 4 between U.S. Hwy 127 and Dayton, OH; (ff) IN Hwy 28 between U.S. Hwy 52 and U.S. Hwy 35; (gg) U.S. Hwy 35 between IN Hwy 28 and Dayton, OH; (hh) OH Hwy 309 (formerly portion of U.S. 30) between U.S. 30 and Lima, OH; (ii) U.S. Hwy 40 between U.S. Hwy 52 and OH Hwy 49; (jj) OH Hwy 49 between U.S. Hwy 40 and Dayton, OH; (kk) U.S. Hwy 41 between Chicago, IL and Milwaukee, WI; (ll) IL Hwy 42 between Chicago, IL and Wisconsin State line; (mm) WI Hwy 32 between Illinois State line and Milwaukee, WI. (Hearing site: Detroit, MI, or Washington, D.C.)

Note.—The purpose of this application is to convert applicant's irregular-route authority to regular-route authority.

MC 22311 (Sub-16F), filed July 2, 1979. Applicant: A. LINE, INC., P.O. Box 765, Hammond, IN 46325. Representative: Marvin Mickow (same address as applicant). Transporting *roofing and building materials*, from the facilities of the GAF Corporation, at Joliet, IL, to points in MI and OH, restricted to the transportation of traffic originating at the named facilities. (Hearing site: Washington, DC.)

MC 22311 (Sub-17F), filed July 2, 1979. Applicant: A. LINE, INC., P.O. Box 765, Hammond, IN 46325. Representative: Marvin Mickow (same address as applicant). Transporting *iron and steel pipe*, from Nitro, WV, to points in OH, PA, IN, IL, KY, NY, VA, and MD, restricted to the transportation of traffic originating at the facilities of McTunkin Co., at or near the named origin. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 22311 (Sub-18F), filed July 2, 1979. Applicant: A. LINE, INC., P.O. Box 765, Hammond, IN 46325. Representative: Marvin Mickow (same address as applicant). Transporting *aluminum and aluminum articles*, from the facilities of Kaiser Aluminum Corporation, at Ravenswood, WV, to points in IL, IN, MI MO, OH, and WI. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 41951 (Sub-48F), filed July 5, 1979. Applicant: WHEATLEY TRUCKING, INC., P.O. Box 458, Cambridge, MD 21613. Representative: Gary E. Thompson, 4304 East-West Highway, Washington, DC 20014. Transporting (1) *Salt, in packages*, from Ludlowville, Horseheads, Retsof, Watkins, Glen and Silver Springs, NY, and Cleveland, Akron, Rittman, and Cincinnati, OH, to points in DE, Cecil, Kent, Queen Annes, Talbot, Caroline, Dorchester, Somerset, Worchester, Wicomico, and Baltimore Counties, MD, and Baltimore, MD, Accomack, Northampton, York, Isle of Wright, and Southampton Counties, VA, and Norfolk, Virginia Beach, Portsmouth, Suffolk, Chesapeake, Newport News, and Hampton, VA, and (2) *Salt in packages*, from Baltimore and points in Baltimore County, MD, to points in DE, and Accomack and Northampton Counties, VA, and Norfolk, Virginia Beach, Portsmouth, Suffolk, Chesapeake, Newport News, and Hampton, VA. (Hearing site: Washington, DC.)

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MC 47171 (Sub-133F), filed July 10, 1979. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same as above). Transporting *lumber* from the facilities of Champion International Corporation at or near Charleston and Orangeburg, SC to points in CT, DE, MD, NJ, NY, PA, RI, VA, WV. (Hearing site: Columbia, SC.)

MC 48221 (Sub-25F), filed July 2, 1979. Applicant: W. N. MOREHOUSE TRUCK LINE, INC., 4010 Dahlman Avenue, Omaha, NE 68107. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Transporting *malt beverages* (1) from Minneapolis and St. Paul, MN, and LaCrosse, WI, to Omaha, NE and Council Bluffs, IA, and (2) from St. Paul, MN, LaCrosse and Milwaukee, WI to Beatrice, NE. (Hearing Site: Omaha, NE.)

MC 52460 (Sub-248F), filed July 5, 1979. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th Street, P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *paper* and *paper products*, and *commodities* used in the manufacture of paper and paper products (except commodities in bulk), between the facilities of Champion International Corporation, at or near Courtland, AL, on the one hand, and, on the other, points in AR, KS, LA, MO, NM, OK, and TX. (Hearing site: Oklahoma City, OK.)

MC 52460 (Sub-249F), filed July 5, 1979. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th Street, P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *tallow*, in bulk, from the facilities of Iowa Beef Processors, Inc., at or near Emporia, KS, to points in AR, LA, MO, OK, TN, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Omaha, NE, or Sioux City, IA.)

MC 52460 (Sub 250F), filed July 5, 1979. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th Street, P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *anhydrous ammonia* and *liquid fertilizer*, in bulk, from the facilities of Phillips Petroleum Company, at or near Hoag, NE, to points in CO, IA, KS, MN, MO, NE, OK, SD, and WY. (Hearing site: Oklahoma City, OK.)

MC 67450 (Sub-93F), filed July 2, 1979. Applicant: PETERLIN CARTAGE CO., a Corporation, 9651 S. Ewing Ave., Chicago, IL 60617. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603. Transporting *foodstuffs* (except in bulk), (a) from the facilities of Joan of Arc Company, at Hoopeston and Princeville, IL, to points in IN, IA, KY, MI, MO, OH, TN, and WI, and (b) from the facilities of Joan of Arc Company, at Mayville, WI, to points in AL, CT, DE, GA, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, WI, and DC, restricted in (a) and (b) above to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Chicago, IL.)

MC 68100 (Sub-29F), filed July 9, 1979. Applicant: D. P. BONHAM TRANSFER, INC., P.O. Drawer G, Bartlesville, OK 74003. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. Transporting (1) *iron and steel articles and pipe*, from Conroe, TX, to points in the U.S. (including AK but excluding HI), and (2) *materials, equipment and supplies* used in the manufacture and distribution of the above named commodities, in the reverse direction. (Hearing site: Houston, TX.)

MC 68860 (Sub-40F), filed June 29, 1979. Applicant: RUSSELL TRANSFER, INCORPORATED, 5259 Aviation Drive, N.W., Roanoke, VA 24012. Representative: Liniel G. Gregory, Jr. (same as above). Transporting *petroleum or petroleum products, in packages* from the facilities of Pennzoil Company, from Rouseville and Reno, PA to points in NC, SC, VA, and WV. (Hearing site: Washington, DC., Pittsburgh, PA.)

MC 68980 (Sub-20F), filed June 28, 1979. Applicant: CHECKER EXPRESS CO., an IL Corporation, 6801 S. 13th St., Milwaukee, WI 53221. Representative: Abraham A. Diamond, 29 S. LaSalle St., Chicago, IL 60603. Transporting *iron and steel articles*, between the Chicago, IL, Commercial Zone, on the one hand, and, on the other, points in WI. (Hearing site: Chicago, IL.)

MC 85130 (Sub-9F), filed July 5, 1979. Applicant: BRADLEY'S EXPRESS, INC., 2985 Berlin Turnpike, Newington, CT 06111. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Transporting (1) *wearing apparel*, on hangers, and in cartons, and (2) *department store merchandise* when transported in mixed loads with wearing apparel, on hangers and in cartons, from Secaucus, NJ to Coventry, RI, restricted to the transportation of traffic destined to the facilities of Outlet Department Stores. (Hearing site: New York, NY.)

MC 104430 (Sub-59F), filed July 9, 1979. Applicant: CAPITAL TRANSPORT COMPANY INC., P.O. Box 408, McComb, MS 39648. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22828, Jackson, MS 39205. Transporting *liquid animal feed*, in bulk, in tank vehicles, from Westwego, LA to points in AL, GA, and MS. (Hearing site: New Orleans, LA or Jackson, MS.)

MC 108341 (Sub-160F), filed July 2, 1979. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 26125, Charlotte, NC 28213. Representative: Jack F. Counts (same address as applicant). Transporting (1) *heat exchangers and heat equalizers*, (2) *heating, cooling, conditioning, humidifying, dehumidifying* and *moving equipment*, (3) *parts* for the commodities in (1) and (2) above, and (4) *materials, equipment, and supplies* used in the manufacture, distribution, installation, or operations of the commodities in (1), (2), and (3) above, (except commodities in bulk), between the facilities of Westinghouse Electric Corporation, at or near (a) Verona, VA, and (b) Danville and Beardstown, IL, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, OK, and TX. (Hearing site: Richmond, VA, or Washington, DC.)

MC 108341 (Sub-161F), filed July 2, 1979. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 26125, Charlotte, NC 28213. Representative: Mr. Jack F. Counts (same address as above). Transporting *building materials and construction materials* (except commodities in bulk), from the facilities of Barclay Industies, Inc., at or near Lodi, NJ, to points in AL, FL, GA, KY, LA, MS, NC, SC, TN, and VA. (Hearing site: New York, NY or Washington, DC.)

MC 108341 (Sub-162F), filed July 5, 1979. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 26125, Charlotte, NC 28213. Representative: Mr. Jack F. Counts (same address as above). Transporting *pipe and pipe fittings*, from the facilities of Charlotte Pipe and Foundry Co., at or near Charlotte and Bakers, NC, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Charlotte, NC or Washington, DC.)

MC 108341 (Sub-163F), filed July 9, 1979. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 26125, Charlotte, NC 28213. Representative: Mr. Jack F. Counts (same address as above). Transporting *iron and steel articles*, from the facilities

of Atlantic Steel Company, at or near Atlanta and Cartersville, GA, to points in the United States in and east of MI, IL, KY, TN, GA, and FL. (Hearing site: Atlanta, GA or Washington, DC.)

MC 108380 (Sub-103F), filed June 28, 1979. Applicant: Johnston's Fuel Liners, Inc., 808 Birch Street, Newcastle, WY 82701. Representative: Truman A. Stockton, Jr., The 1650 Grant St. Bldg., Denver, CO 80203. Transporting *cement* from the South Dakota Cement Plant near Rapid City, SD, to points in CO, MN, MT, NE, ND, and WY. (Hearing site: Rapid City, SD or Denver, CO.)

MC 109821 (Sub-60F), filed July 9, 1979. Applicant: TAYNTON FREIGHT SYSTEM, INC., 40 Main St., Wellsboro, PA 16901. Representative: Dewey T. Whitford (same address as applicant). Transporting *wheat flour, products of flour*, and *sugar topping, cereals, casseroles* and *snacks*, from Buffalo, NY, to points in NJ and PA. (Hearing site: Buffalo, NY, or Washington, DC.)

MC 110420 (Sub-834F), filed June 29, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW, Washington, DC 20004. Transporting *chemicals*, in bulk, in tank vehicles, from the facilities of Monsanto Co. at on near Chocolate Bayou and Texas City, TX, and the Houston, TX, Commercial Zone, to points in the United States, in and east of LA, AR, MO, IA and MN. (Hearing site: St. Louis, MO or Washington, DC.)

MC 111231 (Sub-277F), filed July 5, 1979. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: B. J. Wiseman, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *General commodities* (except commodities in bulk, those of unusual value, classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), (1) between Houston, TX and Oklahoma City, OK, from Houston over Interstate Hwy 45 to junction Interstate Hwy 35, then over Interstate Hwy 35 to Oklahoma City, serving Dallas, TX, for purpose of joinder only, and serving no intermediate points; (2) between Houston, TX and Dallas, TX, over U.S. Hwy 75, serving no intermediate points; (3) between Houston, TX, and Baton Rouge, LA, over Interstate Hwy 10, serving all intermediate points; (4) between Houston, TX, and Texarkana, AR, over U.S. Hwy 59, serving no intermediate points, but serving Nacogdoches, TX, and Carthage, TX, for purpose of joinder only; and (5) between Nacogdoches, TX and Carthage, TX, from Nacogdoches over U.S. Hwy 259 to junction TX Hwy 315, then over Texas Hwy 315 to Carthage and return over the same routes, serving no intermediate points, and serving Nacogdoches and Carthage for purpose of joinder only; (6) In conjunction with the above routes, all points on and within the following described territory as off-route points to carrier's authority to serve Houston, TX, beginning at the Gulf of Mexico, near Matagorda, TX, then over Texas Hwy 60 to Wallace, TX, then over Texas Hwy 36 to Brenham, TX, then over Texas Hwy 105 to Cleveland, TX, then over U.S. Hwy 59 to Livingston, TX, then over U.S. Hwy 190 to Woodville, TX, then over U.S. Hwys 69 and 287 to Kountze, then over Texas Hwy 327 to Silsbee, TX, then over U.S. Hwy 96 to junction TX Hwy 62, then over TX Hwy 62 to Interstate Hwy 10, then over Interstate Hwy 10 to the TX–LA state line, then over the TX–LA state line to the Gulf of Mexico. (Hearing site: Houston, TX, and New Orleans, LA.)

Note.—Applicant intends to tack this authority with its existing authority.

MC 111231 (Sub-278F), filed July 5, 1979. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting *electrolytic chlorination cells* and *components* used in the manufacture and distribution of the foregoing commodities (except in bulk), between Russellville, AR, and points in CA, LA, MI, and TX. (Hearing site: Little Rock, AR, and Washington, DC.)

MC 111310 (Sub-48F), filed July 3, 1979. Applicant: BEER TRANSIT, INC., P.O. Box 352, Black River Falls, WI 54615. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. Transporting (1) *malt beverages* and (2) *malt beverage dispensing equipment* when transported in mixed loads with malt beverages, from LaCrosse, WI, to Chicago, IL. (Hearing site: Madison or LaCrosse, WI.)

MC 111981 (Sub-27F), filed July 10, 1979. Applicant: ROBIDEAU'S EXPRESS, INC., Front Street and Oregon Avenue, Philadelphia, PA 19148. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Transporting *foods*, vehicles equipped with mechanical refrigeration, from New York, NY, and Philadelphia, PA, to points in PA and VA. (Hearing site: Philadelphia, PA or Washington, DC.)

Note.—The purpose of this application is to eliminate the gateway of Hammonton, NJ.

MC 112801 (Sub-242F), filed July 6, 1979. Applicant: TRANSPORT SERVICE CO., a corporation, 15 Salt Creek Lane, Hinsdale, IL 60521. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Transporting *chemicals*, in bulk, in tank vehicles, from the facilities of PPG Industries, Inc., in Harris County, TX, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 115311 (Sub-363F), filed June 22, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Paul P. Watkins, Sr., P.O. Box 56387, Atlanta, GA 30343. Transporting *charcoal, charcoal briquettes, vermiculite, activated carbon hickory chips, lighter fluid, charcoal grills, and accessories and materials, equipment and supplies* used in the manufacture and distribution of the foregoing commodities (except commodities in bulk), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Husky Industries, Inc. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 115311 (Sub-371F), filed July 2, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Ralph B. Matthews, P.O. Box 56387, Atlanta, GA 30343. Transporting *ground phosphate rock*, in bulk, in tank vehicles, from the facilities of Occidental Chemical Company at or near White Springs, FL, to Americus, Augusta and Tifton, GA. (Hearing site: Atlanta, GA or Jacksonville, FL.)

MC 115821 (Sub-46F), June 28, 1979. Applicant: FRANK BEELMAN, d.b.a., BEELMAN TRUCK CO., St. Libory, IL 62282. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting *materials*, used in the manufacture and production of glass fiber products in bulk, between points in the United States (except AK and HI), restricted to the transportation of traffic destined to the facilities of Owens-Corning Fiberglass Corporation. (Hearing site: St. Louis, MO.)

MC 116300 (Sub-51F), filed July 2, 1979. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., 17th floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting *salt cake*, from Weeks Island, LA, to points in FL. (Hearing site: New Orleans, LA.)

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MC 118811 (Sub-15F), filed July 2, 1979. Applicant: LAWRENCE McKENZIE TRUCKING SERVICE, INC., Route 5, Box 111, Winchester, KY 40391. Representative: William L. Willis, 708 McClure Building, Frankfort, KY 40601. Transporting *lard cans, shower stalls, furnaces,* and *stoves,* and *parts, accessories* and *supplies* for the foregoing commodities from the facilities of Louisville Tin and Stove Company, at Louisville, KY, to points in AL, AR, GA, LA, MS, MO, NC, OK, SC, TN, TX, VA, and WV. (Hearing site: Louisville or Lexington, KY).

MC 119631 (Sub-34F), filed July 5, 1979. Applicant: DEIOMA TRUCKING COMPANY, a corporation, P.O. Box 3315, Mount Union Station, Alliance, OH 44601. Representative: Lawrence E. Lindeman, Suite 1032 Pennsylvania Bldg., 425 13th St., NW, Washington, DC 20004. Transporting *iron and steel articles,* (1) from Alliance, OH, to points in AL, AZ, GA, IN, IL, KS, KY, MN, MI, MO, NE, OR, PA, SC, TX, UT, WA, WV, and WI, and (2) from East Chicago and Hammon, IN, and Granite City and East St. Louis, IL, to points in PA and OH. (Hearing site: Chicago, IL.)

MC 119741 (Sub-215F), filed July 5, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., NW, P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *frozen meats,* from the facilities of Hill-N-Dale Meat Co., at or near Downingtown, PA, to points in CO, IL, IN, IA, KS, MI, MN, MO, NE, OH, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Philadelphia, PA).

MC 119741 (Sub-217F), filed July 5, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson, (same address as applicant). Transporting *foodstuffs, paint, and paint products,* (except commodities in bulk), between the facilities of SCM Corporation, at or near (a) Chicago and Joliet, IL, (b) Louisville, KY, (c) Cleveland, Huron, and Sharonville, OH, and (d) Parkesburg and Shiremanstown, PA, on the one hand, and, on the other, points in CO, IL, IA, KS, MN, MO, NE, ND, OK, SD, TX, and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Cleveland, OH.)

MC 119741 (Sub-218F), filed July 9, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson, (same address as applicant). Transporting *foodstuffs,* from the facilities of California Canners and Growers at or near Fond du Lac, WI, to points in AR, IL, IN, KS, MO, NE, ND, OK, and SD. (Hearing site: Fond du Lac, WI.)

MC 119800 (Sub-6F), filed July 10, 1979. Applicant: PHILIP THOMAS TRUCKING, INC., P.O. Box 742, Wynnewood, OK 73098. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. Transporting *fuel oil,* in bulk, in tank vehicles, from points in TX on and north of U.S. Hwy 84, to points in OK. (Hearing site: Oklahoma City, OK or Fort Worth, TX.)

MC 119991 (Sub-30F), filed June 28, 1979. Applicant: YOUNG TRANSPORT, INC., P.O. Box 3, Logansport, IN 46947. Representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, IN 46204. Transporting *iron and steel articles,* from the facilities of Republic Steel Corporation at (1) Buffalo, NY, and (2) Cleveland, Warren and Youngstown, OH, to points in IN, IL, IA and MO. (Hearing site: Indianapolis, IN or Chicago, IL.)

MC 121060 (Sub-115F), filed June 29, 1979. Applicant: ARROW TRUCK LINES, INC., P.O. Boc 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Transporting *plywood, paneling, composition board, and building and construction materials,* (except commodities in bulk), from the facilities of Plywood Panels, Inc., at (a) Camden, NJ, (b) Plains and Savannah, GA, (c) Houston and Galveston, TX, (d) Norfolk, VA, (e) New Orleans, LA, (f) Charleston, SC, (g) Jacksonville and Tampa, FL, and (h) Mobile, AL, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: New Orleans, LA, or Washington, DC.)

MC 121420 (Sub–15F), filed July 6, 1979. Applicant: DART TRUCKING COMPANY, a corporation, 61 Railroad Street, Canfield, OH 44406. Representative: Paul F. Beery, Beery & Spurlock Co., 275 East State Street, Columbus, OH 43215. Transporting (1) *iron and steel articles,* from the facilities of Wheeling-Pittsburgh Steel Corporation, at (a) Canfield, Martins Ferry, Mingo Junction, Steubenville, and Yorkville, OH, (b) Allenport and Monessen, PA, and (c) Beech Bottom, Benwood, Follansbee, and Wheeling, WV, to points in IL, IN, KY, MD, MI, NY, OH, PA, VA, WV, and WI (2) *equipment, materials,* and *supplies* used in the manufacture of the commodities in (1) above, in the reverse direction. (Hearing site: Columbus OH.)

MC 124111 (Sub–59F), filed July 2, 1979. Applicant: OHIO EASTERN EXPRESS, INC., 300 West Perkins Avenue, Sandusky, OH 44870. Representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215. Transporting *meats, meat products, and meat by products* as described in Section A of Appendix I to the Report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209, and 766 (except commodities in bulk), from Greenfield, OH, to points in AL, FL, GA, KY, MS, NC, SC, and TN. (Hearing site: Columbus OH.)

MC 124211 (Sub–365F), filed July 2, 1979. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as above). Transporting *cleaning, washing, polishing, and scouring compounds, chemicals, waxes, janitorial equipment and supplies, weed killers, paint, and sodium hypochloride solutions* (except commodities in bulk), between Omaha, NE, on the one hand, and, on the other, points in ID, LA, KS, MO, MT, NE, NV, OK, TX, UT, WI, and those points in CO east of the Continental Divide. (Hearing site: Omaha, NE.)

MC 124211 (Sub–367F), filed June 2, 1979. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as above). Transporting *materials, equipment, supplies, and accessories* used in the manufacture, operation, maintenance, repair, and sale of motor vehicles (except motor vehicles moving in drive-away service, and except commodities in bulk), (1) from points in IL, IN, LA, KY, MI, MO, NC, OH, PA, SC, TN, and WI, to Seattle, WA; and (2) from Charleston, SC, to Memphis, TN. (Hearing site: Seattle, WA.)

MC 124211 (Sub–368F), filed July 5, 1979. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Bremerton, Longview, Seattle, and Tacoma, WA, to points in IA, IL, MN, NE, OK, TX, and WI. (Hearing site: Seattle WA.)

MC 124211 (Sub-369F), filed July 9, 1979, Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as above). Transporting

such commodities as are dealt in and used by grocery and food business houses, (except commodities in bulk), from points in CA, to those points in the United States in and east of WA, OR, ID, WY, NE, KS, OK, and TX, and to points in UT. (Hearing site: Los Angeles, CA or San Francisco, CA.)

MC 125350 (Sub-3F), filed July 9, 1979, Applicant: D. R. BURGHER, INC., 205 5th Avenue, North, Audubon, IA 50025. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Transporting *commodities, which because of size or weight, require the use of special equipment or special handling:* (1) between points in AL, AR, CO, IL, IN, IA, KS, LA, MI, MN, MS, MO, MT, NE, NM, ND, OH, OK, SD, TX, WI and WY, (2) from Batavia, NY to Bloomington, MN, (3) from Conway, Columbia and West Columbia, SC; Seattle, WA; Shady Grove, PA; Bowling Green and Lexington, KY and Portsmouth, VA to Des Moines and Sioux City, 1A and Sioux Falls, SD, restricted in parts (1), (2) and (3) to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Minneapolis, MN or Des Moines, IA.)

MC 126040 (Sub-2F), filed July 2, 1979, Applicant: CONERTY-HENIFF TRANSPORT, INC., 4220 Shirley Lane, Alsip, IL 60858. Representative: Robert H. Levy, 29 South LaSalle St., Chicago, IL 60603. Transporting (1) *petroleum oils, lubricating oils, waxes* and *resins,* from the facilities of (a) Mobil Oil Corp., at or near Cicero, IL and (b) Calumet Refining Co., at or near Burnham, IL, to points in MI, IN, IA, OH, MN, and WI and (2) *petroleum* and *petroleum products,* in bulk (except asphalt), from Whiting, IN, to points in IL. (Hearing site: Chicago, IL.)

MC 127840 (Sub-119F), filed July 9, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle St., Chicago, IL 60601. Transporting *insecticides, in bulk,* from the Rocky Mountain Arsenal near Denver, CO, to NE, WY, and KS. (Hearing site: Denver, CO or Chicago, IL.)

MC 128030 (Sub-126F), filed July 9, 1979. Applicant: THE STOUT TRUCKING CO., INC., P.O. Box 177, Urbana, IL 61801. Representative: James R. Madler, 120 W. Madison St., Room 718, Chicago, IL 60602. Transporting *plastic products,* (1) from Champaign, IL, to points in IN, OH, MI, WS, MN, MO, KS, KY, and IA, and (2) *materials, equipment,* and *supplies* used in the manufacture and distribution of plastic products, from points in IN, OH, MI, WS, MN, MO, KY, KS, and IA, to Champaign, IL. (Hearing site: Chicago, IL.)

MC 128850 (Sub-3F), filed June 28, 1979. Applicant: M & M TRANSPORT, INC. P.O. Box 455, Mossyrock, WA 98564. Representative: George R. La Bissoniere, 1100 Norton Building, Seattle, WA 98104. Transporting *sawdust and shavings,* from the facilities of Delson Lumber Company, at or near Little Skookum and Olympia, WA, to St. Helens, OR. (Hearing site: Seattle, WA.)

MC 134501 (Sub-56F), filed June 29, 1979. Applicant: INCORPORTATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. Transporting *new furniture,* from Sheboygan, WI, to points in NH, VT, NY, PA, OH, DC, those in IN, on and south of U.S. 50, IA, MO, NE, KS, and WY. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 134890 (Sub-10F), filed June 25, 1979. Applicant: MARION TRANSFER, INC., 3011 North 30th St., Milwaukee, WI 53210. Representative: Richard C. Alexander, 710 North Plankinton Ave., Milwaukee, WI 53203. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *Chemicals* and *tanning extracts and chemicals,* (except in bulk), in vehicles equipped with mechanical refrigeration, from points in CT, MA, NH, NJ, PA, and RI to the facilities of Gebhardt-Vogel Tanning Co., at Milwaukee, WI, under continuing contract(s) with Gebhardt-Vogel Tanning Co., of Milwaukee, WI. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 135070 (Sub-82F), filed July 6, 1979 Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting *meats, meat products, meat byproducts, articles distributed by meat packinghouses,* and *such commodities as are used by meatpackers in the conduct of their business,* as described in Sections A, C, and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from points Anderson County, TX, to points in the United States (except AK and HI). (Hearing site: Dallas or Amarillo, TX.)

MC 135691 (Sub-36F), filed June 25, 1979. Applicant: DALLAS CARRIERS CORP., P.O. Box 402626, Dallas, TX 75240. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in or distributed by pharmaceutical houses (except commodities in bulk), from Norwich and North Norwich, NY, and Greenville, SC, to points in the United States (except AK and HI), and (2) *materials, supplies, and equipment* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), in the reverse direction, under continuing contract(s) with Norwich-Eaton Pharmaceuticals, a Division of Morton-Norwich, of Norwich, NY. (Hearing site: Dallas, TX.)

MC 136511 (Sub-68F), filed July 2, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, VA 23502. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, D.C. 20001. Transporting *confectionery,* from the facilities of M&M/Mars, at or near Elizabethtown, PA, and Elizabeth and Hackettstown, NJ, to points in the United States (except AK and HI). (Hearing site: New York, NY.)

MC 136021 (Sub-6F), filed June 22, 1979. Applicant: STAND, INC., County Road 22 North, Post Office Box 211, Gnadenhutten, OH 44629. Representative: Richard H. Brandon, Post Office Box 97, 220 West Bridge Street, Dublin, OH 43017. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pallets and lumber,* between Strongsville, OH, and points in Guernsey County, OH, on the one hand, and, on the other, points in NY, NC, SC, VA and WV and (2) *lumber,* between Strongsville, OH, and points in Guernsey County, OH, on the one hand, and, on the other, points in MI, under continuing contract(s) with Hinchcliff Products Company, of Strongsville, OH. (Hearing site: Columbus, OH.)

MC 141871 (Sub-17F), filed June 18, 1979. Applicant: WNI, INC., 8700 S.W. Elligsen Road, Wilsonville, OR 07070. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. Transporting *such commodities as are dealt in or used by grocery, discount, and department stores* (except commodities in bulk), between points in NM, CO, WY, MT, ID, UT, AZ, CA, OR, WA, and NV, restricted to the transportation of traffic originating at or destined to the facilities used by The Procter & Gamble Company. (Hearing site: Chicago IL.)

MC 141921 (Sub-61F), filed July 9, 1979. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Road, Manchester, NH 03108. Representative: John A. Sykas (same address as applicant). Transporting (1) *malt beverages*, from points in Jefferson County, CO, to points in AR, and (2) *materials and supplies* used in the manufacture and distribution of malt beverages, in the reverse direction. (Hearing site: Concord, NH, or Boston, MA.)

MC 142291 (Sub-5F), filed July 2, 1979. Applicant: MDI, INC., 6202 Concord Blvd., East, Inver Grove Heights, MN 55075. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN. Transporting *beverages* (except in bulk), from points in CA, CT, FL, IL, IA, KS, KY, LA, ME, MD, MA, MI, MO, MT, NJ, NY, OH, OR, PA, RI, TN, VA, WA, WI, and DC, to Minneapolis, MN. (Hearing site: St. Paul, MN.)

MC 142440 (Sub-2F), filed June 8, 1979. Applicant: PUGET SOUND EXPRESS AIR, INC., 400 108th Avenue NE., Suite 205, Bellevue, WA 98004. Representative: Brain E. Lawler, 3000 Seattle First National Bank Bldg., Seattle, WA 98154. Transporting *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Pierce, King, Snohomish, Skagit and Whatcom Counties, Washington. (Hearing site: Seattle, or Bellingham, WA.)

MC 143701 (Sub-16F), filed June 29, 1979. Applicant: HODGES FREIGHT LINES, INC., P.O. Box 73–I, Metairie, LA. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. Transporting *sugar, condiments and flavoring compounds*, (except in bulk), from points in LA on and west of the Mississippi River and in and east of Terrebone, Assumption and St. James Parishes, to points in AL, AR, FL, GA, IL, IN, IA, KS, KY, MD, MS, MO, NE, NC, OK, OH, PA, SC, SD, TN, TX, VA, WV. (Hearing site: New Orleans, LA, or Memphis, TN.)

MC 144780 (Sub-2F), filed June 27, 1979. Applicant: HITTMAN TRANSPORT SERVICES, INC., 2700 Keslinger road, Geneva, IL 60134. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *radioactive waste, in shipper-owned containers transported on shipper-owned trailers*, from the facilities of Philadelphia Electric Company, at or near Delta, PA, to Barnwell, SC, and (2) *empty radioactive shipping containers*, in the reverse direction, under continuing contracts with Hittman Nuclear & Development Corp., of Columbia, MD. (Hearing site: Washington, DC, or Chicago, IL.)

MC 143780 (Sub-3F), filed June 26, 1979. Applicant: POINTS WEST TRUCKING, INC., 25836 Parada Drive, Valencia, CA 91355. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* and *grocery products*, from Cockeysville, MD, Jersey City, NJ, and Souderton, PA, to the facilities of R. T. French company at (a) Fresno, CA and (b) Springfield, MO, under continuing contract(s) with R. T. French Co. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be at issue.

MC 145070 (Sub-4F), filed July 2, 1979. Applicant: PROGRESSIVE PRODUCE CO., d.b.a., PATHFINDER TRUCKING, 1206 E. Sixth St., Los Angeles, CA 90021. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. Transporting (1) *bananas*, and (2) *agricultural commodities* the transportation of which is otherwise exempt from economic regulations under 49 U.S.C. 10526(a)(6) [formerly section 203(b)(6) of the Interstate Commerce Act], when transported in mixed loads with bananas, from the facilities of Castle & Cooke Foods, at Los Angeles, CA, to points in AZ, ID, OR, UT, and WA, restricted to the transportation of traffic having a prior movement by water. (Hearing site: Los Angeles, CA.)

MC 147551 (Sub-2F), filed July 5, 1979. Applicant: EL SYD, INC., 13105 Mountain Shadow, N.E., Albuquerque, NM 87111. Representative: Joseph T. Bambrick, Jr., P.O. Box 216, Douglassville, PA 19518. Transporting *corn starch* (except in bulk), from Dimmitt, TX, to points in CA. (Hearing site: Dimmitt, TX, or Albuquerque, NM.)

MC 145870 (Sub-14F), filed July 3, 1979. Applicant: L–J–R HAULING, INCORPORATED, P.O. Box 699, Dublin, VA 24084. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. Transporting *soda ash briquettes*, from Salt Lake City, UT, to points in IL, IN, KY, MO, NY, OH, PA, TX, and WV. (Hearing site: Salt Lake City, UT, Washington, DC.)

MC 147721F, filed July 3, 1979. Applicant: RONALD G. HAYNES, 225 Escondido Drive, Martinez, CA 94553. Representative: Richard E. Macey, 1122 North El Dorado St., Stockton, CA 95202. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *electrical construction materials, electrical construction equipment, and construction trailers*, between Martinez, CA, on the one hand, and, on the other, points in AZ, CO, NM, NV, OR, UT, and WA, under continuing contract(s) with Howard P. Foley Co., of Martinez, CA. (Hearing site: Stockton or Sacramento, CA.)

MC 135070 (Sub-83F), filed July 9, 1979. Applicant: JAY LINES, INC., P.O. box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting *confectionery*, from the facilities of Just Born, Inc., at or near Bethlehem, PA, to points in WA, OR, CA, AZ, NV, ID, MT, WY, UT, CO, NM, TX, KS, OK, AR, and LA. (Hearing site: Bethlehem, PA, or Amarillo, TX.)

Note.—Dual operations may be involved.

MC 135221 (Sub-16F), filed June 18, 1979. Applicant: DICK SIMON TRUCKING, INC., 5140 South 2050 East, P.O. Box 26724, Salt Lake City 84125. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, NW., Washington, D.C. 20005. Transporting *such commodities* as are dealt in or used by a manufacturer of cosmetics and toilet preparations, and between points in the United States (except AK and HI), restricted to the transportation of traffic originating at and or destined to the facilities of Max Factor & Co. (Hearing site: Salt Lake City, UT.)

Note.—Dual operations may be involved.

MC 136511 (Sub-69F), filed June 29, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, VA 23502. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Transporting *confectionery*, from the facilities of M&M/Mars, at or near (a) Chicago, IL (b) Cleveland, TN (c) and Waco, TX, to points in the United States (except AK and HI). (Hearing site: New York, NY.)

Motor Carriers of Passengers

MC 119961 (Sub-7F), filed June 29, 1979. Applicant: MARSHALL MOTOR COACH, INC., 1409 East Anson, Marshalltown, IA 50158. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Transporting *passengers and their baggage*, in round-trip charter operations, beginning and ending at points in Polk County, IA, and extending to points in the United States (including AK, but excluding HI). (Hearing site: Des Moines, IA; Chicago, IL.)

MC 119961 (Sub-8F), filed July 2, 1979. Applicant: MARSHALL MOTOR COACH, INC., 1409 East Anson, Marshalltown, IA 50158. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Transporting *passengers and their baggage*, in round-trip special and charter operations, beginning and ending at points in Mahaska County, IA, and extending to points in the United States (including AK, but excluding HI). (Hearing site: Des Moines, IA; Chicago, IL.)

Agatha L. Mergenovich,
Secretary.

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[Volume No. 48]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Eoute Deviations, Intrastate Applications Gateways, and Pack and Crate.

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

January 18, 1980.

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's general rules of practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be *rejected*.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(1). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 12645 M1F, filed July 2, 1979, notice of a petition to modify a license. Petitioner: PARAGON TRAVEL AGENCY, INC., 680 Purchase Street, New Bedford, MA 02741. Representative: Jeremy Kahn, Suite 733, Investment Building, 1511 K Street, N.W., Washington, D.C. 20005. Petitioner holds a license to engage in operation as a broker of motor passenger transportation in MC–12645, served July 1, 1976. The license in MC–12645 authorizes the arrangement of transportation of passengers and their baggage, in special or charter operations, between points in the United States, permitting Petitioner to engage in activities as a broker at New Bedford and Dartmouth, MA. By this Petition, authority is sought to engage in operations as a broker at Braintree, MA.

MC 12655 M1F, Notice of Filing of Petition for Modification of Broker's License, filed August 3, 1979. Petitioner: TRI STATE TOURS, INC., P.O. Box 307, Galena, IL 61036. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Petitioner holds License No. MC–12655, reissued September 14, 1978, authorizing petitioner to engage in operations as a *broker of passenger and their baggage*, in special and charter operations, in round-trip, all expense tours, beginning and ending in Galena, IL, and Hazel Green, Cuba City, Shullsburg, and Benton, WI, and extending to points in the United States, including Alaska and Hawaii, and authorizing petitioner to engage in such operations as a broker at Galena, IL. By the instant petition, petitioner seeks to modify the territorial description to authorize it to broker such operations between points in the United States (including AK and HI). The modification would not affect the point at which petitioner's licensed office is maintained.

MC 58885 (Sub-32 M1 F), filed July 13, 1979, notice of petition to modify the territorial description and delete a restriction. Petitioner: ATLANTA MOTOR LINES, INC., P.O. Box 345, Conley, GA 30027. Representative: Paul M. Daniell, P.O. Box 56387, Atlanta, GA 30343. Petitioner holds Motor Common Carrier Certificate MC 58885 (Sub 32) issued March 21, 1979. MC 5885 (Sub 32) authorizes transportation over irregular routes of *General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Greenville, SC and Athens, GA, serving those points in GA lying west of US Hwy 221 within 100 miles of Greenville, SC (except Toccoa, GA, and points in its commercial zone), as intermediate or off-route points, from Greenville over US Hwy 29 to Athens, GA, and return over the same route; (2) between Greenville, SC, and Blairsville, GA, serving those points in GA lying west of US Hwy 221 within 100 miles of Greenville, SC (except Toccoa, GA, and points in its commercial zone), as intermediate or off-route points; from Greenville over US Hwy 123 to Westminster, SC, then over US Hwy 76 to Blairsville, and return over the same route; (3) between Greenville, SC, and Gainesville, GA, serving those points in GA lying west of US Hwy 221 within 100 miles of Greenville, SC (except Toccoa, GA, and points in its commercial zone), as intermediate or off-route points; from Greenville over Interstate Hwy 85 to junction US Hwy 129, then over US Hwy. 129 to Gainesville, and return over the same route; (4) between Athens, GA, and junction US Hwy 441 and Interstate Hwy 85, serving those points in GA lying west of US Hwy 221 within 100 miles of Greenville, SC (except Toccoa, GA, and points in its commercial zone), as intermediate or off-route points; from Athens, GA, over US Hwy 441 to junction Interstate Hwy 85, and return over the same route; (5) between Westminster, SC, and Gainesville, GA,

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serving those points in GA lying west of US Hwy 221 within 100 miles of Greenville, SC (except Toccoa, GA, and points in its commercial zone), as intermediate or off-route points; from Westminster, SC over US Hwy 123 to Cornelia, GA, then over US Hwy 23 to Gainesville, GA, and return over the same route; (6) between Cornelia, GA, and Clayton, GA, serving those points in GA lying west of US Hwy 221 within 100 miles of Greenville, SC (except Toccoa, GA, and points in its commercial zone), as intermediate or off-route points, restricted to the transportation of traffic moving between Greenville, SC, on the one hand, and, on the other, those points in GA lying west of US Hwy 221 within 100 miles of Greenville, SC (except Toccoa, GA, and points in its commercial zone). By the instant Petition, Petitioner seeks to modify the authority as follows: Authorizing service at all intermediate points on the above-described routes; authorizing service at all points in Georgia within 100 miles of Greenville, SC; and, eliminating the Greenville, SC restriction in said certificate.

MC 111320 (Sub-23) (M1 F) (notice of filing of petition to modify certificate), filed June 18, 1979. Petitioner: KEEN TRANSPORT, INC., Post Office Box 1417, Hudson, Ohio 44236. Representative: Michael Spurlock, 275 East State Street, Columbus, Ohio 43215. Petitioner holds a *common carrier* certificate in MC-111320 (Sub 23), issued December 16, 1959, which authorizes, in part, service over irregular routes to transport: *Used road building machinery and equipment*, between points in the United States, (except from Cedar Rapids, IA, and points in AK, HI, AZ, ID, MT, NV, NM, OR, UT, WA, WY, and CA). By the instant petition, petitioner seeks to modify the above portion of authority as follows: *Road building machinery and equipment*, between points in the United States, (except points in AK, HI, AZ, ID, MT, NV, NM, OR, UT, WA, WY, and CA). (Hearing site: Columbia, OH)

MC 111320 (Sub-59 M1F), (notice of filing of petition to modify certificate), filed June 4, 1979. Petitioner: KEEN TRANSPORT, INC., P.O. Box 1417, Hudson, OH 44236. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. Petitioner holds a *common carrier* certificate in MC-111320 Sub 59, issued August 7, 1978, authorizing service over irregular routes, of (1) *self-propelled articles weighing 15,000 pounds or more*, and (2) *attachments, parts, and accessories for the commodities in (1)*, from the facilities of American Poclain Corporation, in Spotsylvania County, Va. to points in AR, CT, DE, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, ND, OH, OK, PA, RI, SD, TX, VT, VA, WV, WI, and DC. By the instant petition, petitioner seeks to modify the above authority by deleting "from the facilities of American Poclain Corporation, in Spotsylvania County, VA", and substituting therefore "from the facilities of J. I. Case Company, Drott Division at Wausau, WI."

MC 111320 (Sub-64 M1F), (notice of filing of petition to modify certificate), filed June 1, 1979. Petitioner: KEEN TRANSPORT, INC., P.O. Box 1417, Hudson, OH 44236. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. Petitioner holds a *common carrier* certificate in MC-111320 Sub 64, issued February 16, 1977, authorizing transportation over irregular routes, of (1) *Self-propelled articles*, each weighing 15,000 pounds or more, and (2) *parts, attachments, and accessories* for the commodities named in part (1) above, between the facilities of FMC Corporation, at or near Bowling Green, KY, on the one hand, and, on the other, points in the United States (including AK, but excluding HI), restricted in parts (1) and (2) above to the transportation of traffic originating at or destined to the facilities of FMC Corporation, at or near Bowling Green, KY.

By the instant petition, petitioner seeks to modify the above authority by adding authority to serve "between the facilities of the FMC Corporation at or near Lexington, KY, on the one hand, and, on the other, points in the United States (including AK but excluding HI), and to further amend the restriction to read: Restricted in parts (1) and (2) above to the transportation of traffic originating at or destined to the facilities of the FMC Corporation, at or near Bowling Green, KY and at or near Lexington, KY.

MC 135185 (Sub-28 M1F), filed July 11, 1979, notice of filing of a petition to modify a permit. Petitioner: COLUMBINE CARRIERS, INC., P.O. Box 15246, 1720 East Garry Ave., Santa Ana, CA 92705. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. Petitioner holds *contract carrier* authority in MC-135185 Sub 28, served June 14, 1977, which authorizes, as pertinent, over irregular routes, the transportation of (1) *razors* and *razor blades, toilet articles* and *toilet preparations, pens and markers*, shaving cream, *stationery and stationery products, cigarette lighters, cleaning compounds and pads, hair curlers, hair spray, shampoo, sponges, fire extinguishers, electric appliances, deodorants, dispensers, sound warning signals and display racks, stands and cabinets and materials, equipment, and supplies* (except in bulk) used in the manufacture and distribution of the commodities named above, (a) from Andover, MA, to points in PA, OH, IL, (except East St. Louis, IL), MN, and points in that part of NY on and west of a line beginning at the United States-Canada boundary line and extending along Interstate Hwy 87 to junction NY Hwy 17 and then west along NY Hwy 17 to the NY–NJ State line, and Dallas, TX, Los Angeles and LA Mirada, CA, Detroit, MI, and Seattle and Kent, WA; and (b) from St. Paul, MN, to points in IL (except East St. Louis, IL, and points in that part of IL located on and north of U.S. Hwy 6), Newark, NJ, Baltimore, MD, Dallas, TX, Los Angeles, and La Mirada, CA, Richmond, VA, Detroit, MI, Andover and Boston, MA, Kearny, NJ, Farmingdale, NY, and Seattle and Kent, WA, Denver, CO, and points in OH, PA, and DC; and (c) from Santa Monica, CA, to Andover and Boston, MA, and points in IL; and (2) *materials, equipment and supplies* (except in bulk), used in the manufacture and distribution of the commodities specified in (1) above, (a) from the destinations specified in (1)(a) above, to Andover and Boston, MA, (b) from the destinations specified in (1)(b) above, to St. Paul, MN, and (c) from the destination specified in (1)(c) above, to Santa Monica, CA, under constract with The Gillette Company. By the instant petition, petitioner seeks to: (1) add photographic equipment, materials, and supplies and ink to the commodity description in (1) above, (2) add La Mirada, CA as an origin point in (1)(c), (3) add Cambridge, MA as an origin point in (1)(a), and (4) add Arlington, TX as a destination point in (1)(a) and (b).

MC 140055 (M1F), filed July 1, 1979, notice of filing of petition to modify the territorial description. Petitioner: MAYS LANDING TRANSPORTATION CO., INC., 1300 Main Rd., Vineland, NJ 08360. Representative: George A. Olsen, 69 Tonnele Ave., Jersey City, NJ 07306. Petitioner holds *contract carrier* authority in MC-140055, served September 18, 1978, which authorizes the transportation over irregular routes, of (1) *sand* (except industrial sand), from Williamstown Junction, NJ, and the facilities of Mays Landing Sand & Gravel Co., Inc., in Atlantic, Cumberland, and Gloucester Counties, NJ, to points in DE, and in Chester, Montgomery, Bucks, Delaware, and Philadelphia Counties, PA, and (2) *crushed stone* and *crushed stone products*, from points in Chester, Montgomery, Bucks, Delaware, and Philadelphia Counties, PA, to points in Atlantic, Camden, Cumberland, Gloucester, Cape May, and Salem Counties, NJ (except Cape May Point); the above operations are subject to the following conditions: (a) Said operations are restricted against the transportation of commodities in bulk, in tank vehicles, and (b) Said operations are limited to a transportation service to be performed, under a continuing contract(s) with Mays Landing Sand & Gravel Co., Inc., of Vineland, NJ. By the instant petition, petitioner seeks to modify the permit to read: (1) *said* (except industrial sand), from points in NJ, to points DE and PA; and (2) *crushed stone* and *crushed stone products*, (a) from points in PA, to points in NJ, and (b) between points in the Philadelphia, PA Commercial Zone, subject to the same restrictions.

Republications of Grants of Operating Rights Authority Prior to Certification Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before March 6, 1980. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 71084 (Sub-No. 1) (Republication), filed November 15, 1979, published in the FR issue of February 23, 1979, as New York Docket No. T–881, and republished this issue. Applicant: RAYMOND F. MELANDER, d.b.a. SHOREY'S EXPRESS, 270 Malto Ave., Ballston Spa, NY 12020. Representative: Martin Werner, 888 Seventh Ave., New York, NY 10019. A Decision of the Commission, Review Board Number 4, decided December 10, 1979, and served December 17, 1979, finds that applicant may conduct operations in interstate and foreign commerce which do not exceed the scope of its intrastate authority for which applicant holds Certificate No. 2564 dated October 25, 1979, issued by the New York State Department of Transportation, which authorizes operations as a *common carrier* by motor vehicle, solely within the State of New York in the transportation of *General commodities*, as defined in Section 800.1 of Title 17 of the Official Compilation of Codes, Rules and Regulations of the State of New York: Between all points in a territory comprised of the Counties of Albany, Rensselaer, Saratoga, Schenectady, Warren and Washington. The purpose of this republication is to reflect applicant's actual grant of authority.

MC 99532 (Sub-No. 4) (Republication), filed June 8, 1978, published in the FR issue of July 27, 1978, as Iowa Docket No. MV–A–78–22, and republished this issue. Applicant: ARNIE'S MOTOR FREIGHT, INC., 701 First Ave. N., Altoona, IA 50009. Representative: Russell H. Wilson, 3839 Merle Hay Rd., Suite 200, Des Moines, IA 50310. A Decision of the Commission, Review Board Number 4, decided August 13, 1979, and served August 20, 1979, finds that applicant may conduct operations in interstate and foreign commerce which do not exceed the scope of its intrastate authority for which applicant holds Certificate No. C–130 dated May 29, 1979, issued by the Iowa Department of Transportation, which authorizes operations as a *common carrier* by motor vehicle, solely within the State of Iowa in the transportation of *General commodities*, (except liquid products, in bulk, in tank vehicles), between Allemen, Altoona, Baxter, Bondurant, Cambridge, Clemons, Colfax, Colo, Collins, Des Moines, Elkhart, Fernald, Haverhill, Ira, Kelly, Maxwell, Melbourne, Mingo, Mitchellville, McCallsburg, Nevada, Rhodes, Runnells, St. Anthony, Sheldahl, Shipley, Slater, State Center, and Zearing, IA. The purpose of this republication is to add "Kelly" to the territorial description.

Broker, Water Carrier and Freight Forwarder Operating Rights Applications; Notice

The following applications are governed by Special Rule 247 of the Commission's general rules of practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register.**

Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such an authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues of allegations phrased generally, protests not in reasonable compliance with the requirements of the rules may be rejected.

Permanent Ex-Water Authority Decisions; Decision Notice

Decided: January 15, 1980.

The following applications are governed by 49 CFR 1062.3. Applicants seek to obtain motor common carrier authority to perform service within the commercial zone of port cities where the shipment has a prior or subsequent movement by maritime carrier. The full text and explanation of the rules are contained at 44 FR 7965, as corrected at 44 FR 37230.

The sole issue upon which these applications can be protested is the applicant's fitness to perform the service. Protests (an original and one copy) must be filed with the Commission on or before March 6, 1980. The protest must contain the *specific facts* being relied upon to challenge fitness, and must contain a certification that it has been served concurrently upon applicant's representative, or, if none is listed, upon the applicant. Applicant may file a reply statement to any protest. The filing of these statements will complete the record, unless it is later determined that more evidence must be supplied.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after February 5, 1980.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

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Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity.

Each applicant is fit, willing, and able to properly perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930 (a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient protests, filed on or before March 6, 1980. (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Hill, and Fortier.

MC 127090 (Sub-5F), filed May 29, 1979, previously noticed in FR issue of December 27, 1979. Applicant: PACIFIC STORAGE, INC., 440 E. 19th St., Tacoma, WA 98421. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives, between points in the commercial zones of Seattle and Tacoma, WA, restricted to traffic having a prior or subsequent movement by water.

Note: This application is being republished to reflect a grant under Ex Parte No. MC-105 procedures in lieu of Ex Parte No. MC-55 Sub 26 as previously published. (Hearing site: Seattle, WA).

Note.—Dual operations may be involved.

MC 147048 (Sub-2F), filed July 2, 1979. Applicant: BOARD OF TRUSTEES OF GALVESTON WHARVES, 802 25th Street, Galveston, TX 77553. Representative: Joe G. Fender, 711 Louisiana, Suite 1150, Houston, TX 77002. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except Classes A and B explosives), between points in the commercial zone of Houston, TX, restricted to traffic having a prior or subsequent movement by water. (Hearing site: Houston, TX).

MC 14814F, filed August 3, 1979. Applicant: RASMUSSEN ENTERPRISES, INC., P.O. Box 2213, Kodiak, AK 99615. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives), between points in the commercial zone of Kodiak, AK, restricted to traffic having a prior or subsequent movement by water. (Hearing site: Kodiak or Anchorage, AK).

Permanent Authority Decisions; Decision-Notice

Decided: January 8, 1980.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's *rules of practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission with 30 days after the date notice of the application is published in the **Federal Register**. Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and specify with particularity the facts, mattters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after February 5, 1980.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a noncomplying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones. Member Joyce not participating.

MC 130092 (Sub-1F), filed June 25, 1979. Applicant: GREEN MOUNTAIN TOURS, INC., 128A West Pleasant Ave., Maywood, NJ 07607. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. To engage in operations, in interstate or foreign commerce, as a *broker* at Maywood, NJ, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in the same vehicle with passengers, in round-trip special and charter operations, beginning and ending at points in Bergen, Morris, Hudson, Passaic, Essex, Union, Middlesex and Somerset Counties, NJ, and extending to those points in the United States in and east of MN, IA, MO, AR and LA. (Hearing site: Newark, NJ).

MC 130596F, filed August 13, 1979. Applicant: T.L.C. SENIOR TOURS LTD., 186 New Wilmot Rd., Scarsdale, NY 10583. Representative: Jackie M. Infurna (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Scarsdale, NY, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in round trip special and charter operations, beginning and ending at points in NY, NJ, CT, MA, and PA, and extending to points in the United States, (including AK and HI). (Hearing site: New York or Westchester County, NY).

MC 130600F, filed August 6, 1979. Applicant: LA-MAR TRAVEL & TOURS, INC., 1738 Edison Ave., Bronx, NY 10461. Representative: Guy J. Velella, 2138 Williamsbridge Road, Bronx, NY 10461. To engage in operations, in interstate or foreign commerce, as a *broker*, at Bronx, NY, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in round-trip special and charter operations, beginning and ending at points in Bronx County, NY, and extending to points in CT, DE, FL, GA, MA, MD, ME, NH, NJ, NY, NC, PA, RI, SC, VA, VT; WV, and DC. (Hearing site: New York, NY).

MC 130614F, filed August 17, 1979. Applicant: ATWOOD'S TRANSPORT LINES, INC., 5500 Tuxedo Rd., Tuxedo, MD 20781. Representative: L. C. Major, Jr., Overlook Bldg., Suite 400, 6121 Lincolnia Rd., Alexandria, VA 22312. To engage in operations, in interstate or foreign commerce, as a *broker*, at Tuxedo, MD, and Washington, DC, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, beginning and ending at Washington, DC and points in its commercial zone, and extending to points in the United States (including AK and HI). (Hearing site: Washington, DC).

MC 130656F, filed November 14, 1979. Applicant: MARK ANTHONY, d.b.a. SELECT TOURS, 114 East 8th St., P.O. Box 115, Madrid, IA, 50156. Representative: Mark Anthony (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker* at Madrid, IA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in round-trip special and charter operations, beginning and ending at points in Carroll, Greene, Boone, Story, and Polk Counties, IA, and extending to points in the United States (including AK and HI). (Hearing site: Des Moines, IA, or Omaha, NE).

MC 130703F, filed November 23, 1979. Applicant: MICHIGAN TRAVEL SERVICE, INC., d.b.a. WONDERLAND TRAVEL SERVICE, 333 South Saginaw St., Flint, MI 48502. Representative: James F. Smith (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Flint, MI, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in round-trip special and charter operations, beginning and ending at Flint, MI, and extending to points in the United States, (including AK and HI). (Hearing site: Detroit, MI).

MC 130724F, filed December 18, 1979. Applicant: CARNIVAL TOURS, INC., 6812 Fifth Avenue, Brooklyn, NY 11220. Representative: S. Harrison Kahn, 1511 K Street, NW., Washington, DC 20005. To engage in operations, in interstate or foreign commerce, as a *broker*, at Brooklyn, NY, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at Brooklyn, NY, and extending to points in the United States (including AK and HI). (Hearing site: New York NY.)

Permanent Property Broker Authority Decisions; Decision-Notice

Decided: January 8, 1980.

The following applications are governed by 49 CFR 1045A. Applicants seek to obtain authority to operate as brokers of motor carrier transportation of general commodities (except household goods) between all points in the United States. The full text and explanation of the rules are contained at 44 FR 53513.

The sole issue upon which these applications can be protested is the fitness of applicant (or business associates) to perform the service. Protests (an original and one copy) must be filed with the Commission on or before March 6, 1980. The protest must contain the *specific facts* being relied upon to challenge fitness, and must contain a certification that it has been served concurrently upon applicant's representative, or, if not is listed, upon the applicant. Applicant may file a reply statement to any protest. The filing of these statements will complete the record, unless it is later determined that more evidence must be supplied.

Further processing steps will be by Commission notice, decision, or latter which will be served on each party of record.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved fitness questions), we find, preliminarily, that each applicant has demonstrated that its proposed service is consistent with the public interest and the transportation policy of 49 U.S.C. 10101, and that each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this action will not significantly affect the quality of the human environment or conservation of energy resources.

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will

be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones. Member Joyce not participating.

MC 130624F, filed October 22, 1979.—Applicant's name and address are PARAMOUNT FORWARDERS, INC., P.O. Box 809, Desoto, TX 75115. The name under which operations will be performed is Transportation Brokerage Co. Applicant is represented by Robert J. Gallagher, in this proceeding whose address is Suite 1200, 1000 Connecticut Ave., NW. Washington, DC, 20036. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Lyle K. McDermed, president/stockholder, 1364 Springfield, Lancaster, TX 75146, Mable Alley, vice president/stockholder, S. Wyatt Carr, Jr., secretary/treasurer/stockholder, R. L. Rork, stockholder, and R. D. Burch, stockholder. All of the above stockholders have the same address as the president. The daily operations will be managed by Lyle K. McDermed, whose business address is the same as the president. Applicant is affiliated with the following shipper or warehouse: None.

MC 130632F, filed October 26, 1979. Applicant's name and address are: HARRY EARL NEWLON, JR., 1511 No. Nelson Street, Arlington, VA, 22201. The name under which operations will be performed is Newlon Transportation Services. Applicant is represented by Robert J. Gallagher in this proceeding, whose address is 1000 Connecticut Avenue, N.W., Washington, DC 20036. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Harry Earl Newlon, Jr., sole proprietor, 1511 No. Nelson Street, Arlington, VA, 22201, no other officers, directors or partners. The daily operations will be managed by Harry Earl Newlon, Jr., whose business address is 1511 No. Nelson Street, Arlington, VA 22201. Applicant is affiliated with the following shipper or warehouse: Harry Earl Newlon, Jr., d.b.a. Newlon's Transfer.

MC 130655F, filed November 8, 1979. Applicant's name and address are DONNIE G. WEYGANDT, 1355 N. Mingo Rd., Tulsa, OK 74116. The name under which operations will be performed is Tulsa Freight Brokerage Services. Applicant is represented by himself. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Donnie G. Weygandt, President and shareholder, (same address as applicant), and Geneva Weygandt, Vice President and shareholder, (same address as applicant). The daily operations will be managed by the applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130664F, filed November 16, 1979. Applicant's name and address are B & Y TRANSPORT BROKERS, INC., 214 Palmetto Court, Longwood, FL 32750. The name under which operations will be performed is B & Y Transport Brokers, Inc. Applicant is represented by Elbert Brown, Jr., in this proceeding whose address is P.O. Box 1378, Altamonte Springs, FL 32701. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Margaret E. Bragg, President and sole shareholder, (same address as applicant), Winford W. Bragg, Vice-President, 617 Central Blvd., Orlando, FL 32804. The daily operations will be managed by Margaret E. Bragg, whose business address is the same as applicant's. Applicant is affiliated with the following shipper or warehouse: None.

MC 130672F, filed November 19, 1979. Applicant's name and address are GULF UNITED FREIGHT SYSTEM, No. 3 Embarcadero Center, San Francisco, CA 94111. The name under which operations will be performed is Gulf United Freight System. Applicant is represented by John Muhoberac in this proceeding whose address is Gulf United Freight System, No. 3 Embarcadero Center, San Francisco, CA 94111. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: John Potashnik, President and shareholder, John Muhoberac, Senior Vice President, Dana Miller, Vice President, Secretary, Treasurer, and shareholder, Robert Mehrabian, Vice President Middle East, and shareholder, David Frankland, Vice President and Controller. The business address of the above officers and shareholders is Gulf United Freight System, No. 3 Embarcadero Center, San Francisco, CA 94111. Leonard Colangelo, Vice President, Operations, Gulf United Freight System, 28 Railroad Street, Revere, MA 02151. The daily operations will be managed by Laura C. Burke whose business address is Gulf United Freight System, 535 Brennan Street, San Jose, CA 95131. Applicant is affiliated with the following shipper or warehouse: None.

MC 130673F, filed November 19, 1979. Applicant's name and address are VICTORY BROKERS, INC., 2745 North Hughes #102, Fresno, CA. 93705. The name under which operations will be performed is Victory Brokers, Inc. Applicant is represented by Victory Brokers, Inc., in this proceeding whose address is 2745 North Hughes #102, Fresno, CA. 93705. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Roy Wylie, President and shareholder; Mildred Wylie, Secretary, Treasurer, and shareholder, and Marylin Bell, Director, and shareholder. The business address of the above officers and shareholders is 2745 North Hughes Avenue, #102, Fresno, CA. 93705. The daily operations will be managed by Victory Brokers, Inc., whose business address is 2745 North Hughes Avenue, #102, Fresno, CA. 93705. Applicant is affiliated with the following shipper or warehouse: None.

MC 130674F, filed November 23, 1979. Applicant's name and address are SAMUEL SHAPIRO & CO., INC., World Trade Center Baltimore—Suite 525, P.O. Box 2035, Baltimore, MD 21203. The name under which operations will be performed is Samuel Shapiro & Co., Inc. Applicant is represented by itself in this proceeding whose address is the same as applicant. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Samuel Shapiro, Chairman of the Board and stockholder, M. Sigmund Shapiro, President and stockholder, Jesse York, Executive Vice President and stockholder, Morris E. Horwitz, Vice President, Import Traffic, Julius Braverman, Import Administration, William H. Johnson, Vice President, Finance, Ronald Caplan, Vice President, Air Freight Operations, Barbara K. Shapiro, Treasurer, Jack Shapiro, Secretary, Hilda L. Shapiro, stockholder, Florence P. Kluger, stockholder, (same address as applicant). The daily operations will be managed by Morris E. Horwitz whose business address is Suite 525, World Trade Center, Baltimore, MD 21202. Applicant is affiliated with the following shipper or warehouse: None.

MC 130675F, filed November 23, 1979. Applicant's name and address are INTERMODAL CONSOLIDATING SERVICE, INC., 711 E. Main Street, Bridgewater, NJ. The name under which operations will be performed is Intermodal Consolidating Service. Applicant is represented by Donald J. Sooy in this proceeding whose address is 711 E. Main Street, Bridgewater, NJ 08807. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Donald J. Sooy, President, Director, and shareholder, Richard T. Tobey, Vice President, Director, and shareholder, David Sklaroff, Treasurer, Director, and shareholder, and William D. Reedy, shareholder, (same address as applicant). The daily operations will be managed by Donald J. Sooy whose business address is 711 E. Main Street, Bridgewater, NJ 08807. Applicant is affiliated with the following shipper or warehouse: None.

MC 130682F, filed November 28, 1979. Applicant's name and address are ARNOLD PEVNA, 440 North Avenue, Haverhill, MA 01830. The name under which operations will be performed is Arnold Pevna. Applicant is represented by C. Jack Pearce in this proceeding whose address is 1000 Connecticut Avenue, NW., Suite 1200, Washington, DC 20036. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Arnold Pevna, sole proprietorship, 440 North Avenue, Haverhill, MA 01830. The daily operations will be managed by Arnold Pevna whose business address is 440 North Avenue, Haverhill, MA 01830. Applicant is affiliated with the following shipper or warehouse: None.

MC 130683F, filed November 19, 1979. Applicant's name and address are EXHIBIT EXPRESS, INC., 288 Mishawum Road, P.O. Box 246, Woburn, MA 01801. The name under which operations will be performed is Exhibit Express, Inc. Applicant is represented by Robert J. Gallaher, Esq. in this proceeding whose address in Suite 1200, 1000 Connecticut Avenue, N.W., Washington, DC 20036. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Donald L. Knapp, President, Edward O'Keefe, Vice President, and Paul F. Duggan, Treasurer, whose business address is 288 Mishawum Road, P.O. Box 246, Woburn, MA 01801. Geo. F. Cahill, Clerk, 225 Franklin St., Boston, MA 02110; William C. Casey, shareholder, John C. Casey, shareholder, and Edward D. Casey, shareholder, whose business address is 288 Mishawum Road, P.O. Box 246, Woburn, MA, 01801. The daily operations will be managed by Paul F. Duggan, whose business address is 288 Mishawum Road, P.O. Box 246, Woburn, MA, 01801. Applicant is affiliated with the following shipper or warehouse: None.

MC 130685F, filed November 28, 1979. Applicant's name and address are NATIONAL CARRIER SERVICE, INC., 2000 Santa Cruz St., Anaheim, CA 92806. The name under which operations will be performed is National Carrier Service, Inc. Applicant is represented by Milton W. Flack in this proceeding whose address 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. Following are the names and addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Robert J. Walters, President, Director, and shareholder, Stanley Sawinsky, Vice President, and Beatrice Duncan, Secretary-Treasurer, (same address as applicant). The daily operations will be managed by Robert J. Walters, whose business address is 2000 Santa Cruz St., Anaheim, CA 92806. Applicant is affiliated with the following shipper or warehouse: None.

MC 130692F, filed November 30, 1979. Applicant's name and address are SUDDATH VAN LINES, INC., 525 Stevens Street, Jacksonville, FL 32205. The name under which operations will be performed is Suddath Van Lines, Inc. Applicant is represented by itself in this proceeding whose address is 525 Stevens Street, Jacksonville, FL 32205. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and the first five principal shareholders, with their appropriate titles: Richard H. Suddath, Chief Executive Officer and shareholder; A. Q. Bell, President; Robert F. Bartlett, Secretary; Robert J. Price, Treasurer; Richard E. Oehser, Vice President; Michael C. Richardson, shareholder, James G. Barnett, shareholder, and George Doyle, shareholder. The business address for the above officers and shareholders is 525 Stevens Street, Jacksonville, FL 32205. The daily operations will be managed by A. Q. Bell, whose business address is 525 Stevens Street, Jacksonville, FL 32205. Applicant is affiliated with the following shipper or warehouse: None.

MC 130693F, filed December 5, 1979. Applicant's name and address are: HORSELESS CARRIAGE CARRIERS, INC., 61 Iowa Avenue, Paterson, NJ 07503. The name under which operations will be performed is: Horseless Carriage Carriers, Inc. Applicant is represented by Robert J. Gallagher, Esquire, in this proceeding whose address is 1000 Connecticut Avenue, NW, Suite 1200, Washington, DC 20036. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Frank Malatesta, President-shareholder, and Gwendolyn Malatesta, Secretary-shareholder, whose business address is 61 Iowa Avenue, Paterson, NJ 07503. The daily operations will be managed by Frank Malatesta, whose business address is 61 Iowa Avenue, Paterson, NJ 07503. Applicant is affiliated with the following shipper or warehouse: Frank Malatesta Moving & Storage, 61 Iowa Avenue, Paterson, NJ 07503.

MC 130702F, filed December 3, 1979. Applicant's name and address are John H. Tillotson and Duncan S. Kimball, d.b.a. CENTURY BROKERAGE, 18420 South Santa Fe Avenue, P.O. Box 923, Long Beach, CA 90801. The name under which operations will be performed is Century Brokerage. Applicant is represented by Kim G. Meyer in this proceeding whose address is P.O. Box 56387, Atlanta, GA 30343. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: John H. Tillotson, President-shareholder, 16426 Ladona Circle, Huntington Beach, CA 92649; and

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Duncan S. Kimball, Secretary-Treasurer-shareholder, 2205 Agnes Road, Manhattan Beach, CA 90266. The daily operations will be managed by John H. Tillotson and Duncan S. Kimball whose business address is P.O. Box 923, 18420 South Santa Fe Avenue, Long Beach, CA 90801. Applicant is affiliated with the following shipper or warehouse: None.

MC 130714F, filed December 11, 1979. Applicant's name and address are Security Van Lines, Inc., 100 West Airline Hwy, Kenner, LA, 70062. The name under which operations will be performed is Security Van Lines, Inc. Applicant is represented by Donald Goldwasser in this proceeding whose address is P.O. Box 830, Kenner, LA 70063. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Donald Goldwasser, President, Director and shareholder, Charles Wolchansky, Vice-President, Chairman of the Board of Directors, and shareholder, Louise Wolchansky, Secretary, Director, and shareholder, George Baumgartner, Treasurer, Nanette Goldwasser, Director and shareholder, and Audrey Wolchansky, Director and shareholder; the business address of all of the above individuals is the same as the applicant's. The daily operations will be managed by Charles Wolchansky whose business address is the same as the applicant. Applicant is affiliated with the following shipper or warehouse: n/a.

MC 130734F, filed December 14, 1979. Applicant's name and address are DOOR TO DOOR INTERNATIONAL, INC., 7109 Woodlawn Avenue, N.E., Seattle, WA 98115. The name under which operations will be performed is Door to Door International, Inc. Applicant is represented by Alan F. Wohlstetter in whose address is 1700 K Street, N.W., Washington, DC 20006. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles:

C. Byron Schenck, President, Director, and sole shareholder, whose address is 937 17th Avenue East, Seattle, WA 98112, Jerry Jarrett, Vice President, whose address is 1925 37th Place East, Seattle, WA 98112, Charles L. will burn, Vice President and Director, whose address is 16503 Densmore Avenue North, Seattle, WA 98133, and M. Rita Schenck, Director, Secretary, and Treasurer, whose address is 937 17th Avenue East, Seattle, WA 98112. The daily operations will be managed by C. Byron Schenck whose business address is 7109 Woodlawn Avenue, N.E., Seattle, WA 98115. Applicant is affiliated with the following shipper or warehouse: None.

Permanent Property Broker Authority Decisions; Decision-Notice

Decided: January 15, 1980.

The following applications are governed by 49 CFR Part 1045A. Applicants seek to obtain authority to operate as brokers of motor carrier transportation of general commodities (excpet household goods) between all points in the United States. The full text and explanation of the rules are contained at 44 FR 53513.

The sole issue upon which these applications can be protested is the fitness of applicant (or business associates) to perform the service. Protests (an original and one copy) must be filed with the Commission on or before March 5, 1980. The protest must contain the *specific facts* being relied upon to challenge fitness, and must contain a certification that it has been served concurrently upon applicant's representative or, if none is listed, upon the applicant. Applicant may file a reply statement to any protest. The filing of these statements will complete the record, unless it is latter determined that more evidence must be supplied.

Further processing steps will be by Commission notice, decision, or later which will be served on each party of record.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved fitness questions), we find, preliminarily, that each applicant has demonstrated that its proposed service is consistent with the public interest and the transportation policy of 49 U.S.C. 10101, and that each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this action will not significantly affect the quality of the human environment or conservation of energy resources.

In the absence of legally sufficient protests, filed on or before March 6, 1980 (or, if the application to later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parkers, Hill, and Fortier.

MC 130601F, filed August 30, 1979. Applicant's name and address are C. F. AGENCY, INC., P.O. Box 2464, Jackson, TN 38301. The name under which operations will be performed is C. F. Agency, Inc. Applicant is represented by Abraham A. Diamond in this proceeding whose address is 29 South La Salle St., Chicago, IL 60603. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: N. Randy Freeland, President, Director, and shareholder, R. Leon Curtis, Vice President, Secretary, Treasurer, Director, and shareholder, (same address as applicant). The daily operations will be managed by N. Randy Freeland whose business address is P.O. Box 2464, Jackson, TN 38301. Applicant is affiliated with the following shipper or warehouse: None.

MC 130623F, filed October 15, 1979. Applicant's name and address are ERNEST M. SIFRAR, d.b.a. ECONOMY SERVICE, 1224 S. Marian Road, Sioux Falls, SD, 57106. The name under which operations will be performed is Economy Service. Applicant is represented by Ernest M. Sifrar in this proceeding, whose address is 1224 So. Marian Road, Sioux Falls, SD, 57106. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Ernest M. Sifrar (owner), 1224 S. Marian Road Sioux Falls, SD, 57106. There are no officers, shareholders, directors or partners silent or otherwise. The daily operations will be managed by Ernest M. Sifrar whose business address is 1224 South Marian Road, Sioux Falls, SD, 57106. Applicant is affiliated with the following shipper or warehouse: None.

MC 130626F, filed November 22, 1979. Applicant's name and address are GRAY MOVING & STORAGE, INC., 1290 South Pearl St., Denver, CO 80210.

The name under which operations will be performed is STETSCO (Stewart Transportation Service Company). Applicant is represented by Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave., NW, Washington, DC 20036. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: David R. Gray, President & Director/Shareholder, Vayann D. Gray, Vice-President & Director/Shareholder, Eleanor, G. Newman, Secretary & Director, and David R. Gray, II, Vice-President/Treasurer & Director/Shareholder, all have the same address as applicant. The daily operations will be managed by David R. Gray, II, whose business address is the same as applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130627F, filed November 15, 1979. Applicant's name and address are PAUL L. BROUSSARD, Suite 401, Union Station Building, 501 Crawford St., Houston, TX 77002. The name under which operations will be performed is Paul L. Broussard and Associates. Applicant is represented by is Paul L. Broussard in this proceeding whose address is the same as applicant. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Paul L. Broussard, sole owner. The daily operations will be managed by Paul L. Broussard whose business address is the same as applicant. Applicant is affiliated with the following shipper or warehouse: Leopold Price & Rolle, Gardner Restaurant Supply and Battelstein's.

MC 130630F, filed October 18, 1979. Applicant's name and address are LINCOLN MOVING & STORAGE CO., 2122 112th N.E., Bellevue, WA 98004. The name under which operations will be performed is Lincoln Moving & Storage Co. Applicant is represented by Henry C. Winters in this proceeding, whose address is 525 Evergreen Building, Renton, WA 98055. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Remo S. Galvagno, President and Director, (same address as applicant), Robert D. Young, Secretary and Director, 55 Battery Street, Seattle, WA 98121, Kenneth W. Kadish, Controller and Director (same address as applicant), and The Loomis Corporation, 55 Battery Street, WA 98121, sole stockholder. The daily operations will be managed by Earl Brown whose business address is 2122 112th N.E., Bellevue, WA 98004. Applicant is affiliated with the following shipper or warehouse: None.

MC 130636F, filed November 23, 1979. Applicant's name and address are RTL HOLDINGS, INC., 2050 Kings Road, Jacksonville, FL 32209. The name under which operations will be performed is RTL HOLDINGS, INC. Applicant is represented by Roland Rice whose address is 501 Perpetual Building, 1111 E St., NW, Washington, DC 20004. Following are the names and business addresses of all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: E. N. Hoekenga, Chairman of the Board-Director, T. L. Mainwaring, President-Director, W. H. Ovard, Senior Vice President and Asst. Secretary, and S. E. Somers, Jr., Vice President, all of P.O. Box 2408, Jacksonville, FL 32203, and W. H. Walker, Secretary, J. R. Wilson, Treasurer, H. Beatty Chadwick, Asst. Secretary-Director, A. J. Clougherty, Asst. Treasurer, J. J. Terry, Director and J. G. Christy, Director, all of 1500 Walnut St., Philadelphia, PA 19102, the sole stockholder is RYDER TRUCK LINES, INC., whose address is the same as applicant. The daily operations will be managed by M. E. Krause whose business address is the same as applicant. Applicant is affiliated with the following shipper or warehouse: Wnijax, Inc., Bigger Brothers, IU Distribution Services, and C. Brewer Co.

MC 130641F, filed November 7, 1979. Applicant's name and address are A. ARNOLD & SON TRANSFER & STORAGE CO., 2600 West Broadway, Louisville, KY 40211. The name under which operations will be performed is U.S. TRAFFIC COORDINATORS, INC. Applicant is represented by Robert J. Gallagher in this proceeding whose address is Suite 1200, 1000 Connecticut Ave., N.W., Washington, DC 20036. Following are the names and business addresses for all persons who are officer and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Carl H. Arnold, President and shareholder, 3311 Broeck Point Circle, Louisville, KY 40222, Charles W. Arnold, Vice-President and shareholder, (same address as applicant), Charles W. Arnold, Jr., Secretary, Treasurer, and shareholder, 11007 Harbour Place, Louisville, KY 40059. The daily operations will be managed by Rudy Miller whose business address is P.O. Box 11009, Louisville, KY 40211. Applicant is affiliated with the following shipper or warehouse: None.

MC 130651F, filed November 2, 1979. Applicant's name and address are RAY L. DEAN, 2514 N.E. 83rd, Seattle, WA 98115. The name under which operations will be performed is A & D TRANSCO. Applicant is represented by himself in this proceeding whose address is as shown above. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Ray L. Dean, sole owner. The daily operations will be managed by Ray L. Dean, (same address as applicant). Applicant is affiliated with the following shipper or warehouse: None.

MC 130660F, filed November 6, 1979. Applicant's name and address are KAY FERRENBURG AND JACK FRICKEY, d.b.a. F & F CLEARING, 243 N.E. Second Ave., Ontario, OR 97914. The name under which operations will be performed is F & F CLEARING. Applicant is represented by David E. Wishney in this proceeding, whose address is P.O. Box 837, Boise, ID 83701. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Kay Ferrenburg, partner, Jack Frickey, partner, (same address as applicant). The daily operations will be managed by Kay Ferrenburg and Jack Frickey, (same address as applicant). Applicant is affiliated with the following shipper or warehouse: None.

MC 130661F, filed November 13, 1979. Applicant's name and address are ARTHUR J. FRITZ & CO., 142 Sansome St., Suite 600, San Francisco, CA 94104. The name under which operations will be performed is ARTHUR J. FRITZ & CO. Applicant is represented by himself in this proceeding whose address is the same as shown above. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Arthur J. Fritz, Sr., Chairman of the Board, 244 Jackson St., San Francisco, CA 94111, Arthur J. Fritz, Jr., President, Lynn C. Fritz, Executive Vice President, Sandra F. Davis, Treasurer, Olive Reynolds, Secretary, (same

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address as applicant). The daily operations will be managed by Lou Smith whose business address is 1620 S. Wilmington Ave., Compton, CA 90220. Applicant is affiliated with the following shipper or warehouse: None.

MC 130666F, filed November 27, 1979. Applicant's name and address are EDWARD W. FALES, 246 Manning St., Needham, MA 02192. The name under which operations will be performed is F & M ASSOCIATES. Applicant is represented by Edward W. Fales in this proceeding whose address is the same as applicant. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Edward W. Fales, sole owner, same address as applicant. The daily operations will be mananged by Edward W. Fales whose business address is the same as applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130677F, filed November 20, 1979. Applicant's name and address are UNITED EBONY TRANSPORT, INC., 57 Hathaway St., Wallington, NJ 07057. The name under which operations will be performed is UNITED EBONY TRANSPORT, INC. Applicant is represented by Ronald L. Shapss, in this proceeding whose address is 450 7th Ave., New York, NY 10001. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: William Walker, President, and Anthony Triolo, Secy/Treas, same address as applicant. The daily operations will be mananged by both parties named above, whose business address is the same as applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130680F, filed October 22, 1979. Applicant's name and address are Laurel D. Relf and Stephen J. Greene, a partnership, doing business as L & S TRUCKING SERVICES, Suite #3, 240 Chester St., St. Paul, MN 55107. The name under which operations will be performed is L & S TRUCKING SERVICES. Applicant is represented by Richard A. Westley in this proceeding whose address is 4506 Regent Street, Suite 100, Madison, WI 53705. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Laurel D. Relf, partner, Stephen J. Greene, partner, (same address as applicant). The daily operations will be mananged by Laurel D. Relf and Stephen J. Greene, (same address as applicant). Applicant is affiliated with the following shipper or warehouse: None.

MC 130681F, filed November 15, 1979. Applicant's name and address are TRANSPORTATION RESEARCH AND MARKETING, INC., 40 Mary Street, Reno, NV 89501. The name under which operations will be performed is TRANSPORTATION RESEARCH AND MARKETING. Applicant is represented by Mark J. Andrews in this proceeding whose address is 1660 L Street, N.W., Washington, DC 20036. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Forrest S. Baker, Jr., President, Director, and shareholder, 248 South Main, Suite 317, Salt Lake City, UT 84101, Carol F. Baker, Vice President, Secretary, Treasurer, Director and shareholder, 248 South Main, Suite 317, Salt Lake City, UT 84101, Stanford Owen, Director, 2415 Maywood Circle, Salt Lake City, UT 84107. The daily operations will be mananged by Forrest S. Baker, Jr. whose business address is 248 S. Main, Suite 317, Salt Lake City, UT 84101. Applicant is affiliated with the following shipper or warehouse: None.

MC 130684F, filed November 26, 1979. Applicant's name and address are MULLEN BROTHERS, INC. OF NORTH ADAMS MASSACHUSETTS, 71 Grove St., Adams, MA 01220. The name under which operations will be performed is MULLEN BROTHERS, INC. OF NORTH ADAMS MASSACHUSETTS. Applicant is represented by Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave., NW, Washington, DC 20036. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Martin J. Mullen, President/shareholder, and Geraldine M. Mullen, shareholder. Both of the shareholders have the same address as the applicant. The daily operations will be mananged by the president, whose business address is the same as applicant. Applicant is affiliated with the following shipper or warehouse: MULLEN BROTHERS, INC.

MC 130686F, filed November 26, 1979. Applicant's name and address are KENNETH J. GREEN, 10 Allen Place, Fair Lawn, NJ 0740.. The name under which operations will be performed is KENNETH J. GREEN. Applicant is represented by Kenneth J. Green in this proceeding whose address is the same as applicant. Following are the names and business addresses for all persons who are officers and directors, partners, (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Kenneth J. Green, same address as applicant, sole owner. The daily operations will be managed by Kenneth J. Green whose business address is the same as applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130687F, filed November 28, 1979. Applicant's name and address are DIVERSIFIED FREIGHT SYSTEMS, INC., 4987 North University Dr., Suite 14–B, Lauderhill, FL 33321. The name under which operations will be performed is DIVERSIFIED FREIGHT SYSTEMS, INC. Applicant is represented by R. M. Tettelbaum in this proceeding whose address is 5th Floor, Lenox Towers South, 3390 Peachtree Road, NE, Atlanta, GA 30326. Following are the names and business addresses for all persons who are officers and directors, partners, (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Marty Sacks, President, Secretary/Treasurer, and sole Director and Stockholder, and Steven Stone, Vice-President, both have the same address as applicant. The daily operations will be managed by Marty Sacks whose business address is the same as applicant. Applicant is affiliated with the following shipper or warehouse: Reliable Freight Distribution & Warehousing, Inc.

MC 130689F, filed November 19, 1979. Applicant's name and address are REMY MOVING & STORAGE CORPORATION, Old Post Road, Walpole, MA 02081. The name under which operations will be performed is REMY MOVING & STORAGE CORPORATION. Applicant is represented by Robert J. Gallagher in this proceeding whose address is 1000 Connecticut Ave., N.W., Washington, DC 20036. Following are the names and business addresses for all persons who are officers and directors, partners, (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Nancy M. Condon, President and shareholder, George F. Condon, Treaurer and shareholder, (same address as applicant). The daily operations will be managed by George F. Condon whose business address is the same as

applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130691F, filed December 3, 1979. Applicant's name and address are STARCK VAN LINES, INC., R. D. No. 1, Burgettstown, PA 15021. The name under which operations will be performed is STARCK VAN LINES, INC. Applicant is represented by Alan F. Wohlstetter in this proceeding whose address is 1700 K St., N. W., Washington, DC 20006. Following are the names and business addresses for all persons who are officers and directors, partners, (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Robert J. Starck, President, Director and shareholder, 115 Crest St., Weirton, WV 26062, James J. Starck, Vice President, Director and shareholder, 8950 Park Boulevard, Apt. 407, Seminole, FL 33542, Marguerite J. Starck, Secretary, Treasurer and Director, 9002 St. Andrews Dr., Seminole, FL 33543, Richard E. Starck, Asst. Secretary, Treasurer, Director and shareholder, 4022 Palisades DR., Weirton, WV 26062, Geraldine I. Starck, Shareholder, 9301 Northgate Dr., Pittsburgh, PA 15101, Edward J. Starck, shareholder, 9002 St. Andrews Dr., Seminole, FL 33543. The daily operations will be managed by Robert J. Starck whose business address is the same as applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130695F, filed December 3, 1979. Applicant's name and address are NATIONWIDE MOTOR CARRIERS BROKERS, INC., P.O. Box 1104, Mountainside, NJ 07092. The name under which operations will be performed is Nationwide Motor Carriers Brokers, Inc. Applicant is represented by John L. Alfano and Roy A. Jacobs, Esqs. in this proceeding whose address is 550 Mamaroneck Avenue, Harrison, NY 10528. Following are the names and business addresses for all persons who are officers and directors, partners, and first five principal shareholders, with their appropriate titles: Frederick Steigmann, President, Director and Shareholder, P.O. Box 1104, Mountainside, NJ 07092. The daily operations will be managed by Frederick Steigmann whose business address is 1126 Ridge Drive, Mountainside, NJ 07092. Applicant is affiliated with the following shipper or warehouse: None.

MC 130696F, filed December 4, 1979. Applicant's name and address are BARRY BLACK, 3 Halsey Rd, Wayne, NJ 07470. The name under which operations will be performed is BARRY BLACK. Applicant is represented by Ronald I. Shapss in this proceeding whose address is 450 7th Ave., New York, NY 10001. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Barry Black, sole owner, whose address is the same as applicant. The daily operations will be managed by Barry Black whose business address is the same as applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130700F, filed December 5, 1979. Applicant's name and address are INTER-MARITIME FORWARDING CO., INC., 1 World Trade Center, Suite 2147, New York, NY 10048. The name under which operations will be performed is INTER-MARITIME FORWARDING CO., INC. Applicant is represented by Barnett Osofsky in this proceeding whose address is the same as applicant. Following are the names and business addresses for all persons who are officer and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Charles H. Dalldorf, President, and shareholder, Martin G. Mann, Vice President, and shareholder, Robert B. Mann, Secretary, and shareholder, (same address as applicant). The daily operations will be managed by Barnett Osofsky whose business address is the same as applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130701F, filed December 5, 1979. Applicant's name and address are STARCK VAN LINES OF COLUMBUS, INC., 3747 Groveport Rd., Columbus, OH 43207. The name under which operations will be performed is STARCK VAN LINES OF COLUMBUS, INC. Applicant is represented by Alan F. Wohlstetter in this proceeding whose address is 1700 K St., N.W., Washington, DC 20006. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Clarence S. Bowser, President, Director, and shareholder, 154 Woodside Dr., S.W., Pataskala, OH 43062, James J. Starck, Vice President, and shareholder, 8950 Park Blvd., Apt. 407, Seminole, FL 33542, Robert J. Starck, Treasurer, Director, and shareholder, 116 Crest St., Weirton, WV 26062, Richard E. Starck, Secretary and shareholder, 4022 Palisades Dr., Weirton, WV 26062. The daily operations will be managed by Clarence S. Bowser whose business address is the same as applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130712F, filed December 11, 1979. Applicant's name and address are CALIFORNIA CARTAGE COMPANY, INC., at 20021 Susana Road, Compton, CA 90221. The name under which operations will be performed is CALIFORNIA CARTAGE COMPANY, INC. Applicant is represented by R. Y. Schureman in this proceeding whose address is 1545 Wilshire Boulevard, Los Angeles, CA 90017. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles, C. N. Baily, President/Director; Robert A. Curry, Executive Vice President/Director; J. Robert Mackey, Vice President, Secretary/Director; Charles J. Chodzko, Vice President/Director; Leo Boster, Vice President; Jack Crawford, Controller/Director, and William Whittingham, Assistant Vice President/Director, James J. Gill, Director. The business address of the above is 20021 Susana Road, Compton, CA 90221. Phil H. Curry, Director, 5143 Sunset Boulevard, Los Angeles, CA 90027, and Patricia A. Thompson, Director, 37167 Esplanade, Hemet, CA 92343. The first five principal shareholders are Neil J. Curry Trust c/o Trust Department, Crocker National Bank, P.O. Box 54410, Terminal Annex, Los Angeles, CA 90054; J. F. Tichenor, 20031 Mildred Avenue, Torrance, CA 90503; Robert A. Curry and C. N. Bailey, 20021 Susana Road, Compton, CA 90221, and Patricia A. Thompson, 37167 Esplanade, Hemet, CA 92343.

MC 130712F. The daily operations of applicant will be managed by C. N. Bailey, President, and J. Robert Mackey, Vice President, whose business address is 20021 Susana Road, Compton, CA 90221. Applicant is not affiliated with any shipper. Applicant operates public warehouses at 2401 East Pacific Coast Highway, Wilmington, CA 90744; and 2902 East Val Verde Court, Compton, CA 90221.

MC 130713F, filed December 10, 1979. Applicant's name and address are M. E. DEY & CO., INC., 759 North Milwaukee Street, Milwaukee, WI 53202. The name under which operations will be performed is M. E. Dey & Co., Inc. Applicant is represented by M. E. Dey & Co., Inc., in the proceeding whose address is 759 N. Milwaukee St., Milwaukee, WI 53202. Following are the

names and business addresses for all persons who are officers and directors, and first five principal shareholders, with their appropriate titles: Roland E. Gardenier, Chairman, Director, Shareholder, Richard W. Gardenier, President, Director, Shareholder, Allen G. Lemke, Vice President, Vincent L. Testroet, Vice President, Karen M. Gardenier, Secretary, Maybelle M. Gardenier, Treasurer, Director, Shareholder. The business address for the above is 759 N. Milwaukee St., Milwaukee, WI 53202. The daily operations will be managed by Allen G. Lemke, whose business address is 759 N. Milwaukee St., Milwaukee, WI 53202. Applicant is affiliated with the following shipper or warehouse: None.

MC 130716F, filed December 12, 1979. Applicant's name and address are EXPRESS FORWARDING AND STORAGE CO., INC., 19 Rector St., New York, NY 10006. The name under which operations will be performed is Express Forwarding and Storage Co., Inc. Applicant is represented by Alan F. Wohlstetter in this proceeding whose address is 1700 K St. NW., Washington, DC 20006. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Leonard Tarloff, President, Director/Stockholder, Lawrence Barrett, Vice-President, Director/Stockholder, Melvin Sonner, Secretary, Director/Stockholder, and Murray Kadin, Treasurer, Director/Stockholder, all have the same address as applicant. The daily operations will be managed by Leonard Tarloff whose business address is the same as applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130717F, filed December 11, 1979. Applicant's name and address are WARES' VAN AND STORAGE CO., INC., 1344 N.W. Boulevard, Vineland, NJ 08360. The name under which operations will be performed is Wares' Van and Storage Co., Inc. Applicant is represented by Robert J. Gallagher in this proceeding whose address is Suite 1200, 1000 Connecticut Ave. NW., Washington, DC 20036. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Maurice Greenblatt, President, Director/Stockholder, Luigi Tramontana, Vice-President, and Director, Stanton Greenblatt, Secretary-Treasurer/Shareholder, Joan Greenblatt, Director, and Adele Greenblatt, Director, all have the same address as applicant. The daily operations will be managed by David Greenblatt whose business address is 9138 Euclid Ct., Manassas, VA 22110. Applicant is affiliated with the following shipper or warehouse: None.

MC 130723F, filed December 11, 1979. Applicant's name and address are CARTWRIGHT INTERNATIONAL VAN LINES, INC., at 11901 Cartwright Avenue, Grandview, MO 64030. The name under which operations will be performed is CARTWRIGHT INTERNATIONAL VAN LINES, INC., Applicant is represented by William F. Gremmels in this proceeding whose address is 11901 Cartwright Avenue, Grandview, MO 64030. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Jessie M. Cartwright, Chairman and stockholder; Mike Cartwright, President and stockholder; William F. Gremmels, Executive Vice President and stockholder; Jack Spencer, Vice President and stockholder; Tom Cartwright, Secretary and stockholder; and Guy Bolen, Treasurer and stockholder. The business address of the above is 11901 Cartwright Avenue, Grandview, MO 64030. The daily operations will be managed by William F. Gremmels, whose business address is 11901 Cartwright Avenue, Grandview, MO 64030. Applicant is affiliated with the following shipper or warehouse: None.

MC 130733F, filed December 14, 1979. Applicant's name and address are ALL COAST TRANSPORT, INC., 3050 Teagarden Street, San Leandro, CA 94577. The name under which operations will be performed is ALL COAST TRANSPORT, INC. Applicant is represented by Martin J. Rosen, Esq. in this proceeding whose address is 256 Montgomery Street, San Francisco, CA 94104. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Applicant is a wholly-owned subsidiary of A & W Investments, Inc., of 10 Exchange Place, Salt Lake City, UT 84111, sole stockholder; S. Whitfield Lee, President and Director, and B. D. Pinkham, Asst. Secretary and Director, whose business address is Ten Exchange Place, Salt Lake City, UT 84111, and M. Stanley Lee, Sec./Treasurer and Director, whose business address is 2840 Liberty Tower, Oklahoma City, OK. The daily operations will be managed by Paul Scott Triglia whose business address is 3050 Teagarden Street, San Leandro, CA 94577. Applicant is affiliated with the following shipper or warehouse: None.

MC 130742F, filed December 18, 1979. Applicant's name and address are DATA TRANSPORTATION CO., INC., 2015 Bandini Boulevard, Los Angeles, CA 90023. The name under which operations will be performed is DATA TRANSPORTATION CO., INC. Applicant is represented by Ernest E. Gallego, 777 Flower Street, Glendale, CA 91201. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: (Applicant is a wholly owned subsidiary of the Bekins Company, A California Corporation—stockholder) Milo W. Bekins, Jr., Director, John D. Gill, Director, Albert L. Labinger, Director, Roger Lee, Director, and Lee Waters, Director; Lee Waters President, John D. Gill and William F. Kruse, Vice Presidents, Roger Lee, Vice-President-Finance, Ronald L. Hartman, Legal Vice-President, and Secretary; Alfred Dusebout, Ernest E. Galleo, and Donald H. Wolff, Asst. Secretaries, and Phillip S. Scott, Treasurer. The business address of the above is 3015 Bandini Boulevard, Los Angeles, CA 90023. The daily operations will be managed by John D. Gill, Vice President, whose business address is 3015 Bandini Boulevard, Los Angeles, CA 90023. Applicant is affiliated with the following shipper or warehouse: None.

MC 130743F, filed December 17, 1979. Applicant's name and address are HUDSON SHIPPING CO., INC., 90 West St., New York, NY 10006. The name under which operations will be performed is HUDSON SHIPPING CO., INC. Applicant is represented by Saul Federman in this proceeding whose address is 90 West St., New York, NY 10006. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Otto P. Poll, President-Director, Saul Federman, Vice-President and Secretary (Director), A. Hartrodt (GMBH & Co.), Hamburg, Anke H. Schmidt, Vice-President (Director), and Dominick Maccone, Asst. Vice-President (Director), whose business address is 90 West Street, New York, NY 10006. The daily operations will be managed by Saul Federman whose business address is 90 West St., New York, NY 10006. Applicant is affiliated with the following shipper or warehouse: None.

Finance Applications

Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission on or before March 6, 1980. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC–F–14019 filed May 8, 1979. Applicant: PACIFIC GAMBLE ROBINSON CO., 4103 Second Avenue South, Seattle, Washington 98124. Legal Representative: Richard J. Howard, 3201 The Bank of California Center, Seattle, Washington 98165. Authority sought to acquire control of a *Contract Motor Carrier* through ownership of stock. The applicant holds no authority itself but controls Inland Transportation Co., Inc. a wholly-owned subsidiary, which is a common carrier specializing in the transportation of bulk commodities in the states of WA, OR, ID and MT and the Province of British Columbia, Canada. This Application is to gain authority to control Gampac Express, Inc., another wholly-owned subsidiary of applicant, for which application has been submitted and is pending to operate as a *Contract Carrier* by Motor Vehicle, over irregular routes, transporting: (1) *Meats, meat products, and meat by-products, and articles distributed by meat packing houses* from the plant site and storage facilities utilized by Pierce Packing Co. in Billings, Montana, to points and places in the States of ID, WA, OR, CA, AZ, TX, LA and MN, under contract with Pierce Packing Co., and (2) *Merchandise as is dealt in by wholesale and retail grocery establishments, including commodities requiring temperature control, in straight and mixed truckloads with commodities otherwise exempt under Section 203(6) of the Interstate Commerce Act,* between points and places in the States of WA, OR, ID, CA, AZ, CO, UT, MT, NE, SD, ND, MN, IA, KS, WI, MI, IL, IN, OH, WY and TX under contracts with Pacific Gamble Robinson Co. and Tradewell Stores, Inc.

MC–F–14095F, filed July 20, 1979. Transferee: S & W FREIGHT LINES, INC., 1136 Haley Road, Murfreesboro, TN 37130. Transferor: CANNON COUNTY EXPRESS, INC., 1320 Elm Hill Pike, Nashville, TN 37210. Applicant's Representative: A. O. Buck, 618 United American Bank Bldg., Nashville, TN 37219. Authority sought for purchase by S & W Freight Lines, Inc. of all the operating rights of Cannon County Express, Inc., and for control of such rights by R. D. Easley and C. Barry Smotherman, 1136 Haley Road, Murfreesboro, TN 37130. Operating rights sought to be transferred are contained in Certificate of Registration No. MC–121813, authorizing the transportation of general commodities over regular routes between Nashville, TN and Woodbuty, TN, serving all points in Cannon County, TN as off-route points. Vendee is authorized to operate as a common carrier in the State of Tennessee. Application has been filed for temporary authority under Section 210a(b) and a conversion application has been filed under Section 207.

MC–F–14135F, filed August 17, 1979. Transferee: OVER-NIGHT MOTOR SERVICE, INC., 3600 West State Street, Rockford, IL 61101. Transferor: BEST-WAY MOTOR EXPRESS, INC., 3608 West State Street, Rockford, IL 61101. Representative: Henry M. Wick, Jr., Esq., Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought for the purchase of the operating rights set forth in MC–4575. Irregular routes: *General commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, from Beloit, Wis, to points in Illinois within 25 miles of Beloit, with no transportation for compensation on return except as otherwise authorized. From Freeport, Rockford, and South Beloit, Ill., to Beloit, Wis., with no transportation for compensation on return except as otherwise authorized. Household goods as defined by the Commission, between Beloit, Wis., on the one hand, and, on the other, points in Illinois within 25 miles of Beloit. Transferee presently holds authority from the Commission at MC–109611. Application has not been filed for temporary authority.

Operating Rights Application(s) Directly Related to Finance Proceedings

Notice

The following operating rights application(s) are filed in connection with pending finance applications under Section 11343 (formerly Section 5(2)) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 10926 (formerly Section 212(b)) of the Interstate Commerce Act.

On applications filed before March 1, 1979, an original and one copy of *protests* to the granting of authorities must be filed with the Commission on or before March 6, 1980. Such protests shall conform with Special Rule 247(e) of the Commission's *general rules of practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities.

Applications filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *general rules of practice* also but are subject to petitions to intervene either with or without leave. An original and one copy of the petition must be filed with the Commission on or before March 6, 1980. A petition for intervention must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points. Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Verified statements in opposition should not be tendered at this time. A copy of the protest or petition to

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intervene shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 149080, filed: October 30, 1979. Applicant: GLOVER TRUCKING CORP., P.O. box 7206, Holland Station, Suffolk, VA 23437. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common* carrier, by motor vehicle, over irregular routes, transporting: (1) *Lumber*, from Norfolk and Suffolk, VA to points in DC, DE, MD, NJ, PA, VA, WV, and points in the New York, NY Commercial Zone, as defined by the Commission, with no transportation for compensation on return except as otherwise authorized [eliminating gateways at Ahoskie, NC and points in NC within 55 miles of Ahoskie]; (2) *Lumber* (except veneer, plywood and other laminated wood), from Norfolk and Suffolk, VA to points in CT and OH, with no transportation for compensation on return except as otherwise authorized [eliminating gateways at Ahoskie, NC and points in NC within 55 miles of Ahoskie]; (3) *Lumber* (except plywood and veneer), (a) from New York, NY, Jersey City, NJ, and Baltimore, MD to Suffolk, VA and Ahoskie, NC and points in NC within 55 miles of Ahoskie [eliminating gateways at Edenton, NC and Norfolk, VA], (b) from Snell, Laurel, Richmond, Cologne, DeWitt, Pendleton, and Bukner, VA to Norfolk and Suffolk, VA [eliminating the gateway at Edenton, NC]; (4) *Damaged Shipments of Lumber*, from points in WV to Norfolk and Suffolk, VA [eliminating gateways at Ahoskie, NC and points in NC within 55 miles of Ahoskie]; (5) *Damaged Shipments of Lumber* (except plywood and veneer), from Norfolk and Suffolk, VA to Snell, Laurel, Richmond, Cologne, DeWitt, Pendleton, and Bukner, VA [eliminating the gateway at Edenton, NC]; (6) *Wooden Boxes, Box Shooks*, and *Wooden Pallets*, from Norfolk and Suffolk, VA to points in CT, DC, DE, GA, MD, NJ, NY, OH, PA, SC, TN, VA, and WV [eliminating gateways at points in Chowan and Hertford Counties, NC]; (7) *Damaged, Refused* and *Returned Shipments* of wooden boxes, box shooks, and wooden pallets, from points in CT, DC, DE, MD, NJ, NY, OH, PA, VA, and WV to Norfolk and Suffolk, VA [eliminating gateways at points in Chowan and Hertford Counties, NC]; (8) *Fiberglass Swimming Pools*, from Norfolk and Suffolk, VA to points in AL, CT, DC, DE, FL, GA, IL, KY, LA, MA, MD, ME, MI, MN, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, TX, VA, VT, and WV [eliminating gateway at Edenton, NC]; (9) *Damaged Shipments of Fiberglass Swimming Pools*, from points, AL, CT, DC, DE, FL, GA, IL, KY, LA, MA, MD, ME, MI, MN, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, TX, VA, VT, and WV to Norfolk and Suffolk, VA [eliminating the gateway at Edenton, NC]; (10) *Pickle Products*, from Norfolk and Suffolk, VA to points in NY, NJ, CT, VA (except Richmond, Fredericksburg and that portion of the commercial zone of Washington, DC, as defined by the Commission, lying in VA), MD (except Baltimore, MD and its commercial zone, as defined by the Commission, and that portion of the commercial zone of Washington, DC, as defined by the Commission, lying in MD), and PA (except Philadelphia, PA and its commercial zone, as defined by the Commission), with no transportation for compensation on return except as otherwise authorized [eliminating the gateway at Ahoskie, NC]; (11) *Glass Jars* and *Jar Caps*, from points in MD, NJ, NY, and PA to Norfolk and Suffolk, VA, with no transportation for compensation on return except as otherwise authorized [eliminating the gateway at Ahoskie, NC]; (12) *Cans*, from points in MD to Norfolk and Suffolk, VA, with no transportation for compensation on return except as otherwise authorized [eliminating the gateway at Ahoskie, NC]; (13) *Barrels and Spices*, from points in NY to Norfolk and Suffolk, VA, with no transportation for compensation on return except as otherwise authorized [eliminating the gateway at Ahoskie, NC]; (14) *Sugar*, in containers, from points in MD, NY, and PA to Norfolk and Suffolk, VA, with no transportation for compensation on return except as otherwise authorized [eliminating the gateway at Ahoskie, NC]; (15) *Pickles*, from Norfolk and Suffolk, VA to points in MA, ME, NH, RI, and VT, with no transportation for compensation on return except as otherwise authorized [eliminating the gateway at Ahoskie, NC]; (16) *Wooden Fencing and Fencing Materials*, from Norfolk and Suffolk, VA to points in CT, DE, FL, GA, MA, MD, NJ, NY, OH, PA, SC, VA, and WV [eliminating gateways at those points in Halifax County, NC which are within 55 miles of Ahoskie, NC]. This gateway elimination application is directly related to the simultaneously filed application seeking authority for Glover Trucking Corp. to purchase the operating authority of Lane Truck Lines, Inc., docketed MC–F–14205F, published in the November 27, 1979, issue of the **Federal Register**.

Motor Carrier Alternate Route Deviations; Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)). Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before March 6, 1980. Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

MC 80430 (Deviation No. 25), GATEWAY TRANSPORTATION CO., INC., 455 Park Plaza Drive, La Crosse, WI 54601, filed December 27, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Cincinnati, OH over Interstate Hwy 75 to junction US Hwy 129, then over US Hwy 129 to junction US Hwy 411, then over US Hwy 411 to junction Interstate Hwy 75, then over Interstate Hwy 75 to Atlanta, GA, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Cincinnati, OH over US Hwy 50 to Seymour, IN, then over Alternate US Hwy 31 to junction US Hwy 31, then over US Hwy 31 to junction US Hwy 31E, then over US Hwy 31E to junction US Hwy 31W, then over US Hwy 31W to Nashville, TN, then over Interstate Hwy 24 to junction Interstate Hwy 75, then over Interstate Hwy 75 to Atlanta, GA.

MC 144678 (Deviation No. 1), AMERICAN FREIGHT SYSTEM, INC., 9393 West 110th St., Overland Park, KS 66210, filed December 17, 1979. Carrier proposes to operate as a common carrier, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From St. Louis, MO over Interstate Hwy 70 to junction US Hwy 63, then over US Hwy 63 to junction Iowa Hwy 163, then over Iowa Hwy 163 to junction Iowa Hwy 117, then over Iowa Hwy 117 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Des Moines, IA and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From St. Louis, MO over Missouri Hwy 100 to junction US Hwy 50, then over US Hwy 50 to Kansas City, Mo, then over Interstate Hwy 35 to Des Moines, IA.

Motor Carrier Intrastate Application(s); Notice

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, purusant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Alaska Docket No. 79–350–MF/E, filed August 6, 1979. Applicant: JOHN W. HOOGLAND AND JOANNE C. HOOGLAND d.b.a. CITY EXPRESS, Box 305, Seward, AK 99664. Representative: John M. Stern, Jr., P.O. Box 1672, Anchorage, AK 99510. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities (except Classes A & B explosives, commodities of unusual value and household goods) in regular route, schedule service: From Seward to Anchorage via Alaska State Hwy 1 to Anchorage and return over the same route serving all intermediate points in both directions and all off-route points within ten (10) miles of either side of the road. NOTE: Purpose of the application is to remove a restriction to shipments not exceeding 20,000 pounds each and to request authority to transport commodities in bulk and commodities which, because of unusual size, weight or shape require the use of special equipment.Intrastate, interstate and foreign commerce authority sought. HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to Alaska Transportation Commission, 1000 Mackay Building, 338 Denali Street, Anchorage, AK, and should not be directed to the Interstate Commerce Commission.

Montana Docket No. T–4796, filed December 4, 1979. Applicant: JAMES B. FORDYCE, 314 Brassey St., Lewistown, MT 59457. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities as a Class A carrier, between Lewistown, MT, and Coffee Creek, MT, serving the intermediate point of Denton, MT. Applicant desires to be able to transport shipments of this commodity having an immediate prior interstate haul by truck or rail between these same points. Intrastate, interstate and foreign commerce authority sought. HEARING: Date, time and place not yet fixed. Requests for procedural information should addressed to Montana Public Service Commission, Asst. Administrator Transportation Division, 1227 11th Avenue Helena MT 59601, and should not be directed to the Interstate Commerce Commission.

Irregular-Route Motor Common Carriers of Property-Elimination of Gateway Letter Notices

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR Part 1065), and notice thereof to all interested persons is hereby given as provided in such rules. An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before February 15, 1980. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation. Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number. The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 22254 (Sub-E2) (correction), filed May 14, 1974, published in the **Federal Register** August 29, 1979, republished November 27, 1979. Applicant: TRANS-AMERICAN VAN SERVICE, INC., P.O. Box 12808, Ft. Worth, TX 76116. Representative: Danny M. Moon (same as above). *Pianos*, uncrated: Part (A): WT should read WI. Part (C): AR Hwy 67 should read US Hwy 67. Part (C): MT Hwy 23 should read MT Hwy 233. Part (C): IN should read ID. The remainder of the letter-notice stands as previously published.

MC 114019 (Sub-E455) (correction) filed December 20, 1978, previously published February 2, 1979. Applicant: MIDWEST EMERY FREIGHT SYSTEMS, INC., 7000 S. Pulaski Road, Chicago, Illinois 60629. Representative: Arthur J. Sibik (same as above). (1) *Such merchandise* as is dealt in by chain grocery stores, and *supplies, materials, and equipment* used in the conduct of such business, between points in WI on, north and east of a line beginning at the IL-WI State line extending along WI Hwy 104 to junction US Hwy 12, then along US Hwy 12 to junction I Hwy 94, then along I Hwy 94 to the WI-MN State line, on the one hand, and, on the other, St. Louis, MO, and Carbondale, IL. (2) *Such-merchandise* as is dealt in by wholesale food business houses, and *equipment, materials*, and *supplies* used in conduct of such business, from points in WI, to St. Joseph, Benton Harbor, Niles Buchanan, Sturgis, and Three Rivers, MI. (3) *Such-merchandise* as is dealt in by wholesale or retail food business houses, and *equipment, materials, and supplies* used in the conduct of such business, from points in IA, to St. Joseph, Benton Harbor, Niles, Buchanan, Sturgis, and Three Rivers, MI. (Gateway eliminated: Chicago and Lansing, MI). Purpose of correction—reflect parts 2 and 3.

MC 114019 (Sub-E479) (correction) filed December 20, 1978, published in the **Federal Register** March 14, 1979. Applicant: MIDWEST EMERY FREIGHT SYSTEMS, INC., 7000 S. Pulaski Road, Chicago, Illinois 60629. Representative: Arthur J. Sibik (same as above). In all 3 parts, all reference to LA should be changed to Louisiana County, MO.

MC 114019 (Sub-E480) (correction) filed May 16, 1974, last republication August 29, 1979. Applicant: MIDWEST EMERY FREIGHT SYSTEMS, INC., 7000 S. Pulaski Road, Chicago, Illinois 60629. Representative: Arthur J. Sibik (same as above). Part (1) correct as published. Part (2) IA territory should read; points in IA on, north and west of a line beginning at the Mississippi River extending along US Hwy 18 to junction US Hwy 69, then along US Hwy 69 to junction US Hwy 20, then along US Hwy 20 to junction US Hwy 71, then along US Hwy 71 to junction IA Hwy 175, then along IA Hwy 175 to the Missouri River. Part (3) correct as published. (Gateway elminated: Milwaukee, WI, and Waukegan, IL). Purpose of republication—clarify part 2.

V 45 / 25 FE 5 80 UMI

MC 124174 (Sub-E80) filed June 4, 1974. Applicant: MOMSEN TRUCKING CO., 13811 "L" St., Omaha, NE 68137. Representative: Karl E. Momsen (same as above). *Glue stock* (except in bulk, in tank vehicles), *hides* and *tannery products and by-products* (except liquids in bulk), between Houston and San Antonio, TX, on the one hand, and on the other, points in MA. (Gateways eliminated: points in VA, WV, KY.)

Transportation of "Waste" Products for Reuse or Recycling; Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR Part 1062) promulgated in *"Waste" Products*, Ex Parte No. MC–85, 124 M.C.C. 583 (1976). Requests are processed as seeking authority between all points in the United States. An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission on or before February 25, 1980. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation. If the applicant is not otherwise informed by the Commission, operations may commence *within 30 days* of the date of its notice in the **Federal Register**, subject to its tariff publication effective date.

P–16–79 (special certificate—waste products), filed December 21, 1979. Applicant: OIL SERVICE COMPANY, INC., Route 3, Petty Lane, Columbia, TN 38401. Representative: Edward C. Blank II, P.O. Box 1004, 805 South Garden St., Columbia, TN 38401. Sponsors: Alton Boxboard Company of Alton, IL; Klor Kleen, Inc. of Cincinnati, OH; Wiseman Oil Company, Inc., of Pittsburgh, PA; Clark Oil Company, Division of Pitt Oil, Inc. of Dayton, OH; George W. Whitesides Company, of Louisville, KY; Estech Oil Company, of Flint, MI; and Seaboard Industries, Inc. of Doraville, GA. Commodities: Waste Products.

P–17–79 (special certificate—waste products), filed December 17, 1979. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, 810 25th Ave. N., Wisconsin Rapids, WI 54494. Representative: Dennis C. Brown (address same as applicant). Sponsors: Golper Supply Co., Inc. of Appleton, WI; and Lehigh Waste Materials Co. of Philadelphia, PA. Commodities: Waste Products.

P–1–80 (special certificate—waste products), filed January 3, 1980. Applicant: MANUFACTURERS EXPRESS, INC., 294 Kimberly Ave., New Haven, CT 06516. Representative: Gerald A. Joseloff, 80 State St., Hartford, CT 06103. Sponsor: Dichello Distributors, Inc. of West Haven, Ct. Commodities: Waste Products.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-3601 Filed 2-4-80; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29156]

McHugh Bros. Heavy Hauling, Inc.—Control—New Hope & Ivyland Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: McHugh Brothers Heavy Hauling, Inc. (McHugh) intends to purchase the capital stock of the New Hope and Ivyland Railroad Company (New Hope). Under 49 U.S.C. 10505 (b) the Commission has decided to initiate on its own motion the process of determining whether to exempt McHugh from the requirement that prior Commission review of the transaction is necessary before it may purchase the capital stock of New Hope.

DATE: Comments must be received on or before March 6, 1980.

ADDRESS: Send comments to Interstate Commerce Commission, 12th St. and Constitution Ave., N.W., Washington, D.C. 20423. All written statements will be available for public inspection during regular business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, 202–275–7245.

SUPPLEMENTARY INFORMATION: The Commission, on its own motion under 49 U.S.C. 10505 (b) has decided to initiate proceedings regarding the possibility of exempting the transaction whereby McHugh seeks to control New Hope through acquisition of capital stock.

The Parties

Although McHugh is not now a common carrier regulated under the Interstate Commerce Act, it is affiliated with Bucks County Construction Company, a motor common carrier holding operating authority in Certificate No. MC–126034 and sub numbered proceedings. This certificate authorizes operations as a motor common carrier over irregular routes from, to, and between points and places in the States of Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, West Virginia, Maryland and the District of Columbia. Because of the relationship between McHugh and Bucks County Construction Company, in effect an existing common carrier is seeking to acquire another common carrier, the Commission has jurisdiction over the matter pursuant to 49 U.S.C. 11343. (McHugh is controlled by James C. and Robert McHugh.)

New Hope was reorganized under Section 77 of the Bankruptcy Act. As part of the re-organization, the Bucks County Industrial Development Corporation purchased all of the stock of New Hope and now proposes to sell that stock to McHugh. The track involved extends 16.7 miles generally from New Hope to Ivyland Borough, located entirely in Bucks County, PA.

The Transaction

By decision of the Commission, Division 3, dated March 15, 1977, in Finance Docket No. 27971, McHugh was granted authority to lease and operate New Hope. This transaction was consummated on June 1, 1979.

Under Section 30 of the agreement between McHugh and Bucks County Industrial Development Corporation, McHugh has an option to purchase the New Hope capital stock, and has elected to do so. McHugh is not seeking to change the status quo regarding the shipping public but wishes to change the type of control that it exercise over New Hope from that of lease to control by ownership of its capital stock.

The Exemption

The acquisition of control by a non-carrier, owned by persons who control an existing carrier, of another carrier requires the prior approval of the Commission under 49 U.S.C. 11343. To seek Commission approval, an application must normally be filed in compliance with the *I.C.C. Railroad Acquisition, Control, Merger, Consolidation, Coordination Project, Trackage Rights and Lease Procedure*, 49 C.F.R. Part III (1978). On October 5, 1979, McHugh filed a petition for waiver of various regulations set forth in the above rules.

We have reviewed McHugh's petition in light of 49 U.S.C. 10505. Under that section, we can exempt a matter related to a rail carrier because of the limited scope of the transaction or service when we find that an application, among other things, "would serve little or no useful public purpose." Under 49 U.S.C. 10505(b), the Commission may begin a proceeding for such exemption on its own motion.

In our decision of March 9, 1977 approving the McHugh lease of New Hope, we found McHugh qualified to be the operator of a railroad. The Application that would be filed here would merely report the change of control from lease to ownership. It is apparent that no other rail carrier is involved and that no operational or service changes will occur by a change in type of control.

Any exemption, were it granted in this proceeding, would be limited solely to this proceeding. After consummation of the transaction, the Commission would retain full jurisdiction over the carrier involved, among other things, to make such additional findings and impose such terms and conditions with respect to New Hope's employees as may be necessary and lawful. Such action would be taken only after the filing of a petition by the employees, wherein it is shown that the conditions of their employment or any interest has been adversely affected as a result of the consummation of the transaction. Consummation will be considered as acceptance of this reservation of jurisdiction.

Before granting an exemption, we are required to provide the opportunity for a proceeding. This request for comments on the exemption of the proposed transaction is that opportunity. All comments filed in response to this notice will be used to determine whether or not the exemption under 49 U.S.C. 10505 should be granted.

This proceeding is instituted under the authority of 49 U.S.C. 10505, and pursuant to 4 U.S.C. 553, 559.

This notice is not a major Federal action significantly affecting energy consumption or the quality of the human environment.

Dated: January 4, 1980.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Chairman O'Neal not participating. Vice Chairman Stafford dissenting in part. Commissioner Christian absent and not participating.

Agatha L. Mergenovich,

Secretary.

Commissioner Stafford, dissenting in part:

While I have no objection to allowing public comment on the proposed exemption, I have serious reservations as to whether a blanket use of 49 U.S.C. § 10505 is appropriate. That section appears to contemplate a discretionary approach. Moreover, since the acquisition at issue would be a permanent purchase (not a temporary measure), the use of the exemption would seem to be at odds with that purpose since the exemption may be revoked in the future.

Nonetheless, since the Commission has opted to use the exemption procedures, there are a number of matters that should be clarified in the public comment period.

1. The annual report filed by New Hope and Ivyland Railroad Company for the year ending December 31, 1978 still shows the carrier in receivership with a trustee. If the receivership has been terminated, that factor should be fully documented.

2. Section 11344 of 49 U.S.C. Subtitle IV requires the Commission to consider the interest of carrier employees affected by the proposed transaction. The use of the exemption provisions of Section 10505 appears to nullify the protection afforded railroad employees.

3. The Commission, at times, has imposed an "auxiliary to, or supplemental of" condition in finance dockets. See, *Burlington Truck Lines, Inc.—Purchase—Pirnie*, 85 M.C.C. 363, footnote 2. Whether a similar condition should be imposed here should be discussed.

[FR Doc. 80-3736 Filed 2-4-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Attorney General

[AAG/A Order No. 44–80]

Privacy Act of 1974; New System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of Justice proposes to establish a new system of records to be maintained by the Office of Professional Responsibility. Further, in the Proposed Rules Section of today's **Federal Register**, the Office of Professional Responsibility proposes to exempt the system from certain provisions of the Privacy Act (5 U.S.C. 552a). The purposes of the exemptions are to, first, maintain the confidentiality and security of information compiled for purposes of criminal investigation or civil or regulatory law enforcement or of reports compiled at any stage of the law enforcement process and, second, to maintain the confidentiality and security of information classified pursuant to Executive Order 12065 which the Office may receive during review of misconduct allegations.

The Office of Professional Responsibility Record Index (JUSTICE/OPR–001) is a new system of records for which no public notice consistent with the provisions of 5 U.S.C. 552a(e)(4) has been published in the **Federal Register**.

5 U.S.C. 552a(e)(4) and (11) provide that the public be provided a 30-day period in which to comment; the Office of Management and Budget (OMB), which has oversight responsibility under the provisions of the Act, requires a 60-day period in which to review the system before it is implemented. Therefore, the public, OMB, and the Congress are invited to submit written comments on this system. Comments should be addressed to the Administrative Counsel, Justice Management Division, Room 1214, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. If no comments are received from either the public, OMB, or the Congress on or before April 7, 1980, the system will be implemented without further notice in the **Federal Register**, except that the final rule exempting the system will be published after 60 days. No oral hearings are contemplated.

A report of the proposed system has been provided to the Director, OMB, to the President of the Senate, and to the Speaker of the House of Representatives.

Dated: January 23, 1980.

William D. Van Stavoren,

Acting Assistant Attorney General for Administration.

JUSTICE/OPR–001

SYSTEM NAME:

Office of Professional Responsibility Record Index.

SYSTEM LOCATION:

U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Department of Justice employees who are the subjects of inquiries or complaints directed to, or investigations conducted by, the Office of Professional Responsibility; (2) individuals (complainants) who write to the Office of Professional Responsibility; (3) individuals (complainants) who write to the Attorney General or other officials of the Department and whose letters are referred to the Office of Professional Responsibility; (4) employees of agencies of the Federal government, other than the Department of Justice, about whom information indicating possible criminals or administrative misconduct has been developed during the course of routine investigations by components of the Department of Justice, when such information is furnished to the Office of Professional Responsibility for referral—if warranted—to an appropriate investigative component of the

Department of Justice, or to another government agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

This systems of records consists of complaints filed against Departmental employees, the results of investigations into those complaints, and actions taken after completion of the investigations. This system also includes all records developed pursuant to special assignments given to the Office of Professional Responsibility by the Attorney General, as well as records containing information indicating possible misconduct by employees of the Federal government, other than the Department of Justice, which have been furnished to the Office of Professional Responsibility for referral, if warranted, to the appropriate investigative authority.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 et seq. and 28 CFR 0.39 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) in any case in which there is an indication of a violation or a potential violation of law, whether civil, criminal, or regulatory in nature, and arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with the enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violations, a record may be disseminated to a federal, state, local or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a case or matter may be disseminated in an appropriate federal, state, local or foreign court or grand jury proceeding in accordance with established consititutional, substantive or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of security clearance or the reporting of an investigation of an employee; (6) information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy; (7) release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record; (8) a record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored manually in file jackets.

RETRIEVABILITY:

Information is retrieved in some instances by the name of the complainant and in some instances by the name of the employee who is the subject of the complaint.

SAFEGUARDS:

The information is stored in safes and locked filing cabinets in a limited access area and is maintained according to applicable Departmental security regulations.

RETENTION AND DISPOSAL:

Records in this system are retained and disposed of in accordance with the General Records Schedule, Federal Property Management Regulations 101–11.4.

SYSTEM MANAGER(S) AND ADDRESS:

Counsel on Professional Responsibility, Department of Justice; 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address any inquiries to the system manager listed above.

RECORD ACCESS PROCEDURE:

The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), (k)(2) or (k)(5). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to record contained in this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to their information sought.

RECORD SOURCE CATEGORIES:

Department officers and employees, and other federal, state, local, and foreign law enforecement and non-law enforcement agencies, private persons, witnesses, and informants.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G) and (H), (e) (5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2), (k)(1), (k)(2) and (k)(5). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

[FR Doc. 80-3409 Filed 2-4-80; 8:45 am]

BILLING CODE 4410-01-M

Law Enforcement Assistance Administration

Solicitation Regarding Competitive Long-Term Research Program to Increase Knowledge and Understanding of Organized Crime Problem in United States

The National Institute of Justice announces a competitive long-term research program to increase our knowledge and understanding of the organized crime problem in the United States. The grant or cooperative agreement will be funded under the Institute's "Research Agreements Program," which provides initial support for two years of work; a maximum of $800,000 will be provided for the two-year period. Support for subsequent years is possible, contingent upon satisfactory project performance and progress. The RAP format is much less precisely defined than other Institute project solicitations and respondents have greater freedom to propose their own research priorities and designs. However, program plans should be guided by: (1) The long-term goals of the overall program (which include conceptual, measurement and methodology development; data-collection; evaluation of current criminal justice standards and practices; and recommendations for future policy, procedure and research) and (2) the complex, multi-issue nature of the research topic (which suggests an inter-disciplinary research team "consortium" with the range of expertise required to carry out an integrated series of subprojects within the larger program framework).

The solicitation requests submission of preliminary proposals and requires that submitting organizations have experience in and resource capabilities for designing and conducting research on social issues. Additional qualifications include a knowledge of the substantive issues relevant to a study of the organized crime problem (preferably with an inter-disciplinary approach to these subject areas) and experience in the interpretation and utilization of criminal justice data. To maximize the competition for this award, both profit-making and non-profit making organizations with the aforementioned qualifictions are eligible to submit proposals.

In order to be considered for funding, all proposals must be postmarked no later than April 4, 1980.

Copies of the solicitation and additional information may be obtained by sending a mailing label to: Organized Crime Program, National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850.

Dated: January 11, 1980.

Harry M. Bratt,

Primary and Principal Assistant to the Acting Director, National Institute of Justice.

[FR Doc. 80-3675 Filed 2-4-80; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Business of Labor Statistics

Business Research Advisory Council Committees; Meetings and Agenda

The winter meetings of committees of the Bureau Research Advisory Council will be held on February 19, 20, and 21, 1980.

The meetings of the Committees on Employing and Unemployment, Price Indexes, and Economic Growth will be held in room 4454, General Accounting Office Building, 441 G Street, NW., Washington, D.C. Occupational Safety and Health will hold its Committee meeting in room S4215 A & B, and Productivity-Foreign Labor in room N4437 A & B of the New Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry.

The schedule and agenda of the meetings are as follows:

Tuesday, February 19

9:30 a.m.—Committee on Employment and Unemployment

1. Description and Discussion of the Redesign of the 790 (Current Employment Statistics) Program.
2. The Response of the Secretary of Labor to Recommendations of the Levitan Commission (NCEUS).
3. Recent Developments:
(a) Job Vacancy Program,
(b) Local Area Unemployment Statistical Program.

Tuesday, February 19

10:00 a.m.—Committee on Occupational Safety and Health

1. Annual Survey:
(a) Results of 1978 Survey,
(b) Fatality Survey,
(c) Plans for 1979 and 1980.
2. Impact of Congressional Action
(a) Amendment to the 1980 Labor-HEW Appropriations Bill,
(b) Proposed Amendment to the Occupational Safety and Health Act.
3. The National Safety Council's Technical Projects Committee and the Information Exchange Projects Committee Work.
4. New Initiatives in the Occupational Health Area.
5. Status of OSHS Statistical Grants.
6. Status of the Work Injury Reports Survey Program.
7. Recordkeeping:
(a) Discussion of Efforts to Maintain Recordkeeping Reliability,
(b) Presentation of Slide-Sound Show.
8. Supplementary Data System:
(a) Discussion of the new data element—Associated Object or Subetance (AOS)—which should enrich the value of SDS data.
(b) Discussion of the January Monthly Labor Review article on cost vs. frequency for indentifying targets for safety prevention efforts.

Tuesday, February 19

1:30 p.m.—Committee on Productivity-Foreign Labor

1. A report of the work of the office in areas of:
(a) Productivity research, including a discussion of additional analysis for the productivity slowdown.
(b) Industry Productivity Measures.
(c) Technology Studies.
(d) International Comparisions of Hourly Compensation.
(e) Trade Monitoring System.

Tuesday, February 20

2:00 p.m.—Committee on Price Indexes

1. Status Report CPI Homeownership Component.
2. Status Report on Family Budget Program.

Thursday, February 21

9:30 p.m.—Committee on Economic Growth

1. Recent reorganization in BLS affecting Economic Growth.
2. Purpose and principal users of the BLS projections.
3. Relationship of BLS projections to other long range efforts.
4. Schedule, and discussion of the assumptions for next set of BLS projections.
5. Alternatives for the next set of projections and discussion of types of alternatives which best meet BLS objectives.

The meetings are open to the public. It is suggested that persons planning to attend these meetings as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code (202) 523–1559.

Signed at Washington, D.C. this 25th day of January 1980.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 80-3652 Filed 2-4-80; 8:45 am]

BILLING CODE 4510-24-M

Business Research Advisory Council; Meeting

The regular winter meeting of the Business Research Advisory Council will be held at 9:30 a.m., February 20,

1980, at the New Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C., room N4437 A, B, & C. The agenda for the meeting is as follows:

1. Chairman's Opening Remarks.
2. Commissioner's Remarks.
3. Committee Reports:
(a) Occupational Safety and Health,
(b) Employment and Unemployment,
(c) Productivity-Foreign Labor.
4. Committee Advance Comments:
(a) Price Indexes,
(b) Economic Growth.
5. Other Business.
6. Chairman's Closing Remarks.

This meeting is open to the public. It is suggested that persons planning to attend as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code (202) 523–1559.

Signed at Washington, D.C. this 25th day of January 1980.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 80-3653 Filed 2-4-80; 8:45 am]

BILLING CODE 4510-24-M

Mine Safety and Health Administration

[Docket No. M-79-274-C]

Pontiki Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Pontiki Coal Corporation, P.O. Box 57, Lovely, Kentucky 41231 has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its Pontiki No. 1 & Pontiki No. 2 Mines located in Martin County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. Petitioner is mining coal seams that vary from 34 to 100 inches, with irregularities in top and bottom.

2. Petitioner states that results of geological survey indicate that 70 percent of coal seam is 42" or less. Roof height is lessened even more due to necessary additional roof support.

3. After installation of machine-mounted illumination, a drastic drop in mining height necessitated its removal.

4. Stationary illumination is not feasible due to daily encounters with adverse conditions of the roof. Entry widths are narrowed from time to time, and cribs and headers are set, restricting entry widths.

5. Petitioner states glare from stationary lighting systems presents a problem causing temporary blindness when employees enter and exit the working places.

6. Petitioner proposes as an alternative method to continue to maintain the factory mounted headlights in excellent operating condition.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 6, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 29, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-3715 Filed 2-4-80; 8:45 am]

BILLING CODE 4510-43-M

Office of the Secretary

[TA-W-6209]

Singer Co. Controls Division, Wauwatosa, Wis.; Termination of Investigation: Correction

In Federal Register Doc. 79-39220 appearing on page 75753 in the Federal Register of December 21, 1979, the 2nd paragraph should be corrected to read as follows:

"The petitioning group of workers was certified as eligible to apply for adjustment assistance in a revised determination issued on December 14, 1979, (TA-W-5430). Since workers of the Wauwatosa plant of Singer Company, Controls Division newly separated, totally or partially, from employment on or after September 1, 1978, (impact date) and before July 17, 1981, (expiration date of revised certification) are covered by an existing determination, a new investigation would serve no purpose. Consequently, the investigation has been terminated."

Signed at Washington, D.C., this 29th day of January 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-3654 Filed 2-4-80; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting

January 30, 1980.

Pursuant to section 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976), notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will meet on Thursday and Friday, February 14–15, 1980. The Committee will meet in Room 1202 of the Dirksen Senate Office Bldg. on February 14, and on February 15, in the Penthouse in the Page Building Number 1, 2001 Wisconsin Avenue, NW., Washington, D.C. The sessions will convene at 9:00 a.m. on February 14 and 8:00 a.m. on February 15 and will be open to the public. The Thursday session will adjourn at 4:30 p.m., and the session on Friday will adjourn at 4:00 p.m.

The Committee, consisting of 18 non-Federal members, appointed by the President from State and local government, industry, academia, and other appropriate areas, was established by Public Law 95–63, on July 5, 1977. Its duties are to: (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs of the National Oceanic and Atmospheric Administration; (3) submit an annual report to the President and to Congress commenting on marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or Congress.

The general agenda includes the following topics:

February 14, 1980—Dirksen Senate Office Bldg. (Room 1202), Washington, D.C.
9:00 a.m.–12:30 noon—Briefing on an Organic Act for the National Oceanic and Atmospheric Administration (NOAA)
12:30–2:00 p.m.—Lunch
2:00 p.m.–4:30 p.m.—Briefing on an Organic Act for NOAA
4:30 p.m.—Adjourn

February 15, 1980—Penthouse, Page Building 1, 2001 Wisconsin Avenue, Washington, D.C.
8:00 a.m.—9:45 p.m.—Organic Act Panel
9:45 a.m.—10:00 a.m.—Coffee Break
10:00 a.m.–11:00 a.m.—Plenary Session—Speaker: Michael Glazer, Assistant Administrator for Coastal Zone Management
11:00 a.m.–12:00 noon—Oil Spills Panel—Atmospheric Affairs Panel, Room 416, Page 1
12:00 noon–1:30 p.m.—Lunch—Steering Committee Meeting
1:30 p.m.–2:30 p.m.—Decade of Ocean Resource Use and Management Panel
2:30 p.m.–2:45 p.m.—Break
2:45 p.m.–4:00 p.m.—Plenary Session—Panel Reports
4:00 p.m.—Adjourn

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to impose limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Mr. Steven N. Anastasion, whose mailing address is: National Advisory Committee on oceans and Atmosphere, 3300 Whitehaven Street, NW (Suite 438, Page Building No. 1), Washington, DC 20235. The telephone number is (202) 653–7818.

Samuel H. Walinsky,

Executive Officer.

[FR Doc. 80-3637 Filed 2-4-80; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee Behavioral and Neural Sciences; Subcommittee on Neurobiology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Neurobiology of the Advisory Committee for Behavioral and Neural Sciences.
Date and time: February 20, 21, & 22, 1980: 9:00 a.m. to 5:00 p.m. each day.
Place: Room 338, February 20 & 21, and Room 628, February 22, National Science Foundation, 1800 G Street, N.W., Washington, D.C.
Type of meeting: Closed.
Contact person: Dr. A. O. Dennis Willows, Program Director, Neurobiology Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202/634–4036.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Neurobiology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

January 30, 1980.

[FR Doc. 80-3635 Filed 2-4-80; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Behavioral and Neural Sciences; Subcommittee on Memory and Cognitive Processes; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee of Memory and Cognitive Processes of the Advisory Committee for Behavioral and Neural Sciences.
Date and time: February 25 and 26, 1980, 9:00 a.m.–5:00 p.m. each day.
Place: National Science Foundation, 1800 G Street, N.W., Room 338, Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Joseph L. Young, Program Director, Memory and Cognitive Processes Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone (202) 634–1583.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Memory and Cognitive Processes.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10 (d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

January 30, 1980.

[FR Doc. 80-3631 Filed 2-4-80; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Behavioral and Neural Sciences; Subcommittee on Social and Developmental Psychology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Social and Developmental Psychology of the Advisory Committee for Behavioral and Neural Sciences.
Date and time: February 21–22, 1980: 9:00 a.m. to 5:00 p.m. each day.
Place: Room 642, National Science Foundation, 1800 G Street, N.W. Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Robert A. Baron, Program Director, Social and Developmental Psychology, Room 320, National Science Foundation, Washington, D.C. 20550, telephone (202–632–5714).
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Social and Developmental Psychology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information: financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

January 30, 1980.

[FR Doc. 80-3632 Filed 2-4-80; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Physiology, Cellular and Molecular Biology; Subcommittee on Developmental Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Developmental Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.
Date and time: February 21, 22, and 23rd, 1980—9 a.m. to 5 p.m. each day.
Place: Room 643, National Science Foundation, 1800 G Street, N.W. Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Mary E. Clutter, Program Director, Developmental Biology Program, Room 326. National Science Foundation, Washington, D.C. 20550, telephone 202/632–4314.

Purpose of subcommittee: To provide advice and recommendations concerning support of research in developmental biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(c), Government in Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make determinations by the Acting Director, NSF, on July 2, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.
January 30, 1980.
[FR Doc. 80-3684 Filed 2-4-80; 8:45 am]
BILLING CODE 7555-01-M

Advisory Committee for Physiology, Cellular and Molecular Biology; Subcommittee on Regulatory Biology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Regulatory Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.
Date and time: February 27, 28, 29, 1980 (8:30 a.m. to 5:00 p.m.)
Place: Conference Room 338, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Bruce L. Umminger, Program Director, Regulatory Biology Room 333, National Science Foundation, Washington, D.C. 20550, Telephone (202) 632–4256.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in regulatory biology.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reasons for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This documentation was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.
January 30, 1980.
[FR Doc. 80-3630 Filed 2-4-80; 8:45 am]
BILLING CODE 7555-01-M

Advisory Committee for Physiology, Cellular, and Molecular biology; Subcommittee on Molecular biology, Group B; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Molecular Biology, Group B, of the Advisory Committee for Physiology, Cellular and Molecular Biology.
Date and time: February 21 and 22, 1980; 9:00 a.m. to 5:00 p.m. each day.
Place: Room 338, National Science Foundation, 1800 G Street, N.W., Washington, DC 20550.
Type of meeting: Closed.
Contact person: Dr. Donald M. Green, Program Director, Biochemistry Program, Room 300, National Science Foundation, Washington, DC 20550, Telephone: 202/632–4260.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Molecular Biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority To Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.
January 30, 1980.
[FR Doc. 80-3633 Filed 2-4-80; 8:45 am]
BILLING CODE 7555-01-M

25-Meter, Millimeter Wave Telescope Project; Preparation of Environmental Impact Statement

Notice is hereby given that, in accordance with the National Environmental Policy Act of 1969, the National Science Foundation will prepare a draft environmental impact statement (EIS) on the proposed Mauna Kea, Hawaii, site for the National Radio Astronomy Observatory (NRAO) 25-meter, millimeter wave telescope. This proposed project envisions the installation of a 25-meter diameter steerable radio telescope in an astrodome to be located at the Mauna Kea, Hawaii, Science Reserve. Science requirements strongly dictate the qualities of the Mauna Kea site. The proposed telescope site is 3,000 feet west northwest of the Mauna Kea summit and at an elevation of 13,400 feet, some 400 feet below the summit. The design of the telescope is such that it would take advantage of radio reception in the millimeter-wavelength region of electromagnetic spectrum. Installation is planned during the early to mid 1980's, with scientific observational use following completion of the telescope.

Possible alternatives to the proposed action are: no millimeter wave telescope project; continued use to the extent possible of existing telescope facilities; delay in the installation of the telescope; or change to a different site on Mauna Kea.

At this time, the design of a telescope is complete that meets the requirements of the scientific users for a fully steerable, high resolution, high sensitivity radio telescope usable in receiving wavelengths as short as 1 mm. Major considerations now to be considered are: actual and/or potential environmental impacts and ways to prevent or mitigate such impacts; agreement with the University and State of Hawaii over the use of the site; testing of the subsurface conditions of the site; and planning of off site support facilities.

The Mauna Kea summit ridge has been the subject of two previous Environmental Impact Statements: The Canada-France-Hawaii Telescope facility, and the Infrared Telescope Facility and United Kingdom Observatory. The information and studies done in the preparation of the two existing EIS's has been made available and will be useful in preparing the EIS described in this notice. Expertise, both in the Federal and private sectors, including those having special knowledge of the Mauna Kea area will be utilized in preparation of the draft EIS.

The contact point within NSF for information on the proposed project and EIS is Mr. Lawrence K. Randall, Project Officer, NRAO, Division of Astronomical Sciences, National Science Foundation, 1800 "G" Street, NW, Washington, D.C. 20550, Telephone (202) 632–7880.

All interested agencies, organizations or persons desiring to submit comments or suggestions for consideration during the preparation of the draft EIS should contact Mr. Randall by March 31, 1980.

For the National Science Foundation.
Francis S. Johnson,
Assistant Director for Astronomical, Atmospheric, Earth, and Ocean Sciences.
January 30, 1980.
[FR Doc. 80-3636 Filed 2-4-80; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on Plant Arrangements; Meeting

The ACRS Subcommittee on Plant Arrangements will hold a meeting February 20–21, 1980 in Room 1046, 1717 H St., NW, Washington, DC 20555. Notice of this meeting was published January 22, 1980.

In accordance with the procedures outlined in the Federal Register on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, it consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: *Wednesday, February 20, 1980—11:00 a.m. until the conclusion of business.* The Subcommittee will discuss with the NRC Staff and their contractor, Sandia Laboratories, the recently completed "Final Report (Draft) on Phase I of Generic Task No. A–17, Systems Interaction in Nuclear Power Plants." *Thursday, February 21, 1980—8:30 a.m. until the conclusion of business.* The Subcommittee will discuss the status of various generic items contained in the ACRS March 21, 1979 report, "Status of Generic Items Relating to Light-Water Reactors: Report No. 7."

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463), that, should such sessions be required, it is necessary to close these sessions to protect proprietary information. See 5 U.S.C. 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. John C. McKinley (telephone 202/634–3265) between 8:15 a.m. ad 5:00 p.m., EST.

Dated: January 30, 1980.
John C. Hoyle,
Advisory Committee Management Officer.
[FR Doc. 80-3645 Filed 2-4-80; 8:45 am]
BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

Briefing the Governors on Structure and Functions of the Commission

February 1, 1980.

Notice is hereby given that the Postal Rate Commission will brief the governors of the U.S. Postal Service on the structure and functions of the Commission. The briefing will be at 6:00 p.m., on Tuesday, February 5, 1980, in the Commission's Hearing Room, 2000 L Street NW., Room 500, Washington, D.C.

David F. Harris,
Secretary.
[FR Doc. 80-3635 Filed 2-4-80; 8:45 am]
BILLING CODE 7715-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Midas Series 2000 Motorhomes; Public Meeting Cancelled

A public proceeding scheduled for 10 a.m., February 5, 1980, in Room 2230, Department of Transportation Building, 400 Seventh Street, S.W., Washington, D.C. 20590, with respect to an initial determination of noncompliance with Federal Motor Vehicle Safety Standards Nos. 207, 208, and 210 in Series 2000 Motorhomes manufactured by Midas-International Corp. is cancelled. The company has announced its intent to file a Noncompliance Report pursuant to 49 CFR Part 573 not later than February 8, 1980.

(Sec. 152, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1412); delegation of authority at 49 CFR 1.51 and 49 CFR 501.8)

Issued on February 1, 1980.
Lynn L. Bradford,
Associate Administrator for Enforcement.
[FR Doc. 80-3784 Filed 2-4-80; 2:50 pm]
BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circular Public Debt Series—No. 7-80]

Treasury Bonds of 2005–2010; Auction

January 31, 1980.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,000,000,000 of United States securities, designated Treasury Bonds of 2005–2010 (CUSIP No. 912810 CM 8). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1 The securities will be dated February 15, 1980, and will bear interest from that date, payable on a semiannual basis on August 15, 1980, and each subsequent 6 months on February 15 and August 15, until the principal becomes payable. They will mature February 15, 2010, but may be redeemed at the option of the United States on and after February 15, 2005, in whole or in part, at par and accrued interest on any interest payment date or dates, on 4 months' notice of call given in such manner as the Secretary of the Treasury shall prescribe. In case of partial call, the securities to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. Interest on the securities called for redemption shall cease on the date of redemption specified in the notice of call.

2.2 The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. the securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3 The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4 Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchange of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5 The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1 Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Thursday, February 7, 1980. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, February 6, 1980.

3.2 Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3 All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements and certifications as tenders submitted directly by bidders for their own accounts.

3.4 Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5 Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6 Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 92.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundered, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7 Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1 The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1 Settlement for allotted securities must be made or completed on or before Friday, February 15, 1980, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Monday, February 11, 1980, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Friday, February 8, 1980, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or require of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2 In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3 Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4 If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5 Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1 As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2 The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmetal procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 80-3799 Filed 2-1-80; 3:18 pm]

BILLING CODE 4810-40-M

[Dept. Circular Public Debt Series—No. 5-80]

Treasury Notes of August 15, 1983, Series J–1983; Auction

January 31, 1980.

1. Invitation for Tenders

1.1 The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $3,250,000,000 of United States securities, designated Treasury Notes of August 15, 1983, Series J–1983 (CUSIP No. 912827 KJ 0). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1 The securities will be dated February 15, 1980, and will bear interest from that date, payable on a semiannual basis on August 15, 1980, and each subsequent 6 months on February 15 and August 15, until the principal becomes payable. They will mature August 15, 1983, and will not be subject to call for redemption prior to maturity.

2.2 The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3 The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4 Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be availabe to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5 The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1 Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Tuesday, February 5, 1980. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, February 4, 1980.

3.2 Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

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No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3 All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4 Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5 Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6 Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one perent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7 Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1 The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1 Settlement for allotted securities must be made or completed on or before Friday, February 15, 1980, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received as such institution no later than:

(a) Monday, February 11, 1980, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Friday, February 8, 1980, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they ar payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social; security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2 In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3 Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignments should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4 If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5 Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1 As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2 The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable so such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 80-3600 Filed 2-1-80; 3:18 pm]

BILLING CODE 4810-40-M

[Dept. Circular Public Debt Series No. 6-80]

Treasury Notes of May 15, 1987, Series C-1987; Auction

January 31, 1980.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,000,000,000 of United States securities designated Treasury Notes of May 15, 1987, Series C-1987 (CUSIP No. 912827 KK 7). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated February 15, 1980, and will bear interest from that date, payable on a semiannual basis on November 15, 1980, and each subsequent 6 months on May 15 and November 15, until the principal becomes payable. They will mature May 15, 1987, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4 Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, February 6, 1980. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, February 5, 1980.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3 All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commerical banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield

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will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7 Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1 The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1 Settlement for allotted securities must be made or completed on or before Friday, February 15, 1980, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Monday, February 11, 1980, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Friday, February 8, 1980, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2 In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3 Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrended. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4 If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5 Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1 As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2 The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 80-3601 Filed 2-1-80; 3:18 pm]

BILLING CODE 4810-40-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Consolidated Bahweting Ojibwa and Mackinac Tribes; Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

January 25, 1980.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 54.8(a) notice is hereby given that the Consolidated Bahweting Ojibwa and Mackinac Tribe, c/o Mr. Michael J. Wright, Post Office Box 697, Sault Ste. Marie, Michigan 49783, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on December 4, 1979. The petition was forwarded and signed by Mr. Michael J. Wright.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20242.

Rick C. Lavis,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 80-3672 Filed 2-4-80; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

National Public Lands Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of the National Public Lands Advisory Council.

SUMMARY: Notice is hereby given that the National Lands Advisory Council will meet Friday and Saturday, March 7 and 8, 1980. The meeting will be held in room 5160 of the Main Interior Building, 18th and C Streets, NW., Washington, D.C. The meeting hours will be 9:00 a.m. to 4:15 p.m. each day. The proposed agenda is: (1) Discussion and consideration of the four-year authorization for the Bureau of Land Management (BLM) for fiscal years 1982–85, and related matters; (2) Continuation of the Council's internal organization, including the election of Council officers and establishment of working committees, and (3) Determination of agenda, time, and location for the Council's next meeting.

DATES: March 7 and 8, 1980—Council Meeting; March 7, 1980—Public Statements.

ADDRESS: Copies of such statements may be mailed in advance of the meeting to: National Public Lands Advisory Council, c/o Director (660), Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Lee Laitala or Bill Duddleson, Office of Cooperative Relations, (202) 343–8947, or (202) 343–5629.

SUPPLEMENTARY INFORMATION: The Council advises the Secretary of the Interior through the Director, Bureau of Land Management, as to regulations, policies, plans, and programs of national scope relating to public lands and resources under the jurisdiction of the Bureau.

All meetings of the Council will be open to the public. Opportunity will be provided for members of the public to make brief oral statements to the Council, regarding matters on the meeting agenda, on Friday, March 7, from 2 p.m. to 4 p.m.

Oral statements to the Council by members of the public at this meeting should not exceed 10 minutes and should address specific national public lands issues related to the matters on the agenda. Such statements are to be submitted in writing and at least two copies filed with the Council Chairperson at the meeting. In addition, written statements alone may be filed with the Council. Early filing or mailing of such statements is encouraged to facilitate consideration by the members of the Council.

Dated: January 31, 1980.

Ed Hastey,

Associate Director.

[FR Doc. 80-3682 Filed 2-4-80; 8:45 am]

BILLING CODE 4310-84-M

Wetland-Riparian Area Protection and Management; Policy and Protection Procedures; Final Guidelines

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of final guidelines.

SUMMARY: This notice provides the Bureau of Land Management's (BLM) policy and final internal procedures to implement Executive Order (EO) 11990, Protection of Wetlands. These guidelines are intended to improve the protection and management of wetland and riparian areas on BLM-administered lands.

EFFECTIVE DATE: These procedures are part of the BLM Manual Section 6740 and were effective as of October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. John E. Crawford, Bureau of Land Management (240), 18th and C Streets, NW., Washington, D.C. 20240 202/343–4340 or 6188.

PRINCIPAL AUTHORS: BLM Manual Section 6740 was written by the following persons while stationed with the BLM at the following locations: John E. Crawford, Washington, D.C.: Paul E. Cuplin, Denver, Colorado; C. William Hoeft, Washington, D.C.: and William B. Krohn, Washington, D.C.

SUPPLEMENTARY INFORMATION: The BLM administers over 450 million acres of pulic land, of which less than two percent is wetland-riparian. These areas are especially important because they are biologically diverse, relatively fragile, and limited in supply. The intense use of wetland/riparian areas for recreation, timber harvest, livestock grazing, wildlife habitat, and other uses make them a focal point for resource conflicts. These final guidelines establish the policy and procedures for the identification, protection, maintenance, enhancement, and management of these fresh, brackish, and saline water wetland areas.

A notice of availability of the BLM's interim wetland-riparian guidelines was published in the **Federal Register** on November 8, 1978, to invite public review and comment (43 FR 52179). A total of 200 requests for copies of the guidelines were received. One hundred and thirty-two requests came from the private sector, primarily from legal firms, environmental consultants, and oil companies. The remaining sixty-eight requests were from county and State offices (42), and Federal agencies other than BLM (26).

Six reviews were received on the proposed policy and procedures to protect and manage wetland-riparian areas. These responses were from Federal agencies (2), oil and gas companies (2), and environmental consultants (2). No substantive objections to the proposed BLM Manual Section were raised. The environmental consultants were complimentary regarding the draft BLM Manual Section's overall content. There was general agreement by the reviewers that wetland and riparian areas have a wide variety of resource values and, hence, deserve special consideration in land-use planning and management.

One reviewer felt that the proposed guidelines were too specific. While it is recognized that BLM managers face a broad array of conditions and situations in regard to wetland and riparian areas, specificity was retained in the guidelines due to the relatively specific nature of the EO.

Another reviewer felt that the process for obtaining permits required for

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certain water projects should be included in BLM Manual Section 6740. The permitting requirements for water projects will be handled in a Manual Section distinct from 6740, but the contents of the two Manual Sections will be fully coordinated in their implementation.

Another reviewer suggested that available alternatives consider economic, environmental, and other pertinent factors as stated in the EO 11990 (Protection of Wetlands). This suggestion has been incorporated into these guidelines in BLM Manual Section 6740.13A, Impact Assessment, Available Alternatives. In addition, this comment recommended deletion of the requirement under BLM Manual Section 6740.3, Development, Construction, and Maintenance Activities, requiring that a BLM official remain onsite to ensure protective and mitigative stipulations are met. This requirement has been retained in the Manual Section, but has been modified to permit periodic inspection where continuous monitoring is unrealistic or not needed. Another reviewer recommended that "irreparable damage" under BLM Manual Section 6740.06C, Policy, be changed to "significant, long-term ecological damage." This recommendation is accepted and the section has been amended accordingly.

These final BLM guidelines meet the requirements of the President's EO 11990, which was issued in furtherance of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), and are consistent with Department of the Interior procedures to implement EO 11990 (44 FR 36119).

Frank Gregg,
Director.

6740—WETLAND-RIPARIAN AREA PROTECTION AND MANAGEMENT

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1. Condition Classes for Streambanks and Shorelines

.01 *Purpose.* This Manual Section establishes policy and procedures for the identification, protection, maintenance, enhancement, and management of fresh, brackish, and saline water wetland areas. It applies to all Bureau of Land Management (BLM) programs and actions. These areas include, but are not limited to, areas adjacent to waterways (whether waters are surface, subsurface, or ephemeral), potholes, wet meadows, sloughs, marshes, swamps, bogs, and muskegs, flood plains, lakes, reservoirs, springs, and estuarine areas administered by BLM. Riparian areas which presently or potentially support broad-leaf vegetation in arid and semi-arid ecosystems are of special management concern.

.02 *Objectives.* The objectives are to:

A. Implement a management system to protect, maintain, and enhance all wetland-riparian areas administered by BLM.

B. Set forth policy for the identification and inventory of all BLM-administered wetland-riparian areas using appropriate methods.

C. Ensure that all wetland-riparian areas, their unique characteristics, and their ecological requirements (biological, chemical, and physical) are managed in accordance with legislative, Executive, Departmental, and Secretarial directions. Such direction include, but are not limited to, those concerning land-use classification, resource management, development, regulation, and licensing activities.

.03 *Authority.* A. *Federal Land Policy and Management Act (FLPMA) of 1976* (43 U.S.C. 1701).

B. *Endangered Species Act (ESA) of 1973* (87 Stat. 884; 16 U.S.C. 1531 et seq.).

C. *Executive Order (EO) 11990, Protection of Wetlands* (42 FR 26961; May 24, 1977).

D. *Executive Order 11988, Floodplain Management* (42 FR 26951; May 25, 1977).

E. *Sikes Act,* Title II (16 U.S.C. 679 et seq.)

F. *National Environmental Policy Act (NEPA) of 1969,* as amended (42 U.S.C. 4321, et seq.).

G. *Surface Mining Control and Reclamation Act of 1977* (91 Stat. 445).

H. *Federal Water Pollution Control Act, as amended* (86 Stat. 816; 33 U.S.C. 1251).

I. *Clean Water Act of 1977* (33 U.S.C. 446 et seq.).

J. *Public Rangelands Improvement Act of 1978* (92 Stat. 1803).

.04 *Responsibility.* A. *The Director and Associate Director* are responsible for overall wetland-riparian protection and its interaction with all other bureau programs. This responsibility is exercised through the Deputy Directors.

B. *Deputy Director, Lands and Resources,* within his/her assigned areas of responsibility, is responsible for the overall coordination and integration of wetland-riparian area policies and procedures. He/she provides policy and program interpretations, direction, leadership, and line management to assure consistency of field implementation of policies and procedures to enhance, protect, maintain, or develop wetland-riparian areas.

C. *Assistant Director, Renewable Resources,* is responsible for developing and implementing policy and programs to protect and manage wetland-riparian areas. He/she identifies, addresses, and reconciles wetland-riparian issues and conflicts within and between programs under his/her responsibility and provides direction and managment for wetland-riparian programs.

D. *Chief, Office of Budget,* is responsible for ensuring that requests for new authorization or appropriations transmitted to the Office of Management and Budget (OMB) indicate whether an action to be proposed will be located in a wetland-riparian area and whether the proposed actions is in accord with Executive Order 11990.

E. *Assistant Director, Lands and Rights of Way,* is responsible for developing procedures to ensure that when public land wetland-riparian areas, or portions thereof, are proposed for lease, easement, or right-of-way within his/her area of responsbility, or for disposal to non-Federal public or private parties, the BLM does the following:

1. Cites in the conveyance those uses that are restricted under Federal, State, or local wetland regulations.

2. Attaches other appropriate restrictions to the uses of properties by the grantee or purchaser, and any successor, except prohibited by law.

3. Withholds such properties from disposal when the procedures are not met.

4. Retains ownership of wetland and riparian habitats where appropriate (see .06E).

F. *Chief, Division of Rangeland Management,* is responsible for developing and issuing guidelines for the inventory, analysis, and management of soil, water, and vegetation on rangelands. This Chief is also responsible for issuing guidelines on rangeland management activities in such a way as to minimize negative impacts on wetland-riparian vegetation resources; and water resources which do, or could, support wetland-riparian areas.

G. *Chief, Division of Wildlife and Endangered Species,* is responsible for:

1. Developing fish and wildlife habitat management policy, procedures, and technical guidance relating to wetland-riparian protection.

2. Ensuring the wetland-riparian protection procedures are incorporated into all Bureau programs.

3. Evaluating the effectiveness of wetland-riparian habitat protection and management procedures and programs.

4. Developing the guidance for the preparation of plans to protect, maintain, and restore wetland-riparian habitats to the desired condition.

5. Systematically reviewing rules, regulations, procedures, and proposed legislation to establish and update the Bureau's efforts to protect wetland-riparian areas in compliance with Executive Order 11990.

H. *Other Division and Office Chiefs* are responsible for:

1. Ensuring the incorporation of wetland-riparian habitat protection policy and procedures into their program areas.

2. Evaluating and reviewing their own programs for compliance with these objectives.

I. *Service Center Director* is responsible for:

1. Assisting in the development and coordination of wetland-riparian inventories.

J. *State Directors* are responsible for:

1. Ensuring compliance with the procedures for wetland-riparian habitat protection and management.

2. Providing technical assistance on wetland-riparian habitat protection and management.

3. Providing guidance or services to the District Managers to implement wetland-riparian protection and management procedures.

4. Conducting evaluations and monitoring wetland-riparian habitat protection and management.

K. *District Managers* are responsible for:

1. Implementing the procedures and guidance for wetland-riparian habitat protection and management.

2. Inventorying wetland-riparian habitats, including the analysis of protection and development opportunities; and formulating management decisions for the protection, development, and management of wetland-riparian resources.

3. Ensuring that wetland-riparian functions and needs are considered and coordinated during the preparation of land-use plans through the Bureau Planning System (BPS).

4. Monitoring habitat and water quantity and quality characteristics associated with wetland-riparian habitats.

.05 *Definitions.* (See Glossary of Terms.)

.06 *Policy.* In meeting Bureau responsibilities for the management, acquisition, and disposal of the public lands, it is Bureau policy to:

A. Avoid the long- and short-term adverse impacts associated with the destruction, loss, or degradation of wetland-riparian areas.

B. Avoid construction in wetland-riparian areas whenever there is a practical alternative.

C. Preserve and enhance the natural and beneficial values of wetland-riparian areas which may include constraining or excluding those uses that cause significant, long-term ecological damage.

D. Include practical measures to minimize harm in all actions causing adverse impacts to wetland-riparian areas.

E. Retain under BLM administration and ownership all wetlands and riparian habitats except:

1. If Federal, State, public and private institutions, and parties have demonstrated the ability to maintain, restore, and protect wetlands and riparian habitats on a continuous basis.

2. If transfer of public lands, minerals, and subsurface estates is mandated by legislation or Presidential order.

.07 *Background.* Wetland-riparian areas values are especially important because they are a critical source of biological diversity. Wetland-riparian areas are popular recreation areas, excellent sources of rock and aggregate, preferred grazing areas, productive timber sites, road construction sites, and provide scenic variety. The majority of this country's wildlife either depend on wetland-riparian areas or use them proportionally more than any other habitat type. Wetland-riparian areas are fragile and comprise an extremely small percentage of the public lands administered by the BLM. Many have been destroyed or degraded. This degradation is influencing water quality and quantity; flood frequency and severity; pollution; commercial, recreational, and subsistence fisheries; area aesthetics; and a wide range of fish and wildlife, including many endangered, threatened, and sensitive species.

.1 *Wetland-Riparian Habitat Protection and Enhancement.* The need for wetland and riparian habitats, and the impacts of various land-uses and management proposals on such habitats, are initially considered in the Bureau's Planning System (BPS). (See BLM Manual Sections 1601 through 1609.) This system includes environmental analyses as required by the NEPA. Subsequent actions are given more detailed analysis in response to NEPA-related regulations (40 CFR 1500), and related Departmental and Bureau guidance. The following portion of .1 refers to current Bureau planning and environmental analysis procedures. Since both procedures are undergoing substantial modification in response to recent legislation and regulations, the wording of Section .1 below will soon be out of date. Thus, this Section will be reissued when new guidance is developed for BLM planning and environmental analysis procedures.

.11 *Location of the Proposed Action.* Determine if the proposed action will occur within a location, onsite or offsite, that will affect or impact wetland-riparian habitats. This determination is necessary to evaluate the impacts of the proposed action during the planning and environmental assessment processes.

A. *Inventory.* Wetland-riparian areas are identified and mapped as set forth in the Bureau's Soil-Vegetation Inventory Method (See BLM Manual Section 4412.14) or other appropriate methods.

Vegetation conditions of wetland-riparian habitats are recorded during inventory in terms of successional stages, plant composition, and plant cover. Habitat conditions are assessed in terms of streambank-shoreline classes 1–4 (See Appendix 1) during fisheries and/or water resource inventories (See BLM Manual Section 6671).

B. *Unit Resource Analysis (URA).* Inventory data and the subsequent analysis of the location and condition of wetland-riparian habitat will be documented in Step 3 of the wildlife and other appropriate URA sections. These data are recorded according to procedures defined in BLM Manual Section 1605. In the event the URA process has already been completed, required inventories for wetland-riparian areas to be impacted by land management activities or authorizations are conducted prior to environmental assessment records (EAR), environmental impact statements (EIS), or development of habitat management plans (HMP). Adequate URA data relating to wetland-riparian areas are essential to support future management framework plan (MFP) recommendations.

C. *MFP.* Identified wetland-riparian areas are shown on the Step 1, MFP overlay so that possible impacts arising from BLM programs or actions can be identified and analyzed in the wildlife and other appropriate sections of MFP Step 2. MFP considerations for wetland-riparian habitats may be missing, inappropriate, or incomplete when newly initiated activities are under consideration or when new environmental assessments are made. In these cases data must be gathered, analyzed, and used to develop suitable management considerations prior to activity plan initiation.

.12 *Public Participation.* Always involve the public in the planning process for all actions affecting wetlands-riparian habitats. Public involvement, regarding wetland-riparian areas located within the 100 year floodplain, must follow the procedures in BLM Manual Section 7221. The type, amount, time, and kinds of public participation during the evaluation of proposals varies depending upon the action proposed. Public participation occurs through the Bureau environmental assessment and planning processes, and is guided by a public participation plan. BLM Manual Section 1127 provides guidance for preparing such a plan. Notify the public as early as possible that an action may occur within a wetland-riparian area. (See BLM Manual Section 1790.) Issue this notice before site and alternative site identification and analysis begins. Seek public help in the process of alternative site identification. Indicate if the action may result in hazards to public safety and welfare, property, or natural and benefical functions, if this is known. Notification must take place as part of the Bureau's normal planning and environmental processes and wetland-riparian issues must be explicitly discussed.

.13 *Impact Assessment.* The guidance for analyzing the impacts of the proposed action is found in the Bureau's environmental assessment process (See BLM Manual Sections 1791 and 1792) and planning system (See BLM Manual Sections 1601 through 1609). As a minimum, the conditions of wetland and riparian areas must be assessed in terms of: successional stages of plants, plant cover and composition, and streambank-shoreline classes where important fisheries values are involved. Other types of data which may be collected include water flows, water quality, and water needs.

A. *Available Alternatives.* These include the proposed action. In addition to addressing the alternatives in the procedure outlined in BLM Manual Sections 1791 and 1792, and the MFP of th BPS (BLM Manual Section 1608), for each proposed action, identify and evaluate locations outside the wetland-riparian area. If an environmentally acceptable alternative location would satisfactorily accomplish the same purpose, do not locate the action in the wetland-riparian area. Analyze alternative sites or methods as thoroughly as the proposed action itself has been analyzed, fully considering economic, environmental, and other pertinent factors.

B. *Impacts of the Alternatives.* Identify and discuss the possible impacts as described in BLM Manual Section 1791 or 1792 for all alternative sites or methods being contemplated. Also evaluate the impacts of an action outside the wetland-riparian area but affecting this habitat. Include the analysis and documentation of impacts in the same document used for environmental analysis. In the analysis, consider secondary impacts resulting from the proposal.

C. *Mitigating and Restoring Measures.* During the environmental assessment process, identify and describe the special means to reduce adverse impacts and/or restore the existing environment (BLM Manual Sections 1791 and 1792). As a part of wetland-riparian management, consider all measures to *minimize* the damage and to *preserve* and *restore* the area. If there are alternative proposals for actions, each action must be complete with its own mitigating and restoring measures. These measures must be:

1. Possible and practical.
2. Consistent with Bureau, State and local governments', and other agencies' plans.
3. Incapable of causing additional adverse impacts to wetland-riparian habitat.
4. Supported by management.
5. Enforceable.

.14 *Steps in the Decision Process.* The decision process contains three steps to ensure that all considerations are part of the final decision.

A. *Selecting the Desired Action.* Analyze the total impact and mitigating and restoring measures of the proposed action and alternatives. After this analysis, make a tentative decision to use the proposed or an alternative action that will cause the least amount of degradation to the total environment.

B. *Reevaluating the Selected Action.* Reevaluate the selected action after receiving public comments (see .12B). Incorporate those comments of value into plans for the selected action. In some cases, a different action may be chosen because the public comments have provided information that was unknown or not available when the tentative selection was made. Issue a decision document or notice to the public explaining the final decision.

C. *Implementing the Decision.* Immediately after issuing the decision document, prepare other documents such as contract or land-use authorization. Monitor and record all actions that affect wetland-riparian habitats according to the appropriate BLM Manual Sections. The monitoring action ensures that:

1. Mitigating and restoring measures become a part of any construction documents or land-use authorization terms and conditions.
2. Terms and conditions of a contract or land-use authorization are satisfactorily completed.

.2 *Wetland-Riparian Habitat Management.* The Executive Order 11990, Protection of Wetlands, states that all Federal agencies must provide leadership in the management of wetlands. The FLPMA Section 102(a)(8) and (11), requires protection and management of the public lands. This intent is met through the development of wildlife program activity plans for wetland-riparian areas, general management provisions applicable to all Bureau programs and actions, and incorporation of wetland-riparian habitat protection features into other Bureau programs and activity plans. Cooperative agreements are a major management option the BLM may use to obtain sound wetland-riparian protection and management.

.21 *Wildlife Activity Plans.* Important wetland-riparian habitats are managed through development of HMP's (see BLM Manual Section 6620) commensurate with priorities and decisions made through the BPS.

.22 *Major Management Practices.* A. *Buffer Strips.* Whenever and wherever practical, establish buffer strips to protect wetland-riparian areas from significant disturbance, e.g., road construction, mining, logging, grazing, intensive recreation use, agriculture, fire, insecticide and herbicide application, etc. These buffer strips help to maintain stream temperature regimes, and water quality, and prevent excessive stream sedimentation and stream channel erosion. As land-use plans are developed or revised always give priority to maintaining shoreline-bankside stability and to management practices that remedy human caused bank erosion and sloughing. The need for buffer strips varies with the steepness of the terrain, blowdown conditions, nature of the soil, streamflow, water quality standards, and the sensitivity of the resources being protected. In general, 75 or so feet on each side of a stream or wetland is adequate. Where riparian habitat extends more than 75 feet from water, protect the entire width of the raparian vegetation where possible. Buffer strip widths must be determined on each site and be applicable to special needs.

B. *Areas of Critical Environmental Concern (ACEC).* Section 102(a)(8) and (11) of FLPMA establishes policy for protecting the quality of ecological values, preservation of certain public lands in their natural condition, and requires plans for the protection of ACECs. Important wetland-riparian areas may be designated as ACEC through the Bureau planning process. Critial environmental values must be protected by special management which, as appropriate, constrains or excludes other uses causing irreparable damage.

C. *Withdrawals.* Section 204 of FLPMA provides authority for withdrawal of public lands, including lands and interests in land, for resource uses to preserve values when in the public interest.

.23 *Other Program Management Practices.*

A. *Grazing Management.* 1. Design grazing systems and management practices to give riparian vegetation the protection necessary to maintain and restore habitat cover and diversity, shoreline-streambank stability, reduce sedimentation, provides water temperature ranges suitable for desirable aquatic life, and to meet State and Federal water quality standards. BLM Manual Section 4111.32D5c (allowances for wildlife), 4112.11A4a (habitat requirements for small wildlife forms), 4112.1A4b (fish habitat), 4112.11A4e (exclusion from ungulate grazing), and 4412.21F (crucial areas) establish policy and procedures applicable to range management and protection in wetland-riparian habitat. Grazing management procedures may include livestock management practices or protecting fencing to exclude grazing use in riparian areas.

2. Important fisheries (which include water bodies inhabited by important, threatened, endangered, or sensitive aquatic or riparian species) will receive special management consideration according to the classifications in Appendix 1. Management will be adjusted to provide for recovery of raparian habitat to a class II or greater level along shorelines or steambanks (½ mile or more segments) rated in class III or IV.

B. *Forest Management.* 1. Include requirements for removal of slash and stream blockages as an intergral part of all timber sale contracts. This is especially important in anadromous fish spawning waters and other waters where free movement of fish in streams is important.

2. Always prohibit skidding of logs across or down streams or drainageways; also, allow heavy equipment to cross streams only at designated, constructed crossings.

C. *Minerals Management.* 1. Discourage instream or shoreline lease developments whenever possible. To the extent possible, mineral removal must be away from the water's edge or outside the wetland-riparian vegetation zone to protect high quality riparian and/or aquatic resources.

2. Coordinate placer mining activity to prevent destruction of riparian and aquatic habitats and enforce applicable regulations. Design construction of placer mine settling ponds to allow for high waterflows to prevent washouts from seasonal flooding.

D. *Fire Management.* 1. Exercise care in the application of fire retardant chemicals in wetlands-riparian areas. Otherwise, fisheries may be damaged through eutrophication caused by phosphate-based retardants and from particulates in all retardants. As a general rule, do not drop retardants closer than 100 yards to any wetland or riparian area. Make drops parallel to, and not across, drainages. The Area Manager must identify areas in which retardants are prohibited. These are shown as "action modification areas" on the fire planning overlays. Dispatchers and personnel assigned as resource advisors must be aware of these areas. No phosphate retardant may be used in such areas unless authorized by the District Manager.

2. Construct firelines to minimize erosion and sedimentation of wetland-riparian areas. Fire managers should avoid creating chutes into natural drainages. Firelines that are angular or perpendicular to a drainage should be stopped within 300 feet of drainages where the terrain slope could create erosion entering the drainage system. Where slope is minimal or nonexistent, firelines could extend closer to the water body (i.e., stream, lake). Fire crews should use their equipment to rehabilitate firelines before leaving the area. Rehabilitation practices can include water barring of hand and mechanically constructed firelines, falling snags across drainage courses to trap sediment, and seeding of catlines. Revegatation must be considered where natural plant succession would be insufficient to prevent erosion.

3. Consider the use of prescribed fire to enhance wetland-riparian areas. It is a valuable tool in management. Exercise care in using fire for slash disposal, either for regeneration or reduction of hazard in wetland and riparian habitats. Schedule slash burning so as not to interfere with critical periods of habitat use by wildlife species such as waterfowl nesting. Leave buffer areas between stream and burned areas.

4. Require revegetation of streambanks and the watershed and construction of water bars and detention dams to prevent erosion and siltation of streams.

E. *Recreation Management.* 1. Locate recreation visitor-use facilities, including campgrounds, picnic areas, interpretive sites, parking areas, roads and trails, and the control of water sources and sewage disposal to cause minimal or no adverse impact upon the quantity and quality wetland-riparian habitats.

2. Plan visitor management procedures to avoid adverse impacts of concentrated visitor use upon the quality of wetland-riparian habitats and disturbance of wildlife in certain critical seasons. If visitor use causes advers impacts on critical riparian habitat, the facility should be closed or more closely regulated until natural vegetative conditions are restored.

.3 *Development, Construction, and Maintenance Activities.* All construction in wetland-riparian zones must

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minimize or prevent disturbance to the natural environment. Schedule maintenance and construction operations to minimize impacts (e.g., during either extended dry or frozen conditions). During actual construction, a BLM official should remain onsite or make regular and timely inspections to ensure that protective and mitigative stipulations are met.

.31 *Road and Trail Construction.* A. *Design and Construction.* Design and construct wetland crossings to maintain the natural surface and subsurface drainage.

B. *Road and Trail Locations.* Locate roads and trails outside of wetland-riparian areas unless all other alternative routes have been reviewed and rejected as being more environmentally damaging, involve prohibitive costs, or if relocation would clearly not be in the best public interest.

C. *Areas of Disturbance.* Limit areas of disturbance to a minimum if construction in wetland-riparian areas is necessary. Consult watershed, range, recreation, and fisheries or wildlife staffs as soon as an apparent need for construction in wetland-riparian areas is identified. With the aid of these specialists, develop and implement appropriate mitigation during and following construction activity.

D. *Revegetation.* Reestablish native vegetation in, or adjacent to, wetland-riparian areas with seedings or seedlings.

E. *Erosion Control.* Install erosion, siltation, and/or sediment control measures such as hydroseeding, brush barriers, straw bails, and vegetative or mineral mulches along the length of the toe(s) of the fill(s) concurrently with construction activities when roads are directly adjacent and parallel to wetland-riparian areas. Barriers are confined to the toe of the fill closest to the affected wetland-riparian area, unless excessive sediment might be transported.

F. *Culverts and Drainage Ditches.* Install culverts and drainage ditches which are constructed to maintain existing riparian and wetland drainage patterns to the maximum extent possible. Improper placement or sizing of culverts can block the movement, migration, and emigration of aquatic species inhabiting waters adjoining wetland-riparian areas if water velocities in the installed culverts increase substantially above normal. Therefore, place culverts in a manner which will not create velocity barriers. Velocities can be reduced by increasing culvert diameter, decreasing culvert gradient, installing baffles, and sometimes by constructing pools immediately below the culvert. Use most cost effective means for maintaining existing stream velocities at both high and low flows. Fills around culvert should be riprapped on both the upstream and downstream sides.

.32 *Channel Modification.* A. *Use of Channelization.* Employ stream channelization for flood control or other purposes only as a last alternative.

B. *Location of Channels.* Channel excavations required for road construction and other purposes must follow the existing stream channel, if at all possible. Design channel modifications to minimize changes in hydraulic gradient and channel length, as well as to minimize changes in ground water discharge rates.

C. *Channel Widening.* Restrict channel widening to one side of the channel only, unless outcroppings or other obstacles would unduly constrict streamflow(s), in a manner to maintain stream depth and gradient.

D. *Channel Banks.* Shape newly cut channel banks as close to the vertical as can be stablilized with plantings of natural vegetation (trees, shrubs, and grasses). On soil banks where vegetation cannot be established, use other protective measures, such as large riprap.

E. *Channel Shaping and Vegetation Removal.* Generally, do not shape or remove vegetation on the unwidened side of the streambank. Maintain the side of the channel best shading the affected stream section at midafternoon hours of summer sunlight. If both streambanks provide comparable shading, select then the side of channel nearest construction activities.

F. *Vegetation Clearing.* Keep vegetation clearing to the minimum required for project accomplishment. Confine clearance of trees and other wetland-riparian vegetation to the channel area during excavation activities, unless special circumstances necessitate additional clearance.

G. *Floodflow Design.* Hold floodflow capacity of the new channel to that of adjacent upstream and/or dowstream areas rather than designing for a hypothetical floodflow capacity such as the 100-year floodflow or for the minimal flow necessary for protecting bridges and other installations.

H. *Stream Gradient.* Use drop structures and instream improvement structures to return stream gradient to the original grade if significant channel shortening is necessary. Drop structures must not be so abrupt as to create migration barriers to fish life at high or low flows.

I. *Lined Channels.* Avoid lined channels constructed of impermeable materials, such as concrete which prevents the natural interchange of streamflow and ground water, unless no other alternative exists, or if resource management benefit can be documented.

J. *Minimizing Sedimentation.* Excavate channels "in the dry," i.e., by maintaining *plugs* of earth at the upstream and downstream ends. This minimizes sediment damage to wetland-riparian and aquatic areas.

.33 Spring Development and Maintenance. Develop and maintain springs so as to protect their natural functioning. This includes maintaining or restoring the natural vegetative community and maintaining existing ground and surface water elevations. Use fencing to protect spring sites from overuse by grazing animals or other conflicting uses. Pipe water required for livestock use to water troughs outside and away from the fenced area.

.34 *Reservoir Construction and Maintenance.* Construct and maintain reservoirs in a manner, where possible, to expand and maintain downstreams wetland and riparian habitat. Closely coordinate *all* water development and maintenance plans with wildlife, fisheries, and watershed specialists to maximize protection and enhancement opportunities. Protective fencing to maintain vegetation for wildlife food and cover, and soil stability should receive strong consideration as a viable component of the project.

.35 *Land Treatment.* Exclude and protect riparian and wetland areas from site conversion projects, unless the conversion is specifically for the protection and/or enhancement of wetland-riparian or aquatic habitats. Closely coordinate all vegetation and other conversion operations potentially affecting riparian-wetland or aquatic habitats with the wildlife biologist, fisheries biologist, archeologist, landscape architect, watershed specialist, and the State wildlife agency during the planning stages. Land treatments include, but are not limited to, spraying, plowing, chaining, seeding, and prescribed burning.

Glossary of Terms

A

anadromous: fish which migrate from the sea to spawn in rivers, streams, or lakes.

B

bog: a poorly drained, usually acid area rich in plant residues frequently surrounding a body of open water often containing wet, spongy ground and having a characteristic flora (such as sedges, heaths, and sphagnum).

D

diversity: a measure of the variety of species in a community that takes into account the relative abundance of each species.

E

ephemeral: short-lived or transitory.
eutrophication: successional process promoted in aquatic systems when increases in available nutrients result in increased oxygen consumption (respiration) and increased biomass which, in turn, lead the aquatic system away from its original condition.

F

facility: any building, recreation site, structure, land, public work, equipment, aircraft, vessel, or other vehicle.
fragile: sensitive to external stimuli which may disturb the existing balance of conditions and properties, especially in an irreversible direction.

H

habitat: place where an animal or plant normally lives for a substantial part of its life, often characterized by dominant plant forms and/or physical characteristic (i.e., the stream habitat, the forest habitat).

M

monitoring: the actual collection of qualitative and quantitative data relating to the physical, chemical, and bilolgical status, either at one point in time or on a continuous basis, of a total environmental system or portion thereof (i.e., water, air, aquatic life cycles, etc.).

P

pollution: the alteration of the chemical, physical, biological, and radiological integrity of terrestrial and/or aquatic habitats made by humans or induced by them.

R

riparian habitat: a specialized form of wetland restricted to areas along, adjacent to, or contiguous with perennially and intermittently flowing rivers and streams, also, periodically, flooded lake and reservoir shore area, as well as lakes with stable water levels with characteristic vegetation. This habitat is transitional between true bottom land wetlands and upland terrestrial habitats and, while associated with water courses, may extend inland for considerable distances. Soils of the riparian habitat may not exhibit typical wet soil characteristics of other wetlands. If not, wet soil characteristics will exist close enough to the surface for the water to be used directly by vegetation. This vegetation may range from water-loving hydrophytes (such as pond weeds) through terrestrial forms (such as sycamores, cottonwoods, and willows).

S

stability: resistance to change.

W

wetland or wetland habitat: permanently wet or intermittently flooded areas where the water table (fresh, saline, or brackish) is at, near, or above the soil surface for extended intervals, where hydric wet soil conditions are normally exhibited, and where water depths generally do not exceed 2 meters. Vegetation is generally comprised of emergent water-loving forms (hydrophytes) which require at least a periodically saturated soil condition for growth and reproduction. In certain instances vegetation may be completely lacking. Marshes, shallows, swamps, muskegs, lake bogs, and wet meadows are examples of wetlands.
wet meadows: areas where grasses predominate and the soil usually is without standing water during most of the growing season, but is normally waterlogged within a few inches of the ground surface.

Condition Classes for Streambanks and Shorelines

1. *Class I, Excellent*—No negligible use/damage; well-rooted vegetation (primarily grasses, sedges, and forbs); sod intact; very little, if any erosion from vegetation areas, less than 5 percent bare soil showing along shoreline.

2. *Class II, Good*—Some use/damage; vegetation generally well-rooted; sod mostly intact; soil showing in places (6 percent to 15 percent bare soil showing overall); some surface erosion evident.

3. *Class III, Fair*—Use or damage close to sod; vegetation shallow-rooted; moderate surface erosion (16 percent to 25 percent bare soil showing overall).

4. *Class IV, Poor*—Heavy to severe use/damage; vegetation generally grazed down to the soil; considerable soil showing (over 25 percent) with sod damage serious; active surface erosion a serious problem.

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Fish and Wildlife Service

Notice of Intent To Prepare Environmental Impact Statements and Supplements

AGENCY: U.S. Fish and Wildlife Service, Interior Heritage Conservation and Recreation Service, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the U.S. Fish and Wildlife Service will prepare an Environmental Impact Statement for a proposal to conserve the fish, wildlife and habitat values of the Alaska Peninsula, Alaska through designation of an Alaska Peninsula National Wildlife Refuge. The Service also will prepare a supplement to the 1974 Department of Interior Environmental Impact Statement for designation of an Iliamna National Resource Range in Alaska. For consistency, these two documents will examine alternatives of the scope and nature of analyses of previously completed Environmental Statements for similar Alaska refuge proposals including Executive Branch actions which would withdraw the area as a national wildlife refuge or as a national monument.

The Heritage Conservation and Recreation Service will prepare an Environmental Impact Statement and Supplement for proposals to protect the natural environment within a 4 mile corridor along 11 rivers in Alaska. This statement will examine alternatives including congressional designation of seven rivers as components of the National Wild and Scenic Rivers System and authorization for study for this potential purpose for the additional four rivers and Executive Branch action which would withdraw these corridors from entry and appropriation for up to 20 years under Section 204(c) of the Federal Land Policy and Management Act of 1976.

This notice solicits public comment regarding the preparation of these three environmental impact documents. Further public comment will be sought on the draft NEPA documents through a later **Federal Register** notice.

DATES: Comments must be received by February 25, 1980.

ADDRESS: Send written comments to: William C. Reffalt, Chief, ANCSA Staff, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

National Wildlife Refuge Proposals—William C. Reffalt, Chief, ANCSA Staff, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, (202) 343-7533.

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Wild and Scenic Rivers— John Haubert, Outdoor Recreation Planner, Heritage Conservation and Recreation Service, Department of the Interior, Washington, D.C. 20240, (202) 343-4793.

SUPPLEMENTARY INFORMATION: The actions described in all three of these documents are part of the current congressional consideration for designating new or additions to the existing National Parks, Wildlife Refuges, Forest and Wild and Scenic Rivers Systems in Alaska pursuant to the Alaska National Interest Lands Conservation bills before Congress. The documents describe alternatives available to the Executive Branch which could approximate the natural resources protection that would be afforded under legislative proposals. The 1979 recommendations by the House of Representatives and the Senate Committee on Energy and Natural Resources are:

Alaska Peninsula—Would be designated as a national wildlife refuge by both houses.
Iliamna—The House would permit State of Alaska selection for its ownership if the area was legislatively designated for protection of watershed and fisheries; otherwise one or more national wildlife refuges would be created. The Senate would convey the area to the State.
Rivers—Alagnak, Birch Creek, Delta, Fortymile, Gulkana and Unalakleet, would be designated as wild and scenic rivers by both houses.
Kisaralik—Would be designated a wild river by the House; study would be authorized by the Senate.
Melozitna—Study would be authorized by both houses.
Koyuk, Nuyakuk and Susitna—Study would be authorized by the House; not referenced by the Senate.

The designation of the so-called "Alaska National Interest Lands" including the above-proposed areas has received broad local, State and national scrutiny from 1973 to the present. For the purpose of scoping, as required by the current CEQ regulations, a large body of public comment and other background documents were available. The similarity of the proposed actions to other National Interest Lands proposals for which NEPA compliance has been completed and the extensive public review which has already been afforded the present proposals suggests that a specific scoping meeting to determine the identification of major issues to be addressed in the current documents would not produce any new issues. However, this opportunity is being afforded for the public to raise any significant issues not outlined below.

The major documents reviewed for determination of significant issues include: the 28 volumes of the 1974 Department of Interior Environmental Impact Statement for proposed National Parks, Wildlife Refuges, Forests and Wild and Scenic Rivers in Alaska; the 1978 DOI Environmental Supplement to the 1974 EIS which analyzed the impacts of Executive Branch alternatives to congressional designation of these National Interest Lands; the following publications of reports and hearing records of the House of Representatives and the Senate (House no. 95-16 in 16 volumes; no. 95-23 in 2 volumes; no. 95-34; no. 95-1045 in 2 volumes; no. 96-97, parts I and II; no. 96-4 in 2 parts; Senate no. 95-153 in 3 parts; no. 95-64, parts I and II; no. 95-1300; and no. 96-413); State of Alaska Land Selection Program (Alaska Department of Natural Resources, 1978); and the Summary of Major Land Issues in Alaska (Joint Federal State Land Use Planning Commission for Alaska, 1979).

Additionally, twelve hearings were conducted by the Department of the Interior in April-June 1979 on possible administrative withdrawals of National Interest Lands under Section 204(c) of Pub. L. 94-579 including these proposals. These hearings were held in Washington, D.C., Denver, San Francisco, Anchorage, Fairbanks and several villages in rural Alaska. Written and oral comments on the proposals provided further evidence of public concern and a review of key issues. These written comments referred to are available for review in the Fish and Wildlife Service offices at 1101 E. Tudor Road, Anchorage, Alaska, 99503 and the ANCSA Office, 18th and C Streets, N.W., Washington, D.C. 20240.

Examination of the various documents indicates that the major issues that government agencies and the public consider important and necessary to address are:

Alaska Peninsula Proposal

The possible effects of the proposal and alternatives on:

1. The management emphasis and protection that would be afforded the outstanding fish and wildlife populations and habitats of the Peninsula:
2. The protection of cultural, historic, scientific and wilderness values of the area;
3. Maintaining the quality and quantity of water resources of the Peninsula.
4. The opportunity for continuation of the subsistence lifestyle of local rural residents;
5. The commercial and sport fish and wildlife harvests and other recreational uses of the area;
6. Other elements of the local economy;
7. Oil and gas exploration and development;
8. Mineral exploration and development;
9. Potential geothermal development;
10. The expansion and/or development of transportation systems;
11. Public access to and across the area; and
12. Reclassification of federal lands for State selection or other disposal.

Other issues, such as impacts on the development of agriculture or forest resources, are of importance for some regions of the State but by comparison are not of major concern on the Alaska Peninsula which lacks potential for development of such resources. However, these issues will be addressed.

Iliamna Proposal

The possible effects of the Executive Branch alternatives on:

1. The management and protection of fish (particularly salmon) and wildlife populations and habitats of the area;
2. The protection of cultural, historic, scientific and wilderness values of the area;
3. Maintaining the quality and quantity of water resources of the area;
4. The opportunity for continuation of the subsistence lifestyle of local rural residents;
5. Commercial and sport fish and wildlife harvests and other recreational uses of the area economy;
6. Other elements of the local economy;
7. Mineral exploration and development;
8. Expansion and/or development of transportation systems;
9. Public access to and across the area;
10. Development of small scale hydroelectric projects; and
11. Reclassification of federal lands for State selection or other disposal.

Other issues, such as impacts on the development of agriculture, oil, gas and forest resources, are of importance for some regions of the State but by comparison are not of major concern in the Iliamna area which has only low to moderate potential for development of such resources. However, these issues will be addressed.

Wild and Scenic Rivers Proposal

The possible affects of the proposal and alternatives on:

1. The preservation in a free-flowing condition of some of Alaska's most outstanding rivers in terms of their opportunities, scenic beauty, fish and wildlife resources and historic, cultural and geologic values;
2. Recreational and subsistence uses of fish and wildlife resources;
3. The protection of the natural and cultural resources of the corridors;
4. Mining and oil and gas exploration and development;
5. Water resources development projects, particularly on the Susitna River;
6. Use of the river corridors for transportation or pipeline development;
7. Public access to and across the corridors;
8. Private, State and Native corporate land holdings within corridors, and
9. Reclassification of federal lands for State selection or other disposal.

Interested parties are encouraged to review the referenced background documents and to submit any additional substantive issues relative to the proposals not addressed in this notice.

The DEIS will be released after comments have been received from this notice. The availability of the DEIS will be announced in the **Federal Register**.

The primary author of this notice is Christine Enright, U.S. Fish and Wildlife Service, 18th and C Streets, NW., Washington, D.C. 20240.

Dated: January 31, 1980.

Robert Herbst,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 80-3711 Filed 2-4-80; 8:45 am]

BILLING CODE 4310-53-M

Geological Survey

Known Recoverable Coal Resource Area; Bennie Peer, N. Dak.

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemental by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and Section 8A of the Mineral Leasing Act of February 25, 1920, as added by Section 7 of the Federal Coal Leasing Amendments Act of 1976 (Pub. L. 94-377, August 4, 1976, as amended by Pub. L. 95-554, October 30, 1978), Federal lands within the State of North Dakota have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(34) North Dakota

Bennie Peer (North Dakota) Known Recoverable Coal Resource Area; March 6, 1979; 162,233.74 acres.

A diagram showing the boundaries of the area classified for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colorado 80225.

Dated: January 28, 1980.

H. William Menard,

Director.

[FR Doc. 80-3674 Filed 2-4-80; 8:45 am]

BILLING CODE 4310-31-M

Known Recoverable Coal Resource Area; Book Cliffs, Colo.

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and Section 8A of the Mineral Leasing Act of Feburary 25, 1920, as added by Section 7 of the Federal Coal Leasing Amendments Act of 1976 (Pub. L. 94-377, August 4, 1976, as amended by Pub. L. 95-554, October 30, 1978), Federal lands within the State of Colorado have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of Feburary 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(6) Colorado

Book Cliffs (Colorado) Known Recoverable Coal Resource Area; June 1, 1979; 440,293 acres.

A diagram showing the boundaries of the area classified for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colorado 80225.

Dated: January 28, 1980.

H. William Menard,

Director.

[FR Doc. 80-3673 Filed 2-4-80; 8:45 am]

BILLING CODE 4310-31-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before January 25, 1980. Pursuant to § 60.13 of 36 CFR Part 60, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments or a request for additional time to prepare comments should be submitted by February 15, 1980.

Sarah G. Oldham,

Acting Chief, Registration Branch.

ALABAMA

Jefferson County

Birmingham, *Birmingham, Railway, Light and Power Building,* 2100 1st Ave., North.
Birmingham, *First Christian Church Education Building,* 2100 7th Ave. N.
Birmingham, *Waters Building,* 209-211 N. 22nd St.

HAWAII

Honolulu County

Honolulu, *Canavarro, Georges de S., House,* 2756 Rooke Ave.
Honolulu, *Linekona School,* Victoria and Beretania Sts.

KENTUCKY

Newell, Beaty, James and Owens Family Buildings Thematic Resources. Reference—see individual listings under Pulaski County.

Bullitt County

Shepherdsville vicinity, *Brooks, Solomon Neill, House,* NE of Shepherdsville at Hebron Lane and KY 61.

Daviess County

Yelvington vicinity, *Riley, Amos, Plantation Site (Home of Josiah Henson)* 2 mi. N of Yelvington on U.S. 60.

Fayette County

Lexington, *Battle Row,* 159-177 N. Limestone St.
Lexington, *Lexington City National Bank Building,* 259-285 W. Main St.
Lexington, *Miller Brothers Building,* 359-361 W. Main St.

Hart County

Munfordville, *Munfordville Multiple Resource Area (Partial Inventory).* This area includes: *Barrett, Dr. Lewis, House,* 2nd and Caldwell Sts.; *Chapline Building,* Main St.; *Cox, Alvey, House,* 1st and Washington Sts.; *Hart County Courthouse,* Town Sq.; *Hart County Deposit Bank and Trust Company Building,* Main St.; *Munford Inn,* 109 Washington St.; *Munford, Richard, House,* West and 1st Sts.; *Munford, Thomas Bolin, House,* 3rd and Washington Sts.; *Munfordville.*
Baptist Church, 313 S. 5th St.; *Munfordville Presbyterian Church and Green,* 3rd and Washington Sts.; *Munfordville School (Williams House)* 3rd and Washington Sts.; *Smith, F. A., House,* 204 N. Washington St.; *Wood, Gen. George T., House,* 2nd and Caldwell Sts.

Marion County
Nerinx, *Loretto Motherhouse,* Off KY 152.

Mercer County
Harrodsburg, *Daughters' College,* 838 Beaumont Dr.

Oldham County
Ballardsville vicinity, *Spring Hill,* S of Ballardsville of KY 53.

Pulaski County
Bronston, *Bronston Post Office (Newell, Beaty, James and Owens Family Buildings Thematic Resources)* Off KY 90.
Bronston, *Newell House (Newell, Beaty, James, and Owens Family Buildings Thematic Resources).*
Bronston vicinity, *Alexander Chapel Methodist Church (Newell, Beaty, James and Owens Family Buildings Thematic Resources)* Off KY 90.
Bronston vicinity, *Newell, William O., House (Newell, Beaty, James and Owens Family Buildings Thematic Resources)* Off KY 90.
Somerset vicinity, *James-Hansford House (Newell, Beaty, James and Owens Family Buildings Thematic Resources)* KY 80.
Somerset vicinity, *James-Owens House (Newell, Beaty, James and Owens Family Buildings Thematic Resources)* Off KY 80.
Somerset vicinity, *Pisgah Presbyterian Church (Newell, Beaty, James and Owens Family Buildings Thematic Resources)* Off U.S. 27.
Somerset vicinity, *Saunders, George W., House (Newell, Beaty, James and Owens Family Buildings Thematic Resources)* Off U.S. 27.

Simpson County
Franklin, *Simpson County Courthouse,* KY 73.
Franklin vicinity, *Octagon Hall,* NE of Franklin on KY 31W.

Trigg County
Canton, *Brick Inn (Canton Hotel)* Off KY 80.

MARYLAND

Baltimore (independent city)
Benson Building, 4 E. Franklin St.
Odd Fellows Hall, 300 Cathedral St.

Talbot County
St. Michaels, *Old Inn, The,* Talbot and Mulberry Sts.

Worcester County
Berlin, *Berlin Commercial District,* Main, Broad, Williams, Bay, Pitts, and Commerce Sts.

MISSOURI

Jackson County
Kansas City, *Bellerive Hotel,* 214 E. Armour Blvd.
Kansas City, *Westminster Congregational Church,* 3600 Walnut St.
St. Louis (independent city)
Convent of the Sisters of St. Joseph of Carondelet, 6400 Minnesota Ave.

Saline County
Arrow Rock, *ARROW ROCK MULTIPLE RESOURCE AREA (Partial Inventory).* This area includes: *Arrow Rock Historic District;* Arrow Rock vicinity, *Barger, Edwin, House,* Off MO 41; *Cole, Bill, House,* 1st St.; *Eddy, Kenneth, House,* Off MO 41; *Green, Elmer, House,* MO TT; *Hogge House,* Off MO TT; *Moseley House,* MO 41; *Murphy, Pat, House,* MO 41; *Ozias, Art, House,* Off MO 41; *Spring,* Off MO 41; *Stith, Bob, House,* Off MO 41; *Thompson House,* MO 41; *Van Winter House,* Off MO 41 and MO TT.

MONTANA

Yellowstone County
Billings, *Fire House No. 2,* 201 S. 30th St.

NEBRASKA

Buffalo County
Kearney, *Thomas, Dr. A. O., House,* 2222 9th Ave.

Sheridan County
Ellsworth vicinity, *Spade Ranch* (also in Cherry County).

NEVADA

Washoe County
Reno, *Rainier Brewing Company Bottling Plant,* 310 Spokane St.
Verdi vicinity, *1872 California-Nevada State Boundary Marker,* On California-Nevada border.

NEW YORK

Dutchess County
Fishkill vicinity, *Stony Kill Farm,* W of Fishkill on NY 9D.

New York County
New York, *East 78th Street Houses,* 157–165 E. 78th St.
New York, *East 80th Street Houses,* 116–130 E. 80th St.

Otsego County
Oneonta vicinity, *Stonehouse Farm,* E of Oneonta on NY 7.

NORTH DAKOTA

Grand Forks County
Northwood, *Linwell, Martin V., House,* 316 S. Raymond St.

OKLAHOMA

Oklahoma County
Oklahoma City, *India Temple Shrine Building,* 621 N. Robinson St.
Oklahoma City, *Oklahoma Gas and Electric Company Building,* 321 N. Harvey St.
Oklahoma City, *Ramsey Tower,* 204 N. Robinson St.
Oklahoma City, *Snyder's Super Service Station,* 1325 N. Broadway Ave.

PENNSYLVANIA

Lancaster County
Lancaster, *Lancaster County House of Employment (Old County Hospital)* 900 E. King St.

RHODE ISLAND

Providence County
Cranston, *Furnace Hill Brook Historic and Archeological District,* Phenix Ave. and Hope Rd.
Providence, *Cappelli, A. F., Block,* 203–205 Atwells Ave.

TENNESSEE

Shelby County
Memphis, *Maxwelton,* 3105 Southern Ave.

UTAH

Grand County
Moab, *Taylor, Arthur, House,* U.S. 163

Salt Lake County
Salt Lake City, *Liberty Park,* Bounded by 5th, 7th E., 9th and 13th S. Sts.
Salt Lake City, *South Temple Historic District,* S. Temple St.

Wasatch County
Heber City, *Murdoch, John, House,* 261 N. 400 West St.

VIRGINIA

Campbell County
Brookneal vicinity, *Cat Rock Sluice of the Roanoke Navigation,* W of Brookneal (also in Halifax County).

Charles City County
Rustic vicinity, *Rowe, The,* 3 mi. SW of Rustic.

Essex County
Millers Tavern vicinity, *Woodlawn,* 2.1 mi. NE of Millers Tavern.

Fairfax County
Alexandria vicinity, *Fort Hunt,* Mount Vernon Memorial Hwy.

Frederick County
Clear Brook vicinity, *Hopewell Friends Meetinghouse,* W of Clear Brook off VA 672.

Mathews County
Moon vicinity, *Billups House (Milford)* E of Moon.

Middlesex County
Urbanna, *Wormeley Cottage,* Virginia St.
Petersburg (independent city)
Folly Castle Historic District, Perry and W. Washington Sts.

Roanoke County
Roanoke vicinity, *Old Tombstone,* N of Roanoke.

Rockbridge County
Brownsburg vicinity, *New Providence Presbyterian Church,* NE of Brownsburg.

Surry County
Cabin Point vicinity, *Montpelier,* 1.4 mi. SW of Cabin Point.

Wythe County
Rural Retreat vicinity, *Kimberling Lutheran Cemetery,* NW of Rural Retreat.

WEST VIRGINIA

Fayette County
Gauley Bridge, *Gauley Bridge Railroad Station,* Off WV 16/39.

[FR Doc. 80-3688 Filed 2-4-80; 8:45 am]
BILLING CODE 4310-03-M

National Register of Historic Places; Annual Listing of Historic Properties

The Annual Listing of Historic Properties on the National Register of Historic Places, that would ordinarily appear here today, February 5, 1980, will be published in the Federal Register March 18, 1980.

Ronald M. Greenberg,
Acting Chief, National Register of Historic Places.

[FR Doc. 80-3739 Filed 2-4-80; 8:45 am]
BILLING CODE 4310-03-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Education

Assessment Policy Committee, National Assessment of Educational Progress; Meeting

Notice is hereby given that the Assessment Policy Committee of the National Assessment of Educational Progress (NAEP) will meet on February 8–9, 1980 at the Plaza Cosmopolitan Hotel, Broadway Arms Conference Room, 1780 Broadway, Denver, Colorado, 80202. The session on February 8 will commence at 8:30 a.m. and terminate at 4:30 p.m.; and the session on February 9 will commence at 8:30 a.m. and terminate at 12:00 noon.

The Assessment Policy Committee is established under section 405 (k)(2)(A) of the General Education Provisions Act, as amended by section 1242 of the Education Amendments Act of 1978. The Policy Committee is responsible for the design of NAEP, including the selection of the learning areas to be assessed, the development and selection of goal statements and assessments items, the assessment methodology, the form and content of the reporting and dissemination of results, and studies to evaluate and improve the form and utilization of NAEP.

NAEP is a periodic survey of the knowledge, skills, understandings, and attitudes of young Americans. During the meeting, the Policy Committee will review and discuss the NIE grant award for the continuation of the National Assessment and special provisions, future assessment cycles, and policy, management and other administration matters.

The entire meeting will be open to the public. Interested persons are invited to attend the meeting. In order to assure adequate seating arrangements, persons likely to attend the meeting may contact the following person: Mr. Dunlop Scott, National Assessment of Educational Progress, 1860 Lincoln Street, Denver, Colorado 80295 (303) 861–4917.

Dated: February 4, 1980.

Jeff Schiller,
Assistant Director, Testing, Assessment and Evaluation.

[FR Doc. 80-3686 Filed 2-4-80; 11:36 am]
BILLING CODE 4110-39-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Correction

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Correction.

SUMMARY: This document corrects the Public Disclosure of Comments Received from Federal Agencies on the Texas Permanent Regulatory Program Submission that begins on page 7319 of the Federal Register of Friday, February 1, 1980.

EFFECTIVE DATE: February 5, 1980.

ADDRESS: Director, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, 202–343–4225.

SUPPLEMENTARY INFORMATION: This document corrects errors that appeared in the February 1, 1980 Federal Register. The following instructions will aid the user in locating referenced corrections:

page—indicates the page number that appears in the upper margin.
column—indicates the column number where the error is found.
line—indicates the number of lines down from the referenced paragraph.

Dated: February 1, 1980.

Carl C. Close,
Assistant Director, State and Federal Programs.

The following correction is made:

On page 7319, column 2, SUMMARY, lines 1–3:

"Before the Secretary of Interior may approve the Surface Mining Control and Reclamation Act of 1977," is corrected to read "Before the Secretary of the Interior may approve a State program under the Surface Mining Control and Reclamation Act of 1977,".

[FR Doc. 80-3642 Filed 2-4-80; 8:45 am]
BILLING CODE 4310-05-M

V.45/25 FE 5 80 UMI

Sunshine Act Meetings

Federal Register
Vol. 45, No. 25
Tuesday, February 5, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 2 p.m., Thursday, January 31, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Emergency closed meeting.

MATTERS TO BE CONSIDERED:

Internal Personnel Matters

The prompt and orderly conduct of Commission business did not permit announcement of this meeting prior to the meeting.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone (202) 632–7260.

Issued: February 1, 1980.

[S–228–80 Filed 2–1–80; 1:50 pm]

BILLING CODE 6712–01–M

2

FEDERAL ELECTION COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, February 5, 1980.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance, Personnel, Audit Policy—Threshold Audits.

TIME AND DATE: 10 a.m., Wednesday, February 6, 1980.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: Special meeting for discussion of regulations.

TIME AND DATE: 10 a.m., Thursday, February 7, 1980.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings.
Correction and approval of minutes.
Certifications.
Advisory Opinions: Draft AO 1979–81—Larry Winn, Jr. (Member of Congress) and Draft AO 1979–82—Ronald M. Mottl (Member of Congress).
1980 Election and related matters.
Impact of H.R. 5010.
Interim enforcement procedures.
Appropriations and Budget—November Management Report.
Pending legislation.
Classification actions.
Routine administrative matters.
Discussion of regulations (continued).

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, Telephone: 202–523–4065.

Marjorie W. Emmons,
Secretary to the Commission.

[S–219–80 Filed 2–1–80; 9:59 am]

BILLING CODE 6715–01–M

3

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 6686, January 29, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: January 30, 1980, 10 a.m.

CHANGE IN THE MEETING: The following item has been added:

Item Number, Docket Number and Company

EL80–9, *Operation Overcharge Complainant* v. *Virginia Electric & Power Co.*, Respondent

Kenneth F. Plumb,
Secretary.

[S–216–80 Filed 1–31–80; 4:57 pm]

BILLING CODE 6450–01–M

4

FEDERAL ENERGY REGULATORY COMMISSION. Meeting.

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: Approximately 12 noon, January 31, 1980.

PLACE: Room 9306, B25 North Capital Street, NE., Washington, D.C. 20426.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone (202) 357–8400.

The following members of the Commission voted that agency business requires the holding of a closed meeting on less than the one week's notice required by the Government in the Sunshine Act:

Chairman Curtis.
Commissioner Sheldon.
Commissioner Holden.

Kenneth F. Plumb,
Secretary.

[S–217–80 Filed 1–31–80; 4:57 pm]

BILLING CODE 6450–01–M

5

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published February 4, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., February 6, 1980.

Item Number, Docket Number, and Company

CP–3. CP77–363, Columbia Gas Transmission Corporation and National Fuel Gas Corporation.

Kenneth F. Plumb,
Secretary.

[S–225–80 Filed 2–1–80; 1:09 pm]

BILLING CODE 6450–01–M

6

January 30, 1980.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, February 6, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Ottawa Silica Company, WILK 79–69–PM (Petition for Discretionary Review; issues include interpretation and application of 30 CFR § 56.12–68)
2. Davis Coal Company, HOPE 78–627–P, etc., HOPE 79–195–P, HOPE 79–233–P, etc., WEVA 79–25, WEVA 79–130, etc. (Issues include whether certain proposed penalty settlements were appropriately approved.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen 202–653–5632.

[S–218–80 Filed 2–1–80; 9:53 am]

BILLING CODE 6630–12–M

7

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 10 a.m., Thursday, February 7, 1980.

PLACE: Board room, seventh floor, 1776 G Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rates.
2. Applications for charters, amendments to charters, bylaw amendments, mergers as may be pending at that time.
3. Report of actions taken under delegated authorities.

CONTACT PERSON FOR MORE INFORMATION: Beatrix Fields, Acting Secretary of the Board, telephone (202) 357–1030.

[S–220–80 Filed 2–1–80; 11:21 am]

BILLING CODE 7535–01–M

8

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 2 p.m., Friday, February 8, 1980.

PLACE: Board room, seventh floor, 1776 G Street, NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Requests from federally insured credit unions for special assistance under Section 208 of the Federal Credit Union Act in order to prevent their closing. Closed pursuant to exemption (8) and (9)(A)(ii).
2. Administrative Actions under Section 120 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (10).
3. Special Reserve Actions Under Sections 116 of the Federal Credit Union Act. Closed pursuant to exemptions (8), and (9)(A)(ii).
4. Merger. Closed pursuant to exemptions (8), and (9)(A)(ii).
5. Final order to place a Federal credit union into liquidation under Section 207 of the Federal Credit Union Act. Closed pursuant to exemptions (8), and (9)(A)(ii).
6. Personnel Actions. Closed pursuant to exemptions (2) and (6).

CONTACT PERSON FOR MORE INFORMATION: Beatrix Fields, Acting Secretary of the Board, telephone (202) 357–1030.

[S–227–80 Filed 2–1–80; 2:43 pm]

BILLING CODE 7535–01–M

9

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: February 7, 1980.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Thursday, February 7

2 p.m.

1. Briefing on Impact of Special Inquiry Group Report on Action Plan (approx. 2 hours, public meeting).
2. Affirmation Session (approx. 5 minutes, public meeting) (items are tentative):
   a. Protection of Individuals Providing Information to NRC.
   b. Access Controls to Power Plant Vital Areas.
   c. Re-appointment of ACRS Member.
   d. CEQ–NEPA Regulations.
   e. Revisions to Part 20.

CONTACT PERSON FOR MORE INFORMATION: Roger Tweed (202) 634–1410.

Roger M. Tweed,
Office of the Secretary.

January 31, 1980.

[S–221–80 Filed 2–1–80; 1:03 pm]

BILLING CODE 7590–01–M

10

[Form 1]

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m., February 7, 1980.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell (202) 634–4015.

Dated: February 1, 1980.

[S–222–80 Filed 2–1–80; 1:03 pm]

BILLING CODE 7600–01–M

11

[Form 1]

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., February 13, 1980.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell (202) 634–4015.

Dated: February 1, 1980.

[S–223–80 Filed 2–1–80; 1:03 pm]

BILLING CODE 7600–01–M

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[Form 1]

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., February 21, 1980.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell (202) 634–4015.

Dated: February 1, 1980.

[S–224–80 Filed 2–1–80; 1:03 pm]

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federal register

Tuesday
February 5, 1980

Part II

Department of Health, Education, and Welfare

Food and Drug Administration

Cardiovascular Devices; Classification and Development of General Provisions

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 870

[Docket No. 78N-1406]

Cardiovascular Devices; General Provisions

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule regarding general provisions applicable to the classification of cardiovascular devices. The preamble to this rule responds to general comments received on the proposals regarding classification of cardiovascular devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 9, 1979 (44 FR 13284), FDA published a proposed regulation containing general provisions applicable to the classification of cardiovascular devices. The preamble to the regulation described the development of the proposed regulations classifying cardiovascular devices and the activities of the Cardiovascular Device Classification Panel, an FDA advisory committee that makes recommendations to FDA concerning the classification of cardiovascular devices. FDA also published in that issue of the **Federal Register** individual proposed regulations to classify 141 cardiovascular devices. FDA provided a period of 60 days for interested persons to submit written comments on these proposals.

Comments on Classification Proposals

Elsewhere in this issue of the **Federal Register**, FDA is issuing final regulations classifying 138 individual cardiovascular devices. FDA is responding to specific comments regarding the classification of individual cardiovascular devices in the final regulations for these devices.

No written comments were received on proposed § 870.1 (21 CFR 870.1), which concerns general provisions for all cardiovascular devices. Accordingly, FDA is promulgating § 870.1 with one change: The agency is adding an explanation that references in Part 870 to other regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 of the Code of Federal Regulations, unless otherwise noted.

FDA received one general comment regarding classification proposals for cardiovascular devices. The comment asked whether a manufacturer of a device with more than one use, one or more of which would require it to be placed in class III, and one or more of which would require it to be subject to class II controls, could, by astute device listing, avoid complying with the requirements of class III. The comment referred to a cardiac monitor with arrhythmia detection capability as an example of a device that could present a manufacturer with such an opportunity.

If a device performs the functions of two or more generic types of devices, each with a different classification, the manufacturer of that device is subject to the controls applicable to all of the generic types of devices involved. In the example given, a cardiac monitor device with arrhythmia detection capability is required to conform to any performance standard applicable to a class II cardiac monitor device, and the manufacturer of the device is also subject to the premarket approval requirements applicable to a class III arrhythmia detector device.

Changes in Classification Proposals

FDA is continuing its efforts to consolidate panel recommendations concerning similar devices. FDA has attempted to identify these devices before publication of classification proposals and to ensure that each panel's recommendation is considered and published for comment before FDA promulgates final classification regulations for devices reviewed by more than one panel. In the **Federal Register** of March 6, 1979 (44 FR 12269), FDA published a notice of the availability of an index of classification regulations for medical devices. The index may be used by interested persons to determine the specific classification regulation for a device that was classified by more than one classification panel and to determine with which panel's classification regulations it will be published.

With respect to several cardiovascular device classification proposals, FDA has made minor changes in nomenclature and grammar to clarify the regulation, change the device's name from plural to singular, correct spelling, etc. In several proposals, FDA has changed the identification or name of the device to make clear that the regulation applies only to the cardiovascular uses of the device. The devices are: Catheter introducers (Docket No. 78N-1427), impedance plethysmographs (Docket No. 78N-1466), vascular clips (Docket No. 78N-1479), and arterial embolization devices (Docket No. 78N-1481).

FDA is not publishing the final regulation for electrocardiograph conducting media (Docket No. 78N-1455) and pH catheter probes (Docket No. 78N-1419) because these devices were found to be similar to other devices classified by other panels. Electrocardiograph conducting media were classified in the regulation classifying electroconductive media (Docket No. 78N-1005), published with the final classification regulations for neurological devices in the **Federal Register** of September 4, 1979 (44 FR 51726). The pH catheter probes will be classified by the final regulation based on the proposal to classify indwelling blood hydrogen ion concentration (pH) analyzer (Docket No. 78N-1659), published with the proposed classification regulations for anesthesiology devices in the **Federal Register** of November 2, 1979 (44 FR 63292).

In response to a comment, FDA has determined that catheter guide holders (Docket No. 78N-1425) are not sold separately for use in resterilization of catheter guide wires and are designed to serve only as protective packaging. FDA has determined that catheter guide holders are not devices; and, therefore, the agency is not publishing a final regulation for catheter guide holders.

Based on the comments received and on additional consideration of the information before the agency, FDA has placed several devices in different classes from those originally proposed. Changes in classification were made in each of the following regulations with respect to all or some devices subject to the regulation: Cardiopulmonary bypass accessory equipment (Docket No. 78N-1509), cardiovascular surgical instruments (Docket No. 78N-1535), and DC defibrillator (including paddles) (Docket No. 78N-1543). FDA does not believe that it is necessary to issue a new proposal concerning these decisions. The purpose of publishing a proposal and soliciting comments is to enable the agency to determine whether its proposed classification of a device was correct. After reviewing the comments submitted on a proposal, the agency may be persuaded that its proposed classification is incorrect. Persons interested in the classification process should therefore anticipate that in a final regulation a device may be placed in a class different from the one originally proposed. This possibility was specifically identified in the proposed general regulation on cardiovascular devices (see 44 FR 13286). Persons who disagree with a final classification for a device may petition for reclassification of the device under Subpart C of Part 860 [21 CFR Part 860].

List of Cardiovascular Devices

The following is a list of cardiovascular devices being classified in final regulations published elsewhere in this issue of the **Federal Register**. The list shows the section in the Code of Federal Regulations under which the regulation classifying the device is being codified, the docket number of the classification regulation, and the classification of each device.

Section	Device	Docket No.	Class
	Subpart B—Cardiovascular Diagnostic Devices		
870.1025	Arrhythmia detector and alarm	78N-1407	III
870.1100	Blood pressure alarm	78N-1408	II
870.1110	Blood pressure computer	78N-1409	II
870.1120	Blood pressure cuff	78N-1410	II
870.1130	Noninvasive blood pressure measurement system	78N-1411	II
870.1140	Venous blood pressure manometer	78N-1412	II
870.1200	Diagnostic intravascular catheter	78N-1413	II
870.1210	Continuous flush catheter	78N-1414	II
870.1220	Electrode recording catheter or electrode recording probe	78N-1415	II
870.1230	Fiberoptic oximeter catheter	78N-1416	II
870.1240	Flow-directed catheter	78N-1417	II
870.1250	Percutaneous catheter	78N-1418	II
870.1270	Intracavitary phonocatheter system	78N-1420	II
870.1280	Steerable catheter	78N-1421	II
870.1290	Steerable catheter control system	78N-1422	II
870.1300	Catheter cannula	78N-1423	II
870.1310	Vessel dilator for percutaneous catheterization	78N-1424	II
870.1330	Catheter guide wire	78N-1426	II
870.1340	Catheter introducer	78N-1427	II
870.1350	Catheter balloon repair kit	78N-1428	III
870.1360	Trace microspheres	78N-1429	III
870.1370	Catheter tip occluder	78N-1430	II
870.1380	Catheter stylet	78N-1431	II
870.1390	Trocar	78N-1432	II
870.1425	Programmable diagnostic computer	78N-1433	II
870.1435	Single-function, preprogrammed diagnostic computer	78N-1434	II
870.1450	Densitometer	78N-1435	II
870.1650	Angiographic injector and syringe	78N-1436	II
870.1660	Indicator injector	78N-1437	II
870.1670	Syringe actuator for an injector	78N-1438	II
870.1750	External programmable pacemaker pulse generator	78N-1439	III
870.1800	Withdrawal-infusion pump	78N-1440	II
870.1875	Stethoscope	78N-1441	I, II
870.1915	Thermodilution probe	78N-1442	II
	Subpart C—Cardiovascular Monitoring Devices		
870.2050	Biopotential amplifier and signal conditioner	78N-1443	II
870.2060	Transducer signal amplifier and signal conditioner	78N-1444	II
870.2100	Cardiovascular blood flowmeter	78N-1445	II
870.2120	Extravascular blood flow probe	78N-1446	II
870.2300	Cardiac monitor (including cardiotachometer and rate alarm)	78N-1447	II
870.2310	Apex cardiograph (vibrocardiograph)	78N-1448	II
870.2320	Ballistocardiograph	78N-1449	II
870.2330	Echocardiograph	78N-1450	II
870.2340	Electrocardiograph	78N-1451	II
870.2350	Electrocardiograph lead switching adaptor	78N-1452	II
870.2360	Electrocardiograph electrode	78N-1453	II
870.2370	Electrocardiograph surface electrode tester	78N-1454	II
870.2390	Phonocardiograph	78N-1456	II
870.2400	Vectorcardiograph	78N-1457	II
870.2450	Medical cathode-ray tube display	78N-1458	II
870.2600	Signal isolation system	78N-1459	II
870.2620	Line isolation monitor	78N-1460	II
870.2640	Portable leakage current alarm	78N-1461	II
870.2675	Oscillometer	78N-1462	II
870.2700	Oximeter	78N-1463	II
870.2710	Ear oximeter	78N-1464	II
870.2750	Impedance phlebograph	78N-1465	II
870.2770	Impedance plethysmograph	78N-1466	II
870.2780	Hydraulic, pneumatic, or photoelectric plethysmograph	78N-1467	II
870.2800	Medical magnetic tape recorder	78N-1468	II
870.2810	Paper chart recorder	78N-1469	II
870.2840	Apex cardiographic transducer	78N-1470	II
870.2850	Extravascular blood pressure transducer	78N-1471	II
870.2860	Heart sound transducer	78N-1472	II
870.2870	Catheter tip pressure transducer	78N-1473	II
870.2880	Ultrasonic transducer	78N-1474	II
870.2890	Vessel occlusion transducer	78N-1475	II
870.2900	Patient transducer and electrode cable (including connector)	78N-1476	II
870.2910	Radiofrequency physiological signal transmitters and receivers	78N-1477	II
870.2920	Telephone electrocardiograph transmitters and receivers	78N-1478	II

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Section	Device	Docket No.	Class
Subpart D—Cardiovascular Prosthetic Devices			
870.3250	Vascular clip	78N-1479	II
870.3260	Vena cava clip	78N-1480	II
870.3300	Arterial embolization device	78N-1481	III
870.3375	Cardiovascular intravascular filter	78N-1482	III
870.3450	Vascular graft prosthesis of less than 6 mm diameter	78N-1483	III
870.3460	Vascular graft prosthesis of 6 mm and greater diameter	78N-1484	II
870.3470	Intracardiac patch or pledget made of polypropylene, polyethylene terephthalate, or polytetrafluoroethylene	78N-1485	II
870.3535	Intra-aortic balloon and control system	78N-1487	III
870.3545	Ventricular bypass (assist) device	78N-1488	III
870.3600	External pacemaker pulse generator	78N-1489	III
870.3610	Implantable pacemaker pulse generator	78N-1490	III
870.3620	Pacemaker lead adaptor	78N-1491	III
870.3630	Pacemaker generator function analyzer	78N-1492	II
870.3640	Indirect pacemaker generator function analyzer	78N-1493	II
870.3650	Pacemaker polymeric mesh bag	78N-1494	II
870.3670	Pacemaker charger	78N-1496	II
870.3680	Permanent and temporary pacemaker electrode	78N-1497	II, III
870.3690	Pacemaker test magnet	78N-1498	II
870.3700	Pacemaker programmer	78N-1499	III
870.3710	Pacemaker repair or replacement materials	78N-1500	III
870.3720	Pacemaker electrode function tester	78N-1501	II
870.3730	Pacemaker service tools	78N-1502	I
870.3800	Annuloplasty ring	78N-1503	III
870.3850	Carotid sinus nerve stimulator	78N-1504	III
870.3925	Replacement heart valve	78N-1505	III
870.3935	Prosthesis heart valve holder	78N-1506	II
870.3945	Prosthesis heart valve sizer	78N-1507	II
Subpart E—Cardiovascular Surgical Devices			
870.4075	Endomyocardial biopsy device	78N-1508	II
870.4200	Cardiopulmonary bypass accessory equipment	78N-1509	I
870.4205	Cardiopulmonary bypass bubble detector	78N-1378	II
870.4210	Cardiopulmonary bypass vascular catheter, cannula, or tubing	78N-1510	II
870.4220	Cardiopulmonary bypass heart-lung machine console	78N-1511	II
870.4230	Cardiopulmonary bypass defoamer	78N-1512	III
870.4240	Cardiopulmonary bypass heat exchanger	78N-1513	II
870.4250	Cardiopulmonary bypass temperature controller	78N-1514	II
870.4260	Cardiopulmonary bypass arterial line blood filter	78N-1515	III
870.4270	Cardiopulmonary bypass cardiotomy suction line blood filter	78N-1516	II
870.4280	Cardiopulmonary pre-bypass filter	78N-1517	II
870.4290	Cardiopulmonary bypass fitting, manifold, stopcock and adaptor	78N-1518	II
870.4300	Cardiopulmonary bypass gas control unit	78N-1519	II
870.4310	Cardiopulmonary bypass coronary pressure gauge	78N-1520	II
870.4320	Cardiopulmonary bypass pulsatile flow generator	78N-1521	III
870.4330	Cardiopulmonary bypass on-line blood gas monitor	78N-1522	II
870.4340	Cardiopulmonary bypass level sensing monitor and/or control	78N-1523	II
870.4350	Cardiopulmonary bypass oxygenator	78N-1524	III
870.4360	Nonroller type cardiopulmonary bypass blood pump	78N-1525	III
870.4370	Roller-type cardiopulmonary bypass blood pump	78N-1526	II
870.4380	Cardiopulmonary bypass pump speed control	78N-1527	II
870.4390	Cardiopulmonary bypass pump tubing	78N-1528	II
870.4400	Cardiopulmonary bypass blood reservoir	78N-1529	II
870.4410	Cardiopulmonary bypass in-line blood gas sensor	78N-1530	II
870.4420	Cardiopulmonary bypass cardiotomy return sucker	78N-1531	II
870.4430	Cardiopulmonary bypass intracardiac suction control	78N-1532	II
870.4450	Vascular clamp	78N-1533	II
870.4475	Surgical vessel dilator	78N-1534	II
870.4500	Cardiovascular surgical instruments	78N-1535	I
870.4875	Intraluminal artery stripper	78N-1536	II
870.4885	External vein stripper	78N-1537	II
Subpart F—Cardiovascular Therapeutic Devices			
870.5050	Patient care suction apparatus	78N-1538	II
870.5150	Embolectomy catheter	78N-1539	II
870.5175	Septostomy catheter	78N-1540	II
870.5200	External cardiac compressor	78N-1541	III
870.5225	External counter-pulsating device	78N-1542	III
870.5300	DC-defibrillator (including paddles)	78N-1543	II, III
870.5325	Defibrillator tester	78N-1544	II
870.5350	External transcutaneous cardiac pacemaker (noninvasive)	78N-1545	III
870.5800	Compressible limb sleeve	78N-1546	II
870.5900	Thermal regulating system	78N-1547	II
870.5925	Automatic rotating tourniquet	78N-1548	II

Patient Information

FDA is considering requiring the development and dissemination of information for patients and consumers about the uses, benefits, and risks of medical devices. For example, patient information has already been required or approved by FDA for intrauterine devices and hearing aids. In addition, the Bureau of Radiological Health is conducting a consumer education program on x-rays that includes posters on the effects of radiation during pregnancy and the distribution of x-ray record cards.

FDA believes that patient information is needed if: (1) There is a choice among alternatives of which the patient should be aware; (2) there are substantial risks or discomforts associated with the product; (3) the cost of the product is significant; (4) there is a need for the patient to strictly adhere to a specific treatment regimen; or (5) there is substantial public or professional controversy about the device or its related procedures.

FDA can require that manufacturers make medical device information available to providers for their use and the use of their patients through the premarket approval or standards-setting processes as well as the general control provisions of the Federal Food, Drug, and Cosmetic Act. The mechanisms available to FDA to provide patient information for devices include: (1) Labeling for restricted and nonrestricted devices; (2) patient package inserts and provider information; and (3) consumer and patient education programs.

FDA has tentatively identified several cardiovascular devices for which patient information may be required. Other cardiovascular devices may be identified in the future, after the criteria for selection of devices needing patient information have been further refined. The devices that have been identified so far are listed below:

1. Home-use devices in these categories: blood pressure cuffs (Docket No. 78N–1410), noninvasive blood pressure measurement systems (Docket No. 78N–1411), stethoscopes (Docket No. 78N–1441).

2. Monitoring equipment for home use, in the following categories: Arrhythmia detectors and alarms (Docket No. 78N–1407), electrocardiographs (Docket No. 78N–1451), electrocardiograph electrodes (Docket No. 78N–1453), medical magnetic tape recorders (Docket No. 78N–1468).

3. Home-use heart rate monitors in one of the following categories: Cardiac monitors (including cardiotachometers and rate alarms) (Docket No. 78N–1447), impedance plethysmographs (Docket No. 78N–1466), hydraulic, pneumatic, or photoelectric plethysmographs (Docket No. 78N–1467).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs amends Chapter I of Title 21 of the Code of Federal Regulations by adding new Part 870, Subpart A, to read as follows:

PART 870—CARDIOVASCULAR DEVICES

Subpart A—General Provisions

Sec.
870.1 Scope.

Authority: Secs. 513 and 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 701(a)).

Subpart A—General Provisions

§ 870.1 Scope.

(a) This part sets forth the classification of cardiovascular devices intended for human use.

(b) The identification of a device in a regulation in this part is not a precise description of every device that is, or will be, subject to the regulation. A manufacturer who submits a premarket notification submission for a device under Part 807 may not show merely that the device is accurately described by the section title and identification provision of a regulation in this part, but shall state why the device is substantially equivalent to other devices, as required by § 807.87.

(c) To avoid duplicative listings, a cardiovascular device that has two or more types of uses (e.g., used both as a diagnostic device and as a therapeutic device) is listed in the subpart representing one use of the device, rather than in two or more subparts.

(d) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21, unless otherwise noted.

Effective date. This regulation is effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3205 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1407]

Cardiovascular Devices; Classification of Arrhythmia Detectors and Alarms

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying arrhythmia detectors and alarms into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning the safety and effectiveness tests of the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13291) a proposed regulation to classify arrhythmia detectors and alarms into class III (premarket approval). A period of 60 days was provided for interested persons to submit written coments to FDA.

One comment was received regarding arrhythmia detectors and alarms. The comment suggested that the device should be in class II rather than class III as proposed. The comment said that "standards do exist and that determinations of effectiveness are available and recognized." The comment provided information showing one institution's purchasing specifications indicating the accuracy level and types of algorithm considered acceptable by that institution. The comment also presented data showing the means for comparison of accuracy of detection programs (Ref. 1).

FDA is aware of standardization efforts relating to arrhythmia detectors. To date, those efforts have not produced adequate performance data on which to base a standard. Although the reference (Ref. 1) cited in the comment reviewed studies of the accuracy of these devices, it noted that "the methods for evaluating an arrhythmia monitoring system or determining the accuracy of a monitoring program were not consistent." The reference also states, "If the clinical efficacy of an arrhythmia monitoring system is to be determined, it can only be accomplished as a result of continuous, long-term, on-site clinical testing using unadulterated ECG data." FDA believes that the comment presented insufficient information on which to base a performance standard and that there is a lack of progress toward establishing a performance standard. Therefore, FDA believes the device should remain in class III and is adopting the proposed regulation without change.

Reference

1. "Arrhythmia Monitoring Systems," American Society for Hospital Engineering of the American Hospital Association, Chicago, IL, 1978.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 by adding new Subpart B including new § 870.1025, to read as follows:

Subpart B—Cardiovascular Diagnostic Devices

§ 870.1025 Arrhythmia detector and alarm.

(a) *Identification.* An arrhythmia detector and alarm is a system that monitors the electrocardiogram and is designed to produce a visible or audible signal or alarm when an atrial or ventricular arrhythmia, such as a premature contraction or ventricular fibrillation, exists.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3208 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1408]

Cardiovascular Devices; Classification of Blood Pressure Alarms

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying blood pressure alarms into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13292) a proposed regulation to classify blood pressure alarms into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1100, to read as follows:

§ 870.1100 Blood pressure alarm.

(a) *Identification.* A blood pressure alarm is a device that accepts the signal from a blood pressure transducer amplifier, processes the signal, and emits an alarm when the blood pressure falls outside a pre-set upper or lower limit.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3207 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1409]

Cardiovascular Devices; Classification of Blood Pressure Computers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying blood pressure computers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13293) a proposed regulation to classify blood pressure computers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the

Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1110, to read as follows:

§ 870.1110 Blood pressure computer.

(a) *Identification.* A blood pressure computer is a device that accepts the electrical signal from a blood pressure transducer amplifier and indicates the systolic, diastolic, or mean pressure based on the input signal.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3209 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1410]

Cardiovascular Devices; Classification of Blood Pressure Cuffs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying blood pressure cuffs into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13294) a proposed regulation to classify blood pressure cuffs into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1120, to read as follows:

§ 870.1120 Blood pressure cuff.

(a) *Identification.* A blood pressure cuff is a device that has an inflatable bladder in an inelastic sleeve (cuff) with a mechanism for inflating and deflating the bladder. The cuff is used in conjunction with another device to determine a subject's blood pressure.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3208 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1411]

Cardiovascular Devices; Classification of Noninvasive Blood Pressure Measurement Systems

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying noninvasive blood pressure measurement systems into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13295) a proposed regulation to classify noninvasive blood pressure measurement systems into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1130, to read as follows:

§ 870.1130 Noninvasive blood pressure measurement system.

(a) *Identification.* A noninvasive blood pressure measurement system is a device that provides a signal from which systolic, diastolic, mean, or any combination of the three pressures can be derived through the use of tranducers placed on the surface of the body.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3210 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1412]

Cardiovascular Devices; Classification of Venous Blood Pressure Manometers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying venous blood pressure manometers into class II (performance

standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT:
John L. Ely, Bureau of Medical Devices (HKF–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13296) a proposed regulation to classify venous blood pressure manometers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1140, to read as follows:

§ 870.1140 Venous blood pressure manometer.

(a) *Identification.* A venous blood pressure manometer is a device attached to a venous catheter to indicate manometrically the central or peripheral venous pressure.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3211 Filed 2-4-80; 8:45 am]
BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N–1413]

Cardiovascular Devices; Classification of Diagnostic Intravascular Catheters

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying diagnostic intravascular catheters into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT:
John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13297) a proposed regulation to classify diagnostic intravascular catheters into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1200, to read as follows:

§ 870.1200 Diagnostic intravascular catheter.

(a) *Identification.* An intravascular diagnostic catheter is a device used to record intracardiac pressures, to sample blood, and to introduce substances into the heart and vessels. Included in this generic device are right-heart catheters, left-heart catheters, and angiographic catheters, among others.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3212 Filed 2-4-80; 8:45 am]
BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N–1414]

Cardiovascular Devices; Classification of Continuous Flush Catheters

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying continuous flush catheters into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT:
John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13298) a proposed regulation to classify continuous flush catheters into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the

Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1210, to read as follows:

§ 870.1210 Continuous flush catheter.

(a) *Identification.* A continuous flush catheter is an attachment to a catheter-transducer system that permits continuous intravascular flushing at a slow infusion rate for the purpose of eliminating clotting, back-leakage, and waveform damping.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3213 Filed 2-4-80; 8:45 am]
BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N–1415]

Cardiovascular Devices; Classification of Electrode Recording Catheters or Electrode Recording Probes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying electrode recording catheters or electrode recording probes into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT:
John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13299) a proposed regulation to classify electrode recording catheters or electrode recording probes into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1220, to read as follows:

§ 870.1220 Electrode recording catheter or electrode recording probe.

(a) *Identification.* An electrode recording catheter or an electrode recording probe is a device used to detect an intracardiac electrocardiogram, or to detect cardiac output or left-to-right heart shunts. The device may be unipolar or multipolar for electrocardiogram detection, or may be a platinum-tipped catheter which senses the presence of a special indicator for cardiac output or left-to-right heart shunt determinations.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3214 Filed 2-4-80; 8:45 am]
BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N–1416]

Cardiovascular Devices; Classification of Fiberoptic Oximeter Catheters

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying fiberoptic oximeter catheters into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT:
John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13300) a proposed regulation to classify fiberoptic oximeter catheters into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1230, to read as follows:

§ 870.1230 Fiberoptic oximeter catheter.

(a) *Identification.* A fiberoptic oximeter catheter is a device used to estimate the oxygen saturation of the blood. It consists of two fiberoptic bundles that conduct light at a desired wavelength through blood and detect the reflected and scattered light at the distal end of the catheter.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3215 Filed 2-4-80; 8:45 am]
BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1417]

Cardiovascular Devices; Classification of Flow-Directed Catheters

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying flow-directed catheters into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13301) a proposed regulation to classify flow-directed catheters into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1240, to read as follows:

§ 870.1240 Flow-directed catheter.

(a) *Identification.* A flow-directed catheter is a device that incorporates a gas-filled balloon to help direct the catheter to the desired position.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3216 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1418]

Cardiovascular Devices; Classification of Percutaneous Catheters

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying percutaneous catheters into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13302) a proposed regulation to classify percutaneous catheters into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1250, to read as follows:

§ 870.1250 Percutaneous catheter.

(a) *Identification.* A percutaneous catheter is a device that is introduced into a vein or artery through the skin using a dilator and a sheath (introducer) or guide wire.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3217 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1420]

Cardiovascular Devices; Classification of Intracavitary Phonocatheter Systems

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying intracavitary phonocatheter systems into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13304) a proposed regulation to classify intracavitary phonocatheter systems into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed

regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1270, to read as follows:

§ 870.1270 Intracavitary phonocatheter system.

(a) *Identification.* An intracavitary phonocatheter system is a system that includes a catheter with an acoustic transducer and the associated device that processes the signal from the transducer; this device records bioacoustic phenomena from a transducer placed within the heart, blood vessels, or body cavities.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3218 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1421]

Cardiovascular Devices; Classification of Steerable Catheters

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying steerable catheters into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13305) a proposed regulation to classify steerable catheters into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1280, to read as follows:

§ 870.1280 Steerable catheter.

(a) *Identification.* A steerable catheter is a catheter used for diagnostic and monitoring purposes whose movements are directed by a steering control unit.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3219 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1422]

Cardiovascular Devices; Classification of Steerable Catheter Control Systems

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying steerable catheter control systems into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13306) a proposed regulation to classify steerable catheter control systems into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1290, to read as follows:

§ 870.1290 Steerable catheter control system.

(a) *Identification.* A steerable catheter control system is a device that is connected to the proximal end of a steerable guide wire that controls the motion of the steerable catheter.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3220 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1423]

Cardiovascular Devices; Classification of Catheter Cannulae

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying catheter cannulas into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13307) a proposed regulation to classify catheter cannulas into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1300, to read as follows:

§ 870.1300 Catheter cannula.

(a) *Identification.* A catheter cannula is a hollow tube which is inserted into a vessel or cavity; this device provides a rigid or semirigid structure which can be connected to a tube or connector.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3221 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1424]

Cardiovascular Devices; Classification of Vessel Dilators for Percutaneous Catheterization

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying vessel dilators for percutaneous catheterization into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13308) a proposed regulation to classify vessel dilators for percutaneous catheterization into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1310, to read as follows:

§ 870.1310 Vessel dilator for percutaneous catheterization.

(a) *Identification.* A vessel dilator for percutaneous catheterization is a device which is placed over the guide wire to enlarge the opening in the vessel, and which is then removed before sliding the catheter over the guide wire.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3222 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1425]

Cardiovascular Devices; Classification of Catheter Guide Wires

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying catheter guide wires into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HKF–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13309) a proposed regulation to classify catheter guide wires into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1330, to read as follows:

§ 870.1330 Catheter guide wire.

(a) *Identification.* A catheter guide wire is a coiled wire that is designed to fit inside a percutaneous catheter for the purpose of directing the catheter through a blood vessel.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3223 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1427]

Cardiovascular Devices; Classification of Catheter Introducers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying catheter introducers into class II (performances standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13310) a proposed regulation to classify catheter percutaneous introducers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. FDA is making a change in the name of the device, however, to clarify that the regulation applies to all catheter introducers.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1340, to read as follows:

§ 870.1340 Catheter introducer.

(a) *Identification.* A catheter introducer is a sheath used to facilitate placing a catheter through the skin into a vein or artery.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3224 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1428]

Cardiovascular Devices; Classification of Catheter Balloon Repair Kits

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying catheter balloon repair kits into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13311) a proposed regulation to classify catheter balloon repair kits into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1350, to read as follows:

§ 870.1350 Catheter balloon repair kit.

(a) *Identification.* A catheter balloon repair kit is a device used to repair or replace the balloon of a balloon catheter. The kit contains the materials, such as glue and balloons, necessary to effect the repair or replacement.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3225 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1429]

Cardiovascular Devices; Classification of Trace Microspheres

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying trace microspheres into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaning the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13312) a proposed regulation to classify trace microspheres into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1360, to read as follows:

§ 870.1360 Trace microsphere.

(a) *Identification.* A trace microsphere is a radioactively tagged nonbiodegradable particle that is intended to be injected into an artery or vein and trapped in the capillary bed for the purpose of studying blood flow within or to an organ.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3226 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1430]

Cardiovascular Devices; Classification of Catheter Tip Occluders

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY The Food and Drug Administration (FDA) is issuing a final rule classifying catheter tip occluders into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13313) a proposed regulation to classify catheter tip occluders into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1370, to read as follows:

§ 870.1370 Catheter tip occluder.

(a) *Identification.* A catheter tip occluder is a device that is inserted into certain catheters to prevent flow through one or more orifices.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3227 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1431]

Cardiovascular Devices; Classification of Catheter Stylets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying catheter stylets into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13314) a proposed regulation to classify catheter stylets into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1380, to read as follows:

§ 870.1380 Catheter stylet.

(a) *Identification.* A catheter stylet is a wire that is run through a catheter or cannula to render it stiff.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3228 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1432]

Cardiovascular Devices; Classification of Trocars

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying trocars into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13315) a proposed regulation to classify trocars into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1390, to read as follows:

§ 870.1390 Trocar.

(a) *Identification.* A trocar is a sharp-pointed instrument used with a cannula for piercing a vessel or chamber to facilitate insertion of the cannula.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3229 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1433]

Cardiovascular Devices; Classification of Programmable Diagnostic Computers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying programmable diagnostic computers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13316) a proposed regulation to classify programmable diagnostic computers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1425, to read as follows:

§ 870.1425 Programmable diagnostic computer.

(a) *Identification.* A programmable diagnostic computer is a device that can be programmed to compute various physiologic or blood flow parameters based on the output from one or more electrodes, transducers, or measuring devices; this device includes any associated commercially supplied programs.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3230 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1434]

Cardiovascular Devices; Classification of Single-Function, Preprogrammed Diagnostic Computers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying single-function, preprogrammed diagnostic computers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13317) a proposed regulation to classify single-function, preprogrammed diagnostic computers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1435, to read as follows:

§ 870.1435 Single-function, preprogrammed diagnostic computer.

(a) *Identification.* A single-function, preprogrammed diagnostic computer is a hard-wired computer that calculates a specific physiological or blood-flow parameter based on information obtained from one or more electrodes, transducers, or measuring devices.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3231 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1435]

Cardiovascular Devices; Classification of Densitometers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying densitometers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13318) a proposed regulation to classify densitometers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1450, to read as follows:

§ 870.1450 Densitometer.

(a) *Identification.* A densitometer is a device used to measure the transmission of light through an indicator in a sample of blood.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3232 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1436]

Cardiovascular Devices; Classification of Angiographic Injectors and Syringes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying angiographic injectors and syringes into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13319) a proposed regulation to classify angiographic injectors and syringes into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1650, to read as follows:

§ 870.1650 Angiographic injector and syringe.

(a) *Identification.* An angiographic injector and syringe is a device that consists of a syringe and a high-pressure injector which are used to inject contrast material into the heart, great vessels, and coronary arteries to study the heart and vessels by x-ray photography.

(b) *Classification.* Class II (performance standards).

Effective Date. This regulation shall be effective March, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3233 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1437]

Cardiovascular Devices; Classification of Indicator Injectors

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying indicator injectors into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13319) a proposed regulation to classify indicator injectors into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1660, to read as follows:

§ 870.1660 Indicator injector.

(a) *Identification.* An indicator injector is an electrically or gas-powered device designed to inject accurately an indicator solution into the blood stream. This device may be used in conjuction with a densitometer or thermodilution device to determine cardiac output.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3234 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1438]

Cardiovascular Devices; Classification of Syringe Actuators for an Injector

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying syringe actuators for an injector into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13320) a proposed regulation to classify syringe actuators for an injector into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1670, to read as follows:

§ 870.1670 Syringe actuator for an injector.

(a) *Identification.* A syringe actuator for an injector is an electrical device that controls the timing of an injection by an angiographic or indicator injector and synchronizes the injection with the electrocardiograph signal.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3235 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1439]

Cardiovascular Devices; Classification of External Programmable Pacemaker Pulse Generators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying external programmable pacemaker pulse generators into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13321) a proposed regulation to classify external programmable pacemaker pulse generators into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1750, to read as follows:

§ 870.1750 External programmable pacemaker pulse generator.

(a) *Identification.* An external programmable pacemaker pulse generators is a device that can be programmed to produce one or more pulses at preselected intervals; this device is used in electrophysiological studies.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3230 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1440]

Cardiovascular Devices; Classification of Withdrawal-Infusion Pumps

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying withdrawal-infusion pumps into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13322) a proposed regulation to classify withdrawal-infusion pumps into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1800, to read as follows:

§ 870.1800 Withdrawal-infusion pump.

(a) *Identification.* A withdrawal-infusion pump is a device designed to inject accurately drugs into the bloodstream and to withdraw blood samples for use in determining cardiac output.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3237 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1441]

Cardiovascular Devices; Classification of Stethoscopes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying manual stethoscopes into class I (general controls) and electronic stethoscopes into class II (performance standards). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13323) a proposed regulation to classify stethoscopes into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

One comment was received regarding this device. The comment suggested that stethoscopes should be classified into class I rather than class II as proposed. The comment stated that efforts to relate the frequency response of a stethoscope to its performance have been unsuccessful and that the performance of a stethoscope is very subjective, depending largely on the individual user's perceptions. The comment stated further that it did not believe "that the Classification Panel was aware of all the varied technical parameters that provide for quality stethoscopic performance and singled out a popular notion that frequency response control would contribute to improved performance." The comment also disagreed with the agency's statement that the device's most common use is in the cardiovascular field. Finally, the comment argued that the added control requirements of class II would add to the cost of the device without improving the quality of stethoscopes commonly used in the medical community.

FDA and the Circulatory Systems Devices Panel, the advisory committee that now is responsible for cardiovascular devices, agree with the comment as it applies to manual stethoscopes. FDA believes that general controls are sufficient to ensure the safety and effectiveness of manual stethoscopes. For electronic stethoscopes, however, FDA believes it is necessary to develop performance standards addressing electrical safety and frequency response. Accordingly, the proposed regulation is being changed to classify manual stethoscopes into class I and electronic stethoscopes into class II. Stethoscopes are being classified with the cardiovascular devices because accuracy is most important for these uses. Other uses of the device were considered during the classification process, and are included in this classification, and the identifications for the device were revised to show other uses for the device. For the reasons stated in the general regulation on cardiovascular devices, published elsewhere in this issue of the **Federal Register**, FDA does not believe that it is necessary to issue a new proposal concerning this decision.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1875, to read as follows:

§ 870.1875 Stethoscope.

(a) *Manual stethoscope*—(1) *Identification.* A manual stethoscope is a mechanical device used to project the sounds associated with the heart, arteries, and veins and other internal organs.

(2) *Classificatioh.* Class I (general controls).

(b) *Electronic stethoscope*—(1) *Identification.* An electronic stethoscope is an electrically amplified device used to project the sounds associated with the heart, arteries, and veins and other internal organs.

(2) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3238 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1442]

Cardiovascular Devices; Classification of Thermodilution Probes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying thermodilution probes into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13324) a proposed regulation to classify thermodilution probes into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.1915, to read as follows:

§ 870.1915 Thermodilution probe.

(a) *Identification.* A thermodilution probe is a device that monitors cardiac output by use of thermodilution techniques; this device is commonly attached to a catheter that may have one or more probes.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3239 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1443]

Cardiovascular Devices; Classification of Biopotential Amplifiers and Signal Conditioners

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying biopotential amplifiers and signal conditioners into class II (performance standards). The effect of classifying a device into class II is to

provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13325) a proposed regulation to classify biopotential amplifiers and signal conditioners into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 by adding new Subpart C and new § 870.2050, to read as follows:

Subpart C—Cardiovascular Monitoring Devices

§ 870.2050 Biopotential amplifier and signal conditioner.

(a) *Identification.* A biopotential amplifier and signal conditioner is a device used to amplify or condition an electrical signal of biologic origin.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3240 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1444]

Cardiovascular Devices; Classification of Transducer Signal Amplifiers and Conditioners

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying transducer signal amplifiers and conditioners into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13326) a proposed regulation to classify transducer signal amplifiers and conditioners into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2060, to read as follows:

§ 870.2060 Transducer signal amplifier and conditioner.

(a) *Identification.* A transducer signal amplifier and conditioner is a device used to provide the excitation energy for the transducer and to amplify or condition the signal emitted by the transducer.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3241 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1445]

Cardiovascular Devices; Classification of Cardiovascular Blood Flowmeters

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiovascular blood flowmeters into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13327) a proposed regulation to classify cardiovascular blood flowmeters into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2100, to read as follows:

§ 870.2100 Cardiovascular blood flowmeter.

(a) *Identification.* A cardiovascular blood flowmeter is a device that is connected to a flow transducer that energizes the transducer and processes and displays the blood flow signal.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3242 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1446]

Cardiovascular Devices; Classification of Extravascular Blood Flow Probes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying extravascular blood flow probes into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13328) a proposed regulation to classify extravascular blood flow probes into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2120, to read as follows:

§ 870.2120 Extravascular blood flow probe.

(a) *Identification.* An extravascular blood flow probe is an extravascular ultrasonic or electromagnetic probe used in conjunction with a blood flowmeter to measure blood flow in a chamber or vessel.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3243 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1447]

Cardiovascular Devices; Classification of Cardiac Monitors (including Cardiotachometers and Rate Alarms)

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiac monitors (including cardiotachometers and rate alarms) into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980

FOR FURTHER INFORMATION CONTACT: John. L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13329) a proposed regulation to classify cardiac monitors (including cardiotachometers and rate alarms) into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2300, to read as follows:

§ 870.2300 Cardiac monitor (including cardiotachometer and rate alarm).

(a) *Identification.* A cardiac monitor (including cardiotachometer and rate alarm) is a device used to measure the heart rate from an analog signal produced by an electrocardiograph, vectorcardiograph, or blood pressure monitor. This device may sound an alarm when the heart rate falls outside preset upper and lower limits.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3244 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1448]

Cardiovascular Devices; Classification of Apex Cardiographs (Vibrocardiographs)

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying apex cardiographs (vibrocardiographs) into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13330) a proposed regulation to classify apex cardiographs (vibrocardiographs) into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2310, to read as follows:

§ 870.2310 Apex cardiograph (vibrocardiograph).

(a) *Identification.* An apex cardiograph (vibrocardiograph) is a device used to amplify or condition the signal from an apex cardiographic transducer and to produce a visual display of the motion of the heart; this device also provides any excitation energy required by the transducer.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3245 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1449]

Cardiovascular Devices; Classification of Ballistocardiographs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying ballistocardiographs into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13331) a proposed regulation to classify ballistocardiographs into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2320, to read as follows:

§ 870.2320 Ballistocardiograph.

(a) *Identification.* A ballistocardiograph is a device, including a supporting structure on which the patient is placed, that moves in response to blood ejection from the heart. The device often provides a visual display.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3246 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1450]

Cardiovascular Devices; Classification of Echocardiographs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying echocardiographs into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13332) a proposed regulation to classify echocardiographs into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device.

Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2330, to read as follows:

§ 870.2330 Echocardiograph.

(a) *Identification.* An echocardiograph is a device that uses ultrasonic energy to create images of cardiovascular structures. It includes phased arrays and two-dimensional scanners.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3247 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1451]

Cardiovascular Devices; Classification of Electrocardiographs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying electrocardiographs into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979, (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13333) a proposed regulation to classify electrocardiographs into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2340, to read as follows:

§ 870.2340 Electrocardiograph.

(a) *Identification.* An electrocardiograph is a device used to process the electrical signal transmitted through two or more electrocardiograph electrodes and to produce a visual display of the electrical signal produced by the heart.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3248 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1452]

Cardiovascular Devices; Classification of Electrocardiograph Lead Switching Adaptors

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying electrocardiograph lead switching adaptors into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13334) a proposed regulation to classify electrocardiograph lead switching adaptors into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2350, to read as follows:

§ 870.2350 Electrocardiograph lead switching adaptor.

(a) *Identification.* An electrocardiograph lead switching adaptor is a passive switching device to which electrocardiograph limb and chest leads may be attached. This device is used to connect various combinations of limb and chest leads to the output terminals in order to create standard lead combinations such as leads I, II, and III.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3249 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1453]

Cardiovascular Devices; Classification of Electrocardiograph Electrodes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying electrocardiograph electrodes into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13335) a proposed regulation to classify electrocardiograph electrodes into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2360, to read as follows:

§ 870.2360 Electrocardiograph electrode.

(a) *Identification.* An electrocardiograph electrode is the electrical conductor which is applied to the surface of the body to transmit the electrical signal at the body surface to a processor that produces an electrocardiogram or vectorcardiogram.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3250 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1454]

Cardiovascular Devices; Classification of Electrocardiograph Surface Electrode Testers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying electrocardiograph surface electrode testers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13336) a proposed regulation to classify electrocardiograph surface electrode testers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2370, to read as follows:

§ 870.2370 Electrocardiograph surface electrode tester.

(a) *Identification.* An electrocardiograph surface electrode tester is a device used to test the function and application of electrocardiograph electrodes.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3251 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1456]

Cardiovascular Devices; Classification of Phonocardiographs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying phonocardiographs into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13338) a proposed regulation to classify phonocardiographs into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2390, to read as follows:

§ 870.2390 Phonocardiograph

(a) *Identification.* A phonocardiograph is a device used to amplify or condition the signal from a heart sound transducer. This device furnishes the excitation energy for the transducer and provides a visual or audible display of the heart sounds.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3252 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1457]

Cardiovascular Devices; Classification of Vectorcardiographs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying vectorcardiographs into class II (performance standards). The effect of classsifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13339) a proposed regulation to classify vectorcardiographs into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2400, to read as follows:

§ 870.2400 Vectorcardiograph.

(a) *Identification.* A vectorcardiograph is a device used to process the electrical signal transmitted through electrocardiograph electrodes and to produce a visual display of the magnitude and direction of the electrical signal produced by the heart.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3253 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1458]

Cardiovascular Devices; Classification of Medical Cathode-Ray Tube Displays

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying medical cathode-ray tube displays into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13340) a proposed regulation to classify medical cathode-ray tube displays into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2450, to read as follows:

§ 870.2450 Medical cathode-ray tube display.

(a) *Identification.* A medical cathode-ray tube display is a device designed primarily to display selected biological signals. This device often incorporates special display features unique to a specific biological signal.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3254 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1459]

Cardiovascular Devices; Classification of Signal Isolation Systems

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying signal isolation systems into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13341) a proposed regulation to classify signal isolation systems into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2600, to read as follows:

§ 870.2600 Signal isolation system.

(a) *Identification.* A signal isolation system is a device that electrically isolates the patient from equipment connected to the commercial power supply received from a utility company. This isolation may be accomplished, for example, by transformer coupling, acoustic coupling, or optical coupling.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3256 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1460]

Cardiovascular Devices; Classification of Line Isolation Monitors

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying line isolation monitors into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13342) a proposed regulation to classify line isolation monitors into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2620, to read as follows:

§ 870.2620 Line isolation monitor.

(a) *Identification.* A line isolation monitor is a device used to monitor the electrical leakage current from a power supply electrically isolated from the commercial power supply received from a utility company.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3255 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1461]

Cardiovascular Devices; Classification of Portable Leakage Current Alarms

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying portable leakage current alarms into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FUTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13343) a proposed regulation to classify portable leakage current alarms into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2640, to read as follows:

§ 870.2640 Portable leakage current alarm.

(a) *Identification.* A portable leakage current alarm is a device used to measure the electrical leakage current between any two points of an electrical system and to sound an alarm if the current exceeds a certain threshold.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3257 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1462]

Cardiovascular Devices; Classification of Oscillometers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying oscillometers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13344) a proposed regulation to classify oscillometers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2675, to read as follows:

§ 870.2675 Oscillometer.

(a) *Identification.* An oscillometer is a device used to measure physiological oscillations of any kind, e.g.; changes in the volume of arteries.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3258 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1463]

Cardiovascular Devices; Classification of Oximeters

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying oximeters into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13345) a proposed regulation to classify oximeters into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2700, to read as follows:

§ 870.2700 Oximeter.

(a) *Identification.* An oximeter is a device used to transmit radiation at a known wavelength(s) through blood and to measure the blood oxygen saturation based on the amount of reflected or scattered radiation. It may be used alone or in conjunction with a fiberoptic oximeter catheter.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3259 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1464]

Cardiovascular Devices; Classification of Ear Oximeters

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Adminstration (FDA) is issuing a final rule classifying ear oximeters into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13346) a proposed regulation to classify ear oximeters into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2710, to read as follows:

§ 870.2710 Ear oximeter.

(a) *Identification.* An ear oximeter is an extravascular device used to transmit light at a known wavelength(s) through blood in the ear. The amount of reflected or scattered light as indicated by this device is used to measure the blood oxygen saturation.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3280 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1465]

Cardiovascular Devices; Classification of Impedance Phlebographs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying impedance phlebographs into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13347) a proposed regulation to classify impedance phlebographs into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2750, to read as follows:

§ 870.2750 Impedance phlebograph.

(a) *Identification.* An impedance phlebograph is a device used to provide a visual display of the venous pulse or drainage by measuring electrical impedance changes in a region of the body.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3281 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1466]

Cardiovascular Devices; Classification of Impedance Plethysmographs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying impedance plethysmographs into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13347) a proposed regulation to classify impedance plethysmographs into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2770, to read as follows:

§ 870.2770 Impedance plethysmograph.

(a) *Identification.* An impedance plethysmograph is a device used to estimate peripheral blood flow by measuring electrical impedance changes in a region of the body such as the arms and legs.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3282 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1467]

Cardiovascular Devices; Classification of Hydraulic, Pneumatic, or Photoelectric Plethysmographs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying hydraulic, pneumatic, or photoelectric plethysmographs into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13348) a proposed regulation to classify hydraulic, pneumatic, or photoelectric plethysmographs into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2780, to read as follows:

§ 870.2780 Hydraulic, pneumatic, or photoelectric plethysmographs.

(a) *Identifcation.* A hydraulic, pneumatic, or photoelectric plethysmograph is a device used to estimate blood flow in a region of the body using hydraulic, pneumatic, or photoelectric measurement techniques.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3283 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1468]

Cardiovascular Devices; Classification of Medical Magnetic Tape Recorders

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying medical magnetic tape recorders into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13349) a proposed regulation to classify medical magnetic tape recorders into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2800, to read as follows:

§ 870.2800 Medical magnetic tape recorder.

(a) *Identification.* A medical magnetic tape recorder is a device used to record and play back signals from, for example, physiological amplifiers, signal conditioners, or computers.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3284 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1469]

Cardiovascular Devices; Classification of Paper Chart Recorders

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying paper chart recorders into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13350) a proposed regulation to classify paper chart recorders into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2810, to read as follows:

§ 870.2810 Paper chart recorder.

(a) *Identification.* A paper chart recorder is a device used to print on paper, and create a permanent record of the signal from, for example, a physiological amplifier, signal conditioner, or computer.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3285 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1470]

Cardiovascular Devices; Classification of Apex Cardiographic Transducers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying apex cardiographic transducers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13351) a proposed regulation to classify apex cardiographic transducers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2840, to read as follows:

§ 870.2840 Apex cardiographic transducer.

(a) *Identification.* An apex cardiographic transducer is a device used to detect motion of the heart (acceleration, velocity, or displacement) by changes in the mechanical or electrical properties of the device.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3286 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1471]

Cardiovascular Devices; Classification of Extravascular Blood Pressure Transducers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying extravascular blood pressure transducers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development

of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13352) a proposed regulation to classify extravascular blood pressure transducers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2850, to read as follows:

§ 870.2850 Extravascular blood pressure transducer.

(a) *Identification.* An extravascular blood pressure transducer is a device used to measure blood pressure by changes in the mechanical or electrical properties of the device. The proximal end of the transducer is connected to a pressure monitor that produces an analog or digital electrical signal related to the electrical or mechanical changes produced in the transducer.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3287 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1472]

Cardiovascular Devices; Classification of Heart Sound Transducers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying heart sound transducers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13353) a proposed regulation to classify heart sound transducers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2860, to read as follows:

§ 870.2860 Heart sound transducer.

(a) *Identification.* A heart sound transducer is an external transducer that exhibits a change in mechanical or electrical properties in relation to sounds produced by the heart. This device may be used in conjunction with a phonocardiograph to record heart sounds.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3288 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1473]

Cardiovascular Devices; Classification of Catheter Tip Pressure Transducers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying catheter tip pressure transducers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13354) a proposed regulation to classify catheter tip pressure transducers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2870, to read as follows:

§ 870.2870 Catheter tip pressure transducer.

(a) *Identification.* A catheter tip pressure transducer is a device incorporated into the distal end of a catheter. When placed in the bloodstream, its mechanical or electrical properties change in relation to changes in blood pressure. These changes are

transmitted to accessory equipment for processing.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3269 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1474]

Cardiovascular Devices; Classification of Ultrasonic Transducers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying ultrasonic transducers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13355) a proposed regulation to classify ultrasonic transducers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2880, to read as follows:

§ 870.2880 Ultrasonic transducer.

(a) *Identification.* An ultrasonic transducer is a device applied to the skin to transmit and receive ultrasonic energy that is used in conjunction with an echocardiograph to provide imaging of cardiovascular structures. This device includes phased arrays and two-dimensional scanning transducers.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3270 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1475]

Cardiovascular Devices; Classification of Vessel Occlusion Transducers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying vessel occlusion transducers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13356) a proposed regulation to classify vessel occlusion transducers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2890, to read as follows:

§ 870.2890 Vessel occlusion transducer.

(a) *Identification.* A vessel occlusion transducer is a device used to provide an electrical signal corresponding to sounds produced in a partially occluded vessel. This device includes motion, sound, and ultrasonic transducers.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3271 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1476]

Cardiovascular Devices; Classification of Patient Transducer and Electrode Cables (Including Connector)

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying patient transducer and electrode cables (including connector) into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13357) a proposed regulation to classify patient transducer and electrode cables (including connector) into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2900, to read as follows:

§ 870.2900 Patient transducer and electrode cable (including connector).

(a) *Identification.* A patient transducer and electrode cable (including connector) is an electrical conductor used to transmit signals from, or power or excitation signals to, patient-connected electrodes or transducers.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3272 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1477]

Cardiovascular Devices; Classification of Radiofrequency Physiological Signal Transmitters and Receivers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying radiofrequency physiological signal transmitters and receivers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13358) a proposed regulation to classify radiofrequency physiological signal transmitters and receivers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart C by adding new § 870.2910, to read as follows:

§ 870.2910 Radiofrequency physiological signal transmitter and receiver.

(a) *Identification.* A radiofrequency physiological signal transmitter and receiver is a device used to condition a physiological signal so that it can be transmitted via radiofrequency from one location to another, e.g., a central monitoring station. The received signal is reconditioned by the device into its original format so that it can be displayed.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3273 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1478]

Cardiovascular Devices; Classification of Telephone Electrocardiograph Transmitters and Receivers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying telephone electrocardiograph transmitters and receivers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13359) a proposed regulation to classify telephone electrocardiograph transmitters and receivers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commission of Food and Drugs is

amending Part 870 in Subpart C by adding new § 870.2920, to read as follows:

§ 870.2920 Telephone electrocardiograph transmitter and receiver.

(a) *Identification.* A telephone electrocardiograph transmitter and receiver is a device used to condition an electrocardiograph signal so that it can be transmitted via a telephone line to another location. This device also includes a receiver that reconditions the received signal into its original format so that it can be displayed. The device includes devices used to transmit and receive pacemaker signals.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3274 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1479]

Cardiovascular Devices; Classification of Vascular Clips

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying vascular clips into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13360) a proposed regulation to classify vascular clips into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No comments have been received regarding the proposed regulation to classify this device. FDA is making a change in the identification of the device, however, to distinguish it from the aneurysm clip, classified as a neurological device in the Federal Register of September 4, 1979 (44 FR 51764).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 by adding new Subpart D and new § 870.3250, to read as follows:

Subpart D—Cardiovascular Prosthetic Devices

§ 870.3250 Vascular clip.

(a) *Identification.* A vascular clip is an implanted extravascular device designed to occlude, by compression, blood flow in small blood vessels other than intracranial vessels.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3275 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1480]

Cardiovascular Devices; Classification of Vena Cava Clips

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying vena cava clips into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13361) a proposed regulation to classify vena cava clips into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3260, to read as follows:

§ 870.3260 Vena cava clip.

(a) *Identification.* A vena cava clip is an implanted extravascular device designed to occlude partially the vena cava for the purpose of inhibiting the flow of thromboemboli through that vessel.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3276 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1481]

Cardiovascular Devices; Classification of Arterial Embolization Devices

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying arterial embolization devices into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13363) a proposed regulation to classify peripheral arterial embolization devices into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. FDA is making changes in the name and identification of the device, however, to clarify the uses of the device and to distinguish it from the artificial embolization device, classified as a neurological device in the Federal Register of September 4, 1979 (44 FR 51777).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3300, to read as follows:

§ 870.3300 Arterial embolization device.

(a) *Identification.* An arterial embolization device is an intravascular implanted device used to control internal hemorrhage or to halt blood flow in arteries supplying blood to certain types of abdominal tumors (e.g., nephroma, hepatoma) and arteriovenous malformations. This device is not used in intracranial arteries.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3277 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1482]

Cardiovascular Devices; Classification of Cardiovascular Intravascular Filters

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiovascular intravascular filters into class II (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13364) a proposed regulation to classify cardiovascular intravascular filters into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3375, to read as follows:

§ 870.3375 Cardiovascular intravascular filter.

(a) *Identification.* A cardiovascular intravascular filter is an implant that is placed in the inferior vena cava for the purpose of preventing pulmonary thromboemboli (blood clots generated in the lower limbs and broken loose into the blood stream) from flowing into the right side of the heart and the pulmonary circulation.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3278 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1483]

Cardiovascular Devices; Classification of Vascular Graft Prostheses of Less Than 6 Millimeters Diameter

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying vascular graft prostheses of less than 6 millimeters diameter into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket

approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT:
John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13385) a proposed regulation to classify vascular graft prostheses of less than 6 millimeters diameter into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. FDA is making changes in the identification of the device to distinguish it from vascular grafts of animal origin, including those manufactured from human umbilical cords. The latter device was classified into class III by the transitional provisions in section 520(1) of the act (21 U.S.C. 360(1)) and is therefore now subject to premarket approval requirements. FDA published a notice on the transitional provisions in the **Federal Register** of December 16, 1977 (42 FR 63472). In the future, FDA will publish a final regulation codifying the statutory classification into class III of the vascular graft of animal origin, including those from human umbilical cords.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3450, to read as follows:

§ 870.3450 Vascular graft prosthesis of less than 6 millimeters diameter.

(a) *Identification.* A vascular graft prosthesis of less than 6 millimeters (mm) diameter is a device used to replace sections of small arteries. This prosthesis is commonly constructed of woven or knitted materials such as polyethylene terephthalate and polytetrafluoroethylene and is not made of materials of animal origin, including human umbilical cords.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be efective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360, 371(a)))

Dated: January 14, 1980.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3279 Filed 2-4-80; 8:45 am]
BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1484]

Cardiovascular Devices; Classification of Vascular Graft Prostheses of 6 Millimeters and Greater Diameter

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying vascular graft prostheses of 6 millimeters and greater diameter into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT:
John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13366) a proposed regulation to classify vascular graft prostheses of 6 millimeters and greater diameter into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. For the reasons in the preamble to the regulation classifying vascular graft prostheses of less than 6 millimeters in diameter, FDA is making changes in the identification of the device to distinguish it from the vascular graft of animal origin, including those manufactured from human umbilical cords. The latter device was classified into class III by the transitional provisions in section 520(1) of the act (21 U.S.C. 360(1)) and is therefore now subject to premarket approval requirements. FDA published a notice on the transitional provisions in the **Federal Register** of December 16, 1977 (42 FR 63472). In the future, FDA will publish a final regulation codifying the statutory classification into class III of the vascular graft of animal origin, including those from human umbilical cords.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3460, to read as follows:

§ 870.3460 Vascular graft prosthesis of 6 millimeters and greater diameter.

(a) *Identification.* A vascular graft prosthesis of 6 millimeters (mm) and greater diameter is a device used to replace sections of arteries. This prosthesis is commonly constructed of woven or knitted materials such as polyethylene terephthalate and polytetrafluoroethylene and is not made of materials of animal origin, including human umbilical cords.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3280 Filed 2-4-80; 8:45 am]
BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1485]

Cardiovascular Devices; Classification of Intracardiac Patches or Pledgets Made of Polypropylene, Polyethylene Terephthalate, or Polytetrafluoroethylene

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying intracardiac patches or pledgets made of polypropylene, polyethylene terephthalate, or polytetrafluoroethylene into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT:
John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13368) a proposed regulation to classify intracardiac patches or pledgets made of polypropylene, Teflon™ (polytetrafluoroethylene), or Dacron™ (polyethylene terephthalate) into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted as proposed with a clarification of the device name and identification showing the chemical names for the materials used in the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3470, to read as follows:

§ 870.3470 Intracardiac patch or pledget made of polypropylene, polyethylene terephthalate, or polytetrafluoroethylene.

(a) *Identification.* An intracardiac patch or pledget made of polypropylene, polyethylene terephthalate, or polytetrafluoroethylene is a fabric device placed in the heart that is used to repair septal defects, for patch grafting, to repair tissue, and to buttress sutures.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3281 Filed 2-4-80; 8:45 am]
BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1487]

Cardiovascular Devices; Classification of Intra-Aortic Balloons and Control Systems

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying intra-aortic balloon and control systems into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT:
John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13369) a proposed regulation to classify intra-aortic balloons and control systems into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3535, to read as follows:

§ 870.3535 Intra-aortic balloon and control system

(a) *Identification.* A intra-aortic balloon and control system is a device that consists of an inflatable balloon, which is placed in the aorta to improve cardiovascular functioning during certain life-threatening emergencies, and a control system for regulating the inflation and deflation of the balloon. The control system, which monitors and is synchronized with the electrocardiogram, provides a means for setting the inflation and deflation of the balloon with the cardiac cycle.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3282 Filed 2-4-80; 8:45 am]
BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1488]

Cardiovascular Devices; Classification of Ventricular Bypass (Assist) Devices

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying ventricular bypass (assist) devices into class III (premarket

approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13370) a proposed regulation to classify ventricular bypass (assist) devices into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3545, to read as follows:

§ 870.3545 Ventricular bypass (assist) device.

(a) *Identification.* A ventricular bypass (assist) device is a device that assists the left or right ventricle in maintaining circulatory blood flow. The device is either totally or partially implanted in the body.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3283 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1489]

Cardiovascular Devices; Classification of External Pacemaker Pulse Generators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying external pacemaker pulse generators into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FUTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13372) a proposed regulation to classify external pacemaker pulse generators into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3600, to read as follows:

§ 870.3600 External pacemaker pulse generator.

(a) *Identification.* An external pacemaker pulse generator is a device that has a power supply and electronic circuits that produce a periodic electrical pulse to stimulate the heart. This device, which is used outside the body, is used as a temporary substitute for the heart's intrinsic pacing sytem until a permanent pacemaker can be implanted, or to control irregular heartbeats in patients following cardiac surgery or a myocardial infarction. The device may have adjustments for impulse strength, duration, R-wave sensitivity, and other pacing variables.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Association Commissioner for Regulatory Affairs.

[FR Doc. 80-3284 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1490]

Cardiovascular Devices; Classification of Implantable Pacemaker Pulse Generators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying implantable pacemaker pulse generators into class III (premarket approvals). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13373) a proposed regulation to classify implantable pacemaker pulse generators into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3610, to read as follows:

§ 870.3610 Implantable pacemaker pulse generator.

(a) *Identification.* An implantable pacemaker pulse generator is a device that has a power supply and electronic circuits that produce a periodic electrical pulse to stimulate the heart. This device is used as a substitute for the heart's intrinsic pacing system to correct both intermittent and continuous cardiac rhythm disorders. This device includes triggered, inhibited, and asynchronous devices implanted in the human body.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3285 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1491]

Cardiovascular Devices; Classification of Pacemaker Lead Adaptors

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying pacemaker lead adaptors into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13374) a proposed regulation to classify pacemaker lead adaptors into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3620, to read as follows:

§ 870.3620 Pacemaker lead adaptor.

(a) *Identification.* A pacemaker lead adaptor is a device used to adapt a pacemaker lead so that it can be connected to a pacemaker pulse generator produced by a different manufacturer.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3286 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1492]

Cardiovascular Devices; Classification of Pacemaker Generator Function Analyzers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying pacemaker generator function analyzers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13375) a proposed regulation to classify pacemaker generator function analyzers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3630, to read as follows:

§ 870.3630 Pacemaker generator function analyzer.

(a) *Identification.* A pacemaker generator function analyzer is a device that is connected to a pacemaker pulse generator to test any or all of the generator's parameters, including pulse duration, pulse amplitude, pulse rate, and sensing threshold.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3287 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1493]

Cardiovascular Devices; Classification of Indirect Pacemaker Generator Function Analyzers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying indirect pacemaker generator function analyzers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13375) a proposed regulation to classify indirect pacemaker generator function analyzers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3640, to read as follows:

§ 870.3640 Indirect pacemaker generator function analyzers.

(a) *Identification.* An indirect pacemaker generator function analyzer is an electrically powered device that is used to determine pacemaker function or pacemaker battery function by periodically monitoring an implanted pacemaker's pulse rate and pulse width. The device is noninvasive, and it detects pacemaker pulse rate and width via external electrodes in contact with the patient's skin.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3288 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1494]

Cardiovascular Devices; Classification of Pacemaker Polymeric Mesh Bags

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying pacemaker polymeric mesh bags into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13376) a proposed regulation to classify pacemaker polymeric mesh bags into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3650, to read as follows:

§ 870.3650 Pacemaker polymeric mesh bag.

(a) *Identification.* A pacemaker polymeric mesh bag is an implanted device used to hold a pacemaker pulse generator. The bag is designed to create a stable implant environment for the pulse generator.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3289 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1496]

Cardiovascular Devices; Classification of Pacemaker Chargers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying pacemaker chargers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13378) a proposed regulation to classify pacemaker chargers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3670, to read as follows:

§ 870.3670 Pacemaker chargers.

(a) *Identification.* A pacemaker charger is a device used transcutaneously to recharge the batteries of a rechargeable pacemaker.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3290 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1497]

Cardiovascular Devices; Classification of Cardiovascular Permanent or Temporary Pacemaker Electrodes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying temporary pacemaker electrodes into class II (performance standards) and permanent pacemaker electrodes into class III (premarket approval). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application for premarket approval for the permanent pacemaker electrodes must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13379) a proposed regulation to classify permanent and temporary pacemaker electrodes into class III (premarket approval). A period of 60 days was provided for interested persons to submit comments to FDA.

Two comments suggested that temporary pacemaker electrodes be classified into class II, while permanent pacemaker electrodes be classified into class III.

One of the comments reviewed the hazards associated with pacemaker electrodes and explained that the hazards listed in the proposed regulation relate to permanent pacemaker electrodes and not to temporary pacemaker electrodes.

The second comment stated that lead breakage, although possible, is not a hazard presented by temporary pacemaker electrodes. The comment cited a failure rate of 0.0005 percent for one manufacturer. The comment also stated that electrode displacement and diaphragmatic contractions are not hazards presented by temporary pacemaker electrodes. The comment assented that "exit block" is a complication occuring only with the use of permanent pacemaker electrodes. The comment stated that, for temporary pacemaker electrodes, thrombosis and arrhythmia are insignificant hazards, corrosion does not occur because of the short duration of use, and perforation is caused by medical technique, not by the device itself.

Both comments asserted that performance standards are sufficient to ensure the safety and effectiveness of temporary pacemaker electrodes and that sufficient data exist to establish such a standard.

FDA and the Circulatory System Devices Panel (the present name of the advisory committee responsible for cardiovascular devices) reviewed the comments, including additional published literature submitted with one of the comments and additional data provided by several noted physicians. The agency also discussed the classification of temporary electrodes in detail at the August 17, 1979, Panel meeting (Ref. 1).

FDA's review of the literature reveals that the following are hazards presented by temporary pacemaker electrodes (Refs. 2 through 20):

1. Loss of stimulation, either through electrode malposition or displacement, or loss of "capture" with a sensing electrode.

2. Cardiac perforation.
3. Thromboembolic complications, including thrombophlebitis.
4. Lead breakage or shorting and catheter knotting.
5. Cardiac arrhythmias, including ectopic beats and ventricular fibrillation.
6. Infection.

The most common complication is loss of stimulation through some type of placement difficulty. In Tancredi's study, this complication occurred in 25 percent of the cases; 1.8 percent of the cases required insertion of a new electrode; all other incidents were corrected by repositioning the electrode (Ref. 6). The literature indicates that the occurrence of these hazards becomes less common with time and growing experience (Refs. 4, 5, 15, 16).

Temporary pacemaker electrodes are available in many types, including unipolar and bipolar, endocardial, and myocardial. The type most commonly used is a bipolar endocardial electrode placed via one of several percutaneous venous routes. Myocardial electrodes are sometimes used in surgery and in "blind" transthoracic punctures, which are associated with hazards in addition to those listed above.

Most investigators have found bipolar catheter electrodes to be the most satisfactory for temporary pacing because, with these electrodes, there is a lower rate of loss of stimulation or sensing than has been observed with use of unipolar catheter electrodes. Temporary electrodes have been used in some patients for over 30 days. Cheng reported use for 310 days (Ref. 14), and Tancredi reported use for 54 days (Ref. 6). More often, the device is used for a short period ranging from a few hours to about two weeks. It is generally not current practice to use temporary electrodes for longer periods.

Properties of electrode catheters that Escher mentions as important are: (1) roentgenographic opacity, (2) stiffness, (3) a noncorrosive electrode, (4) a highly conductive and flexible core to withstand rythmic motion, (5) a blood-compatible catheter sheath (of nonwetting material), and (6) properly designed connectors able to withstand motion and handling (Ref. 2).

In a letter to the agency (Ref. 21), Parsonnet, Director of Surgery, Newark Beth Israel Medical Center, made the following observations:

> Not being designed for permanent implantation, temporary electrodes do not present concerns regarding long term wire fractures, perforations, thrombus formation, and displacement are of the same critical nature as they are presented by permanent electrodes.

Transvenous positioning of a temporary electrode is quite simple with the present techniques, and capture of the ventricle is reliable because of the bipolar configuration. When both electrodes lie in the ventricle intimate contact with the endocardium is not required, and pacing stability is assured.

Similarly, thrombosis around the electrode is almost unheard of today. Years ago rare cases of thrombosis were seen when electrodes had been left in for long periods, but such models were discontinued from the market long ago, and pacing for more than several weeks with a temporary electrode is rare.

Dangers of producing arrhythmias from anodal stimulation have to do more with the design of the attached pacemaker than they do with the electrode. I can see no relationship between present electrode design and fibrillation potential.

The older-style electrodes were known to produce ventricular perforation, but I have not seen one of these for almost 13 years. Use of adequate surgical techniques and positioning of the electrode in the apex with modern electrodes, which are relatively soft, can be done with little risk of perforation. Again, problems of this sort which may arise are more related to the technique of the surgeon than to the equipment.

Electrode corrosion, another concern with permanent electrodes, will not occur with the temporary models, because, again, corrosion is more a function of the pacemaker than of the electrode. Moreover, corrosion is directly related to the length of time the electrode is in position. A recent personal study on corrosion in permanent electrodes demonstrates, through scanning electron microscopy, that there is no evidence of microscopic corrosion for many months of pacing. This length of service exceeds the intended use of temporary pacemaking electrodes.

In determining the appropriate classification of temporary pacemaker electrodes, FDA considers it important that the state-of-the-art in the manufacturing and design of these devices has stabilized and that few changes are being made or considered by manufacturers or clinicians. In contrast, the manufacturing and design of permanent pacemaker electrodes is in a state of flux in which many changes are being made or considered. Consequently, the agency believes that premarket approval (class III) is necessary for permanent pacemaker electrodes to control the risks to health listed in the proposed regulation.

Based upon the Panel's recommendations and the information submitted with the comments, FDA agrees with the comments and is publishing a final rule classifying temporary pacemaker electrodes into class II and permanent pacemaker electrodes into class III. For the reasons stated in the general regulation on cardiovascular devices published elsewhere in this issue of the Federal Register, FDA does not believe that it is necessary to issue a new proposal concerning this decision.

References

The following information has been placed in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons from 9 a.m. to 4 p.m., Monday through Friday.

1. Summary Minutes of the Circulatory System Devices Panel Meeting, August 17, 1979.
2. Escher, D. J. W., J. B. Schwedel, "Methods and Materials in Cardiac Pacemaking," *Annals of the New York Academy of Science*, 118(1):125–133, 1964.
3. Escher, D. J. W., S. Furman, et al., "Cineroentgenographic Studies of the Stability of Position Maintained by Transvenous Cardiac Pacemaker Electrodes," *Circulation* (Supp. III), 33–34: III–98, 1966.
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Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3680, to read as follows:

§ 870.3680 Cardiovascular permanent or temporary pacemaker electrode.

(a) *Temporary pacemaker electrode*—(1) *Identification.* A temporary pacemaker electrode is a device consisting of flexible insulated electrical conductors with one end connected to an *external* pacemaker pulse generator and the other end applied to the heart. The device is used to transmit a pacing electrical stimulus from the pulse generator to the heart and/or to transmit the electrical signal of the heart to the pulse generator.

(2) *Classification.* Class II (performance standards).

(b) *Permanent pacemaker electrode*—(1) *Identification.* A permanent pacemaker electrode is a device consisting of flexible insulated electrical conductors with one end connected to an implantable pacemaker pulse generator and the other end applied to the heart. The device is used to transmit a pacing electrical stimulus from the pulse generator to the heart and/or to transmit the electrical signal of the heart to the pulse generator.

(2) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3291 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1498]

Cardiovascular Devices; Classification of Pacemaker Test Magnets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying pacemaker test magnets into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13361) a proposed regulation to classify pacemaker test magnets into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3690, to read as follows:

§ 870.3690 Pacemaker test magnet.

(a) *Identification.* A pacemaker test magnet is a device used to test an inhibited or triggered type of pacemaker pulse generator and cause an inhibited or triggered generator to revert to asynchronous operation.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3292 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1499]

Cardiovascular Devices; Classification of Pacemaker Programmers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying pacemaker programmers into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13382) a proposed regulation to classify pacemaker programmers into class III (premarket approval). A period

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of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3700, to read as follows:

§ 870.3700 Pacemaker programmers.

(a) *Identification.* A pacemaker programmer is a device used to change noninvasively one or more of the electrical operating characteristics of a pacemaker.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3293 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1500]

Cardiovascular Devices; Classification of Pacemaker Repair or Replacement Materials

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying pacemaker repair or replacement materials into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13383) a proposed regulation to classify pacemaker repair and replacement materials into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 970 in Subpart D by adding new § 870.3710, to read as follows:

§ 870.3710 Pacemaker repair or replacement material.

(a) *Identification.* A pacemaker repair or replacement material is an adhesive, a sealant, a screw, a crimp, or any other material used to repair a pacemaker lead or to reconnect a pacemaker lead to a pacemaker pulse generator.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3294 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1501]

Cardiovascular Devices; Classification of Pacemaker Electrode Function Testers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying pacemaker electrode function testers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13384) a proposed regulation to classify pacemaker electrode function testers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3720, to read as follows:

§ 870.3720 Pacemaker electrode function tester.

(a) *Identification.* A pacemaker electrode function tester is a device which is connected to an implanted pacemaker lead that supplies an accurately calibrated, variable pacing pulse for measuring the patient's pacing threshold and intracardiac R-wave potential.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3295 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1502]

Cardiovascular Devices; Classification of Pacemaker Service Tools

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying pacemaker service tools into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13385) a proposed regulation to classify pacemaker service tools into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3730, to read as follows:

§ 870.3730 Pacemaker service tools.

(a) *Identification.* Pacemaker service tools are devices such as screwdrivers and Allen wrenches, used to repair a pacemaker lead or to reconnect a pacemaker lead to a pacemaker generator

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3296 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1503]

Cardiovascular Devices; Classification of Annuloplasty Rings

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying annuloplasty rings into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13385) a proposed regulation to classify annuloplasty rings into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3800, to read as follows:

§ 870.3800 Annuloplasty ring.

(a) *Identification.* An annuloplasty ring is a rigid or flexible ring implanted around the mitral or tricuspid heart valve for reconstructive treatment of valvular insufficiency.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3297 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1504]

Cardiovascular Devices; Classification of Carotid Sinus Nerve Stimulators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying carotid sinus nerve stimulators into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices

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(HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13388) a proposed regulation to classify carotid sinus nerve stimulators into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3850, to read as follows:

§ 870.3850 Carotid sinus nerve stimulator.

(a) *Identification.* A carotid sinus nerve stimulator is an implantable device used to decrease arterial pressure by stimulating Hering's nerve at the carotid sinus.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

(Secs 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3288 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1505]

Cardiovascular Devices; Classification of Replacement Heart Valves

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying replacement heart valves into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13387) a proposed regulation to classify replacement heart valves into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3925, to read as follows:

§ 870.3925 Replacement heart valve.

(a) *Identification.* A replacement heart valve is a device intended to perform the function of any of the heart's natural valves. This device includes valves constructed of prosthetic materials, biologic valves (e.g., porcine valves), or valves constructed of a combination of prosthetic and biologic materials.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3289 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1506]

Cardiovascular Devices; Classification of Prosthetic Heart Valve Holders

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying prosthetic heart valve holders into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13389) a proposed regulation to classify prosthetic heart valve holders into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without a change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3935, to read as follows:

§ 870.3935 Prosthetic heart valve holder.

(a) *Identification.* A prosthetic heart valve holder is a device used to hold a replacement heart valve while it is being sutured into place.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3300 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1507]

Cardiovascular Devices; Classification of Prosthetic Heart Valve Sizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying prosthetic heart valve sizers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13389) a proposed regulation to classify prosthetic heart valve sizers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart D by adding new § 870.3945, to read as follows:

§ 870.3945 Prosthetic heart valve sizer.

(a) *Identification.* A prosthetic heart valve sizer is a device used to measure the size of the natural valve opening to determine the size of the appropriate replacement heart valve.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3301 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1508]

Cardiovascular Devices; Classification of Endomyocardial Biopsy Devices

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying endomyocardial biopsy devices into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13390) a proposed regulation to classify endomyocardial biopsy devices into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

One comment was received regarding the classsification of endomyocardial biopsy devices. The comment suggested that the device category be divided into two types. One type would consist of endomyocardial biopsy devices used in surgery where the biopsied tissue can be seen directly. The comment suggested that this type of device be classified into class II. The second type would consist of endomyocardial biopsy devices used in catheterization procedures where the tissue cannot be seen. The comment suggested that this type of device be classified into class III because of potential danger presented by these devices.

FDA believes that the information presented in the proposed classification regulation demonstrates that performance standards can be established for endomyoardial biopsy devices. The first type of biopsy device mentioned in the comment will be published with the General and Plastic Surgery Device Classification Panel's devices. Although the second type of endomyocardial biopsy device that is identified in this regulation has a higher potential for danger than other types of biopsy devices, FDA believes the hazards it presents can be controlled by application of performance standards. Accordingly, the proposed regulation is being adopted without change in classification; however, the identification for the device is being clarified regarding device usage.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 by adding Subpart E and new § 870.4075, to read as follows:

Subpart E—Cardiovascular Surgical Devices

§ 870.4075 Endomyocardial biopsy device.

(a) *Identification.* An endomyocardial biopsy device is a device used in a catheterization procedure to remove samples of tissue from the inner wall of the heart.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3302 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1509]

Cardiovascular Devices; Classification of Cardiopulmonary Bypass Accessory Equipment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiopulmonary bypass accessory equipment into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13392) a proposed regulation to classify cardiopulmonary bypass accessory equipment into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

One comment was received regarding cardiopulmonary bypass accessory equipment. The comment suggested that the device be classified into class I rather than class II as proposed. The comment stated that general controls, including adherence by manufacturers to the good manufacturing practice regulation (21 CFR Part 820) would be sufficient to ensure the safety and effectiveness of the device. The comment stated that the adequacy of the design of the device is immediately apparent when the user assembles the cardiopulmonary bypass circuit and that the requirement of a performance standard for these devices "seems to be overkill."

One of the criteria that FDA uses to decide whether a device may be classified into class I is whether a user may immediately determine performance adequacy of the device upon visual inspection. FDA agrees that the adequacy of the performance of this device is readily discernible at the time the bypass circuit is assembled and that the device does not present a direct hazard to the patient. Therefore, FDA, agrees with the comment and is issuing the final regulation classifying the device into class I (general controls) with no exemptions. For the reasons stated in the general regulation on cardiovascular devices, published elsewhere in this issue of the **Federal Register**, FDA does not believe that it is necessary to issue a new proposal concerning this decision.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4200, to read as follows:

§ 870.4200 Cardiopulmonary bypass accessory equipment.

(a) *Identification.* Cardiopulmonary bypass accessory equipment are devices that have no contact with blood and that are used in the cardiopulmonary bypass circuit to support, adjoin, or connect components, or to aid in the setup of the extracorporeal line, e.g., an oxygenator mounting bracket or system-priming equipment.

(b) *Classification.* Class I (general controls).

Effective Date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3303 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1378]

Cardiovascular Devices; Classification of Cardiopulmonary Bypass Bubble Detectors

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiopulmonary bypass bubble detectors into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13393) a proposed regulation to classify cardiopulmonary bypass bubble detectors into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4205, to read as follows:

§ 870.4205 Cardiopulmonary bypass bubble detector.

(a) *Identification.* A cardiopulmonary bypass bubble detector is a device used to detect bubbles in the arterial return line of the cardiopulmonary bypass circuit.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3304 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1510]

Cardiovascular Devices; Classification of Cardiopulmonary Bypass Vascular Catheters, Cannulas, or Tubing

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiopulmonary bypass vascular catheters, cannulas, or tubing into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13394) a proposed regulation to classify cardiopulmonary bypass vascular catheters, cannulas, and tubing into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4210, to read as follows:

§ 870.4210 Cardiopulmonary bypass vascular catheter, cannula, or tubing.

(a) *Identification.* A cardiopulmonary bypass vascular catheter, cannula, or tubing is a device used in cardiopulmonary surgery to cannulate the vessels, perfuse the coronary arteries, and to interconnect the catheters and cannulas with an oxygenator. The device includes accessory bypass equipment.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3305 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1511]

Cardiovascular Devices; Classification of Cardiopulmonary Bypass Heart-Lung Machine Consoles

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiopulmonary bypass heart-lung machine consoles into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13394) a proposed regulation to classify cardiopulmonary bypass heart-lung machine consoles into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4220 , to read as follows:

§ 870.4220 Cardiopulmonary bypass heart-lung machine console.

(a) *Identification.* A cardiopulmonary bypass heart-lung machine console is a device that consists of a control panel and the electrical power and control circuitry for a heart-lung machine. The console is designed to interface with the basic units used in a gas exchange system, including the pumps, oxygenator, and heat exchanger.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3306 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1512]

Cardiovascular Devices; Classification of Cardiopulmonary Bypass Defoamers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiopulmonary bypass defoamers into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the devide to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before

September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA publiched in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13395) a proposed regulation to classify cardiopulmonary bypass defoamers into clas III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

One comment was received regarding cardiopulmonary bypass defoamers. The comment suggested that the device be classified into class II rather than class III. The comment argued that the state-of-the-art of in-line gas bubble removal and detection is advanced sufficiently that adequate test methods exist that can be standardized. The comment provided a reference showing that ultrasonic methods for counting in-line gaseous microemboli exist and that commercial equipment is available for this purpose (Ref. 1). The comment contended that this equipment could be used and would allow users to evaluate the device's defoaming ability. Finally, the comment stated: "With the test methodology already available, determination of limits for bubble removal would not be difficult to establish."

Although the state-of-the-art in defoaming of blood in cardiopulmonary bypass systems has advanced during the past several years, FDA disagrees that it has advanced sufficiently to allow the development of performance standards that would ensure the safety and effectiveness of defoamers. The test method used at Rhode Island Hospital (Ref. 1), which represents a significant advance in in-line microemboli detection, is still under development and has not been validated by other laboratories. From the information available to FDA, device systems for accurately counting gaseous microemboli in a flowing blood stream are not generally available to all device users. Therefore, FDA believes that cardiovascular bypass defoamers should be classified into class III, and the proposed regulation is being adopted without change.

Reference

1. Abts, L. R., R. T. Beyer, P. M. Galletti, P. D. Richardson, D. Karon, R. Massimino, K. E. Karlson, "Computerized Discrimination of Microemboli in Extracorporeal Circuits," *American Journal of Surgery*, 135(4): 535-538, 1978.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4230, to read as follows:

§ 870.4230 Cardiopulmonary bypass defoamer.

(a) *Identification.* A cardiopulmonary bypass defoamer is a device used in conjunction with an oxygenator during cardiopulmonary bypass surgery to remove gas bubbles from the blood.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3307 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1513]

Cardiovascular Devices; Classification of Cardiopulmonary Bypass Heat Exchangers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiopulmonary bypass heat exchangers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13396) a proposed regulation to classify cardiopulmonary bypass heat exchangers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4240, to read as follows:

§ 870.4240 Cardiovascular bypass heat exchanger.

(a) *Identification.* A cardiopulmonary bypass heat exchanger is a device, consisting of a heat exchange system used in extracorporeal circulation to warm or cool the blood or perfusion fluid flowing through the device.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3308 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1514]

Cardiovascular Devices; Classification of Cardiopulmonary Bypass Temperature Controllers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiopulmonary bypass temperature controllers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13397) a proposed regulation to classify cardiopulmonary bypass temperature controllers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4250, to read as follows:

§ 870.4250 Cardiopulmonary bypass temperature controller.

(a) *Identification.* A cardiopulmonary bypass temperature controller is a device used to control the temperature of the fluid entering and leaving a heat exchanger.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3309 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1515]

Cardiovascular Devices; Classification of Cardiopulmonary Bypass Arterial Line Blood Filters

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiopulmonary bypass arterial line blood filters into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13398) a proposed regulation to classify cardiopulmonary bypass arterial line blood filters into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

One comment was received regarding cardiopulmonary bypass arterial line blood filters. The comment suggested that the device be classified into class II rather than class III. The comment also suggested several corrections in and clarifications of the data presented in the proposed regulation.

First, the comment suggested that the following statement in the summary of reasons for the recommendation should be omitted because of subsequent contradictory statements: "In addition, it has not been clearly established that adverse physiological effects follow when the device is absent from the circuit".

FDA agrees that the quoted statement needs explanation. The point the agency intended to convey in that statement is that some clinicians operate the cardiopulmonary bypass system without the use of an arterial line filter, and report no difference in the outcome of their surgery that could be attributed to the presence or absence of a filter, bringing into question either the value of the device in the bypass circuit or the effectiveness of the device in filtering particles from the blood. One recent article (Ref. 1) reported an increase in the number of particles down line from an arterial line filter, when it was tested in a simple ex vivo circuit consisting only of arterial and venous cannulae, ultrasonic detection chambers, and an arterial line filter. The same reference indicated that in a more complex circuit the arterial line filter was effective for larger particles (greater than 86 microns) but allowed smaller emboli to pass.

Second, the comment questioned the use of the term "accuracy" in describing the performance characteristics of blood filters. The comment suggested "filter rating" and "filter efficiency" as more precise terms to describe performance characteristics of blood filters.

FDA agrees that "accuracy" does not properly describe the performance of blood filters and adopts "filtration efficiency" as a clearer description of this performance.

Third, the comment insisted that statements made in the proposal concerning the potential risks presented by the device were misleading because of omission of data regarding clinical experience with the device indicating that these risks have not been observed in actual practice. The comment cited references supporting this position. The comment stated that "it is improper to withhold or ignore what actual experience to date has revealed".

FDA disagrees with the comment. FDA and the Cardiovascular Device Classification Panel did consider clinical experience with blood filters in determining how they should be classified. Although the proposal's description of risks to health presented by the device is accurate, this description did not provide information on the expected or observed frequency

of occurrence of these risks. It is true that FDA does not have reports of injuries due to the risks to health described in the proposal. However, it is also true that FDA is not certain that such injuries have not occurred. Section 513(a)(1)(C)(ii)(II) of the act authorizes a device to be classified into class III if it "presents a potential unreasonable risk of illness or injury". Agency documentation that injuries have actually occurred is not a prerequisite to classification of a device into class III. Moreover, FDA's proposal to classify blood filters into class III was based not only on the risk presented by the device, but also on the fact that the device is purported as represented to be for a use in removing emboli from the blood in the cardiopulmonary bypass circuit, which is of substantial importance in preventing impairment to human health. The basis for classifying the device into class III is founded upon an independent criterion for class III in section 513(a)(1)(C)(ii)(I) of the act that does not depend upon a finding of risk.

Finally, the comment stated that sufficient data now exist to develop performance standards for the device. The comment stated that test methods exist to evaluate the thromboembolic effect of the device, pressure gradients across the device, and embolic complications related to the device, and cited references to those test methods.

FDA agrees that many test methods relating to safe and effective design and performance have been developed to evaluate the characteristics and properties of cardiopulmonary bypass arterial line blood filters. However, there is little or no agreement as to which method is most valuable or what property values are acceptable. To establish a performance standard, it is necessary to have not only test methodology, but also agreed upon limits for the values of the properties of the device.

FDA therefore disagrees with the comment suggesting classification of cardiopulmonary bypass arterial line blood filters into class II. Accordingly, the proposed regulation is being adopted without change.

Reference

1. Abts, L. R., R. T. Beyer, P. M. Galletti, K. E. Karlson, D. Karon, R. Massimino, P. D. Richardson, "Computerized Discrimination of Microemboli in Extracorporeal Circuits," *American Journal of Surgery*, 135:4 (535–538), April 1978.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4260, to read as follows:

§ 870.4260 Cardiopulmonary bypass arterial line blood filter.

(a) *Identification.* A cardiopulmonary bypass arterial line blood filter is a device used as part of a gas exchange (oxygenator) system to filter nonbiologic particles and emboli (blood clots or pieces of foreign material flowing in the bloodstream which will obstruct circulation by blocking a vessel) out of the blood. It is used in the arterial return line.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3310 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1516]

Cardiovascular Devices; Classification of Cardiopulmonary Bypass Cardiotomy Suction Line Blood Filters

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiopulmonary bypass cardiotomy suction line blood filters into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13400) a proposed regulation to classify cardiopulmonary bypass cardiotomy suction line blood filters into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

One comment was received regarding this device. The comment presented additions and corrections to the supplementary information in the proposed regulation, but did not suggest a change in classification.

The comment noted a transposition of references 5 and 6. FDA appreciates the information and has corrected that error.

The comment also questioned the use of the term "accuracy" in describing the performance characteristics of blood filters, and suggested "filter rating" and "filter efficiency" as more precise terms to describe the performance characteristics of blood filters.

FDA agrees that "accuracy" does not properly describe the performance of blood filters and adopts "filtration efficiency" as a clearer description of this performance.

The comment protested the description of cardiotomy suction line blood filters as "potentially hazardous to life or health" and the statement that the hazard of particle embolism may lead "to potentially debilitating or fatal emboli." The comment stated that "the cardiotomy line filter is never life-threatening" and that these statements should be modified to read: "Inability of the device to properly filter particles can lead to embolic complications."

FDA did state in the proposed regulation that problems associated with the use of the device are not usually life threatening. FDA believes, however, that any embolic complication has the potential of being hazardous to life or health and therefore disagrees with this point of the comment.

Finally, the comment stated that there were some inaccuracies in the information presented in the proposal on large-pore filters, such as that the references cited deal with blood transfusion filters rather than with cardiopulmonary bypass filters, that the problems of pressure extrusion and passage of microaggregates through the filter are not real problems with cardiopulmonary bypass microfilters, and that currently marketed filters compromise neither capacity nor smaller pore size.

FDA cited references in the proposal concerning transfusion filters because it believes that the performance characteristics, properties, and risks to health involving transfusion filters, along with other relevant matters, should be considered in the development of a standard for cardiotomy suction line blood filters. The statement in the proposal that, "Filters currently on the market compromise either capacity or small pore size" would have been more accurate if it stated that a compromise is made in the design of filters to make the filter fit its purpose. FDA realizes that tradeoffs are made between pore size, number of pores, and other filter characteristics in order to design properly a filter for a given use. It is obvious that the properties of a cardiotomy filter, a transfusion filter, or an arterial line filter must differ depending upon the requirements of the function the filter is designed to perform. FDA agrees with this portion of the comment.

No comments have been received challenging the proposed classification of the device into class II. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4270, to read as follows:

§ 870.4270 Cardiopulmonary bypass cardiotomy suction line blood filter.

(a) *Identification.* A cardiopulmonary bypass cardiotomy suction line blood filter is a device used as part of a gas exchange (oxygenator) system to filter nonbiologic particles and emboli (a blood clot or a piece of foreign material flowing in the bloodstream which will obstruct circulation by blocking a vessel) out of the blood. This device is intended for use in the cardiotomy suction line.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3311 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1517]

Cardiovascular Devices; Classification of Cardiopulmonary Prebypass Filters

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiopulmonary prebypass filters into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13402) a proposed regulation to classify cardiopulmonary prebypass filters into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4280, to read as follows:

§ 870.4280 Cardiopulmonary prebypass filter.

(a) *Identification.* A cardiopulmonary prebypass filter is a device used during priming of the oxygenator circuit to remove particulates or other debris from the circuit prior to initiating bypass. The device is not used to filter blood.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3312 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1518]

Cardiovascular Devices; Classification of Cardiopulmonary Bypass Adaptors, Stopcocks, Manifolds, or Fittings

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiopulmonary bypass adaptors, stopcocks, manifolds, or fittings into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13402) a proposed regulation to classify cardiopulmonary bypass adaptors, stopcocks, manifolds, or fittings into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513,

701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4290, to read as follows:

§ 870.4290 Cardiopulmonary bypass adaptor, stopcock, manifold, or fitting.

(a) *Identification.* A cardiopulmonary bypass adaptor, stopcock, manifold, or fitting is a device used in cardiovascular diagnostic, surgical, and therapeutic applications to interconnect tubing, catheters, or other devices.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3313 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1519]

Cardiovascular Devices; Classification of Cardiopulmonary Bypass Gas Control Units

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiopulmonary bypass gas control units into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** FR (44 13403) a proposed regulation to classify cardipulmonary bypass gas control units into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart B by adding new § 870.4300, to read as follows:

§ 870.4300 Cardiopulmonary bypass gas control unit.

(a) *Identification.* A cardiopulmonary bypass gas control unit is a device used to control and measure the flow of gas into the oxygenator. The device is calibrated for a specific gas.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3314 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1520]

Cardiovascular Devices; Classification of Cardiopulmonary Bypass Coronary Pressure Gauges

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiopulmonary bypass coronary pressure gauges into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13404) a proposed regulation to classify cardiopulmonary bypass coronary pressure gauges into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4310, to read as follows:

§ 870.4310 Cardiopulmonary bypass coronary pressure gauge.

(a) *Identification.* A cardiopulmonary bypass coronary pressure gauge is a device used in cardiopulmonary bypass surgery to measure the pressure of the blood perfusing the coronary arteries.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3315 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1521]

Cardiovascular Devices; Classification of Cardiopulmonary Bypass Pulsatile Flow Generators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiopulmonary bypass pulsatile flow generators into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982 or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13405) a proposed regulation to classify cardiopulmonary bypass pulsatile flow generators into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4320, to read as follows:

§ 870.4320 Cardiopulmonary bypass pulsatile flow generator.

(a) *Identification.* A cardiopulmonary bypass pulsatile flow generator is an electrically and pneumatically operated device used to create pulsatile blood flow. The device is placed in a cardiopulmonary bypass circuit downstream from the oxygenator.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3316 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1522]

Cardiovascular Devices; Classification of Cardiopulmonary Bypass On-Line Blood Gas Monitors

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiopulmonary bypass on-line blood gas monitors into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13406) a proposed regulation to classify cardiopulmonary bypass on-line blood gas monitors into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4330, to read as follows:

§ 870.4330 Cardiopulmonary bypass on-line blood gas monitor.

(a) *Identification.* A cardiopulmonary bypass on-line blood gas monitor is a device used in conjunction with a blood gas sensor to measure the level of gases in the blood.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3317 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1523]

Cardiovascular Devices; Classification of Cardiopulmonary Bypass Level Sensing Monitors and/or Controls

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiopulmonary bypass level sensing monitors and/or controls into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published

in that issue of the Federal Register (44 FR 13407) a proposed regulation to classify cardiopulmonary bypass level sensing monitors and/or controls into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4340, to read as follows:

§ 870.4340 Cardiopulmonary bypass level sensing monitor and/or control.

(a) *Identification.* A cardiopulmonary bypass level sensing monitor and/or control is a device used to monitor and/or control the level of blood in the blood reservoir and to sound an alarm when the level falls below a predetermined value.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3318 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1524]

Cardiovascular Devices; Classification of Cardiopulmonary Bypass Oxygenators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiopulmonary bypass oxygenators into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13408) a proposed regulation to classify cardiopulmonary bypass oxygenators into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

One comment was received regarding cardiopulmonary bypass oxygenators. The comment suggested that the device be classified into class II, rather than class III. The comment stated that events that have taken place since the Panel recommended that the device be placed in class III provide sufficient information to establish a performance standard for oxygenators.

The comment made several points in support of its suggestion that oxygenators be placed in class II. First, the comment stated that there is general agreement that the American Society for Artificial Internal Organs (ASAIO) standard for blood oxygenators (Ref. 1) addresses sufficient concerns to determine safe and effective performance of oxygenators. Second, it stated that laboratory tests provide the most meaningful data on the safety and effectiveness of oxygenators. Third, the comment noted that the Panel considered microembolization to be a significant and undetermined hazard of oxygenation. Fourth, the comment noted that most experts who testified at Panel meetings believed that oxygenators should be classified into class II.

The comment listed several events bearing upon the device's classification that have taken place since the May 2, 1977, Panel meeting at which the classification recommendation was recorded. The comment cited the Utah Biomedical Test Laboratories (UBTL) report on blood oxygenators (Ref. 2), the publication of the Association for the Advancement of Medical Instrumentation (AAMI) Draft Oxygenator Standard (Ref. 3), the FDA good manufacturing practice regulation (21 CFR Part 820) with additional controls for critical devices, and work advancing test methods for quantification of microemboli (Refs. 4 through 13). The comment compared the recommendations of the UBTL report with the proposed requirements of a standard developed by the Association for the Advancement of Medical Instrumentation (AAMI) and reviewed the state of test methodology for microembolization.

The comment concluded that the decision to place oxygenators in class III was close, that significant progress in standards development has occurred since the original class III Panel recommendation, and that the documents it referred to are an adequate basis upon which performance standards may be established. The comment also stated: "* * * one requirement omitted from current standards that we feel should be included is the requirement that a new or significantly modified oxygenator should be tested clinically before it is marketed."

FDA disagrees with the comment. It is true that the ASAIO standard has been incorporated into the AAMI draft standard and that standards are established for certain aspects of oxygenator performance. However, standards for the limitation of microembolization are not and never have been part of either proposed oxygenator standard. These standards as now written do not prescribe any performance levels for gas exchange, heat exchange efficiency, or acceptable level of blood damage. Furthermore, the present state-of-the-art in identification and quantification of microemboli is at best developmental. Those procedures that have shown the most promise in measurement of microemboli are neither generally available to industry nor validated through independent testing at several laboratories. The experts who testified at the Panel meetings in support of classifying the device into class II accompanied industry representatives who had brought them to the meetings for that purpose. Despite the volume of testimony in support of placing the device into class II, the Panel voted unanimously to recommend classification of the device into class III. Even the comment conceded that clinical trials for safety and effectiveness are needed for "new or significantly modified oxygenators."

FDA believes the device should be classified into class III. The proposed regulation is being adopted without change.

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4. Dutton, R. C., L. H. Edmunds, J. C. Hutchinson, D. B. Roe, "Platelet Aggregate Emboli Produced in Patients During Cardiopulmonary Bypass with Membrane and Bubble Oxygenators and Blood Lines," *Journal of Thoracic and Cardiovascular Surgery*, V 67(2), 1974.

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7. Kessler, J., R. H. Patterson, "The production of Microemboli by Various Blood Oxygenators," *Annals of Thoracic Surgery*, V 9(3), 1970.

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11. Abts, L. R., R. T. Beyer, P. M. Galletti, P. D. Richardson, D. Karon, R. Massimino, K. E. Karlson, "Computerized Discrimination of Microemboli in Extracorporeal Circuits," *American Journal of Surgery*, V 135 (4), 535–536, 1978.

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13. Abts, L. R., R. T. Beyer, P. D. Richardson, P. M. Galletti, K. E. Karlson, "Microparticle Detection with Focused Ultrasound," *Journal of the Acoustical Society of America*, 60(Suppl 1): s53–54, Fall 76.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4350, to read as follows:

§ 870.4350 Cardiopulmonary bypass oxygenator.

(a) *Identification.* A cardiopulmonary bypass oxygenator is a device used to exchange gases between blood and a gaseous environment to satisfy the gas exchange needs of a patient during open-heart surgery.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3319 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1525]

Cardiovascular Devices; Classification of Nonroller-type Cardiopulmonary Bypass Blood Pumps

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying nonroller-type cardiopulmonary bypass blood pumps into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13409) a proposed regulation to classify nonroller-type cardiopulmonary bypass blood pumps into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4360, to read as follows:

§ 870.4360 Nonroller-type cardiopulmonary bypass blood pump.

(a) *Identification.* A nonroller-type cardiopulmonary bypass blood pump is a device that uses a method other than revolving rollers to pump the blood through the nonroller-type cardiopulmonary bypass circuit during bypass surgery.

(b) *Classification.* Class III (premarket approval).

Effective Date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3320 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1526]

Cardiovascular Devices; Classification of Roller-Type Cardiopulmonary Bypass Blood Pumps

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying roller-type cardiopulmonary bypass blood pumps into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device.

This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13411) a proposed regulation to classify roller-type cardiopulmonary bypass blood pumps into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4370, to read as follows:

§ 870.4370 Roller-type cardiopulmonary bypass blood pumps

(a) *Identification.* A roller-type cardiopulmonary bypass blood pump is a device that uses a revolving roller mechanism to pump the blood through the cardiopulmonary bypass circuit during bypass surgery.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3321 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N–1527]

Cardiovascular Devices; Classification of Cardiopulmonary Bypass Pump Speed Controls

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiopulmonary bypass pump speed controls into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13412) a proposed regulation to classify cardiopulmonary bypass pump speed controls into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4380, to read as follows:

§ 870.4380 Cardiopulmonary bypass pump speed control.

(a) *Identification.* A cardiopulmonary bypass pump speed control is a device used that incorporates an electrical system or a mechanical system, or both, and is used to control the speed of blood pumps used in cardiopulmonary bypass surgery.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3322 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N–1528]

Cardiovascular Devices; Classification of Cardiopulmonary Bypass Pump Tubing

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiopulmonary bypass pump tubing into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13413) a proposed regulation to classify cardiopulmonary bypass tubing into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4390, to read as follows:

§ 870.4390 Cardiopulmonary bypass pump tubing.

(a) *Identification.* A cardiopulmonary bypass pump tubing is polymeric tubing which is used in the blood pump head and which is cyclically compressed by the pump to cause the blood to flow through the cardiopulmonary bypass circuit.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3323 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N–1529]

Cardiovascular Devices; Classification of Cardiopulmonary Bypass Blood Reservoirs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiopulmonary bypass blood reservoirs into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13414) a proposed regulation to classify cardiopulmonary bypass blood reservoirs into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4400, to read as follows:

§ 870.4400 Cardiopulmonary bypass blood reservoir.

(a) *Identification.* A cardiopulmonary bypass blood reservoir is a device used in conjunction with short-term extracorporeal circulation devices to hold a reserve supply of blood in the bypass circulation.

(b) *Classification.* Class II (performance standards), except that a reservoir that contains a defoamer or filter is classified into the same class as the defoamer or filter.

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3324 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N–1530]

Cardiovascular Devices; Classification of Cardiopulmonary Bypass In-Line Blood Gas Sensors

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiopulmonary bypass in-line blood gas sensors into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13413), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13318) a proposed regulation to classify cardiopulmonary bypass in-line blood gas sensors into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4410, to read as follows:

§ 870.4410 Cardiopulmonary bypass in-line blood gas sensor.

(a) *Identification.* A cardiopulmonary bypass in-line blood gas sensor is a transducer that measures the level of gases in the blood.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3325 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1531]

Cardiovascular Devices; Classification of Cardiopulmonary Bypass Cardiotomy Return Suckers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiopulmonary bypass cardiotomy return suckers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13416) a proposed regulation to classify cardiopulmonary bypass cardiotomy return suckers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4420, to read as follows:

§ 870.4420 Cardiopulmonary bypass cardiotomy return sucker.

(a) *Identification.* A cardiopulmonary bypass cardiotomy return sucker is a device that consists of tubing, a connector, and a probe or tip that is used to remove blood from the chest or heart during cardiopulmonary bypass surgery.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3326 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1532]

Cardiovascular Devices; Classification of Cardiopulmonary Bypass Intracardiac Suction Controls

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiopulmonary bypass intracardiac suction controls into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13417) a proposed regulation to classify cardiopulmonary bypass intracardiac suction controls into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4430, to read as follows:

§ 870.4430 Cardiopulmonary bypass intracardiac suction control.

(a) *Identification.* A cardiopulmonary bypass intracardiac suction control is a device which provides the vacuum and control for a cardiotomy return sucker.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3327 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1533]

Cardiovascular Devices; Classification of Vascular Clamps

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying vascular clamps into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device

Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13418) a proposed regulation to classify vascular clamps into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4450, to read as follows:

§ 870.4450 Vascular clamp.

(a) *Identification.* A vascular clamp is a surgical instrument used to occlude a blood vessel temporarily.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3328 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1534]

Cardiovascular Devices; Classification of Surgical Vessel Dilators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying surgical vessel dilators into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13418) a proposed regulation to classify surgical vessel dilators into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4475, to read as follows:

§ 870.4475 Surgical vessel dilators.

(a) *Identification.* A surgical vessel dilators is a device used to enlarge or calibrate a vessel.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3329 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 870

[Docket No. 78N-1535]

Cardiovascular Devices; Classification of Cardiovascular Surgical Instruments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cardiovascular surgical instruments into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK-450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13419) a proposed regulation to classify cardiovascular surgical instruments into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

One comment was received. The comment stated that class I controls are sufficient to provide reasonable assurance of the safety and effectiveness of these devices. Also, the comment stated that classification of these devices into class I would be consistent with the proposed classifications into class I of microsurgical instruments and nonpowered neurosurgical instruments, published with the proposed classification regulations for neurological devices (43 FR 55640; Nov. 28, 1978). Finally, the comment suggested that the classification of surgical instruments be held in abeyance until all Panel recommendations for various surgical instruments have been published for comment and that these instruments be classified in a single regulation.

FDA rejects the suggestion that all surgical instruments be regulated under one regulation. There are many instruments which are used within one surgical specialty only. Examples of such devices are devices used in harvesting, preparation, and implanting saphenous vein grafts. It is important that individuals with experience and expertise in a particular medical specialty scientifically review the problems relating to surgical instruments used exclusively in that specialty. FDA therefore believes that it is necessary to classify many surgical devices according to the type of surgery in which they are used to ensure that they are reviewed properly. FDA agrees with the comment that cardiovascular surgical instruments should be classified into class I (general controls). Accordingly, the final regulation is being

published classifying the device in class I with no exemptions for the reasons stated in the general regulation on cardiovascular devices, published elsewhere in this issue of the **Federal Register**. FDA does not believe that it is necessary to issue a new proposal concerning this decision.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4500, to read as follows:

§ 870.4500 Cardiovascular surgical instruments.

(a) *Identification.* Cardiovascular surgical instruments are surgical instruments that have special features for use in cardiovascular surgery. These devices include, e.g., forceps, retractors, and scissors.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3330 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1536]

Cardiovascular Devices; Classification of Intraluminal Artery Strippers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying intraluminal artery strippers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13420) a proposed regulation to classify intraluminal artery strippers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4875, to read as follows:

§ 870.4875 Intraluminal artery stripper.

(a) *Identification.* An intraluminal artery stripper is a device used to perform an endarterectomy (removal of plaque deposits from arteriosclerotic arteries.)

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3331 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1537]

Cardiovascular Devices; Classification of External Vein Strippers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying external vein strippers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13421) a proposed regulation to classify external vein strippers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart E by adding new § 870.4885, to read as follows:

§ 870.4885 External vein stripper.

(a) *Identification.* An external vein stripper is an extravascular device used to remove a section of a vein.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3332 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1538]

Cardiovascular Devices; Classification of Patient Care Suction Apparatus

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying patient care suction apparatus into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13421) a proposed regulation to classify patient care suction apparatus into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 by adding Subpart F and new § 870.5050, to read as follows:

Subpart F—Cardiovascular Therapeutic Devices

§ 870.5050 Patient care suction apparatus.

(a) *Identification.* A patient care suction apparatus is a device used with an intrathoracic catheter to withdraw fluid from the chest during the recovery period following surgery.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3333 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1539]

Cardiovascular Devices; Classification of Embolectomy Catheters

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying embolectomy catheters into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13422) a proposed regulation to classify embolectomy catheters into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart F by adding new § 870.5150, to read as follows:

§ 870.5150 Embolectomy catheter.

(a) *Identification.* An embolectomy catheter is a balloon-tipped catheter that is used to remove thromboemboli, i.e., blood clots which have migrated in blood vessels from one site in the vascular tree to another.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3334 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1540]

Cardiovascular Devices; Classification of Septostomy Catheters

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying septostomy catheters into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13423) a proposed regulation to classify septostomy catheters into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device.

Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart F by adding new § 870.4280, to read as follows:

§ 870.5175 Septostomy catheter.

(a) *Identification.* A septostomy catheter is a special balloon catheter that is used to create or enlarge the atrial septal defect found in the heart of certain infants.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3335 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1541]

Cardiovascular Devices; Classification of External Cardiac Compressors

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying external cardiac compressors into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13424) a proposed regulation to classify external cardiac compressors into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart F by adding new § 870.5200, to read as follows:

§ 870.5200 External cardiac compressor.

(a) *Identification.* An external cardiac compressor is an external device that is electrically, pneumatically, or manually powered and is used to compress the chest periodically in the region of the heart to provide blood flow during cardiac arrest.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3336 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1542]

Cardiovascular Devices; Classification of External Counter-Pulsating Devices

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying external counter-pulsating devices into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13426) a proposed regulation to classify external counter-pulsating devices into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart F by adding new § 870.5225, to read as follows:

§ 870.5225 External counter-pulsating device.

(a) *Identification.* An external counter-pulsating device is a noninvasive device used to assist the heart by applying positive or negative pressure to one or more of the body's limbs in synchrony with the heart cycle.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3337 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N-1543]

Cardiovascular Devices; Classification of DC-Defibrillators (Including Paddles)

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying low-energy DC-defibrillators into class II (performance standards) and high-energy DC-defibrillators into class III (premarket approval). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application for premarket approval for high-energy DC-defibrillators must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 13426) a proposed regulation to classify DC-defibrillators (including paddles) into class III (premarket approval). A period of 60 days was provided for interested persons to submit comments to FDA.

FDA received two general comments on the proposed regulation for DC-defibrillators, which made no suggestion regarding the proposed classification:

1. Dr. Leslie Geddes, a former panel member, stated that he believes that he was misquoted in the proposed regulation. He said he would never state that 15 times threshold energy is safe; he believes that 1.5 times threshold energy is safe.

The proposed regulation stated that "damage (in dogs) occurs at 15 times defibrillation threshold." This statement was made during a panel meeting at which dose-response curves were being discussed. According to that discussion, the ED 50 (50 percent effected dose) is 1 joule per kilogram, and the TD 50 (50 percent toxic dose) is 15 joules per kilogram. Toxic dose was defined as any histopathologic damage, not as functional damage. FDA agrees with the comment that the proposal incorrectly implies that energy levels below 15 times the defibrillation threshold are safe.

2. One comment stated that additional data should be considered during final classification of DC-defibrillators. The comment discussed ongoing research involving 41 patients who underwent emergency ventricular defibrillation by a defibrillator with a maximum output of 460 joules delivered energy. Of the 41 patients, 15 required multiple shocks of 400 joules or greater for eventual successful defibrillation. Four patients required 2 shocks at 400 joules, 3 patients required 3 shocks at 400 joules, 6 patients required 4 or more shocks at 400 joules, 1 patient required 2 shocks at 460 joules, and 1 patient required 4 shocks at 460 joules. The 2 patients who required 460-joule shocks did not defibrillate at lower energy levels. The comment said the question of potential damage did not arise and that this energy level was required for the patients' survival.

The classification of DC-defibrillators was a controversial issue during the Circulatory System Devices Panel deliberations on device classification. The following comments were received on the proposed classification of DC-defibrillators into Class III. While all of the comments suggested that the classification of DC-defibrillators be changed, the form of the suggested changed varied from comment to comment, as described below:

1. A comment suggested that the available data on defibrillation are not as contradictory as they may have appeared in the proposed regulation. In fact, the data actually support a divided classification. The comment noted that theoretical models have been constructed showing that energy and density standards can be developed to ensure reasonably safe and effective defibrillator performance. Many variables affect defibrillation, including wave shape, duration, paddle size and position, drug usage (lidocaine, for example), time between the onset of fibrillation and the first defibrillation attempt, paddle pressure, the electrode paste used, transthoracic dimensions, heart dimensions, and physiologic state of the heart.

Based on experiments conducted on human hearts, it is possible to determine the energy needed for defibrillating human subjects. The comment provided references to show that 10 watt-seconds applied directly across the heart have been used to defibrillate most human hearts, but that occasionally 20 watt-seconds energy have been required. Ten to twenty watt-seconds energy delivered directly across a 500-gram heart, as described in the comment, is equivalent to: (a) 145 to 465 watt-seconds applied transthoracically; (b) a current-density of 100 to 180 milliamperes per square centimeter; and (c) a peak current of 32 to 61 amperes.

The comment stated that classifying all defibrillators into class III is not likely to produce definitive answers to the questions of risk. The comment referred to the two theories in FDA's proposed classification regarding the energy required for defibrillation. The first is a dose concept relating defibrillation energy to body weight, and the second states that the energy required for defibrillation is not weight dependent. The comment proposed that the agency allow for a third theory that assumes that certain current densities in the heart are necessary for successful defibrillation and that these are dependent upon heart dimensions and the heart's location in the chest cavity.

The comment noted that it is not surprising that some researchers have obtained data correlating defibrillation energies to weight because heavier patients will tend to have greater chest dimensions and a resulting lower current density in the heart. On the other hand, the comment noted that variables other than weight are significant, such as the quality of the basic life-support systems used, physiological state of the heart, position of the heart within the chest cavity, heart size, area of the electrodes, electrode position with respect to the heart, resistivity of the electrode-patient interface, and the previous use of antiarrhythmic drugs. Therefore, the comment concluded, it is not surprising that some researchers have found no

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correlation between body weight and the required energy for defibrillation.

The comment stated that medical judgment is necessary when using defibrillators and that device labeling can provide information to guide the exercise of medical judgment. The comment also stated that electrical design and paddle position and design have ben addressed in the FDA Draft Defibrillator Standard and in the literature referenced in the comment. The comment stated that the remaining concerns of risks to health are medical concerns that can be addressed by labeling and noted that defibrillators with delivered energy of 400 watt-seconds may be needed to defibrillate patients whose hearts would require 20-watt-seconds energy shocks directly across the heart. The comment stated that based on the information available, an upper energy level can be determined for damped sinusoidal waveforms and a standard would assure reasonable safety and performance.

2. Another comment urged FDA not to classify all defibrillators into class III, but recommended that the Panel and the agency determine which waveforms have been shown to be adequately safe and effective and place those waveforms into class II. The comment said there is little difference of opinion among most of the scientists who were asked about the maximum energy level that would divide "high available energy" defibrillators from "traditional energy" defibrillators and that a number of experts believe that the energy level that divides the "high energy" from "traditional energy" defibrillators is between 320 joules and 400 joules delivered energy, a difference of only 20 percent. This represents even less difference in terms of current output, according to the comment.

3. A comment simply recommended that a split in the classification of defibrillators be considered and that 400 joules seems to be an appropriate upper limit for classification into class II.

4. A comment presented data accumulated in prospective investigations of cross-chest ventricular defibrillation in humans showing that devices which store no more than 400 joules, deliver a maximum shock of between 250 joules (trapezoidal wave) and 360 joules (damped sine wave) via a 50-ohm test load defibrillate at an efficiency of 95 to 99 percent. Therefore, the comment suggested that defibrillators with these levels of performance be classified into class II and that defibrillators that store more than 400 joules or deliver a maximum shock over 360 joules or under 250 joules for cross-chest defibrillation are truly experimental medical devices and belong in class III. The comment also offered views on the summary of the panel recommendation that accompanied the proposed classification and suggested that the proposal should have cited several additional references (Refs. 1 through 4).

5. A comment referenced personal work involving direct-current counter shock in animal models performed during the past year. This work is published in the *American Journal of Cardiology*, February 1979 (Ref. 5). It demonstrates that a number of factors relating to energy level, the size of the paddles, and interval between shocks are important in producing cardiac damage. The pathophysiology appears to be thermal damage in large part.

Based on the commenter's experience and the animal work, the following comments were made:

a. Damped-sinusoidal (Lown) waveform defibrillators that deliver less than 400 joules energy have been demonstrated to be highly effective and relatively safe. Repeated use in patients does produce myocardial damage, but this is due to the type of heart disease being treated, the need for repeated shocks, and the multiple high-energy shocks that must be delivered.

b. The contradictory studies relating to the maximum energy that should be delivered are not very controversial. When hearts are extremely large, energy levels slightly higher than 400 joules would be helpful. For the majority of patients, however, the kind of heart disease and the cardiac damage that has already been produced by the disease are the determinant factors. Except in unusual circumstances, 400 joules appears to be a high enough energy level for most patients.

6. A comment supported classification of all DC-defibrillators with delivered energies of 400 joules or less into class II. The comment stated that a standard can be developed based on available information and that such a standard would provide reasonable assurance of the safety and effectiveness of these DC-defibrillators. The comment also pointed out that FDA did not discuss in the proposal the significant human experience with marketed defibrillators over the past several years and stated that, for defibrillators in the range of 400 joules or less, ample evidence exists showing that benefits to health outweigh the probable risks.

7. One comment described certain experience with high-dose (400 and 460 joules) emergency defibrillation at a teaching hospital. A fairly substantial number of patients at that hospital have required high-energy shocks after the same or lower energies failed to defibrillate them. The comment asserted these data are at variance with those of other investigators because of patient selection.

Many of the previously reported studies concentrated on patients defibrillated in coronary care units where there is a brief lapse of time between the onset of ventricular fibrillation and the first shock, where arrhythmias are primarily ventricular fibrillation, and where acidosis and hypoxia are minimal. The comment's experience is in a general hospital where the majority of patients are not in the coronary care unit, but are defibrillated on the general wards or after being brought into the hospital in an ambulance. The delays are greater with these patients, and therefore the patients are more hypoxic and acidotic.

8. Finally, two comments stated that defibrillators designed to deliver a damped sinusoidal waveform should be classified into class II if the stored energy level does not exceed 400 watt-seconds. These comments stated that the safety and efficacy of these defibrillators have been established by long clinical use and cite data summarized in a reprint from the *New England Journal of Medicine* (Ref. 6). These comments recommend that all other DC-defibrillators be classified into class III, including those damped sinusoidal waveforms with stored energies in excess of 400 watt-seconds and waveforms other than the damped sinusoidal waveforms.

FDA and its Circulatory System Devices Panel have reviewed the comments on the proposed classification of DC-defibrillators. FDA proposed to classify the device into class III primarily because of the disagreement among physicians concerning the benefit/risk assessment of low-energy versus high-energy defibrillation. FDA did not believe that enough data existed on which to base a class II classification for any defibrillator, given the medical disagreement regarding the benefits and risks of low-energy versus high-energy defibrillation. One apparent result of the proposed classification was to encourage efforts to achieve consensus on these issues. A proponent of high-energy defibrillation and a proponent of low-energy defibrillation have worked together with a committee of the Association for the Advancement of Medical Instrumentation (AAMI) and have now agreed on a uniform position on these issues. According to AAMI (Ref. 7), most researchers and clinicians actively working on defibrillation now believe that standards can be written for all defibrillators with a maximum delivered energy between 250 and 360 joules, regardless of waveform.

It is important to note that, in this document, FDA is classifying only defibrillators of types that are currently on the market. Based on the information received last year from the Health Industry Manufacturers Association and on data in the literature, FDA finds that most marketed defibrillators of the damped sinusoidal type with delivered energies of 360 joules or less have peak currents in the range of 50 to 60 amperes and durations of between 3 and 7 milliseconds. The trapezoidal waveform reported in the literature has a 250-joule delivered energy and a peak current of approximately 24 amperes. Based on this general review of what is currently available on the market within the energy range specified above, FDA believes that the classification of defibrillators should be split as recommended by a letter following the comment period from AAMI Standards Committee. Accordingly, FDA is classifying into class II DC-defibrillators that deliver a maximizing 250 to 360 joules of energy into a 50-ohm test load, and into class III DC-defibrillators that deliver greater than 360 joules of energy into a 50-ohm test load. There are clinical data published by Crampton (Ref. 8) supporting the use of the damped sinusoidal waveforms and by Anderson and Suelzer (Ref. 1) for the trapezoidal waveform. Just as important as the existing animal and clinical data is the apparent agreement by most of the clinicians and researchers actively studying defibrillation that standards can be written for certain defibrillators.

FDA believes it is also important to state what this split in classification means:

a. Enough data exist on which to base a standard for all commercially available defibrillation waveforms with a maximum delivered energy between 250 and 360 joules. This does not mean that the defibrillators in this category represent the best tradeoff of benefit and risk as determined by paddle size and position and characteristics such as energy, current, and duration. It may be determined in the future that waveforms not included in this group may be the best waveforms for safe and effective defibrillation.

b. For defibrillators that are classified into class III, more data are needed to support a premarket approval application or a petition for reclassification.

c. Classification of certain defibrillators into class II requires that standards address not only energy but other important considerations, such as paddle size, and waveform characteristics such as current and duration, and the variability of these waveform characteristics with differing chest impedances.

Accordingly, FDA is publishing a final regulation classifying low-energy DC-defibrillators into class II and high-energy DC-defibrillators into class III, dividing the devices in a manner consistent with the recommendation of the AAMI standards committee (Ref. 7). For the reasons stated in the general regulation on cardiovascular devices, published elsewhere in this issue of the Federal Register, FDA does not believe that it is necessary to issue a new proposal concerning this decision.

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2. Ehsani, A., G. A. Ewy, B. E. Sobel, "Effects of Electrical Countershock on Serum Creating Phosphokinase (CPK) Isoenzyme Activity," *American Journal of Cardiology*, 37:12, 1976.

3. Jones, J. L., E. Lepeschkin, R. E. Jones, S. Rush, "Response of Cultured Myocardial Cells to Countershock-Type Electrical Field Stimulation," *American Journal of Physiology*, 235(2):H214, 1978.

4. Patton, N., J. F. Pantridge, "Current Required for Ventricular Defibrillation," *British Medical Journal*, 1:513, 1979.

5. Doherty, P. W., P. R. McLaughlin, M. Billingham, R. Kernoff, M. L. Goris, D. C. Harrison, "Cardiac Damage Produced by Direct Current Countershock Applied to the Heart," *American Journal of Cardiology*, 43:225–232, 1979.

6. Lown, B., R. S. Crampton, R. A. DeSilva, J. Gascho, "The Energy for Ventricular Defibrillation—Too Little or Too Much?" *New England Journal of Medicine*, 298(22):1252–1253, 1978.

7. Letter from John Gallagher and W. A. Tacker, Jr., MD, Ph.D., Cochairmen, AAMI Defibrillator Standards Committee, to Hearing Clerk, FDA, July 9, 1979.

8. Gascho, J. A., R. S. Crampton, M. L. Cherwek, J. N. Sipes, F. P. Hunter, W. M. O'Brien, "Determinants of Ventricular Defibrillation in Adults," *Circulation*, 60(2):231–240, August 1979.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart F by adding new § 870.5300, to read as follows:

§ 870.5300 DC-defibrillator (including paddles).

(a) *Low-energy DC-defibrillator*—(1) *Identification.* A low-energy DC-defibrillator is a device that delivers into a 50 ohm test load an electrical shock of a maximum of 360 joules of energy used for defibrillating (restoring normal heart rhythm) the atria or ventricles of the heart or to terminate other cardiac arrhythmias. This generic type of device includes low energy defibrillators with a maximum electrical output of less than 360 joules of energy that are used in pediatric defibrillation or in cardiac surgery. The device may either synchronize the shock with the proper phase of the electrocardiogram or may operate asynchronously. The device delivers the electrical shock through paddles placed either directly across the heart or on the surface of the body.

(2) *Classification.* Class II (performance standards).

(b) *High-energy DC-defibrillator*—(1) *Identification.* A high-energy DC-defibrillator is a device that delivers into a 50 ohm test load an electrical shock of greater than 360 joules of energy used for defibrillating the atria or ventricles of the heart or to terminate other cardiac arrhythmias. The device may either synchronize the shock with the proper phase of the electrocardiogram or may operate asynchronously. The device delivers the electrical shock through paddles placed either directly across the heart or on the surface of the body.

(2) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3338 Filed 2-4-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1544]

Cardiovascular Devices; Classification of Defibrillator Testers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying defibrillator testers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

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FOR FURTHER INFORMATION CONTACT:
John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13429) a proposed regulation to classify defibrillator testers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart F by adding new § 870.5325, to read as follows:

§ 870.5325 Defibrillator tester.

(a) *Identification.* A defibrillator tester is a device that is connected to the output of a defibrillator and is used to measure the energy delivered by the defibrillator into a standard resistive load. Some testers also provide waveform information.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21-U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3339 Filed 2-4-80; 8:45 am]
BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1545]

Cardiovascular Devices; Classification of External Transcutaneous Cardiac Pacemakers (Noninvasive)

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying external transcutaneous cardiac pacemakers (noninvasive) into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the devices. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT:
John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13430) a proposed regulation to classify external transcutaneous cardiac pacemakers (noninvasive) into class III (premarket approval). A period 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart F by adding new § 870.5550, to read as follows:

§ 870.5550 External transcutaneous cardiac pacemaker (noninvasive).

(a) *Identification.* An external transcutaneous cardiac pacemaker (noninvasive) is a device used to supply a periodic electrical pulse intended to pace the heart. The pulse from the device is usually applied to the surface of the chest through electrodes such as defibrillator paddles.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3340 Filed 2-4-80; 8:45 am]
BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1546]

Cardiovascular Devices; Classification of Compressible Limb Sleeves

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying compressible limb sleeves into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT:
John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13431) a proposed regulation to classify compressible limb sleeves into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart F by adding new § 870.5600, to read as follows:

§ 870.5600 Compressible limb sleeve.

(a) *Identification.* A compressible limb sleeve is a device that is used to prevent pooling of blood in a limb by inflating periodically a sleeve around the limb.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 14, 1980.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3341 Filed 2-4-80; 8:45 am]
BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1547]

Cardiovascular Devices; Classification of Thermal Regulating Systems

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying thermal regulating systems into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT:
John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13432) a proposed regulation to classify thermal regulating systems into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart F by adding new § 870.5900, to read as follows:

§ 870.5900 Thermal regulation system.

(a) *Identification.* A thermal regulating system is an external system consisting of a device that is placed in contact with the patient and a temperature controller for the device. The system is used to regulate patient temperature.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3342 Filed 2-4-80; 8:45 am]
BILLING CODE 4110-03-M

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21 CFR Part 870

[Docket No. 78N–1548]

Cardiovascular Devices; Classification of Automatic Rotating Tourniquets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying automatic rotating tourniquets into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT:
John L. Ely, Bureau of Medical Devices (HFK–450), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of March 9, 1979 (44 FR 13284), a proposed regulation explaining the development of the proposed regulations classifying cardiovascular devices, the medical device classification procedures, and the activities of the Cardiovascular Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 13433) a proposed regulation to classify automatic rotating tourniquets into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 870 in Subpart F by adding new § 870.5925, to read as follows:

§ 870.5925 Automatic rotating tourniquet.

(a) *Identification.* An automatic rotating tourniquet is a device that prevents blood flow in one limb at a time, which temporarily reduces the total blood volume, thereby reducing the normal workload of the heart.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 6, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 14, 1980.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-3343 Filed 2-4-80; 8:45 am]
BILLING CODE 4110-03-M

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federal register

Tuesday
February 5, 1980

Part III

Department of Labor

Employment and Training Administration

Federal-State Unemployment Compensation Program; Interstate Arrangement for Combining Employment and Wages

V 45/25 FE 5 80 UMI

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 616

Federal-State Unemployment Compensation Program; Interstate Arrangement for Combining Employment and Wages

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Interstate Arrangement for Combining Employment and Wages is a permanent part of the Federal-State Unemployment Compensation Program, which is designed to provide for combining employment and wages for the purpose of paying unemployment compensation to those individuals whose base period employment was performed and wages were earned in two or more States. The Department of Labor is revising the combined-wage regulations to improve procedures for the handling of Combined-Wage Claims. There are no substantive changes in this document.

DATE: Written comments must be received by the close of business on March 6, 1980, in order to assure consideration in the final rulemaking.

ADDRESS: Submit comments to Robert B. Edwards, Administrator, Unemployment Insurance Service, U.S. Department of Labor, Room 7000, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT: Edwin Kerley, Group Chief, Division of State Program Management, Office of Program Management, Unemployment Insurance Service, U.S. Department of Labor, Room 7100, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213 (Phone (202) 376–7105).

SUPPLEMENTARY INFORMATION: Part 616, Chapter V, Title 20 of the Code of Federal Regulations implements the Interstate Arrangement for Combining Employment and Wages, which was initiated under the Employment Security Amendments of 1970 (Public Law 91–373) as a permanent part of the Federal-State Unemployment Compensation Program. The requirements for State unemployment compensation laws are contained in section 3304(a) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(a), and the requirement for a combined-wage arrangement is at section 3304(a)(9)(B) of the Code.

Section 115 of the Unemployment Compensation Amendments of 1976 (Pub. L. 94–566), amended section 3304(a)(6) of the Internal Revenue Code of 1954 to include requirements for denial of unemployment benefits to individuals who work in educational institutions for periods between school years and terms and during other non-work periods. These requirements necessitate changes in the handling of combined-wage claims which include wages from employment in an educational institution.

Section 212 of the Unemployment Compensation Amendments of 1976 (Pub. L. 94–566) amended the Federal-State Extended Unemployment Compensation Act of 1970, to exclude from reimbursement the cost of sharable regular and Extended Benefits paid on the basis of services in the employment of a State or local governmental entity for weeks of unemployment beginning on or after January 1, 1979. This exclusion necessitates a change in the handling of Combined-Wage Claims for Extended Benefits (20 CFR Part 615). Accountability for the correct identification and charging to the Extended Unemployment Compensation Account (EUCA) must rest with the State in which the employer is registered. Therefore, changes are being made to provide that the transferring State charge the EUCA account for those benefit costs that constitute sharable compensation under the law.

Section 6 of the Emergency Jobs Programs Extension Act of 1976 (Pub. L. 94–444), added Part B to Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 (Pub. L. 93–567). This new Part B, Title II of Pub. L. 93–567 provides for Federal reimbursement to States for the costs of unemployment benefits paid to individuals on the basis of wages earned in public service employment. This program also necessitates changes in the handling of Combined-Wage Claims which are based on wages from public service employment.

Other amendments in Pub. L. 94–566 were reflected in changes to Part 616 that were published in final on January 17, 1978, at 43 FR 2625.

These amendments to Part 616 have been developed in consultation with the duly designated representatives of the Interstate Conference of Employment Security Agencies, who, pursuant to § 616.2 of Part 616, are recognized by the Secretary of Labor as agents of the State unemployment compensation agencies for the purposes of the consultation required by section 3304(a)(9)(B) of the Internal Revenue Code of 1954. The amendments in this document were proposed by representatives of the Interstate Conference of Employment Security Agencies pursuant to § 616.11 of Part 616.

All of the amendments in this document pertain to the methods of handling Combined-Wage Claims, and have no effect on the substantive rights of individuals in regard to Combined-Wage Claims.

These amendments to Part 616 are being published in proposed form to give the public an opportunity to participate in the development of these changes in the regulations. Because these amendments relate to provisions or procedures already in effect, and consulation required by § 616.2 has occurred, it is not believed to be necessary to allow for a comment period in excess for 30 days.

Amendments are proposed to §§ 616.8 and 616.9. A new paragraph (2) is added to section 616.8(c), which requires paying States to furnish notices to transferring States whenever a redetermination is made which will cause a change in charges for benefits paid. Such change will occur whenever there is a redetermination of entitlement to benefits on the basis of wages earned from an educational institution.

Section 616.8, paragraph (f)(2), is amended to reflect any change in the ratio of benefit charges which result from an adjusted determination made as provided in paragraph (c)(2) of this section, and to provide that the computation of percentage ratios for charges are to be carried to at least three decimal places. The purpose of the latter change is to make the charges to participating States more equitable. The rationale underlying this change is that the more the charges are refined, the greater will be the equity in the charges assessed against all participating States whose wages were used to pay benefits to a Combined-Wage Claimant.

A new paragraph (3) is added to § 616.8(f), for the purpose of identifying the categories of compensation that are to be excluded from charges to transferring States. The former paragraph (f)(3) becomes paragraph (f)(5).

A new paragraph (f)(4) is added to § 616.8(f) to state that after December 31, 1978, all transferring States will be charged by the paying State in the same manner with respect to all benefits that are paid, including Extended Benefits.

Section 616.9(a) is amended to delete paragraph (b)(3) because it is obsolete.

Note.—The Department of Labor has determined that the proposal in this document is not a major regulation that requires the preparation of a regulatory analysis, within the meaning of Executive Order 12044 and the Department's guidelines published at 44 FR 5570.

This document was prepared under the direction and control of Robert B. Edwards, Administrator, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W. 20213, Telephone: (202)–376–7032.

Accordingly, amendments to Part 616 of Chapter V of Title 20, Code of Federal Regulations, are set forth below:

1. In § 616.8 paragraphs (c) and (f) are amended by numbering the present text of paragraph (c) as paragraph (c)(1), adding a new paragraph (c)(2), amending paragraph (f)(2), renumbering paragraph (f)(3) as paragraph (f)(5), and adding new paragraphs (f)(3) and (f)(4) as follows:

§ 616.8 Responsibilities of the paying State.

* * * * *

(c) *Redeterminations.* * * *

(2) When a determination is made, as provided in paragraph (a) of this section, which suspends the use of wages earned in employment with an educational institution during a prescribed period between successive academic years or terms or other periods as prescribed in the law of the paying State in accordance with section 3304(a)(6)(A)(i)–(iv) of the Internal Revenue Code of 1954, the paying State shall furnish each transferring State involved in the Combined-Wage Claim an adjusted determination used to recompute each State's proportionate share of any charges that may accumulate for benefits paid during the period of suspended use of school wages. Wages which are suspended shall be retained by the paying State for possible future reinstatement to the Combined-Wage Claim and shall not be returned to the transferring State.

* * * * *

(f) *Statement of benefit charges.* * * *

(2) Except as provided in paragraphs (c)(2) and (f)(3) of this section, and as section 8505(a) of Title 5 of the United States Code applies, each such charge shall bear the same ratio to the total benefits paid to the Combined-Wage Claimant by the paying State as the claimant's wages transferred by the transferring State bear to the total wages used in such determination. Each such ratio shall be computed as a percentage, to three or more decimal places.

(3) Charges to transferring State shall not include the costs of any benefits paid which are funded in the Federal Unemployment Benefits and Allowances account in the U.S. Department of Labor appropriation, including:

(i) Benefits paid pursuant to 5 U.S.C. 8501–8525;

(ii) Benefits which are reimbursable under Part B of Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 (Pub. L. 93–567).

(4) With respect to benefits paid after December 31, 1978, except as provided in paragraphs (f)(3) and (f)(5) of this section, all transferring States will be charged by the paying State for Extended Benefits in the same manner as for all benefits that are paid.

(5) With respect to new claims establishing a benefit year effective on and after July 1, 1977, the United States shall be charged directly by the Paying State, in the same manner as is provided in paragraphs (f)(1) and (f)(2) of this section, in regard to Federal civilian service and wages and Federal military service and wages assigned or transferred to the Paying State and included in Combined-Wage Claims in accordance with this Part and Parts 609 and 614 of this chapter. With respect to new claims effective before July 1, 1977, prior law shall apply.

§ 616.9 [Amended]

2. In § 616.9 paragraph (b)(3) is hereby deleted.

(26 U.S.C. 3304(a)(9)(B); Secretary's Order No. 4–75, (40 FR 18515))

Signed at Washington, D.C., on January 30, 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 80–3684 Filed 2–4–80; 8:45 am]

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Tuesday
February 5, 1980

Part IV

Department of Housing and Urban Development

Improving Government Regulations; Semiannual Agenda of Significant Regulations

V 45 / 25

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Subtitles A and B

[Docket No. N-80-973]

Improving Government Regulations; Semiannual Agenda of Significant Regulations

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of significant regulations under development or review.

SUMMARY: Pursuant to Section 2(a) of Executive Order 12044, "Improving Government Regulations," the Department is publishing its third semiannual agenda of significant regulations. This agenda lists regulations that will be under development or review through July 31, 1980.

ADDRESSES: Rules Docket Clerk, Office of Regulations, Office of General Counsel, Department of Housing and Urban Development, Room 5218, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6703.

Office of Legislation and Intergovernmental Relations, Department of Housing and Urban Development, Room 10120, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-5005.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, Department of Housing and Urban Development, Room 5218, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Executive Order 12044, "Improving Government Regulations" (43 FR 12661) directs each Executive Agency to adopt procedures to improve existing and future regulations. Publication of an agenda of significant regulations is required at least semiannually in order to give the public adequate notice of agency rulemaking activities.

The Department issued its first semiannual agenda on February 1, 1979 (44 FR 6674) and its second agenda on August 1, 1979 (44 FR 45342).

In fulfillment of requirements imposed by the Executive Order, this agenda lists significant regulations under development or review by the Department for the period through July 31, 1980. For all listed regulations, the agenda (1) describes the action being taken; (2) indicates the need for that action; and (3) provides the name and telephone number of an agency official familiar with the regulation. In addition, with respect to regulations under development, the agenda indicates the legal basis for the action and, where known, whether a regulatory analysis is to be prepared.

The agenda also indicates the status of significant regulations which were listed in the August 1, 1979 agenda.

Public comment on the agenda is invited and should be submitted to the Rules Docket Clerk. General purpose State and local governments, and national organizations representing general purpose State and local governments, are invited to notify HUD's Office of Legislation and Intergovernmental Relations of those rules in which they have particular interest. The Office of Legislation and Intergovernmental Relations will acknowledge receipt of any such expression of interest and will bring the matter to the attention of the appropriate drafting office for follow-up attention. Comments should be sent to the appropriate address listed above.

Third Semiannual Agenda of Significant Regulations

I. REGULATIONS UNDER DEVELOPMENT

OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT

A. New Regulations

1. CPD-20-79. Location of HUD-Supported Projects Around Airports

Description. Would establish standards to limit the location of HUD-supported projects in high risk areas around airports.

Need. To minimize risk to residents of HUD-supported projects.

Authority. Section 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Regulatory Analysis. Not yet known.

Contact. Gretchen Van Hyning, 202-755-8909.

Status. In preparation.

2. CPD-22-79. Comprehensive Planning Assistance: Section 701 Work Study Program

Description. Would set forth requirements and procedures for applying for Section 701 Work Study Program grants.

Need. To change an informal grant application procedure into a formal one.

Authority. Section 701 of Housing Act of 1954, as amended, Pub. L. 83-560, 68 Stat. 590, 640, 40 U.S.C. 461.

Regulatory Analysis. No.

Contact. Leroy P. Gonnella, 202-755-6290; Howard L. Tutman, Sr., 202-755-6290.

Status. In preparation.

3. CPD-23-79. Minority Business Enterprise in UDAG Program

Description. Would require a recipient of an Action Grant to select minority business enterprises for a portion (from 5% to 20%) of its construction contracts in the Action Grant program.

Need. To carry out an effective affirmative action program in accordance with OMB Circular A-102, the President's Urban Policy, and 24 CFR 570.601(b)(4), which implements Section 109 of the Housing and Community Development Act of 1974.

Authority. Section 109 of the Housing and Community Development Act of 1974, Pub. L. 93-383, 88 Stat. 633, 42 U.S.C. 5301

Regulatory Analysis. No.

Contact. Walter G. Farr, Jr., 202-755-6690.

Status. In preparation.

4. CPD-3-78 and 24-79. CDBG Small Cities Program

Description. Would revise the Small Cities Program regulations to clarify and simplify submission requirements by applicants, and modify rating factors to provide for a more equitable rating system.

Need. To clarify and simplify the regulations and make them more equitable.

Authority. Housing and Community Development Act of 1977, Pub. L. 95-128, 91 Stat. 1111.

Regulatory Analysis. No.

Contact. James Forsberg, 202-755-6322.

Status. Interim rule for FY 1980 program published June 26, 1979 and corrected July 19, 1979; ANPR for FY 1981 program published December 4, 1979.

5. CPD-8-78. CDBG Definition of Low- and Moderate-Income Persons

Description. Would clarify the existing definition of low- and moderate-income persons because the existing definition has created problems due to limitations on availability of data and inconsistency with the lower-income family definition under the Department's housing programs.

Need. To clarify existing rule and achieve consistency with other Departmental programs.

Authority. Housing and Community Development Act of 1974, Pub. L. 93-383, 88 Stat. 633, 42 U.S.C. 5301.

Regulatory Analysis. No.

Contact. James R. Broughman, 202-755-9267.

Status. Interim rule published February 1, 1978; final rule in preparation.

B. Previously Listed Regulations

1. CPD-1-79. Areawide Housing Opportunity Plan (AHOP)

Description. Would amend basic regulations governing application requirements for the Areawide Housing Opportunity Program.

Need. To update and simplify the present regulations which are published at 24 CFR 891.101 et seq.

Authority. Section 7(d), Department of HUD Act; 42 U.S.C. 3535(d).

Regulatory Analysis. Not yet known.

Contact. Gene Hix, 202-755-5649.

Status. In preparation.

2. CPD-5-79. HUD Procedure for Protection of Floodplains and Wetlands

Description. Would provide (1) policy direction; (2) substantive requirements; and (3) procedural requirements for Departmental Compliance with Executive Orders 11988 and 11990.

Need. To improve the Department's implementation of Federal policy and mandatory provisions of Executive Orders 11988 and 11990.

Authority. Executive Order 11988 (Floodplain Management) 42 FR 26951; Executive Order 11990 (Protection of Wetlands) 42 FR 26961; Section 7(d) Department of HUD Act, 42 U.S.C. 3535(d).

Regulatory Analysis. No.

Contact. Walter Prybyla, 202-755-3409.

Status. Proposed rule published August 9, 1979.

3. CPD-4-78. CDBG—Clarification of Program Benefit Requirements

Description. Would clarify the program benefit requirement in the CDBG Program to reflect 1978 statutory amendments.

Need. To implement the 1978 amendments to the Housing and Community Development Act of 1974.

Authority. Section 104(c) of the Housing Community Development Act of 1974, Pub. L. 93-383, 88 Stat. 633, 42 U.S.C. 5301; Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080.

Regulatory Analysis. No.

Contact. James R. Broughman, 202-755-9267.

Status. Withdrawn.

4. CPD-21-78. Comprehensive Planning Assistance (701) Program; 24 CFR Part 600—Subparts A to F—Basic Regulations

Description. Would amend the 701 regulations to implement more effectively national objectives set forth by the President's Urban Policy including: (1) Community conservation and aid to distressed communities; (2) Expansion of housing and employment opportunities; and (3) Promotion of orderly and efficient growth. Would provide for waivers from areawide organization requirements regarding board composition in order to facilitate creation of single planning organizations which would undertake unified planning for multiple Federal planning programs.

Need. To initiate activities in support of the President's National Urban Policy.

Authority. Section 701, Housing Act of 1954, as amended, Pub. L. 83-560, 68 Stat. 640, 40 U.S.C. 461.

Regulatory Analysis. No.

Contact. Trudy F. McFall, 202-755-6308.

Status. Final rule published September 19, 1979.

5. CPD-22-78. Comprehensive Planning Assistance: Requirements and Procedures for Managing a Grant

Description. Would set forth requirements and procedures for managing a grant for Comprehensive Planning Assistance and reflect changes made in grant administration pursuant to Office of Management and Budget requirements contained in revised OMB Circular A-102, September 1977.

Need. To convert existing Handbook for Comprehensive Planning Assistance Program into regulation form and update requirements to reflect changes made in grant administration pursuant to revised OMB Circular No. A-102.

Authority. Sec. 701 of the Housing Act of 1954, Pub. L. 83-560, 68 Stat. 560, 40 U.S.C. 461; Housing and Community Development Act of 1974, Pub. L. 93-383, 88 Stat. 633, 42 U.S.C. 5301.

Regulatory Analysis. No.

Contact. Leroy P. Gonnella, 202-755-5649; Joyce Walther, 202-755-5649.

Status. Final rule published December 12, 1979.

6. CPD-24-78. Section 312 Rehabilitation Loan Program

Description. Would implement Section 312 of the Housing Act of 1964 and program changes required by the Housing and Community Development Amendments of 1978.

Need. To implement Section 312 of the Housing Act of 1964 and the Housing and Community Development Amendments of 1978.

Authority. Section 312 of the Housing Act of 1964, as amended; Pub. L. 88-560, 78 Stat. 769, 790; 42 U.S.C. 1452(b); Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080.

Regulatory Analysis. No.

Contact. Craig Nickerson, 202-755-5973.

Status. In preparation.

7. CPD-28-78. HUD Procedures: Protection of Historic and Cultural Properties Under HUD Programs

Description. Would specify how undertakings for all HUD programs, including the Community Development Block Grant Program, are to be reviewed so that the Advisory Council on Historic Preservation is assured of its standing to comment on those undertakings which affect properties on the National Register of Historic Places.

Need. Present HUD regulations now cross reference to Advisory Council Procedures. By Presidential Directive, Council has issued regulations which HUD must implement through its own counterpart regulations.

Authority. National Historic Preservation Act of 1966; Pub. L. 89-665, 80 Stat. 915; 16 U.S.C. 470.

Regulatory Analysis. No.

Contact. James J. Brennan, 202-755-3409.

Status. In preparation. No longer classified as significant.

8. CPD-29-78. Policies, Responsibilities and Procedures for Protection and Enhancement of Environmental Quality

Description. Would implement the National Environmental Policy Act of 1969, by incorporating the provisions of HUD Handbook 1390.1, Procedures for Protection and Enhancement of Environmental Quality, and of Section 905 of the Housing and Community Development Amendments of 1978.

Need. To modify the Department's environmental review procedures to reflect program changes and/or amendments that have affected the comprehensiveness of the basic document (1390.1 Handbook). The modification would incoporate all of these changes into a single **Federal Register** document.

Authority. The National Environmental Policy Act of 1969; Pub. L. 91-190, 83 Stat. 852, 42 U.S.C. 4321, et seq.; Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080.

Regulatory Analysis. No.

Contact. Fred D. Regetz, 202-755-6296.

Status. Interim rule published November 27, 1979.

9. CPD-32-78. Hazardous Operations of an Explosive or Flammable Nature

Description. Would establish standards for safety separation distances or other mitigation measures to provide a healthful and safe living environment to residential or community projects that would be located in close proximity to industrial installations whose activities include hazardous operations with large quantities of fuels

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or chemicals of an extremely explosive or flammable nature.

Need. To set safety standards for mixed use development in industrial urban areas.

Authority. National Environmental Policy Act of 1969; Pub. L. 91–190, 83 Stat. 852, 42 U.S.C. 4321 et seq.

Regulatory Analysis. Not yet known.

Contact. James Christopulos, 202–755–6201; Michael T. McGee, 202–755–8909.

Status. In preparation.

10. CPD–35–78. Indian CDBG Regulations—Housing Assistance Plan

Description. Would amend 24 CFR 571.305(d) and 571.405(e) to make CDBG requirements, pertaining to submittal of Housing Assistance Plans (HAPs), more flexible and responsive to the special needs, cultural traditions, and legal circumstances of eligible Indian tribes and Alaska Natives.

Need. To assist tribes in planning, coordinating and implementing housing with their reservation development.

Authority. Section 107(a)(7) of the Housing and Community Development Act of 1974, Pub. L. 93–383, 88 Stat. 633, 42 U.S.C. 5301; Housing and Community Development Act of 1977, Pub. L. 95–128, 91 Stat. 1111.

Regulatory Analysis. No.

Contact. Donald G. Dodge, 202–755–6090.

Status. In preparation.

11. CPD–36–78. Urban Development Action Grants

Description. Would amend existing regulations to reflect changes dictated by needs identified by the Department and participants during the first year of implementation of the UDAG program.

Need. To clarify policy and make technical amendments based on HUD experience to date with this program.

Authority. Section 119 of the Housing and Community Development Act of 1974, as amended, Pub. L. 93–383, 88 Stat. 633, 42 U.S.C. 5301.

Regulatory Anaylsis. No.

Contact. Catherine Hare, 202–472–3000.

Status. Previously listed as withdrawn. Preparation has been resumed.

OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY

A. New Regulations

None.

B. Previously Listed Regulations

1. FH&EO–1–79. Age Discrimination Act of 1975

Description. Would prohibit discrimination on the basis of age in programs and activities receiving Federal financial assistance including programs and activities receiving funds under the Revenue Sharing Act; would specify permissible age distinctions and reasonable factors other than age for Federally assisted programs and activities, and for recipients of Federal funds; would indicate programs and activities not covered by the ADA Act of 1975.

Need. To implement the provisions of the Age Discrimination Act of 1975, as amended.

Authority. Age Discrimination Act of 1975, 42 U.S.C. 6101, et seq.

Regulatory Analysis. No.

Contact. Laurence D. Pearl, 202–755–6654.

Status. In preparation.

2. FH&EO–1–78. Compliance Procedures for Affirmative Fair Housing Marketing (AFHM)

Description. Would provide for HUD review of approved AFHM Plans and for procedures, including imposition of sanctions, to assure compliance with approved plans.

Need. To add procedures for processing allegations of violations and imposing sanctions to the existing AFHM regulations (24 CFR Part 200, Subpart M).

Authority. Executive Order 11063, Equal Housing Opportunity, 27 FR 11527; Title VIII of the Civil Rights Act of 1968, Pub. L. 90–284, 82 Stat. 73, 18 U.S.C. 245.

Regulatory Analysis. No.

Contact. Marianne Freeman, 202–755–6113.

Status. Final rule published August 9, 1979, at 44 FR 47012.

3. FH&EO–2–78. Discrimination in the Financing of Housing

Description. Would indicate the Department's view of conduct considered unlawful under Section 805 of the Civil Rights Act of 1968 and would require the collection of data by financial institutions on the race, national original and sex of applicants for loans or other assistance relating to dwellings.

Need. To deal with recent experience which indicates that some residential mortgage lenders are discriminating against blacks, other minorities, and women in the making of housing loans.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90–284, 82 Stat. 73; 18 U.S.C. 245.

Regulatory Analysis. Not yet known.

Contact. Marianne Freeman, 202–755–6113.

Status. In preparation.

4. FH&EO–3–78. Departmentwide Regulations Implementing Executive Order 11063

Description. Would establish compliance review and complaint processing procedures and create a compliance mechanism leading to the imposition of sanctions, including referral of cases to the Attorney General.

Need. To implement Executive Order 11063, which requires that all necessary and appropriate action be taken by Federal departments and agencies to prevent discrimination because of race, color, creed, or national origin in residential property and related facilities owned, operated, or provided with Federal financial assistance and in lending practices with respect to residential property and related facilities of lending institutions, insofar as such practices relate to loans insured or guaranteed by the Federal government.

Authority. Executive Order 11063, Equal Opportunity in Housing, 27 FR 11527.

Regulatory Analysis. No.

Contact. Marianne Freeman, 202–755–6113.

Status. Proposed rule published September 28, 1979.

5. FH&EO–4–78. Discrimination in Housing Advertising

Description. Would provide HUD's interpretation of the provisions of Title VIII of the Civil Rights Act of 1968 with respect to discrimination in advertising for the sale or rental of dwellings. Also would indicate the nature of HUD's inquiry into advertising practices in complaint investigations which allege discrimination in advertising based on race, color, religion, sex, or national origin.

Need. To implement Section 804(c) of the Civil Rights Act of 1968, which makes it unlawful to make, print, or publish any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex or national origin and to supplement HUD's Fair Housing Advertising Guidelines.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90–284, 82 Stat. 73, 18 U.S.C. 245.

Regulatory Analysis. No.

Contact. Marianne Freeman, 202–755–6113.

Status. Proposed rule published September 28, 1979.

6. FH&EO–5–78. Prohibited Broker Conduct Under Title VIII

Description. Would inform brokers as to their responsibilities with respect to fair housing in solicitations, sales advertising, marketing, and the provision of services pursuant to application of Title VIII of the Civil Rights Act of 1968; also would provide information as to membership in associations, and the use of services among real estate brokers.

Need. To implement Title VIII which prohibits discrimination in the sale or rental of dwellings, discrimination in financing, blockbusting, and discriminatory advertising and which also makes it unlawful to deny any person access to, or membership participation in, any multiple listing service or real estate broker's organization based on race, color, religion, sex or national origin.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90–284, 82 Stat. 73; 18 U.S.C. 245.

Regulatory Analysis. No.

Contact. Marianne Freeman, 202–755–6113.

Status. In preparation.

7. FH&EO–6–78. Conduct Which Constitutes Steering Under Title VIII

Description. Would describe real estate practices which could be a violation of Title VIII of the Civil Rights Act of 1968 with emphasis on steering based on race, color, religion, sex, or national origin.

Need. To aid persons in complying with Title VIII by describing practices which constitute steering; also to advise prospective buyers and renters of practices, often unrecognized, which unlawfully restrict their range of housing choices.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90–284, 82 Stat. 73; 18 U.S.C. 245.

Regulatory analysis. No.

Contact. Marianne Freeman, 202–755–6113.

Status. In preparation.

8. FH&EO–7–78. Unlawful Zoning and Land Use Practices Under Title VIII

Description. Would describe the applicability of Title VIII of the Civil Rights Act of 1968 to zoning and land use practices and indicate the tests to be used by HUD in determining whether a violation has occurred.

Need. In dealing with cases where violation of Title VIII through zoning actions was alleged, the courts have provided some indication as to the scope of coverage of Title VIII. Thus, the courts have held that Title VIII prohibits discriminatory land use and zoning actions. However, the courts have not articulated a standard for compliance with the Fair Housing Law. In administering the Law, HUD can provide assistance to the public, and local agencies by indicating the tests it will apply in its analysis of complaints alleging discriminatory zoning or land use practices.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90–284, 82 Stat. 73; 18 U.S.C. 245.

Regulatory Analysis. No.

Contact. Marianne Freeman, 202–755–6113.

Status. In preparation.

9. FH&EO–8–78. Prohibited Appraisal Practices

Description. Would provide guidance to persons concerning HUD's interpretation of proper standards and policies concerning the appraisal of dwellings; also would advise appraisers and the public of HUD's position concerning practices, procedures, and methods of appraisal which could constitute a violation of Title VIII.

Need. HUD complaint experience has shown that appraisals are the subject of many Title VIII complaints. In the investigations of such complaints, we have found that instructional materials recognized as being authoritative on appraisal methods contain directions to appraisers which can result in violations of Title VIII of the Civil Rights Act of 1968. Some efforts have been launched to review these materials; however, this process is cumbersome since the Government and the major associations of appraisers have voluminous material relating to appraisal policies. A general statement of appraisal policies and practices which may violate Title VIII will be helpful to appraisers in their work and to the public in understanding fair housing considerations in the appraisal of dwellings.

Authority. Title VIII of the Civil rights Act of 1968; Pub. L. 90–284, 82 Stat. 73; 18 U.S.C. 245.

Regulatory Analysis. No.

Contact. Marianne Freeman, 202–755–6113.

Status. In preparation.

10. FH&EO–9–78. Residential Redlining Under Title VIII

Description. Would indicate HUD's interpretation of Section 804(a) of the 1968 Civil Rights Act with respect to redlining; also would set forth the tests to be applied by the Department in investigating allegations of redlining based on race, color, religion, sex or national origin.

Need. To implement Section 804(a) which makes it unlawful "to refuse to sell or rent . . . or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, or national origin." HUD experience in this area indicates that applicants may not be aware of real estate practices which constitute redlining because of the subtle nature of the practice.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90–284, 82 Stat. 73; 18 U.S.C. 245.

Regulatory Analysis. No.

Contact. Marianne Freeman, 202–755–6113.

Status. In preparation.

11. FH&EO–10–78. Discriminatory Practices Regarding Property Insurance

Description. Would describe the coverage of Title VIII of the Civil Rights Act of 1968 with respect to denials of property insurance and advise the public as to the tests which HUD will apply in complaint investigations to determine whether violations of Title VIII have occurred.

Need. To implement Title VIII and to inform prospective owners securing and maintaining property insurance.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90–284, 82 Stat. 73; 18 U.S.C. 245.

Regulatory Analysis. No.

Contact. Marianne Freeman, 202–755–6113.

Status. In preparation.

12. FH&EO–11–78. Affirmative Administration of Federal Program Relating to Housing and Urban Development

Description. Sets forth HUD's interpretation of the Title VIII mandate to administer programs relating to housing and urban development in a manner affirmatively to further the purposes of fair housing; also would identify, in general, the nature and types of action HUD will take in the administration of its programs to enhance their impact on the provision of fair housing.

Need. To further implement Sections 808(a), 808(d) and 808(e)(3) of the Civil Rights Act of 1968.

Authority. Title VIII of the Civil Rights Act of 1968; Pub. L. 90–284, 82 Stat. 73; 18 U.S.C. 245.

Regulatory Analysis. No.

Contact. Marianne Freeman, 202–755–6113.

Status. In preparation.

13. FH&EO–12–78. Training and Employment Opportunities for Lower Income Residents

Description. Would provide HUD's interpretation of the provisions of Section 3 of the Housing and Urban Development Act of 1968 with respect to opportunities for training and employment for lower income residents arising in connection with HUD assisted projects, and for contracting opportunities for business concerns located in, or owned in substantial part by, persons residing in the area of HUD-assisted projects.

Need. HUD's existing Section 3 regulation was promulgated prior to the

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enactment of the Housing and Community Development Act of 1974, which established the Community Development Block Grant (CDBG) Program. This regulation amendment would provide for interpretations in the context of that program.

Authority. Section 3 of the Housing and Urban Development Act of 1968, Pub. L. 90–448, 82 Stat. 476; 12 U.S.C. 1701u, et seq.;

Section 118 of the Housing and Community Development Act of 1974, Pub. L. 93–383, 88 Stat. 633, 42 U.S.C. 5301.

Regulatory Analysis. Not yet known.

Contact. Turner Russell, 202–426–3500.

Status. In preparation.

14. FH&EO–13–78. Implementation of Section 109 of the Housing and Community Development Act of 1974

Description. Would set forth procedures and policies to assure nondiscrimination on grounds of race, color, national origin, or sex in programs and activities receiving assistance under Title I of the Housing and Community Development Act of 1974.

Need. To provide detailed regulations and procedures which describe requirements for compliance with Section 109 of the HCDA Act of 1974 in regard to nondiscrimination.

Authority. Section 109 of the Housing and Community Development Act of 1974, as amended; Pub. L. 93–383, 88 Stat. 633, 42 U.S.C. 5301.

Regulatory Analysis. Yes.

Contact. Laurence D. Pearl, 202–755–6554.

Status. In preparation.

OFFICE OF HOUSING—FEDERAL HOUSING COMMISSIONER

A. New Regulations

1. H–6–79. Section 8 Housing Assistance Payments Program—Disposition of HUD-Owned Projects

Description. Would amend 24 CFR Part 886 to provide for disposition of HUD-owned projects with repairs or moderate rehabilitation to be done by the purchaser.

Need. To facilitate sales of HUD-owned projects.

Authority. Section 8, U.S. Housing Act of 1937, as amended by the Housing and Community Development Act of 1974; Pub. L. 93–383, 88 Stat. 633, 42 U.S.C. 5301.

Regulatory Analysis. No.

Contact. Robert P. Kalish, 202–755–5730.

Status. Interim rule published December 6, 1979; final rule in preparation.

2. H–26–79. Low-Income Public Housing-Lease and Grievance Procedures

Description. Would revise provisions in 24 CFR Part 866 governing requirements for dwelling leases and grievance procedures in the low-income public housing program.

Need. To clarify portions of present regulations.

Authority. U.S. Housing Act of 1937, as amended by Section 324 of the Housing and Community Development Amendments of 1978; Pub. L. 95–557, 92 Stat. 2080.

Regulatory Analysis. No.

Contact. Edward W. Whipple, 202–755–5840.

Status. ANPR in preparation.

2a. H–36–79. Revision of Minimum Property Standards for One- and Two-Family Dwellings

Description. Would revise the Minimum Property Standards for One- and Two-Family Dwellings (24 CFR part 200) to incorporate portions of the Model One-and Two-Family Dwelling Code; to remove requirements not bearing on health, life, safety, legislative requirements and durability; and to provide a means for measuring workmanship levels.

Need. To simplify and reduce the size of the Minimum Property Standards by removing requirements not bearing health, life, safety, legislative requirements and durability; and to place responsibility for marketability decisions in the local field office.

Authority. Section 211, National Housing Act, as amended; 12 U.S.C. 1715b; Section 7(d), Department of HUD Act; 42 U.S.C. 3535(d).

Regulatory Analysis. Not yet known.

Contact. Richard A. Gray, 202–755–6590.

Status. Proposed rule in preparation.

3. H–39–79. Sales of Acquired Home Properties to Community-Based Organizations

Description. Would add a new provision to 24 CFR Part 203 to provide guidelines for the non-competitive sale of HUD-acquired home properties to community-based organizations.

Need. To develop uniform guidelines to be used on a nationwide basis.

Authority. Sections 203, 211, National Housing Act, as amended; 12 U.S.C. 1709, 1715b.

Regulatory Analysis. No.

Contact. Freeman B. Grote, 202–755–8680.

Status. ANPR in preparation.

4. H–44–79. Servicing of Single-Family Mortgage Loans

Description. Would revise 24 CFR 203.500 to state that no insured mortgagee may commence foreclosure on a single-family property until the mortgagee has complied with the requirements of the program for assigning mortgages to the HUD Secretary.

Need. To comply with the terms of the settlement reached in *Ferrell* v. *Landrieu.*

Authority. Sections 203, 211, National Housing Act, as amended; 12 U.S.C. 1709, 1715b.

Regulatory Analysis. No.

Contact. Richard Buchheit, 202–755–6700.

Status. Final rule in preparation.

5. H–45–79. Reinstatement of Mortgages on Single-Family Properties

Description. Would revise 24 CFR 203.608 to require reinstatement of a mortgage account regardless of prior foreclosure proceedings.

Need. To reduce the number of claims against the insurance fund.

Authority. Sections 203, 211, National Housing Act, as amended; 12 U.S.C. 1709, 1715b.

Regulatory Analysis. No.

Contact. Julius Williams, 202–755–6700.

Status. Interim rule in preparation.

6. H–48–79. Single-Family Mortgage Assignment Procedures

Description. Would revise the procedures set forth in 24 CFR 203.651–203.662 relating to assignment of single-family mortgages to the HUD Secretary.

Need. To comply with the terms of the settlement reached in *Ferrell* v. *Landrieu.*

Authority. Sections 211, 230, National Housing Act, as amended; 12 U.S.C. 1715b, 1715u.

Regulatory Analysis. No.

Contact. Julius Williams, 202–755–6700.

Status. Interim rule in preparation.

7. H–54–79. Tenant Participation in Management of Low-Income Public Housing

Description. Would add a new 24 CFR Part 871 to provide for tenant participation in the management of low-income public housing.

Need. To establish policy, standards and procedures for new program.

Authority. Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Regulatory Analysis. Not yet known.

Contact. Wayne Hunter, 202–755–6460.

Status. ANPR in preparation.

8. H–57–79. Admission Requirements for Low-Income Public Housing

Description. Would amend 24 CFR Part 860, Subpart B to give displaced families and families living in substandard housing priority for admission to low-income public housing.

Need. To implement statutory provision.

Authority. U.S. Housing Act of 1937, as amended by Section 206 of the Housing and Community Development Amendments of 1979; Pub. L. 96–153, 93 Stat. 1101.

Regulatory Analysis. No.

Contact. Edward C. Whipple, 202–755–5840.

Status. ANPR in preparation.

9. H–58–79. Rent Requirements for Low-Income Public Housing

Description. Would amend 24 CFR Part 860, Subpart D by revising the maximum rent-to-income ratio for tenants in low-income public housing.

Need. To implement statutory provision.

Authority. U.S. Housing Act of 1937, as amended by Section 202 of the Housing and Community Development Amendments of 1979; Pub. L. 96–153, 93 Stat. 1101.

Regulatory Analysis. Not yet known.

Contact. Edward C. Whipple, 202–755–5840.

Status. ANPR in preparation.

10. H–60–79. Low-Income Public Housing-Extension of Annual Contributions Contract

Description. Would add a new 24 CFR Part 869 (1) to provide for extension of the annual contributions contract to permit a continued operating subsidy after completion of debt service and (2) to require the approval of the HUD Secretary for disposition of a project within ten years after payment of a cost subsidy.

Need. To implement statutory provision.

Authority. U.S. Housing Act of 1937, as amended by Section 211 of the Housing and Community Development Amendments of 1979; Pub. L. 96–153, 93 Stat. 1101.

Regulatory Analysis. Not yet known.

Contact. Wayne Hunter, 202–755–6460.

Status. Proposed rule in preparation.

11. H–61–79. Section 8 Housing Assistance Payments Program—Substantial Rehabilitation

Description. Would amend 24 CFR Part 881, Subpart G to establish rules and procedures for the development and administration of housing units to be rehabilitated and assisted under the Neighborhood Strategy Area program.

Need. To allow authorized local governments to use Fair Share Funds to create new Neighborhood Strategy Areas or expand existing ones.

Authority. Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Regulatory Analysis. No.

Contact. George O. Hipps, Jr., 202–755–5720.

Status. Interim rule published January 31, 1980.

12. H–68–79. Section 8 Housing Assistance Payments Program—Tenant Contributions

Description. Would amend 24 CFR Part 889 to revise maximum rent-to-income ratio for tenants receiving Section 8 housing assistance payments.

Need. To implement statutory provision.

Authority. U.S. Housing Act of 1937, as amended by Section 202 of the Housing and Community Development Amendments of 1979; Pub. L. 96–153, 93 Stat. 1101.

Regulatory Analysis. Not yet known.

Contact. Edward C. Whipple, 202–755–5840.

Status. ANPR in preparation.

13. H–1–79. Single-Family Mortgage Insurance—Occupancy of Property

Description. Would add new sections to 24 CFR Part 203, Subpart C to prescribe revised criteria for determining when HUD will accept conveyance of one-to four-family properties occupied by tenants or former mortgagors.

Need. To cure deficiencies in the present regulations.

Authority. Sections 203, 211, National Housing Act, as amended; 12 U.S.C 1709, 1715b.

Regulatory Analysis. No.

Contact. Freeman B. Grote, 202–755–8680.

Status. Proposed rule published April 20, 1979; final rule in preparation.

14. H–69–79. HUD–Owned Multifamily Housing Projects

Description. Would amend 24 CFR Part 290 to make changes in the policy and procedures for the management and disposition of HUD-owned multifamily housing projects.

Need. To implement statutory provision.

Authority. Section 203 of the Housing and Community Development Amendments of 1978; Pub. L. 95–557, 92 Stat. 2080, 2088, Section 211, National Housing Act, as amended; 12 U.S.C. 1715b.

Regulatory Analysis. No.

Contact. Marvin Hilman, 202–755–7220.

Status. Interim rule published October 1, 1979; final rule in preparation.

15. H–82–79. Coinsurance Program for State Housing Finance Agencies

Description. Would amend 24 CFR Part 250 to revise the eligibility requirements and contract rights and obligations under the multifamily coinsurance program for State housing finance agencies.

Need. To correct errors in present regulations, simplify program operations, and increase program participation.

Authority. Sections 211, 244, National Housing Act, as amended; 12 U.S.C. 1715b, 1715z–9.

Regulatory Analysis. No.

Contact. John M. McGuire, 202–426–0035.

Status. Proposed rule published December 29, 1978; final rule in Departmental clearance.

16. H–85–79. Tenant Allowance for Utilities in Low-Income Public Housing

Description. Would amend 24 CFR Part 865 to require public housing agencies to set uniform procedures for determining the amount of utility allowances, surcharges and energy saving credits to tenants in low-income public housing.

Need. To clarify, update and standardize the method for establishing utility allowances.

Authority. U.S. Housing Act of 1937, as amended.

Regulatory Analysis. No.

Contact. Richard M. Ulf, 202–755–6640.

Status. Proposed rule published January 5, 1979; final rule in preparation.

17. H–86–79. Individual Utility Metering

Description. Would add a new section to 24 CFR Part 865 to require public housing agencies to conduct energy audits and to take cost-effective energy conservation measures.

Need. To reduce energy consumption in public housing projects.

Authority. U.S. Housing Act of 1937, as amended.

Regulatory Analysis. Not yet known.

Contact. Richard M. Ulf, 202–755–6640.

Status. Proposed rule published December 28, 1978; final rule in preparation.

B. Previously Listed Regulations

1. H–1–79. Public Housing—Development Phase

Description. Would amend 24 CFR Part 841 to make changes in processing of applications/proposals for construction of public housing units. Changes would reduce the processing time between submission of an application/proposal and start of construction.

Need. To simplify development phase of public housing and reduce processing time.

Authority. U.S. Housing Act of 1937, as amended by HCD Act of 1974; Pub. L. 93–383, 88 Stat. 633.

Regulatory Analysis. No.

Contact. Raymond W. Hamilton, 202–755–5846.

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Status. Interim rule published August 9, 1979; effective date deferred indefinitely on November 7, 1979 in response to comments received.

2. H–3–79. Tax Exempt Obligations of Public Housing Agencies—Use of Guaranteed Mortgage-Backed Securities

Description. Would add new subpart to 24 CFR Part 811 to govern use of Federally-guaranteed mortgage-backed securities in connection with tax-exempt obligations for insured Section 8 multifamily projects.

Need. To permit greater flexibility in financing of Section 8 multifamily projects.

Authority. Sections 3(b), 5(b), 8, (11(b) of U.S. Housing Act of 1937, as amended by HCD Act of 1974; cit. supra.

Regulatory Analysis. Not yet known.

Contact. John M. McGuire, 202–426–0035.

Status. Proposed rule published June 28, 1979.

3. H–4–79. Guarantees for Taxable Obligations of State Housing Agencies

Description. Would amend 24 CFR Part 260 to provide for Federal guaranty of taxable obligations issued by state housing agencies for development of low-income housing.

Need. To substitute Federal guaranty for interest subsidy grants to taxable obligations of state housing agencies.

Authority. Section 802(c) of the Housing and Community Development Act of 1974; cit. supra.

Regulatory Analysis. Not yet known.

Contact. John M. McGuire, 202–426–0035.

Status. In preparation.

4. H–8–79. Initial Mortgage Insurance Premium—One- to Four-Family Residences

Description. Would amend 24 CFR Part 203 to require payment of mortgage insurance premiums at the beginning of the insurance year, rather than at the end.

Need. To conform the standard insurance practice in private industry.

Authority. Section 203 of the National Housing Act, 12 U.S.C. 1701, et seq.

Regulatory Analysis. No.

Contact. Julius M. Williams, 202–755–5700.

Status. Withdrawn.

5. H–9–79. Prepayment Privilege on Insured Mortgages—One- to Four-Family Residences

Description. Would revise 24 CFR 203.22 to permit a mortgage prepayment in full at any time without notice. Present rule requires notice and permits prepayment only on specified dates.

Need. To conform with VA and FNMA practices.

Authority. Section 203 of the National Housing Act, cit supra.

Regulatory Analysis. No.

Contact. Julius M. Williams, 202–755–6700.

Status. Interim rule in preparation.

6. H–21–79. Prepayment of Insured Project Mortgages

Description. Would prohibit prepayment of mortgages insured under Sections 220, 221, 231 and 236 of the National Housing Act without the prior approval of the Federal Housing Commissioner when the project financed has a Housing Assistance Payments Contract in effect.

Need. To prevent unwarranted conversion of Section 8 projects to market rate tenancy.

Authority. Section 220, 221, 231 and 236 of the National Housing Act, cit. supra.

Regulatory Analysis. No.

Contact. George O. Hipps, Jr. 202–755–5720.

Status. Proposed rule in preparation. No longer classified as signficant.

7. H–23–79. Supplementary Financing for Project Mortgages

Description. Would amend 24 CFR Part 241 to permit supplementary financing for multifamily projects, group practice facilities, and hospitals not previously insured by HUD and to provide for insured improvement loans for purchase and installation of certain energy conserving systems.

Need. To implement statutory provisions.

Authority. Housing and Community Development Amendments of 1978; Pub. L. 93–557, 92 Stat. 2080; National Energy Conservation and Production Act; Pub. L. 94–385, 90 Stat. 1125.

Regulatory Analysis. No.

Contact. George O. Hipps, Jr. 202–755–5720.

Status. In preparation. No longer classified as significant.

8. H–27–79. Section 8 Housing Assistance Payments Program for New Construction

Description. Would revise 24 CFR § 880.109 to remove option of owner to renew housing assistance payments contract for five-year terms, and to prohibit transfer of contract rights without HUD approval.

Need. To assure that housing units built under Section 8 remain available as assisted housing for full term of housing assistance payments contract.

Authority. Section 8 of U.S. Housing Act of 1937, as amended by Housing and Community Development Act of 1974, cit. supra.

Regulatory Analysis. No.

Contact. George O. Hipps, Jr. 202–755–5720.

Status. Withdrawn.

9. H–33–79. Coinsurance for Private Mortgage Lenders

Description. Would amend 24 CFR Part 255 to provide coinsurance for private mortgage lenders.

Need. To implement statutory authority for this program.

Authority. Section 244 of the National Housing Act; Pub. L. 93–383, 88 Stat. 633; 12 U.S.C. 1701, et seq.

Regulatory Analysis. No.

Contact. James B. Mitchell, 202–426–4325.

Status. Proposed rule published September 26, 1978; final rule in preparation.

10. H–42–78. Part 881—Section 8 Substantial Rehabilitation

Description. Would revise the current regulations for the Section 8 substantial rehabilitation program to establish rules and procedures for the advertising, selection, development and administration of housing units to be rehabilitated and assisted.

Need. To incorporate cost containment provisions, make the regulations easier to understand, and simplify processing procedures.

Authority. U.S. Housing Act of 1937, as amended by HCD Act of 1937, as amended by Housing and Community Development Act of 1974; Pub. L. 93–383, 88 Stat. 633.

Regulatory Analysis. No.

Contact. George O. Hipps, Jr., 202–755–5720.

Status. Interim rule published January 31, 1980.

11. H–44–78. Part 880, Section 8 Housing Assistance Payments Program for New Construction

Description. Would revise the regulations for the Section 8 New Construction Program. Revision would include a new summary and guide, revised basic policies and requirements, and improved processing procedures.

Need. To make the regulations easier to understand and use; to improve processing procedures, including revisions in response to work leveling recommendations; and to implement additional cost containment factors including limitations on rents, replacement costs and project funds distribution, prohibition on excess amenities and imposition of cost reviews.

Authority. United States Housing Act of 1974; Pub. L. 93–383, 88 Stat. 633.

Regulatory Analysis. No.

Contact. George O. Hipps, Jr., 202–755–5720.

Status. Final rule published October 5, 1979.

12. H–46–78. Loans for Housing for the Elderly or Handicapped

Description. Would amend 24 CFR Part 885 (1) to implement new statutory requirement for significant community representation on Section 202 project governing boards; (2) to reduce from 18 to 12 months the time within which construction must begin; and (3) to provide for carryover of unapproved applications for consideration in following year.

Need. To provide community representation on projects with significant impact on community; to shorten time needed for completion of housing; and to provide equitable treatment for applicants denied approval only because of lack of funds.

Authority. Section 205 of Housing and Community Development Amendments of 1978; Pub. L. 95–557, 92 Stat. 2080, et seq.

Regulatory Analysis. No.

Contact. George O. Hipps, Jr., 202–755–5720.

Status. Proposed rule in preparation.

13. H–66–78. Coinsurance for Rental Housing Mortgage Loans by Private Mortgage Lenders

Description. Would amend 24 CFR Part 221 to permit coinsurance for rental housing and mortgage loans insured under Section 221(d)(3) or 221(d)(4) of National Housing Act and made by supervised private financial institutions, such as commercial banks, life insurance companies, mutual savings banks, and savings and loan associations.

Need. To encourage investment in multifamily rental housing by the private sector.

Authority. Section 244 of the National Housing Act; Pub. L. 93–383, 88 Stat. 633.

Regulatory Analysis. Yes.

Contact. Arnold H. Diamond, 202–426–4325.

Status. In preparation.

14. H–68–78. Section 8 Housing Assistance Payments Program—Housing Finance and Development Agencies

Description. Would set forth the procedures for processing and administration of the Section 8 Housing Assistance Payments Program financed by State Housing Finance and Development Agencies and implement cost containment policies.

Need. To implement cost containment policies.

Authority. Section 8 of the U.S. Housing Act of 1937, Pub. L. 93–383, 88 Stat. 633.

Regulatory Analysis. No.

Contact. John M. McGuire, 202–426–0035.

Status. Interim rule published January 30, 1980.

15. H–70–78. Nondiscrimination Based on Handicap in Federally Assisted Program and Activities

Description. Would set forth procedures and policies to assure nondiscrimination based on handicap in programs and activities receiving HUD financial assistance.

Need. To comply with Section 504 of the Rehabilitation Act of 1973, as amended, and Executive Order 11914, which relate to nondiscrimination against handicapped persons.

Authority. Executive Order 11914—Nondiscrimination with Respect to the Handicapped in Federally Assisted Programs, April 28, 1976; Rehabilitation Act of 1973; Pub. L. 93–112, 87 Stat. 355.

Regulatory Analysis. No.

Contact. Catherine Hillard, 202–755–7366.

Status. Final rule in preparation.

16. H–71–78. Accessibility Design Standards

Description. Would amend present regulations to prescribe accessibility design standards which apply to all Federal programs involving publicly-owned residential structures constructed, altered or leased with Federal funds. Amendments would conform the rule to legislative changes, make some routine changes, and add a provision to permit program-by-program supplementing of the accessibility standards with numerical or percentage requirements for specific building features such as parking spaces, dwelling units, or elevators.

Need. To clarify present regulations and conform to recent legislation.

Authority. Architectural Barriers Act of 1968, Pub. L. 90–480, 82 Stat. 718.

Regulatory Analysis. No.

Contact. David Williamson, 202–755–7366.

Status. Proposed rule published February 21, 1979; revised proposal in preparation.

17. H–72–78. Accessibility Design Standards

Description. Would add a new 24 CFR Part 41 to augment the rules prescribing accessibility design standards under the Architectural Barriers Act of 1968.

Need. To strengthen and coordinate the Department's procedures for compliance with the Architectural Barriers Act of 1968.

Authority. Architectural Barriers Act of 1968, Pub. L. 90–480, 82 Stat. 718; Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 355.

Regulatory Analysis. No.

Contact. David R. Williamson, 202–755–7366.

Status. Final rule published October 31, 1979.

18. H–73–78. Flexible Subsidy Regulations

Description. Would implement the flexible subsidy program authorizing legislation as enacted by Congress in the 1978 Housing and Community Development Amendments, define eligible activities, and spell out HUD's program oversight responsibilities.

Need. To implement Section 201 of the Housing and Community Development Amendments of 1978.

Authority. The Housing and Community Development Amendments of 1978; Pub. L. 95–557, 92 Stat. 2080.

Regulatory Analysis. Not yet known.

Contact. Conrad Egan, 202–755–5756.

Status. Interim rule published May 21, 1979; final rule in preparation.

OFFICE OF THE INSPECTOR GENERAL

A. New Regulations

None.

B. Previously Listed Regulations

1. IG–3–78. Audit Guide for GNMA Mortgage-Backed Securities Program

Description. Would promulgate an audit guide for use by public accounts in auditing operations of issuers of GNMA-guaranteed mortgage-backed securities. This guide would describe the audit work to be performed by a public accountant at the issuer's office and at the office of its custodians. The guide would require the public accountant to report to GNMA, through the issuer, on the issuer's compliance with GNMA's requirements.

Need. To put currently required procedures and policies in regulation form.

Authority. Inspector General Act of 1978; Pub. L. 95–452, 92 Stat. 1101.

Regulatory Analysis. No.

Contact. Leonard M. Wolin, 202–755–6361.

Status. In preparation. No longer classified as significant.

OFFICE OF NEIGHBORHOODS, VOLUNTARY ASSOCIATIONS, AND CONSUMER PROTECTION

A. New Regulations

1. NVACP–2–79. Lead-Based Paint Poisoning Prevention Act Regulations

Description. Would redefine immediate hazards to include chewable (intact) leaded surfaces and would change the treatment of the immediate hazard to removal where it pertains to chewable surfaces.

Need. To implement content of Congress under Title III of the Lead-Based Paint Poisoning Prevention Act.

Authority. Title III, Section 302 of the Lead-Based Paint Poisoning Prevention Act, Pub. L. 91–695, 84 Stat. 2078; 42

U.S.C. 4901, as amended by Pub. L. 93–151, 87 Stat. 565; 42 U.S.C. 4901.
Regulatory Analysis. Yes.
Contact. Kaye Belt, 202–755–5210.
Status. ANPR in preparation.

2. NVACP–5–79. Reimbursement for Expenses for Public Participation

Description. To establish a program to reimburse members of the public for expenses resulting from participation in HUD decision-making.
Need. To implement a Presidential Memorandum dated May 16, 1979 calling for enhanced public participation in agency decision-making.
Authority. Section 7(d), Department of HUD Act; 42 U.S.C. 3535(d).
Regulatory Analysis. Not yet known.
Contact. Elena Van Meter, 201–755–5353.
Status. Advance Notice of Proposed Rulemaking (ANPR) in preparation.

3. NVACP–7–79. Interstate Land Sales Full Disclosure Act Regulations

Description. Would implement the 1979 amendments to the Interstate Land Sales Full Disclosure Act by revising exemptions, contract revocation provisions, administrative procedures, and state certification procedures.
Need. To implement the 1979 amendments to the Interstate Land Sales Full Disclosure Act.
Authority. Interstate Land Sales Full Disclosure Act, Pub. L. 90–448, 82 Stat. 476, 590, 15 U.S.C. 1701; Housing and Community Development Amendments of 1979, Pub. L. 96–153, 93 Stat. 1101.
Regulatory Analysis. Not yet known.
Contact. Alan J. Kappeler, 202–755–8182.
Status. In preparation.

B. Previously Listed Regulations

1. NVACP–1–78. Neighborhood Self-Help Development Program

Description. Would provide grants and other forms of assistance to qualified neighborhood organizations to undertake specific housing, economic or community development, and other appropriate neighborhood conservation and revitalization projects, in low- and moderate-income neighborhoods which are in need of preservation and revitalization. In the process of providing such assistance, would also increase the capacity of neighborhood organizations to utilize and coordinate resources available from the public and private sectors, and from the residents and neighborhoods themselves, in conserving and revitalizing such neighborhoods.
Need. To implement Title VII of the Housing and Community Development Amendments of 1978.
Authority. Title VII, Housing and Community Development Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080.
Regulatory Analysis. No.
Contact. Joseph McNeely, 202–755–5595.
Status. Interim rule published October 22, 1979.

2. NVACP–3–78. Livable Cities Program

Description. Would implement legislation under which HUD is to assist the efforts of States, local governments, neighborhoods and other organizations to provide a more suitable living environment, expand cultural opportunities and, to the extent practicable, stimulate economic opportunities, primarily for the low and moderate income residents of communities and neighborhoods in need of conservation and revitalization, through the utilization, design or development of artistic, cultural or historic resources.
Need. To implement the provisions of Title VIII of the Housing and Community Development Amendments of 1978.
Authority. Title VIII, Housing and Community Development Amendments of 1978; Pub. L. 95–557, 92 Stat. 208.
Regulatory Analysis. No.
Contact. Kathy Dexter, 202–755–0950.
Status. Withdrawn.

3. NVACP–3–78. Modular Homes—Exempted Structures

Description. Would amend the Mobile Home Procedural and Enforcement Regulations by setting forth the certification required to be made by manufacturers of modular homes in order to exempt those structures from coverage under the National Mobile Home Construction and Safety Standards Act of 1974.
Need. To clarify application of existing regulations.
Authority. National Mobile Home Construction and Safety Standards Act of 1974, as amended; Pub. L. 93–383, 88 Stat. 633, 42 U.S.C. 5301.
Regulatory Analysis. No.
Contact. Richard A. Mendlen, 202–426–1972.
Status. Final rule published November 27, 1979.

4. NVACP–4–78. Copper Clad Aluminum Conductors

Description. Would amend the Federal Mobile Home Construction and Safety Standards to make certain sizes of copper clad aluminum conductors acceptable for use in the branch circuit electrical wiring of mobile homes.
Need. To implement legislation which calls for consideration of new and innovative building system.
Authority. National Mobile Home Construction and Safety Standards Act of 1974, as amended; Pub. L. 93–383, 88 Stat. 633, 42 U.S.C. 5301.
Regulatory Analysis. No.
Contact. Richard A. Mendlen, 202–426–1872.
Status. Withdrawn.

5. NVACP–7–78. Recreational Vehicles and Similar Structures

Description. Would amend the Mobile Home Procedural and Enforcement Regulations to further clarify the applicability of the National Mobile Home Construction and Safety Standards Act of 1974 to recreational vehicles and similar structures.
Need. To clarify definitions of recreational vehicles in establishing their exemption from coverage under the Act.
Authority. The National Mobile Home Construction and Safety Standards Act of 1974; Pub. L. 93–383, 88 Stat. 633, 42 U.S.C. 5301; Section 7(d) Department of HUD Act, 42 U.S.C. 3535(d).
Regulatory Analysis. Not yet known.
Contact. Richard A. Mendlen, 202–426–1872.
Status. ANPR in preparation.

6. NVACP–8–78. Federal Mobile Home Procedural and Enforcement Standards

Description. Would change the eligibility requirements of certain participants, further delineate the responsibilities of these participants and modify some procedural and enforcement activities.
Need. To enhance the general effectiveness and overall efficiency of the Federal Mobile Home Standards Program. Rule will be designed to ensure the continued participation of States currently in the program and to make the program more attractive to States not presently in the program.
Authority. National Mobile Home Construction and Safety Standards Act of 1974; Pub. L. 93–383; 88 Stat. 633, 42 U.S.C. 5301.
Regulatory Analysis. Not yet known.
Contact. Tobias A. Gottesman, 202–472–4703.
Status. In preparation. No longer classified as significant.

7. NVACP–10–78. Real Estate Settlement Procedures Act

Description. Would revise the existing regulations implementing the Real Estate Settlement Procedures Act. Contents of the proposed rule are now being developed on the basis of public comments submitted in the response to an ANPR which was published on September 9, 1978.
Need. Comments received pursuant to ANPR indicated a need for technical clarification of the regulations.
Authority. Real Estate Settlement Procedures Act, Pub. L. 93–533; 88 Stat. 1724; 12 U.S.C. 2617.
Regulatory Analysis. No.
Contact. Patricia M. Worthy, 202–755–5597.
Status. Previously reported as withdrawn. Preparation resumed. No longer classified as significant.

8. NVACP–1–79. Implementation of Building Energy Performance Standards (BEPS)

Description. Would provide guidance and direction to the public and to State and local governments with regard to the implementation of the BEPS issued by the Department of Energy.
Need. To provide rules governing the implementation of BEPS according to the statutory requirements.
Authority. Energy Conservation and Production Act of 1976, Pub. L. 94–385, 90 Stat. 1125.
Regulatory Analysis. Yes.
Contact. Archie Twitchell, 202–376–4572.
Status. In preparation.

II. REGULATIONS UNDER REVIEW

OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT

1. CPD. 24 CFR Part 511—Neighborhood Development Program Project Selection System

Description. Would revoke regulations governing project selection since NDP has been superceded by the Community Development Block Grant Program—Ttitle I of the Housing and Community Development Act of 1974. (Pub. L. 93–383) as amended, 42 U.S.C. 5301 et. seq. (CDBG Program).
Action. Revocation.
Contact. Bill Thomas, Office of Block Grant Assistance, 202–755–5977.
Timing. Final rule revocation in preparation.

2. CPD. 24 CFR Part 541—Open Space Land Program Project Selection System

Description. Would revoke regulations governing project selection since Open Space Land Program has been superceded by the CDBG program.
Action. Revocation.
Contact. Bill Thomas, Office of Block Grant Assistance, 202–755–5977.
Timing. Final rule revocation in preparation.

3. CPD. 24 CFR Part 551—Neighborhood Facilities Program Project Selection System

Description. Would revoke regulations governing project selection since NFP has been superceded by the CDBG Program.
Action. Revocation.
Contact. Bill Thomas, Office of Block Grant Assistance, 202–755–5977.
Timing. Final rule revocation in preparation.

4. CPD. 24 CFR Part 558—Evaluation of Preliminary Applications for Basic Water and Sewer Facilities Grants

Description. Would revoke regulations containing application requirements since the Basic Water and Sewer Facilities Grant Program has been superceded by the CDBG Program.
Action. Revocation.
Contact. Bill Thomas, Office of Block Grant Assistance, 202–755–5977.
Timing. Final rule revocation in preparation.

5. CPD. 24 CFR Part 561—Public Facility Loans Project Selection System

Description. Would revoke regulations governing project selection since PFL program has been superceded by the CDBG Program.
Action. Revocation. Program responsibilities transferred to Assistant Secretary for Housing-Federal Housing Commissioner.
Contact. Bill Thomas, Office of Block Grant Assistance, 202–755–5977; Richard H. Mapp, Director, Management Analysis and Services Division, 202–755–6623.
Timing. Final rule revocation in preparation.

6. CPD. 24 CFR Part 500—Renewal Assistance

Description. Would delete from publication, without prejudice, regulations for this program which has been superceded by the CDBG Program.
Action. Deletion.
Contact. Bill Thomas, Office of Block Grant Assistance, 202–755–5977.
Timing. Final rule deletion in preparation.

7. CPD. 24 CFR Part 540—Open Space Land

Description. Would delete, without prejudice, regulations for this program which has been superceded by the CDBG Program.
Action. Deletion.
Contact. Bill Thomas, Office of Block Grant Assistance, 202–755–5977.
Timing. Final rule deletion in preparation.

8. CPD. 24 CFR Part 555—Grants for Basic Public Water and Sewer Facilities

Description. Would delete, without prejudice, regulations for this program which has been superceded by the CDBG Program.
Action. Deletion.
Contact. Bill Thomas, Office of Block Grant Assistance, 202–755–5977.
Timing. Final rule deletion in preparation.

9. CPD. 24 CFR Part 880—Model Cities Transition Policies

Description. Would delete, without prejudice, regulations for this program which has been superceded by the CDBG Program.
Action. Deletion.
Contact. Bill Thomas, Office of Block Grant Assistance, 202–755–5977.
Timing. Final rule deletion in preparation.

10. CPD. 24 CFR Part 58—Environmental Review Procedures for the Community Development Block Grant Program

Description. Would revise and clarify the changes in the environmental review requirements contained in the Interim Rule, 24 CFR Part 58, issued by the Department (44 FR 45568–45585, August 2, 1979). Redrafted rule would reflect and supplement the new NEPA Regulations of the Council on Environmental Quality for the compliance of Title I actions under the CDBG and UDAG programs with the procedural provisions of Section 102(2) of NEPA.
Action. Redrafting.
Contact. Charles Thomsen, Office of Environmental Quality, Community Planning and Development—202–755–6296.
Timing. Final rule in preparation.

11. CPD. 24 CFR Part 570, CDBG—Subparts C & D, Eligible Activities and Entitlement Grants

Description. Would implement certain technical amendments to the CDBG regulations and correct various erroneous references, typographical mistakes and other errors.
Action. Revision.
Contact. James R. Broughman, Entitlement Cities Division, Community Planning and Development, 202–755–9267.
Timing. Final rule in preparation.

12. CPD. 24 CFR Part 570—CDBG, Subpart O—Program Management

Description. Would revise § 570.906 relating to the submission frequency and content of the Grantee Performance Report.
Action. Revision.
Contact. James R. Broughman, Entitlement Cities Division, Community Planning and Development, 202–755–9267.
Timing. Final rule in preparation.

13. CPD. 24 CFR Part 570—CDBG, Subpart E—Secretary's Fund, New Communities

Description. Would revise § 570.403 Governing grants in behalf of new communities from the Secretary's 3% Discretionary Fund; would clarify and make technical changes to the existing regulations, incorporating new

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provisions reflecting changes in Departmental policy; and would integrate more closely the CDBG and New Communities Programs.
Action. Revision.
Contact. Fred McLaughlin, Office of New Communities Development Corporation, 202–755–6808 or Donald G. Dodge, Office of Policy Planning, Community Planning and Development, 202–755–6090.
Timing. Final rule in preparation.

14. CPD. 24 CFR Part 570—CDBG, Technical Assistance Grants and Contracts

Description. Would revise Section 570.402 to focus on more explicit priorities for Technical Assistance Funding; would clarify application and review procedures and provide submission deadlines and funding levels for fiscal year 1980.
Action. Revision.
Contact. Dopald G. Dodge, Office of Policy Planning, Community Planning and Development, 202–755–6090.
Timing. Proposed rule in preparation.

15. CPD. 24 CFR Part 570—CDBG, Subpart N—Urban Renewal Provisions

Description. Would revise Part 570, Subpart N relating to the submission, frequency and content of the Grantee Performance Report.
Action. Revision.
Contact. Peter Rowan, Office of Block Grant Assistance, Community Planning and Development, 202–755–1871
Timing. Final rule in preparation.

16. CPD. 24 CFR Part 571—CDBG for Indian Tribes and Alaska Natives

Description. Would clarify provisions of the regulations for the CDBG Program for Indian tribes to conform to 1978 statutory requirements and correct editorial errors and omissions.
Action. Revision.
Contact. Donald G. Dodge, Office of Policy Planning, Community Planning and Development, 202–755–6090.
Timing. Final rule in preparation.

NEW COMMUNITIES DEVELOPMENT CORPORATION

1. NCDC. 24 CFR Part 710. Financing private New Community Development

Description. Would delete from publication regulations governing communities under the New Communities Act of 1968 (42 U.S.C. 3901, et seq.) which has now been superceded by other legislation. The regulations so deleted from publication would continue to apply to certain projects undertaken pursuant to the 1968 Act until those projects have been completed.
Action. Deletion.
Contact. John Clinton, Office of Program Policy and Management, New Community Development Corporation, 202–755–7362, and Augusta Moore, 202–755–6808.
Timing. Final rule deletion.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

1. GNMA. 24 CFR Part 320. Description

Description. Would clarify and simplify existing regulation describing the nature of mortgages eligible for purchase, the basis for fees and charges, the authority for purchasing below-market interest rate mortgages, and the financing of special assistance functions.
Action. Revision.
Contact. Susan Kelsey, 202–755–5615.
Timing. Advance Notice of Proposed Rulemaking scheduled for publication April 1.

2. GNMA. 24 CFR Part 330. Eligible Sellers of Mortgages

Description. Would clarify and simplify existing regulation describing eligibility qualification requirements for selling mortgages to the Association.
Action. Revision.
Contact. Susan Kelsey, 202–755–5615.
Timing. Advance Notice of Proposed Rulemaking scheduled for publication April 1.

3. GNMA. 24 CFR Part 340. Purchase Requirements

Description. Would clarify and simplify existing regulation describing procedures governing the purchase of mortgages under the special assistance functions.
Action. Revision.
Contact. Susan Kelsey, 202–755–5615.
Timing. Advance Notice of Proposed Rulemaking scheduled for publication April 1.

4. GNMA. 24 CFR Part 350. Servicing and Sales of Mortgages

Description. Would clarify and simplify existing regulation describing requirements for servicers of mortgages and providing for their compensation. Revision would also explain availability of Association owned mortgages for sale to qualified investors.
Action. Revision.
Contact. Susan Kelsey, 202–755–5615.
Timing. Advance Notice of Proposed Rulemaking scheduled for publication April 1.

OFFICE OF ADMINISTRATION

1. Admin. 24 CFR Part 16. Implementation of the Privacy Act of 1974

Description. Would clarify and simplify existing regulations setting forth procedures governing HUD implementation of the Privacy Act and explaining in particular: Methods for requesting documents; Provisions for disclosure of information; Basis for denials of information; Procedures for administrative review of those denials; Procedures for correcting or amending records and for appealing HUD determinations regarding correction or amendment of records; disclosure of third party information; Schedules for fees; Exemptions; and Officials to whom Privacy Act requests should be addressed.
Action. Revision.
Contact. William Granik, 202–755–5570.
Timing. Proposed rule in preparation. Publication planned in March.

2. Admin. 41 CFR Part 24. HUD Procurement Regulations

Description. Would clarify and simplify existing regulation setting forth procedures for HUD procurement through contracts of goods and services.
Action. Revision.
Contact. Cheryl Yeargin, 202–724–0038.
Timing. Proposed rule in preparation.

OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY

1. FHEO. 24 CFR Part 1—Nondiscrimination in Federally Assisted Programs of the Department of Housing and Urban Development—Effectuation of Title VI of the Civil Rights Act of 1964; Part 2—Practice and Procedure for Hearings under Part 1 of this Subtitle

Description. Would clarify, simplify and reorganize existing regulations describing policy, requirements and procedures to implement Title VI of the Civil Rights Act of 1964.
Action. Revision.
Contact. Laurence D. Pearl, Office of Fair Housing and Equal Opportunity, 202–755–5904.
Timing. Proposed rule in preparation.

OFFICE OF HOUSING

1. Housing. 24 CFR Part 203—Mutual Mortgage Insurance and Insured Home Improvement Loans; Subpart A, Eligibility Requirements

Description. Would clarify and simplify existing regulations setting forth requirements for approval of mortgages under the basic mortgage insurance provisions pursuant to the National Housing Act.
Action. Revision.
Contact. Milton Francis, 202–755–6675.
Timing. Proposed rule in preparation.

2. Housing. 24 CFR Part 420—Assistance Payments—Homes for Lower-Income Families

Description. Would revoke existing regulation which is duplicative of 24 CFR Part 235.
Action. Revocation.

Contact. Milton Francis, 202–755–6675.
Timing. Final rule revocation in preparation.

3. Housing. 24 CFR Part 300—Section 23 Housing Assistance Payments Program—New Construction

Description. Would clarify and simplify existing regulations setting forth policies and procedures for housing assistance payments on behalf of low income families who lease newly constructed housing developed in accordance with Section 23 of the U.S. Housing Act of 1937.
Action. Revision.
Contact. Madeline Hastings—202–755–5656.
Timing. Proposed rule in preparation.

4. Housing. 24 CFR Part 801—Section 23 Housing Assistance Payments Program—Substantial Rehabilitation

Description. Would clarify and simplify existing regulations setting forth policies and procedures for housing assistance payments on behalf of low income families who lease substantially rehabilitated housing pursuant to Section 23 of the U.S. Housing Act of 1937.
Action. Revision.
Contact. Madeline Hastings—202–755–5656.
Timing. Proposed rule in preparation.

5. Housing. 24 CFR Part 802—Section 23 Housing Assistance Payments Program—Existing Housing

Description. Would clarify and simplify existing regulations setting forth policies and procedures for making housing assistance payments on behalf of low income families who lease existing housing pursuant to the provisions of Section 23 of the U.S. Housing Act of 1937.
Action. Revision.
Contact. Madeline Hastings—202–755–5656.
Timing. Proposed rule in preparation.

Authority: Section 2(a) of Executive Order 12044, 43 FR 21661, March 24, 1978.

Issued at Washington, D.C., on January 31, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80–3686 Filed 2–4–80; 8:45 am]
BILLING CODE 4210–01–M

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federal register

Tuesday
February 5, 1980

Part V

United States Regulatory Council

Guidelines for Entries in the Calendar of Federal Regulations; Request for Public Comment

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UNITED STATES REGULATORY COUNCIL

Guidelines for Entries in the Calendar of Federal Regulations; Request for Public Comment

AGENCY: United States Regulatory Council.

ACTION: Request for Public Comment.

SUMMARY: We are seeking public comment to help us revise the Guidelines for Entries in the Calendar of Federal Regulations. The Regulatory Council issues the Guidelines to help Federal agencies prepare entries for the Calendar, which the Council publishes very six months. The Calendar is intended to provide a concise, comprehensive catalog of Important Federal Regulations under development. Our goal is to increase public participation in rulemakng by presenting information early in the regulatory development process, and indicating how interested parties may contact appropriate agencies if they want to participate in the development of regulations. The guidelines are intended to help agencies prepare Calendar entries that are of Maximum usefulness to Calendar readers, and are as complete and consistent as possible given the different activities and goals of the agencies and given the different stages of development of the regulations described.

COMMENTS: We must receive your comments by February 19, 1980, in order for them to be considered for the guidelines we will issue for the May 1980 edition of the Calendar. We will use any comments we receive later than the 19th to help us prepare guidelines for the November 1980 edition of the Calendar.

Please address your comments to: Mark G. Schoenberg, Associate Director, U.S. Regulatory Council, Washington, DC 20503, (202) 426–1962.

FOR FURTHER INFORMATION CONTACT: Peter J. Petkas, Director, U.S. Regulatory Council, Washington, DC 20503, (202) 395–6110.

SUPPLEMENTARY INFORMATION: The President directed the creation of the U.S. Regulatory Council on October 31, 1978 to help coordinate Federal regulatory activities and to expand efforts to manage the regulatory process more effectively. The Council is composed of 36 departments and agencies with significant regulatory responsibilities.

The President's October 31 order also directed the Council to develop and publish a semi-annual calendar of important upcoming Federal regulations. The Council published the first edition of the Calendar of Federal Regulations in February 1979, and the second edition in November 1979. The council will publish subsequent editions every May and November. The Calendar is designed as a tool for the President, the Congress, the regulators, and the public to understand and shape the way we implement national regulatory policy goals. It is intended to be a comprehensive catalog of important Federal regulations that are under development, and to present key information on:

Problems the regulating agency intends to address with the proposed regulation;
Major alternatives under consideration;
Expected costs and benefits of the proposal;
Sectors of the economy that could be affected;
Related regulations and actions;
Collaboration with other agencies, both Federal and state;
Timetables for action; available documents; and agency contacts.

We recognize that the amount of information that an agency can supply varies according to the stage of development of a regulation, and the different activities and operations of the agency itself. Please note that in particular there is considerable disagreement about the method that should be used for estimating costs, benefits and other economic impacts. We have, therefore, tried to structure the guidelines in a way that allows 36 different agencies to express their analytic data in as consistent a way as possible. Those guidelines assume no particular methodology for economic analysis nor any particular means for expressing the results of such analysis.

The Calendar is an evolving document and with each edition we try to increase its usefulness to its readers. We asked those who commented on the Calendar to give use ideas on how to improve it and make it more useful. We met with representatives from the 36 Council Agencies to ask their advice on how to improve the Calendar. In addition, we discussed ways in which we could more effectively gather and present economic information on costs and benefits of the proposed regulations and on the alternatives that the agencies considered.

We are now seeking your comments on the guidelines. Specifically, do users feel we should revise the guidelines to:

Request additional information? If so, on what subjects?
Delete information they presently request?
Organize the material differently?

We would appreciate any other comments you may have. The guidelines prepared for entries in the November Calendar are reprinted below for your reference. We have made a few minor changes in them to correct such things as typographical errors.

Dated: January 29, 1980.

Douglas M. Costle,
Chairman.

GUIDELINES FOR THE SECOND EDITION OF THE CALENDAR OF FEDERAL REGULATIONS

Introduction

The Calendar of Federal Regulations is intended to provide a comprehensive overview of proposed important regulations for interested citizens, public and private interest groups, the business community, and all levels of government.

The second edition of the Calendar will be substantially more useful than the first edition for several reasons:

1. More agencies will submit entries, so the information will be more comprehensive.

2. We have refined the indexes so they will be easier to use and will provide more information.

3. We have added a chapter on procedures for public participation in the rulemaking process.

4. We have emphasized the rationale behind agency actions with more information on benefits, cost, and both traditional and non-traditional regulatory alternatives.

5. We have revised the order of the entry sections to present information through a problem-solving approach.

These guidelines provide a comprehensive framework that is an attempt to accommodate the different reporting approaches of thirty-five agencies. What you include in your entries will depend on: (1) The types of information your agency analyzes; (2) The state of development of the regulation at the time you write your entries; (3) The appropriateness of certain information for certain rules; and (4) Whether you have performed or will perform a regulatory analysis.

Our intent is to: (1) Inform you of the various kinds of information some agencies collect and (2) Alert you to the concerns and interests of some agencies and individuals for specific types of information about the regulation development process. We want to do this without creating unnecessary reporting burdens for you. With this in mind, we hope you will provide as much information as you have available.

General Instructions for Preparing Entries

1. Agency Clearance

Calendar representatives are responsible for ensuring that agency submissions are cleared by appropriate agency officials prior to actual publication in the Federal Register. The Council staff assumes that you have obtained clearance unless advised otherwise.

2. Criteria for Including a Proposed Regulation

We would like to have a minimum of five entries from each participating executive agency and three from each participating independent agency, unless, of course, you do not have a sufficient number of actions under development that also meet the time requirement described below. Each entry should meet one or more of the criteria for preparing a regulatory analysis in Executive Order 12044. Specifically:

- Regulations which have an annual effect on the economy of $100 million more;
- Regulations which will impose a major increase in costs or prices for individual industries, levels of government, or geographic regions; and
- Regulations otherwise determined by the agency head. (We suggest that Calendar entries for this category could include precedent-setting rules, other issues of great public interest, or a rule that will increase productivity and/or profits without causing any adverse effects. The importance of such rules might make public information and/or participation in developing the proposed rule very desirable.)

Grants and income transfer program regulations which may impose annual compliance costs of $100 million or more should be included if they meet the time requirement described below.

In addition, if you have reviewed a regulation (under the provisions of EO 12044) and you are reproposing that regulation, you should include it if the change itself would be considered "major" under the Executive Order.

Finally, any regulation which appeared in the first edition should appear in the second edition unless it has been promulgated or withdrawn, in which case we will note this fact in an Update Appendix to the Calendar.

3. Timing

Any regulation which meets one or more of the above criteria *and* for which an agency is *reasonably likely* to issue an Advance Notice of Proposed Rulemaking (ANPRM), Notice of Proposed Rulemaking (NPRM) or Final Rule within the next twelve months should be submitted.

4. Writing Style

Because the Calendar has such a varied readership, you, of course, should prepare all Calendar entries in clear and concise language. You can accomplish this goal by making sure that:

- You write all sentences in the active rather than passive voice when possible. Using the active voice will make your sentences clearer and more forceful.

Example: Active: "We wil seek public comment." Passive: "Public comment will be sought."

- You precisely define terms that are not generally understood by a non-specialized readership.
- You spell out acronyms and other abbreviations the first time they appear in the text of each entry. Two acronyms that are acceptable everywhere are the Advanced Notice of Proposed Rulemaking (ANPRM) and the Notice of Proposed Rulemaking (NPRM). We will define these terms in the Preface of the Calendar.

Writers should strive for clarity and completeness of information in their entries.

If possible, please ask an agency editor to review entries to make sure they are written in plain English before the material reaches us; doing this will facilitate our editorial process.

5. Format

Draft entries should be:

- Typed double-spaced with wide margins to accommodate editorial comments from Council staff; and
- Consistent with the basic outline indicated in these guidelines.

We suggest that, if possible, you type draft entries on a memory typewriter to facilitate rewriting your final entries.

Final entries should also meet several format requirements:

- Typed double-spaced with one-inch margins on all sides of the page;
- Indented paragraphs (5 spaces);
- Section headings typed in upper and lower case and placed flush with the left margin;
- Section headings followed by a period but never underlined—the printer will interpret the underlining as calling for italics; and
- The final copy submitted as clean as possible, because it will go directly to the printer.

If possible, please submit original copy. We must photostat your material several times.

Basic Outline for Entries

1. Agency Designation/Title of Regulation

Type the agency name and issuing division in abbreviated form, entirely in upper case, e.g., HEW–HCFA. Type the word TITLE on a separate line, two lines below the agency designation and two lines above the actual title. Give the title of the regulation or action, and use words and terms outsiders can easily understand. Do not use acronyms or abbreviations in the title. Federal Register or *Code of Federal Regulations* citations should not be used here.

2. Legal Authority

We are trying to maintain a consistent format for all legal citations, and the following examples show how you should present each type of citation:

Example: The Rehabilitation Act of 1973, section 504, 29 U.S.C. 794. Executive Order No. 11914, 41 FR 17871, Oct. 31, 1976. HEW Guidelines on Rehabilitation, 3 CFR 306.53.

The next example shows an alternative statutory citation where a U.S. Code number is *not* available and a public law number *must* be used.

Note.—If there *is* a U.S. Code citation a public law number is not necessary:

Example: Motor Vehicle Safety Act of 1975, Pub. L. 92–513, section 102, 83 Stat. 523.

Code of Federal Regulations citations should read as follows:

Example: 3 CFR 308.3. 3 CFR Part 308.

Calendar representatives should seek the help of an agency attorney to assure the accuracy of citations and to save editing time.

3. Statement of Problem

In this section you should describe the magnitude of the problem and how the regulation will help solve it.

a. Try to discuss the magnitude of the problem as best you can in quantitative terms, if possible. If exact figures are not available, please use a range of numbers to describe the problem as you perceive it. You might state how many people are injured per year by a particular product, and what are the secondary effects of those injuries, such as lost wages?

If precise figures are not available, what is the range of the number of injuries that you estimate?

If no quantitative statement can be made, try to provide a qualitiative description of the problem.

Example: The lack of public transportation in Appalachia limits employment opportunities in a poor area. The difficulty of minority access to public broadcasting limits the potential for those groups to voice their concerns through the broadcast media.

b. Try to describe why the agency decided to act on this problem at this time. Possible explanations are new legislation, identification of a problem, a court decision, prodding by consumers or industry, etc.

c. You should also try to describe the consequences of not responding tothe problem. For instance, more lives might be lost, greater industry concentration might occur, more land might be lost irretrievably through erosion, etc.

4. Alternatives Under Consideration

The Carter Administration has emphasized the value of making an explicit and deliberate choice from among a selection of regulatory options. For example, the Administration's regulatory analysis program places importance on identifying and evaluating each major option in draft and final regulatory analyses.

We suggest that you think of this section in terms of the major choices your agency has available for achieving your regulatory objectives. This section should also demonstrate to the lay reader the difficult choices and tradeoffs you face in developing the regulation. In most cases, the two to four options you list here will be identical to those that you are evaluating in your Regulatory Analysis, if you are preparing one.

Regulation writing involves choosing among options. Begin this section by showing the range of options your agency has considered or is considering within the context of a decision to regulate. You might include options for timing of compliance requirements or the scope of coverage of the regulation or the various levels of control to be exerted. If applicable, pay special attention to compliance differences you are considering applying to sub-sectors that the regulation will affect differently, such as small businesses.

Summarize the major alternatives you are considering.

Example: Chemical discharges might be limited to X parts per million (ppm), Y ppm, or Z ppm; or reporting forms might be required of all firms in an industry or only from those gross revenues exceed X dollars per years.

If there are no realistic alternatives, please explain why. Doing nothing is sometimes an alternative.

In describing each option indicate how it responds to the problem you described earlier.

List what appear to be the major pros and cons for each potential policy, and if possible show the relative virtues of each option systematically.

We would like this section also to reflect some of your agency's innovative thinking on regulatory approaches that may not be traditional ones for your agency. We encourage you to include such approaches in this section. These may totally replace a more traditional approach or they may be additional requirements (i.e., supplements) to the central compliance demands of the regulation. Regulatory reform is an important goal of the Administration, and this section can document your initiatives publicly.

We have defined four categories of possible non-traditional approaches as follows: a. Reliance on market forces.

In these approaches, the proposed rule encourages the use of market forces to govern economic activity while simultaneously protecting the public interest.

Example: Fees, user charges, taxes, subsidies and procurement incentive awards that attempt to encourage or discourage certain types of activities. A specific example is the EPA/GSA decision to pay a premium to manufacturers for lawnmowers that operate at a lower than average noise level; this encourages manufacturers to produce mowers with lower noise levels without forcing them to do so.

Restructuring markets to increase competition is another example of this technique.

Example: On May 1, 1975, the SEC abolished fixed commission rates on stock market transactions. This action resulted in greater competition among brokerage houses yielding dramatically lower commission costs to the investor.

Yet another example of this approach would be agencies setting overall limits on activities and allowing individuals or firms to decide how best to act within those limits.

Example: EPA has asked the State Implementation Plans under the Clean Air Act incorporate the "bubble concept." Under this concept States set total emission limits for an industrial facility and give the facility operator discretion to vary the stringency of controls of different operations in order to meet that limit in the least costly way.

b. Performance approaches.

These approaches permit those who are regulated to meet a minimal performance standard as opposed to being required to comply with an imposed design standard.

c. Informational approaches.

Here the consumer is given information to help him/her decide whether to purchase a product or service.

Example: Labelling, for instance, gives the consumer informed freedom of choice in the products he/she purchases. Disclosure, as required in truth in lending documents for various types of loans, describes the rights, obligations and implications of a transaction.

d. Self-regulatory approaches.

In these approaches, when a regulatory agency considers it appropriate, those who are regulated develop and/or enforce voluntary standards.

Example: CPSC in cooperation with industry and consumer representatives is developing a voluntary safety standard for chain saws.

Some agencies may have developed non-traditional regulatory approaches which we have not mentioned above. We encourage those agencies to include such approaches in this section.

5. Summary of Benefits

Now that you have identified your alternatives to respond to the problem, this section should describe the direct and indirect benefits that accrue from your action.

Define the direct benefits of the regulation both in measurable and unmeasurable terms. Measurable benefits are those that can be expressed in physical terms, such as changes in industry concentration ratios, reduction of number of lost work days, injuries, or amount of pollution or paper work; etc.

Example: A CPSC entry in the first edition of the Calendar was a proposal to set an upholstered furniture cigarette flammability standard. CPSC provided estimates of the number and percentage of deaths and injuries that could be prevented by the standard.

Where possible, please attempt to assign a monetary value to the physical measurements.

Example: In the same entry cited above, CPSC estimated that their standard would save about $22 million in property damages and about $430 million for lives lost.

CPSC stated that the Commission does not endorse any particular estimate for the value of life. However, for the purposes of this calculation the CPSC staff assumed a figure of $1 million per life, which they said is in the range of estimates that are associated with studies of the "statistical value of life." When the staff added an estimated figure for injuries exclusive of pain and suffering they were able to estimate the total annual benefits of this standard to be about $470 million when all upholstered furniture is in compliance.

We realize that assigning monetary values to physical measurements will not always be possible.

Non-measurable benefits are those which cannot be measured by strict standards but are clearly important, such as improving the quality of life, worker morale, or the aesthetic beauty of a lake.

Example: A Food Stamp Program regulation's description of benefits, in addition to stating the number of people who can potentially benefit and how much they can save, could state that better nutrition encourages a healthier environment in which children can grow and develop.

You can also describe the indirect benefits of your regulation in measurable and non-measurable terms. Indirect benefits may be the less obvious beneficial effects of regulation.

Example: A regulation that improves the quality of mass transit directly benefits those who use the mass transit system; it also produces indirect benefits such as reduced traffic congestion, pollution, and energy consumption. Also, the regulation may facilitate access to stores by customers and transportation to job sites, thereby increasing employment opportunities.

Descriptions of benefits and costs may differ depending on whether the regulation is going to NPRM or to Final Rule. Until your agency approves an NPRM for publication, alternatives are still open to selection.

Examples: If an entry is going to NPRM, an example might be:

"This regulation will reduce injuries that the product causes by creating limitations on how the product can be designed."

If a regulation is going to Final Rule, a more applicable example might be:

"This regulation, by imposing a requirement for a safety cap, will reduce by 4,000 per year (80%), injuries caused by the product.

6. Summary of Costs

This section should describe the direct and indirect costs of a proposed regulation. Describe, as best you can, the direct costs, including (a) an estimate of the total compliance cost, and (b) an estimate of the regulation's administrative burdens. Indirect costs are secondary costs that result from implementation of the regulation. In describing these costs please distinguish between those costs imposed on the private sector and those imposed on the public sector.

Discussion of compliance costs should include capital and annual costs. Capital cost is the investment in physical plant and equipment necessary to comply with the regulation. Indicate, if possible, the length of time allowed to comply with the regulation. To make cost information consistent and more useful, we encourage you to break down annual costs by a) operation and maintenance costs and b) interest charges and depreciation. You may want to note other types of costs such as research and development costs; if you do, please distinguish between the capital and annual components of such costs.

Discussion of the administrative requirements under a regulation should mention any additional reporting burdens, such as periodic reports, imposed on regulated sectors. In addition, you might note any estimates of increased personnel and budget expenditures for those levels of government which must oversee compliance.

Discussion of indirect costs/impacts could include such items as plant closings, job losses, increases in energy use, as well as price increases that may occur as a result of implementing the proposed regulation.

7. Sectors Affected

The purpose of this section is to identify the particular sector(s) that the proposed regulation will affect and to what degree—who will benefit and who will bear the cost? Please present the information in this section in paragraph form.

We suggest that sectors can be divided into four major categories: population, industry, geographical area, and levels of government. In turn, each of these categories can be further subdivided:

a. Population—by age, income, health status, ethnicity, etc.
b. Industry—by Standard Industrial Classification (S.I.C.) Code, size of firm, number of employees, etc.
c. Geographic area—by region, state, county, local, inner city, metropolitian area, rural, etc.,—if you have prepared an Urban Impact Statement, please try to incorporate information from that document into this section—at a minimum, please tell us if you have prepared or plan to prepare one.
d. Levels of government—by Federal, State, and local.

You can make a distinction between direct and indirect effects that the proposed regulation may have on a given sector. By direct effect we mean the effect on the sector that is responsible for complying with the regulation; indirect effect refers to the effects on the clientele or constituencies of the directly affected sector.

Example: The rules implementing the Community Reinvestment Act, which help eliminate disinvestment and redlining in inner-city areas, have a direct effect on the financial institutions that operate in these areas and an indirect effect on the potential homeowners and business people in these areas.

If you have analyzed your regulation's potential impact on small businesses or farms, you could describe that analysis in this section. You should explain, if appropriate, how your regulation will deal with the special problems that these groups may face, such as market entry and continued operation under heavy compliance requirements. (You may have already mentioned this in the "Alternatives" section. If so, please refer to that section.)

8. Related Regulations and Actions

Internal: Mention by descriptive title any existing programs/regulations and any regulations under development in your own agency which are related to the proposed regulation.

External: Summarize the regulations or actions of other Federal agencies or, if applicable and known, major State agencies which are related to the proposed regulation.

If the information for both subheadings is "none" you may omit the subheadings and put "none" directly under the category. However, if there is information for at least one subheading, please use both.

Please remember to spell out acronyms the first time they appear in each entry.

9. Active Government Collaboration

Mention the steps your agency is taking to coordinate the proposed regulation with any other Federal, State or local agencies. Mention actions related to an issuing division within your agency (e.g., The Occupational Safety and Health Administration of the Department of Labor) under "Related Regulations and Actions" and not here.

In this section, you *must* spell out the names of agencies on first reference, even if you have spelled them out elsewhere in the entry. If any entries appear confusing because of multiple, complicated acronyms, spell out as many as possible.

10. Timetable

In this section, please state:

- The estimated date of publication for a *future* ANPRM, NPRM, Final Rule or other action.
- The dates and places of *future* public hearings and the start and finish dates for *future* public comment periods. If you do not know these dates/places or they are not applicable, please say so. If they will occur relative to the time of a regulatory action you could state, e.g., "30 days after promulgation."
- The date the regulation will become effective. You could state this as: "one year after promulgation."
- Whether you will prepare a regulatory analysis.

Other candidates for this section include dates for Oral Argument, Evidentiary Hearings, Filing of Briefs, etc.

The Preface to the Calendar will note that all dates are tentative and subject to change, so please give your best estimate at this time. Any past activity or publication should be included in the section "Available Documents" and not here.

11. Available Documents

List the major available documents related to the proposed regulation. These documents may include information that resulted in the proposed regulation or that you produced while developing the proposed regulation, such as:

- An *already published* ANPRM or NPRM.
- Regulatory analyses.

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- Environmental Impact Statements,
- Urban Impact Statements,
- Transcripts from open agency meetings and public hearings, and
- Summary reports of legislative activity.

Report where documents are available for review or how readers can obtain copies if this information is not evident. This information is especially important if the document originated outside your agency. If you refer to the **Federal Register** here, please give complete citations. (See Legal Authority)

12. Agency Contact

Please use a single name under this category, followed by the person's formal title, complete address, and telephone number.

If you must list more than one contact, please indicate which contact is responsible for which information regarding the regulation.

[FR Doc. 80-3712 Filed 2-4-80; 8:45 am]

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Reader Aids

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INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders (GPO)
202-275-3054	Subscription problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
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523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

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523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266 -5262	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator. Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of Rules Going Into Effect Today.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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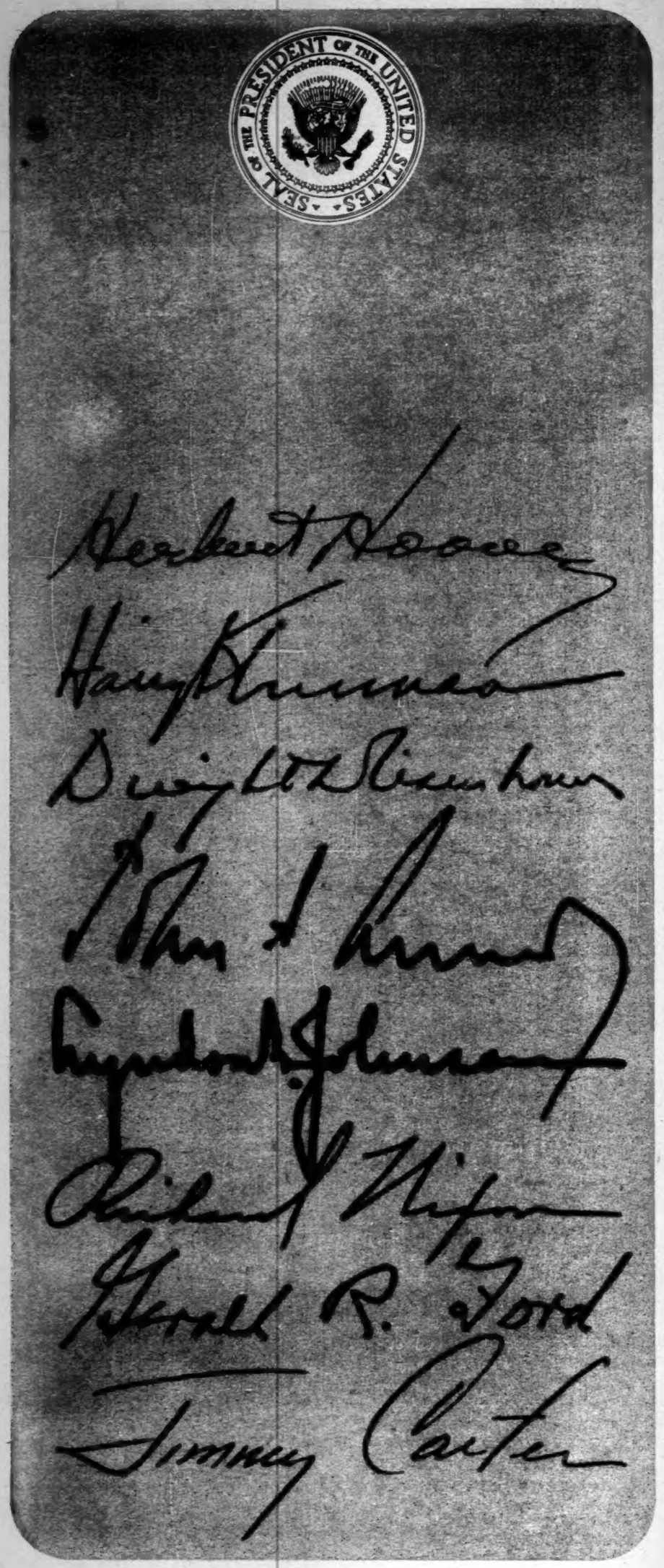

Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House.

Volumes for the following years are now available:

Herbert Hoover

1929	$13.30
1930	$16.00
1931	$14.00
1932–33	$17.25
Proclamations & Executive Orders - March 4, 1929 to March 4, 1933 2 Volume set	$24.55

Harry S. Truman

1945	$11.75
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